



Interoffice Memorandum

**AGENDA ITEM**

January 2, 2020

TO: Mayor Jerry L. Demings  
-AND-  
Board of County Commissioners

FROM: Jon V. Weiss, P.E., Director  
Planning, Environmental, and Development  
Services Department

CONTACT PERSON: **David D. Jones, P.E., CEP, Manager  
Environmental Protection Division  
(407) 836-1405**

SUBJECT: January 28, 2020 – Consent Item  
Shoppes at Alafaya Conservation Area Impact Permit  
Modification #CAI-14-08-025  
(Related to Public Hearing Case #CDR-14-05-144)

This item was scheduled for the October 22, 2019, December 3, 2019, and December 17, 2019 Consent Agenda, but was continued with #CDR-14-05-144 to January 28, 2020. The WSG Coral Springs, LP and HM-UP Development Alafaya Trails-Tru, LLC (applicants) are requesting modification of Conservation Area Impact (CAI) Permit #CAI-11-10-032 for the Shoppes at Alafaya project. The CAI Permit modification has been assigned a new number (#CAI-14-08-025) for tracking purposes. The permit modification proposes impacting a total of 9.1 acres of Class II and III wetlands, reducing the onsite wetland preservation from 12.06 acres to 8.93 acres, impacting 0.47 acres of the required upland buffer, and reducing the required onsite upland preservation from 10.71 to 2.05 acres in order to construct additional retail stores, associated parking, and a larger stormwater pond.

The Shoppes at Alafaya project site is located just west of the intersection of Alafaya Trail and Waterford Lakes Parkway in east Orange County in District 4. The parcel identification numbers for the site are 22-22-31-8030-00-001, 22-22-31-8030-00-002, and 22-22-31-8030-00-004.

The project site is located within the Econlockhatchee River Basin. Pursuant to Orange County Code, Chapter 15, Article, XI, Sec. 15-442(f) (Basin-wide regulations), upland buffers averaging 50 feet in width with a minimum of 25 feet in width shall be required for Class I and II conservation areas as such areas are defined in section 15-364.

The project site includes 18.06 acres of wetlands: 16.31 acres of Class II wetlands and two Class III wetlands totaling 1.75 acres. There are 1.36 acres of required upland buffer remaining on the site along the southwestern edge of the Class II wetland and in the upland peninsula that is embedded within the Class II wetland. The Class II wetland

and portions of the Class III wetland systems are comprised of a dense mixed-hardwood forested community. The remaining Class III wetlands are freshwater marsh. The natural upland areas on the parcel are pine flatwoods. There is also a 4.35-acre stormwater tract on the project site associated with previously approved development.

### **Project History**

The subject property has an extensive history of previous applications for permits and permit modifications related to wetland impacts that are summarized below.

#### **CAI Permit #00-046**

- Issued March 23, 2000.
- Authorized 12.64 acres of Class II wetland impacts.
- Permit was later invalidated due to discovery of incomplete review process.
- No construction initiated at the time.

#### **CAI Permit Modification #05-060**

- Replaced CAI Permit #00-046.
- Approved by the Board on November 29, 2005, and issued December 14, 2005.
- Authorized 4.84 acres of Class II wetland impacts and 2.13 acres of impacts to required upland buffers.
- Construction was completed, including the authorized wetland impacts.
- Mitigation included onsite preservation of 18.06 acres of Class II and III wetlands and 10.71 acres of uplands, and 20 acres of offsite wetlands via conservation easement.
- A conservation easement dedicated to the St. Johns River Water Management District was recorded over the onsite preservation areas; however, the easement was subsequently released on October 11, 2016, and there is currently no conservation easement in place as required by permit conditions.
- A conservation easement was approved by the Board and subsequently recorded on June 9, 2017 for the 20-acre offsite preservation area.

#### **CAI Permit Modification #CAI-11-10-032**

- Replaced CAI #05-060.
- Issued on May 7, 2012.
- Only authorized modification of the mitigation plan to include a reduction in onsite wetland preservation area from 18.06 acres to 12.06 acres.
- No additional impacts were authorized.
- Replacement mitigation for the reduced onsite wetland preservation included the purchase of 0.3 mitigation credits from the Colbert-Cameron Mitigation Bank.
- The purchase of mitigation credits has been completed.

