



SOUTH FLORIDA WATER MANAGEMENT DISTRICT
ENVIRONMENTAL RESOURCE PERMIT NO. 36-08654-P
DATE ISSUED: October 4, 2016

PERMITTEE: CITY OF FORT MYERS
ATTN: SAEED KAZEMI
2200 SECOND STREET
FORT MYERS, FL 33902

PROJECT DESCRIPTION: This Environmental Resource Permit authorizes Conceptual authorization over 3,420 acres of redevelopment area under Rule 62-330.055 F.A.C. The project is known as Cleveland Avenue Redevelopment.

PROJECT LOCATION: LEE COUNTY, TWP 45S RGE 24E
TWP 44S RGE 24E

PERMIT DURATION: See Special Condition No:1.

This is to notify you of the District's agency action for Permit Application No. 160727-15, dated July 27, 2016. This action is taken pursuant to the provisions of Chapter 373, Part IV, Florida Statutes (F.S).

Based on the information provided, District rules have been adhered to and an Environmental Resource Permit is in effect for this project subject to:

1. Not receiving a filed request for a Chapter 120, Florida Statutes, administrative hearing.
2. the attached 18 General Conditions (See Pages : 2 - 4 of 5),
3. the attached 5 Special Conditions (See Pages : 5 of 5) and
4. the attached 2 Exhibit(s)

Should you object to these conditions, please refer to the attached "Notice of Rights" which addresses the procedures to be followed if you desire a public hearing or other review of the proposed agency action. Please contact this office if you have any questions concerning this matter. If we do not hear from you in accordance with the "Notice of Rights," we will assume that you concur with the District's action.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT this written notice has been mailed or electronically transmitted to the Permittee (and the persons listed in the attached distribution list) this 4th day of October, 2016, in accordance with Section 120.60(3), F.S. Notice was also electronically posted on this date through a link on the home page of the District's website (my.sfwmd.gov/ePermitting).

BY: 
Melissa M. Roberts, P.E.
Regulatory Administrator
Lower West Coast Service Center

NOTICE OF RIGHTS

As required by Sections 120.569 and 120.60(3), Fla. Stat., the 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 of 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 SFWMD decision which affects or may affect their substantial interests shall file a petition for hearing with the Office of the District Clerk of the SFWMD, in accordance with the filing instructions set forth herein, 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 Section 373.119(1), Fla. Stat. "Receipt of written notice of agency decision" means receipt of written notice through mail, electronic mail, or posting that the SFWMD has or intends to take final agency action, or publication of notice that the SFWMD 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.

If the District takes final agency action which materially differs from the noticed intended agency decision, persons who may be substantially affected shall, unless otherwise provided by law, have an additional Rule 28-106.111, Fla. Admin. Code, point of entry.

Any person to whom an emergency order is directed pursuant to Section 373.119(2), Fla. Stat., shall comply therewith immediately, but on petition to the board shall be afforded a hearing as soon as possible.

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 an extension of time shall toll the running of the time period for filing a petition until the request is acted upon.

FILING INSTRUCTIONS

A petition for administrative hearing must be filed with the Office of the District Clerk of the SFWMD. Filings with the Office of the District Clerk may be made by mail, hand-delivery, or e-mail. Filings by facsimile will not be accepted. A petition for administrative hearing or other document is deemed filed upon receipt during normal business hours by the Office of the District Clerk at SFWMD headquarters in West Palm Beach, Florida. The District's normal business hours are 8:00 a.m. – 5:00 p.m., excluding weekends and District holidays. Any document received by the Office of the District Clerk after 5:00 p.m. shall be deemed 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 District Clerk, P.O. Box 24680, West Palm Beach, Florida 33416.

- Filings by hand-delivery must be delivered to the Office of the District Clerk. Delivery of a petition to the SFWMD's security desk does not constitute filing. It will be necessary to request that the SFWMD's security officer contact the Office of the District Clerk. An employee of the SFWMD's Clerk's office will receive and file the petition.
- Filings by e-mail must be transmitted to the Office of the District Clerk at clerk@sfwmd.gov. The filing date for a document transmitted by electronic mail shall be the date the Office of the District Clerk receives the complete document. A party who files a document by e-mail shall (1) represent that the original physically signed document will be retained by that party for the duration of the proceeding and of any subsequent appeal or subsequent proceeding in that cause and that the party shall produce it upon the request of other parties; and (2) 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.

INITIATION OF AN ADMINISTRATIVE HEARING

Pursuant to Sections 120.54(5)(b)4. and 120.569(2)(c), Fla. Stat., and 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 1/2 by 11 inch white paper. All petitions shall contain:

1. Identification of the action being contested, including the permit number, application number, SFWMD file number or any other SFWMD identification number, if known.
2. The name, address, any email address, any facsimile number, 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.

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 Section 120.68, Fla. Stat., and in accordance with Florida Rule of Appellate Procedure 9.110, 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 with the Office of the District Clerk of the SFWMD in accordance with the filing instructions set forth herein within 30 days of rendition of the order to be reviewed, and by filing a copy of the notice with the clerk of the appropriate district court of appeal.

