

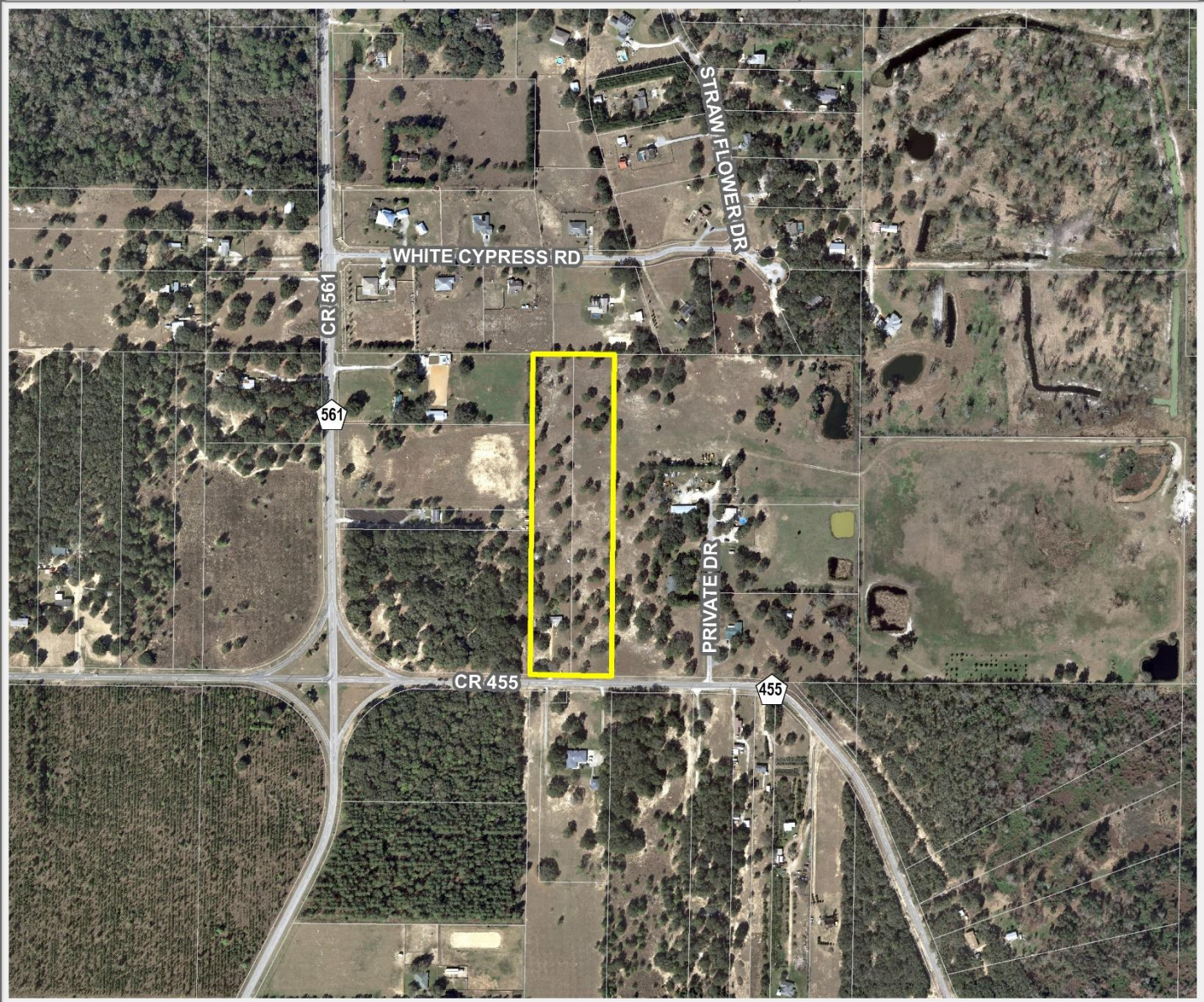
LAKE COUNTY PLANNING AND ZONING DIVISION  
CONDITIONAL USE PERMIT STAFF REPORT

PLANNING AND ZONING BOARD  
April 27, 2016



BOARD OF COUNTY COMMISSIONERS  
May 17, 2016

<p><b>CUP-16-01-3</b> Green Property Amendment</p>	<p><b>District 3</b></p>	<p><b>Agenda Item #5</b></p>
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**Requested Action:** Amend Conditional Use Permit (CUP) #874-3 with a replacement ordinance to reflect a reconfigured land use area.

**Owner:** Viola Green (the "Owner")

**Applicant:** Leo Paul and Tracy Lynn Green (the "Applicants")

**- Site Location & Information -**

<b>Size</b>	10 +/- acres
<b>Location</b>	West of the intersection of CR 561 and CR 455
<b>Alternate Key No.</b>	2610531 and a five (5) acre portion of 1508401
<b>Future Land Use</b>	Rural
<b>Existing Zoning District</b>	Agriculture + CUP 874-3
<b>Proposed Zoning District</b>	Agriculture + CUP 16-01-3
<b>Joint Planning Area/ ISBA</b>	None

**-Land Use Table-**

<u>Direction</u>	<u>Future Land Use</u>	<u>Zoning</u>	<u>Existing Use</u>	<u>Comments</u>
<b>North</b>	Rural	Agriculture Residential (AR)	Brightstar Acres Subdivision	Single Family Residences on two (2) acre lots
<b>South</b>	Rural	Agriculture (A)	County Road 455	Single Family residences on south side of CR 455
<b>East</b>	Rural	Agriculture (A)	Vacant	Timber and Improved Pasture
<b>West</b>	Rural	Agriculture (A)	Residences and Undeveloped land	Single Family residences on large lots

**- Summary of Staff Determination -**

**STAFF RECOMMENDATION:** Staff recommends **APPROVAL** to amend CUP #874-3 with a replacement ordinance to reflect a reconfigured land use area

**PLANNING AND ZONING BOARD RECOMMENDATION:**

**- Summary of Analysis -**

Conditional Use Permit (CUP) 874-3 (Attachment #1) was approved on August 9, 1983 to allow Leo Green, the applicant/permittee, to operate and maintain equipment to be used for land clearing and grove maintenance on a twenty-five (25) acre parcel in the Astatula area. The CUP also allowed the permittee to construct a 3,000 square foot barn to park and store the equipment needed for the business.

