



Staff Report for: PAL-23-00002 and Z-23-59-13

Hearing Date: October 9, 2023/November 28, 2023/February 27, 2024

To: Planning and Zoning Board/Board of County Commissioners (Transmittal Hearing)/Board of County Commissioners (Adoption Hearing)

From: Jie Shao, AICP, MCP, Planner, Principal (see attached Exhibit 1 for professional qualifications)

Regarding: A request to amend Charlotte County FLUM Series Map #1: 2030 Future Land Use and the Zoning Atlas

Part 1 – General Information

Applicant: JDI Farms Inc., 1300 State Road 31, Punta Gorda, FL 33982

Agent: Robert H. Berntsson, 3195 S. Access Road, Englewood, FL 34224

Owner(s): JDI Farms Inc., 1300 State Road 31, Punta Gorda, FL 33982

Request: A privately initiated request to amend:

- Charlotte County FLUM Series Map #1: 2030 Future Land Use, from Agriculture (AG) to Mineral Resource Extraction (MRE); and
- Charlotte County Zoning Atlas from Agriculture (AG) to Excavation and Mining (EM).

Location: **Commission District I:** The subject property is located at 3771 SR 31, in the Punta Gorda area and within the East County area.

Land Area: The subject property contains a total of 536.22± acres.

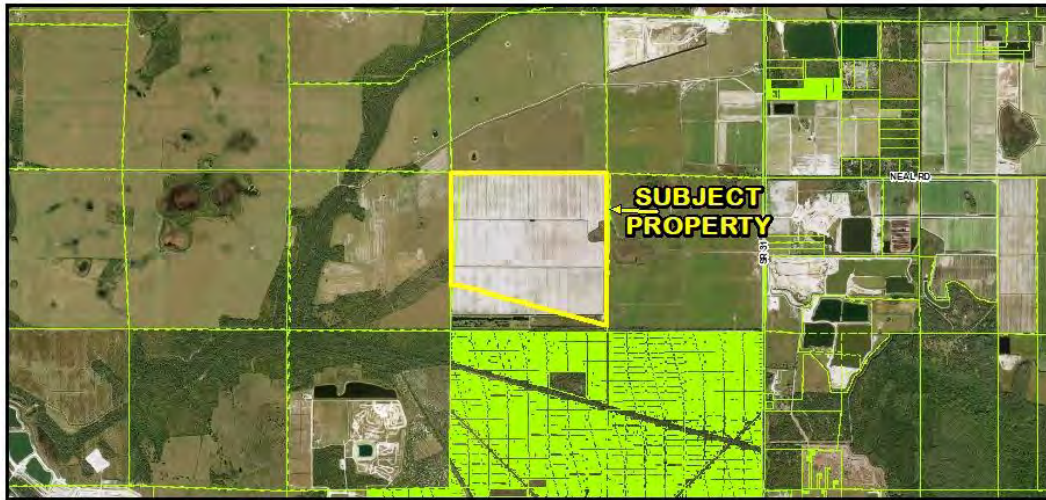
Public Notice: Public Notice has been given as required by Charlotte County Code, Section 3-9-10; sub-sections (d) Published Notice; (e) Mailed Notice (see 1,000-foot Mailed Notice Map); and (f) Posted Notice.

Part 2 - Analysis and Conclusion

Analysis:

Request

The applicant/property owner, JDI Farms Inc., is requesting a large scale plan amendment from Agriculture (AG) to Mineral Resource Extraction (MRE); and a rezoning from AG to Excavation and Mining (EM). The subject property is located at 3771 SR 31, in the Punta Gorda area and within the East County area, and it contains approximately 536.22 acres. The stated purpose of these applications is to apply for a permit for a commercial excavation.



PAL-23-00002 and Z-23-59-13 Area Image

Current Status

On October 9, 2023, this large scale plan amendment to Mineral Resource Extraction (MRE) and the rezoning to Excavation and Mining (EM) for the subject property were presented to the Planning and Zoning Board for their consideration. The Planning and Zoning Board recommended approval of the large scale plan amendment and its associated rezoning with a 4-1 vote.

Subsequently, on November 28, 2023, the Board of County Commissioners (Board) approved this large scale plan amendment application (PAL-23-00002) for transmittal to the Florida Department of Commerce and other State review agencies for review and comment via the Expedited State Review process.

On December 19, 2023, the **Florida Department of Commerce** issued a letter stating that: *"The Florida Department of Commerce (FloridaCommerce) has reviewed the proposed comprehensive plan amendment for Charlotte County (Amendment No. 23-05ESR) received on November 29, 2023. The review was completed under the expedited state review process. **We have no comment on the proposed amendment.**"*

On December 20, 2023, the **Southwest Florida Water Management District** issued a letter stating that: *"The Southwest Florida Water Management District (District) has reviewed the proposed amendment. We are not forwarding any comments for consideration. However, **we do have the following comments regarding regulatory and other matters:***

- Review of District GIS data indicates **the proposed development may impact the following District data collection sites:** SID#s 612338, 612339, 612340, 612341, 612342, 612343. **Please design the proposed development to avoid impacts to the sites or contact the District's data steward at data.maps@watermatters.org under the subject line "PRIORITY PLANNING Data Evaluation" to coordinate relocation of the sites.**
- District records indicate **a Water Use Permit (WUP) was issued for agricultural activities on the site** (WUP No. 20002593.008). **If any changes in permitted land use or ownership are proposed, early coordination with the District's WUP staff is encouraged.** For assistance or additional information concerning the District's WUP program, please contact April Breton, water use evaluation and compliance manager, at (813) 985-7481 or april.breton@watermatters.org.
- **There are existing wells on the site. If these wells are no longer proposed for use, they would need to be properly abandoned in accordance with the requirements of Rule 40D-3.531, F.A.C.** For

assistance or additional information, please contact Dave Arnold, well construction manager in the District's Tampa office, at (813) 985-7481, ext. 4439, or davidn.arnold@watermatters.org.

- **Based on the available information, it is not clear at this time if the District or the Florida Department of Environmental Protection will be reviewing the Environmental Resource Permit (ERP) application for the proposed reservoir project.** For assistance or additional information concerning the District's ERP program, please contact Rob McDaniel, ERP evaluation manager, at (813) 985-7481 or rob.mcdaniel@watermatters.org."

On December 20, 2023, the **Florida Department of Agriculture and Consumer Services** issued a letter stating that: "The Florida Department of Agriculture and Consumer Services (the "Department") received the above-referenced proposed comprehensive plan amendment on December 4, 2023. The Department has reviewed the proposed amendment pursuant to Section 163.3184, Florida Statutes, for any adverse impacts to important state resources or facilities related to agriculture, forestry, and aquaculture issues.

The Department has no comments on the above-referenced proposed comprehensive plan amendment as presented."

On December 27, 2023, the **Department of Transportation** issued an email stating that: "We have completed the review of Charlotte County CPA 23-05ESR (PAL-23-00002). This CPA is to amend the FLUM to change the LU from Agriculture (AG) to Mineral Resource Extraction (EM). A traffic study is provided following the same methodology for the previously submitted Charlotte County CPA 23-01ESR. Note that the acreage in the traffic study was revised from 646 to 536 acres, per the application package. The subject property will be accessed via a dirt road on the west side of SR 31. The traffic study concludes that the generated truck traffic will not result in negative impacts to the LOS on SR 31, and that northbound-left and southbound-right turn lanes will be warranted at the access road.

Although this CPA will have no significant impact to facilities of state importance at this time, FDOT requests that the County continue to coordinate with the FDOT on the proposed SR 31 turn lanes for this property (PAL-22-00002) and the two Neal Road properties referenced in Charlotte County CPA 23-01ESR (PAL-22-00005 and PAL-22-00006)."

On December 27, 2023, the **Florida Fish and Wildlife Conservation Commission** issued an email stating that: "Florida Fish and Wildlife Conservation Commission (FWC) staff reviewed the proposed comprehensive plan amendment in accordance with Chapter 163.3184(3), Florida Statutes. **We have no comments, recommendations, or objections related to listed species and their habitat or other fish and wildlife resources to offer on this amendment."**

All State review agencies' comments have been forwarded to the applicant's agent for consideration.

Compatibility and Impacts on Adjacent Land Uses

The property immediately located to the north, west and east of the site is zoned AG with an AG Future Land Use Map (FLUM) designation; this area is mostly utilized for grazing land. A triangle shape property located immediately to the south and owned by the applicant is not part of these applications and is also used for grazing land. Further to the south, there are platted substandard lots; this area is designated as AG FLUM with an AG zoning. A property containing approximately 53.59 acres is located 0.55 miles to the northeast of the subject property and is designated as MRE via Ordinance Number 2020-038 with an EM zoning via Ordinance Number 2020-039. Across SR 31 to the east, there is an existing active commercial excavation owned by Highlands County. Further to the east, a property, containing approximately 159.9 acres, is designated as MRE via Ordinance Number 2023-022 with an EM zoning via Ordinance Number 2023-023. The property located immediately to the east, containing approximately 487.32 acres, is also designated as MRE via Ordinance Number 2023-024 with an EM

zoning via Ordinance Number 2023-025. According to the submitted the “Chastain 640 Excavation 500 Foot Features” map (Attachment 1) and the “Chastain 640 Excavation 1/2 Mile Features” map (Attachment 2), there are no residential structures located within those distances to the subject property.

Consistency with the County’s Comprehensive Plan

The subject site and surrounding properties are designated as Agricultural/Rural on the 2050 Framework Map.

The proposed changes are required by and consistent with **ENV Policy 2.5.2: Commercial Excavations**, which states that “commercial excavation operations shall be allowed to apply for a plan amendment to Mineral Resource Extraction in all areas not prohibited by the standards outlined in the Mineral Resource Extraction (MRE) Future Land Use Map designation. Amendments from Resource Conservation or Preservation to MRE within the non-prohibited area may be allowed if it can first be proven that such designation does not correctly demarcate environmentally sensitive lands. In such cases, should other environmentally sensitive lands exist that are not under a protected FLUM status, the amendment shall include placing those lands under the Preservation or Resource Conservation FLUM.”