GENERAL CONDITIONS

1. All activities shall be implemented following the plans, specifications and performance criteria approved by this permit. Any deviations must be authorized in a permit modification in accordance with Rule 62-330.315, F.A.C. Any deviations that are not so authorized shall subject the permittee to enforcement action and revocation of the permit under Chapter 373, F.S.
2. A complete copy of this permit shall be kept at the work site of the permitted activity during the construction phase, and shall be available for review at the work site upon request by the Agency staff. The permittee shall require the contractor to review the complete permit prior to beginning construction.
3. Activities shall be conducted in a manner that does not cause or contribute to violations of state water quality standards. Performance-based erosion and sediment control best management practices shall be installed immediately prior to, and be maintained during and after construction as needed, to prevent adverse impacts to the water resources and adjacent lands. Such practices shall be in accordance with the "State of Florida Erosion and Sediment Control Designer and Reviewer Manual" (Florida Department of Environmental Protection and Florida Department of Transportation June 2007), and the "Florida Stormwater Erosion and Sedimentation Control Inspector's Manual" (Florida Department of Environmental Protection, Nonpoint Source Management Section, Tallahassee, Florida, July 2008), unless a project-specific erosion and sediment control plan is approved or other water quality control measures are required as part of the permit.
4. At least 48 hours prior to beginning the authorized activities, the permittee shall submit to the Agency a fully executed Form 62-330.350(1), "Construction Commencement Notice" indicating the expected start and completion dates. If available, an Agency website that fulfills this notification requirement may be used in lieu of the form.
5. Unless the permit is transferred under Rule 62-330.340, F.A.C., or transferred to an operating entity under Rule 62-330.310, F.A.C., the permittee is liable to comply with the plans, terms and conditions of the permit for the life of the project or activity.
6. Within 30 days after completing construction of the entire project, or any independent portion of the project, the permittee shall provide the following to the Agency, as applicable:
 - a. For an individual, private single-family residential dwelling unit, duplex, triplex, or quadruplex- "Construction Completion and Inspection Certification for Activities Associated With a Private Single-Family Dwelling Unit"[Form 62-330.310(3)]; or
 - b. For all other activities- "As-Built Certification and Request for Conversion to Operational Phase" [Form 62-330.310(1)].
 - c. If available, an Agency website that fulfills this certification requirement may be used in lieu of the form.
7. If the final operation and maintenance entity is a third party:
 - a. Prior to sales of any lot or unit served by the activity and within one year of permit issuance, or within 30 days of as- built certification, whichever comes first, the permittee shall submit, as applicable, a copy of the operation and maintenance documents (see sections 12.3 thru 12.3.3 of Applicant's Handbook Volume I) as filed with the Department of State, Division of Corporations and a copy of any easement, plat, or deed restriction needed to operate or maintain the project, as recorded with the Clerk of the Court in the County in which the activity is located.
 - b. Within 30 days of submittal of the as- built certification, the permittee shall submit "Request for Transfer of Environmental Resource Permit to the Perpetual Operation Entity" [Form 62-330.310(2)] to transfer the permit to the operation and maintenance entity, along with the documentation requested in the form. If available, an Agency website that fulfills this transfer requirement may be used in lieu of the form.
8. The permittee shall notify the Agency in writing of changes required by any other regulatory agency that

GENERAL CONDITIONS

require changes to the permitted activity, and any required modification of this permit must be obtained prior to implementing the changes.

9. This permit does not:
 - a. Convey to the permittee any property rights or privileges, or any other rights or privileges other than those specified herein or in Chapter 62-330, F.A.C.;
 - b. Convey to the permittee or create in the permittee any interest in real property;
 - c. Relieve the permittee from the need to obtain and comply with any other required federal, state, and local authorization, law, rule, or ordinance; or
 - d. Authorize any entrance upon or work on property that is not owned, held in easement, or controlled by the permittee.
10. Prior to conducting any activities on state-owned submerged lands or other lands of the state, title to which is vested in the Board of Trustees of the Internal Improvement Trust Fund, the permittee must receive all necessary approvals and authorizations under Chapters 253 and 258, F.S. Written authorization that requires formal execution by the Board of Trustees of the Internal Improvement Trust Fund shall not be considered received until it has been fully executed.
11. The permittee shall hold and save the Agency harmless from any and all damages, claims, or liabilities that may arise by reason of the construction, alteration, operation, maintenance, removal, abandonment or use of any project authorized by the permit.
12. The permittee shall notify the Agency in writing:
 - a. Immediately if any previously submitted information is discovered to be inaccurate; and
 - b. Within 30 days of any conveyance or division of ownership or control of the property or the system, other than conveyance via a long-term lease, and the new owner shall request transfer of the permit in accordance with Rule 62-330.340, F.A.C. This does not apply to the sale of lots or units in residential or commercial subdivisions or condominiums where the stormwater management system has been completed and converted to the operation phase.
13. Upon reasonable notice to the permittee, Agency staff with proper identification shall have permission to enter, inspect, sample and test the project or activities to ensure conformity with the plans and specifications authorized in the permit.
14. If any prehistoric or historic artifacts, such as pottery or ceramics, stone tools or metal implements, dugout canoes, or any other physical remains that could be associated with Native American cultures, or early colonial or American settlement are encountered at any time within the project site area, work involving subsurface disturbance in the immediate vicinity of such discoveries shall cease. The permittee or other designee shall contact the Florida Department of State, Division of Historical Resources, Compliance and Review Section, at (850) 245-6333 or (800) 847-7278, as well as the appropriate permitting agency office. Such subsurface work shall not resume without verbal or written authorization from the Division of Historical Resources. If unmarked human remains are encountered, all work shall stop immediately and notification shall be provided in accordance with Section 872.05, F.S.
15. Any delineation of the extent of a wetland or other surface water submitted as part of the permit application, including plans or other supporting documentation, shall not be considered binding unless a specific condition of this permit or a formal determination under Rule 62-330.201, F.A.C., provides otherwise.
16. The permittee shall provide routine maintenance of all components of the stormwater management system to remove trapped sediments and debris. Removed materials shall be disposed of in a landfill or other

GENERAL CONDITIONS

uplands in a manner that does not require a permit under Chapter 62-330, F.A.C., or cause violations of state water quality standards.

17. This permit is issued based on the applicant's submitted information that reasonably demonstrates that adverse water resource-related impacts will not be caused by the completed permit activity. If any adverse impacts result, the Agency will require the permittee to eliminate the cause, obtain any necessary permit modification, and take any necessary corrective actions to resolve the adverse impacts.
18. A Recorded Notice of Environmental Resource Permit may be recorded in the county public records in accordance with Rule 62-330.090(7), F.A.C. Such notice is not an encumbrance upon the property.

SPECIAL CONDITIONS

1. The conceptual phase of this permit shall expire on October 4, 2036.
2. Operation and maintenance of the stormwater management system shall be the responsibility of the permittee.
3. The following are exhibits to this permit. Exhibits noted as incorporated by reference are available on the District's ePermitting website (<http://my.sfwmd.gov/ePermitting>) under this application number.

