

Rick Scott  
GOVERNOR



Jesse Panuccio  
EXECUTIVE DIRECTOR

February 12, 2014

Mr. John F. Adams  
Rj Whidden and Associates  
316 Church Street  
Kissimmee, Florida 34741

RE: Binding Letter of Modification to a Development with Vested Rights for Poinciana Village 1, Neighborhoods 3 West and 3 South; File No. BLIM-06-2014-005; Final Order No. DEO-14-011

Dear Mr. Adams:

The Department of Economic Opportunity (the Department) has evaluated your application for a Binding Letter of Modification (BLIM) to a Development with Vested Rights for Village 1, Neighborhoods 3 West and 3 South of the Poinciana vested development plan. The current vested plan combined neighborhoods 3 West and 3 South through BLIM-694-007. The Department received the application on January 23, 2014. Based on the information contained in the application and other information obtained during review of the proposal, the Department enters the following Findings of Fact, Conclusions of Law, and Order.

#### FINDINGS OF FACT

1. The applicant is John F. Adams, authorized agent for Rj Whidden and Associates, acting on behalf of AV Homes, the owner of the subject property.
2. Poinciana Village 1, Neighborhoods 3 West and 3 South are located within Section 12, Township 27 South, Range 28 East, in Osceola County. The site is approximately twelve miles south of Kissimmee, in the central portion of Poinciana, along San Remo Road. See Exhibits 1-3.
3. A brief history of Poinciana is as follows:

As shown in a master plan approved on August 31, 1971 and October 5, 1971 by Osceola and Polk Counties, respectively, Poinciana was designed by the original owner, Avatar Holdings, Inc., as a large-scale mixed use development on approximately 47,000 acres. On July 24, 1975, Avatar initially filed an application for Binding Letter of Interpretation of Vested Rights (BLIVR) status with the Division of State Planning for a portion of Poinciana known as Village 3, Neighborhood 1, and Village 1, Neighborhood 3-West. Subsequently, on September 19, 1975, the Division issued a BLIVR (File No. BLIVR 776-001) finding that these two neighborhoods had acquired vested rights and advised Avatar to seek a determination on the balance of the property included in its master plan.

On September 14, 1982, Avatar filed a BLIVR application for all eight Villages of Poinciana, and on May 17, 1983, the Department issued BLIVR-783-002 determining that the Poinciana development had acquired vested rights status, and therefore was not required to comply with Section 380.06, Florida Statutes.

The Department has issued a total of 46 Binding Letters on Poinciana. These include the two Binding Letters of Interpretation of Vested Rights Status (File No. BLIVR-776-001 and BLIVR-783-002, mentioned above) and the 44 Binding Letters of Modification for specific portions of the Poinciana development, as follows:

