

AGENDA ITEM

BOARD OF COUNTY COMMISSIONERS

DESOTO COUNTY, FLORIDA

DATE: November 17, 2020

EXHIBIT D

☐ Consent Agenda☒ Quasi-Judicial Public Hearing☐ Regular Business

6:30 p.m. Time

☐ Public Hearing

DEPARTMENT:	Planning & Zoning
SUBMITTED BY:	Sandy Morales, Permit Technician
PRESENTED BY:	June Fisher, Development Director
TITLE & DESCRIPTION:	Resolution/Boran Ranch
REQUESTED MOTION:	Request to adopt the Resolution as presented.
SUMMARY:	The subject parcels are located at 10356 B & R Ranch Road. (See Exhibit A) and is owned by Michael Boran. The owner is requesting a Special Exception to allow for Type IV Excavation in accordance with Sec. 20-996 on a 4,347.51 Acre Property with a 276 Acre Project Area.
BACKGROUND:	The subject parcel is located at 10356 B & R Ranch Road (Exhibit A) and is owned by Michael Boran. The owner is requesting a Special Exception to allow for Type IV Excavation in accordance with Sec. 20-996. The 2040 Future Land Use Map shows the property is located within the Rural/ Agricultural Land Use designation (Exhibit B) and the Official Zoning District Atlas designates the property as Agricultural-10 (A-10) zoning district (Exhibit C). Land Development Regulations (LDR) Section 20-126(1)(c)(12) allow for Type IV Excavation in accordance with Sec. 20-996 as a special exception use within Agricultural-10 (A-10) zoning district as a Special Exception. An application for a Special Exception was received in the Development Department on June 11, 2020, and a resubmittal was received on July 30, 2020.
FUNDS:	Budget Amount N/A Actual Agenda Item N/A Cost: Account Number: N/A Explanation: N/A
ATTACHMENTS:	Boran Ranch SE Staff Report 2 BORAN RANCH SITE PLAN Exhibit A Map Exhibit B Map Exhibit C Map
REVIEW APPROVAL:	Department Director

June Fisher
 June Fisher, Development Director

11/4/2020

Finance Director


Peter Daddo, Interim Finance Director 11/4/2020

Budget Department

Brian Wagner
Brian Wagner, Budget Coordinator 11/4/2020

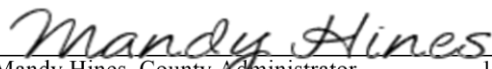
Purchasing Department


Cindy Talamantez, Purchasing Director 11/4/2020

County Attorney


Donald Conn, County Attorney 11/4/2020

County Administrator


Mandy Hines, County Administrator 11/9/2020

**DESOTO COUNTY, FLORIDA
RESOLUTION NO. 2020- ____**

A RESOLUTION OF THE DESOTO COUNTY BOARD OF COUNTY COMMISSIONERS GRANTING TO MICHAEL BORAN A SPECIAL EXCEPTION USE DEVELOPMENT ORDER WITH CONDITIONS TO ALLOW WITHIN THE AGRICULTURAL 10 (A-10) ZONING DISTRICT A TYPE IV EXCAVATION IN ACCORDANCE WITH SEC. 20-996 ON A 4,347.51 ACRE PROPERTY WITH A 276 ACRE PROJECT AREA, LOCATED AT 10356 B & R RANCH ROAD, ARCADIA, FLORIDA, THE PROPERTY IDENTIFICATION NUMBERS BEING 04-39-23-0000-0105-0000, 04-39-23-0000-0104-0000 ; 04-39-23-0000-0103-0000, 04-39-23-0000-0012-0000, 05-39-230000-0020-0000, 32-38-23-0000-0020-0000, 33-38-23-0000-0010-0000, 33-38-23-0000-0020-0000, 28-38-23-0000-0020-0000, 28-38-23-0000-0010-0000, 21-38-23-0000-0020-0000, 22-38-23-0000-0010-0000, 21-38-23-0000-0010-0000, 20-38-23-0000-0010-0000; INCORPORATING THE WHEREAS CLAUSES; INCORPORATING THE DEVELOPMENT DEPARTMENT REPORT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Michael Boran is the owner of the property totaling 4,347.51 acres generally located at 10356 B & R Ranch Road; and

WHEREAS, a special exception use application (USE 0042-2020) to allow for Type IV Excavation in accordance with the DeSoto County Land Development Regulations Sec. 20-996 was filed with the Development Department; and

WHEREAS, the Development Director determined the application was complete and has caused the application to be distributed to the Development Review Committee for review and comments; and

WHEREAS, a Development Department Report was prepared and the report concluded that the special exception use established through substantial competent evidence, the application for a Type IV Excavation in accordance with Sec. 20-996 is in harmony with the LDRs general intent and purpose, is not injurious to the adjoining properties, or is not otherwise detrimental to the public welfare based on the findings herein and conditions of approval; and

WHEREAS, on November 5, 2020, the Planning Commission held a duly noticed public hearing on the application and entered into the record the Development Department Report and all other substantial competent evidence presented at the hearing, and forward

the record to the Board of County Commissioners (Board) with the recommendation that the Board adopt the proposed Resolution with conditions; and

WHEREAS, on November 17, 2020, the Board of County Commissioners (Board) held a duly noticed public hearing on the application and entered into the record the Development Department Report and all other substantial competent evidence presented at the Planning Commission and Board hearings; and

WHEREAS, the Board concluded the special exception use application established through substantial competent evidence the application for a Type IV Excavation in accordance with Sec. 20-996, is in harmony with the LDRs general intent and purpose, is not injurious to the adjoining properties, or is otherwise detrimental to the public welfare based on the findings herein and conditions of approval; and

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

Section 1. 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. The Development Department Report, incorporated herein by reference, represents the written findings of fact and conclusions of law to support granting to Mr. Michael Boran a special exception use (USE 0042-2020) development order to allow within the Agricultural 10 (A-10) zoning district for a Type IV Excavation in accordance with Sec. 20-996, on a 4,347.51 acre property with a 276 acre project area located at 10356 B & R Ranch Road, Arcadia, Florida, the Property Identification Number 04-39-23-0000-0105-0000, 04-39-23-0000-0104-0000 ; 04-39-23-0000-0103-0000, 04-39-23-0000-0012-0000, 05-39-230000-0020-0000, 32-38-23-0000-0020-0000, 33-38-23-0000-0010-0000, 33-38-23-0000-0020-0000, 28-38-23-0000-0020-0000, 28-38-23-0000-0010-0000, 21-38-23-0000-0020-0000, 22-38-23-0000-0010-0000, 21-38-23-0000-0010-0000, 20-38-23-0000-0010-0000, subject to the following conditions:

1. The Final Construction Plan submittal shall include Fire department access road shall be a minimum of 24' wide. A detail shall be provided of the access road load limit.
2. Proposed structure shall comply with all applicable Florida Building and Fire Codes.
3. Fire Flow shall be provided for fire suppression and shall be demonstrated on the Improvement Plan.
4. Structures shall comply with the Florida Building and Florida Fire Prevention Codes for occupancy classification.
5. It is the applicant's responsibility to obtain any state or federal

permits required for the subject activities.

6. All final construction plans for the excavation permit must comply with the DeSoto County Land Development Regulations, Sec 20-1006. Type II, III and IV construction plan submittal.

7. All final submittals must comply with the DeSoto County Land Development Regulations, Sec 20-1007 Type II, III and IV minimum design standards and requirements.

