



**DEPARTMENT OF THE ARMY**  
**U.S. ARMY CORPS OF ENGINEERS, JACKSONVILLE DISTRICT**  
**701 SAN MARCO BOULEVARD**  
**JACKSONVILLE, FLORIDA 32207-8175**

**December 10, 2024**

Regulatory Division  
North Branch  
Cocoa Permits Section

***PUBLIC NOTICE***

Permit Application No. SAJ-2024-03916(SP-JRP)

TO WHOM IT MAY CONCERN: The Jacksonville District of the U.S. Army Corps of Engineers (Corps) has received an application for a Department of the Army permit pursuant to Section 404 of the Clean Water Act (33 U.S.C. §1344) as described below:

If you are interested in receiving additional project drawings associated with this public notice, please send an e-mail to the project manager by electronic mail at [Josh.R.Pelletier@usace.army.mil](mailto:Josh.R.Pelletier@usace.army.mil).

APPLICANT: Malcolm Butters  
The Butters Group  
6820 Lyon Technology Circle, Suite 100  
Coconut Creek, Florida 33073

WATERWAY AND LOCATION: The project would affect aquatic resources associated with Reedy Creek (HUC 03090101). The project site is located at 2001 South Poinciana Boulevard, Kissimmee, Osceola County, Florida.

Directions to the site are as follows: From Kissimmee get on FL-529W and take Exit 16, then merge onto FL-417S toll road, take Exit 3 onto Osceola Parkway. Get on the Florida Turnpike and take the Poinciana Blvd Ramp onto FL-535/US-192. Turn Right onto Poinciana Blvd and continue south to Industrial Lane. Go East on Industrial Lane to Enterprise Drive and take it to its terminus.

APPROXIMATE CENTRAL COORDINATES: Latitude 28.246953 N°  
Longitude -81.483169 W°

**PROJECT PURPOSE:**

Basic: Industrial Development

Overall: The applicant's stated purpose is to develop an industrial facility to warehouse goods.

**EXISTING CONDITIONS:** The project site totals 42.10 acres and is currently undeveloped, consisting of three (3) land use types/vegetative communities. These land use types/vegetative communities were identified utilizing the Florida Land Use, Cover and Forms Classification System, Level III (FLUCFCS, FDOT, January 1999). The upland land use type/vegetative community on the site is classified as Woodland Pastures (2130) and Palmetto Prairies (3210). The wetland/surface water land use types/vegetative communities on the site are classified as Cypress (621) and Wet Prairie (6430). The property contains approximately 5.48 acres of wetlands.

**PROPOSED WORK:** The applicant seeks authorization to fill 3.89 acres wetlands associated with the construction of industrial buildings, associated parking and water management areas.

**AVOIDANCE AND MINIMIZATION INFORMATION –** The applicant has provided the following information in support of efforts to avoid and/or minimize impacts to the aquatic environment:

“The surrounding project area is zoned industrial, and there are active industrial sites adjacent to the project site. Avoidance and minimization were achieved to the greatest extent possible as site design was limited due to State requirements that each project phase have a retention pond. As Enterprise Drive bisects the project site each parcel/phase needs a retention pond. Thus, the east parcel/phase had limited room for development as a retention pond sufficient in size to accommodate development was required for this phase of the project site. This resulted in impacts to the eastern wetland (W1) onsite. The Enterprise Drive roadway project (a separate Corps Application) that bisects the project site also required drainage and onsite water storage. Drainage for the Enterprise Drive Roadway project was directed to the western parcel (western retention pond) to minimize further impacts to W1 in the eastern parcel. The closest vacant lots zoned industrial in this fast growth area, and not already permitted for development, are on the east side of Wetland 1 (W1). These parcels (25-26-28-6184-000E-0010, 25-26-28-6184-000R-0010) have a significant acreage of wetlands on site and would result in greater wetland impacts than the chosen site. Other vacant industrial lots (31-25-29-0000-0033-0000, 31-25-29-0000-0038-0000, 31-25-29-0000-0046-0000, and 31-25-29-0000-0037-0000) within a 1-mile radius have significant onsite wetlands or already have other permitted industrial activities onsite that make them unsuitable to develop for the proposed activity. Parcel 25-26-28-6186-0001-0010, which has industrial zoning, has significant onsite wetlands and would result in greater wetland impacts than the proposed project site.”