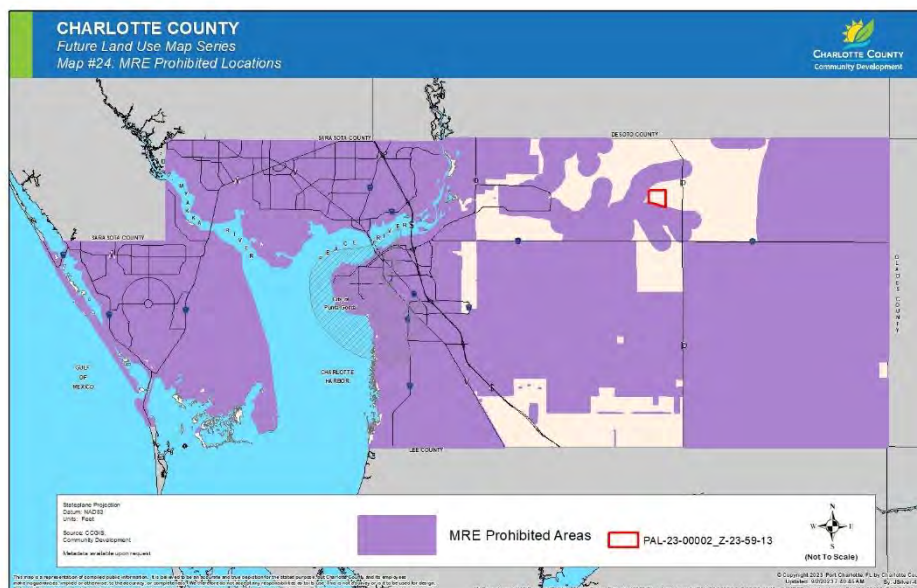
There are specific “Requirements” and “Special Provisions” under the proposed MRE FLUM designation, which are as follows:

Requirements of the Plan Amendment:

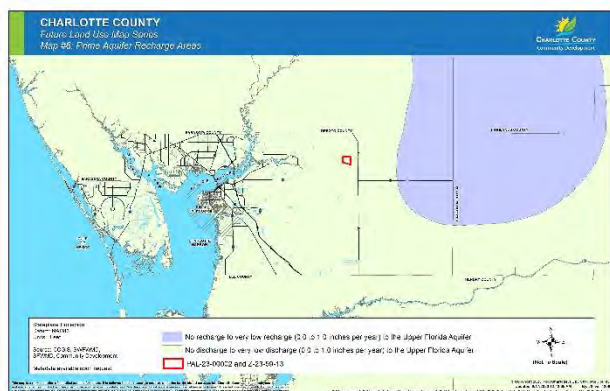
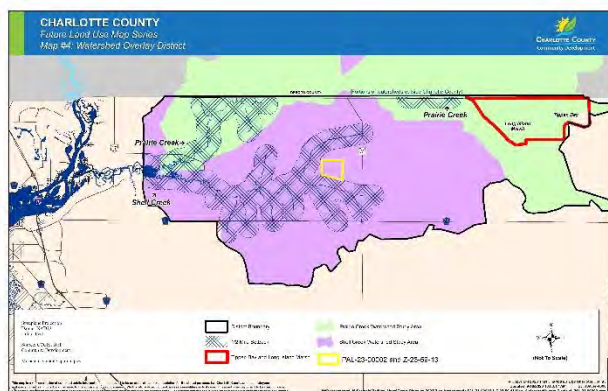
1. *Limitations on Location: FLUM Series Map #24: MRE Prohibited Locations identifies the areas of the County where this designation is permitted. Generally, permitted locations include properties located in the Rural Service Area east of U.S. 17 and U.S. 41 except properties located within:*

- a. One-half mile setback of the Watershed Overlay District (FLUM Series Map #4), or Tippen Bay and Long Island Marsh areas.*
- b. The Prime Aquifer Recharge Area of northeast Charlotte County (FLUM Series Map #6).*
- c. One-half mile of the recharge area.*

Analysis: The subject property is located outside of the MRE prohibited locations.



The subject site is located in the Rural Service Area and is in the East County area. The site is located outside of the one-half mile setback of the Watershed Overlay District or Tippen Bay and Long Island Marsh areas (FLUM Series Map #4). The subject property is also located outside of the Prime Aquifer Recharge Area of northeast Charlotte County (FLUM Series Map #6) or one-half mile of the recharge area. Therefore, the subject site meets the location limitation requirement of the proposed MRE FLUM designation and is also consistent with **ENV Policy 1.4.9: Watershed Overlay District**, which prohibits commercial excavations within the district. Furthermore, the subject site contains a total of 536.22± acres, which exceeds the minimum acreage of 50 acres under this MRE FLUM designation.



2. Submittal Requirements: When applying for this designation, the following items are required:

- a. A concept plan showing the approximate boundaries of all potential excavation area(s), along with the probable size, shape, and depth of the excavation area(s), recharge trenches and settling ponds.
- b. A map of all man-made features on the excavation site and within 500 feet of the site.

Analysis: The applicant submitted a proposed Overall Excavation Plan (Attachment 3: Chastain 640 Excavation Overall Excavation Plan), showing the proposed excavation related setbacks, pit bottom, top of bank, hydraulic barriers, staging area, and a scale house as well as the proposed post reclamation plan (Attachment 4: Chastain 640 Excavation Post Reclamation Plan). The plan also shows that there are no residential structures within ½ mile of the subject property. Approximately 6.12 acres of wetland, containing the freshwater marsh, is located in the middle of the eastern portion of the property. There is a small, isolated wetland located to the north of the property, and a portion of one isolated wetland located to the east of the subject site and within 500 feet of the subject property (Attachment 1: Chastain 640 Excavation 500 Foot Features, prepared by Southwest Engineering & Design and dated March 2023).

- c. A survey of wetlands on the site and a map showing approximate locations of wetlands and other water features within one-half mile of the site, as applicable, and a discussion of how the proposed excavation will not be a detriment to those resources.

Analysis: The applicant submitted a map (Attachment 2: Chastain 640 Excavation ½ Mile Features) called Chastain 640 Excavation ½ Mile Features, prepared by Southwest Engineering & Design and dated March 2023, and the map illustrates:

- An existing barn located to the northwest of the subject property.
- One pond located to the west of the subject site.
- Wetlands located to the northwest and southwest of the subject property.
- Four isolated wetlands located to the east and northeast of the property, and within one-half mile of the subject site.

The applicant also submitted a “Protected Species Assessment” report, prepared by Alexander Guzman and dated December 2022, and the report states that: “The site contains upland habitats which could

potentially be utilized by the gopher tortoise (Gopherus polyphemus). No potentially occupied gopher tortoise burrows were observed during the pedestrian transect survey, however, if gopher tortoise (Gopherus polyphemus) burrows are found on-site prior to development, a 100% gopher tortoise survey and relocation permit from the Florida Fish and Wildlife Conservation Commission will be required prior to development of the site if gopher tortoise burrows cannot be avoided during construction.

Wetland habitats were identified during the pedestrian transect survey. Coordination with the Florida Department of Environmental Protection (FDEP) and the Southwest Florida Water Management District (SWFWMD), relative to on-site wetlands or surface water habitats, will likely be required prior to site development. Each acre of impact, for this typical wetland, will require one acre of wetland enhancement. The on-site wetland is considered a Freshwater Marsh dominated by Carolina plain willow and southern cattail and, if impacted, will require the purchase of mitigation credits. However, the on-site wetland already contains a buffer area with ditching, to avoid any potential impacts to the native vegetation and water table."

In addition, the proposed Overall Excavation Plan (Attachment 3: Chastain 640 Excavation Overall Excavation Plan) shows that the proposed excavation cells and the haul road are located at least 233 feet away from the onsite wetland.

Therefore, based on the information above, staff concurs that the proposed changes should not have negative impacts on the current County's wetland resources.

d. A discussion of quality of life issues, in particular, the effect of a proposed excavation upon the health, safety and welfare of residents within one-half mile of the site.

Analysis: The applicant submitted a project narrative as part of the application to address and evaluate the potential impacts of the proposed excavation upon the health, safety and welfare of residents within one-half mile (2,640 feet) of the subject site based on public safety, water quality and quantity, influence on living conditions such as noise and visual impacts, increased load on public facilities, and environmental impact. Staff reviewed the report and presents the following conclusions:

Compatibility and Impacts on Adjacent Uses:

Based on the submitted project narrative which is part of the application and the County's Geographic Information System, there are no homes within one-half mile of the subject property. The proposed commercial excavation will not create adverse impacts additional to those already anticipated in agricultural areas and the existing excavation activities. In addition, the proposed reclamation plan will be submitted and approved as part of a commercial excavation permit which must be consistent with the County's Article XXIII. Earthmoving.

In addition, the proposed commercial excavation will replace current agricultural activities on the 536.22 acres. The proposed commercial excavation activities will be predominantly below ground level and may not create any short-term issues. Longer term, a water body suitable for diverse animal, bird, and other species habitat will be created for improved intermediate to longer term visual pleasure. In addition, the reclaimed lakes will be quiet in the area, providing a reliable and aesthetic water source, and many uses for recreational purposes.

Concurrency Issues:

- Potable Water and Sanitary Sewer: The subject site is located in the Rural Service Area, and no water and sanitary sewer services are available. The proposed excavation will be served by a well and septic system.
- Student Generation: The proposed changes will not increase or decrease residential development rights for the subject property. Therefore, no student generation is expected to be changed as a result of the proposed land use change and rezoning.

- **Traffic:** The County's Public Works Department Engineers reviewed the applicant's Traffic Impact Statement (TIS) for Chastain Excavation project, dated February 2023, and prepared by Protean Design Group, Inc. The County Transportation Engineer agreed with the conclusion which states that: *"It has been concluded that the additional trips generated by the proposed excavation will not be significant enough to affect the LOS of SR-31. In addition, both a right and left turn lane are recommended at the proposed excavation's entrance on SR-31."* However, the County Transportation Engineer required the applicant's engineer to update the submitted TIS to include Bermont Road in the Level of Service calculation. On October 19, 2023, the applicant's engineer submitted the revised TIS, the County Transportation Engineer reviewed it and agreed with the conclusion what states that: *"It has been concluded that the additional trips generated by the proposed excavation will not be significant enough to affect the LOS of SR-31 or the LOS of Bermont Road/ CR-74. In addition, both a right turn lane (460 feet) and left turn lane (535 feet) are recommended at the proposed excavation's entrance on SR-31."*

Environmental Impacts:

A "Protected Species Assessment" report, prepared by Alexander Guzman and dated December 2022, shows that: *"Wetland habitats were identified during the pedestrian transect survey. Coordination with the Florida Department of Environmental Protection (FDEP) and the Southwest Florida Water Management District (SWFWMD), relative to on-site wetlands or surface water habitats, will likely be required prior to site development. Each acre of impact, for this typical wetland, will require one acre of wetland enhancement. The on-site wetland is considered a Freshwater Marsh dominated by Carolina plain willow and southern cattail and, if impacted, will require the purchase of mitigation credits. However, the on-site wetland already contains a buffer area with ditching, to avoid any potential impacts to the native vegetation and water table."*

In addition, the proposed changes and an excavation permit application after the Board of County Commissioners (Board) approval of these changes must be consistent with **FLU Policy 2.1.9: Natural Resource Protection during Mining Activities**, which states that *"the County shall require natural resources to be protected during excavation activities. The County shall review activities in wetlands or listed species habitat for compliance with local, State, and Federal regulations and guidelines; regardless of the issuance of a permit by a State or Federal agency, the County reserves the right to deny a permit when such excavation or its associated activities would impact such resources. The County shall also require a reclamation plan for post-excavation use as a condition of permit issuance."*

Furthermore, if the Board approves the proposed large scale plan amendment and its associated rezoning, the applicant or the property owner will have a right to apply for a commercial excavation permit; however, all proposed commercial excavations must be consistent with **ENV Objective 2.5: Excavation Activities**, which states that *"to minimize the detrimental effects of mineral extraction on groundwater, surface water, wildlife and wildlife habitats, surrounding land uses and values, and the health, safety, and welfare of the general public;"* and also **ENV Policy 2.5.1: Review of Excavation Activities**, which states that:

"During its review of proposed excavation activities, the County shall ensure that:

- 1. All mitigation activities proposed by a mining operation are acceptable to Charlotte County prior to the approval of a mining permit.*
- 2. Detrimental effects to groundwater and surface water resources are minimized.*
- 3. Reclamation plans include criteria for beneficial post-operation land use activities. Reclamation plans shall: maximize the reclamation of the resultant waterbodies for fish and wildlife and include the creation and planting of littoral shelves with native plant species to provide wildlife habitat; help improve or maintain water quality; prevent erosion of the shoreline; restore pre-development functions and values, including restoration of similar natural communities; and make the site aesthetically pleasing. The County shall require a bonding mechanism for reclamation expenses in the event of non-compliance by an operator. Reclamation bonds shall be equal to the cost of reclamation.*

4. Minimum buffer zones and setbacks are being observed between extractive and non-extractive land use activities.
5. Cumulative impacts to the built and natural environment are assessed.
6. The hydrological functions of natural flow ways and sloughs are maintained during and after the proposed excavation activities.”

