

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

WHEREAS, Oakbrook Properties, Inc., filed an application on behalf of the property owner, Edward J. McArdle Declaration of Trust and Edward J. McArdle Tr., to amend the Coconut Point Development of Regional Impact (DRI) Development Order and amend the existing Mixed Use Planned Development (MPD) in reference to Coconut Point DRI/MPD; and

WHEREAS, a public hearing was advertised and held on July 26, 2007 and August 2, 2007, before the Lee County Zoning Hearing Examiner, Diana M. Parker, who gave full consideration to the evidence in the record for Case #DRI2006-00009 and DCI2006-00080; and

WHEREAS, a second public hearing was advertised and held on October 29, 2007, before the Lee County Board of Commissioners, who gave full and complete consideration to the recommendations of the staff, the Hearing Examiner, the documents on record and the testimony of all interested persons.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS:

SECTION A. REQUEST

The applicant filed a request to:

- A. Amend the Coconut Point Development of Regional Impact (DRI) Development Order to:
 - (1) increase multi-family units from 1250 to 1528;
 - (2) decrease community retail square footage from 350,000 to 188,900;
 - (3) increase office square footage from 300,000 to 383,333 (of which not more than 68,333 square feet may be medical offices);
 - (4) increase hotel units from 350 to 440;
 - (5) add a 506 seat performing arts theater;
 - (6) add a land use conversion table; and,
 - (7) amend Map H.
- B. Determine whether the requested DRI amendment constitutes a substantial deviation from the original development approvals requiring further Development of Regional Impact (DRI) review; and,

C. Amend the existing Mixed Use Planned Development (MPD) to:

- (1) reduce commercial use and intensity and increase residential intensity within Area #1 (North Village);
- (2) revise approved Schedule of Uses to add Hotel/Motel (Tract 1C), Dwelling Units, Multiple-family buildings (Tract 1B) and Theater, indoor (Tract 1B);
- (3) relocate and increase the lakes within Tract 1F;
- (4) redistribute land uses within Area #3;
- (5) reduce the buffer along the southern property line of Tract 3C, including the removal of a wall;
- (6) revise the approved Schedule of Uses to add Warehouse, mini-warehouse and public (Tract 3C);
- (7) adopt a new Master Concept Plan; and,
- (8) add a land use conversion table.

The property is located in the Urban Community Land Use Category and is legally described in attached Exhibit A. The request is APPROVED, SUBJECT TO the conditions and deviations specified in Sections B and C below.

SECTION B. CONDITIONS:

All references to uses are as defined or listed in the Lee County Land Development Code (LDC).

1. *MASTER CONCEPT PLAN*

The development of this project must be consistent with the 4-page Master Concept Plan for Coconut Point MPD, prepared by Hole Montes, stamped Received Nov 06 2007 (Exhibit C). The development must also be consistent with the approved amended DRI Development Order for Coconut Point DRI (DRI#09-2001-153). This development must comply with all requirements of the Lee County LDC at time of local development order approval, except as may be granted by deviation as part of this planned development. If changes to the Master Concept Plan are subsequently pursued, appropriate approvals will be necessary.

The intensity of the approved planned development is amended to allow a maximum of 1,528 residential units; 200 Assisted Living Units; retail square footage of 1,638,000; office square footage of 383,333 (of which not more than 68,333 square feet may be medical offices); 440 hotel units; and a 506 seat performing arts theater. Approval is also subject to the Land Conversion Table (Exhibit D).

The developer must provide a cumulative land development summary table as part of any local development order application demonstrating compliance with the intensity of the development as conditioned above.

2. *SCHEDULE OF USES*

The approved Schedule of Uses is amended as follows:

Schedule of Uses

Permitted uses within Tracts 1A, 1B and 1C:

Accessory Uses and Structures allowed ancillary to a permitted principal use

Administrative Offices

Animal Clinic

ATM (Automatic Teller Machine)

Auto Parts Store

Auto Repair and Service, Group I, limited to one

Banks and Financial Establishments, Group I

Banks and Financial Establishments, Group II, Limited to SIC Codes 604, 621, 672, 673 and 674

Business services, Groups I and II

Car wash (limited to one)

Cleaning and maintenance services

Clothing stores, general

Contractors and Builders, Groups I and II

Convenience Food and Beverage Store (limited to one with attendant service station: however, the entire site is limited to a maximum of two)

Consumption on premises in compliance with LDC §34-1264 (limited to and in conjunction with a standard restaurant)

Cultural facilities, excluding zoos

Day care center, adult, child

Department Store

Drive thru facility for any permitted use

Drugstore (limited to one total, however, the entire site is limited to two)

Dwelling Units: multiple family building (Tract 1B only)

Entrance gates and gatehouse, in compliance with LDC §34-1748

Essential services

Essential service facilities, Group I

Excavation, water retention (as shown on the Master Concept Plan)

Fences, walls

Food Stores, Groups I and II

Gift and souvenir shop

Hardware store

Health care facility, Group III

Hobby, toy, and game shops

Hotel/motel (Parcel 1C only)

Household and office furnishings, Groups I, II, III (no outdoor display)

Insurance companies
 Laundromat
 Laundry or dry cleaning Group I
 Lawn and garden supply store
 Medical office
 Nonstore retailers, all groups
 Paint glass and wallpaper store
 Parking lot: Accessory
 Personal services, Groups I, II, and III (excluding escort services, palm readers, fortunetellers, card readers, and tattoo parlors)
 Pet services
 Pet shop
 Pharmacy
 Printing and publishing
 Real estate sales office
 Recreation facilities, commercial, Groups I and IV
 Recreational facilities, private (Tract 1B)
 Rental or leasing establishments Groups I & II (excluding passenger car pick up and drop off)
 Repair shops, Groups I, II and III
 Research and development laboratories Groups II and IV
 Restaurant, fast food (limited to two, however, the entire site is limited to a maximum of four outside of the Regional food court/service area)
 Restaurants, Groups I, II, III, and IV
 Self service fuel pumps (limited to one in conjunction with a Convenience Food and Beverage Store, however entire site is limited to a maximum of two)
 Signs, in accordance with Chapter 30
 Social Services, Groups I and II
 Specialty retail shops, Groups I, II, III and IV
 Storage: Indoor only §34-3001 *et seq.*
 Used merchandise stores, Group I
 Variety store

Permitted uses within Tract 1D:

Accessory Uses and Structures permitted ancillary to a permitted principal use
 Administrative offices
 Banks and financial establishments, Group I (limited to three drive-thru teller lanes)
 Banks and financial establishments, Group II, limited to SIC Codes 604, 621, 672, 673 and 674
 Business services, Groups I and II
 Cultural facilities, excluding zoos
 Day care center, adult, child
 Emergency medical services station
 Entrance gates and gatehouse, in compliance with LDC §34-1748
 Essential services
 Essential service facilities, Group I
 Fences, walls

- Fire station
- Health care facility, Group III
- Hobby, toy, and game shops
- Household and office furnishings, Groups I, II, III (no outdoor display)
- Insurance companies
- Library
- Medical office
- Parks, Group II, limited to community park
- Parking lot: Accessory
- Personal services, Groups I, II, and III (excluding escort services, palm readers, fortunetellers, card readers, and tattoo parlors)
- Place of worship
- Police or sheriffs station
- Post office
- Real estate sales office
- Religious facilities
- Restaurants, Groups I, II, and III
- Signs, in accordance with Chapter 30
- Social Services, Groups I and II
- Specialty retail shops, Groups I and II
- Storage: Indoor only §34-3001 *et seq.*

Permitted uses within Tracts 2A and Tract 2B:
(Regional Mall Parcel)

- Accessory Uses and Structures permitted ancillary to a permitted principal use
- Administrative offices
- Animal clinic
- ATM (automatic teller machine)
- Auto parts store
- Auto repair and service, Group I, if accessory to a department store
- Banks and financial establishments, Group I
- Banks and financial establishments, Group II, limited to SIC Codes 604, 621, 672, 673 and 674
- Business services, Groups I and II
- Cleaning and maintenance services
- Clothing stores, general
- Convenience Food and Beverage Store (limited to one, however, the entire site is limited to a maximum of two)
- Consumption on premises in compliance with LDC §34-1264 (limited to and in conjunction with a standard restaurant)
- Cultural facilities, excluding zoos
- Day care center, adult, child
- Department Store
- Drive thru facility for any permitted use
- Dwelling Units: (Tract 2A only)
 - *Single-family
 - *Duplex

Multiple-Family Building
 Townhouse
 *Two-family attached
 *Zero lot line
 *(may be approved administratively upon findings that the use is compatible with other uses in the tract and consistent with the Traffic Conversion Table)
 Entrance gates and gatehouse, in compliance with LDC §34-1748
 Essential services
 Essential service facilities, Group I
 Excavation, water retention (as shown on the Master Concept Plan)
 Fences, walls
 Food Store, Group I
 Gift and souvenir shop
 Hardware store
 Hobby, toy, and game shops
 Hotel/motel (amended by ADD2006-00024)
 Household and office furnishings, Groups I, II, III (no outdoor display)
 Insurance companies
 Laundry or dry cleaning Group I
 Lawn and garden stores
 Nonstore retailers, all groups
 Paint glass and wallpaper store
 Parking garage
 Parking lot: Accessory
 Personal services, Groups I, II, and III (excluding escort services, palm readers, fortunetellers, card readers, and tattoo parlors)
 Pet services
 Pet shop
 Pharmacy
 Police or sheriffs station
 Real estate sales office
 Recreation facilities, commercial, Groups I and IV (limited to indoor theater)
 Rental or leasing establishments Groups I & II (excluding passenger car pick up and drop off)
 Repair shops, Groups I and II, limited to clocks, jewelry, music, cameras, calculators, computers and optical devices
 Restaurant, fast food (limited to one outside of food court/service area and the entire site is limited to a maximum of four outside of Regional Center food court/service area)
 Restaurants, Groups I, II, III, and IV
 Self service fuel pumps (limited to one in conjunction with a Convenience Food and Beverage Store, however entire site is limited to a maximum of two)
 Signs, in accordance with Chapter 30
 Specialty retail shops, Groups I, II, III and IV
 Storage: Indoor only §34-3001 *et seq.*
 Used merchandise stores, Group I
 Variety store

Permitted uses within Tracts 2C, 2D, 2E and 2F:

(Uses on Tract 2F are subject to Condition #20 of original zoning approval)

Accessory Uses and Structures permitted ancillary to a permitted principal use

Administrative offices

Animal clinic

ATM (automatic teller machine)

Auto parts store (Tracts 2C, 2D and 2E only)

Auto repair and service, Group I (Tracts 2C, 2D and 2E only)

Banks and financial establishments, Group I

Banks and financial establishments, Group II, limited to SIC Codes 604, 621, 672, 673 and 674

Business services, Group I and II

Cleaning and maintenance services

Clothing stores, general

Consumption on Premises, in compliance with LDC §34-1264 (limited to and in conjunction with a standard restaurant)

Convenience Food and Beverage Stores, limited to one (on either Tract 2C, 2D or 2E only) however, the entire site is limited to a maximum of two)

Cultural facilities (excluding zoos)

Day Care Center, adult or child

Department Store

Drive thru facility for any permitted use (subject to Condition 19)

Drugstores, limited to one and the entire site is limited to a maximum of two

Dwelling Units: (Tract 2F only)

Multiple-Family Building

Entrance gates and gatehouse, in compliance with LDC §34-1748

Essential services

Essential service facilities, Group I

Excavation, water retention (as shown on the Master Concept Plan)

Fences, walls

Fire Station (limited to Tract 2C only)

Food Stores, Groups I and II (prohibited on Tract 2F except for specialty stores such as health food store, vitamin store or similar type stores)

Gift and souvenir shop

Hardware store

Health care facility, Group III

Hobby, toy, and game shops

Hotel/motel (except Tract 2F) (amended by ADD2006-00024)

Household and office furnishings, Groups I, II, III (no outdoor display)

Insurance companies

Laundromat (Tract 2C only)

