

LEE COUNTY BOARD OF COUNTY COMMISSIONERS

COMPREHENSIVE PLAN AMENDMENT and ZONING HEARING AGENDA

Wednesday, March 3, 2021

9:30 AM

CPA2019-00007 / Commerce Lake Parcel – Transmittal Hearing

Development Agreement, FFD Land CO., Inc. v. Lee County, Stipulation of Settlement

NOTICE OF PROPOSED AMENDMENT TO THE LEE COUNTY COMPREHENSIVE LAND USE PLAN (TRANSMITTAL HEARING)

The Lee County Board of County Commissioners will hold a public hearing to consider proposed amendments to the Lee County Comprehensive Land Use Plan (Lee Plan) on Wednesday, March 3, 2020. The hearing will commence at 9:30 a.m., or as soon thereafter as can be heard, in the Board Chambers, 2120 Main Street in Downtown Fort Myers. At the hearing, the Board will consider the proposed amendments for transmittal to the Florida Department of Economic Opportunity:

CPA2019-00007 Commerce Lake Parcel: Amend the Future Land Use Map (Map 1, Page 1) from Airport Lands and Wetlands to New Community and Wetlands, and update the Airport Noise Zone (Map 1, Page 5) on ±22 acres located at both northern corners of the intersection of Commerce Lakes Drive and Daniels Parkway. The amendment is needed to reflect changes to the airport boundaries.

This transmittal hearing is the first step in a two step public hearing process to amend the Lee Plan. A second hearing will follow the Department of Economic Opportunity's review of the application.

Documentation for the Proposed Comprehensive Plan Amendment is available at <u>https://www.leegov.com/dcd/planning/cpa</u> or at the Department of Community Development located at 1500 Monroe Street, Fort Myers, Florida. This meeting is open to the public. Interested parties may appear at the meeting and be heard with respect to the proposed plan amendment. A verbatim record of the proceeding will be necessary to appeal a decision made at this hearing.

It is the intent of the Board of County Commissioners that the provisions of this Comprehensive Plan Amendment may be modified as a result of consideration that may arise during Public Hearing(s). Such modifications shall be incorporated into the final version.

Lee County will not discriminate against individuals on the basis of race, color, national origin, sex, age, disability, religion, income or family status. To request language interpretation, document translation or an ADA-qualified reasonable modification at no charge to the requestor, contact Joan LaGuardia, (239) 839-6038, Florida Relay Service 711, at least five business days in advance. El Condado de Lee brindará servicios de traducción sin cargo a personas con el idioma limitado del inglés.

CPA2019-00007 COMMERCE LAKE

PARCEL

Summary Sheet Commerce Lakes Parcel, CPA2019-00007

Purpose:

Amend the Future Land Use Map (Map 1, Page 1) from Airport Lands and Wetlands to New Community and Wetlands, and update the Airport Noise Zone (Map 1, Page 5) on ± 22 acres located at both northern corners of the intersection of Commerce Lakes Drive and Daniels Parkway. The amendment is needed to reflect changes to the airport boundaries.

LPA Comments:

LPA members wanted to know if it was necessary to update the Airport Noise Zones as proposed since it could allow for placement of residential uses in proximity to the airport. Staff clarified that it was necessary, and that any future residents would receive notification regarding the Airport Noise Zone. LPA members also asked if Airport Noise Zones impacted height restrictions near the airport. Staff clarified that Airport Noise Zones and restrictions on height near airports are two separate requirements and the proposed change to the Airport Noise Zones does not affect building height requirements.

Public Comments:

There was <u>no public comment</u> concerning the proposed amendment at the LPA Hearing.

LPA Motion:

A motion was made to recommend that the Board of County Commissioners <u>transmit</u> CPA2019-00007. The motion passed 5 to 0.

RAYMOND BLACKSMITH	AYE
DUSTIN GARDNER	AYE
JAMES INK	ABSTAIN
ALICIA OLIVO	ABSENT
DON SCHROTENBOER	AYE
STAN STOUDER	AYE
HENRY ZUBA	AYE

Staff Recommendation:

Staff recommends that the BoCC *transmit* the proposed amendment as provided in Attachment 1 to the staff report.

STAFF REPORT FOR CPA2019-00007: Commerce Lakes Parcel

County Initiated Map Amendment to the Lee Plan



Representative:

Department of Community Development

Property Location:

Northeast of RSW, At the intersection of Commerce Lakes Drive and Daniels Parkway

Property Size: ±22.14 acres

Planning Community: Gateway/Airport

Commissioner District: District #2

Hearing Dates: LPA: January 25, 2021 BoCC #1: March 3, 2021

REQUEST

Amend the Future Land Use Map (Map 1, Page 1) from Airport Lands and Wetlands to New Community and Wetlands, and update the Airport Noise Zone (Map 1, Page 5) on ±22 acres located at both northern corners of the intersection of Commerce Lakes Drive and Daniels Parkway. The amendment is needed to reflect changes to the airport boundaries.

SUMMARY

The requested amendment will change the future land use category and airport noise zone for the "Commerce Lakes Parcel." The Commerce Lakes Parcel consists of two parcels that are separated from contiguous airport property by Daniels Parkway, a four-lane divided arterial, and was deemed surplus to Southwest International Airport's (RSW) future aviation operations or airport expansion by the Board of County Commissioners. As surplus, the Airport Lands future land use category is no longer the appropriate designation for these parcels; the proposed New Community future land use category will be consistent with the designations on adjacent properties located north of Daniels Parkway. Wetlands on these parcels will continue to be designated Wetlands on the future land use map.

The requested amendment will not change allowable intensity permitted on the parcels, but will allow for future development by non-Port Authority owners.



Figure 1: Aerial Location Map

RECOMMENDATION

Staff recommends that the Board of County Commissioners *transmit* CPA2019-00007, based on the analysis and findings provided in this staff report.

PART 1 BACKGROUND

The Commerce Lakes Parcel ("Parcel") was acquired by Lee County as part of the original airport land acquisition and has remained in the airport lands inventory since its acquisition, Port Authority staff determined it is not needed for aviation purposes and has been unsuccessful in leasing the property for a non-aviation use. On June 27, 2019 the Board authorized the sale of the approximately 22.14 acre Parcel as surplus property and directed the Department of Community Development to initiate the necessary Comprehensive Plan amendments to reflect the change in the airport boundaries.

There is also a concurrent rezoning for the subject property, DCI2020-00018, filed by 1227 Holdings, LLC who is under contract to purchase the property. Florida Statutes Chapter 163.3184(12) provides that "At the request of an applicant, a local government shall consider an application for zoning changes that would be required to properly enact any proposed plan amendment transmitted pursuant to this subsection." This requires Lee County to provide concurrent review of the rezoning request.

Staff notes that even with the recommended adoption of the proposed map amendments, the applicant for the concurrent rezoning must demonstrate consistency with the Lee Plan in order to receive a favorable recommendation.

PART 2 STAFF DISCUSSION AND ANALYSIS OF PROPOSED AMENDMENTS

Subject Property:

The Parcel is located northeast of RSW, on the north side of Daniels Parkway, and on either side (east and west) of the intersection of Daniels Parkway and Commerce Lakes Drive. It is within the Gateway/Airport planning community and is currently zoned as an Airport Operations Planned Development (AOPD).

Surrounding Properties:

Lands located to the north, east, and west of the Parcel, on the north side of Daniels Road, contain a mix of light industrial, commercial, and residential uses. These properties are zoned as Planned Unit Development (PUD) and Mixed Use Planned Development (MPD). This area is commonly known as "Gateway," and is in the New Community future land use category.

South of the Parcel is Daniels Parkway then land owned by the Lee County Port Authority, containing RSW. This property is zoned AOPD and is within the Airport Lands future land use category.



Figure 2: Surrounding Zoning

Current Future Land Use Categories:

The Parcel is currently designated as Airport Lands and Wetlands on the Future Land Use Map. These future land use categories are described in Policies 1.1.12 and 1.5.1.

Policy 1.1.12 provides that "Allowable land uses and intensities within the Airport Lands future land use category are subject to the plans for the airport properties outlined in the Southwest Florida International Airport Master Plan Update..." This land use category accommodates the Port Authority's airports and projected need for growth in order to continue viable airport operations.

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



Figure 3: Existing Future Land Use Map

The Airport Lands future land use category describes land owned by the Port Authority and allows land uses and intensities consistent with the most recently adopted Airport Master Plan for each airport. Development in the Airport Lands future land use category requires approval through the AOPD zoning process. A change to the airport boundary, via the sale of surplus property, requires that the boundary of the Airport Lands future land use category also be amended to reflect the change in ownership and allow rezoning of the property to a non-AOPD zoning district.

Proposed Future Land Use Categories:

Upland areas within the Parcel currently in the Airport Lands future land use category are proposed to be re-designated to the New Community future land use category described in Policy 1.6.1. Wetland areas within the Parcel will remain designated as in the Wetlands future land category.

Development within the New Community future land use category must be, in part, "capable of being planned and developed as a cohesive unit...land must be located such that the area is capable of being developed with a balance of residential and non-residential uses and that major impacts of the development are internalized and/or alleviated by infrastructure that is existing or will be funded privately."

The expansion of the New Community future land use boundary onto the Parcel and will allow for the Parcel to be developed in a manner that is cohesive and compatible with the existing development on contiguous New Community properties. Policy 1.6.1 requires the minimum land area of a New Community exceed 2,000 acres to ensure an appropriate balance of land uses. The New Community future land use category in the Gateway area, if expanded to encompass the Parcel, will include approximately 2,524 acres, and is consistent with Policy 1.6.1.



Figure 4: Proposed Future Land Use Map

The primary difference in uses allowed in the New Community future land use category and the Airport Lands future land use category is that New Community allows for residential uses. Staff notes that the concurrent rezoning request does not include residential uses; therefore the proposed change will have no impacts based on allowable uses or intensities.

Airport Noise Zones

The Parcel is currently identified in Airport Noise Zone A on Map 1, Page 5 of the Lee Plan. Policy 1.7.1 provides that Noise Zone A is the designation given to Airport Property and that "Upon disposition of any Port Authority property, the land is then subject to the Noise Zone as applicable based on the most recent Composite Day-Night Average Noise Level (DNL) Noise Contours map for Southwest Florida International Airport approved by the Federal Aviation Administration."

To maintain consistency with Policy 1.7.1, Lee Plan Map 1, Page 5 will be amended to reflect the appropriate Noise Zone on the Parcel based on the most recent DNL Noise Contours map on the Parcel (see Attachment 1).

Growth Management/Compatibility:

Goal 2 discusses the need for appropriate growth management. Objective 2.2 specifies that new growth should be directed to future urban areas where adequate public facilities exist, as well as areas where contiguous development patterns can be created. The Parcel is in an area with adequate facilities and substantial development on all sides. Expansion of the New Community designation onto the Parcel will allow for contiguous development patterns and is consistent with Goal 2 and Objective 2.2 of the Lee Plan.

Policy 6.1.4 also states that commercial development will be approved only when compatible with adjacent existing and proposed land uses, as well as with existing and proposed public services and facilities. The proposed land use is compatible with the currently existing commercial development, and is located in an area that currently has appropriate programmed public services. The proposed amendment is consistent with Policy 6.1.4

Public Service Availability:

As previously stated, the proposed amendment to the Future Land Use Map will not change either the uses or the intensities of the subject property. The adequacy of the public facilities services will be reviewed as part of the zoning process, where the specific proposed uses and intensities can be evaluated.

<u>Transit</u>: The subject area is not within one-quarter mile of a fixed-route corridor. The area has not been identified as needing enhanced or additional transit services.

<u>Utilities:</u> There is sufficient capacity to provide potable water and sanitary sewer service to the Parcel. Service will be provided by Gateway Water Reclamation Facility.

<u>Solid Waste:</u> Solid waste collection services will be provided by Lee County using the Lee County Resource Recovery Facility and the Lee-Hendry Regional Landfill.

Fire: The Parcel will be served by the South Trail Fire Protection & Rescue Service District.

<u>EMS:</u> The primary ambulance for this location is located 4.3 miles from the property, with a secondary ambulance located 6.1 miles away.

<u>Police</u>: The Lee County Sheriff will provide law enforcement services primarily from the Central District sub-station in Fort Myers. The Sheriff indicated in a letter dated October 2, 2020 that the development of the subject property will not affect the ability of the Lee County Sheriff's Office to provide core services at this time.

PART 3 CONCLUSIONS

Board of County Commissioners initiated this amendment to maintain consistency with the Lee Plan since the existing Airport Lands future land use category and Airport Noise Zone A designations are only for lands owned by the Lee County Port Authority. The amendments will accommodate the sale of the surplus property to a private entity for development.

- The New Community future land use category and updated Airport Noise Zone will allow for privately developed commercial and/or light industrial uses on the subject property adjacent to a primarily light industrial area within the Gateway community.
- While New Community allows for residential uses and Airport Lands does not, there is no difference in the intensities of non-residential uses allowed in the existing and proposed future land use categories.
- A concurrent planned development rezoning application filed by the purchaser of the property is limited to commercial and light industrial uses; therefore the proposed future land use category will result in no increase in allowable densities or intensities.
- There is currently, and will continue to be, adequate public services to meet the demands of the New Community future land use category.

For the reasons discussed in this staff report, Staff recommends that the Board of County Commissioners *transmit* the proposed amendments.

PART 4 LOCAL PLANNING AGENCY REVIEW AND RECOMMENDATION

DATE OF PUBLIC HEARING: January 25, 2021

A. LOCAL PLANNING AGENCY REVIEW:

Staff provided a brief presentation for the proposed amendment, which included the purpose of the amendment, Lee Plan consistency, a comparison between the current and proposed future land use categories, and staff's recommendation.

Members of the LPA asked for clarification about why this was a county initiated amendment. Staff responded that the change to the future land use category was necessary in order to sell the Port Authority property as surplus land.

Members of the LPA had questions about the proposed revision to the Airport Noise Zones. Staff stated that the revision was necessary because the property would no longer be part of the airport property. Concern was expressed by an LPA member that the change in Noise Zones would potentially allow for residential uses, which may cause compatibility issues with the airport. Staff stated that residents would receive notification regarding the airport noise based on the proposed Airport Noise Zone C. The LPA member asked staff whether height restrictions would be modified or removed. Staff responded that height restrictions are not based on the noise zones.

Another LPA member asked staff if the amendment could move forward without changing the noise zones. Staff responded that this would create an inconsistency with Lee Plan Policy 1.7.1.

Members of the LPA also asked questions related to the property's appraisal and sales contract, which were addressed by staff.

There was <u>no public comment</u> concerning the proposed amendment.

B. LOCAL PLANNING AGENCY RECOMMENDATION:

A motion was made to recommend that the Board of County Commissioners <u>transmit</u> CPA2019-00007. The motion passed 5 to 0.

VOTE:

RAYMOND BLACKSMITH	AYE
DUSTIN GARDNER	AYE
JAMES INK	ABSTAIN
ALICIA OLIVO	ABSENT
DON SCHROTENBOER	AYE
STAN STOUDER	AYE
HENRY ZUBA	AYE

ATTACHMENT 1

















Attachment 1 for CPA2019-00007

Development Agreement, FFD Land CO., Inc. v. Lee County, Stipulation of Settlement

MEMORANDUM FROM THE OFFICE OF COUNTY ATTORNEY

To: Board of County Commissioners

DATE:	February 18, 2021
FROM:	Michael D. Jacob Deputy County Attorney

RE: FFD Development Agreement Amendments (March 3, 2021 Hearing)

On March 3rd, the FFD Development Agreement will be presented to you for your final consideration. The hearing will be the third and last of the public hearings.

Following the discussion held at the February 3, 2021 public hearing, suggested changes to the Development Agreement have been incorporated into the draft agreement by FFD's representatives, as well as Staff. Those additional changes are discussed in the attached Memorandum from FFD's Legal Counsel and are presented to you for your consideration. During the March 3rd hearing, FFD's representatives and Staff will be available to discuss the proposed revisions to the MCP that were made in response to comments from members of the public and the ramifications of those changes.

We would respectfully request you include these changes to the conditions and proposed revisions to the MCP, if acceptable to you, as part of any motion approving the Development Agreement. As always, if you have any questions or need anything further, please do not hesitate to let me know.

Attachments:

Memorandum from FFD's Legal Counsel Distribution:

Commissioner Ruane, District 1 Commissioner Pendergrass, District 2 Commissioner Sandelli, District 3 Commissioner Hamman, District 4 Commissioner Mann, District 5

cc via email only:

Roger Desjarlais, County Manager Dave Harner, Deputy County Manager Glen Salyer, Assistant County Manager Richard Wm. Wesch, County Attorney Dave Loveland, Director, DCD Russell P. Schropp, Esquire



Interoffice Memorandum

Date	:	February 17, 2021
То	:	Michael Jacob
From	:	Russell P. Schropp
Re	:	FFD Development Agreement

I have incorporated the changes to the development agreement approved by the Commission at the February 3, 2021, public hearing on the proposed FFD settlement. Attached is a revised draft of the development agreement (dated 02/15/2021) that includes these changes.

FFD has also considered various additional modifications to the development agreement in response to input received from the County Commission and the general public on February 3. On behalf of FFD, I would like to propose the following specific changes to the development agreement for consideration by the County Commission at the final adoption hearing on March 3, 2021:

- 1. In response to Commissioner Hamman's request to include language pertaining to maintenance funding for conservation easement areas in the event these areas are transferred to a governmental entity, we propose the following change to Condition 6 of Exhibit C to the development agreement:
 - 6. Platting Preserve Areas

At time of platting on a phase-by-phase basis, the developer will plat preservation areas into separate tracts and dedicate those tracts to a single maintenance entity, which must be either a master home owners association ("HOA"), a community development district ("CDD"), or a governmental entity acceptable to the County that will accept responsibility for the perpetual maintenance of the preservation areas in compliance with these conditions. If the grantee of the conservation easement is a governmental entity, the developer must provide documentation that funding for maintenance of conservation areas has been established to the satisfaction of the grantee. If the grantee of the conservation easement is an HOA or CDD, The the HOA or CDD must be created prior to CC for the first development order.

2. In response to our discussions with County staff after the February 3 hearing, we propose the following change to Paragraph 7 of the development agreement:

Michael Jacob February 17, 2021 Page 2

> 7. <u>Development Permits Needed for Proposed Development</u>. FFD must obtain all State and Federal permits necessary to allow development in accordance with this Agreement, subject to paragraph 19 below. FFD must obtain all development orders and development permits from Lee County necessary to allow development in accordance with this Agreement, subject to and in accordance with this Agreement. In furtherance of this Agreement, FFD may, at its discretion, concurrently apply for and obtain separate Development Orders for each Parcel of Development proposed within this Agreement.

3. In response to comments made by representatives of the Corkscrew Swamp Sanctuary ("CSS") regarding the need for an increased buffer along the eastern boundary of the site, attached please find a revised Master Concept Plan (Exhibit "B" to the development agreement) for the County's consideration. The revised Master Concept Plan provides for a minimum 1000-foot buffer and environmental restoration area along the eastern boundary of the site adjacent to the CSS and south of the existing farmworker housing. In order to maintain the same amount of development area, portions of farm fields adjacent to Parcels 12 and 20 that were proposed for restoration have now been included as part of the area to be developed. The amount of area available for development remains the same, as does the amount of conservation/restoration. I have attached a second drawing that shows the proposed changes reflected on the original Master Concept Plan. If this modification is acceptable to the County and if this modification adequately addresses the concerns of the CSS, then FFD would have no objection to substituting the attached Master Concept Plan for the plan that is presently shown as Exhibit "B" to the development agreement.

Thank you for your consideration of the above. Please let me know if you have any questions or concerns.

/rs enc

cc: Jaime Weisinger Dan DeLisi Richard Akin



NEW MASTER CONCEPT PLAN



ORIGINAL MASTER CONCEPT PLAN WITH PROPOSED CHANGES

02/15/2021

AGREEMENT PURSUANT TO STIPULATION OF SETTLEMENT UNDER SECTION 70.001, FLORIDA STATUTES

THIS AGREEMENT PURSUANT TO STIPULATION OF SETTLEMENT UNDER SECTION 70.001, FLORIDA STATUTES (hereinafter, "Agreement") is entered into this _____ day of ______ 20___, by and between:

LEE COUNTY, a political subdivision and charter county of the State of Florida (hereinafter "County"), having its principal office at 2115 Second Street, Fort Myers, FL 33901; and

FFD LAND CO., INC., a Florida corporation (hereinafter, "FFD" or "Developer"), whose address for purposes of this Agreement is 315 New Market Road East, Immokalee, FL 34142.

WHEREAS, FFD owns approximately 5,208.6 +/- acres of land located in Lee County, said property being legally described in Exhibit "A" attached hereto (hereinafter, "the Property"); and

WHEREAS, in January 2009, FFD filed an application with the County for a rezoning to the Mine Excavation Planned Development (MEPD) district in order to mine a portion of the Property for limerock extraction purposes; and

WHEREAS, the County denied the MEPD rezoning request on May 6, 2013; and

WHEREAS, FFD filed a claim with the County and a Complaint in Circuit Court against the County (Case No. 17-CA-001517, 20th Judicial Circuit) under the Bert J. Harris Private Property Rights Protection Act ("the Act"), Section 70.001, Fla. Stat., alleging that the denial of the MEPD rezoning and other regulatory restrictions adopted by the County have placed an inordinate burden on the use of the Property, entitling FFD to compensation under the Act; and

WHEREAS, the Act allows the parties to a dispute under the Act to enter into agreements in order to settle claims filed thereunder, and expressly provides that such agreements may modify or contravene applicable ordinances, rules, regulations, and statutes, subject to the requirements of Section 70.001(4)(d), Florida Statutes; and

WHEREAS, Lee County has adopted Land Development Code (LDC) Section 2-450 to implement Section 70.001(4)(d), Florida Statutes, and expressly allows the Board of County Commissioners to waive any or all procedural requirements contained in otherwise applicable codes and ordinances, and to directly exercise all authority otherwise delegated to the Lee County Hearing Examiner, the County Manager, or any other division or agency of the County; and

WHEREAS, the County and FFD engaged in mediation in an effort to resolve

FFD's claim under the Act, and the parties have met subsequent to the mediation in order to identify alternative uses for the Property that are satisfactory to FFD which, if approved by the County, would resolve FFD's claim under the Act; and

WHEREAS, the County and FFD have identified and agreed upon such alternate uses for the Property, and the parties desire to enter into this Agreement in order to implement their understanding; and

WHEREAS, FFD, in consideration of the covenants and conditions contained herein, has also agreed to convey to the County FFD's rights and interests in excavation and mining on the Property to preclude any future mining permit requests on the Property; and

WHEREAS, the County and FFD have entered into that certain Stipulation of Settlement dated October 15, 2020, agreeing to resolve all claims associated with FFD's Complaint under the Act; and

WHEREAS, this Agreement was reviewed in a public hearing before the Lee County Hearing Examiner on ______, 2020, and in two public hearings before the Board of County Commissioners of Lee County on _____, 2021, and _____, 2021, at which time public comment was taken and duly considered; and

WHEREAS, the Stipulation of Settlement will be reviewed by the Circuit Court pursuant to Section 70.001(4)(d)2., Florida Statutes, at which time a hearing will be held before the Circuit Court for the presentation of public comment on the Stipulation of Settlement and this Agreement;

NOW, THEREFORE, in consideration of the covenants and conditions contained herein and of the benefits to accrue to each Party, the County and FFD agree as follows:

1. <u>Recitals</u>. The foregoing recitations are true and correct and are incorporated herein by reference. All exhibits to this Agreement are deemed a part hereof.

2. <u>Property Subject to this Agreement</u>. The Property described on the attached Exhibit "A" is subject to this Agreement. The terms "Property" and "Project" are used interchangeably in this Agreement.

3. <u>Ownership</u>. FFD represents that it is the fee owner of the Property and as such may lawfully enter into this Agreement.

4. <u>Proposed Development of the Property</u>. The County agrees that FFD will have the right to develop the Property as set forth in this Agreement. The Proposed Development of the Property will comply with the following:

A. Development will be consistent with the Master Concept Plan ("MCP") attached as Exhibit "B," and will comply with the Schedule of Uses attached as Exhibit "C," the Conditions shown on attached Exhibit "D," and the Property Development Regulations shown on attached Exhibit "E."

B. Upon the Effective Date of this Agreement, the Property will be designated and treated as a Mixed-use Planned Development ("MPD") under the LDC. Upon compliance with the terms of this Agreement and the requirements of the LDC, local development orders and other development permits for development of the Property will be issued by the County as provided under the LDC and other applicable regulations.

5. <u>Consistency with Lee County Comprehensive Plan</u>. The parties acknowledge that certain aspects of the development approved pursuant to this Agreement would require a plan amendment to the County's Comprehensive Plan ("Plan") adopted pursuant to Chapter 163, Florida Statutes. Accordingly, approval of the development without a plan amendment will contravene the application of Sections 163.3184 and 163.3194(1)(a), Florida Statutes (the "Contravened Statutes"). Pursuant to Section 70.001(4)(d)2., Florida Statutes, the parties will file an action in circuit court to ensure that the relief granted by this Agreement protects the public interest served by the Contravened Statutes and is the appropriate relief necessary to prevent the County's regulations from inordinately burdening the Property.

6. <u>Public Facilities</u>. Potable water, sanitary sewer, solid waste service, surface water management and fire/EMS services necessary to serve the Proposed Development are either adequate as existing or will be adequate or mitigated for at the time of development order for the Proposed Development or any portion thereof, subject to the following:

A. Transportation and fire/EMS services will be mitigated by Developer as provided in paragraphs 8.A. and 8.C., respectively, below.

B. Potable water service and sanitary sewer service is presently adequate at the existing plants or will be available for the Proposed Development. The Developer will pay standard hook-up and connection fees charged by the County at the time of local development order for the uses within that development order. Adequate potable water transmission lines for the Proposed Development are available within the Corkscrew Road right-of-way adjacent to the Property. The Developer and LCU will identify any sewer collection system force mains and/or pump station improvements needed to meet the demands of the Proposed Development and existing approved developments. The Developer will be responsible for needed sewer improvements attributable to the Proposed Development. Any upsizing of the force mains and/or pump stations desired by the County to meet future demands will be designed, permitted, and constructed by Developer in accordance with the following:

(i) The Developer will notify the County at least sixty (60) days in advance of commencing engineering design work for the force mains and/or pump station improvements.

(ii) Within thirty (30) days of receipt of Developer's notice, the County may request Developer to upsize the force mains and/or pump station improvements to a capacity identified by the County.

(iii) The County agrees to reimburse Developer for all incremental costs of design, permitting, and construction of the force mains and/or pump station improvements attributable to the requested upsizing, such reimbursement

to be due upon inspection and acceptance of the transmission line improvements by the County.

C. Solid waste service will be provided by a franchised hauler and the County's waste-to-energy incinerator.

D. Subject to the requirements of paragraph 8.B. below, surface water management will be provided in accordance with permits to be issued by the South Florida Water Management District.

7. <u>Development Permits Needed for Proposed Development</u>. FFD must obtain all State and Federal permits necessary to allow development in accordance with this Agreement, subject to paragraph 19 below. FFD must obtain all development orders and development permits from Lee County necessary to allow development in accordance with this Agreement, subject to and in accordance with this Agreement.

8. <u>Development Limitations, Commitments and Obligations.</u> For and in consideration of the benefits received pursuant to this Agreement, FFD agrees to the following limitations, commitments and obligations in order to mitigate the impacts of the Proposed Development:

- A. Transportation Mitigation. Mitigation for the traffic impacts attributable to the Proposed Development will be provided in accordance with the following:
 - i. The Developer will pay road impact fees to the County in effect at the time of building permit for all uses. In the event road impact fees are replaced by another fee, assessment, or charge of general applicability for the mitigation of road impacts from new development, payment of the new fee, assessment, or charge will replace road impact fees for any development for which road impact fees have not been paid.
 - ii. The Developer will pay a proportionate share payment to the County of two thousand (\$2000.00) dollars for each residential dwelling unit. This payment will be made at the time each development order for vertical development or plat for residential lots is issued, and the amount paid will be based upon the number of dwelling units approved by each development order or plat.
 - iii. No additional fees, charges, or assessments for road improvements may be made by the County in connection with the residential, commercial, and amenity portions of the Proposed Development without the consent of the Developer. Public schools, civic uses, and other public facilities may be required to provide additional mitigation to be determined prior to issuance of building permit.
- B. Environmental Enhancements. Environmental enhancements to the

Property will occur in accordance with the Conditions of Development attached as Exhibit "D" and the phasing plan attached hereto as Exhibit "F."

C. The building permit applicant will pay Fire and EMS Impact Fees in accordance with the Fire/EMS Impact Fee Ordinances. The Developer will pay to Lee County EMS a proportionate share payment in the amount of \$100 per dwelling unit, in advance of building permits. Payments will be made as follows: \$173,600.00 at the time of first residential building permit; \$173,600.00 at the time of issuance of a development order for the 1736th dwelling unit; and a final payment to be determined at the time of issuance of a development order for the 3472nd residential unit, such payment to be based upon Developer's good faith estimate of the remaining residential dwelling units to be developed at that time. In the event the actual number of dwelling units exceeds this good faith estimate, the Developer will be required to pay \$100 for each dwelling unit in excess of the estimate at the time of development order for such additional units.

9. <u>Applicable Land Use Regulations</u>. The Proposed Development within the Property shall be subject to the County's land development regulations and policies governing development as of the Effective Date of this Agreement for the duration of this Agreement. Unless otherwise requested and agreed to by FFD, the County may not apply subsequently adopted regulations and policies to the Proposed Development.

10. <u>Duration of Agreement</u>. This Agreement shall remain in full force and effect until buildout of the Proposed Development, unless terminated earlier as provided in Paragraph 11 of this Agreement. For purposes of this Agreement, buildout shall occur upon the earlier of (a) issuance of certificates of occupancy for all development authorized herein, or (b) recording in the Public Records of Lee County of a declaration by FFD that it has completed development under this Agreement and transmittal of same to the County. Notwithstanding anything in the LDC to the contrary, the MCP, Schedule of Uses, Conditions of Development, and Property Development Regulations attached hereto as Exhibits "B," "C," "D," and "E," respectively, will remain valid for the duration of this Agreement.

11. <u>Amendment and Termination</u>. This Agreement will terminate only upon mutual consent of the parties, in writing, executed with the same formalities as this Agreement or upon recording of a Notice of Termination by either Party pursuant to paragraph 21 below. Amendments to the density or intensity of the Proposed Development can only be approved through mutual agreement of the parties. All other changes to Exhibits "B," "C," "D," and "E" may be reviewed and approved administratively through the same processes and criteria identified for planned developments in LDC Chapters 10 and 34. If the proposed amendment does not meet the criteria for administrative approval, the amendment must be approved through the public hearing process under the same processes and criteria identified for planned developments in LDC Chapters 10 and 34.

12. <u>Relinquishment of Claims by FFD.</u> Upon entry of an Order of Dismissal by the Circuit Court in that certain case styled *FFD Land Co., Inc. v. Lee County, 20th Judicial Circuit Case No. 17-CA-001517*:

A. FFD agrees to relinquish to the County all of FFD's rights and interests in excavation and mining on the Property through a restrictive covenant on the Property that will ensure that future owners and successors have no rights or interests in mining the Property for limerock or other sedimentary minerals. Provided, however, that nothing contained herein shall preclude excavation in connection with the Proposed Development of the Property including, but not necessarily limited to, excavation for water retention, fill, utilities, infrastructure, structures, and other related purposes. The foregoing restrictive covenant will not prohibit exploration or production of oil or natural gas on or under the Property, will not create oil, gas or mineral rights in the County, and shall not be deemed to prohibit the sale and removal of excess fill material created by an approved development of the Property if approved by the County in accordance with LDC Chapter 10. The restrictive covenant shall be recorded in the Public Records of Lee County.

B. FFD agrees to waive, relinquish, and release forever its claim for damages for an "as applied" taking and pursuant to that certain claim letter filed with the County by FFD dated April 8, 2014, pursuant to the Act, for actions arising out of the County's denial of its MEPD zoning request on May 6, 2013; provided, however, that nothing contained herein shall constitute a waiver or relinquishment of any claim for damages or any other relief whatsoever arising against the County from or out of this Agreement, or for any subsequent property rights violation arising after the date of this Agreement that is not directly related to the County's denial of said MEPD zoning request.

13. <u>Credit Against Proportionate Share Payment.</u> For and in consideration of FFD's conveyance to the County of all of FFD's rights and interests in excavation and mining of limerock and other sedimentary minerals on the Property as provided in Paragraph 12 above, FFD will receive a credit from the County in the amount of \$1.5 million that may be used by FFD, or its assigns, towards the proportionate share payments charged by the County under paragraph 8 of this Agreement. FFD may transfer or assign all or part of this credit to a third party only for use in conjunction with development of the Property. No building permits for development utilizing this credit will be issued by FFD identifying the number of dwelling units or square footage of non-residential development authorized by FFD to be built. The form will be in substantially the same format as the form attached hereto as Exhibit "G." The County will not issue building permits for any development that exceeds the amount of development authorized by FFD.

14. <u>Notices</u>. All notices required or permitted under this Agreement shall be in writing and shall be mailed by certified mail, return receipt requested to the following

addresses, or to such other person or address as any Party may designate from time to time in writing:

If to FFD:	FFD land Co., Inc. 315 New Market Road East Immokalee, FL 34142 Attn: Jaime Weisinger, V.P. Real Estate
With a copy to:	Henderson, Franklin, Starnes & Holt, P.A. 1715 Monroe St. Fort Myers, Florida 33901 Attn: Russell P. Schropp
If to the County:	Lee County 2115 Second Street Fort Myers, FL 33901 Attn: County Manager
With a copy to:	Lee County 2115 Second Street Fort Myers, FL 33901 Attn: Lee County Attorney

15. <u>Remedies</u>. Any material breach of this Agreement may be enforced by either Party as against the other by appropriate action in law or equity filed in a court of competent jurisdiction, including but not limited to an action for specific performance; provided, however, no such action may be brought until the defaulting Party has been given notice and ninety (90) days in which to cure the default to the satisfaction of the non-defaulting party. Notwithstanding the foregoing, violations of the Master Concept Plan, Schedule of Uses, Conditions of Development and Deviations, and Property Development Regulations attached hereto as Exhibits A, B, C, and D, respectively, may also be enforced by the County through appropriate code enforcement actions.

16. <u>Governing Law; Venue</u>. This Agreement shall be construed and interpreted according to the laws of the State of Florida, and venue with respect to any litigation between the Parties related to this Agreement shall be exclusively in Lee County, Florida.

17. <u>Severability</u>. If any part, term, or provision of this Agreement is held to be illegal, void, or unenforceable, the remaining portions or provisions of this Agreement shall not be affected or impaired, each remaining provision shall remain in full force and effect, and the rights and obligations of the Parties shall be construed and enforced as if the Agreement did not contain the particular part, term, or provision held to be invalid.

18. <u>Entire Agreement</u>. This Agreement embodies the whole agreement of the Parties. There are no promises, terms, conditions, or obligations other than those contained herein; and this Agreement shall supersede all previous communications,

representations, or agreements, either verbal or written, regarding the Proposed Development of the Property between the Parties.

19. <u>Conflict of Laws</u>. If state or federal laws are enacted subsequent to the execution of this Agreement which are applicable to and preclude either Party's compliance with the terms of this Agreement, this Agreement shall be modified as necessary to comply with the relevant state or federal laws, in a manner that most closely reflects the intent of this Agreement.

20. <u>Covenants Running with the Land; Assignment of Obligations by FFD</u>. The obligations imposed and entitlements created pursuant to this Agreement shall run with and bind the Property as covenants running with the land, and this Agreement shall be binding upon and enforceable by and against the Parties hereto, their personal representatives, heirs, successors, grantees, and assigns. All or any of the obligations of FFD may be assigned to one or more successor developers, property owners associations or to one or more community development districts established under Chapter 190, Fla. Stat., and FFD shall thereafter be relieved of all obligations so assigned.

21. <u>Effective Date</u>. This Agreement will become effective (the "Effective Date") upon full execution by both Parties and recording of the Agreement in the Public Records of Lee County pursuant to paragraph 22 below; provided, however, that none of the rights or obligations contained herein will become effective as to either Party until issuance of the Order of Dismissal by the Circuit Court pursuant to paragraph 12 above. In the event an Order of Dismissal is not entered within one (1) year of the Effective Date of this Agreement, then either Party may terminate this Agreement by recording a Notice of Termination in the Public Records of Lee County, whereupon this Agreement will be considered null and void.

22. <u>Recording of Agreement.</u> This Agreement will be recorded by the County at the County's expense in the Public Records of Lee County within fourteen (14) days of approval by the Lee County Board of County Commissioners. In the event this Agreement is terminated as provided herein, the Parties will execute and FFD will record a Notice of Termination in the Public Records of Lee County within twenty (20) days of such termination.

23. <u>Findings Under Section 70.001(4)(d)1.</u>, Florida Statutes. Pursuant to Section 70.001(4)(d)1., Florida Statutes, the County finds that, to the extent that this Agreement has the effect of a modification, variance, or a special exception to the application of a rule, regulation, or ordinance as it would otherwise apply to the Property, the relief granted herein and the obligations and mitigation to be provided by FFD pursuant to this Agreement, adequately protect the public interest served by the rules, regulations or ordinances at issue and is the appropriate relief necessary to prevent the County's regulatory efforts from inordinately burdening the Property.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals the day and year written below.

WITNESSES:

Print Name:

Print Name

By:

Name: Title:

STATE OF FLORIDA COUNTY OF _____

Sworn to and subscribed before me by means of [] physical presence or [] online notarization this ______ day of ______, 20____, by _______, as ______ of FFD Land Co., Inc., a Florida corporation, who is [] personally known to me or [] who produced _______ as identification.

Notary Public Signature

My Commission Expires:

Type/Print Notary Public Name

Commission No.:_____

ATTEST: LINDA DOGGETT, CLERK

BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, **FLORIDA**

By:		By:
	Deputy Clerk	, Chair
		Date:
	Print Name	APPROVED AS TO FORM FOR THE RELIANCE OF LEE COUNTY ONLY:

County Attorney's Office

Exhibits:

- Legal Description of the Property Α.
- Master Concept Plan Β.
- C. Schedule of Uses
- Conditions of Development and Deviations D.
- Property Development Regulations Phase Plan and Schedule Ε.
- F.
- Impact Fee Authorization Form G.
- Existing AG Uses Η.
- Form of Conservation Easement Ι.

Exhibit A

Legal Description of the Property

LEGAL DESCRIPTION

ALL OF SECTIONS 26, 35 AND 36 AND THE EAST ONE-HALF OF SECTION 34 TOWNSHIP 46 SOUTH RANGE 26 EAST, LEE COUNTY FLORIDA AND ALL OF SECTIONS 1, 2, 11, 12 AND THE EAST ONE-HALF OF SECTION 3 TOWNSHIP 47 SOUTH RANGE 26 EAST LEE COUNTY FLORIDA LESS THE RIGHT OF WAY FOR CORKSCREW ROAD BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS;

BEGINNING AT THE SOUTHEAST CORNER OF SAID SECTION 36;

THENCE NORTH 00°53'47" WEST ALONG THE EAST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 36 A DISTANCE OF 2644.58 FEET TO THE EAST QUARTER CORNER OF SAID SECTION;

THENCE NORTH 00°54'01" WEST ALONG THE EAST LINE OF THE NORTHEAST QUARTER OF SAID SECTION A DISTANCE OF 2644.35 FEET TO THE NORTHEAST CORNER OF SAID SECTION 36;

THENCE SOUTH 89°17'03" WEST ALONG THE NORTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 36 A DISTANCE OF 2641.41 FEET TO THE NORTH QUARTER CORNER OF SAID SECTION;

THENCE SOUTH 89°21'54" WEST ALONG THE NORTH LINE OF THE NORTHWEST QUARTER OF SAID SECTION 36 A DISTANCE OF 2637.56 FEET TO THE NORTHWEST CORNER OF SAID SECTION 36 AND THE SOUTHEAST CORNER OF THE AFOREMENTIONED SECTION 26; THENCE NORTH 00°34'00" WEST ALONG THE EAST LINE OF THE SOUTHEAST QUARTER OF SECTION 26 A DISTANCE OF 2629.17 FEET TO THE EAST QUARTER CORNER OF SAID SECTION; THENCE NORTH 00°34'15" WEST ALONG THE EAST LINE OF THE NORTHEAST QUARTER OF SAID SECTION A DISTANCE OF 2578.45 FEET TO THE SOUTH RIGHT OF WAY LINE OF CORKSCREW ROAD (100' WIDE) AS RECORDED IN OFFICIAL RECORDS BOOK 571 PAGE 457 PUBLIC RECORDS OF LEE COUNTY FLORIDA;

THENCE SOUTH 89°29'01" WEST ALONG SAID RIGHT OF WAY LINE A DISTANCE OF 2657.86 FEET;

THENCE CONTINUING ALONG SAID RIGHT OF WAY LINE SOUTH 89°29'14" WEST A DISTANCE OF 1138.62 FEET TO THE BEGINNING OF A CURVE CONCAVE NORTHERLY AND HAVING A RADIUS OF 1859.57 FEET;

THENCE CONTINUING ALONG SAID RIGHT OF WAY LINE WESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 13°19'01" AN ARC DISTANCE OF 432.21 FEET TO AN INTERSECTION WITH THE NORTHERLY LINE OF THE NORTHWEST QUARTER OF SAID SECTION 26;

THENCE LEAVING SAID RIGHT OF WAY LINE ALONG SAID SECTION LINE SOUTH 89°29'14" WEST A DISTANCE OF 1091.28 FEET TO THE NORTHWEST CORNER OF SAID SECTION 26;

THENCE SOUTH 00°58'11" EAST ALONG THE WEST LINE OF THE NORTHWEST CORNER OF SAID SECTION 26 A DISTANCE OF 2637.69 FEET TO THE WEST QUARTER CORNER OF SAID SECTION; THENCE SOUTH 00°55'06" EAST ALONG THE WEST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION A DISTANCE OF 2636.23 FEET TO THE SOUTHWEST CORNER OF SAID SECTION 26 AND THE NORTHEAST CORNER OF THE AFOREMENTIONED SECTION 34;

THENCE SOUTH 89°17'12" WEST ALONG THE NORTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION A DISTANCE OF 2640.06 FEET TO THE NORTH QUARTER CORNER OF SAID SECTION;

THENCE SOUTH 00°38'09" EAST A DISTANCE OF 5293.88 FEET TO THE SOUTH QUARTER CORNER OF SAID SECTION 34 AND THE NORTH QUARTER CORNER OF THE AFOREMENTIONED SECTION 3;

THENCE SOUTH 00°28'36" WEST A DISTANCE OF 5444.35 FEET TO THE SOUTH QUARTER

CORNER OF SAID SECTION 3;

THENCE NORTH 88°35'10" EAST ALONG THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION A DISTANCE OF 2693.91 FEET TO THE SOUTHEAST CORNER OF SAID SECTION 3 AND THE NORTHWEST CORNER OF THE AFOREMENTIONED SECTION 11;

THENCE SOUTH 00°01'56" EAST ALONG THE WEST LINE OF THE NORTHWEST QUARTER OF SAID SECTION 11 A DISTANCE OF 2702.33 FEET TO THE WEST QUARTER CORNER OF SAID SECTION;

THENCE CONTINUE SOUTH 00°01'56" EAST ALONG THE WEST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION A DISTANCE OF 2702.33 FEET TO THE SOUTHWEST CORNER OF SAID SECTION 11;

THENCE NORTH 88°41'40" EAST ALONG THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION A DISTANCE OF 2681.61 FEET TO THE SOUTH QUARTER CORNER OF SAID SECTION;

THENCE NORTH 88°43'03" EAST ALONG THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION A DISTANCE OF 2675.62 FEET TO THE SOUTHEAST CORNER OF SAID SECTION 11 AND THE SOUTHWEST CORNER OF THE AFOREMENTIONED SECTION 12;

THENCE NORTH 88°37'36" EAST ALONG THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION A DISTANCE OF 2698.32 FEET TO THE SOUTH QUARTER CORNER OF SAID SECTION;

THENCE NORTH 88°37'51" EAST ALONG THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION A DISTANCE OF 2697.96 FEET TO THE SOUTHEAST CORNER OF SAID SECTION 12;

THENCE NORTH 00°51'57" WEST ALONG THE EAST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION A DISTANCE OF 2709.13 FEET TO THE EAST QUARTER CORNER OF SAID SECTION;

THENCE NORTH 00°51'43" WEST ALONG THE EAST LINE OF THE NORTHEAST QUARTER OF SAID SECTION A DISTANCE OF 2709.41 FEET TO THE NORTHEAST CORNER OF SAID SECTION 12 AND THE SOUTHEAST CORNER OF THE AFOREMENTIONED SECTION 1;

THENCE NORTH 01°01'36" WEST ALONG THE EAST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION A DISTANCE OF 2639.48 FEET TO THE EAST QUARTER CORNER OF SAID SECTION;

THENCE NORTH 01°03'27" WEST ALONG THE EAST LINE OF SAID SECTION A DISTANCE OF 2639.69 FEET TO THE NORTHEAST CORNER OF SAID SECTION 1 AND THE SOUTHEAST CORNER OF SAID SECTION 36 AND THE POINT OF BEGINNING OF THE PARCEL HEREIN DESCRIBED;

CONTAINING 5208.61 ACRES OF LAND MORE OR LESS; SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD; ABSTRACT NOT REVIEWED.

AGNOLI, BARBER AND BRUNDAGE, INC. PROFESSIONAL ENGINEERS, PLANNERS & SURVEYORS AND MAPPERS

GEORGE W. HACKNEY P.S.M. 5606

Exhibit B

Master Concept Plan
Exhibit C

Schedule of Uses

Residential Parcels (all Parcels except 10, 11, and 15) Accessory Uses and Structures Administrative Offices Agricultural Uses, in compliance with Condition 12 Club, private **Community Gardens** Clubhouse/Amenity Areas (subject to condition 1.b.): Consumption on Premises Day care, child Food and Beverage Service, limited Health Clubs or Spas, as part of the private club Personal Services, Group I and 2 (limited to health clubs or spas) Recreational Facilities, Personal, Private on-site, Private off-site Restaurant, Groups I, II, and III (including outdoor seating and service areas) Real estate sales office Specialty Retail, Groups I and II Parking lot - accessory Dwelling Units (subject to condition 1.b.) Single-Family Two-Family Attached Duplex Zero Lot Line Townhouses Multi-family Entrance Gate and Gatehouse Essential Services Essential Service Facilities, Groups I and II (excluding solid waste transfer stations) Excavation. Water Retention **Excess Spoil Removal** Fences, Walls, Entrance Gates Home Occupation Model Homes, Model Display Center, Model Display Group, Model Units Parking Lot, Accessory **Real Estate Sales Office Recreational Facilities**, Personal & Private **Residential Accessory Uses** Signs, in accordance with LDC Chapter 30 Temporary Uses, in compliance with LDC section 34-3044 **Commercial Parcels (Parcels**

1, 2, 3, 4, and 11; subject to condition 1.b. and other conditions as noted) Accessory Uses and Structures Administrative Offices Agricultural Uses, in compliance with Condition 12 Animal Clinic or Kennel (no outdoor runs) Bait and Tackle Shop Banks and Financial Institutions, Group I Business Services, Group I **Cleaning and Maintenance Services** Clothing Stores, General Consumption on Premises Convenience Food and Beverage Store (no fuel pumps) Daycare, Child and Adult Drive-through facility for any permitted use EMS, Fire or Sheriff's Station (in compliance with wellfield protection regulations) **Essential Services** Essential Services Facilities, Group I Excavation, Water Retention Fences, Walls Food Stores, Group I Gift and Souvenir Shop Healthcare Facilities, Group III Hobby, Toy and Game Shops Household and Office Furnishings, Group I Medical Office Package Store Parcel and Express Services Parking Lot: Accessory Personal Services, Groups I, II and III Pet Services Pet Shop Pharmacy Place of Worship **Real Estate Sales Office** Recreational Facilities, Commercial, Group IV, excluding Convention or Exhibit Halls and Gun Ranges Rental or Leasing Establishments, Groups I, II and III Restaurant, Groups I, II and III Schools, Commercial and Noncommercial Signs Specialty Retail Shops, all Groups Studios **Temporary Uses** Variety Store

Amenity Parcels (Parcels 10,

<u>11 and 15; subject to</u> <u>condition 1.b.</u>) Accessory Uses and Structures Administrative Offices Agricultural Uses, in compliance with Condition 12 Club, private **Community Gardens** Consumption on Premises Day Care, child **Essential Services** Essential Service Facilities, Group I Excavation, water retention Fences, Walls Food and Beverage Service, limited Food Stores, Group I Health Clubs or Spas, as part of the private club Personal Services, Group I Real Estate Sales Office Recreational Facilities, Personal, Private on-site Rental and Leasing Establishments, Group I Restaurant, Groups I, II, and III (including outdoor seating and service areas) Signs Specialty Retail, Groups I and II Parking lot - accessory

R&D Parcel (portion of Parcel 22; subject to condition 1.b.)*

Business Services, Groups I and II Fences, Walls Parking Lot, accessory Research and Development Laboratories, Groups I & IV Agricultural Uses, in compliance with Condition 12 All uses described above for Residential Parcels

Existing Farmworker Housing Parcel (portion of Parcels 20 and 21)*

Farm labor housing All uses described above for Residential Parcels

*The parcel designated for Existing Farmworker Housing may remain and be maintained for this use until such time as it may be converted to residential use. The parcel designated as Office R&D may be used for agriculturally-related office and research/development uses not to exceed 50,000 sq. ft. of building area until such time as this use is converted to residential use. These parcels may be converted to residential use at any time, in which case allowable uses will be as stated under "Residential Parcels" above, provided, however, the any such conversion to residential use will not cause the maximum number of dwelling units for the project to exceed 5,208.

Exhibit D

Conditions of Development

CONDITIONS:

Master Concept Plan/ Development Parameters
 Development must be consistent with the Master Concept Plan (MCP) for
 FFD Corkscrew Road Property, dated XXX, attached as Exhibit B to the
 Agreement, except as modified by the conditions below.

a. Development must comply with the Lee County Land Development Code (LDC) in existence as of the effective date of this Agreement. In light of the conceptual nature of the MCP and the expected duration of the development, deviations from the LDC that do not increase the height, density or intensity of the development and otherwise meet the criteria of LDC Section 34-380 may be approved administratively by the Zoning Director without a public hearing.

b. The project is approved for a maximum of 5,208 dwelling units; 100,000 square feet of commercial floor area; 240,000 square feet total building floor area for clubhouse/amenity uses to be located within the Amenity Parcels and Residential Parcels; 50,000 square feet of Research and Development uses (existing); farmworker housing (existing); and public schools, civic uses, and other public facilities (subject to appropriate mitigation pursuant to paragraph 8.A.iii. of the Agreement). The Development Summary table on the MCP provides for the distribution of approved land uses throughout 22 Parcels. The allocation provides flexibility for the amount of development to be constructed on each Parcel but limits the maximum amount of development for the entire project that can be developed at buildout to the parameters identified in this condition. Changes to the number of dwelling units allowed on each Parcel may be approved through an administrative amendment, which may also require review and adjustment of the Conservation Area phasing plan provided in condition 1.c. below. Commercial development must only occur on uplands.

c. The Land Use Summary table on the MCP provides that 2,916.8 acres, or 56% of the project's total land area, will be dedicated to conservation purposes and these areas are identified on the MCP. Restoration and dedication of conservation areas shall occur over time as development orders are issued based upon the Phase Plan attached as Exhibit F to the Agreement and the Table below so that a minimum of 56% of the land area for each development order will be restored and dedicated to conservation concurrent with development:

Phase	Land Area (acres)	Development Area, incl. roads (acres)	Restoration Area (acres)*	Cumulative maximum units
A – Par. 1-7	797.3	350.8	446.5	797 units
B – Par. 8	672.5	295.9	376.6	1,469 units
C – Par. 9-12	951.8	418.8	533.0	2,421 units
D – Par. 13-17	932.9	410.5	522.4	3,354 units
E Par. 18-20	1,090.9	480.0	610.9	4,445 units
F – Par. 21-22	763.2	335.8	427.4	5,208 units
Total	5,208.6	2,291.8	2,916.8	5,208

*The cumulative amount of Restoration Area provided must equal at least 56 percent of the phase's acreage plus the acreage of previous phases.

Phasing of development and conservation acreage will be subject to the following conditions:

- i. Restoration and dedication of conservation areas shall occur as development orders are issued so as to achieve and maintain a minimum 56% of total land area in conservation.
- ii. The cumulative number of dwelling units permitted by development orders at any given time may not exceed the sum of the acreage for development and conservation included in development orders.
- iii. Individual parcels within a phase may be granted a development order as long as the total area of restoration/preservation and the number of dwelling units is consistent with i. and ii. above.
- iv. Parcels are not required to be developed sequentially according to their number on the Development Summary table on the MCP. If a Parcel is tied to a future Conservation Area on the Table above, the developer may obtain a development order for that parcel provided the minimum 56% conservation area is provided. However, the County may require that the conservation area be provided in an unfinished Conservation Area rather than the future Conservation Area to which the Parcel is tied in the Table above.
- v. A cumulative development update statement and summary must be provided with each development order application with the following information:
 - Existing and pending development order reference numbers, names, and status.
 - Development parameters (by du or square feet) approved by previous development orders, the parameters sought for approval by the current application, and a cumulative total of approved/pending parameters for the project to date.
 - A land use summary table that includes acreage approved by prior development orders and pending approval in the current application for development, conservation, and open space.

- vi. Conservation phases must be completed within ten (10) years of commencement of restoration of each phase, regardless of the progress of development tied to each phase.
- vii. In lieu of restoration/conservation activities required above, a future non-residential development in Phase A may proceed through the reconnection of the offsite flow-way on the east side of the property adjacent to the golf course. Off-site flow would need to be accommodated within the farm infrastructure and future residential property. Phase A restoration must still be completed by the end of development of Phase A parcels.

2. Uses and Site Development Regulations

a. The Schedule of Uses is set forth in Exhibit C to the Agreement.

b. The Property Development Regulations are set forth in Exhibit E to the Agreement

3. Wildlife Crossings

The location of wildlife crossings for the project shown on the MCP will be approved prior to issuance of the first development order. Animal crossings will be reviewed and permitted in accordance with the approved locations at time of local development order on a phase-by-phase basis. The construction of the animal crossings must be consistent with similarly approved crossings within other residential developments in the area.

4. Protected Species Management and Human-Wildlife Coexistence Plan

The developer must submit an updated Protected Species Management and Human/Wildlife Coexistence Plan for approval by the County prior to or concurrent with the first development order application. The Plan and development order plans must address the following:

- <u>Lighting</u>: Lighting must comply with LDC 34-625. Lighting plans must demonstrate no light spillage into the indigenous preserve and restoration areas. Techniques to limit lighting impacts include shielding and motion sensor devices. The lighting standards must also be included in deed restrictions;
- <u>Trails</u>: The location of proposed passive trails within indigenous preserve and restoration areas must include designated trailheads with signs and educational kiosks posted with information on possible wildlife encounters and appropriate actions when encountering wildlife. Signs and educational kiosks must identify all wildlife documented in the Plan as present or with the potential to utilize the habitat;

- <u>Signs</u>: The placement and content of signs between lakes and residential buildings warning of the presence of alligators and that it is dangerous and illegal to feed or harass alligators. The developer must also include these warnings in the deed restrictions;
- <u>Wildlife Fencing:</u> (If proposed) must meet recommendations and requirements of the Florida Fish and Wildlife Conservation Commission (FWC) and US Fish and Wildlife Service (FWS); and
- The Plan must be updated to reflect FWC and FWS requirements if permits are issued after approval of the first development order.
- Vegetation Removal permit applications must include a map depicting the work limit area and a species survey for the work limit area. The developer must submit a management plan for protected species within the work limit area identifying protection measures, monitoring, and/or relocation consistent with State and Federal requirements.
- Development order plans for commercial uses must demonstrate use of bear resistant dumpsters and below ground grease traps.

5. <u>Open Space</u>

Prior to or concurrent with the first development order application, the developer will submit for County approval an Open Space Plan that must demonstrate how a minimum of 65% open space will be achieved at buildout in substantial compliance with the approved MCP.

6. Platting Preserve Areas

At time of platting on a phase-by-phase basis, the developer will plat preservation areas into separate tracts and dedicate those tracts to a single maintenance entity, which must be either a master home owners association ("HOA"), a community development district ("CDD"), or a governmental entity acceptable to the County that will accept responsibility for the perpetual maintenance of the preservation areas in compliance with these conditions. The HOA or CDD must be created prior to CC for the first development order.

7. Conservation Easement

Prior to or concurrent with the first development order, the developer will submit a Master Conservation Easement Dedication Plan that will accomplish the dedication of a minimum of 56% of the planned development for conservation purposes on a phase-by-phase basis. The conservation easements will be dedicated to a maintenance entity that provides third party enforcement rights to the County or other public agency acceptable to the County. The conservation easements will be dedicated on a phase-by-phase basis in accordance with the phasing plan attached as Exhibit F to the Agreement as development orders are

issued, and will be reflected on the plats approved by the County for the subject property. The form of the conservation easement will be in the form attached as Exhibit "I" to the Agreement, except as may be required to be modified by the State or South Florida Water Management District.

8. Indigenous Management Plans

The developer must submit for approval by the County a final Indigenous Preservation, Restoration, and Management Plan prior to or concurrent with the first development order application. The Indigenous Preservation, Restoration, and Management Plan must include the following language:

- At the time of purchase, deed holders must be placed on notice through covenants and deed restrictions that project preserve areas may be managed with prescribed burns.
- Prior to commencing prescribed burn activity, the community development district (CDD) or HOA must notify residents of the prescribed burn activities and provide general prescribed burn management educational materials.

9. <u>Agricultural Uses</u>: Existing bona fide agricultural uses, as shown on Exhibit "H," are allowed to continue on the property subject to the following:

- a. The bona fide agricultural use of row crops and citrus groves in existence at the time of this Agreement (including all associated irrigation and fertilization) must be discontinued prior to issuance of a local development order for vertical development of a non-agricultural use for the land area subject to the development order; provided, however, that all agriculture must cease for each Parcel no later than ten (10) years after the commencement of vertical development on that Parcel. Development orders for platting, infrastructure, or other non-vertical development will not require discontinuance of the agricultural use.
- b. Clearing or injury of native trees and vegetation (including understory) is prohibited in areas devoted to agricultural uses. Violations of this condition will require restoration in accordance with LDC 10-423. The prohibition on clearing or expansion of agricultural use does not preclude County approved requests to remove invasive exotic vegetation.
- c. Prior to issuance of a local development order for vertical development, the developer must submit written proof, subject to approval by the County Attorney's Office, of the following:

1) Termination of agricultural uses on the land area subject to the development order application/approval. Proof must include a sworn affidavit from the person or entity holding title to the land area that provides:

a) the date agricultural uses ceased;

b) the legal description of the land area subject to development order approval;

c) an affirmative statement that the owner acknowledges and agrees that all agricultural uses are illegal and prohibited on the land area and that the owner covenants with the County that they will not allow agricultural uses on the land area until it is rezoned to permit agricultural uses; and

d) that the affidavit constitutes a covenant between the owner and the County binding on the owner, their assignees and successors in interest.

The affidavit must be recorded in the public records of the County at the owner's expense.

2) Proof of termination of the agricultural tax exemption on the land area subject to the development order. Proof of termination must include a copy of the owner's request to terminate the tax exemption provided to the Property Appraiser.

10. Native Vegetation

Development order landscape plans must reflect 100% native vegetation for required landscaping within common elements. These planting requirements and a native plant list must be incorporated into the project's covenants and deed restrictions.

11. Vehicular/Pedestrian Impacts

- <u>Local Development Order</u>. This approval does not address siterelated mitigation of vehicular or pedestrian traffic impacts. Additional conditions consistent with the LDC may be required to obtain a local development order.
- b. <u>Impact Fees and Proportionate Share Payments</u>. The development must mitigate the traffic impacts of the project and pay a proportionate share of the needed roadway improvements in accordance with paragraph 8 of the Agreement.
- c. <u>Shared Use Path</u>. The developer must provide an off-road shared use bike path/sidewalk in front of each residential lot and along at least one side of every project roadway. The shared use path must be 5 feet wide and separated from the travel lanes of the roadway. This separation from the travel lanes may be achieved by the installation of

a structural curb/gutter that prevents normal vehicular traffic on the path.

- d. <u>Access.</u> Agricultural uses (including farmworker housing and research and development uses) may access the property only via Six L's Farm Road and may not access Corkscrew Road directly from the property. Residential, commercial, and related amenity and accessory uses may access the property only via Corkscrew Road and may not directly access Six L's Farm Road. At the developer's option, an emergency access for fire/ems may be provided onto Six L's Farm Road to provide access for these services to the residential, commercial, and related amenity and accessory uses within the development.
- e. <u>Phasing.</u> The residential and commercial development authorized by this Agreement will be phased as follows:
 - i. Not more than twelve hundred fifty (1,250) dwelling units and 100,000 sq. ft. of commercial uses may be issued a building permit within three (3) years of the Effective Date of this Agreement.
 - ii. Not more than twenty-five hundred (2,500) dwelling units and 100,000 sq. ft. of commercial uses may be issued a building permit within five (5) years of the Effective Date of this Agreement.
 - iii. Not more than forty-two hundred fifty (4,250) dwelling units and 100,000 sq. ft. of commercial uses may be issued a building permit within seven (7) years of the Effective Date of this Agreement.
 - iv. All residential and commercial development may be issued a building permit after seven (7) years of the Effective Date of this Agreement.
 - v. These phasing restrictions do not apply to uses on the amenity uses, Office/R&D Parcel, and Farmworker Housing Parcel.

12. Entrance Gates and Gatehouses

Entrance gates and gatehouses are permitted at development entrances from Corkscrew Road and along the internal spine roads of the development. Gates must allow unencumbered pedestrian and bicycle movement between subneighborhoods and the overall development.

13. Surface & Ground Water Monitoring

The developer must submit an Enhanced Lake Management Plan at the time of Development Order application that includes monitoring components of surface and groundwater levels and quality as follows:

- a. The proposed groundwater (level and quality) monitoring program must establish baseline conditions and address monitoring during construction and operation of the storm water management facility.
- b. Quality of storm water entering and leaving the site must be monitored twice during the wet season and once during the dry season. Reporting must consist of an Electronic Data Deliverable (EDD) in a format approved by the Lee County Department of Natural Resources and submitted quarterly.
- c. The developer or successor must annually update the Water Quality Monitoring Program within the Enhanced Lake Management Plan to: 1) assess water quality data and trend analysis, 2) identify potential issues, and if necessary, 3) recommend corrective actions for changes to the monitoring plan.
- d. The developer may amend water quality monitoring and reporting after written request, review, and approval by the Department of Natural Resources.
- e. Groundwater quality monitoring well(s) for the Surficial Aquifer System must be provided and located between and proximate to Lee County's nearest production well(s) identified in the Water Quality Monitoring Plan.
- f. If any development order proposes to discharge into the County's MS4, the developer will coordinate with Lee County Department of Natural Resources through the development order process to ensure available capacity.

14. Wellfield Protection

- a. A portion of the property lies within Wellfield Protection Zones for the County public water supply. Development in those areas must comply with the Wellfield Protection Ordinance.
- b. The first development order application must include a list of Best Management Practices to address potential degradation of groundwater due to storage and use of regulated substances on-site during construction and operation of the development, if such substances will be stored or used on-site.
- c. The Declarations and Covenants must specify that only licensed professionals authorized by Lee County may perform activities such as the application of fertilizers, pesticides, insecticides, herbicides, nematicides or

other chemicals on the property. This restriction also applies to any commercial development.

- d. Docks, boat ramps, and motorized boats are prohibited within on-site storm water management lakes.
- e. Residential and amenity center development areas within the 5-year travel zones of the Wellfield Protection Ordinance must provide a minimum of 1.5 inches of water quality treatment of which, a minimum of 0.5-inch must be completed by water quality dry pretreatment prior to discharging into the lakes.
- f. Commercial development within the 6-month, 1-year, 5-year, or 10-year travel zones of the Wellfield Protection Ordinance must provide a minimum of 1.5 inches of water quality treatment, of which, a minimum of 0.5 inches must be completed by water quality dry pretreatment. Commercial development will be considered within the most restrictive wellfield protection zone as provided in the Wellfield Protection Ordinance.
- g. Dry and wet treatment on any commercial property must be located outside of the 6-month and 1-year travel zones.

15. Irrigation Wells

Single-Family Irrigation and Domestic Wells are prohibited. Development order plans must demonstrate irrigation will be provided via a central irrigation system using onsite lakes and, as necessary, existing permitted wells (or replacement wells). The Property Owner Association documents, including Declarations and Covenants, must prohibit the installation of single-family use wells for potable or irrigation water. Landscape irrigation must comply with the Water Conservation Ordinance #17-04, as amended.

16. <u>Water and Sewer</u>

All development must connect to central water and sewer; no septic systems or potable water wells will be permitted. The developer will utilize Lee County Utilities for potable water for the property, as provided in the Agreement. The development will connect to reclaimed water when available at the boundary of the subject property.

17. <u>Maintenance</u>

The developer and/or the CDD must submit a biennial drainage report signed by a licensed Professional Engineer in the State of Florida certifying that the drainage capacities of the flow-ways or buffer lakes at the completion of the project are consistent with the original design. If the report finds that flow-ways or buffer lakes require maintenance, then the developer/CDD must submit a remedial plan for review and approval to address measures to conduct maintenance (i.e. re-grading the flow-ways or berms). Providing the County with a copy of the CDD Engineer's Report will satisfy this requirement with the additional requirements above.

18. <u>Hydrological Restoration Plan</u>

a. <u>Flow Way Re-establishment</u>. The developer must demonstrate how it will re-establish historic storm water flows through the property to the greatest extent practicable consistent with the MCP. The developer is responsible for providing storm water flow through the project site until the property and permits are transferred to a third party.

b. <u>Hydrological Restoration Plan</u>. The developer must submit a Hydrological Restoration Plan that incorporates the requirements of Policy 33.2.4.2.c. of the Lee Plan prior to or concurrent with the first development order application. The Hydrological Restoration Plan must be based, in part, on an integrated surface and groundwater model to demonstrate protection of Lee County's natural resources, and must include backfill and restoration of manmade ditches on the property. The developer must phase backfill work to coincide with project development. A key feature of the Hydrological Restoration Plan is the re-establishment of the flowways encompassed within the conservation areas on the MCP, to restore historic flow-ways and improve drainage patterns to the extent feasible.

The Hydrological Restoration Plan must include detailed calculations and analyses for proposed flow-ways and other drainage improvements to estimate hydrologic benefits while ensuring no adverse impacts to adjacent properties. As part of the analysis, the developer will consult with County staff regarding the potential for providing additional regional surface water storage within the subject property. If mutually agreed upon, the County and the Developer may enter into an Agreement to provide for such additional storage.

The calculations/analyses must analyze post-development phases including peak stages, flows, and inundation (durations and frequency) for design storms (25 yr - 3 day and 100 yr -3 day) and compare hydrologic conditions for wet and dry seasons.

c. <u>Timing</u>. The developer must construct the hydrological restoration plan approved by the County coincident with construction of the storm water management system for each phase of development.

19. <u>Landscape Berm</u>. A 100-foot wide buffer must be provided along Corkscrew Road. The buffer may include a decorative landscape berm with a maximum height of 6 feet as measured from the crown of Corkscrew Road.

20. <u>Letters of Availability.</u> Letters of availability will be provided for law enforcement, fire, ems, and schools concurrent with each development order application.

21. <u>Development Permits.</u> Issuance of a county development permit does not establish a right to obtain permits from state or federal agencies. Further, it does not establish liability on the part of the county if the developer: (a) does not obtain requisite approvals or fulfill obligations imposed by state or federal agencies or (b) undertakes actions that result in a violation of state or federal law.

DEVIATIONS

Deviation 1 grants relief from LDC Section 10-296(e)(3), which requires roadway segments in Lee Plan future non-urban areas to be designed to non-urban design standards, to allow the internal roadways to be designed to the suburban roadway standards of LDC Section 10-296(e)(2).

Deviation 2 grants relief from LDC Section 10-291(3), which requires that residential development of more than five acres and commercial development of more than ten acres provide more than one means of ingress and egress, to allow (1) a single entrance onto Corkscrew Road for development of Parcels 1-5; and (2) two entrances onto Corkscrew Road for development of all remaining parcels.

Exhibit E

Property Development Regulations (in feet)

	Single Family	Zero Lot Line	Two Family Attached	Townhouse	Multi- Family	Amenity Center	Commercial
Minimum Lot Width	35	35	27	18	100	100	100
Minimum Lot Depth	120	120	100	100	100	150	150
Minimum Lot Area	4,200	4,200	3,500	2,200	10,000	15,000	15,000
Maximum Building Height	35	35	35	35	55	45	45
Maximum Lot Coverage	65%	65%	70%	70%	65%	60%	60%

SETBACKS	Single	Zero	Two Family	Townhouse	Multi-	Amenity	Commercial
	Family	Lot Line	Attached		Family	Center	
Public Street	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Corkscrew Road				100			
Private Street*	25	25	20	20	20	25	25
Side Yard	5	5/0**	5/0**	5/0**	10	10	10
Rear Yard	10	10	10	10	10	10	10
Accessory Structure	5	5	5	5	5	5	10
Lake Maintenance Easement	5	5	5	5	10	0	25

*10 feet for corner lots ** 0' for the common wall or lot line

4

Exhibit F

Phase Plan and Schedule

EXHIBIT G

Development Authorization Form

AUTHORIZATION TO OBTAIN BUILDING PERMIT WITHIN FFD/CORKSCREW ROAD PLANNED DEVELOPMENT

The XYZ Corporation is hereby authorized by FFD Land Co., Inc. ("FFD") (or successor developer), to obtain a building permit in [describe lot, tract, or property] of the FFD/Corkscrew Road Property planned development.

In accordance with the Agreement entered into between FFD and the County dated ______, 20____, this document is a limited authorization for the following amount of development to be permitted:

_____ dwelling units _____ sq.ft. of non-residential; type of use:_____

Further, FFD hereby assigns \$______ in Proportionate Share credits created pursuant to the Agreement. If no amount is provided, no credits have been assigned.

Building permits in excess of the number of dwelling units and/or non-residential square footage identified above or for uses other than identified above are expressly prohibited.

Developer's Authorized Representative

STATE OF FLORIDA COUNTY OF LEE

The foregoing instrument was acknowledged before me this _ day of _______, 20____, by ______ as ______ of FFD Land Co., Inc., a Florida corporation, who is personally known to me or has produced ______ as identification.

Notary Public

(SEAL)

Print Name

Commission Expiration Date

EXHIBIT H

Existing Agricultural Uses

EXHIBIT I

Form of Conservation Easement

MEMORANDUM FROM THE OFFICE OF COUNTY ATTORNEY

To: Board of County Commissioners

DATE: January 14, 2021 FROM; Michael D. Jacob Deputy County Attorney

RE: FFD Development Agreement Hearings (February 3, 2021 and March 3, 2021)

This memorandum is being provided to you to assist with the upcoming Hearings concerning the FFD Development Agreement. Due to the unique nature of the hearings, I wanted to provide some background on the purpose of the Hearings and provide you with the procedures for conducting the hearings.

You will recall on October 6, 2020, the Board held an Executive Session concerning the potential settlement of the litigation filed by FFD. Following the Executive Session, the Board approved the Stipulation of Settlement. The Stipulation of Settlement provided for the preparation of a draft development agreement that implements the Settlement Offer and for a 3-part hearing process for review and approval of the Development Agreement.

The hearing process allows for the evaluation of the proposed development to ensure that the development agreement and proposed conditions "protect the public interest served by County regulations and to ensure adequate public participation in the process.

The first hearing was held before the Hearing Examiner on December 3rd. Pursuant to paragraph 2B of the Stipulation of Settlement, the purpose of the Hearing was to "evaluate whether the relief granted to FFD by this Stipulation and the [development agreement] protects the public interest served by the [County Regulations].

On January 12, 2021, the Hearing Examiner issued her recommendation finding that the proposed Agreement is consistent with the spirit of the Lee Plan, specifically the directives to protect and restore water resources, wetlands and wildlife habitat and that the Agreement accomplishes the County's goals to protect and enhance the environmentally significant land contiguous to conservation areas and restores historical flow ways in the Southeast Lee County Planning Community. A copy of the Hearing Examiner's recommendation is attached.

The two hearings before the Board will be conducted to consider the Hearing Examiner's recommendation and to adopt the Development Agreement. At the conclusion BOCC Page 2 January 14, 2021

RE: FFD Development Agreement Hearings (February 3, 2021 and March 3, 2021)

of the first public hearing, we ask the Board to move the Development Agreement to the second public hearing for adoption on March 3rd. Please note, while the Hearings have been scheduled to coincide with the Board's Zoning schedules, the subject matter of the Development Agreement and the proposed development of the FFD property are not subject to the Ex Parte Communication rules. Also, unlike zoning cases, the hearing is open to the public and public comment is not limited to participants of record.

To assist you in reviewing the case, attached to this memorandum is a copy of the Hearing Examiner's recommendation and the Joint Memorandum submitted to the Hearing Examiner by County Staff and FFD's representatives. In addition, an electronic copy of the backup material for the development agreement will be forwarded to each of you for your review. If you have any questions or would like additional information, please do not hesitate to let me know.

Attachments:

Hearing Examiner Recommendation Joint Memo

Distribution:

Commissioner Ruane, District 1 Commissioner Pendergrass, District 2 Commissioner Sandelli, District 3 Commissioner Hamman, District 4 Commissioner Mann, District 5

cc via email only:

Roger Desjarlais, County Manager Dave Harner, Deputy County Manager Glen Salyer, Assistant County Manager Richard Wm. Wesch, County Attorney Dave Loveland, Director, DCD Russell P. Schropp, Esquire

Staff Summary

CASE NAME:	FFD Land Co., Inc. v. Lee County			
REQUEST:	Move the draft Development Agreement to Second Public Hearing on March 3, 2021, at 9:30 am.			
	The Development Agreement would provide for the issuance of development orders and development permits pursuant to 70.01(4), Fla. Stat., to provide for development of a the FFD Land Co., Inc. Property to include:			
	 A minimum of 65% open space, 56% conservation area; One unit per acre (5208 acres); 100,000 square feet of office/research; 90,000 square feet of residential amenities; Issuance of \$1,500,000 prop share payment credit for conveyance of excavation/mining rights to the County; and As further conditioned within the Stipulation of Settlement with attached Development Agreement. 			
LOCATION:	The property is approximately 5208 acres located at 22030 036 Big Lou Road, Southeast Lee County Plannin Community, Sections 26, 34, 35 and 36, Township 46 Sout Range 26 East, and Sections 1, 2, 3, 11, and 12 Township 4 South, Range 26 East.			
HEARING EXAMINER RECOMMENDATION:	The Agreement is consistent with the spirit of the Lee Plan; protects the public interest served by the Lee Plan; and accomplishes Lee Plan objectives through comprehensive conditioning, subject to one modification: • Exclude solid waste transfer station from permitted uses.			



MEMORANDUM FROM THE OFFICE OF THE LEE COUNTY HEARING EXAMINER

To: Board of County Commissioners

From: Donna Marie Collins, Chief Hearing Examiner

RE: Hearing Examiner Recommendation on Proposed Agreement pursuant to Stipulation of Settlement FFD Land Co., Inc. v. Lee County, Florida

The Chief Hearing Examiner renders the attached Recommendation on the proposed Agreement pursuant to Stipulation of Settlement in the matter of FFD Land Co., Inc. v. Lee County, Florida.

The Recommendation is based on the testimony and evidence submitted at a hearing held on December 3, 2020 including one post hearing submittal. The Lee County Attorney's Office will schedule further hearings before the Board of County Commissioners in the coming weeks.

cc: Michael D. Jacob, Deputy County Attorney Russell Schropp, Esq. David Loveland, Director Department of Community Development Mikki Rozdolski, Director Planning Division Anthony Rodriguez, Acting Director Zoning Division

Summary of Hearing Examiner Recommendation

Stipulation of Settlement

FFD LAND CO., INC. v. Lee County, Florida

The Board of County Commissioners authorized the Chief Hearing Examiner to review the terms of an Agreement pursuant to Stipulation of Settlement in the matter of FFD Land Co., Inc. v. Lee County, Florida. The scope of review is limited to a determination of whether the Agreement protects the public interest served by the County's land development regulations.

The Hearing Examiner concludes the Agreement serves the public interest notwithstanding its contravention of Lee Plan policies that require inclusion in the Environmental Enhancement and Preservation Communities Overlay and planned development zoning to achieve the proposed development parameters.

The Agreement protects the public interest by conditioning development in a manner that accomplishes Lee Plan objectives in the Southeast Lee County DR/GR.

Detailed Recommendation Follows

Hearing Examiner Recommendation

Stipulation of Settlement FFD LAND CO., INC. v. Lee County, Florida

I. Question Presented

Does the proposed Agreement pursuant to Stipulation of Settlement¹ protect the public interest served by the County's land development regulations?

II. Brief Answer

The Agreement serves the public interest notwithstanding its contravention of Lee Plan policies that require inclusion in the Environmental Enhancement and Preservation Communities Overlay and planned development zoning to achieve the proposed development parameters.

While the Agreement may not meet the "letter" of certain Lee Plan provisions, it accomplishes Plan objectives by conditioning development to protect the public interest served by contravened regulations.

III. Hearing Examiner Recommendation

Approve the Agreement, subject to one modification.²

IV. Discussion

A. <u>History</u>

FFD Land Co., Inc. owns approximately 5,208 acres in Southeast Lee County.³ The property is zoned for agriculture with a future land use designation of Density Reduction/Groundwater Resource and Wetlands.⁴ Agricultural operations consisting of row crops and citrus groves have been ongoing for nearly 60 years.

FFD filed an application to rezone 4,652 acres to Mine Excavation Planned Development (MEPD) in January 2009. While the application was in the midst of sufficiency review, the County amended the Lee Plan. The amendment precludes

¹ Agreement Pursuant to Stipulation of Settlement under Section 70.001, Florida Statutes, draft dated December 3, 2020. Hereinafter "Agreement".

² Exclude solid waste transfer station from permitted uses.

³ Exhibit A. FFD Land Co., Inc. abbreviated as FFD for the remainder of this recommendation.

⁴ Lee Plan Policy 1.4.5. Density Reduction/Groundwater Resource will be abbreviated as DR/GR for the remained of this recommendation.

mining on the property. The Board subsequently denied FFD's MEPD zoning request in May 2013.

The amendments to Lee Plan mining regulations gave rise to the controversy with FFD.

FFD filed suit in circuit court claiming violation of the Bert J. Harris, Jr. Private Property Rights Protection Act and inverse condemnation. Settlement discussions resulted in a proposed Agreement pursuant to Stipulation of Settlement to resolve the controversy.⁵

B. Cause of Action

The settlement arises out of a cause of action under the Bert J. Harris, Jr. Private Property Rights Protection Act (The Act). The Act provides relief to property owners whose property rights are inordinately burdened by a new regulation. The cause of action is separate and distinct from the law of takings, yet provides relief or compensation when new regulations unfairly affect real property.

The Act authorizes settlement using permit approvals. The proposed settlement must protect the public interest served by the regulations, and provide the relief necessary to prevent an inordinate burden on the property. If the settlement contravenes a statute, the circuit court must ensure the relief:

- (1) protects the public interest served by the contravened statute, and
- (2) is the relief necessary to prevent an inordinate burden to the property. 6

The proposed settlement provides FFD with development rights *in lieu* of mining and *in lieu* of damages for the County's denial of the MEPD zoning request.⁷ However, the terms of the Agreement contravene certain state and local regulations.

The Act requires FFD to identify specific regulations contravened by the settlement and offer conditions to protect the public interest served by those regulations.

C. Proposed Settlement

The Agreement contravenes seven Lee Plan Policies and two Land Development Code provisions.⁸ Inconsistency with the Lee Plan also contravenes state statutes that require development approvals to be consistent with the local comprehensive plan.

⁵ s. 70.001(4)(d), F.S.

⁶ The latter standard will be determined by the Board of County Commissioners.

⁷ The settlement terms authorize FFD to develop the property at one unit per gross acre, 100,000 square feet commercial development, 50,000 square feet office/research, 240,000 square feet of amenity uses serving the residential community, continuation of agricultural research and development within 50,000 square feet of floor area, continuation of farmworker housing, and uses typically associated with a mixed use development. In exchange, FFD must relinquish mining rights on the property.

⁸ The Land Development Code will be referenced as the LDC for the remainder of the recommendation.

The sole purpose of the hearing before the Hearing Examiner is to obtain a finding on whether the relief granted by the Agreement protects the public interest served by contravened regulations.⁹ If the Hearing Examiner concludes the public interest is not protected, she may offer additional requirements/conditions to ensure protection.

Following the Hearing Examiner's recommendation, the Board will conduct two public hearings. If the Board accepts the recommendation, the parties may submit the settlement agreement to the circuit court for approval. Circuit court approval is a precursor to dismissing the lawsuit.

D. Relevant Terms of Agreement

The Agreement bestows development rights consistent with those allowed in the Environmental Enhancement and Preservation Communities Overlay.¹⁰ The Board adopted the Overlay to encourage private partnerships to achieve DR/GR goals in the Southeast Lee County Planning Community. The Overlay identifies critical restoration areas, imposes enhanced development standards, and offers density incentives with the purpose of furthering those goals.¹¹

The Overlay uses a multifaceted approach to incentivize restoration and conservation of critical natural resources.¹² The Overlay:

- Identifies strategic areas that provide critical connections to land areas serving as the foundation for water resource management and wildlife movement,¹³
- Balances development with natural resource protection,¹⁴ and
- Awards density to incentivize, and defray the cost of, restoration.¹⁵

The Board approved two projects consistent with Overlay criteria.¹⁶ Similar to the FFD property, the projects: (1) are classified as top priority for conservation, (2) are contiguous to conservation lands, (3) offer opportunities for flow way

⁹ The second required finding, that "the relief is necessary to prevent an inordinate burden to the property owner from the regulation" is outside the scope of the Hearing Examiner's authority as outlined in paragraph 2.B. of the Stipulation of Settlement. This finding must be made by the Board.

¹⁰ The Environmental Enhancement and Preservation Communities Overlay will be referred to as the "Overlay" for the remainder of this recommendation.

¹¹ Lee Plan Policy 33.1.2: Tiers 1 and 2 are the most incentivized tiers.

¹² Resources include flow ways, groundwater, wetlands, flora and fauna.

¹³ Lee Plan Goals 4, 33, 123, 124, 126, Policy 33.1.1 (large scale ecosystem integrity) Policy 33.1.2 (connecting existing corridors and conservation areas), Policy 33.1.3 (provide critical connections to conservation lands), Policy 33.1.8 (restoration and protection of natural systems), Policy 123.2.4 (encourage protection of viable tracts of sensitive and high quality natural plant communities within developments), Policy 123.11.4 (expand the Corkscrew Regional Ecosystem Watershed Greenway through incentive programs to preserve and restore habitats)

¹⁴ Lee Plan Goals 33, 123, 124, 126,158, Objectives 33.1, 33.2 See also Policy 33.1.2 (Overlay does not restrict the use of land)

¹⁵ Lee Plan Goal 33, Policy 33.1.3 (unique development incentives)

¹⁶ Verdana Villages and Corkscrew Farms, known as "The Place."

restoration, (4) offer opportunities to expand wildlife corridors/habitats, and (5) front on Corkscrew Road.

The Agreement is consistent with development parameters permissible in the Overlay and tracks conditioning of approved projects in the Overlay.¹⁷ Proposed development parameters include:

- Residential densities of 1 unit per acre,¹⁸
- Limited commercial square footage,
- 65% open space,¹⁹
- 56% land area devoted to restoration/conservation,
- Broad conditioning to ensure restoration and protection of natural resources,²⁰ and
- Enhanced mitigation of transportation and fire/EMS impacts.

E. Inconsistencies with Adopted Regulations

1. Lee Plan. (Contravened Policies)

The Agreement is not consistent with the Lee Plan because the property does not lie within the Environmental Enhancement and Preservation Communities Overlay.²¹ However, the Agreement imposes Overlay development criteria, which further County goals of protecting/enhancing ecological and water resources.²²

Policy 33.2.4.1.

The property is not within the Overlay. <u>Evidence in the record demonstrates the</u> <u>FFD property possesses the environmental characteristics and potential to provide</u> <u>significant regional hydrological and wildlife connections</u>. These connections

¹⁷ Conditions address mitigation of transportation, fire, and EMS impacts, restoration of upland and wetland areas, conversion of farm fields to native conservation areas, restoration and enhancement of flow ways, preservation of 56% of the land area in conservation easements, requires 65% land area be devoted to open space, human wildlife coexistence plans, protected species management, phase out of agricultural operations, modeling of impacts to surface and groundwater resources, surface water management, monitoring of surface and groundwater for contamination, onsite flow ways, and urban services/infrastructure necessary to provide property with potable water, sanitary sewer, solid waste collection, and fire/EMS services.

¹⁸ Verdana Villages approved at over 1 unit per acre in exchange for preserving additional land area and the possibility to store excess storm water runoff at the County's request.

¹⁹ Lee Plan Policy 33.2.4 requires planned developments in the Overlay to provide a minimum of 60% open space. The Agreement requires 65% of the land area to be devoted to open space.

²⁰ Lee Plan Policy 33.2.4 requires planned developments in the Overlay to record a conservation easement over a minimum of 55% of the project. The Agreement requires conservation easements over 56% of the property. *See also* Lee Plan Objective 33.1.

²¹ The property is not within the Overlay reflected in Lee Plan Map 17.

²²The proposed plan of development is consistent with the regulatory criteria for development in the Overlay as well as Lee Plan Objective 123.10, and Policies 1.4.5.1, 1.4.5.2, 1.5.1, 33.1.1, 33.1.7, 33.1.8, 33.2.4.2 (12 of the 14 criteria), 33.2.4.4.c, 33.2.4.4.e, 33.2.4.4.f, 60.1.1, 61.1.1, 123.3.3, 123.4.1, 123.4.4, 123.10.1, 123.10.2, and 123.10.3.

would improve, preserve and restore regional surface and groundwater resources and indigenous wildlife habitats.²³

The property is contiguous to the Flint Pen Strand and Corkscrew Regional Ecosystem Watershed, two regionally significant conservation areas. Development will be subject conditions crafted to enhance the value and function of both ecosystems, and advance the public interest in restoring regionally significant natural resources.²⁴ Imposing Overlay development standards promotes the public interest in expanding wildlife corridors and improving regional hydrology.²⁵

Policy 33.2.4.2

Policy requires planned development zoning for property developed in the Overlay. Planned developments allow conditioning of development approvals. Rezoning to planned development also affords the opportunity for public participation in the hearing process.

The Agreement does not rezone the property to planned development, but authorizes development consistent with LDC Mixed Use Planned Development standards.²⁶ The process affords the opportunity for public participation at three hearings.²⁷

Policy 33.2.4.2.e

Policy requires conservation easements over 55% of the property within five years of the first development order. The Agreement requires conservation easements over 56% of the property. Conditions phase restoration and conservation activities in tandem with development. <u>Conditions imposed on site development ensure restoration/conservation lands will be a minimum of 56% of the area subject to each development order.</u>

<u>FFD's significant property size affords opportunities to achieve contiguous</u> restoration areas far exceeding those created by projects in the Overlay. The Agreement assures protection of wildlife habitat and water resources with recorded conservation easements.²⁸ Although the policy contemplates recorded easements

²³ Lee Plan Policies 1.4.5, 33.1.3 (critical connections to conservation lands serve as foundation of water resource management and wildlife movement within the DR/GR). Map 1, page 4 (Tier 2 property)

²⁴ The Agreement ensures the property provides the strategic regional environmental benefits anticipated from properties designated within the Overlay.

²⁵ Lee Plan Goal 33, Objective 33.1, Policies 33.1.1, 33.1.2, 33.1.3, 33.1.8; See also Objective 61.2, Policy 61.2.1.

²⁶ The Agreement includes a Master Concept Plan, Schedule of Uses, Conditions of Development and Deviations, Property Development Regulations and Environmental Restoration Phase Plan similar to resolutions approving a planned development in the Overlay. The plan of development devotes 56% of the site to conservation and 65% to open space. The public interest is satisfied through a master concept plan that meets/exceeds conservation and restoration requirements of Overlay communities.

²⁷ One public hearing before the Hearing Examiner (December 3, 2020) and then two additional public hearings before the Board of County Commissioners.

²⁸ Lee Plan Policies 33.1.3, 33.2.4, 123.1.7.

within the first five years of development, a phased approach serves the public interest in protecting environmentally valuable resources and allows a measured approach to restoring significant land areas.

Policy 33.2.4.2(i).

Policy requires elimination of agricultural irrigation and fertilizer use upon development order approval.²⁹ The public interest protected by this policy is conservation of potable water resources. The policy also protects groundwater resources from contamination.³⁰

The Agreement contemplates phased termination of agricultural operations, to ensure cost effective land management. <u>Phased elimination of agricultural operations contains the spread of exotic flora and fauna on vast expanses of fallow land.³¹ The phasing plan achieves the ultimate goal of replenishing groundwater resources and reducing potential sources of contamination.</u>

Policy 33.2.4.3.b.

Policy limits densities on Tier 2 properties to one unit per two acres. <u>The public interest served by the policy is the use of density incentives to motivate private landowners to improve/restore regional surface and groundwater resources and wildlife habitats.</u>

The DR/GR Priority Restoration Overlay depicts land areas where protection and restoration are *most critical* to restore historic surface and groundwater levels and connect existing wildlife corridors/conservation areas.³² Tier 2 properties have the same ecological significance as Tier 1. The only difference is the long term viability of agricultural operations.³³

The Agreement permits density authorized for Tier 1 properties; one unit per acre. Applying Tier 1 density incentives offers opportunities for large scale ecological benefits through restoration, preservation and management of natural resources on nearly 3,000 acres.

Policies 33.2.4.4.d and 33.2.5.

Policies limit commercial development in Southeast Lee County Planning Community to 300,000 square feet. The limit was established based on approved residential development in the service area; approximately 7,500 units. <u>The public purpose served by commercial uses in the Overlay is to meet the needs of the projected population.</u>

³² Lee Plan Policy 33.1.2.

²⁹ Specifically, immediately upon development order approval for row crops and within five years of development order approval for citrus groves.

³⁰ Lee Plan Goal 125, Objective 63.2, Policy 1.4.5.

³¹ The costs associated with restoring nearly 3,000 acres at once would be prohibitive, resulting in fallow lands that would populate with exotic vegetation. The public has an interest in limiting the spread of exotic vegetation. See Lee Plan Policy 33.1.4.

³³ Lee Plan Policy 33.1.3.

The Agreement authorizes development of 5,208 dwelling units. Additional commercial square footage is necessary to meet the needs of these future residents. Commercial uses in proximity to residential development reduces the likelihood residents will travel further distances to obtain necessary goods and services. The proposed 100,000 square feet of commercial use will capture trips destined for commercial centers, reducing trip lengths and impacts to roadways further west.³⁴

2. <u>LDC (Contravened Sections)</u>

Planned development zoning permits deviations from technical code requirements when the deviation enhances development and promotes public health, safety and welfare.³⁵

<u>The Agreement regulates FFD property as if it were zoned Mixed Use Planned</u> <u>Development.³⁶</u> Consequently, there are two LDC provisions contravened by the proposed development design.

Road Design.

The Agreement authorizes suburban road design to accommodate clustered development. Clustered development patterns facilitates large scale conservation of natural resources.³⁷ The Board has found suburban road design enhances development in the Overlay without negative impacts to the public.³⁸ The characteristics of the FFD site are substantially similar to approved projects within the Overlay, albeit on a larger scale. <u>The contravention of this LDC standard serves the public interest in clustered development patterns to preserve natural resources.</u>³⁹

Access.

The proposed site plan *temporarily* contravenes the LDC requirement for multiple access to residential developments exceeding five acres. A single Corkscrew Road access will serve the first five development tracts. The proposed site plan provides additional access to the County road network as development proceeds

³⁴ Evidence in the record confirms the proposed FFD development generates the need for 200,000 square feet of commercial use. The 100,000 square feet proposed in the Agreement is necessary to contain impacts along the road corridor from the development and communities within the Overlay.
³⁵ LDC 34-377(a).

³⁶ The Agreement designates and regulates the FFD property as a Mixed Use Planned Development under the LDC.

 ³⁷ Lee Plan Goal 33, *Cf.* Policy 13.2.3 (Private Recreation Facilities in the DR/GR), Policy 124.1.2 (avoid/minimize adverse impacts on wetlands through clustering development).
 ³⁸ The Place and Verdana Villages.

³⁹ *Id.* See Lee Plan Glossary definition of Clustering: Development design that concentrates buildings/uses to allow remaining land area to be used for ...water management and protection of environmentally sensitive land.

to the south and east. Ongoing agricultural operations will access the site from Six L's Farm Road.

There is a public interest in multiple accesses to provide alternatives in the event of emergencies. One access to Corkscrew Road is adequate to serve the limited development associated with Parcels 1-5. The Agreement provides the required second access upon development of Parcel 6.

3. <u>State Statutes (Contravened Statutes)</u>

Plan inconsistencies contravene statutory provisions that require development approvals to be consistent with the local government comprehensive plan.⁴⁰ However, the public interest served by the statutes remains intact for two reasons: First, the procedure adopting the Agreement mimics the plan amendment public hearing process. Second, the Agreement implements Overlay development criteria by imposing conditions similar to projects previously approved within the Overlay.

F. Hearing Examiner Remarks on Proposed Agreement

1. Exhibit C (Schedule of Uses)

Under the LDC, all uses listed in an activity group are permitted unless noted to the contrary.⁴¹ The request for Essential Service Facilities, Group II creates a Lee Plan consistency issue because one of uses permitted in the group is not consistent with Lee Plan policies governing development in the DR/GR.⁴²

The Plan requires minimal public facilities in the DR/GR.⁴³ The Hearing Examiner recommends excluding the use as follows:

Essential Service Facilities, Group II, excluding solid waste transfer stations.

⁴⁰ Secs. 163.3184 & 163.3194 Florida Statutes.

⁴¹ LDC 34-622(c).

⁴² Exhibit C authorizes Essential Service Facilities, Group II on all Residential Parcels except parcels 10, 11, and 15. Essential Service Facilities, Group II includes Solid Waste Transfer Stations among its permitted uses. The Lee Plan directs the county to protect/improve the quality of receiving waters, natural areas and groundwater aquifer recharge areas. Goal 60. The Plan identifies the DR/GR as a "critical area" for surface water management pursuant to this goal. Lee Plan Objective 60.3; *See also* Goal 125, Objective 63.2, Policy 7.1.3.

⁴³ Lee Plan Policy 1.4.5.

2. Exhibit D (Conditions of Development)

The following conditions require clarification:

<u>Condition 9 - Agricultural Uses</u>. The condition identifies citrus and row crops as existing bona fide agricultural uses. However, subparagraph b implies grazing is also permissible. The Hearing Examiner suggests including cattle grazing among existing agricultural uses. In the alternative, modify subparagraph b to remove references to pasture.

<u>Condition 20 - Letters of Availability</u>. The condition suggests Developer must submit letters of availability for the entire project with the first development order application. However, it is unlikely a developer will be able to demonstrate availability to serve project buildout at the time of the first development order application. It may be preferable to require letters of availability with each phase. Consider redrafting condition to clarify this point.

V. Conclusion

The proposed Agreement is consistent with the spirit of the Lee Plan, specifically its directives to protect and restore water resources, wetlands and wildlife habitat. The Agreement accomplishes County goals to protect and enhance environmentally significant land contiguous to conservation areas and restore historical flow ways in the SE Lee County planning community.⁴⁴ These statements are true notwithstanding its contravention of seven Lee Plan policies and two sections of the LDC.

The Agreement serves the public interest in protecting natural resources in the Southeast Lee County planning community in the following ways:

- Protects natural resources benefiting water resources and natural habitats.⁴⁵
- Protects and enhances regional flow-ways and natural habitat corridors.⁴⁶
- Restores historic surface and groundwater levels and improving wetlands and wildlife habitat.⁴⁷
- Maintains/restores large scale ecosystem integrity.⁴⁸
- Connects conservation areas. (Flint Pen Strand and Corkscrew Regional Ecosystem Watershed)⁴⁹

⁴⁴ Lee Plan Policies 123.1.7, 123.2.8; See also Policy 61.3.4.

 ⁴⁵ Protects Southeast Lee County's natural resources through restoration/conservation. Lee Plan Goal 33.
 ⁴⁶ Lee Plan Goal 33.

⁴⁷ Lee Plan Objective 33.1.

⁴⁸ Lee Plan Goal 123 and Policy 33.1.1.

⁴⁹ Lee Plan Policies 33.1.1, 33.1.2.

- Protects environmentally sensitive lands from mining activity.⁵⁰
- Concentrates development activity on impacted land areas.⁵¹
- Avoids introducing additional septic systems in the DR/GR by extending central potable water/sanitary sewer service.⁵²
- Regulates development using planned development zoning model.
- Eliminates productive agricultural uses (in phases).⁵³

The Agreement serves the public interest notwithstanding its contravention of Lee Plan policies that require inclusion in the Overlay and planned development zoning to achieve the proposed development parameters.

While the Agreement may not comply with a strict reading of the Lee Plan, it accomplishes Plan objectives through comprehensive conditioning. The conditions protect the public interest served by the County's regulations.

Date of Recommendation: January 12, 2021.

Donna Marie Collins Chief Hearing Examiner

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

Exhibits to Recommendation

Exhibit A: Legal Description and Vicinity Map Exhibit B: Exhibits Presented at Hearing Exhibit C: Hearing Participants Exhibit D: Information

⁵⁰ Property is classified Tier 2 property within the *DR/GR Priority Restoration Overlay*. The Priority Restoration Overlay includes lands most critical to restore/protect historic surface and groundwater levels.
⁵¹ Lee Plan Policy 33.1.3: Tier 2 properties qualify for unique development incentives due to their potential for natural resources benefits and wildlife connections. *See also* Policy 33.1.2.
⁵² Lee Plan Objective 63.2.

⁵³ In recognition of the importance of protecting bona fide agricultural activities in Future Non-Urban Areas. Lee Plan Policy 9.1.4

X

LEGAL DESCRIPTION AND VICINITY MAP
Exhibit A

Legal Description of the Property

LEGAL DESCRIPTION

ALL OF SECTIONS 26, 35 AND 36 AND THE EAST ONE-HALF OF SECTION 34 TOWNSHIP 46 SOUTH RANGE 26 EAST, LEE COUNTY FLORIDA AND ALL OF SECTIONS 1, 2, 11, 12 AND THE EAST ONE-HALF OF SECTION 3 TOWNSHIP 47 SOUTH RANGE 26 EAST LEE COUNTY FLORIDA LESS THE RIGHT OF WAY FOR CORKSCREW ROAD BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS;

BEGINNING AT THE SOUTHEAST CORNER OF SAID SECTION 36;

THENCE NORTH 00°53'47" WEST ALONG THE EAST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 36 A DISTANCE OF 2644.58 FEET TO THE EAST QUARTER CORNER OF SAID SECTION;

THENCE NORTH 00°54'01" WEST ALONG THE EAST LINE OF THE NORTHEAST QUARTER OF SAID SECTION A DISTANCE OF 2644.35 FEET TO THE NORTHEAST CORNER OF SAID SECTION 36;

THENCE SOUTH 89°17'03" WEST ALONG THE NORTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 36 A DISTANCE OF 2641.41 FEET TO THE NORTH QUARTER CORNER OF SAID SECTION;

THENCE SOUTH 89°21'54" WEST ALONG THE NORTH LINE OF THE NORTHWEST QUARTER OF SAID SECTION 36 A DISTANCE OF 2637.56 FEET TO THE NORTHWEST CORNER OF SAID SECTION 36 AND THE SOUTHEAST CORNER OF THE AFOREMENTIONED SECTION 26; THENCE NORTH 00°34'00" WEST ALONG THE EAST LINE OF THE SOUTHEAST QUARTER OF SECTION 26 A DISTANCE OF 2629.17 FEET TO THE EAST QUARTER CORNER OF SAID SECTION; THENCE NORTH 00°34'15" WEST ALONG THE EAST LINE OF THE NORTHEAST QUARTER OF SAID SECTION A DISTANCE OF 2578.45 FEET TO THE SOUTH RIGHT OF WAY LINE OF CORKSCREW ROAD (100' WIDE) AS RECORDED IN OFFICIAL RECORDS BOOK 571 PAGE 457 PUBLIC RECORDS OF LEE COUNTY FLORIDA;

THENCE SOUTH 89°29'01" WEST ALONG SAID RIGHT OF WAY LINE A DISTANCE OF 2657.86 FEET;

THENCE CONTINUING ALONG SAID RIGHT OF WAY LINE SOUTH 89°29'14" WEST A DISTANCE OF 1138.62 FEET TO THE BEGINNING OF A CURVE CONCAVE NORTHERLY AND HAVING A RADIUS OF 1859.57 FEET;

THENCE CONTINUING ALONG SAID RIGHT OF WAY LINE WESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 13°19'01" AN ARC DISTANCE OF 432.21 FEET TO AN INTERSECTION WITH THE NORTHERLY LINE OF THE NORTHWEST QUARTER OF SAID SECTION 26;

THENCE LEAVING SAID RIGHT OF WAY LINE ALONG SAID SECTION LINE SOUTH 89°29'14" WEST A DISTANCE OF 1091.28 FEET TO THE NORTHWEST CORNER OF SAID SECTION 26;

THENCE SOUTH 00°58'11" EAST ALONG THE WEST LINE OF THE NORTHWEST CORNER OF SAID SECTION 26 A DISTANCE OF 2637.69 FEET TO THE WEST QUARTER CORNER OF SAID SECTION; THENCE SOUTH 00°55'06" EAST ALONG THE WEST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION A DISTANCE OF 2636.23 FEET TO THE SOUTHWEST CORNER OF SAID SECTION 26 AND THE NORTHEAST CORNER OF THE AFOREMENTIONED SECTION 34;

THENCE SOUTH 89°17'12" WEST ALONG THE NORTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION A DISTANCE OF 2640.06 FEET TO THE NORTH QUARTER CORNER OF SAID SECTION;

THENCE SOUTH 00°38'09" EAST A DISTANCE OF 5293.88 FEET TO THE SOUTH QUARTER CORNER OF SAID SECTION 34 AND THE NORTH QUARTER CORNER OF THE AFOREMENTIONED SECTION 3;

THENCE SOUTH 00°28'36" WEST A DISTANCE OF 5444.35 FEET TO THE SOUTH QUARTER

CORNER OF SAID SECTION 3;

THENCE NORTH 88°35'10" EAST ALONG THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION A DISTANCE OF 2693.91 FEET TO THE SOUTHEAST CORNER OF SAID SECTION 3 AND THE NORTHWEST CORNER OF THE AFOREMENTIONED SECTION 11;

THENCE SOUTH 00°01'56" EAST ALONG THE WEST LINE OF THE NORTHWEST QUARTER OF SAID SECTION 11 A DISTANCE OF 2702.33 FEET TO THE WEST QUARTER CORNER OF SAID SECTION;

THENCE CONTINUE SOUTH 00°01'56" EAST ALONG THE WEST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION A DISTANCE OF 2702.33 FEET TO THE SOUTHWEST CORNER OF SAID SECTION 11;

THENCE NORTH 88°41'40" EAST ALONG THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION A DISTANCE OF 2681.61 FEET TO THE SOUTH QUARTER CORNER OF SAID SECTION;

THENCE NORTH 88°43'03" EAST ALONG THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION A DISTANCE OF 2675.62 FEET TO THE SOUTHEAST CORNER OF SAID SECTION 11 AND THE SOUTHWEST CORNER OF THE AFOREMENTIONED SECTION 12;

THENCE NORTH 88°37'36" EAST ALONG THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION A DISTANCE OF 2698.32 FEET TO THE SOUTH QUARTER CORNER OF SAID SECTION;

THENCE NORTH 88°37'51" EAST ALONG THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION A DISTANCE OF 2697.96 FEET TO THE SOUTHEAST CORNER OF SAID SECTION 12;

THENCE NORTH 00°51'57" WEST ALONG THE EAST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION A DISTANCE OF 2709.13 FEET TO THE EAST QUARTER CORNER OF SAID SECTION;

THENCE NORTH 00°51'43" WEST ALONG THE EAST LINE OF THE NORTHEAST QUARTER OF SAID SECTION A DISTANCE OF 2709.41 FEET TO THE NORTHEAST CORNER OF SAID SECTION 12 AND THE SOUTHEAST CORNER OF THE AFOREMENTIONED SECTION 1;

THENCE NORTH 01°01'36" WEST ALONG THE EAST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION A DISTANCE OF 2639.48 FEET TO THE EAST QUARTER CORNER OF SAID SECTION;

THENCE NORTH 01°03'27" WEST ALONG THE EAST LINE OF SAID SECTION A DISTANCE OF 2639.69 FEET TO THE NORTHEAST CORNER OF SAID SECTION 1 AND THE SOUTHEAST CORNER OF SAID SECTION 36 AND THE POINT OF BEGINNING OF THE PARCEL HEREIN DESCRIBED;

CONTAINING 5208.61 ACRES OF LAND MORE OR LESS; SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD; ABSTRACT NOT REVIEWED.

AGNOLI, BARBER AND BRUNDAGE, INC. PROFESSIONAL ENGINEERS, PLANNERS & SURVEYORS AND MAPPERS

GEORGE W. HACKNEY P.S.M. 5606

Exhibit B

2

EXHIBITS PRESENTED AT HEARING

JOINT (STAFF & APPLICANT) EXHIBITS

- Joint Submittal of Memorandum from Lee County & FFD Land Co., Inc.: From Michael Jacob, Esq., Mikki Rozdolski, Brandon Dunn, Becky Sweigert, Russel Schropp, Esq., Richard Akin, & Daniel DeLisi, to Donna Marie Collins, Chief Hearing Examiner, dated November 3, 2020, regarding Agreement Pursuant to Stipulation of Settlement Under Section 70.001, Florida Statutes (November 13, 2020 Agreement is superseded by the December 3, 2020 Agreement submitted at hearing as Exhibit 2}(3-ring binder, multiple pages)[color]
- 2. Joint Submittal: Agreement Pursuant to Stipulation of Settlement under Section 70.001, Florida Statutes **{December 3, 2020 Agreement}** (multiple pages – .8.5"x11")

STAFF EXHIBITS

- 1. *Memorandum:* From Michael Jacob, Esq., to Donna Marie Collins, Chief Hearing Examiner, dated November 13, 2020, regarding FFD Hearing Examiner Hearing (3 pages 8.5"x11")
- News-Press Advertisement: Email from Tina Boone, to Michael Jacob, Esq., Mikki Rozdolski, Brandon Dunn, Maria Perez, Russell Schropp, Esq., dated Monday, November 23, 2020 3:37 PM, submitting advertisement of the Hearing Examiner's Hearing scheduled December 3, 2020, regarding FFD Land Co., Inc., vs. Lee County, Case No. 17-CA-001517, Settlement Agreement pursuant to Section 70.001, Florida Statutes (2 pages)

APPLICANT EXHIBITS

1. *PowerPoint Presentation:* Prepared for FFD Land Co., Inc., Settlement Agreement, dated December 3, 2020 (multiple pages – 8.5"x11")[color]

Exhibit C

HEARING PARTICIPANTS

1

County Staff:

1. Michael Jacob, Esq.

Applicant Representatives:

- 1. Daniel DeLisi, DeLisi, Inc.
- 2. Russell Schropp, Esq.
- 3. Ted Treesh, TR Transportation Consultants

1.1

Public Participants:

1

1. Mary Gibbs, Director of Community Development, Village of Estero

Exhibit D

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 two hearings to consider the proposed Stipulation of Settlement and Hearing Examiner record. The Department of Community Development will notify hearing participants of further hearing dates.

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.

JOINT MEMORANDUM OF LEE COUNTY AND FFD LAND CO., INC.

INDEX

Joint Memorandum

- A. Stipulation of Settlement
- B. Legal Description
- C. Aerial of Subject Property
- D. Bert Harris Claim Letter
- E. Agreement Pursuant to Stipulation of Settlement (with Exhibits "A" through "I")
 - A. Legal Description
 - B. Master Concept Plan
 - C. Schedule of Uses
 - D. Conditions of Development
 - E. Property Development Regulations
 - F. Phase Plan and Schedule
 - G. Impact Fee Authorization Form
 - H. Existing AG Uses
 - I. Form of Conservation Easement
- F. FFD Project Description prepared by DeLisi, Inc.
- G. Water Resources Report
- H. Ordinance 19-13
- I. Resolution Z-20-06, Verdana Village
- J. Resolution Z-15-025, Corkscrew Farms (aka, The Place)
- K. Resolution Z-18-010, Verdana
- L. Indigenous Preservation, Restoration and Management Plan
- M. Protected Species Management and Human-Wildlife Coexistence Plan
- N. Letter from Florida Wildlife Federation
- O. FLUCFCS Map
- P. Soils Map
- Q. FDEP Wetland Jurisdictional Determination
- R. Transportation Impact Statement
- S. Topographic Survey

Joint Exhibit #1



JOINT MEMORANDUM OF LEE COUNTY AND FFD LAND CO., INC.

- TO: Donna Marie Collins Lee County Hearing Examiner
- FROM: Michael Jacob, Deputy County Attorney Mikki Rozdolski, Planning Manager Brandon Dunn, Principal Planner Becky Sweigert, Principal Planner

Russell P. Schropp and Richard B. Akin, Attorneys for FFD Land Co., Inc. Daniel B. DeLisi, AICP, Planning Consultant for FFD Land Co., Inc.

- RE: Agreement Pursuant to Stipulation of Settlement Under Section 70.001, Florida Statutes
- DATE: November 13, 2020
- HEARING: December 3, 2020 9:00 a.m.

This Memorandum was prepared jointly by Lee County and representatives of FFD Land Co., Inc. ("FFD") pursuant to the Stipulation of Settlement ("Stipulation") dated October 15, 2020, attached hereto as Attachment "A."

Background

FFD is the owner of approximately 5,208.6 acres of land located south of and adjacent to Corkscrew Road (the "subject property"). A legal description of the subject property is attached as Attachment "B" and an aerial photograph depicting the subject property is attached as Attachment "C." The subject property is designated as DR/GR and Wetlands on the Lee Plan Future Land Use Map and is zoned AG-2. The subject property began active agricultural operations consisting of row crops and citrus in the mid-1960's and those operations have continued to the present day.

In January 2009, FFD filed a rezoning application for 4,652.1 acres of the subject property (Case No. DCI2009-00001), seeking approval as a Mine Excavation Planned Development ("MEPD") to allow limerock mining. The MEPD application was filed shortly after a one-year moratorium on new mining applications had expired in September 2008. During the sufficiency review process for the MEPD application, the County enacted various amendments to the Lee Plan related to mining activities (CPA2008-06, adopted by Lee County Ordinances 10-19, 10-20, and 10-21 on March 3, 2010), which were ultimately found "in compliance" with Chapter 163, Florida Statutes, by the Florida Department of Economic Opportunity on March 30, 2012 after an administrative hearing

(DOAH Case No. 10-2988GM). Among other things, CPA2008-06 had the effect of precluding limerock mining on the subject property because the property was not shown as a future limerock mining area on Map 14 of the Lee Plan. The MEPD rezoning was subsequently denied by the Board of County Commissioners ("BOCC") in May 2013 (Resolution Z-13-002).

Pursuant to the Bert J. Harris, Jr., Private Property Rights Protection Act ("the Act"), Section 70.001, Florida Statutes, FFD presented a claim to Lee County (Attachment "D") for compensation resulting from the County's denial of the MEPD rezoning. FFD filed suit against Lee County on May 5, 2017, seeking relief in a 2-count Complaint alleging both a claim under the Act and a constitutional inverse condemnation (taking) claim (20th Jud.Cir.Ct., Case No. 17-CA-001517). After settlement discussions between FFD and the County, the parties entered into the Stipulation pursuant to Section 70.001(4)(d), Florida Statutes. This section allows the parties to settle a claim under the Act through an appropriate development agreement; by issuing a special exception, variance, or other extraordinary relief; or by other appropriate method; provided that:

- If the settlement agreement has the effect of approving a modification, variance, or a special exception to the application of a *rule, regulation, or ordinance* that would otherwise apply to the property, the relief granted by the settlement agreement must protect the public interest served by the regulation at issue and must be the appropriate relief necessary to prevent the local government from inordinately burdening the property; and
- If the settlement agreement has the effect of contravening the application of a *statute*, the settlement agreement must be approved by the circuit court to ensure that the relief granted protects the public interest served by the contravened statute and is the appropriate relief necessary to prevent the local government from inordinately burdening the property.

Under the Stipulation, the parties have agreed to resolve FFD's claim through an agreement that will provide FFD with specific development rights for the subject property in lieu of mining and/or damages for the County's denial of the MEPD rezoning, and will also result in FFD relinquishing its mining rights to the subject property. Specifically, the Stipulation requires FFD to propose an agreement whereby the subject property would be entitled to residential uses at a density of not more than one dwelling unit per gross acre; 100,000 square feet of commercial development; 50,000 square feet of office/research; and other uses typical of similarly-sized mixed use developments in the County. As part of its submittal, FFD is required to identify any ordinances, rules, regulations and statutes that would be contravened by the proposed agreement, and propose conditions and obligations that FFD believes will protect the public interest served by these provisions. The Stipulation establishes the following process for review and consideration of the proposed agreement:

- Within 10 days of the Stipulation, FFD is required to submit the proposed agreement and any supporting material that is necessary to allow adequate review by the County. The proposed Agreement Pursuant to Stipulation of Settlement Under Section 70.001, Florida Statutes ("Agreement") was submitted to the County Attorney on October 26, 2020. Subsequent discussions between FFD and the County resulted in modifications to the Agreement, a copy of which is provided in Attachment "E" and is dated November 13, 2020. Along with the Agreement, FFD also submitted the supporting materials that are attachments to this Memorandum.
- Within 30 days of submittal of the Agreement, a hearing before either the Lee County Hearing Examiner or a Special Master is required to be conducted. The sole purpose of the hearing is "to evaluate whether the relief granted to FFD by this Stipulation and the Agreement protects the public interest served by the Contravened Regulations" ("the Issue"). Public notice of this hearing must be provided and the hearing is required to take testimony and evidence on the Issue from FFD, the County, and the general public. This hearing has been scheduled for December 3, 2020, which, while slightly in excess of the 30-day requirement, was agreed to by FFD and the County as allowed under the Stipulation.
- Within 30 days of the conduct of the hearing, the Hearing Examiner or Special Master is required to issue a recommendation to the County Commission addressing the Issue. The Hearing Examiner or Special Master may find that the Stipulation and Agreement either do or do not protect the public interest served by the Contravened Regulations. If she finds that the public interest is not protected, additional conditions or requirements may be recommended to provide such protection.
- After issuance of the recommendation from the Hearing Examiner or Special Master, the BOCC is required to hold two public hearings to consider the recommendation and the proposed Agreement, the first hearing to occur within 30 days of issuance of the recommendation and the second hearing to occur within 21 days of the first hearing. If the BOCC rejects the Agreement, the settlement process ends and the parties return to litigation. If the Board accepts the Agreement, it will be transmitted to FFD for execution. If the BOCC accepts the Agreement with additional conditions or requirements contained in the recommendation of the Hearing Examiner or Special Master, the Agreement will be transmitted to FFD for acceptance or rejection.
- If the Agreement is fully executed, the parties are required to file an action in circuit court for approval pursuant to Section 70.001(4)(d)2. If approved by the court, the lawsuit would be dismissed within 45 days of court approval.

The Agreement

The proposed Agreement between FFD and the County includes a plan to eliminate mining and designate the subject property as a Mixed-Use Planned Development ("MPD")

for residential and commercial development and also provide significant areas of environmental restoration and conservation. The substance of the Agreement as well as the benefits of converting the subject property from active agriculture to conservation uses and land development are discussed in the planning narrative provided in Attachment "F." The following "bullet points" summarize the key provisions of the Agreement and its exhibits provided in Attachment "E."

- The proposed development parameters include:
 - A maximum of 5,208 residential dwelling units of various types;
 - A maximum of 100,000 square feet of commercial;
 - A maximum of 240,000 square feet of amenity uses to be located either within residential parcels or within designated amenity parcels;
 - Continuation of existing agricultural research and development activities (maximum of 50,000 square feet of floor area) on a designated parcel on the Master Concept Plan ("MCP") until such time as the designated parcel is converted to residential use;
 - Continuation of existing farmworker housing on two parcels designated on the MCP until such time as these parcels are converted to residential use; and
 - Public schools, civic uses, and other public facilities as may be needed, subject to the provision of adequate mitigation (to be determined at the time such uses are proposed).
- The subject property will be designated and treated as an MPD zoning under the County's Land Development Code ("LDC"). Towards that end, a proposed MCP, Schedule of Uses, Conditions of Development and Deviations, Property Development Regulations, and Environmental Restoration Phase Plan and Schedule typical of planned development rezonings in the DR/GR are attached to the Agreement as Exhibits "B," "C," "D," "E," and "F," respectively. Each of these exhibits are discussed separately below.
- Potable water, sanitary sewer, solid waste collection, surface water management and fire/EMS services will be available and adequate as provided through the Agreement.
- Transportation impacts will be mitigated through the payment of road impact fees at time of building permit and a proportionate share payment of \$2000 per residential unit at the time of development order for vertical construction. Fire/EMS impacts will be mitigated through the payment of impact fees at the time of building permit and through the payment of a proportionate share fee of \$100 per dwelling unit, with payments made in three lump sums during the course of development.

- Consistent with the Environmental Enhancement and Preservation Communities Overlay ("EEPCO") under Objection 33.2 of the Lee Plan, the project will be required to provide significant environmental enhancements through the restoration of existing upland and wetland areas, the conversion of existing farmfields to native conservation area, and the restoration and enhancement of flowways through the subject property. The Agreement and Conditions of Development require that 56% of the subject property be dedicated to conservation during the course of development and a minimum of 65% of the property to be provided as open space.
- FFD will relinquish its rights and interest in mining the property for limerock and other sedimentary minerals, in perpetuity, through a restrictive covenant.
- The MCP attached as Exhibit "B" to the Agreement provides for 22 development parcels totaling 2,192.5 acres and spine roads of 99.3 acres, for a total development area of 2,291.8 acres or 44% of the subject property. The remaining 2,916.8 acres or 56% of the subject property is shown as existing and restored conservation/restoration areas.
- The Schedule of Uses attached as Exhibit "C" of the Agreement identifies uses available for development on the various residential, commercial, and amenity parcels. The Schedule is based upon and is similar to the Schedule of Uses approved for other EEPCO communities approved recently by the County.
- The Conditions of Development attached as Exhibit "D" of the Agreement incorporate the requirements identified above and provide additional controls over development of the subject property that are also based upon prior approved EEPCO projects. Of particular note:
 - Condition 1 confirms the overall development parameters for the project and ties development of the site to the environmental restoration of 56% of the subject property that will be placed in conservation on a phased basis. This condition ensures that residential density will never exceed one dwelling unit per gross acre for all acreage utilized for development and conservation purposes during the course of development.
 - Condition 4 provides for an updated Protected Species Management and Human/Wildlife Coexistence Plan to be approved by the County prior to the first development order.
 - Condition 5 requires a plan that demonstrates how 65% open space will be achieved as the subject property proceeds through development.
 - Similarly, condition 7 requires a conservation easement dedication schedule that demonstrates how the 56% requirement for conservation areas will be accomplished on a phase by phase basis.

- Pursuant to condition 9, existing agricultural uses shown on Exhibit "H" of the Agreement will be required to terminate upon issuance of development orders for vertical development. As discussed in Attachment "G," the phase out of agricultural uses as development proceeds will result in a substantial decrease in groundwater consumption as well as a decrease in nutrient loading originating from the property for each phase.
- Condition 10.e. establishes a minimum 7-year phasing schedule for development so as to provide for a staggering of the traffic impacts anticipated from the development, providing an opportunity for roadway and other improvements to be accomplished prior to full build-out.
- Conditions 13 and 14 provide for appropriate surface water and ground water monitoring and compliance with the County's wellfield protection ordinance.
- Central water and sewer will be utilized, and no septic tanks or individual wells for potable or irrigation water will be permitted pursuant to conditions 15 and 16.
- Condition 18 establishes the requirements for the re-establishment of flowways on site and for a hydrological restoration plan to be approved prior to the first development order.
- Finally, only two deviations from the LDC are provided under the Conditions of Development. The first allows for suburban roadway design for internal roadways and the second allows for a single access onto Corkscrew Road for development of Parcels 1-5, with two entrances onto Corkscrew Road to be provided as higher-numbered parcels are developed.
- Exhibit "F" to the Agreement provides for a general phasing plan for accomplishing the environmental restoration as development occurs in an orderly, logical manner. This phasing plan is directly tied to condition 1 of the Conditions of Development.

Evaluation of the Issue in this Proceeding

As set forth in Section 70.001(4)(d)1., a settlement agreement that has "the effect of a modification, variance, or a special exception to the application of a rule, regulation, or ordinance as it otherwise would apply to the subject real property" may be approved if the relief granted "protect[s] the public interest served by the regulations at issue..." The Stipulation between FFD and the County identifies such regulations as "Contravened Regulations." As set forth in paragraph 2.B. of the Stipulation, "[t]he sole and limited purpose of this hearing is to evaluate whether the relief granted to FFD by this Stipulation and the Agreement protects the public interest served by the Contravened Regulations."

County Staff and FFD have conducted a review of the Lee Plan and Land Development Code (LDC) to ascertain those provisions that are relevant to the Agreement and its

Exhibits. An analysis was then performed as to whether the Agreement was consistent or complied with these identified provisions of the Lee Plan and LDC. Where conditions have been proposed in the Agreement to ensure consistency with various provisions, these have been noted in the analysis below. For those provisions of the Lee Plan and LDC with which the Agreement was found to be inconsistent, i.e., "contravened," an analysis of the public interest protected by the Contravened Regulation and whether that interest was still protected by the Agreement and Exhibits was undertaken. The results of that analysis are provided below.

Please note that all references to Lee Plan provisions refer to the goal, objective, or policy number as modified by Ordinance 19-13 (Attachment "H") and may not reflect the number or wording in the present codified version of the Lee Plan on the County's website.

A. Consistent Lee Plan Provisions

The following provisions of the Lee Plan were identified as relevant to the Agreement and were determined to be consistent with the Agreement, either facially or as conditioned by the MCP, Schedule of Uses, Conditions of Development, and Property Development Regulations attached as Exhibits "B," "C," "D," and "E," respectively, to the Agreement. It should be noted that many of the Conditions of Development as well as the Schedule of Uses and Property Development Regulations contained in these exhibits were taken directly from or based upon those adopted in previously approved EEPCO planned developments including Corkscrew Farms (aka, The Place), Verdana, and Verdana Village, which enabled these projects to be found consistent with the Lee Plan. Copies of the Resolutions adopted for these projects are provided as Attachments "I," "J," and "K" to this Memorandum.

<u>POLICY 1.4.5.1:</u> New land uses in these areas that require rezoning or a development order must demonstrate compatibility with maintaining surface and groundwater levels at their historic levels utilizing hydrologic modeling, the incorporation of increased storage capacity, and inclusion of green infrastructure. The modeling must also show that no adverse impacts will result to properties located upstream, downstream, as well as adjacent to the site. Offsite mitigation may be utilized, and may be required, to demonstrate this compatibility. Evidence as to historic levels must be submitted as part of the rezoning application and updated, if necessary, as part of the mining development order application.

If the Agreement is approved, the project will require development orders pursuant to the LDC. The modeling required by Policy 1.4.5.1 will be provided prior to or concurrent with the first development order application. The modeling will need to be found consistent with Policy 1.4.5.1 prior to issuance of the development order. Condition 18.b. in Exhibit "D" to the Agreement provides that the Developer must provide a hydrological restoration plan based, in part, on an integrated surface and groundwater

model prior to or concurrent with the first development order application, consistent with the requirements of this policy. Based on the foregoing and as conditioned, the Agreement is found to be consistent with Policy 1.4.5.1.

<u>POLICY 1.4.5.2</u>: Permitted land uses include agriculture, natural resource extraction and related facilities, conservation uses, public and private recreation facilities, and residential uses at a maximum standard density of one dwelling unit per ten acres (1 du/10 acres). See Objectives 33.2 and 33.3 for potential density adjustments resulting from concentration or transfer of development rights.

Consistent with this policy, the Agreement would allow agricultural, conservation, recreational, and residential uses on the property as provided in the Schedule of Uses, Exhibit "C" of the Agreement. While the density will exceed the maximum standard density of 1 du/10 acres, the Agreement proposes to utilize the density adjustments permitted under Objective 33.2 through the EEPCO. Based on the foregoing, the Agreement is considered consistent with Policy 1.4.5.2.

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

There are minor wetland impacts that will occur on the MCP. The restoration plan, however, will create wetland areas within the project on lands that are currently used for active agriculture. Any minor impacts to wetlands will be offset through the significant restoration activities occurring on site. While the base density in the Wetlands classification may be exceeded, the density adjustments provided under Objective 33.2 through the EEPCO is being applied which allows density to be calculated at a higher rate on the entire property in exchange for environmental enhancements. Finally, it is noted that condition 1.b. prohibits commercial development in wetlands. Based on this analysis, the Agreement (as conditioned) is consistent with Policy 1.5.1.

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

This policy requires the use of an integrated groundwater and surface water model to assist in designing the site to ensure that there will not be significant adverse impacts on the area's water resources and natural systems. As noted above, condition 18.b. provides that the Developer must provide a hydrological restoration plan based, in part, on an integrated surface and groundwater model prior to or concurrent with the first development order application, consistent with the requirements of this policy. Further, condition 13 requires that an enhanced lake management plan be provided at the first development order, which will provide for adequate groundwater and surface water monitoring. Based on these conditions, the Agreement is found consistent with Policy 33.1.7.

<u>POLICY 33.2.4.2:</u> The property is rezoned to a planned development that meets the following:

Policy 33.2.4.2 establishes 14 criteria (a. through n.) for EEPCO communities. The Agreement was determined to be consistent with 12 of these criteria, discussed immediately below. The Agreement was found to be inconsistent with 2 of the criteria (e. and i.) which are discussed further in the next section of this Memorandum. It is also noted that this policy requires rezoning to a planned development. The Agreement does not technically require a rezoning, although it does provide that the property will be designated and treated as an MPD under the LDC similar to other EEPCO projects (see Attachments "I," "J," and "K"). The protection of the public interest served by requiring a rezoning is also discussed in the next section of this Memorandum.

Each of the criteria in Policy 33.2.4.2 with which the Agreement is considered consistent are discussed separately below.

a. Planned development must include a minimum of 60% open space, not including previously mined lakes, which will be used to accommodate the following:

1. Restore and accommodate existing and historic regional flow-ways where they currently or previously existed;

- 2. Restore and accommodate existing and historic groundwater levels;
- 3. Restore and preserve wetlands;
- 4. Restore and preserve indigenous upland habitats;

5. Provide critical wildlife connections to adjacent conservation areas; and

6. Provide 100' foot buffer along Corkscrew Road East of Alico Road.

The MCP and condition 5 require 65% open space. Regional flowways are being restored and accommodated pursuant to condition 18.a. Existing and historic groundwater levels will be maintained through condition 18.b and monitored through condition 13. Indigenous upland habitats will be restored and preserved pursuant to conditions 1.c., 6, 7, and 8. Critical wildlife connections will be provided pursuant to the MCP through direct connection to two major existing conservation areas (Flint Pen and CREW) that are adjacent to the property and through the

provision of wildlife crossings within the development as shown on the MCP and addressed by condition 3. The 100' buffer along Corkscrew Road required by this policy is addressed in condition 19 and must be shown on future development order plans. Based on the foregoing and as conditioned, the Agreement is consistent with Policy 33.2.4.2.a.

b. Includes an enhanced lake management plan, that:

- 1. Applies best management practices for fertilizers and pesticides;
- 2. Provides erosion control and bank stabilization; and
- 3. Establishes lake maintenance requirements.

This requirement is addressed through condition 13, which is generally the same condition approved in the Verdana Village rezoning (Resolution Z-20-006, Attachment "I").

c. Develop a site specific ecological and hydrological restoration plan which includes at a minimum the following: preliminary excavation and grading plans, analysis of hydrological improvements and water budget narrative, replanting plan, habitat restoration plan, success criteria, long term monitoring and maintenance.

This policy requires the submittal of an ecological and hydrological restoration plan. This is addressed in condition 18, requiring the ecological and hydrological restoration plan prior to the first local development order. The ecological and hydrological benefits are well documented by the Water Resources Report (Attachment "G"). The project will achieve a significant net reduction in nutrient loading and groundwater impacts through the removal of agricultural operations and the restoration of conservation lands. There will also be significant benefits to wildlife habitat through the nearly 3,000 acres of restoration/conservation that is being provided. Finally, condition 8 further assures habitat restoration through an Indigenous Preservation, Restoration and Management Plan, a draft of which is provided in Attachment "L" (this condition drawn from Corkscrew Farms, aka The Place, Resolution Z-15-025, Attachment "J"). As conditioned, the Agreement is consistent with Policy 33.2.4.2.c.

d. Preservation areas must be platted in separate tracts and dedicated to an appropriate maintenance entity. For projects larger than 1,000 acres a Community Development District (CDD) or a master home owners association must be created that will accept responsibility for perpetually maintaining the preservation requirements identified in the planned development, prior to issuance of certificate of compliance (CC) for first local development order.

Condition 6 requires either an HOA or a CDD as the potential maintenance entity for preservation areas. It also requires the CDD or HOA to be created prior to CC for the first development order. Accordingly, the Agreement as conditioned is consistent with this policy.

f. Indigenous management plans must address human-wildlife coexistence.

The Agreement has demonstrated consistency with this requirement through the draft Protected Species Management and Human-Wildlife Coexistence Plan (Attachment "M") and through condition 4, which requires this plan to be updated prior to first development order and identifies the specific requirements for the plan.

g. Uses Florida Friendly Plantings with low irrigation requirements in Common Elements.

This requirement is adequately addressed through condition 10, which requires native vegetation in common elements.

h. The stormwater management system must demonstrate through design or other means that water leaving the development meets state and federal water quality standards. The developer must obtain authorization from the Division of Natural Resources prior to discharge of stormwater from the development into the county's MS4 system directly or indirectly.

The Agreement is consistent with this policy through condition 13 (derived from Verdana Village, Attachment "I").

j. Protects public wells through compliance with the requirements of the Well Field Protection Ordinance.

Condition 14 (also taken from Verdana Village, Attachment "I") adequately addresses compliance with the County's well field protection ordinance.

k. Each planned development within the Overlay will be required to mitigate the traffic impacts of the planned development and provide its proportionate share of the needed roadway improvements in accordance with Administrative Code 13-16. The proportionate share amount can be offset, in accordance with AC13-16, by the dedication of needed right of way or the construction of improvements that would measurably lessen the need for roadway improvements, or by payment of impact fees, or use of impact fee credits, or as otherwise set forth in a written agreement between Lee County and the Developer. Prior to a final determination of a Project's proportionate share amount, compliance may be met through an enforceable instrument that obligates the property owners within a planned development to pay the Project's proportionate share, with said instrument being recorded prior to the issuance of any development order. For the developments known as WildBlue (CPA2014-00004) and Corkscrew Farms (CPA2015-00001) if the instrument is

recorded prior to the final determination of the proportionate share amount, the proportionate share payment may not exceed \$1,600 per unit above the road impact fee amount.

Paragraph 8 of the Agreement provides for the payment of a proportionate share of the traffic impacts of the development, in addition to road impact fees. This provision is reflected in condition 11.b. These provisions satisfy the requirement for an enforceable instrument to be recorded prior to the first development order (see also paragraph 22 of the Agreement).

I. Connect to public water and sewer service. Connect to reuse water if available at time of development order approval.

The Agreement is consistent with this policy pursuant to condition 16.

m. Obtain written verification as to adequate public services for the planned development, from the sheriff, EMS, fire district, and Lee County School District.

Condition 20 requires letters of service availability to be obtained from the identified agencies prior to issuance of development orders.

n. Demonstrate that the planned development will not result in significant detrimental impacts on present or future water resources.

The Agreement requires this analysis be completed prior to the first local development order. The Water Resources Report (Attachment "G") demonstrates a positive benefit to the county's water resources for every phase of development. Conditions 13, 14, 15, and 16 further provide protections for the Lee County wellfield. The Agreement is consistent with this policy.

<u>POLICY 33.2.4.4.c</u>. Wetlands may not be impacted by the commercial development area;

As noted above, commercial development in wetlands is precluded by condition 1.b. and no commercial development is shown in wetlands on the MCP, thereby establishing consistency with this policy.

<u>POLICY 33.2.4.4.e.</u> Commercial uses and maximum floor area is limited to Neighborhood Commercial, as defined, and must not include any of the following uses: auto parts stores, lawn and garden supply stores, fuel pump stations, drycleaners (on-site), or any other use that is not compatible with protecting Southeast Lee County's environment; The Schedule of Uses does not contain the precluded uses and is based generally upon the uses previously approved for Verdana Village (Attachment "I"). The uses proposed are consistent with the definition of Neighborhood Commercial and otherwise consistent with this policy.

<u>POLICY 33.2.4.4.f.</u> Commercial development within the 6-month, 1-year, 5-year, or 10-year travel zones of the Wellfield Protection Ordinance must provide a total of 1½-inches of treatment, ½-inch of which must be completed via dry pretreatment, at a minimum. The entire commercial portion of the project will be considered to be within the most restrictive wellfield protection zone as provided in the Wellfield Protection Ordinance. Ground water quality monitoring well(s) for the Surficial Aquifer System must be provided and located between Lee County's nearest production well(s) and the commercial development;

This requirement is incorporated into the Agreement in conditions 13.e. and 14.f.

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

The Agreement meets the requirements of this policy through conditions 13, 14, 17, and 18 (conditions 13, 14, and 17 were derived from Verdana Village, Attachment "I").

<u>POLICY 61.1.1</u>: Lee County recognizes that all fresh waters are a resource to be managed and allocated wisely, and will support allocations of the resource on the basis 1) of ensuring that sufficient water is available to maintain or restore valued natural systems, and 2) of assigning to any specified use or user the lowest quality fresh water compatible with that use, consistent with financial and technical constraints.

This policy is adequately addressed through conditions 15 and 16, which were taken from Verdana Village (Attachment "I").

<u>POLICY 123.3.3</u>: Protect wildlife from impacts of new non-agricultural development in non-urban areas through the creation and implementation of a human-wildlife coexistence plan for each new development requiring a development order.

A human-wildlife coexistence plan has been provided as Attachment "M" and is required to be updated at time of first development order pursuant to condition 4.

<u>POLICY 123.4.1</u>: Identify, inventory, and protect flora and fauna indicated as endangered, threatened, or species of special concern in the "Official Lists of Endangered and Potentially Endangered Fauna and Flora of Florida," Florida Fish and Wildlife Conservation Commission, as periodically updated.

This policy is adequately addressed through condition 4 of the Agreement.

<u>POLICY 123.4.4</u>: Restrict the use of protected plant and wildlife species habitat to that which is compatible with the requirements of endangered and threatened species and species of special concern. New developments must protect remnants of viable habitats when listed vegetative and wildlife species inhabit a tract slated for development, except where equivalent mitigation is provided.

Conditions 4, 5, 6, 7, and 8 will ensure the protection of habitat for threatened and endangered species. Viable remnant habitats will be protected or mitigated through these conditions.

<u>OBJECTIVE 123.10: WOODSTORK</u>. Lee County will maintain regulatory measures to protect the wood stork's feeding and roosting areas and habitat.

<u>POLICY 123.10.1</u>: County protected species regulations will continue to include wood storks as a Lee County Listed Species, requiring surveys for and protection of wood stork habitat. The county will continue to maintain an inventory of documented feeding, roosting, and rooking areas for the wood stork to ensure that surveys submitted through the Protected Species Ordinance include such areas.

<u>POLICY 123.10.2</u>: The county will continue to require management plans for existing wood stork feeding, roosting, and rooking areas to utilize "Habitat Management Guidelines for the Wood Stork in the Southeast Region" (U.S Fish and Wildlife Service, 1990).

<u>POLICY 123.10.3</u>: The county will encourage the creation of wood stork feeding areas in mandatory littoral shelf design, construction, and planting.

Conditions 4, 8, and 18 will provide for protection of woodstorks and woodstork habitat at time of development order.

B. Inconsistent Lee Plan Provisions

As a brief introduction to this section of the Memorandum, it is noted that the Agreement is based upon development rights being granted consistent with the EEPCO as defined

in Policy 33.2.4 of the Lee Plan. Policy 33.2.4 has been deemed to be consistent with the Density Reduction/Groundwater Resource ("DR/GR") future Land Use Category and Policy 1.4.5.

The EEPCO was adopted in 2015 to help achieve longstanding goals for the Southeast Lee County DR/GR area by using a threefold approach to address the public's interest in the land restoration/conservation and protection of the county's groundwater resources:

1. Targeting strategic areas that can "provide critical connections to other conservation lands that serve as the backbone for water resource management and wildlife movement within the DR/GR;"

2. Requiring the development to be designed with the land; and,

3. Providing a predictable way to assign appropriate increases in density as an incentive to offset the cost of the improvements.

The following policies within the EEPCO were identified as inconsistent with the Agreement and, as such, are considered to be "Contravened Regulations." The analysis below identifies the policy, identifies the public interest served by the policy, and analyzes whether the public interest served by the policy is still protected by the Agreement.

<u>POLICY 33.2.4.1.</u> These lands are within the "Environmental Enhancement and Preservation Communities" overlay as designated on Map 17 of the Plan. Lands eligible for designation on the Environmental Enhancement and Preservation Communities overlay must be consistent with the criteria below:

- Provide significant regional hydrological and wildlife connections and have the potential to improve, preserve, and restore regional surface and groundwater resources and indigenous wildlife habitats; and
- Be located west of Lee County 20/20 Imperial Marsh Preserve (Corkscrew Tract) and within one mile north or south of Corkscrew Road. Properties with frontage on

Corkscrew Road designated as Tier 1 Priority Restoration Area may extend the overlay an additional mile south to include contiguous Tier 1 properties where the extension will result in regional environmental benefits by connecting protected habitat north of Corkscrew Road to land in Collier County used for conservation purposes; or,

• Be located west of the intersection of Alico Road and Corkscrew Road, north of Corkscrew Road and south of Alico Road.

<u>Public Interest Served by the Policy:</u> The designation of property on Map 17 is primarily a procedural requirement and does not provide any direct environmental protections. The public interest served by those properties actually shown on Map 17 is to provide strategic regional environmental

benefits while minimizing new and adverse impacts of development that would be inconsistent with Lee County's goals for Southeast Lee County. Regional benefits include providing hydrologic and wildlife connections between Lee County conservation properties and the Corkscrew Regional Ecosystem Watershed (CREW) lands.

Discussion of Whether the Agreement Protects the Public Interest Served by the Policy: This public interest is being protected and maintained by allowing the entire property to be developed under the standards of the EEPCO. By doing this, the county is able to attain more land for preservation and create more extensive wildlife corridors along the west and south sides of the property contiguous to existing conservation lands, thereby expanding the connectivity to major existing preserves already in public ownership. While the subject property is not designated on Map 17 and most of the property is located more than 1 mile south of Corkscrew Road, based upon the support documentation and conditions of development it is clear that the Agreement will provide significant regional hydrological and wildlife connections and will improve, preserve and restore regional surface and groundwater resources and indigenous wildlife habitats, all as directed through Policy 33.2.4.1. The fact that the property is not on Map 17 and some portions are more than one mile from Corkscrew Road should not be a barrier to achieving these benefits as the property. due to its sheer size, extends to important existing regional systems on two sides (the Flint Pen and Corkscrew Swamp), well beyond the artificial onemile limitation provided in this policy. In fact, at least one environmental organization advocated for expanding the EEPCO beyond the one mile limit and including all Tier 1, 2, and 3 lands (see Attachment "N").

<u>POLICY 33.2.4.2</u>. The property is rezoned to a planned development that meets the following:

<u>Public Interest Served by the Policy:</u> The intent for being rezoned to a planned development is that it provides county staff adequate ability to review developments to assure that it is compatible with surrounding uses and protects wildlife habitat and water resources. The planned development process also provides for public input into the rezoning process and final site design as opposed to conventional rezonings.

<u>Discussion of Whether the Agreement Protects the Public Interest Served</u> <u>by the Policy</u>: While the Agreement does not technically require a planned development rezoning, it does provide that the property will be designated and treated as a mixed-use planned development (MPD) under the LDC. In this case, the process leading up to the Stipulation and the Agreement, and the provision of comprehensive support documentation by FFD, have provided for a comprehensive review by staff before consideration by the Hearing Examiner and BOCC. Public input into the Agreement is provided through four public hearings, one before the Hearing Examiner, two before the BOCC and one before the circuit court. Based on the foregoing, the public interest served by the rezoning requirement has been fully protected by the Agreement.

Policy 33.2.4.2 establishes 14 criteria (a. through n.) for EEPCO communities. The Agreement was determined to be consistent with 12 of these criteria in the previous section of this Memorandum. The Agreement was found to be inconsistent with criteria e. and i. Both of these criteria are reproduced and discussed below.

e. Record a Conservation Easement for a minimum of 55% of the planned development, not including previously mined lakes, to be dedicated to the appropriate maintenance entity that provides Lee County or some other public agency, acceptable to Lee County, with third party enforcement rights. All Conservation Easements required as part of the planned development must be recorded within 5 years from first development order approval.

<u>Public Interest Served by the Policy</u>: The public interest served by this policy is to assure that the wildlife habitat and water resources of the property are protected through the recording of a conservation easement for preserved lands. The public interest served by the requirement for recording all easements within 5 years of the first development order is to ensure that preservation areas are placed under easement concurrent with the impacts of development so that development is not completed without this important part of the EEPCO requirements being fulfilled.

Discussion of Whether the Agreement Protects the Public Interest Served by the Policy: Condition 1.c. of the Agreement requires 56% of the property be placed within a conservation easement (thereby meeting the 55% requirement of the policy) but does not require that all conservation easements be recorded within 5 years of the first development order. Instead, the phasing of restoration/conservation activities and easements concurrent with development is allowed. However, this condition also requires that conservation phases be completed within ten years of commencement of each phase, regardless of the progress of development tied to that phase. For smaller projects approved through the EEPCO that are developed in one or two phases, this timing requirement is appropriate Unlike prior approved EEPCO communities, the and manageable. Agreement covers a significantly larger property and will achieve larger contiguous restoration areas. Condition 1.c. also requires that restoration/conservation lands will always be a minimum of 56% of the total area subject to development order. The provisions of condition 1.c. will ensure that the benefits of the conservation easements will be attained concurrent with development and that development will not be completed without fulfillment of the required 56% of the property being placed into

conservation easement, thus protecting the public interest served by this criteria of the EEPCO.

i. Irrigation and fertilizers (or other chemicals) for agricultural purposes must be entirely eliminated at time of first development order approval for row crops and no later than 5 years from first development order approval for citrus groves. If cessation of citrus groves is to be phased, a phasing plan provided at the time of zoning must demonstrate regional environmental benefits, including but not limited to regional or historic surface water and wildlife connections, occurring with the first phase of development.

<u>Public Interest Served by the Policy</u>: The public interest served by this policy is the protection of Lee County potable water resources by assuring that (1) aquifers are not overused by having both agricultural irrigation and residential uses on the property at the same time; and (2) potential groundwater pollutants utilized in agricultural operations are eliminated.

Discussion of Whether the Agreement Protects the Public Interest Served by the Policy: For smaller projects approved through the EEPCO that are developed in one or two phases, the elimination of irrigation and fertilizers within a relatively short time period is appropriate and manageable. Unlike prior approved EEPCO communities, the FFD Agreement and agricultural operation cover a significantly larger property. The phased elimination of agriculture is contemplated in the Agreement so that the property simply does not remain fallow as development progresses. On a property of this scale, elimination of all agricultural operations at the time of first development order could lead to negative unintended consequences such as lack of management, the spread of exotic plants and animals, and erosion. The public interest is being protected and maintained through an orderly phase out of agricultural operations. The public interest is also protected by requiring that all agricultural operations cease (including irrigation and fertilizer usage) within 10 years of commencing vertical development on each development parcel, so an outside date on termination of irrigation and fertilizer use is established once development commences on each parcel. See condition 9.

<u>POLICY 33.2.4.3.b</u>. Tier 2 lands within the Priority Restoration Strategy will be permitted a maximum density of 1 unit per 2 acres.

<u>Public Interest Served by the Policy</u>: The public interest served by this policy is to improve, preserve and restore regional surface and groundwater resources and wildlife habitat by utilizing density incentives. Policy 33.1.2 establishes this intent and identifies Tier 1 and Tier 2 as the most incentivized tiers.

<u>Discussion of Whether the Agreement Protects the Public Interest Served</u> <u>by the Policy:</u> The subject property is designated as Tier 2 Priority Restoration. Policy 33.1.3 provides that "Tier 2 lands are of equal ecological and water resource importance as Tier 1 but have better potential to remain in productive agricultural use."

In this regard, it is unclear what, if any, public interest is furthered by the difference in density incentives between Tier 1 and Tier 2 properties. This description is clearly applicable to the FFD property, which is the only Tier 2 property identified on Map 1 of the Lee Plan. At this time all Tier 1 properties have been approved for development/restoration or have been purchased by the Conservation 20/20 program. The public interest behind the policy identified above (i.e., to provide an incentive to encourage the restoration of strategic areas) is best fulfilled by equally incentivizing the restoration and conservation of the FFD property, a property of the same ecological value as a Tier 1 property, in accordance with the requirements of the EEPCO. The public interest in securing the environmental restoration and preservation of nearly 3000 acres of land is being maintained by granting the same density incentive for the same ecological restoration benefit on lands that "are of equal ecological and water resource importance as Tier 1."

<u>POLICY 33.2.4.4.d</u>. The project will be consistent with Policy 33.2.5 and will not exceed the allowable total square footage for commercial uses in Southeast Lee County;

<u>Public Interest Served by the Policy</u>: The public interest served by this policy is to provide the commercial needs necessary for local residents while not allowing commercial uses to become a community or regional attraction.

<u>Discussion of Whether the Agreement Protects the Public Interest Served</u> <u>by the Policy:</u> This policy cross-references to Policy 33.2.5, which limits commercial square footage in Southeast Lee County to 300,000 square feet. Between Verdana Village and The Place, there are approximately 3,700 units either built or planned that are over 6.5 miles from the Shoppes of Grande Oak, the closest built commercial development along Corkscrew Road. If Corkscrew Shores, Wild Blue, and Bella Terra are included, there are an additional approximately 3,800 units nearly 3 miles from the Shoppes of Grande Oak that would likely find more convenience travelling east rather than west for neighborhood commercial needs.

Of the 300,000 square feet of commercial floor area allowed in Southeast Lee County under Policy 33.2.5, current approvals account for 267,000

square feet in Verdana Village (100,000 sq. ft.), Old Corkscrew Golf Club (100,000 sq. ft.), and Small Brothers (67,000 sq. ft.). While 300,000 square feet is appropriate for 7,500 units, additional commercial area will be needed for the buildout of the additional 5,208 units provided in the Agreement.

A rule of thumb for commercial generation rates from residential population is approximately 20 square feet per capita. Many larger metropolitan areas have around 40-55 square feet per capita and contain a wider diversity of retail uses than the smaller service needs that are the intended use of the subject property. This estimate adjusts for the overall trend of declining retail space and doesn't include the need for office type uses (including those commonly found in shopping centers such as realtors, dental, and title companies). Therefore, an overall conservative estimate for the amount of commercial area needed to serve each residential unit is approximately 40 square feet (assuming a conservative 2 people per unit). With over 7,500 residential units built and planned for over 3+ miles east of the Shoppes of Grande Oak shopping center, there is a potential need for approximately 300,000 square feet of commercial floor area along east Corkscrew Road.

The FFD property includes an additional 5,208 residential units. Using the same commercial generation rate, FFD would create a need for an additional 200,000 square feet. Therefore, the proposed 100,000 square feet of commercial development is justified and needed through development of the subject property.

Section 163.3177(1)(f)(3), requires the comprehensive plan to "identify the minimum amount of land" required to "accommodate the medium" population projection through the plan's horizon. The increased residential development in Southeast Lee County authorized by the Agreement requires that additional land be allowed for commercial uses in Southeast Lee County. The additional commercial square footage provided through the Agreement still serves to protect the public interest protected by Policy 33.2.4.4.d and Policy 33.2.5 by allowing enough commercial development to meet the needs of the local community so that commercial trips are kept close to the residential uses that are served, and this is also consistent with Section 163.3177, Florida Statutes.

<u>POLICY 33.2.5</u>: Commercial uses may only be permitted if incorporated into a Mixed-Use Community, Environmental Enhancement and Preservation Community, or Rural Golf Course Community depicted on Map 17. The maximum commercial floor area that may be approved within the Southeast Lee County community plan area may not exceed 300,000 square feet.

<u>Public Interest Served by the Policy</u>: The public interest served by this policy is to provide the commercial needs necessary for local residents while not allowing commercial uses to become a community or regional attraction.

<u>Discussion of Whether the Agreement Protects the Public Interest Served</u> <u>by the Policy:</u> Through the Agreement, commercial uses will be incorporated into a development that adheres to the EEPCO requirements, except as discussed above. As to the 300,000 square foot limitation, this issue is discussed under Policy 33.2.4.4.d above.

C. Inconsistent LDC Provisions

The Agreement requires compliance with the LDC in existence as of the date of the Agreement but also identifies two provisions of the LDC for which a deviation or modification is sought. These two provisions are considered to be Contravened Regulations for purposes of the Agreement. Each provision is discussed separately below.

