



## Interoffice Memorandum

April 23, 2021

TO: Mayor Jerry L. Demings  
-AND-  
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) 836-1406

SUBJECT: May 18, 2021 – Public Hearing  
Orange County Investments LLC Conservation Area Impact Permit  
Application No. CAI-20-07-055

The applicant, Orange County Investments LLC, is requesting a Conservation Area Impact (CAI) Permit for authorization to impact 0.30 acre of Class I wetlands with an additional 0.21 acre of secondary impacts in order to construct a stormwater retention pond. The proposed pond will be constructed within a portion of a 16.04-acre parcel that is located on the western side of Conway Road near the intersection with McCoy Road. The pond will serve a hotel that is proposed on the eastern side of Conway Road, across from the pond site and within the jurisdiction of the City of Orlando. The parcel identification number is 29-23-30-0000-00-031 and the project site is in District 3.

The applicant has obtained zoning approval on the subject parcel. On July 2, 2020, the Board of Zoning Adjustment (BZA) approved Special Exception #SE-20-08-070 to allow an offsite retention pond in conjunction with non-residential development in an R-3 zoning district. On July 28, 2020, the BZA recommendation was approved by the Board.

In the current condition, the 16.04-acre parcel contains surface waters (two existing ponds and a canal), uplands and wetlands. The two existing ponds consist of a stormwater treatment pond and a flood attenuation pond, both of which are associated with the hotel development to the south known as the Conway Center. The Conway Center development included wetland impacts and was authorized under CAI Permit No. CAI-18-02-009, which was approved by the Board on July 10, 2018. The canal traverses the site in an east and west direction and connects Lake Conway to Lake Mare Prairie. The site contains a 5.94-acre Class I wetland and a 5.11-acre Class II wetland. The majority of the onsite Class I wetland (5.42 acres) is under a Conservation Easement (CE) dedicated to the St. Johns River Water Management District (SJRWMD) as a requirement of Environmental Resource Permit No. 40-095-7540A-ERP (28052-1) issued in 1998. The CE was part of a mitigation plan approved by SJRWMD for commercial development to the south. The portion of the wetland proposed for impact under this application to construct the pond will not result in impacts to the existing CE.

The proposed stormwater pond will be located along the eastern edge of the parcel, adjacent to Conway Road, resulting in the alteration of 0.05-acre of uplands and 0.30-acre of highly disturbed Class I wetlands. The vegetative community is mainly comprised of nuisance species with some limited native vegetation, including Brazilian pepper (*Schinus terebinthifolius*), elderberry (*Sambucus canadensis*), Carolina willow (*Salix caroliniana*) and Peruvian primrosewillow (*Ludwigia peruviana*), and is covered in a thick blanket of muscadine grape vine (*Vitis rotundifolia*). This highly disturbed edge extends from Conway Road approximately 30 to 40 feet into the wetland and encompasses all of the proposed impact area. No impacts are expected to occur to the higher quality interior portion of the wetland, currently under the CE, where the canopy opens up into a healthier forested community dominated by red maple (*Acer rubrum*), sweetbay (*Magnolia virginiana*), sweet gum (*Liquidambar styraciflua*) and laurel oak (*Quercus laurifolia*) with ground cover consisting of Virginia chain fern (*Woodwardia virginica*), cinnamon fern (*Osmunda regalis*), blackberry (*Rubus* spp.), wax myrtle (*Myrica cerifera*) and a few scattered pockets of Peruvian primrosewillow and earpod tree (*Enterolobium cyclocarpum*) with less extensive coverage of vines.

The applicant considered construction of the pond within the hotel site parcel, but was prevented from implementing this design due to City of Orlando requirements that all flood zone impacts east of Conway Road be offset with compensating storage east of Conway Road. Since the hotel site is almost exclusively within the flood zone with only a small area of uplands located at the eastern portion of the property, there is insufficient space to provide all of the required compensating storage. To address this limiting factor, the applicant has designed the hotel to be built on concrete piers and has utilized the available uplands to construct the few small features that could not be constructed on piers such as the driveways, elevators and lift station. Additionally, as construction of the pond on the hotel site would require additional compensating storage for the pond itself, it was not deemed practicable to locate the pond on the hotel property.

Prior to selecting the site west of Conway Road for the stormwater pond, the applicant researched other alternative sites located east of Conway Road. The applicant was in negotiations with the Greater Orlando Airport Authority and with another private landowner to acquire available land or obtain permission to utilize their property for compensating storage, but those efforts were ultimately unsuccessful. The applicant also pursued annexation of the subject property into the City of Orlando, but due to anticipated delays associated with the annexation approval, that effort has been discontinued. Once the site west of Conway Road was determined to be the only practicable location for the pond, the applicant pursued and obtained an agreement with the City of Orlando to construct a pipe under Conway Road from the hotel site to the proposed pond.

EPD staff has evaluated the proposed impacts and site plan in accordance with the applicable review criteria. Pursuant to Orange County Code, Chapter 15, Article X, Section 15-396(3)(a), the removal, alteration or encroachment within a Class I conservation area shall only be allowed in cases where no other feasible or practical alternatives exist that will permit a reasonable use of the land or where there is an overriding public benefit. Additionally, pursuant to Section 15-362(5), where wetlands serve a significant and productive environmental function, the public health, safety and welfare require that any alteration or development affecting such lands should be so designed and regulated so as to minimize or eliminate any impact upon the beneficial environmental productivity of such lands, consistent with the development rights of property owners. When encroachment, alteration or removal of

Class I conservation areas is permitted, habitat compensation or mitigation as a condition of development approval shall be required.