Laundry or dry cleaning Group I

Lawn and garden store

Medical office

Non-store retailers, all groups

Paint glass and wallpaper store

Parking lot: Accessory only
 Personal services, Groups I, II, and III (Tract 2C only, excluding escort services, palm readers, fortunetellers, card readers, and tattoo parlors)
 Pet services
 Pet shop
 Pharmacy
 Printing and publishing (Tract 2C only)
 Real estate sales office
 Recreational facilities, commercial, Groups I and IV (limited to indoor theater)
 Rental and leasing establishments, Groups I and II (excluding passenger car pickup and drop off)
 Repair shops, Groups I, II and III
 Research and development laboratories, Groups II and IV
 Restaurants, Fast-food, limited to one (total), however, the entire site is limited to a maximum of four outside of the Regional Center food court/service area
 Restaurants, Groups I, II, III and IV
 Signs, in accordance with Chapter 30
 Social Services, Groups I and II (Tract 2C only)
 Specialty retail shops, Groups I, II, III and IV
 Storage: Indoor only §34-3001 *et seq.*
 Used merchandise stores, Group I
 Variety store

Permitted uses within Tracts 3A and 3C:

Accessory Uses and Structures permitted ancillary to a permitted principal use
 Administrative offices
 Animal clinic
 ATM (automatic teller machine)
 Auto parts store
 Banks and financial establishments, Group I
 Banks and financial establishments, Group II, limited to SIC Codes 604, 621, 672, 673 and 674
 Business services, Groups I and II
 Caretaker's Residence (only in conjunction with a mini-warehouse)
 Cleaning and maintenance services
 Clothing stores, general
 Contractors and Builders, Group I
 Consumption on premises in compliance with LDC §34-1264 (limited to and in conjunction with a standard restaurant)
 Convenience Food and Beverage Store, limited to one (total), however, the entire site is limited to a maximum of two
 Cultural facilities, excluding zoos
 Day care center, adult, child
 Department Store
 Drive thru facility for any permitted use
 Drugstores, limited to one (total), however, the entire site is limited to a maximum of two

Entrance gates and gatehouse, in compliance with LDC §34-1748
 Essential services
 Essential service facilities, Group I
 Excavation, water retention (as shown on the Master Concept Plan)
 Fences, walls
 Food Stores, Groups I and II
 Gift and souvenir shop
 Hardware store
 Health care facility, Group III
 Hobby, toy, and game shops
 Hotel/motel
 Household and office furnishings, Groups I, II, III (no outdoor display)
 Insurance companies
 Laundromat
 Laundry or dry cleaning Group I
 Lawn and garden supply store
 Medical office
 Nonstore retailers, all groups
 Paint glass and wallpaper store
 Parking lot: Accessory only
 Personal services, Groups I, II, and III (excluding escort services, palm readers, fortunetellers, card readers, and tattoo parlors)
 Pet services
 Pet shop
 Pharmacy
 Printing and publishing
 Real estate sales office
 Recreation facilities, commercial, Groups I and IV (limited to indoor theater)
 Rental or leasing establishments Groups I & II (excluding passenger car pick up and drop off)
 Repair shops, Groups I, II and III
 Research and development laboratories Groups II and IV
 Restaurants, Fast-food, limited to one (total), however, the entire site is limited to a maximum of four outside the Regional Center food court/service area
 Restaurants, Groups I, II, III, and IV
 Signs, in accordance with Chapter 30
 Social Services, Groups I and II
 Specialty retail shops, Groups I, II, III and IV
 Storage: Indoor only §34-3001 *et seq.*
 Used merchandise stores, Group I
 Warehouse: mini-warehouse and public (Tract 3C only)

Permitted uses within Tracts 3B and 3D:

Accessory Uses and Structures permitted ancillary to a permitted principal use
 Administrative offices
 Adult Living Facilities (ALF) (Tract 3B only)

Club, private
 Dwelling Unit:
 *Single-Family
 *Duplex
 Multiple-Family Building
 Townhouse
 *Two-family attached
 *Zero lot line
 *(may be approved administratively upon findings that the use is compatible with other uses in the tract and consistent with the Traffic Conversion Table)
 Entrance Gate and Gatehouse, in compliance with LDC §34-1748
 Essential Services
 Essential Service Facilities, Group I
 Excavation, water retention
 Fences, walls
 Home occupation, with no outside help
 Model display center
 Model home
 Model unit
 Parking lot, accessory only
 Parks, Group I, limited to neighborhood park
 Recreation Facilities, Private on-site, Personal
 Residential Accessory Uses
 Signs, in compliance with LDC Chapter 30

3. *TRACTS 1A, 1B, 1C, and 1D PROPERTY DEVELOPMENT REGULATIONS*

Tract 1A, 1C and 1D

Lot Width	100 feet
Lot Depth	100 feet
Lot Area	20,000 square feet
Maximum Lot Coverage	40 percent

NOTE: Tract 1 A will not be subdivided

Minimum Setbacks

Front (street)	25 feet
Side	10 feet
Rear	25 feet (5 feet for an accessory structure)
Water body	25 feet (20 feet for accessory structure)

<u>Minimum Building Separation:</u>	one-half the sum of the building heights but not less than 20 feet
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Maximum Building Height: 45 feet / 3 stories
55 feet / 4 stories (Tract 1 C only)

Tract 1B

Min Lot Width (north/south) 600 feet
Min Lot Depth (east/west) 280 feet
Min Lot Area 34.0 acres
Maximum Lot Coverage (Building) 40 percent

NOTE: Tract 1B will not be subdivided

Multiple Family (Alternative #2)

Minimum Setbacks

Front (street) 15 feet
Side 10 feet / 0 feet (interior) for villa unit
8 feet / 0 feet (interior) for detached garages
Rear 15 feet between villa unit and detached garage
8 feet (street/lane)
Water body 20 feet

Maximum Building Height: 45 feet / 3 stories

Multiple Family (Alternative #1)

Minimum Setbacks

Front (street) 20 feet
Side (street) 20 feet
Rear 25 feet between buildings
Water body 20 feet

Minimum Building Separation: 20 feet

Maximum Building Height: 45 feet / 3 stories

Multiple Family (Alternative #3)

Minimum Setbacks

Front (street/parking) 10 feet
Side (street/lane) 10 feet
Rear (street/lane) 8 feet
Water body 20 feet

<u>Minimum Building Separation:</u>	20 feet
<u>Maximum Building Height:</u>	45 feet / 3 stories

Multiple Family (Alternative #4)

Minimum Setbacks

Front (parking)	10 feet
Side (street/accessway)	10 feet
Rear (US 41)	30 feet
Water body	20 feet

<u>Minimum Building Separation:</u>	30 feet
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<u>Maximum Building Height:</u>	55 feet / 4 stories
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Performing Arts Center

Minimum Setbacks

Rear (US 41 / Williams Road)	30 feet
Rear (parking)	10 feet
Side (parking)	10 feet
Front (street/accessway)	10 feet
Water body	20 feet

<u>Minimum Building Separation:</u>	30 feet
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<u>Maximum Building Height:</u>	45 feet / 3 stories
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Tract Buffering:

No required internal landscape buffers (excluding perimeter) between parcels of different uses in order to create an integrated, pedestrian-friendly community without separation or barriers.

Street Design:

Width	20 feet plus 2-foot valley gutter
Radius	15 feet min (EOP) for internal roads / accessways / alleys only
Horizontal Curve Radius	25 feet min for one-way alleys and lanes with design speed of 10 mph or less

4. *TRACT 3C BUFFER (specifically 3C-2 and 3C-3)*

The buffer along the southern perimeter property line of Tract 3C must be a Type C buffer (15 feet wide with five trees and 18 shrubs per 100 linear feet and an 8-foot-high wall or berm and wall combination), except where Tract 3C abuts adjoining commercial development where a Type A buffer (5 feet in width with 4 trees per 100 linear feet) is required.

5. *TRACT 1F LAKE AREA*

Within Tract 1F, the lake area has been increased from approximately 2 acres to 3.7 acres.

6. *Concurrency*

Approval of this rezoning does not guarantee local development order approval. Future development order approvals must satisfy the requirements of the Lee Plan Planning Communities Map and Acreage Allocations Table, Map 16 and Table 1(b).

7. *Subdivision / Platting*

The owner/developer of Tract 1B cannot utilize the provisions of Section 10-174(5), Lee County LDC, to undertake a commercial lot split because the parent parcel has already utilized the allotted number of four commercial lot splits.

SECTION C. DEVIATIONS:

1. Deviation (1) seeks relief from the LDC §34-2020 requirement to provide one parking space per 25 storage units with a minimum of five spaces, to allow one parking space per 100 storage units for the mini-warehouse/storage facility on Tract 3C. This deviation is APPROVED, SUBJECT TO the following conditions:
 - a. The Deviation is restricted to the uses of "Warehouse, mini-warehouse and public" located on Tract 3C only; and
 - b. A minimum of eight off-street parking spaces must be provided outside the security gate to support the administrative office and caretaker's residence; and eight off-street loading spaces must be provided inside the security gate, as depicted on Exhibit E.
2. Deviation (2) seeks relief from the LDC §2020 provision regarding minimum off-street parking requirements for the mixed residential and commercial uses as follows:
 - a. To allow the Tract 1B mixed use development to reduce the required commercial spaces from 342 to 326 spaces; and

- b. To allow the Performing Arts Center (Recreational Facilities, commercial, Group IV, indoor theater) to reduce the required parking from 179 to 155 spaces.

This deviation is APPROVED, SUBJECT TO the following conditions:

- a. All residential uses in Tract 1B, including the mixed use buildings, must provide the required number of off-street parking spaces consistent with the LDC; and
- b. *Alternative Parking Plan*
 - (1) Prior to development order approval allowing vertical construction of the theater, the developer must submit a generic plan describing available, alternative, potential means or actions for addressing any additional future parking deficiency for Tract 1B. (i.e., valet parking, shuttle service from off-site parking areas or communities, etc.) Said list of actions or means is intended only to be a representation of possible solutions to the parking deficiency, but does not commit the developer to utilizing any of these actions.
 - (2) The developer must advise Lee County Development Review Staff - at the time the deficiency is found to exist - of the means or actions selected to alleviate the situation, and provide documentation of its implementation. For the purposes of this condition, a parking deficiency exists when the surrounding parking lots are full, and there is consistent or continuous use of non-parking areas, i.e., grassy areas; driveways; roadsides, etc. for events at the performing arts center.

SECTION D. EXHIBITS AND STRAP NUMBER:

The following exhibits are attached to this resolution and incorporated by reference:

- Exhibit A: Legal description of the property
- Exhibit B: Zoning Map (with the subject parcel indicated)
- Exhibit C: The Master Concept Plan
- Exhibit D: Land Conversion Table
- Exhibit E: Parking Deviation
- Exhibit F: Third Development Order Amendment

The applicant has indicated that the STRAP numbers for the subject property are: 04-47-25-00-00001.0000, 04-47-25-30-0001A.0000, 04-47-25-30-0001B.0000, 04-47-25-30-0001C.0000, 04-47-25-30-000R1.0000, 04-47-25-30-000R2.0000, 04-47-25-30-000R3.0000, 04-47-25-30-001D3.0000, and 09-47-25-00-00001.0010

SECTION E. FINDINGS AND CONCLUSIONS:

1. The applicant has proven entitlement to the rezoning by demonstrating compliance with the Lee Plan, the LDC, and any other applicable code or regulation.
2. The rezoning, as approved:
 - a. meets or exceeds all performance and locational standards set forth for the potential uses allowed by the request; and,
 - b. is consistent with the densities, intensities and general uses set forth in the Lee Plan; and,
 - c. is compatible with existing or planned uses in the surrounding area; and,
 - d. will not place an undue burden upon existing transportation or planned infrastructure facilities and will be served by streets with the capacity to carry traffic generated by the development; and,
 - e. will not adversely affect environmentally critical areas or natural resources.
3. The rezoning satisfies the following criteria:
 - a. the proposed use or mix of uses is appropriate at the subject location; and
 - b. the recommended conditions to the concept plan and other applicable regulations provide sufficient safeguard to the public interest; and
 - c. the recommended conditions are reasonably related to the impacts on the public interest created by or expected from the proposed development.
4. Urban services, as defined in the Lee Plan, are, or will be, available and adequate to serve the proposed land use.
5. The approved deviations, as conditioned, enhance achievement of the planned development objectives, and preserve and promote the general intent of LDC Chapter 34, to protect the public health, safety and welfare.
6. The requests, as conditioned, do not create new or additional unreviewed regional impacts and do not constitute a Substantial Deviation under Section 380.06(19), Fla. Stat.