**COMPENSATORY MITIGATION –** The applicant has offered the following compensatory mitigation plan to offset unavoidable functional loss to the aquatic environment:

The applicant proposes to debit 1.99 federal credits from the Florida Mitigation bank to offset the 3.89 acres of direct and secondary wetland impacts.

#### CULTURAL RESOURCES:

The Corps has evaluated the undertaking for effects to historic properties as required under Section 106 of the National Historic Preservation Act and has followed the guidelines of 33 CFR Part 325, Appendix C. A Cultural Resource Assessment Survey was completed over the Area of Potential Effect (APE) and determined the proposed project will have no effect on cultural resources listed, or eligible for listing in the NRHP, or otherwise of archaeological, historical, or architectural significance. The Division of Historical Resources provided concurrence with the determination, DHR Project File No.: 2022-7269-C, on July 12, 2023. Based on this review and concurrence, the Corps has determined that the project would have No Effect to Historic Properties.

#### ENDANGERED SPECIES:

Eastern indigo snake (*Drymarchon corais couperi*): potential impacts to the Eastern indigo snake were evaluated using the Eastern Indigo Snake Programmatic Effect Determination Key. Use of the 2010 USFWS Eastern Indigo Snake key resulted in the following sequential determination: A>B>C>D>E>"NLAA", not likely to adversely effect the snake. This determination is partially based on the project being conditioned for use of the Service's Standard Protection Measures for The Eastern Indigo Snake during site preparation and project construction to include the inspection and excavation of all gopher tortoise burrows prior to construction, posting signage throughout the construction site, educating contractors on the identification of the species, and measures that must be taken to avoid disturbance if one is encountered during site work.

Wood Stork (*Mycteria americana*): The proposed activity is within the Core Foraging Area (CFA) of several wood stork colonies. The nearest active wood stork colony (Lake Russel) is approximately 9.25 miles southeast of the property. The wood stork is listed as threatened by the USFWS. This species utilizes various wetland habitats for foraging and nesting. Although wood storks were not observed during the various field reviews, suitable habitat (forested wetlands) occur onsite. The CFA for active wood stork colonies within south Florida is defined as a circular area with an 18.6-mile radius from the colony. For projects that occur within the CFA of a known wood stork colony, any impacts to suitable foraging habitat may require habitat compensation. Mitigation involves the creation of suitable foraging habitat of similar type and hydroperiod as the areas that are impacted and can often be satisfied through appropriate wetland mitigation. All impacts to onsite wetland habitat will be offset using mitigation credits purchased from a mitigation bank within the same watershed. Therefore, habitat

compensation is within the service area of a Service-approved mitigation bank and allows for an A<B<C<D<E “NLAA” determination using the wood stork programmatic key.

**Bald Eagle (*Haliaeetus leucocephalus*):** The bald eagle was delisted by USFWS and FWC in August 2007 as a result of positive recovery of the species. Although the bald eagle was delisted, it continues to be protected under the Bald and Golden Eagle Protection Act and the Migratory Bird Treaty Act. Site reviews did not identify any bald eagle nests on the project site, but there are two active bald eagle nests (OS999 and OS117) approximately within 1 mile of the project site. These bald eagle nests are located more than 660-foot from the project boundary, so based on the National Bald Eagle Management Guidelines they have no potential to affect development of the project.

**Gopher Tortoise (*Gopherus polyphemus*):** All onsite uplands are considered potential habitat for gopher tortoises, and preliminary surveys identified the presence of gopher tortoises throughout the upland community. A 100% gopher tortoise survey of the site will need to be conducted prior to development to determine exact gopher tortoise densities and state permitting requirements. The gopher tortoise is a state-listed, threatened species of reptile that occupies nearly all upland community types throughout the state of Florida. Gopher tortoises, their eggs, and their burrows are protected from harm or harassment. Any gopher tortoise burrows that have the potential to be impacted as a result of land clearing, construction, or other disturbance must be relocated out of harm's way to an approved offsite recipient site. Any gopher tortoise relocation activities will be permitted through the Florida Fish and Wildlife Conservation Commission (FWC).

**Florida Bonneted Bat (*Eumops floridanus*):** The subject property is located within the USFWS Consultation Area for the Florida bonneted bat (FBB). The FBB is a state and federally listed Endangered species, with new guidelines and extended Consultation Area issued by the USFWS in October 2019. AEC performed a cursory presence/absence roost survey throughout the property during the September 2021 site inspection. No FBB or evidence of FBB utilization of the property was observed. A general lack of suitable roosting habitat (mature, live pine trees), significantly reduces the potential for FBB utilization of the property. However, foraging habitat is present within the project area. An A<B<A<B “MANLAA” determination was made using the consultation key for the FBB and will require the applicant to utilize best management practices (BMPs) for development projects listed in Appendix D.