BLIM-686-006, Poinciana Park, February 27, 1986  
BLIM-686-009, Lonestar Properties, June 10, 1986  
BLIM-787-003, Poinciana Village 7, N3 & 6, November 26, 1986  
BLIM-686-012, Poinciana – Coopersmith II, December 1, 1986  
BLIM-691-004, Parker-Poinciana, Inc., February 1, 1991  
BLIM-691-006, Poinciana Estates, July 23, 1991  
BLIM-792-001, Poinciana Village 7, N3 & 6, November 1, 1991  
BLIM-692-006, Poinciana Estates B, June 2, 1992  
BLIM-693-002, Poinciana Lonestar Properties, October 26, 1993  
BLIM-693-005, Poinciana Estates A, N2, March 16, 1994  
BLIM-695-005, Poinciana Village 3, N1, Tract C, September 1, 1994  
BLIM-694-007, Poinciana Village 1, N3 West & 3 South, October 4, 1994  
BLIM-697-001, Poinciana Village 1, N3, East, September 5, 1996  
BLIM-598-002, Poinciana Estates E, N1, December 13, 1996  
BLIM-799-001, Poinciana Estates N2, 3, 4 and 5, September 3, 1998  
BLIM-699-004, Poinciana Office and Industrial Park I-Section A, Tracts C, H, and L, and Section C, Tracts A, B, and C, March 22, 1999  
BLIM-699-005, Poinciana Office and Industrial Park-Section A, March 16, 1999  
BLIM-699-006, Poinciana Village 1, N3 East, February 25, 1999  
BLIM-600-004, Poinciana Village 1, N3 East, December 14, 1999  
BLIM-600-005, Poinciana Estates A, N2, December 14, 1999  
BLIM-600-006, Poinciana Estates A, N1, June 16, 2000  
BLIM-701-001, Poinciana Estates A, N1, June 16, 2000  
BLIM-602-002, Poinciana Estates D, May 15, 2002  
BLIM-602-003, Poinciana Office and Industrial Park 3, May 15, 2002  
BLIM-604-002, Poinciana Estates D, September 17, 2003  
BLIM-604-003, Poinciana Village 1, N4, November 7, 2003  
BLIM-604-004, Poinciana Village 1, N3, November 7, 2003  
BLIM-604-005, Poinciana Estates D and Office and Industrial Park 4, November 7, 2003  
BLIM-604-006, Poinciana Estates East, N1, March 19, 2003  
BLIM-605-006, Poinciana Office and Industrial Park 4, May 6, 2005  
BLIM-704-009, Poinciana Village 3, N1, and Village 4, N1, July 2, 2004  
BLIM-705-007, Poinciana Village 7, N5, June 6, 2005  
BLIM-06-2007-009, Poinciana Estates B, Tracts B and D, July 27, 2007  
BLIM-06-2007-010, Poinciana Village 1, N4 and Village 2, N5, August 15, 2007  
BLIM-06-2007-013, Poinciana Village 2, N1, December 28, 2007  
BLIM-006-2008-004, Poinciana Village 2, N5, Village 1, N4, April 3, 2009  
BLIM-006-2008-006, Poinciana Village 1, N3, May 18, 2009  
BLIM-07-2009-001, Poinciana Village 7, N4 and 5, and O and I6, February 3, 2010  
BLIM-07-2009-003, Poinciana Village 3, N2 and N6, May 28, 2010  
BLIM-07-2010-004 Poinciana Village 7, N6, March 21, 2011  
BLIM-07-2014-001 Poinciana Village 3, N6, September 27, 2013  
BLIM-06-2014-002 Poinciana Village 1, N1, October 15, 2013  
BLIM-07-2014-003 Poinciana Village 7, N2, December 18, 2013  
BLIM-06-2014-004 Poinciana Office and Industrial Park 1, Section B, January 30, 2014

4. The existing vested plan of development established for Village 1, Neighborhoods 3 West and 3 South encompasses 810.49 acres, as follows:

- 1,788 residential single family dwelling units;
- 409 multi-family residential dwelling units;
- 1,129,752 square feet commercial/retail/service;
- 18,469 square feet institutional church (7.16 acres total);
- 114,494 square feet institutional school;
- 1.00 acre service water supply site;
- 204.4 acres roads; and
- 112.62 acres open space.

#### The Proposed Modification

5. The applicant proposes to make the following changes to the vested plan of development for Village 1, Neighborhoods 3 West and 3 South:

- A decrease of 2.12 acres of Institutional Church Site in Village 1, Neighborhood 3 West;
- A decrease of 1.00 acre of Service Water Supply Site in Village 1, Neighborhood 3 West; and
- A relocation of 25,000 square feet of existing vested commercial use from Village 1, Neighborhood 3 South to Village 1, Neighborhood 3 West, which were previously combined. No increase of commercial square feet is proposed.

6. Pursuant to Section 380.06(4)(e), Florida Statutes (F.S.), in determining whether a proposed substantial change to a development of regional impact concerning which rights had previously vested pursuant to Subsection (20), would divest such rights, the state land planning agency shall review the proposed change within the context of:

- The criteria specified in Section 380.06(19)(b), F.S.;
- Its conformance with any adopted state comprehensive plan and any rules of the State Land Planning Agency;
- All rights and obligations arising out of the vested status of such development;
- Permit conditions or requirements imposed by the Department of Environmental Protection or any water management district created by Section 373.069 or any of their successor agencies or by any appropriate federal regulatory agency; and
- Any regional impacts arising from the proposed change.

7. In determining whether the proposed change to the vested plan of development is substantial, the Department applied the following criteria under Section 380.06(19)(b)6 and 10, F.S., which state:

- 380.06(19)(b)6 – An increase in commercial development by 60,000 square feet of gross floor area or of parking spaces provided for customers for 425 cars or a 10 percent increase, whichever is greater
- 380.06(19)(b)10 – A 15 percent increase in the number of external vehicle trips generated by the development above that which was projected during the original development-of-regional impact review.