In February 2016, Viola Green (the current property owner), applied for a lot line deviation in order to give five (5) acres of her twenty-five (25) acre property to her son who lives on a five (5) acre property to the west. At that time Mrs. Green indicated that she no longer wanted the CUP on her property but would rather have the CUP revised to affect only her son's property. The CUP amendment is required to facilitate the lot line deviation and adjust the property newly configured land area for the CUP.

The CUP to operate the land clearing business at this location is still required because it remains inconsistent with LDR Section 10.01.05 *Home Occupations*. Home occupations are allowed as an accessory use in a bona fide dwelling unit or accessory building on the same lot as the dwelling unit in all zoning districts that allow residential uses. The land clearing business does not meet the criteria of a home occupation because more than one (1) individual outside the immediate family assists in the operation of the home occupation; traffic is generated by the business in greater volumes than would normally be expected from the residential use; the business requires the outdoor storage of materials and mechanical equipment; and the business operations may include off-site impacts greater than those associated by a residential use.



The proposed CUP ordinance includes a revised legal description of the proposed property to be created from the lot line deviation and consists of 10+/- acres. If the CUP amendment is approved, the lot line deviation may then be approved to allow the land exchange by Ms. Green to her son.

– Analysis –

LDR Section 14.05.03 (Standards for Review)

**A. Consistency with the Comprehensive Plan and Local Code (Land Development Regulations).**

The application is consistent with Land Development Regulations (LDR) Section 3.01.03 which describes the permitted uses allowed within the Agriculture zoning district. The proposed use is consistent with the definition of Agriculture which allows croplands, silviculture, and buildings accessory to agriculture uses. The business operations require the storage of equipment to clear/maintain agriculture properties; this equipment could be found with other agricultural operations. The proposed use is more intense than the impacts associated with home occupations and general agriculture uses so a CUP is required to mitigate the adverse impacts anticipated by the business operations. According to LDR Section 3.01.03, obnoxious uses are a conditional use within the Agriculture zoning district.

**B. Effect on Adjacent Properties.**

**1. The proposed conditional use will not have an undue adverse effect upon nearby property.**

The subject property consists of 10 +/- acres and is surrounded by agriculturally zoned lands. The property's primary use is a single family residence and the land clearing business operation will be an accessory use. The property will primarily be used to store equipment and supplies for the land clearing operation. The equipment stored on the property would be equipment typically found on an agriculturally zoned property to maintain the land and would not be uncharacteristic for the surrounding area.

**2. The proposed conditional use is compatible with the existing or planned character of the neighborhood in which it would be located.**

The land clearing business has been in operation on this property for more than thirty years and is situated in a rural area. The property is surrounded by agriculturally zoned lands within the Rural FLUC. The structures and storage areas associated with the land and grove clearing business are located behind the existing single family residence so the character of the area is maintained.

**3. All reasonable steps have been taken to minimize any adverse effect of the proposed conditional use on the immediate vicinity through design, landscaping, and screening.**

The concept plan shows that the equipment storage area will be fenced which will serve as a buffer between the subject property and the adjacent property. Any new structure, including the proposed workshop, will setback twenty-five (25) feet from the side and rear property lines.

**4. The proposed conditional use will be constructed, arranged, and operated so as not to interfere with the development of neighboring property, in accordance with applicable district regulations.**

The structures and storage areas associated with the land and grove clearing business are located behind the existing single family residence. The surrounding area is part of the Rural Future Land Use Category and is predominantly developed with agriculture lands and single family residences on large lots.

**C. Adequacy of Public Facilities.**

**The proposed conditional use will be served by adequate public facilities including but not limited to police, roads, sewage facilities, water supply, drainage, solid waste, parks and recreation, schools, and fire and emergency medical facilities. Levels of service established by the Comprehensive Plan Shall be considered.**

There are no additional development impacts anticipated by the CUP amendment, which merely reconfigures the CUP land area.

**D. Adequacy of Fire Protection.**

The applicant shall obtain from the Lake County Emergency Services Division written confirmation, or has otherwise demonstrated by substantial credible evidence, that water supply, evacuation facilities, and emergency access are satisfactory to provide adequate fire protection.

The Lake County Fire Rescue Station 83 is located 4.4 miles away from the subject property.

**FINDINGS OF FACT:** Staff has reviewed the application for this rezoning request and found:

1. The proposed rezoning is consistent with Comprehensive Plan Policy I-1.4.4 *Rural Future Land Use Category*, which allows agriculture uses as a permitted use; and
2. The request is consistent with LDR Section 3.01.03, which allows similar uses which are no more detrimental than those permitted uses as a conditional use within the Agriculture zoning district; and
3. The proposed rezoning is consistent with LDR Section 3.00.02 (C) ("Purpose and Intent of Districts"), which describes the intent of the Agriculture zoning district.

