

DESOTO COUNTY, FLORIDA

RESOLUTION NO. 2026 - ____

A RESOLUTION OF THE BOARD OF ADJUSTMENT OF DESOTO COUNTY, FLORIDA, (GRANTING/DENYING) MULTIPLE VARIANCE REQUESTS BY SOUTHWEST LAND DEVELOPERS, INC. (VAR-0004-2025) FOR AN EXISTING, NON-CONFORMING TYPE IV EXCAVATION TO ALLOW (1) EXCAVATION OF MORE THAN 500,000 CY IN MORE THAN A 60-MONTH PERIOD; (2)(i) A 276 FOOT SET BACK FROM THE PROPERTY LINE WHERE 300 FEET IS REQUIRED, (2)(ii) TO ALLOW AN 823 FOOT SET BACK FROM PUBLIC LAND INSTITUTION FUTURE LAND USE AND A-5 ZONING WHERE 1000 FEET IS REQUIRED, (2)(iii) A 450 LINEAL FOOT SET BACK FROM A RESIDENCE WHERE 1000 FEET IS REQUIRED, (2)(iv) ADJACENCY TO PROPOSED TYPE IV EXCAVATION TO THE NORTH, WHERE ONE MILE FROM ANY OTHER EXCAVATION SITE IS REQUIRED, (3) EXCAVATION LIMIT OF 69% OF TOTAL EXCAVATION AREA WHERE A MAXIMUM OF 25% IS ALLOWED (4) ALLOWING FOR A COST-SHARING AGREEMENT IN LIEU OF BONDING OR PAYMENT FOR ROAD IMPROVEMENTS, AND (5) ENTRANCE ACCESS IMPROVEMENT REQUIREMENTS, ON A +/- 95.92-ACRE PARCEL, LOCATED AT 3511 SW DISHONG AVE THE PROPERTY IDENTIFICATION NUMBER BEING 16-38-24-0000-0025-0000, WHICH EXCAVATION SPECIAL EXCEPTION REMAINS SUBJECT TO APPROVAL BY THE BOARD OF COUNTY COMMISSIONERS; INCORPORATING THE WHEREAS CLAUSES; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on May 19, 2025, a Variance application and fee was submitted to the Development Department (VAR-0004-2025) on behalf of the owner, Southwest Land Developers, Inc., to allow an existing, non-conforming Type IV excavation variances for time and additional quantity to excavate, excavation setbacks and minimum distance requirements, maximum size, road improvements, and entrance access improvement requirements on a +/- 95.92-acre parcel, located at 3511 SW Dishong Ave, which property is zoned Agricultural - 10 (A-10) (Exhibit A: Location Map); and

WHEREAS, the 2040 Future Land Use Map shows the +/- 95.92-acre property is located within the Rural/Agricultural Land Use designation (Exhibit B: 2040 Future Land Use Map) and the Official Zoning District Atlas shows the property is situated within the Agricultural - 10 (A-10) zoning district (Exhibit C: Zoning Map); and

WHEREAS, prior to seeking approval by the Board of County Commissioners for the Special Exception use to permit the proposed excavation operations, the applicant seeks various variances from the requirements set forth in the County's excavation management regulations; and

WHEREAS, Land Development Regulations (LDR) Section 20-1460 thru 20-1465 provides for staff review and Section 20-1460 provides for initial determination and required

findings by the Board of Adjustment related to variance requests, and further provides the criteria for variances in LDR Article XI, Division 6; and

WHEREAS, the Development Department has reviewed the Variance application and the Department's conclusions as to conformity with the LDRs are as set forth therein; and

WHEREAS, on May 5, 2026, the Board of Adjustment held a duly noticed public hearing on the application and entered into the record the Development Review Report and all other competent substantial evidence presented at the hearing; and

WHEREAS, the Board of Adjustment concluded the Variance application (did/did not) establish through findings of fact and competent substantial evidence the need for the proposed variance arises out of the physical surroundings, shape, topographic conditions, or other physical or environmental conditions, that are unique to the specific property involved based on the findings herein and conditions of approval; and

WHEREAS, the Board of Adjustment concluded the Variance application established through findings of fact and competent substantial evidence the application (was/was not) in harmony with the LDRs general intent and purpose, is not injurious to the neighborhood or to adjoining properties or is otherwise detrimental to the public welfare based on the findings herein and conditions of approval.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ADJUSTMENT OF DESOTO COUNTY, FLORIDA, AS FOLLOWS:

Section 1. *Whereas clauses incorporated.* The foregoing "WHEREAS" clauses are ratified and confirmed as being true and correct and are hereby incorporated by reference as part of this Resolution.