Commissioner Judah made a motion to adopt the foregoing resolution, seconded by Commissioner Mann. The vote was as follows:

Robert P. Janes	Aye
Brian Bigelow	Aye
Ray Judah	Aye
Tammara Hall	Aye
Frank Mann	Aye

DULY PASSED AND ADOPTED this 29th day of October 2007.

ATTEST:
CHARLIE GREEN, CLERK

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: Marcia Wilson
Deputy Clerk

BY: Robert P. Janes
Chair

Approved as to form by:

Dawn E. Perry-Lehnert
County Attorney's Office



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LEGAL DESCRIPTION

COMMUNITY DEVELOPMENT

A PORTION OF SECTION 9, TOWNSHIP 47 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHEAST CORNER OF SECTION 9, TOWNSHIP 47 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA; THENCE RUN S.88°56'17"W., ALONG THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 9, FOR A DISTANCE OF 5.89 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF THE SEABOARD COASTLINE RAILROAD, A 130.00 FOOT RIGHT-OF-WAY, AND THE POINT OF BEGINNING OF THE PARCEL OF LAND HEREIN DESCRIBED; THENCE CONTINUE S.88°56'17"W., ALONG THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 9, FOR A DISTANCE OF 1,733.04 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF U.S. HWY. NO. 41 (FLORIDA STATE ROAD NO. 45), A 200.00 FOOT RIGHT-OF-WAY; THENCE RUN N.10°32'05"W., ALONG SAID EASTERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 971.33 FEET TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE, CONCAVE EASTERLY; THENCE RUN NORTHERLY, ALONG SAID EASTERLY RIGHT-OF-WAY LINE AND ALONG THE ARC OF SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 5,605.39 FEET, THROUGH A CENTRAL ANGLE OF 04°03'11", SUBTENDED BY A CHORD OF 396.43 FEET AT A BEARING OF N.08°30'30"W., FOR A DISTANCE OF 396.52 FEET TO THE END OF SAID CURVE; THENCE RUN N.88°07'51"E. FOR A DISTANCE OF 747.22 FEET TO A POINT ON A CIRCULAR CURVE, CONCAVE EASTERLY, WHOSE RADIUS POINT BEARS N.82°31'42"E., A DISTANCE OF 3,909.60 FEET THEREFROM; THENCE RUN NORTHERLY, ALONG THE ARC OF SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 3,909.60 FEET, THROUGH A CENTRAL ANGLE OF 08°29'31", SUBTENDED BY A CHORD OF 578.92 FEET AT A BEARING OF N.03°13'32"W., FOR A DISTANCE OF 579.45 FEET TO THE END OF SAID CURVE; THENCE RUN N.00°15'56"W., FOR A DISTANCE OF 583.09 FEET; THENCE RUN N.00°15'56"W., FOR A DISTANCE OF 47.04 FEET TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF COCONUT ROAD, A 150.00 FOOT RIGHT-OF-WAY, THE SAME BEING A POINT ON A CIRCULAR CURVE, CONCAVE NORTHERLY, WHOSE RADIUS POINT BEARS N.10°26'58"W., A DISTANCE OF 2,025.00 FEET THEREFROM; THENCE RUN EASTERLY, ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE AND ALONG THE ARC OF SAID CURVE TO THE LEFT, HAVING A RADIUS OF 2,025.00 FEET, THROUGH A CENTRAL ANGLE OF 09°12'27", SUBTENDED BY A CHORD OF 325.07 FEET AT A BEARING OF N.74°56'48"E., FOR A DISTANCE OF 325.42 FEET TO THE END OF SAID CURVE; THENCE RUN N.70°20'35"E., ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE FOR A DISTANCE OF 200.00 FEET TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE, CONCAVE SOUTHERLY; THENCE RUN EASTERLY, ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE AND ALONG THE ARC OF SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 3,025.00 FEET, THROUGH A CENTRAL ANGLE OF 09°15'04", SUBTENDED BY A CHORD OF 487.89 FEET AT A BEARING OF N.74°58'07"E., FOR A DISTANCE OF 488.42 FEET TO THE END OF SAID CURVE; THENCE RUN N.79°35'39"E., ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 238.23 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF THE SEABOARD COASTLINE RAILROAD, A 130.00 FOOT RIGHT-OF-WAY; THENCE RUN S.00°59'47"E., ALONG SAID WESTERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 2,869.10 FEET TO THE POINT OF BEGINNING; CONTAINING 95.885 ACRES, MORE OR LESS.

AND

A PORTION OF SECTIONS 3, 4, 9, AND 10, TOWNSHIP 47 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHEAST CORNER OF SECTION 9, TOWNSHIP 47 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA; THENCE RUN S.88°56'17"W., ALONG THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 9, FOR A DISTANCE OF 5.89 FEET TO A POINT ON THE

WESTERLY RIGHT-OF-WAY LINE OF THE SEABOARD COASTLINE RAILROAD, A 130.00 FOOT RIGHT-OF-WAY; THENCE RUN N.00°59'47"W., ALONG SAID WESTERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 3,021.15 FEET TO THE POINT OF BEGINNING OF THE PARCEL OF LAND HEREIN DESCRIBED; THENCE RUN N.00°59'47"W., ALONG SAID WESTERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 2,320.56 FEET TO A POINT ON THE NORTH LINE OF THE NORTHWEST QUARTER OF SECTION 10, TOWNSHIP 47 SOUTH, RANGE 25 EAST; THENCE RUN N.00°59'47"W., ALONG SAID WESTERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 2,692.32 FEET TO A POINT ON THE NORTH LINE OF THE SOUTHEAST QUARTER OF SECTION 4, TOWNSHIP 47 SOUTH, RANGE 25 EAST; THENCE RUN N.00°56'59"W., ALONG SAID WESTERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 1,590.78 FEET TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE, CONCAVE WESTERLY; THENCE RUN NORTHERLY, ALONG SAID WESTERLY RIGHT-OF-WAY LINE AND ALONG THE ARC OF SAID CURVE TO THE LEFT, HAVING A RADIUS OF 5,641.38 FEET, THROUGH A CENTRAL ANGLE OF 09°31'27", SUBTENDED BY A CHORD OF 936.68 FEET AT A BEARING OF N.05°42'42"W., FOR A DISTANCE OF 937.76 FEET TO THE END OF SAID CURVE; THENCE RUN N.10°28'26"W., ALONG SAID WESTERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 98.54 FEET TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF WILLIAMS ROAD, A 100.00 FOOT RIGHT-OF-WAY; THENCE RUN S.88°20'53"W., ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 1,029.70 FEET TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE, CONCAVE NORTHERLY; THENCE RUN WESTERLY, ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE AND ALONG THE ARC OF SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 7,050.00 FEET, THROUGH A CENTRAL ANGLE OF 03°00'00", SUBTENDED BY A CHORD OF 369.09 FEET AT A BEARING OF S.89°50'53"W., FOR A DISTANCE OF 369.14 FEET TO THE END OF SAID CURVE; THENCE RUN N.88°39'07"W., ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 674.92 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF U.S. HWY. NO. 41 (FLORIDA STATE ROAD NO. 45), A 200.00 FOOT RIGHT-OF-WAY; THENCE RUN S.04°52'41"W., ALONG SAID EASTERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 1,901.57 FEET TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE, CONCAVE EASTERLY; THENCE RUN SOUTHERLY, ALONG SAID EASTERLY RIGHT-OF-WAY LINE AND ALONG THE ARC OF SAID CURVE TO THE LEFT, HAVING A RADIUS OF 2,725.19 FEET, THROUGH A CENTRAL ANGLE OF 11°32'50", SUBTENDED BY A CHORD OF 548.30 FEET AT A BEARING OF S.00°53'44"E., FOR A DISTANCE OF 549.23 FEET TO THE END OF SAID CURVE; THENCE RUN S.06°40'09"E., ALONG SAID EASTERLY RIGHT-OF-WAY LINE FOR A DISTANCE OF 225.81 FEET TO A POINT ON THE NORTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 4; THENCE CONTINUE S.06°40'09"E., ALONG SAID EASTERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 2,710.61 FEET TO A POINT ON THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 4; THENCE CONTINUE S.06°40'09"E., ALONG SAID EASTERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 626.03 FEET TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE, CONCAVE WESTERLY; THENCE RUN SOUTHERLY, ALONG SAID EASTERLY RIGHT-OF-WAY LINE AND ALONG THE ARC OF SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 11,584.73 FEET, THROUGH A CENTRAL ANGLE OF 06°24'13", SUBTENDED BY A CHORD OF 1,294.08 FEET AT A BEARING OF S.03°28'03"E., FOR A DISTANCE OF 1,294.76 FEET TO THE END OF SAID CURVE; THENCE RUN S.00°15'56"E., ALONG SAID EASTERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 274.74 FEET; THENCE RUN S.46°02'16"E., FOR A DISTANCE OF 577.44 FEET; THENCE RUN S.01°57'26"E. FOR A DISTANCE OF 25.19 FEET TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF COCONUT ROAD, A 150.00 FOOT RIGHT-OF-WAY; THENCE RUN N.88°02'34"E., ALONG SAID NORTHERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 32.80 FEET TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE, CONCAVE NORTHERLY; THENCE RUN EASTERLY, ALONG SAID NORTHERLY RIGHT-OF-WAY LINE AND ALONG THE ARC OF SAID CURVE TO THE LEFT, HAVING A RADIUS OF 1,875.00 FEET, THROUGH A CENTRAL ANGLE OF 17°41'59", SUBTENDED BY A CHORD OF 576.92 FEET AT A BEARING OF N.79°11'34"E., FOR A DISTANCE OF 579.22 FEET TO THE END OF SAID CURVE; THENCE RUN N.70°20'35"E., ALONG SAID NORTHERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 200.00 FEET TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE, CONCAVE

SOUTHERLY; THENCE RUN EASTERLY, ALONG SAID NORTHERLY RIGHT-OF-WAY LINE AND ALONG THE ARC OF SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 3,175.00 FEET, THROUGH A CENTRAL ANGLE OF 09°15'04", SUBTENDED BY A CHORD OF 512.09 FEET AT A BEARING OF N.74°58'07"E., FOR A DISTANCE OF 512.65 FEET TO THE END OF SAID CURVE; THENCE RUN N.79°35'39"E., ALONG SAID NORTHERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 263.08 FEET TO THE POINT OF BEGINNING; CONTAINING 386.536 ACRES, MORE OR LESS.

NOTES:

THIS PROPERTY IS SUBJECT TO EASEMENTS, RESERVATIONS OR RESTRICTIONS OF RECORD.

TOTAL PROPERTY AREA: 482.421 ACRES, MORE OR LESS.

INFORMATION RELATING TO BOUNDARY DATA OF SECTIONS 3, 4, 9 AND 10, TOWNSHIP 47 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA, TOGETHER WITH THE LOCATION OF THE US HIGHWAY #41 RIGHT-OF-WAY, WAS OBTAINED FROM A SURVEY OF THE SWEETWATER RANCH PREPARED BY DENI ASSOCIATES HAVING ORDER NUMBER 8409031, DATED 9/14/84. INFORMATION RELATING TO THE LOCATION OF COCONUT ROAD AND ADJOINING EXCEPTED PARCELS WAS OBTAINED FROM PROPERTY DESCRIPTIONS PROVIDED BY CLIENT.

BEARINGS REFER TO THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SECTION 9, TOWNSHIP 47 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA, AS BEING S.88°56'17"W.