8. Applying the criteria of Section 380.06(19)(b), F.S., to the proposed change of the vested plan, the Department finds that the proposed modification will result in the following:

- A decrease of 2.12 acres, or 5,469 square feet, of institutional (church) uses;
- A decrease of 1.00 acre of institutional (service water supply site) use;
- A relocation of 25,000 square feet of existing vested commercial use from Village 1, Neighborhood 3 South to Village 1, Neighborhood 3 West, with no net increase of commercial square feet; and
- A decrease of 5 PM peak hour trips.

These modifications do not constitute a substantial change to the vested plan of development pursuant to Section 380.06(19)(b)6 and 10, F.S.

9. Pursuant to the criterion in Section 380.06(4)(e)2, F.S., to determine whether the proposed change is in conformance with the State Comprehensive Plan, the Department reviewed and applied the goals and policies of the State Comprehensive Plan as a whole to the Poinciana Village 1, Neighborhoods 3 West and 3 South vested plan of development. When reasonably applied, the Department finds the proposed modification is consistent with the goals and policies of the State Comprehensive Plan. The Department finds that the proposed modification will not create additional impacts to regional resources and facilities.

10. The Department has consulted with local, regional, and state agencies and finds that no regional impacts will result from this modification.

11. Pursuant to Section 380.06(4)(e)1-5, F.S., the proposed modification to the vested plan of development for Poinciana Village 1, Neighborhoods 3 West and 3 South does not divest any rights the developer has acquired under Section 380.06(20), F.S.

#### CONCLUSIONS OF LAW

1. Pursuant to Section 380.06(4)(e), F.S., the proposed modifications to the vested plan of development do not divest any rights the developer has acquired under Section 380.06(20), F.S. to complete the modified plan of vested development for Poinciana Village 1, Neighborhoods 3 West and 3 South described above in Findings of Fact Numbers 4 and 5.

#### ORDER

1. The modification to Poinciana Village 1, Neighborhoods 3 West and 3 South will not be required to comply with the development of regional impact review requirements in Section 380.06, F.S.
2. The proposed modification to the vested plan will not divest the applicant's right to develop the site. If those changes as described in your application for this binding letter are approved by the local government and are incorporated into a new development order, they will constitute the vested plan of development and must be followed by you or your successor(s). If any further changes are proposed for this project, they should be submitted by the applicant, or any successor, to this agency so that those changes may be reviewed cumulatively with the modified plan. Should any of the representations made by the applicant be substantially changed, further binding letter review may be required.

3. This binding letter has been issued pursuant to the procedural requirements of Section 120.57(2), F.S., and constitutes final agency action. A notice of rights is attached to this binding letter and is incorporated by reference.
4. This binding letter determination does not obviate the applicant's need to comply with all other applicable federal, state, or local permitting procedures, including consistency with the Comprehensive Plan.

If you have any questions concerning this review, please contact Bill Pable, AICP, at (850) 717-8534, or by email at [bill.pable@deo.myflorida.com](mailto:bill.pable@deo.myflorida.com).

Sincerely,



Ana Richmond  
Comprehensive Planning Manager

AR/bp

cc: Kerry Godwin, AICP, Director, Osceola County Planning & Zoning Office  
Hugh Harling, Executive Director, East Central Florida Regional Planning Council  
Judy Pizzo, Department of Transportation, District 5

DEPARTMENT OF ECONOMIC OPPORTUNITY  
FILING AND ACKNOWLEDGEMENT  
FILED, on this date, with the designated  
Agency Clerk, receipt of which is hereby  
acknowledged.

 2-11-14  
\_\_\_\_\_  
Agency Clerk Date

NOTICE OF ADMINISTRATIVE RIGHTS

This order or determination constitutes proposed agency action that will become final twenty-one (21) calendar days after receipt of this agency action unless a petition for an administrative proceeding is filed as provided in this Notice.

A person whose substantial interests are affected by this agency action may request an administrative proceeding pursuant to section 120.569, Fla. Stat., by filing a petition with the Department of Economic Opportunity's Agency Clerk within twenty-one (21) calendar days after receipt of this agency action. If the deadline to file a petition falls on a Saturday, Sunday, or legal holiday, the deadline shall run until 5:00 p.m. on the next day which is not a Saturday, Sunday, or legal holiday. A petition is any document that requests an administrative proceeding. The petition must state with specificity the portion of the agency action for which an administrative proceeding is requested. A petition must also contain the information required by Rule 28-106.201, Fla. Admin. Code, if the petition alleges disputed issues of material fact, or the information required by Rule 28-106.301, Fla. Admin. Code, if the petition does not allege disputed issues of material fact.

