

**PALM BEACH COUNTY
PLANNING, ZONING AND BUILDING DEPARTMENT
ZONING DIVISION**

Application No.: ZV/CAW-2020-00276
Application Name: South Bay Substation
Control No./Name: 2017-00163 (South Bay Substation Expansion)
Applicant: Azeeman Abraham
 Florida Power & Light
Owners: Azeeman Abraham
 Florida Power & Light
Agent: Cotleur & Hearing, Inc. – Don Hearing and Melissa Kostelia
Telephone No.: (561) 747-6336
Project Manager: Brenya Martinez, Site Planner II

TITLE: a Type 2 Variance **REQUEST:** to reduce the front setback; and, eliminate a Right-of-Way Buffer, and Compatibility Buffer. **TITLE:** a Class A Conditional Use **REQUEST:** to allow an Electric Transmission Substation. **TITLE:** a Type 2 Waiver **REQUEST:** to substitute a six foot high opaque wall with a six foot high opaque hedge in a Type 3 Incompatibility Buffer.

APPLICATION SUMMARY: Proposed is a Type 2 Variance (ZV), a Class A (CA) Conditional Use, and a Type 2 Waiver for the South Bay Substation. The 19.81-acre parcel has no previous zoning approvals and currently supports agriculture on 16.61 acres and a 3.20-acre Electric Distribution Substation.

The Applicant is proposing a CA Conditional Use to add a 7.60-acre Electric Transmission Substation, with a commensurate reduction in agriculture uses. No changes are proposed to the existing Electric Distribution Substation; however, Variances have been requested to allow existing conditions to remain, as follows: to reduce the front building setback from 100 feet (ft.) to 69 ft. (-31 ft.), to eliminate a portion of the 20 ft. Right-of-Way (R-O-W) Buffer required for the Electric Distribution Substation, as well as the Compatibility Buffers along the north, west, and an approximately 500-ft. portion of the south property line around the existing Bona Fide Agricultural Use and Electric Distribution Substation. The required landscape buffers will be provided around the proposed Electric Transmission Substation. In addition, a Type 2 Waiver is requested to allow the substitution of a six-ft. opaque wall with an opaque hedge in the Incompatibility Buffer located along the U.S. Highway 21 frontage for the proposed Electric Transmission Substation.

The Preliminary Site Plan (PSP) indicates an existing 3.20 acre Electric Distribution Substation, including a 568 sq. ft. control building; the proposed 7.60 acre Electric Transmission Substation; and, remaining agricultural uses. One parking space is proposed, and access to the site will remain from US Highway 27 (1).

This application was reviewed for compliance with ULDC, Ordinance 2003-067, Supplement 27.

SITE DATA:

Location:	West side of U.S. Highway 27, approximately 1 mile south of U.S. 441/State Road 80 and immediately adjacent to the southernmost boundary of the City of South Bay.
Property Control Number(s)	00-36-44-23-01-000-0071 00-36-44-23-01-000-0101
Existing Future Land Use Designation:	Agricultural Production (AP)
Proposed Future Land Use Designation:	No change
Existing Zoning District:	Agricultural Production (AP)
Proposed Zoning District:	No change
Total Acreage:	19.81 acres
Affected Acreage:	19.81 acres
Tier:	Glades
Overlay District:	N/A
Neighborhood Plan:	N/A
CCRT Area:	N/A

Municipalities within 1 Mile	South Bay
Future Annexation Area	South Bay

RECOMMENDATION: Staff recommends approval of the request subject to the Conditions of Approval as indicated in Exhibits C-2 and C-3.

ACTION BY THE ZONING COMMISSION (ZC): At the November 5, 2020 ZC Hearing, this item was on the Consent Agenda. There was no one from the public to speak on the item and there was no discussion among the Commissioners. Commissioner Bailey made a motion to recommend approval, seconded by Commissioner Kern. The motion carried by a vote of 6-0.

PUBLIC COMMENT SUMMARY: At the time of publication, Staff had received two contacts from the public regarding this project. One contact inquiring information about the project and the second contact in opposition, citing concerns with parking in the R-O-W, screening and safety. In addition, the Agent spoke to the adjacent Property Owner to possibly provide additional screening to the north of the parcel, in order to help mitigate any adverse impacts. However, as part of the discussion no definite decision has been made regarding those mitigation efforts.

PROJECT HISTORY:

The subject site has no prior Zoning approvals.

SURROUNDING LAND USES:

NORTH:

FLU Designation: Commercial (Comm) (City of South Bay)
 Zoning District: B1 Retail Commercial (City of South Bay)
 Supporting: Vacant

SOUTH:

FLU Designation: Agricultural Production (AP)
 Zoning District: Agricultural Production (AP)
 Supporting: Agricultural (Control Name N/A, Control No. N/A)

EAST: (Across US Highway 27)

FLU Designation: Agricultural Production (AP)
 Zoning District: Agricultural Production (AP)
 Supporting: Agricultural

WEST:

FLU Designation: Commercial (Comm) (City of South Bay)
 Zoning District: B1 Retail Commercial (City of South Bay)
 Supporting: Vacant

TYPE 2 VARIANCE SUMMARY:

#	ULDC Article	REQUIRED	PROPOSED	VARIANCE
V.1	Table 3.D.1.A, Property Development Regulations (Related to Minimum Setbacks)	100 foot (ft.) front setback	69 ft. front setback	-31 ft.
V.2	Table 7.C.2.A, Right-of-Way (R-O-W) Buffer Landscape Requirements	20 ft. R-O-W Landscape Buffer	0 ft. R-O-W Landscape Buffer, along the northernmost 360 ft. of the east property line	-20 ft. (100%)
V.3	Table 7.C.2.B, Compatibility Buffer Landscape requirements	8 ft. Compatibility Buffer	0 ft. Compatibility Buffer, along the north and west property lines, and an 8-ft. Compatibility Buffer for the east	-8 ft. along the north and west property lines, and for the west 498 ft. of the south

			616 ft. of the south property line	property line
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As noted on the Table Summary above, the Type 2 Variance was approved at the November 5, 2020 Zoning Commission Hearing, subject to the Conditions of Approval indicated in Exhibit C-1.

FINDINGS:

Conditional Uses and Development Order Amendments: When considering a Development Order application for a Conditional Use, or a Development Order Amendment, the BCC and ZC shall consider Standards a – h listed in ULDC Article 2.B.7.B.2, Standards. The Standards and Staff Analyses are indicated below. A Conditional Use or Development Order Amendment that fails to meet any of these standards shall be deemed adverse to the public interest and shall not be approved.

- a. **Consistency with the Plan** – *The proposed use or amendment is consistent with the purposes, goals, objectives and policies of the Plan, including standards for building and structural intensities and densities, and intensities of use.*

PLANNING DIVISION COMMENTS:

Consistency with the Comprehensive Plan: The proposed use or amendment is consistent with the Goals, Objectives and Policies of the Comprehensive Plan, including previous Land Use Amendments, densities and intensities of use.

Relevant Comprehensive Plan Policies: The Applicant seeks Conditional Use approval of an Electric Transmission Substation. Policy 2.2.9-c in Objective 2.2, Future Land Use Provisions states that Transportation and Utilities uses, such as the requested use, may be permitted in all future land use designations, provided the use is consistent with the provisions of the Comprehensive Plan and the ULDC. Specifically, Policy 2.2.9-c.2 specifies that electric power facilities shall be limited to nonresidential future land use designations, as is the case with the subject site. Therefore, the proposed use meets this requirement of the Comprehensive Plan.

Intensity: The maximum FAR of 0.10 is allowed for the Agricultural Production (AP) future land use designation in the Glades Tier Rural Service Area (862,915 sq. ft. or 19.81 acres x 0.10 maximum FAR = 86,292 sq. ft. maximum). The request or a total of 568 sq. ft. equates to a Floor Area Ratio (FAR) of approximately 0.0007 (568 / 862,915 surveyed square feet or 19.81 acres = 0.0007).

Special Overlay District/ Neighborhood Plan/Planning Study Area: The site is not located within the any neighborhood plans, overlays or plan study areas as identified in the Comprehensive Plan.

- b. **Consistency with the Code** - *The proposed amendment is not in conflict with any portion of this Code, and is consistent with the stated purpose and intent of this Code.*

According to the ULDC, Electric Transmission Substations facilitates the transfer of bulk electrical energy from Electric Generating Plants to Electric Distribution Substations. The PSP indicates that, apart from the Landscaping, it will not be in conflict with any portion of the Code and is consistent with the stated purpose and intent of this Code.

- o Property Development Regulations (PDRs): The proposed Electric Transmission Substation will meet the required PDRs for the AP Zoning District. The Variance requested above is applicable only to the existing Electric Distribution Substation. The proposed 8-ft. high barbed wire fence encircles both utility uses on the Site Plan and is set back 90 feet from the Base Building Line. The Applicant is utilizing a provision in Art 4.B.7.C.5.b, Setbacks [related to Electric Transmission Substation], which allows the fence to be setback 75 ft. when separated from adjacent properties by a R-O-W 100 ft. in width or greater (State Road 27 is a 220-ft. wide R-O-W).

- o Architectural Review: The State of Florida pre-empts the permitting of utility infrastructure within approved or otherwise permitted Electric Distribution or Transmission Substations. Such facilities are reviewed by the Florida Public Service Commission. As such, the proposed use is not subject to Article 5.C, Design Guidelines.

○ *Parking:* Article 6, Parking indicates that no parking is required for the proposed use. However, the PSP indicates that 1 space is provided for the existing Electric Distribution Substation as required by the Code.