HOLE MONTES, INC.
CERTIFICATE OF AUTHORIZATION LB #1772

DCI 2006-00080

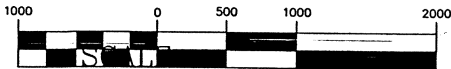
BY


JERRY L. RIFFELMACHER

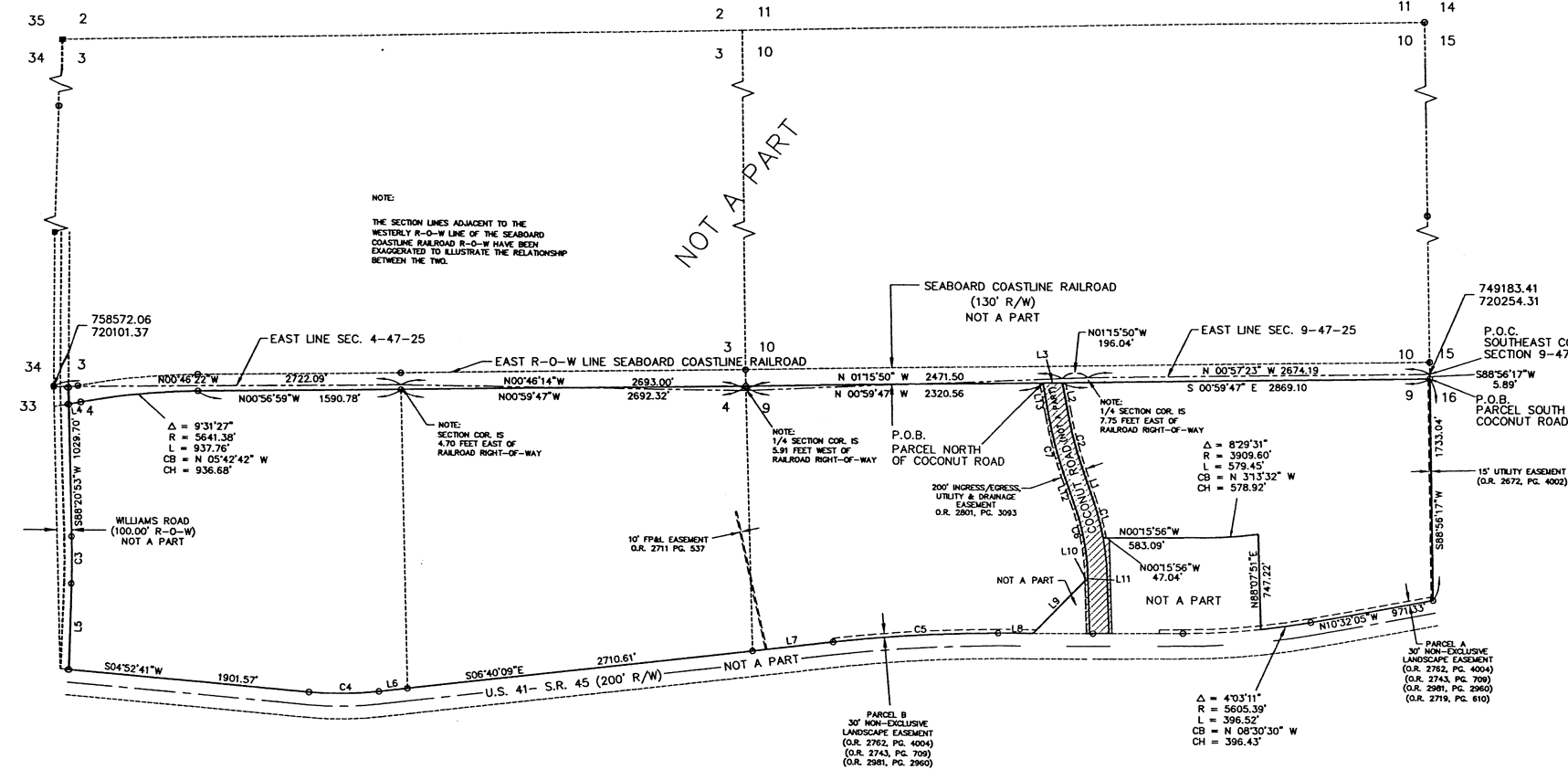
P.S.M. #6130
STATE OF FLORIDA

RECEIVED
AUG 30 2006

COMMUNITY DEVELOPMENT



(IN FEET)



LINE	LENGTH	BEARING
L1	200.00	N70°20'35"E
L2	238.23	N79°35'59"E
L3	152.05	N00°59'47"W
L4	98.54	N10°28'26"W
L5	674.92	N88°39'07"W
L6	225.81	S08°40'09"E
L7	626.03	S08°40'09"E
L8	274.74	S00°15'56"E
L9	577.44	S46°32'18"E
L10	25.19	S01°37'26"E
L11	32.80	N88°02'34"E
L12	200.00	N70°20'35"E
L13	263.08	N79°35'59"E

CURVE	RADIUS	LENGTH	CHORD	BEARING	DELTA
C1	3025.00	325.42	325.07	N74°58'48"E	91°27'27"
C2	3025.00	486.42	487.89	N74°58'07"E	91°05'04"
C3	7050.00	369.14	369.09	S89°50'53"W	370°00'00"
C4	2725.19	549.23	548.30	S00°33'44"E	11°32'50"
C5	11584.73	1294.76	1294.08	S83°28'03"E	8°24'13"
C6	1875.00	579.22	576.92	N79°11'34"E	17°41'59"
C7	3175.00	512.65	512.09	N74°58'07"E	91°05'04"

RECEIVED
OCT 2 6 2006



6202F Presidential Court
Ft. Myers, FL 33919
Phone: (239) 985-1200
Florida Certificate of
Authorization No.1772

NOT VALID WITHOUT
THE SIGNATURE AND
SEAL OF A FLORIDA
LICENSED SURVEYOR
AND MAPPER.

SKETCH AND LEGAL DESCRIPTION OF A PORTION OF SECTIONS

3,4,9 AND 10
TOWNSHIP 47 SOUTH, RANGE 25 EAST

LEE COUNTY

FLORIDA

LEGAL DESCRIPTION

A PORTION OF SECTION 9, TOWNSHIP 47 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHEAST CORNER OF SECTION 9, TOWNSHIP 47 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA; THENCE RUN S.88°56'17"W, ALONG THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 9, FOR A DISTANCE OF 5.89 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF THE SEABOARD COASTLINE RAILROAD, A 130.00 FOOT RIGHT-OF-WAY, AND THE CORNER OF BEGINNING OF THE PARCEL OF LAND HEREIN DESCRIBED; THENCE CONTINUE S.88°56'17"W, ALONG THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 9, FOR A DISTANCE OF 1,733.04 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF U.S. HWY. NO. 41 (FLORIDA STATE ROAD NO. 45), A 200.00 FOOT RIGHT-OF-WAY; THENCE RUN N.10°28'26"W, ALONG SAID EASTERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 97.13 FEET TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE, CONCAVE EASTERLY; THENCE RUN NORTHERLY, ALONG SAID EASTERLY RIGHT-OF-WAY LINE AND ALONG THE ARC OF SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 5,820.39 FEET, THROUGH A CENTRAL ANGLE OF 04°03'11", SUBTENDED BY A CHORD OF 396.43 FEET AT A BEARING OF N.08°30'30"W, FOR A DISTANCE OF 396.52 FEET TO THE END OF SAID CURVE; THENCE RUN N.88°07'51"E, FOR A DISTANCE OF 747.22 FEET TO A POINT ON A CIRCULAR CURVE, CONCAVE EASTERLY, WHOSE RADIUS POINT BEARS N.87°01'42"E, A DISTANCE OF 3,909.60 FEET THEREFROM; THENCE RUN NORTHERLY, ALONG THE ARC OF SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 3,909.60 FEET, THROUGH A CENTRAL ANGLE OF 08°29'31", SUBTENDED BY A CHORD OF 578.92 FEET AT A BEARING OF N.01°33'32"W, FOR A DISTANCE OF 579.45 FEET TO THE END OF SAID CURVE; THENCE RUN N.00°15'56"W, FOR A DISTANCE OF 583.09 FEET; THENCE RUN N.00°15'56"W, FOR A DISTANCE OF 47.04 FEET TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF COCONUT ROAD, A 150.00 FOOT RIGHT-OF-WAY, THE SAME BEING A POINT ON A CIRCULAR CURVE, CONCAVE NORTHERLY, WHOSE RADIUS POINT BEARS N.10°28'26"W, A DISTANCE OF 2,025.00 FEET THEREFROM; THENCE RUN EASTERLY, ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE AND ALONG THE ARC OF SAID CURVE TO THE LEFT, HAVING A RADIUS OF 2,025.00 FEET, THROUGH A CENTRAL ANGLE OF 09°12'27", SUBTENDED BY A CHORD OF 325.07 FEET AT A BEARING OF N.74°58'07"E, FOR A DISTANCE OF 325.42 FEET TO THE END OF SAID CURVE; THENCE RUN N.70°20'35"E, ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE FOR A DISTANCE OF 200.00 FEET TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE, CONCAVE SOUTHERLY; THENCE RUN EASTERLY, ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE AND ALONG THE ARC OF SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 3,025.00 FEET, THROUGH A CENTRAL ANGLE OF 09°15'04", SUBTENDED BY A CHORD OF 487.89 FEET AT A BEARING OF N.74°58'07"E, FOR A DISTANCE OF 486.42 FEET TO THE END OF SAID CURVE; THENCE RUN N.79°35'59"E, ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 238.23 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF THE SEABOARD COASTLINE RAILROAD, A 130.00 FOOT RIGHT-OF-WAY, THENCE RUN S.08°40'09"E, ALONG SAID WESTERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 2,889.10 FEET TO THE POINT OF BEGINNING, CONTAINING 95.885 ACRES, MORE OR LESS.

AND

A PORTION OF SECTIONS 3, 4, 9, AND 10, TOWNSHIP 47 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHEAST CORNER OF SECTION 9, TOWNSHIP 47 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA; THENCE RUN S.88°56'17"W, ALONG THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 9, FOR A DISTANCE OF 5.89 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF THE SEABOARD COASTLINE RAILROAD, A 130.00 FOOT RIGHT-OF-WAY; THENCE RUN N.00°59'47"W, ALONG SAID WESTERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 1,029.70 FEET TO THE CORNER OF BEGINNING OF THE PARCEL OF LAND HEREIN DESCRIBED; THENCE RUN N.00°59'47"W, ALONG SAID WESTERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 2,889.32 FEET TO A POINT ON THE NORTH LINE OF THE SOUTHEAST QUARTER OF SECTION 4, TOWNSHIP 47 SOUTH, RANGE 25 EAST; THENCE RUN N.00°59'47"W, ALONG SAID WESTERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 1,599.78 FEET TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE, CONCAVE NORTHERLY; THENCE RUN NORTHERLY, ALONG SAID WESTERLY RIGHT-OF-WAY LINE AND ALONG THE ARC OF SAID CURVE TO THE LEFT, HAVING A RADIUS OF 5,841.38 FEET, THROUGH A CENTRAL ANGLE OF 09°12'27", SUBTENDED BY A CHORD OF 336.68 FEET AT A BEARING OF N.00°42'42"W, FOR A DISTANCE OF 337.76 FEET TO THE END OF SAID CURVE; THENCE RUN N.00°42'42"W, ALONG SAID WESTERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 84.34 FEET TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF WILMAH ROAD, A 100.00 FOOT RIGHT-OF-WAY; THENCE RUN S.88°56'17"W, ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 1,029.70 FEET TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE, CONCAVE NORTHERLY; THENCE RUN SOUTHERLY, ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE AND ALONG THE ARC OF SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 2,050.00 FEET, THROUGH A CENTRAL ANGLE OF 03°00'00", SUBTENDED BY A CHORD OF 358.09 FEET AT A BEARING OF S.89°50'53"W, FOR A DISTANCE OF 358.09 FEET TO THE END OF SAID CURVE; THENCE RUN N.88°07'51"E, ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 674.92 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF U.S. HWY. NO. 41 (FLORIDA STATE ROAD NO. 45), A 200.00 FOOT RIGHT-OF-WAY; THENCE RUN S.08°40'09"E, ALONG SAID EASTERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 1,801.87 FEET TO A POINT ON THE NORTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 4; THENCE CONTINUE S.08°40'09"E, ALONG SAID EASTERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 2,101.81 FEET TO A POINT ON THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 4; THENCE CONTINUE S.08°40'09"E, ALONG SAID EASTERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 826.03 FEET TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE, CONCAVE NORTHERLY; THENCE RUN SOUTHERLY, ALONG SAID EASTERLY RIGHT-OF-WAY LINE AND ALONG THE ARC OF SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 11,584.73 FEET, THROUGH A CENTRAL ANGLE OF 08°24'13", SUBTENDED BY A CHORD OF 1,294.08 FEET AT A BEARING OF S.03°28'03"E, FOR A DISTANCE OF 1,294.76 FEET TO THE END OF SAID CURVE; THENCE RUN S.00°15'56"E, ALONG SAID EASTERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 274.74 FEET; THENCE RUN S.46°32'18"E, FOR A DISTANCE OF 577.44 FEET; THENCE RUN S.01°37'26"E, FOR A DISTANCE OF 25.19 FEET TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF COCONUT ROAD, A 150.00 FOOT RIGHT-OF-WAY; THENCE RUN N.88°07'51"E, ALONG SAID NORTHERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 32.80 FEET TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE, CONCAVE NORTHERLY; THENCE RUN EASTERLY, ALONG SAID NORTHERLY RIGHT-OF-WAY LINE AND ALONG THE ARC OF SAID CURVE TO THE LEFT, HAVING A RADIUS OF 1,875.00 FEET, THROUGH A CENTRAL ANGLE OF 17°41'59", SUBTENDED BY A CHORD OF 578.92 FEET AT A BEARING OF N.79°11'34"E, FOR A DISTANCE OF 579.22 FEET TO THE END OF SAID CURVE; THENCE RUN N.70°20'35"E, ALONG SAID NORTHERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 200.00 FEET TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE, CONCAVE SOUTHERLY; THENCE RUN EASTERLY, ALONG SAID NORTHERLY RIGHT-OF-WAY LINE AND ALONG THE ARC OF SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 3,175.00 FEET, THROUGH A CENTRAL ANGLE OF 09°15'04", SUBTENDED BY A CHORD OF 512.65 FEET AT A BEARING OF N.74°58'07"E, FOR A DISTANCE OF 512.65 FEET TO THE END OF SAID CURVE; THENCE RUN N.79°35'59"E, ALONG SAID NORTHERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 238.23 FEET TO THE POINT OF BEGINNING, CONTAINING 396.536 ACRES, MORE OR LESS.