Exhibit No. 1.0 Location Map

Exhibit No. 2.0 Redevelopment Area Map

Exhibit No. 2.1 Water Quality Nutrient Ledger Sample

Exhibit No. 2.2 Water Quantity Discharge Volume Ledger Sample

4. Prior to construction of future development improvements located within the Redevelopment boundary, property owners will be required to submit for a Notice of Intent to use the General Permit in Rule 62-330.450, F.A.C. A current version of the credit ledger (Exhibit No. 2.1 and/or Exhibit 2.2) from the City of Fort Myers will be required as part of the application submittal.

Last Date For Agency Action: October 25, 2016

INDIVIDUAL ENVIRONMENTAL RESOURCE PERMIT STAFF REPORT

Project Name: Cleveland Avenue Redevelopment

Permit No.: 36-08654-P

Application No.: 160727-15

Application Type: Environmental Resource (Conceptual Approval)

Location: Lee County, T44S/R24E
T45S/R24E

Permittee : City Of Fort Myers

Operating Entity : Permittee

Project Area: 7.50 acres

Permit Area: 3,420.00 acres

Project Land Use: Commercial

Drainage Basin: TIDAL CALOOSAHATCHEE

Sub Basin: CARRELL CANAL
MANUEL'S BRANCH
WINKLER CANAL

Receiving Body: Caloosahatchee River

Class: CLASS III

Special Drainage District: NA

Conservation Easement To District : No

Sovereign Submerged Lands: No

PROJECT SUMMARY:

This Environmental Resource Permit authorizes Conceptual authorization over 3,420 acres of redevelopment area under Rule 62-330.055 F.A.C. The project is known as Cleveland Avenue Redevelopment.

This application includes the usage of Rule 62-330.055 F.A.C. Conceptual Approval Permits for Urban Infill or Redevelopment criteria. Construction improvements associated with the Fort Myers Country Club (FMCC), application no. 140307-23, are complete and certified. Property owners within the 3,420 acre redevelopment boundary (Exhibit No. 2.0) will not be required to separately meet all stormwater quality and quantity design and performance criteria of the Applicant's Handbook, Volume II. Instead, they may be able to rely on the City of Fort Myers stormwater management system that is authorized under application no. 140307-23.

The property owners within the conceptual area may be eligible to receive a General Permit (Rule 62-330.450, F.A.C.). The conceptual approval limits of the project are shown on Exhibit No. 2.0.

PROJECT EVALUATION:**PROJECT SITE DESCRIPTION:**

The project is located in Township 44 and 45 south, and Range 24 east within the City of Fort Myers; Lee County, FL (Exhibit 1.0).

There are permitted water management facilities within the conceptual area. The conceptual area is an urban environment containing roads, sidewalks, buildings, and drainage features.

No adverse environmental impacts are anticipated with this conceptual approval.

BACKGROUND:

As a part of the State Wide Environmental Resource Permit (SWERP) implementation, a new type of permit was created to encourage redevelopment within existing urban areas while ensuring protection to receiving waterbodies.

The property owners within the conceptual area may be eligible to receive a General Permit (Rule 62-330.450, F.A.C.) as long as the applicant can either demonstrate: 1) that the new development does not increase post development loadings of nitrogen or phosphorus; or 2) they can utilize the City of Fort Myers Ledger (Exhibit No. 2.1) to demonstrate that the nutrients reduced by Application No. 140307-23 provides adequate nutrient removal for the proposed redevelopment.

The property owners within the Carrell Canal watershed may be eligible to receive a General Permit (Rule 62-330.450, F.A.C.) as long as the applicant can either demonstrate: 1) that the new development is located upstream of the FMCC; 2) the post development discharge rate does not exceed the pre development discharge rate; or 3) they can utilize the City of Fort Myers Ledger (Exhibit No. 2.2) to demonstrate that the quantified total volume of water discharged, during a 10 year - 3 day storm event (City's stormwater design criteria), mitigated by the treatment areas permitted under Application No. 140307-23 provides adequate attenuation volume for the proposed redevelopment.

LAND USE:**Conceptual**

		Area (ac)
C R A	Total	3420
Total:		3420

WATER QUALITY :

An annual reduction in 429 kg of Nitrogen and 159 kg of Phosphorus is anticipated as a result of the previously permitted improvements. The City of Fort Myers will provide and maintain a ledger for future applicants to utilize when requesting a General Permit (Rule 62-330.450, F.A.C.) to demonstrate that future improvements are consistent with this application.

RELATED CONCERNS:**Water Use Permit Status:**

The applicant has indicated that irrigation water and dewatering are not required for construction of this project. This permit does not release the permittee from obtaining all necessary Water Use authorization(s) prior to the commencement of activities which will require such authorization, including construction dewatering and irrigation.

CERP:

The proposed project is not located within or adjacent to a Comprehensive Everglades Restoration Project component.

Right-Of-Way Permit Status:

A District Right-of-Way Permit is not required for this project.

Historical/Archeological Resources:

The District has received correspondence dated August 22, 2016 from the Florida Department of State, Division of Historical Resources indicating that the project is unlikely to have an effect upon any such properties. However, the agency requested that a special condition be added to the permit with regards to fortuitous finds and prehistoric or historic artifacts. Please refer to General Condition 14.

This permit does not release the permittee from compliance with any other agencies' requirements in the event that historical and/or archaeological resources are found on the site.

DEO/CZM Consistency Review:

The issuance of this permit constitutes a finding of consistency with the Florida Coastal Management Program.

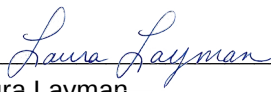
Third Party Interest:

No third party has contacted the District with concerns about this application.

Enforcement:

There has been no enforcement activity associated with this application.

STAFF REVIEW:**DIVISION APPROVAL:****NATURAL RESOURCE MANAGEMENT:**



Laura Layman

DATE: 10/4/16

SURFACE WATER MANAGEMENT:

A handwritten signature in black ink, appearing to read 'Brian Rose', is written over a horizontal line.