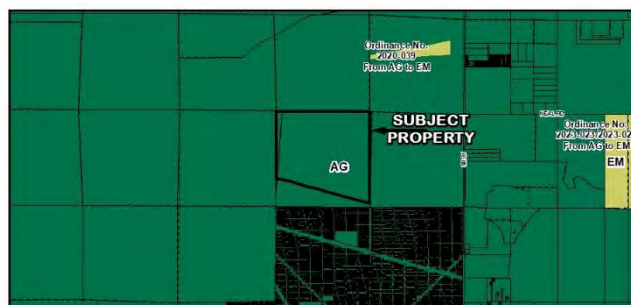
According to the application, a Commercial Excavation Permit through Charlotte County will be applied for and reviewed for compliance with the County’s regulations upon approval of the large scale plan amendment to MRE and its associated rezoning to EM. Furthermore, additional State and Federal Permits will be obtained prior to or concurrent with the County’s approval of the proposed commercial excavation permit.

According to the submitted letter from the Florida Master Site File, Florida Division of Historical Resources, and dated April 7, 2023, there are no archeological or historical resources on the subject properties or within the area where the subject property is located.

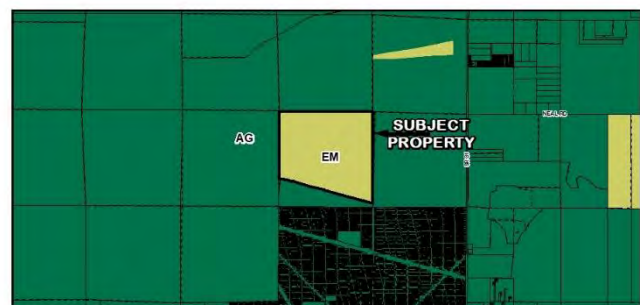
Special Provisions

1. The zoning district consistent with this FLUM designation EM, Charlotte County Code of Laws and Ordinances, as may be amended.

Analysis: The applicant concurrently submitted a rezoning for the subject property from AG to EM and the petition number is Z-23-59-13.



PAL-23-00002 and Z-23-59-13 Existing Zoning Designations



PAL-23-00002 and Z-23-59-13 Proposed Zoning Designations

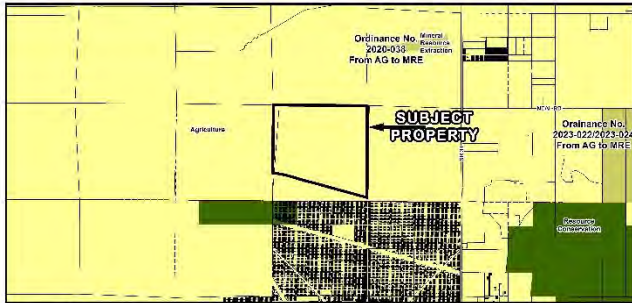
2. Properties that have been approved for commercial excavation operations, formerly known as Group III excavations, by the County prior to the adoption of this designation (12/15/2008) shall have a continuing right to conduct excavation operations in accordance with the approved permit.

3. Modifications to commercial excavations formerly known as Group III excavations approved prior to December 15, 2008 shall be permitted only after the property on which the excavation site is located is designated with a Mineral Extraction Resource (MRE) FLUM designation and an Excavation and Mining (EM) zoning district. The following modifications are exempt from this requirement provided there is no changes to the operation:

- a. A modification to request to transfer the permit to another permit holder.
- b. A request to extend the permit expiration date.

New commercial excavation permit applications may be granted only after the property proposed to be excavated is designated with a Mineral Resource Extraction FLUM designation and zoned Excavation and Mining (EM).

Analysis: The stated purpose of the proposed changes is to allow the applicant to apply for a permit for a commercial excavation, only if the requested large scale plan amendment to MRE and a companion rezoning to EM are approved by the Board of County Commissioners.



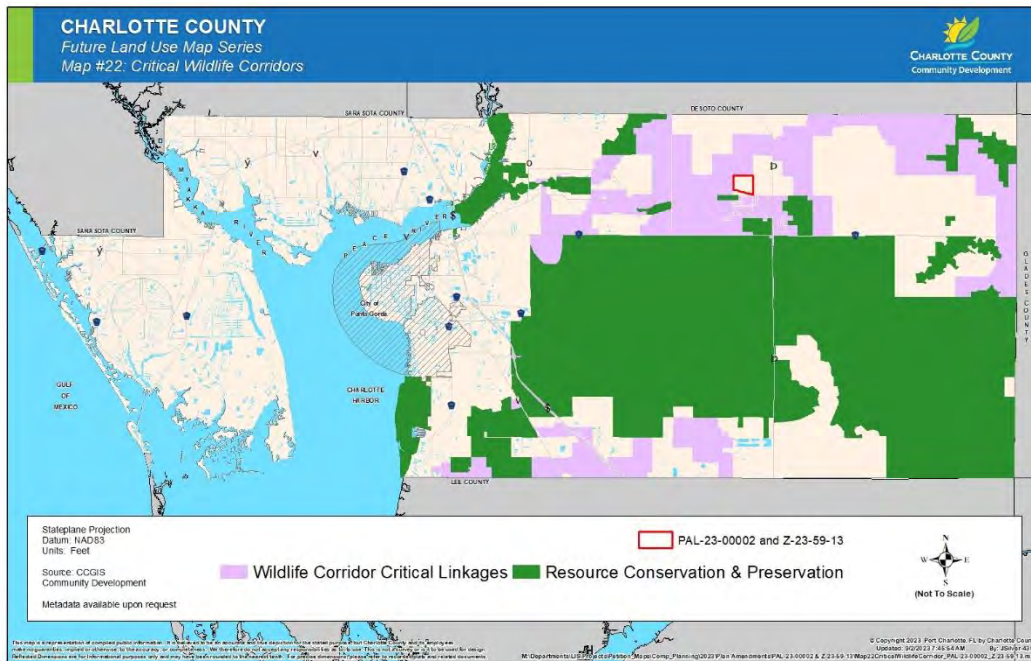
PAL-23-00002 and Z-23-59-13 Existing FLUM Designations



PAL-23-00002 and Z-23-59-13 Proposed FLUM Designations

4. Commercial excavations within Wildlife Corridor Critical Linkages shall provide wildlife corridor connections through the property, similar to a Conservation Subdivision or Rural Community. These corridors shall be placed under conservation easement.

Analysis: The subject property is located immediately outside of the Wildlife Corridor Critical Linkages; therefore, this specific provision does not apply to this requested large scale plan amendment to MRE FLUM category.



Conclusion:

It is staff's professional opinion that the proposed large scale plan amendment and its associated EM rezoning are consistent with various goals, objectives, and policies set forth in the County's Comprehensive Plan and will not create any detrimental impacts on the surrounding properties.

Part 3 – Summary and Recommendation

Staff Summary:

Based upon the analysis and conclusions set forth herein, in staff's professional opinion, the application (Application No. PAL-23-00002) is generally consistent with Charlotte County's Comprehensive Plan, Charlotte County's Code of Laws and Ordinances and other applicable guidelines.

Based upon the analysis and conclusions set forth herein, in staff's professional opinion, the application (Application No. Z-23-59-13) is generally consistent with Charlotte County's Comprehensive Plan, Charlotte County's Code of Laws and Ordinances and other applicable guidelines.

Planning and Zoning Board recommendations on October 9, 2023:

*Approve a motion to forward application PAL-22-00005 to the Board of County Commissioners with a recommendation of **Approval with a 4-1 vote** of transmittal of application PAL-23-00002 to Florida Department of Commerce and other State review agencies for review and comment, based on the findings and analysis in the staff report dated September 23, 2023, Charlotte County's Comprehensive Plan, and the evidence and testimony presented at the public hearing before the Planning and Zoning Board.*

*Approve a motion to forward application Z-23-59-13 to the Board of County Commissioners with a recommendation of **Approval with a 4-1 vote**, based on the findings and analysis in the staff report September 23, 2023, Charlotte County's Comprehensive Plan, and the evidence and testimony presented at the public hearing before the Planning and Zoning Board.*

Part 4: Research and Findings

1. **2050 Framework Map Designation:** Agricultural/Rural (FLUM Map #2 - 2050 Framework)
2. **2030 Service Area Delineation:** Within the Rural Service Area
3. **Existing Land Use on the Site:** Subject property is currently vacant. (See attached Site Image)
4. **Existing Future Land Use and Zoning Designations:**
(see attached Future Land Use Map and Zoning Map.)

FLUM:	Development Standards:
Agriculture (AG)	General Range of Uses Ranching, crop farming including citriculture, silviculture, aquaculture, and row crops, as well as rural residential, rural recreational uses, rural industrial uses and public services and facilities.
	Minimum and Maximum Density <i>Density:</i> Agricultural lands may not exceed a maximum residential density of one dwelling unit per ten acres when developing under an Agriculture zoning or one dwelling unit per five acres when developing in accordance with FLU Policy 3.1.2 and Conservation Subdivision zoning.
	<i>Intensity:</i> The maximum FAR is 0.10.
Zoning:	Development Standards:
Agriculture (AG)	The purpose and intent of this district is to allow agriculture, very-low-density residential, rural recreation, and other rural uses. Agriculture and agricultural activities are frequently associated with noise, odors, dust, aerial chemical spraying, and other activities generally incompatible with urban-style living. However, agriculture forms a vital segment of the economy of the state, and

	<p>provides diversity of economic opportunity and life styles for the county. Therefore, it is the purpose of this district to provide areas for the establishment and/or continuation of agricultural operations with residential uses being permitted only at very low densities and to accommodate those individuals who understand and desire to live in an agricultural environment.</p> <ul style="list-style-type: none"> • Minimum lot area is 10 acres. • Minimum lot width is 250 feet. • Setbacks: <ul style="list-style-type: none"> ○ Front: 40 feet ○ Side: 20 feet ○ Rear: 20 feet ○ Abutting water: 20 feet • Maximum lot coverage of all buildings is 10 percent. • Maximum building height is 38 feet. • Maximum density (units per acre): one unit per 10 acres.
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Table 1

5. Proposed Future Land Use and Zoning Designations:

(see attached Future Land Use Map and Zoning Map.)