**ESSENTIAL FISH HABITAT (EFH):** The Corps has determined that the proposed action would not have no effect on EFH or Federally managed fisheries within the Lake Tohopekaliga basin and no further coordination is required.

**NAVIGATION:** The proposed development is not located in the vicinity of a federal navigation channel.

SECTION 408: The applicant will not require permission under Section 14 of the Rivers and Harbors Act (33 USC 408) because the activity, in whole or in part, would not alter, occupy, or use a Corps Civil Works project.

NOTE: This public notice is being issued based on information furnished by the applicant. This information has not been verified or evaluated to ensure compliance with laws and regulation governing the regulatory program. The jurisdictional line has not been verified by Corps personnel.

COMMENTS regarding the potential authorization of the work proposed should be submitted in writing to Josh Pelletier, Washington Regulatory Field Office, 2407 West Fifth Street, Washington, North Carolina 27889, or via email at [josh.r.pelletier@usace.army.mil](mailto:josh.r.pelletier@usace.army.mil) within 21 days from the date of this notice.

The decision whether to issue or deny this modification will be based on the information received from this public notice and the evaluation of the probable impact to the associated wetlands. This is based on an analysis of the applicant's avoidance and minimization efforts for the project, as well as the compensatory mitigation proposed.

QUESTIONS concerning this application should be directed to the project manager, Josh Pelletier, in writing at the Washington Regulatory Field Office, 2407 West Fifth Street, Washington, North Carolina 27889; by electronic mail at [josh.r.pelletier@usace.army.mil](mailto:josh.r.pelletier@usace.army.mil) or by telephone at (910)251-4595.

IMPACT ON NATURAL RESOURCES: Coordination with U.S. Fish and Wildlife Service, Environmental Protection Agency (EPA), the National Marine Fisheries Services, and other Federal, State, and local agencies, environmental groups, and concerned citizens generally yields pertinent environmental information that is instrumental in determining the impact the proposed action will have on the natural resources of the area.

EVALUATION: The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits, which reasonably may be expected to accrue from the proposal, must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including cumulative impacts thereof; among these are conservation, economics, esthetics, general environmental concerns, wetlands, historical properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food, and fiber production, mineral needs, considerations of property ownership, and in general, the needs and welfare of the people.

The US Army Corps of Engineers (Corps) is soliciting comments from the public; Federal, State, and local agencies and officials; Indian Tribes; and other Interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps to determine whether to issue, modify, condition, or deny a permit for this proposal. To make this determination, comments are used to assess impacts to endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

**WATER QUALITY CERTIFICATION:** The impacts associated with the proposed project were authorized by the South Florida Water Management District by Individual Resource Permit No. 49-107858-P. The authorization constitutes certification of compliance with state water quality standards under section 401 of the Clean Water Act.

**COASTAL ZONE MANAGEMENT CONSISTENCY:** In Florida, the State approval constitutes compliance with the approved Coastal Zone Management Plan. In Puerto Rico, a Coastal Zone Management Consistency Concurrence is required from the Puerto Rico Planning Board. In the Virgin Islands, the Department of Planning and Natural Resources permit constitutes compliance with the Coastal Zone Management Plan.

**REQUEST FOR PUBLIC HEARING:** Any person may request a public hearing. The request must be submitted in writing to the District Engineer within the designated comment period of the notice and must state the specific reasons for requesting the public hearing.





Know what's below.  
Call before you dig.

# DEVELOPMENT PLAN FOR POINCIANA INDUSTRIAL EAST & WEST AND ENTERPRISE DRIVE OSCEOLA COUNTY, FLORIDA

OWNER/DEVELOPER  
BUTTERS ACQUISITIONS SOUTHEAST, LLC  
6820 LYONS TECHNOLOGY CIR, STE 100  
COCONUT CREEK, FL 33073  
954-312-2400  
INFO@BUTTERS.COM

SURVEYOR  
HANSON, WALTER & ASSOCIATES, INC.  
8 BROADWAY, SUITE 104  
KISSIMMEE, FL 34741  
407-847-9433  
WWW.HANSONWALTER.COM

