

SOUTH FLORIDA WATER MANAGEMENT DISTRICT

December 15, 2010

Olde Florida Golf Club Inc. 9393 Vanderbilt Beach Road Ext Naples, FL 4120

Dear Applicant:

Subject:

Petition for Formal Determination of Wetlands and Surface Waters

Application No. 100629-8 Olde Florida Golf Club Phase 2

Collier County: S31/T48S/R27E

Enclosed is a copy of the District's intended agency action regarding your petition for a formal wetland/surface water determination. It is requested that you read this intended agency action thoroughly and understand its contents. The District will publish its notice of intended agency action in a newspaper of general circulation. If no petition requesting an administrative hearing is timely filed with the District Clerk, the Executive Director will then take final agency action on your petition in accordance with the intended agency action. You will receive notification of the final agency action.

Should you wish to object to the intended agency action, you must file a petition in conformance with Rule 40E-1.521, Florida Administrative Code (attach):

Elizabeth Veguilla, Deputy Clerk South Florida Water Management District Post Office Box 24680 West Palm Beach, Florida 33416-4680

The attached "Notice of Rights" addresses your rights under Florida law should you wish to contest the intended agency action. However, the referenced "Noticed of Rights" should not be used as your sole source of information. To be fully advised of your legal rights, you should seek legal counsel. Please contact the District if you have any questions concerning this process.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a "Notice of Rights" has been mailed to the addressee and the persons listed in the attached distribution list no later than 5:00 p.m. this **15th day of December, 2010.**

Sincerely

Anthony Waterhouse, P.E., Deputy Director

Environmental Resource Regulation Department

AW/dr

CERTIFIED MAIL 7008 1830 0001 0508 3954 RETURN RECEIPT REQUESTED

Exhibit G-4

NOTICE OF RIGHTS

As required by Sections 120.569(1), and 120.60(3), Fla. Stat., following is notice of the opportunities which may be available for administrative hearing or judicial review when the substantial interests of a party are determined by an agency. Please note that this Notice of Rights is not intended to provide legal advice. Not all the legal proceedings detailed below may be an applicable or appropriate remedy. You may wish to consult an attorney regarding your legal rights.

RIGHT TO REQUEST ADMINISTRATIVE HEARING

A person whose substantial interests are or may be affected by the South Florida Water Management District's (SFWMD or District) action has the right to request an administrative hearing on that action pursuant to Sections 120.569 and 120.57, Fla. Stat. Persons seeking a hearing on a District decision which does or may determine their substantial interests shall file a petition for hearing with the District Clerk within 21 days of receipt of written notice of the decision, unless one of the following shorter time periods apply: 1) within 14 days of the notice of consolidated intent to grant or deny concurrently reviewed applications for environmental resource permits and use of sovereign submerged lands pursuant to Section 373.427, Fla. Stat.; or 2) within 14 days of service of an Administrative Order pursuant to Subsection 373.119(1), Fla. Stat. "Receipt of written notice of agency decision" means receipt of either written notice through mail, or electronic mail, or posting that the District has or intends to take final agency action, or publication of notice that the District has or intends to take final agency action. Any person who receives written notice of a SFWMD decision and fails to file a written request for hearing within the timeframe described above waives the right to request a hearing on that decision.

Filing Instructions

15-1 15-1 1-21

The Petition must be filed with the Office of the District Clerk of the SFWMD. Filings with the District Clerk may be made by mail, hand-delivery or facsimile. **Filings by e-mail will not be accepted.** Any person wishing to receive a clerked copy with the date and time stamped must provide an additional copy. A petition for administrative hearing is deemed filed upon receipt during normal business hours by the District Clerk at SFWMD headquarters in West Palm Beach, Florida. Any document received by the office of the SFWMD Clerk after 5:00 p.m. shall be filed as of 8:00 a.m. on the next regular business day. Additional filing instructions are as follows:

- Filings by mail must be addressed to the Office of the SFWMD Clerk, P.O. Box 24680, West Palm Beach, Florida 33416.
- Filings by hand-delivery must be delivered to the Office of the SFWMD Clerk. Delivery of a
 petition to the SFWMD's security desk does <u>not</u> constitute filing. To ensure proper filing, it
 will be necessary to request the SFWMD's security officer to contact the Clerk's office. An
 employee of the SFWMD's Clerk's office will receive and file the petition.
- Filings by facsimile must be transmitted to the SFWMD Clerk's Office at (561) 682-6010. Pursuant to Subsections 28-106.104(7), (8) and (9), Fla. Admin. Code, a party who files a document by facsimile represents that the original physically signed document will be retained by that party for the duration of that proceeding and of any subsequent appeal or subsequent proceeding in that cause. Any party who elects to file any document by facsimile shall be responsible for any delay, disruption, or interruption of the electronic signals and accepts the full risk that the document may not be properly filed with the clerk as a result. The filing date for a document filed by facsimile shall be the date the SFWMD Clerk receives the complete document.

Rev. 07/01/2009

Initiation of an Administrative Hearing

Pursuant to Rules 28-106.201 and 28-106.301, Fla. Admin. Code, initiation of an administrative hearing shall be made by written petition to the SFWMD in legible form and on 8 and 1/2 by 11 inch white paper. All petitions shall contain:

- 1. Identification of the action being contested, including the permit number, application number, District file number or any other SFWMD identification number, if known.
- 2. The name, address and telephone number of the petitioner and petitioner's representative, if any.
- 3. An explanation of how the petitioner's substantial interests will be affected by the agency determination.
- 4. A statement of when and how the petitioner received notice of the SFWMD's decision.
- 5. A statement of all disputed issues of material fact. If there are none, the petition must so indicate.
- 6. A concise statement of the ultimate facts alleged, including the specific facts the petitioner contends warrant reversal or modification of the SFWMD's proposed action.
- 7. A statement of the specific rules or statutes the petitioner contends require reversal or modification of the SFWMD's proposed action.
- 8. If disputed issues of material fact exist, the statement must also include an explanation of how the alleged facts relate to the specific rules or statutes.
- 9. A statement of the relief sought by the petitioner, stating precisely the action the petitioner wishes the SFWMD to take with respect to the SFWMD's proposed action.

A person may file a request for an extension of time for filing a petition. The SFWMD may, for good cause, grant the request. Requests for extension of time must be filed with the SFWMD prior to the deadline for filing a petition for hearing. Such requests for extension shall contain a certificate that the moving party has consulted with all other parties concerning the extension and that the SFWMD and any other parties agree to or oppose the extension. A timely request for extension of time shall toll the running of the time period for filing a petition until the request is acted upon.

If the District takes action with substantially different impacts on water resources from the notice of intended agency decision, the persons who may be substantially affected shall have an additional point of entry pursuant to Rule 28-106.111, Fla. Admin. Code, unless otherwise provided by law.

Mediation

The procedures for pursuing mediation are set forth in Section 120.573, Fla. Stat., and Rules 28-106.111 and 28-106.401-.405, Fla. Admin. Code. The SFWMD is not proposing mediation for this agency action under Section 120.573, Fla. Stat., at this time.

RIGHT TO SEEK JUDICIAL REVIEW

Pursuant to Sections 120.60(3) and 120.68, Fla. Stat., a party who is adversely affected by final SFWMD action may seek judicial review of the SFWMD's final decision by filing a notice of appeal pursuant to Florida Rule of Appellate Procedure 9.110 in the Fourth District Court of Appeal or in the appellate district where a party resides and filing a second copy of the notice with the SFWMD Clerk within 30 days of rendering of the final SFWMD action.

Rev. 07/01/2009

Last Date For Agency Action: December 21, 2010

INDIVIDUAL FORMAL WETLAND DETERMINATION STAFF REPORT

Project Name: Olde Florida Golf Club Phase 2 Formal Wetland Determination

Permit No.: 11-00024-F **Application No.:** 100629-8

Application Type: New Formal Wetland Determination

Location: Collier County, S31/T48S/R27E

Applicant: Olde Florida Golf Club Inc

Project Area: 258.41 acres

Project Land Use: Wetland Determination

Special Drainage District: NA

Conservation Easement To District: No

Sovereign Submerged Lands: No

PROJECT PURPOSE:

This application is a request for a formal wetland determination of the boundary of wetlands and other surface waters, pursuant to Rule 40E-4.042 Florida Administrative Code (F.A.C.), for a 258.41 acre parcel known as Olde Florida Golf Club Phase 2.