FLUM:	Development Standards:
Mineral Resource Extraction (MRE)	<p><u>General Range of Uses</u> Generally, commercial excavations and extraction of non-renewable substances, agricultural uses, and public services and facilities.</p> <p><u>Minimum and Maximum Density</u> <i>Density:</i> The maximum density is equivalent to that of the prior FLUM designation - one dwelling unit per ten acres or one dwelling unit per 40 acres, as applicable. <i>Intensity:</i> The maximum lot coverage by all buildings is ten percent. The maximum height of structures is 60 feet.</p>
Zoning:	Development Standards:
Excavation and Mining (EM)	<p>The purpose and intent of this district is to allow agriculture, very-low density residential, rural recreation, other rural uses, and commercial excavation activities and associated uses.</p> <ul style="list-style-type: none"> • Minimum lot area is 10 acres. • Minimum lot width is 250 feet. • Setbacks: <ul style="list-style-type: none"> ○ Front: 40 feet ○ Side: 20 feet ○ Rear: 20 feet ○ Abutting water: 20 feet • Maximum lot coverage of all buildings is 10 percent. • Maximum building height is 38 feet. • Maximum density (units per acre): one unit per 10 acres.

Table 2

6. Surrounding Land Uses and their Future Land Use and Zoning Designations:

Direction:	Existing Land Use:	FLUM Designation:	Zoning District Designation:
North	Vacant lands designated for agricultural uses	Agriculture (AG)	Agriculture (AG)
East	Vacant lands designated for agricultural uses	Agriculture (AG)	Agriculture (AG)
South	Vacant lands designated for agricultural uses	Resource Conservation (RC)	Agriculture (AG)
West	Vacant lands designated for agricultural uses	Agriculture (AG)	Agriculture (AG)

Table 3

7. Buildout Calculations (square footage or density):

The proposed large scale plan amendment from Agriculture (AG) to Mineral Resource Extraction (MRE); and a rezoning from Agriculture (AG) to Excavation and Mining (EM) and the proposed changes will not increase or decrease residential development rights for the subject property. The maximum residential development rights are one unit per ten acres and the maximum lot coverage by all buildings is ten percent; however, the maximum height of structures is 38 feet under the existing AG zoning and 60 feet under the proposed EM zoning.

8. Is subject property in a Community, Special Planning Area or Overlay District? No

The subject property is not located within any Community Planning Area or Special Plan area.

9. Is subject property located adjacent to existing or proposed Federal, State, or County wildlife management areas, parks, preserves or reserves? No

The subject property is not adjacent to any of the existing or proposed Federal, State, or County wildlife management areas, parks, preserves or reserves. (SPAM Maps, #52, #92 and #93)

10. Is the proposed land use designation consistent with the provisions of the:

a. Charlotte Harbor Aquatic Preserves Management Plan? (SPAM Map #53)

The subject property is located outside the boundary of the Charlotte Harbor Aquatic Preserves.

b. Lemon Bay Aquatic Preserve Management Plan? (SPAM Map #53)

The subject property is located outside the boundary of the Lemon Bay Aquatic Preserve.

11. Does subject property contain archaeological or historic resources? (SPAM Map #3, #44 & #70)

A letter from the Florida Master Site File, Florida Division of Historical Resources, and dated April 7, 2023, states that: *"the Florida Master Site File lists no cultural resources recorded for the subject property located within T40S R25E Section 23 in Charlotte County, Florida.*

- *This search area may contain unrecorded archaeological sites, historical structures or other resources even if previously surveyed for cultural resources.*
- *Because vandalism and looting are common at Florida sites, we ask that you limit the distribution of location information on archaeological sites.*
- *While many of our records document historically significant resources, the documentation of a resource at the Florida Master Site File does not necessarily mean the resource is historically significant.*
- *Federal, state and local laws require formal environmental review for most projects. This search DOES NOT constitute such a review. If your project falls under these laws, you should contact the Compliance and Review Section of the Division of Historical Resources at CompliancePermits@dos.MyFlorida.com"*

12. Are there wetlands on the property?Yes. There is an onsite wetland, containing approximately 6.12 acres.

a. Number of acres of Category I: Possible.

b. Number of acres of Category II: Possible.

13. Natural Resources:

a. **Significant natural resources or critical habitat for endangered species:** Yes.

The submitted "Protected Species Assessment" report, prepared by Alexander Guzman and dated December 2022, and the report states that: *"Search of available online resources revealed that the subject property and proposed project area is located within an 18.6-mile radius of multiple core foraging areas for wood stork (Mycteria americana) nesting colonies. The closest of the documented wood stork colonies is within 11± miles west of the proposed project area. Relative to the subject parcel, the proximity of the offsite nesting colonies will not likely affect the future development of the property."*

Search of available online resources revealed that the proposed project area is not located within the Consultation Area of the Florida Scrub-Jay (Aphelocoma coerulescens). Further review of the Charlotte County and Lee County Scrub Jay Permit Boundaries revealed the subject property is not a Florida Scrub-Jay review area, therefore, will not require additional review or permitting relative to the species. Therefore, the Florida Scrub-jay will not likely affect future development of the subject property.

Search of available online resources revealed that the proposed project area is located within the FWS Crested Caracara (Caracara cheriway) Consultation Area. During the on-site pedestrian transect survey, no evidence of nesting activity or utilization by the crested caracara was observed. The crested caracara is not anticipated to be utilizing the subject property; therefore, the crested caracara will not likely affect future development. However, applicable regulatory agencies may require a species-specific survey prior to development on the subject property.

Search of available online resources revealed the subject property is located within the Florida bonneted bat (Eumops floridanus) FWS Consultation Area. No evidence of utilization by the Florida bonneted bat was observed on-site during the pedestrian transect survey. However, if future development of the subject parcel requires federal authorizations or permitting, consultation with the FWS might be mandatory, requiring project review and approval prior to development.

Search of the Audubon Society Eagle Watch Nest Map website revealed the presence of bald eagle nest CH039, approximately 0.77 ± miles north of the subject parcel. The approximate location of the nest is provided on the attached Protected Species Assessment Map. Nest CH039 was not monitored during the 2021-2022 nesting season, and the nest status was unknown for the 2022 season. Due to the secluded status of the proximal eagles' nests (>660'), relative to the proposed project area, coordination with the FWS will not likely be required prior to development of the subject parcel. If future development of the subject parcel requires federal authorizations, consultation with the FWS will be required and will likely entail additional permitting and protection measures relative to the bald eagle.

The site contains upland habitats which could potentially be utilized by the gopher tortoise (Gopherus polyphemus). No potentially occupied gopher tortoise burrows were observed during the pedestrian transect survey, however, if gopher tortoise (Gopherus polyphemus) burrows are found on-site prior to development, a 100% gopher tortoise survey and relocation permit from the Florida Fish and Wildlife Conservation Commission will be required prior to development of the site if gopher tortoise burrows cannot be avoided during construction.

A review of the FWC listed species occurrence database (July 2020) indicates that some state or federally listed species occur on-site or adjacent to the subject property. Protected species or evidence of protected species utilization which would require permits from the FWC or FWS were directly observed on-site during December 8, 2022 pedestrian transect survey.

Wetland habitats were identified during the pedestrian transect survey. Coordination with the Florida Department of Environmental Protection (FDEP) and the Southwest Florida Water Management District (SWFWMD), relative to on-site wetlands or surface water habitats, will likely be required prior to site development. Each acre of impact, for this typical wetland, will require one acre of wetland enhancement. The on-site wetland is considered a Freshwater Marsh dominated by Carolina plain willow and southern cattail and, if impacted, will require the purchase of mitigation credits. However, the on-site wetland already contains a buffer area with ditching, to avoid any potential impacts to the native vegetation and water table."

- b. Possible impacts to groundwater, surface water, wetlands or other significant natural resources:
None have been identified.
- c. Is subject property in the **Watershed Overlay District?** (FLUM Map #4)No
- d. Is subject property in the **Surface Water Protection Overlay District?** (FLUM Map #5).....No
- e. Is subject property in the **Prime Aquifer Recharge Area?** (FLUM Map #6)No
- f. Is subject property in a **Wellhead Protection Area?** (FLUM Map #7)No

14. Coastal Planning:

- a. Is the subject site within the **Coastal Planning Area?** (FLUM Map #13) No
The subject Property is located outside of the Coastal Planning Area.
- b. Could the proposed changes impact beach accessibility? No
- c. Could the proposed change affect other waterfront access? No
- d. Flood Zone: The entire site is located in in Flood Zone "X". Flood Zone "X" is an area that is determined to be outside the 0.2% annual chance floodplain.
- e. Storm Surge Evacuation Zone: The site is located within Evacuation Zone "N".
- f. Is the subject site within the Coastal High Hazard Area? (FLUM Map #14) No
- g. Could the proposed changes impact evacuation times? No

15. Facilities and Services:

- a. Nearest Park: **South County Regional Park** (SPAM Map #92)
Address: 670 Cooper Street, Punta Gorda
Distance: approximately 20.8 miles to the southwest of subject property
- b. Nearest Police Station:..... **District 3 Charlotte County Sheriff's Office** (SPAM Map #42)
Address: 7474 Utilities Road, Punta Gorda
Distance: approximately 18.8 miles to the northwest of subject property
- c. Nearest Fire/EMS Station: **Charlotte County Fire Station No. 5** (SPAM Map #38)
Address: 26287 Notre Dame Boulevard, Punta Gorda
Response Time:..... approximate response time is 15 minutes or greater (SPAM Map #39)
- d. Nearest Library:..... **Punta Gorda Public Library** (SPAM Map #91)
Address: 424 West Henry Street, Punta Gorda
Distance: approximately 21.8 miles to the southwest of subject property
- e. Nearest Hospital: **ShorePoint Health Punta Gorda** (SPAM Map #41)

- Address: 809 East Marion Avenue, Punta Gorda
Distance: approximately 19.7 miles to the southwest of subject property
- f. Nearest Emergency Shelter: **South County Regional Park** (SPAM Map #38)
Address: 27050 Fairway Drive, Punta Gorda
Distance: approximately 17.7 miles to the southwest of subject property
- g. Public School Attendance Boundary:
1. Elementary School:..... **East Elementary School** (SFAM Map #1)
Address: 1230 Narranja Street, Punta Gorda
Distance: approximately 20.9 miles to the southwest of subject property
 2. Middle School:..... **Punta Gorda Middle School** (SFAM Map #2)
Address: 825 Carmalita Street, Punta Gorda
Distance: approximately 20.7 miles to the southwest of subject property
 3. High School:..... **Charlotte High School** (SFAM Map #3)
Address: 1250 Cooper Street, Punta Gorda
Distance: approximately 20.9 miles to the southwest of subject property