Brian Rose, P.E.

DATE: 10/3/16

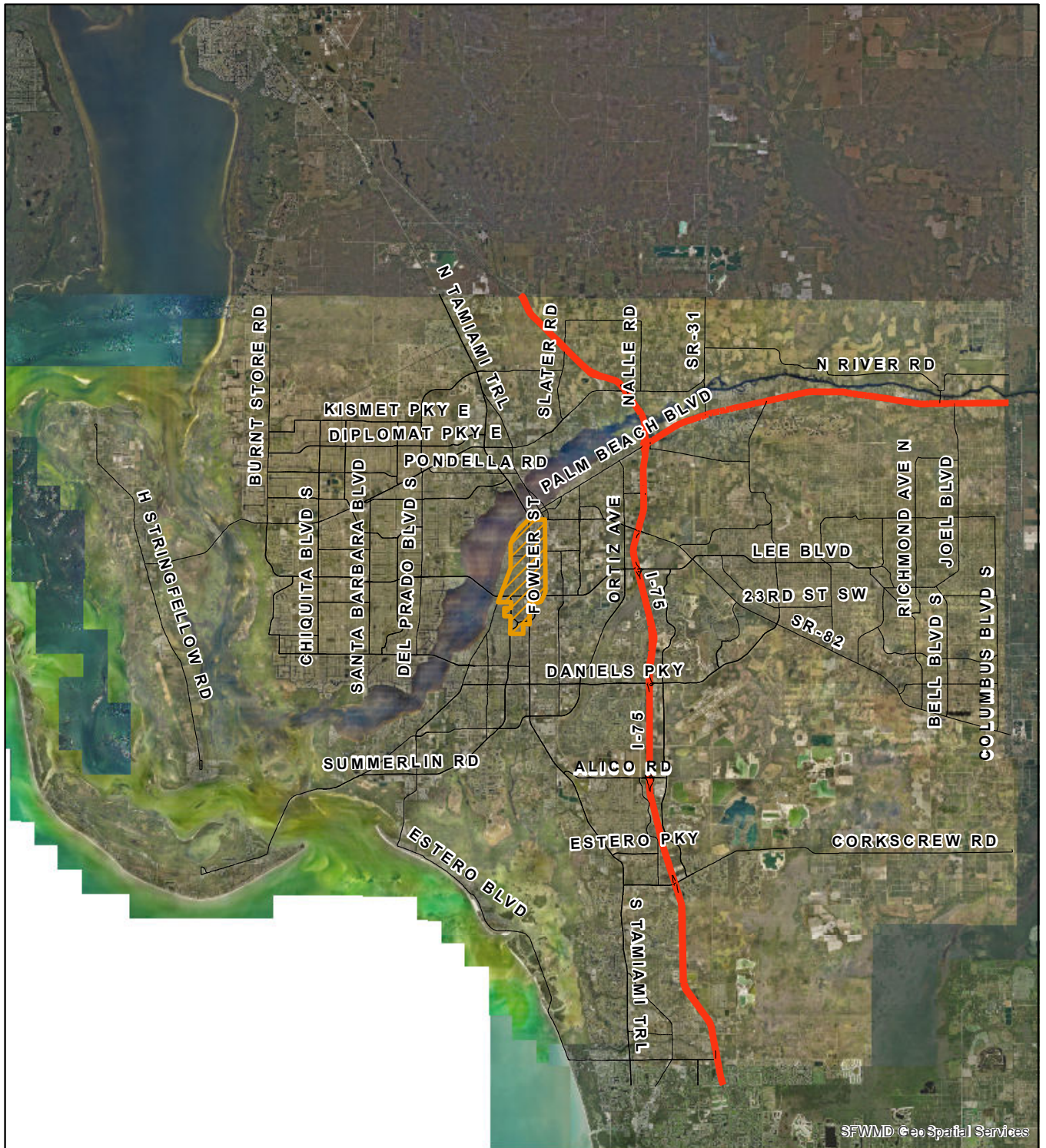


Exhibit No: 1	Exhibit Created On: 2016-08-01	LEE COUNTY, FL	Application
REGULATION DIVISION Project Name: CLEVELAND AVENUE REDEVELOPMENT 0 25,500 51,000 Feet N 			
Application Number: 160727-15 Created by Regulation GIS Section South Florida Water Management District			