App.no.: 100629-8 Page 1 of 4

PROJECT EVALUATION:

PROJECT SITE DESCRIPTION:

The site is located north of the Vanderbilt Beach Road Extension, south of Immokalee Road, east of Collier Boulevard (CR 951), in Naples, Collier County. A location map is attached as Exhibit 1.0. Hydrology in this area is affected by the Cocohatchee Canal to the north, Curry Canal to the east and Cypress Canal to the south.

The upland habitat onsite consists of palmetto prairie, upland pine flatwoods, live oak with less than 25% invasive species, cabbage palm with varying levels of invasive and nuisance plant species (0-75%), previously cleared disturbed lands, Brazilian pepper monoculture, a small portion of the existing golf course, and non-hydric cypress-pine-cabbage palm habitat. Wetland habitat onsite consists of freshwater marsh with varying levels of invasive species, and cypress-pine-cabbage palm with up to 50% invasive species. The cypress-pine-cabbage palm habitat not claimed as jurisdictional wetlands do not show signs of hydric soils or hydrology. Surface waters consist of a borrow area with approximately 75% invasive species. A FLUCCS habitat map is attached as Exhibit 2.0.

PROJECT BACKGROUND:

A field inspection of the property was conducted by Karyn Allman of the South Florida Water Management District, Tom Trettis and Craig Schmittler of Wilson Miller/Stantec on August 12, 2010. The methodologies utilized to delineate and verify the locations of the wetlands and other surface waters onsite were consistent with Rule 62-340 F.A.C. and subsection 373.421(2) Florida Statutes (F.S.). The wetland lines were delineated using a GPS in accordance with Section 4.5.2 (b)1 of the Basis of Review and Rule 62.340, F.A.C.

Due to the hydrologic alterations within the region from the surrounding canals, the use of groundwater well data was utilized to delineate the extent of jurisdictional cypress-pine-cabbage palm habitat. Pursuant to 62-340.500(8) F.A.C., measurements of inundation or saturation which support the presence of water to an extent consistent with the provisions of the definition of wetlands can be utilized as hydrologic indicators in delineating wetlands. A description of the ground water well data and the wetland habitats are provided in the wetland section of this staff report.

The 258.41 acres onsite are within ERP permit 11-00898-S. In 1991, Application No. 901105-11 revised the wetland lines within the entire Olde Florida Golf Club based on ground water well data and site visits by District and Army Corps of Engineer staff. The current wetland determination reflects additional changes to the wetland line within Phase 2. The habitats within the 38.71 acres of existing conservation easement in the north east corner of the Olde Florida Phase 2 site were not reviewed under this determination, and were not included in the project acreage.

WETLANDS:

DOMINANT VEGETATION/WETLAND DESCRIPTION:

Based on the August 12, 2010 site visit, there are a total of 30.88 acres of herbaceous and forested wetlands within the project area. The 19.91-acre forested wetland is located in the central portion of the property and contains cypress, slash pine, red bay, cabbage palm, swamp fern, wire grass, and Brazilian pepper. The delineation of the forested wetland is described in the Soils/Hydrologic Indicators section.

The smallest wetland onsite is a pocket of freshwater marsh (0.04 acres) located in the south east portion of the project within the disturbed land habitat (piles of landscape debris). The wetland is in a small depression and is comprised of largely cattails with some maidencane and other herbaceous vegetation. There are three larger herbaceous wetlands (labeled as Wetland 1, 3, and 5 on Exhibit 3.0), one in the south east and two in the south west. Wetland 1 is 5.14 acres, Wetland 3 is 2.91 acres, and Wetland 5 is

App.no.: 100629-8

2.88 acres. It appears that the ground within these three wetland areas was at one time mechanically scraped down, creating the herbaceous habitat. There are portions of the herbaceous wetlands that are shallow, closer to wet prairie habitat with rock outcroppings at the surface. Vegetation in these shallower portions of the wetlands consists of pluchea, coreopsis, eleocharis, and white top sedge. The deeper portions of the wetlands contain willow, primrose willow, torpedo grass, maidencane, fox tail, eleocharis, juncus, cattail, frog fruit, button bush, and dog fennel. The wetlands have been field flagged and surveyed (See Exhibit 3.0). Delineation of the herbaceous wetlands was based on the B-test under Section 62-340.300(2)(b) F.A.C.