LDC Section 10-296(e)(3): This section requires roadway segments in Lee Plan future non-urban areas to be designed to non-urban design standards. <u>The public interest associated with this requirement is to require roadway design appropriate for the type and level of development anticipated in non-urban areas, which would generally be low density rural residential development. However, the MCP provided as part of the Agreement results in 5,208 dwelling units and 100,000 square feet of commercial being clustered on roughly 2,291 acres, which will result in a decidedly suburban level of development density and intensity. Accordingly, the developer proposes to utilize the suburban roadway standards established in Section 10-296(e)(2), and <u>the public interest served by the regulation is still served by allowing a roadway design that is appropriate for the type and level of development anticipated by the Agreement.</u></u>

LDC Section 10-291(3): This section would require two means of access to be provided to the development. While two access points onto Corkscrew Road are shown on the MCP, the developer proposes that only one access be required for Parcels 1-5 shown on the MCP, with the second entrance being provided for development of all remaining parcels. <u>The public interest served by the two-access requirement is to provide an alternative access in the event one of the accesses is blocked and to disseminate traffic trips to more than one intersection.</u> The limited amount of development anticipated on Parcels 1-5 can be adequately handled by a single intersection on Corkscrew Road. It should be noted that traffic associated with ongoing agricultural operations is restricting to accessing the site via Six Ls Farm Road on the eastern boundary of the subject property and will not access Corkscrew Road directly and will not intermix with

development traffic. <u>The public interest served by this LDC section will still be served and</u> <u>access will be sufficient for the temporary time that a single access is being provided onto</u> <u>Corkscrew Road.</u>

Conclusion

Based on the foregoing, the County and FFD respectfully submit that the public interest served by the Contravened Regulations is adequately protected by the Agreement.

Attachments

The following documents were submitted by FFD in support of the proposed Agreement. Attachments "A" through "N" are referenced in this Memorandum, and Attachments "O" through "S" provide additional technical background and analysis.

- A. Stipulation of Settlement
- B. Legal Description
- C. Aerial of Subject Property
- D. Bert Harris Claim Letter
- E. Agreement Pursuant to Stipulation of Settlement (with Exhibits "A" through "I")
 - A. Legal Description
 - B. Master Concept Plan
 - C. Schedule of Uses
 - D. Conditions of Development
 - E. Property Development Regulations
 - F. Phase Plan and Schedule
 - G. Impact Fee Authorization Form
 - H. Existing AG Uses
 - I. Form of Conservation Easement
- F. FFD Project Description prepared by DeLisi, Inc.
- G. Water Resources Report
- H. Ordinance 19-13
- I. Resolution Z-20-06, Verdana Village
- J. Resolution Z-15-025, Corkscrew Farms (aka, The Place)
- K. Resolution Z-18-010, Verdana
- L. Indigenous Preservation, Restoration and Management Plan
- M. Protected Species Management and Human-Wildlife Coexistence Plan
- N. Letter from Florida Wildlife Federation
- O. FLUCFCS Map
- P. Soils Map
- Q. FDEP Wetland Jurisdictional Determination
- R. Transportation Impact Statement
- S. Topographic Survey



IN THE CIRCUIT COURT OF THE 20TH JUDICIAL CIRCUIT IN AND FOR LEE COUNTY, FLORIDA CIVIL ACTION

FFD LAND CO., INC., a Florida profit corporation,

Plaintiff,

CASE NO.: 17-CA-001517

۷.

LEE COUNTY, FLORIDA, a political subdivision of the State of Florida,

Defendant.

STIPULATION OF SETTLEMENT

Plaintiff, FFD LAND CO., INC., a Florida corporation ("FFD"), and Defendant, LEE COUNTY, FLORIDA, a political subdivision of the State of Florida ("COUNTY") (singly "Party" and collectively "Parties"), enter into this Stipulation of Settlement ("Stipulation"), effective as of the last date a Party hereto has signed this Stipulation ("Effective Date"), and state as follows:

RECITALS

WHEREAS, FFD desired to develop its property described in <u>Exhibit A</u> attached hereto ("Property") as a limerock mine, and began exploring such development during the late 1990's; and

WHEREAS, at that time, the COUNTY's comprehensive plan expressly provided that mining (natural resource extraction) was a permitted use within the Density Reduction/Groundwater Resource (DR/GR) future land use classification where the Property is located; and WHEREAS, FFD was required to seek a zoning change, consistent with the Property's future land use designation, to allow for mining to occur on the Property; and

WHEREAS, in mid-2007, FFD's permitting consultants began the preparation of the reports and studies necessary to apply for a change of zoning under the then-existing zoning regulations of the COUNTY. Before FFD could complete and submit these materials, however, the COUNTY enacted a one-year moratorium on the filing and processing of new re-zoning applications for mining, which moratorium became effective on September 11, 2007; and

WHEREAS, during the one-year moratorium, the COUNTY adopted new and more stringent zoning regulations for mining activities and created a new zoning category known as Mine Excavation Planned Development, or MEPD. These new regulations were adopted pursuant to Lee County Ordinance 08-21 and became effective on September 10, 2008, which was one day before the moratorium expired; and

WHEREAS, FFD completed the preparation of its re-zoning application to "MEPD," which designation would permit limerock excavation on the Property. FFD submitted its re-zoning application to the COUNTY on January 7, 2009; and

WHEREAS, on March 3, 2010, the COUNTY amended its comprehensive plan through the adoption of Ordinance 10-19, Ordinance 10-20, and Ordinance 10-21. Under the COUNTY's plan amendments, as subsequently modified by Ordinance 10-43, the COUNTY required additional development permits and comprehensive plan amendments to allow limerock mining in certain areas within the DR/GR; and

WHEREAS, FFD's application for re-zoning to MEPD was denied by the COUNTY on May 6, 2013 by Resolution No. Z-13-002; and

17

WHEREAS, FFD timely presented its claim for compensation resulting from the COUNTY's denial of FFD's application for re-zoning to MEPD to the COUNTY in writing pursuant to Florida Statutes §70.001 (2013); and

WHEREAS, FFD timely filed this lawsuit on May 5, 2017 against the COUNTY seeking relief in a two count Complaint alleging both a claim under Florida Statutes §70.001 (2013) and a constitutional inverse condemnation (taking) claim ("the Lawsuit"); and

WHEREAS, FFD timely and properly effected service of the Lawsuit and summons upon the COUNTY; and

WHEREAS, the Parties are desirous of resolving their disputes as described in the Lawsuit whereby FFD receives alternative development rights for the Property and relinquishes its mining rights to the County; and

WHEREAS, the Parties in good faith believe this Stipulation meets the requirements of Florida Statutes §70.001(4)(d);

NOW, THEREFORE, in consideration of their mutual promises below, and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties hereby stipulate, promise, and agree as follows:

COVENANTS, WARRANTIES, AND REPRESENTATIONS

1. The above Recitals are true and correct and are incorporated by reference.

2. The Parties agree to resolve this matter through the adoption of an Agreement Pursuant to Stipulation of Settlement Under Section 70.001, Florida Statutes ("Agreement"), which will provide FFD with specific development rights for the Property in lieu of limerock mining and/or damages for the County's denial of mining activity, and

will also result in FFD relinquishing its mining rights to the County. The following process will be utilized to: (i) prepare and review the Agreement; (ii) fully evaluate whether this Stipulation and the Agreement, taken in the aggregate, meet the requirements of Section 70.001(4)(d), Florida Statutes; and (iii) provide a full and fair opportunity for meaningful public input on the Stipulation and the Agreement.

Α. Within ten (10) days of the full execution of this Stipulation, FFD will submit to the County a proposed Agreement and any supporting material that is necessary to allow the County to adequately review the Agreement. The proposed Agreement will: (i) establish development parameters for the Property not exceeding one residential dwelling unit per gross acre; 100,000 square feet of commercial; 50,000 square feet of office/research; and such other principal and accessory uses typical of similarly-sized mixed use developments within Lee County; (ii) identify those rules, regulations, and ordinances that would be contravened ("Contravened Regulations") by this Stipulation and the Agreement as contemplated by Section 70.001(4)(d)1., Florida Statutes; (iii) identify those statutes (if any) that would be contravened ("Contravened Statutes") by this Stipulation and the Agreement as contemplated by Section 70.001(4)(d)2., Florida Statutes; and (iv) propose the conditions and obligations that FFD believes will adequately protect the public interest served by the Contravened Regulations and Contravened Statutes.

B. Within thirty (30) days of submittal of the Agreement to the County by FFD, the County will hold an evidentiary hearing before either the Lee County Hearing Examiner or a Special Master selected jointly by the Parties. The decision as to

whether the Hearing Examiner or a Special Master will conduct the hearing will be made jointly by the Parties. The sole and limited purpose of this hearing is to evaluate whether the relief granted to FFD by this Stipulation and the Agreement protects the public interest served by the Contravened Regulations. In the conduct of this hearing, the Hearing Examiner or Special Master will take testimony and evidence as provided under Lee County Administrative Code AC-2-6 from FFD, County staff, and the general public. Notice of the date, time, location and subject matter of the hearing will be published in a newspaper of general circulation in the County at least ten (10) calendar days prior to the public hearing. The advertisement and mailing costs will be divided equally between FFD and the County.

C. Within thirty (30) days of completion of the hearing before the Hearing Examiner or Special Master, the Hearing Examiner or Special Master shall issue a written report and recommendation to the Lee County Board of County Commissioners (BOCC) addressing the issue identified in subsection B. above. In making his/her report and recommendation, the Hearing Examiner or Special Master will find that the Stipulation and Agreement either does or does not protect the public interest served by the Contravened Regulations provided, however, that in the event the Hearing Examiner or Special Master finds that the public interest is not protected he/she may recommend additional conditions or requirements in the Agreement that, if agreed to by the Parties, will cause the public interest to be adequately protected.

D. The BOCC will conduct two public hearings on the Agreement("Initial Hearing" and "Adoption Hearing"). The Initial Hearing will occur within thirty (30) days of issuance of the Hearing Examiner's or Special Master's written report and recommendation, and the Adoption Hearing will be held within twenty-one (21) days of the Initial Hearing. Notice of intent to enter into the Agreement will be published approximately seven (7) days before the Initial Hearing and Adoption Hearing in a newspaper of general circulation in the County. The notice will provide the location of the Property subject to the Agreement, the development uses proposed on the Property, the proposed population densities, and the proposed building intensities and height, and shall specify a place where a copy of the proposed Agreement can be obtained. A courtesy only notice will be mailed by regular mail to all property owners within 750 feet of the boundaries of the Property. The advertisement and mailing costs will be divided equally between FFD and the County. After consideration of the Hearing Examiner's or Special Master's report and recommendation, the evidence and testimony adduced at the public hearing before the Hearing Examiner or Special Master, and any additional information provided before the BOCC at the public hearings before the BOCC, the BOCC may approve the Agreement (with or without any conditions or requirements recommended by the Hearing Examiner or Special Master) or the BOCC may reject the Agreement. If the BOCC rejects the Agreement, this process will terminate and the Parties will re-commence the litigation. Pursuant to Section 70.001(4)(d)1., prior to acceptance of the Agreement, the BOCC must find that the relief granted by the Agreement protects the public interest served by the

Contravened Regulations and is the appropriate relief necessary to prevent the County from inordinately burdening the Property. If the BOCC accepts the Agreement as proposed by FFD, the Agreement will be executed by the BOCC and transmitted to FFD whereupon FFD will execute the Agreement and return a signed original to the County Attorney within ten (10) days of receipt from the County. If the BOCC accepts the Agreement with any additional conditions or requirements recommended by the Hearing Examiner or Special Master, the BOCC will execute the amended Agreement and transmit it to FFD for consideration, whereupon FFD will have thirty (30) days from receipt to either accept or reject the modified Agreement. If FFD rejects the modified Agreement, this process will terminate and the Parties will return to litigation. If FFD accepts the modified Agreement, the Parties will continue with the process set forth below. E. In the event the Agreement is executed by both Parties, the Agreement will be considered a part of this Stipulation as if fully set forth herein. Within fifteen (15) days of the full execution of the Agreement, the Parties will jointly file an action in Circuit Court for approval at a public hearing held by the Court, pursuant to Section 70.001(4)(d)2., Florida Statutes. At this hearing, the Court will determine whether the relief granted to FFD by the Contravened Statutes protects the public

interest served by the Contravened Statutes and whether said relief is the appropriate relief necessary to prevent the governmental regulatory effort from inordinately burdening the Property. If the Court approves this Stipulation and the Agreement, then, after forty-five (45) days of entry of the Court's Order of Approval, FFD shall provide COUNTY with a stipulated order of dismissal with prejudice
("Order of Dismissal"). The Order of Dismissal shall provide that neither Party shall take anything from the other, except as stated in this Stipulation and the Agreement. The Order of Dismissal shall further provide that each Party shall bear its own attorneys' fees and costs incurred in respect to the Lawsuit, and that the Court shall retain jurisdiction in order to enforce the terms of this Stipulation and the Agreement. Upon full execution of the Order of Dismissal, FFD shall submit same to the Court for entry. If this Stipulation and the Agreement are not approved by the Court, this Stipulation and the Agreement will be deemed null and void and of no further force or effect, and the Parties will resume litigation. If the Court approves this Stipulation and the Agreement and such approval is timely appealed or otherwise challenged by a third party, or in the event that any judicial or administrative proceeding shall otherwise prevent or delay the effectiveness of the Court's approval, any time periods and any obligations on either of the Parties specified in this Stipulation or the Agreement shall be tolled until final resolution of such appeal, challenge or proceeding in a manner that upholds the Court's approval or is otherwise acceptable to FFD in its sole discretion. In the event that the Court's approval of this Stipulation and the Agreement has not been received or such approval is not final within one (1) year of the Effective Date, then either party may nullify this Stipulation and the Agreement with written notice to the other party, whereupon this Stipulation and the Agreement will be deemed null and void and of no further force and effect, and the Parties will resume litigation.

3. Should either Party fail to perform as specified in this Stipulation or the Agreement, that Party shall be in default of this Stipulation or the Agreement, or both.

4. In the event of a default, the Party not in default shall give written notice of the default ("Notice of Default") to the other Party by email and first-class U.S. Mail (certified) to the address for each Party set forth herein.

5. If the default is not cured within ninety (90) days of the sending of the Notice of Default, such default shall be a breach of this Stipulation or the Agreement, or both; provided, however, that any breach of a time period for performance specified in this Stipulation will not be subject to the cure period identified in this paragraph but will, instead, be governed by paragraph 8 below.

6. In the event of any breach of this Stipulation or the Agreement, the nonbreaching Party shall be entitled to enforce this Stipulation or the Agreement by filing a motion, having that motion heard by the Court, and having the Court enter a judgment for the relief demanded in the motion, if the non-breaching Party proves a breach of this Stipulation or the Agreement by the other Party.

7. In any litigation relating to, or arising under this Stipulation or the Agreement, including any litigation to enforce a Party's rights set forth herein, the prevailing Party shall be entitled to an award of its reasonable attorneys' fees and costs incurred against the non-prevailing Party at all levels of litigation, including the trial and appellate levels.

8. Time is of the essence to this Stipulation and the Agreement. All time periods for performance specified in this Stipulation must be strictly observed by the Parties unless waived in writing by both Parties.

9. Neither Party admits any liability hereby.

10. This Stipulation may not be modified, except in a writing signed by both Parties. Amendments to the Agreement, or any portion thereof, must be approved by the Parties in accordance with the terms of the Agreement, without further amendment to this Stipulation.

11. The undersigned representative of a Party has the authority to sign this Stipulation and bind the Party for whom he or she is signing.

12. Each Party has had the opportunity to consult with the counsel of that Party's choice regarding this Stipulation and each of the undersigned has either consulted with said counsel or has knowingly, voluntarily, and intentionally waived the opportunity to consult with counsel.

13. This Stipulation was negotiated at arm's length and/or mutually drafted; accordingly, the Stipulation shall not be construed against either Party on account of which Party drafted the Stipulation. To the extent a Party were to claim an ambiguity exists in any provision hereof, such ambiguity, if any, shall not be construed against any Party hereto on account of which Party drafted the provision.

14. Wherever the text of this Stipulation may require or so admit, the singular shall include the plural, and vice-versa.

15. Copies of this Stipulation shall be as valid and enforceable as the original.

16. This Stipulation may be executed in counterparts and transmitted by electronic means or facsimile. The fully-executed Stipulation so transmitted shall be deemed an original.

17. If any provision of this Stipulation shall be determined to be invalid by any court, such determination shall not affect the validity of any other provision of this Stipulation.

18. This Stipulation shall be construed in accordance with the laws of the State of Florida.

19. The Court shall retain jurisdiction of this Lawsuit in order to enforce the terms of this Stipulation.

20. If any notice is provided hereunder, such notice, including any Notice of Default, shall be sent to:

<u>As to FFD:</u> FFD Land Co., Inc. ATTN: Jaime Weisinger, V.P. Real Estate 315 New Market Road East Immokalee, FL 34142 Jaime.weisinger@lipmanfamilyfarms.com

With a copy to: Moore Bowman & Reese, P.A. ATTN: S. William Moore 551 No. Cattlemen Road, Suite 100 Sarasota, FL 34232 <u>bmoore@mbrfirm.com</u>

With a copy to: Henderson Franklin Starnes & Holt, P.A. ATTN: Russell P. Schropp 1715 Monroe Street Fort Myers, FL 33901 Russell.schropp@henlaw.com

As to COUNTY: Lee County ATTN: County Manager 2115 Second Street Fort Myers, FL 33901 With a copy to: Lee County ATTN: County Attorney 2115 Second Street Fort Myers, FL 33901

IN WITNESS WHEREOF, and intending to be bound hereby, the Parties hereto have entered into and executed this Stipulation of Settlement as of the dates set forth below.

LEE COUNTY, A POLITICAL SUBDIVISION OF THE STATE OF FLORIDA

By: 22 Chair of the Board of County Commissioners Commissioner Cecil L Pendergrass Lee County Board of County Commissioners District 2 Name (Print):___ 0-15-20 Dated:

SWIL

S. William Moore, Esquire Florida Bar No.: 157268 Ryan C. Reese, Esquire Florida Bar No.: 113383 MOORE BOWMAN & REESE, P.A. 551 No. Cattlemen Road, Suite 100 Sarasota, FL 34232 Telephone: (941) 365-3800 Fax: (941) 952-1414 bmoore@mbrfirm.com ksasse@mbrfirm.com ksewell@mbrfirm.com Counsel for Plaintiff, FFD Land Co.

Dated: $60\pi 2020$

Jeffrey L. Hinds, Esquire Florida Bar No.: 0008710 Jay J. Bartlett, Esquire Florida Bar No.: 875163 SMOLKER BARLETT LOEB HINDS & THOMPSON, P.A. 100 North Tampa Street, Suite 2050 Tampa, Florida 33602 Telephone: (813) 223-3888 Fax: (813) 228-6422 *Counsel for Defendant, Lee County, Florida*

Dated:_____

SW.

S. William Moore, Esquire Florida Bar No.: 157268 Ryan C. Reese, Esquire Florida Bar No.: 113383 MOORE BOWMAN & REESE, P.A. 551 No. Cattlemen Road, Suite 100 Sarasota, FL 34232 Telephone: (941) 365-3800 Fax: (941) 952-1414 <u>bmoore@mbrfirm.com</u> <u>ksasse@mbrfirm.com</u> <u>ksewell@mbrfirm.com</u> <u>Counsel for Plaintiff, FFD Land Co.</u>

Dated: 6 07 2020

 \circ

Jeffrey L. Hinds, Esquire Florida Bar No.: 0008710 Jay J. Bartlett, Esquire Florida Bar No.: 875163 SMOLKER BARLETT LOEB HINDS & THOMPSON, P.A. 100 North Tampa Street, Suite 2050 Tampa, Florida 33602 Telephone: (813) 223-3888 Fax: (813) 228-6422 Counsel for Defendant, Lee County, Florida

Dated: 15 October 2020

EXHIBIT A TO STIPULATION OF SETTLEMENT

Legal Description – FFD Property

LEGAL DESCRIPTION

ALL OF SECTIONS 26, 35 AND 36 AND THE EAST ONE-HALF OF SECTION 34 TOWNSHIP 46 SOUTH RANGE 26 EAST, LEE COUNTY FLORIDA AND ALL OF SECTIONS 1, 2, 11, 12 AND THE EAST ONE-HALF OF SECTION 3 TOWNSHIP 47 SOUTH RANGE 26 EAST LEE COUNTY FLORIDA LESS THE RIGHT OF WAY FOR CORKSCREW ROAD BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS;

BEGINNING AT THE SOUTHEAST CORNER OF SAID SECTION 36;

THENCE NORTH 00°53'47" WEST ALONG THE EAST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 36 A DISTANCE OF 2644.58 FEET TO THE EAST QUARTER CORNER OF SAID SECTION;

THENCE NORTH 00°54'01" WEST ALONG THE EAST LINE OF THE NORTHEAST QUARTER OF SAID SECTION A DISTANCE OF 2644.35 FEET TO THE NORTHEAST CORNER OF SAID SECTION 36;

THENCE SOUTH 89°17'03" WEST ALONG THE NORTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 36 A DISTANCE OF 2641.41 FEET TO THE NORTH QUARTER CORNER OF SAID SECTION;

THENCE SOUTH 89°21'54" WEST ALONG THE NORTH LINE OF THE NORTHWEST QUARTER OF SAID SECTION 36 A DISTANCE OF 2637.56 FEET TO THE NORTHWEST CORNER OF SAID SECTION 36 AND THE SOUTHEAST CORNER OF THE AFOREMENTIONED SECTION 26; THENCE NORTH 00°34'00" WEST ALONG THE EAST LINE OF THE SOUTHEAST QUARTER OF SECTION 26 A DISTANCE OF 2629.17 FEET TO THE EAST QUARTER CORNER OF SAID SECTION; THENCE NORTH 00°34'15" WEST ALONG THE EAST LINE OF THE NORTHEAST QUARTER OF SAID SECTION A DISTANCE OF 2578.45 FEET TO THE SOUTH RIGHT OF WAY LINE OF CORKSCREW ROAD (100' WIDE) AS RECORDED IN OFFICIAL RECORDS BOOK 571 PAGE 457 PUBLIC RECORDS OF LEE COUNTY FLORIDA;

THENCE SOUTH 89°29'01" WEST ALONG SAID RIGHT OF WAY LINE A DISTANCE OF 2657.86 FEET;

THENCE CONTINUING ALONG SAID RIGHT OF WAY LINE SOUTH 89°29'14" WEST A DISTANCE OF 1138.62 FEET TO THE BEGINNING OF A CURVE CONCAVE NORTHERLY AND HAVING A RADIUS OF 1859.57 FEET;

THENCE CONTINUING ALONG SAID RIGHT OF WAY LINE WESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 13°19'01" AN ARC DISTANCE OF 432.21 FEET TO AN INTERSECTION WITH THE NORTHERLY LINE OF THE NORTHWEST QUARTER OF SAID SECTION 26;

THENCE LEAVING SAID RIGHT OF WAY LINE ALONG SAID SECTION LINE SOUTH 89°29'14" WEST A DISTANCE OF 1091.28 FEET TO THE NORTHWEST CORNER OF SAID SECTION 26; THENCE SOUTH 00°58'11" EAST ALONG THE WEST LINE OF THE NORTHWEST CORNER OF SAID SECTION 26 A DISTANCE OF 2637.69 FEET TO THE WEST QUARTER CORNER OF SAID SECTION; THENCE SOUTH 00°55'06" EAST ALONG THE WEST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION A DISTANCE OF 2636.23 FEET TO THE SOUTHWEST CORNER OF SAID SECTION 26 AND THE NORTHEAST CORNER OF THE AFOREMENTIONED SECTION 34;

THENCE SOUTH 89°17'12" WEST ALONG THE NORTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION A DISTANCE OF 2640.06 FEET TO THE NORTH QUARTER CORNER OF SAID SECTION;

THENCE SOUTH 00°38'09" EAST A DISTANCE OF 5293.88 FEET TO THE SOUTH QUARTER CORNER OF SAID SECTION 34 AND THE NORTH QUARTER CORNER OF THE AFOREMENTIONED SECTION 3;

THENCE SOUTH 00°28'36" WEST A DISTANCE OF 5444.35 FEET TO THE SOUTH QUARTER CORNER OF SAID SECTION 3;

THENCE NORTH 88°35'10" EAST ALONG THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION A DISTANCE OF 2693.91 FEET TO THE SOUTHEAST CORNER OF SAID SECTION 3 AND THE NORTHWEST CORNER OF THE AFOREMENTIONED SECTION 11;

THENCE SOUTH 00°01'56" EAST ALONG THE WEST LINE OF THE NORTHWEST QUARTER OF SAID SECTION 11 A DISTANCE OF 2702.33 FEET TO THE WEST QUARTER CORNER OF SAID SECTION;

THENCE CONTINUE SOUTH 00°01'56" EAST ALONG THE WEST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION A DISTANCE OF 2702.33 FEET TO THE SOUTHWEST CORNER OF SAID SECTION 11;

THENCE NORTH 88°41'40" EAST ALONG THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION A DISTANCE OF 2681.61 FEET TO THE SOUTH QUARTER CORNER OF SAID SECTION;

THENCE NORTH 88°43'03" EAST ALONG THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION A DISTANCE OF 2675.62 FEET TO THE SOUTHEAST CORNER OF SAID SECTION 11 AND THE SOUTHWEST CORNER OF THE AFOREMENTIONED SECTION 12;

THENCE NORTH 88°37'36" EAST ALONG THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION A DISTANCE OF 2698.32 FEET TO THE SOUTH QUARTER CORNER OF SAID SECTION;

THENCE NORTH 88°37'51" EAST ALONG THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION A DISTANCE OF 2697.96 FEET TO THE SOUTHEAST CORNER OF SAID SECTION 12;

THENCE NORTH 00°51'57" WEST ALONG THE EAST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION A DISTANCE OF 2709.13 FEET TO THE EAST QUARTER CORNER OF SAID SECTION;

THENCE NORTH 00°51'43" WEST ALONG THE EAST LINE OF THE NORTHEAST QUARTER OF SAID SECTION A DISTANCE OF 2709.41 FEET TO THE NORTHEAST CORNER OF SAID SECTION 12 AND THE SOUTHEAST CORNER OF THE AFOREMENTIONED SECTION 1;

THENCE NORTH 01°01'36" WEST ALONG THE EAST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION A DISTANCE OF 2639.48 FEET TO THE EAST QUARTER CORNER OF SAID SECTION;

THENCE NORTH 01°03'27" WEST ALONG THE EAST LINE OF SAID SECTION A DISTANCE OF 2639.69 FEET TO THE NORTHEAST CORNER OF SAID SECTION 1 AND THE SOUTHEAST CORNER OF SAID SECTION 36 AND THE POINT OF BEGINNING OF THE PARCEL HEREIN DESCRIBED;

CONTAINING 5208.61 ACRES OF LAND MORE OR LESS; SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD; ABSTRACT NOT REVIEWED.

AGNOLI, BARBER AND BRUNDAGE, INC. PROFESSIONAL ENGINEERS, PLANNERS & SURVEYORS AND MAPPERS

GEORGE W. HACKNEY P.S.M. 5606

i

.

Exhibit **B**

Legal Description of the Property

LEGAL DESCRIPTION

1.00

ALL OF SECTIONS 26, 35 AND 36 AND THE EAST ONE-HALF OF SECTION 34 TOWNSHIP 46 SOUTH RANGE 26 EAST, LEE COUNTY FLORIDA AND ALL OF SECTIONS 1, 2, 11, 12 AND THE EAST ONE-HALF OF SECTION 3 TOWNSHIP 47 SOUTH RANGE 26 EAST LEE COUNTY FLORIDA LESS THE RIGHT OF WAY FOR CORKSCREW ROAD BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS;

BEGINNING AT THE SOUTHEAST CORNER OF SAID SECTION 36;

THENCE NORTH 00°53'47" WEST ALONG THE EAST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 36 A DISTANCE OF 2644.58 FEET TO THE EAST QUARTER CORNER OF SAID SECTION;

THENCE NORTH 00°54'01" WEST ALONG THE EAST LINE OF THE NORTHEAST QUARTER OF SAID SECTION A DISTANCE OF 2644.35 FEET TO THE NORTHEAST CORNER OF SAID SECTION 36;

THENCE SOUTH 89°17'03" WEST ALONG THE NORTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 36 A DISTANCE OF 2641.41 FEET TO THE NORTH QUARTER CORNER OF SAID SECTION:

THENCE SOUTH 89°21'54" WEST ALONG THE NORTH LINE OF THE NORTHWEST QUARTER OF SAID SECTION 36 A DISTANCE OF 2637.56 FEET TO THE NORTHWEST CORNER OF SAID SECTION 36 AND THE SOUTHEAST CORNER OF THE AFOREMENTIONED SECTION 26; THENCE NORTH 00°34'00" WEST ALONG THE EAST LINE OF THE SOUTHEAST QUARTER OF SECTION 26 A DISTANCE OF 2629.17 FEET TO THE EAST QUARTER CORNER OF SAID SECTION; THENCE NORTH 00°34'15" WEST ALONG THE EAST LINE OF THE NORTHEAST QUARTER OF SAID SECTION A DISTANCE OF 2578.45 FEET TO THE SOUTH RIGHT OF WAY LINE OF CORKSCREW ROAD (100' WIDE) AS RECORDED IN OFFICIAL RECORDS BOOK 571 PAGE 457 PUBLIC RECORDS OF LEE COUNTY FLORIDA;

THENCE SOUTH 89°29'01" WEST ALONG SAID RIGHT OF WAY LINE A DISTANCE OF 2657.86 FEET;

THENCE CONTINUING ALONG SAID RIGHT OF WAY LINE SOUTH 89°29'14" WEST A DISTANCE OF 1138.62 FEET TO THE BEGINNING OF A CURVE CONCAVE NORTHERLY AND HAVING A RADIUS OF 1859.57 FEET;

THENCE CONTINUING ALONG SAID RIGHT OF WAY LINE WESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 13°19'01" AN ARC DISTANCE OF 432.21 FEET TO AN INTERSECTION WITH THE NORTHERLY LINE OF THE NORTHWEST QUARTER OF SAID SECTION 26:

THENCE LEAVING SAID RIGHT OF WAY LINE ALONG SAID SECTION LINE SOUTH 89°29'14" WEST A DISTANCE OF 1091.28 FEET TO THE NORTHWEST CORNER OF SAID SECTION 26; THENCE SOUTH 00°58'11" EAST ALONG THE WEST LINE OF THE NORTHWEST CORNER OF SAID SECTION 26 A DISTANCE OF 2637.69 FEET TO THE WEST QUARTER CORNER OF SAID SECTION; THENCE SOUTH 00°55'06" EAST ALONG THE WEST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION A DISTANCE OF 2636.23 FEET TO THE SOUTHWEST CORNER OF SAID SECTION

26 AND THE NORTHEAST CORNER OF THE AFOREMENTIONED SECTION 34; THENCE SOUTH 89°17'12" WEST ALONG THE NORTH LINE OF THE NORTHEAST QUARTER OF

SAID SECTION A DISTANCE OF 2640.06 FEET TO THE NORTH QUARTER CORNER OF SAID SECTION;

THENCE SOUTH 00°38'09" EAST A DISTANCE OF 5293.88 FEET TO THE SOUTH QUARTER CORNER OF SAID SECTION 34 AND THE NORTH QUARTER CORNER OF THE AFOREMENTIONED SECTION 3;

THENCE SOUTH 00°28'36" WEST A DISTANCE OF 5444.35 FEET TO THE SOUTH QUARTER

CORNER OF SAID SECTION 3:

1 :

THENCE NORTH 88°35'10" EAST ALONG THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION A DISTANCE OF 2693.91 FEET TO THE SOUTHEAST CORNER OF SAID SECTION 3

1.16

AND THE NORTHWEST CORNER OF THE AFOREMENTIONED SECTION 11;

THENCE SOUTH 00°01'56" EAST ALONG THE WEST LINE OF THE NORTHWEST QUARTER OF

SAID SECTION 11 A DISTANCE OF 2702.33 FEET TO THE WEST QUARTER CORNER OF SAID

SECTION;

THENCE CONTINUE SOUTH 00°01'56" EAST ALONG THE WEST LINE OF THE SOUTHWEST

10.00

SAID SECTION 11: THENCE NORTH 88°41'40" EAST ALONG THE SOUTH LINE OF THE SOUTHWEST QUARTER OF

QUARTER OF SAID SECTION A DISTANCE OF 2702.33 FEET TO THE SOUTHWEST CORNER OF

SAID SECTION A DISTANCE OF 2681.61 FEET TO THE SOUTH QUARTER CORNER OF SAID SECTION: THENCE NORTH 88°43'03" EAST ALONG THE SOUTH LINE OF THE SOUTHEAST QUARTER OF

SAID SECTION A DISTANCE OF 2675.62 FEET TO THE SOUTHEAST CORNER OF SAID SECTION

11 AND THE SOUTHWEST CORNER OF THE AFOREMENTIONED SECTION 12;

THENCE NORTH 88°37'36" EAST ALONG THE SOUTH LINE OF THE SOUTHWEST QUARTER OF

SAID SECTION A DISTANCE OF 2698.32 FEET TO THE SOUTH QUARTER CORNER OF SAID SECTION;

THENCE NORTH 88°37'51" EAST ALONG THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION A DISTANCE OF 2697.96 FEET TO THE SOUTHEAST CORNER OF SAID SECTION

12:

THENCE NORTH 00°51'57" WEST ALONG THE EAST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION A DISTANCE OF 2709.13 FEET TO THE EAST QUARTER CORNER OF SAID SECTION:

THENCE NORTH 00°51'43" WEST ALONG THE EAST LINE OF THE NORTHEAST QUARTER OF SAID SECTION A DISTANCE OF 2709.41 FEET TO THE NORTHEAST CORNER OF SAID SECTION 12 AND THE SOUTHEAST CORNER OF THE AFOREMENTIONED SECTION 1;

THENCE NORTH 01°01'36" WEST ALONG THE EAST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION A DISTANCE OF 2639.48 FEET TO THE EAST QUARTER CORNER OF SAID SECTION:

THENCE NORTH 01°03'27" WEST ALONG THE EAST LINE OF SAID SECTION A DISTANCE OF 2639.69 FEET TO THE NORTHEAST CORNER OF SAID SECTION 1 AND THE SOUTHEAST CORNER OF SAID SECTION 36 AND THE POINT OF BEGINNING OF THE PARCEL HEREIN DESCRIBED:

CONTAINING 5208.61 ACRES OF LAND MORE OR LESS; SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD; ABSTRACT NOT REVIEWED.

AGNOLI, BARBER AND BRUNDAGE, INC. PROFESSIONAL ENGINEERS, PLANNERS & SURVEYORS AND MAPPERS

GEORGE W. HACKNEY P.S.M. 5606







Moore Bowman & Rix, pa

Eminent Domain & property rights lawyers

S. W. Moore, Esquire (941) 365-3800 bmoore@mbrfirm.com

April 8, 2014

VIA FEDEX DELIVERY

Commissioner Larry Kiker Chairman of the Board, Lee County Board of County Commissioners Old Lee County Courthouse 2120 Main Street Fort Myers, FL 33901

Re: FFD Land Co. Claim Pursuant to Section 70.001, Florida Statutes (2013)

Chairman Kiker:

This letter establishes a claim by FFD Land Co. ("Claimant") against Lee County for compensation pursuant to Florida's "Bert J. Harris, Jr., Private Property Rights Protection Act," codified as Section 70.001, Florida Statutes (2013).

Lee County has inordinately burdened an existing use of real property or a vested right to a specific use of real property by its action in restricting or limiting the use of said real property such that the property owner, FFD Land Co., is permanently unable to obtain its reasonable, investment-backed expectation for said property.

The real property owned by FFD Land Co., and at issue herein ("subject property"), is located at 22030-036 Big Lou Road, within Sections 26, 34, 35 and 36, Township 46 South, Range 26 East, and Sections 1, 2, 3, 11 and 12, Township 47 South, Range 26 East, all within Southeast Lee County Planning Community in Lee County, Florida. The property consists of 4,652.1 acres, more or less, and is presently zoned "AG-2."

The specific action of Lee County giving rise to this claim for compensation is the Resolution of the Lee County Board of County Commissioners, Resolution Number, Z-13-002, enacted on May 6, 2013. That Resolution denied a request by FFD Land Co. to re-zone its 4,652.1 acre parcel, described above, from AG-2 to the zoning category of Mine Excavation Planned Development ("MEPD"). Resolution Z-13-002 is attached hereto as Exhibit "A."

<u>Sarasota Office</u> 3277 Fruitville Rd., Unit E Sarasota, Florida 34237 941.365.3800 800.380.3337 Fax: 941.952.1414 <u>Tampa Office</u> 300 W. Platt St., Ste. 100 Tampa, Florida 33606 813.318.9000 877.908.2800 Fax: 877.203.5748

www.mbrfirm.com

Commissioner Larry Kiker April 8, 2014 Page 2

The Resolution denying the Claimant's application for re-zoning to permit a mining use on its property was substantially and essentially based upon County policies applicable to the subject property's location in that portion of Lee County which has been designated as "Density Reduction/Groundwater Resource" ("DRGR") and "Southeast Planning Community" by the Lee County Comprehensive Plan ("Lee Plan"), as amended on March 3, 2010 by Lee County Ordinances 10-19 and 10-20.

FFD Land Co.'s application for re-zoning to MEPD was filed on January 7, 2009. In May, 2009, approximately four months after the Claimant's re-zoning application was filed, Lee County initiated amendments to the Lee Plan which resulted in mining uses being precluded as a permitted use on the subject property. Mining had previously been an expressly allowable use under the DRGR, Future Land Use designation. Though Ordinances 10-19 and 10-20, which established the mining preclusion, were adopted on March 3, 2010; they were administratively challenged by FFD Land Co. and others, and did not become law until March 30, 2012, by Final Order in *Cemex Const'n Materials, LLC v. Lee County*, DOAH Case No. 10-2988 GM.

The goals, objectives, and policies of the Lee Plan Amendments cited above are detailed in FFD's Motion for Summary Disposition of Re-zoning Request, and Memorandum of Law in Support of Motion, served on January 4, 2013, attached hereto as Exhibit "B," and incorporated by reference herein.

The inordinate burden placed by Lee County on FFD Land Co.'s property not only restricts or limits the landowner's use of its property, but actually eliminates an otherwise reasonably foreseeable, non-speculative land use; i.e. mining. As detailed in the attached appraisal report, Exhibit "C," a mining use on the Claimant's subject property would increase the fair market value of that property to an amount well in excess of its existing fair market value.

Specifically, Lee County's denial of Claimant's application has resulted in a current loss in fair market value of the subject property in excess of thirty-nine million dollars (\$39,000,000.00). These damages are set out in the *bona fide*, valid appraisal supporting and demonstrating the claim, attached hereto and incorporated herein as Exhibit "C."

MOORE BOWMAN & RIX, PA

EMINENT DOMAIN & PROPERTY RIGHTS LAWYERS

Commissioner Larry Kiker April 8, 2014 Page 3

Pursuant to the provisions of Section 70.001, Florida Statutes (2013), please govern yourself, and Lee County, accordingly.

Sincerely,

S. W. Moore

SWM/kpt

Attachments

Richard Wm. Wesch, Esquire cc: Mr. Jaime Weisinger



EMINENT DOMAIN & PROPERTY RIGHTS LAWYERS

RESOLUTION NUMBER Z-13-002

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

WHEREAS, an application was filed by the property owner, FFD Land Co., Inc., to rezone a 4,652.1± acre parcel from Agriculture District (AG-2) to Mine Excavation Planned Development (MEPD) in reference to FFD MEPD; and

WHEREAS, a public hearing before the Lee County Zoning Hearing Examiner, Diana M. Parker, was advertised and held on January 16, 2013 and January 17, 2013; and

WHEREAS, the Hearing Examiner gave full consideration to the evidence in the record for Case #DCI2009-00001 and recommended DENIAL of the Request; and

WHEREAS, a second public hearing was advertised and held on May 6, 2013 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

Request is for a rezone from AG-2 to MEPD for 4,652.1 acres of land to allow mining activities (construction materials mining operation) including administrative offices, rock crushing operations, and plant facilities. The proposed maximum mine depth is 100 feet with an estimated duration of extraction activity of 50 years. Maximum structure height is 35 feet. Blasting is a proposed development activity.

The property is located in the Density Reduction/ Groundwater Resource and Wetlands Future Land Use Category and is legally described in attached Exhibit A. The request is DENIED.

SECTION B. 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)

SECTION C. FINDINGS AND CONCLUSIONS:

1. The applicant has not proven entitlement to this requested MEPD zoning, as the request is inconsistent with the following provisions of the Lee Plan, as well as with provisions of

Case No. DCI2009-00001

Z-13-002 Page 1 of 3

05-06-13Z

Chapter 12 of the Land Development Code:

Pol. 1.4.5	(DOP,ENV)	Pol. 1.5.1	(DOP,ENV)
Pol. 1.7.8	(DOP)	Goal 2	(DOP,ZON)
Obj. 2.1	(DOP,ZON)	Pol. 2.2.2	(DOP,ZON)
Goal 4	(DOP,ZON)	Pol. 4.1.1	(DOP,ZON)
Pol. 4.1.2	(DOP,ZON)	Pol. 5.1.5	(DOP, ZON)
Goal 7	(DOP,ZON)	Obj. 7.1	(DOP,ZON)
Pol. 7.1.1	(DOP,ZON)	Pol. 7.1.2	(DOP,ZON)
Pol. 7.1.3	(DOP,ZON)	Pol. 7.1.8	(DOP,ZON)
Pol. 7.1.9	(DOP,ZON)	Goal 10	(DOP,ENV)
Obj. 10.1	(DOP,ENV)	Pol. 10.1.3	(DOP)
Pol. 10.1.4	(DOP,DOT)	Pol. 10.2.2	(DOP, ENV)
Goal 33	(DOP,ZON)	Obj. 33.1	(DOP)
Pol. 33.1.1	(DOP,ZON)	Obj. 33.2	(DOP,ENV)
Pol. 33.2.1	(DOP,ENV)	Pol. 33.2.2	(DOP,ENV)
Pol. 33.2.3	(DOP,ENV)	Obj. 33.3	(DOP)
Pol. 33.3.1	(DOP,DOT)	Pol. 39.1.4	(DOP,DOT)
Pol. 60,1.2	(ENV)	Pol. 60.5.3	(DOP,ENV)
Goal 61	(DOP,ENV)	Obj. 61.2	(DOP,ENV)
Pol. 61.2.6	(DOP,ENV)	Goal 77	(DOP,ENV)
Obj. 77.3	(DOP,ENV)	Goal 107	(DOP,ENV)
Pol. 107.2.3	(DOP,ENV)	Pol. 107.2.4	(DOP,ENV)
Pol. 107.2.10	(DOP,ENV)	Obj. 107.3	(DOP,ENV)
Obj. 107.4	(DOP,ENV)	Pol. 107.4.2	(DOP,ENV)
Pol.107.4.4	(DOP,ENV)	Obj. 107.10	(DOP,ENV)
Pol. 107.10.2	(DOP,ENV)	Pol. 107.10.3	(DOP,ENV)
Obj. 107.11	(DOP,ENV)	Pol. 107.11.4	(DOP,ENV)
Pol. 117.1.8	(DOP,ENV)	Pol. 135.9.5	(DOP,ZON)
Pol. 135.9.6	(DOP,ZON)	Map 14	(DOP,ZON)
Map 17	(DOP,ZON)	Map 20	(DOP,ZON,ENV)
Chapter XIII (d	consistency)		

- 2. The MEPD request does not meet the locational standards set out in Map 14 of the Lee Plan, as the subject property is not located within the designated mining areas of that Map.
- 3. The MEPD is not compatible with the existing or planned uses in the surrounding area, and is not consistent with the intensity of uses forth in the Lee Plan.
- 4. The approval of the MEPD, with its anticipated 2,548 daily two-way truck trips will place an undue burden upon Corkscrew Road, particularly east of Ben Hill Griffin Parkway.
- 5. The MEPD will adversely affect the environmentally critical areas in the vicinity of the subject property, and will adversely affect natural resources in the area, including the habitat and foraging areas, and viability of listed (protected) wildlife and plant species.
- 6. The Division of Natural Resources made πo hydrology or hydrogeology based objections to the approval of the MEPD.

Case No. DCI2009-00001

- 7. The proposed industrial (mining) use is not appropriate at the subject location, per the provisions of Lee Plan Chapter 33, and Maps 14, 17 and 20.
- 8. Keeping the existing agricultural uses and zoning would be consistent and compatible with the surrounding residential and conservation uses, and would also provide a legitimate public purpose by protecting those uses, as well as the existing plant and animal habitat and foraging areas.
- 9. Historic groundwater and flowway levels and patterns can be restored, when an agricultural use is removed from the site.
- 10. Limerock mining does irreparable damage to groundwater and flowway patterns and levels, and those patterns and levels can never be restored once a property is mined.
- 11. As this MEPD zoning cannot be approved, none of the Deviations can be approved either.

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

John Manning	<u>Aye</u>
Cecil L Pendergrass	Ave
Larry Kiker	Ave
Tammara Hall	Aye
Frank Mann	Aye

DULY PASSED AND ADOPTED this 6th day of May, 2013.

ATTEST: LINDA DOGGETT, CLERK

Clerk

BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, PLORIDA

Cecil L Pendergrass, Chair

Approved as to form by:

Michael D. Jacob

Assistant County Attorney County Attorney's Office



BY:

Case No. DCI2009-00001

Z-13-002 Page 3 of 3

EXHIBIT "A"

		SECTION 31 5 T 46 S, R 27 E L15	SECTION 6	SECTION 7	SECTION 18
SECTION 24 SECTION 24 CORKSCREW ROAD (100' R.D.W.)	22 22 22 22 22 22 22 22 22 22 22 22 22	2010 2010	MEPD PARCEL 4,652.16 ACRES ±	2709.41 22799.13 2709.41 22709.13	Image: Second
SECTION 23 LEE COUNTY (O.R. 2542 PG. 3201)	CURVE CC CC CC CC CC CC CC CC CC C	C10 CURVE TABLE DELTA RADUGS ARC 131'9'01" 1859.57 432.21 144 29'14" 1900.00 1475.25 5725'00" 545.00 1977.37 1470'45" 1455.50 360.07 1978'41" 1045.02 352.21 28'55'12" 955.00 E462.13 262.21 265.50 542.65 67'02'21" 855.00 1000.40 1925.56 275.56 224'51'1 29'55'14" 1455.00 355.00 547.15 235.50 547.15 29'55'14" 1455.00 355.00 252.51 29'55'14 355.00 547.15 29'55'14" 1455.00 755.56 21'25'49" 545.00 203.85	CHORD CHORD BEARING 431,24 S BJ351'17' E 1438,47 S 22'45'23' E 666,70 S 47'33'14' E 350,15 S 16'56'05' E 350,55 S 14'22'07' E 477,02 S 1970'33' E 422,06 S 1970'35' E 944,30 S 38'14'01'' E 504,44 S 3204'13' E 747,10 S 0715'11' E 202,56 S 11'25'32'' E	N 00701'56' W N 00701'56' 2702.33 2702.33	$\begin{array}{cccccccccccccccccccccccccccccccccccc$
SECTION 22	N 0058'11' W N 0055'06' W 2637,69 2658.23 W SECTION 27	W T 46 S, R 26 E NS EAST 1/2 F S ECTION 34 SECTION 34 S293.28 WEST 1/2	T 47 S, R 26 E ≥ EAST 1/2 SECTION 3 N 002836° E 9 S444.35 WEST 1/2	Control Contro	I SECTION 15 INOT A SUBJEY 0.09 - 0.0001 I DEVELOPMENT CORPORATION, LTD. design: DEVELOPMENT CORPORATION, LTD. drawn; DEVELOPMENT CORPORATION, LTD. drawn; IND DESCRIPTION OF MEPD PARCEL INSHIP 45 SOUTH, RANGE 26 EAST, AND MYSHIP 47 SOUTH, RANGE 26 EAST, AND MYSHIP 47 SOUTH, RANGE 26 EAST, AND MYSHIP 47 SOUTH, RANGE 26 EAST, AND HIGH AND
1. DIM 2. CU 3. P.O.B 4. BEAR 83/S QUAR LEE	IENSIONS ARE IN FEET AND DEGM RE DILEDSIONS ARE AS FOLLOW I = DELTA ANGLE, R = RADIUS, A = CHORD DISTANCE AND CHB + .= POINT OF BEGINNING. INOS ARE GASED ON THE FLORID. INOS ARE GASED ON THE FLORID. INTER OF SECTION I, TOWNSHIP A, NTRE OF SECTION I, TOWNSHIP A, NTRE OF SECTION I, TOWNSHIP A, INTER OF SECTION I, INTER OF SECTION I, INT	ALS THEREOF. SECTION 34 Start ARC DISTANCE, → CHORD BEARING, A STATE PLANE, WEST ZONE INE OF THE NORTHEAST T SOUTH, RANCE ZG EAST, 0103227 EAST.	APPROVED LEGAL 65g 1-4-10	V3 V3 V3 V3 V3 V3 V3 V3 V3 V3	UK: PS: dote: dot

.

1

•

•

-

EXHIEIT "A"

BEGENNING AT THE SOUTHEAST CORNER OF SAID SECTION 3G: THENCE S.0173'27'E. ALONG THE EAST LINE OF THE NORTHEAST OUARTER OF SAID SECTION 1 A DISTANCE OF 2,639.59 FEET TO THE EAST OUARTER CORNER; THENCE CONTINUE S.010'36'E. ALONG THE EAST UNE OF THE SOUTHEAST CORNER; THENCE S.00'51'43'E. ALONG THE EAST UNE OF THE SOUTHEAST CORNER OF SECTION 1 MID THE NORTHEAST CORNER OF THE AFOREMENTIONED SECTION 12; THENCE 'S.00'51'43'E. ALONG THE EAST UNE OF THE NORTHEAST QUARTER OF SAID SECTION 12 A DISTANCE OF 2,709.41 FEET TO THE SOUTHEAST CORNER; THENCE CONTINUE S.00'51'57'E. ALONG THE EAST UNE OF THE NORTHEAST QUARTER OF SAID SECTION 12 A DISTANCE OF 2,709.13 FEET TO THE SOUTHEAST QUARTER OF SAID SECTION 12 A DISTANCE OF 2,709.13 FEET TO THE SOUTHEAST QUARTER OF SAID SECTION 12 A DISTANCE OF 2,897.39 FEET TO THE SOUTHEAST QUARTER OF SAID SECTION 12 A DISTANCE OF 2,897.39 FEET TO THE SOUTHEAST QUARTER OF SAID SECTION 12 A DISTANCE OF 2,897.39 FEET TO THE SOUTHEAST QUARTER OF SAID SECTION 12 A DISTANCE OF 2,897.39 FEET TO THE SOUTHEAST QUARTER OF SAID SECTION 12 A DISTANCE OF 2,897.39 FEET TO THE SOUTHEAST QUARTER OF SAID SECTION 12 A DISTANCE OF 2,697.39 FEET TO THE SOUTHEAST QUARTER OF SAID SECTION 12 A DISTANCE OF 2,697.59 FEET TO THE SOUTHEAST QUARTER OF SAID SECTION 12 A DISTANCE OF 2,697.59 FEET TO THE SOUTHEAST QUARTER OF SAID SECTION 12 A DISTANCE OF 2,697.59 FEET TO THE SOUTHEAST QUARTER OF SAID SECTION 11 A DISTANCE OF 2,675.62 FEET TO THE SOUTHEAST QUARTER OF SAID SECTION 12 A DISTANCE OF 2,675.62 FEET TO THE SOUTHEAST QUARTER OF SAID SECTION 14 A DISTANCE OF 2,675.62 FEET TO THE SOUTHEAST QUARTER OF SAID SECTION 14 A DISTANCE OF 2,675.62 FEET TO THE SOUTHEAST QUARTER OF SAID SECTION 14 A DISTANCE OF 2,675.62 FEET TO THE SOUTHEAST QUARTER OF SAID SECTION 14 A DISTANCE OF 2,675.62 FEET TO THE SOUTHEAST QUARTER OF SAID SECTION 14 A DISTANCE OF 2,675.62 FEET TO THE SOUTHEAST QUARTER OF SAID SECTION 14 A DISTANCE OF 2,675.62 FEET TO THE SOUTHEAST QUARTER OF SAID SECTION 14 D DISTANCE OF 2,67 11; THENCE N.00'01'56'W. ALONG THE WEST LINE OF THE SOUTHWEST OUARTER OF SAID SECTION 11 A DISTANCE OF 2,702.33 FEET TO THE WEST OUARTER CORNER: THENCE CONTINUE N.000'156'W ALONG SAID WEST LINE A DISTANCE OF 2,702.33 FEET TO THE NORTHWEST CORNER OF SAID SECTION 11 AND THE SOUTHEAST CORNER OF THE AFORELENTINGED SECTION 3: THENCE S.88'35'10'W. ALONG THE SOUTH LINE OF SOUTHEAST OUARTER OF SAID SECTION: 3 A DISTANCE OF 2,633.91 FEET TO THE SOUTH OUARTER OF SAID SECTION: 651 APPROVEC NOLA SUITAL 1-4-10 TOT FLORES SPARM DEVELOPMENT CORPORATION, LTD. SECTION 3 A DISTANCE OF 2,093.91 FELT 10 THE SOUTH QUARTER CORNER OF SAID SECTION: HENCE N,00728'35'E. A DISTANCE OF 5,44,35 FEET TO THE NORTH QUARTER CORNER OF SAID SECTION 34: HENCE N,0038'09'W. A DISTANCE OF 5,293,86 FEET TO THE NORTH QUARTER CORNER ON SAID SECTION 34: HENCE N,003'I'12'E. ALONG THE NORTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 34 DISTANCE OF 2,640.06 FEET TO THE NORTHEAST QUARTER OF SAID SECTION 34 DISTANCE OF 2,640.06 FEET TO THE SOUTHEAST QUARTER OF SAID SECTION 34 DISTANCE OF 2,640.06 FEET TO THE SOUTHEAST CORNER OF SAID SECTION 34 DISTANCE OF 2,640.06 FEET TO THE SOUTHEAST CORNER OF SAID SECTION 34 DISTANCE OF 2,640.75 TO THE AFOREMENTIONED SECTION 26; HENCE N,0075'05'W, ALONG THE WEST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 26 A DISTANCE OF 2,636.23 FEET TO THE NORTHWEST QUARTER OF SAID SECTION 26 A DISTANCE OF 2,637.69 FEET TO THE NORTHWEST QUARTER OF SAID SECTION; SKETCH AND DESCRIPTION OF MEPD PARCEL PART OF TOWNSHIP 40 SOUTH, RANGE 26 EAST AND PART OF TOWNSHIP 47 SOUTH, RANGE 26 EAST, LEE COUNTY, FLORIDA CALLE CREATE RALE CALL CALLER CONTRACT OF LA CONTRA bk: pg:

THENCE N.8929'14'E. ALONG THE NORTH LINE OF THE NORTHWEST QUARTER OF SAID SECTION 26 A DISTANCE OF 1,091.28 FEET TO A POINT OF CUSP ON THE SOUTH RIGHT OF WAY LINE OF CORKSCREW ROAD (100' MOE) AS RECORDED IN OFFICIAL RECORDS BOOK 571, PAGE 457, PUBLIC RECORDS OF LEE COUNTY, FLORIDA; HENCE CONTINUE ALIONG SAID RIGHT OF WAY FOR 45221'FEET ALONG THE ARC OF A NOW TANGENT CIRCULAR CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 15'19'01', HAVING A RADIUS OF 1, 258.37 FEET, AND BEING SUBTENDED BY A CHORD WHICH BEARS S.33'51'12'F FOR 431.24 FEET; HENCE N.892'91'4'E. ALONG SAID RIGHT OF WAY A DISTANCE OF 1,138.82 FEET; HENCE CONTINUE ALIONG SAID RIGHT OF WAY A DISTANCE OF 579.31 FEET; HENCE CONTINUE ANSO'91'6' A DISTANCE OF 317.88 FEET; HENCE SOUTHOUS ALIONG SAID RIGHT OF WAY A DISTANCE OF 579.31 FEET; HENCE SOUTHOUS ALIONG SAID RIGHT OF WAY A DISTANCE OF 579.31 FEET; HENCE SOUTHOUS AND SYSTO'' A DISTANCE OF 313.82 FEET; HENCE SOUTHOUS ALSO'STO'' A DISTANCE OF 313.82 FEET; HENCE SOUTHOUS AND RIGHT OF WAY SOUTO'' FEET; HENCE SOUTO'E A DISTANCE OF 313.82 FEET; HENCE SOUTO'E A DISTANCE OF 313.82 FEET; HENCE SOUTO'E A DISTANCE OF 313.87 FEET; HENCE SOUTO'E A DISTANCE OF 313.87 FEET; HENCE SOUTO'E A DISTANCE OF 1,453.57 FEET; HENCE SOUTO'E A DISTANCE OF 7,553.57 FEET; HENCE SOUTO'E A DISTANCE OF 7,653.57 FEET

00] 00 \$ 60 \circ N DCI

design:

drawn; IAN checked acad # 10131-SD

view: PLOTI project #: 07-0080 sheet #: 2 of 3 file #: 1013

MEPH LEGAL DESCRIPTION

ALL OF SECTION 35 AND A PORTION OF SECTIONS 26 AND 36 TOGETHER WITH THE EAST ONE-HALF OF SECTION 34, TOWNSHIP 46 SOUTH, RANGE 26 EAST, LEE COUNTY, FLORIDA AND ALL OF SECTIONS 1, 2, 11, 12 AND THE EAST ONE-HALF OF SECTION 3, TOWNSHIP 47 SOUTH, RANGE 26 EAST, LEE COUNTY, FLORIDA LESS THE RIGHT OF WAY FOR CORKSCREW ROAD BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS;

BEGINNING AT THE SOUTHEAST CORNER OF SAID SECTION 36:

EXHIDIT "A"

MEPD LEGAL DESCRIPTION (CONT.) THENCE 352.21 FEET ALONG THE ARC OF A REVERSE CIRCULAR CURVE TO THE RIGHT, THENCIGH A CENTRAL ANGLE OF 1978/41, HAVING A RADIUS OF 1,045.00 FEET, AND BEING SUBTENDED BY A CHORD WHICH BEARS SI742/07/E FOR 350.55 FEET; THENCE 482.13 FEET ALONG THE ARC OF A REVERSE CIRCULAR CURVE TO THE LEFT, THENCE 482.13 FEET ALONG THE ARC OF A REVERSE CIRCULAR CURVE TO THE LEFT, THENCE 482.13 FEET ALONG THE ARC OF A REVERSE CIRCULAR CURVE TO THE LEFT, THENCE 482.58 FEET ALONG THE ARC OF A REVERSE CIRCULAR CURVE TO THE LEFT, THENCE 425.58 FEET ALONG THE ARC OF A REVERSE CIRCULAR CURVE TO THE LEFT, THENCE 425.58 FEET ALONG THE ARC OF A REVERSE CIRCULAR CURVE TO THE LEFT, THENCE 425.58 FEET ALONG THE ARC OF A REVERSE CIRCULAR CURVE TO THE LEFT, THENCE 1,000.40 FEET ALONG THE ARC OF A REVERSE CIRCULAR CURVE TO THE LEFT, THENCE 5.7145/TTE A DISTANCE OF 680.33 FEET; THENCE 5.7145/TTE A DISTANCE OF 680.33 FEET; THENCE 5.715 FEET ALONG THE ARC OF A REVERSE CIRCULAR CURVE TO THE LEFT, THENCE 5.715 FEET ALONG THE ARC OF A REVERSE CIRCULAR CURVE TO THE LEFT, THENCE 5.715 FEET ALONG THE ARC OF A REVERSE CIRCULAR CURVE TO THE LEFT, THENCE 5.715 FEET ALONG THE ARC OF A REVERSE CIRCULAR CURVE TO THE LEFT, THENCE 5.715 FEET ALONG THE ARC OF A REVERSE CIRCULAR CURVE TO THE LEFT, THENCE 5.715 FEET ALONG THE ARC OF A REVERSE CIRCULAR CURVE TO THE LEFT, THENCE 5.715 FEET ALONG THE ARC OF A REVERSE CIRCULAR CURVE TO THE LEFT, THENCE 5.0215 FEET ALONG THE ARC OF A REVERSE CIRCULAR CURVE TO THE LEFT, THENCE 7.025,55 FEET ALONG THE ARC OF A REVERSE CIRCULAR CURVE TO THE LEFT, THENCE 5.0215 FEET ALONG THE ARC OF A REVERSE CIRCULAR CURVE TO THE LEFT, THENCE 5.0215 FEET ALONG THE ARC OF A REVERSE CIRCULAR CURVE TO THE LEFT, THENCE 5.0215 FEET ALONG THE ARC OF A REVERSE CIRCULAR CURVE TO THE LEFT, THENCE 5.0215 FEET ALONG THE ARC OF A REVERSE CIRCULAR CURVE TO THE LEFT, THENCE 5.0215 FEET ALONG THE ARC OF A REVERSE CIRCULAR CURVE TO THE LEFT, THENCE 5.0215 FEET ALONG THE ARC OF A REVERES CIRCULAR 2009-00001 RECEIVED **DEC 0 7 2009** 61 CONTAINING 202,647,923,93 SQUARE FEET OR 4,652.16 ACRES, MORE OR LESS. SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD. BEARINGS AND DISTANCES ARE BASED ON THE FLORIDA STATE PLANE, WEST ZONE 83/99 ADJUSTMENT WITH THE EAST LINE OF THE NORTHEAST QUARTER OF SECTION 1, TOWNSHIP 47 SOUTH, RANGE 26 EAST, LEE COUNTY, FLORIDA, BEING S.0103'27'E. NOT A SURVEY TOWNSHIP 47 SOUTH, RANCE 28 EAST, LEE COUNTY, FLORIDA, BEING AGNOL, BARBER NIG BEINDACE, INC. PROFESSIONAL ENDINERS Y SUMMERS & SURVEYORS AND MAPPERS 5505 512 CEDROE R. HACKNEY, TE ON 15 P.S.M. 5606 for: FLORIDA FARM DEVELOPMENT CORPORATION, LTD. design: drawn: JAN Checked JIH acad f: title SETCH AND DESCRIPTION OF MEPD PARCEL PART OF TOWNSHIP 46 SOUTH, RANCE 26 EAST AN PART OF TOWNSHIP 47 SOUTH, RANCE 26 EAST, LEE COUNTY, FLORIDA AND 10131-50 Wannay Barty GNOLI Tabary GNOLI Tabary Tabar bk: pq: dote: AUG. 22, 2008 scole: APPROVED PLOTI project # K.T.S. LEGAL 07-0080 sheet #: 651 14-10 area and MC MDAGE, as the function of the second se 3 of 3 <u>L1013</u>

MEPD LEGAL DESCRIPTION (CONT.)

EXMORT "A"

.



÷

5P

EXHIBIT "A"

BEFORE THE LEE COUNTY HEARING EXAMINER

IN RE:

FFD LAND COMPANY, INC. In reference to FFD MEPD CASE NO. DCI2009-00001

FFD's MOTION FOR SUMMARY DISPOSITION OF REZONING REQUEST

FFD Land Co., Inc. ("FFD" or "the Applicant"), by and through its undersigned attorney, files this Motion for Summary Disposition of Rezoning Request pursuant to Section 2.2.E of Lee County Administrative Code AC-2-6, and in support thereof states as follows:

1. FFD is the owner of approximately 4652.1 acres of land located adjacent to and south of Corkscrew Road in southeast Lee County ("the Subject Property"). A general location map of the Subject Property is attached to this Motion as Exhibit "A."

2. On January 7, 2009, FFD submitted an Application for Public Hearing ("the Application") to Lee County seeking a rezoning of the Subject Property from Agricultural (AG-2) to Mine Excavation Planned Development (MEPD) for the purpose of conducting a limerock mining and processing operation on the Subject Property.

3. The Subject Property is located in the Southeast Lee County Planning Community. Uplands on the Subject Property are designated as Density Reduction/Groundwater Resource (DRGR) on the Future Land Use Map of the Lee County Comprehensive Plan ("the Lee Plan"). Policy 1.4.5 of the Lee Plan describes the DRGR classification and identifies the land uses permitted on lands classified as DRGR.

4. At the time the Application was submitted, Policy 1.4.5 provided that natural resource extraction (i.e., mining) was a permitted land use in the DRGR classification.

5. Lee County has previously permitted numerous significant limerock mining operations in the DRGR since the DRGR classification was first adopted into the Lee Plan in 1990.

6. In May 2009 (approximately four months after the Application was filed), Lee County initiated Plan Amendments to the Lee Plan that resulted in mining being precluded as a permitted use on the Subject Property. Following the procedures established in Section 163.3187, Fla. Stat., Lee County adopted these Plan Amendments on March 3, 2010 through Lee County Ordinance No. 10-20 and the Plan Amendments became effective on March 30, 2012 (more than three years after the Application was filed). A copy of Ordinance No. 10-20 is attached as Exhibit "B." Among the changes adopted by these Plan Amendments were the following:

A. The purpose and scope of Map 14 of the Lee Plan was changed as it pertains to limerock mining. Prior to the adoption of Ordinance 10-20, Map 14 was entitled "Generalized Map of Existing and Approved Limerock Mining Areas" and had no regulatory significance for possible future limerock mines. After the adoption of Ordinance 10-20, Map 14 was entitled "Future Limerock Mining Overlay" and was given direct regulatory significance for possible future limerock mines in Lee County through Policy 1.4.5, Policy 10.1.4, Objective 33.1, and Policy 33.1.1 discussed below.

B. Policy 1.4.5 was amended to restrict the lands within the DRGR that would be eligible for rezoning for mining purposes. Specifically, this Policy now states that "[t]he Future Limerock Mining overlay (Map 14) identifies sufficient land near the traditional Alico Road industrial corridor for continued limerock mining to meet regional demands through the Lee Plan's planning horizon (currently 2030). See Objective 33.1 and following policies."

C. Policy 10.1.4 of the Lee Plan was amended to expressly provide that "(I)imerock mining may be permitted **only** in accordance with Objective 33.1 and its policies." (emphasis added)

D. Objective 33.1 and Policy 33.1.1 were **added** to the Lee Plan as set forth fully below:

OBJECTIVE 33.1: LIMEROCK MINING. Designate on a Future Land Use Map overlay sufficient land near the traditional Alico Road industrial corridor for continued limerock mining to meet regional demands through this plan's horizon (currently 2030).

POLICY 33.1.1: Limerock mining is a high-disturbance activity whose effects on the surrounding area cannot be completely mitigated. To minimize the impacts of mining on valuable water resources, natural systems, residential areas, and the road system, Map 14 identifies Future Limerock Mining areas that will concentrate limerock mining activity in the traditional Alico Road industrial corridor east of I-75. By formally identifying such areas in this plan and **allowing rezonings for new and expanded limerock mines only in the areas identified in Map 14**, limerock resources in or near existing disturbed areas will be more fully utilized and the spread of limerock mining impacts into less disturbed environments will be precluded until such time as there

is a clear necessity to do so (and Map 14 is amended accordingly). Inclusion of land on Map 14 does not restrict the rights of landowners to use their land for other allowable purposes. (emphasis added)

7. The Plan Amendments were found "in compliance" with Chapter 163, Part II, Fla. Stat., by the Florida Department of Community Affairs on December 12, 2010. FFD, and others, challenged the "in compliance" determination through the procedures established in Section 163.3184, Fla. Stat., but the "in compliance" determination was upheld. <u>Cemex Const'n Materials, LLC v. Lee County</u>, DOAH Case No. 10-2988GM (Final Order March 30, 2012; Recommended Order February 21, 2012).

8. The end result of the Plan Amendments is that Map 14 identifies the **only** properties within the Southeast Lee County Planning Community on which new or expanded limerock mining operations can be approved for rezoning. Approval of a rezoning for limerock mining on any property not shown on Map 14 would be inconsistent with the Lee Plan and, therefore, precluded by Section 163.3194(1)(a), Fla. Stat. (2012).

9. The Subject Property is not shown on Map 14 as a Future Limerock Mining area.

10. On January 2, 2013, County zoning staff released its Staff Report on the FFD Application. Among other findings, County staff has determined that the FFD Application is inconsistent with the Lee Plan because the Subject Property is not shown on Map 14 as a Future Limerock Mining area and, therefore, the rezoning cannot be approved because it is expressly prohibited by the above-cited policies. Specifically, the County staff has determined:

The proposed limerock mine does not further the goals, objectives and policies of the Lee Plan. A project could be denied on the basis of one inconsistency with one provision of the Lee Plan. The proposed project is clearly inconsistent as the subject site is not depicted on Map 14. This could be the sole basis of the denial of the request. [Staff Report, January 2, 2013, p. 8; Memorandum from Matt Noble to Chip Block (hereinafter, "Noble Memo"), Attachment M to Staff Report, December 21, 2012, p. 14].

11. The Staff Report has also determined that:

A. The Subject Property is located in Tier 2 on the "Special Treatment Areas" map of the Future Land Use Map series (Lee Plan Map 1, Page 4 of 8), which identifies lands "that have the highest priority for protection from irreversible land uses" under Policy 33.2.2 of the Lee Plan. (Noble Memo, p. 14) Policy 33.2.2 and the revised Special Treatment Areas map were also part of the Plan Amendments adopted by the County on March 3, 2010, pursuant to a different adoption ordinance (Ordinance 10-19). B. There is no set of conditions that "will provide adequate safeguards to reasonably assure protection of the public health, safety and welfare" so as to allow the rezoning to be approved. (Staff Report, p 4)

12. FFD acknowledges and concedes that the Subject Property is not shown on Map 14 as a Future Limerock Mining area and, therefore, the requested rezoning cannot be approved because it is precluded by the plain language of the above-cited policies. There is no dispute as to this material fact and this determination is dispositive of the rezoning request as a matter of law. The Hearing Examiner is without jurisdiction or authority to issue a recommendation other than denial based upon inconsistency with the comprehensive plan. Therefore, FFD respectfully requests that the Hearing Examiner enter a Summary Order or Recommendation finding that the Application for rezoning of the Subject Property is inconsistent with the Lee Plan and, therefore, is denied.

MEMORANDUM OF LAW IN SUPPORT OF MOTION

For the following reasons, FFD respectfully submits that there is no dispute as to any material fact on the dispositive issue of whether the requested rezoning is consistent with the Lee Plan, and further submits that the Hearing Examiner is without jurisdiction to do anything on this matter other than issue a recommendation of denial based upon inconsistency with the comprehensive plan.

I. Standard of Review

Summary disposition of a matter should be granted if there is no genuine issue as to any *material* fact and a party is entitled to a specific disposition as a matter of law. <u>See e.g.</u> Fla. R. Civ. P. 1.510(c); <u>see also Holl v. Talcott</u>, 191 So. 2d 40, 43 (Fla. 1966); <u>Castellano v. Raynor</u>, 725 So. 2d 1197, 1198 (Fla. 2d DCA 1999). If a party can show that no genuine issue of material fact exists, the burden then shifts to the nonmoving party, who must demonstrate the existence of a genuine issue by presenting sufficient evidence in order to avoid a summary disposition. <u>See Harvey Bldg., Inc. v.</u> <u>Haley</u>, 175 So. 2d 780, 783 (Fla. 1965); <u>Cont'l Concrete, Inc. v. Lakes at La Paz III Ltd.</u> <u>P'ship</u>, 758 So. 2d 1214, 1217 (Fla. 4th DCA 2000). Likewise, if the only disputed issues of fact that exist are not material to an issue that is dispositive of the case, summary disposition of the matter must still be granted. <u>Id. See also Armstrong v. S.</u> <u>Bell Tel. & Tel. Co.</u>, 366 So. 2d 88, 90 (Fla. 1st DCA 1979). In the present case, there is no dispute as to whether the Subject Property is shown on Map 14 and, therefore, there is no issue of material fact as to whether FFD's rezoning request is consistent with the Lee Plan. As such, FFD asserts that summary disposition of its rezoning request is appropriate.

Since summary disposition is appropriate in this case, it is unnecessary to conduct a full evidentiary hearing on FFD's rezoning request. To the extent that any hearing is appropriate, a hearing limited only to the issue raised in this Motion is proper. In an analogous setting, Florida Statute Chapter 120 allows for the summary determination of purely legal issues where there are no disputed facts by way of an informal hearing. Informal hearings are appropriate where the facts of a dispute are not at issue and the ultimate decision to be made involves only the application of the undisputed facts to the law. See Section 120.57(2), Fla. Stat. (2012). In an informal hearing under Section 120.57(2), the parties are permitted to present the deciding authority with written statements setting forth the undisputed facts of the matter and an explanation of the application of the law to those facts. City of Punta Gorda v. Pub. Employees Relations Comm'n, 358 So 2d 81 (Fla. 1st DCA 1978). The deciding authority then must rule on the legal question(s) presented by the parties based on the written submissions and enter a final order setting forth the decision. Id. Here, summary disposition through this Motion and, if deemed necessary by the Hearing

Examiner, an informal hearing limited to the Motion presented herein is appropriate because this matter may be summarily resolved as a matter of law.

II. ARGUMENT

a. FFD's Rezoning Request is Facially Inconsistent with the Lee Plan.

FFD concedes that its rezoning request is *now* facially inconsistent with the Lee Plan because it seeks to have the Subject Property rezoned to MEPD despite the nowestablished fact that the property is not included on Map 14 of the Lee Plan. By enacting Ordinance No. 10-20, the Lee County Commission amended the Lee Plan to designate only those certain areas shown on Map 14 as permissible areas for future limerock mining activities. Pursuant to Policy 33.1.1 of the Lee Plan, *rezonings for limerock mining can only be approved if the property is shown on Map 14*. The Subject Property is not in one of the areas designated on Map 14 and, therefore, FFD's rezoning request is facially inconsistent with the Lee Plan. The County has indicated as much in its staff report (see paragraph 10 above).

The current situation is similar, both procedurally and substantively, to <u>Lake Rosa</u> <u>v. Board of County Comm'rs</u>, 911 So. 2d 206 (Fla. 5th DCA 2005), *rev. den.*, 928 So. 2d 334 (Fla. 2006). In <u>Lake Rosa</u>, the County changed the future land use map designation of a developer's property from "Agricultural" to "Rural Residential" *after* the developer submitted its building permit application but *before* the County took final action issuing the permit. The proposed development (housing facilities for a religious camp) was permissible under the old Agricultural designation, but was not allowed under the amended plan's Rural Residential designation. The court in <u>Lake Rosa</u> held that it was consistency with the plan in effect at the time the local government took action on the permit application that was controlling, rather than the plan in effect at the time the application was submitted. 911 So. 2d at 209.

FFD is also precluded from collaterally attacking, in this rezoning hearing, the validity or propriety of the plan amendments that prohibit the rezoning at issue. Map 14 and the corresponding policy changes that now preclude the rezoning of FFD's property for mining were challenged by FFD and others through the procedures established in Section 163.3184, Fla. Stat. (2012). This challenge was denied and the plan amendments were found "in compliance" with the Community Planning Act, Chapter 163, Fla. Stat. Cemex Const'n Materials, LLC v. Lee County, DOAH Case No. 10-2988GM (Final Order March 30, 2012; Recommended Order February 21, 2012). This proceeding was the sole remedy available to FFD for challenging the plan amendments' compliance with Chapter 163. Section 163.3184(10), Fla. Stat (2012). The only other "remedy" available to FFD to avoid the current prohibition on mining is to propose a plan amendment to Map 14, a remedy that is not only legislative in nature, see Martin County v. Yusem, 690 So. 2d 1288 (Fla. 1997), but also would require a showing of "clear necessity." See Lee Plan Policy 33.1.1: ["... the spread of limerock mining impacts ... will be precluded until such time as there is a clear necessity to do so (and Map 14 is amended accordingly)"]. (emphasis added)

b. FFD's Rezoning Request Cannot be Approved as a Matter of Law and the Hearing Examiner is Without Jurisdiction to Render a Recommendation Other Than Denial.

FFD's requested rezoning of the Subject Property cannot be approved because it is *now* facially inconsistent with the Lee Plan. Pursuant to Section 163.3194(1)(a), Fla. Stat. (2012), once a plan or element has been adopted, "all development undertaken by, and all actions taken in regard to development orders by, governmental agencies in regard to land covered by such plan or element shall be consistent with such plan or element as adopted." Likewise, the Lee County Land Development Code (LDC) specifically requires that the Hearing Examiner find that the requested rezoning is in compliance with the Lee Plan. LDC § 34-145. As amended, Policy 1.4.5 (which defines the DRGR classification) expressly refers to Objective 33.1 and its policies, which preclude rezonings for limerock mines unless the property is shown on Map 14. It is clear, therefore, that in order for FFD's rezoning request to be permissible under the DRGR classification and in order for this Hearing Examiner to approve the FFD rezoning request, the Subject Property must be shown on Map 14. As described above and as set forth in the County's Staff Report, it is not. [See also Noble Memo, p. 5: "The requested mine property is not depicted as being located in the Future Limerock Mining Overlay on Map 14. Therefore, *the request is inconsistent with Lee Plan Policy 1.4.5.*" (emphasis added)]

Florida courts have likened a local government's comprehensive plan to a "constitution" for all future development within the governmental boundary. <u>Machado v.</u> <u>Musgrove</u>, 519 So. 2d 629, 632 (Fla. 3d DCA 1987), *rev. den.*, 529 So. 2d 693, 694 (Fla. 1988); <u>Citrus County v. Halls River Development, Inc.</u>, 8 So. 3d 413, 420-421 (Fla. 5th DCA 2009), *rev. den.*, 23 So. 3d 712 (Fla. 2009). Just as a constitution limits governmental authority to act, the statutory requirement of Section 163.3194(1)(a) that local government development orders (including rezonings) must be consistent with the comprehensive plan is a direct limitation on the local government's otherwise broad

zoning authority. <u>Id.</u> Moreover, strict adherence to the plan is required, and any action that proposes a use more intense than that permitted by the comprehensive plan is subject to strict scrutiny. <u>Machado</u>, 519 So. 2d at 633. A zoning action that is not consistent with the comprehensive plan is unlawful, <u>Halls River</u>, 8 So. 3d at 421, and the local government is without authority to disregard the plan's requirements and approve it. <u>Machado</u>, 519 So. 2d at 635. The rezoning requested by FFD is clearly inconsistent with the mandate now contained within the Lee Plan to allow rezonings for limerock mines *only* if the property is shown on Map 14 and, as such, FFD concedes that its request cannot be approved as a matter of law.

In an analogous setting, the Florida Supreme Court has determined that when a tribunal lacks authority or jurisdiction to consider an issue, it is unnecessary to proceed with a hearing on that issue. <u>Gulf Pines Memorial Park, Inc. v. Oaklawn Memorial Park, Inc.</u> 361 So. 2d 695, 699 (Fla. 1978). In <u>Gulf Pines</u>, the court held that a hearing before a hearing officer under the Florida Administrative Procedures Act was "pointless" when the hearing officer had no jurisdiction to consider the constitutional issues raised relative to a licensing statute under which the applicant had applied. Similarly, proceeding with a hearing on FFD's matter would be pointless under the current Lee Plan mandates.

c. Summary Disposition of This Issue is Appropriate to Conserve County and Applicant Resources.

Summary disposition or disposition by way of a limited, informal hearing is appropriate in this case because there are clearly no disputed issues of material fact related to the dispositive issue in the case and the rezoning request can be decided as a matter of law. If the parties were required to participate in a full evidentiary hearing, it could last many days and span several months. The last two major zoning hearings before the Hearing Examiner for limerock mining applications, filed by Resource Conservation Holdings and Troyer Bros., lasted 22 days over a span of 5 ½ months and 8 days over a span of 2 ½ months, respectively. If the FFD application proceeds to a full evidentiary hearing, both FFD and the County would be forced to expend significant sums of money presenting evidence related to issues pertaining to hydrology, blasting, surface water management, traffic, ecology, land use and other substantive areas none of which will effect whether the rezoning can be approved. As noted by the court in <u>Gulf Pines</u>, it is "pointless" under these circumstances "to require applicants to endure the time and expense of full administrative proceedings" when the outcome of the issue is dictated by constitutional limitations. 361 So. 2d at 699. FFD concedes that its rezoning request is now facially inconsistent with Lee County's land use "constitution," the Lee Plan. FFD further concedes that, pursuant to both Florida Statute and the Lee County Land Development Code, it cannot be approved. The Staff Report authored by Lee County agrees with this position. As such, summary disposition of this rezoning request is appropriate.

WHEREFORE. FFD respectfully requests that the Hearing Examiner enter a Summary Order or Recommendation finding that the Application for rezoning of the Subject Property is inconsistent with the Lee Plan and, therefore, is denied.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that true and correct copies of the foregoing were hand-delivered

to the following:

Alvin "Chip" Block, AICP Department of Community Development 1500 Monroe Street Fort Myers, FL 33901 Michael Hunt, Esq. Donna Marie Collins, Esq. Michael Jacob, Esq. Offices of the Lee County Attorney 2115 Second Street Fort Myers, FL 33901

this ______ day of January, 2013.

HENDERSON, FRANKLIN, STARNES & HOLT, P.A. Attorneys for FFD Post Office Box 280 Fort Myers, FL 33902-0280 239.344.1280

Krnel By:

RUSSELL P. SCHROPP, ÉSQ. Florida Bar No.: 0438898
Exhibit "A" to Motion

1

.

DCI2009-00001

11/28/2012



EXHIBIT "8"

Exhibit "B" to Motion

LEE COUNTY ORDINANCE NO. 10-20 (PLANNING FOR THE DENSITY REDUCTION/ GROUNDWATER RESOURCE AREA (DR/GR)) Ordinance 2 of 3 (CPA2008-06)

AN ORDINANCE AMENDING THE LEE COUNTY COMPREHENSIVE PLAN, COMMONLY KNOWN AS THE "LEE PLAN," ADOPTED BY ORDINANCE NO. 89-02, AS AMENDED, SO AS TO ADOPT A PORTION OF THE AMENDMENT PROPOSED UNDER CPA2008-06 (PERTAINING TO RESOURCE EXTRACTION IN THE DR/GR) APPROVED DURING THE COUNTY'S 2008/2009 REGULAR COMPREHENSIVE PLAN AMENDMENT CYCLE; PROVIDING FOR PURPOSE, INTENT AND SHORT TITLE; AMENDMENTS TO ADOPTED TEXT, MAPS AND TABLES; LEGAL EFFECT OF "THE LEE PLAN"; GEOGRAPHICAL APPLICABILITY; SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS, AND AN EFFECTIVE DATE.

WHEREAS, the Lee County Comprehensive Plan ("Lee Plan") Policy 2.4.1. and Chapter XIII, provides for adoption of amendments to the Plan in compliance with State statutes and in accordance with administrative procedures adopted by the Board of County Commissioners ("Board"); and,

WHEREAS, the Board, in accordance with Section 163.3181, Florida Statutes, and Lee County Administrative Code AC-13-6 provide an opportunity for the public to participate in the plan amendment public hearing process; and,

WHEREAS, the Lee County Local Planning Agency ("LPA") held a public hearing on the proposed amendment in accordance with Florida Statutes and the Lee County Administrative Code on June 3, 2009, June 22, 2009, and July 27, 2009.

WHEREAS, the Board held a public hearing for the transmittal of the proposed amendment on September 24, 2009 and October 28, 2009. At that hearing, the Board approved a motion to send, and did later send, proposed amendment CPA2008-06 pertaining to Planning for the DR/GR, to the Department of Community Affairs ("DCA") for review and comment; and,

WHEREAS, at the October 29, 2009 meeting, the Board announced its intention to hold a public hearing after the receipt of DCA's written comments commonly referred to as the "ORC Report." DCA issued their ORC report on January 15, 2010; and,

WHEREAS, on March 3, 2010, the Board held a public hearing and adopted the proposed amendment to the Lee Plan set forth herein.

Page 1 of 18

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA, THAT:

SECTION ONE: PURPOSE, INTENT AND SHORT TITLE

The Board of County Commissioners of Lee County, Florida, in compliance with Chapter 163, Part II, Florida Statutes, and with Lee County Administrative Code AC-13-6, conducted public hearings to review proposed amendments to the Lee Plan. The purpose of this ordinance is to adopt the amendments to the Lee Plan discussed at those meetings and approved by a majority of the Board of County Commissioners. The short title and proper reference for the Lee Plan." This amending ordinance may be referred to as the "2008/2009 Regular Comprehensive Plan Amendment Cycle CPA2008-06 Planning for the DR/GR Ordinance."

SECTION TWO: ADOPTION OF LEE COUNTY'S 2008/2009 REGULAR COMPREHENSIVE PLAN AMENDMENT CYCLE

The Lee County Board of County Commissioners amends the existing Lee Plan, adopted by Ordinance Number 89-02, as amended, by adopting an amendment, as revised by the Board on March 3, 2010, known as CPA2008-06. CPA2008-06 amends the Future Land Use Map Series and various Goals, Objectives and Policies.

The corresponding Staff Reports and Analysis, along with all attachments for this amendment are adopted as "Support Documentation" for the Lee Plan.

The Lee County Comprehensive Plan is hereby amended as follows with strike through identifying deleted text and underlining identifying added text.

I. LEE COUNTY- A VISION FOR 2030

10. Gateway/Airport - This Community is located South of SR 82, generally east of I-75, and north of Alico Road including those portions of the Gateway development that either have not been or are not anticipated to be annexed into the City of Fort Myers, the Southwest Florida International Airport and the properties the airport expects to use for its expansion, the lands designated as Tradeport, and the land designated as Industrial Development west of I-75 north of Alico Road. In addition to these two land use designations, properties in this community are designated New Community (the Gateway development), Airport, DensityReduction/GroundwaterResource (primarily the anticipated airport expansion areas); Rural, and General Interchange. The road network in this community is planned to change dramatically over time creating access to and from this community to the north, south, and east without relying on I-75.

There are three distinct areas within this community. The Gateway portion of this

Page 2 of 18

community is the area where residential uses will occur. Gateway will be a thriving, nearly built-out, mixed-use community in 2020. The population of this community is anticipated to grow substantially from today to 2030.

The second area in this community is the Southwest Florida International Airport. The airport will be greatly expanded by 2030. The expanded airport will have a second parallel runway and a new terminal building that will more than double the existing capacity of the airport. Development will be guided by the Airport Layout Plan (as established through the airport master plan process) consistent with the Southwest Florida International Airport Proposed Development Schedule (Table 5(a)) and all other Lee Plan provisions.

The airport expansion and the completion of Florida Gulf Coast University are expected to energize the remaining area in this community, including the commercial and industrial components. This portion of the community is to the south and west of Gateway and the airport and extends west of I-75 along Alico Road. While this segment of the community is not expected to build out during the timeframe of this plan, the area will be much more urbanized with hi-tech/clean industry businesses.

18. Southeast Lee County - As the name implies, this Community is located in the southeast area of Lee County-, south of SR 82, north of Bonita Beach Road, east of I-75 (excluding areas in the San Carlos Park/Island Park/Estero Corkscrew Road and Gateway/Southwest Florida International Airport Communities), and west of the county line. With the exception of a few Public Facilities, the entire very minor exceptions, this community is designated as Density Reduction/Groundwater Resource, Conservation Lands (both upland and wetlands), and Wetlands on the Future Land Use Map. This "community" consists of regional mining operations, active and passive agricultural uses, public wellfields and water treatment plants, significant contiguous tracts set aside for preservation, a private golf course, and very large lot residential home sites. The one exception is the Citrus Park Community. This community is not expected to change in character through the year 2030. Through the year 2030, Southeast Lee County will change dramatically. Mining pits will double in size as the northwest portion serves as the major supplier of limerock aggregate for southwest Florida, an activity that continues to generate significant truck traffic especially on Alico Road. The remainder of Southeast Lee County will continue as the county's primary agricultural region and home to its largest (and still expanding) natural preserves. Residential and commercial development will not be significantly increased except in very limited areas where development rights are concentrated by this plan. Some existing farmland will be restored to natural conditions to increase the natural storage of water and to improve wildlife habitat.

II. FUTURE LAND USE

POLICY 1.1.7: The Industrial Development areas play an important role in strengthening the county's economic base and will become increasingly important as the county grows in size and urban complexity. To a great

Page 3 of 18

extent these are the areas to which Lee County must look for expanded job opportunities, investments and production opportunities, and a balanced and sufficient tax base. These areas have special locational requirements that are more stringent than those for residential areas, including transportation needs (e.g., air, rail, hlghway); industrial levels of water, sewer, fire protection, and other urban services; and central locations to reduce employee commuting distances. The that are convenient for employees to reach. Whereas, the other Future Urban Areas will include a broad combination of residential, commercial, public and limited industrial land uses, the Industrial Development area is to be reserved mainly for research and development, laboratories, industrial activities, and office; per se, as well as for selective land use mixtures such as the combined uses of industrial, manufacturing, research, and development, laboratories and office uses supporting the preceding uses; and properly buffered recreational uses (except where precluded by airport hazard zone regulations) and office complex (if specifically related to adjoining industrial uses) that constitute a growing part of Florida's economic development sector. New natural resource extraction (mining) activities limerock mining and fill dirt operations must be approved through the Mining Mine Excavation Planned Development rezoning process in accordance with the Lee County Land Development Code, The 14± acre parcel redesignated by CPA2006-14 from the Suburban to the Industrial Development future land use category, located north of Bayshore road and south of ACL Railroad right of way in Section 20, Township 43 South, Range 25 East will have a maximum Floor Area Ratio of 0.3. The 138± acres redesignated by CPA2008-07 from the Central Urban and Urban Community categories to the Industrial Development future. land use category, within the Lehigh Acres Planning Community, will have a maximum Floor Area Ratio of 1.0. Retail and commercial service uses supporting neighboring industrial uses are allowed if the following criteria are met:

- 1. Retailing and/or wholesaling of products manufactured <u>or directly</u> related to that manufactured on the premises, or,
- 2. Commercial uses are integrated into the primary R&D/Industrial development; or,
- 3. Commercial service and retail uses may not exceed 20% of the total acreage within the Industrial Development areas per each Planning Community.

POLICY 1.2.2: The <u>Tradeport</u> areas are commercial and industrial lands adjacent to the airport needed to accommodate projected growth through the year 2030. These areas will include developments consisting of light manufacturing or assembly, warehousing, and distribution facilities; research and development activities; laboratories; ground transportation and airport-

Page 4 of 18

related terminals or transfer facilities; hotels/motels, meeting facilities; and office uses. Ancillary retail and Corner Store commercial uses, intended to support the surrounding business and industrial land uses, are allowed if they are part of a Planned Development of 10 or more acres in size and are limited to 1,000 square feet per acre of Tradeport land within the Planned Development: Future development in this category is encouraged to include a mixture of land uses as described in Policy 2, 12, 2. Residential uses, other than bona fide caretaker residences, are not permitted in this category except to the extent provided in Chapter XIII of the Plan. Caretaker residences are not permitted in the Airport Noise Zone B. Limerock mining may be approved through the Mine Excavation Planned Development rezoning process for land designated Tradeport on the Future Limerock Mining map (Map 14.) Because this area is located within the Six Mile Cypress Basin and is also a primary point of entry into Lee County, special environmental and design review guidelines will be applied to its development to maintain the appearance of this area as a primary point of entry into Lee County. Property in Section 1 and the east ½ of Section 2, Township 46 South, Range 25 East, and in Section 6, Township 46 South, Range 26 East, must be rezoned to a planned development zoning category prior to any development other than the construction of essential public services. During the rezoning process, the best environmental management practices identified on pages 43 and 44 of the July 28, 1993 Henigar & Ray study entitled, "Groundwater Resource Protection Study" will be rebuttably presumed to be necessary to protect potential aroundwater resources in the area.

POLICY 1.4.1: The <u>Rural</u> areas are to remain predominantly rural—that is, low density residential, agricultural uses, and minimal non-residential land uses that are needed to serve the rural community. <u>Natural resource</u> extraction may be permitted in accordance with Policy 10.1.4. These areas are not to be programmed to receive urban-type capital improvements, and they can anticipate a continued level of public services below that of the urban areas. Maximum density in the Rural area is one dwelling unit per acre (1 du/acre).

POLICY 1.4.5: The <u>Density Reduction/Groundwater Resource (DR/GR)</u> areas <u>land use category includes</u> upland areas that provide substantial recharge to aquifers most suitable for future wellfield development. These areas also are the most favorable locations for physical withdrawal of water from those aquifers. Only minimal public facilities exist or are programmed.

1. Land New land uses in these areas that require rezoning or a development order must be compatible demonstrate compatibility with maintaining surface and groundwater levels at their historic levels

Page 5 of 18

(except as provided in Policies 33.1.3 and 33.3.3) utilizing hydrologic modeling, the incorporation of increased storage capacity, and inclusion of green infrastructure. The modeling must also show that no adverse impacts will result to upstream, downstream, and adjacent property. Offsite mitigation can be utilized, and may be required, to demonstrate this compatibility. Evidence as to historic levels may be submitted during the rezoning or development review processes.

- 2. Permitted land uses include agriculture, natural resource extraction and related facilities, conservation uses, publicly-owned gun range facilities, and private recreation facilities, and residential uses at a maximum density of one dwelling unit per ten acres (1 du/10 acres). See Policies 33.3.2, 33.3.3 and 33.3.4 for potential density adjustments resulting from concentration or transfer of development rights.
 - a. For residential development, also see Objective 33.3 and following policies. Commercial and civic uses can be incorporated into Mixed-Use Communities to the extent specifically provided in those policies.
 - Individual residential parcels may contain up to two acres of Wetlands without losing the right to have a dwelling unit, provided that no alterations are made to those wetland areas.
 - c. The Future Limerock Mining overlay (Map 14) identifies sufficient land near the traditional Alico Road industrial corridor for continued limerock mining to meet regional demands through the Lee Plan's planning horizon (currently 2030). See Objective 33.1 and following policies.
- 3. Private Recreational Facilities may be permitted in accordance with the site locational requirements and design standards, as further defined in Goal 16. No Private recreational facilities may occur within the DR/GR land use category without a rezoning to an appropriate planned development zoning category, and compliance with the Private Recreation Facilities performance standards, contained in Goal 16 of the Lee Plan.

POLICY 1.7.6: The <u>Planning Communities Map and Acreage Allocation</u> <u>Table</u> (see Map 16 and Table 1(b) and Policies 1.1.1 and 2.2.2) depicts the proposed distribution, extent, and location of generalized land uses for the year 2030. Acreage totals are provided for land in each Planning Community in unincorporated Lee County. No final-development orders or extensions to final development orders will be issued or approved by Lee County which that would allow the acreage totals for residential, commercial or industrial uses contained in Table 1(b) to be exceeded. This policy will be

Page 6 of 18

implemented as follows:

- 1. For each Planning Community the County will maintain a parcel based database of existing land use. The database will be periodically updated at least twice every year, in September and March, for each Planning Community.
- 2. Project reviews for development orders must include a review of the capacity, in acres, that will be consumed by buildout of the development order. No development order, or extension of a development order, will be issued or approved if the project acreage, when added to the acreage contained in the updated existing land use database, exceeds the limitation established by Table 1(b), Acreage Allocation Table regardless of other project approvals in that Planning Community. For limerock mining in Planning Community #18, see special requirements in Policy 33.1.4 regarding industrial acreages in Table 1(b).
- 3. No later than the <u>At each</u> regularly-scheduled date for submission of the Lee Plan Evaluation and Appraisal Report, and every five years thereafter, the County must conduct a comprehensive evaluation of Planning Community Map and the Acreage Allocation Table system, including but not limited to, the appropriateness of land use distribution, problems with administrative implementations, if any, and areas where the Planning Community Map and the Acreage Allocation Table system might be improved.

[Editorial note: due to amendments adopted in May 2009, proposed policies 1.7.12 and 1.7.14 have been renumbered.]

POLICY 1.7.13: The Future Limerock Mining overlay (Map 14) identifies sufficient land near the traditional Alico Road industrial corridor for continued limerock mining to meet regional demands through the Lee Plan's planning horizon (currently 2030). See Objective 33.1 and following policies.

POLICY 1.7.15: The Historic Surface and Groundwater Levels overlay (Map 25) depicts the best available analysis of historic wet-season water depths and hydroperiods for Southeast Lee County as of March 2010. This depiction is based on detailed ecological analyses of 1953 aerial photography as described in the 2008 report, *Ecological Memorandum of the Density Reduction/Groundwater Resource Area*, by Kevin L. Erwin Consulting Ecologist, Inc. For purposes of determining compliance with Policy 1.4.5, additional evidence as to historic water levels and hydroperiods may be submitted during the rezoning or development review processes as a basis for site-specific hydrological analysis for project design.

Page 7 of 18

POLICY 2.2.2: Map 1 of the Future Land Use Map series indicates the uses and density ranges that will ultimately be permitted on a given parcel. However, it is not a guarantee that such densities or uses are immediately appropriate, as the map provides for the county's growth over the coming 26 years beyond the Lee Plan's planning horizon of 2030. During the rezoning process the Board of County Commissioners will balance the overall standards and policies of this plan with three additional factors:

- 1. Whether a given proposal would further burden already overwhelmed existing and committed public facilities such that the approval should be delayed until the facilities can be constructed; and
- 2. Whether a given proposal is for land so far beyond existing development or adequate public facilities that approval should be delayed in an effort to encourage compact and efficient growth patterns; and
- 3. Whether a given proposal would result in unreasonable development expectations which that may not be achievable because of acreage limitations contained in the Acreage Allocation Table (see Policy 1.7.6, Map 16 and Table 1(b)). Additional provisions related to mining are provided in Policy 33.1.4.

In all cases where rezoning is approved, such approval does not constitute a determination that the minimum acceptable levels of service (see Policy 95.1.3) will be available concurrent with the impacts of the proposed development. Such a determination must be made prior to the issuance of additional development permits, based on conditions which exist at that time, as required by Lee County's concurrency management system.

POLICY 9.1.4: Protect agricultural activities on lands designated as Agricultural on the agricultural overlay (see Map 20) from the impacts of new natural resource extraction operations, recreational uses, and residential developments. However, in Future Limerock Mining areas (see Map 14), agricultural activities may be limited to the interim period prior to mining or may need to coexist with adjoining mining activities and mining pits.

GOAL 10: NATURAL RESOURCE EXTRACTION. To protect areas containing identified commercially valuable natural resources from incompatible urban development, while insuring that natural resource extraction operations minimize or eliminate adverse effects on surrounding land uses and <u>on other</u> natural resources.

OBJECTIVE 10.1: Designate through the rezoning process sufficient lands suitable for providing fill material, limerock, and other <u>commercially valuable</u> natural

Page 8 of 18

ł

resources extraction materials to meet the county's needs and to export to other . communities, while providing adequate protection for the county's other natural resources.

POLICY 10.1.1: The sale of overburden from approved limerock mines is encouraged because converting overburden into fill material avoids additional mining at other locations. However, shallow mines that produce primarily fill dirt should be sited as close as possible to locations of high demand to minimize the distance fill material must be trucked to likely destinations (see also Policy 33.1.5).

POLICY 10.1.2: The future uses of any new or existing natural resource extraction operation must be evaluated at the time the property undergoes planned development zoning review. Site plans should be designed to incorporate proposed future uses, including open space, and to ensure the protection of surface and ground water resources, wildlife, and native plant communities.

POLICY 10.1.3: Reclamation is intended to replace or offset ecological benefits lost during extraction, including the creation of conditions that will support a healthy water body to the extent practicable. Applications for natural resource extraction permits for new or expanding sites, or for future use of such sites, must include a reclamation plan which that provides assurance of implementation. This plan must address the reclamation and sustainable management of all existing and future mining pits, preserves, and buffer areas that are or may in the future be related to the mining operation. Reclamation plans in Future Limerock Mining areas (see Map 14) must include littoral shelves suitable for native wetland plants, revegetation of disturbed land, allowance for wildlife movement, and minimization of longterm effects on surrounding surface and groundwater levels. Reclamation plans for mines providing primarily fill material should provide more extensive littoral shelves and describe how shorelines will be configured and managed and how disturbed uplands will be restored or converted to other acceptable land uses. Reclamation plans in or near important surface and groundwater resource areas must also be designed to minimize the possibility of contamination of the surface and groundwater during mining and after completion of the reclamation.

POLICY 10.1.4: Limerock mining may be permitted only in accordance with Objective 33.1 and its policies. Other Nnatural resource extraction activities such as fill dirt operations (and ancillary industrial uses which are ancillary to natural resource extraction) may be permitted as follows:

1. iIn areas indicated on the Future Land Use Map as Rural, Open Lands, and Density Reduction/Groundwater Resources, provided they

Page 9 of 18

have adequate fire protection, transportation facilities, wastewater treatment and water supply, and provided further that they have no significant adverse effects such as dust and noise on surrounding land uses and natural resources. In the Density Reduction/Groundwater Resource category, fill dirt operations are further restricted in accordance with Policy 33.1.5.

2. In order to reduce transport costs and minimize wear on the county's roadways, the extraction and transport of fill material may also be permitted as an interim use in the Future Urban Areas provided that the above requirements are met; however, special restrictions may also be applied to protect other land uses. These determinations will be made during the rezoning process. Ancillary crushing of limerock strata embedded within fill material may be permitted for use on-site.

POLICY 10.1.5: Lee County will support efforts by government, community leaders, and the extractive industry owners and businesses to seek incentives that will help to facilitate the connection of natural resource extraction borrow lake excavations incorporate reclaimed mining pits into a system of interconnected lakes and flowways that will comprehensive and coordinated effort of county and regional agencies to enhance wildlife habitat values, minimize or repair the long-term impacts to adjoining natural systems, provide for human recreation, educational, and other appropriate uses, and/or strengthen community environmental benefits.

OBJECTIVE 10.2: Coordinate mining activities, including evaluation, monitoring, reclamation, and redevelopment, with water supply planning, surface and groundwater management activities, wetland protection, wildlife conservation, and future residential activities. Consider the cumulative and watershed-wide impacts of mining activities, not just the direct impacts of each individual mine in isolation.

POLICY 10.1.1 10.2.1: Natural resource extraction operations intending to withdraw groundwater for any purpose must provide a monitoring system to measure <u>surface and</u> groundwater impacts: levels and guality to assess any degradation of surface and groundwater resources. Particular attention will be given to potential travel time to wellfields and residential wells. Mining applications are strongly encouraged to include a minimum of three years baseline monitoring and assessments of the likely change in flow, timing of travel, and direction of surface and groundwater systems on-site and in the impacted area.

POLICY 10.1.2-10.2.2: Applications for natural resource extraction permits for new or expanding areas must include an environmental assessment. The assessment will include (but not be limited to) consideration of air emissions,

Page 10 of 18

ţ

EXHIBIY "B"

impact on environmental and natural resources, effect on nearby land uses, degradation of water quality, depletion of water quantity, drainage, fire and safety, noise, odor, visual impacts, transportation including access roads, sewage disposal, and solid waste disposal. <u>Assessments will also include:</u>

- 1. Potential impacts on the aquatic ecology and water quality of mining pits that will result from mining pit design.
- 2. Likely post-mining impacts such as runoff or surface and groundwater flow on land uses surrounding the site.
- 3. Consideration of the primary and secondary impacts at the local and watershed levels.

POLICY 10.2.3: The depth of mining for a proposed excavation will be limited as necessary to prevent any breach of an aquaclude or confining layer.

POLICY 10.2.4: Other limitations on mining pit size, setbacks, and depths will be determined on a case-by-case basis depending on existing neighboring uses, specific hydrogeologic conditions, wetlands and watershed protection, wildlife conservation, and transportation routes including anticipated traffic to and from the mine.

POLICY 10.2.5: Areas that are designated as preserve areas (e.g., buffers, indigenous preservation, and reclaimed littoral shelves) during the mining rezoning process must be protected by the execution of perpetual conservation easements so that these areas will be maintained during mine operation and in perpetuity regardless of future land uses. A timetable for all environmental remediation including the construction of buffers and reclamation of littoral shelves must be included as part of the mine rezoning application. Lee County must be named in the easement as a grantee with the power and authority, but not obligation, to enforce the terms of the easement. An entity, other than Lee County, should be identified and obligated to maintain the easement in perpetuity. However, Lee County may agree to be primarily responsible for maintenance.

POLICY 10.2.6: The Land Development Code will establish the contents and frequency of monitoring reports from authorized mines. These reports may include surface and groundwater monitoring of water quality and quantity, the areas under active mining, the depths being mined, the quantity and type of mined materials, estimated reserves left for mining, and the annual volume, direction, and destination of the material being transported. Reporting will include the active mining and processing area; the areas where reclamation has been completed; and the areas where invasive exotic

Page 11 of 18

removal is underway or completed.

POLICY 10.2.7: Zoning or development order approvals may require that significant adverse impacts identified during mining or post-mining will be subject to adaptive resource management acceptable to Natural Resources whereby corrective measures can be guaranteed through conditions on the next phase's approval.

OBJECTIVE 10.2: Determine and maintain a balance between the County's petroleum resources and the health, safety and welfare of the residents of its Future Urban Areas.

GOAL 33: SOUTHEAST LEE COUNTY. To protect natural resources in accordance with the County's 1990 designation of Southeast Lee County as a groundwater resource area, augmented through a comprehensive planning process that culminated in the 2008 report. *Prospects for Southeast Lee County.* To achieve this goal, it is necessary to address the inherent conflict between retaining shallow aquifers for long-term water storage and extracting the aquifer's limestone for processing into construction aggregate. The best overall balance between these demands will be achieved through a pair of complementary strategies: consolidating future mining in the traditional Alico Road industrial corridor while initiating a long-term restoration program to the east and south to benefit water resources and protect natural habitat. Residential and commercial development will not be significantly increased except where development rights are being explicitly concentrated by this plan. Agriculture uses may continue, and environmental restoration may begin. This goal and subsequent objectives and policies apply to Southeast Lee County as depicted on Map 1, Page 2.

OBJECTIVE 33.1: LIMEROCK MINING. Designate on a Future Land Use Map overlay sufficient land near the traditional Alico Road industrial corridor for continued limerock mining to meet regional demands through this plan's horizon (currently 2030).

POLICY 33.1.1: Limerock mining is a high-disturbance activity whose effects on the surrounding area cannot be completely mitigated. To minimize the impacts of mining on valuable water resources, natural systems, residential areas, and the road system, Map 14 identifies Future Limerock Mining areas that will concentrate limerock mining activity in the traditional Alico Road industrial corridor east of I-75. By formally identifying such areas in this plan and allowing rezonings for new and expanded limerock mines only in the areas identified in Map 14, limerock resources in or near existing disturbed areas will be more fully utilized and the spread of limerock mining impacts into less disturbed environments will be precluded until such time as there is a clear necessity to do so (and Map 14 is amended accordingly). Inclusion of land on Map 14 does not restrict the rights of landowners to use their land for other allowable purposes.

Page 12 of 18

POLICY 33.1.2: Most land identified on Map 14 is in the Density Reduction/Groundwater Resource land use category (see Policy 1.4.5) and will also be subject to those special requirements. Future Limerock Mining land outside the DR/GR area will also be subject to requirements of the appropriate designation on Map 14. Goal 10 and its objectives and policies contain additional guidance on mining. The Land Development Code will continue to provide additional details on mining approvals and operations.

POLICY 33.1.3: Concurrent with the update of Map 14 in 2010, the Lee Plan was amended to improve the ability to efficiently mine in Future Limerock Mining areas. An exception was made to the requirement in Policy 1.4.5 that DR/GR land uses must demonstrate compatibility with maintaining surface and groundwater levels at their historic levels. Under this exception, land in Future Limerock Mining areas may be rezoned for mining when the impacts to natural resources including water levels and wetlands are offset through appropriate mitigation within Southeast Lee County. The Land Development Code will be amended and maintained to include provisions for assessing and mitigating mining impacts and for transferring residential development rights from land zoned for limerock mining pits. Appropriate mitigation for water levels will be based upon site-specific data and modeling acceptable to the Division of Natural Resources. Appropriate wetland mitigation may be provided by preservation of high quality indigenous habitat, restoration or reconnection of historic flowways, connectivity to public conservation lands, restoration of historic ecosystems or other mitigation measures as deemed sufficient by the Division of Environmental Sciences. It is recommended that, whenever possible, wetland mitigation be located within Southeast Lee County. The Land Development Code will be revised to include provisions to implement this policy.

POLICY 33.1.4: Table 1(b) contains industrial acreage in Southeast Lee County that reflects the acreage of limerock mining pits needed to meet local and regional demand through the year 2030. The parcel-based database of existing land uses described in Policy 1.7.6 will be updated at least every seven years to reflect additional data about limerock mining in Southeast Lee County, including mining acreage zoned (project acres and mining pit acreage), pit acreage with active mine operation permits, acreage actually mined, and acreage remaining to be mined. Current totals are based on data compiled in *Prospects for Southeast Lee County* for the year 2006. Future amendments will reflect any additional data that becomes available through routine monitoring reports and bathymetric surveys or other credible sources. The industrial acreage totals for Southeast Lee County that are found in Table 1(b) for Planning Community #18 will be used for the following purposes:

1. In accordance with Policies 1.1.1 and 1.7.6, new mine development

Page 13 of 18

orders and mine development order amendments may be issued provided that the industrial acreage totals in Table 1(b) are not exceeded. For purposes of this computation, the proposed additional limerock pit acreage, when added to the acreage of limerock pits already dug, cannot exceed the acreage limitation established in Table 1(b) for Planning Community #18.

2. By monitoring the remaining acreage of land rezoned for mining but not yet mined. Lee County will have critical information to use in determining whether and to what extent the Future Limerock Mining areas in Map 14 may need to be expanded in the future to meet local and regional demands.

POLICY 33.1.5: The sale of overburden from approved limerock mines is encouraged because converting overburden into fill material avoids additional mining at other locations. However, shallow mines that produce primarily fill dirt should be sited as close as possible to locations of high demand to minimize the distance that fill material must be trucked to likely destinations (see also Policy 10.1.1). In Southeast Lee County shallow mines are generally unnecessary because fill dirt is available as a byproduct of limerock mines; however, shallow mines may be permitted on sites immediately adjoining areas of high demand for fill dirt such as Lehigh Acres.

POLICY 33.1.6: Asphalt and concrete can be recycled to produce aggregate that is comparable to the products of limerock mines. Lee County should be a leader in using recycled aggregate in its construction projects and in encouraging privately operated recycling facilities in appropriate locations to minimize the need to mine or import additional aggregate.

POLICY 33.1.7: Protect agricultural activities on lands designated as Agricultural on the agricultural overlay (see Map 20) from the impacts of new natural resource extraction operations, recreational uses, and residential developments. However, in Future Limerock Mining areas (see Map 14), agricultural activities may be limited to the interim period prior to mining or may need to coexist with adjoining mining activities and mining pits.

VII. CONSERVATION AND COASTAL MANAGEMENT

POLICY 114.1.1: Development in wetlands is limited to very low density residential uses and uses of a recreational, open space, or conservation nature that are compatible with wetland functions. The maximum density in the Wetlands category is one unit per 20 acres, except that one single family residence will be permitted on lots meeting the standards in Chapter XIII of this plan, and except that owners of wetlands adjacent to Intensive

Page 14 of 18

Development, Central Urban, Urban Community, Suburban, and Outiying Suburban areas may transfer densities to developable contiguous uplands under common ownership in accordance with Footnotes 9b and 9c of Table 1(a), Summary of Residential Densities. In Future Limerock Mining areas only (see Map 14), impacts to wetlands resulting from mining will be allowed by Lee County when those impacts are offset through appropriate mitigation, preferably within Southeast Lee County (see also Policy 33.1.3). Appropriate wetland mitigation may be provided by preservation of high quality indigenous habitat, restoration or reconnection of historic flowways, connectivity to public conservation lands, restoration of historic ecosystems or other mitigation measures as deemed sufficient by the Division of Environmental Sciences. It is recommended that, whenever possible, wetland mitigation be located within Southeast Lee County. The Land Development Code will be revised to include provisions to implement this policy.

POLICY 114.1.2: The county's wetlands protection regulations will be consistent with the following:

- In accordance with F.S. 163:3184(6)(c), tThe county will not undertake an independent review, at the Development Order stage; of the impacts to wetlands resulting from development in wetlands that is specifically authorized by a DEP or SFWMD dredge and fill permit or exemption.
- 2. No development in wetlands regulated by the State of Florida will be permitted by Lee County without the appropriate state agency permit or authorization.
- 3. Lee County will incorporate the terms and conditions of state permits into county permits and will prosecute violations of state regulations and permit conditions through its code enforcement procedures.
- 4. Every reasonable effort will be required to avoid or minimize adverse impacts on wetlands through the clustering of development and other site planning techniques. On- or off-site mitigation will only be permitted in accordance with applicable state standards.
- 5. Mitigation banks and the issuance and use of mitigation bank credits will be permitted to the extent authorized by applicable state agencies.
- 6. Lee County supports a more lenient wetland protection standard for limerock mines within the Future Limerock Mining overlay (Map 14). Lee County's overall wetland protection goals are better served by concentrating mining activity than by preserving small isolated

Page 15 of 18

EXHBIT "S"

wetlands on mining sites.

XII. GLOSSARY

AGGREGATE - Aggregate is an Industry term for rock particles that vary in size from sand to several inches in diameter. The term "crushed stone" is often used interchangeably. In construction applications, aggregates are mixed with Portland cement or asphalt materials to form Portland cement concrete or hot mix asphalt.

LIMEROCK - Limerock is a common name for construction products made from naturally occurring limestone. In Lee County, most of the commercially valuable limestone comes from the Ochopee geological unit. Limerock mines typically produce rip-rap and the base rock that is used for road beds, as well as selling overburden as fill dirt. Larger limerock mines also produce aggregate (crushed stone) of various sizes.

SECTION THREE: MAP AMENDMENTS

The Lee County Comprehensive Plan Future Land Use Map Series is amended as indicated below. Exhibits depicting the areas amended are attached.

- (a) Lee Plan Map 14, Future Limerock Mining Overlay, is repealed and replaced to establish a regulatory map identifying those locations in which limerock mining will be permitted, as depicted on attached Exhibit A.
- (b) Lee Plan Map 20, Contiguous Agricultural Parcels Over 100 Acres in Non-Urban Future Land Use Categories, is hereby amended, as depicted on attached Exhibit B, to eliminate reference to lands under public ownership and areas included in the Limerock Mine Overlay.

SECTION FOUR: AMENDMENTS TO LEE PLAN TABLE 1(b)

Lee Plan Table 1(b) is hereby amended as identified on attached Exhibit C to decrease Active Agricultural acreage and increase Industrial acreage to accommodate resource excavation.

SECTION FIVE: LEGAL EFFECT OF THE "LEE PLAN"

No public or private development will be permitted except in conformity with the Lee Plan. All land development regulations and land development orders must be consistent with the Lee Plan as amended.

SECTION SIX: GEOGRAPHIC APPLICABILITY

The Lee Plan is applicable throughout the unincorporated area of Lee County, Florida, except in those unincorporated areas included in joint or interlocal agreements with

Page 16 of 18

other local governments that specifically provide otherwise.

SECTION SEVEN: SEVERABILITY

The provisions of this ordinance are severable and it is the intention of the Board of County Commissioners of Lee County, Florida, to confer the whole or any part of the powers herein provided. If any of the provisions of this ordinance are held unconstitutional by a court of competent jurisdiction, the decision of that court will not affect or impair the remaining provisions of this ordinance. It is hereby declared to be the legislative intent of the Board that this ordinance would have been adopted had the unconstitutional provisions not been included therein.

SECTION EIGHT: INCLUSION IN CODE, CODIFICATION, SCRIVENERS' ERROR

It is the intention of the Board of County Commissioners that the provisions of this ordinance will become and be made a part of the Lee County Comprehensive Plan. Sections of this ordinance may be renumbered or relettered and the word "ordinance" may be changed to "section," "article," or other appropriate word or phrase in order to accomplish this intention; and regardless of whether inclusion in the code is accomplished, sections of this ordinance may be renumbered or relettered. The correction of typographical errors that do not affect the intent, may be authorized by the County Manager, or his or her designee, without need of public hearing, by filing a corrected or recodified copy with the Clerk of the Circuit Court.

SECTION NINE: EFFECTIVE DATE

The plan amendments adopted herein are not effective until a final order is issued by the DCA or Administrative Commission finding the amendment in compliance with Section 163.3184(9), Florida Statutes, or until the Administrative Commission issues a final order determining the adopted amendment to be in compliance in accordance with 163.3184(10), Florida Statutes, whichever occurs earlier. No development orders, development permits, or land uses dependent on this amendment may be issued or commence before the amendment has become effective. If a final order of noncompliance is issued by the Administration Commission, this amendment may nevertheless be made effective by adoption of a resolution affirming its effective status. A copy of such resolution will be sent to the DCA, Bureau of Local Planning, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100.

Commissioner Judah made a motion to adopt the foregoing ordinance, seconded by Commissioners Mann. The vote was as follows:

Robert P. Janes	Aye*
Brian Bigelow	Aye
Ray Judah	Aye
Tammara Hall	Aye
Frank Mann	Aye

*By telephone.

Page 17 of 18

DONE AND ADOPTED this 3rd day of March, 2010

ATTEST: CHARLIE GREEN, CLERK

BY: Deputy Clerk

LEE COUNTY BOARD OF COUNTY COMMISSIONERS

· BY: Tammara Hall, Chairwoman

3/3/10 DATE:

Approved as to form by:

Dawn E. Perry-Lehnert

County Attorney's Office

EXHIBITS: Exhibit A: M Exhibit B: M Exhibit C: T

Map 14 Map 20 Table 1(b) - Year 2030 Allocations



S:\LU\DPL\Lee Plan\ord 10-20 - CPA2008-06 - Mining_DRGR 2 of 3.wpd

Page 18 of 18



EXHBIT "8"

1



EXHERT "B"

EXHIBIT C

PROPOSED TABLE 1(b) Year 2030 Allocations

Proposed Changes per CPA2007-49, CPA2008-06 and CPA2008-07

		La La Court	iv totale its												
		教神理 下	ALC: NO POINT	a hua	Bogs	Borilla	Fort Myara	Burnt		0		Fort Myers	Daloway/	Daniela	lone/
	Future Land Use Clevelloallon	DIEXING 2	t proposition and	NIVA .	Grand	apringa	Succes	51010	CTDI COLL	CIPIN	FOR NYER	[1000[]	Airport	PATRWAY	Mediodol
	Intensive Dovelopment	1,325	1,3674	0	0	0	20	0	27	0	250	0	0	<u> </u>	.0
	Contral Urban	44787	74,787	0	0	0	225	0	0	0	230	0	0		375
	Urban Community	018-5324	18,420	520	485	0	637	0	0	0	0	0	0	0	850
1	Buberbali	1 1140,8230	101620	0	0	<u> </u>	1,810	0	0	•	86		0	0	2,480
	Oullying Subulban	4,505,	1.17 111080	30	0	<u>q</u>	40	20	2	500	0		0	1,700	377
	Sub-Oullying Suburban	4.634	1/5481	⁰	0	0	387	0	0	0	0	0	<u>0</u>	0	0
	Industrial Development	1	1 1 19	0	0	0	0	0	0	0	38	0	20	0	5
l of	Public Facilities	1249 11401	- KUGUUGKY	0	<u> </u>	0	0	0	0	1	0	0	0	0	0
l ĝi l	University Community	218.151(1850)	1. 1454-118601	0	0	0	0	0	0	0	0	0	0	0	0
8	Desilnstion Resort Mixed Use Water Dependent	10. (c #410 HB+	1.1	0	0	0	0	0	0	0	0	0	Q	0	8
Se	Burnt Store Marina Village	1. State 1	SLARES 1274	0	0	0	0	4	0	0	0	0	0	0	0
	Industrial interchange	1. 1. 1. 1.	1 Sec. 10.	0	0	0	0	0	0	0	0	0	0	0	0
É E	General Interchange	的是中国	11111-142	0	0	0	0	0	0	0	0	0	0	2	0
1 3 1	General/Commercial Interchange	關於空間	THE WORK	0	0	0	0	0	D	0	0	0	0	0	0
5	Industrial/Commercial Interchange	17 4) AL (186)	NUCE TO SO	D	0	0	0	0	D	0	0	0	0	0	0
1 2 1	University Village Interchange	1. Carlo	1.2 (1. 12.20)	0	Ū	0	0	0	0	a	0	0	0	0	0
	New Community	11. A. P. (000.	00010 000	0	0	a	0	0	0	Q	0	D	900	D	0
1 2	Alroart	- 1 S - 40	112.000000	· 0	0	U	0	· 0	0	0	0	0	0	0	0
1 Å	Tradeport	3(9,111 %)	可以的情况	0	0	0	0	0	0	0	0	0	9	0	0
8	Rural	STA 10,3001	31 3833	1,948	0	0	1,400	638	0	0	0	0	0	1,500	a a
12	Rural Community Presarve	13:846	112 0.2317601	Q	0	0	0	0	0	Ø	0		0	0	0
α I	Coastal Rural	111 4 500	P Hiddo	0	0	0	0	0	0	0	0	0	0		
	Outer Islands	111,24003	和专用的方法	5	n n	D	1	0	0	150	a	0			1
	Open i anda	163:49:805	P" 110/270051	250	0	0	0	590	0	0	0	0	0	120	n n
	Dansily Reduction/Groundwater Resource	1. X 6 6.005	·····	711	0	0	0	0	0	0	0	0	94	0	1 0
	Conservation Lands Lipiands	11773926	1.6.15 17.61	0	0	0	1 0	1	0	0	, o	0	0		
	Wallanda	Caller of	11 12 1 4 60	0	0	0	D	0	0	0	0	0		0	o
	Conservation Lands Watlands	d and a second	W. W. W. W.	0	0	0	0	0	0	. 0	0	0	P		
Total	Residential	10 184 404	1.1.1.01/0731	3,464	485	0	4.500	1.260	29	651	604	0	1 023	3 322	4 104
Contr	narcial	1. 11/13/263	1.5 Skf2176a	67	52	0	400	50	17	125	150	0	1,100	440	1 100
Indus	Irial **	-1-0,8200	15 13,8513	28	3	0	400	5	20	0	300	0	3,100	10	320
SNon Re	oulintory: Allocations?	5-7.00 ST 8	1	1. 1. 1. K	N. Sticker	417 41St.	TRAILS / W	1.4141	Mr. Sak	1. 1. 15	WING 3	a desta	16.1	1.51.53	1 . Olar
Public		1 r19	1. 1.	7,100	421	0	2,000	7,000	20	1,001	350	0	7,500	2,416	3,550
Acilve	Agriculture	11-1-24-067	17.776	6,100	0	0	550	150	Q	0	0	0	- 0	20	0
Passive	6 Apploullura	94.045	1(8/6	13,549	0	<u> </u>	2,500	109	0 (31	1007	740	<u>0</u>	1,491	20	0
Vacant	(Annois (Mailming)	131	~: 21,802	1,903		1	228	831	34	1,003	45		300	20	975
Total		35	WJ571125	33,483	1,572	0	11,718	12,731	259	4,340	2,197	ō	17,323	7,967	19,365
Populati	on Distribution*	1	14861008	5,090	1,531	0	30,861	3,270	225	630	5,744	0	11,582	10,480	34,538
* Populatio	In for Unincorporated Area of Lee County														

Amended by Ordinance No. 02-02, 03-19, 05-19, 07-13, 09-15, 09-16

. . .

.

Table 1(b) - Page 1 of 2

.

•

•-

..

EXTRACTB"

· · · · · · · ·

EXHIBIT C

PROPOSED TABLE 1(b) Year 3438 Allocations

Proposed Changes per CPA2007-49, CPA2008-05 and CPA2008-07

						12 30 3	: Acrost 1	ាំខ្លុំ ព្រំខេទ្	ରଙ୍କ ି ର୍ବ୍ଦିନ			hă:			
				The state of the state					1	Section 1	$\mathbb{N}_{\mathcal{A}}$			{	
	Future 1 and Use Classification	dan Gi kar	bares:	Alvers	funana		a second	1. S. S. A.	Cleón os d	Means	n in tenin Ni a stenin	1)ro	Estaro	Bayshore	
لمعاد بارجاده مرجر	Intensive Development	0	ana 1.2 3	540	animerie:			64916		985	a servit	20 (d			
	Caultal Litting		i a	3.465		3.65 8 1A5	a arch	1-20 Th	1	1 600	1.63 - 578	1. 1J- 71 144			
	Central Crowniatur	1.000		0.6.0	5.95	1022 4 41 41	11 216-2	1.1.1.	Netwinden	2,000	R		(70		
	Diduit Conkinging		<u> </u>	1 705	P 36	1749 246523	33991 29 3	100000	1010.00	0.000	8-13 716	7.7.84	400		
	Suburnan Outleter Suburban					<u> </u>	U	en de la	<u>1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 </u>	0,000	AL DOWN	6111-20-6	1,700		
	Outivity Souther	0	<u>v</u>			5/ 56 5 16			1	302	1	Let ink	909		
	But-Dullying Suborban	20		10		Carlos Con	198.340.00 M			·····	P. 165 P. 6	112 114 14 4		800	
2	Uppatial Carologian			10		2.798277/12.0	li de la constante de la consta La constante de la constante de				1-1-1-1-1-1-1-1-1-1-1-1-1-1-1-1-1-1-1-	Contract of			
ត្តិ	PODRO PRCIMIOS	950	0				DEACT	2 - 1 - 1 - 1 - 1 - 1 - 1	0000	·	74	02 450 78			
te .	Driverony Commonly	000				1011	Participation	n andre og Ar Eliteration	h an bar at			3.1.1.1.1.1.1			
ç	Designation Reson Asked Use Wester Dependent		0		0	1960 (1960) (1980) (1960)	ole > F	1 de elo	1." di trat	Margar W. C.	Lin the second	ALL ST			
÷	Durn Sivit Manne Vilage					and the second second	1 10 10	Contractor		<u>-</u>		15. 11. 10			
P	Industrial Interchange					and shares			<u>.</u>	<u>112.00</u>	11:02:22	1011 120		0	
Ē	General Inwichange					1.2	1000	0		1	516 10	3 <u>14 19</u> 1	6	12	
e e	General/Commercial Interchange	0			<u>v</u>				111100	19 19 10 19 10 10	1411 P	H	0		
Đ.	Industrial/Commarcial interchange	0	0	0	0	an a	<u> </u>	10		0	Bur	20 1.1.0	0	0	
Ľ.	University Village Interchange	0	0	0	0		<u></u>	1.0	1.	0	1.10.15	17 Y.	0	0	
à	New Community	0	i.	0	0					<u> </u>	at Het	1.2.2	Ø	D	
ġ	Akport	0	<u> </u>	0					0	8	3.40.01	2: 10:01	0	0	
i i i i i i i i i i i i i i i i i i i	Tradebal	0	9	0	0	in first	2		10	<u>ű</u>	V. 17986		0	0	
žġ	Rural	\$9	0	0	2995	12, 14	14	1.11		565	1.164	The Fil	835	1,350	
S)	Rural Community Preserve	6		0	đ	1. 1. 1.	641.643		2	0	1, 20	1 2 (60)	0	0	
u,	Coasini Rural	0	2	0	3,000	1.10	6.1. 0			Q	1 11/10	1.1.10.00	0	0	
	Outor Islands	9	3	0	45	1	S. Pring.	and the second	ter min b	0	1.51.3	21. 10	0	0	
	Open Lande	6	6	0	2	$\{ i,j\} \in \mathcal{A}$	0, ,0	<u>, , , , , , , , , , , , , , , , , , , </u>	200 ± 20	45	网络马马马马		2	1,800	
	Danally Reduction/Groundwater Resource	0	ų ž	0	õ	1.41	0		4 000	0	核等性的	1 . 4	¢	3,193	
	Conservation Lands Uplands	Q	0	0	a	0	<u> </u>	1 L Cali	$[C_{i}]_{i} \in [C_{i}]_{i} \in [C_{i}]$	0	5.0	101 - Q	0	0	
	Weilands	0	0	0	0	1.13	19.61	10	<u> </u>	G	5. 1 61	4 20	Q V	0	
	Conservation Lands Wallands	0	0	0	<u> </u>	1. 这位于今	0	17,78,78	e la	0	制用的合金	10	D	0	
Total	Residential	3,922		6,070	3,213	1.55	21,260	4.015	501.01t	\$\$\$ 1.(H	3.203	3.326	3.245	1,23%	(1000) (100)
Com	mercial	دەن:	2	2,100	225	1. 1. 5. 528-			6223 5,62	1,5,87	14-11-12	188 301	1,289	138	
Indu	striai **	6	:	1.01	<u>id</u>	játí - 8,55	100		1. 17-	254	. 4. 5	14.16 6	67	Ş.	
NonR	ngillatory/Allocations/statiss through the	in the second	1.6 6 6.7	1	a and a star	1 de la		5.00		1		- 19 M	- T.		a and
Public	· · · · · · · · · · · · · · · · · · ·	2.552		1.300	1 107	10-165-0603			<u> </u>	400	2.154	<u>بند ال</u>	i,0-	1153	
Possiu	Agriculture	÷			- <u> </u>	le contra de la co		10.000	1.1.1.186	100	1-2.04	1.1	128		
Conea	ryglion (weilands)	1	1 7	<u> </u>	14,70	1,406	لاستغافته	1.03	1000	120	1.10	336	3,6/6	567	
Vacon		207	2	365	3.9	C. (54924)	6 83	1.12	1. 1.509	2,052	1.000000.221	1,000	1.68	780	
Totol		2,64.	5	17.862	2.466	120120	2.904	N 48 6 4 6	1.240	57.182	1111028	1.1.1	16,234	14,168	
Populat	ion Distribution*	38,980	1 3	19,363	12,785	1.11100	164 . 99	146 (1626)	270	1 20 169	5 V8,414	一般的	25,395	8,410	
* Population ** Bas Poi	on for Unincorporated Area of Las Soundy loy 33.1.4														

Amended by Ordinance No. 02-02, 03-19, 05-19, 07-13, 05-15, 08-16

Table 1(b) - Page 2 of 2

EXHIDIT.'19".

..... ÷

STATE OF FLORIDA

COUNTY OF LEE

I Charlie Green, Clerk of Circuit Court, Lee County, Florida, and ex-Officio Clerk of the Board of County Commissioners, Lee County, Florida, do hereby certify that the above and foregoing is a true and correct copy of Ordinance 10-20, as approved by the Board of Lee County Commissioners in the Regular Meeting of March 03, 2010, and same filed in the Clerk of the Court's Office.

Given under my hand and seal, at Fort Myers, Florida, this 12th day of March, 2010.



CHARLIE GREEN, Clerk of Circuit Court Lee County, Florida

By Deputy Clerk

Deputy Clerk

Finance & Records Dept. Minutes Office - P.O. Box 2469, Fort Myers, FL 33902 Phone: (239) 533-2328 | Fax: (239) 485-2038



FLORIDA DEPARTMENT Of STATE

CHARLIE CRIST Governor STATE LIBRARY AND ARCHIVES OF FLORIDA

KURT S. BROWNING Secretary of State

March 15, 2010

Honorable Charlie Green Clerk of Court Lee County Post Office Box 2469 Fort Myers, Florida 33902-2469

Attention: Ms. Marcia Wilson, Deputy Clerk

Dear Mr. Green:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your letter dated March 11, 2010 and certified copies of Lee County Ordinance Nos. 10-03 through 10-21, which were received in this office on March 12, 2010.

Sincerely,

Liz Cloud Program Administrator

LC/srd



D.R.E.TOR'S OFFICE R.A. Chry Badding + 300 South Bravough Seriet + Telsbasser, Florida 12399-0250 150.]45.6660 + FAX, 150.245.6735 + TDD- 150.922-025 + http://dir.doi.state.flori

COMMUNITY DEVELOPMENT 830,243,6600 + PAX, 830,245,6643 LEGISLATIVE LIERARY SERVICE 830,482,2812 + FAX-850,481,9879 STATE LIBRARY OF FLORIDA 150,245 6500 - FAX: 250,145,5744 RECORDS MANAGEMENT SERVICES 150,745,6750 - FAX: 550,245,6793

ADH DI ISTRATIVE CODE AND WEEKLY 8:0,245.5270 + FAX: 850.245.5382

STATE ARCHIVES OF FLORIDA 150,243.6700 • PAX: 150,488,4894

EXERST 'S'

SEWELL VALENTICH & ASSOCIATES

A Partnership of Professional Associations

E. Larry Sewell State-Certified General Real Estate Appraiser RZ 501 Michael A. Valentich, MAI State-Certified General Real Estate Appraiser RZ 220

Associate Appraiser: John D. Osgood State-Certified General Real Estate Appraiser RZ 1289

February 20, 2014

S. W. Moore, Esq. Gregory S. Rix, Esq. Moore Bowman & Rix, P.A. 3277E Fruitville Road Sarasota, FL 34237

> RE: Appraisal of Impact to Market Value 4,652.1± Acres of Land - 16500 Corkscrew Road, Lee County, FL Owner: FFD Land Company, Inc. (Florida Farm Development)

Dear Mr. Moore:

Pursuant to your request, we have now had the opportunity to complete our appraisal and analysis of impact to market value of the above-referenced property resulting from Lee County's exclusion of the subject property from the boundaries illustrated on Map 14 of the Comprehensive Plan. Had Lee County included the subject property within the boundaries of Map 14, the site would have remained designated suitable for the extraction of construction materials or rock mining. This appraisal is intended to be used in conjunction with a Bert J. Harris Act claim.

When completing this assignment, we have employed the most widely-recognized appraisal technique utilized for the purpose of measuring damages or impact to market value caused by extraneous factors. This approach is known as the "Before and After Appraisal Technique." This appraisal technique allows us to value the property under two separate and distinct scenarios. The first value (before) estimates the value of the property having the capability of being utilized for the extraction of construction materials. The second estimate (after valuation) values the same property, however, recognizes there would be no legal ability to utilize the land for the extraction of construction materials. The difference between the before and after value estimates provides an indication of the impact to market value caused by the loss of potential to utilize the land for limestone extraction.

When valuing the property in the "before" condition, we have adopted an extraordinary assumption which assumes that there is a reasonable probability that the property was located within that area of the Comprehensive Plan known as Map 14. Map 14 identified areas where the excavation of construction materials or rock mining was suitable.

Real Estate Appraisers and Consultants • Licensed Real Estate Brokers 3277F Fruitville Road, Suite 1 • Sarasota, FL 34237 • 941.365.5111 • www.sewellvalentich.com S. W. Moore, Esq. Gregory S. Rix, Esq. February 20, 2014 Page Two

This appraisal is prepared in conformity with the Uniform Standards of Professional Appraisal Practice and adopts the Sales Comparison Approach to value for the purpose of legally testing impact to market value in both the before and after conditions. The results of this analysis are found within the attached appraisal report which closely follows the appraisal format formally known as a "Summary Appraisal Report." The most recent 2014-2015 Edition to the Uniform Standards of Professional Appraisal Practice has, however, changed the identification of the reporting format and, now, this reporting format employed is simply identified as an "appraisal report."

This appraisal and resulting conclusions are prepared specifically for use in conjunction with a Bert Harris Action claim proposed to be filed by the property owner. The intended use of this appraisal relates only to the testing of potential impact caused by actions taken by Lee County and there is no other intended use of this appraisal.

Based upon this analysis and the consideration given to the extraordinary assumption when valuing the property in the before condition, and then by comparing the value to the after condition where there is no reasonable probability that the property can be used for mining activities, we estimate the total impact to market value to be:

THIRTY-NINE MILLION (\$39,000,000) DOLLARS

as of May 6, 2013.

We thank you for the opportunity to provide this appraisal service and ask that you feel free to call at your convenience if we might provide additional information which would further assist in any way.

Sincerely,

hand fivel

E. LARRY SEWELL State-Certified General Real Estate Appraiser RZ 501

ELS:daf

EXECUTIVE SUMMARY OF SALIENT FACTS & CONCLUSIONS

Property							
Identification:	FFD Land Company, Inc. and Florida Farm Development Corporation, Ltd. 4,652.1 ± Acres of Agricultural Land 16500 Corkscrew Poad Lee County, Fl						
Client:	Florida Farm Development Company, LTD P. O. Box 3088 Immokalee, FL 34143						
Intended Users:	S. W. Moore, Esq. Gregory S. Rix, Esq. Moore Bowman & Rix, P.A. FFD Land Company, Inc. Officials						
Effective Date of Appraisal:	May 6, 2013						
Purpose of Appraisal:	Estimate impace exclusion of the mining activities	ct to market value caused by Lee County's ne subject property within Map 14, permitting es.					
Highest and Best Us Before Zoning Denie	se al:	Limestone and fill excavation/interim agricultural.					
Highest and Best Use After Zoning Denial:		Low-intensity uses, agricultural, long-term speculation, passive recreational, low-density residential.					
Value Estimate of S In Before Condition	ubject .:	\$60,662,960					
Value Estimate of S In After Condition:	ubject	\$21,168,558					
TOTAL IMPACT TO	TOTAL IMPACT TO MARKET VALUE CAUSED BY LEE COUNTY'S ACTIONS						
THIRTY-NINE FOUR	MILLION, FOUR HUNDRED AND	HUNDRED NINETY-FOUR THOUSAND, TWO (<u>\$39,494,402</u>) DOLLARS					
	ROUND	ED: \$39,000,000					

EXHIBIT "C"

APPRAISAL REPORT AND DAMAGE IMPACT OF

4,652.1± Acres of Land 16500 Corkscrew Road Lee County, FL Owner: FFD Land Company, Inc. (Florida Farm Development)

Our File No. 13-18

FOR

FFD Land Company, Inc. P. O. Box 3088 Immokalee, FL 34143 and S. W. Moore, Esq. Gregory S. Rix, Esq. Moore Bowman & Rix, P.A. 3277E Fruitville Road Sarasota, FL 34237

EFFECTIVE DATE OF ANALYSIS

May 6, 2013

PREPARED BY

E. Larry Sewell State-Certified General Real Estate Appraiser RZ501 SEWELL VALENTICH & ASSOCIATES 3277F, Fruitville Road, Suite 1 Sarasota, FL 34237

~4~

TABLE OF CONTENTS

LETTER OF TRANSMITTAL	
EXECUTIVE SUMMARY OF SALIENT FACTS & CONCLUSIONS	
TITLE PAGE	
TABLE OF CONTENTS	
IDENTIFICATION OF REAL PROPERTY ASSIGNMENT	
IDENTIFICATION OF SUBJECT PROPERTY	
LEGAL DESCRIPTION	
IDENTIFICATION OF CLIENTS/USERS	
IDENTIFICATION OF USERS AND USE OF APPRAISAL REPORT	
DATE OF APPRAISAL REPORT	
PURPOSE OF THE APPRAISAL	
EFFECTIVE DATE OF APPRAISAL	
DEFINITION OF MARKET VALUE	
INTEREST(S) VALUED	
CONDITIONS OF THE ASSIGNMENT/EXTRAORDINARY ASSUMPTIONS	
OR HYPOTHETICAL CONDITIONS	
HISTORY OF SUBJECT PROPERTY 10	
SITE DESCRIPTION	
SCOPE OF WORK PERFORMED	
ZONING AND LAND USE DESIGNATIONS	
HIGHEST AND BEST USE	
VALUATION ANALYSIS	
BEFORE COMPARABLE SALES/DISCUSSIONS/RECONCILIATION	
FINAL VALUE RECONCILIATION - ALL COMPONENTS	
SUMMARY OF FINAL VALUE	
BEFORE AND AFTER MARKET VALUE ESTIMATE OF IMPACT	
CAUSED BY LEE COUNTY ZONING DENIAL	
CERTIFICATION	
ADDENDA	
BEFORE COMPARABLE SALES – MINING LANDS	
BEFORE COMPARABLE SALES - CITRUS LANDS	
BEFORE COMPARABLE SALES - ROW CROP LANDS 50-54	
BEFORE COMPARABLE SALES –	
ENVIRONMENTALLY SENSITIVE/WETLANDS	
RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS	
OF LEE COUNTY FLORIDA	
CONTINGENT AND LIMITING CONDITIONS 67	
CURRICULUM VITAE	

EXHIBIT "C"

IDENTIFICATION OF REAL PROPERTY APPRAISAL ASSIGNMENT

The appraisal assignment begins by first identifying the problem to be solved and then defining the scope of services and work which is necessary to answer the question being asked by our client and the intended user of this appraisal report to fulfill the intended use of the appraisal. This process traditionally involves and includes the following:

- Identification of client and intended users
- Identification of intended use of the opinions and conclusions
- Identification of type and definition of value developed
- Identification of specific real estate which is the subject of the analysis
- Definition of value estimate
- Identification of effective date of value opinion
- Describe the problem to be solved and scope of work to be performed
- Identify any extraordinary assumptions or hypothetical conditions of the appraisal
- Develop and employ those recognized appraisal techniques that are necessary to provide a credible conclusion

IDENTIFICATION OF SUBJECT PROPERTY

The subject of this appraisal is a large irregularly shaped tract of land containing a total of approximately 4,652.1 \pm acres. Historically, much of the land has been used for agricultural purposes, including the cultivation of crops and citrus production. Significant portions of the property have been maintained in a native state and are considered to be environmentally sensitive. The property lies approximately 5 \pm miles east of Interstate 75 along the southern right-of-way of Corkscrew Road within Lee County, FL.

Information taken from Resolution No. Z-13-002 of the Lee County Board of County Commissioners indicates that the owner of the property requested that approximately 4,652.1± acres be rezoned from "Agriculture District" (AG-2) to "Mine Excavation Planned Development" (MEPD). This requested rezoning would have confirmed that mining of the property was an allowable use, as well as administrative offices, rock crushing operations and plant facilities. The proposed maximum mine depth was to be 100 feet, with an estimated duration of extraction activities of fifty (50) years. Maximum structure height within the area to be rezoned was to be 35 feet. Lee County's adoption of Map 14, which demonstrates specific areas where rock mining was considered to be appropriate, excluded the subject property and thereby provided an indication that rock mining on the subject property was not permitted. The denial of the request for "MEPD" zoning was considered to be confirmation that the adoption of Map 14 effectively removed the subject property from an area identified as being suitable for future rock mining.

LEGAL DESCRIPTION OF SUBJECT PROPERTY

The complete legal description of the subject property can be found within the Addenda section of this report.

IDENTIFICATION OF CLIENTS/USERS

FFD Land Company, Inc. P. O. Box 3088 Immokalee, FL 34143 S. W. Moore, Esq. Gregory S. Rix, Esq. Moore Bowman & Rix, P.A. 3277E Fruitville Road Sarasota, FL 34237

IDENTIFICATION OF INTENDED USERS AND USE OF APPRAISAL REPORT

The intended users of this appraisal report include the owners of the property, FFD Land Company, Inc., as well as S. W. Moore, Esq., Moore Bowman & Rix, P.A. There are no other intended users of this appraisal report.

The intended use of this appraisal is to provide an appraisal report which estimates the impact to market value caused by Lee County's actions. This report is intended to be attached to and made part of a Bert J. Harris Act claim.

DATE OF APPRAISAL REPORT

February 20, 2014

PURPOSE OF THE APPRAISAL

The purpose of this appraisal is to estimate the market value of the fee simple interest of the subject property under two separate and distinct highest and best use scenarios. This appraisal adopts a "before and after" appraisal technique where the property will first be valued contemplating a highest and best use for mining activities and then valued again based upon a highest and best use where no mining activities would be legally permitted. The difference between these two value estimates reflects the ultimate purpose of the appraisal, which is one of estimating the total impact caused to the property by Lee County's actions.

EFFECTIVE DATE OF APPRAISAL

The effective date of appraisal is May 6, 2013, the point in time when Lee County denied the zoning change requested, confirming that rock mining was not an allowable use for the subject lands.

DEFINITION OF MARKET VALUE

"The most probable price, as of a specified date, in cash, or in terms equivalent to cash, or in other precisely revealed terms, for which the specified property rights should sell after reasonable exposure in a competitive market under all conditions requisite to a fair sale, with the buyer and seller each acting prudently, knowledgeably, and for self-interest, and assuming that neither is under undue duress," as excerpted from The Appraisal of Real Estate, 14th Edition, copyright 2013, p.58.

INTEREST VALUED

DEFINITION OF FEE SIMPLE ESTATE: Fee simple estate is defined as *"absolute ownership, unencumbered by any other interest or estate, subject only to the limitations imposed by the governmental powers of taxation, eminent domain, police power and escheat"*, as excerpted from The Appraisal of Real Estate, 14th Edition, copyright 2013.

DEFINITION OF EASEMENT: "An easement is an interest in real property that transfers use, but not ownership, of a portion of an owner's property", as excerpted from Page 74 of <u>The Appraisal of Real Estate</u>, 14th Edition, copyright 2013.

The foundation of this appraisal, representing the interest valued, is developed by first estimating the current market value of the unencumbered fee simple interest for the entire identified parcel. When valuing the subject property in the before condition, we have recognized a highest and best use related to the extraction of construction materials. We also acknowledge that any future development of the property to allow for such extraction would also certain lands to be encumbered by a conservation easement. The conservation easement would restrict the general use and utility of portions of the property lying outside of the area proposed for be mined. Recognizing this as an important component of the before value estimate, we have valued portions of the property which would be used for mining activities in the before condition based upon their unencumbered fee and those areas where a conservation easement would be imposed having been valued based upon their encumbered fee. The valuation of the conservation easement encumbered lands (that is with the conservation easement in place) represents the value of only the remaining fee interest in the land after the value of the conservation easement has been imposed.

CONDITIONS OF THE ASSIGNMENT/EXTRAORDINARY ASSUMPTIONS OR HYPOTHETICAL CONDITIONS

Extraordinary Assumption - Definition

"An assumption, directly related to a specific assignment, as of the effective date of the assignment results, which, if found to be false, could alter the appraiser's opinions or conclusions." as excerpted from Page U-3 of the <u>Uniform Standards of Professional Appraisal</u> <u>Practice</u> 2014-2015.

This appraisal is completed adopting an extraordinary assumption to value the property in the before condition. The adoption of this extraordinary assumption influences the value of the property by reflecting a highest and best use in the before condition different from that highest and best use for the property in the after condition. This "Extraordinary Assumption" is considered to be a necessary foundational element of the analysis, recognizing that there are a number of factors associated with this appraisal assignment which cannot be finitely identified or absolutely determined as of the date of this appraisal. Extraordinary assumptions are commonly adopted by real estate appraisers when valuing properties where some uncertainty exists with regard to specific components or elements of the properties being appraised. In this appraisal assignment, this extraordinary assumption is adopted for the purpose of testing the impact to the property resulting from the exclusion of the property from Map 14.

The Extraordinary Assumption utilized for the purpose of valuing the subject property in the before condition assumes that Lee County would grant the necessary land use designations, permits and approvals to allow the property to be utilized for the purpose of extracting construction materials or limestone mining.

The adoption of the Extraordinary Assumptions in the before condition is for analytical and legal purposes caused by Lee County's exclusion of the subject property from the boundaries indicated on Map 14 of the Comprehensive Land Use Plan, which was later confirmed by the denial of zoning, thereby causing the property to have no legal potential for limestone excavation in the foreseeable future.

CONDITIONS OF THE ASSIGNMENT/EXTRAORDINARY ASSUMPTIONS OR HYPOTHETICAL CONDITIONS, CONT'D.

The result of adopting the extraordinary assumption in the before condition is to increase the value of the property to reflect for the added utility caused by the probability that approximately 2,936± acres of mining operation lands could be utilized for the extraction of mining materials. This extraordinary assumption also results in the diminishment of value for those lands which would be encumbered by a conservation easement, as these lands are valued assuming the conservation easement encumbrance negatively impacts the utility of the land in the before condition.

HISTORY OF SUBJECT PROPERTY

The subject 4,652.1±-acre parcel which was requested to be rezoned has historically been used as a component of a larger tract of land owned by FFD Land Company, Inc. containing approximately 5,208.55± acres. This land has historically been used for agricultural purposes and has been maintained in a native state within areas that are considered to be environmentally sensitive. For the purpose of this appraisal, we have relied upon information obtained from a Lee County staff report which suggests that there is a total of approximately 4,652.1± acres originally considered in the zoning application. Within this area, there are approximately 3,221± acres of agricultural land which includes areas of citrus. There are also approximately 1,403± acres of state jurisdictional wetlands.

A review of public records indicates there have been no arm's length transactions involving the subject property within the last five (5) years.

SITE DESCRIPTION

The subject 4,652.1±-acre tract consists of a large irregularly-shaped tract of land lying south of Corkscrew Road and extending approximately 4.0± miles southerly in an irregular fashion from that primary roadway. The eastern boundary of the property is, in part, formed by 6L Farms Road which provides interior access to components of the property.

For the purpose of this appraisal, we acknowledge that the total ownership interest is approximately 5,208.55± acres of land. Our appraisal, however, includes only those lands which were denied rezoning by the Lee County Board of County Commissioners. The size of that parcel is identified as 4,652.1± acres.

We have reviewed and relied upon various sources of information that delineate the specific components and land types for the property. In many cases, these delineations tend to overlap and, therefore, it is not possible to sum the total acres indicated to provide a precise indication of the total size of the parcel. Reviewing the Lee County staff report that was utilized for the purpose of a zoning application, the following delineation of lands types has been indicated.

Row Crop:	3,221.9± Acres
Mining Operation:	2,936.09± Acres
Minable:	2,585.00± Acres
Lake Mining Limits	
Prior to Reclamation:	1,902.70± Acres
Proposed Preserve/	
Conservation:	1,167.06± Acres
State Jurisdictional	
Wetlands:	1,403.29± Acres
Other Surface Water:	138.44± Acres

Once again, we note that many of the indicated components show sizes that tend to overlap and, therefore, a summation of these sizes would not provide an indication of the total site size.

When completing a "before and after" appraisal, it is important that the components valued both in the before and after conditions accurately reflect the utility and highest and best use for identical component parts. Recognizing that the component parts may have values that differ in the before condition vs. the after condition, we have attempted to segregate those component parts into areas which can be viewed in both the before and after conditions based upon those independent values.

EXHIBIT "C"
SITE DESCRIPTION, CONT'D.

To accomplish the task of appropriately delineating the subject components, we have reviewed plans prepared by Agnoli, Barber & Brundage, Inc., professional engineers, planners and surveyors. These plans, entitled "FFD-MEPD Zoning Engineering Plans" identify the entire subject parcel, and sheet 10 of 30 under the heading "FFD-MEPD Mining Property Land Use Summary" indicates the sizes of various component parts. This information has been utilized as a basis for our development of an appropriate estimate of the total acres for each of the components valued.