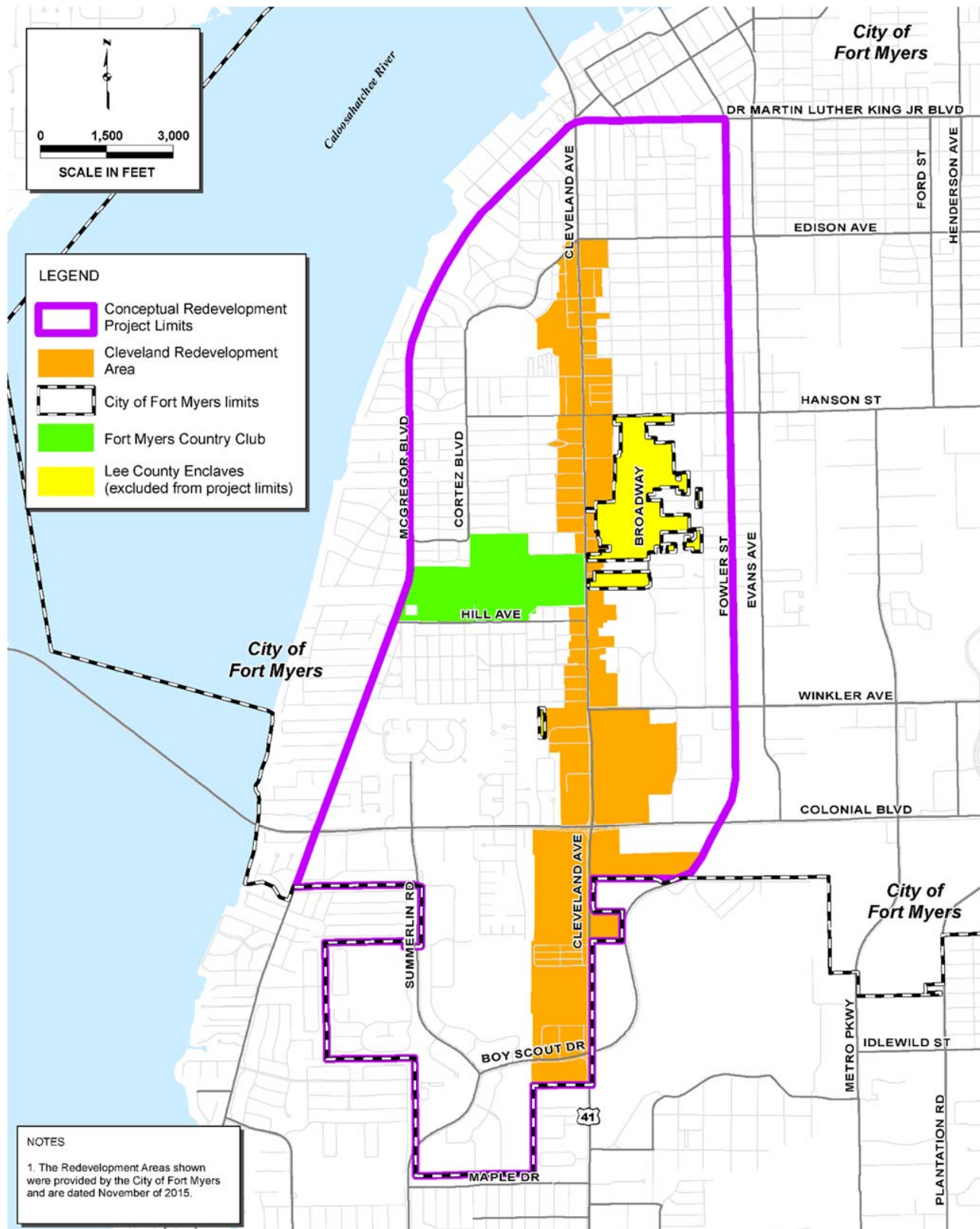


Figure 1 - Conceptual Redevelopment Project Limits

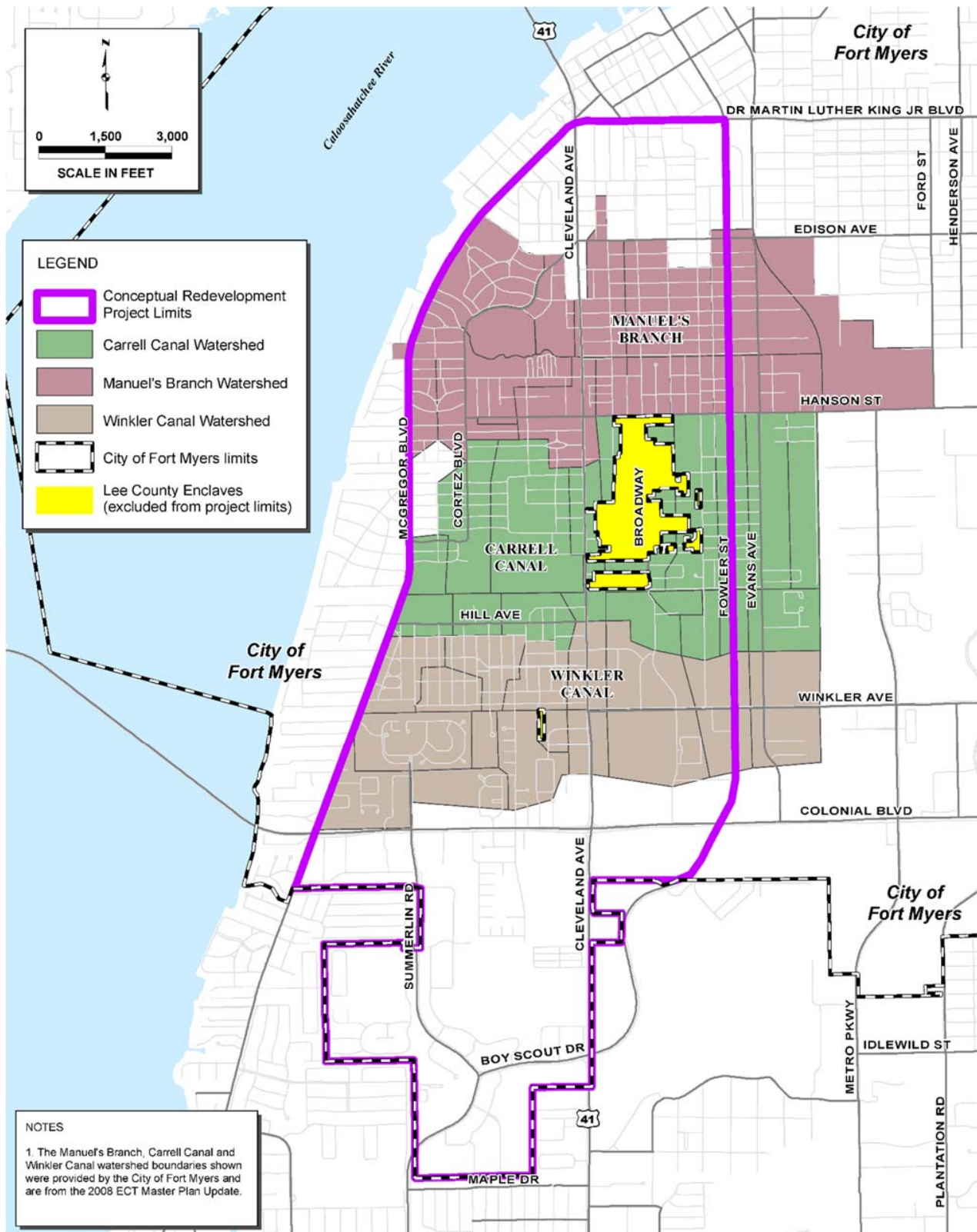


