

COUNTY OF HENDRY, STATE OF FLORIDA

ORDINANCE NO. 2020 - 23

RECORDED IN ORDINANCE BOOK XXII, PAGE 148

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF HENDRY COUNTY, FLORIDA, REPEALING PLANNED UNIT DEVELOPMENT ZONING ORDINANCE 2001-10; GRANTING A ZONING DISTRICT BOUNDARY CHANGE FROM PLANNED UNIT DEVELOPMENT AND GENERAL AGRICULTURE (A-2) TO PLANNED UNIT DEVELOPMENT ON +/- 460 ACRES; PROVIDING FOR CONFLICTS OF LAW; PROVIDING FOR SEVERABILITY; PROVIDING FOR SCRIVENER'S ERRORS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Local Planning Agency of Hendry County has heretofore held a public hearing on August 12, 2020, on a petition filed by Bryan W. Paul, represented by Jennifer Sapen, AICP c/o Barraco and Associates, Inc. (HEARING NO. RZ17-0005), for +/- 460 acres; and has given its recommendation of approval to the Board of County Commissioners of Hendry County, Florida, for the requested rezone from PUD and A-2 to PUD set forth hereafter; and

WHEREAS, the Board of County Commissioners of Hendry County, Florida, has held a public hearing this day to hear any and all comments to the granting of said rezoning; and

WHEREAS, the Board finds the request consistent with the intent of the Hendry County Comprehensive Plan and finds the rezoning as conditioned to be warranted by the facts, not contrary to the public interest and compatible with the zoning regulations in all other respects, and should be granted.

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Hendry County, Florida:

SECTION ONE. The district boundaries of the Zoning Map of Hendry County are amended to reflect that the below described property ("Subject Property") is hereby rezoned to the Planned Unit Development (PUD) zoning district legally described as:

Parcel I.D. Nos: 1-28-43-22-A00-0001.0000; 1-28-43-22-A00-0002.0000; 1-28-43-22-A00-0003.0300; 1-28-43-22-A00-0003.0400; 1-28-43-22-A00-0004.0000; 1-28-43-22-A—0005.0000; 1-28-43-27-A00-0001.0100; and 1-28-43-27-A00-0001.0200

Legal Description

Parcel in
Sections 22 and 27, Township 43 South, Range
28 East Hendry County, Florida

A tract or parcel of land lying in Section 22 and 27, Township 43 South, Range 28 East, Hendry County, Florida, said tract or parcel of land being more particularly described as follows:

Beginning at the Southeast corner of said Section 22 run S00°35'53"E along the East line of the Southeast Quarter (SE 1/4) of said Section 27 for 601.75 feet to an intersection with the Northwesterly right of way line of State Road 80 (F.D.O.T. right of way Section No. 07010-2527), being 208 feet Northwesterly as measured perpendicular to the survey base line thereof; thence run along said Northwesterly and Northerly right of way line of State Road 80 the following eleven (11) courses: S50°19'00"W parallel with said survey base line for 1,523.19 feet; S39°41'00"E for 19.00 feet to a point being 189 feet Northwesterly as measured perpendicular to said survey base line; S50°19'00"W parallel with said survey base line for 377.96 feet to a point of curvature; Southwesterly along an arc of a curve to the right of radius 2,754.87 feet (delta 34°20'18") (chord bearing S67°29'09"W) (chord 1,626.44 feet) for 1,651.04 feet; N05°20'42"W along a radial line for 19.00 feet to a point on a radial curve; Westerly along an arc of a curve to the right of radius 2,735.87 feet (delta 04°07'29") (chord bearing S86°43'02"W) (chord 196.91 feet) for 196.95 feet to a point of tangency being 208 feet Northerly as measured perpendicular to the survey base line thereof; S88°46'47"W parallel with said survey base line for 93.78 feet; N01°13'13"W for 11.00 feet to a point being 219 feet Northerly as measured perpendicular to said survey base line; S88°46'47"W parallel with said survey base line for 200.01 feet; S01°13'13"E for 20.00 feet to a point being 199 feet Northerly as measured perpendicular to said survey base line and S88°46'47"W parallel with said survey base line for 1,785.96 feet to an intersection with the East right of way line of County Road 78A (F.D.O.T. right of way Section No. 07590-2150)(S-78-A)(100' wide right of way), also being the East line of the West 50 feet of the Northwest Quarter (NW 1/4) of said Section 27; thence run N00°21'44"W along said East right of way line for 1,918.73 feet to an intersection with the Northerly line of lands described in a deed recorded in Official Records Book 680, at Page 1833, Hendry County Records; thence run along said Northerly line the following six (6) courses: N89°23'27"E for 1,472.44 feet; S01°32'28"E for 149.69 feet; N78°22'31"E for 379.34 feet; N01°42'41"W for 114.35 feet; N89°31'49"E for 730.24 feet and N01°13'44"W for 640 feet, more or less, to an intersection with the center line of Banana Branch; thence run Northwesterly along said center line of Banana Branch for 1,607 feet, more or less, to an intersection with the Westerly line of lands described in a deed recorded in Official Records Book 636, at Page 1656, Hendry County Records; thence run