Our inspection of the subject property was facilitated by access available from 6L Farms Road. 6L Farms Road is an unpaved roadway extending southerly from Corkscrew Road which provides access to the subject 4,652.1±-acre parcel. We traveled first in a westerly direction, gaining access to existing citrus lands, as well as improved row crop areas. Our inspection of the citrus groves revealed both mature and re-set trees of varying ages which appear to have been well maintained and in average to good condition. Information provided suggested that the predominant planting of citrus consists of Hamlin and Valencia oranges, with a 60/40 split. Root stock consists of Sour Orange and Carrizo, for the most part. Our inspection and information provided by the grove manager indicated that the grove is irrigated by micro jet irrigation, with water provided by two large wells recently installed replacing eight original wells that historically serviced the grove area. Recent production figures suggest that the various components of the grove produced on the average from approximately 250-320 boxes per acre. This level of production suggests that the citrus grove would be considered only an average to moderate grove with respect to its market value.

The "MEPD" zoning and eventual permitting of the subject for construction material mining operations would have required the dedication of conservation easements over approximately 1,490.98± acres of land. These conservation easement encumbered lands would, in the before condition, come from lands which are designated as wetland or environmentally sensitive, for the most part. Delineations provided by engineers also indicate that there are approximately 192.34± acres of wetlands which would lie outside of the conservation easement in the before condition. Finally, 32.75± acres of land are identified as Army Corps of Engineers ditches and additional supporting lands.

When valuing the subject property in the after condition, our value reflects the understanding that the subject lands have been excluded from Map 14, thereby indicating the location of this property is unsuitable for limestone excavation. All probability for future limestone excavation or the extraction of construction materials was then confirmed by Lee County's denial of the "MEPD" zoning requested.

SCOPE OF WORK PERFORMED

The scope of work necessary to complete this appraisal assignment required that we first identify those lands which had been requested to be rezoned "MEPD". Next, we reviewed basic documents and other information provided by our clients showing the proposed location and configuration of anticipated mining activities. This information became foundational and has been incorporated into the appraisal and relied upon by the appraisers when developing an estimate of value and gives consideration to the various component parts of the overall subject parcel. The defining of these component parts was considered to be important to the valuation in both the before and after conditions as the utility of the land and the highest and best uses of these component parts differ between the before and after analyses.

The primary appraisal technique employed to value the property in both the before and after conditions is known as the Sales Comparison Approach to value. Valuing the property in the before condition required the researching and analysis of sales of other tracts of land where the market acknowledged other properties which had a similar highest and best use for mining purposes or the extraction of construction materials. The relative scarcity of such sales, especially in the Lee County market, required the appraisers to look throughout the State of Florida in other counties to further investigate and analyze sales of properties which were considered to have a similar highest and best use for mining or mineral extraction. These sales were then utilized to establish a range of value considered to be appropriate for each of the component parcels in the "before" condition.

Additional components of the subject property valued in the before condition include the citrus grove, areas which would be encumbered by a conservation easement, and additional wetlands and supporting lands. These components were also valued utilizing a Sales Comparison Approach where sales of comparable properties were researched and then compared to the various components.

Our scope of activities considers each of the three traditional appraisal techniques when developing the final value estimate. The Cost Approach to value was considered to be inappropriate as this approach is seldom utilized for the purpose of estimating the value of land. Agricultural improvements to the land have been valued as a component of the Sales Comparison Approach, recognizing that the comparable sales selected also had similar improvements, the contribution value of which was reflected in the price per acre indications.

SCOPE OF WORK PERFORMED, CONT'D.

The Income Approach to value is considered to be an appropriate appraisal technique utilized for the purpose of valuing mining lands, however, this approach is considered more appropriate under circumstances where a mining operation exists and where sales of product and expenses may be accurately reflected and utilized within the income analysis. Therefore, the Income Approach to value, while considered, was not included in this appraisal report nor given primary weight when estimating the value sought to be developed.

The Sales Comparison Approach to value, therefore, was concluded to be the most appropriate approach and was relied upon for the purpose of developing both the before and after appraisals. Individual components of the subject property require that sales of those components be researched and analyzed to provide an indication of the appropriate range of value for those components. The values of these various components have been included in the analysis, reflecting their contributory value to the parcel as a whole.

ZONING AND LAND USE DESIGNATIONS

Before Condition

When valuing the subject property in the before condition, we recognize that the existing zoning of the subject property is "AG-2", Agriculture District. This is a limited agricultural district designated by Lee County. The Lee County Comprehensive Land Use Plan currently designates the subject property "DR/GR" (Density Reduction/Groundwater Resource.) Important to note is that the "DR/GR" Comprehensive Land Use Plan designation indicates that extraction of construction materials or rock mining is an allowable use. Portions of the land are also designated "Wetlands". Recognizing that rock excavation is a permissible use within the DR/GR and further acknowledging that by the extraordinary assumption, it would be legally possible to extract construction materials, we have, in the before condition, valued the property assuming that it would be legally permissible to utilize that property for that purpose.

Once again, the extraordinary assumption adopted for the purpose of this appraisal assumes that in the before condition Lee County included the subject property within the approved Map 14 locations and could have legally granted approvals to allow for mining.

After Condition

The "DR/GR" Future Land Use designation allows for the extraction of natural resources, i.e. rock mining, however, should the property be located in an area not encompassed by Map 14 of the Lee Plan, there is no legal basis or expectation that natural resource extraction would remain an allowable use for the property. Lee County's exclusion of the property from areas shown on Map 14, therefore, confirms that limestone extraction is not considered to be an allowable use for the property. Confirmation that this use was not considered to be an allowable use and would therefore not be reasonably probable within the foreseeable future occurred when Lee County denied the requested "MEPD" (Mine Excavation Planned Development) zoning on May 6, 2013.

The property owner applied for zoning designation "MEPD" (Mine Excavation Planned Development). This application was addressed in a public hearing before the Lee County Zoning Hearing Examiner on January 16, 2013 and January 17, 2013. The Hearing Examiner for Case No. DC12009-00001 recommended denial of the request to rezone. A second public hearing was held on May 6, 2013 before the Lee County Commission where the request for rezoning was officially denied. These actions confirmed that there would be no legal expectation of the property to be used for limestone extraction in the after condition.

HIGHEST AND BEST USE

The essential components of the analysis of highest and best use are contained in the following definition: *"The reasonably probable use of property that results in the highest value."* as excerpted from <u>The Appraisal of Real Estate</u>, 14th Edition, © 2013, by The Appraisal Institute, an Illinois Notfor-Profit Corporation.

When valuing the subject property and developing two separate and independent value estimates to reflect both the value in the before and after conditions, separate highest and best use analyses must also be developed. When valuing the property in the before condition, the appraisal is based upon the extraordinary assumption which is required to test for legal purposes the impact to market value caused by Lee County's actions. This assumption reflects and incorporates into the value conclusion the anticipation that there is a reasonable probability that all necessary zoning, Comprehensive Land Use Plan designations and permitting would be reasonably probable to be achieved and allow for the site to be utilized for construction material extraction.

When valuing the subject property in the after condition, the value estimate acknowledges there would be no legal ability to utilize the land in any way related to limestone mining. These two separate and distinctly different anticipations of utility for the property result in contrasting highest and best use conclusions in the before vs. the after condition.

First, when giving consideration to the highest and best use of the property in the before condition, we note it is physically possible to utilize the land in a variety of fashions. A continued agricultural use, including the growing of row crops or citrus production, would be physically feasible. Physically, the site would also be capable of supporting mining activities.

Legally permissible uses in the before condition are directed by the extraordinary assumption suggesting that it would be legally possible for Lee County to permit limestone extraction. It would also be possible in the before condition to legally continue to use the property for agricultural purposes, once again, the growing of crops or citrus production, etc. We also note that certain areas of the property designated as environmentally sensitive or wetland would most probably be legally restricted from being utilized in most conventional forms.

HIGHEST AND BEST USE, CONT'D.

Financially feasible uses resulting in the maximally productive use of the land in the before condition would, in our opinion, be represented by continuing to use the property in part for agricultural purposes. The current citrus operation appears to be moderately productive, and that use in combination with the continued growing of crops would continue to represent an interim highest and best use for large components of the property. The before condition would also allow the beginning of the necessary planning and development of the site to allow for portions of the land to be developed as an active limestone and fill operation. Anticipations are that the limestone mining operation would be developed in phases, extracting materials based upon current and future demands, and processing those materials on-site. The balance of the lands, where feasible, would continue to be used in an agricultural fashion to generate income from the various components of the property.

We therefore conclude that a combination of uses in the before condition would represent the subject property's highest and best use. The continued use of portions of the property for agricultural purposes, i.e. the growing of row crops and citrus production, in combination with the development of an active mining operation would, in our opinion, represent the highest and best use as of the effective date of this appraisal. The before value estimate also recognizes that components of the land would be recognized by the market as lands having added utility caused by those components' potential to be utilized for limestone extraction at some time in the future. Portions of the land currently not utilized for mining activities would continue to have an interim highest and best use of agriculture, including both citrus and vegetable crop production. Environmentally sensitive lands would be retained in a natural state, and in the before condition (in part), be encumbered by conservation easements.

When valuing the subject property in the after condition, our highest and best use conclusion takes into consideration the restrictions upon use caused by Lee County's adoption of Map 14, excluding the subject property from the area designated for future mining, and further confirmation of the loss of this potential use resulting from the denial of zoning on May 6, 2013.

VALUATION ANALYSIS

VALUATION ANALYSIS

When valuing the subject property in the before condition, we have located the sales of properties that have similar utility as the subject property for each of the component parts. Specifically, when valuing lands which would have the potential for mining, we have researched the sales of mining type properties so that the prices paid may be directly compared to the subject component which has that same potential. We have reviewed a wide variety of sales and listings throughout the State of Florida where mining has already occurred or is planned to occur in the future. Shown on the following pages are those comparables that have been utilized to value the various components of the subject property.

The estimate of market value in the after condition acknowledges that the property would have no reasonable probability of supporting limestone mining activities, nor would the market recognize any enhancement to value caused by that added utility. Based upon the locational characteristics of the subject property, its physical characteristics and legal uses which would be permitted in the after condition, we have recognized the highest and best use of the property predominantly related to agricultural use. Anticipating that the site could continue to be used for agricultural purposes and could also be utilized for low-intensity residential or recreational use, we have selected sales that have comparable potential, with emphasis placed upon an agricultural use within the foreseeable future.

To value the component of the subject property which would remain in citrus groves, we have researched the sales of other active citrus grove properties. We have also recognized that the information provided suggests that the existing citrus grove operation, which is predominantly producing approximately 250 to 300 boxes per acre per year, would be considered an average to moderate producer. The lands which, in the before condition, were identified as mining operational lands are now recognized as agricultural and are valued based upon the sales of properties which had comparable agricultural potential. Wetlands which would have been earmarked for conservation easement had the zoning been changed and the mining activities undertaken are valued utilizing sales of lands which have relatively low utility. Additional wetlands are valued in a similar fashion, reflecting comparable limited or low utility.

Finally, existing ditches and supporting agricultural land use areas are valued recognizing that these lands are an integral part of the property and do support existing agricultural operations and, therefore, would be expected to have similar values.

"BEFORE" COMPARABLE SALES DATE OF VALUE: MAY 6, 2013

DISCUSSION OF "BEFORE" COMPARABLE LAND SALES

The value of the component parts gives consideration to the fact that the property, that is the entire $4,652\pm$ acres, would be anticipated to be marketed collectively, therefore, the value of the component parts reflects any appropriate discount, understanding that it is the composite value in the before condition which is being sought and not necessarily the sum of the value of individual component parts. Stated alternatively, some discount to market value has been applied to the price per acre when appropriate to recognize that each component represents but a part of the larger parcel.

The first phase of the analysis which focuses upon a value estimate for the mining lands is developed utilizing a variety of sales which will now be discussed below.

RECONCILIATION OF MINING LAND SALES

<u>Comparable Land Sale I-953(LEE)</u>: This property was historically used for rock mining purposes and was formerly known as the Corkscrew Mining Venture property, or the Westwind Mine. The site is located just easterly of the subject property along Corkscrew Road and was sold in September 2007 as an operating mine, including equipment and necessary permits to allow for that mining activity. At the time of the sale, the real estate market was experiencing the first year of decline following boom years which preceded the sale.

Our verification of this comparable sale indicated there were approximately 28 million tons of reserves at the date of sale and that the property had a general excavation permit allowing for a maximum of approximately 31 years from the original date of approval. This property sold for \$51,000,000 or approximately \$82,085/gross acre.

The significance of this sale is not so much to reflect a current market value estimate of that component of the subject property which is suitable for mining, but rather to demonstrate the significant decline in value which has been caused by the real estate recession. This property (now known as Preferred Properties Mine) is listed at \$15,000,000 by the bank which took the property back from its prior owner. This indicates an asking price of approximately \$25,000/gross acre. This list price reportedly includes excavation and processing equipment which may contribute value.

RECONCILIATION OF MINING LAND SALES, CONT'D.

<u>Comparable Land Sale I-953(LEE), Cont'd.</u>: When comparing this sale to that component of the subject property which is suitable for the excavation of construction materials, the indicated price of \$25,000/gross acre is considered to be an upper range indication of value, recognizing this property is smaller in size than the subject and currently permitted for the excavation of rock materials, as well as acknowledging that this represents a listing and not a consummated sale price. Further consideration has been given to the approximate \$52,000/net minable acre indication of value, and also the indicated list price of existing reserves at approximately \$0.64/ton.

Comparable Sale A-866(LEE): This property is located proximate to the subject property and contains a total of 1,365± acres. The land was purchased with the intent of obtaining permits to allow for mining operations and, when purchased, the buyers anticipated that such approvals would be granted. The expectations of the purchasers who believed this land could be permitted for rock excavation represent similar market conditions as compared to the subject property where our appraisal develops a before value estimate, assuming that "MEPD" zoning could be granted. In their final attempt to rezone this comparable property, the buyers requested 770± minable acres and total reserves of 112,000,000 tons, anticipating an excavation depth of 77 feet. The property sold in September 2005 for \$33,200,000; \$24,322/gross acre; \$43,117/net minable acre. When directly comparing this sale to the subject property, we recognize that the date of sale significantly influenced the price paid and that the real estate recession has caused prices to recede significantly since that sale occurred. This sale is, therefore, judged to be an upper range indication of value.

<u>Comparable Sale I-916(LEE)</u>: This sale involved a property located to the north of the subject property, occurring in May 2007. The gross size of the tract at 551± acres represents the property's significantly smaller size when compared to the subject. Mining depth allowable on this site is 40 feet, with no blasting permitted, suggesting that the excavation of rock would not be possible. Our verification of this sale, however, indicated that other mining techniques have been utilized and that some rock has been capable of being extracted. The property sold for a total consideration of \$22,204,000 in May 2007 indicating approximately \$40,300/gross acre; \$84,000/net minable acre; and \$1.31/ton. Recognizing that this sale took place at a more favorable point in time than the effective date of appraisal for the subject suggests the sale would be indicative of the upper range of value. These factors are somewhat offset by the fact that the depth of mining activities at 40 feet with no blasting permitted would be considered a condition less favorable than that for the subject property.

RECONCILIATION OF MINING LAND SALES, CONT'D.

Those comparable sales and the listing discussed above are all from the Lee County market and, in many cases, are considered to be highly similar to the subject property with respect to location and quality of product. The Bell Road mine did not have the capacity to be utilized for construction material extraction to any significant degree and therefore would have somewhat less utility than the subject. The current listing of the Preferred Properties mine representing a permitted mine located to the east of the subject, in our opinion, represents somewhat of a distressed condition. We note in our comparison of these sales that all sales are smaller than the subject property and occurred at points in time considered to be reflective of more favorable market conditions than those impacting the subject as of the effective date of analysis.

RECONCILIATION OF MINING LAND SALES LOCATED IN ALTERNATIVE LOCATIONS

Given the lack of comparable sales which have recently occurred within the immediate Lee County market, we have expanded our sales search to include sales of other properties throughout the state of Florida. The locational characteristics of these comparable sales, which differ from those of the subject, along with market demand within these alternative locations, suggest that these sales should be given lesser emphasis in our final estimate of value for the subject property in the before condition. These additional comparable sales involving mining type sales will now be further discussed.

Comparable Sale A-99(POLK): This property was purchased by APAC-Southeast and subsequently transferred to Oldcastle Materials and occurred in September 2010. The purchase included approximately 692± acres, with 220± acres verified to be minable. The total sale price was \$13,880,000, indicating \$20,000+/acre, \$63,000/minable acre and \$0.50/ton. This property involves a mining tract which was permitted at the time of sale and had product (FDOT certified sand). These materials, while different from those associated with the subject property and inferior to limestone, reportedly produced comparable prices as those expected for the materials that the subject property would be capable of producing. Our verification indicated that this mine competed against several other permitted and active sand mines, many of which provided material to the Orlando and Tampa markets. In the final analysis, this sale was given somewhat secondary consideration due to the differing locational characteristics, however, we recognize this sale is more current and comparable to the subject with respect to the effective date of analysis.

RECONCILIATION OF MINING LAND SALES LOCATED IN ALTERNATIVE LOCATIONS. CONT'D.

Comparable Sale A-17(LAKE): This comparable sale is included to provide an indication of the current prices being paid for sites suitable for construction material mining. This comparable sale had what was perceived to be a reasonable probability to be utilized for only the extraction of sand, a product considered to be less valuable than those materials capable of being mined from the subject property. At the time of sale, the grantee did not have all necessary permits and approvals to allow for mining, as a conditional use permit was required from the Lake County Board of County Commissioners. This property, which contained approximately 1,200± acres, sold in May 2012 for \$11,000,100. Our verification indicated that the grantor was highly motivated to sell and was pressured by a lending institution to consummate the sale. This condition is judged to be inferior to that of the subject. Additionally, the location of this property was judged to be inferior to that of the subject due to the fact that the subject lies more proximate to major sources of demand for construction materials. In the final analysis, this sale was given secondary consideration due to its significantly different locational characteristics, inferior product and less desirable conditions of sale, with final indications of approximately \$9,200/gross acre and \$19,100/net minable acre.

FINAL VALUE RECONCILIATION OF MINING LAND

Before Condition

We have placed primary emphasis upon the most appropriate unit of comparison (price per gross acre) recognizing that, in the before condition, the subject had not received all permitting necessary to allow mining of construction materials. The gross size of the area identified as "MEPD" mining operations land includes both lands currently developed with citrus grove and lands utilized for row crops. A total of approximately 2,936.09± acres are identified as mining operations lands. These lands have been valued at \$20,000/gross acre.

EXHIBIT "C"

BEFORE VALUATION OF NON-MINING LANDS

When valuing the subject property in the before condition, we recognize that approximately 2,936± acres of land have been identified as "MEPD" mining operations lands. These acres are divided into lands currently improved with citrus, and lands which are utilized for row crop production. The before value estimate recognizes a highest and best use related to mining and, therefore, places no significance upon the existing historical uses for citrus and row crop production, valuing those lands at \$20,000/acre.

There are additional lands valued in the before condition which lie outside of the area which has been identified as being suitable for future mining activities. This includes an area which would be required to be encumbered by a conservation easement as part of the permitting process allowing for other lands to be utilized for mining activities. Additional lands identified as wetlands lying outside of the conservation easement and existing ditches and supporting lands are also considered. These various component parts will be further discussed within subsequent sections of this appraisal report.

EVALUATION OF CITRUS COMPONENT – AFTER CONDITION

When valuing that portion of the subject parcel which is currently improved with a citrus grove, we have researched the sales of other citrus grove operations, focusing upon comparable locational characteristics and productivity of the groves. The primary unit of comparison employed is "price per net tree acre." This price per tree acre is applied to the total number of net tree acres located within the subject parcel within the area proposed to be zoned "MEPD". This includes lands lying within Section 26, fronting directly along Corkscrew Road, and also lands lying to the west of 6L Farms Road within Section 36. Those comparable sales relied upon for the purpose of estimating the component of the property improved with citrus land will now be discussed.

DISCUSSION OF CITRUS GROVE SALES – AFTER CONDITION

<u>Comparable Sale A-70(COLLIER)</u>: This citrus grove, consisting of 845± acres, sold in December 2012 for a total consideration of approximately \$5,300,000. Our verification of this comparable sale suggested that the productivity of its grove was comparable to that of the subject as it was, on the average, reportedly producing approximately 240 boxes per acre. Located within Collier County, this sale is judged to be similar, however, a low range indication of value for the subject as it represents but one component of a larger assembled ownership formerly controlled by the Latt Maxcy Corporation. Therefore, in the final analysis, this sale at \$6,270/net tree acre was judged to be a low range indication of value for the subject component improved with a citrus grove.

<u>Comparable Sale A-71(COLLIER)</u>: This comparable sale, like the previous comparable sale, represents a component of a property which was much larger in size than the subject. Selling in December 2012, this approximate 68±-acre citrus grove reportedly had production figures comparable to that of the subject, which are considered to be reflective of a moderate quality citrus grove. The total sales price of \$5,892/net tree acre was judged to be a low range indication of value for the subject components, recognizing once again that this relatively small grove was part of a much larger citrus ownership.

<u>Comparable Sale A-77(COLLIER)</u>: This comparable property represents another component of the larger Latt Maxcy Corporation grove transaction previously discussed. Selling for approximately \$953,700, this 145±-acre grove had an average productivity comparable to that of the subject. The indicated price per acre of \$6,562/acre was judged to be a low range indication of value, recognizing that this component of the much larger transaction sold at somewhat of a discount as a component rather than a stand-alone grove.

DISCUSSION OF CITRUS GROVE SALES – AFTER CONDITION, CONT'D.

Comparable Sale No. 60(HENDRY): This comparable grove sale is located in Hendry County and sold in June 2012 for \$4,700,000, adjusting for the existing fruit crop which was extracted from the total consideration of \$6,000,000. The tract consisted of 619± gross acres with approximately 439 net tree acres. Reported productivity exceeded that of the subject property, with an excess of 350 boxes per acre reported. The final value indication, based upon a net tree acre unit of comparison at \$10,700/net tree acre was judged to be an upper range indication for the subject property, recognizing that the productivity of this grove was superior to that of the subject.

<u>Comparable Sale No. 51(HENDRY)</u>: This comparable property involves a citrus grove located in Hendry County and selling in July 2011. The adjusted sales price after consideration was given to the existing crop value was approximately \$14,000,000. This property was larger than the subject property containing approximately 1,506 net tree acres. Once again, this citrus property reported a production superior to that of the subject property at nearly 400 boxes per acre. The net tree acre indication at \$9,246/net tree acre was judged to be an upper range indication of value, once again reflecting superior production as compared to the subject.

FINAL VALUE RECONCILIATION OF CITRUS GROVE SALES

The general range of value believed to be most appropriate for that component of the subject property improved with citrus is believed to be from approximately \$8,000-\$9,000/net tree acre. Our inspection of the property revealed the citrus trees to be well maintained, and anticipations are that the caretaking of the grove may increase productivity in the future. In the final analysis, we have favored a value of \$9,000/net tree acre for this component of the subject property in the after condition.

DISCUSSION OF IRRIGATED CROP LAND AND SUPPORTING LAND USES - AFTER CONDITION

When valuing the subject property in the after condition, we have recognized that a significant portion of the property will most probably continue to be used for agricultural crop production into the foreseeable future. Information provided suggested that there are approximately 2,170± acres of agricultural land supporting 1,200± acres of irrigated crop land which we observed to be in various stages of production. Some lands are currently being planted or prepared for planting, while others are left fallow to be brought into production at future dates. These farm fields and irrigated crop lands are predominantly located to the south and west of those areas previously described as utilized for citrus production.

To value that component in the after condition anticipated to be utilized for row crop production, we have researched irrigated crop land sales along the west coast of Florida, spanning from Manatee County into Collier County, and extending easterly into Hendry and Okeechobee Counties. Our research indicated no comparable sales of improved crop lands selling recently within the Lee County market. However, we have located and researched several sales of land which is similar to utility in alternate locations, each of which will be discussed below and utilized to provide an estimate of the appropriate range of value for that row crop component of the subject.

Comparable Sale S-3512(A)(M): This comparable sale involves an agricultural tract located along U.S. 301 and Buckeye Road in Manatee County. Our verification indicated that even though this property is currently zoned to allow for more intensive uses, the property was purchased by a farming family with the intent of continued utilization for agricultural purposes into the foreseeable future. Selling in July 2012, this 483±-acre tract of land reflects a price of \$5,900/acre. Generally speaking, this sale is judged to be superior to the subject due to its potential for more immediate development, as well as its location with frontage along U.S. 301 and Buckeye Road. These factors are, however, believed to be offset by areas of wetlands internal to the property which are reflected in the average price per acre indicated by this comparable sale. Therefore, in the final analysis, the indicated price per gross acre at approximately \$5,900/acre is judged to be an appropriate indication of value for that component of the subject property currently utilized for row crop production.

Comparable Sale A-65(HENDRY): This comparable sale involved a recent transaction of an agricultural parcel selling in May 2013. Verified to have been improved to allow the entire site to be utilized for row crops, this sale property was purchased by an agricultural entity which intended to continue utilization of the land for crop production into the foreseeable future. Locationally, this sale may be considered somewhat inferior to the subject for alternative, i.e. low density residential utilization, however, for agricultural purposes, this location would not be considered to have negatively influenced the utility of the land. The site is smaller than the subject, however, containing only 114± acres. In the final analysis, this sale indicating \$6,571/acre is judged to be an upper range indication of value for that component of the subject which is improved for row crop production.

DISCUSSION OF IRRIGATED CROP LAND AND SUPPORTING LAND USES – AFTER CONDITION, CONT'D.

<u>Comparable Sale A-45(OKEE)</u>: This comparable property selling in September 2011 involved a 608±-acre tract of land utilized for row crop production. The property was encumbered with small wetlands but, for the most part, consisted of usable farm land. The location of this sale suggests that there is little potential use other than agricultural, even though some low density residential development was noted within the general area. This sale, in the final analysis, at \$4,434/gross acre is judged to be a low range indication of value for the subject component utilized for row crop production.

<u>Comparable Sale A-952(LEE)</u>: This comparable property is included primarily due to its similar locational characteristics as compared to the subject property, composed of both row crop and citrus lands. Verification revealed this sale was negotiated under atypical market conditions where the property was required to be sold for "all cash" and closed within a period of thirty (30) days. Reportedly, this resulted in a price which was very favorable and less than that which would be anticipated if a reasonable exposure period had been permitted.

Comparable Sale A-952(LEE) is included to further test our value conclusions by giving consideration to the price per acre as a low range indication of value for our value conclusions for the combined citrus and row crop lands. Noting that when the value estimate for the subject citrus grove is added to the value estimate for the subject row crop land, along with supporting areas, the average price per acre for these combined agricultural components is approximately \$6,500/gross acre. This comparable sale indicated a value of approximately \$5,500/acre for its combined components which, once again, consisted of both citrus and row crop lands. In the final analysis, this sale is judged to be a low-range indication of value for the subject combined agricultural components, recognizing that the conditions of sale associated with this comparable property were less favorable than those anticipated for the subject property.

FINAL VALUE ESTIMATE OF IRRIGATED CROP LAND AND SUPPORTING LAND USES – AFTER CONDITION

Those components of the subject property that have been improved to allow crop production are considered to be highly improved for that agricultural use. Our value estimates for this component of the subject property also exclude any low utility lands (environmentally sensitive) which, in some cases, have been included in comparable sales analyzed.

In the final analysis, we have favored the upper range of value for this component of the subject property recognizing that the land is highly improved and well located within the Lee County market. Therefore, our final estimate of value for this component is based upon \$6,000/acre.

VALUATION OF CONSERVATION EASEMENT LANDS AND WETLANDS BEFORE AND AFTER CONDITIONS

When completing our before and after analysis, we have recognized that components of the property will be required to be maintained in a passive state and in the before condition some of those acres will be required to be encumbered by a conservation easement. No specific language describing the restrictions to be placed upon that conservation easement area is available as of the date of the writing of this report and, therefore, we have proceeded with this analysis anticipating that the use of those lands in the before conditions (lands encumbered by the conservation easement) will be highly restrictive. We believe this is a logical conclusion, recognizing that based upon our inspection, many of these areas were heavily encumbered with Cypress and other wetland species, and not utilized for agricultural purposes as of the date of this appraisal. In the before condition, those areas to be designated with conservation easements would be used predominantly for retention of water or other very low intensive uses. That is to say that no specific agricultural uses, clearing or other more intensive uses would be envisioned for these conservation easement encumbered areas.

In the before condition, there are two areas of the subject parcel that are valued anticipating low intensity uses. The first of these is the conservation easement area identified on the engineering plans prepared by Agnoli, Barber & Brundage, Inc., professional engineers, planners and surveyors. Referring to the "Remaining Conservation/Wetland Preserve Summary" contained on Sheet 10 of 30, Drawing File No. 10198-10, the engineers have defined a total conservation easement area to consist of 1,490.98± acres. Additional wetland areas lying outside of the conservation easement consist of jurisdictional wetlands and Army Corps of Engineers wetlands contain a total of 192.34± acres (4.36 + 187.98). Additionally, the Army Corps of Engineers has further identified 32.75± acres of land as existing ditches.

When valuing the wetland and environmentally sensitive lands in the after condition, we have recognized that there would be no conservation easement encumbering these lands or further restricting any relatively limited utility that would be associated with these areas. We have estimated the total areas by deducting from the specified total parcel size, the gross area of the citrus grove, and the given indicated total crop and supporting acres. This results in an estimate of total environmentally sensitive and low utility lands in the after condition of $1,985.63\pm$ acres.

The evaluations of the conservation easement and wetlands have been accomplished by employing the Sales Comparison Approach to value. In this approach, we have researched the sales of other tracts of land that have sold in relatively recent times where the utility of the land was highly restrictive, either due to environmentally sensitive land use classifications, existing conservation easements or due to locational or physical characteristics which restricted the general utility of the land. Shown and discussed on the following pages are those comparable sales relied upon for the purpose of valuing the conservation easement lands and other environmentally sensitive lands.

VALUATION OF CONSERVATION EASEMENT LANDS AND WETLANDS BEFORE AND AFTER CONDITIONS, CONT'D.

Comparable Sale A-63(HENDRY): This comparable sale involved an oversized section of land located in Hendry County which sold in March 2011. The total consideration indicated was \$650,000. The property is located within a relatively remote area, approximately $14\pm$ miles east of the community of Immokalee and the tract reportedly had very low utility. The sale of this property involved the sale of the encumbered fee as an existing conservation easement that precluded the property from being used in many fashions. This conservation easement, while significantly restricting the utility of the land, granted uses of the encumbered fee anticipated to be similar to those associated with lands encumbered by the conservation easement within the subject property. Therefore, in the final analysis, this sale indicating just over \$1,000/gross acre is judged to be an appropriate indication of value for those components of the subject property which are to be encumbered by a conservation easement in the before condition.

Comparable Sale A-62(HENDRY): This property consists of approximately 3,000± acres of land located in Hendry County, approximately 4± miles easterly of S.R. 29, and 5± miles southerly of S.R. 80. This sale involved two component parts which collectively sold at approximately \$1,000/acre. A relatively small component of this property, approximately 385± acres, has historically been used for sod production and the growing of melons. No additional agricultural use other than that which previously existed upon the property was granted after the property was encumbered with a conservation easement. The rights associated with this sale which included only the encumbered fee simple were considered to be comparable to those which could be contemplated for that component of the subject property required in the before condition to be converted to conservation easement. The sale of this property at \$1,020/acre would, therefore, be considered an appropriate indication of value for that component of the subject property to be encumbered by the conservation easement in the before condition.

Comparable Sale A-6(GLADES): This comparable property is located east of the subject property in Glades County. Selling in May 2012, this approximate 1,257±-acre tract of land is located along the northern right-of-way of S.R. 80. The site also lies along the southern side of the Caloosahatchee River. Historically, the property had been utilized for cattle production and would, in the foreseeable future, continue to be utilized in part for that limited agricultural use. This property was encumbered by a conservation easement controlled by The Nature Conservancy, and future conventional development of the property would be restricted. This sale, indicating approximately \$1,200/acre representing the price paid for the encumbered fee, would be considered an appropriate indication of value for those components of the subject property encumbered by the conservation easement as proposed in the before condition, should the "MEPD" zoning be permitted.

VALUATION OF CONSERVATION EASEMENT LANDS AND WETLANDS BEFORE AND AFTER CONDITIONS, CONT'D.

Comparable Sale A-1034(LEE): This comparable sale property, known as Harmony Ranch, was purchased for public recreation and natural preservation. Located within Lehigh Acres, this sale transaction represents one of the few properties in the Lehigh community which has not been platted into small residential homesites. The property was formerly strip mined and was verified to be of little agricultural value at the time of sale. This comparable property is considered superior to those lands that are intended to be encumbered by a conservation easement, as the land would be considered more suitable for some forms of conventional (i.e. recreational) or passive use than those lands to be designated "CE", Conservation Easement. There is no conservation easement encumbering this low utility tract of land. The value indication at \$2,560/gross acre is, therefore, judged to be more appropriately emphasized for the purpose of valuing wetland components of the subject property in both the before and after conditions, but where no conservation easement is anticipated to encumber the land.

FINAL VALUE RECONCILIATION - "CE", CONSERVATION EASEMENT AND WETLAND COMPONENTS

When estimating the appropriate value for those components of the subject property which are either encumbered by a conservation easement or are designated environmentally sensitive, where uses would be highly restricted, we believe the most appropriate range of value is from approximately \$1,000/acre to \$2,000/acre.

Those comparable sales involving properties which were encumbered by a conservation easement were emphasized to value the subject components that are also anticipated in the before condition to be encumbered by a conservation easement. The value believed to be most appropriate is \$1,000/acre.

Few comparable sales involving tracts of land which have very restricted utility without encumbrances by a conservation easement were available for analysis within the Lee County market. A variety of other comparable sales have been considered, and one specific sale has been included in this appraisal report to demonstrate the value of those lands. We have favored a somewhat lower value estimate in the final analysis than the actual indication from that comparable sale, again recognizing that comparable had utility judged to be similar to that component of the subject property not encumbered by conservation easements, but designated environmentally sensitive in the after condition. The valuation of the environmentally sensitive or low utility components of the subject property in both the before and after conditions favors a value of \$2,000/gross acre, once again recognizing that these lands represent but a component of a larger parcel.

FINAL VALUE RECONCILIATION – ALL COMPONENTS

The Sales Comparison Approach employed to value the various components of the subject property produces a wide spectrum of value indications for the component parts. Our research, analysis and historical work performed within Lee County consistently demonstrates that the quality and demand for construction materials in this market produces prices superior to those experienced in north and central Florida. These higher prices are further confirmed by historical work performed in Palm Beach and Dade Counties where prices of material reflect even higher indications of value, once again, due to high demand for material at those locations and proximity to metropolitan areas.

In the final analysis, we have favored a range of value on a price per gross acre basis for the minable components of the subject property from approximately \$18,000-\$25,000/gross acre. We have emphasized a price of \$20,000/gross acre, an indication less than the average value indicated, taking into consideration the larger tract size of the subject property and the fact that these minable lands represent but a component of a larger parent parcel. Estimating the total value of the MEPD mining operation's land of 2,936.09± acres are valued at \$20,000/gross acre, provides an indication of value of \$58,721,800.

Additional consideration has also been given to the price per net minable acre where the range of value is even greater. Once again, we have favored the lower range as a value indication for the subject property, applying a price of \$30,000/net minable acre to 1,903± acres which could potentially be mined. This provides a value indication of approximately \$57,000,000.

Finally, we have also given consideration to a price per ton value indication. Even though the engineering information provided suggested a maximum depth of 100 feet, our historical experience in this area suggests that a more reasonable expectation of the depth which may be allowed for mining would be approximately 60 feet. The net minable land, if excavated to a depth of 60 feet, has been estimated to produce reserves of approximately 120,000,000 tons of material. This material, again at the lower range of value, is \$0.50/ton would take into consideration the larger size of the tract, as well as the mining component being part of a larger parcel. The value indication resulting would be in the amount of \$60,000,000.

Our final estimate of value for the subject property in the before condition emphasizes the price per gross acre unit of comparison. We have also considered the various component parts and their contributory value to the larger parcel as combined. Our final value estimate of the subject property at \$20,000/gross acre for mining lands; \$1,000/acre for lands encumbered by a conservation easement; and \$2,000/acre for environmentally sensitive wetlands and additional areas is \$60,662,960.

FINAL VALUE ESTIMATE "BEFORE" – MAY 6, 2013

SIXTY MILLION, SIX HUNDRED AND SIXTY-TWO THOUSAND, NINE HUNDRED AND SIXTY (\$60,662,960) DOLLARS

as of May 6, 2013.

FINAL VALUE RECONCILIATION – AFTER VALUE

The after value of the subject property recognizes that there would be no potential to mine any component of the property or to use it for the extraction of construction materials. The highest and best use of the property reflects the lesser utility related predominantly to agricultural production, with supporting areas providing utility for water storage or recreational uses for areas identified as environmentally sensitive, wetlands or waste areas. Our value estimate for lands anticipated to continue their use for citrus production is based upon \$9,000/acre. This figure is applied to 463.55± net tree acres.

Additional crop land and supporting areas consisting of $2,170\pm$ acres have been valued recognizing the fact that they are highly improved for this agricultural use and are well-positioned to continue to be used in this fashion. The value for these lands is estimated at \$6,000/acre. Additional wetlands and waste area, consisting of approximately 1,985± acres, have been valued at \$2,000/acre. This results in a total indication of value in the after condition of \$21,168,558.

FINAL VALUE ESTIMATE "BEFORE" – MAY 6, 2013

TWENTY-ONE MILLION, ONE HUNDRED SIXTY-EIGHT THOUSAND, FIVE HUNDRED FIFTY-EIGHT (\$21,168,558) DOLLARS

as of May 6, 2013.

SUMMARY OF FINAL VALUE

Before Value Estimate: After Value Estimate: \$60,662,960 \$21,168,558

TOTAL IMPACT TO MARKET VALUE CAUSED BY LEE COUNTY'S ACTIONS:

\$39,494,402 ROUNDED: \$39,000,000

EXPOSURE TIME

Exposure time is defined as: "the estimated length of time the property interest being appraised would have been offered on the market prior to the hypothetical consummation of a sale at market value on the effective date of the appraisal", as excerpted from Uniform Standards of Professional Appraisal Practice, 2014-2015, Page U-2.

Market value estimates imply an adequate marketing effort and a reasonable time for exposure occurred prior to the effective date of the appraisal. I estimate that an appropriate exposure time associated with the final value estimate would be approximately one year or longer.

EXHIBIT "C"

BEFORE AND AFTER MARKET VALUE ESTIMATE OF IMPACT CAUSED BY LEE COUNTY ACTIONS

	BEFORE VALUE ES	STIMATE		
	4,652.16			
NET GROVE ACRES IN MEPD MINING LAND	463.55	ACRES @ PER AC OF	\$20,000	\$9,270,904
MEPD MINING OPERATIONS LESS GROVE	2,472.54	ACRES @ PER AC OF	\$20,000	\$49,450,896
TOTAL CONSERVATION EASEMENT AREA	1,490.98	ACRES @ PER AC OF	\$1,000	\$1,490,980
WETLANDS OUTSIDE CONSERVATION EASEMENT	192.34	ACRES @ PER AC OF	\$2,000	\$384,680
COE DITCHES AND SUPPORTING LANDS	32.75	ACRES @ PER AC OF	\$2,000	\$65,500
TOTAL	4,652.16		\$13,040	\$60,662,960
	AFTER VALUE ES	TIMATE		
TOTAL MEPD LANDS WITH ZONING DENIED	4,652.16			
NET GROVE ACRES IN MEPD AREA REMAINING	463.55	ACRES @ PER AC OF	\$9,000	\$4,171,907
ADDITIONAL NON PRODUCTIVE GROVE AREA	32.09	ACRES @ PER AC OF	\$0	\$0
TOTAL CROP AND SUPPORTING ACRES	2,170.90	ACRES @ PER AC OF	\$6,000	\$13,025,400
WETLANDS AND WASTE AREAS	1,985.63	ACRES @ PER AC OF	\$2,000	\$3,971,251
	4,652.16			\$21,168,558
SUMMARY OF	VALUE ESTIMATES AND INDICA	TION OF IMPACT TO MARKET	/ALUE	
VALUE ESTIMATE BEFORE		\$60,662,960		
VALUE ESTIMATE AFTER	-	\$21,168,558		
INDICATED IMPACT TO MARKET VALUE CAUSED BY LEE COUNTY A	CTIONS	\$39,494,402		

~ 35 ~

CERTIFICATION

I certify that, to the best of my knowledge and belief:

the statements of fact contained in this report are true and correct.

the reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions, and are my personal, impartial and unbiased professional analyses, opinions, and conclusions.

I have no present or prospective interest in the property that is the subject of this report, and no personal interest with respect to the parties involved.

I have performed no services, as an appraiser or in any other capacity, regarding the property that is the subject of this report within the three-year period immediately preceding acceptance of this assignment.

I have no bias with respect to the property that is the subject of this report or to the parties involved with this assignment.

my engagement in this assignment was not contingent upon developing or reporting pre-determined results.

my compensation for completing this assignment is not contingent on the development or reporting of a pre-determined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.

I have made a personal inspection of the property that is the subject of this report.

John D. Osgood, STATE-CERTIFIED GENERAL REAL ESTATE APPRAISER RZ 1289, provided significant real property appraisal assistance to the person signing this certification.

my analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the *Uniform Standards of Professional Appraisal Practice*.

as of the date of this report, I have completed the continuing education requirements of the Department of Business and Professional Regulation, Division of Real Estate, of the State of Florida.

and fearely

E. LARRY SEWELL State-Certified General Real Estate Appraiser RZ 501



"BEFORE" COMPARABLE SALES DATE OF VALUE: MAY 6, 2013

MINING LANDS

EXHIBIT "C"



COMPARABLE LAND SALE I-953 (LEE)

IDENTIFICATION: A lengthy legal description of a parcel of land located in Sections 22 and 23, Twp. 46S, Rge. 27E, Lee County, FL

PARCEL ID#: 22-46-27-00-00001.2000, et al

LOCATION: The site is located along the northerly right-of-way of Corkscrew Road, lying approximately 6± miles easterly of Alico Road Extension.

DATE OF SALE: September 15, 2007

SALES PRICE: \$51,000,000

SIZE/DIMENSIONS: 621.3± Gross Acres; 287± Minable Acres

PRICE/UNIT: \$82,085/Acre; \$177,700/Minable Acre

GRANTOR: Corkscrew Mining Ventures, Ltd.

GRANTEE: Preferred Unlimited of Corkscrew, LLC

ZONING: "IPD", Industrial Planned Development

LAND USE: "DR/GR", Density Reduction/Groundwater Resource and "Wetlands"

FINANCING: Cash to the seller.

EXHIBIT "C"

RECORDED: 2007000297432

2008000226266



COMPARABLE LAND SALE A-866(LEE)

IDENTIFICATION:	Lengthy legal description of a parcel of land located in Section 19, Twp. 46S, Rge. 27E and Sections 23 and 24, Twp. 46S, Rge. 26E, Lee County, FL		
PARCEL ID#:	19-46-27-00-00001.0000, et al		
LOCATION:	The site is located along the northerly right-of-way of Corkscrew Road, lying approximately $1.5\pm$ miles easterly of Alico Road Extension.		
DATE OF SALE:	September 14, 2005	RECORDED: 2005000078253	
SALES PRICE:	\$33,200,000.		
SIZE:	1,365± Acres		
PRICE/UNIT:	\$24,322/Acre		
GRANTOR:	Resource Conservation Pr	operties, Inc.	
GRANTEE:	Resource Conservation Holdings, LLC		
ZONING:	"AG-2", Limited Agricultural District; "DR/GR", Density Reduction/Groundwater Resource; and "Wetlands"		
LAND USE:	"DR/GR", Wetlands		
FINANCING:	Cash to the seller.		

EXHIBIT "C"

~ 40 ~



COMPARABLE LAND SALE I-916(LEE)

. .

IDENTIFICATION:	45S, Rge. 27E, Lee County, FL		
PARCEL ID#:	27-45-27-00-00001-0000, et al		
LOCATION:	The site is located along the southerly right-of-way of S.R. 82 at the southerly terminus of Alexander Graham Bell Boulevard.		
DATE OF SALE:	May 14, 2007 <u>RECORDED:</u> 2007000157464, 2007000157465		
SALES PRICE:	\$22,204,800.		
SIZE/DIMENSIONS:	551.25± Acres; 265± Minable Acres		
PRICE/UNIT:	\$40,280/Gross Acre; \$83,791/Minable Acre		
GRANTOR:	Lake Lincoln, LLC		
GRANTEE:	PDJW II, LLC, et al		
ZONING:	"IPD", Industrial Planned Development (503.75± acres) and "AG-2", Agricultural District (47.5± acres)		
LAND USE:	"DR/GR", Density Reduction Groundwater Resource and "Wetlands"		
FINANCING:	Cash to the seller.		



COMPARABLE LAND SALE A-99 (POLK)

IDENTIFICATION:	Lengthy legal description of a parcel of land located in Sections 16, 20, 21, 28, 29, and 30, Twp. 26S, Rge. 26E, Polk County, FL	
PARCEL ID#:	212626-000000-011010, et al	
LOCATION:	The site is located east of Sweet Hill Road, south of Dean Still Road, and located approximately ½ mile northerly of I-4.	
DATE OF SALE:	September 24, 2010 <u>RECORDED:</u> ORB 8226/1368	
SALES PRICE:	\$13,880,000	
SIZE/DIMENSIONS:	692± Gross Acres; 220± Minable Acres	
PRICE/UNIT:	\$20,058/Gross Acre; \$63,091/Minable Acre	
GRANTOR:	Donald W. Frasier	
GRANTEE:	APAC-Southeast, Inc.	
ZONING:	"CORE-Green Swamp Area of Critical State Concern"	
LAND USE:	"CORE-Green Swamp Area of Critical State Concern"	
FINANCING:	Cash to the seller.	



COMPARABLE LAND SALE A-17(LAKE)

IDENTIFICATION: Lengthy legal description of a parcel of land located in Sections 26, 27 and 35, Twp. 23S, Rge. 26E, Lake County, FL

PARCEL ID#: 27-23-26-000400000300, et al

LOCATION: The site is located approximately 1± mile southeasterly of U.S. Highway 27 and Schofield Road. The site has frontage along Schofield Road and Cook Road.

DATE OF SALE: May 16, 2012 RECORDED: ORB 4164/1418, 1420, 1422 and 1424

SALES PRICE: \$11,000,100

SIZE/DIMENSIONS: 1,196.44± Acres; 576.41± Minable Acres

PRICE/UNIT: \$9,195/Gross Acre; \$19,083/Minable Acre; \$0.44/Ton

GRANTOR: Ames Holdings, LLC, et al

GRANTEE: Lake Louisa, LLC

ZONING: "A", Agricultural

LAND USE: "Rural"

FINANCING: Cash to the seller.

"BEFORE" COMPARABLE SALES DATE OF VALUE: MAY 6, 2013

CITRUS LANDS



COMPARABLE LAND SALE A-70 (COLLIER)

IDENTIFICATION:	Lengthy legal description of multiple 47S, Rge. 29E and Sections 1 and 13,	parcels of land located in Section 36, Twp. Twp. 48S, Rge. 29E, Collier County, FL
PARCEL ID#:	00138760102, et al	
LOCATION:	The multiple block citrus groves ar approximately 1.0± mile westerly of	e located just northerly of C.R. 858, lying S.R. 29.
DATE OF SALE:	December 31, 2012	RECORDED: ORB 4872/2412
SALES PRICE:	\$5,297,900	(Corrective Warranty Deed 4918/2398)
SIZE/DIMENSIONS:	844.91± Acres	
PRICE/UNIT:	\$6,270/Acre	
GRANTOR:	The Latt Maxcy Corporation	
GRANTEE:	734 Co-Op Groves, LLC	
ZONING:	"A-MHO-RLSAO"	
LAND USE:	"Agricultural/Rural Mixed-Use Distric	ct"
FINANCING:	Cash to the seller.	



COMPARABLE LAND SALE A-71 (COLLIER)

IDENTIFICATION:	Lengthy legal description of three non-contiguous citrus groves located in Sections 1, 12 and 13, Twp. 48S, Rge. 29E and Section 36, Twp. 47S, Rge. 29E, Collier County, FL	
PARCEL ID#:	00138760102, et al	
LOCATION:	The groves are located along the northerly right-of-way of C.R. 858 (Oil Well Road), lying approximately $1.5\pm$ miles westerly of S.R. 29.	
DATE OF SALE:	December 31, 2012 <u>RECORDED:</u> ORB 4872/2412 (CORRECTIVE WARRANTY DEED 4918/2398): ORB 4872/2420, 2424	
SALES PRICE:	\$6,653,800	
SIZE/DIMENSIONS:	1,058.50± Acres	
PRICE/UNIT:	\$6,286/Acre	
GRANTOR:	The Latt Maxcy Corporation, et al	
GRANTEE:	734 Co-Op Groves, LLC	
ZONING:	"A-MHO-RLSAO"	
LAND USE	"Agricultural/Rural Mixed-Use District"	

FINANCING: Cash to the seller.



COMPARABLE LAND SALE A-77(COLLIER)

IDENTIFICATION: Lengthy legal description of a parcel of land located in Section 12, Twp. 48S, Rge. 29E, Collier County, FL.

PARCEL ID#: 00226800505

LOCATION: The site is located approximately 1± mile northerly of Oil Well Road and approximately 1± mile westerly of S.R. 29.

DATE OF SALE: December 31, 2012 RECORDED: ORB 4872/2424

SALES PRICE: \$953,700

SIZE/DIMENSIONS: 145.33± Acres

PRICE/UNIT: \$6,562/Acre

GRANTOR: Wilson Family Land Holdings, LLC

GRANTEE: 734 Co-Op Groves, LLC

ZONING: "A-MHO-RLSAO"

LAND USE: "Agricultural/Rural Mixed Use District"

FINANCING: Cash to the seller.


COMPARABLE LAND SALE NO. 60 (Citrus-Hendry)

IDENTIFICATION:	Lengthy legal description of a parcel of land located in Section 14, Twp. 45S, Rge. 28E, Hendry County, FL			
PARCEL ID#:	1-28-45-14-A00-0002.0000			
LOCATION:	The site is located along the northerly right-of-way of Church Road, lying approximately $3\pm$ miles westerly of S.R. 29.			
DATE OF SALE:	June 2012 RECORDED: ORB 843/155 and 159			
SALES PRICE:	\$6,000,000; \$4,700,000 (Adjusted for fruit crop value.)			
SIZE:	619.38± Gross Acres; 439± Net Tree Acres			
PRICE/UNIT:	\$7,588/Gross Acre; \$10,709/Net Tree Acre			
GRANTOR:	Youngquist Brothers Block and Pavers, LLC and Y.B. Hendry 311, LLC			
GRANTEE:	Turner Groves Limited Partnerhship			
ZONING:	"PUD", Planned Unit Development			
LAND USE:	"Agriculture"			

FINANCING: Cash to the seller.



COMPARABLE LAND SALE NO. 51 (Citrus-Hendry)

- **IDENTIFICATION:** Lengthy legal description of a parcel of land located in Sections 2, 11, 13, 14, 15, 22, 23 and 24, Twp. 43S, Rge. 30E, and Sections 18 and 19, Twp. 43S, Rge. 31E, Hendry County, FL
- PARCEL ID#: 1-30-43-02-A00.0002.0100, et al

LOCATION: The site is located along the southerly right-of-way of S.R. 80, lying approximately 8± miles easterly of S.R. 29.

DATE OF SALE: July 28, 2011 RECORDED: ORB 837/1

SALES PRICE: \$16,925,000; \$13,925,000 (Adjusted for fruit crop value.)

SIZE/DIMENSIONS: 2,156.19± Gross Acres; 1,506± Net Tree Acres

PRICE/UNIT: \$6,458/Gross Acre; \$9,246/Net Tree Acre

GRANTOR: Premier Agricultural Properties, LLC

GRANTEE: RLF Seminole Holdings, LLC

ZONING: "Agricultural"

LAND USE: "Agricultural"

FINANCING: Cash to the seller.

"BEFORE" COMPARABLE SALES DATE OF VALUE: MAY 6, 2013

ROW CROP LANDS



COMPARABLE LAND SALE S-3512(A) (M)

IDENTIFICATION:	Lengthy legal description of a parcel of land located in Sections 3 and 4, Twp. 33S, Rge. 19E, Manatee County, FL		
PARCEL ID#:	390410059		
LOCATION:	The site is located at the NW corner of U.S. Highway 301 and Buckeye Road.		
DATE OF SALE:	July 25, 2012 <u>RECORDED:</u> ORB 2430/6946		
SALES PRICE:	\$2,852,600		
SIZE:	483.5± Acres		
PRICE/UNIT:	\$5,900/Acre		
GRANTOR:	OB Florida CRE Holdings, LLC		
GRANTEE:	Goodson Family Ltd. Liability Ltd. Partnership		
ZONING:	"A/NCO", General Agriculture/North Central Overlay; "PD-MU", Planned Development-Mixed Use; "PDR", Planned Development Residential		
LAND USE:	"UF-3", Urban Fringe District; "ROR", Retail Office Residential		
FINANCING:	Cash to the seller.		



COMPARABLE LAND SALE A-65(HENDRY)

- **IDENTIFICATION:** A lengthy legal description of a parcel of land located in Section 33, Twp. 45S, Rge. 29E, Hendry County, FL.
- PARCEL ID#: 1-29-45-33-A00-0001.0000 and 1-29-45-33-A00-0002.0000

LOCATION: The site is located along the southerly right-of-way of C.R. 830A, lying ¼ mile easterly of S.R. 29.

DATE OF SALE: May 13, 2013 RECORDED: ORB 862/955

SALES PRICE: \$749,600

SIZE/DIMENSIONS: 114.06± Acre

PRICE/UNIT: \$6,571/Acre

GRANTOR: Everglades Farms, Inc.

GRANTEE: Magnum Seeds, Inc.

ZONING: "A-2", Agriculture

LAND USE: "Agricultural"

FINANCING: Cash to the seller.



COMPARABLE LAND SALE A-45(OKEE)

IDENTIFICATION: Lengthy legal description of a parcel of land located in Section 1, Twp. 36S, Rge. 35E, and Sections 6 and 7, Twp. 36S, Rge. 36E, Okeechobee County, FL.

PARCEL ID#: 1-01-36-35-0A00-00001-0000, 1-06-36-36-0A00-00002.0000

LOCATION: The site is located along the southerly R/W of Dark Hammock Road, lying ¼ mile westerly of Berman Road Extension.

DATE OF SALE: September 20, 2011 RECORDED: ORB 705/1898

SALES PRICE: \$2,700,000

SIZE/DIMENSIONS: 608.81± Acres

PRICE/UNIT: \$4,434/Gross Acre

GRANTOR: Cornerstone Farms, Inc.

GRANTEE: Campbell Farms Florida, LLC

ZONING: "A", Agricultural

LAND USE: "Agricultural"

FINANCING: Cash to the seller and assumption of existing mortgage.



COMPARABLE LAND SALE A-952(LEE)

- **IDENTIFICATION:** Lengthy legal description of a parcel of land located in Sections 29, 30, 31 and 32, Twp. 46S, Rge. 27E, Lee County, FL
- PARCEL ID#: 29-46-27-00-00001.0000, et al

LOCATION: The site is located at the southeast corner of Corkscrew Road and Six L's Farm Road.

DATE OF SALE: June 2, 2010 RECORDED: 2010000140126

SALES PRICE: \$11,500,000

SIZE/DIMENSIONS: 2,092.45± Acres

PRICE/UNIT: \$5,495/Acre

GRANTOR: Schwab Materials, Inc.

GRANTEE: RLF Corkscrew Holdings, LLC

ZONING: "AG-2", Agricultural and "IPD", Industrial

LAND USE: "DRGR", Density Reduction/Groundwater Resource; "Wetlands"

FINANCING: Cash to the seller.

"BEFORE" COMPARABLE SALES DATE OF VALUE: MAY 6, 2013

ENVIRONMENTALLY SENSITIVE/WETLANDS

~ 55 ~



COMPARABLE LAND SALE A-63(HENDRY)

IDENTIFICATION: Lengthy legal description of a parcel of land located in Section 18, Twp. 47S, Rge. 32E, Hendry County, FL

PARCEL ID#: 1-32-47-18-A00-0001.0000

LOCATION: The site lies approximately 2± miles southerly of C.R. 846 and approximately 14± miles easterly of Immokalee.

DATE OF SALE: March 15, 2011 RECORDED: ORB 831/1213

SALES PRICE: \$650,000

SIZE/DIMENSIONS: 646.61± Acres

PRICE/UNIT: \$1,005/Acre

GRANTOR: The Conservation Fund

GRANTEE: Finca Vigia, LLC

ZONING: "A-2", Agricultural

LAND USE: "Agricultural"

FINANCING: Cash to the seller.



COMPARABLE LAND SALE A-62(HENDRY)

IDENTIFICATION:	Lengthy legal description of two parcels of land located in Sections 34 and 35, Twp. 43S, Rge. 29E; Sections 31 and 32, Twp. 43S, Rge. 30E; Sections 2 and 3, Twp. 44S, Rge. 29E and Sections 27 and 34, Twp. 43S, Rge. 29E, Hendry County, FL.			
PARCEL ID#:	1-30-43-32-A00-0001.0000, et al			
LOCATION:	The site is located approximately $1\pm$ mile easterly of S.R. 29 and approximately $3\pm$ miles southerly of S.R. 80. The second parcel lies approximately $4\pm$ miles easterly of S.R. 29 and $5\pm$ miles southerly of S.R. 80.			
DATE OF SALE:	December 12, 2012 RECORDED: ORB 856/538			
SALES PRICE:	\$3,100,000			
SIZE/DIMENSIONS:	3,035± Acres			
PRICE/UNIT:	\$1,021/Acre			
GRANTOR:	Farm Credit of Central Florida, ACA			
GRANTEE:	SPP Land, LLC			
ZONING:	"A-2", Agricultural			
LAND USE:	"Agricultural"			
FINANCING:	Cash to the seller.			



COMPARABLE LAND SALE A-6 (GLADES)

IDENTIFICATION:	Lengthy legal description of a parcel of land located in Section 25, Twp. 42S, Rge. 29E and Sections 28, 29, 30, 32 and 33, Twp. 42S, Rge. 30E, Glades County, FL		
PARCEL ID:	A29-42-30-A00-002B-0000, et al		
LOCATION:	The site is located along the northerly right-of-way of S.R. 80 and along the southern side of the Caloosahatchee River, lying approximately $1.3\pm$ miles easterly of Cowboy Way.		
DATE OF SALE:	May 16, 2012 <u>RECORDED:</u> 201222001021		
SALES PRICE:	\$1,506,400.		
SIZE/DIMENSIONS:	1,257± Acres		
PRICE/UNIT:	\$1,200/Acre		
GRANTOR:	The Nature Conservancy		
GRANTEE:	Lone Ranger, LLC		
ZONING:	"Open Use Agriculture", "Open Use Flood Plain", "Residential Single-Family"		
LAND USE:	"American Prime", "Residential", "Agriculture"		
FINANCING:	Cash to the seller.		



COMPARABLE LAND SALE A-1034(LEE)

IDENTIFICATION:	All of Section 10, Twp. 44S, Rge. 27E, Lee County, FL		
PARCEL ID#:	10-44-27-00-00003.0000, 10-44-27-00-00002.0000, 10-44-27-00-00001.0010, 10-44-27-00-00001.0000		
LOCATION:	The site is located alo approximately 2± miles	ong the westerly right-of-way of Joel Boulevard, lying southerly of S.R. 80.	
DATE OF SALE:	October 9, 2012	RECORDED: 2012000223178	
SALES PRICE:	\$1,600,000		
SIZE/DIMENSIONS:	625± Acres		
PRICE/UNIT:	\$2,560/Acre		
GRANTOR:	Eagle FL VI SPE, LLC		
GRANTEE:	Harmony Estates, LLC		
ZONING:	"MPD", Mixed Use Planned Development		
LAND USE:	"Urban Community", "Wetlands"		
FINANCING:	Cash to the seller.		

RESOLUTION NUMBER Z-13-002

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

WHEREAS, an application was filed by the property owner, FFD Land Co., Fac., to rezone a 4,652.1s acre parcel from Agriculture District (AG-2) to Mine Excavation Planned Development (MEPD) in reference to FFD MEPD; and

WHEREAS, a public learing before the Lee County Zoning Hearing Examiner Dians M. Parker, was advartised and hold on January 18, 2013 and January 17, 2013; and

WHEREAS, the Hearing Examiner gave full consideration to the evidence in the record for Case #DCI2009-00001 and recommended DENIAL of the Request; and

WHEREAS, a second public hearing was advertised and held on: May 6, 2013 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 Examinar, 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

Request is for a resume from AG-2 to MEPO for 4,652,1 acres of land to allow mining addivision (construction meterials mining operation) including administrative offices, rock crusting operations, and plant facilities. The proposed maximum mine depth is 100 feet with an estimated duration of extraction activity of 50 years. Maximum structure height is 35 feet. Blassing is a proposed development activity.

The property is located in the Density Reduction/ Groundwater Resource and Weilande Future Land Use Category and is legally described in attached Exhibit A. The request is DEN:ED.

SECTION B. EXHIBITS

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

Exhibit A: Legal description of the property Exhibit 8: Zoning Map (with the subject percel indicated)

SECTION C. FINDINGS AND CONCLUSIONS;

 The applicant has not proven entitlement to this requested MEPU zoning, as the request is inconsistent with the following provisions of the Las Plan, as well as with provisions of

EXHIBIT "C"

Case No. CC12009-00007

Z-13-00Z Page 1 of 3

05-06-13 Z

Chapter 12 of the Land Development Code:

Pol. 1.4.5	(DOP,ENV)	Pol. 1.5.1	(DOP,ENV)
Pol. 1.7.8	(DOP)	Goal 2	(DOP,ZON)
Obj. 2.1	(DOP,ZON)	Pol. 2.2.2	(DOP,ZON)
Goal 4	(DOP,ZON)	Pol. 4.1.1	(DOP,ZON)
Pol. 4.1.2	(DOP,ZON)	Pol. 5.1.5	(DOP, ZON)
Goal 7	(DOP,ZON)	Obj. 7.1	(DOP,ZON)
Pol. 7.1.1	(DOP,ZON)	Pol. 7.1.2	(DOP,ZON)
Pol. 7.1.3	(DOP,ZON)	Pol. 7.1.8	(DOP,ZON)
Pol. 7.1.9	(DOP,ZON)	Goal 10	(DOP,ENV)
Obj. 10.1	(DOP,ENV)	Pol. 10.1.3	(DOP)
Pol. 10.1.4	(DOP,DOT)	Pol. 10.2.2	(DOP, ENV)
Goal 33	(DOP,ZON)	Obj. 33.1	(DOP)
Pol. 33.1.1	(DOP,ZON)	Obj. 33.2	(DOP, ENV)
Pal. 33.2.1	(DOP,ENV)	Pol. 33.2.2	(DOP, ENV)
Pol. 33.2.3	(DOP, ENV)	Obj. 33,3	(DOP)
Pol. 33.3.1	(DOP,DOT)	Pol. 39.1.4	(DOP, DOT)
Pol. 60.1.2	(ENV)	Pol. 60.5.3	(DOP,ENV)
Goal 61	(DOP,ENV)	Obj. 61.2	(DOP, ENV)
Pol. 61.2.6	(DOP,ENV)	Goal 77	(DOP,ENV)
Obj. 77.3	(DOP,ENV)	Goal 107	(DOP,ENV)
Pol. 107.2.3	(DOP, ENV)	Pol. 107.2.4	(DOP,ENV)
Pol. 107.2.10	(DOP,ENV)	Obj. 107.3	(DOP,ENV)
Obj. 107.4	(DOP, ENV)	Pol. 107.4.2	(DOP, ENV)
Pol.107.4.4	(DOP,ENV)	Obj. 107.10	(DOP,ENV)
Pol. 107.10.2	(DOP,ENV)	Pol. 107.10.3	(DOP,ENV)
Obj. 107.11	(DOP,ENV)	Pol. 107.11.4	(DOP,ENV)
Pol. 117.1.8	(DOP,ENV)	Pol. 135.9.5	(DOP,ZON)
Pol. 135.9.6	(DOP,ZON)	Map 14	(DOP,ZON)
Map 17	(DOP,ZON)	Map 20	(DOP,ZON,ENV)
Chapter XIII (consistency)		

- 2. The MEPD request does not meet the locational standards set out in Map 14 of the Lee Plan, as the subject property is not located within the designated mining areas of that Map.
- 3. The MEPD is not compatible with the existing or planned uses in the surrounding area, and is not consistent with the Intensity of uses forth in the Lee Plan.
- The approval of the MEPD, with its anticipated 2,548 daily two-way truck trips will place an undue burden upon Corkscrew Road, particularly east of Ben Hill Griffin Parkway.
- 5. The MEPD will adversely affect the environmentally critical areas in the vicinity of the subject property, and will adversely affect natural resources in the area, including the habitat and foraging areas, and viability of listed (protected) wildlife and plant species.
- 6. The Division of Natural Resources made no hydrology or hydrogeology based objections to the approval of the MEPD.

Case No. DCI2009-00001

Z-13-002 Page 2 of 3

EXHIBIT "C"

- 7. The proposed industrial (mining) use is not appropriate at the subject location, per the provisions of Lee Plan Chapter 33, and Maps 14, 17 and 20,
- 8. Keeping the existing agricultural uses and zoning would be consistent and compatible with the surrounding residential and conservation uses, and would also provide a legitimate public purpose by protecting those uses, as well as the existing plant and animal habitat and foraging areas.
- 9. Historic groundwater and flowway levels and patterns can be restored, when an agricultural use is removed from the site.
- 10. Limerock mining does irreparable damage to groundwater and flowway patterns and levels, and those patterns and levels can never be restored once a property is mined.
- 11. As this MEPD zoning cannot be approved, none of the Deviations can be approved either.

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

John Manning	Ave
Cecil L Pendergrass	Ave
Larry Kiker	Ave
Tammara Hall	Ave
Frank Mann	Ave

DULY PASSED AND ADOPTED this 6th day of May, 2013.

ATTEST: LINDA DOGGETT, CLERK

Clerk

BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, PLORIDA

BY:

Cecil L Pendergrass, Chair

Approved as to form by:

Michael D. Jacob

Assistant County Attorney County Attorney's Office

(r),	56	E	V	E	m
	MAY	- 8 -	-20	13	U
MIN	ידו זע	= = (DEI		-

Z-13-002 Page 3 of 3

Case No. DCI2009-00001

SECTION 6 SECTION 7 SECTION 18 SECTION 31 T 46 S, R 27 E LIS P.O.B. T 47 S, R 27 E S 0103'27' E S 0101'36' E S 0051'43' E S 0051'57' E 2639.69 2639.48 2709.41 2709.13 l≽ SECTION 24 CORCSCREW ROAD (100' R.O.W.) (O.R. 571, PO. 457) 25 88:37'51" 2697.96 1.3 36 -2-03 35 SEGTION SCALE: 1" = 2500" C11 SECTION 2 LINE TABLE 5 SECTION LI. SECTION C10 SECTION LINE LENGTH HEARING |≥ LT 87.67 N 8929'01" E 88'37'36" 2698.32 12 579.51 S 00'30'46" E 15 317.88 S 45'34'16" E L4. 427.57 S 00'30'45" E MEPD PARCEL LS 318.52 S 4425'45" W 4,652.16 ACRES ± 1.5 25.05 S 00'30'46" E 5 19 17 1455.37 S 45'00'00" E CURVE TABLE L10 LB 1413.90 N 4500'00" E DEL TA 1319'01" RADIUS ARC 432.21 CHORD BEARING GURVE CHORD S 8843'03" 2673.62 19 2346.62 S 00'34'00" E (1025 S 8351'17" E S 00'34'00" E C1 431.24 L10 204.52 SECTION 23 LEE COUNTY L11 L12 L13 C2 4429'14" 1900.00 1475.25 1438.47 S 22'45'23" E 4 S 8575'45" E 731.63 11 C3 7525'03" 545.00 5717.37 1455.00 360.07 666.7D 5 47'33'14" E W S 7145'11" E 680.33 SECTION SECTION S 1656'05' E N S 1422'07' E N S 1970'33' E O S 1970'35' E U S 1970'35' E U C4 C2 1470'45" 359.16 481.79 5 00'42'38' E 1045.00 350.07 1045.00 352.21 955.00 E 482.13 845.00 2 426.58 855.00 9 1000.40 C5 1978'41" 350.55 L14 L15 2009.55 SECTION M N 6977'22" E 11 CE 28'55'32" 477.02 S 0053'47" E 200.00 19'1897 N 8929'14" E C7 28'35'28° 422.06 O.R. 1138.62 67'02'21" C8 C9 944.30 S 3874'01" E RECEIVED CI 7821'56" 395.00 547.15 504.44 S 32'04'13" E CIO 29'45'11" 1455.00 755.56 S 0715'51" E N 00'01'56" W N 00'01'56" 2702.33 2702.33 N 8929'14" E 747.10 W 2125'49" 545,00 5 1091_26 CIT 203.85 S 1125'32" E 202.55 DEC 07 2009 N 00'56'11" W N 00'55'08" W 2637.69 2636.23 T 47 S, R 26 E ≥ T 45 S, R 26 E SECTION 15 INOT A SURVEYS NO9-DOODI 22 01,5683 28 EAST 1/2 SECTION 34 EAST 1/2 FIGRIDA FARM DEVELOPMENT CORPORATION, LTD. SECTION 27 2640. design: SECTION 3 SECTION 20 tille ENERCY AND DESCRIPTION OF MEPD PARCEL PART OF TOWNSHIP 46 SOUTH, EAMER 26 EAST AND PART OF TOWNSHIP 47 SOUTH, EAMER 24 EAST, LER COUNTY, ELGEMA drawn: N 00'38'09" W 5293.88 N 0028'36" E IAN checked: JUN acod d: 10131-SD 60 SECTION CENERAL NOTES: DUENSIONS ARE IN FEET AND DECLAALS THEREOF. SECTION 34 CURVE DUENSIONS ARE AS FOLLOWS: CA = DETA ANCER, R = RADUS, A = ARC DISTANCE, CH = CHORD DISTANCE AND CHB = CHORD BEARING 3. P.O.B. = PONT OF BEGNNING. 4. BEARINGS ARE BASED ON THE FLORIDA STATE PLANE, WEST ZONE BJ/99 ADJUSTMENT WITH THE EAST LINE OF THE NORTHEAST OLARIER OF SECTION, TOWNSHIP 47 SOUTH, RANGE 28 EAST, LEE COUNTY, FLORIDA, BEING SOUTH OTD3'27" EAST. WEST 1/2 SECTION 3 ble pg: EXHIBIT AGNOLI AUG. 22, 2005 PLOTI scale: 1" = 2500' roject * BARBER & APPROVED 07-0080 BRUNDAGE,= cogo heel it LEGAL roal enginests, plan arty: Sadia 200, 7400 Ta pr 5000 Chevant Sand, Da s, plauners, & hand sur-tone pushes from Meric No. Band, Della 10% Jacks Sprin 1 of 3 4 had surveyors Para la 65g 1-4-10 na it 10131 ...

1

.

.

4

t

22.02

1. 1. 1. 1.

~ 63 ~

WEED I FOAL DESCRIPTION

ALL OF SECTION 35 AND A PORTION OF SECTIONS 26 AND 38 TOGETHER WITH THE EAST ONE-HALF OF SECTION 34, TOWNSHIP 46 SOUTH, RANGE 26 EAST, LEE COUNTY, FLORDA AND ALL OF SECTIONS 1, 22 II, 12 AND THE EAST DIME-HALF OF SECTION 35, TOWNSHIP 47 SOUTH, RANGE 28 EAST, LEE COUNTY, FLORDA LESS THE WIGHT OF WAY FOR CORRESENT ROAD BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS;

BEGINAKIG AT THE SOUTHEAST CORNER OF SAID SECTION 38:

THENCE SOTUTIZELALONG THE EAST LINE OF THE NORTHEAST QUARTER OF SAU SECTION 1 A DISTANCE OF Z639.69 FET TO THE EAST DUARTER CORNER THENCE CONTINUE SOTUTIZE ALONG THE EAST LINE OF THE SOUTHEAST QUARTER OF SAU SECTION 1 A DISTANCE OF Z839.48 FEET TO THE SOUTHEAST CORNER OF SECTION 1 AND THE NORTHEAST CORNER OF THE AFORENTIONED SECTION 12 THENCE SOUST 43"E. ALONG THE EAST UNE OF THE NORTHEAST QUARTER OF SAID INDEXE SUDJIASE ALONG THE EAST OWNERS TO WHILE STOWNER OF SAD SECTION 12 A DISTANCE OF 2703-11 FEET TO THE EAST OWNER CONNERS THENCE CONTINUE SUDJISTEE ALONG THE EAST TWIENEST COUNTERS OF SAD SAD SECTION 12 A DISTANCE OF 2700-13 FEET TO THE SOUTHEAST COUNTER OF SAD SECTION 12

THENCE, S.BB'37'51"W. ALONG THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 12 A DISTANCE OF 2.887.96 FEET TO THE SOUTH QUARTER CORNER; SUCHION 12 A DISTANCE OF CONCENTION IN CONTINUES CONTROL CONTROL IN A DISTANCE OF LOUNDAY IN THE SOUTHWEST CORNER OF SAID SECTION AND THE SOUTHWEST CORNER OF SAID SECTION AND THE SOUTHWEST CORNER OF SAID SECTION AND THE THENCE S. 8843'03'W. ALONG THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 11 A DISTANCE OF 2,675.82 FEET TO THE SOUTH QUARTER CORNER: THENCE CONTINUE 5.8841'40"W. ALONG THE SAID SOUTH UNE OF THE SOUTHWEST OURTIER A DISTANCE OF 2.681.61 FEET TO THE SOUTHWEST CORNER OF SAID SECTION

THENCE N.00101'35"W. ALONG THE WEST LINE OF THE SOUTHNEST QUARTER OF SAID SECTION 11 A DISTANCE OF 2,702.33 FEET TO THE WEST QUARTER CORNER. THENCE CONTINUE N.0001'56"W ALONG SAID WEST LINE A DISTANCE OF 2,702.35 FEET TO THE NORTHWEST CORNER OF SAID SECTION 11 AND THE SOUTHEAST CORNER OF THE AFOREMENTIONED SECTION 3;

THENCE S.8835'10'W. ALONG THE SOUTH LINE OF SOUTHEAST QUARTER OF SAID SECTION 3 A DISTANCE OF 2,693.91 FEET TO THE SOUTH QUARTER CORNER OF SAID SECTION-

THENCE M.DO'28'36'E. A DISTANCE OF 5,444,35 FEET TO THE NORTH QUARTER CORNER OF SAID SECTION J AND THE SOUTH OUARTER CORNER OF THE AFOREMENTIONED SECTION 34:

THENCE N.DO'38'D9'N, A DISTANCE OF 5,293.88 FEET TO THE NORTH QUARTER CORNER ON SAID SECTION 34:

THENCE NEWY712" ALONG THE NORTH LUNE OF THE NORTHEAST CONVERT OF SAID SECTION 34 A DISTANCE OF 2640.06 FET TO THE SOUTHEAST CONVER OF SAID SECTION AND THE SOUTHWEST CONVER OF THE ADDREAMEND SECTION 26: THENCE N.0035'06 W. ALONG THE WEST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 26 A DISTANCE OF 2,636.23 FEET TO THE WEST QUARTER CORNER; THENCE N.00'58'11'N. ALONG THE WEST LINE OF THE NORTHWEST QUARTER OF SAID SECTION 26 A DISTANCE OF 2,637.69 FEET TO THE NORTHWEST CORNER OF SAID SECTION

THENCE N.89729'14'E. ALONG THE NORTH LINE OF THE NORTHWEST GUARTER OF SAID SECTION 26 A DISTANCE OF 1,031.28 FEET TO A POINT OF CUSP ON THE SOUTH RIGHT OF WAY LINE OF CORRESPOND HOAD (100' NUE) AS RECORDED IN OFTOAL RECORDS BOOK 571, PAGE 437, PUBLIC RECORDS OF LEE COUNTY, FLORIDA: THENCE CONTINUE ALONG SAID RIGHT OF WAY FOR 43221 TEET ALONG THE ARC OF A NON TANGENT CRICICAE CURVE TO THE LEFT, THROUGH A CONTAL ANGEL OF 13THO'D', HAVING A RADUS OF 1,859,57 FEET, AND BEING SUBTENDED BY A CHORD WHICH BEARS S.83'51'17'E FOR 431.24 FEET; THENCE N. 89-28'14"E ALONG SAID RICHT OF WAY A DISTANCE OF 1,138,62 FEET; THENCE CONTINUE N.8929'01'E. ALONG SAID RIGHT OF WAY A DISTANCE OF 87.67 FEET;

> 0 0

0

0

1

5

0

N

DCI

THENCE LEAVING SAID RIGHT OF WAY S. 00'30'46"E. A DISTANCE OF 579.31 FEET; THENCE S.45'34'15"E. A DISTANCE OF 317.88 FEET; THENCE S.00'30'46"E. A DISTANCE OF 427.57 FEET; THENCE S.442545W. A DISTANCE OF JIB.52 FEET: THENCE S. GO'GO'46'E A DISTANCE OF 25.05 FEET; THENCE 1,475.25 FEET ALONG THE ARC OF A CIRCULAR CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 4429'14", HAVING A RADIUS OF 1,900.00 FEET, AND BEING SUBTENDED BY A CHORD WHICH BEARS S.2245'25'E. FOR 1,438.47 FEET; THENCE S.4500'00"E A DISTANCE OF 1,455.37 FEET; THENCE 5.450000 E. A DISTANCE OF 1,455.37 FELT: THENCE N.4500000"E. A DISTANCE OF 1,413.90 FEET TO THE EAST LINE OF SAUD SECTION 26. THENCE S.00'34'00"E ALONG THE SAID EAST LINE A DISTANCE OF 2.346.62 FEET TO 20 THE SOUTHEAST CORNER OF SAID SECTOIN 26; THENCE S.00'34'00'E. A DISTANCE OF 204.52 FEET; LU THENCE SLOTSHOO'E A DISTANCE OF 204.52 FEET; UI THENCE SLOTSHOO'E A DISTANCE OF 731.63 FEET; UI THENCE 717.37 FEET ALONG THE ARC OF A CACULUR CURVE TO THE RIGHT, THRAUGH A CENTRUL ANGLE OF 7325007, NAINIG A RADINS OF 545100 FEET, AND BEING SUBTENDED-BY A CHORD WHICH BEAKS SLOTSHOO'E FOR GOS.70 FEET; HISNOE 360.07 FEET ALONG THE ARC OF A REVERES CARCULAR CURVE TO THE LEFT. THROUGH A CENTRAL ANGLE OF 147045, NAINIG A RADINS OF 1.45500 FEET, AND BEING SUBTENDED BY A CHORD WHICH BEAKS SLOTSGO'SE, FOR 359.16 FEET;

CS1 APPROVEE NOT A SUPERIOR OF HERE PLOTED dealgn drown: SERICE AND DESCRIPTION OF MERS PARCEL, PART OF TOWNSHIP 46 SOUTH, RANGE 26 BAST AND checked PART OF TOWNSHIP 47 SOUTH, BANCE 23 BAST. LEE COUNTY, FLORDA LIH od & 10131-51 Dik: pg: ACNOLI BARBER & AUG. 22, 2008 PLOTI project # RTS 07-0080 sheet # C000 5 BRUNDAGE fentional engineera, pletterrer, it inni-engineera pletterrer, it inni-er Generrer Band, Della Hitt Banda 2 of 3 Part Part 10131

5 4

144.30 FEET; THE RIGHT, THROUGH ET, AND BEING	8	1000
ULIAVE TO THE LEFT, (455.00 FEET, AND (47.10 FEET, AND 555.00 FEET, RIGHT, 555.00 FEET, AND 102.80 FEET; ON THE EAST LINE OF DISTANCE OF 200.00	RECEIVE	BEC 07 200
DRE OR LESS.		G
ANE. WEST ZONE RTER OF SECTION 1.	NOT A SURVEY	
10 3.010327 E	TOT FLORIDA FARM DEVELOPMENT CORPORAT	TION, LTD.
	ALLO FEET, THE RIGHT, THROUGH T, AND BEING FEET; DURVE TO THE LEFT, 45.00 FEET; DURVE TO THE RIGHT, 45.00 FEET; ON THE EAST LHE OF NISTANCE OF 200.00 RE OR LESS. NE, WEST 20NE RTER OF SECTION 1, NG S.0103227E	Att 30 FEET; THE RIGHT, THROUGH T, AND BEING FEET; DURK TO THE LEFT, Asson FEET; DURK TO THE RIGHT, UU VING TO THE RIGHT, UU DOL REFT; UU OM THE EAST LHE OF UU NISTANCE OF 200.00 INFERSE NNE, WEST 20NE NOT A SURVEY NNE, WEST 20NE NOT A SURVEY NNE, WEST 20NE INFERSE NUE, WEST 20NE INFE



CONTINGENT AND LIMITING CONDITIONS

- The appraiser(s) whose signature appears on the letter of transmittal assumes no responsibility for matters legal in character and no opinion as to the title is rendered. All existing liens and encumbrances, if any, have been disregarded and the property is appraised as though free and clear, under responsible ownership and competent management, unless otherwise specifically stated.
- 2. Any sketches or renderings contained within this report are approximate only and are included, along with photographs, for the purpose of assisting the reader in visualizing the property or problem at hand.
- All statements and cost estimates are derived from sources believed to be reliable, but are in no sense guaranteed.
- 4. No survey or topographical study of the property has been made by the appraiser(s) and the appraiser(s) assumes no responsibility in connection with such matters. Size of the property which is the subject of the appraisal is derived from sources believed to be accurate, however, the reader or client is cautioned to rely only upon a qualified land surveyor or engineer for exact figures.
- 5. The appraiser(s) is not required to give testimony or attendance in court by reason of this appraisal unless prior arrangements have been made. Fees for the subsequent presentation, support, or testimony of value estimates or matters contained within this analysis are in addition to those charged for the initial preparation of the original value estimate.
- Possession of any copy or part of this report does not carry with it the right of publication, nor may it be used for any purpose by anyone but the client, without the previous written consent of the client or appraiser(s).
- 7. Neither all nor any part of the contents of this report shall be conveyed to the public through advertising, public relations, newspapers, or other media, without the written consent and approval of the author, particularly as to valuation conclusion, the identity of the appraiser(s) or firm with which he/she or they are connected, or any reference to the Appraisal Institute.
- 8. The appraiser(s) assumes there are no hidden conditions of the property which would render it more or less valuable than an otherwise apparently comparable property. The appraiser(s) assumes no responsibility for such conditions or for any engineering which might be required to discover them.
- 9. Unless otherwise stated in this report, the existence of hazardous substances, including without limitation, asbestos, polychlorinated biphenyls, petroleum leakage or agricultural chemicals, which may or may not be present on the property, or other environmental conditions were not called to the attention of the appraiser, nor did the appraiser become aware of such during the appraiser's inspection. The appraiser has no knowledge of the existence of such materials on or in the property, unless otherwise stated. The appraiser, however, is not qualified to test such substances or conditions. If the presence of such substances such as asbestos, urea formaldehyde foam insulation, or other hazardous substances or environmental conditions may affect the value of the property, the value estimated is predicated on the assumption that there is no such condition on or in the property or in such proximity thereto that it would cause a loss in value. No responsibility is assumed for any such conditions, or for any expertise or engineering knowledge required to discover them.

CURRICULUM VITAE

E. LARRY SEWELL

The appraiser is a partner and principal in the real estate appraisal firm, SEWELL VALENTICH & ASSOCIATES, which is a partnership of professional associations formally organized for the purpose of providing real estate and related evaluation services to the general public. The focus of the appraisal practice has in recent years emphasized the evaluation of properties which are the subject of eminent domain, as well as other litigation. Historically, multiple property types and appraisal assignments have been completed involving a wide and diverse variety of appraisal problems. Examples of appraisals performed include evaluations for the following: eminent domain; inverse condemnation; Bert Harris claims; tax appeal; court ordered partitioning; insurance cost analysis; evaluation of partial interests, such as easements; reservations; lease evaluations; temporary construction easements; conservation easements, encroachments, residual interests; temporary regulatory takings, and the evaluation of special purpose or unique properties such as linear corridors, reservoirs, and the contributory value of identified components of real property.

Appraisal and consulting assignments frequently require the development of analytical studies to determine the impact caused by unique conditions such as inharmonious land uses, governmental actions or restrictions. Examples of damage analyses and studies conducted include: evaluation of impact caused by proximate roadways; over-flight of aircraft; electrical transmission facilities; high pressure gas lines; encroachments; construction defects; flowage easements; public schools; and a number of other value-influencing factors.

Approved by both State and Federal courts, the appraiser has been accepted as an expert witness when testimony is required to value a wide variety of real property interests. The appraiser has also served as a court-appointed commissioner in partition suites and has participated in numerous mediations, arbitrations and negotiations.

The appraiser routinely attends professional appraisal classes and seminars to maintain a level of competency and has currently completed all continuing education courses necessary to maintain licensing as a State-Certified General Appraiser and as required by the Florida Department of Business and Professional Regulation. The appraiser has achieved the "Continuing Education Completed" status for the Appraisal Institute from 01/01/13 to 12/31/17.

Recent educational courses successfully completed:

- 2009 Appraisal Institute: "Spotlight on USPAP: Common Errors and Issues", Tampa, FL
- 2009 Appraisal Institute: "Valuation of Conservation Easements", Tigard, OR
- 2010 Appraisal Institute: "The Appraiser as an Expert Witness: Preparation and Testimony", Tampa, FL.
- 2010 Appraisal Institute: "7-Hour National USPAP Update Course", Lakewood Ranch, FL.
- 2010 Appraisal Institute: "Florida Law Update for Appraisers", Lakewood Ranch, FL.
- 2010 Appraisal Institute: "Florida Supervisor/Trainee Roles & Rules", Lakewood Ranch, FL.
- 2011 Appraisal Institute: "The Discounted Cash Flow Model: Concepts, Issues and Apps.", Tampa, FL
- 2011 Appraisal Institute: "Analyzing the Effects of Environmental Contamination on Real Property", Lakewood Ranch, FL.
- 2011 Appraisal Institute: "Business Practice and Ethics", Tampa, FL
- 2011 Appraisal Institute: "Loss Prevention for Real Estate Appraisers", St. Petersburg, FL
- 2012 Appraisal Institute: "Trial Components: Recipe for Success or Failure", Lithia, FL
- 2012 Appraisal Institute: "7-Hour National USPAP Update Course", Lakewood Ranch, FL.
- 2012 Appraisal Institute: "Florida Law Update for Real Estate Appraisers", Lakewood Ranch, FL.

Professional Affiliations and Licensing

State-Certified General Real Estate Appraiser No. RZ 501 Florida Real Estate Broker #0079444 Building Contractor's License, #RR0043100, (Class "C", Reg. Residential) Member of American Institute of Real Estate Appraisers/Appraisal Institute (RM - MAI) from 1974-2012 Certified Conservation Easement Appraiser by The Appraisal Institute



11/13/2020

AGREEMENT PURSUANT TO STIPULATION OF SETTLEMENT UNDER SECTION 70.001, FLORIDA STATUTES

THIS AGREEMENT PURSUANT TO STIPULATION OF SETTLEMENT UNDER SECTION 70.001, FLORIDA STATUTES (hereinafter, "Agreement") is entered into this _____ day of ______ 20___, by and between:

LEE COUNTY, a political subdivision and charter county of the State of Florida (hereinafter "County"), having its principal office at 2115 Second Street, Fort Myers, FL 33901; and

FFD LAND CO., INC., a Florida corporation (hereinafter, "FFD" or "Developer"), whose address for purposes of this Agreement is 315 New Market Road East, Immokalee, FL 34142.

WHEREAS, FFD owns approximately 5,208.6 +/- acres of land located in Lee County, said property being legally described in Exhibit "A" attached hereto (hereinafter, "the Property"); and

WHEREAS, in January 2009, FFD filed an application with the County for a rezoning to the Mine Excavation Planned Development (MEPD) district in order to mine a portion of the Property for limerock extraction purposes; and

WHEREAS, the County denied the MEPD rezoning request on May 6, 2013; and

WHEREAS, FFD filed a claim with the County and a Complaint in Circuit Court against the County (Case No. 17-CA-001517, 20th Judicial Circuit) under the Bert J. Harris Private Property Rights Protection Act ("the Act"), Section 70.001, Fla. Stat., alleging that the denial of the MEPD rezoning and other regulatory restrictions adopted by the County have placed an inordinate burden on the use of the Property, entitling FFD to compensation under the Act; and

WHEREAS, the Act allows the parties to a dispute under the Act to enter into agreements in order to settle claims filed thereunder, and expressly provides that such agreements may modify or contravene applicable ordinances, rules, regulations, and statutes, subject to the requirements of Section 70.001(4)(d), Florida Statutes; and

WHEREAS, Lee County has adopted Land Development Code (LDC) Section 2-450 to implement Section 70.001(4)(d), Florida Statutes, and expressly allows the Board of County Commissioners to waive any or all procedural requirements contained in otherwise applicable codes and ordinances, and to directly exercise all authority otherwise delegated to the Lee County Hearing Examiner, the County Manager, or any other division or agency of the County; and

WHEREAS, the County and FFD engaged in mediation in an effort to resolve

FFD's claim under the Act, and the parties have met subsequent to the mediation in order to identify alternative uses for the Property that are satisfactory to FFD which, if approved by the County, would resolve FFD's claim under the Act; and

WHEREAS, the County and FFD have identified and agreed upon such alternate uses for the Property, and the parties desire to enter into this Agreement in order to implement their understanding; and

WHEREAS, FFD, in consideration of the covenants and conditions contained herein, has also agreed to convey to the County FFD's rights and interests in excavation and mining on the Property to preclude any future mining permit requests on the Property; and

WHEREAS, the County and FFD have entered into that certain Stipulation of Settlement dated October 15, 2020, agreeing to resolve all claims associated with FFD's Complaint under the Act; and

WHEREAS, this Agreement was reviewed in a public hearing before the Lee County Hearing Examiner on ______, 2020, and in two public hearings before the Board of County Commissioners of Lee County on _____, 2021, and _____, 2021, at which time public comment was taken and duly considered; and

WHEREAS, the Stipulation of Settlement will be reviewed by the Circuit Court pursuant to Section 70.001(4)(d)2., Florida Statutes, at which time a hearing will be held before the Circuit Court for the presentation of public comment on the Stipulation of Settlement and this Agreement;

NOW, THEREFORE, in consideration of the covenants and conditions contained herein and of the benefits to accrue to each Party, the County and FFD agree as follows:

1. <u>Recitals</u>. The foregoing recitations are true and correct and are incorporated herein by reference. All exhibits to this Agreement are deemed a part hereof.

2. <u>Property Subject to this Agreement</u>. The Property described on the attached Exhibit "A" is subject to this Agreement. The terms "Property" and "Project" are used interchangeably in this Agreement.

3. <u>Ownership</u>. FFD represents that it is the fee owner of the Property and as such may lawfully enter into this Agreement.

4. <u>Proposed Development of the Property</u>. The County agrees that FFD will have the right to develop the Property as set forth in this Agreement. The Proposed Development of the Property will comply with the following:

A. Development will be consistent with the Master Concept Plan ("MCP") attached as Exhibit "B," and will comply with the Schedule of Uses attached as Exhibit "C," the Conditions shown on attached Exhibit "D," and the Property Development

2

Regulations shown on attached Exhibit "E."

B. Upon the Effective Date of this Agreement, the Property will be designated and treated as a Mixed-use Planned Development ("MPD") under the LDC. Upon compliance with the terms of this Agreement and the requirements of the LDC, local development orders and other development permits for development of the Property will be issued by the County as provided under the LDC and other applicable regulations.

5. <u>Consistency with Lee County Comprehensive Plan</u>. The parties acknowledge that certain aspects of the development approved pursuant to this Agreement would require a plan amendment to the County's Comprehensive Plan ("Plan") adopted pursuant to Chapter 163, Florida Statutes. Accordingly, approval of the development without a plan amendment will contravene the application of Sections 163.3184 and 163.3194(1)(a), Florida Statutes (the "Contravened Statutes"). Pursuant to Section 70.001(4)(d)2., Florida Statutes, the parties will file an action in circuit court to ensure that the relief granted by this Agreement protects the public interest served by the Contravened Statutes and is the appropriate relief necessary to prevent the County's regulations from inordinately burdening the Property.

6. <u>Public Facilities</u>. Potable water, sanitary sewer, solid waste service, surface water management and fire/EMS services necessary to serve the Proposed Development are either adequate as existing or will be adequate or mitigated for at the time of development order for the Proposed Development or any portion thereof, subject to the following:

A. Transportation and fire/EMS services will be mitigated by Developer as provided in paragraphs 8.A. and 8.C., respectively, below.

B. Potable water service and sanitary sewer service is presently adequate at the existing plants or will be available for the Proposed Development. The Developer will pay standard hook-up and connection fees charged by the County at the time of local development order for the uses within that development order. Adequate potable water transmission lines for the Proposed Development are available within the Corkscrew Road right-of-way adjacent to the Property. The Developer and LCU will identify any sewer collection system force mains and/or pump station improvements needed to meet the demands of the Proposed Development and existing approved developments. The Developer will be responsible for needed sewer improvements attributable to the Proposed Development. Any upsizing of the force mains and/or pump stations desired by the County to meet future demands will be designed, permitted, and constructed by Developer in accordance with the following:

(i) The Developer will notify the County at least sixty (60) days in advance of commencing engineering design work for the force mains and/or pump station improvements.

(ii) Within thirty (30) days of receipt of Developer's notice, the County may request Developer to upsize the force mains and/or pump station improvements to a capacity identified by the County.

(iii) The County agrees to reimburse Developer for all incremental costs of design, permitting, and construction of the force mains and/or pump station improvements attributable to the requested upsizing, such reimbursement

to be due upon inspection and acceptance of the transmission line improvements by the County.

C. Solid waste service will be provided by a franchised hauler and the County's waste-to-energy incinerator.

D. Subject to the requirements of paragraph 8.B. below, surface water management will be provided in accordance with permits to be issued by the South Florida Water Management District.

7. <u>Development Permits Needed for Proposed Development</u>. FFD must obtain all State and Federal permits necessary to allow development in accordance with this Agreement, subject to paragraph 19 below. FFD must obtain all development orders and development permits from Lee County necessary to allow development in accordance with this Agreement, subject to and in accordance with this Agreement.

8. <u>Development Limitations, Commitments and Obligations.</u> For and in consideration of the benefits received pursuant to this Agreement, FFD agrees to the following limitations, commitments and obligations in order to mitigate the impacts of the Proposed Development:

- A. Transportation Mitigation. Mitigation for the traffic impacts attributable to the Proposed Development will be provided in accordance with the following:
 - i. The Developer will pay road impact fees to the County in effect at the time of building permit for all uses. In the event road impact fees are replaced by another fee, assessment, or charge of general applicability for the mitigation of road impacts from new development, payment of the new fee, assessment, or charge will replace road impact fees for any development for which road impact fees have not been paid.
 - ii. The Developer will pay a proportionate share payment to the County of two thousand (\$2000.00) dollars for each residential dwelling unit. This payment will be made at the time each development order for vertical development or plat for residential lots is issued, and the amount paid will be based upon the number of dwelling units approved by each development order or plat.
 - No additional fees, charges, or assessments for road improvements may be made by the County in connection with the residential, commercial, and amenity portions of the Proposed Development without the consent of the Developer. Public schools, civic uses, and other public facilities may be required to provide additional mitigation to be determined prior to issuance of building permit.
- B. Environmental Enhancements. Environmental enhancements to the

Property will occur in accordance with the Conditions of Development attached as Exhibit "D" and the phasing plan attached hereto as Exhibit "F."

C. The building permit applicant will pay Fire and EMS Impact Fees in accordance with the Fire/EMS Impact Fee Ordinances. The Developer will pay to Lee County EMS a proportionate share payment in the amount of \$100 per dwelling unit, in advance of building permits. Payments will be made as follows: \$173,600.00 at the time of first residential building permit; \$173,600.00 at the time of issuance of a development order for the 1736th dwelling unit; and a final payment to be determined at the time of issuance of a development order for the 3472nd residential unit, such payment to be based upon Developer's good faith estimate of the remaining residential dwelling units to be developed at that time. In the event the actual number of dwelling units exceeds this good faith estimate, the Developer will be required to pay \$100 for each dwelling unit in excess of the estimate at the time of development order for such additional units.

9. <u>Applicable Land Use Regulations</u>. The Proposed Development within the Property shall be subject to the County's land development regulations and policies governing development as of the Effective Date of this Agreement for the duration of this Agreement. Unless otherwise requested and agreed to by FFD, the County may not apply subsequently adopted regulations and policies to the Proposed Development.

10. <u>Duration of Agreement</u>. This Agreement shall remain in full force and effect until buildout of the Proposed Development, unless terminated earlier as provided in Paragraph 11 of this Agreement. For purposes of this Agreement, buildout shall occur upon the earlier of (a) issuance of certificates of occupancy for all development authorized herein, or (b) recording in the Public Records of Lee County of a declaration by FFD that it has completed development under this Agreement and transmittal of same to the County. Notwithstanding anything in the LDC to the contrary, the MCP, Schedule of Uses, Conditions of Development, and Property Development Regulations attached hereto as Exhibits "B," "C," "D," and "E," respectively, will remain valid for the duration of this Agreement.

11. <u>Amendment and Termination</u>. This Agreement will terminate only upon mutual consent of the parties, in writing, executed with the same formalities as this Agreement or upon recording of a Notice of Termination by either Party pursuant to paragraph 21 below. Amendments to the density or intensity of the Proposed Development can only be approved through mutual agreement of the parties. All other changes to Exhibits "B," "C," "D," and "E" may be reviewed and approved administratively through the same processes and criteria identified for planned developments in LDC Chapters 10 and 34. If the proposed amendment does not meet the criteria for administrative approval, the amendment must be approved through the public hearing

process under the same processes and criteria identified for planned developments in LDC Chapters 10 and 34.

12. <u>Relinquishment of Claims by FFD.</u> Upon entry of an Order of Dismissal by the Circuit Court in that certain case styled *FFD Land Co., Inc. v. Lee County, 20th Judicial Circuit Case No. 17-CA-001517*:

A. FFD agrees to relinquish to the County all of FFD's rights and interests in excavation and mining on the Property through a restrictive covenant on the Property that will ensure that future owners and successors have no rights or interests in mining the Property for limerock or other sedimentary minerals. Provided, however, that nothing contained herein shall preclude excavation in connection with the Proposed Development of the Property including, but not necessarily limited to, excavation for water retention, fill, utilities, infrastructure, structures, and other related purposes. The foregoing restrictive covenant will not prohibit exploration or production of oil or natural gas on or under the Property, will not create oil, gas or mineral rights in the County, and shall not be deemed to prohibit the sale and removal of excess fill material created by an approved development of the Property if approved by the County in accordance with LDC Chapter 10. The restrictive covenant shall be recorded in the Public Records of Lee County.

B. FFD agrees to waive, relinquish, and release forever its claim for damages for an "as applied" taking and pursuant to that certain claim letter filed with the County by FFD dated April 8, 2014, pursuant to the Act, for actions arising out of the County's denial of its MEPD zoning request on May 6, 2013; provided, however, that nothing contained herein shall constitute a waiver or relinquishment of any claim for damages or any other relief whatsoever arising against the County from or out of this Agreement, or for any subsequent property rights violation arising after the date of this Agreement that is not directly related to the County's denial of said MEPD zoning request.

13. <u>Credit Against Proportionate Share Payment.</u> For and in consideration of FFD's conveyance to the County of all of FFD's rights and interests in excavation and mining of limerock and other sedimentary minerals on the Property as provided in Paragraph 12 above, FFD will receive a credit from the County in the amount of \$1.5 million that may be used by FFD, or its assigns, towards the proportionate share payments charged by the County under paragraph 8 of this Agreement. FFD may transfer or assign all or part of this credit to a third party only for use in conjunction with development of the Property. No building permits for development utilizing this credit will be issued by FFD identifying the number of dwelling units or square footage of non-residential development authorized by FFD to be built. The form will be in substantially the same format as the form attached hereto as Exhibit "G." The County will not issue building permits for any development that exceeds the amount of development authorized by FFD.

14. <u>Notices</u>. All notices required or permitted under this Agreement shall be in writing and shall be mailed by certified mail, return receipt requested to the following

addresses, or to such other person or address as any Party may designate from time to time in writing:

<u>If to FFD</u> :	FFD land Co., Inc. 315 New Market Road East Immokalee, FL 34142 Attn: Jaime Weisinger, V.P. Real Estate
With a copy to:	Henderson, Franklin, Starnes & Holt, P.A. 1715 Monroe St. Fort Myers, Florida 33901 Attn: Russell P. Schropp
If to the County:	Lee County 2115 Second Street Fort Myers, FL 33901 Attn: County Manager
With a copy to:	Lee County 2115 Second Street Fort Myers, FL 33901 Attn: Lee County Attorney

15. <u>Remedies</u>. Any material breach of this Agreement may be enforced by either Party as against the other by appropriate action in law or equity filed in a court of competent jurisdiction, including but not limited to an action for specific performance; provided, however, no such action may be brought until the defaulting Party has been given notice and ninety (90) days in which to cure the default to the satisfaction of the non-defaulting party. Notwithstanding the foregoing, violations of the Master Concept Plan, Schedule of Uses, Conditions of Development and Deviations, and Property Development Regulations attached hereto as Exhibits A, B, C, and D, respectively, may also be enforced by the County through appropriate code enforcement actions.

16. <u>Governing Law; Venue</u>. This Agreement shall be construed and interpreted according to the laws of the State of Florida, and venue with respect to any litigation between the Parties related to this Agreement shall be exclusively in Lee County, Florida.

17. <u>Severability</u>. If any part, term, or provision of this Agreement is held to be illegal, void, or unenforceable, the remaining portions or provisions of this Agreement shall not be affected or impaired, each remaining provision shall remain in full force and effect, and the rights and obligations of the Parties shall be construed and enforced as if the Agreement did not contain the particular part, term, or provision held to be invalid.

18. <u>Entire Agreement</u>. This Agreement embodies the whole agreement of the Parties. There are no promises, terms, conditions, or obligations other than those contained herein; and this Agreement shall supersede all previous communications,

representations, or agreements, either verbal or written, regarding the Proposed Development of the Property between the Parties.

19. <u>Conflict of Laws</u>. If state or federal laws are enacted subsequent to the execution of this Agreement which are applicable to and preclude either Party's compliance with the terms of this Agreement, this Agreement shall be modified as necessary to comply with the relevant state or federal laws, in a manner that most closely reflects the intent of this Agreement.

20. <u>Covenants Running with the Land; Assignment of Obligations by FFD</u>. The obligations imposed and entitlements created pursuant to this Agreement shall run with and bind the Property as covenants running with the land, and this Agreement shall be binding upon and enforceable by and against the Parties hereto, their personal representatives, heirs, successors, grantees, and assigns. All or any of the obligations of FFD may be assigned to one or more successor developers, property owners associations or to one or more community development districts established under Chapter 190, Fla. Stat., and FFD shall thereafter be relieved of all obligations so assigned.

21. <u>Effective Date</u>. This Agreement will become effective (the "Effective Date") upon full execution by both Parties and recording of the Agreement in the Public Records of Lee County pursuant to paragraph 22 below; provided, however, that none of the rights or obligations contained herein will become effective as to either Party until issuance of the Order of Dismissal by the Circuit Court pursuant to paragraph 12 above. In the event an Order of Dismissal is not entered within one (1) year of the Effective Date of this Agreement, then either Party may terminate this Agreement by recording a Notice of Termination in the Public Records of Lee County, whereupon this Agreement will be considered null and void.

22. <u>Recording of Agreement.</u> This Agreement will be recorded by the County at the County's expense in the Public Records of Lee County within fourteen (14) days of approval by the Lee County Board of County Commissioners. In the event this Agreement is terminated as provided herein, the Parties will execute and FFD will record a Notice of Termination in the Public Records of Lee County within twenty (20) days of such termination.

23. <u>Findings Under Section 70.001(4)(d)1.</u>, Florida Statutes. Pursuant to Section 70.001(4)(d)1., Florida Statutes, the County finds that, to the extent that this Agreement has the effect of a modification, variance, or a special exception to the application of a rule, regulation, or ordinance as it would otherwise apply to the Property, the relief granted herein and the obligations and mitigation to be provided by FFD pursuant to this Agreement, adequately protect the public interest served by the rules, regulations or ordinances at issue and is the appropriate relief necessary to prevent the County's regulatory efforts from inordinately burdening the Property.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals the day and year written below.

8

WITNESSES:

Print Name:

Print Name

By:

Name: Title:

STATE OF FLORIDA COUNTY OF _____

Sworn to and subscribed before me by means of [] physical presence or [] online notarization this _____ day of _____, 20___, by ______, as _____ of FFD Land Co., Inc., a Florida corporation, who is [] personally known to me or [] who produced ______ as identification.

Notary Public Signature

My Commission Expires:

Type/Print Notary Public Name

Commission No.:_____

ATTEST: LINDA DOGGETT, CLERK

BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, **FLORIDA**

By:		By:
	Deputy Clerk	, Chair
		Date:
	Print Name	APPROVED AS TO FORM FOR THE RELIANCE OF LEE COUNTY ONLY:

County Attorney's Office

Exhibits:

- Legal Description of the Property Α.
- Master Concept Plan B.
- Schedule of Uses C.
- Conditions of Development and Deviations D.
- Property Development Regulations Phase Plan and Schedule E.
- F.
- Impact Fee Authorization Form G.
- Η.
- Existing AG Uses Form of Conservation Easement ١.



Exhibit A

Legal Description of the Property

LEGAL DESCRIPTION

ALL OF SECTIONS 26, 35 AND 36 AND THE EAST ONE-HALF OF SECTION 34 TOWNSHIP 46 SOUTH RANGE 26 EAST, LEE COUNTY FLORIDA AND ALL OF SECTIONS 1, 2, 11, 12 AND THE EAST ONE-HALF OF SECTION 3 TOWNSHIP 47 SOUTH RANGE 26 EAST LEE COUNTY FLORIDA LESS THE RIGHT OF WAY FOR CORKSCREW ROAD BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS;

BEGINNING AT THE SOUTHEAST CORNER OF SAID SECTION 36;

THENCE NORTH 00°53'47" WEST ALONG THE EAST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 36 A DISTANCE OF 2644.58 FEET TO THE EAST QUARTER CORNER OF SAID SECTION;

THENCE NORTH 00°54'01" WEST ALONG THE EAST LINE OF THE NORTHEAST QUARTER OF SAID SECTION A DISTANCE OF 2644.35 FEET TO THE NORTHEAST CORNER OF SAID SECTION 36;

THENCE SOUTH 89°17'03" WEST ALONG THE NORTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 36 A DISTANCE OF 2641.41 FEET TO THE NORTH QUARTER CORNER OF SAID SECTION;

THENCE SOUTH 89°21'54" WEST ALONG THE NORTH LINE OF THE NORTHWEST QUARTER OF SAID SECTION 36 A DISTANCE OF 2637.56 FEET TO THE NORTHWEST CORNER OF SAID SECTION 36 AND THE SOUTHEAST CORNER OF THE AFOREMENTIONED SECTION 26; THENCE NORTH 00°34'00" WEST ALONG THE EAST LINE OF THE SOUTHEAST QUARTER OF SECTION 26 A DISTANCE OF 2629.17 FEET TO THE EAST QUARTER CORNER OF SAID SECTION; THENCE NORTH 00°34'15" WEST ALONG THE EAST LINE OF THE NORTHEAST QUARTER OF SAID SECTION A DISTANCE OF 2578.45 FEET TO THE SOUTH RIGHT OF WAY LINE OF CORKSCREW ROAD (100' WIDE) AS RECORDED IN OFFICIAL RECORDS BOOK 571 PAGE 457 PUBLIC RECORDS OF LEE COUNTY FLORIDA;

THENCE SOUTH 89°29'01" WEST ALONG SAID RIGHT OF WAY LINE A DISTANCE OF 2657.86 FEET;

THENCE CONTINUING ALONG SAID RIGHT OF WAY LINE SOUTH 89°29'14" WEST A DISTANCE OF 1138.62 FEET TO THE BEGINNING OF A CURVE CONCAVE NORTHERLY AND HAVING A RADIUS OF 1859.57 FEET;

THENCE CONTINUING ALONG SAID RIGHT OF WAY LINE WESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 13°19'01" AN ARC DISTANCE OF 432.21 FEET TO AN INTERSECTION WITH THE NORTHERLY LINE OF THE NORTHWEST QUARTER OF SAID SECTION 26;

THENCE LEAVING SAID RIGHT OF WAY LINE ALONG SAID SECTION LINE SOUTH 89°29'14" WEST A DISTANCE OF 1091.28 FEET TO THE NORTHWEST CORNER OF SAID SECTION 26;

THENCE SOUTH 00°58'11" EAST ALONG THE WEST LINE OF THE NORTHWEST CORNER OF SAID SECTION 26 A DISTANCE OF 2637.69 FEET TO THE WEST QUARTER CORNER OF SAID SECTION; THENCE SOUTH 00°55'06" EAST ALONG THE WEST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION A DISTANCE OF 2636.23 FEET TO THE SOUTHWEST CORNER OF SAID SECTION 26 AND THE NORTHEAST CORNER OF THE AFOREMENTIONED SECTION 34;

THENCE SOUTH 89°17'12" WEST ALONG THE NORTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION A DISTANCE OF 2640.06 FEET TO THE NORTH QUARTER CORNER OF SAID SECTION;

THENCE SOUTH 00°38'09" EAST A DISTANCE OF 5293.88 FEET TO THE SOUTH QUARTER CORNER OF SAID SECTION 34 AND THE NORTH QUARTER CORNER OF THE AFOREMENTIONED SECTION 3;

THENCE SOUTH 00°28'36" WEST A DISTANCE OF 5444.35 FEET TO THE SOUTH QUARTER

CORNER OF SAID SECTION 3;

THENCE NORTH 88°35'10" EAST ALONG THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION A DISTANCE OF 2693.91 FEET TO THE SOUTHEAST CORNER OF SAID SECTION 3 AND THE NORTHWEST CORNER OF THE AFOREMENTIONED SECTION 11;

THENCE SOUTH 00°01'56" EAST ALONG THE WEST LINE OF THE NORTHWEST QUARTER OF SAID SECTION 11 A DISTANCE OF 2702.33 FEET TO THE WEST QUARTER CORNER OF SAID SECTION;

THENCE CONTINUE SOUTH 00°01'56" EAST ALONG THE WEST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION A DISTANCE OF 2702.33 FEET TO THE SOUTHWEST CORNER OF SAID SECTION 11;

THENCE NORTH 88°41'40" EAST ALONG THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION A DISTANCE OF 2681.61 FEET TO THE SOUTH QUARTER CORNER OF SAID SECTION;

THENCE NORTH 88°43'03" EAST ALONG THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION A DISTANCE OF 2675.62 FEET TO THE SOUTHEAST CORNER OF SAID SECTION 11 AND THE SOUTHWEST CORNER OF THE AFOREMENTIONED SECTION 12;

THENCE NORTH 88°37'36" EAST ALONG THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION A DISTANCE OF 2698.32 FEET TO THE SOUTH QUARTER CORNER OF SAID SECTION;

THENCE NORTH 88°37'51" EAST ALONG THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION A DISTANCE OF 2697.96 FEET TO THE SOUTHEAST CORNER OF SAID SECTION 12;

THENCE NORTH 00°51'57" WEST ALONG THE EAST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION A DISTANCE OF 2709.13 FEET TO THE EAST QUARTER CORNER OF SAID SECTION;

THENCE NORTH 00°51'43" WEST ALONG THE EAST LINE OF THE NORTHEAST QUARTER OF SAID SECTION A DISTANCE OF 2709.41 FEET TO THE NORTHEAST CORNER OF SAID SECTION 12 AND THE SOUTHEAST CORNER OF THE AFOREMENTIONED SECTION 1;

THENCE NORTH 01°01'36" WEST ALONG THE EAST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION A DISTANCE OF 2639.48 FEET TO THE EAST QUARTER CORNER OF SAID SECTION;

THENCE NORTH 01°03'27" WEST ALONG THE EAST LINE OF SAID SECTION A DISTANCE OF 2639.69 FEET TO THE NORTHEAST CORNER OF SAID SECTION 1 AND THE SOUTHEAST CORNER OF SAID SECTION 36 AND THE POINT OF BEGINNING OF THE PARCEL HEREIN DESCRIBED;

CONTAINING 5208.61 ACRES OF LAND MORE OR LESS; SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD; ABSTRACT NOT REVIEWED.

AGNOLI, BARBER AND BRUNDAGE, INC. PROFESSIONAL ENGINEERS, PLANNERS & SURVEYORS AND MAPPERS

GEORGE W. HACKNEY P.S.M. 5606

Exhibit B

Master Concept Plan
В



LAND USE SUMMARY

	APPROX ACRES
RCIAL AND AMENITY *	2,192,5
	2,916.8
	99,3
	5,208.6

DEVELOPMENT SUMMARY MAX DEVELOPMENT DENSITY / INTENSITY ACREAGES 15.2 20,5 74,7 750 D.U., MF/SF, 100.000 sg. ft. commercial 14.5 47.1 280 D.U. MF/SF 77.4 460 D.U. MF/SF 72.4 430 D.U. MF/SI 290.4 870 D.U. SF 133.3 400 D.U. SF
 4.7
 Visitor Center/Amenity

 19.9
 Amenity Center, D-50,000 sq. ft. Commercial

 230.6
 575 DJ, 37

 236.8
 600 D,U, SF
 45.8 150 D.U. SF 14.1 Amenity Cente 90 D.U. SF 195 D.U. SF 25.3 77.5 250 D.U. SF 600 D.U. SF 390 D.U. SF, Existing Farmworker Housing 435 D.U. SF 99.5 200.6 156.3 145.7 570 D.U. SF N/A 5,208 D.U. (MAX), 100,000 Sq. Ft. Commercial Floor Area 190.1 99.3 (MAX), 50,000 sq.ft. existing R&D

OTHER CONSERVATION/RESTORATION AREAS

EVELOPMENT PROGRAM			
	5,208 UNITS		
	100,000 SF		
	240,000 SF		
PMENT*	50,000 SF		
3	•		

Revenue Conversioner. Revenue FFD LAND CO., INC. FFD LAND CO., INC. FFD LAND CO., INC. Revenue 315 NEW MARKET RD E. IMMOKALEE. FL 34142 Revenue PROJECT. Revenue FFD CORKSCREW ROAD PROPERTY		Land Lise Planning & Water Policy	DANGUELISHN.COM 239.913.7159
MASTER CONCEPT PLAN	FFD LAND CO., INC.	FFD CORKSCREW ROAD PROPERTY	
MASTER CONCEPT PLAN	REVISIONS:		DATE DESCRIPTION

С

Exhibit C

Schedule of Uses

Residential Parcels (all Parcels except 10, 11, and 15)

Accessory Uses and Structures Administrative Offices Agricultural Uses, in compliance with Condition 12 Club, private **Community Gardens** Clubhouse/Amenity Areas (subject to condition 1.b.): **Consumption on Premises** Day care, child Food and Beverage Service, limited Health Clubs or Spas, as part of the private club Personal Services, Group I and 2 (limited to health clubs or spas) Recreational Facilities, Personal, Private on-site, Private off-site Restaurant, Groups I, II, and III (including outdoor seating and service areas) Real estate sales office Specialty Retail, Groups I and II Parking lot - accessory Dwelling Units (subject to condition 1.b.) Single-Family **Two-Family Attached** Duplex Zero Lot Line Townhouses Multi-familv **Entrance Gate and Gatehouse** Essential Services Essential Service Facilities, Groups I and II Excavation, Water Retention **Excess Spoil Removal** Fences, Walls, Entrance Gates Home Occupation Model Homes, Model Display Center, Model Display Group, Model Units Parking Lot, Accessory **Real Estate Sales Office Recreational Facilities**, Personal & Private **Residential Accessory Uses** Signs, in accordance with LDC Chapter 30 Temporary Uses, in compliance with LDC section 34-3044

Commercial Parcels (Parcels 1, 2, 3, 4, and 11; subject to condition 1.b. and other conditions as noted) Accessory Uses and Structures Administrative Offices Agricultural Uses, in compliance with Condition 12 Animal Clinic or Kennel (no outdoor runs) Bait and Tackle Shop Banks and Financial Institutions, Group I Business Services, Group I **Cleaning and Maintenance Services** Clothing Stores, General **Consumption on Premises** Convenience Food and Beverage Store (no fuel pumps) Davcare, Child and Adult Drive-through facility for any permitted use EMS, Fire or Sheriff's Station (in compliance with wellfield protection regulations) **Essential Services** Essential Services Facilities, Group I Excavation, Water Retention Fences, Walls Food Stores, Group I Gift and Souvenir Shop Healthcare Facilities, Group III Hobby, Toy and Game Shops Household and Office Furnishings, Group I **Medical Office** Package Store Parcel and Express Services Parking Lot: Accessory Personal Services, Groups I, II and III **Pet Services** Pet Shop Pharmacy Place of Worship **Real Estate Sales Office** Recreational Facilities, Commercial, Group IV, excluding Convention or Exhibit Halls and Gun Ranges Rental or Leasing Establishments, Groups I, II and III Restaurant, Groups I, II and III Schools, Commercial and Noncommercial Signs Specialty Retail Shops, all Groups Studios **Temporary Uses** Variety Store

Amenity Parcels (Parcels 10, <u>11</u> and <u>15</u>; subject to <u>condition 1.b.</u>) Accessory Uses and Structures Administrative Offices Agricultural Uses, in compliance with Condition 12 Club, private **Community Gardens Consumption on Premises** Dav Care, child **Essential Services** Essential Service Facilities. Group I Excavation, water retention Fences, Walls Food and Beverage Service, limited Food Stores, Group I Health Clubs or Spas, as part of the private club Personal Services, Group I **Real Estate Sales Office** Recreational Facilities, Personal, Private on-site Rental and Leasing Establishments, Group I Restaurant, Groups I, II, and III (including outdoor seating and service areas) Signs Specialty Retail, Groups I and II Parking lot - accessory

R&D Parcel (portion of Parcel 22; subject to condition 1.b.)*

Business Services, Groups I and II Fences, Walls Parking Lot, accessory Research and Development Laboratories, Groups I & IV Agricultural Uses, in compliance with Condition 12 All uses described above for Residential Parcels

Existing Farmworker Housing Parcel (portion of Parcels 20 and 21)*

Farm labor housing All uses described above for Residential Parcels

*The parcel designated for Existing Farmworker Housing may remain and be maintained for this use until such time as it may be converted to residential use. The parcel designated as Office R&D may be used for agriculturally-related office and research/development uses not to exceed 50,000 sq. ft. of building area until such time as this use is converted to residential use. These parcels may be converted to residential use at any time, in which case allowable uses will be as stated under "Residential Parcels" above, provided, however, the any such conversion to residential use will not cause the maximum number of dwelling units for the project to exceed 5,208.

D

Exhibit D

Conditions of Development

CONDITIONS:

1. <u>Master Concept Plan/ Development Parameters</u> Development must be consistent with the Master Concept Plan (MCP) for FFD Corkscrew Road Property, dated XXX, attached as Exhibit B to the Agreement, except as modified by the conditions below.

a. Development must comply with the Lee County Land Development Code (LDC) in existence as of the effective date of this Agreement. In light of the conceptual nature of the MCP and the expected duration of the development, deviations from the LDC that do not increase the height, density or intensity of the development and otherwise meet the criteria of LDC Section 34-380 may be approved administratively by the Zoning Director without a public hearing.

b. The project is approved for a maximum of 5,208 dwelling units; 100,000 square feet of commercial floor area; 240,000 square feet total building floor area for clubhouse/amenity uses to be located within the Amenity Parcels and Residential Parcels; 50,000 square feet of Research and Development uses (existing); farmworker housing (existing); and public schools, civic uses, and other public facilities (subject to appropriate mitigation pursuant to paragraph 8.A.iii. of the Agreement). The Development Summary table on the MCP provides for the distribution of approved land uses throughout 22 Parcels. The allocation provides flexibility for the amount of development to be constructed on each Parcel but limits the maximum amount of development for the entire project that can be developed at buildout to the parameters identified in this condition. Changes to the number of dwelling units allowed on each Parcel may be approved through an administrative amendment, which may also require review and adjustment of the Conservation Area phasing plan provided in condition 1.c. below. Commercial development must only occur on uplands.

c. The Land Use Summary table on the MCP provides that 2,916.8 acres, or 56% of the project's total land area, will be dedicated to conservation purposes and these areas are identified on the MCP. Restoration and dedication of conservation areas shall occur over time as development orders are issued based upon the Phase Plan attached as Exhibit F to the Agreement and the Table below so that a minimum of 56% of the land area for each development order will be restored and dedicated to conservation concurrent with development:

Phase	Land Area (acres)	Development Area, incl. roads (acres)	Restoration Area (acres)*	Cumulative maximum units
A – Par. 1-7	797.3	350.8	446.5	797 units
B – Par. 8	672.5	295.9	376.6	1,469 units
C – Par. 9-12	951.8	418.8	533.0	2,421 units
D – Par. 13-17	932.9	410.5	522.4	3,354 units
E – Par. 18-20	1,090.9	480.0	610.9	4,445 units
F – Par. 21-22	763.2	335.8	427.4	5,208 units
Total	5,208.6	2,291.8	2,916.8	5,208

*The cumulative amount of Restoration Area provided must equal at least 56 percent of the phase's acreage plus the acreage of previous phases.

Phasing of development and conservation acreage will be subject to the following conditions:

- i. Restoration and dedication of conservation areas shall occur as development orders are issued so as to achieve and maintain a minimum 56% of total land area in conservation.
- ii. The cumulative number of dwelling units permitted by development orders at any given time may not exceed the sum of the acreage for development and conservation included in development orders.
- iii. Parcels are not required to be developed sequentially according to their number on the Development Summary table on the MCP. If a Parcel is tied to a future Conservation Area on the Table above, the developer may obtain a development order for that parcel provided the minimum 56% conservation area is provided. However, the County may require that the conservation area be provided in an unfinished Conservation Area rather than the future Conservation Area to which the Parcel is tied in the Table above.
- iv. A cumulative development update statement and summary must be provided with each development order application with the following information:
 - Existing development order reference numbers, names, and status.
 - Development parameters (by du or square feet) approved by previous development orders, the parameters sought for approval by the current application, and a cumulative total of approved/pending parameters for the project to date.
 - A land use summary table that includes acreage approved by prior development orders and pending approval in the current application for development, conservation, and open space.
- v. Conservation phases must be completed within ten (10) years of commencement of restoration of each phase, regardless of the progress of development tied to each phase.

vi. In lieu of restoration/conservation activities required above, a future non-residential development in Phase A may proceed through the reconnection of the offsite flow-way on the east side of the property adjacent to the golf course. Off-site flow would need to be accommodated within the farm infrastructure and future residential property. Phase A restoration must still be completed by the end of development of Phase A parcels.

2. Uses and Site Development Regulations

a. The Schedule of Uses is set forth in Exhibit C to the Agreement.

b. The Property Development Regulations are set forth in Exhibit E to the Agreement

3. Wildlife Crossings

The location of wildlife crossings for the project shown on the MCP will be approved prior to issuance of the first development order. Animal crossings will be reviewed and permitted in accordance with the approved locations at time of local development order on a phase-by-phase basis. The construction of the animal crossings must be consistent with similarly approved crossings within other residential developments in the area.

4. Protected Species Management and Human-Wildlife Coexistence Plan

The developer must submit an updated Protected Species Management and Human/Wildlife Coexistence Plan for approval by the County prior to or concurrent with the first development order application. The Plan and development order plans must address the following:

- <u>Lighting</u>: Lighting must comply with LDC 34-625. Lighting plans must demonstrate no light spillage into the indigenous preserve and restoration areas. Techniques to limit lighting impacts include shielding and motion sensor devices. The lighting standards must also be included in deed restrictions;
- <u>Trails</u>: The location of proposed passive trails within indigenous preserve and restoration areas must include designated trailheads with signs and educational kiosks posted with information on possible wildlife encounters and appropriate actions when encountering wildlife. Signs and educational kiosks must identify all wildlife documented in the Plan as present or with the potential to utilize the habitat;
- <u>Signs</u>: The placement and content of signs between lakes and residential buildings warning of the presence of alligators and that it is dangerous and

illegal to feed or harass alligators. The developer must also include these warnings in the deed restrictions;

- <u>Wildlife Fencing:</u> (If proposed) must meet recommendations and requirements of the Florida Fish and Wildlife Conservation Commission (FWC) and US Fish and Wildlife Service (FWS); and
- The Plan must be updated to reflect FWC and FWS requirements if permits are issued after approval of the first development order.
- Vegetation Removal permit applications must include a map depicting the work limit area and a species survey for the work limit area. The developer must submit a management plan for protected species within the work limit area identifying protection measures, monitoring, and/or relocation consistent with State and Federal requirements.
- Development order plans for commercial uses must demonstrate use of bear resistant dumpsters and below ground grease traps.

5. Open Space

Prior to or concurrent with the first development order application, the developer will submit for County approval an Open Space Plan that must demonstrate how a minimum of 65% open space will be achieved at buildout in substantial compliance with the approved MCP.

6. Platting Preserve Areas

At time of platting on a phase-by-phase basis, the developer will plat preservation areas into separate tracts and dedicate those tracts to a maintenance entity, which must be either a master home owners association ("HOA") or a community development district ("CDD") that will accept responsibility for the perpetual maintenance of the preservation areas in compliance with these conditions. The HOA or CDD must be created prior to CC for the first development order.

7. Conservation Easement

Prior to or concurrent with the first development order, the developer will submit a Master Conservation Easement Dedication Plan that will accomplish the dedication of a minimum of 56% of the planned development for conservation purposes on a phase-by-phase basis. The conservation easements will be dedicated to a maintenance entity that provides third party enforcement rights to the County or other public agency acceptable to the County. The conservation easements will be dedicated on a phase-by-phase basis in accordance with the phasing plan attached as Exhibit F to the Agreement as development orders are issued, and will be reflected on the plats approved by the County for the subject property. The form of the conservation easement will be in the form attached as

Exhibit "I" to the Agreement, except as may be required to be modified by the State or South Florida Water Management District.

8. Indigenous Management Plans

The developer must submit for approval by the County a final Indigenous Preservation, Restoration, and Management Plan prior to or concurrent with the first development order application. The Indigenous Preservation, Restoration, and Management Plan must include the following language:

- At the time of purchase, deed holders must be placed on notice through covenants and deed restrictions that project preserve areas may be managed with prescribed burns.
- Prior to commencing prescribed burn activity, the community development district (CDD) or HOA must notify residents of the prescribed burn activities and provide general prescribed burn management educational materials.

9. <u>Agricultural Uses</u>: Existing bona fide agricultural uses, as shown on Exhibit "H," are allowed to continue on the property subject to the following:

- a. The bona fide agricultural use of row crops and citrus groves in existence at the time of this Agreement (including all associated irrigation and fertilization) must be discontinued prior to issuance of a local development order for vertical development of a non-agricultural use for the land area subject to the development order; provided, however, that all agriculture must cease for each Parcel no later than ten (10) years after the commencement of vertical development on that Parcel. Development orders for platting, infrastructure, or other non-vertical development will not require discontinuance of the agricultural use.
- b. Clearing or injury of native trees and vegetation (including understory) is prohibited in areas devoted to agricultural uses. Bona fide agricultural use consisting of existing grass pasture(s) may be mowed but those areas may not be cleared or expanded. Violations of this condition will require restoration in accordance with LDC 10-423. The prohibition on clearing or expansion of agricultural use does not preclude County approved requests to remove invasive exotic vegetation.
- c. Prior to issuance of a local development order for vertical development, the developer must submit written proof, subject to approval by the County Attorney's Office, of the following:

1) Termination of agricultural uses on the land area subject to the development order application/approval. Proof must include a sworn affidavit from the person or entity holding title to the land area that provides:

a) the date agricultural uses ceased;

b) the legal description of the land area subject to development order approval;

c) an affirmative statement that the owner acknowledges and agrees that all agricultural uses are illegal and prohibited on the land area and that the owner covenants with the County that they will not allow agricultural uses on the land area until it is rezoned to permit agricultural uses; and

d) that the affidavit constitutes a covenant between the owner and the County binding on the owner, their assignees and successors in interest.

The affidavit must be recorded in the public records of the County at the owner's expense.

2) Proof of termination of the agricultural tax exemption on the land area subject to the development order. Proof of termination must include a copy of the owner's request to terminate the tax exemption provided to the Property Appraiser.

10. Native Vegetation

Development order landscape plans must reflect 100% native vegetation for required landscaping within common elements. These planting requirements and a native plant list must be incorporated into the project's covenants and deed restrictions.

11. Vehicular/Pedestrian Impacts

- a. <u>Local Development Order</u>. This approval does not address siterelated mitigation of vehicular or pedestrian traffic impacts. Additional conditions consistent with the LDC may be required to obtain a local development order.
- b. <u>Impact Fees and Proportionate Share Payments</u>. The development must mitigate the traffic impacts of the project and pay a proportionate share of the needed roadway improvements in accordance with paragraph 8 of the Agreement.
- c. <u>Shared Use Path</u>. The developer must provide an off-road shared use bike path/sidewalk in front of each residential lot and along at least one side of every project roadway. The shared use path must be 5 feet wide and separated from the travel lanes of the roadway. This separation from the travel lanes may be achieved by the installation of

a structural curb/gutter that prevents normal vehicular traffic on the path.

- d. <u>Access.</u> Agricultural uses (including farmworker housing and research and development uses) may access the property only via Six L's Farm Road and may not access Corkscrew Road directly from the property. Residential, commercial, and related amenity and accessory uses may access the property only via Corkscrew Road and may not directly access Six L's Farm Road. At the developer's option, an emergency access for fire/ems may be provided onto Six L's Farm Road to provide access for these services to the residential, commercial, and related amenity and accessory uses within the development.
- e. <u>Phasing.</u> The residential and commercial development authorized by this Agreement will be phased as follows:
 - i. Not more than twelve hundred fifty (1,250) dwelling units and 100,000 sq. ft. of commercial uses may be issued a building permit within three (3) years of the Effective Date of this Agreement.
 - ii. Not more than twenty-five hundred (2,500) dwelling units and 100,000 sq. ft. of commercial uses may be issued a building permit within five (5) years of the Effective Date of this Agreement.
 - iii. Not more than forty-two hundred fifty (4,250) dwelling units and 100,000 sq. ft. of commercial uses may be issued a building permit within seven (7) years of the Effective Date of this Agreement.
 - iv. All residential and commercial development may be issued a building permit after seven (7) years of the Effective Date of this Agreement.
 - v. These phasing restrictions do not apply to uses on the amenity uses, Office/R&D Parcel, and Farmworker Housing Parcel.

12. Entrance Gates and Gatehouses

Entrance gates and gatehouses are permitted at development entrances from Corkscrew Road and along the internal spine roads of the development. Gates must allow unencumbered pedestrian and bicycle movement between subneighborhoods and the overall development.

13. Surface & Ground Water Monitoring

The developer must submit an Enhanced Lake Management Plan at the time of Development Order application that includes monitoring components of surface and groundwater levels and quality as follows:

- a. The proposed groundwater (level and quality) monitoring program must establish baseline conditions and address monitoring during construction and operation of the storm water management facility.
- b. Quality of storm water entering and leaving the site must be monitored twice during the wet season and once during the dry season. Reporting must consist of an Electronic Data Deliverable (EDD) in a format approved by the Lee County Department of Natural Resources and submitted quarterly.
- c. The developer or successor must annually update the Water Quality Monitoring Program within the Enhanced Lake Management Plan to: 1) assess water quality data and trend analysis, 2) identify potential issues, and if necessary, 3) recommend corrective actions for changes to the monitoring plan.
- d. The developer may amend water quality monitoring and reporting after written request, review, and approval by the Department of Natural Resources.
- e. Groundwater quality monitoring well(s) for the Surficial Aquifer System must be provided and located between and proximate to Lee County's nearest production well(s) identified in the Water Quality Monitoring Plan.
- f. If any development order proposes to discharge into the County's MS4, the developer will coordinate with Lee County Department of Natural Resources through the development order process to ensure available capacity.

14. Wellfield Protection

- a. A portion of the property lies within Wellfield Protection Zones for the County public water supply. Development in those areas must comply with the Wellfield Protection Ordinance.
- b. The first development order application must include a list of Best Management Practices to address potential degradation of groundwater due to storage and use of regulated substances on-site during construction and operation of the development, if such substances will be stored or used on-site.
- c. The Declarations and Covenants must specify that only licensed professionals authorized by Lee County may perform activities such as the application of fertilizers, pesticides, insecticides, herbicides, nematicides or

other chemicals on the property. This restriction also applies to any commercial development.

- d. Docks, boat ramps, and motorized boats are prohibited within on-site storm water management lakes.
- e. Residential and amenity center development areas within the 5-year travel zones of the Wellfield Protection Ordinance must provide a minimum of 1.5 inches of water quality treatment of which, a minimum of 0.5-inch must be completed by water quality dry pretreatment prior to discharging into the lakes.
- f. Commercial development within the 6-month, 1-year, 5-year, or 10-year travel zones of the Wellfield Protection Ordinance must provide a minimum of 1.5 inches of water quality treatment, of which, a minimum of 0.5 inches must be completed by water quality dry pretreatment. Commercial development will be considered within the most restrictive wellfield protection zone as provided in the Wellfield Protection Ordinance.
- g. Dry and wet treatment on any commercial property must be located outside of the 6-month and 1-year travel zones.

15. Irrigation Wells

Single-Family Irrigation and Domestic Wells are prohibited. Development order plans must demonstrate irrigation will be provided via a central irrigation system using onsite lakes and, as necessary, existing permitted wells (or replacement wells). The Property Owner Association documents, including Declarations and Covenants, must prohibit the installation of single-family use wells for potable or irrigation water. Landscape irrigation must comply with the Water Conservation Ordinance #17-04, as amended.

16. <u>Water and Sewer</u>

All development must connect to central water and sewer; no septic systems or potable water wells will be permitted. The developer will utilize Lee County Utilities for potable water for the property, as provided in the Agreement. The development will connect to reclaimed water when available at the boundary of the subject property.

17. Maintenance

The developer and/or the CDD must submit a biennial drainage report signed by a licensed Professional Engineer in the State of Florida certifying that the drainage capacities of the flow-ways or buffer lakes at the completion of the project are consistent with the original design. If the report finds that flow-ways or buffer lakes require maintenance, then the developer/CDD must submit a remedial plan for review and approval to address measures to conduct maintenance (i.e. re-grading the flow-ways or berms). Providing the County with a copy of the CDD Engineer's Report will satisfy this requirement with the additional requirements above.

18. <u>Hydrological Restoration Plan</u>

a. <u>Flow Way Re-establishment</u>. The developer must demonstrate how it will re-establish historic storm water flows through the property to the greatest extent practicable consistent with the MCP. The developer is responsible for providing storm water flow through the project site until the property and permits are transferred to a third party.

b. <u>Hydrological Restoration Plan</u>. The developer must submit a Hydrological Restoration Plan that incorporates the requirements of Policy 33.2.4.2.c. of the Lee Plan prior to or concurrent with the first development order application. The Hydrological Restoration Plan must be based, in part, on an integrated surface and groundwater model to demonstrate protection of Lee County's natural resources, and must include backfill and restoration of manmade ditches on the property. The developer must phase backfill work to coincide with project development. A key feature of the Hydrological Restoration Plan is the re-establishment of the flowways encompassed within the conservation areas on the MCP, to restore historic flow-ways and improve drainage patterns to the extent feasible.

The Hydrological Restoration Plan must include detailed calculations and analyses for proposed flow-ways and other drainage improvements to estimate hydrologic benefits while ensuring no adverse impacts to adjacent properties.

The calculations/analyses must analyze post-development phases including peak stages, flows, and inundation (durations and frequency) for design storms (25 yr - 3 day and 100 yr -3 day) and compare hydrologic conditions for wet and dry seasons.

c. <u>Timing</u>. The developer must construct the hydrological restoration plan approved by the County coincident with construction of the storm water management system for each phase of development.

19. <u>Landscape Berm</u>. A 100-foot wide buffer must be provided along Corkscrew Road. The buffer may include a decorative landscape berm with a maximum height of 6 feet as measured from the crown of Corkscrew Road.

20. <u>Letters of Availability.</u> Letters of availability will be provided for law enforcement, fire, ems, and schools prior to the first development order.

21. <u>Development Permits.</u> Issuance of a county development permit does not establish a right to obtain permits from state or federal agencies. Further, it does not

establish liability on the part of the county if the developer: (a) does not obtain requisite approvals or fulfill obligations imposed by state or federal agencies or (b) undertakes actions that result in a violation of state or federal law.

DEVIATIONS

Deviation 1 grants relief from LDC Section 10-296(e)(3), which requires roadway segments in Lee Plan future non-urban areas to be designed to non-urban design standards, to allow the internal roadways to be designed to the suburban roadway standards of LDC Section 10-296(e)(2).

Deviation 2 grants relief from LDC Section 10-291(3), which requires that residential development of more than five acres and commercial development of more than ten acres provide more than one means of ingress and egress, to allow (1) a single entrance onto Corkscrew Road for development of Parcels 1-5; and (2) two entrances onto Corkscrew Road for development of all remaining parcels.

E

Exhibit E

Property Development Regulations (in feet)

	Single Family	Zero Lot Line	Two Family Attached	Townhouse	Multi- Family	Amenity Center	Commercial
Minimum Lot Width	35	35	35	22	100	100	100
Minimum Lot Depth	120	120	100	100	100	150	150
Minimum Lot Area	4,200	4,200	3,500	2,200	10,000	15,000	15,000
Maximum Building Height	35	35	35	35	45	45	45
Maximum Lot Coverage	65%	65%	70%	70%	65%	60%	60%

SETBACKS	Single Family	Zero Lot Line	Two Family Attached	Townhouse	Multi- Family	Amenity Center	Commercial
Public Street	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Corkscrew Road				100			
Private Street*	40	40	20	20	20	25	25
Side Yard	5	5/0**	5/0**	5/0**	10	10	10
Rear Yard	10	10	10	10	10	10	10
Accessory Structure	5	5	5	5	5	5	10
Lake Maintenance Easement	5	5	5	5	10	0	25

*10 feet for corner lots ** 0' for the common wall or lot line

Exhibit F

Phase Plan and Schedule

F





Development Parcels and Corresponding Indiger	nous Phase Acreage

Development			Indigeno and Re	us Preserve storation
Parcel Number(s)	Acreage	Percentage	Phase	Acreage
Parcel Nos. 1-7	350.8	15.3%	A	446.5
Parcel No. 8	295.9	12.9%	В	376.6
Parcel Nos. 9-12	418.8	18.3%	C	533.0
Parcel Nos. 13-17	410.5	17.9%	D	522.4
Parcel Nos. 18-20	480.0	20.9%	E	610.9
Parcel Nos. 21-22	335.8	14.7%	F	427.4
Total	2,291.8	100.0%		2,916.8

NOTES:

PROPERTY BOUNDARY AND SITE PLAN PER DELISI, INC. DRAWING No. FFD CORKSCREW-DFI.DWG DATED AUGUST 12, 2020.

DRAFT

DRAWING No.

		(610.90 Ac.±) PHASE F (427.40 Ac.±)
DRAWN BY T.S.	DATE 8/17/20	13620 Metropolis Avenue
A.W.	DATE 8/17/20	Suite 200 Ft. Myers, FL 33912
REVISED R.F.	DATE 10/20/20	Fax (239) 274-0067 Fax (239) 274-0069

CO\2020\



01VAD664 FFD CORKSCREW ROAD PROPERTY PRESERVE AND RESTORATION PHASE PLAN

ί.

G

EXHIBIT G

Development Authorization Form

AUTHORIZATION TO OBTAIN BUILDING PERMIT WITHIN FFD/CORKSCREW ROAD PLANNED DEVELOPMENT

The XYZ Corporation is hereby authorized by FFD Land Co., Inc. ("FFD") (or successor developer), to obtain a building permit in [describe lot, tract, or property] of the FFD/Corkscrew Road Property planned development.

In accordance with the Agreement entered into between FFD and the County dated ______, 20____, this document is a limited authorization for the following amount of development to be permitted:

_____ dwelling units _____ sq.ft. of non-residential; type of use:_____

Further, FFD hereby assigns \$______ in Proportionate Share credits created pursuant to the Agreement. If no amount is provided, no credits have been assigned.

Building permits in excess of the number of dwelling units and/or non-residential square footage identified above or for uses other than identified above are expressly prohibited.

Developer's Authorized Representative

STATE OF FLORIDA COUNTY OF LEE

The foregoing instrument was acknowledged before me this _ day of __________, 20______, by ________as ________of FFD Land Co., Inc., a Florida corporation, who is personally known to me or has produced ________as identification.

Notary Public

(SEAL)

Print Name

Commission Expiration Date

EXHIBIT H

Existing Agricultural Uses

.

.

Н



EXHIBIT I

Form of Conservation Easement

Prepared by:

Return original or certified recorded document to: (Insert name and address of WMD or DEP)

Deed of Conservation Easement Standard

THIS DEED OF CONSERVATION EASEMENT ("Conservation Easement") is given this day of , 20 , by ("Grantor") whose mailing address is to the Choose an item.("Grantee"). As used herein, the term "Grantor" shall include any and all heirs, successors, or assigns of the Grantor, and all subsequent owners of the "Conservation Easement Area" (as hereinafter defined) and the term "Grantee" shall include any successor or assignee of Grantee.

WITNESSETH

WHEREAS, the Grantor is the fee simple owner of certain lands situated in County, Florida, and more specifically depicted on the location map in Exhibit "A" attached hereto and incorporated herein (the "Property"); and

WHEREAS, Permit No. ("Permit") and any modifications thereto issued by the Grantee authorizes certain activities which could affect wetlands or other surface waters in or of the State of Florida; and

WHEREAS, the Grantor, in consideration of the consent granted by the Permit or other good and valuable consideration provided to Grantor, is agreeable to granting and securing to the Grantee a perpetual Conservation Easement as defined in Section 704.06, Florida Statutes (F.S.), over the area of the Property described on Exhibit "B" ("Conservation Easement Area"); and

WHEREAS, Grantor grants this Conservation Easement as a condition of the Permit, solely to off-set or prevent adverse impacts to natural resources, fish and wildlife, and wetland functions; and

WHEREAS, Grantor desires to preserve the Conservation Easement Area in perpetuity in its natural condition, or, in accordance with the Permit, in an enhanced, restored, or created condition; and

NOW, THEREFORE, in consideration of the issuance of the Permit to construct and operate the permitted activity, and as an inducement to Grantee in issuing the Permit, together with other good and valuable consideration provided to the Grantor, the adequacy and receipt of which are hereby acknowledged, Grantor hereby voluntarily grants, creates, conveys, and establishes a perpetual Conservation Easement for and in favor of the Grantee upon the area of the Property described on Exhibit "B" which shall run with the land and be binding upon the Grantor, and shall remain in full force and effect forever.

The scope, nature, and character of this Conservation Easement shall be as follows:











Form 62-330.301(B) – Deed of Conservation Easement - Standard Incorporated by reference in paragraph 62-330.301(6)(a), F.A.C. (June 1, 2018)

Page 1 of 2

1. **Recitals.** The recitals hereinabove set forth are true and correct and are hereby incorporated into and made a part of this Conservation Easement.

Antiplication

2. **Purpose.** It is the purpose of this Conservation Easement to retain land or water areas in their existing, natural, vegetative, hydrologic, scenic, open_or wooded condition and to retain such areas as suitable habitat for fish, plants, or wildlife in accordance with Section 704.06, F.S. Those wetland and upland areas included in this Conservation Easement which are to be preserved, enhanced, restored, or created pursuant to the Permit (or any modification thereto) and any Management Plan attached hereto as Exhibit "C" ("Management Plan") which has been approved in writing by the Grantee, shall be retained and maintained in the preserved, enhanced, restored, or created condition required by the Permit (or any modification thereto).

To carry out this purpose, the following rights are conveyed to Grantee by this Conservation Easement:

a. To enter upon the Conservation Easement Area at reasonable times with any necessary equipment or vehicles to inspect, determine compliance with the covenants and prohibitions contained in this Conservation Easement, and to enforce the rights herein granted in a manner that will not unreasonably interfere with the use and quiet enjoyment of the Conservation Easement Area by Grantor at the time of such entry; and

b. To proceed at law or in equity to enforce the provision of this Conservation Easement and the covenants set forth herein, to prevent the occurrence of any of the prohibited activities set forth herein, and to require the restoration of such areas or features of the Conservation Easement Area that may be damaged by any activity or use that is inconsistent with this Conservation Easement.

3. **Prohibited Uses.** Except for activities that are permitted or required by the Permit (or any modification thereto) (which may include restoration, creation, enhancement, maintenance, monitoring activities, or surface water management improvements) or other activities described herein or in the Management Plan (if any), any activity on or use of the Conservation Easement Area inconsistent with the purpose of this Conservation Easement is prohibited. Without limiting the generality of the foregoing, the following activities are expressly prohibited in or on the Conservation Easement Area:

a. Construction or placing of buildings, roads, signs, billboards or other advertising, utilities, or other structures on or above the ground;

b. Dumping or placing of soil or other substance or material as landfill, or dumping or placing of trash, waste, or unsightly or offensive materials;

Removing, destroying or trimming trees, shrubs, or other vegetation, except:

i. The removal of dead trees and shrubs or leaning trees that could cause damage to property is authorized;

ii. The destruction and removal of noxious, nuisance or exotic invasive plant species as listed on the most recent Florida Exotic Pest Plant Council's List of Invasive Species is authorized; iii. Activities authorized by the Permit or described in the Management Plan or

otherwise approved in writing by the Grantee are authorized; and

iv. Activities conducted in accordance with a wildfire mitigation plan developed with the Florida Forest Service that has been approved in writing by the Grantee are authorized. No later than thirty (30) days before commencing any activities to implement the approved wildfire mitigation plan, Grantor shall notify the Grantee in writing of its intent to commence such activities. All such activities may only be completed during the time period for which the Grantee approved the plan;

d. Excavation, dredging, or removal of loam, peat, gravel, soil, rock, or other material substance in such manner as to affect the surface;

e. Surface use except for purposes that permit the land or water area to remain in its natural, restored, enhanced, or created condition;

Form 62-330.301(8) – Deed of Conservation Easement - Standard Incorporated by reference in paragraph 62-330.301(6)(a), F.A.C. (June 1, 2018)

C.

f. Activities detrimental to drainage, flood control, water conservation, erosion control, soil conservation, or fish and wildlife habitat preservation including, but not limited to, ditching, diking, clearing, and fencing;

1.1.111.00

g.

Acts or uses detrimental to such aforementioned retention of land or water areas; and

Sec. Street 1

h. Acts or uses which are detrimental to the preservation of the structural integrity or physical appearance of sites or properties having historical, archaeological, or cultural significance.

4. **Grantor's Reserved Rights.** Grantor reserves all rights as owner of the Conservation Easement Area, including the right to engage or to permit or invite others to engage in all uses of the Conservation Easement Area that are not prohibited herein and which are not inconsistent with the Permit (or any modification thereto), Management Plan, or the intent and purposes of this Conservation Easement.

5. **No Dedication.** No right of access by the general public to any portion of the Conservation Easement Area is conveyed by this Conservation Easement.

6. **Grantee's Liability.** Grantee's liability is limited as provided in Sections 704.06(10) and 768.28, F.S. Additionally, Grantee shall not be responsible for any costs or liabilities related to the operation, upkeep, or maintenance of the Conservation Easement Area.

7. **Enforcement.** Enforcement of the terms, provisions, and restrictions of this Conservation Easement shall be at the reasonable discretion of Grantee, and any forbearance on behalf of Grantee to exercise its rights hereunder in the event of any breach hereof by Grantor, shall not be deemed or construed to be a waiver of Grantee's rights hereunder. Grantee shall not be obligated to Grantor, or to any other person or entity, to enforce the provisions of this Conservation Easement.

8. **Taxes.** When perpetual maintenance is required by the Permit, Grantor shall pay before delinquency any and all taxes, assessments, fees, and charges of whatever description levied on or assessed by competent authority on the Conservation Easement Area, and shall furnish the Grantee with satisfactory evidence of payment upon request.

9. **Assignment.** Grantee will hold this Conservation Easement exclusively for conservation purposes. Grantee will not assign its rights and obligations under this Conservation Easement except to another organization or entity qualified to hold such interests under the applicable state laws.

10. **Severability.** If any provision of this Conservation Easement or the application thereof to any person or circumstances is found to be invalid, the remainder of the provisions of this Conservation Easement shall not be affected thereby, as long as the purpose of the Conservation Easement is preserved.

11. **Terms and Restrictions.** Grantor shall insert the terms and restrictions of this Conservation Easement in any subsequent deed or other legal instrument by which Grantor divests itself of any interest in the Conservation Easement.

12. Written Notice. All notices, consents, approvals, or other communications hereunder shall be in writing and shall be deemed properly given if sent by United States certified mail, return receipt requested, addressed to the appropriate party or successor-in-interest.

13. **Modifications.** This Conservation Easement may be amended, altered, released, or revoked only by written agreement between the parties hereto or their heirs, assigns, or successors-in-interest, which shall be filed in the public records in County, Florida.

14. **Recordation.** Grantor shall record this Conservation Easement in timely fashion in the Official Records of County, Florida, and shall rerecord it at any time Grantee may require to preserve its rights. Grantor shall pay all recording costs and taxes necessary to record this Conservation Easement in the public records. Grantor will hold Grantee harmless from any recording costs or taxes necessary to record this Conservation Easement in the public records.

TO HAVE AND TO HOLD unto Grantee forever. The covenants, terms, conditions, restrictions, and purposes imposed with this Conservation Easement shall be binding upon Grantor, and shall continue as a servitude running in perpetuity with the Conservation Easement Area.

i . ..