SOIL TYPES AND HYDROLOGIC INDICATORS:

The site is underlain by four (4) soil types: Oldmar fine sand, limestone substratum (10), Hallandale fine sand (11), Riviera fine sand, limestone substratum (18), and Boca fine sand (21). Please see exhibit 4.0 for location of each soil type within the site. The hydric soils within the site showed signs of altered hydrology. Hydric soil indicators within the cypress habitat were below 6". Some organic bodies were present but did not meet the hydric soil criteria. Another sign of hydrologic alteration included extensive grape vine in the ground cover in some areas, outcompeting wire grass and other wetland ground cover species.

The wetland boundaries within the cypress habitat were determined based on vegetation and the hydrology criteria outlined in Section 62-340.500(8) F.A.C. Hydrologic data from groundwater wells indicated areas that met the criteria of inundation for 7 consecutive days or saturation within 6" of the soil surface for 20 consecutive days. Data from eighteen (18) groundwater wells located throughout the property were collected over three years (2008-2010). The data indicated that the cypress habitat met the inundation or saturation criteria at ground elevation 12.47 NGVD or below all three years. The habitat found at elevations between 12.47 and 12.6 NGVD met the hydrologic criteria in some years, but not all three years. The wetland line was therefore delineated using elevation 12.47 NGVD.

Please see the permanent permit file for a copy of the groundwater well data, rainfall data, and ground elevations. The location of the wells and associated elevations are shown on page 1 of Exhibit 3.0.

WETLAND DELINEATION:

Pursuant to Subsection 373.421(2), F.S. and Section 4.5 of the Basis of Review, the formal determination of wetlands and other surface waters were surveyed in a mathematically reproducible form as provided on Exhibit 3.0.

App.no.: 100629-8 Page 3 of 4

STAFF RECOMMENDATION TO EXECUTIVE DIRECTOR:

The Staff recommends that the following be issued:

A formal determination of the extent of wetlands and other surface waters, pursuant to Rule 40E-4.042 F.A.C. within the boundaries of the approximately 258.41-acre site known as Olde Florida Golf Club Phase 2. As shown on Exhibit 3.0, the project contains 30.88 acres of wetlands, as defined by Rule 62-340, F.A.C.

Based on the information provided, District rules have been adhered to.

Staff recommendation is for approval subject to the attached Special Conditions.

STAFF REVIEW:

NATURAL RESOURCE MANAGEMENT APPROVAL

ENVIRONMENTAL EVALUATION

SUPERVISOR

Karyn Allman

Laura Lavman

ENVIRONMENTAL RESOURCE PERMITTING DIVISION DIRECTOR:

Mortin X. Barn

DATE: 12/15/11

Anita R Bain

SPECIAL CONDITIONS

1. The formal determination shall be binding for five years provided the physical condition on the property does not change so as to alter the boundary of the wetlands and other surface waters during that period. The permit shall expire five years from the date of permit issuance.