### **Current Request**

On August 4, 2014, a request to modify CAI-11-10-032 was received. Staff was unable to determine that the original site plan met the criteria in Orange County Code, Chapter

15, Articles X and XI and several revisions to the CAI site plan as well as modification to the Planned Development / Land Use Plan were required. Since the original application was submitted, the applicant has had extensive discussion and meetings with the Environmental Protection Division (EPD), the Planning Division, the County Attorney's Office, and the Public Works Department, as well as several community meetings. The final site plan was received by EPD on May 16, 2019, as revised on December 11, 2019.

The permit modification requests:

- To impact 7.35 acres of Class II wetlands and 1.75 acres of Class III wetlands (total wetland impact of 9.10 acres). The required onsite wetland preservation will be reduced from 12.06 acres to 8.93 acres.
- To impact 0.47 acre of the required upland buffer in the upland peninsula in order to construct one of the two wetland creation areas. The required onsite upland preservation will be reduced from 10.71 acres to 2.05 acres.

These modifications are being requested in order to construct additional retail stores and the associated parking, as well as expansion of the existing stormwater tract.

The proposed mitigation plan includes:

- Onsite preservation of 8.93 acres of Class II wetlands.
- Onsite preservation of 0.89 acre of required upland buffer.
- Onsite preservation of 0.36 acre of additional uplands.
- Onsite enhancement of 0.8 acre of upland buffer to prevent secondary impacts to the Class II wetland.
- Onsite creation of 0.84 acre of Class II wetlands from uplands.
- Offsite preservation of 29.72 acres of wetlands and 8.99 acres of uplands at the Williams Tract in Seminole County.
- Offsite preservation of 3.63 acres of Class I wetlands and 4.93 acres of uplands at the Carrigan-Econ Mitigation Tract (CEMT) in Orange County.

The onsite and Williams Tract preservation areas will be protected via conservation easement dedicated to Orange County. The CEMT has been previously utilized as mitigation for other projects and will be processed for donation in its entirety (9.97 acres) to Orange County after approval of this permit modification request.

### **Discussion**

The applicants' agent states that the project has been designed to avoid and minimize impacts to wetlands, and that the proposed impacts are necessary due to the following:

- The current design is the only practicable way to expand the current footprint of the commercial property.
- The retail store will be located in the only portion of the property that will accommodate the size and square footage requirements of the retailer.

EPD brought the permit modification request to the Development Review Committee (DRC) on July 12, 2017, March 14, 2018, and July 11, 2018. EPD sought input from DRC on whether the applicants had sufficiently demonstrated minimization or elimination of wetland impacts as required by Orange County Code, Article X, Chapter 15, Section 15-362(5) and Section 15-419. DRC discussed each site plan and indicated that they thought that additional design modifications could be made to reduce the wetland impacts. On May 16, 2019, the applicants' agent submitted a plan, as revised December 11, 2019, that staff was able to determine met the code criteria, and EPD determined that a subsequent meeting before the DRC was not necessary.

The current site plan:

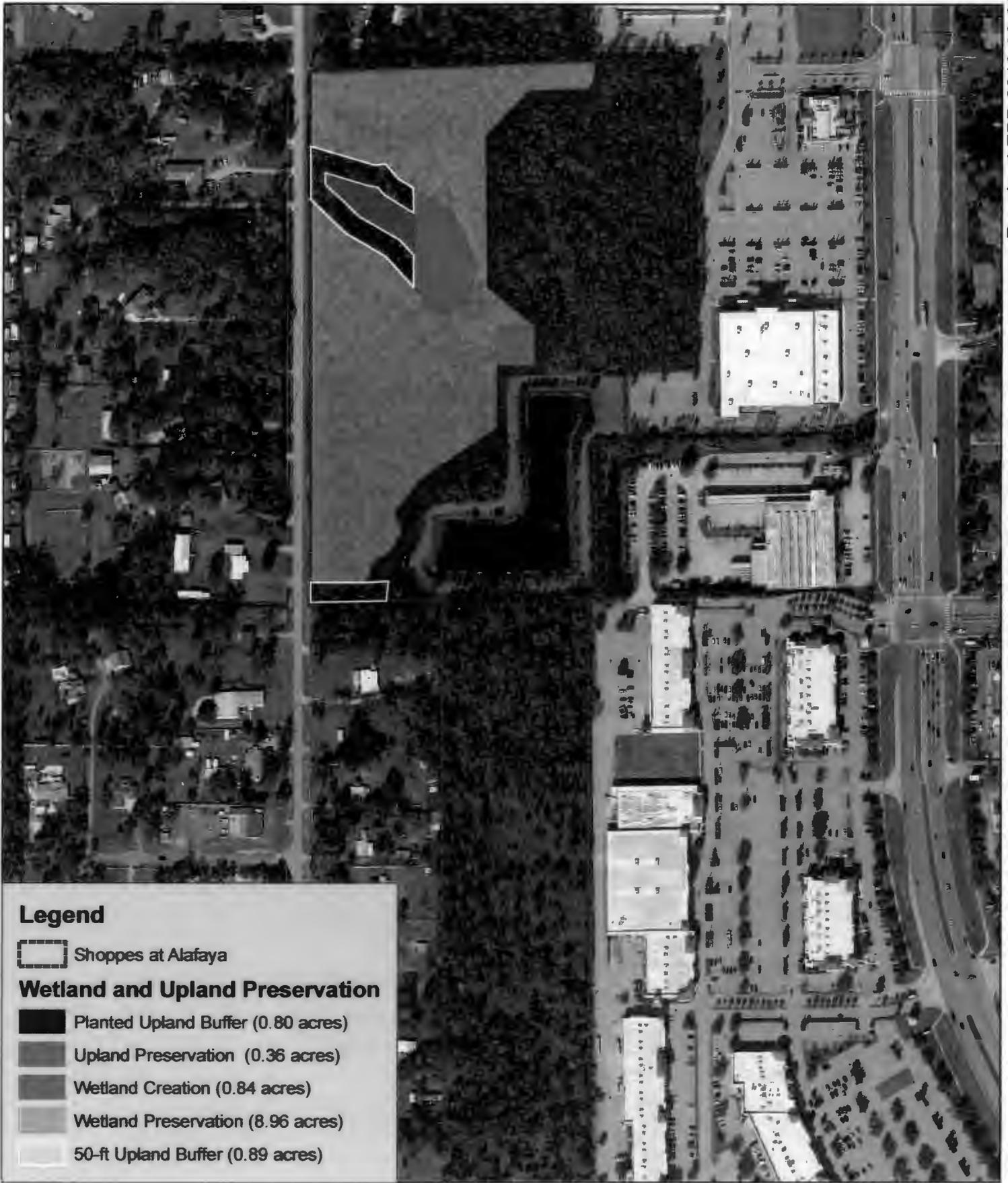
- Reflects a reduction of wetland impacts from the initial submittal design from 8.63 acres to 7.35 acres.
- Requires the excavation of a portion of the upland peninsula in order to create 0.84 acre of wetlands. The creation area will allow for unimpeded flow of water from the east and north as well as create an area for onsite ponding of water within the wetland.
- Requires planting, fencing, and conservation signage on the fill slope along the back of the large retail building in order to address secondary impacts to the adjacent wetland to the west.
- Provides for more stormwater runoff treatment and storage than required by Code.
- Provides for upland preservation of areas that are in excess of the Code requirements.
- Based on the documentation and justifications provided by the applicant, EPD has determined that the proposed site plan meets Orange County Code, Article X, Chapter 15, Section 15-362(5) and Section 15-419.
- Based on the documentation and justifications provided by the applicant, the mitigation plan is not contrary to the public interest and meets the requirements of Section 15-419.
- Based on the documentation and justifications provided by the applicant, the proposed site plan meets Article XI, Sec. 15-442 (Basin-wide regulations).

There has been no current enforcement action taken by EPD on the subject property. However, an enforcement case was initiated in 2011 for lack of appropriate erosion control measures, failure to record the required conservation easements, and failure to implement the monitoring and maintenance program as required as conditions of CAI Permits #05-060 and #CAI-11-10-032. To resolve the case, the applicants paid an administrative penalty of \$20,000 and purchased 0.5 wetland mitigation credits from the TM-Econ Mitigation Bank. The site was stabilized and the monitoring and maintenance program was initiated. Subsequently, the site was determined to be in compliance at the time, provided that the applicants continue to work with EPD to record the conservation easements. However, the required onsite conservation easement was never recorded. The applicants have submitted this request in an attempt to resolve the conservation easement issue through modification of the development plan. Issuance

of this CAI Permit modification, construction and successful implementation of the onsite wetland creation areas, recording of all onsite and offsite conservation easements, and donation of the CEMT property will bring the Shoppes at Alafaya project fully into compliance with Orange County Code.

EPD staff has evaluated the proposed CAI Permit modification and required documentation and has made a finding that the request is consistent with Orange County Code, Chapter 15, Article X, Wetland Conservation Areas Ordinance and Article XI, Econlockhatchee River Protection Ordinance and recommends approval.

