



AGENDA REPORT
August 20, 2019

Approval RE: Amended & Restated Development Order for Viera DRI

SUBJECT:

Approval RE: Amended & Restated Development Order for the Viera Development of Regional Impact

FISCAL IMPACT:

There is unlikely to be any fiscal impact associated with approval of this item.

DEPT/OFFICE:

Planning and Development

REQUESTED ACTION:

The Board of County Commissioners is requested to consider approval of an Amended and Restated Development Order for the Viera Development of Regional Impact and if approved, authorize the Chair to execute the development order on behalf of the County.

SUMMARY EXPLANATION and BACKGROUND:

The Viera Company has applied for an amendment to their development order. The proposed amendment would revise the provisions of Condition 4 to allow unlimited land use exchanges between non-residential land uses with no increase in residential units and no net increase to the peak hour directional trip ends without notifying the County. In addition the amendment updates the Phase, Build-out, and Deadline dates to be consistent with the most recently authorized legislative extensions; and corrects a mathematical scrivener's error in Exhibit 4.

The LPA (Local Planning Agency) will hear the matter at their August 19, 2019, meeting and staff will update the Board with their recommendation at the August 20, 2019, meeting.

CLERK TO THE BOARD INSTRUCTIONS:

Execute the Amended and Restated Development Order on behalf of the County and return it to the Applicant for recording.

ATTACHMENTS:

- | Description |
|---|
| ▫ Cover Letter from Darena D. Marvin, AICP |
| ▫ 081619_Proposed Development Order |
| ▫ Proposed Revision to Condition 4 |
| ▫ Rev. Exhibit 4_Master Development Program w/ accepted changes |

REVIEWERS:

Department	Reviewer
Planning and Development	Calkins, Tad
ACM Development	Denninghoff, John
County Manager	Abbate, Frank



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February 27, 2020

M E M O R A N D U M

TO: Tad Calkins, Planning and Development Director

RE: Item H.4., Resolution Amended and Restated Development Order for Viera Development of Regional Impact (DRI)

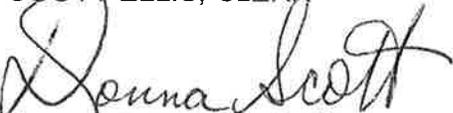
This is to correct the memorandum of August 21, 2019. The Board of County Commissioners, in regular session on August 20, 2019, adopted Resolution No. 19-137, amending Resolution No. 17-205, and restating Development Order for the Viera DRI. Enclosed is the original Resolution.

Upon recordation, return the recorded Resolution to this office for inclusion in the official minutes.

Your continued cooperation is greatly appreciated.

Sincerely yours,

BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK

for 
for Tammy Rowe, Deputy Clerk

/ds

Encl. (1)



BOARD OF COUNTY COMMISSIONERS

Planning & Development Department
2725 Judge Fran Jamieson Way
Building A, Room 114
Viera, Florida 32940

Inter-Office Memo

TO: Deborah Thomas, Administrative Assistant
Clerk to the Board

FROM: Stephen M. Swanke, Program Manager
Planning & Development Department

A handwritten signature in black ink, appearing to read 'SMS', is written over the printed name and title of the sender.

DATE: August 30, 2019

SUBJECT: Return of Original Document

I am returning the enclosed document for inclusion in the Official Minutes. It did not need be recorded.

Enclosure: Resolution 19-134

RESOLUTION NO. 19-137

August 20, 2019

AMENDING RESOLUTION 17-205

A FULLY AMENDED AND RESTATED

DEVELOPMENT ORDER FOR

VIERA DEVELOPMENT OF REGIONAL IMPACT

WHEREAS, the Viera Development of Regional Impact (the “DRI”) is a mixed-use development on approximately 20,646 acres located east and west of Interstate 95 in central Brevard County approved pursuant to the original Application for Development Approval and the Application for Development Approval for Substantial Deviations #1 and #2 on property described in **EXHIBIT 1**, attached and incorporated by reference; and

WHEREAS, Brevard County adopted Resolution 09-272 on December 15, 2009 which created the Amended and Restated Development Order for the Viera DRI (the “Amended and Restated Development Order”) which incorporated all previous changes and amendments to the Viera DRI into a single Development Order that controls the development of the property (the “Development Order”); and

WHEREAS, Brevard County adopted Resolution 10-105 on May 27, 2010 which is an Amendment to the Amended and Restated Development Order for the DRI (the “First Amendment”) to include provisions to settle an administrative appeal; and

WHEREAS, Brevard County adopted Resolution 14-120 on July 22, 2014 which is an Amendment to the Amended and Restated Development Order for the DRI (the “Second Amendment”) to extend the time for buildout of phases, the DRI expiration date and the DRI termination date as well as the date by which transportation mitigation must be complete and to clarify the Wickham Road and Murrell Road mitigation timing and process. Together, the

Amended and Restated DRI, the First Amendment, the Second Amendment and the Third Amendment comprise the current Viera DRI Development Order; and

WHEREAS, Brevard County adopted Resolution 15-110 the Third Amendment to the Amended and Restated Development Order (the “Third Amendment”), as amended which specifically modified only those portions of Resolutions 09-272, as amended by Resolution 10-105 and Resolution 14-120 that are reflected in the amendment; and

WHEREAS, Brevard County adopted Resolution 16-126 on August 23, 2016 as a fully Amended and Restated Development Order; and

WHEREAS, Brevard County adopted Resolution 17-205 on October 10, 2017 as a fully Amended and Restated Development Order. This Development Order supersedes and replaces all prior Development Orders.

I. FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The Developer filed an Application to amend the Development Order with the local government pursuant to Section 380.06(7), Florida Statutes.
2. The DRI (as described in this Amended and Restated Development Order) is consistent with the State Comprehensive Plan.
3. The DRI is consistent with the Brevard County Comprehensive Plan, as amended, and local land development regulations.

II. DEFINITIONS

For purposes of the Amended and Restated Development Order (hereinafter referred to as the “Development Order”), the terms listed below shall be defined as follows.

1. Accessory Dwelling Unit: A residential structure that has separate kitchen, sleeping, and bathroom facilities, detached from, or attached to, the primary residence. An Accessory Dwelling Unit may be used for housing members of the family occupying the primary residence, or their temporary guests, or may be rented as a separate dwelling, if such Accessory Dwelling Unit and/or leasing of same is approved as part of the West Viera PUD process.

2. Agricultural Use: Any use of land for bona fide agricultural purposes as described in Section 193.461(3)(b), Florida Statutes, or for activities of a farm operation as described in Section 823.14(3), Florida Statutes or for agriculture as defined in Section 570.02(1), Florida Statutes; including, but not limited to, temporary housing for agricultural workers not to exceed a total of 50 units.

3. Developer: The Viera Company, a Florida corporation, or its successor or assigns which specifically assumes the obligations hereunder.

4. Original DRI: DRI land approved prior to the Viera Substantial Deviation #2. The Original DRI Area encompasses 9,079 acres and includes lands both east and west of I-95.

5. Habitat Management Plan ("HMP"): Guidelines and practices for maintaining, enhancing and managing listed species habitat and conducting Agricultural Use within the Rural District and the Conservation District which is attached as Exhibit 8 to this DRI Development Order.

6. Master Drainage System: Shall mean and refer to that portion of the Master Stormwater and Excavation Plan (as defined below) for that portion of the Existing DRI west of I-95 and outside the boundaries of the Viera Stewardship District (as defined below).

7. Master Stormwater and Excavation Plan: Shall mean and refer to all land, easements, structures and other facilities and appurtenances to be designed and constructed on an

incremental basis which together constitute and comprise the master surface water management and drainage system for all portions of the DRI west of I-95.

8. Substantial Deviation #2: the name of the development order modification approved on December 10, 2009, which added the 11,567 acre West Viera Expansion Area to the DRI and which authorized an additional development program within the DRI as described in the DRI Master Development Program attached hereto as Exhibit 4.

9. Town Center: A mixed use District within the Existing DRI generally depicted on the Map H. Master Development Plan attached as Exhibit 3.

10. Transportation Impact Study: The analysis submitted as a part of the NOPC application dated April, 2017 and revised August, 2017.

11. Viera Stewardship District: An independent special district established pursuant to and governed by Chapter 2006-360, Laws of Florida and Chapter 189, Florida Statutes, as a local unit of special purpose government having jurisdiction within those lands specifically described in the Notice of Creation and Establishment of the Viera Stewardship District dated August 8, 2006 and recorded in Official Records Book 5683, at page 2029, as modified by the Amended Notice of Creation and Establishment of the Viera Stewardship District date December 14, 2009 and recorded in Official Records Book 6081, at page 1354, all in the Public Records of Brevard County, Florida, and as from time to time further modified in accordance with Chapter 189, Florida Statutes; including, but not limited to, the West Viera Expansion Area. The Viera Stewardship District has specific powers, responsibilities and duties with respect to providing community infrastructure and ensuring the long-term stewardship of environmental and conservation resources within the District's boundaries as more particularly described in Chapter 2006-360, Laws of Florida, this Development Order and the VWP Habitat Management Plan.

12. Viera Wilderness Park (“VWP”): Lands located within the West Viera Expansion Area designated as “Conservation District” or “Rural District” portions of which provide wetland and listed species mitigation in conjunction with continuing agricultural activities. The VWP is administered by the Viera Stewardship District and the lands and activities therein are managed in accordance with the VWP Habitat Management Plan and applicable environmental permits from time to time issues by regulatory agencies having jurisdiction.

13. Village: A land use area which offers a diverse mix of housing types and centralized commercial/civic nodes, located within the Village District area generally depicted on Map H, the Master Development Plan attached as Exhibit 3.

14. Village Center: A centrally located and required mixed-use component of a Village designed to provide a sufficient mixture of non-residential uses so as to provide for the daily commercial needs of Village residents and residential uses of various densities, intensities, and types. This development form promotes walking between uses and a variety of transportation modes such as bicycles, transit, and automobiles. Allowed uses include residential, retail, office, and civic uses including a park and/or school.

15. Village Sketch Plan: An illustration that demonstrates the specific requirements for development of a Village that further support and implement the baseline standards established as part of the West Viera PUD.

16. West Viera Expansion Area (“WVEA”): The 11,567-acre tract owned by A. Duda and Sons, Inc., The Viera Company or others as same may be transferred in the ordinary course of business, located south and west, immediately adjacent to the Original DRI. The incorporation of these lands and corresponding program into the existing DRI was one of the purposes of Substantial Deviation #2.

III. CONDITIONS

1. The Development Order shall govern the development of lands totaling approximately 20,646 gross acres in Brevard County, as described in Exhibit 1 and Exhibit 2 of the Development Order. Nothing herein is intended to relieve the Developer of any concurrency requirements as set forth in Florida Statutes, Florida Administrative Code or Brevard County Ordinance.

2. The DRI shall be developed in accordance with the information, data, plans and commitments contained in the Viera Development of Regional Impact Application for Development Approval unless otherwise directed by the conditions enumerated below. For purposes of this condition, the Application for Development Approval shall consist of the following items:

- (a) Application for Development Approval of Substantial Deviation #2, dated April 2006.
- (b) Response to First Request for Additional Information for Substantial Deviation #2, dated September 2006.
- (c) Response to Second Request for Additional Information for Substantial Deviation #2, dated April 2007.
- (d) NOPC application dated April, 2017 and revised August, 2017.

3. The WVEA is designed to connect with the Original DRI. The mix and design of land uses is intended to encourage walking, bicycling and to allow residents to meet many of their daily needs on-site without traveling outside of Viera. Four villages, each with a neighborhood mixed-use center and neighborhood parks will provide a variety of housing types. The West Viera PUD may provide gross densities in the Villages ranging from 2 to 30 dwelling units per acre with

a 3.47 unit per acre average. The Rural Development District will provide lower density housing in a conservation subdivision or rural estate setting with a gross density for the overall Rural Development District of 1 dwelling unit per 2.5 acres per the Comprehensive Plan. In accordance with the Staging Plan approved in conjunction with this Development Order, 5,258 acres will transition into the Viera Wilderness Park. The VWP will be adjacent to the 44,000 acre River Lakes Conservation Area and will be managed in accordance with the Habitat Management Plan approved in conjunction with this Development Order. The DRI will consist of the uses shown on Exhibit 4.

The DRI is to be developed as a four phase project as described in Condition 104 herein and Exhibit 4 attached hereto.

4. Notwithstanding the Master Development Program described above and in Exhibit 4, the Developer is allowed to convert one land use for another so long as (1) each such conversion is in accordance with the Transportation Equivalency Matrix, which is based on equivalent peak hour directional trip ends and attached hereto as Exhibit 5, (2) the Developer provides notice to Brevard County, the East Central Florida Regional Planning Council, the City of Rockledge, the School Board of Brevard County, the Florida Department of Transportation and the Department of Economic Opportunity of updated development totals following a conversion and (3) the conversion increases or decreases the total amount of each land use by no more than five percent, unless this Development Order is amended. However, conversions exceeding five percent may be permitted without an amendment to the Development Order under the following conditions: (1) the conversion is in accordance with the Transportation Equivalency Matrix, which is based on equivalent peak hour directional trip ends and attached hereto as Exhibit 5 and results in no net

increase to the peak hour directional trip ends, and (2) the conversion involves a change in non-residential land uses without involving an increase in residential dwelling units (3) the Developer notifies Brevard County, the East Central Florida Regional Planning Council, the City of Rockledge, the School Board of Brevard County, the Florida Department of Transportation and the Department of Economic Opportunity of updated development totals following a conversion. Conversion from one land use to another utilizing the Transportation Equivalency Matrix will be reported on an individual and cumulative basis in the Biennial Report. Any future updates to this resolution shall incorporate any changes due to the use of the matrix.

5. The Applicant may continue to conduct all Agricultural Uses as an interim use as follows:

(a) For those portions of the Property designated as “Community,” “Village,” “Town Center,” “Regional Commerce,” “Rural Development” and “Interchange” on Exhibit 3, the Applicant may continue to conduct all Agricultural Uses, including, but not limited to, not more than 50 units of temporary housing for agricultural workers. Upon the recording of a subdivision plat, the Applicant shall not be entitled to claim an agricultural tax exemption for that portion of the Property legally described on the plat unless such claim is consistent with general law.

(b) For those portions of the Property designated as “Rural Area,” the Applicant may continue to conduct all Agricultural Uses, including, but not limited to, not more than 50 units of temporary housing for agricultural workers. At such time as a portion of the Rural “Area” is

re-designated as Rural "District" in accordance with the provisions of Condition 22, below, the Applicant may continue to conduct all Agricultural Use activities upon such portion consistent with the provisions of the VWP Habitat Management Plan as described in Section II, Paragraph 5, above.

- (c) For those portions of the Property designated as "Conservation Area," the Applicant may continue to conduct all Agricultural Uses, except and excluding the installation or construction of temporary housing for agricultural workers. At such time as a portion of the Conservation "Area" is re-designated as Conservation "District" in accordance with the provisions of Condition 22, below, the Applicant shall cease all Agricultural Uses upon such portion, except those allowed within the Conservation District consistent with the provisions of the VWP Habitat Management Plan as described in Section II, Paragraph 5, above.

6. Upon final payment of all proportionate share contributions for local and regionally significant impacts as provided in this Development Order, the Applicant shall have satisfied the concurrency requirements of the Brevard County Comprehensive Plan and Concurrency Management System (Chapter 62, Article IV, Sections 62-601 through 62-606, Brevard County Land Regulations) in accordance with the provisions of Chapter 380, Florida Statutes and Chapter 163, Florida Statutes and development through buildout of the DRI shall be vested for concurrency.

7. The portion of the DRI within the City of Rockledge is subject to a separate Development Order recorded at OR Book 3525, page 0978, Brevard County Public Records, and

is not subject to the terms and conditions of this Amended and Restated Development Order. **[This portion of the DRI has been built-out]**

PROJECT DESIGN GUIDELINES

8. The DRI shall adhere to and further the design characteristics outlined below:

The DRI shall incorporate elements of “smart growth,” transit oriented design (“TOD”) and new urbanism, including walkability, compact development patterns, quality architecture and urban design and will contain a hierarchy of street systems to discourage urban sprawl, foster connectivity, provide for pedestrian mobility and transit internally and externally to the DRI.

(a) The DRI shall promote diversity and choice through a mixture of housing types and price points, including affordable/work force housing as hereinafter set forth.

(b) The DRI shall utilize a number of sustainable development techniques and promote the reduction of greenhouse gases.

(c) The Developer shall cooperate with the governmental units to encourage the siting of public buildings in prominent places within the Village Centers to reinforce the active mixed use nature of these places.

(d) The DRI shall promote the efficient and effective use of infrastructure.

The DRI shall include the development of four distinct Villages.

(e) Villages shall be designated as a collection of Neighborhoods where a majority of the housing units are within a half mile walking distance to a Village or Neighborhood Center. Villages shall be supported by

internally designated, mixed-use Village Centers (designed specifically to serve the daily needs of Village residents).

- (f) Villages shall include a mix of uses, including residential, commercial, office, public/civic, schools and recreational space that serve the daily needs of residents. A Village shall not be required to include all of the noted land uses and Village or Neighborhood Centers may be tailored to meet the specific needs of the residents based upon the type of development which is planned in the Village.
- (g) Villages shall include a Village Center with sufficient non-residential uses to provide for the daily needs of Village residents, by phase of development, in a form that can be conveniently served by regional bus service.
- (h) Villages shall include a range of housing types that support a broad range of family sizes and incomes.
- (i) Villages shall be based on interconnected streets that are designed to balance the needs of all users, including pedestrians, bicyclists and motor vehicles, and which are built with design speeds that are appropriate. Villages shall include alternatives for pedestrians and bicyclists through the provision of sidewalks, street trees and on-street parking which provide distinct separation between pedestrians and traffic; and provide adequate lighting that is designed for safe walking and signage which has a pedestrian orientation. Within Village Centers, spatially define primary streets and sidewalks by arranging commercial

and multi-family buildings in a regular pattern that are unbroken by parking lots.

- (j) Villages shall provide recreational spaces that meet the recreational needs of the community, reinforce the design of the development by providing a variety of recreational space amenities that serve a range of interests and distribute recreational space amenities throughout the DRI.
- (k) Each Village shall have a system of connected open space which includes elements of public edge throughout the neighborhoods that connect each Village.

FLOODPLAINS

9. Undeveloped portions of the Master Stormwater and Excavation Plan will be designed and constructed based on pre-development and post-development evaluations of FEMA's and SJRWMD's 100-year floodplains such that any modifications to the floodplains are within the limits established by the SJRWMD to insure that there are no adverse impacts to offsite lands or parcels resulting from the design storm event. Brevard County staff shall review and approve the design of such additional portions of the Master Stormwater and Excavation Plan to insure that there shall be no adverse impacts to the upstream and downstream drainage basins under the jurisdiction of Brevard County or municipalities within County. The design of the underdeveloped portions of the Master Stormwater and Excavation Plan will include the evaluation of recent flood stage data as may be available from the SJRWMD and USGS data. Impacts to any riverine or isolated floodplain shall provide compensatory storage in accordance with Chapter 62, Article X, Division 5, Brevard County Code of Ordinances.

10. Additional portions of the Master Stormwater and Excavation Plan will be designed to attenuate post-development peak discharge at or below the pre-development peak rates for the design storm event as required by the applicable SJRWMD and Brevard County criteria such that no adverse impacts to off-site floodplains occur. Impacts to any riverine or isolated floodplain shall provide compensatory storage in accordance with Chapter 62, Article X, Division 5, Brevard County Code of Ordinances. A control regime shall be established to insure that any impoundment for stormwater treatment and/or improved wetland hydroperiod will not be discharged in a non-permitted manner that adversely impacts the downstream watersheds from a water quantity and water quality standpoint. The control regime shall also insure acceptance of current and master-planned upstream flows without adverse impacts. The applicant shall demonstrate the effectiveness of the impoundment to Brevard County by documenting compliance with applicable portions of the County Land Development Code.

11. Proposed impoundments to be developed within the Viera DRI boundaries will detain flood waters on the property such that pre-development rates of discharge are not exceeded in accordance with State and County regulations.

12. For any habitable structure located within a Special Flood Hazard area as identified by FEMA, base flood elevations in the post-developed condition will be established by an additional LOMR (Letter of Map Revision), CLOMR (Conditional Letter of Map Revision), or other floodplain studies as may be required by FEMA at the time of development. All habitable structures shall have their finished floor elevation set at minimum of one foot above the established applicable base flood elevation.

NATURAL AND HISTORICAL RESOURCES

13. Where planted littoral shelves are required by the SJRWMD to be incorporated into the design of the on-site retention/detention areas, these planted littoral shelves shall be inspected at least annually for the establishment of any Category I Invasive Plant Species, as defined by the Florida Exotic Pest Plant Council (FLEPPC). Any planted littoral shelf areas shall be maintained so as to limit the extent of invasive species in accordance with applicable SJRWMD permits.

14. The Brevard County Natural Resources Management Office shall be provided with copies of all permits received by the Developer from federal and state agencies concerning wildlife issues. Brevard County shall provide similar documents it receives to the Developer.

At the time a Sketch Plan for a Village or a preliminary plat for development within the Rural Development or Interchange District is submitted to Brevard County for review and approval, the applicable portion of the WVEA shall be surveyed for listed species using methodologies approved by the FFWCC and USFWS and all necessary permits and approvals obtained from the FFWCC and USFWS, prior to final development approval of each such parcel.

15. RESERVED.

16. A total of 222.3 acres in the VWP have been placed under conservation easement (OR Book 7519 Page 316) consistent with the HMP as a burrowing owl preserve to compensate for and mitigate for all other impacts to burrowing owls throughout the DRI caused by development consistent with this Development Order. Relying on the establishment of the burrowing owl preserve described above as a conservation measure, the FFWCC has issued a Migratory Bird Nest Removal Permit (LSNR-15-00132) authorizing the removal of inactive Florida burrowing owl nest burrows located in the original DRI and the WVEA. Development shall proceed in accordance with the conditions and provisions of such FFWCC permit.

17. Buffer zones to protect caracara nests during construction within the development districts (Rural Development, Village, Community, and Interchange) and specific management actions to enhance caracara habitat within the VWP have been defined and approved by the USFWS in the Biological Opinion (FWS Log No. 4190-2006-F-0749), Programmatic Biological Opinion (FWS Log No. 04EF1000-2012-F-0099), and subsequent Technical Assistance letter (FWS Log No. 04EF1000-2015-TA-0430). A caracara nest survey and monitoring protocol has been established and approved by the USFWS for construction activities within the Viera DRI that are within 1000 feet (305 meters) of a caracara nest. The survey and monitoring protocol will produce data on nest location, nest status, fate of the nest, and the number of young produced.

18. RESERVED.

19. RESERVED.

20. The Developer must create provisions for wildlife connectivity across or under roadways that traverse preserved wetland systems and associated upland buffers within the Community, Village and Interchange Districts. This may include eco-passages that address movement of likely-occurring wildlife, reduced speed limits, signage illustrating the presence of wildlife, and consideration of reduced lighting.

Road and pedestrian crossings of wetlands within the Rural Development District shall be minimized to the maximum extent possible and be designed to allow for passage of wildlife. Crossings shall be located at the narrowest crossing point (unless this creates a safety hazard as determined by the County engineer) or along existing field roads and shall require appropriately sized culverts. Plans for all roadway crossings shall demonstrate that adequate measures have been taken to allow movement of wildlife through the wetland corridors during seasonal high water events. Plans for wildlife crossings within the Rural Development Districts

shall be submitted to SJRWMD for review and approval if appropriate during the final permitting of each phase of the DRI. Upon approval of such Plans, the wildlife crossings shall be incorporated into the final design for review and approval by Brevard County.

21. Owners of land within the DRI conducting development construction activities on such properties, shall notify construction personnel, through posted advisories or other methods, of the potential for artifact discoveries on the site and to report suspected findings to the property owner. The land owner shall notify Brevard County, the Division of Historic Resources (“DHR”) of the Florida Department of State and the Developer in the event of discovery of artifacts of historical or archaeological significance during such construction activities. From the date of notification, construction shall be suspended within a 100 foot radius of the site of discovery for a period of up to 120 days to allow evaluation of the site. The land owner shall provide proper protection of the discovery, to the satisfaction of the DHR.

22. The VWP is intended to provide a regionally significant environmental resource and shall consist of lands designated as “Conservation District” or “Rural District” from within the areas shown as “Conservation Area” and “Rural Area,” respectively, on Map H, attached hereto as Exhibit 3. Lands within the Conservation Area shall be subject to designation as Conservation District as hereafter provided and, in such event, shall become a part of the VWP as conservation and/or preserved lands mitigating impacts to wetlands and/or listed species habitat occurring in connection with development of the corresponding Village as shown in Exhibit 7 attached hereto. Lands within the Rural Area shall be subject to designation as Rural District as hereafter provided and, in such event, shall become part of the VWP as environmental lands managed to maintain and enhance listed species habitat mitigating impacts to habitat occurring in connection with development of the corresponding Village as shown in Exhibit 7. Agricultural Use shall be

permitted on the lands, and any part thereof, within the Conservation and Rural Areas shown on attached Exhibit 6; provided, however, that upon the designation of any portion of such lands as Conservation District or Rural District, then Agricultural Use shall only be permitted on such designated portion to the extent it is consistent with the Habitat Management Plan, applicable environmental permits and the conservation easements, if any, encumbering such portion. A portion of the Conservation Area and/or Rural Area shall be designated as Conservation District and/or Rural District respectively and shall constitute the VWP upon Brevard County approval of the Village Sketch Plan for Village 1 and additional portions of the Conservation and Rural Areas shall be designated as part of the Conservation and Rural Districts and added to the VWP at such times hereafter as Brevard County approves the Village Sketch Plan for Village 2, Village 3 and Village 4 in accordance with the VWP Staging Plan attached hereto as Exhibit 7. That portion of the Rural Area and/or Conservation Area initially designated in connection with Village 1 as Conservation District and/or Rural District for purposes of mitigating the impacts to wetlands and/or listed species habitat attributable to Village 1 is referred to and shown as the “Stage 1 Mitigation Area” on attached Exhibit 7. Such portion shall represent the initial boundary of the Rural District and/or Conservation District and constitute the VWP. That portion of the Conservation and Rural Areas described on attached Exhibit 7 as the “Stage 2 Mitigation Area” shall be designated Conservation District or Rural District, as applicable, and added to the Viera Wilderness Park at such time as Brevard County approves the Village Sketch Plan for Village 2; that portion of the Conservation and Rural Areas described on attached Exhibit 7 as the “Stage 3 Mitigation Area” shall be designated Conservation District or Rural District as applicable, and added to the VWP as such time as Brevard County approves the Village Sketch Plan for Village 3; and that portion of the Conservation and Rural Areas described on attached Exhibit 7 as the

“Stage 4 Mitigation Area” shall be designated Conservation District or Rural District, as applicable, and added to the VWP at such time as Brevard County approves the Village Sketch Plan for Village 4. Each addition to the Conservation District, the Rural District and the VWP in accordance with the VWP Staging Plan shall mitigate the impacts to wetlands and/or listed species habitat attributable to the applicable Village.

23. Upon the issuance of the initial regulatory permit for development within the WVEA which requires the establishment of a conservation easement for the protection and preservation of any wetland area and associated upland buffer within in the VWP, an exhibit will be prepared and included with the HMP that identifies all areas within the VWP encumbered by such conservation easement pursuant to such permit. Such exhibit will be thereafter updated and revised to reflect each conservation easement thereafter established in connection with the issuance of subsequent permits. Such conservation easements will be conveyed to the grantee designated in the applicable permit. If the applicable permit does not designate a grantee, the applicable conservation easement shall be conveyed to an appropriate grantee approved by the permitting agency. The Grantee may include the VSD, a property owners association formed under Chapter 720, Florida Statutes or other entity with the capacity and capability of conserving the lands and resources contained within a prospective conservation easement.

24. All regulatory permits which affect lands within or the management of the VWP shall be attached to the HMP, and reported in the Biennial DRI report. All revised HMP conditions and copies of the corresponding permits giving rise to the revisions shall be provided to the Natural Resources Management Office (NRMO) of the County within sixty (60) days of the issuance of said permit(s). To the extent a regulatory agency permit contains terms and conditions that conflict with provisions of the HMP, the terms and conditions of the regulatory permit are controlling and

the HMP shall be deemed to be amended so as to conform to the terms and conditions of the permits. NRMO may require additional modification to the HMP in connection with or as a result of the issuance of such permits so long as (i) the additional modifications do not conflict with the terms and conditions of such permits relate directly to the modified operational practices/requirements arising from the applicable permits, (ii) NRMO consults with the VSD in determining what additional modifications may be necessary, if any, and whether the proposed additional modifications comply with the goals and principles of the HMP. In the event NRMO determines that additional modifications are necessary due to the issuance of permits affecting the VWP or its management, the VSD and the Developer shall each have standing to object to such additional modifications in whole or in part. If such objections cannot be resolved through consultation with NRMO within thirty (30) days after a written request by the VSD or the Developer for a consultation, then the party or parties requesting such consultation may appeal NRMO's imposition of such additional modifications to the Board of County Commissioners following the established appeal procedures under the Brevard County Code of Ordinances (Sec. 62-506, Appeals general or Sec. 62-507, Appeal Procedure).

25. The foregoing process providing for the automatic modification of the HMP in accordance with the terms and conditions of regulatory permits as such permits are periodically issued shall not require the change, modification or amendment of this Development Order. Additionally, modifications of the HMP by the VSD in the ordinary Course of administering and managing the VWP shall not require the modification, change or amendment of this Development Order through the NOPC process or otherwise, so long as (i) such modifications are consistent with the terms and conditions of all applicable regulatory permits and the goals and objectives of the HMP, (ii) such modifications are made with prior notice to, and in consultation with NRMO.

All such modifications to the HMP from time to time made by the VSD shall be reported in the Biennial Report.

26. The isolated Conservation District located just west of I-95 is composed of 85 acres of forested wetlands and 45 acres of upland buffer containing significant specimen trees and habitat for wildlife and protected species. Developer shall locate a passive park adjacent to a portion of the upland buffer.

27. The 823-acres classified as Rural Development District (“RDD”) shall have an overall gross residential density of 1 unit per 2.5 acres. The RDDs shall include development that incorporates the principles of Conservation Subdivision Design and Low-Impact Development strategies (see Randall Arendt’s “Conservation Design for Subdivisions” as a guide) and shall preserve the rural character of the areas.

28. The southern portion of the area currently classified as Community District (located at the northernmost part of the WVEA) is a large naturally vegetated area containing forested wetlands and uplands. The wetland system supports a bald eagle nest and the uplands support a population of gopher tortoises. This area shall be developed in a manner that will protect the large wetland and associated upland buffers and the protection zone of the bald eagle nest, with the exception of incidental impacts permitted by the appropriate regulatory agencies. [**Completed**]

ENERGY

29. The Developer shall encourage the implementation of “green” building practices and standards within the WVEA which comply with the United States Green Building Council’s Leadership in Energy and Environmental Design (LEED) program, the Florida Green Building Coalition (FGBC) program, the Green Building Initiative’s Green Globes (GBIGG) program, The

U.S. DOE/EPA Energy Star (“Energy Star”) program or other nationally recognized green building program that is approved by the Department of Management Services (DMS).

As a minimum energy conservation standard, however, the CCR’s for all single-family residential development within the WVEA shall require that single-family residences constructed in a manner which does not meet requirements of the LEED, FGBC, GBIGG, Energy Star or other program approved by the DMS, shall meet or exceed the requirements for certification under the Florida Power & Light Company Residential New Construction BuildSmart Program, based on the requirements of such program in effect as of the date of this Development Order.

The Developer shall establish a program in conjunction with its community governance and sales and marketing activities to promote and encourage sustainable development and “green” building practices within the DRI. Such program by the Developer will encourage sustainable development and “green” building practices and standards through education and promotion. The Developer’s program shall include the following:

- (a) Distribution of a “green” building handbook to all homebuilders operating within the DRI,
- (b) DRI Sales Center display promoting sustainable practices and “green” building standards,
- (c) Sustainable and “green” building content as part of the Developer’s web site for the DRI, and
- (d) Cost benefit analysis information distributed to homebuilders, and prospective consumers within the DRI.

The Developer shall include a summary of its sustainability and “green” building programs in each Biennial Report.

PUBLIC FACILITIES

30. Septic Tanks shall be prohibited within the Village, Community and Interchange Districts. Septic Tanks, or other alternative on-site treatment methods as may be approved by FDEP, may be utilized within the Rural Development District and for remote facilities (such as public restrooms, golf course comfort stations, etc.). Septic tanks may also be utilized for ongoing agricultural operations, including agricultural employee housing.

HOUSING

31. The Affordable Housing Analysis prepared for the Viera DRI Substantial Deviation #2 ADA using the approved ECFRPC methodology concluded that affordable housing may be required in future phases of the Viera DRI development. The Developer will target not less than ten percent (10%) of the residential development within Phase 3 to be constructed as either for sale or rental housing product that is attainable by those persons whose incomes fall between eighty percent (80%) and one hundred forty percent (140%) of Brevard County's Average Median Income. Since this commitment exceeds current Brevard County requirements, it will satisfy the requirements for affordable housing through Phase 3. Brevard County's Land Development Code will apply to Phase 4. The Developer will establish and maintain housing data to evaluate implementation of this commitment in the Central Viera and West Viera PUDs in Phases 3 and 4 of the DRI and report same in the Biennial Reports. Notwithstanding the foregoing, the Developer shall consider, when appropriate, implementing one or more of the following programs recommended by the Brevard County Housing and Human Services Department:

- (a) Developing a minimum of 5% of the total developed housing inventory as attainable housing, consistent with the definition of affordable housing in the Brevard County Affordable Housing Ordinance.

- (b) Developing a minimum of 10% of the total developed housing inventory as attainable housing, consistent with the workforce and moderate affordable housing definitions in the Brevard County Affordable Housing Ordinance.
- (c) Proposing additional incentive based development strategies to reduce the cost of attainable housing constructed and maintained at affordable and workforce levels.
- (d) Assisting in short term and long term physical and operational improvements to transit, bicycle and pedestrian transportation systems, within the DRI, to help safely reduce daily travel costs to existing and future residents employed or attending school within the DRI.

32. Accessory Dwelling Units (“ADUs”) are permitted in the DRI, subject to the development standards of the applicable PUD zoning, and may be used as guest quarters or may be leased as dwelling units independent of the single-family dwelling unit to which it is a part if leasing ADUs is approved as part of the West Viera PUD process. ADUs less than 650 square feet within the Rural Development District will not be counted as part of the density calculation for the DRI. ADUs of 650 square feet and under will be counted towards the attainable housing target set forth in this condition and may or may not have separate utility infrastructure and metering. ADUs shall not comprise more than two percent of the total residential units approved for the DRI.

STORMWATER MANAGEMENT

33. Stormwater Management

- (a) The Developer shall ensure that the entity or entities proposed to assume responsibility for the DRI's surface water management system be created with or have defined duties and responsibilities regarding the operation and maintenance of the surface water management system, and sufficient legal authority and power to establish the mandatory collection of fees and/or assessments from all landowners and/or tenants for use in financing the operation, replacement and maintenance of all components of the Project's surface water management system. A special district created pursuant to Chapter 189 or 190, F.S., or a property owners association created pursuant to Chapter 720, F.S., meets these criteria.
- (b) Recreational lakes and stormwater improvements, including, but not limited to, ponds, control structures and underground piping shall be constructed in accordance with the Master Stormwater and Excavation Plan which shall be developed on an incremental basis subject to review and approval by Brevard County as part of the West Viera PUD. The Master Stormwater and Excavation Plan shall include mapping and supporting hydrologic/hydraulic modeling to delineate all proposed modifications to existing surface water management systems. The Developer has previously designed and substantially developed the Master Drainage System. The improvements previously constructed or to be constructed in accordance with the approved permits for the Master Drainage System shall be deemed to constitute the Master

Stormwater and Excavation Plan for the lands subject to the Master Drainage System. The improvements set out in the approved Master Stormwater and Excavation Plan may be constructed in increments, provided that each approved increment of the Master Stormwater and Excavation Plan is self-sufficient and capable of stand-alone operation. All proposed modifications to the approved Master Stormwater and Excavation Plan shall be submitted with adequate data for evaluation and approval by Brevard County.

(c) In conjunction with the implementation of the Master Stormwater and Excavation Plan, applicable portions of the existing stormwater drainage canal system located in the DRI shall be incorporated into and become a part of the approved stormwater improvements for the DRI.

34. (RESERVED)

35. (RESERVED)

36. The Developer shall develop an integrated pesticide/herbicide management plan as a component of any golf course design process, with submittal to Brevard County and the St. Johns River Water Management District for review. The management plan shall sufficiently address the following items:

(a) Pesticide/herbicide/insecticide

(i) storage and handling

(ii) application

(iii) container cleaning

(iv) rinse water, cleaning materials, wastes, unused quantities and container disposal-methods and procedures;

(b) Golf course runoff treatment prior to discharge into off-site components of the DRI's master stormwater treatment system; and

(c) Quality control and assurance procedures.

37. The Developer and all other developers doing work within the WVEA shall comply with FDEP requirements including but not limited to NPDES requirements.

38. The Developer will integrate both source control and treatment train approaches to protecting wetlands and water quality through (1) source control measures, and (2) where hydrologically feasible and consistent with SJRWMD criteria integration of a series of ecologically enhanced stormwater basin style wetlands approved by the SJRWMD into the stormwater management plan.

SJRWMD CONDITIONS

39. RESERVED.

40. RESERVED.

41. RESERVED.

42. Funding shall be provided by the VSD consistent with its Charter to provide for long-term habitat management of the mitigation areas within the VWP.

43. A mitigation plan shall be provided that includes a management plan for the areas proposed for mitigation to offset wetland impacts. The mitigation plan shall include a methodology for retaining the areas in a permitted condition, controlling exotic and nuisance vegetation, and prescribed burning to manage for habitat value.

44. Any surface water management system to be constructed altered, operated maintained, abandoned, or removed within the mitigation area must meet the conditions of

issuance of Chapters 40C-4, 40C-40, 40C-41, and 40C-42, *Florida Administrative Code* (F.A.C.), or the terms conditions, requirements, limitations, and restrictions of Chapter 40C-400, F.A.C.

45. The requirements and details for the concurrent submittal of environmental resource permit and consumptive use permit applications shall be addressed as part of the initial Conceptual ERP application and any subsequent Master Drainage Basin ERP applications submitted concurrently to the District for review.

46. By incorporating appropriate language into the CCRs for residential property within the WVEA, the Developer shall notify any future owners and residents within the WVEA of their proximity to the District's River Lakes Conservation Area and that this area is managed with natural resource land management practices, including prescribed fire. In addition, such CCRs shall contain a provision that notifies property owners that nearby or adjacent public land and the VWP will be managed by natural resource management practices, including prescribed fire and other techniques.

47. If feasible, reclaimed water shall be utilized as a non-potable water source for irrigation, based upon availability and in consultation with Brevard County. Stormwater, surface water and other non-potable water sources shall be utilized for irrigation if use of reclaimed water is determined not to be feasible.

48. A distribution system for nonpotable water (i.e. stormwater, surface water, and reclaimed water) shall be installed and maintained throughout the Village and Interchange Districts concurrent with development for all land uses within the applicable portion of the DRI (residential and nonresidential). Irrigation systems installed in the Village and Interchange Districts shall be designed to accept non-potable water.

49. Any wells no longer in use shall be properly plugged and abandoned in accordance with District rules and regulations. Any existing, active wells may continue to be used only in accordance with the respective District-issued consumptive use permit. Existing wells being used for agricultural purposes are not currently permitted by the District for landscape irrigation, but may be converted subject to the approval of an appropriate consumptive use permit.

50. The developer shall insure that all CCR's for residential property within the WVEA provide that property owners follow best management practices cited by the University of Florida in the Institute of Food and Agricultural Sciences' A Guide to Florida-Friendly Landscaping for landscape installation, irrigation and fertilizer and pesticide applications, specifically addressing:

- (i) Landscape design that minimizes the impacts of fertilizer applications
- (ii) Preferred plant materials
- (iii) Appropriate type of fertilizer to avoid the release of excess nutrients
- (iv) Rate and frequency of fertilizer and pesticide applications
- (v) Watering schedules
- (vi) Design and maintenance of drainage control systems

51. Unless prohibited by the City of Cocoa, multifamily residential units shall use submeters for potable water; all other uses shall be individually metered except ADUs.

52. Builders within the WVEA shall be responsible for installing only water-conserving devices, fixtures, and appliances in all residential and nonresidential buildings and structures.

53. A waterwise approach shall be used throughout the landscaped areas of the WVEA, and it shall include a goal of at least 50% of landscaped vegetation excluding turf areas as drought-

tolerant or native drought-tolerant vegetation varieties. Landscaped area is defined as any pervious area within the proposed development that will be altered due to the development, exclusive of pervious area with wetlands, wetland buffers, vegetative buffers between land uses, stormwater systems, and required preservation areas. Native or drought-tolerant plants include those in the Florida Native Plant Society's list of native landscape plants for Brevard County, which is available at http://www.fnps.org/pages/plants/landscape_plants.php; A Gardner's Guide to Florida's Native Plants (Osorio 2001); the District's Waterwise Florida Landscapes, available at <http://www.sjrwmd.com/waterwiselandscapes>; the University of Florida's Florida Friendly Plant List or other comparable guides.

54. Separate irrigation zones shall be required for all land uses (residential and nonresidential) to avoid irrigation of native or drought-tolerant vegetation when irrigating the turf zone(s).

55. The Developer shall display Florida-friendly waterwise guides and *A Guide to Florida-Friendly Landscaping* in prominent locations in the project's sales offices.

WETLANDS

56. Losses of wetlands as defined by the SJRWMD and the ACOE, shall be mitigated through restoration, enhancement, creation or preservation of wetlands and uplands in accordance with adopted rules and regulations of the SJRWMD and ACOE. The mitigation criteria of the SJRWMD and ACOE, as modified from time to time and as reflected in the SJRWMD and ACOE permits to be obtained shall be used in implementing such mitigation requirements, together with any additional restrictions, conditions and limitations contained in the construction permit(s) issued by the SJRWMD thereafter. On-site wetland mitigation approved by the SJRWMD and the ACOE shall be maintained in accordance with applicable permits. The Viera Stewardship District

is an appropriate grantee under any conservation easement required to be granted under a permit issued by SJRWMD or the ACOE.

57. The on-site wetlands systems, uplands buffers, and other areas designated for conservation/preservation as identified in the SJRWMD and ACOE permits to be obtained shall be regarded as preservation areas and, to the extent located in development areas, identified as separate tracts in accordance with the requirements of SJRWMD, the ACOE and the standards for platting as applied by Brevard County. Developmental uses of these areas shall be restricted by Conservation Easements conveyed to the grantees designated under the applicable permits or otherwise approved by the permitting agency. Use of these areas shall be limited to recreational amenities as permitted by the SJRWMD, the ACOE and Brevard County. Maintenance of these areas will be as set forth in the permits authorizing their construction. Nothing in the language of the Conservation Easement shall preclude the Developer or other entity designated by the Developer from performing maintenance or management of these lands as long as these activities are consistent with the protocols set forth in the permits issued by the SJRWMD and the ACOE.

58. Within development Districts, all preservation areas, upland buffers and mitigation areas shall be platted as tracts and/or easements with development rights eliminated except as noted above. All such areas will be administered and managed by the Developer, VSD, or property owner's association established under Chapter 720, Florida Statutes, consistent with the requirements of the permits issued by the SJRWMD and the ACOE.

59. Wetlands within the Conservation District adjacent to the River Lakes Conservation Area shall include an upland buffer of an average of 300 feet and shall be placed in conservation easements consistent with permit requirements.

60. RESERVED.

WATER

61. The Developer shall include covenant deed restrictions for all residential landowners that prohibit private irrigation wells within single family lots throughout the Village and Interchange Districts within the DRI, unless approved by Brevard County.

62. Non-potable water use shall use the following sources, in order of priority, for surface irrigation of common and private areas, to include parks, commercial, institutional and residential areas, unless prohibited by the FDEP, SJRWMD, or other regulatory agency.

Treated wastewater, surface water stored on-site in surface water storage ponds, groundwater withdrawals to a common/community operated master irrigation system, private irrigation wells; or potable water may be used on residential lots if no lesser quality source is available, but shall be converted to a lesser quality source when it becomes available.

63. All water used for new landscape irrigation, whether reclaimed, surface water, groundwater or potable, will require as a condition of use that rain sensors, soil moisture sensors, or other smart irrigation technology be employed so as to manage flows and distribution of water. The methodology to be employed shall be reported in the first Biennial Report required herein.

64. At the time of initial infrastructure installation for each portion of the development, the Developer shall provide for the installation of irrigation infrastructure that is necessary to serve that portion of the DRI currently under development. The method of irrigation, and the planned infrastructure, shall be based upon the order of priority as listed in Condition 62.

65. A program that is consistent with the University of Florida's Florida Yards and Neighborhoods ("FYN") Recognition Checklist (January 2007 version) or to a comparable landscape standard determined in cooperation with PREC or another comparable, credible agency

shall be encouraged for the Village and Rural Development District. The program shall be referenced, in the appropriate CCR's.

66. The CCR's will include a requirement for ongoing education within the WVEA to include as an example (1) a requirement that all homebuyers and subsequent purchasers be given copies of the landscaping standards in an appropriate form such as an Operations and Maintenance Manual, and (2) provision for a website with current environmental education content for the WVEA.

LANDSCAPE, LAND CLEARING & TREE PROTECTION

67. In order to facilitate development consistent with the objectives, principles and standards of the community green space and cluster development, the DRI will follow alternative standards for landscape land clearing and tree protection as set forth in the PUDs for the DRI.

68. The CCR's for all Villages within the WVEA shall require that, concurrently with the issuance of a Certificate of Occupancy for each single-family detached home, such single-family home shall on such date meet either the water conservation provisions of the "Green Home Certification" requirements of the Florida Green Building Coalition or meet the following specific standards contained within the Florida Water Star certification program:

- No invasive exotic plant species on-site.
- For in-ground irrigation system, turf grass and landscaped bed areas shall be distinctly separate.
- Root balls shall be a least 2.5 feet on center from the foundation of structure.
- Plant selections shall be compatible with site-specific conditions such as sunlight, soil types and salinity.
- Plants shall be grouped with similar moisture and maintenance requirements.

- Innovative landscape water conservation techniques shall be encouraged.
- Irrigation areas less than 4 feet wide shall be irrigated with correctly designed and installed micro-irrigation.
- Sprinklers and emitters shall be located at a minimum of 2 feet from structures.
- Irrigation system shall be free from leaks.
- Head spacing shall not exceed 50% of the nozzle throw diameter.
- Application shall occur in proper spray patterns, minimizing overspray on impervious surfaces.
- A controller with rain shut-off capabilities shall be installed and functioning.
- Homeowners shall be provided with controller handbook/operating instructions.
- Irrigation shall not exceed 21 gallons (34 inches) per ft² annually and the controller shall be set in compliance with water restrictions.
- A non-potable water source shall be used for irrigation.

69. Organic mulch shall be used and applied to a depth of 2 to 4 inches, leaving a 2-inch space around base of plant.

70. To the extent feasible, conditions conducive to low maintenance landscapes with minimal need for fertilizer, pesticides and irrigation will be maintained and enhanced through landscaping standards that encourage minimizing soil compaction during construction to the minimum levels required by County regulation and, where feasible, protecting and conserving existing soils and vegetation or amending and aerating soils as needed before landscape installation.

71. To ensure homeowners are in compliance with the requirements for minimal to no added inputs of water and synthetic fertilizers and pesticides, the Developer, VSD or property

owners association formed pursuant to Chapter 720, Florida Statutes shall provide additional community education.

72. RESERVED.

73. The Developer may utilize ornamental or decorative plants that are not classified as drought tolerant, however, in all events, the landscaping of the DRI will be primarily selected from the plant material lists noted in Condition 53 herein. The Developer will develop for the WVEA, a planting palette as a part of the Design Guidelines and within the Design Guidelines specify the nature and extent of both the drought tolerant and non-drought tolerant plant materials to be used in landscaping.

74. Builders within the WVEA shall provide to the purchasers of single family homes a copy of the Florida-Friendly Landscaping program booklet titled "Fertilize Appropriately".

75. Plant listed on the most current edition of Florida Exotic Pest Plant Council's List of Invasive Plant Species are prohibited for use as a part of the landscape palette and cannot be used as a part of the landscape material to be installed.

76. RESERVED.

77. Integrated Pest Management ("IPM") may be utilized to augment other commercially-accepted pest control methods. IPM may involve the monitoring of sites for pest related problems, determining when a problem needs attention and taking appropriate action with the least amount of environmental impact. IPM will maximize the use of biological controls, organic pest control methods, insecticidal soaps, and fish oils beneficial for lowering the environmental impact of pest control. This development condition shall be implemented on an incremental basis and shall only be applicable to those portions of the WVEA submitted to a

recorded plat. Pest controls methods within the VWP shall be subject to and consistent with the approved HMP.

SCHOOLS

78. The Developer and the School Board of Brevard County have entered into the “Consolidated Mitigation and Concurrency Agreement Regarding School Facilities for the Viera Development of Regional Impact” dated September 22, 2015, to address public school facilities concurrency for 29,945 residential units in the Viera DRI (the “School Agreement”). As evidenced by the issuance of the School Capacity Availability Determination Letter (“SCADL”) dated December 7, 2015, the Developer has fully satisfied the concurrency requirements of the School Board, the Brevard County Concurrency Management System and applicable law for 29,945 residential units. Should the Developer pursue a conversion of land uses resulting in an increase of residential units and desires to obtain concurrency for any residential units in excess of 29,945, the Developer shall coordinate with the School Board and Brevard County for any necessary modification of the School Agreement and/or the SCADL.

79. RESERVED.

80. RESERVED.

81. RESERVED.

TRANSPORTATION

82. The DRI is to be developed in a transit-supportive manner as a “new town” as defined in section 163.3164 of the Florida Statutes, consisting of a compact mixed-use that is intended to lower levels of automobile use per capita and give rise to shorter trips when the automobile is used. The combined effect of compact transit-supportive development and the presence of a significant alternative mode of transportation in the form of bicycling, use of golf

carts or other low speed vehicles and walking is expected to lower Vehicle Miles Traveled (“VMT”) per capita. The development form for the remainder of the DRI clusters development in villages and protects regionally significant environmental areas. Within villages, the proposed density, street network, development and mix of uses will be supportive of future transit service.

83. RESERVED.

TRANSPORTATION IMPACT STUDY

84. Prior to the initiation of phase 4, the Developer shall conduct a Transportation Impact Study. **(completed)** This Transportation Impact Study shall ascertain the Level of Service (“LOS”) on facilities where the Viera DRI is estimated to contribute an amount of traffic greater than or equal to five percent (5%) of the adopted LOS service volume. The methodology of the Transportation Impact Study shall be agreed upon by Brevard County and the Developer. **(completed)** In the event that the Developer submits a future Transportation Impact Study, the methodology for such study shall be reviewed and approved by Brevard County and the Florida Department of Transportation. The depth of the Transportation Impact Study shall be similar to that required within an ADA (to include all phases for projected roadway adversity testing) but shall be consistent with the requirements of the Brevard County Concurrency Management Systems as it relates to facilities within that jurisdiction. Empirical data will be required to be collected for the Transportation Impact Study on facilities where it is estimated that the project contributes an amount of traffic greater than or equal to five percent (5%) of the adopted LOS maximum service volume. **(completed)** The Transportation Impact Study shall include a trip generation and internal capture study shall be performed to verify trip generation, internal capture, community capture and pass-by assumptions for the development. **(completed)** The facilities to be studied for Phase 4 shall include, but shall not be limited to, these segments of the regional

roadways listed below and one segment beyond where the Viera DRI is estimated to contribute a cumulative amount of traffic greater than or equal to five percent (5%) or more of the adopted p.m. peak hour two-way service capacity. **(completed)** The analyzed facilities will include all the intersections from the previous phase 1-3 analysis (Substantial Deviation #2), as well as the major intersections along significantly impacted roadways, and link analyses of collector and higher classified roadways and interchange ramps. **(completed)**

Candidate Roadways for Transportation
Impact Study

From Sun Tree Blvd. to Pineda Causeway
From Pineda Causeway to Post Rd.
From Post Rd. to Lake Washington Blvd.
From Lake Washington Blvd. to Aurora Rd.
From Aurora Rd. to Eau Gallie Blvd.
From Eau Gallie Blvd. to Sarno Rd.
From Sarno Rd. to Babcock St.

Roadway Link

AURORA ROAD

From Wickham Rd. to U.S. 1

SPYGLASS HILL ROAD

From Lake Andrew Dr. to Murrell Rd.

PINEHURST AVENUE

From Spyglass Hill Rd. to Wickham Rd.

INTERSTATE 95

From S.R. 528 to S.R. 524
From S.R. 524 to S.R. 520
From S.R. 520 to Fiske Blvd.
From Fiske Blvd. to Viera Blvd.
From Viera Blvd. to Wickham Rd.
From Wickham Rd. to Pineda Causeway
From Pineda Causeway to Eau Gallie Blvd.
From Eau Gallie Blvd. to U.S. 192
From U.S. 192 to Palm Bay Rd.

U.S.1

From Forrest Ave. to S.R. 520
From S.R. 520 to Barton Blvd.
From Barton Blvd. to Eyster Blvd.
From Eyster Blvd. to Gus Hipp Blvd.
From Gus Hipp Blvd. to Barnes Blvd.
From Barnes Blvd. to Viera Blvd.
From Viera Blvd. to Sun Tree Blvd.

PINEDA CAUSEWAY

From Lake Andrew Dr. to I-95
From I-95 to Wickham Rd.
From Wickham Rd. to U.S. 1
From U.S. 1 to S. Tropical Trail
From S. Tropical Trail to S.R. A1A

WICKHAM ROAD

From Lake Andrew Dr. to I-95
From I-95 to Murrell Rd.
From Murrell Rd. to N. Pinehurst Ave.
From N. Pinehurst Ave. to Suntree Blvd.
From Suntree Blvd. to St. Andrew Blvd.
From St. Andrew Blvd. to S. Pinehurst Ave.
From S. Pinehurst Ave. to Pineda Causeway
From Pineda Causeway to Post Rd.
From Post Rd. to Parkway Dr.
From Parkway Dr. to Lake Washington Blvd.
From Lake Washington Blvd. to Aurora Rd.
From Aurora Rd. to Eau Gallie Blvd.
From Eau Gallie Blvd. to Sarno Rd.
From Sarno Rd. to Nasa Blvd.

FISKE BOULEVARD

From Peachtree St. to S.R. 520

From S.R. 520 to Barton Blvd.
From Barton Blvd. to Eyster Blvd.
From Eyster Blvd. to Barnes Blvd.

LAKE ANDREW DRIVE

From I-95 to Viera Blvd.
From Viera Blvd. to Spyglass Hill Rd.
From Spyglass Hill Rd. to Wickham Rd.
From Wickham Rd. to Pineda Causeway

MURRELL ROAD

From Barton Blvd. to Eyster Blvd.
From Eyster Blvd. to Gus Hipp Blvd.
From Gus Hipp Blvd. to Barnes Blvd.
From Barnes Blvd. to Viera Blvd.
From Viera Blvd. to Spyglass Hill Rd.
From Spyglass Hill Rd. to Wickham Rd.

BARNES BOULEVARD

From Fiske Blvd. to Murrell Rd.
From Murrell Rd. to U.S. 1

POST ROAD

From Wickham Rd. to U.S. 1

LAKE WASHINGTON BOULEVARD

From Wickham Rd. to U.S. 1

SARNO ROAD

From Eau Gallie Blvd. to Wickham Rd.
From Wickham Rd. to U.S. 1

SUNTREE BOULEVARD

From Wickham Rd. to U.S. 1

VIERA BOULEVARD

From Stadium Parkway to Murrell Rd.
From Murrell Rd. to U.S. 1

S.R. 520

From S.R. 524 to I-95
From I-95 to Fiske Blvd.
From Fiske Blvd. to U.S. 1
From U.S. 1 to Tropical Tr.

S.R. A1A

One-way Pair Split to Pineda Causeway

Pineda Causeway to DeSoto Parkway

EAU GALLIE BOULEVARD

From I-95 to Wickham Rd.
From Wickham Rd. to U. S. 1
From U.S. 1 to C.R. 3

U.S. 192

From Brandywine Lon to I-95
From I-95 to Wickham Rd.
From Wickham Rd. to U.S. 1
From U.S. 1 to Riverside Dr.

Several government offices and public schools are located within the Existing DRI Area. Phases 1 and 2A absorbed the impacts of these facilities without distinguishing the difference between the impacts of these public facilities and the impacts from private development, which impacts have been cumulatively and fully mitigated. The development program for Phase 3 includes two high schools, a middle school, an elementary school and 186,140 square feet of additional government office development which include the Heidar G. Heshmati, M.D. Building (Brevard County Health Department), the Florida Department of Health – Children’s Medical Services and an expansion of the Harry T. & Harriette V. Moore Justice Center. Upon implementing the Phase 3 Transportation Mitigation Program described in Condition 92 herein, the transportation impact of the public and government office development proposed in the development program for Phase 3 shall be fully mitigated.

TRANSPORTATION MITIGATION

85. The DRI shall not commence beyond Phase 3 into Phase 4 when service levels are below the minimum service level adopted in the applicable local government’s comprehensive plan during the peak hour and the project contributes, or is projected to contribute with the next phase of traffic, five percent (5%) or more of the adopted p.m. peak hour two-way service capacity of the roadway or intersection as determined by the Transportation Impact Study required in the preceding condition, unless mitigation measures and/or improvements are secured and committed for construction during the phase in which the impacts occur. The Development Order shall be amended to incorporate the required improvements and the commensurate trip level by which the improvement is needed to support such development. **(completed)** No additional payments, contributions or improvements for transportation mitigation beyond the transportation mitigation which Developer is obligated to provide under Condition 92 herein shall be required or requested

for Phase 3 of the DRI, provided all required transportation mitigation payments have been made or secured by October 23, 2032. In the event the date for completion of Phase 3 is extended and a transportation mitigation payment for a particular improvement has not been made or secured, the amount of the proportionate share contribution for such improvement, which is identified in Condition 92 herein, shall be recalculated to determine the Developer's proportionate fair share for the improvement at the time of Developer's payment for the improvement.

86. For the purposes of this Development Order, adequate "secured and committed" transportation improvements shall include one or more of the following:

- a. A clearly identified, executed and recorded local government development agreement, consistent with Sections 163.3220 through 163.3243, F.S., that is attached as an exhibit to the development order, and which ensures, at a minimum, that all needed roadway improvements will be available concurrent with the impacts of development, consistent with Section 163.3180(2), F.S.;
- b. A binding and enforceable commitment in the development order by the local government to provide all needed roadway improvements concurrently with the development schedule approved in the development order;
- c. A local government commitment in the current year of their local government comprehensive plan Capital Improvement Element (CIE) to provide all needed roadway improvements, or a local government commitment in the current three years of their CIE to provide all needed roadway improvements when the local government has specifically adopted an in-compliance concurrency management system in their plan; or

- d. A Florida Department of Transportation commitment in the current five years of the Adopted Work Program for Florida Intrastate Highway System (FIHS) facilities or in the first three years of the Adopted Work Program for all other facilities to provide all needed roadway improvements;
- e. A binding and enforceable commitment in the development order by the developer to provide all needed roadway improvements concurrently with the development schedule approved in the development order; or
- f. Any combination of guarantees (a.) thru (f.) above that ensures that all needed roadway improvements will be provided concurrently with the development schedule approved in the development order.

[The provisions of this Condition 86 have been satisfied by the commitments set forth in Condition 92.]

87. The mitigation measures shall be completed or transportation improvements secured and committed or shall otherwise be satisfied by the provisions required under F.S. 163.3180(5)(h) prior to the end of the phase or subphase in order for the project to proceed through the balance of the applicable phase or subphase. If the Developer can demonstrate that a portion of a phase or subphase does not adversely affect the regional roadway network as determined by the monitoring and modeling tests discussed above, then the Developer may proceed with that portion of the phase or subphase (and only that portion). **[The provisions of this Condition 87 have been satisfied by the commitments set forth in Condition 92.]**

88. In the event that a roadway widening is identified which is not compatible with adopted policy of the FDOT or local government (e.g., constrained), the Developer, Brevard County, or the party having either maintenance or jurisdictional responsibility for the facility, shall

determine alternate mitigation solutions to provide for the movement of people. **[The provisions of this Condition 88 have been satisfied by the commitments set forth in Condition 92.]**

89. The biennial report shall include an assessment of the development status by providing development totals by land use, as defined by Exhibit 4, Master Development Program. In order to assure Brevard County that the projected pm peak hour external trip generation identified in the Transportation Impact Study will be maintained, within Phase 4 (as identified in the development program in Exhibit 4 of this Development Order) there shall be a minimum of 75,000 square feet of non-residential development (including office, retail and light industrial) to each 1,000 residential dwelling units. At the time of report presentation, should there be less than the minimum of the non-residential development completed, the Developer shall report any pending non-residential opportunities for construction in the upcoming reporting years and shall be permitted to proceed with development. If the Developer will not construct additional non-residential development in the upcoming reporting years to meet the minimum stated above, the Developer shall demonstrate to Brevard County that the pm peak hour external trips from the project have not exceeded those for which mitigation has been committed in this Development Order. This assessment will demonstrate to Brevard County that the compact mixed use land pattern will continue to develop in a manner consistent with the goals stated in Condition 82.

90. The Developer will complete a Level of Service analysis of the operating conditions along I-95 from the Pineda Interchange to the Fiske Boulevard interchange and document the results in the biennial report submitted during Phase 3 of development. It is expected that the classification for interstate 95 will be changed to Urban as a result of the 2010 Census. It was evaluated by the Department and determined that if the classification is changed from transitioning to Urban, I-95 within the segment identified above would operate at acceptable level of service

during Phase 3 of the development. Therefore, if I-95 is re-classified to Urban, this monitoring condition would be deemed satisfied for Phase 3 and no longer be required to be submitted in the biennial report during Phase 3. However, if I-95 is not re-classified to Urban as a result of the 2010 Census and the Developer is unable to establish that I-95 is operating at an acceptable level of service, the Developer will work with the FDOT to identify alternative mitigation options as outlined by Florida Statutes. The Developer would be required to coordinate with the FDOT to ameliorate the DRI impacts to I-95, prior to the end of Phase 3. **(This condition 90 has been satisfied by the re-classification of I-95 to urban by the FDOT)**

91. To the extent reasonably necessary to facilitate the objectives in these conditions, an agreement(s) among Brevard County, the City of Rockledge, the City of Melbourne, the FDOT and the Developer may be entered into within twelve (12) months of the issuance of a development order for this project by Brevard County. Said agreement(s) shall address and clarify such issues related to equity in the application of collected fees for transportation improvements. Application of fees shall be on a fair share basis with respect to the improvements to be provided and not solely on the basis of impact fees. However, such an agreement would not alter or waive the provisions and requirements of the other conditions of the Development Order as a mitigative measure for the transportation impacts for the Viera DRI. In the event that one of the designated parties to the agreement (other than the Developer) fails to execute said interlocal agreement(s) within the specified time, then the Developer may proceed with the project based upon the monitoring/modeling schedule and all other recommendations specified herein as it affects the non-participating party. Separate agreements may be entered into with one or more parties and the Developer. **(To facilitate the objectives in these conditions, the Viera DRI Transportation**

Proportionate Share Agreement was entered into by and between the Developer and FDOT on or about March 16, 2010 and was subsequently amended on or about October 31, 2014.)

92. The following Improvements shall be the Mitigation for Phase 3 and the Developer is authorized to commence Phase 3 provided the Developer complies with the conditions hereto. Alternative improvements may also be presented based on future study results. Developer shall be eligible for impact fee credits for all improvements as provided by state law and Brevard County Ordinance.

ROADWAY	LIMITS	IMPROVEMENT	ESTIMATED COST (IN MILLIONS)
Viera Blvd./I-95 ¹	Interchange	Construct interchange ramps	\$8.76
Viera Blvd ²	DRI boundary to US 1	Widen to 4 lanes	\$4.01
Wickham Road ³	Lake Andrew Dr. to Lake Washington Rd., including intersections	Roadway and intersection Improvements	\$16.43
Brevard County Intersection Improvements ³	Murrell/Eyster and Murrell/Barnes	Intersection Improvements	\$0.86
FDOT Intersection Improvements ⁴	1 st priority: I-95/Fiske Blvd. 2 nd priority: US1/Viera Blvd. 3 rd priority: US1/Barnes	Add NB left turn lane along Fiske Blvd Add NB left turn lane along US1 Add NB left turn lane along US1	\$2.223
Wickham Road ⁵	Murrell Road to Lake Andrew Drive	Widen to six lanes	\$9.4
Total Estimated Cost			\$41.683

DETAILED MITIGATION PROJECT REQUIREMENTS FOR ROADWAY SEGMENTS AND INTERSECTIONS DESCRIBED ABOVE:

¹Assumes Developer will provide right of way required to support interchange. If IJR is not approved, Developer will conduct an additional assessment to identify an appropriate plan to mitigate Fiske Boulevard within six months of the IJR decision. Within 30 days after conclusion of the appeal period or the conclusion of all appeals of this Development Order, but in no event earlier than July 15, 2010, Developer will pay FDOT \$500,000 for preparation of the IJR and PD&E. (Required payment has been made) Within 30 days after the later of approval of both the IJR and PD&E or July 16, 2013 Developer will pay FDOT \$870,000 for design and permitting of the Interchange. (this required payment has been made). Construction shall commence no later than 12/29/2018. Additionally, Developer shall pay \$380,000.00 for Construction Management and Inspection services and Post Design Services simultaneously with commencement of construction if funding is not included in Five-Year Work Program.

²This improvement and the Viera Blvd./I95 Interchange are alternative mitigation for cumulative Phase 3 impacts on Fiske Blvd. between the DRI boundary and Barnes Boulevard, including intersections. Construction shall begin the later of December 29, 2018 or 180 days after completion of the Viera Interchange.

³Funds for mitigation of traffic impacts paid by Developer to Brevard County are to be pipelined for improvements to Washingtonia Boulevard from the southern boundary of the DRI to Ellis Road in the amount of \$5,000,000. The funds shall be used to reimburse Brevard County for acquisition of the road right of way as well as planning and engineering design of the roadway. The funds for Washingtonia Boulevard shall be paid to Brevard County prior to October 23, 2032. In addition, Developer shall mitigate impacts to Wickham Road and Murrell Road intersections by paying Brevard County a total of \$12,290,000 to reimburse Brevard County for the cost of widening Barnes Boulevard from two lanes to four lanes from Fiske Road to Murrell Road intersection and intersection improvements. Developer shall begin reimbursing the County for these

costs on September 1, 2015, a date previously extended from September 1, 2011 by the Statutory Notices (Developer has initiated these payments). On September 1, 2015, Developer shall provide payment to reimburse to the County for all expenditures made as of that date on a pro-rated basis as described below. Developer shall also provide a letter of credit in favor of Brevard County which can be presented for payment in the State of Florida in the amount of the remaining amount of funds due from Developer to County after the payment/reimbursement for Barnes Boulevard described above for construction costs already incurred (**Completed**). Thereafter, Developer shall make monthly reimbursement payments to County based on its pro-rated share of the expenditures by the County for the Barnes Boulevard widening project each month until the project is completed. The pro-rated share of the Developer's payment shall be based on the ratio of the total payment of \$12,290,000 to the contract price for Barnes Boulevard, less the amounts paid by the County for alteration to the potable water lines (currently estimated at \$1,876,998.75) and force main and reuse lines (currently estimated at \$666,784.55) as part of the Barnes Boulevard widening project. Reimbursement funds paid to the County by Developer may be spent on any type of transportation project which could have been eligible to use 2007 Local Option Gas Tax (LOGT) bond proceeds. In the event funds other than LOGT bond proceeds are used to pay for the widening of Barnes Boulevard, the reimbursement funds shall be used for any transportation purpose for which the funds used by Brevard County to pay for the Barnes Boulevard Widening Project may have been used. The mitigation above satisfies the cumulative Phase 3 impacts to Wickham Road and the Murrell Road intersection improvements.

On March 5, 2009, Brevard County adopted an emergency ordinance imposing a 2 year moratorium on the collection of transportation impact fees, which moratorium was subsequently extended and expired on December 31, 2016. To assist the Developer in obtaining alternative and innovative means of financing for Developer's payment of \$12,290,000.00 described above, Brevard County (as the constructing authority) shall cooperate with the Developer's efforts to obtain a loan or other financial assistance from the State-funded State Infrastructure Bank ("SIB") pursuant to Section 339.55, Florida Statutes; provided, however, that (i) Brevard County shall not incur any direct cost or expense in connection with such cooperation, (ii) Brevard County shall not be a funding source to repay the SIB loan or liable in any other manner under the SIB loan, and (iii) the Developer shall remain responsible for the timely payment of all funds due hereunder notwithstanding the Developer's failure to obtain such loan. Such cooperation shall include sponsoring the Developer's SIB loan application so long as such sponsorship imposes no liability on Brevard County and providing project-related information for the SIB loan application (e.g. verification of all necessary right-of-way acquisition and consistency with local comprehensive and transportation plans, project cost estimates, project funding, construction drawings, engineering reports, and environmental impact studies).

⁴The improvements shown address the cumulative Phase 3 impacts to intersections along US1 from Dixon Blvd. to Sarno Road and Interstate 95 interchange intersections at SR 406, SR 50, SR 520, Eau Gallie Blvd., and Palm Bay Rd. This mitigation reflects the pipelining of proportionate share contributions to these intersections. Developer will pay FDOT for these intersection improvements \$323,000 by December 15, 2009 (required payment has been made), \$950,000 by June 29, 2016 (required payment has been made) and \$950,000 by December 29, 2019.

⁵Developer shall pay for design, acquisition of right of way and construction pursuant to the Joint Facilitation of Public Infrastructure Agreement between Developer and Brevard County dated September 1, 2009.

⁶Commencement and completion dates in footnotes have been extended pursuant to the various applicable Statutory Notices.

92.A. Developer has entered into a proportionate share agreement with the FDOT for local and regional significant traffic impacts pursuant to section 163.3180, Florida Statutes, to satisfy the concurrency requirements of the Brevard County comprehensive plan, the Brevard County concurrency management systems, and section 380.06, Florida Statutes. Future amendments to the agreement with FDOT shall serve as an amendment to the required mitigation plan for roadways under the FDOT's jurisdiction outlined in Condition 92 without the need for an amendment to this Development Order.

92.B. The following improvements shall be the mitigation for Phase 4 and the Developer is authorized to commence Phase 4 provided the Developer* complies with the conditions hereto. Alternative improvements may also be presented based on future study results. Developer shall be eligible for impact fee credits for all improvements, including but not limited to the improvements noted below, as provided by state law and Brevard County Ordinance. Brevard County is under no obligation to construct or oversee the construction of improvements.

IMPROVEMENT OR CONTRIBUTION	LIMITS OR DETAILS	TIMING OF CONSTRUCTION OR CONTRIBUTION	ESTIMATED COST IN MILLIONS
Spyglass Overpass	Construction of 4 lane bridge and roadway connecting Spyglass Hill Road to Napolo Drive from Lake Andrew Drive to Murrell Road.	The improvement shall be substantially complete and open for public use coincident with the completion (i.e. issuance of certificates of occupancy) of 50% of the development program identified as Phase 4 (as noted on	\$14.1

		<p>Exhibit 4 to this Development Order) based upon Equivalent Residential Units. The Developer shall diligently pursue permits, design and construction of the improvement. Brevard County shall grant reasonable extensions for events beyond the control of the Developer.</p>	
I-95 at Fiske Boulevard/Barnes Boulevard Interchange	Contribution to pay for cost of Interchange Modification Report	Within 180 days of receipt of notice by the Developer from FDOT that the process is ready to proceed.	Actual cost up to a maximum of \$1.5

*Developer shall complete or cause to be completed

93. Transit operation or alternate parallel facility improvements shall be considered prior to the commencement of future subphase. **(completed)**

94. If the study results as set forth hereinabove show that improvements must be made to roadway facilities, and if mitigation is not provided as set forth in these conditions or as otherwise required pursuant to Rule 73C-40.045), then prior to any construction of future subphases and subject to the provisions of Chapter 380.06(15)(e), Florida Statutes, the Developer, Brevard County and the entity with jurisdiction over the roadway facility may enter into an agreement which ensures that:

- (a) a proportionate share payment is made by the Developer to the appropriate entity(ies) to mitigate project impacts;
- (b) said proportionate share payment shall be used by the appropriate entity only for the design, engineering, right-of-way purchase, permitting and/or construction of improvement to the segments/intersections for which the payment is made; and
- (c) said proportionate share payment by the Developer constitutes adequate provision for the public facilities needed with respect to the road segments to accommodate the impacts of the project through the phase for which the proportionate share was calculated, as required by Chapter 380.06(15)(e)(2), Florida Statutes. All such proportionate share agreements shall be included in this Development Order by amendment pursuant to Chapter 380.06(19), Florida Statutes. The formula to be used (unless revised by statutes) to determine proportionate share contribution is as follows:

$$\frac{\text{(DRI Trips)}}{\text{SV Increase}} \times \text{Cost} = \text{Proportionate Share}$$

(d) For this formula, DRI Trips is the cumulative number of trips from the development expected to reach the roadway during the peak hour from the phase under development. Service Volume (“SV”) increase is the change in peak hour maximum service volume of the roadway resulting from construction of the improvement necessary to maintain the desired level of service; and Cost of Improvement is the cost (at the time of Developer payment) of constructing an improvement necessary to maintain the desired level of service, including all improvement associated costs (engineering design, right-of-way acquisition, planning, engineering, inspection, and other associated physical development costs directly required and associated with the construction of the improvement) as determined by the governmental agency having maintenance obligations over the roadway. Proportionate share mitigation for roadway impacts may also be direct to transit service and facilities or pipelined to specific transportation improvements in accordance with applicable law.

(e) Notwithstanding any provision contained herein to the contrary, except as specifically agreed in writing, Brevard County and the entity with jurisdiction over the roadway facility shall have no financial responsibility to contribute to or participate in the funding

of the design, engineering, permitting, and/or construction of roadway improvements.

- (f) The monitoring and modeling required prior to each phase or subphase shall be used to verify impacts from previous phases and to more accurately estimate probable impacts from later phases. Any impacts from prior phase which have been mitigated in accordance with any of the methods set forth in this Development Order shall not be included in any subsequent proportionate share calculations. If it is verified that the roadway improvements mentioned above are still needed, then the DRI shall not proceed into later phases until either a proportionate share agreement payment is fully executed or the needed improvements are scheduled for construction in the applicable entities' work program within the first three (3) years from the date when impacts are estimated to be significant and adverse.
- (g) If the parties cannot reach agreement independently prior to the date when impacts are estimated to be significant and adverse, or if so desired by the parties at any time, then the issues in dispute may be submitted to the ECFRPC for either voluntary mediation pursuant to its adopted dispute resolution process or to binding arbitration pursuant to the rules and procedures of the American Arbitration Association ("AAA") unless otherwise agreed by the parties in dispute.

[The provisions of this Condition 94 (a)-(g), inclusive, have been complied with pursuant to completion of the Transportation Impact Study through buildout and the mitigation provisions of Condition 92.B.]

(h) Within areas of the WVEA designated as Village, Interchange, or Community Districts, the development plan will include multiple roadways through the DRI in order to provide adequate capacity, to provide alternative routes and to lessen the impacts to community cohesiveness.

ALTERNATIVE TRANSPORTATION STRATEGIES

95. The Developer or the Viera Transportation Management Association, Inc. (“TMA”) shall promote and encourage on-site employers to offer variable work hours and flextime schedules for their employees as one means of reducing peak hour travel demand. Acceptable methods for “promoting and encouraging” may include, but are not limited to; provisions in land sale contracts and/or Covenants, Conditions and Restrictions encouraging retail, office and institutional uses to offer variable work hour and flextime schedules to employees; participation in the TMA whose purposes include promoting and encouraging travel demand management. The Developer shall select the method or methods for compliance with this requirement prior to the sale of any land for retail, office or institutional use, and will notify the County in writing of its selection and means of implementing the selection and shall be included in Biennial Report.

96. The Developer or the TMA shall promote the use of transit, and ridesharing programs by tenants, residents and employees. Promotion of the use of such programs may be

accomplished through: the display of service schedules in prominent public gathering areas and near service stops; preferential parking for vans and cars that are part of the ridesharing program; publication of newsletters delivered to tenants, residents and employees that provides ridesharing information.

97. The Applicant shall consult with Space Coast Area Transit to provide adequate amenities that promote transit. At a minimum, the following actions are required, as agreed to by Space Coast Area Transit:

- (a) In cooperation with the TMA, the Developer shall consider the need for and, if appropriate, location of appropriate bus transfer stations in proximity to the park and ride areas within the nonresidential portion of the DRI. The locations shall be determined in coordination with the Space Coast Area Transit Authority and the county. It shall include a maximum of four (4) bus bays with covered waiting areas with seating and a bicycle rack. This will provide for a hub for the transit system and the ability to park and ride for individuals within or outside of the DRI.
- (b) The Developer shall construct transit pull off areas, including covered transit shelters with seating and bicycle parking. Locations shall be coordinated with the Space Coast Area Transit Authority and the county and any affected property owners.
- (c) Bicycle lockers or bicycle racks, transit passenger shelters and transit parking bays shall be constructed where necessary to augment and facilitate the operations of transit service to the site.

- (d) Pedestrian routes to transit shall be shaded or otherwise covered to the maximum extent feasible to protect users from the elements.

98. Developer, in cooperation with the Brevard County and Space Coast Area Transit (SCAT), shall develop a plan to maximize the viability and use of public transit services as an alternative mode of travel inside, to and from the DRI. The Developer will continue to include the following strategies:

- (a) Implementation of PUD design standards that address transit-supportive site and building design standards;
- (b) Implementation of PUD design standards that address pedestrian activity, safety, and circulation as an alternative travel mode and to support transit use;
- (c) Designation of Village Center and Town Center areas that contain densities, mix of land uses, and development patterns that are supportive of transit use;
- (d) Identification of corridor(s) that can accommodate a transit circulator system and/or future fixed transit technologies serving the Village Centers and employment areas, the Town Center and potential regional connections consistent with any programmed system by SCAT;
- (e) Exploration of feasible transit improvements for regional corridors where roadway capacity needs are projected to be eight (8) lanes or more, or exceed local or state transportation policies; and
- (f) Coordination between SCAT, Brevard County, the Developer and the TMA to develop a long-term transit plan for the DRI and surrounding

planning area as designated by Brevard County, including potential routes and ridership determination, off-site regional connections by public transportation, park and ride facilities and interfaces and an implementation and funding schedule.

99. In the interest of safety, and to promote alternative forms of transportation, the Developer shall provide the following bicycle and pedestrian systems:

- (a) The on-site bicycle systems shall be planned to be connected into any adjacent external bicycle facilities existing at the time of construction. The on-site bicycle system includes a combination of multi-use sidewalks, off-road trails, on-street bicycle lanes, paved shoulders, and low-speed neighborhood streets that support safe bicycle travel but do not have marked bicycle lanes.
- (b) For Village Center and Town Center areas, the Developer shall meet site and building design requirements that address pedestrian safety and comfort through elements such as covered walkways designed into the front of non-residential structures through applicable PUD zoning.
- (c) In all areas of the DRI, where cycling will be accomplished on both sidewalk/bikeways and streets, appropriate signage identifying bike routes shall be installed subject to approval by Brevard County.
- (d) Special consideration shall be given to bikeways connecting neighboring residential areas to employment and commercial areas.
- (e) Bicycle support facilities, such as covered parking and lockers, shall be encourage at commercial areas and work areas.

(f) Improvements to area roadways should be encourage to incorporate bicycle and pedestrian facilities that are internal to the DRI.

100. The Developer shall coordinate with Brevard County and the TMA to ensure the provision of park and ride spaces within the DRI. Currently, the Developer has constructed one (1) park and ride facility within the DRI providing 56 unassigned vehicle parking spaces, which park and ride facility shall be managed and maintained by or through the TMA. Upon buildout of the DRI, the Developer shall have provided not less than a total of three hundred (300) unassigned vehicle parking spaces within the DRI for use in connection with facilitating transit, ridesharing car and van pooling and other demand management programs to reduce automobile usage. Such unassigned parking spaces may be shared with parking for commercial land uses. The park and ride spaces shall be proximate to public transit.

FIRE, SHERIFF

101. Police, fire and EMS service will be provided by Brevard County. The Developer has built, equipped and provided to the County two fire stations within the Project and known as Station 47 and Station 48 and has received or is receiving reimbursement and impact fee credits for each pursuant to agreements with the County. The Developer shall build and equip a third fire station on a 2 acre site to be conceptually located at the time of Sketch Plan Approval for Village 2. This finalized site location shall be determined in consultation between Brevard County and the Developer. This finalized site shall be conveyed to Brevard County at completion of construction and issuance of Certificate of Occupancy. For this site dedicated as provided above, the Developer shall be entitled to Impact Fee Credits for all development served by the facilities, even if the areas served are located outside of the DRI. Credit shall be given to the extent of the fair market value of any land contributed, as determined by an MAI appraiser acceptable to the

Developer and Brevard County, and for all equipment provided or funded by the Developer. Such credits shall be reimbursed in the same manner and under substantially similar terms and conditions as set forth in the Donation and Capital Contribution Front-Ending Reimbursement Agreement dated June 9, 1999 between Developer and Brevard County for Fire Station 47. The final fire station shall be located within Village 2 at a location mutually agreeable to the County and the Developer and constructed and equipped in a manner mutually agreeable to the County and the Developer consistent with Fire Station 48. The Developer shall pay for two "mini-pumper" fire trucks up to \$200,000 each. [completed as to one] Payment for the second truck shall be made at the time of issuance of the first building permit for an alley unit in Village 2. The Developer shall be entitled to impact fee credits for the payments.

102. Upon the request of the Brevard County Sheriff's Department, the Developer shall designate one site for lease by the Brevard County Sheriff's Department within the Town Center and Village 2. The Town Center site shall be located at the time of approval of the final Site Plan for the Town Center. A second site shall be conceptually located at the time of Sketch Plan Approval for Village 2 and the finalized site shall be specifically located at the time of final Site Plan Approval for Village 2. Each site shall be available for lease, at market rates, at time of the issuance of a Certificate of Occupancy from Brevard County.

RECREATION

103. In addition to the Viera Wilderness Park, the Developer shall provide no less than 370 acres of parks within the DRI west of Interstate 95. To date, the Developer has provided 161.7 acres of parks west of Interstate 95. The Developer shall provide sites at locations mutually agreeable to the County and Developer. Impact fee credits shall be governed by applicable state law and Brevard County Ordinance.

DEVELOPMENT PHASING

104. The Developer shall adhere to the Master Development Program set forth in Exhibit 4 in four phases: “Phase 1” (1990 to October 23, 2032), “Phase 2A” (December 29, 2005 to October 23, 2032), “Phase 3” (December 29, 2010 to October 23, 2032), and “Phase 4” (December 29, 2017 to October 24, 2042). Because the traffic impacts for Phase 1 and Phase 2A development have been cumulatively assessed and cumulative mitigation provided for them through the end of Phase 3 of this Development Order, any portion of Phase 1 and Phase 2A development that has not been completed by October 23, 2032 may continue through the buildout date of Phase 3.

IV. PERIOD OF EFFECTIVENESS

This Development Order shall take effect upon transmittal by certified U. S. Mail, return receipt requested, to the East Central Florida Regional Planning Council and the Florida Department of Economic Opportunity, and shall remain in effect until its expiration on October 24, 2042. The termination date is also October 24, 2042. The effectiveness of this Development Order, including without limitation all development phases of the DRI may be extended by operation of law or by the Brevard County Board of County Commissioners in a public hearing upon a showing by the Developer that the completed portions of the DRI comply with the conditions of this Development Order and the provisions of Chapter 380.06, Florida Statutes.

V. BIENNIAL REPORTING REQUIREMENTS

In accordance with Chapter 380.06(18), Florida Statutes, the Developer, its successors or assigns, shall submit a biennial report on or before July 1, 2012 and in every other or second year thereafter during the buildout of the DRI (the “Biennial Report”). The Biennial Report shall be submitted to the County, the City of Rockledge, the ECFRPC, the DEO, the FDOT, the SJRWMD

and all other affected planning and permitting agencies formally requesting copies of the same in writing to the Developer. The contents of the Biennial Report shall comply with the relevant conditions of approval that require reporting actions within this Development Order, within Chapter 380.06(18), Florida Statutes, Rule 73C-40.025 F.A.C., as well as any and all other and further information required under applicable law. The Biennial Report shall include a statement that all persons/agencies listed above have been sent copies and the failure to timely submit the Biennial Report may subject the Developer and the DRI to the temporary suspension of this Development Order in accordance with Chapter 380.06(18), Florida Statutes.

VI. MONITORING MECHANISM

The County Manager, or another authorized Brevard County designee, shall be the local official responsible for monitoring compliance by the Developer with this Development Order. The County shall not issue any permits or approvals or provide any extension of services if the Developer fails to act in substantial compliance with this Development Order. Violations of this Development Order may be subject to correction through consent agreement penalty or suspension of this Development Order. Consent agreements shall be prepared by the County Manager or authorized Brevard County designee. Final approval or denial of the consent agreement shall be determined by the Brevard County Board of County Commissioners. Consent agreements shall be subject to review by the Florida Department of Economic Opportunity. A consent agreement may require a reasonable bond or financial security from the Developer. Consent agreements shall provide no less than an equivalent degree of protection for the lands, surface waters or ground waters of Brevard County, and shall at least meet the level of protection and/or remedy afforded by Brevard County Ordinances and the provisions of this Development Order. The ability to enter

into a consent agreement shall in no way prevent Brevard County from pursuing enforcement actions as permitted by Chapter 380, F.S.

VII. RESTRICTIONS ON DOWN-ZONING

The Viera Development of Regional Impact as described within this Development Order shall not be subject to down-zoning, unit density reduction or intensity reduction until October 24, 2042, unless extended by law or by the provisions of Paragraph IV herein, unless it is demonstrated and affirmatively found by the Brevard County Board of County Commissioners at a public hearing that substantial changes in the conditions underlying the approval of this Development Order have occurred, or that this Development Order was based on substantially inaccurate information provided by the Developer, or that the change is clearly established by Brevard County to be essential to the public health or safety.

VIII. RECORDATION

Notice of the adoption of this Development Order or any subsequent modification of this Development Order shall be recorded by the Developer in accordance with Section 28.222, Florida Statutes, with the Clerk of the Circuit Court for Brevard County, Florida, at the Developer's expense within 30 days of the effective date of this Development Order or any subsequent modification of this Development Order in compliance with Section 380.06(15)(f), Florida Statutes. The recording of this notice shall not constitute a lien, cloud or encumbrance on the DRI, or actual or constructive notice of any such lien, cloud or encumbrance. The conditions of this Development Order shall run with the Property described in Exhibits 1 and 2 and shall bind the Developer's successors and assigns.

IX. CREDITS AGAINST LOCAL IMPACT FEES

In compliance with Sections 380.06(15) and(16), Florida Statutes, and Article V of the Brevard County Code of Ordinances, Brevard County shall credit the Developer with any Developer Order exaction or fee required by this Development Order as allowed by the mechanisms set forth in the then applicable Brevard County Impact Fee Ordinance for the contribution of lands or funds for land acquisition, construction or expansion of a public facility, or a portion thereof, toward any impact fee or exaction imposed by local ordinances for the same need. This subsection does not apply to internal, onsite facilities required by local regulations or to any offsite facilities to the extent such facilities are necessary to provide safe and adequate services to the development.

Regardless of whether Brevard County in the future repeals or suspends impact fees imposed for any purpose, the Developer shall remain responsible for all mitigation requirements imposed under this Development Order, and the Developer shall receive credits for any improvements or donations for which credit would have been granted prior to the effective date of Brevard County's repealing, or suspending, action which may be utilized if Brevard County subsequently reinstates impact fees.

X. RENDITION

Within ten days of the date of adoption of this Development Order, Brevard County shall transmit a copy of this Development Order certified as complete and accurate with all pertinent attachments by certified mail, return receipt requested, to the Florida Department of Economic Opportunity the East Central Florida Regional Planning Council, and the Developer.

XI. VIERA STEWARDSHIP DISTRICT, DEVELOPMENT DISTRICTS

The Florida Legislature enacted Chapter 2006-360, Laws of Florida creating and establishing the Viera Stewardship District (the "Viera Stewardship District Act"). The lands currently encompassed within the Viera Stewardship District ("VSD") are shown on Exhibit 9 attached hereto which lands include the West Viera Expansion Area and the Viera Wilderness Park. Among the powers of the VSD are general and special powers to (i) plan, finance, provide and maintain community infrastructure and services, (ii) provide an efficient and effective method of ensuring the long-term stewardship of environmental and conservation resources within the District, including, but not limited to, implementing, administering and funding the Habitat Management Plan ("HMP"); and (iii) obtain loans, issue bond anticipation notes, issue and sell general obligation, special assessment and revenue bonds, levy benefit special assessments, maintenance special assessments and no-ad valorem maintenance taxes to finance and/or fund community infrastructure, habitat protection and management, and maintenance activities within the District. Notwithstanding the foregoing, the Developer or other property owner within the DRI may, at its option, petition to create one or more Community Development Districts pursuant to Chapter 190, Florida Statutes, encompassing portions of the DRI. The VSD or any Community Development District hereafter encompassing a portion of the DRI, or any combination thereof, may construct or fund any infrastructure or community improvement required under this Development Order. Such projects included, but are not limited to, road and transportation facilities, surface water management facilities, potable water, reclaimed water, sewer and wastewater facilities, environmental mitigation, flood control improvements, bridge facilities and structures, parks, recreational and cultural facilities, school facilities and structures, fire prevention and control improvements, mosquito control improvements, and waste collection and disposal

systems and facilities. Without limiting the foregoing, any infrastructure or other capital improvements required by this Development Order, as from time to time hereafter amended or modified, as a condition of developing the DRI or any part thereof, may be designed, permitted, funded and/or constructed by the VSD or any Community Development District encompassing a portion of the DRI; provided, however, that the Viera Wilderness Park shall be administered, managed and maintained by the VSD and such administration, management and maintenance shall be funded and/or financed by the through the VSD.

The Viera Stewardship District Act also grants the VSD the general power to contract for the services of consultants to perform professional services in connection with the administration and management of the VSD. The VSD shall retain and fund an independent professional biologist or ecologist (the "Environmental Professional") as a member of the VSD's staff to provide independent scientific advice and recommendations regarding scientific issues that relate to the implementation of the HMP and the achievement of the goals and objectives of the HMP within the VWP. Prior to the election of the majority of members of VSD's Governing Board by the qualified electors residing within the District (as defined herein), the VSD shall enter into an Interlocal Agreement with Brevard County to address the Environmental Professional and other administration, management, maintenance, and funding obligations of the VSD necessary to satisfy the conditions of this Development Order pertaining to the VWP.

The VSD's Environmental Professional shall foster a scientific approach to ecosystem restoration and wildlife habitat management by the use of sound scientific methods in order to achieve the goals and objectives set forth in the HMP; and address scientific and technical issues relating to the HMP. The VSD's Environmental Professional's responsibilities shall include, but not be limited to, the following:

- (a) Evaluate the HMP's scientific principles to ensure they are consistent with the best available science.
- (b) Review the scientific and technical issues associated with the implementation of the land management activities proposed in the HMP.
- (c) Review and provide advice on priorities for land management actions, including research, monitoring, and evaluation and data management.
- (d) Prepare reports (one every 2 years as part of the Biennial Report) that would be submitted to Brevard County Natural Resources Management Offices, and other interest environmental groups, regarding the Environmental Professionals' assessment of the success of the VSD as it relates to the implementation of the HMP and the management of the VWP.

The Environmental Professional shall review the VSD's policies, practices and effectiveness with respect to the VSD's management of the VWP and the achievement of the HMP's goals and objectives every 2 years as part of the Biennial Report and the findings and recommendations of such biologist or ecologist shall be set forth in a written report. Said report shall highlight whether the Goals and Objectives are being satisfactorily met. If the Goals and Objectives are not being met, the report shall identify actions necessary to meet the Goals and Objectives and contain a plan for meeting them. Such written report shall be provided to the VSD, Brevard County, the ECFRPC, regulatory agencies having jurisdiction and interested environmental groups and be included in the biennial report.

The Viera Stewardship District Act requires that three governing board members of the VSD shall be persons elected by the qualified electors residing within the district as such time as the district is populated by 60% of the project total number of qualified electors for the district. The Viera Stewardship District Act defines “projected total qualified electors” to mean and refer to the product of: (the total number of single-family and multi-family residential units approved within the district by a development order issued by Brevard County and in effect in the tenth year following creation of the VSD) X (the average number of persons residing within a household located in Brevard County based on the 2010 U.S. Census) X (the percentage of Brevard County’s general population registered to vote as reported by the Brevard County Supervisor of Elections as of the general election occurring in November 2014). Solely for purposes of the preceding calculation, this Development Order approves 18,023 residential units within the geographical boundaries of the district, consisting of both single-family and multi-family units. The preceding sentence shall not be deemed or construed in any manner to vest such residential units for development within the district or relieve the Developer of any applicable concurrency requirements with respect to such units.

XII. MODIFICATIONS TO THIS DEVELOPMENT ORDER

The Developer shall submit simultaneously to Brevard County, and to the East Central Florida Regional Planning Council, and the Florida Department of Economic Opportunity as applicable under the law, any request for approval of a proposed change to the Viera Development of Regional Impact and shall comply with Section 380.06(19), Florida Statutes, concerning substantial deviations in compliance with the law at the time of application. Submissions shall be in a format established by the Florida Department of Economic Opportunity and shall include at a minimum the precise language which is proposed for deletion or addition to this Development

Order and a statement summarizing all previous changes that have been made to this Development Order.

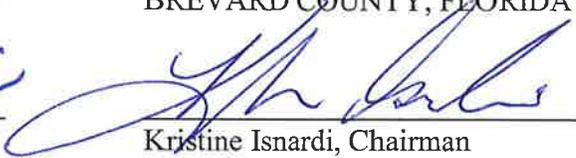
NOW THEREFORE, BE IT ORDAINED AND RESOLVED by the Board of County Commissioners of Brevard County, Florida that this Amended and Restated Development Order for the Viera Development of Regional Impact (No. 19-) is APPROVED pursuant to Chapter 380.06, F.S. subject to the terms and conditions of this Resolution.

ATTEST:



Scott Ellis, Clerk

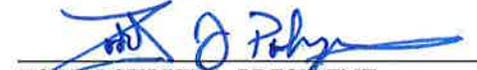
BOARD OF COUNTY COMMISSIONERS
BREVARD COUNTY, FLORIDA



Kristine Isnardi, Chairman

Approved by Board 8/20/19

ACCEPTANCE BY THE DEVELOPER:
THE VIERA COMPANY, INC. HEREBY ACCEPTS AND CONSENTS TO THE FOREGOING
DEVELOPMENT ORDER FOR THE VIERA DEVELOPMENT OF REGIONAL IMPACT.