1 1 1 1 1 1 1

Grantor hereby covenants with Grantee that Grantor is lawfully seized of said Conservation Easement Area in fee simple; that the Conservation Easement is free and clear of all encumbrances that are inconsistent with the terms of this Conservation Easement; all mortgages and liens on the Conservation Easement Area, if any, have been subordinated to this Conservation Easement; that Grantor has good right and lawful authority to convey this Conservation Easement; and that it hereby fully warrants and defends record title to the Conservation Easement Area hereby conveyed against the lawful claims of all persons whomsoever.

IN WITNESS WHEREOF,	("Grantor") has hereunto set its	authorized hand this day of
, 20 .		
,		
A Florida corporation or (ch	noose one)	
By:(Signature)		
Name:		
Title:		
Signed, sealed and delivered in our pres	sence as witnesses:	
Ву:	Ву:	
(Signature)		(Signature)
Name:(Print)	Name:	(Print)
STATE OF FLORIDA	-	
On this day of personally appeared the foregoing instrument, as the (corporation), a Flor (choose one) and acknowledge or (choose personally known to me or has produced as identification.	, 20, before me, (title), of ida corporation, or id that he/she executed the same se one) and that he/she was du d a	the undersigned notary public, _, the person who subscribed to e on behalf of said □ corporation, ly authorized to do so. He/She is (state) driver's license

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Form 62-330.301(8) – Deed of Conservation Easement - Standard Incorporated by reference in paragraph 62-330.301(6)(a), F.A.C. (June 1, 2018)

NOTARY PUBLIC, STATE OF FLORIDA

· · · · · · · · ·

. . . .

· · · · · · · ·

 $\gamma_{\rm eVe}$

(Signature)

(Name)

My Commission Expires:

Mortgagee (Lender) Joinder, Consent, and Subordination

For Ten Dollars (\$10.00) and other good and valuable consideration, the adequacy and receipt of which are hereby acknowledged, , the owner and holder of a mortgage dated , given by ("Mortgagor/Borrower") to ("Mortgagee/Lender"), encumbering the real property described on Exhibit "B" attached hereto ("Conservation Easement Area"), which is recorded in Official Records Book at (together with that certain Assignment of Leases and Rents recorded in Official Records Book Page , at Page , and those certain UCC-1 Financing Statement(s) recorded in Official Records Book , all in the Public Records of County, Florida (said mortgage, assignment of , at Page leases and rents, and UCC-1 Financing Statements, as modified, are hereinafter referred to as the "Mortgage"), hereby joins in, consents to and subordinates the lien of its Mortgage, as it has been, and as it may be, modified, amended and assigned from time to time, to the foregoing Conservation Easement granted to the Choose an item. , as said Conservation Easement may be modified, amended, and assigned from time to time, with the intent that the Mortgage shall be subject and subordinate to the Conservation Easement.
IN WITNESS WHEREOF, this Mortgagee/Lend	ler Joinder, Consent, and Subordination is made this _
day of, 20	
By:(Signature)	(Mortgagee/Lender)
Name:	
Title:(Print)	
WITNESSES:	
By: (Signature)	By: (Signature)
Name: (Print)	Name:(Print)
STATE OF FLORIDA	
The foregoing instrument was acknowledged be	efore me this day of, 20, nt name), as
corporation, or personally known to me or has produced a as identification.	(Mortgagee/Lender), on behalf of the [_] (choose one), He/She is (state) driver's license
IN WITNESS WHEREOF, I hereunto set my hand and o	official seal.
NOTARY PUBLIC, STATE OF FLORIDA	
(Signature)	
(Name)	

The second second second

the second

My Commission Expires: _____

,

EXHIBIT A

a second s

[LOCATION MAP]

Form 62-330.301(8) -- Deed of Conservation Easement - Standard Incorporated by reference in paragraph 62-330.301(6)(a), F.A.C. (June 1, 2018) 1 and and and a

į

EXHIBIT B

ł

.

· ...

÷ . *

i partes

1.11

[LEGAL DESCRIPTION AND SKETCH OF CONSERVATION EASEMENT AREA]

Form 62-330.301(8) – Deed of Conservation Easement - Standard Incorporated by reference in paragraph 62-330.301(6)(a), F.A.C. (June 1, 2018)

EXHIBIT C

a transmi

the Average

i

and the second second second

a and the second second second

[MANAGEMENT PLAN OR "INTENTIONALLY LEFT BLANK"]

F



FFD LAND CO., INC., SETTLEMENT AGREEMENT PROJECT DESCRIPTION

The settlement agreement between FFD Land Co., Inc. ("FFD") and Lee County includes a plan to eliminate mining and designate the subject property for natural lands restoration and conservation uses, residential and commercial development. The following planning narrative describes the site plan, the benefits of the conversion from active agriculture to conservation uses and land development, and the areas of inconsistency with the Lee County Comprehensive Plan (Lee Plan). A narrative on how the conditions of development ensure that the public interest is protected and maintained through this settlement agreement is also provided.

Site Plan

The proposed site plan eliminates the requested limerock mining use on the subject property. In place of 2,936 acres of mining and ancillary industrial uses, the site plan now shows a majority of the property as restoration and conservation of natural lands. The restoration component will convert an active farm field into approximately 2,916 acres of restored conservation lands (56% of the property). With the construction of water management features, which will provide water quality enhancements, landscape buffers and other green space, a minimum of 65% of the site (3,385 acres) will be dedicated to open space. The remaining area of the plan includes a mixed use, residential community with 5,208 residential units and 100,000 square feet of commercial floor area intended to serve neighborhood commercial needs.

The concept plan was designed to meet or exceed the requirements of the Environmental Enhancement and Preservation Communities Overlay (EEPCO) under Goal 33 of the Lee Plan. Historic flowways were analyzed and incorporated into the site plan and the conservation areas were established to both follow historic flow corridors and to expand upon the regionally significant surrounding environmental areas, Flint Pen Strand and Corkscrew Swamp. The Master Concept Plan provides an additional ½ mile corridor along the western side of the property adjacent to Flint Pen Strand. On the south side of the property there is over 1 ¼ miles of restoration along the entire southern property line connecting Flint Pen Strand on the west to the CREW lands on the south and east. This southern corridor consists of over 2 ½ sections of contiguous restoration land. The expansive distances to the existing preserve will allow for the continuation of land management techniques, including controlled burns, ensuring that the residential development does not create compatibility concerns with adjacent land management.

The Master Concept Plan and proposed conditions of development will ensure that agricultural operations are phased out in a way that is compatible with development. The

agricultural operations currently have access to Corkscrew Road via 6Ls Farms Road. There is no direct access to Corkscrew Road. The Master Concept Plan shows that the mixed residential/commercial community will only have access to Corkscrew Road, and does not plan to have regular access to 6Ls Farms Road. Therefore, the agricultural operation can continue to use 6Ls Farms Road as it phases out without having agricultural traffic travelling through a developing residential community.

The site plan is phased so that development will start on the northern portion of the property and then develop from west to east, with the final phase of development along 6Ls Farms Road where the existing farmworker housing and agricultural research and development facility is located. This sequence allows the agricultural operation and ancillary uses to maintain their access to 6Ls Farms Road through the phase out of operations.

The public will receive very tangible positive environmental benefits with each phase of restoration and land development. For every acre of development, 1.27 acres of restoration must be completed and dedicated to conservation easement. Every development order will result in water quality and quantity benefits for both the area being restored and the area being developed.

The phased removal of agriculture operations and restoration of 56% of the property would lead to large overall reductions in water consumption on the property and improved water quality being discharged from the property. Attached are estimates of the net benefits to groundwater consumption and surface water quality. The overall water consumption on the property in a post-restoration, post-development scenario will be reduced by 49% on an average annual basis. In other words, impacts to the County's water resources by the subject property will be reduced nearly in half based on the proposed settlement. Similarly, the proposed settlement will lead to significant benefits to water quality. Reductions in total nitrogen (TN) loading are expected to range from 29% to 54% per phase and 76% to 89% of total phosphorus (TP) per phase. These nutrient reductions are significant for improvement of the impaired Imperial River watershed. The habitat benefits include the restoration of a gradient of hydroperiod wetlands, adding new foraging areas for wading birds, including wood stork habitat and a mix of vegetation types to create new habitat for a variety of wildlife.

Consistency with Lee Plan Goals, Objectives and Policies

The proposed settlement agreement will continue to protect the public interest through the conditions of development set forth in the agreement. Based on these conditions and the Master Concept Plan, the agreement is consistent with the following Goals, Objectives and Policies in the Lee Plan.

The proposed settlement is based upon development rights being granted consistent with the EEPCO as defined in Objective 33.2 of the Lee Plan. Objective 33.2 has been deemed to be consistent with the Density Reduction/Groundwater Resource ("DR/GR") future land use category and Policy 1.4.5. The overlay was adopted in 2015 in order to better implement the intent of the DR/GR area. According to the Staff Report adopting the EEPCO:

The proposed "Environmental Enhancement and Preservation Communities Overlay" targets critical restoration areas, requires enhanced development standards and provides predictable density incentives, furthering the County's goals for the Southeast DR/GR.

According to the staff report, the EEPCO had a threefold approach to addressing the public's interest in the land restoration/conservation and protection of the county's groundwater resources:

1. Targeting strategic areas that can "provide critical connections to other conservation lands that serve as the backbone for water resource management and wildlife movement within the DR/GR," consistent with Policy 33.2.3 of the Lee Plan;

2. Requiring the development to be designed with the land, consistent with Goal 4: Sustainable Development Design and numerous other Goals, Objectives, and Policies of the Lee Plan; and,

3. Providing a predictable way to assign appropriate increases in density as an incentive to offset the cost of the improvements thereby achieving these longstanding goals for the Southeast DR/GR.

The subject property is designated as Tier 2 Priority Restoration. By definition in Policy 33.1.3, Tier 2, along with Tier 1 properties are of the "the greatest ecological and water resource importance." The ecological importance of Tier 2 property is identical to that of Tier 1 according to Policy 33.1.3, the only difference being long term viability of agricultural operations. Therefore, applying the County's Overlay that is implementing the County's ecological and water resource protection goals best serves to protect the public interest.

Lee Plan Goals Objectives and Policies

1. <u>Policy 1.4.5: Density Reduction/Groundwater Resource</u>

There is nothing specific in Policy 1.4.5 that the settlement is inconsistent with as it allows residential and commercial development consistent with Objective 33.2. The agreement structures permitted development so that it will be consistent with Objective 33.2. The modeling that Policy 1.4.5 requires ensures that development is compatible with maintaining surface and groundwater levels. This modeling is required under the agreement in Condition 18b. The detailed design will have to be done to meet the intent of this policy.

2. <u>Policy 1.5.1: Permitted Uses in Wetlands</u>

There are minor wetland impacts that will occur on the Master Concept Plan. The restoration plan, however, will create wetland areas on site on lands that are currently used for active agriculture. Any minor impacts to wetlands will be offset through the significant restoration activities occurring on site, thereby achieving the public interest in wetland preservation and restoration. Density in the Wetland land use

category is being granted consistent with Objective 33.2, which will provide significant wetland restoration and flowway enhancement as well as an increase in overall wetland acreage, justifying the additional density available through the EEPCO.

3. <u>Standards 4.1.1 and 4.1.2</u>

These Policies require connection to Central Water and Sewer. The proposed development agreement will require connection to central water and sewer service. Lee County will have the ability to provide this connection regardless of the property consistent with Standards 4.1.1.7 and 4.1.2.6.

4. <u>Policy 33.1.7: Impacts of proposed land disturbances on surface and groundwater</u> resources

This policy would require the use of an integrated groundwater and surface water model to assist in designing the site to ensure that there will not be significant adverse impacts on the area's water resources and natural systems. The Master Concept Plan is general enough so that the settlement agreement is not approving a specific design that may be incompatible with surface water and groundwater. The public's interest is being protected through Condition 18b. which requires that at the time of, or prior to the first local development order, when a detailed design is proposed, an integrated surface and groundwater model will be utilized to ensure protection of Lee County's natural resources.

5. <u>Policy 33.2.4.2</u>

Policy 33.2.4.2 requires rezoning to a Planned Development and is discussed below as a Policy that the agreement is inconsistent with. However, the agreement has been structured to mirror prior approved development/restoration projects under the EEPCO. The below sub-sections of Policy 33.2.4.2 are all consistent with the Lee Plan based on the Conditions of Development that are included.

- Policy 33.2.4.2b Requires an enhanced lake management plan at the time of Planned Development. The settlement agreement protects the public interest and is consistent with the intent of the Lee Plan by requiring the enhanced lake management plan prior to the first local development order (Condition 13).
- Policy 33.2.4.2c Requires the submittal of an ecological and hydrological restoration plan. The settlement agreement protects the public interest by requiring the ecological and hydrological restoration plan prior to the first local development order. The ecological and hydrological benefits are well documented by the support documentation submitted with the settlement agreement. The project will achieve a significant net reduction in nutrient loading and groundwater impacts through the removal of agricultural operations and the restoration of conservation lands. There will also be significant benefits to wildlife habitat through the nearly 3,000 acres of restoration/conservation that is being provided.

- Policy 33.2.4.2d Requires the dedication of the conservation easement area to a Home Owners Association or Community Development District. The Conditions of Development require this in Condition 7.
- Policy 33.2.4.2f Requires the submittal of a Human Wildlife Coexistence Plan. This plan has been submitted and will be updated in accordance with Condition 4.
- Policy 33.2.4.2g Requires the use of Florida friendly planting with low irrigation in common area. This is required in Condition 10.
- Policy 33.2.4.2h Requires development to meet State and Federal water quality standards and coordination with the Department of Natural Resource is there are any discharges into the County's MS4 system. This policy is addressed in Condition 13.
- Policy 33.2.4.2j *Requires consistency with the County's wellfield protection ordinance. Condition 14 addressed this policy and wellfield protection.*
- Policy 33.2.4.2k Requires a proportionate share payment to address transportation impacts. This policy is addressed in Condition 11b.
- Policy 33.2.4.21 Requires connection to central water and sewer services. This policy is addressed in Condition 16.
- Policy 33.2.4.2m Requires the submittal of letters of service availability. Local development orders must demonstrate that adequate services can be provided to any development parcel.
- Policy 33.2.4.2n Requires the demonstration at the time of zoning that development will not result in significant detrimental impacts on present or future water resources. The settlement agreement protects the public interest by requiring the analysis be completed prior to the first local development order. The preliminary analysis that has been conducted and provided with the support documentation demonstrates a very significant <u>positive</u> benefit to the county's water resources for every phase of development. Conditions 13, 14, 15 and 16 further implement this policy.
- 6. <u>Policy 33.2.4.2</u> Requires that wetlands may not be impacted by the commercial development area. Condition 1b. prohibits commercial development in wetland areas.
- 7. <u>Policy 33.2.4.4.e</u> Limits the commercial uses allowed. The Schedule of Uses attached to the agreement does not include any prohibited uses.
- 8. <u>Policy 33.2.4.4.f</u> Provides additional protection to the well field from commercial uses. These requirements are mirrored in Conditions 13e. and 14f.

Inconsistent Goals, Objectives and Policies

Without an amendment to the Lee Plan to designate the subject property in the Environmental Enhancement and Preservation Communities Overlay, the settlement agreement is inconsistent with the following policies in the Lee Plan. However, by implementing the specific requirements of the Overlay and applying them to the subject property, the public interest that is being served by the overlay is being implemented.

- Map 1, Page 4 Special Treatment Areas. While the property is designated on this map as a Tier 2 area, complying with the design criteria of the EEPCO will achieve significant public environmental benefits in furtherance of the public interest. As noted above, by definition in Policy 33.1.3, Tier 2, along with Tier 1 properties are of "equal ecological and water resource importance," the only difference being long term viability of agricultural operations. However, as the only Tier 2 property on this map, the size of the FFD property and its clear importance to regional environmental systems makes it at least as, if not more, important as many Tier 1 properties to the regional environmental benefits that may be accomplished through the EEPCO. Therefore, applying the EEPCO to the property implements the County's ecological and water resource protection goals and best serves to protect the public interest.
- Policy 33.2.4.1: Environmental Enhancement and Preservation Communities
 Overlay

The subject property is not designated on Map 17 and most of the property is located more than 1 mile south of Corkscrew Road. However, based upon the support documentation, the property clearly has the ability to provide significant <u>regional</u> hydrological and wildlife connections and has the potential to improve, preserve and restore <u>regional</u> surface and groundwater resources and indigenous wildlife habitats, all as directed through Policy 33.2.4.1. The fact that some of the property is more than one mile from Corkscrew Road should not be a barrier to achieving these benefits as the property, due to its sheer size, extends to important existing regional systems on two sides (the Flint Pen and Corkscrew Swamp), well beyond the artificial one-mile limitation provided in this policy. The public interest is being protected and maintained by allowing the entire property to be developed under the standards of the EEPCO. But doing this, the county is able to acquire more land for preservation and create more extensive wildlife corridors along the west and south sides of the property contiguous to existing conservation lands, thereby expanding the connectivity to major existing preserves already in public ownership.

• Policy 33.2.4.2: Rezoning to a Planned Development

The subject property is not being rezoned to a planned development; however, the settlement agreement requires the property to be designated and treated as a Mixeduse Planned Development (MPD) under the Land Development Code. The proposed development provides for 56% conservation area and 65% open space, which exceeds the requirements for rezoning under Policy 33.2.4.2.a and c. The public interest is being met through the adoption of a master concept plan with a layout that will meet or exceed the conservation and restoration requirements of EEPCO communities. The settlement agreement also contains very similar conditions, uses and property development regulations to the prior Planned Developments that have been approved under the EEPCO.

- <u>Policy 33.2.4.2e</u> Requires 55% of the property be placed within a conservation easement within 5 years of the 1st development order. The public interest is being protected through requiring that 56% of the property be placed within a conservation easement. The phasing of restoration/conservation activities will occur concurrent with development and the proposed conditions require that restoration/conservation lands will always be a minimum of 56% of the total area subject to development order. Unlike prior approved EEPCO communities the settlement agreement covers a significantly larger property and will achieve larger contiguous restoration areas. The benefit of each phase of restoration is well documented demonstrating how each phase will be in the public's interest.
- <u>Policy 33.2.4.2(i)</u> Requires the elimination of irrigation and fertilizers for agricultural operations at the time of the first development order. The public interest is being maintained through an orderly phase out of agricultural operations. On a property of this scale, elimination of all agricultural operations at the time of first development order could lead to negative unintended consequences such as lack of management, the spread of exotic plants and animals, erosion, etc.
- <u>Policy 33.2.4.3b.</u> Limits density for Tier 2 properties to 1 unit per 2 acres. The public interest in being maintained through limiting density to the density allowed for Tier 1 properties. In accordance with Policy 33.1.3, Tier 2 property is as ecologically significant as Tier 1 property with the only difference being the long-term viability of agricultural operations. Therefore, the public interest in the restoration of Tier 2 properties is the same as for Tier 1 properties. The public interest is being maintained by granting the same density incentive for the same ecological restoration benefit.
- <u>Policies 33.2.4.4.d. and 33.2.5</u> Limits commercial development in the Southeast Lee County Planning Community to 300,000 square feet. This limit was put in place based on the amount of approved residential development at the time (approximately 7,500 units in the immediate service area). With an additional 5,208 residential units, the additional commercial area protects the public interest by providing for enough commercial to meet the needs of the immediate neighborhood, providing for additional internal capture of trips, and reducing trip lengths originating from the property and other nearby EEPCO communities.

Of the 300,000 square feet of commercial floor area allowed in Southeast Lee County, current approvals account for 240,000 square feet in Verdana Village (100,000 sq. ft.), Old Corkscrew Golf Club (100,000 sq. ft.), and Small Brothers (67,000 sq. ft.). While 300,000 square feet is appropriate for 7,500 units, additional commercial area will be needed for the buildout of the additional 5,208 units provided in the Agreement.

A rule of thumb for commercial generation rates from residential population is approximately 20 square feet per capita. Many larger metropolitan areas have around 40-55 square feet per capita and contain a wider diversity of retail uses than the smaller service needs that are the intended use of the subject property. This estimate adjusts for the overall trend of declining retail space and doesn't include the need for office type uses (including those commonly found in shopping centers such as realtors, dental, and title companies). Therefore, an overall conservative estimate for the amount of commercial area needed to serve each residential unit is approximately 40 square feet (assuming a conservative 2 people per unit). With over 7,500 residential units built and planned for over 3+ miles east of the Shoppes of Grande Oak, there is a potential need for approximately 300,000 square feet of commercial floor area along east Corkscrew Road.

The FFD property includes an additional 5,208 residential units. Using the same commercial generation rate, FFD would create a need for an additional 200,000 square feet. Therefore, the proposed 100,000 square feet of commercial development is justified and needed through development of the subject property. The additional commercial square footage provided through the Agreement still serves to protect the public interest by allowing enough commercial development to meet the needs of the local community so that commercial trips are kept close to the residential uses that are served.

Inconsistencies with Land Development Code

Two "deviations" from the Land Development Code ("LDC") have been identified in the Conditions for development submitted as part of the settlement agreement. The protection of the public interest served by these two deviations is discussed separately below for each deviation.

LDC Section 10-296(e)(3): requires roadway segments in Lee Plan future non-urban areas to be designed to non-urban design standards. While the development remains in a "non-urban" area based on the expansive restoration and preservation requirements, the streets within the tightly clustered development area will be designed similar to a suburban neighborhood. This is consistent with other EEPCO communities and has been found in those cases to enhance the site plan without having any negative impact on the health, safety or the general welfare of the public.

LDC Section 10-291(3): requires that residential development of more than five acres and commercial development of more than ten acres provide more than one means of ingress and egress. This deviation is only needed as a temporary measure for the initial parcels of development. As the community develops, the site plan shows two means of ingress/ egress. During an emergency that blocks the entrance, the property has other access points, which may be available to provide access to Corkscrew Road.

Inconsistencies with Florida Statutes

Given the above inconsistencies with the Lee Plan, the settlement agreement would contravene Sections 163.3184 and 163.3194 without plan amendments adopted pursuant to Section 163.3184. However, as detailed above, the settlement agreement remains in the public interest based on the application of the development criteria of the EEPCO and the enforcement of similar condition to those required of other approved EEPO communities.

Accordingly, from a substantive standpoint, the relief granted through the settlement agreement serves and protects the public interest protected by these statutes. From a procedural standpoint, the public interest in requiring public hearings as part of the plan amendment process is being preserved by the procedural requirements of the settlement agreement that mandate one public hearing before the Lee County Hearing Examiner, two public hearings before the Board of County Commissioners, and a final public hearing before the circuit court – all of which will permit the consideration of public testimony.



WATER RESOURCE REPORT

FFD Corkscrew Road Property

November 2020

Prepared By:



J.R. Evans Engineering, P.A. 9351 Corkscrew Road, Suite 102 Estero, Florida 33928

&



Water Science Associates 13620 Metropolis Avenue, Suite 110 Fort Myers, Florida 33912

1 INTRODUCTION

1.1 OVERVIEW

The FFD Corkscrew Property is located south of Corkscrew Road approximately one mile east of Alico Road within portions of Sections 26, 34-36, Township 46 South, Range 26 East and Sections 1-3, 11-12, Township 47 South, Range 26 East, Lee County, Florida. The site is an approximately 5,200-acre property which is proposed for conversion of the project area from active agricultural production to natural lands restoration, conservation, and residential and commercial development. The phasing of mixed-use development for the FDD project will correspond with the takedown of active agricultural that ultimately results in over 2,900 acres of permanent conservation area.

1.2 HISTORIC WATER USE

The FDD project is located on land that has been historically used for agricultural production. The project area falls within the footprint of two large agricultural facilities with separate water use permits issued by the South Florida Water Management District (SFWMD):

- Grove 4 (WUP No. 36-00218-W)
- Farm Op 2 (WUP No. 36-00084-W)

Agricultural operations have a historic permitted irrigation water use extending from the 1970's through to the present. Currently, the site consists of approximately 2,115 acres of irrigated farm fields. The Grove 4 farm includes 525 irrigated acres of citrus with a maximum monthly allocation of 88.97 million gallons per month (MGM) and an average annual allocation of 506.6 million gallons per year (MGY). Farm Op 2 includes 1,990 irrigated acres of small vegetables and citrus with a maximum monthly allocation of 306.62 MGM and an average annual allocation of 1,558.32 MGY. Total permitted water use for the project is 12.76 million gallons per day (mgd) on a maximum monthly basis and 5.66 mgd on an average day basis. Irrigation water is sourced predominantly from the Water Table and underlying Sandstone Aquifers.



Figure 1 Water Use Permit Map

1.3 HISTORIC WATER MANAGEMENT

The farm fields have also been heavily drained through an extensive network of ditches that have generally lowered surface and groundwater levels on the site. The current agricultural water management system is designed to lower site water levels when needed for field preparations and to maintain relatively consistent water levels during active growing periods. In general, the system is designed to keep the water table approximately two feet below land surface in the vegetable areas and about three feet below land surface in the citrus areas through the combined use of

surface drainage and irrigation. In addition to the drainage system, the existing agricultural fields maintain a series of outer berms for the management of water surrounding the farm fields.

1.4 AGRICULTURAL TRANSITION

The FFD project will include a phased removal of agricultural operations and restoration of 56% of the property which will result in an overall reduction in water consumption on the property. The proposed project will comprise approximately 2,917 acres of natural lands restoration and conservation uses and approximately 2,292 acres of mixed-use development. The agricultural takedown is anticipated to be completed in six phases.

In accordance with the Conditions of Development (#15), individual on-site wells will not be allowed adding central control to the community's irrigation system. The total irrigation requirements for the proposed FFD project site assumes 90% of the designated open space within the developable area will be irrigated. The presumed irrigated area includes residential yards, common areas, road right of way, and commercial landscaping. It does not include



Figure 2 Proposed Restoration Map

buildings, roads, or water management areas. This results in an estimated irrigated acreage demand of 825 acres for the total proposed mixed-use development. The proposed changes in land use as a result of the project is summarized in *Table 1*.

General Land Use Summary	Current Agricultural Development	Proposed Mixed-Use Development	Net Change
Total Acreage	5209	5209	0
Agricultural Acreage	3949	0	-3949
Non-Agricultural Acreage	1260	0	-1260
Development Acreage	0	2292	+2292
Conservation Acreage	0	2917	+2917
Irrigated Acreage	2515	825	-1690

Table 1. Existing and Proposed Land Uses

Water use requirements for the irrigation of 825 acres of landscape and turf were calculated using the SFWMD approved Modified Blaney-Criddle method. The total project demands were calculated to be 2.90 mgd on an average day basis and 4.59 mgd during a maximum usage month.

The proposed FFD project results in a 64% reduction of the current maximum monthly use and a 49% reduction of the current average annual water use from historic uses. The reduction in irrigation demands at the project site from the conversion of historically agricultural lands to residential and commercial uses is shown in *Table 2*. This reduction in historic irrigation use potentially provides a large quantity of water for future public supply by Lee County and/or environmental restoration or mitigation of current impacted areas. The proposed project will provide additional water resource benefits in the restoration of more natural surface-water flow patterns and water table elevations in the actively farmed areas and water storage opportunities in the surrounding conservation areas.

Table 2. Existing and Proposed Water Uses

	Ci	urrent Agricultur	ral Water Use		Mixed-Use Takedown		Not	Not
	CUP # 36-00218-W	CUP # 36-00084-W	Total Permitted	Per Day Equivalent (GPD)	Proposed Development	Per Day Equivalent (GPD)	Reduction (Ac/MGD)	Reduction (Percent)
Irrigated Acreage	525	1990	2515	NA	825	NA	1690.0	67%
Average Annual Allocation (MGY)	506.60	1558.32	2064.92	5.66	1059.62	2.90	2.75	49%
Maximum Monthly Allocation (MGM)	88.97	306.62	395.59	12.76	142.39	4.59	8.17	64%

The development of the FFD project will be completed in six phases allowing for agricultural operations to continue within future project areas. Accordingly, each phase will include a corresponding reduction in irrigation demand on a maximum monthly basis and average annual basis. The estimated water use reductions by phase from the permitted farm areas to the proposed mixed-use development are shown in *Tables 3 and 4*.

Project Phase Takedown	Total Project Acreage	Total Farm Acres Removed	Percent Farm Area Removed	Estimated Irrigated Acres Removed	Proposed Project Irrigated Acres	Farm Annual Water Use (MGD)	Project Annual Water Use (MGD)	Net Reduction (MGD)	Net Reduction (Percent)
Phase 1	797.3	382.10	13%	318.9	126.3	0.72	0.44	0.27	38%
Phase 2	672.5	267.28	9%	223.0	106.5	0.50	0.37	0.13	25%
Phase 3	951.8	424.64	14%	354.4	150.7	0.80	0.53	0.27	33%
Phase 4	932.9	424.32	14%	354.1	147.8	0.80	0.52	0.28	35%
Phase 5	1090.9	909.60	30%	759.1	172.8	1.71	0.61	1.10	64%
Phase 6	763.2	605.86	20%	505.6	120.9	1.14	0.43	0.71	63%
Total	5208.6	3013.80	100%	2515.0	825.0	5.66	2.90	2.75	49%

Table 3. Estimated Phased Annual Water Use Reductions

Project Phase Takedown	Total Project Acreage	Total Farm Acres Removed	Percent Farm Area Removed	Estimated Irrigated Acres Removed	Proposed Project Irrigated Acres	Farm Max Month Water Use (MGD)	Project Max Month Water Use (MGD)	Net Reduction (MGD)	Net Reduction (Percent)
Phase 1	797.3	382.10	13%	318.9	126.3	1.62	0.70	0.91	57%
Phase 2	672.5	267.28	9%	223.0	106.5	1.13	0.59	0.54	48%
Phase 3	951.8	424.64	14%	354.4	150.7	1.80	0.84	0.96	53%
Phase 4	932.9	424.32	14%	354.1	147.8	1.80	0.82	0.97	54%
Phase 5	1090.9	909.60	30%	759.1	172.8	3.85	0.96	2.89	75%
Phase 6	763.2	605.86	20%	505.6	120.9	2.57	0.67	1.89	74%
Total	5208.6	3013.80	100%	2515.0	825.0	12.76	4.59	8.17	64%

Table 4. Estimated Phased Maximum Month Water Use Reductions

2 NUTRIENT LOADING

2.1 PRE-DEVELOPMENT CONDITIONS

Existing land uses within the property include citrus groves, row crops, irrigation canals and ditches, pastures, native uplands and wetlands. Of the property's 5,209 acres, approximately 3,235 acres are dedicated to citrus grove, row crops and the network of canals and ditches that support the agricultural operation. The heavily ditched and drained property has isolated wetlands and uplands scattered between the cultivated fields. The property has virtually no surface water bodies besides the canals and ditches. The current land use breakdown of the property is provided in *Table 5*.

			Existing Land Use Areas	s (ac)		
Phase	Uplands	Wetlands	Disturbed	Citrus	Row Crops	Pasture
1	17.4	268.8	22.4	326.6	91.6	70.6
2	36.4	192.4	22.4	220.2	194.7	6.5
3	66.2	253.2	57.4	62.0	465.0	48.1
4	52.0	354.0	32.2	5.6	443.1	46.1
5	11.3	76.7	63.4	150.5	275.1	513.9
6	30.7	36.2	82.6	249.7	17.4	346.5

Table 5. Existing Land Use Breakdown

2.2 POST-DEVELOPMENT CONDITIONS

Proposed conditions for the property include single-family residential development, a few amenity parcels and mixed commercial-residential development. Also proposed are restoration/conservation areas totally approximately 2,917 acres. To support the proposed development parcels, surface water management lakes and dry detention areas will be incorporated throughout the developed areas of the property to provide the water quality treatment and runoff attenuation. The restoration/conservation areas will enhance the existing wetlands and native uplands and convert existing agricultural land to wetland and native upland areas, which will also contribute to improved treatment of surface water. Based on the proposed

Development Phasing Plan, a preliminary land use summary for the proposed conditions is provided in *Table 6*.

Proposed Land Use Areas (ac)								
Phase	Developed	Lake	Open Space	Impervious	Roof	Conservation	Wetland	Upland
1	350.8	70.2	140.3	66.4	73.9	447.0	261.0	186.0
2	296.0	59.2	118.4	44.4	74.0	377.0	183.1	193.9
3	418.9	83.8	167.5	65.3	102.3	533.0	239.0	294.0
4	410.5	82.1	164.2	64.7	99.5	522.0	343.0	179.0
5	480.0	96.0	192.0	72.0	120.0	611.0	60.0	551.0
6	335.9	67.2	134.3	50.4	84.0	427.0	24.9	402.1

Table 6. Proposed Land Use Breakdown

2.3 LAND USE EFFECT ON NUTRIENT LOADING

Excess rainfall on a property becomes stormwater runoff, which travels across the ground to low lying areas within the property or to an adjacent property. As the runoff flows over the land to a lake, natural depression, ditch, etc, it will accumulate certain pollutants based on the land cover and use of the property. Two of the main pollutants of concern that accumulate in runoff are nitrogen and phosphorus. These two pollutants are important nutrients for the growth of algae and other biological sources that are detrimental to water quality.

Nitrogen and phosphorus come in several forms, some of which dissolve in the runoff and some of which remain suspended. The typical measurement for nitrogen and phosphorus combines the dissolved and suspended forms into Total Nitrogen (TN) and Total Phosphorus (TP).

Nutrient loading rates for stormwater runoff from specific land uses within the state of Florida have been developed based on numerous research studies. The Harper (2007) report compiled the reported values and has since been used as the accepted reference source by FDEP for nutrient loading rates. The nutrient loading rates applicable to the property are shown in *Table 7*.

	Nutrient Loading Rate (mg/L)				
Land Use	TN	ТР			
Uplands	1.155	0.027			
Wetlands	1.095	0.015			
Disturbed	1.645	0.27			
Citrus	2.24	0.183			
Pasture	3.51	0.686			
Row Crop	2.65	0.593			
Commercial	1.13	0.188			
Single-Family Residential	2.07	0.327			

Table 7. Nutrient Loading Rates per Land Use

2.4 WET DETENTION EFFECT ON NUTRIENT LOADING

Nitrogen and phosphorus concentrations within a water body, such as a water management pond, decrease due to several means. Nutrients are absorbed and degraded by algae, bacteria, vegetation and by other chemical processes given time within an adequately sized pond. Wet detention systems can provide removal efficiencies upwards of 60% for nitrogen and phosphorus.

2.5 ANTICIPATED PRE- V POST-DEVELOPMENT NUTRIENT LOADING COMPARISON

The reduction of the nutrient load from the property to offsite waters can be expected due to the developed condition of the property when compared to existing conditions. Converting the current agricultural land uses of the property to residential and commercial, while providing adequate wet and dry detention water management facilities, will result in a lower nutrient runoff concentration and will provide greater detention time of the runoff before leaving the property. The dedicated 2,917 acres of conservation area will further provide a reduction in nutrient loading to the receiving lands.

Annual Loading per Phase (kg/yr) Nutrient Reduction per Phase (%) Phase **Existing Conditions Proposed Conditions** TP TP TN TP TN TN 1 1794 170 1279 40 29% 76% 40% 2 1786 216 1068 36 83% 3 3074 465 1465 50 52% 89% 3081 434 1626 47% 88% 4 51 5 54 54% 89% 2843 513 1315 6 890 38 38% 83% 1425 228

A reduction in the property's nutrient loading is shown per development phase in the following table:

3 REGIONAL FLOW PATTERNS

3.1 EXISTING CONDITIONS SURFACE WATER FLOW PATTERN

The FFD Corkscrew Road property is located between two regional sub-watersheds, Flint Pen and Corkscrew-West. The Estero River and Imperial River/Spring Creek sub-watersheds are also within close proximity of the property.

The Flint Pen flow way, located west of the property, runs north-to-south starting near SR 82 and conveys surface flow down towards Bonita Springs. The Corkscrew-West flow way, located southeast of the property, flows in a northeast-to-southwest direction, extending from the Corkscrew-East sub-watershed near Lake Trafford and draining into the Corkscrew Canal and Cocohatchee watersheds in north Collier County.

Surface water discharge from the current property's multiple agriculture operations are directed to both the Flint Pen and Corkscrew-West flow ways via control structures and overflow berms.

Based on existing current topography, there is a mild slope in elevation from the north portion of the property to the south. Existing ground elevations within the north portion of the property are approximately 19.0 FT NAVD and ground elevations at the southern portion are approximately 16.0 FT NAVD, with the lowest at the southwest corner.

3.2 HISTORIC CONDITIONS SURFACE WATER FLOW PATTERN

Prior to the draining, cultivating and berming of the property and adjacent properties in the 1960s and beyond for agriculture operations, a flow way system comprised of wetlands and vegetative aeras conveyed surface water through the property from the northeast towards the southwest to the Estero River sub-watershed. The implementation of agriculture activities has disrupted the historic flow way system connectivity along with impacting ground water levels, as described in previous sections of this report. The historic flow way connection is shown in *Figure 3*. The historic flow ways depicted in *Figure 3* are based upon an evaluation of NRCS hydric and transitional soils along with 1953 aerial photography.





3.3 PROPOSED CONDITIONS SURFACE WATER FLOW PATTERN

Developing the property provides the opportunity to re-establish the historic flow way connection that existed prior to the agricultural driven changes. A golf course, Old Corkscrew Golf Club, and rural residential lots abut the property at the northeast boundary where the historic flow way connection previously tied into the property. Per the FFD Corkscrew Road Property Preserve and Restoration Phase Plan, a direct connection to the existing wetlands and historic flow way will be provided. In addition, the phased plan will provide for an opportunity to construct a hydraulic connection to the existing Old Corkscrew Golf Club property's-controlled stormwater discharge outfall canal. *Figure 4* illustrates where the existing wetlands and historic flow way connection abuts the property and the existing golf course's outfall canal location.

The proposed development portion of the property will include a controlled surface water management system to provide sufficient water quality treatment and attenuation for the proposed residential and commercial uses. The surface water management system will consist of wet detention ponds and dry detention areas. Excess rainfall will be directed to the detention areas, allowing for the treatment of nutrients within the development boundary, prior to discharging to the restored flow way areas, as discussed in Section 2. The proposed phased Preserve and Restoration plan for the FFD Corkscrew Road project is consistent with the Lee Plan goal of restoring historic flow patterns and enhancing the quality of surface water getting into the adjacent Flint Pen flow way and other environmentally sensitive areas.



Figure 4. Historic Flow Way Connection

4 ADDITIONAL EVALUATIONS AND REPORTING

Prior to or concurrent with the first Development Order application, the FDD project will require additional submittals for approval of a Surface & Groundwater Monitoring Plan, Enhanced Lake Management Plan, and Hydrological Restoration Plan.

The Surface & Groundwater Monitoring Plan will be incorporated into the Enhanced Lake Management Plan and will be initiated to establish baseline water quality and water level conditions for the FDD project site and to quantify potential adverse impacts as a result of the proposed mixed-use development. Components of the Surface & Groundwater Monitoring plan will include the following:

- Establishment of baseline groundwater levels and water quality conditions.
- Water quality analysis of stormwater entering and leaving the site twice during the wet season and once during the dry season.
- Quarterly submittals of the results of the water quality monitoring to Lee County Department of Natural Resources (LCDNR) in Electronic Data Deliverable (EDD) approved format.
- Annual Water Quality Monitoring Plan updates to assess water quality trends, potential issues, and if necessary, recommendations for corrective actions or changes to the monitoring plan.
- Groundwater monitoring well(s) for the Surficial Aquifer System located between and proximate to Lee County's nearest production wells.

The Hydrological Restoration Plan and Flow Way Re-establishment will be based, in part, on an integrated surface and groundwater model to demonstrate protection of Lee County's natural resources and restore historic flow-ways and improve drainage patterns to the extent possible. Components of the Hydrological Restoration Plan will include the following:

- Detailed calculations/analyses for proposed flow-ways and other drainage improvements to demonstrate hydrologic benefits while ensuring no adverse impacts
- Analyses of post-development phases including peak stages, flows, and inundation (durations and frequency) for design storms (25 yr – 3 day and 100 yr – 3 day) and compare hydrologic conditions for wet and dry seasons.



LEE COUNTY ORDINANCE NO. 19-13 Limerock Mining (CPA2018-10014)

AN ORDINANCE AMENDING THE LEE COUNTY COMPREHENSIVE PLAN, COMMONLY KNOWN AS THE "LEE PLAN," ADOPTED BY ORDINANCE NO. 89-02, AS AMENDED, SO AS TO ADOPT AMENDMENT PERTAINING TO THE LIMEROCK MINING PUBLIC (CPA2018-10014) APPROVED DURING Α HEARING: PROVIDING FOR PURPOSE, INTENT, AND SHORT TITLE: AMENDMENTS TO ADOPTED MAP AND TEXT; LEGAL EFFECT OF "THE LEE PLAN"; PERTAINING TO MODIFICATIONS THAT MAY ARISE FROM CONSIDERATION AT PUBLIC **HEARING:** GEOGRAPHICAL APPLICABILITY; SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS, AND AN EFFECTIVE DATE.

WHEREAS, the Lee County Comprehensive Plan ("Lee Plan") and Chapter XIII, provides for adoption of amendments to the Plan in compliance with State statutes and in accordance with administrative procedures adopted by the Board of County Commissioners ("Board"); and,

WHEREAS, the Board, in accordance with Section 163.3181, Florida Statutes, and Lee County Administrative Code AC-13-6 provide an opportunity for the public to participate in the plan amendment public hearing process; and,

WHEREAS, the Lee County Local Planning Agency ("LPA") held a public hearing on the proposed amendment in accordance with Florida Statutes and the Lee County Administrative Code on January 28, 2019; and,

WHEREAS, the Board held a public hearing for the transmittal of the proposed amendment on April 17, 2019. At that hearing, the Board approved a motion to send, and did later send, proposed amendments pertaining to Lee Plan Goals 1, 9, 10, 33, 47, and 114, Chapter XIII, and Map 14 (CPA2018-10014) to the reviewing agencies set forth in Section 163.3184(1)(c), F.S. for review and comment; and,

WHEREAS, at the April 17, 2019 meeting, the Board announced its intention to hold a public hearing after the receipt of the reviewing agencies' written comments; and,

WHEREAS, on June 19, 2019, the Board held a public hearing and adopted the proposed amendment to the Lee Plan set forth herein.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA, THAT:

SECTION ONE: PURPOSE, INTENT AND SHORT TITLE

The Board of County Commissioners of Lee County, Florida, in compliance with Chapter 163, Part II, Florida Statutes, and with Lee County Administrative Code AC-13-6, conducted public hearings to review proposed amendments to the Lee Plan. The purpose of this ordinance is to adopt map and text amendments to the Lee Plan discussed at those meetings and approved by a majority of the Board of County Commissioners. The short title and proper reference for the Lee County Comprehensive Land Use Plan, as hereby amended, will continue to be the "Lee Plan." This amending ordinance may be referred to as the "Limerock Mining Ordinance (CPA2018-10014)."

SECTION TWO: ADOPTION OF COMPREHENSIVE PLAN AMENDMENT

The Lee County Board of County Commissioners amends the existing Lee Plan, adopted by Ordinance Number 89-02, as amended, by adopting an amendment, which amends Lee Plan Goals 1, 9, 10, 33, 47, and 114, Chapter XIII, and Map 14 to: remove the requirements for a limerock supply inventory and demand analysis and for future limerock mines to be designated on Map 14; delete Map 14, the Future Limerock Mining Overlay; add a policy regarding compatibility of mining operations on airport capacities, facilities and operations; and, add a policy to require a public informational meeting prior to submittal of a mine excavation planned development rezoning application known as Limerock Mining (CPA2018-10014).

The corresponding Staff Reports and Analysis, along with all attachments and application submittals for this amendment are adopted as "Support Documentation" for the Lee Plan. Proposed amendments adopted by this Ordinance are attached as Exhibit A.

SECTION THREE: LEGAL EFFECT OF THE "LEE PLAN"

No public or private development will be permitted except in conformity with the Lee Plan. All land development regulations and land development orders must be consistent with the Lee Plan as amended.

SECTION FOUR: MODIFICATION

It is the intent of the Board of County Commissioners that the provisions of this Ordinance may be modified as a result of consideration that may arise during Public Hearing(s). Such modifications shall be incorporated into the final version.

SECTION FIVE: GEOGRAPHIC APPLICABILITY

The Lee Plan is applicable throughout the unincorporated area of Lee County, Florida, except in those unincorporated areas included in joint or interlocal agreements with other local governments that specifically provide otherwise.

SECTION SIX: SEVERABILITY

The provisions of this ordinance are severable and it is the intention of the Board of County Commissioners of Lee County, Florida, to confer the whole or any part of the powers herein provided. If any of the provisions of this ordinance are held unconstitutional by a court of competent jurisdiction, the decision of that court will not affect or impair the remaining provisions of this ordinance. It is hereby declared to be the legislative intent of the Board that this ordinance would have been adopted had the unconstitutional provisions not been included therein.

SECTION SEVEN: INCLUSION IN CODE, CODIFICATION, SCRIVENERS' ERROR

It is the intention of the Board of County Commissioners that the provisions of this ordinance will become and be made a part of the Lee County Code. Sections of this ordinance may be renumbered or relettered and the word "ordinance" may be changed to "section," "article," or other appropriate word or phrase in order to accomplish this intention; and regardless of whether inclusion in the code is accomplished, sections of this ordinance may be renumbered or relettered. The correction of typographical errors that do not affect the intent, may be authorized by the County Manager, or his designee, without need of public hearing, by filing a corrected or recodified copy with the Clerk of the Circuit Court.

SECTION EIGHT: EFFECTIVE DATE

The plan amendments adopted herein are not effective until 31 days after the State Land Planning Agency notifies the County that the plan amendment package is complete. If timely challenged, an amendment does not become effective until the State Land Planning Agency or the Administrative Commission enters a final order determining the adopted amendment to be in compliance. No development orders, development permits, or land uses dependent on this amendment may be issued or commence before the amendment has become effective. If a final order of noncompliance is issued by the Administration Commission, this amendment may nevertheless be made effective by adoption of a resolution affirming its effective status.

THE FOREGOING ORDINANCE was offered by Commissioner Pendergrass, who moved its adoption. The motion was seconded by Commissioner Manning. The vote was as follows:

John Manning	Aye
Cecil Pendergrass	Aye
Vacant	
Brian Hamman	Aye
Frank Mann	Nay

DONE AND ADOPTED this 19th day of June, 2019.

ATTEST: LEE COUNTY BOARD OF LINDA DOGGETT, CLERK COUNTY COMMISSIONERS BY: BY: Deputy Clerk(Brian Hamman, Vice Chair 5555586568 55565568888 SEAL DATE: Munaiuness APPROVED AS TO FORM FOR THE RELIANCE OF LEE COUNTY ONLY County Attorney's Office

Exhibit A: Adopted revisions to Lee Plan Goals 1, 9, 10, 33, 47, and 114, Chapter XIII, and Map 14 (Adopted by BOCC June 19, 2019)

Note: Text depicted with underscore represents additions to the Lee Plan. Strike-through text represents deletions from the Lee Plan.

II. Future Land Use

POLICY 1.2.2 1.1.13: The Tradeport future land use category includes areas are of commercial and industrial lands adjacent to the airport needed to accommodate projected growth through the year 2030. These areas will include developments consisting of light manufacturing or assembly, warehousing, and distribution facilities; research and development activities; laboratories; ground transportation and airport-related terminals or transfer facilities; hotels/motels, meeting facilities; and office uses. Stand alone retail commercial uses intended to support and compliment the surrounding business and industrial land uses are permitted if they are approved as part of a Development of Regional Impact (DRI) or Planned Development rezoning. Stand alone retail commercial uses are limited to 1 acre out of every 10 Tradeport and preserved wetland acres within To provide an incentive to preserve upland habitat, Developments of the project. Regional Impact or Planned Developments may also receive additional stand alone retail acres at the rate of 1 additional acre out of every 10 acres of preserved and enhanced uplands within the project that protect wetlands, flowways or occupied listed species habitat. Ancillary retail commercial uses, related directly to the sale of products manufactured or services provided in the Tradeport, are allowed if they are part of a planned development. Residential uses, other than bona fide caretaker residences, are not permitted in this category. Caretaker residences are not permitted in the Airport Noise Zone B. Limerock mining may be approved through the Mine Excavation Planned Development rezoning process for the land designated Tradeport on the Future Limerock Mining map (Map 14.) Because this area is located within the Six Mile Cypress Basin and is also a primary point of entry into Lee County, s-Special environmental and design review guidelines will be applied to its development this future land use category because of its location within the Six Mile Cypress Basin and in order to maintain the appearance of this area as a primary point of entry into Lee County. Property in Section 1 and the east 1/2 of Section 2, Township 46 South, Range 25 East, and in Section 6, Township 46 South, Range 26 East, must be rezoned to a planned development zoning category prior to any development other than the construction of essential public services. During the rezoning process, the best environmental management practices identified on pages 43 and 44 of the July 28, 1993 Henigar & Ray study entitled, "Groundwater Resource Protection Study" will be rebuttably presumed to be necessary to protect potential groundwater resources in the area. (Ordinance No. 94-30, 02-02, 03-04, 04-16, 07-09, 09-06, 10-14, 10-20, 10-37, 18-05)

POLICY 1.4.5: The Density Reduction/Groundwater Resource (DR/GR) land use category includes upland areas that provide substantial recharge to aquifers most suitable for future wellfield development. These areas also are the most favorable locations for physical withdrawal of water from those aquifers. Only minimal public facilities exist or are programmed.

- 1. New land uses in these areas that require rezoning or a development order must demonstrate compatibility with maintaining surface and groundwater levels at their historic levels (except as provided in Policies 33.1.3 and 33.3.5) utilizing hydrologic modeling, the incorporation of increased storage capacity, and inclusion of green infrastructure. The modeling must also show that no adverse impacts will result to properties located upstream, downstream, as well as adjacent to the site. Offsite mitigation may be utilized, and may be required, to demonstrate this compatibility. Evidence as to historic levels may must be submitted as part of the rezoning application and updated, if necessary, as part of the mining development order application. during the rezoning or development review processes.
- Permitted land uses include agriculture, natural resource extraction and related facilities, conservation uses, public and private recreation facilities, and residential uses at a maximum standard density of one dwelling unit per ten acres (1 du/10 acres). See Policies 33.3.2, 33.3.3, 33.3.4, 33.3.5 and 33.3.6 See Objectives 33.2 and 33.3 for potential density adjustments resulting from concentration or transfer of development rights.
 - a. For residential development, also see Objective 33.3 and following policies. Commercial and civic uses can be incorporated into Mixed-Use Communities to the extent specifically provided in those policies.
 - b. Individual residential-parcels may contain up to two acres of Wetlands without losing the right to have a dwelling unit, provided that no alterations are made to those wetland areas.
 - c. The Future Limerock Mining overlay (Map-14) identifies sufficient land near the traditional Alico Road industrial corridor for continued limerock mining to meet regional demands through the Lee Plan's planning horizon (currently 2030). See Objective 33.1 and following policies.
- 3. Remains unchanged.

POLICY 1.7.6: The Planning Communities Map and Acreage Allocation Table (see Map 16, and Table 1(b), and Policies 1.1.1 and 2.2.2) depicts the proposed distribution, extent, and location of generalized land uses for the year 2030 through the Plan's horizon. Acreage totals are provided for land in each Planning Community in unincorporated Lee County. No development orders or extensions to development orders will be issued or approved by Lee County that would allow the acreage totals for residential, commercial or industrial uses contained in Table 1(b) to be exceeded. This policy will be implemented as follows:

- 1. Remains unchanged.
- 2. Project reviews for development orders must include a review of the capacity, in acres, that will be consumed by buildout of the development order. No development

order, or extension of a development order, will be issued or approved if the project acreage <u>for a land use</u>, when added to the acreage contained in the updated existing land use database, exceeds the limitation established by Table 1(b), Acreage <u>Allocation Table</u> regardless of other project approvals in that Planning Community. For limerock mining in Planning Community #18, see special requirements in Policy 33.1.4 regarding industrial acreages in Table 1(b).

3. Remains unchanged.

POLICY 1.7.12: The Future Limerock Mining overlay (Map 14) identifies sufficient land near the traditional Alico Road industrial corridor for continued limerock mining to meet regional demands through the Lee Plan's planning horizon (currently 2030). See Objective 33.1 and following policies. (Ordinance No. 10-20, 14-10)

POLICY 1.7.13 1.7.12: Renumber.

adjoining mining activities and mining pits. (Ordinance No. 94-30, 02-02, 10-20)

POLICY 9.1.7: Existing agricultural lands within the DR/GR land use category provide important surface and subsurface connections for water and wildlife resources. The county supports the integration of agriculture within a comprehensive and coordinated effort of county and regional agencies to manage the water resources in a manner that includes the protection and restoration of natural systems within Southeast Lee County. (Ordinance No. 10-19)

GOAL 10: NATURAL RESOURCE EXTRACTION. To protect areas containing commercially valuable natural resources from incompatible urban development, while iensuring that natural resource extraction operations minimize or eliminate adverse effects on surrounding land uses and on other natural resources. (Ordinance No. 02-02, 10-20)

OBJECTIVE 10.1: Designate through the rezoning process sufficient lands suitable for providing fill material, limerock, and other commercially valuable natural resources to meet the county's needs and to export to other communities, while providing adequate protection for the county's other natural resources. <u>Minimize or eliminate adverse effects of natural resources</u>, and reclamation. (Ordinance No. 10-20)

POLICY 10.2.3 <u>10.1.1</u>: <u>Limit</u> the depth of mining for a proposed excavations will be limited as necessary in order to prevent any breach of an aquaclude or confining layer. (Ordinance No. 10-20)

POLICY 10.1.1 <u>10.1.2</u>: Encourage Tthe sale of overburden from approved limerock mines. is encouraged because converting overburden into fill material avoids additional mining at other locations. However, shallow mines that produce primarily fill dirt should be sited as close as possible to locations of high demand to minimize the distance fill material must be trucked to likely destinations (see also Policy 33.1.5). (Ordinance No. 10-20)

POLICY 10.1.3: Supplement limerock supply by encouraging public and private entities to recycle asphalt and concrete materials.

POLICY 10.1.4: Limerock mining may be permitted only in accordance with Objective 33.1 and its policies. Other natural resource extraction activities, such as f<u>F</u>ill dirt operations (and ancillary industrial uses may be permitted as follows:

- 1. In areas indicated on the Future Land Use Map as Rural, <u>Coastal Rural</u>, Open Lands, and Density Reduction/Groundwater Resource provided they have there is adequate fire protection, transportation facilities, wastewater treatment and water supply, and provided further that they have no significant adverse effects such as dust and noise on compatibility with surrounding land uses and natural resources. In the Density Reduction/Groundwater Resource category, fill dirt operations are further restricted in accordance with Policy 33.1.5.
- 2. In order to reduce transport costs and minimize wear on the county's roadways, the extraction and transport of fill material may also be permitted as an interim use in the Future Urban Areas provided that the above requirements are met; however, special restrictions may also be applied to protect other land uses. These determinations will be made during the rezoning process. Ancillary crushing of limerock strata embedded within fill material may be permitted for use on site.

(Ordinance No. 94-30, 00-22, 02-02, 10-20)

POLICY 10.1.5: Lee County will support efforts by government, community leaders, and the extractive industry owners and businesses to incorporate reclaimed mining pits into a comprehensive and coordinated effort of county and regional agencies Encourage a collaborative effort between public and private entities to maximize the potential of reclaimed mining pits for to enhanceing wildlife habitat values, minimizeing or repairing the long-term impacts to adjoining natural systems, provideing for human recreation, education, and other appropriate uses, and/or strengthening community environmental benefits. (Ordinance No. 99-15, 02-02, 10-20)

POLICY 10.1.6: Maintain land development regulations to minimize or eliminate adverse effects of natural resource extraction operations.
POLICY 10.1.7: Wetland impacts that were approved through a rezoning, as a result of being identified on the Future Limerock Mining Overlay, prior to the adoption of Ord. 19-XX or approved through a MEPD rezoning application that was found sufficient prior to adoption of Ord. 19-XX, will be deemed consistent with current Lee Plan wetland provisions.

OBJECTIVE 10.2: Coordinate mining activities, including evaluation, Ensure new and expanded natural resource extraction operations are compatible with the environment and surrounding land uses through requirements for monitoring, reclamation, and redevelopment, with water supply planning, surface and groundwater management activities, wetland protection, and wildlife conservation, and future residential activities. Consider the cumulative and watershed-wide impacts of mining activities natural resource extraction operations, not just the direct impacts of each individual mine in isolation. (Ordinance No. 10-20)

POLICY 10.2.2: Applications for natural resource extraction permits for new or expanding areas must include an environmental assessment. The assessment will include (but not be limited to) consideration of air emissions, impact on environmental and natural resources, effect on nearby land uses, degradation of water quality, depletion of water quality water budget, drainage, fire and safety, noise, odor, visual impacts, transportation including access roads, sewage disposal, and solid waste disposal. Assessments will also include:

- 1. Potential impacts on the aquatic ecology and water quality of mining pits that will result from mining pit design.
- 2. Likely post-mining impacts such as runoff or surface and groundwater flow on land uses surrounding the site.

3. Consideration of the primary and secondary impacts at the local and watershed levels. (Ordinance No. 00-22, 02-02, 10-20)

POLICY 10.1.2 <u>10.2.3</u>: The future <u>All proposed</u> uses of any new or existing natural resource extraction operation must be evaluated at the time the property <u>is rezoned</u> undergoes planned development zoning review. Site plans should be designed to incorporate proposed future uses, including open space, and to ensure the protection of surface and ground water resources, wildlife, and native plant communities. Uses may be added to an approved zoning through the appropriate planned development zoning review process. (Ordinance No. 10-20)

POLICY 10.1.3 <u>10.2.8</u>: Reclamation is intended to replace or offset ecological benefits lost during extraction, including the creation of conditions that will support a healthy water body to the extent practicable. Applications for nNatural resource extraction

permits for new or expanding sites, or for future use of such sites, must include are required to submit a reclamation plan that provides assurance of implementation. This plan must address the reclamation and sustainable management of all existing and future mining pits, preserves, and buffer areas that are or may in the future be related to the mining operation. Reclamation plans in Future Limerock Mining areas (see Map 14) must include littoral shelves suitable for native wetland plants, revegetation of disturbed land, allowance for wildlife movement, and minimization of long-term effects on surrounding surface and groundwater levels. Reclamation plans for mines providing primarily fill material should provide more extensive littoral shelves and describe how shorelines will be configured and managed and how disturbed uplands will be restored or converted to other acceptable land uses. Reclamation plans in or near important surface and groundwater resource areas must also be designed to minimize the possibility of contamination of the surface and groundwater during mining and after completion of the reclamation. (Ordinance No. 00-22, 02-02, 10-20)

POLICY 10.2.9: As part of the MEPD rezoning application, a public informational meeting which meets the requirements of Policy 17.3.4 must be held prior to the submittal of the rezoning application and within three miles of the boundary of the affected Community Plan Area.

OBJECTIVE 10.3: Determine and maintain a balance between the county's petroleum resources and the public health, safety and welfare. (Ordinance No. 98-09, 10-20, 17-13)

GOAL 33: SOUTHEAST LEE COUNTY. To protect natural resources in accordance with the county's 1990 designation of Southeast Lee County as a groundwater resource area, augmented through a comprehensive planning process that culminated in the 2008 report, Prospects for Southeast Lee County. To achieve this goal, it is necessary to address the inherent conflict between retaining shallow aquifers for long-term-water storage and extracting the aquifer's limestone for processing into-construction aggregate. The best-overall-balance between these demands will be achieved through a pair of complementary strategies: consolidating future mining in the traditional Alico Road industrial corridor while initiating a long-term restoration program-to the east and south to benefit water resources and protect natural habitat. Residential and commercial development will not be significantly increased except where development rights are being explicitly concentrated by this plan. Agriculture uses may continue, and environmental restoration may begin. This goal and subsequent objectives and policies apply to Southeast Lee County as depicted on Map 1, Page 2. Protect Southeast Lee County's natural resources through public and private acquisition and restoration efforts. Development incentives will be utilized as a mechanism to preserve, enhance, and protect natural resources, such as regional flow-ways and natural habitat corridors in the development of privately owned land. Allowable land uses will include conservation, agriculture, public facilities, low density or clustered residential, natural resource extraction operations, and private recreation facilities; allowable land uses must be compatible with protecting Southeast Lee County's environment. (Ordinance No. 10-20)

Exhibit A CPA2018-10014 **OBJECTIVE 33.1: LIMEROCK MINING.** Designate on a Future Land Use Map overlay sufficient land near the traditional Alico Road industrial corridor for continued limerock mining to meet regional demands through this plan's horizon (currently 2030). (Ordinance No. 10-20)

POLICY 33.1.1: Limerock mining is a high-disturbance activity whose effects on the surrounding area cannot be completely mitigated. To minimize the impacts of mining on valuable water resources, natural systems, residential areas, and the road system, Map 14 identifies Future Limerock Mining areas that will concentrate limerock mining activity in the traditional Alico Road industrial corridor east of I-75. By formally identifying such areas in this plan and allowing rezonings for new and expanded limerock mines only in the areas identified in Map 14, limerock resources in or near existing disturbed areas will be more fully utilized and the spread of limerock mining impacts into less disturbed environments will be precluded until such time as there is a clear necessity to do so (and Map 14 is amended accordingly). Inclusion of land on Map 14 does not restrict the rights of landowners to use their land for other allowable purposes. (Ordinance No. 10-20)

POLICY 33.1.2: Most land identified on Map 14 is in the Density Reduction/Groundwater Resource land use category (see Policy 1.4.5) and will also be subject to those special requirements. Future Limerock Mining land outside the DR/GR area will also be subject to requirements of the appropriate designation on Map 14. Goal 10 and its objectives and policies contain additional guidance on mining. The Land Development Code will continue to provide additional details on mining approvals and operations. (Ordinance No. 10-20)

POLICY 33.1.3: Concurrent with the update of Map 14 in 2010, the Lee Plan was amended to improve the ability to efficiently mine in Future Limerock Mining areas. An exception was made to the requirement in Policy 1.4.5 that DR/GR land uses must demonstrate compatibility with maintaining surface and groundwater levels at their historic levels. Under this exception, land in Future Limerock Mining areas may be rezoned for mining when the impacts to natural resources including water levels and wetlands are offset through appropriate mitigation within Southeast Lee County. The Land Development Code will be amended and maintained to include provisions for assessing and mitigating mining impacts and for transferring residential development rights from land zoned for limerock mining pits. Appropriate mitigation for water levels will be based upon site specific data and modeling acceptable to the Division of Natural Resources. Appropriate wetland mitigation may be provided by preservation of high quality indigenous habitat, restoration or reconnection of historic flowways, connectivity to public conservation lands, restoration of historic ecosystems or other mitigation measures as deemed sufficient by the Division of Environmental Sciences. It is recommended that, whenever possible, wetland mitigation be located within Southeast Lee County. The Land Development Code will be revised to include provisions to implement this policy. (Ordinance No. 10-20)

POLICY 33.1.4: Table 1(b) contains industrial acreage in Southeast Lee County that reflects the acreage of limerock mining pits needed to meet local and regional demand through the year 2030. The parcel based database of existing land uses described in Policy 1.7.6 will be updated at least every seven years to reflect additional data about limerock mining in Southeast Lee County, including mining acreage zoned (project acress and mining pit acreage), pit acreage with active mine operation permits, acreage actually mined, and acreage remaining to be mined. Current totals are based on data compiled in *Prospects for Southeast Lee County* for the year 2006. Future amendments will reflect any additional data that becomes available through routine monitoring reports and bathymetric surveys or other credible sources. The industrial acreage totals for Southeast Lee County that are found in Table 1(b) for Planning Community #18 will be used for the following purposes:

- 1. In accordance with Policies 1.1.1 and 1.7.6, new mine development orders and mine development order amendments may be issued provided that the industrial acreage totals in Table 1(b) are not exceeded. For purposes of this computation, the proposed additional limerock pit acreage, when added to the acreage of limerock pits already dug, cannot exceed the acreage limitation established in Table 1(b) for Planning Community #18.
- 2. By monitoring the remaining acreage of land rezoned for mining but not yet mined, Lee County will have critical information to use in determining whether and to what extent the Future Limerock Mining areas in Map 14 may need to be expanded in the future to meet local and regional demands.

(Ordinance No. 10-20)

POLICY 33.1.5: The sale of overburden from approved limerock mines is encouraged because converting overburden into fill-material avoids additional mining at other locations. However, shallow mines that produce primarily fill dirt should be sited as close as possible to locations of high demand to minimize the distance that fill material must be trucked to likely destinations (see also Policy 10.1.1). In Southeast Lee County shallow mines are generally unnecessary because fill dirt is available as a byproduct of limerock mines; however, shallow mines may be permitted on sites immediately adjoining areas of high demand for fill dirt such as Lehigh Acres. (Ordinance No. 10-20)

POLICY 33.1.6: Asphalt and concrete can be recycled to produce aggregate that is comparable to the products of limerock mines. Lee County should be a leader in using recycled aggregate in its construction projects and in encouraging privately operated recycling facilities in appropriate locations to minimize the need to mine or import additional aggregate. (Ordinance No. 10-20)

POLICY 33.1.7: Protect agricultural activities on lands designated as Agricultural on the agricultural overlay (see Map 20) from the impacts of new natural resource extraction operations, recreational uses, and residential developments. However, in Future Limerock Mining areas (see Map 14), agricultural activities may be limited to the interim period prior to mining or may need to coexist with adjoining mining activities and mining pits. (Ordinance No. 10-20)

OBJECTIVE 33.2 33.1: WATER, HABITAT, AND OTHER NATURAL RESOURCES. Designate on a Future Land Use Map overlay the land in Southeast Lee County that is most critical toward restoring historic surface and groundwater levels and for improving the protection of other natural resources such as wetlands and wildlife habitat. Protect and restore natural resources within Southeast Lee County including, but not limited to, surface and ground water, wetlands, and wildlife habitat. (Ordinance No. 10-19)

POLICY 33.2.1 33.1.1: Large-scale ecosystem integrity in Southeast Lee County should be maintained and restored. Protection and/or restoration of land is of even higher value when it connects existing corridors and conservation areas. Restoration is also highly desirable when it can be achieved in conjunction with other uses on privately owned land including agriculture. Lee County Natural Resources, Conservation 20/20, and Environmental Sciences staff will work with landowners who are interested in voluntarily restoring native habitats and landowners who are required to conduct restoration based upon land use changes. The parameters for the required restoration will be established in the Land Development Code by 2012 or within planned development zoning approvals as established in Objective 33.3. (Ordinance No. 10-19, 15-13)

POLICY 33.2.2 33.1.2: The DR/GR Priority Restoration overlay depicts <u>seven tiers of land</u> where protection and/or restoration would be most critical to restore historic surface and groundwater levels and to connect existing corridors or conservation areas (see Policy 1.7.7 and Map 1, Page 4). Within these tiers, density incentives will be utilized as a mechanism to improve, preserve, and restore regional surface and groundwater resources and wildlife habitat of state and federally listed species; with Tier 1 and Tier 2 being the most incentivized tiers. This overlay identifies seven tiers of land potentially eligible for protection and restoration, with Tier 1 and Tier 2 being the highest priority for protection from irreversible land use changes. Lee County will may evaluate consider amendments to this overlay map every 7 years to determine if based on changes in public ownership, land use, new scientific data, and/or demands on natural resources justify updating this map. This overlay does not restrict the use of the land. in and of itself. It will be utilized as the basis for incentives and for informational purposes since this map will represent a composite of potential restoration and acquisition activities in the county. (Ordinance No. 10-19)

POLICY 33.2.3 33.1.3: It is in southwest Florida's interest for public and nonprofit agencies to actively pPursue acquisition of (partial or full interest) of in land within the Tier 1 areas in this the DR/GR Priority Restoration overlay through direct purchase; partnerships with other government agencies; long-term purchase agreements; right of first refusal contracts; land swaps; and or other appropriate means. These lands would to provide critical connections to other conservation lands that serve as the backbone for water resource management and wildlife movement within the DR/GR Southeast Lee County. Tier 2 lands are of equal ecological and water resource importance as Tier 1 but have better potential to remain in productive agricultural use as described in Policies 33.2.5 and 33.2.6. Tier 3 lands and the southern two miles of Tiers 5, 6, and 7 can provide an important wildlife connection to conservation lands in Collier County and an

anticipated regional habitat link to the Okaloacoochee Slough State Forest. <u>Tiers 1, 2, 3</u>, and the southern two miles of Tiers 5, 6, and 7 may qualify for unique development incentives outlined in Objectives 33.2 and 33.3 due to the property's potential for natural resource benefits and/or wildlife connections. Additionally, the county may consider incentives, within all tiers, for private landowners to improve water resources and natural ecosystems.

- 1. The county will consider incentives for private landowners to maintain and improve water resources and natural ecosystems on properties within Tier 2 through Tier 7, including but not limited to acquiring agricultural or conservation easements; compensation for water storage that is in the public interest; and providing matching funds to secure federal and state funds/grants for improving agricultural best management practices or protection/restoration of wetlands on existing agricultural operations.
- 2. Tiers 1, 2, 3, and the southern two miles of Tiers 5, 6, and 7 will qualify for incentives when development rights are transferred to less sensitive sites in accordance with Policies 33.3.3 and 33.3.5.
- 3. Permanent protection of land within all tiers may also occur through:
 - a. Using resource extraction mitigation fees to acquire land;
 - b. Establishing a Regional Offsite Mitigation Area (ROMA); or
 - c. Concentrating development as depicted in the Southeast DR/GR Residential Overlay (Map 17) as detailed in Policies 33.3.2, 33.3.3, 33.3.4 and 33.3.5.

(Ordinance No. 10-19, 12-24)

POLICY 33.2.4 33.1.4: Renumbered. POLICY 33.2.5 33.1.5: Renumbered. POLICY 33.2.6 33.1.6: Renumbered. POLICY 33.2.7 33.1.7: Renumbered.

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

OBJECTIVE 33.3 33.2: Renumbered.

POLICY 33.3.1 33.2.1: Renumbered. POLICY 33.3.2 33.2.2: Renumbered. POLICY 33.3.3 33.2.3: Renumbered. POLICY 33.3.4 33.2.4: Renumbered.

OBJECTIVE 33.4 33.3: Renumbered.

POLICY 33.4.1 33.3.1: Renumbered. POLICY 33.4.2 33.3.2: Renumbered. POLICY 33.4.3 33.3.3: Renumbered.

POLICY 47.2.7: In the interest of the safety of air commerce, the county will not approve mining operations unless it is demonstrated that no adverse vibration, noise, air, and water quality impacts on existing and planned airport capacities, facilities, and operations will result from the proposed mining operation.

POLICY 124.1.1: Ensure that development in wetlands is limited to very low density residential uses and uses of a recreational, open space, or conservation nature that are compatible with wetland functions. The maximum density in the Wetlands category is one unit per 20 acres, except that one single family residence will be permitted on lots meeting the standards in Chapter XIII of this plan, and except that owners of wetlands adjacent to Intensive Development, General Interchange, Central Urban, Urban Community, Suburban, and Outlying Suburban areas may transfer densities to developable contiguous uplands under common ownership in accordance with Footnote 8b of Table 1(a), Summary of Residential Densities. In Future Limerock Mining areas only (see Map 14), impacts to wetlands resulting from mining will be allowed when those impacts are offset through appropriate mitigation, preferably within Southeast Lee County (see also Policy 33.1.3). Appropriate wetland mitigation may be provided by preservation of high quality indigenous habitat, restoration or reconnection of historic flowways, connectivity to public conservation lands, and restoration of historic ecosystems or other mitigation measures as deemed sufficient by Lee County. (Ordinance No. 94-30, 00-22, 10-20, 18-06, 18-28)

POLICY 124.1.2: The county's wetlands protection regulations will be consistent with the following:

- 1. The county will not undertake an independent review at the Development Order stage of the impacts to wetlands resulting from development in wetlands that is specifically authorized by a DEP or SFWMD dredge and fill permit or exemption.
- 2. No development in wetlands regulated by the State of Florida will be permitted by Lee County without the appropriate state agency permit or authorization.
- 3. Lee County will incorporate the terms and conditions of state permits into county permits and will prosecute violations of state regulations and permit conditions through its code enforcement procedures.
- 4. Every reasonable effort will be required to avoid or minimize adverse impacts on wetlands through the clustering of development and other site planning techniques.

On- or off-site mitigation will only be permitted in accordance with applicable state standards.

- 5. Mitigation banks and the issuance and use of mitigation bank credits will be permitted to the extent authorized by applicable state agencies.
- 6. Lee County supports a more lenient wetland protection standard for limerock mines within the Future Limerock Mining overlay (Map 14). Lee County's overall wetland protection goals are better served by concentrating mining activity than by preserving small isolated wetlands on mining sites.
- 7 6. Wetland density will be determined by the jurisdictional wetland line. Impacted wetlands may not be calculated at the underlying upland density rate. Density calculations for impacted wetlands must be at 1 dwelling unit per 20 acres.
 (Ordinance No. 94-30, 00-22, 07-12, 10-20, 10-39, 18-28)

```
***********
```

XIII. Administration

b. Administrative Interpretation of the Plan

2. Standards for Administrative Interpretations

- e. In addition to the above, interpretations for a Minimum Use Determination (MUD) will be determined under the following standards:
 - (1) (7): Unchanged.
 - (8) A property that is 10 or more acres in size with at least 8 acres of land designated as DR/GR and no more than 2 acres of Wetlands, provided that no alterations are made to those wetland areas, may be permitted one single family residence.



TABLE 1(b) Year 2030 Allocation

Future Land Use Category		Lee Cour	ity Totals	Northeast Lee Boca Grande	Bonita Fort I	Fort Myers	Burnt Store	Cape Coral	Captiva	Fort My	
SV-SUMMER	· I uture Land Ose Category	Existing	Proposed	County	boca Granue	Springs	Shores	Duin Store	Cape Cotai	Captiva	LOILINY
	Intensive Development	1,361	<u>1,361</u>	<u> </u>			5		27		250
1	Central Urban	14,766	<u>14,766</u>			[225	Ĺ			230
	Urban Community	17,021	<u>17,021</u>	520	485		637				
	Suburban	16,623	<u>16,623</u>				1,810				85
	Outlying Suburban	3,843	<u>3,843</u>	30			40	20	2	500	
	Sub-Outlying Suburban	1,955	<u>1,955</u>				547				
у	Commercial										
ategoi	Industrial	79	<u>79</u>								39
	Public Facilities	1	<u>1</u>						1	1	
	University Community	850	<u>850</u>								
e (Destination Resort Mixed Use Water Dependent	8	<u>8</u>								
us	Burnt Store Marina Village	4	4			_		4			
q	Industrial Interchange				1						
UD'	General Interchange	151	<u>151</u>								
e I	General Commercial Interchange										
.111	Industrial Commercial Interchange										
ut	University Village Interchange										
4 F	Mixed Use Interchange						1				
μ Â	New Community	2,100	2,100	1,200							
al	Airport	1		1		1	1	1		1	
nti	Tradeport	9	9								
de	Rural	8,313	8,313	1,948			1,400	636	1		1
isa	Rural Community Preserve	3,100	3,100								
R	Coastal Rural	1,300	1,300				1		1		
	Outer Island	202	202	5			1		1	150	
	Open Lands	2,805	2,805	250		1	1	590	1		
ĺ	Density Reduction/ Groundwater Resource	6,905	6,905	711		1					
	Conservation Lands Upland										
	Wetlands		1			1	1				
	Conservation Lands Wetland		1								
Un	incorporated County Total Residential	81,396	81,396	4,664	485		4,665	1,250	29	651	604
Co	mmercial	12,793	12,793	177	52		400	50	17	125	150
Inc	lustrial	12,801	6 620	26	3		400	5	26		300
NIOT	Regulatory Allocations	10,001	1 0/0104	1	Real de la cara		1				
	his	92-565	82 565	7 100	121	1	T 2.000	7 000	20	1 961	350
	Hun A C	17.007	24 200	5 100	1 121		550	150		1,501	
		40.7027	49.7704	10,000			2.500	100		-	
Fra C	SSAVE AG	+3,700	40,/80	12,229	(11		2,000	2 026	100	1 (02	
	nservation	81,933	81,933	2,214	611		1,142	3,230	133	1,603	/48
Va	cant	<u>23,874</u>	23,874	1,953		<u></u>	61	931	34	+	45
To	tai	357,176	357,176	33,463	1,572		11,718	12,731	259	4,340	2,197
Po	pulation Distribution (unincorporated Lee County)	495,000	495,000	9,266	1,531		30,861	3,270	225	530	5,744

(Amended by Ordinance No. 02-02, 03-19, 05-19, 07-13, 09-15, 09-16, 10-15, 10-16, 10-40, 10-43, 14-14, 15-10, 16-02, 16-17, 17-12, 17-23, 18-06) Printed 12/7/2018

TABLE 1(b) Year 2030 Allocation

Future Land Use Category		Iona/	San Carles	Canibal	South Fort	Pine Island	Lahigh Acres	Southeast Lee County		North Fort	t Bucking
·	Future Lanu Ose Category	McGregor	San Carlos	Sanibel	Myers	Fine Island	Lenign Acres	Existing	Proposed	Myers	Bucking
	Intensive Development				660	3	42			365	
1	Central Urban	375	17		3,140		8,179			2,600	
	Urban Community	850	1,000		860	500	11,359				11
	Suburban	2,488	1,975		1,200	675				6,690	
	Outlying Suburban	377				600				382	
	Sub-Outlying Suburban		25							140	66
	Commercial										
5	Industrial	5	5		10						
68	Public Facilities										
at .	University Community		850								
	Destination Resort Mixed Use Water Dependent	8									
us	Burnt Store Marina Village										
9	Industrial Interchange				}						
an	General Interchange					1		15	<u>15</u>	31	
	General Commercial Interchange						1				
111.6	Industrial Commercial Interchange						1				
ut	University Village Interchange						1				
H	Mixed Use Interchange		1	1		1	1		1		
μ <u></u>	New Community		1								
al	Airport							1			
iti	Tradeport		1	1							
de	Rural		90			190	14			500	50
:Si	Rural Community Preserve										3,10
R	Coastal Rural					1,300					1
	Outer Island	1				45			1		
	Open Lands				1					45	
	Density Reduction/ Groundwater Resource			1		1	1	4,000	4,000		1
	Conservation Lands Upland				+						
	Wetlands				1				1	1	1
	Conservation Lands Wetland		1		1				1		
Ur	incorporated County Total Residential	4,104	3.962	*	5.870	3.313	19.594	4.015	4.015	10.753	3.32
	mmercial	1 100	1 944	<u>+</u>	2 100	226	1 300	68	68	1.687	15
In	luctria)	320	450		900	64	300	2.244	65	554	5
Nor	Demilatery Allegations		1 100		1 200		1	7,			<u> </u>
INOI	Nice	2 550	1 2.050		2 500	1 2 100	1 15 280	12,000	12 000	4 000	1 1 /
		3,330	3,039	+	3,500	2,100	10,209	7 171	14.050	200	1,5
			-			2,400		17,1/1	18,332	1 500	41
Pa	SSIVE AG				+	815	+	17,521	17,521	1,532	3,6
Co	nservation	9,306	2,969	+	188	14,767	1,541	31,210	31,210	1,317	33
Va	cant	975	594	<u> </u>	309	3,781	9,880	470	470	2,060	1,0
Tc	tal	19,355	12,978		12,867	27,466	47,904	79,701	<u>79,701</u>	22,103	10,2
Po	pulation Distribution (unincorporated Lee County)	34,538	36,963		58,363	13,265	153,011	1,270	1,270	71,001	6,1

(Amended by Ordinance No. 02-02, 03-19, 05-19, 07-13, 09-15, 09-16, 10-15, 10-16, 10-40, 10-43, 14-14, 15-10, 16-02, 16-17, 17-12, 17-23, 18-06) Printed 12/7/2018



FLORIDA DEPARTMENT Of STATE

RON DESANTIS Governor

LAUREL M. LEE Secretary of State

June 20, 2019

Honorable Linda Doggett Clerk of the Circuit Courts Lee County Post Office Box 2469 Fort Myers, Florida 33902-2469

Attention: Missy Flint

Dear Ms. Doggett:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Ordinance No. 19-13, which was filed in this office on June 19, 2019.

Sincerely,

Ernest L. Reddick Program Administrator

ELR/lb

RECEIVED

RESOLUTION NUMBER Z-20-006

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

WHEREAS, an application was filed by the property owners, TPL-LAND-SUB, LLC and on behalf of the property owners, V-LAND-SUB, LLC and PAN TERRA HOLDINGS, LTD, to rezone a 2,138.6± acre parcel from Mixed Use Planned Development (MPD), Residential Planned Development (RPD), and Agricultural (AG-2) to MPD, in reference to Verdana Village RPD; and

WHEREAS, a public hearing before the Lee County Zoning Hearing Examiner, Donna Marie Collins, was advertised and held on February 12, 2020. On February 12, 2020, the Hearing Examiner continued the hearing until February 13, 2020. On February 13, 2020, the public hearing was held. At the conclusion of the hearing, the Hearing Examiner left the record open and requested Staff and the applicant to submit written submissions to her office on or before February 28, 2020; and

WHEREAS, the Hearing Examiner gave full consideration to the evidence in the record for Case #DCI2019-00018 and recommended APPROVAL of the Request with conditions; and

WHEREAS, a second public hearing was advertised and held on May 6, 2020 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 2,138.6± acre parcel from MPD, RPD, and AG-2 to MPD to allow a maximum of 2,400 residential dwelling units and 100,000 square feet commercial development, limited to Neighborhood Commercial uses.

The property is located in the Density Reduction/Groundwater Resource (DR/GR) and Wetlands Future Land Use Category 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 consistent with the following:
 - a. The 6-page Master Concept Plan (MCP) entitled "Master Concept Plan," prepared by J.R. Evans Engineering, date stamped received February 25, 2020, and attached hereto as Exhibit C, except as modified by the conditions below. Development must comply with all requirements of the 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 MCP are subsequently pursued, appropriate approvals will be necessary.

- b. Approved Development Parameters.
 - i. 2,400 dwelling units. The cumulative number of units may not exceed 1.15 times (115% of) the cumulative acreage of a development order phase plus previous phases.
 - ii. 100,000 square feet neighborhood commercial floor area limited to the commercial pod. Outdoor seating areas will be counted toward commercial floor area.
- c. The planned development will be completed in three development pods: an eastern residential pod, a western residential pod, and a commercial pod consistent with the MCP.
- d. The first development order creating residential lots in each development pod must include a minimum of:
 - i. 56% of conservation areas for the pod, but may identify future phases for residential development. The cumulative amount of conservation easement provided in each subsequent development order must equal a minimum of 56% of the phase acreage plus the acreage of previous phase(s).
 - ii. 65% open space for the pod, but may identify future phases for residential development. The cumulative amount of open space provided in each subsequent development order must equal a minimum of 65% of the phase acreage plus the acreage of previous phase(s).
- e. Development order applications that include dwelling units or residential amenities must include a cumulative land development summary table of approved and pending development orders including requested and approved:
 - i. Residential dwelling units and intensity of non-residential uses;
 - ii. Open space (in acres); and
 - ili. Conservation areas (in acres).
- f. Development order applications for the commercial pod must depict a minimum of 30% open space.
- 2. Schedule of Uses and Property Development Regulations

RESIDENTIAL TRACTS (R) Accessory Uses and Structures Administrative Offices Club, Private Community Gardens

Case No, DCI2019-00018

Dwelling Units: Single-Family **Two-Family Attached** Townhouse Multiple Family Zero Lot Line Entrance Gate and Gatehouse **Essential Services** Essential Services Facilities, Group I Excavation, Water Retention Fences, Walls Home Occupation Models: **Display Center** Model Home Model Unit Parking Lot: Accessory Real Estate Sales Office Recreational Facilities: Personal Private, On-site **Residential Accessory Uses** Signs Temporary Uses

MASTER AMENITY CENTER TRACT (MAC) & COMMUNITY AMENITY CENTER TRACT (CAC)

Businesses within MAC and CAC Tracts are for the exclusive use of the residents and guests (not open to the general public)

Accessory Uses and Structures Administrative Offices Club, Private Community Garden Consumption on Premises (in conjunction with Private Clubs) Convenience Food and Beverage Store, excluding fuel pumps Davcare, Child EMS, Fire or Sheriff's station (in compliance with wellfield protection regulations) Entrance Gate and Gatehouse **Essential Services** Essential Services Facilities, Group I Excavation, Water Retention Fences, Walls Food and Beverage Service, Limited Parking Lot: Accessory Personal Services: Groups I and II (limited to Health Clubs or Spas) **Recreational Facilities:** Private, On-site Private, Off-site **Real Estate Sales Office** Rental and Leasing Establishments, Group I Signs

Specialty Retail Shops, Groups I and II Temporary Uses

NEIGHBORHOOD COMMERCIAL TRACT

Accessory Uses and Structures Administrative Offices Animal Clinic or Kennel (no outdoor runs) Bait and Tackle Shop Banks and Financial Institutions, Group I Business Services, Group I **Cleaning and Maintenance Services** Clothing Stores, General Consumption on Premises Convenience Food and Beverage Store (no fuel pumps) Davcare, Child and Adult Drive-through facility for any permitted use EMS, Fire or Sheriff's Station (in compliance with wellfield protection regulations) **Essential Services** Essential Services Facilities, Group I Excavation, Water Retention Fences, Walls Food Stores, Group I Gift and Souvenir Shop Healthcare Facilities, Group III Hobby, Toy and Game Shops Household and Office Furnishings, Group I Medical Office Package Store Parcel and Express Services Parking Lot: Accessory Personal Services, Groups I, II and III Pet Services Pet Shop Pharmacy Place of Worship **Real Estate Sales Office** Recreational Facilities, Commercial, Group IV, excluding Convention or Exhibit Halls and Gun Ranges Rental or Leasing Establishments, Groups I, II and III Restaurant, Groups I, II and III Schools, Commercial and Noncommercial Sians Specialty Retail Shops, all Groups Studios Temporary Uses Variety Store

	Single Family	Zero Lot Line	Two-Family Attached	Townhouse	Multi- Family	Amenity Center	Commerci al
Minimum Lot Width	35	35	35	22	100	100	100
Minimum Lot Depth	150	150	100	100	100	150	150
Minimum Lot Area	5,250	5,250	3,500	2,200	10,000	15,000	15,000
Maximum Building Height	35	35	35	35	45	45	45
Maximum Lot Coverage	65%	65%	70%	70%	65%	60%	60%
Corkscrew Road Setback				100			

Property Development Regulations (in feet)

Minimum Setbacks (Principal/Accessory) (in feet)

	Single Family	Zero Lot Line	Two-Family Attached	Town-house	Multi- Family	Amenity Center	Commercial
Public Street	N/A	N/A	N/A	N/A	N/A	N/A	50
Private Street*	40	40	20	20	20	25	25
Side Yard	5/5	5/5 & 0/0	5/5 & 0/0	5/5 & 0/0	10	10	10
Rear Yard	10/5	10/5	10/5	10/5	10	0	10
Rear Yard Abutting Lake Maintenance Easement	5/0	5/0	5/0	5/0	10	0	25

*110-10 feet/5 feet for secondary street setbacks on corner lots

3. Development Permits

County development permits do not establish a right to obtain permits from state or federal agencies and 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 resulting in violation of state or federal law.

4. <u>Agricultural Uses</u>

- a. Existing citrus grove and row crop agricultural uses must terminate within five years after the first development order approval. Cessation of irrigation and fertilizers must occur concurrent with the first development order approval creating residential lots.
- b. Cattle and grazing lease agricultural uses must terminate prior to issuance of a vegetation removal permit for areas specified in the permit application.

5. <u>Transportation</u>

- a. Zoning approval does not address mitigation of site-related impacts to vehicular or pedestrian facilities. Site-related impacts will be determined at the time of local development order.
- b. The development must mitigate project traffic impacts and pay a proportionate share of roadway improvements established by the Board based on the EEPCO Study and consistent with Lee County Administrative Code 13-16. Payment of the proportionate share obligation will be consistent with the terms of the Development Agreement referenced in Condition 20.
- c. Internal project roadways must meet LDC suburban roadway standards, except where modified by deviation and identified on the MCP.
- d. Turn lane deceleration length designs at project entrances will be determined at the time of local development order review.

6. Open Space and Conservation Easement

- a. A minimum of 65% of the entire project acreage must be devoted to open space and a minimum of 56% must be placed under conservation easement.
- b. Project acreage subject to conservation easements must have the easement recorded within five years of the issuance of the first development order approval creating residential lots and must include language:

Dedicating the easement to a maintenance entity that provides third party enforcement rights to Lee County or another public agency acceptable to Lee County.

7. Buffers and Landscaping

a. Development Order landscape plans for residential pods must depict a 100-foot-wide buffer abutting Corkscrew Road that complies with the buffer plant restoration standards for at grade plantings consistent with Table 5: "Planting List for Upland Restoration from Agricultural Lands", of the Indigenous Preservation, Restoration, and Management Plan (IPRMP). (Exhibit D: IPRMP version stamped received October 15, 2019)

The landscape plan may depict a berm within the 100-foot-wide buffer in compliance with IPRMP Table 6 "Northern Perimeter Berm Plantings". Landscape plans must depict restoration plant materials necessary to meet project buffer requirements for the east, west, and south property lines, subject to Deviations 2, 3, 7, and 8.

- b. Development Order landscape plans must reflect 100% native vegetation for required landscaping within common elements. The planting requirements and native plant list must be incorporated into project covenants and deed restrictions.
- c. Development order landscape plans that include dry detention areas must depict dry detention planted with 4 inch to one-gallon container size native vegetation installed five-foot-on-center. For every 400 square feet of dry detention area planted, the general tree requirement may be reduced by one ten-foot tree. This condition does not apply to swales outside the Conservation Easement.
- d. The first development order for the commercial tract must include landscape plans depicting:
 - i. An enhanced Type-A buffer along the east, west, and south property lines five feet in width and planted with five trees per 100 linear feet and a single hedgerow. Shrubs must be specified at 36 inches in height and spaced four-foot-on-center; and
 - ii. An enhanced 100-foot-wide buffer along the commercial pod's north property line with plant species consistent with IPRMP Table 6. Tree species must be seven feet in height and installed between 15 and 20 feet on-center; shrub species must be 24 inches in height; and groundcover species must be 12 inches in height, spaced three feet on-center.

8. <u>Corkscrew Road Berm</u>

The berm along Corkscrew Road must be designed in substantial compliance with the MCP, the IPRMP, and the Hydrological Restoration Plan. (Hydrological Restoration Plan stamped "received" November 27, 2019: Exhibit E). The berm may not exceed 5'-6' in height as measured from Corkscrew Road.

9. <u>Protected Species</u>

- a. Development order plans that include surface water management lakes or conservation areas must depict the location and typical signs for prohibiting the feeding of alligators around the lake and preservation signs that state no dumping.
- b. Development order plans must include a Protected Species Management Plan depicting on-site wildlife corridor connections, wildlife fencing, and include a Human-Wildlife Coexistence Plan.
- c. Vegetation Removal permit applications must include a map depicting the work limit area and a species survey for the work limit area. The developer must submit a management plan for protected species within the work limit area identifying

. :

protection measures, monitoring, and/or relocation consistent with State and Federal requirements.

d. Development order plans for the commercial pod must demonstrate use of bear resistant dumpsters and below ground grease traps.

10. Indigenous Restoration and Preservation

Development order plans that include habitat restoration must substantially comply with the IPRMP. Sub-phases for restoration will be allowed within a development order phase. The developer may amend the IPRMP phasing at the time of development order application.

11. Lighting

Lighting plans must demonstrate no light spillage into the preserves and conservation easement areas.

12. Regional Benefit

- a. The project must be designed to accommodate 650 cubic feet per second (cfs) offsite flow rate through the proposed onsite flow way, for a 25 year, 3-day designed storm event consistent with Exhibit E: Hydrological Restoration Plan.
- b. Hydrological improvements must be constructed under Corkscrew Road interconnecting "The Place" to the proposed western flow way within Verdana Village with the first development order for the west development pod. Hydrological improvements must be constructed under Carter Road and include a 30 inch diameter pipe or equivalent (cfs) into the proposed eastern flow way within Verdana Village with the first development order for the east development pod. These improvements must accommodate known flows as identified in Exhibit E: Hydrological Restoration Plan.
- c. A plugged connecting pipe must be constructed to permit Lee County to introduce flows into Verdana Village from the northeast with the east development pod. Lee County will be responsible for necessary permitting and improvements to unplug the pipe to allow for pass through conveyance.
- d. The first development order application must include a drainage plan implementing the following aspects of the Hydrological Restoration Plan (Exhibit E):
 - i. Two 30-inch culverts and a discharge weir to convey easterly flow-way surface water from "The Place at Corkscrew" under Corkscrew Road; and
 - ii. Two culverts under Corkscrew Road east of the main project entry to allow off-site drainage conveyance.

13. <u>Hydrological Restoration Plan</u>

The first development order application must include supporting computer software files and input data for the surface water and groundwater flow models developed for the Hydrological Restoration Plan (ICPR4 or equivalent). Flow models must demonstrate:

- a. The project provides significant regional hydrological connections furthering Lee County's flood mitigation and flow way restoration efforts and provides enhanced on-site surface water storage and flood attenuation.
- b. No adverse impacts to adjacent properties and regional drainage. The analysis must be substantially consistent with the assumptions and commitments made in the Hydrological Restoration Plan and its supporting data, as updated at the time of development order to address:
 - i. An additional project outfall; or
 - ii. Modification to northern inflow from The Place in a location other than the one shown in the current model.

The first development order application must include engineer drawings that implement the Hydrological Restoration Plan consistent with flow models (ICPR4 or equivalent). The developer must backfill and restore manmade ditches as part of the hydrological restoration plans. The developer must phase backfill work with project development. Construction phasing of the Hydrological Restoration Plan must be coordinated with construction of the storm water management system.

14. Flow-Way Agreement

Prior to issuance of the first development order creating residential lots, a "Flow-Way Agreement" with the County must be approved by the Board of County Commissioners (Board) allowing the County to further improve historic flow patterns in the region. The developer must construct necessary infrastructure and improvements within the property, to accommodate conveyance of onsite surface water flow of 650 cfs through the property.

The Flow-Way Agreement must include easement rights, or recognize separately created easement rights, allowing the County to obtain permits and create surface water flow connections across the property boundaries. If the hydrological and environmental restoration is phased, the Flow-Way Agreement must include an exhibit demonstrating expected phasing and sub-phasing.

15. Surface & Ground Water Monitoring

The developer must revise the Enhanced Lake Management Plan (stamped received November 27, 2019, attached as Exhibit F), at the time of Development Order application to include monitoring components of surface and groundwater levels and quality as follows:

a. The proposed groundwater (level and quality) monitoring program must establish baseline conditions and address monitoring during construction and operation of the storm water management facility.

- b. Quality of storm water entering and leaving the site must be monitored twice during the raining season and once during the dry season. Reporting must consist of an Electronic Data Deliverable (EDD) in a format approved by the Lee County Department of Natural Resources and submitted quarterly.
- c. The developer or successor must annually update the Water Quality Monitoring Program within the Enhanced Lake Management Plan (Exhibit F) to: 1) assess water quality data and trend analysis, 2) identify potential issues, and if necessary, 3) recommend corrective actions for changes to the monitoring plan.

The developer may amend water quality monitoring and reporting after written request, review, and approval by the Department of Natural Resources.

d. Groundwater quality monitoring well(s) for the Surficial Aquifer System must be provided and located between and proximate to Lee County's nearest production well(s) identified in the Water Quality Monitoring Plan.

16. <u>Wellfield Protection</u>

- a. A portion of the property lies within Wellfield Protection Zones for the County public water supply. Development in those areas must comply with the Wellfield Protection Ordinance.
- b. The first development order application must include a list of Best Management Practices to address potential degradation of groundwater due to storage and use of regulated substances on-site during construction and operation of the development, if such substances will be stored or used on-site.
- c. The Declarations and Covenants must specify that only licensed professionals authorized by Lee County may perform activities such as the application of fertilizers, pesticides, insecticides, herbicides, nematicides or other chemicals on the property. This restriction also applies to the commercial parcel.
- d. Docks, boat ramps, and motorized boats are prohibited within on-site storm water management lakes.
- e. Residential and amenity center development areas within the 5-year travel zones of the Wellfield Protection Ordinance must provide a minimum of 1.5 inches of water quality treatment of which, a minimum of 0.5-inch must be completed by water quality dry pretreatment prior to discharging into the lakes.
- f. Commercial development within the 6-month, 1-year, 5-year, or 10-year travel zones of the Wellfield Protection Ordinance must provide a minimum of 1.5 inches of water quality treatment, of which, a minimum of 0.5 inches must be completed by water quality dry pretreatment. The commercial pod will be considered within the most restrictive wellfield protection zone as provided in the Wellfield Protection Ordinance.

17. Irrigation Wells

Single-Family Irrigation and Domestic Wells are prohibited. The County will not permit single-family use wells on the property for potable water on individual lots. Development order plans must demonstrate irrigation will be provided via a central irrigation system using onsite lakes and, as necessary, existing permitted wells (or replacement wells). The Property Owner Association documents, including Declarations and Covenants, must prohibit the installation of single-family use wells for potable or irrigation water. Landscape irrigation must comply with the Water Conservation Ordinance #17-04, as amended.

18. Public Water and Sewer

All development must connect to public water and sewer. The developer will ensure Lee County Utilities will be the source of potable water for the property.

19. <u>Maintenance</u>

The developer and/or the CDD must submit a biennial drainage report signed by a licensed Professional Engineer in the State of Florida certifying that the drainage capacities of the flow-ways or buffer lakes at the completion of the project are consistent with the original design. If the report finds that flow-ways or buffer lakes require maintenance, then the developer/CDD must submit a remedial plan for review and approval to address measures to conduct maintenance (i.e. re-grading the flow-ways or berms). Providing the County with a copy of the CDD Engineer's Report will satisfy this requirement with the additional requirements above.

20. Development Agreement

Prior to County approval of the first project development order, the developer must execute a Development Agreement addressing transportation mitigation consistent with Condition 5 and emergency medical services consistent with Condition 21. The Development Agreement must address, at a minimum Emergency Medical Service and transportation proportionate share of the improvements adopted by the Board as a result of the EEPCO Study.

21. Emergency Medical Services

When 25% of project residential lots have received a certificate of occupancy (CO), the Department of Community Development will issue a written notice to the developer. Upon receipt of the notice, the developer, at Lee County's option must take the following action within 30 days:

- a. Coordinate the transfer of a two-acre parcel of land fronting on Corkscrew Road for the development of an EMS or multi-use Public Safety facility, subject to Board of County Commissioners approval; or
- b. Provide a one-time donation of two hundred thousand dollars (\$200,000.00) toward capital improvements necessary to support service delivery in the area of the project.

This donation does not entitle the developer to fire or EMS impact fee credits.

SECTION C. DEVIATIONS:

1. Buffering Adjacent Property.

Deviation (1) seeks relief from the LDC §10-416(d)(3) requirement to provide a 15-foot Type D buffer along the northern and western perimeter and a 30-foot native Type F buffer along the southern and eastern perimeter of the commercial pod, to allow a 5-foot Type A buffer along its east, west and south perimeter and no buffer along its north perimeter.

This deviation is APPROVED SUBJECT TO Condition 7.

2. <u>Buffering Adjacent Property</u>

Deviation (2) seeks relief from the LDC §10-416(d)(1) requirement to provide a landscape buffer adjacent to property boundaries where abutting a different use, to allow the proposed restoration areas to act as the buffer for the south, east and west boundaries.

This deviation is APPROVED SUBJECT TO Condition 7.

3. Buffer Plant Material Standards.

Deviation (3) seeks relief from the LDC §§ 10-420(c), (d), and (g), which requires trees to be a minimum of 10 feet in height with a 2-inch caliper and a 4-foot spread and shrubs to be a minimum of 24 inches in height at the time of planting, to allow trees ranging between 24 inches and 60 inches (Bare Root - 3gal) to be planted between 15 and 20 feet on center and 2-inch container ground cover at 5 feet to 8 feet on center for the south, east and west boundaries.

This deviation is APPROVED SUBJECT TO Condition 7.

4. <u>Water Main Installation</u>.

Deviation (4) seeks relief from the LDC §10-384(c)(1), which requires water mains for oneand two-story residential buildings be constructed in an external loop no greater than 1,500 feet, to allow 3,700 feet.

This deviation is APPROVED.

5. Driveway Connection Separation.

Deviation (5) seeks relief from the LDC §10-285, which requires an access separation of 660 feet along principal arterials in Future Non-Urban areas, to allow connection separation distances ranging between 60 and 656 feet as depicted on the MCP.

This deviation is APPROVED.

6. <u>Street Design and Construction Standards</u>.

Deviation (6) seeks relief from the LDC §10-296(e)(3), which requires non-urban local streets to have two 10-foot travel lanes with open drainage, to allow a modified suburban

local street with a minimum of two 10- to 11-foot travel lanes, no planting area, a five to six-foot sidewalk, and a varying curb and closed drainage.

This deviation is APPROVED.

7. Buffering Adjacent Property.

Deviation (7) seeks relief from the LDC §10-416(d)(1), which requires a landscape buffer adjacent to the property boundaries where abutting a different use, to allow the proposed restoration area to act as the buffer for the northern perimeter buffer adjacent to the residential and residential amenity portion of the development.

This deviation is APPROVED SUBJECT TO Condition 7.

8. Plant Material Standards.

Deviation (8) seeks relief from the LDC §§ 10-420(c), (d), and (g), which requires trees to be a minimum 10 feet in height with a two-inch caliper with a four-foot spread and shrubs to be a minimum of 24 inches in height at the time of planting, to allow trees ranging between two and five feet in height (1 gallon) to be planted at 15 to 20 feet on-center; shrubs ranging between two and five feet in height (1 gallon); and groundcover to be a minimum of 12 inches installed three feet on-center for the 100-foot Corkscrew Road Buffer adjacent to the residential and residential amenity portion of the development.

This deviation is APPROVED SUBJECT TO Condition 7.

9. Buffering Adjacent Property.

Deviation (9) seeks relief from the LDC §10-416(d)(1), which requires a landscape buffer adjacent to the property boundaries where abutting a different use, to allow the proposed restoration to act as the buffer for the northern perimeter buffer adjacent to the neighborhood commercial portion of the development.

This deviation is APPROVED SUBJECT TO Condition 7.

10. Plant Material Standards.

Deviation (10) seeks relief from the LDC §§ 10-420(c), (d), and (g), which requires trees to be a minimum of 10 feet in height with a 2-inch caliper with a 4-foot spread and shrubs to be a minimum of 24 inches in height at the time of planting, to allow trees to be planted at a minimum of 7 feet in height (7 gal) planted at 15 to 20 feet on center; shrubs to be a minimum of 2 feet in height; and 1 gallon container and ground cover to be a minimum of 12 inches installed at 3 feet on center for the 100-foot-wide Corkscrew Road Buffer adjacent to the neighborhood commercial portion of the development.

This deviation is APPROVED SUBJECT TO Condition 7.

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: Indigenous Preservation, Restoration, and Management Plan
- Exhibit E: Hydrological Restoration Plan
- Exhibit F: Enhanced Lake Management Plan

SECTION E. FINDINGS AND CONCLUSIONS:

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

- 1. The requested rezoning to Mixed Use Planned Development complies with the Lee Plan. *See* Lee Plan Vision Statement Paragraph 18 (Southeast Lee County), Lee Plan Goals 4, 5, 6, 11, 33, 39, 60, 61, 63, 77, 123, 124; Objectives 1.5, 2.1, 2.2, 4.1, 5.1, 6.1, 33.2, 33.3, 39.1, 123.2, 123.3, 123.4, 126.2; Policies 1.4.5, 1.5.1, 1.7.13, 2.1.2, 5.1.1, 5.1.7, 6.1.3, 33.3.4, 33.3.5, 135.1.9; Lee Plan Maps 1, 6, 7, 16 and 17; LDC §§ 34-411(a) and 34-612(2).
- 2. As conditioned, the Verdana Village Mixed Use Planned Development:
 - a. Meets the Land Development Code and other County regulations or qualifies for deviations. See LDC §§ 10-474, 14-201 *et seq.*, 34-145(d), 34-341, 34-378, 34-411, 34-413, 34-491, 34-932.
 - b. Is compatible with existing and planned uses in the DR/GR. See Lee Plan Policies 5.1.5, 6.1.4, 135.9.5, 135.9.6; LDC §§ 34-411(c) and (i).
 - c. Provides access sufficient to support the proposed development intensity. Expected impacts to transportation facilities will be addressed by the conditions of approval and County regulations. See Lee Plan Goal 39, Objectives 37.4, 39.1, Policies 6.1.2, 6.1.5, 33.3.4, 39.1.1, 39.2.1; LDC §§ 10-287, 34-411(d).
 - Will not adversely affect environmentally critical/sensitive areas and natural resources. See Lee Plan Goals 60, 61, 63, 77, 123, 124; Objectives 33.2, 33.3, 60.4, 61.2, 77.1, 77.3, 123.1, 123.3, 123.4, 123.8, 123.10, 123.11, 123.12, 126.2; Policies 33.2.1, 33.2.2, 33.2.3, 33.2.4, 33.2.7, 33.3.4., 33.3.5, 60.1.2, 60.4.1, 60.4.2, 60.4.3, 61.2.1, 61.2.4, 61.3.1, 61.3.3, 61.3.6, 61.3.8, 61.3.11, 61.4.2, 63.1.3, 77.3.1, 77.3.2, 77.3.4, 77.3.5, 123.1.5, 123.1.7, 123.2.4, 123.2.6, 123.2.8, 123.2.15, ¹ 123.3.1, 123.3.3, 123.4.2, 123.4.3, 123.4.4, 123.8.1, 123.10.2, 123.10.3, 123.11.4, 123.12.2; 124.1.1, 125.1.2, 125.1.3, 126.1.1, 126.1.2, 126.1.4, Standard 4.1.4; and LDC §§ 10-474, 34-411(g) and (h), 34-1573.

¹ Listed in Lee Plan as 123.12.15

- e. Will be served by urban services adequate to serve the proposed land use. See Lee Plan Glossary, Lee Plan Maps 6, 7, Goal 11, Objectives 56.2, 65.2, and Policy 33.3.4; Standards 4.1.1 and 4.1.2; LDC §34-411(d).
- 3. The proposed mix of uses is appropriate at the proposed location. See Lee Plan Map 17; Goals 5, 6, 11, Objectives 11.1, 33.2, 33.3; Policies 1.4.5, 1.7.13, 5.1.2, 5.1.5, 5.1.7, 6.1.4, 33.3.2, 33.3.4, 33.3.5.
- 4. The recommended conditions and applicable regulations provide sufficient safeguards to protect the public interest. See Lee Plan Goals 5, 6, 33, 55, 56, 59, 60, 61, 63, 123, 125, 126, Policies: 5.1.5, 6.1.3, 6.1.6, 33.3.4, 60.4.1, 63.1.2, 63.1.3, 123.3.3, 124.1.2, 126.2.1 and 135.9.6; See also LDC §§ 34-377; 34-411.
- The recommended conditions are reasonably related to the impacts expected from the proposed development. See Lee Plan Policies 5.1.5, 6.1.3, 123.12.2, 123.12.3; LDC §34-932.
- 6. As conditioned, the requested deviations:
 - a. Enhance the objectives of the planned development, and
 - b. Preserve and promote protection of public health, safety and welfare.

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 Manning. The vote was as follows:

Adopted by unanimous consent.

John Manning	Aye
Cecil Pendergrass	Aye
Raymond Sandelli	Aye
Brian Hamman	Aye
Frank Mann	Aye

DULY PASSED AND ADOPTED this 6th day of May 2020.

ATTEST: LINDA DOGGETT, CLERK

BY: **Deputy Clerk**



BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA

BY:

Brian Hamman, Chair

APPROVED AS TO FORM FOR THE RELIANCE OF LEE COUNTY ONLY

County Attorney's Office

Millico OFFICE. 2020 MAY 13 AM 10: 28

Case No. DCI2019-00018

Barraco and Associates, Inc.

www.barraco.net

Civil Engineers, Land Surveyors and Planners

DESCRIPTION

Parcel in Sections 29, 30, 31 and 32, Township 46 South, Range 27 East, Lee County, Florida

A tract or parcel of land lying in Sections 29, 30, 31 and 32, Township 46 South, Range 27 East, Lee County, Florida, said tract or parcel of land being more particularly described as follows:

Beginning at the Northwest corner of said Section 29 run N89°20'15"E along the North line of the Northwest Quarter (NW 1/4) of said Section 29 for 2,636.22 feet to the North Quarter corner of said Section 29; thence run N89°19'58"E along the North line of the Northeast Quarter (NE 1/4) of said Section 29 for 2,306.22 feet to an intersection with the West line of the East 330 feet of said Section 29; thence run S01º05'41"E along said West line for 5,352.78 feet to an intersection with the North line of the Northeast Quarter (NE 1/4) of said Section 32; thence run N89°58'16"E along said North line for 330.06 feet to the Northeast corner of said Section 32; thence run S00°54'19"E along the East line of the Northeast Quarter (NE 1/4) of said Section 32 for 2,594.64 feet to the East Quarter corner of said Section 32; thence run Soo°53'57"E along the East line of the Southeast Quarter (SE 1/4) of said Section 32 for 1,144.23 feet to an intersection with the North line of lands described in a deed recorded in Official Records Book 2032, at Page 1106, Lee County Records; thence run along the Northerly and Westerly line of said lands the following two (2) courses: S89º03'50"W parallel to the south line of said Fraction for 1,800.00 feet and Soo°53'57"E parallel with the East line of said Fraction for 1,452.00 feet to an intersection with the South line of said Fraction; thence run S89°03'50"W along the South line of said Fraction for 848.66 feet to the South Quarter corner of said Section 32; thence run S89°10'20"W along the South line of the Southwest Quarter (SW 1/4) of said Section 32 for 2,651.10 feet to the Southeast corner of said Section 31; thence run S88°55'41"W along the South line of the Southeast Quarter of said Section 31 for 2,632.71 feet to the South Quarter corner of said Section 31; thence run Noo°55'01"W along the West line of the East Half (E 1/2) of said Section 31 for 5,278.97 feet the North Quarter corner of said Section 31; thence run S89°15'54"W along the South line of the Southwest Quarter (SW 1/4) of said Section 30 for 2,639.48 feet to the Southwest corner of Section 30; thence run NO0°46'19"W along the West line of said Fraction for 2,641.21 feet to the West Quarter corner of Section 30; thence run No0°46'49"W along the West line of the Northwest Quarter (NW 1/4) of Section 30 for 2,631.06 feet to an intersection with the South right of way line of Corkscrew Road (100' wide right of way); thence run along said South right of way line the following three (3) courses: N89°23'21"E for 2,632.12 feet; N89°32'32"E for 2,638.97 feet and N89°20'15"E for 0.32 feet to an intersection with the West line of the Northwest Quarter (NW 1/4) of said Section 29; thence run Noo°55'29"W along said West line for 50.00 feet to the POINT OF BEGINNING. Containing 2,138.26 acres, more or less.

Bearings hereinabove mentioned are State Plane for the Florida West Zone (1983/NSRS 2007) and are based on the North line of the Northwest Quarter (NW 1/4) of said Section 29 to bear N89°20'15"E.

Applicant's Legal Chacked

Scott A. Wheeler (For The Firm)

Professional Surveyor and Mapper CLEUV Florida Certificate No. 5949

L:\23742 - Verdana\SURVEY\DESCR1PTIONS\SKETCH\23742SKo2.doc

Post Office Drawer 2800 • Fort Myers, FL 33902 Phone (239) 461-3170 • Fax (239) 461-3169

EXHIBIT

COMMUNITY DEVELOPMENT

DC12019-00018







.





DE12019-00018

A	at an internet and the second s		- NOT OF MILITIAL				
610			AD RES/08 (2002) 100 K 2000 0 0 21				Parra
FR. ESS		a.	AREA TO DECIDENT ACTIVITY AND THE AREA AND T				and Astor
and		ornscrew	-C29004	Road		12	CNR. DIGHTERING - LAN
18 -			FUNCTION AND		3		www.barra
25 59 mm		Allowing Strate and 3	Section 11 Section line		- American	10	POST OFFICE OF ALL
CALC IN DECT	1 109"20"21"E	Interning.	KTV 1/4	1	2632.12' 1		PORT LITERS, FLORIDA
I	1		Attererut				FLEDHON CEATH CODEL OF
			METAAN CHINENE STERN ALD T		hards comments	1	PROVINCE POS - GUILY
1			HONOCELAND AN COLORAD FINE DWING			12 9	
<u>.</u>	"handa	Corkscrew	-calans	Road			100000
3		the use of a life state	And the second second		-inerti-		TPL-LAND
		- GRATINGAN	Sola Ji			A LOUIS AND	LLC
1		nur y wrue	- Mr tut		2632.12	and the second s	
			2.00 #		avalue a	1 21-	FORTNOTERS, PL
			- CRIPHAK			9 I I I I I I I I I I I I I I I I I I I	PHONE (230) 425-4
			ACTIVE AN EXAMPLEMENT OF A POINT OF A POINT OF A POINT OF ANY COLUMN AND A POINT OF A PO			Shine of	San Catpage
Mart Site of the VICE	Thurse .	Corkscrew	-onour	Road			magne
		MATCH CON THE CONV	Trate Wards How I Han	1			-
To Annu			2 Jonire 15				VERDA
Comment of the	Milet 1975-E						TTTTA
,	1145 V246 C	ADEL MARE	÷ NE14	2638.97*	-	1 0	VILLA
	/////	150			1 1 10		A Parcel of La
and a state of the state of the			Para a viria duna mai		Tauto (man 19/19-	20	Sections 29, 30,
	Cories	SCIEW	Part Part Part Part	nd The second se	へしい	12 DECEMPTOR AF	Range 27 F
	Brate tay Brate tay - Loning	a II	- ATRACAST WWG			L O CUMENT	Lee County, F
		-			in and the second	100°35'29 W 50.00"	Patron
					130	29 100	and a little
		ETA YOUR MARK	2638.97*		N09"20"15"E 0.22-	Frend	1000
0 ES	S. I Batter	DETAIL ALONG	WEST LINE	Densut the	1	Lindent day	atamer
Zin Zin La	36 1/ 25			#1. mit. #1415 LC29		The Atlanticutor (LCH)	11000
Dans	V		Rame 24 End			10	""Thesternant"
50 100	transfer to the second se		Allered familie			3 14	POTVILID THTWONT DE CA
SO 100	N00'40'99'W 3		Sector 25		2641.21'		HOTHLE TENDANT DE CA
LE IN FEET astra pla	NR0746197W>		Sector 35 Count Largetter Strates 38		2641.27'	CH LINE	AND THE DESIDENCE AND THE SE AND THE DESIDENCE AND THE SE RESIDENCE AND
LE INFERT	N8076979W2	CLOREDT BY SATTREAD	Booken 22 John and Examples Strate 27 Lead STF UM and Traces Construct Accuracy Constructions		2661.21"	ATCH LINE	ACTIVATION CONTRACTOR
LINFEST ANTRON	800-65197W 2 30 30 580-1575FW 2532.48*		Denker 21 / Strend Langther - Stagler Ha- Bang-77 East / STF I/V Did Total County Product cookystame, Inc		2661.21'		FFTV0.8 FIRMAUT BC. 0 AND TAX ENGLAVE. AND TAX ENGLAVE. AND TAX ENGLAVE. AND TAX
ENFEST ANTAGE INTERNET	800'46'99'W 2 31 7 30 32 7 30 585"+5'34'W 2632.45"		Evoluti 21 Johnson 22 Johnson 22 Evoluti Evoluti Evoluti 21 Johnson 22 Johnso		2641,21"	inarch Live	ECONDETENSION DE CE NO TRA CENTRA LE
EINFEST annalise	N00745797W 2 31 30 31 3857457347W 2632.45*	CADACUT EVENTHELIS CADACUT EVENT	Evoluti 21 Johnson 22 Johnson 22 Exercise Strate 12 Johnson 22 Jo	Addense	26(1,2)"	IN CHINE	BET-VALD PERMONENT BEC.C. HEADING, AUGUST BEC.C. HEADING, AUGUST BEC.C. HEADING, COLORED DURING, C. HEADING, C. HEADI
ENFEST antroph Entrest Internetics Internetics Internetics	PREX NOT 69197W 2 31 30 32 S85°15'34'W 2632.43'		Debut 21 Prima & Sary Ur Sary 11 Prima & Sary Ur Sary 27 Cast Sary 27 Cast Sary 12 Prima & Sary Ur Sary 20 Prima & Sary 20 Prim	1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	2641.21"	EEE MATCH LINE	BETVILLETTERDUTTEL BETVILLETTERDUTTEL REDNALLEDERDUTE REDNALLEDERDUTE REDNALLEDERDUTE LANDITEL LANDITEL LANDITEL REDNALLEDERDUTEL REDNALLEDERDUTEL REDNALLEDERDUTEL RED
	N00*46*19*W 2 31 CT 30 31 CT 30 535*15*54*W 2532.63*	Addeon systemess Example The Series of Serie	Debuck 31 Promot Repetite Strippe 17	1 1 1 1 2641241 2641241	2011.21"	SEL SEL SEL SEL SEL SEL SEL SEL SEL SEL	arthousement meson resonance
	N00*46*97W 3 N00*46*97W 3 31 36 31 37 32 38 33 36 34 36 35 36 36 37 37 38 38 36 <	Control primerous construction	Books 21 Annual Angelia Surgia 12 Burg 27 East Data 20 East Data 20 East point Proof Data (LER) point and Angelia 	7 7 7 7 7 7 7 7 7 7 7 7 7 7	2641.21*	CH INE E.E. INACH LINE	Information Information Information
	ритал 30 31 30 30 30 30 30 30 30 30 30 30	1 1	Debut 21 Provide Auge Law Straph 12 Provide Auge Law Straph 12 Provide Conference Conference Exc. Straph 200 Provide Conference Conference Exc. Straph 200 Provide Conference Conference Exc. Straph 200 Provide Conference Exc. Straph 200 Provid	1 1 1 1 2 2 2 2 2 2 2 2 2 2 2 2 2	2641,21*		International Construction Interna
2 - 10	N00*65197W 2 Numerical 31 30 0000 31 30 0000 31 30 0000 31 30 0000 31 0000 0000 30 0000 0000 31 0000 0000 30 0000 0000 31 0000 0000 0000 0000 0000 1 0000 0000 1 0000 0000 1 0000 0000 1 0000 0000 1 0000 0000 1 0000 0000 1 0000 0000 1 0000 0000 1 0000 0000 1 0000 0000 1 0000 0000 1 0000 0000 1 0000 0000 1 0000 0000 </td <td>Elokon sylamesa provinticioj Bany Si Em Later 2 Solar 2 Super Si Em Later 2 Solar 2 Super Si Em Later 2 Super Si Em Later 2 Super Si Em</td> <td>Default I Provide Augusta Strate II Server II Server II Server II Server II Server II Server II I I I I I I I I I I I I</td> <td>1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1</td> <td>2641.21*</td> <td>MATCH LINE MATCH LINE</td> <td>Information and a second a</td>	Elokon sylamesa provinticioj Bany Si Em Later 2 Solar 2 Super Si Em Later 2 Solar 2 Super Si Em Later 2 Super Si Em Later 2 Super Si Em	Default I Provide Augusta Strate II Server II Server II Server II Server II Server II Server II I I I I I I I I I I I I	1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	2641.21*	MATCH LINE MATCH LINE	Information and a second a
20 100 100 100 100 100 100 100 100 100 1	NOT 46191W NOT 46191W 30 30 31 30 32 30 33 30 34 30 35 30 36 30 37 30 38 30 39 30 30 30 31 30 32 30 33 30 30 30 31 30 32 30 33 30 30 30 31 30 32 30 33 30 33 30 33 30 33 30 33 30 33 30 33 30 33 30 33 30 33 30 33 30 33 30 3	2000 07 8730700.0 2000 875007 2000 875007 2000 97500 2000 2000 97500 2000	Bund 27Promot Reptire Surger 27 Bung 27 Diff To de Diff To de CONVERCENT CONFERENCE CONFERENCE ON CONFERENCE DIFF To de CONVERCENT DE DIFF TO DE CONVERCENT DE CONFERENCE DE CONVERCENT DE CONVERCENT DE CONFERENCE DE CONFERENCE DE CONFERENCE DE CONVERCENT DE CONVERCENT DE CONFERENCE DE C	2007544 50 1 1 2007544 50 200754 50 200754 50 200754 50 1	2641.21"	MATCH INE EE MATCH LINE	Information and a second and a
2	N00*46*97W 3 N00*46*97W 3 30 30 30 31 30 30 31 30 30 31 30 30 31 30 30 31 30 30 31 30 30 31 30 30 31 30 30 30 30 30 31 30 30 31 30 30 32 30 30 33 30 30 30 30 30 31 30 30 32 30 30 33 30 30 30 30 30 31 30 30 32 30 30 33 30 30 34 30 30 35 30 30 35 30 30	200000 912079020 20000 912079020 200000 20 2000000 20 200000 20 2000000 20 2000000 20 2000000 20 2000000 20 2000000 20 2000000 20 2000000 20 2000000 20 20000000000	Extend 22	7 77 7 7 7 7 7 7 7 7 7 7 7 7 7 7 7 7 7	2641,24*		Andread and a second se
	Image: Not 46197W з Image: Not 46197W з 30 30 30 31 30 Image: Not 46197W з 31 30 Image: Not 46197W з 31 30 Image: Not 46197W з 1 Not 46197W з Image: Not 46197W з	1 1	Debus 21 Provide Augeste Support Call Support Call Supp	2 7 7 7 7 7 7 7 7 7 7 7 7 7	2641.21*		Information memory management Information memory management Information Infor
	Image: Not 45197W - Image: Not 45197W - Image: Not 45197W - Image: Not 45197W - <td>Long 2/ Set Long 2/ S</td> <td>Debut 21</td> <td>7 7 7 7 7 7 7 7 7 7 7 7 7 7 7 7 7 7 7</td> <td>2641.21"</td> <td>AMERT MATCH LINE E</td> <td>Information and a second a</td>	Long 2/ Set Long 2/ S	Debut 21	7 7 7 7 7 7 7 7 7 7 7 7 7 7 7 7 7 7 7	2641.21"	AMERT MATCH LINE E	Information and a second a
	1 100°46197W 3 100°46197W 3 31 36 100°46197W 3 31 100°46197W 2533.48* 100°46197W 3 1 100°46197W 3 100°46197W 3	Conference of the second secon	Bunch 2/ Consult Supplies Shippe 1/2 Image 2/2 Bung 27/2 Image 2/2 Image 2/2 Image 2/2	2 1 1 1 1 1 1 1 1 1 1 1 1 1	2641.21"	CHINEFF MACHINEEE	Honder Remover File Car Honder School (1995) Honder Schoo
	N00*46*97W 3 N00* 30 30 31 36 32 36 33 36 33 36 33 000 34 000 36 000 37 000 380*1574*W 2533.48* Accuracy Accuracy Accuracy <tr< td=""><td>Concept from the second second</td><td>Bunk 21</td><td>7 77 77 7 7 7 7 7 7 7 7 7 7</td><td>2641.21*</td><td></td><td>entrolle semen i te ce recome consolentitione recome consolentitione recome</td></tr<>	Concept from the second	Bunk 21	7 77 77 7 7 7 7 7 7 7 7 7 7	2641.21*		entrolle semen i te ce recome consolentitione recome
	Image: Not 46197W 3 Image: Not 46197W 3	1 1 2	Brind Step Ear	2 7 7 7 7 7 7 7 7 7 7 7 7 7	2641.21"		Extransistantia e e e e e e e e e e e e e e e e e e e
	NOV 45197W 2 Nove 30 30 31 30 32 30 33 30 34 30 35 30 36 30 37 30 38 30 38 30 39 30 30 30 31 30 32 30 33 30 33 30 30 30 31 30 32 30 33 30 33 30 33 30 33 30 33 30 33 30 33 30 33 30 33 30 33 30 33 30 33 30 33 30 34 30 35 <td>Logi J Set Logi J Set L</td> <td>Debut 21</td> <td>2 1 1 1 1 1 1 1 1 1 1 1 1 1</td> <td>2641.21"</td> <td></td> <td>Information and a second secon</td>	Logi J Set L	Debut 21	2 1 1 1 1 1 1 1 1 1 1 1 1 1	2641.21"		Information and a second secon
		солдот вузателься соними наторой сони	Butter 21	7 77 7 7 7 7 7 7 7 7 7 7 7	2641.21"		ethnick environment in the operation of
	Image: Not Artigram Image: Not Artigram 31 36 31 36 31 36 31 36 31 36 31 36 31 36 31 36 31 36 32 1 33 1 36 1 37 1 387 1 387 1 39 1 39 1 31 1 32 1 33 1 33 1 33 1 33 1 33 1 33 1 33 1 33 1 33 1 33 1 34 1 35 1 36 1 37 1 38 <td>Concerning and the second seco</td> <td>Debug 21 Debug 22 De</td> <td>1 1 1 1 2 2 2 2 2 2 2 2 2 2 2 2 2</td> <td>2641.24"</td> <td></td> <td>HINLE HENDER TE GENERALEN.</td>	Concerning and the second seco	Debug 21 Debug 22 De	1 1 1 1 2 2 2 2 2 2 2 2 2 2 2 2 2	2641.24"		HINLE HENDER TE GENERALEN.
	Image: NUMP ACTION IN Image: NUMP ACTION IN Image: NUMP ACTION IN THE ACTION	1 1 1 2	Bother 21	1 1 1 1 2 2 2 2 2 2 2 2 2 2 2 2 2	20 20 20 20 20 20 20 20 20 20		Hondersmournersen Hondersmournersen Hannessen
		1 1	Exercise 21 Provide 21 Exercise 21 Exerc	2 1 1 1 2 2 2 2 2 2 2 2 2 2 2 2 2	2641.24"		Reserved a server of a server
		1 1	Debug 27 Deal Support 10 Su	2 1 1 2 2 2 2 2 2 2 2 2 2 2 2 2	2641.24"		BUNCTURE ENVIRONMENT FLE OF CONTROL OF CONTR
	INIT ALL		Debug 27 Debug	2 1 1 2 2 2 2 2 2 2 2 2 2 2 2 2	20 20 20 20 20 20 20 20 20 20		BOUNDARY BOUNDARY BOUNDARY BOUNDARY BOUNDARY BOUNDARY




DCI 2019-00018



- A - - -

. ...

9



÷

00 2019-00018

Ĩ.





....

DGI 2019-00018



 \hat{x}

.

. . . .

....

VERDANA VILLAGE INDIGENOUS PRESERVATION, RESTORATION, AND MANAGEMENT PLAN

Revised October 2019

Prepared For:

TPL-Land-Sub, LLC 4954 Royal Gulf Circle Fort Myers, Florida 33966 (239) 425-8662



Prepared By:

COMMUNITY DEVELOPMENT

Passarella & Associates, Inc. 13620 Metropolis Avenue, Suite 200 Fort Myers, Florida 33912 (239) 274-0067

0612019-00018

Project No. 19CCL3043

EXHIBIT.

TABLE OF CONTENTS

					1 ago
1.0	Intro	duction			
2.0	Exist	ing Indig	genous Vegetation	n Habitats	
	2.1 2.2	Indigence Indigence	ous Wetland Hab ous Upland Habit	itats ats	
3.0	Exist	ing Non-	Indigenous Vege	atation	4
	3.1 3.2 3.3	Non-Ind Non-Ind Non-Ind	ligenous Wetland ligenous Upland I ligenous Surface	Habitats Habitats Waters	
4.0	Indig	enous Ve	egetation Preserv	ation and Enhance	ement7
	4.1 4.2 4.3	Methods Debris F Method	s to Remove and Removal and Frequency o	Control Exotic and fring and Trin	d Nuisance Plants7
5.0	Indig	enous Ve	egetation Restora	ation	
	5.1 5.2	Remova Wetland	l of Exotics and 3 and Upland Rcs	Supplemental Plan toration from Agr	tings
		5.2.1 5.2.2 5.2.3	Wetland Gradin Upland Grading Northern Perim	ng and Planting y and Planting cter Berm Planting	
6.0	Resto	oration A	ctivity Schedule		
7.0	Succ	ess Crite	ria		
1	7.1 7.2 7.3	Indigend Indigend Wetland	ous Wetland and ous Wetland and I and Upland Res	Upland Preservati Upland Restoratio toration from Agri	en and Enhancement
3	95	OCT 15	2019	i	COLEM TA COMT

COMMUNITY DEVELOPMENT

Page

Table	of Contents (Continued) Pag
8.0	Maintenance
	8.1 Prescribed Fire
9.0	Monitoring Reports
10.0	Long-Term Management and Monitoring20
11.0	Preserve Signage and Community Education Plan
12.0	References

-1

OCT 1 5 2019

COMMUNITY DEVELOPMENT

0012019-00018

ii

LIST OF TABLES

	rage
Table 1.	Prohibited Invasive Exotics
Table 2.	Supplemental Wetland Plantings9
Table 3.	Supplemental Upland Plantings
Table 4.	Planting List for Wetland Restoration from Agricultural Lands
Table 5.	Planting List for Upland Restoration from Agricultural Lands
Table 6.	Northern Perimeter Berm Plantings16

OCT 1 5 2019

COMMUNITY DEVELOPMENT

OCI 2019-00018

Dane

LIST OF APPENDICES

T = 0

	Page
Appendix A.	Indigenous Vegetation MapA-I
Appendix B.	Aerial with FLUCFCS and Wetlands MapB-1
Appendix C.	Lee County Indigenous Vegetation Preservation, Restoration, and Management Plan
Appendix D.	Typical Sections
Appendix E.	Restoration Phase MapE-1
Appendix F.	Typical Preserve Signage

OCT 1 5 2019

COMMUNITY DEVELOPMENT

OCI2019-00018

1.0 INTRODUCTION

The following outlines the Lee County Indigenous Preservation, Restoration, and Management Plan for Verdana Village (Project). The Project site totals 2,138 \pm acres and is located in Sections 29, 30, 31, and 32; Township 46 South; Range 27 East; Lee County. According to Lee County's open space requirements outlined in Policy 33.3.4 of The Lee Plan, the minimum open space requirement for the Project is 60 percent of the site, or approximately 1,283 acres; however, the Project is proposing 65 percent open space contingent on approval of CPA2019-00098. In addition, a minimum of 55 percent of the total project area, or 1,176 \pm acres, must be provided as indigenous vegetation and placed under conservation casement. The Project proposes to establish on-site conservation areas totaling approximately 1,202 \pm acres. The proposed conservation areas will contain the following elements:

- Preservation and enhancement of 128: acres of indigenous wetlands and uplands (existing forested and herbaceous habitats with less than 75 percent exotics);
- Restoration of 64± acres of indigenous wetlands and uplands through the removal of exotic vegetation (existing forested and herbaceons habitats with greater than 75 percent exotics) and supplemental planting;
- Restoration of 9864 acres of indigenous wetlands and uplands from agricultural lands (i.e., citrus groves and row crops); and
- Creation of 24± acres of lake buffer adjacent to the development pods that will remain as part of the conservation area.

Based on the acreages provided above, the proposed conservation area will contain $1,178\pm$ acres of indigenous vegetation. The total conservation area (1,2024 acres), which includes the buffer lakes, will be placed under conservation easement to Lee County and the South Florida Water Management District (SFWMD). The created buffer lakes will be included in the conservation easement area but are not used to meet the 55 percent required for indigenous vegetation preservation and restoration.

The preservation and enhancement of existing indigenous vegetation and the large-scale restoration of agricultural lands to indigenous habitats will serve to provide significant regional flow-ways and wildlife corridors within the Project site. The proposed flow-ways and wildlife corridors within the Project site. The proposed flow-ways and wildlife corridors will provide connection from Corkscrew Regional Mitigation Bank and The Place conservation lands to the north with Panther Island Mitigation Bank and Audubon's Corkscrew Swamp Sanctuary lands to the south. The proposed flow-ways will also serve to re-establish the north to south flow of water through the Project site that existed historically.

2.0 EXISTING INDIGENOUS VEGETATION HABITATS

Pursuant to Land Development Code (LDC) Section 10-1, indigenous native vegetation means those plant species that are characteristic of the major plant communities of the County. Native habitats where invasive exotic vegetation has exceeded 75 percent coverage are not considered to be indigenous vegetation.

1

QCI2019-00018

COMMUNITY DEVELOPMENT

DCT 15 2019

The Project site includes 128= acres (combined pre-development wetland and upland acres) of existing indigenous native vegetation. The indigenous areas occur on-site as scattered pockets of primarily remnant wetland and upland forested habitats with less than 75 percent coverage by exotics. These indigenous areas are surrounded by agricultural lands and associated drainage system components. The existing indigenous wetland and upland vegetation communities are identified in Appendix A.

The indigenous wetland habitats total 91± acres and consist mostly of remnant cypress, hydric pine, cypress/pine/cabbage palm, and mixed wetland hardwood habitats. Freshwater marsh habitats occur to a lesser extent. The indigenous uplands total 37± acres and consist mostly of pine flatwoods habitat around the remnant cypress areas on-site. Listed below are the Florida Land Use, Cover and Forms Classification System (FLUCFCS) (Florida Department of Transportation 1999) descriptions of the indigenous wetland and upland habitats proposed for preservation and enhancement. An aerial with FLUCFCS is attached as Appendix B.

2.1 Indigenous Wetland Habitats

Willow, Disturbed (FLUCFCS Code 6189 E2)

The canopy of this habitat type includes Carolina willow (Salix caroliniana) and Brazilian pepper (Schinus terebinthifolius) along the edges. The sub-canopy is dominated by Carolina willow. The ground cover includes fireflag (Thalia geniculata), swamp ferm (Telmatoblechnum serrulatum), pickerelweed (Pontederia cordata), and bull-tongue arrowhead (Sagittaria lancifolia subsp. lancifolia).

Cypress, Disturbed (0-24% Exotics) (FLUCFCS Code 6219 E1)

The canopy of this wetland habitat contains bald cypress (*Taxodium distichum*) and cabbage palm (*Sabal palmetto*). The sub-canopy consists of Brazilian pepper, melaleuca (*Melaleuca quinquenervia*), cabbage palm, and wax myrtle (*Morella cerifera*). The ground cover includes caesarweed (*Urena lobata*), pennywort (*Hydrocotyle umbellata*), and swamp fern.

Cypress, Disturbed (25-49% Exotics) (FLUCFCS Code 6219 E2)

The vegetation composition of this wetland community is similar to FLUCFCS Code 6219 E1, but contains 25 to 49 percent Brazilian pepper and/or melaleuca in the canopy and subcanopy.

Cypress, Disturbed (50-75% Exotics) (FLUCFCS Code 6219 E3)

The vegetation composition of this wetland community is similar to FLUCFCS Code 6219 E2, but contains 50 to 75 percent Brazilian pepper and/or melalenca in the canopy and subcanopy.

Cypress/Pine/Cabbage Palm, Disturbed (0-24% Exotics) (FLUCFCS Code 6249 E1) The canopy of this wetland habitat consists of slash pine (*Pinus elliottil*), bald cypress, laurel oak (*Quercus laurifolia*), and scattered cabbage palm. The sub-canopy consists of bald cypress, cabbage palm, and Brazilian pepper. The ground cover includes gulfdune

2

CT 15 2019

paspalum (*Paspalum monostachyum*), slash pine, cabbage palm, bog buttons (*Lachnocaulon* sp.), and yellow-eyed grass (*Xyris* sp.).

<u>Cypress/Pine/Cabbage Palm. Disturbed (25-49% Exotics) (FLUCFCS Code 6249 E2)</u> The vegetation composition of this welland community is similar to FLUCFCS Code 6249 E1 with 25 to 49 percent Brazilian pepper in the sub-canopy.

<u>Cypress/Pine/Cabbage Palm, Disturbed (50-75% Exotics) (FLUCFCS Code 6249 E3)</u> The vegetation composition of this wetland community is similar to FLUCFCS Code 6249 E2 with 50 to 75 percent Brazilian pepper in the sub-canopy.

Pine, Hydric, Disturbed (0-24% Exotics) (FLUCFCS Code 6259 E1)

The canopy of this habitat type is composed of slash pine and widely scattered bald cypress. The sub-canopy includes slash pine, Brazilian pepper, and scattered saw palmetto (Sevenou repens). The ground cover includes yellow-eyed grass, rosy camphorweed (Pluchea baccharis), bog buttons, little blue maidencane (Amphicarpum muhlenbergianum), gulfdune paspalum, roadgrass (Eleocharis baldwinii), and low panicum (Dichanthelium sp.).

Mixed Wetland Forest, Disturbed (0-24% Exotics) (FLUCFCS Code 6309 E2)

The canopy of this habitat type includes slash pine, bald cypress, cucalyptus (Encalyptus sp.), widely scattered horse-tail casuarina (Casuarina equisetifolia), cocoplum (Chrysobalanus icaco), myrsine (Myrsine cubana), and scattered laurel oak (Quercus laurifolia), strawberry guava (Psidium cattleianum), cabbage palm, and live oak (Quercus virginiana). The sub-canopy includes slash pine, bald cypress, laurel oak, Brazilian pepper, and pitanga (Eugenia uniflora). The ground cover consists of swamp fern, pitanga, roadgrass, and bog buttons.

Freshwater Marsh. Disturbed (0-24% Exotics) (FLUCFCS Code 6419 E1)

The canopy and sub-canopy of this wetland habitat is typically open, with scattered Carolina willow and melalcuca. The ground cover includes fireflag, pickerelweed (*Pontederia cordata*), torpedograss (*Ponicum repens*), cattail (*Typha* sp.), and arrowhead (*Sagittaria* sp.).

Freshwater Marsh, Disturbed (25-49% Exotles) (FLUCFCS Code 6419 E2)

The vegetation composition of this wetland community is similar to FLUCFCS Code 6419 E1 with 25 to 49 percent coverage by melaleuca in the canopy and sub-canopy, and torpedograss and cattail in the ground cover.

2.2 Indigenous Upland Habitats

Pine Flatwoods, Disturbed (25-49% Exotics) (FLUCFCS Code 4119 E2)

The canopy of this upland habitat contains slash pine, laurel oak, earleaf acacia (Acacia auriculiformis), cabbage palm, ficus (Ficus sp.), and melaleuca. The sub-canopy contains Brazilian pepper, wax myrtle, carleaf acacia, and slash pine. The ground cover includes muscadine grapevine (Vitis rotundifolia), laurel oak, cabbage palm, Virginia creeper

3

001 15 2019

(Parthenocissus quinquefolia), carleaf greenbrier (Smilax auriculata), saw palmetto (Serenoa repens), caesarweed, and cocoplum.

Pine Flatwoods, Disturbed (50-75% Exoties) (FLUCFCS Code 4119 E3)

The vegetation composition of this upland community is similar to FLUCFCS Code 4119 E2, but contains 50 to 75 percent melaleuca, earleaf acacia, and/or Brazilian pepper in the canopy and sub-canopy.

Pine, Disturbed (0-24% Exotics) (FLUCFCS Code 4159 E1)

The canopy of this habitat type includes slash pine, widely scattered cabbage palm, and eucalyptus. The sub-canopy contains cabbage palm, saw palmetto, Brazilian pepper, and slash pine. The ground cover includes golden aster (*Pityopsis graminifolia*), natal grass (*Melinis repens*), bahiagrass (*Paspalum notatum*), flat-topped goldenrod (*Euthamia caroliniana*), dog fennel (*Eupatorium capillifolium*), blackroot (*Pterocaulon pyenostachyum*), chocolateweed (*Melochia spicata*), and broomsedge (*Andropogon virginicus*).

Pine. Disturbed (50-75% Exotics) (FLUCFCS Code 4159 E3)

The vegetation composition of this habitat type is similar to FLUCFCS Code 4159 E1, except with 50 to 75 percent cover of Brazilian pepper in the sub-canopy.

Tropical Hardwoods (FLUCFCS Code 426)

The canopy of this forest type is dominated by eucalyptus. The sub-canopy consists of scattered slash pine and cabbage palm. The ground cover is dog fennel, caesarweed, Virginia creeper, balsam apple (Momordica charantia), marsh brittle grass (Setaria parviflora), pennywort, zarzabacoa comun (Desmodium incanum), sensitive fern (Mimosa pudica), pinewoods fingergrass (Eustachys petraea), bushy bluestem (Andropogon glomeratus), bahiagrass, and beggar ticks (Bidens alba).

Hardwood/Conjfer Mixed, Disturbed (25-49% Exotics) (FLUCFCS Code 4349 E2)

The canopy and sub-canopy of this upland area contain slash pine, laurel oak, and live oak. The ground cover includes scattered saw palmetto, broomsedge, bahiagrass, dog fennel, and caesarweed.

Cypress/Pine/Cabbage Palm, Disturbed and Drained (50-75% Exotics) (FLUCFCS Code 6245 E3)

The canopy of this habitat consists of slash pine, bald cypress, laurel oak, and scattered cabbage palm. The sub-canopy consists of bald cypress, cabbage palm, Brazilian pepper, and pond apple (*Annona glabra*). The ground cover consists primarily of swamp fern.

3.0 EXISTING NON-INDIGENOUS VEGETATION

Approximately 2,010 acres (94 percent) of the Project site consist of vegetation communities that do not meet the LDC's definition of indigenous vegetation. The non-indigenous areas are predominantly row crop and citrus grove with associated ditching and drainage systems, and

COMMUNITY DEVELOPMENT

DCT 15 2009

UCI2019-00018

agricultural operations areas. Existing non-indigenous wetlands on the site total 53± acres and consist of melaleuca areas, disturbed lands and remnant cypress areas, and wetland habitats with greater than 75 percent coverage by exotics, primarily Brazilian pepper. Non-indigenous uplands on the Project site total 1,856± acres and consist primarily of row crop and citrus grove along with their associated agricultural operation areas. Non-indigenous areas also include 101± acres of agricultural ditching and man-made surface waters (water detention and conveyance). The non-indigenous wetland and upland vegetation communities and surface waters are identified in Appendix A. Listed below are the FLUCFCS descriptions of the non-indigenous areas on the Project site.

3.1 Non-Indigenous Wetland Habitats

Melaleuca, Hydric (FLUCFCS Code 4241)

The canopy of this wetland area is dominated by melaleuca with scattered slnsh pine. The sub-canopy contains melaleuca with scattered Brazilian pepper. The ground cover contains swamp forn, sensitive fern, caesarweed, and muscadine grapevine.

Willow, Disturbed (FLUCFCS Code 6189 E4)

The vegetation composition of this wetland community is similar to FLUCFCS Code 6189 E2, but contains 76 to 100 percent Brazilian pepper in the sub-canopy.

Cypress, Disturbed (76-100% Exotics) (FLUCFCS Code 6219 E4)

The vegetation composition of this wetland community is similar to FLUCFCS Code 6219 E3, but contains 76 to 100 percent Brazilian pepper and/or melaleuca in the canopy and sub-canopy.

Cypress/Pine/Cabbage Palm, Disturbed (76-100% Exotics) (FLUCFCS Code 6249 E4) The vegetation composition of this wetland community is similar to FLUCFCS Code 6249 E3, with 76 to 100 percent Brazilian pepper in the sub-canopy.

Disturbed Land, Hydric (FLUCFCS Code 7401)

These disturbed areas are periodically flooded due to farming and drainage operations on the property and are classified as "other surface waters." The ground cover includes Mexican primrose-willow (*Ludwigia octovalvis*), caesarweed, willow, sawgrass, cattail, mangrove flatsedge (*Cyperus ligularis*), cogongrass (*Imperata cylindrica*), water lettuce (*Pistia stratiotes*), and para grass (*Urochloa mutica*), Southern beaksedge (*Rhynchospora microcarpa*), yellow-eyed grass, torpedograss, smutgrass (*Sporobolus indicus*), marsh bristle grass, marsh pennywort, rosy camphorweed, dayflower (*Conmetina diffusa*), and buttonweed (*Diodia virginiana*).

3.2 Non-Indigenous Upland Habitats

Agricultural Support Operations (FLUCFCS Code 205)

This upland area is cleared of vegetation and is used as a staging and preparation area for the surrounding agriculture operations.

UG12019=00018

DCT 1 5 2019

Row Crops (FLUCFCS Code 214)

This land use type consists of active row crop operations. The various crops consist of tomatoes, peppers, chili peppers, and tomatillos.

Citrus Grove (FLUCFCS Code 221)

The canopy contains citrus trees. The sub-canopy is open. The ground cover is dominated by bahiagrass with crowfoot grass (*Dactyloctenlum aegyptium*), natalgrass (*Rhynchelytrum repens*), and Southern sandspur (*Cenchrus echinatus*).

Fallow Crop Land (FLUCFCS Code 261)

This land use type consists of harvestable crop land that is currently no longer in use. The eanopy is open while the sub-canopy consists of widely scattered Carolina willow. The ground cover includes torpedograss, turkey tangle frog-fruit (*Phyla nodiflora*), ragweed (*Ambrosia artemisiifolia*), dayflower, broomsedge, tropical flatsedge (*Cyperus surinamensis*), and buttonweed.

Pine Flatwoods, Disturbed (76-100% Exotics) (FLUCFCS Code 4119 E4)

The vegetation composition of this upland community is similar to FLUCFCS Cade 4119 E3, but contains 76 to 100 percent melaleuca, earleaf acacia, and/or Brazilian pepper in the canopy and sub-canopy.

Melaleuca (FLUCFCS Code 424)

The canopy and sub-canopy of this upland area are dominated by melaleuca. The ground cover contains smutgrass, rusty flatsedge (*Cyperus odoratus*), and caesarweed.

Disturbed Land (FLUCFCS Code 740)

The canopy and sub-canopy of this upland area are open. The ground cover includes smutgrass and Peruvian primrose-willow (Ludwigia peruviana).

Berm (FLUCFCS Code 747)

The canopy of this upland area is open. The sub-canopy consists of Brazilian pepper, slash pine, and earleaf acacia. The ground cover contains caesarweed, Brazilian pepper, Virginia creeper, saw palmetto, crewfoot grass, beggar ticks, Southern sandspur, ragweed, panicum (*Panicum* sp.), and smutgrass.

Road (FLUCFCS Code 814)

This upland land use consists of unimproved roads associated with the existing citrus grove.

3.3 Non-Indigenous Surface Waters

Ditch (FLUCFCS Code 514)

Ditches that support the agricultural operations have a ground cover that includes cattail, Mexican primrose-willow, marsh pennywort (*Hydrocotyle vulgarts*), Asiatic pennywort (*Centella asiatica*), dayflower, torpedograss, and West Indian marsh grass.

001 15 2019

COMMUNITY DEVELOPMENT

OCI2019-00018

Disturbed Land. Other Surface Waters (FLUCFCS Code 7401) The vegetation of this area is similar to FLUCFCS Code 7401 described above, except with scattered melalcuca in the canopy and scattered Carolina willow in the sub-canopy.

4.0 INDIGENOUS VEGETATION PRESERVATION AND ENHANCEMENT

A total of 128± acres (91± acres of wetlands and 37± acres of uplands) with less than 75 percent existing exotic vegetation will be preserved and enhanced by the hand-removal/treatment of exotic and nuisance vegetation. The locations of the indigenous preservation areas are shown on Appendix C.

4.1 Methods to Remove and Control Exotic and Nuisance Plants

Exotics to be eradicated include, but are not limited to, the 21 species of prohibited invasive exotic species listed in Section 10-420(h) of the LDC (Table 1).

Common Name	Scientific Name
Air potato	Dioscorea alata
Australian pines	All Casuarina species
Bishopwood	Bischofia javanica
Brazilian pepper	Schimus terebinthifolius
Carrotwood	Cupaniopsis anacardioides
Chinese tallow	Sapium sebiferum
Cork tree	Thèspesia populnea
Cuban laurel fig	Ficus microcarpa
Downy rose-myrtle	Rhodomyrtus tomentosus
Earleaf acacia	Acacia auriculiformis
Japanese climbing fern	Lygodium japonicum
Jaya plum	Syzygium cumini
Melaleuca	Melalenca quinquenervia
Murray red gum	Eucalyptus camaldulensis
Old World climbing fern	Lygodium microphyllum
Rose apple	Syzygium jambos
Rosewood	Dalbergia sissoo
Tropical soda apple	Solanum viarum

7

Table 1. Prohibited Invasive Exotics

ACT 15 2019

Table 1. (Continued)

Common Name	Scientific Name
Wedelia	Wedelia trilobata
Weeping fig	Ficus benjamina
Woman's tongue	Albizia lebbeck

Exotic and nuisance vegetation removal will be conducted primarily by hand methods. Hand treatment will be either felling of exotic trees, hand-removal, and herbicide treatment of the stumps; or by hand pulling and removal. The treatment of exotic and nuisance vegetation will include one or more of the following methods: (1) cut exotics within 12 inches of ground elevation, hand-remove cut vegetation, and treat remaining stump with approved herbicide; (2) foliar application of approved herbicide or hand pulling of exotic seedlings; and (3) foliar application of approved herbicide to nuisance grasses.

4.2 Debris Removal

Exotic vegetative debris that is cut will be removed from the indigenous preserve areas. Exotic debris may be stacked in the adjacent agricultural lands and burned. The preserve areas will be inspected annually for trash/garbage. Any trash/garbage located within the preserve areas will be removed and disposed of by hand.

4.3 Method and Frequency of Pruning and Trimming

Exotic removal within the existing indigenous habitats is scheduled to begin after development order approval. After the completion of the initial exotic removal, semiannual inspections of the preserves will occur for the first two years. During these inspections, the conservation areas will be traversed by a qualified ecologist. Locations of nuisance and/or exotic species will be identified for immediate treatment with an appropriate herbicide. Any additional potential problems will also be noted and corrective actions taken. Once exotic/nuisance species levels have been reduced to acceptable limits, inspections of the conservation areas will be conducted a minimum of once every two years.

Maintenance will be conducted in perpetuity to ensure that the conservation areas are free of exotic vegetation, including the prohibited invasive exotic species listed in Section 10-420(h) of the LDC (Table 1).

5.0 INDIGENOUS VEGETATION RESTORATION

Restoration and re-establishment of indigenous vegetation communities will be conducted in areas with greater than 75 percent coverage by exotic vegetation and in the existing agricultural lands (i.e., citrus grove and row crops) within the conservation areas. Restoration activities will include 64± acres of exotic removal and supplemental plantings in existing forested and herbaceous

OCT 1 5 2019

habitats with greater than 75 percent exotics and 9864 acres of wetland and upland restoration from existing agricultural lands. The locations of the various types of restoration areas are shown on Appendix C.