16. Concurrency:

- a. **Roads Level of Service:** The County's Public Works Department Engineers reviewed the applicant's Traffic Impact Statement for Chastain Excavation project, dated and signed October 19, 2023, and prepared by Protean Design Group, Inc. The County Transportation Engineer agreed with the conclusion which states that: *"It has been concluded that the additional trips generated by the proposed excavation will not be significant enough to affect the LOS of SR-31 or the LOS of Bermont Road/ CR-74. In addition, both a right turn lane (460 feet) and left turn lane (535 feet) are recommended at the proposed excavation's entrance on SR-31."* However, the County Transportation Engineer has required the applicant's engineer to update the submitted TIS to include Bermont Road in the Level of Service calculation.
- b. **Potable Water Level of Service:**
1. *Provider's Name:* **N/A** (SPAM Map #83)
 2. *Analysis:* The subject site is located in the Rural Service Area, and no water and sanitary sewer services are available. The proposed commercial excavation will be served by a well and septic system.
- c. **Sanitary Sewage Level of Service:**
1. *Provider's Name:* **N/A** (SPAM Map #86)
 2. *Analysis:* The subject site is located in the Rural Service Area, and no water and sanitary sewer services are available. The proposed commercial excavation will be served by a well and septic system.
- d. **Park and Recreation Level of Service:**
1. *Level of Service:* Adopted Level of Service is 16 Park, Recreation & Open Space points (16 PROS points) per 1,000 population.
 2. *Analysis:*..... A 2009 analysis shows that the County currently has 17.2 PROS points per 1,000 population.

e. **Schools:**.....The proposed changes will not increase or decrease residential development rights for the subject property. Therefore, no student generation is expected to be changed as a result of the proposed land use change and rezoning.

f. **Solid Waste:**

1. **Refuse Collector:**Waste Management Inc. of Florida or another provider
2. **Solid Waste Provider:**Public Works Dept. - Municipal Solid Waste Management
3. **Level of Service:** Zemel Road landfill currently has capacity to dispose of 4.6 million cubic yards of waste. The landfill has a projected remaining lifespan to the year 2027. An estimated 170 acres for future disposal cells will provide disposal capacity beyond the year 2050.
 - Solid Waste (Landfill) 5.0 pounds per day per equivalent fulltime resident
 - Solid Waste (Recycle) 2.2 pounds per day per equivalent fulltime resident

g. **Drainage: Level of Service:**

New arterials: flood free in the 100-year rainfall event.

New and improved collectors: not less than one lane of traffic in each direction above the design high water elevation from a 25-year, 24-hour rainfall.

New local residential streets: designed and constructed with the pavement centerline at or above the design high water elevation resulting from a 5-year, 24-hour rainfall.

Storm-water management facilities: in all new subdivisions manage a 25-year, 24-hour rainfall.

New parking facilities: maximum temporary detention depth of nine inches (9") resulting from a 5-year, 24-hour rainfall.

New development on existing platted lots (except single-family, duplex, and triplex dwellings): on-site storm-water management for a 25-year, 24-hour rainfall.

Analysis: The SW Florida Water Management District and the Community Development Department review storm-water management plans on a project specific basis.

17. Capital Improvements Program:

Are any updates to the CIP required because of this petition?..... No

18. Intergovernmental Coordination:

Does this amendment require comments from, or coordination with, adjacent governments or other governmental agencies?..... No

This application does not require comments from any other government or agency; however, the Community Development Department will email the staff report of this project to the City of Punta Gorda.

19. Has a public hearing been held on this property within the last year?..... No

20. 2050 Comprehensive Plan: Goals, Objectives, and Policies that may be relevant to the proposed amendment:

Various goals, policies and policies are related to the proposed changes.

Part 5 – Approval Criteria

21. Standards for Rezoning Approval: For the rezoning of land, the final action of the Board shall be made after giving due consideration to the following criteria:

a. Would the proposed change be consistent with the Comprehensive Plan?

Finding: The proposed Excavation and Mining (EM) zoning district is required by and consistent with the proposed Mineral Resource Extraction (MRE) Future Land Use Map (FLUM) designation. The proposed large scale plan amendment and its associated EM rezoning are consistent with “Requirements for Plan Amendment” and “Special Provisions” set forth in the MRE FLUM classification. The proposed changes are also consistent with various goals, objectives, and policies set forth in the County’s Comprehensive Plan, specifically, ***FLU Policy 2.1.9: Natural Resource Protection during Mining Activities, ENV Policy 1.4.9: Watershed Overlay District (WOD), ENV Objective 2.5: Excavation Activities, ENV Policy 2.5.1: Review of Excavation Activities, and ENV Policy 2.5.2: Commercial Excavations.***

b. The existing land use pattern in adjacent areas:

Finding: The property located to the north, west and east of the site is mostly utilized for grazing land. There are substandard platted lots located to the south of the subject property. There is an existing active commercial excavation owned by Highlands County, located across SR 31 and to the east of the subject site. There are also no homes within ½ mile of the subject property, and one mobile home located to the southeast of the subject site and beyond the one-mile distance.

c. The capacity of public facilities and services, including but not limited to schools, roads, recreational facilities, wastewater treatment, water supply, and storm-water drainage facilities:

Finding: The proposed large scale plan amendment to MRE and rezoning to EM will not increase or decrease residential development rights for the subject property. Therefore, no student generation is expected to be changed as a result of the proposed land use change and rezoning.

In addition, the County’s Public Works Department Engineers reviewed the applicant’s Traffic Impact Statement (TIS) for Chastain Excavation project, dated October 2023, and prepared by Protean Design Group, Inc. The County Transportation Engineer agreed with the conclusion which states that: *“It has been concluded that the additional trips generated by the proposed excavation will not be significant enough to affect the LOS of SR-31 or the LOS of Bermont Road/CR-74. In addition, both a right turn lane (460 feet) and left turn lane (535 feet) are recommended at the proposed excavation’s entrance on SR-31.”* However, the County Transportation Engineer has required the applicant’s engineer to update the submitted TIS to include Bermont Road in the Level of Service calculation.”

Furthermore, the subject site is located in the Rural Service Area, and no water and sanitary sewer services are available. The proposed excavation will be served by a well and septic system.

Therefore, the proposed changes should not create any concurrency issues.

d. Would the proposed change adversely influence living conditions or property values in adjacent areas?

Finding: Based on the submitted memorandum which is part of the application and the County’s Geographic Information System, there are no homes located within one-half mile of the subject property. The proposed commercial excavation will not create adverse impacts

additional to those already anticipated in agricultural areas and the existing excavation activities. According to the application, erosion and emission control measures, as well as the proposed reclamation plans will be submitted and approved as part of a commercial excavation permit be consistent with the County's Article XXIII. Earthmoving.

All the surrounding lands are zoned AG with an Agriculture FLUM classification except for property located to the south that is designated as Resource Conservation (RC) with an AG zoning; these uses will generate noise, dust, and odors, which excavations will typically also generate. In addition, an existing commercial excavation is located to the west and southwest of the subject property. The proposed commercial excavation will not create adverse impacts additional to those already anticipated in agricultural areas and the existing excavation activities. Therefore, the proposed change should not adversely influence living conditions or property values in adjacent areas.

e. Would the proposed change affect public safety?

Finding: According to the submitted "Traffic Impact Statement for Kye Bishop Excavation" report, dated October 2023 and prepared by Protean Design Group, Inc. and the County Transportation Engineer and Projects Manager agreed that: *"It has been concluded that the additional trips generated by the proposed excavation will not be significant enough to affect the LOS of SR-31 or the LOS of Bermont Road/ CR-74. In addition, both a right turn lane (460 feet) and left turn lane (535 feet) are recommended at the proposed excavation's entrance on SR-31."* Therefore, public safety should not be affected by the proposed changes.

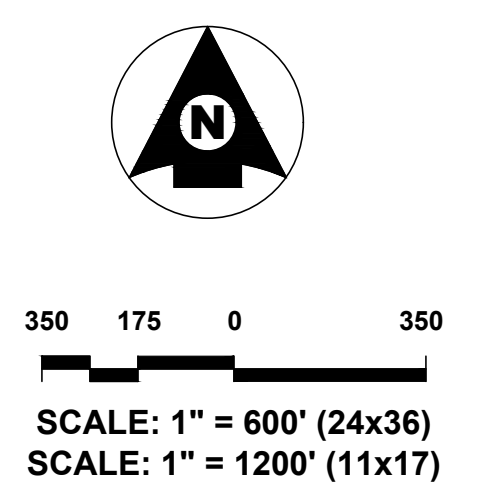
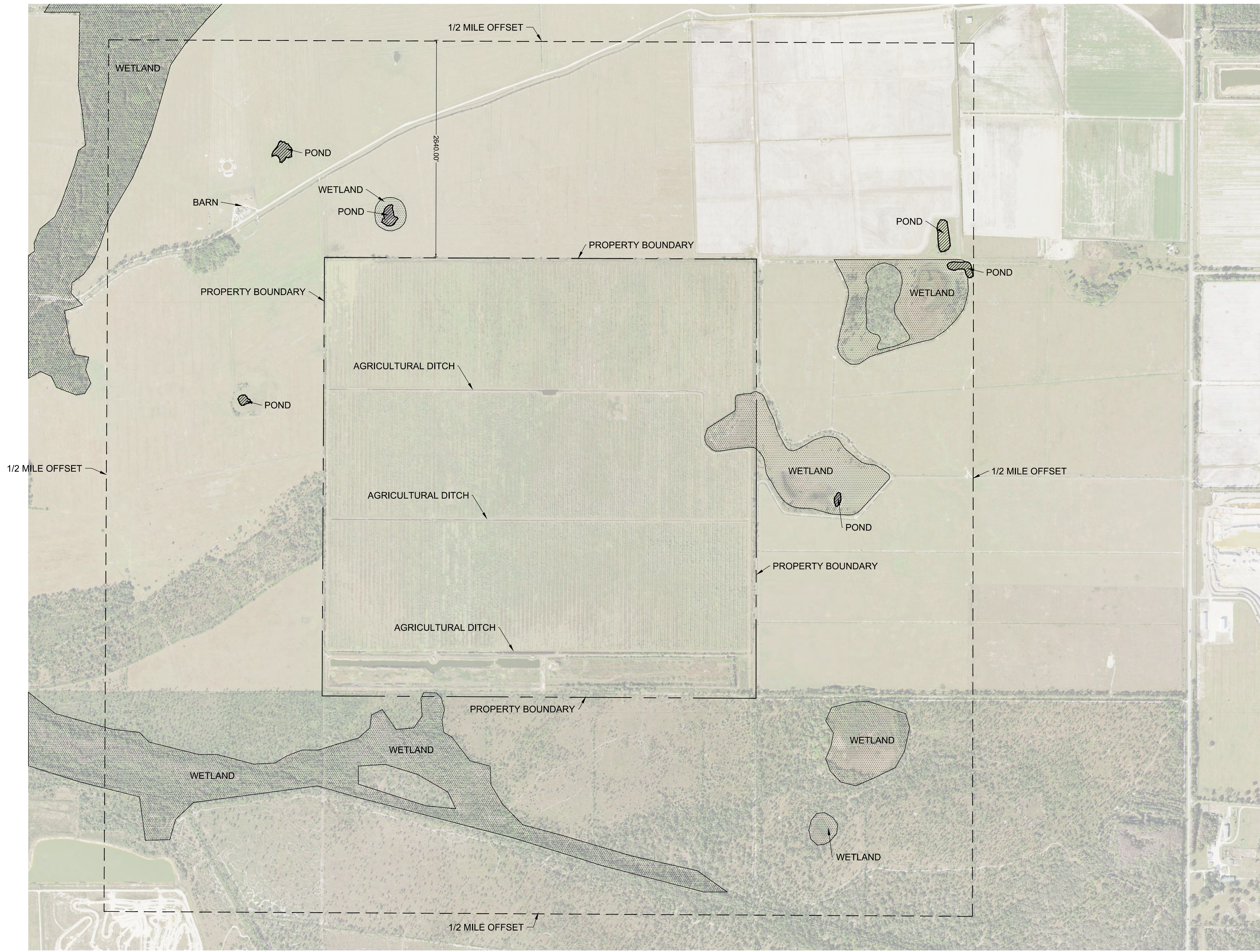
Attachment 1
Chastain 640 Excavation
500 Foot Features