ENGINEER  
SMILEY & ASSOCIATES, INC.  
624 KINGFISH ROAD  
NORTH PALM BEACH, FL 33408  
561-747-8335  
MSMILEY@SMILEY-ASSOCIATES.COM

ARCHITECT  
C4 ARCHITECTURE  
135 WEST CENTRAL BLVD., SUITE 340  
ORLANDO, FL 32801  
407-363-6136  
CSTRANAHAN@C4ARCHITECTURE.COM

LANDSCAPE ARCHITECT  
LITTERICK LANDSCAPE ARCHITECTURE  
2740 SW MARTIN DOWNS BLVD. #199  
PALM CITY, FL 34990  
561-719-3876  
JASONLA1677@YAHOO.COM

DEVELOPER:

BUTTERS ACQUISITIONS  
SOUTHEAST, LLC

6820 LYONS TECHNOLOGY CIRCLE  
SUITE 100  
COCONUT CREEK, FL 33073

#### WATER & SEWER UTILITY INFORMATION:

##### POINCIANA WEST SITE:

251 LF OF 6" WATER MAIN  
3,877 LF OF 8" WATER MAIN  
207 LF OF 10" WATER MAIN  
8 FIRE HYDRANTS

1,484 LF OF 8" SANITARY MAIN  
5 MANHOLES

##### ENTERPRISE DRIVE:

90 LF OF 6" WATER MAIN  
306 LF OF 8" WATER MAIN  
1,951 LF OF 10" WATER MAIN  
4 FIRE HYDRANTS

400 LF OF 8" SANITARY MAIN  
1 MANHOLES

##### POINCIANA EAST SITE:

56 LF OF 6" WATER MAIN  
921 LF OF 8" WATER MAIN  
10 LF OF 10" WATER MAIN  
3 FIRE HYDRANTS

NO SANITARY MAIN – SERVICE ONLY

#### LAND USE TABLE (AC.)

BASIN					
	P IND. WEST	P IND. EAST & INDUSTRIAL DR.	ENTERPRISE DR.	TOTAL SITE	
BLDG.	IMP 11.21	1.45	0.00	0.00	12.66
PAVT	IMP 10.58	2.26	0.38	0.83	14.05
SIDEWALK	IMP 0.40	0.09	0.02	0.22	0.73
LAKE	IMP 3.34	0.00	0.00	0.00	3.34
OPEN	PER 5.41	2.36	1.09	2.71	11.57
TOTAL	30.94	6.16	1.49	3.76	42.35
TOTAL IMPERVIOUS AREA	30.78 (INC. LAKE)				
TOTAL PERVIOUS AREA	11.57				

CONTROL STRUCTURES							
ITEM	RIM	BLEEDER TYPE	INVERT	WEIR WIDTH	INVERT	OUTFALL PIPE DIA TYPE	LF
CS-1	79.50	3" DIA	75.0	6.6'	76.70'	30" HDPE	1,213
CS-2	78.00	6"x15"	77.0	4.5'	77.33'	24" RCP	150
CS-3	77.20'	3" DIA.	75.0	3.0'x4.5'	77.20'	18" HDPE	50