5.1 Removal of Exotics and Supplemental Plantings

Approximately 64 acres ($53\pm$ acres of wetlands and $11\pm$ acres of uplands) with greater than 75 percent exotics will be enhanced by the removal of exotic species and supplemental plantings of native vegetation. Mechanical equipment may be utilized to assist in the removal of exotic species in these areas. Cut vegetative debris will be removed from these areas in order to allow for successful supplemental plantings. All efforts will be made to preserve native trees when conducting the exotic removal with mechanized equipment. To minimize adverse impacts to the ground surface, machinery that exerts a relatively low impact on the ground surface (i.e., tracked skid steer, feller-buncher) will be utilized within the mechanical removal areas.

Following the removal of exotics, supplemental wetland plantings will be installed in the 53± acres of wetland habitats. Wetland plantings will be selected based on the type of native vegetation that occurs in the adjacent or nearby wetland habitats. Tree and ground cover species will be planted according to the specifications in Table 2. A minimum of three tree species and five ground cover species will be planted. The species selected for planting will depend on market availability at the time the plantings are to occur.

Common Name	Scientific Name	Minimum Height	Container Size	Planting Instruction (On Center)
	Trees (minimum fl	arce species)		
Bald cypress	Taxodium distichum	2 to 5 ft.	BR to 3 gal.	30 to 50 ft.
Dahoon holly	Ilex cossine	2 to 5 ft.	BR to 3 gal.	30 to 50 ft.
Laurel oak	Quercus laurifolia	2 to 5 ft.	BR to 3 gal.	30 to 50 ft.
Pond apple	Annona glabra	2 to 5 ft.	BR to 3 gal.	30 to 50 ft.
Pop ash	Fraxinus caroliniana	2 to 5 ft.	BR to 3 gal.	30 to 50 ft.
Red maple	Acer rubrum	2 to 5 ft.	BR to 3 gal.	30 to 50 ft.
Slash pine	Pinus elliottii	2 to 5 ft.	BR to 3 gal.	30 to 50 ft.
	Ground Cover (minim	um five speci	ies)	
Alligator flag	Thalia geniculata	12 in.	2 in.	5 to 8 ft.
Arrowhead	Sagittaria lancifolia	12 in.	2 in.	5 to 8 ft.
Blue flag iris	fris virginica	12 in.	2 in.	5 to 8 ft.
Blue maidencane	Amphicarpum muhlenbergianum	12 in.	2 in.	5 to 8 ft.
Cordgrass	Spartina bakeri	12 in.	2 in.	5 to 8 ft.
Dense-flower knotweed	Polygonum glabrum	12 in.	2 in.	5 to 8 ft.
Golden canna	Canna flaccida	12 in.	2 in.	5 to 8 ft.
Gulfdune paspalum	Paspalum monostachyum	12 in.	2 in.	5 to 8 ft.

Table 2. Supplemental Wetland Plantings¹

OCT 15 2019

COMMUNITY DEVELOPMENT

9

Common Name	Scientific Name	Minimum Height	Container Size	Planting Instruction (On Center)
	Ground Cover (Continued)		1
Maidencane	Panicum hemitomon	12 in.	2 in.	5 to 8 ft.
Muhly grass	Muhlenbergia capillaris	12 in.	2 in.	5 to 8 ft.
Pickerelwced	Pontederia cordata	12 in.	2 in.	5 to 8 ft.
Sawgrass	Cladium jamaicense	12 in.	2 in.	5 to 8 ft.
Soft-stem bulrush	Scirpus validus	12 in.	2 in.	5 to 8 ft.
Spikerush	Eleocharis interstincta	12 in.	2 in.	5 to 8 ft.
Swamp lily	Crinum americanum	12 in.	2 in.	5 to 8 ft.
Wiregrass	Aristida stricta	12 in.	2 in,	5 to 8 ft.

Table 2. (Continued)

'Additional tree and ground cover species may be included in the planting table prior to Development Order approval.

BR - Bare root

Following the removal of exotic vegetation, supplemental upland plantings will be installed in $11\pm$ acres of upland habitats. Upland plantings will be selected to replace the type of native vegetation that occurs in the adjacent or nearby upland habitats. Tree plantings will include primarily slash pine, although other tree species listed in Table 3 may be utilized. Upland tree and ground cover plantings will be installed according to the specifications listed in Table 3. A minimum of three tree species and five ground cover species will be planted. The species selected for planting will depend on market availability at the time the plantings are to occur.

Table 3. Supplemental Upland Plantings¹

Common Name	Scientific Name	Minimum Height	Minimum Container Size	Planting Instruction (On Center)
1 series and a series of the s	Trees (minimum	three species)	A second second second second second	
Cabbage palm	Sabal palmetto	2 to 5 ft.	BR to 3 gal.	30 to 50 ft.
Cypress	Taxodium distichum	2 to 5 ft.	BR to 3 gal.	30 to 50 ft.
Dahoon holly	Ilex cassine	2 to 5 ft.	BR to 3 gal.	30 to 50 ft.
Laurel oak	Quercus laurifolia	2 to 5 ft.	BR to 3 gal.	30 to 50 ft.
Live oak	Quercus virginiana	2 to 5 ft.	BR to 3 gal.	30 to 50 ft.
Red maple	Acer rubrum	2 to 5 ft.	BR to 3 gal.	30 to 50 ft.
Slash pine	Pinus elliottii	2 to 5 ft.	BR to 3 gal.	30 to 50 ft.
	Ground Cover (minin	num five spec	tics)	
Blue maidencane	Amphicarpum muhlenbergianum	12 in.	2 in.	5 to 8 ft.
Broomgrass	Andropogon virginicus	12 in.	2 in.	5 to 8 ft.
Cordgrass	Spartina bakerl	12 in.	2 in,	5 to 8 ft.
Fakahatchee grass	Tripsacum dactyloides	12 in.	2 in.	5 to 8 ft.
Gulfdune paspalum	Paspalum monostachyum	12 in.	2 in.	5 to 8 ft.
Muhly grass	Muhlenbergia capillaris	12 in.	2 in.	5 to 8 ft.

2019

0612019-00018

Table 3. (Continued)

Common Name	Scientific Name	Minimum Reight	Minimum Container Size	Planting Instruction (On Center)
the second second	Ground Cover	(Continued)		
Purple lovegrass	Eragrostis spectabilis	12 in.	2 in.	5 to 8 ft.
Saw palmetto	Serenoa repens	12 in.	I gal.	30 to 50 ft.
Wiregrass	Aristida stricta	12 in.	2 in.	S to B ft.

Additional tree and ground cover species may be included in the planting table prior to Development Order approval.

BR - Bare root

5.2 Wetland and Upland Restoration from Agricultural Lands

Approximately 986 acres of existing agricultural lands, including ditches, water detention areas, and berms will be restored to native wetland and upland habitats. The final nereages associated with the upland and wetland restoration from agricultural lands will be determined at the time of development order. Wetland and upland restoration activities will include removal of existing row crops and citrus trees, backfilling of agricultural ditches and detention systems, regrading to contours necessary for restoration to historic habitat communities, replanting of vegetation to achieve target habitat types, and ongoing maintenance and management.

5.2.1 Wetland Grading and Planting

Stormwater from development areas of the Project will be treated for water quality in stormwater lakes within the surface water management system for each development area. Following water quality treatment, stormwater will be discharged from treatment lakes into the restoration area at various locations. Indigenous wetland restoration for agricultural lands, or "flow-ways," will be established to accommodate the flow of water from the north to the south through the site, similar to what existed historically. The location of the flow-ways is depicted on Exhibit C. The westernmost flow-way has been designed to accommodate a future connection to the existing wetland flow-way within The Place at Corkserew residential development located on the north side of Corkserew Road. The easternmost flow-way has been designed to provide connection to drainage features along Carter Road, immediately cast of the Project site, to help alleviate flooding along the roadway corridor. The restored flow-ways will converge in the south-central portion of the site and eventually outfall to Panther Island Mitigation Bank at a fixed location along the southern property boundary.

The flow-ways will consist primarily of freshwater marsh habitat with hydric pine forest plant communities in the higher elevations. The freshwater marsh areas will contain intermittent pockets of open water. The open water areas may be more prevalent during and after large storm events, particularly in the southern portion of the site where the elevation is lowest. The side slopes of the flow-ways will be

001 15 2019

COMMUNITY DEVELOPMENT

11

8:1 or less and will be vegetated with appropriate marsh and hydric pine vegetation. Water elevations within the flow-ways will be stepped down from north to south to mimic historic patterns and to allow hydration of the indigenous replanting areas. The control elevations and fixed weir locations for each restoration basin are provided on Exhibit C. A detail of the weir structure is provided in Appendix D.

Cross-sections showing how the proposed wetland flow-ways are anticipated to function are provided in Appendix D. The cross-sections illustrate how water will move from north to south through the property via separate basins controlled by physical structures (i.e., weirs). Each weir will be set at a specific elevation to control water levels in each flow-way basin. This design allows for the cascading of water from north to south while maintaining water elevations supportive of the proposed hydric pine and freshwater marsh vegetation communities.

Following the removal of the row crops and citrus trees, drainage ditches and other components of the agricultural operations such as detention areas will be backfilled using material from the existing berms and disturbed areas. Proposed wetland flowway areas will be graded and planted with wetland plantings. The wetland flowway restoration areas are divided into three planting zones. The approximate location of the flow-way planting zones is depicted on the typical cross-sections provided in Appendix D. Slash pine trees and ground cover plantings will be installed on the higher slope of the restored flow-ways in Zone 1 where the target habitat is hydric pine. Zone 2 plantings will be installed on the mid to lower elevations where the target habitat is freshwater marsh. Zone 3 plantings will be installed in the lowest portions of the graded area which will consist of freshwater marsh with intermittent pockets of open water.

A minimum of two ground cover species will be planted in each planting zone. Specifications for plantings including species, size, and density (on-center spacing) are provided in Table 4. The species selected for planting will depend on market availability at the time the plantings are to occur.

Common Name	Scientific Name	Minimum Height	Container Size	Planting Instruction (On Center)
	Tr	ees2		
Bald cypress	Taxodium distichum	2 to 5 ft.	BR to 3 gal.	30 to 50 ft.
Pop ash	Fraxinus caroliniana	2 to 5 ft.	BR to 3 gal.	30 to 50 ft.
Pond apple	Annona glabra	2 to 5 ft.	BR to 3 gal.	30 to 50 ft.
Slash pine	Plmus elilottii	2 to 5 ft.	BR to 3 gal.	30 to 50 ft.

Table 4. Planting List for Wetland Restoration from Agricultural Lands¹

COMMUNITY DEVELOPMENT

UGI2019-00018

Common Name	Scientific Name	Minimum Height	Container Size	Planting Instruction (On Center)
Gr	ound Cover Plantings (min	imum two sp	occies per zon	e)
	Zone	1		
Blue flag iris	Iris virginica	12 in.	2 in.	3 to 5 ft.
Blue maidencane	Amphicarpum muhlenbergianum	12 in.	2 in.	3 to 5 ft.
Bushy bluestem	Andropogon glomeratus	12 in.	2 in.	5 to 8 ft.
Cordgrass	Spartina bakeri	12 in.	2 in.	5 to 8 ft.
Gulfdune paspalum	Paspalum monostachyum	12 in.	2 in.	5 to 8 A.
Maidencaue	Panicum hemitomon	12 in.	2 in.	3 to 5 fl.
Muhly grass	Muhlenbergia capillaris	12 in.	2 in.	5 to 8 ft.
Redroot	Ceanothus americanus	12 in.	2 in.	5 to 8 ft.
Sawgrass	Cladium jamaicense	12 in.	2 in.	3 to 5 ft.
Yellow canna	Phyllanthus fluitans	12 in.	2 in.	5 to 8 ft.
	Zone	e 2		
Alligator flag	Thalia geniculata	12 in.	2 in.	3 to 5 ft.
Arrowhead	Sagittaria lancifolia	12 in.	2 in.	3 to 5 ft.
Golden canna	Canna flaccida	12 in.	2 in.	3 to 5 ft.
Maidencane	Panleum hemilomon	12 in.	2 in.	3 to 5 ft.
Pickerelweed	Pontederia cordata	12 in.	2 in.	3 to 5 ft.
Sawgrass	Cladium jamaicense	12 in.	2 in.	3 to 5 ft.
Soft-stem bulrush	Scirpus validus	12 in.	2 in.	3 to 5 ft.
Spikerush	Eleocharis interstincta	12 in.	2 in.	3 to 5 ft.
1	Zon	e 3		
Alligator flag	Thalia geniculata	12 in.	2 in.	3 to 5 ft
Arrowhead	Sagittaria Iancifolia	12 in.	2 in.	3 to 5 ft.
Golden canna	Canna flaccida	12 in.	2 in.	3 to 5 ft.
Pickerelweed	Pontederia cordata	12 in,	2 in.	3 to 5 fl
Soft-stem bulrush	Scirpus validus	12 in.	2 in.	3 to 5 ft
Spatterdock	Nuphar luteum	24 in.	1 gal.	15 ft.
Spikerush	Eleocharis interstincta	12 in.	2 in.	3 to 5 ft.
Water lily	Nymphaea odorala	24 in.	1 gal.	15 ft.

Table 4. (Continued)

Additional tree and ground cover species may be included in the planting table prior to

²Wetland tree plantings will be clustered along the edge of the flow-way restoration area as to not preclude open foraging habitat for listed wading bird species.

BR - Bare root

0612019-00018

COMMUNITY DEVELOPMENT

OCT 15 2019

5.2.2 Upland Grading and Planting

The locations of the upland restoration areas are shown on Appendix C. Upland restoration will consist of the removal of row crops, citrus trees, and berms, and the backfilling of ditches and detention areas. Re-grading will occur to provide appropriate ground elevations for targeted upland plant communities. Depending on the topography and natural hydrologic regime, portions of the upland restoration areas may contain wetland vegetation. As such, trees species that are more tolerant of periodic inundation may be utilized in lower portions of the upland restoration area, particularly in the southern portion of the site. A list of trees that may be utilized in these areas is included in Table 5.

Following final grading, tree species and ground cover from Table 5 will be installed. The cross-sections included in Appendix D show the location of the upland restoration planting areas. The species selected for planting will depend on the market availability at the time plantings are to occur. Trees may be planted in clusters to provide distinct areas that can be defended from prescribed fire by the installation of disked fire breaks around the perimeter of the clusters. The locations of the tree clusters will be identified based on an analysis of historic aerials and proposed site topography. Trees will be planted in accordance with the specifications listed in Table 5. The goal is to create clusters of primarily open canopy, native forest areas with adequate sunlight for an abundance of ground cover species. Clusters of trees may be pine, hardwoods, or a mix of pine and hardwoods. A variety of tree sizes may be utilized to create a more heterogeneous plant community

In areas where tree plantings are not clustered, widely scattered trees will be planted randomly in the upland restoration areas. The widely scattered trees will consist primarily slash pine plantings.

Native ground cover plantings will be installed in the upland restoration areas and will include a minimum of four of the species listed in Table 5. No one species will constitute more than 50 percent of the total ground cover plantings. Direct seeding to establish upland ground cover may be used in conjunction with ground cover plantings within the upland restoration areas. The seed source will be obtained from and applied by a professional experienced with direct seeding as a method of upland restoration. The seed source will be harvested from a local area and will include a mixture of regionally appropriate native graminoid species. The seed source mixture will include a variety of species to optimize ground cover diversity to the maximum extent possible.

0612019-00018

COMMUNITY DEVELOPMENT

OCT 1 5 2019

14

Common Name	Scientific Name	Minimum Height	Container Size	Planting Instruction (On Center)
	T	'ees		A character of the second
Bald cypress ²	Taxodium distichum	2 to 5 ft.	BR to 3 gal.	15 to 20 fl.
Cabbage palm	Sabal palmetto	2 to 5 ft.	BR to 3 gal.	15 to 20 ft.
Dahoon holly	Ilex cassine	2 to 5 ft.	BR to 3 gal.	15 to 20 ft.
Laurel oak	Quercus laurifolia	2 to 5 fl.	BR to 3 gal,	15 to 20 ft.
Live oak	Quercus virginiana	2 to 5 fl.	BR to 3 gal.	15 to 20 ft.
Red maple ²	Acer rubrum	2 to 5 ft.	BR to 3 gal.	15 to 20 ft.
Swamp bay ²	Persea palustris	2 to 5 ft.	BR to 3 gal.	15 to 20 ft.
Slash pine	Pinus elliottii	2 to 5 fl.	BR to 3 gal.	15 to 20 ft.
	Ground Cover (mi	nimum four	species)	· ····································
Broomsedge	Andropogon virginicus	12 in.	2 in.	5 to 8 ft.
Cordgrass	Spartina bakeri	12 in.	2 in.	5 to 8 ft.
Fakahatchee grass	Tripsacum dactyloides	12 in.	2 in.	5 to 8 ft.
Gulfdune paspalum	Paspalum monostachyum	12 in.	2 in.	5 to 8 ft,
Muhlygrass	Muhlenbergia capillaris	12 in.	2 in.	5 to 8 ft.
Purple lovegrass	Eragrostis spectabilis	12 in.	2 in.	5 to 8 ft.
Saw palmetto	Serenoa repens	12 in.	1 gal.	30 to 50 ft.
Wiregrass	Aristida stricta	12 in.	2 in.	5 to 8 ft.
Muhlygrass	Muhlenbergia capillaris	12 in.	2 in.	5 to 8 ft.

Table 5. Planting List for Upland Restoration from Agricultural Lands¹

¹Additional tree and ground cover species may be included in the planting table prior to Development Order approval.

²To be utilized in lower portions of the upland restoration areas, BR - Bare root

5.2.3 Northern Perimeter Berm Plantings

In addition to meeting the minimum planting requirements outlined in Table 5, additional native tree and shrub plantings may be installed along the northern perimeter berm within the upland restoration from agricultural land area south of Corkscrew Road. The location of the northern perimeter berm will be identified at the time of development order application. The additional tree and shrub species proposed along the northern perimeter berm are included in Table 6.

Ground cover planting will include a minimum of three of the five species listed in Table 6. Ground cover plantings may be clustered so there may be small patches where only trees exist. After ground cover plantings have been installed, a layer of pine straw bedding will be utilized on the southern perimeter berm and mounding areas to prevent erosion along the side slopes.

OCT 1 5 2019

COMMUNITY DEVELOPMENT

Common Name	Scientific Name	Minimum Height	Minimum Container Size	Planting Instruction (On Center)
	Ground Cover (mini	mum three s	pecies)	
Cordgrass	Spartina bakeri	12 in.	4 in.	3 Ĥ.
Fakahatchee grass	Tripsacum dactyloides	12 in.	4 in.	3 fi.
Muhlygrass	Muhlenbergia capillaris	12 in.	4 in.	3 ft.
Purple lovegrass	Eragrostis spectabilis	12 in.	4 in.	3 N.
Sawgrass	Cladium jamaicensis	12 in.	4 in.	3 ft.
	Trees/S	brubs'		
American elm	Uhnus americana	2 to 5 ft.	l gal.	15 to 20 fl.
Green/silver buttonwood	Conocarpus erectus	2 to 5 ft.	I gal.	15 to 20 ft.
Jamaican caper	Quadrella Jamaicensis	2 to 5 ft.	1 gal.	15 to 20 ft.
Loblolly bay	Gordonia losionthus	2 to 5 fl.	l gal.	15 to 20 ft.
Pigeon plum	Cocoloba diversifolta	2 to 5 ft.	l gal.	15 to 20 ft.
Pitch apple	Clusia rosea	2 to 5 ft.	l gal.	15 to 20 ft.
Red bay	Persea borbonia	2 to 5 ft.	1 gal.	15 to 20 ft.
Simpson's stopper	Myrcianthes fragrans	2 to 5 ft.	I gal.	15 to 20 ft.
Southern magnolia	Magnolía grandiflora	2 to 5 ft.	1 gal.	15 to 20 ft.
Sugarberry	Celtis laevigata	2 to 5 ft.	1 gal.	15 to 20 ft.
Sweet gum	Liquidambor styraciflua	2 to 5 ft.	l gal.	15 to 20 ft.
Thatch palm	Thrinox radiata	2 to 5 ft.	1 gal.	15 to 20 ft.
Walter's viburnum	VIburnun obovaum	2 to 5 ft.	l gal.	15 to 20 ft.
West Indian mahogany	Swielenia mahagoni	2 to 5 ft.	l gal.	15 to 20 ft.
Wild coffee	Psycholria nervosa	2 to 5 ft.	l gal.	15 to 20 ft.
Black olive	Bucida buceras	2 to 5 ft.	I gal.	15 to 20 ft.
Engleston holly	Nex x attenuata	2 to 5 ft.	1 gal.	15 to 20 ft.
Orange geiger	Cordia sebestena	2 to 5 ft.	1 gal.	15 to 20 ft.
Paurotis palm	Acoelorraphe wrightil	2 to 5 ft.	l gal.	15 to 20 ft.
Seagrape	Cocoloba uvifera	2 to 5 ft.	I gal.	15 to 20 ft.
Sycamore	Platants occidentalis	2 to 5 ft.	1 gal.	15 to 20 ft.
Wax myrtle	Morella cerifera	2 to 5 ft.	l gal.	15 to 20 ft.
Wild lime	Zanthoxylum fagara	2 to 5 ft.	l gal.	15 to 20 ft.
Yaupon holly	Ilex vomitoria	2 to 5 ft.	l gal.	15 to 20 ft.
Cocoplum	Chrysobalanus icaco	2 to 5 ft.	1 gal.	15 to 20 ft.
Carolina willow	Salix caroliniana	2 to 5 ft.	1 gal.	15 to 20 ft.

Table 6. Northern Perimeter Berm Plantings

"Trees and shrubs may be clustered or evenly spaced.

16

007 15 2019

- 4

4612019-00018

COMMUNITY DEVELOPMENT

6.0 RESTORATION ACTIVITY SCHEDULE

Site development and restoration will occur in two phases. A restoration phase map corresponding to each development phase is provided as Appendix E. The Phase 1 restoration area includes a minimum of 55 percent of the Phase 1 development and restoration acreages combined. The restoration phasing will be sub-phased to coincide with the phasing of development determined at the time of development order. Restoration activities in each phase will be completed within ten years or sooner from the date of issuance of the first development order for that phase.

7.0 SUCCESS CRITERIA

7.1 Indigenous Wetland and Upland Preservation and Enhancement

The following are the success criteria for the indigenous preserve areas:

- 1) Initial eradication of exotic and nuisance vegetation will be completed; and
- 2) The preserve areas will be maintained free from exotic vegetation. Exotic vegetation species include, but are not limited to, the 21 species of prohibited invasive exotic species listed in Section 10-420(h) of the LDC (Table 1).

7.2 Indigenous Wetland and Upland Restoration

The following are the success criteria for the indigenous wetland and upland restoration areas:

- 1) Initial cradication of exotic and nuisance vegetation will be completed;
- 2) Supplemental plantings will be completed in the indigenous restoration areas;
- A minimum 80 percent survival of tree and ground cover plantings after five years; and
- 4) The preserve areas will be maintained free from exotic vegetation. Exotic vegetation species include, but are not limited to, the 21 species of prohibited invasive exotic species listed in Section 10-420(h) of the LDC (Table 1).

7.3 Wetland and Upland Restoration from Agricultural Lands

The following are the success criteria for the wetland and upland restoration from agricultural lands:

1) Initial eradication of exotic and nuisance vegetation will be completed;

17

ACI2019-00018

COMMUNITY DEVELOPMENT

- Removal of row crops, citrus trees, berms and spoil areas, backfilling of ditches and borrow areas, and re-grading of wotland and upland restoration areas will be completed;
- 3) Plantings within wetland and upland restoration areas will be completed;
- A minimum of 80 percent survival of tree and ground cover species after five years;
- 5) The goal will be an average of approximately 100 trees per acre in the upland restoration areas. There may be areas of clustered trees which amount to greater than 100 trees per acre and areas of herbaceous prairie with less than 100 trees per acre; and
- 6) The preserve areas will be maintained free from exotic vegetation. Exotic vegetation species include, but are not limited to, the 21 species of prohibited invasive exotic species listed in Section 10-420(h) of the LDC (Table 1).

8.0 MAINTENANCE

After the completion of the initial exotic removal, semi-annual inspections of the conservation areas will occur for the first two years. During these inspections, the conservation areas will be traversed by a qualified ecologist. Locations of nuisance and/or exotic species will be identified for immediate treatment with an appropriate herbicide. Any additional potential problems will also be noted, and corrective actions taken. Once exotic/nuisance species levels have been reduced to acceptable limits, inspections of the conservation areas will be conducted annually.

Maintenance will be conducted in perpetuity to ensure that the conservation areas are free of exotic vegetation, including the prohibited invasive exotic species listed in Section 10-420(b) of the LDC (Table 1).

8.1 Prescribed Fire

Prescribed burning will be used as a management tool in the conservation areas to maintain the native vegetation communities. Prescribed burns help maintain vegetative communities in their natural state, reduce fuel loads and the danger of wildfire, aid with the eradication and control of exotic and nuisance vegetation species, and improve wildlife habitat. The objectives of prescribed burning maintenance events will be to aid in the control of exotic vegetation and woody shrubs (i.e., wax myrtle and saltbush), and to stimulate the growth and diversity of herbaccous vegetation.

The burning frequency for the conservation areas will be two to four years, which is consistent with the natural fire regime for mesic flatwoods, wet flatwoods, and wet prairies described by Florida Natural Areas Inventory (FNAI) in the *Guide to the Natural Communities of Florida* (FNAI 2010). The edges of the Project's freshwater marshes will

COMMUNITY DEVELOPMENT

OCT 15 2019

be burned when the fire moves through the adjacent pine and prairie habitats. The fire will be allowed to extinguish naturally within the wetter marsh habitats.

Prescribed burning is typically conducted during the winter or early spring when temperatures are reduced and wind direction is more constant. The initial burn is anticipated to occur during the late winter. Winter burns are preferred to reduce high fuel loads. Growing season burns also may be conducted as conditions allow. Changes in annual weather cycles determine when burn permits will be available and burns may be conducted only on the day(s) of Florida Forest Service permission.

Fire breaks will be installed in strategic locations in order to safely ignite and control prescribed fires. Fire breaks will be co-located with maintenance trails, access roads, easements, fence lines, property boundaries, and natural habitat boundaries. A 12-foot wide fire break will be established directly adjacent to and inside (i.e., the restoration side) of the 6-foot tall wildlife control fence or other structural wildlife deterrent. Fires will be excluded from the planted tree clusters until such time that the plantings are mature enough to survive fires. Fires will be allowed to extinguish naturally within the wetter preserve areas, such as the marsh habitats.

Controlled burns will be conducted only when authorized with a permit by the Florida Forest Service. In addition, notice will be given to the Estero Fire District. Coordination with the Audubon Society and the South Florida Water Management District will occur before burning. Burning will not be conducted if smoke is anticipated to encroach upon Corkserew Road or adjacent residential areas.

9.0 MONITORING REPORTS

Monitoring will be conducted annually for the conservation areas. Annual reports documenting the achievement of the success criteria outlined in Section 7.0 will be submitted to Lee County's Division of Environmental Sciences (DES). Annual monitoring reports will be provided for a period of five years after the Certificate of Compliance has been issued by Development Services or until the 80 percent survivability is reached. Monitoring will typically be conducted during the height of the growing season (August to October) with annual reports submitted by January 15.

Annual monitoring reports will be provided for each conservation area phase as described above. The monitoring reports will include documented exotic and nuisance species, mortality of vegetation, estimated causes of mortality, growth of the vegetation, wildlife observed and other factors that demonstrate the functional health of the conservation areas, and photographs. A brief description of anticipated maintenance work to be conducted over the next year will also be included. Periodic inspections will be conducted by DES staff to ensure the accuracy of the monitoring reports.

OCI2019-00018

COMMUNITY DEVELOPMENT

10.0 LONG-TERM MANAGEMENT AND MONITORING

The conservation areas will be placed in a conservation easement granted to Lee County and the SFWMD. The conservation easement will contain a minimum of 55 percent of the total planned development acreage per Lee Plan Policy 33.3.4(2)(c). The conservation easement will prevent the encroachment of future development as well as activities that are incompatible with the goal of sustaining the preserved and restored conservation areas in good ecological health. These areas will be physically managed in accordance with the approved long-term management plan prepared by the Project ecologist and implemented by a Community Development District (CDD) or Homeowners' Association (HOA) with the assistance of an appropriately skilled environmental professional.

Responsibility for management of the conservation areas will shift to the CDD or HOA following the completion of enhancement and restoration activities on-site. Prior to completion of the fiveyear annual monitoring program, a long-term management and monitoring plan will be drafted for DES review and approval. The plan will then be implemented after completion of the five-year annual monitoring program and achievement of success criteria has been verified by DES. Longterm management activities within the conservation areas will include periodic surveys of vegetation and wildlife, control of exotic and nuisance plant species, regulating water levels, maintenance of the water control structures and access, and prescribed fires.

Long-term monitoring reports will be provided to DES bi-annually (every other year). The longterm monitoring reports will provide ecological data such as water levels, vegetative cover, degree and location of exotic vegetation cover, and wildlife utilization. This information will guide the active management of the site.

11.0 PRESERVE SIGNAGE AND COMMUNITY EDUCATION PLAN

Signs identifying the preserve as a "nature preserve area" will be installed along the boundary of the conservation areas. The signage will include language stating, "No dumping allowed." The signs will be spaced a maximum of 200 feet apart. The signs will be no closer than ten feet from residential property lines and be limited to a maximum height of four feet and a maximum size of two square feet. A typical preserve sign is attached as Appendix D.

The community will be advised of the benefits of the conservation areas to the surrounding landscape and their residential community.

Community informational and educational brochures, such as those describing the benefits of preserve areas, may be created and provided as needed to keep residents in compliance with conservation easements, wildlife regulations, etc. Continued education will ensure that the community is well-informed regarding the preserves and wildlife coexistence.

Please refer to the Protected Species Management and Human-Wildlife Coexistence Plan for details on wildlife crossings, fencing, and measures to be implemented to help prevent human-wildlife conflicts.

20

OCISO18-00018

OCT 1 5 2019

12.0 REFERENCES

- Florida Department of Transportation. 1999. Florida Land Use, Cover and Forms Classification System. Procedure No. 550-010-001-a. Third Edition.
- Florida Natural Areas Inventory. 2010. Guide to the Natural Communities of Florida: 2010 Edition. Florida Natural Areas Inventory, Tallahassee, Florida.



COMMUNITY DEVELOPMENT

0612019-0001 R

APPENDIX A

·~)

INDIGENOUS VEGETATION MAP

OCT 1 5 2019

COMMUNITY DEVELOPMENT

CC12019-00018



APPENDIX B

AERIAL WITH FLUCFCS AND WETLANDS MAP

OCT 1 5 2019

COMMUNITY DEVELOPMENT

OCI2019-00018


APPENDIX C

LEE COUNTY INDIGENOUS VEGETATION PRESERVATION, RESTORATION, AND MANAGEMENT PLAN

OCT 1 5 2019

COMMUNITY DEVELOPMENT

OC12019-00018



APPENDIX D

TYPICAL SECTIONS

OCT 1 5 2019

COMMUNITY DEVELOPMENT

0612019-00018



and the second second

DC12019-00018

COMMUNITY DEVELOPMENT

OCT 1 5 2019

×-, 1

RESTORATION PHASE MAP

APPENDIX E

1



APPENDIX F

TYPICAL PRESERVE SIGNAGE

OCT 1 5 2019

COMMUNITY DEVELOPMENT

0012019-00018

100

1



Submitted via C/D pn 11 27-18 / DCI2019 60018

Verdana Village MPD DCI2019-00018 Hydrological Restoration Plan

J.R. EVANS ENGINEERING

Prepared for: CAM Village Development, LLC 4954 Royal Gulf Circle Fort Myers, FL 33966

Prepared By: J.R. Evans Engineering, P.A. 9351 Corkscrew Road, Ste. 102 Estero, FL 33928

November 2019

EANIBIT E

Submitted via CD on 11-27-197 DCI2018-00018

TABLE OF CONTENTS

1.	Property Location and Description	2
2.	Description of Model Software and Hydraulic/Hydrologic Parameters	3
	2.1. Topographic Data/Terrain Data	4
	2,2. Land Use/Land Cover Data	4
	2.3. Soll Data	4
	2.4. Runoff Curve Number	4
	2.5. Time of Concentration (Tc)	6
	2.6. Rainfall Data and Design Storms	9
З.	Verdana Village: Existing Conditions Analysis	9
	3.1. ICPR4 Modeling	10
	3.2. Outfall Tailwater Conditions	
	3.3. ICPR 1D Modeling Results	12
4	Historic Verdana Village Flows-way Conditions Analysis	13
	4.1. Historic Model Approach and Input	
	4.2. Topographic Data/Terrain Data	14
	4.3. Land Cover/Land Use	14
	4.4. Soll Data	15
	4.5. Runoff Cure Number	
	4,6. Historic Flows Analysis ICPR4 Results and Discussion	1.5
5.	Proposed Veranda Village Flow-way Conditions Analyses	16
	5.1. Proposed Conditions ICPR4 1D Modeling	
	5.2. Potential Off-Site Inflows	20
	5.3. Proposed Conditions ICPR4 1D Modeling Results	
	5.4. Proposed Conditions ICPR4 2D Modeling	
	5.5. ICPR4 2D Modeling Results	26
6,	Water Budget Narrative	46
7.	Summary	

APPENDIX

Appendix A - Excavation and Grading Plan

APPENDIX B - Existing Conditions ICPR4 1D Nodal Diagram

APPENDIX C - Existing Conditions ICPR4 1D Input Reports

APPENDIX D - Existing Conditions ICPR4 1D Output Reports

APPENDIX E - Offsite Inflows per Preliminary Results of Lee County Flood Mitigation Study

Submitted via CD on 11-27-19 / DGI2019-00018

APPENDIX F - Proposed Conditions ICPR4 1D Nodal Diagram APPENDIX G - Proposed Conditions ICPR4 1D Input Reports APPENDIX H - Proposed Conditions ICPR4 1D Output Reports APPENDIX I - Proposed Conditions ICPR4 2D Nodal Diagram APPENDIX J - Proposed Conditions ICPR4 2D Input Reports APPENDIX K - Proposed Conditions ICPR4 2D Output Reports APPENDIX K - Proposed Conditions ICPR4 2D Output Reports APPENDIX L - Exhibit of Hydraulic Connections and Outfall Control Structure Submitted VerCD on 11/27 197 0002019406016

Verdana Village Hydrological Restoration Plan Project Narrative and Analysis Description

1. Property Location and Description

Verdana Village is a proposed 2,138-acre property located along Corkscrew Road approximately 3 miles east of the intersection of Corkscrew Road, and Alico Road, in Lee County, Florida. At build out, the project will consist of residential homes, amenity centers, a commercial area, and supporting infrastructure. The subject parcels are composed primarily of existing agricultural lands. Approximately 1,067 acres will be restored to a natural upland/wetland preserve. The property is bordered on the north by Corkscrew Road, on the east and west by agriculturally zoned property and local roadways, and to the south by conservation lands, known as the Panther Island Mitigation Bank (PIMB). As a requirement of the project's MPD zoning application (DCI2019-00018) and to provide consistency with Lee Plan Policies, the project must be designed to provide a plan that includes basins to reconnect historic hydraulic flow-ways. Per the Lee Plan, the project must demonstrate that potential impacts on surface and groundwater resources have been analyzed utilizing an integrated surface and groundwater model with site-specific data.

The proposed project also involves a Comprehensive Plan Amendment (CPA2019-00008) to incorporate a commercial use within the project and additional density based upon additional regional benefits provided by the project's improvements. These additional regional-scale benefits include hydraulic connections at the northwest corner, near the middle of the project's north property line, and a third hydraulic connection to the eastern side of the project. The improvements also involve upgrading the internal flow-way basin weirs within the project to accommodate the potential for a significant amount of off-site inflow from the three (3) hydraulic connections. These Improvements will also provide additional flood storage to accommodate two (2) sequential 100-year, 3-day storms with a 15 day lag between the beginning of each storm. This event was chosen as the design criteria to emulate and provide storage for events similar to INVEST 92L and the closely following Hurricane Irma seen in late 2017. Additionally, the project will be designed to pass through flows anticipated within the preliminary results of a Lee County flood mitigation study, which total 650 cfs. A copy of the preliminary results can be seen within Appendix E of this report.

This detailed analysis for the proposed flow-way system considers the approval of the pending CPA2019-00008 and incorporates these hydraulic connections, which is further discussed in the following sections of this report. Should CPA2019-00008 not be approved, it should be noted that the hydraulic connections will not be provided as part of the project, and as such, a revised analysis would need to be completed. It should be noted that based on discussions with the Owner and Lee County Staff, it is understood that there will be some level of operability necessary over time for the system, and modifications can be completed as deemed necessary by Lee County. In order to evaluate the proposed hydrologic and hydraulic conditions of the flow-way restoration areas and the proposed design for those areas, the following model scenario analyses were conducted:

Existing Conditions Hydrologic/Hydraulic 1D Model:

The purpose of this model is to determine the magnitude of surface water flow discharging off the agricultural properties to the current outfall locations (based on limited available data of the existing conditions, permits, etc.). The existing model is

Elemined via CD on 11-27-19 / DOI2010 02018

executed utilizing the Interconnected Channel and Pond Routing (version 4.05.02), (ICPR4) (1D) software and simulates the following design storms:

- o 25-Year, 3-Day
- o 100 Year, 3 -Day
- Sequential Two (2) 100-Year, 3-Day Events with 1.5-day interval between start of each storm
- Proposed Conditions Hydrologic/Hydraulic 1D Model- Design Storms with and without Offsite Flows:

The purpose of this model is to determine the magnitude of surface water storage capacity and flow discharging from the project's proposed flow-way system to the specified outfall towards the south and Panther Island Mitigation Lands. The design storms are executed in three (3) sets, one incorporating smaller estimated flows that may exist today, another including flows anticipated within preliminary results of a Lee County flood mitigation study, and the other not incorporating off-site flows. This version of the Proposed Conditions model is executed utilizing the ICPR4 (1D) software and simulates the following design storms:

- o 25-Year, 3-Day
- o 100 Year, 3 -Day
- Sequential Two (2) 100-Year, 3-Day Events with 15-day interval between start of each storm

It should be noted that, per discussion with the Lee County Department of Natural Resources, the scenario including preliminary flows from the Lee County flood mitigation study will only be included during the 25-year, 3-day storm scenario.

Proposed Conditions Hydrologic/Hydraulic 2D Integrated Surface Water and Groundwater (Viodel – Extreme Dry Season (2009):

The purpose of this model is to simulate a continuous scenario of an extreme dry season with the proposed flow-way system interacting with the groundwater table and irrigation demands (within the project boundary only). The results of this analysis provide the relationship between the proposed flow-way surface water storage and the groundwater influences/uses during an extreme dry season.

Proposed Conditions Hydrologic/Hydraulic 2D Integrated Surface Water and Groundwater Model – Typical Wet Season (2013):

The purpose of this model is to simulate a continuous scenario of a typical wet season with the proposed flow-way system interacting with the groundwater table and irrigation demands (within the project boundary only). The results of this analysis provide the relationship between the proposed flow-way surface water storage and the groundwater influences/uses during a typical wet season.

The following sections of this report provide details of each of the analyses and a summary of the results.

Description of Model Software and Hydraulic/Hydrologic Parameters (All Model Scenarios)

The software utilized to create the hydrologic and hydraulic models is Interconnected Channel and Pond Routing (version 4.03.02), known as ICPR4. ICPR4 is a fully integrated 1D/2D surface

Silbmitted Via CO 64 11-27-197 DOI2019-02018

and groundwater model platform. ICPR is a widely used and accepted modeling platform throughout Florida for simulating hydrologic and hydraulic analyses and similar studies. The ICPR4 platform is also integrated with GIS (Graphical Information System) data so that the model is properly geo-referenced and can be easily updated with new date as it becomes available. The ICPR4 is not limited with the number of model elements and is therefore well suited to utilize for a detailed model of the existing and proposed infrastructure system within the Verdana Village project boundaries.

2.1. Topographic Data/Terrain Data

The first parameter to review is the topographic data available and used for the modeling study. For the Existing Conditions model, the latest LiDAR data for Lee, Collier and Hendry Counties was obtained from the South Florida Water Management District (SFWMD) database. The new data was incorporated into the ICPR4 model using a 1 foot x 1 foot cell size for topographic sampling. The elevations range from 27 FT NAVD in the northeastern portion of study area to 22 FT NAVD at the southwest side of the model study area. Map 2-1 depicts a graphical view of the digital elevation model (DEM) generated from the LiDAR data. The resolution for the DEM to support the Existing Conditions ICPR4 model is detailed enough to provide 0.5 ft contours meeting acceptable accuracy thresholds.

For the Proposed Conditions models, the proposed grading for the flow-way basins were utilized along with the preliminary grading for the development pods, including the internal lake excavation areas and detention areas within the development pods. The grading plan for the flow-way basins is depicted within Appendix A "Excavation and Grading Plan" of this report.

2.2. Land Use/Land Cover Data

At the present, Verdana Village Existing Conditions drainage basin is comprised of mostly agricultural fields and facilities. The property does contain isolated forested wetland and indigenous areas which were included with the land use calculations and determination of curve numbers (CNs). Overall, the total Existing Conditions basin contains homogeneous land use/land cover.

For the Proposed Conditions ICPR models, the land use/land cover data file was defined by the proposed land use based upon the Master Concept Plan for the Verdana Village MDP. The land use/land cover categories include: Residential, Commercial, Right-of-Way, Wetlands, Lake, and Uplands.

2.3, Soil Data

In addition to the Land Use/Land Cover, the most recent available soil data was obtained for the study area. The soil data source is the National Resources and Conservation Services (NRCS), dated August 2019. The soil data was processed as needed to be properly incorporated into the Existing Conditions and Proposed Conditions ICPR model and result in a better evaluation of run-off characteristics for basin areas. This information shows that the predominant soils in the area are immokalee Sand, Valkaria Fine Sand, Oldsmar Sand, each of which falls into the A/D or B/D hydrologic soll group classification.

The 2D Continuous Simulation model scenarios used soil parameters averaged between the three most predominant soils, immokalee Sand, Valkaria Fine Sand and Oldsmar Sand.

2.4. Runoff Curve Number

Another parameter specific to the basins is the run-off curve number, known as the CN. The curve number method is a simple, widely used and efficient method for determining the approximate amount of runoff from a rainfall event in a particular area. Determination of

Submitted via CD on 11-27-197 DO(2019-00016

the CN depends on the watershed's soil and land cover conditions, which the model represents as hydrologic soil group, cover type, treatment, and hydrologic condition.

For the Verdana Village Existing/Proposed Conditions ICPR4 1D model, all the different combinations of land use/land cover and soll types were tabulated with a CN assigned to each combination. As the sub-basins were processed in ICPR4, the program uses the CN table and calculates a composite CN specific to each sub-basin depending on the specific land cover and soil types contained in the basin area. Therefore, the determination of the runoff CN value is more detailed with less assumptions or generalizations. The following Table 2-1 and Table 2-2 provide the defined CN for each of the land cover/soil types contained within the Existing and Proposed Conditions ICPR4 ID models,

For the Verdana Village Proposed Conditions ICPR4 2D Integrated model, the rainfall excess method is the Green-Ampt method, which uses the average soil parameters (saturated conductivity, density, bubbling pressure, etc.) and the Land Cover/Land Use defined within each basin. Therefore, a direct CN is not produced for the development pod or flow-way basins in the 2D Integrated model.

Land Cover Zone	Soil Zone	Curve Number	
Grass	A/D	80	
Grass	B/D	80	
Grass	D	80	
Woods (Good)	A/D	77	
Woods (Good)	B/D	77	
Woods (Good)	D	77	
Woods (Fair)	A/D	83	
Woods (Fair)	B/D	83	
Woods (Fair)	D	83	
Ditch .	A/D	98	
Ditch	B/D	98	
Ditch	D	98	
Wetlands	A/D	98	
Wetlands	B/D	98	
Wetlands	D	98	
Row Crops	A/D	91	
Row Crops	B/D	91	
Row Crops	D	91	

Table 2-1: CN Table for Existing Conditions ICPR4 ID

Submitted via CD on 11-27-19 / OGI2019-03010

CN Table for Prop	osed Conditions ICP	R4 1D
Land Cover Zone	Soll Zone	Curve Number
Uplands	A/D	83
Uplands	B/D	83
Uplands	D	83
Water	A/D	100
Water	B/D	100
Water	D	1.00
Proposed Wetlands	A/D	98
Proposed Wetlands	B/D	98
Proposed Wetlands	D	98
Wetlands	A/D	98
Wetlands	B/D	98
Wetlands	D	98

Table 2-2: CN Table for Proposed Conditions ICPR4 ID

2.5. Time of Concentration (Tc)

Another parameter to review for the study area is the Time of Concentration, Tc. Time of concentration (Tc) is the time required for runoff to travel from the hydraulically most distant point in the watershed to the outlet. Time of concentration will vary depending upon slope and character of the watershed and the flow path.

For the Existing Conditions model, an average Tc of 15 minutes was utilized since the subbasins are comprised of agriculture fields with numerous ditches and swales. The travel time for a point of runoff to one of the ditches or swales is minimal due to the channelized nature of the conveyance.

Within the Proposed Conditions models, for the development area sub-basins, the Tc defined based upon the sub-basin characteristics. For the proposed flow-way system sub-basins, a unique time of concentration was calculated for each of those sub-basins. Time of concentration was calculated as the duration required for the most hydraulically isolated runoff within each sub-basin to reach the outfall location for that basin. Three components of time of concentration were estimated and summed to form the time of concentrations; the duration of sheet flow, shallow concentrated flow and channel flow. Equations from the Technical Report 55 (TR-55) were utilized to calculate the three components of time of concentration.

J.R. EVANS

Submitted via CD on 11-27-197 DCI2019-30016

A maximum length of 300 feet of sheet flow was assumed for each applicable sub-basin, per the TR-55 and the time of sheet flow was calculated using the following equation from the TR-55:





Shallow concentrated flow travel lengths were based on the projected distance to the subbasin outfall location, starting from the point at which runoff transitioned from sheet flow to shallow concentrated flow. Specific travel lengths of shallow concentrated flow were calculated for each of the applicable sub-basins. The following equation and figure from the TR-S5 was utilized to calculate the shallow concentrated flow travel time:



Source: NRCS TR-55: CHAPTER 3 Time of Concentration and Travel Time

Submitted via GO on 11-27-197 DCI2019-00018



Source: NRCS TR-55: CHAPTER 3 Time of Concentration and Travel Time

Any channelized flow for a sub-basin was assumed to begin at the point at which surface flow may enter a channel prior to reaching the outfall location for the sub-basin. The following equations from the TR-55 were utilized to calculate the channel flow travel time:



J.R. EVANS ENGINEERING Submitted via GD on 11-27-197 DCI2019-00018



2.6, Rainfall Data and Design Storms

Precipitation depths for the 25- and 100-year design storm events were obtained specifically for the subject watershed area using the South Florida Water Management District's (SFWMD) Applicant's Handbook and applicable Isohyet Curves. The rainfall distribution applied to the entire model domain was as defined in the SFWMD Applicants Handbook. The design storm rainfall amounts are depicted in the following Table 2-3.

Table 2-3: Ra	infall Data	per Desi	gn Storm
---------------	-------------	----------	----------

Design Storm Interval	Rainfall Depth (inches)	
25-Year, 3-Day	10.0	
100-Year, 3 Day	12.3	

For the Proposed Conditions continuous model (1D and 2D) scenarios, daily NEXRAD rainfall data was obtained from SFWMD for the year 2009 for the extreme dry season and for the year January 2013 to December 2013 for the typical wet season. In addition, Daily reference ET (RET) data was obtained from SFWMD from the years 2009 and 2013 and processed for utilization within the 2D model.

3. Verdana Village: Existing Conditions Analysis

As previously mentioned, the specific property is comprised of existing agricultural farmlands. The farms include numerous agricultural fields with dividing berms and irrigation ditches. There are berms along all the property's perimeters with a system of parallel ditches along the perimeter. The gradient of the property's surface generally runs northeast to southwest with a five (5) foot difference in average surface elevations.

It should be noted that the existing conditions analysis for the project is based on limited data provided by the developer, field reconnaissance and available permitting files at the time of this analysis. It should be understood that reported conditions are only estimates based on this limited data and based on the models as described within and/or included with this report.

Utilizing 2007 Florida Department of Emergency Management (FDEM) LIDAR (NAVD 88), field survey data, current 2019 aerial photography, limited on-site observations, and SFWMD permit

Submitted via CD or 11-27-197 DOI2019-00018

files, the existing property was delineated into apparent sub-basins. The contour interval used of the 2007 LiDAR data for the delineation is at a 0.5-foot interval. A total of 64 sub-basins were generated as a result of the delineation.

÷.___

Once the sub-basins were defined, the hydrologic characteristics of each basin were defined and quantified, including the land use/land cover, hydrologic soil type, curve number (CN), Manning's roughness factor, time of concentration, and surface storage capacity. Once all of the parameters were estimated, the rainfall-runoff model for each sub-basin was created using the interconnected Pond Routing (ICPR4) software.

3.1. ICPR4 Modeling

The Interconnected Pond Routing Model {ICPR4} software was utilized to perform the hydrologic analysis of Verdana Village Existing Conditions drainage basin. The modeled rainfall intervals include the 25-year, 3-day; 100-year, 3-day; and sequential 100-year, 3-day events with a 15-day lag time between the start of each event. Each of the sixty-four (64) sub-basins were modeled as a separate node, and were characterized by their determined properties: area, composite curve number, and time of concentration. Analyzing the topographic date, it was determined that the sub-basins had areas of runoff storage, due to the existing berms and agricultural ditches. The AutoCAD Civil 3D software was utilized to calculate the volume of storage at specific elevations. The stage-storage volumes were input into the basin characteristics for the sub-basins. Figure 3-1 provides a graphic of the digital elevation model (DEM) utilized for the Existing Conditions analysis.



Figure 3-1: DEM for Existing Conditions ICPR 4 1D, NAVD 88

J.R. EVANS

Submitted via CD on 11-27-197 DOI2019-00016

To further analyze the hydrologic conditions of the existing conditions sub-basins, routing was incorporated into the ICPR4 model. The previous SFWMD permit files for the existing agriculture farms were reviewed and used to establish the hydraulic network between the sub-basins. Field reconnaissance was also conducted to verify portions of the hydraulic network. Figure 3-2 and Figure 3-3 provide depictions of the ICPR4 1D network (North and south portions of the overall property).

1



Figure 3-2: ICPR4 1D Network for Existing Conditions, North

J.R. EVANS

Submittee via CD on 11-27-19 / DCI2019-00018



1

Figure 3-3: ICPR4 1D Network for Existing Conditions, South

3.2. Outfall Tailwater Conditions

The Existing Conditions model includes two (2) off-site discharge locations. One is located at the southern boundary at the midpoint of the property, representing a direct canal connection from the farm areas to the Panther Island Mitigation Bank (PIMB) lands. The second outfall is located along Six L's Road, along the western property line.

The boundary nodes for each outfall were set as Time/Stage nodes. The boundary node for the outfall to Six L's roadway was set based on limited existing topographic data for the roadway and swale system. The time/stage relationship for boundary node for the outfall to the PIMB lands to the south of the property was established based upon available monitoring well data for wells located within the PIMB lands. The time/stage relationship for the PIMB outfall remains consistent in the Proposed Conditions model.

3.3. ICPR 1D Modeling Results

Based on the modeling for the existing conditions sub-basins of the Verdana Village property, the potential peak discharge rate reaching the Panther Island Mitigation Bank

J.R. EVANS

Submitted via GD at: 11-27-197 (ICI2019-00018)

during the design storm (25-year, 3-day) was determined to be 154 CFS. The maximum discharge within the proposed conditions design is limited to this amount, and the focus was shifted to metering the water release to downstream lands, providing more consistent water levels year-round, rather than the more sudden changes in stage.

Per the model, during the 100-year, 3-day event, a peak rate of 171 CFS potentially discharges to Panther Island Mitigation Bank. Provided below is Table 3-1 outlining the discharge results per design storm and per outfall for the Existing Conditions Model.

Design Storm Interval	Six L's Outfall Peak Discharge (cfs)	PIMB Outfall Peak Discharge (cfs)
25-Year, 3-Day	30	154
100-Year, 3-Day	32	171
100-Year, 3 Day, Sequential	32	171

Table 3-1: Existing Conditions Model Discharge Results

The actual peak discharge from the existing property may vary substantially from the modeled conditions, due to the limited nature of available data for analysis. In addition, the capacity of the downstream conveyance system must be a considered factor when evaluating and estimating the existing flows leaving the property.

Therefore, the approach to analyzing the proposed conditions for the projects flow-way areas has been established with the intent to provide a range of possible scenarios for flow conditions within and off the project site. The proposed scenarios will include options for controlling flows via control structure operability, so that there is the availability to operate the system to provide for flow regulation, as well as to retain water on site, providing downstream flood protection and longer hydroperiods both within the Project boundary and properties located downstream. The model nodal diagram, input and output reports for the Existing Conditions Model are included as Appendix B, C, and D of this report.

4. Historic Verdana Village Flow-way Conditions Analyses

At the request of the Lee County Department of Natural Resources (DNR), a historic analysis was done to estimate the amount of flow that historically made its way through to the subject property boundary. Per Lee County DNR request, the study was to be based upon 1944 aerial photography, and the 25-year 3-day storm event was chosen for the analysis.

4.1.Historic Model Approach and Input

The first step taken for the analysis was to obtain the 1944 aerials for the analysis area. These aerials were aligned and scaled using AutoCAD and served as the basis for estimating flow pathways and watershed boundaries. The conglomerate aerial was then analyzed, and sub-basin boundaries were determined. Generally, sub-basin boundaries were chosen based upon lighter (higher ground) areas depicted within the aerials, with State Road 82 acting as the most upstream boundary of the specific watershed or overall basin. This task resulted in a total of two primary basins, and a total of eleven sub-basins. Following this delineation, other hydrologic/hydraulic parameters were determined and entered into the ICPR 4 model. A figure depicting the basin delineation can be seen below in Figure 4-1. Subgritted yie CD on 11-27-197 DCi2019-00018



Figure 4-1: Historic Model Basin Delineation 1.

4.2. Topographic Data/Terrain Data

Following the task of basin delineation, elevation data was obtained. Unfortunately, topographic data was not available from the 1940s, so the 1958 USGS Topographic Maps were utilized as a starting point for elevation data. These maps were digitized, and the respective topographic data was entered the surface model created to estimate storage capacity within the individual sub-basins, which was utilized in the ICPR4 analysis. In order to supplement the limited and undetailed 1958 USGS topographic maps, lands within the study area that have not been altered since the historic conditions were identified. Within these areas, 2007 FDEM LiDAR data was obtained and placed into the surface model, and a combined surface was generated incorporating both topographic data sources. A figure showing the created Digital Elevation Model (DEM) can be seen in Figure 4-2 below, with brown areas representing higher ground and green areas representing lower ground.

4.3. Land Cover/Land Use Data

During the study period, the subject area was comprised almost entirely of natural areas. Given the lack of records regarding specific wetland and upland types, the land uses were generalized as upland and wetland areas. Generally, lighter areas near the basin boundaries were determined to be uplands, and darker areas were determined to be wetlands. The respective areas were assigned, and a map layer was generated.

Submitted Va GD on 11-27-19 / DCi2019-00018



Figure 4-2: Historic Model Digital Elevation Model (DEM)

4.4. Soil Data

In addition to the Land Use/Land Cover, the most recent available soli data was obtained for the study area. The soil data source is the National Resources and Conservation Services (NRCS), dated August 2019. The soil data was processed as needed to be properly incorporated into the Historic Conditions ICPR4 ID model and result in a better evaluation of run-off characteristics for the sub-basin areas.

4.5. Runoff Curve Number

Another parameter specific to the basins is the run-off curve number, known as the CN. The curve number method is a simple, widely used and efficient method for determining the approximate amount of runoff from a rainfall event in a particular area. Determination of the CN depends on the watershed's soil and land cover conditions, which the model represents as hydrologic soil group, cover type, treatment, and hydrologic condition. For the Historic Flows Analysis ICPR4 1D model, all the different combinations of land use/land cover and soil types were tabulated with a CN assigned to each combination. As the sub-basins were processed in ICPR4, the program uses the CN table and calculates a composite CN specific to each sub-basin depending on the specific land cover and soil types contained in the basin area. Therefore, the determination of the runoff CN value is more detailed with less assumptions or generalizing.

4.6. Historic Flows Analysis ICPR4 Results and Discussion

The intent of the historic model was to evaluate the amount of flow that the subject site may have encountered in 1944, before the introduction of argicultural development within the area. The model resulted in a total flow of 1,800 cfs coming to the northern and eastern perimeters of the Verdana Village property during the 25-year, 3-day design storm. Consistent with the Lee County DNR discussion, these flows were split and input into the



Submitted Vis CD en 11-87-197 DC:2019-00016

proposed development ICPR4 model and the location of the three (3) proposed hydraulic connection points.

The model was executed with these flows and it was determined that the impacts to the development were too great, and that accommodation of these level of flows was unfeasible due to internal flow-way basins water levels rising higher than surrounding area topography would allow. Following the presentation of these results to Lee County DNR, it was determined that the off-site inflows would be adjusted to be consistent with the values presented within the preliminary Lee County Flood Mitigation Study. Information regarding these flows and the ultimate design model scenario is located within Section 5 of this report.

5. Proposed Verdana Village Flow-way Conditions Analyses

The proposed flow-way restoration plan depicts two (2) distinct flow-way areas. One is located along the western side of the property, and the other is located along the eastern side of the property. Within the middle of the Verdana Village property, there is another flow-way system delineated which will converge with the western and eastern flow-way systems at the southern portion of the property. These flow-ways are designed and graded to provide areas of water storage and surface water flow to the south, where flows will converge upon a singular discharge point on the southern boundary of the project, where controlled discharge will enter the Panther Island Mitigation Bank lands. In addition to providing conveyance, the flow-way areas include individual basins designed to restore and/or maintain the hydroperiod for wetlands within these detention basins. As surface water stages increase in the individual flow-way detention basins, an intermediate weir will be overtopped on the downstream end, allowing conveyance and hydration of the next downstream flow-way basin. To further hydrate the flow-way areas, the proposed development basins will discharge properly treated surface water runoff via control structures to the flow-way basins.

The initial step in the analysis involved defining sub-basins within the flow-way areas based on the varying wet season water table elevations (control elevations) throughout the project site. Each sub-basin represents individual water storage and ponding areas with a control elevation determined through collected well data and wetland markers within the numerous existing wetlands. For the western flow-way, the sub-basins are defined as W1 through W5, for the east flow-way, the basins are defined as E1 through E6, and for the middle flow-way, the basins are defined as M1 through M3. The most southern flow-way basin is defined as S1.

Once the flow-way sub-basins were delineated, the hydrologic characteristics of each basin was defined and quantified, including the land use/land cover, soil type, manning's roughness factor, and surface storage capacity. For this modeling effort, both the 1D and 2D model scenarios were executed for the Proposed Conditions. For the 2D Integrated model, the additional groundwater elements and parameters are described below.

In order to be consistent with the Lee Plan Policy and demonstrate that the impacts to the County's natural and water resources have been adequately evaluated, the 2D model was established to consider both the surface water components and the groundwater components.

The 2D groundwater parameters obtained/defined for this study include the following:

- Soil Properties and Coefficients:
 - o Fillable Porosity below Ground
 - Average Conductivity

Subinities vie CD or 11-27-197 DCI2019-00019

- o Average Permeability
- o Ky Saturated
- MC Residual
- o MC Initial
- o MC Field
- o Mc Wilting
- a Pore Size Index
- o Bubble Pressure
- o WT Initial
- o Leakance (per day)
- Wet Season Groundwater Table (Gathered 2016 Data from On-site Wells)
- Dry Season Groundwater Table (Gathered 2016 Data from On-site Wells)
- > Crop Coefficients and Anticipated Irrigation Rates per Land Use
- Surficial Aquifer Confining Layer Depth
- Recharge Well Values

Once these inputs were defined, they were entered in the ICPR4 software to determine the behavior of the project under the different scenarios.

5.1. Proposed Conditions ICPR4 1D Modeling

The ICPR4 software was utilized to perform the 1D hydrologic and hydraulic analysis of the Verdana Village Proposed Flow-way Conditions basins. The modeled rainfall intervals include the 25-year, 3-day; 100-year, 3-day; and sequential 100-year, 3-day events (with a 15-day lag time between the start of each event). A one (1) year-long simulations was also modeled based on recorded data (NEXRAD) available through the SFWMD, consisting of daily rainfall and values. The one year-long simulation modeled was the year 2013, which is representative of a typical wet year. Each of the flow-way sub-basins were modeled as a separate node and were characterized by their determined properties/parameters: area, roughness coefficients, and surface storage.

In order to determine the stage/storage relationship in each flow-way sub-basin, the environmental professional involved with the project was consulted to ensure that the storage elevation of the flow-way basins began at a water elevation consistent with the wet season water elevation of the adjacent wetlands and natural areas. Links between the sub-basins were established as weirs (constructed of concrete or similar material) or piped connections based upon the proposed development plan. Inflows and outflows were characterized via structures in the model. The proposed development includes a piped connection from The Place, a hydraulic connection to the east side of Carter Road, an anticipated future connection at the northeastern corner of the project to accept flows from Corkscrew Road, and the project outfall, located south of the project. In order to provide some flexibility with managing flows, the discharge structure is proposed to be operable to help balance flows, timing, and storage provided by Verdana Village. Map 5-1 includes a

.R. EVANS

Submitted via CD on 11-27-19 / DC 2019-00018

graphic of the defined digital elevation model (DEM) for the proposed flow-way system within the project. Figure 5-2 and Figure 5-3 provide a graphic depicting the ICPR4 1D network for the Proposed Conditions (north and south portions of the property).

The model analysis also considered the discharges from the on-site development basins at their respective outfall locations into the flow-way basins. These discharges are regulated and modeled as control structures, with welfs set at the control elevation for the respective development basin. The discharge rates utilized within the development basins are based upon the allowable flow within the Imperial River Basin, which is 25 CSM, or 0.04 cfs/acre.

One (1) outfall weir is proposed at the downstream boundary condition within the model. The outfall control structure is proposed near the center of the south project boundary, within sub-basin S1.

The model nodal diagram, input and output reports for the Proposed Conditions 1D Model are included as Appendix E, F, and G of this report.



Figure 5-1: DEM for Proposed Flow-way Conditions, NAVD 8

Submitted via CD on 41-27-19 / DOI2019-00018



Figure 5-3: ICPR4 1D Network for Proposed Conditions, South

J.R. EVANS

Submitted vie CD on 11-27-19/ OCI2010-00016

5.2. Potential Off-Site Inflows

As previously mentioned, the Proposed Conditions analysis includes the incorporation of the flow-way system receiving off-site flows from lands located to the north of Corkscrew Road and east of Carter Road. As of the date of publication of this report, detailed specifications for how flow will enter the Verdana Village will enter the site are unknown, however, the Development and associated models will be completed to accommodate a total inflow of 650 cfs, consistent with future flows anticipated within preliminary results from a Lee County flood mitigation study. Based on the preliminary results of the Lee County flood mitigation study, 260 cfs will be directed to the west connection, 260 cfs will be directed at a location of the northern/central property line and 130 cfs will be directed from location along the east property line at Carter Road. To establish a reasonable flow hydrograph for the future offsite inflows, the hydrograph produced by historic analysis ICPR4 model at the respective inflow locations was converted to a unit hydrograph, and then multiplied by the respective future offsite flow amounts anticipated per the preliminary Lee County flood mitigation study. An exbibit depicting these future off-site inflow locations and amounts is provided in Appendix I. of this report. Provided below are the respective future off-site flow hydrographs for each of the hydraulic connection locations.



Submitted via CD on 11-27-127 DCI2019-00018



Another scenario was modeled with flow entry points consistent with anticipated hydraulic connection points, but instead using flows more consistent with what may be available under today's (2019) conditions. It should be noted that these flows are only estimates and act as a "placeholder" in an effort to provide insight on stages under today's conditions. It is anticipated that these flows will ultimately increase to be consistent within the preliminary results of the Lee County flood mitigation study. Provided below are the flow hydrographs for the off-site flow connections with existing/today's anticipated conditions.



J.R. EVANS

Submitted via CD on 11-27-197 DCI2019-00019



5.3. Proposed Conditions ICPR4 1D Modeling Results

Proposed Conditions ID Scenario 1: Design Storms with Current Anticipated Offsite Inflow

Scenario 1 includes discharge from all sources, including the hydraulic connection at the northwestern corner of the project, flows from the middle of the project's norther property line, and flows from east of Carter Road. The scenario considers the one (1) of the outfall welrs within the outfall control structure completely open.

- > Total anticipated inflow: 50 cfs (Per today's-2019 conditions)
- ➢ 25-Year, 3-Day Discharge Results:
 - o Outfall Weir (Outfall Weir 1): 134.92 cfs
- > 100-Year, 3- Day Discharge Results:
 - o Outfall Weir (Outfall Weir 1): 155.03 cfs
- > Sequential 100-Year, 3- Day Discharge Results:
 - o Outfall Weir (Outfall Weir 1): 162.8 cfs

Proposed Conditions 1D Scenario 2: Design Storms Ultimate Offsite Inflow

Scenario 1 includes discharge from all sources, including the hydraulic connection at the northwestern corner of the project, flows from the middle of the project's northern property line, and flows from east of Carter Road. The scenario considers all the outfall weirs within the outfall control structure completely open.

J.R. EVANS

Submitted via GD on 11-27-19 / DGI2019-08018-

- Total anticipated inflow: 650 cfs (Per preliminary results from Lee County flood mitigation study)
- > 25-Year, 3-Day Discharge Results:
 - o Outfall Weir (Outfall Weir 1): 536.82 cfs

Provided below in Figure 5-4 is a graph of the flow versus time for Existing Conditions Scenario 1 and Proposed Conditions Scenarios 1, 3, and 4 during the 25-year, 3-day design storm event.



Figure 5-4: 25-year, 3-day Flow Results ICPR4 1D Models -No Offsite flows

5.4. Proposed Conditions ICPR4 2D Madeling

The ICPR4 software was utilized to perform the 2D Integrated hydrologic and hydraulic analysis of the Verdana Village Proposed Flow-way basins. Two year-long simulations were modeled based on recorded data (NEXRAD) available through the SFWMD, consisting of daily rainfall and reference evapotranspiration values. The two year-long simulations modeled were 2009 and 2013, the first representing a drought condition, and the latter a typical/more than typical wet year. Each of the flow-way sub-basins were modeled as a separate node, and were characterized by their determined properties: area, roughness coefficients, surface storage and the underlying soil properties.

The ICPR4 integrated 2D surface and groundwater model was built using map layers and several digital elevation models (DEMs). The map layers consist of polygons with assigned properties to which the program references for a variety of parameters, discussed further in the following paragraphs. A DEM of the proposed flow-way surface was created in AutoCAD Civil 3D, along with a proposed surface of the development, particularly the development lakes. A DEM of the typical wet season groundwater table, as well as a typical dry season

Secondled vie CD on 71-27-45 / BCi2019-00018

groundwater table, were created and utilized in the model simulations discussed in the previous section.

Each DEM for the ground surfaces and groundwater surfaces, were converted into an overland flow region (OFR) or a groundwater region (GWR) within the ICPR4 program. Intersecting OFRs and GWRs form a digital mesh connected to one another, allowing for the program to calculate the interaction of above ground water flows with the below ground water surface. The magnitude of interaction between the two layers is dictated by the properties within each cell of the interlocking mesh network. The parameters include innate soil properties, such as porosity and conductivity, the soil conditions during each time-step of the simulation, such as moisture and saturation, the land cover, evapotranspiration rates during each time-step, and hydraulic gradients of the surface and groundwater table. The map layers, polygons applied over the project area, define the land cover, soil type, roughness zone, irrigation demand, and even rainfall amounts, and are used by the program to determine these properties in each individual cell of the OFRs and GWRs.

The use of a 2D surface water-groundwater model makes it possible to analyze the impact that irrigation and recharge wells will have on the groundwater table throughout the project area, without neglecting potential recharge from surface water.

Dry season irrigation rates were applied to the residential tracts, right-of-way tracts and commercial/amenity tracts on a daily basis. The monthly dry season irrigation demand and the 1-in-10 Annual Drought irrigation demand, provided by Progressive Water Resources, inc. In Appendix B of the "Characterization of Ground and Surface Water Resources" report, were used to prorate the total annual irrigation volume to a daily irrigation rate, with daily rates varying between months.

Crop coefficient tables were used to define the irrigation and evapotranspiration parameters per land use/land cover. The land cover map layer is associated with each crop coefficient zone. The crop coefficient table for each land use/land cover has time dependent variables that allows the model to simulate the change in evapotranspiration rates and the varying irrigation rates throughout the year. The reference evapotranspiration values from the processed NEXRAD data modifies the .crop coefficients, adjusting the rate of evapotranspiration daily, based on the historic data for each simulation year.

The residential and commercial land cover zones were divided into three separate zones each, for the sole purpose of allocating the irrigation demands between the three lakes used for irrigation withdrawals. Proposed irrigation pumps will draw water from the development's water management lakes, take 3 (Basin 3-1), take 7 (Basin 6-1) and take 19 (Basin 14-1). Lake 3 was assigned as the irrigation source for the land cover zone "Residential", "Commercial" and "ROW". Lake 7 was assigned as the irrigation source for land cover zone "Residential 2" and "Commercial 2". Lake 19 supplied the irrigation demand for "Residential 3" and "Commercial 3".

There are three recharge wells included in the ICPR4 2D integrated model to supplement the irrigation withdrawals from each of the three irrigation lakes. The recharge wells supplement the irrigation demand by pumping water from the surficial aquifer into the irrigation lakes. Three recharge wells were incorporated in the model to simulate the groundwater drawdown from the proposed wells. The recharge wells function in the ICPR4 model as an irrigation source rather than a direct pipe connection from the groundwater wells to irrigation lakes. To specify a recharge rate to each of the three irrigation lakes, each irrigation lake was assigned a crop coefficient zone with an irrigation demand equal to the anticipated 1-in-10 drought year prorated recharge rate. The selected source for the irrigation demand was assigned to the recharge wells, simulating withdrawal of groundwater and discharge into each of the three irrigation lakes.

J.R. EVANS ENGINEERING

Submitted via CD on 11-27-1970Cl2019-00018

The model analysis also considered the discharges from the on-site development basins at their respective outfall locations into the flow-way basins. These discharges are regulated and modeled as control structures, with weirs set at the control elevation for the respective development basin. The discharge rates utilized within the development basins are hased upon the allowable flow within the Imperial River Basin, which is 25 CSM, or 0.04 cfs/acre.

One (1) outfall weir is proposed at the downstream boundary condition within the model. The outfall control structure is proposed near the center of the south project boundary, within sub-basin \$1.

The model nodal diagram, input and output reports for the Proposed Conditions Model are included as Appendix I, J, and K of this report.

Figure 5-5 and Figure 5-6 provide a graphic depicting the ICPR4 2D network for the Proposed Conditions (north and south portions of the property)



Figure 5-5: ICPR4 2D Network for Proposed Conditions, North
Sub-n'tted via CD on 11-27-19 / DC/2019-00018



Figure 5-6: ICPR4 2D Network for Proposed Conditions, South

5.5. ICPR4 2D Modeling Results

2

The intent of the model for the proposed conditions was to evaluate the hydraulic stages within the flow-way restoration areas based on varying scenarios and determine the potential additional capacity for flow within the project, while not adversely impacting natural resources within the project area and surrounding lands. Based upon all the factors and current analyses, outlined below are the potential hydrologic scenarios and results concerning the Verdana Village Flow-way Restoration system.

Proposed Conditions 2D Scenario 1: Extreme Dry Season (2009) with Offsite Inflow

Scenario 1 includes discharge from all sources, including the hydraulic connection at the northeastern corner of the project, flows from east of Carter Road, and flows from The Place. This scenario will leave the ultimate outfall structure completely open to obtain a baseline from which the other scenarios will be compared. This scenario simulates a continuous year incorporating recorded NEXRAD rainfall data for the year 2009 for the project site and incorporating irrigation withdrawals and recharge as proposed with this project.

To demonstrate the results of the ICRP4 2D Dry Season Model simulation, several graphs were prepared to Illustrate the time/stage relationship of the groundwater profile within the flow-way basins. The flow-way profiles depict the ground elevation along the flow-way profile and the groundwater surface elevation at specific times during the continuous scenario. Figure 4-7 provides a graphic of the 2D Model surface with the three (3) flow-way profile alignments depicted. These "snapshot" times occur at January 1st, May 15th, September 15th, and December 31st during the year. Figure 4-7a provides an aerial location map of the existing monitoring wells located within the Verdana Village property. The data from these wells were used to

Submitted via CD on 11-27-19 / 0012019-00018

1

compare the 2D model results and recorded information. Also prepared are the time/stage relationship graphs for the surface water stages within the flow-way basins (Figure 5-8) and a selection of the development pod basins (Figure 5-9). The selected development pod basins include the three (3) basins containing the direct irrigation withdrawals and the four (4) basins containing the existing wetlands. On the graphs of the flow-way profiles and corresponding groundwater levels, the location of existing adjacent on-site wells is noted along the profile. In addition, a graph of the recent data for the existing well is provided for comparison purposes.

. . .

2.



Figure 5-7: ICPR4 2D Flow-way Profile Alignments

J.R. EVANS ENGINEERING

Submitted via CD on 11-27-19 / DCI2019-09018

1

 \mathbf{k}_{n}



Figure 5-7a: Existing Monitoring Well Locations

J.F. EVANS

Submitted via CD on 41-27-197 DCi2019-00018

1.1



Figure 5-8: ICPR4 2D Dry Season Flow-way Surface Water Time-Stage



Figure 5-9: ICPR4 2D Dry Season Development Pods Surface Water Time-Stage

Submitted via CD on 11-27-19/ DC/2019-00018

1



(n (i) (

Figure 5-10 a. ICPR4 2D Dry Season West Flow-way Profile Groundwater Time-Stage 01/01/2009



Figure 5-10 b. ICPR4 2D Dry Season West Flow-way Profile Groundwater Time-Stage 05/15/2009



1

500



Figure 5-10 c. ICPR4 2D Dry Season West Flow-way Profile Groundwater Time-Stage 09/15/2009



Figure 5-10 d. ICPR4 2D Dry Season West Flow-way Profile Groundwater Time-Stage 12/31/2009

Submittee via CD on 11-27-19 / DCI2019-00016



Figure 5-11 a.: ICPR4 2D Dry Season Middle Flow-way Profile Groundwater Time-Stage 01/01/2009



Figure 5-11 b.: ICPR4 2D Dry Season Middle Flow-way Profile Groundwater Time-Stage

Submitted via CD on 11-27-19 / DCi2019-00018

Ū



05/15/2009

×<____1

Figure 5-11-c.: ICPR4 2D Dry Season Middle Flow-way Profile Groundwater Time-Stage 09/15/2009



ure 5-11d.: ICPR4 2D Dry Season Middle Flow-way Profile Groundwater Time-Sta 12/31/2009

Submitted via GD on 11-27-19 / DCI2018-00018



1

Figure 5-12 a.: ICPR4 2D Dry Season East Flow-way Profile Groundwater Time-Stage 01/01/2009



Figure 5-12 b.: ICPR4 2D Dry Season East Flow-way Profile Groundwater Time-Stage 05/15/2009

Submitted via CD on 11-27-197 DC12019-00018

 $\mathbf{Y}_{i_1,\ldots,i_n}$



Figure 5-12 c.: ICPR4 2D Dry Season East Flow-way Profile Groundwater Time-Stage 09/15/2009



12/31/2009

Submitted via CD on 11-27-19 / DCI2010-00018



÷.,





Figure 5-13b: Existing Monitoring Well Data- Well 10

Submitted via CO on 11-27-197 DGI2019 00018



Figure 5-13c: Existing Monitoring Well Data- Well 14





Submitted via CD on 11-27-19 / DCI2018-00918



Figure 5-13e: Existing Monitoring Well Data- Well 13

Based on review of the 2009 Dry Season results from the ICPR4 2D integrated model, it is evident that the groundwater levels will remain elevated for a longer period during the continuous simulation. This is specifically evident for each flow-way profile in comparing the groundwater levels from the 09/15/2009 date to the 12/31/2009 date. This is also evident when reviewing the time-stage graph for surface water levels within the flow-way basins. At the end of the 2009 simulation, the surface water levels are higher than the initial surface water stages within the beginning of the simulation. In comparing the recent monitoring well data for specific wells located within or adjacent to wetlands near the proposed flow-way areas, the majority of the groundwater elevations are depicted to be higher than the lowest of the well data and the longer period of higher groundwater levels is evident. This will promote a longer hydroperiod for the adjacent wetlands, which is a significant benefit for the area.

Proposed Conditions 2D Scenario 2: Typical Wet Season (2013) with Offsite Inflow

Scenario 2 includes discharge from all sources, including the hydraulic connection at the northeastern corner of the project, flows from east of Carter Road, and flows from The Place. This scenario will leave the ultimate outfall structure completely open to obtain a baseline from which the other scenarios will be compared. This scenario simulates a continuous year incorporated recorded NEXRAD rainfall data for the year 2013 for the project site and incorporating irrigation withdrawals and recharge as proposed with this project.

Submitted via CD on 11-27-197 DCf2019-00018

To demonstrate the results of the ICRP4 2D Typical Wet Season Model simulation, several graphs were prepared to illustrate the time/stage relationship of the groundwater profile within the flow-way basins. The flow-way profiles depict the ground elevation along the flow-way profile and the groundwater surface elevation at specific times during the continuous scenario. These "snapshot" times occur at January 1st, May 15th, September 15th, and December 31st during the year. Also prepared are the time/stage relationship graphs for the surface water stages within the flow-way basins and a selection of the development pod basins. The selected development pod basins include the three (3) basins containing the direct irrigation withdrawals and the four (4) basins containing the existing wetlands. On the graphs of the flow-way profiles and corresponding groundwater levels, the location of existing on-site wells is noted along the profile. In addition, a graph of the recent data for the existing well is provided for comparison purposes.



Figure 5-14: ICPR4 2D Wet Season Flow-way Surface Water Time-Stage

Submitted via GD on 11-27-197 DC:2019-00018



Figure 5-15: ICPR4 2D Wet Season Development Pods Surface Water Time-Stage



Figure 5-16 a.: ICPR4 2D Wet Season West Flow-way Profile Groundwater Time-Stage 01/01/2013

Submitted via CD on 11-27-197 DCI2019-00018

.



Figure 5-16 b.: ICPR4 2D Wet Season West Flow-way Profile Groundwater Time-Stage 05/15/2013





Submitted Via CD on 11-27-19 / DCi2019-00018



Figure 5-16 d.: ICPR4 2D Wet Season West Flow-way Profile Groundwater Time-Stage 12/31/2013



J.R. EVANS ENGINEERING

Submitted via CD on 11-27-197 DCI2018-00015



Figure 5-17b: ICPR4 2D Wet Season Middle Flow-way Profile Groundwater Time-Stage 05/15/2013



Figure 5-17c: ICPR4 2D Wet Season Middle Flow-way Profile Groundwater Time-Stage 09/15/2013

J.F. EVANS

Submilled Via CD or 11-27-197 DCI2018-00016



Figure 5-17d: ICPR4 2D Wet Season Middle Flow-way Profile Groundwater Time-Stage 12/31/2013



01/01/2013

J.R. EVANS

Submitted via CO on 11-27-19 / DC(2019-00316



 ~ 10

Figure 5-18b: ICPR4 2D Wet Season East Flow-way Profile Groundwater Time-Stage 05/15/2013



Figure 5-18c: ICPR4 2D Wet Season East Flow-way Profile Groundwater Time-Stage 09/15/2013

J.R. EVANS

Submitted via GD on 11-27-19 / DCI2019-00016



Figure 5-18d: ICPR4 2D Wet Season East Flow-way Profile Groundwater Time-Stage 12/31/2013

Based on review of the 2013 Wet Season results from the ICPR4 2D integrated model, it is evident that the groundwater levels will remain elevated for a longer period during the continuous simulation. This is specifically evident for each flow-way profile in comparing the groundwater levels from the 09/15/2013 date to the 12/31/2013 date. In comparing the recent monitoring well data for specific wells located within or adjacent to wetlands near the proposed flow-way areas, the majority of the groundwater elevations are depicted to be higher than the iowest of the well data and the longer period of higher groundwater levels is evident. In some cases, the peak groundwater surface shown for the 09/15/2013 time period is at or very close to the estimated "historic" seasonal high-water elevations for the corresponding welland. This is evident for monitoring well #11 located in an existing wetland within the southwestern portion of the west flow-way. The historic seasonal high-water elevation is estimated at 22.75 FT-NAVD and the ICPR4 2D model indicates that on 9/15/2013, the groundwater level within the west flow-way at this location is 22.75 FT-NAVD. This will promote a longer hydroperiod for the adjacent wetlands, which is a significant benefit for the area.

6. Water Budget Narrative

The following water budget narrative is provided to more comprehensively describe historic, existing, and proposed conditions as it relates to the introduction and removal of stormwater from the Verdana Village project. Prior to development, the subject property and surrounding areas were predominately characterized as native pine flatwoods, dominated by Slash Pine with an understory of mostly Saw Palmetto and mixed grasses. The site was generally flat with poorly drained sandy soils, with low water storage capabilities. The property was interspersed with isolated wetlands and a large, heavily vegetated, historic flow-way transecting the property that conveyed surface water flows from northeast to southwest. The historic flow-way was in turn intersected by a smaller and less-defined north-south flow-way. Collectively these predevelopment flow-ways formed a "flow-way system" that historically drained lands located

Secretied via CO on 11-27-187 DCI2019 00018

north and east of the Verdana Village project, whose flows also helped to sustain onsite wetlands.

A 1996 United States Geological Survey (USGS) report (Water Supply Paper 2430) entitled "Evapotranspiration from Areas of Native Vegetation in West-Central Florida" estimated ET rates of approximately 38.2 inches per year for Cypress Swamps and 41.7 inches per year for Pine Flatwoods. Historic rainfall is assumed to be similar to recent statistical records which indicate an average of approximately 56 inches of rainfall per year. USGS also estimates the recharge rate to the underlying Water Table Aquifer to be between 0 to 10 inches per year. Therefore, in years where above-average rainfall was experienced and exceeded ET, the conveyance of surface water flows offsite would have occurred more often. Recharge to the Water Table Aquifer would have also potentially increased during periods with higher rainfall due to the higher water levels onsite. Runoff from the site would have been relatively low and is estimated at approximately 14 to 16 inches per year (Rainfall – ET = Runoff).

Citrus farming operations began on the property in the early 1960's and surface water drainage (stormwater) was routed south, along the western boundary of Section 32 and into the northern section of what is now referred to as the Panther Island Mitigation Bank. The site was modified and parallel citrus tree beds and furrows along with a network of drainage ditches were constructed. "Rim-ditching" occurred around the onsite wetlands to assist in stormwater conveyance and maximization of agricultural footprint. This elaborate network of ditches onsite water tables. The historic flow-way system was eliminated, with the exception of a small portion that remained within a 40-acre out-parcel (now incorporated into the project). The water table was carefully controlled and maintained below the citrus tree root zones. Consequently, the grove was designed to drain and quickly remove stormwater, which also affected the vitality of the onsite wetlands by reducing water levels and hydroperiods. Recharge rates to the Water Table Aquifer would have been reduced accordingly.

Irrigation was necessary to overcome the higher ET rates for citrus which based on SFWIMD's Blaney-Criddle calculator is approximately 50 inches per year. Rainfall is anticipated to be roughly the same as predevelopment conditions and groundwater was used to make up for the increase in ET. The average irrigation for the citrus crop is approximately 25.5 inches per year, with a majority of the groundwater used occurring during the dry season and early fall. Crop protection would have been used during colder months. Given the extensive drainage alterations made to the farm, it is possible that some portion of irrigation supplies would have drained off as seepage through the extensive ditching onsite.

Row crops were also cultivated on the western section of the property and were also Irrigated from the Water Table Aquifer. However, the drainage systems were less intensive and composed of an orthogonal series of ditches. Based on Blaney-Criddle calculations, the ET rate for the row crops is approximately 20 inches per year. The lower ET value is due to the crop only being grown seasonally. Runoff values are anticipated to be similar to citrus.

The proposed residential development will result in a majority of the property being restored into a natural condition. ET and runoff rates for the restoration and preserve areas are anticipated to be close, if not equivalent to, predevelopment conditions. Stormwater within the development will be routed to engineered lakes and following the proper treatment, will enter the onsite flow-way system. The existing berms surrounding the onsite wetlands will be

Strumitted via GD on 11-27-15 / DOI2018-00018

removed, allowing hydraulic connection to the newly constructed flow-ways. This will help to lengthen hydroperiods, and provide water levels more consistent with what these areas saw prior to agricultural development. The proposed flow-way design allows for appropriate water levels to be maintained by installing a number of weirs placed at the downstream end of each individual basin, allowing the water levels within these basins to be maintained, while accommodating the varying control elevations across the site. ET values for the landscaped area can approach 59 inches per year, further signifying the importance of the proposed reduction in irrigated area. ET for the lakes could approach 60 inches per year, but when adequate supplies are available, captured stormwater will be used for irrigation, further offsetting groundwater withdrawals from the Water Table Aquifer. Stormwater retained in the lakes will also facilitate higher recharge rates. As provided in the narrative above, the proposed development results in an increase in both water storage and recharge as compared to the existing agricultural operations. The project also results in a significant decrease in irrigation quantities. As provided in the narrative above, the Verdana Village planned development provides a more natural and balanced hydrologic condition and preserves, restores, and enhances the water resources in the DR/G

7. Summary

Based upon the described hydrologic and hydraulic analyses for both the existing conditions of the Verdana Village property and the proposed flow-way restoration areas, there is opportunity for the project to provide a hydrologic benefit to the region by providing ssignifcant capacity of water flow from lands located to the north, from the east and through the project site. The provided analyses have approximated a level of benefit based on the potential scenarios as described, taking into account the avoidance of adverse impacts upstream or downstream. Provide below is Table 6-1 is a Surface Water Management Summary of the resulting water surface elevations within the flow-way basins per modeled design storm scenario. Based upon the water surface stage results, it is evident that the proposed flow-way restoration areas provide a significant amount of surface water storage capacity. The difference in water surface stages between the 100-year, 3-day event and the sequential 100-year, 3-day events is minimal with the greatest difference occurring in the southern flow-way basin, S1. The modeling further demonstrates that the proposed system is capable of receiving anticipated future off-site flows from the north and east per the preliminary results from the Lee County Flood Mitigation Study, which furthers the goal of restoring the historic flow patterns within the area.

In addition to providing a significant amount of surface water storage, the 2D integrated model analysis indicates that the groundwater levels in both the dry and wet season will experience longer time period of elevated (higher) water levels. This is a critical aspect of the project as it demonstrates the enhancement of the hydroperiods of the wetlands within the property that have been adversely impacted by the agricultural uses.

The final control systems on the southern project boundary, is recommended to be operable control systems utilizing flash boards or similar operable mechanisms to allow for ability to modify the flows based on experienced conditions over time, and to accommodate future potential scenarios. The proposed operating schedule for the flow-way system control structures has been based upon the practical range of flow values and as downstream conveyance conditions are improved, the operation of the control weirs may be adjusted to allow more flow through the system. Staff gauges shall be installed on the outfall weir structures for the purpose of monitoring water elevations.

J.A. EVANS

.

VERDANA VILLAGE FLOW-WAY SURFACE WATER MANAGEMENT SUMMARY								
		NO OFFSITE FLOW			INCLUDES TODAY'S OFFSITE FLOW			INCLUDES PRELIMINARY FLOOD MITIGATION STUDY FLOWS
FLOW- WAY BASIN	CONTROL ELEVATION	25-YR 3-DAY PEAK STAGE	100-YR 3-DAY PEAK STAGE	SEQUENTIAL 100-YR 3-DAY PEAK STAGE	25-YR 3-DAY PEAK STAGE	100-YR 3-DAY PEAK STAGE	SEQUENTIAL 100-YR 3-DAY PEAK STAGE	25-YR 3-DAY PEAK STAGE
E1	22.50	23.69	23.91	24.03	23.72	24.02	24.21	24.74
E2	23.00	24.12	24.28	24.30	24.16	24.32	24.35	25.26
E3	23.50	24.48	24.65	24.68	24.51	24.68	24.73	25.5
E4	24.00	24.89	25.05	25.07	24.98	25.13	25.17	26.12
E5	24.50	25.00	25.12	25.14	25.19	25.27	25.30	26.73
E6	25.00	25.35	25.46	25.47	25.38	25.49	25.50	26.8
M1	23.50	24.48	24.63	24.65	24.56	24.70	24.72	25.67
M2	24.50	25.09	25.18	25.20	25.18	25.27	25.28	26.25
МЗ	24.50	25.10	25.19	25.21	25.22	25.30	25.31	26.88
S1	20.00	23.28	23.79	23.93	23.45	23.91	24.11	24.28
W1	22.50	23.57	23.89	24.02	23.63	24.01	24.20	24.74
W2	23.00	24.10	24.27	24.29	24.14	24.31	24.34	25.25
W3	23.50	24.21	24.37	24.39	24.26	24.42	24.45	25.55
W4	24.00	24.58	24.67	24.68	24.65	24.73	24.73	25.96
W5	24.50	24.96	25.03	25.03	25.06	25.13	25.13	26.44
NOTE: ALL STAGES ARE IN FT-NAVD								

Table 6-1: ICPR4 ID Model Flow-way Basins Surface Water Management Summary

Submitted via CD on 11-27-19 / DCI2019-00018

.

1

Appendix A Excavation and Grading Plan Contraction of



Submitted via CD on 11-27-197 DCI2019-00018

Appendix B Existing Conditions 1D ICPR4 Nodal Diagram

84.



EXISTING CONDITIONS NODAL DIAGRAM



EXHIBIT F

Verdana Village – Enhanced Lake Management Plan Table of Contents

	Page
Introduction	1
Section 1. Historic Surface Water Hydrology	3
Section 2. Water Resources Best Management Practices	4
A. Construction Phase BMPs	4
B. Post-Construction Phase BMPs	5
Section 3. Lake Maintenance	6
A. General Provisions	6
B. Deep Lake Management	6
C. Nuisance and Exotic Vegetation Control	7
D. Littoral Vegetation Preservation	7
E. Fertilizer Application	7
F. Erosion Protection and Lake Bank Maintenance	8
G. Lake Education Program	8
H. Pesticide, Herbicide or Fungicide Applications	8
Section 4. Corkscrew Wellfield Protection	10
A. Corkscrew Wellfield Protection	10
Section 5. Surface Water Quality Monitoring Program	11
A. General Data Quality Objectives	11
B. Surface Water Monitoring Goals	11
C. Surface Water Quality Monitoring	11
Section 6. Groundwater Quality Monitoring Program	12
A. General Data Quality Objectives	12
B. Groundwater Monitoring Goals	12
C. Groundwater Quality Monitoring	12
Section 7. Water Quality Data Reporting and Analysis	13
Section 8. Remedial Actions	14
	DECEIVI
a a din	NOV 2 7 2019
1946 - D	

1

DCI 20 19-00018

		Page
Section 9.	In Conclusion	15
TABLES		
Table 1	Water Quality Sampling Schedule	16
Table 2	Surface Water Quality Analytes List	17
Table 3	Groundwater Quality Analytes List	17
FIGURES		
Figure 1	Proposed Residential Development	Attached
Figure 2	Proposed Irrigation Withdrawals	Attached
Figure 3	Proposed Sampling Locations, Monitor Well and Wellfield	
	Protection Zone Travel Times	Attached
APPENDIC	ES	

Appendix A	Example of Deep Lake Aeration Device	Attached
Appendix B	Lee County Fertilizer Ordinance No. 08-08	Attached
Appendix C	Lee County Wellfield Protection Ordinance No. 07-35	Attached

na n Nationale (1864)



COMMUNITY DEVELOPMENT DCI 20,19-00018

-

Introduction

The Verdana Village is distinct from other residential developments in Lee County's Density Reduction/Groundwater Resource (DR/GR) area in that it is composed of two adjacent and previously approved residential developments that are now being combined into the single, integrated project, is shown in Figure 1. The aggregation of the two proposed developments offers a unique opportunity iD further enhance the water resource benefits beyond what was proposed in the earlier approvals. Therefore, the Verdana Village Enhanced Lake Management Plan (ELMP) not only provides for a substantial net benefit to the water resources within the DR/GR, but also affords increased protection to Lee County's Corkscrew Wellifield.

The Verdana Village property encompasses approximately 2,138.26 acres. The project site has had a long farming history with sections of the property used for cultivation of citrus and row crops for decades. In accordance with Lee County's Comprehensive Plan (The Lee Plan), proposed developments within the DR/GR must demonstrate the protection, preservation and enhancement of groundwater resources and environmental (wetland) systems. The Verdana Village project not only maintains the water resource protection benefits of each of the prior development plans (Verdana and Pepperland Ranch), but also extends those approved resource protections to a higher level, resulting in the following Water Resource Benefits:

Water Resource Benefits

- The total lawn and landscape irrigated areas within the proposed Verdana Village development represents a decrease from the sum of irrigated areas for the two previously approved development plans.
- The South Florida Water Management District's (SFWMD) irrigation allocation model for the Verdana Village lawn and landscape area indicates a decrease in quantities when compared to the sum of irrigated quantities for the two previously approved development plans. The Verdana Village also proposes to decrease the maximum or peak month (i.e. dry season) quantity.
- Verdana Village will utilize both groundwater and captured stormwater for irrigation, whereby groundwater quantities are used to supplement surface water irrigation supplies within the project's stormwater management system lakes. Irrigation quantities will then be withdrawn from the lakes to irrigate lawn and landscaped areas. The conjunctive use of both ground and surface water supplies are anticipated to conserve additional groundwater from the Water Table Aquifer when adequate surface water supplies are available, thereby furthering the project's resource benefits within the DR/GR.
- Along with a decrease in irrigated area, the smaller footprint of the Verdana Village project will
 result in a reduction in lawn care and maintenance activities for the turf and landscaped areas.

NOV 27 2016 1 of 18

The project includes a master-controlled irrigation system that regulates the initiation and

overall duration of irrigation events in order to increase irrigation water use efficiency and enhance water conservation (i.e. no individual homeowner will have access to irrigation timers). Evapotranspiration sensors are also proposed for each irrigation pump station and future plans may include an integrated communication system between the controller clocks and the irrigation pump station(s).

- Improved surface water quality is anticipated through the creation of numerous interconnected stormwater management system lakes which outfall into a uniquely designed flow-way system. The flow-way system is composed of a series of shallow depressional sub-basins which stair-step stormwater down the property's southerly gradient. The flow-way system will increase stormwater residence time and promote increased recharge to the Water Table Aquifer. In addition, the series of shallow depressional sub-basins will provide enhanced floodwater storage, allowing the project to help alleviate historic stormwater flooding concerns on Carter Road to the east and Six L's Farm Road to the west.
- Only professional landscape businesses registered with Lee County will be allowed to perform their services at Verdana Village. Proof of completion of a Lee County-approved Best Management Practices (BMP) training program will be required.
- To further protect the water resources, the Verdana Village project includes both groundwater and surface water quality monitoring to verify the effectiveness of BMPs and safeguard Lee County's potable supply wells.

Collectively, these Water Resource Benefits represent a new standard of water resource and environmental protection and, in many cases, exceed the future land use requirements contemplated by Lee County's Comprehensive Plan. For ease of use and understanding, the contents of the Verdana Village ELMP contains Sections that address key water resource protection elements, with each of the main ELMP Sections in turn having Subsections that provide specificity regarding the management actions necessary to safeguard the water resources. Where applicable, BMPs are provided to highlight specific water resource protection measures.



Section 1. Historic Surface Water Hydrology

To better understand the proposed water resource management actions contained within this ELMP, it is important to provide a basic context of the historic, pre-development surface water flows on the property. The project site gradually slopes to the south, with the highest land surface elevations of approximately 27 feet NAVD located on the northern sections of the property, immediately south of Corkscrew Road. The lowest land surface elevations are located in the south-central portion of the property at approximately 19 feet NAVD.

Prior to agricultural development, the project site was characterized as open rangeland and pine flatwoods interspersed with wet prairies, marshes and cypress forest. Historic aerial photography indicates a series of shallow depressions forming wetland slough systems, or flow-ways, that transected the property and conveyed surface water downslope towards a large wetland system now referred to as the "Corkscrew Swamp Sanctuary" and the Flint Pen Strand, both of which are part of the Corkscrew Regional Ecosystem Watershed (CREW).

With the advent of agricultural development, the natural flow-ways were backfilled, ditched and drained, resulting in surface water flows being redirected to two (2) main outlets: 1) on the west side of the project area along Six L's Farm Road, and 2) on the south-central portion of the property into what is now the Panther Island Mitigation Bank.

The Verdana Village project alms to generally recreate the historic flow-way system by accepting off-site stormwater flows from the north, originating from The Place residential development, and from the project's eastern boundary along Carter Road. The flow-way system will also accept stormwater flows from the project's internal stormwater management system and is proposed to eliminate the existing stormwater outlet along Six L's Farm Road. The proposed hydrologic connections to the north and east fully integrate the project into the surrounding land uses, with the outfall into the Panther Island Niltigation Bank remaining as the project's single stormwater discharge point.



COMMUNITY DEVELOPMENT DCI 20 19-00 018

Section 2. Water Resources Best Management Practices

As the Verdana Village project evolves from predominately a "construction phase" to "partial construction" and ultimately to a "post-construction" residential phase, the BMPs must also evolve to maintain water resource protection. Construction of the proposed development may take up to 10 years, depending on market conditions. However, after initiation of construction, the vast majority of major earthwork is anticipated to be completed by the end of the 5th year.

A. Construction Phase BMPs

During construction of the proposed development, the greatest potential for impacts is associated with increased turbidity and/or potential spills of fuels/oils (hydrocarbons), otherwise known as Volatile Organic Compounds (VOCs) used to power earthmoving equipment, etc. Specific BMPs associated with the construction phase are provided below. The Developer will be responsible for maintaining compliance with all ELMP BMP requirements until such time that control of the development is transitioned to the Homeowner's Association (HOA) and/or Community Development District (CDD).

- The site's general contractor shall be responsible for assuring that each contractor or subcontractor evaluates the work area before construction is initiated to determine if site conditions may pose particular problems for the safe and secure handling of any regulated substances.
- 2. If any regulated substances are stored on the construction site during the construction process, they shall be stored in a location and manner which will minimize any possible risk of release to the environment. There will be no intention to use, handle, produce or store regulated substances in violation of the Lee County Land Development Code Section 14-477, Stormwater Pollution Prevention Plan (SWP3) criteria.
- 3. Each contractor/subcontractor shall familiarize themselves with the manufacturer's safety data sheet supplied with each material containing a regulated substance and shall be familiar with procedures required to contain and clean up any releases of a regulated substance. Any tools or equipment necessary to accomplish the same shall be available in case of an accidental release.
- 4. In the event of a spill of a regulated substance, the contractor/subcontractor will immediately notify the Developer, who will in turn notify the Lee County Division of Natural Resources Director at (239) 533-8109 and the Florida Department of Environmental Protection (FDEP) South District Office at (239) 344-5600. Additional measures, such as those described in this ELMP's Section 4 (Part A), may also apply.
- Upon completion of construction, all unused quantities of regulated substances and their containment systems shall be completely removed from the construction site.
- 6. Proper turbidity abatement measures, as required by the SFWWB, the Elorida Stormwater Sedimentation Control Inspector's Manual standards, and the FDEP National Follutent Discharge Elimination System (NPDES) permit criteria, will be maintained while construction is ongoing or until adequate vegetation or other stabilization measures have been established. 2 7 2010 Page 4 of 18

COMMUNITY DEVELOPMENT DCI 20,19-00018

B. Post-Construction Phase BMPs

After the Lee County Certificate of Compliance or the SFWMD stormwater management system certification is completed for a particular phase of the development, the primary focus of the ELMP will be maintaining the stormwater management system lakes since all internal runoff will be routed to these features for treatment. It is also anticipated that the Developer will establish and create an HOA and/or a CDD that will be responsible for the operation and maintenance of all aspects of the stormwater management system including the lakes, associated stormwater conveyance and control components, and the flow-way system in perpetuity. At a minimum, the operation and maintenance of the stormwater management and flow-way systems will require compliance with the terms and conditions contained within this ELMP. Additional details on BMPs, including monitoring of groundwater and surface water, are provided in Section 3 below.


Section 3. Lake Maintenance

A. General Provisions

Proper lake maintenance is an integral aspect of this ELMP since Internal stormwater runoff is directed to these features for treatment and attenuation. As an added protection to underlying groundwater resources, the excavation of the lakes will not penetrate any continuous impervious layer of clay or rock. In addition, the groundwater withdrawn from the proposed (new) onsite wells will be used to replenish a subset of stormwater lakes as needed for use in the master irrigation system.

As shown on Figure 2, surface water irrigation pumps will "repump" groundwater supplies and retained stormwater (surface water) for the irrigation of the residential development. The recycling of surface water quantities is expected to further improve water quality on the property and maintain high water quality in the lakes. The stormwater lakes must be maintained in perpetuity and the following management actions are proposed. Specific post-construction BMPs are also provided.

B. Deep Lake Management

The Verdana Village stormwater management lakes are proposed to be deeper than 12 feet in depth. In accordance with Lee County Land Development Code Section 10-329(d) (3), these lakes are therefore designated as "deep lakes" and are subject to specific criteria. Based on Lee County Code, the proposed deep lakes will satisfy the following criteria:

- The stormwater management deep lakes will not exceed a maximum water depth of 20 feet and will not penetrate any continuous impervious layer of clay or rock.
- 2. A destratification (i.e. aeration) system will be installed in any lake that exceeds a 12-foot water depth. Documentation that the proposed destratification system is adequately sized and designed for each lake deeper than 12 feet will be submitted to Lee County for approval. An example of a deep lake aeration device is provided as Appendix A.
- 3. Native shade trees meeting the specifications of Lee County Land Development Code Section 10-420 will be planted around each deep lake perimeter at approximately one tree per 100 feet of lake shoreline measured at the detention lake's water level control elevation. Trees and other plants may be grouped or clustered together around the lake perimeter.
- 4. The deep lake management techniques, including operation of the destratification system, will be maintained for the life of the stormwater management system and will be recorded in the development's covenants, in accordance with the County Attorney's Office.

 A post-construction bathymetric survey verifying each deep lake's tinished water debta sealed by a professional surveyor and mapper, will be submitted to Lee County to approval.
 NOV 2.7 2019

COMMUNITY DEVELOPMEN

DCI 2019-00 010

C. Nuisance and Exotic Vegetation Control

The HOA and/or CDD will be responsible for the removal (in perpetuity) of all nuisance and exotic vegetation from the stormwater management system as defined by the Lee County Land Development Code.

- Lakes must be inspected annually and any prohibited vegetation must be removed by the use of hand-clearing or appropriate chemical treatment. Only aquatic-approved compounds may be utilized in the stormwater management system lakes.
- Herbicides and/or algaecides may only be applied by a licensed professional applicator who
 meets the requirements of Lee County, and in accordance with manufacturer specifications. All
 applicable local, state and/or federal guidelines and requirements will also be followed.

D. Littoral Vegetation Preservation

Littoral zone vegetation is required to be installed by the Developer and maintained by the HOA and/or COD (in perpetuity). Littoral zones provide habitats for wading birds, fish and aquatic invertebrates and also help to stabilize shorelines and reduce lake bank erosion.

- Littoral plants that die will be replaced in accordance with Lee County tand Development Code requirements. The presence of littoral plants throughout the lakes is desirable and may also help to improve the water quality within the lakes.
- 2. The spread of littoral plants will be encouraged throughout the designated littoral areas.
- 3. Mechanical trimming or the use of land-based herbicides on desirable littoral plants is prohibited. Any trimming or removal of vegetation required to promote the survival and viability of littoral vegetation will be performed by hand or by approved aquatic herbicides and methods.

E. Fertilizer Application

Strict adherence will be maintained with Lee County's Fertilizer Ordinance. Individual lot owners are prohibited from applying fertilizer to their lots. Any person(s) applying fertilizers must have received a limited certification in compliance with Florida Statute 482.1562 prior to application of any and all fertilizers. Additionally, fertilizer content and application rate must be in compliance with Lee County's Fertilizer Ordinance. The Lee County Fertilizer Ordinance No. 08-08 is provided as Appendix B.

 All professional landscape businesses must register with Lee County prior to performing landscape fertilization services within unincorporated Lee County.

COMMUNITY DEVELOPMENT

2019-00018

 At least one (1) employee of a firm employed to perform landscape fertuization services must be a Certified Professional Landscaper.
 NOV 2 7 2019

- 3. Proof of completion of a Lee County-approved BMP training program must be provided to the Division of Lee County Natural Resources.
- At least one (1) BMP-trained employee must be onsite while fertilizers are applied. A registration decal provided by the division must be displayed on all company vehicles.

F. Erosion Protection and Lake Bank Maintenance

Lake banks are susceptible to erosion due to overland flow of stormwater runoff, wave action, and the natural seasonal fluctuation of water levels. Accordingly, lake banks within the project are designed to minimize this potential for erosion.

- Lake banks will be inspected annually to identify areas of erosion. Once identified, the erosion will be repaired and the source of erosion shall be eliminated, if possible.
- Where excessive erosion occurs, repair of the lake banks and/or enhancement of stabilization measures may be necessary.
- No motorized boats will be allowed within any of the onsite stormwater management lakes.

G. Lake Education Program

4

ng ár stið 🛠

A narrative explaining the benefits of littoral vegetation, lake maintenance and surface and groundwater quality will be made available to residents.

- 1. Lake experts will be encouraged to attend the HOA and/or CDD meetings annually to discuss the lake system operation and maintenance requirements.
- 2. Homeowners will be informed that they are prohibited from removing or trimming littoral vegetation.
- 3. Additionally, the homeowners will be made aware of the extreme importance regarding any introduction of hazardous materials or substances into the lakes.

H. Pesticide, Herbicide or Fungicide Applications

All applications of pesticides, herbicides, algaecides and/or fungicides shall be applied by a licensed professional applicator, meet the requirements of Lee County, be applied in accordance with the manufacturer's specifications, and shall meet all applicable local, state and/or federal guidelines and requirements. Only approved aquatic herbicides may be used to treat the scoreiverer manager system.

NOV 2 7 2019

Page 8 of 18

20 19-00 018

COMMUNITY DEVELOPMENT

- Homeowners shall be prohibited from applying pesticides, herbicides and/or fungicides to their lots. These activities will only be performed by certified contractors approved by the HOA and/or CDD.
- 2. The use of any chemical product in a manner that will allow airborne or waterborne entry of such products into the stormwater management system is prohibited. This requirement shall not apply to the use of chemical agents by certified lake management specialists for the control of algae and nulsance vegetation within the stormwater management system lakes. However, application of such agents shall be in compliance with the requirements of Lee County, applied in accordance with the manufacturer's specifications, and meet all applicable local, state and/or federal guidelines and requirements.
- Pesticides, fungicides and herbicides will be used only in response to a specific problem and in the manner and amount recommended by the manufacturer. Broad application of pesticides, fungicides and herbicides as a preventative measure is prohibited.



Section 4. Corkscrew Wellfield Protection

A. <u>Corkscrew Wellfield Protection</u>

A vast majority of the Verdana Village development is located outside and downgradient of the Lee County Wellfield Protection Zones, as shown in Figure 3, with only the northwestern-most stormwater management lakes partially intersecting the five- and ten-year travel time zones. The long travel time is due to the southerly groundwater and surface water gradients and the fact that the nearest Lee County potable well site is located over 900 feet from the nearest stormwater management lake.

However, to safeguard the County's nearest public supply wells, this ELMP includes detailed water quality monitoring of two (2) dedicated Water Table Aquifer (i.e. upper Tamlami Formation) monitor wells as well as one (1) of nearest stormwater management system lakes. In addition, surface water quality monitoring is also proposed for stormwater inflows coming onto the Verdana Village project from the north and east, and at the final outfall near Panther Island, as shown in Figure 3. The level of water quality assurance offered by this ELMP, coupled with Lee County's five- to ten-year prediction of groundwater travel times, offers abundant assurance that, in the unlikely event that degradation of water quality or contamination occurs, ample time exists to initiate remedial measures and safeguard Lee County's wellfield.

If an unforeseen spill, accidental release of chemicals or increased concentration of contaminants is detected, remedial measures will be immediately put into place. Such measures could include some or all of the following actions: 1) the implementation of increased water quality testing; 2) measures to replenish the lake with groundwater for dilution and, if necessary, withdraw the water from the lake for treatment; 3) the installation of additional monitoring wells between the nearest stormwater management system lakes and Lee County's public supply wells; and 4) if deemed necessary, the construction and operation of groundwater intercept or recovery wells. These remedial actions would be triggered by detection of high concentrations above the Maximum Contaminant Levels (MCts) for the compounds. A copy of the Lee County Wellfield Protection Ordinance No. 07-35 is included in Appendix C,



Section 5. Surface Water Quality Monitoring Program

A. General Data Quality Objectives

All surface water quality samples will be collected in accordance with Chapter 62-160, Florida Administrative Code (F.A.C.), and the FDEP's Standard Operating Procedures (SOPs) DEP-SOP-001/01 FQ 1000 Field Quality Control Requirements and FDEP-SOP-001/01 FS 2100 Surface Water Sampling. A summary of the proposed surface water sampling schedule is provided in the attached Table 1.

B. Surface Water Monitoring Goals

The purpose of the surface water monitoring program is to assure that surface water coming onto, originating within, and leaving the project meet all applicable requirements of the SFWMD Environmental Resource Permit (ERP) program authorized pursuant to Part IV of Chapter 373, F.S. and all applicable requirements of Chapter 62-302, F.A.C., Surface Water Quality Standards. Additionally, water quality monitoring of the designated stormwater management lake will verify the efficiency of the ELMP management actions and assure the lakes' health for the residents' enjoyment. Please note that if there is no flow observed at any of the three (3) designated flow-way system monitoring points at the time of sample collection, the "no flow" condition will be noted and no surface water sample will be taken. Additional surface water quality parameters may be required if the FDEP determines that the subwatershed or FDEP Water Body Identification (WBID) No. 3258C becomes impaired.

C. Surface Water Quality Monitoring

Immediately after the operational completion of the proposed stormwater management system shown In Figure 3, the closest lake to Lee County's public supply well will be sampled quarterly (March, June, September and December). Surface water quality grab samples will be collected per FDEP protocol and analyzed by a NELAC/TNI-certified laboratory. After completion of the flow-way system, quarterly surface water quality sampling at the northern, eastern and southerly property boundaries will also commence. The surface water quality parameters to be tested are listed below and summarized in the attached Table 2. In addition, the attached Table 2 also includes the laboratory's Accuracy, Precision and minimum Method Detection Limit (MDL). Please note that the Practical Quantitation Limit (PQL) for each parameter varies between laboratories, however the PQL typically equates to four times the MDL.

- Field Parameters Depth of Water, Dissolved Oxygen, pH, Temperature and Specific Conductivity
- Lab Parameters Total Nitrogen, Nitrate and Nitrite, Ammonium, Ammonia, Total Kjeldahl Nitrogen, Total Phosphorus, Chlorophyll-a, and Ortho-phosphate.

Quarterly surface water quality monitoring shall be continued for a minimum of five (5) years after operational completion of the stormwater management system. After five (5) consecutive years of testing, a request for discontinuation or reduction in the monitoring requirements will be proposed to the tee County Natural Resources Department if it can be demonstrated that the surface water quality is being maintained within applicable State standards.

Section 6. Groundwater Quality Monitoring Program

A. <u>General Data Quality Objectives</u>

All groundwater quality samples will be collected in accordance with Chapter 62-160, F.A.C. and the FDEP-SOP-001/01 FQ 1000 Field Quality Control Requirements and FDEP-SOP-001/01 FS 2200 Groundwater Sampling. A summary of the proposed groundwater sampling schedule is provided in the attached Table 1.

B. Groundwater Monitoring Goals

The purpose of the groundwater monitoring program is to assure that the County's public supply wellfield is protected. In addition to the surface water monitoring of the stormwater management system, the groundwater monitoring affords a comprehensive means to safeguard drinking water supplies and the overall water resources of the DR/GR.

C. Groundwater Quality Monitoring

Coincident with the operational completion of the proposed stormwater management system, two (2) Water Table Aquifer monitoring wells will be constructed between the northern corners of the development and the nearest public supply wells (Site No. 39S and 38S), as shown in Figure 3. The proposed monitoring wells will be constructed such that the sampling interval (i.e. open hole section) are similar to Lee County's surficial aquifer public supply wells (Site No. 39S and 38S). The groundwater quality parameters to be tested are listed below and summarized in the attached Table 3. Sampling of the proposed groundwater monitoring well will occur simultaneously with the quarterly surface water quality sampling. In addition, the attached Table 3 also includes the laboratory's Accuracy, Precision and minimum MDL. Please note that the PQL for each parameter varies between laboratories, however the PQL is typically four times the MDL.

- Field Parameters Water Table Aquifer Elevation, pW, Temperature and Specific Conductivity
- Lab Parameters Chloride, Endothall, Glyphosate and Diquat.

Semi-annual groundwater quality monitoring shall be continued for a minimum of five (5) years after operational completion of the stormwater management system. After five (5) years of testing, a request for discontinuation or reduction in the monitoring requirements will be proposed to the Lee County Natural Resources Department if it can be demonstrated that groundwater quality is being maintained within applicable State standards.

NOV 200 201918

Section 7. Water Quality Data Reporting and Analysis

Surface and groundwater quality data will be submitted to the Lee County Natural Resources Department staff in an approved electronic format within 30 days of receiving results from the contract laboratory if an issue has been detected. Otherwise, data will be submitted annually. The submittal will include all field notes, field and laboratory water guality data results and all previously collected (i.e. period of record) water quality data. The submittals will also include a brief narrative on the most recent sample collection, sample chain of custody, descriptions of any re-testing of erroneous values, and any water quality exceedances.

By March 1 of each year, a Water Quality Summary Report for the preceding calendar year shall be supplied to Lee County Natural Resources staff which summarizes the surface and groundwater testing results for the development. The results will include a summary table that lists all the field and laboratory parameters for the monitoring locations. Laboratory parameter concentrations that fall below the PQL for that parameter will be reported with no value; however, a value qualifier of "I" (i.e. between the MDL and PQL) or "U" (below the MDL) will be included in the summary table.

All water quality data for the analytes listed in the attached Tables 2 and 3 that are detected in concentrations above the laboratory PQL will be reviewed, graphed and statistically analyzed for trends and exceedances above two (2) standard deviations of the mean of all values. Any reported concentrations above the MCL will be clearly identified, as well as remedial actions which were used to timely reduce that particular analyte's concentration.



Section 8. Remedial Actions

In the unforeseen event that any significant surface and/or groundwater impacts are identified as a result of a hydrocarbon spill or pesticide/herbicide application at the subject property, the Developer or designee of the HOA and/or CDD will notify the Director of the Lee County Natural Resources Division within no more than 12 hours (or next business day). If a spill or release "presents an immediate threat to human health and/or the environment" then the FDEP Office of Emergency Response (OER) will be contacted within 24 hours. Guidance outlining the definition of a release as well as reporting procedures is presented in the OER webpage located at:

http://www.dep.state.fl.us/per/reportable incident.htm.

The Developer or their successor(s) will coordinate contamination assessment and remediation efforts with Lee County and will comply with applicable local, state and federal permitting requirements. The initial phase of the remediation plan will consider the actions outlined in Section 4 and may consist of additional temporary monitoring wells installed for the short-term temporal monitoring of potential subsurface impacts and to evaluate the horizontal and the vertical distribution of the impacted area. Based on the findings of the initial phase, if necessary, a more comprehensive assessment may be required.



Section 9. In Conclusion

0.000

The information and technical requirements in this ELMP are provided to the Developer or designee of the HOA and/or CDD to assist with understanding the Importance of a well-maintained and fully-functioning stormwater management system. The stormwater management system lakes within the development are not only required by state law but can also be a source of beauty and enjoyment for the residents while maintaining the value and integrity of the water resources. The Verdana Village flow-way system is an integral hydrologic feature that enhances the project site and promotes increased recharge to the shallow Water Table Aquifer. These features and the management actions required herein demonstrate an exceptional level of protection, preservation and enhancement of groundwater and surface water resources in the DR/GR.



COMMUNITY DEVELOPMENT

OCI 2019-00018

Date	Sample Type	Sample Location			
January-31	N/A	N/A			
February-28	N/A	· N/A			
Blouch 24	Surface Water	4 locations			
IMIGLCU-27	Groundwater	Water Table Aquifer Monitor Well			
April-30	N/A	N/A			
Way-31	N/A	N/A			
June-30	Surface Water	4 Locations			
July-31	N/A	N/A			
August-31	N/A	N/A			
c	Surface Water	4 locations			
September-30	Ground Water	Water Table Aquifer Monitoring W			
October-31	N/A	N/A			
November-30	N/A	N/A			
December-31	Surface Water	4 Locations			

	Table	ble 1	
Quarterly Water	Quality	Sampling Schedule	

,

Ť

*See Figure 3 for groundwater and surface water quality sampling locations

a in the

· 1. j.,

医马耳氏 带



		Field Para	meters		
Parameter	Units	Precision (%RPD)	Accuracy (%Recovery)	MDL	Sampling Frequency
Depth of Water	Feet	0.01	NA	NA	Quarterly
Dissolved Oxygen	mg/L	FT 1000-1	FT 1000-1	NA	Quarterly
рН	SU	FT 1000-1	FT 1000-1	NA.	Quarterly
Temperature	Deg C	FT 1000-1	FT 1000-1	NA	Quarterly
Specific Conductivity	µS/cm	FT 1000-1	FT 1000-1	NA	Quarterly
an an shi shine a shi shisharsayat mi	Laborat	ory Paramo	eters (Nutrie	nts)	Contract Product of A
Total Nitrogen	mg/L	CALC	CALC	CALC.	Quarterly
Nitrite + Nitrate	mg/L	5	90-110	0.004	Quarterly
Ammonium	mg/L	CALC	CALC	CALC	Quarterly
Ammonia	mg/L	17	90-110	0.008	Quarterly
Total Kjeldahl Nitrogen	mg/l.	11	90-110	0.05	Quarterly
Total Phosphorus	mg/L	10	90-110	0.008	Quarterly
Chlorophyll-a	mg/L	20	93-108	0.25	Quarterly
Ortho-phosphate	mg/L	1.0	88-118	0.002	Quarterly

Table 2 Surface Water Quality Analytes

1.1

Table 3 Groundwater Quality Analytes

	Fie	ld Parame	ters		
Parameter	Units	Precision (%RPD)	Accuracy (%Recovery)	MDL	Sampling Frequency
Temperature	Dec C	FT 1000-1	FT 1000-1	0.1	Semi-annually
Specific Conductance	µmhos/cm	FT 1000-1	FT 1000-1	1	Seml-annually
рН	SU	FT 1000-1	FT 1000-1	0.01	Semi-annually
Water Table Aguifer Elevation	ft NGVD	NA	NA	0.01	Semi-annually
	aboratory	Parameter	s (Nutrients)		
Chloride	mg/L	0-20	90-110	1	Semi-annually
Endothall	µg/l	0-20	90-110 77	15900	S Sent annualy
Glyphosphate	µg/1.	0-20	90-110	6	Semi-annually
Diquat	µg/L	0-20	90-110	0.4	Semi-annually

COMMUNITY DEVELOPMENT DCI: 20 19-00 018-

. . . .

Notes:

. ..

ŀ

4.8.

. 23

•

5









APPENDIX A

Example of Deep Lake Aeration Device









AIR3 XL2TM

The Vertex Air3 XL2TM pond aerator is a super-efficient, affordable and safe system. In a typical pond, an Air3 XL2TM can aerate approximately 3-4 acres depending on shape, slope, oxygen demand and other factors. A 1/2hp (0.37kW) BrookwoodTM SafeStartTM compressor, housed in our rustproof aluminum outdoor cabinet, feeds three bottom mounted CoActive AirStationsTM utilizing Vertex's MicronBubbleTM technology. The rising force of millions of hubbles circulates the entire water column, entraining bottom water up to the surface allowing vital oxygen to be absorbed and poisonous gasses expelled. With no electricity in the water, Vertex's aeration systems are safe for any type of water recreation.

Our systems have a full 3-year Vertex warranty, excluding wearable parts (air filters and compressor maintenance kits) plus a Limited Lifetime warranty against rust and corrosion on the cabinet, 5-year warranty on the AirStations⁷⁰⁴ and a 15-year warranty on BottemLine¹¹⁴ supply tubing.

FEATURES

AIRSTATIONXL21M

- * Total pumping capacity of up to 11,400 GPM
- * Six 9" flexible membrane discs with MicronBubble™ technology
- Shallow water Airstation optional for depths lower than 8'
- * Self-cleaning, low maintenance
- * Powder-coated stainless steel self-
- sinking base unit designed to prevent sinking into soft bottom sediments
- * 5-year 'No Questions" warranty

BROOKWOODTM COMPRESSOR

- 3-year Vertex warranty, excluding wearable parts (ai: filters and compressor maintenance kits)
- * Vertex SafeStartTM Technology
- * UL, 115v or 230v, 35 Max PSI
- * Thermal overload protection
- * 1/2hp (0.37kW): low electrical costs
- * 2-3 year extended duty cycle between scheduled maintenance

QUIETAIRTM CABINET

- * Class "A" GPCI protection on all 115v circuits
- Powder coated aluminum for a durable astractive finish
- * High capacity 290 CFM fan
- * Fasy access design with cam lock
- * Pasy plug-in connection to waterside electrical service
- * Disconnect switch
- Heavy duty, light weight mounting pad included
- * Sound dampening kit optional
- * Limited lifetime warranty against rust

BOTTOMLINEMTUBING

- · Over-sized I.D. for high flow
- * Self-weighted for easy installation
- * Available in 100' and 500' increments
- + 15-year Vertex warranty

-CD.s-

BENEFITS TO THE LAKE

- High pumping rate easily penetrates stratification layers
- * Circulates entire water column
- Increases oxygen levels throughout water column
- * Promotes beneficial bacteria growth
- * Prevents low oxygen fish kills
- Reduces nutrient levels and associated algae growth
- * Oxidizes/reduces bottom muck
- Expands oxygenated habitat for improved fisheries
- Reduces aquatic midge and mosquito insect hatches
- Bliminates foul odors from undesirable dissolved gases
- * Safe entry no electricity in plies

* Extromely energy efficient NOV 2 7 2019

SPECIFICATIONS: AIR3XL2TMLAKEAERATION SYSTEM

BROOKWOODTM COMPRESSOR

ř .

1/2hp (0.37kW), 115v or 230v, Single Phase piston type compressor. Built for continuous 24/7 operation and equipped with Vertex SafeStart³¹⁶ technology allowing auto restart under maximum rated pressure without motor damage. Super-duty Brookwood³¹⁴ compressors incorporate upgraded rotors, stators, valve plates, bearings and capacitors and are thermally protected, oil-free, and require no lubrization; just periodic cleaning of included washable air fifter. Extended duty cycle is approximately 2 to 3 years for compressor maintenance, about 2 to 3 times the duty cycle of ordinary piston and rotary vane compressors. All Brookwood³¹⁴ SafeStart³¹⁶ compressors catty a 3-year Vertex warranty, excluding wearable patts (air Elters and compressor maintenance kits).



QUIETAIRTM CABINET

Enclosure comes equipped with can lock for security, fully gasketed and constructed of aluminum with gray electrostatically-bonded powder coating to provide Limited Lifetime warranty against cabinet rust and corrosion. Enclosure furnished with stamped ventilation grills to insure forced air citculation and an integral cooling fan with thermal protection, producing 290 CFM to guard against excessive compressor operating temperatures. Cabinet provided with HDPE mounting pad. Enclosure comes with class a GFCI protection on both the compressor and fan circuits. Quick disconnect switch included. Side mounted muffler box and additional insulation optional for quiter operation.



AIRSTATION XL2TM ASSEMBLY

Diffuser station consists of two self-cleaning, 9" diameter, flexible membrane diffusers of EPDM compound with 100% rebound memory, each producing millions of fine 500 to 3000 micron bubbles – the majority 500 to 1000 microns. Each diffuser station base unit is made of powder-coated stainless steel and designed to prevent settling into soft bottom sediments. AIRSTATIONTM is designed with adjustable diffuser there to accommodate any size requirements. AirStations are independently tested and verified to provide stated pumping rates. 5-year warranty.



BOTTOMLINETM SUPPLY TUBING

4.1

Self-weighted, direct butial submersible tubing for connection from compressor to diffuser stations. Tubing is flexible PVC composite construction for use with standard PVC solvent weld cement and insert fittings. Tubing has 0.58" LD, and high wall thickness for long term durability and protection against punctures. Remains flexible in cold temperatures.





(844) 432-4303 • info@vertexwaterfeatures.com www.vertexwaterfeatures.com Instal at electrical on indicating accordance with Apticle 082 of the Aptur at Ecological Code and all local codes. Varies Water Features reserves the right to improve and change and designs and/of localipations of our abellion without notice or obligation. 2019 Senter Water Features rev.D51116 DCI 2019-00018

APPENDIX B

Lee County Fertilizer Ordinance No. 08-08



LEE COUNTY FERTILIZER ORDINANCE (08-08)

APPLICATION: This ordinance applies to anyone performing lawn care and maintenance on turf and/or landscape plants within unincorporated Lee County as a "professional landscape business" or an "institutional landscaper". This ordinance does not apply to individual homeowners who perform their own landscape maintenance.

EFFECTIVE DATE: This ordinance goes in to effect on May 13, 2009.

REGISTRATION:

 All professional landscape businesses must register with Lee County prior to performing landscaping within unincorporated Lee County. At least one (1) employee must be a Certified Professional Landscaper. Proof of completion of a Lee County approved BMP training program must be provided to the Division of Lee County Natural Resources. At least one (1) BMP trained employee must be on site while fertilizers are applied. A registration decal provided by

the division must be displayed on all company vehicles. NOTE: An example of a professional landscape business is any company you hire to perform landscaping at your home.

All Institutional landscapers must follow the same registration guidelines as professional landscape businesses with the exception of displaying a registration decal on company vehicles. NOTE: An example of an institutional landscaper is the in-house landscape maintenance staff at Shadow Wood.

TRAINING & CERTIFICATION:

- Florida Green BMP training & certification can be completed through the Lee County Extension Service. This must be done prior to registration.
- Non-professional landscapers are not required to complete the Florida Green BMP training & certification, but are strongly encouraged to participate in the University of Florida (FAS, Florida (Yare) Neighborhoods Outreach & Public Education Program. This applies to individual owners of single-family residential units who perform lawn care and maintenance on turf and/or landscape plants.

DCI 2019-00018

ć

TIMING OF FERTILIZER APPLICATION: Fertilizers containing Nitrogen (N) and/or Phosphorus (P) may not be applied on turf and/or landscape plants from June 1 through September 30.

FERTILIZER CONTENT/APPLICATION RATE:

- Phosphorus (P) in any fertilizer may not exceed a rate of 0.25 lb; per 1,000 sq. ft. per application.
- Phosphorus (P) in any fertilizer may not exceed a rate of 0.50 lbs, per 1,000 sq. ft. per year.
- All fertilizers applied must contain at least 50% slow release nitrogen (N).
- Nitrogen (N) in any iertilizer may not exceed a rate of 4 lbs. per 1,000 sq. ft. per year.

IMPERVIOUS SURFACES: No fendilizers should be deposited, intentionally or accidentally, on an impervious surface such as a driveway, sidewalk or street.

BUFFER ZONES: No fordilizers shall be applied on turf and/or landscape plants within ten (10) feet of a water body, seawall or wetland. (See Florida DEP chapter 62-340)

MODE OF FERTILIZER APPLICATION: When using a rotary spreader, use of a deflector shield is required to deflect fertilizers away from water bodies, seawalls and wellands.

LOW MAINTENANCE ZONES (NO MOW): A voluntary six (6) foot low maintenance zone is strongly recommonded from any water body, seawall or wetland.

GRASS CLIPPINGS/VEGETATIVE MATERIAL: No grass clippings or vegetative materials shall be deposited into storm drains, ditches, water bodies, roadways or other impervious surfaces.

EXEMPTIONS (ordinance does not apply to):

- New landscaping in place for less than sixly (60) days.
- Vegetable gardens as long as they are not within fifteen (15) feet of a water body, seawall or welland.
- Yard waste, compost or mulches applied to improve the soil.
- Reclaimed water used for irrigation which usually contains high amounts of nitrogen and phosphorus.

20 19-00 018

- Farm operations.
- Pastures used for grazing livestock.
- Golf courses,
- Specialized turf areas (parks, cometeries, athletic fields, golf practice areas).

ENFORCEMENT & PEMALTIES:

- This ordinance shall be enforced by designated Lee County officials and/or inspectors.
- First violation...\$100.00
- Second violation...\$250.00
- Third and subsequent violations...\$500.00

APPENDIX C

Lee County Wellfield Protection Ordinance No. 07-35

DCI

.



ORDINANCE NO. 07-35

AN ORDINANCE AMENDING LEE COUNTY LAND DEVELOPMENT CODE. CHAPTER 14, ARTICLE III, REGARDING WELLFIELD PROTECTION; PROVIDING FOR STATUTORY AUTHORITY AND SCOPE OF ARTICLE (§14-201); PURPOSE AND INTENT OF ARTICLE (§14-202); AMENDING DEFINITIONS OF "AQUIFER", "DIVISION", "GROUNDWATER", "MONITOR WELL", "PROTECTION ZONE MAPS", "PUBLIC POTABLE WATER SUPPLY WELLFIELD", "TOXIC SUBSTANCES", "WELL"; REPEALING DEFINITION OF "EXTRACTION PROCEDURE TOXIC MATERIAL"; CREATING DEFINITION FOR "F.A.C.", "POLLUTANT", "PROPOSED PUBLIC WATER SUPPLY WELL", "SANITARY HAZARD" (§14-203); AMENDING CONFLICTING PROVISIONS (§14-205); EFFECTIVE DATE OF ARTICLE AND RETROACTIVE APPLICATION TO EXISTING ACTIVITIES (§14-206); REPEALING THE SUNSET PROVISION (§14-207); AMENDING APPLICABILITY OF ARTICLE (§14-208); EXEMPTIONS FROM ARTICLE (§14-209); VESTED RIGHTS (§14-210); PROTECTION ZONE MAPS (§14-212); REGULATED HAZARDOUS OR TOXIC SUBSTANCE AND SANITARY HAZARDS (§14-213); PROHIBITED AND REGULATED ACTIVITIES WITHIN PROTECTION ZONES (§14-214); ABANDONED WELLS (§14-215); CRITERIA FOR ESTABLISHING PROTECTION ZONES (§14-216); ADOPTING PROVISIONS RELATED TO AQUIFER STORAGE AND RECOVERY WELLS (§14-219); AMENDING AUTHORITY AND DUTIES OF NATURAL RESOURCES DIVISION (§14-241); CLOSURE PERMIT (§14-245); BOND (§14-246); RECONSTRUCTION OF DAMAGED FACILITIES (§14-249); EXCEPTIONS TO PERMIT REQUIREMENTS (§14-250); INSPECTIONS AND ENFORCEMENT GENERALLY (§14-252); RESPONSIBILITY FOR CLEANUP OF REGULATED SUBSTANCES AND LIABILITY FOR DAMAGES (§14-253); FEES (§14-256); ESTABLISHING APPENDIX N CONSISTING OF THE WELLFIELD PROTECTION ZONE MAPS: PROVIDING FOR CONFLICTS, SEVERABILITY, CODIFICATION. SCRIVENER'S ERRORS AND AN EFFECTIVE DATE.

WHEREAS, Florida Statutes Section 125.01(1)(h) authorizes counties to establish, coordinate, and enforce zoning regulations necessary for the protection of the public; and

WHEREAS, the Board of County Commissioners adopted the Lee County Land Development Code, which contains regulations applicable to the development of land in Lee County; and

WHEREAS, Florida Statutes, Chapters 376 and 403, Part VI, require the County to establish rules and procedures for the protection of public drinking water supplies from contamination by all manner of pollutants; and

WHEREAS, Florida Statutes §163.3202(2)(c) requires local land development codes to provide specific regulations implementing Comprehensive Plan provisions to provide for the protection of potable water wellfields; and

COMMUNITY DEVELOPMENT

DCI 2019-00018

WHEREAS, Goal 24 of the Lee County Comprehensive Land Use Plan (Lee Plan) mandates that the County maintain clear, concise, and enforceable development regulations that fully address on-site and off-site development impacts, yet function in a streamlined manner; and

1

WHEREAS, the Board of County Commissioners of Lee County, Florida, adopted the Lee County Wellfield Protection provisions in order to protect existing public potable water supply wells from the potentially irreversible and adverse effects of bacterial and chemical contamination from abandoned wells and sanitary hazards; and to control the storage, handling and use of hazardous or toxic substances within certain distances from wellfields; and

WHEREAS, Goal 63 of the Lee Plan requires the County to protect the groundwater supply from activities that have the potential to degrade or deplete the supply; and

WHEREAS, Lee Plan Policies 14.5.3, 24.1.9, 52.1.1 and 110.6.2 require County staff and private citizen committees to review existing development regulations to determine whether the regulations can be further fine tuned and streamlined in order to meet the goals, objectives and policies of the Lee Plan; and

WHEREAS, the Land Development Code Advisory Committee was created by the Board of County Commissioners to explore amendments to the Land Development Code; and

WHEREAS, the Land Development Code Advisory Committee has reviewed the proposed amendments to the Code and recommended their adoption; and

WHEREAS, the Executive Regulatory Oversight Committee reviewed the proposed amendments to the Code and recommended their adoption; and

WHEREAS, the Local Planning Agency reviewed the proposed amendments on September 24, 2007, and found them consistent with the Lee Plan, as indicated.

NOW, THEREFORE, be it ordained by the Board of County Commissioners of Lee County, Florida, that:

SECTION ONE: AMENDMENT TO LEE COUNTY LAND DEVELOPMENT CODE CHAPTER 14

Lee County Land Development Code Chapter 14, Article III is hereby amended as follows with deleted text identified by strike through and added text identified by underlining.



COMMUNITY DEVELOPMENT DCI 2019-00010

2

.1

Chapter 14

ENVIRONMENT AND NATURAL RESOURCES

ARTICLE III. WELLFIELD PROTECTION

DIVISION 1. GENERALLY

Sec. 14-201. Statutory authority; scope of article.

(a) Pursuant to the authority granted by F.S. ch. 125 and F.S. § 163.3202(2)(c), the standards, rules and regulations set forth in this article have been promulgated and approved by the Board of County Commissioners and apply to all abandoned wells and to certain public utility potable water supply wellfields in the unincorporated area of the county unincorporated Lee County.

(b) The regulations set forth in this article apply to all areas surrounding a wellfield and designated as wellfield protection zones on the adopted protection zone map.

Sec. 14-202. Purpose and Intent of article.

(a) In order to properly protect certain existing potable water supply wellfields in the within unincorporated area of the county Lee County, the Board of County Commissioners declares that the storage, handling, use or production of hazardous substances or, toxic substances or sanitary hazards and the location of abandoned wells in close proximity to public utility potable water supply wells is potentially harmful to the drinking water of the county, and that abandoned wells and certain land uses and activities involving hazardous <u>substances</u>, or toxic substances <u>or sanitary hazards</u> are hereby prohibited or regulated within certain defined protection zones around public utility potable water supply wellfields in the unincorporated area of the county.

(b) The intent of this article is further to safeguard the public health, safety and welfare of the residents of the county by providing criteria for the regulation of activities which that may allow the entrance of brackish water into identified protection zones surrounding existing welfields, and prohibiting or regulating hazardous <u>substances</u> or toxic substances <u>or sanitary hazards</u> within identified protection zones surrounding such welfields, thereby protecting existing public potable water supply wells from contamination. The provisions of this article apply only to the unincorporated areas of the county.

(c) This article is intended to supplement the rules and regulations promulgated by the State and Federal government concerning groundwater supplies, wellheads, public drinking water, potable water, monitoring, sanitary hazards and similar public water supply provisions. These regulations include, but are not limited to: Florida Administrative Code Chapters 5E-2, 5E-9, 40E-3, 62-521, 62-522, 62-550, 62-555, 62-610, 62-730, 62-731 and 62-761; Code of Federal Regulations Title 40, Chapter I, Subchapter D - Part 122, Subchapter I- Part 261, and Subchapter J - Part 302; and Florida Statutes Chapter 376.

3

NOV 27 2019

COMMUNITY DEVELOPMENT

(d) The purpose of this article is to provide protection to potable water wellfields that are permitted to pump a minimum of 1,000,000 gallons of water per day.

Sec. 14-203, Definitions.

the set

The following words, terms and phrases, when used in this article, have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Aquifer means an-underground-water-bearing a geologic formation, sufficiently group of formations, or a part of a formation, containing sufficient saturated permeable material to yield useful quantities of ground water to wells, and springs, or surface water (see rule-17:21:020(12) Rule 40E-3.201(3), and the Lee County Well Code 62-520.200(2), Florida-Administrative-Gode F.A.C.).

Division means the division of natural-resources-management of the county Lee County Natural Resources Division (NRD), and any succeeding agency entity authorized to perform similar functions or duties.

EP (extraction-procedure)-toxic-material-means a substance determined to be toxic as defined-under the EPA Resource-Conservation and Recovery Act-criteria-(40-GFR 261-24):

F.A.C. means the Florida Administrative Code.

Groundwater means the water below that occurs below the land surface in a zone wherein all of the interstices are filled with water (see 17-28.120(33); Florida Administrative Code); where the pore spaces in the subsurface formations are fully saturated and under atmospheric or greater pressure.

Monitor well (also known as an observation well) means a well used primarily to monitor hydrologic parameters such as water levels or water quality (see <u>F.A.C.</u> rule 40E-3.021(19), Florida-Administrative Code).

Pollutant means the presence in the outdoor atmosphere or waters of the state of any substances, contaminants, noise, or man-made or man-induced alteration of the chemical, physical, biological, or radiological integrity of air or water in quantities or levels that are or may be potentially harmful or injurious to animal or plant life, human health or welfare, or property, including outdoor recreation. (See Rule 62-520.200 (13), F.A.C.)

Proposed public water supply well means a well not yet constructed but either identified in a water use permit application submitted to the South Florida Water Management District (SFWMD) or identified in an existing water use permit granted by the SFWMD.

Protection zone maps means maps showing the location on the ground of the outer limits of protection zones for present public utility potable water supply wells and wellfields NOV 2.7 2019

4

COMMUNITY DEVELOPMENT

20 19-00 018

which that are permitted to pump a minimum of 1,000,000 gallons of water per daymore. The Florida-Citles-Waterway Estates Wellfield are not being included within the protections established by this article or depicted on the protection zone maps.

Public potable water supply wellfield with the exception of the Florida Citles Waterway Estates Wellfield, means a tract of land containing a well (or group of wells) for which that is the subject of a consumptive use permit has been issued by the South Florida Water Management District, which are is in use and are providing water for public consumption; and, which are is the subject of an agreement between the county and the public utility operating the well (or group of wells) whereby the utility contributes its pro rata share of the administration and enforcement costs of this article. For brevity, the term "wellfield" refers to a public potable water supply wellfield.

<u>Sanitary hazard means a physical condition that involves or affects any part of a</u> <u>drinking water system or the raw water source, and that creates an imminent or potentially</u> <u>serious risk to the health of any person who consumes water from that system. (See F.A.C.</u> <u>Rule 62-550.200(75)).</u>

Toxic substances or material means a hazardous wastes as defined in chapter 47-736 62-730.020, Florida-Administrative-Gode 40 CFR 261.3; hazardous substances as defined in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, PL-96-510, 94-Stat. 2767 40 CFR 302; a pollutant as defined in F.S. ch. §376:031(16); a substance which that is or is suspected to be carcinogenic, mutagenic, teratogenic or toxic to human beings, or to be acutely toxic as defined in rule 17-3:021(1); Florida-Administrative-Gode F.A.C. Rule 62-302.200(1); or a substance which that poses a serious danger to the public health, safety or welfare-(see-rule-17-7510(35), Florida Administrative-Gode).

Well means any excavation that is drilled, cored, bored, washed, driven, dug, jetted or otherwise constructed when the intended use of such the excavation is to conduct groundwater from a source bed to the surface, by pumping or natural flow, when groundwater from such the excavation is used or to be used intended for use in a public utility potable water supply wellfield system (see F.A.C. Rule 47-7510(35) 62-550.200(104), Fforida-Administrative-Gode).

The balance of the definitions remain unchanged.

Sec. 14-205. Conflicting provisions.

Whenever the requirements or provisions of this article are in conflict with <u>or less</u> <u>restrictive than</u> the requirements or provisions of any other lawfully adopted ordinance or statute, the more restrictive requirements apply.

Sec. 14-206. Effective date of article; retroactive application to existing activities.

The requirements and provisions of this article will-apply immediately upon the effective date of this article to all existing activities regulated under this article in the within

NOV 2 7 2019

COMMUNITY DEVELOPMENT

001 20 19-00 018

unincorporated-area-of-the-county Lee County and relate back to September 1, 1989. Existing activities include all activities that were issued a <u>approved by the County under</u> <u>a valid</u> building permit or occupational license or for which a completed building-permit-or occupational-license application was filed and accepted by the appropriate-department or jurisdiction-on-or-after September 1, 1989.

Sec. 14-207. Sunset-provision; Reserved.

(a) The Board of County Commissioners has adopted this article for the purpose of providing-interim protection to existing-potable-water wellfields which are permitted to pump 1,000,000-gallons of water or more-per-day. The county-is-a member of the Lee County-Regional Water Supply Authority. The authority has been established as an independent special district in part to ensure the protection of the public potable-water supply. Potable water wellfields make up a portion of the available public potable water supply. In adopting this article, the board has taken the first step in the establishment of the authority and in providing an overall program for the protection of the public water supply. This article is conceived as a part of that program.

(b) In-order-to-ensure-that-the-wellfield-protection-efforts-of-the-county-are incorporated into any overall-program-to-protect the public potable water supply. This article will-remain in-full-force-and-effect until the board-adopts-an-ordinance-repealing these-provisions either-expressly-or-by-implication.

Sec. 14-208. Applicability of article.

(a) This article only applies to a particular land use or activity, whether that land use or activity is classified as a residential or commercial use, when:

- (1) The aggregate sum of all quantities of any one regulated substance on a given parcel or in a certain building exceeds 110 gallons if the substance is a liquid, or 1,110 pounds if the substance is a solid; or
- (2) No single substance exceeds the limits referenced in subsection (a)(1) of this section but the aggregate sum of all regulated substances present on a given parcel or in a given building exceeds 110 gallons if the substances are liquids, or 1,110 pounds if the substances are solids.

(b) Where regulated substances are dissolved in or mixed with nonregulated substances, only the actual quantity of the regulated substance present will be used to determine compliance. Where a regulated substance is a liquid, the total volume of the regulated substance present in a solution or mixture of the substance with other substances will be determined by volume percent composition of the regulated substances.

(c) This article applies to all storage facilities for petroleum products which are not regulated by F.S. §376.317 or <u>F.A.C.</u> chapters 47*61 62-761 and 62-762. Florida Administrative-Gode.

NOV 2 7 2019

COMMUNITY DEVELOPMENT DCI 2019-00018

6

(d) This article applies to sanitary hazards.

Sec. 14-209. Exemptions from article.

General exemption. Certain existing or proposed public and quasipublic land (a)uses and activities may be declared exempt from the provisions of this article by the Board of County Commissioners. This exemption will be granted only upon a finding made by the board in a public meeting that the existing or proposed land use or activity serves an overriding public need which overrides the Intent and purpose of this article and that it would be economically impractical or scientifically impossible for the land use or activity to comply with the requirements of this article or be relocated to an area outside of the protection zones established by this article. When declaring such an exemption, the Board of County-Commissioners will-limit-the-exemption-to-the-extent-necessary-to-enable-the existing or proposed public or quasipublic land-use or activity in question to be conducted within a protection zone while still serving the intent and surpose of this article to the extent which is economically practical and scientifically possible. The As a basis for granting the exemption, the board may attach any impose conditions to the grant of any exemption that it-deems appropriate on the proposed land use or activity that are designed to ensure compliance with the provisions of this article to the greatest extent possible.

(b) Special exemptions. The following activities or uses are exempt from the provisions of sections 14-214(a)(2), 14-214(b)(2), 14-214(c)(2) and 14-214(d)(2):

- (1) Application of pesticides. The application of those regulated substances used as pesticides, herbicides, fungicides and rodenticides in recreation, agriculture, pest control and aquatic weed control activities will be is exempt from the provisions of this article provided that:
 - Application of the substance must be is in strict conformity with the use requirement as set forth in the EPA registry for that substance and as indicated on the containers in which the substances are sold;
 - b. The application must be is in strict conformity with the requirements as set forth in F.S. chs 482 and 487, and <u>F.A.C</u>. chapters 5E-2 and 5E-9, Florida Administrative Code;
 - c. The application of any-of-the pesticides, herbicides, fungicides and rodenticides will-be is flagged in the records of the certified operator supervising the use. The certified operator must provide specific notification-in-writing written notice to the applicators under his supervision indicating that they are working at a site located in protection zone 1, 2, 3, or 4, for which and particular care is required. Records will must be kept of the date and amount of those regulated substances applied at each location..., and the These records will must be available for inspection at reasonable times by the division; and

NOV 27 2019

COMMUNITY DEVELOPMENT

20 19-00 018

7

- d. All nonresidential applicators of pesticides, herbicides, fungicides and rodenticides-who-apply-those-applying regulated substances must obtain an <u>a single</u> operating permit covering all application operations under one permit for using those regulated materials and comply with all the requirements as set forth in-the-regulations-promulgated pursuant to this article.
- (2) Continuous transit. The transportation of any regulated substance will be is exempt from the provisions of this article provided that;
 - The transporting motor vehicle is in continuous transit as defined in section 14-203; or
 - b. The transport of such regulated substances through existing permanent pipelines within zones 1, 2 and 3 is in accordance with the applicable regulations applicable to protection zone 1, 2, and 3 requirements within-those respective zones. In protection zone 4 such transport activity is exempt provided that the currently authorized the permitted uses and activities are not changed and provided that the leak detection and monitoring procedures as approved by the division are employed.
- (3) through (6). No change.
- (7) Construction activities. Constructing, repairing or maintaining any The construction, repair or maintenance of a facility or improvement on-lands within any protection zone-and earth mining within any protection zone-will be is exempt from the provisions of this article provided that all contractors, subcontractors, laborers, material men and their employees using, handling, storing or producing regulated substances within any protection zone-use the applicable best management practices provided set forth in section 14-217. No operating permit is required.

(c) Administrative exemption. Any person affected by this article may petition the division for an administrative exemption from the prohibitions and monitoring requirements, of this article, provided that the person demonstrates by a preponderance of The petition must set forth competent, substantial evidence that indicating: (1) special or unusual circumstances exist that support a walver of the prohibition or monitoring requirements; and, (2) and adequate the technology exists that will be employed to isolate the facility or activity from the potable water supply in the event of a spill. In-granting an The grant of an administrative exemption, the division may attach any appropriate-include conditions and safeguards which are the division deems necessary to protect the wellfield.

Sec. 14-210. Vested rights.

÷ .

(a) Notwithstanding any provision of this article to the contrary, any proposed or existing land use or activity which has that obtained county approval prior to September

8

NOV 2 7 2019

20.19-00 018

1, 1989, will be allowed to may develop consistent with the development approval only after provided an operating permit for the land use or activity has obtained an operating permit is issued and remains viable. For purposes of applying this section, only the following approvals will be considered:

- (1) A final development order;
- A certificate of occupancy;
- A general excavation permit;
- (4) A building permit; or
- A certificate of completion.

The judicially recognized standards of equitable estoppel will be applied to determine if a development should will be allowed to develop consistent with prior development approval.

(b) Mining operations which have that received development approvals prior to the effective date of this article <u>September 1, 1989</u> will be permitted to continue with the previously approved phased activities so long as the activities are consistent with the prior approvals <u>granted prior to September 1, 1989</u>, the approval remains viable, and no excavation occurs within 500 feet of a wellhead. Development approvals for mining include having obtained zoning approval either as an IPD or as a special exception to <u>in</u> the AG-2 zoning district, in addition to any other approvals listed in subsection <u>section 14-211(a) of this section</u>.

(c) To the extent that an approved development can obtain any oOperating permits consistent with this article without conflicting with the for specific uses or development based upon design and construction specifications approved prior to the effective date of this article September 1, 1989, full compliance with the operating permit requirements will be required must be consistent with the provisions of this article.

Sec. 14-212. Protection zone maps.

i, i giri

(a) Adoption. The protection zone maps, contained in appendix N, have been developed by the county and are hereby adopted by reference and made a part of this article. The official protection zone maps will be placed are on file at the division office. Reproductions of the maps will be made are available for sale a fee at the division offices; the office of land information services or other appropriate county agency. The protection zone maps are based on groundwater modeling performed by Water Resource Solutions. Inc. and presented in a report titled "Lee County Utilities Supporting Decumentation for the Wellfield Protection Ordinance Updated" dated March 2005 and revised April 2007.

9

NOV 27 2019

COMMUNITY DEVELOPMENT

DCI 2019-00018

(b) Interpretation of zone designation. To determine the location of properties and buildings within the <u>a particular</u> protection zones delineated on the protection zone maps, the following rules will apply:

- Properties located wholly within one protection zone, as depicted reflected on the applicable protection zone maps, are be governed by the restrictions applicable to that zone.
- (2) Properties having parts lying within more than one zone, as reflected <u>depicted</u> on the applicable protection zone maps, are governed by the restrictions applicable to the protection zone in which each <u>that</u> part of the property is located.
- (3) Where a travel time contour which <u>that</u> delineates the boundary between two protection zones passes through a building, the entire building is considered <u>deemed</u> to be in the more restrictive zone.
- (4) Where the <u>a</u> building or portion thereof is overlapped by protection zones of different wells or wellfields, the most restrictive regulations apply.
- (5) Where a property or portion thereof is overlapped by protection zones of different wells or wellfields, the most restrictive of the regulations will-prevail over-the-overlapped-area <u>apply</u>.
- (6) Where the protection zone boundary intersects an open waterbody, the boundary will be extended to include the entire limits of that waterbody.