TODD POKRYWA, PRESIDENT

DATE: 8/15/19

ACCEPTANCE BY THE CO-APPLICANT:

A. DUDA & SONS, INC., HEREBY ACCEPTS AND CONSENTS TO THE FOREGOING DEVELOPMENT ORDER FOR THE VIERA DEVELOPMENT OF REGIONAL IMPACT



TRACY DUDA CHAPMAN,
SENIOR VICE PRESIDENT, CHIEF LEGAL
AND ADMINISTRATIVE OFFICER

DATE



08/16/19

Exhibit 1 and 2

A parcel of land lying in Sections 28, 29, 32 and 33, Township 25 South, Range 36 East, and Sections 4, 5, 8, 9, 10, 15, 16, 17, 20, 21, 22, 28 and 29, Township 26 South, Range 36 East, Brevard County, Florida, being more particularly described as follows:

Begin at the Northeast corner of Section 29, Township 25 South, Range 36 East; thence $N89^{\circ}37'03''E$, along the North line of Section 28, Township 25 South, Range 36 East, a distance of 236.93 feet, to a point on the West right of way line of Interstate 95 (a 300.00 foot wide Limited Access Right of Way as described in Circuit Court Minute Book 53, Pages 359 through 363 of the Public Records of Brevard County, Florida) and a point of intersection with a non-tangent curve, concave Southwesterly, having a radius of 5,579.65 feet and a central angle of $26^{\circ}53'09''$; thence the following 3 courses along said West right of way line of Interstate 95: (1) Southeasterly, along the arc of said curve to the right, a distance of 2,618.22 feet (said arc subtended by a chord bearing $S27^{\circ}57'34''E$, a distance of 2,594.27 feet), to a point of tangency; (2) $S14^{\circ}30'59''E$, a distance of 18,066.03 feet; (3) $S04^{\circ}15'31''E$, a distance of 437.30 feet, to a point on the North line of lands described in Official Records Book 2355, Pages 1570 and 1571 of the Public Records of Brevard County, Florida; thence $S75^{\circ}28'38''W$, along the North line of said lands, a distance of 839.48 feet, to the Northwest corner of said lands; thence $S14^{\circ}31'21''E$, along the West line of said lands, a distance of 531.92 feet, to the Southwest corner of said lands; thence $N89^{\circ}33'38''E$, along the South line of said lands, a distance of 21.66 feet; thence $N00^{\circ}26'21''W$, along the South line of said lands, a distance of 50.00 feet; thence $N89^{\circ}33'38''E$, along the South line of said lands, a distance of 291.22 feet, to a point on the West right of way line of said Interstate 95; thence the following 5 courses along said West right of way line of Interstate 95: (1) $S00^{\circ}26'21''E$, a distance of 230.00 feet; (2) $N89^{\circ}33'39''E$, a distance of 100.00 feet; (3) $S64^{\circ}31'58''E$, a distance of 389.10 feet; (4) $S25^{\circ}00'16''E$, a distance of 1,441.86 feet; (5) $S14^{\circ}30'59''E$, a distance of 4,249.29 feet, to a point 351.49 feet South of, by perpendicular measurement, the North line of said Section 22, Township 26 South, Range 36 East; thence $S87^{\circ}31'12''W$, parallel with and 351.49 feet South of the North line of said Section 22, a distance of 2,383.56 feet, to a point on the East line of Section 21, Township 26 South, Range 36 East; thence $S00^{\circ}52'01''E$, along the East line of said Section 21, a distance of 4,941.06 feet, to the Northeast corner of Section 28, Township 26 South, Range 36 East; thence $S00^{\circ}22'01''E$, along the East line of said Section 28, a distance of 2,641.30 feet, to the East one-quarter corner of said Section 28; thence $S89^{\circ}09'50''W$, along the South line of the North one-half of said Section 28, a distance of 5,316.03 feet, to the West one-quarter corner of said Section 28; thence $S89^{\circ}24'21''W$, along the South line of the Northeast one-quarter of Section 29, Township 26 South, Range 36 East, a distance of 1,321.53 feet, to the Southwest corner of the East one-half of the Northeast one-quarter of said Section 29; thence $N00^{\circ}42'48''W$, along the West line of the East one-half of the Northeast one-quarter of said Section 29, a distance of 2,644.74 feet, to a point on the South line of Section 20, Township 26 South, Range 36 East; thence $N00^{\circ}25'43''W$, along the West line of the East one-quarter of said Section 20, a distance of 5,296.74 feet, to a point on the South line of Section 17, Township 26 South, Range 36 East; thence $N00^{\circ}35'21''E$, along the West line of the East one-quarter of said Section 17, a distance of 5,204.77 feet, to a

point 67.27 feet South of, by perpendicular measurement, the South line of Section 8, Township 26 South, Range 36 East; thence S89°08'33"W, a distance of 3,998.76 feet, to a point on the West line of said Section 17; thence N00°35'19"W, along the West line of said Section 17, a distance of 75.00 feet, to the Southwest corner of said Section 8; thence N00°35'22"W, along the West line of said Section 8, a distance of 5,302.92 feet, to the Southwest corner of Section 5, Township 26 South, Range 36 East; thence N00°33'35"W, along the West line of said Section 5, a distance of 5,290.28 feet, to the Southwest corner of Section 32, Township 25 South, Range 36 East; thence N00°31'18"E, along the West line of said Section 32, a distance of 4,667.92 feet; thence N66°33'30"E, a distance of 1,990.78 feet, to the point of curvature of a curve, concave Northwesterly, having a radius of 2,988.25 feet and a central angle of 28°53'46"; thence Northeasterly, along the arc of said curve to the left, a distance of 1,507.07 feet, to a point of intersection with a non-tangent line; thence N26°25'15"W, a distance of 1,508.04 feet; thence N00°33'05"W, a distance of 470.00 feet; thence N45°39'16"W, a distance of 1,200.05 feet; thence S89°26'55"W, a distance of 150.00 feet; thence N45°51'06"W, a distance of 274.34 feet; thence N00°33'05"W, a distance of 1,456.42 feet, to a point on the North line of Section 29, Township 25 South, Range 36 East; thence N89°20'44"E, along the North line of said Section 29, a distance of 4,125.06 feet, to the POINT OF BEGINNING; Containing 6,249.54 acres, more or less.

LESS AND EXCEPT:

A portion of Section 29, Township 25 South, Range 36 East, Brevard County, Florida, being more particularly described as follows:

Commence at the Northeast corner of Section 29, Township 25 South, Range 36 East; thence S89°20'44"W, along the North line of said Section 29, a distance of 818.56 feet; thence S00°27'28"E, a distance of 60.00 feet, to the Northeast corner of that tract of land described as Parcel #1 in Official Records Book 2885, Page 0986, of the Public Records of Brevard County, Florida, and the POINT OF BEGINNING of the herein described parcel; thence continue, S00°27'28"E, along the East line of said Parcel #1, a distance of 127.53 feet, to the Southeast corner of said Parcel #1; thence S89°20'44"W, along the South line of said Parcel #1, a distance of 466.24 feet, to the Northeast corner of that tract of land described as Parcel #2 in said Official Records Book 2885, Page 0986; thence S00°27'28"E, along the East line of said Parcel #2, a distance of 50.00 feet, to the Southeast corner of said Parcel #2; thence S89°20'44"W, along the South line of said Parcel #2, a distance of 185.00 feet, to the Southwest corner of said Parcel #2; thence N00°27'28"W, along the West line of said Parcel #2, a distance of 50.00 feet, to the Northwest corner of said Parcel #2; thence N89°20'44"E, along the North line of said Parcel #2, a distance of 150.00 feet, to the Southwest corner of aforesaid Parcel #1; thence N00°27'28"W, along the West line of said Parcel #1, a distance of 50.00 feet; thence N89°20'44"E, a distance of 50.00 feet; thence N00°27'28"W, a distance of 77.53 feet, to the Northwest corner of said Parcel #1, and a point 60.00 feet South of, by perpendicular measurement, the North line of said Section 29; thence N89°20'44"E, along the North line of said Parcel #1, parallel with and 60.00 feet South of the North line of said Section 29, a distance of 451.24 feet, to the POINT OF BEGINNING; Containing 1.59 acres, more or less.

Together with:

All of Section 27 and portions of Sections 22, 28, 33, 34 and 35, Township 25 South, Range 36 East and portions of Sections 2, 3, 4, 10 and 11, Township 26 South, Range 36 East, all in Brevard County, Florida, more particularly described as follows:

Commence at the Southeast corner of said Section 10; thence $N00^{\circ}56'27''W$, along the east line of said Section 10, a distance of 50.01 feet, to a point on the North right of way line of Wickham Road (a 100.00 foot right of way) said point also being the POINT OF BEGINNING of the herein described parcel; thence $S88^{\circ}04'16''W$, along the North right of way line of said Wickham Road, a distance of 1.46 feet; thence $S86^{\circ}42'08''W$, along the North right of way line of said Wickham Road, a distance of 1791.20 feet; thence $S89^{\circ}33'39''W$, along said North right of way line of Wickham Road, a distance of 1230.64 feet, to a point on the East line of lands described in Official Records Book 876 Page 569 of the Public Records of Brevard County, Florida; thence $N14^{\circ}30'59''W$, along the East line of said lands, a distance of 767.04 feet, to the Northeast corner of lands described in Official Records Book 876 Page 569; thence $S75^{\circ}29'01''W$, along the North line of said lands, a distance of 768.60 feet, to the Easterly right of way line of Interstate 95 (a 300.00 foot Limited Access right of way) as described in Circuit Court Book 53 Pages 359-363 of said Public Records of Brevard County, Florida, thence $N25^{\circ}59'45''W$, along said Easterly right of way line, a distance of 745.37 feet; thence $N14^{\circ}30'59''W$, along said Easterly right of way line, a distance of 2308.05 feet, to a point on the Westerly extension of the North line of Tract "A" CRANE CREEK UNIT ONE according to the plat thereof as recorded in Plat Book 35 pages 98 and 99 of said Public Records; thence along the North line of said Tract "A" the following courses: $N60^{\circ}50'37''E$, a distance of 345.53 feet; thence $N37^{\circ}55'22''E$, a distance of 170.97 feet; thence $N52^{\circ}14'42''E$, a distance of 84.63 feet; thence $N75^{\circ}32'52''E$, a distance of 550.00 feet; thence $N77^{\circ}53'10''E$, a distance of 75.00 feet; thence $S84^{\circ}57'29''E$, a distance of 75.00 feet; thence $S82^{\circ}54'27''E$, a distance of 410.74 feet; thence $N07^{\circ}05'33''E$, a distance of 104.22 feet, to a point of intersection with a non-tangent curve, concave Northerly, having a radius of 813.27 feet and a central angle of $23^{\circ}09'47''$; thence Easterly, along the arc of said curve to the left, a distance of 328.78 feet, (said arc subtended by a chord which bears $N79^{\circ}40'16''E$, for 326.55 feet) to a point of tangency; thence $N68^{\circ}05'23''E$, a distance of 243.76 feet, to a point lying 30.00 feet West of, by perpendicular measurement, the West right of way line of Murrell Road (a proposed 120.00 foot right of way) as described in Official Records Book 2953 Page 2101 of said Public Records; thence Northerly and 30.00 West of, by perpendicular measurement, said West right of way line of Murrell Road the following courses: $N21^{\circ}58'12''W$, a distance of 742.63 feet, to a point of curvature with a curve, concave Easterly having a radius of 1235.92 feet and a central angle of $27^{\circ}00'44''$;

thence Northerly, along the arc of said curve to the right, a distance of 582.68 feet, (said arc subtended by a chord which bears $N08^{\circ}27'42''W$, for 577.30 feet) to a point of tangency; thence $N05^{\circ}02'40''E$, a distance of 468.35 feet; to the point of curvature of a curve, concave Westerly, having a radius of 1055.92 feet and a central angle of $26^{\circ}59'03''$; thence Northerly, along the arc of said curve to the left, a distance of 497.30 feet, to a point of tangency; thence $N21^{\circ}56'23''W$, a distance of 1400.38 feet; to the point of curvature of a curve, concave Easterly, having a radius of 1235.92 feet and a central angle of $27^{\circ}28'01''$; thence Northerly, along the arc of said curve to the right, a distance of 592.49 feet, to a point of tangency; thence $N05^{\circ}31'38''E$, a distance of 1379.39 feet; thence $N84^{\circ}28'22''W$, a distance of 600.00 feet; thence $N05^{\circ}31'38''E$, a distance of 436.54 feet; to the point of curvature of a curve, concave Westerly having a radius of 947.02 feet

and a central angle of $29^{\circ}17'27''$; thence Northerly, and Northwesterly, along the arc of said curve to the left, a distance of 484.14 feet, to a point of tangency; thence $N23^{\circ}45'49''W$, a distance of 80.18 feet; thence $S75^{\circ}26'47''W$, a distance of 2378.80 feet, to the Easterly right of way line of aforesaid Interstate 95; thence along said Easterly right of way line, $N14^{\circ}30'59''W$, a distance of 8447.89 feet, to a point on the South line of North $\frac{1}{2}$ of Section 28, Township 25 South, Range 36 East, of Brevard County, Florida; thence $N89^{\circ}33'30''E$, along said South line of the North $\frac{1}{2}$ of Section 28, a distance of 472.99 feet, to a point of intersection with a non-tangent curve, concave Easterly, having a radius of 305.96 feet and a central angle of $29^{\circ}59'46''$; thence Southerly, along the arc of said curve to the left, a distance of 160.18 feet (said arc subtended by a chord which bears $S01^{\circ}19'19''W$, a distance of 158.36 feet) to a point of tangency; thence $S13^{\circ}40'34''E$, a distance of 303.04 feet, to the point of curvature of a curve, concave Northeasterly, having a radius of 458.10 feet and a central angle of $56^{\circ}01'11''$; thence Southeasterly, along the arc of said curve to the left, a distance of 447.90 feet, to a point of tangency; thence $S69^{\circ}41'45''E$, a distance of 425.30 feet, to the point of curvature of a curve, concave Northerly, having a radius of 50.00 feet and a central angle of $63^{\circ}22'16''$; thence Easterly, along the arc of said curve to the left, a distance of 55.30 feet, to a point of tangency; thence $N46^{\circ}55'59''E$, a distance of 360.24 feet, to the point of curvature of a curve, concave Westerly, having a radius of 50.00 feet and a central angle of $65^{\circ}10'20''$; thence Northerly, along the arc of said curve to the left, a distance of 56.87 feet, to a point of tangency; thence $N18^{\circ}14'21''W$, a distance of 634.87 feet, to the point of curvature of a curve, concave Westerly, having a radius of 335.00 feet and a central angle of $03^{\circ}04'30''$; thence Northerly, along the arc of said curve to the left, a distance of 17.98 feet, to a point on the South line of the North one-half of said Section 28, and a point of intersection with a non-tangent line; thence $N89^{\circ}33'30''E$, along said South line, a distance of 372.80 feet, to a point of intersection with a non-tangent curve, concave Northerly, having a radius of 407.17 feet and a central angle of $39^{\circ}26'11''$; thence Easterly, along the arc of said curve to the left, a distance of 280.25 feet (said arc subtended by a chord which bears $S71^{\circ}26'34''E$, a distance of 274.75 feet), to a point of tangency; thence $N88^{\circ}50'21''E$, a distance of 296.03 feet; thence $N01^{\circ}09'39''W$, a distance of 85.74 feet; to a point on the South line of the North one-half of said Section 28; thence $N89^{\circ}33'30''E$, along said South line, a distance of 373.86 feet; thence $N61^{\circ}33'05''E$, a distance of 211.23 feet, to a point of intersection with a non-tangent curve, concave Northeasterly, having a radius of 75.06 feet and a central angle of $71^{\circ}38'52''$; thence Southeasterly, along the arc of said curve to the left, a distance of 93.87 feet (said arc subtended by a chord which bears $S64^{\circ}16'20''E$, a distance of 87.87 feet), to a point of tangency; thence $N79^{\circ}54'14''E$, a distance of 143.40 feet; thence $S01^{\circ}14'17''E$, a distance of 84.49 feet, to a point on the South line of the North one-half of said Section 28; thence $N89^{\circ}33'30''E$, along said South line, a distance of 406.31 feet, to the East $\frac{1}{4}$ corner of said Section 28; thence $N00^{\circ}52'33''W$, along the East line of said Section 28, a distance of 2689.25 feet, to the Northwest corner of Section 27, Township 25 South, Range 36 East, of said Brevard County, Florida; thence $N89^{\circ}44'56''E$, along the North line of said Section 27, a distance of 4533.52 feet, to a point on the West line of lands described in Official Records Book 2237, Page 2896 of said Public Records; thence $N00^{\circ}14'41''W$, along said West line of said lands, a distance of 1969.91 feet, to a point on the South right of way line of Barnes Boulevard (a 100.00 foot right of way); thence $S89^{\circ}47'34''E$, along the South right of way line of said Barnes Boulevard, a distance of 800.02 feet, to a point on the East line of lands described in said Official Records Book 2237, Page 2896; thence $S00^{\circ}14'41''E$, along the East line of said lands, a

distance of 1963.51 feet, to the Northeast corner of aforesaid Section 27; thence S00°21'25"E, along the East line of said Section 27, a distance of 2660.01 feet; thence S00° 41'06"W, along the East line of said Section 27, a distance of 2181.04 feet; thence S38°50'01"E, a distance of 1283.83 feet; thence S00°00'17"W, a distance of 1950.00 feet; thence S40°13'54"E, a distance of 170.29 feet; thence S00°00'17"W, a distance of 575.80 feet; thence S00°47'41"W, a distance of 160.33 feet; thence S00°02'33"W, a distance of 285.27 feet; thence S40°33'32"E, a distance of 322.68 feet; thence S39°45'09"W, a distance of 309.83 feet; thence S39°45'09"W, a distance of 73.64 feet; thence S01°44'51"E, a distance of 160.08 feet; thence S56°16'03"E, a distance of 396.61 feet; thence S60°35'59"E, a distance of 91.79 feet; thence S03°13'41"E, a distance of 350.57 feet; thence S40°30'27"W, a distance of 467.42 feet, to a point on the South line of Section 35, Township 25 South, Range 36 East of said Brevard County, Florida; thence S88°58'58"W, along the South line of said Section 35, a distance of 1034.88 feet, to the Northeast corner of Section 3, Township 26 South, Range 36 East of Brevard County, Florida; thence S01°18'21"W, along the East line of said Section 3, Township 26 South, Range 36 East of Brevard County, Florida; thence S01°18'21"W, along the East line of said Section 3, a distance of 1245.65 feet, to the Northeast corner of INDIAN RIVER COLONY CLUB, P.U.D., PHASE 2, UNIT 1, according to the plat thereof as recorded in Plat Book 34, Page 92 of said Public Records; thence S88°36'35" W, along the North line of said INDIAN RIVER COLONY CLUB, P.U.D., PHASE 2, UNIT 1, and the North line of INDIAN RIVER COLONY CLUB, P.U.D., PHASE 1, UNIT 2, according to the plat thereof as recorded in Plat Book 34 Page 36 of said Public Records, a distance of 2634.53 feet; thence S88°29'51"W, along the North line of said INDIAN RIVER COLONY CLUB, P.U.D., PHASE 1, UNIT 2, and the North line of INDIAN RIVER COLONY CLUB, P.U.D., PHASE 1, UNIT 1, according to the plat thereof as recorded in Plat Book 34 Pages 31 and 32 of said Public Records, and the North line of INDIAN RIVER COLONY CLUB, P.U.D., PHASE 1, UNIT 3, according to the plat thereof as recorded in Plat Book 35 Page 91 of said Public Records, a distance of 883.37 feet, to the East right of way line of aforesaid Murrell Road; thence Southerly along the East right of way of said Murrell Road the following courses: S05°31'38"W, a distance of 785.27 feet; to the point of curvature of a curve, concave Easterly, having a radius of 1085.92 feet and a central angle of 27°28'01"; thence Southerly, along the arc of said curve to the left, a distance of 520.58 feet, to a point of tangency; thence S21°56'23"E, a distance of 1400.38 feet; to the point of curvature of a curve, concave Westerly, having a radius of 1205.92 feet and a central angle of 26°59'03"; thence Southerly, along the arc of said curve to the right, a distance of 567.94 feet, to a point of tangency; thence S05°02'40"W, a distance of 468.35 feet; to the point of curvature of a curve, concave Easterly, having a radius of 1085.92 feet and a central angle of 27°00'44"; thence Southerly, along the arc of said curve to the left, a distance of 511.96 feet, to a point of tangency; thence S21°58'05"E, a distance of 592.75 feet; to the point of curvature of a curve, concave Northeasterly, having a radius of 50.00 feet and a central angle of 90°00'00"; thence along the South line of lands described in Official Records Book 2952 Page 1046, of said Public Records the following courses: Southeasterly along the arc of aforesaid curve to the left, and a distance of 78.54 feet, to a point of tangency; thence N68°01'55"E, a distance of 423.19 feet; to the point of curvature of a curve, concave Southerly, having a radius of 960.00 feet and a central angle of 19°01'19"; thence Easterly, along the arc of said curve to the right, a distance of 318.72 feet, to a point of tangency; thence N87°03'14"E, a distance of 221.13 feet; thence N02°52'32"W, along the East line of said Official Records Book 2952, Page 1046, a distance of 693.18 feet, to a point on the South line of

INDIAN RIVER COLONY CLUB, P.U.D., PHASE 2, UNIT 4, according to the plat thereof as recorded in Plat Book 35 Pages 65, 66 and 67 of said Public Records; thence N86°32'28"E, along the South line of said INDIAN RIVER COLONY CLUB, P.U.D., PHASE 2, UNIT 4, a distance of 1619.95 feet, to the Southeast corner of the aforesaid Section 3; thence N01°19'53"E, along the East line of said Section 3, and the East line of INDIAN RIVER COLONY CLUB, P.U.D., PHASE 2, UNIT 4, and the East line of INDIAN RIVER COLONY CLUB, P.U.D., PHASE 2, UNIT 2, according to the plat thereof as recorded in Plat Book 34 Pages 99 and 100, and the East line of the aforesaid INDIAN RIVER COLONY CLUB, P.U.D., PHASE 2, UNIT 1, a distance of 2506.80 feet, to a point on the North line of the West ½, of the Southwest ¼ of Section 2, Township 26 South, Range 36 East of said Brevard County, Florida; thence N87°30'13"E, along said North line, a distance of 1347.63 feet, to a point on the East line of the West ½ of the Southwest ¼ of said Section 2; thence S00°58'04"W, along said East line, a distance of 2563.79 feet, to the Southeast corner of the West ½ of the Southwest ¼ of said Section 2; thence S00°29'09"E, along the East line of the Northwest ¼ of the Northwest ¼ of Section 11, Township 26 South, Range 36 East of said Brevard County, Florida, a distance of 1335.62 feet, to a point on the South line of said Northwest ¼ of the Northwest ¼ of Section 11; thence N89°30'57"W, along said South line, a distance of 1350.86 feet, to a point on the East line of Section 10, Township 26 South, Range 36 East; thence S00°56'39"E, along the East line of said Section 10, a distance of 1322.93 feet; thence S00°56'27"E, along the East line of said Section 10, a distance of 541.54 feet, to the Northeast corner of lands described in Official Records Book 2812, Page 2063 of said Public Records; thence along the North boundary of said Official Records Book 2812 Page 2063, the following courses: S87°58'09"W, a distance of 649.89 feet; thence S00°56'33"E, a distance of 288.93 feet; thence S59°06'00"W, a distance of 245.74 feet; thence N88°22'27"W, a distance of 502.08 feet; thence S59°06'25"W, a distance of 503.21 feet; thence S00°56'41"E, a distance of 575.05 feet; thence S44°01'53"W, a distance of 158.94 feet; thence S87°56'38"W, a distance of 359.28 feet, to the East right of way line of aforesaid Murrell Road; thence S12°26'11"E, along the East right of way line of said Murrell Road, a distance of 152.27 feet, to a point on the South line of lands described in said Official Records Book 2812 Page 2063; thence N87°58'46"E, along the South line of said lands, a distance of 2241.81 feet, to a point on the East line of aforesaid Section 10; thence S00°56'27"E, along the East line of said Section 10, a distance of 600.02 feet, to the POINT OF BEGINNING.

Together with:

A portion of Section 28, Township 25 South, Range 36 East, Brevard County, Florida, lying East of Interstate 95, being more particularly described as follows:

Commence at the Northwest corner of said Section 28; thence N89°37'03"E, along the North line of the Northwest one-quarter of said Section 28, a distance of 627.16 feet, to a point on the East right of way line of Interstate 95 (a 300.00 foot wide right of way) and the POINT OF BEGINNING of the herein described parcel; thence continue, N89°37'03"E, along said North line, a distance of 2,011.74 feet, to the North ¼ corner of said Section 28; thence N89°37'23"E, along the North line of the Northeast one-quarter of said Section 28, a distance of 2,649.15 feet, to the Northeast corner of said Section 28; thence S00°52'33"E, along the East line of said Section 28; a distance of 2,689.25 feet, to the East ¼ corner of said Section 28; thence S89°33'30"W, along the South line of the North one-half of said Section 28, a distance of 406.31

feet; thence $N01^{\circ}14'17''W$, a distance of 84.49 feet; thence $S79^{\circ}54'14''W$, a distance of 143.40 feet, to the point of curvature of a curve, concave Northeasterly, having a radius of 75.06 feet and a central angle of $71^{\circ}38'52''$; thence Northwesterly, along the arc of said curve to the right, a distance of 93.87 feet, to a point of intersection with a non-tangent line; thence $S61^{\circ}33'05''W$, a distance of 211.23 feet, to a point on the South line of the North one-half of said Section 28; thence $S89^{\circ}33'30''W$, along said South line, a distance of 373.86 feet; thence $S01^{\circ}09'39''E$, a distance of 85.74 feet; thence $S88^{\circ}50'21''W$, a distance of 296.03 feet, to the point of curvature of a curve, concave Northerly, having a radius of 407.17 feet and a central angle of $39^{\circ}26'11''$; thence Westerly, along the arc of said curve to the right, a distance of 280.25 feet, to a point on the South line of the North one-half of said Section 28, and a point of intersection with a non-tangent line; thence $S89^{\circ}33'30''W$, along said South line; a distance of 372.80 feet, to a point of intersection with a non-tangent curve, concave Westerly, having a radius of 335.00 feet and a central angle of $03^{\circ}04'30''$; thence Southerly, along the arc of said curve to the right, a distance of 17.98 feet (said arc subtended by a chord which bears $S19^{\circ}46'36''E$, a distance of 17.98 feet, to a point of tangency; thence $S18^{\circ}14'21''E$, a distance of 634.87 feet, to the point of curvature of a curve, concave Westerly, having a radius of 50.00 feet and a central angle of $65^{\circ}10'20''$; thence Southerly, along the arc of said curve to the right, a distance of 56.87 feet, to a point of tangency; thence $S46^{\circ}55'59''W$, a distance of 360.24 feet, to the point of curvature of a curve, concave Northerly, having a radius of 50.00 feet and a central angle of $63^{\circ}22'16''$; thence Westerly, along the arc of said curve to the right, a distance of 55.30 feet, to a point of tangency; thence $N69^{\circ}41'45''W$, a distance of 425.30 feet, to the point of curvature of a curve, concave Northeasterly, having a radius of 458.10 feet and a central angle of $56^{\circ}01'11''$; thence Northwesterly, along the arc of said curve to the right, a distance of 447.90 feet, to a point of tangency; thence $N13^{\circ}40'34''W$, a distance of 303.04 feet, to the point of curvature of a curve, concave Easterly, having a radius of 305.96 feet and a central angle of $29^{\circ}59'46''$; thence Northerly, along the arc of said curve to the right, a distance of 160.18 feet, to a point on the South line of the North one-half of said Section 28, and a point of intersection with a non-tangent line; thence $S89^{\circ}33'30''W$, along said South line, a distance of 472.99 feet, to a point on the East right of way line of said interstate 95; thence $N14^{\circ}30'59''W$, along said East right of way line, a distance of 481.28 feet, to the point of curvature of a curve, concave Southwesterly, having a radius of 5,879.65 feet and a central angle of $24^{\circ}23'21''$; thence Northwesterly, along said East right of way line, and along the arc of said curve to the left, a distance of 2,502.80 feet, to the POINT OF BEGINNING; containing 260.84 acres, more or less.

TOGETHER WITH:

Begin at a 4" X 4" concrete monument at the Northwest corner of said Section 30, Township 25 South, Range 36 East; thence N89°21'55"E, along the North line of said Section 30, a distance of 2,545.93 feet, to an iron rod; thence S08°24'33"E, a distance of 748.62 feet, to an iron rod; thence S08°55'25"E, a distance of 405.40 feet, to an iron rod; thence S07°53'09"E, a distance of 404.42 feet, to an iron rod; thence S07°41'38"E, a distance of 556.16 feet, to an iron rod; thence S08°07'57"E, a distance of 556.72 feet, to an iron rod; thence S07°54'48"E, a distance of 556.44 feet, to an iron rod; thence S08°10'16"E, a distance of 880.33 feet, to an iron rod; thence S07°57'39"E, a distance of 482.44 feet, to an iron rod; thence S79°41'18"W, a distance of 8.69 feet, to an iron rod; thence S07°38'31"E, a distance of 396.84 feet, to an iron rod; thence S13°30'01"W, a distance of 6.84 feet, to an iron rod; thence S68°53'11"W, a distance of 456.26 feet, to an iron rod; thence S75°44'29"W, a distance of 86.29 feet, to an iron rod; thence S64°14'40"W, a distance of 129.79 feet, to an iron rod; thence S68°29'29"W, a distance of 703.75 feet, to an iron rod; thence S03°43'55"E, a distance of 774.28 feet, to an iron rod; thence S03°43'05"E, a distance of 420.39 feet, to an iron rod; thence S17°31'55"W, a distance of 31.51 feet, to an iron rod; thence S02°10'23"W, a distance of 15.32 feet, to an iron rod; thence S84°49'06"W, a distance of 1,260.85 feet, to an iron rod; thence S65°26'07"W, a distance of 553.39 feet, to an iron rod; thence S65°16'09"W, a distance of 553.65 feet, to an iron rod; thence S65°26'06"W, a distance of 552.21 feet, to an iron rod; thence S65°42'09"W, a distance of 553.14 feet, to an iron rod; thence S86°33'52"W, a distance of 560.20 feet, to an iron rod; thence S86°36'43"W, a distance of 1,119.98 feet, to an iron rod; thence N15°49'12"W, a distance of 53.08 feet, to an iron rod; thence S88°41'21"W, a distance of 144.31 feet, to an iron rod; thence S86°14'12"W, a distance of 360.22 feet, to an iron rod; thence S44°22'00"W, a distance of 2,194.87 feet, to an iron rod; thence S02°24'20"E, a distance of 99.12 feet, to an iron rod; thence S46°55'21"W, a distance of 146.56 feet, to an iron rod; thence S65°38'19"W, a distance of 194.77 feet, to an iron rod; thence S63°42'25"W, a distance of 577.43 feet, to an iron rod; thence S69°45'01"W, a distance of 412.41 feet, to an iron rod; thence N89°15'09", a distance of 79.29 feet, to an iron rod; thence S73°35'49"W, a distance of 521.37 feet, to an iron rod; thence S87°25'48"W, a distance of 483.14 feet, to an iron rod; thence S87°26'32"W, a distance of 966.55 feet, to an iron rod; thence S87°21'06"W, a distance of 485.66 feet, to an iron rod; thence S62°14'38"W, a distance of 444.40 feet, to an iron rod; thence S62°17'07"W, a distance of 446.88 feet, to an iron rod; thence S62°19'23"W, a distance of 358.90 feet, to an iron rod; thence S62°27'13"W, a distance of 370.19 feet, to an iron rod; thence S77°23'47"W, a distance of 411.83 feet, to an iron rod; thence S00°53'45"W, a distance of 125.73 feet, to an iron rod; thence S00°13'05"W, a distance of 658.60 feet, to an iron rod; thence S00°02'40"E, a distance of 1,583.00 feet, to an iron rod; thence S00°01'31"E, a distance of 543.46 feet, to an iron rod; thence S06°38'41"E, a distance of 236.05 feet, to an iron rod; thence S00°05'15"W, a distance of 1,609.02 feet, to an iron rod; thence N89°56'44"E, a distance of 1,150.63 feet, to an iron rod; thence N89°41'56"E, a distance of 575.37 feet, to an iron rod; thence S89°48'28"E, a distance of 575.27 feet, to an iron rod; thence S05°17'41"E, a distance of 5,150.06 feet, to an iron rod; thence S88°28'59"W, a distance of 892.20 feet, to an iron rod; thence S89°18'35"W, a distance of 1,352.16 feet, to an iron rod; thence N88°11'42"W, a distance of 478.57 feet, to an iron rod;

thence S04°20'09"W, a distance of 165.35 feet, to an iron rod; thence S44°31'42"E, a distance of 1,884.04 feet, to an iron rod; thence S44°35'30"E, a distance of 3,917.97 feet, to an iron rod; thence S62°09'21"E, a distance of 2,317.97 feet, to an iron rod; thence S61°05'48"E, a distance of 649.92 feet, to an iron rod; thence N47°16'55", a distance of 35.75 feet, to an iron rod; thence S61°57'44"E, a distance of 923.38 feet, to an iron rod; thence S41°26'58"E, a distance of 273.10 feet, to an iron rod; thence S30°04'29"E, a distance of 310.25 feet, to an iron rod; thence S34°43'38"E, a distance of 598.07 feet, to an iron rod; thence S26°25'22"E, a distance of 301.86 feet, to an iron rod; thence S04°19'41"E, a distance of 773.92 feet, to an iron rod; thence S03°54'52"E, a distance of 1,444.29 feet, to an iron rod; thence S88°57'24"E, a distance of 504.03 feet, to an iron rod; thence S13°21'03"W, a distance of 118.12 feet, to an iron rod; thence S34°02'56"W, a distance of 1,348.21 feet, to an iron rod; thence S45°13'06"W, a distance of 1,297.85 feet, to an iron rod; thence S63°01'28"W, a distance of 72.85 feet, to an iron rod; thence S35°48'10"E, a distance of 45.45 feet, to an iron rod; thence S36°43'44"E, a distance of 81.14 feet, to an iron rod; thence S43°22'10"E, a distance of 2,416.90 feet, to an iron rod; thence S54°43'27"E, a distance of 118.25 feet, to an iron rod; thence S76°01'08"E, a distance of 114.63 feet, to an iron rod; thence S89°15'48"E, a distance of 397.01 feet, to an iron rod; thence S67°53'23"E, a distance of 92.26 feet, to a iron rod; thence S27°40'02"E, a distance of 156.14 feet, to an iron rod; thence S64°16'29"E, a distance of 37.61 feet, to an iron rod; thence S89°15'14"E, a distance of 352.87 feet, to an iron rod; thence S85°51'17"E, a distance of 307.67 feet, to an iron rod; thence N86°54'20"E, a distance of 151.74 feet, to an iron rod; thence N76°30'06"E, a distance of 261.56 feet, to an iron rod; thence N87°06'14"E, a distance of 251.77 feet, to an iron rod; thence N88°53'08"E, a distance of 158.24 feet, to an iron rod; thence N85°02'05"E, a distance of 159.48 feet, to an iron rod; thence S87°50'11"E, a distance of 174.88 feet, to an iron rod; thence S83°44'02"E, a distance of 176.43 feet, to an iron rod; thence S86°24'25"E, a distance of 258.17 feet, to an iron rod; thence S81°07'19"E, a distance of 151.23 feet, to an iron rod; thence N73°40'28"E, a distance of 247.99 feet, to an iron rod; thence N84°35'54"E, a distance of 81.80 feet, to an iron rod; thence S79°39'38"E, a distance of 98.82 feet, to an iron rod; thence S67°29'44"E, a distance of 168.94 feet, to an iron rod; thence S56°25'12"E, a distance of 206.81 feet, to an iron rod; thence S70°16'15"E, a distance of 241.47 feet, to an iron rod; thence S71°16'02"E, a distance of 271.51 feet, to an iron rod; thence S76°57'22"E, a distance of 144.38 feet, to an iron rod; thence S83°43'51"E, a distance of 362.54 feet, to an iron rod; thence S82°09'02"E, a distance of 428.93 feet, to an iron rod; thence S76°54'20"E, a distance of 74.04 feet, to an iron rod; thence S69°05'45"E, a distance of 73.41 feet, to an iron rod; thence S54°06'44"E, a distance of 97.18 feet, to an iron rod; thence S37°26'00"E, a distance of 287.82 feet, to an iron rod; thence S54°56'39"E, a distance of 72.06 feet, to an iron rod; thence S73°11'26"E, a distance of 65.07 feet, to an iron rod; thence S79°38'52"E, a distance of 374.93 feet, to an iron rod; thence S74°51'17"E, a distance of 156.56 feet, to an iron rod; thence S60°41'38"E, a distance of 171.07 feet, to an iron rod; thence S75°22'42"E, a distance of 109.56 feet, to an iron rod; thence S52°26'28"E, a distance of 84.10 feet, to an iron rod; thence S41°24'22"E, a distance of 210.47 feet, to an iron rod; thence S38°52'45"E, a distance of 174.40 feet, to an iron rod; thence S33°54'38"E, a distance of 212.94 feet, to an iron rod; thence S37°40'21"E, a distance of 119.90 feet, to an iron rod; thence S63°38'27"E, a distance of 397.23 feet, to an iron rod; thence S54°42'23"E, a distance of 137.02 feet, to an iron rod; thence S66°28'00"E, a distance of 72.13 feet, to an iron rod; thence S74°03'50"E, a distance of 526.89 feet, to an iron rod; thence S65°07'14"E, a distance of 169.50

feet, to an iron rod; thence S56°11'35"E, a distance of 261.82 feet, to an iron rod; thence S62°05'45"E, a distance of 141.63 feet, to an iron rod; thence S82°38'30"E, a distance of 227.95 feet, to an iron rod; thence S64°34'06"E, a distance of 134.09 feet, to an iron rod; thence S44°50'15"E, a distance of 117.21 feet, to an iron rod; thence S36°18'31"E, a distance of 242.72 feet, to an iron rod; thence S49°43'39"E, a distance of 178.02 feet, to an iron rod; thence S45°48'41"E, a distance of 179.26 feet, to an iron rod; thence S49°49'20"E, a distance of 214.19 feet, to an iron rod; thence S41°48'48"E, a distance of 222.20 feet, to an iron rod; thence S48°35'30"E, a distance of 200.25 feet, to an iron rod; thence S61°25'40"E, a distance of 428.09 feet, to an iron rod; thence S63°06'44"E, a distance of 644.39 feet, to an iron rod; thence S62°46'04"E, a distance of 678.14 feet, to an iron rod; thence S62°43'50"E, a distance of 652.63 feet, to an iron rod; thence S53°36'34"E, a distance of 218.94 feet, to an iron rod; thence S64°10'09"E, a distance of 726.09 feet, to an iron rod; thence S64°07'34"E, a distance of 634.55 feet, to an iron rod; thence S62°56'15"E, a distance of 752.40 feet, to an iron rod; thence S65°29'06"E, a distance of 118.42 feet, to an iron rod; thence S59°29'15"E, a distance of 116.71 feet, to an iron rod; thence S41°56'01"E, a distance of 88.47 feet, to an iron rod; thence S39°21'46"E, a distance of 287.92 feet, to an iron rod; thence S39°13'55"E, a distance of 321.23 feet, to an iron rod; thence S39°37'39"E, a distance of 318.13 feet, to an iron rod; thence S51°26'09"E, a distance of 73.03 feet, to an iron rod; thence S75°43'21"E, a distance of 132.64 feet, to an iron rod; thence S81°00'26"E, a distance of 449.69 feet, to an iron rod; thence S61°25'12"E, a distance of 181.24 feet, to an iron rod; thence S76°11'38"E, a distance of 79.34 feet, to an iron rod; thence N83°23'17"E, a distance of 57.02 feet, to an iron rod; thence N57°28'51"E, a distance of 65.75 feet, to an iron rod; thence N48°12'37"E, a distance of 218.65 feet, to an iron rod; thence S71°43'37"E, a distance of 109.38 feet, to an iron rod; thence S55°14'02"E, a distance of 91.32 feet, to an iron rod; thence S38°01'21"E, a distance of 56.46 feet, to an iron rod; thence S03°46'11"E, a distance of 62.49 feet, to an iron rod; thence S00°46'56"W, a distance of 262.22 feet, to an iron rod; thence S13°01'47"E, a distance of 243.27 feet, to an iron rod; thence S16°57'33"E, a distance of 140.72 feet, to an iron rod on the South line of the Southeast one-quarter of Section 33, Township 26 South, Range 36 East; thence N88°28'46"E along the South line of said Section 33, 1212.95 feet to Southwest Corner of Section 34, Township 26 South, Range 36 East; thence N89°06'05"E along the South line of said Section 34, 4798.14 feet; to a point on the West Right-of-Way line of Interstate 95 (Circuit Court Book 53, Pages 359-363, Public Records of Brevard County Florida), thence N00°03'59"W, along said Right-of-Way 2480.30 feet; thence N00°28'45"W, 328.41 feet, to a point on the South Boundary line of Nail Farms (Deed Book 63, Page 155, Public Records of Brevard County, Florida); thence S78°21'10"W along said South Line, 303.63 feet; thence N00°38'50"W, 554.40 feet; thence N89°21'11"E, 290.53 feet, to a point on the said West Right-of-Way line of Interstate 95 and a non-tangent intersection with a curve to the left; Thence along said Right-of-Way and the arc of said curve, (said curve being concave to the West and having a radius of 22800.32 feet; a radial bearing of S87°51'38"W, a delta angle of 12°22'37", a chord distance of 4915.73 feet; and a chord bearing of N08°19'41"W) a distance of 4925.30 feet; to the end of said curve; thence N14°30'59"W, 4457.16 feet; thence S75°29'01"W, 200.00 feet; thence N14°30'59"W, 950.00 feet; thence N75°29'01"E, 200.00 feet; thence N14°30'59"W, 2229.09 feet, to a point on the East line of the Viera Development of Regional Impact (DRI) (as described in Official Records Book 4459, Page 3677, Public Records of Brevard County, Florida); thence along said DRI Line the following 24 courses and distances:

1. S87°31'12"W, 2376.76 feet, to a point on the East line of Section 21, Township 26, Range 36 East;
2. S00°52'01"E, along said East line of Section 21, 2322.94 feet to the Southeast Corner of the Northeast Quarter of said Section 21;
3. S00°52'01"E along said East Line of Section 21, 2646.34 feet, to the Northeast Corner of Section 28, Township 26, Range 36 East;
4. S00°22'01"E along said East line of Section 28, 2641.30 feet, to the Southeast Corner of the Northeast Quarter of said Section 28;
5. S89°09'50"W, 5316.03 feet to the Southwest Corner of the Northwest Quarter of said Section 28;
6. S89°24'21"W, 1321.53 feet;
7. N00°42'48"W, 2644.74 feet to a point on the South line of Section 20, Township 26, Range 36 East;
8. N00°25'43"W, 5296.74 feet to a point on the North line of said section 20;
9. N00°35'21"E, 5204.79 feet;
10. S89°08'33"W, 3998.77 feet to a point on the West Line of Section 17, Township 26 South, Range 36 East;
11. N00°35'19"W along the West line of said Section 17, 74.98 feet to the Southwest corner of Section 8; Township 26 South, Range 36 East;
12. N00°35'22"W along the West line of said Section 8, 5302.92 feet to the Southwest Corner of Section 5, Township 26 South, Range 36 East;
13. N00°33'35"W along the West line of said Section 5, 5290.28 feet; to the Southwest corner of Section 32, Township 25 South, Range 36 East;
14. N00°31'18"E along the West line of said Section 32, 4667.92 feet;
15. N66°33'30"E, 1990.78 feet; to the beginning of a curve to the left;
16. along the arc of said curve, (said curve being curved concave to the Northwest and having a radius of 2988.25 feet; a delta angle of 28°53'46", a chord distance of 1491.15 feet; , and a chord bearing of N52°06'37"E) a distance of 1507.07 feet; to the end of said curve;
17. N26°25'15"W, 1508.04 feet;
18. N00°33'05"W, 470.00 feet;

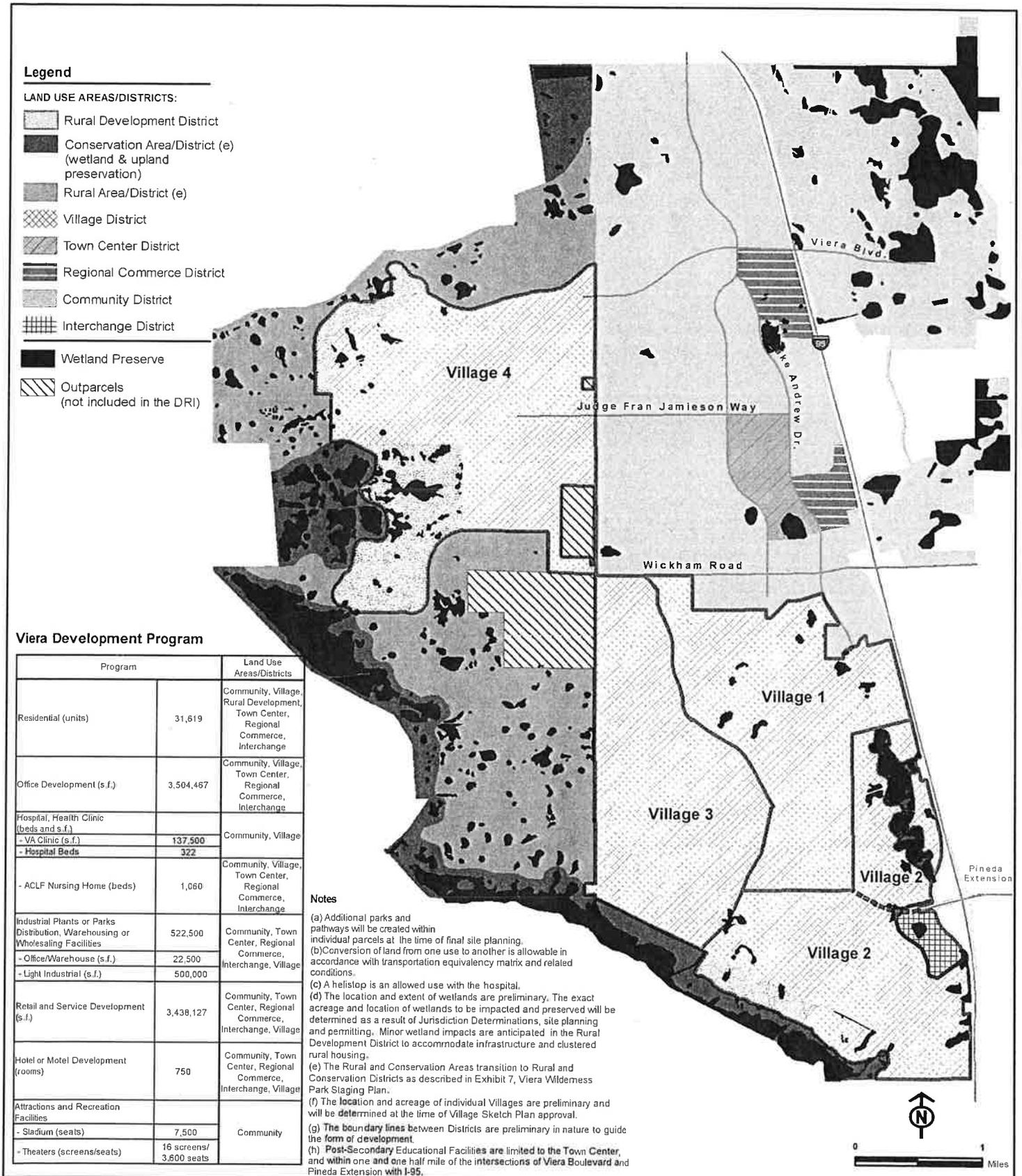
19. N45°39'16"W, 1200.05 feet;
20. S89°26'55"W, 150.00 feet;
21. N45°51'06"W, 274.34 feet;
22. N00°33'05"W, 1456.41 feet to a point on the North line of Section 29, Township 25 South, Range 36 East;
23. S89°20'44"W along the North line of said Section 29, 1153.36 feet to the Northeast corner of Section 30, Township 25 South, Range 36 East;
24. S89°23'19"W along the North line of said Section 30 2789.62 feet to the POINT OF BEGINNING.

Subject to Easements, Restrictions, Reservations and Rights-of-way of record.

LESS AND EXCEPT those certain parcels of land described in Official Records Book 2951, Page 1574; Official Records Book 3412, Page 4823; Official Records Book 4203, Page 2463; Official Records Book 5262, Page 3838; **AND LESS AND EXCEPT** that certain parcel of land described in Civil Action Documents 96-16731-CA-F; all being recorded in the Public Records of Brevard County, Florida.

TOGETHER WITH that certain parcel described in Official Records Book 5262, Page 3836, Public Records of Brevard County, Florida

Exhibit 3 Map H - Master Development Plan



Legend

LAND USE AREAS/DISTRICTS:

- Rural Development District
- Conservation Area/District (e)
(wetland & upland preservation)
- Rural Area/District (e)
- Village District
- Town Center District
- Regional Commerce District
- Community District
- Interchange District
- Wetland Preserve
- Outparcels
(not included in the DRI)

Viera Development Program

Program		Land Use Areas/Districts
Residential (units)	31,619	Community, Village, Rural Development, Town Center, Regional Commerce, Interchange
Office Development (s.f.)	3,504,467	Community, Village, Town Center, Regional Commerce, Interchange
Hospital, Health Clinic (beds and s.f.)		Community, Village
- VA Clinic (s.f.)	137,500	
- Hospital Beds	322	
- ACLF Nursing Home (beds)	1,060	Community, Village, Town Center, Regional Commerce, Interchange
Industrial Plants or Parks Distribution, Warehousing or Wholesaling Facilities	522,500	Community, Town Center, Regional Commerce, Interchange, Village
- Office/Warehouse (s.f.)	22,500	
- Light Industrial (s.f.)	500,000	
Retail and Service Development (s.f.)	3,438,127	Community, Town Center, Regional Commerce, Interchange, Village
Hotel or Motel Development (rooms)	750	Community, Town Center, Regional Commerce, Interchange, Village
Attractions and Recreation Facilities		Community
- Stadium (seats)	7,500	
- Theaters (screens/seats)	16 screens/ 3,600 seats	

Notes

- (a) Additional parks and pathways will be created within individual parcels at the time of final site planning.
- (b) Conversion of land from one use to another is allowable in accordance with transportation equivalency matrix and related conditions.
- (c) A helistop is an allowed use with the hospital.
- (d) The location and extent of wetlands are preliminary. The exact acreage and location of wetlands to be impacted and preserved will be determined as a result of Jurisdiction Determinations, site planning and permitting. Minor wetland impacts are anticipated in the Rural Development District to accommodate infrastructure and clustered rural housing.
- (e) The Rural and Conservation Areas transition to Rural and Conservation Districts as described in Exhibit 7, Viera Wildemess Park Staging Plan.
- (f) The location and acreage of individual Villages are preliminary and will be determined at the time of Village Sketch Plan approval.
- (g) The boundary lines between Districts are preliminary in nature to guide the form of development.
- (h) Post-Secondary Educational Facilities are limited to the Town Center, and within one and one half mile of the intersections of Viera Boulevard and Pineda Extension with I-95.

EXHIBIT 4

DRI Master Development Program

Land Use (See Notes)	Phase 1 Through October 23, 2032	Phase 2A Through October 23, 2032	Phase 3 Through October 23, 2032	Cumulative Through Phase 3	Phase 4 Through October 24, 2042	Totals
Residential (units)	6,126	3,550	4,674	14,350	17,269	31,619
Office Development (s.f.)	1,355,342	230,927	186,140	1,772,409	1,732,058	3,504,467
-General Office (s.f.)	1,355,342	230,927		1,586,269	1,732,058	3,318,327
-Government Office (s.f.)	*	*	186,140	186,140*	-----	186,140*
Hospital Health Clinic (beds and s.f.)						
-VA Clinics (s.f.)	107,500		30,000	137,500		137,500
-Hospital Beds		150	172	322		322
-ACLF Nursing Home (beds)	580	92	284	956	104	1,060
Industrial Plants or Parks Distribution, Warehousing or Wholesaling Facilities	85,518		109,500	195,018	327,482	522,500
-Office/Warehouse (s.f.)	22,500			22,500		22,500
-Light Industrial (s.f.)	63,018		109,500	172,518	327,482	500,000
Retail and Service Development (s/f/)	1,641,168	355,000	259,862	2,256,030	1,182,097	3,438,127
Hotel or Motel Development		128		128	622	750

(rooms)						
Attractions and Recreation Facilities						
-Stadium (seats)	7,500			7,500		7,500
-Theaters (screens/seats)	16 Screens/ 3,600 Seats			16 Screens/ 3,600 Seats		16 Screens/ 3,600 Seats
-Golf Course	18 Holes	18 Holes	18 Holes	54 Holes	18 Holes	72 Holes

* Government Office for Phases 1 and 2A is included in the General Office

NOTES:

1. Office use includes medical office uses. Medical offices may include physician offices, medical clinics, labs, and diagnostic centers, ambulatory facilities, surgery centers, urgent care centers, rehabilitation centers, medical equipment sales and service, hospice, home health, pharmacies, cancer centers, hospitals or other similar medical office or specialty medical services or uses.
2. Medical uses may include but are not limited to physician offices, medical clinics, labs, diagnostic centers, ambulatory facilities, surgery centers, urgent care centers, rehabilitation centers, medical equipment sales and service, pharmacies, cancer centers, hospitals, health fitness, hospice or home health care or other similar medical or health care uses, so long as (1) such similar use has a trip generation rate (based on Institute of Transportation Engineers (ITE) rates or other professionally acceptable standard rates) comparable to or less than the rate for the previously authorized use being replaced; or (2) the total average daily trips (ADTs) generated by such particular similar use are equivalent to or less than the total ADTs generated by the previously authorized use.
3. Retail service use includes fitness center/health club uses.
4. Residential use includes independent living uses.
5. Land uses such as elementary, secondary schools (public and private), churches, libraries, post offices, fire or police stations, golf courses and other public/civic uses are allowable in any development district, in addition to other designated uses shown on Map H.
6. Post-Secondary Educational Facilities, with a maximum enrollment of 4,500 full time equivalent students and 200,000 square feet, will be permitted with approval of an exchange by Brevard County pursuant to Condition 4 of the Development Order in those certain locations as noted on Map H.

EXHIBIT 5

Transportation Equivalency Matrix

From Land Use		To Land Use																	
Land Use	ITE Land Use Code	Residential					Retail					Restaurant			Convenience Store with Gas				
		Single Family	Multi-Family	Town-house/Condo-miniums	Adult Housing, Detached	Adult Housing, Attached	Hotel	0-49 KSF	50-99 KSF	100-199 KSF	200-299 KSF	300-399 KSF	400-499 KSF	Fast Food (With Drive-Thru)		High Turnover	Quality	Bank with Drive-Thru	
Single Family	210	Dwelling Units	1.00	1.61	1.92	3.70	4.00	1.43	0.10	0.15	0.19	0.23	0.25	0.27	0.03	0.10	0.13	0.04	0.07
Multi-Family	220	Dwelling Units	0.62	1.00	1.19	2.30	2.48	0.89	0.07	0.08	0.12	0.14	0.16	0.17	0.02	0.06	0.08	0.03	0.05
Townhouse/Condominiums	230	Dwelling Units	0.52	0.84	1.00	1.93	2.08	0.74	0.05	0.08	0.10	0.12	0.13	0.14	0.02	0.03	0.07	0.02	0.04
Adult Housing, Detached	251	Dwelling Units	0.27	0.44	0.52	1.00	1.08	0.39	0.03	0.04	0.05	0.06	0.07	0.07	0.01	0.03	0.04	0.01	0.02
Adult Housing, Attached	252	Dwelling Units	0.25	0.40	0.48	0.93	1.00	0.36	0.03	0.04	0.05	0.06	0.06	0.07	0.01	0.03	0.03	0.01	0.02
Hotel	310	Rooms	0.70	1.13	1.35	2.59	2.80	1.00	0.07	0.11	0.13	0.16	0.18	0.19	0.02	0.07	0.09	0.03	0.05
Retail	820	KSF																	
0-49 KSF	820	KSF	9.53	15.37	18.33	35.30	38.12	13.61	1.00	1.44	1.82	2.15	2.41	2.61	0.28	0.97	1.27	0.39	0.71
50-99 KSF	820	KSF	6.60	10.65	12.69	24.44	26.40	9.43	0.69	1.00	1.26	1.49	1.67	1.81	0.20	0.67	0.88	0.27	0.49
100-199 KSF	820	KSF	5.25	8.47	10.10	19.44	21.00	7.50	0.55	0.80	1.00	1.18	1.33	1.44	0.16	0.53	0.70	0.22	0.39
200-299 KSF	820	KSF	4.44	7.16	8.54	16.44	17.76	6.34	0.47	0.67	0.85	1.00	1.12	1.22	0.13	0.45	0.59	0.18	0.33
300-399 KSF	820	KSF	3.96	6.39	7.62	14.67	15.84	5.66	0.42	0.60	0.75	0.89	1.00	1.08	0.12	0.40	0.53	0.16	0.29
400-499 KSF	820	KSF	3.65	5.89	7.02	13.52	14.60	5.21	0.36	0.55	0.70	0.82	0.92	1.00	0.11	0.37	0.49	0.15	0.27
Restaurant																			
Fast Food (With Drive-Thru)	934	KSF	33.65	54.27	64.71	124.63	134.60	48.07	3.53	5.10	6.41	7.58	8.50	9.22	1.00	3.42	4.49	1.38	2.49
High Turnover	932	KSF	9.85	15.89	18.94	36.48	39.40	14.07	1.03	1.49	1.88	2.22	2.49	2.70	0.29	1.00	1.32	0.41	0.73
Quality	931	KSF	7.49	12.08	14.40	27.74	29.96	10.70	0.79	1.13	1.43	1.69	1.89	2.05	0.22	0.76	1.00	0.31	0.53
Bank with Drive-Thru	912	KSF	24.30	39.19	46.73	90.00	97.20	34.71	2.55	3.68	4.63	5.47	6.14	6.66	0.72	2.47	3.24	1.00	1.80
Convenience Store with Gas	945	Fuelling Positions	13.51	21.79	25.98	50.04	54.04	19.30	1.42	2.05	2.57	3.04	3.41	3.70	0.40	1.37	1.80	0.56	1.00
Multiplex Movie Theater	445	Seats	0.08	0.13	0.15	0.30	0.32	0.11	0.01	0.02	0.02	0.02	0.02	0.02	0.00	0.01	0.01	0.00	0.01
Medical Office	720	KSF	3.57	5.76	6.87	13.22	14.28	5.10	0.37	0.54	0.68	0.80	0.90	0.98	0.11	0.36	0.48	0.15	0.26
Clinic	630	KSF	5.18	8.35	9.96	19.19	20.72	7.40	0.54	0.78	0.99	1.17	1.31	1.42	0.15	0.53	0.69	0.21	0.38
Hospital	610	Beds	1.42	2.29	2.73	5.26	5.68	2.03	0.15	0.22	0.27	0.32	0.36	0.39	0.04	0.14	0.19	0.06	0.11
Assisted Living	255	Beds	0.29	0.47	0.56	1.07	1.16	0.41	0.03	0.04	0.06	0.07	0.07	0.08	0.01	0.03	0.04	0.01	0.02
Office	710	KSF																	
0-49 KSF	710	KSF	4.32	6.97	8.31	16.00	17.28	6.17	0.45	0.65	0.82	0.97	1.09	1.18	0.13	0.44	0.58	0.18	0.32
50-99 KSF	710	KSF	2.17	3.50	4.17	8.04	8.68	3.10	0.23	0.33	0.41	0.49	0.55	0.59	0.06	0.22	0.29	0.09	0.16
100-199 KSF	710	KSF	1.64	2.65	3.15	6.07	6.56	2.34	0.17	0.25	0.31	0.37	0.41	0.45	0.05	0.17	0.22	0.07	0.12
200-299 KSF	710	KSF	1.43	2.31	2.75	5.30	5.72	2.04	0.15	0.22	0.27	0.32	0.36	0.39	0.04	0.15	0.19	0.06	0.11
300-399 KSF	710	KSF	1.34	2.16	2.58	4.96	5.36	1.91	0.14	0.20	0.26	0.30	0.34	0.37	0.04	0.14	0.18	0.06	0.10
400-499 KSF	710	KSF	1.29	2.08	2.48	4.78	5.16	1.84	0.14	0.20	0.25	0.29	0.33	0.35	0.04	0.13	0.17	0.05	0.10
Light Industrial	110	KSF	0.88	1.42	1.69	3.26	3.52	1.26	0.09	0.13	0.17	0.20	0.22	0.24	0.03	0.09	0.12	0.04	0.07
Junior/Community College	540	KSF	2.54	4.10	4.88	9.41	10.16	3.63	0.27	0.38	0.48	0.57	0.64	0.70	0.08	0.26	0.34	0.10	0.19

Source:
 LTG Inc.
 ITE Trip Generation Manual, 9th Edition

EXHIBIT 5 (cont'd)

Transportation Equivalency Matrix

Land Use	From Land Use		To Land Use												
	ITE Land Use Code	Units	Multiplex Movie Theater	Medical Office	Clinic	Hospital	Assisted Living	0-49 KSF	50-99 KSF	100-199 KSF	200-299 KSF	300-399 KSF	400-499 KSF	Light Industrial	Junior/Community College
Single Family	210	Dwelling Units	12.50	0.28	0.19	0.70	3.45	0.23	0.46	0.61	0.70	0.75	0.78	1.14	0.39
Multi-Family	220	Dwelling Units	7.75	0.17	0.12	0.44	2.14	0.14	0.29	0.38	0.43	0.46	0.48	0.70	0.24
Townhouse/Condominiums	230	Dwelling Units	6.50	0.15	0.10	0.37	1.79	0.12	0.24	0.32	0.36	0.39	0.40	0.59	0.20
Adult Housing, Detached	251	Dwelling Units	3.38	0.08	0.05	0.19	0.93	0.06	0.12	0.16	0.19	0.20	0.21	0.31	0.11
Adult Housing, Attached	252	Dwelling Units	3.13	0.07	0.05	0.18	0.86	0.06	0.12	0.15	0.17	0.19	0.19	0.28	0.10
Hotel	310	Rooms	8.75	0.20	0.14	0.49	2.41	0.16	0.32	0.43	0.49	0.52	0.54	0.80	0.28
Retail	820	KSF													
0-49 KSF	820	KSF	119.13	2.67	1.84	6.71	32.86	2.21	4.39	5.81	6.66	7.11	7.39	10.83	3.75
50-99 KSF	820	KSF	82.50	1.85	1.27	4.65	22.76	1.53	3.04	4.02	4.62	4.93	5.12	7.50	2.60
100-199 KSF	820	KSF	65.63	1.47	1.01	3.70	18.10	1.22	2.42	3.20	3.67	3.92	4.07	5.97	2.07
200-299 KSF	820	KSF	55.50	1.24	0.86	3.13	15.31	1.03	2.05	2.71	3.10	3.31	3.44	5.05	1.75
300-399 KSF	820	KSF	49.50	1.11	0.76	2.79	13.66	0.92	1.82	2.41	2.77	2.96	3.07	4.50	1.56
400-499 KSF	820	KSF	45.63	1.02	0.70	2.57	12.59	0.84	1.68	2.23	2.55	2.72	2.83	4.15	1.44
Restaurant															
Fast Food (With Drive-Thru)	934	KSF	420.63	9.43	6.50	23.70	116.03	7.79	15.51	20.52	23.53	25.11	26.09	38.24	13.25
High Turnover	932	KSF	123.13	2.76	1.90	6.94	33.97	2.28	4.54	6.01	6.89	7.35	7.64	11.19	3.88
Quality	931	KSF	93.63	2.10	1.45	5.27	25.83	1.73	3.45	4.57	5.24	5.59	5.81	8.51	2.95
Bank with Drive-Thru	912	KSF	303.75	6.81	4.69	17.11	83.79	5.63	11.20	14.82	16.99	18.13	18.84	27.61	9.57
Convenience Store with Gas	945	Fueling Positions	168.88	3.78	2.61	9.51	46.59	3.13	6.23	8.24	9.45	10.08	10.47	15.35	5.32
Multiplex Movie Theater	445	Seats	1.00	0.02	0.02	0.06	0.28	0.02	0.04	0.05	0.06	0.06	0.06	0.09	0.03
Medical Office	720	KSF	44.63	1.00	0.69	2.51	12.31	0.83	1.65	2.18	2.50	2.66	2.77	4.06	1.41
Clinic	630	KSF	64.75	1.45	1.00	3.65	17.86	1.20	2.39	3.16	3.62	3.87	4.02	5.89	2.04
Hospital	610	Beds	17.75	0.40	0.27	1.00	4.90	0.33	0.65	0.87	0.99	1.06	1.10	1.61	0.56
Assisted Living	255	Beds	3.63	0.08	0.06	0.20	1.00	0.07	0.13	0.18	0.20	0.22	0.22	0.33	0.11
Office	710	KSF													
0-49 KSF	710	KSF	54.00	1.21	0.83	3.04	14.90	1.00	1.99	2.63	3.02	3.22	3.35	4.91	1.70
50-99 KSF	710	KSF	27.13	0.61	0.42	1.53	7.48	0.50	1.00	1.32	1.52	1.62	1.68	2.47	0.85
100-199 KSF	710	KSF	20.50	0.46	0.32	1.15	5.66	0.38	0.76	1.00	1.15	1.22	1.27	1.86	0.65
200-299 KSF	710	KSF	17.88	0.40	0.28	1.01	4.93	0.33	0.66	0.87	1.00	1.07	1.11	1.63	0.56
300-399 KSF	710	KSF	16.75	0.38	0.26	0.94	4.62	0.31	0.62	0.82	0.94	1.00	1.04	1.52	0.53
400-499 KSF	710	KSF	16.13	0.36	0.25	0.91	4.45	0.30	0.59	0.79	0.90	0.96	1.00	1.47	0.51
Light Industrial	110	KSF	11.00	0.25	0.17	0.62	3.03	0.20	0.41	0.54	0.62	0.66	0.68	1.00	0.35
Junior/Community College	540	KSF	31.75	0.71	0.49	1.79	8.76	0.59	1.17	1.55	1.78	1.90	1.97	2.89	1.00

Source:
 LTG Inc.
 ITE Trip Generation Manual, 9th Edition

Transportation Equivalency MatrixTrip Generation Rates

From Land Use			
Land Use	ITE Land Use Code	Units	PM Peak-Hour Rates
Single Family	210	Dwelling Units	1.00
Multi-Family	220	Dwelling Units	0.62
Townhouse/Condominiums	230	Dwelling Units	0.52
Adult Housing, Detached	251	Dwelling Units	0.27
Adult Housing, Attached	252	Dwelling Units	0.25
Hotel	310	Rooms	0.70
Retail	820	KSF	
0-49 KSF	820	KSF	9.53
50-99 KSF	820	KSF	6.60
100-199 KSF	820	KSF	5.25
200-299 KSF	820	KSF	4.44
300-399 KSF	820	KSF	3.96
400-499 KSF	820	KSF	3.65
Restaurant		KSF	
Fast Food (With Drive-Thru)	934	KSF	33.65
High Turnover	932	KSF	9.85
Quality	931	KSF	7.49
Bank with Drive-Thru	912	KSF	24.30
Convenience Store with Gas	945	Fueling Positions	13.51
Multiplex Movie Theater	445	Seats	0.08
Medical Office	720	KSF	3.57
Clinic	630	KSF	5.18
Hospital	610	Beds	1.42
Assisted Living	255	Beds	0.29
Office	710	KSF	
0-49 KSF	710	KSF	4.32
50-99 KSF	710	KSF	2.17
100-199 KSF	710	KSF	1.64
200-299 KSF	710	KSF	1.43
300-399 KSF	710	KSF	1.34
400-499 KSF	710	KSF	1.29
Light Industrial	110	KSF	0.88
Junior/Community College	540	KSF	2.54

Source:

LTG Inc.

ITE Trip Generation Manual, 9th Edition

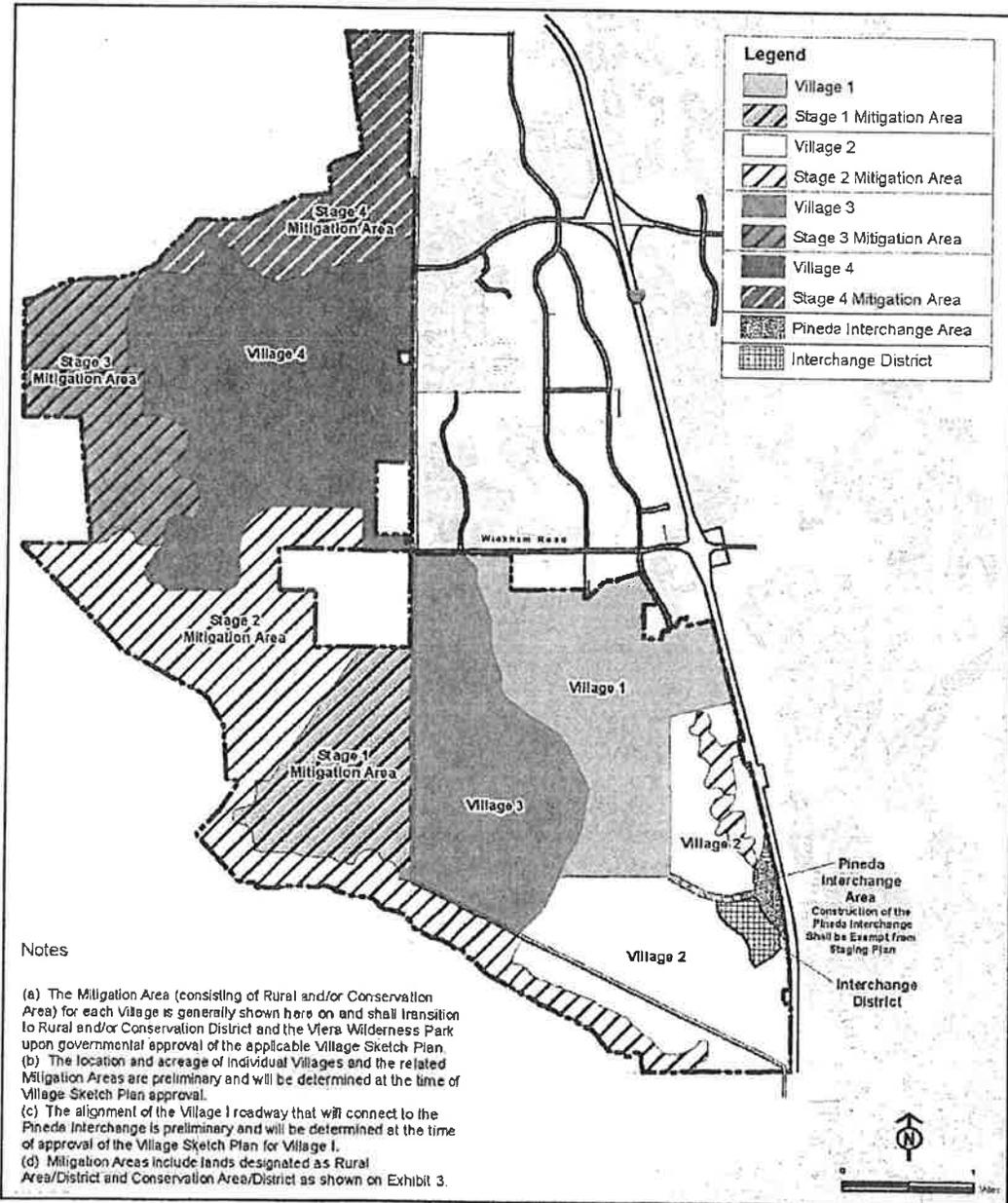
EXHIBIT 6

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EXHIBIT 7

Viera Wilderness Park Staging Plan

**Exhibit 7
Viera Wilderness Park Staging Plan**



GLATTING JACKSON KERCHER ANGLIN

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Viera - Development Order

Date: December 10, 2009

EXHIBIT 8

Viera Wilderness Park Habitat Management Plan

[Attached]

**Habitat Management Plan for
The Viera Wilderness Park
Brevard County, Florida**

Submitted to:

Brevard County
Florida Fish and Wildlife Conservation Commission
St. Johns River Water Management District
U.S. Army Corps of Engineers
U.S. Fish and Wildlife Service

On Behalf of:

The Viera Company
c/o A. Duda and Sons
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Viera, Florida 32940
Tel: (321) 242-1200
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Submitted by:

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Orlando, Florida 32801
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GJ Project No. 18749
Revised December 10, 2009

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EXECUTIVE SUMMARY

This Habitat Management Plan (HMP) has been produced in accordance with the Development Order (DO) for the Viera Development of Regional Impact, Substantial Deviation No. 2 (SD #2), submitted by A. Duda and Sons (ADS) and The Viera Company (Viera). The SD #2 includes the addition of the 11,567 acre, the West Viera Expansion Area (WVEA) to the Viera DRI. The WVEA occurs in central Brevard County on land owned by ADS known as the "Cocoa Ranch" and is used for cattle grazing, sod production, and other agricultural activities. Although dominated by improved pasture, the WVEA includes considerable historical natural communities such as pine flatwoods, hydric pine flatwoods, live oak and cabbage palm hammocks, and wet prairie. These natural communities, as well as the improved pasture, provide habitat for state- and federally-protected species of wildlife, including bald eagle (*Haliaeetus leucocephalus*), Florida sandhill crane (*Grus canadensis pratensis*), gopher tortoise (*Gopherus polyphemus*), burrowing owl (*Athene cunicularia*), and Audubon's crested caracara (*Caracara cheriway*), among others.

The comprehensive community design of the area within SD#2 began with environmental principles that guided the development plan in order to assure the long-term protection of natural resources. The cornerstone of the conservation strategy lies with the creation of the Viera Wilderness Park (VWP). The VWP combines preservation, and agricultural lands, that together comprises 5257.8 acres, or 44% of the proposed WVEA. The VWP will provide regionally significant conservation lands that buffer adjacent state-owned conservation lands from proposed development, protect the St. Johns River floodplain, preserve and enhance high quality upland/wetland systems, provide large open space areas for passive recreation, provide a significant amount of floodwater retention and may serve to decrease storm peaks and downstream flooding, and most importantly, provide a large contiguous protection area that can be managed for wetland resources and listed species habitat.

The intent of this HMP is to provide overarching guidance which directs the intent of land uses and habitat management practices within the VWP. The goals of the HMP are to assure that: listed species habitat is preserved, enhanced and managed such that listed species utilization within the VWP increases; and wetland resources are preserved and enhanced within the VWP. The HMP establishes long-term objectives for the implementation and management of the ecosystems within the VWP. Long-term management objectives include: 1) resource protection and conservation; 2) prescribed fire; 3) vegetation management; 4) hydrological enhancement; 5) cattle grazing and other agricultural practices; 6) monitoring; 7) operations; 8) funding; and 9) community outreach and collaboration through education. Each objective will be accomplished by specific actions, as described herein, which will become more specific with each issued permit. These goals, objectives, and actions will be administered by the Viera Stewardship District (VSD), which is an independent special district formed as a local unit of special purpose government pursuant to Chapter 189, Florida Statutes. The VSD has been granted specific powers by the Florida Legislature with respect to providing community infrastructure and ensuring long-term management of environmental and conservation resources.

The HMP is a guiding instrument for VWP conservation strategies as management is transferred from ADS to the VSD which will intensify as development within the WVEA progresses. The HMP will adapt to new science and changing environmental conditions over time and will maintain the unique ecological assets of the VWP, creating a regional conservation and recreational asset that will be protected and managed for generations to come.

1.0 INTRODUCTION

This Habitat Management Plan (HMP) has been produced and approved in accordance with the conditions set forth in the Development Order (DO) for the Viera Development of Regional Impact (DRI), Substantial Deviation No. 2 (SD#2). SD #2 includes the addition of the West Viera Expansion Area (WVEA) to the DRI. Totalling 11,567 acres, the WVEA occurs in central Brevard County between Interstate 95 and the St. Johns River on land known as the "Cocoa Ranch" used by A. Duda and Sons (ADS) for cattle grazing, sod farming, and other agricultural activities. (Figure 1)

At the beginning of the design process for the development of the WVEA, environmental principles were created to guide the development plan and assure the long-term protection of the project's natural resources. These principles are:

1. Provide long-term protection of the St. Johns River corridor, floodplain, and adjacent natural lands;
2. Protect larger, more ecologically viable, high-quality wetland/upland systems throughout the project;
3. Protect listed species through a comprehensive conservation strategy that considers habitat conditions over time;
4. Provide enhanced, protected, and long-term managed habitat and mitigation for potential wetland and listed species impacts that may occur within the development;
5. Sustain or enhance biological diversity;
6. Provide large, contiguous, open space for passive recreation and educational programming; and
7. Provide long-term management through the formation of an entity capable of assuring the protection and management of preserved lands.

These principles served as a touchstone during the Application for Development Approval (ADA) and development design process, and will continue to guide the project through its construction, the creation and management of the conservation and agricultural lands, and ultimately the implementation of the VWP.

The VWP is the conservation centerpiece of the WVEA and the embodiment of the principles above. The VWP is a combination of large-scale conservation and managed agricultural lands will be set aside and managed for listed species and wetland resources. The VWP, in sum, creates a unique regional conservation and recreational asset that will be protected and managed

for generations to come. This HMP will act as a guide for all managed lands within the Viera Wilderness Park (VWP) (**Figure 2**).

Habitat Management Plan Purpose

This HMP will serve as a guiding document to implement the conservation strategies of the VWP. It provides overarching guidance which directs the intent of land uses and habitat management practices within the VWP. The goals of the HMP are to assure that: habitat for listed species is preserved, enhanced and managed such that listed species utilization increases; and wetland resources are preserved and enhanced within the VWP. The resource management objectives establish targeted direction for the management actions that will be performed to achieve the goals of the HMP. Each objective will be accomplished by specific management actions, as described herein. The actions within each objective will become more specific as each Stage of the VWP is implemented and each permit is activated. The HMP will adapt to new science and changing environmental conditions over time, and it will be updated periodically. The long-term management actions and monitoring of the VWP will be overseen by an environmental professional to ensure that these goals and objectives are achieved.

Inventories were conducted throughout the WVEA for land use and vegetative communities, fauna, and flora, in association with the SD#2. These inventories will serve as benchmarks to help evaluate the effects of surrounding development, and the management objectives included in the HMP. The HMP establishes long-term objectives for management of natural ecosystems and listed species habitat (**Section 4.0, Resource Management Objectives**). Combined with surveys and long-term monitoring, this will help evaluate the temporal and spatial success of management actions. Finally, the HMP attempts to balance the restoration of historical natural communities and local hydrology, and maintain or create habitat to meet the needs of listed species.

2.0 ENVIRONMENTAL SETTING

The proposed VWP is generally located in central Brevard County between the St. Johns River and Interstate 95 (**Figure 1**). The VWP will be bounded to the west by the River Lakes Conservation Area (RLCA), land owned and managed by the St. Johns River Water Management District (SJRWMD) and to the east by the DRI development. Ultimately comprising 5257.8 acres, the VWP will be approximately twelve miles long and ranges from 500 feet to a mile and a half wide as depicted on Figure 2.

2.1 Topography

The VWP occurs within four United States Geological Survey (USGS) 7.5 minute quad sheets, including Lake Poinsett, Cocoa, Deer Park NE, and Eau Gallie (**Figure 3**). Elevations range from 25 to 12 feet NGVD (National Geodetic Vertical Datum) within VWP. A small amount of VWP in the north has elevations near 12 feet.

2.2 Hydrology

The most significant hydrological feature near VWP is the St. Johns River. The St. Johns River originates in marshes and wetlands near Fellsmere in Indian River County, meandering and flowing northward approximately forty miles before reaching the land near VWP. The St. Johns River continues west/northwest, flowing into Lake Winder approximately two miles west of VWP, then narrows and flows to the northeast into Lake Poinsett, approximately 2.5 miles northwest of VWP. Together, the lakes and the St. Johns River form a semi-circle along the southern, western, and northern portions of VWP, and create a broad peninsula that juts westward into the Eastern Valley from the Atlantic Coastal Ridge. The VWP lies in this peninsula (**Figure 4**). All of this occurs within the broader context of the Lake Poinsett Unit of the Upper St. Johns River basin.

Historically, the WVEA was likely dominated by wet and mesic flatwoods communities and a diverse mosaic of wet and dry prairie (**Figure 5**). The majority of the wetlands on the site were isolated from larger, connected wetland systems that occur to the north, west, and south along the RLCA. As water levels increased during periods of high rainfall, water would likely sheetflow slowly across the flatwoods and prairie communities, gradually receding into isolated depressions, freshwater marshes, and the floodplain.

Although many of the historical wetlands remain, their extent and function has been reduced or altered by extensive agricultural activities, such as sod farming and cattle grazing. To foster and expand these operations, ranchers gradually dug a complex drainage network of canals, ditches, and swales throughout the Cocoa Ranch over the past half-century. Many of the on-site wetlands were connected to the drainage network. As a result, many of the wetlands that were isolated historically are now connected to the canal/ditch/swale network and are hydrologically manipulated. The principal canals run east-west and are named based on their distance from the project's southern boundary, i.e. the two mile, four mile, six mile, seven mile, and eight mile canals. They all carry flow west to the St. Johns River from the WVEA, and other communities east of Interstate 95.

Another potential hydrological influence on-site is the South Central Regional Wastewater Treatment Facility, a wastewater treatment facility and constructed wetlands operated by Brevard County (**Figure 4**). The created wetlands, totaling 163 acres, consist of four peripheral cells and an internal lake. Based on a Department of Environmental Protection Domestic Wastewater Facility permit, the plant is allowed to discharge up to 2.5 MGD annual average daily flow from the created wetland. Most of this volume is held in the cells for an extended period, and allowed to percolate into the groundwater. The remaining volume is used for water reuse or discharged westward into the Four-Mile Canal (one of the area's major canals) and ultimately into the St. Johns River. The detention time through the created wetland system is approximately 53 days.

2.3 Regional Context/Public Lands

The VWP is adjacent to a long strand of publicly owned land along the St. Johns River in Brevard County (**Figure 4**). From the Three Forks Marsh Conservation Area in the south to the

Seminole Ranch Conservation Area in the north, the SJRWMD owns approximately 137,000 acres. With other publicly owned lands, a nearly complete corridor of protected and managed land stretches from the southern boundary of Brevard County to State Road 46 in the north. Adjacent to the VWP is the RLCA, a +/-44,000 acre conservation area owned by the SRJWMD that generally follows the course of the St. Johns River, wrapping around VWP's southern, western, and northern boundaries. In 1999 ADS sold +/-14,000 acres to SJRWMD to become part of the RLCA.

2.4 Ranch History

Established by A. Duda and his sons in the 1940's, the Cocoa Ranch was initially 38,000 acres of pasture and woodland habitats used for cattle grazing. With the construction of I-95 and the subsequent influx of people into central Florida in the early 1970s, the Cocoa Ranch began turf grass sod operations to provide landscaping cover for the many new homes, shopping centers, and other developments.

The constant growth in central Florida increased property values of the Cocoa Ranch, and in the mid-1980's a master plan was developed for the property so that growth could be planned. The first phase of development was Viera East, a 3,000-acre DRI approved in 1990. Today the Cocoa Ranch is still in operation, continuing its tradition of sod farming and cattle grazing.

The ongoing agricultural operations of ADS have created exceptional habitat conditions and food sources for a variety of listed species, as described below. ADS created, and the USFWS approved, the **Cocoa Ranch Caracara Procedure (Appendix C)** that establishes management practices to protect caracara on the Cocoa Ranch.

2.5 Soils

According to the U.S. Department of Agriculture (USDA) Soil Conservation Service Soil Survey of Brevard County (1974), the following twenty-four (24) soils occur on the project site (**Figure 6**):

- Anclote sand (2)
- Basinger sand (7)
- Chobee sandy loam (13)
- Copeland complex (16)
- EauGallie sand (17)
- Rivera sand (19)
- Floridana sand depressionnal (22)
- Floridana sand (23)
- Immokalee sand (28)
- Malabar sand high (29)
- Malabar sand (30)
- Malabar (31)
- Micco peat (33)

- Myakka sand (36)
- Oldsmar sand (40)
- Pineda sand (47)
- Pomello sand (49)
- Pompano sand (51)
- Samsula muck, depressional (62)
- Tomoka muck (67)
- Valkaria sand (70)
- Wabasso sand (71)
- Winder loamy sand (73)
- Water (99)

The most extensive soil type is Felda Sand. It occurs primarily in association with improved pasture throughout VWP. Other predominant soil types include Winder loamy sand, Wabasso sand, Valkaria sand, Tomoka muck, and Samsula muck, depressional. All of the soil types are nearly level. Most of the soil types have a water table within ten (10) inches of the soil surface several months of the year. A brief description of each soil type occurring within VWP according to the USDA soil surveys of Brevard County and the Hydric Soils of Florida Handbook (1974) are included in **Table 1**.

2.6 Natural Communities

The vegetative communities within the VWP were characterized using Florida Land Use, Cover, and Forms Classification System (FLUCFCS) (FDOT 1999) designations. **Figures 7A** and **7B** depict the extent and type of these vegetation types. Existing land use and vegetative community types in VWP and acreages are listed below. Detailed descriptions are provided in **Appendix A**.

Natural Community Types/Acreage

Community Type	Number	Acreage
Residential - Low Density	110	15.9
Improved Pasture	211	1824.9
Sod Farm	242	274.3
Other Open Land	260	2.1
Palmetto Prairie	321	45.1
Pine Flatwoods	411	1232.1
Live Oak Hammock	427	102.7
Cabbage Palm Hammock	428	213.2
Hardwood-Conifer Mixed	434	222.2
Mixed Hardwoods	438	5.1
Canals and Ditches	511	91.1
Reservoirs, less than 10 acres	534	1.7
Mixed Wetland Hardwoods	617	4.9
Willow and Elderberry Wetland	618	12.2

Exotic Wetland Hardwoods	619	31.4
Hydric Pine Flatwoods	625	552.7
Hydric Pine Savannah	626	15.2
Wetland Forested Mixed	630	72.7
Cabbage Palm Wetland	632	47.0
Cabbage Palm-Hardwood Mixed	633	47.0
Freshwater Marsh	641	84.9
Wet Prairie	643	241.5
Hydric Pasture	647	47.1
Roads	814	67.7
Electric Power Transmission Lines	832	3.7
Total		5257.8

3.0 LISTED SPECIES

3.1 Listed Animals

Much of the VWP has been identified by FFWCC as a “Biodiversity Hotspot,” an area having a high degree of overlap for rare or declining species of wildlife and natural communities (Figure 8). The WVEA and the VWP have been extensively evaluated for the occurrence or potential occurrence of threatened and endangered (T&E) wildlife and plant species from fall 2004 to spring 2009, including extensive vehicular or pedestrian surveys through all habitat types in the project during all seasons of the year. Table 2 includes a list of T&E species and Species of Special Concern (SSC) that potentially occur in Brevard County, typical habitats occupied by each species, and the probability of occurrence of each species within the WVEA. Survey methodologies for the following specific species were based primarily on methodologies sanctioned by the Florida Fish and Wildlife Conservation Commission and the U.S. Fish and Wildlife Service. These methodologies were reviewed by the appropriate regulatory agencies, resulting in surveys and data collection for the following listed species:

- Audubon’s crested caracara,
- Bald eagle,
- Burrowing owl,
- Florida sandhill crane,
- Gopher tortoise, and
- Southeastern American kestrel (*Falco sparverius paulus*) (not observed).

Observations of the following listed wildlife species were recorded during the species-specific surveys and many site evaluations for other purposes including land use mapping, wetland flagging and functional assessments, agency inspections, and other field work:

- American alligator (*Alligator mississippiensis*),

- limpkin (*Aramus guarauna*),
- little blue heron (*Egretta caerulea*),
- roseate spoonbill (*Platalea ajaja*),
- snowy egret (*E. thula*),
- tricolored heron (*E. tricolor*),
- white ibis (*Eudocimus albus*), and
- Wood stork (*Mycteria americana*).

Results of these surveys were included in the SD#2 ADA, subsequent Sufficiency Responses, and correspondence associated with finalizing SD#2. The location of the nests and burrows of the listed species that have been observed within the VWP are depicted in **Figure 9**. Additional wildlife surveys are anticipated to be required as future permits are obtained for impacts and mitigation within the WVEA. The results of these surveys will be used to supplement the map of listed species, nest and burrow locations, within the VWP. Life histories for each listed species above are provided in **Appendix B**.

The Eastern indigo snake (*Drymarchon corais couperi*) is assumed to occur on site, although it has not been observed during thousands of hours of wildlife surveys and other field services. While not specifically addressed in the HMP, it is understood that the conservation measures and management actions contained herein will foster suitable habitat for the Eastern indigo snake and other listed and non-listed species.

3.2 Listed Plant Species

Surveys for listed plant species were conducted in during one event in the spring of 2006 and during all of the other wildlife surveys and site evaluations. The survey for listed plants was reconnaissance level and was not intended to be comprehensive. A total of four (4) listed plant species, including blue butterwort (*Pinguicula caerulea*), yellow butterwort (*P. caerulea*), cinnamon fern (*Osmunda cinnamomea*), and royal fern (*O. regalis*) have been observed within the WVEA. Cinnamon fern and royal fern are generally found in shallowly inundated wetland areas, and occur in varying densities in many wetlands. The butterworts are generally found in wet/mesic flatwoods and wet prairies within the project.

3.3 Potentially Occurring Listed Plant Species

Given the history of cattle grazing and alteration of upland habitats throughout the site, the potential to support many listed plant species is limited. However, the pine flatwoods, oak hammocks, and wetland systems on the western and southern edges of the site are generally intact and may support a variety of listed species. The majority of the species, including grass pink (*Calopogon multiflorus*), yellow-fringed orchid (*Platanthera ciliaris*), crested fringed orchid (*P. cristata*), and snowy orchid (*P. nivea*), are typically found in regularly burned, mesic to hydric flatwoods like those found along the northern, western, and southern portions of the site. The three remaining listed plant species, including butterfly orchid (*Encyclia tampensis*), green-fly orchid (*Epidendron conopseum*), and giant wild pine (*Tillandsia utriculata*), are epiphytes that typically grow in live oak hammocks and/or forested wetland systems. The

forested wetland systems and live oak hammocks in the project likely provide habitat for these species. **Table 2** lists other potentially occurring plant species in VWP.

4.0 RESOURCE MANAGEMENT OBJECTIVES

4.1 Resource Protection and Conservation

Objective 1) Resource Protection and Conservation will occur through the legal protection of the Conservation and Rural Districts of the VWP (described below) and through ongoing protection of listed species and natural ecosystems.

4.1a Conservation Planning

The outcome of the conservation and development design process for the WVEA was the creation of the VWP. The VWP will be constituted by the Conservation and Rural Districts that will progressively expand to provide wetland and listed species habitat (**Figure 10**).

The Conservation District will be characterized by largely intact natural systems that buffer adjacent state owned lands. The Conservation District will provide wetland resource and tree protection and enhancement, and open space for recreational use, where appropriate. The intended land uses within the Conservation District may include passive recreational uses such as hiking, mountain bicycle and horseback riding, primitive camping and educational kiosks.

The Rural District will be characterized by some intact natural areas but is intended to be dominated by improved bahia grass pasture. The Rural District will be protected and managed predominately to provide habitat for caracara and other listed species. Because of the caracara's expansive habitat requirements, it is considered an umbrella species for the VWP. Land management activities that provide optimal nesting and foraging habitat for caracara will also provide and maintain foraging and nesting habitat for sandhill cranes, burrowing owls, wood storks, bald eagles, other listed wading birds, and Southeastern American kestrels (although none were observed on-site). The habitat requirement of all of these species combined is far overshadowed by the habitat that will be included in the VWP for caracara.

It is anticipated that portions of the VWP will provide for the mitigation requirements associated with impacts to caracara nesting and foraging habitat associated with the development of the WVEA. It is also likely that in order to provide sufficient mitigation, the USFWS may require the creation of additional pasture and/or prairie habitats within the VWP. In this event, the creation of pasture/prairie should occur in ruderal, early successional, or previously timbered or cleared habitat. As part of the Village Sketch Plan application process, Figure 7A and 7B will be updated for the Stage of the VWP that will provide mitigation and tree protection for that Village. Vegetative communities that shall not be converted to pasture or prairie include: Live Oak (427), Hardwood - Conifer Mixed (434), Mixed Hardwoods (438), Mixed Wetland Hardwoods (617), Wetland Forested Mixed (630), Cabbage Palm – Hardwood Mixed (633), and portions of Pine Flatwoods (411) and Hydric Pine Flatwoods (625). These Vegetative communities (cover types) are referenced in the Landscape Section of the PUD. The cover types

designated as Preferred Cover Types in the Alternative Design Standards for the West Viera PUD will be defined on an amended Figure 7C and will be managed to maintain the viability of the natural vegetative community. If caracara mitigation requirements cannot be met adhering to the guidelines above, then alternative mitigation will be used to satisfy the permitting requirements.

Since the Rural District will be managed with active agricultural operations, it will not be open to the public the majority of the time. There may be selective public access points and passive recreation, as described above for the Conservation District or limited public access when the pastures are out of rotation, but this will be at the discretion of the VSD.

The conservation planning objective is to ensure that habitat management occurs in a balanced manner for both listed species, and wetland resources. Neither wetland enhancement or restoration nor habitat conversion or management for crested caracara will be pursued to the exclusion of the other.

4.1b Conservation Protection

The HMP establishes a conceptual framework for the creation and expansion of the Conservation and Rural Districts in accordance with the Staging Plan attached in the D.O. (Exhibit 7). Specifically, portions of the Rural and Conservation Areas shall transition to Rural and Conservation Districts and constitute the VWP, as described in the Staging Plan. The conceptual framework is temporal and driven by permitting events and subsequent development in the WVEA. The Staging Plan depicts the general progression of protection of the VWP which will be driven by the planning and permitting of each of the 4 Villages proposed under the DO. Each Village will be reviewed and permitted by the appropriate regulatory agencies and the corresponding portion (Stage) of the VWP will be protected using the Staging Plan as a guideline. All lands within the VWP will be protected through various legal instruments, such as conservation easements, and fee simple ownership by the VSD, which will exercise authority and management over the VWP. The timing of management actions (discussed below) is meant to be a guide and not a stringent point in time at which certain actions will begin or end. This should give regulatory authorities, as well as the VSD, a point of reference to evaluate decades of management timing and progress.

4.1c Management Timing

ADS will continue to own and operate the Cocoa Ranch, after the SD #2 D.O. approval. As such, ADS will manage all existing operations within the Conservation and Rural Areas, according to all appropriate laws and the Cocoa Ranch Caracara Procedure, as approved by the USFWS, until such Areas transition to Conservation and Rural Districts, as described below. Upon such transition, the applicable land shall be managed in accordance with this HMP.

As each Stage of the VWP occurs, agricultural activities will continue, within the appropriate permitted portions of the VWP, in order to maintain suitable listed species habitat. Accordingly, some management actions described in this HMP will continue to be fulfilled by ADS or the VSD in the ordinary course of agricultural operations. To the extent required, management

actions that are not performed by ADS in connection with its agricultural operations within the VWP, such actions will be undertaken and performed by the VSD. It is further anticipated that management actions required under this HMP will gradually increase from the date of each Stage approval, ultimately peak when habitat enhancement and restoration efforts are at their maximum, and then stabilize representing the level of management necessary to “maintain” protected natural systems and managed areas. Accordingly, management actions pursuant to this HMP will be provided in three distinct time periods as more particularly described in the following paragraphs.

The conceptual timing framework consists of three periods of resource management activity.

Management Period I is conceived as a transitional period in which land will be constrained with appropriate legal instruments as required by individual permits associated with each Village according to the Staging Plan. Also, less intensive management actions will begin, most likely in conjunction with normal ranch management. These management actions will include all requirements detailed in individual permits associated with applicable DRI development. Normal ranch operations will be the primary means of managing the VWP, beyond specific permit-related requirements. It is likely that some level of wetland mitigation/enhancement, as well as related wetland monitoring and exotic plant control, will also occur as required by the permits. Management Period I will continue until a permit requires implementation of Period II activities within the VWP.

Management Period II will begin concurrent with the first Stage approval and permits, and continue up to ten years, or more, after its issuance. This period is conceived as a conversion phase, i.e. a period in which intensive resource management actions begin in earnest. These actions will be driven by individual environmental permits, but may include wetland enhancement, filling ditches, canopy thinning or planting, exotic species removal, and limited pasture creation. As market demand and development activities increase, management actions as described in **Table 3** will be expanded as required by individual permits related to WVEA.

Management Period III is conceived as an evaluation and on-going maintenance period. This period will likely begin sometime within ten to twenty years post-approval of the applicable Stage. As the more intensive management activities decreases, management costs will also decrease. Nearly all of the resource management actions detailed herein will be either well underway or near completion. During this Management Period there should be substantial data to evaluate the success of the VSD’s management and make appropriate changes in the HMP, if necessary. Management Period III will consist of long term, low intensity management and monitoring of the established conditions. By this time, the VWP will likely have expanded to its final boundary, be fully protected, and long term management will continue as directed by regulatory permits.

During all periods, listed species mitigation will occur in the form of habitat enhancement and/or protection in the VWP prior to or concurrent with the impact as required by the applicable

development permit. These protection measures, including the actions listed below each management objective, will be implemented as impacts occur in accordance with the Staging Plan depicted in the DO and individual permits. This should allow time for the target species to relocate to new foraging and nesting habitat, while providing time to monitor listed species behavior as habitat is modified in accordance with applicable permits. Some management actions will be eliminated when management objectives are met and sustained by natural forces, as conceptually depicted in **Table 3**.

4.1d Management Units

To facilitate land management, the VWP will be divided into management units delineated along major field roads, utility corridors, natural/physical features, inside the Rural or Conservation Districts. These pasture and forested areas have letter-number designations (J4E, L1, etc.) historically established by ADS as agricultural management units (**Figure 11**). These designations will assist with resource management activities and can be modified further as needs arise.

4.2 Prescribed Fire

Objective 2) Prescribed Fire will be an integral management tool in the VWP and will occur at regular intervals.