Figure 2 - Watersheds and Conceptual Redevelopment Project Limits

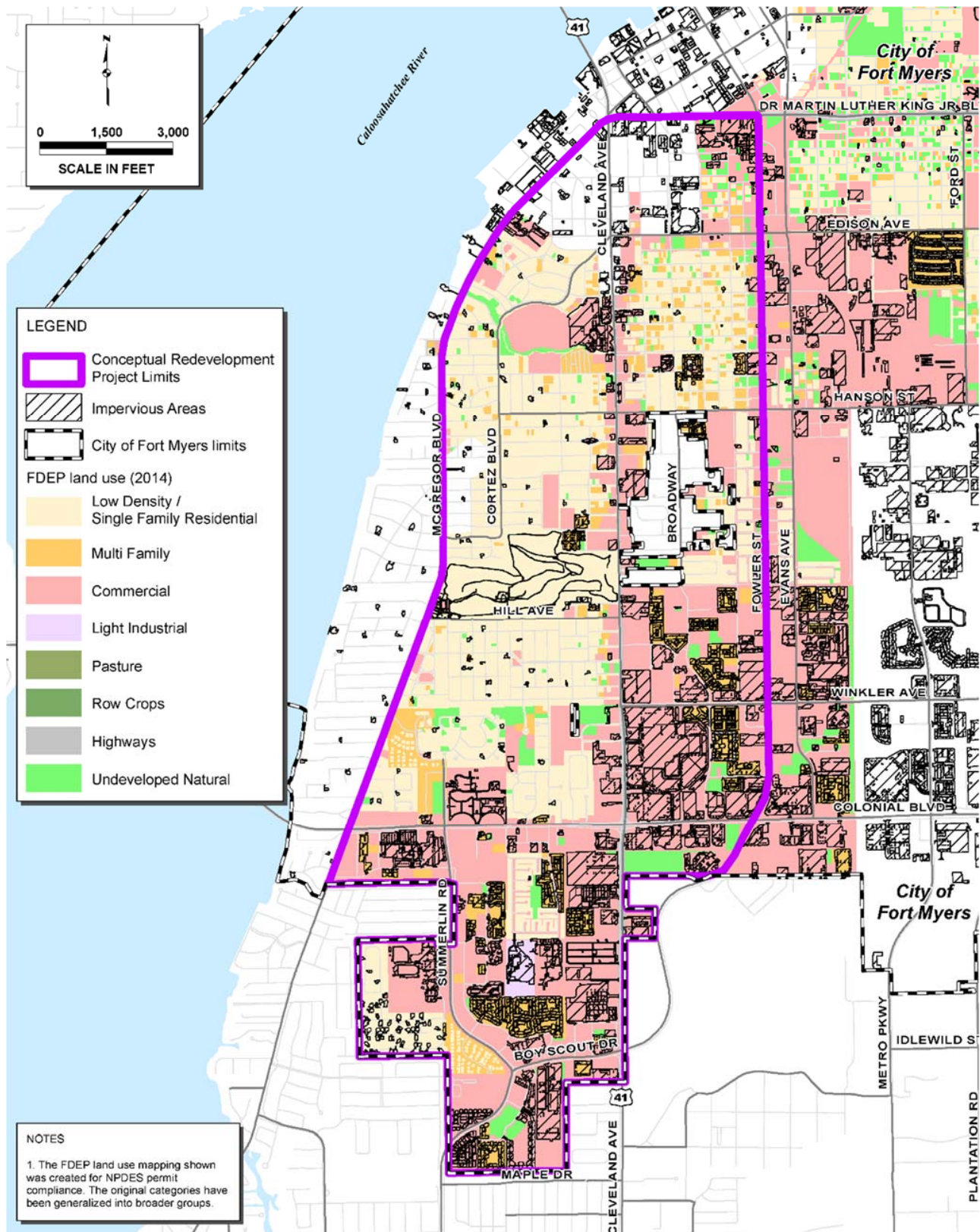


Figure 3 - Existing Land Use