○ *Landscape/Buffering:* Art. 7.B.1.B, Exemptions [related to Landscaping Applicability and Approval Process] exempts major utilities, which have planting requirements regulated by State or Federal Law from Art. 7. However, local regulations may be applied where there is a public benefit, such as perimeter buffers. Art. 4.B.7.C.5.c, Landscaping [related to Electric Transmission Substation] requires a Type 3 Incompatibility Buffer where the use is visible from a street. The PSP indicates a Type 3 Incompatibility Buffer along the eastern property line fronting the proposed use. Staff is requiring a Condition of Approval to provide a minimum 20 ft. wide planting strip extending 150 ft. from the eastern property line to the west of the parcel. According to the Applicant, there is a change in grade, with the highway being +/-5 feet higher than the existing grade of the subject site. Given these existing conditions, a Type 2 Waiver has been requested to substitute the required wall with a six-ft. high opaque hedge, which can be shifted further west in the buffer to better meet the intent of the Code.

Finally, a Compatibility Buffer is proposed along the eastern 616-ft. of the south property line. a Condition of Approval, requiring the Type 3 Incompatibility Buffer towards southeast corner wrap around is required and is further detailed under Type 2 Waiver Standard a. That buffer is meant to provide screening from the south, into the site from the highway. A landscape condition is recommended that a six-ft. high hedge be provided in this buffer with one canopy tree per 25 ft. to screen the utility uses.

c. Compatibility with Surrounding Uses – *The proposed use or amendment is compatible and generally consistent with the uses and character of the land surrounding and in the vicinity of the land proposed for development.*

The proposed amendment is compatible with the surrounding uses and character of the land surrounding it. The parcel to the north has Commercial zoning and FLU within the City of South Bay municipal boundary. It is currently vacant with the remains of a building on it. To the west and northwest are lakes that have existed in their configurations for over 60 years according to aerial photographs. Compatibility will be enhanced by the provision of the Code required R-O-W Buffer (a Type 3 Incompatibility Buffer), and a Compatibility Buffer along the eastern 616 ft. of south property line. Given the abutting Bona Fide Agriculture to the south, and the lakes to the north and northwest, the Variance to eliminate the Compatibility Buffer along those property lines as approved at the November 5, 2020 ZC Hearing will maintain the character that has existed for decades since agriculture is proposed to be maintained on western 5.78 acres of the subject site.

d. Design Minimizes Adverse Impact – *The design of the proposed use minimizes adverse effects, including visual impact and intensity of the proposed use on adjacent lands.*

Notwithstanding the existing configuration, visual impacts, and intensity of the Electric Distribution Substation, which will remain as it is as a result of the Variances approved on November 5, the Electric Transmission Substation will be screened by a Type 3 Incompatibility Buffer along the State Road 27 frontage as required by the Code. To further minimize adverse impacts, and to provide some screening from the R-O-W for those traveling northbound, an eight-ft. Compatibility Buffer is proposed along a portion of the south property line. Additionally, Landscape Conditions are recommended requiring that at a six-ft. high opaque hedge be provided in this buffer with one canopy tree per 25 ft. to screen the utility uses, and that at least 150 ft. of that buffer be widened to 20 ft., with additional shrubs to further block views into the site. Landscape materials within the buffer shall be consistent with Type 3 Incompatibility Buffers.

e. Design Minimizes Environmental Impact – *The proposed use and design minimizes environmental impacts, including, but not limited to, water, air, storm water management, wildlife, vegetation, wetlands and the natural functioning of the environment.*

ENVIRONMENTAL RESOURCE MANAGEMENT COMMENTS:

- *Vegetation Protection:* The site does not support significant amounts of native vegetation.
- *Wellfield Protection Zone:* The property is not located within a Wellfield Protection Zone.

o *Irrigation Conservation Concerns and Surface Water:* All new installations of automatic irrigation systems shall be equipped with a water sensing device that will automatically discontinue irrigation during periods of rainfall pursuant to the Water and Irrigation Conservation Ordinance No. 93 3. Any non stormwater discharge or the maintenance or use of a connection that results in a non stormwater discharge to the stormwater system is prohibited pursuant to Palm Beach County Stormwater Pollution Prevention Ordinance No. 93 15.

o *Environmental Impacts:* There are no significant environmental issues associated with this petition beyond compliance with ULDC requirements.

f. **Development Patterns** – *The proposed use or amendment will result in a logical, orderly and timely development pattern.*

The development pattern of the western part of the County, around Lake Okeechobee, is predominantly agricultural, with residential, institutional and commercial uses to the north in the cities of South Bay and Belle Glade. To the south is agriculture. Between the 1950s and now, development in the area has been modest, with the exception of the correctional facility and expansion of agriculture operations in the region. The existing Electric Distribution Substation is consistent with the proposed Electric Transmission Substation. And while it will serve to improve services throughout the region for the Applicant, it is unlikely to have much impact on the development patterns. Finally, preserving the existing agricultural uses on the western 8.58 acres is consistent with the surrounding site development patterns.

g. **Adequate Public Facilities** – *The extent to which the proposed use complies with Art. 2. F, Concurrency.*

ENGINEERING COMMENTS:

The Property Owner shall dedicate ROW to be consistent with the PBC Thoroughfare Identification Map and configure the property into a legal lot of record prior to the issuance of the building permit.

The site will be unmanned and is not expected to generate any traffic, except for occasional maintenance related trips.

PALM BEACH COUNTY HEALTH DEPARTMENT: This project has met the Florida Department of Health's requirements.

FIRE PROTECTION: No Staff Review Analysis

SCHOOL IMPACTS: No Staff Review Analysis

PARKS AND RECREATION: This is a nonresidential project, therefore Park and Recreation Department ULDC standards do not apply.

h. **Changed Conditions or Circumstances** – *There are demonstrated changed conditions or circumstances, provided by the Applicant's Justification Statement that necessitate a modification.*

According to the Applicant's Justification Statement, the purpose of the request is to allow the expansion of services needed to maintain a level of service that meets the needs of the growing population in FPL's service area. Staff's assessment is that the modification is warranted given the same reason. Development and population growth remain high in South Florida, and this is logical location for an Electric Transmission Substation, given the proximity of the Electric Distribution Substation.

TYPE 2 WAIVER SUMMARY

ULDC Article	Required	Proposed	Waiver
Table 7.C.2.C.3, Incompatibility Buffer Landscape Requirements	6 ft. high opaque wall	6 ft. high opaque hedge	100% substitution

Type 2 Waiver: When considering a Development Order application for a Type 2 Waiver, the BCC shall consider the Standards in ULDC Article 2.B.7.D.3, Standards. The Standards and Staff Analyses are indicated below. A Type 2 Waiver that fails to meet any of the standards, shall be deemed adverse to the public interest and shall not be approved.

- a. ***The Waiver does not create additional conflicts with other requirements of the ULDC, and is consistent with the stated purpose and intent for the zoning district or overlay;***

YES: ULDC Art. 4.B.7.C.5.C, Landscaping, requires that an Electric Transmission Substation be screened by a Type 3 Incompatibility Buffer where visible from any street. While the Applicant is proposing to provide the intended Type 3 Incompatibility Buffer within the subject site's R-O-W Buffer, they are requesting a Waiver to allow for the substitution of the required wall, with a hedge as allowed under Table 7.C.2.C.3, Incompatibility Buffer Landscape Requirements. The request will be consistent with the intent of the Code as they will comply with the minimum screening requirement through provision of a hedge (in lieu of a wall), in addition to other required trees and shrubs. Staff recommends a Landscape Condition of Approval requiring that 150 ft. of the south property buffer, extending from the east property line westward, be widened to 20 ft., and include a six-ft. high opaque hedge to further block views into the site from the south for vehicles traveling northbound on State Road 27.

- b. ***The Waiver will not cause a detrimental effect on the overall design and development standards of the project, and will be in harmony with the general site layout and design details of the development; and,***

YES: The Waiver will allow the installation of a hedge instead of a wall within the R-O-W Buffer, which will actually help the overall design of the buffer to meet the screening intent of the Code. As discussed above, the subject site, including the buffer is +/-5 feet lower than the finished grade of the highway. The Code requires a wall to be set back at least 10 feet, and to have 7.5 feet of planting width on both sides of the wall. These requirements combined with the change in grade would result in a wall that does not screen anything. Rather than requesting several more variances to provide the wall, this Waiver was requested, which will allow the opaque barrier to be provided further west within the buffer to better screen as the grade starts to rise to the west towards the development area. Additionally, given surrounding natural and agricultural context, providing more plant material as opposed to concrete wall is more in harmony with the general site layout and details of the development since agriculture will remain on over 8-acres of the site.

- c. ***The alternative design option recommended as part of the Waiver approval, if granted, will not adversely impact adjacent properties.***

YES. The alternative design option, the provision of an opaque hedge in lieu of a wall along the eastern property line screening the Transmission Substation, will not adversely impact adjacent properties. There is not a property adjacent to the east and State Road 27 is a 220 ft. wide ultimate R-O-W. However, the speed limit on the stretch of the highway approaching from the south slows from 55 miles per hour (MPH) to 45 MPH in front of the property. As such, the Applicant is proposing to exclude the eastern 616 ft. of the south property line from the variance request and provide the Code required Compatibility Buffer in order to mitigate adverse impacts from the northbound lanes of the highway.

CONCLUSION: Staff has evaluated the standards listed under Article 2.B. and determined that there is a balance between the need for change and the potential impacts generated by this change. Staff is recommending approval of the request, subject to the recommended Conditions of Approval as indicated in Exhibits C-2 and C-3.