Prescribed fire will occur in all management units of VWP. Along with hydrological enhancement, it will be an integral component in maintaining and enhancing fire-dependent ecosystems in VWP. Fire regimes will mimic historical frequencies for fire-dependent community types as listed in **Table 4**. With an average rotation of three years and given VWP's size (5257.8 acres), an annual goal for prescribed fire should be approximately 1000 acres. Once fuel loads are reduced, the VSD will abide by accepted practices to mimic natural conditions and effects, including varying fire intensity, frequency, firing technique, and timing. To monitor this, the VSD will maintain a prescribed fire log in accordance with applicable fire burning permits. The VSD fire plan for each burn unit will supplement this data. The fire data will be maintained by the VSD for inspection by the public.

The VSD should avoid conducting prescribed fires in management units that contain a caracara nest, during the peak nesting season (**Table 5**). Prescribed fire conducted within management units that contain a caracara nest will be given additional consideration as described in section 5.1.

Many of Florida's residents are from parts of the country where prescribed fire is not a regular occurrence in the natural environment. The VSD recognizes its role and responsibility in explaining the value and benefits of prescribed fire and will use a variety of communication channels to inform local residents. This action will be developed immediately following the initiation of the first permitted stage of mitigation to lay the groundwork for public support and to help allay concerns.

4.3 Vegetation Management

Objective 3) Vegetation Management, including exotic plant control, mechanical techniques (mowing, roller-chopping and aeration), and selective timbering, will be an important management tool in VWP.

Vegetation management will continue to be an integral part of VWP's long-term management, including: a) exotic plant control, b) timber management, c) mechanical management, and d) monitoring.

4.3a Invasive Exotic Plant Control

Relative to its size, WVEA and VWP currently have localized invasive exotic plant infestations. The Florida Exotic Pest Plant Council (FLEPPC) defines an invasive exotic plant as a "naturalized exotic plant that is expanding its range into natural areas and disrupting naturally occurring native plant communities". FLEPPC groups invasive exotics into two categories – Category I and Category II. Category I species alter and displace native plants and communities, by reducing habitat and biodiversity, and inhibiting flood control and marine navigation. Category II species may become Category I species but have not yet shown the same capability for environmental degradation. Several Category I species occur within VWP as listed in **Table 6**.

Exotic control will occur on a phased basis (see **Conservation Protection, Planning, and Management Phasing, Section 4.1a**) and will occur on a limited basis in VWP as directed by specific conditions of each construction permit. In accordance with specific permits, the VSD will survey for and control all Category I exotic plant species in the VWP through herbicide treatments, mechanical control, or biological methods.

4.3b Timber Management

Cabbage palm and timber harvesting will be a significant management tool in restoring historical prairie communities of the VWP. Because this activity will require a substantial financial commitment, this will be initiated in accordance with the Staging Plan for the VWP, and will likely occur during multiple seasons to conform to environmental constraints and best management practices.

Some amount of selected pine canopy cover in the forested cover types in the Conservation and Rural Districts may be harvested, to enhance and create more habitat for rangeland species in the VWP such as caracara, sandhill cranes, and potentially, burrowing owls. The specific location and amount of canopy cover reduction for each management unit in the VWP will be determined in the field, during permitting and refined in each Village Sketch approval process, to meet the overall goals of the HMP. Harvests will be designed to replicate the extent of historical canopy cover for wet and dry prairie, hydric pine flatwoods and savannah. Contrary to typical timber harvests, the trees left over should include the largest and healthiest trees so that they may provide eagle and potential red cockaded woodpecker nest trees in the future. In addition, the trees left over should include a variety of age classes, to replace the eventual death of large pine

trees. For aesthetic purposes, adequate clumps of mature pines and forested buffers may be kept between the Rural Development Districts and areas of the VWP identified for prairie restoration.

Cabbage palm is extremely prolific within the VWP and must be managed and controlled in order to maintain functional pasture, flatwoods, prairies, and wetlands. Currently this is accomplished by selective harvesting of particular age/size classes. This practice will continue in the VWP in order to control cabbage palm, but will be conducted in a balanced manner to maintain the function of listed species habitat and wetland resources.

Best management practices will be implemented for timber and cabbage palm harvesting within the VWP. This includes minimizing road creation and impacts to wetlands and other sensitive natural resources during the wet season, and avoiding listed species nest locations and harvesting during the nesting season.

This management activity will be initiated for each specific parcel in the Conservation or Rural Districts as that parcel is subjected to protective measure, pursuant to individual permits. Frequent prescribed fire and natural hydrology should maintain the historical vegetative composition of the prairie communities after restoration. Timber/cabbage palm harvests will be conducted in accordance with the approved **Cocoa Ranch Caracara Procedure (Appendix C)** until canopy cover objectives, which are specified in the appropriate permits, are met and maintained. Qualitative monitoring will occur annually also until canopy cover objectives are met and maintained.

The vegetative communities (cover types) referenced as Preferred Cover Types in the Landscaping, Tree Protection, and Land Clearing Standards in the PUD within the tree protection areas as defined in the PUD shall not be cleared or converted to pasture or prairie but shall be protected to provide forested and native habitat. These cover types include: Live Oak (427), Hardwood - Conifer Mixed (434), Mixed Hardwoods (438), Mixed Wetland Hardwoods (617), Wetland Forested Mixed (630), Cabbage Palm – Hardwood Mixed (633), and portions of Pine Flatwoods (411) and Hydric Pine Flatwoods (625). The Preferred Cover Types located within Tree Protection Areas will be managed to maintain the viability of the natural vegetative community. These vegetative communities within the VWP, as a whole, shall be managed with the intent of protecting trees but may still be carefully managed with tools such as fire and cabbage palm harvesting which will enhance the vegetative community, but may harm limited individual trees. The intent is not to preserve every single tree in these vegetative communities but to maintain a minimum 50% canopy coverage and preserve healthy natural forested systems within the Tree Protection Areas.

4.3c Mechanical Management

Mechanical vegetation control may be utilized to manage pine flatwoods and improved pasture. Drum aerators are used to aerate pastures, prepare for seeding, and prepare pine flatwoods for pasture conversion or any community for prescribed fire. Roller chopping is another common method of enhancing natural communities, often as a precursor to prescribed fire. Both devices

can be adjusted to control their impact on the target vegetation and soil. Other mechanical methods include mowing/bushhogging, grinding (Gyro-Trac, Hyro Ax), and hand removal (i.e. chainsaw).

Mechanical vegetation management techniques may be applied within management units of the Conservation and Rural Districts of VWP to prepare for prescribed fire, and habitat and natural community enhancement. Some units may require multiple applications, depending on environmental goals and variables - fire regime, fuel loads/types, and hydrology. Management units within the Conservation District of VWP will be managed according to applicable scientific literature, photo-interpretation of historical aerials, and management objectives. Mechanical techniques such as roller chopping or aerating, within known gopher tortoise sites (relocation areas) will be minimized and supervised by appropriately trained personnel. Mechanical methods may also be used more intensively in areas immediately adjacent to the Village District and the Rural Development District to address urban interface constraints for prescribed fire.

4.4 Hydrological Enhancement

Objective 4) *Hydrological Enhancement* will occur in the Conservation District as authorized by individual permits, as well as in portions of the Rural District (also described below).

The hydrology of VWP is controlled after decades of alterations, primarily through ditches, canals, structures, dry-season irrigation, and roads. Restoring hydrology in the Conservation District, and to some extent in the Rural District, in a balanced manner, is an essential restoration strategy for VWP.

To allow restoration efforts to address ecological alterations, the majority of the Conservation District will be allowed to fluctuate naturally with the surrounding floodplain of the St. Johns River. This will be accomplished in each management unit through enhancement activities to be detailed during construction level permitting and wetland mitigation.

The installation of ditch plugs, water control structures, culverts, at-grade crossings, or the removal of selected roads to enhance hydrology will be conducted on a phased basis within the VWP after consultation with the project engineer in accordance with applicable permits (also see **Section 4.7a, Infrastructure Maintenance/Repairs**). The VSD may consult with the SRJWMD to consider joint hydrological enhancement initiatives on lands connected hydrologically but separately managed by each entity.

4.5 Cattle Grazing and other Agricultural Practices

Objective 5) *Cattle Grazing and other Agricultural Practices* will continue in order to perpetuate and foster habitat for on-site listed species, especially Audubon's crested caracara.

4.5a Cattle Grazing and Management

Currently, about 3300 head of cattle graze on approximately on 10,000 acres within WVEA and lease-backs on SJRWMD-owned land. The number of animal units (AU) (cow/calf pair) per

acre ranges between one (1) AU per three (3) acres for improved pasture, to one AU per nine to ten acres for unimproved or wooded pastures. ADS rotates cattle based on several factors - available forage, growing season variables, etc.

Several grazing practices and actions seem to enhance foraging habitat for crested caracara and other listed species (sandhill crane, burrowing owl). They include bovine biological cycles (cattle birth/death), pasture ditch maintenance, mowing, prescribed fire, cabbage palm harvesting, timber harvesting, and sod harvesting. These practices and their respective benefits to crested caracara are described as follows:

- Cattle birth/death – as carrion eaters, caracara capitalize on the life cycle of cattle: ranch personnel and Glatting Jackson Ecologists have observed caracara feeding on the post-calving afterbirth, a source of food not concentrated in the food web of natural systems. Cattle mortality also provides an enormous amount of food that caracara regularly feed on. According to the ADS personnel, with 3300 head of cattle in the Cocoa Ranch, each weighing approximately 1000 pounds, and at an annual loss of three (3) percent, about 99,000 pounds (approximately 50 tons) of cattle carcasses are annually, added to the local food web;
- Pasture swale maintenance/irrigation – hydrological conveyances in WVEA can be classified into three groups, from large to small: canals, ditches, and swales. All three groups are periodically cleaned. The ADS periodically cleans the pasture swales every two to three years throughout the Cocoa Ranch, usually using a grader to re-sculpt the swales and remove vegetation and accumulated soil. The pasture swales mimic natural hydrologic fluctuations through periodic irrigation and drainage. As the swales are artificially drained for agricultural purposes, the biomass collects in increasingly smaller and smaller pools of water, concentrating food for many species, including crested caracara and wood storks. Caracara also benefit from ditch maintenance for, as the ditches are cleaned/re-graded with equipment, fauna are captured and are deposited on the ditch bank. Ecologists from Glatting Jackson and ADS personnel have confirmed this behavior;
- Prescribed fire – to recycle nutrients and reduce thatch in the pastures, ADS conducts regular prescribed fire, a practice which benefits caracara by creating open, prairie-like conditions that caracara, burrowing owls and sandhill cranes prefer, and, to some extent, providing carrion caused by fire mortality;
- Cabbage palm/timber harvesting – this practice maintains the prairie conditions favored by caracara, leaving cabbage palm densities favorable to caracara (see **Timber Management 4.3b**);
- Mowing – mowing maintains herbaceous cover at low levels, simulating historical prairie habitat somewhat and creating more suitable burrowing owl, sandhill crane, and caracara

foraging habitat; caracara follow the ADS ranch mowers in the summer, seizing the opportunity for a ready meal;

- Sod harvesting – this practice also creates foraging for caracara, either through inadvertent fauna mortality caused by the machinery, or by making food easier to see and catch. This practice also perpetuates the open herbaceous cover that caracara and sandhill crane prefer.

All of the land management practices above have created optimal habitat for a variety of listed species such as the caracara, sandhill crane, burrowing owl, wood stork, and a variety of other listed wading birds. Cattle will continue to be grazed within the VWP with herds being adjusted as available pasture decreases from WVEA development and as market conditions change. All grazing practices described above will continue as part of the long-term grazing operation within VWP. Permit conditions may provide more specificity to some of these management actions as each Stage is authorized. It is anticipated that normal “cow/calf” operations at reasonable cattle densities will continue within the VWP over the long term. Extremely high cattle densities, as found in cattle feedlots for slaughter operations, are not consistent with this HMP.

Should grazing in VWP become unfeasible, a prescribed fire program, hydrological enhancements, or other suitable management practices will be commenced to either maintain the improved pastures or to create more natural systems that are suitable for utilization by caracaras, sandhill cranes, burrowing owls, wood storks and/or other listed wading birds. Large scale, high intensity plasticultural farming practices are not envisioned to be consistent with the goals and objectives this HMP.

4.5b Swale Maintenance

As discussed above, the pasture swales are periodically cleaned to maintain drainage and irrigation. The activity is normally conducted during the dry season (November-April), partially coinciding with burrowing owl nesting season.

Most burrowing owls within the Cocoa Ranch have constructed their burrows on the spoil adjacent to the pasture swales. As the swales are cleaned, the freshly graded soil is deposited on top of the old spoil, potentially covering or collapsing owl burrows on the spoil mound. The peak nesting season for burrowing owls occurs from February through May, but can extend from October through July. To avoid possible entombment of burrowing owls from swale maintenance, pastures, within the VWP, will be surveyed shortly before maintenance occurs. Additionally, equipment operators will receive training to identify and look for burrowing owl during this activity, further ensuring their protection during the nesting season. This activity will occur as long as ditch and swale maintenance is necessary within VWP.

4.5c Sod Farming

ADS began sod farming at the Cocoa Ranch around 1973. ADS currently produce several varieties of sod including bahiagrass and St. Augustine (see **Appendix A**). Several listed species appear to be attracted to many of the sod farming practices on Cocoa Ranch. Caracaras have been observed foraging around sod harvesting operations. Harvesting or mowing sod exposes

grubs and other insects which are in abundant supply for many of the listed species at Cocoa Ranch. Sandhill cranes, wood storks, and a multitude of wading birds also appear to take advantage of the supply of fish and arthropods found in the sod fields and drainage ditches.

Of the many sod varieties produced at Cocoa Ranch, bahiagrass is the most abundant. Coupled with long-term cattle grazing, bahiagrass pastures in VWP will provide suitable foraging and nesting habitat for listed species, especially crested caracara, burrowing owl, and sandhill crane. Grazing (discussed above) seems to have the greatest influence on the management of this cover type, but the practice of farming bahia grass likely contributes to pasture grass maintenance as well.

The main elements of bahia grass farming are prescribed burning, harvesting, fertilizing, and of course, cattle grazing. Prescribed burning usually occurs during the winter as needed to reduce thatch build up. Bahiagrass sod harvesting is contingent upon soil type, rainfall, and other environmental variables and usually occurs every two to five years, sometimes longer. Sod is cut in strips, leaving narrow bands of bahia between each cut to seed new grass. Pastures are usually fertilized in the spring after harvest, typically with an NPK (nitrogen, phosphorus, potassium) fertilizer, or chicken manure. The biggest influence on pastures is cattle. Cattle are grazed and rotated through pastures based on several criteria, such as pasture condition (i.e. available forage), length of growing season, environmental conditions, etc. Collectively, grazing and range management practices are consistent with habitat management for crested caracara and other listed species within VWP (see **Cattle Grazing/Practices** above, and **Listed Species Life Histories, Appendix B**). Protection zones established in the approved USFWS **Cocoa Ranch Caracara Procedure (Appendix C)** will be observed in connection with all agricultural operations within the VWP unless permits require a modified procedure.

4.6 Monitoring

Objective 6) Monitoring will be conducted to evaluate listed species behavior and productivity, enhancement, and ongoing land management activities. Collected data will be shared with the appropriate state and federal agencies.

The VSD will conduct various monitoring as required by regulatory authorities, including vegetative, wetland, and listed species monitoring. The details for monitoring will be defined in specific permits as the WVEA is developed and as portions of the Conservation and Rural Districts are added to the VWP.

4.6a Prescribed Fire Monitoring

Prescribed fire monitoring will include basic annual photo-monitoring points, including two permanent points per burn unit with photos taken in the cardinal directions to evaluate vegetative changes. The VSD will establish the points in different community types.

4.6b Hydrologic and Vegetative Monitoring

The VSD will implement baseline and long-term monitoring methods to evaluate the success of hydrological enhancements, including at a minimum annual photo-monitoring and qualitative vegetative monitoring, as required by applicable permits. It is likely that some of these photopoints will be used in conjunction with prescribed fire/vegetation monitoring.

4.6c Crested Caracara Monitoring

The VSD will collect data and monitor how caracara responds to development. A qualified professional will study the caracara and be engaged to assess caracara ecology. The specific methods and goals of the monitoring will be developed during permitting with the USFWS, but may include: habitat use, home range size and configuration (nesting and non-nesting seasons), hatching success, brood number, fledgling success, foraging behavior, interaction/conflict with other nesting caracaras, new territory selection, response to habitat alterations, or human disturbance, etc. This research will be provided to the USFWS to contribute to the overall science and understanding of the species.

Radio transmitters and color bands may be installed on all adults associated with all nests within the VWP. All subsequent offspring produced by these nests also may be color banded for a minimum of six years or as long as permit conditions require. The banding and installation of transmitters will be coordinated and supervised by a qualified professional. All surveys will allow time sufficient to survey each nest, existing and new, and gather data from transmitters, as well as field observations and data collection necessary to determine how displaced caracara are responding to the staging and management of the VWP. The specific monitoring methodology and reporting criteria will be developed during permitting with the USFWS.

If development is significantly postponed due to market conditions and the extent of habitat alterations near existing nests is postponed, the VSD will coordinate with the USFWS to reduce the level of monitoring until development resumes.

4.6d Other Listed Species Monitoring

Annual monitoring (unless noted otherwise) will be conducted for gopher tortoise, sandhill crane, and burrowing owl, the details of which are as follows:

- Gopher tortoise - Monitoring for gopher tortoise will be conducted in accordance with future FFWCC relocation permit conditions. Gopher tortoise burrow surveys will be conducted using FFWCC-approved methodology.
- Florida sandhill crane - the habitat within the VWP may be surveyed during each nesting season to determine the approximate number of sandhill crane nests utilizing, and to evaluate the quality of habitat within the VWP, and to provide guidance for any management activities that could alter the success of any active nests. The sandhill crane survey methodology, duration, and reporting requirements will be determined during permitting with the FFWCC.

- Burrowing owl – At such time as burrowing owl burrows, within the VWP, could be affected by land management activities, described in section 4.5b, surveys for owl burrows will be conducted during the peak nesting season. Other burrowing owl monitoring will be conducted as determined during permitting with the FFWCC.

4.7 Operations

Objective 7) Operations, including the regular maintenance of infrastructure, providing adequate personnel, and providing wildlife management, will be conducted to ensure the long-term success of natural resource management in VWP.

4.7a Maintenance, Repair and Improvement of Agricultural/Community Facilities

Much of VWP's infrastructure, or roads, are essential for cattle grazing, ditch/canal maintenance, access to off-site properties, and land management. In many instances, roads also act as convenient fire breaks for prescribed fire. Essential roads will be maintained to facilitate operations but, hydrology impaired by various roads may be enhanced, as determined appropriate by project engineers and the management personnel (see also **Hydrological Enhancement, Section 4.4**). The agricultural facilities and structures are also essential for normal agricultural operations and land management.

Notwithstanding any contrary provision of this HMP, the following activities and work in connection therewith are allowed in the VWP and shall not be prohibited by this HMP: (i) the installation, repair, maintenance and improvement of facilities and structures directly relating to permissible agricultural uses within the VWP, including but not limited to barns, sheds, corrals, feeders, wells, fences, crossings and gates; and (ii) the lawful repair, maintenance, re-location and improvement of existing or future canals, ditches and swales, or portions thereof, located within the VWP.

4.7b Administration

Sufficient personnel will be provided to accomplish land management objectives within VWP, and may be supplemented through volunteers, student interns, graduate students, etc.

Management plan updates will occur at 2-year intervals following the approval of the DO as part of the Biennial report. These HMP updates will be prepared by the VSD's Environmental Professional, as defined in the Viera DO, and will include an evaluation of the progress in achieving the long term goals and objectives of the HMP. In addition, each update will include a summary of land management conditions and monitoring actions modified as a result of permit requirements.

4.7c Wildlife Management

Various forms of game management have historically been conducted within WVEA and will be continued to control nuisance animals and manage game populations. Hunting will be managed in the VWP in accordance with applicable laws and ordinances.

4.8 Funding

Objective 8) Long-term maintenance, management, and operation of the VWP in accordance with the HMP shall be funded by the VSD.

To carry out its prescribed functions, the Florida Legislature has granted the VSD the legal authority to fund and finance the facilities and services necessary to perform the management functions required by this HMP, including, but not limited to, the specific power and authority to issue bonds, impose benefit and/or maintenance assessments and levy fees and user charges in accordance with its charter.

4.9 Community Outreach and Collaboration

Objective 9) Community Outreach and Collaboration, including education, volunteerism, and sharing of research, will be fostered in the VWP.

The VWP will face increasing pressure for public access and use as the development of WVEA progresses. Because of its size, several access points will be designated in VWP to serve different communities and offer varying recreational experiences.

4.9a Interpretive Education

During Management Phase III of the VWP implementation plan, the VSD will encourage environmental stewardship through education. It may be directed toward adults and children to explain VWP's importance and to instill an appreciation of its natural resources. Interpretive programming can be conducted on-site (through VWP staff, volunteers, local school teachers, and universities, etc.). Off-site environmental education, with VWP as the centerpiece, can be offered at local schools. The VSD will avail itself of basic research and land management services: species inventories, wildlife surveys, exotic plant control, etc. through programs that build relationships with area universities, schools, SJRWMD, and its communities. The VSD will begin this relationship early in the development of WVEA to prepare for local stewardship of VWP in the coming decades.

Additionally, the VSD will promote environmental education through the following:

- Disseminate findings on research to governmental agencies - the VSD will share data and findings it has collected for crested caracara, burrowing owls, its agricultural management techniques, and long-term plans for crested caracara protection within VWP.
- Encourage public outreach/education for listed species - as in the education campaign for prescribed fire, the VSD will endeavor to inform its residents about listed species in the VWP and adjacent areas. The goal is to heighten awareness and appreciation of listed species, their habitat needs, and the ongoing efforts to enhance habitat within VWP.

5.0 INDIVIDUAL LISTED SPECIES CONSIDERATIONS

5.1 Crested Caracara

Management for crested caracara will occur generally through the resource management actions listed above in **Section 4.0, Resource Management Objectives**. The species will also benefit from additional scientific research, monitoring, and education. These management activities will foster an environment in which the species will persist and from which the broader scientific community will learn. The VWP will provide foraging and nesting habitat: large expanses of uninterrupted, pasture or prairie-like conditions (i.e. natural communities or improved pasture), cabbage palm trees/clusters, and an abundant food supply in a managed setting.

The Rural District of the VWP will be set aside and managed to attract crested caracara and other listed species from the WVEA.

The Rural District will be subject to the following land management protocol:

- Major tree alterations (harvesting or planting) shall not occur without prior approval of the VSD;
- No use of chemical insecticides shall be allowed without the prior approval of the VSD;
- Parcels adjacent to the VWP shall be notified of prescribed burning conducted within the VWP, implemented in accordance with the HMP;
- Agricultural uses within the VWP that are compatible with, or facilitate the environmental goals and objectives of the HMP, shall be encouraged by the VSD.
- Management units that contain a caracara nest tree will be evaluated for pre-fledged juveniles that may be present on the ground, prior to a prescribed burn.

5.2 Bald Eagle

There are two eagle nests (BE039 and BE003) in the VWP (**Figure 9**). Existing habitat within VWP, as well as off-site resources, will provide substantial nesting and foraging habitat. Also, the pine flatwoods in the western portion of VWP, as well as various pastures, provide a number of large pines that could be suitable for future bald eagle nest trees. These areas are close to the RLCA, Lakes Washington, Winder, and Poinsett, the St. Johns River, and other natural foraging resources.

In accordance with the USFWS guidelines, natural habitat may be converted to improved pasture or timbered during the non-nesting season. Healthy, mature super-canopy trees within VWP will be identified before logging occurs and left standing as potential future nest trees.

The VSD will annually request nest status and productivity from FFWCC for all on-site nests to monitor nesting success and productivity during the implementation of the HMP. If the FFWCC stops collecting data on bald eagle nest locations, surveys to locate nests will be conducted prior to the initiation of any management action, within the VWP, that may affect bald eagle nesting activities. . Additionally, the VWP will be casually monitored for new nests throughout each year as part of routine agricultural activities or land management.

5.3 Florida Sandhill Crane

Pairs of mature Florida sandhill cranes were observed foraging on the property, in improved pastures, wet pastures, and sod fields. One nest was observed in the VWP in 2005; and one in 2006 (**Figure 9** depicts nest locations by year). Scattered freshwater marshes and wet prairies within VWP provide suitable habitat for nesting, and improved pastures on the site currently provide ample forage areas for sandhill cranes.

It is anticipated that portions of the VWP will compensate for all impacts to Florida sandhill crane nests and foraging habitat associated with the WVEA. Overall, the VWP will provide substantial suitable habitat in the form of improved pasture and enhanced herbaceous wetlands. The VSD will conduct resource management activities throughout sandhill crane foraging and nesting habitat. All prescribed fires during the peak nesting season in or near herbaceous wetlands will be preceded by a burn unit nest survey to avoid accidental harm to pre-fledgling chicks.

5.4 Gopher Tortoise

It is anticipated that portions of the VWP will be proposed and eligible for use as a long-term protected recipient site (as defined by the FWC) for gopher tortoises that will be impacted development of the WVEA. Management of these areas will be conducted as specified in the applicable permits.

Existing gopher tortoise colonies in the VWP will be preserved or managed through resource management activities in accordance with applicable permits. On-site preservation and management will also provide habitat for gopher tortoise commensal species, including indigo snake, Florida mouse, and gopher frog (*Rana capito*). Burrow surveys, within the VWP, will be conducted pursuant to future FFWCC tortoise relocation permits for the WVEA, to monitor the status of the species. The data will be included in the five-year HMP update.

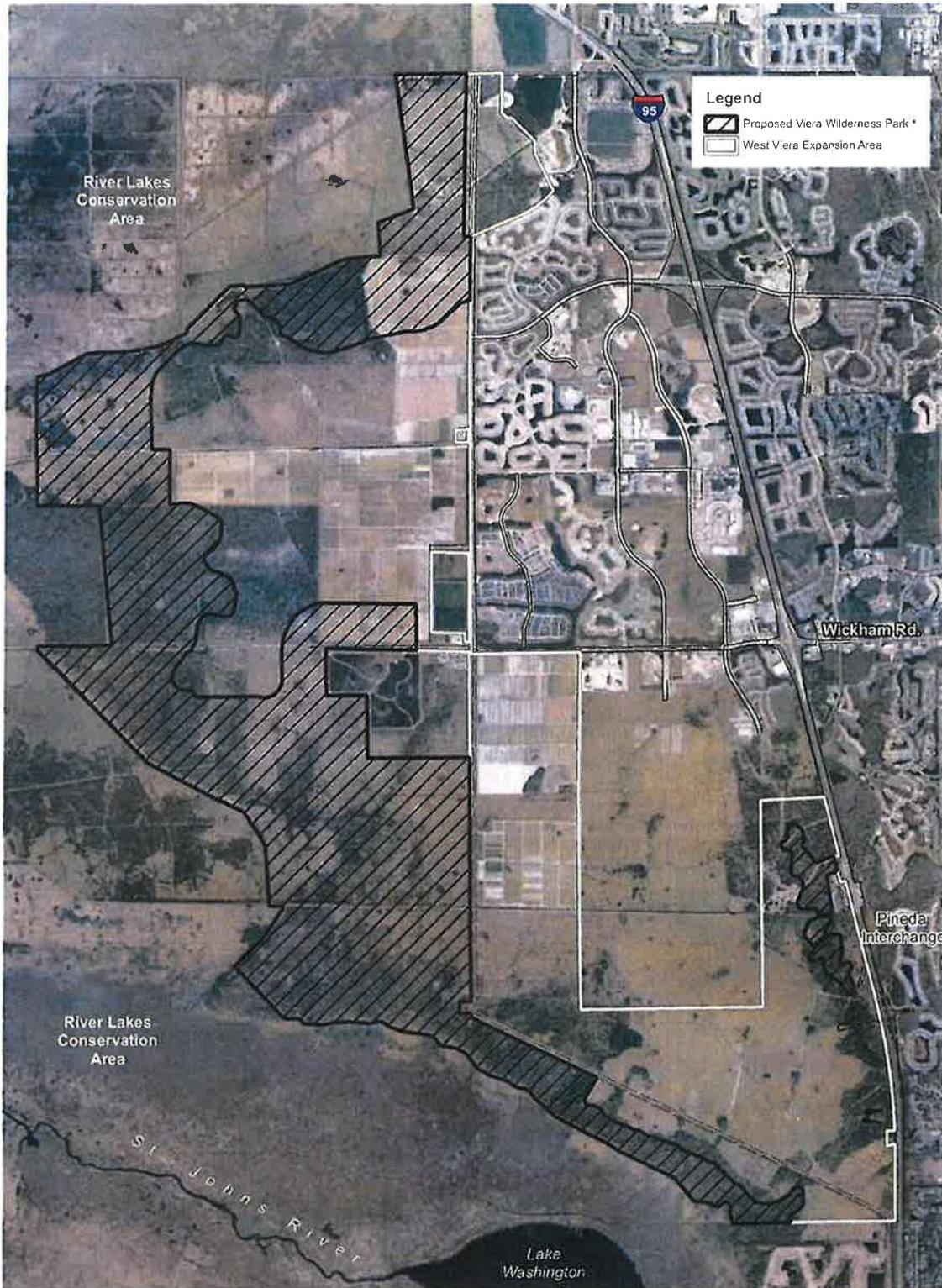
5.5 Burrowing Owl

It is anticipated that a portion of the preserved and managed lands in VWP will provide adequate habitat for burrowing owls affected by the WVEA. Three (3) burrowing owl relocation recipient areas have been identified within the VWP based on soils and hydrology. These proposed locations exist within the VWP and are generally shown on **Figure 9**. Additionally, artificial cavities, similar to the depiction in **Figure 12**, will be constructed in accordance with applicable permits. Annual monitoring of the relocation areas will be conducted in accordance with applicable permits.

- The three (3) specific locations currently anticipated as burrowing owl recipient sites total 222.3 acres. Area 1 (75.7 acres) and Area 2 (51.0 acres) are in the northwest corner of the VWP, while Area 3 (95.6 acres) is in central portion of the VWP southeast of the Viera Wetlands Park (**Figure 9**). Each of these areas appears to have a lowered ground water table, suitable soils, and vegetative conditions consistent with appropriate habitats for this species. All of the existing burrowing owl burrows currently occur within the following soils: Pineda sand, Myakka sand, and EauGallie sand. All three of these soils are described in the Soil Survey of Brevard County (USDA SCS, 1974) as poorly drained, with the Pineda sand historically occurring under hammocks and low sloughs; Myakka sand occurring in flatwoods and between ridges and sloughs; and the EauGallie sand occurring beneath low ridges in flatwoods. The soils underlying burrowing owl recipient sites 1 and 2, consists of EauGallie sand. The soil beneath burrowing owl recipient site 3 consists of Myakka, Malabar, and Felda sands. All three recipient sites have significant drainage features in the vicinity, and each exhibit low ground water table. Low ground water table in these areas results in low frequency of flooding and suitable conditions for burrowing owl relocation.

5.6 Wood Stork

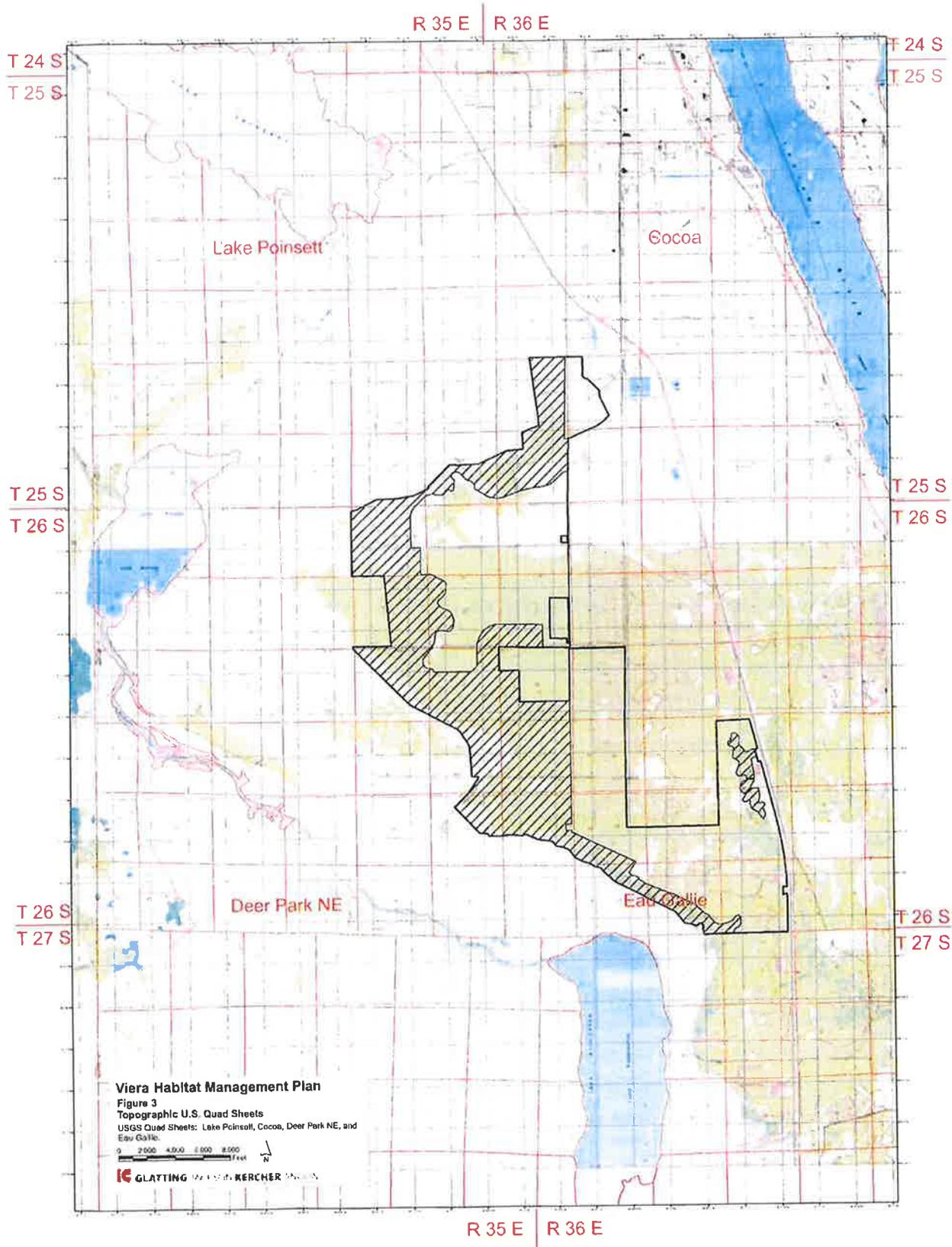
No wood stork nesting sites are known to occur within the DRI, although this species has been observed foraging on-site, as shown on **Figure 9**. It is anticipated that wood stork foraging habitat loss resulting from on-site impacts will be sufficiently offset through on-site mitigation activities including hydrologic enhancement of wetlands previously altered through agricultural activity.



Viera Habitat Management Plan

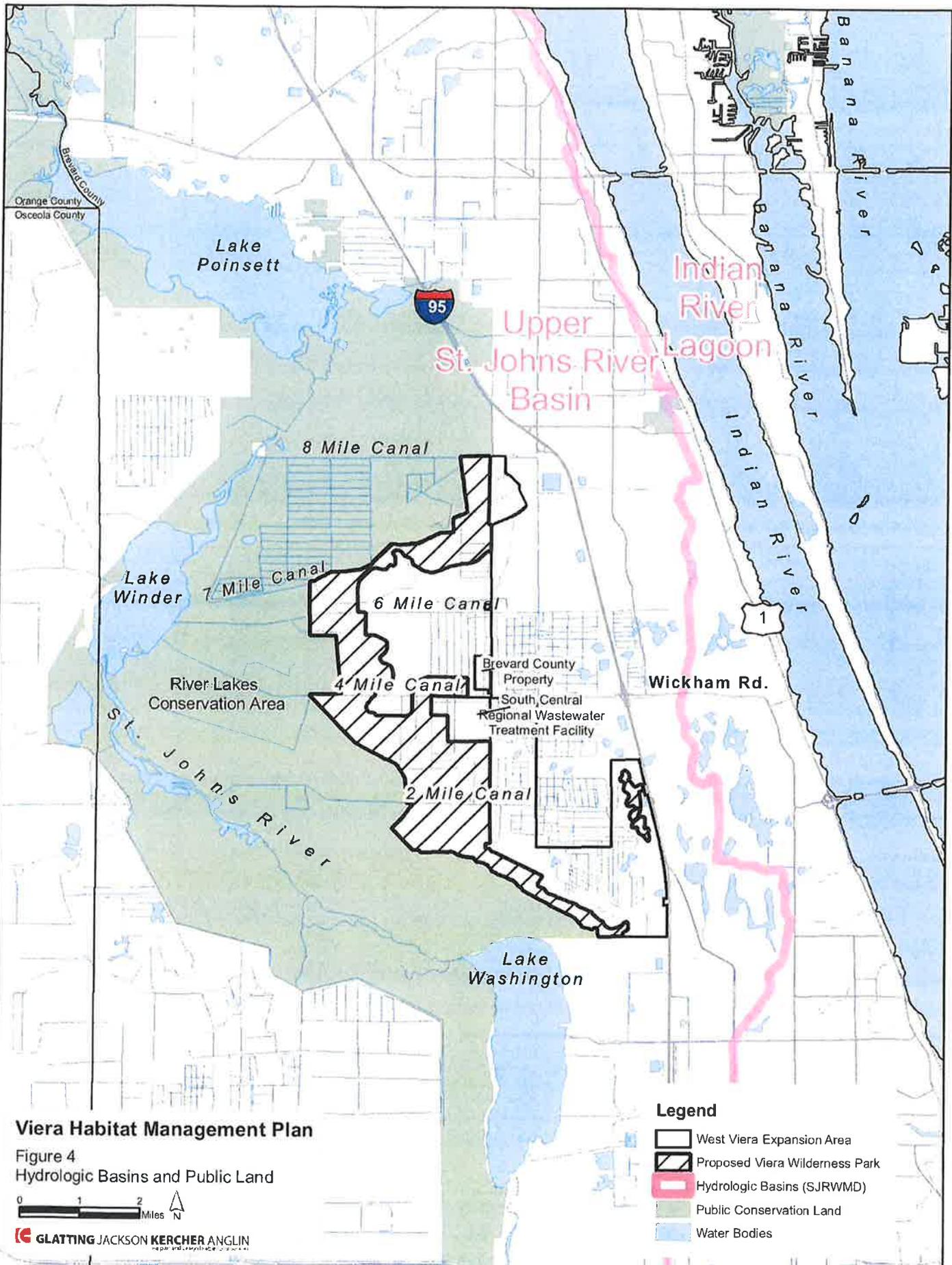
Figure 2
Proposed Viera Wilderness Park

* Final Boundary (subject to Staging Plan)



Viera Habitat Management Plan
Figure 3
Topographic U.S. Quad Sheets
 USGS Quad Sheets: Lake Poinsett, Cocoa, Deer Park NE, and Eau Gallie.

Map prepared by the Viera Water Treatment Plant, Viera, Florida, in cooperation with the U.S. Army Corps of Engineers, Viera District Office, Viera, Florida.



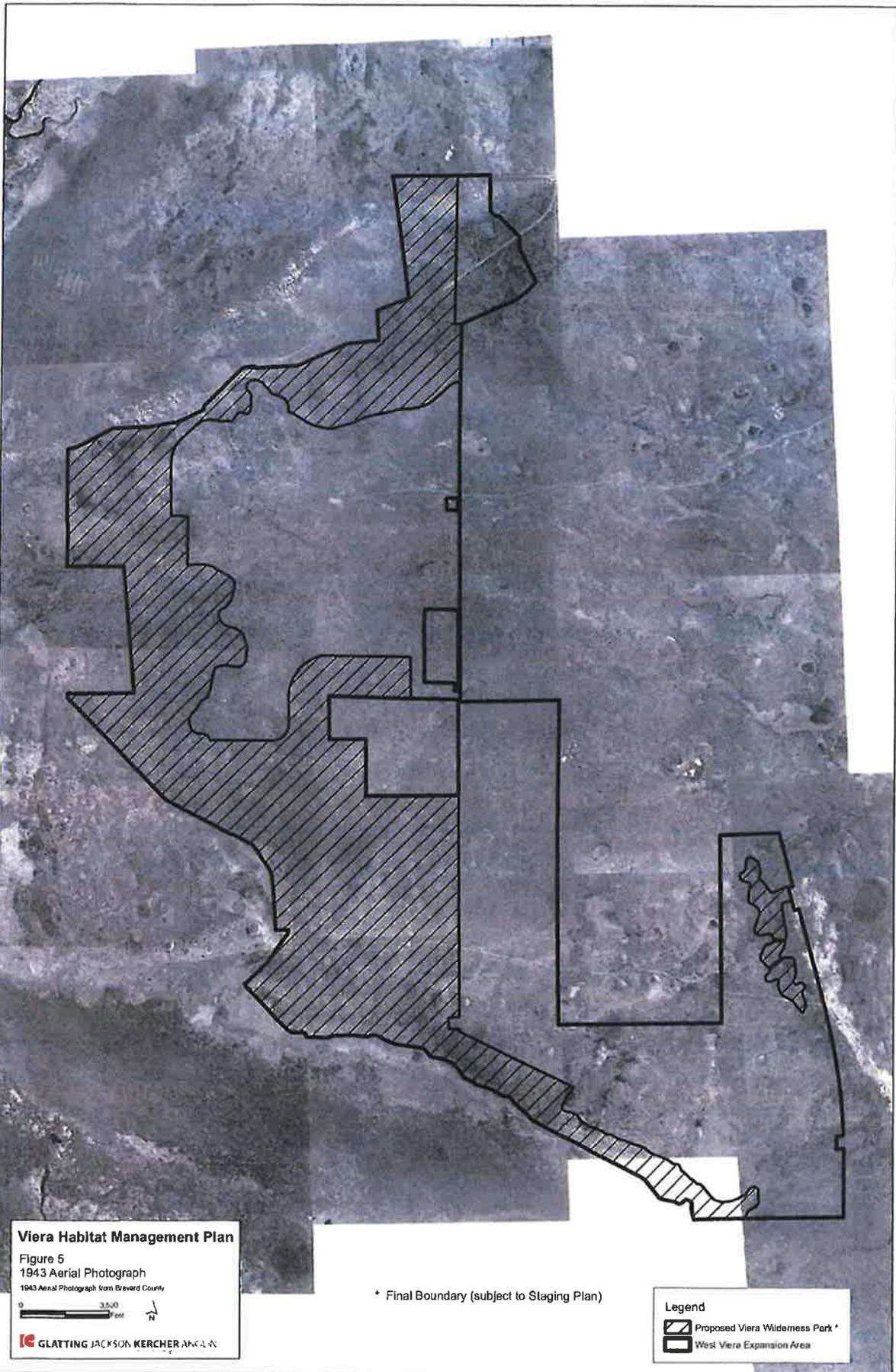
Viera Habitat Management Plan

Figure 4
Hydrologic Basins and Public Land



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planning and engineering solutions

- Legend**
-  West Viera Expansion Area
 -  Proposed Viera Wilderness Park
 -  Hydrologic Basins (SJRWMD)
 -  Public Conservation Land
 -  Water Bodies



Viera Habitat Management Plan

Figure 5
1943 Aerial Photograph
1943 Aerial Photograph from Brevard County

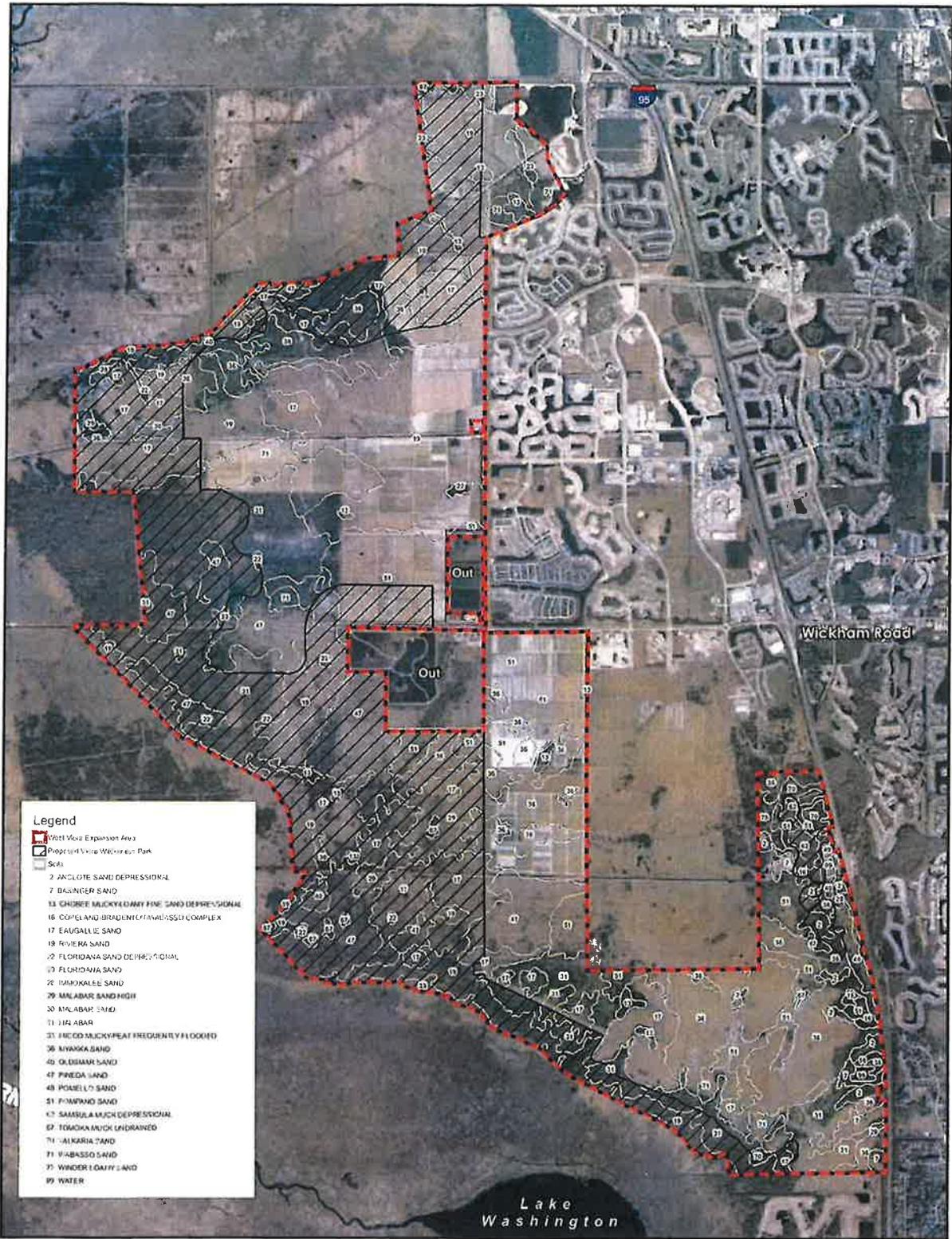
0 350
Feet

GLATTING JACKSON KERCHER ANGLA & ASSOCIATES

* Final Boundary (subject to Staging Plan)

Legend

-  Proposed Viera Wilderness Park *
-  West Viera Expansion Area



Viera Habitat Management Plan
 Figure 6
 Soils
 U.S. Department of Agriculture/Soil Survey (SURSO-1936)

0 3,500 Feet N

GLATTING JACKSON KERCHER ASSOCIATES

Aerial Cartographics of America (ACA) 2008 Aerial Photograph

R 35 E | R 36 E

T 24 S
T 25 S

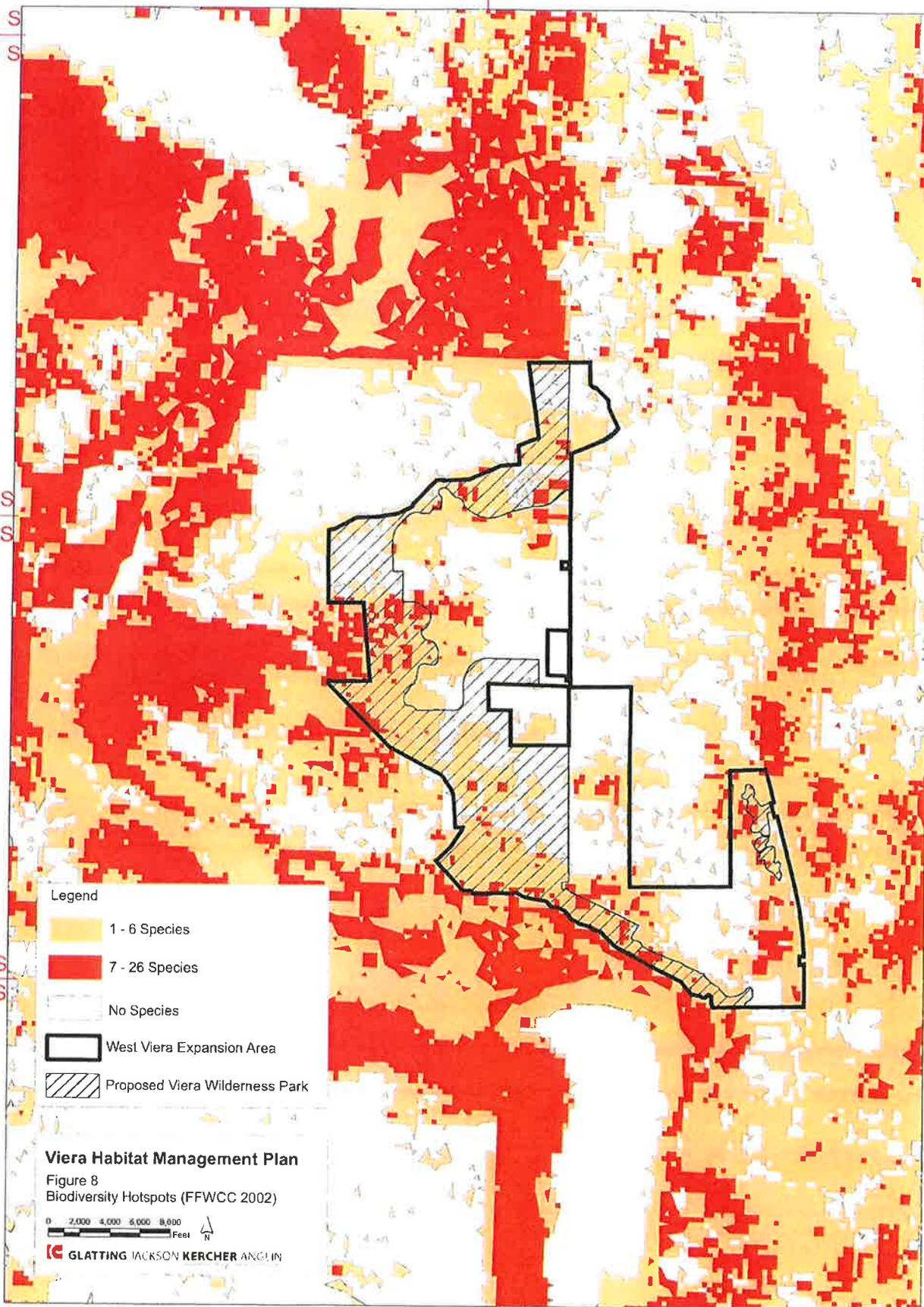
T 24 S
T 25 S

T 25 S
T 26 S

T 25 S
T 26 S

T 26 S
T 27 S

T 26 S
T 27 S

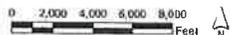


Legend

- 1 - 6 Species
- 7 - 26 Species
- No Species
- West Viera Expansion Area
- Proposed Viera Wilderness Park

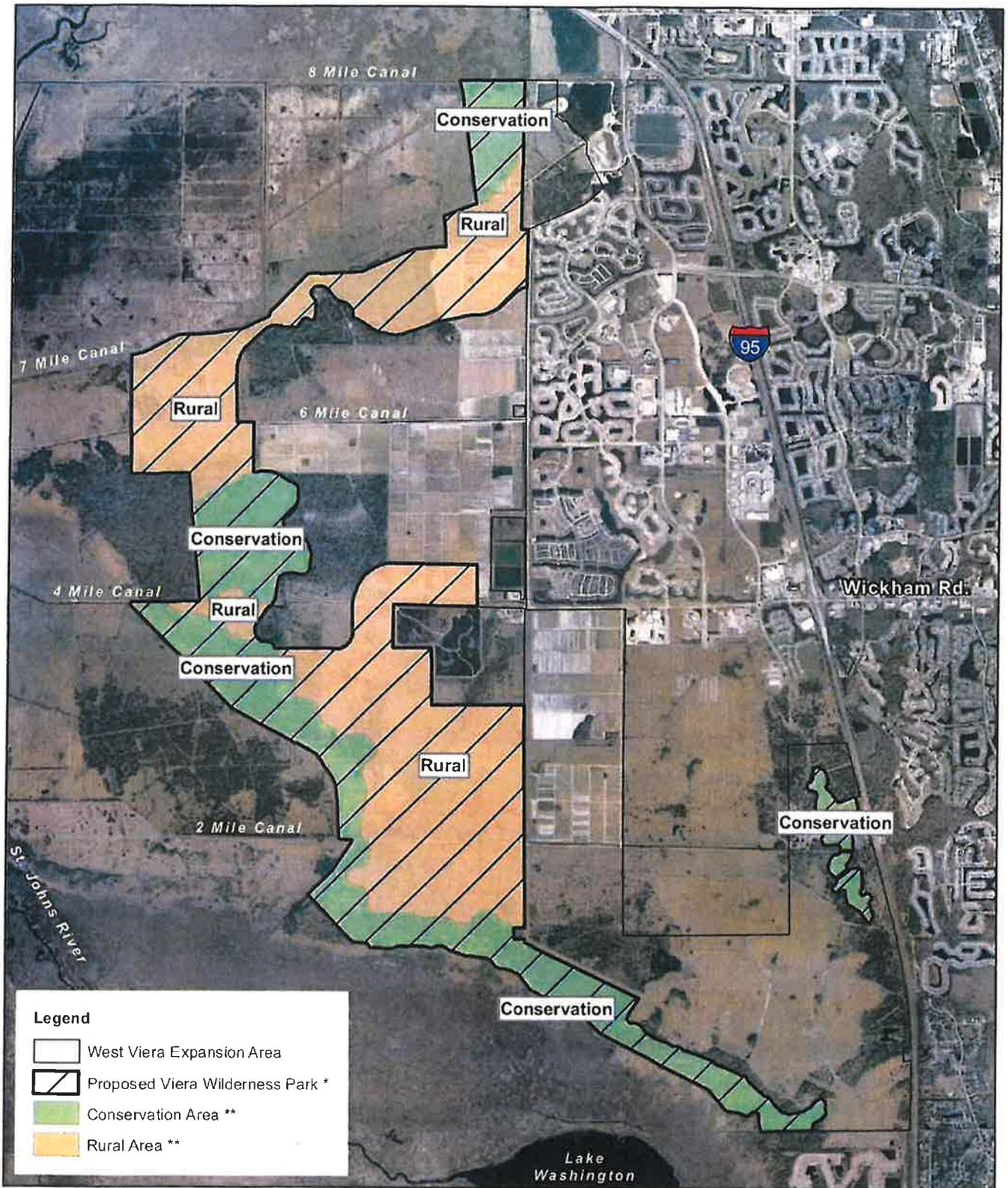
Viera Habitat Management Plan

Figure 8
Biodiversity Hotspots (FFWCC 2002)



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R 35 E | R 36 E



Aerial Cartographics of America (IACA) 2008 Aerial Photograph

Viera Habitat Management Plan

Figure 10

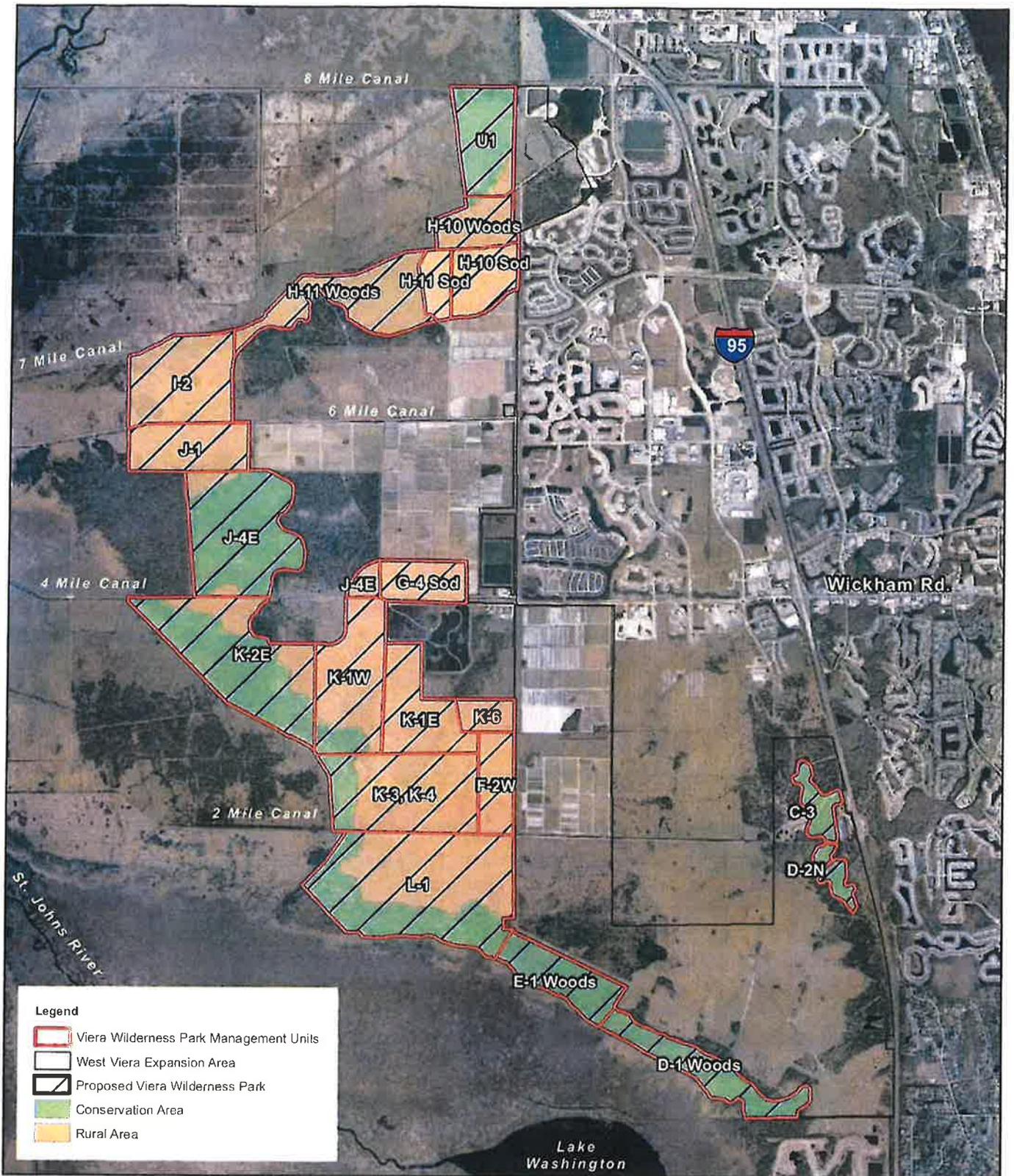
Viera Wilderness Park
Rural and Conservation Areas



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INCORPORATED

* Final Boundary (Subject to Staging Plan)

** Portions of the Rural Area and Conservation Area will transition to Rural District and Conservation District pursuant to the DRI Staging Plan set forth in the Development Order in accordance with applicable environmental regulatory permits.



Viera Habitat Management Plan

Aerial Cartographics of America (IACA) 2008 Aerial Photograph

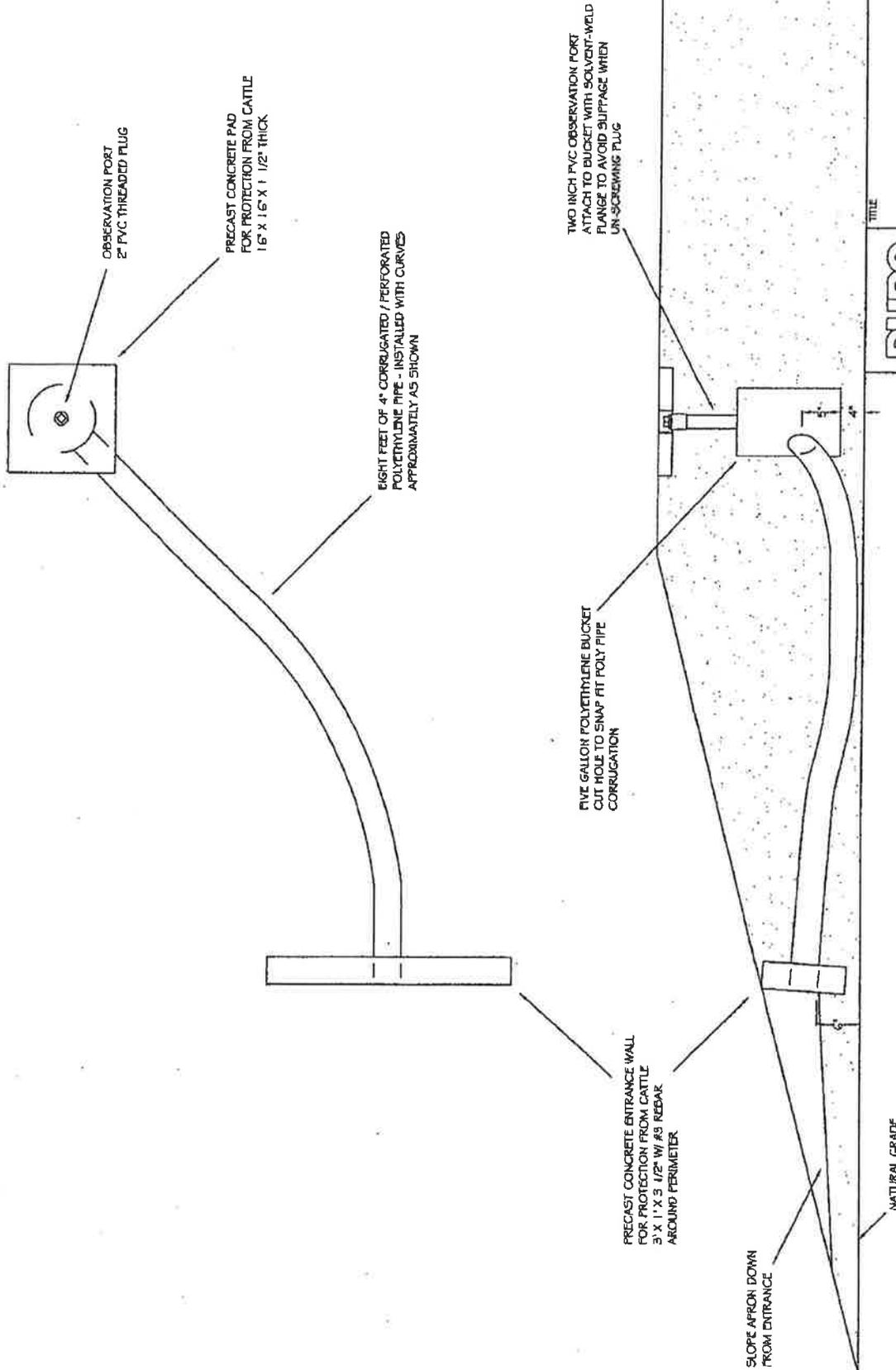
Figure 11
Viera Wilderness Park Management Units

The management units represent Duda's pasture boundaries and labels.



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INCORPORATED

PLAN VIEW (MOUND NOT SHOWN FOR CLARITY)



TITLE

FIGURE 9
ARTIFICIAL BURROW
CONSTRUCTION DETAIL

DUDA

A. Duda & Sons, Inc.
P.O. BOX 257
OVIDO, FLORIDA 32765

DATE	SCALE
DATE	DATE
DRAWN BY	AFFED BY

CROSS-SECTION VIEW

Viera Habitat Management Plan

Figure 12
Artificial Burrow Construction Detail
(Source: DUDA)

Table 1 - Soil Descriptions and Characteristics for the West Viera Expansion Area Project Site, Brevard County, Florida

Soil Name and Map Symbol	Brief Soil Description	Seasonal High Water Table		Permeability Rate (in/hour)	Hydric Status
		Depth (in)	Duration (mo)		
Anclote sand (An)	Nearly level; very poorly drained	0-10	>6	6-20 to a depth of 19 in. 6-20 to a depth of 72 in.	100% hydric component
Basinger sand (Ba)	Nearly level; poorly drained	0-10 10-40	2-6 >6	>20 to a depth of 80 in.	90% hydric component
Chobee sandy loam (Ch)	Nearly level; very poorly drained	flooded 0-10 10-40	1-6 6-9 3-6	2-6 to a depth of 14 in.; 0.6-2 from 14 to 38; 0.6-2 from 38 to 63	100% hydric component
Copeland complex (Cp)	Nearly level; very poorly drained	0-10	>6	>20 to a depth of 15 in.; 0.6-2 from 15 to 22 in.	85% hydric component
EauGallie sand (Eg)	Nearly level; poorly drained	0-10 10-40	1-4 >6	6-20 to a depth of 22 in.; 0.6-6 from 22 to 35; 6-20 from 35 to 55	20% hydric inclusion
Felda sand (Fa)	Nearly level; poorly drained	0-10 10-40	2-6 >6	6-20 to a depth of 30 in. 0.6-6 to a depth of 49 in. 0.6-6 to a depth of 62 in.	80% hydric component
Floridana sand (Fn)	Nearly level; very poorly drained	0-10 10-30	6-9 3-6	2-6 to a depth of 12 in.; 6-20 from 12 to 29; 0.6-2 from 29 to 62	95% hydric component
Immokalee sand (Im)	Nearly level; poorly drained	0-10 10-40	1-2 >6	6-20 to a depth of 33 in.; 0.6-6 from 33 to 65 in.; 6-20 from 65 to 80 in.	30% hydric inclusion
Malabar sand (Ma)	Nearly level; poorly drained	0-10 10-40	1-2 >6	6-20 to a depth of 45 in.; 0.6-6 from 45 to 61 in.	20% hydric component
Micco peat (Mc)	Nearly level; very poorly drained	flooded 0-10	>6 9-12	6-20 to a depth of 30 in.; 6-20 from 30 to 38 in.; 0.6-6 from 38 to 55 in.	100% hydric component
Myakka sand (Mk)	Nearly level; poorly drained	0-10 10-40	1-4 >6	6-20 to a depth of 22 in.; 0.6-2 from 22 to 35 in.; 0.6-2 from 35 to 46 in.	30% hydric inclusion
Oldsmar sand (Od)	Nearly level; poorly drained	0-10 10-40	1-3 >6	6.3-20 to a depth of 36 in.; 2-6 from 36 to 51 in.; 2-6 from 51 to 55 in.	20% hydric inclusion
Pineda sand (Pn)	Nearly level; poorly drained	0-10 40-60	1-2 >6	6-20 to a depth of 38 in.; 2-6 from 38 to 60 in.; 6-20 from 60 to 64 in.	20% hydric inclusion
Pomello sand (Ps)	Nearly level; moderately well drained	30-40 10-40	2-4 >6	>20 to a depth of 80 in.	Not hydric
Pompano sand (Pw)	Nearly level; poorly drained	0-10 10-40	2-6 >6	>20 to a depth of 90 in.	80% hydric component; 10% hydric inclusion
Samsula muck, depressional (62)	Nearly level; very poorly drained	flooded	>6 9-12	6-20 to a depth of 22 in.; 6-20 to a depth of 65 in.	100% hydric component
Tomoka muck (Tw)	Nearly level; very poorly drained	flooded 0-10	>6 9-12	6-20 to a depth of 35 in.; 0.6-6 from 35 to 55 in.	100% hydric component
Valkaria sand (Va)	Nearly level; poorly drained	0-10	2-6	>20 to a depth of 80 in.	85% hydric component
Wabasso sand (Wa)	Nearly level; poorly drained	0-10 10-30	1-2 >6	6-20 to a depth of 28 in.; 0.6-2 from 28 to 62 in.	40% hydric inclusion
Winder loamy sand (Wn)	Nearly level; poorly drained	0-10 10-30	2-6 >6	6-20 to a depth of 12 in.; 0.6-2 from 65 in.	80% hydric component

Table 2. WILDLIFE AND PLANT SPECIES LISTED AS THREATENED, ENDANGERED, AND/OR SPECIES OF SPECIAL CONCERN THAT POTENTIALLY OCCUR ON THE WEST VIERA EXPANSION AREA

Viera DRI, Substantial Deviation #2

Scientific Name	Common Name	State	USFWS	Habitat Type	Probability of Occurrence
<i>Plants</i>					
<i>Andropogon arctatus</i>	pinewood bluestem	T		1,3,4	Medium
<i>Asclepias curtissii</i>	Curtis' milkweed	E		1,3,4,5	Low
<i>Calamovilfa curtissii</i>	Curtis' sandgrass	T		4	High
<i>Calopogon multiflorus</i>	many-flowered grass-pink	E		4	High
<i>Centrosema arenicola</i>	sand butterfly pea	E		2	Low
<i>Cereus eriophorus</i>	fragrant prickly-apple	E	E	5,18	Low
<i>Cereus gracilis</i>	west coast prickly-apple	E		5,18	Low
<i>Chamaesyce cumulicola</i>	sand dune spurge	E		1,13	Very Low
<i>Chrysophyllum oliviforme</i>	satin leaf	T		3,5	Low
<i>Coelorachis tuberculosa</i>	flord	T		9,11	Medium
<i>Conradina grandiflora</i>	large-flowered rosemary	E		1	Very Low
<i>Drypetes lateriflora</i>	Guiana plum	T		5	Medium
<i>Encyclia tampensis</i>	Florida butterfly orchid	C		5,10,14	High
<i>Epidendrum conopseum</i>	green-fly orchid	C		5,10,14	High
<i>Garberia heterophylla</i>	garberia	T		1,2	Low
<i>Hexalectris spicata</i>	crested coralroot	E		5	Medium
<i>Lantana depressa</i>	pineland lantana	E		6,13	Very Low
<i>Lechea cernua</i>	scrub pinweed	T		1	Very Low
<i>Lechea divaricata</i>	spreading pinweed	E		3,4	High
<i>Lilium catesbaei</i>	pine lily	T		4,9	High
<i>Lindera subcoriacea</i>	bog spicebush	E		5	Low
<i>Lycopodium cernuum</i>	nodding club-moss	C		4,9,10	High
<i>Matelea gonocarpus</i>	angle-pod	T		5	Medium
<i>Monotropis reynoldsiae</i>	pygmy-pipes	E		5	Medium
<i>Myrcianthes fragrans</i>	Simpson's stopper	T		5	Medium
<i>Nemastylis floridana</i>	celestial lily	E		4,9,10	High
<i>Nolina atopocarpa</i>	Florida beargrass	T		4	Medium
<i>Ophioglossum palmatum</i>	hand fern	E		5,14	Medium
<i>Opuntia stricta</i>	shell mound prickly-pear	T		5,13,18	Low
<i>Osmunda cinnamomea</i>	cinnamon fern	C		9,10	Present
<i>Osmunda regalis</i>	royal fern	C		9,10	Present
<i>Pectuma dispersa</i>	widespread polypody	E		5,14	Medium
<i>Pectuma plumula</i>	plume polypody	E		5,8,14	Medium
<i>Pectuma ptilodon</i>	swamp plume polypody	E		5,8,10	Medium
<i>Peperomia humilis</i>	Reddish Peperomia	E		5	Medium
<i>Peperomia obtusifolia</i>	Florida Peperomia	E		5,14	Medium
<i>Pinguicula caerulea</i>	blue butterwort	T		4	Present
<i>Pinguicula lutea</i>	yellow butterwort	T		4,7,10	Present
<i>Platanthera blephariglottis</i>	white-fringed orchid	T		4,7,9	High
<i>Platanthera ciliaris</i>	yellow-fringed orchid	T		4,7,8,9,10	High
<i>Platanthera nivea</i>	snowy orchid	T		4,7	High
<i>Pteroglossaspis ecristata</i>	noncrested eulophia	T		1,2	Medium
<i>Rhapidophyllum hystrix</i>	needle palm	C		8,10	Medium
<i>Scaevola plumieri</i>	inkberry	T		10	High
<i>Schwalbea americana</i>	chaff-seed	E	E	3,4,5	Low
<i>Tephrosia angustissima</i>	hoary pea	E		5	Low
<i>Tillandsia utriculata</i>	giant wild-pine	E		3,4,5,10,14	High
<i>Tournefortia gnaphalodes</i>	bay lavender	E		13	Very Low
<i>Verbena maritima</i>	coastal vervain	E		3,13	Low
<i>Verbena tampensis</i>	Tampa vervain	E		5	Medium
<i>Warea carteri</i>	Carter's mustard	E	E	1,2	Very Low
<i>Zamia pumila</i>	coontie	C		1,2,3,5	High
<i>Zephyranthes simpsonii</i>	Simpson's zephyr-lily	T		4	High

Scientific Name	Common Name	State	USFWS	Habitat Type	Probability of Occurrence
<i>Amphibians</i>					
<i>Rana capito</i>	gopher frog	SSC		4,6,9	Medium
<i>Birds</i>					
<i>Ajaia ajaja</i>	roseate spoonbill	SSC		7,9	Present
<i>Aphelocoma coerulescens</i>	Florida scrub-jay	T	T	1	Low
<i>Aramus guarana</i>	limpkin	SSC		7,9,10,11	Medium
<i>Charadrius melodus</i>	pipkin plover	T	T	16	Low
<i>Dendroica kirtlandii</i>	Kirtland's warbler	E	E	1,5	Medium
<i>Egretta caerulea</i>	little blue heron	SSC		7,9,10,11	Present
<i>Egretta rufescens</i>	reddish egret	SSC		16,17	Medium
<i>Egretta thula</i>	snowy egret	SSC		7,9,10,11	Present
<i>Egretta tricolor</i>	tricolored heron	SSC		7,9,10,11	Present
<i>Eudocimus albus</i>	white ibis	SSC		7,9,10,11,12	Present
<i>Falco peregrinus</i> spp.	peregrine falcon	E	E	6,7,8,9,10,11,12	Medium
<i>Falco sparverius</i> <i>pauhis</i>	southeastern American kestrel	T		2,3,4,6,7,12	High
<i>Grus canadensis pratensis</i>	Florida sandhill crane	T		6,7,9,12	Present
<i>Haematopus palliatus</i>	American oystercatcher	SSC		16	Low
<i>Haliaeetus leucocephalus</i>	bald eagle	*	*	2,3,4,8,9,10,11	Present
<i>Mycteria americana</i>	wood stork	E	E	4,9,10,12	Present
<i>Pelecanus occidentalis</i>	brown pelican	SSC		17	Low
<i>Picoides borealis</i>	red-cockaded woodpecker	T	E	2,3,4	Low
<i>Polyborus plancus audubonii</i>	Audubon's crested caracara	T	T	4,5,6,7,9	Present
<i>Rynchops niger</i>	black skimmer	SSC		7,9,10	Low
<i>Speotyto cunicularia</i>	burrowing owl	SSC		2,6,12	Present
<i>Sterna antillarum</i>	least tern	T		9,11,12	Low
<i>Vermivora bachmanii</i>	Bachman's warbler	E	E	8,10	Medium
<i>Mammals</i>					
<i>Blarina carolinensis</i>	Sherman's short-tailed shrew	SSC		4,5,7	Medium
<i>Peromyscus polionotus niveiventris</i>	southeastern beach mouse	T	T	1,13	Low
<i>Podomys floridanus</i>	Florida mouse	SSC		1,2,3	Low
<i>Trichechus manatus</i>	Florida manatee	E	E	15	Absent
<i>Ursus americanus floridanus</i>	Florida black bear	T	CA	1,2,3,4,5,8,10	Medium
<i>Reptiles</i>					
<i>Alligator mississippiensis</i>	American alligator	SSC	T(S/A)	8,9,10,11	Present
<i>Caretta caretta</i>	Atlantic loggerhead turtle	T	T	15,16	Absent
<i>Chelonia mydas mydas</i>	Atlantic green turtle	E	E	15,16	Absent
<i>Dermochelys coriacea</i>	leatherback turtle	E	E	15,16	Absent
<i>Drymarchon corais couperi</i>	eastern indigo snake	T	T	1,2,3,5,6,12,17	High
<i>Gopherus polyphemus</i>	gopher tortoise	T		1,2,3,4,5,12	Present
<i>Lepidochelys kempii</i>	Atlantic ridley turtle	E	E	15,16	Absent
<i>Nerodia fasciata taeniata</i>	Atlantic salt marsh snake	T	T	9,15,16	Low
<i>Pituophis melanoleucus mugitus</i>	Florida pine snake	SSC		2,3,5,12	Medium

SSC - Species of Special Concern (FGFWFC)
 C - Commercially Exploited
 T - Threatened
 T(S/A) - Similarity of Appearance (USFWS)
 CA - Candidate for Listing
 E - Endangered

Habitat Types
 1 - Scrub
 2 - Sandhills
 3 - Scrubby Flatwoods
 4 - Wet/Mesic Flatwoods
 5 - Hammock
 6 - Dry Prairie
 7 - Wet Prairie
 8 - Bottomland Hardwood
 9 - Marsh/Bog

10 - Swamp/Dome
 11 - Ponds/Lakes
 12 - Disturbed/Cultivated
 13 - Sand Dunes
 14 - Epiphyte
 15 - Marine
 16 - Beaches
 17 - Mangroves
 18 - Shell middens

* NOTE FOR EAGLES

Source: Wunderlin, R. 1998. Guide to the Vascular Plants of Florida, Univ. P of Florida
 Various authors. Endangered Biota of Florida series, 1992-1996
 Envirotools - Tess 2.0 - version 2000.
 Glating Jackson Kercher Anglin Lopez Rinchart, Inc.

Table 3. Conceptual Timing Periods of VWP Management Activities

Section No.	Conservation/Management Action	Periods
3.1	Resource Protection and Conservation	I-III
3.2	Prescribed Fire	II-III*
3.3a	Invasive Exotic Plant Control	II-III*
3.3b	Timber Management	I-III
3.3c	Mechanical Management	II-III*
3.4	Hydrological Enhancement	II-III*
3.5a	Swale Maintenance	I-III
3.5b	Graze Cattle	I-III
3.5c	Turf Grass/Pasture Grass Sod Production	I-III
3.6	Monitoring	I-III
3.7	Operations	I-III
3.8	Funding	I-III
3.9	Community Outreach and Collaboration	II-III
4.0	Individual Listed Species Consideration	I-III

*A limited amount of these activities may occur in Period I but will largely occur in Period II.

Table 4 Prescribed Fire Regimes

Natural Communities	FLUCFCS Type	FNAI Type*	Frequency (years)*
Improved Pasture	211	NA	As Needed
Palmetto Prairie	321	Mesic flatwoods	1 – 8
Pine Flatwoods	411	Mesic flatwoods	1 – 8
Live Oak Hammock	427	Mesic hammock	-
Cabbage Palm Hammock	428	Prairie hammock	1 – 8
Hardwood-conifer Mixed	434	Upland mixed forest	5 – 30
Mixed Hardwood	438	Upland mixed forest	5 – 30
Bay Swamp	611	Basin swamp	5 – 150
Mixed Wetland Hardwoods	617	Depression marsh	5 – 30
Willow/Elderberry Wetland	618	Depression marsh	1 – 8
Exotic Wetland Hardwoods	619	Depression marsh	1 – 8
Hydric Pine Flatwoods	625	Wet flatwoods	3 – 10
Hydric Pine Savannah	626	Wet flatwoods	3 – 10
Wetland Forested Mixed	630	Hydric hammock	5 – 30
Cabbage Palm Wetland	632	Hydric hammock	1 – 8
Cabbage Palm-Hardwood Mixed	633	Hydric hammock	5 – 30
Freshwater Marsh	641	Floodplain marsh	1 – 5
Wet Prairie	643	Wet prairie	2 – 4
Hydric Pasture	647	NA	As Needed

*Note: Burn regimes are approximations based on Florida Natural Areas Inventory (FNAI) community type. See Guide to the Natural Communities of Florida, 1990, for community descriptions.

Table 5.
Listed Species Nesting Season

Common Name	Scientific Name	Status State/Fed	Nesting season												Source		
			Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec			
Bald eagle	<i>Haliaeetus leucocephalus</i>	*															Wood
Crested caracara	<i>Polyborus plancus audubonii</i>	T / T															Wood; USFWS
Florida sandhill crane	<i>Grus canadensis pratensis</i>	T / -															Wood
Burrowing owl	<i>Athene cunicularia floridana</i>	SSC / -															Wood
Southeastern American kestrel	<i>Falco sparverius paulus</i>	T / -															Wood
Gopher tortoise	<i>Gopherus polyphemus</i>	T / -															Wood

peak nesting season

* Bald eagles are no longer protected under the Endangered Species Act. The bald eagle will continue to be federally protected under the Bald and Golden Eagle Protection Act and the Migratory Bird Treaty Act. In Florida, the bald eagle is no longer a listed species, though it continues to be protected under the state's newly enacted bald eagle rule, F.A.C. 68A-16.002 Bald Eagle (*Haliaeetus leucocephalus*).

Table 6 Category I Exotic Plants in the VWP

Common Name	Scientific Name	Primary Location / MU* *Management Unit	FLEPPC Category
Brazilian pepper	<i>Schinus terebinthifolius</i>	Throughout VWP, primarily along/in ditches, wetlands, hammocks	I
Camphor tree	<i>Cinnamomum camphora</i>	Flatwoods, hammocks	I
Cogon grass	<i>Imperata cylindrica</i>	Flatwoods, along ditches	I
Old World climbing fern	<i>Lygodium microphyllum</i>	Roads/ditches of J4	I
Paragrass	<i>Urochloa mutica</i>	Ditches, wetlands	I
Torpedo grass	<i>Panicum repens</i>	Ditches, wetlands	I
Tropical soda apple	<i>Solanum viarum</i>	Pastures	I
Water hyacinth	<i>Eichhornia crassipes</i>	Ditches, marshes	I
Wild taro	<i>Colocasia esculenta</i>	Ditches, marshes	I
Chinese Tallow Tree	<i>Sapium Sebiferum</i>	Flatwoods, ditches, pastures	I

APPENDIX A

Vegetative Community Descriptions

Residential - Low Density (110) 15.9 acres

This land use occurs in the northern portion of the Viera Wilderness Park (VWP) and includes small, single-family residences or mobile homes for agricultural personnel. It also includes other support facilities used for agricultural operations, principally for cattle grazing and sod farming.

Improved Pasture (211) 1824.85 acres

Improved pasture is the most extensive cover type. It occurs throughout much of the VWP and has been planted for cattle grazing and bahiagrass sod production. The plant species composition in this cover type is highly variable and ranges from areas dominated by bahiagrass to areas with more herbaceous diversity. Canopy species such as longleaf pine (*Pinus palustris*), slash pine (*P. elliotti*), cabbage palm, and live oak are scattered in varying densities, although they do not exceed 10 percent areal coverage. Groundcover species include bahiagrass, bermudagrass (*Cynodon dactylon*), turkey tangle fogfruit (*Phyla nodiflora*), chalky bluestem (*Andropogon virginicus*), bushy bluestem (*Andropogon glomeratus*), coreopsis (*Coreopsis* spp.), fine-leaved white-top sedge (*Dichromena colorata*), Mexican clover (*Richardia scabra*), caesar weed (*Urena lobata*), and scattered soft rush (*Juncus effusus*). Other ground cover species found within this cover type include flatsedges (*Cyperus* spp.), beakrushes (*Rhynchospora* spp.), dogfennel (*Eupatorium capillifolium*), carpetgrass (*Axonopus* sp.), sand cordgrass (*Spartina bakeri*), blackberry (*Rubus* sp.), goldenrod (*Solidago* sp.), poor man's pepper (*Lepidium virginicum*), spadeleaf (*Centella asiatica*), and marsh pennywort (*Hydrocotyle umbellata*), false goldenrod (*Euthamia minor*), toadflax (*Linaria canadensis*), thistle (*Cirsium horridulum*), sedges (*Carex* spp.), sand vetch (*Vicia* sp.), smutgrass (*Sporobolus indicus*), and occasional tropical soda apple (*Solanum viarum*).

Some pastures are intentionally and frequently flooded as agricultural practices require and are dominated by bahiagrass with fairly dense zones of soft rush, fine-leaved white-top sedge, beakrushes, marsh pennywort, spadeleaf, scattered sand cordgrass, umbrella-sedge (*Fuirena* sp.), bishop weed (*Ptilimnium* sp.), purslane (*Portulaca* sp.), stinking camphorweed (*Pluchea foetida*), crabgrass (*Digitaria* sp.), torpedograss (*Panicum repens*), hairsedge (*Fimbristylis* spp.), and scattered wax myrtle (*Myrica cerifera*).

Within this cover type is an extensive network of canals, ditches, and swales used for drainage or irrigation, depending on rainfall throughout the year. During dry seasons, water levels are managed by allowing artesian wells to flow in concert with the placement or removal of plugs in the ditches or swales. During wet seasons the ditches and swales are opened to avoid long-term inundation or flooding. Because of the VWP's

relatively flat topography, this means of controlling water levels is generally effective for irrigating the sod and pasture fields, and providing drinking water for cattle.

Sod Farm (242) 274.29 acres

This small land use is intensively managed, and represents about two percent of the VWP's total area. It includes intensive turf grass sod farming operations. Activities within these sod fields are focused on maintaining a monoculture of turf grasses, including Floratam, Zoysia, Bermuda, Raleigh, Seville, and Bitter Blue. Like the improved pasture cover type, it is interlaced by a network of canals, ditches, and swales that are used for drainage and irrigation.

Other Open Land (260) 2.08 acres

This category includes those agricultural lands whose intended usage cannot be determined.

Palmetto Prairie (321) 45.11 acres

This vegetation type occurs in locations that likely were pine flatwoods or dry prairie (see FNAI) historically but have been recently timbered. The canopy and sub canopy are conspicuously lacking and consist of occasional cabbage palm or live oak. The shrub layer consists of winged sumac (*Rhus copallina*) and American beautyberry (*Callicarpa americana*). The ground cover consists of dense saw palmetto (*Serenoa repens*), wiregrass (*Aristida stricta*), bracken fern (*Pteridium aquilinum*), rusty lyonia (*Lyonia ferruginea*), bahiagrass, goldenrod, milkpea (*Galactia regularis*), paw paw (*Asimina reticulata*), gallberry (*Ilex glabra*), occasional blackberry, false goldenrod, dogfennel, and caesarweed. Typically these palmetto prairies are relatively dry.

Pine Flatwoods (411) 1232.13 acres

This is VWP's second largest community type. The canopy within this vegetative community consists of sparse slash pine and longleaf pine, with a shrub layer of scattered live oak, wax myrtle, Brazillian pepper (*Schinus terebinthifolius*), cabbage palm, occasional swamp bay (*Persea palustris*), saltbush (*Baccharis halimifolia*), and laurel oak (*Q. laurifolia*). Ground cover species include dense saw palmetto, caesarweed, blackberry, dogfennel, scattered bahiagrass, American beautyberry, coreopsis, bushy bluestem, chalky bluestem, blue maidencane (*Amphicarpum muehlenbergianum*), shiny blueberry (*Vaccinium myrsinites*), runner oak (*Q. pumila*), hairy indigo (*Indigofera hirsuta*), gallberry, wiregrass, false goldenrod, blackroot (*Pterocaulon virgatum*), stinking camphorweed, St. Peter's wort (*Hypericum tetrapetalum*), carpetgrass, yellow milkwort (*Polygala lutea*), paw paw, bantam button (*Syngonanthus flavidulus*), goldenrod, Virginia buttonweed (*Diodia virginiana*), greenbrier (*Smilax laurifolia*), bracken fern, and gallberry. Many of the pine flatwoods have been timbered recently and, in some areas, are more dominated by cabbage palm and wax myrtle.

Live Oak Hammock (427) 102.69 acres

Dominated by live oak trees, this vegetation type occurs in varying densities throughout the VWP. Other canopy species within this cover type include scattered cabbage palm, and laurel oak. The shrub and groundcover layers are sparse and open, and consist of scattered wax myrtle, saw palmetto, bahiagrass, witchgrass (*Dicanthilium* sp.), blackroot, milkpea, goldenrod, American beautyberry, caesarweed, wildgrape (*Muscadine rotundifolia*), and live oak. Resurrection fern (*Pleopeltis polypodioides*) covers live oak branches in many places.

Cabbage Palm Hammock (428) 213.19 acres

The canopy within this vegetative community type is sparse and open, and consists predominately of cabbage palm with scattered slash pine, laurel oak, and live oak. The shrub layer is fairly open and consists of cabbage palm, occasional wax myrtle, Brazilian pepper, laurel oak, live oak, slash pine, and Hercules club (*Zanthoxylum clava-herculis*). The ground cover consists of scattered clumps of saw palmetto interspersed with various grasses such as bermudagrass, blue maidencane, broomsedge, bushy bluestem, dogfennel, bahiagrass, spikerush (*Eleocharis* spp.), false goldenrod, torpedograss, wiregrass, and scattered blue toadflax, St. John's Wort, blackroot, sabatia (*Sabatia* sp.), marsh fleabane (*Pluchea* spp.), carpetgrass, Mexican clover, clover (*Dalea* spp.), meadowbeauty (*Rhexia* spp.), American beautyberry, goldenrod, blackberry, caesarweed, sand cordgrass, marsh pennywort, yellow milkwort (*Polygala lutea*), spadeleaf, bracken fern, hairy indigo, elephant's-foot (*Elephantopus* sp.), tropical soda-apple, and fogfruit.

Hardwood-Conifer Mixed (434) 222.23 acres

This habitat type likely was mesic or hydric pine flatwoods historically, and is vegetatively similar in nature, without the pine canopy. This community type appears to have been timbered in the past 60 years as evidenced by sporadic pine stumps. Comprised of a mixture of canopy species such as slash pine, longleaf pine, laurel oak, live oak, water oak (*Q. nigra*), and occasional cabbage palm, this community type occurs throughout VWP. It generally contains a sub canopy of the above-listed species and a fairly open shrub layer of cabbage palm, and scattered Brazilian pepper. The shrub and ground cover consists of cabbage palm, saw palmetto, wax myrtle, live and laurel oak saplings, blue maidencane, caesarweed, wiregrass, bracken fern, boston fern (*Nephrolepis* sp.), witchgrass, heart-leaved St. Peter's wort, American beautyberry, chalky bluestem, bushy bluestem, paw paw, fine-leaved white-top sedge, dogfennel, false goldenrod, bahiagrass, shiny blueberry, milkpea, and fireweed (*Erechtites hieraciifolia*).

Mixed Hardwoods (438) 5.10 acres

This is a hardwood community in which no single species or species group appears to achieve a 66 percent dominance of the canopy. This class of hardwoods includes any combination of large and small hardwood tree species none of which can be identified as dominating the canopy.

Canals and Ditches (511) 91.08 acres

As mentioned previously, canals and ditches occur throughout the VWP primarily to provide drainage and irrigation for agriculture. The canals are often closely associated with major roads in VPW and drain the extensive network of ditches. The principal canals run east-west and are named based as discussed above. They all carry flow west to the St. Johns River from the DRI and other communities east of Interstate 95.

Reservoirs, less than 10 acres (534) 1.66 acres

These small reservoirs are scattered throughout VWP and are usually associated with artesian wells or cattle operations.

Mixed Wetland Hardwoods (617) 4.87 acres

This category is reserved for those wetland hardwood communities which are composed of a large variety of hardwood species tolerant of hydric conditions yet exhibit an ill defined mixture of species.

Willow and Elderberry Wetland (618) 12.17 acres

The shrub and groundcover in this habitat is similar to the Bay Swamp cover type. Also occurring in small amounts, these wetlands are dominated by shrub species such as Carolina willow (*Salix caroliniana*), elderberry, scattered Brazilian pepper and wax myrtle. These wetlands may be former wet prairie systems that have experienced an unnatural fire regime, thus allowing the shrubs to dominate. The understory consists of swamp fern (*Blechnum serrulatum*), Virginia chain fern, blue maidencane, sand cordgrass, pickerelweed (*Pontederia cordata*), and marsh pennywort.

Exotic Wetland Hardwoods (619) 31.42 acres

This wetland cover type occurs in varying amounts throughout VWP. Brazilian pepper dominates the canopy and sub canopy layers, and the groundcover is often sparse from the dense shade of this exotic species, but includes generally the same species as the willow and elderberry wetland.

Hydric Pine Flatwoods (625) 552.69 acres

Dominated by a canopy of slash pine, this wet flatwoods community has a diverse groundcover of herbaceous wetland plants. One of the larger community types, it occurs primarily in the western and southern parts of the VWP. Scattered cabbage palm also occurs in the canopy, while the groundcover is dominated by species including saw palmetto, coreopsis, pink sundew (*Drosera capillaris*), pockets of sand cordgrass, yellow milkwort, pipewort (*Eriocaulon* spp.), wiregrass, wide-spread blue maidencane, occasional St. John's wort, occasional blackberry, cabbage palm, scattered wax myrtle, sandweed (*Hypericum fasciculatum*), butterwort (*Pinguicula* sp.), occasional sawgrass (*Cladium jamaicense*), hatpins (*Eriocaulon decangulare*), bog buttons, beakrush, ladies' tresses (*Spiranthes* spp.), fine-leaved white-top sedge, and yellow-eyed grass (*Xyris* spp.).

Hydric Pine Savannah (626) 15.24 acres

Like the hydric pine flatwoods community, this wetland habitat type is also comprised of a diverse mix of herbaceous wetland species, but has a sparser canopy of slash pine, occasional laurel oak, and cabbage palm.

These wetlands were probably more herbaceous historically but now have scattered canopy and sub-canopy species, probably from an altered fire regime or hydrology, or both. These areas appear to inundate typically less than six inches for long periods of time or stay saturated at the surface.

The shrub layer is sparse and contains scattered cabbage palm, wax myrtle, and slash pine. The groundcover is dominated by blue maidencane, sand cordgrass, wiregrass, scattered saw palmetto, false goldenrod, eastern blue-eyed grass (*Sisyrinchium atlanticum*), elephant's foot, spadeleaf (*Centella asiatica*), swamp fern, wax myrtle, marsh bristlegrass (*Setaria parviflora*), scattered blackberry, pink sundew, meadowbeauty (*Rhexia* spp.), fine-leaved white-top sedge, coreopsis, stinking camphorweed, marsh pennywort, red ludwigia (*Ludwigia repens*), dogfennel, fogfruit, beaksedge, shortleaf yellow-eyed grass (*Xyris brevifolia*), caesarweed, bushy bluestem, nutsedge, snakeroot (*Eryngium yuccifolium*), taperleaf waterhorehound (*Lycopus rubellus*), occasional spring lily (*crinum ampricanum*), St. John's wort, and mermaid-weed (*Proserpinaca pectinata*).

Wetland Forested Mixed (630) 72.67 acres

These wetlands contain a mixture of pines and hardwoods, neither of which is dominant. Canopy species include cabbage palm, Florida elm (*Ulmus americana* var. *floridana*), and slash pine. The shrub layer consists of Brazilian pepper, Chinese tallow (*Sapium sebiferum*), and red maple. Groundcover consists of fireweed, dayflower, greenbrier (*Smilax* sp.), dotted smartweed (*Polygonum punctatum*), sand cordgrass, and scattered marsh pennywort.

Cabbage Palm Wetland (632) 46.98 acres

Occurring as small hammocks throughout the VWP, this vegetation type is dominated by cabbage palm. The shrub and groundcover is often quite open and lacking, probably due to heavy grazing by cattle and consists of swamp fern, Virginia chain fern, dotted smartweed, marsh pennywort, dollar weed, sand cordgrass, poison ivy, Brazilian pepper, Chinese tallow, and scattered soft rush.

Cabbage Palm-Hardwood Mixed (633) 46.59 acres

Consisting of a canopy of various hardwoods, such as red maple, blackgum (*Nyssa sylvatica* var. *biflora*) and Florida elm, this cover type also includes cabbage palm, and slash pine. The shrub and groundcover of this wetland community are generally very open due to cattle grazing. Many of these wetlands have been drained by either perimeter ditches or ditches cut through their centers. The soils in the deepest portions of these

wetlands are deep mucks, surrounded by a perimeter of stained sand. Groundcover species include a variety of nuisance and exotic species including marsh pennywort, dayflower, Brazilian pepper, dogfennel, tropical soda apple, pokeweed (*Phytolacca americana*), and fireweed. Other species consist of poison ivy, swamp fern, American beautyberry, scattered soft rush, butterweed (*Packera glabella*), and infrequent pickerelweed.