8. This special exception use shall be expire within five years of the effective date of this resolution but may be extended for additional five-year periods upon a Board finding that circumstances have not materially changed, Sec. 20-1434(c).

Section 3. This Resolution shall take effect immediately upon its adoption.

PASSED AND DULY ADOPTED in DeSoto County, Florida, this 17th day of November, 2020.

ATTEST:

**DESOTO COUNTY BOARD OF
COUNTY COMMISSIONERS**

By: _____
Mandy Hines
County Administrator

By: _____
Juril O. Mansfield
Chairman

Approved as to form and legal sufficiency:

By: _____
Donald D. Conn
County Attorney



DESOTOBOCC.COM
DESOTO COUNTY, FLORIDA

DESOTO COUNTY DEVELOPMENT DEPARTMENT STAFF REPORT

REQUEST: USE 0042-2020
Special Exception

PROPERTY OWNER: Michael Boran
10356 B & R Ranch Road
Arcadia, Florida 34269

PROPERTY ID: See Exhibit "A" to GDO Application

PROPERTY ADDRESS: 10356 B & R Ranch Road

TOTAL PARCEL SIZE: 4,347.51 acres
PROJECT AREA: 276 acres

ZONING DISTRICT: Agricultural-10 (A-10)

FUTURE LAND USE DESIGNATION: Rural/Agricultural

DEVELOPMENT REVIEW REPORT

The matter before the Planning Commission/ Local Planning Agency is a special exception use application (USE 0042-2020) to allow within the Agricultural-10 (A-10) zoning district "Type IV Excavation," on a 4,347.51 acre property with a 276 acre project area located at 10356 B & R Ranch Road, Arcadia, Florida. The application is before the Planning Commission/Local Planning Agency because Land Development Regulations (LDR) Section 20-126(1)(c)(12) provides for "Excavation (other than phosphate) and related processes, earthmoving in accordance with sec. 20-996," as a special exception use and LDR Article XI, Division 5 requires the Planning Commission/Local Planning Agency to hold at least one public hearing with due public notice on a special exception use application and to make a recommendation on the application to the local governing body.

OVERVIEW OF REQUEST

The subject parcel is located at 10356 B & R Ranch Road (Exhibit A) and is owned by Michael Boran. The owner is requesting a Special Exception to allow for Type IV Excavation in accordance with Sec. 20-996.

The 2040 Future Land Use Map shows the property is located within the Rural/ Agricultural Land Use designation (Exhibit B) and the Official Zoning District Atlas designates the property as Agricultural-10 (A-10) zoning district (Exhibit C).

Land Development Regulations (LDR) Section 20-126(1)(c)(12) allow for Type IV Excavation in accordance with Sec. 20-996 as a special exception use within the Agricultural-10 (A-10) zoning district as a Special Exception.

An application for a Special Exception was received in the Development Department on June 11, 2020, and a resubmittal was received on July 30, 2020.

PROPOSED RESOLUTION

A RESOLUTION OF THE DESOTO COUNTY BOARD OF COUNTY COMMISSIONERS GRANTING TO MICHAEL BORAN A SPECIAL EXCEPTION USE DEVELOPMENT ORDER TO ALLOW WITHIN AGRICULTURAL-10 ZONING DISTRICT A TYPE IV EXCAVATION IN ACCORDANCE WITH SEC. 20-996 ON A 4,347.51 ACRE PROPERTY WITH A 276 ACRE PROJECT AREA, LOCATED AT 10346 SW B & R RANCH ROAD, ARCADIA, FLORIDA, THE PROPERTY IDENTIFICATION NUMBERS BEING 04-39-23-0000-0105-0000, 04-39-23-0000-0104-0000 ; 04-39-23-0000-0103-0000, 04-39-23-0000-0012-0000, 05-39-23-0000-0020-0000, 32-38-23-0000-0020-0000, 33-38-23-0000-0010-0000, 33-38-23-0000-0020-0000, 28-38-23-0000-0020-0000, 28-38-23-0000-0010-0000, 21-38-23-0000-0020-0000, 22-38-23-0000-0010-0000, 21-38-23-0000-0010-0000, 20-38-23-0000-0010-0000; INCORPORATING THE WHEREAS CLAUSES; INCORPORATING TH DEVELOPMENT DEPARTMENT REPORT; AND PROVIDING AN EFFECTIVE DATE.

DATA & ANALYSIS

In all quasi-judicial proceedings, the applicant shall bear the burden of demonstrating by competent and substantial evidence that the application satisfies the standards and requirements of the LDR's and the Comprehensive Plan, Sec. 20-1402 (b).

A. Application requirements. LDR Section 20-1431 provides that a special exception use application shall be submitted indicating the basis in this LDR under which the special exception use is sought and stating the grounds upon which it is requested, with particular reference to the types of findings which the Planning Commission must make as described below. The application must include material necessary to demonstrate that the approval of the special exception use will be in harmony with the LDRs general intent and purpose, not be injurious to the neighborhood or to adjoining properties, or otherwise detrimental to the public welfare. Such material includes, but is not limited to, the following, where applicable:

1. *Plans at an appropriate scale showing proposed placement of structures on the property, provisions for ingress and egress, off-street parking and off-street loading areas, refuse and services areas, and required yards and other open spaces.*
 - a. Placement of structures. The applicant has submitted plans at an appropriate scale showing placement of proposed structures on the property, provisions for ingress and egress, off-street parking and off-street loading areas, refuse and services areas, and required yards and other open spaces. Based on the above, it is concluded the application is in **conformance** with this factor
 - b. Provisions for ingress and egress. The ingress and egress for the subject property is SW B & R Ranch Road. The County Engineer notes the following:
 1. Additional information is needed regarding the proposed and existing roadways onsite and connecting to the County right-of-way including proposed (or existing if not being modified) section, width and radii. Sections shall conform to the DeSoto County Engineering Standard Details minimum for emergency vehicle traffic. Width of the haul routes shall be 20' minimum for emergency vehicle access.

Information such as grading, width, and radii will be added to the Final Detail Plan.

2. The intersection of SW B R Ranch Road and CR 769 needs to be further examined for compliance with the LDRs. The LDRs require a right hand turn lane per FDOT standards. The existing merge lane may not be in conformance. The LDRs also require a left hand turn lane per FDOT standards. The existing left hand turn lane serves a roadway to the north and contains double yellow striping through the intersection of SW B R Ranch Road.

It is the owners' intent to lengthen the turnlanes along CR 769 to meet FDOT Standards based on the design speed in this section. Final Details including plan profiles, cross-sections, and details will be added to the Final Detail Plan.

3. Please depict the separation between the site access road and adjacent access roads. Likely this parcel may be unable to comply with the separation requirements of the LDRs.

Chapter 20, Article IX, Division 3, Section 20-1007(h)(4) require all entrances to an excavation to meet County road access/separation standards. The proposed excavation is located entirely within the Boran Ranch and will utilize SW B & R Ranch Road as its haul route.

SW B & R Ranch Road is currently used to haul excavated material from the mitigation bank as well as sod, hay, cattle and crops from long-standing agricultural operations within Boran Ranch.

SW B&R Ranch Road intersects with C.R. 769. Chapter 20 of DeSoto County's Code of Ordinances is entitled "Land Development" regulations and is intended to implement the Comprehensive Plan and the purposes set forth in F.S. §163.3202(2) and (3). F.S. §163.3202(3) states that a general zoning code is not required if the local government's adopted land development regulations meet the requirements of §163.202.