CONDITIONS OF APPROVAL

Exhibit C-1 - Type 2 Variance - Concurrent (Approved at the November 5, 2020 ZC Hearing)

ALL PETITIONS

1. The approved Preliminary Site Plan is dated September 14, 2020. Modifications to the Development Order inconsistent with the Conditions of Approval, or changes to the uses or site design beyond the authority of the Development Review Officer as established in the Unified Land Development Code, must be approved by the Board of County Commissioners. (ONGOING: ZONING - Zoning)

VARIANCE

1. The Variances are approved for the Electric Distribution and Transmission Substations. Any change to the use(s) shall require reconsideration of the Variance by the Zoning Commission. (ONGOING: CODE ENF - Zoning)

2. The Property Owner shall submit an application to the Zoning Division for approval of the Electric Distribution Substation by the Development Review Officer by no later than January 4, 2021 to vest these variances. (DATE/DRO: ZONING - Zoning)

COMPLIANCE

1. In Granting this Approval, the Zoning Commission relied upon the oral and written representations of the Property Owner/Applicant both on the record and as part of the application process. Deviations from or violation of these representations shall cause the approval to be presented to the Board of County Commissioners for review under the compliance Condition of this Approval. (ONGOING: MONITORING - Zoning)

2. Failure to comply with any of the Conditions of Approval for the subject property at any time may result in:

- a. The Issuance of a Stop Work Order; the Issuance of a Cease and Desist Order; the Denial or Revocation of a Building Permit; the Denial or Revocation of a Certificate of Occupancy; the Denial of any other Permit, License or Approval to any developer, owner, lessee, or user of the subject property; the Revocation of any other Permit, License or Approval from any developer, owner, lessee, or user of the subject property; the Revocation of any concurrency; and/or,
- b. The Revocation of the Official Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or any other Zoning Approval; and/or,
- c. A requirement of the development to conform with the standards of the Unified Land Development Code at the time of the finding of non-compliance, or the addition or modification of Conditions reasonably related to the failure to comply with existing Conditions; and/or
- d. Referral to Code Enforcement; and/or
- e. Imposition of entitlement density or intensity.

Staff may be directed by the Executive Director of PZ&B or the Code Enforcement Special Master to schedule a Status Report before the body which approved the Official Zoning Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or other zoning approval, in accordance with the provisions of Section 2.E of the ULDC, in response to any flagrant violation and/or continued violation of any condition of approval. (ONGOING: MONITORING - Zoning)

DISCLOSURE

1. All applicable state or federal permits shall be obtained before commencement of the development authorized by this Development Permit.

CONDITIONS OF APPROVAL

Exhibit C-2 - Class A Conditional Use (Electric Transmission Substation)

ALL PETITIONS

1. The approved Preliminary Site Plan is dated September 14, 2020. Modifications to the Development Order inconsistent with the Conditions of Approval, or changes to the uses or site design beyond the authority of the Development Review Officer as established in the Unified Land Development Code, must be approved by the Board of County Commissioners. (ONGOING: ZONING - Zoning)

ENGINEERING

1. Prior to the issuance of the first building permit, the Property Owner shall configure the property into a legal lot of record in accordance with provisions of Article 11 of the Unified Land Development Code or as otherwise approved by the County Engineer. (BLDGPM: MONITORING - Engineering)

2. The Property Owner shall provide to the Florida Department of Transportation (FDOT), a road right of way deed and all associated documents as required by FDOT for the south parcel, 220 feet, measured from the existing east right-of-way line on an alignment approved by the FDOT or County Engineer.

All right of way deed(s) and associated documents shall be provided and approved within 90 days of being requested by FDOT. Right of way conveyance shall be along the project's entire frontage and shall be free and clear of all encumbrances and encroachments. Property Owner shall provide FDOT with sufficient documentation, including, at a minimum, sketch and legal description of the area to be conveyed, copy of the site plan, a Phase I Environmental Site Assessment, status of property taxes, statement from Tax Collector of delinquent and pro-rata daily taxes, full owner name(s) of area to be conveyed, and one of the following: title report, attorney's opinion of title, title commitment or title insurance policy, or as otherwise required and acceptable to FDOT. The Property Owner must warrant that the property being conveyed to FDOT meets all appropriate and applicable environmental agency requirements. In the event of a determination of contamination which requires remediation or clean up on the property now owned by the Property Owner, the Property Owner agrees to hold the County and FDOT harmless and shall be responsible for all costs of such clean up, including but not limited to, all applicable permit fees, engineering or other expert witness fees including attorney's fees as well as the actual cost of the clean up. Thoroughfare Plan Road right of way conveyances shall be consistent with Palm Beach County's Thoroughfare Right of Way Identification Map and shall include where appropriate, as determined by the County Engineer, additional right of way for Expanded Intersections and Corner Clips. The Property Owner shall coordinate conveyance of right of way directly with FDOT and shall provide evidence to Palm Beach County Land Development Division once conveyance has been completed. (ONGOING: MONITORING - Engineering)

LANDSCAPE - PERIMETER-LANDSCAPING ALONG THE SOUTH PROPERTY LINE (ABUTTING AGRICULTURE)

1. The Property Owner shall install an eight foot wide landscape strip along the eastern 466 feet of the south property line, extending westward from the eastern terminus of the 20-foot wide Type 3 Incompatibility buffer. Landscaping shall be upgraded to include:

- a. No width reduction or easement encroachment shall be permitted;
- b. a six-foot high hedge; and,
- c. one (1) canopy tree per twenty-five (25) lineal feet of the property line. (BLDGPM: ZONING - Zoning)

COMPLIANCE

1. In Granting this Approval, the Board of County Commissioners relied upon the oral and written representations of the Property Owner/Applicant both on the record and as part of the application process. Deviations from or violation of these representations shall cause the Approval to be presented to the Board of County Commissioners for review under the Compliance Condition of this Approval. (ONGOING: MONITORING - Zoning)

2. Failure to comply with any of the Conditions of Approval for the subject property at any time may result in:

- a. The Issuance of a Stop Work Order; the Issuance of a Cease and Desist Order; the Denial or Revocation of a Building Permit; the Denial or Revocation of a Certificate of Occupancy; the Denial of any other Permit, License or Approval to any developer, owner, lessee, or user of the subject property; the Revocation of any other permit, license or approval from any developer, owner, lessee, or user of the subject property; the Revocation of any concurrency; and/or
- b. The Revocation of the Official Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or any other zoning approval; and/or
- c. A requirement of the development to conform with the standards of the Unified Land Development Code at the time of the finding of non-compliance, or the addition or modification of conditions reasonably related to the failure to comply with existing Conditions of Approval; and/or
- d. Referral to Code Enforcement; and/or
- e. Imposition of entitlement density or intensity.

Staff may be directed by the Executive Director of PZ&B or the Code Enforcement Special Master to schedule a Status Report before the body which approved the Official Zoning Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or other zoning approval, in accordance with the provisions of Section 2.E of the ULDC, in response to any flagrant violation and/or continued violation of any Condition of Approval. (ONGOING: MONITORING - Zoning)

DISCLOSURE

- 1. All applicable state or federal permits shall be obtained before commencement of the development authorized by this Development Permit.

CONDITIONS OF APPROVAL

Exhibit C-3 - Type 2 Waiver

ALL PETITIONS

1. The approved Preliminary Site Plan is dated September 14, 2020. Modifications to the Development Order inconsistent with the Conditions of Approval, or changes to the uses or site design beyond the authority of the Development Review Officer as established in the Unified Land Development Code, must be approved by the Board of County Commissioners. (ONGOING: ZONING - Zoning)

LANDSCAPE - PERIMETER- LANDSCAPING ALONG THE SOUTH PROPERTY LINE (ABUTTING AGRICULTURAL)

1. In addition to Code requirements, landscaping along the South property line shall be upgraded to include:

- a. a minimum twenty (20) foot wide planting strip extending for one-hundred and fifty (150) feet from the eastern property line to the west;
- b. a six-foot high hedge; and,
- c. landscape material shall be consistent with a Type 3 Incompatibility Buffer. (BLDGPM: ZONING - Zoning)

COMPLIANCE

1. In Granting this Approval, the Board of County Commissioners relied upon the oral and written representations of the Property Owner/Applicant both on the record and as part of the application process. Deviations from or violation of these representations shall cause the Approval to be presented to the Board of County Commissioners for review under the Compliance Condition of this Approval. (ONGOING: MONITORING - Zoning)

2. Failure to comply with any of the Conditions of Approval for the subject property at any time may result in:

- a. The Issuance of a Stop Work Order; the Issuance of a Cease and Desist Order; the Denial or Revocation of a Building Permit; the Denial or Revocation of a Certificate of Occupancy; the Denial of any other Permit, License or Approval to any developer, owner, lessee, or user of the subject property; the Revocation of any other permit, license or approval from any developer, owner, lessee, or user of the subject property; the Revocation of any concurrency; and/or
- b. The Revocation of the Official Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or any other zoning approval; and/or
- c. A requirement of the development to conform with the standards of the Unified Land Development Code at the time of the finding of non-compliance, or the addition or modification of conditions reasonably related to the failure to comply with existing Conditions of Approval; and/or
- d. Referral to Code Enforcement; and/or
- e. Imposition of entitlement density or intensity.

Staff may be directed by the Executive Director of PZ&B or the Code Enforcement Special Master to schedule a Status Report before the body which approved the Official Zoning Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or other zoning approval, in accordance with the provisions of Section 2.E of the ULDC, in response to any flagrant violation and/or continued violation of any Condition of Approval. (ONGOING: MONITORING - Zoning)

DISCLOSURE

1. All applicable state or federal permits shall be obtained before commencement of the development authorized by this Development Permit.