The applicant has designed the site to avoid and minimize impacts to the Class I wetlands as much as possible while working within the constraints of the available space for compensating storage. Impacts to Class I wetlands have been limited to the highly disturbed edge where the wetland would be anticipated to provide little habitat value to wildlife that may otherwise utilize the wetland and associated uplands. Impacts upon the beneficial overall environmental productivity of the Class I wetland is expected to be minimal and anticipated adverse impacts will be offset with appropriate mitigation.

To offset the 0.30-acre direct wetland impact and the 0.21-acre secondary wetland impact, the applicant has proposed to purchase 0.15 Uniform Mitigation Assessment Method mitigation bank credits from the TM-Econ Mitigation Bank, Phases 1-3. The mitigation is appropriate and sufficient to offset adverse impacts to wetlands that will occur as a result of the proposed project.

Notification of the public hearing was sent via electronic correspondence to the applicant and applicant's agent. Notification of the adjacent property owners is not required.

There has been no enforcement action taken by EPD on the subject property.

### **Staff Findings and Recommendation**

EPD staff has made a finding that the request is consistent with Orange County Code, Chapter 15, Article X, Sections 15-362(5) and 15-396(3)(a) and recommends approval of CAI Permit No. CAI-20-07-055, subject to the conditions listed below.

#### Specific Conditions:

1. This permit shall become final and effective upon expiration of the 30-calendar day period following the date of rendition of the Board's decision approving the permit, unless a petition for writ of certiorari or other legal challenge has been filed within this timeframe. Any timely filed petition or other challenge shall stay the effective date of this permit until the petition or other challenge is resolved in favor of the Board's decision.
2. The operational phase of this permit is effective upon the completion of the construction and continues in perpetuity.
3. The wetland impacts and pond construction must be completed in accordance with the 'Construction Plans', prepared by Mitch Collins, P.E., and received by the Environmental Protection Division (EPD) on December 21, 2020. Construction shall be completed within five years from issuance of this permit unless extended in writing. Requests for permit extension must be submitted to EPD prior to the expiration date.
4. Prior to clearing wetlands, the permittee shall provide documentation indicating the purchase of 0.15 Uniform Mitigation Assessment Method mitigation credits from the TM-Econ Mitigation Bank, Phases 1-3 has been completed.
5. Conservation area signs shall be installed in accordance with 'Sheet C-3', and native plantings along the pond backslope shall be installed in accordance with 'Sheet L2' of the

approved construction plans. The signs and plantings shall be installed prior to the Certificate of Completion.

6. If dewatering will be required to complete the work, a final dewatering plan must be submitted and approved by EPD prior to the initiation of construction.
7. Prior to beginning construction, the permittee must demarcate the limits of construction with six-foot tall PVC poles with orange flagging tied to the tops or orange safety fencing. Initial clearing shall include a path along the limits of construction to facilitate installation of the pole markers or safety fencing to create a visual limit of clearing. After the initial clearing along the limits of construction is complete, a silt fence must be installed and maintained throughout construction. The permittee shall advise the contractor that any work outside the limits of construction, including clearing, may be a violation of this permit.
8. Prior to any filling within the 100-year flood zone, a Flood Plain Permit may be required from the Orange County Stormwater Management Division authorizing the fill.
9. The permittee shall notify EPD, in writing, within 30 days of any sale, conveyance, or other transfer of ownership or control of the real property subject to this permit. The permittee shall remain liable for all permit conditions and corrective actions that may be required as a result of any permit violations which occur prior to the transfer of the permit by Orange County to a subsequent owner. If applicable, no permit shall be transferred unless and until adequate financial assurance has been provided and approved by Orange County.
10. For projects which disturb one acre or more of land, or which are less than one acre but are part of a larger common plan of development of sale that is greater than one acre, coverage under a National Pollutant Discharge Elimination System (NPDES) Construction Generic Permit (CGP) is required. Prior to the start of land disturbing activities, which includes demolition, earthwork and/or construction, the operator shall prepare a Stormwater Pollution Prevention Plan (SWPPP) and submit to the Florida Department of Environmental Protection (FDEP) a Notice of Intent (NOI) to obtain coverage under the NPDES CGP, pursuant to the requirements of 62-621.300(4)(a) Florida Administrative Code (F.A.C.). As the Operator of the Municipal Separate Storm Sewer System (MS4), a copy of the NOI shall also be submitted to the Orange County NPDES Environmental Program Supervisor prior to the start of activities. Copies of the SWPPP, NOI, and FDEP Acknowledgement Letter are to be kept on the project site and made available upon request. Upon completion of all land disturbing activities and after final stabilization of the site is complete, the developer/contractor shall submit to FDEP a Notice of Termination (NOT) to end their coverage under the CGP and provide a copy of the NOT to the Operator(s) of the MS4. A copy of the CGP, NOI and additional information can be found at the following website: <http://dep.state.fl.us/water/stormwater/npdes/construction3.html>.
11. Turbidity and sediment shall be controlled to prevent off-site, unpermitted impacts and violations of water quality standards pursuant to Rules 62-302.500, 62-302.530, and 62-4.242 F.A.C. Best Management Practices (BMPs), as specified in the State of Florida Erosion and Sediment Control Designer and Reviewer Manual (2013, or most current version), shall be installed and maintained at all locations where there is the possibility of transferring sediment, turbidity, or other pollutants into wetlands and/or surface waters due to the permitted activities. BMPs are performance based; if selected BMPs are ineffective or if site-specific conditions require additional measures, then the permittee shall implement additional or alternative measures as necessary to prevent adverse impacts to wetlands and/or surface waters. Turbidity discharging from a site must not

exceed 29 Nephelometric Turbidity Units (NTU) over background for Class III waters and their tributaries or 0 NTU over background for those surface waters and tributaries designated as Outstanding Florida Waters (OFW). A copy of the Designer and Reviewer Manual can be found at the following website: <https://www.flrules.org/Gateway/referee.asp?No=Ref-04227>.