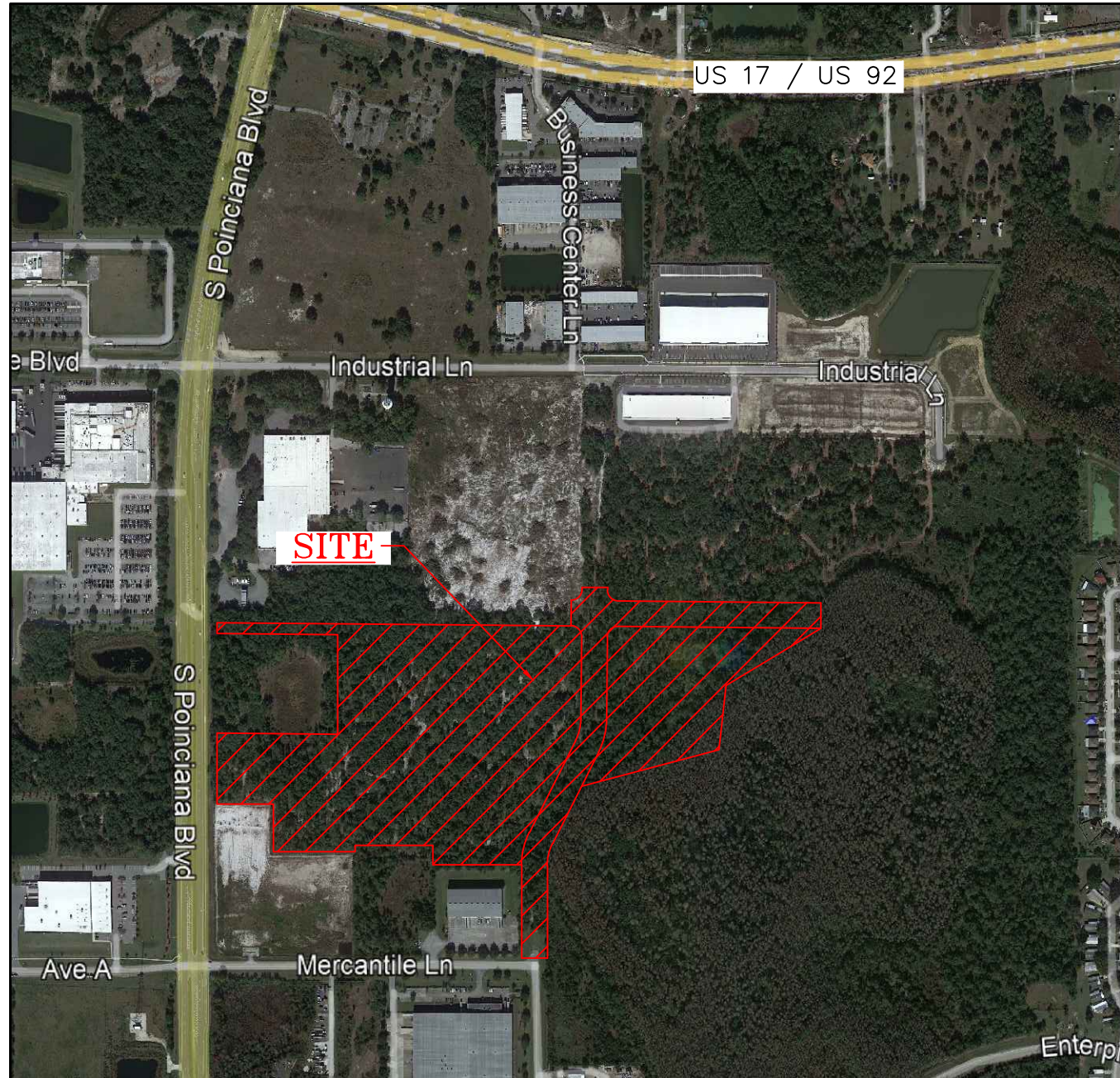
WATER QUALITY PROVIDED		
BASIN	AC-FT	
P IND. WEST BASIN	5.78	
P IND. EAST BASIN	1.11	
ENTERPRISE DR BASIN	0.24	

STORM EVENT STAGES POINCIANA INDUSTRIAL WEST	
DESIGN STORM	STAGE (FT)
10 YEAR – 24 HR.	77.09 FT
10 YEAR – 72 HR.	77.29 FT
100 YEAR – 72 HR.	78.94 FT

STORM EVENT STAGES ENTERPRISE DRIVE	
DESIGN STORM	STAGE (FT)
10 YEAR – 24 HR.	77.26 FT

STORM EVENT STAGES POINCIANA INDUSTRIAL EAST	
DESIGN STORM	STAGE (FT)
10 YEAR – 24 HR.	77.29 FT
10 YEAR – 72 HR.	77.48 FT
100 YEAR – 72 HR.	79.23 FT

ELEVATIONS BASED ON NAVD 1988 DATUM



NOT TO SCALE

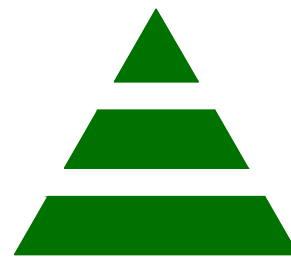
## LOCATION MAP

S25, T26S, R28E

#### PROPERTY CONTROL NUMBERS

EAST PARCEL 25 26 28 6184 000P 0010

WEST PARCELS 25 26 28 6184 000N 0010  
25 26 28 6184 000N 0018



SMILEY &  
ASSOCIATES, INC.