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 SED Southwest Engineering & Design	25450 Airport Road, Suite B Punta Gorda, Florida 33950 Tel. (941) 637-9655 Fax (941) 637-1149 www.sedfi.com Certificate of Authorization No. 26551				<table border="1"><tr><td>Project No.:</td><td>22-0593</td></tr><tr><td>Project Manager:</td><td>G W B</td></tr><tr><td>Project Engineer:</td><td>G W B</td></tr><tr><td>Project Designer:</td><td>-</td></tr><tr><td>Checked By:</td><td>-</td></tr><tr><td>Approved By:</td><td>G W B</td></tr></table>		Project No.:	22-0593	Project Manager:	G W B	Project Engineer:	G W B	Project Designer:	-	Checked By:	-	Approved By:	G W B	CHASTAIN 640 EXCAVATION 500 FOOT FEATURES SECTIONS 23, TOWNSHIP 40 SOUTH, RANGE 25 EAST FLORIDA		<table border="1"><tr><td>State of Florida, Professional Engineer License No. 62474 This item has been digitally signed and sealed by: on the date adjacent to the seal. Printed copies of this document are not considered signed and sealed and the signature must be verified on any electronic copies.</td><td>DATE: MAR, 2023</td><td>SCALE: AS NOTED</td></tr><tr><td colspan="2">PROJECT No.: 22-0593</td><td>SHEET: 6</td></tr></table>		State of Florida, Professional Engineer License No. 62474 This item has been digitally signed and sealed by: on the date adjacent to the seal. Printed copies of this document are not considered signed and sealed and the signature must be verified on any electronic copies.	DATE: MAR, 2023	SCALE: AS NOTED	PROJECT No.: 22-0593		SHEET: 6
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Attachment 2
Chastain 640 Excavation
½ Mile Features



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Project Engineer:	G W B
Project Designer:	-
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PUNTA GORDA

CHASTAIN 640 EXCAVATION 1/2 MILE FEATURES

SECTIONS 23, TOWNSHIP 40 SOUTH, RANGE 25 EAST

FLORIDA

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Attachment 3

Chastain 640 Excavation

Overall Excavation Plan

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NOTE:

HYDRAULIC BARRIER BERMS TO
BE COMPACTED IN 6 INCH LIFTS
TO XXXXXXXXXXXXXXXXXXXX

AREA SUMMARY:

TOTAL LAND AREA.....XXXXX AC
PROJECT AREA.....XXXXX AC
TOTAL FINISHED RESERVOIR.....XXXXX AC



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Project Engineer: G W B
Project Designer: -
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Approved By: G W B

PUNTA GORDA

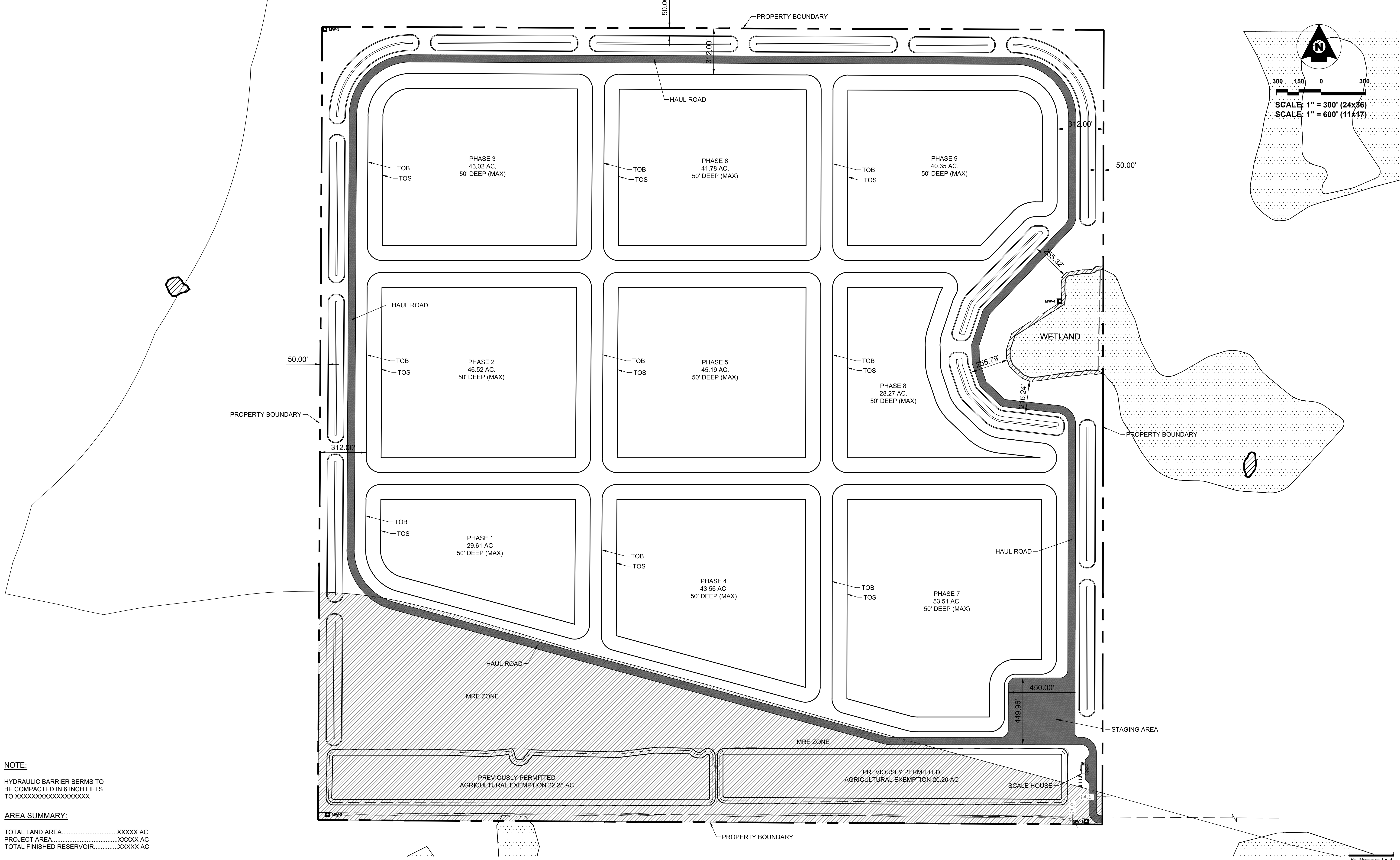
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SECTIONS 23, TOWNSHIP 40 SOUTH, RANGE 25 EAST

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Attachment 4

Chastain 640 Excavation

Post Reclamation Plan

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TO XXXXXXXXXXXXXXXXXX

AREA SUMMARY:

TOTAL LAND AREA.....XXXXX AC
PROJECT AREA.....XXXXX AC
TOTAL FINISHED RESERVOIR.....XXXXX AC



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Project Engineer: G W B
Project Designer: -
Checked By: -
Approved By: G W B

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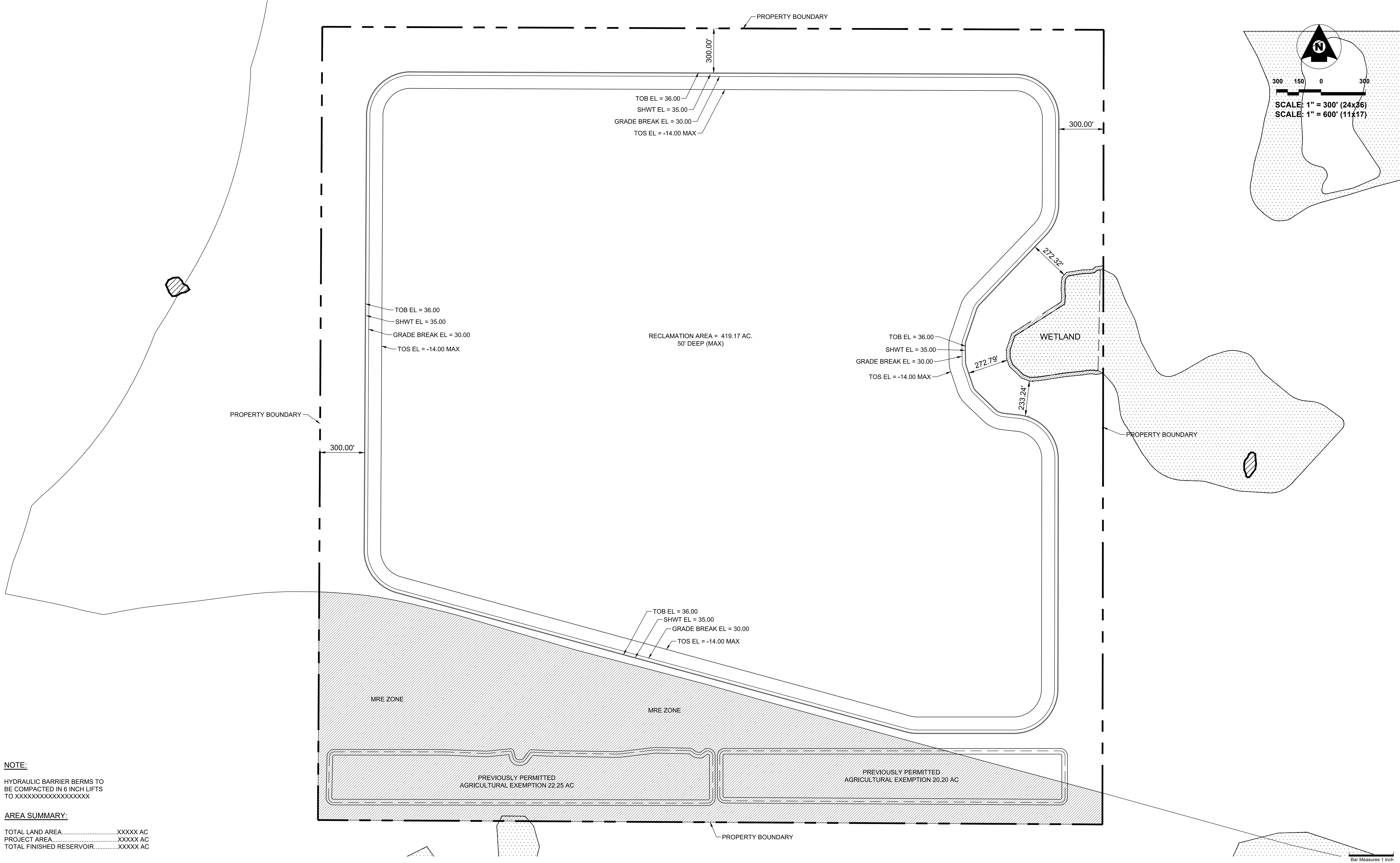
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SECTIONS 23, TOWNSHIP 40 SOUTH, RANGE 25 EAST

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PROJECT No.:	22-0593		
SHEET:	5		





Qualifications of Jie Shao

Position: Principal Planner

Years with Charlotte County: 19

Position Summary & Experience: I have worked as a Planner for Charlotte County Community Development Department for over 18 years. My duties include reviewing and making recommendations on plan amendments, zoning map changes and text amendments to the County's Comprehensive Plan as well as the Land Development Regulations to the Planning and Zoning Board and the Board of County Commissioners.