(c) Annual <u>Periodic</u> review. The protection zone maps will be reviewed-at-least annually by the division <u>at least every three to five years unless changes within a protection</u> <u>zone warrant earlier review of the zone maps.</u> Any <u>aA</u>mendments, additions or deletions to the mapsmust <u>will</u> be approved by the Board of County Commissioners as amendments to this article. Copies of the maps will be made available to the appropriate-divisions of the county-and-to-the county health-department, the Southwest Florida Regional Planning Council, the South Florida Water Management District and any other agency requesting the maps-<u>public and reviewing entities upon request</u>. The basis for amending the maps may include but is not limited to the following:

- Changes in the technical knowledge concerning the aguifers of the county.
- (2) Changes in the pumping rate of wellfields.
- (3) Wellfield reconfiguration.

۰.

1 1

(4) The addition of new wells to a wellfield.

(5) Approval by the Board of County Commissioners of additional welling

10

COMMUNITY DEVELOPMENT

NOV 2.7 2019

DCI 2019-00018

Sec. 14-213. Regulated hazardous or toxic substances and sanitary hazards.

Regulated substances include, but are not limited to, those deleterious substances and contaminants which that have one or more of the following characteristics:

- (1) Substances, including degradation and interaction products, which because of quality, concentration or physical or chemical characteristics (including lgn!tability, corrosivity, reactiveness and toxicity), infectious characteristics, radioactivity, mutagenicity, carcinogenicity, teratogenicity, bioaccumulative effect, persistence (nondegradability) in nature, or any other characteristic relevant to a particular material. <u>that</u> may cause significant harm to human health or the environment, including surface water and groundwater, plants or animals;
- (2) Those s Substances set forth in the following tists, as amended from time to time: Lists of Hazardous Waste (Identified as hazardous under 40 CFR part 261, subpart D); 40 CFR 261, Appendix VIII-Hazardous Constituents; and EPA-Designation Reportable Quantities and Notification-Requirements for Hazardous Substances Under CERCLA (and 40 CFR 302);
- Exhibit any of the characteristics of ignitability, corrosivity, reactivity or toxicity as identified in 40 CFR 261.20-261.24;
- (4) Are priority toxic pollutants listed in 40 CFR 422.24 129 by the EPA;
- (5) Contain a degradation product which is toxic, including petroleum-based products;
- (6) Are restricted-use pesticides, as that term is used in F.S ch. 487, and which are-listed in <u>F.A.C.</u> chapters 5E-2 and 5E-9, Florida-Administrative-Code;
- (7) Contain bracklsh or saline water which that contains total dissolved solids in excess of 1,000 parts per million and chlorides in excess of 500 parts per million; or
- (8) Are raw or partially treated sewage; or
- (9) Sanitary hazards.

Sec. 14-214. Prohibited and regulated activities within protection zones.

- (a) Protection zone 1.
- Prohibitions. Except as provided in section 14-209, the following land uses or activities are prohibited in protection zone 1;

NOV 2 7 2019

COMMUNITY DEVELOPMENT ART 2019-00018

11

- a. The use, handling, production or storage of regulated substances associated with land uses or activities regulated by this article in quantities greater than those set forth in section 14-208(a).
- b. Wastewater effluent disposal, except for public access reuse of reclaimed water and land application under the conditions set forth and as-defined in <u>F.A.C.</u> chapter 47-649 <u>62-610</u>, part III, Florida Administrative-Gode. Where public access reuse is permitted the chloride content must be no greater than 500 milligrams per liter.
- c. Liquid waste disposal.
- d. Solid waste disposal,
- e. Earth mining within a 500-foot radius of an existing wellhead.
- (2) Regulations.
 - a. Except as provided in section 14-209, all persons who engage in land uses or activities regulated under this article who store, handle, use or produce any of the regulated substances (excluding partially treated sewage from residential septic tank systems) within protection zone 1, in quantities greater than those set forth in section 14-208(a), will cease to do so within 90 days of the effective date of this article pursuant to the prohibitions set forth in this article, unless such persons obtain an operating permit authorizing the continuation of such land use or activity within the 90-day deadline. A closure permit (see section 14-245) will otherwise be obtained from the division and a timetable for discontinuance and closure must be submitted to the wellfield protection officer in accordance with the requirements of this article;

Except as provided in section 14-209, land uses or activities involving the storage, handling, use or production of regulated substances in quantities greater than those set forth in section 14-208 are prohibited within protection zone 1 unless an operating permit for the prohibited activity, issued on or before September 1, 1989, remains viable.

۶.,

- b. The owners of any sanitary sewer, force main, gravity sewer or lateral must notify the division of any break in the sewer lines within 24 hours of discovering such a break discovery. The purpose of this requirement is to allow the division to monitor repairs to the line and any necessary cleanup activities.
- c. Any sStormwater or surface water discharges within this protection zone will must conform to existing South Florida Water Management

NOV 2 7 2019

COMMUNITY DEVELOPMENT

DCI 2019-00018

12

District and state department of environmental protection rules, as they may be amended or replaced.

- (b) Protection zone 2.
- Prohibitions. Except as provided in section 14-209, the following land uses or activities are prohibited in protection zone 2:
 - a. The use, handling, production or storage of regulated substances associated with activities regulated by this article in guantities greater than those set forth in section 14-208(a).
 - b. Wastewater effluent disposal, except that-public access reuse of reclaimed water and land application under the conditions set forth and as defined in <u>F.A.C.</u> chapter 47-610 <u>62-610</u>, part III, Florida Administrative-Code, will-may be permitted. Where public access reuse is permitted the chloride content will may be no greater than 500 milligrams per liter.
 - c. Liquid waste disposal.
 - d. Solid waste disposal.
 - e. Earth mining within a 500-foot radius of an existing wellhead.
- (2) Regulations. Except as provided in section 14-209, all persons who engage in land-uses or activities regulated under this article who store, handle, use or produce any of the regulated substances (excluding-partially-treated sewage from residential septic tank systems), or who own or undertake any of the activities regulated under this article will cease to do so within 90 days of the effective date of this article pursuant to the prohibitions set forth in this article, unless such persons obtain an operating permit authorizing the continuation of such land-use or activity within the 90-day deadline. A closure-permit will otherwise be obtained from the division and a timetable for discontinuance and closure must be submitted to the wellfield protection officer in accordance with section 14-245.

a. Except as provided in section 14-209. land uses or activities involving the storage, handling, use or production of regulated substances in quantities greater than those set forth in section 14-208 are prohibited within protection zone 2 unless an operating permit for the prohibited activity, issued on or before September 1, 1989, remains viable or, an administrative exemption is granted under section 14-208 to allow issuance of an operating permit under section 14-244.



. ..

13

COMMUNITY DEVELOPMENT
- b. Any s-Stormwater or surface water discharge within this protection zone will <u>must</u> conform to existing South Florida Water Management District and state department of environmental protection rules, as they may be amended or replaced.
- (c) Protection zone 3,

11

- Prohibitions. Except as provided in this article, the following land uses or activities are prohibited in protection zone 3:
 - The use, handling, production or storage of regulated substances associated with activities regulated by this article in quantities greater than those set forth in section 14-208(a).
 - b. Wastewater effluent disposal, except that public access reuse of reclaimed water and land application under the conditions set forth in <u>F.A.C.</u> chapter 17=610 <u>62-610</u>, part III, Florida-Administrative-Code will <u>may</u> be permitted. Where public access reuse is permitted the chloride content must be no greater than 500 milligrams per liter.
 - c. Liquid waste disposal.
 - d. Solid waste disposal.
- (2) Regulations.
 - a. Except as provided in section 14-209, all persons in protection zone 3-who-store; handle, use or produce any-land uses or activities involving the storage, handling, use or production of regulated substances on the effective date of this article, or any new land use or activity established thereafter, may continue to do so in accordance with the provisions and exemptions set forth in this article upon obtaining an occurring within protection zone 3 must be conducted in accordance with a valid operating permit issued pursuant to section 14-244.
 - b. Within 90-days of the effective date of this article, all land-uses or activities regulated by this article and located within protection zone 3-will-make application for an operating permit from the division in compliance with the provisions of this article. Activities requesting an administrative exemption (see section 14-209(c)) or a closure permit (see section 14-245) will have a period of 120 days from the effective date-of-this-article-to-make application. If after 180 days all the requirements necessary for the issuance of an operating permit have not been completed and the applicant has made a diligent effort on so, an operating permit may be issued contingent on compliance by

14

COMMUNITY DEVELOPMENT DCI 2.0 19-00 018

NOV 2 7 2019

a-date-certain. All operating permits must be renewed annually and will be subject to the conditions set forth in section 14-244.

- <u>c.</u> Any-sStormwater or surface water discharged within this protection zone will <u>must</u> conform to existing South Florida Water Management District and state department of environmental protection rules, as they may be amended or replaced.
- (d) Protection zone 4.
 - (1) Prohibitions. Except as provided in section 14-209, any all activity-regulated by this article which stores, handles, uses or produces any involving the storage, use, handling or production of a regulated substance in quantities greater than those set forth in section 14-208(a), which does not obtain a valid-operating-permit-as-set-forth-in-section 14-244, is prohibited in protection zone 4, unless a valid operating permit is obtained in accordance with section 14-244.
 - (2) Regulations.
 - a. Except as provided in section 14-209, any land uses or activity activities involving the storage, handling, production or use of regulated substances in protection zone 4, in-existence on the effective date of this article, or any new land use or activity established thereafter, must obtain an <u>be conducted in accordance</u> with a valid operating permit issued pursuant to section 14-244.
 - b. Within-90 days of the effective date of this article, all persons who engage-In-land uses or activities regulated by this article within protection zone-4 who store; handle, use or produce any regulated substances will obtain an operating permit from the division and will comply with the provisions of this article and the regulations promulgated pursuant to this article. All operating permits must be renewed annually.
 - c. Any s Stormwater or surface water discharged within this protection zone will <u>must</u> conform to existing South Florida Water Management District and state department of environmental protection rules, as they may be amended or replaced.

(e) <u>Sanitary Hazard Zone</u>. Sanitary hazards are prohibited within a 100 foot radius around an existing or proposed public water supply well.



COMMUNITY DEVELOPMENT

Sec. 14-215. Abandoned wells.

1 1 1

(a) The division will initiate a program that will result in the plugging of any wells that have been abandoned and that lie within the ten-year travel-time of any well or wellfield protection zone as well as the Mid-Hawthorne Aquifer-System. The program will include:

- (1) An inventory, to be conducted by the division, of all known abandoned or outof-use-wells-lying-within-the-ten-year-travel-time-of-any-well-or-wellfield regulated-by-this-article-in-the unincorporated area of the county.
- (2) A procedure for notifying by registered mall the owners of properties within whose boundaries such abandomed wells are located. The property owners will be notified within 30 days of the discovery of such wells. The letter of notification will include but not be limited to the following:
 - a. ----Notice that an abandoned well exists on his properly and that the county plans to properly plug the well.
 - b: Approximate dates during which the county will plug the well and that county staff will require access to the property.

(b) Abandoned wells on any property lying within the ten-year travel time zone of any well regulated by this article will be <u>physically</u> plugged in accordance with the provisions of <u>Lee County</u> Ordinance No. 87-7 of the county, as amended, renumbered or replaced <u>06-09</u>, section 9.3.4.

Sec. 14-216. Criteria for establishing protection zones.

- (a) No change.
- (b) The protection zones indicated on the protections zone maps are the planar geometric union of the largest of the travel time protection zones determined as follows:
 - (1) through (4) No change.
 - (5) Lower Hawthome (Floridan) aquifer system. Lower Hawthome tenyear: The land situated between existing or proposed water supply wells and the ten-year travel time contour.

DACI

NOV 2 7 2019

COMMUNITY DEVELOPMENT 2019-00018

(c) The aquifers referenced in this article are identical to those listed in the report titled "Final-Report, Wellfield-Protection-Modeling, Lee County; Florida;" Camp, Dresser and McKee, Inc., November 1987. "Lee County Utilities Supporting Documentation for the Wellfield Protection Ordinance Update" Water Resource Solutions, March 2005 and updated April 2007.

16

Sec. 14-219. Aquifer storage and recovery wells.

The installation of a water supply well is prohibited within 500 feet of an existing or permitted aquifer storage and recovery well, unless confinement exists between the production zone of the water well and the storage/production zone of the aquifer storage and recovery well.

DIVISION 2. ADMINISTRATION AND ENFORCEMENT

Sec. 14-241. Authority and duties of division-of-natural-resources-management <u>Natural Resources Division</u>.

(a) The division of natural resources management <u>Natural Resources Division</u> will administer and enforce the provisions of this article.

- (b) The division will perform the following duties:
- The division director will recommend revisions and amendments to this article as necessary.
- (2) The division will make continuing studies and periodic reports and recommendations for the improvement of wellfield protection controls throughout the unincorporated area of the county, and work in cooperation with federal, state and local agencies and groups interested in the field of wellfield protection.

(3) through (7) No change.

Sec. 14-245, Closure permit.

(a) Required Information: Closure permit applications must provide the following information:

 A schedule of events to complete the closure of land use or activity that does or did store, handle, use or produce regulated substances. As-a <u>At</u> minimum, the application will <u>must</u> address the following:

a, through c. No change.

(2) and (3) No change.

(b) through (d) No change.

· · · ·



COMMUNITY DEVELOPMENT

DCI 2019-00018

Sec. 14-246. Bond.

(a) Upon adoption of an appropriate county administrative code, no permit required under this article will be issued unless there is filed at the time of application, except in the case of an application by a political subdivision or agoncy of the state, a cash bond, rate bond or letters of credit with a corporate As a condition of permit issuance, the division may require a surety, in the form of a performance bond, letter of credit or escrow agreement, in an amount required by that code deemed appropriate by risk management or the division to ensure that:

- (1) The permittee will operate its activities or closure of such activities, as applicable, in accordance with the conditions and requirements of this article and permits issued under this article.
- (2) The permittee will reimburse the county for any and all expenses and costs which the county incurs as a result of the permittee failing to comply with the conditions and requirements of this article.

(b) Before a bend-or-letter of credit is accepted by the division as being in compliance with this section, the <u>A</u> bond or letter of credit must be reviewed and approved by the county attorney's office and then be filed with the clerk of the Board of County Commissioners prior to issuance of the permit.

(c) The bond or letter of credit required by this section must be kept in full force and effect for the term of the permit and for plus one year after voluntary cessation of activities permitted under this article or expiration or revocation of the permit. Failure to keep a bond or letter of credit in full force and effect as required in this section is grounds for revocation of the underlying permit or exemption and may result in a fine against the property or violator.

Sec. 14-249. Reconstruction of damaged facilities.

Latter and

(a) Reconstruction of any portion of a structure or building in which there is any accommodating a land use or activity subject to the provisions of this article and which is damaged by fire, vandalism, flood, explosion, cellapse, wind, war or other catastrophe must be in strict conformity compliance with this article. This requirement will be imposed whether the damage was caused by fire, vandalism, flood, explosion, hurricane, wind, war or other catastrophe.

(b) Within 90 days of the receipt of written notice from the division, all existing land uses or activities regulated by this article which that use, handle, store or produce regulated substances will <u>must</u> file an application for an operating permit. Any such <u>If the</u> land use or activity which fails to apply for an operating permit <u>within the 90 day time frame</u>, then an application will file for a closure permit or exemption <u>must be filed</u> within 129 days of the receipt of written notice from the division. The permit application must be prepared and signed by a professional engineer registered in the state or professional geologis.

18

COMMUNITY DEVELOPMENT

OCI 2019-00018

licensed in the state. Within 30 days of receipt of the notice from the division, the owner or operator will must file with the division-proof of retention of the engineer or geologist. If application is made for an operating permit, such the permit will be issued of or denied within 60 days of the filing-of the completed after a complete application is filed. If the application for an operating permit is denied, then the activity must cease within 12 months of the denial and an application for a closure permit will must be filed with the division within 120 days of the denial of the operating permit.

Sec. 14-250. Exceptions to permit requirements.

(a) Eligibility. Activities with adequate technology to isolate the land use or activity from the potable water supply and protect the wellfield may apply for a special exception from the operating or closure permitting requirements of this article.

- (b) Procedure for granting exception.
- (1) Application generally.
 - a. A special exception application claiming special or unusual circumstances and adequate protection technology may be filed with the division. It will <u>must</u> be signed by the applicant and a professional engineer registered in the state or a professional geologist licensed in the state.
 - b. Such application-will <u>Applications must</u> contain a concise statement by the applicant detailing the circumstances which the applicant feels would entitle him to a special exception.
 - c. A <u>The application must be accompanied by the appropriate</u> fee as determined by the applicable administrative code must be filed with the application to defray the costs of processing such application.
- (2) Contents of application. The application for a special exception must contain but is not be limited to the following elements:
 - a. The application must include a A description of the situation at the site requiring isolation from the wellfield, including:
 - A list of the regulated substances in use at the site.
 - A <u>clearly legible</u> site plan of the facility, including <u>drawn at an</u> <u>appropriate scale and detailing</u> all storage, piping dispensing, shipping, etc., facilities: travel time contours as Identified on the protection zone maps; and, the limits of sanitary hazard zones.



COMMUNITY DEVELOPMENT DCI 2019-00018

19

- A description of the operations at the facility which would involve involving regulated substances which that must be isolated from the wellfields.
- The location of all operations involving regulated substances.
- A sampling and analysis of the groundwater on the site of the activity seeking a special exception, to determine if any regulated substances are already present which that constitute a threat to the water supply.
- An analysis of the affected well showing whether or not such the well is already contaminated by any regulated substances and the extent of such contamination.
- A hydrogeologist's assessment of the site, which must addressing, as-a at minimum, soil characteristics and groundwater level, groundwater directional flow and quality.
- b. The application must include a technical proposal to achieve the required isolation, including:
 - 1. The components to be used and their individual functions.
 - The system tying the components together.
 - 3. A discussion and documentation, such as published technical articles, substantiating the performance and reliability of the components individually and the system as a whole. If the system has not been field-tested, a discussion and laboratory test documentation to substantiate the proposal performance and reliability of the system must be included.
 - Details of the specific plans to install the system at the site.
- c. If the proposed system does not have a proven history of successful in-field operation, it may still be proposed using proven components. A test plan for the system as installed shall <u>must</u> be provided to provide <u>document</u> that the proposed system works in the field.
- d. The application must include a technical proposal for backup detection of regulated substances that may elude the isolation system and escapa to outside a perimeter to be established by division. Such <u>The proposal will must</u> include emergency measures to be initiated in case of escape of regulated substances.

NOV 2 7 2019

COMMUNITY DEVELOPMENT DCI 2019-00018

1.1

- Site-specific, system performance criteria must be proposed to ascertain the success of the system. Such <u>This</u> criteria will include<u>s</u>, but are-is not limited to:
 - 1. Performance.
 - 2. Reliability.
 - Level of maintenance.
 - Level of sensitivity to regulated substances.
 - 5. Effect of rain, flood, power failure or other natural disaster.
- f. The applicant must provide information on the on-site availability of substance removal technologies sufficient to remediate any the infroduction of regulated substances into the water table at the site. Where the water is removed from on-site wells during the remedial process, a plan will <u>must</u> be proposed for the disposal of such the water.
- g. A closure plan must be provided if the system does not prove successful in the testing required in this subsection.
- The application will <u>must</u> include any other reasonable information deemed necessary by division due to site-specific circumstances,
- (3) Review of application. Within 30 working days of <u>after</u> receipt of an application for special exception, the division will inform <u>notify</u> the applicant whether such the application contains sufficient information for a proper upon which to base a determination to be made. If the application is found to be insufficient not sufficient, then the division will provide to the applicant a written <u>sufficiency</u> statement, by certified mail or hand delivery, requesting the additional information required the division deems necessary for review. The applicant will inform the division within have ten working days of from the date of the written <u>sufficiency</u> statement of this intent to either furnish notify the division when the information requested will be submitted or have request that review proceed on the application processed as it stands.
- (c) Conditions.
- (1) Any special exception granted by the division will be is subject to the applicable conditions of this article and any other reasonable and necessary special conditions imposed by the division.

NOV 2 7 2019

COMMUNITY DEVELOPMENT

DCI 2019-00018-

- (2) <u>The division will issue Aan operating permit will be issued by the division with the applicable subject to the standard conditions of this article and any other reasonable and necessary special conditions imposed by the division. Such sSpecial exceptions will be are subject to revocation or revision by the division for violation of any condition of the special exception. Prior to revocation, the division will provide by first-issuing a written notice of intent to revoke or revise, sent by via certified mail, return receipt requested, or hand delivery. Upon revocation or revision, the activity will immediately be subject to the code enforcement proceedings provisions of this article.</u>
- (3) Special exceptions for <u>within</u> protection zones 1 and 2 are <u>may be granted</u> for existing activities only. No new activity will be permitted into protection zones 1 and 2 after September 1, 1989, if the new activity is regulated by this article.
- Sec. 14-252. Inspections; enforcement generally.
 - (a) Inspections.
 - (1) The county wellfield protection officer and his designated inspectors are hereby authorized and empowered to make inspections at reasonable hours of all land uses or activities regulated by this article including nonresidential buildings, structures and lands within protection zones in the county, in order to determine if regulations relating to wellfield protection and other applicable county regulations are being followed.
 - (2) As a condition of every operating permit shall-be-or special exception, the property owner grants permission for inspection of the premises by an authorized county wellfield protection officer or inspector.
 - (3) Inspections may be made without notice; and Refusal to allow such an inspection will be is sufficient grounds for revocation of the operating permit or special exception issued by the division.
 - (4) If <u>The refusal of</u> a person who has common authority over a building, structure or land does not to permit an inspection, such failure of such person to permit an inspection will be <u>will be deemed</u> sufficient grounds and probable cause for a court of competent jurisdiction to issue an administrative warrant for the purpose of inspecting, surveying or examining the premises.
 - (5) If a building, structure or land appears to be vacant or abandoned, and the property owner cannot be readily contacted in order to obtain consent for an inspection, the wellfield protection officer or inspector may enter into or upon any open or unsecured portion of the premises in order to conduct an inspection-thereof.

NOV 2 7 2019

COMMUNITY DEVELOPMENT

OCI 2019-00018

22

- (6) The wellfield protection officer or inspector will be provided with official identification and will exhibit such-this identification when making any inspection.
- (7) It will be the duty of all law enforcement officers to assist in making inspections when such assistance is requested by the wellfield protection officer or inspector.
- (b) Remedies. Whenever the wellfield protection officer or an inspector determines that there is a violation of this article, the officer or inspector will <u>may elect to</u> follow the procedures established by the county for bringing a case before the Lee County code enforcement board-or-any alternative code enforcement body adopted by the county hearing examiner or County Court. The County may also pursue any legal means available to obtain compliance including, or will seek injunctive relief as provided in section 14-254. A notice to cease a land use or activity, or a permit or an exemption issued under this article, will not relieve the owner or operator of the obligation to comply with any other applicable federal, state, regional or local codes, regulations, rules, ordinances or requirements, nor-will Further, the notice, permit or exemption will not relieve any the owner or operator of any-liability for violation of such the codes, regulations, rules, ordinances or requirements.

Sec. 14-253. Responsibility for cleanup of regulated substances; llability for damages.

Any person subject to this article will-be-is liable for any damage caused by a regulated substance present on or emanating from the person's property, for all costs of removal or remedial action incurred by the county, and damages for injury to, destruction of or loss of natural resources, including the reasonable costs of assessing such injury, destruction or loss resulting from the release or threatened release of a regulated substance. Such rRemoval or remedial action by the county may include, but is not limited to, the prevention of further contamination of groundwater, monitoring, and containment and cleanup or disposal of regulated substances resulting from the splilling, leaking, pumping, poring, emitting or dumping of any regulated substance or material which that creates an emergency hazardous situation or is expected to create an emergency hazardous situation.

Sec. 14-256. Fees.

(a) Permit fees. Prior to the issuance, renewal, <u>modification</u> or transfer of a permit or an exemption the applicant must pay a fee as set forth in the applicable county administrative code. Such <u>The</u> fee will be used to defray the cost of monitoring the compliance with this article.



COMMUNITY DEVELOPMENT

2019-00018

23

MCI

- (b) Administrative fees; service charge.
- (1) The cost of administering and enforcing this article will be borne by the public utilities owning the public potable water wellfields protected by the provisions of this article. Each utility will be assessed its pro rata share of the cost of administering and enforcing this article.
- (2) The county may create municipal service benefit units, as necessary, whereby the county may impose a service charge payable to the county as a pro rata share of the costs of administering and enforcing this article.
- (3) The service charge payment to the county for wellfield environmental protection services may be based upon a stated dollar amount per a set amount of gallons per day of the permitted maximum daily withdrawal rate capacity of the utility evidenced by permits as issued by the South Florida Water Management District or any other method deemed equitable by the county.
- (4) The service charge payable pursuant to this section must be deposited in a county fund and will be used exclusively by the county and its division of water-resources <u>Natural Resources Division</u> to pay for the costs of the wellfield protection services directed by this article, and no part of such these funds will may be used for any purpose other than the administering and enforcing of this article.

SECTION TWO: CREATION OF APPENDIX N

The Lee County Land Development Code is hereby amended to add Appendix N, to be called "Wellfield Protection Zones". The appendix will consist of the map attached as Exhibit A to this ordinance.

SECTION THREE: CONFLICTS OF LAW

Whenever the requirements or provisions of this Ordinance are in conflict with or less restrictive than the requirements or provisions of any other lawfully adopted ordinance or statute, the most restrictive requirements will apply.

SECTION FOUR: SEVERABILITY

It is the Board of County Commissioner's intent that if any section, subsection, clause or provision of this ordinance is deemed invalid or unconstitutional by a court of competent jurisdiction, such portion will become a separate provision and will not affect the remaining provisions of this ordinance. The Board of County Commissioners further declares its intent that this ordinance would have been adopted if such unconstitutional provision was not included.

NOV 2 7 2019

DCI 2019-00018

24

SECTION FIVE: CODIFICATION AND SCRIVENER'S ERRORS

The Board of County Commissioners intend that this ordinance will be made part of the Lee County Code; and that sections of this ordinance can be renumbered or relettered and that the word "ordinance" can be changed to "section", "article" or some other appropriate word or phrase to accomplish codification, and regardless of whether this ordinance is ever codified, the ordinance can be renumbered or relettered and typographical errors that do not affect the intent can be corrected with the authorization of the County Administrator, County Manager or his designee, without the need for a public hearing.

SECTION SIX: EFFECTIVE DATE

The amendments set forth in this ordinance will take effect upon filing of the ordinance with the Office of the Secretary of the Florida Department of State. However, the requirements and provisions of this ordinance relate back to September 1, 1989 in accordance with LDC Section 14-206 as stated above.

All uses and activities within the Wellfield Protection Zones, as established under this ordinance, must be brought into compliance with the amended provisions no later than December 31, 2008.

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

Robert P. Janes	Aye
Brian Bigelow	Nay
Ray Judah	Nay
Tammara Hall	Aye
Frank Mann	Aye

DULY PASSED AND ADOPTED THIS 4th day of December, 2007.



. :

BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA

NOV 2.7 2019

COMMUNITY DEVELOPMENT 1 20 19-00 018

Ray Judah/Chair

APPROVED AS TO FORM: Dawn E. Perfy-Lehnert

Office of County Attorney

SALUYORDINANCIAdopted/LDC Stand Alone amondments/07-35 Wellfeld Protection Ordinance.wpd DPL



i,

1.1

•

4.



FLORIDA DEPARTMENT OF STATE

CHARLIE CRIST Governor STATE LIBRARY AND ARCHIVES OF FLORIDA

KURT S. BROWNING Secretary of State

December 11, 2007

Honorable Charlie Green Clerk of Court Lee County Post Office Box 2469 Fort Myers, Florida 33902-2469

Attention: Lisa L. Pierce, Deputy Clerk

Dear Mr. Green:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your letter dated December 7, 2007 and certified copies of Lee County Ordinance Nos. 07-31 through 07-35, which were filed in this office on December 11, 2007.

Sincorely,

Clay

Liz Cloud Program Administrator

L.C/jru





LEGISLATIVE LIDRARY SERVICE 850.433.2812 • EAX: 850.438.9879 RECORDS MANAGEMENT SERVICES 830.245.6750 • FAX: 850.245.6795 ADMINISTRATIVE CODE AND WEEKLY ES0.245,6270 + FAN:850.245,6282 COMMUNITY DEVELOPMENT

DCI

20 19-00 018

MEMORANDUM FROM THE OFFICE OF COUNTY ATTORNEY

VIA EMAIL ONLY

DATE: June 8, 2020

To: Eileen Gabrick

FROM: Michael D. Jacob

Minutes Office Manager

Michael D. Jacob Deputy County Attorney

RE: Zoning Resolution Z-20-006, Adopted May 6, 2020 Scrivener's Error

Lee County Zoning Resolution Z-20-006, adopting the Verdana Village RPD, contains a scrivener's error on page 5. The error consists of the following:

Minimum Setbacks (Principal/Accessory) (in feet) table *110-10 feet/5 feet for secondary street setbacks on corner lots

Consequently, we respectfully request that you replace page 5 in Zoning Resolution Z-20-006 with the attached page so that it correctly reflects the text adopted by the County.

Should you have any questions concerning the above, please do not hesitate to contact me.

MDJ:tlb Attachments

1

cc via email only: Audra Ennis, Zoning Manager, DCD Jamie Baker, Administrative Specialist



RESOLUTION NUMBER Z-15-025

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

WHEREAS, Joe Cameratta, filed an application on behalf of the property owner, Resource Conservation Holdings, to rezone a 1.361.1± acre parcel from Agriculture District (AG-2) to Residential Planned Development (RPD) in reference to Corkscrew Farms; and

WHEREAS, a public hearing before the Lee County Zoning Hearing Examiner was advertised and held on September 2, 2015. On September 2, 2015, at the request of the Applicant, the Hearing Examiner continued the hearing until September 4, 2015. On September 4, 2015, the public hearing was held. At the conclusion of the hearing, the Hearing Examiner left the record open and requested Staff and the Applicant to submit written submissions to her Office on or before September 18, 2015; and

WHEREAS, the Hearing Examiner gave full consideration to the evidence in the record for Case Number DCI-2015-00004 and recommended APPROVAL of the Request; and

WHEREAS, a second public hearing was advertised and held on November 18, 2015 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 1.361.1± acre parcel from AG-2 to RPD, to allow the development of up to 1,325 dwelling units, with maximum building heights of 45 feet. A concurrent application to amend the Lee County Comprehensive Plan, Case Number CPA2015-00001, for text and map amendments was filed and approved on August 19, 2015. The proposed development will connect to public potable water and sanitary sewer service. No development blasting is proposed.

The property is located in the Density Reduction/Groundwater Resource (DR/GR) Future Land Use Category 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 consistent with the four-page Master Concept Plan (MCP) entitled "Corkscrew Farms," prepared by Barraco and Associates, Inc., last revised

8-25-15, date-stamped "Received AUG 31 2015 Community Development" and attached hereto as Exhibit C, except as modified by the conditions below. Development must comply with all requirements of the 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 MCP are subsequently pursued, appropriate approvals will be necessary.

The project is approved for a maximum of 1,325 dwelling units and 50,000 square feet total building floor area in the Clubhouse/Amenity/Mail Kiosk area. [Maximum allowable density is based on Lee Plan Policy 33.3.4(3)(a) and (c).]

2. Uses and Site Development Regulations

a. Schedule of Uses

Accessory Uses and Structures Club, private **Community Gardens** Clubhouse/Amenity Areas: Administrative Offices **Consumption on Premises Convenience Food and Beverage Store** Food and Beverage Service, limited Food Stores, Group I only Health Clubs or Spas, as part of the private club Personal Services, Group I only, including ATM Restaurant, Groups I, II, and III (including outdoor seating and service areas) Specialty Retail, Groups I and II **Boat Ramps** Boat Rentals (non-motorized) Parking lot – accessory Volleyball, tennis, pickle, and bocce courts, swimming pools, piers, playground, fire pit **Dwelling Units:** Single-Family **Two-Family Attached** Entrance Gate and Gatehouse **Essential Services** Essential Service Facilities, Group I only Excavation, Water Retention Fences, Walls Fire Station Home Occupation Model Homes, Model Display Center, Model Units Parking Lot, Accessory **Real Estate Sales Office** Recreational Facilities, Personal & Private **Residential Accessory Uses** Signs, in accordance with LDC Chapter 30 Temporary Uses, in compliance with LDC §§34-3044 & 34-3048

b. Site Development Regulations

	Single Family	Two Family Attached
Minimum Lot Width	50'	40'
Minimum Lot Depth	165'	165'
Minimum Lot Area	6,500 sf	6,500 sf
Maximum Lot Coverage	60%	70%
Maximum building Height	35'	35'
Minimum Building Setbacks:		· · · · · · · · · · · · · · · · · · ·
Front	25'	25'
Side	5'	5'/0' (*)
Rear (principal structure)	10'	10'
Rear (accessory structure)	5'	5'
Rear accessory abutting water	0'	0'
Conservation Easement	30'	30'
(primary structure)		
Conservation Easement	25'	25'
(accessory structure)		

*0-foot setback at internal lot line

	Clubhouse	Fire Station
Minimum Lot Width	100'	100'
Minimum Lot Depth	150'	150'
Minimum Lot Area	20,000 sf	20,000 sf
Maximum Lot Coverage	40%	40%
Maximum building Height	45'	45'
Minimum Building Setbacks:		
Front	25'	25'
Side	. 7.5'	10'
Rear	0'	10'
Preserve	30'	30'

3. Wildlife Crossings

Four animal crossings shown on the approved MCP internal to the project. The construction of the animal crossings must comply with the typical cross section depicted on MCP Sheet 4.

4. Protected Species Management and Human-Wildlife Coexistence Plan

The developer must submit a final Protected Species Management and Human-Wildlife Coexistence Plan with the development order application that substantially complies with the "Corkscrew Farms Protected Species Management and Human-Wildlife Coexistence Plan," dated July 2015. The final Plan and development order plans must address the following:

- <u>Lighting:</u> Lighting must comply with LDC §34-625. Lighting plans must demonstrate no light spillage into the indigenous preserve and restoration areas. Techniques to limit lighting impacts include shielding and motion sensor devices. The lighting standards must also be included in deed restrictions;
- <u>Trails</u>: The location of proposed passive trails within indigenous preserve and restoration areas must include designated trailheads with signs and educational kiosks posted with information on possible wildlife encounters and appropriate actions when encountering wildlife. Signs and educational kiosks must identify all wildlife documented in the Protected Species Survey as present or with the potential to utilize the habitat;
- <u>Signs:</u> The placement and content of signs between lakes and residential buildings warning of the presence of alligators and that it is dangerous and illegal to feed or harass alligators. The developer must also include these warnings in the deed restrictions;
- <u>Wildlife Fencing:</u> (If proposed) must meet recommendations and requirements of the Florida Fish and Wildlife Conservation Commission (FWC) and US Fish and Wildlife Service (FWS); and
- The Plan must be updated to reflect FWC and FWS requirements if permits are issued after approval of the first development order.

5. Open Space

Development order plans must reflect a minimum of 66% open space in substantial compliance with the approved MCP, except as provided below. It may be necessary to adjust lakes, roadways, building setbacks, drainage and other aspects of the project in response to government regulation and review. The percentage of open space may be reduced to address such issues at the time of permitting, but may not be less than the 60% required by the Lee Plan.

6. Platting Preserve Areas

The developer must plat preservation areas into separate tracts and dedicate those tracts to a maintenance entity that will accept responsibility for the perpetual maintenance of the preservation areas in compliance with this zoning resolution.

7. Conservation Easement

The developer must record a conservation easement over a minimum of 55% of the planned development dedicated to a maintenance entity that provides third party enforcement rights to the County or other public agency acceptable to the County.

8. Indigenous Management Plans

The developer must submit a final Indigenous Preservation, Restoration, and Management Plan with the application for development order. The final approved site plan must be in substantial compliance with the "Corkscrew Farms Indigenous Preservation,

Restoration, and Management Plan," dated July 2015, and must include the following language:

- At the time of purchase, deed holders must be placed on notice through covenants and deed restrictions that project preserve areas will be managed with prescribed burns.
- Prior to commencing prescribed burn activity, the Community Development District (CDD) or HOA must notify residents of the prescribed burn activities and provide general education material on prescribed burn management practices.

9. Storm Water Management System

The storm water management system will demonstrate at the time of development order that water leaving the development will meet state and federal water quality standards.

10. Wellfield Protection

The project must comply with the Lee County Well Field Protection Ordinance.

11. Public Water and Sewer

The project must connect to public potable water and sewer service. The project must connect to reclaimed water, if available at time of development order approval.

12. Agricultural Uses

Agricultural Uses: Existing bona fide agricultural uses are allowed:

a. The *bona fide* agricultural use of grazing in existence at the time of the zoning application may continue until the first local development order is issued for an area with that use. Row crops must be terminated upon approval of the first development order.

The existing sod farming operation may continue subject to the following:

- i. the existing area devoted to sod farming may not be expanded;
- ii. irrigation of sod is prohibited; and
- iii. existing sod may be used solely within the development.
- b. Clearing or injury of native trees and vegetation (including understory) is prohibited in areas devoted to agricultural uses. Bona fide agricultural use consisting of existing grass pasture(s) may be mowed but those areas may not be cleared or expanded. Violations of this condition will require restoration in accordance with LDC §10-423. The prohibition on clearing or expansion of agricultural use does not preclude County-approved requests to remove invasive exotic vegetation.
- c. Prior to issuance of a local development order for areas containing agricultural uses, the developer must submit written proof, subject to approval by the County Attorney's Office, of the following:

- i. Termination of agricultural uses on the property subject to the development order application/approval. Proof must include a sworn affidavit from the person or entity holding title to the property that provides:
 - (1) the date agricultural uses ceased;
 - (2) the legal description of the phase of the property subject to development order approval;
 - (3) an affirmative statement that the owner acknowledges and agrees that all agricultural uses are illegal and prohibited on the phase of the property and that the owner covenants with the County that they will not allow agricultural uses on the phase of the property until the property is re-zoned to permit agricultural uses; and
 - (4) that the affidavit constitutes a covenant between the owner and the County binding on the owner, their assignees and successors in interest.

The affidavit must be recorded in the public records of the County at the owner's expense.

ii. Proof of termination of the agricultural tax exemption on the property subject to the development order application/approval. Proof of termination must include a copy of the owner's request to terminate the tax exemption provided to the Property Appraiser.

13. Native Vegetation

Development order landscape plans must reflect 100% native vegetation for required landscaping within common elements and a minimum of 75% native vegetation for single-family lot landscaping. These planting requirements and a native plant list must be incorporated into the project's covenants and deed restrictions.

14. Vehicular/Pedestrian Impacts

- a. <u>Local Development Order</u>. This zoning approval does not address mitigation of vehicular or pedestrian traffic impacts. Additional conditions consistent with the LDC may be required to obtain a local development order.
- b. Impact Fees and Proportionate Share Payments. The development must mitigate the traffic impacts of the project and pay a proportionate share of the needed roadway improvements in accordance with Administrative Code (AC) 13-16. The proportionate share obligation may be offset consistent with AC13-16 or consistent with the terms of a County development agreement. Prior to a final determination of the proportionate share obligation, the developer may comply with this condition through an instrument recorded in the public records of Lee County requiring future property owners to pay the proportionate share.
- c. <u>Shared Use Path</u>. The developer must provide an off-road shared use bike path/sidewalk in front of each residential lot and along at least one side of every project

roadway. The shared use path must be 5 feet wide and separated from the travel lanes of the roadway. This separation from the travel lanes may be achieved by the installation of a structural curb/gutter that prevents normal vehicular traffic on the path.

- 15. <u>Lee Plan Consistency</u>. This zoning approval does not guarantee local development order approval. Future development order approvals must satisfy the requirements of the Lee Plan Planning Communities Map and Acreage Allocation Table, Map 16 and Table 1 (b).
- 16. <u>Concurrency</u>. Zoning approval does not constitute a finding that the project meets the concurrency requirements of the Lee Plan or the LDC. The developer must demonstrate compliance with concurrency requirements prior to issuance of a local development order.

17. Solid Waste Management

- a. Development order plans for vertical development must comply with the LDC and the Lee County Solid Waste Ordinance for the pick-up/disposal of solid waste and recyclables.
- b. Dumpsters and individual trash receptacles must be bear proof. Trash receptacles for residential units may not exceed 40 gallons in size and must have two handles and a tight fitting lid in accordance with the County Solid Waste Ordinance. The developer must include these requirements in the deed restrictions.

18. Entrance Gates and Gatehouses

Entrance gates and gatehouses are limited to development entrances from Corkscrew Road. Internal gatehouses to sub-neighborhoods may be allowed by administrative amendment. Gates must allow unencumbered pedestrian and bicycle movement between sub-neighborhoods and the overall development.

19. Natural Resources

- a. <u>Public Water Supply</u>. The developer must take precautions to avoid adverse impacts to the public water supply system. Excavation may not penetrate the first clay or limestone layer, whichever occurs first.
- b. <u>Pre-Treatment of Storm Water</u>. Project storm water runoff must be directed to storm water pretreatment areas consisting of dry or wet detention areas in order to provide a minimum of 0.5 inches water quality treatment prior to discharging to Water Management Lakes 1, 2, 3 or 4 on the MCP. Storm water runoff must receive 1.5 inches of water quality treatment prior to discharging offsite.
- c. <u>Function of Water Management System</u>. The developer must design the water management system to mimic the functions of a natural system. The developer must restore the natural system by establishing flow-ways on the property.
- d. <u>Discharge to County's MS4 System</u>. The developer must obtain authorization from the County Division of Natural Resources prior to discharging project storm water into the County's MS4 system.

- e. <u>Flow Way Re-establishment</u>. The developer must re-establish historic storm water flows through the property to the greatest extent practicable. Development must not exacerbate flooding on adjacent properties. The developer is responsible for providing storm water flow through the project site until the property and permits are transferred to a third party.
- f. <u>Hydrological Restoration Plan</u>. The developer must submit a Hydrological Restoration Plan with the application for the first development order. The Hydrological Restoration Plan must include backfill and restoration of manmade ditches on the property. The developer must phase backfill work to coincide with project development. A key feature of the Hydrological Restoration Plan is the re-establishment of three flow-ways to restore historic flow-ways and improve drainage patterns to the extent feasible.
 - Flow-ways must originate from the north property boundary and be directed towards proposed restoration areas as reflected in the Indigenous Preservation, Restoration, and Management Plan prepared by Passarella & Associates, Inc., dated July 22, 2015.

The Hydrological Restoration Plan must include detailed calculations and analyses for proposed flow-ways and other drainage improvements to estimate hydrologic benefits while ensuring no adverse impacts to adjacent properties.

The calculations/analyses must (1) justify input parameters and assumptions, (2) justify flow-way dimensions by calculating peak flow through each flow-way (3) compare pre- and post-development phases including peak stages, flows, and inundation (durations and frequency) for design storms (25 yr - 3 day and 100 yr -3 day) and (4) compare hydrologic conditions for wet and dry seasons.

- g. <u>Timing</u>. The developer must construct the hydrological restoration plan approved by the County coincident with construction of the storm water management system.
- h. <u>Flow-way Monitoring</u>. The developer must submit plans reflecting the design standards and a flow-way monitoring plan for review and approval by County staff prior to the approval of the first development order. Every two years, the developer and its assigns must submit a certification to Lee County Division of Natural Resources (DNR) ensuring the drainage capacity of the three flow-ways is maintained at the original design levels. The certification must be signed and sealed by a professional engineer registered in the State of Florida. The developer and its assigns must continue to blennially certify the drainage capacity of the flow-ways until the DNR determines it is no longer necessary. If drainage conditions do not meet the original design standards and cause adverse drainage impacts, the developer and its assigns must take immediate remedial measures (such as vegetation control, re-grading flow-ways and berms, etc) and report to the DNR for inspection and approval.
- i. <u>Domestic Wells Prohibited</u>. The County will not permit domestic wells on the property. The developer will ensure Lee County Utilities will be the source of potable water for the property. The developer will also ensure that irrigation will be provided via a central irrigation system using the existing lakes onsite. The Homeowner Association (HOA) documents including Declarations and Covenants must prohibit the installation of

domestic wells for potable or irrigation water. County staff will review the HOA documents to confirm the inclusion of the prohibition on domestic wells during development order review.

- j. <u>Wellfield Protection</u>. A portion of the property lies within Wellfield Protection Zones for the County public water supply. Storage, handling, use of production of certain hazardous or toxic substances within protection zones have potential for contaminating public water supplies. The HOA documents including Declarations and Covenants specify that only licensed professionals authorized by Lee County may perform activities such as the application of fertilizers, pesticides, insecticides, herbicides, nematicides, or other chemicals on the property. The developer must submit a list of Best Management Practices to address potential degradation of groundwater due to storage and use of regulated substances on site during construction and operation of the facility with the application for the first development order.
- k. <u>Lake Management Plan</u>. The developer must submit a Lake Management Plan for review and approval by County staff prior to the approval of the first development order. The Lake Management Plan must incorporate the Lake Maintenance Plan and applicable components of the Surface and Groundwater Monitoring Plan. The developer/HOA must review the Lake Management Plan annually and take necessary remedial actions, where appropriate.
- I. <u>Groundwater Monitoring Plan</u>. County staff must review and approve the developer's proposed Groundwater Monitoring Plan (level and quality) prior to approval of the first development order. The Groundwater Monitoring Plan must:
 - i. establish baseline conditions and address monitoring during construction and operation of the facility;
 - ii. be designed to protect existing wetlands and groundwater wells; and
 - iii. be incorporated into the Lake Management Plan.
- m. <u>Water Quality Monitoring Plan</u>. The proposed Surface and Groundwater Monitoring Plan must be reviewed and approved by County staff prior to approval of the first development order. The Water Quality Monitoring Plan must include the elements referenced in attached Exhibit D. The Water Quality Monitoring Plan must also include an annual assessment of water quality data, trend analysis, identification of potential issues, and recommended corrective actions for changes in the Lake Management Plan. The annual assessment must continue until the DNR determines it is no longer necessary.
- n. <u>Sanitary Sewer Setback</u>. The developer must design sanitary sewer lines to meet the setback requirements from public water supply wells set forth in Florida Administrative Code Chapter 62-532.
- <u>Dewatering</u>. The developer must ensure that dewatering effluent remains on the site. Dewatering operations may not adversely affect existing wetlands or groundwater wells.

p. <u>Community Development District (CDD)</u>. If the property is subsequently subject to the jurisdiction of a Community Development District, the District must become a co-permittee on the County's MS4 permit.

20. Development Permits

Issuance of a county development permit does not establish a right to obtain permits from state or federal agencies. Further, it does not establish liability on the part of the County if the developer: (a) does not obtain requisite approvals or fulfill obligations imposed by state or federal agencies or (b) undertakes actions that result in a violation of State or Federal law.

SECTION C. DEVIATIONS:

- <u>Water Body Setback.</u> Deviation (1) seeks relief from the LDC §34-2194(b) requirement that prohibits buildings and structures closer than 25 feet to a water body. The requested deviation would allow: 1) a zero foot lake setback for the Private Club and Personal or Private on-site Recreational Facilities in the Amenity Area; and 2) a 20 foot lake setback for accessory structures on lots abutting a lake maintenance easement. This deviation is APPROVED.
- Landscape Buffers. Deviation (2) seeks relief from the LDC §10-416(d) requirement to provide specified landscape buffering along the perimeter of a development whenever development abuts a different use. The requested deviation would allow the native landscape buffer zones depicted on the MCP to satisfy this requirement. This deviation is APPROVED, SUBJECT TO the Indigenous Preservation, Restoration and Management Plan referenced in Conditions 8 and 19.
- 3. <u>Bikeways/Walkways.</u> Deviation (3) seeks relief from the LDC §10-256 requirement to provide the construction of-bikeways/walkways within the Corkscrew Road right-of-way or to pay a fee-in-lieu of constructing the improvement. This deviation is APPROVED.

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: Water Quality Monitoring Plan

SECTION E. FINDINGS AND CONCLUSIONS:

1. The applicant has proven entitlement to the rezoning to Residential Planned Development by demonstrating compliance with the Lee Plan, the LDC, and other codes and regulations. See, Lee Plan Vision Statement Paragraph 18 (Southeast Lee County), Lee Plan Goals: 5, 33, 60, 61, 63, 77, 107, 114, 115, and 117; Objectives: 4.1, 5.1, 33.2, 33.3, and 117.2; Policies: 1.7.13, 2.1.2, 4.1.1, 5.1.1, and 33.3.4, 135.1.9; Lee Plan Maps: 6, 7, and 17; LDC §34-411(a), (c), (h) and §34-612(2).

- 2. As conditioned, the request to rezone the property to the Residential Planned Development zoning district is:
 - a. Consistent with the densities, intensities and general uses set forth in the Lee Plan. See, Lee Plan Objective 33.3 (Environmental Enhancement and Preservation Community); Policies: 1.4.5, 1.5.1, 5.1.7, 33.3.4.3, and 135.1.9; See also, LDC §34-413.
 - b. Compatible with existing and planned uses in the surrounding DR/GR. See, Lee Plan Policies: 2.1.2, 2.2.1, 5.1.5, and 5.1.7; and LDC §34-411(c) and (i).
 - Will not adversely affect environmentally critical areas and natural resources. See, Lee Plan Goals: 60, 61, 63, 77, 107, 114, and 115; Objectives: 33.2, 33.3 (protection, preservation and restoration of strategic regional hydrological and wildlife connections), 60.4, 60.5, 61.2, 77.1, 77.3, 104.1, 107.1, 107.3, 107.4, 107.11 and 117.2; Policies: 26.5.4 (well field protection), 33.2.1 (connecting wildlife corridors and conservation areas), 33.2.1, 33.3.4., 60.1.2, 60.5.1, 60.5.2, 60.5.3., 77.3.1, 77.3.5, 107.2.4 (protection of natural plant communities), 107.2.6, 107.2.8, 107.3.1 (upland preservation to promote wildlife diversity), 107.4.1, 107.4.3, 107.4.4, 107.10.2 (wood stork), 107.10.3, 107.11.4 (bear and panther), 114.1.2, and 115.1.3; Standard 11.4; and LDC §10-474, 34-411(g) and (h).
 - d. Will not place an undue burden upon existing or planned transportation infrastructure. The project will be served by streets with the capacity to carry traffic generated by the development. See, Lee Plan Policies: 33.3.4.2, 38.1.6, and 39.1.1; and LDC §34-411(d) and (e).
- 3. Limited urban services are available and adequate to serve the proposed land use. See, Lee Plan Glossary, Lee Plan Policies: 2.2.1 and 33.3.4.2; Standards 11.1 and 11.2; and LDC §34-411(d).
- 4. The proposed mix of uses is appropriate at the proposed location. See Lee Plan Map 17; Objective 33.3; Policies 1.4.5, 1.7.13, and 33.3.4.
- 5. The recommended conditions and applicable regulations provide sufficient safeguards to protect the public interest. *See*, Lee Plan Goals: 63, 114, and 115; Objective 114.1; Policies: 5.1.5, 26.5.4, 63.1.2, 107.2.13, 115.1.1, 115.1.2, 115.1.3, 115.1.4, and 135.9.6; *See also*, LDC §§ 10-296(e), 10-707, 34-377(a)(2)(c) and 34-411(c), (i).
- 6. The recommended conditions are reasonably related to the impacts expected from the proposed development. See, Lee Plan Policy 5.1.5, Standard 11.3; LDC §34-932 (b) and (c).
- 7. The approved deviations, as conditioned, enhance achievement of the planned development objectives, and preserve and promote the general intent of LDC Chapter 34, to protect the public health, safety and welfare.

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

John ManningAyeCecil L PendergrassAyeLarry KikerAyeBrian HammanAyeFrank MannNay

DULY PASSED AND ADOPTED this 18th day of November 2015.

ATTEST: LINDA-DOGGETT, CLERK BY: Deputy Clerk ALC: NOT THE CHAIR CON EA Manananan and

BOARD OF COUNTY COMMISSIONERS OF LEE, COUNTY, FLORIDA

BY

Franklin B. Mann, Chair

APPROVED AS TO FORM FOR THE RELIANCE OF LEE COUNTY ONLY

C. 6 Michael D. Jacob

Managing Assistant County Altorney County Attorney's Office

SOI2 DEC -1 VH 8: 22

Laco and Associates, Inc.

1.

www.barraco.net

Civil Engineers, Land Surveyors and Planners

EXHIBIT "A"

DESCRIPTION Parcel in Sections 23 and 24, Township 46 South, Range 26 East, and Section 19, Township 46 South, Range 27 East Lee County, Florida

A tract or parcel of land lying in Sections 23 and 24, Township 46 South, Range 26 East and in Section 19, Township 46 South, Range 27 East, Lee County, Florida, said tract or parcel of land being those lands described in deed recorded in Instrument Number 2005000078253, less and except those lands described in Instrument Number 2011000095941, all in the Public Records of Lee County, Florida said tract or parcel of land being more particularly described as follows:

Beginning at the Northwest Corner of said Section 24 run N88°49'15"E along the North line of the Northwest Quarter (NW 1/4) of said Section 24 for 2,619.28 feet to the Northeast corner of said fraction; thence run N88°49'12"E along the North line of the Northeast Quarter (NE 1/4) of said Section 24 for 2,619.33 feet to the Northeast corner of said Section 24; thence run along the North line of the Northwest Quarter (NW 1/4) of said Section 19 the following two courses: N89°27'06"B for 1,330.46 feet and N89°26'55"E for 1,330.55 feet to the Northeast corner of said fraction; thence run along the North line of the Northeast Quarter (NE 1/4) of said Section 19 the following two courses: N89°27'19"E for 1,331.39 feet and N89°26'37"E for 1,330.79 feet Northeast corner of said Section 19; thence run Soo°13'51"E along the East line of the Northeast Quarter (NE 1/4) of said Section 19 for 2,621.09 feet to the Southeast corner of said fraction; thence run Soo°11'32"E along the East line of the Southeast Quarter (SE 1/4) of said Section 10 for 2,421,24 feet to the Northeast corner of Parcel 100 as described in deed recorded in Instrument No. 2011000095941 of the Public Records of Lee County, Florida; thence run S89°27'58"W along the North line of said Parcel 109 for 259.24 feet; thence run Soo°32'02"E along the West line of said Parcel 109 for 144.38 feet to an intersection with the North Right-of-Way line for Corkscrew Road; thence run S89"22'13"W along said North Right-of-Way line for 1,882.46 feet; thence leaving said North Right-of-Way line run Noo°33'20"W for 2,559.97 feet; thence run S89°14'00"W for 831.07 feet; thence run S00°46'34"E for 2,557.82 feet to an intersection with the North Right-of-Way line for said Corkscrew Road; thence run S89°24'01"W along said North Right-of-Way line for 2,266.01 feet to the Southeast corner of Parcel 105 as described in said deed recorded in Instrument No. 2011000095941 of the Public Records of Lee County, Florida; thence run No0°32'02"W along the East line of said Parcel 105 for 190.00 feet; thence run S89°27'38"W along the North line of Parcels 105 and 104C as described in said deed recorded in Instrument No. 2011000095941 of the Public Records of Lee County, Florida for 229.24 feet; thence run Soo°30'26"E along the West line of said Parcel 104C for 189.94 feet to an intersection with the North Rightof-Way line of said Corkscrew Road; thence run S89°29'39"W along said North Rightof-Way line for 2,232.75 feet to the Southeast corner of Parcel 104B as described in said deed recorded in Instrument No. 2011000095941 of the Public Records of Lee County, Florida;

> Post Office Drawer 2800 * Fort Myers, FL 33902 Phone (239) 461-3170 * Fax (239) 461-3169

DCI 2015-00004

rraco and Associates. Inc.

...· '

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

Continued from previous page

thence run Noo°30'26"W along the East line of said Parcel 104B for 145.00 feet; thence run S89°29'34"W along the North line of said Parcel 104B for 211.66 feet; thence run S80°40'20"W along the North line of said Parcel 104B for 48.01 feet; thence run S00°16'13"E along the West line of said Parcel 104B for 144.99 feet to an intersection with the North Right-of-Way line of said Corkscrew Road; thence run S89°40'36"W along said North Right-of-Way line for 1,436.80 feet to the Southeast corner of Parcel 104A as described in said deed recorded in Instrument No. 2011000095941 of the Public Records of Lee County, Florida; thence run along the boundary line of said Parcel 104A the following 5 courses: N00°19'40"W for 144.55 feet, \$89°40'20"W for 38.91 feet to a non-tangent curve, Westerly along an arc of a curve to the left of radius 1,044.55 feet (delta 11°07'16") (chord bearing S84°06'48"W) (chord 202.43 feet) for 202.75 feet, S78°33'17"W along a non-tangent line for 38.84 feet and S11°26'43"E for 144.53 feet to an intersection with the North Right-of-Way line of said Corkscrew Road; thence run along said North Right-of-Way line run the following 4 courses: S78°33'36"W for 201.41 feet to a point of curvature, Westerly along an arc of a curve to the right of radius 1,050.00 feet (delta 10°30'00") (chord bearing \$83°48'36"W) (chord 192.15 feet) for 192.42 feet to a point of tangency, S89°03'36"W for 505.09 feet and S89°29'08"W for 1,068.80 feet to the Southeast corner of Parcel 103 as described in said deed recorded in Instrument No. 2011000095941 of the Public Records of Lee County, Florida; thence run No0°32'12"W along the East line of said Parcel 103 for 145.00 feet; thence run S89°28'40"W along the North line of said Parcel 103 for 260.46 feet to an intersection with the West line of the East Half (E 1/2) of the East Half (E 1/2) of said Section 23; thence run along said West line the following two courses; Noo°39'08"W for 2,436.16 feet and No0°37'49"W for 2,632.52 feet to an intersection with the North line of the Northcast Quarter (NE 1/4) of said Section 23; thence run N89°37'22"E along said North line for 1,338.41 feet to the POINT OF BEGINNING. Containing 1,361.05 acres, more or less.

Bearings hereinabove mentioned are based on the North line of the Northwest Quarter (NW 1/4) of said Section 24 to bear N88°49'15"E.

This description is based on a boundary survey prepared by Morris Depew, MDA Project No. 05161, dated June 6, 2014.

4/17/15

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

1000 (1000) 1000 1018 2 6 200

La (\$3241 + Octoreor From (Ocolesters) (Deterfetion (\$324540_10may_desedeer

Page 2

DCI = 2015 - 00004 corrections and the second se









Zoning Map








DCI 2015-00004



Water Quality Monitoring Plan Format

1.

4.

Define Information Expectations

- a) Determine water quality concerns and management goals.
- b) Identify statistical methods to be used.
- c) State statistical conclusions to be drawn & how conclusions relate to monitoring goals.

ł

d) Describe means of reporting conclusions

2. Confirm Statistical Design Criteria

- a) Statistically characterize water quality of population to be sampled.
- b) State if assumptions of chosen statistical methods are met.

3. Design Monitoring Network

a) What to measure (analytes).

- b) Define the Data Quality Objectives (DQO).
- c) How frequently to sample (monthly, quarterly)
- d) Where to sample (cells, grids, EMAP, fixed structures)
- Develop Operating Plans and Procedures
 - a) Sampling routes, equipment, training, etc.
 - b) Field sampling and analysis procedures.
 - c) Sample preservation and transportation.
 - d) Laboratory analyses and QA procedures.
 - e) Data Verification Protocols.
 - f) Data storage and retrieval
 - g) Data analysis software for chosen statistical methods.

5. Develop Information Reporting Procedures

- a) Type, format & frequency of reporting.
- b) Distribution of reports.
- c) Automation of reporting.
- d) Evaluation of information relative to expectations defined in step 1.

EXHIBIT D



RESOLUTION NUMBER Z-18-010

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

WHEREAS, the property owner, Pan-Terra Holdings, Ltd. filed an application to rezone a 1,460± acre parcel from Agriculture Districts (AG-2) to Mixed Use Planned Development (MPD) in reference to Verdana; and

WHEREAS, a public hearing before the Lee County Zoning Hearing Examiner, Laura B. Belflower, was advertised and held on April 12, 2018 and April 13, 2018. At the conclusion of the hearing, the Hearing Examiner left the record open and requested Staff and the applicant to submit written submissions to her Office on or before May 11, 2018 then subsequently granted an extension of the deadline to May 16, 2018; and

WHEREAS, the Hearing Examiner gave full consideration to the evidence in the record for Case #DCI2016-00018 and recommended APPROVAL of the Request; and

WHEREAS, a second public hearing was advertised and held on December 5, 2018 before the Lee County Board of Commissioners. At the request of the applicant, the Board continued the public hearing to January 16, 2019; and

WHEREAS, a third public hearing was advertised and held on January 16, 2019 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 1,460± acre parcel from AG-2 to MPD, to allow development of:

- up to 1,460 dwelling units,
- up to 30,000 square feet of accessory commercial uses,
- 22 areas of amenity areas, and
- at least 876 acres of open space, of which 805 acres of restored preservation areas.

The property is located in the Density Reduction/Groundwater Resource (DR/GR) and Wetlands Future Land Use Categories and is legally described in attached Exhibit A. The request is APPROVED, SUBJECT TO the conditions 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 planned development must be consistent with the following:
 - a. Development of this project must be consistent with the one-page Master Concept Plan (MCP) entitled "Master Concept Plan", prepared by Delisi Fitzgerald, Inc., date stamped received May 11, 2018 (Exhibit C), except as amended to reflect the boundaries of each development phase (consistent with Appendix D of Exhibit D -Verdana Indigenous Preservation, Restoration, and Management Plan), and as modified by the conditions below. This development must comply with all requirements of the LDC and Lee County Comprehensive Plan (Lee Plan) at time of local development order approval, 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.
 - b. The development is permitted a maximum of:
 - i. 1,460 dwelling units

The MCP shows these dwelling units distributed in neighborhoods. To provide some flexibility in which neighborhood the units are placed, the maximum number of units in each §neighborhood may not exceed:

Phase One

- Neighborhood 1 175 dwelling units
- Neighborhood 2 200 dwelling units

Phase Two

Neighborhood 3 - 375 dwelling units

Phase Three

Neighborhood 4 - 810 dwelling units

In no case may the cumulative number of units exceed the cumulative number of acres in a phase plus previous phases or the total number of units in the development exceed 1,460.

Changes to the number of units in a neighborhood may be sought through an administrative amendment. Re-distributing the residential units within each neighborhood will require review of the Phasing Plan included in Appendix G of Exhibit D to assure consistency with Lee Plan Policy 33.3.4.

ii. 30,000 square feet of accessory commercial floor area on the commercial parcel, subject to Condition 18. Any outdoor seating areas will be counted toward the commercial floor area.

- iii. 25,000 square feet of clubhouse/recreational facilities/amenity uses on two parcels, as shown in the MCP.
- c. The development must be consistent with the following phasing plan and timeline:

Phase	Land	Development	Restoration	Time From First
No.	Area	Area (Acres)	Area [·]	Development
_	(Acres)		(acres)*	Order
1	406	176	230	4 Years
2	302	133	169	6 Years
3	752	346	406	8 Years
Total	1,460	655	805	

*The cumulative amount of Restoration Area provided must equal at least 55 percent of the phase's acreage plus the acreage of previous phase(s).

- d. Cumulative development update statement and summary
 - i. A cumulative development update statement must be included with each development order with the following information:
 - Existing development orders reference numbers, names, and status.
 - Development parameters by each development order and reported as: previous approved or pending, the subject development order application, and the cumulative total of approved/pending units for the subject application.
 - ii. At the time of local development order, the developer will provide a cumulative land development summary table in the site development plan that at minimum includes:
 - Each permitted use and parameter (to include uses associated with the immediate and any unexpired approved development orders),
 - Each total permitted use intensity, and each total remaining "unrealized" permitted use and parameter (permitted, but not currently contemplated by the immediate and any unexpired approved development orders).
- 2. The following uses and property development regulations have been approved for this planned development:
 - a. The following are the permitted uses within this planned development:

Residential Parcels

Accessory uses and structures Club, private Community garden Dwelling units: Single-family Two-family attached Entrance gate and gatehouse Essential services Essential service facilities: Group I

Excavation, water retention Fences, walls Home occupation Model homes, model display center, model units Parking lot, accessory Real estate sales office Recreational facilities, personal & private – on-site Residential accessory uses Signs Temporary uses, in compliance with LDC §§ 34-3044, 34-3048, & 34-3050

Recreational Facility/Clubhouse Parcels

Administrative offices Consumption on Premises (limited to an 11C permit for the homeowner's association) Food and beverage service, limited Food Store, Group I Health clubs or spas, accessory to a private club Personal services: Group I Recreational Facilities: Private – On-site Restaurants: Groups I, II, and III (including outdoor seating and service areas) Specialty retail: Groups I and II Parking lot: accessory

Commercial Parcel – Accessory to residential uses only per Policy 33.3.4. and subject to Condition 18

Accessory uses and structures

Banks and financial establishments: Group I

Business services, Group I

Consumption on premises (limited to indoor seating only in conjunction with a restaurant)

Convenience food and beverage store without fuel pumps – only if commercial area is internal to the development per Condition 18.

Day care center, child, adult

Drive thru facility for any permitted use

Essential services

Essential service facilities: Group I

Excavation, water retention

Gift and souvenir shop

Hobby, toy, and game shops

Medical office

Parking:

Accessory

Temporary Personal services: Groups I, II, & III Pharmacy Restaurants: Groups I, II, and III Signs Specialty retail shops: all Groups

Temporary uses, in compliance with LDC §§ 34-3044, 34-3046, & 34-3050 Variety store

b. Site Development Regulations:

Residential Parcels

Minimum Lot Area and Dimensions:

Single-Family

Lot Area: Lot Width: Lot Depth: 4,000 square feet 40 feet 100 feet

Two-Family Attached: Lot Area:

Lot Width:

Lot Depth:

6,500 square feet 40 feet 100 feet

Setbacks: Street: 20 feet Side: Single-Family 5 feet Two-Family Attached 5 feet/0 Rear: 10 feet Water Body: 5 feet Conservation Easement Setback: 25 feet

5 feet 5 feet/0(zero) feet 10 feet 5 feet 25 feet

65% for Single Family

45 feet for clubhouse

70% for Two-Family Attached

35 feet for residential dwelling

Maximum Lot Coverage:

Maximum Building Height:

Commercial Parcel

Minimum Lot Area and Dimensions: Lot Area:

> Lot Width: Lot Depth:

10,000 square feet 100 feet 100 feet

units

Setbacks: · 20 feet Street: 20 feet Side: 10 feet Rear: 25 feet Water Body: 20 feet Conservation Easement Setback: 30 feet Maximum Lot Coverage: 60% Maximum Building Height: 45 feet

Case No. DCI2016-00018

Z-18-010 Page 5 of 17

Recreational Facility/Clubhouse Parcels

nonai i acinty/orubitouse i alceis	
Minimum Lot Area and Dimensions:	
Lot Area:	20,000 square feet
Lot Width:	100 feet
Lot Depth:	150 feet
Setbacks:	
Street:	25 feet
Side:	10 feet
Rear:	0 (zero) feet
Water Body:	0 (zero) feet
Conservation Easement Setback:	30 feet
Maximum Lot Coverage:	40%
Maximum Building Height:	45 feet

- 3. Existing easements identified on the survey and MCP
 - a. Per Exhibit C, the existing easements must not be included in the required open space provided (e.g. the 876 acres of required open space provided cannot include the 27 acres of existing easements).
 - b. Per Exhibits C, D, and E, establishing the wildlife corridor and surface water flowways restoration through the property is essential to achieve the density of this rezoning. Therefore, this zoning is based on the understanding that any existing easement bisecting the flow-way will be interpreted to allow the full implementation of the approved wildlife corridor and surface water flow-way. If a court of competent jurisdiction or an agreement between the easement parties interprets the easement rights otherwise, Lee County will require an amendment of the zoning approval.
 - c. Any improvements required by these conditions or the MCP in the existing easement areas must not conflict with the established purpose and scope of the easement
- 4. Ceasing agricultural use

Bona fide agricultural uses that exist at the time of this rezoning may continue, consistent with the Phasing Plan of the development (Condition 1.c). No later than 5 years from the date of the first development order approval for a phase, all agricultural uses, including the use of irrigation, fertilizers, or other chemicals, must be entirely eliminated from the phase, consistent with Lee Plan Policy 33.3.4.2.i, and eliminated from all project restoration areas within 8 years of the issuance of the first development order for any portion of the project, consistent with Condition 6.c.iii.

5. No blasting

Blasting activities are not permitted as part of the development of this planned development. If blasting activities are sought, this will require an amendment of the planned development that proceeds through the public hearing process.

6. Hydrology

- a. The application for the first development order for any portion of the project must demonstrate, through site-specific modeling, compatibility with maintaining surface and groundwater levels at their historic levels, to the greatest extent practicable using sound engineering practices, and the incorporation of increased storage and conveyance capacity. The modeling must also show that no adverse impacts will result to properties located upstream, downstream, as well as adjacent to the site. The analysis must be substantially consistent with the assumptions and commitments made in the following reports, as updated to address these conditions:
 - Master Concept Plan (Exhibit C)
 - Surface Water Management Plan (Exhibit E)
 - Indigenous Preservation, Restoration, and Management Plan (Exhibit D), including specifically:
 - Section 6.0 Hydrologic Restoration/Enhancement Goals and Design Parameters;
 - Sections 7.0 Restoration Activity Schedule;
 - Sections 8.0 Success Criteria; and
 - Appendix G Hydrologic Restoration Analysis
- b. The application for the first development order for any phase of the project must include a final updated Indigenous Preservation, Restoration and Management Plan, based on Exhibit D, that includes a site specific Hydrological Restoration Plan. The Hydrological Restoration Plan must be in substantial compliance with the assumptions and commitments made in the Exhibit D, as updated.

The Hydrological Restoration Plan must include:

- i. Site-specific hydrologic modeling data demonstrating the project's compatibility with maintaining surface and groundwater levels at their historic levels, to the greatest extent practicable using approved engineering practices;
- ii. The backfilling and restoration of manmade ditches on the property for that phase;
- iii. Details of the flow-way within that phase, including but not limited to locations of connections to offsite flows, cross sections, hydraulic conveyance structures specifications, and planting plans;

- iv. Calculations and analyses used in estimating hydraulic capacity of the proposed flow-ways and other drainage improvements while ensuring no adverse impacts to adjacent properties;
- v. Any computer models, in their native electronic format, used to determine hydraulic capacity of each of the flow-ways;
- vi. Excavation and grading plans;
- vii. Analysis of hydrological improvements;
- viii. Water budget narrative consistent with Appendix G of Exhibit D addressing the incorporation of off-site flows; and
- ix. An exhibit showing locations of offsite flow-way connection for that phase.
- c. Flow-Way Re-establishment
 - i. The water management system must be designed to mimic the functions of a natural system by establishing flow-ways on the property.
 - ii. The location and configuration of the on-site flow-ways must be in substantial compliance with the MCP and the hydrological restoration plan. Flow-ways must be designed and graded to accommodate flow conveyance capacities and drainage crossings as adopted by the Board of County Commissioners (Board) based on the final Environmental Enhancement Preservation Communities Overlay Study (EEPCO Study). Volumes of water will be determined at the time of Flow-way Agreement. The size of the areas of land approved for development will be considered in determining the volume of off-site waters. The County may make off-site connections to redirect non-historic flow from the west from a project known as Pepperland Ranch. The County shall ensure the water quality being discharged onto the Verdana property meets all state, local and federal water quality standards.
 - iii. The developer must implement the Hydrological Restoration Plan and construct flow-ways approved by the County concurrent with construction of the stormwater management system for that phase. The Hydrological Restoration Plan of the entire site must be completed within 8 years of commencement of issuance the first development order for any portion of the project.
- d. Flow-Way Agreement

Prior to issuance of any development order, a "Flow-Way Agreement" with the County must be approved by the Board, which will allow the County to further improve historic flow patterns in the region. The developer will be responsible for construction of necessary infrastructure and improvements within the property to accommodate conveyance of water flow through the property. The Flow-Way Agreement must include easement rights, or recognize separately created

easement rights in designated locations, as shown on the Hydrological Restoration Plan, that will allow the County to obtain permits and create surface-water flow connections across the property boundaries.

- e. Stormwater System
 - i. Project stormwater runoff must provide a minimum of 0.5 inch of water quality pre-treatment for the portion of Neighborhood 1 of the MCP located within the wellfield protection zones prior to discharging into any water management lakes. Stormwater for the development runoff must receive 1.5 inches of the required water quality treatment prior to discharging offsite.
 - ii. The developer is responsible for providing stormwater flow through the project site until the property and permits are transferred to a third party such as the Home Owners Association (HOA) or Community Development District (CDD). The property must accept regional surface water flow onto the property, if and when available, in the locations as determined appropriate through the Board's decisions on the EEPCO Study and through the Flow-Way Agreement.
 - iii. The developer must provide right of access for County staff to collect water samples at the discharge points.
 - iv. Discharge of stormwater onto Lee County MS4 system is not authorized.
- f. Surface Water and Groundwater Monitoring Plan

The developer must submit a final Surface Water and Groundwater Monitoring Plan for review and approval by County staff prior to the approval of the first development order for any portion of the project. The Plan must be substantially consistent with the Enhanced Lake Management Plan prepared by Progressive Water Resources, dated May 2017 (Exhibit F).

g. Flood Prevention

Development must not exacerbate flooding on adjacent properties. The developer shall be responsible for maintaining its stormwater permit that addresses sufficient capacity downstream of the project's stormwater discharge points, to prevent flooding of downstream properties.

h. Individual wells

Single-Family Use Irrigation and Domestic Wells Prohibited. The County will not permit single-family use wells on the property for potable water on individual lots. The developer will ensure Lee County Utilities will be the source of potable water for the property. The developer will also ensure that irrigation will be provided via a central irrigation system using onsite lakes and, as necessary, existing permitted wells (or replacement wells). The HOA documents, including Declarations and Covenants, must prohibit the installation of single-family use wells for potable or

Case No. DCI2016-00018

Z-18-010 Page 9 of 17 irrigation water. County staff will review the HOA documents to confirm the inclusion.

i. Dewatering

The developer must ensure that dewatering effluent remains on the site. Dewatering operations may not adversely affect wetlands or groundwater wells.

j. Public Water Supply

The developer must take precautions to avoid adverse impacts to the public water supply system. Lake excavation must not exceed 20 feet and may not penetrate any regionally significant clay, confining bed or limestone layer.

k. Wellfield Protection

A portion of the property lies within Wellfield Protection Zones for the County public water supply and those areas must comply with the Wellfield Protection Ordinance. The HOA documents, including Declarations and Covenants, must specify that only licensed professionals authorized by Lee County may perform activities such as the application of fertilizers, pesticides, insecticides, herbicides, nematicides, or other chemicals on the property. The developer must submit a list of Best Management Practices to address potential degradation of groundwater due to storage and use of regulated substances on site during construction and operation of the development, if such substances are going to be stored or used onsite, with the application for the first development order. The developer will install an approximate 20-foot deep Water Table Aquifer groundwater monitoring well between the north edge of the Neighborhood 1 lake and the northwest corner of the property, consistent with the Surface Water and Groundwater Monitoring Plan, prepared by Progressive Water Resources, dated May 2017 (Exhibit F, Sections 5 & 6).

7. Final Indigenous Preservation, Restoration, And Management Plan

The first development order must provide a final indigenous preservation, restoration, and management plan in substantial compliance with Exhibit D, and plan compliance must be demonstrated on the local development order plans. The final plan must include the following language:

Prior to prescribed burn management activities occurring within the on-site preserves lands, the CDD or HOA will notify all residents of the prescribed burn activities. Residents will be provided with general education material on prescribe burn management activities. Covenants or deed restrictions will include language requiring each deed holder to be informed at the time of their purchase of a lot adjacent to preserve land subject to prescribed burning that said burning may occur. Education material on prescribe burn management activities will be provided at the time of purchase.

- Open Space: To receive the density incentive allowed by Lee Plan Policy 33.3.4 for improving, preserving, and restoring regional surface and groundwater resources and wildlife habitats, the developer must provide the following materials and the development must comply with the following conditions. These conditions may not be amended administratively.
 - The development must include a minimum amount of open space equal to 60 a. percent of the development's total acreage.
 - b. The MCP must be amended to revise the Legend and Areas Chart to depict the open space (excluding the easements) and specify the acreages counted toward the required 60 percent open space. The existing easements may not be included as open space, consistent with Condition 3.a.
 - Development order plans must delineate the 60 percent required open space, in C. substantial compliance with the approved MCP and in accordance with the phasing schedule in Condition 1.c. The development order plans for each phase must demonstrate cumulative open space equal to, at a minimum, 60 percent of the phase's acreage plus the acreage of previous phases.
 - The application for the first development order for any portion of the project must d. include an Enhanced Lake Management Plan for review and approval by County staff. The Plan must be substantially consistent with Exhibit F and, at a minimum:
 - İ. Address best management practices for fertilizers and pesticides;
 - ii. Provide erosion control and bank stabilization:
 - iii. Establish lake maintenance requirements; and
 - iv. Incorporate the applicable components of Exhibit F, Sections 5 & 6.

The developer/HOA/CDD, or their designee, must review the lakes for consistency with the Lake Management Plan annually and take any necessary remedial actions, if appropriate.

e. Protected Species/Wildlife Co-existence Management Plan:

> The first local development order plans must include a final protected species management and human-wildlife coexistence plan in substantial compliance with the Verdana Protected Species Management and Human-Wildlife Coexistence Plan, dated Revised October 2017 (Exhibit G). The final co-existence plan must reflect the following items:

- i. Lighting plans must demonstrate no spillage into the onsite preserve. Techniques to limit lighting impacts include shielding and motion sensor devices. The lighting standard must also be included in deed restrictions;
- İİ. The location and details of signage between the lakes and residential structures which provide warning alligators may be present and that it is dangerous and illegal to feed or harass alligators. Language concerning these requirements must also be included in the deed restrictions;

8.

- iii. The wildlife fencing must be shown on the engineer drawings where residential lots, amenities centers, commercial areas, and roads are adjacent to the onsite preserves;
- iv. Wildlife crossing under internal roads must be a box culvert measuring eight feet in height by ten feet wide and must be shown on the engineering drawings; and
- v. An educational kiosk will be provided at the clubhouse/recreational amenity parcels to educate residents and guest about the human-wildlife co-existence plan.
- f. The wildlife crossing shown on the MCP under the development's main road must be constructed with the Phase 1 infrastructure improvements.
- g. Long-term indigenous open space monitoring reports must be submitted to Development Services compliance staff on a yearly basis for five years and until 80 percent survivability has been reached for each phase of restoration. Monitoring reports must be in substantial compliance with Exhibit D.
- h. Prior to the issuance of a Certificate of Compliance for the first development order for any phase of the project, the preservation areas within that phase must be platted in separate tracts and dedicated to an appropriate maintenance entity that will accept responsibility for perpetual maintenance consistent with the restoration in this zoning approval.
- i. Prior to the issuance of a Certificate of Compliance for the first development order for each phase of development, the developer must record a conservation easement over the enhanced and restored indigenous open space areas, that will achieve the 55 percent preservation/restoration requirement, in accordance with the phasing plan in Condition 1.c, dedicated to a maintenance entity that provides third party enforcement rights to the County. The conservation easement must include easement rights, or recognize separately created easement rights in designated locations, as shown on the Hydrological Restoration Plan, to achieve the objectives of Conditions 6.c and d and that will allow the County to obtain create surface-water flow connections across the property boundaries.
- j. Landscape Plans.

Development order landscape plans must indicate the use of 100 percent native vegetation for required landscaping within the common elements and a minimum of 75 percent native vegetation for single-family lot landscaping. The deed restrictions or covenants must include this requirement and a native plant list.

9. Public services

a. All development must connect to public water and sewer. The developer must design sanitary sewer lines to meet the setback requirements from public water supply wells set forth in Florida Administrative Code Chapter 62-532. Development

must connect to reclaimed water systems, if available at the time of the development order approval.

- b. Prior to approval of the first development order for vertical development, the developer must provide written verification as to adequate public services for the Planned Development from the sheriff, EMS, fire district, and Lee County School District.
- 10. Transportation
 - a. Approval of this request does not address mitigation of site related impacts to vehicular traffic impacts or pedestrian facilities resulting from subsequent development of the subject property. Site-related traffic improvements to the nearby roadway network or improvements to pedestrian facilities required to accommodate the proposed development will be determined at the time of local development order review.
 - b. The development must mitigate the traffic impacts of the project and pay a proportionate share of the needed roadway improvements established by the Board based on the EEPCO Study and consistent with the methodology set forth in Administrative Code (AC) 13-16. The proportionate share obligation timing, amount, and method of payment will be addressed in the Development Agreement adopted by the Board.
 - c. Roadways internal to the development must be designed to meet suburban roadway standards of the LDC. The developer must provide an off-road shared use bike path/sidewalk in front of each residential lot and along at least one side of every project roadway. The shared use path must be 5 feet wide and separated from the travel lanes of the roadway. This separation from the travel lanes may be achieved by the installation of a structural curb/gutter that prevents normal vehicular traffic on the path.
- 11. Turn lane deceleration length designs at the project entrances will be determined at the time of local development order review.
- 12. No access may be provided to the development from Carter Road.
- 13. At the time of application for a development order or building permit for the commercial or amenity parcels, the developer must provide a Crime Prevention Through Environmental Design (CPTED) report to be given to the Lee County Sheriff's Office for review and comments.
- 14. Prior to the first development order approval for any portion of the project, the developer must execute a Development Agreement with Lee County to mitigate impacts from the proposed development. The Development Agreement must address, at a minimum, the proportionate share of the improvements adopted by the Board as a result of the EEPCO Study, the commitments made to address how the development will improve emergency medical services response times to be consistent with Ordinance 08-16, and methods to provide adequate fire service and Lee County Utilities.

Case No. DCI2016-00018

Z-18-010 Page 13 of 17

- 15. Issuance of a development permit by Lee County does not in any way create any rights on the part of the applicant to obtain a permit from a state of federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertake actions that result in a violation of state or federal law.
- 16. The development must include a 100-foot wide buffer along Corkscrew Road.
- 17. A decorative landscape berm may be installed along the frontage of Corkscrew Road, with a maximum height of 8 feet in height. The berm is limited to the buffer area extending from the western edge of the property to the eastern edge of residential development. The berm may not extend into the wildlife corridor or flow-way.
- 18. Accessory commercial area. To receive the accessory commercial authorization allowed by Lee Plan Policy 33.3.4 for improving, preserving, and restoring regional surface and groundwater resources and wildlife habitats, the commercial area must be designed and operated as an accessory part of the residential development. Accordingly, the commercial area must comply with the following conditions. These conditions may not be amended administratively.
 - a. If the commercial area is located internal to the development where it is not visible or easily accessible from outside of the development, the following conditions do not apply. The MCP may be amended to locate the commercial area to such an internal location without a public hearing.
 - b. If the commercial area is located along Corkscrew Road, rather than internal, the following conditions apply:
 - No commercial land uses or commercial occupancy of a structure may commence until a substantial proportion of the residential uses or occupancies have begun, as follows:
 - No development order for the vertical development of the commercial area may be approved until approval of the first Phase 2 development order for vertical residential development or the restoration areas.
 - The commercial area square footage will be limited to 15,000 square feet until approval of the first Phase 3 development order for vertical residential development or the restoration areas.
 - No portion of the commercial area may be occupied until the residential areas of Neighborhoods 1 and 2 of Phase 1 are platted, the infrastructure is completed, and the lots are ready for construction.
 - ii. Access must be limited.
 - The access to the commercial area will be limited to one vehicular access point, connecting to the development's main internal roadway. No access is allowed to Corkscrew Road.
 - If the development has an entrance gate at the main entrance, the vehicular access to the commercial area must be on the development side of the gate.

Case No. DCI2016-00018

i.

- iii. Signs for the commercial area or commercial uses must not be visible from Corkscrew Road.
- iv. Buffers for views from Corkscrew Road are required.
 - If the decorative landscaped berm addressed by Condition 17 is provided for the development, it must also extend along the commercial area, with a berm height of a minimum of six feet and landscaping equivalent to a Type D buffer.
 - If the decorative landscaped berm is not provided, the commercial area must be screened from view from Corkscrew Road by a Type "F" buffer.
- v. The commercial parcel must be part of the development's HOA or CDD.

SECTION C. DEVIATIONS:

- 1. Deviation (1) seeks relief from the LDC §10-416(d)(1), requirement to provide a planted buffering area along the entire perimeter of a development abutting a different use, to allow the existing and restored preserve areas to act as the required buffer. This deviation is APPROVED SUBJECT TO the condition that in addition to the Lee Plan required 100-foot wide buffer area along Corkscrew Road, a buffer area, a minimum of 250-foot wide, must be provide around the remaining perimeter of the project. This area must include the indigenous preserves, planted as required by the final Verdana Indigenous Preservation Restoration, and Management Plant and may include existing easement areas.
- 2. Deviation (2) seeks relief from the LDC §10-416(d)(3), requirement to provide a 30-foot type "F" buffer when single family is proposed adjacent to public preserve lands, to allow the existing and restored preserve areas, with the required restoration plantings, to act as the required buffer. This deviation is APPROVED SUBJECT to the applicable portions of the Deviation 1 condition.
- 3. Deviation (3) seeks relief from the LDC §10-296(e)(3), requirement to provide roadway segments in Lee Plan future non-urban areas to be designed to non-urban design standards, to allow the internal roadways to be designed to the suburban roadway standards of LDC §10-296(e)(2).

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: Verdana Indigenous Preservation, Restoration, and Management Plan
- Exhibit E: Surface Water Management Plan
- Exhibit F: Verdana Enhanced Lake Management Plan
- Exhibit G: Verdana Protected Species Management and Human-Wildlife Coexistence Plan

SECTION E. FINDINGS AND CONCLUSIONS:

The Request, as conditioned:

- 1. Complies with the Lee Plan, specifically:
 - Goal 33;
 - Objectives 1.5, 33.2, 33.3, 60.5, 61.2, and 107.4;
 - Policies 1.4.5., 1.5.1, 1.7.6, 1.7.13, 2.2.1 (compatibility portion), 5.1.5, 6.1.2, 33.2.1, 33.2.2, 33.2.3, 33.2.7, 33.3.1, 33.3.4, 60.1.1, 60.1.2, 60.1.3, 60.5.1, 60.5.2, 95.1.3, 107.4.2, 115.1.2, and 135.9.5;
 - Vision Statement 18 for Southeast Lee County, and
 - Table 1(b);
 - a. Meets the LDC or qualifies for the recommended deviations;
 - b. Is compatible with existing and planned uses in the surrounding area;
 - c. Will provide sufficient access to support the proposed development intensity;
 - d. Will mitigate the expected impacts on existing and planned transportation facilities;
 - e. Will restore and improve environmentally critical or sensitive areas and natural resources, on site and in the surrounding area;
 - f. Will have the requisite urban services required by the Lee Plan; and
 - g. Includes a mix of uses appropriate for the proposed location.
- 2. The recommended conditions provide sufficient safeguards to the public interest and reasonably relate to the expected impacts on the public's interest.
- 3. Each recommended deviations:
 - a. Enhances the achievement of the objectives of the planned development; and
 - b. Preserves and promotes the general intent of this Code to protect the public health, safety and welfare.

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.

Case No. DCI2016-00018

1

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

Adopted by unanimous consent.

John Manning Aye Cecil Pendergrass Aye Larry Kiker Absent Brian Hamman Aye Frank Mann Nay

DULY PASSED AND ADOPTED this 16th day of January 2019.

ATTEST: LINDA DOGGETT, CLERK

in man w

BY: 400 Deputy Clerk

BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA

BY: FOR: Larry Kiker, Chair

APPROVED AS TO FORM FOR THE RELIANCE OF LEE COUNTY ONLY

Amanda L. Swindle Assistant County Attorney County Attorney's Office

2019 JAN 24, AN 10: 2

Case No. DCI2016-00018

Z-18-010 Page 17 of 17 Barraco and Associates, Inc.

www.barraco.net

Civil Engineers, Land Surveyors and Planners

DESCRIPTION

Parcel in Sections 29, 31 and 32, Township 46 South, Range 27 Bast, Lee County, Florida

A tract or parcel of land lying in Sections 29, 31 and 32, Township 46 South, Range 27 Bast, Lee County, Florida, said tract or parcel of land being more particularly described as follows:

Beginning at the Northwest corner of said Section 29 run N89°20'15"E along the North line of the Northwest Quarter (NW 1/4) of said Section 29 for 2,636.22 feet to the North Quarter corner of said Section 29; thence run N89°19'58"E along the North line of the Northeast Quarter (NE 1/4) of said Section 29 for 2,306.22 feet to an intersection with the West line of the East 330 feet of said Section 29; thence run S01°05'41"E along said West line for 5,352.78 feet to an intersection with the North line of the Northeast Quarter (NE 1/4) of said Section 32; thence run N89°58'16"E along the said North line for 330.06 feet to the Northcast corner of said Section 32; thence run Soo"54'19"E along the East line of the Northeast Quarter (NE 1/4) of said Section 32 for 2,594.64 feet to the Bast Quarter corner of said Section 32; thence run Soo°53'57"E along the East line of the Southeast Quarter (SE 1/4) of said Section 32 for 1,144,23 feet to an intersection with the North line of lands described in a deed recorded in Official Records Book 2032, at Page 1106, Lee County Records; thence run along the Northerly and Westerly line of said lands the following two (2) courses; S89°03'50"W parallel to the south line of said Fraction for 1,800.00 feet and S00°53'57"E parallel with the East line of said Fraction for 1,452.00 feet to an intersection with the South line of said Fraction; thence run 889°03'50"W along the South line of said Fraction for 848.66 feet to the South Quarter corner of said Section 32; thence run S89º10'20"W along the South line of the Southwest Quarter (SW 1/4) of said Section 32 for 2,651,10 feet to the Southeast corner of said Section 31; thence run S88°55'41"W along the South line of the Southeast Quarter of said Section 31 for 2,632,71 feet to the South Quarter corner of said Section 31; thence run Noo°55'01"W along the West line of the East Half (E 1/2) of said Section 31 for 5,278.97 feet the North Quarter comer of said Section 31; thence run N89º06'55"E along the North line of the Northeast Quarter (NE 1/4) of said Section 31 for 2,639.61 feet to the Northwest corner of said Section 32; thence run S00°50'31"E along the West line of the Northwest Quarter (N 1/4) of said Section 32 for 1,317.59 feet to the Southwest corner of the Northwest Quarter (NW 1/4) of the Northwest Quarter (NW 1/4) of said Section 32; thence run N89°45'45"E along the South line of said Fraction for 1,323,79 feet to the Southeast corner of said Fraction; thence run Noo°52'07"W along the East line of said Fraction for 1,312.45 feet to the Northeast corner of said Fraction; thence run S89°59'08"W along the North line of said Fraction for 1,323.25 feet to said Northwest corner of Section 32; thence run NO0°47'51"W along the West line of the Southwest Quarter (SW 1/4) of said Section 29 for 2,647.70 feet to the West Quarter corner of said Section 29; thence run Noo°55'29"W along the West line of the Northwest Quarter (NW 1/4) of said Section 29 for 2,649.21 feet to the POINT OF BEGINNING. Containing 1,460.78 acres, more or less.

Bearings hereinabove mentioned are State Plane for the Florida West Zone (1983/NSRS 2007) and are based on the North line of the Northwest Quarter (NW 1/4) of said Section 29 to bear N89°20'15"E.

25 2017

COMMUNITY DEVELOPMENT L:\23346\SURVEY\DESCRIPTIONS\23346SKo1.doc Scott A. Wheeler (For The Firm) Professional Surveyor and Mappel Florida Certificate No. 5949

Post Office Drawer 2800 + Fort Myers, FL 33902 Phone (239) 461-3170 • Fax (239) 461-3169

28

EXHIBIT











EXHIBIT B



VERDANA INDIGENOUS PRESERVATION, RESTORATION, AND MANAGEMENT PLAN

Revised January 2018

Prepared For:

Pan Terra Holdings, LLC 150 Alhambra Circle, Suite 925 Coral Gables, Florida 33134 (305) 461-0563

Prepared By:

Passarella & Associates, Inc. 13620 Metropolis Avenue, Suite 200 Fort Myers, Florida 33912 (239) 274-0067

OCI 2016-00018

Project No. 15BDG2365

EXHIBIT_D

TABLE OF CONTENTS

	rage		
1.0	Introduction1		
2.0	Existing Indigenous Vegetation Habitats		
	 2.1 Indigenous Wetland Habitats		
3.0	Existing Non-Indigenous Vegetation4		
	 3.1 Non-Indigenous Wetland Habitats		
4.0	Indigenous Vegetation Preservation and Enhancement		
	 4.1 Methods to Remove and Control Exotic and Nuisance Plants		
5.0	Indigenous Vegetation Restoration		
	 5.1 Removal of Exotics and Supplemental Plantings		
	5.2.1 Wetland Grading and Planting		
6.0	Hydrologic Restoration/Enhancement Goals and Design Parameters12		
7.0	Restoration Activity Schedule		
	7.1 Restoration Phases		
	7.1.1 Phase 1 (230± acres) 14 7.1.2 Phase 2 (169± acres) 14 7.1.3 Phase 3 (406± acres) 14		
	i DCT 2016-00018		

Table of Contents (Continued)

	7.2	Irrigation		
8.0	Success Criteria			
	8.1 8.2 8.3	Indigenous Wetland and Upland Preservation and Enhancement		
9.0	Maint	enance		
	9.1	Prescribed Fire		
10.0	Moni	toring Reports		
11.0	Long	Term Management and Monitoring18		
12.0	Prese	rve Signage and Community Education Plan		
13.0	Refer	ences,		

- - -.

Page

DCI 2016-00018

ii

LIST OF TABLES

	Page
Table 1.	Prohibited Invasive Exotics
Table 2.	Supplemental Wetland Plantings8
Table 3.	Supplemental Upland Plantings
Table 4.	Wetland Restoration Plantings
Table 5.	Upland Restoration Plantings

ACT 2016-00018

LIST OF APPENDICES

	Page
Appendix A.	Indigenous Vegetation MapA-1
Appendix B.	Aerial with FLUCFCS and Wetlands MapB-1
Appendix C.	Preliminary Indigenous Vegetation Preservation and Restoration PlanC-1
Appendix D.	Preservation and Restoration Phase MapD-1
Appendix E.	Typical Preserve SignageE-1
Appendix F.	Typical SectionsF-1
Appendix G.	Hydrologic Restoration Analysis
Appendix H.	Phase Flow Diagram
Appendix I.	Phase Flow DiagramI-1
Appendix J.	Phase Flow DiagramJ-1

101 2016-0051B

iv

1.0 INTRODUCTION

The following outlines the Lee County Indigenous Preservation, Restoration, and Management Plan for Verdana (Project) located in Sections 29, 31, and 32; Township 46 South; Range 27 East; Lee County. The Project site totals 1,460.78 \pm acres. According to Lee County's open space requirements outlined in Policy 33.3.4 of The Lee Plan, the minimum open space requirement for the Project is 60 percent of the site, or approximately 873 acres. As part of the required open space, the Project proposes to establish on-site conservation areas totaling 805 \pm acres. The proposed conservation areas will contain the following elements:

- Preservation of 68± acres of indigenous wetlands and uplands (existing forested and herbaceous habitats with less than 75 percent exotics);
- Restoration of 34± acres of indigenous wetlands and uplands vegetation through the removal of exotic vegetation (existing forested and herbaccous habitats with greater than 75 percent exotics) and supplemental planting;
- Restoration of 703± acres of indigenous wetlands and uplands from citrus groves; and
- Establishment of buffer lakes to serve as wildlife buffers between conservation areas and development areas.

The preservation and enhancement of existing indigenous vegetation and the restoration of the significant areas of citrus groves back to indigenous habitats will serve to provide as a regional flow-way and wildlife corridor. The proposed flow-way/corridor will link Corkscrew Regional Mitigation Bank and the Imperial Marsh Preserve to the north with Panther Island Mitigation Bank and Audubon's overall Corkscrew Swamp Sanctuary lands to the south. The proposed flow-way will also serve to re-establish a northeast to southwest flow-way that historically existed through the Project site.

2.0 EXISTING INDIGENOUS VEGETATION HABITATS

Pursuant to Land Development Code (LDC) Section 10-1, indigenous native vegetation means those plant species that are characteristic of the major plant communities of the County. Native habitats where invasive exotic vegetation has exceeded 75 percent coverage are not considered to be indigenous vegetation.

The Project site includes 74± acres (combined pre-development wetland and upland acres) of indigenous native vegetation. The indigenous areas occur on-site as scattered pockets of primarily remnant wetland and upland forested habitats with less than 75 percent coverage by exotics. These indigenous areas are surrounded by citrus groves and associated drainage system components. The existing indigenous wetland and upland vegetation communities are identified in Appendix A.

The indigenous wetland habitats total 48± acres and consist mostly of remnant cypress, hydric pine, and mixed wetland hardwood habitats. Freshwater marsh habitats occur to a lesser brient. The indigenous uplands total 26± acres and consist mostly of pine flatwoods habitat around the remnant cypress areas on-site. Listed below are the Florida Land Use, Cover and Rothis

1

DCI 2016-00018

Classification System (FLUCFCS) (Florida Department of Transportation 1999) descriptions of the indigenous wetland and upland habitats proposed for preservation and enhancement. An aerial with FLUCFCS is attached as Appendix B.

2.1 Indigenous Wetland Habitats

Cypress, Disturbed (0-24% Exotics) (FLUCFCS Code 6219 E1)

The canopy of this wetland habitat contains bald cypress (*Taxodium distichum*) and cabbage palm (*Sabal palmetto*). The sub-canopy consists of Brazilian pepper (*Schinus terebinthifolius*), cabbage palm, and southern bayberry (*Myrica cerifera*). The ground cover includes caesarweed (*Urena lobata*), pennywort (*Hydrocotyle umbellata*), and swamp fern (*Blechnum serrulatum*). The canopy and sub-canopy contains 0 to 24 percent Brazilian pepper and/or melaleuca (*Melaleuca quinquenervia*).

Cypress, Disturbed (25-49% Exotics) (FLUCFCS Code 6219 E2)

The vegetation composition of this wetland community is similar to FLUCFCS Code 6219 E1, but contains 25 to 49 percent Brazilian pepper and/or melaleuca in the canopy and sub-canopy.

Cypress, Disturbed (50-75% Exotics) (FLUCFCS Code 6219 E3)

The vegetation composition of this wetland community is similar to FLUCFCS Code 6219 E2, but contains 50 to 75 percent Brazilian pepper and/or melaleuca in the canopy and sub-canopy.

<u>Cypress/Pine/Cabbage Palm. Disturbed (0-24% Exotics) (FLUCFCS Code 6249 E1)</u> The canopy of this wetland habitat consists of slash pine (*Pinus elliottii*), bald cypress, laurel oak (*Quercus laurifolia*), and scattered cabbage palm. The sub-canopy consists of

bald cypress, cabbage palm, and Brazilian pepper. This area contains up to 24 percent Brazilian pepper in the canopy and sub-canopy. Cypress/Pine/Cabbage Palm, Disturbed (25-49% Exotics) (FLUCFCS Code 6249 E2)

The vegetation composition of this wetland community is similar to FLUCFCS Code 6249 E1 with 25 to 49 percent Brazilian pepper in the canopy and sub-canopy.

<u>Cypress/Pine/Cabbage Palm, Disturbed (50-75% Exotics) (FLUCFCS Code 6249 E3)</u> The vegetation composition of this wetland community is similar to FLUCFCS Code 6249 E2 with 50 to 75 percent Brazilian pepper in the canopy and sub-canopy.

Freshwater Marsh, Disturbed (0-24% Exotics) (FLUCFCS Code 6419 E1)

The canopy and sub-canopy of this wetland habitat is typically open, with scattered Carolina willow (Salix caroliniana). The ground cover includes fireflag (Thalia geniculata). This area contains 0 to 24 percent coverage by melaleuca, torpedograss (Panicum repens), and/or cattail (Typha sp.).

RT 2016-00018

Freshwater Marsh, Disturbed (25-49% Exotics) (FLUCFCS Code 6419 E2) The vegetation composition of this welland community is similar to FLUCFCS Code 6419 B1 with 25 to 49 percent coverage by melaleuca, torpedograss, and/or cattail.

2.2 Indigenous Upland Habitats

<u>Upland Coniferous Porests</u>, <u>Disturbed (50-75% Exotics) (FLUCFCS Code 4109 E3)</u> The vegetation of this upland community consists of primarily slash pine, with 50 to 75 percent melaleuca, earleaf acacia (*Acacia auriculiformis*), and/or Brazilian pepper in the canopy and sub-canopy.

Pine Flatwoods, Disturbed (25-49% Exotics) (FLUCFCS Code 4119 E2)

The canopy of this upland habitat contains slash pine, laurel oak, earleaf acacia, cabbage palm, ficus (Ficus sp.), and melaleuca. The sub-canopy contains Brazilian pepper, southern bayberry, earleaf acacia, and slash pine. The ground cover includes muscadine (Vitis rotundifolia), laurel oak, cabbage palm, Virginia creeper (Parthenocissus quinquefolia), earleaf greenbrier (Smilax auriculata), saw palmetto (Serenoa repens), caesarweed, and cocoplum (Chrysobalanus icaco).

Pine Flatwoods, Disturbed (50-75% Exotics) (FLUCFCS Code 4119 E3)

The vegetation composition of this upland community is similar to FLUCFCS Code 4119 E2, but contains 50 to 75 percent melaleuca, earleaf acacia, and/or Brazilian pepper in the canopy and sub-canopy.

Tropical Hardwoods (FLUCFCS Code 426)

The canopy of this forest type is dominated by eucalyptus (Eucalyptus sp.). The subcanopy consists of scattered slash pine and cabbage palm. The ground cover is dog fennel (Eupatorium capillifolium), caesarweed, Virginia creeper, balsam apple (Momordica charantia), marsh brittle grass (Setaria parviflora), pennywort, zarzabacoa-comun (Desmodium incanum), sensitive fern (Mimosa pudica), pinewoods finger grass (Eustachys petraea), bushy bluestem (Andropogan glomeratus), bahiagrass (Paspalum notatum), and beggarticks (Bidens alba).

Hardwood/Conifer Mixed, Disturbed (25-49% Exotics) (FLUCFCS Code 4349 E2)

The canopy of this area is such that neither upland conifers nor hardwoods achieve a 66 percent crown canopy dominance, and contains 25 to 49 percent melaleuca, earleaf acacia, and/or Brazilian pepper in the canopy and sub-canopy.

Cypress/Pine/Cabbage Palm, Disturbed and Drained (50-75% Exotics) (PLUCFCS Code 6245 E3)

The canopy of this habitat consists of slash pine, bald cypress, laurel oak, and scattered cabbage palm. The sub-canopy consists of bald cypress, cabbage palm, Brazilian pepper, and pond-apple (*Annona glabra*). The ground cover consists pliniarily of swamp fern. This community contains 50 to 75 percent melaleuca and/or Brazilian pepper in the canopy and sub-canopy, and is void of its natural hydrological features.

Mi 2016-00019
3.0 EXISTING NON-INDIGENOUS VEGETATION

Approximately 1,387 acres (95 percent) of the Project site consists of vegetation communities that do not meet the LDC's definition of indigenous vegetation. The non-indigenous areas are predominantly citrus grove with associated ditching and drainage systems, and agricultural operations areas. Existing non-indigenous wetlands on the site total $22\pm$ acres and consist of melaleuca areas, disturbed lands and remnant cypress areas, and wetland habitats with greater than 75 percent coverage by exotics, primarily Brazilian pepper. Non-indigenous uplands on the Project site total $1,289\pm$ acres and consist primarily of the citrus grove and associated agricultural operations. Non-indigenous areas also include $76\pm$ acres of agricultural ditching and man-made surface waters (water detention and conveyance). The non-indigenous wetland and upland vegetation communities and surface waters are identified in Appendix A. Listed below are the FLUCFCS descriptions of the non-indigenous areas on the Project site.

3.1 Non-Indigenous Wetland Habitats

Melaleuca, Hydric (FLUCFCS Code 4241)

The canopy of this wetland area is dominated by melaleuca with scattered slash pine. The sub-canopy contains melaleuca with scattered Brazilian pepper. The ground cover contains swamp fern, sensitive fern, caesarweed, and muscadine.

Cypress, Disturbed (76-100% Exotics) (FLUCFCS Code 6219 E4)

The vegetation composition of this wetland community is similar to FLUCFCS Code 6219 E3, but contains 76 to 100 percent Brazilian pepper and/or melaleuca in the canopy and sub-canopy.

Disturbed Land, Hydric (FLUCFCS Code 7401)

The vegetation of this area is similar to FLUCFCS Code 7401, except with a canopy of scattered melaleuca, with scattered Carolina willow in the sub-canopy.

3.2 Non-Indigenous Upland Habitats

Agricultural Support Operations (FLUCFCS Code 205)

This upland area is cleared of vegetation and is used as a staging and preparation area for the surrounding agriculture operations.

Citrus Grove (FLUCFCS Code 221)

The canopy contains citrus trees. The sub-canopy is open. The ground cover is dominated by bahiagrass with crowfoot grass (*Dactylocienium aegyptium*), natalgrass (*Rhynchelytrum repens*), and Southern sandspur (*Cenchrus echinatus*);

<u>Pine Flatwoods, Disturbed (76-100% Exotics) (FLUCFCS Code 4119 E4)</u> The vegetation composition of this upland community is similar to FLUOFCS Code 4119 E3, but contains 76 to 100 percent melaleuca, earleaf acacia, and/or Brazilian pepper in the canopy and sub-canopy.

0CI 2016-00018

Melaleuca (FLUCFCS Code 424)

The canopy and sub-canopy of this upland area are dominated by melaleuca. The ground cover contains sinutgrass (Sporobolus indicus), rusty flat sedge (Cyperus odoratus), and caesarweed.

Disturbed Land (FLUCFCS'Code 740)

The canopy and sub-canopy of this upland area are open. The ground cover includes smutgrass and Peruvian primrose-willow (Ludwigia peruviana).

Berm (FLUCFCS Code 747)

The canopy of this upland area is open. The sub-canopy consists of Brazilian pepper, slash pine, and earleaf acacia. The ground cover contains caesarweed, Brazilian pepper, Virginia creeper, saw palmetto, crowfoot grass, beggarticks, Southern sandspur, maidencane (*Panicum hemitomon*), ragweed (*Ambrosia artemisilfolia*), panicum (*Panicum sp.*), and smutgrass.

3.3 Non-Indigenous Surface Waters

Ditch (FLUCFCS Code 514)

Ditches that support the agricultural operations have a ground cover that includes cattail, Mexican primrose-willow (*Ludwigia octovalvis*), marsh pennywort (*Hydrocotyle vulgaris*), Asiatic pennywort (*Centella asiatica*), dayflower (*Commelina diffusa*), torpedograss, and West Indian marsh grass (*Hymenache amplexicaulis*).

Disturbed Land, Other Surface Waters (FLUCFCS Code 7401)

These disturbed areas are periodically flooded due to farming and drainage operations on the property and are classified as "other surface waters." The ground cover includes Mexican primrose-willow, caesarweed, willow, sawgrass, cattail, mangrove flat sedge (Cyperus ligularis), cogongrass (Imperata cylindrica), water lettuce (Pistia stratiotes), and para liverseed grass (Urochioa mutica), southern beak sedge (Rhynchospora microcarpa), yellow-eyed grass (Xyris sp.), torpedograss, smut grass, marsh bristle grass (Setaria parviflora), marsh pennywort, rosy camphorweed (Pluchea rosea), dayflower, and buttonweed (Diodia virginiana).

4.0 INDIGENOUS VEGETATION PRESERVATION AND ENHANCEMENT

A total of $68\pm$ acres ($47\pm$ acres of wetlands and $21\pm$ acres of uplands) with less than 75 percent existing exotic vegetation will be preserved and enhanced by the hand removal/treatment of exotic and nuisance vegetation. The locations of the indigenous preservation areas are shown on Appendix C.

4.1 Methods to Remove and Control Exotic and Nuisance Plants

Exotics to be eradicated include, but are not limited to, the 21 species of prohibited invasive exotic species listed in Section 10-420(h) of the LDC (Table 1).

2016-00018

Common Name	Scientific Name
Air potato	Dioscorea alata
Australian pines	All Casuarina species
Bishopwood	Bischofia javanica
Brazilian pepper	Schinus terebinthifolius
Carrotwood	Cupaniopsis anacardioides
Chinese tallow	Saplum sebiferum
Cork tree	Thespesia populnea
Cuban laurel fig	Ficus microcarpa
Downy rose-myrtle	Rhodomyrtus tomentosus
Earleaf acacia	Acacia auriculiformis
Japanese climbing fern	Lygodium japonicum
Java plum	Syzyglum cumini
Melaleuca	Melaleuca quinquenervia
Murray red gum	Eucalyptus camaldulensis
Old World climbing fem	Lygodium microphyllum
Rose apple	Syzygium jambos
Rosewood	Dalbergia sissoo
Tropical soda apple	Solanum viarum
Wedelia	Wedella trilobata
Weeping fig	Ficus benjamina
Woman's tongue	Albizia lebbeck

Table 1. Prohibited Invasive Exotics

Exotic and nuisance vegetation removal will be conducted primarily by hand methods. Hand treatment will be either felling of exotic trees, hand removal, and herbicide treatment of the stumps; or by hand pulling and removal. The treatment of exotic and nuisance vegetation will include one or more of the following methods: (1) cut exotics within 12 inches of ground elevation, hand remove cut vegetation, and treat remaining stump with approved herbicide; (2) foliar application of approved herbicide or hand pulling of exotic seedlings; and (3) foliar application of approved herbicide to nuisance grasses.

4.2 Debris Removal

Exotic vegetative debris that is cut will be removed from the indigenous preserve areas. Exotic debris may be stacked in the adjacent former grove areas and burned. The preserve areas will be inspected annually for trash/garbage. Any trash/garbage located within the preserve areas will be removed and disposed of by hand.

DCI 2016-00018

į

4.3 Method and Frequency of Pruning and Trimming

Exotic removal within the existing indigenous habitats is scheduled to begin after development order approval. After the completion of the initial exotic removal, semiannual inspections of the preserves will occur for the first two years. During these inspections, the conservation areas will be traversed by a qualified ecologist. Locations of nuisance and/or exotic species will be identified for immediate treatment with an appropriate herbicide. Any additional potential problems will also be noted and corrective actions taken. Once exotic/nuisance species levels have been reduced to acceptable limits, inspections of the conservation areas will be conducted a minimum of once every two years.

Maintenance will be conducted in perpetuity to ensure that the conservation areas are free of exotic vegetation, including the prohibited invasive exotic species listed in Section 10-420(h) of the LDC (Table 1).

5.0 INDIGENOUS VEGETATION RESTORATION

Restoration and re-establishment of indigenous vegetation communities will be conducted in areas with greater than 75 percent coverage by exotic vegetation and in the existing citrus grove within the conservation areas. Restoration activities will include $34\pm$ acres of exotic removal and supplemental plantings in existing forested habitats with greater than 75 percent exotics and $703\pm$ acres of wetland and upland restoration from existing citrus groves. The locations of the various types of restoration areas are shown on Appendix C.

5.1 Removal of Exotics and Supplemental Plantings

Approximately 34 acres (22± acres of wetlands and 12± acres of uplands) with greater than 75 percent exotics will be enhanced by the removal of exotic species and supplemental plantings of native vegetation. Mechanical equipment may be utilized to assist in the removal of exotic species in these areas. Cut vegetative debris will be removed from these areas in order to allow for successful supplemental plantings. All efforts will be made to preserve native trees when conducting the exotic removal with mechanized equipment. To minimize adverse impacts to the ground surface, machinery that exerts a relatively low impact on the ground surface (i.e., tracked skid steer, fellerbuncher) will be utilized within the mechanical removal areas.

Following the removal of exotics, supplemental wetland plantings will be installed in the $22\pm$ acres of wetland habitats. Wetland plantings will be selected based on the type of native vegetation that occurs in the adjacent or nearby wetland habitats. Tree and ground cover species will be planted according to the specifications in Table 2. A minimum of three tree species and five ground cover species will be planted. The species selected for planting will depend on market availability at the time the plantings are to occur.

7

Common Name Scientific Name		Minimum Height	Container Size	Planting Instruction (On Center)			
	Trees						
Bald cypress	Taxodium distichum	2 to 5 ft.	BR to 3 gal.	30 to 50 ft.			
Dahoon holly	Nex cassine	2 to 5 ft.	BR to 3 gal.	30 to 50 ft.			
Laurel oak	Quercus laurifolia	2 to 5 ft.	BR to 3 gal.	30 to 50 ft.			
Pop ash	Fraxinus caroliniana	2 to 5 ft.	BR to 3 gal.	30 to 50 ft.			
Red maple	Acer rubrum	2 to 5 ft.	BR to 3 gal.	30 to 50 ft.			
Slash pine	Pinus elliottii	2 to 5 ft.	BR to 3 gal.	30 to 50 ft.			
Ground Cover							
Alligator flag Thalia geniculata		12 in.	2 in.	5 to 8 ft.			
Arrowhead	Sagittaria lancifolia	12 in.	2 in.	5 to 8 ft.			
Blue maidencane	uc maidencane Amphicarpum muhlenbergianum		2 in.	5 to 8 ft.			
Cordgrass	Spartina bakeri	12 in.	2 in.	5 to 8 ft.			
Golden canna	Canna flaccida	12 in,	2 in.	5 to 8 ft.			
Gulfdune paspalum	Paspalum monostachyum	12 in.	2 in.	5 to 8 ft.			
Maidencane	Panicum hemitomon	12 in.	2 in.	5 to 8 ft.			
Muhly grass	ass Muhlenbergia capillaris		2 in.	5 to 8 ft.			
Pickerelweed	Pontederia cordata	12 in.	2 in.	5 to 8 ft.			
Sawgrass	Cladium jamaicense	12 in,	2 in.	5 to 8 ft.			
Soft-stem bulrush	Scirpus validus	12 in,	2 in.	5 to 8 ft.			
Spikerush	Eleocharis interstincta	12 in.	2 in.	5 to 8 ft.			
Swamp lily	Crinum americanum	12 in.	2 in.	5 to 8 ft.			
Wiregrass	Arlstida stricta	12 in.	2 in.	5 to 8 ft.			

Table 2. Supplemental Wetland Plantings¹

¹Additional tree and ground cover species may be included in the planting table prior to Development Order approval. BR - Bare root

Following the removal of exotic vegetation, supplemental upland planting will be installed in $12\pm$ acres of upland habitats. Upland plantings will be selected to replace the type of native vegetation that occurs in the adjacent or nearby upland habitats. Tree plantings will include primarily slash pine, although other tree species listed in Table 3 may be utilized. Upland tree and ground cover plantings will be installed according to the specifications listed in Table 3. A minimum of three tree species and five ground cover species will be planted. The species selected for planting will depend on market availability at the time the plantings are to occur.

• .• . 。 注意 按 4

:

ţ

DCI 2016-00018

Common Name	Scientific Name	Minimum Height	Minimum Container Size	Planting Instruction (On Center)
	Trees	1		
Cabbage palm	Sabal palmetto	2 to 5 ft.	BR to 3 gal.	30 to 50 ft.
Dahoon holly	Ilex cassine	2 to 5 ft.	BR to 3 gal.	30 to 50 ft.
Laurel oak	Quercus laurifolia	2 to 5 ft.	BR to 3 gal.	30 to 50 ft.
Live oak	Quercus virginiana	2 to 5 ft.	BR to 3 gal.	30 to 50 ft.
Slash pine	1e Pinus elliottii		BR to 3 gal.	30 to 50 ft,
Ground Cover				
Blue maidencane	aidencane Amphicarpum muhlenbergianum		2 in.	5 to 8 ft.
Broomgrass	Andropogon virginicus	12 in.	2 in.	5 to 8 ft.
Cordgrass	Spartina bakeri	. 12 in.	[.] 2 in,	5 to 8 ft.
Fakahatchee grass	Tripsacum dactyloides	12 in.	2 in.	5 to 8 ft.
Gulfdune paspalum	Paspalum monostachyum	12 in.	2 in.	5 to 8 ft.
Muhly grass	Muhlenbergia capillaris	12 in.	2 in.	5 to 8 ft.
Purple lovegrass	Eragrostis spectabilis	12 in.	2 in.	5 to 8 ft.
Saw palmetto	Serenoa repens	12 in.	l gal.	30 to 50 ft.
Wiregrass	Aristida stricta	12 in.	2 in.	5 to 8 ft.

Table 3. Supplemental Upland Plantings¹

¹Additional tree and ground cover species may be included in the planting table prior to Development Order approval. BR - Bare root

5.2 Wetland and Upland Restoration from Citrus Grove

Approximately 703 acres of existing citrus groves, including agricultural ditches, water detention areas, and berms will be restored to native wetland and upland habitats. Wetland and upland restoration activities will include removal of citrus trees, backfilling of agricultural ditches and detention systems, regrading to contours necessary for restoration historic habitat communities, replanting of vegetation to achieve target habitat types, and ongoing maintenance and management.

5.2.1 Wetland Grading and Planting

Stormwater from development areas of the Project will be treated for water quality in stormwater lakes within the stormwater management system for each development area. Following water quality treatment, stormwater will be discharge from treatment lakes into the restoration area at various locations. A flow-way will be established within the wetland restoration area to allow this water to hydrate the restoration area and to accommodate positive flow of water from the north to the south. The open water component of the flow-way will vary in width from 15 to 45 feet with several large "pond areas" to increase wading bird foraging opportunities. The average wet season water depth within the open water portion of the flow-way will be 4 feet in order to reduce the potential, for

DCI 2016-00018

1444

cattail overgrowth. The side slopes of the flow-way will be 1.8 or less and will be vegetated with appropriate wetland vegetation. Water elevations within the flow-way will be stepped down from north to south to mimic historic patterns and to allow hydration of the indigenous replanting areas.

;

ŧ

 \mathbf{r}

÷

Following the removal of the citrus trees, drainage ditches and other components of the agricultural drainage/water management system will be backfilled using material from the existing berms and disturbed areas. Proposed wetland areas will be graded and planted with wetland plantings in Table 4. The species selected for planting will depend on market availability at the time the plantings are to occur. Specifications for plantings size and density (on-center spacing) are also provided in Table 4.

Common Name	Scientific Name	Minimum Height	Container Size	Planting Instruction (On Center)
	Tree	s ²		
Bald cypress	Taxodium distichum	2 to 5 ft.	BR to 3 gal.	30 to 50 ft.
Slash pine	Pinus elliottii	2 to 5 ft.	BR to 3 gal.	30 to 50 ft.
	Ground Cover	Plantings	•	
	Zone	1		
Blue maidencane	Amphicarpum muhlenbergianum	12 in.	2 in.	3 to 5 ft.
Cordgrass	Spartina bakeri	12 in.	2 in.	5 to 8 ft.
Gulfdune paspalum	Paspalum monostachyum	12 in.	. 2 in.	5 to 8 ft.
Maidencane	Panicum hemitomon	12 in.	2 in.	3 to 5 ft.
Muhiy grass	Muhlenbergia capillaris	12 in,	2 in.	5 to 8 ft.
Sawgrass	Cladium jamaicense	12 in.	2 in.	3 to 5 ft.
	Zone	2		
Alligator flag	Thalia geniculata	12 in.	2 in.	3 to 5 ft.
Arrowhead	Sagittaria lancifolia	12 in.	2 in.	<u>3 to 5 ft.</u>
Golden canna	Canna flaccida	12 in.	2 in.	3 to 5 ft.
Maidencane	Panicum hemitomon	12 in.	2 in.	3 to 5 ft.
Pickerelweed	Pontederia cordata	12 in.	2 in.	3 to 5 ft.
Sawgrass	Cladium jamaicense	12 in.	2 in.	3 to 5 ft.
Soft-stem bulrush	Scirpus validus	12 in.	2 in.	3 to 5 ft.
Spikerush	Eleocharis interstincta		<u>2 in.</u>	3 to 5 ft.
Zone 3				
Alligator flag	Thalia geniculata	12 in.	2 in.	3 to 5 ft
Arrowhead	Sagittaria lancifolia	12 in.	2 in.	3 to 5 ft.
Golden canna	Canna flàccida	12 in.	2 in.	3 to 5 ft.
Pickerelweed	Pontederia cordata	12 in.	2 in.	3 to 5 ft
Soft-stem bulrush	Scirpus validus	12 in.	2 in.	3 to 5 ft

Table 4. Wetland Restoration Plantings¹

10

DCT 2016-0001A

|--|

Common Name	Scientific Name	Minimum Height	Container Size	Planting Instruction (On Center)
Zone 3 (Continued)				
Spatterdock	Nuphar luteum	24 in.	1 gal.	15 ft.
Spikenish Eleocharis interstincta		12 in.	2 in.	3 to 5 ft.
Waterlily Nymphaea odorata		. 24 in.	1 gal.	15 A.

¹Additional tree and ground cover species may be included in the planting table prior to Development Order approval.

²Wetland tree plantings will be clustered along the edge of the flow-way restoration area as to not preclude open foraging habitat for listed wading bird species.

BR - Bare root

Slash pines and ground cover species from Zone 1 in Table 4 will be installed on the higher slope of the restored wetlands where the target habitat is hydric pine flatwoods. Zone 2 plantings will be installed on the mid to lower elevations where the target habitat is freshwater marsh. Zone 3 plantings will be installed in the lowest portions of the graded area and on the side slopes of the flow-way. The Zone 3 target habitat type is freshwater marsh, but may contain intermittent areas of open water. A minimum of six ground cover species will be planted.

5.2.2 Upland Grading and Planting

The locations of the upland restoration areas are shown on Appendix A. Upland restoration will consist of the removal of citrus trees and removal of berms, and the backfilling of ditches and detention areas. Re-grading will occur to provide appropriate ground elevations for targeted upland plant communities.

Following final grading, tree species and ground cover from Table 5 will be installed. The species selected for planting will depend on the market availability at the time plantings are to occur. Trees may be planted in clusters to provide distinct areas that can be defended from prescribed fire by the installation of disked fire breaks around the perimeter of the clusters. The locations of the tree clusters will be identified based on an analysis of historic aerials and proposed site topography. Trees will be planted in accordance with the specifications listed in Table 5. The goal is to create clusters of primarily open canopy native forest areas, with adequate sunlight for an abundance of ground cover species. Clusters of trees may be pine, hardwoods, or a mix of pine and hardwoods. A variety of tree sizes may be utilized to create a more heterogeneous plant community

In areas where tree plantings are not clustered, widely scattered trees will be planted randomly in the upland restoration areas. The widely scattered trees will be slash pine and bare root plantings.

之产数据《1228月,39% SP

OCI 2016-00018

1

• • •

Native ground cover plantings will be installed in the upland restoration areas and will include a minimum of four of the species listed in Table 5. No one species will constitute more than 50 percent of the total ground cover plantings. Direct seeding to establish upland ground cover may be used in conjunction with ground cover plantings within the upland restoration areas. The seed source will be obtained from and applied by a professional experienced with direct seeding as a method of upland restoration. The seed source will be harvested from a local area and will include a mixture of regionally-appropriate native graminoid species. The seed source mixture will include a variety of species to optimize ground cover diversity to the maximum extent possible.

Common Name	Scientific Name	Minimum Height	Container Size	Planting Instruction (On Center)
	Tı	ees		•
Dahoon holly	Ilex cassine	2 to 5 ft.	BR to 3 gal.	30 to 50 ft.
Laurel oak	Quercus laurifolia	2 to 5 ft.	BR to 3 gal.	30 to 50 ft.
Live oak	Quercus virginiana	2 to 5 ft.	BR to 3 gal.	30 to 50 ft.
Slash pine	Pinus elliottii	2 to 5 ft.	BR to 3 gal.	30 to 50 ft.
Ground Cover				
Cordgrass	Spartina bakeri	12 in.	2 in.	5 to 8 ft.
Fakahatchee grass	Tripsacum dactyloides	12 in.	2 in.	⁵ to 8 ft.
Gulfdune paspalum	Paspalum monostachyum	12 in.	2 in.	5 to 8 ft.
Muhlygrass	Muhlenbergia capillaris	12 in.	2 in.	5 to 8 ft.
Purple lovegrass	Eragrostis speciabilis	12 in.	2 in.	5 to 8 ft.
Saw palmetto	Serenoa repens	12 in.	1 gal.	30 to 50 ft.
Wiregrass	Aristida stricta	12 in.	2 in.	5 to 8 ft.

Table 5. Upland Restor.	ation Plantings'
-------------------------	------------------

¹Additional tree and ground cover species may be included in the planting table prior to Development Order approval.

BR - Bare root

6.0 HYDROLOGIC RESTORATION/ENHANCEMENT GOALS AND DESIGN PARAMETERS

Historically, the Project site was comprised of uplands and a series of wetlands that decreased in elevations from north to south which conveyed surface water from north to south. The primary goals of restoration for the Project site are to re-establish a series of wetlands which cascade water from north to south, restore native wetland and upland habitats, and to enhance the remnant native habitats on site.

DCI 2016-1-11B

Current citrus grove operations on the site have significantly reduced groundwater levels across the site; however, data regarding historic and current peak water level elevations on-site can be estimated based on hydrobiological indicators present within the remnant wetland areas on-site. Within each wetland area, hydrobiological indicators of water levels were marked and subsequently surveyed to give relevant elevation data. The data obtained was then used to determine target wet season water elevations for each remnant wetland. As anticipated, these "high water" elevations decreased from north to south across the site. Based on these target elevations, a series of basins were established for the flow-way where each basin that contain remnant wetlands has a similar target water elevations. These basins and corresponding target water elevations are shown on the Preliminary Indigenous Vegetation Preservation and Restoration Plan (Appendix C).

Proper hydrology is essential for successful wetland restoration and enhancement efforts. Detailed analysis by the Project's groundwater hydrogeologist and the Project's engineer has shown that groundwater is anticipated to seasonally rebound to near historic levels following the elimination of the agricultural drainage system and the elimination of well pumping from the Water Table Aquifer. A more detailed discussion of the site hydrology and groundwater recovery is attached as Appendix G.

Following the establishment of basin boundaries and corresponding target wet season water elevations, contour plans were then developed. The flow-way component of the enhancement/restoration plan relies on a series of marsh habitats to allow significant water movement through each basin. To accommodate marsh habitats, contour plans for each basin were developed for marsh to occur at elevations of six inches above the control elevation to three feet below the control elevation. Contours more than six inches above the control elevation were also provided to accommodate hydric pine flatwoods and pine flatwoods restoration within the restoration landscape.

The proposed marsh contours will create foraging habitat for wading birds including the endangered wood stork (*Mycteria americana*). Research by Corkscrew Swamp Sanctuary staff has shown that successful breeding by wood storks is significantly influenced by the availability of appropriate forage opportunities between the months of October through May. The flow-way design of the Verdana flow-way will result in isolated pockets of marsh appropriate for wood stork forage during the typical annual dry season months.

The individual basins within the restoration areas are typically defined by slightly higher topography at the downstream end of the basin (Basins P12, P7, P8, and P10) or by a fixed control structure or culverts (Basins P1, P2, P5, and P9). Stormwater analysis/modeling of the proposed hydrology of the restoration flow-way was performed by the Project engineer utilizing the anticipated groundwater recovery data, inputs from direct rainfall, and discharges of treated stormwater from the specific outfall structures of the stormwater management system for each of the three main development areas. The analysis/modeling resulted in refinements of the culverts sizes/invert elevations and control structure sizes/elevations.

The restoration plan will be implemented in three phasing starting at the north and progressing south. The initial phase will rely on the groundwater level recovery resulting from the change in

DC1 2016-00016

irrigation withdrawals and the elimination of the agricultural drainage system along with the discharge of treated stormwater from the surface water management system from the initial development area. The flow-way component of the restoration plan will discharge from the initial phase through the remaining agricultural drainage system (see Appendix H, Phase Flow Diagram). Similarly, the second restoration phase will achieve sufficient hydrology to support the restoration plantings through elimination of groundwater well pumping and the elimination of the agricultural drainage system, combined with the input of treated stormwater flows from the second development area. The flow-way component will discharge through the remaining agricultural drainage system (see Appendix I, Phase Flow Diagram).

7.0 RESTORATION ACTIVITY SCHEDULE

Restoration activities will be completed in phases. Each phase will take approximately 2 years to complete due to seasonal time constraints for the prescribed burns, herbicide treatments, and plantings. In addition, sufficient time for re-sprouting of the remaining exotic species is needed between the initial burning, the first herbicide treatment, and successive exotic treatments. Restoration activities in all phases will be completed within 8 years or sooner from the date of commencement of the first development phase.

7.1 Restoration Phases

Sections 6.1.1 through 6.1.4 below summarize the restoration activities by phase.

7.1.1 Phase 1 (230± acres)

Phase 1 will include the initial hand treatment of exotic and nuisance vegetation within $46\pm$ acres of existing indigenous habitat; $117\pm$ acres of indigenous wetland restoration; and $67\pm$ acres of indigenous upland restoration (Appendix D). Enhancement and restoration activities will commence upon initiation of the first development phase. The activities, including installation of restoration plantings, will be completed four years after the first development order has been issued.

7.1.2 Phase 2 (169± acres)

Phase 2 will include the initial hand treatment of exotic and nuisance vegetation within $21\pm$ acres of existing indigenous habitat; $90\pm$ acres of indigenous wetland restoration; and $58\pm$ acres of indigenous upland restoration (Appendix D). Enhancement and restoration activities will be completed within six years after the first development order. This includes installation of restoration plantings.

7.1.3 Phase 3 (406± acres)

Phase 3 will include the initial hand treatment of exotic and nuisance vegetation within $1\pm$ acres of existing indigenous habitat; $187\pm$ acres of indigenous wetland restoration; and $218\pm$ acres of indigenous upland restoration (Appendix D).

Restoration activities will be completed within eight years after the first development order. This includes installation of restoration plantings.

7.2 Irrigation

1

The planting activities will occur from June to December, and irrigation is assumed to be necessary for a maximum of six months or until the vegetation has established appropriately. In the event that plantings cannot be installed within this timeframe, then irrigation will be utilized until the onset of the wet season (i.e., June) or until the vegetation has established appropriately. In either case, irrigation will be utilized on a temporary, as-needed basis, and will not be a required long-term activity.

Depending on the location of the planted areas, irrigation sources may include, but are not limited to, on-site lakes and existing agricultural wells. The irrigation method will typically consist of an overhead sprinkler with temporary piping installed to the water source. A water truck may also be utilized for the transportation and distribution of irrigation water resources.

8.0 SUCCESS CRITERIA

8.1 Indigenous Wetland and Upland Preservation and Enhancement

The following are the success criteria for the indigenous preserve areas:

- 1) Initial eradication of exotic and nuisance vegetation will be completed; and
- 2) The preserve areas will be maintained free from exotic vegetation. Exotic vegetation species include, but are not limited to, the 21 species of prohibited invasive exotic species listed in Section 10-420(h) of the LDC (Table 1).

8.2 Indigenous Wetland and Upland Restoration

The following are the success criteria for the indigenous wetland and upland restoration areas:

- 1) Initial eradication of exotic and nuisance vegetation will be completed;
- 2) Supplemental plantings will be completed in the indigenous restoration areas;
- 3) A minimum 80 percent survival of tree and ground cover plantings after five years; and
- 4) The preserve areas will be maintained free from exotic vegetation. Exotic vegetation species include, but are not limited to, the 21 species of prohibited invasive exotic species listed in Section 10-420(h) of the LDC (Table 1).

.

Mi 2016-00018

٠.

8.3 Wetland and Upland Restoration from Citrus Grove

The following are the success criteria for the wetland and upland restoration from citrus grove areas:

- 1) Initial eradication of exotic and nuisance vegetation will be completed;
- Removal of citrus trees, removal of berns and spoil areas, backfilling of ditches, and borrow areas, and re-grading of wetland and upland restoration areas will be completed;
- 3) Plantings within wetland and upland restoration areas will be completed;
- A minimum of 80 percent survival of tree and ground cover species after five years;
- 5) The goal will be an average of approximately 100 trees per acre in the upland restoration areas. There may be areas of clustered trees which amount to greater than 100 trees per acre and areas of herbaceous prairie with less than 100 trees per acre; and
- 6) The preserve areas will be maintained free from exotic vegetation. Exotic vegetation species include, but are not limited to, the 21 species of prohibited invasive exotic species listed in Section 10-420(h) of the LDC (Table 1).

9.0 MAINTENANCE

After the completion of the initial exotic removal, semi-annual inspections of the conservation areas will occur for the first two years. During these inspections, the conservation areas will be traversed by a qualified ecologist. Locations of nuisance and/or exotic species will be identified for immediate treatment with an appropriate herbicide. Any additional potential problems will also be noted and corrective actions taken. Once exotic/nuisance species levels have been reduced to acceptable limits, inspections of the conservation areas will be conducted annually. Maintenance will be conducted in perpetuity to ensure that the conservation areas are free of exotic vegetation, including the prohibited invasive exotic species listed in Section 10-420(h) of the LDC (Table 1).

9.1 Prescribed Fire

Prescribed burning will be used as a management tool in the conservation areas to maintain the native vegetation communities. Prescribed burns help maintain vegetative communities in their natural state, reduce fuel loads and the danger of wildfire, aid with the eradication and control of exotic and nuisance vegetation species, and improve wildlife habitat. The objectives of prescribed burning maintenance events will be to aid in the control of exotic vegetation and woody shrubs (i.e., wax myrtle and saltbush), and to stimulate the growth and diversity of herbaceous vegetation.

The burning frequency for the conservation areas will be two to four years, which is consistent with the natural fire regime for mesic flatwoods, wet flatwoods, and wet prairies described by Florida Natural Areas Inventory (FNAI) in the *Guide to the Natural Communities of Florida* (FNAI 2010). The edges of the Project's freshwater marshes will be burned when the fire moves through the adjacent pine and prairie habitats. The fire will be allowed to extinguish naturally within the wetter marsh habitats.

Prescribed burning is typically conducted during the winter or early spring when

M 2016-0001B

temperatures are reduced and wind direction is more constant. The initial burn is anticipated to occur during the late winter. Winter burns are preferred to reduce high fuel loads. Growing season burns also may be conducted as conditions allow. Changes in annual weather cycles determine when burn permits will be available and burns may be conducted only on the day(s) of Florida Forest Service permission.

Fire breaks will be installed in strategic locations in order to safely ignite and control prescribed fires. Fire breaks will be co-located with maintenance trails, access roads, easements, fence lines, property boundaries, and natural habitat boundaries. A 12-foot wide fire break will be established directly adjacent to and inside (i.e., the restoration side) of the 8-foot tall wildlife control fence, or other structural wildlife deterrent. Fires will be excluded from the planted tree clusters until such time that the plantings are mature enough to survive fires. Fires will be allowed to extinguish naturally within the wetter preserve areas, such as the marsh habitats.

Controlled burns will be conducted only when authorized with a permit by the Florida Forest Service. In addition, notice will be given to the Estero Fire District. Coordination with the Lee County Port Authority and the South Florida Water Management District will occur before burning. Burning will not be conducted if smoke is anticipated to encroach upon Corkscrew Road, Corkscrew Farms residential lots, or the Burgundy Farms subdivision.

10.0 MONITORING REPORTS

Monitoring will be conducted annually for the conservation areas. Annual reports documenting the achievement of the success criteria outlined in Section 6.0 will be submitted to Lee County's Division of Environmental Sciences (DES). Annual monitoring reports will be provided for a period of five years after the Certificate of Compliance has been issued by Development Services or until the 80 percent survivability is reached. Monitoring will typically be conducted during the height of the growing season (August to October) with annual reports submitted by December 31.

Annual monitoring reports will be provided for each conservation area phase as described above. The monitoring reports will include documented exotic and nuisance species, mortality of vegetation, estimated causes of mortality, growth of the vegetation, wildlife observed and other factors that demonstrate the functional health of the conservations areas, and photographs. Four to five photograph stations will be established per monitoring transect. A brief description of anticipated maintenance work to be conducted over the next year will also be included. Monitoring reports may include information regarding additional material planted to achieve the percentage of coverage to re-establish the restoration areas due to mortality. Periodic inspections will be conducted by DES staff to ensure the accuracy of the monitoring reports.

WE SCIGE TIR

11.0 LONG-TERM MANAGEMENT AND MONITORING

The conservation areas will be placed in a conservation easement granted to Lee County. The conservation easement will prevent the encroachment of future development as well as activities that are incompatible with the goal of sustaining the preserved and restored conservation areas in good ecological health. These areas will be physically managed in accordance with the approved long-term management plan prepared by the Project ecologist and implemented by a Community Development District (CDD) or Homeowners' Association (HOA) with the assistance of an appropriately skilled environmental professional.

Responsibility for management of the conservation areas will shift to the CDD or HOA following the completion of enhancement and restoration activities on-site. Prior to completion of the five-year annual monitoring program, a long-term management and monitoring plan will be drafted for DES review and approval. The plan will then be implemented after completion of the five-year annual monitoring program and achievement of success criteria has been verified by DES. Long-term management activities within the conservation areas will include periodic surveys of vegetation and wildlife, control of exotic and nuisance plant species, regulating water levels, maintenance of the water control structures and access, and prescribed fires.

Long-term monitoring reports will be provided to DES bi-annually (every other year). The longterm monitoring reports will provide ecological data such as water levels, vegetative cover, degree and location of exotic vegetation cover, and wildlife utilization. This information will guide the active management of the site.

12.0 PRESERVE SIGNAGE AND COMMUNITY EDUCATION PLAN

Signs identifying the preserve as a "nature preserve area" will be installed along the boundary of the conservation areas. The signage will include language stating, "No dumping allowed." The signs will be spaced a maximum of 200 feet apart. The signs will be no closer than ten feet from residential property lines, and be limited to a maximum height of four feet and a maximum size of two square feet. A typical preserve sign is attached as Appendix D.

The community will be advised of the benefits of the conservation areas to the surrounding landscape and their residential community. One or more klosks containing information, maps, wildlife sightings, and community notices will be installed at appropriate locations within the development including the activity center and recreation areas. Fencing or barriers that would preclude wildlife movement between on-site preservation lands and adjacent property's preservation lands will not be allowed.

Periodic seminars will be held to further educate the community about the conservation areas, wetland benefits, coexistence with and protection of wildlife, and the benefits of prescribed fire. Community informational and educational brochures, such as those describing the benefits of preserve areas, may be created and provided as needed to keep residents in compliance with conservation easements, wildlife regulations, etc. Continued education will ensure that the community is well-informed regarding the preserves and wildlife coexistence.

DCI 2016-00018

Please refer to the Protected Species Management and Human-Wildlife Coexistence Plan for details on wildlife crossings, fencing, and measures to be implemented to help prevent human-wildlife conflicts.

13.0 REFERENCES

- Florida Department of Transportation. 1999. Florida Land Uşe, Cover and Forms Classification System. Procedure No. 550-010-001-a. Third Edition.
- Florida Natural Areas Inventory. 2010. Guide to the Natural Communities of Florida: 2010 Edition. Florida Natural Areas Inventory, Tallahassee, Florida.

NT 2016-00018

APPENDIX A

INDIGENOUS VEGETATION MAP



MT 2016-00018

AERIAL WITH FLUCFCS AND WETLANDS MAP

APPENDIX B





APPENDIX C

PRELIMINARY INDIGENOUS VEGETATION PRESERVATION AND RESTORATION PLAN

1

يعالم المراجع المراجع المراجع المراجع المراجع المراجعة المراجع المراجع المراجع المراجع المراجع المراجع للمراجع

3

5447 7 Adv. 23 Sec. 2564 1.

ani 2016 - CIR



APPENDEX D

PRESERVATION AND RESTORATION PHASE MAP

JAN 12 708

了研究已经的问题。

Alt of Light a Lip



APPENDIX E

TYPICAL PRESERVE SIGNAGE

ting a star DCI 2016-00018

1

i

1

....



APPENDIX F

ļ

TYPICAL SECTIONS

AN 12 mg

And transitions with the

2

A substantian de la service de

Twin Shee, Long



APPENDIX G

HYDROLOGIC RESTORATION ANALYSIS (PREPARED BY PROGRESSIVE WATER RESOURCES, LLC AND DELISI FITZGERALD, INC.)



1

A STATISTICS PRESS

DCT 2016-00018

Hydrologic Setting

In order to successfully initiate the restoration of the property there must be recognition of the significant degree of hydrologic alterations that historically occurred to develop the subject property's native landscape into an operating citrus grove. Although necessary for citrus cultivation, the site has been heavily ditched and drained for decades and hydrologically altered to a much greater degree than other types of farms. Therefore, the proposed hydrologic restoration must endeavor to restore the site's water budget back towards pre-development water resource conditions to the greatest extent practicable. In order to understand the goals and objectives in regards to restoration hydrology, a basic understanding of the site's water resource parameters is necessary. Please note that the site is proposed to be restored in three (steps) or Phases as shown on Figure 1. Each of the three Phases are proposed to be restored based on the Hydrologic Restoration Goals presented below.

Pre-development Conditions

Prior to the property's conversion into a 1,134-acre citrus operation in the early 1960s, aerial photographs indicate that the site was characterized by 1,460 acres of native vegetation (Pine Flatwoods), with isolated and interconnected wetland systems supported by seasonal rainfall and naturally fluctuating groundwater levels. The pre-development water budget was variably driven by rainfall with an average annual rainfall rate of approximately 50.46 inches, and a relatively stable evapotranspiration (ET) rate of approximately 42 inches per year, given the site's undisturbed soils, topography and native vegetation. Please note that an ET rate for the original native landscape is unknown, but can be approximated from nearby hydrologic data and a calculated ET rate of roughly 42.66 inches per year (In/yr) for a similarly vegetated site was derived by PWR in nearby Charlotte County. In addition, a 1996 United States Geological Survey report (Water Supply Paper 2430) entitled "Evapotranspiration from Areas of Native Vegetation In West-Central Florida" estimated ET rates of approximately 38.2 inches per year for Cypress Swamps and 41.7 inches per year for Pine Flatwoods.

Topographically, the property sloped to the southwest, as it does today, and appears to have exhibited a slightly steeper slope in the lower half of the site as evidenced by a defined Flow-Way or drainage feature visible on historic aerial photographs and confirmed by the hydric soils shown on the Natural Resources Conservation Service (NRCS) soils map. It is theorized that the Flow-Way was predominately supplied by surface water (stormwater) but could have also been supplied seasonally by groundwater due to the increased slope in the lower half of the property. Groundwater contributions could have resulted from a seasonal "out-cropping" of shallow groundwater supplies, i.e., seepage from the Water Table Aquifer. Although pre-development recharge to the Water Table Aquifer is estimated to have been relatively low based on the native soils and topography, native conditions would have allowed for a higher percentage of stormwater retention and seasonal infiltration as compared to existing conditions.



Figure 1. Restoration and Development Phases

007 2016-0 1018

Hydrological Restoration Plan Verdana - OCI2016-00018 Page 3 of 9

Proposed Restoration Goals

The initiation of the restoration of the subject property begins with the cessation of Irrigation and fertigation of the existing grove. As proposed under Comprehensive Plan Amendment (CPA) Policy 33.3.4 (2)(i) the use of all irrigation, fertilizers, and agrichemicals on the grove will terminate no later than five (5) years after the first Development Order (DO) is approved. This action effectively stops the decades-long agricultural land use on the subject property and greatly improves the water resources of the Density Reduction/Groundwater Resource (DR/GR) Area.

As provided herein, the proposed significant decrease in groundwater quantities, coupled with the elimination of all Water Table Aquifer withdrawals historically used by the grove, is anticipated to have "time-certain" regional water resource benefits by reducing impacts to Lee County's Public Supply wells, the Southwest International Airport Mitigation Park to the north and Panther Island Mitigation Bank to the South. Additional regional water resource improvements are further realized by the proposed Hydrologic Restoration Goals, which also follow the cessation of farming.

Hydrologic Restoration Goal No. 1 is to restore surface water flows through the subject property in order to mimic pre-development hydrologic conditions to the greatest extent practicable. As seen on historic aerial photographs, prior to the development of the citrus grove, surface water generally traversed the site from northeast to southwest and seasonally connected a majority of the onsite-isolated wetlands into a continuous. Flow-Way System that exited the site along the southwest property line and eventually discharged into lands that are now part of the Panther island Mitigation Bank. The significant topographic and drainage alterations required to accommodate the cultivation of citrus effectively eliminated the natural Flow-Way System and redirected surface water flows through a large ditch that exits the site at the approximate middle of the southern property boundary. Although the final surface water outfall location was redirected exclusively to the site's southern boundary, surface water flows still discharge into the Panther island Mitigation Bank. Therefore, the restoration of the subject property and the reestablishment of a functioning Flow-Way System is the single most important Hydrologic Goal of the Verdana project.

As described herein, the restoration of the site is proposed to occur in three Phases, with each Phase contributing to the recreation and function of the Flow-Way in order to direct surface water flows to again traverse the site from northeast to southwest, seasonally connect a majority of the onsite-isolated wetlands into a continuous Flow-Way System, and systematically restore the natural function and the environmental resources of the property. The proposed design of the Flow-Way system also makes its conducive to receiving surface water flows from an adjoining property to the northwest, further enhancing regional connectivity.

Hydrologic Restoration Goal No. 2 Is to reduce ET losses by the elimination of citrus trees and the replanting of native vegetation. The existing citrus grove increased the ET rate above the native conditions over a majority of the site (78%). The site development plan proposes that 55% of the total property area be restored as native preserve and indigenous areas with native vegetation. Therefore, large areas of the existing grove are proposed to be graded (citrus beds leveled) and reestablished with native vegetation, which is expected to reduce ET rates to near pre-development conditions (i.e. pre-citrus grove) for a majority of the property. Please note that an added positive benefit resulting from the removal of citrus growing areas and the reestablishment of native vegetation will be a significant reduction of nuisance and exotic seed sources being introduced into the Panther Island Mitigation Bank located immediately south of the Verdana property.

2016- ¹ 11

i

Hydrological Restoration Plan Verdana - DCI2016-00018 Page 4 of 9

Hydrologic Restoration Goal No. 3 is to infill the existing ditch and drainage network, particularly surrounding the existing onsite wetlands. The controlled elimination of the drainage ditches will help elevate natural groundwater levels and allow for more natural hydroperiods to occur within onsite wetlands. More seasonal water levels will also be necessary for subsequent environmental restoration activities, including native plant establishment.

Hydrologic Restoration Goal No. 4 is to increase stormwater residence time through the creation of numerous stormwater management lakes to "stair-step" ponded water along the slope of the property. The interconnected lakes of each basin will be sized to provide the required attenuation for the 25-year, 3-day storm event with a maximum discharge of 25 cubic-feet-per-square-mile (CSM), and provide the required water quality treatment in accordance with South Florida Water Management District (SFWMD) rules. The detention of stormwater will greatly increase recharge potential and improve water quality as compared to the existing highly-drained condition. Control elevations for the multi-basin system will be established based onsite topography, environmental factors contained on-site, and established control elevations of surrounding properties depicted on Exhibit A. This will take into account Panther Island Mitigation Bank to the south, Imperial Marsh Preserve and Corkscrew Mitigation Bank to the north, Ultimate Ski Lake to the east, and Pepperland to the northwest, in an effort to re-establish historical hydrologic conditions of the property to the extent possible given the conditions of the surrounding properties.

Each Phase of the project incorporates new stormwater lakes, with each lake attenuating surface water flows to allow for a controlled release into the Flow-Way System. Table 1 provides the approximate acreage of stormwater lakes for each of the project's three Phases. As shown in Table 1, significant detention of surface water will be added to the property. The use of ponded surface water for irrigation of the proposed project will also help improve water quality and residence time.

Phase No.	Approximate Stormwater Lake Acreage (ac.)	Sum of Lake Areas (ac.)	Cumulative Percent Complete	*Development Basins 25-Year Storage Volume Added (Ac-ft)	Preserve Areas 25-Year Storage Volume Added (Ac-ft)
1	29.92 ±	29.92 ±	23 %	98.0 ±	60.1±
2	23.66 ±	53.58±	41%	93.6±	97.3±
3	78.58±	132,16 ±	100 %	207.8° .t	129,9 ±
Total (ac.)	132.16±			399.4 ±*	287.3±

Table 1. Stormwater Management System Proposed to Increase Surface Water Flow, Residence Time, and Storage

*Storage provided within the development basins increases residence time of run-off from the developed areas that is not provided in the current condition.

Hydrologic Restoration Goal No. 5 is to eliminate all groundwater withdrawals from the unconfined Water. Table Aquifer for use as irrigation. The elimination of all dally, dry season and cold protection groundwater use from the Water Table Aquifer is predicted to be highly beneficial to shallow groundwater levels onsite

Hydrological Restoration Plan Verdana - DCI2016-00018 Page 5 of 9

More natural fluctuations in groundwater levels will also help sustain environmental restoration activities and native plant establishment and are expected to again facilitate surface water flows in the proposed reestablished Flow-Way System through groundwater seepage. Please note that the use of all citrus irrigation, citrus fertilizers, and related, agrichemicals will terminate no later, than five (5) years after the first Development Order (DO) is approved.

Hydrologic Restoration Goal No. 6 is to reestablish the hydrology of the site without causing adverse environmental impacts to downstream-receiving watersheds through increased turbidity or peak stormwater flows. The proposed interaction of the residential stormwater management system and the restored Flow-Way will be key to successful environmental restoration of the site and must also be strategically phased based on restored hydrology and topographic gradients. The existing Panther Island Mitigation Bank stormwater sediment sump will remain as the hydrologic connection point between both properties.

Hydrologic Restoration Goal No. 7 is to reduce the overall irrigated area from 1,134 acres of citrus to approximately 203 acres of lawn and landscape. This 82% reduction in irrigated area exemplifies the magnitude of water resource restoration and is explained in more detail below. It is also associated with a highly reduced footprint of fertilizer application, which is anticipated to greatly improve water quality through the reduction in nitrogen and phosphorous applications as detailed below. These hydrologic aspects should be highly beneficial to downstream-receiving watersheds.