along said Westerly line N00°19'40"W for 898 feet, more or less, to an intersection with the Southerly line of said lands; thence run along said Southerly line S89°40'20"W for 1,330.00 feet to an intersection with said East right of way line of said County Road 78A (F.D.O.T. right of way Section No. 07590-2150)(S-78-A)(100' wide right of way), also being the East line of the West 50 feet of the Southwest Quarter (SW 1/4) of said Section 22; thence run N00°19'40"W along said East right of way line for 779.88 feet to an intersection with the North line of the Southwest Quarter (SW 1/4) of said Section 22; thence run N89°48'18"E along said North line for 2,591.29 feet to the center of Section 22; thence run N00°26'01"W along the West line of the Northeast Quarter (NE 1/4) of said Section 22 for 53.00 feet to an intersection with the North line of the South 53 feet of said Northeast Quarter (NE 1/4); thence run N89°48'18"E along said North line for 1,930.06 feet; thence run S00°26'01"E parallel with the West line of said Northeast Quarter (NE 1/4) for 53.00 feet to an intersection with the South line of said Northeast Quarter (NE 1/4); thence run N89°48'18"E along said South line for 698.98 feet to the East Quarter corner of said Section 22; thence run S00°46'14"E along the East line of the Southeast Quarter (SE 1/4) of said Section 22 for 2,584.61 feet to the POINT OF BEGINNING.

Containing 460.30 acres, more or less.

Bearings hereinabove mentioned are State Plane for the Florida East (1983/NSRS 2007) and are based on the East line of the Southeast Quarter (SE 1/4) of Section 22 to bear S00°46'14"E

SECTION TWO. This rezone ordinance is subject to the following conditions:

1. All development shall comply with the requirements of the Comprehensive Plan, the Land Development Code, and Exhibit "A" - the Master Concept Plan, Pages 1 and 2, last revised May 7, 2020, unless modified herein.
2. The Town Center Area is approved on 33+/- acres (see sketch & description labeled Attachment 4). The Town Center is permitted for sixty (60) residential dwelling units and a maximum of 172,000 sq.ft. of commercial uses permitted in C-1, C-2, and C-3 zoning districts.
3. The River Medium Density area is approved on 423+/- acres (see sketch & description on Attachment 5). The River Medium Density area is permitted for 1,140 residential dwelling units of which a maximum of 315 units may be recreational vehicle units.
4. The Village Center is approved on 3+/- acres in conjunction with the River Medium Density area and is permitted for a maximum of 5,000 sq.ft. of C-1 and C-2 commercial uses.
5. The PUD zoning is approved for the following uses:
 - a. Residential:
 - i. Single Family
 - ii. Two-family attached
 - iii. Townhouse
 - iv. Multifamily
 - b. Recreational Vehicles