12. Discharge of groundwater from dewatering operations requires approval from FDEP and the applicable Water Management District. The operator/contractor shall obtain an FDEP Generic Permit for the Discharge of Ground Water from Dewatering Operations pursuant to the requirements of Chapters 62-621.300(2)(a) and 62-620, F.A.C., and Chapter 403, Florida Statutes (F.S.). Discharges directed to the County's MS4 require an Orange County Right-of-Way Utilization Permit for Dewatering prior to the start of any discharges.

General Conditions:

13. Subject to the terms and conditions herein, the permittee is hereby authorized to perform or cause to be performed, the impacts shown on the application and approved drawings, plans, and other documents attached hereto or on file with EPD. The permittee binds itself and its successors to comply with the provisions and conditions of this permit. If EPD determines at any time that activities, including without limitation the performance of the required mitigation, are not in accordance with the conditions of the permit, work shall cease and the permit may be revoked immediately by the Environmental Protection Officer. Notice of the revocation shall be provided to the permit holder promptly thereafter.
14. Construction plans shall be submitted to EPD prior to initiating any construction activities for review and approval. The construction plans shall include, but are not limited to, a site plan clearly depicting the location and acreage of the impact and preservation areas.
15. The permittee shall require the contractor to maintain a copy of this permit, complete with all approved drawings, plans, conditions, attachments, exhibits, and modifications in good condition at the construction site. The permittee shall require the contractor to review the permit prior to commencement of the activity authorized by this permit. The complete permit shall be available upon request by Orange County staff.
16. Issuance of this permit does not warrant in any way that the permittee has riparian or property rights to construct any structure permitted herein and any such construction is done at the sole risk of the permittee. In the event that any part of the structure(s) permitted herein is determined by a final adjudication issued by a court of competent jurisdiction to encroach on or interfere with adjacent property owner's riparian or other property rights, the permittee agrees to either obtain written consent or to remove the offending structure or encroachment within 60 days from the date of the adjudication. Failure to comply shall constitute a material breach of this permit and shall be grounds for its immediate revocation.
17. This permit does not release the permittee from complying with all other federal, state, and local laws, ordinances, rules and regulations. Specifically, this permit does not eliminate the necessity to obtain any required federal, state, local and special district authorizations prior to the start of any activity approved by this permit. This permit does not convey to the permittee or create in the permittee any property right, or any interest in real property, nor does it authorize any entrance upon or activities upon property which is not owned or controlled by the permittee, or convey any rights or privileges other than those specified in the permit and Chapter 15, Article X of the Orange County Code. If these permit

conditions conflict with those of any other regulatory agency, the permittee shall comply with the most stringent conditions. The permittee shall immediately notify EPD of any conflict between the conditions of this permit and any other permit or approval.

18. Should any other regulatory agency require changes to the property, permitted activities, or approved mitigation, the permittee shall provide written notification to EPD of the change prior to implementation so that a determination can be made whether a permit modification is required.
19. EPD shall have final construction plan approval to ensure that no modification has been made during the construction plan process.
20. The permittee shall immediately notify EPD in writing of any previously submitted information that is later discovered to be inaccurate.
21. EPD staff, with proper identification, shall have permission to enter the site at any reasonable time to ensure conformity with the plans and specifications approved by the permit.
22. The permittee shall hold and save the County harmless from any and all damages, claims or liabilities, which may arise by reason of the activities authorized by the permit.
23. All costs, including attorney's fees, incurred by the County in enforcing the terms and conditions of this permit shall be required to be paid by the permittee.
24. The permittee agrees that any dispute arising from matters relating to this permit shall be governed by the laws of Florida, and initiated only in Orange County.
25. Pursuant to Section 125.022, F.S., issuance of this permit by the County does not in any way create any rights on the part of the permittee 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 permittee fails to obtain the 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.
26. Pursuant to Section 125.022, F.S., the applicant shall obtain all other applicable state or federal permits before commencement of development.

**ACTION REQUESTED:** Acceptance of the findings and recommendation of the Environmental Protection Division staff and approval of Conservation Area Impact Permit CAI-20-07-055 for Orange County Investments LLC, subject to the conditions listed in the staff report. District 3

JW/DDJ: erj

Attachments

# Conservation Area Impact Permit Request

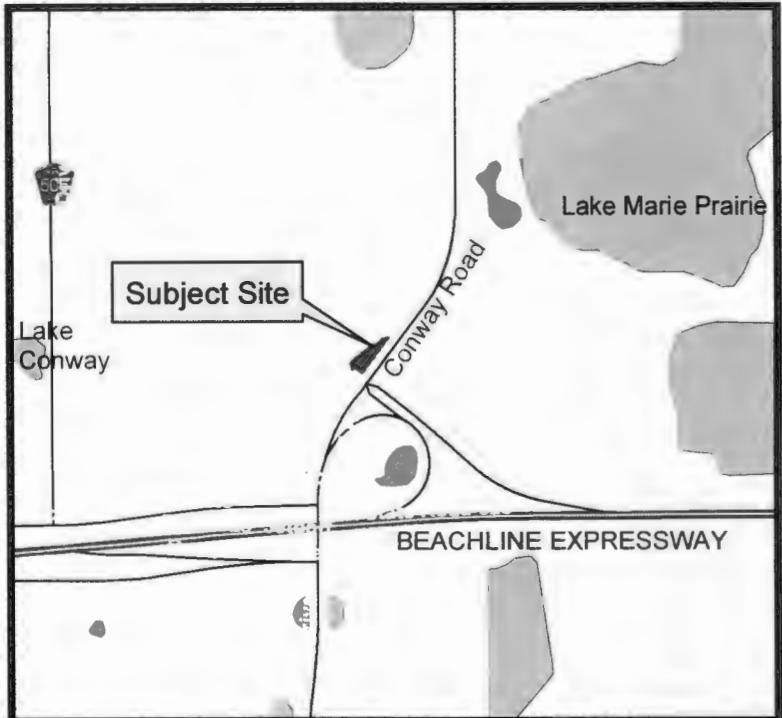


**Conservation Area Impact  
Permit Request  
CAI-20-07-055  
District #3**

Applicants: Orange County Investments LLC  
Address: Conway Road  
Parcel ID: Portion of Parcel 29-23-30-0000-00-031