Based on these findings of fact, staff recommends **Approval** of the conditional use permit amendment, with conditions, as specified in the proposed Ordinance.

**Case Manager:** Michele Janiszewski, Planner

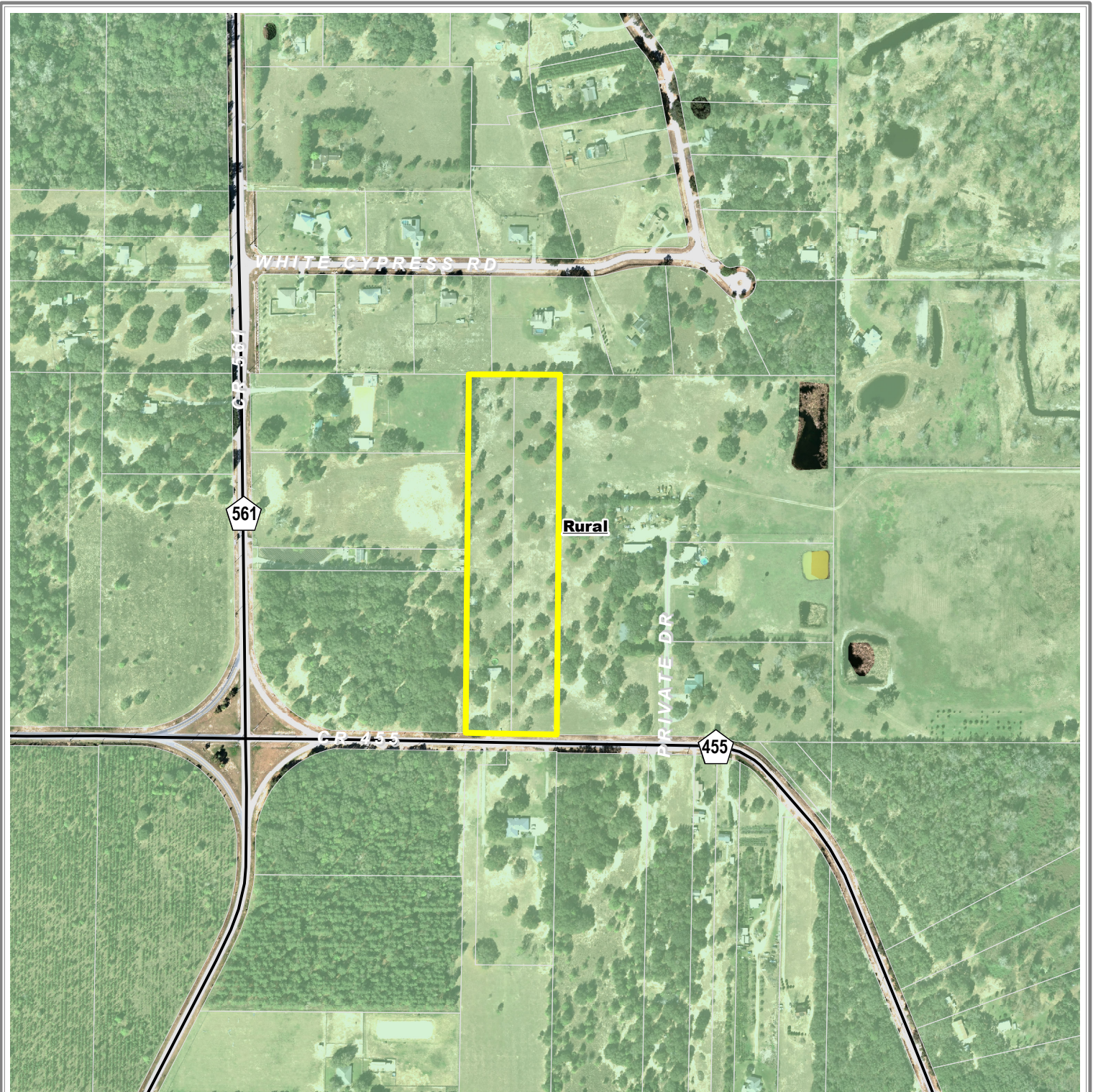
**WRITTEN COMMENTS FILED:**

**Support: -0-**

**Questions: -0-**

**Opposition: -0-**

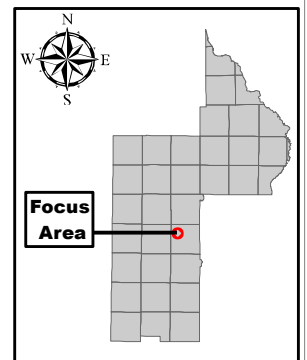




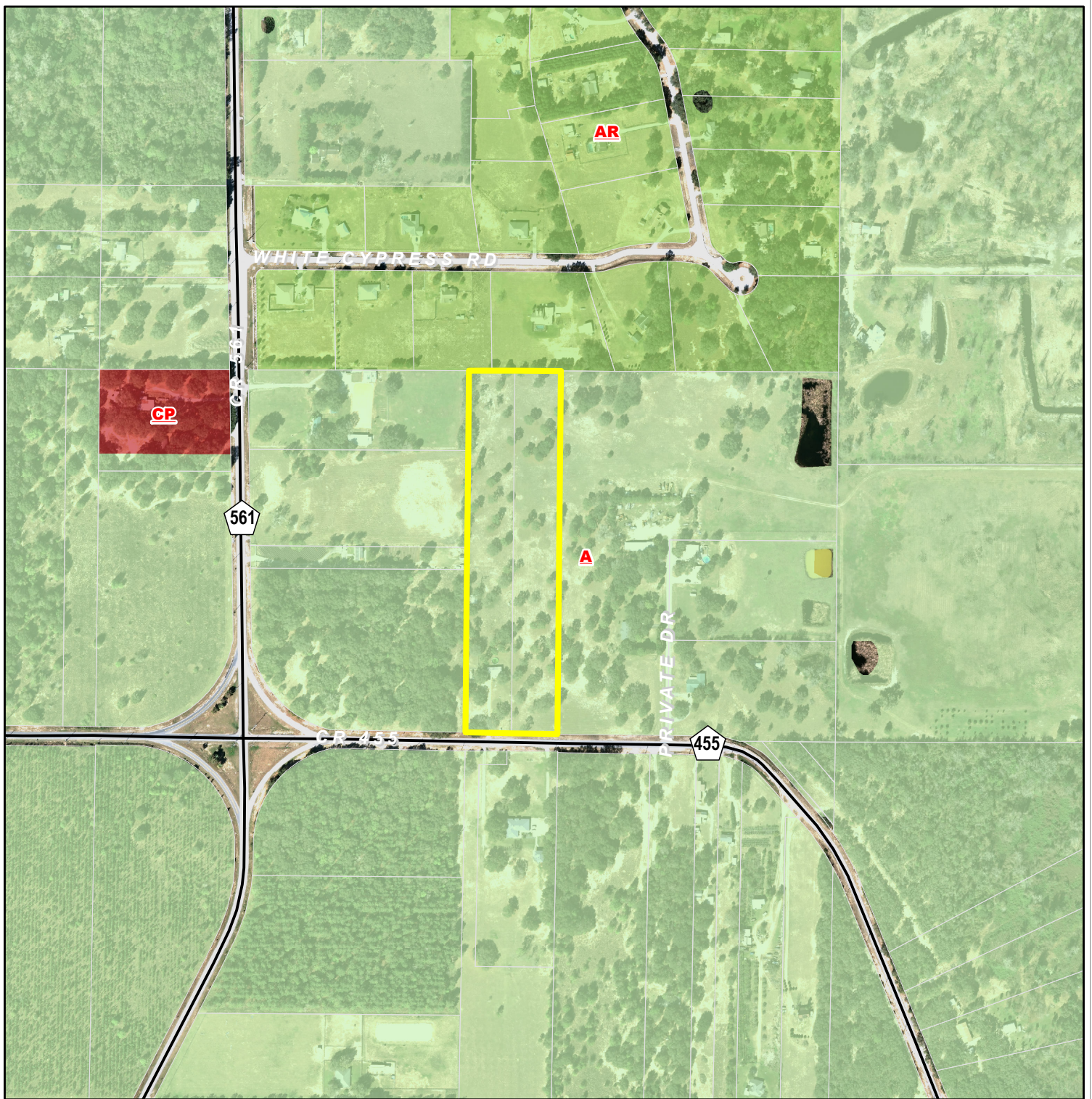
**FUTURE LAND USE LEGEND**

- |                                |  |                     |                      |
|--------------------------------|--|---------------------|----------------------|
| Bella Collina                  | Heavy Industrial                           | Recreation          | Urban Low Density    |
| Cagans Crossing                | Mt Plymouth-Sorrento Main Street District  | Regional Commercial | Urban Medium Density |
| Conservation                   | Mt Plymouth-Sorrento Neighborhood          | Rural               |                      |
| Green Swamp Core Conservation  | Mt Plymouth-Sorrento Receiving Area        | Rural Transition    |                      |
| Green Swamp Ridge              | Regional Office                            | Sending Area A-1-20 |                      |
| Green Swamp Rural              | Public Service Facility and Infrastructure | Sending Area A-1-40 |                      |