App.no.: 100629-8

Page 4 of 4



Exhibit 1.0 Application No. 100629-8 1 of 1

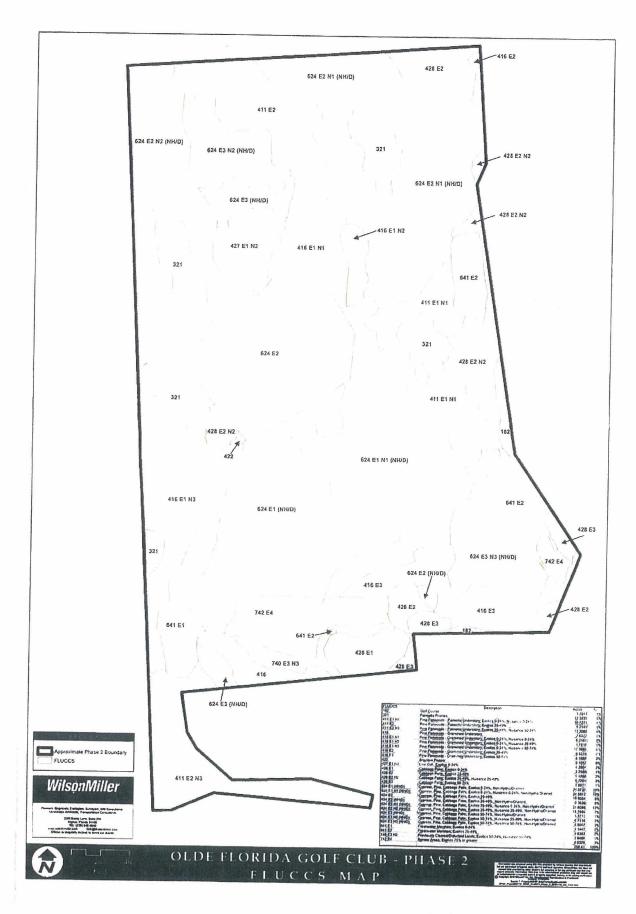
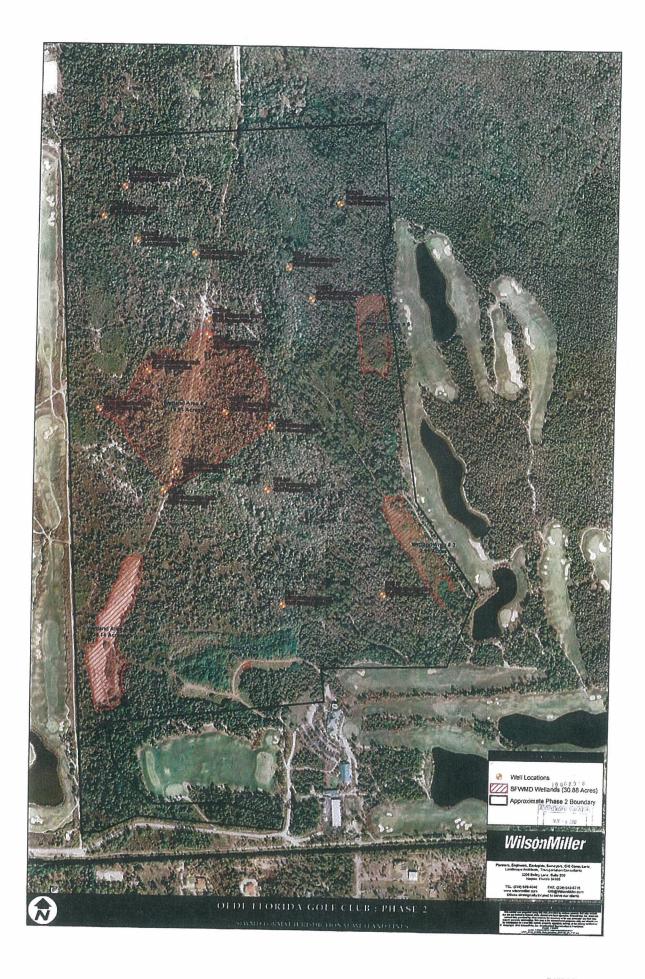
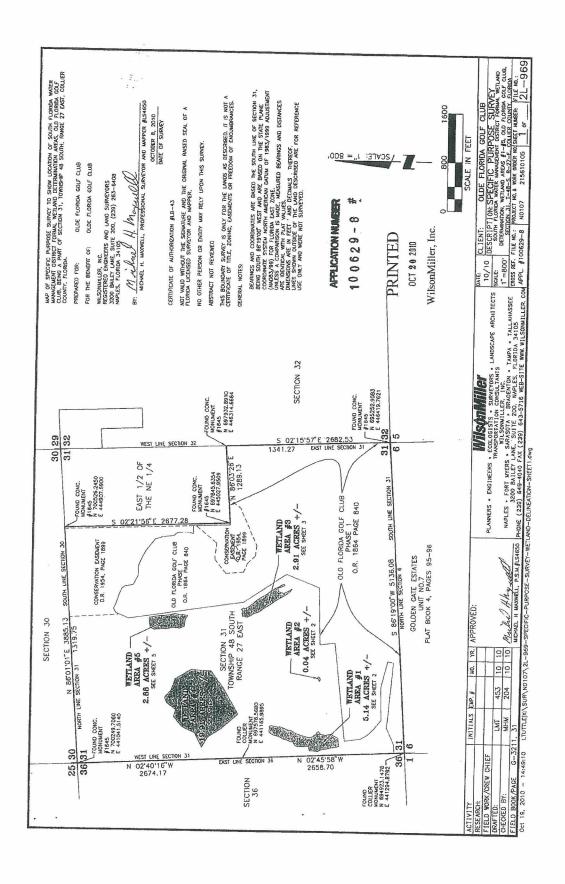