Project Site

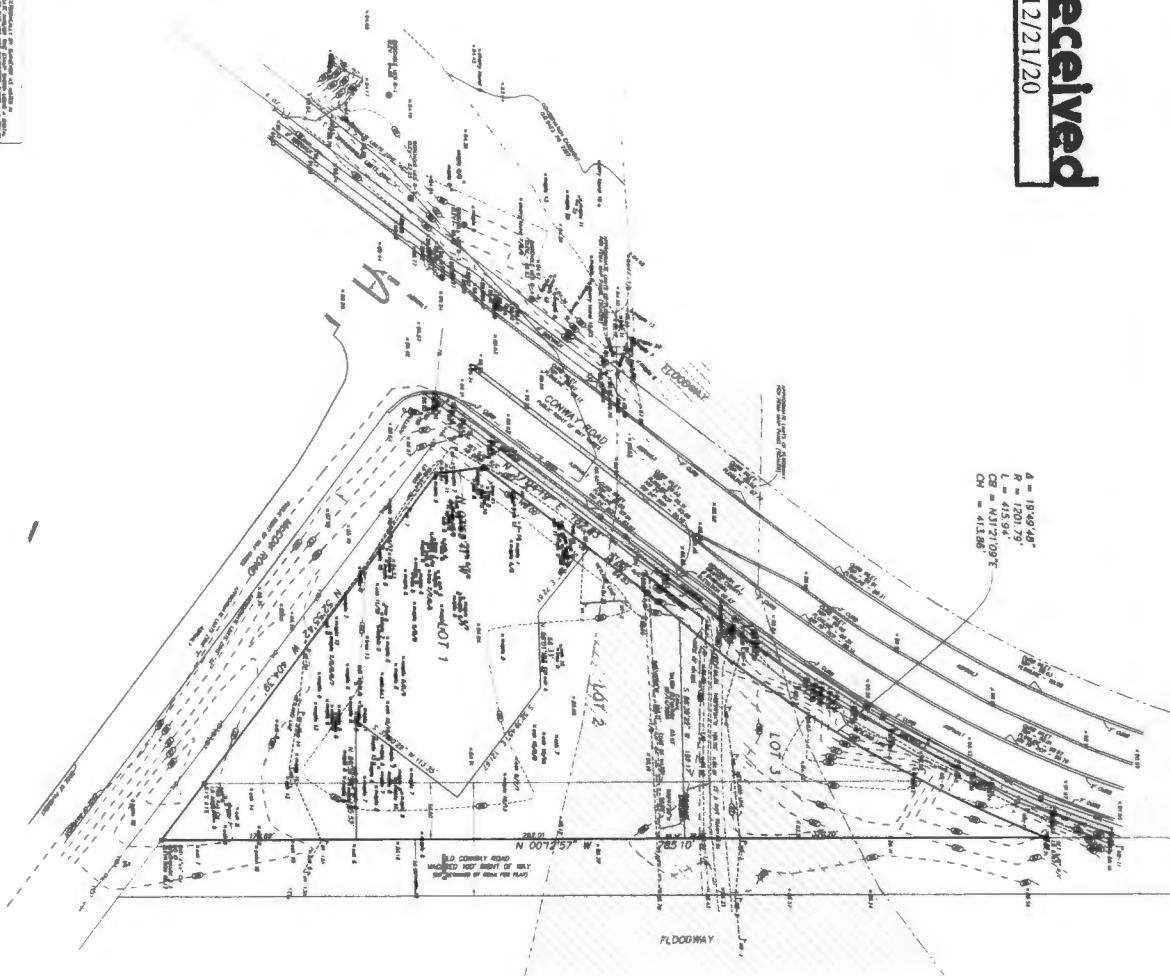
Property Location





**received**

12/21/20



LEGAL DESCRIPTION (written or drawn)

Lot 2, Block 1, of the original reservation as recorded in Plat Book 3a, page 19 of the Public Records.

SURVEYOR'S REPORT AND:

- 1) Survey was done on the 20th day of May, 2000, by the undersigned, and the coordinates were taken from the Florida State Plane Coordinate System.
- 2) Points used were survey points and corners of the subject property.
- 3) Survey was done using an electronic total station and a robotic total station.
- 4) Survey was conducted on horizontal and vertical datum.
- 5) Survey was conducted on horizontal and vertical datum.
- 6) Survey was conducted on horizontal and vertical datum.
- 7) No land surveying work was performed for engineering, mining or mining, mining, or mineral extraction.
- 8) All dimensions are in feet and inches.
- 9) Approximate PS reading is 100' above sea level.
- 10) Approximate PS reading is 100' above sea level.
- 11) All dimensions are approximate.
- 12) All dimensions are approximate.
- 13) All dimensions of this survey were taken under the direction of DR. REDDY.