NOTES:

THIS PROPERTY IS SUBJECT TO EASEMENTS, RESERVATIONS OR RESTRICTIONS OF RECORD.

TOTAL PROPERTY AREA 482.421 ACRES MORE OR LESS.

INFORMATION RELATING TO BOUNDARY DATA OF SECTIONS 3, 4, 9 AND 10, TOWNSHIP 47 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA, TOGETHER WITH THE LOCATION OF THE U.S. HIGHWAY 41 RIGHT-OF-WAY, WAS OBTAINED FROM A SURVEY OF THE SWEETWATER RANCH PREPARED BY DEN ASSOCIATES HAVING ORDER NUMBER B409031, DATED 04/16/84. INFORMATION RELATING TO THE LOCATION OF COCONUT ROAD AND ADJOINING EXCEPTED PARCELS WAS OBTAINED FROM PROPERTY DESCRIPTIONS PROVIDED BY CLIENT.

BEARINGS REFER TO THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SECTION 9, TOWNSHIP 47 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA, AS BEING S.88°56'17"W.

STATE PLANE COORDINATES SHOWN HEREON REFER TO FLORIDA STATE PLANE EAST ZONE N.A.D. 83, 1990 ADJUSTMENT.

HOLE, MONTES, INC.
CERTIFICATE OF AUTHORIZATION IS J1772

BY *[Signature]* P.S.M. #6130
JERRY L. RUFFENACHER STATE OF FLORIDA

REVISION No.	DESCRIPTION	DATE
REVISIONS		
DRAWN BY:	DATE 1/01	SECTION 3,4,9,10
BA	F.B.	TOWNSHIP 47
CHECKED BY:	PAGE	RANGE 25
TJG	REFERENCE	DRAWING No.
	SWEETREV3-1 11X17	E-231

Exhibit A
Page 4 of 4

DCI 2006-00080

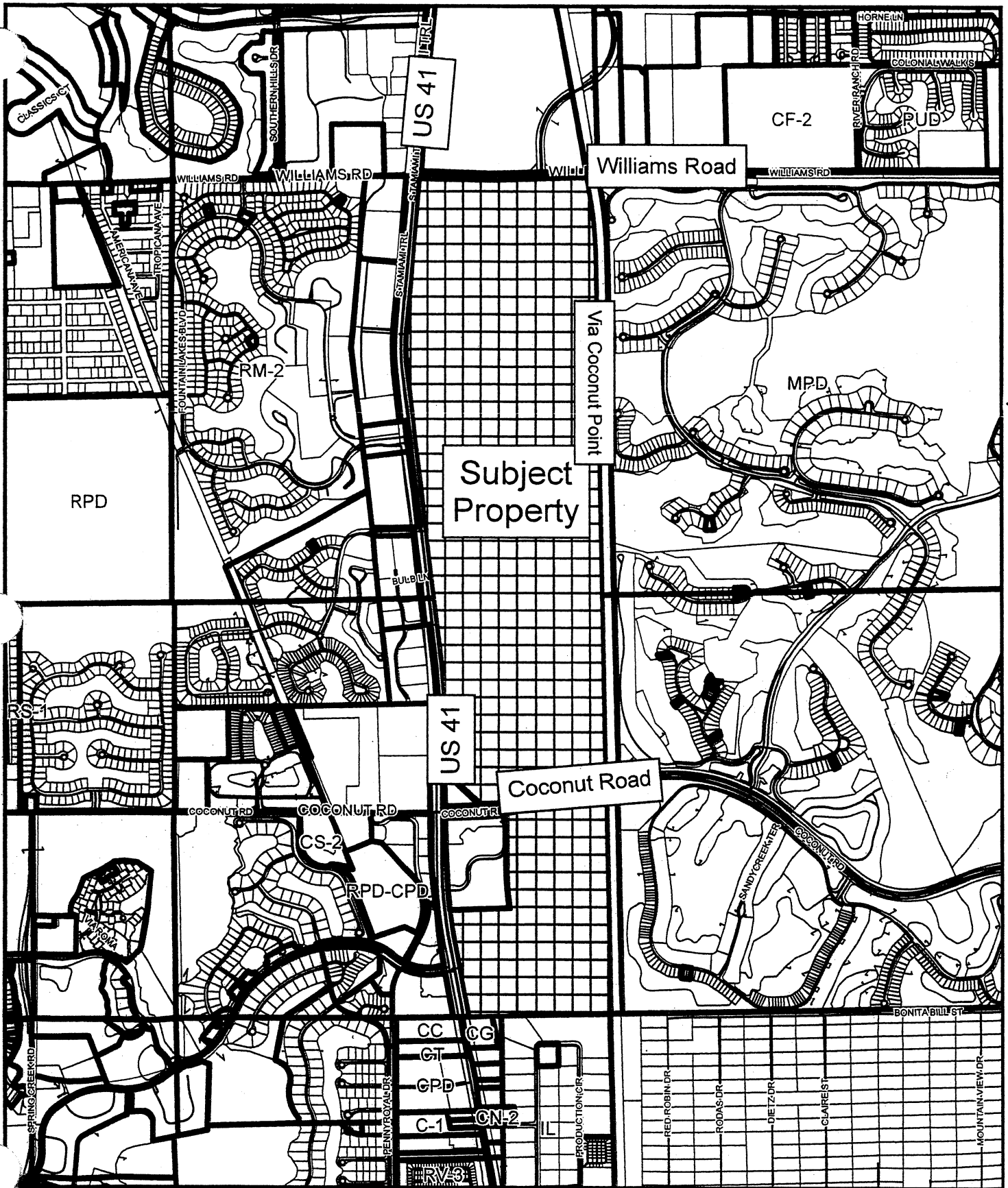
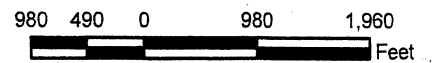


Exhibit B

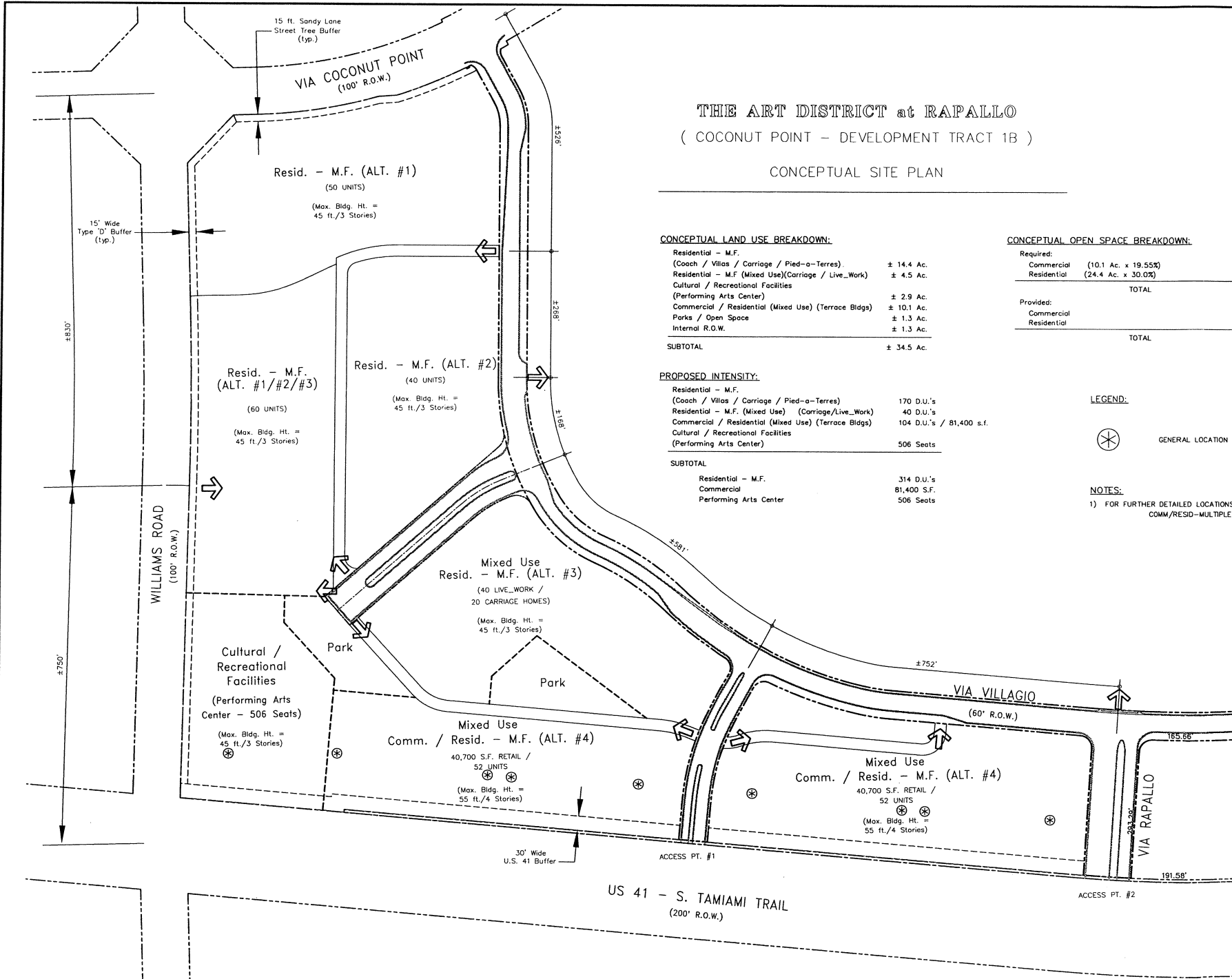




COMMUNITY DEVELOPMENT

Approved as Exhibit C
MCP Page 1 of 4
Resolution # 2-07-040

UN1977A1972079-B 191-ZONING-MCP_Rev. 10 2006-MCP_MCP_Rev. H-Service 082063.9779M-B MCP_MCP_Rev. H-Service 041807.dwg 11/1/2007 2:39:26 PM CST



THE ART DISTRICT at RAPALLO
(COCONUT POINT - DEVELOPMENT TRACT 1B)

CONCEPTUAL SITE PLAN

CONCEPTUAL LAND USE BREAKDOWN:

Residential - M.F. (Coach / Villas / Carriage / Pied-a-Terres)	± 14.4 Ac.
Residential - M.F. (Mixed Use)(Carriage / Live_Work)	± 4.5 Ac.
Cultural / Recreational Facilities (Performing Arts Center)	± 2.9 Ac.
Commercial / Residential (Mixed Use) (Terrace Bldgs)	± 10.1 Ac.
Parks / Open Space	± 1.3 Ac.
Internal R.O.W.	± 1.3 Ac.
SUBTOTAL	± 34.5 Ac.