Hydrologic Restoration Goal No. 8 is to reduce the overall nutrient loading of Phosphorous and Nitrogen (N) from the property by replacing the existing agriculture use with the reestablished Flow-Way System along with a multi-basin stormwater management system of lakes for the developed areas prior to discharging to Panther Island Mitigation Bank. Each of the three (3) phases stands alone to provide a net reduction in Phosphorous and Nitrogen nutrient loading with an overall reduction of 33% for Nitrogen and 92% for Phosphorous as summarized in Table 2.

Phase No:	Reduction of Nitrogen by Redevelopment (%)	Reduction of Phosphorous by Redevelopment (%)*	
1	-66%	-94%	
2	-20 %	-92%	
3	-17%	-90%	
Total	-33% -92%		

Table 2. Phosphorous and Nitrogen Nutrient Loading Reductions from Redevelopment

*Note: Citrus fertilizers and agrichemicals will terminate no later than five (5) years after the first Davelopment Order (00) is approved.

The Philipping of the second second

Hydrological Restoration Plan Verdana - DCI2016-00018 Page 6 of 9

Phasing of the Hydrologic Restoration

As stated above, a large percentage of the proposed reductions in permitted irrigation quantities will occur from the unconfined Water Table Aquifer. Therefore, with the proposed significant reductions in irrigated area and overall permitted quantities, the proposed development plan will appreciably contribute to the hydrologic restoration of the site. These efforts combined with the estimated reductions in ET rates for restored areas and increased surface water retention will functionally transform large sections of the property back towards pre-development, i.e., native water balance conditions. Given the magnitude of hydrologic enhancements, with the land use being transitioned away from the existing citrus grove to the restored native habitat and residential development, completion of restoration will require three (3) carefully planned Phases.

In order to provide staff with a more thorough water budget analysis, a general description of both the total land area and total irrigated citrus area within each Phase is presented below. As required by the Lee Plan, each of the proposed Phases meet the required land area restoration goals and the required restoration-todevelopment ratio is maintained throughout the approximate 1,460-acre property. As shown in Table 3, Phase 1 aggressively includes approximately 406± total acres, of which approximately 230± acres are proposed to be restored. Further restoration is proposed in Phase 2 and includes approximately 169± acres for a total restoration area of approximately 399± acres when combined with Phase 1. Phase 3 finalizes the site's restoration with approximately 406± acres for a total of approximately 805± acres fully restored. Please note that the initiation of restoration commences with the termination of <u>all irrigation, fertilizers, and agrichemicals onsite that will occur no later than five (5) years after the first Development Order (DO) is approved. The completion dates provided in Table 3 below represent timelines for the completion of restoration of the provided in Table 3 below represent timelines for the completion of restoration activities per Phase.</u>

Phase No,	Approximate Land Area (ac.)	Approximate Development Area (ac.)	Approximate Restoration Area (ac.)	Timeline for Restoration Completion®
1	405 ±	176 ±	230±	4 Үеагъ
2	302 ±	133 ±	169±	6 Years
. 3	752 ±	346 ±	406±	8 Years
Total (ac.)	1,460 ±	655 ±	805 ±	

Table 3. Proposed Phasing Plan and Timeline

*Note: Timeline based on number of years after the issuance of the first development order. The use of all irrigation, fertilizers, and agrichemicals will terminate no later than five (5) years after the first Development Order (DO) is approved.

The proposed restoration of the groundwater resources is equally aggressive and details are provided in Tables 4 and 5 below. Since permitted irrigated citrus acres (1,134 ac.) are a subset of the total acres (1,460 ac.), i.e., irrigated citrus acres do not include existing wetlands, dirt roadways, well sites, maintenance/shop facilities, etc., the Phase areas can be used to determine the irrigation quantities currently allocated and the proposed reductions in overall irrigation quantities as restoration progresses.

As shown in Table 4, Phase 1 eliminates approximately 304 acres of Irrigated citrus grove and six (6) existing Water Table Aquifer wells. The elimination (retirement) of all Water Table Aquifer wells in Phase 1 is predicted

DCT 2016-00018

Hydrological Restoration Plan Verdana - DCI2016-00018 Page 7 of 9

to exhibit highly beneficial recovery in the Water Table Aquifer and is expected to be evidenced in the groundwater level monitoring program included in the Verdana Enhanced Lake Management Plan (ELMP). It is also expected that water level conditions will improve at the Southwest International Airport Mitigation Park, located north of Corkscrew Road, as a result of the proposed Phase 1 reductions. Moreover, it is expected that Phase 1 will reduce impacts to Lee County's nearest Water Table Aquifer public supply well in accordance with policies of the Lee Plan. Phase 2 will eliminate three (3) and Phase 3 will eliminate ten (10) existing Water Table Aquifer wells, respectively.

Phase No.	Approximate Permitted Citrus Acres with each Phase (ac.)	Approximate Citrus Acres Eliminated by the Proposed Development Areas (ac.)	Approximate Citrus Acres Eliminated by the Proposed Restoration Areas (ac.)
1	304	137	167
2	230	103	127
.3	600	270	330
Total Acres	1,134	510*	624

Table 4. Proposed Phasing Plan for Irrigated Citrus Acre Elimination

*Note: Of the estimated 510 acres of irrigated citrus removed by the development area; approximately 203 acres are proposed to be irrigated in the future as lawn and landscape. This equates to a 307-ac. (510 ac. – 203 ac.) or a 60% reduction in irrigated area within the development area itself.

In order to more fully understand the scale of the phased hydrologic restoration of the property, the acres of eliminated citrus provided in Table 4 have been assigned their respective irrigation quantities allocated by the SFWMD through Water Use Permit No. No. 36-00327-W. As shown in Table 5, highly significant reductions in the existing Water Table withdrawals are proposed. The values presented in Table 5 are in units of gallons per day (gpd). As shown, considerable permitted annual Water Table Aquifer quantities are proposed to be retired (843,150 gpd or 32%) in Phase 1 alone. This large decrease will be accompanied by a reduction of 1,678,941 gpd in maximum month or dry season quantities and up to 5,633,938 gpd in permitted cold protection water use.

ł
Hydrological Restoration Plan Verdana - DCI2016-00018 Page 8 of 9

Phase No.	Total Permitted Annual Quantities (gpd)	Total Permitted Max. Month Quantities (gpd)	Total Permitted Cold Protection Quantitles (gpd)	Percentage of Permitted Annual Surficial Aquifer Quantities	Percentage of Total Permitted Annual Sandstone Aquifer Quantities
1	843,150	1,678,941	5,633,938	32%	0%
2	637,939	1,270,310	4,262,718	19%	28%
3	1,669,158	3,323,749	11,153,344	49%	72%
Total Quantitles (gpd)	3,150,247	6,273,000	21,050,000	100%	100%

Table 5. Proposed Reduction In Permitted Citrus Quantities for Each Phase Portrayed in Figure 1

Preliminary discussions with SFWMD staff indicate that each development Phase would result in a formal permit modification, with the final citrus permit cancellation achieved in Phase 3, thereby retiring all Water Table Aquifer quantities and permanently eliminating the citrus operations' annual, maximum month, and cold protection quantities. Please note that the proposed subdivision will utilize an integrated stormwater and groundwater (Sandstone Aquifer) irrigation system with irrigation quantities roughly equal to the existing permitted Sandstone Aquifer withdrawals. However, the dispersed nature of the residential development's Sandstone Aquifer wells and the conjunctive use of both surface and groundwater supplies is anticipated to considerably reduce overall irrigation demands on each source and further enhances the water resources above current conditions.

Topographic Considerations

To more comprehensively understand the Verdana property in the context of the proposed Phasing Plan, the existing topographic gradient must also be described. As previously explained in PWR's August 2016 Characterization of Ground and Surface Water Resources Report submitted to County staff, based on LIDAR imagery the site exhibits the highest land surface elevations in the northeast corner of the property with an elevation of approximately 27 feet NAVD 88. The lowest elevations are found in the southwest corner of the property at approximately 19 feet NAVD 88. The approximate 8-foot differential in elevation facilitates significant surface water drainage of the grove and also greatly influences stormwater runoff volumes and rate,

2016-00018

Hydrological Restoration Plan Verdana - DCI2016-00018 Page 9 of 9

Figure 2. LiDAR Topographic Profile of the Proposed Flow-Way System Alignment through



Phases 1, 2, and 3

As shown in Figure 2 above, a topographic profile was created to analyze the approximate topographic gradient of the proposed Flow-Way System alignment and the varying degrees of fall through the proposed Phasing Plan. To depict the approximate slope of the completed Flow-Way, a trend line was drawn through the existing LIDAR cross-sectional data. As shown, Phases 1, 2 and 3 have distinct elevation profiles, with topographic falls of approximately 2.5, 1.0, and 4.5 feet, for Phases 1, 2, and 3, respectively. As shown, Phase 3, or the southern portion of the property, exhibits a much steeper topographic profile and which may have actually contributed to the development of the historical Flow-Way, i.e., the out-cropping of groundwater. Therefore, it is vital that earlier development Phases be fully stabilized and restored in regards to erosion prior to initiating any construction activities on subsequent phases.

Equally important is the full stabilization of Phase 1 prior to Initiating Phase 2, since simultaneous Flow-Way construction activities through both or all three Phases could easily overwhelm the best-designed erosion and sedimentation prevention strategies, resulting in potential catastrophic adverse environmental impacts to the Panther Island Mitigation Bank. Therefore, it is the Applicant's position that a continuous Flow-Way should not be constructed simultaneous with Phase 1 since it would create a direct topographic connection from the property's highest to lowest land surface elevations. This would expose the Flow-Way to hundreds of acres of disturbed soil conditions resulting from restoration activities which even the best erosion and sedimentation control procedures would be insufficient to control during significant rainfall events. The Flow-Way's overall function and ability to support native vegetation would also be placed into jeopardy.

1016-00018

341



DCI 2016-00018

PHASE FLOW DIAGRAM

AFTENDIAL

APPENDIX H



APPENDIX I

PHASE FLOW DIAGRAM

MI 2016-00018



APPENDIX J

PHASE FLOW DIAGRAM

DCI 2016-00018



ŧ

.



October 2, 2017

DELISI FITZGERALD, INC. Planning-Engineering-Project Management

VERDANA SURFACE WATER MANAGEMENT PLAN:

I. Existing Conditions

The subject property consists of 1,460.8 acres and exists as an operating citrus grove located on the south side of Corkscrew Road. Based on topography and historical aerials, the general historic drainage pattern for the property is from the northeast to southwest to Corkscrew Swamp via an unnamed canal located within Panther Island Mitigation Bank. Existing topography for the property ranges from 26.0' NAVD in the northeast corner of the property to 20.3' NAVD in the southwest corner of the property.

Existing stormwater facilities serving the groves were permitted through the South Florida Water Management District as two (2) separate surface water management permits. The limits of each permit authorization for the property are depicted on *Exhibit* A – *Existing Facilities Map*.

For the 918 acres authorized by permit #36-00027-S, a field inspection of the property observed a series of pipes discharging freely into the main north-south ditch located along the west property line of the northern half of the property. The main outfall ditch runs north to south from Corkscrew Road to Panther Island Mitigation Bank and serves as the main outfall for the subject property. While consistent with the originally permitted facilities, there are no facilities providing water quality or attenuation for the property other than adjustable risers connecting the field ditches to the main outfall ditch that are regulated to meet irrigation demands and crop protection.

For the southeasterly 536 acres authorized by #36-00026-S, there exists an interconnected northern and southern reservoir along its western basin boundary that provides a cascading system of water quality and attenuation prior to discharging to the main outfall ditch described above. The system as originally permitted in 1982 was modified in 2001 to allow for the agriculture uses to be converted to a grove operation from a row-crop operation. With the use conversion, the water management system was also modified to increase the control elevation of the southern reservoir from an elevation 16.3' NAVD to 19.3' NAVD to "assist in restoring historically impacted groundwater levels."

II. Proposed Conditions

The water management facilities serving the project will be designed as a multi-basin system to replace the existing ditch-dike system of the agriculture use. The interconnected lakes of each basin will be sized to provide the required attenuation for the 25-year storm event with a maximum discharge of 25 cubic-feet-per-square-mile (CSM), and provide the required water quality treatment in accordance with South Florida

1605 Hendry Street • Fort Myers, FL 33901 • 239-418-0691 • 239-418-0692 fax



Water Management District (SFWMD) rules. See Exhibit B for a typical cross-section of the proposed lakes within the development.

Basin 2, located in the northwest corner of the property, will incorporate dry pretreatment within the treatment train to account for development proposed within the 10year migration travel time of Lee County Utilities' groundwater well located northwest of the property on the north side of Corkscrew Road. Run-off from that portion of the development located in the 10-year cone of influence will be directed into the pretreatment area prior to discharge into the basin's stormwater lake. A typical section of the pre-treatment area and the lake it discharges into is provided as Exhibit C.

The water management basins will discharge treated stormwater to a system of restored and created on-site preserve areas bisecting the property from northeast to southwest. The ultimate outfall for the project will be to Panther Island Mitigation Bank where the existing system discharges to. Lakes proposed adjacent to the preserve areas will be separated from the preserve areas by a perimeter berm designed to contain the 25-year, 3 day storm event. Exhibit D depicts the interface between lakes and the preserve areas. Discharge from the stormwater system to the preserve areas will be through a control structure for each basin designed to meet SFWMD rules.

The control elevations for the multi-basin system will be established based on site topography, environmental factors contained on-site, and established control elevations of surrounding properties depicted on *Exhibit A*. This will take into account *Panther Island Mitigation Bank* to the south, *Imperial Marsh Preserve* and *Corkscrew Mitigation Bank* to the north, *Ultimate Ski Lake* to the east, and *Pepperland* to the northwest, in an effort to re-establish historical hydrologic conditions of the property to the extent possible given the conditions of the surrounding properties.

The replacement of the well-drained ditch system with a stormwater management system designed with consideration for on-site environmental factors, and in accordance with SFWMD rules is expected to provide a significant hydrologic lift to the property.





. .



.

PRESE	RVE]	LAKE TRAC	CT		.
	15' MIN. UPLAND	25'		LAKE		
WETLAND	BUFFER		24'	16'		
SHID MARK		MAX.	6.1	CONT		ł
MATCH	H EX. GRADE		PROXIMATE EX. GRADE	2:3-		8' MIN.)
			ETER BERM ELEV.	*/		<u>t</u>
Ţ	YPICAL	LAKE ABUT	TING PRESER	RVE SEC	TION	
T	YPICAL	LAKE ABUT	TING PRESER	RVE SEC	TION	
<u>T</u>	YPICAL	LAKE ABUT	T ING PRESE F	<u>RVE SEC</u>	TION	
Ţ	YPICAL	LAKE ABUT	TING PRESER	<u>RVE SEC</u>	TION	
Ţ	YPICAL	LAKE ABUT	TING PRESER	<u>RVE SEC</u>	TION	
Ţ	YPICAL	LAKE ABUT	TING PRESER	<u>RVE SEC</u>	<u>TION</u>	
Ţ	YPICAL	LAKE ABUT	TING PRESER	RVE SEC	<u>TION</u>	
	GERALD	LAKE ABUT	NTS	<u>RVE SEC</u>	EXH1BI	 Τ D
T DELISI FITZ/ Planing_Engineering	YPICAL GERALD, IN Project Management	LAKE ABUT	NTS	<u>RVE SEC</u>	EXHIBI Project Number:	ŤD

.

•



EXHIBIT F

Table of Contents

.

. .

. .. **.** . .

				Page
-	Introductio	n		Ą
	Section 1.	Historic Surface Water Hydrology		5
	Section 2.	Water Resources Best Management Pra	ictices	6
	А. В.	Construction Phase BMPs Post-Construction Phase BMPs		6 7
	Section 3.	Lake Maintenance		8
	A. B, C. D. E. F. G.	General Provisions Nuisance and Exotic Vegetation Control Littoral Vegetation Preservation Fertilizer Application Erosion Protection and Lake Bank Maintenanc Lake Education Program Pesticide, Herbicide or Fungicide Applications	e	8 8 9 9 10 10
	Section 4.	Corkscrew Wellfield Protection		11
	А.	Corkscrew Wellfield Protection		11
	Section 5.	Surface Water Quality Monitoring Prog	ram	11
	A. B. C.	General Data Quality Objectives Surface Water Monitoring Goals Surface Water Quality Monitoring		11 12 12
	Section 6.	Groundwater Quality Monitoring Progr	am	13
	А. В. С.	General Data Quality Objectives Groundwater Monitoring Goals Groundwater Quality Monitoring		13 13 13
	Section 7.	Water Quality Data Reporting and Anal	ysis.	14
	Section 8.	Remedial Actions	CALCE AND DE TON	14
	Section 9.	In Conclusion	2044年4月1日至7月10年4月 1	¹¹ 15
		ncı 2016-0001	8	Page. 2

1

. .

Tables

- 1. Water Quality Sampling Schedule
- 2. Surface Water Quality Analyte List
- 3. Groundwater Quality Analyte List

Figures

.. ..

- 1. Site Topography
- 2. Proposed Surface and Groundwater Monitoring Locations

AUG 0 7 2017 COMMUNITY DEVELOPMENT

DCI 2016-00018

Page | 3

Introduction

2.

The Verdana proposed Residential Development demonstrates a substantial net benefit to the water resources within the project area and Lee County's Density Reduction/Groundwater Resource (DR/GR) area as compared to the current agricultural land use. The Verdána property encompasses approximately 1,460 acres, of which 1,134 acres (78 percent) are currently planted in citrus. The project site has a long farming history and has been continuously used for agricultural purposes since the early 1960's. In accordance with Lee County's Comprehensive Plan (The Lee Plan), proposed developments within the DR/GR must demonstrate the protection, preservation and enhancement of groundwater resources and environmental (wetland) systems. Transitioning this site into a Residential Development results in the following benefits:

- 1. Irrigated area is reduced by approximately 931 acres (approximately 82 percent) which results in a proposed retirement of approximately 885,010,000 gallons of permitted groundwater use on an annual basis and approximately 154,890,000 gallons on a maximum or peak month (dry season) basis. In addition, 21,050,000 gallons of groundwater permitted for each cold protection (freeze) event will also be retired.
- 2. The project proposed the elimination of all groundwater quantities withdrawn from wells completed into the shallow Water Table Aquifer (which currently equates to 887,670,000 gallons on an annual basis) resulting in improved water resources in the DR/GR by eliminating groundwater drawdowns to nearby environmental systems, including both the Airport Mitigation Park to the north and the Panther Island Mitigation Bank to the south.
- 3. Implementation of an integrated ground and surface water Irrigation system, whereby groundwater quantities proposed to be withdrawn from the Sandstone Aquifer for irrigation are used to supplement surface water supplies within dedicated irrigation ponds. Irrigation supplies will then be withdrawn from the dedicated irrigation ponds to irrigate lawns and the landscaped area. The conjunctive use of both ground and surface water supplies are anticipated to additionally reduce overall withdrawals from the Sandstone Aquifer when adequate surface water supplies are available, furthering the conservation of groundwater resources within the DR/GR.
- 4. A master-controlled irrigation system that regulates the initiation and overall duration of Irrigation events to manage irrigation water use and greatly enhance water conservation (i.e. no individual homeowner irrigation timers).
- 5. The connection to public utilities for both potable supply and wastewater, effectively eliminating up to approximately 134 individual private, potable supply and irrigation wells and 134 individual septic tanks that could have been installed under the existing Allowable Residential Land Use te. DCI 2016-00018 authorized for the site.

Page 4

- 6. Improved surface water quality and enhanced opportunities for recharge to the Water Table Aquifer through the creation of numerous engineered stormwater management system lakes (including the elimination of "grandfathered" facilities authorized under ERP No. 36-00327-S).
- 7. Significant reduction of the amount of fertilizers, herbicides and pesticides that are currently applied by the existing 1,134-acre farming operation, which is exempt from Lee County's Fertilizer Ordinance No. 08-08. The Residential Development will be mandated to adhere to this ordinance.
- 8. Creation of a northeast-southwest meandering Flow-Way (to mimic historical hydrologic features in order to help diversify and enhance onsite ecosystems and wildlife habitats).
- 9. Elimination of agricultural "rim ditches" around onsite wetlands.
- 10. Substantial environmental restoration associated with the conversion of active citrus cultivation acreage into open space habitat, including the preservation and enhancement of onsite forested conservation areas.

Collectively, these improvements represent a much higher standard of water resource and environmental protection as compared to the currently authorized land use. The water resource benefits incorporated into the proposed Residential Development meet, and in many cases, exceed, the future land use requirements contemplated by Lee County's Comprehensive Plan.

The change in land use, coupled with the management practices contained within the Enhanced Lake Management Plan (ELMP) herein, provides for a high standard of water resource and environmental protection. For ease of use and understanding, the proposed ELMP contains several sections that address key elements, with each of the main ELMP sections in turn having subsections that provide specificity regarding the management actions necessary to safeguard the water resources. Where applicable, Best Management Practices (BMPs) are provided in bold text to highlight specific water resource protection measures.

Section 1. Historic Surface Water Hydrology

COMMUNITY DEVELOPMENT

To better understand the proposed water resource management actions contained within this ELMP, it is important to understand historic surface water flows on the property. The project site is relatively flat, with the highest land surface elevations of approximately 27 feet NAVD located on the northern sections of the property, immediately south of Corkscrew Road. The lowest land surface elevations are located in the southwest corner of the property at approximately 19 feet NAVD. A Digital Elevation Model (DEM) produced from Lidar data is included as Figure 1 and clearly portrays the southwesterly topographic gradient of the project site. Please note that the upper range of land surface elevations portrayed in the DEM Includes the berms associated with the grove's stormwater management system Above Ground Impoundment (AGI), while the DEM's low range elevation values are representative of the inverts of the

DC12016-00018

Page | 5

existing agricultural ditches. Therefore, the DEM elevation scale has a larger topographic range of approximately 34.8 to 17.4 feet NAVD.

Prior to agricultural development, the project site was characterized as open rangeland and pine Flatwoods interspersed with wet prairies, marshes and cypress forest. The 1953 historic aerial photography revealed what appears to be a northeast to southwest trending shallow slough system that transected the property and conveyed surface water downslope towards a large wetland system now referred to as the "Corkscrew Swamp Sanctuary" and the Flint Pen Strand, both of which are part of the Corkscrew Regional Ecosystem Watershed (CREW).

With the development of the citrus grove in the early 1960's, surface water was redirected to the south along the western boundary of Section 32 and into the northern section of what is now the Panther Island Mitigation Bank where it again flows westerly towards the CREW lands. The Corkscrew Regional Mitigation Bank, owned by the South Florida Water Management District (SFWMD), is located immediately north of the project site. Stormwater flows from the Mitigation Bank do not enter the project site, but are directed to the west, towards the CREW, along the northern side of Corkscrew Road.

Section 2. Water Resources Best Management Practices

As the project evolves from predominately a "construction phase" to "partial construction" and ultimately to a "post-construction" residential phase, the BMPs must also evolve to maintain water resource protection. Construction of the proposed development may take up to 10 years, depending on market conditions. However, after initiation of construction, the vast majority of major earthwork is anticipated to be completed by the end of the 5th year.

A. <u>Construction Phase BMPs</u>

During construction of the proposed development, the greatest potential for impacts is associated with increased turbidity and/or potential spills of fuels/oils (hydrocarbons), otherwise known as Volatile Organic Compounds (VOCs) used to power earthmoving equipment, etc. Specific BMPs associated with the construction phase are provided below. The Developer will be responsible for maintaining compliance with all ELMP BMPs and requirements until such time that control of the development is transitioned to the Homeowner's Association (HOA) and/or Community Development District (CDD).

Construction Phase BMPs

1. The site's general contractor shall be responsible for assuring that each contractor or subcontractor evaluates the work area before construction is initiated to determine if site conditions may pose particular problems for the safe and secure handling of any regulated substances.

DC12016-00018

Page | 6 的自己的现在分词

- 2. If any regulated substances are stored on the construction site during the construction process, they shall be stored in a location and manner which will minimize any possible risk of release to the environment. There will be no intention to use, handle, produce or store regulated substances in violation of the Lee County Land Development Code Section 14-477 Stormwater Pollution Prevention Plan (SWP3) criteria.
- 3. Each contractor/subcontractor shall familiarize themselves with the manufacturer's safety data sheet supplied with each material containing a regulated substance and shall be familiar with procedures required to contain and clean up any releases of the regulated substance. Any tools or equipment necessary to accomplish the same shall be available in case of an accidental release.
- 4. In the event of a spill of a regulated substance, the contractor/subcontractor will immediately notify the Developer, who will in turn notify the Lee County Division of Natural Resources Director at (239) 533-8109 and the FDEP South District Office at (239) 344-5600. Additional measures, such as those described in the Lake Maintenance Plan (Section 3), may also apply.
- 5. Upon completion of construction, all unused quantities of regulated substances and their containment systems shall be completely removed from the construction site.
- 6. Proper turbidity abatement measures, as required by the SFWMD, the Florida Stormwater Sedimentation Control Inspector's Manual standards, and the FDEP National Pollutant Discharge Elimination System (NPDES) permit criteria will be maintained while construction is ongoing or until adequate vegetation or other stabilization measures have been established.

B. <u>Post-Construction Phase BMPs</u>

After the Lee County Certificate of Compliance or the SFWMD stormwater management system certification is completed for a particular phase of the development, the primary focus of the ELMP will be maintaining the stormwater management system lakes, since all runoff will be routed to these features for treatment. It is also anticipated that the Developer will establish and create an HOA and/or a CDD that will be responsible for the maintenance of all aspects of the stormwater management system including the lakes and associated stormwater conveyance and control components, in perpetuity. At a minimum, the operation and maintenance of the stormwater management system and water quality testing will require compliance with the terms and conditions as contained within the ELMP. Additional details on BMPs, including the monitoring of surface water, are provided in the Lake Maintenance Section (Section 3).

用"应当"的"自己"。

DC/2016-00018

Page] 7

Section 3. Lake Maintenance

Α. General Provisions

Proper lake maintenance is an integral aspect of this ELMP since stormwater runoff is directed to these features for treatment and attenuation. As previously described, the lakes will be excavated into the top of the Water Table Aquifer. As an added protection to underlying groundwater resources, the excavation of the lakes will not penetrate underlying clays or limestone, whichever is encountered first. In addition, the groundwater withdrawn from the proposed (new) onsite wells will be constructed into the deeper Intermediate Aquifer System (Sandstone Aquifer) and will replenish lakes proposed for use in the master irrigation system, seven (7) of which are proposed for water quality sampling as shown in Figure 2.

Surface water irrigation pumps will "repump" groundwater supplies and retained stormwater (surface water) for the irrigation of the residential development. The recycling of surface water quantities is expected to further improve water quality on the property and maintain high water quality in the lakes. The stormwater lakes must be maintained in perpetuity and the following management actions are proposed, Specific post-construction BMPs are also provided.

Β. Nuisance and Exotic Vegetation Control

The HOA and/or CDD will be responsible for the removal (In perpetuity) of all nulsance and exotic vegetation from the stormwater management system as defined by the Lee County Land Development Code.

Nuisance and Exotic Vegetation Control BMPs

- 1. Lakes must be inspected annually and any prohibited vegetation must be removed by the use of hand-clearing or appropriate chemical treatment. Only aquatic approved compounds may be utilized in the stormwater management system lakes.
- 2. Herbicides and/or algaecides may only be applied by a licensed professional applicator, who meets the requirements of Lee County, and in accordance with manufacturer specifications. All applicable local, state and/or federal guidelines and requirements will also be followed.

C. Littoral Vegetation Preservation

Littoral zone vegetation is required to be installed by the Developer and maintained by the HOA and/or CDD, in perpetuity, for the lakes within the project area. Littoral zones provide habitats for wading birds, fish and aquatic invertebrates. Littoral vegetation also helps stabilize lake shorelines and prevents erosional problems.

0012016-00018

Page | 8

Littoral Vegetation Preservation BMPs

- 1. Littoral plants that die will be replaced in accordance with Lee County Land Development Code requirements. The presence of littoral plants throughout the lakes is desirable and may also help to improve the water quality within the lakes.
- 2. The spread of littoral plants will be encouraged throughout the designated planted littoral areas.
- Mechanical trimming, mowing or the use of land-based herbicides on desirable littoral plants is prohibited. Any trimming or removal of vegetation required to promote the survival and viability of littoral vegetation will be performed by hand or by approved aquatic herbicides and methods.

D. Fertilizer Application

Strict adherence will be maintained with Lee County's Fertilizer Ordinance. Individual lot owners are prohibited from applying fertilizer to their lots. Any person(s) applying fertilizers must have received a limited certification in compliance with Florida Statute 482.1562 prior to application of any and all fertilizers. Additionally, fertilizer content and application rate must be in compliance with Lee County's Fertilizer Ordinance.

Fertilizer Application BMPs

- 1. All professional landscape businesses must register with Lee County prior to performing landscape fertilization services within unincorporated Lee County.
- 2. At least one (1) employee of a firm employed to perform landscape fertilization services must be a Certified Professional Landscaper.
- 3. Proof of completion of a Lee County-approved BMP training program must be provided to the Division of Lee County Natural Resources.
- 4. At least one (1) BMP-trained employee must be on site while fertilizers are applied. A registration decal provided by the division must be displayed on all company vehicles.

E. Erosion Protection and Lake Bank Maintenance

Lake banks are generally susceptible to erosion due to overland flow of stormwater runoff, wave action, and the natural seasonal fluctuation of water levels. Accordingly, lake banks within the project are designed to minimize this potential for erosion.

Erosion Protection and Lake Bank Maintenance

1. Lake banks will be inspected annually to identify areas of erosion. Once identified, the erosion will be repaired and the source of erosion shall be eliminated, if possible.

DC|2016-00018

每時期間從於時間的

- 2. Where excessive erosion occurs, repair of the lake banks and/or enhancement of stabilization measures may be necessary.
- 3. No motorized boats will be allowed within any of the onsite stormwater management lakes.

F. Lake Education Program

A narrative explaining the benefits of littoral vegetation, lake maintenance, and surface and groundwater quality will be made available to residents.

Lake Education Program BMPs

- 1. Lake experts will be encouraged to attend the HOA and/or CDD meetings annually to discuss the lake system operation and maintenance requirements.
- 2. Individual homeowners within the property will be informed that they are prohibited from removing or trimming littoral vegetation.
- 3. Additionally, the homeowners will be made aware of the extreme importance related to the elimination of any introduction of hazardous materials or substances into the lakes.

G. <u>Pesticide, Herbicide or Fungicide Applications</u>

All applications of pesticides, herbicides, algaecides and/or fungicides shall be applied by a licensed professional applicator, meet the requirements of Lee County, be applied in accordance with the manufacturer's specifications, and shall meet all applicable local; state and/or federal guidelines and requirements. Only approved aquatic herbicides may be used to treat the stormwater management system.

Pesticide, Herbicide, Algaecide or Fungicide Application BMPs

- Individual lot owners shall be prohibited from applying pesticides, herbicides and/or fungicides to their lots. These activities will only be performed by certified contractors approved by the HOA and/or CDD.
- 2. The use of any chemical product in a manner that will allow airborne or waterborne entry of such products into the surface water management system is prohibited. This requirement shall not apply to the use of chemical agents by certified lake management specialists for the control of algae and nuisance vegetation within the stormwater management system lakes. However, application of such agents shall be in compliance with the requirements of Lee County, applied in accordance with the manufacturer specifications, and meet all applicable local, state and/or federal guidelines and requirements.

DCI2016-00018

Page | 10 克利加拉。Alter av

3. Pesticides, fungicides, and herbicides will be used only in response to a specific problem and in the manner and amount recommended by the manufacturer. Broad application of pesticides, fungicides and herbicides as a preventative measure is strongly discouraged.

Section 4. Corkscrew Wellfield Protection

A. Corkscrew Wellfield Protection

As shown in Figure 2, a vast majority of the Verdana development is located outside of the Lee County Wellfield Protection Zones with only the northwestern-most stormwater management lake partially intersecting the ten (10) year travel time zone (blue shaded area). As also shown, the same lake is well outside of the five (5) year travel time area (red shaded area). The long travel time is due to local groundwater gradients and the fact that the nearest Lee County potable well site is located over 1,000 feet from the proposed stormwater management lake.

However, to safeguard the County's nearest public supply wells, this ELMP includes detailed water quality monitoring of a dedicated Water Table Aquifer (upper Tamiami Formation) monitor well, as well as the nearest stormwater management system lake and six other lakes within the proposed development. The location of the surface and groundwater quality monitoring sites is provided in Figure 2. The level of water quality assurance offered by this ELMP coupled with Lee County's 5 to 10-year prediction of groundwater travel times offers abundant assurance that if some form of degradation of water quality or contamination occurs, that ample time exists to initiate remedial measures and safeguard Lee County's wellfield.

If an unforeseen spill, accidental release of chemicals, or increased concentration of contaminants is detected, remedial measures will be immediately put into place. Such measures could include some or all of the following actions: 1) The implementation of increased water quality testing; 2) Measures to replenish the lake with groundwater for dilution and if necessary withdraw the water from the lake for treatment; 3) The installation of additional monitoring wells between the nearest stormwater management system lake and Lee County's public supply wells; and 4) If deemed necessary, the construction and operation of groundwater intercept or recovery wells. These remedial actions would be triggered by an accidental spill and or detection of high concentrations, above the Maximum Contaminant levels (MCL) for the compounds listed in Table 1.

Section 5. Surface Water Quality Monitoring Program

AUG N 7 2017

A. General Data Quality Objectives

All surface water quality samples will be collected in accordance with Chapter 62-160, Florida Administrative Code (F.A.C.), and the FDEP's Standard Operating Procedures (SOPs) DEP-SOP-001/01 FQ 1000 Field Quality Control Requirements.

DC/2016-00018 Page | 11 DC/2016-00010

00000001110011100011201

All surface water quality samples will be collected in accordance with FDEP-SOP-001/01 FS 2100 Surface Water Sampling. A summary of the proposed surface water sampling schedule is provided in the attached Table 1.

B. <u>Surface Water Monitoring Goals</u>

The purpose of the surface water monitoring program is to assure stormwater discharges from the subject property meet all applicable requirements of the SFWMD Environmental Resource Permit (ERP) program authorized pursuant to Part IV of Chapter 373, F.S. and all applicable requirements of Chapter 62-302, F.A.C., Surface Water Quality Standards before discharging surface water from the stormwater management system. Additionally, monitoring of the lakes will verify the efficacy of the management actions and assure the lakes' health for the residents' enjoyment. In addition, to further protect the water resources, surface water quality monitoring will also occur at the final outfall of the proposed Flow-Way that will transect the property from the northeast to southwest. The Flow-Way will discharge immediately upstream of the Panther Island Mitigation Bank and water quality sampling will occur at the southern termination of the proposed Verdana Flow-Way. <u>Please note that if there is no flow observed at the time of sample collection, the "no-flow" condition will be noted, and no surface water sample will be taken.</u> Additional surface water quality parameters may be required if the FDEP determines that the sub-watershed or FDEP Water Body Identification (WBID) No. 3258C becomes impaired.

C. <u>Surface Water Quality Monitoring</u>

Immediately after the operational completion of the proposed stormwater management system (see **Figure 2**), seven lakes (SW-1 through SW-7) will be sampled quarterly (March, June, September and December). Surface water quality grab samples will be collected per FDEP protocol and analyzed by a NELAC/TNI-certified laboratory. After completion of the Flow-Way, quarterly surface water quality sampling at the southern property boundary will also commence (SW-8). The surface water quality parameters to be tested are listed below and summarized in Table 2. In addition, Table 2 also includes the laboratory's Accuracy, Precision and minimum Method Detection Limit (MDL). Please note that the Practical Quantitation Limit (PQL) for each parameter varies between laboratories, however the PQL typically equates to 4 times the MDL.

- Field Parameters: Depth of Water, % Dissolved Oxygen Saturation, Dissolved Oxygen, pH, Temperature and Specific Conductivity
- Lab Parameters: Total Nitrogen, Nitrite + Nitrate, Ammonium, Ammonia, Total Kjeldahl Nitrogen, Total Phosphorus, Chlorophyll-a, and Orthophosphate.

Quarterly surface water quality monitoring shall be continued for a minimum of five (5) years after operational completion of the stormwater management system. After five (5) consecutive years of testing, a request for discontinuation or reduction in the monitoring requirements will be proposed to the Lee County Natural Resources Department if it can be demonstrated that surface water quality is being maintained within applicable State standards.

DCI 2016-00018

"自己有了行行"。此

Section 6. Groundwater Quality Monitoring Program

A. <u>General Data Quality Objectives</u>

All groundwater quality samples will be collected in accordance with Chapter 62-160, Florida Administrative Code (F.A.C.), and the FDEP's Standard Operating Procedures (SOPs) DEP-SOP-001/01 FQ 1000 Field Quality Control Requirements,

All groundwater quality samples will be collected in accordance with FDEP-SOP-001/01 FS 2200 Groundwater Sampling. A summary of the proposed groundwater sampling schedule is provided in the attached Table 2.

B. <u>Groundwater Monitoring Goals</u>

The purpose of the groundwater monitoring program is to assure that the County's public supply wellfield is protected. The groundwater monitoring, in addition to the surface water monitoring of the stormwater management system, affords a comprehensive means to safeguard drinking water supplies and the overall water resources of the DR/GR.

C. <u>Groundwater Quality Monitoring</u>

Coincident with the operational completion of the proposed stormwater management system, a Water Table Aquifer monitoring well (GW-1) will be constructed between the northwest corner of the development and the nearest public supply well site, No. 39, as shown in Figure 2. The proposed monitoring well will be constructed such that the sampling interval (open hole section) is similar to Lee County's surficial aquifer public supply Well No. 39S. The groundwater quality parameters to be tested are listed below and summarized in Table 3. Sampling of the proposed groundwater monitoring well GW-1 will occur simultaneously with the quarterly surface water quality sampling (SW-1 through SW-8).

In addition, Table 3 also includes the laboratory's Accuracy, Precision and minimum Method Detection Limit (MDL). Please note that the Practical Quantitation Limit (PQL) for each parameter varies between laboratories, however the PQL typically equates to 4 times the MDL.

- Field Parameters: Water Level, pH, Temperature, and Specific Conductivity
- Lab Parameters: Chloride, Endothall, Glyphosate, and Diquat.

Quarterly groundwater quality monitoring shall be continued for a minimum of five (5) years after operational completion of the stormwater management system. After five (5) consecutive years of testing, a request for discontinuation or reduction in the monitoring requirements will be proposed to the Lee County Natural Resources Department if it can be demonstrated that groundwater quality is being maintained within applicable State standards.

38:2011-00018

116 0 7 2016

如這個的限力部分但

Page | 13

Section 7. Water Quality Data Reporting and Analysis

Surface and groundwater data will be submitted to Lee County Natural Resources Department staff in an approved electronic format within 30 days of receiving the water quality results from the contract laboratory. The submittal will include all field notes, field and laboratory water quality data results and all previously collected water quality data, i.e. the period of record. The submittals will also include a brief narrative on the most recent sample collection, sample chain of custody, descriptions of any re-testing of erroneous values, and any water quality exceedances.

By March 1 of each year, a Water Quality Summary Report for the preceding calendar year shall be supplied to Lee County Natural Resources staff that summarizes the surface and groundwater testing results for the development. The results will include a summary table that lists all the field and laboratory parameters for the monitoring locations. Laboratory parameter concentrations that fall below the Practical Quantitation Limit (PQL) for that parameter will be reported with no value; however, a value qualifier of "}" (between the MDL and PQL) or "U" (below the MDL) will be included in the summary table.

All water quality data for the analytes listed in Tables 2 and 3 that are detected in concentrations above the laboratory PQL will be reviewed, graphed and statistically analyzed for trends and exceedances above two (2) standard deviations of the mean of all values. Any reported concentrations above the Maximum Contamination Level (MCL) will be clearly identified as well as remedial actions that were used to timely reduce that particular analyte's concentration. Details regarding remedial actions are provided in the Remedial Actions section (Section 8) of this ELMP.

Remedial Actions Section 8.

In the unforeseen event that any significant surface and/or groundwater impacts (as defined below) are identified as a result of a hydrocarbon spill or pesticide/herbicide application at the property, the Developer or designee of the HOA and/or CDD will notify the Director of the Natural Resources Division within no more than 12 hours (or next business day). If a spill or release "presents an immediate threat to human health and/or the environment" the FDEP Office of Emergency Response ("OER") will be contacted within 24 hours. Guidance outlining the definition of a release as well as reporting procedures is presented in the OER web page located at:

http://www.dep.state.fl.us/per/reportable incident.htm.

The Developer or their successor(s) will coordinate contamination assessment and remediation efforts with Lee County and will comply with applicable local, state and federal permitting requirements. The initial phase of the remediation plan will consider the actions outlined in Section 4 Corkscrew Wellfield Protection and may consist of additional temporary monitoring wells installed for short-term temporal monitoring of potential subsurface impacts and to evaluate the horizontal and vertical distribution of the impacted area. Based on the findings of the initial phase, if necessary, a comprehensive assessment may be required.

DCI2016-00018

Capter of the winds.

Section 9. In Conclusion

The information and technical requirements in this ELMP are provided to the Developer or designee of the HOA and/or CDD to assist with the understanding of the importance of a well-maintained and fully-functioning stormwater management system. The stormwater management system lakes within the development are not only required by state law, but can be a source of beauty and enjoyment for the residents while maintaining the value and integrity of the water resources.

11泊 有二

86/2016-00018

Page | 15

TABLES



COMPONITA DEACTORNENL

DC12016-00018

Table 1 Water Quality Sampling Schedule

Date	Sample Type	Sample Location				
January-31	N/A	N/A				
February-28	N/A	N/A				
Na-web ad	Surface Water	7 Stormwater Lakes & Final Outfall				
Iviarch-31	Groundwater	Water Table Aquifer				
April-30	N/A	N/A				
May-31	N/A	N/A				
	Surface Water	7 Stormwater Lakes & Final Outfall				
June-30	Ground Water	Water Table Aquifer				
July-31	N/A	N/A				
August-31	N/A	N/A				
C	Surface Water	7 Stormwater Lakes & Final Outfal				
Septemper-30	Ground Water	Water Table Aquifer				
October-31	N/A	N/A				
November-30	N/A	N/A				
B	Surface Water	7 Stormwater Lakes & Final Outfall				
December-31	Ground Water	Water Table Aquifer				

*See Figure 2 for surface and ground water quality sampling locations.

AUG 0 7 2017

Table 2

Surface Water Quality Analytes and Schedule for Sampling (SW-1 through SW-8)

		Field Para	meters	-	
Parameter	Units	Precision (%RPD)	Accuracy (%Recovery)	MDL	Sampling Frequency
Depth of Water	Feet	0.01	NA	ŇA	Quarterly
Dissolved Oxygen	mg/L	FT 1000-1	FT 1000-1	NA	Quarterly
рН	SU	FT 1000-1	FT 1000-1	NA	Quarterly
Temperature	Deg C	FT 1000-1	FT 1000-1	NA	Quarterly
Specific Conductivity	μ\$/cm	FT 1000-1	FT 1000-1	NA	Quarterly
	Laborat	ory Parame	eters (Nutrie	nts)	
Total Nitrogen	mg/L	CALC	CALC	CALC	· Quarterly
Nitrite + Nitrate	mg/L	5	90-110	0.004	Quarterly
Ammonium	mg/L	CALC	CALC	CALC	Quarterly
Ammonia	mg/L	17	90-110	0.008	Quarterly
Total Kjeldahl Nitrogen	mg/L	11	90-110	0.05	Quarterly
Total Phosphorus	mg/L	10	90-110	0.008	Quarterly
Chlorophyll-a	mg/L	20	93-108	0.25	Quarterly
Ortho-phosphate	mg/L	10	88-118	0.002	Quarterly

CONTRACTANTA DENEL CONTENT.

DCI2016-00018

	Fie	ld Parame	ters		
Parameter	Units	Precision (%RPD)	Accuracy (%Recovery)	MDI.	Sampling Frequency
Temperature	DecC	FT 1000-1	FT 1000-1	0.1	Quarterly
Specific Conductance	µmhos/cm	FT 1000-1	FT 1000-1	1	Quarterly
pН	SU	FT 1000-1	FT 1000-1	0.01	Quarterly
Water Table Aquifer Elevation	ft NGVD	NA	NA	0.01	Quarterly
l l	aboratory	Parameter	s (Nutrients)	1	
Chloride	mg/L	0-20	90-110	1	Quarterly
Endothall	µg/L	0-20	90-110	9	Quarterly
. Glyphosphate	μg/L	0-20	90-110	6	Quarterly
Diquat	µg/L	0-20	90-110	0.4	·Quarterly

Table 3 Groundwater Quality Analytes and Schedule for Sampling (GW-1)

AUG 0 7 2017 1

COMMUNITY DEVELOPMENT

OCI2016-00018





ļ

....

DC12016-00018




VERDANA PROTECTED SPECIES MANAGEMENT AND HUMAN-WILDLIFE COEXISTENCE PLAN

Revised October 2017

Prepared For:

Pan Terra Holdings, LLC 150 Alhambra Circle, Suite 925 Coral Gables, Florida 33134 (305) 461-0563

Prepared By:

Passarella & Associates, Inc. 13620 Metropolis Avenue, Suite 200 Fort Myers, Florida 33912 (239) 274-0067



DCI 2016-C0018

Project No. 15BDG2365

T.

COMMUNITY DENT OPPIERD.



TABLE OF CONTENTS

	. P	age	
1.0	Introduction	1	
2.0	Listed Species Surveys	1	
3.0	Conservation Areas2		
4.0	Wildlife Crossing		
5.0	Perimeter Lake Buffer and Fencing		
6.0	Commercial Uses		
7.0	Eastern Indigo Snake Management Plan	4	
	 7.1 Biology 7.2 Management Plan 	4	
8.0	American Alligator Management Plan	5	
	8.1 Biology8.2 Management Plan	5	
9.0	Crested Caracara Management Plan	6	
	9.1 Biology9.2 Management Plan	6 7	
10.0	Wood Stork, Wading Bird, and Southeastern American Kestrel Management Plan	7	
	10.1 Management Plan	8	
	DEARD FIL		



DCI 2016-00018

COMMINID A DEADTOBREAL

Table of Contents (Continued)

		Page	
11.0	Big C	ypress Fox Squirrel Management Plan8	
	11.1	Biology	
	11.2	Pre-Construction Surveys 9	
	11.3	Management Plan	
12.0	Florid	a Black Bear Management Plan	
	12.1	Biology	
	12.2	Management Plan	
13.0	Florid	a Panther Management Plan	
	13.1	Biology 11	
	13.2	Management Plan	
14.0	Prescribed Fire		
15.0	Huma	n-Wildlife Coexistence Plan	
	15.1	Eastern Indigo Snake	
	15.2	American Alligator	
	15.3	Wading Bird	
	15.4	Florida Black Bear	
	15.5	Florida Panther14	
16.0	Preserve Signage and Community Education Plan		
17.0	Refer	ences	



DCI 2016 00018

6.7

.

COMMUNITY DEVELOPMENT

LIST OF TABLES

Table 1.

Listed Wildlife Species Documented......1

Page



DCI 2016 20018

LIST OF APPENDICES

	Page
Appendix A.	Project Location MapA-1
Appendix B.	Aerial with Conservation Areas and Proposed Location of Wildlife Crossing and FencingB-1
Appendix C.	FWCC List of Bear-Resistant Garbage Containers
Appendix D.	American Alligator Informational PamphletD-1
Appendix E.	Florida Black Bear Informational PamphletE-1
Appendix F.	Florida Panther Informational PamphletF-1
Appendix G.	Eastern Indigo Snake Informational PamphletG-1
Appendix H.	American Alligator Management and Preserve Signage
Appendix I.	Wading Bird Informational PamphletI-1
Appendix J.	Prescribed Burning InformationJ-1



DCI 2016-00018

1.0 INTRODUCTION

This report documents the Protected Species Management and Human-Wildlife Coexistence Plan for Verdana (Project). The management plan contained in this report pertains to the Eastern indigo snake (Drymarchon corais couperi), American alligator (Alligator mississippiensis), crested caracara (Caracara cheriway), listed wading birds, Southeastern American kestrel (Falco sparverius paulus), Big Cypress fox squirrel (Sciurus niger avicennia), Florida black bear (Ursus americanus floridanus), and Florida panther (Puma concolor coryl).

The Project totals 1460.78± acres and is located in Sections 29, 31, and 32; Township 46 South; Range 27 East; Lee County (Appendix A). The Project is bounded by Corkscrew Road to the north. Agricultural lands are located along the northwestern and southeastern boundaries. Low-density, single-family residences are adjacent to the Project's southwestern and northeastern boundaries. Panther Island Mitigation Bank is located along the southern boundary (Appendix A).

The property is currently an active citrus grove with scattered areas of remnant native vegetation. As part of the agricultural surface water management, extensive ditching and berms have been constructed on the property. The remnant native vegetation includes a mixture of pine flatwoods, cypress, and cypress/pine/cabbage palm communities. These areas are typically bounded by berm and ditching associated with the surrounding citrus groves.

2.0 LISTED SPECIES SURVEYS

Passarella & Associates, Inc. (PAI) conducted a Lee County protected species survey (PSS) on the Project site in October, November, and December 2015, and February 2016. The survey was conducted to meet Lee County Land Development Code (LDC) Chapter 10, Article III, Division 8 (Protection of Habitat) standards. Eleven Lee County protected species were documented during the protected species survey and other fieldwork conducted by PAI. The protected wildlife species documented included the American alligator, Eastern indigo snake, roseate spoonbill (Ajaia ajaja), little blue heron (Egretta caerulea), snowy egret (Egretta thula), tri-colored heron (Egretta tricolor), Southeastern American kestrel, wood stork (Mycteria americana), crested caracara, Florida panther, and Big Cypress fox squirrel.

Table 1 summarizes the listed wildlife species that have been documented during the PSS and other fieldwork on the Project site.

Table 1.	Listed Wildlife	Species Documented

Common Name	Color (Co Norro	Listing Status	
Common Name	Scientific Name	FWCC	USFWS
the second second	Amphibians and Reptiles		
American Alligator	Alligator mississiplensis	FT(S/A)	T(S/A)
Eastern Indigo Snake	Drymarchon corais couperi	FT	Т



2016-00018 DCI

Table 1. (Continued)

(1). NT	Scientific Name	Listing Status			
		FWCC	USFWS		
	Birds				
Crested Caracara	Caracara cheriway	T	T		
Little Blue Heron	Egretta caerulea	SSC	+		
Roseate Spoonbill	Ajaia ajaja	Т	-		
Snowy Egret	Egretta thula	SSC	-		
Southeastern American Kestrel	Falco sparverius paulus	ST	-		
Tri-Colored Heron	Egrettta tricolor	SSC	+		
Wood Stork	Mycteria americana	FE	Е		
Mammals					
Big Cypress Fox Squirrel	Sciurus niger avicennia	ST	-		
Florida Panther	Puma concolor coryi	FE	E		

FWCC -- Florida Fish and Wildlife Conservation Commission USFWS -- U.S. Fish and Wildlife Service

E-Endangered

F - Federally Endangered

FT-Federally Threatened

FT(S/A) - Federally Threatened Due to Similarity of Appearance

SSC - State Species of Special Concern

ST-State Threatened

T – Threatened

T(S/A) - Threatened Due to Similarity of Appearance

3.0 CONSERVATION AREAS

The proposed conservation areas total 805± acres. The conservation areas will be maintained in accordance with the Indigenous Preservation, Restoration, and Management Plan provided under separate cover. The conservation areas will be managed to provide habitat for listed species.

The Project has been designed to minimize impacts to the listed species that have been identified on the property and other listed wildlife species that could potentially utilize the site. The site plan minimizes impacts to existing native vegetation habitats, and limits the majority of the development to the existing citrus grove.

The proposed conservation areas will contain the following elements:

• Preservation of indigenous wetlands and uplands (existing forested and herbaceous habitats with less than 75 percent exotics);

OCI 2016-00018



- Restoration of indigenous wetlands and uplands vegetation through the removal of exotic vegetation (existing forested and herbaceous habitats with greater than 75 percent exotics) and supplemental planting; and
- Restoration of indigenous wetlands and uplands from citrus groves.

The preservation and enhancement of existing indigenous vegetation and the restoration of the significant areas of citrus groves back to indigenous habitats will serve to provide as a regional flowway and wildlife corridor. The proposed flow-way/corridor will link Corkscrew Regional Mitigation Bank and the Imperial Marsh Preserve to the north with Panther Island Mitigation Bank and Audubon's overall Corkscrew Swamp Sanctuary lands to the south. The proposed flow-way will also serve to re-establish a northeast to southwest flow-way that historically existed through the Project site.

The conservation areas will be managed for listed species based on habitat type and current listed species utilization. Target listed species include the Bastern indigo snake, American alligator, crested caracara, burrowing owl (*Athene cunicularia*), state-listed wading birds, wood stork, Big Cypress fox squirrel, Florida black bear, and Florida panther.

The conservation areas will be placed in a passive recreation conservation easement or other equivalent deed restriction with inspection, enforcement, and approval rights granted to Lee County. The total preserve area to be placed under conservation easement is $805\pm$ acres.

4.0 WILDLIFE CROSSING

In order to maintain connectivity of the wildlife corridor/flow-way across the property, one wildlife crossing will be installed where the proposed internal road crosses the conservation areas. An aerial depicting the proposed location of the wildlife crossing is provided as Appendix B. The wildlife crossing will be a box culvert measuring eight feet high by ten feet wide to accommodate for use by large mammals, as well as the passage of small and medium mammals, amphibians, and reptiles. The invert of the wildlife crossing will be at natural grade and the bottom of the box culvert will be buried in and covered with natural soils that mimic the surrounding substrate.

5.0 PERIMETER LAKE BUFFER AND FENCING

The Project site design, where feasible, includes a perimeter lake buffer between the residential development areas and the conservation areas. The goal of this lake buffer is to limit the potential for large mammal access to the residential areas.

Where a lake buffer is not feasible between development and the conservation area, wildlife fencing will be utilized. The wildlife fencing will consist of an eight foot chain link fence. The locations of the proposed lake buffer and fencing are depicted on Appendix B.

2016-00018

DCI

OCT 13 2017 COMMUNITY DEVELOPMENT

No fencing or barriers that would limit wildlife movement across the property from/to adjacent property will be installed.

6.0. COMMERCIAL USES

The Verdana Master Plan includes dedicated commercial use adjacent to Corkscrew Road. To minimize potential human-wildlife interaction, educational brochures provided in this plan will be provided to commercial users. Commercial development will be required to minimize wildlife attractants by securing all exterior food and water sources.

Commercial uses must secure all exterior trash containers with locking lids and periodically clean cans to reduce residual odors. Bear-resistant dumpsters will be used in areas where communal garbage is collected. A list of companies obtained from the Florida Fish and Wildlife Conservation Commission (FWCC) that provide bear-resistant garbage containers for commercial use is provided as Appendix C. In consultation with the local waste disposal company, bear-resistant dumpsters will be purchased from one of the listed companies or another company that is able to provide bearresistant dumpsters which are compatible with local equipment.

7.0. EASTERN INDIGO SNAKE MANAGEMENT PLAN

The Eastern indigo snake was documented on-site; the following plan outlines the protection guidelines that will be implemented for the Eastern indigo snake during clearing operations for the Project. The plan provides educational material and guidelines for construction personnel to follow in the event they encounter an Eastern indigo snake. The plan has been prepared following the guidelines established by the U.S. Fish and Wildlife Service (USFWS). The Eastern indigo snake is a federally threatened species and is listed by the Endangered Species Act (ESA). It is unlawful for anyone to injure, harm, harass, or kill this species. Persons who knowingly violate provisions of the ESA, that afford this species protection, may be subject to fine and/or imprisonment.

7.1 Biology

The Eastern indigo snake is a large, non-poisonous, glossy black snake with smooth iridescent scales. The chin and throat may be rusty or white-blotched. The juvenile snakes are similar to the adults, but may be lighter and exhibit a blotched dorsal pattern. Adults can grow to lengths over eight feet. The Eastern indigo snake might be confused with the black racer (*Coluber constrictor*), but the black racer exhibits a white or brown throat and is smaller and lighter in build.

The Eastern indigo snake inhabits a range of habitat types including pine flatwoods and wet prairies. Individuals are wide ranging and may utilize an area of 250 acres or more. Eastern indigo snakes are known to shelter in gopher tortoise (*Gopherus polyphemus*) burrows. The Eastern indigo snake is diurnal (active only during the daytime) and will actively search for prey. Prey may include frogs, snakes, birds, and small mammals. Very little is known of the rewoduction of this species in the wild. Breeding is believed to occur during the winter and

DCI 2016-00018

LIGAMONITY DEVELOPMENT

OCT 13 2017

early spring months with up to 11 large white eggs being deposited in late spring and early summer.

7.2 Management Plan

The USFWS' Standard Protection Measures for the Eastern Indigo Snake (2013) will be followed prior to and during construction activities. The Standard Protection Measures include the placement of posters at strategic locations on the construction site and along proposed access roads clearly visible to construction staff. The posters include a description and photograph of the Eastern indigo snake, its protection status, and instructions in the event that one is observed. In addition, informational brochures will be provided to all construction staff.

The Project will preserve, enhance, and restore 102± acres of existing vegetation on-site through the removal of exotic vegetation. In addition, approximately 703 acres of wetlands and uplands will be restored by converting existing citrus grove to native habitats. The preserve areas will be maintained per the Verdana Indigenous Preservation, Restoration, and Management Plan, and will provide habitat for the Eastern indigo snake.

Problematic encounters between future residents and Eastern indigo snakes are not anticipated. Construction personnel, maintenance staff, and homeowners will be informed that the Eastern indigo snake is a protected species.

8.0 AMERICAN ALLIGATOR MANAGEMENT PLAN

American alligators were observed throughout the network of agricultural ditches on-site during the PSS. No alligator nests were observed; however, potential nesting and additional foraging habitat (i.e., wetlands, and freshwater marshes) exist on-site. The following plan outlines the protection guidelines that will be implemented for the American alligator during clearing operations for the Project. The American alligator is listed as threatened (due to similarity of appearance) by the USFWS and the FWCC.

8.1 Biology

The American alligator is a reptile with an elongated, armored, lizard-like body with a muscular flat tail. Adult alligators are dark with a pale underside while juveniles have bright yellow stripes and blotches. The average size for adults is 8.2 feet for females and 11.2 feet for males. The body weight can reach up to one-half ton. American alligators inhabit all counties in the state of Florida and are most common in the major river drainage basins and large lakes in the central and southern portions of the state. They also can be found in marshes, swamps, ponds, drainage canals, phosphate-mine settling ponds, and ditches. Alligators are tolerant of poor water-quality and occasionally inhabit brackish marshes along the coast. A few even venture into saltwater. Individuals are wide ranging and some males may utilize an area of two square miles or more. Individuals of both sexes are most likely to become for a divergent of the state of and their ranges during the April to May courtship and breeding

5

DCI

2016-00018

COMMENTY DEVELOPMENT

UCT 1 3 2017

season. Prey may include frogs, snakes, birds, and small mammals, although alligators are opportunistic feeders and may prey on what is readily available. Larger individuals often prefer carrient to fresh meat.

8.2 Management Plan

The proposed Project will not impact the alligator. Alligators commonly move from water body to water body in response to factors such as season, disturbances, food supply, etc. The American alligator is listed as a federally threatened species (by similarity of appearance). Only representatives of the FWCC are authorized to handle nuisance alligators. If an alligator is present within the limits of construction at the time of clearing, work within the immediate vicinity of the alligator will be halted and the animal will be allowed to move out and into safer territory. Once the alligator has moved, work can be restarted. If an active alligator nest is found, it will be temporarily protected with an adequate buffer zone until the hatchlings leave the nest.

Extensive, high quality American alligator habitat will be provided throughout the property through wetland preservation, enhancement, and restoration. This includes the removal of exotics in approximately 68 acres of existing wetlands on the property. These wetlands are predominantly cypress forests, some with interior depressional marshes, and hydric pine habitats. Invasive exotic removal will result in wetland preserves that are more suitable as habitat, and provide suitable habitat for alligator prey species. In addition, wetland habitats will be restored from existing citrus grove. These restored wetlands that will serve as potential foraging, resting, basking, and uesting habitats for the alligator. The preserve areas will be maintained per the Project's Indigenous Preservation, Restoration, and Management Plan.

To avoid problematic encounters between future residents and American alligators, the FWCC's educational brochure entitled "A Guide to Living with Alligators" (Appendix D) will be provided to homeowners and maintenance staff (see Section 15.2).

9.0 CRESTED CARACARA MANAGEMENT PLAN

While no nesting activity has been observed on-site during the PSS or supplemental crested caracara nesting survey, crested caracaras have been observed flying over the site. The following management plan outlines the protection guidelines that will be implemented for the crested caracara prior to clearing activities on the Project and addresses habitat enhancement and restoration on the site. The crested caracara is listed as threatened by the USFWS and the FWCC.

9.1 Biology

The crested caracara is a large, non-migratory raptor that feeds both on prey and carrion and is often found with flocks of turkey vultures (*Cathartes aura*) and black vultures (*Coragyps atratus*). The population of crested caracara found in peninsular Florida is genetically isolated from other populations) of crested caracara subspecies found in the Southwestern

DCI 2016.00018

COMMUNITY DEVELOPMENT

OCT 13 2017

United States and portions of Central and South America (USFWS 1999). While other subspecies of crested caracara are not listed as threatened or endangered, the crested caracara subspecies found in Florida was listed in July 1987, as threatened under the ESA.

Crested caracaras primarily use open habitats including native prairies; grasslands and pastures with their associated freshwater marshes; and small clumps of cabbage palms (*Sabal palmetto*), live oak (*Quercus* spp.) hammocks, and cypress (*Taxodium* spp.). Cabbage palms in open habitats are of high importance for nesting (Rodgers *et al.* 1996, Morrison 2001). The primary nesting season for the crested caracara is November through April. Bgg laying typically occurs December through February. Clutch size is one to three eggs and incubation ranges from 28 to 32 days. Caracara young fledge at age seven to eight weeks, mostly in March and April (Wood 2001).

9.2 Management Plan

Prior to clearing activities, a qualified ecologist will survey the construction impact area and adjacent habitats for the presence of crested caracara nests. Any potential nests will be monitored during the nesting season (September through June) to determine if they are currently being used by caracaras. If a nest is found, the FWCC, the USFWS, and Lee County Government will be informed of the location of the nest.

The completed Project will preserve, enhance, and restore 805± acres of native habitat. The conservation areas will contain open freshwater marsh and pine habitat. The pine restoration areas will be planted with widely spaced trees (primarily slash pine (*Pinus elliottii*)) providing a significant amount of open canopy habitat that is highly suitable for caracaras. Scattered clumps of cabbage palms also may be planted within select locations of the restoration areas; however, cabbage palms will eventually seed into the restored areas naturally. In the long term, the presence of mature cabbage palms will provide increased nesting habitat for caracaras.

The preservation, enhancement, and restoration of 805± acres of native habitat will significantly increase biological diversity and species richness of wildlife on-site. This will provide a significantly increased prey base for resident caracaras.

Problematic encounters between future residents and crested caracaras are not anticipated. Should a caracara choose to nest adjacent to the community or close to approved access areas within the preserves, the nest will be left undisturbed. If unanticipated nest disturbance is noted, then an appropriate no-entry buffer zone will be established around the nest with signage until the young fledge.

10.0 WOOD STORK, WADING BIRD, AND SOUTHEASATERN AMERICAN KESTREL MANAGEMENT PLAN

Although no nesting activity was observed, wading birds observed on-site during the PSS include: little blue herons, roseate speenbills; snivy eggets, tri-colored herons, and wood storks. The

DCI 2016 00018

COMMUNITY DEVELOPMENT

OCY 1 3 2017

Southeastern American kestrel was also documented as foraging on-site. It is anticipated that these birds and others, including limpkin (*Aramus guarauna*) and Florida sandhill crane (*Grus canadensis pratensis*) may utilize the wetlands and other native habitats on the property. The following management plan has been prepared for the purpose of addressing the management of potential wading bird and Southeastern American kestrel habitat on the site.

10.1 Management Plan

The Project will not directly impact wetlands that provide suitable nesting habitat for wading birds. The Project proposes significant enhancement, restoration, and preservation of wading bird habitat. Extensive foraging areas will be provided through the preservation, enhancement, and restoration of 441± acres of existing forested and herbaceous wetlands. Enhancement of the existing wetlands in the conservation areas through the removal of invasive exotic plants will result in habitats that are more suitable for wading bird foraging and roosting. In addition, the Project proposes the restoration of wetlands from existing citrus grove. The grading plan for the wetland restoration areas includes the establishment of wading bird foraging habitat. These areas will be graded to varying depths to allow the concentration of prey for wading birds at alternating times of the year as water levels seasonally rise and recede. The preservation and enhancement of native woodlands and pine areas on the Project site will also provide improved nesting habitat for the Southeastern American kestrel.

In addition, within the developed community, littoral shelves will be constructed along the lake edges and planted with native wetland vegetation per LDC requirements. Also, dry detention areas within the development will contribute to increased habitat support for wading birds by providing temporary foraging areas during the wet season. These additional wetland features will provide quality foraging habitat for wading bird species.

Problematic encounters between future residents and wading birds are not anticipated. Construction personnel, maintenance staff, and homeowners will be informed that the wading birds are a protected species.

11.0 BIG CYPRESS FOX SQUIRREL MANAGEMENT PLAN

During the PSS, the Big Cypress fox squirrel was observed utilizing the remnant pine flatwoods areas on-site. The following management plan has been prepared for the purpose of addressing the conservation of Big Cypress fox squirrel habitat on the Project site and outlines the protection guidelines that will be implemented for the Big Cypress fox squirrel prior to, during, and after construction of the Project. The Big Cypress fox squirrel is listed as threatened by the FWCC. There is no federal listing for the Big Cypress fox squirrel in Florida.

11.1 Biology

The Big Cypress for squirrel lives and breeds in varied habitats in Southwest Florida including cypress dwamps, pine flatwoods, tropical hardwood forests, live oak woods,

DCI 2016-00018

COMPUTE DEVELOPMENT

OCT 1 3 2017

mangrove forests, and suburban habitats, including golf courses, city parks, and residential areas in native vegetation (Humphrey 1992). Dense cypress/hardwood swamps are avoided. This may be due to the competition for food and habitat with the gray squirrel (*Sciurus carolinensis*). Little data is available on the preferred forage habitat of the Big Cypress fox squirrel. Big Cypress fox squirrels prefer to feed on the male and female cones of slash pine. Cabbage palm fruits, bromeliad (*Bromeliaceae* sp.) buds, and acoms are also important food items. A smaller percentage of the diet may consist of scasonal fruits, berries, and seeds (Humphrey 1992).

Big Cypress fox squirrels often form platform nests in pines, hardwoods, and moss and stick nests in cypress, tops of cabbage palms, and large clumps of bromeliads. Cabbage palms and bromeliads are especially important because they can provide immediate shelter, which allows the squirrel to travel over large areas without requiring a daily return to a permanent nesting facility (Humphrey 1992).

Big Cypress fox squirrels are solitary animals. Interaction between animals occurs primarily during mating season. Mating chases occur frequently throughout the months of May through August. During the non-mating season, interactions are infrequent and often occur around food sources. Young remain in the nest for approximately 90 days. Home ranges are 40 hectares or approximately 100 acres for males and 20 hectares or approximately 50 acres for females (Humphrey 1992).

11.2 Pre-Construction Surveys

A qualified ecologist will be on-site to supervise Big Cypress fox squirrel management and monitoring activities as detailed in this plan. Prior to clearing activities, the preserve areas will be staked in the field and clearly identified with orange silt fencing or an equivalent barrier. The fencing will be inspected by the preserve manager prior to clearing activities. The operation and storage of construction equipment and the stock-piling of fill and construction material will be prohibited within the fenced preserve areas. The fencing identifying the limits of the preserves will be maintained for the duration of construction activities.

Also, prior to commencement of clearing activities in the development area and removal of exotic trees within the preserve areas, a survey will be conducted by a qualified ecologist to identify potential Big Cypress fox squirrel nests. If potential nests are identified within the clearing limits or within the preserve areas, observations will be conducted to determine if the nests are being utilized by Big Cypress fox squirrels. The FWCC will be notified of nests determined to be utilized by Big Cypress fox squirrels. Active nests will be temporarily protected from clearing by a 125-foot radius undisturbed buffer until any juvenile fox squirrels have vacated the nest(s), as confirmed by a qualified ecologist. After completion of nesting and observations document that any juvenile fox squirrels have vacated the nest(s), a written request to remove the nest tree(s) will be made to the FWCC. After receipt of the written authorization from the FWCC, the nest tree and buffer can then be cleared.

9

DCI 2016-00018



00MAUUTYDEVEL0PMENT

11.3 Management Plan

Enhancement and restoration of the preserve areas will be conducted as detailed in the Indigenous Preservation, Restoration, and Management Plan. Prescribed fires will be used within the preserved habitats to help maintain an open understory. The preserve areas will provide foraging and nesting habitats for Big Cypress fox squirrels.

Problematic encounters between future residents and Big Cypress fox squirrels are not anticipated. The typical nest location, high within the tree canopy, will ensure against disturbance to fox squirrel nests. Construction personnel, maintenance staff, and homeowners will be informed that the Big Cypress fox squirrel is a protected species.

12.0 FLORIDA BLACK BEAR MANAGEMENT PLAN

Though no Florida black bear, or sign of Florida black bear was documented on the Project site during the PSS, it is anticipated that Florida black bears are within the general vicinity of the Project. The following habitat management plan has been prepared for the purpose of addressing the conservation of Florida black bear habitat on the Project site. The Florida black bear is not listed by the FWCC or the USFWS. However, the FWCC and the Lee County LDC have specific management activities for this species.

12.1 Biology

The Florida black bear is a subspecies of the American black bear (Ursus americanus). The Florida black bear is a solitary animal that inhabits heavily wooded terrain and is most often found in large tracts of swamp forest and undisturbed upland forest. Some of the most important habitat types for the Florida black bear include pine flatwoods, hardwood swamps, cypress swamps, cabbage palm forests, sand pine (Pinus clausa) scrub, and mixed hardwood hammocks. Denning often occurs in remote swamps or thickets with dense vegetation. Adult females breed in alternating years during the months of June and July. In Florida, hibernation may be restricted to females producing cubs. Hibernation most often occurs during the winter months. The diet of Florida black bears is highly variable and includes both plants and animals including saw palmetto (Serenoa repens), berries, honey bees (Apis sp.), ants (Formicidae sp.), armadillo (Dasypus novemcinctus), feral hog (Sus scrofa), and white-tailed deer (Odocoileus virginianus) (Humphrey 1992).

12.2 Management Plan

In order to deter the potential for interactions between humans and large mammals, such as the Florida black bear, a perimeter lake buffer and fencing will be utilized between development and the conservation areas to deter large mammals from accessing the residential or commercial areas.

The preserved, enhanced and restored habitat within the conservation areas will provide habitat and a wildlife corridor for the Florida black bear and associated prey species.

10

DCI 2016 00018

OCT 1 3 2017 COMMUNITY DEVELOPMENT

Enhancement activities will provide higher quality habitat for the Florida black bear than exist in the currently degraded condition. The Project's on-site conservation areas will provide habitat connectivity to Corkscrew Regional Mitigation Bank to the north and Panther Island Mitigation Bank to the south.

To avoid problematic encounters between future residents and Florida black bears, the FWCC's educational brochure entitled "A Guide to Living in Bear Country" (Appendix B) will be provided to homeowners and maintenance staff (see Section 15.4).

13.0 FLORIDA PANTHER MANAGEMENT PLAN

Florida panther was observed on-site during the PSS conducted by PAI. The property is located within both the USFWS' Primary and Secondary Zones for the Florida panther. In addition, FWCC Florida panther telemetry has been recorded on the Project site and adjacent properties. The following habitat management plan has been prepared for the purpose of addressing the conservation of Florida panther habitat on the Project site. The Florida panther is listed as endangered by the FWCC and the USFWS.

13.1 Biology

The Florida panther is a large, long-tailed cat with a great deal of color variation: pale brown or rusty upper parts; dull white or buff-colored under parts; and dark brown or blackish tail tip, back of ears, and sides of nose. Mature males have an average weight range between 100 to 150 pounds and measure nearly seven feet from nose to tip of tail. Females are considerably smaller with a weight range of 50 to 100 pounds and measuring about six feet (USFWS 1987). Panthers subsist on a variety of mammalian prey dominated by white-tailed deer, feral hog, and in some areas raccoon (*Procyon lotor*) (Maehr 1988a). Existing data on Florida panther reproduction indicates that breeding occurs throughout the year with a peak in the winter/spring period, a gestation period of around 90 to 95 days, litter sizes of one to four kittens, and a breeding cycle of two years for females successfully raising young to dispersal (which occurs around 18 to 24 months) (Belden 1988, Machr 1988b).

In terms of population size and occupied range, the Florida panther population is at least stable and at best expanding as evidenced by natality rates exceeding mortality rates and by recent dispersals north of the Caloosahatchee River (Land *et al.* 2000). According to Maehr *et al.* (1991), home ranges average 200 square miles for resident adult males, 75 square miles for adult females, 241 square miles for transient males, and 69 square miles for sub-adult females. Florida panthers inhabit large remote tracts of land with adequate prey and cover and occupy a variety of habitat types including hardwood hammocks, pine flatwoods, mixed hardwood swamps, and cypress swamps. Appropriate cover is an important component of habitats used, especially during hunting, denning, and day-bedding. Recent information based on global positioning system (GPS) telemetry data collected during nocturnal and diumal periods indicate that forests are the habitats selected by panthers (Land *et al.* 2008).

0(7) 13 2017

DCI 2016 00018

COMMUNITIES SEVERATION (COMMUNIT)

13.2 Management Plan

In order to deter the potential for interactions between humans and large mammals, such as the Florida panther, a perimeter lake buffer and fencing will be utilized between development and the conservation areas to deter large mammals from accessing the residential or commercial areas.

The preserved, enhanced, and restored habitat within the conservation areas will provide habitat and a wildlife corridor for the Florida panther and associated prey species. Enhancement activities will provide higher quality habitat for the Florida panther than exists in the currently degraded condition. The Project's on-site conservation areas will provide habitat connectivity to the Corkscrew Regional Mitigation Bank to the north and Panther Island Mitigation Bank to the south.

To avoid problematic encounters between future residents and Florida panthers, the educational brochure entitled "A Guide to Living with Florida Panthers" (Appendix F), prepared by the FWCC and the USFWS, will be provided to homeowners and maintenance staff (see Section 15.5).

14.0 PRESCRIBED FIRE

Prescribed burning will be used as a management tool to maintain the native vegetation communities within the conservation areas. Prescribed burns help maintain vegetative communities in their natural state, reduce fuel loads and the danger of wildfire, aid with the eradication and control of exotic and nuisance vegetation species, and improve wildlife habitat. The objectives of prescribed burning in the conservation areas will be to aid in the control of exotic vegetation and woody slurubs (i.e., wax myrtle (*Myrica cerifera*) and saltbush (*Baccharis halimifolia*)), and to stimulate the growth and diversity of herbaceous vegetation.

The burning frequency for the conservation areas will be two to four years, which is consistent with the natural fire regime for mesic flatwoods, wet flatwoods, and wet prairies described by Florida Natural Areas Inventory (FNAI) in the *Guide to the Natural Communities of Florida* (FNAI 2010). The edges of the Project's freshwater marshes will be burned when the fire moves through the adjacent pine and prairie habitats. The fire will be allowed to extinguish naturally within the wetter marsh habitats.

Prescribed burning is typically conducted during the winter or early spring when temperatures are reduced and wind direction is more constant. The initial burn is anticipated to occur during the late winter. Winter burns are preferred to reduce high fuel loads. Growing season burns also may be conducted as conditions allow. Changes in annual weather cycles determine when burn permits will be available and burns may be conducted only on the day(s) of Florida Forest Service (FFS) permission.

Fire breaks will be installed in strategio locations in order to safely ignite and control prescribed fires. Fire breaks will be co-located with maintenance trails, access roads, easements, fence lines, property boundaries, and natural habitat boundaries. Fires will be excluded from the planted tree

DCI 2016-00018

COMMUNITY DEVELOPMENT

OCT 1 3 2017

clusters until such time that the plantings are mature enough to survive fires. Fires will be allowed to extinguish naturally within the wetter preserve areas, such as the cypress and marsh habitats.

15.0 HUMAN-WILDLIFE COEXISTENCE PLAN

The following Human-Wildlife Coexistence Plans will be incorporated into the declaration of covenants of the Verdana MPD Homeowners Association or Community Development District documents.

15.1 Eastern Indigo Snake

As previously noted, the USFWS' Standard Protection Measures for the Eastern Indigo Snake (2013) will be followed prior to and during construction activities. The USFWS' Standard Protection Measures, including the poster and brochure, can be found at http://www.fws.gov/verobeach/listedspeciesreptiles.html. A copy of the brochure is provided as Appendix G.

15.2 American Alligator

Signs will be posted on the subject property to instruct on-site workers and homeowners not to feed or harass the American alligator. The signs will indicate that the offense is punishable by law. The typical signage is provided as Appendix H. The FWCC's educational brochure entitled "A Guide to Living with Alligators" (Appendix D) will be provided to homeowners and maintenance staff. The brochure can be found at http://myfwc.com/media/152524/Alligator Brochure.pdf. Construction personnel and homeowners will be instructed that in the event there is a problem with a persistent nuisance alligator, they should contact the FWCC's Nuisance Alligator Hotline at 866-FWC-GATOR. (866-392-4286). The FWCC is the only agency empowered to handle nuisance alligators.

15.3 Wading Bird

A wading bird informational brochure entitled "Wading Bird Informational Pamphlet" (Appendix I) will be provided to homeowners and maintenance staff. The brochure provides wading bird information and methods to prevent human-wading bird interactions. In addition, the brochure informs residents of the need to avoid disturbance around a nest(s), should a wading bird nest(s) be identified on the property in the future.

15.4 Florida Black Bear

Residents will be educated about the presence of black bears in their community. FWCC's educational brochure entitled "A Guide to Living in Bear Country" (Appendix E) will be provided to homeowners and maintenance staff. This brochure can be found at http://myfwc.com/wildlifehabitats/managed/bear/brochures/.

DCI 2016-00018



分相對相比()ENGTOBMENT

Garbage and recyclables will be stored in bear-resistant containers with appropriate locking mechanisms, and bear-resistant dumpsters will be used in areas where communal garbage is collected. A list of companies obtained from the FWCC that provide bear-resistant garbage containers for commercial and residential use is provided as Appendix C. Bear resistant receptacles will be required for each residential unit. Please note that Lee County Ordinance No. 11-27 requires individual trash receptacles for residential units of 40 gallons or less in size. In consultation with the local waste disposal company, bear-resistant dumpsters will be purchased from one of the listed companies or another company that is able to provide bearresistant dumpsters which are compatible with local equipment. Units that have curbside garbage service will be required to place garbage containers curbside no earlier than the morning of the days of garbage pickup and garbage containers will be returned to their permitted location no later than the evening of the days of garbage pickup. For units with curbside garbage service, all garbage, trash refuse, or rubbish will be required to be placed in appropriate garbage containers and stored inside an enclosed area except for the days when there is curbside garbage pickup service. For units without curbside garbage service, all garbage, trash refuse, or rubbish will be placed in bear-resistant dumpsters with the lid closed and secured.

15.5 Florida Panther

Residents will be educated about the presence of Florida panthers in their community. The educational brochure entitled "A Guide to Living with Florida Panthers" (Appendix F), prepared by the FWCC and the USFWS, will be provided to homeowners and maintenance staff. This brochure provides safety tips and instructions for panther encounters. The brochure can be found on the FWCC website located at http://myfwc.com/conservation/you-conserve/wildlife/panthers/.

16.0 PRESERVE SIGNAGE AND COMMUNITY EDUCATION PLAN

Signs identifying the conservation areas as a "nature preserve area" will be installed along the boundary of the preserve. The signage will include language stating, "No dumping allowed" (Appendix H). The signs will be spaced a maximum of 200 feet apart and will be no closer than ten feet from residential property lines, and be limited to a maximum height of four feet and a maximum size of two square feet.

Periodic seminars will be held to further educate the community about the conservation areas, wetland benefits, coexistence with and protection of wildlife, and the benefits of prescribed fire. Community informational and educational brochures, such as those describing the benefits of prescribed fire (Appendix J), may be created and provided as needed to keep residents in compliance with conservation easements, wildlife regulations, etc. Continued education will ensure that the community is well-informed regarding the preserves and wildlife coexistence.



NCI 2016-00018

COMMUNITY DEVELOPMENT

17.0 REFERENCES

- Belden, R.C. 1988. The Florida Panther. Pages 514-532 in W.J. Chandler (ed) Audubon Wildlife Report. 1988/1989. The National Audubon Society, New York. 817 pages.
- Florida Natural Areas Inventory, 2010. Guide to the natural communities of Florida: 2010 edition. Florida Natural Areas Inventory, Tallahassee, Florida.
- Humphrey, Stephen R. 1992. Rare and Endangered Biota of Florida; Volume I. Mammals. University Press of Florida, Gainesville, FL. 392 pages.
- Land, B.D., M. Lotz, D. Shindle, and S.K. Taylor. 2000. Florida panther genetic restoration and management. Annual report, Study Number 7508. Florida Fish and Wildlife Conservation Commission, Tallahassee, Florida.
- Land B.D., D.B. Shindle, R. J. Kawula, J.F. Benson, M.A. Lotz, D.P. Onorato. 2008. Florida panther habitat selection analysis of concurrent GPS and VHF telemetry data. Journal of Wildlife Management: Volume 72, No. 3 pp. 633-639.
- Maehr, D.S. 1988a. Florida Panther Movements, Social Organization and Habitat Utilization. Annual Performance Report, 7/1/87-6/30/88, Study No. E-1-12 II-E-2 7502, Florida Game and Fresh Water Fish Commission. 19 pages.
- Maehr, D.S. 1988b. Florida Panther Food Habits and Energetics. Annual Performance Report, 7/1/87-6/30/88, Study No. E-1-12 II-E-3 75O3, Florida Game and Fresh Water Fish Commission. 4 pages.
- Maehr, D.S., B.D. Land, and J.C. Roof. 1991. Social Ecology of Florida Panthers. National Geographic Research & Exploration, 7(4): 414-431.
- Morrison, J. L. 2001. Recommended management practices and survey protocols for Audubon's crested caracara (*Caracara cheriway audubonii*) in Florida. Technical Report No. 18. Florida Fish and Wildlife Conservation Commission, Tallahassee, Florida, USA.

Rodgers, J.A., Jr., H.W. Kale II, H.T. Smith (eds.). 1996. Rare and Endangered Biota of Florida, Vol. V. Birds. University of Florida Press, Gainseville, Florida, USA.

DCI 2016 00018 -

OCT 13 2017

②MMINI 省 0EVELCEMENT

17.0 REFERENCES (Continued)

. . . .

. . . .

U.S. Fish and Wildlife Service. 1987. Florida Panther Recovery Plan. Prepared by the Florida Panther Interagency Committee for the U.S. Fish and Wildlife Service, Atlanta, Georgia. 75 pages.

U.S. Fish and Wildlife Service. 1999. South Florida Multi-species Recovery Plan.

U.S. Fish and Wildlife Service. 2013. Standard Protection Measures for the Eastern Indigo Snake. South Florida Ecological Services Office. Vero Beach, Florida.

Wood, Don A. 2001. Florida's Fragile Wildlife Conservation and Management. University Press of Florida. Gainesville, FL.



CI 2016-00018

DCI 2016-00018

COMMUNITY DEVELOPMENT



PROJECT LOCATION MAP

APPENDIX A



APPENDIX B

AERIAL WITH CONSERVATION AREAS AND PROPOSED LOCATION OF WILDLIFE CROSSING AND FENCING



QUAMENTY DEVELOPMENT

DCI 2016-00018





COMMUNITY DEVELOPT 2016-00018

FWCC LIST OF BEAR-RESISTANT GARBAGE CONTAINERS

APPENDIX C



Residential Poly Carts and Cans



BearProofinc 234 S. Golden Dr. Silt, CO 81652 Ph: (970) 309-2460 Fax: (970) 876-0420 E-mail: Info@BearProofinc.com Website: http://www.bearproofinc.com/ Metal Roll Away Container 95 gallon

* Metal food and trash lockers also available



Bear Proofing-R-US (no address available) Ph: (865) 430-8902 E-mail: akruk@charter.net Website: http://www.bearproofing-r-us.com/

Residential Street-side Trash Can 96 gallon *dumpster lids, loaders, and bird feeders also available



Bear Proof Systems, LLC 7855 E. Lark Dr. Parker, CO 80138 Phone: (303) 840-3390/1-800-944-7973 Fax: (303) 840-3460 E-mail: solidws@comcast.net Website: http://www.bearproofsystems.com/

Curbside Carts 64 gallon 94 gallon *Also make various metal containers



BearSaver - USA Sales

DCI

Bear Resistant Residential Poly Carts Model PC-95 95 gallon (min order 24) Model PC-65 65 gallon (min order 20) Model PC-32 32 gallon (min order 20) *Commercial Yard Dumpsters also available

2016 20018

CORPANY DEVELOPMENT





Cascade Industries The Learning Community 3400 Innovation Court SE Grand Rapids, MI 49512-2085 Ph. (616)-975-4800

Fax: (616) 254-4174 E-mail: info@cascadeng.com http://www.cascadeng.com/markets/waste/index.htm



DAWG, Inc. 25 Lassy Court Terryville, CT 06786 Phone: 1-800-YEL-DAWG (935-3294) Fax: 1-800-LIL-PAWS (545-7297) website: <u>www.dawainc.com</u> Bearicuda Bin "Critter Can" Model Mobile Screw Top Model Mobile Bearicuda Bin BEARier Bins

"Cascade Cart"

Bear Resistant Cascade Cart

35 gallons

64 gallons 96 gallons

96 gallons

Residential Trash Storage Containers

OCT 13 2017

POINT NOT CONTRACT





BearGuard Co. Ltd. P.O. Box 89 Tahoe City, CA. 96145-0089 Phone/Fax (630) 581-2211 E-mail: <u>sales@BearGuardInfo.com</u> Website: <u>http://www.bearguardInfo.com/index.html</u>

Carson Valley Welding 1046 Mallory Way Carson City NV. 89701 PH: (775) 884-9353 Cell: (530) 318-1136 Fax: (775) 884-9354 Emall:<u>Don@nobearcan.com</u> Website: <u>http://www.nobearcan.com/index.html</u>

See also the following companies: Bear Proof Inc. Bear Proofing-R-US Bear Proof Systems Various sizes

Green and Brown

Containers

"No Bear Can" Model B-5030 \$999.00 Model B-5036 \$1149.00

Info. above

DCI 2016 00018



Animal Resistant Dumpsters





Capital Industries, Inc. 5801 Third Avenue South Seattle WA 98108 Phone: (206) 762-8585/1-800-967-8585 FAX: (206) 762-5455 E-mail: sales@cepitalInd.com Website: http://www.capitalind.com/main/

Haul-All Equipment Systems (no address available) Phone: 1-888-428-5255 Fax: (403) 328-9956 E-mail: solutions@haulall.com Website: http://www.haulall.com/index.htm

See also the following companies: Bear Proof Inc. Bear Proofing-R-US Bear Proof Systems **BearSaver-USA Sales**

Recreational Storage Containers Panniers (for cooler storage)





Outfitters Supply 7373 US Highway 2E Columbia Falls, MT 59912 Phone: 888-467-2256/ 406-892-3650 Fax: 406-892-4234

E-mail: gopackn@outfitterssupply.com Website: http://www.outfilterssupply.com/

Phone: 800-568-8990 / 818-504-3518

E-mail: imberns@bear-aware.comor

Website: http://www.bear-aware.com/

Bear-Aware (no address available)

Contact Jeff Berns

1913

OUT 13 2017

COMMUNITY DEVELOPMENT

Pack Saddle Shop 3071 West Twin Rd Moscow Idaho 83843 Phone:-208-882-1791 Email: support@packsaddleshop.com Website! http://www.packsaddleshop.com/Bearpan.html 6 m

Aluminum Panniers Medium Large Sold with and without hardware

2016-00018 DCI

Bear Resistant Metal Containers & Lids Various designs

Hyd-A-Way Model Several options available for garbage disposal . and storage

Info. above

Dry & Ice Panniers 24" Medium Dry 28" Large Dry 28" Slim Dry 24" Medium Ice 28" Large Ice

Pack Panniers



Food Storage Lockers



See the following companies: BearProofInc BearSaver -- USA Sales Haul-All Equipment Systems (product shown) Info. above

Ask your local waste service provider if they offer wildlife resistant canisters. For example, Waste Pro Inc. and Waste Management Inc. have offered wildlife resistant containers for both residential and commercial locations. In some areas the Waste Service Provider has retrofitted the existing dumpster to a wildlife resistant design.

All images/photos are copyright of their respective company/website.



DCI 2016 20018

COMMUNITY DEVELOPMENT

AMERICAN ALLIGATOR INFORMATIONAL PAMPHLET

APPENDIX D



COMMUNITY DEVELOPMENT

DCI 2016-00018

- Never feed alligators it's dangerous and illegal. When fed, alligators can overcome their natural wariness and learn to associate people with food. When this happens, some of these alligators have to be removed and killed.
- Dispose of fish scraps in garbage cans at boat ramps and fish camps. Do not throw them into the water. Although you are not intentionally feeding alligators when you do this, the result can be the same.
- Seek immediate medical attention if you are bitten by an alligator. Alligator bites can result in serious infections.
- Observe and photograph alligators only from a distance. Remember, they're an important part of Florida's natural history as well as an integral component of aquatic ecosystems.



Call 866-FWC-GATOR (392-4286) to report nuisance alligators.



Call 866-FWC-GATOR (392-4286) to report nuisance alligators.

Regional offices Northwest Region, Panama City 850-265-3676

North Central Region, Lake City 386-758-0525

Northeast Region, Ocala 352-732-1225

Southwest Region, Lakeland 863-648-3200

South Region, West Palm Beach 561-625-5122



The FWC prohibits discrimination by race, color, nationality, age, sex or handicap. If you believe you have been discriminated against in any program, activity or facility of this agency, write to: Florida Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, FL 32399.1600; or to: Office of Human Relations, USFWS, Department of Interior, Washington, D.C. 20240.

S printed on recycled paper

50K 07/10







REPAG.com



Do not swim outside of posted swimming areas or in waters that may be inhabited by alligators.

Living with alligators

In Florida, the growing number of people living and recreating near water has led to a steady rise in the number of alligator-related complaints. The majority of these complaints relate to alligators being where they simply aren't wanted. Because of these complaints, the Florida Fish and Wildlife Conservation Commission's Statewide Nuisance Alligator Program permits the killing of approximately 7,000 nuisance alligators each year. Using this approach, and through increased public awareness, the rate of alligator bites on people has remained constant despite the increased potential for alligator-human interactions as Florida's human population has grown.

Alligators are an important part of Florida's landscape and play a valuable role in the ecology of our state's wetlands. Alligators are predators and help keep other aquatic animal populations in balance. A better understanding of the facts and information presented in this brochure will help ensure that people and alligators can continue to coexist.

Visit MyFWC.com/Gators for more information about alligators and the latest nuisance alligator program statistics.

Alligators and people

Alligators are a fundamental part of Florida's marshes, swamps, rivers and lakes, and they are found in all 67 counties. Florida continues to experience human population growth. Many new residents seek waterfront homes, resulting in increased interactions between people and alligators.

Although many Floridians accept living with alligators nearby, the potential for conflict exists. Because of their predatory nature, alligators may target pets and livestock as prey. Unfortunately, people also are occasionally bitten. Since 1948, Florida has averaged about five unprovoked bites per year. During that period, a little more than 300 unprovoked bites to people have been documented in Florida, with 22 resulting in deaths.

In the past 10 years, the Florida Fish and Wildlife Conservation Commission has received an average of nearly 16,000 alligator-related complaints per year. Most of these complaints deal with alligators occurring in places such as backyard ponds, canals, ditches and streams, but other conflicts occur when alligators wander into garages, swimming pools and golf course ponds. Sometimes, alligators come out of the water to bask in the sun or move between wetlands. In many cases, if left alone, these alligators will eventually move on to areas away from people.

Safety tips

Generally, alligators less than four feet in length are not large enough to be dangerous unless handled. However, if you encounter any alligator that you believe poses a threat to people, pets or property, call the Nuisance Alligator Hotline at 866-FWC-GATOR (392-4286). Please be aware, nuisance alligators are harvested, not relocated.





A young alligator wanders onto a porch in a residential neighborhood.

- Be aware of the possibility of alligators when you are in or near fresh or brackish water. Bites may occur when people do not pay close enough attention to their surroundings when working or recreating near water.
- Do not swim outside of posted swimming areas or in waters that might be inhabited by large alligators.
- Alligators are most active between dusk and dawn. Therefore, avoid swimming at night.
- Dogs and cats are similar in size to the natural prey of alligators. Don't allow pets to swim, exercise or drink in or near waters that may contain alligators. Dogs often attract an alligators interest, so do not swim with your dog.
- Leave alligators alone. Statellaw prohibits killing, harassing or possessing alligators. Handling even small alligators can result in injury.



APPENDIX E

FLORIDA BLACK BEAR INFORMATIONAL PAMPHLET



COMMUNITY DEVELOPMENT

DCI 2016-00018



Discouraging bears from visiting your homo

Properly storing or securing residential garbage and other attractants is a proven method of discouraging bears and preventing bear conflicts around homes, farms and neighborhoods. The following items attract beam and should be protected by an electric fance, wildlife resistant container, or stored in a secure

- place, such as a garage or sturdy shed:
- Trash and recycling containers
 Bird and squirrel feeders
- Gamo foeders
- I Pet foods and bowls
- Barbeque grille and smokers
 Pets and small livestock
- I Livestock feed
- Compost pilos Beahiver
- Beehiver
 Fruit and nut-bearing trees and shrubs

Funds from the "Conserve Wildlife" liconso plato holp support offorts to reduce human-bear conflicts. Buy one today at your local tax collector's office or online at BuyAPlate.com.

Secure common bear attractants

- Use electric fencing to protect parkens, compost plice, aplazies, full trees and livestelc.
 Store garbage and recyclables in bear-resistant containers or in a secure area until the marning
- of pick up. Feed pats indoors or bring food dishes (even if rear para indoors or oring rood dishes (even if empty) inside before dark.
 Store pet and livestock feed in bear-resistant
- containore or incide a cocure area.
- E Remove bird and wildlife feeders. Ensure the area is free of all seed, corp, or other wild animal feed.
- Keep gardens and fruiting trees and shrubs tidy. Romove rotten fruit and harvest ripe nuts, fruits and vegetables.
- Clean meat smokers and barbeque grills with a degreasing detergent. Properly dispose of food remnants after each use.

Learn more about black bears with the Florida Black Boar Curriculum Guide. The guide is designed to educate teachers and students in 3rd to 8th grade and offers a comprehensive series of lessons on Florida's black bear.

To get tips on how to secure bear attractants, watch videos about bears or how to install electric feacing, and learn more about bear-resistant containers, visit MyFWC.com/Bear.



Bear range in Florida



If you are experiencing bear problems, please contact the nearest FWC regional office.

North Central, Lake City	386-758-0525
Northeast, Ocala	352-732-1225
Northwest, Panama City	850-265-3676
South, West Palm Beach	561-625-5122
Southwest, Lakeland	863-648-3200

If you suspect lilegal activity, call FWC's Wildlife Alert Hotline at 1-888-404-3922.

Follow us on:



Cerer photo by AnNey Hochanberry



C printed on recycled paper






If you live in Florida, you should know

Florida black bear populations have been recovering from historically low numbers in most areas of the state. At the same time, the human population is rapidly expanding in and around bear range. As a result, bears and humans are encountering each other more than over.

Calle to the Florida Fish and Wildlife Conservation Commission (FWC) about human-bear encounters have increased from 1,000 in 2001 to over 4,000 in 2010. The most common calls refer to bears in yards and getting into garbage.

The more presence of a black bear does not represent a problem. In fact, living in bear country can provide unique and rewarding experiences for residents.

While feeding bears is illegal in Florida, bears are still often fed by humans, either intentionally or unintentionally. When black bears have access to pet food, garbage, birdseed, livestock faed or other human-provided items, they quickly learn to associate people with food. Bears that have become too comfortable around people are more likely to be killed, either by vehicle collisions, illegal shooting, or an a result of bear management actions.

People ask why problem bears can't simply be relocated to a "wild area where they won't bother anyone." Unfortunately, areas large and remote enough for bears to avoid people are rare in Florida, Also, most relocated bears typically leave the new area, either to return to their original home or to leave an area already occupied by other bears. Some bears will wander through unfamiliar areas and cross busy roads, creating a danger to the bear and to motorists. In addition, bears remaining in the relocation area often exhibit the same, unwanted behavior, thus shifting the problem to a new location. As a result, relocation is not a desirable or effective solution to bear conflicts. Wildlife biologists can provide technical advice to residents who live in bear country to help them take actions to discourage bears from becoming a problem. The FWC is committed to addressing the safety concerns of residents and visitors while casuring the long-term well-being of black bears.

If a bear comes into your yard If you encounter a black bear at close range, remain standing upwight, back up slowly and speak to the bear in a calm, assortive voice.

Do not intentionally feed or attract bears. If a bear is eating something on your property, take note of what it is and secure it after the bear has left the area.





- Never approach or surprise a bear. Keep as much distance between you and the bear as possible.
- Also sure you are in a secure area and the bear has a clear oscape route to leave the area - then yell, bang pots and pans, or use an air horn to scare the bear away. Do not turn your back, play dead or run from
- a black bear. Back away slowly into a house, car or building.
- Report any bear threatening the safety of humans, pets or livestock, or causing property damage to the FWC (see back papel).
- Warning! It is illegal to injure or kill black bears under Florida state law. If you are found guilty, you could face fines and/or jail time.

Climbing treas is a bear's natural escape route. If the bear climbs a tree, keep people and pets away. The bear will come down the tree and leave when it feels safe. unually after dark.

Did you know?

Black bears are shy animals and generally not aggressive towards people. When a bear stands on its hind legs, it is merely bying to got a better view, rather than acting in a threatening way. Black bears may hulf, snap their jaws, swat the ground or "bluff charge" when cornered, threatened or caught stealing food. Stand your ground and then slowly back away. Always respect bears - they are large and powerful wild animals and can act unpredictably. Bears used to getting food from humans may loss their natural fear of people and are more blely to damage property or become a safety threat.



The bear facts

Black bean are the only species of be r in Florida and onch commod the ontire state. I FWC biologials estimate there are 2,500-0

- 3.000 black bears in Florida.
- Florida bears are generally black with a brown muzzle and may have a white chest marking called a blaze.
- -Adult black bears typically weigh between 150 to 400 pounds; males are usually larger than females.
- 31/2 years of age and generally have one to three cube every other year.
- In Florida, the breeding season runs from Jano to August and cube are bern in late January or early February.
- Bears of all ages are excellent climbers and will climb trees when they are frightened or looking for food (e.g., acorns)
- About 50 percent of a black boar's dist comes from plants (e.g., fruits, nuts, berrics), 15 percent from insects (e.g., termites, ants, yellow jackets) and 5 percent from mont (e.g., opossums, armadillos, carrion).

It is illegal to intentionally place food or garbage out that attracts bears and causes conflicts. Anything that attracts dogs, cats or raccoons also will attract bears!



DCI 2016 00018

1

COMMUNITY DEVELOPMENT



FLORIDA PANTHER INFORMATIONAL PAMPHLET

APPENDIX F

You live in Florida panther country

Florida panthers are reclusive and rarely seen by people. They normally live in remote, undeveloped areas. However, as the number of people in southern Florida grows, there is an increased chance of an encounter with a Florida panther.

This brochuro contains some guidelines to help you live safely in Florida panther country.



Keep children within sight and close to you, especially outdoors between dusk and dawn.

....

.

If you feel threatened by a panther, or have lost pets or livestock to a panther, please call the Florida Fish and Wildlife Conservation Commission's Wildlife Alert Hotline at 1-883-404-FWCC (3922).

If you see a Florida panther

The Florida ponther moves primarily at night. The chances of seeing a panther are slim. But if you live in Florida panther country, you need to know what to do if you see ono.

- 🗳 Keep children within sight and close to you. Pick up any small children so they don't panle and run. Try to do this without bending over or turning away from the Florida panther.
- 🖄 Give them space. Fiorida panthers typically will avoid a confrontation. Give them a way to escape.
- Do not run. Running may stimulate a panther's Instinct to chase. Stand and face the animal. Make eye contact to let the panther know you are aware of its presence.
- Avoid crouching or bending over. Squatting or bending makes you look smaller, resembling a preysized animal.
- Appear larger. Make gestures that indicate you are not prey and that you may be a danger to the panther. Raiso your arms. Open your jacket. Throw stones, branches or whatever you can reach without crouching or turning your back. Wave your arms slowly and speak firmly in a loud voice.
- Fight back if attacked. There has never been a reported panther attack in Florida. In western states, where attacks by cougars have occurred very rarely, potential victims have fought back auccossfully with rocks, sticks, capa, jackets, garden tools and their bare hands. Since large cate usually try to bite the head or neck, try to remain standing and face the animal.



Sola



Florida rida Fish and Wildlife nservation Commission D.S. Meddian Street hhtties, FL 32399/4600



A CERT OF ADA

20

016-0001

N

MyFWC.com/Panther

CERTEN T 18 and U

7 ways to live safely in Florida panther country

While these guidelines are meant to help you live safely In Florida parther habitat, they also apply to living with more commonly encountered wildlife, including raccoons, snakes, bears and alligators.

 Be alort from dusk 'til dawn (and whenever door are active)
 Florida panthers primarily are active at night. Exercise

more caution at dawn, dusk or dark.

2. Keep panther prey away

Deer, raccoons, rabbits, armadillos and wild hoga are prey for the Florida panther. By feeding deer or other wildlife, people inadvertenly may attract panthera. Do not leave potential wildlife food outside, such as unaccured garbage or pet food. Consider fencing wegetable gardens.

3. Keep pots socure

Free-roaming pets, or pets that are tethered and unfenced, are easy proy for predators, including ponthers. Bring pets incide or kcop titem in a secure and covered kennel at night. Feeding pets outsido also may attract raceoens and other panther prey; do not leave uncaton pet food available to wildlife.



Keep your pole safe and secure. Bring pets inside or keep them in a secure and covered kennel at night.



Keep livestock safe and secure.

4. Keep domestic livestock secure

Where practical, place chickens, goats, hogs or other livestock in enclosed structures at night. Electric fencing can be an effective predator deterrent.

S. Landscope for safety

Remove dense or low-lying vegetation that would provide hiding places for panthers and other predatory animals near your house.

- E Remove plents that deer like to cat.
- Choose plants that do not attract deer or other panther prey species. For information on plants that deer do not like to cat, visit cdla.ifaa.uiLedu/UW137.
- Appropriate feacing will make your yard or play area uninviting to proy animals such as door.

6. Consider other deterrents

Outdoor lighting, motion sensors and electric fencing also may deter prey animals and panthers from entering your yard. Outdoor lighting also will malto approaching prey and panthers more visible to you.

7. Kike or bike with a friend

When recreating outdoors, it's a good practice to lot friends or family know your whereabouts and when you expect to return. Botter yet, take a friend with you!

Florida panther facts

- The Florido panther is a subspecies of puma, also known as a mountain lion or cougar. It is the last subspecies still surviving in the castern United States.
- Biologists estimate roughly 100-160 adult and subadult Florida panthers remain in the wild. Most panthers live in southwest Florida, south of the Caloosahatchee River, although some panthers have been documented traveling as far north as central Georgia.
- The Florida panther's decline occurred prior to 1950; when it still was legal to hunt panthers. It was listed as endangered in 1967 and is protected under todaral and state laws.
- Florida panther numbers declined to roughly 30 cats by the carly 1980s. Severe Inbreading resulted in many health and physical problems. A genetic restoration project in 1995 was successful in improving the genetic health and vigor of the senther population.
- Florida panthers are found primarily in the Big Cypress/Everglades ecosystem in Collier, Lee, Hendry, Monroe and Miami-Dade countles.
- Florida panthers' home range sizes vary by sex and by individual. Female home ranges are typically 60-75 square miles whereas males' are typically 160-200 square miles.





There is no report of a Florida parther attaching

The Florida panther was chosen as the State Animal of Florida in 1982 by a vote of elementary school students throughout the state.

-

0

1

Florida Panther Range

- Known Breeding Range
- [11] Confirmed Prosence of Malec

Caloosahatchee River





nchur a vana gradusmi Ustavich a partivanský of Use Audulant Sociaty of Paritica, vanary of Sputhemaz Nenine, calendary si Vibilia, Bartie Rok and Willia valen Geomahou, pisoto Vibilia Federatica, Nichala of Bartinais Paritiria

Norossis Uan Fanetaisan, Nolbed Perblander, Neilerd Willie Folensien, Jeninole Jahe et Josée, University of Herito and She V.S., Phile and Villia Derview. Fundra generates by the Fantle Pan and Wallia Conservation Computation, Memila of Uk

Fields Perper Relays and the Highwold Rob and Willittle Resputation.

DCI 2016-00018

COMMUNITY DEVELOPMENT

001 13 2017

EASTERN INDIGO SNAKE INFORMATIONAL PAMPHLET

APPENDIX G

Killing, harming, or harassing indigo suakes is strictly prohibited and punishable under State and Federal Law.

Only individuals currently authorized through an issued Incidental Take Statement in association with a USFWS Biological Opinion, or by a Section 10(a)(1)(A) permit issued by the USFWS, to handle an eastern indigo snake are allowed to do so.

LEGAL STATUS: The eastern indigo snake is classified as a Threatened species by both the USFWS and the Florida Fish and Wildlife Conservation Commission. "Taking" of eastern indigo snakes is prohibited by the Endangered Species Act without a permit. "Take" is defined by the USFWS as an attempt to kill, harm, harass, pursue, hunt, shoot, wound, trap, capture, collect, or engage in any such conduct. Penalties include a maximum fine of \$25,000 for civil violations and up to \$50,000 and/or imprisonment for criminal offenses, if convicted.



ATTENTION : THREATENED EASTERN INDIGO SNAKES MAY BE PRESENT ON

THIS SITE!!!

E



Please read the following information provided by the U.S. Fish and Wildlife Service to become familiar with standard protection measures for the eastern indigo snake.



August 12, 2013

IF YOU SEE A LIVE EASTERN INDIGO SNAKE ON THE SITE:

- Cease clearing activities and allow the eastern indigo snake sufficient time to move away from the site without interference.
- Personnel must NOT attempt to touch or handle snake due to protected status.
- Take photographs of the snake, if possible, for identification and documentation purposes.
- Immediately notify supervisor or the applicant's designated agent, and the appropriate U.S. Fish and Wildlife Service (USFWS) office, with the location information and condition of the snake.
- If the snake is located in a vicinity where continuation of the clearing or construction activities will cause harm to the snake, the activities must halt until such time that a representative of the USFWS returns the call (within one day) with further guidance as to when activities may resume.

IF YOU SEE A <u>DEAD</u> EASTERN INDIGO SNAKE ON THE SITE:

- Cease clearing activities and immediately notify supervisor or the applicant's designated agent, and the appropriate USFWS office, with the location information and condition of the snake.
- Take photographs of the snake, if possible, for identification and documentation purposes.
- Thoroughly soak the dead snake in water and then freeze the specimen. The appropriate wildlife agency will retrieve the dead snake.

USFWS Florida Field Offices to be contacted if a live or dead eastern indigo snake is encountered:

North Florida ES Office - (904) 731-3336 Panama City ES Office - (850) 769-0552 South Florida ES Office - (772) 562-3909

DESCRIPTION: The eastern indigo snake one of the largest non-venomous snakes in North America, with individuals offen reaching up to 8 feet in length. They derive their name from the glossy, blue-black color of their scales above and uniformly slate blue below. Frequently, the \bigcirc have orange to coral reddish coloration in the throat area, yet some specimens have been reported to only have cream coloration on the throat. These snakes are not typically aggressive and will attempt to crawl away when disturbed. Though indigo snakes rarely bite, they should NOT be handled.

SIMILAR SNAKES: The black racer is the only other solid black snake resembling the eastern indigo snake. However, black racers have a white or cream chin, thinner bodies, and WILL BITE if handled.

LIFE HISTORY: The eastern indigo snake occurs in a wide variety of terrestrial habitat types throughout Florida. Although they have a preference for uplands, they also utilize some wetlands and agricultural areas. Eastern indigo snakes will often seek shelter inside gopher tortoise burrows and other below- and aboveground refugia, such as other animal burrows, stumps, roots, and debris piles. Females may lay from 4 - 12 white eggs as early as April through June, with young hatching in late July through October.

\bigcirc S \bigcirc N

DCI

OPWENI

AMERICAN ALLIGATOR MANAGEMENT AND PRESERVE SIGNAGE

APPENDIX H

. .



COMMUNITY DEVELOPMENT

DCI 2016-00018



QCI 2016-00018

COMMUNITY DEVELOPMENT

$\mathcal{L}_{\mathcal{L}}$ OCT 13 2017

WADING BIRD INFORMATIONAL PAMPHLET

APPENDIX I

Action to be taken if you observe someone harassing a wading bird:

Promptly notify the FWCC 1-888-404-FWCC

Tips for living with wading birds

- Do not feed wading birds.
- Keep out of vegetated areas surrounding lakes and marshes.
- Keep pets leashed to avoid coming into contact with wading birds.
- Properly dispose of fishing line to avoid bird entanglement.



DCI

 \sim

0

16-00018



13620 Metropolis Avenue, Sutte 200 Fort Myers, Florida 33912 (239) 274-0067



Description:

Wading birds are a diverse group of birds which utilize shallow marsh areas as foraging and breeding habitats. They are typically characterized as having long necks, legs and bills, which allows them to feed in shallow water. Wading birds can be found in Florida year round. Examples of wading birds include: great egrets, great blue herons, white ibis', little blue herons and snowy egrets.

DOX 2016-00018 ONNIMITY DEVELOPMENT

Habitat:

Wading birds inhabit all counties in the state of Florida and are most common in the shallow marsh or wetland areas throughout the state. They can also be found in both coastal and inland areas, salt marshes, swamps, ponds, drainage canals, and ditches. Wading birds breed and nest in colonies which consist of various species of other wading birds. Breeding generally occurs just prior to or during the wet season. Stick nests are built in trees or bushes near wetland areas and above the water line.

Wading birds feed in shallow water areas where prey is most concentrated. They feed by spearing prey with their bills or by straining small species out of the water and sediment. Prey may include small fish, invertebrates or other aquatic organisms. Wading birds have also been known to consume snakes, frogs and small rodents.

Protection:

Most wading birds are listed as species of special concern by the State of Florida. Some species such as wood storks are listed as endangered by both the State of Florida and the U.S. Fish and Wildlife Service. It is unlawful for anyone to disturb or take nests or eggs, feed, injure, harm, harass, or kill any wading birds species. Persons who knowingly violate the law may be subject to fines and/or jail time.

If wading birds form a nesting colony on the property in the future, avoid activities within 330 feet of the colony during the nesting season (March 1 to August 1).

APPENDIX J

PRESCRIBED BURNING INFORMATION



ORMANDY DEVELORMENT

DCI 2016-00018

Florida Landowner Assistance Program Practice Standard - Prescribed Burning



Definition

The controlled application of fire in accordance with a written prescription for vegetative fuels under specified environmental conditions while following appropriate precautionary measures that insure that the fire is contained to a predetermined area to improve habitat for resident and migratory wildlife species.

Purposes

This practice may be applied as part of a conservation management system to support one or more of the following purposes:

- ¹¹ To improve habitat for various wildlife species, including imperiled species.
- To control invasive and/or exotic vegetation.
- To control plant diseases affecting native vegatation.
- " To reduce wildfire hazards.
- ^{II} To enhance native ground cover plants and seed production.
- " To restore and maintain fire dependent ecological sites.

Conditions Where Practice Applies

This practice may be applied on any private land, where deemed needed, to improve overall wildlife habitat conditions.

Criteria

I. General Criteria Applicable to All Purposes

The method(s) of prescribed burning to improve wildlife habitat structure and composition shall be determined by the assigned biologist conducting the Needs Assessment. Application of the prescribed treatment will be based on the GIS analysis, site examination, and local wildlife species present. The landowner shall obtain all necessary burn authorizations and/or permits before implementation of the practice. Planning and application shall compy with all Federal, State, and local laws, rules, and regulations. The procedure, equipment, and number of trained personnel shall be adequate to accomplish the intended purposes as stated in the burn plan. The expected weather conditions, human and vehicular traffic that may be impeded by heat or smoke, liability, and safety and health precautions shall be integrated into the timing, location and expected intensity of the burn. Timing of burning will be commensurate with solil and spectro for the burn plan. The productivity and minimize effects on soil erosion and soil properties. Firebreak construction and maintenance are not included as a cost-shared treatment.

DCI 2016-00018

(COMMUNITY DEVELOPMENT

II. Specific Criteria to Improve Wildlife Habitat

The appropriate season of burning, burning technique, burning frequency, and size of burn shall be selected based on the wildlife habitat needs and site limitations. Where practical, prescribed burning shall be planned and applied in a manner that creates a "patchy" mosaic of burned and unburned vegetation.

III. Specific Critera to Control Undesirable Vegetation

Prescribed burns to control brush or other undesirable vegetation shall consider the anticipated seed production and re-sprouting response of the targeted species. The frequency and intensity of the planned burn shall be based on the re-growth of the target species, weighed against wildlife habitat considerations. Prescribed burns planned for areas with known infestations of invasive and/or exotic species shall address anticipated response of those species during and following the prescribed burn. Re-establishment of native vegetation shall be planned for burned areas, where needed, to prevent encroachment of undesirable plants, control soil erosion, and restore historic plant communities.

IV. Specific Criteria to Improve Native Plant Production Quantity and/or Quality

Prescribed burns shall be planned to provide optimum benefit to the native plant species of concern. When possible, prescribed burns shall be conducted during periods of adequate soil moisture to encourage desirable plant recovery following the burn. Appropriate protection from livestock, human, and wildlife activities shall be implemented to allow desirable vegetation to recover from the stress of the burn. Burned areas shall be protected until the vegetation has recovered sufficiently to allow use to be restored without damaging the vegetation.

Considerations

Prescribed burns should be cost-effective and efforts to protect any threatened and endangered species, cultural resources, wildlife habitat, water resources, and identified unique natural areas should be considered. Personal safety should also be considered during all prescribed burning activities. Where practical, the season, frequency, duration, and intensity of prescribed burns should mimic the natural occurrence of fire typical of the ecological communty being managed. Consider the use of existing barriers, such as lakes, streams, wetlands, roads, and existing firebreaks in the design and layout of the burn. To minimize smoke related issues, burn frequently under acceptable weather conditions and complete all burns as quickly as practical.

Operation and Maintenance

The following actions shall be carried out to insure that this practice functions as intended throughout its expected life: 1) Evaluations to determine if the stated objectives were met and to improve coordination of future burns, 2) Initial evaluations should be conducted within 2 weeks following the burn, 3) Long term evaluations should be conducted within 2 weeks following the burn.

Items to consider in these evaluations include:

- a. Were the pre-burn preparations properly completed?
- b. Were the initial objectives met?
- c. Was the burn prescription followed?
- d. Were deviations from the burn prescription documented?
- e. Was the burning technique(s) adequate to meet the planned objectives?
- f. Were weather conditions, fire behavior, and smoke dispersion within the planned limits of the prescription?
- g. What were the effects on the soil, vegetation, water, and wildlife resources?
- h. Did the fire escape the planned area?
- i. How could future burns be improved?
- j. Were the post-burn activities applied correctly to meet the stated purpose or objective of the burn?

DCI 2016-00018

SOMMUNITY DEVELOPMENT

λ.

FFD CORKSCREW ROAD PROPERTY INDIGENOUS PRESERVATION, RESTORATION, AND MANAGEMENT PLAN

1



October 2020

Prepared For:

FFD Land Company, Inc. Post Office Box 3088 Immokalee, Florida 34143 (239) 657-4421

Prepared By:

Passarella & Associates, Inc. 13620 Metropolis Avenue, Suite 200 Fort Myers, Florida 33912 (239) 274-0067

Project No. 01VAD664

TABLE OF CONTENTS

	Page
1.0	Introduction1
2.0	Existing Indigenous Vegetation Habitats1
3.0	Existing Non-Indigenous Vegetation2
4.0	Indigenous Vegetation Preservation and Enhancement2
	 4.1 Methods to Remove and Control Exotic and Nuisance Plants
5.0	Indigenous Vegetation Restoration
	 5.1 Removal of Exotics and Supplemental Plantings
	5.2.1Wetland Grading and Planting65.2.2Upland Grading and Planting8
6.0	Preserve Activity Schedule
7.0	Success Criteria10
	 7.1 Indigenous Wetland and Upland Preservation and Enhancement
8.0	Maintenance
	8.1 Prescribed Fire
9.0	Monitoring Reports

Table of Contents (Continued)

(

ŕ

		<u>Page</u>
10.0	Long-Term Management and Monitoring	12
11.0	Preserve Signage and Community Education Plan	13
12.0	References	13

LIST OF TABLES

(

	Page
Table 1.	Prohibited Invasive Exotics
Table 2.	Supplemental Wetland Plantings5
Table 3.	Supplemental Upland Plantings
Table 4.	Wetland Restoration Plantings7
Table 5.	Upland Restoration Plantings9

LIST OF APPENDICES

ĺ

	Page
Appendix A.	Indigenous Vegetation Map
Appendix B.	FLUCFCS Descriptions
Appendix C.	Aerial with FLUCFCS and Wetlands MapC-1
Appendix D.	Indigenous Vegetation, Preservation, and Restoration PlanD-1
Appendix E.	Preservation and Restoration Phase MapE-1
Appendix F.	Typical Preserve Signage

1.0 INTRODUCTION

1

The following outlines the Lee County Indigenous Preservation, Restoration, and Management Plan for the FFD Corkscrew Road Property (Project) located in Sections 26, 34, 35, and 36; Township 46 South; Range 26 East and Sections 1, 2, 3, 11, and 12; Township 47 South; Range 26 East, Lee County. The Project site totals $5,208.6\pm$ acres. According to Lee County's open space requirements outlined in Policy 33.3.4 of The Lee Plan, the minimum open space requirement for the Project is 65 percent of the site, or approximately 3,385.6 acres. As part of the required open space, the Project proposes to establish on-site conservation areas totaling $2,916.8\pm$ acres. The proposed conservation areas will contain the following elements:

- Preservation of indigenous wetlands and uplands (existing forested and herbaceous habitats with less than 75 percent exotics);
- Restoration of indigenous wetlands and uplands vegetation through removal of exotic vegetation (existing forested and herbaceous habitats with greater than 75 percent exotics) and supplemental planting;
- Restoration of indigenous wetlands and uplands from farm fields; and
- Establishment of fencing and buffer lakes to serve as wildlife buffers between conservation areas and development areas.

The preservation and enhancement of existing indigenous vegetation and the restoration of extensive areas of farm fields back to indigenous habitats will have significant regional benefits to the existing conservation lands within the Density Reduction/Groundwater Resource (DRGR). The proposed on-site conservation areas will connect to the Flint Pen Strand portion of the Corkscrew Ecosystem Regional Watershed (CREW) located to the west and south of the Project, and to the Panther Island Mitigation Bank and Audubon's Corkscrew Swamp Sanctuary to the east of the Project. The proposed on-site preservation and restoration of indigenous upland and wetland vegetation communities will create significant areas of wildlife habitat that will complement the adjacent CREW and Corkscrew Swamp Sanctuary lands.

2.0 EXISTING INDIGENOUS VEGETATION HABITATS

Pursuant to Land Development Code (LDC) Section 10-1, indigenous native vegetation means those plant species that are characteristic of the major plant communities of the County. Native habitats where invasive exotic vegetation has exceeded 75 percent coverage are not considered to be indigenous vegetation.

The Project site includes $1,076\pm$ acres (combined wetland and upland acres) of indigenous native vegetation. The larger contiguous areas of indigenous vegetation are primarily located along the western and southern boundaries of the Project site. Smaller, remnant areas of indigenous habitat are located scattered throughout the property. The existing indigenous wetland and upland vegetation communities are identified in Appendix A.

The indigenous wetland habitats total $1,033\pm$ acres and consist mostly of cypress, hydric pine, mixed wetland hardwood, wetland shrub, freshwater marsh, and wet prairie habitats. The

indigenous uplands total $43\pm$ acres and consist mostly of pine flatwoods. The Florida Land Use, Cover and Forms Classification System (FLUCFCS) (Florida Department of Transportation 1999) descriptions of the indigenous wetland and upland habitats proposed for preservation and enhancement are provided in Appendix B. An aerial with FLUCFCS is attached as Appendix C.

3.0 EXISTING NON-INDIGENOUS VEGETATION

ĺ

Approximately 4,132 acres (79 percent) of the Project site consists of vegetation communities that do not meet the LDC's definition of indigenous vegetation. The non-indigenous areas are predominantly row crop and citrus grove with associated ditching and drainage systems, and agricultural operations areas. Existing non-indigenous wetlands on the site total $386\pm$ acres and consist of Brazilian pepper areas, melaleuca areas, disturbed lands and low pasture areas, and wetland habitats with greater than 75 percent coverage by exotics, primarily Brazilian pepper (*Schinus terebinthifolius*) and melaleuca (*Melaleuca quinquenervia*). Non-indigenous uplands on the Project site total $3,601\pm$ acres and consist primarily of the row crop and citrus grove, and associated agricultural operations. Non-indigenous areas also include $145\pm$ acres of agricultural ditching and man-made surface waters (water detention and conveyance). The non-indigenous wetland and upland vegetation communities and surface waters are identified in Appendix A. The FLUCFCS descriptions of the non-indigenous areas on the Project site are provided in Appendix B.

4.0 INDIGENOUS VEGETATION PRESERVATION AND ENHANCEMENT

A total of $1,070\pm$ acres $(1,030\pm$ acres of wetlands and $40\pm$ acres of uplands) with less than 75 percent existing exotic vegetation will be preserved and enhanced by the hand removal/treatment of exotic and nuisance vegetation. The locations of the indigenous preservation areas are shown on Appendix D.

4.1 Methods to Remove and Control Exotic and Nuisance Plants

Exotics to be eradicated include, but are not limited to, the 21 species of prohibited invasive exotic species listed in Section 10-420(h) of the LDC (Table 1).

Common Name	Scientific Name
Air potato	Dioscorea alata
Australian pines	All Casuarina species
Bishopwood	Bischofia javanica
Brazilian pepper	Schinus terebinthifolius
Carrotwood	Cupaniopsis anacardioides
Chinese tallow	Sapium sebiferum

Table 1.Prohibited Invasive Exotics

Table 1. (Continued)

ł

Common Name	Scientific Name
Cork tree	Thespesia populnea
Cuban laurel fig	Ficus microcarpa
Downy rose-myrtle	Rhodomyrtus tomentosus
Earleaf acacia	Acacia auriculiformis
Japanese climbing fern	Lygodium japonicum
Java plum	Syzygium cumini
Melaleuca	Melaleuca quinquenervia
Murray red gum	Eucalyptus camaldulensis
Old World climbing fern	Lygodium microphyllum
Rose apple	Syzygium jambos
Rosewood	Dalbergia sissoo
Tropical soda apple	Solanum viarum
Wedelia	Wedelia trilobata
Weeping fig	Ficus benjamina
Woman's tongue	Albizia lebbeck

Exotic and nuisance vegetation removal will be conducted primarily by hand methods. Hand treatment will be either felling of exotic trees, hand removal, and herbicide treatment of the stumps; or by hand pulling and removal. The treatment of exotic and nuisance vegetation will include one or more of the following methods: (1) cut exotics within 12 inches of ground elevation, hand remove cut vegetation, and treat remaining stump with approved herbicide; (2) girdle standing Brazilian pepper, melaleuca, and Australian pine (*Casuarina equisetifolia*) with diameter at breast height greater than 4 inches and apply approved herbicide to cambium; (3) foliar application of approved herbicide to Brazilian pepper, melaleuca saplings, Australian pine, and downy rose-myrtle (*Rhodomyrtus tomentosus*); (4) foliar application of approved herbicide to nuisance grasses.

4.2 Debris Removal

Exotic vegetative debris that is cut will be removed from the indigenous preserve areas. Exotic debris may be stacked in the adjacent farm fields or open land and burned. The preserve areas will be inspected annually for trash/garbage. Any trash/garbage located within the preserve areas will be removed and disposed of by hand.

4.3 Method and Frequency of Pruning and Trimming

Exotic removal within the existing indigenous habitats is scheduled to begin after the applicable permits and approvals have been attained. After the completion of the initial exotic removal, semi-annual inspections of the preserves will occur for the first two years.

During these inspections, the conservation areas will be traversed by a qualified ecologist. Locations of nuisance and/or exotic species will be identified for immediate treatment with an appropriate herbicide. Any additional potential problems will also be noted and corrective actions taken. Once exotic/nuisance species levels have been reduced to acceptable limits, inspections of the conservation areas will be conducted a minimum of once every two years.

Maintenance will be conducted in perpetuity to ensure that the conservation areas are free of exotic vegetation, including the prohibited invasive exotic species listed in Section 10-420(h) of the LDC (Table 1).

5.0 INDIGENOUS VEGETATION RESTORATION

Restoration and re-establishment of indigenous vegetation communities will be conducted in areas with greater than 75 percent coverage by exotic vegetation and in the existing farm fields within the conservation areas. Restoration activities will include exotic removal and supplemental plantings in existing habitats with greater than 75 percent exotics and wetland and upland restoration from existing farm fields. The locations of the various types of restoration areas are shown on Appendix D.

5.1 Removal of Exotics and Supplemental Plantings

Approximately 182 acres (166± acres of wetlands and 16± acres of uplands) with greater than 75 percent exotics will be enhanced by the removal of exotic species and supplemental plantings of native vegetation. Mechanical equipment may be utilized to assist in the removal of exotic species in these areas. Cut vegetative debris will be removed from these areas in order to allow for successful supplemental plantings. All efforts will be made to preserve native trees when conducting the exotic removal with mechanized equipment. To minimize adverse impacts to the ground surface, machinery that exerts a relatively low impact on the ground surface (i.e., tracked skid steer, feller-buncher) will be utilized within the mechanical removal areas.

Following the removal of exotics, supplemental wetland plantings will be installed in the $166\pm$ acres of wetland habitats. Wetland plantings will be selected based on the type of native vegetation that occurs in the adjacent or nearby wetland habitats. Tree and ground cover species will be planted according to the specifications in Table 2. A minimum of three tree species and five ground cover species will be planted. The species selected for planting will depend on market availability at the time the plantings are to occur.

Common Name	Scientific Name	Minimum Height	Container Size	Planting Instruction (On Center)
an a company and a company and a company and a company and a company and a company and a company and a company A company a company a company a company a company a company a company a company a company a company a company a	Trees			
Bald cypress	Taxodium distichum	2 to 5 ft.	BR to 3 gal.	15 to 20 ft.
Red maple	Acer rubrum	2 to 5 ft.	BR to 3 gal.	15 to 20 ft.
Slash pine	Pinus elliottii	2 to 5 ft.	BR to 3 gal.	15 to 20 ft.
Laurel oak	Quercus Iaurifolia	2 to 5 ft.	BR to 3 gal.	15 to 20 ft.
Dahoon holly	Ilex cassine	2 to 5 ft.	BR to 3 gal.	15 to 20 ft.
Pop ash	Fraximus caroliniana	2 to 5 ft.	BR to 3 gal.	15 to 20 ft.
	Ground Co	ver		
Cordgrass	Spartina bakeri	12 in.	2 in.	5 to 8 ft.
Wiregrass	Aristida stricta	12 in.	2 in.	5 to 8 ft.
Gulfdune paspalum	Paspalum monostachyum	12 in.	2 in.	5 to 8 ft.
Muhiy grass	Muhlenbergia capillaris	12 in.	2 in.	5 to 8 ft.
Sawgrass	Cladium jamaicense	12 in.	2 in.	5 to 8 ft.
Blue maidencane	Amphicarpum muhlenbergianum	12 in.	2 in.	5 to 8 ft.
Swamp lily	Crinum americanum	12 in.	2 in.	5 to 8 ft.
Golden canna	Canna flaccida	12 in.	2 in.	5 to 8 ft.
Maidencane	Panicum hemitomon	12 in.	2 in.	5 to 8 ft.
Spikerush	Eleocharis interstincta	12 in.	2 in.	5 to 8 ft.
Arrowhead	Sagittaria lancifolia	12 in.	2 in.	5 to 8 ft.
Pickerelweed	Pontederia cordata	12 in.	2 in.	5 to 8 ft.
Alligator flag	Thalia geniculata	12 in.	2 in.	5 to 8 ft.
Soft-stem bulrush	Scirpus validus	12 in.	2 in.	5 to 8 ft.

Table 2.Supplemental Wetland Plantings1

ĺ

¹Additional tree and ground cover species may be included in the planting table prior to Development Order approval.

BR - Bare root

Following the removal of exotic vegetation, supplemental upland planting will be installed in $16\pm$ acres of upland habitats. Upland plantings will be selected to replace the type of native vegetation that occurs in the adjacent or nearby upland habitats. Tree plantings will include primarily slash pine (*Pinus elliottii*), although other tree species listed in Table 3 may be utilized. Upland tree and ground cover plantings will be installed according to the specifications listed in Table 3. A minimum of three tree species and five ground cover species will be planted. The species selected for planting will depend on market availability at the time the plantings are to occur.

Common Name	Scientific Name	Minimum Height	Minimum Container Size	Planting Instruction (On Center)		
Trees						
Slash pine	Pinus elliottii	2 to 5 ft.	BR to 3 gal.	15 to 20 ft.		
Cabbage palm	Sabal palmetto	2 to 5 ft.	BR to 3 gal.	15 to 20 ft.		
Live oak	Quercus virginiana	2 to 5 ft.	BR to 3 gal.	15 to 20 ft.		
Laurel oak	Quercus laurifolia	2 to 5 ft.	BR to 3 gal.	15 to 20 ft.		
Dahoon holly	Ilex cassine	2 to 5 ft.	BR to 3 gal.	15 to 20 ft.		
中國的自己的計算者的目的目的目的目的目的目的目的目的目的目的目的目的目的目的目的目的目的目的目	Ground G	Cover				
Saw palmetto	Serenoa repens	12 in.	l gal.	15 to 20 ft		
Gulfdune paspalum	Paspalum monostachyum	12 in.	2 in.	5 to 8 ft.		
Blue maidencane	Amphicarpum muhlenbergianum	12 in.	2 in.	5 to 8 ft.		
Wiregrass	Aristida stricta	12 in.	2 in.	5 to 8 ft.		
Muhly grass	Muhlenbergia capillaris	12 in.	2 in.	5 to 8 ft.		
Cordgrass	Spartina bakeri	12 in.	2 in.	5 to 8 ft.		
Broomgrass	Andropogon virginicus	12 in.	2 in.	5 to 8 ft.		
Fakahatchee grass	Tripsacum dactyloides	12 in.	2 in.	5 to 8 ft.		
Purple lovegrass	Eragrostis spectabilis	12 in.	2 in.	5 to 8 ft.		

Table 3.Supplemental Upland Plantings1

¹Additional tree and ground cover species may be included in the planting table prior to Development Order approval.

BR - Bare root

5.2 Wetland and Upland Restoration from Farm Fields

Approximately 1,665 acres of existing farm fields, including agricultural ditches, water detention areas, and berms will be restored to native wetland and upland habitats. Wetland and upland restoration activities will include leveling of row crop fields, removal of citrus trees, backfilling of agricultural ditches and detention systems, regrading to contours necessary for restoration historic habitat communities, replanting of vegetation to achieve target habitat types, and ongoing maintenance and management. Restoration plans for farm fields will be provided at time of development order.

5.2.1 Wetland Grading and Planting

Stormwater from development areas of the Project will be treated for water quality in stormwater lakes within the stormwater management system for each development area. Following water quality treatment, stormwater will be discharge from treatment lakes into the restoration area at various locations.

Drainage ditches and other components of the agricultural drainage/water management system will be backfilled using material from the existing berms and disturbed areas. Proposed wetland areas will be graded and planted with wetland plantings in Table 4. The species selected for planting will depend on market availability at the time the plantings are to occur. Specifications for plantings size and density (on-center spacing) are also provided in Table 4.

Common Name	Scientific Name	Minimum Height	Container Size	Planting Instruction (On Center)		
Trees ²						
Bald cypress	Taxodium distichum	2 to 5 ft.	BR to 3 gal.	30 to 50 ft.		
Slash pine	Pinus elliottii	2 to 5 ft.	BR to 3 gal.	30 to 50 ft.		
	Ground Cover	· Plantings				
	Zone	1				
Gulfdune paspalum	Paspalum monostachyum	12 in.	2 in.	5 to 8 ft.		
Muhly grass	Muhlenbergia capillaris	12 in.	2 in.	5 to 8 ft.		
Cordgrass	Spartina bakeri	12 in.	2 in.	5 to 8 ft.		
Blue maidencane	Amphicarpum muhlenbergianum	12 in.	2 in,	3 to 5 ft.		
Sawgrass	Cladium jamaicense	12 in.	2 in.	3 to 5 ft		
Maidencane	Panicum hemitomon	12 in.	2 in.	3 to 5 ft		
	Zone	2 1998040				
Sawgrass	Cladium jamaicense	12 in.	2 in.	3 to 5 ft		
Maidencane	Panicum hemitomon	12 in.	2 in.	3 to 5 ft		
Spikerush	Eleocharis interstincta	<u>12 in.</u>	2 in.	3 to 5 ft		
Golden canna	Canna flaccida	12 in.	2 in.	3 to 5 ft		
Arrowhead	Sagittaria Iancifolia	12 in.	2 in.	3 to 5 ft		
Pickerelweed	Pontederia cordata	<u>1</u> 2 in.	2 in.	3 to 5 ft		
Alligator flag	Thalia geniculata	<u>12 in.</u>	2 in.	3 to 5 ft		
Soft-stem bulrush	Scirpus validus	12 in.	2 in.	3 to 5 ft		
Zone 3						
Spikerush	Eleocharis interstincta	12 in.	2 in.	3 to 5 ft		
Golden canna	Canna flaccida	12 in.	2 in.	3 to 5 ft		
Arrowhead	Sagittaria lancifolia	12 in.	2 in.	3 to 5 ft		
Pickerelweed	Pontederia cordata	12 in.	2 in.	3 to 5 ft		
Soft-stem bulrush	Scirpus validus	12 in.	2 in.	3 to 5 ft		
Alligator flag	Thalia geniculata	12 in.	2 in.	3 to 5 ft		
Spatterdock	Nuphar Iuteum	24 in.	l gal.	15 ft.		
Waterlily	Nymphaea odorata	24 in.	1 gal.	15 ft.		

Table 4.Wetland Restoration Plantings1

l

¹Additional tree and ground cover species may be included in the planting table prior to Development Order approval.

²Wetland tree plantings will be clustered along the edge of the flow-way restoration area as to not preclude open foraging habitat for listed wading bird species.

BR - Bare root

Slash pine, cypress, and ground cover species from Zone 1 in Table 4 will be installed on the higher slope of the restored wetlands where the target habitat is pine-cypress. Zone 2 plantings will be installed on the mid to lower elevations where the target habitat is freshwater marsh. Zone 3 plantings will be installed in the lowest portions of the graded area. The Zone 3 target habitat type is freshwater marsh, but may contain intermittent areas of open water. A minimum of six ground cover species will be planted.

5.2.2 Upland Grading and Planting

Upland restoration will consist of leveling of row crop fields, removal of citrus trees and removal of berms, and the backfilling of ditches and detention areas. Regrading will occur to provide appropriate ground elevations for targeted upland plant communities.

Following final grading, tree species and ground cover from Table 5 will be installed. The species selected for planting will depend on the market availability at the time plantings are to occur. Trees may be planted in clusters to provide distinct areas that can be defended from prescribed fire by the installation of disked fire breaks around the perimeter of the clusters. The locations of the tree clusters will be identified based on an analysis of historic aerials and proposed site topography. Trees will be planted in accordance with the specifications listed in Table 5. The goal is to create clusters of primarily open canopy native forest areas, with adequate sunlight for an abundance of ground cover species. Clusters of trees may be pine, hardwoods, or a mix of pine and hardwoods. A variety of tree sizes may be utilized to create a more heterogeneous plant community.

In areas where tree plantings are not clustered, widely scattered trees will be planted randomly in the upland restoration areas. The widely scattered trees will be slash pine and bare root plantings.

Native ground cover plantings will be installed in the upland restoration areas and will include a minimum of four of the species listed in Table 5. No one species will constitute more than 50 percent of the total ground cover plantings. Direct seeding to establish upland ground cover may be used in conjunction with ground cover plantings within the upland restoration areas. The seed source will be obtained from and applied by a professional experienced with direct seeding as a method of upland restoration. The seed source will be harvested from a local area and will include a mixture of regionally-appropriate native graminoid species. The seed source mixture will include a variety of species to optimize ground cover diversity to the maximum extent possible.

Common Name	Scientific Name	Minimum Height	Container Size	Planting Instruction (On Center)		
Trees						
Slash pine	Pinus elliottii	2 to 5 ft.	BR to 3 gal.	15 to 20 ft.		
Live oak	Quercus virginiana	2 to 5 ft.	BR to 3 gal.	15 to 20 ft.		
Laurel oak	Quercus laurifolia	2 to 5 ft.	BR to 3 gal.	15 to 20 ft.		
Dahoon holly	Ilex cassine	2 to 5 ft.	BR to 3 gal.	15 to 20 ft.		
	Ground	l Cover				
Saw palmetto	Serenoa repens	12 in.	1 gal.	15 to 20 ft.		
Gulfdune paspalum	Paspalum monostachyum	12 in.	2 in.	5 to 8 ft.		
Wiregrass	Aristida stricta	12 in.	2 in.	5 to 8 ft.		
Muhlygrass	Muhlenbergia capillaris	12 in.	2 in.	5 to 8 ft.		
Cordgrass	Spartina bakeri	12 in.	2 in.	5 to 8 ft.		
Fakahatchee grass	Tripsacum dactyloides	12 in.	2 in.	5 to 8 ft.		
Purple lovegrass	Eragrostis spectabilis	12 in.	2 in.	5 to 8 ft.		

Table 5.Upland Restoration Plantings1

{

¹Additional tree and ground cover species may be included in the planting table prior to Development Order approval. BR - Bare root

6.0 PRESERVE ACTIVITY SCHEDULE

Preservation and restoration activity will be phased in accordance with parcel development activity as identified on the phasing plan (Appendix E). Phasing will allow for restoration to proceed in an economically viable fashion supported by development income and extended agricultural use.

Sequencing of restoration activity will ensure indigenous requirements are being met commensurate with the development. The area of each restoration phase includes a minimum 56 percent of the combined acreage for the phase and associated development parcel(s).

Phasing of restoration areas will occur in a strategic pattern and coincide with the conversion of agricultural lands to commercial and residential development. Initiation of each preservation and restoration phase will correspond with initiation of the corresponding development parcel(s). Initial restoration activity will proceed concurrent with initial development clearing activity to allow shared mobilization of equipment, construction access, staging, cleanup, and disposal of cut material. Wetland restoration of farm fields will rely on the installation of stormwater management infrastructure and appropriate discharge features designed to support wetland hydrology. The bulk of farm field restoration is anticipated to lag indigenous preservation and restoration until hydrologic controls and outfalls have been established. Phasing will allow for the evolution of adaptive restoration techniques. If sub-phasing is desired it will be identified at time of

development order application. Restoration activities in each phase will be completed within ten years or sooner from the date of issuance of the first development order for that phase.

7.0 SUCCESS CRITERIA

1

7.1 Indigenous Wetland and Upland Preservation and Enhancement

The following are the success criteria for the indigenous preserve areas:

- 1) Initial eradication of exotic and nuisance vegetation will be completed; and
- 2) The preserve areas will be maintained free from exotic vegetation. Exotic vegetation species include, but are not limited to, the 21 species of prohibited invasive exotic species listed in Section 10-420(h) of the LDC (Table 1).

7.2 Indigenous Wetland and Upland Restoration

The following are the success criteria for the indigenous wetland and upland restoration areas:

- 1) Initial eradication of exotic and nuisance vegetation will be completed;
- 2) Supplemental plantings will be completed in the indigenous restoration areas;
- 3) A minimum 80 percent survival of tree and ground cover plantings after five years; and
- 4) The preserve areas will be maintained free from exotic vegetation. Exotic vegetation species include, but are not limited to, the 21 species of prohibited invasive exotic species listed in Section 10-420(h) of the LDC (Table 1).

7.3 Wetland and Upland Restoration from Farm Fields

The following are the success criteria for the wetland and upland restoration from citrus grove areas:

- 1) Initial eradication of exotic and nuisance vegetation will be completed;
- 2) Levelling of row crop fields, removal of citrus trees, removal of berms and spoil areas, backfilling of ditches, and borrow areas, and re-grading of wetland and upland restoration areas will be completed;
- 3) Plantings within wetland and upland restoration areas will be completed;
- 4) A minimum of 80 percent survival of tree and ground cover species after five years;
- 5) The goal will be an average of approximately 100 trees per acre in the upland restoration areas. There may be areas of clustered trees which amount to greater than 100 trees per acre and areas of herbaceous prairie with less than 100 trees per acre; and
- 6) The preserve areas will be maintained free from exotic vegetation. Exotic vegetation species include, but are not limited to, the 21 species of prohibited invasive exotic species listed in Section 10-420(h) of the LDC (Table 1).

8.0 MAINTENANCE

ĺ

ĺ

After the completion of the initial exotic removal, semi-annual inspections of the conservation areas will occur for the first two years. During these inspections, the conservation areas will be traversed by a qualified ecologist. Locations of nuisance and/or exotic species will be identified for immediate treatment with an appropriate herbicide. Any additional potential problems will also be noted and corrective actions taken. Once exotic/nuisance species levels have been reduced to acceptable limits, inspections of the conservation areas will be conducted annually.

Maintenance will be conducted in perpetuity to ensure that the conservation areas are free of exotic vegetation, including the prohibited invasive exotic species listed in Section 10-420(h) of the LDC (Table 1).

8.1 Prescribed Fire

Prescribed burning will be used as a management tool in the conservation areas to maintain the native vegetation communities. Prescribed burns help maintain vegetative communities in their natural state, reduce fuel loads and the danger of wildfire, aid with the eradication and control of exotic and nuisance vegetation species, and improve wildlife habitat. The objectives of prescribed burning maintenance events will be to aid in the control of exotic vegetation and woody shrubs (i.e., wax myrtle (*Morella cerifera*) and saltbush (*Baccharis halimifolia*)), and to stimulate the growth and diversity of herbaceous vegetation.

The burning frequency for the conservation areas will be two to four years, which is consistent with the natural fire regime for mesic flatwoods, wet flatwoods, and wet prairies described by Florida Natural Areas Inventory (FNAI) in the *Guide to the Natural Communities of Florida* (FNAI 2010). The edges of the Project's freshwater marshes will be burned when the fire moves through the adjacent pine and prairie habitats. The fire will be allowed to extinguish naturally within the wetter marsh habitats.

Prescribed burning is typically conducted during the winter or early spring when temperatures are reduced and wind direction is more constant. The initial burn is anticipated to occur during the late winter. Winter burns are preferred to reduce high fuel loads. Growing season burns also may be conducted as conditions allow. Changes in annual weather cycles determine when burn permits will be available and burns may be conducted only on the day(s) of Florida Forest Service permission.

Fire breaks will be installed in strategic locations in order to safely ignite and control prescribed fires. Fire breaks will be co-located with maintenance trails, access roads, easements, fence lines, property boundaries, and natural habitat boundaries. A 12-foot wide fire break will be established directly adjacent to and inside (i.e., the restoration side) of the 8-foot tall wildlife control fence, or other structural wildlife deterrent. Fires will be excluded from the planted tree clusters until such time that the plantings are mature enough to survive fires. Fires will be allowed to extinguish naturally within the wetter preserve areas, such as the marsh habitats.

Controlled burns will be conducted only when authorized with a permit by the Florida Forest Service. In addition, notice will be given to the Estero Fire District. Coordination with CREW, Corkscrew Swamp Sanctuary, and the South Florida Water Management District will occur before burning. Burning will not be conducted if smoke is anticipated to encroach upon Corkscrew Road or adjacent residences.

9.0 MONITORING REPORTS

Monitoring will be conducted annually for the conservation areas. Annual reports documenting the achievement of the success criteria outlined in Section 7.0 will be submitted to Lee County's Division of Environmental Sciences (DES). Monitoring will typically be conducted during the height of the growing season (August to October) with annual reports submitted by December 31.

Five annual monitoring reports for each conservation area phase will be submitted to DES describing the conditions of the conservation areas. The monitoring reports will include documented exotic and nuisance species, mortality of vegetation, estimated causes of mortality, growth of the vegetation, wildlife observed and other factors that demonstrate the functional health of the conservations areas, and photographs. A brief description of anticipated maintenance work to be conducted over the next year will also be included. Periodic inspections will be conducted by DES staff to ensure the accuracy of the monitoring reports.

10.0 LONG-TERM MANAGEMENT AND MONITORING

The conservation areas will be placed in a conservation easement granted to Lee County. The conservation easement will prevent the encroachment of future development as well as activities that are incompatible with the goal of sustaining the preserved and restored conservation areas in good ecological health. These areas will be physically managed in accordance with the approved long-term management plan prepared by the Project ecologist and implemented by a Community Development District (CDD) or Homeowners' Association (HOA) with the assistance of an appropriately skilled environmental professional.

Responsibility for management of the conservation areas will shift to the CDD or HOA following the completion of enhancement and restoration activities on-site. Prior to completion of the fiveyear annual monitoring program, a long-term management and monitoring plan will be drafted for DES review and approval. The plan will then be implemented after completion of the five-year annual monitoring program and achievement of success criteria has been verified by DES. Longterm management activities within the conservation areas will include periodic surveys of vegetation and wildlife, control of exotic and nuisance plant species, regulating water levels, maintenance of the water control structures and access, and prescribed fires.

Long-term monitoring reports will be provided to DES bi-annually (every other year). The longterm monitoring reports will provide ecological data such as water levels, vegetative cover, degree and location of exotic vegetation cover, and wildlife utilization. This information will guide the active management of the site.

11.0 PRESERVE SIGNAGE AND COMMUNITY EDUCATION PLAN

Signs identifying the preserve as a "nature preserve area" will be installed along the boundary of the conservation areas. The signage will include language stating, "No dumping allowed." The signs will be spaced a minimum of 200 feet apart. The signs will be no closer than ten feet from residential property lines, and be limited to a maximum height of four feet and a maximum size of two square feet. A typical preserve sign is attached as Appendix F.

The community will be advised of the benefits of the conservation areas to the surrounding landscape and their residential community. One or more kiosks containing information, maps, wildlife sightings, and community notices will be installed at appropriate locations within the development including the activity center and recreation areas.

Periodic seminars will be held to further educate the community about the conservation areas, wetland benefits, coexistence with and protection of wildlife, and the benefits of prescribed fire. Community informational and educational brochures, such as those describing the benefits of preserve areas, may be created and provided as needed to keep residents in compliance with conservation easements, wildlife regulations, etc. Continued education will ensure that the community is well-informed regarding the preserves and wildlife coexistence.

12.0 REFERENCES

- Florida Department of Transportation. 1999. Florida Land Use, Cover and Forms Classification System. Procedure No. 550-010-001-a. Third Edition.
- Florida Natural Areas Inventory. 2010. Guide to the Natural Communities of Florida: 2010 Edition. Florida Natural Areas Inventory, Tallahassee, Florida.

APPENDIX A

INDIGENOUS VEGETATION MAP


APPENDIX B

FLUCFCS DESCRIPTIONS

FFD CORKSCREW ROAD PROPERTY FLUCFCS DESCRIPTIONS

I. INDIGENOUS WETLAND HABITATS

Wax Myrtle, Hydric (50-75% Exotics) (FLUCFCS Code 4291 E3)

This wetland community type has a canopy that is mostly open with scattered slash pine (*Pinus elliottii*) and bald cypress (*Taxodium distichum*). The sub-canopy is dominated by wax myrtle (*Myrica cerifera*), melaleuca (*Melaleuca quinquenervia*), Brazilian pepper (*Schinus terebinthifolius*), and bald cypress. The ground cover includes flatsedge (*Cyperus spp.*), carpetweed (*Phyla nodiflora*), inundated beaksedge (*Rhynchospora inundata*), Tracy's beaksedge (*Rhynchospora tracii*), asiatic pennywort (*Centella asiatica*), water pennywort (*Hydrocotyle umbellata*), and fennel (*Eupatorium leptophyllum*).

Willow, Disturbed (0-24% Exotics) (FLUCFCS Code 6189 E1)

This wetland community type has a canopy that is dominated by willow (*Salix caroliniana*) and scattered wax myrtle. The sub-canopy consists of willow, wax myrtle, and scattered red maple (*Acer rubrum*) and Brazilian pepper. The ground cover includes primrose willow (*Ludwigia peruviana*), sawgrass (*Cladium jamaicense*), saltbush (*Baccharis halimifolia*), knotroot foxtail (*Setaria parviflora*), fireflag (*Thalia geniculata*), and pickerelweed (*Pontederia cordata*).

Willow, Disturbed (50-75% Exotics) (FLUCFCS Code 6189 E3)

The vegetation composition in this community is similar to FLUCFCS Code 6189 E2, except Brazilian pepper and primrose willow are more common.

Cypress, Disturbed (0-24% Exotics) (FLUCFCS Code 6219 E1)

This wetland community type has a canopy that contains bald cypress with scattered slash pine, cabbage palm, and melaleuca. The sub-canopy consists of bald cypress, Brazilian pepper, wax myrtle, and primrose willow. The ground cover includes swamp fern (*Blechnum serrulatum*), maidencane (*Panicum hemitomon*), torpedograss (*Panicum repens*), asiatic pennywort, water pennywort, American cupscale (*Sacciolepis striata*), pickerelweed, and waterlily (*Nymphaea* sp.).