624 Kingfish Road, North Palm Beach, Florida 33408  
561-596-0562 • msmiley@smiley-associates.com  
EB # 8613

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LINE THRU ABOVE INDICATES  
NOT INCLUDED OR PART OF  
THIS PERMIT

SEE APPLICATION 221024-36343 FOR  
SWMS RELATED INFORMATION

#### TOHOPEKALIGA WATER AUTHORITY

951 MARTIN LUTHER KING JR BLVD.  
KISSIMMEE, FL 34741  
407-944-5000

#### DUKE ENERGY

ELECTRICAL SERVICE  
452 E. CROWN POINT RD.  
WINTER GARDEN, FL 34787  
407-905-3376

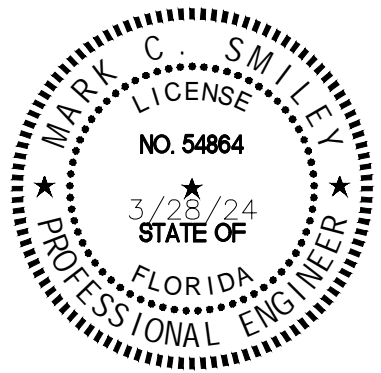
#### CENTURYLINK

33 N. MAIN ST.  
WINTER GARDEN, FL 34787  
407-814-5293

#### CHARTER COMMUNICATIONS

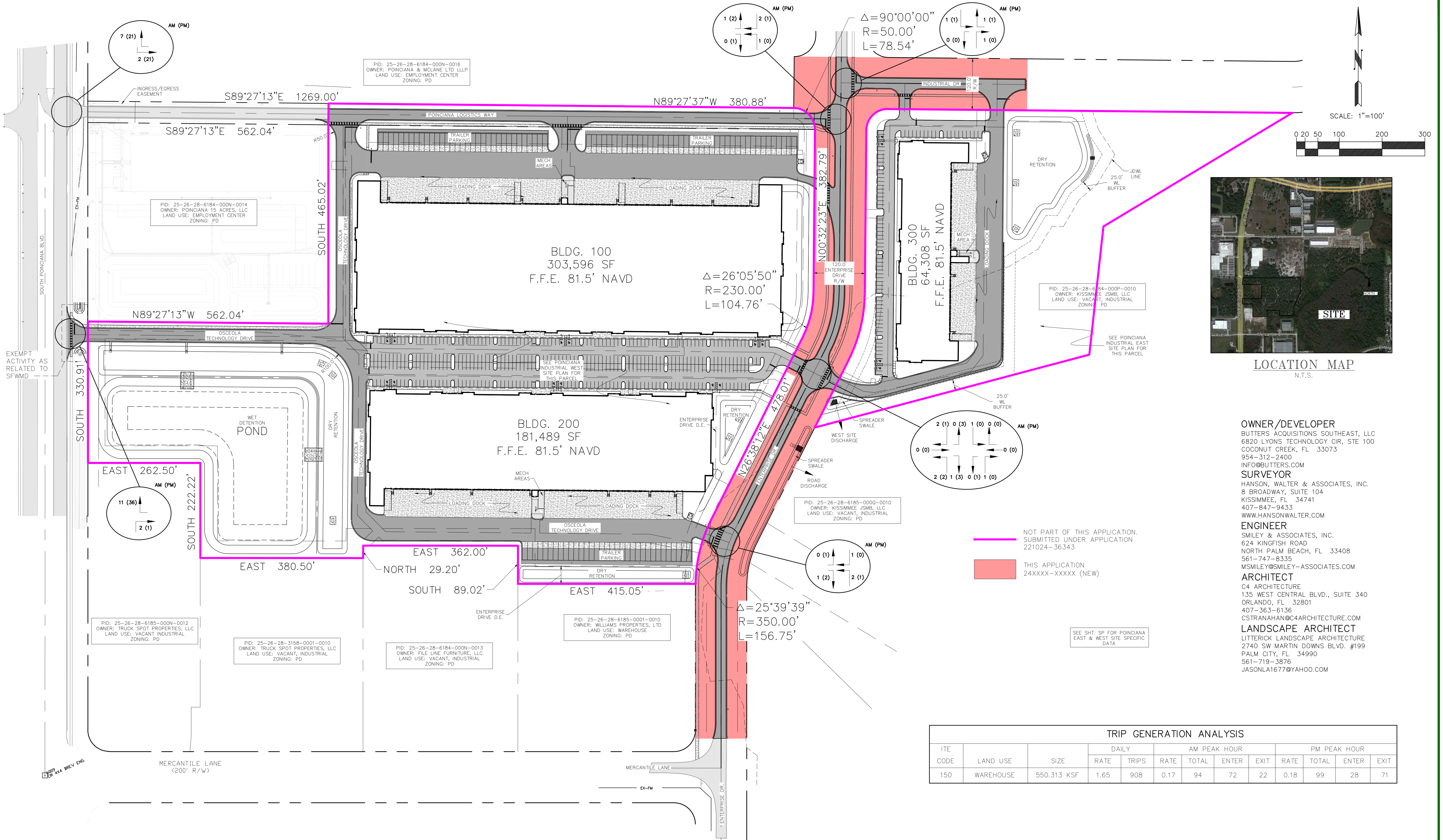
3767 ALL AMERICAN BLVD.  
ORLANDO, FL 32803  
407-532-8509