Chapter 20, Article VI, Division 3, Section 20-505(2)a. sets forth the minimum separation between access points onto arterial and collector roadways. On a major collector, the minimum separation is 185 feet. On a minor collector the minimum separation is 140 feet.

C.R. 769 is designated as a collector road in the DeSoto County Comprehensive Plan. Its designation is not further modified by either the word “major” or “minor”. It is a settled principle of Florida law that zoning ordinances are in derogation of common law are to be strictly construed in favor of the property owner. Consequently, the excavation must comply with the separation requirements for a minor collector — 140 feet. SW B&R Ranch Road is located more than 140 feet from the nearest access road on C.R. 769.

4. The site entrance (from CR 769) shall be paved for at least 150 LF, 22 LF wide and comply with the minimum road section required for a County road as shown in the Engineering Standard Details.

The Development Plans have been updated to comply with the minimum road section required for a County road as shown on Sheet 10 of the Development Plans.

Based on the above, it is concluded the application is in **conformance** with this factor.

- c. Off-street parking. Off street parking is shown on the development plan for the scale house/office buildings.

Based upon the above, it is concluded the application is in **conformance** with the off-street parking factor.

- d. Off-street loading. No off street loading is proposed for this use. Therefore, it is concluded this factor is **not applicable**.
- e. Refuse and service areas. If waste is generated, the applicant may maintain a garbage collection contract with the franchisee for all waste types generated. Based on the above, it is concluded the application is in **conformance** with this factor.
- f. Required yards and open space. The proposed excavation operations maintain the following yards required by Section 20-1007(b) of the DeSoto County Land Development Regulations:

- (1) 300 feet from any property line. The top of bank of excavation is a minimum of 300 feet from the property line.
- (2) 400 feet from any state highway or current or existing County arterial or collector road identified in the County's Comprehensive Plan - C.R. 769 is over 9,000 feet from the nearest boundary of the excavation operations;
- (3) 1,000 feet from any land use other than rural/agricultural or rural/residential future land use boundary at the time of application and from any zoning other than Agricultural 10 (A-10) or Industrial (I-L or I-H) – the excavation operations are over 3,400 feet from Low Density Residential land use;
- (4) 2,500 lineal feet measured in a straight-line method from any portion of a school site to any portion of an excavation site - There are no school sites in the vicinity of the excavation;
- (5) 1,000 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 - The nearest residence (Gant) is over 6,000 feet from the boundary of the excavation operations; and
- (6) One mile from any other excavation site – there are no other excavation sites within one mile of the subject excavation operations: The nearest excavation is located at 3785 C.R. 769, over 5 miles from the subject property. The adjacent mitigation bank and the Regional Water Authority's reservoir are exempted from the provisions of Division 3 – Excavation Management and are therefore not considered excavations from which the one mile separation applies.

The Development Director finds that the application is in **conformance** with this factor.

2. *Plans showing proposed locations for utilities hook-up.* County utilities are not available. All utility locations shall be included in the final submittal. Thus, this factor is **in conformance**.
3. *Plans for screening and buffering with reference as to type, dimensions and characters.* Screening and buffering are required in Sec. 20-1007(i)(3) Buffers. A Class B buffer shall be required in the first 100 feet of

setback from the property line along all other property lines. The buffers must be included in the final submittal. Thus, this factor is **in conformance** and must be addressed during Improvement Plan process.

4. *Plans for proposed landscaping and provisions for trees.* This factor is addressed elsewhere in the report. Thus, this factor is **not applicable**.
5. *Plans for proposed signs and lighting, including type, dimensions and character.* A non-illuminated sign identifying the entrance to the excavation will be placed in accordance with the sign regulations. All signs and lighting must be in compliance with the DeSoto County Land Development Regulations. Thus, the application is in **conformance** with this factor.

Based upon the findings and conclusions above, it is concluded the application demonstrates that the approval of the special exception use will be in harmony with the LDRs general intent and purpose, not be injurious to the neighborhood or to adjoining properties, or otherwise detrimental to the public welfare.

A. Staff review. LDR Section 20-1432 addresses staff review.

1. *Section 20-1432(a) provides that upon receipt of an application for Special Exception, the Development Director shall determine whether the application is complete. The Development Director may waive some or all of the plans required by Section 20-1431(1) if the Special Exception includes only a change in use without any new construction. If the application is complete, it will be accepted for review. If the application is incomplete, the Development Director shall specify in writing the additional information required in order for the application to be processed. No further action shall be taken on the application until the additional information is submitted and determined to be complete.* On June 11, 2020, the owners filed with the Development Department a special exception use application to allow for Type IV Excavation. Since then, the most recent submittal being on July 30, 2020. The Development Director subsequently determined the application was complete.
2. *Section 20-1432(b) states that after receipt of a complete application, the Development Director shall distribute the application for review by County staff and/or the Development Review Committee.* The Development Director caused the application to be distributed to Development Review Committee members.
3. *Section 20-1432(c) provides that upon completion of review, the Development Department shall prepare a staff report and schedule review of the application by the Planning Commission.* This Development Review Report is the staff report required by Section 120-1432(c). A draft copy was

provided to the Applicant/Owner for review and comment. The application is scheduled for the November 5, 2020, Planning Commission meeting. The application is also scheduled for the November 17, 2020, Board of County Commissioners public hearing agenda.

- B. Planning Commission findings.** LDR Section 20-1433 provides that before any Special Exception use shall be recommended for approval to the Board of County Commissioners, the Planning Commission shall make a written finding that the granting of the Special Exception Use will not adversely affect the public interest, that the specific requirements governing the individual Special Exception Use, if any, have been met by the applicant, and that satisfactory provisions and arrangements have been made concerning twelve (12) matters, where applicable. These 12 matters and staff's evaluation of conformance with these matters is addressed below.

1. *Compliance with all elements of the Comprehensive Plan.* The 2040 Future Land Use Map shows the subject property is located within the Rural/Agricultural Land Use district (See Exhibit B). This application is in **conformance** with all elements of the Comprehensive Plan.

Future Land Use Element

Objective 1.3: Rural/Agricultural Land Use Category Defined. *The intent of the Rural Land Use Category is primarily agricultural, pastoral, and rural residential development. This district is designed to accommodate traditional agricultural uses and conservatory measures, where appropriate, while protecting the rural areas of the County. The intent of this category is to permit a reasonable use of the property, at a gross density of no more than one dwelling per ten (10) acres. At the same time, the intent is to prevent the creation of conditions, which would endanger, damage, or destroy the agricultural base of the County, the environmental resources of the County, the potable water supply and the wildlife resources. The first priority of this category is agricultural use.*

Policy 1.3.1: *The primary use and function of the Rural/Agricultural areas, as designate on the Future Land Use Map, shall be to protect and encourage agricultural activities and to protect unique native habitats and maintain open space, while providing for rural residential uses. Policy 1.3.2: Agricultural uses, as defined by F.S. 193.461, are permitted within the Rural/Agricultural category. Additional setbacks are required for intense uses when adjacent to non-agricultural future land use categories and zoning districts*

Policy 1.3.8: *Phosphate mining/extraction and related land uses are allowed in the Rural/Agriculture land use category only when the area is included in the Generalized Phosphate Mining Overlay Designation and in accordance with the Generalized Phosphate Mining Overlay Designation objective and*

policies, as well as other policies within the Future Land Use Element and Conservation Element which apply to phosphate mining activity.