Cypress, Disturbed (25-49% Exotics) (FLUCFCS Code 6219 E2)

The vegetation composition in this community is similar to FLUCFCS Code 6219 E1, except Brazilian pepper and melaleuca are more common.

Cypress, Disturbed (50-75% Exotics) (FLUCFCS Code 6219 E3)

The vegetation composition in this community is similar to FLUCFCS Code 6219 E2, except coverage by Brazilian pepper and melaleuca is 50 to 75 percent.

Cypress/Pine/Cabbage Palm, Disturbed (0-24% Exotics) (FLUCFCS Code 6249 E1)

This wetland community type has a canopy that contains bald cypress, slash pine, cabbage palm (*Sabal palmetto*), melaleuca, and scattered laurel oak (*Quercus laurifolia*). The sub-canopy consists of slash pine, Brazilian pepper, bald cypress, and melaleuca. The ground cover includes

swamp fern, maidencane, torpedograss, asiatic pennywort, water pennywort, American cupscale, pickerelweed, and waterlily.

<u>Cypress/Pine/Cabbage Palm, Disturbed (25-49% Exotics) (FLUCFCS Code 6249 E2)</u> The vegetation composition in this community is similar to FLUCFCS Code 6249 E1, except Brazilian pepper and melaleuca are more common.

<u>Cypress/Pine/Cabbage Palm, Disturbed (50-75% Exotics) (FLUCFCS Code 6249 E3)</u> The vegetation composition in this community is similar to FLUCFCS Code 6249 E2, except coverage by Brazilian pepper and melaleuca is 50 to 75 percent.

Hydric Pine, Disturbed (0-24% Exotics) (FLUCFCS Code 6259 E1)

This wetland community type has a canopy that contains slash pine, melaleuca, and scattered bald cypress. The sub-canopy consists of slash pine, wax myrtle, swamp bay (*Persea palustris*), myrsine (*Rapanea punctata*), Brazilian pepper, and melaleuca. The ground cover includes inundated beaksedge, Tracy's beaksedge, knotroot foxtail, corkwood (*Stillingia aquatica*), redtop panicum (*Panicum rigidulum*), musky mint (*Hyptis alata*), marsh elders (*Iva spp.*), and scattered saw palmetto (*Serenoa repens*).

Hydric Pine, Disturbed (25-49% Exotics) (FLUCFCS Code 6259 E2)

The vegetation composition in this community is similar to FLUCFCS Code 6259 E1, except Brazilian pepper and melaleuca are more common.

<u>Hydric Pine, Disturbed (50-75% Exotics) (FLUCFCS Code 6259 E3)</u> The vegetation composition in this community is similar to FLUCFCS Code 6259 E2, except coverage by Brazilian pepper and melaleuca is 50 to 75 percent.

Wetland Mixed Hardwood Conifer, Disturbed (0-24% Exotics) (FLUCFCS Code 6309 E1) This wetland community type has a canopy that contains melaleuca, slash pine, bald cypress, live oak (*Quercus virginiana*), laurel oak, and red maple. The sub-canopy consists of wax myrtle, Brazilian pepper, melaleuca, and primrose willow. The ground cover includes fireflag, pickerelweed, swamp fern, bushy bluestem (*Andropogon glomeratus*), redtop panicum, primrose willow, asiatic pennywort, waterlily, and spikerush (*Eleocharis interstincta*).

Wetland Mixed Hardwood Conifer, Disturbed (25-49% Exotics) (FLUCFCS Code 6309 E2) The vegetation composition in this community is similar to FLUCFCS Code 6309 E1, except Brazilian pepper and melaleuca are more common.

Wetland Mixed Hardwood Conifer, Disturbed (50-75% Exotics) (FLUCFCS Code 6309 E3) The vegetation composition in this community is similar to FLUCFCS Code 6309 E2, except coverage by Brazilian pepper and melaleuca is 50 to 75 percent.

Wetland Shrub, Disturbed (0-24% Exotics) (FLUCFCS Code 6319 E1)

This wetland community type has a canopy that is mostly open with scattered bald cypress, slash pine, and melaleuca. The sub-canopy contains willow, Brazilian pepper, saltbush, wax myrtle, bald

cypress, slash pine, and melaleuca. The ground cover includes primrose willow, pickerelweed, willow, cattail (*Typha* sp.), sawgrass, and fireflag.

Wetland Shrub, Disturbed (25-49% Exotics) (FLUCFCS Code 6319 E2) The vegetation composition in this community is similar to FLUCFCS Code 6319 E1, except Brazilian pepper, melaleuca, and primrose willow are more common.

Wetland Shrub, Disturbed (50-75% Exotics) (FLUCFCS Code 6319 E3)

The vegetation composition in this community is similar to FLUCFCS Code 6319 E2, except coverage by Brazilian pepper, melaleuca, and primrose willow is 50 to 75 percent.

Freshwater Marsh, Disturbed (0-24% Exotics) (FLUCFCS Code 6419 E1)

This wetland community type has a canopy that is mostly open with scattered bald cypress. The sub-canopy is open with scattered willow and wax myrtle. The ground cover includes maidencane, torpedograss, primrose willow, West Indian marsh grass, pickerelweed, fireflag, smartweed (*Polygonum* sp.), and arrowhead (*Sagittaria lancifolia*).

Freshwater Marsh, Disturbed (25-49% Exotics) (FLUCFCS Code 6419 E2)

The vegetation composition in this community is similar to FLUCFCS Code 6419 E1, except West Indian marsh grass and primrose willow are more common.

Freshwater Marsh, Disturbed (50-75% Exotics) (FLUCFCS Code 6419 E3)

The vegetation composition in this community is similar to FLUCFCS Code 6419 E2, except coverage by West Indian marsh grass and primrose willow is 50 to 75 percent.

Wet Prairie, Disturbed (0-24% Exotics) (FLUCFCS Code 6439 E1)

This wetland community type has a canopy that is mostly open with scattered slash pine, bald cypress, and melaleuca. The sub-canopy is mostly open with scattered wax myrtle, bald cypress, and melaleuca. The ground cover includes inundated beaksedge, Tracy's beaksedge, knotroot foxtail, corkwood, redtop panicum, musky mint, marsh elders, and scattered saw palmetto.

Wet Prairie, Disturbed (25-49% Exotics) (FLUCFCS Code 6439 E2)

The vegetation composition in this community is similar to FLUCFCS Code 6439 E1, except West Indian marsh grass and melaleuca are more common.

<u>Wet Prairie, Disturbed (50-75% Exotics) (FLUCFCS Code 6439 E3)</u> The vegetation composition in this community is similar to FLUCFCS Code 6439 E2.

The vegetation composition in this community is similar to FLUCFCS Code 6439 E2, except coverage by West Indian marsh grass and melaleuca is 50 to 75 percent.

II. INDIGENOUS UPLAND HABITATS

Palmetto Prairie, Disturbed (0-24% Exotics) (FLUCFCS Code 3219 E1)

This upland community type has a canopy that contains scattered slash pine. The sub-canopy consists of slash pine, live oak, and wax myrtle. The ground cover includes saw palmetto,

muscadine grape (Vitis rotundifolia), rusty lyonia (Lyonia ferruginea), pennyroyal (Piloblephis rigida), broomsedge (Andropogon virginicus), and caesarweed (Urena lobata).

Mixed Rangeland, Disturbed (25-49% Exotics) (FLUCFCS Code 3309 E2)

l

This upland community type has a canopy that is mostly open with scattered slash pine and cabbage palm. The sub-canopy consists of slash pine, wax myrtle, Brazilian pepper, live oak, cabbage palm, and saltbush. The ground cover is similar to FLUCFCS Code 3219 E1.

Pine Flatwoods, Disturbed (0-24% Exotics) (FLUCFCS Code 4119 E1)

This upland community type has a canopy that is dominated by slash pine and melaleuca. The subcanopy consists of slash pine, Brazilian pepper, wax myrtle, and melaleuca. The ground cover includes saw palmetto, broomsedge, melaleuca, and chocolateweed (*Melochia corchorifolia*).

<u>Pine Flatwoods, Disturbed (25-49% Exotics) (FLUCFCS Code 4119 E2)</u> The vegetation composition in this community is similar to FLUCFCS Code 4119 E1, except Brazilian pepper is more common.

Pine Flatwoods, Disturbed (50-75% Exotics) (FLUCFCS Code 4119 E3)

The vegetation composition in this community is similar to FLUCFCS Code 4119 E2, except coverage by Brazilian pepper is 50 to 75 percent.

Pine, Disturbed (0-24% Exotics) (FLUCFCS Code 4159 E1)

This upland community type has a canopy that is dominated by slash pine. The sub-canopy consists of wax myrtle, slash pine, and Brazilian pepper. The ground cover includes bahiagrass (*Paspalum notatum*), smutgrass (*Sporobolus indicus*), bushy bluestem, caesarweed, knotroot foxtail, and scattered primrose willow.

Pine, Disturbed (25-49% Exotics) (FLUCFCS Code 4159 E2)

The vegetation composition in this community is similar to FLUCFCS Code 4159 E1, except Brazilian pepper is more common.

III. NON-INDIGENOUS WETLAND HABITATS

Woodland Pasture, Hydric (FLUCFCS Code 2131)

This wetland area has a canopy that contains slash pine and scattered bald cypress. The sub-canopy consists of Brazilian pepper, saltbush, and primrose willow. The ground cover includes limpograss (*Hemarthria altissima*), bahiagrass, smutgrass, carpetweed, primrose willow, bushy bluestem, flatsedge, buttonweed (*Diodia virginiana*), maidencane, torpedograss, and dogfennel (*Eupatorium capillifolium*).

Low Pasture, Hydric (FLUCFCS Code 262)

This wetland area has a canopy that is mostly open with scattered bald cypress and slash pine. The sub-canopy is mostly open with scattered bald cypress, Brazilian pepper, wax myrtle, and melaleuca. The ground cover includes flatsedge, buttonweed, carpetweed, primrose willow, torpedograss, and scattered bahiagrass and smutgrass.

Brazilian Pepper, Hydric (FLUCFCS Code 4221)

This wetland area has a canopy that is mostly open with scattered bald cypress. The sub-canopy is dominated by Brazilian pepper. The ground cover includes torpedograss, primrose willow, and swamp fern.

Melaleuca, Hydric (FLUCFCS Code 4241)

1

This wetland area has a canopy that is dominated by melaleuca. The sub-canopy consists of melaleuca, wax myrtle, and myrsine. The ground cover includes saltbush, swamp fern, melaleuca, and caesarweed.

Wax Myrtle, Hydric (76-100% Exotics) (FLUCFCS Code 4291 E4)

The vegetation composition in this community is similar to FLUCFCS Code 4291 E3, except coverage by Brazilian pepper is greater than 75 percent.

Cypress, Disturbed (76-100% Exotics) (FLUCFCS Code 6219 E4)

The vegetation composition in this community is similar to FLUCFCS Code 6219 E3, except coverage by Brazilian pepper and melaleuca is greater than 75 percent.

<u>Cypress/Pine/Cabbage Palm, Disturbed (76-100% Exotics) (FLUCFCS Code 6249 E4)</u> The vegetation composition in this community is similar to FLUCFCS Code 6249 E3, except coverage by Brazilian pepper and melaleuca is greater than 75 percent.

Hydric Pine, Disturbed (76-100% Exotics) (FLUCFCS Code 6259 E4)

The vegetation composition in this community is similar to FLUCFCS Code 6259 E3, except coverage by Brazilian pepper and melaleuca is greater than 75 percent.

Freshwater Marsh, Disturbed (76-100% Exotics) (FLUCFCS Code 6419 E4)

The vegetation composition in this community is similar to FLUCFCS Code 6419 E3, except coverage by West Indian marsh grass and primrose willow is greater than 75 percent.

Disturbed Land, Hydric (FLUCFCS Code 7401)

This wetland area has a canopy and sub-canopy that are mostly open with scattered Brazilian pepper and bald cypress. The ground cover includes primrose willow, smartweed, torpedograss, bushy bluestem, and water-dropwort (*Oxypolis* sp.).

IV. NON-INDIGENOUS UPLAND HABITATS

Agricultural Support Operations (FLUCFCS Code 205)

These agriculture supporting operations consist of office buildings, worker housing units, machine storage, chemical storage, packing facilities, and repair facilities.

Improved Pasture (FLUCFCS Code 211)

This upland area has a canopy that is mostly open with scattered cabbage palm and slash pine. The sub-canopy is mostly open with scattered cabbage palm, slash pine, wax myrtle, and Brazilian

pepper. The ground cover includes bahiagrass, smutgrass, dogfennel, caesarweed, flatsedge, and scattered saw palmetto.

Woodland Pasture (FLUCFCS Code 213)

This upland area has a canopy that consists of slash pine, cabbage palm, and scattered bald cypress. The sub-canopy is mostly open with scattered Brazilian pepper and wax myrtle. The ground cover includes bahiagrass, smutgrass, and carpetweed.

Row Crops (FLUCFCS Code 214)

This FLUCFCS Code includes row crops areas, berms, and ditches adjacent to the row crops.

Citrus Groves (FLUCFCS Code 221)

This FLUCFCS Code includes citrus groves, berms, and ditches adjacent to the citrus groves.

Fallow Cropland (FLUCFCS Code 261)

This upland area has a canopy that is open. The sub-canopy consists of wax myrtle, Brazilian pepper, saltbush, and primrose willow. The ground cover includes smutgrass, dogfennel, flatsedge, caesarweed, broomsedge, and goldenrod (*Euthamia caroliniana*).

Brazilian Pepper (FLUCFCS Code 422)

This upland area has a canopy that is mostly open with scattered cabbage palm. The sub-canopy is dominated by Brazilian pepper and scattered wax myrtle. The ground cover is open. Disturbed Land (FLUCFCS Code 740)

The canopy and sub-canopy are mostly open with scattered slash pine and Brazilian pepper. The ground cover includes bahiagrass, smutgrass, dogfennel, caesarweed, knotroot foxtail, flatsedge, hairy beggarticks (*Bidens pilosa*), and beggar's lice (*Desmodium* sp.).

Spoil (FLUCFCS Code 743)

This upland area has a canopy, sub-canopy, and ground cover that are open.

Berm (FLUCFCS Code 747)

This upland area has a canopy that contains slash pine, melaleuca, cabbage palm, live oak, and laurel oak. The sub-canopy consists of wax myrtle, Brazilian pepper, cabbage palm, slash pine, saltbush, saw palmetto, and melaleuca. The ground cover includes saw palmetto and muscadine grape.

Road (FLUCFCS Code 814)

This classification consists of a paved road and an elevated, dirt-filled road.

V. NON-INDIGENOUS OTHER SURFACE WATERS

Ditch (FLUCFCS Code 514)

This open water area has a canopy and sub-canopy that are mostly open with scattered willow and Brazilian pepper. The ground cover includes primrose willow, maidencane, water lettuce (*Pistia stratiotes*), and West Indian marsh grass (*Hymenachne amplexicaulis*).

(

Cattle Pond (FLUCFCS Code 525) This open water area has adjacent habitat types that are Improved Pasture (FLUCFCS Code 211), Lowland Pasture (FLUCFCS Code 262), and Cypress-Pine-Cabbage Palm, Disturbed (FLUCFCS Code 6249).

Borrow Area (FLUCFCS Code 742)

This open water area has a canopy, sub-canopy, and ground cover that are open.

APPENDIX C

AERIAL WITH FLUCFCS AND WETLANDS MAP



APPENDIX D

INDIGENOUS VEGETATION, PRESERVATION, AND RESTORATION PLAN



APPENDIX E

ĺ

PRESERVATION AND RESTORATION PHASE MAP



DATE

DRAWN DY

****** . . Т

DRAX

APPENDIX F

ĺ

TYPICAL PRESERVE SIGNAGE





FFD CORKSCREW ROAD PROPERTY PROTECTED SPECIES MANAGEMENT AND HUMAN-WILDLIFE COEXISTENCE PLAN

1

ł.



October 2020

Prepared For:

FFD Land Company, Inc. Post Office Box 3088 Immokalee, Florida 34143 (239) 657-4421

Prepared By:

Passarella & Associates, Inc. 13620 Metropolis Avenue, Suite 200 Fort Myers, Florida 33912 (239) 274-0067

Project No. 01VAD664

TABLE OF CONTENTS

(

i

			متدان		
1.0	Introduction1				
2.0	Listed Species Surveys				
3.0	Conservation Areas2				
4,0	Wildlife Crossings and Corridors				
5.0	Perimeter Lake Buffer and Fencing				
6.0	Commercial Uses				
7.0	Eastern Indigo Snake Management Plan		.4		
	7.1 7.2	Biology Management Plan	.5 .5		
8.0	American Alligator Management Plan				
	8.1 8,2	Biology Management Plan	.6 .6		
9.0	Crested Caracara Management Plan				
	9.1 9.2	Biology Management Plan	.7 .7		
10.0	Wood Stork, Wading Bird, and Southeastern American Kestrel Management Plan		. 8		
	10.1	Management Plan	. 8		

Table of Contents (Continued)

-(

í

		Page		
11.0	Big Cypress Fox Squirrel Management Plan			
	11.1 11.2 11.3	Biology		
12.0	Florid	a Black Bear Management Plan 10		
	12.1 12.2	Biology		
13.0	Florida Panther Management Plan11			
	13.1 13.2	Biology		
14.0	Presci	ibed Fire		
15.0	Huma	n-Wildlife Coexistence Plan		
	15.1 15.2 15.3 15.4 15.5	Eastern Indigo Snake13American Alligator13Wading Bird14Florida Black Bear14Florida Panther14		
16.0	Prese	ve Signage and Community Education Plan15		
17.0	Refer	ences		

LIST OF TABLES

Page

. (

í

Listed Wildlife Species Documented	.2
	Listed Wildlife Species Documented

LIST OF APPENDICES

Page

(

í

Appendix A.	Project Location MapA-1
Appendix B.	Aerial with Conservation Areas and Proposed Location of Wildlife Crossings and Fencing/Buffer LakesB-1
Appendix C.	FWCC List of Bear-Resistant Garbage Containers
Appendix D.	American Alligator Informational PamphletD-1
Appendix E.	Florida Black Bear Informational PamphletE-1
Appendix F.	Florida Panther Informational PamphletF-1
Appendix G.	Eastern Indigo Snake Informational Pamphlet G-1
Appendix H.	American Alligator Management and Preserve Signage
Appendix I.	Wading Bird Informational PamphletI-1
Appendix J.	Prescribed Burning InformationJ-1

1.0 INTRODUCTION

This report documents the Protected Species Management and Human-Wildlife Coexistence Plan for FFD Corkscrew Road Property (Project). The management plan contained in this report pertains to Eastern indigo snake (*Drymarchon corais couperi*), American alligator (*Alligator mississippiensis*), crested caracara (*Caracara cheriway*), listed wading birds, Southeastern American kestrel (*Falco sparverius paulus*), Big Cypress fox squirrel (*Sciurus niger avicennia*), Florida black bear (*Ursus americanus floridanus*), and Florida panther (*Puma concolor coryi*).

The Project totals 5,208.61± acres and is located in Sections 26, 34, 35, and 36; Township 46 South; Range 26 East and Sections 1, 2, 3, 11, and 12; Township 47 South; Range 26 East, Lee County (Appendix A). The property is predominantly comprised of active row crop, citrus grove, and pasture; it contains areas of native vegetation with varying amounts of disturbance and exotic vegetation. The surrounding land uses include Corkscrew Road and low-density residential to the north; undeveloped lands to the west and south; golf course; and low-density residential, agriculture, and undeveloped land to the east.

The property is currently an active row crop and citrus grove operation with scattered areas of remnant native vegetation. As part of the agricultural surface water management, extensive ditching and berms have been constructed on the property. The remnant native vegetation includes a mixture of primarily pine forest, cypress, and cypress/pine/cabbage palm, freshwater marsh, and mixed hardwood communities with varying levels of exotic vegetation coverage. These areas are bounded by berm and ditching associated with the surrounding agricultural lands.

2.0 LISTED SPECIES SURVEYS

í

Passarella & Associates, Inc. (PAI) conducted a Lee County protected species survey (PSS) on the Project site in May and June 2008. The Lee County protected species identified on the property during the survey included American alligator, snowy egret (*Egretta thula*), tri-colored heron (*Egretta tricolor*), limpkin (*Aramus guarauna*), roseate spoonbill (*Ajaia ajaja*), Florida sandhill crane (*Grus canadensis pratensis*), crested caracara, little blue heron (*Egretta caerulea*), wood stork (*Mycteria americana*), Big Cypress fox squirrel, Florida panther, and Florida black bear. No evidence of nesting/denning by these species was observed on the property. Several of these species have since been delisted.

Table 1 summarizes the listed wildlife species that were documented during the PSS and other fieldwork on the Project site.

A	Scientific Name	Listing Status ¹	
Common Name		FWCC	USFWS
	Reptiles		
American alligator	Alligator mississipiensis	T(S/A)	T(S/A)
	Birds		
Crested caracara	Caracara cheriway	Т	T
Florida sandhill crane	Grus canadensis pratensis	Т	
Little blue heron	Egretta caerulea	Т	-
Roseate spoonbill	Ajaia ajaja	T	-
Tri-colored heron	Egrettta tricolor	T	-
Wood stork	Mycteria americana	Т	Т
	Mammals		
Big cypress fox squirrel	Sciurus niger avicennia	Т	-
Florida panther	Puma concolor coryi	E	E

Table 1.Listed1 Wildlife Species Documented

¹as of 2020

(

í

FWCC – Florida Fish and Wildlife Conservation Commission USFWS – U.S. Fish and Wildlife Service E – Endangered T – Threatened T(S/A) – Threatened Due to Similarity of Appearance

3.0 CONSERVATION AREAS

The proposed conservation areas total $2,916.8\pm$ acres. The conservation areas will be maintained in accordance with the Indigenous Preservation, Restoration, and Management Plan provided under separate cover. The conservation areas will be managed to provide habitat for listed species.

The Project has been designed to minimize impacts to the listed species that have been identified on the property and other listed wildlife species that could potentially utilize the site. The site plan minimizes impacts to existing native vegetation habitats and limits development to the existing agricultural lands.

The proposed conservation areas will contain the following elements:

- Preservation of indigenous wetlands and uplands (existing forested and herbaceous habitats with less than 75 percent exotics)
- Restoration of indigenous wetlands and uplands vegetation through the removal of exotic vegetation (existing forested and herbaceous habitats with greater than 75 percent exotics) and supplemental planting
- Restoration of indigenous wetlands and uplands from agricultural lands (i.e., citrus groves and row crops)
- Creation of buffer lakes adjacent to the development pods that will remain as part of the conservation area

The preservation and enhancement of existing indigenous vegetation and the large-scale restoration of agricultural lands to indigenous habitats will serve to provide significant regional flow-ways and wildlife corridors within the Project site. The proposed flow-ways and wildlife corridors will provide enhanced connection through the Flint Pen Strand portion of the Corkscrew Ecosystem Regional Watershed (CREW) to the south and west and to National Audubon Society and Old Corkscrew Golf Club conservation lands to the east. The proposed flow-ways will also serve to re-establish the north to south flow of water through the Project site, similar to what existed historically.

The conservation areas will be managed for listed species based on habitat type and currently listed species utilization. Target listed species include Eastern indigo snake, American alligator, crested caracara, state-listed wading birds, wood stork, Big Cypress fox squirrel, Florida black bear, and Florida panther.

The conservation areas will be placed in a conservation easement or other equivalent deed restriction with inspection, enforcement, and approval rights granted to Lee County and the South Florida Water Management District. The total preserve area to be placed under a conservation easement is $2,916.8\pm$ acres. The indigenous preserve will result in 56 percent of the property dedicated for conservation meeting Lee Plan Policy 33.3.4(2)(e).

4.0 WILDLIFE CROSSINGS AND CORRIDORS

In order to maintain connectivity for small wildlife and wetland flow-ways through the central portion of the property, small animal wildlife crossings will be installed where the proposed internal road crosses the conservation areas. An aerial depicting the proposed location of the wildlife crossings is provided as Appendix B. The small animal crossings will be designed to accommodate the passage of small mammals, reptiles, and amphibians and are not intended for use by large wildlife species such as Florida panther and Florida black bear. The wildlife crossing will be a culvert pipe with the invert at natural grade.

The Project's restoration has been designed to accommodate wildlife corridors along the south, east, and west portions of the site. These areas were chosen as wildlife corridors since they align with offsite conservation lands to the south and west (i.e., Flint Pen Strand), and east (i.e., National Audubon Society and Old Corkscrew Golf Club conservation lands). Appendix B depicts the anticipated locations of the wildlife corridors and their connection to the off-site conservation lands. The connection between the on-site restoration areas and off-site conservation lands meets the intent of Lee Plan Policy 33.3.4(2)(a).

5.0 PERIMETER BUFFER LAKES AND FENCING

The Project site design will include a combination of perimeter buffer lakes and fencing between the residential development and restoration areas. The goal of the buffer lakes and fencing is to effectively deter Florida panther and Florida black bear prey species (i.e., deer and hog) from entering residential areas. Deterring prey species form entering the development area will minimize the incentive for Florida panther and Florida black bear to enter the Project and reduce the potential

for human-wildlife interactions. The wildlife fence and buffer lakes will also serve to maintain the wildlife corridors described in Section 4.0 above.

The wildlife fencing will consist of a six-foot chain link fence which has previously been approved by the Florida Fish and Wildlife Conservation Commission (FWCC) for projects in Southwest Florida. The locations of the proposed buffer lakes and/or fencing are depicted on Appendix B. Further details regarding the location of the buffer lakes and fencing will be provided at time of development order.

6.0. COMMERCIAL USES

ł

Ĺ

The Project includes dedicated commercial use adjacent to Corkscrew Road. To minimize potential human-wildlife interaction, educational brochures provided in this plan will be provided to commercial tenants. Commercial development will be required to minimize wildlife attractants by securing all exterior food and water sources.

Commercial uses, including restaurants, must secure exterior trash containers with locking lids and periodically clean cans to reduce residual odors. Grease traps will be located underground. Bear-resistant dumpsters will be used in areas where communal garbage is collected. A list of companies obtained from the FWCC that provide bear-resistant garbage containers for commercial use is provided as Appendix C. In consultation with the local waste disposal company, bear-resistant dumpsters will be purchased from one of the listed companies or another company that is able to provide bear-resistant dumpsters which are compatible with local equipment. The bear-resistant dumpsters will be incorporated at the time Lee County's waste collection sub-contractor makes them available for use.

In order to minimize disturbance to wildlife, lighting within the commercial parcel will not directly illuminate the adjacent preserve areas.

7.0. EASTERN INDIGO SNAKE MANAGEMENT PLAN

The following plan outlines the protection guidelines that will be implemented for the Eastern indigo snake during clearing operations for the Project. The plan provides educational material and guidelines for construction personnel to follow in the event they encounter an Eastern indigo snake. The plan has been prepared following the guidelines established by the U.S. Fish and Wildlife Service (USFWS). The Eastern indigo snake is a federally threatened species and is protected by the Endangered Species Act (ESA). It is unlawful for anyone to injure, harm, harass, or kill this species. Persons who knowingly violate provisions of the ESA that afford this species protection may be subject to a fine and/or imprisonment.

7.1 Biology

The Eastern indigo snake is a large, non-poisonous, glossy black snake with smooth iridescent scales. The chin and throat may be rusty or white-blotched. The juvenile snakes are similar to the adults, but may be lighter and exhibit a blotched dorsal pattern. Adults can grow to lengths over eight feet. The Eastern indigo snake might be confused with the black racer (*Coluber constrictor*), but the black racer exhibits a white or brown throat and is smaller and lighter in build.

The Eastern indigo snake inhabits a range of habitat types including pine flatwoods and wet prairies. Individuals are wide ranging and may utilize an area of 250 acres or more. Eastern indigo snakes are known to shelter in gopher tortoise (*Gopherus polyphemus*) burrows. The Eastern indigo snake is diurnal (active only during the daytime) and will actively search for prey. Prey may include frogs, snakes, birds, and small mammals. Very little is known of the reproduction of this species in the wild. Breeding is believed to occur during the winter and early spring months with up to 11 large white eggs being deposited in late spring and early summer.

7.2 Management Plan

The USFWS' Standard Protection Measures for the Eastern Indigo Snake (2013) will be followed prior to and during construction activities. The Standard Protection Measures include the placement of posters at strategic locations on the construction site and along proposed access roads clearly visible to construction staff. The posters include a description and photograph of the Eastern indigo snake, its protection status, and instructions in the event that one is observed. In addition, informational brochures will be provided to all construction staff.

The Project will preserve, enhance, and restore existing vegetation on-site through the removal of exotic vegetation. In addition, wetlands and uplands will be restored by converting existing agricultural lands to native habitats. The preserve areas will be maintained per the Indigenous Preservation, Restoration, and Management Plan and will provide habitat for the Eastern indigo snake.

Problematic encounters between future residents and Eastern indigo snakes are not anticipated. Construction personnel, maintenance staff, and homeowners will be informed that the Eastern indigo snake is a protected species.

8.0 AMERICAN ALLIGATOR MANAGEMENT PLAN

1

American alligators were observed throughout the network of agricultural ditches on-site during the PSS. No alligator nests were observed; however, potential nesting and additional foraging habitat (i.e., wetlands, and freshwater marshes) exist on-site. The following plan outlines the protection guidelines that will be implemented for the American alligator during clearing operations for the

Project. The American alligator is listed as threatened (due to similarity of appearance) by the USFWS and the FWCC.

8.1 Biology

ł

i

The American alligator is a reptile with an elongated, armored, lizard-like body with a muscular flat tail. Adult alligators are dark with a pale underside while juveniles have bright yellow stripes and blotches. The average size for adults is 8.2 feet for females and 11.2 feet for males. The body weight can reach up to a half ton. American alligators inhabit all counties in the State of Florida and are most common in the major river drainage basins and large lakes in the central and southern portions of the state. They also can be found in marshes, swamps, ponds, drainage canals, phosphate-mine settling ponds, and ditches. Alligators are tolerant of poor water-quality and occasionally inhabit brackish marshes along the coast. A few even venture into saltwater. Individuals are wide ranging and some males may utilize an area of two square miles or more. Individuals of both sexes are most likely to become more active and extend their ranges during the April to May courtship and breeding season. Prey may include frogs, snakes, birds, and small mammals, although alligators are opportunistic feeders and may prey on what is readily available. Larger individuals often prefer carrion to fresh meat.

8.2 Management Plan

Alligators commonly move from water body to water body in response to factors such as season, disturbances, food supply, etc. The American alligator is listed as a federally threatened species due to similarity of appearance to the American crocodile (*Crocodylus acutus*). Only representatives of the FWCC are authorized to handle nuisance alligators. If an alligator is present within the limits of construction at the time of clearing, work within the immediate vicinity of the alligator will be halted and the animal will be allowed to move out and into safer territory. Once the alligator has moved, work can be restarted. If an active alligator nest is found, it will be temporarily protected with an adequate buffer zone until the hatchlings leave the nest.

Extensive, high quality American alligator habitat will be provided throughout the property through wetland preservation, enhancement, and restoration. This includes the removal of exotics within existing wetlands on the property. These wetlands are predominantly cypress forest, hydric pine forest, cypress/pine/cabbage palm forest, mixed wetland hardwood, and freshwater marshes habitat types. Invasive exotic removal will result in wetland preserves that are more suitable to alligators and their prey species. In addition, wetland habitats will be restored from existing agricultural lands within the conservation area that will provide suitable habitat for the species. These restored wetlands will serve as potential foraging, resting, basking, and nesting habitats for the alligator. The preserve areas will be maintained per the Project's Indigenous Preservation, Restoration, and Management Plan.

To avoid problematic encounters between future residents and American alligators, the FWCC's educational brochure entitled "A Guide to Living with Alligators" (Appendix D) will be provided to homeowners and maintenance staff (see Section 15.2).

9.0 CRESTED CARACARA MANAGEMENT PLAN

While no nesting activity has been observed on-site during the PSS, crested caracaras were observed utilizing the site while conducting other field work. The following management plan outlines the protection guidelines that will be implemented for the crested caracara prior to clearing activities on the Project and addresses habitat enhancement and restoration on the site. The crested caracara is listed as threatened by the USFWS and the FWCC.

9.1 Biology

(

í

The crested caracara is a large, non-migratory raptor that feeds both on prey and carrion and is often found with flocks of turkey vultures (*Cathartes aura*) and black vultures (*Coragyps atratus*). The population of crested caracara found in peninsular Florida is genetically isolated from other populations of crested caracara subspecies found in the Southwestern United States and portions of Central and South America (USFWS 1999). While other subspecies of crested caracara are not listed as threatened or endangered, the crested caracara subspecies found in Florida was listed in July 1987 as threatened under the ESA.

Crested caracaras primarily use open habitats including native prairies; grasslands and pastures with their associated freshwater marshes; and small clumps of cabbage palms (*Sabal palmetto*), live oak (*Quercus* spp.) hammocks, and cypress (*Taxodium* spp.). Cabbage palms in open habitats are of high importance for nesting (Rodgers *et al.* 1996, Morrison 2001). The primary nesting season for the crested caracara is November through April. Egg laying typically occurs December through February. Clutch size is one to three eggs and incubation ranges from 28 to 32 days. Caracara young fledge at age seven to eight weeks, mostly in March and April (Wood 2001).

9.2 Management Plan

Prior to clearing activities, a qualified ecologist will survey the construction impact area and adjacent habitats for the presence of crested caracara nests. Any potential nests will be monitored during the nesting season (September through June) to determine if they are currently being used by caracaras. If a nest is found, the FWCC, the USFWS, and Lee County Government will be informed of the location of the nest.

The completed Project will preserve, enhance, and restore 2,916.8± acres of native habitat. The conservation areas will contain open freshwater marsh, wet prairie, and pine habitat. The preservation, enhancement, and restoration of native habitat will significantly increase biological diversity and species richness of wildlife on-site. This will provide a significantly increased prey base for resident caracaras.

Problematic encounters between future residents and crested caracaras are not anticipated. Should a caracara choose to nest adjacent to the community or close to approved access areas within the preserves, the nest will be left undisturbed. If unanticipated nest disturbance is noted, then an appropriate no-entry buffer zone will be established around the nest with signage until the young fledge.

10.0 WOOD STORK, WADING BIRD, AND SOUTHEASTERN AMERICAN KESTREL MANAGEMENT PLAN

Although no nesting activity was observed, wading birds observed on-site during the PSS include little blue herons, roseate spoonbills, snowy egrets, tri-colored herons, sandhill cranes, and wood storks. It is anticipated that these birds and others, including limpkin (*Aramus guarauna*), may utilize the wetlands and other native habitats on the property. Although no Southeastern American kestrels have been documented on-site, kestrels have been observed foraging within other properties in the vicinity of the Project site. The following management plan has been prepared for the purpose of addressing the management of potential wading bird and Southeastern American kestrel habitat on the site.

10.1 Management Plan

ļ

i

Prior to clearing activities, a qualified ecologist will survey the construction impact area and adjacent habitats for the presence of nesting wading birds or kestrel. If active wading bird or kestrel nests are found within 330 feet of the development footprint, the applicant will coordinate with FWCC to obtain applicable permits, as necessary.

The Project proposes significant enhancement, restoration, and preservation of wading bird habitat. Extensive foraging areas will be provided through the preservation, enhancement, and restoration of existing forested and herbaceous wetlands. Enhancement of the existing wetlands in the conservation areas through the removal of invasive exotic plants will result in habitats that are more suitable for wading bird foraging and roosting. In addition, the Project proposes the restoration of wetlands from existing agricultural lands that will provide additional foraging and roosting habitats. The preservation and enhancement of native woodlands and pine areas on the Project site will also provide improved nesting habitat for the Southeastern American kestrel.

In addition, within the developed community, littoral shelves will be constructed along the lake edges and planted with native wetland vegetation per LDC requirements. Also, dry detention areas within the development will contribute to increased habitat support for wading birds by providing temporary foraging areas during the wet season. These additional wetland features will provide quality foraging habitat for wading bird species.

Problematic encounters between future residents and wading birds are not anticipated. Construction personnel, maintenance staff, and homeowners will be informed that the wading birds are protected species.

11.0 BIG CYPRESS FOX SQUIRREL MANAGEMENT PLAN

The following management plan has been prepared for the purpose of addressing the conservation of Big Cypress fox squirrel habitat on the Project site and outlines the protection guidelines that will be implemented for the Big Cypress fox squirrel prior to, during, and after construction of the Project.

The Big Cypress fox squirrel is listed as threatened by the FWCC. There is no federal listing for the Big Cypress fox squirrel in Florida.

11.1 Biology

Į

1

The Big Cypress fox squirrel lives and breeds in varied habitats in Southwest Florida including cypress swamps, pine flatwoods, tropical hardwood forests, live oak woods, mangrove forests, and suburban habitats, including golf courses, city parks, and residential areas in native vegetation (Humphrey 1992). Dense cypress/hardwood swamps are avoided. This may be due to the competition for food and habitat with the gray squirrel (*Sciurus carolinensis*). Little data is available on the preferred forage habitat of the Big Cypress fox squirrel. Big Cypress fox squirrels prefer to feed on the male and female cones of slash pine. Cabbage palm fruits, bromeliad (*Bromeliaceae* sp.) buds, and acorns are also important food items. A smaller percentage of the diet may consist of seasonal fruits, berries, and seeds (Humphrey 1992).

Big Cypress fox squirrels often form platform nests in pines and hardwoods, and moss and stick nests in cypress, tops of cabbage palms, and large clumps of bromeliads. Cabbage palms and bromeliads are especially important because they can provide immediate shelter, which allows the squirrel to travel over large areas without requiring a daily return to a permanent nesting facility (Humphrey 1992).

Big Cypress fox squirrels are solitary animals. Interaction between animals occurs primarily during mating season. Mating chases occur frequently throughout the months of May through August. During the non-mating season, interactions are infrequent and often occur around food sources. Young remain in the nest for approximately 90 days. Home ranges are 40 hectares (approximately 100 acres) for males and 20 hectares (approximately 50 acres) for females (Humphrey 1992).

11.2 **Pre-Construction Surveys**

A qualified ecologist will be on-site to supervise Big Cypress fox squirrel management and monitoring activities as detailed in this plan. Prior to clearing activities, the preserve areas will be staked in the field and clearly identified with silt fencing or an equivalent barrier. The fencing will be inspected by the preserve manager prior to clearing activities. The operation and storage of construction equipment and the stock-piling of fill and construction material will be prohibited within the fenced preserve areas. The fencing identifying the limits of the preserves will be maintained for the duration of construction activities.

Also, prior to commencement of clearing activities in the development area and removal of exotic trees within the preserve areas, a survey will be conducted by a qualified ecologist to identify potential Big Cypress fox squirrel nests. If potential nests are identified within the clearing limits or within the preserve areas, observations will be conducted to determine if the nests are being utilized by Big Cypress fox squirrels. The FWCC will be notified of nests determined to be utilized by Big Cypress fox squirrels. Active nests will be temporarily protected from clearing by a 125-foot radius undisturbed buffer until juvenile fox squirrels

have vacated the nest(s), as confirmed by a qualified ecologist. After completion of nesting and observations documenting that juvenile fox squirrels have vacated the nest(s), a written request to remove the nest tree(s) will be made to the FWCC. After receipt of the written authorization from the FWCC, the nest tree and buffer can then be cleared.

11.3 Management Plan

l

t

Enhancement and restoration of the preserve areas will be conducted as detailed in the Indigenous Preservation, Restoration, and Management Plan. Prescribed fires may be used within the preserved habitats to help maintain an open understory. The preserve areas will provide foraging and nesting habitats for Big Cypress fox squirrels.

Problematic encounters between future residents and Big Cypress fox squirrels are not anticipated. The typical nest location, high within the tree canopy, will ensure against disturbance to fox squirrel nests. Construction personnel, maintenance staff, and homeowners will be informed that the Big Cypress fox squirrel is a protected species.

12.0 FLORIDA BLACK BEAR MANAGEMENT PLAN

The following habitat management plan has been prepared for the purpose of addressing the conservation of Florida black bear habitat on the Project site. The Florida black bear is not listed by the FWCC or the USFWS. However, the FWCC and the Lee County LDC have specific management activities for this species.

12.1 Biology

The Florida black bear is a subspecies of the American black bear (Ursus americanus). The Florida black bear is a solitary animal that inhabits heavily wooded terrain and is most often found in large tracts of swamp forest and undisturbed upland forest. Some of the most important habitat types for the Florida black bear include pine flatwoods, hardwood swamps, cypress swamps, cabbage palm forests, sand pine scrub, and mixed hardwood hammocks. Denning often occurs in remote swamps or thickets with dense vegetation. Adult females breed in alternating years during the months of June and July. In Florida, hibernation may be restricted to females producing cubs. Hibernation most often occurs during the winter months. The diet of Florida black bears is highly variable and includes both plants and animals including saw palmetto (Serenoa repens) berries, honeybees (Apis sp.), ants (Formicidae sp.), armadillo (Dasypus novemcinctus), feral hog (Sus scrofa), and white-tailed deer (Odocoileus virginianus) (Humphrey 1992).

12.2 Management Plan

In order to deter the potential for interactions between humans and large mammals such as the Florida black bear, perimeter buffer lakes and/or fencing will be utilized between development and the conservation areas to deter large mammals from accessing the residential or commercial areas. The preserved, enhanced, and restored habitat within the conservation areas will provide habitat and wildlife corridors for the Florida black bear and associated prey species. Enhancement activities will provide higher quality habitat for the Florida black bear than what currently exists within the site. The Project's on-site conservation areas will provide habitat connectivity from Flint Pen Strand to the west and south and National Audubon Society conservation lands to the cast.

To avoid problematic encounters between future residents and Florida black bears, the FWCC's educational brochure entitled "A Guide to Living in Bear Country" (Appendix E) will be provided to homeowners and maintenance staff (see Section 15.4).

13.0 FLORIDA PANTHER MANAGEMENT PLAN

Florida panther sign was observed on-site during the PSS conducted by PAI. The property is located within both the USFWS Primary and Secondary Zones for the Florida panther. In addition, FWCC Florida panther telemetry has been recorded on the Project site and adjacent properties. The following habitat management plan has been prepared for the purpose of addressing the conservation of Florida panther habitat on the Project site. The Florida panther is listed as endangered by the FWCC and the USFWS.

13.1 Biology

ĺ

ĺ

The Florida panther is a large, long-tailed cat with a great deal of color variation: pale brown or rusty upper parts; dull white or buff-colored under parts; and dark brown or blackish tail tip, back of ears, and sides of the nose. Mature males have an average weight range between 100 to 150 pounds and measure nearly seven feet from nose to tip of the tail. Females are considerably smaller with a weight range of 50 to 100 pounds and measuring about six feet (USFWS 1987). Panthers subsist on a variety of mammalian prey dominated by white-tailed deer, feral hog, and in some areas raccoon (*Procyon lotor*) (Maehr 1988a). Existing data on Florida panther reproduction indicates that breeding occurs throughout the year with a peak in the winter/spring period, a gestation period of around 90 to 95 days, litter sizes of one to four kittens, and a breeding cycle of two years for females successfully raising young to dispersal (which occurs around 18 to 24 months) (Belden 1988, Maehr 1988b).

In terms of population size and occupied range, the Florida panther population is at least stable, and at best expanding, as evidenced by natality rates exceeding mortality rates and by recent dispersals north of the Caloosahatchee River (Land *et al.* 2000). According to Maehr *et al.* (1991), home ranges average 200 square miles for resident adult males, 75 square miles for adult females, 241 square miles for transient males, and 69 square miles for sub-adult females. Florida panthers inhabit large remote tracts of land with adequate prey and cover and occupy a variety of habitat types including hardwood hammocks, pine flatwoods, mixed hardwood swamps, and cypress swamps. Appropriate cover is an important component of habitats used, especially during hunting, denning, and day-bedding. Recent information based on global positioning system (GPS) telemetry data collected during nocturnal and diurnal periods indicate that forests are the habitats selected by panthers (Land *et al.* 2008).

13.2 Management Plan

In order to deter the potential for interactions between humans and large mammals such as the Florida panther, perimeter buffer lakes and/or fencing will be utilized between development and the conservation areas to deter large mammals from accessing the residential or commercial areas.

The preserved, enhanced, and restored habitat within the conservation areas will provide habitat and a wildlife corridor for the Florida panther and associated prey species. Enhancement activities will provide higher quality habitat for the Florida panther than what currently exists within the site. The Project's on-site conservation areas will provide habitat connectivity from Flint Pen Strand to the west and south and National Audubon Society conservation lands to the east.

To avoid problematic encounters between future residents and Florida panthers, the educational brochure entitled "A Guide to Living with Florida Panthers" (Appendix F), prepared by the FWCC and the USFWS, will be provided to homeowners and maintenance staff (see Section 15.5).

14.0 PRESCRIBED FIRE

Prescribed burning will be used as a management tool to maintain the native vegetation communities within the conservation areas. Prescribed burns help maintain vegetative communities in their natural state, reduce fuel loads and the danger of wildfire, aid with the eradication and control of exotic and nuisance vegetation species, and improve wildlife habitat. The objectives of prescribed burning in the conservation areas will be to aid in the control of exotic vegetation and woody shrubs (i.e., wax myrtle (*Morella cerifera*) and saltbush (*Baccharis halimifolia*)), and to stimulate the growth and diversity of herbaceous vegetation.

The burning frequency for the conservation areas will be two to four years, which is consistent with the natural fire regime for mesic flatwoods, wet flatwoods, and wet prairies described by Florida Natural Areas Inventory (FNAI) in the *Guide to the Natural Communities of Florida* (FNAI 2010). The edges of the Project's freshwater marshes will be burned when the fire moves through the adjacent pine and prairie habitats. The fire will be allowed to extinguish naturally within the wetter marsh habitats.

Prescribed burning is typically conducted during the winter or early spring when temperatures are reduced and wind direction is more constant. The initial burn is anticipated to occur during the late winter. Winter burns are preferred to reduce high fuel loads. Growing season burns also may be conducted as conditions allow. Changes in annual weather cycles determine when burn permits will be available, and burns may be conducted only on the day(s) of Florida Forest Service (FFS) permission.

Fire breaks will be installed in strategic locations in order to safely ignite and control prescribed fires. Fire breaks will be co-located with maintenance trails, access roads, easements, fence lines,

property boundaries, and natural habitat boundaries. A 15-foot wide fire break, or fire lane, will be established directly adjacent to and inside (i.e., the restoration side) of the 6-foot tall wildlife control fence or other structural wildlife deterrent. Fire lanes will be planted with native grasses but will be maintained (i.e., mowed, disked, etc.) prior to implementation of prescribed fire activities. Fires will be excluded from planted areas for at least ten years to allow plantings to mature enough to survive fires. Fires will be allowed to extinguish naturally within the wetter preserve areas, such as the cypress and marsh habitats.

Controlled burns will be conducted only when authorized with a permit by the FSS. In addition, notice will be given to the Estero Fire District. Coordination with Lee County, the Audubon Society, and the South Florida Water Management District will occur before burning. Burning will not be conducted if smoke is anticipated to encroach upon Corkscrew Road or adjacent residential areas.

Information on prescribed fire will be incorporated into the property owners association or developer's agreement documents.

15.0 HUMAN-WILDLIFE COEXISTENCE PLAN

The following Human-Wildlife Coexistence Plans will be incorporated into the declaration of covenants of the FFD Corkscrew Road Property Homeowners Association or Community Development District documents.

15.1 Eastern Indigo Snake

ſ

ĺ

As previously noted, the USFWS Standard Protection Measures for the Eastern Indigo Snake (2013) will be followed prior to and during construction activities. The USFWS Standard Protection Measures, including the poster and brochure, can be found at http://www.fws.gov/verobeach/listedspeciesreptiles.html. A copy of the brochure is provided as Appendix G.

15.2 American Alligator

Signs will be posted on the subject property to instruct on-site workers and homeowners not to feed or harass the American alligator. The signs will indicate that the offense is punishable by law. The typical signage is provided as Appendix H. The FWCC educational brochure entitled "A Guide to Living with Alligators" (Appendix D) will be provided to homeowners and maintenance staff. The brochure can be found at https://myfwc.com/media/16070/alligator-brochure.pdf. Construction personnel and homeowners will be instructed that in the event there is a problem with a persistent nuisance alligator, they should contact the FWCC's Nuisance Alligator Hotline at 866-FWC-GATOR (866-392-4286). The FWCC is the only agency empowered to handle nuisance alligators.

15.3 Wading Bird

1

ł

A wading bird informational brochure entitled "Wading Bird Informational Pamphlet" (Appendix I) will be provided to homeowners and maintenance staff. The brochure provides wading bird information and methods to prevent human-wading bird interactions. In addition, the brochure informs residents of the need to avoid disturbance around a nest(s), should a wading bird nest(s) be identified on the property in the future.

15.4 Florida Black Bear

Residents will be educated about the presence of black bears in their community. The FWCC educational brochure entitled "A Guide to Living in Bear Country" (Appendix E) will be provided to homeowners and maintenance staff. This brochure can be found at https://myfwc.com/wildlifehabitats/wildlife/bear/brochures/.

Garbage and recyclables will be stored in bear-resistant containers with appropriate locking mechanisms, and bear-resistant dumpsters will be used in areas where communal garbage is collected. A list of companies obtained from the FWCC that provide bear-resistant garbage containers for commercial and residential use is provided as Appendix C. Bear resistant receptacles will be required for each residential unit. Please note that Lee County Ordinance No. 11-27 requires individual trash receptacles for residential units of 40 gallons or less in size. In consultation with the local waste disposal company, bear-resistant dumpsters will be purchased from one of the listed companies or another company that is able to provide bearresistant dumpsters which are compatible with local equipment. They will be incorporated at the time Lee County's waste collection sub-contractor makes them available for use. Units that have curbside garbage service will be required to place garbage containers curbside no earlier than the morning of the days of garbage pickup, and garbage containers will be returned to their permitted location no later than the evening of the days of garbage pickup. For units with curbside garbage service, all garbage, trash refuse, or rubbish will be required to be placed in appropriate garbage containers and stored inside an enclosed area except for the days when there is curbside garbage pickup service. For units without curbside garbage service, all garbage, trash refuse, or rubbish will be placed in bear-resistant dumpsters with the lid closed and secured.

15.5 Florida Panther

Residents will be educated about the presence of Florida panthers in their community. The educational brochure entitled "A Guide to Living with Florida Panthers" (Appendix F), prepared by the FWCC and the USFWS, will be provided to homeowners and maintenance staff. This brochure provides safety tips and instructions for panther encounters. The brochure can be found on the FWCC website located at https://myfwc.com/wildlifehabitats/wildlife/panther/living/.
16.0 PRESERVE SIGNAGE AND COMMUNITY EDUCATION PLAN

Signs identifying the conservation areas as a "nature preserve area" will be installed along the boundary of the preserve. The signage will include language stating, "No dumping allowed" (Appendix H). The signs will be spaced a maximum of 200 feet apart, will be no closer than ten feet from residential property lines, and will be limited to a maximum height of four feet and a maximum size of two square feet.

Periodic seminars will be held to further educate the community about the conservation areas, wetland benefits, coexistence with and protection of wildlife, and the benefits of prescribed fire. Community informational and educational brochures, such as those describing the benefits of prescribed fire (Appendix J), may be created and provided as needed to keep residents in compliance with conservation easements, wildlife regulations, etc. Continued education will ensure that the community is well informed regarding the preserves and wildlife coexistence.

17.0 REFERENCES

1

ĺ

- Belden, R.C. 1988. The Florida Panther. Pages 514-532 in W.J. Chandler (ed) Audubon Wildlife Report. 1988/1989. The National Audubon Society, New York. 817 pages.
- Florida Natural Areas Inventory. 2010. Guide to the natural communities of Florida: 2010 edition. Florida Natural Areas Inventory, Tallahassee, Florida.
- Humphrey, Stephen R. 1992. Rare and Endangered Biota of Florida; Volume I. Mammals. University Press of Florida, Gainesville, FL. 392 pages.
- Land, E.D., M. Lotz, D. Shindle, and S.K. Taylor. 2000. Florida panther genetic restoration and management. Annual report, Study Number 7508. Florida Fish and Wildlife Conservation Commission, Tallahassee, Florida.
- Land E.D., D.B. Shindle, R. J. Kawula, J.F. Benson, M.A. Lotz, D.P. Onorato. 2008. Florida panther habitat selection analysis of concurrent GPS and VHF telemetry data. Journal of Wildlife Management: Volume 72, No. 3 pp. 633–639.
- Maehr, D.S. 1988a. Florida Panther Movements, Social Organization and Habitat Utilization. Annual Performance Report, 7/1/87-6/30/88, Study No. E-1-12 II-E-2 7502, Florida Game and Fresh Water Fish Commission. 19 pages.
- Maehr, D.S. 1988b. Florida Panther Food Habits and Energetics. Annual Performance Report, 7/1/87-6/30/88, Study No. E-1-12 II-E-3 75O3, Florida Game and Fresh Water Fish Commission. 4 pages.
- Maehr, D.S., E.D. Land, and J.C. Roof. 1991. Social Ecology of Florida Panthers. National Geographic Research & Exploration, 7(4): 414-431.

Morrison, J. L. 2001. Recommended management practices and survey protocols for Audubon's crested caracara (*Caracara cheriway audubonii*) in Florida. Technical Report No. 18. Florida Fish and Wildlife Conservation Commission, Tallahassee, Florida, USA.

ļ

(

- Rodgers, J.A., Jr., H.W. Kale II, H.T. Smith (*eds.*). 1996. Rare and Endangered Biota of Florida, Vol. V. Birds. University of Florida Press, Gainseville, Florida, USA.
- U.S. Fish and Wildlife Service. 1987. Florida Panther Recovery Plan. Prepared by the Florida Panther Interagency Committee for the U.S. Fish and Wildlife Service, Atlanta, Georgia. 75 pages.
- U.S. Fish and Wildlife Service. 1999. Multi-species Recovery Plan for South Florida. U.S. Fish and Wildlife Service, Vero Beach, Florida.
- U.S. Fish and Wildlife Service. 2013. Standard Protection Measures for the Eastern Indigo Snake. South Florida Ecological Services Office. Vero Beach, Florida.
- Wood, Don A. 2001. Florida's Fragile Wildlife Conservation and Management. University Press of Florida. Gainesville, FL.

APPENDIX A

ŕ

Í

PROJECT LOCATION MAP



APPENDIX B

ĺ

AERIAL WITH CONSERVATION AREAS AND PROPOSED LOCATION OF WILDLIFE CROSSINGS AND FENCING/BUFFER LAKES



APPENDIX C

FWCC LIST OF BEAR-RESISTANT GARBAGE CONTAINERS



Residential Poly Carts and Cans



BearProofInc 234 S. Golden Dr. Silt, CO 81652 Ph: (970) 309-2460 Fax: (970) 876-0420 E-mail: Info@BearProofInc.com Website: http://www.bearproofinc.com/ Metal Roll Away Container 95 gallon

* Metal food and trash lockers also available



Bear Proofing-R-US (no address available) Ph: (865) 430-8902 E-mail: <u>akruk@charter.net</u> Website: <u>http://www.bearproofing-r-us.com/</u> Residential Street-side Trash Can 96 gallon *dumpster lids, loaders, and bird feeders also available





Bear Proof Systems, LLC 7855 E. Lark Dr. Parker, CO 80138 Phone: (303) 840-3390/1-800-944-7973 Fax: (303) 840-3460 E-mail: solidws@comcast.net

Website: http://www.bearproofsystems.com/

Curbside Carts 64 gallon 94 gallon *Also make various metal containers

BearSaver – USA Sales

Steve Thompson

Ph: 1-800-851-3887 Fax: 909-605-7780 E-mail: <u>sales@bearsaver.com</u> Website: <u>http://www.bearsaver.com/</u> Bear Resistant Residential Poly Carts <u>Model PC-95</u> 95 gallon (min order 24) <u>Model PC-65</u> 65 gallon (min order 20) <u>Model PC-32</u> 32 gallon (min order 20) *Commercial Yard Dumpsters also available





Cascade Industries The Learning Community 3400 Innovation Court SE Grand Rapids, MI 49512-2085 Ph. (616)-975-4800

Fax: (616) 254-4174 E-mail: <u>info@cascadeng.com</u> http://www.cascadeng.com/markets/waste/index.htm "Cascade Cart" 35 gallons 64 gallons 96 gallons Bear Resistant Cascade Cart 96 gallons



DAWG, Inc. 25 Lassy Court Terryville, CT 06786 Phone: 1-800-YEL-DAWG (935-3294) Fax: 1-800-LIL-PAWS (545-7297) website: www.dawginc.com Bearicuda Bin "Critter Can" Model Mobile Screw Top Model Mobile Bearicuda Bin BEARier Bins

Residential Trash Storage Containers





BearGuard Co. Ltd. P.O. Box 89 Tahoe City, CA. 96145-0089 Phone/Fax (530) 581-2211 E-mail: <u>sales@BearGuardInfo.com</u> Website: <u>http://www.bearguardinfo.com/index.html</u>

Carson Valley Welding 1046 Mallory Way Carson City NV. 89701 PH: (775) 884-9353 Cell: (530) 318-1136 Fax: (775) 884-9354 Email:<u>Don@nobearcan.com</u> Website: <u>http://www.nobearcan.com/index.html</u>

See also the following companies: Bear Proof Inc. Bear Proofing-R-US Bear Proof Systems Green and Brown Containers Various sizes

"No Bear Can" Model B-5030 \$999.00 Model B-5036 \$1149.00

Info. above



Animal Resistant Dumpsters



Capital Industries, Inc. 5801 Third Avenue South Seattle WA 98108 Phone: (206) 762-8585/1-800-967-8585 FAX: (206) 762-5455 E-mail: sales@capitalind.com Website: http://www.capitalind.com/main/

Bear Resistant Metal Containers & Lids Various designs



Haul-All Equipment Systems (no address available) Phone: 1-888-428-5255 Fax: (403) 328-9956 E-mail: solutions@haulall.com Website: http://www.haulall.com/index.htm

Hvd-A-Way Model Several options available for garbage disposal and storage

Info. above

See also the following companies: Bear Proof Inc. Bear Proofing-R-US **Bear Proof Systems BearSaver-USA Sales**

Recreational Storage Containers Panniers (for cooler storage)







Bear-Aware (no address available) Phone: 800-568-8990 / 818-504-3518 Contact Jeff Berns E-mail: jmberns@bear-aware.comor Website: http://www.bear-aware.com/

Outfitters Supply 7373 US Highway 2E Columbia Falls, MT 59912 Phone: 888-467-2256/ 406-892-3650 Fax: 406-892-4234 E-mail: gopackn@outfitterssupply.com Website: http://www.outfitterssupply.com/

Pack Saddle Shop 3071 West Twin Rd Moscow Idaho 83843 Phone: 208-882-1791 E-mail: support@packsaddleshop.com Website: http://www.packsaddleshop.com/Bearpan.html **Dry & Ice Panniers** 24" Medium Dry 28" Large Dry 28" Slim Dry 24" Medium Ice 28" Large Ice

Pack Panniers

Aluminum Panniers Medium Large Sold with and without hardware



Food Storage Lockers



See the following companies: BearProofInc BearSaver – USA Sales Haul-All Equipment Systems (product shown) Info, above

Ask your local waste service provider if they offer wildlife resistant canisters. For example, Waste Pro Inc. and Waste Management Inc. have offered wildlife resistant containers for both residential and commercial locations. In some areas the Waste Service Provider has retrofitted the existing dumpster to a wildlife resistant design.

All images/photos are copyright of their respective company/website.

APPENDIX D

(

1

AMERICAN ALLIGATOR INFORMATIONAL PAMPHLET

Never feed alligators – it's dangerous and illegal. When fed, alligators can overcome their natural wariness and learn to associate people with food. When this happens, some of these alligators have to be removed and killed.

Dispose of fish scraps in garbage cans at boat ramps and fish camps. Do not throw them into the water. Although you are not intentionally feeding alligators when you do this, the result can be the same.

Seek immediate medical attention if you are bitten by an alligator. Alligator bites can result in serious infections.

Observe and photograph alligators only from a distance. Remember, they're an important part of Florida's natural history as well as an integral component of aquatic ecosystems.



Call 866-FWC-GATOR (392-4286) to report nuisance alligators.



To report nuisance alligators call 866-FWC-GATOR (866-392-4286).





MyFWC.com/Alligator



Printed on recycled content.

02/2012







Florida Fish and Wildlife Conservation Commission MyFWC.com



Do not swim outside of posted swimming areas or in waters that may be inhabited by alligators.

Living with Alligators

In Florida, the growing number of people living and recreating near water has led to a steady rise in the number of alligator-related complaints. The majority of these complaints relate to alligators being where they simply aren't wanted. Because of these complaints, the Florida Fish and Wildlife Conservation Commission's Statewide Nuisance Alligator Program permits the killing of approximately 7,000 nuisance alligators each year. Using this approach, and through increased public awareness, the rate of alligator bites on people has remained constant despite the increased potential for alligator-human interactions as Florida's human population has grown.

Alligators are an important part of Florida's Inndecape and play a valuable role in the ecology of our state's wetlands. Alligators are predators and help keep other aquatic animal populations in balance. A bettor understanding of the facts and information presented in this brochure will help ensure that people and alligators can continue to coexist.

Visit MyFWC.com/Gators for more information about alligators and the latest nuisance alligator program statistics.



Alligators and People

Alligators are a fundamental part of Florida's wetlands, swamps, rivers and lakes, and they are found in all 67 counties. Florida continues to experience human population growth. Many new residents seek waterfront homes, resulting in increased interactions between people and alligators.

Although most Floridians understand that we have alligators living in our state, the potential for conflict exists. Because of their predatory nature, alligators may target pets and livestock as prey. Unfortunately, people also are occasionally bitten. Since 1948, Florida has averaged about five unprovoked bites per year. During that period, a little more than 300 unprovoked bites to people have been documented in Florida, with 22 resulting in deaths.

In the past 10 years, the Florida Fish and Wildlife Conservation Commission has received an average of nearly 16,000 alligator-related complaints per year. Most of these complaints deal with alligators occurring in places such as backyard ponds, canals, ditches and streams, but other conflicts occur when alligators wander into garages, swimming pools and golf course ponds. Sometimes, alligators come out of the water to bask in the sun or move between wetlands. In many cases, if left alone, these alligators will eventually move on to areas away from people.

Safety Tips

Generally, alligators less than four feet in length are not large enough to be dangerous unless handled. However, if you encounter any alligator that you believe poses a threat to people, pets or property, call the Nuisance Alligator Hotline at 866-FWC-GATOR (866-392-4286). Please be aware, nuisance alligators are killed, not relocated.

Be aware of the possibility of alligators when you are in or near fresh or brackish water. Bites may occur when people do not pay close enough attention to their surroundings when working or recreating near water.

Do not swim outside of posted swimming areas or in waters that might be inhabited by large alligators.

Alligators are most active between dusk and dawn. Therefore, avoid swimming at night.

Dogs and cats are similar in size to the natural prey of alligators. Don't allow pets to swim, exercise or drink in or near waters that may contain alligators. Dogs often attract an alligator's interest, so do not swim with your dog.

Leave alligators alone. State law prohibits killing, harassing or possessing alligators. Handling even small alligators can result in injury.



A young alligator wanders onto a porch in a residential neighborhood.



Secure your garbage

- Store garbage in a secure area, such as a sturdy shed or garage, until the morning of pickup, or
- Build a small shed to store trash cans. Be sure there are no gaps along the shed's edges and use screws. If the shed is curbside, call your waste service provider to ensure it will still service your trash cans, or
- Modify your regular trash can to make it bear-resistant by adding hardware. To be successful, the lid must not be flexible and the can must not collapse when you stand on its side. Call your waste service provider to ensure it will service a modified trash can, or
- Request a commercially manufactured bearresistant trash can from your waste service provider. If they do not provide these cans, you can special order one from a hardware store, but ensure your waste service provider will service it.



Funds from Florida's "Conserve Wildlife" license plate help conserve bears and reduce human-bear conflicts. Buy one today through your local tax collector's office or online at BuyAPlate.com.



How FWC responds to conflicts

The FWC addresses human-bear conflicts in a variety of ways, including providing technical assistance over the phone, conducting an in-person visit with the resident, using deterrents (such as an electric fence), attempting to scare the bear away, or, in rare cases, attempting to trap the bear.

While most conflicts can be avoided by securing attractants, biologists assess each situation on a case-by-case basis and use FWC policies and guidelines to help decide on the most appropriate response.

The earlier the FWC is notified, the more response options are available.

The longer a conflict situation continues, the more likely the bear will develop behaviors that present a risk to public safety, such as entering a dwelling, harming a leashed dog or injuring a person.

Once this happens, it is too late to try to change the bear's behavior and it must be humanely killed.

Warning! It is lilegal to take, possess, injure, permit. If you are found guilty, you could face

Where bears live in Florida



If you are experiencing bear conflicts, please contact the nearest FWC regional office. The sooner the FWC knows about bear activity, the more options are available to prevent a bear from becoming a public safety risk.

North Central	Lake City	(386) 758-0525
Northeast	Ocala	(352) 732-1225
Northwest	Panama City	(850) 265-3676
South	West Palm Beach	(561) 625-5122
Southwest	Lakeland	(863) 648-3200

In an emergency or If you suspect illegal activity, call the Wildlife Alert Hotline at 888-404-FWCC (3922). Follow us on:

You Tube flickr 6



printed on recycled paper



Conservation Commission



Florida Fish and Wildlife **Conservation Commission** MyFWC.com/Bear

8/2018

A guide to living in bear country





The bear facts

- Black bears are the only species of bear in Florida.
- Biologists estimate approximately 4,000 black bears roam Florida today, compared to as few as 300 bears in the 1970s.
- Bears can pick up scents from over a mile away: that's seven times better than a bloodhound and the best of any land mammal.
- Adult bears typically weigh between 150 to 400 pounds, with males often twice the size of females.
- Females have their first litter around 3 years of age, with one to three cubs born every other year.
- Breeding occurs from June to August, with cubs born around February 1.
- On average, females range over 15 square miles and males range over 60 square miles.

A bear's diet 15% Insects (termites, ants, bees, etc.) 80% Plants (froite, mute, berice, etc.)



Bear behavior and you

Black bears are shy and generally not aggressive. When seen near homes or workplaces, bears are often just passing through. When frightened, bears typically run away or climb a tree. If a bear is in a tree, it is either feeding or trying to escape danger. Keep people and pets away, and the bear will leave on its own, usually after dark.

When a bear stands on its hind legs, it is trying to get a better view or scent. Black bears may huff, snap their jaws, swat the ground or "bluff charge" when cornered, threatened or defending food or young. If this happens, stop, hold your ground and then slowly back away.

Remember bears are large, powerful, wild animals that can act unpredictably and become dangerous. Bears who receive food from people may lose their natural fear of them and are more likely to damage property or become a public safety risk. NEVER feed or attract bears. If a bear is eating something on your property, take note of what it is and secure it after the bear has left the area.





BearWise tips:

- Never approach a bear. Keep as much distance between you and the bear as possible.
- If a bear changes its behavior because you're there, you are too close.
- If you encounter a bear at close range, stand with arms raised, back up slowly and speak to the bear in a calm, assertive voice.
- Do not turn your back, play dead or run from a black bear.
- Make sure you are in a secure area, such as a car or building, and the bear has a clear escape route, then scare the bear away with loud noises, like yelling, blowing a whistle, or using an air or car horn.
- Install a motion-activated device, such as flood lights, a water sprinkler or audio alarm, to scare a bear away from a location when you are not present.
- Report any bear threatening the safety of people, pets or livestock, or causing property damage, to the FWC (see back cover).
- Walk dogs on a non-retractable leash and be aware of your surroundings. Dogs can trigger defensive behaviors from bears.

Encourage your school system to use the Florida Black Bear Curriculum Guide. The guilde is designed for grades 3 to 8 and is correlated to state education standards.

Avoid attracting bears

Bears do not hang around people if they do not find food. Properly storing or securing garbage and other attractants is a proven method of preventing bear conflicts. However, it takes a community-wide effort to keep bears wild and away from neighborhoods.

Use electric fencing to protect gardens, garbage, compost piles, beehives, fruit trees and livestock.



- Keep garage doors closed when not in use.
- Feed pets indoors or bring food dishes (even empty ones) inside at night.
- Store pet and livestock feed in bear-resistant containers or inside a secure area.
- Remove or modify bird and wildlife feeders and ensure the ground is free of all feed debris.
- Properly harvest ripe nuts, fruits, and vegetables and remove rotten fruits and vegetables.
- Create an "unwelcome" mat by driving finishing nails, heads up, into a sheet of anchored plywood to keep bears away from a specific area, such as under a window, door or fence.
- Keep outdoor refrigerators and freezers in a secure location or lock up with super-adhesive anchors, like Marine LocksTM.
- Clean meat smokers and barbeque grills with a degreasing detergent and store in a secure area. Dispose of food remnants/grease after each use.
- A screened-in porch will not keep bears out!

You live in Florida panther country

Florida panthers are reclusive and rarely seen by people. They normally live in remote, undeveloped areas. However, as the number of people in southern Florida grows, there is an increased chance of an encounter with a Florida panther.

This brochure contains some guidelines to help you live safely in Florida panther country.



Keep children within sight and close to you, especially outdoors between dusk and dawn.

If you feel threatened by a panther, or have lost pets or livestock to a panther, please call the Florida Fish and Wildlife Conservation Commission's Wildlife Alert Hotline at 1-888-404-FWCC (3922).

If you see a Florida panther

The Florida panther moves primarily at night. The chances of seeing a panther are slim. But if you live in Florida panther country, you need to know what to do if you see one.

- Keep children within sight and close to you. Pick up any small children so they don't panic and run. Try to do this without bending over or turning away from the Florida panther.
- Give them space. Florida panthers typically will avoid a confrontation. Give them a way to escape.
- Do not run. Running may stimulate a panther's instinct to chase. Stand and face the animal. Make eye contact to let the panther know you are aware of its presence.
- Avoid crouching or bending over. Squatting or bending makes you look smaller, resembling a preysized animal.
- Appear larger. Make gestures that indicate you are not prey and that you may be a danger to the panther. Raise your arms. Open your jacket. Throw stones, branches or whatever you can reach without crouching or turning your back. Wave your arms slowly and speak firmly in a loud voice.
- Fight back if attacked. There has never been a verified panther attack in Florida. In western states, where attacks by cougars have occurred very rarely, potential victims have fought back successfully with rocks, sticks, caps, jackets, garden tools and their bare hands. Since large cats usually try to bite the head or neck, try to remain standing and face the animal.





Porida Fish and Wildlife 20nservation Commission 20 S. Meridian Street allahassee, FL 32399-4600 MyFWC.com/Panther

A guide to living with Florida Panthers



MyFWC.com/Panther



7 ways to live safely in Florida panther country

While these guidelines are meant to help you live safely in Florida panther habitat, they also apply to living with more commonly encountered wildlife, including raccoons, snakes, bears and alligators.

Be alert from dusk 'til dawn (and whenever deer are active)

Florida panthers primarily are active at night. Exercise more caution at dawn, dusk or dark.

2. Keep panther prey away

Deer, raccoons, rabbits, armadillos and wild hogs are prey for the Florida panther. By feeding deer or other wildlife, people inadvertently may attract panthers. Do not leave potential wildlife food outside, such as unsecured garbage or pet food. Consider fencing vegetable gardens.

3. Keep pets secure

Free-roaming pets, or pets that are tethered and unfenced, are easy prey for predators, including panthers. Bring pets inside or keep them in a secure and covered kennel at night. Feeding pets outside also may attract raccoons and other panther prey; do not leave uneaten pet food available to wildlife.



Keep your pets safe and secure. Bring pets inside or keep them in a secure and covered kennel at night.



Keep livestock safe and secure.

- 4. Keep domestic livestock secure Where practical, place chickens, goats, hogs or other livestock in enclosed structures at night. Electric fencing can be an effective predator deterrent.
- 5. Landscape for safety

Remove dense or low-lying vegetation that would provide hiding places for panthers and other predatory animals near your house.

- Remove plants that deer like to eat.
- Choose plants that do not attract deer or other panther prey species. For information on plants that deer do not like to eat, visit edis.ifas.ufl.edu/UW137.
- Appropriate fencing will make your yard or play area uninviting to prey animals such as deer.
- 6. Consider other deterrents Outdoor lighting, motion sensors and electric fencing also may deter prey animals and panthers from entering your yard. Outdoor lighting also will make approaching prey and panthers more visible to you.
- 7. Hike or blke with a friend When recreating outdoors, it's a good practice to let friends or family know your whereabouts and when you expect to return. Better yet, take a friend with youl

Florida panther facts

- The Florida panther is a subspecies of puma, also known as a mountain lion or cougar. It is the last subspecies still surviving in the castern United States.
- The Florida panther's decline occurred prior to 1950, when it still was legal to hunt panthers. It was listed as endangered in 1967 and is protected under federal and state laws.
- Florida panther numbers declined to roughly 30 cats by the early 1980s. Severe inbreeding resulted in many health and physical problems. A genetic restoration project in 1995 was successful in improving the genetic health and vigor of the panther population.
- Florida panthers are found primarily in the Big Cypress/Everglades ecosystem in Collier, Lee, Hendry, Monroe and Miami-Dade counties.
- Florida panthers' home range sizes vary by sex and by individual. Female home ranges are typically 60-75 square miles whereas males' are typically 160-200 square miles.



- Florida panthers are tan, not black. The common confusion about their color is likely due to the fact that jaguars and leopards have black color phases and frequently are called panthers. The confusion arises because panther is the name for pumas in Florida as well as the name of these other large black cats.
- The biggest threat to the future of the Florida panther is habitat loss. A number of panthers also die each year due to vehicle strikes on roadways.
- The Florida panther was chosen as the State Animal of Florida in 1982 by a vote of elementary school students throughout the state.



This brochwe was produced through a pertnership of the Audubon Society of Floids, Conservancy of Southness I Policia, Gelenders of Widdle, Policia Fish and Widdle Conservation Commission, Fields Widdle Federalion, Fields de alther Refuge, Mountain Lion Foundstoin, National Park Service, National Widdle Federalion, Saminole Tube of Policia, Vinkesity of Pholism and the U.S. Fish and Widdle Service.

Funding previded by the Florida Fish and Wildlife Conservation Commission, Friends of the Florida Panther Reluge and the National Fish and Wildlife Foundation.

APPENDIX E

l

i

FLORIDA BLACK BEAR INFORMATIONAL PAMPHLET

APPENDIX F

ţ

FLORIDA PANTHER INFORMATIONAL PAMPHLET

APPENDIX G

(

EASTERN INDIGO SNAKE INFORMATIONAL PAMPHLET

Killing, harming, or harassing indigo snakes is strictly prohibited and punishable under State and Federal Law.

Only individuals currently authorized through an issued Incidental Take Statement in association with a USFWS Biological Opinion, or by a Section 10(a)(1)(A) permit issued by the USFWS, to handle an eastern indigo snake are allowed to do so.

LEGAL STATUS: The eastern indigo snake is classified as a Threatened species by both the USFWS and the Florida Fish and Wildlife Conservation Commission. "Taking" of eastern indigo snakes is prohibited by the Endangered Species Act without a permit. "Take" is defined by the USFWS as an attempt to kill, harm, harass, pursue, hunt, shoot, wound, trap, capture, collect, or engage in any such conduct. Penalties include a maximum fine of \$25,000 for civil violations and up to \$50,000 and/or imprisonment for criminal offenses, if convicted.



August 12, 2013

ATTENTION: THREATENED EASTERN INDIGO SNAKES MAY BE PRESENT ON THIS SITE!!!



Please read the following information provided by the U.S. Fish and Wildlife Service to become familiar with standard protection measures for the eastern indigo snake.

IF YOU SEE A <u>LIVE</u> EASTERN INDIGO SNAKE ON THE SITE:

- Cease clearing activities and allow the eastern indigo snake sufficient time to move away from the site without interference.
- Personnel must NOT attempt to touch or handle snake due to protected status.
- Take photographs of the snake, if possible, for identification and documentation purposes.
- Immediately notify supervisor or the applicant's designated agent, and the appropriate U.S. Fish and Wildlife Service (USFWS) office, with the location information and condition of the snake.
- If the snake is located in a vicinity where continuation of the clearing or construction activities will cause harm to the snake, the activities must halt until such time that a representative of the USFWS returns the call (within one day) with further guidance as to when activities may resume.

IF YOU SEE A <u>DEAD</u> EASTERN INDIGO SNAKE ON THE SITE:

- Cease clearing activities and immediately notify supervisor or the applicant's designated agent, and the appropriate USFWS office, with the location information and condition of the snake.
- Take photographs of the snake, if possible, for identification and documentation purposes.
- Thoroughly soak the dead snake in water and then freeze the specimen. The appropriate wildlife agency will retrieve the dead snake.

USFWS Florida Field Offices to be contacted if a live or dead eastern indigo snake is encountered:

North Florida ES Office – (904) 731-3336 Panama City ES Office – (850) 769-0552 South Florida ES Office – (772) 562-3909 DESCRIPTION: The eastern indigo snake is one of the largest non-venomous snakes in North America, with individuals often reaching up to 8 feet in length. They derive their name from the glossy, blue-black color of their scales above and uniformly slate blue below. Frequently, they have orange to coral reddish coloration in the throat area, yet some specimens have been reported to only have cream coloration on the throat. These snakes are not typically aggressive and will attempt to crawl away when disturbed. Though indigo snakes rarely bite, they should NOT be handled.

SIMILAR SNAKES: The black racer is the only other solid black snake resembling the eastern indigo snake. However, black racers have a white or cream chin, thinner bodies, and WILL BITE if handled.

LIFE HISTORY: The eastern indigo snake occurs in a wide variety of terrestrial habitat types throughout Florida. Although they have a preference for uplands, they also utilize some wetlands and agricultural areas. Eastern indigo snakes will often seek shelter inside gopher tortoise burrows and other below- and aboveground refugia, such as other animal burrows, stumps, roots, and debris piles. Females may lay from 4 - 12 white eggs as early as April through June, with young hatching in late July through October.

APPENDIX H

ĺ

AMERICAN ALLIGATOR MANAGEMENT AND PRESERVE SIGNAGE



APPENDIX I

(

i

WADING BIRD INFORMATIONAL PAMPHLET

Action to be taken if you observe someone harassing a wading bird:

Promptly notify the FWCC 1-888-404-FWCC

<u>Tips for living with</u> wading birds

- Do not feed wading birds.
- Keep out of vegetated areas surrounding lakes and marshes.
- Keep pets leashed to avoid coming into contact with wading birds.
- Properly dispose of fishing line to avoid bird entanglement.





Description:

Wading birds are a diverse group of birds which utilize shallow marsh areas as foraging and breeding habitats. They are typically characterized as having long necks, legs and bills, which allows them to feed in shallow water. Wading birds can be found in Florida year round. Examples of wading birds include: great egrets, great blue herons, white ibis', little blue herons and snowy egrets.

Habitat:

Wading birds inhabit all counties in the state of Florida and are most common in the shallow marsh or wetland areas throughout the state. They can also be found in both coastal and inland areas, salt marshes, swamps, ponds, drainage canals, and ditches. Wading birds breed and nest in colonies which consist of various species of other wading birds. Breeding generally occurs just prior to or during the wet season. Stick nests are built in trees or bushes near wetland areas and above the water line.

Wading birds feed in shallow water areas where prey is most concentrated. They feed by spearing prey with their bills or by straining small species out of the water and sediment. Prey may include small fish, invertebrates or other aquatic organisms. Wading birds have also been known to consume snakes, frogs and small rodents.

Protection:

Most wading birds are listed as species of special concern by the State of Florida. Some species such as wood storks are listed as endangered by both the State of Florida and the U.S. Fish and Wildlife Service. It is unlawful for anyone to disturb or take nests or eggs, feed, injure, harm, harass, or kill any wading birds species. Persons who knowingly violate the law may be subject to fines and/or jail time.

If wading birds form a nesting colony on the property in the future, avoid activities within 330 feet of the colony during the nesting season (March 1 to August 1).

APPENDIX J

ł

ĺ

PRESCRIBED BURNING INFORMATION

Florida Landowner Assistance Program Practice Standard - Prescribed Burning



Definition

The controlled application of fire in accordance with a written prescription for vegetative fuels under specified environmental conditions while following appropriate precautionary measures that insure that the fire is contained to a predetermined area to improve habitat for resident and migratory wildlife species.

Purposes

This practice may be applied as part of a conservation management system to support one or more of the following purposes:

- To improve habitat for various wildlife species, including imperiled species.
- To control invasive and/or exotic vegetation.
- To control plant diseases affecting native vegatation.
- To reduce wildfire hazards.
- To enhance native ground cover plants and seed production.
- To restore and maintain fire dependent ecological sites.

Conditions Where Practice Applies

This practice may be applied on any private land, where deemed needed, to improve overall wildlife habitat conditions.

Criteria

I. General Criteria Applicable to All Purposes

The method(s) of prescribed burning to improve wildlife habitat structure and composition shall be determined by the assigned biologist conducting the Needs Assessment. Application of the prescribed treatment will be based on the GIS analysis, site examination, and local wildlife species present. The landowner shall obtain all necessary burn authorizations and/or permits before implementation of the practice. Planning and application shall compy with all Federal, State, and local laws, rules, and regulations. The procedure, equipment, and number of trained personnel shall be adequate to accomplish the intended purposes as stated in the burn plan. The expected weather conditions, human and vehicular trafife that may be impeded by heat or smoke, liability, and safety and health precautions shall be integrated into the timing, location and expected intensity of the burn. Timing of burning will be commensurate with soil and site conditions to maintain site productivity and minimize effects on soil erosion and soil properties. Firebreak construction and maintenance are not included as a cost-shared treatment.

II. Specific Criteria to Improve Wildlife Habitat

The appropriate season of burning, burning technique, burning frequency, and size of burn shall be selected based on the wildlife habitat needs and site limitations. Where practical, prescribed burning shall be planned and applied in a manner that creates a "patchy" mosaic of burned and unburned vegetation.

III. Specific Critera to Control Undesirable Vegetation

Prescribed burns to control brush or other undesirable vegetation shall consider the anticipated seed production and re-sprouting response of the targeted species. The frequency and intensity of the planned burn shall be based on the re-growth of the target species, weighed against wildlife habitat considerations. Prescribed burns planned for areas with known infestations of invasive and/or exotic species shall address anticipated response of those species during and following the prescribed burn. Re-establishment of native vegetation shall be planned for burned areas, where needed, to prevent encroachment of undesirable plants, control soil erosion, and restore historic plant communities.

IV. Specific Criteria to Improve Native Plant Production Quantity and/or Quality

Prescribed burns shall be planned to provide optimum benefit to the native plant species of concern. When possible, prescribed burns shall be conducted during periods of adequate soil moisture to encourage desirable plant recovery following the burn. Appropriate protection from livestock, human, and wildlife activities shall be implemented to allow desirable vegetation to recover from the stress of the burn. Burned areas shall be protected until the vegetation has recovered sufficiently to allow use to be restored without damaging the vegetation.

Considerations

Prescribed burns should be cost-effective and efforts to protect any threatened and endangered species, cultural resources, wildlife habitat, water resources, and identified unique natural areas should be considered. Personal safety should also be considered during all prescribed burning activities. Where practical, the season, frequency, duration, and intensity of prescribed burns should mimic the natural occurrence of fire typical of the ecological communty being managed. Consider the use of existing barriers, such as lakes, streams, wetlands, roads, and existing firebreaks in the design and layout of the burn. To minimize smoke related issues, burn frequently under acceptable weather conditions and complete all burns as quickly as practical.

Operation and Maintenance

The following actions shall be carried out to insure that this practice functions as intended throughout its expected life: 1) Evaluations to determine if the stated objectives were met and to improve coordination of future burns, 2) Initial evaluations should be conducted within 2 weeks following the burn, 3) Long term evaluations should be conducted during or after the first growing season following the burn.

Items to consider in these evaluations include:

- a. Were the pre-burn preparations properly completed?
- b. Were the intial objectives met?
- c. Was the burn prescription followed?
- d. Were deviations from the burn prescription documented?
- e. Was the burning technique(s) adequate to meet the planned objectives?
- f. Were weather conditions, fire behavior, and smoke dispersion within the planned limits of the prescription?
- g. What were the effects on the soil, vegetation, water, and wildlife resources?
- h. Did the fire escape the planned area?
- i. How could future burns be improved?
- j. Were the post-burn activities applied correctly to meet the stated purpose or objective of the burn?



FLORIDA WILDLIFE FEDERATION

Affiliated With National Wildlife Federation

Southwest Florida Office 2590 Golden Gate Parkway, Suite 105 Naples, Florida 34105 Office Phone: (239) 643-4111 Cell: (239) 784-5119 Email: http://wfonline.com

August 18, 2015

Brian Hamman, Chair Frank Mann, Vice Chair Larry Kiker John Manning Cecil Pendergrass Lee County Board of County Commissioners 2120 Main Street Ft. Myers, Florida 33901

RE: Corkscrew Farms, CPA2015-01

Dear Chair Hamman and Commissioners:

Florida Wildlife Federation (Federation) participated in the June 17, 2015, Corkscrew Farms Transmittal Hearing and supported transmittal with lingering questions about Objective 33.3 and the proposed Environmental Enhancement and Preservation Communities overlay.

Objective 33.3 states that the properties in the Environmental Enhancement and Preservation Communities overlay "provide opportunities to protect, preserve, and restore strategic regional...wildlife connections."

Although Corkscrew Farms does not alone offer regional wildlife connections, it does provide a very important and needed component of a larger conservation network. Therefore, the **Federation supports adoption** of the Corkscrew Farms amendment.

With adoption of the Corkscrew Farms private amendment, the Federation urges Lee County to quickly move ahead with honing the Environmental Enhancement and Preservation Communities overlay to address regional habitat needs.

The Federation advocates that the Environmental Enhancement and Preservation Communities overlay be expanded beyond the one mile north and south of Corkscrew Road. At a minimum, the overlay should include all Tier 1, Tier 2, and Tier 3 lands south of Corkscrew Road. These lands provide opportunities to restore regional habitat links to conservation lands. (Attachment1)

The scope of work for the proposed Traffic Study (Policy 38.1.9) will include a wildlife movement study that addresses habitat connectivity and underpasses. This wildlife movement study will be an excellent resource to better delineate the Environmental Enhancement and Preservation Communities overlay boundaries.

In summary, the Federation supports adoption of the Corkscrew Farms amendment for its positive benefits to wetland, wetland dependent species, and water quality; and for its contributions to establishing a network of protected habitat across Southeast Lee County.

Please enter this letter into the August 19, 2015, Corkscrew Farms adoption hearing record. Thank you.

Sincerely,

Nancy a. Payton

Nancy A. Payton Southwest Florida Field Representative

Attachments: 1

cc: Brandon Dunn Rebecca Sweigert Ray Blacksmith

Attachment 1



0




WETLANDS MAP

.

R.F.

10/19/20

Phone (239) 274-0067 Fax (239) 274-0069



NOTES: AERIAL PHOTOGRAPHS WERE ACQUIRED THROUGH THE LEE COUNTY PROPERTY APPRAISER'S OFFICE WITH FLIGHT DATES OF JANUARY - FEBRUARY 2010. ROADWAY NETWORKS WERE ACQUIRED FROM THE FLORIDA GEOGRAPHIC DATA LIBRARY WEGSTE. SOILS MAPPING WAS ACQUIRED FROM THE FLORIDA GEOGRAPHIC DATA LIBRARY WEGSTIE. SOILS MAPPING WAS ACQUIRED FROM THE FLORIDA GEOGRAPHIC DATA LIBRARY WEGSTIE. SOILS MAPPING WAS ACQUIRED FROM THE HATURAL RESOLRCES CONSERVATION SERVICE 1990. SHI UNIN 6 HULLWHOALE FINE SAND 6 HULLWHOALE FINE SAND 10 POCHANO FINE SAND 11 YULGATAPHE SAND 12 THEMATHE SAND 13 DICA FINE SAND. 14 WADATH FIE SAND 15 WIDSAND FINE SAND. 15 WIDSAND FINE SAND. 16 MADSAND FINE SAND. 17 WADASTO SAND. DEPRESSIONAL 18 MADSASO SAND. 19 MILLEFTINE SUND. LIBETONE SUBSTRATUM 10 ANGLOFE BAND, DEPRESSIONAL 10 MADSASO SAND. 10 MADSASO SAND. 10 MADSASO SAND. 11 MALASASO SAND. DEPRESSIONAL 12 WADASSO SAND. DEPRESSIONAL 14 MALABAR FINE SAND. DEPRESSIONAL 15 FLORING SAND. DEPRESSIONAL 16 AND DEPRESSIONAL 17 FLORING SAND. DEPRESSIONAL 18 MADSASO SAND. DEPRESSIONAL 19 SI MADS				
73 PAREDA FINE SAND, DEPARSSICIAL YES 74 DOCA FINE SAND, SLOUGH YES 75 HALLANDALE FINE SAND, SLOUGH YES DRAWN BY DATE 13620 M J.I. 8/26/08 13620 M REVIEWED BY DATE Fort My M.N. 8/26/08 Fort My	letropolis Avenue Suite 200 ers, Florida 33912 (239) 274-0067	PASSARELLA & ASSOCIATES ²	FFD MEPD SOILS MAP	DRAWING Ne. 01VAD60 SHEET Ne.



















	A COM- and a company of the second s
The state interview of the state interview of	
S 50 ² C C C C C C C C C C C C C C C C C C C	224474424344344544243424343424243434242424 44104 4, 2013 EXCUED 1050 44105 4, 2013 EXCUED 1050 44104 4, 2013 EXCUED 1050 4410





2726 OAK RIDGE COURT, SUITE 503 FORT MYERS, FL 33901-9356 OFFICE 239.278,3090 FAX 239.278.1906

> TRAFFIC ENGINEERING TRANSPORTATION PLANNING SIGNAL SYSTEMS/DESIGN

MEMORANDUM

- TO: Mr. Dan DeLisi, AICP DeLisi, Inc.
- FROM: Ted Treesh, PTP President
- DATE: October 22, 2020
- RE: FFD Rezone Lee County, Florida

TR Transportation Consultants, Inc. has completed a Level of Service analysis for the rezone of the FFD parcel located on the south side of Corkscrew Road approximately one mile east of Alico Road in Lee County, Florida. The analysis conducted as part of this report will be based on the trip generation of the uses and intensities agreed upon as part of the settlement agreement between the property owner and Lee County. For the purposes of this analysis, the trip generation was only focused on the weekday PM peak hour as it represents a more conservative trip generation than the weekday AM peak hour.

TRIP GENERATION & DISTRIBUTION

Table 1 summarizes the uses and intensities that were used for the Level of Service analysis based on the settlement agreement between the Developer and Lee County for this property.

Table 1 Land Uses FFD Rezone

Land Use	Size
Retail (LUC 820)	100,000 Sq. Ft.
Single-Family Housing (LUC 210)	4,208 Dwelling Units
Multifamily Housing (LUC 220)	1,000 Dwelling Units



Mr. Dan DeLisi, AICP FFD Rezone October 22, 2020 Page 2

The trip generation for land uses shown in Table 1 was determined by referencing the Institute of Transportation Engineer's (ITE) report, titled *Trip Generation Manual*, 10th Edition. Land Use Code 820 (Shopping Center) was utilized for the trip generation purposes of the retail uses, Land Use Code 210 (Single-Family Detached Housing) was utilized for the trip generation purposes of the single-family residential uses and Land Use Code 220 (Multifamily Housing Low-Rise) was utilized for the trip generation purposes of the proposed multi-family residential uses. Utilizing LUC 220 is conservative in terms of trips generation when compared to the other Land Use Codes in the multifamily residential category (LUC 221-Multifamily Housing Mid-Rise & LUC 222-Multifamily Housing High-Rise). The equations from the aforementioned land uses are attached to this Memorandum for reference. **Table 2** indicates the anticipated weekday PM peak hour trip generation as currently proposed. The anticipated daily trip generation is also indicated within Table 2.

rrD Kezone							
T	Weekda	Daily					
Lana Use	In	Out	Total	(2-way)			
Shopping Center (100.000 Sq. Ft.)	261	282	543	6,012			
Single-Family Detached Housing (4.208 Dwelling Units)	2,319	1,362	3,681	32,441			
Multifamily Housing Low-Rise (1.000 Dwelling Units)	289	169	458	7,519			
Total Trips	2,869	1,813	4,682	45,972			

Table 2							
Trip Generation – Total Trips							
FFD Rezone							

The total trips shown in Table 2 will not all be new trips added to the adjacent roadway system. With mixed use projects, ITE estimates that there will be a certain amount of interaction between uses within the boundaries of the project that will reduce the overall external trip generation of the project. This interaction is called "internal capture". In other words, trips that would normally come from external sources would come from uses that are within the project, thus reducing the overall impact the development has on the surrounding roadways. ITE, in conjunction with a study conducted by the NCHRP (National Cooperative Highway Research Program), has summarized the internal trip capture reductions between various land uses. For uses shown in Table 2, there is data in the ITE report for interaction between the residential (single-family and multi-family) and retail (shopping center) uses.

An internal capture calculation was completed consistent with the methodologies in the NCHRP Report and published in the ITE *Trip Generation Handbook*, 3rd Edition. The resultant analysis indicates that there will be an internal trip capture reduction of four percent (4%) in the P.M. peak hour between the residential and retail uses. The summary



Mr. Dan DeLisi, AICP FFD Rezone October 22, 2020 Page 3

sheet utilized to calculate the internal capture rate for the weekday PM peak hour is attached to this Memorandum for reference.

Pass-by traffic was also taken into account based on the retail uses being proposed. The current version of the ITE *Trip Generation Handbook*, 3rd Edition, indicates that the weekday PM peak hour pass-by rate for Land Use Code 820 is thirty-four percent (34%). However, Lee County only permits a maximum reduction in trips due to "pass-by" traffic for shopping centers of thirty percent (30%). Therefore, thirty percent (30%) pass-by reduction was utilized for the proposed retail uses. In addition, based on the location of the site on Corkscrew Road, it is anticipated that the retail uses will attract traffic from the residential developments that have been approved by Lee County in the immediate area of this site. With a limit of 100,000 square feet of commercial uses, this will function more as a neighborhood center and not attract trips from a regional area. **Table 3** indicates the total external trips based on the uses shown in Table 1.

FFD Kezone							
T	Weekda	Daily					
Land Use	In	Out	Total	(2-way)			
Total Trips	2,869	1,813	4,682	45,972			
Less Internal Capture 4% PM	-144	-73	-187	-1,839			
Less LUC 820 Pass-By Trips	-75	-81	-156	-1,732			
Net New Trips	2,650	1,659	4,339	42,401			

Table 3
Trip Generation – Net New Trips
FFD Rezone

The new trips generated by the development which are shown in Table 3, were then assigned to the surrounding roadway system based on the anticipated routes the drivers will utilize to approach the site. The distribution percentage of the net new project trips was based on the similar distribution as a result of the District 1 Regional Planning Model (D1RPM) 2026 Model for TAZ 3123 that was completed as part of Tasks 4.0 and 5.0 of the *Environmental Enhancement & Preservation Communities Overlay* (EEPCO) study for Lee County. The D1RPM 2026 Model output for TAZ 3123 is attached to this document for reference. The attached Table 1A illustrates the distribution percentages of the project traffic to the surrounding roadway network.

Table 1A also the illustrates which roadway links will accommodate greater than 10% of the Peak Hour – Peak Direction Level of Service "C" volumes. The Level of Service threshold volumes for Lee County and Village of Estero maintained roadways were obtained from the Lee County *Generalized Peak Hour Directional Service Volume* tables. The Level of Service threshold volumes for State maintained roadways were obtained from FDOT's *Generalized Peak Hour Directional Volumes Table 7*. The Level



í

l

Mr. Dan DeLisi, AICP FFD Rezone October 22, 2020 Page 4

of Service threshold volumes utilized for all roadways in the study area are shown in Table 1A. Roadway segments that are projected to be impacted by more than 10% of the Peak Hour – Peak Direction Level of Service "C" volume were then included in the Level of Service analysis conducted as part this rezoning request.

It is important to note that there are several roadway segments within the study area that are programmed to be widened in the latest Lee County Capital Improvement Program (CIP). This includes widening of Alico Road from Ben Hill Griffin Parkway to Airport Haul Road as well Corkscrew Road from Ben Hill Griffin Parkway to Alico Road to four (4) lanes. These improvements were included as background improvements in the Level of Service analysis as part of this Memorandum. The FY 20-24 Lee County CIP is attached for reference.

LEVEL OF SERVICE ANALYSIS

The link Level of Service analysis was completed based on the projected build-out year of 2026. The link data was analyzed based on year 2026 without the development and year 2026 with the development. Table 2A in the Appendix of the report indicates the methodology utilized to obtain the year 2026 build-out traffic volumes. The 2026 peak season weekday daily traffic volumes were obtained from the Florida Standard Urban Transportation Modeling System (FSUTMS) model provided by Lee County from the EEPCO study. The 2026 peak season weekday daily traffic volumes were then adjusted by the appropriate Model Output Conversion Factors (MOCF) as well as K and D factors in order to obtain the 2026 background peak season, peak hour, peak direction traffic volumes. The MOCF's were obtained from the FDOT *Florida Traffic Online* webpage. The K and D factors for the Lee County maintained roadways were obtained from the 2019 Lee County Traffic Count Report.

Table 2A details the Level of Service for all links inside the project's area of influence. In comparing the links' functional classification and calculated 2026 traffic volumes to the Service Volume Tables, it was determined that the proposed project traffic will cause Corkscrew Road from Ben Hill Griffin Parkway to the site access to operate below the adopted Level of Service standard. The mitigation for this project include the payment of road impact fees as normally collected by Lee County in addition to an additional proportionate fair share contribution of \$2,000.00 per residential dwelling unit to be paid in increments at the time of the Development Order issuance.



Mr. Dan DeLisi, AICP FFD Rezone October 22, 2020 Page 5

CONCLUSION

ĺ

The proposed zoning request would allow a development of up to 4,208 single-family residential units, 1,000 multi-family residential units and up to 100,000 square feet of commercial floor area on the FFD parcel located on the south side of Corkscrew Road approximately one mile east of Alico Road in Lee County, Florida.

The Level of Service analysis conducted as part of this document was based on the development program agreed upon as part of the settlement agreement between the property owner and Lee County. The results of the analysis indicated that the proposed development will cause Corkscrew Road from Ben Hill Griffin Parkway to the site to operate below the adopted Level of Service standard. The mitigation for this project include the payment of road impact fees as normally collected by Lee County in addition to an additional proportionate fair share contribution of \$2,000.00 per residential dwelling unit to be paid in increments at the time of the Development Order issuance. Based on the applicable Lee County regulations, the payment of impact fees and the additional payment of proportionate share mitigation as outlined in the settlement agreement, the public interest is protected.

Attachments

K:\2020\10 October\08 FFD Corkscrew Rd Traffic Report\10-22-20 TIS Memorandum.doc

TABLE 1A

LEVEL OF SERVICE THRESHOLDS

TABLE 1A LEVEL OF SERVICE THRESHOLDS SIGNIFICANT IMPACT DETERMINATION

.....

OUT= 1,659

.---

····.

TOTAL PM PEAK	HOUR PROJECT TRAFFIC	4,339	vpн IN:	2,650	OUT=	1,659						
						GENERAL	IZED SERVI	CE VOLUME:				
	ROADWAY	Y SEGMENT	2	25 E + C NETWORK LANE	S LDSA	LOS B	LOSC	LOS D	1,03 E	PROJ TRIP	Project	% IMPACT OF
ROADWAY	FROM	10	f. Las	Readway Design	volume	VOLUME	VOL, UME	VOLUME	VOLUME	DIST.	Tripp	ADOPTED LOS
Corksonw Rd	US 41	Via Coconut	40) Arteriai - Clas	al O	250	1,840	1,960	1,960	5%	159	8%
	Via Coconul	River Ranch Rd.	40	Antenial - Ciaza	si 0	250	1,640	1,960	1,960	9%	239	12%
	River Ranch Bd	Taren Oakt Pkwy	41	Arterial-Cloc	s) 0	250	1,840	1,960	1,960	3%	239	12%
	Three Only Plant	¥75	41	Arterial - Class	s) 0	250	1,840	1,960	1,950	12%	318	16%
	1.75	Rep Hit Griffin Plany	41	O Arterist - Clas	si 0	250	1,640	1,960	1,960	32%	648	43%
	Ben Hill Griffin Plany	Wid Blue West	41	Arterial - Clas	51 0	250	1,840	1,960	1,960	41%	1.067	55%
	WildRee West Fair	Cyprose Shadows Blvd	41	Arterial - Class	si 0	250	1,840	1,960	1,950	45%	1,193	61%
	Currenter Shodows Bluf	Balla Term Ahrt	41	7 Artestal - Clas	s1 0	250	1,840	1,960	1,950	45%	1,193	61%
	Bala Terra Blat	Also Ed	4	Arterial - Class	51 0	250	1,840	1,960	1,960	50%	1,325	58%
	Allon Rd	Site Access	2:0	J Uninterrupted Flow 3	Highway 130	420	853	1,210	1,640	76%	2,067	126%
	Sho Access	Sicil's Form Rd	20	J Uninterrupted Flow I	Halway 130	420	850	1,210	1,640	22%	553	36%
	Cha I in Cases Rd	Renowland Rearts Febr	2	I Linkstemmine Elevel	Histoway 130	420	850	1,210	1.640	2275	583	36%
	Generational Reach Form	Verlage Colr	21	I Inistemator Rowl	Hictory 130	420	853	1 210	1.640	15%	398	24%
	Properties Sale	Contracting Contracting	2	I Initian and Figure	Hictory 130	420	850	1 210	1.640	5%	133	6%
	verana End.	Carles For	***						L	1		
Alico Rd	Corkscrew Rd	Airport Haul Rd	21.)	J Uninterrupted Flow I	Highway 130	420	653	1,210	1,640	28%	742	45%
	Arport Haul Rd	Ben Hill Griffin Plony	41	sciC-tei≈nA C	s: 0	250	1,840	1,950	1,960	20%	\$30	27%
	Ben Hiti Cettin Pixwy	1-75	61	J Arterial - Clas	si 0	400	2,840	2,940	2,940	10%	755	9%
	1-75	Three Oaks Plowy	6L	9 Artoriol - Clos	si 0	400	2,840	2,943	2,940	10%	265	9%
	Three Caks Plany	Oriola Rd	en en	O Antonial - Class	s1 O	400	2,840	2,940	2,940	8%	212	7%
	Criole Rd	Lee Rd.	6 .,	D Arterial - Clas	s: 0	400	2,840	2,940	2,940	8%	212	7%
	Lee Rd.	Michael G. Rippe Pkwy	8.	D Arterial - Clas	si 0	400	2,640	2,940	2,540	7%	185	6%
	Michael G. Rope Prwy	US41	40	Artental - Class	si 0	259	1,840	1,950	1,960	4%	105	5%
275	Senta Beach Rd	Conkacraw Rd.	60	F Freeway	þ	3,410	4.650	5,780	6.340	16%	424	7%
	Consciew Rd.	Alco Rd.	61.1	F Freeway	0	3,410	4,650	5,780	5,349	2%	53	1%
	Alloo Rd.	Daniels Plovy	6LM	F Freeway	a	3,410	4,650	5,780	6,340	5%	133	274
										T		
Three Ooks Pkwy	Godanut Rd.	Williams Rd.	41	O Artestal - Class	51 C	250	1,840	1,960	1,960	1%	2/	1%
	Williams Rd.	Concernew No.	40	Anonar-Class	31 0	250	1,840	1,950	1,960	2%	\$3	3%
	Conscrew Kd	Estern Prkwy	40	Antenat - Class	si 0	250	1,540	1,960	1,950	1%	27	12
	Estero Pkwy	San Carlos Bivd.	41	> Arterial - Cless	51 0	250	1,840	1,960	1,960	1%	27	1%
	San Carlos Bwd.	Alco Rd.	40	Artedal - Class	2) 0	250	1,840	1,960	1,960	1%	27	1%
Ben Hill Griffin Pix-	y Corkarew Rd.	Estora Pixwy	41	Anteria: - Class	s1 0	250	1,840	1,950	1,960	5%	133	7%
	Estern Plavy	College Club Dr.	40	Antonias - Class	st 0	250	1,840	1,960	1,950	1%	27	1%
	College Club Dr.	ASco Rd.	GLI	Arterial - Class	si 0	400	2,840	2,940	2.940	3%	80	3%
	Allon Rd.	Terrinal Access Rd.	410	Artenial - Class	si 0	250	1,840	1,960	1.960	6%	159	4%
Treeline Ave	Teminal Arrest Dr.	Declair Diver	417	Annial Course						i	~	
	for an an an an an an an an an an an an an	Cardoly P Kary	411	· · · · · · · · · · · · · · · · · · ·		250	1,040	1,950	1,900	27.	50	3%
Estero Pkwy	J\$41	Three Oaks Pkwy	410	Artenal - Class	si 0	250	1,840	1,960	1,560	2%	51	3%
	Three Caks Priny	Ben HB Gittin Pkwy	410	Arterial - Class	.) 0	250	1,840	1,960	1,560	3%	80	4%
Williams Rd	15.41	Mirt Comme è	~ •	Certenner							-	
	Vit Comut	Three Cake Flow	20	Collector	÷		310	600	740	0%	0	0%
		inte out inty	10	Concertor	5		310	660	740	2%	53	7%
Via Coconut	Coronut Rd	Williams Rd	4L.C	Collector	0	c	770	1,510	1,600	2%	53	3%
	Willams Rd	Conksorew Rd	410	Collector	0	٥	770	1,510	1.600	3%	80	5%
18.41	Shalls Comm	15-004		· · · · ·								
	Alles Dri	See Cades Build	eto	Aneral - Class		400	2,840	2,940	2,940	3%	80	3%
	Sup Carlos Ebud	Centre Carlos BVID	600	Arlenial - Class		400	2,640	2,940	2,540	17.	27	1%
	See Canos Sive.	Cadeo PKWy	6LC	Arbrial - Class	1 0	400	2,640	2,940	2,940	1%	27	1%
	essent Provy	Considered No.	610	Arterial - Class		400	2,840	2,940	2,940	17.	27	115
	Millions Ca	Walland Ho	6LD	Artistal - Class	0	400	2,840	2,940	2,940	5%	133	5%
	Cocourt Rd	Old 41	6LD	Arteria - Class		400	2,840	2,940	2,940	4%	106	4%
	eventur nu		6LD	Antena: - Class	. 0	400	2,640	2,940	2,940	3%	30	3%

Denotes The LOS Standard for each readway segment.
Level of Sandard for each readway segment.
Level of Sandard Twesholds for Lee DensyMappe of Each are attracted areas (rated April 2015)
Level of Sandar Twesholds for Sub-Twesholds were balant from the Los Compt Generative Parks Unsuble Areas (rated April 2015)
Level of Sandar Twesholds for Sub-Tweshold areas attracted Areas (rated April 2015)
The approximate Areas (rated April 2015)
The approximative project distribution securchypes were exhibited from the D IRPM 2026 Model for Concoreve Parks (rAZ 312),

,

TABLES 2A

ŧ

2026 LEVEL OF SERVICE ANALYSIS

TABLE 2A 2026 ROADWAY LINK LEVEL OF SERVICE CALCULATIONS FFD REZONE

....

TOTAL PM PEAK H	IOUR PROJECT TRAFFIC =	- 4,339	VPH		IN=	2,650	OUT=	1,659								
	ROADWA	Y SEGMENT	2026 FSUTMS	2026			AADT BACKGROUND	K-100	100TH HIGHEST HOUR PK DIR	D	PM PK HR PEAK	2026 BAC PEAK D TRAFFIC VO	KGROUND RECTION LUMES & LOS	FFD PK DIR PM PROJ	2026 BACKGI FFD LAND	ROUND+ TRIPS
ROADWAY	FROM	TO	PSWDT	LANES	PCS #	MOCE	TRAFFIC	FACTOR ¹	2-WAY VOLUME	FACTOR ¹	DIRECTION	VOLUME	LOS	TRAFFIC	VOLUME	LOS
Corkscrew Rd	Via Coconut	River Ranch Rd.	44,754	4LD	15	0.93	41,621	0.098	4,079	0.55	EAST	2,243	F	239	2,482	F
	River Ranch Rd	Three Oaks Pkwy	45,126	4LD	15	0.93	41,967	0.098	4,113	0.55	EAST	2,262	F	239	2,501	F
	Three Oaks Pkwy	1-75	49,438	4LD	15	0.93	45,975	0.098	4,508	0.55	EAST	2,478	F	318	2,796	F
	1-75	Ben Hill Griffin Pkwy	45,724	4LD	70	0.93	42,523	0.105	4,465	0.56	EAST	2,500	F	848	3,348	F
	Ben Hill Griffin Pkwy	Wild Blue West	27,343	4LD	70	0.93	25,429	0.105	2,670	0.56	EAST	1,495	c	1,087	2,582	F
	WildBlue West Entr.	Cypress Shadows Blvd	23,272	4LD	70	0.93	21,643	0.105	2,273	0.56	EAST	1,273	С	1,193	2,465	۶
	Cypress Shadows Blvd	Bella Terra Bivd	22,059	4LD	70	0.93	20,515	0.105	2,154	0.56	EAST	1,206	¢	1,193	2,399	F
	Bella Terra Blvd	Alico Rd	15,193	4LD	70	0.93	14,129	0.105	1,484	0.56	EAST	831	c	1,325	2,156	۲
	Alico Rd	Site Access	18,199	2LU	70	0.93	16,925	0.105	1,777	0.56	EAST	995	D	2,067	3,062	F
	Site Access	Six L's Farm Rd	13,113	2LU	70	0.93	12,195	0.105	1,280	0.56	EAST	717	¢	583	1,300	E
	Six L's Farm Rd	Pepperland Ranch Entr.	12,672	2LU	70	0.93	11,785	0.105	1,237	0,55	EAST	693	c	583	1,276	E
	Pepperland Ranch Entr.	Verdana Entr,	10,307	2LŲ	70	0.93	9,586	0,105	1,006	0.56	EAST	563	С	398	961	D
Alico Rd	Corkscrew Rd	Airport Haul Rd	13,778	2LU	53	0.93	12,814	0.099	1,269	0.52	WEST	660	С	742	1,402	٤
	Airport Haul Rd	Ben Hill Griffin Pkwy	18,635	410	53	0.93	17,331	0.099	1,716	0.52	WEST	892	С	530	1,422	С

1 The K & D factors for Lee County readways were obtained from the 2019 Lee County Traffic Count Report. * Model Output Conversion Factor was obtained from the FDOT Florida Traffic Online webpage.

INTERNAL CAPTURE WORKSHEETS

1

Land Use Intensity

ł

ţ

Land Use	Unit Count	Unit Type
Shopping Center	100,00	0 square feet
General Office		0 square feet
Medical Office		0 square feet
Single-Family	4,20	8 dwelling units
Multi-Family	1,00	0 dwelling units
Hotel		0 occupied rooms

Total Trip Generation of the Proposed Development

Lond Lleo			PM Peak Ho	ur	Daily	
Land Use	Land Use Code	In	Out	Total	(2-Way)	
Shopping Center	LUC 820	261	282	543	6,012	
General Office	LUC 710	0	0	0	0	
Medical Office	LUC 720	0	0	0	0	
Single-Family	LUC 210	2,319	1,362	3,681	32,441	
Multi-Family	LUC 230	289	169	458	7,519	
Hotel	LUC 310	0	0	0	0	
Total Trips		2,869	1,813	4,682	45,972	

Total Trips to the Surrounding Roadway Network

Tripe	PN	Daily		
mps	In	Out	Total	(2-Way)
Total Trips	2,869	1,813	4,682	45,972
Less 4% IC	-114	-73	-187	-1839
Total Trips	2,755	1,740	4,495	44,133

New Trips to the Surrounding Roadway Network

PN	Daily			
In	Out	Total	(2-Way)	
2,755	1,740	4,495	44,133	
250	271	521	5,772	
-75	-81	-156	-1732	
2,680	1,659	4,339	42,401	
	PN In 2,755 250 -75 2,680	PM Peak Hour In Out 2,755 1,740 250 271 -75 -81 2,680 1,659	PM Peak Hour In Out Total 2,755 1,740 4,495 250 271 521 -75 -81 -156 2,680 1,659 4,339	

Internal Capture Calculation Summary Sheet WEEKDAY PM PEAK HOUR

Exit to External		Land Use A - Retail Uses						
209		Total	Internal	External				
~	Enter	261	26	235				
	Ext	282	73	209				
	Total	543	99	444				
235	%	100%	18%	82%				
Enter from External								











	Net External Trips for I	Multi-Use Developmer			
	Land Use A	Land Use B	Land Use C	Total	
Enter	235	0	2,535	2,770	
Exit	209	0	1.505	1,714	
Total	444	0	4,040	4,484	Internal Capture Rate
Single-Use Trip Gen, Est.	543	0	4,139	4,682	4%

LEE COUNTY CAPITAL IMPROVEMENT PROGRAM

ĺ

ĺ

ĺ

Project Txle	Project #	Company	Funding Code	Total Project	FY 18-19 Adopted Budget	FY15-19 Amended Budget	Spent es of Feb 2019	Budgetod Encumb	FY 19/20 Proposed Sudget	Proposed Budget	FY21/22 Proposed Burdnet	FY 22/23 Proposed Birdoni	FY 23/24 Proposed Budget	Five Year Project	6-10 Year Proposed	Project Total
DOT																
Alico Rd 4L-Ben Hill-Airport	24507530700	30700	GT	1		1.603.911	330	[540,000					\$40,000		2,143,911
Alles Read Connector	20924530700	30,700	GT	1	1		1	1	5,000,000					5,000,000		5,000,000
Alico Koza Connector	20924538825	38825	1		1		ł	1	2.240.686					2,210,686	96.881.486	99,122,172
	20600238822	38822	1	261,431		1,574,189			85,410		854,082		696,791	1,636,293		3,471,899
	20600238923	38823	1	978,117	233,867	989,610	6,305	7,425		90,000	671,816		891,000	1,652,816	1	3,620,549
Bicycle/Pedestrain Facilities	20600238824	38824	1	1,420,661		189,303	t]	ſ					1,978,905	1,978,906		3,587,870
, .	20600238825	38825	I	6,377]	43,300	249,000				292,300		298,677
	20600230700	30700	GT	12,328,110	1.064,349	4,193,590	26,519	280,426	600,000	623.080	3.682.870		3,582,670	8,486,620		25,010,320
	20572430720	30720	ST	1,106,865		7,393,139		1,226,802			22,810,820			22,810,820		31,310,820
Big Carlos Pasa Bridge Replacement	Deht		D		{			}			25,000,000			25,000,000		25,000,000
Burnt Store 4L/78-Van Buren	20408830721	30721	ST	27.087.388	12.817,061	18,656,072	1.211.110	3.342.268	18,000,000		·			18,000,000		63,743,460
Cape Coral Bridge WB Span Replacement	20924830721	30721	ST							9,000.000				9,000,000	99,100,000	108,100,000
	20066930700	30700	ST		4,700.000	5,875,272	!		1,015,000					1.015,000		6,890,272
Conserew Kond	Debt	1	D				ļ			23,590,772		17.795.308		41.386.080	1.400.000	42,786,080
France Divid Commence	20506730720	30720	GT	23,489,969	1,500,000	30,383,595	1,424,015	7,765,850	22,048,034	B20,000				22,868,034		76,741,602
i estero piva improvemente	FDOT Grant	1 I	l c				ļ	[1		
Server Di des Carester Sterret	20070430700	30700	67	[60,000	1			315,000				315,000		375,000
Estero Bive at Crescent St. Signal	FDOT Grant		G		j		1	i l		250.000				250,000		250,000
Cateway/Commerce Roundabout	20067230700	30700	GT	1		200,000	1		1,400,000		·····			1,400,000		1,600,000
Gateway at Griffin Roundabout	20067130700	30700	CT		1	200.000	1	1		1.400.000				1,400,000		1,600,000
Hickory Bridge Replacement	20508330720	30720	ST				1				4,266,000			4,266,000	46,716,000	50,982,000
Lee Bivd Troffic Signals	20063730700	30700	GT	68,896	400,000	481,104	6,896	5,656		150,000	400,000	1		550,000		1,100,000
	20502830700	30700	GT	88,117	O	61,863	34,794	20,056	1,000,000	5,250,000				6,250,000	400,000	6,800,000
Littleton Road	20502838822	38822	1]	2,310,000	2,310,000				3,000,000				3.000,000		5,310,000
	State Grant CICP		C				1			3,750,000				3,750,000		3,750,000
	20061338823	38823	1	2,912	550,000	2,347,088	4,501				6,000,000			6,000,000		8,350,000
Contra (1) (Colonial 1) (C)	20061330700	30700	GT								11.691,311			11,891,311		11,891,311
Uftiz 4L/Cojonizi - MLK	24061330700	30700	GIF		[[\$19,000	519,000		519,000
	25061330700	30700	BP]						1	2,133,689	1		2.133,689		2,133,689
Ortiz Ave MLK to Luckett	20407238823	38823	I	Z.375,938	1	561,502]				1,450,000	1		1,450,000	22,044,000	26,431,440
Signal System ATMS Upgrade	20675930700	30700	GT	4,707.142	750,030	1,434,190	119,808	217,242	750,000	750.000	750,000	750,000	750,000	3,750,000		9,891,332
Sunshine Blvd/8th St SW Roundabout	20061430700	30700	GT		350,000	550,000	51,493	136,467		1,440,000				1,440.000	1	1,990,000
	20405330700	30700	GT	5,349,848		4,626,923	188,731	825,074	20,900,000	5,930,000		22,720,000		49,550,000	1,050,000	60,576,771
Three Oaks Extension North	20405338823	38823	1	í i						5,000,000		4,000,000		9,000,000		9,000,000
	20405338824	38624	I	459,665) [[]		10,000,000		5,000,000		15,000,000		15,459,665
ent bit a state	20581842133	42133	ST	56,093	30,000	30,000	8,440	9,524	30,000	30,000	30,000	30,000	30,000	150,000	******	236,083
Toll interoperability	20581842135	42135	ST	326,968	120,000	120,000	68,284	75,237	120,000	120,000	120,000	120,000	120,000	600,000	1	1,046.968
	20061542133	42133	ST							50,000		2,600,000		2,650,000	*	2,650,000
Toll System Replacement	20061542135	42135	57							200,000		10,400,000		10.600.000	1	10,600.000
TomIDOT	80.114,490	24,825,277	83,840,373	3.151.226	13,912,027	73.772.430	72.007,852	80,060,588	63,415,308	8,568,367	297,824,545	267,591.486	729,370,894			

.

.

November 2019 (Ordinance No. 08-18, 09-28, 10-46, 14-05, 16-05, 16-20, 17-21, 18-26, 19-22)

.....

Toble 3 - Page 3 of 5

LEE COUNTY GENERALIZED PEAK HOUR DIRECTIONAL SERVICE VOLUMES TABLE

Lee County
Generalized Peak Hour Directional Service Volumes
Urbanized Areas

(

2

April 2016	6 c:\input5											
Uninterrupted Flow Highway												
Level of Service												
Lane	Divided	A	В	C	D	E						
1	Undivided	130	420	420 850		1,640						
2	Divided	1,060	1,810	2,560	3,240	3,590						
3	Divided	1,600	2,720	3,840	4,860	5,380						
At1.1_												
Arterials Class I (40 mph or bigher posted speed limit)												
Class I (40 mph or higher posted speed limit)												
	Divided	*	140	800	<u> </u>	<u> </u>						
	Divided	*	250	1 040	4 060	1.060						
2	Divided	*	200	1,040	1,900	1,900						
3	Divided	*	400	2,040	2,940	2,940						
4	Divided		540	3,830	3,940	3,940						
Close II (26	t manh ar ala	warnastad	an and limit)									
Class II (35	mpn or sio	wer postea	speed anity	t								
			Level of Sel		<u> </u>							
Lane	Divideo	Divided A B C D E										
	Ondivided	*										
<u>2</u>	Divided		*	110	1,590	1,660						
	Divided			1,150	2,450	2,500						
4	Divideo		_	1,580	3,310	3,340						
ł		0 4 1		r Witten								
l		Control	lea Access	racilities								
[PSt data at	·····	Level of Sei	vice		·						
Lane	Divided	<u> </u>	B	000		E						
1	Unaividea		160	880	940	940						
2	Divided		270	1,970	2,100	2,100						
3	Divided		430	3,050	3,180	3,180						
5			~ u <i>i</i>									
			Collectors	•								
			Level of Sel									
Lane	Divided	<u>A</u>	8	C	D	E						
1	Undivided	*	·	310	660	740						
1	Divided	ļ	ļ	330	700	780						
2	Undivided	<u> </u>	<u>.</u>	730	1,440	1,520						
2	Divided	*	L*	770	1,510	1,600						
Note: the s	ervice volun	nes for I-75	(freeway), b	icycle mod	e, pedestria	n mode,						
and bus mode should be from FDOT's most current version of LOS Handbook.												

FDOT GENERALIZED PEAK HOUR DIRECTIONAL VOLUMES TABLE 7

(

TABLE 7

(

t

ŧ

Generalized Peak Hour Directional Volumes for Florida's

Urbanized Areas

Urbanized Areas January 2020											
	. INTERR	UPATEDIAU	ow <i>er</i> te	unuss			UNINTIA	IRUPATEDI	KOWAF	ACILITIES .	
	STATE SI	GNALIZ	ED ART	ERIALS			FREEW	AYS/			
1	Class I (40 mph or higher posted speed limit)							Core Urb	anized		
Lanes	Median	В	С	D	E	Lanes	в	С		D	Е
1	Undivided	*	830	880	**	2	2,230	3,10	D	3,740	4.080
2	Divided	*	1,910	2,000	**	3	3,280	4,570)	5,620	6,130
3	Divided	*	2,940	3,020	**	4	4,310	6,030)	7.490	8,170
4	Divided	Ċ.	3,970	4,040		5	5,390	7,430) n ·	9,370	10,220
	Class II (35 n	nph or slov	ver posted	speed lim	it)	0	6,380	8,99	0 .	11,510	12,760
Lanes	Median	В	С	D	Е			Urban	ized		
1	Undivided	*	370	750	800	Lanes	В	С		D	Е
2	Divided	*	730	1,630	1,700	2	2,270	3,10	D	3,890	4,230
3	Divided	*	1,170	2,520	2,560	3	3,410	4,65	0	5,780	6,340
4	Divided	*	1,610	3,390	3,420	4	4,550	6,200)	7.680	8,460
						5	5,690	7,760)	9,520	10.570
	Non-State Sie	upalizad D	nadway	divetmor	sto		12			4-	
	Alter	correspondia	ioauway A ne state volu	ales	85		Auviliant	reeway Au	justmen	IS Down	
	b	y the indicate	ed percent.)				Lane			Metering	
	Non-State S	Signalized F	Loadways	- 10%			+1,000			+ 5%	
	Median d	& Turn La	ane Adjus	tments	,	т	IATATTED				Ne
	16.17.	Exclusive	Exclu	sive A	djustment	Longe	Madian	OLIPD L D	LUWI	nign wa	13
Lanes	Divided	Lett Lanes	Kigni I	lanes	ractors	Luics	Hadivided	580	800	1 200	1610
i	Undivided	No	No	,)	-20%	2	Divided	1 800	2 600	3 280	3 730
Multi	Undivided	Yes	No)	-5%	3	Divided	2,700	3,900	4.920	5.600
Multi	Undivided	No	No	1	-25%				-,		-,
-	•••	-	Ye	5	+ 5%		Uninterrupt	ed Flow Hi	ighway .	Adjustmen	ts
	Ome N	In Faill	the Automatic			Lanes	Median	Exclusive	left lanes	Adjustme	ent factors
	Multinly th	A COLEMON	ding direction	nent		1	Divided	Ye	s	+	5%
	vo	umes in this	table by 1.2	2		Multi	Undivided	Ye	5	-5	%
 						Multi	Undivided	NC) 1910-5-5-5-5-5-5-5-5-5-5-5-5-5-5-5-5-5-5-5	-2 	5%
	I (Multiply v directional roadwa Payed	BICYCLE chiele volum ay lanes to de volum	MODE ² es shown bel termine two- cs.)	ow by numb way maximu	er ol' Im service	¹ Values a are for the constitute computer planning corridor	bown are presented e automobile/truck e a standard and sho r models from whic applications. The to or intersection desig	as peak hour di modes unless sp nid be used only h this table is de oble and deriving m, where more r	rectional vo ecifically su r for general rived should computer r efined techn	lumes for levels ated. This table d planning applic. I be used for mor nodels should no uques exist. Calc	of service and loes not stions. The e specific t be used for ulations are
Shou	lder/Bicycle					based on	planning applicatio	as of the HCM 1	und the Tran	sit Capacity and	Quality of
Lan	e Coverage	В	С	D	E						
	0-49%	*	150	390	1,000	Level o number o	I service for the bic of vehicles, not num	cle and pedestri ber of bicyclists	or pedestria	h this table is bas the using the fact	ed og lity.
5	50-84%	110	340	1,000	>1,000					1. F	
8	5-100%	470	1,000	>1,000	**	Bow,	a ingi mayan si cui	iy ici niciteat no	ur Di me sinş	ye direction di lae	mghet frame
1	PE	DESTRIA	N MODE	1		* Caruno	be schieved using	table ipput value	defaults.		
(M	lultiply vehicle vol	lumes shown	below by nu	mber of		** Not a	policable for that le	el of service let	ter orada Pr	or the automobile	mode
dire	ectional roadway l	mes to deterr	nine (wo-waj	y maximum s	service	volumes	greater than level o	f service D beco	me F becau	se intersection ca	pacities have
		volun	(CS, J	_		Deen reso echievab	le because there is r	e mode, the leve to inaximum vel	i ol service licle volume	threshold using	table juput
Sidew	alk Coverage	В	C	D	E	value de	laults.				
	0-49%	*	¥	140	480	Source:					
	00-84%	*	80	440	800	Florida E Systems	Department of Trans Implementation Of	portation lice			
8	5-100%	200	540	880	>1,000	https://w	ww.fdoi.gov/planni	ng/systems/			
	BUS MOD (Buses	E (Sched)	uled Fixed	l Route) ³							
Sidew	alk Coverage	B	C	D	Е						
	0-84%	> 5	>4	≥3	>2						
8	5-100%	> 4	≥3	_ ≥2	≥1						

QUALITY/LEVEL OF SERVICE HANDBOOK

D1RPM 2026 REFINED MODEL PROJECT TRAFFIC PERCENT DISTRIBUTION FROM EEPCO STUDY

l



TRAFFIC DATA FDOT FLORIDA TRAFFIC ONLINE

Ĺ
2019 PEAK SEASON FACTOR CATEGORY REPORT - REPORT TYPE: ALL CATEGORY: 1200 LEE COUNTYWIDE MOCF: 0.93

. . .

......

$\begin{array}{c ccccccccccccccccccccccccccccccccccc$	
*10 $03/103/2019 - 03/162019$ 0.91 0.92 0.98 *11 $03/10/2019 - 03/23/2019$ 0.92 0.99 *13 $03/24/2019 - 03/30/2019$ 0.93 1.00 *14 $03/31/2019 - 04/06/2019$ 0.94 1.01 *15 $04/07/2019 - 04/13/2019$ 0.94 1.01 *16 $04/14/2019 - 04/20/2019$ 0.95 1.02 17 $04/21/2019 - 04/27/2019$ 0.97 1.04 18 $04/28/2019 - 05/04/2019$ 0.99 1.06 19 $05/05/2019 - 05/11/2019$ 1.00 1.08 20 $05/12/2019 - 05/25/2019$ 1.04 1.12 21 $05/19/2019 - 05/25/2019$ 1.06 1.14 23 $06/02/2019 - 06/01/2019$ 1.06 1.14 23 $06/02/2019 - 06/22/2019$ 1.00 1.18 24 $06/09/2019 - 06/22/2019$ 1.10 1.18 25 $06/16/2019 - 06/22/2019$ 1.10 1.18 26 $06/22/2019 - 07/20/2019$ 1.11 1.19 28 $07/07/2019 - 07/27/2019$ 1.11 1.19 29 $07/14/2019 - 08/03/2019$ 1.07 1.15 33 $08/11/2019 - 08/24/2019$ 1.07 1.15 34 $08/18/2019 - 08/24/2019$ 1.07 1.15 35 $09/01/2019 - 09/28/2019$ 1.07 1.15 36 $09/01/2019 - 09/28/2019$ 1.07 1.15 37 $09/08/2019 - 09/28/2019$ 1.06 1.14 40 $09/22/2019 - 09/28/2019$ 1.06 1.14	

* PEAK SEASON

TRAFFIC DATA FROM LEE COUNTY TRAFFIC COUNT REPORT

ĺ

Station #	K-100	D -Factors	P.S Factors
1	0.090	0.62	1.067
2	0.091	0.54	1.083
3	0.099	0.52	1.187
5	0.093	0.62	1.100
6*	0.086	0.56	1.047
7	0.115	0.53	1.323
8	0.084	0.51	1,143
9*	0.086	0.51	1.057
10*	0.096	0.51	1.080
11	0.089	0.53	1.043
12	0.088	0.60	1.147
13	0.087	0.59	1.097
14	0.085	0.60	1.043
15*	0.098	0.55	1.157
16	0.102	0.63	1.143
17	0.106*	0.63	1.063
18	0.091	0.58	1.093
19*	0.102	0.55	1.240
20	0.097	0.59	1.060
21*	0.083	0.61	1.037
22	0.085	0.62	1.067
23	0.103*	0.58	1.177
25	0.095	0.58	1.097
27	0.127	0.54	1.343
28	0.081	0.56	1.067*
29	0.082	0.52	1.093
30	0.092	0,51	1.090
31	0.088	0.54	1.090
34	0.098	0,54	1.090
35	0.104	0.56	1.100
36*	0.100	0.57	1.187
37*	0.088	0.60	1.130
38	0.101*	0.60	1.163
39	0.100	0.53	1.107
40	0.090	0.52	1.023
42	0.094	0.56	1.180
43	0.090	0.61	1.100*
44*	0.085	0.51	1.083
45	0.106	0.57	1.067

Station #	K-100	D -Factors	P.S Factors
46	0.088	0.52	1.177
47	0.098	0.56	1.123
48	0.101	0.57	1.097
49	0.086	0.53	1.073
50	0.083	0.61	1.050
51*	0.082	0.71	1.107
52	0.090	0.55	1.057
53	0.099	0.52	1.260
54*	0.095	0.51	1.163
55	0.088	0.53	1.093
57*	0.100	0.52	1.130
59	0.103	0.51	1.330
60*	0.132	0.57	1.543
61	0.095	0.59	1.230
62	0.107	0.60	1.157
63	0.123	0.55	1.210
64	0.104	0.54	1.090
66	0.101	0.54	1.120
68	0.095	0.60	1.030
69	0.090	0.55	1.057
70	0.105	0.56	1.213
71*	0.105	0.53	1.150
72	0.105	0.60	1.253
73*	0.097	0.56	1.143
74	0.105*	0.60	1.037
76*	0.097	0.55	1.130
81*	0.100	0.56	1.133
82*	0.100	0.54	1.073
84*	0.094	0.51	1.107
89*	0.098	0.60	1.030
92	0.103	0.57	1.090
93	0.101	0.60	1.063
96	0.109	0.54	1.093
97*	0.086	0.52	1.030
98*	0.088	0.58	1.117
103*	0.092	0.52	1.177
104	0.101	0.52	1.103
108	0.093	0.52	1.040
120	0.099	0.64	1.267
121	0.095*	0.64	1.053
122*	0.096	0.67	1.070

Year 2019 K-100 Factors, D-Factors and Peak Season Factors

* Previous Year Data

ĺ

ł

LEE COUNTY'S 2026 E+C NETWORK VOLUMES

1









TRIP GENERATION EQUATIONS

{

Single-Family Detached Housing (210)

Vehicle Trip Ends vs: Dwelling Units On a: Weekday

Setting/Location:	General Urban/Suburban
Number of Studies:	159
Avg. Num. of Dwelling Units:	264
Directional Distribution:	50% entering, 50% exiting

Vehicle Trip Generation per Dwelling Unit

Average Rate	Range of Rates	Standard Deviation
9.44	4.81 - 19.39	2.10

Data Plot and Equation

1

2



Trip Generation Manual 10th Edition • Volume 2: Data • Residential (Land Uses 200-299)

Single-Family Detached Housing (210)

Vehicle Trip Ends vs:	Dwelling Units
On a:	Weekday,
	Peak Hour of Adjacent Street Traffic,
	One Hour Between 7 and 9 a.m.
Setting/Location:	General Urban/Suburban
Number of Studies;	173
Avg, Num, of Dwelling Units;	219
Directional Distribution:	25% entering, 75% exiting

Vehicle Trip Generation per Dwelling Unit

Average Rate	Range of Rates	Standard Deviation
0.74	0.33 - 2.27	0.27

Data Plot and Equation

ł



3

Single-Family Detached Housing (210)

On a: N I	Weekday, Peak Hour of Adjacent Street Traffic, One Hour Between 4 and 6 p.m.
Setting/Location: 0	General Urban/Suburban
Number of Studies: 7	190
Avg. Num. of Dwelling Units: 2	242
Directional Distribution: 0	63% entering, 37% exiting

Vehicle Trip Generation per Dwelling Unit

Average Rate	Range of Rates	Standard Deviation
0.99	0.44 - 2.98	0.31

Data Plot and Equation



Trip Generation Manual 10th Edition + Volume 2: Data + Residential (Land Uses 200-299)



4

Multifamily Housing (Low-Rise) (220)

Vehicle Trip Ends vs: Dwelling Units On a: Weekday

Setting/Location:	General Urban/Suburban
Number of Studies:	29
Avg. Num. of Dwelling Units:	168
Directional Distribution:	50% entering, 50% exiting

Vehicle Trip Generation per Dwelling Unit

Average Rate	Range of Rates	Standard Deviation
7.32	4.45 - 10.97	1.31

Data Plot and Equation

ĺ



Trip Generation Manual 10th Edition • Volume 2: Data • Residential (Land Uses 200-299) 31

Hef

ţ

Multifamily Housing (Low-Rise) (220)

Vehicle Trip Ends vs: On a:	Dwelling Units Weekday, Peak Hour of Adjacent Street Traffic, One Hour Between 7 and 9 a.m.
Setting/Location:	General Urban/Suburban
Number of Studies:	42
Avg. Num. of Dwelling Units:	199
Directional Distribution:	23% entering, 77% exiting

Vehicle Trip Generation per Dwelling Unit

Average Rate	Range of Rates	Standard Deviation
0.46	0.18 - 0.74	0.12

Data Plot and Equation



32 Trip Generation Manual 10th Edition • Volume 2: Data • Residential (Land Uses 200-299)

Hef

(

ł

t

Multifamily Housing (Low-Rise) (220)

Vehicle Trip Ends vs: Оп a:	Dwelling Units Weekday, Peak Hour of Adjacent Street Traffic, One Hour Between 4 and 6 p.m.
Setting/Location:	General Urban/Suburban
Number of Studies:	50
Avg. Num. of Dwelling Units:	187
Directional Distribution:	63% entering, 37% exiting

Vehicle Trip Generation per Dwelling Unit

Average Rate	Range of Rates	Standard Deviation
0.56	0.18 - 1.25	0.16

Data Plot and Equation

ţ

(

ite=



Trip Generation Manual 10th Edition • Volume 2: Data • Residential (Land Uses 200-299) 33

Shopping Center (820)

Vehicle Trip Ends vs: 1000 Sq. Ft. GLA On a: Weekday

Setting/Location:	General Urban/Suburban
Number of Studies:	147
1000 Sq. Ft. GLA:	453
Directional Distribution:	50% entering, 50% exiling

Vehicle Trip Generation per 1000 Sq. Ft. GLA

Average Rate	Range of Rates	Standard Deviation
37.75	7.42 - 207.98	16.41

Data Plot and Equation

ĺ

ĺ



138 Trip Generation Manual 10th Edition • Volume 2: Data • Retail (Land Uses 800-899)

Shopping Center (820)

Vehicle Trip Ends vs: On a:	1000 Sq. Ft. GLA Weekday, Peak Hour of Adjacent Street Traffic, One Hour Between 7 and 9 a.m.
Setting/Location:	General Urban/Suburban
Number of Studies:	84
1000 Sq. Ft. GLA:	351
Directional Distribution:	62% entering, 38% exiting

Vehicle Trip Generation per 1000 Sq. Ft. GLA

Average Rate	Range of Rates	Standard Deviation
0.94	0.18 - 23.74	0.87

Data Plot and Equation

(

ł

ĺ

ite=



Shopping Center (820)

Vehicle Trip Ends vs: On a:	1000 Sq. Ft. GLA Weekday, Peak Hour of Adjacent Street Traffic, One Hour Between 4 and 6 p.m.
Setting/Location: Number of Studies: 1000 So. Et. GLA:	General Urban/Suburban 261 327
Directional Distribution:	48% entering, 52% exiting

Vehicle Trip Generation per 1000 Sq. Ft. GLA

Average Rate	Range of Rates	Standard Deviation
3.81	0.74 - 18.69	2.04

Data Plot and Equation



140 Trip Generation Manual 10th Edition • Volume 2: Data • Retail (Land Uses 800-899)

ĺ





	1000	
	A 16C N	
	Contraction of the second seco	
	PICIC APPEND PURNA BURNAL	The sector
* か が が か か 0 250 500 1000 か か か か か か か 2 50 500 1000	40F	ROP ROP
مي کې کې کې کې کې کې کې کې کې کې کې کې کې		5 5
2. 4. 4. 4. 4. 4. 4. 4. 4. 4. 4. 4. 4. 4.		PONSE
الله الله الله الله الله الله الله الله	ANCE	9 RESP
	dioA	7-20-01
	ACT /	TED 02
	30	AI DA
	RAI O	1ct R
		LEE
	5	80-0 E-0
	된	04-1 DA
	w	a < 2
	8	5
	Tu OCSE	d 5000
	01 01 10 20 11 20	250
	ADE 2	L SCAL STAS
	PRO. ACAL NORU	MER I
	2	INVS.
	ABB 10/00	515, 515,
معلم المحبر الجرا العلم المجر المحبر علي محبور محبور معلم معلو من	75 03 9.6	10 BY:
	DEFICION DATE: DRAWN	DATE: CHECKE
	0.012	<u>56</u>
	ġ	1000
anna an an ann ann an an an an an an	10210	100
August and autor and autor and autor and autor and	1111	Survey
هيمة عليمة تحوير المقيمين أتعتد عليكم للعند حبور علين حص محتر تحو		CT III
² ²		Z
علمتي المعر المعير المعيد المعيد والمحال العراد العلي المحد المحد المحد	3 3	NAGE CL
	IOLI	N
and the set of the set of the set	BA	é li
and the second s	ALCON D	
The way way way and the set	949688	6 28 C 3 1
* At a star and At a star		
A REAL PROPERTY AND AND AND AND AND AND AND AND AND AND		<u>/B</u> \
the set and the set of the set of the		IUM
11 4 4 4 4 4 4 4 4 COURT 18 19 10	3	DA
11 S. 900 200 - 20 - 20 - 20 - 20 - 20 - 20 -	1021	D88
A CALL AND AND AND AND AND AND AND AND AND AND		NAV
	6	Z Z
	8	APF
	ME	DGR
· the start of the start of the start of the	10	OP (
B an an an the ray of the set	Ш.	NS 1
- 420, and and the little of the set		101
They are an when he he are an an an and	Î	
and the sea by the by the sea for the sea and the	$\{ \ \ $	000
E star the see the test the deal she was the the se		LING
and the start and the start the start and		LSIX
a see as the test of the see as the		ш
The second secon		a
An an an an an an an an an an an an an	82 18 18	
an the as the first the the the the	SHEET	5
105-10(0:5)	OF	30
	10198-	- n.c. 116,* •5



.

.

				-				-
eet (da)	. Inter . Inter	1948 1948		ET MIC NOT	LING BIONUP &			
	er iss	1.19 PC		THESE DRAWL	an attwart			DAK
cap. At Pear.	(and a set	\sim		ROP		ROP	ROP	ž
1941 1941 1949. 1941 1941 1949.	have and	, ,		Γ		ISES	SES	
1927 . 1927 . 1928 1927 . 1927 . 1928	177 . 1817 17.0 . 1817			EO.		RESPON	ESPON	
.14 15	17.27 . 22.51			VOIDA		-20-09 /	-10-09 H	SNU
·17.7. 444, 6.57	.n.sn.s1	. 18 ²⁸		PACTA		VIED 07	TED 02	(REMIS)
17. 19. 19. 19. 19. 19. 19. 19. 19. 19. 19	1994 - 1994	. West		INI 300		RAI DA	RALDA	
عد، عد مر عد عد عد	1947 - ⁴ 47 -			IN BAL		EE 2nd	.EC 10	
1	110 -110 1800 -1840	+10 A182		Ę			8	-
2.7 ette .7.5	. 18.00 . 18.05	, 18-59		11-11		03-20	04-10	047
Star . Sar Land	.17. ⁸⁷ .17. ⁵⁵	* Walt		-	T	6	<	Q2
100 - 10 ¹	+17 ²⁰ +77 ⁵⁵	*41 ³⁴		25	9033	3	JUNE	1
10 10 10 10 10 10 10 10 10 10 10 10 10 1	178 - 1814	*17 ⁵⁰		07-00	101951	SEE PI	15 P.S.	છ
12 A 4	10 11 11 10 10 10 10 10 10 10 10 10 10 1	**** .T. ²¹		CT No.:	ы Ц	SCALE:	STAGE:	in Tati
200 . C. C.	1.57.86 . C.S.	* 17.95		PROJE	ACAO	VERT.	P. All	LAYOU
NR INS AR	18.00 . 17.50				60,	5	NVS/	60
7. P. 18 . P. P. 18	1727 - 1727	. N. 10		8% A06	60	de le	Ēä	100
2 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	17.7 17.74 17.7 - 17.74	. Rate		SIGNED	Ë	10. IN 19.	CKED	لي
10 10 10 100	17. 17. 17.4 17.55	**** ***		E C	ž	CHO	ŏ	The DA
s in he	171 ²⁰ 171 ²⁰	·17.55		1			ALC: NO.	14403
S	*17 ¹⁰ *77 ¹⁰	* ^{8,51}		11111			APPIN STORY	1.111.00
in the	17176 . TA 76	1778 ¹		Long YoL D			and Sur-	2.01
	. 17. 17. 17. 17. 17. 17. 17. 17. 17. 17	.17 ⁶³		-d'dudan		UNC.	131	414 M.
	*17. *77. 17. ***	, C.		Cultur	j,	A GE	[hand	11-1-1-1-1-1-1-1-1-1-1-1-1-1-1-1-1-1-1
ser is a	Just men	a Triffe				A LUNIT	nginar	
C. S.	***** *****	* 17 B2		No.	ζeγ	Ś	(innin	12.1
فر المحور في	*10 ¹⁰ •10 ¹⁰	·718		R B B B B B B B B B B B B B B B B B B B	100		Profes	1-044
	and a se	*1 ^{3.64}						
e e e	, T. , T. , T.	^{مو} .					ß	7
ملي ومورد فرم		A.T.SP.		l			TUN	
1. eta, ea	. 710 . T.A	.TITA					10 82	
X	. 7. ⁶ , 16 ^{,6}	+ 40 ⁹⁵	v \			S	A VDS	
	171.25 . 18.78	, 16-74				LAN	Y - N.	
	•17.50 +14.51	• ^{18,62}	Margaret State	6		ING F	HdV	
	20.03 1920 - 29(0	#S1	C.C. Walter Design	NAFED		IEER	490	
ratio - ratio	ites the	*18. ⁶⁸	10000	ŝ		NGIN	100	:
8.3° + 1.9° + 🗍	19.60 EM-30((P-5)	UCI 5009-000		1	NG E	SNO	!
	18 ²⁷ 18 ²⁷	. 18 ²¹	-			INOZ	TICN N	
	^{تو} هر ^{عو} ر .	*11.0.	X			.4	00 4	
T.W . 284	^{مع} د ^{مع} ر محمد شغر	and.					TING	
C Z	*** ***	*******					EXIS	
	14. 34. 14.T	, 10 ⁻⁵⁶		GED				
1715 + 1920 . 1880	1 10-17 . B.B.	* It St.	医包围	FREPA		316	2111	
mit may inst	16.74 . 18.89	a18.76	CARLEN P	S1	IEE	r 6	_	
			0 250 500 1000	ĊR.	OF NKU	3 6 Fil	џ Е Ко	-
			SCALE IN FEET	10	198	-8		L

MEMORANDUM FROM THE **OFFICE OF COUNTY ATTORNEY**

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

DATE:	November 13, 2020
FROM:	Michael D. Jacob
	Deputy County Attorney

FFD Hearing Examiner Hearing RE: December 3, 2020

This memorandum is being provided to describe the purpose and scope of the FFD Hearing scheduled for December 3, 2020. I have also provided some additional information concerning the statutory basis for the Hearing.

On July 3, 2017, FFD Land Co., Inc., ("FFD"), filed a multi-count complaint stemming from the Board's denial of FFD's mining application in May, 2013. On October 6, 2020, the Board of County Commissioners held an Executive Session concerning the potential settlement of the litigation filed by FFD. Following the Executive Session, the Board unanimously approved the Stipulation of Settlement. The Board's Motion approving the Settlement included the following:

- A. Approve the Stipulation of Settlement that provides for the issuance of development orders and development permits pursuant to 70.001(4), Fla. Stat., at a maximum development parameters of:
 - Requiring a minimum of 65% open space, 56% conservation area; ٠
 - One unit per acre (5208 acres);
 - 100,000 square feet of office/research; •
 - 90,000 square feet of residential amenities; .
 - Issuance of \$1,500,000 prop share payment credit for conveyance of excavation/mining rights to the County; and
 - As further conditioned within the Stipulation of Settlement with attached **Development Agreement.**
- B. Direct the Hearing Examiner's Office to conduct a Hearing and issue a recommendation in accordance with the terms of the Stipulation of Settlement.
- C. Direct Staff to set the proposed Development Agreement for 2 public hearings following issuance of a recommendation by the Hearing Examiner's Office in accordance with the terms of the Stipulation of Settlement.

A copy of the Stipulation of Settlement has been provided to the Hearing Examiner under separate cover.

Pursuant to Chapter 70, Fla. Stat., after a Bert Harris claim is filed, the County is authorized to provide the Plaintiff various settlement options. The types of settlement options that may be provided include:

1. An adjustment of land development or permit standards or other provisions controlling the development or use of land.

2. Increases or modifications in the density, intensity, or use of areas of development.

3. The transfer of developmental rights.

4. Land swaps or exchanges.

5. Mitigation, including payments in lieu of onsite mitigation.

6. Location on the least sensitive portion of the property.

7. Conditioning the amount of development or use permitted.

8. A requirement that issues be addressed on a more comprehensive basis than a single proposed use or development.

9. Issuance of the development order, a variance, special exception, or other extraordinary relief.

10. Purchase of the real property, or an interest therein, by an appropriate governmental entity or payment of compensation.

Upon acceptance of the Settlement, the County is authorized to "*implement the settlement offer by appropriate development agreement; by issuing a variance, special exception, or other extraordinary relief; or by other appropriate method...." See § 70.01(4)(c), Fla. Stat. However, note, any settlement offer issued under subsection § 70.01(4)(c), Fla. Stat., is subject to the requirements of § 70.01(4)(d), Fla. Stat.*

Under, § 70.01(4)(d), Fla. Stat., if the proposed settlement agreement has "the effect of a modification, variance, or a special exception to the application of a rule, regulation, or ordinance as it would otherwise apply to the subject real property," then the relief granted must "protect the public interest served by the regulations at issue and be the appropriate relief necessary to prevent the governmental regulatory effort from inordinately burdening the real property." Still further, if the relief granted has the effect of "contravening the application of a statute as it would otherwise apply to the subject real property," the County and the Plaintiff must file a petition in circuit court seeking Court approval of the Settlement Agreement and the Court determines "that the relief granted protects the public interest served by the statute at issue and is the appropriate relief necessary to prevent the governmental regulatory effort from inordinately burdening the real property."

In furtherance of the Settlement Agreement, the County and Plaintiff have prepared a draft development agreement that implements the Settlement Offer. Certain provisions of the development agreement are not consistent with the Land Development Code and the Lee Plan. Typically, these inconsistencies would require issuance of deviations as part of a planned development and Lee Plan amendments. In anticipation of this, and in furtherance of the requirements of § 70.01(4)(d), Fla. Stat., the Stipulation of Settlement provides for a hearing process that evaluates the proposed development to ensure that the development agreement and proposed conditions "*protect the public interest served by the regulations*" that the project are not consistent with and to ensure adequate public participation in the process as would typically occur in the public hearings for a Lee Plan amendment.

Pursuant to the Stipulation of Settlement, the Board has directed a Hearing before the Hearing Examiner. Pursuant to paragraph 2B of the Stipulation of Settlement, "the sole and limited purpose of this hearing is to evaluate whether the relief granted to FFD by this Stipulation and the [development agreement] protects the public interest served by the Contravened Regulations. In the conduct of this hearing, the Hearing Examiner ... will take testimony and evidence as provided under Lee County Administrative Code AC-2-6 from FFD, County staff, and the general public." Once the hearing is complete, the Hearing Examiner has 30 days in which to provide a recommendation. The recommendation is limited to the purpose identified in subsection B, (ie the development agreement and proposed conditions protect the public interest served by the contravened regulations).

In making your report and recommendation, the Hearing Examiner must evaluate whether the Stipulation and Agreement (specifically the Development Agreement) either does or does not protect the public interest served by the Contravened Regulations. In the event that the Hearing Examiner determines that the public interest is not protected, you may recommend additional conditions or requirements to be added into the Agreement that you believe will cause the public interest to be adequately protected. Once the report is issued, the County will proceed with 2 additional public hearings before the Board.

In preparation for the December 3rd Hearing, County Staff and the Applicant have identified the rules, regulations, and ordinances that would be contravened ("Contravened Regulations") by the Stipulation and the Agreement as contemplated by Section 70.001(4)(d)1., Florida Statutes. As part of the proposed development, the development agreement includes proposed conditions and obligations that the Parties believe will adequately protect the public interest served by the Contravened Regulations. The Parties are prepared to provide testimony at the hearing to address these issues.

If you have any questions or would like additional information, please do not hesitate to let our Office know.

Cc: Russell P. Schropp