Education:

- September 1997 to December 2001
University of Cincinnati; Cincinnati, Ohio; Obtained a M.S. degree in Community Planning
- September 1986 to July 1990
Chongqing University China; Obtained a B.S. degree in Architecture

Professional Associations and Certifications:

- AICP, American Association of Certified Planners since 2017
- American Planning Association (APA), Member since 2004

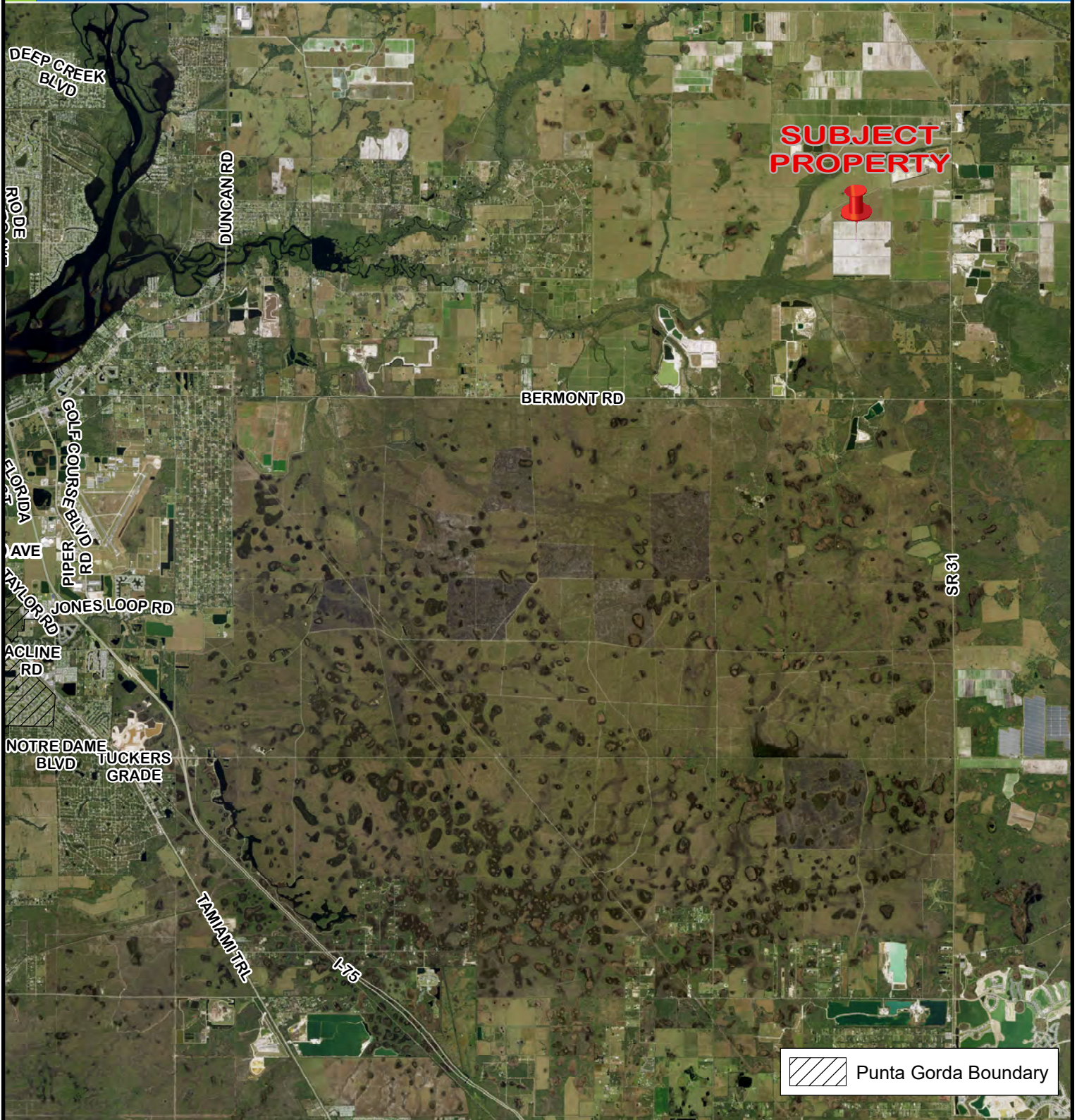
Related Past Experience:

- Planner, Architectural Graphics Designer, University Instructor in Architecture, Suzhou Planning Bureau/Institute of Urban Construction & Environmental Protection (1990-1994)

Exhibit 1

CHARLOTTE COUNTY

Location Map for PAL-23-00002 and Z-23-59-13



23/40/25 East County



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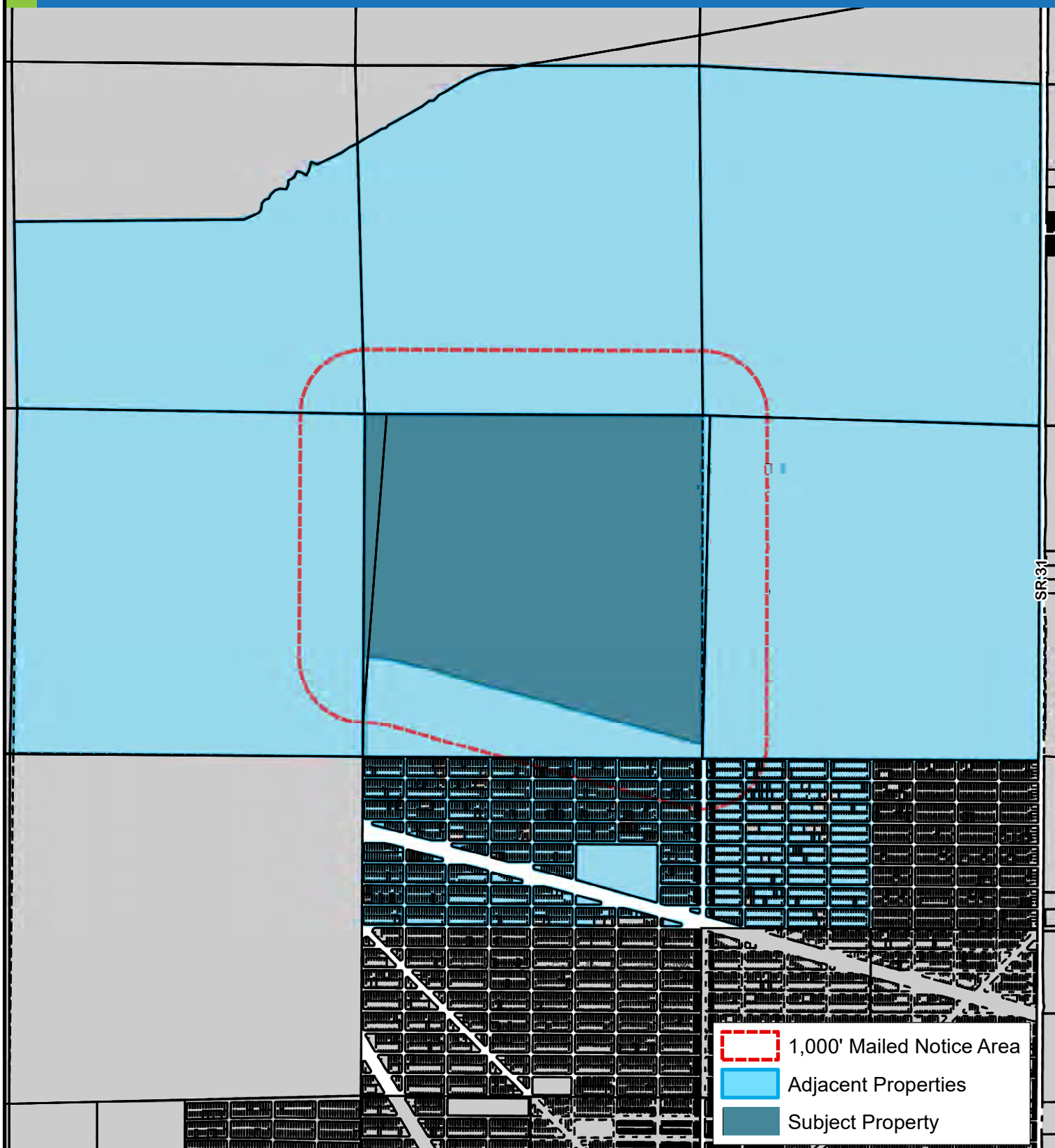
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CHARLOTTE COUNTY

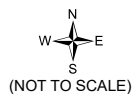
1,000' Foot Mailed Notice of PAL-23-00002 and Z-23-59-13