Though not expressly stated, DeSoto County has always interpreted its Rural/Agricultural land use category to include excavations. This is evident in Policy 1.3.1 which requires additional setbacks for more intense uses, and in Policy 1.3.8 which provides for phosphate mining, the most intense form of excavation, within the Rural/ Agricultural land use category. DeSoto's zoning code, which is intended to implement the comprehensive plan, expressly permits excavations as a special exception use.

The proposed excavation avoids all wetlands. Potential impacts to wetlands in the vicinity of the proposed excavation were modeled and studies by Progressive Water Resources. The report is provided as part of this application. Progressive Water Resources concluded:

The modeling scenarios performed as part of the proposed Boran Ranch Excavation were evaluated for potential impacts associated with the planned dewatering of the proposed 79.70- acre excavation to a depth of 31.5 feet bls. The results of the groundwater flow simulations indicate that the predicted impact from dewatering the proposed mining excavation is effectively contained using the proposed HBD (hydraulic barrier ditch) as designed. The maximum predicted drawdown at the nearest wetlands outside of the active project area is less than 0.1 feet for the simulated dewatering scenario in which the HBD was utilized. Therefore, adverse impacts to environmental features including wetlands and adverse impacts to adjacent property owners are not anticipated as long as the HBD system is constructed, operated and maintained as designed

The use of hydraulic barrier ditches furthers Objective 1.3's intent to prevent the creation of conditions which would endanger, damage or destroy the environmental resources of the County.

Policy 1.12.8: *On all existing parcels of land, development shall be located away from wetlands and floodplains on the upland portion of the site, unless otherwise permitted by an authorized agency and permissible within this Plan. Where no upland exists, development may occur so long as all applicable environmental permitting requirements can be satisfied. All future subdivision of land shall contain adequate uplands for the permitted use.*

Policy 1.12.9: *Resource extraction which will result in an adverse effect on environmentally sensitive areas which cannot be restored or mitigated for shall be prohibited.*

Policy 1.12.10: *Wetlands, rivers, streams, floodplains, habitat of threatened or endangered species and species of special concern, prime agricultural lands, prime groundwater recharge areas, historically significant sites or other environmentally sensitive areas which cannot be restored shall be identified*

by a property owner or developer prior to any development approval, and protected by a prohibition on mining activities within those areas and the establishment of buffer zones around them. Properties within the Generalized Phosphate Mining Overlay Designation as shown in FLUEMS-9, shall restore, mitigate, or reclaim such areas consistent with the requirements of the Generalized Phosphate Mining Designation (Future Land Use Element Objective 1.12b and its related policies) and the County's Phosphate Mining Ordinance.

The proposed excavation is completely located within an upland area, avoids all wetlands and protects proximate wetlands with substantial wetland buffers and through the use of a hydraulic barrier ditch.

Policy 1.14.2: Use Compatibility. *Compatibility between uses will be defined by level of density and intensity rather than by use, with the exception of large-scale public uses such as airports, regional hospitals, refineries and correctional institutions.*

The proposed excavation is located within a 4.347.41 acre ranch and is almost two miles from the nearest home. Other than agricultural uses, its nearest neighbors are a mitigation bank and the regional water authority's reservoir, both of which are about to undertake significant earth moving activities.

Policy 1.17.6: Curb cuts and points of access to the transportation system shall be minimized. *Developments shall be required to share driveways and provide cross access between adjacent properties.*

The haul route has one point of access onto C.R. 769. The haul route is shared with the neighboring mitigation bank.

Policy 1.17.2: Land uses that generate high traffic counts shall be encouraged to locate adjacent to arterial and collector roads.

The excavation property is located adjacent to C.R. 769, a collector road. The traffic study conducted by TR Transportation Consultants, Inc. and submitted as part of this application concludes:

Based upon the roadway link Level of Service analysis conducted as part of this report for the proposed request, the subject site meets the requirements set forth by Desoto County Comprehensive Plans and Land Development Regulations in that there is sufficient capacity available to accommodate the new trips that will be generated by the proposed excavation project.

Transportation Element

Objective 1.1: Level of Service. *The County shall adopt and adhere to level of service standards for arterial and collector streets. Policy 1.1.1: Service Standards. The County establishes the following peak hour /peak directional*

level of service standards for collector, arterial, local, and limited access facilities in the County.

ROADWAY TYPE	STATE ROAD URBANIZED AREA	STATE ROAD OUTSIDE URBANIZED AREA	COUNTY ROAD
Limited Access Facilities	D	C	D
Controlled Access Highway	D	C	D
Other Multi-Lane Roads	D	C	D
Two Lane Roads	D	C	D

Policy 1.1.2: Level of Service Maintenance. *The County shall maintain levels of service through its concurrency management system. Roads at or below the level of service shall be monitored at an even higher level to prevent future Level of Service deterioration.*

The traffic study conducted by TR Transportation Consultants, Inc. and submitted as part of this application concludes:

Based upon the roadway link Level of Service analysis conducted as part of this report for the proposed request, the subject site meets the requirements set forth by DeSoto County Comprehensive Plans and Land Development Regulations in that there is sufficient capacity available to accommodate the new trips that will be generated by the proposed excavation project.

Conservation Element

Policy 1.4.3: *The County shall identify and require the creation of upland buffer zones, in accordance with the regulations of the water management districts, between development and surface water, environmentally sensitive areas, and wetlands in order to protect these natural resources from the activities and impacts of development.*

Policy 1.4.5: *Buffer zones shall serve as protection to surface water from intrusive activities and impacts of development.*

The plan set for the proposed excavation, submitted as part of this application, establishes buffer zones around all adjacent wetlands.

Policy 1.4.7: *DeSoto County shall require all new development within the County to conform to the drainage level of service standards and design criteria of Southwest Florida Water Management District.*

The Applicant shall obtain a permit from the Southwest Florida Water Management District for all excavation activities prior to the start of construction.

Policy 1.5.2: *The County shall require that all development proposals be accompanied by evidence that an inventory of wetlands; soils posing severe limitations to construction; unique habitat; endangered species of wildlife and plants; significant historic structures and/or sites; has been conducted.*

Policy 1.5.16: *The County shall require the developer to have a qualified professional to identify and certify the limits of all wetlands on the development plan to identify and certify the limits of all wetlands on the development plans.*

An environmental assessment of the property was conducted by EarthBalance and is included as part of this application. The assessment found that the site contains no protected species or evidence of protected species utilization which would require permits from the U.S. Fish and Wildlife Service or the Florida Wildlife Commission. The site does contain some isolated wetlands. The concept plan for the proposed excavation would not impact any wetlands located on the site.

Policy 1.7.6: *DeSoto County shall require surface mines and excavation pits to be reclaimed in an environmentally sound fashion following the cessation of mining/excavation activities.*

Policy 1.7.7: *Mine/Excavation areas converted to pond or lake areas should be designed to resemble a natural pond with littoral zone shelves and contours; a deep open-water limnetic zone (open water where photosynthesis can occur) free of rooted emergent and submersed vegetation; and, where feasible, a buffer of upland vegetation.*

Policy 1.7.8: *Mine/Excavation areas shall be returned to their natural configuration through the replanting of native trees, shrubs, and understory vegetation.*

The plan set for the proposed excavation, submitted as part of this application, contain reclamation plans consistent with the above policies.

Policy 1.7.9: *Mine/Excavation operators shall be required to demonstrate a workable reclamation plan and proof of financial responsibility before excavation permits are issued.*

The plan set for the proposed excavation, submitted as part of this application, contain a workable reclamation plan. The Applicant shall enter into an

assurance agreement with the County and provide financial assurance to assure complete reclamation of the excavation site as required by Section 20-1006(c) of the DeSoto County, FL Code of Ordinances.