| Green Swamp Rural Conservation | Receiving Area A-1-20                      | Urban High Density  |                      |

**NAME: VIOLA GREEN**  
**CASE NUMBER: CUP-16-01-3**  
**LOCATION (S-T-R): 08-21-26**  
**REQUEST: AMEND CONDITIONAL USE PERMIT**



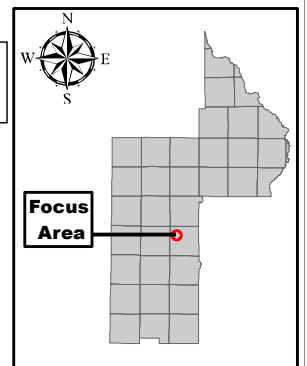




**ZONING LEGEND**

A	RA	R-2	R-4	R-7	RMRP	RV	C-2	LM	MP	PUD
AR	R-1	R-3	R-6	RP	RM	C-1	CP	HM	CFD	

**NAME: VIOLA GREEN**  
**CASE NUMBER: CUP-16-01-3**  
**LOCATION (S-T-R): 08-21-26**  
**REQUEST: AMEND CONDITIONAL USE PERMIT**



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**Ordinance 2016-XX  
Green Property Amendment  
CUP-16-01-3**

**AN ORDINANCE OF THE LAKE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING THE LAKE COUNTY ZONING MAPS; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, Leo Paul and Tracy Lynn Green (the “Applicants”), on behalf of Viola Green (the “owner”) has made a request to amend the existing Conditional Use Permit by rescinding and replacing Conditional Use Permit (CUP) 874-3 with a new CUP ordinance to operate and maintain equipment to be used for land clearing and grove maintenance on a reconfigured land area; and

**WHEREAS**, the subject property consists of 10+/- acres and is generally located in the Minneola area at 21330 County Road 455, in Section 08, Township 21 South, Range 26 East, consisting of Alternate Key Number 2610531 and a portion of Alternate Key Number 1508401, and more particularly described as:

**LEGAL DESCRIPTION: [EXHIBIT “A” – ATTACHED]**

**WHEREAS**, CUP 874-3 was originally approved by the Board of County Commissioners on August 9, 1983 to allow the permittee to operate and maintain equipment to be used for land clearing and grove maintenance business; and

**WHEREAS**, the applicants wish to amend the legal description of the CUP to allow the use to continue on a portion of the original property and the adjacent property to the west; and

**WHEREAS**, CUP 874-3 will be rescinded and replaced with this new CUP ordinance upon its adoption; and

**WHEREAS**, the subject property is located within the Rural Future Land Use Category as shown on the Lake County Comprehensive Plan Future Land Use Map (FLUM); and

**WHEREAS**, the Lake County Board of County Commissioners deems it necessary and desirable, in order to protect the public health, safety, and general welfare of the citizens of Lake County and in accordance with the purpose and intent of the Land Development Regulations (LDR), to require compliance with the special conditions herein after set forth; and

**WHEREAS**, this Conditional Use Permit was reviewed by the Lake County Planning & Zoning Board on April 27, 2016 and by the Board of County Commissioners of Lake County, Florida, on May 17, 2016; and

**NOW THEREFORE, BE IT ORDAINED** by the Board of County Commissioners of Lake County, Florida, that the Land Development Regulations of Lake County, Florida, be altered and amended as they pertain to the above subject property, subject to the following terms:

**Section 1.** Permission is hereby granted to operate and maintain equipment to be used for land clearing and grove maintenance as a Conditional Use within the Agriculture Zoning District.

**Section 2.** Terms: The County Manager or designee shall amend the Official Zoning Map to reflect the amended Conditional Use Permit conditions outlined within this Ordinance, which shall supersede and replace CUP 874-3.



1       **A. Land Use.** The use of the site shall allow the uses specified below and consistent with Exhibit “B”,  
2       the Conceptual Plan:

- 3           a. Workshop in conjunction with the land clearing and grove maintenance business
- 4           b. Equipment storage area
- 5           c. Parking area for business related vehicles

6       Accessory uses directly associated with the above uses may be approved by the County  
7       Manager or designee. Any other use of the site not specified above shall require approval of an  
8       amendment to this Ordinance by the Board of County Commissioners.

9       To the extent where there are conflicts between the Conceptual Plan and this Ordinance, the  
10       Ordinance shall take precedence.

11       **B. Specific Conditions**

- 12           a. No outdoor activities shall occur between the hours of 9:00 p.m. to 6:00 a.m.
- 13           b. The business shall be subject to all applicable County business tax requirements, fees, and  
14           other business taxes.

15       **C. Impervious Surface Ratio (ISR)** shall be a maximum of 0.30 in accordance with the Comprehensive  
16       Plan, as amended.

17       **D. Open Space, Floor Area Ratio, and Building Height** shall be in accordance with the  
18       Comprehensive Plan and Land Development Regulations (LDR), as amended.

19       **E. Utilities:** Prior to issuance of building permits, septic permits must be applied for and approved by  
20       the Department of Health.

21       **F. Setbacks:** All new structures shall meet the setbacks established in the LDR, as amended.

22       **G. Landscaping, Buffering, and Screening:** Existing landscape shall be preserved and maintained to  
23       the greatest extent possible. Any landscaping required for future expansions or redevelopment shall  
24       be consistent with the LDR, as amended.

25       **H. Lighting:** Exterior lighting shall not illuminate adjacent properties or Rights-of-Way, consistent with  
26       Dark-Sky Principles, and in accordance with the LDR, as amended.

27       **I. Signage:** Signs shall be in accordance with the LDR, as amended.

28       **J. Stormwater Management:** Future redevelopment shall be in accordance with SJRWMD  
29       Stormwater requirements and LDR, as amended.

30       **K. Concurrency Management Requirements:** Any development shall comply with the Lake County  
31       Concurrency Management System, as amended.

32       **L. Future Amendments to Statutes, Code, Plans, and/or Regulations:** Development application  
33       approval shall be required prior to the commencement of the land clearing business operations. The  
34       specific references in this Ordinance to the Florida Statutes, Florida Administrative Code, Lake  
35       County Comprehensive Plan, and Lake County Land Development Regulations shall include any  
36       future amendments to the Statutes, Code, Plans, and/or Regulations.

37       **Section 3. Conditions** as altered and amended which pertain to the above tract of land shall mean:



- 1        **A.** In the event of any breach in any of the terms or conditions of this permit or any default or failure of
- 2        the Permittee or his successor to: Fulfill development in substantial accordance with the conceptual
- 3        plan as submitted to the Planning & Zoning Board and the Board of County Commissioners; comply
- 4        with the codes of the governmental agencies having lawful and appropriate jurisdiction thereon; or
- 5        comply with any of the terms of the Conditional Use Permit; or if this CUP is found to become a
- 6        nuisance or safety hazard, the permit may be revoked after due Public Hearing before the Planning
- 7        & Zoning Board and the Board of County Commissioners.
  
- 8        **B.** This Conditional Use Permit shall inure to the benefit of, and shall constitute a covenant running with
- 9        the land; and the purpose, terms, and conditions contained herein shall be binding upon the
- 10       Permittee or any successor and his interest hereto.
  
- 11       **C.** Action by the Lake County Code Enforcement Special Master. The Lake County Code Enforcement
- 12       Special Master shall have authority to enforce the terms and conditions set forth in this ordinance
- 13       and to recommend that the ordinance be revoked.
  