PROPOSED INTENSITY:

Residential - M.F. (Coach / Villas / Carriage / Pied-a-Terres)	170 D.U.'s
Residential - M.F. (Mixed Use) (Carriage/Live_Work)	40 D.U.'s
Commercial / Residential (Mixed Use) (Terrace Bldgs)	104 D.U.'s / 81,400 s.f.
Cultural / Recreational Facilities (Performing Arts Center)	506 Seats
SUBTOTAL	
Residential - M.F.	314 D.U.'s
Commercial	81,400 S.F.
Performing Arts Center	506 Seats

CONCEPTUAL OPEN SPACE BREAKDOWN:

Required:		
Commercial	(10.1 Ac. x 19.55%)	± 2.0 Ac.
Residential	(24.4 Ac. x 30.0%)	± 7.3 Ac.
TOTAL		± 9.3 Ac.
Provided:		
Commercial		± 2.0 Ac.
Residential		± 7.3 Ac.
TOTAL		± 9.3 Ac.

LEGEND:



GENERAL LOCATION OF SERVICE AREAS

NOTES:

1) FOR FURTHER DETAILED LOCATIONS OF SERVICE AREAS WITHIN THE MIXED USE COMM/RESID.-MULTIPLE FAMILY (ALT #4), SEE TRACT 1B PLAN DETAILS.

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DCI 2006-00080

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MCP Page 2 of 4
Resolution # Z-07-040

SCALE: 1" = 200'

COCONUT POINT
Area #1 - Tract 1B Concept Plan

6200 Whiskey Creek Drive
Fort Myers, FL 33919
Phone : (239) 963-1200
Florida Certificate of Authorization No.1772
Naples - Fort Myers - Venice - Englewood

HM MONTES

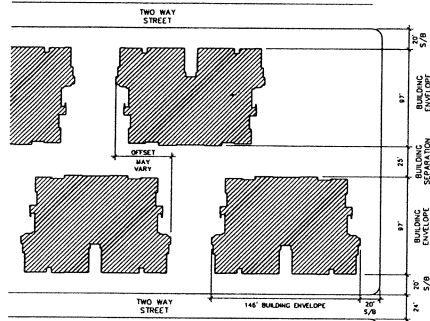
DESIGNED:	DATE:
DRAWN: C.R.B.	DATE: 10/02/06
CHECKED:	DATE:
VERT. SCALE:	HORIZ. SCALE: 1" = 200'
DRAWING NO.	
REFERENCE NO.	9779MB_MCP
PROJECT NO.	97.79M-B
SHEET NO.	1 of 3

Zoning Resolution Repeals
Unit Repeals
Surficiency Responses
Surficiency Responses

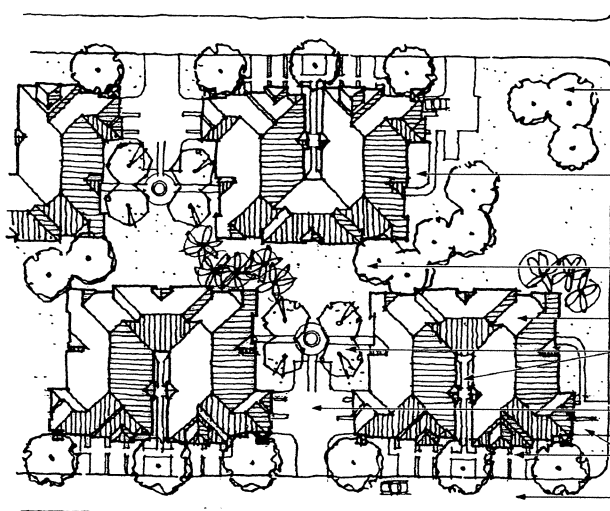
11/15/07
04/19/07
01/15/07
10/02/06

REASONS
NUMBER
DATE

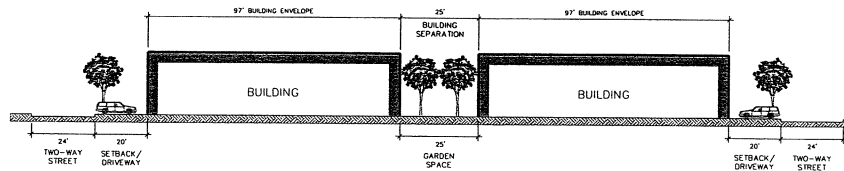
LA19271.00107070-B BRU-CONVING-MCP May 10 2006 10:00 AM MCP Map 11 Revised 05/10/06 1779M-B MCP 10/12/06 2:45:25 PM EDT



RESID. - MULTIPLE FAMILY (ALTERNATIVE #1)
Building Layout
N.T.S.



TYPICAL RESID. - MULTIPLE FAMILY (ALTERNATIVE #1) SITE PLAN
N.T.S.



TYPICAL CROSS-SECTION RESID. - MULTIPLE FAMILY (ALTERNATIVE #1)
N.T.S.

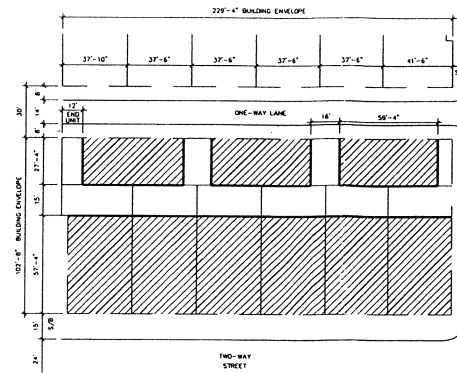
MULTIPLE FAMILY UNIT TYPE DEFINITIONS

ALTERNATIVE #1:

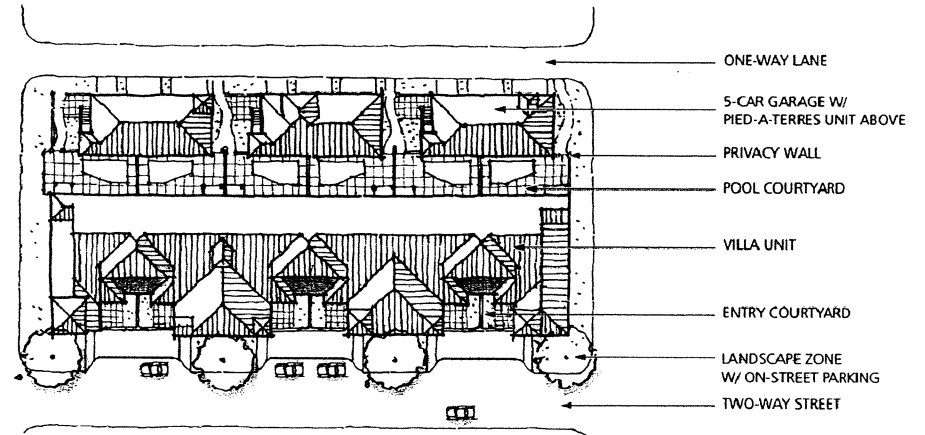
2-Story Buildings with 6-10 units per building and attached garages which are either front- or side-loaded. Units are flats with 2-3 bedrooms.

ALTERNATIVE #2:

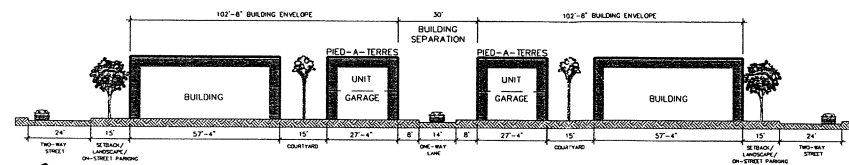
2-Story Buildings with 4-8 units per building (excluding the Pied-a-Terres units) and detached garages in the back. Units are 2-story, with 2-4 bedrooms. Garages are alley-loaded, with 5 spaces per garage building. The garage building also houses one Pied-a-Terres unit, which is located above the garages. There is one Pied-a-Terres unit per building and the unit is a flat with 2-3 bedrooms.



RESID. - MULTIPLE FAMILY (ALTERNATIVE #2)
BUILDING LAYOUT
N.T.S.



TYPICAL RESID. - MULTIPLE FAMILY (ALTERNATIVE #2) SITE PLAN
N.T.S.



TYPICAL CROSS-SECTION MULTIPLE FAMILY (ALTERNATIVE #2)
N.T.S.

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MCP Page 3 of 4
Resolution # Z-07-040



COCONUT POINT

Area #1 - Tract 1B Plan Details

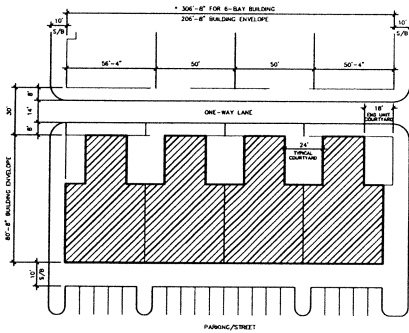
6200 Whiskey Creek Drive
Fort Myers, FL 33919
Phone : (239) 985-1200
Florida Certificate of Authorization No.1772
Naples - Fort Myers - Venice - Englewood

DATE	REVISIONS	NUMBER
10/12/06	Unit Revisions	1
04/18/07	Surfaceway	2

DESIGNED:	DATE:
DRAWN:	DATE:
CHECKED:	DATE:
VERT. SCALE:	HORIZ. SCALE:
DRAWING NO.	REFERENCE NO.
PROJECT NO.	SHEET NO.

9779MB_MCP
97.79M-B 2 of 3

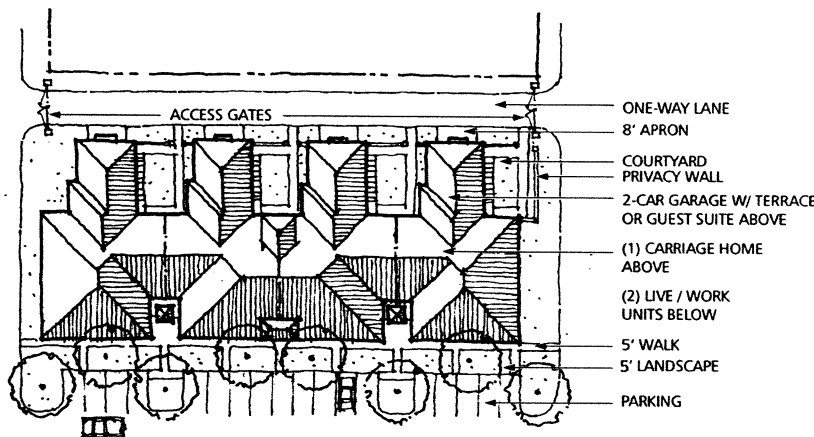
DCI 2006-00080



RESID. - MULTIPLE FAMILY (ALTERNATIVE #3)

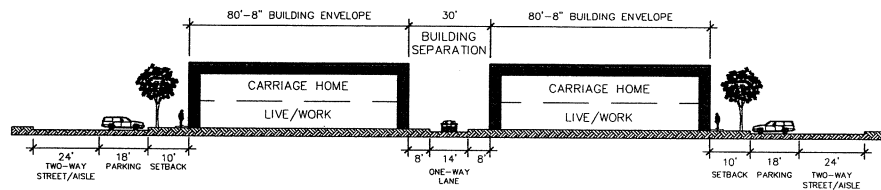
BUILDING LAYOUT

N.T.S.



TYPICAL RESID. - MULTIPLE FAMILY (ALTERNATIVE #3) SITE PLAN

N.T.S.



TYPICAL CROSS-SECTION RESID. - MULTIPLE FAMILY (ALTERNATIVE #3)

N.T.S.