Figure 1 - Future Land Use Map

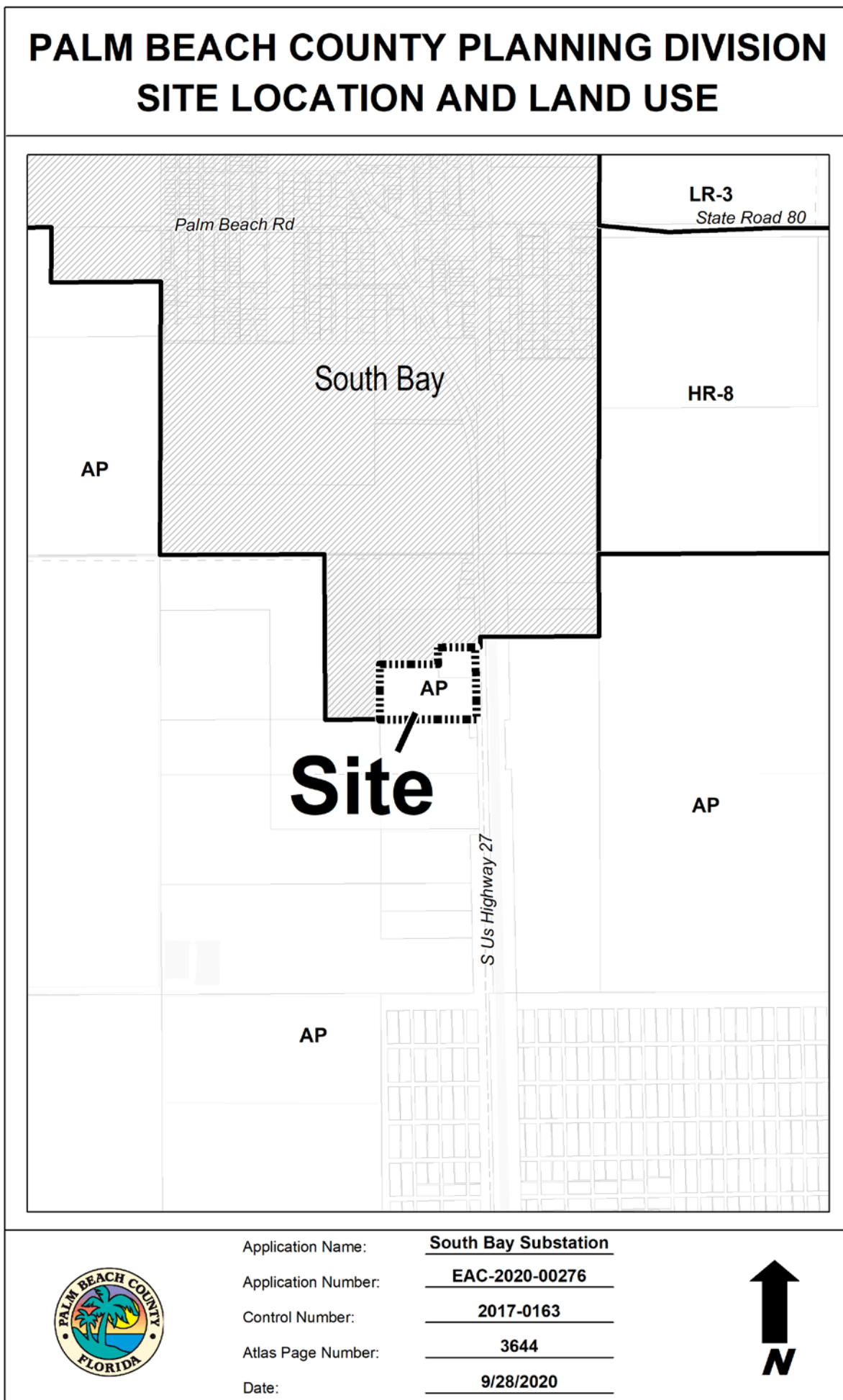


Figure 2 - Zoning Map

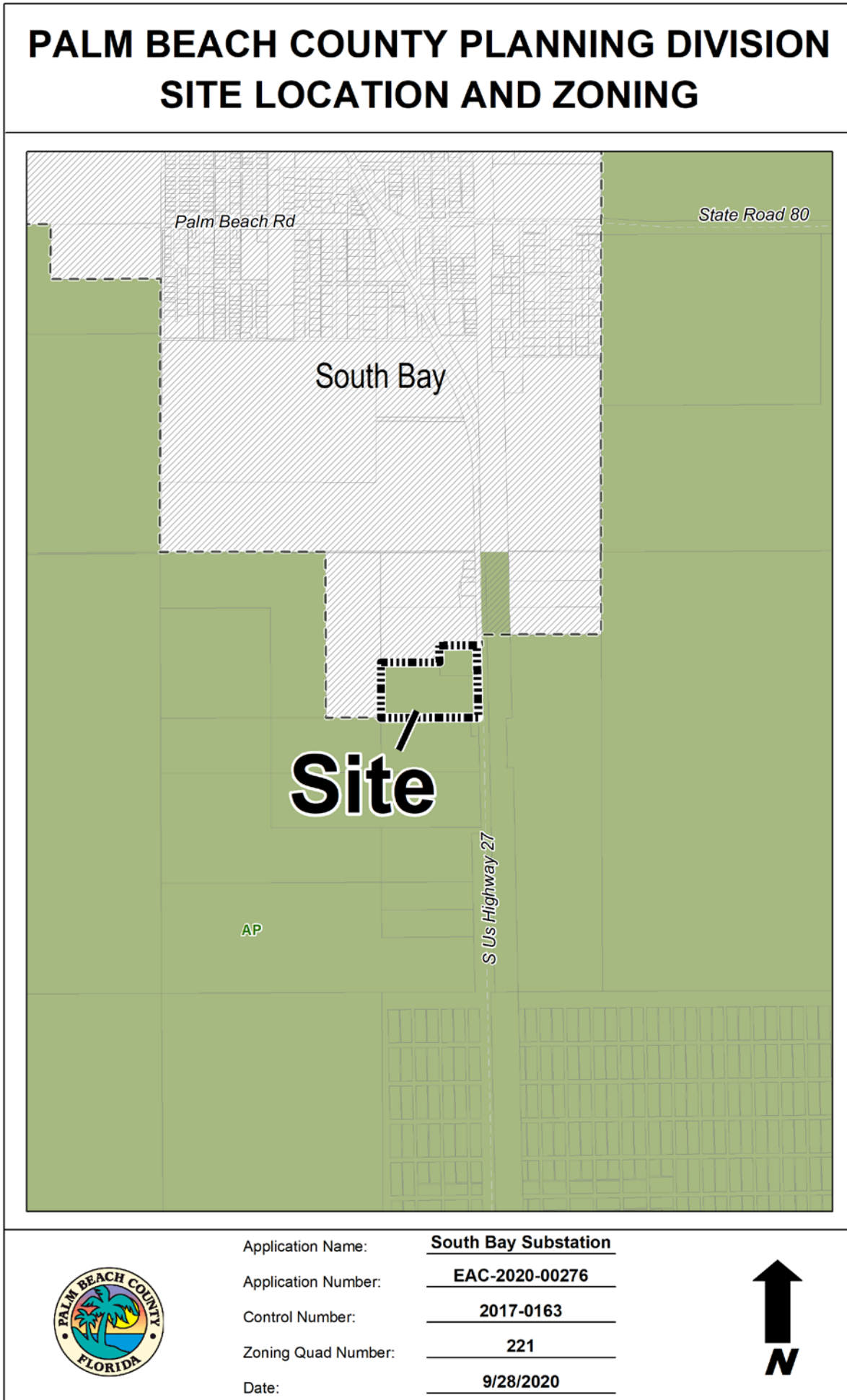


Figure 3 - Aerial Map

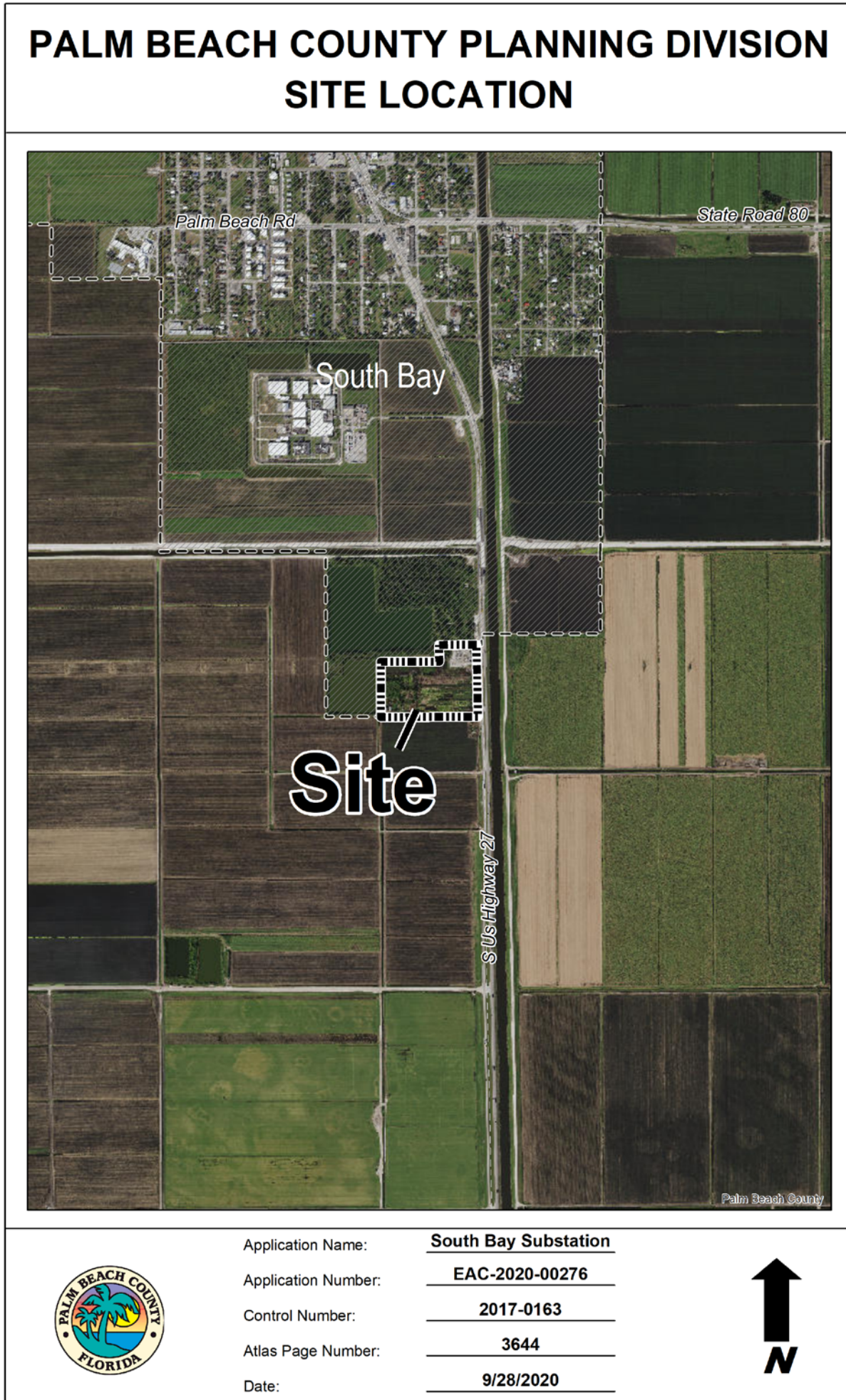


Figure 4 - Preliminary Site Plan (PSP) Sheet 1 of 1 dated September 14, 2020

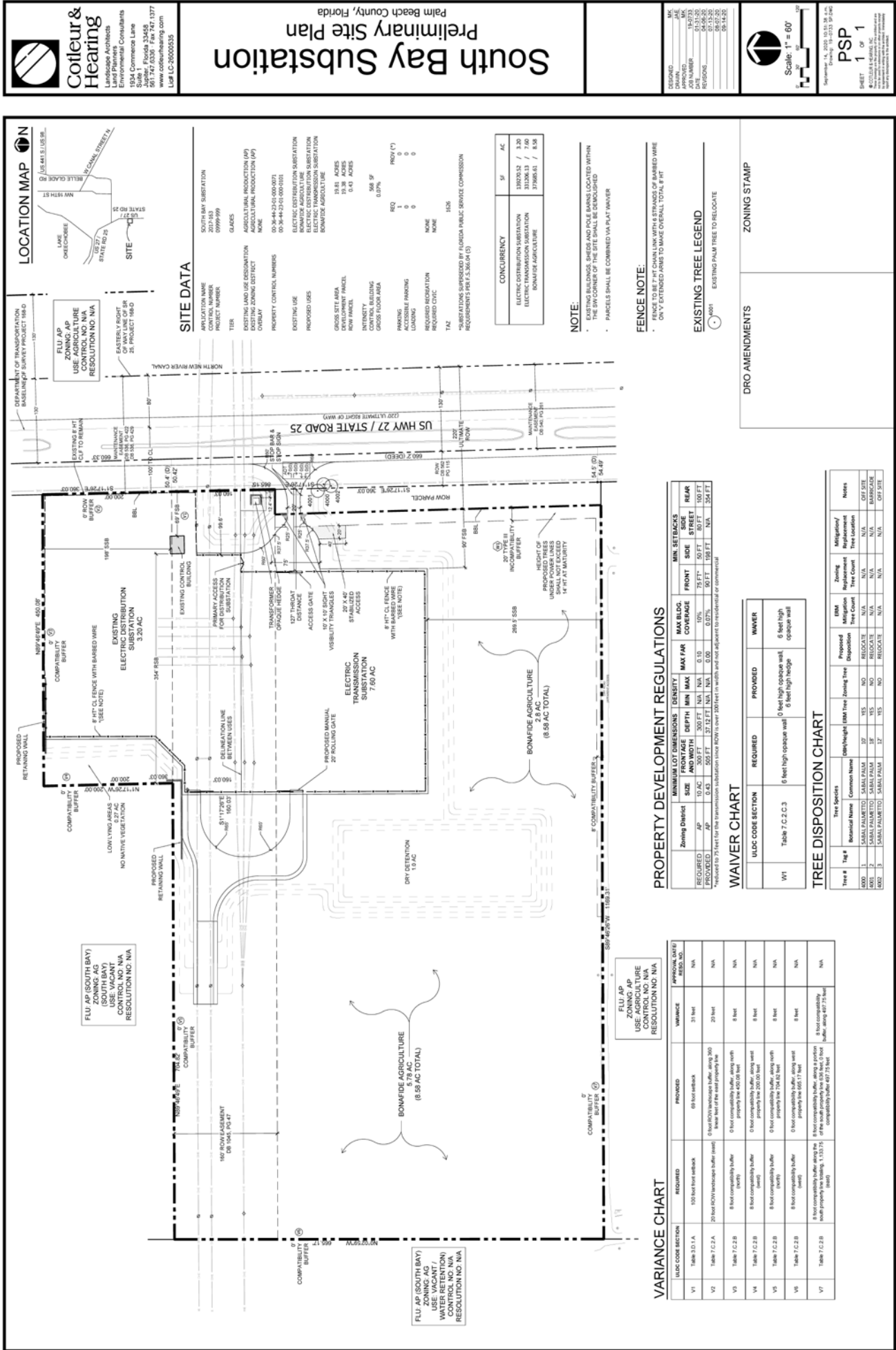


Figure 5 - Preliminary Regulating Plan (PRP) sheet 1 of 1 dated September 14, 2020

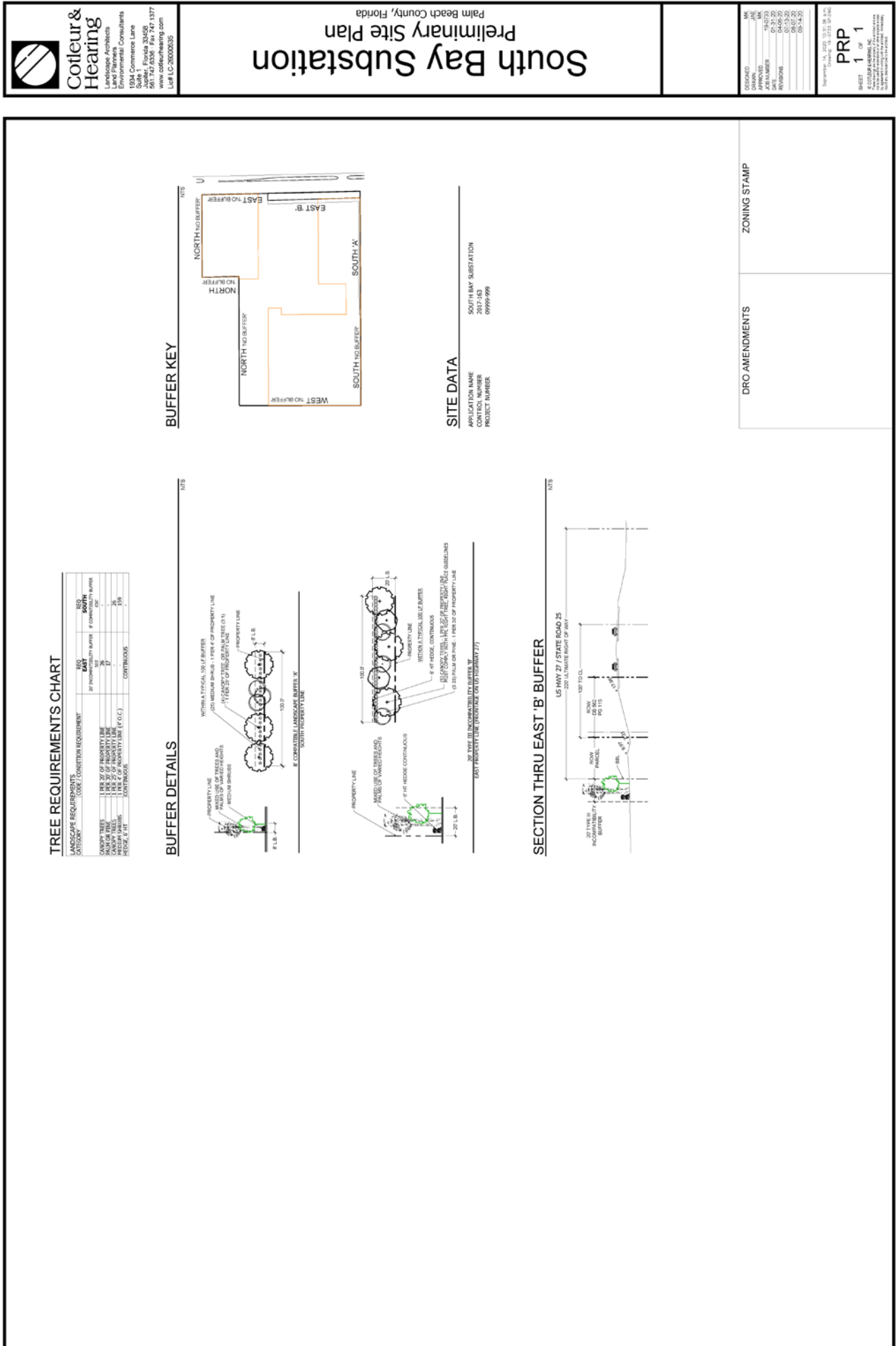


Exhibit D - Disclosures (Applicant)

DISCLOSURE OF OWNERSHIP INTERESTS – APPLICANT

[TO BE COMPLETED AND EXECUTED ONLY WHEN THE APPLICANT IS NOT THE OWNER OF THE SUBJECT PROPERTY]

TO: PALM BEACH COUNTY PLANNING, ZONING AND BUILDING EXECUTIVE DIRECTOR, OR HIS OR HER OFFICIALLY DESIGNATED REPRESENTATIVE

STATE OF FLORIDA
COUNTY OF PALM BEACH

BEFORE ME, the undersigned authority, this day personally appeared Gregg A. Hall, hereinafter referred to as "Affiant," who being by me first duly sworn, under oath, deposes and states as follows:

1. Affiant is the individual or Engineering Manager [position—e.g., president, partner, trustee] of Florida Power & Light Company [name and type of entity - e.g., ABC Corporation, XYZ Limited Partnership], (hereinafter, "Applicant"). Applicant seeks Comprehensive Plan amendment or Development Order approval for real property legally described on the attached Exhibit "A" (the "Property").
2. Affiant's address is: 700 Universe Blvd, Juno Beach, FL 33408

3. Attached hereto as Exhibit "B" is a complete listing of the names and addresses of every person or entity having a five percent or greater interest in the Applicant. Disclosure does not apply to an individual's or entity's interest in any entity registered with the Federal Securities Exchange Commission or registered pursuant to Chapter 517, Florida Statutes, whose interest is for sale to the general public.
4. Affiant acknowledges that this Affidavit is given to comply with Palm Beach County policy, and will be relied upon by Palm Beach County in its review of Applicant's application for Comprehensive Plan amendment or Development Order approval. Affiant further acknowledges that he or she is authorized to execute this Disclosure of Ownership Interests on behalf of the Applicant.
5. Affiant further acknowledges that he or she shall by affidavit amend this disclosure to reflect any changes to ownership interests in the Applicant that may occur before the date of final public hearing on the application for Comprehensive Plan amendment or Development Order approval.
6. Affiant further states that Affiant is familiar with the nature of an oath and with the penalties provided by the laws of the State of Florida for falsely swearing to statements under oath.
7. Under penalty of perjury, Affiant declares that Affiant has examined this Affidavit and to the best of Affiant's knowledge and belief it is true, correct, and complete.