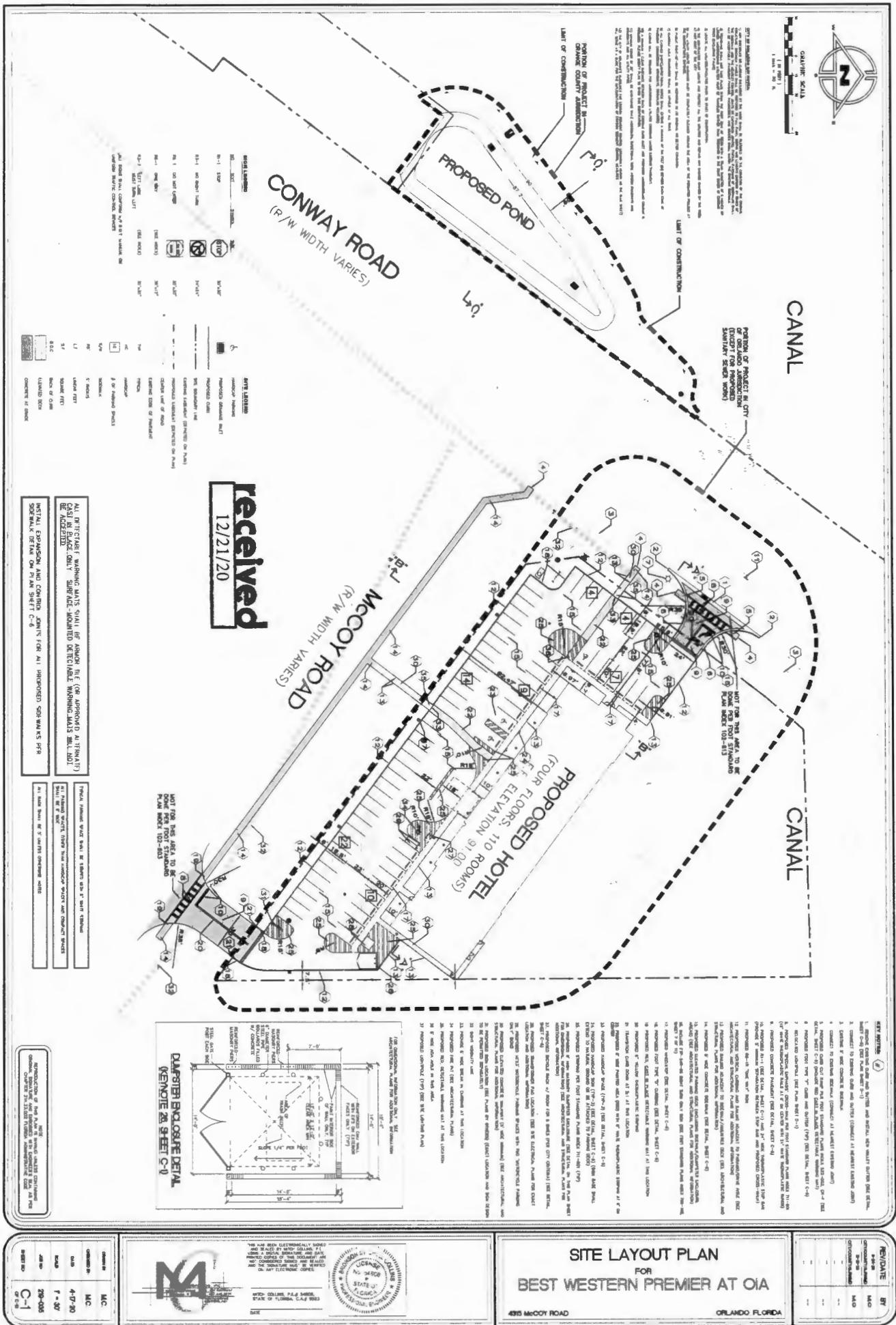
RECEIVED 12/21/20
AT THE OFFICE OF THE ALACHUA COUNTY CLERK OF RECORD FOR RECORDING OF RECORDS RECORDED BY THE ALACHUA COUNTY CLERK OF RECORD ON BEHALF OF THE ALACHUA COUNTY SURVEYOR'S OFFICE
12/21/2020

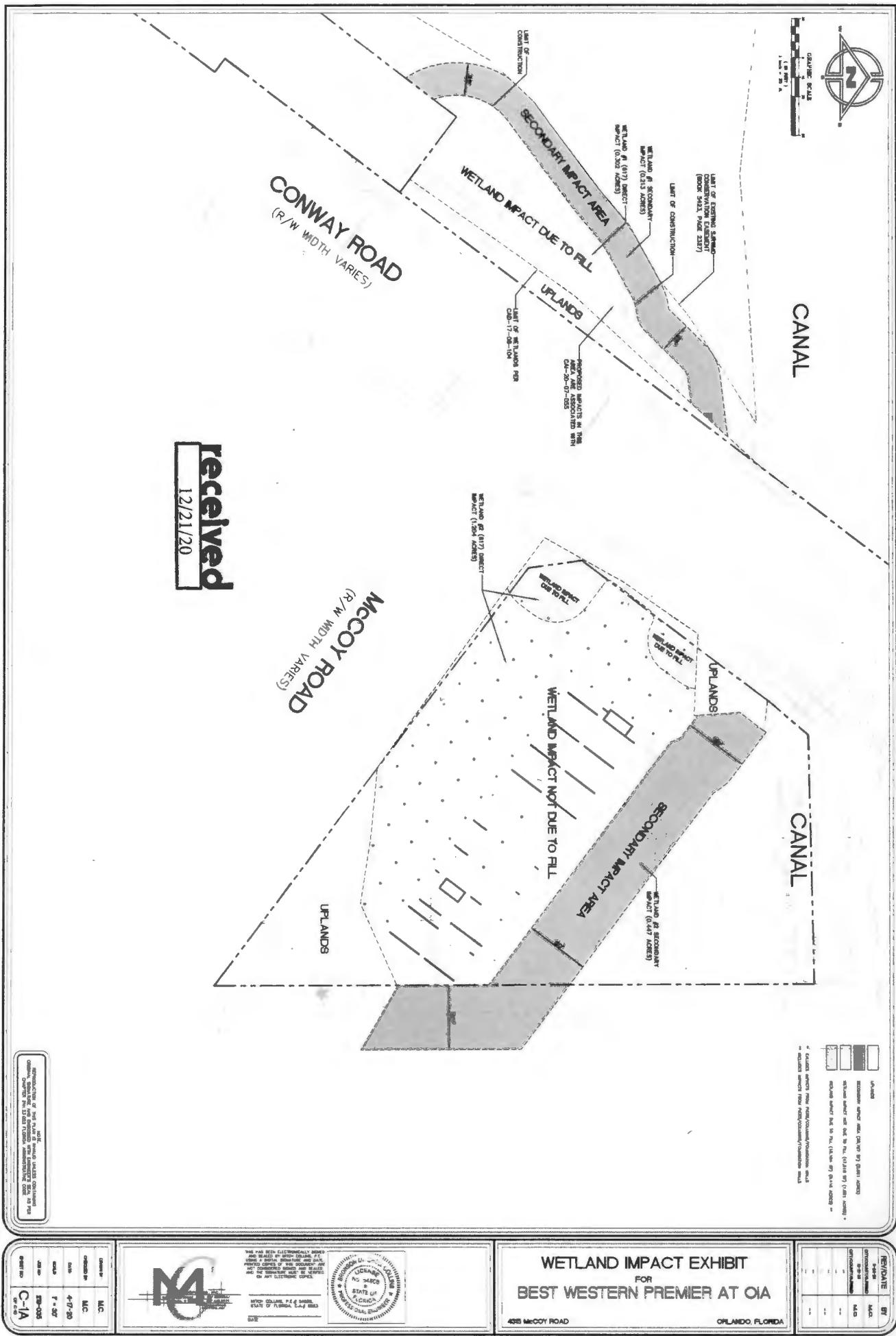
ALACHUA COUNTY  
SURVEYOR'S OFFICE  
1000 NW 2nd Street  
PO Box 1000  
Gainesville, FL 32601-1000  
(352) 374-3111  
(352) 374-3112