A petition is filed with the Department when it is received by:

AGENCY CLERK  
DEPARTMENT OF ECONOMIC OPPORTUNITY  
OFFICE OF THE GENERAL COUNSEL  
107 EAST MADISON STREET, MSC 110  
TALLAHASSEE, FLORIDA 32399-4128  
Telephone: (850) 245-7160  
FAX NUMBER (850) 921-3230  
Electronic mail: james.bellflower@deo.myflorida.com

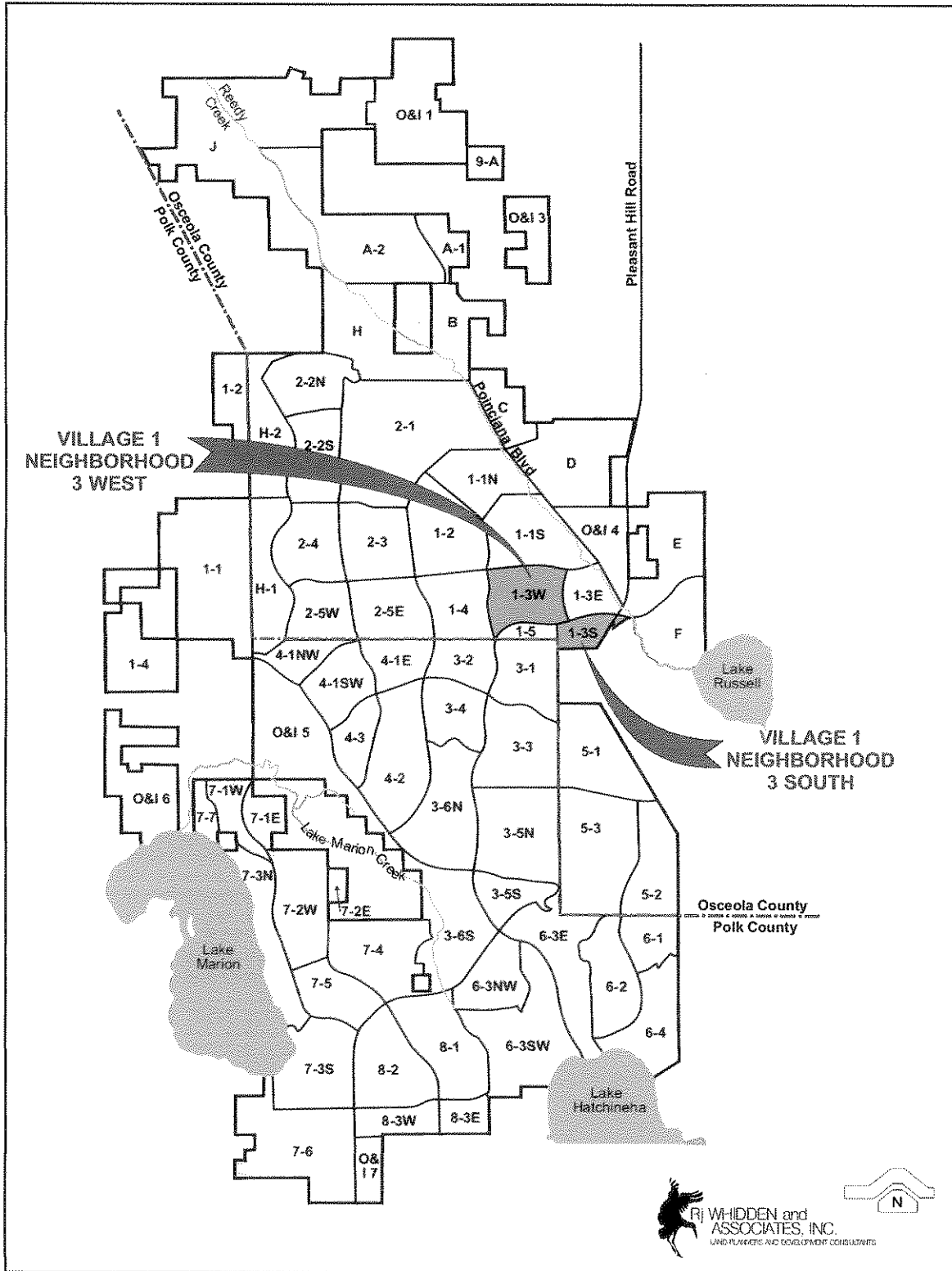
Any provision of this agency action for which an administrative proceeding is not specifically requested shall become final twenty-one (21) calendar days after receipt of this agency action and shall not thereafter be subject to further administrative review.