SDP22-0176



DIGITAL SEAL DATE 3/28/24 CIVIL SA JOB # 22-010





LOCATION MAP  
N.T.S.

**OWNER/DEVELOPER**  
BUTTERS ACQUISITIONS SOUTHEAST, LLC  
6820 LYONS TECHNOLOGY CIR, STE 100  
COCONUT CREEK, FL 33073  
954-312-2400  
INFO@BUTTERS.COM

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KISSIMMEE, FL 34741  
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624 KINGFISH ROAD  
NORTH PALM BEACH, FL 33408  
561-747-8335  
MSMILEY@SMILEY-ASSOCIATES.COM

**ARCHITECT**  
C4 ARCHITECTURE  
135 WEST CENTRAL BLVD., SUITE 340  
ORLANDO, FL 32801  
407-363-6136  
CSTRANAHAN@C4ARCHITECTURE.COM

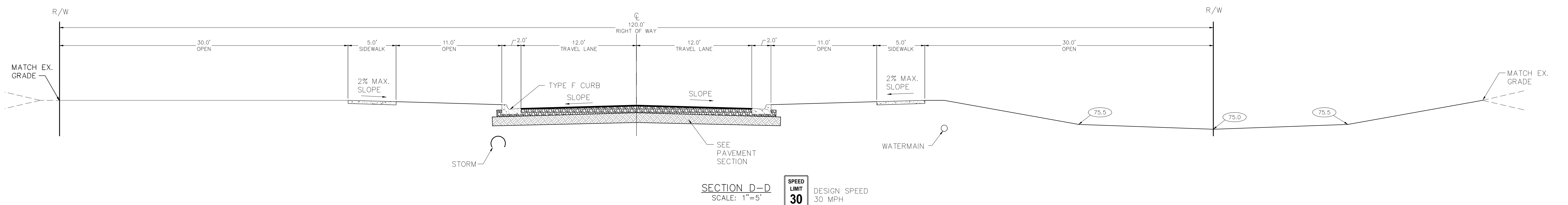
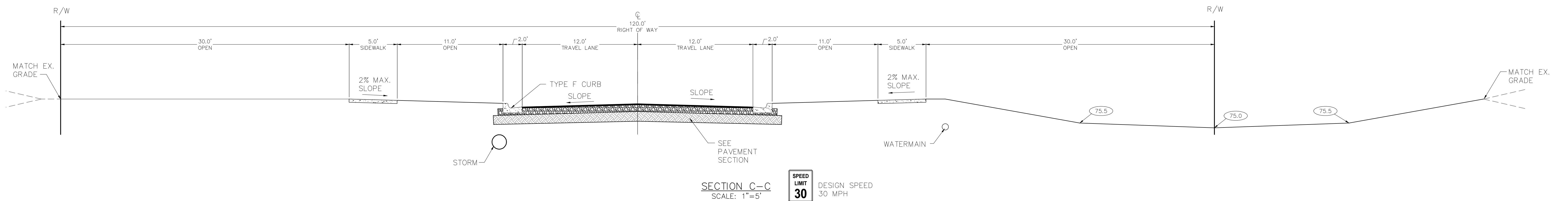
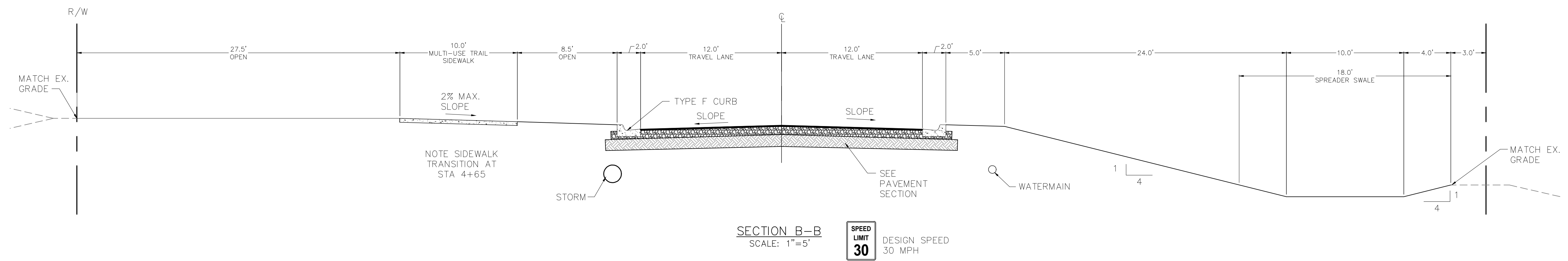
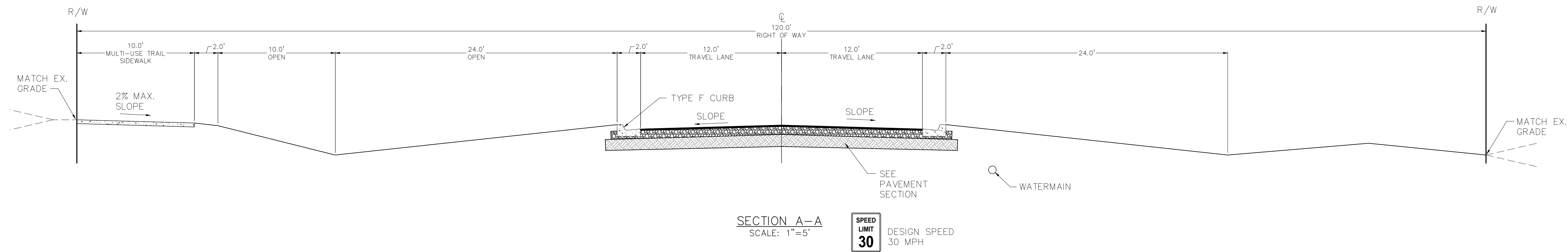
**LANDSCAPE ARCHITECT**  
LITTERICK LANDSCAPE ARCHITECT  
2740 SW MARTIN DOWNS BLVD. #199  
PALM CITY, FL 34990  
561-719-3876  
JASONLA1677@YAHOO.COM