- c. Private recreation
 - d. Model homes/sales
 - e. Gates and Gatehouses
 - f. Excavation
 - g. Surplus Material Removal for up to 1,500 cy.
 - h. Typical commercial and residential accessory uses/structures
6. Recreational Vehicles must be part of a River Medium Density mixed use development that includes at a minimum residential and commercial uses and may have a density of five (5) recreational vehicle units per gross acre of the RV area.
7. Development of the PUD must meet the following standards:

	SINGLE FAMILY	TWO-FAMILY ATTACHED	TOWN-HOUSE	MULTI-FAMILY	RECREATIONAL VEHICLE	C-1 THROUGH C-3 COMMERCIAL USES (***)
Minimum Lot Width	42'	33'	24'	100'	50'	100'
Minimum Lot Depth	130'	120'	110'	110'	80'	150'
Minimum Lot Area	5,560 SF	3,960 SF	2,640 SF	11,000 SF	4,000 SF	15,000 SF
Max. Building Height	35'	35'	35'	35'	35'	50'
Maximum Lot Coverage	47%	55%	60%	55%	50%	40%
Minimum Setbacks:						
Front (interior roads)	20' *	20' *	20' *	20' *	15'	20'
Front (offsite local roads)	35'	35'	35'	35'	35'	35'
Front (offsite collector roads)	35'	35'	35'	35'	35'	50'
Side Yard	5'	5/0' **	5/0' **	7.5'	5'	½ bldg. height
Rear Yard (principal)	10'	10'	10'	10'	10'	½ bldg. height
Rear Yard (accessory)	5'	5'	5'	5'	5'	N/A

NOTE:

* Setback may be reduced to 15-feet for side entry garages

** 0-foot setback to apply to internal lot line

*** Single use tenant limited to 40,000 sf

8. Buffers shall be provided as depicted on the Master Concept Plan, Pages 1 and 2, last revised May 7, 2020.
9. Deviation #1 seeking relief from LDC Section 1-56-19 which limits signs in residential areas to residential purposes to allow for a 120 sq. ft. commercial sign within the residential area along SR80 in the PUD is hereby approved with the following condition: The sign shall be a ground mounted sign and the sign area shall be subtracted from the allowable signage for the River Town Center.
10. Deviation #2 seeking relief from Section 1-58-17(f) which limits the distance of uninterrupted horizontal wall length on a building for the Gateway Overlay Corridor, to allow for a rectangular pavilion in association with a Farmer's Market is hereby approved.
11. Deviation #3 seeking relief from Section 1-58-17(g) which requires architectural design standards for buildings to allow for a structure more suitable for a Farmer's Market is hereby approved with the following condition: All other structures shall comply with this section of the LDC.
12. Deviation #4 seeking relief from Section 1-58-25(b)(1) which limits the Gateway Overlay Corridor buffer to certain plant varieties to allow a buffer that includes crops in front of the Farmer's Market is hereby approved with the following condition: The buffer in front of the Farmer's Market shall comply with all other requirements for the Corridor buffer.
13. Deviation #5 seeking relief from Section 1-58-17(i)(1) which requires commercial building entrances to be parallel to public roads to allow various locations of front entrances is hereby approved.
14. Deviation #6 seeking relief from Section 1-58-21 which specifies setbacks within the Gateway Overlay Corridor to allow setbacks pursuant to the development standards table in condition #7 is hereby approved.
15. Deviation #7 seeking relief from Section 1-55-2 which requires native vegetative areas of 5 acres or more to be designated on the Conceptual Site Plan and incorporated into the open space areas throughout the planned unit development is hereby approved with the following condition: This shall only apply to the Banana Branch stub out as depicted on the Master Concept Plan.
16. Deviation #8 seeks relief from Section 1-53-5.4(9) to allow the duration of the PUD as follows. The PUD will expire and be of no effect unless a Site Development Plan, Construction Plan, or Preliminary Subdivision Plat is approved within six years of approval of the PUD or any phase thereof. A three-year extension for any phase may be granted by the Board of County Commissioners upon good cause shown, only if such request is made in writing to the Board prior to the expiration date. Upon completion and Certificate of Compliance of 25% of the development's densities and/or intensities, the PUD approval shall be considered vested in perpetuity. This deviation is hereby approved.
17. Deviation #9 seeking relief from Section 1-58-24 to allow signage to meet Chapter 1-56 instead of Section 1-58-24 with the exception that pole signs shall not be permitted is hereby approved.
18. Removal of spoil or surplus material is permitted provided all the following conditions are met:
 - a. The total amount of material to be removed is less than 1,500 cubic yards.