12/21/2020  
SHEET NO. 1  
1 of 1

Surveyor's Name: **DR. REDDY** Surveyor's Office: **Associated Land Surveying & Mapping, Inc.**  
Date: **12/21/2020** Date Surveyed: **12/21/2020**  
Scale: **1" = 50'** Date Recorded: **12/21/2020**  
Prepared for: **DR. REDDY**

11-3-2020 ADDED TREES  
8-11-2020 REvised METLAND LOCATIONS  
8-27-2020 ADDED ADDITIONAL TOPS WEST OF COUNTY ROAD  
12/21/2020 ADDED ADDITIONAL TOPS







I-4 Underpass definition is based on a back of the envelope calculation.  
I-4 Canal width varies along I-4 from 60' to 100' and back again.  
Site plan dimensions do not reflect the canal width.  
Site plan dimensions do not reflect the canal width.  
Site plan dimensions do not reflect the canal width.

Site plan dimensions do not reflect the canal width.

POSITION OF PROJECT IN CITY  
(EXISTS PER PLAT RECORDING)  
LIMIT OF CONSTRUCTION

## CANAL

000' 000' 500' 1000' 1500'

STANDARD SECTION	BFT
SLAB	D
REFLECTIVE SLAB	E
ASPHALT	F
GRASS	G
SHRUBS	H
SODDED SOIL	I
IMPACT SOIL	J
SOIL	K
LOAM	L
CLAY	M

SOILS AND WERKS  
SODDED SOIL  
IMPACT SOIL  
SOIL  
LOAM  
CLAY

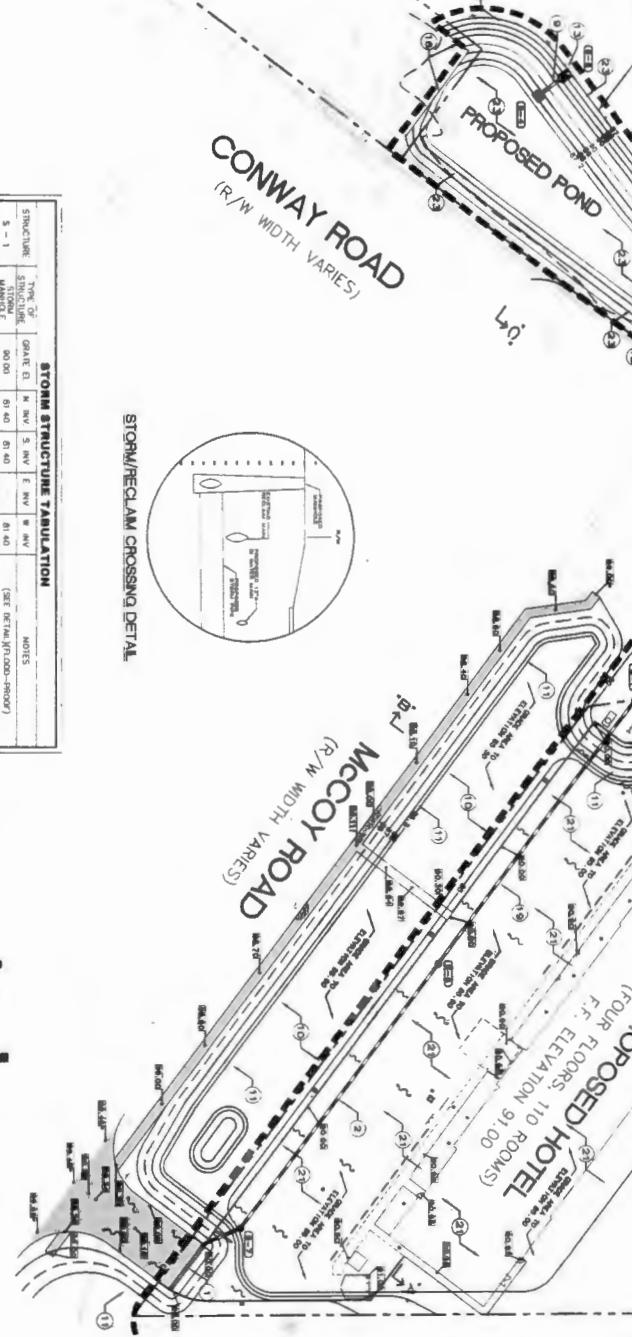
REVIDATE	BFT
CONCRETE SURFACE	AACD
CONCRETE PAVEMENT	AACD
ACR	---
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POSITION OF PROJECT IN CITY  
(EXISTS PER PLAT RECORDING)  
LIMIT OF CONSTRUCTION