- 14       **D.** Inspection. This use shall be inspected by the Code Enforcement Division annually to ensure
- 15       compliance with the conditions of this Conditional Use Permit and the approved site plan. An annual
- 16       inspection fee will be assessed. If an emergency inspection is necessary during non-operating hours,
- 17       a fee shall also be assessed.

18       **Section 4. Severability:** If any section, sentence, clause or phrase of this Ordinance is held to be invalid or

19       unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect

20       the validity of the remaining portions of this Ordinance.

21       **Section 5. Filing with the Department of State.** The clerk shall be and is hereby directed forthwith to send

22       a copy of this Ordinance to the Secretary of State for the State of Florida in accordance with

23       Section 125.66, Florida Statutes.

24       **Section 6. Effective Date. This Ordinance shall become effective as provided by law.**

25       **ENACTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

26       **FILED** with the Secretary of State \_\_\_\_\_, 2016.

27       **EFFECTIVE** \_\_\_\_\_, 2016.

28       **BOARD OF COUNTY COMMISSIONERS**

29       **LAKE COUNTY, FLORIDA**

30       \_\_\_\_\_

31       **SEAN M. PARKS, CHAIRMAN**

1 **ATTEST:**

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5 \_\_\_\_\_  
6 **NEIL KELLY, CLERK OF THE**  
7 **BOARD OF COUNTY COMMISSIONERS**  
8 **LAKE COUNTY, FLORIDA**

8

9 **APPROVED AS TO FORM AND LEGALITY**

10

11 \_\_\_\_\_  
12 **MELANIE MARSH, COUNTY ATTORNEY**

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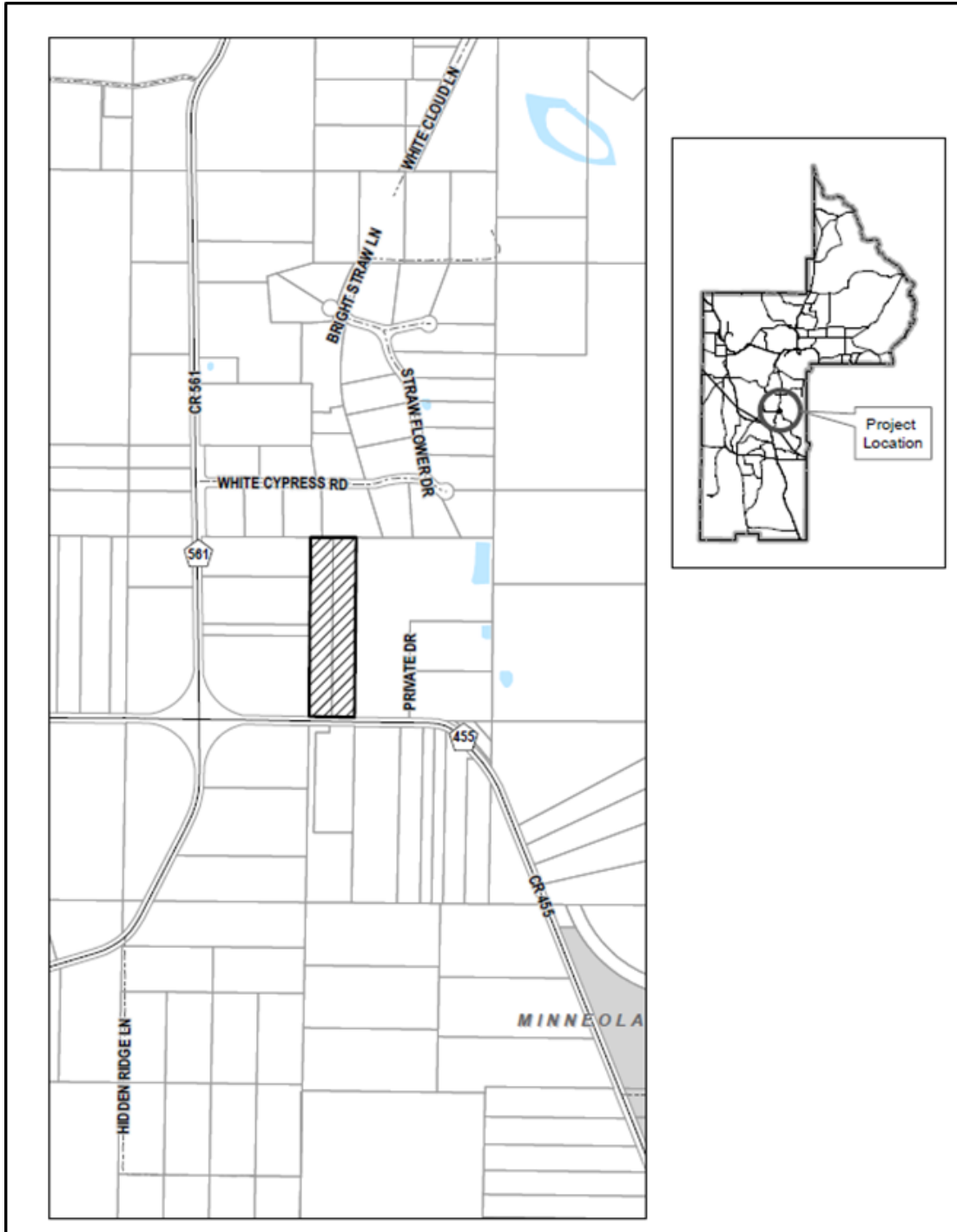
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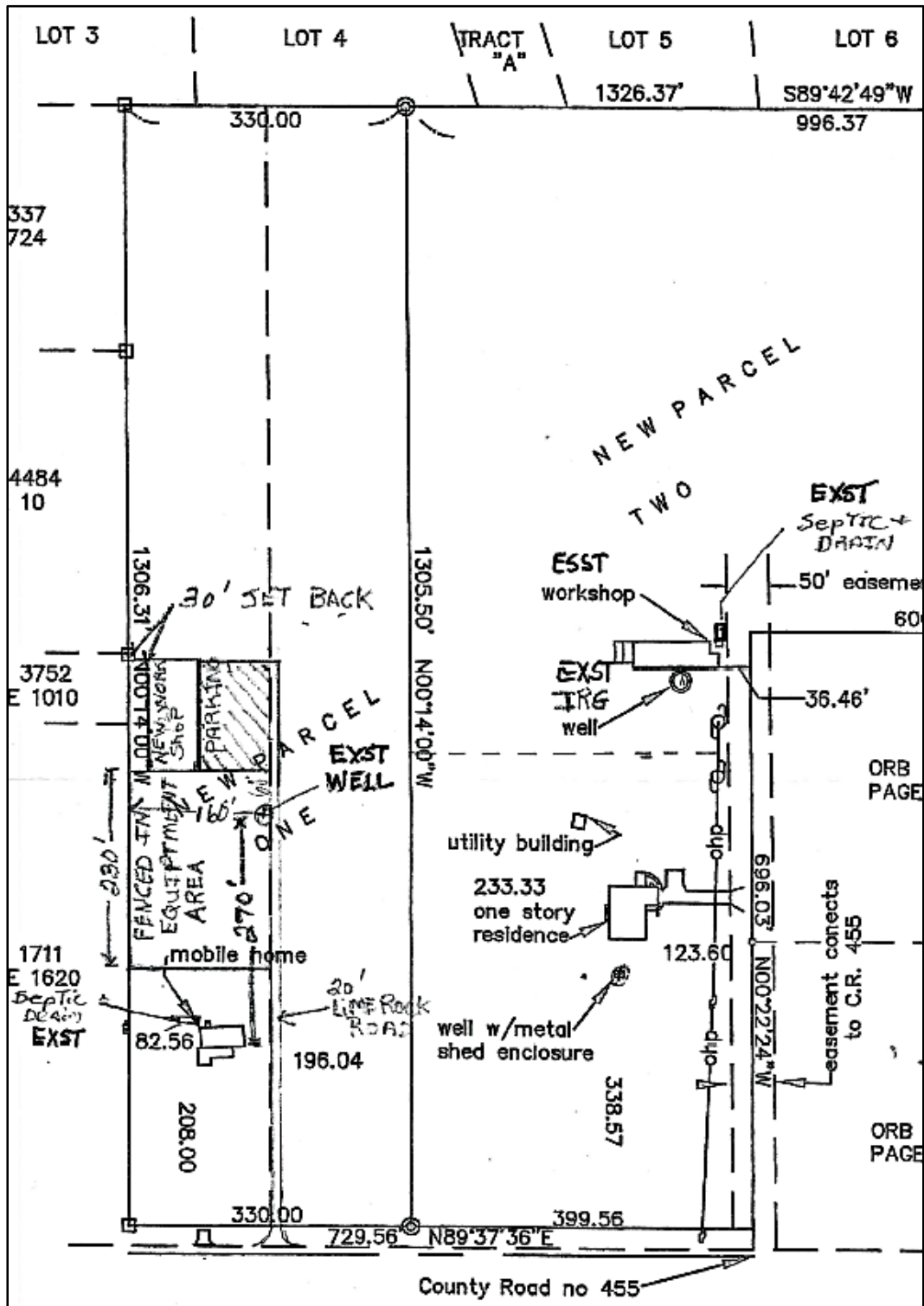
### Exhibit A. Legal Description