Policy 1.9.16: *Developers shall be required to identify wildlife habitat, and endangered and threatened species as part of the development review process, and shall be required to submit mitigation measures for review as part of the County's development review process.*

An environmental assessment of the property was conducted by EarthBalance and is included as part of this application. The assessment found that the site contains no protected species or evidence of protected species utilization which would require permits from the U.S. Fish and Wildlife Service or the Florida Wildlife Commission. The site does contain some isolated wetlands. The concept plan for the proposed excavation would not impact any wetlands located on the site.

2. *Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control and access in case of fire or catastrophe.*
 - a. Automotive safety and convenience. Ingress and egress was addressed elsewhere in this report.
 - b. Pedestrian safety and convenience. This property is located in the Rural/Agricultural Land Use District and does not have pedestrian facilities available.
 - c. Traffic flow and control. Ingress and egress was addressed elsewhere in this report.
 - d. Access in case of fire or catastrophe. The Development Plan shows ingress and egress to the property. Fire department access road shall be a minimum of 20' wide, turn radius shall be 35' and dead-ends not permitted more than 150' without approved turnaround. Fire department access roads shall remain unobstructed. The County Engineer notes that the applicant should coordinate with DeSoto County Fire Inspector to discuss emergency access. Based on the above, the application is in **conformance** with this factor, if the requirements are imposed.
3. *Off-street parking and loading areas, where required, and economic, noise, vibration, dust, glare or odor effects of the Special Exception on adjoining properties and properties generally in the district.* Issues generally related to off-street parking and loading has been addressed elsewhere in this report.

- a. Economic impacts. The application suggest that there will be minimal effects on the adjoining properties. Based on the above, it is concluded the application is in **conformance** with this factor.
- b. Noise impacts. The application suggests that negative noise impacts to the adjoining properties will be minimal. Based on the above, it is concluded the application is in **conformance** with this factor because noise impacts will not rise to the level of being bothersome.
- c. Vibration impacts. The application suggests that no blasting or rock crushing is proposed therefore no vibration effects are anticipated. It is concluded the application is in **conformance** with this factor.
- d. Dust impacts. The application suggests the proposed excavation will have a slight impact on air quality in the area surrounding the excavation and haul road up to an approximate half mile.

During the dry season the exposed surface layer of earth allows medium to large size particles to be released into the atmosphere which can be carried by wind to other areas at a rate of 0.2 m/s to 0.5 m/s. To reduce dust emissions the contractor will take extra measures by watering and grading the haul road to prevent a nuisance.

Stockpiles/Sorting – stockpiles/sorting will occur within the project limits and should be placed so as not to add any additional sediment to the construction. During the dry season stockpile areas will be watered weekly to reduce dust emissions. Stockpile areas are to be located in the designated areas per the development plans. If stockpiles are exposed beyond thirty (30) days they are to be mulched and/or seeded. To further reduce dust emissions stockpiles can be located in the excavation cell during the construction phase. Please also refer to the Best Management Practices in the Development Plans. Once the excavation has commenced it will be the contractor's responsibility to maintain the haul road, stockpiles, excavation cells, hydraulic barriers, etc. All activities shall be recorded and kept in the contractor's daily log. This shall include the watering events, erosions problem areas, accidents, safety procedures, etc. Based on the above, it is concluded the application is in **conformance** with this factor.

- e. Glare impacts. Glare is a visual sensation caused by excessive and uncontrolled brightness. The application suggests that there will be no glare impacts to the adjoining properties. The excavation will not utilize any on site lighting. Based on the above, it is concluded the application is in **conformance** with this factor.

- f. Odor impacts. The application suggests that there will be no odor effects anticipated from the excavation. Based on the above, it is concluded the application is in **conformance** with this factor.
4. *Utilities, with reference to locations, availability and compatibility*. Utilities were addressed elsewhere in this report.
5. *Screening and buffering with reference to type, dimensions and character*. Screening and buffering were addressed elsewhere in this report.
6. *Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effects, and compatibility and harmony with properties in the district*. Signs and lighting were addressed elsewhere in this report.
7. *Required yards and other open space*. The proposed excavation operations maintain the following yards required by Section 20- 1007(b) of the DeSoto County Land Development Regulations:
- a. 300 feet from any property line. The top of bank of excavation is a minimum of 300 feet from the property line.
 - b. 400 feet from any state highway or current or existing County arterial or collector road identified in the County's Comprehensive Plan - C.R. 769 is over 9,000 feet from the nearest boundary of the excavation operations;
 - c. 1,000 feet from any land use other than rural/agricultural or rural/residential future land use boundary at the time of application and from any zoning other than Agricultural 10 (A-10) or Industrial (I-L or I-H) – the excavation operations are over 3,400 feet from Low Density Residential land use;
 - d. 2,500 lineal feet measured in a straight-line method from any portion of a school site to any portion of an excavation site - There are no school sites in the vicinity of the excavation;
 - e. 1,000 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 - The nearest residence (Gant) is over 6,000 feet from the boundary of the excavation operations; and
 - f. One mile from any other excavation site – there are no other excavation sites within one mile of the subject excavation operations: The nearest excavation is located at 3785 C.R. 769, over 5 miles from the subject property. The adjacent mitigation bank and the Regional Water Authority's reservoir are exempted from the provisions of Division 3 – Excavation

Management and are therefore not considered excavations from which the one mile separation applies.

8. *General compatibility with adjacent properties and other property in the district.* Table 1 and Figure 1 show the subject property is located within an Agricultural-10 (A-10) zoning district.

TABLE 1
LAND USE AND ZONING

DIRECTION	EXISTING USE	LAND USE	ZONING
SITE	VACANT/AGRICULTURE	RA	A-10
NORTH	VACANT LAND	RA	A-10
SOUTH	VACANT LAND	RA	A-10
EAST	VACANT LAND	RA	A-10
WEST	VACANT LAND	RA	A-10

Sources: DeSoto County Property Appraiser (2019); DeSoto County Geographic Information System maps.

Based on the above, it is concluded the application is in **conformance** with this factor.

9. *Any special requirements set out in the zoning district regulations for the particular use involved.* The Development Director finds the LDR does impose special requirements in the A-10 zoning district with regard to Type IV excavation. Type IV excavation permitting is a multi-step process that must conform to the DeSoto County Land Development Regulations. Based on the above, it is concluded the application is **in conformance** with this factor and must be addressed during the Improvement Plan process.
10. *Public and private utilities, structures, or uses required for public or private utilities, including but not limited to wastewater, gas, electric, and telephone utilities, sanitary landfills, and radio and television stations and towers may be permitted only as a special exception use unless determined by the Board to be essential service. In addition to items 1 through 9 above, the review of the request for a Special Exception Use shall include consideration of a plan showing all improvements or alterations that are proposed for the utilities or facilities. The proposed location of such utilities or facilities shall be such as not to be injurious to the health, safety, and welfare of the public or surrounding*

*property owners, and shall protect the character of the surrounding property and maintain the stability of residential, commercial, manufacturing, agricultural, educational, cultural, and recreational areas within the County. The public benefit to be derived, the need for the proposed facilities, the existence of suitable alternative locations, potential impacts to surface or ground water drinking supplies, and whether the facility can properly be located on the site and in the development which it is to service shall also be taken into consideration where appropriate. Conditions in the form of screening, landscaping, or other site development restrictions may be imposed to protect the health, safety and welfare of the public or surrounding property owners. The special exception use application is not for a private or public utility. Thus, this factor or criteria is **not applicable**.*