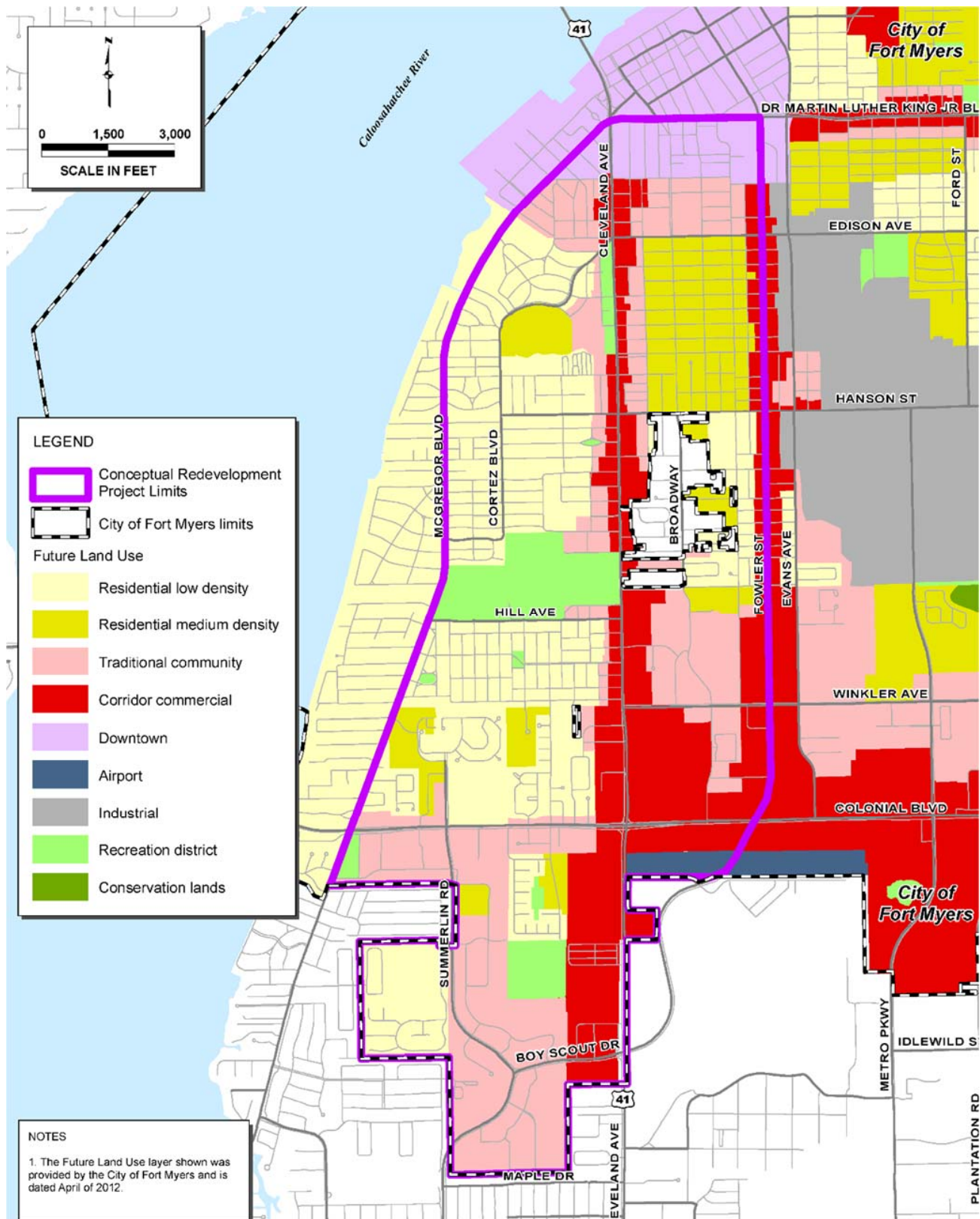


Figure 4 - Future Land Use

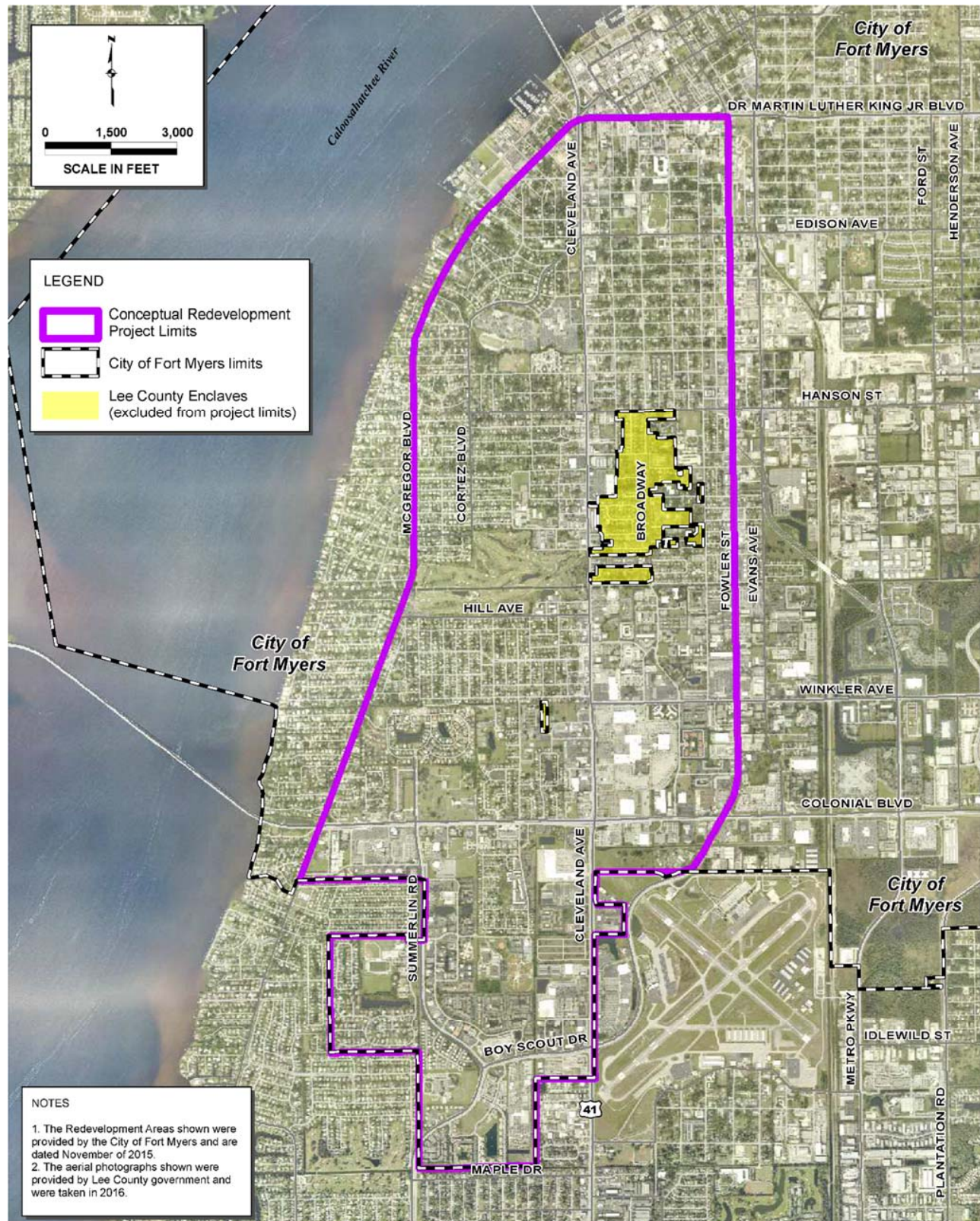
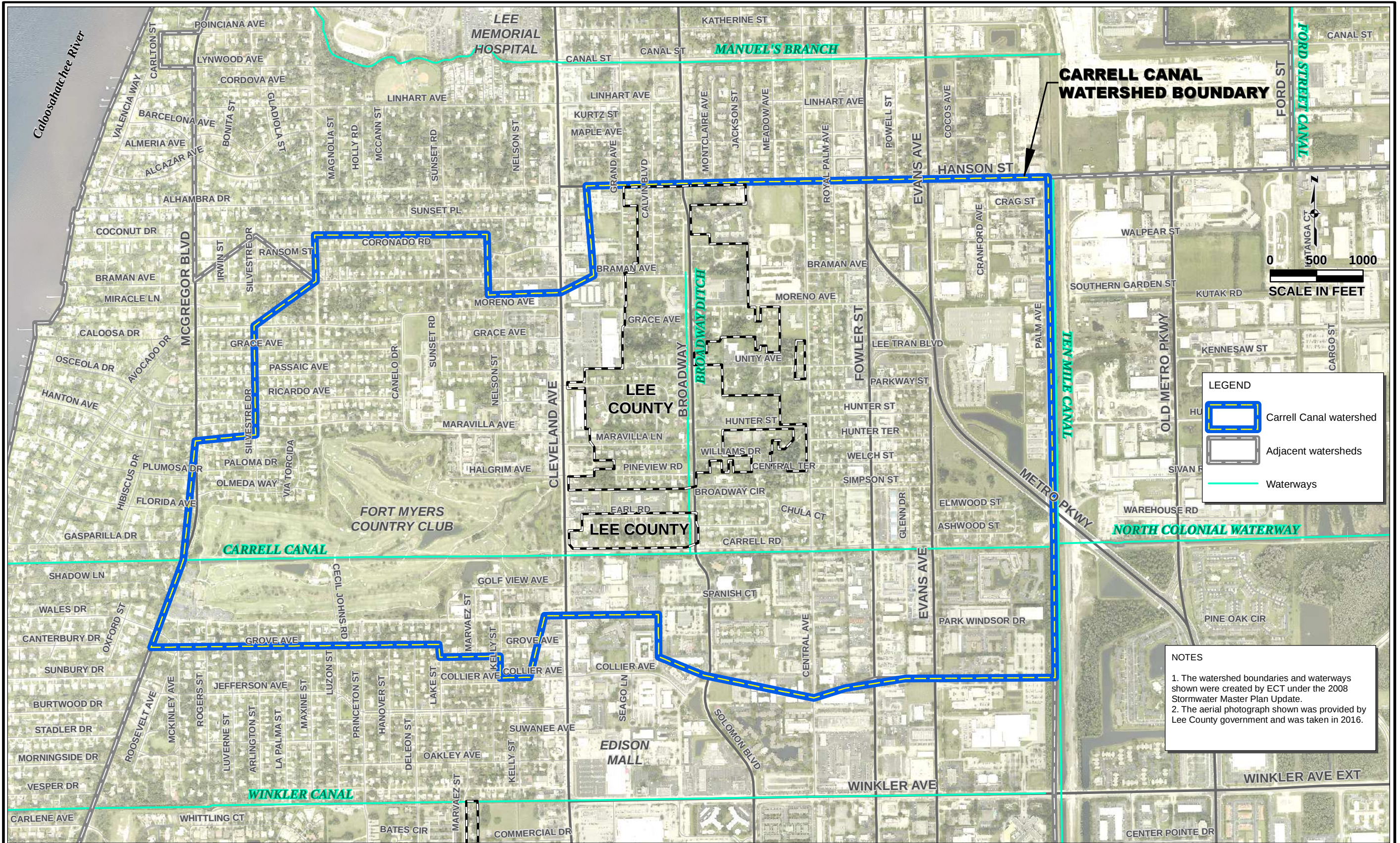