MULTIPLE FAMILY UNIT TYPE DEFINITIONS

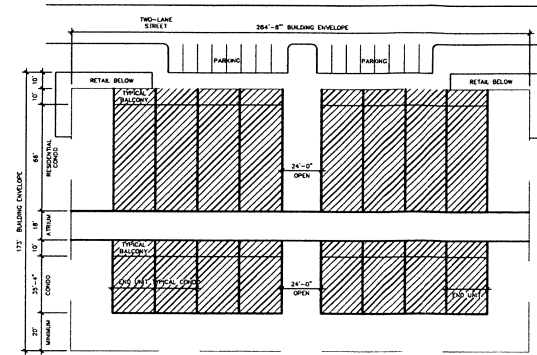
ALTERNATIVE #3:

2-Story Buildings in which the Live/Work units are located on the ground level and the Carriage Homes on the second level. There are 4-6 Carriage Home units per building, with attached alley-loaded garages. Units are flats with 2-4 bedrooms, including an attached flexible space over the garage that may be utilized as a studio, bedroom or open-air patio.

Live/Work Units are flats which are located on the ground level below the Carriage Homes. There are 8-12 units per building, with parking provided in a common parking lot at the front of the building. Live/Work units range from 1-2 bedrooms and approximately 50% of the unit is designed to be used as office or studio space. No industrial uses will be allowed.

ALTERNATIVE #4:

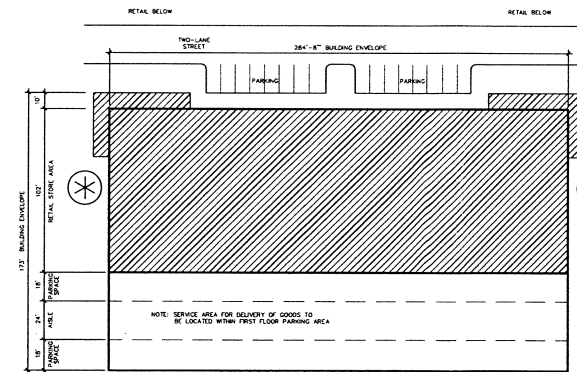
3-Story Buildings with 20-30 units per building, the units are flats which are located on the second and third levels above the ground floor retail level. Parking spaces are provided on the second floor of the building. The units may range from 1-3 bedrooms.



RESID. - MULTIPLE FAMILY (ALTERNATIVE #4)

BUILDING LAYOUT (3rd FLOOR)

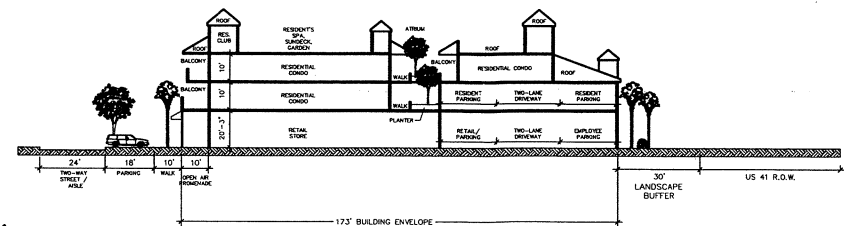
N.T.S.



COMMERCIAL (RETAIL)
BUILDING LAYOUT (1ST FLOOR)

N.T.S.

⊗ EXTERIOR ENCLOSED REFUSE AND SOLID WASTE DISPOSAL FACILITY



TYPICAL CROSS-SECTION RESID. - MULTIPLE FAMILY (ALTERNATIVE #4)

N.T.S.

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Fort Myers, FL 33919
Phone : (239) 985-1200
Florida Certificate of Authorization No.1772
Naples - Fort Myers - Venice - Englewood



COCONUT POINT
Area #1 - Tract 1B Plan Details

DESIGNED:	DATE:
DRAWN:	DATE:
CHECKED:	DATE:
VERT. SCALE:	HORIZ. SCALE:
DRAWING NO.:	
REFERENCE NO.:	
PROJECT NO.:	SHEET NO.:
97.79M-B	3 of 3

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MCP Page 4 of 4
Resolution # 2-07-040

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Coconut Point DRI

Land Use Conversion Chart

Land Use	Max Increase*
Retail	54,999 sf
Office (Gen / Med)	65,999 sf
Residential	54 MF
Hotel	82 rms

* Conversion increase may occur provided no increase in the original DRI's trip generation

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PERMIT COUNTER

DRI 2006-00009

Parking Summary:

Land Use	Total Parking Required (spaces)	Total Parking Provided (spaces)	Surplus/(Deficit) (spaces)	Reason for Reduction Request	Location of Compensating Spaces
Residential (M.F. Alt. # 1, 2, & 3)	Per LDC	Per LDC	n/a	n/a	n/a
Residential (M.F. Alt. # 3)	Per LDC	Per LDC	n/a	n/a	n/a
Mixed Use - Residential	Per LDC	Per LDC	n/a	n/a	n/a
Mixed Use - Commercial	342	326	-16	Internal Capture	n/a
Arts Center	179	155	-24	Shared Use/Differing Peak Hours	Mixed Use/Commercial

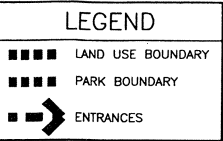
Notes:

1) The reduction requested for the Mixed Use/Commercial use is based on the following:

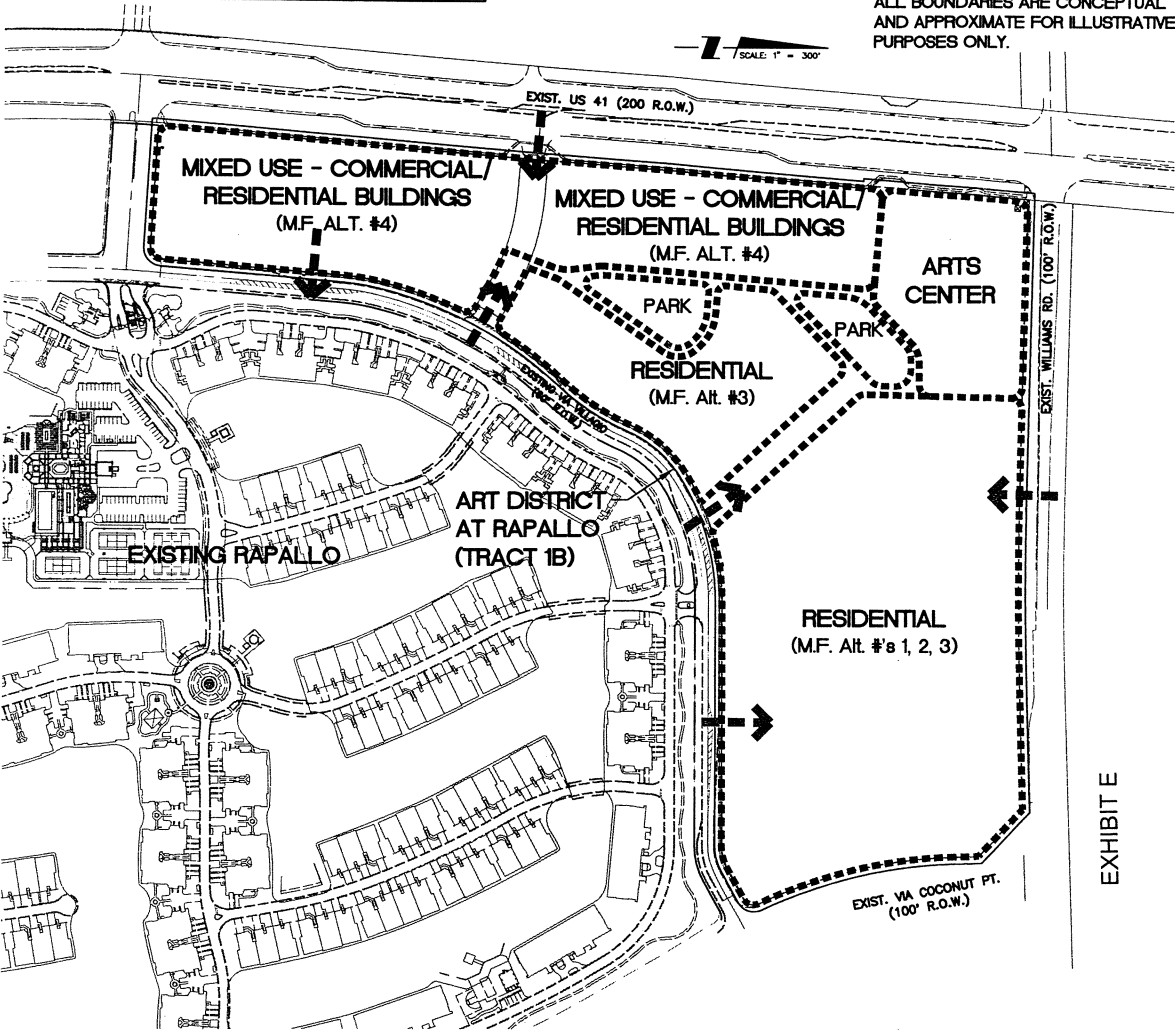
- *Parking required =# of trips in the peak hour x duration of parking event
- *Utilizing Lee County's required parking intensity for the individual uses, solve for assumed duration of parking event
- *ITE trip capture allotment for Mixed Use/Commercial use is 6 captured trips
- *Utilizing Lee County's assumed duration of parking event and ITE trip capture allotment for mixed use development, solve for number of captured parking events
- *#of captured parking events is 7 per pair of Mixed Use/Commercial use
- *Calculated reduction in parking spaces required = 7 spaces per Mixed Use/Commercial use = 14 spaces
- * Requested reduction in parking spaces required = 16, to allow some flexibility for site plan layout at the time of local Development Order

2) The reduction requested for the Arts Center is based on the following:

- *The Arts Center will experience a peak hour of operation at a different hour than the peak hours of operation for the Mixed Use - Commercial use.
- *As such, the Arts Center will be able to utilize available spaces in the Mixed Use - Commercial area during the Arts Center peak hour.
- *Group tickets and group travel will be encouraged
- *The theater is a community theater in the midst of 832 homes at Rapallo
- *Although the anticipated deficit of dedicated spaces at the Arts Center is 20 spaces, the reduction of request is for 24 spaces at time of zoning, to allow some flexibility for site plan layout at the time of local Development Order.



NOTE:
ALL BOUNDARIES ARE CONCEPTUAL
AND APPROXIMATE FOR ILLUSTRATIVE
PURPOSES ONLY.



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COMMUNITY DEVELOPMENT

DCI 2006-00080

ACTIVITY	INITIALS/EMP. NO.	DATE
DESIGNED BY:	J.C.E./1025	07/25/07
DRAWN BY:	J.M.L./1322	07/27/07
CHECKED BY:		
CONTRACT ADMIN. BY:		
WM APPROVED BY:		

DATE	REVISION
11/27/07	J.M.L./1322

1	REVISED WILLIAMS ROAD ACCESS PER COUNTY COMMENTS
---	--

WilsonMiller
Planners • Engineers • Ecologists • Surveyors • Landscape Architects • Transportation Consultants
WilsonMiller, Inc.
3300 Bailey Ave., Suite 200 • Naples, Florida 34103-8227 • Phone 239-640-4040 • Fax 239-263-6484 • Web Site www.wilsonmiller.com

CLIENT:	TOUCHSTONE AT RAPALLO, INC.	DATE:	JULY 2007	TITLE:	PARKING DEVIATION EXHIBIT (TRACT 1B)
PROJECT:	THE ART DISTRICT AT RAPALLO	VERTICAL SCALE:	1" = 300'	PROJECT NUMBER:	05082-002-002
		1" = 300'	4 475 25E	CROSS REFERENCE FILE NO.:	
				INDEX NUMBER:	D-05082-006X01
				SHEET NUMBER:	1 of 1

THIRD DEVELOPMENT ORDER AMENDMENT ¹
FOR
COCONUT POINT DRI
STATE DRI # 09-2001-153
CASE #DRI2006-00009

Let it Be Known That, pursuant to Florida Statutes §380.06, the Board of County Commissioners of Lee County, Florida, heard at a public hearing convened on October 21, 2002, the Application For Development Approval submitted by The Simon Property Group, L.P. and Oakbrook Properties, Inc., for Coconut Point DRI (originally known as Simon Suncoast DRI), a mixed use development in Lee County, consisting of approximately 482.4 +/- acres.