Mediation is not available in connection with this agency action.

You waive the right to an administrative proceeding if you do not file a petition with the Agency Clerk within the time period described above.

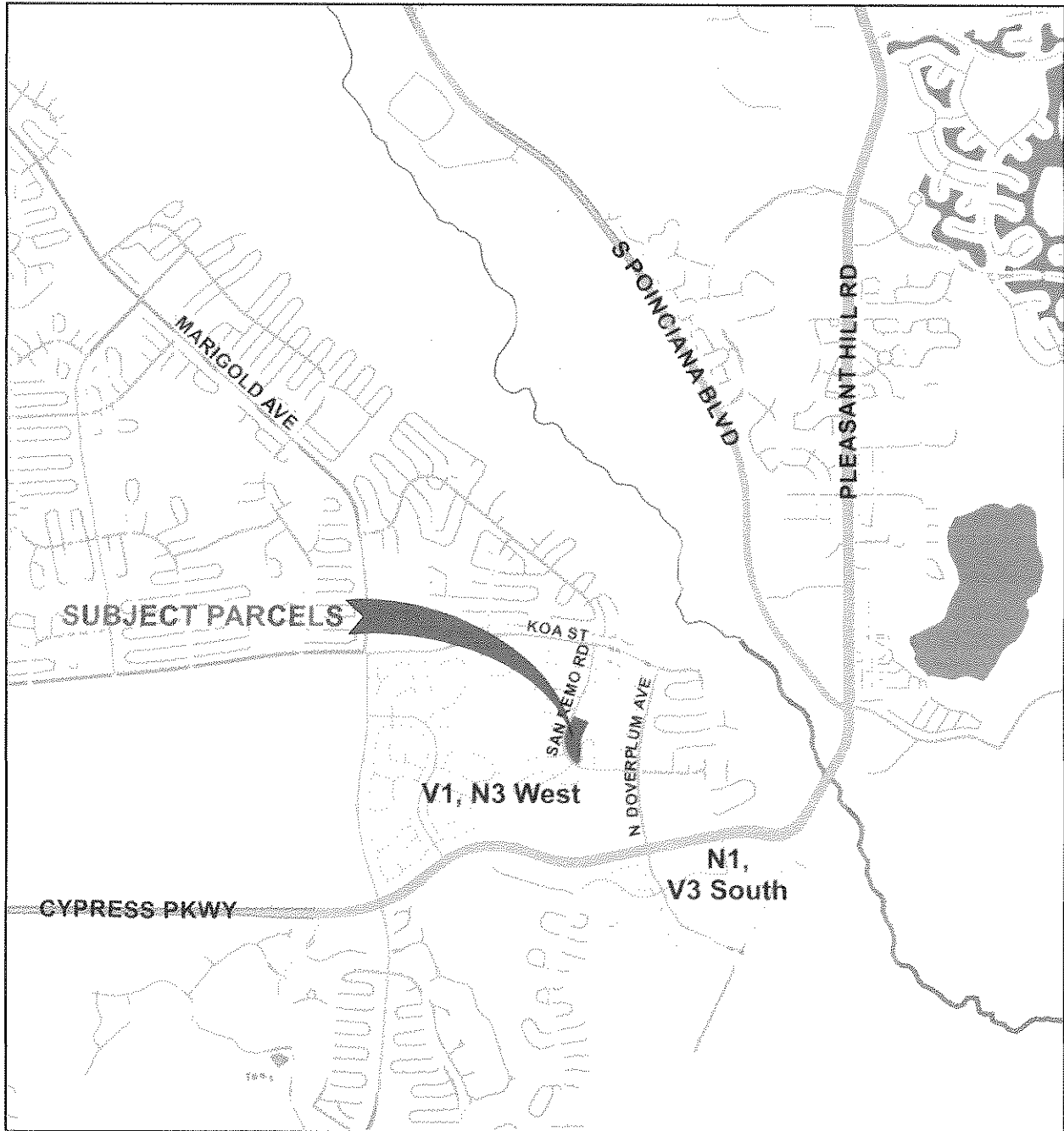
Exhibit 1

Poinciana Village 1, Neighborhoods 3 West and 3 South – General Location Map



**Exhibit 2**

**Poinciana Village 1, Neighborhoods 3 West and 3 South – Neighborhood Locator Map**





**Exhibit 3**

**Poinciana Village 1, Neighborhoods 3 West and 3 South – Land Use Plan and Aerial**