Freshwater Marsh (641) 84.81 acres

This wetland community is scattered throughout the VWP, mostly as small, isolated systems. Many have ditches cut through them, yet they continue to exhibit characteristic wetland functions, because they generally occur within the deeper pockets of the landscape. Most marshes exhibit a diverse array of herbaceous cover consisting of lance-leaved arrowhead (*Sagittaria lancifolia*), pickerelweed, dotted smartweed, giant bulrush (*Scirpus* sp.), soft rush, lemon bacopa (*Bacopa caroliniana*), alligator flag (*Thalia geniculata*), marsh pennywort, sand cordgrass, sawgrass, with wildhemp (*Mikania scandens*), giant plume grass (*Erianthus giganteus*), swamp fern, saltbush, swamp hibiscus (*Hibiscus grandiflorus*), duck potato (*Sagittaria latifolia*), red ludwigia (*Ludwigia repens*), red maple, Carolina willow, string lily (*Crinum americanum*), and garden club (*Orontium aquaticum*). Cattails (*Typha latifolia*), marsh fleabane, lanceleaf fogfruit (*Phyla lanceolata*), and Brazilian pepper also occur with varying frequency. Virginia iris (*Iris virginica*) and canna (*Canna* sp.) also occur occasionally.

Wet Prairie (643) 241.53 acres

Like the freshwater marshes, wet prairies occur throughout the VWP and vary in quality based on their degree of hydrologic alteration. Many occur in close association with freshwater marshes and wet areas within the improved pasture cover type. Vegetation typically includes sand cordgrass and blue maidencane, and a diverse combination of herbaceous and occasional woody species. These plants include stinking camphorweed, eastern blue-eyed grass, torpedograss, blackberry, dogfennel, thistle, caesarweed, scattered cabbage palm, wax myrtle, Brazilian pepper, saltbush, spadeleaf, pink sundew, wiregrass, coreopsis, meadowbeauty, tropical soda apple, marsh pennywort, Baldwin's spikerush (*Eleocharis baldwinii*), Virginia chainfern, and false goldenrod.

Hydric Pasture (647) 47.08 acres

Hydric pasture occurs in small quantities throughout the VWP in direct association with the improved pasture (211) cover type. Many of these areas were historical wetlands and persist as wetlands despite intensive agricultural practices. However, some have elevated groundwater levels which are driven by artesian irrigation for cattle and pastures. This practice has artificially created fairly dense zones of wetland vegetation where upland communities likely existed historically. Nevertheless, the wetland characteristics are often marginal and seasonally variable and, because of their complexity, will require careful review before determining the exact extent of wetland jurisdiction.

Plant species composition in the hydric pastures includes many of the same species in the 211 cover type, particularly bahiagrass, but with greater densities of wetland species such as, soft rush, fine-leaved white-top sedge, beakrushes, marsh pennywort, spadeleaf, umbrella-sedge (*Fuirena* sp.), fringe-rush (*Fimbristylis* sp.), sand cordgrass, bishopweed, Florida purslane, stinking camphorweed, crabgrass, torpedograss, and scattered wax myrtle.

Roads (814) 67.73 acres

There are several miles of large, regularly maintained sand roads throughout VWP that are usually associated with the major canals and that also provide access to St. Johns River Water Management District lands. These roads support the cattle and sod operations. In addition, a number of smaller field roads occur within the site, and provide access to the outlying areas.

Electric Power Transmission Lines (832) 3.68 acres

Several high-tension power lines occur within a utility easement, traversing the site from the northern to the southeastern VWP boundaries.

APPENDIX B - Life Histories for Listed Species

American alligator (*Alligator mississippiensis*)

(State-listed Species of Special Concern and Federally-listed Threatened)

American alligators have been observed in the larger drainage canals and surface waters within the Viera Wilderness Park (VWP). American alligators also use the large drainage canals, as well as conservation lands associated with the St. Johns River off-site.

Based on Ashton and Ashton, 1991, the American alligator is a large (>12 feet in length), carnivorous reptile that can inhabit virtually any body of water in Florida. Alligators typically eat fish and birds, but are opportunistic predators and will eat virtually any animal inhabiting, or venturing near the water. While mainly aquatic or semi-aquatic, male alligators will travel overland in search of mates, and migrate when water resources are low. Female alligators provide parental care for offspring, beginning with building a nest, usually on the fringes of wetlands, in which they lay 30 – 50 eggs (Ashton and Ashton, 1991). Once the eggs hatch (~70 days after oviposition) the mother carries the hatchlings into the water, and they may stay near the mother, who provides protection from predation for up to two (2) years.

The American alligator was previously federally-listed as endangered by the U.S. Fish and Wildlife Service, but was removed from the list and pronounced fully recovered in 1987. The basis for listing American alligators was reduced population sizes due to over hunting in the early portion of the twentieth century. However, since regulations were put into place banning the hunting of alligators, populations have exploded, successfully returning to levels nearing historical numbers. Currently, the American alligator is listed by the State of Florida as a Species of Special Concern, and regulated as such by the Florida Fish and Wildlife Conservation Commission (FFWCC).

In addition, the steadily increasing encroachment of humans into wetland areas, combined with the rapid population increases of alligators, have made human-alligator conflicts more common. Because alligators can persist in most water bodies, and because they are common in many wetlands in Florida, mitigation for this species is not usually necessary. Additionally, few impacts to large water systems (e.g., lakes, large streams, canals, etc.) generally occur due to wetland regulations prohibiting large-scale wetland disturbances; so alligators generally have sufficient habitat after development occurs.

Bald eagle (*Haliaeetus leucocephalus*)

(State- and Federally-listed Threatened)

Several bald eagle nests occur within the VWP. According to Curnutt (1996), the bald eagle is the largest raptor breeding in Florida, reaching up to 3 feet in height and a wingspan of 9 feet

(Curnutt, 1996). Juveniles are uniform brown, but molt into the conspicuous adult coloration, consisting of a white head and tail and brown body after their first year. Bald eagles migrate, returning to previously occupied territories and nest sites during the winter nesting season (Curnutt, 1996). Eagles form lifelong monogamous pair bonds, and will re-use the same nest in subsequent years, often repairing damage and adding onto the nest at the start of a new nesting season (Curnutt, 1996). Besides fish, eagles often eat carrion (e.g., roadkill), wading birds, reptiles, or may steal prey from seagulls or osprey (Curnutt, 1996). Eagles usually mature at 5 years of age and females generally produce 2-3 eggs annually, which take 35 days to hatch (Curnutt, 1996). Once hatched, young will fledge after 77 days.

Bald eagles declined dramatically following the widespread use of DDT. Following the ban of DDT, bald eagle populations began to recover. Current threats mainly include activities associated with loss and degradation of habitat due to development (Curnutt, 1996). This species has been de-listed from the Endangered Species Act.

Burrowing owl (*Speotyto cunicularia*)
(State-listed Species of Special Concern)

Burrowing owls are propose to be relocated into the VWP. The Florida burrowing owl is a small (8 inches tall; wingspan of 20 inches) avian predator occurring throughout peninsular Florida (Millsap, 1996; Wood, 2001). Burrowing owls prefer open fields and prairies that are well-drained and allow construction of the burrows in which they nest. At present, artificial habitats such as lawns, sod fields, golf courses, and schoolyards contain the largest numbers and densities of burrowing owls in the state (Millsap, 1996). Owls often excavate their own burrows, which can be 10 feet long with an enlarged nest chamber at the end. The entrance is narrow (~ 5 x 3.5 in.) and most often excavated in patches of open sand (Wood, 2001). This species is monogamous and territorial, defending and using individual burrows or multiple burrows in successive years. Pairs generally begin to breed at 1 year of age, and decorate the entrance of the burrow with grass, feces, and shiny objects just prior to oviposition. Clutch size averages three eggs, and the female incubates and brood the young (Millsap, 1996; Wood, 2001). Fledging occurs 40 days after hatching, and juvenile females disperse farther (~580 yards) than males (88 yards) (Millsap and Bear, 1988; Wood, 2001). Densities in Cape Coral, Florida ranged from 1 – 10 pairs per km², with higher densities occurring on lands with 50 – 75% development (Millsap and Bear, 1988).

Previous conservation efforts have consisted of monitoring populations in areas undergoing development (e.g., Millsap and Bear, 1988) or establishing protected areas designated as burrowing owl preserves (Erwin, 2001; Beasley, 2002). Although burrowing owls seem to favor moderate development in some instances (Millsap and Bear, 1988), even protected pastures managed for burrowing owls (e.g., vegetation kept short, etc.) have had little success sustaining or increasing populations (Erwin, 2001).

Audubon's crested caracara (*Polyborus plancus audubonii*)
(State- and Federally-Threatened)

Audubon's crested caracara is a large raptor (length = 22 in, wingspan = 48 in) with a distinctive black crest on the back of the head (Layne, 1996). Sexual maturity is reached after 3-4 years, and females produce 2-3 eggs annually, usually November through April (Morrison, 2001; Wood, 2001). Incubation takes approximately 32 days, and young fledge at 7-8 weeks (Morrison, 2001). Fledglings are dependent upon adults for food for 8 more weeks (Layne, 1996). Breeding pairs are monogamous and defend territories year-round, which average 3,000 acres in size and may occur in a radius of 1.2-1.9 miles from the nest (Layne, 1996; Morrison, 2001).

Caracaras can fly between 20 – 40 mph, seldom soaring, but rather flying in straight lines or foraging by dipping, turning, and zigzagging (Wood, 2001). The diet consists largely of carrion, either scavenged from road kill or taken from other birds (e.g., crows or vultures), or live prey they capture themselves (Morrison, 2001). Caracaras have extremely long legs for their size, which makes them able walkers and aids in hunting in open pasture areas. Prey is carried in the beak, rather than in the talons like most raptors (Layne, 1996). Prey items are incredibly diverse and include insects, amphibians, fish, reptiles, mammals, and avian (Layne, 1996; Morrison, 2001).

Caracara prefer habitats including dry prairies, pastures, or grasslands with short groundcover and a mixture of herbaceous wetlands, hammocks, dead snags, and cabbage palms (Layne, 1996; Morrison, 2001). Nests are usually built in cabbage palm stands of 2-3 trees, and the nest is usually located in the upper branches facing south-east (Morrison, 2001). Nests are made of stalks and fibers from cabbage palms. Private cattle ranches are currently the stronghold for caracara, as the management practices of farmers (mowing, grazing, and burning) maintain habitat similar to historic prairie systems (Morrison, 2001).

The greatest threat to caracara is the large-scale degradation and development of prairie-like habitat (Morrison, 2001). Because they walk around looking for prey, overgrown habitats are unsuitable as foraging areas (Morrison, 2001). However, caracaras seem to be able to adapt to some level of human disturbance, and readily forage along roads and in cattle pens when present (Layne, 1996; Morrison, 2001). Since carrion makes up a large part of the caracara diet, large numbers of them are susceptible to vehicular mortality, especially juveniles (~50%), which have relatively less experience with traffic (Layne, 1996).

Several caracara nests have been documented in and around the VWP. They are closely associated with the South Central Regional Wastewater Treatment Facility (owned by Brevard County) and the improved pastures to the north, east, and south of the VWP.

Florida sandhill crane (*Grus canadensis pratensis*)
(State-listed Threatened)

Several Florida sandhill crane nests have been observed within and adjacent to the VWP over the years. The non-migratory Florida sandhill crane is large (4 ft tall, 6.5 ft wingspan) and omnivorous, living in Florida year-round (Stys, 1997). Sandhill cranes prefer open habitats, such as prairies, and typically nest and roost in shallow, herbaceous wetlands (Nesbitt, 1996; Stys, 1997). Nesting usually occurs between January and August, and pairs will re-nest after the loss of eggs or chicks. Nests are often laid in shallow water above herbaceous marshes or at the marsh/upland interface. Several pairs may nest within the same wetland, although nests are usually separated by several hundred yards (Nesbitt, 1997). Disturbance to the nest during incubation may lead to nest abandonment and subsequent re-nesting in another location (Nesbitt, 1996). Sexual maturity is reached at 3 years of age, and nesting pairs typically lay 2 eggs, which take 30 days to hatch (Stys, 1997). Crane chicks are precocial, following the adults away from the nest as little as 1 day after hatching, and staying with the adults until about 10 months of age (Nesbitt, 1996). Foraging occurs in open fields or grassy areas (e.g., pastures, prairies, or emergent palustrine wetlands), and chicks will follow adults during foraging bouts (Nesbitt, 1996; Stys, 1997). Although home ranges are large, extensive overlap often occurs and several pairs or groups of sub-adults may use the same foraging or nesting habitats (Stys, 1997).

Sandhill cranes can live over 20 years, and most recorded mortality is due to predation (e.g., by bobcats) or anthropogenic causes, such as vehicle collisions or flying into power lines or fences (Nesbitt, 1996; Stys, 1997). To assure a mosaic of suitable habitat for all aspects of sandhill crane's life history, nearby upland areas should be maintained (e.g., through fire, mowing, etc.) to keep the herbaceous vegetation around 20 inches in height, which will allow adequate forage areas near potential nesting and roosting sites (Nesbitt, 1996; Stys, 1997). Management activities should not take place during the nesting season, as chicks and adults are relatively immobile during this time (Stys, 1997).

Gopher Tortoise (*Gopherus polyphemus*)
(State-listed Species of Special Concern)

Gopher tortoises and their burrows have been observed within the VWP. Gopher tortoises are large herbivores that can reach over 12 inches in straight-line shell length, and weigh over 14 pounds. Sexual maturity is reached between 12 – 15 years of age, and females may produce 3 – 12 eggs annually or bi-annually (Mushinsky et al., 1994). Both males and females may mate with multiple individuals, and there can be more than one male responsible for fertilizing a single clutch of eggs (Moon et al., 2006). Eggs are often laid in shallow nests (<12 in deep) in open sandy areas (Pike, 2006). Incubation takes between 90 – 120 days, and hatchlings disperse from the nest site post-hatching (Epperson and Heise, 2003). Female tortoises are iteroparous, reproducing for the entirety of their adult lives. Tortoises, like all reptiles, continue to grow larger throughout their lives, and larger (e.g., older) tortoises tend to lay larger and more eggs.

Gopher tortoises can live several decades under natural conditions, and may reach at least 50 – 70 years old (Auffenberg and Franz, 1982).

Gopher tortoises are ecosystem engineers that construct large burrows (up to 20 feet long, 3 – 8 feet deep, and as wide as the inhabiting tortoise is long) to protect themselves from thermal extremes and predators (Auffenberg and Franz, 1982). Gopher tortoises use several burrows throughout their lives, and may use 1 – 12 burrows annually (Breininger et al., 1994). Therefore, not all burrows contain a resident tortoise. Historically, gopher tortoises ranged throughout much of Florida, being restricted only by xeric or mesic soils which allow burrows to remain dry during most of the year (Auffenberg and Franz, 1982). Their burrowing behavior near the burrow, combined with burrow placement, affect the micro-scale vegetative composition nearby (Boglioli et al., 2000). The burrow that gopher tortoises construct provides refugia for hundreds of cohabitating species, including avians, other reptiles, amphibians, mammals, and invertebrates (Auffenberg and Franz, 1982). More recently, the discussion of disease has become a focus of concern for gopher tortoises (Diemer Berish et al., 2000). An upper respiratory tract disease (URTD) has been blamed for large numbers of dead tortoises found in several populations across the state.

Conservation and mitigation efforts for gopher tortoises are coordinated by the FFWCC. After surveying for gopher tortoises on land planned for development, there are several options to mitigate for any potential impacts to tortoises, tortoise habitat, or commensal species (Cox et al., 1987).

Gopher Tortoise Commensals

Other federally-listed species such as the eastern indigo snake (*Drymarchon corais couperi*) and Florida mouse (*Podomys floridanus*) regularly use tortoise burrows for shelter (Layne, 1992; Moler, 1992). These species have not been observed within VWP. Indigo snakes are the longest North American snakes, reaching lengths of 8 feet. This is an extremely mobile species that uses extensive tracts of land that may exceed 250 acres in one active season (Moler, 1992). This snake uses many different habitats, ranging from xeric uplands and scrub to wet prairies and mangrove swamps. Because of extensive habitat use and long-distance movements, indigo snakes are particularly vulnerable to habitat fragmentation. Habitat fragmentation results in snakes having to frequently cross roads to access the habitat they require, and also encounter more humans and domestic animals (e.g., dogs) that can result in harm to the snakes (Moler, 1992). Large tracts of contiguous habitat are most likely to sustain viable indigo populations, and small, isolated tracts are unlikely to sustain populations (Moler, 1992). In fact, Moler (1992) recommends that large tracts of land (at least 2500 ac.) should be protected to benefit this species.

The Florida mouse is adapted to fire-maintained xeric habitats in Florida, such as scrub and sandhill communities (Layne, 1992). However, once vegetation begins to encroach due to fire suppression, Florida mice are less likely to inhabit these areas, and are likely to be locally

extirpated (Layne, 1992). Ensuring that habitat management occurs in contiguous tracts of land with sufficient refugia (e.g., tortoise burrows, stump holes, etc.) is the best way to ensure protection of this species (Layne, 1992).

The Florida gopher frog (*Rana capito aesopus*) is also a gopher tortoise burrow commensal species that utilizes pine flatwoods and sandhill areas in which temporarily inundated, isolated wetlands occur. While the isolated wetlands and pine flatwoods within the VWP could provide habitat for Florida mice and gopher frogs, it is unlikely that they occur in substantial numbers.

Impacts to tortoise burrow commensals, including indigo snakes, Florida mice, and gopher frogs, are typically permitted through the FFWCC as part of standard gopher tortoise permitting procedures. Gopher tortoises, and their burrows, were observed in upland habitats of the site (see **Map G-3**, as depicted in the ADA Sufficiency Response), excluding improved pastures and the intensively managed turf grass sod fields.

Southeastern American kestrel (*Falco sparverius paulus*)
(State-listed Threatened)

Southeastern American Kestrels typically breed April – September in Florida (Stys, 1993). Generally, southeastern American kestrels use cavities excavated by other birds in longleaf pine snags and/or other pine snags as nesting areas. The southeastern American kestrel has not been recorded as breeding within south Brevard County (Stys, 1993; Collopy, 1996). No southeastern American kestrels were observed in VWP. Still, the proposed Rural and Conservation Areas may provide adequate nesting habitat for the kestrel. Although this HMP does not specifically address the biology or management needs of this species, management practices detailed in the HMP will likely perpetuate the open habitat that the species prefers for foraging.

Wood Stork (*Mycteria americana*)
(State- and Federally-listed Endangered)

Wood storks have been observed foraging within the VWP. Wood storks are large birds (reaching 3 feet tall, with a 5 foot wingspan) that forage and nest near shallow wetland systems (Ogden, 1996). The bill is used to feel for small fishes in muddy wetland areas, which are often concentrated with fishes during dry periods (Ogden, 1996). The large aggregations of wetland animals found in drying pools, provides them with the up to 240 pounds of fish that a pair of birds needs to ingest during the nesting season (Ogden, 1996). Nesting is colonial, and several nests may be within the same tree, and several dozen pairs may nest within the same colony (Ogden, 1996). Nesting usually occurs in January – March, and clutch size averages 3 eggs (range of 1 – 6). Reproduction typically takes place at 4 years of age. While nesting, adult storks may fly as far as 130 km to forage when closer wetlands are too dry to provide sufficient food sources (Ogden, 1996).

The seasonal flooding of wetlands allows prey to increase, and drying periods concentrate the large amount of prey needed by this species (Ogden, 1996). If these cycles do not occur, wood storks may starve. Additionally, nesting occurs in tall cypress trees, and the alteration of wetlands and logging during the past century have decreased the availability of these resources (Ogden, 1996). However, wood storks will readily forage and use human-created or managed wetland systems, especially water impoundments (Ogden, 1996).

Wading Birds

Wading birds, including little blue heron, snowy egret, tricolored heron, white ibis, roseate spoonbill, and limpkin have been observed foraging along the margins of drainage ditches, borrow ponds, and forested and herbaceous wetlands within the VWP. State and federal regulations protecting these species are focused on roosting and nesting (rookery) locations. The closest known rookery occurs along the northern shore of Lake Washington, approximately 0.5 mile south of the southern VWP boundary. No known roosting areas or rookeries occur within the VWP.

APPENDIX C



United States Department of the Interior

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7 12 06

FISH AND WILDLIFE SERVICE
6620 Southpoint Drive, South
Suite 310
Jacksonville, Florida 32216-0912

IN REPLY REFER TO:

FWS Log No. 41910-2006-TA-0522

July 7, 2006

Mr. Jay Decator
The Viera Company
7380 Murrell Road, Suite 01
Viera, Florida 32940

RE: Cocoa Ranch Caracara Procedure

Dear Mr. Decator:

On April 26, 2006, Annie Dziergowski and Rob Bittner of this office visited with you, ranch staff, Bill Lites of Glattig Jackson, and Alan Alshouse of EMS to see the A. Duda & Sons, Inc. (Company) agricultural operations on the Cocoa Ranch in Viera, Florida. The draft version of a ranch management plan prepared by the Company for Audubon's crested caracara, entitled *Cocoa Ranch Caracara Procedure*, was discussed throughout the day relevant to the effects of ranch operations on caracaras occupying portions of the ranch, as well as some of our concerns about implementation of the draft management plan. A summary of the information gleaned from the visit is provided below.

Historical use of the Cocoa Ranch by caracaras – Agricultural operations on the ranch have been conducted since the 1940's, and sod and cattle farming and selective harvesting of cabbage palms for landscape use have been ongoing for number of years. In the 1980's, caracara use of the 24,000-acre ranch was first noted. Numbers of nesting caracaras have increased since that time to the present where surveys have detected a minimum of five (5) nests on the undeveloped portion of the ranch. It is apparent that the intensive management of the ranch for sod and cattle, in combination with selective thinning of cabbage palm trees, has provided ideal habitat for the caracara, and as a consequence, a conservation benefit. Suitable nesting sites are abundant and the short grass habitat in grazed pastures and sod fields is optimum for foraging by the bird. Based on three percent (3%) mortality in the cattle herd annually, it is estimated that approximately 90,000 pounds (45 tons) of carrion is provided to caracaras, eagles, vultures, and other carrion-eaters each year, which is an important food item for the caracara.

Cabbage palm harvesting – The selective thinning of cabbage palms at first glance does not seem to conform with the general guidance provided by the caracara management guidelines detailed in Florida Fish and Wildlife Conservation Commission's

(FWC) Technical Report No. 18. Our conversations and site visit confirmed that the larger trees caracaras prefer for nesting and perching will be left, with harvesting excluded during the nesting season in the Nest Protection Zone. No more than forty percent (40%) of the trees would be removed from the Nest Protection Zone and the Foraging Protection Zone, and most of the hammock areas on the ranch would remain untouched.

Prescribed burning – Prescribed burning of pasture areas is employed every 2-3 years to promote Bahia grass forage for cattle. It also benefits the caracara by keeping vegetation low for foraging and facilitating movement of the bird on the ground. Burning would occur in the Foraging Protection Zone during the nesting season only when wind conditions are present to carry smoke away from the nest tree. During the non-nesting season, burning may be conducted within the Nest Protection Zone to promote pasture grass growth and simulate natural fire processes.

Hunting – The ranch has leased areas for hunting for a number of years and no disturbances to caracaras have been noted during that time. Large game animals are harvested by archery only, and the single unit where shotguns are used for waterfowl is located well north of the area inhabited by caracaras. Hunting would be permitted within the Foraging Nesting Zone, but not in the Nest Protection Zone.

Adaptive Management – One of the key points of discussion dealt with incorporating flexibility into the management plan so that changes could be made in procedures to avoid adverse effects on the caracara. The Company retains environmental consulting firms with qualified biologists and ecologists to assist with land management activities. These individuals, in combination with observations from ranch land managers, would monitor the caracara protection zones established in the management plan to ensure that activities conducted on the ranch do not adversely affect this species. The intent is to amend procedures, zones and/or activities at a particular location or in the management plan before such actions cause harm or significant disruptions in caracara behavior patterns that would affect breeding, feeding, or sheltering.

Abandoned Nest – In instances where caracaras have abandoned a nest, the abandoned nest tree and adjacent trees would remain intact until the Service provides confirmation of abandonment after three (3) years. Caracaras have been known to establish nests in one location, leave them for an alternate nest, and then return to the original nest in subsequent years to successfully rear young.

Injured, Sick, or Dead Caracara – Employees should leave injured, sick, or dead caracaras alone until the Service has been contacted for direction. In the event immediate contact cannot be made with the Service when an injured or sick bird is observed, the Company should contact their biologist/ecologist for guidance. It is not uncommon for fledglings to fall or jump out of nests, especially when they are trying their wings in preparation for flight. The adults will care for the young when they are on the ground, and this would be the time to stay away from the nest site and monitor conditions from afar. Adults and fledglings should not be disturbed unless there is very

obvious sign of injury, which would necessitate contacting a local wildlife rehabilitation center. Pertinent contact information is as follows:

U.S. Fish and Wildlife Service
Jacksonville ES Field Office
6620 Southpoint Drive South, Suite 310
Jacksonville, Florida 32216
Phone: 904-232-2580
Contact: Annie Dziergowski, ext. 116

U.S. Fish and Wildlife Service
South Florida ES Field Office
1339 20th Street
Vero Beach, Florida 32960
Phone: 772-562-3909
Contact: Tylan Dean, ext. 284

Wildlife Rehabilitators in Area:

Florida Wildlife Hospital
4560 North US 1
Melbourne, Florida 32935
321-254-8843
Contact: Sue Small, Director

Audubon Center for Birds of Prey
1101 Audubon Way
Maitland, FL 32751
407-644-0190
Contact: Lynda White, Director

On May 2, 2006, you provided the Service via email a revised copy of the draft *Cocoa Ranch Caracara Procedure* describing the operational guidelines and practices on the ranch for caracaras, which included revisions from the discussions at the April 26 site visit. We have reviewed the plan and it contains appropriate modifications pursuant to discussion with staff of this office. The Service concurs with the procedures contained in the *Cocoa Ranch Caracara Procedure*. The plan promotes actions and activities that have occurred on the ranch to date that have resulted in increased caracara usage of ranch lands, it provides protective measures for caracara pairs and offspring during the nesting season, and it affords flexibility for altering procedures, where needed, to avoid disruption or annoyance of caracaras to the point where "take" may occur.

Thank you for your cooperation in this matter. Should you have any questions, please contact Rob Bittner of this office at 904-232-2580, ext. 120.

Sincerely,



for David L. Hankla
Field Supervisor

cc: Tylan Dean, South Florida ES Office

COCOA RANCH CARACARA PROCEDURE

Subject: Procedure; Operational Guidelines and Practices for
Audubon's Crested Caracara

Procedure No. _____
Date: As of July 7, 2006
Page 1 of 11

SCOPE: This Procedure affects all Company employees at the Cocoa Ranch.

GENERAL: Pursuant to the Company's Legal Policy No. 401, it is and has been the Company's policy to fully comply with all laws applicable to its operations, including without limitation, the federal Endangered Species Act (the "ESA"). The ESA, together with other state and local laws and regulations, prohibit harassing, harming, disturbing, molesting or pursuing any species protected under the ESA or destroying the nests of a protected species. Acts deemed to harass, disturb, harm, molest or pursue a protected species are increasingly being broadly defined by governmental agencies and the courts to include conduct which may not directly appear to affect a species.

The consequences of an environmental law violation by any employee can seriously damage the Company and the employee. In particular, violations of the federal ESA and related laws can result in civil or criminal penalties for both the guilty employee and the Company with individual fines up to \$50,000 and/or imprisonment of individuals from 6 months to 2 years.

In 1987, Audubon's Crested Caracara (the "Caracara") was listed as a "threatened" species under the ESA and is also listed as "threatened" under Florida law. Historically, Caracaras inhabited native prairie in Florida's central region. However, the Company's agricultural operations within the Cocoa Ranch over the last fifty years have created foraging and nesting habitat to which the Caracara have successfully adapted. In response to the identification of Caracara nests within and near the Cocoa Ranch and the increasing breadth of regulations and their application by enforcement agencies with respect to the Caracara, it is necessary to adopt a specific Procedure, together with guidelines and practices, for the Cocoa Ranch pertaining to the Caracara.

COCOA RANCH CARACARA PROCEDURE

Subject: Procedure; Operational Guidelines and Practices for
Audubon's Crested Caracara

Procedure No. _____
Date: As of July 7, 2006
Page 2 of 11

SECTION 1 - PROCEDURE: STATEMENT OF CARACARA PROCEDURE

Management adopts the following Procedure at the Cocoa Ranch:

- A. To require the Company's employees to comply with all laws, ordinances and regulations applicable to its agricultural operations with respect to the Caracara;
- B. To avoid conduct and activities which result (or can be construed as resulting) in the "take" of a Caracara, with "take" meaning to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect a Caracara, or to attempt to engage in any such conduct.
- C. To require the Company's employees to take the measures necessary to maintain compliance with environmental laws applicable within their respective areas of responsibility.

To ensure compliance with this Procedure, it is the responsibility of each employee to acquire a working knowledge of the following Guidelines and Practices adopted as part of this Procedure. By doing so, each employee will be able to recognize problem areas in his or her daily activities and seek advice from his or her supervisor and, if necessary, from the Company's General Counsel. Management shall periodically educate the location's employees as to this Procedure and the Guidelines and Practices adopted hereunder.

SECTION 2 - GUIDELINES: CARACARA GUIDELINES

Management adopts the following Guidelines at the Cocoa Ranch:

- A. Summary of Caracara Environmental Laws. Current laws and regulations protecting the Caracara prohibit activity which results in the "take" of a Caracara, which includes conduct which is deemed to harm, harass, pursue, hunt,

COCOA RANCH CARACARA PROCEDURE

Subject: Procedure; Operational Guidelines and Practices for
Audubon's Crested Caracara

Procedure No. _____
Date: As of July 7, 2006
Page 3 of 11

shoot, wound, kill, trap, capture or collect, or the attempt to engage in any such conduct. "Harm" includes habitat modification or degradation to the extent it significantly disrupts a bird's behavior patterns affecting its breeding, feeding or sheltering. "Harass" includes intentional or negligent actions or omissions that cause annoyance to the extent it significantly disrupts a bird's behavior patterns affecting its breeding, feeding or sheltering.

B. Prohibited Conduct.

i. Direct Acts/Conduct Violating Caracara Laws:

Certain conduct clearly violates laws protecting the Caracara. The following listed acts are clear violations and are prohibited under this Procedure:

- Aggressive Acts. Any action directly harming or harassing a Caracara is prohibited, including pursuing, hunting, shooting, wounding, killing, trapping, capturing, or collecting a Caracara or attempting to engage in any such conduct.
- Passive Handling. Handling a Caracara nestling, juvenile or adult or attempting to engage in any such conduct, including handling injured, sick or dead birds (see Section 3(H) pertaining to injured, sick or dead Caracara).
- Harming Eggs or Nests. Any action which results in collecting, possessing or destroying any egg or nest of a Caracara is prohibited, including attempting to engage in any such conduct.

COCOA RANCH CARACARA PROCEDURE

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Possession, Sale or Transport. Any action related or connected to taking, possessing, transporting, selling, purchasing, bartering, or offering for sale, purchase or barter, any Caracara, or the parts, nests, or eggs of a Caracara.

ii. Indirect Acts/Conduct Violating Caracara Laws: Certain activities may also violate laws protecting the Caracara, notwithstanding that there is no direct intention to do so or any apparent direct harm or harassment to a Caracara from a particular activity. Specifically, nesting Caracaras are susceptible to disturbances that alter the usual patterns of activity which the birds have become accustomed to. Primary Caracara breeding activity occurs from November 1 through April 30 (the "**Primary Nesting Season**").

C. Establishing Protection Zones. Upon confirmation that a Caracara nest exists within the Cocoa Ranch, management shall establish the following protection zones, subject to modification as provided in the following sentence: (1) a nest protection zone having a radius of 500' extending outward from the nest tree (the "**Nest Protection Zone**"), and (2) a foraging protection zone having a radius of 1,000' extending outward from the nest tree (the "**Foraging Protection Zone**"). However, Management may decrease, increase or otherwise modify such zones based on local features which naturally serve to protect or isolate the nest (such as forested areas), or as reasonably necessary to conform a zone to existing geographic, topographic or natural features (such as canals, ditches, pasture areas or wetlands), and/or man-made elements (such as roadways, fence-lines, gates, canals and ditches); so long as such modification is in consultation with an experienced biologist or ecologist whose opinion is that such

COCOA RANCH CARACARA PROCEDURE

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modification will not adversely affect the subject nest. Once established by Management, all activities and conduct within such zones shall be strictly managed in accordance with the following Guidelines.

- Nest Protection Zone. Activities and conduct shall be managed year-round within each Nest Protection Zone in accordance with the following restrictions:
 - No removal of pasture, sod fields, wetlands, ditches or ponds (or wetlands, ditches or ponds within pasture or sod fields); provided, however, that pasture may be converted to sod fields except during the Primary Nesting Season;
 - No removal of nest trees or oaks;
 - No removal of cabbage palms, except on a selective basis in accordance with Section 3(F) below;
 - No hunting of any type;
 - No construction of any buildings, roads or canals; and
 - No use of herbicides, pesticides or other chemicals in a manner harmful to wildlife.

In addition, during the Primary Nesting Season, Management shall prohibit all unauthorized human entry and activity in each Nest Protection Zone. "Unauthorized human entry and activity" shall mean entry by anyone for any purpose other than persons conducting typical ranching and agricultural operations consistent with the pattern of activity which normally occurred in the area prior to its designation as a Nest Protection Zone – except and excluding (1)

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activity prohibited on a year-round basis within the Nest Protection Zone pursuant to these Guidelines, (2) tree harvesting in any manner, (3) conversion of pasture to sod fields, and (4) prescribed burning.

- Foraging Protection Zone. Activities and conduct shall be managed year-round within the Foraging Protection Zone in accordance with the following restrictions:
 - Activities, other than normal ranching and agricultural operations, are prohibited. Normal operations shall mean agricultural and related activities routinely conducted by the Company within the Cocoa Ranch, including, but not limited to, pasture cultivation, cattle grazing, sod farming and related activities, prescribed burning (except as specifically limited below), lawful hunting, and silviculture (excluding the harvesting of cabbage palms, except on a selective basis in accordance with Section 3(F) below).
 - No use of herbicides, pesticides or other chemicals in a manner harmful to wildlife.
 - During the Primary Nesting Season, prescribed burning shall occur only when wind conditions are present to carry smoke away from the nest tree.

- D. Relocated Nests; Abandoned Nests. These Guidelines shall apply to all confirmed Caracara nest trees, provided, however, that protection zones may be shifted from one tree to a nearby tree (to avoid implementing duplicative zones) when Management (in consultation with a qualified biologist or ecologist) determines that the nesting Caracara

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has selected such tree as an alternate nest tree for its current nesting effort. In such event, Management need not implement any protection zones for the former nest tree; provided, however, that the former nest tree and any adjacent tree in the same clump as the former nest tree, shall not be harvested under any circumstances unless and until (1) it is deemed "abandoned" as provided below; and (2) it is otherwise eligible for harvesting in accordance with applicable Guidelines and Practices adopted hereunder. A nest tree shall not be deemed "abandoned" unless and until the Company receives a letter from the U.S. Fish and Wildlife Service acknowledging that the nest tree is abandoned as confirmed by three consecutive breeding seasons of documented non-use.

SECTION 3 - PRACTICES: CARACARA PRACTICES

Management shall implement the following practices:

- A. Presenting and Posting Technical Information.
Management shall present this Procedure to employees at the Cocoa Ranch and provide bilingual technical and educational materials in English and Spanish regarding Caracara recognition, nest identification, nesting behavior and the Guidelines and Practices adopted in this Procedure. A copy of Technical Report No. 18 - Recommended Management Practices and Survey Protocols for Audubon's Crested Caracara in Florida (September 2001), published by the Florida Fish and Wildlife Conservation Commission, shall be posted in the work place where readily visible and accessible to employees.
- B. Identification and Confirmation of Nest Trees. Any employee sighting Caracara activity or a structure indicating the presence of a Caracara nest tree shall promptly report such sighting to his/her supervisor. Upon a

COCOA RANCH CARACARA PROCEDURE

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report of any observation indicating a Caracara nest tree, Management shall investigate the sighting and, when warranted, confirm whether or not a Caracara nest tree exists as determined by a qualified biologist or ecologist.

- C. Implementing Caracara Protection Zones. Upon Management's confirmation that a Caracara nest tree has been located, Management shall advise all supervisors, employees, tenants, licensees, contract harvesters and laborers of the identified nest tree and implement a Nest Protection Zone and a Foraging Protection Zone around the nest tree. Each zone shall be identified in the field and its approximate boundaries marked by steel posts; posts indicating the Nest Protection Zone shall be painted red, posts indicating the Foraging Protection Zone shall be painted orange. All activities and conduct within such protection zones shall be managed in accordance with the Guidelines and Practices specifically adopted under this Procedure.
- D. Monitoring Caracara Protection Zones. Upon implementing protection zones around a Caracara nest tree, Management shall monitor the nest tree during the Primary Nesting Season on a periodic basis, which monitoring shall consist of observations of the Caracara's behavior by Cocoa Ranch personnel during the ordinary course of agricultural activities. Upon receipt of observations indicating that the Caracara has abandoned the nest tree or is acting inconsistent with prior observations, Management shall review such observational data with a qualified biologist or ecologist and modify the applicable protection zone if advised to do so by such biologist or ecologist to minimize adverse affects on the Caracara.
- E. Revising "Environmental Areas Map". Each confirmed Caracara nest tree shall be shown on the Cocoa Ranch's

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"Environmental Areas Map" together with a graphic depiction of the limits of the Nest Protection Zone and the Foraging Protection Zone specifically adopted for each nest. Management shall revise the Environmental Areas Map as needed to add newly confirmed nest trees and delete nest trees determined to be a "former nest tree" or "abandoned" pursuant to the Guidelines adopted under this Procedure.

- F. Selective Tree Harvesting Within Protection Zones. All tree harvesting within a Nest Protection Zone shall be prohibited by Management during the Primary Nesting Season. At times other than the Primary Nesting Season within the Nest Protection Zone and year-round within the Foraging Protection Zone, the harvest of cabbage palms shall only be permitted on a selective basis as follows: cabbage palms selected for harvesting shall not exceed more than 40% of the existing cabbage palms within the zone AND shall not include any palm exceeding 16' in height as measured from ground level to the top of the tree's bud. The harvest of trees other than cabbage palms in the Foraging Protection Zone shall be permitted without restriction.
- G. Compliance with all Subsequent Management Plans. Management shall revise the Guidelines and Practices adopted under this Procedure and adopt new guidelines and practices to the extent necessary to strictly comply with any habitat management plan or revised plan hereafter approved in connection with any development order for the Viera DRI or otherwise adopted in consultation with the U.S. Fish and Wildlife Service or any other governmental agency having jurisdiction with respect to any Caracara nest located within or near the Cocoa Ranch. Management shall communicate with the U.S. Fish and Wildlife Service as-needed to address and resolve issues and situations

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affecting the Caracara in a manner not considered in this Procedure or the Guidelines and Practices hereby adopted.

- H. Reporting Injured, Sick or Dead Caracara. Upon discovering or learning of an injured, sick or dead Caracara, an employee shall report same to his/her supervisor. Management shall promptly contact the U.S. Fish and Wildlife Service to report the injured, sick or dead Caracara. If immediate contact can not be made with the U.S. Fish and Wildlife Service, Management shall contact a qualified biologist or ecologist for guidance. Injured, sick or dead Caracara shall not be handled in any manner, except as specifically directed by the U.S. Fish and Wildlife Service. If there is a very obvious sign of injury, Management shall notify a local wildlife rehabilitation center identified below. Contact information is as follows:

U.S. Fish & Wildlife Service
Jacksonville ES Field Office
6620 Southpoint Dr. South, Ste. 310
Jacksonville, Fl. 32216
Phone: 904-232-2580
Contact: Annie Dziergowski,
Ext. 116

U.S. Fish & Wildlife Service
South Florida ES Field Office
1339 20th Street
Vero Beach, Fl. 32960
Phone: 772-562-3909
Contact: Tylan Dean
Ext. 284

Wildlife Rehabilitators in Area:

Florida Wildlife Hospital
4560 North U.S. 1
Melbourne, Fl. 32935
Phone: 321-254-8843
Contact: Sue Small, Dir.

Audubon Center for Birds
of Prey
1101 Audubon Way
Maitland, Fl. 32751
Phone 407-644-0190
Contact: Lynda White, Dir.

COCOA RANCH CARACARA PROCEDURE

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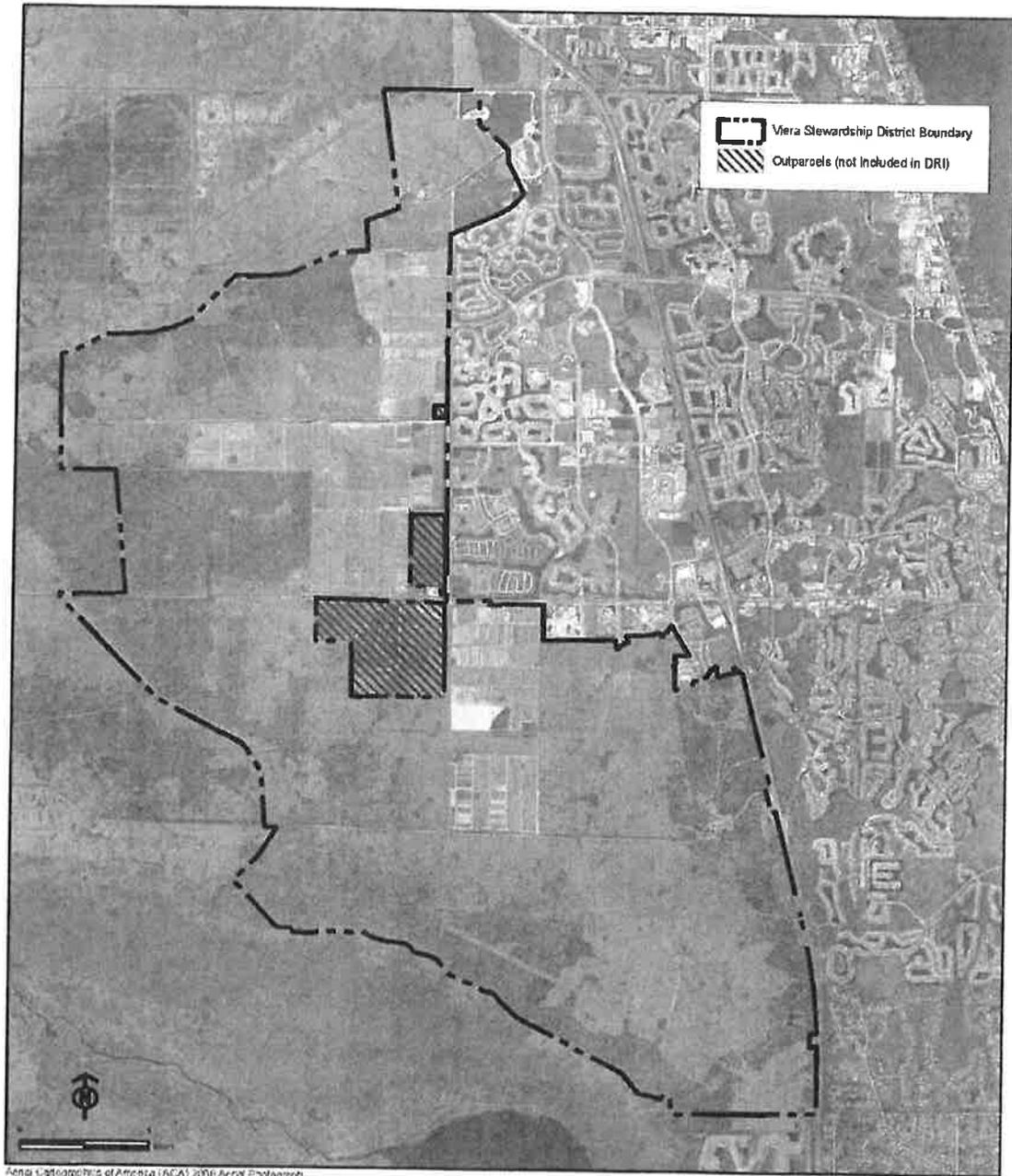
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-
- I. Reporting Non-Compliance. If there is a question in any employee's mind regarding compliance with this Procedure and the Guidelines and Practices hereby adopted, he/she will **immediately** notify his/her supervisor and resolve the matter. If the matter cannot be resolved at the location, then either the employee, the supervisor or Management shall notify the Company's General Counsel or any Assistant Counsel.
- J. Management shall implement these Practices effective as of July 7, 2006.

EXHIBIT 9

Viera Stewardship District Boundary

**Exhibit 9
Viera Stewardship District Boundary**



GLATTING JACKSON KERCHER ANGLIN
ATTORNEYS AT LAW

Z:\Projects\18118749_Viera_2025\Work\AV\Projects\DO_Development_Order_2009_July\VieraStewardshipDistrictBoundary.mxd

Viera - Development Order

Date: October 30, 2009

Old

Tammy Rowe, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001
Fax: (321) 264-6972
Tammy.Rowe@brevardclerk.us



August 21, 2019

MEMORANDUM

TO: Tad Calkins, Planning and Development Director

RE: Item H.4., Resolution Amended and Restated Development Order for Viera Development of Regional Impact (DRI)

The Board of County Commissioners, in regular session on August 20, 2019, adopted Resolution No. 19-134, amending Resolution No. 17-205, and restating Development Order for the Viera DRI. Enclosed is the original Resolution.

Upon recordation, return the recorded Resolution to this office for inclusion in the official minutes.

Your continued cooperation is greatly appreciated.

Sincerely yours,

BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK

Tammy Rowe

Tammy Rowe, Deputy Clerk

/ds

Encl. (1)



RESOLUTION NO. 19-¹⁹⁻¹³⁷~~134~~
August 20, 2019

Old.

**AMENDING RESOLUTION 17-205
A FULLY AMENDED AND RESTATED
DEVELOPMENT ORDER FOR
VIERA DEVELOPMENT OF REGIONAL IMPACT**

WHEREAS, the Viera Development of Regional Impact (the "DRI") is a mixed-use development on approximately 20,646 acres located east and west of Interstate 95 in central Brevard County approved pursuant to the original Application for Development Approval and the Application for Development Approval for Substantial Deviations #1 and #2 on property described in EXHIBIT 1, attached and incorporated by reference; and

WHEREAS, Brevard County adopted Resolution 09-272 on December 15, 2009 which created the Amended and Restated Development Order for the Viera DRI (the "Amended and Restated Development Order") which incorporated all previous changes and amendments to the Viera DRI into a single Development Order that controls the development of the property (the "Development Order"); and

WHEREAS, Brevard County adopted Resolution 10-105 on May 27, 2010 which is an Amendment to the Amended and Restated Development Order for the DRI (the "First Amendment") to include provisions to settle an administrative appeal; and

WHEREAS, Brevard County adopted Resolution 14-120 on July 22, 2014 which is an Amendment to the Amended and Restated Development Order for the DRI (the "Second Amendment") to extend the time for buildout of phases, the DRI expiration date and the DRI termination date as well as the date by which transportation mitigation must be complete and to clarify the Wickham Road and Murrell Road mitigation timing and process. Together, the

needs Recording H.Y. ~~1~~ ①

Order and a statement summarizing all previous changes that have been made to this Development Order.

NOW THEREFORE, BE IT ORDAINED AND RESOLVED by the Board of County Commissioners of Brevard County, Florida that this Amended and Restated Development Order for the Viera Development of Regional Impact (No. 19-) is APPROVED pursuant to Chapter 380.06, F.S. subject to the terms and conditions of this Resolution.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
BREVARD COUNTY, FLORIDA

Scott Ellis, Clerk

Kristine Isnardi, Chairman



AGENDA REPORT
August 20, 2019

Approval RE: Amended & Restated Development Order for Viera DRI

SUBJECT:

Approval RE: Amended & Restated Development Order for the Viera Development of Regional Impact

FISCAL IMPACT:

There is unlikely to be any fiscal impact associated with approval of this item.

DEPT/OFFICE:

Planning and Development

REQUESTED ACTION:

The Board of County Commissioners is requested to consider approval of an Amended and Restated Development Order for the Viera Development of Regional Impact and if approved, authorize the Chair to execute the development order on behalf of the County.

SUMMARY EXPLANATION and BACKGROUND:

The Viera Company has applied for an amendment to their development order. The proposed amendment would revise the provisions of Condition 4 to allow unlimited land use exchanges between non-residential land uses with no increase in residential units and no net increase to the peak hour directional trip ends without notifying the County. In addition the amendment updates the Phase, Build-out, and Deadline dates to be consistent with the most recently authorized legislative extensions; and corrects a mathematical scrivener's error in Exhibit 4.

The LPA (Local Planning Agency) will hear the matter at their August 19, 2019, meeting and staff will update the Board with their recommendation at the August 20, 2019, meeting.

CLERK TO THE BOARD INSTRUCTIONS:

Execute the Amended and Restated Development Order on behalf of the County and return it to the Applicant for recording.

ATTACHMENTS:

Description

- ▣ **Cover Letter from Darendra D. Marvin, AICP**
- ▣ **Proposed Development Order**
- ▣ **Proposed Revision to Condition 4**

Deborah Thomas

From: Lewis, Sally A <Sally.Lewis@brevardfl.gov>
Sent: Friday, August 16, 2019 8:51 AM
To: Advanced Agenda; CGroup; CNTYATY_Staff; CNTYMGR_Staff
Cc: Christine Mulligan-Willey; Deborah Thomas; Donna Scott; Kimberly Powell; Tammy Rowe
Subject: Change to agenda Item H 4 for 8/20/19
Attachments: Proposed Development Order 08-16-2019.pdf; Rev EXHIBIT 4-Master Development Program with Accepted Changes.pdf

We recently received these changes from the Viera Company.
The web page is updated and so is Novus.
I am attaching the changes for those who print the agenda.

The Rev Exhibit 4 – Master Development Program with Accepted Changes was added.
Proposed Development Order 08-16-2019 replaced what was in Novus.

Sally Lewis
2725 Judge Fran Jamieson Way
Viera, Fl. 32940
321-633-2010
Sally.lewis@brevardfl.gov

Under Florida law, all correspondence sent to the County Manager's Office, which is not exempt or confidential pursuant to Chapter 119 of the Florida Statutes, is public record. If you do not want the public record contents of your e-mail or your e-mail address to be provided to the public in response to a public records request, please do not send electronic mail to this entity. Instead, contact this office by phone or in writing.

"Under Florida Law, email addresses are Public Records. If you do not want your e-mail address released in response to public record requests, do not send electronic mail to this entity. Instead, contact this office by phone or in writing."

Deborah Thomas

From: Jones, Jennifer <jennifer.jones@brevardfl.gov>
Sent: Friday, August 16, 2019 9:46 AM
To: Lewis, Sally A; Christine Mulligan-Willey; Deborah Thomas; Donna Scott; Kimberly Powell; Tammy Rowe
Subject: FW: Agenda for DO Adoption

Signature pages coming Tuesday for H.4.

From: Darendra Marvin <dmarvin@grimesgoebel.com>
Sent: Friday, August 16, 2019 9:45 AM
To: Swanke, Stephen M <Steve.Swanke@brevardfl.gov>; Todd J. Pokrywa <Todd.Pokrywa@Viera.com>
Cc: Calkins, Tad <tad.calkins@brevardfl.gov>; Jones, Jennifer <jennifer.jones@brevardfl.gov>
Subject: RE: Agenda for DO Adoption

Thank you, I will provide the executed signature pages to you on Tuesday morning.

From: Swanke, Stephen M [<mailto:Steve.Swanke@brevardfl.gov>]
Sent: Friday, August 16, 2019 9:43 AM
To: Todd J. Pokrywa <Todd.Pokrywa@Viera.com>; Darendra Marvin <dmarvin@grimesgoebel.com>
Cc: Calkins, Tad <tad.calkins@brevardfl.gov>; Jones, Jennifer <jennifer.jones@brevardfl.gov>
Subject: Agenda for DO Adoption

The proposed Amended and Restated Development Order containing the attachments has been updated for the Local Planning Agency and Board of County Commissioners. The revised Exhibit 4 has also been added to those agendas as an attachment. In our introduction of the item at the LPA and Board, we will verbally advise them that the currently adopted and the proposed development orders require notification be sent to the County and that the Viera Company did not propose any changes to that requirement.

Stephen M. Swanke
Program Manager
Brevard County Planning & Development Department
(321) 633-2070 ext 58298

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"Under Florida Law, email addresses are Public Records. If you do not want your e-mail address released in response to public record requests, do not send electronic mail to this entity. Instead, contact this office by phone or in writing."

GRIMES GOEBEL

Grimes Hawkins Gladfelter & Galvano, P.L.

Attorneys at Law Est. 1922

Caleb J. Grimes
Jack Hawkins
Leslie Horton Gladfelter
Bill Galvano
Derin Parks
Sacha Ross
Kyle W. Grimes

Reply to: Bradenton

June 3, 2019

Mr. Stephen M. Swanke, Program Manager
Brevard County Planning and Development
2725 Judge Fran Jamieson Way
Building A, Room 114
Viera, Florida 32940

RE: Viera DRI; Amendment to Development Order

Dear Steve:

Enclosed please find an application to amend the Viera DRI Development Order to accomplish the following:

- Provide for an amendment to condition number 4 relating to land use exchanges that would allow a conversion in non-residential land uses not involving an increase in residential dwelling units
- Update of Phase, Buildout and Deadline dates consistent with the most recently authorized legislative extensions
- Correction of a mathematical error in Exhibit 4

This amendment, under the current rules of Section 380.06(7) may be approved by the local government. We have enclosed our firm check in the amount of \$874.00 to cover the application fee and the processing fee. I have also provided on CD electronic copies of the application package for your use. Do not hesitate to contact me should you require anything additional.

Sincerely,

Darenda D. Marvin, AICP
Senior Planner

Enclosures

1023 Manatee Ave. West, Bradenton, Florida 34205
941.748.0151 | 941.748.0151 fax

9750 NW 17th St., Suite 1, Miami, Florida 33172
305.517.3100 | 305.517.3103 fax

www.grimesgoebel.com

RESOLUTION NO. 19-_____
_____, 2019
AMENDING RESOLUTION 17-205
A FULLY AMENDED AND RESTATED
DEVELOPMENT ORDER FOR
VIERA DEVELOPMENT OF REGIONAL IMPACT

WHEREAS, the Viera Development of Regional Impact (the “DRI”) is a mixed-use development on approximately 20,646 acres located east and west of Interstate 95 in central Brevard County approved pursuant to the original Application for Development Approval and the Application for Development Approval for Substantial Deviations #1 and #2 on property described in **EXHIBIT 1**, attached and incorporated by reference; and

WHEREAS, Brevard County adopted Resolution 09-272 on December 15, 2009 which created the Amended and Restated Development Order for the Viera DRI (the “Amended and Restated Development Order”) which incorporated all previous changes and amendments to the Viera DRI into a single Development Order that controls the development of the property (the “Development Order”); and

WHEREAS, Brevard County adopted Resolution 10-105 on May 27, 2010 which is an Amendment to the Amended and Restated Development Order for the DRI (the “First Amendment”) to include provisions to settle an administrative appeal; and

WHEREAS, Brevard County adopted Resolution 14-120 on July 22, 2014 which is an Amendment to the Amended and Restated Development Order for the DRI (the “Second Amendment”) to extend the time for buildout of phases, the DRI expiration date and the DRI termination date as well as the date by which transportation mitigation must be complete and to clarify the Wickham Road and Murrell Road mitigation timing and process. Together, the

Amended and Restated DRI, the First Amendment, the Second Amendment and the Third Amendment comprise the current Viera DRI Development Order; and

WHEREAS, Brevard County adopted Resolution 15-110 the Third Amendment to the Amended and Restated Development Order (the “Third Amendment”), as amended which specifically modified only those portions of Resolutions 09-272, as amended by Resolution 10-105 and Resolution 14-120 that are reflected in the amendment; and

WHEREAS, Brevard County adopted Resolution 16-126 on August 23, 2016 as a fully Amended and Restated Development Order; and

WHEREAS, Brevard County adopted Resolution 17-205 on October 10, 2017 as a fully Amended and Restated Development Order. This Development Order supersedes and replaces all prior Development Orders.

I. FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The Developer filed an Application to amend the Development Order with the local government pursuant to Section 380.06(7), Florida Statutes.

2. The DRI (as described in this Amended and Restated Development Order) is consistent with the State Comprehensive Plan.

3. The DRI is consistent with the Brevard County Comprehensive Plan, as amended, and local land development regulations.

II. DEFINITIONS

For purposes of the Amended and Restated Development Order (hereinafter referred to as the “Development Order”), the terms listed below shall be defined as follows.

1. Accessory Dwelling Unit: A residential structure that has separate kitchen, sleeping, and bathroom facilities, detached from, or attached to, the primary residence. An Accessory Dwelling Unit may be used for housing members of the family occupying the primary residence, or their temporary guests, or may be rented as a separate dwelling, if such Accessory Dwelling Unit and/or leasing of same is approved as part of the West Viera PUD process.

2. Agricultural Use: Any use of land for bona fide agricultural purposes as described in Section 193.461(3)(b), Florida Statutes, or for activities of a farm operation as described in Section 823.14(3), Florida Statutes or for agriculture as defined in Section 570.02(1), Florida Statutes; including, but not limited to, temporary housing for agricultural workers not to exceed a total of 50 units.

3. Developer: The Viera Company, a Florida corporation, or its successor or assigns which specifically assumes the obligations hereunder.

4. Original DRI: DRI land approved prior to the Viera Substantial Deviation #2. The Original DRI Area encompasses 9,079 acres and includes lands both east and west of I-95.

5. Habitat Management Plan ("HMP"): Guidelines and practices for maintaining, enhancing and managing listed species habitat and conducting Agricultural Use within the Rural District and the Conservation District which is attached as Exhibit 8 to this DRI Development Order.

6. Master Drainage System: Shall mean and refer to that portion of the Master Stormwater and Excavation Plan (as defined below) for that portion of the Existing DRI west of I-95 and outside the boundaries of the Viera Stewardship District (as defined below).

7. Master Stormwater and Excavation Plan: Shall mean and refer to all land, easements, structures and other facilities and appurtenances to be designed and constructed on an

incremental basis which together constitute and comprise the master surface water management and drainage system for all portions of the DRI west of I-95.

8. Substantial Deviation #2: the name of the development order modification approved on December 10, 2009, which added the 11,567 acre West Viera Expansion Area to the DRI and which authorized an additional development program within the DRI as described in the DRI Master Development Program attached hereto as Exhibit 4.

9. Town Center: A mixed use District within the Existing DRI generally depicted on the Map H. Master Development Plan attached as Exhibit 3.

10. Transportation Impact Study: The analysis submitted as a part of the NOPC application dated April, 2017 and revised August, 2017.

11. Viera Stewardship District: An independent special district established pursuant to and governed by Chapter 2006-360, Laws of Florida and Chapter 189, Florida Statutes, as a local unit of special purpose government having jurisdiction within those lands specifically described in the Notice of Creation and Establishment of the Viera Stewardship District dated August 8, 2006 and recorded in Official Records Book 5683, at page 2029, as modified by the Amended Notice of Creation and Establishment of the Viera Stewardship District date December 14, 2009 and recorded in Official Records Book 6081, at page 1354, all in the Public Records of Brevard County, Florida, and as from time to time further modified in accordance with Chapter 189, Florida Statutes; including, but not limited to, the West Viera Expansion Area. The Viera Stewardship District has specific powers, responsibilities and duties with respect to providing community infrastructure and ensuring the long-term stewardship of environmental and conservation resources within the District's boundaries as more particularly described in Chapter 2006-360, Laws of Florida, this Development Order and the VWP Habitat Management Plan.

12. Viera Wilderness Park (“VWP”): Lands located within the West Viera Expansion Area designated as “Conservation District” or “Rural District” portions of which provide wetland and listed species mitigation in conjunction with continuing agricultural activities. The VWP is administered by the Viera Stewardship District and the lands and activities therein are managed in accordance with the VWP Habitat Management Plan and applicable environmental permits from time to time issues by regulatory agencies having jurisdiction.

13. Village: A land use area which offers a diverse mix of housing types and centralized commercial/civic nodes, located within the Village District area generally depicted on Map H, the Master Development Plan attached as Exhibit 3.

14. Village Center: A centrally located and required mixed-use component of a Village designed to provide a sufficient mixture of non-residential uses so as to provide for the daily commercial needs of Village residents and residential uses of various densities, intensities, and types. This development form promotes walking between uses and a variety of transportation modes such as bicycles, transit, and automobiles. Allowed uses include residential, retail, office, and civic uses including a park and/or school.

15. Village Sketch Plan: An illustration that demonstrates the specific requirements for development of a Village that further support and implement the baseline standards established as part of the West Viera PUD.

16. West Viera Expansion Area (“WVEA”): The 11,567-acre tract owned by A. Duda and Sons, Inc., The Viera Company or others as same may be transferred in the ordinary course of business, located south and west, immediately adjacent to the Original DRI. The incorporation of these lands and corresponding program into the existing DRI was one of the purposes of Substantial Deviation #2.

III. CONDITIONS

1. The Development Order shall govern the development of lands totaling approximately 20,646 gross acres in Brevard County, as described in Exhibit 1 and Exhibit 2 of the Development Order. Nothing herein is intended to relieve the Developer of any concurrency requirements as set forth in Florida Statutes, Florida Administrative Code or Brevard County Ordinance.

2. The DRI shall be developed in accordance with the information, data, plans and commitments contained in the Viera Development of Regional Impact Application for Development Approval unless otherwise directed by the conditions enumerated below. For purposes of this condition, the Application for Development Approval shall consist of the following items:

- (a) Application for Development Approval of Substantial Deviation #2, dated April 2006.
- (b) Response to First Request for Additional Information for Substantial Deviation #2, dated September 2006.
- (c) Response to Second Request for Additional Information for Substantial Deviation #2, dated April 2007.
- (d) NOPC application dated April, 2017 and revised August, 2017.

3. The WVEA is designed to connect with the Original DRI. The mix and design of land uses is intended to encourage walking, bicycling and to allow residents to meet many of their daily needs on-site without traveling outside of Viera. Four villages, each with a neighborhood mixed-use center and neighborhood parks will provide a variety of housing types. The West Viera PUD may provide gross densities in the Villages ranging from 2 to 30 dwelling units per acre with

a 3.47 unit per acre average. The Rural Development District will provide lower density housing in a conservation subdivision or rural estate setting with a gross density for the overall Rural Development District of 1 dwelling unit per 2.5 acres per the Comprehensive Plan. In accordance with the Staging Plan approved in conjunction with this Development Order, 5,258 acres will transition into the Viera Wilderness Park. The VWP will be adjacent to the 44,000 acre River Lakes Conservation Area and will be managed in accordance with the Habitat Management Plan approved in conjunction with this Development Order. The DRI will consist of the uses shown on Exhibit 4.

The DRI is to be developed as a four phase project as described in Condition 104 herein and Exhibit 4 attached hereto.

4. Notwithstanding the Master Development Program described above and in Exhibit 4, the Developer is allowed to convert one land use for another so long as (1) each such conversion is in accordance with the Transportation Equivalency Matrix, which is based on equivalent peak hour directional trip ends and attached hereto as Exhibit 5, (2) the Developer provides notice to Brevard County, the East Central Florida Regional Planning Council, the City of Rockledge, the School Board of Brevard County, the Florida Department of Transportation and the Department of Economic Opportunity of updated development totals following a conversion and (3) the conversion increases or decreases the total amount of each land use by no more than five percent, unless this Development Order is amended. However, conversions exceeding five percent may be permitted without an amendment to the Development Order under the following conditions: (1) the conversion is in accordance with the Transportation Equivalency Matrix, which is based on equivalent peak hour directional trip ends and attached hereto as Exhibit 5 and results in no net

increase to the peak hour directional trip ends, and (2) the conversion involves a change in non-residential land uses without involving an increase in residential dwelling units (3) the Developer notifies Brevard County, the East Central Florida Regional Planning Council, the City of Rockledge, the School Board of Brevard County, the Florida Department of Transportation and the Department of Economic Opportunity of updated development totals following a conversion. Conversion from one land use to another utilizing the Transportation Equivalency Matrix will be reported on an individual and cumulative basis in the Biennial Report. Any future updates to this resolution shall incorporate any changes due to the use of the matrix.

5. The Applicant may continue to conduct all Agricultural Uses as an interim use as follows:

(a) For those portions of the Property designated as “Community,” “Village,” “Town Center,” “Regional Commerce,” “Rural Development” and “Interchange” on Exhibit 3, the Applicant may continue to conduct all Agricultural Uses, including, but not limited to, not more than 50 units of temporary housing for agricultural workers. Upon the recording of a subdivision plat, the Applicant shall not be entitled to claim an agricultural tax exemption for that portion of the Property legally described on the plat unless such claim is consistent with general law.

(b) For those portions of the Property designated as “Rural Area,” the Applicant may continue to conduct all Agricultural Uses, including, but not limited to, not more than 50 units of temporary housing for agricultural workers. At such time as a portion of the Rural “Area” is

re-designated as Rural “District” in accordance with the provisions of Condition 22, below, the Applicant may continue to conduct all Agricultural Use activities upon such portion consistent with the provisions of the VWP Habitat Management Plan as described in Section II, Paragraph 5, above.

- (c) For those portions of the Property designated as “Conservation Area,” the Applicant may continue to conduct all Agricultural Uses, except and excluding the installation or construction of temporary housing for agricultural workers. At such time as a portion of the Conservation “Area” is re-designated as Conservation “District” in accordance with the provisions of Condition 22, below, the Applicant shall cease all Agricultural Uses upon such portion, except those allowed within the Conservation District consistent with the provisions of the VWP Habitat Management Plan as described in Section II, Paragraph 5, above.

6. Upon final payment of all proportionate share contributions for local and regionally significant impacts as provided in this Development Order, the Applicant shall have satisfied the concurrency requirements of the Brevard County Comprehensive Plan and Concurrency Management System (Chapter 62, Article IV, Sections 62-601 through 62-606, Brevard County Land Regulations) in accordance with the provisions of Chapter 380, Florida Statutes and Chapter 163, Florida Statutes and development through buildout of the DRI shall be vested for concurrency.

7. The portion of the DRI within the City of Rockledge is subject to a separate Development Order recorded at OR Book 3525, page 0978, Brevard County Public Records, and

is not subject to the terms and conditions of this Amended and Restated Development Order. **[This portion of the DRI has been built-out]**

PROJECT DESIGN GUIDELINES

8. The DRI shall adhere to and further the design characteristics outlined below:

The DRI shall incorporate elements of “smart growth,” transit oriented design (“TOD”) and new urbanism, including walkability, compact development patterns, quality architecture and urban design and will contain a hierarchy of street systems to discourage urban sprawl, foster connectivity, provide for pedestrian mobility and transit internally and externally to the DRI.

(a) The DRI shall promote diversity and choice through a mixture of housing types and price points, including affordable/work force housing as hereinafter set forth.

(b) The DRI shall utilize a number of sustainable development techniques and promote the reduction of greenhouse gases.

(c) The Developer shall cooperate with the governmental units to encourage the siting of public buildings in prominent places within the Village Centers to reinforce the active mixed use nature of these places.

(d) The DRI shall promote the efficient and effective use of infrastructure.

The DRI shall include the development of four distinct Villages.

(e) Villages shall be designated as a collection of Neighborhoods where a majority of the housing units are within a half mile walking distance to a Village or Neighborhood Center. Villages shall be supported by

internally designated, mixed-use Village Centers (designed specifically to serve the daily needs of Village residents).

- (f) Villages shall include a mix of uses, including residential, commercial, office, public/civic, schools and recreational space that serve the daily needs of residents. A Village shall not be required to include all of the noted land uses and Village or Neighborhood Centers may be tailored to meet the specific needs of the residents based upon the type of development which is planned in the Village.
- (g) Villages shall include a Village Center with sufficient non-residential uses to provide for the daily needs of Village residents, by phase of development, in a form that can be conveniently served by regional bus service.
- (h) Villages shall include a range of housing types that support a broad range of family sizes and incomes.
- (i) Villages shall be based on interconnected streets that are designed to balance the needs of all users, including pedestrians, bicyclists and motor vehicles, and which are built with design speeds that are appropriate. Villages shall include alternatives for pedestrians and bicyclists through the provision of sidewalks, street trees and on-street parking which provide distinct separation between pedestrians and traffic; and provide adequate lighting that is designed for safe walking and signage which has a pedestrian orientation. Within Village Centers, spatially define primary streets and sidewalks by arranging commercial

and multi-family buildings in a regular pattern that are unbroken by parking lots.

- (j) Villages shall provide recreational spaces that meet the recreational needs of the community, reinforce the design of the development by providing a variety of recreational space amenities that serve a range of interests and distribute recreational space amenities throughout the DRI.
- (k) Each Village shall have a system of connected open space which includes elements of public edge throughout the neighborhoods that connect each Village.

FLOODPLAINS

9. Undeveloped portions of the Master Stormwater and Excavation Plan will be designed and constructed based on pre-development and post-development evaluations of FEMA's and SJRWMD's 100-year floodplains such that any modifications to the floodplains are within the limits established by the SJRWMD to insure that there are no adverse impacts to offsite lands or parcels resulting from the design storm event. Brevard County staff shall review and approve the design of such additional portions of the Master Stormwater and Excavation Plan to insure that there shall be no adverse impacts to the upstream and downstream drainage basins under the jurisdiction of Brevard County or municipalities within County. The design of the underdeveloped portions of the Master Stormwater and Excavation Plan will include the evaluation of recent flood stage data as may be available from the SJRWMD and USGS data. Impacts to any riverine or isolated floodplain shall provide compensatory storage in accordance with Chapter 62, Article X, Division 5, Brevard County Code of Ordinances.

10. Additional portions of the Master Stormwater and Excavation Plan will be designed to attenuate post-development peak discharge at or below the pre-development peak rates for the design storm event as required by the applicable SJRWMD and Brevard County criteria such that no adverse impacts to off-site floodplains occur. Impacts to any riverine or isolated floodplain shall provide compensatory storage in accordance with Chapter 62, Article X, Division 5, Brevard County Code of Ordinances. A control regime shall be established to insure that any impoundment for stormwater treatment and/or improved wetland hydroperiod will not be discharged in a non-permitted manner that adversely impacts the downstream watersheds from a water quantity and water quality standpoint. The control regime shall also insure acceptance of current and master-planned upstream flows without adverse impacts. The applicant shall demonstrate the effectiveness of the impoundment to Brevard County by documenting compliance with applicable portions of the County Land Development Code.

11. Proposed impoundments to be developed within the Viera DRI boundaries will detain flood waters on the property such that pre-development rates of discharge are not exceeded in accordance with State and County regulations.

12. For any habitable structure located within a Special Flood Hazard area as identified by FEMA, base flood elevations in the post-developed condition will be established by an additional LOMR (Letter of Map Revision), CLOMR (Conditional Letter of Map Revision), or other floodplain studies as may be required by FEMA at the time of development. All habitable structures shall have their finished floor elevation set at minimum of one foot above the established applicable base flood elevation.

NATURAL AND HISTORICAL RESOURCES

13. Where planted littoral shelves are required by the SJRWMD to be incorporated into the design of the on-site retention/detention areas, these planted littoral shelves shall be inspected at least annually for the establishment of any Category I Invasive Plant Species, as defined by the Florida Exotic Pest Plant Council (FLEPPC). Any planted littoral shelf areas shall be maintained so as to limit the extent of invasive species in accordance with applicable SJRWMD permits.

14. The Brevard County Natural Resources Management Office shall be provided with copies of all permits received by the Developer from federal and state agencies concerning wildlife issues. Brevard County shall provide similar documents it receives to the Developer.

At the time a Sketch Plan for a Village or a preliminary plat for development within the Rural Development or Interchange District is submitted to Brevard County for review and approval, the applicable portion of the WVEA shall be surveyed for listed species using methodologies approved by the FFWCC and USFWS and all necessary permits and approvals obtained from the FFWCC and USFWS, prior to final development approval of each such parcel.

15. RESERVED.

16. A total of 222.3 acres in the VWP have been placed under conservation easement (OR Book 7519 Page 316) consistent with the HMP as a burrowing owl preserve to compensate for and mitigate for all other impacts to burrowing owls throughout the DRI caused by development consistent with this Development Order. Relying on the establishment of the burrowing owl preserve described above as a conservation measure, the FFWCC has issued a Migratory Bird Nest Removal Permit (LSNR-15-00132) authorizing the removal of inactive Florida burrowing owl nest burrows located in the original DRI and the WVEA. Development shall proceed in accordance with the conditions and provisions of such FFWCC permit.

17. Buffer zones to protect caracara nests during construction within the development districts (Rural Development, Village, Community, and Interchange) and specific management actions to enhance caracara habitat within the VWP have been defined and approved by the USFWS in the Biological Opinion (FWS Log No. 4190-2006-F-0749), Programmatic Biological Opinion (FWS Log No. 04EF1000-2012-F-0099), and subsequent Technical Assistance letter (FWS Log No. 04EF1000-2015-TA-0430). A caracara nest survey and monitoring protocol has been established and approved by the USFWS for construction activities within the Viera DRI that are within 1000 feet (305 meters) of a caracara nest. The survey and monitoring protocol will produce data on nest location, nest status, fate of the nest, and the number of young produced.

18. RESERVED.

19. RESERVED.

20. The Developer must create provisions for wildlife connectivity across or under roadways that traverse preserved wetland systems and associated upland buffers within the Community, Village and Interchange Districts. This may include eco-passages that address movement of likely-occurring wildlife, reduced speed limits, signage illustrating the presence of wildlife, and consideration of reduced lighting.

Road and pedestrian crossings of wetlands within the Rural Development District shall be minimized to the maximum extent possible and be designed to allow for passage of wildlife. Crossings shall be located at the narrowest crossing point (unless this creates a safety hazard as determined by the County engineer) or along existing field roads and shall require appropriately sized culverts. Plans for all roadway crossings shall demonstrate that adequate measures have been taken to allow movement of wildlife through the wetland corridors during seasonal high water events. Plans for wildlife crossings within the Rural Development Districts

shall be submitted to SJRWMD for review and approval if appropriate during the final permitting of each phase of the DRI. Upon approval of such Plans, the wildlife crossings shall be incorporated into the final design for review and approval by Brevard County.

21. Owners of land within the DRI conducting development construction activities on such properties, shall notify construction personnel, through posted advisories or other methods, of the potential for artifact discoveries on the site and to report suspected findings to the property owner. The land owner shall notify Brevard County, the Division of Historic Resources (“DHR”) of the Florida Department of State and the Developer in the event of discovery of artifacts of historical or archaeological significance during such construction activities. From the date of notification, construction shall be suspended within a 100 foot radius of the site of discovery for a period of up to 120 days to allow evaluation of the site. The land owner shall provide proper protection of the discovery, to the satisfaction of the DHR.

22. The VWP is intended to provide a regionally significant environmental resource and shall consist of lands designated as “Conservation District” or “Rural District” from within the areas shown as “Conservation Area” and “Rural Area,” respectively, on Map H, attached hereto as Exhibit 3. Lands within the Conservation Area shall be subject to designation as Conservation District as hereafter provided and, in such event, shall become a part of the VWP as conservation and/or preserved lands mitigating impacts to wetlands and/or listed species habitat occurring in connection with development of the corresponding Village as shown in Exhibit 7 attached hereto. Lands within the Rural Area shall be subject to designation as Rural District as hereafter provided and, in such event, shall become part of the VWP as environmental lands managed to maintain and enhance listed species habitat mitigating impacts to habitat occurring in connection with development of the corresponding Village as shown in Exhibit 7. Agricultural Use shall be

permitted on the lands, and any part thereof, within the Conservation and Rural Areas shown on attached Exhibit 6; provided, however, that upon the designation of any portion of such lands as Conservation District or Rural District, then Agricultural Use shall only be permitted on such designated portion to the extent it is consistent with the Habitat Management Plan, applicable environmental permits and the conservation easements, if any, encumbering such portion. A portion of the Conservation Area and/or Rural Area shall be designated as Conservation District and/or Rural District respectively and shall constitute the VWP upon Brevard County approval of the Village Sketch Plan for Village 1 and additional portions of the Conservation and Rural Areas shall be designated as part of the Conservation and Rural Districts and added to the VWP at such times hereafter as Brevard County approves the Village Sketch Plan for Village 2, Village 3 and Village 4 in accordance with the VWP Staging Plan attached hereto as Exhibit 7. That portion of the Rural Area and/or Conservation Area initially designated in connection with Village 1 as Conservation District and/or Rural District for purposes of mitigating the impacts to wetlands and/or listed species habitat attributable to Village 1 is referred to and shown as the “Stage 1 Mitigation Area” on attached Exhibit 7. Such portion shall represent the initial boundary of the Rural District and/or Conservation District and constitute the VWP. That portion of the Conservation and Rural Areas described on attached Exhibit 7 as the “Stage 2 Mitigation Area” shall be designated Conservation District or Rural District, as applicable, and added to the Viera Wilderness Park at such time as Brevard County approves the Village Sketch Plan for Village 2; that portion of the Conservation and Rural Areas described on attached Exhibit 7 as the “Stage 3 Mitigation Area” shall be designated Conservation District or Rural District as applicable, and added to the VWP as such time as Brevard County approves the Village Sketch Plan for Village 3; and that portion of the Conservation and Rural Areas described on attached Exhibit 7 as the

“Stage 4 Mitigation Area” shall be designated Conservation District or Rural District, as applicable, and added to the VWP at such time as Brevard County approves the Village Sketch Plan for Village 4. Each addition to the Conservation District, the Rural District and the VWP in accordance with the VWP Staging Plan shall mitigate the impacts to wetlands and/or listed species habitat attributable to the applicable Village.

23. Upon the issuance of the initial regulatory permit for development within the WVEA which requires the establishment of a conservation easement for the protection and preservation of any wetland area and associated upland buffer within in the VWP, an exhibit will be prepared and included with the HMP that identifies all areas within the VWP encumbered by such conservation easement pursuant to such permit. Such exhibit will be thereafter updated and revised to reflect each conservation easement thereafter established in connection with the issuance of subsequent permits. Such conservation easements will be conveyed to the grantee designated in the applicable permit. If the applicable permit does not designate a grantee, the applicable conservation easement shall be conveyed to an appropriate grantee approved by the permitting agency. The Grantee may include the VSD, a property owners association formed under Chapter 720, Florida Statutes or other entity with the capacity and capability of conserving the lands and resources contained within a prospective conservation easement.

24. All regulatory permits which affect lands within or the management of the VWP shall be attached to the HMP, and reported in the Biennial DRI report. All revised HMP conditions and copies of the corresponding permits giving rise to the revisions shall be provided to the Natural Resources Management Office (NRMO) of the County within sixty (60) days of the issuance of said permit(s). To the extent a regulatory agency permit contains terms and conditions that conflict with provisions of the HMP, the terms and conditions of the regulatory permit are controlling and

the HMP shall be deemed to be amended so as to conform to the terms and conditions of the permits. NRMO may require additional modification to the HMP in connection with or as a result of the issuance of such permits so long as (i) the additional modifications do not conflict with the terms and conditions of such permits relate directly to the modified operational practices/requirements arising from the applicable permits, (ii) NRMO consults with the VSD in determining what additional modifications may be necessary, if any, and whether the proposed additional modifications comply with the goals and principles of the HMP. In the event NRMO determines that additional modifications are necessary due to the issuance of permits affecting the VWP or its management, the VSD and the Developer shall each have standing to object to such additional modifications in whole or in part. If such objections cannot be resolved through consultation with NRMO within thirty (30) days after a written request by the VSD or the Developer for a consultation, then the party or parties requesting such consultation may appeal NRMO's imposition of such additional modifications to the Board of County Commissioners following the established appeal procedures under the Brevard County Code of Ordinances (Sec. 62-506, Appeals general or Sec. 62-507, Appeal Procedure).

25. The foregoing process providing for the automatic modification of the HMP in accordance with the terms and conditions of regulatory permits as such permits are periodically issued shall not require the change, modification or amendment of this Development Order. Additionally, modifications of the HMP by the VSD in the ordinary Course of administering and managing the VWP shall not require the modification, change or amendment of this Development Order through the NOPC process or otherwise, so long as (i) such modifications are consistent with the terms and conditions of all applicable regulatory permits and the goals and objectives of the HMP, (ii) such modifications are made with prior notice to, and in consultation with NRMO.

All such modifications to the HMP from time to time made by the VSD shall be reported in the Biennial Report.

26. The isolated Conservation District located just west of I-95 is composed of 85 acres of forested wetlands and 45 acres of upland buffer containing significant specimen trees and habitat for wildlife and protected species. Developer shall locate a passive park adjacent to a portion of the upland buffer.

27. The 823-acres classified as Rural Development District (“RDD”) shall have an overall gross residential density of 1 unit per 2.5 acres. The RDDs shall include development that incorporates the principles of Conservation Subdivision Design and Low-Impact Development strategies (see Randall Arendt’s “Conservation Design for Subdivisions” as a guide) and shall preserve the rural character of the areas.

28. The southern portion of the area currently classified as Community District (located at the northernmost part of the WVEA) is a large naturally vegetated area containing forested wetlands and uplands. The wetland system supports a bald eagle nest and the uplands support a population of gopher tortoises. This area shall be developed in a manner that will protect the large wetland and associated upland buffers and the protection zone of the bald eagle nest, with the exception of incidental impacts permitted by the appropriate regulatory agencies. [**Completed**]

ENERGY

29. The Developer shall encourage the implementation of “green” building practices and standards within the WVEA which comply with the United States Green Building Council’s Leadership in Energy and Environmental Design (LEED) program, the Florida Green Building Coalition (FGBC) program, the Green Building Initiative’s Green Globes (GBIGG) program, The

U.S. DOE/EPA Energy Star (“Energy Star”) program or other nationally recognized green building program that is approved by the Department of Management Services (DMS).

As a minimum energy conservation standard, however, the CCR’s for all single-family residential development within the WVEA shall require that single-family residences constructed in a manner which does not meet requirements of the LEED, FGBC, GBIGG, Energy Star or other program approved by the DMS, shall meet or exceed the requirements for certification under the Florida Power & Light Company Residential New Construction BuildSmart Program, based on the requirements of such program in effect as of the date of this Development Order.

The Developer shall establish a program in conjunction with its community governance and sales and marketing activities to promote and encourage sustainable development and “green” building practices within the DRI. Such program by the Developer will encourage sustainable development and “green” building practices and standards through education and promotion. The Developer’s program shall include the following:

- (a) Distribution of a “green” building handbook to all homebuilders operating within the DRI,
- (b) DRI Sales Center display promoting sustainable practices and “green” building standards,
- (c) Sustainable and “green” building content as part of the Developer’s web site for the DRI, and
- (d) Cost benefit analysis information distributed to homebuilders, and prospective consumers within the DRI.

The Developer shall include a summary of its sustainability and “green” building programs in each Biennial Report.

PUBLIC FACILITIES

30. Septic Tanks shall be prohibited within the Village, Community and Interchange Districts. Septic Tanks, or other alternative on-site treatment methods as may be approved by FDEP, may be utilized within the Rural Development District and for remote facilities (such as public restrooms, golf course comfort stations, etc.). Septic tanks may also be utilized for ongoing agricultural operations, including agricultural employee housing.

HOUSING

31. The Affordable Housing Analysis prepared for the Viera DRI Substantial Deviation #2 ADA using the approved ECFRPC methodology concluded that affordable housing may be required in future phases of the Viera DRI development. The Developer will target not less than ten percent (10%) of the residential development within Phase 3 to be constructed as either for sale or rental housing product that is attainable by those persons whose incomes fall between eighty percent (80%) and one hundred forty percent (140%) of Brevard County's Average Median Income. Since this commitment exceeds current Brevard County requirements, it will satisfy the requirements for affordable housing through Phase 3. Brevard County's Land Development Code will apply to Phase 4. The Developer will establish and maintain housing data to evaluate implementation of this commitment in the Central Viera and West Viera PUDs in Phases 3 and 4 of the DRI and report same in the Biennial Reports. Notwithstanding the foregoing, the Developer shall consider, when appropriate, implementing one or more of the following programs recommended by the Brevard County Housing and Human Services Department:

- (a) Developing a minimum of 5% of the total developed housing inventory as attainable housing, consistent with the definition of affordable housing in the Brevard County Affordable Housing Ordinance.

- (b) Developing a minimum of 10% of the total developed housing inventory as attainable housing, consistent with the workforce and moderate affordable housing definitions in the Brevard County Affordable Housing Ordinance.
- (c) Proposing additional incentive based development strategies to reduce the cost of attainable housing constructed and maintained at affordable and workforce levels.
- (d) Assisting in short term and long term physical and operational improvements to transit, bicycle and pedestrian transportation systems, within the DRI, to help safely reduce daily travel costs to existing and future residents employed or attending school within the DRI.

32. Accessory Dwelling Units (“ADUs”) are permitted in the DRI, subject to the development standards of the applicable PUD zoning, and may be used as guest quarters or may be leased as dwelling units independent of the single-family dwelling unit to which it is a part if leasing ADUs is approved as part of the West Viera PUD process. ADUs less than 650 square feet within the Rural Development District will not be counted as part of the density calculation for the DRI. ADUs of 650 square feet and under will be counted towards the attainable housing target set forth in this condition and may or may not have separate utility infrastructure and metering. ADUs shall not comprise more than two percent of the total residential units approved for the DRI.

STORMWATER MANAGEMENT

33. Stormwater Management

- (a) The Developer shall ensure that the entity or entities proposed to assume responsibility for the DRI's surface water management system be created with or have defined duties and responsibilities regarding the operation and maintenance of the surface water management system, and sufficient legal authority and power to establish the mandatory collection of fees and/or assessments from all landowners and/or tenants for use in financing the operation, replacement and maintenance of all components of the Project's surface water management system. A special district created pursuant to Chapter 189 or 190, F.S., or a property owners association created pursuant to Chapter 720, F.S., meets these criteria.
- (b) Recreational lakes and stormwater improvements, including, but not limited to, ponds, control structures and underground piping shall be constructed in accordance with the Master Stormwater and Excavation Plan which shall be developed on an incremental basis subject to review and approval by Brevard County as part of the West Viera PUD. The Master Stormwater and Excavation Plan shall include mapping and supporting hydrologic/hydraulic modeling to delineate all proposed modifications to existing surface water management systems. The Developer has previously designed and substantially developed the Master Drainage System. The improvements previously constructed or to be constructed in accordance with the approved permits for the Master Drainage System shall be deemed to constitute the Master

Stormwater and Excavation Plan for the lands subject to the Master Drainage System. The improvements set out in the approved Master Stormwater and Excavation Plan may be constructed in increments, provided that each approved increment of the Master Stormwater and Excavation Plan is self-sufficient and capable of stand-alone operation. All proposed modifications to the approved Master Stormwater and Excavation Plan shall be submitted with adequate data for evaluation and approval by Brevard County.

- (c) In conjunction with the implementation of the Master Stormwater and Excavation Plan, applicable portions of the existing stormwater drainage canal system located in the DRI shall be incorporated into and become a part of the approved stormwater improvements for the DRI.

34. (RESERVED)

35. (RESERVED)

36. The Developer shall develop an integrated pesticide/herbicide management plan as a component of any golf course design process, with submittal to Brevard County and the St. Johns River Water Management District for review. The management plan shall sufficiently address the following items:

(a) Pesticide/herbicide/insecticide

- (i) storage and handling
- (ii) application
- (iii) container cleaning
- (iv) rinse water, cleaning materials, wastes, unused quantities and container disposal-methods and procedures;

(b) Golf course runoff treatment prior to discharge into off-site components of the DRI's master stormwater treatment system; and

(c) Quality control and assurance procedures.

37. The Developer and all other developers doing work within the WVEA shall comply with FDEP requirements including but not limited to NPDES requirements.

38. The Developer will integrate both source control and treatment train approaches to protecting wetlands and water quality through (1) source control measures, and (2) where hydrologically feasible and consistent with SJRWMD criteria integration of a series of ecologically enhanced stormwater basin style wetlands approved by the SJRWMD into the stormwater management plan.

SJRWMD CONDITIONS

39. RESERVED.

40. RESERVED.

41. RESERVED.

42. Funding shall be provided by the VSD consistent with its Charter to provide for long-term habitat management of the mitigation areas within the VWP.

43. A mitigation plan shall be provided that includes a management plan for the areas proposed for mitigation to offset wetland impacts. The mitigation plan shall include a methodology for retaining the areas in a permitted condition, controlling exotic and nuisance vegetation, and prescribed burning to manage for habitat value.

44. Any surface water management system to be constructed altered, operated maintained, abandoned, or removed within the mitigation area must meet the conditions of

issuance of Chapters 40C-4, 40C-40, 40C-41, and 40C-42, *Florida Administrative Code* (F.A.C.), or the terms conditions, requirements, limitations, and restrictions of Chapter 40C-400, F.A.C.

45. The requirements and details for the concurrent submittal of environmental resource permit and consumptive use permit applications shall be addressed as part of the initial Conceptual ERP application and any subsequent Master Drainage Basin ERP applications submitted concurrently to the District for review.

46. By incorporating appropriate language into the CCRs for residential property within the WVEA, the Developer shall notify any future owners and residents within the WVEA of their proximity to the District's River Lakes Conservation Area and that this area is managed with natural resource land management practices, including prescribed fire. In addition, such CCRs shall contain a provision that notifies property owners that nearby or adjacent public land and the VWP will be managed by natural resource management practices, including prescribed fire and other techniques.

47. If feasible, reclaimed water shall be utilized as a non-potable water source for irrigation, based upon availability and in consultation with Brevard County. Stormwater, surface water and other non-potable water sources shall be utilized for irrigation if use of reclaimed water is determined not to be feasible.

48. A distribution system for nonpotable water (i.e. stormwater, surface water, and reclaimed water) shall be installed and maintained throughout the Village and Interchange Districts concurrent with development for all land uses within the applicable portion of the DRI (residential and nonresidential). Irrigation systems installed in the Village and Interchange Districts shall be designed to accept non-potable water.

49. Any wells no longer in use shall be properly plugged and abandoned in accordance with District rules and regulations. Any existing, active wells may continue to be used only in accordance with the respective District-issued consumptive use permit. Existing wells being used for agricultural purposes are not currently permitted by the District for landscape irrigation, but may be converted subject to the approval of an appropriate consumptive use permit.

50. The developer shall insure that all CCR's for residential property within the WVEA provide that property owners follow best management practices cited by the University of Florida in the Institute of Food and Agricultural Sciences' A Guide to Florida-Friendly Landscaping for landscape installation, irrigation and fertilizer and pesticide applications, specifically addressing:

- (i) Landscape design that minimizes the impacts of fertilizer applications
- (ii) Preferred plant materials
- (iii) Appropriate type of fertilizer to avoid the release of excess nutrients
- (iv) Rate and frequency of fertilizer and pesticide applications
- (v) Watering schedules
- (vi) Design and maintenance of drainage control systems

51. Unless prohibited by the City of Cocoa, multifamily residential units shall use submeters for potable water; all other uses shall be individually metered except ADUs.

52. Builders within the WVEA shall be responsible for installing only water-conserving devices, fixtures, and appliances in all residential and nonresidential buildings and structures.

53. A waterwise approach shall be used throughout the landscaped areas of the WVEA, and it shall include a goal of at least 50% of landscaped vegetation excluding turf areas as drought-

tolerant or native drought-tolerant vegetation varieties. Landscaped area is defined as any pervious area within the proposed development that will be altered due to the development, exclusive of pervious area with wetlands, wetland buffers, vegetative buffers between land uses, stormwater systems, and required preservation areas. Native or drought-tolerant plants include those in the Florida Native Plant Society's list of native landscape plants for Brevard County, which is available at http://www.fnps.org/pages/plants/landscape_plants.php; A Gardner's Guide to Florida's Native Plants (Osorio 2001); the District's Waterwise Florida Landscapes, available at <http://www.sjrwmd.com/waterwiselandscapes>; the University of Florida's Florida Friendly Plant List or other comparable guides.

54. Separate irrigation zones shall be required for all land uses (residential and nonresidential) to avoid irrigation of native or drought –tolerant vegetation when irrigating the turf zone(s).

55. The Developer shall display Florida-friendly waterwise guides and *A Guide to Florida-Friendly Landscaping* in prominent locations in the project's sales offices.

WETLANDS

56. Losses of wetlands as defined by the SJRWMD and the ACOE, shall be mitigated through restoration, enhancement, creation or preservation of wetlands and uplands in accordance with adopted rules and regulations of the SJRWMD and ACOE. The mitigation criteria of the SJRWMD and ACOE, as modified from time to time and as reflected in the SJRWMD and ACOE permits to be obtained shall be used in implementing such mitigation requirements, together with any additional restrictions, conditions and limitations contained in the construction permit(s) issued by the SJRWMD thereafter. On-site wetland mitigation approved by the SJRWMD and the ACOE shall be maintained in accordance with applicable permits. The Viera Stewardship District

is an appropriate grantee under any conservation easement required to be granted under a permit issued by SJRWMD or the ACOE.

57. The on-site wetlands systems, uplands buffers, and other areas designated for conservation/preservation as identified in the SJRWMD and ACOE permits to be obtained shall be regarded as preservation areas and, to the extent located in development areas, identified as separate tracts in accordance with the requirements of SJRWMD, the ACOE and the standards for platting as applied by Brevard County. Developmental uses of these areas shall be restricted by Conservation Easements conveyed to the grantees designated under the applicable permits or otherwise approved by the permitting agency. Use of these areas shall be limited to recreational amenities as permitted by the SJRWMD, the ACOE and Brevard County. Maintenance of these areas will be as set forth in the permits authorizing their construction. Nothing in the language of the Conservation Easement shall preclude the Developer or other entity designated by the Developer from performing maintenance or management of these lands as long as these activities are consistent with the protocols set forth in the permits issued by the SJRWMD and the ACOE.

58. Within development Districts, all preservation areas, upland buffers and mitigation areas shall be platted as tracts and/or easements with development rights eliminated except as noted above. All such areas will be administered and managed by the Developer, VSD, or property owner's association established under Chapter 720, Florida Statutes, consistent with the requirements of the permits issued by the SJRWMD and the ACOE.

59. Wetlands within the Conservation District adjacent to the River Lakes Conservation Area shall include an upland buffer of an average of 300 feet and shall be placed in conservation easements consistent with permit requirements.

60. RESERVED.

WATER

61. The Developer shall include covenant deed restrictions for all residential landowners that prohibit private irrigation wells within single family lots throughout the Village and Interchange Districts within the DRI, unless approved by Brevard County.

62. Non-potable water use shall use the following sources, in order of priority, for surface irrigation of common and private areas, to include parks, commercial, institutional and residential areas, unless prohibited by the FDEP, SJRWMD, or other regulatory agency.

Treated wastewater, surface water stored on-site in surface water storage ponds, groundwater withdrawals to a common/community operated master irrigation system, private irrigation wells; or potable water may be used on residential lots if no lesser quality source is available, but shall be converted to a lesser quality source when it becomes available.

63. All water used for new landscape irrigation, whether reclaimed, surface water, groundwater or potable, will require as a condition of use that rain sensors, soil moisture sensors, or other smart irrigation technology be employed so as to manage flows and distribution of water. The methodology to be employed shall be reported in the first Biennial Report required herein.

64. At the time of initial infrastructure installation for each portion of the development, the Developer shall provide for the installation of irrigation infrastructure that is necessary to serve that portion of the DRI currently under development. The method of irrigation, and the planned infrastructure, shall be based upon the order of priority as listed in Condition 62.

65. A program that is consistent with the University of Florida's Florida Yards and Neighborhoods ("FYN") Recognition Checklist (January 2007 version) or to a comparable landscape standard determined in cooperation with PREC or another comparable, credible agency

shall be encouraged for the Village and Rural Development District. The program shall be referenced, in the appropriate CCR's.

66. The CCR's will include a requirement for ongoing education within the WVEA to include as an example (1) a requirement that all homebuyers and subsequent purchasers be given copies of the landscaping standards in an appropriate form such as an Operations and Maintenance Manual, and (2) provision for a website with current environmental education content for the WVEA.

LANDSCAPE, LAND CLEARING & TREE PROTECTION

67. In order to facilitate development consistent with the objectives, principles and standards of the community green space and cluster development, the DRI will follow alternative standards for landscape land clearing and tree protection as set forth in the PUDs for the DRI.

68. The CCR's for all Villages within the WVEA shall require that, concurrently with the issuance of a Certificate of Occupancy for each single-family detached home, such single-family home shall on such date meet either the water conservation provisions of the "Green Home Certification" requirements of the Florida Green Building Coalition or meet the following specific standards contained within the Florida Water Star certification program:

- No invasive exotic plant species on-site.
- For in-ground irrigation system, turf grass and landscaped bed areas shall be distinctly separate.
- Root balls shall be a least 2.5 feet on center from the foundation of structure.
- Plant selections shall be compatible with site-specific conditions such as sunlight, soil types and salinity.
- Plants shall be grouped with similar moisture and maintenance requirements.