CHARLOTTE COUNTY
Community Development



23/40/25 East County



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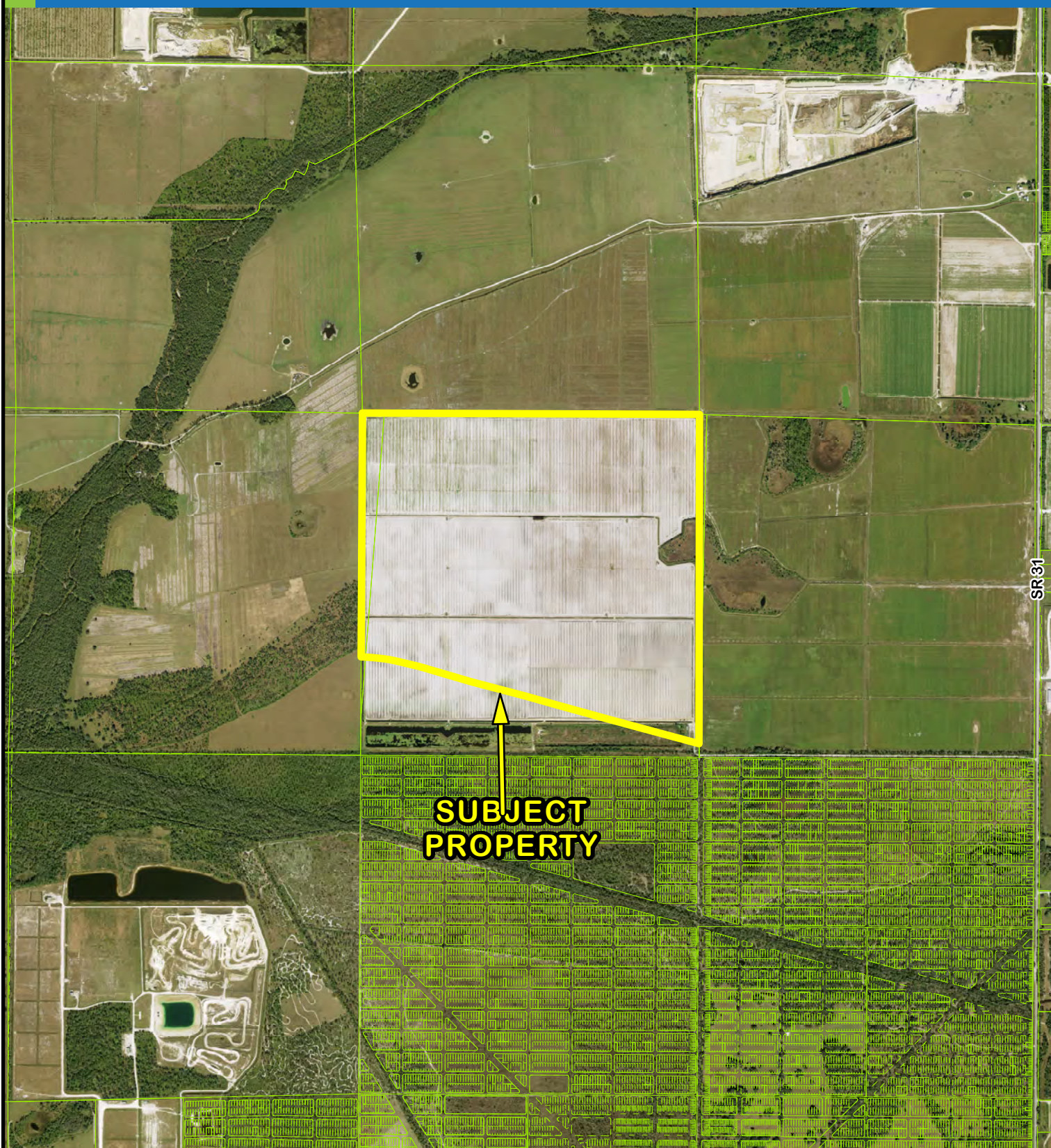
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CHARLOTTE COUNTY

Area Image for PAL-23-00002 and Z-23-59-13



CHARLOTTE COUNTY
Community Development



23/40/25 East County



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CHARLOTTE COUNTY

Framework for PAL-23-00002 and Z-23-59-13



CHARLOTTE COUNTY
Community Development

Agricultural/Rural

**SUBJECT
PROPERTY**

SR 31

23/40/25 East County



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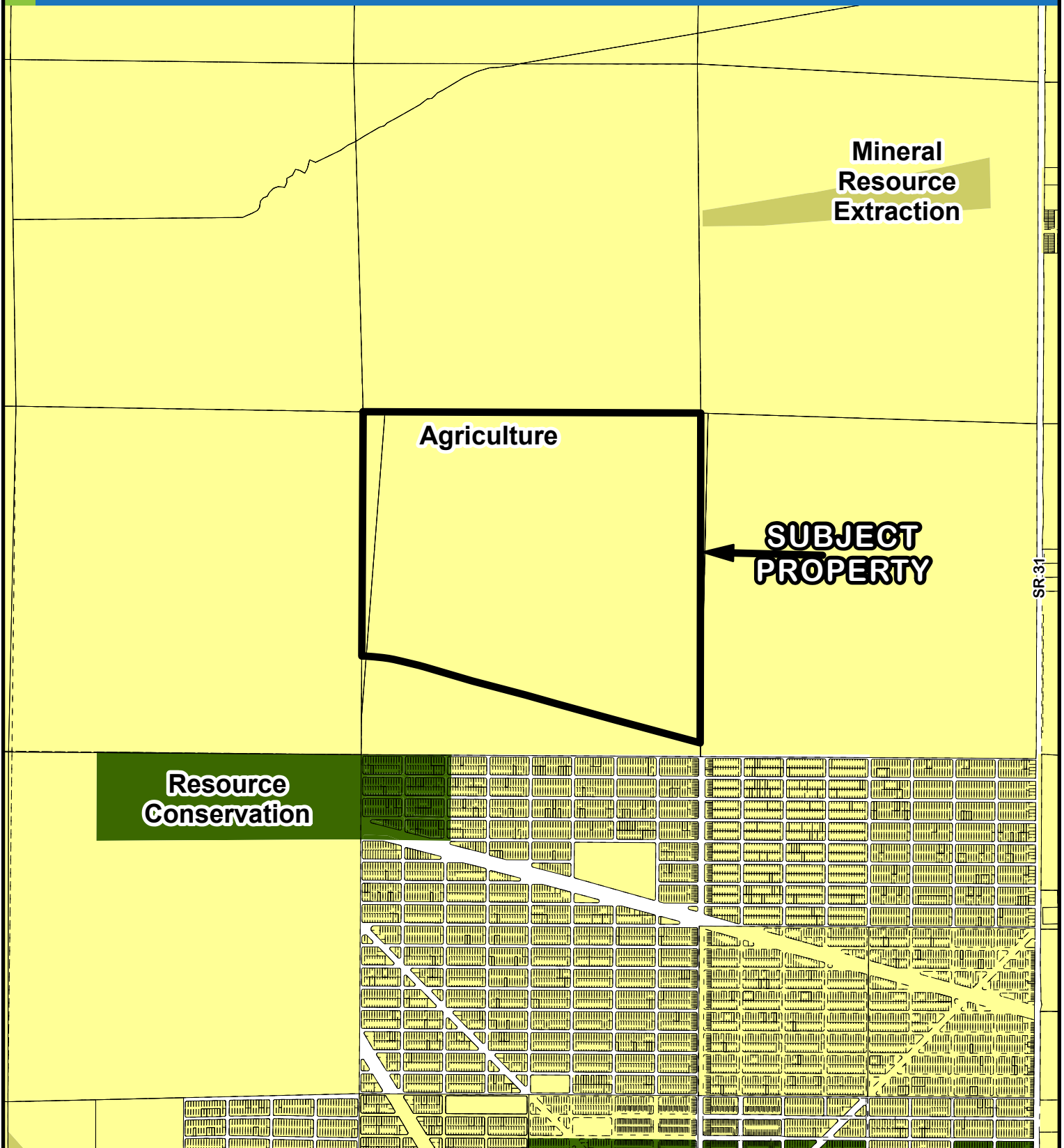
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CHARLOTTE COUNTY

FLUM Designations for PAL-23-00002 and Z-23-59-13



CHARLOTTE COUNTY
Community Development



23/40/25 East County



(NOT TO SCALE)

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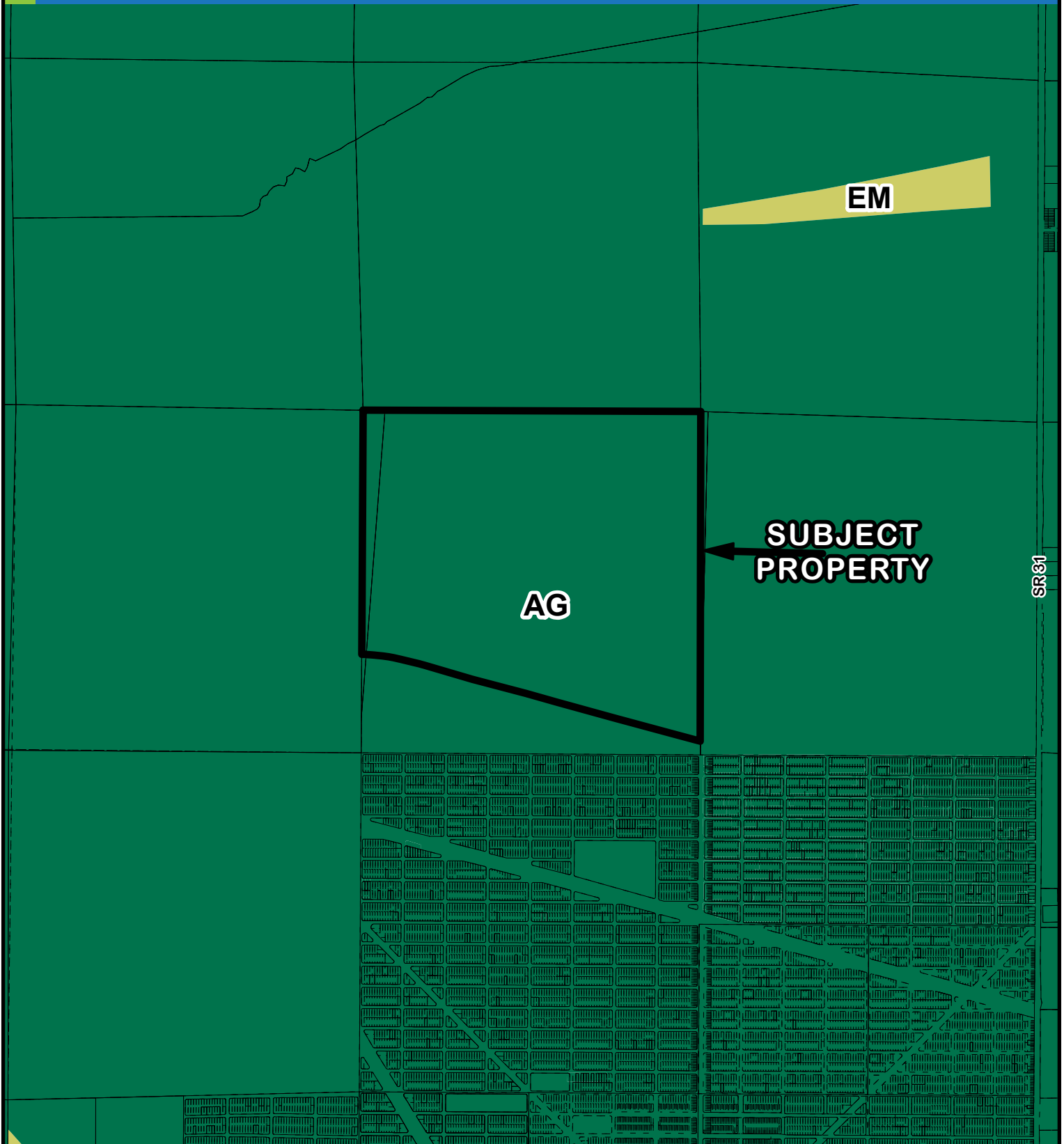
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CHARLOTTE COUNTY

Zoning Designations for PAL-23-00002 and Z-23-59-13



CHARLOTTE COUNTY
Community Development



23/40/25 East County



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