- b. The material did not originate from an excavation that was conducted on the property to produce material for sale off-site, regardless of whether or not the current landowner was the person who conducted the excavation; and
 - c. A permit to remove the spoil is obtained from the county.
19. An amendment to the PUD will be required if the applicant proposes to mine pursuant to 1-53-6.16.
20. The developer must demonstrate compliance with Section 1-55-2 of the LDC in order to determine if additional areas within the PUD are required to be preserved at the time of Construction Plan and/or Site Development Plan.
21. The future development of this site must accommodate offsite flows from the north and east to restore historic flows and to avoid and/or minimize flooding within the Murray Road Municipal Services Benefit Unit (MSBU).
22. A protected species survey will be required at time of Site Development Plan or Construction Plan application.
23. The developer must demonstrate compliance with Chapter 1-55, Article II Flood Damage Prevention and Control, of the Land Development Code in order to prevent flooding of properties onsite and offsite at the time of Construction Plan and/or Site Development Plan. Development must be limited to avoid impact to the flow ways and flood plains of Banana Branch and Fort Simmons Branch.
24. All exotic plant species as defined by the Florida Exotic Pest Plant Council shall be removed from the property in perpetuity.
25. If, during site clearing, excavation, or other construction activity, a historic or archaeological artifact, or other indicator is found, all development within the minimum area necessary to protect the discovery shall be immediately stopped. The County Engineering Department is to be notified of such discovery.
26. The applicant is required to provide compensating right-of-way to the County if the installation of turn lanes is required based on a traffic impact statement (TIS) submitted at the time of a Site Development Plan or Construction Plan.
27. The applicant must take corrective measures in regard to the access point on CR 78, approved by the County Engineer within 180 days of notification by the County that one of the following conditions exists:
 - a. warrants exist for a turn lane; and/or
 - b. warrants exist for a deceleration lane; or
 - c. two or more accidents take place as a result of traffic issues specifically related to the development within any 180-day period.Any disputes between the applicant and County staff concerning the corrective measures will be brought to the County Commission for consideration at its next regularly scheduled meeting.
28. Approval of this PUD does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the county for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. All other applicable state or federal permits must be obtained before commencement of the development.

SECTION THREE. CONFLICTS OF LAW

Whenever the requirements or provisions of this Ordinance are in conflict with the requirements or provisions of any other lawfully adopted Hendry County Ordinance or Florida Statutes, the more restrictive shall apply.

SECTION FOUR. SEVERABILITY

The provisions of this Ordinance are severable, and it is the intention to confer the whole or any part of the powers herein provided for. If any Court of competent jurisdiction shall hold any provision of the Ordinance invalid or unconstitutional, the decision of such Court shall not affect or impair any remaining provisions of this Ordinance.

SECTION FIVE. SCRIVENER'S ERRORS

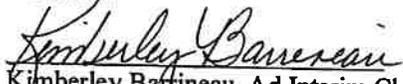
It is the intention of the Board of County Commissioners of Hendry County that sections of this Ordinance may be renumbered or re-lettered and typographical errors which do not affect the intent may be authorized by the County Administrator, or the County Administrator's designee, without need of public hearing, by filing a corrected or recodified copy of the same with the County Clerk.