**ACTION REQUESTED:           Acceptance of the findings and recommendation of Environmental Protection Division staff to approve the request for Conservation Area Impact Permit Modification No. CAI-14-08-025 for the Shoppes at Alafaya Project Site. District 4**



**Legend**

 Shoppes at Alafaya

**Wetland and Upland Preservation**

 Planted Upland Buffer (0.80 acres)

 Upland Preservation (0.36 acres)

 Wetland Creation (0.84 acres)

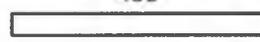
 Wetland Preservation (8.96 acres)

 50-ft Upland Buffer (0.89 acres)

 **Bio-Tech Consulting Inc.**  
 Environmental and Permitting Services  
 3025 E. South Street Orlando, FL 32803  
 Ph: 407-894-5969 Fax: 407-894-5970  
 www.bio-techconsulting.com

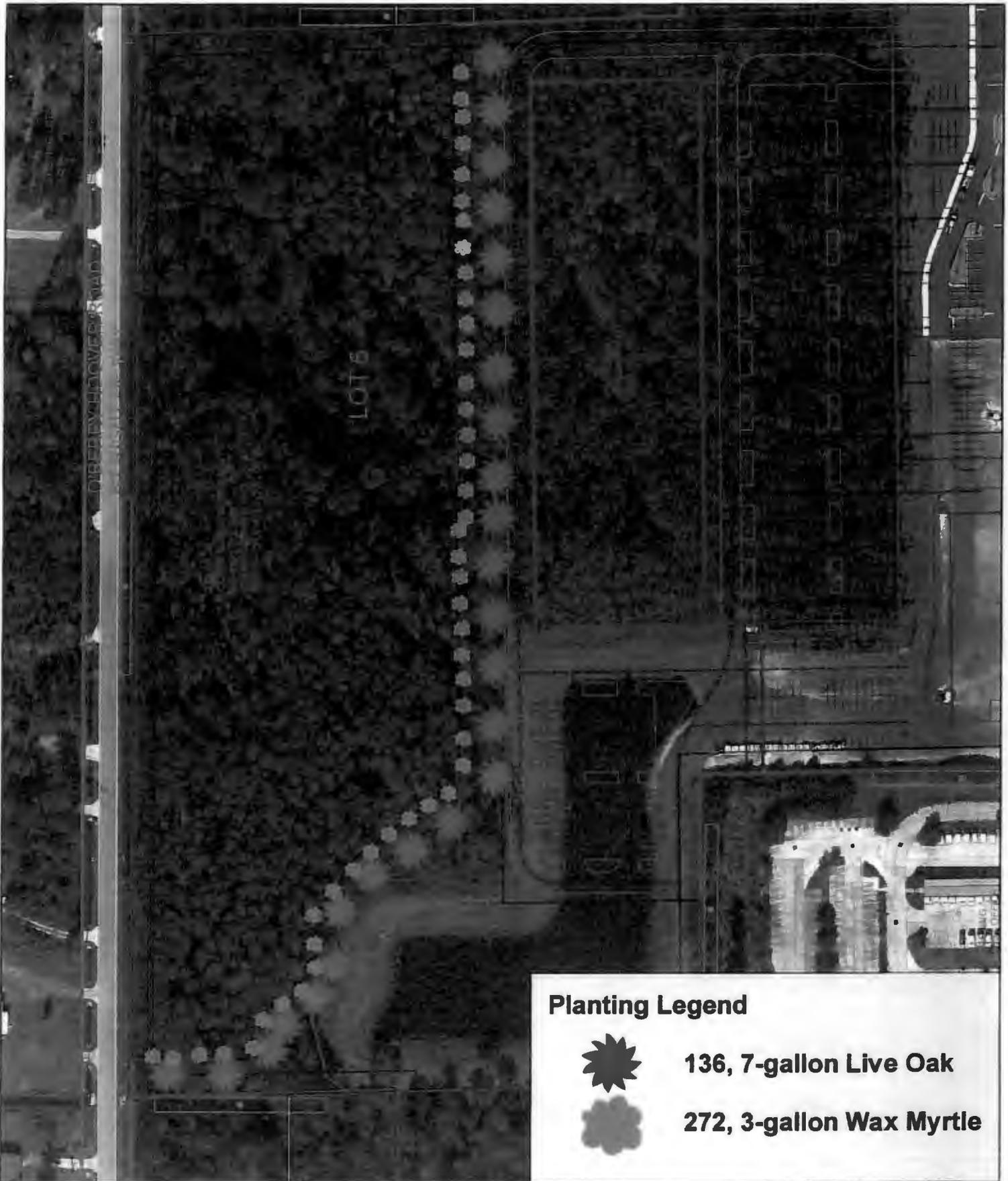
Shoppes at Alafaya  
 Orange County, Florida  
 Mitigation Plan Exhibit