Figure 5 - Project Limits

Path: \\ftms01\drawings\2012\20129110-005\ArcGIS\carrell canal watershed.mxd Date: 8/26/2016 Time: 6:08:51 AM User: pml



City of Fort Myers Redevelopment
Lee County, Florida

JOHNSON
ENGINEERING

JOHNSON ENGINEERING, INC.
2122 JOHNSON STREET
P.O. BOX 1550
FORT MYERS, FLORIDA 33902-1550
PHONE (239) 334-0046
FAX (239) 334-3661
E.B. #642 & L.B. #642

Carrell Canal Watershed Exhibit

DATE	PROJECT NO.	FILE NO.	SCALE	SHEET
August 2016	20129110-005	--	As Shown	1

**CITY OF FORT MYERS - CLEVELAND AVENUE CRA
WATER QUALITY ACCOUNTING SUMMARY**

DATE	SFWMD ERP APPLICATION No.	PROJECT NAME	Requested Water Quality Credit		Remanining Water Quality		REMARKS
			T-N (Kg/yr)	T-P (Kg/yr)	T-N (Kg/yr)	T-P (Kg/yr)	
		<i>Conceptual Redevelopment</i>	-	-	429	159	<i>LEDGER START</i>

Volumetric Equivalency: 1 ac-ft = 31.8 Kg/yr of T-N or 11.8 Kg/yr of T-P

**CITY OF FORT MYERS - CLEVELAND AVENUE CRA
CARRELL CANAL WATERSHED WATER QUANTITY ACCOUNTING SUMMARY**

DATE	SFWMD ERP APPLICATION No.	PROJECT NAME	Requested Water Quantity	Remanining Water Quantity	REMARKS
			Ac-ft	Ac-ft	
		<i>Conceptual Redevelopment</i>	-	5.8	<i>CARRELL CANAL LEDGER START</i>

STAFF REPORT DISTRIBUTION LIST

CLEVELAND AVENUE REDEVELOPMENT

Application No: 160727-15

Permit No: 36-08654-P

INTERNAL DISTRIBUTION

- X Angelica S. Hoffert, P.E.
- X Jewelene S. Harris
- X Laura Layman
- X Brian Rose, P.E.
- X A. Waterhouse, P.E.

EXTERNAL DISTRIBUTION

- X Permittee - City Of Fort Myers
- X Engr Consultant - Johnson Engineering Inc

GOVERNMENT AGENCIES

- X Div of Recreation and Park - District 4 - Chris Becker,
FDEP

OTHER INTERESTED PARTIES

- X Audubon of Florida - Charles Lee

STAFF REPORT DISTRIBUTION LIST

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