Gregg A. Hall, Affiant
(Print Affiant Name)

NOTARY PUBLIC INFORMATION:

STATE OF FLORIDA
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me by means of [] physical presence or
[X] online notarization, this 8th day of September, 2020 by
Gregg Hall (name of person acknowledging). He/she is personally
known to me or has produced N/A (type of identification) as
identification and did/did not take an oath (circle correct response).

Dianna Sullivan
(Name - type, stamp or print clearly)



Dianna Sullivan
(Signature)

My Commission Expires on: 12/22/2022

NOTARY'S SEAL OR STAMP

EXHIBIT "A"

PROPERTY

NORTH PARCEL:

A PARCEL OF LAND LYING IN A PORTION OF LOTS 7 AND 10, SECTION 23, TOWNSHIP 44 SOUTH, RANGE 36 EAST, PALM BEACH COUNTY FLORIDA, ACCORDING AN UNRECORDED PLAT TITLED "LANDS OFFERED FOR SALE IN THE EVERGLADES" BY THE TRUSTEES OF THE INTERNAL IMPROVEMENT FUND, TALLAHASSEE, FLORIDA, DATED DECEMBER 1, 1916 AND ON FILE IN THE OFFICE OF THE CHIEF DRAINAGE ENGINEER, TALLAHASSEE, FLORIDA. SAID PORTIONS OF LOTS 7 AND 10 ARE ALL LYING WEST OF THE WESTERLY RIGHT-OF-WAY LINE OF S.R. 25 (ALSO KNOWN AS U.S. HIGHWAY 27), AS SHOWN ON RIGHT-OF-WAY MAP SECTION 93160-2507, DATED SEPTEMBER 1975, SHEET 3 OF 5, NO REVISIONS. SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THE EAST 450 FEET OF THE SOUTH 200 FEET OF SAID LOT 7, SECTION 23, TOWNSHIP 44 SOUTH, RANGE 36 EAST, PALM BEACH COUNTY, FLORIDA, LYING WEST OF THE SAID WESTERLY RIGHT-OF-WAY LINE OF S.R. 25, (ALSO KNOWN AS U.S. HIGHWAY NO. 27).

TOGETHER WITH

THE NORTH 160 FEET OF THE EAST 450 FEET OF SAID LOT 10, SECTION 23, TOWNSHIP 44 SOUTH, RANGE 36 EAST, PALM BEACH COUNTY, FLORIDA, LYING WEST OF THE WESTERLY RIGHT-OF-WAY LINE OF S.R. 25, (ALSO KNOWN AS U.S. HIGHWAY NO. 27).

SOUTH PARCEL:

THAT PORTION OF STATE LOT 10, SECTION 23, TOWNSHIP 44 SOUTH, RANGE 36 EAST, PALM BEACH COUNTY, FLORIDA, LYING WEST OF THE WESTERLY RIGHT-OF-WAY LINE OF STATE ROAD 25, ALSO KNOWN AS U.S. HIGHWAY NO. 27, LESS AND NOT INCLUDING THE NORTH 160 FEET OF THE EAST 450 FEET OF SAID STATE LOT 10, LYING WEST OF THE WESTERLY RIGHT-OF-WAY LINE OF STATE ROAD 25, ALSO KNOWN AS U.S. HIGHWAY NO. 27.

AND

THE NORTH 4.91 FEET OF STATE LOT 15, SECTION 23, TOWNSHIP 44 SOUTH, RANGE 36 EAST, PALM BEACH COUNTY, FLORIDA, LYING WEST OF THE WESTERLY RIGHT-OF-WAY LINE OF STATE ROAD 25, ALSO KNOWN AS U.S. HIGHWAY NO. 27.

CONTAINING: 862,915 +/- SQUARE FEET/ 19.810 +/- ACRES, MORE OR LESS.

EXHIBIT "B"

DISCLOSURE OF OWNERSHIP INTERESTS IN APPLICANT

Affiant must identify all entities and individuals owning five percent or more ownership interest in Applicant's corporation, partnership or other principal, if any. Affiant must identify individual owners. For example, if Affiant is the officer of a corporation or partnership that is wholly or partially owned by another entity, such as a corporation, Affiant must identify the other entity, its address, and the individual owners of the other entity. Disclosure does not apply to an individual's or entity's interest in any entity registered with the Federal Securities Exchange Commission or registered pursuant to Chapter 517, Florida Statutes, whose interest is for sale to the general public.

Name	Address
Florida Power & Light Company	700 Universe Blvd. Juno Beach, FL 33408

Exhibit D Disclosures (Owner)

DISCLOSURE OF OWNERSHIP INTERESTS – PROPERTY

[TO BE COMPLETED AND EXECUTED BY THE PROPERTY OWNER(S) FOR EACH APPLICATION FOR COMPREHENSIVE PLAN AMENDMENT OR DEVELOPMENT ORDER]

TO: PALM BEACH COUNTY PLANNING, ZONING AND BUILDING EXECUTIVE DIRECTOR, OR HIS OR HER OFFICIALLY DESIGNATED REPRESENTATIVE

STATE OF FLORIDA
COUNTY OF PALM BEACH BROWARD

BEFORE ME, the undersigned authority, this day personally appeared Azeeman Abraham, hereinafter referred to as "Affiant," who being by me first duly sworn, under oath, deposes and states as follows:

1. Affiant is the individual or _____ [position - e.g., president, partner, trustee] of _____ [name and type of entity - e.g., ABC Corporation, XYZ Limited Partnership] that holds an ownership interest in real property legally described on the attached Exhibit "A" (the "Property"). The Property is the subject of an application for Comprehensive Plan amendment or Development Order approval with Palm Beach County.
2. Affiant's address is: 11371 NW 38th St #E
Coral Springs, FL 33065
3. Attached hereto as Exhibit "B" is a complete listing of the names and addresses of every person or entity having a five percent or greater interest in the Property. Disclosure does not apply to an individual's or entity's interest in any entity registered with the Federal Securities Exchange Commission or registered pursuant to Chapter 517, Florida Statutes, whose interest is for sale to the general public.
4. Affiant acknowledges that this Affidavit is given to comply with Palm Beach County policy, and will be relied upon by Palm Beach County in its review of application for Comprehensive Plan amendment or Development Order approval affecting the Property. Affiant further acknowledges that he or she is authorized to execute this Disclosure of Ownership Interests on behalf of any and all individuals or entities holding a five percent or greater interest in the Property.
5. Affiant further acknowledges that he or she shall by affidavit amend this disclosure to reflect any changes to ownership interests in the Property that may occur before the date of final public hearing on the application for Comprehensive Plan amendment or Development Order approval.
6. Affiant further states that Affiant is familiar with the nature of an oath and with the penalties provided by the laws of the State of Florida for falsely swearing to statements under oath.

7. Under penalty of perjury, Affiant declares that Affiant has examined this Affidavit and to the best of Affiant's knowledge and belief, it is true, correct, and complete.

FURTHER AFFIANT SAYETH NAUGHT.

Azeeman Abraham

Azeeman Abraham, Affiant

(Print Affiant Name)

NOTARY PUBLIC INFORMATION:

STATE OF FLORIDA
COUNTY OF PALM BEACH *BROWARD*

The foregoing instrument was acknowledged before me by means of [] physical presence or [] online notarization, this 9th day of March, 2020 by Azeeman Abraham (name of person acknowledging). He/she is personally known to me or has produced _____ (type of identification) as identification and did/did not take an oath (circle correct response).

Samantha J. Saucier
(Name - type, stamp or print clearly)

Samantha J. Saucier
(Signature)

My Commission Expires on: 3/29/2020

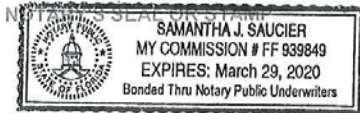


EXHIBIT "A"

PROPERTY

THAT PORTION OF STATE LOT 10, SECTION 23, TOWNSHIP 44 SOUTH, RANGE 36 EAST, PALM BEACH COUNTY, FLORIDA, LYING WEST OF THE WESTERLY RIGHT-OF-WAY LINE OF STATE ROAD 25, ALSO KNOWN AS U.S. HIGHWAY NO. 27, LESS AND NOT INCLUDING THE NORTH 160 FEET OF THE EAST 450 FEET OF SAID STATE LOT 10, LYING WEST OF THE WESTERLY RIGHT-OF-WAY LINE OF STATE ROAD 25, ALSO KNOWN AS U.S. HIGHWAY NO. 27.

AND

THE NORTH 4.91 FEET OF STATE LOT 15, SECTION 23, TOWNSHIP 44 SOUTH, RANGE 36 EAST, PALM BEACH COUNTY, FLORIDA, LYING WEST OF THE WESTERLY RIGHT-OF-WAY LINE OF STATE ROAD 25, ALSO KNOWN AS U.S. HIGHWAY NO. 27.

EXHIBIT "B"

DISCLOSURE OF OWNERSHIP INTERESTS - PROPERTY

Affiant must identify all entities and individuals owning five percent or more ownership interest in the Property. Affiant must identify individual owners. For example, if Affiant is an officer of a corporation or partnership that is wholly or partially owned by another entity, such as a corporation, Affiant must identify the other entity, its address, and the individual owners of the other entity. Disclosure does not apply to an individual's or entity's interest in any entity registered with the Federal Securities Exchange Commission or registered pursuant to Chapter 517, Florida Statutes, whose interest is for sale to the general public.