11. *The proposed use shall not act as a detrimental intrusion into the surrounding area. The application suggests shall not act as a detrimental intrusion into the surrounding area. The site is located with the Rural Agricultural Lnd Use and is situated in a large tract of land. The Development Director concludes the application is in **conformance** with this factor.*
12. *The proposed use shall meet the performance standards of the district in which the proposed use is permitted. The A-10 zoning district does not establish minimum performance standards for the applicant's request. Thus, this factor or criteria is **inapplicable**.*

Sec. 20-1005 – Type IV Special Exception Review Criteria

The approval of the special exception permit application for a Type IV application shall depend on the following determinations by the Board of County Commissioners in addition to the special exception provisions on Article XI, Division 5 of this chapter:

- (1) That there are less than 15 active Type IV excavation operations (including those existing excavation areas that would be classified as such today) in the County;
There are currently two (2) active Type IV excavations operations in DeSoto County.
- (2) That there are not more than six Type IV excavation operations (including those existing excavation areas that would be classified as such today) already using the same collector or arterial roadways or segments within the County as part of their primary haul route;
There are no Type IV excavation operations utilizing the proposed haul route. There is one other Type IV excavation utilizing CR 769.
- (3) That any post development plan will have a positive future impact to the surrounding properties and the community;
The plan set for the proposed excavation, submitted as part of this application, contain reclamation plans consistent with the requirements of Se. 20-1007(p) of the DeSoto County Code of Ordinances. Post excavation, the resulting lake will be used to support the ongoing agricultural operations on the Boran Ranch

- and for recreational purposes by the property owners.*
- (4) That the application has indicated minimized negative impacts to the adjoining property owners; and
All required setbacks are maintained. Setbacks from residential properties are far in excess of the requirements. The applicant has submitted studies establishing that the excavation will have no impacts on protected plants and species, wetlands, groundwater resources or transportation facilities. Procedures to minimize dust will be implemented. The proposed excavation is located within a 4347.41 acre ranch and is over one (1) mile from the nearest home. Other than agricultural uses, its nearest neighbors are a mitigation bank and the regional water authority's reservoir.
- (5) The application has met all of the requirements herein.
The requirements of Division 3. Excavation Management, DeSoto County, Code of Ordinances have been met. The applicant has submitted a completed application for Special Exception, a full set for proposed excavation, including reclamation plans, required buffers, haul rout details and hydraulic barrier details. Studies examining the impacts of the proposed excavation on protected plant and animal species, wetlands, groundwater resources and traffic accompany this application.

In conclusion, based upon the totality of the circumstances as documented herein, the Development Director finds the application includes material necessary to demonstrate, with competent substantial evidence, that granting of the special exception use will not adversely affect the public interest, that the specific requirements governing the individual special exception use application have been met by the applicant, and that satisfactory provisions, arrangements or conditions have been made concerning the above 12 factors and the 5 additional review criteria.

C. Public notice requirements. LDR Section 20-1439(c) requires notice of the date, time and place of the public hearings by the Planning Commission and Board of County Commissioners shall:

1. Be sent at least 10 days in advance of the hearings by mail to ten surrounding property owners or all owners of property within 1,000 feet of the property line of the land subject to the special exception use application; and
2. Have at least one sign posted on each road frontage; and
3. Be advertised in a newspaper of general circulation in DeSoto County at least 10 days prior to each public hearing.

The Development Department staff caused written notice of the hearings to be mailed to all property owners and such notice is on file with the Development Department and incorporated herein by reference.

ATTACHMENTS

- Exhibit A: General Location Map
- Exhibit B: Interim 2040 Future Land Use Map, Excerpt
- Exhibit C: Official Zoning District Atlas, Excerpt
- Exhibit D: LDR Sec. 20-1006 and Sec. 20-1007
- Exhibit E: Boran Ranch Excavation Plan

RECOMMENDED CONDITIONS

1. The Final Construction Plan submittal shall include Fire department access road shall be a minimum of 24' wide. A detail shall be provided of the access road load limit.
2. Proposed structure shall comply with all applicable Florida Building and Fire Codes.
3. Fire Flow shall be provided for fire suppression and shall be demonstrated on the Improvement Plan.
4. Structures shall comply with the Florida Building and Florida Fire Prevention Codes for occupancy classification.
5. It is the applicant's responsibility to obtain any state or federal permits required for the subject activities.
6. All final construction plans for the excavation permit must comply with the DeSoto County Land Development Regulations, Sec 20-1006. Type II, III and IV construction plan submittal.
7. All final submittals must comply with the DeSoto County Land Development Regulations, Sec 20-1007 Type II, III and IV minimum design standards and requirements.

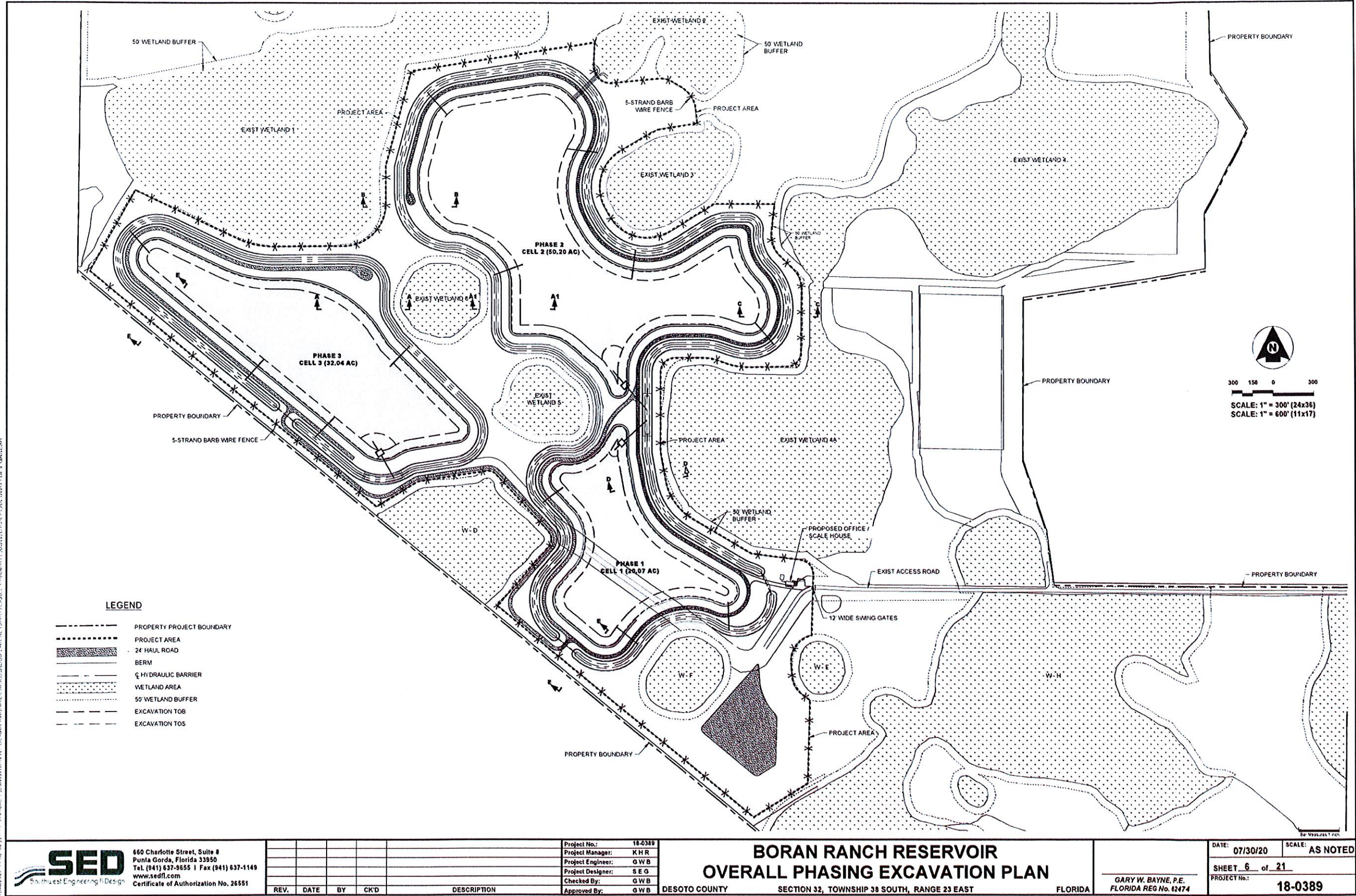
8. This special exception use shall be expire within five years of the effective date of this resolution but may be extended for additional five-year periods upon a Board finding that circumstances have not materially changed, Sec. 20-1434(c).