Section 2. *Property description.* The +/- 95.92 -acre parcel is located at 3511 SW Dishong Ave, the Property Identification Number being 16-38-24-0000-0025-0000.

Section 3. *Findings.* The Development Review Report, incorporated herein by reference, represents the written findings of fact and conclusions support (granting/denying) Southwest Land Developers, Inc., the variances set forth in Section 4, herein.

Section 4. *Variance.* The Variance request to permit:

1. Excavation of more than 500,000 CY beyond the 5 year time frame set forth in Sec. 20-998(d)(1)(d) to allow the excavation of 343,000 CY per year for another 5 years or approximately an additional $\pm 1,750,000$ CY beyond the 60 month time frame is **(granted/denied)**.
2. The top of slope of any excavated area, all materials stockpiles, dewatering ponds and all facilities in connection with excavation operations, within the following setbacks or minimum distance requirements:

- a. 276 feet from the property line where 300 feet is required pursuant to Sec. 20-1007(b)(1);
 - b. Adjacency of Public Land Institution to the east and west and 823 feet from A-5 zoned property to the southeast where 1000 feet is required pursuant to Sec. 20-1007(b)(3);
 - c. 450 lineal feet measured in a straight-line method from any residence (above 30 percent on the tax rolls) to any portion of the excavation site where 1000 feet is required pursuant to Sec. 20-1007(b)(5);
 - d. Adjacency to proposed Type IV excavation to the north, if approved, where one mile from any other excavation site is required pursuant to Sec. 20-1007(b)(7) is **(granted/denied)**.
3. 52.87 acres or 69% of total excavation area where a maximum size of 19.14 acres or 25% is permitted pursuant to Sec. 20-1007(j), is **(granted/denied)**.
 4. A cost-sharing agreement between the County and applicant, subject to BOCC approval, in lieu of the bonding or payment requirements of Sec. 20-1007(n) related to local road improvements, is **(granted/denied)**.
 5. Paving the excavation site entrance access road with a 22-foot wide drive, at least 150 feet in length meeting minimum County road construction standards for all entrances, where the applicant has paved their driveway from Dishong Avenue to the scale house, a length of approximately 200 feet in length and meets the requirements of Sec. 20-1007(h) is permitted pursuant to Sec. 20-1007(h), is **(granted/denied)**.

Section 5. Findings. In accordance with the Land Development Regulations, the Board of Adjustments adopts the Development Review Report as its findings, and makes the additional findings:

1. Bonus excavation in excess of the 25% maximum can be sought following the provisions and application process set forth in LDR Sec. 20-1004 up to a maximum of 50% subject to BOCC approval.
2. Extensions of time for permits can be requested from the BOCC in accordance with LDR Sec. 20-1010, subject to Board approval.
3. The Board of Adjustment has no authority to mandate to the BOCC that the County enter into a cost sharing agreement. Therefore, bonds shall be put into place or fees paid per Sec. 20-1007(n), unless otherwise determined by the BOCC.

Section 6. Limitations. Any approvals provided for herein shall not be deemed or interpreted as an approval of a special exception use for the excavation operations, nor as a permit approval or authorization.

Section 7. *Effective date.* This Resolution shall take effect immediately upon its adoption.

PASSED AND ADOPTED this 5th day of May 2026.

**BOARD OF ADJUSTMENT
DESOTO COUNTY, FLORIDA**

By: _____
Bill Martin, Chairman
Board of Adjustment

APPROVED AS TO LEGAL FORM

By: _____
Valerie Vicente
County Attorney

Exhibit B: 2040 Future Land Use Map