SECTION SIX. EFFECTIVE DATE

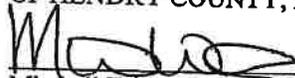
This Ordinance shall take effect immediately upon its filing with the Secretary of State.

Duly passed and adopted in Regular Session of the Board of County Commissioners of Hendry County, Florida this 25th day of August 2020.

ATTEST:


Kimberley Barrineau, Ad Interim Clerk

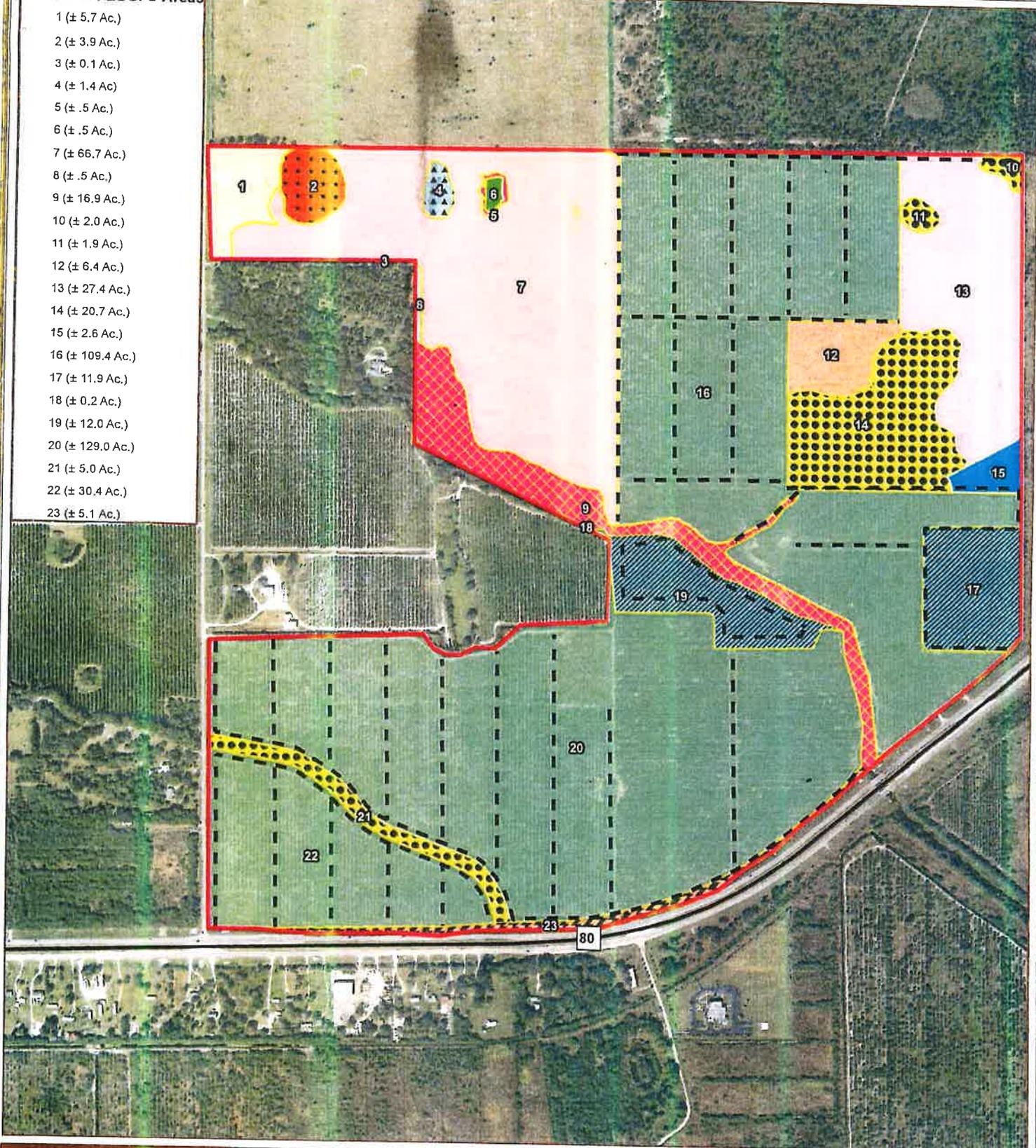
BOARD OF COUNTY COMMISSIONERS
OF HENDRY COUNTY, FLORIDA


Mitchell Wills, Chairman



Individual FLUCFS Areas

- 1 (± 5.7 Ac.)
- 2 (± 3.9 Ac.)
- 3 (± 0.1 Ac.)
- 4 (± 1.4 Ac.)
- 5 (± .5 Ac.)
- 6 (± .5 Ac.)
- 7 (± 66.7 Ac.)
- 8 (± .5 Ac.)
- 9 (± 16.9 Ac.)
- 10 (± 2.0 Ac.)
- 11 (± 1.9 Ac.)
- 12 (± 6.4 Ac.)
- 13 (± 27.4 Ac.)
- 14 (± 20.7 Ac.)
- 15 (± 2.6 Ac.)
- 16 (± 109.4 Ac.)
- 17 (± 11.9 Ac.)
- 18 (± 0.2 Ac.)
- 19 (± 12.0 Ac.)
- 20 (± 129.0 Ac.)
- 21 (± 5.0 Ac.)
- 22 (± 30.4 Ac.)
- 23 (± 5.1 Ac.)



**FLUCFS
NEW HOPE FARMERS MARKET
2014 TRUE COLOR AERIAL
HENDRY COUNTY, FLORIDA**

1 inch = 833 feet

0 210 420 840 feet

MAP SCALE IS SET FOR MAPS PRINTED ON 8 1/2 X 11 PAPER

Legend