NOT PART OF THIS APPLICATION.  
SUBMITTED UNDER APPLICATION  
221024-36343

THIS APPLICATION  
24XXXX-XXXX (NEW)

TRIP GENERATION ANALYSIS											
ITE CODE	LAND USE	SIZE	DAILY			AM PEAK HOUR			PM PEAK HOUR		
			RATE	TRIPS		RATE	TOTAL	ENTER	RATE	TOTAL	ENTER
150	WAREHOUSE	550,313 KSF	1.65	908	0.17	94	72	22	0.18	99	28





DP22-0176

DRT	DRT
DSG	MS
CHK	MS
CADDWG POINC	

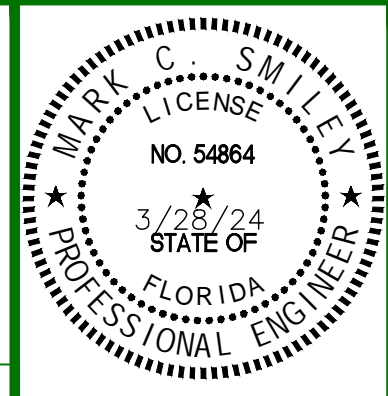
REV.	DESCRIPTION	APRV	DATE
REVISION NOTES			

ENTERPRISE  
DRIVE  
FOR  
OSCEOLA COUNTY  
OSCEOLA COUNTY, FLORIDA

## SECTIONS

THIS ITEM HAS BEEN DIGITALLY SIGNED AND SEALED BY MARK C. SMILEY ON THE DATE ADJACENT TO THE SEAL. PRINTED COPIES OF THIS DOCUMENT ARE NOT CONSIDERED SIGNED AND SEALED AND THE SIGNATURE MUST BE VERIFIED ON ANY ELECTRONIC COPIES.

DIGITAL SEAL	DATE 3/28/24
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C10-R

SHEET 10 OF 12

JOB # 22-010