## GRADING AND DRAINAGE PLAN FOR BEST WESTERN PREMIER AT OIA ORLANDO, FLORIDA

STORM STRUCTURE TABULATION								
STRUCTURE	GRADE EL	N AVG	S AVG	E AVG	W AVG	NOTES		
STRUCTURE	GRADE EL	N AVG	S AVG	E AVG	W AVG		(SEE DEFN IN COL 9-PROOF)	
S - 1	60.00	61.40	61.40	61.40	61.40			
MANHOLE	60.00	60.60	60.60	60.60	60.60			
S - 2	MANHOLE	60.00	60.60	60.60	60.60			
S - 3	MANHOLE	60.00	60.60	60.60	60.60			
S - 4	TYPE "C"	61.00	60.00	60.00	60.00			
S - 5	TYPE "C"	BB 75	60.50	60.50	60.50	60.50		
S - 6	ME 5	60.00	60.60	60.60	60.60			
S - 7	STORM	60.00	60.60	60.60	60.60			
S - 8	MANHOLE	60.00	60.60	60.60	60.60			
STRUCTURE	GRADE EL	N AVG	S AVG	E AVG	W AVG			
MANHOLE	60.00	61.00	61.00	61.00	61.00			
(SEE DEFN IN COL 9-PROOF)								
(SEE DEFN IN COL 9-PROOF)								
(SEE DEFN IN COL 9-PROOF)								
(SEE DEFN IN COL 9-PROOF)								
(SEE DEFN IN COL 9-PROOF)								

## STORM/RECLAIM CROSSING DETAIL



**received**  
1/21/20

THIS DOCUMENT IS FOR INFORMATION PURPOSES ONLY AND IS NOT A CONTRACTUAL AGREEMENT.  
IT IS FOR THE USE OF THE PROJECT TEAM AND NOT FOR PUBLIC RELEASE.  
ALL INFORMATION CONTAINED HEREIN IS UNPUBLISHED PROPRIETARY INFORMATION OF  
THE OWNER OF THE PROPERTY AND IS CONFIDENTIAL.  
IT MAY NOT BE COPIED, REPRODUCED, OR OTHERWISE DISCLOSED  
WITHOUT THE EXPRESS WRITTEN CONSENT OF THE OWNER.

Owner:	MLC.
Architect:	MLC.
Engineer:	MLC.
Contractor:	MLC.
Date:	4-17-20

MLC.

4-17-20

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MLC.

4-17-20

MLC.

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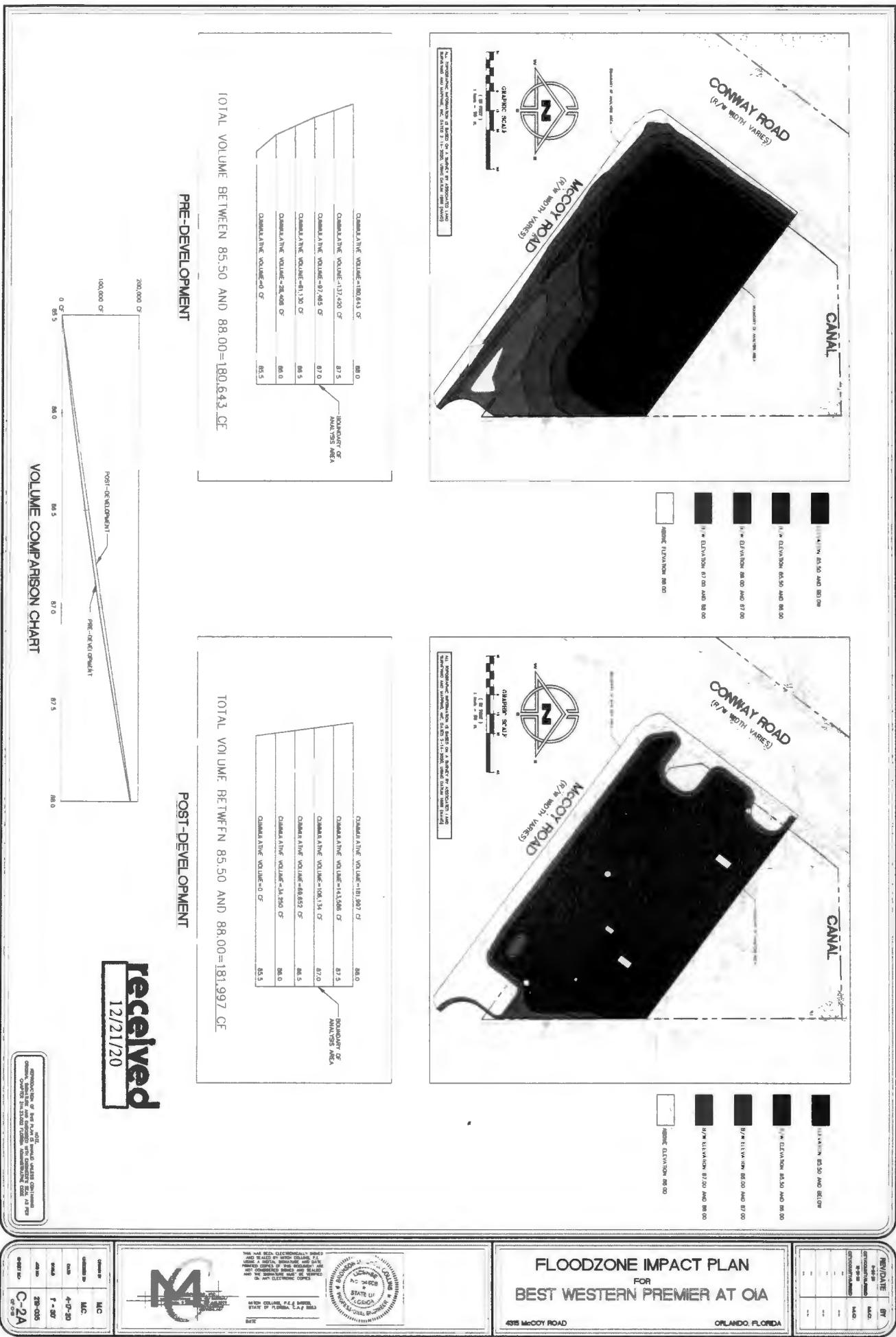
GRADING AND DRAINAGE PLAN  
FOR  
BEST WESTERN PREMIER AT OIA