Exhibit 2.0 Application No. 100629-8 1 of 2



Exhibit 2.0 Application No. 100629-8 2 of 2





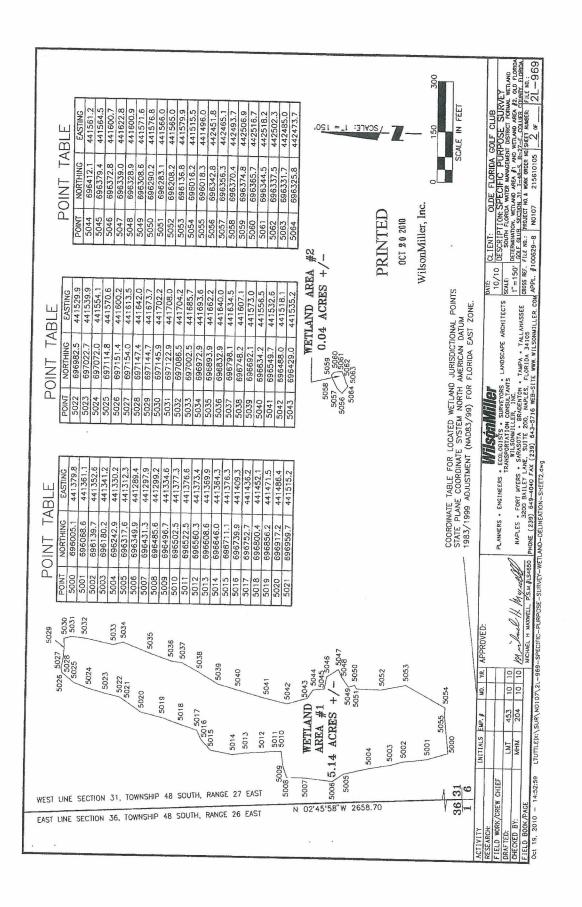
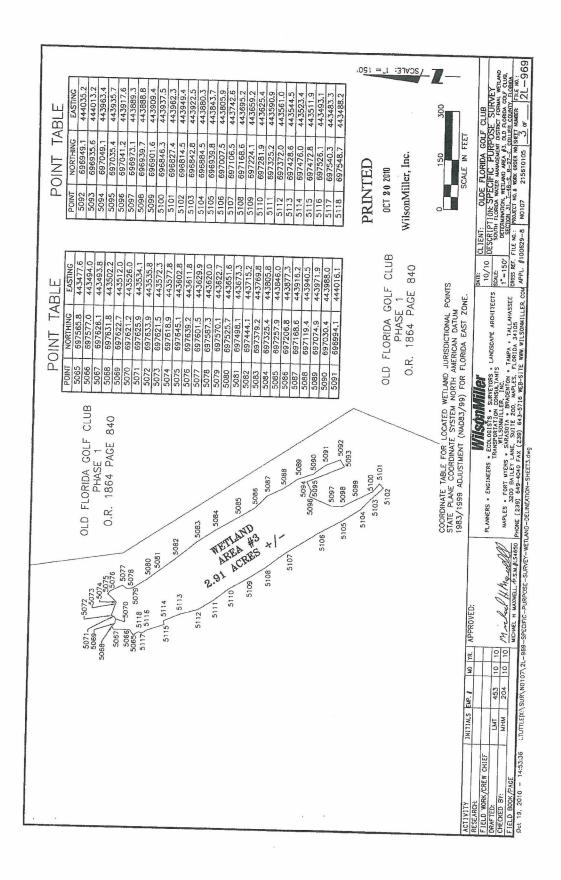