400  Feet

Project #: 755-01  
 Produced By: STC  
 Date: 9/20/2019

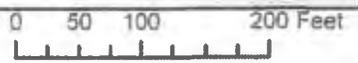




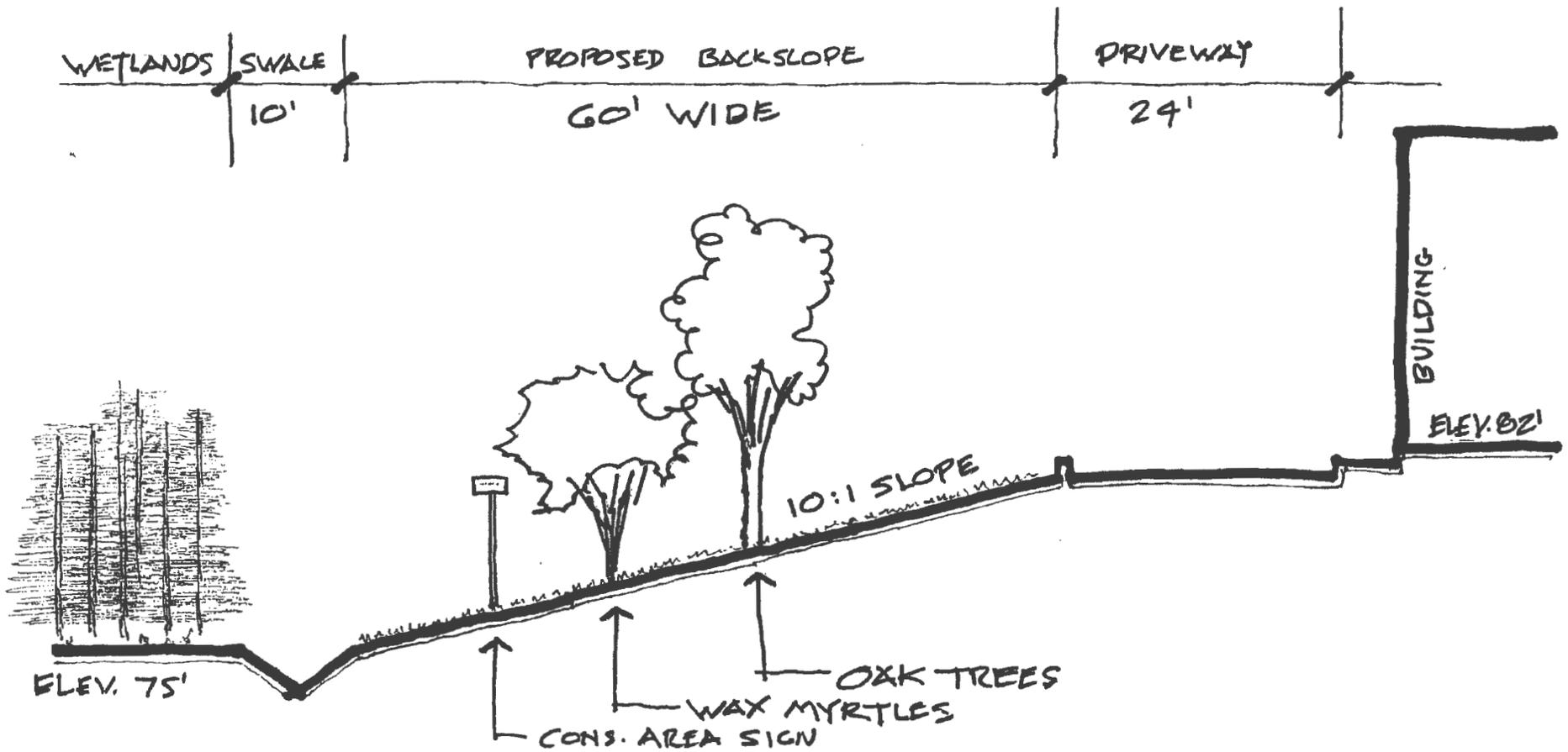
**Planting Legend**



- 136, 7-gallon Live Oak**
- 272, 3-gallon Wax Myrtle**



Project #: 634-01  
 Produced By: DBG  
 Date: 5/7/2015



CROSS-SECTION-SHOPPES OF ALAFAYA