- Innovative landscape water conservation techniques shall be encouraged.
- Irrigation areas less than 4 feet wide shall be irrigated with correctly designed and installed micro-irrigation.
- Sprinklers and emitters shall be located at a minimum of 2 feet from structures.
- Irrigation system shall be free from leaks.
- Head spacing shall not exceed 50% of the nozzle throw diameter.
- Application shall occur in proper spray patterns, minimizing overspray on impervious surfaces.
- A controller with rain shut-off capabilities shall be installed and functioning.
- Homeowners shall be provided with controller handbook/operating instructions.
- Irrigation shall not exceed 21 gallons (34 inches) per ft² annually and the controller shall be set in compliance with water restrictions.
- A non-potable water source shall be used for irrigation.

69. Organic mulch shall be used and applied to a depth of 2 to 4 inches, leaving a 2-inch space around base of plant.

70. To the extent feasible, conditions conducive to low maintenance landscapes with minimal need for fertilizer, pesticides and irrigation will be maintained and enhanced through landscaping standards that encourage minimizing soil compaction during construction to the minimum levels required by County regulation and, where feasible, protecting and conserving existing soils and vegetation or amending and aerating soils as needed before landscape installation.

71. To ensure homeowners are in compliance with the requirements for minimal to no added inputs of water and synthetic fertilizers and pesticides, the Developer, VSD or property

owners association formed pursuant to Chapter 720, Florida Statutes shall provide additional community education.

72. RESERVED.

73. The Developer may utilize ornamental or decorative plants that are not classified as drought tolerant, however, in all events, the landscaping of the DRI will be primarily selected from the plant material lists noted in Condition 53 herein. The Developer will develop for the WVEA, a planting palette as a part of the Design Guidelines and within the Design Guidelines specify the nature and extent of both the drought tolerant and non-drought tolerant plant materials to be used in landscaping.

74. Builders within the WVEA shall provide to the purchasers of single family homes a copy of the Florida-Friendly Landscaping program booklet titled "Fertilize Appropriately".

75. Plant listed on the most current edition of Florida Exotic Pest Plant Council's List of Invasive Plant Species are prohibited for use as a part of the landscape palette and cannot be used as a part of the landscape material to be installed.

76. RESERVED.

77. Integrated Pest Management ("IPM") may be utilized to augment other commercially-accepted pest control methods. IPM may involve the monitoring of sites for pest related problems, determining when a problem needs attention and taking appropriate action with the least amount of environmental impact. IPM will maximize the use of biological controls, organic pest control methods, insecticidal soaps, and fish oils beneficial for lowering the environmental impact of pest control. This development condition shall be implemented on an incremental basis and shall only be applicable to those portions of the WVEA submitted to a

recorded plat. Pest controls methods within the VWP shall be subject to and consistent with the approved HMP.

SCHOOLS

78. The Developer and the School Board of Brevard County have entered into the “Consolidated Mitigation and Concurrency Agreement Regarding School Facilities for the Viera Development of Regional Impact” dated September 22, 2015, to address public school facilities concurrency for 29,945 residential units in the Viera DRI (the “School Agreement”). As evidenced by the issuance of the School Capacity Availability Determination Letter (“SCADL”) dated December 7, 2015, the Developer has fully satisfied the concurrency requirements of the School Board, the Brevard County Concurrency Management System and applicable law for 29,945 residential units. Should the Developer pursue a conversion of land uses resulting in an increase of residential units and desires to obtain concurrency for any residential units in excess of 29,945, the Developer shall coordinate with the School Board and Brevard County for any necessary modification of the School Agreement and/or the SCADL.

79. RESERVED.

80. RESERVED.

81. RESERVED.

TRANSPORTATION

82. The DRI is to be developed in a transit-supportive manner as a “new town” as defined in section 163.3164 of the Florida Statutes, consisting of a compact mixed-use that is intended to lower levels of automobile use per capita and give rise to shorter trips when the automobile is used. The combined effect of compact transit-supportive development and the presence of a significant alternative mode of transportation in the form of bicycling, use of golf

carts or other low speed vehicles and walking is expected to lower Vehicle Miles Traveled (“VMT”) per capita. The development form for the remainder of the DRI clusters development in villages and protects regionally significant environmental areas. Within villages, the proposed density, street network, development and mix of uses will be supportive of future transit service.

83. RESERVED.

TRANSPORTATION IMPACT STUDY

84. Prior to the initiation of phase 4, the Developer shall conduct a Transportation Impact Study. **(completed)** This Transportation Impact Study shall ascertain the Level of Service (“LOS”) on facilities where the Viera DRI is estimated to contribute an amount of traffic greater than or equal to five percent (5%) of the adopted LOS service volume. The methodology of the Transportation Impact Study shall be agreed upon by Brevard County and the Developer. **(completed)** In the event that the Developer submits a future Transportation Impact Study, the methodology for such study shall be reviewed and approved by Brevard County and the Florida Department of Transportation. The depth of the Transportation Impact Study shall be similar to that required within an ADA (to include all phases for projected roadway adversity testing) but shall be consistent with the requirements of the Brevard County Concurrency Management Systems as it relates to facilities within that jurisdiction. Empirical data will be required to be collected for the Transportation Impact Study on facilities where it is estimated that the project contributes an amount of traffic greater than or equal to five percent (5%) of the adopted LOS maximum service volume. **(completed)** The Transportation Impact Study shall include a trip generation and internal capture study shall be performed to verify trip generation, internal capture, community capture and pass-by assumptions for the development. **(completed)** The facilities to be studied for Phase 4 shall include, but shall not be limited to, these segments of the regional

roadways listed below and one segment beyond where the Viera DRI is estimated to contribute a cumulative amount of traffic greater than or equal to five percent (5%) or more of the adopted p.m. peak hour two-way service capacity. **(completed)** The analyzed facilities will include all the intersections from the previous phase 1-3 analysis (Substantial Deviation #2), as well as the major intersections along significantly impacted roadways, and link analyses of collector and higher classified roadways and interchange ramps. **(completed)**

Candidate Roadways for Transportation
Impact Study

From Sun Tree Blvd. to Pineda Causeway
From Pineda Causeway to Post Rd.
From Post Rd. to Lake Washington Blvd.
From Lake Washington Blvd. to Aurora Rd.
From Aurora Rd. to Eau Gallie Blvd.
From Eau Gallie Blvd. to Sarno Rd.
From Sarno Rd. to Babcock St.

Roadway Link

AURORA ROAD

From Wickham Rd. to U.S. 1

SPYGLASS HILL ROAD

From Lake Andrew Dr. to Murrell Rd.

PINEHURST AVENUE

From Spyglass Hill Rd. to Wickham Rd.

INTERSTATE 95

From S.R. 528 to S.R. 524
From S.R. 524 to S.R. 520
From S.R. 520 to Fiske Blvd.
From Fiske Blvd. to Viera Blvd.
From Viera Blvd. to Wickham Rd.
From Wickham Rd. to Pineda Causeway
From Pineda Causeway to Eau Gallie Blvd.
From Eau Gallie Blvd. to U.S. 192
From U.S. 192 to Palm Bay Rd.

U.S.1

From Forrest Ave. to S.R. 520
From S.R. 520 to Barton Blvd.
From Barton Blvd. to Eyster Blvd.
From Eyster Blvd. to Gus Hipp Blvd.
From Gus Hipp Blvd. to Barnes Blvd.
From Barnes Blvd. to Viera Blvd.
From Viera Blvd. to Sun Tree Blvd.

PINEDA CAUSEWAY

From Lake Andrew Dr. to I-95
From I-95 to Wickham Rd.
From Wickham Rd. to U.S. 1
From U.S. 1 to S. Tropical Trail
From S. Tropical Trail to S.R. A1A

WICKHAM ROAD

From Lake Andrew Dr. to I-95
From I-95 to Murrell Rd.
From Murrell Rd. to N. Pinehurst Ave.
From N. Pinehurst Ave. to Suntree Blvd.
From Suntree Blvd. to St. Andrew Blvd.
From St. Andrew Blvd. to S. Pinehurst Ave.
From S. Pinehurst Ave. to Pineda Causeway
From Pineda Causeway to Post Rd.
From Post Rd. to Parkway Dr.
From Parkway Dr. to Lake Washington Blvd.
From Lake Washington Blvd. to Aurora Rd.
From Aurora Rd. to Eau Gallie Blvd.
From Eau Gallie Blvd. to Sarno Rd.
From Sarno Rd. to Nasa Blvd.

FISKE BOULEVARD

From Peachtree St. to S.R. 520

From S.R. 520 to Barton Blvd.
From Barton Blvd. to Eyster Blvd.
From Eyster Blvd. to Barnes Blvd.

LAKE ANDREW DRIVE

From I-95 to Viera Blvd.
From Viera Blvd. to Spyglass Hill Rd.
From Spyglass Hill Rd. to Wickham Rd.
From Wickham Rd. to Pineda Causeway

MURRELL ROAD

From Barton Blvd. to Eyster Blvd.
From Eyster Blvd. to Gus Hipp Blvd.
From Gus Hipp Blvd. to Barnes Blvd.
From Barnes Blvd. to Viera Blvd.
From Viera Blvd. to Spyglass Hill Rd.
From Spyglass Hill Rd. to Wickham Rd.

BARNES BOULEVARD

From Fiske Blvd. to Murrell Rd.
From Murrell Rd. to U.S. 1

POST ROAD

From Wickham Rd. to U.S. 1

LAKE WASHINGTON BOULEVARD

From Wickham Rd. to U.S. 1

SARNO ROAD

From Eau Gallie Blvd. to Wickham Rd.
From Wickham Rd. to U.S. 1

SUNTREE BOULEVARD

From Wickham Rd. to U.S. 1

VIERA BOULEVARD

From Stadium Parkway to Murrell Rd.
From Murrell Rd. to U.S. 1

S.R. 520

From S.R. 524 to I-95
From I-95 to Fiske Blvd.
From Fiske Blvd. to U.S. 1
From U.S. 1 to Tropical Tr.

S.R. A1A

One-way Pair Split to Pineda Causeway

Pineda Causeway to DeSoto Parkway

EAU GALLIE BOULEVARD

From I-95 to Wickham Rd.
From Wickham Rd. to U. S. 1
From U.S. 1 to C.R. 3

U.S. 192

From Brandywine Lon to I-95
From I-95 to Wickham Rd.
From Wickham Rd. to U.S. 1
From U.S. 1 to Riverside Dr.

Several government offices and public schools are located within the Existing DRI Area. Phases 1 and 2A absorbed the impacts of these facilities without distinguishing the difference between the impacts of these public facilities and the impacts from private development, which impacts have been cumulatively and fully mitigated. The development program for Phase 3 includes two high schools, a middle school, an elementary school and 186,140 square feet of additional government office development which include the Heidar G. Heshmati, M.D. Building (Brevard County Health Department), the Florida Department of Health – Children’s Medical Services and an expansion of the Harry T. & Harriette V. Moore Justice Center. Upon implementing the Phase 3 Transportation Mitigation Program described in Condition 92 herein, the transportation impact of the public and government office development proposed in the development program for Phase 3 shall be fully mitigated.

TRANSPORTATION MITIGATION

85. The DRI shall not commence beyond Phase 3 into Phase 4 when service levels are below the minimum service level adopted in the applicable local government’s comprehensive plan during the peak hour and the project contributes, or is projected to contribute with the next phase of traffic, five percent (5%) or more of the adopted p.m. peak hour two-way service capacity of the roadway or intersection as determined by the Transportation Impact Study required in the preceding condition, unless mitigation measures and/or improvements are secured and committed for construction during the phase in which the impacts occur. The Development Order shall be amended to incorporate the required improvements and the commensurate trip level by which the improvement is needed to support such development. **(completed)** No additional payments, contributions or improvements for transportation mitigation beyond the transportation mitigation which Developer is obligated to provide under Condition 92 herein shall be required or requested

for Phase 3 of the DRI, provided all required transportation mitigation payments have been made or secured by October 23, 2032. In the event the date for completion of Phase 3 is extended and a transportation mitigation payment for a particular improvement has not been made or secured, the amount of the proportionate share contribution for such improvement, which is identified in Condition 92 herein, shall be recalculated to determine the Developer's proportionate fair share for the improvement at the time of Developer's payment for the improvement.

86. For the purposes of this Development Order, adequate "secured and committed" transportation improvements shall include one or more of the following:

- a. A clearly identified, executed and recorded local government development agreement, consistent with Sections 163.3220 through 163.3243, F.S., that is attached as an exhibit to the development order, and which ensures, at a minimum, that all needed roadway improvements will be available concurrent with the impacts of development, consistent with Section 163.3180(2), F.S.;
- b. A binding and enforceable commitment in the development order by the local government to provide all needed roadway improvements concurrently with the development schedule approved in the development order;
- c. A local government commitment in the current year of their local government comprehensive plan Capital Improvement Element (CIE) to provide all needed roadway improvements, or a local government commitment in the current three years of their CIE to provide all needed roadway improvements when the local government has specifically adopted an in-compliance concurrency management system in their plan; or

- d. A Florida Department of Transportation commitment in the current five years of the Adopted Work Program for Florida Intrastate Highway System (FIHS) facilities or in the first three years of the Adopted Work Program for all other facilities to provide all needed roadway improvements;
- e. A binding and enforceable commitment in the development order by the developer to provide all needed roadway improvements concurrently with the development schedule approved in the development order; or
- f. Any combination of guarantees (a.) thru (f.) above that ensures that all needed roadway improvements will be provided concurrently with the development schedule approved in the development order.

[The provisions of this Condition 86 have been satisfied by the commitments set forth in Condition 92.]

87. The mitigation measures shall be completed or transportation improvements secured and committed or shall otherwise be satisfied by the provisions required under F.S. 163.3180(5)(h) prior to the end of the phase or subphase in order for the project to proceed through the balance of the applicable phase or subphase. If the Developer can demonstrate that a portion of a phase or subphase does not adversely affect the regional roadway network as determined by the monitoring and modeling tests discussed above, then the Developer may proceed with that portion of the phase or subphase (and only that portion). **[The provisions of this Condition 87 have been satisfied by the commitments set forth in Condition 92.]**

88. In the event that a roadway widening is identified which is not compatible with adopted policy of the FDOT or local government (e.g., constrained), the Developer, Brevard County, or the party having either maintenance or jurisdictional responsibility for the facility, shall

determine alternate mitigation solutions to provide for the movement of people. **[The provisions of this Condition 88 have been satisfied by the commitments set forth in Condition 92.]**

89. The biennial report shall include an assessment of the development status by providing development totals by land use, as defined by Exhibit 4, Master Development Program. In order to assure Brevard County that the projected pm peak hour external trip generation identified in the Transportation Impact Study will be maintained, within Phase 4 (as identified in the development program in Exhibit 4 of this Development Order) there shall be a minimum of 75,000 square feet of non-residential development (including office, retail and light industrial) to each 1,000 residential dwelling units. At the time of report presentation, should there be less than the minimum of the non-residential development completed, the Developer shall report any pending non-residential opportunities for construction in the upcoming reporting years and shall be permitted to proceed with development. If the Developer will not construct additional non-residential development in the upcoming reporting years to meet the minimum stated above, the Developer shall demonstrate to Brevard County that the pm peak hour external trips from the project have not exceeded those for which mitigation has been committed in this Development Order. This assessment will demonstrate to Brevard County that the compact mixed use land pattern will continue to develop in a manner consistent with the goals stated in Condition 82.

90. The Developer will complete a Level of Service analysis of the operating conditions along I-95 from the Pineda Interchange to the Fiske Boulevard interchange and document the results in the biennial report submitted during Phase 3 of development. It is expected that the classification for interstate 95 will be changed to Urban as a result of the 2010 Census. It was evaluated by the Department and determined that if the classification is changed from transitioning to Urban, I-95 within the segment identified above would operate at acceptable level of service

during Phase 3 of the development. Therefore, if I-95 is re-classified to Urban, this monitoring condition would be deemed satisfied for Phase 3 and no longer be required to be submitted in the biennial report during Phase 3. However, if I-95 is not re-classified to Urban as a result of the 2010 Census and the Developer is unable to establish that I-95 is operating at an acceptable level of service, the Developer will work with the FDOT to identify alternative mitigation options as outlined by Florida Statutes. The Developer would be required to coordinate with the FDOT to ameliorate the DRI impacts to I-95, prior to the end of Phase 3. **(This condition 90 has been satisfied by the re-classification of I-95 to urban by the FDOT)**

91. To the extent reasonably necessary to facilitate the objectives in these conditions, an agreement(s) among Brevard County, the City of Rockledge, the City of Melbourne, the FDOT and the Developer may be entered into within twelve (12) months of the issuance of a development order for this project by Brevard County. Said agreement(s) shall address and clarify such issues related to equity in the application of collected fees for transportation improvements. Application of fees shall be on a fair share basis with respect to the improvements to be provided and not solely on the basis of impact fees. However, such an agreement would not alter or waive the provisions and requirements of the other conditions of the Development Order as a mitigative measure for the transportation impacts for the Viera DRI. In the event that one of the designated parties to the agreement (other than the Developer) fails to execute said interlocal agreement(s) within the specified time, then the Developer may proceed with the project based upon the monitoring/modeling schedule and all other recommendations specified herein as it affects the non-participating party. Separate agreements may be entered into with one or more parties and the Developer. **(To facilitate the objectives in these conditions, the Viera DRI Transportation**

Proportionate Share Agreement was entered into by and between the Developer and FDOT on or about March 16, 2010 and was subsequently amended on or about October 31, 2014.)

92. The following Improvements shall be the Mitigation for Phase 3 and the Developer is authorized to commence Phase 3 provided the Developer complies with the conditions hereto. Alternative improvements may also be presented based on future study results. Developer shall be eligible for impact fee credits for all improvements as provided by state law and Brevard County Ordinance.

ROADWAY	LIMITS	IMPROVEMENT	ESTIMATED COST (IN MILLIONS)
Viera Blvd./I-95 ¹	Interchange	Construct interchange ramps	\$8.76
Viera Blvd ²	DRI boundary to US 1	Widen to 4 lanes	\$4.01
Wickham Road ³	Lake Andrew Dr. to Lake Washington Rd., including intersections	Roadway and intersection Improvements	\$16.43
Brevard County Intersection Improvements ³	Murrell/Eyster and Murrell/Barnes	Intersection Improvements	\$0.86
FDOT Intersection Improvements ⁴	1 st priority: I-95/Fiske Blvd. 2 nd priority: US1/Viera Blvd. 3 rd priority: US1/Barnes	Add NB left turn lane along Fiske Blvd Add NB left turn lane along US1 Add NB left turn lane along US1	\$2.223
Wickham Road ⁵	Murrell Road to Lake Andrew Drive	Widen to six lanes	\$9.4
Total Estimated Cost			\$41.683

DETAILED MITIGATION PROJECT REQUIREMENTS FOR ROADWAY SEGMENTS AND INTERSECTIONS DESCRIBED ABOVE:

¹Assumes Developer will provide right of way required to support interchange. If IJR is not approved, Developer will conduct an additional assessment to identify an appropriate plan to mitigate Fiske Boulevard within six months of the IJR decision. Within 30 days after conclusion of the appeal period or the conclusion of all appeals of this Development Order, but in no event earlier than July 15, 2010, Developer will pay FDOT \$500,000 for preparation of the IJR and PD&E. (Required payment has been made) Within 30 days after the later of approval of both the IJR and PD&E or July 16, 2013 Developer will pay FDOT \$870,000 for design and permitting of the Interchange. (this required payment has been made). Construction shall commence no later than 12/29/2018. Additionally, Developer shall pay \$380,000.00 for Construction Management and Inspection services and Post Design Services simultaneously with commencement of construction if funding is not included in Five-Year Work Program.

²This improvement and the Viera Blvd./I95 Interchange are alternative mitigation for cumulative Phase 3 impacts on Fiske Blvd. between the DRI boundary and Barnes Boulevard, including intersections. Construction shall begin the later of December 29, 2018 or 180 days after completion of the Viera Interchange.

³Funds for mitigation of traffic impacts paid by Developer to Brevard County are to be pipelined for improvements to Washingtonia Boulevard from the southern boundary of the DRI to Ellis Road in the amount of \$5,000,000. The funds shall be used to reimburse Brevard County for acquisition of the road right of way as well as planning and engineering design of the roadway. The funds for Washingtonia Boulevard shall be paid to Brevard County prior to October 23, 2032. In addition, Developer shall mitigate impacts to Wickham Road and Murrell Road intersections by paying Brevard County a total of \$12,290,000 to reimburse Brevard County for the cost of widening Barnes Boulevard from two lanes to four lanes from Fiske Road to Murrell Road intersection and intersection improvements. Developer shall begin reimbursing the County for these

costs on September 1, 2015, a date previously extended from September 1, 2011 by the Statutory Notices (Developer has initiated these payments). On September 1, 2015, Developer shall provide payment to reimburse to the County for all expenditures made as of that date on a pro-rated basis as described below. Developer shall also provide a letter of credit in favor of Brevard County which can be presented for payment in the State of Florida in the amount of the remaining amount of funds due from Developer to County after the payment/reimbursement for Barnes Boulevard described above for construction costs already incurred (**Completed**). Thereafter, Developer shall make monthly reimbursement payments to County based on its pro-rated share of the expenditures by the County for the Barnes Boulevard widening project each month until the project is completed. The pro-rated share of the Developer's payment shall be based on the ratio of the total payment of \$12,290,000 to the contract price for Barnes Boulevard, less the amounts paid by the County for alteration to the potable water lines (currently estimated at \$1,876,998.75) and force main and reuse lines (currently estimated at \$666,784.55) as part of the Barnes Boulevard widening project. Reimbursement funds paid to the County by Developer may be spent on any type of transportation project which could have been eligible to use 2007 Local Option Gas Tax (LOGT) bond proceeds. In the event funds other than LOGT bond proceeds are used to pay for the widening of Barnes Boulevard, the reimbursement funds shall be used for any transportation purpose for which the funds used by Brevard County to pay for the Barnes Boulevard Widening Project may have been used. The mitigation above satisfies the cumulative Phase 3 impacts to Wickham Road and the Murrell Road intersection improvements.

On March 5, 2009, Brevard County adopted an emergency ordinance imposing a 2 year moratorium on the collection of transportation impact fees, which moratorium was subsequently extended and expired on December 31, 2016. To assist the Developer in obtaining alternative and innovative means of financing for Developer's payment of \$12,290,000.00 described above, Brevard County (as the constructing authority) shall cooperate with the Developer's efforts to obtain a loan or other financial assistance from the State-funded State Infrastructure Bank ("SIB") pursuant to Section 339.55, Florida Statutes; provided, however, that (i) Brevard County shall not incur any direct cost or expense in connection with such cooperation, (ii) Brevard County shall not be a funding source to repay the SIB loan or liable in any other manner under the SIB loan, and (iii) the Developer shall remain responsible for the timely payment of all funds due hereunder notwithstanding the Developer's failure to obtain such loan. Such cooperation shall include sponsoring the Developer's SIB loan application so long as such sponsorship imposes no liability on Brevard County and providing project-related information for the SIB loan application (e.g. verification of all necessary right-of-way acquisition and consistency with local comprehensive and transportation plans, project cost estimates, project funding, construction drawings, engineering reports, and environmental impact studies).

⁴The improvements shown address the cumulative Phase 3 impacts to intersections along US1 from Dixon Blvd. to Sarno Road and Interstate 95 interchange intersections at SR 406, SR 50, SR 520, Eau Gallie Blvd., and Palm Bay Rd. This mitigation reflects the pipelining of proportionate share contributions to these intersections. Developer will pay FDOT for these intersection improvements \$323,000 by December 15, 2009 (required payment has been made), \$950,000 by June 29, 2016 (required payment has been made) and \$950,000 by December 29, 2019.

⁵Developer shall pay for design, acquisition of right of way and construction pursuant to the Joint Facilitation of Public Infrastructure Agreement between Developer and Brevard County dated September 1, 2009.

⁶Commencement and completion dates in footnotes have been extended pursuant to the various applicable Statutory Notices.

92.A. Developer has entered into a proportionate share agreement with the FDOT for local and regional significant traffic impacts pursuant to section 163.3180, Florida Statutes, to satisfy the concurrency requirements of the Brevard County comprehensive plan, the Brevard County concurrency management systems, and section 380.06, Florida Statutes. Future amendments to the agreement with FDOT shall serve as an amendment to the required mitigation plan for roadways under the FDOT's jurisdiction outlined in Condition 92 without the need for an amendment to this Development Order.

92.B. The following improvements shall be the mitigation for Phase 4 and the Developer is authorized to commence Phase 4 provided the Developer* complies with the conditions hereto. Alternative improvements may also be presented based on future study results. Developer shall be eligible for impact fee credits for all improvements, including but not limited to the improvements noted below, as provided by state law and Brevard County Ordinance. Brevard County is under no obligation to construct or oversee the construction of improvements.

IMPROVEMENT OR CONTRIBUTION	LIMITS OR DETAILS	TIMING OF CONSTRUCTION OR CONTRIBUTION	ESTIMATED COST IN MILLIONS
Spyglass Overpass	Construction of 4 lane bridge and roadway connecting Spyglass Hill Road to Napolo Drive from Lake Andrew Drive to Murrell Road.	The improvement shall be substantially complete and open for public use coincident with the completion (i.e. issuance of certificates of occupancy) of 50% of the development program identified as Phase 4 (as noted on	\$14.1

		<p>Exhibit 4 to this Development Order) based upon Equivalent Residential Units. The Developer shall diligently pursue permits, design and construction of the improvement. Brevard County shall grant reasonable extensions for events beyond the control of the Developer.</p>	
I-95 at Fiske Boulevard/Barnes Boulevard Interchange	Contribution to pay for cost of Interchange Modification Report	Within 180 days of receipt of notice by the Developer from FDOT that the process is ready to proceed.	Actual cost up to a maximum of \$1.5

*Developer shall complete or cause to be completed

93. Transit operation or alternate parallel facility improvements shall be considered prior to the commencement of future subphase. **(completed)**

94. If the study results as set forth hereinabove show that improvements must be made to roadway facilities, and if mitigation is not provided as set forth in these conditions or as otherwise required pursuant to Rule 73C-40.045), then prior to any construction of future subphases and subject to the provisions of Chapter 380.06(15)(e), Florida Statutes, the Developer, Brevard County and the entity with jurisdiction over the roadway facility may enter into an agreement which ensures that:

- (a) a proportionate share payment is made by the Developer to the appropriate entity(ies) to mitigate project impacts;
- (b) said proportionate share payment shall be used by the appropriate entity only for the design, engineering, right-of-way purchase, permitting and/or construction of improvement to the segments/intersections for which the payment is made; and
- (c) said proportionate share payment by the Developer constitutes adequate provision for the public facilities needed with respect to the road segments to accommodate the impacts of the project through the phase for which the proportionate share was calculated, as required by Chapter 380.06(15)(e)(2), Florida Statutes. All such proportionate share agreements shall be included in this Development Order by amendment pursuant to Chapter 380.06(19), Florida Statutes. The formula to be used (unless revised by statutes) to determine proportionate share contribution is as follows:

$$\frac{(\text{DRI Trips})}{\text{SV Increase}} \times \text{Cost} = \text{Proportionate Share}$$

(d) For this formula, DRI Trips is the cumulative number of trips from the development expected to reach the roadway during the peak hour from the phase under development. Service Volume (“SV”) increase is the change in peak hour maximum service volume of the roadway resulting from construction of the improvement necessary to maintain the desired level of service; and Cost of Improvement is the cost (at the time of Developer payment) of constructing an improvement necessary to maintain the desired level of service, including all improvement associated costs (engineering design, right-of-way acquisition, planning, engineering, inspection, and other associated physical development costs directly required and associated with the construction of the improvement) as determined by the governmental agency having maintenance obligations over the roadway. Proportionate share mitigation for roadway impacts may also be direct to transit service and facilities or pipelined to specific transportation improvements in accordance with applicable law.

(e) Notwithstanding any provision contained herein to the contrary, except as specifically agreed in writing, Brevard County and the entity with jurisdiction over the roadway facility shall have no financial responsibility to contribute to or participate in the funding

of the design, engineering, permitting, and/or construction of roadway improvements.

- (f) The monitoring and modeling required prior to each phase or subphase shall be used to verify impacts from previous phases and to more accurately estimate probable impacts from later phases. Any impacts from prior phase which have been mitigated in accordance with any of the methods set forth in this Development Order shall not be included in any subsequent proportionate share calculations. If it is verified that the roadway improvements mentioned above are still needed, then the DRI shall not proceed into later phases until either a proportionate share agreement payment is fully executed or the needed improvements are scheduled for construction in the applicable entities' work program within the first three (3) years from the date when impacts are estimated to be significant and adverse.
- (g) If the parties cannot reach agreement independently prior to the date when impacts are estimated to be significant and adverse, or if so desired by the parties at any time, then the issues in dispute may be submitted to the ECFRPC for either voluntary mediation pursuant to its adopted dispute resolution process or to binding arbitration pursuant to the rules and procedures of the American Arbitration Association ("AAA") unless otherwise agreed by the parties in dispute.

[The provisions of this Condition 94 (a)-(g), inclusive, have been complied with pursuant to completion of the Transportation Impact Study through buildout and the mitigation provisions of Condition 92.B.]

(h) Within areas of the WVEA designated as Village, Interchange, or Community Districts, the development plan will include multiple roadways through the DRI in order to provide adequate capacity, to provide alternative routes and to lessen the impacts to community cohesiveness.

ALTERNATIVE TRANSPORTATION STRATEGIES

95. The Developer or the Viera Transportation Management Association, Inc. (“TMA”) shall promote and encourage on-site employers to offer variable work hours and flextime schedules for their employees as one means of reducing peak hour travel demand. Acceptable methods for “promoting and encouraging” may include, but are not limited to; provisions in land sale contracts and/or Covenants, Conditions and Restrictions encouraging retail, office and institutional uses to offer variable work hour and flextime schedules to employees; participation in the TMA whose purposes include promoting and encouraging travel demand management. The Developer shall select the method or methods for compliance with this requirement prior to the sale of any land for retail, office or institutional use, and will notify the County in writing of its selection and means of implementing the selection and shall be included in Biennial Report.

96. The Developer or the TMA shall promote the use of transit, and ridesharing programs by tenants, residents and employees. Promotion of the use of such programs may be

accomplished through: the display of service schedules in prominent public gathering areas and near service stops; preferential parking for vans and cars that are part of the ridesharing program; publication of newsletters delivered to tenants, residents and employees that provides ridesharing information.

97. The Applicant shall consult with Space Coast Area Transit to provide adequate amenities that promote transit. At a minimum, the following actions are required, as agreed to by Space Coast Area Transit:

- (a) In cooperation with the TMA, the Developer shall consider the need for and, if appropriate, location of appropriate bus transfer stations in proximity to the park and ride areas within the nonresidential portion of the DRI. The locations shall be determined in coordination with the Space Coast Area Transit Authority and the county. It shall include a maximum of four (4) bus bays with covered waiting areas with seating and a bicycle rack. This will provide for a hub for the transit system and the ability to park and ride for individuals within or outside of the DRI.
- (b) The Developer shall construct transit pull off areas, including covered transit shelters with seating and bicycle parking. Locations shall be coordinated with the Space Coast Area Transit Authority and the county and any affected property owners.
- (c) Bicycle lockers or bicycle racks, transit passenger shelters and transit parking bays shall be constructed where necessary to augment and facilitate the operations of transit service to the site.

- (d) Pedestrian routes to transit shall be shaded or otherwise covered to the maximum extent feasible to protect users from the elements.

98. Developer, in cooperation with the Brevard County and Space Coast Area Transit (SCAT), shall develop a plan to maximize the viability and use of public transit services as an alternative mode of travel inside, to and from the DRI. The Developer will continue to include the following strategies:

- (a) Implementation of PUD design standards that address transit-supportive site and building design standards;
- (b) Implementation of PUD design standards that address pedestrian activity, safety, and circulation as an alternative travel mode and to support transit use;
- (c) Designation of Village Center and Town Center areas that contain densities, mix of land uses, and development patterns that are supportive of transit use;
- (d) Identification of corridor(s) that can accommodate a transit circulator system and/or future fixed transit technologies serving the Village Centers and employment areas, the Town Center and potential regional connections consistent with any programmed system by SCAT;
- (e) Exploration of feasible transit improvements for regional corridors where roadway capacity needs are projected to be eight (8) lanes or more, or exceed local or state transportation policies; and
- (f) Coordination between SCAT, Brevard County, the Developer and the TMA to develop a long-term transit plan for the DRI and surrounding

planning area as designated by Brevard County, including potential routes and ridership determination, off-site regional connections by public transportation, park and ride facilities and interfaces and an implementation and funding schedule.

99. In the interest of safety, and to promote alternative forms of transportation, the Developer shall provide the following bicycle and pedestrian systems:

- (a) The on-site bicycle systems shall be planned to be connected into any adjacent external bicycle facilities existing at the time of construction. The on-site bicycle system includes a combination of multi-use sidewalks, off-road trails, on-street bicycle lanes, paved shoulders, and low-speed neighborhood streets that support safe bicycle travel but do not have marked bicycle lanes.
- (b) For Village Center and Town Center areas, the Developer shall meet site and building design requirements that address pedestrian safety and comfort through elements such as covered walkways designed into the front of non-residential structures through applicable PUD zoning.
- (c) In all areas of the DRI, where cycling will be accomplished on both sidewalk/bikeways and streets, appropriate signage identifying bike routes shall be installed subject to approval by Brevard County.
- (d) Special consideration shall be given to bikeways connecting neighboring residential areas to employment and commercial areas.
- (e) Bicycle support facilities, such as covered parking and lockers, shall be encourage at commercial areas and work areas.

(f) Improvements to area roadways should be encourage to incorporate bicycle and pedestrian facilities that are internal to the DRI.

100. The Developer shall coordinate with Brevard County and the TMA to ensure the provision of park and ride spaces within the DRI. Currently, the Developer has constructed one (1) park and ride facility within the DRI providing 56 unassigned vehicle parking spaces, which park and ride facility shall be managed and maintained by or through the TMA. Upon buildout of the DRI, the Developer shall have provided not less than a total of three hundred (300) unassigned vehicle parking spaces within the DRI for use in connection with facilitating transit, ridesharing car and van pooling and other demand management programs to reduce automobile usage. Such unassigned parking spaces may be shared with parking for commercial land uses. The park and ride spaces shall be proximate to public transit.

FIRE, SHERIFF

101. Police, fire and EMS service will be provided by Brevard County. The Developer has built, equipped and provided to the County two fire stations within the Project and known as Station 47 and Station 48 and has received or is receiving reimbursement and impact fee credits for each pursuant to agreements with the County. The Developer shall build and equip a third fire station on a 2 acre site to be conceptually located at the time of Sketch Plan Approval for Village 2. This finalized site location shall be determined in consultation between Brevard County and the Developer. This finalized site shall be conveyed to Brevard County at completion of construction and issuance of Certificate of Occupancy. For this site dedicated as provided above, the Developer shall be entitled to Impact Fee Credits for all development served by the facilities, even if the areas served are located outside of the DRI. Credit shall be given to the extent of the fair market value of any land contributed, as determined by an MAI appraiser acceptable to the

Developer and Brevard County, and for all equipment provided or funded by the Developer. Such credits shall be reimbursed in the same manner and under substantially similar terms and conditions as set forth in the Donation and Capital Contribution Front-Ending Reimbursement Agreement dated June 9, 1999 between Developer and Brevard County for Fire Station 47. The final fire station shall be located within Village 2 at a location mutually agreeable to the County and the Developer and constructed and equipped in a manner mutually agreeable to the County and the Developer consistent with Fire Station 48. The Developer shall pay for two "mini-pumper" fire trucks up to \$200,000 each. [completed as to one] Payment for the second truck shall be made at the time of issuance of the first building permit for an alley unit in Village 2. The Developer shall be entitled to impact fee credits for the payments.

102. Upon the request of the Brevard County Sheriff's Department, the Developer shall designate one site for lease by the Brevard County Sheriff's Department within the Town Center and Village 2. The Town Center site shall be located at the time of approval of the final Site Plan for the Town Center. A second site shall be conceptually located at the time of Sketch Plan Approval for Village 2 and the finalized site shall be specifically located at the time of final Site Plan Approval for Village 2. Each site shall be available for lease, at market rates, at time of the issuance of a Certificate of Occupancy from Brevard County.

RECREATION

103. In addition to the Viera Wilderness Park, the Developer shall provide no less than 370 acres of parks within the DRI west of Interstate 95. To date, the Developer has provided 161.7 acres of parks west of Interstate 95. The Developer shall provide sites at locations mutually agreeable to the County and Developer. Impact fee credits shall be governed by applicable state law and Brevard County Ordinance.

DEVELOPMENT PHASING

104. The Developer shall adhere to the Master Development Program set forth in Exhibit 4 in four phases: “Phase 1” (1990 to October 23, 2032), “Phase 2A” (December 29, 2005 to October 23, 2032), “Phase 3” (December 29, 2010 to October 23, 2032), and “Phase 4” (December 29, 2017 to October 24, 2042). Because the traffic impacts for Phase 1 and Phase 2A development have been cumulatively assessed and cumulative mitigation provided for them through the end of Phase 3 of this Development Order, any portion of Phase 1 and Phase 2A development that has not been completed by October 23, 2032 may continue through the buildout date of Phase 3.

IV. PERIOD OF EFFECTIVENESS

This Development Order shall take effect upon transmittal by certified U. S. Mail, return receipt requested, to the East Central Florida Regional Planning Council and the Florida Department of Economic Opportunity, and shall remain in effect until its expiration on October 24, 2042. The termination date is also October 24, 2042. The effectiveness of this Development Order, including without limitation all development phases of the DRI may be extended by operation of law or by the Brevard County Board of County Commissioners in a public hearing upon a showing by the Developer that the completed portions of the DRI comply with the conditions of this Development Order and the provisions of Chapter 380.06, Florida Statutes.

V. BIENNIAL REPORTING REQUIREMENTS

In accordance with Chapter 380.06(18), Florida Statutes, the Developer, its successors or assigns, shall submit a biennial report on or before July 1, 2012 and in every other or second year thereafter during the buildout of the DRI (the “Biennial Report”). The Biennial Report shall be submitted to the County, the City of Rockledge, the ECFRPC, the DEO, the FDOT, the SJRWMD

and all other affected planning and permitting agencies formally requesting copies of the same in writing to the Developer. The contents of the Biennial Report shall comply with the relevant conditions of approval that require reporting actions within this Development Order, within Chapter 380.06(18), Florida Statutes, Rule 73C-40.025 F.A.C., as well as any and all other and further information required under applicable law. The Biennial Report shall include a statement that all persons/agencies listed above have been sent copies and the failure to timely submit the Biennial Report may subject the Developer and the DRI to the temporary suspension of this Development Order in accordance with Chapter 380.06(18), Florida Statutes.

VI. MONITORING MECHANISM

The County Manager, or another authorized Brevard County designee, shall be the local official responsible for monitoring compliance by the Developer with this Development Order. The County shall not issue any permits or approvals or provide any extension of services if the Developer fails to act in substantial compliance with this Development Order. Violations of this Development Order may be subject to correction through consent agreement penalty or suspension of this Development Order. Consent agreements shall be prepared by the County Manager or authorized Brevard County designee. Final approval or denial of the consent agreement shall be determined by the Brevard County Board of County Commissioners. Consent agreements shall be subject to review by the Florida Department of Economic Opportunity. A consent agreement may require a reasonable bond or financial security from the Developer. Consent agreements shall provide no less than an equivalent degree of protection for the lands, surface waters or ground waters of Brevard County, and shall at least meet the level of protection and/or remedy afforded by Brevard County Ordinances and the provisions of this Development Order. The ability to enter

into a consent agreement shall in no way prevent Brevard County from pursuing enforcement actions as permitted by Chapter 380, F.S.

VII. RESTRICTIONS ON DOWN-ZONING

The Viera Development of Regional Impact as described within this Development Order shall not be subject to down-zoning, unit density reduction or intensity reduction until October 24, 2042, unless extended by law or by the provisions of Paragraph IV herein, unless it is demonstrated and affirmatively found by the Brevard County Board of County Commissioners at a public hearing that substantial changes in the conditions underlying the approval of this Development Order have occurred, or that this Development Order was based on substantially inaccurate information provided by the Developer, or that the change is clearly established by Brevard County to be essential to the public health or safety.

VIII. RECORDATION

Notice of the adoption of this Development Order or any subsequent modification of this Development Order shall be recorded by the Developer in accordance with Section 28.222, Florida Statutes, with the Clerk of the Circuit Court for Brevard County, Florida, at the Developer's expense within 30 days of the effective date of this Development Order or any subsequent modification of this Development Order in compliance with Section 380.06(15)(f), Florida Statutes. The recording of this notice shall not constitute a lien, cloud or encumbrance on the DRI, or actual or constructive notice of any such lien, cloud or encumbrance. The conditions of this Development Order shall run with the Property described in Exhibits 1 and 2 and shall bind the Developer's successors and assigns.

IX. CREDITS AGAINST LOCAL IMPACT FEES

In compliance with Sections 380.06(15) and(16), Florida Statutes, and Article V of the Brevard County Code of Ordinances, Brevard County shall credit the Developer with any Developer Order exaction or fee required by this Development Order as allowed by the mechanisms set forth in the then applicable Brevard County Impact Fee Ordinance for the contribution of lands or funds for land acquisition, construction or expansion of a public facility, or a portion thereof, toward any impact fee or exaction imposed by local ordinances for the same need. This subsection does not apply to internal, onsite facilities required by local regulations or to any offsite facilities to the extent such facilities are necessary to provide safe and adequate services to the development.

Regardless of whether Brevard County in the future repeals or suspends impact fees imposed for any purpose, the Developer shall remain responsible for all mitigation requirements imposed under this Development Order, and the Developer shall receive credits for any improvements or donations for which credit would have been granted prior to the effective date of Brevard County's repealing, or suspending, action which may be utilized if Brevard County subsequently reinstates impact fees.

X. RENDITION

Within ten days of the date of adoption of this Development Order, Brevard County shall transmit a copy of this Development Order certified as complete and accurate with all pertinent attachments by certified mail, return receipt requested, to the Florida Department of Economic Opportunity the East Central Florida Regional Planning Council, and the Developer.

XI. VIERA STEWARDSHIP DISTRICT, DEVELOPMENT DISTRICTS

The Florida Legislature enacted Chapter 2006-360, Laws of Florida creating and establishing the Viera Stewardship District (the "Viera Stewardship District Act"). The lands currently encompassed within the Viera Stewardship District ("VSD") are shown on Exhibit 9 attached hereto which lands include the West Viera Expansion Area and the Viera Wilderness Park. Among the powers of the VSD are general and special powers to (i) plan, finance, provide and maintain community infrastructure and services, (ii) provide an efficient and effective method of ensuring the long-term stewardship of environmental and conservation resources within the District, including, but not limited to, implementing, administering and funding the Habitat Management Plan ("HMP"); and (iii) obtain loans, issue bond anticipation notes, issue and sell general obligation, special assessment and revenue bonds, levy benefit special assessments, maintenance special assessments and no-ad valorem maintenance taxes to finance and/or fund community infrastructure, habitat protection and management, and maintenance activities within the District. Notwithstanding the foregoing, the Developer or other property owner within the DRI may, at its option, petition to create one or more Community Development Districts pursuant to Chapter 190, Florida Statutes, encompassing portions of the DRI. The VSD or any Community Development District hereafter encompassing a portion of the DRI, or any combination thereof, may construct or fund any infrastructure or community improvement required under this Development Order. Such projects included, but are not limited to, road and transportation facilities, surface water management facilities, potable water, reclaimed water, sewer and wastewater facilities, environmental mitigation, flood control improvements, bridge facilities and structures, parks, recreational and cultural facilities, school facilities and structures, fire prevention and control improvements, mosquito control improvements, and waste collection and disposal

systems and facilities. Without limiting the foregoing, any infrastructure or other capital improvements required by this Development Order, as from time to time hereafter amended or modified, as a condition of developing the DRI or any part thereof, may be designed, permitted, funded and/or constructed by the VSD or any Community Development District encompassing a portion of the DRI; provided, however, that the Viera Wilderness Park shall be administered, managed and maintained by the VSD and such administration, management and maintenance shall be funded and/or financed by the through the VSD.

The Viera Stewardship District Act also grants the VSD the general power to contract for the services of consultants to perform professional services in connection with the administration and management of the VSD. The VSD shall retain and fund an independent professional biologist or ecologist (the “Environmental Professional”) as a member of the VSD’s staff to provide independent scientific advice and recommendations regarding scientific issues that relate to the implementation of the HMP and the achievement of the goals and objectives of the HMP within the VWP. Prior to the election of the majority of members of VSD’s Governing Board by the qualified electors residing within the District (as defined herein), the VSD shall enter into an Interlocal Agreement with Brevard County to address the Environmental Professional and other administration, management, maintenance, and funding obligations of the VSD necessary to satisfy the conditions of this Development Order pertaining to the VWP.

The VSD’s Environmental Professional shall foster a scientific approach to ecosystem restoration and wildlife habitat management by the use of sound scientific methods in order to achieve the goals and objectives set forth in the HMP; and address scientific and technical issues relating to the HMP. The VSD’s Environmental Professional’s responsibilities shall include, but not be limited to, the following:

- (a) Evaluate the HMP's scientific principles to ensure they are consistent with the best available science.
- (b) Review the scientific and technical issues associated with the implementation of the land management activities proposed in the HMP.
- (c) Review and provide advice on priorities for land management actions, including research, monitoring, and evaluation and data management.
- (d) Prepare reports (one every 2 years as part of the Biennial Report) that would be submitted to Brevard County Natural Resources Management Offices, and other interest environmental groups, regarding the Environmental Professionals' assessment of the success of the VSD as it relates to the implementation of the HMP and the management of the VWP.

The Environmental Professional shall review the VSD's policies, practices and effectiveness with respect to the VSD's management of the VWP and the achievement of the HMP's goals and objectives every 2 years as part of the Biennial Report and the findings and recommendations of such biologist or ecologist shall be set forth in a written report. Said report shall highlight whether the Goals and Objectives are being satisfactorily met. If the Goals and Objectives are not being met, the report shall identify actions necessary to meet the Goals and Objectives and contain a plan for meeting them. Such written report shall be provided to the VSD, Brevard County, the ECFRPC, regulatory agencies having jurisdiction and interested environmental groups and be included in the biennial report.

The Viera Stewardship District Act requires that three governing board members of the VSD shall be persons elected by the qualified electors residing within the district as such time as the district is populated by 60% of the project total number of qualified electors for the district. The Viera Stewardship District Act defines “projected total qualified electors” to mean and refer to the product of: (the total number of single-family and multi-family residential units approved within the district by a development order issued by Brevard County and in effect in the tenth year following creation of the VSD) X (the average number of persons residing within a household located in Brevard County based on the 2010 U.S. Census) X (the percentage of Brevard County’s general population registered to vote as reported by the Brevard County Supervisor of Elections as of the general election occurring in November 2014). Solely for purposes of the preceding calculation, this Development Order approves 18,023 residential units within the geographical boundaries of the district, consisting of both single-family and multi-family units. The preceding sentence shall not be deemed or construed in any manner to vest such residential units for development within the district or relieve the Developer of any applicable concurrency requirements with respect to such units.

XII. MODIFICATIONS TO THIS DEVELOPMENT ORDER

The Developer shall submit simultaneously to Brevard County, and to the East Central Florida Regional Planning Council, and the Florida Department of Economic Opportunity as applicable under the law, any request for approval of a proposed change to the Viera Development of Regional Impact and shall comply with Section 380.06(19), Florida Statutes, concerning substantial deviations in compliance with the law at the time of application. Submissions shall be in a format established by the Florida Department of Economic Opportunity and shall include at a minimum the precise language which is proposed for deletion or addition to this Development

ACCEPTANCE BY THE DEVELOPER:
THE VIERA COMPANY, INC. HEREBY ACCEPTS AND CONSENTS TO THE FOREGOING
DEVELOPMENT ORDER FOR THE VIERA DEVELOPMENT OF REGIONAL IMPACT.

TODD POKRYWA, PRESIDENT

DATE: _____

ACCEPTANCE BY THE CO-APPLICANT:

A. DUDA & SONS, INC., HEREBY ACCEPTS AND CONSENTS TO THE FOREGOING DEVELOPMENT ORDER FOR THE VIERA DEVELOPMENT OF REGIONAL IMPACT

TRACY DUDA CHAPMAN,
SENIOR VICE PRESIDENT, CHIEF LEGAL
AND ADMINISTRATIVE OFFICER

DATE

Exhibit 1 and 2

A parcel of land lying in Sections 28, 29, 32 and 33, Township 25 South, Range 36 East, and Sections 4, 5, 8, 9, 10, 10, 15, 16, 17, 20, 21, 22, 28 and 29, Township 26 South, Range 36 East, Brevard County, Florida, being more particularly described as follows:

Begin at the Northeast corner of Section 29, Township 25 South, Range 36 East; thence N89°37'03"E, along the North line of Section 28, Township 25 South, Range 36 East, a distance of 236.93 feet, to a point on the West right of way line of Interstate 95 (a 300.00 foot wide Limited Access Right of Way as described in Circuit Court Minute Book 53, Pages 359 through 363 of the Public Records of Brevard County, Florida) and a point of intersection with a non-tangent curve, concave Southwesterly, having a radius of 5,579.65 feet and a central angle of 26°53'09"; thence the following 3 courses along said West right of way line of Interstate 95: (1) Southeasterly, along the arc of said curve to the right, a distance of 2,618.22 feet (said arc subtended by a chord bearing S27°57'34"E, a distance of 2,594.27 feet), to a point of tangency; (2) S14°30'59"E, a distance of 18,066.03 feet; (3) S04°15'31"E, a distance of 437.30 feet, to a point on the North line of lands described in Official Records Book 2355, Pages 1570 and 1571 of the Public Records of Brevard County, Florida; thence S75°28'38"W, along the North line of said lands, a distance of 839.48 feet, to the Northwest corner of said lands; thence S14°31'21"E, along the West line of said lands, a distance of 531.92 feet, to the Southwest corner of said lands; thence N89°33'38"E, along the South line of said lands, a distance of 21.66 feet; thence N00°26'21"W, along the South line of said lands, a distance of 50.00 feet; thence N89°33'38"E, along the South line of said lands, a distance of 291.22 feet, to a point on the West right of way line of said Interstate 95; thence the following 5 courses along said West right of way line of Interstate 95: (1) S00°26'21"E, a distance of 230.00 feet; (2) N89°33'39"E, a distance of 100.00 feet; (3) S64°31'58"E, a distance of 389.10 feet; (4) S25°00'16"E, a distance of 1,441.86 feet; (5) S14°30'59"E, a distance of 4,249.29 feet, to a point 351.49 feet South of, by perpendicular measurement, the North line of said Section 22, Township 26 South, Range 36 East; thence S87°31'12"W, parallel with and 351.49 feet South of the North line of said Section 22, a distance of 2,383.56 feet, to a point on the East line of Section 21, Township 26 South, Range 36 East; thence S00°52'01"E, along the East line of said Section 21, a distance of 4,941.06 feet, to the Northeast corner of Section 28, Township 26 South, Range 36 East; thence S00°22'01"E, along the East line of said Section 28, a distance of 2,641.30 feet, to the East one-quarter corner of said Section 28; thence S89°09'50"W, along the South line of the North one-half of said Section 28, a distance of 5,316.03 feet, to the West one-quarter corner of said Section 28; thence S89°24'21"W, along the South line of the Northeast one-quarter of Section 29, Township 26 South, Range 36 East, a distance of 1,321.53 feet, to the Southwest corner of the East one-half of the Northeast one-quarter of said Section 29; thence N00°42'48"W, along the West line of the East one-half of the Northeast one-quarter of said Section 29, a distance of 2,644.74 feet, to a point on the South line of Section 20, Township 26 South, Range 36 East; thence N00°25'43"W, along the West line of the East one-quarter of said Section 20, a distance of 5,296.74 feet, to a point on the South line of Section 17, Township 26 South, Range 36 East; thence N00°35'21"E, along the West line of the East one-quarter of said Section 17, a distance of 5,204.77 feet, to a

point 67.27 feet South of, by perpendicular measurement, the South line of Section 8, Township 26 South, Range 36 East; thence S89°08'33"W, a distance of 3,998.76 feet, to a point on the West line of said Section 17; thence N00°35'19"W, along the West line of said Section 17, a distance of 75.00 feet, to the Southwest corner of said Section 8; thence N00°35'22"W, along the West line of said Section 8, a distance of 5,302.92 feet, to the Southwest corner of Section 5, Township 26 South, Range 36 East; thence N00°33'35"W, along the West line of said Section 5, a distance of 5,290.28 feet, to the Southwest corner of Section 32, Township 25 South, Range 36 East; thence N00°31'18"E, along the West line of said Section 32, a distance of 4,667.92 feet; thence N66°33'30"E, a distance of 1,990.78 feet, to the point of curvature of a curve, concave Northwesterly, having a radius of 2,988.25 feet and a central angle of 28°53'46"; thence Northeasterly, along the arc of said curve to the left, a distance of 1,507.07 feet, to a point of intersection with a non-tangent line; thence N26°25'15"W, a distance of 1,508.04 feet; thence N00°33'05"W, a distance of 470.00 feet; thence N45°39'16"W, a distance of 1,200.05 feet; thence S89°26'55"W, a distance of 150.00 feet; thence N45°51'06"W, a distance of 274.34 feet; thence N00°33'05"W, a distance of 1,456.42 feet, to a point on the North line of Section 29, Township 25 South, Range 36 East; thence N89°20'44"E, along the North line of said Section 29, a distance of 4,125.06 feet, to the POINT OF BEGINNING; Containing 6,249.54 acres, more or less.

LESS AND EXCEPT:

A portion of Section 29, Township 25 South, Range 36 East, Brevard County, Florida, being more particularly described as follows:

Commence at the Northeast corner of Section 29, Township 25 South, Range 36 East; thence S89°20'44"W, along the North line of said Section 29, a distance of 818.56 feet; thence S00°27'28"E, a distance of 60.00 feet, to the Northeast corner of that tract of land described as Parcel #1 in Official Records Book 2885, Page 0986, of the Public Records of Brevard County, Florida, and the POINT OF BEGINNING of the herein described parcel; thence continue, S00°27'28"E, along the East line of said Parcel #1, a distance of 127.53 feet, to the Southeast corner of said Parcel #1; thence S89°20'44"W, along the South line of said Parcel #1, a distance of 466.24 feet, to the Northeast corner of that tract of land described as Parcel #2 in said Official Records Book 2885, Page 0986; thence S00°27'28"E, along the East line of said Parcel #2, a distance of 50.00 feet, to the Southeast corner of said Parcel #2; thence S89°20'44"W, along the South line of said Parcel #2, a distance of 185.00 feet, to the Southwest corner of said Parcel #2; thence N00°27'28"W, along the West line of said Parcel #2, a distance of 50.00 feet, to the Northwest corner of said Parcel #2; thence N89°20'44"E, along the North line of said Parcel #2, a distance of 150.00 feet, to the Southwest corner of aforesaid Parcel #1; thence N00°27'28"W, along the West line of said Parcel #1, a distance of 50.00 feet; thence N89°20'44"E, a distance of 50.00 feet; thence N00°27'28"W, a distance of 77.53 feet, to the Northwest corner of said Parcel #1, and a point 60.00 feet South of, by perpendicular measurement, the North line of said Section 29; thence N89°20'44"E, along the North line of said Parcel #1, parallel with and 60.00 feet South of the North line of said Section 29, a distance of 451.24 feet, to the POINT OF BEGINNING; Containing 1.59 acres, more or less.

Together with:

All of Section 27 and portions of Sections 22, 28, 33, 34 and 35, Township 25 South, Range 36 East and portions of Sections 2, 3, 4, 10 and 11, Township 26 South, Range 36 East, all in Brevard County, Florida, more particularly described as follows:

Commence at the Southeast corner of said Section 10; thence $N00^{\circ}56'27''W$, along the east line of said Section 10, a distance of 50.01 feet, to a point on the North right of way line of Wickham Road (a 100.00 foot right of way) said point also being the POINT OF BEGINNING of the herein described parcel; thence $S88^{\circ}04'16''W$, along the North right of way line of said Wickham Road, a distance of 1.46 feet; thence $S86^{\circ}42'08''W$, along the North right of way line of said Wickham Road, a distance of 1791.20 feet; thence $S89^{\circ}33'39''W$, along said North right of way line of Wickham Road, a distance of 1230.64 feet, to a point on the East line of lands described in Official Records Book 876 Page 569 of the Public Records of Brevard County, Florida; thence $N14^{\circ}30'59''W$, along the East line of said lands, a distance of 767.04 feet, to the Northeast corner of lands described in Official Records Book 876 Page 569; thence $S75^{\circ}29'01''W$, along the North line of said lands, a distance of 768.60 feet, to the Easterly right of way line of Interstate 95 (a 300.00 foot Limited Access right of way) as described in Circuit Court Book 53 Pages 359-363 of said Public Records of Brevard County, Florida, thence $N25^{\circ}59'45''W$, along said Easterly right of way line, a distance of 745.37 feet; thence $N14^{\circ}30'59''W$, along said Easterly right of way line, a distance of 2308.05 feet, to a point on the Westerly extension of the North line of Tract "A" CRANE CREEK UNIT ONE according to the plat thereof as recorded in Plat Book 35 pages 98 and 99 of said Public Records; thence along the North line of said Tract "A" the following courses: $N60^{\circ}50'37''E$, a distance of 345.53 feet; thence $N37^{\circ}55'22''E$, a distance of 170.97 feet; thence $N52^{\circ}14'42''E$, a distance of 84.63 feet; thence $N75^{\circ}32'52''E$, a distance of 550.00 feet; thence $N77^{\circ}53'10''E$, a distance of 75.00 feet; thence $S84^{\circ}57'29''E$, a distance of 75.00 feet; thence $S82^{\circ}54'27''E$, a distance of 410.74 feet; thence $N07^{\circ}05'33''E$, a distance of 104.22 feet, to a point of intersection with a non-tangent curve, concave Northerly, having a radius of 813.27 feet and a central angle of $23^{\circ}09'47''$; thence Easterly, along the arc of said curve to the left, a distance of 328.78 feet, (said arc subtended by a chord which bears $N79^{\circ}40'16''E$, for 326.55 feet) to a point of tangency; thence $N68^{\circ}05'23''E$, a distance of 243.76 feet, to a point lying 30.00 feet West of, by perpendicular measurement, the West right of way line of Murrell Road (a proposed 120.00 foot right of way) as described in Official Records Book 2953 Page 2101 of said Public Records; thence Northerly and 30.00 West of, by perpendicular measurement, said West right of way line of Murrell Road the following courses: $N21^{\circ}58'12''W$, a distance of 742.63 feet, to a point of curvature with a curve, concave Easterly having a radius of 1235.92 feet and a central angle of $27^{\circ}00'44''$;

thence Northerly, along the arc of said curve to the right, a distance of 582.68 feet, (said arc subtended by a chord which bears $N08^{\circ}27'42''W$, for 577.30 feet) to a point of tangency; thence $N05^{\circ}02'40''E$, a distance of 468.35 feet; to the point of curvature of a curve, concave Westerly, having a radius of 1055.92 feet and a central angle of $26^{\circ}59'03''$; thence Northerly, along the arc of said curve to the left, a distance of 497.30 feet, to a point of tangency; thence $N21^{\circ}56'23''W$, a distance of 1400.38 feet; to the point of curvature of a curve, concave Easterly, having a radius of 1235.92 feet and a central angle of $27^{\circ}28'01''$; thence Northerly, along the arc of said curve to the right, a distance of 592.49 feet, to a point of tangency; thence $N05^{\circ}31'38''E$, a distance of 1379.39 feet; thence $N84^{\circ}28'22''W$, a distance of 600.00 feet; thence $N05^{\circ}31'38''E$, a distance of 436.54 feet; to the point of curvature of a curve, concave Westerly having a radius of 947.02 feet

and a central angle of $29^{\circ}17'27''$; thence Northerly, and Northwesterly, along the arc of said curve to the left, a distance of 484.14 feet, to a point of tangency; thence $N23^{\circ}45'49''W$, a distance of 80.18 feet; thence $S75^{\circ}26'47''W$, a distance of 2378.80 feet, to the Easterly right of way line of aforesaid Interstate 95; thence along said Easterly right of way line, $N14^{\circ}30'59''W$, a distance of 8447.89 feet, to a point on the South line of North $\frac{1}{2}$ of Section 28, Township 25 South, Range 36 East, of Brevard County, Florida; thence $N89^{\circ}33'30''E$, along said South line of the North $\frac{1}{2}$ of Section 28, a distance of 472.99 feet, to a point of intersection with a non-tangent curve, concave Easterly, having a radius of 305.96 feet and a central angle of $29^{\circ}59'46''$; thence Southerly, along the arc of said curve to the left, a distance of 160.18 feet (said arc subtended by a chord which bears $S01^{\circ}19'19''W$, a distance of 158.36 feet) to a point of tangency; thence $S13^{\circ}40'34''E$, a distance of 303.04 feet, to the point of curvature of a curve, concave Northeasterly, having a radius of 458.10 feet and a central angle of $56^{\circ}01'11''$; thence Southeasterly, along the arc of said curve to the left, a distance of 447.90 feet, to a point of tangency; thence $S69^{\circ}41'45''E$, a distance of 425.30 feet, to the point of curvature of a curve, concave Northerly, having a radius of 50.00 feet and a central angle of $63^{\circ}22'16''$; thence Easterly, along the arc of said curve to the left, a distance of 55.30 feet, to a point of tangency; thence $N46^{\circ}55'59''E$, a distance of 360.24 feet, to the point of curvature of a curve, concave Westerly, having a radius of 50.00 feet and a central angle of $65^{\circ}10'20''$; thence Northerly, along the arc of said curve to the left, a distance of 56.87 feet, to a point of tangency; thence $N18^{\circ}14'21''W$, a distance of 634.87 feet, to the point of curvature of a curve, concave Westerly, having a radius of 335.00 feet and a central angle of $03^{\circ}04'30''$; thence Northerly, along the arc of said curve to the left, a distance of 17.98 feet, to a point on the South line of the North one-half of said Section 28, and a point of intersection with a non-tangent line; thence $N89^{\circ}33'30''E$, along said South line, a distance of 372.80 feet, to a point of intersection with a non-tangent curve, concave Northerly, having a radius of 407.17 feet and a central angle of $39^{\circ}26'11''$; thence Easterly, along the arc of said curve to the left, a distance of 280.25 feet (said arc subtended by a chord which bears $S71^{\circ}26'34''E$, a distance of 274.75 feet), to a point of tangency; thence $N88^{\circ}50'21''E$, a distance of 296.03 feet; thence $N01^{\circ}09'39''W$, a distance of 85.74 feet; to a point on the South line of the North one-half of said Section 28; thence $N89^{\circ}33'30''E$, along said South line, a distance of 373.86 feet; thence $N61^{\circ}33'05''E$, a distance of 211.23 feet, to a point of intersection with a non-tangent curve, concave Northeasterly, having a radius of 75.06 feet and a central angle of $71^{\circ}38'52''$; thence Southeasterly, along the arc of said curve to the left, a distance of 93.87 feet (said arc subtended by a chord which bears $S64^{\circ}16'20''E$, a distance of 87.87 feet), to a point of tangency; thence $N79^{\circ}54'14''E$, a distance of 143.40 feet; thence $S01^{\circ}14'17''E$, a distance of 84.49 feet, to a point on the South line of the North one-half of said Section 28; thence $N89^{\circ}33'30''E$, along said South line, a distance of 406.31 feet, to the East $\frac{1}{4}$ corner of said Section 28; thence $N00^{\circ}52'33''W$, along the East line of said Section 28, a distance of 2689.25 feet, to the Northwest corner of Section 27, Township 25 South, Range 36 East, of said Brevard County, Florida; thence $N89^{\circ}44'56''E$, along the North line of said Section 27, a distance of 4533.52 feet, to a point on the West line of lands described in Official Records Book 2237, Page 2896 of said Public Records; thence $N00^{\circ}14'41''W$, along said West line of said lands, a distance of 1969.91 feet, to a point on the South right of way line of Barnes Boulevard (a 100.00 foot right of way); thence $S89^{\circ}47'34''E$, along the South right of way line of said Barnes Boulevard, a distance of 800.02 feet, to a point on the East line of lands described in said Official Records Book 2237, Page 2896; thence $S00^{\circ}14'41''E$, along the East line of said lands, a

distance of 1963.51 feet, to the Northeast corner of aforesaid Section 27; thence S00°21'25"E, along the East line of said Section 27, a distance of 2660.01 feet; thence S00° 41'06"W, along the East line of said Section 27, a distance of 2181.04 feet; thence S38°50'01"E, a distance of 1283.83 feet; thence S00°00'17"W, a distance of 1950.00 feet; thence S40°13'54"E, a distance of 170.29 feet; thence S00°00'17"W, a distance of 575.80 feet; thence S00°47'41"W, a distance of 160.33 feet; thence S00°02'33"W, a distance of 285.27 feet; thence S40°33'32"E, a distance of 322.68 feet; thence S39°45'09"W, a distance of 309.83 feet; thence S39°45'09"W, a distance of 73.64 feet; thence S01°44'51"E, a distance of 160.08 feet; thence S56°16'03"E, a distance of 396.61 feet; thence S60°35'59"E, a distance of 91.79 feet; thence S03°13'41"E, a distance of 350.57 feet; thence S40°30'27"W, a distance of 467.42 feet, to a point on the South line of Section 35, Township 25 South, Range 36 East of said Brevard County, Florida; thence S88°58'58"W, along the South line of said Section 35, a distance of 1034.88 feet, to the Northeast corner of Section 3, Township 26 South, Range 36 East of Brevard County, Florida; thence S01°18'21"W, along the East line of said Section 3, Township 26 South, Range 36 East of Brevard County, Florida; thence S01°18'21"W, along the East line of said Section 3, a distance of 1245.65 feet, to the Northeast corner of INDIAN RIVER COLONY CLUB, P.U.D., PHASE 2, UNIT 1, according to the plat thereof as recorded in Plat Book 34, Page 92 of said Public Records; thence S88°36'35" W, along the North line of said INDIAN RIVER COLONY CLUB, P.U.D., PHASE 2, UNIT 1, and the North line of INDIAN RIVER COLONY CLUB, P.U.D., PHASE 1, UNIT 2, according to the plat thereof as recorded in Plat Book 34 Page 36 of said Public Records, a distance of 2634.53 feet; thence S88°29'51"W, along the North line of said INDIAN RIVER COLONY CLUB, P.U.D., PHASE 1, UNIT 2, and the North line of INDIAN RIVER COLONY CLUB, P.U.D., PHASE 1, UNIT 1, according to the plat thereof as recorded in Plat Book 34 Pages 31 and 32 of said Public Records, and the North line of INDIAN RIVER COLONY CLUB, P.U.D., PHASE 1, UNIT 3, according to the plat thereof as recorded in Plat Book 35 Page 91 of said Public Records, a distance of 883.37 feet, to the East right of way line of aforesaid Murrell Road; thence Southerly along the East right of way of said Murrell Road the following courses: S05°31'38"W, a distance of 785.27 feet; to the point of curvature of a curve, concave Easterly, having a radius of 1085.92 feet and a central angle of 27°28'01"; thence Southerly, along the arc of said curve to the left, a distance of 520.58 feet, to a point of tangency; thence S21°56'23"E, a distance of 1400.38 feet; to the point of curvature of a curve, concave Westerly, having a radius of 1205.92 feet and a central angle of 26°59'03"; thence Southerly, along the arc of said curve to the right, a distance of 567.94 feet, to a point of tangency; thence S05°02'40"W, a distance of 468.35 feet; to the point of curvature of a curve, concave Easterly, having a radius of 1085.92 feet and a central angle of 27°00'44"; thence Southerly, along the arc of said curve to the left, a distance of 511.96 feet, to a point of tangency; thence S21°58'05"E, a distance of 592.75 feet; to the point of curvature of a curve, concave Northeasterly, having a radius of 50.00 feet and a central angle of 90°00'00"; thence along the South line of lands described in Official Records Book 2952 Page 1046, of said Public Records the following courses: Southeasterly along the arc of aforesaid curve to the left, and a distance of 78.54 feet, to a point of tangency; thence N68°01'55"E, a distance of 423.19 feet; to the point of curvature of a curve, concave Southerly, having a radius of 960.00 feet and a central angle of 19°01'19"; thence Easterly, along the arc of said curve to the right, a distance of 318.72 feet, to a point of tangency; thence N87°03'14"E, a distance of 221.13 feet; thence N02°52'32"W, along the East line of said Official Records Book 2952, Page 1046, a distance of 693.18 feet, to a point on the South line of

INDIAN RIVER COLONY CLUB, P.U.D., PHASE 2, UNIT 4, according to the plat thereof as recorded in Plat Book 35 Pages 65, 66 and 67 of said Public Records; thence N86°32'28"E, along the South line of said INDIAN RIVER COLONY CLUB, P.U.D., PHASE 2, UNIT 4, a distance of 1619.95 feet, to the Southeast corner of the aforesaid Section 3; thence N01°19'53"E, along the East line of said Section 3, and the East line of INDIAN RIVER COLONY CLUB, P.U.D., PHASE 2, UNIT 4, and the East line of INDIAN RIVER COLONY CLUB, P.U.D., PHASE 2, UNIT 2, according to the plat thereof as recorded in Plat Book 34 Pages 99 and 100, and the East line of the aforesaid INDIAN RIVER COLONY CLUB, P.U.D., PHASE 2, UNIT 1, a distance of 2506.80 feet, to a point on the North line of the West ½, of the Southwest ¼ of Section 2, Township 26 South, Range 36 East of said Brevard County, Florida; thence N87°30'13"E, along said North line, a distance of 1347.63 feet, to a point on the East line of the West ½ of the Southwest ¼ of said Section 2; thence S00°58'04"W, along said East line, a distance of 2563.79 feet, to the Southeast corner of the West ½ of the Southwest ¼ of said Section 2; thence S00°29'09"E, along the East line of the Northwest ¼ of the Northwest ¼ of Section 11, Township 26 South, Range 36 East of said Brevard County, Florida, a distance of 1335.62 feet, to a point on the South line of said Northwest ¼ of the Northwest ¼ of Section 11; thence N89°30'57"W, along said South line, a distance of 1350.86 feet, to a point on the East line of Section 10, Township 26 South, Range 36 East; thence S00°56'39"E, along the East line of said Section 10, a distance of 1322.93 feet; thence S00°56'27"E, along the East line of said Section 10, a distance of 541.54 feet, to the Northeast corner of lands described in Official Records Book 2812, Page 2063 of said Public Records; thence along the North boundary of said Official Records Book 2812 Page 2063, the following courses: S87°58'09"W, a distance of 649.89 feet; thence S00°56'33"E, a distance of 288.93 feet; thence S59°06'00"W, a distance of 245.74 feet; thence N88°22'27"W, a distance of 502.08 feet; thence S59°06'25"W, a distance of 503.21 feet; thence S00°56'41"E, a distance of 575.05 feet; thence S44°01'53"W, a distance of 158.94 feet; thence S87°56'38"W, a distance of 359.28 feet, to the East right of way line of aforesaid Murrell Road; thence S12°26'11"E, along the East right of way line of said Murrell Road, a distance of 152.27 feet, to a point on the South line of lands described in said Official Records Book 2812 Page 2063; thence N87°58'46"E, along the South line of said lands, a distance of 2241.81 feet, to a point on the East line of aforesaid Section 10; thence S00°56'27"E, along the East line of said Section 10, a distance of 600.02 feet, to the POINT OF BEGINNING.

Together with:

A portion of Section 28, Township 25 South, Range 36 East, Brevard County, Florida, lying East of Interstate 95, being more particularly described as follows:

Commence at the Northwest corner of said Section 28; thence N89°37'03"E, along the North line of the Northwest one-quarter of said Section 28, a distance of 627.16 feet, to a point on the East right of way line of Interstate 95 (a 300.00 foot wide right of way) and the POINT OF BEGINNING of the herein described parcel; thence continue, N89°37'03"E, along said North line, a distance of 2,011.74 feet, to the North ¼ corner of said Section 28; thence N89°37'23"E, along the North line of the Northeast one-quarter of said Section 28, a distance of 2,649.15 feet, to the Northeast corner of said Section 28; thence S00°52'33"E, along the East line of said Section 28; a distance of 2,689.25 feet, to the East ¼ corner of said Section 28; thence S89°33'30"W, along the South line of the North one-half of said Section 28, a distance of 406.31

feet; thence $N01^{\circ}14'17''W$, a distance of 84.49 feet; thence $S79^{\circ}54'14''W$, a distance of 143.40 feet, to the point of curvature of a curve, concave Northeasterly, having a radius of 75.06 feet and a central angle of $71^{\circ}38'52''$; thence Northwesterly, along the arc of said curve to the right, a distance of 93.87 feet, to a point of intersection with a non-tangent line; thence $S61^{\circ}33'05''W$, a distance of 211.23 feet, to a point on the South line of the North one-half of said Section 28; thence $S89^{\circ}33'30''W$, along said South line, a distance of 373.86 feet; thence $S01^{\circ}09'39''E$, a distance of 85.74 feet; thence $S88^{\circ}50'21''W$, a distance of 296.03 feet, to the point of curvature of a curve, concave Northerly, having a radius of 407.17 feet and a central angle of $39^{\circ}26'11''$; thence Westerly, along the arc of said curve to the right, a distance of 280.25 feet, to a point on the South line of the North one-half of said Section 28, and a point of intersection with a non-tangent line; thence $S89^{\circ}33'30''W$, along said South line; a distance of 372.80 feet, to a point of intersection with a non-tangent curve, concave Westerly, having a radius of 335.00 feet and a central angle of $03^{\circ}04'30''$; thence Southerly, along the arc of said curve to the right, a distance of 17.98 feet (said arc subtended by a chord which bears $S19^{\circ}46'36''E$, a distance of 17.98 feet, to a point of tangency; thence $S18^{\circ}14'21''E$, a distance of 634.87 feet, to the point of curvature of a curve, concave Westerly, having a radius of 50.00 feet and a central angle of $65^{\circ}10'20''$; thence Southerly, along the arc of said curve to the right, a distance of 56.87 feet, to a point of tangency; thence $S46^{\circ}55'59''W$, a distance of 360.24 feet, to the point of curvature of a curve, concave Northerly, having a radius of 50.00 feet and a central angle of $63^{\circ}22'16''$; thence Westerly, along the arc of said curve to the right, a distance of 55.30 feet, to a point of tangency; thence $N69^{\circ}41'45''W$, a distance of 425.30 feet, to the point of curvature of a curve, concave Northeasterly, having a radius of 458.10 feet and a central angle of $56^{\circ}01'11''$; thence Northwesterly, along the arc of said curve to the right, a distance of 447.90 feet, to a point of tangency; thence $N13^{\circ}40'34''W$, a distance of 303.04 feet, to the point of curvature of a curve, concave Easterly, having a radius of 305.96 feet and a central angle of $29^{\circ}59'46''$; thence Northerly, along the arc of said curve to the right, a distance of 160.18 feet, to a point on the South line of the North one-half of said Section 28, and a point of intersection with a non-tangent line; thence $S89^{\circ}33'30''W$, along said South line, a distance of 472.99 feet, to a point on the East right of way line of said interstate 95; thence $N14^{\circ}30'59''W$, along said East right of way line, a distance of 481.28 feet, to the point of curvature of a curve, concave Southwesterly, having a radius of 5,879.65 feet and a central angle of $24^{\circ}23'21''$; thence Northwesterly, along said East right of way line, and along the arc of said curve to the left, a distance of 2,502.80 feet, to the POINT OF BEGINNING; containing 260.84 acres, more or less.

TOGETHER WITH:

Begin at a 4" X 4" concrete monument at the Northwest corner of said Section 30, Township 25 South, Range 36 East; thence N89°21'55"E, along the North line of said Section 30, a distance of 2,545.93 feet, to an iron rod; thence S08°24'33"E, a distance of 748.62 feet, to an iron rod; thence S08°55'25"E, a distance of 405.40 feet, to an iron rod; thence S07°53'09"E, a distance of 404.42 feet, to an iron rod; thence S07°41'38"E, a distance of 556.16 feet, to an iron rod; thence S08°07'57"E, a distance of 556.72 feet, to an iron rod; thence S07°54'48"E, a distance of 556.44 feet, to an iron rod; thence S08°10'16"E, a distance of 880.33 feet, to an iron rod; thence S07°57'39"E, a distance of 482.44 feet, to an iron rod; thence S79°41'18"W, a distance of 8.69 feet, to an iron rod; thence S07°38'31"E, a distance of 396.84 feet, to an iron rod; thence S13°30'01"W, a distance of 6.84 feet, to an iron rod; thence S68°53'11"W, a distance of 456.26 feet, to an iron rod; thence S75°44'29"W, a distance of 86.29 feet, to an iron rod; thence S64°14'40"W, a distance of 129.79 feet, to an iron rod; thence S68°29'29"W, a distance of 703.75 feet, to an iron rod; thence S03°43'55"E, a distance of 774.28 feet, to an iron rod; thence S03°43'05"E, a distance of 420.39 feet, to an iron rod; thence S17°31'55"W, a distance of 31.51 feet, to an iron rod; thence S02°10'23"W, a distance of 15.32 feet, to an iron rod; thence S84°49'06"W, a distance of 1,260.85 feet, to an iron rod; thence S65°26'07"W, a distance of 553.39 feet, to an iron rod; thence S65°16'09"W, a distance of 553.65 feet, to an iron rod; thence S65°26'06"W, a distance of 552.21 feet, to an iron rod; thence S65°42'09"W, a distance of 553.14 feet, to an iron rod; thence S86°33'52"W, a distance of 560.20 feet, to an iron rod; thence S86°36'43"W, a distance of 1,119.98 feet, to an iron rod; thence N15°49'12"W, a distance of 53.08 feet, to an iron rod; thence S88°41'21"W, a distance of 144.31 feet, to an iron rod; thence S86°14'12"W, a distance of 360.22 feet, to an iron rod; thence S44°22'00"W, a distance of 2,194.87 feet, to an iron rod; thence S02°24'20"E, a distance of 99.12 feet, to an iron rod; thence S46°55'21"W, a distance of 146.56 feet, to an iron rod; thence S65°38'19"W, a distance of 194.77 feet, to an iron rod; thence S63°42'25"W, a distance of 577.43 feet, to an iron rod; thence S69°45'01"W, a distance of 412.41 feet, to an iron rod; thence N89°15'09", a distance of 79.29 feet, to an iron rod; thence S73°35'49W, a distance of 521.37 feet, to an iron rod; thence S87°25'48"W, a distance of 483.14 feet, to an iron rod; thence S87°26'32"W, a distance of 966.55 feet, to an iron rod; thence S87°21'06"W, a distance of 485.66 feet, to an iron rod; thence S62°14'38"W, a distance of 444.40 feet, to an iron rod; thence S62°17'07"W, a distance of 446.88 feet, to an iron rod; thence S62°19'23"W, a distance of 358.90 feet, to an iron rod; thence S62°27'13"W, a distance of 370.19 feet, to an iron rod; thence S77°23'47"W, a distance of 411.83 feet, to an iron rod; thence S00°53'45"W, a distance of 125.73 feet, to an iron rod; thence S00°13'05"W, a distance of 658.60 feet, to an iron rod; thence S00°02'40"E, a distance of 1,583.00 feet, to an iron rod; thence S00°01'31"E, a distance of 543.46 feet, to an iron rod; thence S06°38'41"E, a distance of 236.05 feet, to an iron rod; thence S00°05'15"W, a distance of 1,609.02 feet, to an iron rod, thence N89°56'44"E, a distance of 1,150.63 feet, to an iron rod; thence N89°41'56"E, a distance of 575.37 feet, to an iron rod; thence S89°48'28"E, a distance of 575.27 feet, to an iron rod; thence S05°17'41"E, a distance of 5,150.06 feet, to an iron rod; thence S88°28'59"W, a distance of 892.20 feet, to an iron rod; thence S89°18'35"W, a distance of 1,352.16 feet, to an iron rod; thence N88°11'42"W, a distance of 478.57 feet, to an iron rod;

thence S04°20'09"W, a distance of 165.35 feet, to an iron rod; thence S44°31'42"E, a distance of 1,884.04 feet, to an iron rod; thence S44°35'30"E, a distance of 3,917.97 feet, to an iron rod; thence S62°09'21"E, a distance of 2,317.97 feet, to an iron rod; thence S61°05'48"E, a distance of 649.92 feet, to an iron rod; thence N47°16'55", a distance of 35.75 feet, to an iron rod; thence S61°57'44"E, a distance of 923.38 feet, to an iron rod; thence S41°26'58"E, a distance of 273.10 feet, to an iron rod; thence S30°04'29"E, a distance of 310.25 feet, to an iron rod; thence S34°43'38"E, a distance of 598.07 feet, to an iron rod; thence S26°25'22"E, a distance of 301.86 feet, to an iron rod; thence S04°19'41"E, a distance of 773.92 feet, to an iron rod; thence S03°54'52"E, a distance of 1,444.29 feet, to an iron rod; thence S88°57'24"E, a distance of 504.03 feet, to an iron rod; thence S13°21'03"W, a distance of 118.12 feet, to an iron rod; thence S34°02'56"W, a distance of 1,348.21 feet, to an iron rod; thence S45°13'06"W, a distance of 1,297.85 feet, to an iron rod; thence S63°01'28"W, a distance of 72.85 feet, to an iron rod; thence S35°48'10"E, a distance of 45.45 feet, to an iron rod; thence S36°43'44"E, a distance of 81.14 feet, to an iron rod; thence S43°22'10"E, a distance of 2,416.90 feet, to an iron rod; thence S54°43'27"E, a distance of 118.25 feet, to an iron rod; thence S76°01'08"E, a distance of 114.63 feet, to an iron rod; thence S89°15'48"E, a distance of 397.01 feet, to an iron rod; thence S67°53'23"E, a distance of 92.26 feet, to a iron rod; thence S27°40'02"E, a distance of 156.14 feet, to an iron rod; thence S64°16'29"E, a distance of 37.61 feet, to an iron rod; thence S89°15'14"E, a distance of 352.87 feet, to an iron rod; thence S85°51'17"E, a distance of 307.67 feet, to an iron rod; thence N86°54'20"E, a distance of 151.74 feet, to an iron rod; thence N76°30'06"E, a distance of 261.56 feet, to an iron rod; thence N87°06'14"E, a distance of 251.77 feet, to an iron rod; thence N88°53'08"E, a distance of 158.24 feet, to an iron rod; thence N85°02'05"E, a distance of 159.48 feet, to an iron rod; thence S87°50'11"E, a distance of 174.88 feet, to an iron rod; thence S83°44'02"E, a distance of 176.43 feet, to an iron rod; thence S86°24'25"E, a distance of 258.17 feet, to an iron rod; thence S81°07'19"E, a distance of 151.23 feet, to an iron rod; thence N73°40'28"E, a distance of 247.99 feet, to an iron rod; thence N84°35'54"E, a distance of 81.80 feet, to an iron rod; thence S79°39'38"E, a distance of 98.82 feet, to an iron rod; thence S67°29'44"E, a distance of 168.94 feet, to an iron rod; thence S56°25'12"E, a distance of 206.81 feet, to an iron rod; thence S70°16'15"E, a distance of 241.47 feet, to an iron rod; thence S71°16'02"E, a distance of 271.51 feet, to an iron rod; thence S76°57'22"E, a distance of 144.38 feet, to an iron rod; thence S83°43'51"E, a distance of 362.54 feet, to an iron rod; thence S82°09'02"E, a distance of 428.93 feet, to an iron rod; thence S76°54'20"E, a distance of 74.04 feet, to an iron rod; thence S69°05'45"E, a distance of 73.41 feet, to an iron rod; thence S54°06'44"E, a distance of 97.18 feet, to an iron rod; thence S37°26'00"E, a distance of 287.82 feet, to an iron rod; thence S54°56'39"E, a distance of 72.06 feet, to an iron rod; thence S73°11'26"E, a distance of 65.07 feet, to an iron rod; thence S79°38'52"E, a distance of 374.93 feet, to an iron rod; thence S74°51'17"E, a distance of 156.56 feet, to an iron rod; thence S60°41'38"E, a distance of 171.07 feet, to an iron rod; thence S75°22'42"E, a distance of 109.56 feet, to an iron rod; thence S52°26'28"E, a distance of 84.10 feet, to an iron rod; thence S41°24'22"E, a distance of 210.47 feet, to an iron rod; thence S38°52'45"E, a distance of 174.40 feet, to an iron rod; thence S33°54'38"E, a distance of 212.94 feet, to an iron rod; thence S37°40'21"E, a distance of 119.90 feet, to an iron rod; thence S63°38'27"E, a distance of 397.23 feet, to an iron rod; thence S54°42'23"E, a distance of 137.02 feet, to an iron rod; thence S66°28'00"E, a distance of 72.13 feet, to an iron rod; thence S74°03'50"E, a distance of 526.89 feet, to an iron rod; thence S65°07'14"E, a distance of 169.50

feet, to an iron rod; thence S56°11'35"E, a distance of 261.82 feet, to an iron rod; thence S62°05'45"E, a distance of 141.63 feet, to an iron rod; thence S82°38'30"E, a distance of 227.95 feet, to an iron rod; thence S64°34'06"E, a distance of 134.09 feet, to an iron rod; thence S44°50'15"E, a distance of 117.21 feet, to an iron rod; thence S36°18'31"E, a distance of 242.72 feet, to an iron rod; thence S49°43'39"E, a distance of 178.02 feet, to an iron rod; thence S45°48'41"E, a distance of 179.26 feet, to an iron rod; thence S49°49'20"E, a distance of 214.19 feet, to an iron rod; thence S41°48'48"E, a distance of 222.20 feet, to an iron rod; thence S48°35'30"E, a distance of 200.25 feet, to an iron rod; thence S61°25'40"E, a distance of 428.09 feet, to an iron rod; thence S63°06'44"E, a distance of 644.39 feet, to an iron rod; thence S62°46'04"E, a distance of 678.14 feet, to an iron rod; thence S62°43'50"E, a distance of 652.63 feet, to an iron rod; thence S53°36'34"E, a distance of 218.94 feet, to an iron rod; thence S64°10'09"E, a distance of 726.09 feet, to an iron rod; thence S64°07'34"E, a distance of 634.55 feet, to an iron rod; thence S62°56'15"E, a distance of 752.40 feet, to an iron rod; thence S65°29'06"E, a distance of 118.42 feet, to an iron rod; thence S59°29'15"E, a distance of 116.71 feet, to an iron rod; thence S41°56'01"E, a distance of 88.47 feet, to an iron rod; thence S39°21'46"E, a distance of 287.92 feet, to an iron rod; thence S39°13'55"E, a distance of 321.23 feet, to an iron rod; thence S39°37'39"E, a distance of 318.13 feet, to an iron rod; thence S51°26'09"E, a distance of 73.03 feet, to an iron rod; thence S75°43'21"E, a distance of 132.64 feet, to an iron rod; thence S81°00'26"E, a distance of 449.69 feet, to an iron rod; thence S61°25'12"E, a distance of 181.24 feet, to an iron rod; thence S76°11'38"E, a distance of 79.34 feet, to an iron rod; thence N83°23'17"E, a distance of 57.02 feet, to an iron rod; thence N57°28'51"E, a distance of 65.75 feet, to an iron rod; thence N48°12'37"E, a distance of 218.65 feet, to an iron rod; thence S71°43'37"E, a distance of 109.38 feet, to an iron rod; thence S55°14'02"E, a distance of 91.32 feet, to an iron rod; thence S38°01'21"E, a distance of 56.46 feet, to an iron rod; thence S03°46'11"E, a distance of 62.49 feet, to an iron rod; thence S00°46'56"W, a distance of 262.22 feet, to an iron rod; thence S13°01'47"E, a distance of 243.27 feet, to an iron rod; thence S16°57'33"E, a distance of 140.72 feet, to an iron rod on the South line of the Southeast one-quarter of Section 33, Township 26 South, Range 36 East; thence N88°28'46"E along the South line of said Section 33, 1212.95 feet to Southwest Corner of Section 34, Township 26 South, Range 36 East; thence N89°06'05"E along the South line of said Section 34, 4798.14 feet; to a point on the West Right-of-Way line of Interstate 95 (Circuit Court Book 53, Pages 359-363, Public Records of Brevard County Florida), thence N00°03'59"W, along said Right-of-Way 2480.30 feet; thence N00°28'45"W, 328.41 feet, to a point on the South Boundary line of Nail Farms (Deed Book 63, Page 155, Public Records of Brevard County, Florida); thence S78°21'10"W along said South Line, 303.63 feet; thence N00°38'50"W, 554.40 feet; thence N89°21'11"E, 290.53 feet, to a point on the said West Right-of-Way line of Interstate 95 and a non-tangent intersection with a curve to the left; Thence along said Right-of-Way and the arc of said curve, (said curve being concave to the West and having a radius of 22800.32 feet; a radial bearing of S87°51'38"W, a delta angle of 12°22'37", a chord distance of 4915.73 feet; and a chord bearing of N08°19'41"W) a distance of 4925.30 feet; to the end of said curve; thence N14°30'59"W, 4457.16 feet; thence S75°29'01"W, 200.00 feet; thence N14°30'59"W, 950.00 feet; thence N75°29'01"E, 200.00 feet; thence N14°30'59"W, 2229.09 feet, to a point on the East line of the Viera Development of Regional Impact (DRI) (as described in Official Records Book 4459, Page 3677, Public Records of Brevard County, Florida); thence along said DRI Line the following 24 courses and distances:

1. S87°31'12"W, 2376.76 feet, to a point on the East line of Section 21, Township 26, Range 36 East;
2. S00°52'01"E, along said East line of Section 21, 2322.94 feet to the Southeast Corner of the Northeast Quarter of said Section 21;
3. S00°52'01"E along said East Line of Section 21, 2646.34 feet, to the Northeast Corner of Section 28, Township 26, Range 36 East;
4. S00°22'01"E along said East line of Section 28, 2641.30 feet, to the Southeast Corner of the Northeast Quarter of said Section 28;
5. S89°09'50"W, 5316.03 feet to the Southwest Corner of the Northwest Quarter of said Section 28;
6. S89°24'21"W, 1321.53 feet;
7. N00°42'48"W, 2644.74 feet to a point on the South line of Section 20, Township 26, Range 36 East;
8. N00°25'43"W, 5296.74 feet to a point on the North line of said section 20;
9. N00°35'21"E, 5204.79 feet;
10. S89°08'33"W, 3998.77 feet to a point on the West Line of Section 17, Township 26 South, Range 36 East;
11. N00°35'19"W along the West line of said Section 17, 74.98 feet to the Southwest corner of Section 8; Township 26 South, Range 36 East;
12. N00°35'22"W along the West line of said Section 8, 5302.92 feet to the Southwest Corner of Section 5, Township 26 South, Range 36 East;
13. N00°33'35"W along the West line of said Section 5, 5290.28 feet; to the Southwest corner of Section 32, Township 25 South, Range 36 East;
14. N00°31'18"E along the West line of said Section 32, 4667.92 feet;
15. N66°33'30"E, 1990.78 feet; to the beginning of a curve to the left;
16. along the arc of said curve, (said curve being curved concave to the Northwest and having a radius of 2988.25 feet; a delta angle of 28°53'46", a chord distance of 1491.15 feet; , and a chord bearing of N52°06'37"E) a distance of 1507.07 feet; to the end of said curve;
17. N26°25'15"W, 1508.04 feet;
18. N00°33'05"W, 470.00 feet;

19. N45°39'16"W, 1200.05 feet;
20. S89°26'55"W, 150.00 feet;
21. N45°51'06"W, 274.34 feet;
22. N00°33'05"W, 1456.41 feet to a point on the North line of Section 29, Township 25 South, Range 36 East;
23. S89°20'44"W along the North line of said Section 29, 1153.36 feet to the Northeast corner of Section 30, Township 25 South, Range 36 East;
24. S89°23'19"W along the North line of said Section 30 2789.62 feet to the POINT OF BEGINNING.

Subject to Easements, Restrictions, Reservations and Rights-of-way of record.

LESS AND EXCEPT those certain parcels of land described in Official Records Book 2951, Page 1574; Official Records Book 3412, Page 4823; Official Records Book 4203, Page 2463; Official Records Book 5262, Page 3838; **AND LESS AND EXCEPT** that certain parcel of land described in Civil Action Documents 96-16731-CA-F; all being recorded in the Public Records of Brevard County, Florida.

TOGETHER WITH that certain parcel described in Official Records Book 5262, Page 3836, Public Records of Brevard County, Florida

Exhibit 3 Map H - Master Development Plan

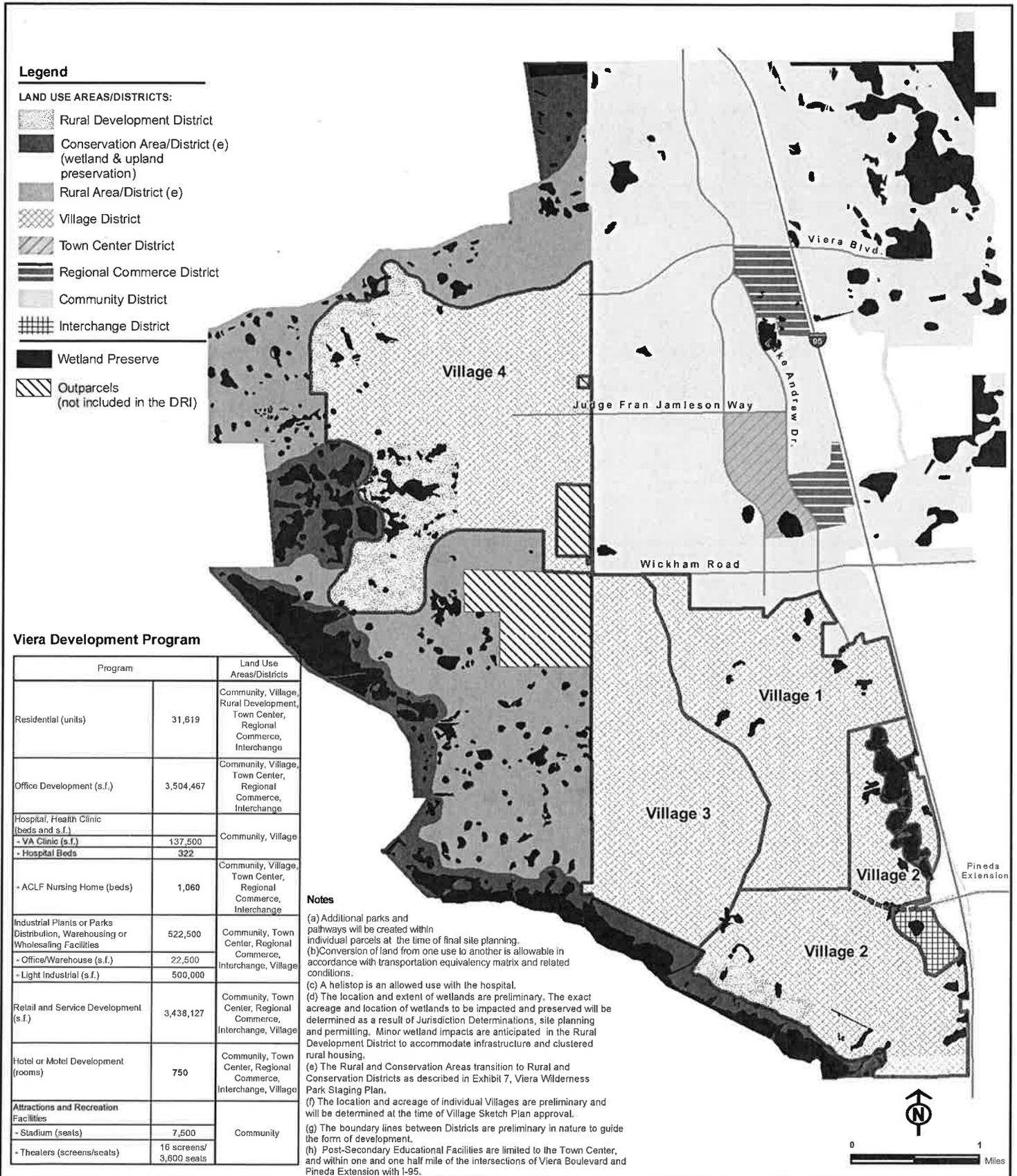


EXHIBIT 4

DRI Master Development Program

Land Use (See Notes)	Phase 1 Through October 23, 2032	Phase 2A Through October 23, 2032	Phase 3 Through October 23, 2032	Cumulative Through Phase 3	Phase 4 Through October 24, 2042	Totals
Residential (units)	6,126	3,550	4,674	14,350	17,269	31,619
Office Development (s.f.)	1,355,342	230,927	186,140	1,772,409	1,732,058	3,504,467
-General Office (s.f.)	1,355,342	230,927		1,586,269	1,732,058	3,318,327
-Government Office (s.f.)	*	*	186,140	186,140*	-----	186,140*
Hospital Health Clinic (beds and s.f.)						
-VA Clinics (s.f.)	107,500		30,000	137,500		137,500
-Hospital Beds		150	172	322		322
-ACLF Nursing Home (beds)	580	92	284	956	104	1,060
Industrial Plants or Parks Distribution, Warehousing or Wholesaling Facilities	85,518		109,500	195,018	327,482	522,500
-Office/Warehouse (s.f.)	22,500			22,500		22,500
-Light Industrial (s.f.)	63,018		109,500	172,518	107,500	500,000
Retail and Service Development (s/f/)	1,641,168	355,000	259,862	2,256,030	1,182,097	3,438,127
Hotel or Motel Development		128		128	622	750

(rooms)						
Attractions and Recreation Facilities						
-Stadium (seats)	7,500			7,500		7,500
-Theaters (screens/seats)	16 Screens/ 3,600 Seats			16 Screens/ 3,600 Seats		16 Screens/ 3,600 Seats
-Golf Course	18 Holes	18 Holes	18 Holes	54 Holes	18 Holes	72 Holes

* Government Office for Phases 1 and 2A is included in the General Office

NOTES:

1. Office use includes medical office uses. Medical offices may include physician offices, medical clinics, labs, and diagnostic centers, ambulatory facilities, surgery centers, urgent care centers, rehabilitation centers, medical equipment sales and service, hospice, home health, pharmacies, cancer centers, hospitals or other similar medical office or specialty medical services or uses.
2. Medical uses may include but are not limited to physician offices, medical clinics, labs, diagnostic centers, ambulatory facilities, surgery centers, urgent care centers, rehabilitation centers, medical equipment sales and service, pharmacies, cancer centers, hospitals, health fitness, hospice or home health care or other similar medical or health care uses, so long as (1) such similar use has a trip generation rate (based on Institute of Transportation Engineers (ITE) rates or other professionally acceptable standard rates) comparable to or less than the rate for the previously authorized use being replaced; or (2) the total average daily trips (ADTs) generated by such particular similar use are equivalent to or less than the total ADTs generated by the previously authorized use.
3. Retail service use includes fitness center/health club uses.
4. Residential use includes independent living uses.
5. Land uses such as elementary, secondary schools (public and private), churches, libraries, post offices, fire or police stations, golf courses and other public/civic uses are allowable in any development district, in addition to other designated uses shown on Map H.
6. Post-Secondary Educational Facilities, with a maximum enrollment of 4,500 full time equivalent students and 200,000 square feet, will be permitted with approval of an exchange by Brevard County pursuant to Condition 4 of the Development Order in those certain locations as noted on Map H.