ALTERNATIVE ACTIONS

- A. Enter into the record the Development Review Report, and all other competent substantial evidence presented at the hearing, adopt the findings and conclusions contained herein, and make a recommendation to the Board of County Commissioners to adopt the proposed Resolution.
- B. Enter into the record the Development Review Report and all other competent substantial evidence presented at the hearing, adopt the findings and conclusions contained herein and make a recommendation to the Board of County Commissioners to deny the proposed Resolution.
- C. Enter into the record the Development Review Report and all other competent substantial evidence presented at the hearing, amend the findings and conclusions contained herein to support any necessary conditions, and make a recommendation to the Board of County Commissioners to adopt the proposed Resolution with the conditions.
- D. Enter into the record the Development Review Report and all other competent substantial evidence presented at the hearing, identify any additional data and analysis needed to support the proposed Resolution, and make a recommendation to the Board of County Commissioners to table for up to six months in order to allow staff time to provide the identified data and analysis needed to make an informed recommendation on the proposed Resolution.

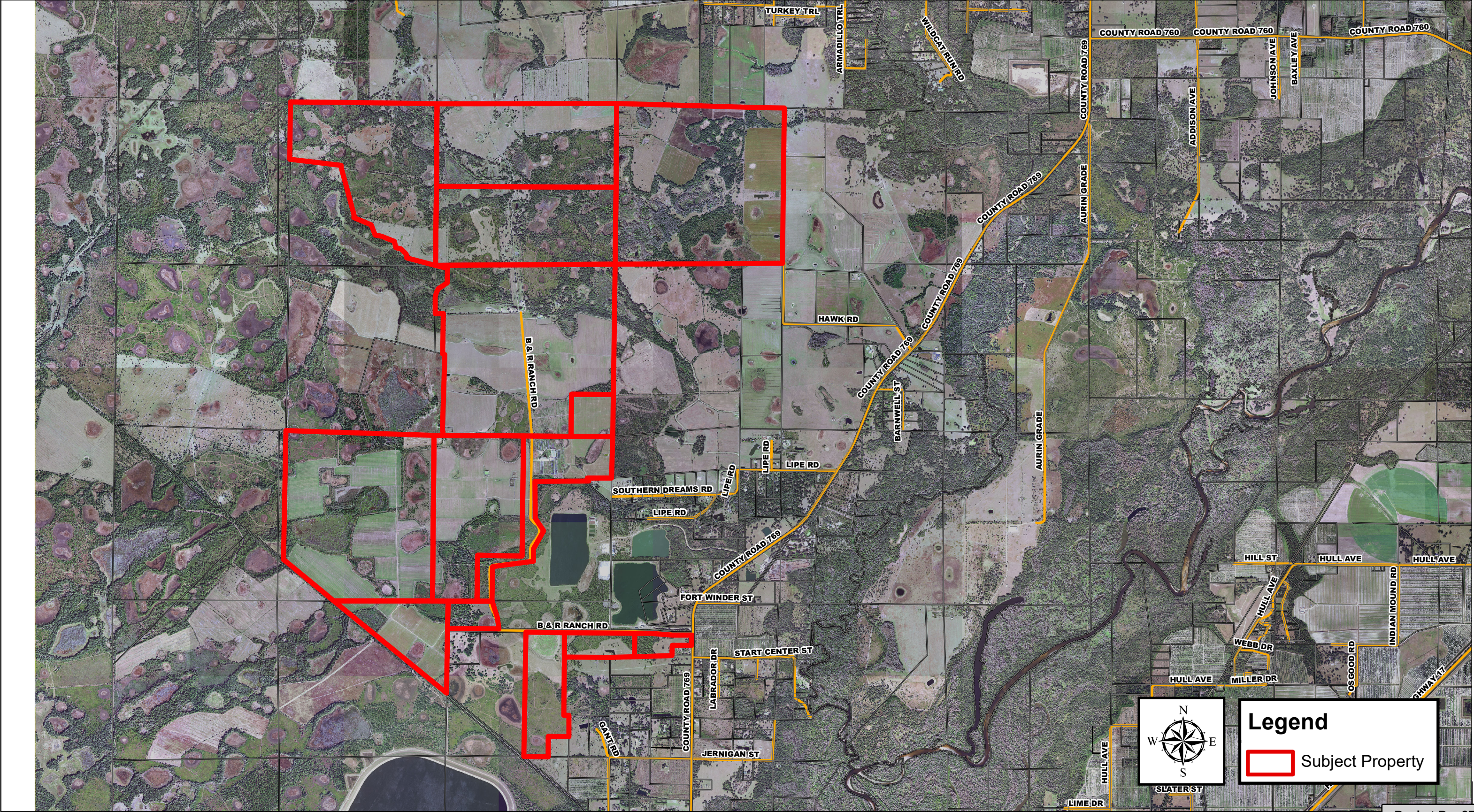
RECOMMENDED ACTION

- A. Recommendation. The Development Director recommends the DeSoto County Planning Commission enter into the record the Development Review Report and all other competent substantial evidence presented at the hearing, and a recommendation to the Board of County Commissioners to adopt the findings and conclusions contained herein and adopt the proposed Resolution with conditions.
- B. Planning Commission: Scheduled for November 5, 2020
- C. Board action. Scheduled for November 17, 2020