The West 330 feet of the SE ¼, of the SW ¼ of Section 8, Township 21 South, Range 26 East, Lake County, Florida. Less Road Right of Way.



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### Exhibit B. Concept Plan



4



# Attachment #1 (3 Pages)

CONDITIONAL USE PERMIT #874-3

BUILDING  
AUG 19 1983

This Conditional Use Permit is granted by the Board of County Commissioners of Lake County, Florida, to LEO GREEN, "Permittee", for the purpose and the terms, and the conditions as set out herein pursuant to authority contained in Article VIII, Section 80, Paragraph 80.111 of the Lake County Zoning Regulations, Ordinance 1971-6, as amended.

Background: The "Permittee" is desirous of constructing a three-thousand (3,000) square foot barn to park and store equipment to be used for land clearing and grove maintenance.

1. Purpose. Permission is hereby granted to Leo Green, "Permittee", to operate and maintain equipment to be used for land clearing and grove maintenance in and on real property in Lake County located in the Astatula Area: From C-561 proceed E on C-455 about 3/10 mile to property on the N side of the road. The property is more particularly described as:

LEGAL DESCRIPTION: Beg. SW corner SE $\frac{1}{4}$  of SW $\frac{1}{4}$ , proceed E 165 ft. to POB; continue E 555 ft.; thence N 721 ft.; thence E 600 ft.; thence N 599 ft.; thence W 1155 ft.; thence S to POB. (8-21-26)