EXHIBIT 5

Transportation Equivalency Matrix

From Land Use			To Land Use																
Land Use	ITE Land Use Code	Units	Residential					Hotel	Retail					Restaurant				Bank with Drive-Thru	Convenience Store with Gas
			Single Family	Multi-Family	Town-house/Condo-miniums	Adult Housing, Detached	Adult Housing, Attached		0-49 KSF	50-99 KSF	100-199 KSF	200-299 KSF	300-399 KSF	400-499 KSF	Fast Food (With Drive-Thru)	High Turnover	Quality		
Single Family	210	Dwelling Units	1.00	1.61	1.97	3.70	4.00	1.43	0.10	0.15	0.19	0.23	0.25	0.27	0.03	0.10	0.13	0.04	0.07
Multi-Family	220	Dwelling Units	0.62	1.00	1.19	2.30	2.48	0.89	0.07	0.09	0.12	0.14	0.16	0.17	0.02	0.06	0.08	0.03	0.05
Townhouse/Condominiums	230	Dwelling Units	0.52	0.84	1.00	1.93	2.08	0.74	0.05	0.08	0.10	0.12	0.13	0.14	0.02	0.05	0.07	0.02	0.04
Adult Housing, Detached	251	Dwelling Units	0.27	0.44	0.52	1.00	1.08	0.39	0.03	0.04	0.05	0.06	0.07	0.01	0.03	0.04	0.01	0.02	0.02
Adult Housing, Attached	252	Dwelling Units	0.25	0.40	0.48	0.93	1.00	0.36	0.03	0.04	0.05	0.06	0.06	0.07	0.01	0.03	0.03	0.01	0.02
Hotel	310	Rooms	0.70	1.13	1.35	2.59	2.80	1.00	0.07	0.11	0.13	0.16	0.18	0.19	0.02	0.07	0.09	0.03	0.05
Retail	820	KSF																	
0-49 KSF	820	KSF	9.53	15.37	18.33	35.30	38.12	13.61	1.00	1.44	1.82	2.15	2.41	2.61	0.28	0.97	1.27	0.39	0.71
50-99 KSF	820	KSF	6.60	10.65	12.69	24.44	26.40	5.43	0.69	1.00	1.26	1.49	1.67	1.81	0.20	0.67	0.88	0.27	0.49
100-199 KSF	820	KSF	5.25	8.47	10.10	19.44	21.00	7.50	0.55	0.80	1.00	1.18	1.33	1.44	0.16	0.53	0.70	0.22	0.39
200-299 KSF	820	KSF	4.44	7.16	8.54	16.44	17.76	6.34	0.47	0.67	0.85	1.00	1.12	1.22	0.13	0.45	0.59	0.18	0.33
300-399 KSF	820	KSF	3.96	6.39	7.62	14.67	15.84	5.66	0.42	0.60	0.75	0.89	1.00	1.08	0.12	0.40	0.53	0.16	0.25
400-499 KSF	820	KSF	3.65	5.89	7.02	13.52	14.60	5.21	0.38	0.55	0.70	0.82	0.92	1.00	0.11	0.37	0.49	0.15	0.27
Restaurant		KSF																	
Fast Food (With Drive-Thru)	934	KSF	33.65	54.27	64.71	124.65	134.60	48.07	3.53	5.10	6.41	7.58	8.50	9.22	1.00	3.42	4.49	1.38	2.49
High Turnover	932	KSF	9.85	15.89	18.94	36.48	39.40	14.07	1.03	1.49	1.88	2.22	2.49	2.70	0.29	1.00	1.32	0.41	0.73
Quality	931	KSF	7.49	12.08	14.40	27.74	29.96	10.70	0.79	1.13	1.43	1.69	1.89	2.05	0.22	0.76	1.00	0.31	0.55
Bank with Drive-Thru	912	KSF	24.30	39.19	46.73	90.00	97.20	34.71	2.55	3.68	4.63	5.47	6.14	6.66	0.72	2.47	3.24	1.00	1.80
Convenience Store with Gas	945	Fueling Positions	13.51	21.79	25.98	50.04	54.04	19.30	1.42	2.05	2.57	3.04	3.41	3.70	0.40	1.37	1.80	0.56	1.00
Multiplex Movie Theater	445	Seats	0.08	0.13	0.15	0.30	0.32	0.11	0.01	0.01	0.02	0.02	0.02	0.02	0.00	0.01	0.01	0.00	0.01
Medical Office	720	KSF	3.57	5.76	6.87	13.22	14.28	5.10	0.37	0.54	0.68	0.80	0.90	0.98	0.11	0.36	0.48	0.15	0.26
Clinic	630	KSF	5.18	8.35	9.96	19.19	20.72	7.40	0.54	0.78	0.99	1.17	1.31	1.42	0.15	0.53	0.69	0.21	0.38
Hospital	610	Beds	1.42	2.29	2.73	5.26	5.68	2.03	0.15	0.22	0.27	0.32	0.36	0.39	0.04	0.14	0.19	0.06	0.11
Assisted Living	255	Beds	0.29	0.47	0.56	1.07	1.16	0.41	0.03	0.04	0.06	0.07	0.07	0.08	0.01	0.03	0.04	0.01	0.02
Office	710	KSF																	
0-49 KSF	710	KSF	4.32	6.97	8.31	16.00	17.28	6.17	0.45	0.65	0.82	0.97	1.09	1.18	0.13	0.44	0.58	0.18	0.32
50-99 KSF	710	KSF	2.17	3.50	4.17	8.04	8.68	3.10	0.23	0.33	0.41	0.49	0.55	0.59	0.06	0.22	0.29	0.09	0.16
100-199 KSF	710	KSF	1.64	2.65	3.15	6.07	6.56	2.34	0.17	0.25	0.31	0.37	0.41	0.45	0.05	0.17	0.22	0.07	0.12
200-299 KSF	710	KSF	1.43	2.31	2.75	5.30	5.72	2.04	0.15	0.22	0.27	0.32	0.36	0.39	0.04	0.15	0.19	0.06	0.11
300-399 KSF	710	KSF	1.34	2.16	2.58	4.96	5.36	1.92	0.14	0.20	0.26	0.30	0.34	0.37	0.04	0.14	0.18	0.06	0.10
400-499 KSF	710	KSF	1.29	2.08	2.48	4.78	5.16	1.84	0.14	0.20	0.25	0.29	0.33	0.35	0.04	0.13	0.17	0.05	0.10
Light Industrial	110	KSF	0.88	1.42	1.69	3.26	3.52	1.26	0.09	0.13	0.17	0.20	0.22	0.24	0.03	0.09	0.12	0.04	0.07
Junior/Community College	540	KSF	2.54	4.10	4.80	9.41	10.18	3.63	0.27	0.38	0.48	0.57	0.64	0.70	0.08	0.28	0.34	0.10	0.19

Source:
 LTG Inc.
 ITE Trip Generation Manual, 9th Edition

EXHIBIT 5 (cont'd)

Transportation Equivalency Matrix

From Land Use	To Land Use		Office												
	FTE Land Use Code	Units	Multiplex Movie Theater	Medical Office	Clinic	Hospital	Assisted Living	0-49 KSF	50-99 KSF	100-199 KSF	200-299 KSF	300-399 KSF	400-499 KSF	Light Industrial	Junior/Community College
Single Family	210	Dwelling Units	12.50	0.28	0.19	0.70	3.45	0.23	0.46	0.61	0.70	0.75	0.78	1.14	0.39
Multi-Family	220	Dwelling Units	7.75	0.17	0.12	0.44	2.14	0.14	0.29	0.38	0.43	0.46	0.48	0.70	0.24
Townhouse/Condominiums	230	Dwelling Units	6.50	0.15	0.10	0.37	1.79	0.12	0.24	0.32	0.36	0.39	0.40	0.59	0.20
Adult Housing, Detached	251	Dwelling Units	3.38	0.08	0.05	0.19	0.93	0.06	0.12	0.16	0.19	0.20	0.21	0.31	0.11
Adult Housing, Attached	252	Dwelling Units	3.13	0.07	0.05	0.18	0.86	0.06	0.12	0.15	0.17	0.19	0.19	0.28	0.10
Hotel	310	Rooms	8.75	0.20	0.14	0.49	2.41	0.16	0.32	0.43	0.49	0.52	0.54	0.80	0.28
Retail	820	KSF													
0-49 KSF	820	KSF	119.13	2.67	1.84	6.71	32.86	2.21	4.39	5.81	6.66	7.11	7.39	10.83	3.75
50-99 KSF	820	KSF	82.50	1.85	1.27	4.65	22.76	1.53	3.04	4.02	4.62	4.93	5.12	7.50	2.60
100-199 KSF	820	KSF	65.63	1.47	1.01	3.70	18.10	1.22	2.42	3.20	3.67	3.92	4.07	5.97	2.07
200-299 KSF	820	KSF	55.50	1.24	0.86	3.13	15.31	1.03	2.05	2.71	3.10	3.31	3.44	5.05	1.75
300-399 KSF	820	KSF	49.50	1.11	0.76	2.79	13.66	0.92	1.82	2.41	2.77	2.96	3.07	4.50	1.56
400-499 KSF	820	KSF	45.63	1.02	0.70	2.57	12.59	0.84	1.68	2.23	2.55	2.72	2.83	4.15	1.44
Restaurant		KSF													
Fast Food (With Drive-Thru)	934	KSF	420.63	9.43	6.50	23.70	116.03	7.79	15.51	20.52	23.53	25.11	26.09	38.24	13.25
High Turnover	932	KSF	123.13	2.76	1.96	6.94	33.97	2.28	4.54	6.01	6.89	7.35	7.64	11.19	3.88
Quality	931	KSF	93.63	2.10	1.45	5.27	25.83	1.73	3.45	4.57	5.24	5.59	5.81	8.51	2.95
Bank with Drive-Thru	912	KSF	303.75	6.81	4.69	17.11	83.79	5.63	11.20	14.82	16.99	18.13	18.84	27.61	9.57
Convenience Store with Gas	945	Fueling Positions	168.88	3.78	2.61	9.51	46.59	3.13	6.23	8.24	9.45	10.08	10.47	15.35	5.32
Multiplex Movie Theater	445	Seats	1.00	0.02	0.02	0.06	0.28	0.02	0.04	0.05	0.06	0.06	0.06	0.09	0.03
Medical Office	720	KSF	44.63	1.00	0.69	2.51	12.31	0.83	1.65	2.18	2.50	2.66	2.77	4.06	1.41
Clinic	630	KSF	64.75	1.45	1.00	3.65	17.86	1.20	2.39	3.14	3.62	3.87	4.02	5.89	2.04
Hospital	610	Beds	17.75	0.40	0.27	1.00	4.90	0.33	0.65	0.87	0.99	1.06	1.10	1.61	0.56
Assisted Living	255	Beds	3.63	0.08	0.06	0.20	1.00	0.07	0.13	0.18	0.20	0.22	0.22	0.33	0.11
Office	710	KSF													
0-49 KSF	710	KSF	54.00	1.21	0.83	3.04	14.90	1.00	1.99	2.63	3.02	3.22	3.35	4.91	1.70
50-99 KSF	710	KSF	27.13	0.61	0.42	1.53	7.48	0.50	1.00	1.32	1.52	1.62	1.68	2.47	0.85
100-199 KSF	710	KSF	20.50	0.46	0.32	1.15	5.66	0.38	0.76	1.00	1.15	1.22	1.27	1.86	0.65
200-299 KSF	710	KSF	17.88	0.40	0.28	1.01	4.93	0.33	0.66	0.87	1.00	1.07	1.11	1.63	0.56
300-399 KSF	710	KSF	16.75	0.38	0.26	0.94	4.62	0.31	0.62	0.82	0.94	1.00	1.04	1.52	0.53
400-499 KSF	710	KSF	16.13	0.36	0.25	0.91	4.45	0.30	0.59	0.79	0.90	0.96	1.00	1.47	0.51
Light Industrial	110	KSF	11.00	0.25	0.17	0.62	3.03	0.20	0.41	0.54	0.62	0.64	0.68	1.00	0.35
Junior/Community College	540	KSF	31.75	0.71	0.49	1.79	8.76	0.59	1.17	1.55	1.76	1.90	1.97	2.89	1.00

Source:
 LTG Inc.
 ITE Trip Generation Manual, 9th Edition

Transportation Equivalency MatrixTrip Generation Rates

From Land Use			
Land Use	ITE Land Use Code	Units	PM Peak-Hour Rates
Single Family	210	Dwelling Units	1.00
Multi-Family	220	Dwelling Units	0.62
Townhouse/Condominiums	230	Dwelling Units	0.52
Adult Housing, Detached	251	Dwelling Units	0.27
Adult Housing, Attached	252	Dwelling Units	0.25
Hotel	310	Rooms	0.70
Retail	820	KSF	
0-49 KSF	820	KSF	9.53
50-99 KSF	820	KSF	6.60
100-199 KSF	820	KSF	5.25
200-299 KSF	820	KSF	4.44
300-399 KSF	820	KSF	3.96
400-499 KSF	820	KSF	3.65
Restaurant		KSF	
Fast Food (With Drive-Thru)	934	KSF	33.65
High Turnover	932	KSF	9.85
Quality	931	KSF	7.49
Bank with Drive-Thru	912	KSF	24.30
Convenience Store with Gas	945	Fueling Positions	13.51
Multiplex Movie Theater	445	Seats	0.08
Medical Office	720	KSF	3.57
Clinic	630	KSF	5.18
Hospital	610	Beds	1.42
Assisted Living	255	Beds	0.29
Office	710	KSF	
0-49 KSF	710	KSF	4.32
50-99 KSF	710	KSF	2.17
100-199 KSF	710	KSF	1.64
200-299 KSF	710	KSF	1.43
300-399 KSF	710	KSF	1.34
400-499 KSF	710	KSF	1.29
Light Industrial	110	KSF	0.88
Junior/Community College	540	KSF	2.54

Source:

LTG Inc.

ITE Trip Generation Manual, 9th Edition

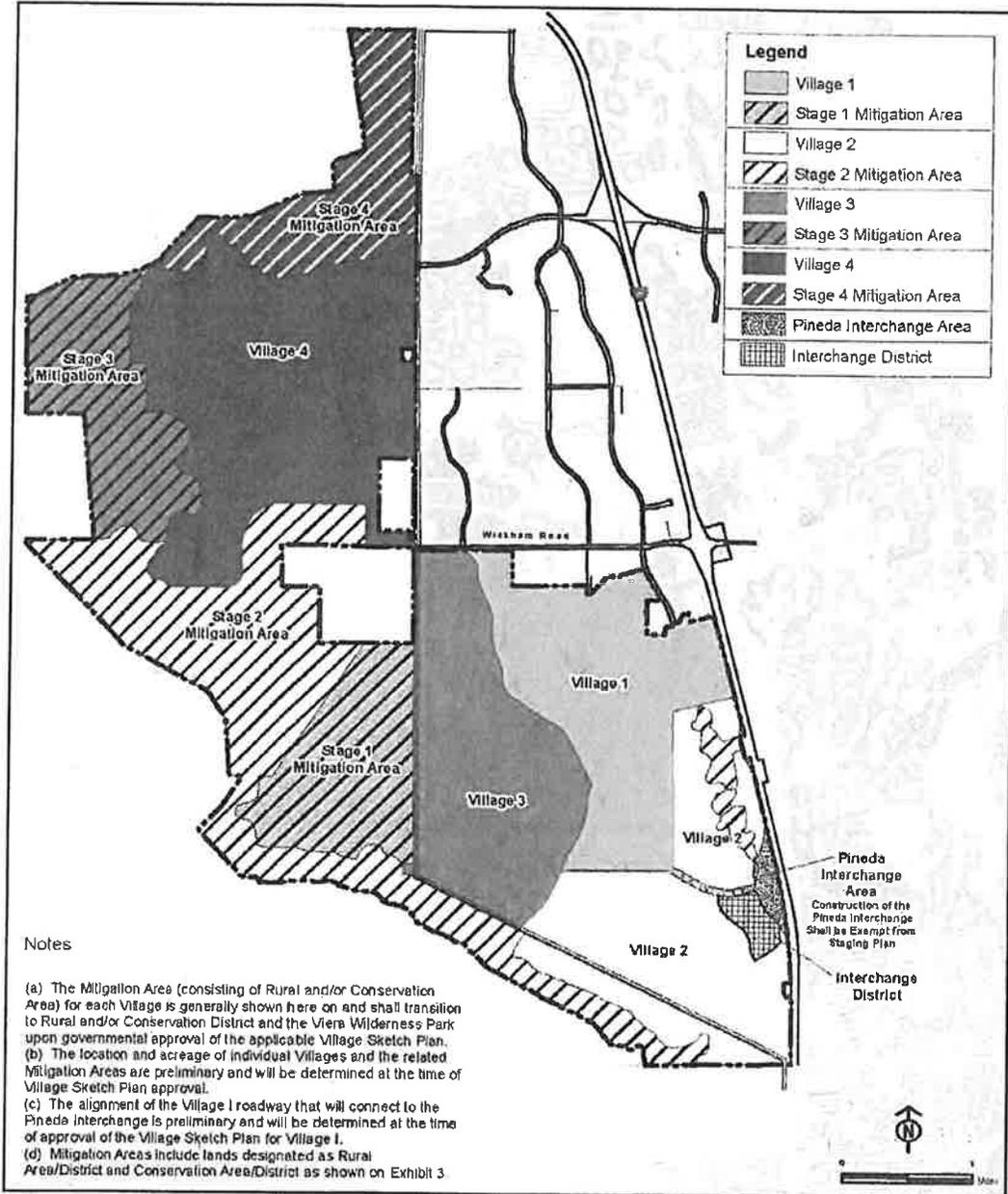
EXHIBIT 6

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EXHIBIT 7

Viera Wilderness Park Staging Plan

Exhibit 7 Viera Wilderness Park Staging Plan



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Viera - Development Order

Date: December 10, 2009

EXHIBIT 8

Viera Wilderness Park Habitat Management Plan

[Attached]

**Habitat Management Plan for
The Viera Wilderness Park
Brevard County, Florida**

Submitted to:

Brevard County
Florida Fish and Wildlife Conservation Commission
St. Johns River Water Management District
U.S. Army Corps of Engineers
U.S. Fish and Wildlife Service

On Behalf of:

The Viera Company
c/o A. Duda and Sons
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Viera, Florida 32940
Tel: (321) 242-1200
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Submitted by:

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GJ Project No. 18749
Revised December 10, 2009

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EXECUTIVE SUMMARY

This Habitat Management Plan (HMP) has been produced in accordance with the Development Order (DO) for the Viera Development of Regional Impact, Substantial Deviation No. 2(SD #2), submitted by A. Duda and Sons (ADS) and The Viera Company (Viera). The SD #2 includes the addition of the 11,567 acre, the West Viera Expansion Area (WVEA) to the Viera DRI. The WVEA occurs in central Brevard County on land owned by ADS known as the "Cocoa Ranch" and is used for cattle grazing, sod production, and other agricultural activities. Although dominated by improved pasture, the WVEA includes considerable historical natural communities such as pine flatwoods, hydric pine flatwoods, live oak and cabbage palm hammocks, and wet prairie. These natural communities, as well as the improved pasture, provide habitat for state- and federally-protected species of wildlife, including bald eagle (*Haliaeetus leucocephalus*), Florida sandhill crane (*Grus canadensis pratensis*), gopher tortoise (*Gopherus polyphemus*), burrowing owl (*Athene cunicularia*), and Audubon's crested caracara (*Caracara cheriway*), among others.

The comprehensive community design of the area within SD#2 began with environmental principles that guided the development plan in order to assure the long-term protection of natural resources. The cornerstone of the conservation strategy lies with the creation of the Viera Wilderness Park (VWP). The VWP combines preservation, and agricultural lands, that together comprises 5257.8 acres, or 44% of the proposed WVEA. The VWP will provide regionally significant conservation lands that buffer adjacent state-owned conservation lands from proposed development, protect the St. Johns River floodplain, preserve and enhance high quality upland/wetland systems, provide large open space areas for passive recreation, provide a significant amount of floodwater retention and may serve to decrease storm peaks and downstream flooding, and most importantly, provide a large contiguous protection area that can be managed for wetland resources and listed species habitat.

The intent of this HMP is to provide overarching guidance which directs the intent of land uses and habitat management practices within the VWP. The goals of the HMP are to assure that: listed species habitat is preserved, enhanced and managed such that listed species utilization within the VWP increases; and wetland resources are preserved and enhanced within the VWP. The HMP establishes long-term objectives for the implementation and management of the ecosystems within the VWP. Long-term management objectives include: 1) resource protection and conservation; 2) prescribed fire; 3) vegetation management; 4) hydrological enhancement; 5) cattle grazing and other agricultural practices; 6) monitoring; 7) operations; 8) funding; and 9) community outreach and collaboration through education. Each objective will be accomplished by specific actions, as described herein, which will become more specific with each issued permit. These goals, objectives, and actions will be administered by the Viera Stewardship District (VSD), which is an independent special district formed as a local unit of special purpose government pursuant to Chapter 189, Florida Statutes. The VSD has been granted specific powers by the Florida Legislature with respect to providing community infrastructure and ensuring long-term management of environmental and conservation resources.

The HMP is a guiding instrument for VWP conservation strategies as management is transferred from ADS to the VSD which will intensify as development within the WVEA progresses. The HMP will adapt to new science and changing environmental conditions over time and will maintain the unique ecological assets of the VWP, creating a regional conservation and recreational asset that will be protected and managed for generations to come.

1.0 INTRODUCTION

This Habitat Management Plan (HMP) has been produced and approved in accordance with the conditions set forth in the Development Order (DO) for the Viera Development of Regional Impact (DRI), Substantial Deviation No. 2 (SD#2). SD #2 includes the addition of the West Viera Expansion Area (WVEA) to the DRI. Totalling 11,567 acres, the WVEA occurs in central Brevard County between Interstate 95 and the St. Johns River on land known as the "Cocoa Ranch" used by A. Duda and Sons (ADS) for cattle grazing, sod farming, and other agricultural activities. (Figure 1)

At the beginning of the design process for the development of the WVEA, environmental principles were created to guide the development plan and assure the long-term protection of the project's natural resources. These principles are:

1. Provide long-term protection of the St. Johns River corridor, floodplain, and adjacent natural lands;
2. Protect larger, more ecologically viable, high-quality wetland/upland systems throughout the project;
3. Protect listed species through a comprehensive conservation strategy that considers habitat conditions over time;
4. Provide enhanced, protected, and long-term managed habitat and mitigation for potential wetland and listed species impacts that may occur within the development;
5. Sustain or enhance biological diversity;
6. Provide large, contiguous, open space for passive recreation and educational programming; and
7. Provide long-term management through the formation of an entity capable of assuring the protection and management of preserved lands.

These principles served as a touchstone during the Application for Development Approval (ADA) and development design process, and will continue to guide the project through its construction, the creation and management of the conservation and agricultural lands, and ultimately the implementation of the VWP.

The VWP is the conservation centerpiece of the WVEA and the embodiment of the principles above. The VWP is a combination of large-scale conservation and managed agricultural lands will be set aside and managed for listed species and wetland resources. The VWP, in sum, creates a unique regional conservation and recreational asset that will be protected and managed

for generations to come. This HMP will act as a guide for all managed lands within the Viera Wilderness Park (VWP) (Figure 2).

Habitat Management Plan Purpose

This HMP will serve as a guiding document to implement the conservation strategies of the VWP. It provides overarching guidance which directs the intent of land uses and habitat management practices within the VWP. The goals of the HMP are to assure that: habitat for listed species is preserved, enhanced and managed such that listed species utilization increases; and wetland resources are preserved and enhanced within the VWP. The resource management objectives establish targeted direction for the management actions that will be performed to achieve the goals of the HMP. Each objective will be accomplished by specific management actions, as described herein. The actions within each objective will become more specific as each Stage of the VWP is implemented and each permit is activated. The HMP will adapt to new science and changing environmental conditions over time, and it will be updated periodically. The long-term management actions and monitoring of the VWP will be overseen by an environmental professional to ensure that these goals and objectives are achieved.

Inventories were conducted throughout the WVEA for land use and vegetative communities, fauna, and flora, in association with the SD#2. These inventories will serve as benchmarks to help evaluate the effects of surrounding development, and the management objectives included in the HMP. The HMP establishes long-term objectives for management of natural ecosystems and listed species habitat (**Section 4.0, Resource Management Objectives**). Combined with surveys and long-term monitoring, this will help evaluate the temporal and spatial success of management actions. Finally, the HMP attempts to balance the restoration of historical natural communities and local hydrology, and maintain or create habitat to meet the needs of listed species.

2.0 ENVIRONMENTAL SETTING

The proposed VWP is generally located in central Brevard County between the St. Johns River and Interstate 95 (Figure 1). The VWP will be bounded to the west by the River Lakes Conservation Area (RLCA), land owned and managed by the St. Johns River Water Management District (SJRWMD) and to the east by the DRI development. Ultimately comprising 5257.8 acres, the VWP will be approximately twelve miles long and ranges from 500 feet to a mile and a half wide as depicted on Figure 2.

2.1 Topography

The VWP occurs within four United States Geological Survey (USGS) 7.5 minute quad sheets, including Lake Poinsett, Cocoa, Deer Park NE, and Eau Gallie (Figure 3). Elevations range from 25 to 12 feet NGVD (National Geodetic Vertical Datum) within VWP. A small amount of VWP in the north has elevations near 12 feet.

2.2 Hydrology

The most significant hydrological feature near VWP is the St. Johns River. The St. Johns River originates in marshes and wetlands near Fellsmere in Indian River County, meandering and flowing northward approximately forty miles before reaching the land near VWP. The St. Johns River continues west/northwest, flowing into Lake Winder approximately two miles west of VWP, then narrows and flows to the northeast into Lake Poinsett, approximately 2.5 miles northwest of VWP. Together, the lakes and the St. Johns River form a semi-circle along the southern, western, and northern portions of VWP, and create a broad peninsula that juts westward into the Eastern Valley from the Atlantic Coastal Ridge. The VWP lies in this peninsula (**Figure 4**). All of this occurs within the broader context of the Lake Poinsett Unit of the Upper St. Johns River basin.

Historically, the WVEA was likely dominated by wet and mesic flatwoods communities and a diverse mosaic of wet and dry prairie (**Figure 5**). The majority of the wetlands on the site were isolated from larger, connected wetland systems that occur to the north, west, and south along the RLCA. As water levels increased during periods of high rainfall, water would likely sheetflow slowly across the flatwoods and prairie communities, gradually receding into isolated depressions, freshwater marshes, and the floodplain.

Although many of the historical wetlands remain, their extent and function has been reduced or altered by extensive agricultural activities, such as sod farming and cattle grazing. To foster and expand these operations, ranchers gradually dug a complex drainage network of canals, ditches, and swales throughout the Cocoa Ranch over the past half-century. Many of the on-site wetlands were connected to the drainage network. As a result, many of the wetlands that were isolated historically are now connected to the canal/ditch/swale network and are hydrologically manipulated. The principal canals run east-west and are named based on their distance from the project's southern boundary, i.e. the two mile, four mile, six mile, seven mile, and eight mile canals. They all carry flow west to the St. Johns River from the WVEA, and other communities east of Interstate 95.

Another potential hydrological influence on-site is the South Central Regional Wastewater Treatment Facility, a wastewater treatment facility and constructed wetlands operated by Brevard County (**Figure 4**). The created wetlands, totaling 163 acres, consist of four peripheral cells and an internal lake. Based on a Department of Environmental Protection Domestic Wastewater Facility permit, the plant is allowed to discharge up to 2.5 MGD annual average daily flow from the created wetland. Most of this volume is held in the cells for an extended period, and allowed to percolate into the groundwater. The remaining volume is used for water reuse or discharged westward into the Four-Mile Canal (one of the area's major canals) and ultimately into the St. Johns River. The detention time through the created wetland system is approximately 53 days.

2.3 Regional Context/Public Lands

The VWP is adjacent to a long strand of publicly owned land along the St. Johns River in Brevard County (**Figure 4**). From the Three Forks Marsh Conservation Area in the south to the

Seminole Ranch Conservation Area in the north, the SJRWMD owns approximately 137,000 acres. With other publicly owned lands, a nearly complete corridor of protected and managed land stretches from the southern boundary of Brevard County to State Road 46 in the north. Adjacent to the VWP is the RLCA, a +/-44,000 acre conservation area owned by the SRJWMD that generally follows the course of the St. Johns River, wrapping around VWP's southern, western, and northern boundaries. In 1999 ADS sold +/-14,000 acres to SJRWMD to become part of the RLCA.

2.4 Ranch History

Established by A. Duda and his sons in the 1940's, the Cocoa Ranch was initially 38,000 acres of pasture and woodland habitats used for cattle grazing. With the construction of I-95 and the subsequent influx of people into central Florida in the early 1970s, the Cocoa Ranch began turf grass sod operations to provide landscaping cover for the many new homes, shopping centers, and other developments.

The constant growth in central Florida increased property values of the Cocoa Ranch, and in the mid-1980's a master plan was developed for the property so that growth could be planned. The first phase of development was Viera East, a 3,000-acre DRI approved in 1990. Today the Cocoa Ranch is still in operation, continuing its tradition of sod farming and cattle grazing.

The ongoing agricultural operations of ADS have created exceptional habitat conditions and food sources for a variety of listed species, as described below. ADS created, and the USFWS approved, the **Cocoa Ranch Caracara Procedure (Appendix C)** that establishes management practices to protect caracara on the Cocoa Ranch.

2.5 Soils

According to the U.S. Department of Agriculture (USDA) Soil Conservation Service Soil Survey of Brevard County (1974), the following twenty-four (24) soils occur on the project site (**Figure 6**):

- Anclote sand (2)
- Basinger sand (7)
- Chobee sandy loam (13)
- Copeland complex (16)
- EauGallie sand (17)
- Rivera sand (19)
- Floridana sand depressionnal (22)
- Floridana sand (23)
- Immokalee sand (28)
- Malabar sand high (29)
- Malabar sand (30)
- Malabar (31)
- Micco peat (33)

- Myakka sand (36)
- Oldsmar sand (40)
- Pineda sand (47)
- Pomello sand (49)
- Pompano sand (51)
- Samsula muck, depressional (62)
- Tomoka muck (67)
- Valkaria sand (70)
- Wabasso sand (71)
- Winder loamy sand (73)
- Water (99)

The most extensive soil type is Felda Sand. It occurs primarily in association with improved pasture throughout VWP. Other predominant soil types include Winder loamy sand, Wabasso sand, Valkaria sand, Tomoka muck, and Samsula muck, depressional. All of the soil types are nearly level. Most of the soil types have a water table within ten (10) inches of the soil surface several months of the year. A brief description of each soil type occurring within VWP according to the USDA soil surveys of Brevard County and the Hydric Soils of Florida Handbook (1974) are included in **Table 1**.

2.6 Natural Communities

The vegetative communities within the VWP were characterized using Florida Land Use, Cover, and Forms Classification System (FLUCFCS) (FDOT 1999) designations. **Figures 7A** and **7B** depict the extent and type of these vegetation types. Existing land use and vegetative community types in VWP and acreages are listed below. Detailed descriptions are provided in **Appendix A**.

Natural Community Types/Acreage

Community Type	Number	Acreage
Residential - Low Density	110	15.9
Improved Pasture	211	1824.9
Sod Farm	242	274.3
Other Open Land	260	2.1
Palmetto Prairie	321	45.1
Pine Flatwoods	411	1232.1
Live Oak Hammock	427	102.7
Cabbage Palm Hammock	428	213.2
Hardwood-Conifer Mixed	434	222.2
Mixed Hardwoods	438	5.1
Canals and Ditches	511	91.1
Reservoirs, less than 10 acres	534	1.7
Mixed Wetland Hardwoods	617	4.9
Willow and Elderberry Wetland	618	12.2

Exotic Wetland Hardwoods	619	31.4
Hydric Pine Flatwoods	625	552.7
Hydric Pine Savannah	626	15.2
Wetland Forested Mixed	630	72.7
Cabbage Palm Wetland	632	47.0
Cabbage Palm-Hardwood Mixed	633	47.0
Freshwater Marsh	641	84.9
Wet Prairie	643	241.5
Hydric Pasture	647	47.1
Roads	814	67.7
Electric Power Transmission Lines	832	3.7
Total		5257.8

3.0 LISTED SPECIES

3.1 Listed Animals

Much of the VWP has been identified by FFWCC as a “Biodiversity Hotspot,” an area having a high degree of overlap for rare or declining species of wildlife and natural communities (**Figure 8**). The WVEA and the VWP have been extensively evaluated for the occurrence or potential occurrence of threatened and endangered (T&E) wildlife and plant species from fall 2004 to spring 2009, including extensive vehicular or pedestrian surveys through all habitat types in the project during all seasons of the year. **Table 2** includes a list of T&E species and Species of Special Concern (SSC) that potentially occur in Brevard County, typical habitats occupied by each species, and the probability of occurrence of each species within the WVEA. Survey methodologies for the following specific species were based primarily on methodologies sanctioned by the Florida Fish and Wildlife Conservation Commission and the U.S. Fish and Wildlife Service. These methodologies were reviewed by the appropriate regulatory agencies, resulting in surveys and data collection for the following listed species:

- Audubon’s crested caracara,
- Bald eagle,
- Burrowing owl,
- Florida sandhill crane,
- Gopher tortoise, and
- Southeastern American kestrel (*Falco sparverius paulus*) (not observed).

Observations of the following listed wildlife species were recorded during the species-specific surveys and many site evaluations for other purposes including land use mapping, wetland flagging and functional assessments, agency inspections, and other field work:

- American alligator (*Alligator mississippiensis*),

- limpkin (*Aramus guarauna*),
- little blue heron (*Egretta caerulea*),
- roseate spoonbill (*Platalea ajaja*),
- snowy egret (*E. thula*),
- tricolored heron (*E. tricolor*),
- white ibis (*Eudocimus albus*), and
- Wood stork (*Mycteria americana*).

Results of these surveys were included in the SD#2 ADA, subsequent Sufficiency Responses, and correspondence associated with finalizing SD#2. The location of the nests and burrows of the listed species that have been observed within the VWP are depicted in **Figure 9**. Additional wildlife surveys are anticipated to be required as future permits are obtained for impacts and mitigation within the WVEA. The results of these surveys will be used to supplement the map of listed species, nest and burrow locations, within the VWP. Life histories for each listed species above are provided in **Appendix B**.

The Eastern indigo snake (*Drymarchon corais couperi*) is assumed to occur on site, although it has not been observed during thousands of hours of wildlife surveys and other field services. While not specifically addressed in the HMP, it is understood that the conservation measures and management actions contained herein will foster suitable habitat for the Eastern indigo snake and other listed and non-listed species.

3.2 Listed Plant Species

Surveys for listed plant species were conducted in during one event in the spring of 2006 and during all of the other wildlife surveys and site evaluations. The survey for listed plants was reconnaissance level and was not intended to be comprehensive. A total of four (4) listed plant species, including blue butterwort (*Pinguicula caerulea*), yellow butterwort (*P. caerulea*), cinnamon fern (*Osmunda cinnamomea*), and royal fern (*O. regalis*) have been observed within the WVEA. Cinnamon fern and royal fern are generally found in shallowly inundated wetland areas, and occur in varying densities in many wetlands. The butterworts are generally found in wet/mesic flatwoods and wet prairies within the project.

3.3 Potentially Occurring Listed Plant Species

Given the history of cattle grazing and alteration of upland habitats throughout the site, the potential to support many listed plant species is limited. However, the pine flatwoods, oak hammocks, and wetland systems on the western and southern edges of the site are generally intact and may support a variety of listed species. The majority of the species, including grass pink (*Calopogon multiflorus*), yellow-fringed orchid (*Platanthera ciliaris*), crested fringed orchid (*P. cristata*), and snowy orchid (*P. nivea*), are typically found in regularly burned, mesic to hydric flatwoods like those found along the northern, western, and southern portions of the site. The three remaining listed plant species, including butterfly orchid (*Encyclia tampensis*), green-fly orchid (*Epidendron conopseum*), and giant wild pine (*Tillandsia utriculata*), are epiphytes that typically grow in live oak hammocks and/or forested wetland systems. The

forested wetland systems and live oak hammocks in the project likely provide habitat for these species. **Table 2** lists other potentially occurring plant species in VWP.

4.0 RESOURCE MANAGEMENT OBJECTIVES

4.1 Resource Protection and Conservation

Objective 1) Resource Protection and Conservation will occur through the legal protection of the Conservation and Rural Districts of the VWP (described below) and through ongoing protection of listed species and natural ecosystems.

4.1a Conservation Planning

The outcome of the conservation and development design process for the WVEA was the creation of the VWP. The VWP will be constituted by the Conservation and Rural Districts that will progressively expand to provide wetland and listed species habitat (**Figure 10**).

The Conservation District will be characterized by largely intact natural systems that buffer adjacent state owned lands. The Conservation District will provide wetland resource and tree protection and enhancement, and open space for recreational use, where appropriate. The intended land uses within the Conservation District may include passive recreational uses such as hiking, mountain bicycle and horseback riding, primitive camping and educational kiosks.

The Rural District will be characterized by some intact natural areas but is intended to be dominated by improved bahia grass pasture. The Rural District will be protected and managed predominately to provide habitat for caracara and other listed species. Because of the caracara's expansive habitat requirements, it is considered an umbrella species for the VWP. Land management activities that provide optimal nesting and foraging habitat for caracara will also provide and maintain foraging and nesting habitat for sandhill cranes, burrowing owls, wood storks, bald eagles, other listed wading birds, and Southeastern American kestrels (although none were observed on-site). The habitat requirement of all of these species combined is far overshadowed by the habitat that will be included in the VWP for caracara.

It is anticipated that portions of the VWP will provide for the mitigation requirements associated with impacts to caracara nesting and foraging habitat associated with the development of the WVEA. It is also likely that in order to provide sufficient mitigation, the USFWS may require the creation of additional pasture and/or prairie habitats within the VWP. In this event, the creation of pasture/prairie should occur in ruderal, early successional, or previously timbered or cleared habitat. As part of the Village Sketch Plan application process, Figure 7A and 7B will be updated for the Stage of the VWP that will provide mitigation and tree protection for that Village. Vegetative communities that shall not be converted to pasture or prairie include: Live Oak (427), Hardwood - Conifer Mixed (434), Mixed Hardwoods (438), Mixed Wetland Hardwoods (617), Wetland Forested Mixed (630), Cabbage Palm - Hardwood Mixed (633), and portions of Pine Flatwoods (411) and Hydric Pine Flatwoods (625). These Vegetative communities (cover types) are referenced in the Landscape Section of the PUD. The cover types

designated as Preferred Cover Types in the Alternative Design Standards for the West Viera PUD will be defined on an amended Figure 7C and will be managed to maintain the viability of the natural vegetative community. If caracara mitigation requirements cannot be met adhering to the guidelines above, then alternative mitigation will be used to satisfy the permitting requirements.

Since the Rural District will be managed with active agricultural operations, it will not be open to the public the majority of the time. There may be selective public access points and passive recreation, as described above for the Conservation District or limited public access when the pastures are out of rotation, but this will be at the discretion of the VSD.

The conservation planning objective is to ensure that habitat management occurs in a balanced manner for both listed species, and wetland resources. Neither wetland enhancement or restoration nor habitat conversion or management for crested caracara will be pursued to the exclusion of the other.

4.1b Conservation Protection

The HMP establishes a conceptual framework for the creation and expansion of the Conservation and Rural Districts in accordance with the Staging Plan attached in the D.O. (Exhibit 7). Specifically, portions of the Rural and Conservation Areas shall transition to Rural and Conservation Districts and constitute the VWP, as described in the Staging Plan. The conceptual framework is temporal and driven by permitting events and subsequent development in the WVEA. The Staging Plan depicts the general progression of protection of the VWP which will be driven by the planning and permitting of each of the 4 Villages proposed under the DO. Each Village will be reviewed and permitted by the appropriate regulatory agencies and the corresponding portion (Stage) of the VWP will be protected using the Staging Plan as a guideline. All lands within the VWP will be protected through various legal instruments, such as conservation easements, and fee simple ownership by the VSD, which will exercise authority and management over the VWP. The timing of management actions (discussed below) is meant to be a guide and not a stringent point in time at which certain actions will begin or end. This should give regulatory authorities, as well as the VSD, a point of reference to evaluate decades of management timing and progress.

4.1c Management Timing

ADS will continue to own and operate the Cocoa Ranch, after the SD #2 D.O. approval. As such, ADS will manage all existing operations within the Conservation and Rural Areas, according to all appropriate laws and the Cocoa Ranch Caracara Procedure, as approved by the USFWS, until such Areas transition to Conservation and Rural Districts, as described below. Upon such transition, the applicable land shall be managed in accordance with this HMP.

As each Stage of the VWP occurs, agricultural activities will continue, within the appropriate permitted portions of the VWP, in order to maintain suitable listed species habitat. Accordingly, some management actions described in this HMP will continue to be fulfilled by ADS or the VSD in the ordinary course of agricultural operations. To the extent required, management

actions that are not performed by ADS in connection with its agricultural operations within the VWP, such actions will be undertaken and performed by the VSD. It is further anticipated that management actions required under this HMP will gradually increase from the date of each Stage approval, ultimately peak when habitat enhancement and restoration efforts are at their maximum, and then stabilize representing the level of management necessary to "maintain" protected natural systems and managed areas. Accordingly, management actions pursuant to this HMP will be provided in three distinct time periods as more particularly described in the following paragraphs.

The conceptual timing framework consists of three periods of resource management activity.

Management Period I is conceived as a transitional period in which land will be constrained with appropriate legal instruments as required by individual permits associated with each Village according to the Staging Plan. Also, less intensive management actions will begin, most likely in conjunction with normal ranch management. These management actions will include all requirements detailed in individual permits associated with applicable DRI development. Normal ranch operations will be the primary means of managing the VWP, beyond specific permit-related requirements. It is likely that some level of wetland mitigation/enhancement, as well as related wetland monitoring and exotic plant control, will also occur as required by the permits. Management Period I will continue until a permit requires implementation of Period II activities within the VWP.

Management Period II will begin concurrent with the first Stage approval and permits, and continue up to ten years, or more, after its issuance. This period is conceived as a conversion phase, i.e. a period in which intensive resource management actions begin in earnest. These actions will be driven by individual environmental permits, but may include wetland enhancement, filling ditches, canopy thinning or planting, exotic species removal, and limited pasture creation. As market demand and development activities increase, management actions as described in **Table 3** will be expanded as required by individual permits related to WVEA.

Management Period III is conceived as an evaluation and on-going maintenance period. This period will likely begin sometime within ten to twenty years post-approval of the applicable Stage. As the more intensive management activities decrease, management costs will also decrease. Nearly all of the resource management actions detailed herein will be either well underway or near completion. During this Management Period there should be substantial data to evaluate the success of the VSD's management and make appropriate changes in the HMP, if necessary. Management Period III will consist of long term, low intensity management and monitoring of the established conditions. By this time, the VWP will likely have expanded to its final boundary, be fully protected, and long term management will continue as directed by regulatory permits.

During all periods, listed species mitigation will occur in the form of habitat enhancement and/or protection in the VWP prior to or concurrent with the impact as required by the applicable

development permit. These protection measures, including the actions listed below each management objective, will be implemented as impacts occur in accordance with the Staging Plan depicted in the DO and individual permits. This should allow time for the target species to relocate to new foraging and nesting habitat, while providing time to monitor listed species behavior as habitat is modified in accordance with applicable permits. Some management actions will be eliminated when management objectives are met and sustained by natural forces, as conceptually depicted in **Table 3**.

4.1d Management Units

To facilitate land management, the VWP will be divided into management units delineated along major field roads, utility corridors, natural/physical features, inside the Rural or Conservation Districts. These pasture and forested areas have letter-number designations (J4E, L1, etc.) historically established by ADS as agricultural management units (**Figure 11**). These designations will assist with resource management activities and can be modified further as needs arise.

4.2 Prescribed Fire

Objective 2) Prescribed Fire will be an integral management tool in the VWP and will occur at regular intervals.

Prescribed fire will occur in all management units of VWP. Along with hydrological enhancement, it will be an integral component in maintaining and enhancing fire-dependent ecosystems in VWP. Fire regimes will mimic historical frequencies for fire-dependent community types as listed in **Table 4**. With an average rotation of three years and given VWP's size (5257.8 acres), an annual goal for prescribed fire should be approximately 1000 acres. Once fuel loads are reduced, the VSD will abide by accepted practices to mimic natural conditions and effects, including varying fire intensity, frequency, firing technique, and timing. To monitor this, the VSD will maintain a prescribed fire log in accordance with applicable fire burning permits. The VSD fire plan for each burn unit will supplement this data. The fire data will be maintained by the VSD for inspection by the public.

The VSD should avoid conducting prescribed fires in management units that contain a caracara nest, during the peak nesting season (**Table 5**). Prescribed fire conducted within management units that contain a caracara nest will be given additional consideration as described in section 5.1.

Many of Florida's residents are from parts of the country where prescribed fire is not a regular occurrence in the natural environment. The VSD recognizes its role and responsibility in explaining the value and benefits of prescribed fire and will use a variety of communication channels to inform local residents. This action will be developed immediately following the initiation of the first permitted stage of mitigation to lay the groundwork for public support and to help allay concerns.

4.3 Vegetation Management

Objective 3) Vegetation Management, including exotic plant control, mechanical techniques (mowing, roller-chopping and aeration), and selective timbering, will be an important management tool in VWP.

Vegetation management will continue to be an integral part of VWP's long-term management, including: a) exotic plant control, b) timber management, c) mechanical management, and d) monitoring.

4.3a Invasive Exotic Plant Control

Relative to its size, WVEA and VWP currently have localized invasive exotic plant infestations. The Florida Exotic Pest Plant Council (FLEPPC) defines an invasive exotic plant as a "naturalized exotic plant that is expanding its range into natural areas and disrupting naturally occurring native plant communities". FLEPPC groups invasive exotics into two categories – Category I and Category II. Category I species alter and displace native plants and communities, by reducing habitat and biodiversity, and inhibiting flood control and marine navigation. Category II species may become Category I species but have not yet shown the same capability for environmental degradation. Several Category I species occur within VWP as listed in **Table 6**.

Exotic control will occur on a phased basis (see **Conservation Protection, Planning, and Management Phasing, Section 4.1a**) and will occur on a limited basis in VWP as directed by specific conditions of each construction permit. In accordance with specific permits, the VSD will survey for and control all Category I exotic plant species in the VWP through herbicide treatments, mechanical control, or biological methods.

4.3b Timber Management

Cabbage palm and timber harvesting will be a significant management tool in restoring historical prairie communities of the VWP. Because this activity will require a substantial financial commitment, this will be initiated in accordance with the Staging Plan for the VWP, and will likely occur during multiple seasons to conform to environmental constraints and best management practices.

Some amount of selected pine canopy cover in the forested cover types in the Conservation and Rural Districts may be harvested, to enhance and create more habitat for rangeland species in the VWP such as caracara, sandhill cranes, and potentially, burrowing owls. The specific location and amount of canopy cover reduction for each management unit in the VWP will be determined in the field, during permitting and refined in each Village Sketch approval process, to meet the overall goals of the HMP. Harvests will be designed to replicate the extent of historical canopy cover for wet and dry prairie, hydric pine flatwoods and savannah. Contrary to typical timber harvests, the trees left over should include the largest and healthiest trees so that they may provide eagle and potential red cockaded woodpecker nest trees in the future. In addition, the trees left over should include a variety of age classes, to replace the eventual death of large pine

trees. For aesthetic purposes, adequate clumps of mature pines and forested buffers may be kept between the Rural Development Districts and areas of the VWP identified for prairie restoration.

Cabbage palm is extremely prolific within the VWP and must be managed and controlled in order to maintain functional pasture, flatwoods, prairies, and wetlands. Currently this is accomplished by selective harvesting of particular age/size classes. This practice will continue in the VWP in order to control cabbage palm, but will be conducted in a balanced manner to maintain the function of listed species habitat and wetland resources.

Best management practices will be implemented for timber and cabbage palm harvesting within the VWP. This includes minimizing road creation and impacts to wetlands and other sensitive natural resources during the wet season, and avoiding listed species nest locations and harvesting during the nesting season.

This management activity will be initiated for each specific parcel in the Conservation or Rural Districts as that parcel is subjected to protective measure, pursuant to individual permits. Frequent prescribed fire and natural hydrology should maintain the historical vegetative composition of the prairie communities after restoration. Timber/cabbage palm harvests will be conducted in accordance with the approved **Cocoa Ranch Caracara Procedure (Appendix C)** until canopy cover objectives, which are specified in the appropriate permits, are met and maintained. Qualitative monitoring will occur annually also until canopy cover objectives are met and maintained.

The vegetative communities (cover types) referenced as Preferred Cover Types in the Landscaping, Tree Protection, and Land Clearing Standards in the PUD within the tree protection areas as defined in the PUD shall not be cleared or converted to pasture or prairie but shall be protected to provide forested and native habitat. These cover types include: Live Oak (427), Hardwood - Conifer Mixed (434), Mixed Hardwoods (438), Mixed Wetland Hardwoods (617), Wetland Forested Mixed (630), Cabbage Palm – Hardwood Mixed (633), and portions of Pine Flatwoods (411) and Hydric Pine Flatwoods (625). The Preferred Cover Types located within Tree Protection Areas will be managed to maintain the viability of the natural vegetative community. These vegetative communities within the VWP, as a whole, shall be managed with the intent of protecting trees but may still be carefully managed with tools such as fire and cabbage palm harvesting which will enhance the vegetative community, but may harm limited individual trees. The intent is not to preserve every single tree in these vegetative communities but to maintain a minimum 50% canopy coverage and preserve healthy natural forested systems within the Tree Protection Areas.

4.3c Mechanical Management

Mechanical vegetation control may be utilized to manage pine flatwoods and improved pasture. Drum aerators are used to aerate pastures, prepare for seeding, and prepare pine flatwoods for pasture conversion or any community for prescribed fire. Roller chopping is another common method of enhancing natural communities, often as a precursor to prescribed fire. Both devices

can be adjusted to control their impact on the target vegetation and soil. Other mechanical methods include mowing/bushhogging, grinding (Gyro-Trac, Hyro Ax), and hand removal (i.e. chainsaw).

Mechanical vegetation management techniques may be applied within management units of the Conservation and Rural Districts of VWP to prepare for prescribed fire, and habitat and natural community enhancement. Some units may require multiple applications, depending on environmental goals and variables - fire regime, fuel loads/types, and hydrology. Management units within the Conservation District of VWP will be managed according to applicable scientific literature, photo-interpretation of historical aerials, and management objectives. Mechanical techniques such as roller chopping or aerating, within known gopher tortoise sites (relocation areas) will be minimized and supervised by appropriately trained personnel. Mechanical methods may also be used more intensively in areas immediately adjacent to the Village District and the Rural Development District to address urban interface constraints for prescribed fire.

4.4 Hydrological Enhancement

Objective 4) Hydrological Enhancement will occur in the Conservation District as authorized by individual permits, as well as in portions of the Rural District (also described below).

The hydrology of VWP is controlled after decades of alterations, primarily through ditches, canals, structures, dry-season irrigation, and roads. Restoring hydrology in the Conservation District, and to some extent in the Rural District, in a balanced manner, is an essential restoration strategy for VWP.

To allow restoration efforts to address ecological alterations, the majority of the Conservation District will be allowed to fluctuate naturally with the surrounding floodplain of the St. Johns River. This will be accomplished in each management unit through enhancement activities to be detailed during construction level permitting and wetland mitigation.

The installation of ditch plugs, water control structures, culverts, at-grade crossings, or the removal of selected roads to enhance hydrology will be conducted on a phased basis within the VWP after consultation with the project engineer in accordance with applicable permits (also see **Section 4.7a, Infrastructure Maintenance/Repairs**). The VSD may consult with the SRJWMD to consider joint hydrological enhancement initiatives on lands connected hydrologically but separately managed by each entity.

4.5 Cattle Grazing and other Agricultural Practices

Objective 5) Cattle Grazing and other Agricultural Practices will continue in order to perpetuate and foster habitat for on-site listed species, especially Audubon's crested caracara.

4.5a Cattle Grazing and Management

Currently, about 3300 head of cattle graze on approximately on 10,000 acres within WVEA and lease-backs on SJRWMD-owned land. The number of animal units (AU) (cow/calf pair) per

acre ranges between one (1) AU per three (3) acres for improved pasture, to one AU per nine to ten acres for unimproved or wooded pastures. ADS rotates cattle based on several factors - available forage, growing season variables, etc.

Several grazing practices and actions seem to enhance foraging habitat for crested caracara and other listed species (sandhill crane, burrowing owl). They include bovine biological cycles (cattle birth/death), pasture ditch maintenance, mowing, prescribed fire, cabbage palm harvesting, timber harvesting, and sod harvesting. These practices and their respective benefits to crested caracara are described as follows:

- Cattle birth/death – as carrion eaters, caracara capitalize on the life cycle of cattle: ranch personnel and Glatting Jackson Ecologists have observed caracara feeding on the post-calving afterbirth, a source of food not concentrated in the food web of natural systems. Cattle mortality also provides an enormous amount of food that caracara regularly feed on. According to the ADS personnel, with 3300 head of cattle in the Cocoa Ranch, each weighing approximately 1000 pounds, and at an annual loss of three (3) percent, about 99,000 pounds (approximately 50 tons) of cattle carcasses are annually, added to the local food web;
- Pasture swale maintenance/irrigation – hydrological conveyances in WVEA can be classified into three groups, from large to small: canals, ditches, and swales. All three groups are periodically cleaned. The ADS periodically cleans the pasture swales every two to three years throughout the Cocoa Ranch, usually using a grader to re-sculpt the swales and remove vegetation and accumulated soil. The pasture swales mimic natural hydrologic fluctuations through periodic irrigation and drainage. As the swales are artificially drained for agricultural purposes, the biomass collects in increasingly smaller and smaller pools of water, concentrating food for many species, including crested caracara and wood storks. Caracara also benefit from ditch maintenance for, as the ditches are cleaned/re-graded with equipment, fauna are captured and are deposited on the ditch bank. Ecologists from Glatting Jackson and ADS personnel have confirmed this behavior;
- Prescribed fire – to recycle nutrients and reduce thatch in the pastures, ADS conducts regular prescribed fire, a practice which benefits caracara by creating open, prairie-like conditions that caracara, burrowing owls and sandhill cranes prefer, and, to some extent, providing carrion caused by fire mortality;
- Cabbage palm/timber harvesting – this practice maintains the prairie conditions favored by caracara, leaving cabbage palm densities favorable to caracara (see **Timber Management 4.3b**);
- Mowing – mowing maintains herbaceous cover at low levels, simulating historical prairie habitat somewhat and creating more suitable burrowing owl, sandhill crane, and caracara

foraging habitat; caracara follow the ADS ranch mowers in the summer, seizing the opportunity for a ready meal;

- Sod harvesting – this practice also creates foraging for caracara, either through inadvertent fauna mortality caused by the machinery, or by making food easier to see and catch. This practice also perpetuates the open herbaceous cover that caracara and sandhill crane prefer.

All of the land management practices above have created optimal habitat for a variety of listed species such as the caracara, sandhill crane, burrowing owl, wood stork, and a variety of other listed wading birds. Cattle will continue to be grazed within the VWP with herds being adjusted as available pasture decreases from WVEA development and as market conditions change. All grazing practices described above will continue as part of the long-term grazing operation within VWP. Permit conditions may provide more specificity to some of these management actions as each Stage is authorized. It is anticipated that normal “cow/calf” operations at reasonable cattle densities will continue within the VWP over the long term. Extremely high cattle densities, as found in cattle feedlots for slaughter operations, are not consistent with this HMP.

Should grazing in VWP become unfeasible, a prescribed fire program, hydrological enhancements, or other suitable management practices will be commenced to either maintain the improved pastures or to create more natural systems that are suitable for utilization by caracaras, sandhill cranes, burrowing owls, wood storks and/or other listed wading birds. Large scale, high intensity plasticultural farming practices are not envisioned to be consistent with the goals and objectives this HMP.

4.5b Swale Maintenance

As discussed above, the pasture swales are periodically cleaned to maintain drainage and irrigation. The activity is normally conducted during the dry season (November-April), partially coinciding with burrowing owl nesting season.

Most burrowing owls within the Cocoa Ranch have constructed their burrows on the spoil adjacent to the pasture swales. As the swales are cleaned, the freshly graded soil is deposited on top of the old spoil, potentially covering or collapsing owl burrows on the spoil mound. The peak nesting season for burrowing owls occurs from February through May, but can extend from October through July. To avoid possible entombment of burrowing owls from swale maintenance, pastures, within the VWP, will be surveyed shortly before maintenance occurs. Additionally, equipment operators will receive training to identify and look for burrowing owl during this activity, further ensuring their protection during the nesting season. This activity will occur as long as ditch and swale maintenance is necessary within VWP.

4.5c Sod Farming

ADS began sod farming at the Cocoa Ranch around 1973. ADS currently produce several varieties of sod including bahiagrass and St. Augustine (see **Appendix A**). Several listed species appear to be attracted to many of the sod farming practices on Cocoa Ranch. Caracaras have been observed foraging around sod harvesting operations. Harvesting or mowing sod exposes

grubs and other insects which are in abundant supply for many of the listed species at Cocoa Ranch. Sandhill cranes, wood storks, and a multitude of wading birds also appear to take advantage of the supply of fish and arthropods found in the sod fields and drainage ditches.

Of the many sod varieties produced at Cocoa Ranch, bahiagrass is the most abundant. Coupled with long-term cattle grazing, bahiagrass pastures in VWP will provide suitable foraging and nesting habitat for listed species, especially crested caracara, burrowing owl, and sandhill crane. Grazing (discussed above) seems to have the greatest influence on the management of this cover type, but the practice of farming bahia grass likely contributes to pasture grass maintenance as well.

The main elements of bahia grass farming are prescribed burning, harvesting, fertilizing, and of course, cattle grazing. Prescribed burning usually occurs during the winter as needed to reduce thatch build up. Bahiagrass sod harvesting is contingent upon soil type, rainfall, and other environmental variables and usually occurs every two to five years, sometimes longer. Sod is cut in strips, leaving narrow bands of bahia between each cut to seed new grass. Pastures are usually fertilized in the spring after harvest, typically with an NPK (nitrogen, phosphorus, potassium) fertilizer, or chicken manure. The biggest influence on pastures is cattle. Cattle are grazed and rotated through pastures based on several criteria, such as pasture condition (i.e. available forage), length of growing season, environmental conditions, etc. Collectively, grazing and range management practices are consistent with habitat management for crested caracara and other listed species within VWP (see **Cattle Grazing/Practices** above, and **Listed Species Life Histories, Appendix B**). Protection zones established in the approved USFWS **Cocoa Ranch Caracara Procedure (Appendix C)** will be observed in connection with all agricultural operations within the VWP unless permits require a modified procedure.

4.6 Monitoring

Objective 6) Monitoring will be conducted to evaluate listed species behavior and productivity, enhancement, and ongoing land management activities. Collected data will be shared with the appropriate state and federal agencies.

The VSD will conduct various monitoring as required by regulatory authorities, including vegetative, wetland, and listed species monitoring. The details for monitoring will be defined in specific permits as the WVEA is developed and as portions of the Conservation and Rural Districts are added to the VWP.

4.6a Prescribed Fire Monitoring

Prescribed fire monitoring will include basic annual photo-monitoring points, including two permanent points per burn unit with photos taken in the cardinal directions to evaluate vegetative changes. The VSD will establish the points in different community types.

4.6b Hydrologic and Vegetative Monitoring

The VSD will implement baseline and long-term monitoring methods to evaluate the success of hydrological enhancements, including at a minimum annual photo-monitoring and qualitative vegetative monitoring, as required by applicable permits. It is likely that some of these photopoints will be used in conjunction with prescribed fire/vegetation monitoring.

4.6c Crested Caracara Monitoring

The VSD will collect data and monitor how caracara responds to development. A qualified professional will study the caracara and be engaged to assess caracara ecology. The specific methods and goals of the monitoring will be developed during permitting with the USFWS, but may include: habitat use, home range size and configuration (nesting and non-nesting seasons), hatching success, brood number, fledgling success, foraging behavior, interaction/conflict with other nesting caracaras, new territory selection, response to habitat alterations, or human disturbance, etc. This research will be provided to the USFWS to contribute to the overall science and understanding of the species.

Radio transmitters and color bands may be installed on all adults associated with all nests within the VWP. All subsequent offspring produced by these nests also may be color banded for a minimum of six years or as long as permit conditions require. The banding and installation of transmitters will be coordinated and supervised by a qualified professional. All surveys will allow time sufficient to survey each nest, existing and new, and gather data from transmitters, as well as field observations and data collection necessary to determine how displaced caracara are responding to the staging and management of the VWP. The specific monitoring methodology and reporting criteria will be developed during permitting with the USFWS.

If development is significantly postponed due to market conditions and the extent of habitat alterations near existing nests is postponed, the VSD will coordinate with the USFWS to reduce the level of monitoring until development resumes.

4.6d Other Listed Species Monitoring

Annual monitoring (unless noted otherwise) will be conducted for gopher tortoise, sandhill crane, and burrowing owl, the details of which are as follows:

- Gopher tortoise - Monitoring for gopher tortoise will be conducted in accordance with future FFWCC relocation permit conditions. Gopher tortoise burrow surveys will be conducted using FFWCC-approved methodology.
- Florida sandhill crane - the habitat within the VWP may be surveyed during each nesting season to determine the approximate number of sandhill crane nests utilizing, and to evaluate the quality of habitat within the VWP, and to provide guidance for any management activities that could alter the success of any active nests. The sandhill crane survey methodology, duration, and reporting requirements will be determined during permitting with the FFWCC.

- Burrowing owl – At such time as burrowing owl burrows, within the VWP, could be affected by land management activities, described in section 4.5b, surveys for owl burrows will be conducted during the peak nesting season. Other burrowing owl monitoring will be conducted as determined during permitting with the FFWCC.

4.7 Operations

Objective 7) Operations, including the regular maintenance of infrastructure, providing adequate personnel, and providing wildlife management, will be conducted to ensure the long-term success of natural resource management in VWP.

4.7a Maintenance, Repair and Improvement of Agricultural/Community Facilities

Much of VWP's infrastructure, or roads, are essential for cattle grazing, ditch/canal maintenance, access to off-site properties, and land management. In many instances, roads also act as convenient fire breaks for prescribed fire. Essential roads will be maintained to facilitate operations but, hydrology impaired by various roads may be enhanced, as determined appropriate by project engineers and the management personnel (see also **Hydrological Enhancement, Section 4.4**). The agricultural facilities and structures are also essential for normal agricultural operations and land management.

Notwithstanding any contrary provision of this HMP, the following activities and work in connection therewith are allowed in the VWP and shall not be prohibited by this HMP: (i) the installation, repair, maintenance and improvement of facilities and structures directly relating to permissible agricultural uses within the VWP, including but not limited to barns, sheds, corrals, feeders, wells, fences, crossings and gates; and (ii) the lawful repair, maintenance, re-location and improvement of existing or future canals, ditches and swales, or portions thereof, located within the VWP.

4.7b Administration

Sufficient personnel will be provided to accomplish land management objectives within VWP, and may be supplemented through volunteers, student interns, graduate students, etc.

Management plan updates will occur at 2-year intervals following the approval of the DO as part of the Biennial report. These HMP updates will be prepared by the VSD's Environmental Professional, as defined in the Viera DO, and will include an evaluation of the progress in achieving the long term goals and objectives of the HMP. In addition, each update will include a summary of land management conditions and monitoring actions modified as a result of permit requirements.

4.7c Wildlife Management

Various forms of game management have historically been conducted within WVEA and will be continued to control nuisance animals and manage game populations. Hunting will be managed in the VWP in accordance with applicable laws and ordinances.

4.8 Funding

Objective 8) Long-term maintenance, management, and operation of the VWP in accordance with the HMP shall be funded by the VSD.

To carry out its prescribed functions, the Florida Legislature has granted the VSD the legal authority to fund and finance the facilities and services necessary to perform the management functions required by this HMP, including, but not limited to, the specific power and authority to issue bonds, impose benefit and/or maintenance assessments and levy fees and user charges in accordance with its charter.

4.9 Community Outreach and Collaboration

Objective 9) *Community Outreach and Collaboration*, including education, volunteerism, and sharing of research, will be fostered in the VWP.

The VWP will face increasing pressure for public access and use as the development of WVEA progresses. Because of its size, several access points will be designated in VWP to serve different communities and offer varying recreational experiences.

4.9a Interpretive Education

During Management Phase III of the VWP implementation plan, the VSD will encourage environmental stewardship through education. It may be directed toward adults and children to explain VWP's importance and to instill an appreciation of its natural resources. Interpretive programming can be conducted on-site (through VWP staff, volunteers, local school teachers, and universities, etc.). Off-site environmental education, with VWP as the centerpiece, can be offered at local schools. The VSD will avail itself of basic research and land management services: species inventories, wildlife surveys, exotic plant control, etc. through programs that build relationships with area universities, schools, SJRWMD, and its communities. The VSD will begin this relationship early in the development of WVEA to prepare for local stewardship of VWP in the coming decades.

Additionally, the VSD will promote environmental education through the following:

- Disseminate findings on research to governmental agencies - the VSD will share data and findings it has collected for crested caracara, burrowing owls, its agricultural management techniques, and long-term plans for crested caracara protection within VWP.
- Encourage public outreach/education for listed species - as in the education campaign for prescribed fire, the VSD will endeavor to inform its residents about listed species in the VWP and adjacent areas. The goal is to heighten awareness and appreciation of listed species, their habitat needs, and the ongoing efforts to enhance habitat within VWP.

5.0 INDIVIDUAL LISTED SPECIES CONSIDERATIONS

5.1 Crested Caracara

Management for crested caracara will occur generally through the resource management actions listed above in **Section 4.0, Resource Management Objectives**. The species will also benefit from additional scientific research, monitoring, and education. These management activities will foster an environment in which the species will persist and from which the broader scientific community will learn. The VWP will provide foraging and nesting habitat: large expanses of uninterrupted, pasture or prairie-like conditions (i.e. natural communities or improved pasture), cabbage palm trees/clusters, and an abundant food supply in a managed setting.

The Rural District of the VWP will be set aside and managed to attract crested caracara and other listed species from the WVEA.

The Rural District will be subject to the following land management protocol:

- Major tree alterations (harvesting or planting) shall not occur without prior approval of the VSD;
- No use of chemical insecticides shall be allowed without the prior approval of the VSD;
- Parcels adjacent to the VWP shall be notified of prescribed burning conducted within the VWP, implemented in accordance with the HMP;
- Agricultural uses within the VWP that are compatible with, or facilitate the environmental goals and objectives of the HMP, shall be encouraged by the VSD.
- Management units that contain a caracara nest tree will be evaluated for pre-fledged juveniles that may be present on the ground, prior to a prescribed burn.

5.2 Bald Eagle

There are two eagle nests (BE039 and BE003) in the VWP (**Figure 9**). Existing habitat within VWP, as well as off-site resources, will provide substantial nesting and foraging habitat. Also, the pine flatwoods in the western portion of VWP, as well as various pastures, provide a number of large pines that could be suitable for future bald eagle nest trees. These areas are close to the RLCA, Lakes Washington, Winder, and Poinsett, the St. Johns River, and other natural foraging resources.

In accordance with the USFWS guidelines, natural habitat may be converted to improved pasture or timbered during the non-nesting season. Healthy, mature super-canopy trees within VWP will be identified before logging occurs and left standing as potential future nest trees.

The VSD will annually request nest status and productivity from FFWCC for all on-site nests to monitor nesting success and productivity during the implementation of the HMP. If the FFWCC stops collecting data on bald eagle nest locations, surveys to locate nests will be conducted prior to the initiation of any management action, within the VWP, that may affect bald eagle nesting activities. Additionally, the VWP will be casually monitored for new nests throughout each year as part of routine agricultural activities or land management.

5.3 Florida Sandhill Crane

Pairs of mature Florida sandhill cranes were observed foraging on the property, in improved pastures, wet pastures, and sod fields. One nest was observed in the VWP in 2005; and one in 2006 (**Figure 9** depicts nest locations by year). Scattered freshwater marshes and wet prairies within VWP provide suitable habitat for nesting, and improved pastures on the site currently provide ample forage areas for sandhill cranes.

It is anticipated that portions of the VWP will compensate for all impacts to Florida sandhill crane nests and foraging habitat associated with the WVEA. Overall, the VWP will provide substantial suitable habitat in the form of improved pasture and enhanced herbaceous wetlands. The VSD will conduct resource management activities throughout sandhill crane foraging and nesting habitat. All prescribed fires during the peak nesting season in or near herbaceous wetlands will be preceded by a burn unit nest survey to avoid accidental harm to pre-fledgling chicks.

5.4 Gopher Tortoise

It is anticipated that portions of the VWP will be proposed and eligible for use as a long-term protected recipient site (as defined by the FWC) for gopher tortoises that will be impacted development of the WVEA. Management of these areas will be conducted as specified in the applicable permits.

Existing gopher tortoise colonies in the VWP will be preserved or managed through resource management activities in accordance with applicable permits. On-site preservation and management will also provide habitat for gopher tortoise commensal species, including indigo snake, Florida mouse, and gopher frog (*Rana capito*). Burrow surveys, within the VWP, will be conducted pursuant to future FFWCC tortoise relocation permits for the WVEA, to monitor the status of the species. The data will be included in the five-year HMP update.

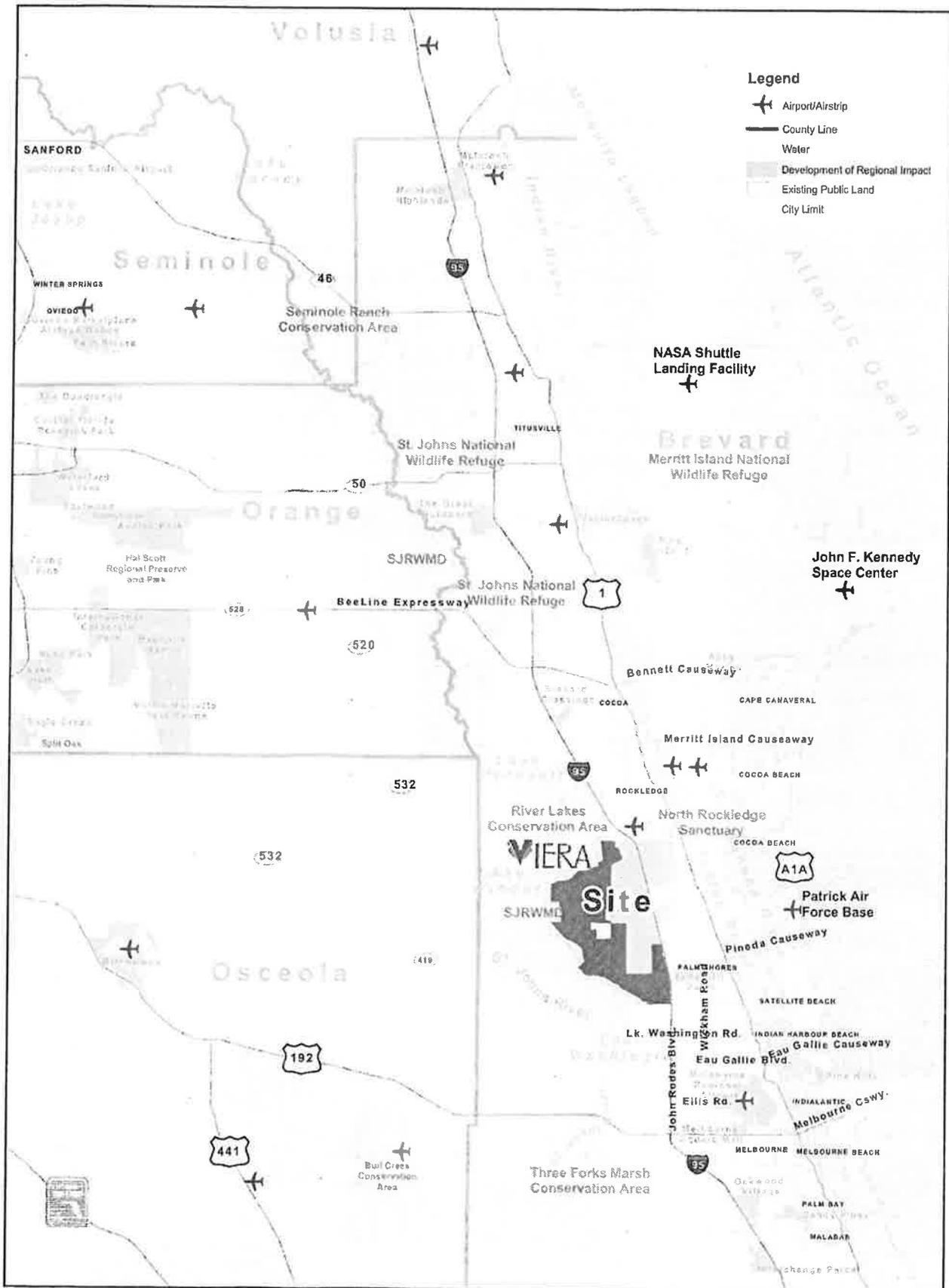
5.5 Burrowing Owl

It is anticipated that a portion of the preserved and managed lands in VWP will provide adequate habitat for burrowing owls affected by the WVEA. Three (3) burrowing owl relocation recipient areas have been identified within the VWP based on soils and hydrology. These proposed locations exist within the VWP and are generally shown on **Figure 9**. Additionally, artificial cavities, similar to the depiction in **Figure 12**, will be constructed in accordance with applicable permits. Annual monitoring of the relocation areas will be conducted in accordance with applicable permits.

- The three (3) specific locations currently anticipated as burrowing owl recipient sites total 222.3 acres. Area 1 (75.7 acres) and Area 2 (51.0 acres) are in the northwest corner of the VWP, while Area 3 (95.6 acres) is in central portion of the VWP southeast of the Viera Wetlands Park (**Figure 9**). Each of these areas appears to have a lowered ground water table, suitable soils, and vegetative conditions consistent with appropriate habitats for this species. All of the existing burrowing owl burrows currently occur within the following soils: Pineda sand, Myakka sand, and EauGallie sand. All three of these soils are described in the Soil Survey of Brevard County (USDA SCS, 1974) as poorly drained, with the Pineda sand historically occurring under hammocks and low sloughs; Myakka sand occurring in flatwoods and between ridges and sloughs; and the EauGallie sand occurring beneath low ridges in flatwoods. The soils underlying burrowing owl recipient sites 1 and 2, consists of EauGallie sand. The soil beneath burrowing owl recipient site 3 consists of Myakka, Malabar, and Felda sands. All three recipient sites have significant drainage features in the vicinity, and each exhibit low ground water table. Low ground water table in these areas results in low frequency of flooding and suitable conditions for burrowing owl relocation.

5.6 Wood Stork

No wood stork nesting sites are known to occur within the DRI, although this species has been observed foraging on-site, as shown on **Figure 9**. It is anticipated that wood stork foraging habitat loss resulting from on-site impacts will be sufficiently offset through on-site mitigation activities including hydrologic enhancement of wetlands previously altered through agricultural activity.



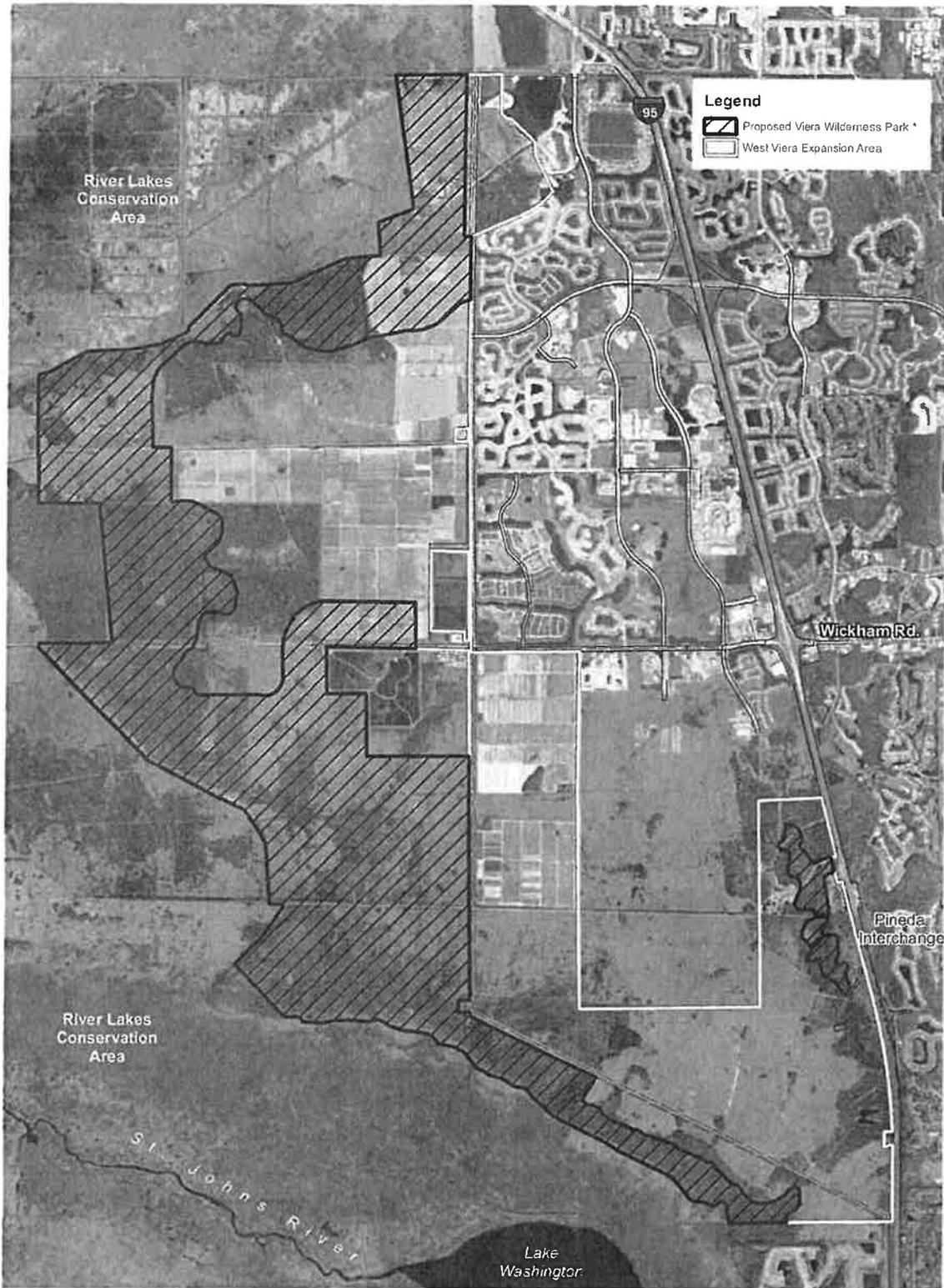
Viera Habitat Management Plan

Figure 1
Location Map



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2010-2011 Viera Habitat Management Plan



10/14/18 Copyright © by Arcadis | (C) 2018 Aerial Photography

Viera Habitat Management Plan

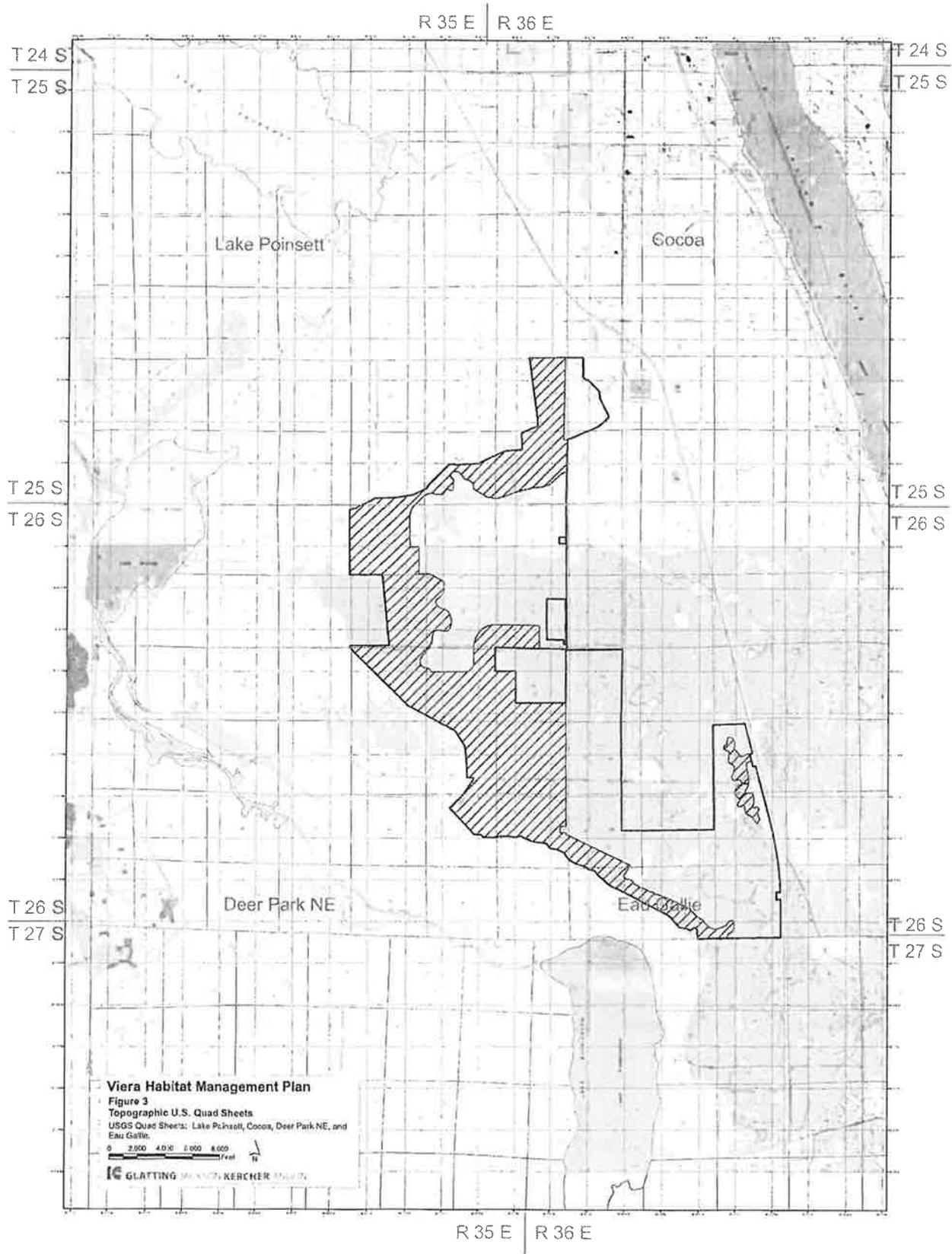
Figure 2
Proposed Viera Wilderness Park

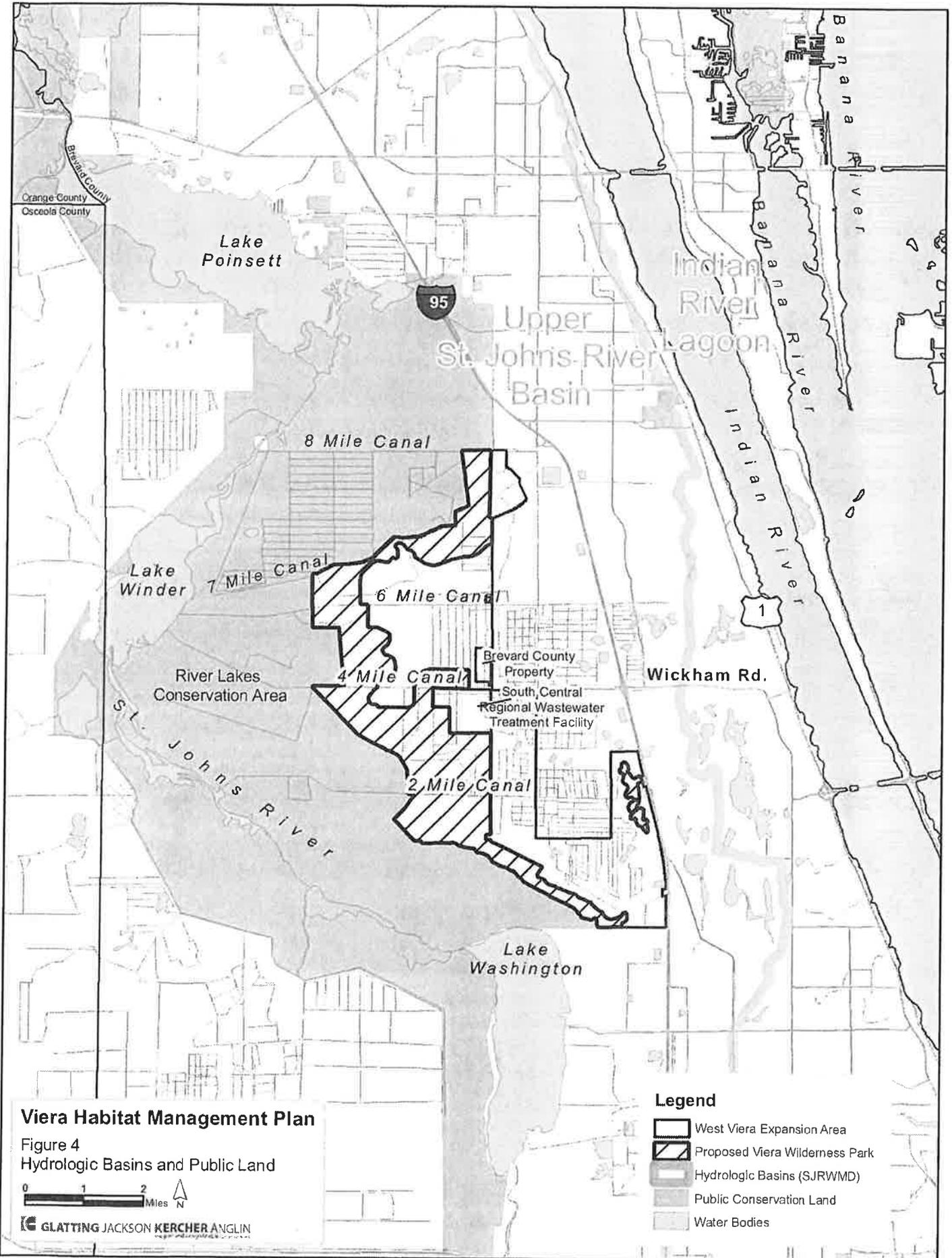
* Final Boundary (subject to Staging Plan)

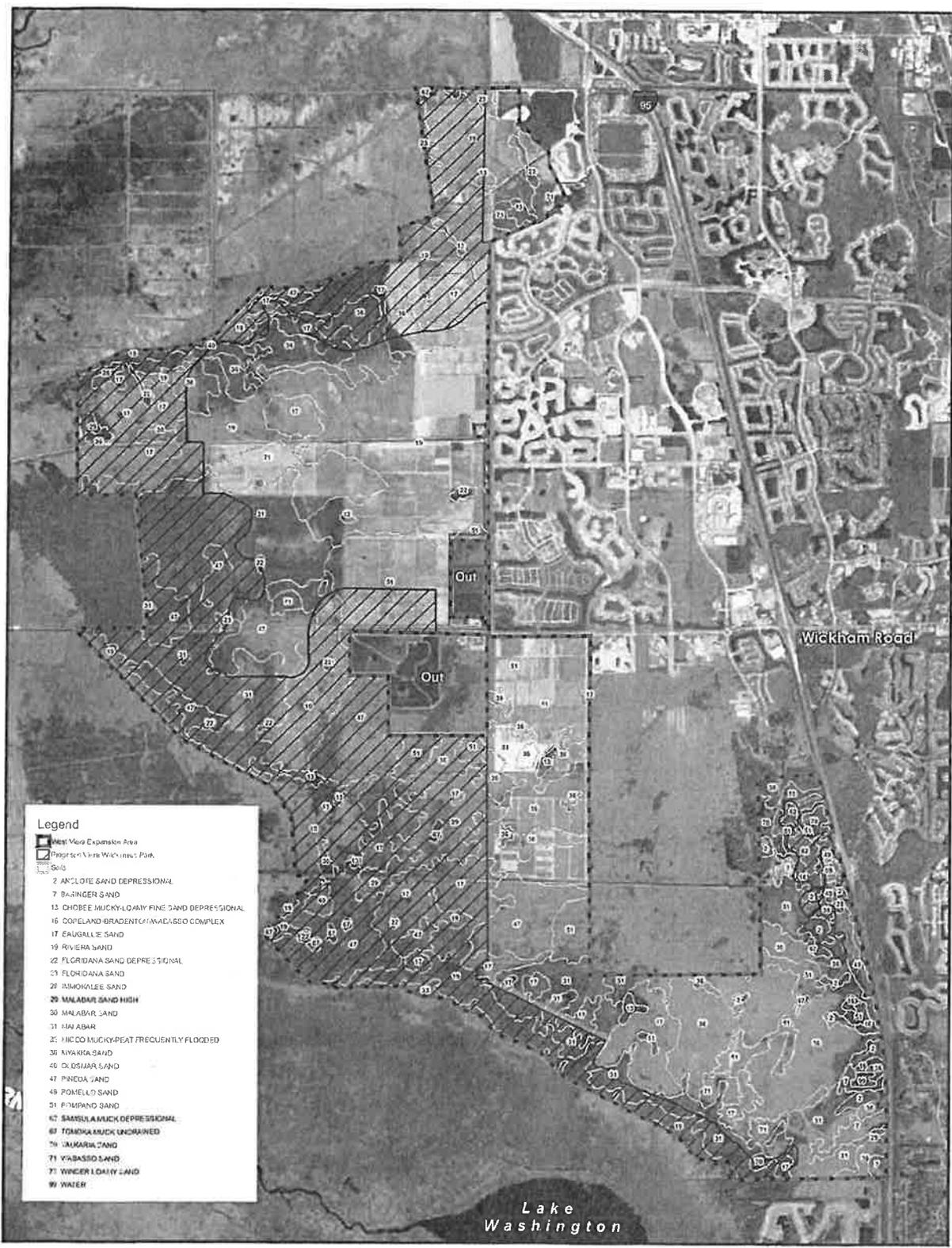


GLATTING JACKSON KERCHER ANDERSON

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Viera Habitat Management Plan
 Figure 6
 Soils
 U.S. Department of Agriculture Detailed Soils (SURGO-1930)

0 500 Feet

GLATTING JACKSON KERCHER AND ASSOCIATES

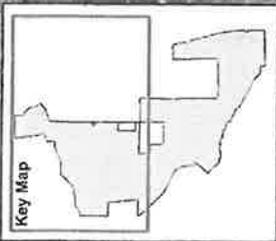
Aerial Cartographics of America (iCA) 2008 Aerial Photograph



- Legend**
- Proprietor's Boundary
 - Proprietor's Wetland of FWA
 - Proprietor's FLUDFCS (03 - June 2005)
 - 116 Residential (Palmview/2)
 - 140 Commercial/Ranch Offices
 - 211 Improved Pasture
 - 241 Cattle Barn
 - 242 Sod Farm
 - 251 Home Farm/Trails
 - 321 Palmto Pine
 - 411 Pine Flatwoods
 - 422 Sycamore Poplar
 - 427 Live Oak
 - 428 Cabbage Palm
 - 434 Hardwood-Conifer Mixed
 - 479 Mixed Hardwoods
 - 511 Canals and Ditches
 - 541 Riparian Wetland 10 Acres
 - 611 Bay Swamp
 - 612 Mixed Wetland Hardwoods
 - 619 Willow and Bluestem
 - 619a Exotic Wetland Hardwoods
 - 625 Hydro Pine Flatwoods
 - 626 Hydro Pine Swamps
 - 630 Wetland Forested Marsh
 - 632 Cabbage Palm Wetland
 - 633 Cabbage Palm-Hardwood Mixed
 - 641 Freshwater Marsh
 - 642 Wet Prairie
 - 643 High Prairie
 - 741 Rural Lakes in Transition
 - 814 Roads
 - 833 Wetland Power Line Right-of-Way
 - Proprietor's Wetlands (03 - June 2005)

Viera Habitat Management Plan
Figure 7A
FLUDFCS (Sheet 1 of 2)
 Aerial Photographs of Proprietor's Wetlands
 and Pastures
 with ground truthed and photo-aeriated
 by Glatting Jackson Kercher Aerial
 (June 2005)

GLATTING JACKSON KERCHER AERIAL





- Legend**
- Property Boundary
 - Proposed Viera Wilderness Preserve
 - Preliminary FLUCFCS (G1 - June 2025)
 - 110 Residential (Low Density)
 - 211 Commercial/Residential
 - 314 Improved Pasture
 - 411 Cattle Barn
 - 511 Soil Farm
 - 611 H₂O₂ Farm Facilities
 - 711 Palmetto Prairie
 - 811 Pine Palmetto
 - 911 Broadleaf Forest
 - 101 Live Oak
 - 111 Cabbage Palm
 - 121 Mixed Hardwoods
 - 131 Grass and Shrub
 - 141 Rice/Water
 - 151 Bay Swamp
 - 161 Mixed Wetland/Janakville
 - 171 Willow and Blueberry
 - 181 Erosion Wetland/Hardwoods
 - 191 Hybrid Pine/Savanna
 - 201 Wetland Forested Marsh
 - 211 Cabbage Palm/Water
 - 221 Freshwater Marsh
 - 231 Hybrid Pine
 - 241 Rural Land in Transition
 - 314 Roads
 - 802 Electric Power Transmission Lines
 - Preliminary Wetlands (G1 - June 2025)

Viera Habitat Management Plan
Figure 7B
FLUCFCS (Sheet 2 of 2)
 Aerial Categories: © America's Aerial
 Imagery, Inc. 2025. The map was prepared
 by GATLING AERIALS INC. on 06/10/2025.
 Scale: 1:25,000
 Date: June 2025



R 35 E | R 36 E

T 24 S
T 25 S

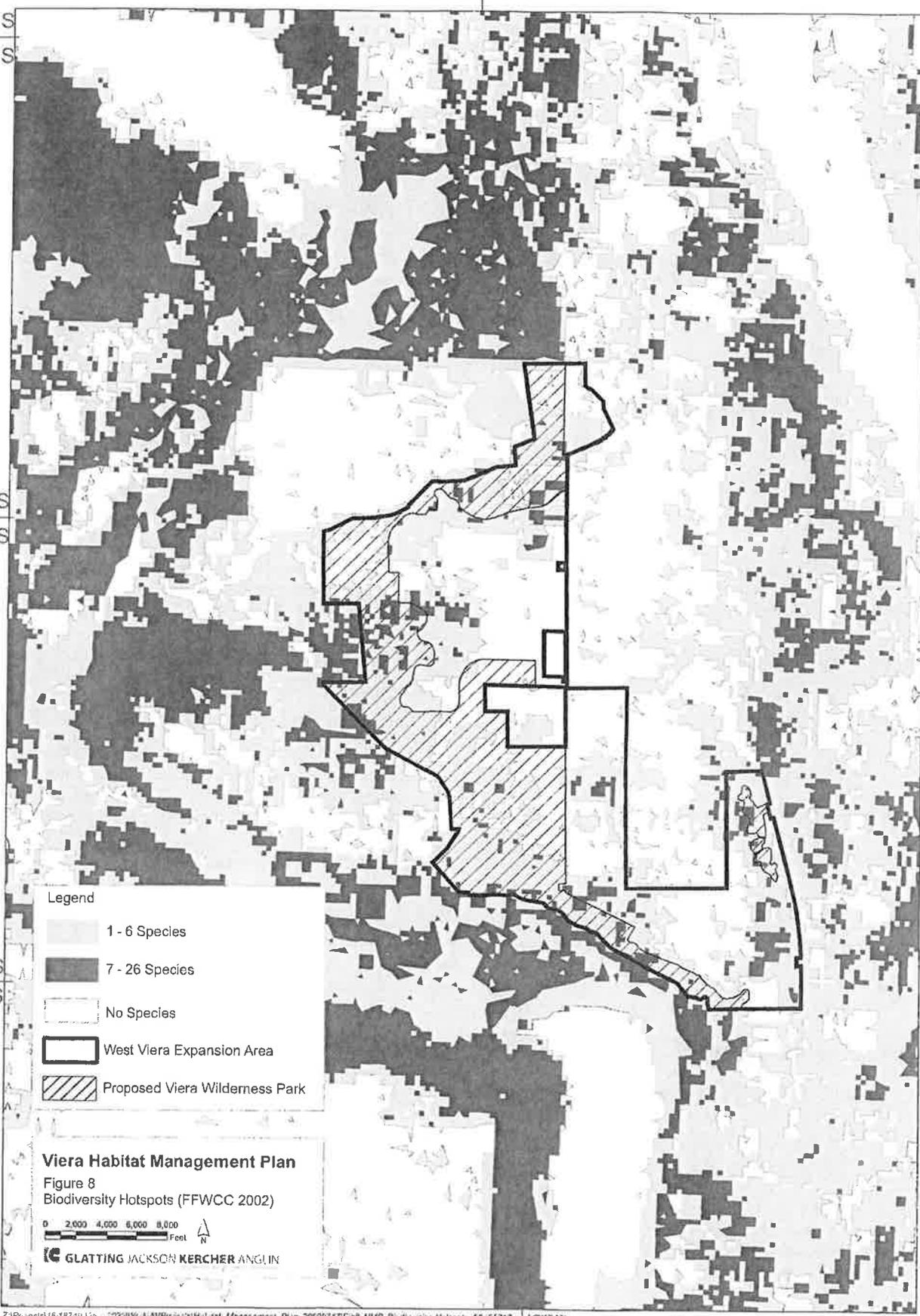
T 24 S
T 25 S

T 25 S
T 26 S

T 25 S
T 26 S

T 26 S
T 27 S

T 26 S
T 27 S



Legend

- 1 - 6 Species
- 7 - 26 Species
- No Species
- West Viera Expansion Area
- Proposed Viera Wilderness Park

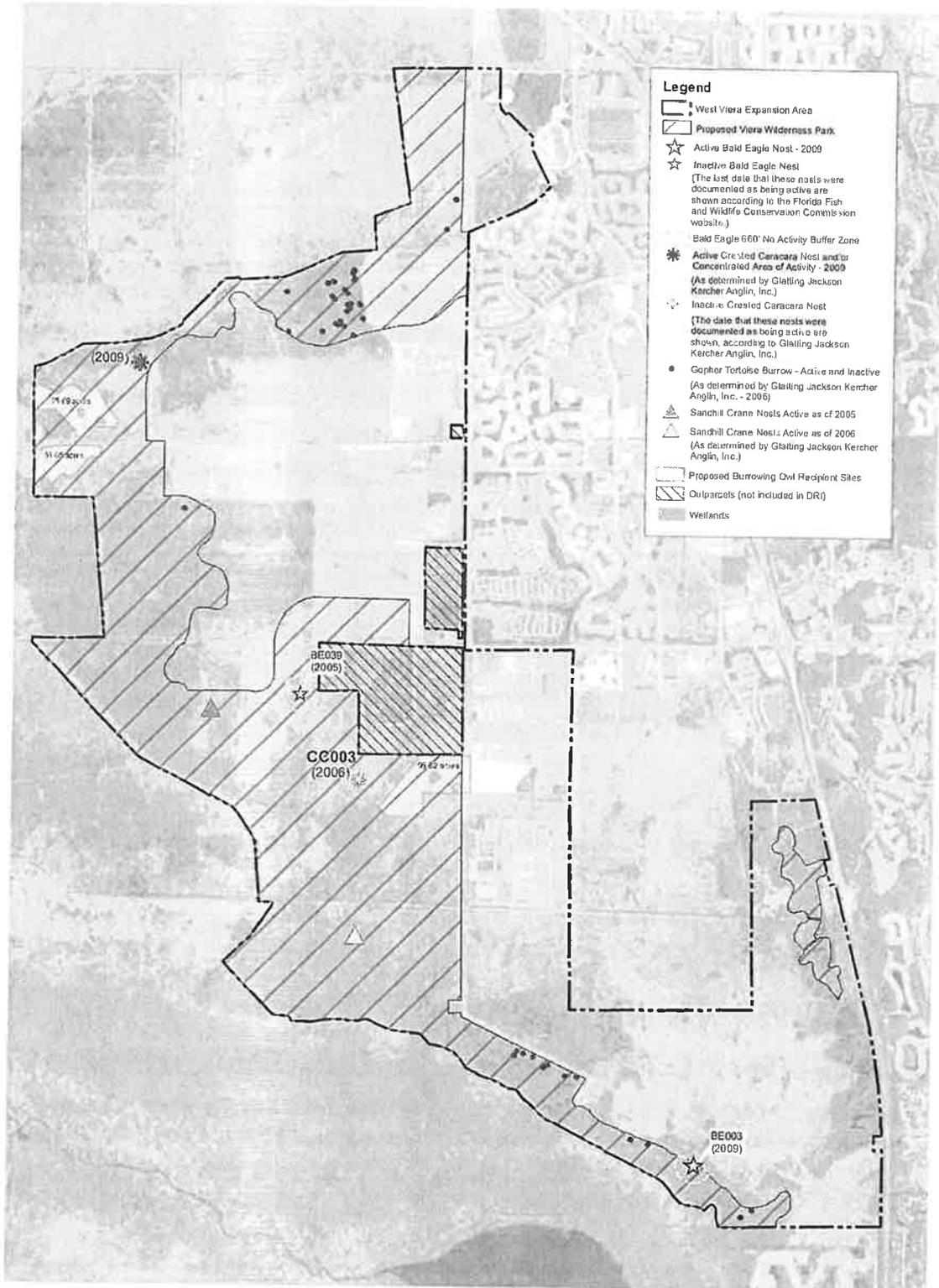
Viera Habitat Management Plan
 Figure 8
 Biodiversity Hotspots (FWCC 2002)

0 2,000 4,000 6,000 8,000 Feet

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R 35 E | R 36 E



Viera Habitat Management Plan

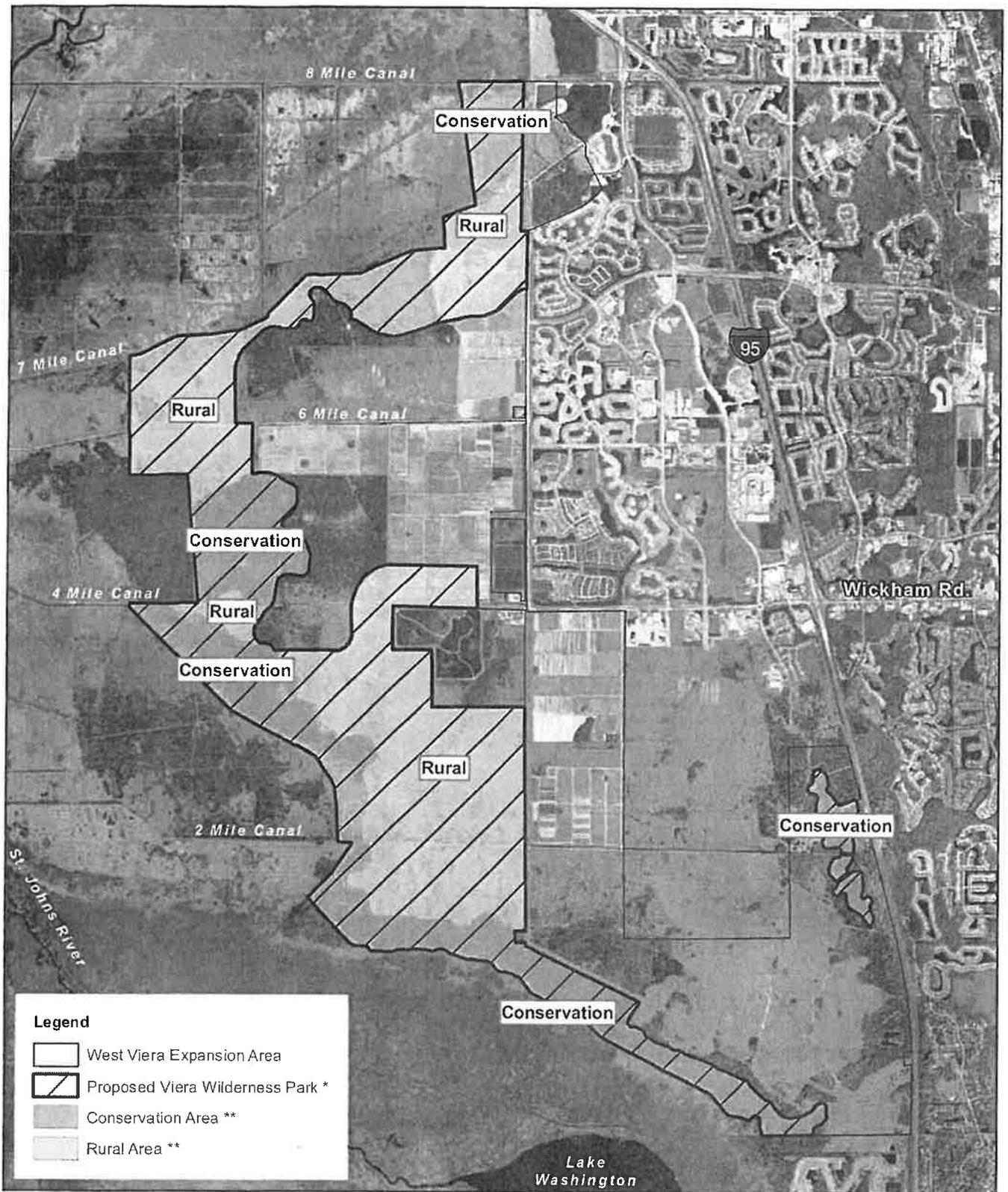
Figure 9
Listed Species Nest and Burrow Locations



GLATTIG JACKSON KERCHER ANGLIN

This map depicts the nest and burrow locations of listed species within the Viera Wilderness Park only. Listed species outside the Viera Wilderness Park will be addressed during permitting, when required.