Name	Address
Azeeman Abraham	11371 NW 38th Street #E Coral Springs, FL

DISCLOSURE OF OWNERSHIP INTERESTS – PROPERTY

[TO BE COMPLETED AND EXECUTED BY THE PROPERTY OWNER(S) FOR EACH APPLICATION FOR COMPREHENSIVE PLAN AMENDMENT OR DEVELOPMENT ORDER]

TO: PALM BEACH COUNTY PLANNING, ZONING AND BUILDING EXECUTIVE DIRECTOR, OR HIS OR HER OFFICIALLY DESIGNATED REPRESENTATIVE

STATE OF FLORIDA
COUNTY OF PALM BEACH

BEFORE ME, the undersigned authority, this day personally appeared Gregg A. Hall, hereinafter referred to as "Affiant," who being by me first duly sworn, under oath, deposes and states as follows:

1. Affiant is the individual or Engineering Manager [position - e.g., president, partner, trustee] of Florida Power & Light Company [name and type of entity - e.g., ABC Corporation, XYZ Limited Partnership] that holds an ownership interest in real property legally described on the attached Exhibit "A" (the "Property"). The Property is the subject of an application for Comprehensive Plan amendment or Development Order approval with Palm Beach County.
2. Affiant's address is: 700 Universe Blvd. Juno Beach, FL 33408
3. Attached hereto as Exhibit "B" is a complete listing of the names and addresses of every person or entity having a five percent or greater interest in the Property. Disclosure does not apply to an individual's or entity's interest in any entity registered with the Federal Securities Exchange Commission or registered pursuant to Chapter 517, Florida Statutes, whose interest is for sale to the general public.
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5. Affiant further acknowledges that he or she shall by affidavit amend this disclosure to reflect any changes to ownership interests in the Property that may occur before the date of final public hearing on the application for Comprehensive Plan amendment or Development Order approval.
6. Affiant further states that Affiant is familiar with the nature of an oath and with the penalties provided by the laws of the State of Florida for falsely swearing to statements under oath.

7. Under penalty of perjury, Affiant declares that Affiant has examined this Affidavit and to the best of Affiant's knowledge and belief, it is true, correct, and complete.

FURTHER AFFIANT SAYETH NAUGHT.

Gregg A. Hall
Gregg A. Hall, Affiant
(Print Affiant Name)

NOTARY PUBLIC INFORMATION:

STATE OF FLORIDA
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me by means of [] physical presence or [] online notarization, this 27th day of May, 2020 by Gregg Hall (name of person acknowledging). He/she is personally known to me or has produced N/A (type of identification) as identification and did/did not take an oath (circle correct response).

DIANNA SULLIVAN
(Name - type, stamp or print clearly)

Dianna Sullivan
(Signature)

My Commission Expires on: 12/22/20

NOTARY'S SEAL OR STAMP



Dianna Sullivan
COMMISSION # GG271459
EXPIRES: December 22, 2022
Bonded Thru Aaron Notary

EXHIBIT "A"

PROPERTY

NORTH PARCEL:

A PARCEL OF LAND LYING IN A PORTION OF LOTS 7 AND 10, SECTION 23, TOWNSHIP 44 SOUTH, RANGE 36 EAST, PALM BEACH COUNTY FLORIDA, ACCORDING AN UNRECORDED PLAT TITLED "LANDS OFFERED FOR SALE IN THE EVERGLADES" BY THE TRUSTEES OF THE INTERNAL IMPROVEMENT FUND, TALLAHASSEE, FLORIDA, DATED DECEMBER 1, 1916 AND ON FILE IN THE OFFICE OF THE CHIEF DRAINAGE ENGINEER, TALLAHASSEE, FLORIDA. SAID PORTIONS OF LOTS 7 AND 10 ARE ALL LYING WEST OF THE WESTERLY RIGHT-OF-WAY LINE OF S.R. 25 (ALSO KNOWN AS U.S. HIGHWAY 27), AS SHOWN ON RIGHT-OF-WAY MAP SECTION 93160-2507, DATED SEPTEMBER 1975, SHEET 3 OF 5, NO REVISIONS. SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: THE EAST 450 FEET OF THE SOUTH 200 FEET OF SAID LOT 7, SECTION 23, TOWNSHIP 44 SOUTH, RANGE 36 EAST, PALM BEACH COUNTY, FLORIDA, LYING WEST OF THE SAID WESTERLY RIGHT-OF-WAY LINE OF S.R. 25, (ALSO KNOWN AS U.S. HIGHWAY NO. 27). TOGETHER WITH THE NORTH 160 FEET OF THE EAST 450 FEET OF SAID LOT 10, SECTION 23, TOWNSHIP 44 SOUTH, RANGE 36 EAST, PALM BEACH COUNTY, FLORIDA, LYING WEST OF THE WESTERLY RIGHT-OF-WAY LINE OF S.R. 25, (ALSO KNOWN AS U.S. HIGHWAY NO. 27).



LC2600535

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SOUTH BAY SUBSTATION
CA/ZV-2020-00276

JUSTIFICATION STATEMENT
September 14, 2020

Introduction

On behalf of the owner and applicant, Florida Power & Light Company, Cotleur & Hearing is requesting site plan approval for the expansion of an existing substation, a Class A conditional use to add an Electric Transmission Substation and variance approvals, for the project known as “South Bay Substation” located in unincorporated Palm Beach County. The subject property is 19.81 acres located on the west side of US Highway 27 just south of US Highway 441 near the City of South Bay. The site is zoned Agricultural Production (AP) with an Agricultural Production (AP) future land use.

History and Background

The existing Electric Distribution Substation was constructed sometime in the in the late 1950s by Florida Power and Light (FPL). The substation has remained as constructed with upgrades as needed to the site for production efficiency and security. There were no approvals required in the 1950s, as the ULDC had yet to be adopted. FPL is subject to State level utility requirements only, therefore no building permits were submitted for the Electric Distribution substation for County approval. This request is specific to the Class A Condition Use for an Electric Transmission Substation.

Adjacent Uses

The site is surrounded by agriculturally zoned lands. There was a retail store to the north at some point, however the building is currently abandoned. The retail store to the north as well as the large retention pond to the west are located within the municipal boundaries of South Bay.

DIRECTION	MUNICIPALITY	FUTURE LAND USE DESIGNATION	ZONING DESIGNATION	CONTROL NUMBER
NORTH	South Bay	AP	PUD	N/A
SOUTH	PBC	AP	RS	1986-00104
WEST	South Bay	AP	RS	1986-00104
EAST	PBC	AP	CG	1985-00069

Request

1. Class A Conditional Use for the Electric Transmission Substation.
2. Type 2 variance for 31-foot reduction in setback requirements for the existing substation to US Highway 27.

3. Type 2 variance for elimination of the ROW buffer required along the frontage of the existing substation as constructed.
4. Type 2 variance to eliminate the 8' compatibility buffers along the north, west and portion of the south property lines.
5. Type 2 waiver for the buffer requirements to allow relief from the wall within the Type III incompatibility buffer.

Electric Distribution Substation (existing)

The existing Electric Distribution Substation, located on the north east corner of the site, will remain in place with an expansion of the utility area to the south. The southern parcel is under contract for purchase by FPL to be combined with the northern lot. The proposed Electric Transmission Substation does not require the entire southern parcel and the remaining 8.58 acres will remain as Bonafide Agriculture.

The existing non-conforming Electric Distribution Substation requires two (2) variances, for the right of way buffer (ROW) and front setback. The distribution station was constructed before the adoption of the ULDC and no building permits were submitted. FPL has documentation and record that the substation was completed sometime in the late 1950's. Today the substation remains as constructed and a non-conforming use without a setback or buffer provided.

Electric Transmission Substation, Class A Conditional Use

The Electric Transmission Substation is a Class A conditional use, under the AP zoning district. The proposed Electric Transmission Substation does not require variances for the setbacks; however, the applicant is requesting relief from some of the landscape buffers.

ROW and Plat Waiver

The ultimate ROW of US Highway 27 is 220 feet, as shown on the county thoroughfare map and the current ROW is approximately 180 feet. As coordinated with FDOT and PBC Engineering Department, ROW dedication is not required at this time. The road is proper size and there are no plans to expand the road in the near future.

The applicant is seeking a plat waiver, under separate cover, to combine and create one legal lot of record. The right of way dedication is shown on the site plan as separate parcel. The dedication will be made as a separate instrument within 90 days of request of the FDOT or as conditioned.

Additionally, ROW dedication is not possible along the northern parcel adjacent to the existing substation since there is virtually no setback to the power poles.

Existing Structures

As shown on the survey, there are existing structures, pole barns and sheds on the south west corner of the site. These structures are to be demolished concurrent with this request.

ULDC Compliance: The requests, as they relate to the requirements of Article 2 of the ULDC, are described in further detail below.

Class A Conditional Use

The applicant is proposing an Electrical Transmission Substation on an existing site owned by FPL that is currently operating as an Electrical Distribution Substation.

a. Consistency with the Plan

The proposed use or amendment is consistent with the purposes, goals, objectives and policies of the Plan, including standards for building and structural intensities and densities, and intensities of use. [Ord. 2007-001]

Response: Yes, per policy 2.2.9-c, utilities are allowed in all future land use categories and are subject to regulations for compatibility. As this site is not adjacent to residential uses and is consistent with all purposed, goals, objective and policies of the comprehensive plan.

b. Consistency with the Code

The proposed use or amendment is not in conflict with any portion of this Code and is consistent with the stated purpose and intent of this Code. [Ord. 2007-001] [Ord. 2018-002]

Response: Yes, and it is further described in detail below for each code section:

Article 3: The regulations for the AP Zoning district as described in Table 3.D.1.A PDR chart, the setbacks and minimum dimensions. As described below, there are special setback regulations in Article 4 that are above the AP zoning district regulations and the site plan is in compliance with Article 4 regulations.

Article 4: The existing Distribution substation is subject to the DRO process and the Transmission substation is subject to Class A conditional use per Table 4.B.7.A. Per the detailed information in section C.5, an installation type 3 incompatibility buffer is required adjacent to the roadway. The applicant is requesting a waiver to install a 6 foot hedge, rather than a wall.