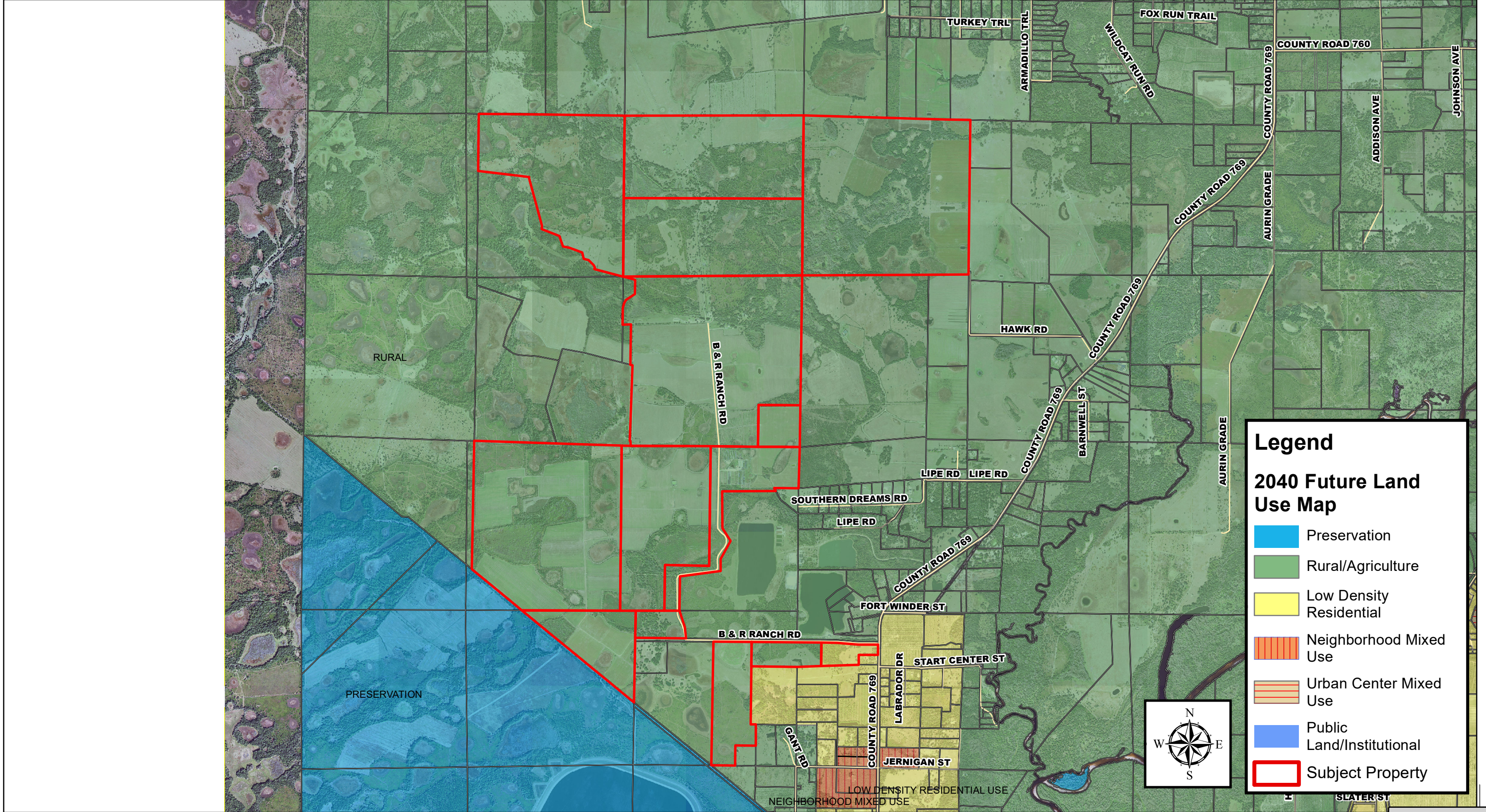
Attachment: BORAN RANCH SITE PLAN (3474 : Resolution/Boran Ranch)

LOCATION MAP
USE-0042-2020 BORAN RANCH
EXHIBIT A

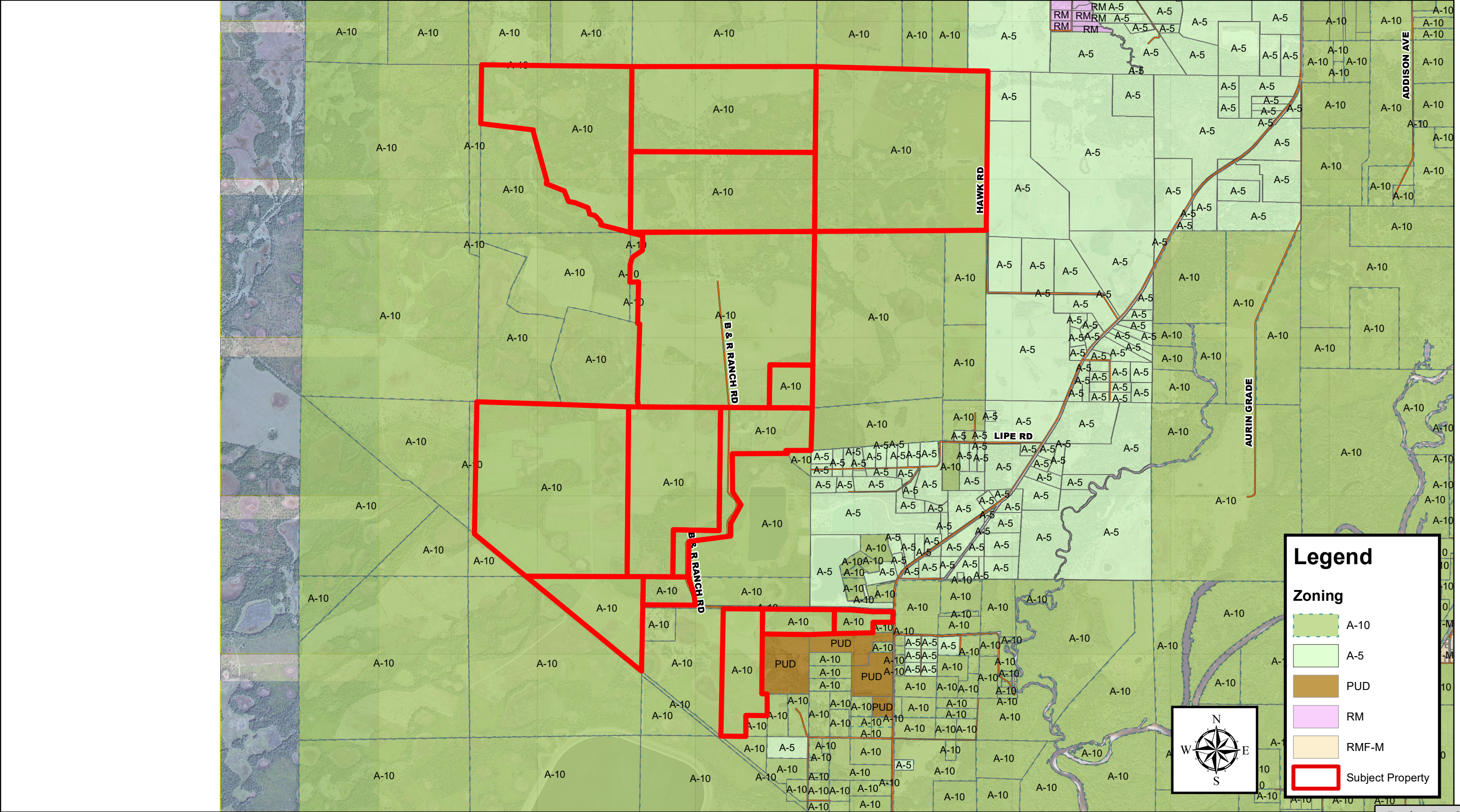


Attachment: Exhibit A Map (3474 : Resolution/Boran Ranch)

LAND USE MAP
USE-0042-2020 BORAN RANCH
EXHIBIT B



ZONING MAP
USE-0042-2020 BORAN RANCH
EXHIBIT C



Attachment: Exhibit C Map (3474 : Resolution/Boran Ranch)