Aerial Cartography: of America, (ACA) 2009; Aerial Photograph



Aerial Cartographics of America (IACA) 2008 Aerial Photograph

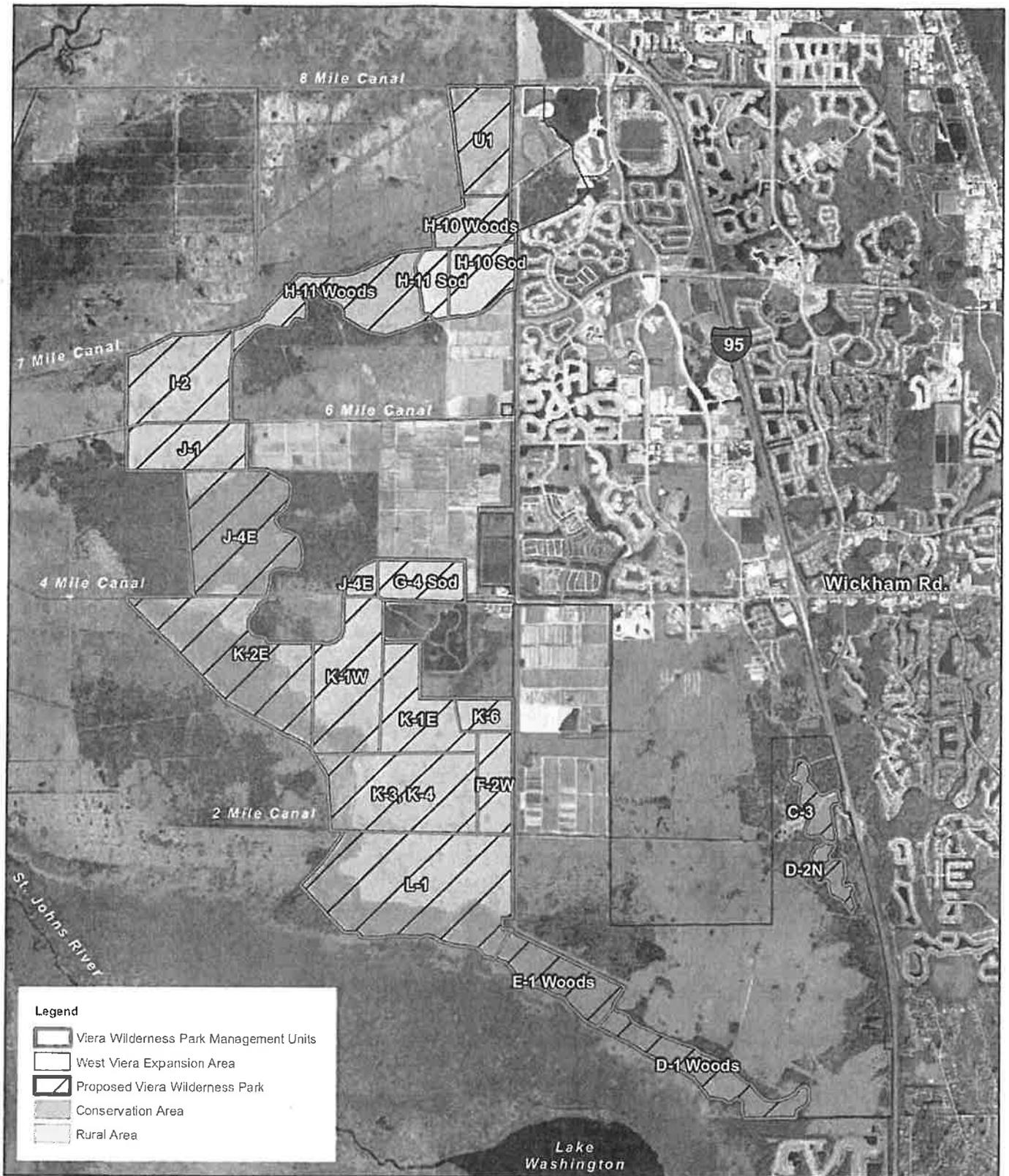
Viera Habitat Management Plan

Figure 10
Viera Wilderness Park
Rural and Conservation Areas



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Architecture and Planning

- * Final Boundary (Subject to Staging Plan)
- ** Portions of the Rural Area and Conservation Area will transition to Rural District and Conservation District pursuant to the DRI Staging Plan set forth in the Development Order in accordance with applicable environmental regulatory permits.



Aerial Cartographics of America (ACA) 2008 Aerial Photograph

Viera Habitat Management Plan

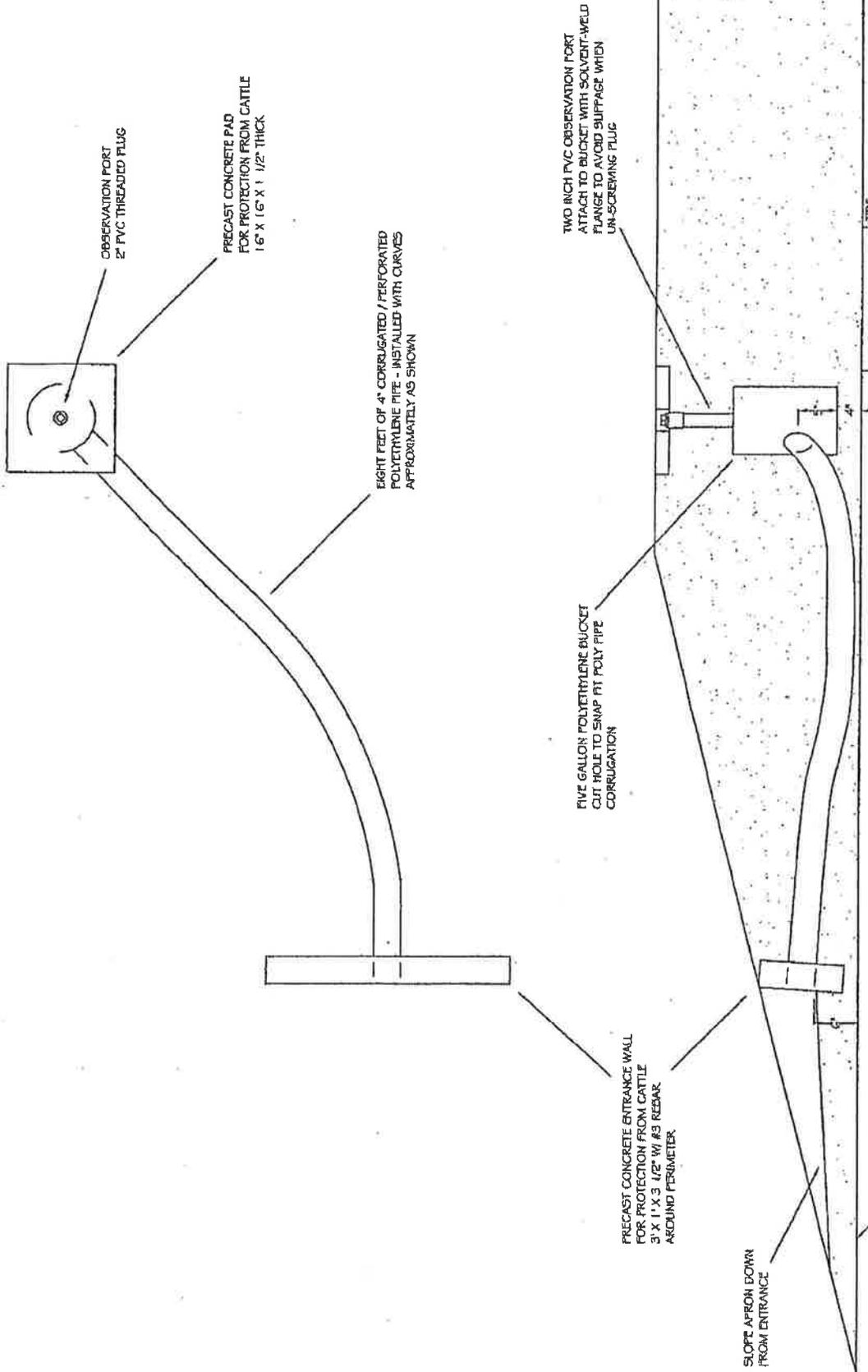
Figure 11
Viera Wilderness Park Management Units

The management units represent Duda's pasture boundaries and labels.



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INCORPORATED

PLAN VIEW (MOUND NOT SHOWN FOR CLARITY)



TITLE

DUDA
A. Duda & Sons, Inc.
P.O. BOX 267
DUNEDIN, FLORIDA 32786

FIGURE 9
ARTIFICIAL BURROW
CONSTRUCTION DETAIL

DRAWN BY: _____ DATE: _____ SCALE: _____
APPROVED BY: _____ DATE: _____

CROSS-SECTION VIEW

Viera Habitat Management Plan
Figure 12
Artificial Burrow Construction Detail
(Source: DUDA)

Table 1 - Soil Descriptions and Characteristics for the West Viera Expansion Area Project Site, Brevard County, Florida

Soil Name and Map Symbol	Brief Soil Description	Seasonal High Water Table		Permeability Rate (in/hour)	Hydric Status
		Depth (in)	Duration (mo)		
Anclote sand (An)	Nearly level; very poorly drained	0-10	>6	6-20 to a depth of 19 in. 6-20 to a depth of 72 in.	100% hydric component
Basinger sand (Ba)	Nearly level; poorly drained	0-10 10-40	2-6 >6	>20 to a depth of 80 in.	90% hydric component
Chobee sandy loam (Ch)	Nearly level; very poorly drained	flooded 0-10 10-40	1-6 6-9 3-6	2-6 to a depth of 14 in.; 0.6-2 from 14 to 38; 0.6-2 from 38 to 63	100% hydric component
Copeland complex (Cp)	Nearly level; very poorly drained	0-10	>6	>20 to a depth of 15 in.; 0.6-2 from 15 to 22 in	85% hydric component
EauGallie sand (Eg)	Nearly level; poorly drained	0-10 10-40	1-4 >6	6-20 to a depth of 22 in.; 0.6-6 from 22 to 35; 6-20 from 35 to 55	20% hydric inclusion
Felda sand (Fa)	Nearly level; poorly drained	0-10 10-40	2-6 >6	6-20 to a depth of 30 in. 0.6-6 to a depth of 49 in. 0.6-6 to a depth of 62 in.	80% hydric component
Floridana sand (Fn)	Nearly level; very poorly drained	0-10 10-30	6-9 3-6	2-6 to a depth of 12 in.; 6-20 from 12 to 29; 0.6-2 from 29 to 62	95% hydric component
Immokalee sand (Im)	Nearly level; poorly drained	0-10 10-40	1-2 >6	6-20 to a depth of 33 in.; 0.6-6 from 33 to 65 in.; 6-20 from 65 to 80 in.	30% hydric inclusion
Malabar sand (Ma)	Nearly level; poorly drained	0-10 10-40	1-2 >6	6-20 to a depth of 45 in.; 0.6-6 from 45 to 61 in.	20% hydric component
Micco peat (Mc)	Nearly level; very poorly drained	flooded 0-10	>6 9-12	6-20 to a depth of 30 in.; 6-20 from 30 to 38 in.; 0.6-6 from 38 to 55 in	100% hydric component
Myakka sand (Mk)	Nearly level; poorly drained	0-10 10-40	1-4 >6	6-20 to a depth of 22 in.; 0.6-2 from 22 to 35 in.; 0.6-2 from 35 to 46 in.	30% hydric inclusion
Oldsmar sand (Od)	Nearly level; poorly drained	0-10 10-40	1-3 >6	6.3-20 to a depth of 36 in.; 2-6 from 36 to 51 in.; 2-6 from 51 to 55 in.	20% hydric inclusion
Pineda sand (Pn)	Nearly level; poorly drained	0-10 40-60	1-2 >6	6-20 to a depth of 38 in.; 2-6 from 38 to 60 in.; 6-20 from 60 to 64 in.	20% hydric inclusion
Pomello sand (Ps)	Nearly level; moderately well drained	30-40 10-40	2-4 >6	>20 to a depth of 80 in.	Not hydric
Pompano sand (Pw)	Nearly level; poorly drained	0-10 10-40	2-6 >6	>20 to a depth of 90 in.	80% hydric component; 10% hydric inclusion
Samsula muck, depressional (62)	Nearly level; very poorly drained	flooded	>6 9-12	6-20 to a depth of 22 in.; 6-20 to a depth of 65 in.	100% hydric component
Tomoka muck (Tw)	Nearly level; very poorly drained	flooded 0-10	>6 9-12	6-20 to a depth of 35 in.; 0.6-6 from 35 to 55 in.	100% hydric component
Valkaria sand (Va)	Nearly level; poorly drained	0-10	2-6	>20 to a depth of 80 in.	85% hydric component
Wabasso sand (Wa)	Nearly level; poorly drained	0-10 10-30	1-2 >6	6-20 to a depth of 28 in.; 0.6-2 from 28 to 62 in.	40% hydric inclusion
Winder loamy sand (Wn)	Nearly level; poorly drained	0-10 10-30	2-6 >6	6-20 to a depth of 12 in.; 0.6-2 from 65 in.	80% hydric component

Table 2. WILDLIFE AND PLANT SPECIES LISTED AS THREATENED, ENDANGERED, AND/OR SPECIES OF SPECIAL CONCERN THAT POTENTIALLY OCCUR ON THE WEST VIERA EXPANSION AREA

Viera DRI, Substantial Deviation #2

Scientific Name	Common Name	State	USFWS	Habitat Type	Probability of Occurrence
<i>Plants</i>					
<i>Andropogon arctatus</i>	pinewood bluestem	T		1,3,4	Medium
<i>Asclepias curtissii</i>	Curtis' milkweed	E		1,3,4,5	Low
<i>Calamovilfa curtissii</i>	Curtis' sandgrass	T		4	High
<i>Calopogon multiflorus</i>	many-flowered grass-pink	E		4	High
<i>Centrosema arenicola</i>	sand butterfly pea	E		2	Low
<i>Cereus eriophorus</i>	fragrant prickly-apple	E	E	5,18	Low
<i>Cereus gracilis</i>	west coast prickly-apple	E		5,18	Low
<i>Chamaesyce cumulicola</i>	sand dune spurge	E		1,13	Very Low
<i>Chrysophyllum oliviforme</i>	satin leaf	T		3,5	Low
<i>Coelorachis tuberculosa</i>	flord	T		9,11	Medium
<i>Conradina grandiflora</i>	large-flowered rosemary	E		1	Very Low
<i>Drypetes lateriflora</i>	Guiana plum	T		5	Medium
<i>Encyclia tampensis</i>	Florida butterfly orchid	C		5,10,14	High
<i>Epidendrum conopseum</i>	green-fly orchid	C		5,10,14	High
<i>Garberia heterophylla</i>	garberia	T		1,2	Low
<i>Hexalectris spicata</i>	crested coralroot	E		5	Medium
<i>Lantana depressa</i>	pineland lantana	E		6,13	Very Low
<i>Lechea cernua</i>	scrub pinweed	T		1	Very Low
<i>Lechea divaricata</i>	spreading pinweed	E		3,4	High
<i>Lilium catesbaei</i>	pine lily	T		4,9	High
<i>Lindera subcoriacea</i>	bog spicebush	E		5	Low
<i>Lycopodium cernuum</i>	nodding club-moss	C		4,9,10	High
<i>Matelea gonocarpus</i>	angle-pod	T		5	Medium
<i>Monotropis reynoldsiae</i>	pygmy-pipes	E		5	Medium
<i>Myrcianthes fragrans</i>	Simpson's stopper	T		5	Medium
<i>Nemastylis floridana</i>	celestial lily	E		4,9,10	High
<i>Nolina atopocarpa</i>	Florida beargrass	T		4	Medium
<i>Ophioglossum palmatum</i>	hand fern	E		5,14	Medium
<i>Opuntia stricta</i>	shell mound prickly-pear	T		5,13,18	Low
<i>Osmunda cinnamomea</i>	cinnamon fern	C		9,10	Present
<i>Osmunda regalis</i>	royal fern	C		9,10	Present
<i>Pecluma dispersa</i>	widespread polypody	E		5,14	Medium
<i>Pecluma plumula</i>	plume polypody	E		5,8,14	Medium
<i>Pecluma ptilodon</i>	swamp plume polypody	E		5,8,10	Medium
<i>Peperomia humilis</i>	Reddish Peperomia	E		5	Medium
<i>Peperomia obtusifolia</i>	Florida Peperomia	E		5,14	Medium
<i>Pinguicula caerulea</i>	blue butterwort	T		4	Present
<i>Pinguicula lutea</i>	yellow butterwort	T		4,7,10	Present
<i>Platanthera blephariglottis</i>	white-fringed orchid	T		4,7,9	High
<i>Platanthera ciliaris</i>	yellow-fringed orchid	T		4,7,8,9,10	High
<i>Platanthera nivea</i>	snowy orchid	T		4,7	High
<i>Pteroglossaspis ecristata</i>	noncrested eulophia	T		1,2	Medium
<i>Rhapidophyllum hystrix</i>	needle palm	C		8,10	Medium
<i>Scaevola plumieri</i>	inkberry	T		10	High
<i>Schwalbea americana</i>	chaff-seed	E	E	3,4,5	Low
<i>Tephrosia angustissima</i>	hoary pea	E		5	Low
<i>Tillandsia utriculata</i>	giant wild-pine	E		3,4,5,10,14	High
<i>Tournefortia gnaphalodes</i>	bay lavender	E		13	Very Low
<i>Verbena maritima</i>	coastal vervain	E		3,13	Low
<i>Verbena tampensis</i>	Tampa vervain	E		5	Medium
<i>Warea carteri</i>	Carter's mustard	E	E	1,2	Very Low
<i>Zamia pumila</i>	coontie	C		1,2,3,5	High
<i>Zephyranthes simpsonii</i>	Simpson's zephyr-lily	T		4	High

Scientific Name	Common Name	State	USFWS	Habitat Type	Probability of Occurrence
<i>Amphibians</i>					
<i>Rana capito</i>	gopher frog	SSC		4,6,9	Medium
<i>Birds</i>					
<i>Ajaja ajaja</i>	roseate spoonbill	SSC		7,9	Present
<i>Aphelocoma coerulescens</i>	Florida scrub-jay	T	T	1	Low
<i>Aramus guarana</i>	limpkin	SSC		7,9,10,11	Medium
<i>Charadrius melodus</i>	pipkin plover	T	T	16	Low
<i>Dendroica kirtlandii</i>	Kirtland's warbler	E	E	1,5	Medium
<i>Egretta caerulea</i>	little blue heron	SSC		7,9,10,11	Present
<i>Egretta rufescens</i>	reddish egret	SSC		16,17	Medium
<i>Egretta thula</i>	snowy egret	SSC		7,9,10,11	Present
<i>Egretta tricolor</i>	tricolored heron	SSC		7,9,10,11	Present
<i>Eudocimus albus</i>	white ibis	SSC		7,9,10,11,12	Present
<i>Falco peregrinus spp.</i>	peregrine falcon	E	E	6,7,8,9,10,11,12	Medium
<i>Falco sparverius paulus</i>	southeastern American kestrel	T		2,3,4,6,7,12	High
<i>Grus canadensis pratensis</i>	Florida sandhill crane	T		6,7,9,12	Present
<i>Haematopus palliatus</i>	American oystercatcher	SSC		16	Low
<i>Haliaeetus leucocephalus</i>	bald eagle	*	*	2,3,4,8,9,10,11	Present
<i>Mycteria americana</i>	wood stork	E	E	4,9,10,12	Present
<i>Pelecanus occidentalis</i>	brown pelican	SSC		17	Low
<i>Picoides borealis</i>	red-cockaded woodpecker	T	E	2,3,4	Low
<i>Polyborus plancus audubonii</i>	Audubon's crested caracara	T	T	4,5,6,7,9	Present
<i>Rynchops niger</i>	black skimmer	SSC		7,9,10	Low
<i>Speotyto cunicularia</i>	burrowing owl	SSC		2,6,12	Present
<i>Sterna antillarum</i>	least tern	T		9,11,12	Low
<i>Vermivora bachmanii</i>	Bachman's warbler	E	E	8,10	Medium
<i>Mammals</i>					
<i>Blarina carolinensis</i>	Sherman's short-tailed shrew	SSC		4,5,7	Medium
<i>Peromyscus polionotus niveiventris</i>	southeastern beach mouse	T	T	1,13	Low
<i>Podomys floridanus</i>	Florida mouse	SSC		1,2,3	Low
<i>Trichechus manatus</i>	Florida manatee	E	E	15	Absent
<i>Ursus americanus floridanus</i>	Florida black bear	T	CA	1,2,3,4,5,8,10	Medium
<i>Reptiles</i>					
<i>Alligator mississippiensis</i>	American alligator	SSC	T(S/A)	8,9,10,11	Present
<i>Caretta caretta</i>	Atlantic loggerhead turtle	T	T	15,16	Absent
<i>Chelonia mydas mydas</i>	Atlantic green turtle	E	E	15,16	Absent
<i>Dermochelys coriacea</i>	leatherback turtle	E	E	15,16	Absent
<i>Drymarchon corais couperi</i>	eastern indigo snake	T	T	1,2,3,5,6,12,17	High
<i>Gopherus polyphemus</i>	gopher tortoise	T		1,2,3,4,5,12	Present
<i>Lepidochelys kempii</i>	Atlantic ridley turtle	E	E	15,16	Absent
<i>Nerodia fasciata taeniata</i>	Atlantic salt marsh snake	T	T	9,15,16	Low
<i>Pituophis melanoleucus mugitus</i>	Florida pine snake	SSC		2,3,5,12	Medium

SSC - Species of Special Concern (FGFWFC)

C - Commercially Exploited

T - Threatened

T(S/A) - Similarity of Appearance (USFWS)

CA - Candidate for Listing

E - Endangered

Habitat Types

1 - Scrub

2 - Sandhills

3 - Scrubby Flatwoods

4 - Wet/Mesic Flatwoods

5 - Hammock

6 - Dry Prairie

7 - Wet Prairie

8 - Bottomland Hardwood

9 - Marsh/Bog

10 - Swamp/Dome

11 - Ponds/Lakes

12 - Disturbed/Cultivated

13 - Sand Dunes

14 - Epiphyte

15 - Marine

16 - Beaches

17 - Mangroves

18 - Shell middens

* NOTE FOR EAGLES

Source: Wunderlin, R. 1998. Guide to the Vascular Plants of Florida. Univ. P of Florida

Various authors. Endangered Biota of Florida series. 1992-1996

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Table 3. Conceptual Timing Periods of VWP Management Activities

Section No.	Conservation/Management Action	Periods
3.1	Resource Protection and Conservation	I-III
3.2	Prescribed Fire	II-III*
3.3a	Invasive Exotic Plant Control	II-III*
3.3b	Timber Management	I-III
3.3c	Mechanical Management	II-III*
3.4	Hydrological Enhancement	II-III*
3.5a	Swale Maintenance	I-III
3.5b	Graze Cattle	I-III
3.5c	Turf Grass/Pasture Grass Sod Production	I-III
3.6	Monitoring	I-III
3.7	Operations	I-III
3.8	Funding	I-III
3.9	Community Outreach and Collaboration	II-III
4.0	Individual Listed Species Consideration	I-III

*A limited amount of these activities may occur in Period I but will largely occur in Period II.

Table 4 Prescribed Fire Regimes

Natural Communities	FLUCFCS Type	FNAI Type*	Frequency (years)*
Improved Pasture	211	NA	As Needed
Palmetto Prairie	321	Mesic flatwoods	1 – 8
Pine Flatwoods	411	Mesic flatwoods	1 – 8
Live Oak Hammock	427	Mesic hammock	-
Cabbage Palm Hammock	428	Prairie hammock	1 – 8
Hardwood-conifer Mixed	434	Upland mixed forest	5 – 30
Mixed Hardwood	438	Upland mixed forest	5 – 30
Bay Swamp	611	Basin swamp	5 – 150
Mixed Wetland Hardwoods	617	Depression marsh	5 – 30
Willow/Elderberry Wetland	618	Depression marsh	1 – 8
Exotic Wetland Hardwoods	619	Depression marsh	1 – 8
Hydric Pine Flatwoods	625	Wet flatwoods	3 – 10
Hydric Pine Savannah	626	Wet flatwoods	3 – 10
Wetland Forested Mixed	630	Hydric hammock	5 – 30
Cabbage Palm Wetland	632	Hydric hammock	1 – 8
Cabbage Palm-Hardwood Mixed	633	Hydric hammock	5 – 30
Freshwater Marsh	641	Floodplain marsh	1 – 5
Wet Prairie	643	Wet prairie	2 – 4
Hydric Pasture	647	NA	As Needed

*Note: Burn regimes are approximations based on Florida Natural Areas Inventory (FNAI) community type. See Guide to the Natural Communities of Florida, 1990, for community descriptions.

Table 5.
Listed Species Nesting Season

Common Name	Scientific Name	Status State/Fed	Nesting season												Source		
			Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec			
Bald eagle	<i>Haliaeetus leucocephalus</i>	*															Wood
Crested caracara	<i>Polyborus plancus audubonii</i>	T / T															Wood; USFWS
Florida sandhill crane	<i>Grus canadensis pratensis</i>	T / -															Wood
Burrowing owl	<i>Athene cunicularia floridana</i>	SSC / -															Wood
Southeastern American kestrel	<i>Falco sparverius paulus</i>	T / -															Wood
Gopher tortoise	<i>Gopherus polyphemus</i>	T / -															Wood

peak nesting season

* Bald eagles are no longer protected under the Endangered Species Act. The bald eagle will continue to be federally protected under the Bald and Golden Eagle Protection Act and the Migratory Bird Treaty Act. In Florida, the bald eagle is no longer a listed species, though it continues to be protected under the state's newly enacted bald eagle rule, F.A.C. 68A-16.002 Bald Eagle (*Haliaeetus leucocephalus*).

Table 6 Category I Exotic Plants in the VWP

Common Name	Scientific Name	Primary Location / MU* *Management Unit	FLEPPC Category
Brazilian pepper	<i>Schinus terebinthifolius</i>	Throughout VWP, primarily along/in ditches, wetlands, hammocks	I
Camphor tree	<i>Cinnamomum camphora</i>	Flatwoods, hammocks	I
Cogon grass	<i>Imperata cylindrica</i>	Flatwoods, along ditches	I
Old World climbing fern	<i>Lygodium microphyllum</i>	Roads/ditches of J4	I
Paragrass	<i>Urochloa mutica</i>	Ditches, wetlands	I
Torpedo grass	<i>Panicum repens</i>	Ditches, wetlands	I
Tropical soda apple	<i>Solanum viarum</i>	Pastures	I
Water hyacinth	<i>Eichhornia crassipes</i>	Ditches, marshes	I
Wild taro	<i>Colocasia esculenta</i>	Ditches, marshes	I
Chinese Tallow Tree	<i>Sapium Sebiferum</i>	Flatwoods, ditches, pastures	I

APPENDIX A

Vegetative Community Descriptions

Residential - Low Density (110) 15.9 acres

This land use occurs in the northern portion of the Viera Wilderness Park (VWP) and includes small, single-family residences or mobile homes for agricultural personnel. It also includes other support facilities used for agricultural operations, principally for cattle grazing and sod farming.

Improved Pasture (211) 1824.85 acres

Improved pasture is the most extensive cover type. It occurs throughout much of the VWP and has been planted for cattle grazing and bahiagrass sod production. The plant species composition in this cover type is highly variable and ranges from areas dominated by bahiagrass to areas with more herbaceous diversity. Canopy species such as longleaf pine (*Pinus palustris*), slash pine (*P. elliotti*), cabbage palm, and live oak are scattered in varying densities, although they do not exceed 10 percent areal coverage. Groundcover species include bahiagrass, bermudagrass (*Cynodon dactylon*), turkey tangle fogfruit (*Phyla nodiflora*), chalky bluestem (*Andropogon virginicus*), bushy bluestem (*Andropogon glomeratus*), coreopsis (*Coreopsis* spp.), fine-leaved white-top sedge (*Dichromena colorata*), Mexican clover (*Richardia scabra*), caesar weed (*Urena lobata*), and scattered soft rush (*Juncus effusus*). Other ground cover species found within this cover type include flatsedges (*Cyperus* spp.), beakrushes (*Rhynchospora* spp.), dogfennel (*Eupatorium capillifolium*), carpetgrass (*Axonopus* sp.), sand cordgrass (*Spartina bakeri*), blackberry (*Rubus* sp.), goldenrod (*Solidago* sp.), poor man's pepper (*Lepidium virginicum*), spadeleaf (*Centella asiatica*), and marsh pennywort (*Hydrocotyle umbellata*), false goldenrod (*Euthamia minor*), toadflax (*Linaria canadensis*), thistle (*Cirsium horridulum*), sedges (*Carex* spp.), sand vetch (*Vicia* sp.), smutgrass (*Sporobolus indicus*), and occasional tropical soda apple (*Solanum viarum*).

Some pastures are intentionally and frequently flooded as agricultural practices require and are dominated by bahiagrass with fairly dense zones of soft rush, fine-leaved white-top sedge, beakrushes, marsh pennywort, spadeleaf, scattered sand cordgrass, umbrella-sedge (*Fuirena* sp.), bishop weed (*Ptilimnium* sp.), purslane (*Portulaca* sp.), stinking camphorweed (*Pluchea foetida*), crabgrass (*Digitaria* sp.), torpedograss (*Panicum repens*), hairsedge (*Fimbristylis* spp.), and scattered wax myrtle (*Myrica cerifera*).

Within this cover type is an extensive network of canals, ditches, and swales used for drainage or irrigation, depending on rainfall throughout the year. During dry seasons, water levels are managed by allowing artesian wells to flow in concert with the placement or removal of plugs in the ditches or swales. During wet seasons the ditches and swales are opened to avoid long-term inundation or flooding. Because of the VWP's

relatively flat topography, this means of controlling water levels is generally effective for irrigating the sod and pasture fields, and providing drinking water for cattle.

Sod Farm (242) 274.29 acres

This small land use is intensively managed, and represents about two percent of the VWP's total area. It includes intensive turf grass sod farming operations. Activities within these sod fields are focused on maintaining a monoculture of turf grasses, including Floratam, Zoysia, Bermuda, Raleigh, Seville, and Bitter Blue. Like the improved pasture cover type, it is interlaced by a network of canals, ditches, and swales that are used for drainage and irrigation.

Other Open Land (260) 2.08 acres

This category includes those agricultural lands whose intended usage cannot be determined.

Palmetto Prairie (321) 45.11 acres

This vegetation type occurs in locations that likely were pine flatwoods or dry prairie (see FNAI) historically but have been recently timbered. The canopy and sub canopy are conspicuously lacking and consist of occasional cabbage palm or live oak. The shrub layer consists of winged sumac (*Rhus copallina*) and American beautyberry (*Callicarpa americana*). The ground cover consists of dense saw palmetto (*Serenoa repens*), wiregrass (*Aristida stricta*), bracken fern (*Pteridium aquilinum*), rusty lyonia (*Lyonia ferruginea*), bahiagrass, goldenrod, milkpea (*Galactia regularis*), paw paw (*Asimina reticulata*), gallberry (*Ilex glabra*), occasional blackberry, false goldenrod, dogfennel, and caesarweed. Typically these palmetto prairies are relatively dry.

Pine Flatwoods (411) 1232.13 acres

This is VWP's second largest community type. The canopy within this vegetative community consists of sparse slash pine and longleaf pine, with a shrub layer of scattered live oak, wax myrtle, Brazillian pepper (*Schinus terebinthifolius*), cabbage palm, occasional swamp bay (*Persea palustris*), saltbush (*Baccharis halimifolia*), and laurel oak (*Q. laurifolia*). Ground cover species include dense saw palmetto, caesarweed, blackberry, dogfennel, scattered bahiagrass, American beautyberry, coreopsis, bushy bluestem, chalky bluestem, blue maidencane (*Amphicarpum muehlenbergianum*), shiny blueberry (*Vaccinium myrsinites*), runner oak (*Q. pumila*), hairy indigo (*Indigofera hirsuta*), gallberry, wiregrass, false goldenrod, blackroot (*Pterocaulon virgatum*), stinking camphorweed, St. Peter's wort (*Hypericum tetrapetalum*), carpetgrass, yellow milkwort (*Polygala lutea*), paw paw, bantam button (*Syngonanthus flavidulus*), goldenrod, Virginia buttonweed (*Diodia virginiana*), greenbrier (*Smilax laurifolia*), bracken fern, and gallberry. Many of the pine flatwoods have been timbered recently and, in some areas, are more dominated by cabbage palm and wax myrtle.

Live Oak Hammock (427) 102.69 acres

Dominated by live oak trees, this vegetation type occurs in varying densities throughout the VWP. Other canopy species within this cover type include scattered cabbage palm, and laurel oak. The shrub and groundcover layers are sparse and open, and consist of scattered wax myrtle, saw palmetto, bahiagrass, witchgrass (*Dicanthilium* sp.), blackroot, milkpea, goldenrod, American beautyberry, caesarweed, wildgrape (*Muscadine rotundifolia*), and live oak. Resurrection fern (*Pleopeltis polypodioides*) covers live oak branches in many places.

Cabbage Palm Hammock (428) 213.19 acres

The canopy within this vegetative community type is sparse and open, and consists predominately of cabbage palm with scattered slash pine, laurel oak, and live oak. The shrub layer is fairly open and consists of cabbage palm, occasional wax myrtle, Brazilian pepper, laurel oak, live oak, slash pine, and Hercules club (*Zanthoxylum clava-herculis*). The ground cover consists of scattered clumps of saw palmetto interspersed with various grasses such as bermudagrass, blue maidencane, broomsedge, bushy bluestem, dogfennel, bahiagrass, spikerush (*Eleocharis* spp.), false goldenrod, torpedograss, wiregrass, and scattered blue toadflax, St. John's Wort, blackroot, sabatia (*Sabatia* sp.), marsh fleabane (*Pluchea* spp.), carpetgrass, Mexican clover, clover (*Dalea* spp.), meadowbeauty (*Rhexia* spp.), American beautyberry, goldenrod, blackberry, caesarweed, sand cordgrass, marsh pennywort, yellow milkwort (*Polygala lutea*), spadeleaf, bracken fern, hairy indigo, elephant's-foot (*Elephantopus* sp.), tropical soda-apple, and fogfruit.

Hardwood-Conifer Mixed (434) 222.23 acres

This habitat type likely was mesic or hydric pine flatwoods historically, and is vegetatively similar in nature, without the pine canopy. This community type appears to have been timbered in the past 60 years as evidenced by sporadic pine stumps. Comprised of a mixture of canopy species such as slash pine, longleaf pine, laurel oak, live oak, water oak (*Q. nigra*), and occasional cabbage palm, this community type occurs throughout VWP. It generally contains a sub canopy of the above-listed species and a fairly open shrub layer of cabbage palm, and scattered Brazilian pepper. The shrub and ground cover consists of cabbage palm, saw palmetto, wax myrtle, live and laurel oak saplings, blue maidencane, caesarweed, wiregrass, bracken fern, boston fern (*Nephrolepis* sp.), witchgrass, heart-leaved St. Peter's wort, American beautyberry, chalky bluestem, bushy bluestem, paw paw, fine-leaved white-top sedge, dogfennel, false goldenrod, bahiagrass, shiny blueberry, milkpea, and fireweed (*Erechtites hieracifolia*).

Mixed Hardwoods (438) 5.10 acres

This is a hardwood community in which no single species or species group appears to achieve a 66 percent dominance of the canopy. This class of hardwoods includes any combination of large and small hardwood tree species none of which can be identified as dominating the canopy.

Canals and Ditches (511) 91.08 acres

As mentioned previously, canals and ditches occur throughout the VWP primarily to provide drainage and irrigation for agriculture. The canals are often closely associated with major roads in VPW and drain the extensive network of ditches. The principal canals run east-west and are named based as discussed above. They all carry flow west to the St. Johns River from the DRI and other communities east of Interstate 95.

Reservoirs, less than 10 acres (534) 1.66 acres

These small reservoirs are scattered throughout VWP and are usually associated with artesian wells or cattle operations.

Mixed Wetland Hardwoods (617) 4.87 acres

This category is reserved for those wetland hardwood communities which are composed of a large variety of hardwood species tolerant of hydric conditions yet exhibit an ill defined mixture of species.

Willow and Elderberry Wetland (618) 12.17 acres

The shrub and groundcover in this habitat is similar to the Bay Swamp cover type. Also occurring in small amounts, these wetlands are dominated by shrub species such as Carolina willow (*Salix caroliniana*), elderberry, scattered Brazillian pepper and wax myrtle. These wetlands may be former wet prairie systems that have experienced an unnatural fire regime, thus allowing the shrubs to dominate. The understory consists of swamp fern (*Blechnum serrulatum*), Virginia chain fern, blue maidencane, sand cordgrass, pickerelweed (*Pontederia cordata*), and marsh pennywort.

Exotic Wetland Hardwoods (619) 31.42 acres

This wetland cover type occurs in varying amounts throughout VWP. Brazilian pepper dominates the canopy and sub canopy layers, and the groundcover is often sparse from the dense shade of this exotic species, but includes generally the same species as the willow and elderberry wetland.

Hydric Pine Flatwoods (625) 552.69 acres

Dominated by a canopy of slash pine, this wet flatwoods community has a diverse groundcover of herbaceous wetland plants. One of the larger community types, it occurs primarily in the western and southern parts of the VWP. Scattered cabbage palm also occurs in the canopy, while the groundcover is dominated by species including saw palmetto, coreopsis, pink sundew (*Drosera capillaris*), pockets of sand cordgrass, yellow milkwort, pipewort (*Eriocaulon* spp.), wiregrass, wide-spread blue maidencane, occasional St. John's wort, occasional blackberry, cabbage palm, scattered wax myrtle, sandweed (*Hypericum fasciculatum*), butterwort (*Pinguicula* sp.), occasional sawgrass (*Cladium jamaicense*), hatpins (*Eriocaulon decangulare*), bog buttons, beakrush, ladies' tresses (*Spiranthes* spp.), fine-leaved white-top sedge, and yellow-eyed grass (*Xyris* spp.).

Hydric Pine Savannah (626) 15.24 acres

Like the hydric pine flatwoods community, this wetland habitat type is also comprised of a diverse mix of herbaceous wetland species, but has a sparser canopy of slash pine, occasional laurel oak, and cabbage palm.

These wetlands were probably more herbaceous historically but now have scattered canopy and sub-canopy species, probably from an altered fire regime or hydrology, or both. These areas appear to inundate typically less than six inches for long periods of time or stay saturated at the surface.

The shrub layer is sparse and contains scattered cabbage palm, wax myrtle, and slash pine. The groundcover is dominated by blue maidencane, sand cordgrass, wiregrass, scattered saw palmetto, false goldenrod, eastern blue-eyed grass (*Sisyrinchium atlanticum*), elephant's foot, spadeleaf (*Centella asiatica*), swamp fern, wax myrtle, marsh bristlegrass (*Setaria parviflora*), scattered blackberry, pink sundew, meadowbeauty (*Rhexia* spp.), fine-leaved white-top sedge, coreopsis, stinking camphorweed, marsh pennywort, red ludwigia (*Ludwigia repens*), dogfennel, fogfruit, beaksedge, shortleaf yellow-eyed grass (*Xyris brevifolia*), caesarweed, bushy bluestem, nutsedge, snakeroot (*Eryngium yuccifolium*), taperleaf waterhorehound (*Lycopus rubellus*), occasional spring lily (*crinum ampricanum*), St. John's wort, and mermaid-wood (*Proserpinaca pectinata*).

Wetland Forested Mixed (630) 72.67 acres

These wetlands contain a mixture of pines and hardwoods, neither of which is dominant. Canopy species include cabbage palm, Florida elm (*Ulmus americana* var. *floridana*), and slash pine. The shrub layer consists of Brazilian pepper, Chinese tallow (*Sapium sebiferum*), and red maple. Groundcover consists of fireweed, dayflower, greenbrier (*Smilax* sp.), dotted smartweed (*Polygonum punctatum*), sand cordgrass, and scattered marsh pennywort.

Cabbage Palm Wetland (632) 46.98 acres

* Occurring as small hammocks throughout the VWP, this vegetation type is dominated by cabbage palm. The shrub and groundcover is often quite open and lacking, probably due to heavy grazing by cattle and consists of swamp fern, Virginia chain fern, dotted smartweed, marsh pennywort, dollar weed, sand cordgrass, poison ivy, Brazilian pepper, Chinese tallow, and scattered soft rush.

Cabbage Palm-Hardwood Mixed (633) 46.59 acres

Consisting of a canopy of various hardwoods, such as red maple, blackgum (*Nyssa sylvatica* var. *biflora*) and Florida elm, this cover type also includes cabbage palm, and slash pine. The shrub and groundcover of this wetland community are generally very open due to cattle grazing. Many of these wetlands have been drained by either perimeter ditches or ditches cut through their centers. The soils in the deepest portions of these

wetlands are deep mucks, surrounded by a perimeter of stained sand. Groundcover species include a variety of nuisance and exotic species including marsh pennywort, dayflower, Brazilian pepper, dogfennel, tropical soda apple, pokeweed (*Phytolacca americana*), and fireweed. Other species consist of poison ivy, swamp fern, American beautyberry, scattered soft rush, butterweed (*Packera glabella*), and infrequent pickerelweed.

Freshwater Marsh (641) 84.81 acres

This wetland community is scattered throughout the VWP, mostly as small, isolated systems. Many have ditches cut through them, yet they continue to exhibit characteristic wetland functions, because they generally occur within the deeper pockets of the landscape. Most marshes exhibit a diverse array of herbaceous cover consisting of lance-leaved arrowhead (*Sagittaria lancifolia*), pickerelweed, dotted smartweed, giant bulrush (*Scirpus* sp.), soft rush, lemon bacopa (*Bacopa caroliniana*), alligator flag (*Thalia geniculata*), marsh pennywort, sand cordgrass, sawgrass, with wildhemp (*Mikania scandens*), giant plume grass (*Erianthus giganteus*), swamp fern, saltbush, swamp hibiscus (*Hibiscus grandiflorus*), duck potato (*Sagittaria latifolia*), red ludwigia (*Ludwigia repens*), red maple, Carolina willow, string lily (*Crinum americanum*), and garden club (*Orontium aquaticum*). Cattails (*Typha latifolia*), marsh fleabane, lanceleaf fogfruit (*Phyla lanceolata*), and Brazilian pepper also occur with varying frequency. Virginia iris (*Iris virginica*) and canna (*Canna* sp.) also occur occasionally.

Wet Prairie (643) 241.53 acres

Like the freshwater marshes, wet prairies occur throughout the VWP and vary in quality based on their degree of hydrologic alteration. Many occur in close association with freshwater marshes and wet areas within the improved pasture cover type. Vegetation typically includes sand cordgrass and blue maidencane, and a diverse combination of herbaceous and occasional woody species. These plants include stinking camphorweed, eastern blue-eyed grass, torpedograss, blackberry, dogfennel, thistle, caesarweed, scattered cabbage palm, wax myrtle, Brazilian pepper, saltbush, spadeleaf, pink sundew, wiregrass, coreopsis, meadowbeauty, tropical soda apple, marsh pennywort, Baldwin's spikerush (*Eleocharis baldwinii*), Virginia chainfern, and false goldenrod.

Hydric Pasture (647) 47.08 acres

Hydric pasture occurs in small quantities throughout the VWP in direct association with the improved pasture (211) cover type. Many of these areas were historical wetlands and persist as wetlands despite intensive agricultural practices. However, some have elevated groundwater levels which are driven by artesian irrigation for cattle and pastures. This practice has artificially created fairly dense zones of wetland vegetation where upland communities likely existed historically. Nevertheless, the wetland characteristics are often marginal and seasonally variable and, because of their complexity, will require careful review before determining the exact extent of wetland jurisdiction.

Plant species composition in the hydric pastures includes many of the same species in the 211 cover type, particularly bahiagrass, but with greater densities of wetland species such as, soft rush, fine-leaved white-top sedge, beakrushes, marsh pennywort, spadeleaf, umbrella-sedge (*Fuirena* sp.), fringe-rush (*Fimbristylis* sp.), sand cordgrass, bishopweed, Florida purslane, stinking camphorweed, crabgrass, torpedograss, and scattered wax myrtle.

Roads (814) 67.73 acres

There are several miles of large, regularly maintained sand roads throughout VWP that are usually associated with the major canals and that also provide access to St. Johns River Water Management District lands. These roads support the cattle and sod operations. In addition, a number of smaller field roads occur within the site, and provide access to the outlying areas.

Electric Power Transmission Lines (832) 3.68 acres

Several high-tension power lines occur within a utility easement, traversing the site from the northern to the southeastern VWP boundaries.

APPENDIX B - Life Histories for Listed Species

American alligator (*Alligator mississippiensis*) (*State-listed Species of Special Concern and Federally-listed Threatened*)

American alligators have been observed in the larger drainage canals and surface waters within the Viera Wilderness Park (VWP). American alligators also use the large drainage canals, as well as conservation lands associated with the St. Johns River off-site.

Based on Ashton and Ashton, 1991, the American alligator is a large (>12 feet in length), carnivorous reptile that can inhabit virtually any body of water in Florida. Alligators typically eat fish and birds, but are opportunistic predators and will eat virtually any animal inhabiting, or venturing near the water. While mainly aquatic or semi-aquatic, male alligators will travel overland in search of mates, and migrate when water resources are low. Female alligators provide parental care for offspring, beginning with building a nest, usually on the fringes of wetlands, in which they lay 30 – 50 eggs (Ashton and Ashton, 1991). Once the eggs hatch (~70 days after oviposition) the mother carries the hatchlings into the water, and they may stay near the mother, who provides protection from predation for up to two (2) years.

The American alligator was previously federally-listed as endangered by the U.S. Fish and Wildlife Service, but was removed from the list and pronounced fully recovered in 1987. The basis for listing American alligators was reduced population sizes due to over hunting in the early portion of the twentieth century. However, since regulations were put into place banning the hunting of alligators, populations have exploded, successfully returning to levels nearing historical numbers. Currently, the American alligator is listed by the State of Florida as a Species of Special Concern, and regulated as such by the Florida Fish and Wildlife Conservation Commission (FFWCC).

In addition, the steadily increasing encroachment of humans into wetland areas, combined with the rapid population increases of alligators, have made human-alligator conflicts more common. Because alligators can persist in most water bodies, and because they are common in many wetlands in Florida, mitigation for this species is not usually necessary. Additionally, few impacts to large water systems (e.g., lakes, large streams, canals, etc.) generally occur due to wetland regulations prohibiting large-scale wetland disturbances; so alligators generally have sufficient habitat after development occurs.

Bald eagle (*Haliaeetus leucocephalus*) (*State- and Federally-listed Threatened*)

Several bald eagle nests occur within the VWP. According to Curnutt (1996), the bald eagle is the largest raptor breeding in Florida, reaching up to 3 feet in height and a wingspan of 9 feet

(Curnutt, 1996). Juveniles are uniform brown, but molt into the conspicuous adult coloration, consisting of a white head and tail and brown body after their first year. Bald eagles migrate, returning to previously occupied territories and nest sites during the winter nesting season (Curnutt, 1996). Eagles form lifelong monogamous pair bonds, and will re-use the same nest in subsequent years, often repairing damage and adding onto the nest at the start of a new nesting season (Curnutt, 1996). Besides fish, eagles often eat carrion (e.g., roadkill), wading birds, reptiles, or may steal prey from seagulls or osprey (Curnutt, 1996). Eagles usually mature at 5 years of age and females generally produce 2-3 eggs annually, which take 35 days to hatch (Curnutt, 1996). Once hatched, young will fledge after 77 days.

Bald eagles declined dramatically following the widespread use of DDT. Following the ban of DDT, bald eagle populations began to recover. Current threats mainly include activities associated with loss and degradation of habitat due to development (Curnutt, 1996). This species has been de-listed from the Endangered Species Act.

Burrowing owl (*Speotyto cunicularia*)
(State-listed Species of Special Concern)

Burrowing owls are propose to be relocated into the VWP. The Florida burrowing owl is a small (8 inches tall; wingspan of 20 inches) avian predator occurring throughout peninsular Florida (Millsap, 1996; Wood, 2001). Burrowing owls prefer open fields and prairies that are well-drained and allow construction of the burrows in which they nest. At present, artificial habitats such as lawns, sod fields, golf courses, and schoolyards contain the largest numbers and densities of burrowing owls in the state (Millsap, 1996). Owls often excavate their own burrows, which can be 10 feet long with an enlarged nest chamber at the end. The entrance is narrow (~ 5 x 3.5 in.) and most often excavated in patches of open sand (Wood, 2001). This species is monogamous and territorial, defending and using individual burrows or multiple burrows in successive years. Pairs generally begin to breed at 1 year of age, and decorate the entrance of the burrow with grass, feces, and shiny objects just prior to oviposition. Clutch size averages three eggs, and the female incubates and brood the young (Millsap, 1996; Wood, 2001). Fledging occurs 40 days after hatching, and juvenile females disperse farther (~580 yards) than males (88 yards) (Millsap and Bear, 1988; Wood, 2001). Densities in Cape Coral, Florida ranged from 1 – 10 pairs per km², with higher densities occurring on lands with 50 – 75% development (Millsap and Bear, 1988).

Previous conservation efforts have consisted of monitoring populations in areas undergoing development (e.g., Millsap and Bear, 1988) or establishing protected areas designated as burrowing owl preserves (Erwin, 2001; Beasley, 2002). Although burrowing owls seem to favor moderate development in some instances (Millsap and Bear, 1988), even protected pastures managed for burrowing owls (e.g., vegetation kept short, etc.) have had little success sustaining or increasing populations (Erwin, 2001).

Audubon's crested caracara (*Polyborus plancus audubonii*)
(State- and Federally-Threatened)

Audubon's crested caracara is a large raptor (length = 22 in, wingspan = 48 in) with a distinctive black crest on the back of the head (Layne, 1996). Sexual maturity is reached after 3-4 years, and females produce 2-3 eggs annually, usually November through April (Morrison, 2001; Wood, 2001). Incubation takes approximately 32 days, and young fledge at 7-8 weeks (Morrison, 2001). Fledglings are dependent upon adults for food for 8 more weeks (Layne, 1996). Breeding pairs are monogamous and defend territories year-round, which average 3,000 acres in size and may occur in a radius of 1.2-1.9 miles from the nest (Layne, 1996; Morrison, 2001).

Caracaras can fly between 20 – 40 mph, seldom soaring, but rather flying in straight lines or foraging by dipping, turning, and zigzagging (Wood, 2001). The diet consists largely of carrion, either scavenged from road kill or taken from other birds (e.g., crows or vultures), or live prey they capture themselves (Morrison, 2001). Caracaras have extremely long legs for their size, which makes them able walkers and aids in hunting in open pasture areas. Prey is carried in the beak, rather than in the talons like most raptors (Layne, 1996). Prey items are incredibly diverse and include insects, amphibians, fish, reptiles, mammals, and avian (Layne, 1996; Morrison, 2001).

Caracara prefer habitats including dry prairies, pastures, or grasslands with short groundcover and a mixture of herbaceous wetlands, hammocks, dead snags, and cabbage palms (Layne, 1996; Morrison, 2001). Nests are usually built in cabbage palm stands of 2-3 trees, and the nest is usually located in the upper branches facing south-east (Morrison, 2001). Nests are made of stalks and fibers from cabbage palms. Private cattle ranches are currently the stronghold for caracara, as the management practices of farmers (mowing, grazing, and burning) maintain habitat similar to historic prairie systems (Morrison, 2001).

The greatest threat to caracara is the large-scale degradation and development of prairie-like habitat (Morrison, 2001). Because they walk around looking for prey, overgrown habitats are unsuitable as foraging areas (Morrison, 2001). However, caracaras seem to be able to adapt to some level of human disturbance, and readily forage along roads and in cattle pens when present (Layne, 1996; Morrison, 2001). Since carrion makes up a large part of the caracara diet, large numbers of them are susceptible to vehicular mortality, especially juveniles (~50%), which have relatively less experience with traffic (Layne, 1996).

Several caracara nests have been documented in and around the VWP. They are closely associated with the South Central Regional Wastewater Treatment Facility (owned by Brevard County) and the improved pastures to the north, east, and south of the VWP.

Florida sandhill crane (*Grus canadensis pratensis*)

(State-listed Threatened)

Several Florida sandhill crane nests have been observed within and adjacent to the VWP over the years. The non-migratory Florida sandhill crane is large (4 ft tall, 6.5 ft wingspan) and omnivorous, living in Florida year-round (Stys, 1997). Sandhill cranes prefer open habitats, such as prairies, and typically nest and roost in shallow, herbaceous wetlands (Nesbitt, 1996; Stys, 1997). Nesting usually occurs between January and August, and pairs will re-nest after the loss of eggs or chicks. Nests are often laid in shallow water above herbaceous marshes or at the marsh/upland interface. Several pairs may nest within the same wetland, although nests are usually separated by several hundred yards (Nesbitt, 1997). Disturbance to the nest during incubation may lead to nest abandonment and subsequent re-nesting in another location (Nesbitt, 1996). Sexual maturity is reached at 3 years of age, and nesting pairs typically lay 2 eggs, which take 30 days to hatch (Stys, 1997). Crane chicks are precocial, following the adults away from the nest as little as 1 day after hatching, and staying with the adults until about 10 months of age (Nesbitt, 1996). Foraging occurs in open fields or grassy areas (e.g., pastures, prairies, or emergent palustrine wetlands), and chicks will follow adults during foraging bouts (Nesbitt, 1996; Stys, 1997). Although home ranges are large, extensive overlap often occurs and several pairs or groups of sub-adults may use the same foraging or nesting habitats (Stys, 1997).

Sandhill cranes can live over 20 years, and most recorded mortality is due to predation (e.g., by bobcats) or anthropogenic causes, such as vehicle collisions or flying into power lines or fences (Nesbitt, 1996; Stys, 1997). To assure a mosaic of suitable habitat for all aspects of sandhill crane's life history, nearby upland areas should be maintained (e.g., through fire, mowing, etc.) to keep the herbaceous vegetation around 20 inches in height, which will allow adequate forage areas near potential nesting and roosting sites (Nesbitt, 1996; Stys, 1997). Management activities should not take place during the nesting season, as chicks and adults are relatively immobile during this time (Stys, 1997).

Gopher Tortoise (*Gopherus polyphemus*)

(State-listed Species of Special Concern)

Gopher tortoises and their burrows have been observed within the VWP. Gopher tortoises are large herbivores that can reach over 12 inches in straight-line shell length, and weigh over 14 pounds. Sexual maturity is reached between 12 – 15 years of age, and females may produce 3 – 12 eggs annually or bi-annually (Mushinsky et al., 1994). Both males and females may mate with multiple individuals, and there can be more than one male responsible for fertilizing a single clutch of eggs (Moon et al., 2006). Eggs are often laid in shallow nests (<12 in deep) in open sandy areas (Pike, 2006). Incubation takes between 90 – 120 days, and hatchlings disperse from the nest site post-hatching (Epperson and Heise, 2003). Female tortoises are iteroparous, reproducing for the entirety of their adult lives. Tortoises, like all reptiles, continue to grow larger throughout their lives, and larger (e.g., older) tortoises tend to lay larger and more eggs.

Gopher tortoises can live several decades under natural conditions, and may reach at least 50 – 70 years old (Auffenberg and Franz, 1982).

Gopher tortoises are ecosystem engineers that construct large burrows (up to 20 feet long, 3 – 8 feet deep, and as wide as the inhabiting tortoise is long) to protect themselves from thermal extremes and predators (Auffenberg and Franz, 1982). Gopher tortoises use several burrows throughout their lives, and may use 1 – 12 burrows annually (Breininger et al., 1994). Therefore, not all burrows contain a resident tortoise. Historically, gopher tortoises ranged throughout much of Florida, being restricted only by xeric or mesic soils which allow burrows to remain dry during most of the year (Auffenberg and Franz, 1982). Their burrowing behavior near the burrow, combined with burrow placement, affect the micro-scale vegetative composition nearby (Boglioli et al., 2000). The burrow that gopher tortoises construct provides refugia for hundreds of cohabitating species, including avians, other reptiles, amphibians, mammals, and invertebrates (Auffenberg and Franz, 1982). More recently, the discussion of disease has become a focus of concern for gopher tortoises (Diemer Berish et al., 2000). An upper respiratory tract disease (URTD) has been blamed for large numbers of dead tortoises found in several populations across the state.

Conservation and mitigation efforts for gopher tortoises are coordinated by the FFWCC. After surveying for gopher tortoises on land planned for development, there are several options to mitigate for any potential impacts to tortoises, tortoise habitat, or commensal species (Cox et al., 1987).

Gopher Tortoise Commensals

Other federally-listed species such as the eastern indigo snake (*Drymarchon corais couperi*) and Florida mouse (*Peromyscus floridanus*) regularly use tortoise burrows for shelter (Layne, 1992; Moler, 1992). These species have not been observed within VWP. Indigo snakes are the longest North American snakes, reaching lengths of 8 feet. This is an extremely mobile species that uses extensive tracts of land that may exceed 250 acres in one active season (Moler, 1992). This snake uses many different habitats, ranging from xeric uplands and scrub to wet prairies and mangrove swamps. Because of extensive habitat use and long-distance movements, indigo snakes are particularly vulnerable to habitat fragmentation. Habitat fragmentation results in snakes having to frequently cross roads to access the habitat they require, and also encounter more humans and domestic animals (e.g., dogs) that can result in harm to the snakes (Moler, 1992). Large tracts of contiguous habitat are most likely to sustain viable indigo populations, and small, isolated tracts are unlikely to sustain populations (Moler, 1992). In fact, Moler (1992) recommends that large tracts of land (at least 2500 ac.) should be protected to benefit this species.

The Florida mouse is adapted to fire-maintained xeric habitats in Florida, such as scrub and sandhill communities (Layne, 1992). However, once vegetation begins to encroach due to fire suppression, Florida mice are less likely to inhabit these areas, and are likely to be locally

extirpated (Layne, 1992). Ensuring that habitat management occurs in contiguous tracts of land with sufficient refugia (e.g., tortoise burrows, stump holes, etc.) is the best way to ensure protection of this species (Layne, 1992).

The Florida gopher frog (*Rana capito aesopus*) is also a gopher tortoise burrow commensal species that utilizes pine flatwoods and sandhill areas in which temporarily inundated, isolated wetlands occur. While the isolated wetlands and pine flatwoods within the VWP could provide habitat for Florida mice and gopher frogs, it is unlikely that they occur in substantial numbers.

Impacts to tortoise burrow commensals, including indigo snakes, Florida mice, and gopher frogs, are typically permitted through the FFWCC as part of standard gopher tortoise permitting procedures. Gopher tortoises, and their burrows, were observed in upland habitats of the site (see **Map G-3**, as depicted in the ADA Sufficiency Response), excluding improved pastures and the intensively managed turf grass sod fields.

Southeastern American kestrel (*Falco sparverius paulus*)
(State-listed Threatened)

Southeastern American Kestrels typically breed April – September in Florida (Stys, 1993). Generally, southeastern American kestrels use cavities excavated by other birds in longleaf pine snags and/or other pine snags as nesting areas. The southeastern American kestrel has not been recorded as breeding within south Brevard County (Stys, 1993; Collopy, 1996). No southeastern American kestrels were observed in VWP. Still, the proposed Rural and Conservation Areas may provide adequate nesting habitat for the kestrel. Although this HMP does not specifically address the biology or management needs of this species, management practices detailed in the HMP will likely perpetuate the open habitat that the species prefers for foraging.

Wood Stork (*Mycteria americana*)
(State- and Federally-listed Endangered)

Wood storks have been observed foraging within the VWP. Wood storks are large birds (reaching 3 feet tall, with a 5 foot wingspan) that forage and nest near shallow wetland systems (Ogden, 1996). The bill is used to feel for small fishes in muddy wetland areas, which are often concentrated with fishes during dry periods (Ogden, 1996). The large aggregations of wetland animals found in drying pools, provides them with the up to 240 pounds of fish that a pair of birds needs to ingest during the nesting season (Ogden, 1996). Nesting is colonial, and several nests may be within the same tree, and several dozen pairs may nest within the same colony (Ogden, 1996). Nesting usually occurs in January – March, and clutch size averages 3 eggs (range of 1 – 6). Reproduction typically takes place at 4 years of age. While nesting, adult storks may fly as far as 130 km to forage when closer wetlands are too dry to provide sufficient food sources (Ogden, 1996).

The seasonal flooding of wetlands allows prey to increase, and drying periods concentrate the large amount of prey needed by this species (Ogden, 1996). If these cycles do not occur, wood storks may starve. Additionally, nesting occurs in tall cypress trees, and the alteration of wetlands and logging during the past century have decreased the availability of these resources (Ogden, 1996). However, wood storks will readily forage and use human-created or managed wetland systems, especially water impoundments (Ogden, 1996).

Wading Birds

Wading birds, including little blue heron, snowy egret, tricolored heron, white ibis, roseate spoonbill, and limpkin have been observed foraging along the margins of drainage ditches, borrow ponds, and forested and herbaceous wetlands within the VWP. State and federal regulations protecting these species are focused on roosting and nesting (rookery) locations. The closest known rookery occurs along the northern shore of Lake Washington, approximately 0.5 mile south of the southern VWP boundary. No known roosting areas or rookeries occur within the VWP.

APPENDIX C



United States Department of the Interior

RECEIVED
7 12 06

FISH AND WILDLIFE SERVICE
6620 Southpoint Drive, South
Suite 310
Jacksonville, Florida 32216-0912

IN REPLY REFER TO:

FWS Log No. 41910-2006-TA-0522

July 7, 2006

Mr. Jay Decator
The Viera Company
7380 Murrell Road, Suite 01
Viera, Florida 32940

RE: Cocoa Ranch Caracara Procedure

Dear Mr. Decator:

On April 26, 2006, Annie Dziergowski and Rob Bittner of this office visited with you, ranch staff, Bill Lites of Glattig Jackson, and Alan Alshouse of EMS to see the A. Duda & Sons, Inc. (Company) agricultural operations on the Cocoa Ranch in Viera, Florida. The draft version of a ranch management plan prepared by the Company for Audubon's crested caracara, entitled *Cocoa Ranch Caracara Procedure*, was discussed throughout the day relevant to the effects of ranch operations on caracaras occupying portions of the ranch, as well as some of our concerns about implementation of the draft management plan. A summary of the information gleaned from the visit is provided below.

Historical use of the Cocoa Ranch by caracaras – Agricultural operations on the ranch have been conducted since the 1940's, and sod and cattle farming and selective harvesting of cabbage palms for landscape use have been ongoing for number of years. In the 1980's, caracara use of the 24,000-acre ranch was first noted. Numbers of nesting caracaras have increased since that time to the present where surveys have detected a minimum of five (5) nests on the undeveloped portion of the ranch. It is apparent that the intensive management of the ranch for sod and cattle, in combination with selective thinning of cabbage palm trees, has provided ideal habitat for the caracara, and as a consequence, a conservation benefit. Suitable nesting sites are abundant and the short grass habitat in grazed pastures and sod fields is optimum for foraging by the bird. Based on three percent (3%) mortality in the cattle herd annually, it is estimated that approximately 90,000 pounds (45 tons) of carrion is provided to caracaras, eagles, vultures, and other carrion-eaters each year, which is an important food item for the caracara.

Cabbage palm harvesting – The selective thinning of cabbage palms at first glance does not seem to conform with the general guidance provided by the caracara management guidelines detailed in Florida Fish and Wildlife Conservation Commission's

(FWC) Technical Report No. 18. Our conversations and site visit confirmed that the larger trees caracaras prefer for nesting and perching will be left, with harvesting excluded during the nesting season in the Nest Protection Zone. No more than forty percent (40%) of the trees would be removed from the Nest Protection Zone and the Foraging Protection Zone, and most of the hammock areas on the ranch would remain untouched.

Prescribed burning – Prescribed burning of pasture areas is employed every 2-3 years to promote Bahia grass forage for cattle. It also benefits the caracara by keeping vegetation low for foraging and facilitating movement of the bird on the ground. Burning would occur in the Foraging Protection Zone during the nesting season only when wind conditions are present to carry smoke away from the nest tree. During the non-nesting season, burning may be conducted within the Nest Protection Zone to promote pasture grass growth and simulate natural fire processes.

Hunting – The ranch has leased areas for hunting for a number of years and no disturbances to caracaras have been noted during that time. Large game animals are harvested by archery only, and the single unit where shotguns are used for waterfowl is located well north of the area inhabited by caracaras. Hunting would be permitted within the Foraging Nesting Zone, but not in the Nest Protection Zone.

Adaptive Management – One of the key points of discussion dealt with incorporating flexibility into the management plan so that changes could be made in procedures to avoid adverse effects on the caracara. The Company retains environmental consulting firms with qualified biologists and ecologists to assist with land management activities. These individuals, in combination with observations from ranch land managers, would monitor the caracara protection zones established in the management plan to ensure that activities conducted on the ranch do not adversely affect this species. The intent is to amend procedures, zones and/or activities at a particular location or in the management plan before such actions cause harm or significant disruptions in caracara behavior patterns that would affect breeding, feeding, or sheltering.

Abandoned Nest – In instances where caracaras have abandoned a nest, the abandoned nest tree and adjacent trees would remain intact until the Service provides confirmation of abandonment after three (3) years. Caracaras have been known to establish nests in one location, leave them for an alternate nest, and then return to the original nest in subsequent years to successfully rear young.

Injured, Sick, or Dead Caracara – Employees should leave injured, sick, or dead caracaras alone until the Service has been contacted for direction. In the event immediate contact cannot be made with the Service when an injured or sick bird is observed, the Company should contact their biologist/ecologist for guidance. It is not uncommon for fledglings to fall or jump out of nests, especially when they are trying their wings in preparation for flight. The adults will care for the young when they are on the ground, and this would be the time to stay away from the nest site and monitor conditions from afar. Adults and fledglings should not be disturbed unless there is very

obvious sign of injury, which would necessitate contacting a local wildlife rehabilitation center. Pertinent contact information is as follows:

U.S. Fish and Wildlife Service
Jacksonville ES Field Office
6620 Southpoint Drive South, Suite 310
Jacksonville, Florida 32216
Phone: 904-232-2580
Contact: Annie Dziergowski, ext. 116

U.S. Fish and Wildlife Service
South Florida ES Field Office
1339 20th Street
Vero Beach, Florida 32960
Phone: 772-562-3909
Contact: Tylan Dean, ext. 284

Wildlife Rehabilitators in Area:

Florida Wildlife Hospital
4560 North US 1
Melbourne, Florida 32935
321-254-8843
Contact: Sue Small, Director

Audubon Center for Birds of Prey
1101 Audubon Way
Maitland, FL 32751
407-644-0190
Contact: Lynda White, Director

On May 2, 2006, you provided the Service via email a revised copy of the draft *Cocoa Ranch Caracara Procedure* describing the operational guidelines and practices on the ranch for caracaras, which included revisions from the discussions at the April 26 site visit. We have reviewed the plan and it contains appropriate modifications pursuant to discussion with staff of this office. The Service concurs with the procedures contained in the *Cocoa Ranch Caracara Procedure*. The plan promotes actions and activities that have occurred on the ranch to date that have resulted in increased caracara usage of ranch lands, it provides protective measures for caracara pairs and offspring during the nesting season, and it affords flexibility for altering procedures, where needed, to avoid disruption or annoyance of caracaras to the point where "take" may occur.

Thank you for your cooperation in this matter. Should you have any questions, please contact Rob Bittner of this office at 904-232-2580, ext. 120.

Sincerely,



for David L. Hankla
Field Supervisor

cc: Tylan Dean, South Florida ES Office

COCOA RANCH CARACARA PROCEDURE

Subject: Procedure; Operational Guidelines and Practices for
Audubon's Crested Caracara

Procedure No. _____
Date: As of July 7, 2006
Page 1 of 11

SCOPE: This Procedure affects all Company employees at the Cocoa Ranch.

GENERAL: Pursuant to the Company's Legal Policy No. 401, it is and has been the Company's policy to fully comply with all laws applicable to its operations, including without limitation, the federal Endangered Species Act (the "ESA"). The ESA, together with other state and local laws and regulations, prohibit harassing, harming, disturbing, molesting or pursuing any species protected under the ESA or destroying the nests of a protected species. Acts deemed to harass, disturb, harm, molest or pursue a protected species are increasingly being broadly defined by governmental agencies and the courts to include conduct which may not directly appear to affect a species.

The consequences of an environmental law violation by any employee can seriously damage the Company and the employee. In particular, violations of the federal ESA and related laws can result in civil or criminal penalties for both the guilty employee and the Company with individual fines up to \$50,000 and/or imprisonment of individuals from 6 months to 2 years.

In 1987, Audubon's Crested Caracara (the "Caracara") was listed as a "threatened" species under the ESA and is also listed as "threatened" under Florida law. Historically, Caracaras inhabited native prairie in Florida's central region. However, the Company's agricultural operations within the Cocoa Ranch over the last fifty years have created foraging and nesting habitat to which the Caracara have successfully adapted. In response to the identification of Caracara nests within and near the Cocoa Ranch and the increasing breadth of regulations and their application by enforcement agencies with respect to the Caracara, it is necessary to adopt a specific Procedure, together with guidelines and practices, for the Cocoa Ranch pertaining to the Caracara.

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SECTION 1 - PROCEDURE: STATEMENT OF CARACARA PROCEDURE

Management adopts the following Procedure at the Cocoa Ranch:

- A. To require the Company's employees to comply with all laws, ordinances and regulations applicable to its agricultural operations with respect to the Caracara;
- B. To avoid conduct and activities which result (or can be construed as resulting) in the "take" of a Caracara, with "take" meaning to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect a Caracara, or to attempt to engage in any such conduct.
- C. To require the Company's employees to take the measures necessary to maintain compliance with environmental laws applicable within their respective areas of responsibility.

To ensure compliance with this Procedure, it is the responsibility of each employee to acquire a working knowledge of the following Guidelines and Practices adopted as part of this Procedure. By doing so, each employee will be able to recognize problem areas in his or her daily activities and seek advice from his or her supervisor and, if necessary, from the Company's General Counsel. Management shall periodically educate the location's employees as to this Procedure and the Guidelines and Practices adopted hereunder.

SECTION 2 - GUIDELINES: CARACARA GUIDELINES

Management adopts the following Guidelines at the Cocoa Ranch:

- A. Summary of Caracara Environmental Laws. Current laws and regulations protecting the Caracara prohibit activity which results in the "take" of a Caracara, which includes conduct which is deemed to harm, harass, pursue, hunt,

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shoot, wound, kill, trap, capture or collect, or the attempt to engage in any such conduct. "Harm" includes habitat modification or degradation to the extent it significantly disrupts a bird's behavior patterns affecting its breeding, feeding or sheltering. "Harass" includes intentional or negligent actions or omissions that cause annoyance to the extent it significantly disrupts a bird's behavior patterns affecting its breeding, feeding or sheltering.

B. Prohibited Conduct.

i. Direct Acts/Conduct Violating Caracara Laws:
Certain conduct clearly violates laws protecting the Caracara. The following listed acts are clear violations and are prohibited under this Procedure:

- Aggressive Acts. Any action directly harming or harassing a Caracara is prohibited, including pursuing, hunting, shooting, wounding, killing, trapping, capturing, or collecting a Caracara or attempting to engage in any such conduct.
- Passive Handling. Handling a Caracara nestling, juvenile or adult or attempting to engage in any such conduct, including handling injured, sick or dead birds (see Section 3(H) pertaining to injured, sick or dead Caracara).
- Harming Eggs or Nests. Any action which results in collecting, possessing or destroying any egg or nest of a Caracara is prohibited, including attempting to engage in any such conduct.

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- Possession, Sale or Transport. Any action related or connected to taking, possessing, transporting, selling, purchasing, bartering, or offering for sale, purchase or barter, any Caracara, or the parts, nests, or eggs of a Caracara.

ii. Indirect Acts/Conduct Violating Caracara Laws: Certain activities may also violate laws protecting the Caracara, notwithstanding that there is no direct intention to do so or any apparent direct harm or harassment to a Caracara from a particular activity. Specifically, nesting Caracaras are susceptible to disturbances that alter the usual patterns of activity which the birds have become accustomed to. Primary Caracara breeding activity occurs from November 1 through April 30 (the "**Primary Nesting Season**").

- C. Establishing Protection Zones. Upon confirmation that a Caracara nest exists within the Cocoa Ranch, management shall establish the following protection zones, subject to modification as provided in the following sentence: (1) a nest protection zone having a radius of 500' extending outward from the nest tree (the "**Nest Protection Zone**"), and (2) a foraging protection zone having a radius of 1,000' extending outward from the nest tree (the "**Foraging Protection Zone**"). However, Management may decrease, increase or otherwise modify such zones based on local features which naturally serve to protect or isolate the nest (such as forested areas), or as reasonably necessary to conform a zone to existing geographic, topographic or natural features (such as canals, ditches, pasture areas or wetlands), and/or man-made elements (such as roadways, fence-lines, gates, canals and ditches); so long as such modification is in consultation with an experienced biologist or ecologist whose opinion is that such

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modification will not adversely affect the subject nest. Once established by Management, all activities and conduct within such zones shall be strictly managed in accordance with the following Guidelines.

- Nest Protection Zone. Activities and conduct shall be managed year-round within each Nest Protection Zone in accordance with the following restrictions:
 - No removal of pasture, sod fields, wetlands, ditches or ponds (or wetlands, ditches or ponds within pasture or sod fields); provided, however, that pasture may be converted to sod fields except during the Primary Nesting Season;
 - No removal of nest trees or oaks;
 - No removal of cabbage palms, except on a selective basis in accordance with Section 3(F) below;
 - No hunting of any type;
 - No construction of any buildings, roads or canals; and
 - No use of herbicides, pesticides or other chemicals in a manner harmful to wildlife.

In addition, during the Primary Nesting Season, Management shall prohibit all unauthorized human entry and activity in each Nest Protection Zone. "Unauthorized human entry and activity" shall mean entry by anyone for any purpose other than persons conducting typical ranching and agricultural operations consistent with the pattern of activity which normally occurred in the area prior to its designation as a Nest Protection Zone – except and excluding (1)

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activity prohibited on a year-round basis within the Nest Protection Zone pursuant to these Guidelines, (2) tree harvesting in any manner, (3) conversion of pasture to sod fields, and (4) prescribed burning.

- Foraging Protection Zone. Activities and conduct shall be managed year-round within the Foraging Protection Zone in accordance with the following restrictions:
 - Activities, other than normal ranching and agricultural operations, are prohibited. Normal operations shall mean agricultural and related activities routinely conducted by the Company within the Cocoa Ranch, including, but not limited to, pasture cultivation, cattle grazing, sod farming and related activities, prescribed burning (except as specifically limited below), lawful hunting, and silviculture (excluding the harvesting of cabbage palms, except on a selective basis in accordance with Section 3(F) below).
 - No use of herbicides, pesticides or other chemicals in a manner harmful to wildlife.
 - During the Primary Nesting Season, prescribed burning shall occur only when wind conditions are present to carry smoke away from the nest tree.

- D. Relocated Nests; Abandoned Nests. These Guidelines shall apply to all confirmed Caracara nest trees, provided, however, that protection zones may be shifted from one tree to a nearby tree (to avoid implementing duplicative zones) when Management (in consultation with a qualified biologist or ecologist) determines that the nesting Caracara

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has selected such tree as an alternate nest tree for its current nesting effort. In such event, Management need not implement any protection zones for the former nest tree; provided, however, that the former nest tree and any adjacent tree in the same clump as the former nest tree, shall not be harvested under any circumstances unless and until (1) it is deemed "abandoned" as provided below; and (2) it is otherwise eligible for harvesting in accordance with applicable Guidelines and Practices adopted hereunder. A nest tree shall not be deemed "abandoned" unless and until the Company receives a letter from the U.S. Fish and Wildlife Service acknowledging that the nest tree is abandoned as confirmed by three consecutive breeding seasons of documented non-use.

SECTION 3 - PRACTICES: CARACARA PRACTICES

Management shall implement the following practices:

- A. Presenting and Posting Technical Information.
Management shall present this Procedure to employees at the Cocoa Ranch and provide bilingual technical and educational materials in English and Spanish regarding Caracara recognition, nest identification, nesting behavior and the Guidelines and Practices adopted in this Procedure. A copy of Technical Report No. 18 - Recommended Management Practices and Survey Protocols for Audubon's Crested Caracara in Florida (September 2001), published by the Florida Fish and Wildlife Conservation Commission, shall be posted in the work place where readily visible and accessible to employees.
- B. Identification and Confirmation of Nest Trees. Any employee sighting Caracara activity or a structure indicating the presence of a Caracara nest tree shall promptly report such sighting to his/her supervisor. Upon a

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report of any observation indicating a Caracara nest tree, Management shall investigate the sighting and, when warranted, confirm whether or not a Caracara nest tree exists as determined by a qualified biologist or ecologist.

- C. Implementing Caracara Protection Zones. Upon Management's confirmation that a Caracara nest tree has been located, Management shall advise all supervisors, employees, tenants, licensees, contract harvesters and laborers of the identified nest tree and implement a Nest Protection Zone and a Foraging Protection Zone around the nest tree. Each zone shall be identified in the field and its approximate boundaries marked by steel posts; posts indicating the Nest Protection Zone shall be painted red, posts indicating the Foraging Protection Zone shall be painted orange. All activities and conduct within such protection zones shall be managed in accordance with the Guidelines and Practices specifically adopted under this Procedure.
- D. Monitoring Caracara Protection Zones. Upon implementing protection zones around a Caracara nest tree, Management shall monitor the nest tree during the Primary Nesting Season on a periodic basis, which monitoring shall consist of observations of the Caracara's behavior by Cocoa Ranch personnel during the ordinary course of agricultural activities. Upon receipt of observations indicating that the Caracara has abandoned the nest tree or is acting inconsistent with prior observations, Management shall review such observational data with a qualified biologist or ecologist and modify the applicable protection zone if advised to do so by such biologist or ecologist to minimize adverse affects on the Caracara.
- E. Revising "Environmental Areas Map". Each confirmed Caracara nest tree shall be shown on the Cocoa Ranch's

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"Environmental Areas Map" together with a graphic depiction of the limits of the Nest Protection Zone and the Foraging Protection Zone specifically adopted for each nest. Management shall revise the Environmental Areas Map as needed to add newly confirmed nest trees and delete nest trees determined to be a "former nest tree" or "abandoned" pursuant to the Guidelines adopted under this Procedure.

- F. Selective Tree Harvesting Within Protection Zones. All tree harvesting within a Nest Protection Zone shall be prohibited by Management during the Primary Nesting Season. At times other than the Primary Nesting Season within the Nest Protection Zone and year-round within the Foraging Protection Zone, the harvest of cabbage palms shall only be permitted on a selective basis as follows: cabbage palms selected for harvesting shall not exceed more than 40% of the existing cabbage palms within the zone AND shall not include any palm exceeding 16' in height as measured from ground level to the top of the tree's bud. The harvest of trees other than cabbage palms in the Foraging Protection Zone shall be permitted without restriction.
- G. Compliance with all Subsequent Management Plans. Management shall revise the Guidelines and Practices adopted under this Procedure and adopt new guidelines and practices to the extent necessary to strictly comply with any habitat management plan or revised plan hereafter approved in connection with any development order for the Viera DRI or otherwise adopted in consultation with the U.S. Fish and Wildlife Service or any other governmental agency having jurisdiction with respect to any Caracara nest located within or near the Cocoa Ranch. Management shall communicate with the U.S. Fish and Wildlife Service as-needed to address and resolve issues and situations

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affecting the Caracara in a manner not considered in this Procedure or the Guidelines and Practices hereby adopted.

- H. Reporting Injured, Sick or Dead Caracara. Upon discovering or learning of an injured, sick or dead Caracara, an employee shall report same to his/her supervisor. Management shall promptly contact the U.S. Fish and Wildlife Service to report the injured, sick or dead Caracara. If immediate contact can not be made with the U.S. Fish and Wildlife Service, Management shall contact a qualified biologist or ecologist for guidance. Injured, sick or dead Caracara shall not be handled in any manner, except as specifically directed by the U.S. Fish and Wildlife Service. If there is a very obvious sign of injury, Management shall notify a local wildlife rehabilitation center identified below. Contact information is as follows:

U.S. Fish & Wildlife Service
Jacksonville ES Field Office
6620 Southpoint Dr. South, Ste. 310
Jacksonville, FL 32216
Phone: 904-232-2580
Contact: Annie Dziergowski,
Ext. 116

U.S. Fish & Wildlife Service
South Florida ES Field Office
1339 20th Street
Vero Beach, FL 32960
Phone: 772-562-3909
Contact: Tylan Dean
Ext. 284

Wildlife Rehabilitators in Area:

Florida Wildlife Hospital
4560 North U.S. 1
Melbourne, FL 32935
Phone: 321-254-8843
Contact: Sue Small, Dir.

Audubon Center for Birds
of Prey
1101 Audubon Way
Maitland, FL 32751
Phone 407-644-0190
Contact: Lynda White, Dir.

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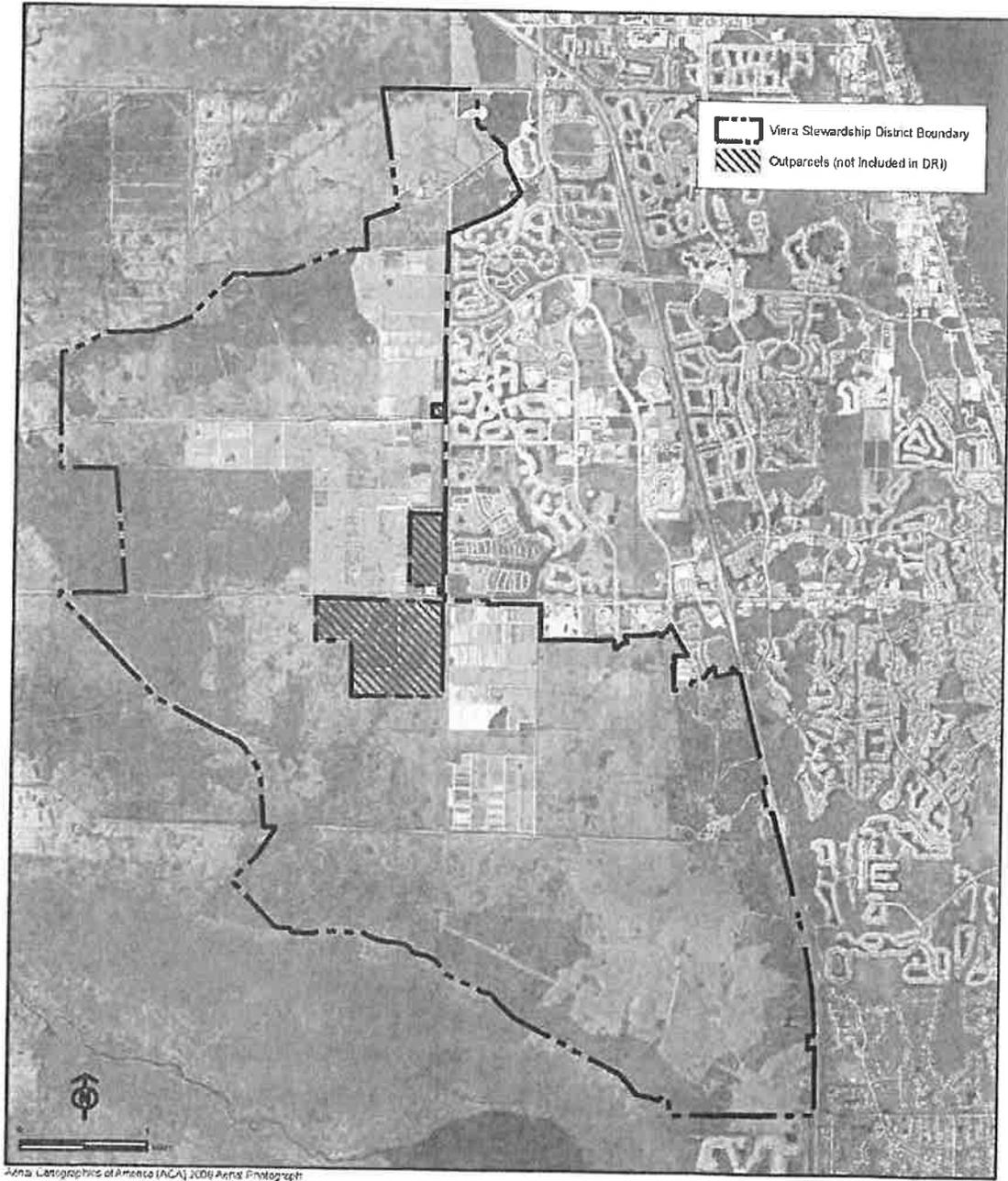
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- I. Reporting Non-Compliance. If there is a question in any employee's mind regarding compliance with this Procedure and the Guidelines and Practices hereby adopted, he/she will **immediately** notify his/her supervisor and resolve the matter. If the matter cannot be resolved at the location, then either the employee, the supervisor or Management shall notify the Company's General Counsel or any Assistant Counsel.
- J. Management shall implement these Practices effective as of July 7, 2006.