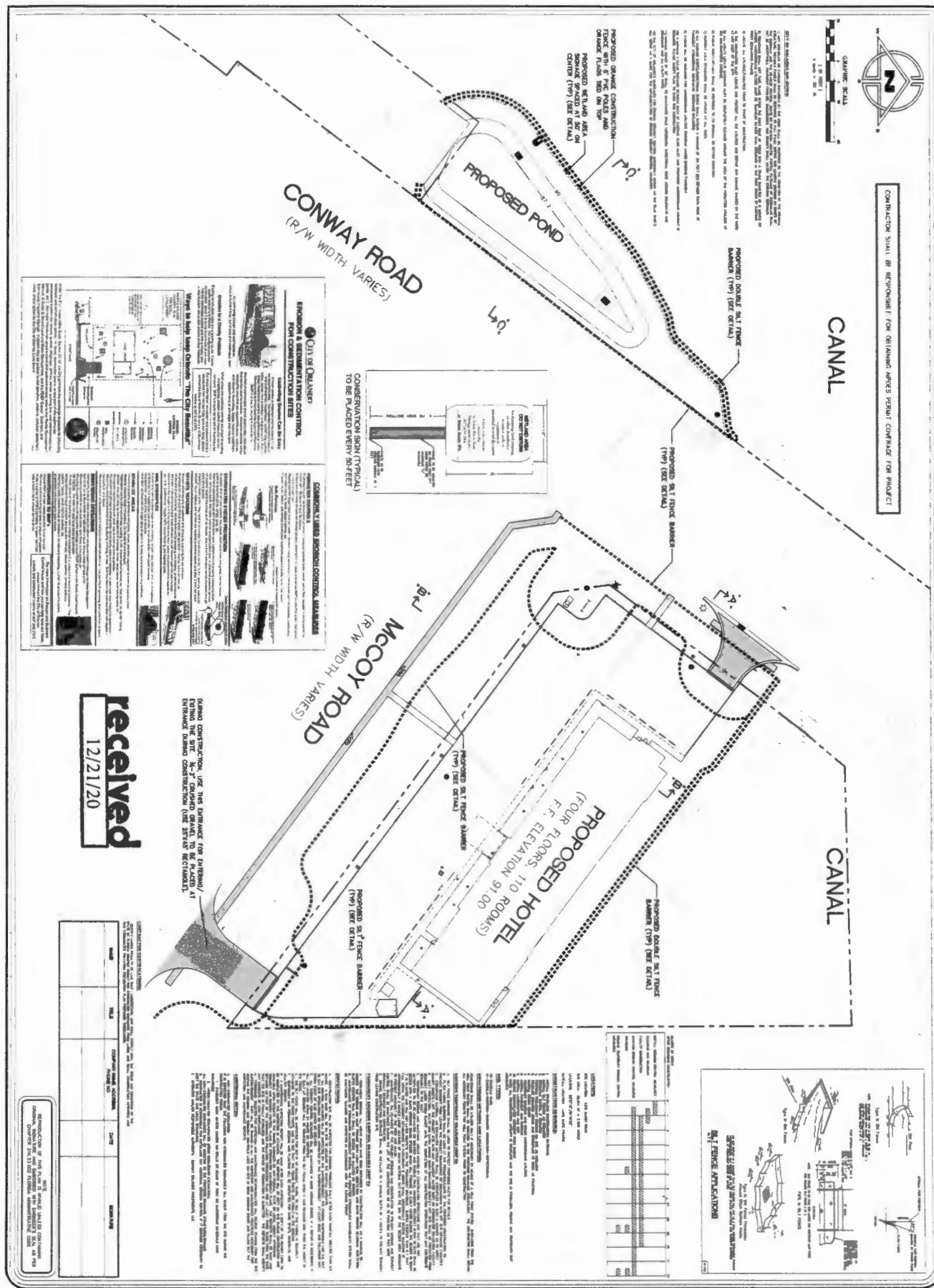
4315 MCCOY ROAD

ORLANDO, FLORIDA

REV/DATE	BFT
CONCRETE SURFACE	AACD
CONCRETE PAVEMENT	AACD
ACR	---
---	---
---	---

REVISIONS  
REVIEWED  
APPROVED  
INITIALLED  
DRAWN BY:  
C-2  
C-2  
C-2





REV/DATE	BY
ENTRANCE POINT	MALE
12/21/20	M.C.

**MC CONSTRUCTION INC.**  
LICENSURE NO. 00000000 STATE OF FLORIDA  
GENERAL CONTRACTOR  
DATE

**EROSION CONTROL PLAN**  
FOR  
**BEST WESTERN PREMIER AT OIA**

4525 McCoy Road  
Orlando Florida

**O-3**