2. Terms. The storage and maintenance facility for land clearing and grove maintenance equipment shall mean and include the following:
  - A. Structures. Any structure normally associated with said facility and approved by the Director of Planning.
  - B. Setbacks. All storage buildings shall maintain a twenty-five (25) foot setback from side property lines and a fifty (50) foot setback from C-455.
  - C. Parking. Sufficient parking shall be provided to enable trucks and other vehicles to turn around on the property and not back onto the road when leaving the property.
  - D. Lighting. All outdoor lighting shall be so shaded and adjusted the light therefrom is directed to fall only on the same premises where such light sources are located.
  - E. Screening: All storage areas shall be screened on all sides having frontage on streets, roads, highways and easements used for ingress and egress. Storage areas shall also be screened on all sides abutting a residential zoning district or existing residence. Such screening shall be a continuous and consistent fence or wall constructed of a substantial and durable material such as concrete, blocks, redwood, or similar type of material, of a sufficient height and design so as to effectively hide from view any material or vehicles located behind such fence or enclosure.
3. Conditions of this Permit shall mean:
  - A. In the event of failure of the Permittee to: Fulfill development in substantial accordance with the plans as submitted to the Planning and Zoning Commission and the Board of County Commissioners; comply with the codes of the governmental agencies having lawful and appropriate jurisdiction thereon; or violate any of the terms of the Conditional Use Permit, the permit may be revoked after due public hearing before the Planning and Zoning Commission and the Board of County Commissioners.
  - B. This Conditional Use Permit shall inure to the benefit of, and shall constitute a covenant running with the land, and the purpose, terms, and conditions contained herein shall be binding upon any successor and his interest hereto.
  - C. In addition to any other remedy by law, any breach in any of the terms or conditions of this permit or any default on the part of the Permittee or his successor in interest, shall be deemed a material breach hereof and this Conditional Use Permit may be cancelled or revoked. Cancellation or revocation of this Permit may be instituted by the County or Planning and Zoning Commission. The Planning and Zoning Coordinator shall set this matter for Public Hearing before the Planning and Zoning Commission giving the same notice as provided in Section 40 of the Lake County Zoning Regulations, as amended.

Aug 24 3 07 PM '83  
BOARD OF COUNTY COMMISSIONERS  
JAMES W. WALKER, CLERK  
LAKE COUNTY, FLORIDA

FILED

- D. Constructions and/or operation shall have begun within 6 months ; otherwise this Permit shall become null and void and the Permittee shall re-apply for Public Hearing before the Planning and Zoning Commission and the Board of County Commissioners. Provided the operation has begun within the period specified, this Permit shall be reviewed at the end of three (3) years by the Planning and Zoning Coordinator, and may be recommended for Public Hearing before the Planning and Zoning Commission and the Board of County Commissioners should this review reveal that the land clearing/grove care has become a detriment to the development of the area.
  
- E. The effectiveness of the Conditional Use Permit is expressly conditioned upon, and said Conditional Use Permit shall not become effective for any reason unless and until the following events have occurred:
  - (1) Permittees shall have agreed to each and every condition by properly executing and signing the Conditional Use Permit.
  - (2) Such Conditional Use Permit executed as indicated shall have been filed in the office of the Clerk of the Circuit Court within three months of its approval by the Board of County Commissioners. Upon expiration of this period the Permit shall become null and void and the Permittee or Permittees must apply for re-hearing.
  
- F. Unless this Conditional Use Permit, properly executed, has been returned to the Department of Planning within THREE MONTHS from the date of approval by the Board of County Commissioners as indicated herein, it shall become null and void and the Permittee must apply to the Planning and Zoning Commission and the Board of County Commissioners for rehearing of the request.

PASSED AND ADOPTED by the Board of County Commissioners of Lake County, Florida, on August 9, 1983, A.D.

ACKNOWLEDGED:

The undersigned Permittee by execution hereof agrees to each and every condition and obligation of this Conditional Use Permit and promises to perform each and every obligation and condition of the Permittee hereunder.

  
 \_\_\_\_\_  
 LEO GREEN  
 "Permittee"

STATE OF FLORIDA     )

:

COUNTY OF LAKE     )

I HEREBY CERTIFY that on this day personally appeared before me, an officer duly authorized to administer oaths and take acknowledgement,

LEO GREEN

to me well known and known to me to be the individual described in and who executed the foregoing instrument, and he acknowledged before me that he executed the same freely and voluntarily for the purposes therein expressed.



WITNESS my hand and official seal at \_\_\_\_\_, County of Lake, State of Florida this 19 day of August, 1983, A.D.

MY COMMISSION EXPIRES: 12/13/85  
(SEAL)

Notary Public, State of Florida at Large  
My Commission Expires Dec. 13, 1985  
BONDED THRU HUCKLEBERRY, SIBLEY  
& HARVEY INSURANCE & BONDS, INC.

Jeanne L. Blahnik  
Notary Public

AUTHENTICATED BY:

Jerry R. Sexton  
JERRY R. SEXTON,  
Planning & Zoning Coordinator

STATE OF FLORIDA )

:

COUNTY OF LAKE )

James C. Watkins  
JAMES C. WATKINS  
Clerk of the Circuit Court

I HEREBY CERTIFY that on this day personally appeared before me, an officer, duly authorized to administer oaths and take acknowledgements,

JERRY R. SEXTON and JAMES C. WATKINS

to me well known and known to me to be the individuals described in and who executed the foregoing instrument, and they acknowledged before me that they executed the same freely and voluntarily for the purposes therein expressed.

WITNESS my hand and official seal at \_\_\_\_\_, County of Lake, State of Florida, this 24 day of August, 1983, A.D.

MY COMMISSION EXPIRES: 12/13/83  
(SEAL)

Notary Public, State of Florida at Large  
My Commission Expires Dec. 13, 1985  
BONDED THRU HUCKLEBERRY, SIBLEY  
& HARVEY INSURANCE & BONDS, INC.

Jeanne L. Blahnik  
Notary Public