Article 5: There is proposed to be a fence with barbed wire to protect the transformers. The fence can be barbed wire per Art. 5.B.1.A.2.b.5.e.1.a.3.

Article 6: There is no parking spaces required in the transmission substation as shown in Table 6.A.1.B.

Article 7: Around the proposed transmission substation, buffers will be in place to provide adequate screening to the street. The applicant is requesting relief to the landscape buffers adjacent to Bonefide Agriculture uses.

Article 8: There is no proposed signage for the site.

Article 11: The applicant is requesting a plat waiver to combine the lots. All easements that may be required and the ROW dedication parcel will be recorded separately. Platting is not be required.

c. Compatibility with Surrounding Uses

The proposed use or amendment is compatible and generally consistent with the uses and character of the land surrounding and in the vicinity of the land proposed for development. [Ord. 2007-001]

Response: Yes, only agricultural lands area adjacent to the site. Though the building to the north was approved for commercial and could be redeveloped in the future, the site will incorporate landscape buffers to screen the property from the road. The best location for electrical transmission substations is out in the glades where fewer people live.

d. Design Minimizes Adverse Impact

The design of the proposed use minimizes adverse effects, including visual impact and intensity of the proposed use on adjacent lands.

Response: Yes, the utilities are setback from the road as much as they can be with the existing utility lines. The required buffer between the site and the roadway shall provide adequate screening.

e. Design Minimizes Environmental Impact

The proposed use and design minimize environmental impacts, including, but not limited to, water, air, stormwater management, wildlife, vegetation, wetlands and the natural functioning of the environment. [Ord. 2007-001]

Response: Yes, the proposed substation will replace some of the Bonafide agricultural lands with no native species present. There are no natural areas or wetlands located on the subject site.

f. Development Patterns

The proposed use or amendment will result in a logical, orderly and timely development pattern. [Ord. 2007-001]

Response: Yes, the proposed use is compatible with the surrounding area and expands the services of the existing substation at this location.

g. Adequate Public Facilities

The extent to which the proposed use complies with Art. 2.F, Concurrency. [Ord. 2007-001]

Response: Yes, as there is no usable SF on site and the only trips ever generated are for workers observing the facility for maintenance, there is no need for water or sewer services. Therefore, neither a letter from PBC water utilities nor traffic approval for trips are required. As shown in the general application, the use is exempt for concurrency.

h. Changed Conditions or Circumstances

There are demonstrated changed site conditions or circumstances, provided by the Applicant's Justification Statement that necessitate a modification. [Ord. 2007-001] [Ord. 2018-002]

Response: Yes, as population grows in the county, additional electrical utility services are needed. The large area of land available at this location provided a logical place for a transmission substation.

Type 2 Variance- (V1)

Setback (V1) This application meets the variance criteria as listed in Article 2. B.7.E.6 and as shown on the preliminary site plan.

- a. Special conditions and circumstances exist that are peculiar to the parcel of land, building, or structure, that are not applicable to other parcels of land, structures, or buildings in the same district;*

Response: Yes, this site was constructed in the 1950s before the adoption of the modern UDLC and the current setbacks within the AP zoning district. It has been operating since then at this location and is proposed to remain in its current configuration. The proposed transmission station will be placed out of the setback and is not included in this request.

- b. Special circumstances and conditions do not result from the actions of the Applicant;*

Response: Yes, as the code did not require the setback at the time of installation, the applicant constructed the facility as close to the access point as possible. Since the adoption of the ULDC, the site has not been altered to further become non-conforming.

- c. Granting the variance shall not confer upon the Applicant any special privilege denied by the Plan and this Code to other parcels of land, buildings, or structures, in the same district;*

Response: Yes, all existing structural non-conformities are subject to approval through the variance process and should be vested. This is not unique to this site and the applicant does not seek special privileges to maintain the structures where they exist today.

- d. Literal interpretation and enforcement of the terms and provisions of this Code would deprive the Applicant of rights commonly enjoyed by other parcels of land in the same district, and would work an unnecessary and undue hardship;*

Response: Yes, if the site were to literally interpret the code, the setbacks for the property would be well past all existing utilities at 200 feet in from the existing ROW line (100 ROW dedication and approximately 100 front setback from base building line).

- e. *Granting the variance is the minimum variance that will make possible the reasonable use of the parcel of land, building or structure;*

Response: Yes, as the applicant is not proposing to make the facility more non-compliant than it currently is and this application is proposed to simply leave the site as existing, this is the minimum variance to maintain the use.

- f. *Granting the variance will be consistent with the purposes, goals, objectives and policies of the Plan and this Code; and,*

Response: Yes, the objectives of the plan and the code state the need to provide adequate public facilities and services to the community, which this site does and will continue to do so. The goals also specify screening when needed to adjacent uses which will be provided as possible along US Hwy 27.

- g. *Granting the variance will not be injurious to the area involved or otherwise detrimental to the public welfare.*

Response: Yes, this is an existing facility that will stay as it has existed for over 50 years. Since it will not become any more code compliant than it currently is, the variance approval to maintain its current location will not be detrimental to the public welfare.

Type 2 Variance- (V2-V7)

Type 2 Variance- Landscape Buffers This application meets the variance criteria as listed in Article 2.B.7.E.6 and as shown on the preliminary site plan.

- a. *Special conditions and circumstances exist that are peculiar to the parcel of land, building, or structure, that are not applicable to other parcels of land, structures, or buildings in the same district;*

(V2) Response: Yes, the facility has a fence that was placed on the property line with overhead wires going directly over it leaving the site to the utility poles across the street. This existing condition is unique to this property within this zoning district. The frontage along US Hwy 27 requires a 20-foot ROW buffer that cannot be provided in any of the space currently available.

(V3-V7) Response: The subject site is in the middle of agriculture land. The applicant is requesting relief from the compatibility buffers along the north, west and portion of the south property lines. There is about 2 feet of greenspace along the northern property line adjacent to the existing substation with underground wires and equipment encumbering the space. The other

north property line, west and south property lines have existing agriculture plantings and are adjacent to either a retention pond or sugar cane fields. A buffer in these areas are not needed. The applicant is proposing an 8 foot buffer totaling 636 feet to buffer dirt path, that is an assumed access for the agriculture land to the south of the subject site.

b. Special circumstances and conditions do not result from the actions of the Applicant;

(V2-V3) Response: At the time of construction there was no regulation for the landscape buffers required in the ULDC, as the current code was yet to be adopted. The applicant has not moved any facilities closer to become more non-compliant since the adoption of the code. The Applicant is requesting to eliminate required buffers, as there are already existing equipment and underground power wires that would potentially create overlapping issues with the buffers.

(V4-V7) Response: The subject site is in the middle of agriculture land and adjacent to the existing Bonafide agriculture land on the subject site. A landscape buffer in this location would require removal of agriculture land to buffer other agriculture land. The applicant is requesting relief from the compatibility buffers along the north, west and portion of the south property lines.

c. Granting the variance shall not confer upon the Applicant any special privilege denied by the Plan and this Code to other parcels of land, buildings, or structures, in the same district;

(V2-V7) Response: A landscape buffer in these locations would require removal of agriculture land to buffer other agriculture land. The applicant has agreed to plant 636 feet of the southern portion of the site adjacent to a dirt road.

d. Literal interpretation and enforcement of the terms and provisions of this Code would deprive the Applicant of rights commonly enjoyed by other parcels of land in the same district, and would work an unnecessary and undue hardship;

(V2-V7) Response: Yes, the literal interpretation of the landscape buffer requirement would result removal of agriculture land, require irrigation, grading issues and other unforeseen issues.

e. Granting the variance is the minimum variance that will make possible the reasonable use of the parcel of land, building or structure;

(V2-V7) Response: Yes, the request is to leave the north, east, west and a portion of the south property line, as it exists today. 0 feet of landscape buffer is the minimum reasonable use to not affect the facilities and existing agriculture land as they exist today. A landscape buffer would result removal of agriculture land, require irrigation, grading issues and other unforeseen issues.

f. Granting the variance will be consistent with the purposes, goals, objectives and policies of the Plan and this Code; and,

(V2-V7) Response: Yes, the goals of the plan and code are to provide adequate public facilities and services to the community.

g. Granting the variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

(V2-V7) Response: Yes, the site has existed in its current configuration for over 50 years. This application does not propose any changes to the site that would be a detriment to the public welfare. Granting the request would allow the existing condition to remain as it is today.

All Type 1 and Type 2 Waivers must meet the general standards below as indicated in ULDC Article 2.C.5.E and Article 2.B.7.D:

1. The Waiver does not create additional conflicts with the specified Section(s) of the ULDC, and is consistent with the stated purpose and intent and standards;
2. The Waiver will not cause a detrimental effect on the overall design and development standards of the project, and will be in harmony with the general site layout and design details of the development; and,
3. The alternate design option recommended as part of the Waiver approval, if granted, will not adversely impact users of the project or adjacent properties.

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c. Landscaping A Type 3 Incompatibility Buffer shall be required when the subject site is adjacent to or visible from any street or parcels with a conservation (when open to the public), commercial, or residential FLU designation or use. Palms shall not be substituted for required Canopy trees.

(W1) Response: The applicant is requesting relief from the wall requirement within the 20 foot type 3 landscape buffer. The substation is located within the middle of agriculture land and the grade difference between the road way and the landscape buffer, the wall would not create an adequate buffer. The applicant is proposing a 6-foot high continuous hedge in this location. A regulation plan with the buffer requirements as well as a cross section have been provided to demonstrate the grade difference and provided buffer, associated with this request,

Conclusion

In conclusion, the applicant requests a Class A conditional use for the proposed Electrical Transmission substation and variances for setback reduction and landscape buffers. Florida Power & Light strives to provide the best service to its customers and create facilities that function efficiently. The site plan and variance requests will provide for the most efficient service and create a facility that will become more code compliant with the current regulations. Since this request is for a facility that is necessary for the electrical power distribution to the general public.