- Project Boundary (± 400.0 Ac.)
- Ditches

FLUCFS CODE

- 2210 CITRUS GROVES (± 268.7 Ac.)
- 3200 UPLAND SHRUB AND BRUSHLAND (± 2.6 Ac.)
- 3300 MIXED RANGELAND (± 68.8 Ac.)
- 4110 PINE FLATWOODS (± 6.3 Ac.)
- 4200 UPLAND HARDWOOD FORESTS (± 27.4 Ac.)
- 4270 LIVE OAK (± 8.4 Ac.)
- 5340 RESERVOIRS < 10 AC. (± 23.9 Ac.)
- 6170 MIXED WETLAND HARDWOODS (± 16.9 Ac.)
- 6172 MIXED SHRUBS (± 29.6 Ac.)
- 6250 HYDRIC PINE FLATWOODS (± 1.4 Ac.)
- 6410 FRESHWATER MARSHES - GRAMINOID PRAIRIE - MARSH (± 3.9 Ac.)
- 7420 BORROW AREA (± 0.5 Ac.)
- 7430 SPOIL AREA (± 0.5 Ac.)
- 8140 ROADS AND HIGHWAYS (± 5.1 Ac.)



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environmental consulting & design, inc.
15427 HAWK CREEK
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WWW.ECANDD.COM

DATE: 02/08/2014 PROJECT: NEW HOPE FARMERS MARKET 2014 TRUE COLOR AERIAL HENDRY COUNTY, FLORIDA
DRAWN BY: J. B. BROWN CHECKED BY: M. J. BROWN APPROVED BY: J. B. BROWN
NOTE: DATA PROVIDED BY HENDRY COUNTY AND HENDRY COUNTY PLANNING DEPARTMENT
PROJECT: NEW HOPE FARMERS MARKET 2014 TRUE COLOR AERIAL HENDRY COUNTY, FLORIDA