Exhibit 3.0 Application No. 100629-8 3 of 6



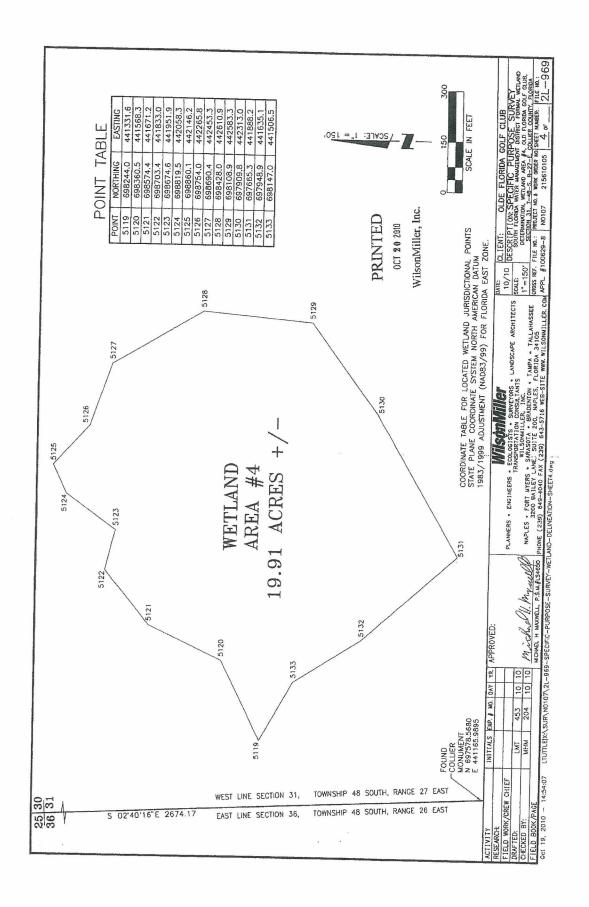


Exhibit 3.0 Application No. 100629-8 5 of 6

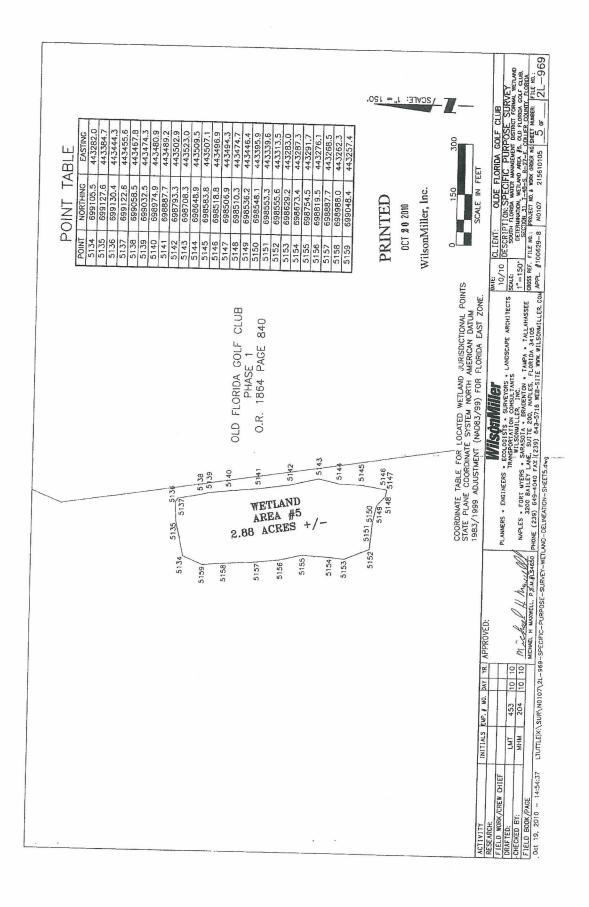




Exhibit 4.0 Application No. 100629-8 1 of 1

STAFF REPORT DISTRIBUTION LIST

OLDE FLORIDA GOLF CLUB PHASE 2

Application No: 100629-8

Permit No:

11-00024-F

INTERNAL DISTRIBUTION

X Karyn Allman - 4270

X Laura Layman - 4270

X Permit File

EXTERNAL DISTRIBUTION

- X Permittee Olde Florida Golf Club Inc
- X Permittee Olde Florida Golf Club Inc

GOVERNMENT AGENCIES

- X Collier County Property Appraiser
- X FDEP, Eric Hickman Environmental Administrator

STAFF REPORT DISTRIBUTION LIST

ADDRESSES

Olde Florida Golf Club Inc 9393 Vanderbilt Beach Road Ext Naples FL 34120

Collier County Property Appraiser

Olde Florida Golf Club Inc 9393 Vanderbilt Beach Road Ext Naples FL 34120

FDEP, Eric Hickman Environmental Administrator 2600 Blair Stone Road Ms2500 Tallahassee FL 34952

Application No: 100629-8

Page 2 of 2