EXHIBIT 9

Viera Stewardship District Boundary

**Exhibit 9
Viera Stewardship District Boundary**



GLATTING JACKSON KERCHER ANGLIN
PLANNING ARCHITECTURE ENGINEERING

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Viera - Development Order
Date: October 30, 2009

EXHIBIT 4

DRI Master Development Program

	Phase 1 Through <u>12/22/2023</u>	Phase 2A Through <u>12/22/2023</u>	Phase 3 Through <u>12/22/2023</u>	Cumulative Through Phase 3	Phase 4 Through <u>12/21/2033</u>	Totals
Land Use (See Notes)						
Residential (units)	6,126	3,550	4,674	14,350	17,269	31,619
Office Development (s.f.)	1,355,342	230,927	186,140	1,772,409	<u>1,732,058</u>	<u>3,504,467</u>
-General Office (s.f.)	1,355,342	230,927		1,586,269	<u>1,732,058</u>	<u>3,318,327</u>
-Government Office (s.f.)	*	*	186,140	186,140*	-----	186,140*
Hospital Health Clinic (beds and s.f.)						
-VA Clinics (s.f.)	107,500		30,000	137,500		137,500
-Hospital Beds		150	172	322		322
-ACLF Nursing Home (beds)	580	92	284	956	104	1,060
Industrial Plants or Parks Distribution, Warehousing or Wholesaling Facilities	85,518		109,500	195,018	<u>327,482</u>	<u>522,500</u>
-Office/Warehouse (s.f.)	22,500			22,500		22,500
-Light Industrial (s.f.)	63,018		109,500	172,518	107,500	<u>500,000</u> 280,018
Retail and Service Development (s/f/)	1,641,168	355,000	259,862	2,256,030	1,182,097	3,438,127
Hotel or Motel Development		128		128	<u>622</u>	<u>750</u>

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(rooms)						
Attractions and Recreation Facilities						
-Stadium (seats)	7,500			7,500		7,500
-Theaters (screens/seats)	16 Screens/ 3,600 Seats			16 Screens/ 3,600 Seats		16 Screens/ 3,600 Seats
-Golf Course	18 Holes	18 Holes	18 Holes	54 Holes	18 Holes	72 Holes

* Government Office for Phases 1 and 2A is included in the General Office

NOTES:

- Office use includes medical office uses. Medical offices may include physician offices, medical clinics, labs, and diagnostic centers, ambulatory facilities, surgery centers, urgent care centers, rehabilitation centers, medical equipment sales and service, hospice, home health, pharmacies, cancer centers, hospitals or other similar medical office or specialty medical services or uses.
- Medical uses may include but are not limited to physician offices, medical clinics, labs, diagnostic centers, ambulatory facilities, surgery centers, urgent care centers, rehabilitation centers, medical equipment sales and service, pharmacies, cancer centers, hospitals, health fitness, hospice or home health care or other similar medical or health care uses, so long as (1) such similar use has a trip generation rate (based on Institute of Transportation Engineers (ITE) rates or other professionally acceptable standard rates) comparable to or less than the rate for the previously authorized use being replaced; or (2) the total average daily trips (ADTs) generated by such particular similar use are equivalent to or less than the total ADTs generated by the previously authorized use.
- Retail service use includes fitness center/health club uses.
- Residential use includes independent living uses.
- Land uses such as elementary, secondary schools (public and private), churches, libraries, post offices, fire or police stations, golf courses and other public/civic uses are allowable in any development district, in addition to other designated uses shown on Map H.
- Post-Secondary Educational Facilities, with a maximum enrollment of 4,500 full time equivalent students and 200,000 square feet, will be permitted with approval of an exchange by Brevard County pursuant to Condition 4 of the Development Order in those certain locations as noted on Map H.

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RESOLUTION NO. 19-_____
_____, 2019
AMENDING RESOLUTION 17-205
A FULLY AMENDED AND RESTATED
DEVELOPMENT ORDER FOR
VIERA DEVELOPMENT OF REGIONAL IMPACT

WHEREAS, the Viera Development of Regional Impact (the “DRI”) is a mixed-use development on approximately 20,646 acres located east and west of Interstate 95 in central Brevard County approved pursuant to the original Application for Development Approval and the Application for Development Approval for Substantial Deviations #1 and #2 on property described in **EXHIBIT 1**, attached and incorporated by reference; and

WHEREAS, Brevard County adopted Resolution 09-272 on December 15, 2009 which created the Amended and Restated Development Order for the Viera DRI (the “Amended and Restated Development Order”) which incorporated all previous changes and amendments to the Viera DRI into a single Development Order that controls the development of the property (the “Development Order”); and

WHEREAS, Brevard County adopted Resolution 10-105 on May 27, 2010 which is an Amendment to the Amended and Restated Development Order for the DRI (the “First Amendment”) to include provisions to settle an administrative appeal; and

WHEREAS, Brevard County adopted Resolution 14-120 on July 22, 2014 which is an Amendment to the Amended and Restated Development Order for the DRI (the “Second Amendment”) to extend the time for buildout of phases, the DRI expiration date and the DRI termination date as well as the date by which transportation mitigation must be complete and to clarify the Wickham Road and Murrell Road mitigation timing and process. Together, the

Amended and Restated DRI, the First Amendment, the Second Amendment and the Third Amendment comprise the current Viera DRI Development Order; and

WHEREAS, Brevard County adopted Resolution 15-110 the Third Amendment to the Amended and Restated Development Order (the “Third Amendment”), as amended which specifically modified only those portions of Resolutions 09-272, as amended by Resolution 10-105 and Resolution 14-120 that are reflected in the amendment; and

WHEREAS, Brevard County adopted Resolution 16-126 on August 23, 2016 as a fully Amended and Restated Development Order. ; and

WHEREAS, Brevard County adopted Resolution 17-205 on October 10, 2017 as a fully Amended and Restated Development Order. This Development Order supersedes and replaces all prior Development Orders.

I. FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The Developer filed an Application to amend the Development Order with the local government pursuant to Section 380.06(7), Florida Statutes.

2. The DRI (as described in this Amended and Restated Development Order) is consistent with the State Comprehensive Plan.

3. The DRI is consistent with the Brevard County Comprehensive Plan, as amended, and local land development regulations.

II. DEFINITIONS

For purposes of the Amended and Restated Development Order (hereinafter referred to as the “Development Order”), the terms listed below shall be defined as follows.

1. Accessory Dwelling Unit: A residential structure that has separate kitchen, sleeping, and bathroom facilities, detached from, or attached to, the primary residence. An Accessory Dwelling Unit may be used for housing members of the family occupying the primary residence, or their temporary guests, or may be rented as a separate dwelling, if such Accessory Dwelling Unit and/or leasing of same is approved as part of the West Viera PUD process.

2. Agricultural Use: Any use of land for bona fide agricultural purposes as described in Section 193.461(3)(b), Florida Statutes, or for activities of a farm operation as described in Section 823.14(3), Florida Statutes or for agriculture as defined in Section 570.02(1), Florida Statutes; including, but not limited to, temporary housing for agricultural workers not to exceed a total of 50 units.

3. Developer: The Viera Company, a Florida corporation, or its successor or assigns which specifically assumes the obligations hereunder.

4. Original DRI: DRI land approved prior to the Viera Substantial Deviation #2. The Original DRI Area encompasses 9,079 acres and includes lands both east and west of I-95.

5. Habitat Management Plan ("HMP"): Guidelines and practices for maintaining, enhancing and managing listed species habitat and conducting Agricultural Use within the Rural District and the Conservation District which is attached as Exhibit 8 to this DRI Development Order.

6. Master Drainage System: Shall mean and refer to that portion of the Master Stormwater and Excavation Plan (as defined below) for that portion of the Existing DRI west of I-95 and outside the boundaries of the Viera Stewardship District (as defined below).

7. Master Stormwater and Excavation Plan: Shall mean and refer to all land, easements, structures and other facilities and appurtenances to be designed and constructed on an

incremental basis which together constitute and comprise the master surface water management and drainage system for all portions of the DRI west of I-95.

8. Substantial Deviation #2: the name of the development order modification approved on December 10, 2009, which added the 11,567 acre West Viera Expansion Area to the DRI and which authorized an additional development program within the DRI as described in the DRI Master Development Program attached hereto as Exhibit 4.

9. Town Center: A mixed use District within the Existing DRI generally depicted on the Map H. Master Development Plan attached as Exhibit 3.

10. Transportation Impact Study: The analysis submitted as a part of the NOPC application dated April, 2017 and revised August, 2017.

11. Viera Stewardship District: An independent special district established pursuant to and governed by Chapter 2006-360, Laws of Florida and Chapter 189, Florida Statutes, as a local unit of special purpose government having jurisdiction within those lands specifically described in the Notice of Creation and Establishment of the Viera Stewardship District dated August 8, 2006 and recorded in Official Records Book 5683, at page 2029, as modified by the Amended Notice of Creation and Establishment of the Viera Stewardship District date December 14, 2009 and recorded in Official Records Book 6081, at page 1354, all in the Public Records of Brevard County, Florida, and as from time to time further modified in accordance with Chapter 189, Florida Statutes; including, but not limited to, the West Viera Expansion Area. The Viera Stewardship District has specific powers, responsibilities and duties with respect to providing community infrastructure and ensuring the long-term stewardship of environmental and conservation resources within the District's boundaries as more particularly described in Chapter 2006-360, Laws of Florida, this Development Order and the VWP Habitat Management Plan.

12. Viera Wilderness Park (“VWP”): Lands located within the West Viera Expansion Area designated as “Conservation District” or “Rural District” portions of which provide wetland and listed species mitigation in conjunction with continuing agricultural activities. The VWP is administered by the Viera Stewardship District and the lands and activities therein are managed in accordance with the VWP Habitat Management Plan and applicable environmental permits from time to time issues by regulatory agencies having jurisdiction.

13. Village: A land use area which offers a diverse mix of housing types and centralized commercial/civic nodes, located within the Village District area generally depicted on Map H, the Master Development Plan attached as Exhibit 3.

14. Village Center: A centrally located and required mixed-use component of a Village designed to provide a sufficient mixture of non-residential uses so as to provide for the daily commercial needs of Village residents and residential uses of various densities, intensities, and types. This development form promotes walking between uses and a variety of transportation modes such as bicycles, transit, and automobiles. Allowed uses include residential, retail, office, and civic uses including a park and/or school.

15. Village Sketch Plan: An illustration that demonstrates the specific requirements for development of a Village that further support and implement the baseline standards established as part of the West Viera PUD.

16. West Viera Expansion Area (“WVEA”): The 11,567-acre tract owned by A. Duda and Sons, Inc., The Viera Company or others as same may be transferred in the ordinary course of business, located south and west, immediately adjacent to the Original DRI. The incorporation of these lands and corresponding program into the existing DRI was one of the purposes of Substantial Deviation #2.

III. CONDITIONS

1. The Development Order shall govern the development of lands totaling approximately 20,646 gross acres in Brevard County, as described in Exhibit 1 and Exhibit 2 of the Development Order. Nothing herein is intended to relieve the Developer of any concurrency requirements as set forth in Florida Statutes, Florida Administrative Code or Brevard County Ordinance.

2. The DRI shall be developed in accordance with the information, data, plans and commitments contained in the Viera Development of Regional Impact Application for Development Approval unless otherwise directed by the conditions enumerated below. For purposes of this condition, the Application for Development Approval shall consist of the following items:

- (a) Application for Development Approval of Substantial Deviation #2, dated April 2006.
- (b) Response to First Request for Additional Information for Substantial Deviation #2, dated September 2006.
- (c) Response to Second Request for Additional Information for Substantial Deviation #2, dated April 2007.
- (d) NOPC application dated April, 2017 and revised August, 2017.

3. The WVEA is designed to connect with the Original DRI. The mix and design of land uses is intended to encourage walking, bicycling and to allow residents to meet many of their daily needs on-site without traveling outside of Viera. Four villages, each with a neighborhood mixed-use center and neighborhood parks will provide a variety of housing types. The West Viera PUD may provide gross densities in the Villages ranging from 2 to 30 dwelling

units per acre with a 3.47 unit per acre average. The Rural Development District will provide lower density housing in a conservation subdivision or rural estate setting with a gross density for the overall Rural Development District of 1 dwelling unit per 2.5 acres per the Comprehensive Plan. In accordance with the Staging Plan approved in conjunction with this Development Order, 5,258 acres will transition into the Viera Wilderness Park. The VWP will be adjacent to the 44,000 acre River Lakes Conservation Area and will be managed in accordance with the Habitat Management Plan approved in conjunction with this Development Order. The DRI will consist of the uses shown on Exhibit 4.

The DRI is to be developed as a four phase project as described in Condition 104 herein and Exhibit 4 attached hereto.

4. Notwithstanding the Master Development Program described above and in Exhibit 4, the Developer is allowed to convert one land use for another so long as (1) each such conversion is in accordance with the Transportation Equivalency Matrix, which is based on equivalent peak hour directional trip ends and attached hereto as Exhibit 5, (2) the Developer provides notice to Brevard County, the East Central Florida Regional Planning Council, the City of Rockledge, the School Board of Brevard County, the Florida Department of Transportation and the Department of Economic Opportunity of updated development totals following a conversion and (3) the conversion increases or decreases the total amount of each land use by no more than five percent, unless this Development Order is amended.

However, conversions exceeding five percent may be permitted without an amendment to the Development Order under the following conditions: (1) the conversion is in accordance with the Transportation Equivalency Matrix, which is based on equivalent peak hour directional trip ends

and attached hereto as Exhibit 5 and results in no net increase to the peak hour directional trip ends, and (2) the conversion involves a change in non-residential land uses without involving an increase in residential dwelling units (3) the Developer notifies Brevard County, the East Central Florida Regional Planning Council, the City of Rockledge, the School Board of Brevard County, the Florida Department of Transportation and the Department of Economic Opportunity of updated development totals following a conversion.

Conversion from one land use to another utilizing the Transportation Equivalency Matrix will be reported on an individual and cumulative basis in the Biennial Report. Any future updates to this resolution shall incorporate any changes due to the use of the matrix.

5. The Applicant may continue to conduct all Agricultural Uses as an interim use as follows:

(a) For those portions of the Property designated as “Community,” “Village,” “Town Center,” “Regional Commerce,” “Rural Development” and “Interchange” on Exhibit 3, the Applicant may continue to conduct all Agricultural Uses, including, but not limited to, not more than 50 units of temporary housing for agricultural workers. Upon the recording of a subdivision plat, the Applicant shall not be entitled to claim an agricultural tax exemption for that portion of the Property legally described on the plat unless such claim is consistent with general law.

(b) For those portions of the Property designated as “Rural Area,” the Applicant may continue to conduct all Agricultural Uses, including, but not limited to, not more than 50 units of temporary housing for

agricultural workers. At such time as a portion of the Rural "Area" is re-designated as Rural "District" in accordance with the provisions of Condition 22, below, the Applicant may continue to conduct all Agricultural Use activities upon such portion consistent with the provisions of the VWP Habitat Management Plan as described in Section II, Paragraph 5, above.

(c) For those portions of the Property designated as "Conservation Area," the Applicant may continue to conduct all Agricultural Uses, except and excluding the installation or construction of temporary housing for agricultural workers. At such time as a portion of the Conservation "Area" is re-designated as Conservation "District" in accordance with the provisions of Condition 22, below, the Applicant shall cease all Agricultural Uses upon such portion, except those allowed within the Conservation District consistent with the provisions of the VWP Habitat Management Plan as described in Section II, Paragraph 5, above.

6. Upon final payment of all proportionate share contributions for local and regionally significant impacts as provided in this Development Order, the Applicant shall have satisfied the concurrency requirements of the Brevard County Comprehensive Plan and Concurrency Management System (Chapter 62, Article IV, Sections 62-601 through 62-606, Brevard County Land Regulations) in accordance with the provisions of Chapter 380, Florida Statutes and Chapter 163, Florida Statutes and development through buildout of the DRI shall be vested for concurrency.

7. The portion of the DRI within the City of Rockledge is subject to a separate Development Order recorded at OR Book 3525, page 0978, Brevard County Public Records, and is not subject to the terms and conditions of this Amended and Restated Development Order.

[This portion of the DRI has been built-out]

PROJECT DESIGN GUIDELINES

8. The DRI shall adhere to and further the design characteristics outlined below:

The DRI shall incorporate elements of “smart growth,” transit oriented design (“TOD”) and new urbanism, including walkability, compact development patterns, quality architecture and urban design and will contain a hierarchy of street systems to discourage urban sprawl, foster connectivity, provide for pedestrian mobility and transit internally and externally to the DRI.

(a) The DRI shall promote diversity and choice through a mixture of housing types and price points, including affordable/work force housing as hereinafter set forth.

(b) The DRI shall utilize a number of sustainable development techniques and promote the reduction of greenhouse gases.

(c) The Developer shall cooperate with the governmental units to encourage the siting of public buildings in prominent places within the Village Centers to reinforce the active mixed use nature of these places.

(d) The DRI shall promote the efficient and effective use of infrastructure.

The DRI shall include the development of four distinct Villages.

- (e) Villages shall be designated as a collection of Neighborhoods where a majority of the housing units are within a half mile walking distance to a Village or Neighborhood Center. Villages shall be supported by internally designated, mixed-use Village Centers (designed specifically to serve the daily needs of Village residents).
- (f) Villages shall include a mix of uses, including residential, commercial, office, public/civic, schools and recreational space that serve the daily needs of residents. A Village shall not be required to include all of the noted land uses and Village or Neighborhood Centers may be tailored to meet the specific needs of the residents based upon the type of development which is planned in the Village.
- (g) Villages shall include a Village Center with sufficient non-residential uses to provide for the daily needs of Village residents, by phase of development, in a form that can be conveniently served by regional bus service.
- (h) Villages shall include a range of housing types that support a broad range of family sizes and incomes.
- (i) Villages shall be based on interconnected streets that are designed to balance the needs of all users, including pedestrians, bicyclists and motor vehicles, and which are built with design speeds that are appropriate. Villages shall include alternatives for pedestrians and bicyclists through the provision of sidewalks, street trees and on-street parking which provide distinct separation between pedestrians and

traffic; and provide adequate lighting that is designed for safe walking and signage which has a pedestrian orientation. Within Village Centers, spatially define primary streets and sidewalks by arranging commercial and multi-family buildings in a regular pattern that are unbroken by parking lots.

(j) Villages shall provide recreational spaces that meet the recreational needs of the community, reinforce the design of the development by providing a variety of recreational space amenities that serve a range of interests and distribute recreational space amenities throughout the DRI.

(k) Each Village shall have a system of connected open space which includes elements of public edge throughout the neighborhoods that connect each Village.

FLOODPLAINS

9. Undeveloped portions of the Master Stormwater and Excavation Plan will be designed and constructed based on pre-development and post-development evaluations of FEMA's and SJRWMD's 100-year floodplains such that any modifications to the floodplains are within the limits established by the SJRWMD to insure that there are no adverse impacts to offsite lands or parcels resulting from the design storm event. Brevard County staff shall review and approve the design of such additional portions of the Master Stormwater and Excavation Plan to insure that there shall be no adverse impacts to the upstream and downstream drainage basins under the jurisdiction of Brevard County or municipalities within County. The design of

the underdeveloped portions of the Master Stormwater and Excavation Plan will include the evaluation of recent flood stage data as may be available from the SJRWMD and USGS data. Impacts to any riverine or isolated floodplain shall provide compensatory storage in accordance with Chapter 62, Article X, Division 5, Brevard County Code of Ordinances.

10. Additional portions of the Master Stormwater and Excavation Plan will be designed to attenuate post-development peak discharge at or below the pre-development peak rates for the design storm event as required by the applicable SJRWMD and Brevard County criteria such that no adverse impacts to off-site floodplains occur. Impacts to any riverine or isolated floodplain shall provide compensatory storage in accordance with Chapter 62, Article X, Division 5, Brevard County Code of Ordinances. A control regime shall be established to insure that any impoundment for stormwater treatment and/or improved wetland hydroperiod will not be discharged in a non-permitted manner that adversely impacts the downstream watersheds from a water quantity and water quality standpoint. The control regime shall also insure acceptance of current and master-planned upstream flows without adverse impacts. The applicant shall demonstrate the effectiveness of the impoundment to Brevard County by documenting compliance with applicable portions of the County Land Development Code.

11. Proposed impoundments to be developed within the Viera DRI boundaries will detain flood waters on the property such that pre-development rates of discharge are not exceeded in accordance with State and County regulations.

12. For any habitable structure located within a Special Flood Hazard area as identified by FEMA, base flood elevations in the post-developed condition will be established by an additional LOMR (Letter of Map Revision), CLOMR (Conditional Letter of Map Revision), or other floodplain studies as may be required by FEMA at the time of development. All

habitable structures shall have their finished floor elevation set at minimum of one foot above the established applicable base flood elevation.

NATURAL AND HISTORICAL RESOURCES

13. Where planted littoral shelves are required by the SJRWMD to be incorporated into the design of the on-site retention/detention areas, these planted littoral shelves shall be inspected at least annually for the establishment of any Category I Invasive Plant Species, as defined by the Florida Exotic Pest Plant Council (FLEPPC). Any planted littoral shelf areas shall be maintained so as to limit the extent of invasive species in accordance with applicable SJRWMD permits.

14. The Brevard County Natural Resources Management Office shall be provided with copies of all permits received by the Developer from federal and state agencies concerning wildlife issues. Brevard County shall provide similar documents it receives to the Developer.

At the time a Sketch Plan for a Village or a preliminary plat for development within the Rural Development or Interchange District is submitted to Brevard County for review and approval, the applicable portion of the WVEA shall be surveyed for listed species using methodologies approved by the FFWCC and USFWS and all necessary permits and approvals obtained from the FFWCC and USFWS, prior to final development approval of each such parcel.

15. RESERVED.

16. A total of 222.3 acres in the VWP have been placed under conservation easement (OR Book 7519 Page 316) consistent with the HMP as a burrowing owl preserve to compensate for and mitigate for all other impacts to burrowing owls throughout the DRI caused by development consistent with this Development Order. Relying on the establishment of the burrowing owl preserve described above as a conservation measure, the FFWCC has issued a

Migratory Bird Nest Removal Permit (LSNR-15-00132) authorizing the removal of inactive Florida burrowing owl nest burrows located in the original DRI and the WVEA. Development shall proceed in accordance with the conditions and provisions of such FFWCC permit. .

17. Buffer zones to protect caracara nests during construction within the development districts (Rural Development, Village, Community, and Interchange) and specific management actions to enhance caracara habitat within the VWP have been defined and approved by the USFWS in the Biological Opinion (FWS Log No. 4190-2006-F-0749), Programmatic Biological Opinion (FWS Log No. 04EF1000-2012-F-0099), and subsequent Technical Assistance letter (FWS Log No. 04EF1000-2015-TA-0430). A caracara nest survey and monitoring protocol has been established and approved by the USFWS for construction activities within the Viera DRI that are within 1000 feet (305 meters) of a caracara nest. The survey and monitoring protocol will produce data on nest location, nest status, fate of the nest, and the number of young produced.

18. RESERVED.

19. RESERVED.

20. The Developer must create provisions for wildlife connectivity across or under roadways that traverse preserved wetland systems and associated upland buffers within the Community, Village and Interchange Districts. This may include eco-passages that address movement of likely-occurring wildlife, reduced speed limits, signage illustrating the presence of wildlife, and consideration of reduced lighting.

Road and pedestrian crossings of wetlands within the Rural Development District shall be minimized to the maximum extent possible and be designed to allow for passage of wildlife. Crossings shall be located at the narrowest crossing point (unless this creates a safety

hazard as determined by the County engineer) or along existing field roads and shall require appropriately sized culverts. Plans for all roadway crossings shall demonstrate that adequate measures have been taken to allow movement of wildlife through the wetland corridors during seasonal high water events. Plans for wildlife crossings within the Rural Development Districts shall be submitted to SJRWMD for review and approval if appropriate during the final permitting of each phase of the DRI. Upon approval of such Plans, the wildlife crossings shall be incorporated into the final design for review and approval by Brevard County.

21. Owners of land within the DRI conducting development construction activities on such properties, shall notify construction personnel, through posted advisories or other methods, of the potential for artifact discoveries on the site and to report suspected findings to the property owner. The land owner shall notify Brevard County, the Division of Historic Resources (“DHR”) of the Florida Department of State and the Developer in the event of discovery of artifacts of historical or archaeological significance during such construction activities. From the date of notification, construction shall be suspended within a 100 foot radius of the site of discovery for a period of up to 120 days to allow evaluation of the site. The land owner shall provide proper protection of the discovery, to the satisfaction of the DHR.

22. The VWP is intended to provide a regionally significant environmental resource and shall consist of lands designated as “Conservation District” or “Rural District” from within the areas shown as “Conservation Area” and “Rural Area,” respectively, on Map H, attached hereto as Exhibit 3. Lands within the Conservation Area shall be subject to designation as Conservation District as hereafter provided and, in such event, shall become a part of the VWP as conservation and/or preserved lands mitigating impacts to wetlands and/or listed species habitat occurring in connection with development of the corresponding Village as shown in

Exhibit 7 attached hereto. Lands within the Rural Area shall be subject to designation as Rural District as hereafter provided and, in such event, shall become part of the VWP as environmental lands managed to maintain and enhance listed species habitat mitigating impacts to habitat occurring in connection with development of the corresponding Village as shown in Exhibit 7. Agricultural Use shall be permitted on the lands, and any part thereof, within the Conservation and Rural Areas shown on attached Exhibit 6; provided, however, that upon the designation of any portion of such lands as Conservation District or Rural District, then Agricultural Use shall only be permitted on such designated portion to the extent it is consistent with the Habitat Management Plan, applicable environmental permits and the conservation easements, if any, encumbering such portion. A portion of the Conservation Area and/or Rural Area shall be designated as Conservation District and/or Rural District respectively and shall constitute the VWP upon Brevard County approval of the Village Sketch Plan for Village 1 and additional portions of the Conservation and Rural Areas shall be designated as part of the Conservation and Rural Districts and added to the VWP at such times hereafter as Brevard County approves the Village Sketch Plan for Village 2, Village 3 and Village 4 in accordance with the VWP Staging Plan attached hereto as Exhibit 7. That portion of the Rural Area and/or Conservation Area initially designated in connection with Village 1 as Conservation District and/or Rural District for purposes of mitigating the impacts to wetlands and/or listed species habitat attributable to Village 1 is referred to and shown as the “Stage 1 Mitigation Area” on attached Exhibit 7. Such portion shall represent the initial boundary of the Rural District and/or Conservation District and constitute the VWP. That portion of the Conservation and Rural Areas described on attached Exhibit 7 as the “Stage 2 Mitigation Area” shall be designated Conservation District or Rural District, as applicable, and added to the Viera Wilderness Park at such time as Brevard County

approves the Village Sketch Plan for Village 2; that portion of the Conservation and Rural Areas described on attached Exhibit 7 as the “Stage 3 Mitigation Area” shall be designated Conservation District or Rural District as applicable, and added to the VWP as such time as Brevard County approves the Village Sketch Plan for Village 3; and that portion of the Conservation and Rural Areas described on attached Exhibit 7 as the “Stage 4 Mitigation Area” shall be designated Conservation District or Rural District, as applicable, and added to the VWP at such time as Brevard County approves the Village Sketch Plan for Village 4. Each addition to the Conservation District, the Rural District and the VWP in accordance with the VWP Staging Plan shall mitigate the impacts to wetlands and/or listed species habitat attributable to the applicable Village.

23. Upon the issuance of the initial regulatory permit for development within the WVEA which requires the establishment of a conservation easement for the protection and preservation of any wetland area and associated upland buffer within in the VWP, an exhibit will be prepared and included with the HMP that identifies all areas within the VWP encumbered by such conservation easement pursuant to such permit. Such exhibit will be thereafter updated and revised to reflect each conservation easement thereafter established in connection with the issuance of subsequent permits. Such conservation easements will be conveyed to the grantee designated in the applicable permit. If the applicable permit does not designate a grantee, the applicable conservation easement shall be conveyed to an appropriate grantee approved by the permitting agency. The Grantee may include the VSD, a property owners association formed under Chapter 720, Florida Statutes or other entity with the capacity and capability of conserving the lands and resources contained within a prospective conservation easement.

24. All regulatory permits which affect lands within or the management of the VWP shall be attached to the HMP, and reported in the Biennial DRI report. All revised HMP conditions and copies of the corresponding permits giving rise to the revisions shall be provided to the Natural Resources Management Office (NRMO) of the County within sixty (60) days of the issuance of said permit(s). To the extent a regulatory agency permit contains terms and conditions that conflict with provisions of the HMP, the terms and conditions of the regulatory permit are controlling and the HMP shall be deemed to be amended so as to conform to the terms and conditions of the permits. NRMO may require additional modification to the HMP in connection with or as a result of the issuance of such permits so long as (i) the additional modifications do not conflict with the terms and conditions of such permits relate directly to the modified operational practices/requirements arising from the applicable permits, (ii) NRMO consults with the VSD in determining what additional modifications may be necessary, if any, and whether the proposed additional modifications comply with the goals and principles of the HMP. In the event NRMO determines that additional modifications are necessary due to the issuance of permits affecting the VWP or its management, the VSD and the Developer shall each have standing to object to such additional modifications in whole or in part. If such objections cannot be resolved through consultation with NRMO within thirty (30) days after a written request by the VSD or the Developer for a consultation, then the party or parties requesting such consultation may appeal NRMO's imposition of such additional modifications to the Board of County Commissioners following the established appeal procedures under the Brevard County Code of Ordinances (Sec. 62-506, Appeals general or Sec. 62-507, Appeal Procedure).

25. The foregoing process providing for the automatic modification of the HMP in accordance with the terms and conditions of regulatory permits as such permits are periodically

issued shall not require the change, modification or amendment of this Development Order. Additionally, modifications of the HMP by the VSD in the ordinary Course of administering and managing the VWP shall not require the modification, change or amendment of this Development Order through the NOPC process or otherwise, so long as (i) such modifications are consistent with the terms and conditions of all applicable regulatory permits and the goals and objectives of the HMP, (ii) such modifications are made with prior notice to, and in consultation with NRMO. All such modifications to the HMP from time to time made by the VSD shall be reported in the Biennial Report.

26. The isolated Conservation District located just west of I-95 is composed of 85 acres of forested wetlands and 45 acres of upland buffer containing significant specimen trees and habitat for wildlife and protected species. Developer shall locate a passive park adjacent to a portion of the upland buffer.

27. The 823-acres classified as Rural Development District (“RDD”) shall have an overall gross residential density of 1 unit per 2.5 acres. The RDDs shall include development that incorporates the principles of Conservation Subdivision Design and Low-Impact Development strategies (see Randall Arendt’s “Conservation Design for Subdivisions” as a guide) and shall preserve the rural character of the areas.

28. The southern portion of the area currently classified as Community District (located at the northernmost part of the WVEA) is a large naturally vegetated area containing forested wetlands and uplands. The wetland system supports a bald eagle nest and the uplands support a population of gopher tortoises. This area shall be developed in a manner that will protect the large wetland and associated upland buffers and the protection zone of the bald eagle

nest, with the exception of incidental impacts permitted by the appropriate regulatory agencies.[Completed]

ENERGY

29. The Developer shall encourage the implementation of “green” building practices and standards within the WVEA which comply with the United States Green Building Council’s Leadership in Energy and Environmental Design (LEED) program, the Florida Green Building Coalition (FGBC) program, the Green Building Initiative’s Green Globes (GBIGG) program, The U.S. DOE/EPA Energy Star (“Energy Star”) program or other nationally recognized green building program that is approved by the Department of Management Services (DMS).

As a minimum energy conservation standard, however, the CCR’s for all single-family residential development within the WVEA shall require that single-family residences constructed in a manner which does not meet requirements of the LEED, FGBC, GBIGG, Energy Star or other program approved by the DMS, shall meet or exceed the requirements for certification under the Florida Power & Light Company Residential New Construction BuildSmart Program, based on the requirements of such program in effect as of the date of this Development Order.

The Developer shall establish a program in conjunction with its community governance and sales and marketing activities to promote and encourage sustainable development and “green” building practices within the DRI. Such program by the Developer will encourage sustainable development and “green” building practices and standards through education and promotion. The Developer’s program shall include the following:

- (a) Distribution of a “green” building handbook to all homebuilders operating within the DRI,

- (b) DRI Sales Center display promoting sustainable practices and “green” building standards,
- (c) Sustainable and “green” building content as part of the Developer’s web site for the DRI, and
- (d) Cost benefit analysis information distributed to homebuilders, and prospective consumers within the DRI.

The Developer shall include a summary of its sustainability and “green” building programs in each Biennial Report.

PUBLIC FACILITIES

30. Septic Tanks shall be prohibited within the Village, Community and Interchange Districts. Septic Tanks, or other alternative on-site treatment methods as may be approved by FDEP, may be utilized within the Rural Development District and for remote facilities (such as public restrooms, golf course comfort stations, etc.). Septic tanks may also be utilized for ongoing agricultural operations, including agricultural employee housing.

HOUSING

31. The Affordable Housing Analysis prepared for the Viera DRI Substantial Deviation #2 ADA using the approved ECFRPC methodology concluded that affordable housing may be required in future phases of the Viera DRI development. The Developer will target not less than ten percent (10%) of the residential development within Phase 3 to be constructed as either for sale or rental housing product that is attainable by those persons whose incomes fall between eighty percent (80%) and one hundred forty percent (140%) of Brevard County’s Average Median Income. Since this commitment exceeds current Brevard County requirements, it will satisfy the requirements for affordable housing through Phase 3. Brevard County’s Land

Development Code will apply to Phase 4. The Developer will establish and maintain housing data to evaluate implementation of this commitment in the Central Viera and West Viera PUDs in Phases 3 and 4 of the DRI and report same in the Biennial Reports. Notwithstanding the foregoing, the Developer shall consider, when appropriate, implementing one or more of the following programs recommended by the Brevard County Housing and Human Services Department:

- (a) Developing a minimum of 5% of the total developed housing inventory as attainable housing, consistent with the definition of affordable housing in the Brevard County Affordable Housing Ordinance.
- (b) Developing a minimum of 10% of the total developed housing inventory as attainable housing, consistent with the workforce and moderate affordable housing definitions in the Brevard County Affordable Housing Ordinance.
- (c) Proposing additional incentive based development strategies to reduce the cost of attainable housing constructed and maintained at affordable and workforce levels.
- (d) Assisting in short term and long term physical and operational improvements to transit, bicycle and pedestrian transportation systems, within the DRI, to help safely reduce daily travel costs to existing and future residents employed or attending school within the DRI.

32. Accessory Dwelling Units (“ADUs”) are permitted in the DRI, subject to the development standards of the applicable PUD zoning, and may be used as guest quarters or may

be leased as dwelling units independent of the single-family dwelling unit to which it is a part if leasing ADUs is approved as part of the West Viera PUD process. ADUs less than 650 square feet within the Rural Development District will not be counted as part of the density calculation for the DRI. ADUs of 650 square feet and under will be counted towards the attainable housing target set forth in this condition and may or may not have separate utility infrastructure and metering. ADUs shall not comprise more than two percent of the total residential units approved for the DRI.

STORMWATER MANAGEMENT

33. Stormwater Management

(a) The Developer shall ensure that the entity or entities proposed to assume responsibility for the DRI's surface water management system be created with or have defined duties and responsibilities regarding the operation and maintenance of the surface water management system, and sufficient legal authority and power to establish the mandatory collection of fees and/or assessments from all landowners and/or tenants for use in financing the operation, replacement and maintenance of all components of the Project's surface water management system. A special district created pursuant to Chapter 189 or 190, F.S., or a property owners association created pursuant to Chapter 720, F.S., meets these criteria.

(b) Recreational lakes and stormwater improvements, including, but not limited to, ponds, control structures and underground piping shall be constructed in accordance with the Master Stormwater and Excavation

Plan which shall be developed on an incremental basis subject to review and approval by Brevard County as part of the West Viera PUD. The Master Stormwater and Excavation Plan shall include mapping and supporting hydrologic/hydraulic modeling to delineate all proposed modifications to existing surface water management systems. The Developer has previously designed and substantially developed the Master Drainage System. The improvements previously constructed or to be constructed in accordance with the approved permits for the Master Drainage System shall be deemed to constitute the Master Stormwater and Excavation Plan for the lands subject to the Master Drainage System. The improvements set out in the approved Master Stormwater and Excavation Plan may be constructed in increments, provided that each approved increment of the Master Stormwater and Excavation Plan is self-sufficient and capable of stand-alone operation. All proposed modifications to the approved Master Stormwater and Excavation Plan shall be submitted with adequate data for evaluation and approval by Brevard County.

- (c) In conjunction with the implementation of the Master Stormwater and Excavation Plan, applicable portions of the existing stormwater drainage canal system located in the DRI shall be incorporated into and become a part of the approved stormwater improvements for the DRI.

34. (RESERVED)

35. (RESERVED)

36. The Developer shall develop an integrated pesticide/herbicide management plan as a component of any golf course design process, with submittal to Brevard County and the St. Johns River Water Management District for review. The management plan shall sufficiently address the following items:

(a) Pesticide/herbicide/insecticide

(i) storage and handling

(ii) application

(iii) container cleaning

(iv) rinse water, cleaning materials, wastes, unused quantities and container disposal-methods and procedures;

(b) Golf course runoff treatment prior to discharge into off-site components of the DRI's master stormwater treatment system; and

(c) Quality control and assurance procedures.

37. The Developer and all other developers doing work within the WVEA shall comply with FDEP requirements including but not limited to NPDES requirements.

38. The Developer will integrate both source control and treatment train approaches to protecting wetlands and water quality through (1) source control measures, and (2) where hydrologically feasible and consistent with SJRWMD criteria integration of a series of ecologically enhanced stormwater basin style wetlands approved by the SJRWMD into the stormwater management plan.

SJRWMD CONDITIONS

39. RESERVED.

40. RESERVED.

41. RESERVED.

42. Funding shall be provided by the VSD consistent with its Charter to provide for long-term habitat management of the mitigation areas within the VWP.

43. A mitigation plan shall be provided that includes a management plan for the areas proposed for mitigation to offset wetland impacts. The mitigation plan shall include a methodology for retaining the areas in a permitted condition, controlling exotic and nuisance vegetation, and prescribed burning to manage for habitat value.

44. Any surface water management system to be constructed altered, operated maintained, abandoned, or removed within the mitigation area must meet the conditions of issuance of Chapters 40C-4, 40C-40, 40C-41, and 40C-42, *Florida Administrative Code* (F.A.C.), or the terms conditions, requirements, limitations, and restrictions of Chapter 40C-400, F.A.C.

45. The requirements and details for the concurrent submittal of environmental resource permit and consumptive use permit applications shall be addressed as part of the initial Conceptual ERP application and any subsequent Master Drainage Basin ERP applications submitted concurrently to the District for review.

46. By incorporating appropriate language into the CCRs for residential property within the WVEA, the Developer shall notify any future owners and residents within the WVEA of their proximity to the District's River Lakes Conservation Area and that this area is managed with natural resource land management practices, including prescribed fire. In addition, such CCRs shall contain a provision that notifies property owners that nearby or adjacent public land and the VWP will be managed by natural resource management practices, including prescribed fire and other techniques.

47. If feasible, reclaimed water shall be utilized as a non-potable water source for irrigation, based upon availability and in consultation with Brevard County. Stormwater, surface water and other non-potable water sources shall be utilized for irrigation if use of reclaimed water is determined not to be feasible.

48. A distribution system for nonpotable water (i.e. stormwater, surface water, and reclaimed water) shall be installed and maintained throughout the Village and Interchange Districts concurrent with development for all land uses within the applicable portion of the DRI (residential and nonresidential). Irrigation systems installed in the Village and Interchange Districts shall be designed to accept non-potable water.

49. Any wells no longer in use shall be properly plugged and abandoned in accordance with District rules and regulations. Any existing, active wells may continue to be used only in accordance with the respective District-issued consumptive use permit. Existing wells being used for agricultural purposes are not currently permitted by the District for landscape irrigation, but may be converted subject to the approval of an appropriate consumptive use permit.

50. The developer shall insure that all CCR's for residential property within the WVEA provide that property owners follow best management practices cited by the University of Florida in the Institute of Food and Agricultural Sciences' A Guide to Florida-Friendly Landscaping for landscape installation, irrigation and fertilizer and pesticide applications, specifically addressing:

- (i) Landscape design that minimizes the impacts of fertilizer applications
- (ii) Preferred plant materials

- (iii) Appropriate type of fertilizer to avoid the release of excess nutrients
- (iv) Rate and frequency of fertilizer and pesticide applications
- (v) Watering schedules
- (vi) Design and maintenance of drainage control systems

51. Unless prohibited by the City of Cocoa, multifamily residential units shall use submeters for potable water; all other uses shall be individually metered except ADUs.

52. Builders within the WVEA shall be responsible for installing only water-conserving devices, fixtures, and appliances in all residential and nonresidential buildings and structures.

53. A waterwise approach shall be used throughout the landscaped areas of the WVEA, and it shall include a goal of at least 50% of landscaped vegetation excluding turf areas as drought-tolerant or native drought-tolerant vegetation varieties. Landscaped area is defined as any pervious area within the proposed development that will be altered due to the development, exclusive of pervious area with wetlands, wetland buffers, vegetative buffers between land uses, stormwater systems, and required preservation areas. Native or drought-tolerant plants include those in the Florida Native Plant Society's list of native landscape plants for Brevard County, which is available at http://www.fnps.org/pages/plants/landscape_plants.php; A Gardner's Guide to Florida's Native Plants (Osorio 2001); the District's Waterwise Florida Landscapes, available at <http://www.sjrwmnd.com/waterwiselandscapes>; the University of Florida's Florida Friendly Plant List or other comparable guides.

54. Separate irrigation zones shall be required for all land uses (residential and nonresidential) to avoid irrigation of native or drought –tolerant vegetation when irrigating the turf zone(s).

55. The Developer shall display Florida-friendly waterwise guides and *A Guide to Florida-Friendly Landscaping* in prominent locations in the project's sales offices.

WETLANDS

56. Losses of wetlands as defined by the SJRWMD and the ACOE, shall be mitigated through restoration, enhancement, creation or preservation of wetlands and uplands in accordance with adopted rules and regulations of the SJRWMD and ACOE. The mitigation criteria of the SJRWMD and ACOE, as modified from time to time and as reflected in the SJRWMD and ACOE permits to be obtained shall be used in implementing such mitigation requirements, together with any additional restrictions, conditions and limitations contained in the construction permit(s) issued by the SJRWMD thereafter. On-site wetland mitigation approved by the SJRWMD and the ACOE shall be maintained in accordance with applicable permits. The Viera Stewardship District is an appropriate grantee under any conservation easement required to be granted under a permit issued by SJRWMD or the ACOE.

57. The on-site wetlands systems, uplands buffers, and other areas designated for conservation/preservation as identified in the SJRWMD and ACOE permits to be obtained shall be regarded as preservation areas and, to the extent located in development areas, identified as separate tracts in accordance with the requirements of SJRWMD, the ACOE and the standards for platting as applied by Brevard County. Developmental uses of these areas shall be restricted by Conservation Easements conveyed to the grantees designated under the applicable permits or otherwise approved by the permitting agency. Use of these areas shall be limited to recreational amenities as permitted by the SJRWMD, the ACOE and Brevard County. Maintenance of these areas will be as set forth in the permits authorizing their construction. Nothing in the language of the Conservation Easement shall preclude the Developer or other entity designated by the

Developer from performing maintenance or management of these lands as long as these activities are consistent with the protocols set forth in the permits issued by the SJRWMD and the ACOE.

58. Within development Districts, all preservation areas, upland buffers and mitigation areas shall be platted as tracts and/or easements with development rights eliminated except as noted above. All such areas will be administered and managed by the Developer, VSD, or property owner's association established under Chapter 720, Florida Statutes, consistent with the requirements of the permits issued by the SJRWMD and the ACOE.

59. Wetlands within the Conservation District adjacent to the River Lakes Conservation Area shall include an upland buffer of an average of 300 feet and shall be placed in conservation easements consistent with permit requirements.

60. RESERVED.

WATER

61. The Developer shall include covenant deed restrictions for all residential landowners that prohibit private irrigation wells within single family lots throughout the Village and Interchange Districts within the DRI, unless approved by Brevard County.

62. Non-potable water use shall use the following sources, in order of priority, for surface irrigation of common and private areas, to include parks, commercial, institutional and residential areas, unless prohibited by the FDEP, SJRWMD, or other regulatory agency.

Treated wastewater, surface water stored on-site in surface water storage ponds, groundwater withdrawals to a common/community operated master irrigation system, private irrigation wells; or potable water may be used on residential lots if no lesser quality source is available, but shall be converted to a lesser quality source when it becomes available.

63. All water used for new landscape irrigation, whether reclaimed, surface water, groundwater or potable, will require as a condition of use that rain sensors, soil moisture sensors, or other smart irrigation technology be employed so as to manage flows and distribution of water. The methodology to be employed shall be reported in the first Biennial Report required herein.

64. At the time of initial infrastructure installation for each portion of the development, the Developer shall provide for the installation of irrigation infrastructure that is necessary to serve that portion of the DRI currently under development. The method of irrigation, and the planned infrastructure, shall be based upon the order of priority as listed in Condition 62.

65. A program that is consistent with the University of Florida's Florida Yards and Neighborhoods ("FYN") Recognition Checklist (January 2007 version) or to a comparable landscape standard determined in cooperation with PREC or another comparable, credible agency shall be encouraged for the Village and Rural Development District. The program shall be referenced, in the appropriate CCR's.

66. The CCR's will include a requirement for ongoing education within the WVEA to include as an example (1) a requirement that all homebuyers and subsequent purchasers be given copies of the landscaping standards in an appropriate form such as an Operations and Maintenance Manual, and (2) provision for a website with current environmental education content for the WVEA.

LANDSCAPE, LAND CLEARING & TREE PROTECTION

67. In order to facilitate development consistent with the objectives, principles and standards of the community green space and cluster development, the DRI will follow alternative standards for landscape land clearing and tree protection as set forth in the PUDs for the DRI.

68. The CCR's for all Villages within the WVEA shall require that, concurrently with the issuance of a Certificate of Occupancy for each single-family detached home, such single-family home shall on such date meet either the water conservation provisions of the "Green Home Certification" requirements of the Florida Green Building Coalition or meet the following specific standards contained within the Florida Water Star certification program:

- No invasive exotic plant species on-site.
- For in-ground irrigation system, turf grass and landscaped bed areas shall be distinctly separate.
- Root balls shall be a least 2.5 feet on center from the foundation of structure.
- Plant selections shall be compatible with site-specific conditions such as sunlight, soil types and salinity.
- Plants shall be grouped with similar moisture and maintenance requirements.
- Innovative landscape water conservation techniques shall be encouraged.
- Irrigation areas less than 4 feet wide shall be irrigated with correctly designed and installed micro-irrigation.
- Sprinklers and emitters shall be located at a minimum of 2 feet from structures.
- Irrigation system shall be free from leaks.
- Head spacing shall not exceed 50% of the nozzle throw diameter.
- Application shall occur in proper spray patterns, minimizing overspray on impervious surfaces.

- A controller with rain shut-off capabilities shall be installed and functioning.
- Homeowners shall be provided with controller handbook/operating instructions.
- Irrigation shall not exceed 21 gallons (34 inches) per ft² annually and the controller shall be set in compliance with water restrictions.
- A non-potable water source shall be used for irrigation.

69. Organic mulch shall be used and applied to a depth of 2 to 4 inches, leaving a 2-inch space around base of plant.

70. To the extent feasible, conditions conducive to low maintenance landscapes with minimal need for fertilizer, pesticides and irrigation will be maintained and enhanced through landscaping standards that encourage minimizing soil compaction during construction to the minimum levels required by County regulation and, where feasible, protecting and conserving existing soils and vegetation or amending and aerating soils as needed before landscape installation.

71. To ensure homeowners are in compliance with the requirements for minimal to no added inputs of water and synthetic fertilizers and pesticides, the Developer, VSD or property owners association formed pursuant to Chapter 720, Florida Statutes shall provide additional community education.

72. RESERVED.

73. The Developer may utilize ornamental or decorative plants that are not classified as drought tolerant, however, in all events, the landscaping of the DRI will be primarily selected from the plant material lists noted in Condition 53 herein. The Developer will develop for the WVEA, a planting palette as a part of the Design Guidelines and within the Design Guidelines

specify the nature and extent of both the drought tolerant and non-drought tolerant plant materials to be used in landscaping.

74. Builders within the WVEA shall provide to the purchasers of single family homes a copy of the Florida-Friendly Landscaping program booklet titled “Fertilize Appropriately”.

75. Plant listed on the most current edition of Florida Exotic Pest Plant Council’s List of Invasive Plant Species are prohibited for use as a part of the landscape palette and cannot be used as a part of the landscape material to be installed.

76. RESERVED.

77. Integrated Pest Management (“IPM”) may be utilized to augment other commercially-accepted pest control methods. IPM may involve the monitoring of sites for pest related problems, determining when a problem needs attention and taking appropriate action with the least amount of environmental impact. IPM will maximize the use of biological controls, organic pest control methods, insecticidal soaps, and fish oils beneficial for lowering the environmental impact of pest control. This development condition shall be implemented on an incremental basis and shall only be applicable to those portions of the WVEA submitted to a recorded plat. Pest controls methods within the VWP shall be subject to and consistent with the approved HMP.

SCHOOLS

78. The Developer and the School Board of Brevard County have entered into the “Consolidated Mitigation and Concurrency Agreement Regarding School Facilities for the Viera Development of Regional Impact” dated September 22, 2015, to address public school facilities concurrency for 29,945 residential units in the Viera DRI (the “School Agreement”). As evidenced by the issuance of the School Capacity Availability Determination Letter (“SCADL”)

dated December 7, 2015, the Developer has fully satisfied the concurrency requirements of the School Board, the Brevard County Concurrency Management System and applicable law for 29,945 residential units. Should the Developer pursue a conversion of land uses resulting in an increase of residential units and desires to obtain concurrency for any residential units in excess of 29,945, the Developer shall coordinate with the School Board and Brevard County for any necessary modification of the School Agreement and/or the SCADL.

79. RESERVED.

80. RESERVED.

81. RESERVED.

TRANSPORTATION

82. The DRI is to be developed in a transit-supportive manner as a “new town” as defined in section 163.3164 of the Florida Statutes, consisting of a compact mixed-use that is intended to lower levels of automobile use per capita and give rise to shorter trips when the automobile is used. The combined effect of compact transit-supportive development and the presence of a significant alternative mode of transportation in the form of bicycling, use of golf carts or other low speed vehicles and walking is expected to lower Vehicle Miles Traveled (“VMT”) per capita. The development form for the remainder of the DRI clusters development in villages and protects regionally significant environmental areas. Within villages, the proposed density, street network, development and mix of uses will be supportive of future transit service.

83. RESERVED.

TRANSPORTATION IMPACT STUDY

84. Prior to the initiation of phase 4, the Developer shall conduct a Transportation Impact Study. **(completed)** This Transportation Impact Study shall ascertain the Level of Service (“LOS”) on facilities where the Viera DRI is estimated to contribute an amount of traffic greater than or equal to five percent (5%) of the adopted LOS service volume. The methodology of the Transportation Impact Study shall be agreed upon by Brevard County and the Developer. **(completed)** In the event that the Developer submits a future Transportation Impact Study, the methodology for such study shall be reviewed and approved by Brevard County and the Florida Department of Transportation. The depth of the Transportation Impact Study shall be similar to that required within an ADA (to include all phases for projected roadway adversity testing) but shall be consistent with the requirements of the Brevard County Concurrency Management Systems as it relates to facilities within that jurisdiction. Empirical data will be required to be collected for the Transportation Impact Study on facilities where it is estimated that the project contributes an amount of traffic greater than or equal to five percent (5%) of the adopted LOS maximum service volume. **(completed)** The Transportation Impact Study shall include a trip generation and internal capture study shall be performed to verify trip generation, internal capture, community capture and pass-by assumptions for the development. **(completed)** The facilities to be studied for Phase 4 shall include, but shall not be limited to, these segments of the regional roadways listed below and one segment beyond where the Viera DRI is estimated to contribute a cumulative amount of traffic greater than or equal to five percent (5%) or more of the adopted p.m. peak hour two-way service capacity. **(completed)** The analyzed facilities will include all the intersections from the previous phase 1-3 analysis (Substantial Deviation #2), as

well as the major intersections along significantly impacted roadways, and link analyses of collector and higher classified roadways and interchange ramps. **(completed)**

Candidate Roadways for Transportation Impact Study

Roadway Link

AURORA ROAD

From Wickham Rd. to U.S. 1

SPYGLASS HILL ROAD

From Lake Andrew Dr. to Murrell Rd.

PINEHURST AVENUE

From Spyglass Hill Rd. to Wickham Rd.

INTERSTATE 95

From S.R. 528 to S.R. 524

From S.R. 524 to S.R. 520

From S.R. 520 to Fiske Blvd.

From Fiske Blvd. to Viera Blvd.

From Viera Blvd. to Wickham Rd.

From Wickham Rd. to Pineda Causeway

From Pineda Causeway to Eau Gallie Blvd.

From Eau Gallie Blvd. to U.S. 192

From U.S. 192 to Palm Bay Rd.

U.S.1

From Forrest Ave. to S.R. 520

From S.R. 520 to Barton Blvd.

From Barton Blvd. to Eyster Blvd.

From Eyster Blvd. to Gus Hipp Blvd.

From Gus Hipp Blvd. to Barnes Blvd.

From Barnes Blvd. to Viera Blvd.

From Viera Blvd. to Sun Tree Blvd.

From Sun Tree Blvd. to Pineda Causeway

From Pineda Causeway to Post Rd.

From Post Rd. to Lake Washington Blvd.

From Lake Washington Blvd. to Aurora Rd.

From Aurora Rd. to Eau Gallie Blvd.

From Eau Gallie Blvd. to Sarno Rd.

From Sarno Rd. to Babcock St.

PINEDA CAUSEWAY

From Lake Andrew Dr. to I-95
From I-95 to Wickham Rd.
From Wickham Rd. to U.S. 1
From U.S. 1 to S. Tropical Trail
From S. Tropical Trail to S.R. A1A

WICKHAM ROAD

From Lake Andrew Dr. to I-95
From I-95 to Murrell Rd.
From Murrell Rd. to N. Pinehurst Ave.
From N. Pinehurst Ave. to Suntree Blvd.
From Suntree Blvd. to St. Andrew Blvd.
From St. Andrew Blvd. to S. Pinehurst Ave.
From S. Pinehurst Ave. to Pineda Causeway
From Pineda Causeway to Post Rd.
From Post Rd. to Parkway Dr.
From Parkway Dr. to Lake Washington Blvd.
From Lake Washington Blvd. to Aurora Rd.
From Aurora Rd. to Eau Gallie Blvd.
From Eau Gallie Blvd. to Sarno Rd.
From Sarno Rd. to Nasa Blvd.

FISKE BOULEVARD

From Peachtree St. to S.R. 520
From S.R. 520 to Barton Blvd.
From Barton Blvd. to Eyster Blvd.
From Eyster Blvd. to Barnes Blvd.

LAKE ANDREW DRIVE

From I-95 to Viera Blvd.
From Viera Blvd. to Spyglass Hill Rd.
From Spyglass Hill Rd. to Wickham Rd.
From Wickham Rd. to Pineda Causeway

MURRELL ROAD

From Barton Blvd. to Eyster Blvd.
From Eyster Blvd. to Gus Hipp Blvd.
From Gus Hipp Blvd. to Barnes Blvd.
From Barnes Blvd. to Viera Blvd.
From Viera Blvd. to Spyglass Hill Rd.
From Spyglass Hill Rd. to Wickham Rd.

BARNES BOULEVARD

From Fiske Blvd. to Murrell Rd.
From Murrell Rd. to U.S. 1

POST ROAD

From Wickham Rd. to U.S. 1

LAKE WASHINGTON BOULEVARD

From Wickham Rd. to U.S. 1

SARNO ROAD

From Eau Gallie Blvd. to Wickham Rd.

From Wickham Rd. to U.S. 1

SUNTREE BOULEVARD

From Wickham Rd. to U.S. 1

VIERA BOULEVARD

From Stadium Parkway to Murrell Rd.

From Murrell Rd. to U.S. 1

S.R. 520

From S.R. 524 to I-95

From I-95 to Fiske Blvd.

From Fiske Blvd. to U.S. 1

From U.S. 1 to Tropical Tr.

S.R. A1A

One-way Pair Split to Pineda Causeway

Pineda Causeway to DeSoto Parkway

EAU GALLIE BOULEVARD

From I-95 to Wickham Rd.

From Wickham Rd. to U. S. 1

From U.S. 1 to C.R. 3

U.S. 192

From Brandywine Lon to I-95

From I-95 to Wickham Rd.

From Wickham Rd. to U.S. 1

From U.S. 1 to Riverside Dr.

Several government offices and public schools are located within the Existing DRI Area. Phases 1 and 2A absorbed the impacts of these facilities without distinguishing the difference between the impacts of these public facilities and the impacts from private development, which impacts have been cumulatively and fully mitigated. The development program for Phase 3 includes two high schools, a middle school, an elementary school and 186,140 square feet of additional government office development which include the Heidar G. Heshmati, M.D. Building (Brevard County Health Department), the Florida Department of Health – Children’s Medical Services and an expansion of the Harry T. & Harriette V. Moore Justice Center. Upon implementing the Phase 3 Transportation Mitigation Program described in Condition 92 herein, the transportation impact of the public and government office development proposed in the development program for Phase 3 shall be fully mitigated.

TRANSPORTATION MITIGATION

85. The DRI shall not commence beyond Phase 3 into Phase 4 when service levels are below the minimum service level adopted in the applicable local government’s comprehensive plan during the peak hour and the project contributes, or is projected to contribute with the next phase of traffic, five percent (5%) or more of the adopted p.m. peak hour two-way service capacity of the roadway or intersection as determined by the Transportation Impact Study required in the preceding condition, unless mitigation measures and/or improvements are secured and committed for construction during the phase in which the impacts occur. The Development Order shall be amended to incorporate the required improvements and the commensurate trip level by which the improvement is needed to support such development. **(completed)** No additional payments, contributions or improvements for transportation mitigation beyond the transportation mitigation which Developer is obligated to provide under Condition 92 herein

shall be required or requested for Phase 3 of the DRI, provided all required transportation mitigation payments have been made or secured by October 23, 2032. In the event the date for completion of Phase 3 is extended and a transportation mitigation payment for a particular improvement has not been made or secured, the amount of the proportionate share contribution for such improvement, which is identified in Condition 92 herein, shall be recalculated to determine the Developer's proportionate fair share for the improvement at the time of Developer's payment for the improvement.

86. For the purposes of this Development Order, adequate "secured and committed" transportation improvements shall include one or more of the following:

- a. A clearly identified, executed and recorded local government development agreement, consistent with Sections 163.3220 through 163.3243, F.S., that is attached as an exhibit to the development order, and which ensures, at a minimum, that all needed roadway improvements will be available concurrent with the impacts of development, consistent with Section 163.3180(2), F.S.;
- b. A binding and enforceable commitment in the development order by the local government to provide all needed roadway improvements concurrently with the development schedule approved in the development order;
- c. A local government commitment in the current year of their local government comprehensive plan Capital Improvement Element (CIE) to provide all needed roadway improvements, or a local government commitment in the current three years of their CIE to provide all needed roadway improvements when the local government has specifically adopted an in-compliance concurrency management system in their plan; or

- d. A Florida Department of Transportation commitment in the current five years of the Adopted Work Program for Florida Intrastate Highway System (FIHS) facilities or in the first three years of the Adopted Work Program for all other facilities to provide all needed roadway improvements;
- e. A binding and enforceable commitment in the development order by the developer to provide all needed roadway improvements concurrently with the development schedule approved in the development order; or
- f. Any combination of guarantees (a.) thru (f.) above that ensures that all needed roadway improvements will be provided concurrently with the development schedule approved in the development order.

[The provisions of this Condition 86 have been satisfied by the commitments set forth in Condition 92.]

87. The mitigation measures shall be completed or transportation improvements secured and committed or shall otherwise be satisfied by the provisions required under F.S. 163.3180(5)(h) prior to the end of the phase or subphase in order for the project to proceed through the balance of the applicable phase or subphase. If the Developer can demonstrate that a portion of a phase or subphase does not adversely affect the regional roadway network as determined by the monitoring and modeling tests discussed above, then the Developer may proceed with that portion of the phase or subphase (and only that portion). **[The provisions of this Condition 87 have been satisfied by the commitments set forth in Condition 92.]**

88. In the event that a roadway widening is identified which is not compatible with adopted policy of the FDOT or local government (e.g., constrained), the Developer, Brevard County, or the party having either maintenance or jurisdictional responsibility for the facility,

shall determine alternate mitigation solutions to provide for the movement of people. **[The provisions of this Condition 88 have been satisfied by the commitments set forth in Condition 92.]**

89. The biennial report shall include an assessment of the development status by providing development totals by land use, as defined by Exhibit 4, Master Development Program. In order to assure Brevard County that the projected pm peak hour external trip generation identified in the Transportation Impact Study will be maintained, within Phase 4 (as identified in the development program in Exhibit 4 of this Development Order) there shall be a minimum of 75,000 square feet of non-residential development (including office, retail and light industrial) to each 1,000 residential dwelling units. At the time of report presentation, should there be less than the minimum of the non-residential development completed, the Developer shall report any pending non-residential opportunities for construction in the upcoming reporting years and shall be permitted to proceed with development. If the Developer will not construct additional non-residential development in the upcoming reporting years to meet the minimum stated above, the Developer shall demonstrate to Brevard County that the pm peak hour external trips from the project have not exceeded those for which mitigation has been committed in this Development Order. This assessment will demonstrate to Brevard County that the compact mixed use land pattern will continue to develop in a manner consistent with the goals stated in Condition 82.

90. The Developer will complete a Level of Service analysis of the operating conditions along I-95 from the Pineda Interchange to the Fiske Boulevard interchange and document the results in the biennial report submitted during Phase 3 of development. It is expected that the classification for interstate 95 will be changed to Urban as a result of the 2010

Census. It was evaluated by the Department and determined that if the classification is changed from transitioning to Urban, I-95 within the segment identified above would operate at acceptable level of service during Phase 3 of the development. Therefore, if I-95 is re-classified to Urban, this monitoring condition would be deemed satisfied for Phase 3 and no longer be required to be submitted in the biennial report during Phase 3. However, if I-95 is not re-classified to Urban as a result of the 2010 Census and the Developer is unable to establish that I-95 is operating at an acceptable level of service, the Developer will work with the FDOT to identify alternative mitigation options as outlined by Florida Statutes. The Developer would be required to coordinate with the FDOT to ameliorate the DRI impacts to I-95, prior to the end of Phase 3. **(This condition 90 has been satisfied by the re-classification of I-95 to urban by the FDOT)**

91. To the extent reasonably necessary to facilitate the objectives in these conditions, an agreement(s) among Brevard County, the City of Rockledge, the City of Melbourne, the FDOT and the Developer may be entered into within twelve (12) months of the issuance of a development order for this project by Brevard County. Said agreement(s) shall address and clarify such issues related to equity in the application of collected fees for transportation improvements. Application of fees shall be on a fair share basis with respect to the improvements to be provided and not solely on the basis of impact fees. However, such an agreement would not alter or waive the provisions and requirements of the other conditions of the Development Order as a mitigative measure for the transportation impacts for the Viera DRI. In the event that one of the designated parties to the agreement (other than the Developer) fails to execute said interlocal agreement(s) within the specified time, then the Developer may proceed with the project based upon the monitoring/modeling schedule and all other recommendations

specified herein as it affects the non-participating party. Separate agreements may be entered into with one or more parties and the Developer. **(To facilitate the objectives in these conditions, the Viera DRI Transportation Proportionate Share Agreement was entered into by and between the Developer and FDOT on or about March 16, 2010 and was subsequently amended on or about October 31, 2014.)**

92. The following Improvements shall be the Mitigation for Phase 3 and the Developer is authorized to commence Phase 3 provided the Developer complies with the conditions hereto. Alternative improvements may also be presented based on future study results. Developer shall be eligible for impact fee credits for all improvements as provided by state law and Brevard County Ordinance.

ROADWAY	LIMITS	IMPROVEMENT	ESTIMATED COST (IN MILLIONS)
Viera Blvd./I-95 ¹	Interchange	Construct interchange ramps	\$8.76
Viera Blvd ²	DRI boundary to US 1	Widen to 4 lanes	\$4.01
Wickham Road ³	Lake Andrew Dr. to Lake Washington Rd., including intersections	Roadway and intersection Improvements	\$16.43
Brevard County Intersection Improvements ³	Murrell/Eyster and Murrell/Barnes	Intersection Improvements	\$0.86
FDOT Intersection Improvements ⁴	1 st priority: I-95/Fiske Blvd. 2 nd priority: US1/Viera Blvd. 3 rd priority: US1/Barnes	Add NB left turn lane along Fiske Blvd Add NB left turn lane along US1 Add NB left turn lane along US1	\$2.223
Wickham Road ⁵	Murrell Road to Lake Andrew Drive	Widen to six lanes	\$9.4
Total Estimated Cost			\$41.683

DETAILED MITIGATION PROJECT REQUIREMENTS FOR ROADWAY SEGMENTS AND INTERSECTIONS DESCRIBED ABOVE:

¹Assumes Developer will provide right of way required to support interchange. If IJR is not approved, Developer will conduct an additional assessment to identify an appropriate plan to mitigate Fiske Boulevard within six months of the IJR decision. Within 30 days after conclusion of the appeal period or the conclusion of all appeals of this Development Order, but in no event earlier than July 15, 2010, Developer will pay FDOT \$500,000 for preparation of the IJR and PD&E. (Required payment has been made) Within 30 days after the later of approval of both the IJR and PD&E or July 16, 2013 Developer will pay FDOT \$870,000 for design and permitting of the Interchange. (this required payment has been made). Construction shall commence no later than 12/29/2018. Additionally, Developer shall pay \$380,000.00 for Construction Management and Inspection services and Post Design Services simultaneously with commencement of construction if funding is not included in Five-Year Work Program.

²This improvement and the Viera Blvd./I95 Interchange are alternative mitigation for cumulative Phase 3 impacts on Fiske Blvd. between the DRI boundary and Barnes Boulevard, including intersections. Construction shall begin the later of

December 29, 2018 or 180 days after completion of the Viera Interchange.

³Funds for mitigation of traffic impacts paid by Developer to Brevard County are to be pipelined for improvements to Washingtonia Boulevard from the southern boundary of the DRI to Ellis Road in the amount of \$5,000,000. The funds shall be used to reimburse Brevard County for acquisition of the road right of way as well as planning and engineering design of the roadway. The funds for Washingtonia Boulevard shall be paid to Brevard County prior to October 23, 2032. In addition, Developer shall mitigate impacts to Wickham Road and Murrell Road intersections by paying Brevard County a total of \$12,290,000 to reimburse Brevard County for the cost of widening Barnes Boulevard from two lanes to four lanes from Fiske Road to Murrell Road intersection and intersection improvements. Developer shall begin reimbursing the County for these costs on September 1, 2015, a date previously extended from September 1, 2011 by the Statutory Notices (Developer has initiated these payments). On September 1, 2015, Developer shall provide payment to reimburse to the County for all expenditures made as of that date on a pro-rated basis as described below. Developer shall also provide a letter of credit in favor of Brevard County which can be presented for payment in the State of Florida in the amount of the remaining amount of funds due from Developer to County after the payment/reimbursement for Barnes Boulevard described above for construction costs already incurred (**Completed**). Thereafter, Developer shall make monthly reimbursement payments to County based on its pro-rated share of the expenditures by the County for the Barnes Boulevard widening project each month until the project is completed. The pro-rated share of the Developer's payment shall be based on the ratio of the total payment of \$12,290,000 to the contract price for Barnes Boulevard, less the amounts paid by the County for alteration to the potable water lines (currently estimated at \$1,876,998.75) and force main and reuse lines (currently estimated at \$666,784.55) as part of the Barnes Boulevard widening project. Reimbursement funds paid to the County by Developer may be spent on any type of transportation project which could have been eligible to use 2007 Local Option Gas Tax (LOGT) bond proceeds. In the event funds other than LOGT bond proceeds are used to pay for the widening of Barnes Boulevard, the reimbursement funds shall be used for any transportation purpose for which the funds used by Brevard County to pay for the Barnes Boulevard Widening Project may have been used. The mitigation above satisfies the cumulative Phase 3 impacts to Wickham Road and the Murrell Road intersection improvements.

On March 5, 2009, Brevard County adopted an emergency ordinance imposing a 2 year moratorium on the collection of transportation impact fees, which moratorium was subsequently extended and expired on December 31, 2016. To assist the Developer in obtaining alternative and innovative means of financing for Developer's payment of \$12,290,000.00 described above, Brevard County (as the constructing authority) shall cooperate with the Developer's efforts to obtain a loan or other financial assistance from the State-funded State Infrastructure Bank ("SIB") pursuant to Section 339.55, Florida Statutes; provided, however, that (i) Brevard County shall not incur any direct cost or expense in connection with such cooperation, (ii) Brevard County shall not be a funding source to repay the SIB loan or liable in any other manner under the SIB loan, and (iii) the Developer shall remain responsible for the timely payment of all funds due hereunder notwithstanding the Developer's failure to obtain such loan. Such cooperation shall include sponsoring the Developer's SIB loan application so long as such sponsorship imposes no liability on Brevard County and providing project-related information for the SIB loan application (e.g. verification of all necessary right-of-way acquisition and consistency with local comprehensive and transportation plans, project cost estimates, project funding, construction drawings, engineering reports, and environmental impact studies).

⁴The improvements shown address the cumulative Phase 3 impacts to intersections along US1 from Dixon Blvd. to Sarno Road and Interstate 95 interchange intersections at SR 406, SR 50, SR 520, Eau Gallie Blvd., and Palm Bay Rd. This mitigation reflects the pipelining of proportionate share contributions to these intersections. Developer will pay FDOT for these intersection improvements \$323,000 by December 15, 2009 (required payment has been made), \$950,000 by June 29, 2016 (required payment has been made) and \$950,000 by December 29, 2019.

⁵Developer shall pay for design, acquisition of right of way and construction pursuant to the Joint Facilitation of Public Infrastructure Agreement between Developer and Brevard County dated September 1, 2009.

⁶Commencement and completion dates in footnotes have been extended pursuant to the various applicable Statutory Notices.

92.A. Developer has entered into a proportionate share agreement with the FDOT for local and regional significant traffic impacts pursuant to section 163.3180, Florida Statutes, to satisfy the concurrency requirements of the Brevard County comprehensive plan, the Brevard County concurrency management systems, and section 380.06, Florida Statutes. Future amendments to the agreement with FDOT shall serve as an amendment to the required mitigation

plan for roadways under the FDOT's jurisdiction outlined in Condition 92 without the need for an amendment to this Development Order.

92.B. The following improvements shall be the mitigation for Phase 4 and the Developer is authorized to commence Phase 4 provided the Developer* complies with the conditions hereto. Alternative improvements may also be presented based on future study results. Developer shall be eligible for impact fee credits for all improvements, including but not limited to the improvements noted below, as provided by state law and Brevard County Ordinance. Brevard County is under no obligation to construct or oversee the construction of improvements.

IMPROVEMENT OR CONTRIBUTION	LIMITS OR DETAILS	TIMING OR CONSTRUCTION OR CONTRIBUTION	ESTIMATED COST OF IN MILLIONS
Spyglass Overpass	Construction of 4 lane bridge and roadway connecting Spyglass Hill Road to Napolo Drive from Lake Andrew Drive to Murrell Road.	The improvement shall be substantially complete and open for public use coincident with the completion (i.e. issuance of certificates of occupancy) of 50%	\$14.1

		<p>of the development program identified as Phase 4 (as noted on Exhibit 4 to this Development Order) based upon Equivalent Residential Units. The Developer shall diligently pursue permits, design and construction of the improvement. Brevard County shall grant reasonable extensions for events beyond the control of the Developer.</p>	
I-95 at Fiske Boulevard/Barnes Boulevard Interchange	Contribution to pay for cost of Interchange Modification Report	Within 180 days of receipt of notice by the Developer from FDOT that the	Actual cost up to a maximum of \$1.5

		process is ready to proceed.	
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*Developer shall complete or cause to be completed

93. Transit operation or alternate parallel facility improvements shall be considered prior to the commencement of future subphase. **(completed)**

94. If the study results as set forth hereinabove show that improvements must be made to roadway facilities, and if mitigation is not provided as set forth in these conditions or as otherwise required pursuant to Rule 73C-40.045), then prior to any construction of future subphases and subject to the provisions of Chapter 380.06(15)(e), Florida Statutes, the Developer, Brevard County and the entity with jurisdiction over the roadway facility may enter into an agreement which ensures that:

- (a) a proportionate share payment is made by the Developer to the appropriate entity(ies) to mitigate project impacts;
- (b) said proportionate share payment shall be used by the appropriate entity only for the design, engineering, right-of-way purchase, permitting and/or construction of improvement to the segments/intersections for which the payment is made; and
- (c) said proportionate share payment by the Developer constitutes adequate provision for the public facilities needed with respect to the road segments to accommodate the impacts of the project through the phase for which the proportionate share was calculated, as required by Chapter 380.06(15)(e)(2), Florida Statutes. All such proportionate share agreements shall be

included in this Development Order by amendment pursuant to Chapter 380.06(19), Florida Statutes. The formula to be used (unless revised by statutes) to determine proportionate share contribution is as follows:

$$\frac{\text{(DRI Trips)}}{\text{SV Increase}} \times \text{Cost} = \text{Proportionate Share}$$

(d) For this formula, DRI Trips is the cumulative number of trips from the development expected to reach the roadway during the peak hour from the phase under development. Service Volume (“SV”) increase is the change in peak hour maximum service volume of the roadway resulting from construction of the improvement necessary to maintain the desired level of service; and Cost of Improvement is the cost (at the time of Developer payment) of constructing an improvement necessary to maintain the desired level of service, including all improvement associated costs (engineering design, right-of-way acquisition, planning, engineering, inspection, and other associated physical development costs directly required and associated with the construction of the improvement) as determined by the governmental agency having maintenance obligations over the roadway. Proportionate share mitigation for roadway impacts may also be direct to transit service and facilities or pipelined to specific transportation improvements in accordance with applicable law.

- (e) Notwithstanding any provision contained herein to the contrary, except as specifically agreed in writing, Brevard County and the entity with jurisdiction over the roadway facility shall have no financial responsibility to contribute to or participate in the funding of the design, engineering, permitting, and/or construction of roadway improvements.
- (f) The monitoring and modeling required prior to each phase or subphase shall be used to verify impacts from previous phases and to more accurately estimate probable impacts from later phases. Any impacts from prior phase which have been mitigated in accordance with any of the methods set forth in this Development Order shall not be included in any subsequent proportionate share calculations. If it is verified that the roadway improvements mentioned above are still needed, then the DRI shall not proceed into later phases until either a proportionate share agreement payment is fully executed or the needed improvements are scheduled for construction in the applicable entities' work program within the first three (3) years from the date when impacts are estimated to be significant and adverse.
- (g) If the parties cannot reach agreement independently prior to the date when impacts are estimated to be significant and adverse, or if so desired by the parties at any time, then the issues in dispute may be submitted to the ECFRPC for either voluntary mediation

pursuant to its adopted dispute resolution process or to binding arbitration pursuant to the rules and procedures of the American Arbitration Association (“AAA”) unless otherwise agreed by the parties in dispute.

[The provisions of this Condition 94 (a)-(g), inclusive, have been complied with pursuant to completion of the Transportation Impact Study through buildout and the mitigation provisions of Condition 92.B.]

(h) Within areas of the WVEA designated as Village, Interchange, or Community Districts, the development plan will include multiple roadways through the DRI in order to provide adequate capacity, to provide alternative routes and to lessen the impacts to community cohesiveness.

ALTERNATIVE TRANSPORTATION STRATEGIES

95. The Developer or the Viera Transportation Management Association, Inc. (“TMA”) shall promote and encourage on-site employers to offer variable work hours and flextime schedules for their employees as one means of reducing peak hour travel demand. Acceptable methods for “promoting and encouraging” may include, but are not limited to; provisions in land sale contracts and/or Covenants, Conditions and Restrictions encouraging retail, office and institutional uses to offer variable work hour and flextime schedules to employees; participation in the TMA whose purposes include promoting and encouraging travel demand management. The Developer shall select the method or methods for compliance with

this requirement prior to the sale of any land for retail, office or institutional use, and will notify the County in writing of its selection and means of implementing the selection and shall be included in Biennial Report.

96. The Developer or the TMA shall promote the use of transit, and ridesharing programs by tenants, residents and employees. Promotion of the use of such programs may be accomplished through: the display of service schedules in prominent public gathering areas and near service stops; preferential parking for vans and cars that are part of the ridesharing program; publication of newsletters delivered to tenants, residents and employees that provides ridesharing information.

97. The Applicant shall consult with Space Coast Area Transit to provide adequate amenities that promote transit. At a minimum, the following actions are required, as agreed to by Space Coast Area Transit:

(a) In cooperation with the TMA, the Developer shall consider the need for and, if appropriate, location of appropriate bus transfer stations in proximity to the park and ride areas within the nonresidential portion of the DRI. The locations shall be determined in coordination with the Space Coast Area Transit Authority and the county. It shall include a maximum of four (4) bus bays with covered waiting areas with seating and a bicycle rack. This will provide for a hub for the transit system and the ability to park and ride for individuals within or outside of the DRI.

(b) The Developer shall construct transit pull off areas, including covered transit shelters with seating and bicycle parking. Locations shall be

coordinated with the Space Coast Area Transit Authority and the county and any affected property owners.

(c) Bicycle lockers or bicycle racks, transit passenger shelters and transit parking bays shall be constructed where necessary to augment and facilitate the operations of transit service to the site.

(d) Pedestrian routes to transit shall be shaded or otherwise covered to the maximum extent feasible to protect users from the elements.

98. Developer, in cooperation with the Brevard County and Space Coast Area Transit (SCAT), shall develop a plan to maximize the viability and use of public transit services as an alternative mode of travel inside, to and from the DRI. The Developer will continue to include the following strategies:

(a) Implementation of PUD design standards that address transit-supportive site and building design standards;

(b) Implementation of PUD design standards that address pedestrian activity, safety, and circulation as an alternative travel mode and to support transit use;

(c) Designation of Village Center and Town Center areas that contain densities, mix of land uses, and development patterns that are supportive of transit use;

(d) Identification of corridor(s) that can accommodate a transit circulator system and/or future fixed transit technologies serving the Village Centers and employment areas, the Town Center and potential regional connections consistent with any programmed system by SCAT;

- (e) Exploration of feasible transit improvements for regional corridors where roadway capacity needs are projected to be eight (8) lanes or more, or exceed local or state transportation policies; and
- (f) Coordination between SCAT, Brevard County, the Developer and the TMA to develop a long-term transit plan for the DRI and surrounding planning area as designated by Brevard County, including potential routes and ridership determination, off-site regional connections by public transportation, park and ride facilities and interfaces and an implementation and funding schedule.

99. In the interest of safety, and to promote alternative forms of transportation, the Developer shall provide the following bicycle and pedestrian systems:

- (a) The on-site bicycle systems shall be planned to be connected into any adjacent external bicycle facilities existing at the time of construction. The on-site bicycle system includes a combination of multi-use sidewalks, off-road trails, on-street bicycle lanes, paved shoulders, and low-speed neighborhood streets that support safe bicycle travel but do not have marked bicycle lanes.
- (b) For Village Center and Town Center areas, the Developer shall meet site and building design requirements that address pedestrian safety and comfort through elements such as covered walkways designed into the front of non-residential structures through applicable PUD zoning.

- (c) In all areas of the DRI, where cycling will be accomplished on both sidewalk/bikeways and streets, appropriate signage identifying bike routes shall be installed subject to approval by Brevard County.
- (d) Special consideration shall be given to bikeways connecting neighboring residential areas to employment and commercial areas.
- (e) Bicycle support facilities, such as covered parking and lockers, shall be encourage at commercial areas and work areas.
- (f) Improvements to area roadways should be encourage to incorporate bicycle and pedestrian facilities that are internal to the DRI.

100. The Developer shall coordinate with Brevard County and the TMA to ensure the provision of park and ride spaces within the DRI. Currently, the Developer has constructed one (1) park and ride facility within the DRI providing 56 unassigned vehicle parking spaces, which park and ride facility shall be managed and maintained by or through the TMA. Upon buildout of the DRI, the Developer shall have provided not less than a total of three hundred (300) unassigned vehicle parking spaces within the DRI for use in connection with facilitating transit, ridesharing car and van pooling and other demand management programs to reduce automobile usage. Such unassigned parking spaces may be shared with parking for commercial land uses. The park and ride spaces shall be proximate to public transit.

FIRE, SHERIFF

101. Police, fire and EMS service will be provided by Brevard County. The Developer has built, equipped and provided to the County two fire stations within the Project and known as Station 47 and Station 48 and has received or is receiving reimbursement and impact fee credits for each pursuant to agreements with the County. The Developer shall build and equip a

third fire station on a 2 acre site to be conceptually located at the time of Sketch Plan Approval for Village 2. This finalized site location shall be determined in consultation between Brevard County and the Developer. This finalized site shall be conveyed to Brevard County at completion of construction and issuance of Certificate of Occupancy. For this site dedicated as provided above, the Developer shall be entitled to Impact Fee Credits for all development served by the facilities, even if the areas served are located outside of the DRI. Credit shall be given to the extent of the fair market value of any land contributed, as determined by an MAI appraiser acceptable to the Developer and Brevard County, and for all equipment provided or funded by the Developer. Such credits shall be reimbursed in the same manner and under substantially similar terms and conditions as set forth in the Donation and Capital Contribution Front-Ending Reimbursement Agreement dated June 9, 1999 between Developer and Brevard County for Fire Station 47. The final fire station shall be located within Village 2 at a location mutually agreeable to the County and the Developer and constructed and equipped in a manner mutually agreeable to the County and the Developer consistent with Fire Station 48. The Developer shall pay for two "mini-pumper" fire trucks up to \$200,000 each.[completed as to one] Payment for the second truck shall be made at the time of issuance of the first building permit for an alley unit in Village 2. The Developer shall be entitled to impact fee credits for the payments.

102. Upon the request of the Brevard County Sheriff's Department, the Developer shall designate one site for lease by the Brevard County Sheriff's Department within the Town Center and Village 2. The Town Center site shall be located at the time of approval of the final Site Plan for the Town Center. A second site shall be conceptually located at the time of Sketch Plan Approval for Village 2 and the finalized site shall be specifically located at the time of final

Site Plan Approval for Village 2. Each site shall be available for lease, at market rates, at time of the issuance of a Certificate of Occupancy from Brevard County.

RECREATION

103. In addition to the Viera Wilderness Park, the Developer shall provide no less than 370 acres of parks within the DRI west of Interstate 95. To date, the Developer has provided 161.7 acres of parks west of Interstate 95. The Developer shall provide sites at locations mutually agreeable to the County and Developer. Impact fee credits shall be governed by applicable state law and Brevard County Ordinance.

DEVELOPMENT PHASING

104. The Developer shall adhere to the Master Development Program set forth in Exhibit 4 in four phases: “Phase 1” (1990 to October 23, 2032), “Phase 2A” (December 29, 2005 to October 23, 2032), “Phase 3” (December 29, 2010 to October 23, 2032), and “Phase 4” (December 29, 2017 to October 24, 2042). Because the traffic impacts for Phase 1 and Phase 2A development have been cumulatively assessed and cumulative mitigation provided for them through the end of Phase 3 of this Development Order, any portion of Phase 1 and Phase 2A development that has not been completed by October 23, 2032 may continue through the buildout date of Phase 3.

IV. PERIOD OF EFFECTIVENESS

This Development Order shall take effect upon transmittal by certified U. S. Mail, return receipt requested, to the East Central Florida Regional Planning Council and the Florida Department of Economic Opportunity, and shall remain in effect until its expiration on October 24, 2042. The termination date is also October 24, 2042. The effectiveness of this Development

Order, including without limitation all development phases of the DRI may be extended by operation of law or by the Brevard County Board of County Commissioners in a public hearing upon a showing by the Developer that the completed portions of the DRI comply with the conditions of this Development Order and the provisions of Chapter 380.06, Florida Statutes.

V. **BIENNIAL REPORTING REQUIREMENTS**

In accordance with Chapter 380.06(18), Florida Statutes, the Developer, its successors or assigns, shall submit a biennial report on or before July 1, 2012 and in every other or second year thereafter during the buildout of the DRI (the "Biennial Report"). The Biennial Report shall be submitted to the County, the City of Rockledge, the ECFRPC, the DEO, the FDOT, the SJRWMD and all other affected planning and permitting agencies formally requesting copies of the same in writing to the Developer. The contents of the Biennial Report shall comply with the relevant conditions of approval that require reporting actions within this Development Order, within Chapter 380.06(18), Florida Statutes, Rule 73C-40.025 F.A.C., as well as any and all other and further information required under applicable law. The Biennial Report shall include a statement that all persons/agencies listed above have been sent copies and the failure to timely submit the Biennial Report may subject the Developer and the DRI to the temporary suspension of this Development Order in accordance with Chapter 380.06(18), Florida Statutes.

VI. **MONITORING MECHANISM**

The County Manager, or another authorized Brevard County designee, shall be the local official responsible for monitoring compliance by the Developer with this Development Order. The County shall not issue any permits or approvals or provide any extension of services if the Developer fails to act in substantial compliance with this Development Order. Violations of this Development Order may be subject to correction through consent agreement penalty or

suspension of this Development Order. Consent agreements shall be prepared by the County Manager or authorized Brevard County designee. Final approval or denial of the consent agreement shall be determined by the Brevard County Board of County Commissioners. Consent agreements shall be subject to review by the Florida Department of Economic Opportunity. A consent agreement may require a reasonable bond or financial security from the Developer. Consent agreements shall provide no less than an equivalent degree of protection for the lands, surface waters or ground waters of Brevard County, and shall at least meet the level of protection and/or remedy afforded by Brevard County Ordinances and the provisions of this Development Order. The ability to enter into a consent agreement shall in no way prevent Brevard County from pursuing enforcement actions as permitted by Chapter 380, F.S.

VII. RESTRICTIONS ON DOWN-ZONING

The Viera Development of Regional Impact as described within this Development Order shall not be subject to down-zoning, unit density reduction or intensity reduction until October 24, 2042, unless extended by law or by the provisions of Paragraph IV herein, unless it is demonstrated and affirmatively found by the Brevard County Board of County Commissioners at a public hearing that substantial changes in the conditions underlying the approval of this Development Order have occurred, or that this Development Order was based on substantially inaccurate information provided by the Developer, or that the change is clearly established by Brevard County to be essential to the public health or safety.

VIII. RECORDATION

Notice of the adoption of this Development Order or any subsequent modification of this Development Order shall be recorded by the Developer in accordance with Section 28.222, Florida Statutes, with the Clerk of the Circuit Court for Brevard County, Florida, at the

Developer's expense within 30 days of the effective date of this Development Order or any subsequent modification of this Development Order in compliance with Section 380.06(15)(f), Florida Statutes. The recording of this notice shall not constitute a lien, cloud or encumbrance on the DRI, or actual or constructive notice of any such lien, cloud or encumbrance. The conditions of this Development Order shall run with the Property described in Exhibits 1 and 2 and shall bind the Developer's successors and assigns.

IX. CREDITS AGAINST LOCAL IMPACT FEES

In compliance with Sections 380.06(15) and(16), Florida Statutes, and Article V of the Brevard County Code of Ordinances, Brevard County shall credit the Developer with any Developer Order exaction or fee required by this Development Order as allowed by the mechanisms set forth in the then applicable Brevard County Impact Fee Ordinance for the contribution of lands or funds for land acquisition, construction or expansion of a public facility, or a portion thereof, toward any impact fee or exaction imposed by local ordinances for the same need. This subsection does not apply to internal, onsite facilities required by local regulations or to any offsite facilities to the extent such facilities are necessary to provide safe and adequate services to the development.

Regardless of whether Brevard County in the future repeals or suspends impact fees imposed for any purpose, the Developer shall remain responsible for all mitigation requirements imposed under this Development Order, and the Developer shall receive credits for any improvements or donations for which credit would have been granted prior to the effective date

of Brevard County's repealing, or suspending, action which may be utilized if Brevard County subsequently reinstates impact fees.

X. RENDITION

Within ten days of the date of adoption of this Development Order, Brevard County shall transmit a copy of this Development Order certified as complete and accurate with all pertinent attachments by certified mail, return receipt requested, to the Florida Department of Economic Opportunity the East Central Florida Regional Planning Council, and the Developer.

XI. VIERA STEWARDSHIP DISTRICT, DEVELOPMENT DISTRICTS

The Florida Legislature enacted Chapter 2006-360, Laws of Florida creating and establishing the Viera Stewardship District (the "Viera Stewardship District Act"). The lands currently encompassed within the Viera Stewardship District ("VSD") are shown on Exhibit 9 attached hereto which lands include the West Viera Expansion Area and the Viera Wilderness Park. Among the powers of the VSD are general and special powers to (i) plan, finance, provide and maintain community infrastructure and services, (ii) provide an efficient and effective method of ensuring the long-term stewardship of environmental and conservation resources within the District, including, but not limited to, implementing, administering and funding the Habitat Management Plan ("HMP"); and (iii) obtain loans, issue bond anticipation notes, issue and sell general obligation, special assessment and revenue bonds, levy benefit special assessments, maintenance special assessments and no-ad valorem maintenance taxes to finance and/or fund community infrastructure, habitat protection and management, and maintenance activities within the District. Notwithstanding the foregoing, the Developer or other property

owner within the DRI may, at its option, petition to create one or more Community Development Districts pursuant to Chapter 190, Florida Statutes, encompassing portions of the DRI. The VSD or any Community Development District hereafter encompassing a portion of the DRI, or any combination thereof, may construct or fund any infrastructure or community improvement required under this Development Order. Such projects included, but are not limited to, road and transportation facilities, surface water management facilities, potable water, reclaimed water, sewer and wastewater facilities, environmental mitigation, flood control improvements, bridge facilities and structures, parks, recreational and cultural facilities, school facilities and structures, fire prevention and control improvements, mosquito control improvements, and waste collection and disposal systems and facilities. Without limiting the foregoing, any infrastructure or other capital improvements required by this Development Order, as from time to time hereafter amended or modified, as a condition of developing the DRI or any part thereof, may be designed, permitted, funded and/or constructed by the VSD or any Community Development District encompassing a portion of the DRI; provided, however, that the Viera Wilderness Park shall be administered, managed and maintained by the VSD and such administration, management and maintenance shall be funded and/or financed by the through the VSD.

The Viera Stewardship District Act also grants the VSD the general power to contract for the services of consultants to perform professional services in connection with the administration and management of the VSD. The VSD shall retain and fund an independent professional biologist or ecologist (the "Environmental Professional") as a member of the VSD's staff to provide independent scientific advice and recommendations regarding scientific issues that relate to the implementation of the HMP and the achievement of the goals and objectives of the HMP within the VWP. Prior to the election of the majority of members of VSD's Governing Board by

the qualified electors residing within the District (as defined herein), the VSD shall enter into an Interlocal Agreement with Brevard County to address the Environmental Professional and other administration, management, maintenance, and funding obligations of the VSD necessary to satisfy the conditions of this Development Order pertaining to the VWP.

The VSD's Environmental Professional shall foster a scientific approach to ecosystem restoration and wildlife habitat management by the use of sound scientific methods in order to achieve the goals and objectives set forth in the HMP; and address scientific and technical issues relating to the HMP. The VSD's Environmental Professional's responsibilities shall include, but not be limited to, the following:

- (a) Evaluate the HMP's scientific principles to ensure they are consistent with the best available science.
- (b) Review the scientific and technical issues associated with the implementation of the land management activities proposed in the HMP.
- (c) Review and provide advice on priorities for land management actions, including research, monitoring, and evaluation and data management.
- (d) Prepare reports (one every 2 years as part of the Biennial Report) that would be submitted to Brevard County Natural Resources Management Offices, and other interest environmental groups, regarding the Environmental Professionals' assessment of the success of the VSD as it relates to the implementation of the HMP and the management of the VWP.

The Environmental Professional shall review the VSD's policies, practices and effectiveness with respect to the VSD's management of the VWP and the achievement of the HMP's goals and objectives every 2 years as part of the Biennial Report and the findings and recommendations of such biologist or ecologist shall be set forth in a written report. Said report shall highlight whether the Goals and Objectives are being satisfactorily met. If the Goals and Objectives are not being met, the report shall identify actions necessary to meet the Goals and Objectives and contain a plan for meeting them. Such written report shall be provided to the VSD, Brevard County, the ECFRPC, regulatory agencies having jurisdiction and interested environmental groups and be included in the biennial report.

The Viera Stewardship District Act requires that three governing board members of the VSD shall be persons elected by the qualified electors residing within the district as such time as the district is populated by 60% of the project total number of qualified electors for the district. The Viera Stewardship District Act defines "projected total qualified electors" to mean and refer to the product of: (the total number of single-family and multi-family residential units approved within the district by a development order issued by Brevard County and in effect in the tenth year following creation of the VSD) X (the average number of persons residing within a household located in Brevard County based on the 2010 U.S. Census) X (the percentage of Brevard County's general population registered to vote as reported by the Brevard County Supervisor of Elections as of the general election occurring in November 2014). Solely for purposes of the preceding calculation, this Development Order approves 18,023 residential units within the geographical boundaries of the district, consisting of both single-family and multi-family units. The preceding sentence shall not be deemed or construed in any manner to vest

such residential units for development within the district or relieve the Developer of any applicable concurrency requirements with respect to such units.

XII. MODIFICATIONS TO THIS DEVELOPMENT ORDER

The Developer shall submit simultaneously to Brevard County, and to the East Central Florida Regional Planning Council, and the Florida Department of Economic Opportunity as applicable under the law, any request for approval of a proposed change to the Viera Development of Regional Impact and shall comply with Section 380.06(19), Florida Statutes, concerning substantial deviations in compliance with the law at the time of application. Submissions shall be in a format established by the Florida Department of Economic Opportunity and shall include at a minimum the precise language which is proposed for deletion or addition to this Development Order and a statement summarizing all previous changes that have been made to this Development Order.

NOW THEREFORE, BE IT ORDAINED AND RESOLVED by the Board of County Commissioners of Brevard County, Florida that this Amended and Restated Development Order for the Viera Development of Regional Impact (No. 17-) is APPROVED pursuant to Chapter 380.06, F.S. subject to the terms and conditions of this Resolution.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
BREVARD COUNTY, FLORIDA

Scott Ellis, Clerk

Kristine Isnardi, Chairman

ACCEPTANCE BY THE DEVELOPER:
THE VIERA COMPANY, INC. HEREBY ACCEPTS AND CONSENTS TO THE FOREGOING
DEVELOPMENT ORDER FOR THE VIERA DEVELOPMENT OF REGIONAL IMPACT.

TODD POKRYWA, PRESIDENT

DATE: _____

ACCEPTANCE BY THE CO-APPLICANT:

A. DUDA & SONS, INC., HEREBY ACCEPTS AND CONSENTS TO THE FOREGOING DEVELOPMENT ORDER FOR THE VIERA DEVELOPMENT OF REGIONAL IMPACT

TRACY DUDA CHAPMAN,
SENIOR VICE PRESIDENT, CHIEF LEGAL
AND ADMINISTRATIVE OFFICER

DATE

However, conversions exceeding five percent may be permitted without an amendment to the Development Order under the following conditions: (1) the conversion is in accordance with the Transportation Equivalency Matrix, which is based on equivalent peak hour directional trip ends and attached hereto as Exhibit 5 and results in no net increase to the peak hour directional trip ends, ~~(2) the Developer demonstrates to Brevard County that the conversion will not increase peak hour directional trip ends, and~~ (23) the conversion involves a change in non-residential land uses without involving an increase in residential dwelling units ~~the conversion involves an increase in an employment based industrial land use (subject to approval by Brevard County) and a decrease in office and does not involve any residential or retail uses and~~ (34) the Developer notifies Brevard County, the East Central Florida Regional Planning Council, the City of Rockledge, the School Board of Brevard County, the Florida Department of Transportation and the Department of Economic Opportunity of updated development totals following a conversion.