WHEREAS, the Board of County Commissioners of Lee County, Florida considered the report and recommendations of the Southwest Florida Regional Planning Council, the Lee County Staff, the Lee County Hearing Examiner, the application and sufficiency submittals, and the documents and comments made on the record in public hearing, and after full consideration of those reports, recommendations, documents and comments, the Board of County Commissioners of Lee County, Florida, adopted the Coconut Point Development of Regional Impact (DRI) Development Order; and

WHEREAS, the original Development Order for the Coconut Point DRI was approved on October 21, 2002; and

WHEREAS, the DRI Development Order was subsequently amended on February 7, 2005 to reduce the number of hotel rooms from 600 to 350, decrease the number of apartments from 450 to 250, and increase the number of residential condominiums from 550 to 1,000; and

WHEREAS, on August 1, 2006 the DRI Development Order was amended a second time to extend the buildout date one year to December 31, 2007; and

WHEREAS, on August 30, 2006, Oakbrook Properties, Inc. filed a Notice of Proposed Change to amend the DRI Development Order a third time to: (1) increase condominium units from 1,000 to 1,528; (2) decrease apartment units from 250 to 0; (3) increase hotel units from 350 to 440; (4) decrease retail commercial square footage from 1,800,000 to 1,638,900; (5) increase commercial square footage for banks by 8,000 square feet; (6) increase general office square footage from 200,000 to 315,000; (7) decrease medical office square footage from 100,000 to 68,333; (8) add a 506 seat performing arts center; and (9) add a land use conversion chart; and

¹ This is a codification and restatement of the DRI Development Orders rendered with respect to the Coconut Point DRI, including actions taken on October 21, 2002, February 7, 2005, ~~and~~ August 1, 2006, and October 29, 2007.

WHEREAS, under F.S. §380.06(19), the proposed changes must be reviewed cumulatively with previous changes to determine whether they constitute a substantial deviation from the terms of the original development order approval; and

WHEREAS, the Applicant's 2006 NOPC proposal is presumed to create a substantial deviation under F.S. §380.06(19)(e)(5)(b); and

WHEREAS, the Applicant has successfully rebutted the presumption of a substantial deviation; and

WHEREAS, a public hearing was advertised and held on October 29, 2007 before the Lee County Board of County Commissioners who gave full and complete consideration to the report and recommendations of the Southwest Florida Regional Planning Council, the Lee County Staff, the Lee County Hearing Examiner, the documents in the record, and the testimony of all interested parties; and

WHEREAS, the Board found the proposed amendments as conditioned do not constitute a substantial deviation.

NOW, THEREFORE, be it resolved by the Board of County Commissioners of Lee County, Florida, that the Development Order for the Coconut Point DRI is hereby amended as follows:

I. FINDINGS OF FACT AND CONCLUSIONS OF LAW

A. The Coconut Point DRI is a master planned commercial development consisting of 482.4+/- acres located in unincorporated south central Lee County at the intersection of US 41 and Coconut Road. The Coconut Point DRI is a mixed use development that will consist of: 1,450,000 gross leasable square feet of retail/regional mall (Regional Retail Center), ~~350,000~~ 188,900 gross leasable square feet of retail on other parcels adjacent to the regional mall (Community Commercial Retail), 8,000 gross leasable square feet of Banks, ~~300,000~~ 383,333 square feet of office, of which no more than ~~400,000~~ 68,333 square feet may be medical office, ~~350~~ 440 hotel rooms, ~~1,250~~ multi-family 1,528 condominium units, ~~(consisting of 250 apartment units, and 1000 residential condominium units)~~ and a 200 unit assisted living facility and a 506 seat performing arts theater. The project will include ~~32.7~~ 33.4 acres of conservation areas, ~~47.1~~ 57.1 acres of lakes, ~~50.2~~ 43.2 acres of road rights-of-way and ~~44.6~~ 9.0 acres of green area/open space.

Water and wastewater treatment will be provided by Bonita Springs Utilities.

The project phasing schedule consists of one phase with buildout in 2007

B. The terms of this Development Order apply to the property located and described in attached Exhibit A.

C. The property is zoned Mixed Planned Development (MPD). Undeveloped portions of the property are currently in active agricultural use.

D. The Application for Development Approval (ADA) is consistent with the requirements of §380.06, Florida Statutes, and was found sufficient by the Southwest Florida Regional Planning Council (SWFRPC) on January 17, 2001.

E. The development is not located in an area designated as an Area of Critical State Concern under the provision of §380.05, Florida Statutes.

F. The development will not unreasonably interfere with the achievement of the objectives of the adopted State Land Development Plan. The development is consistent with the State Comprehensive Plan if developed in accordance with the conditions set forth herein.

G. The proposed Development Order Amendment has been reviewed by the Southwest Florida Regional Planning Council (SWFRPC) and is the subject of the report and recommendations adopted by that body and subsequently forwarded to Lee County in accordance with §380.06, Florida Statutes. The development, as proposed in the ADA, subsequently amended by the Notice of Proposed Change, and modified by this Development Order Amendment, is generally consistent with the report and recommendations of the SWFRPC pursuant to §380.06(11), Florida Statutes.

H. The development is located in the Urban Community and Wetlands future land use categories. The project, as proposed and conditioned herein, is consistent with the Lee County Comprehensive Plan and the Lee County Land Development Code (LDC).

I. The conditions set forth below meet the criteria found in §380.06(15)(d), Florida Statutes.

II. ACTION ON THE REQUEST AND CONDITIONS OF APPROVAL

NOW THEREFORE, be it resolved by the Board of County Commissioners of Lee County, Florida, in a public meeting duly advertised, constituted and assembled that the Development of Regional Impact Application for Development Approval submitted on behalf of Simon Property Group, L.P. and the Oakbrook Properties, Inc., for the project known as the Coconut Point DRI, originally approved October 21, 2002, is hereby amended subject to the following conditions, restrictions and limitations. For the purpose of this Development Order, the term "Developer" refers to Simon Property Group, L.P., Oakbrook Properties, Inc., and Coconut Point Developers, LLC, and includes all successors or assigns, and all references to County Ordinances or other regulations, including future amendments.

A. AFFORDABLE HOUSING

1. *150 Affordable Housing Units (\$600,000).*²
 - a. The Developer must provide, either directly or through third parties, 150 units (combined total) of affordable housing for very low, low, and moderate-income persons within the identified DRI housing assessment area on or before December 31, 2006.
 - b. In the event the Developer does not provide all of the 150 units required above prior to December 31, 2006, the Developer may satisfy the remaining affordable housing obligation by paying \$4,000 (\$600,000 divided by 150 units) for each unit of the shortfall to the Lee County Affordable Housing Trust Fund.

2. *University Student Housing (\$400,000).*³ In addition to the above, the Developer will subsidize University student housing by giving \$400,000 to the Florida Gulf Coast University prior to the issuance of the first development order allowing vertical construction within the DRI (excepting any public uses mandated by this Development Order). These funds must be specifically earmarked for University student housing.

B. ENERGY

The Developer must incorporate, as a minimum, the following energy conservation features into all site plans and architectural programs, or insure that the following features are implemented through deed restrictions or covenants with successors in title. All applications for site plan approvals and building permits must be accompanied by documents detailing proposed compliance with these conditions. If deed restrictions or covenants are utilized to insure compliance, those documents must be approved by the County Attorney's Office prior to recording.

These features are:

1. A bicycle/pedestrian system connecting all land uses, to be placed along arterial and collector roads within the project and also along Sandy Lane. This system will be consistent with LDC regulations.
2. Bicycle racks or storage facilities in recreational, commercial and multi-family residential areas.

²The Developer paid \$600,000 to Lee County on December 20, 2006 to satisfy this condition. These funds were accepted by the Board via Bluesheet 20070290 in March 2007.

³This requirement was satisfied in October 2004.

3. Bus stops, shelters and other passenger and system accommodations for a transit system to service the project area.
4. Energy efficient features in window design (e.g. tinting and exterior shading), operable windows, ceiling fans, appliances and equipment.
5. Minimize coverage by asphalt, concrete, rock and similar substances in street, parking lots and other area to reduce local air temperatures and reflecting light and heat.
6. Energy-efficient lighting for streets, parking area, recreation area and other interior and exterior public areas.
7. Water closets with a maximum flush of 1.6 gallons and shower heads and faucets with a maximum flow rate of 2.5 gallons per minute (at 80 pounds of water pressure per square inch).
8. Selecting, planting and maintaining native plants, trees and other vegetation and landscape design features that reduce requirements for water, fertilizer, maintenance and other needs.
9. Planting native shade trees to provide reasonable shade for all recreation areas, street and parking areas. Planting native shade trees for each residential unit.
10. Placing trees to provide needed shade in the warmer months while not overly reducing the benefits of sunlight in the cooler months. Orienting structures, whenever possible, to reduce solar heat gain by walls and utilize the natural cooling effects of the wind.
11. Including porch and patio areas in residential units.
12. Establishing project architectural review committees that will consider energy conservation measures to assist builders and residents in the efforts to achieve greater energy efficiency in the development.

C. STORMWATER MANAGEMENT

1. The Developer must meet the criteria set forth in Chapter 40E, Florida Administrative Code, and the South Florida Water Management District (SFWMD) Basis of Review. The Developer must obtain a modification of SFWMD Permit No. 36-00288-S for the construction and operation of the surface water management system. This permit must address any impacts created by the development to wetlands and other surface waters. Halfway Creek is classified as an Outstanding Florida Water (OFW). Any discharge to an OFW requires additional water quality consideration. Prior to the issuance of the permit modification, the ~~District~~SFWMD will evaluate this issue in greater detail.

2. The Developer must obtain all necessary approvals from the Florida Department of Transportation for any proposed discharge points and water control structures associated with US 41.

3. At the time of permit modification application, the Developer must provide finalized information regarding the size of proposed project lakes, the location of major water control structures, the correct identification of control structures within pre-treatment areas and verification of adequate dimensions for pre-treatment areas.

4. Best management practices are subject to Lee County review and approval and must be included on all construction plans for development.

5. All internal stormwater management lakes and ditches as well as any onsite preserved or enhanced wetland areas, must be set aside as private drainage or conservation easements on the recorded plat. Stormwater lakes must include, where practical, adequate maintenance easements around the lakes with access to a paved roadway.

6. During construction activities, the Developer must employ best management practices for erosion and sedimentation control. These practices must be included with, or presented on, all construction plans, and are subject to approval by the appropriate agencies prior to implementation.

7. The final stormwater management plan must consider, as applicable, measures to reduce runoff rates and volumes, including, but not limited to, fixed control structures, perforated pipes, and grass swale conveyances. Swales, rather than closed systems, must be used whenever possible.

8. Any shoreline banks created along the onsite stormwater management system must include littoral zones constructed on slopes consistent with ~~District~~SFWMD and Lee County requirements and be planted in native emergent or submergent aquatic vegetation. The Developer must ensure, by supplemental replanting if necessary, that at least 80% cover by native aquatic vegetation is established/maintained within the littoral zone for the duration of the project.

9. The Developer must conduct annual inspections of the Master Stormwater Management System and any preserved/enhanced wetland areas on the project site to ensure that these areas are maintained in keeping with the final approved designs, and that the water management system is capable of accomplishing the level of stormwater storage and treatment for which it was intended. The Developer or operating entity must undertake any cleaning and repair determined to be necessary based upon the annual inspection.

10. The Developer must confirm, to the satisfaction of all applicable federal, state, and local review agencies, and the ~~South Florida Water Management District~~ SFWMD, that the proposed stormwater management system will not impact habitats of any state or federally listed plant and/or animal species potentially occurring onsite, or that such impacts will be mitigated to the benefit of onsite populations of those species.

11. The Developer must undertake a regularly scheduled vacuum sweeping of all common streets and parking areas within the development.

12. If Lee County establishes a County-wide stormwater management system, the Developer must participate to the extent the system benefits the development.

13. Ditch and swale slopes must be designed to minimize discharges so that these facilities may provide some additional water quality treatment prior to discharge. Treatment swales must be grassed.

14. The grassed stormwater treatment areas must be mowed on a regular basis as part of the normal lawn maintenance of the development. Any debris that may accumulate in project lakes, ditches or swales, or which may interfere with the normal flow of water through discharge structures and under drain systems, must be cleaned from the detention/retention areas on a regular basis. Any erosion to banks must be replaced immediately.

15. Under drain systems and grease baffles, if utilized within the Coconut Point DRI, must be inspected and cleaned and/or repaired on a regular basis. In no instance may the period between such inspections exceed eighteen months.

16. Stormwater management system maintenance requirements include removal of any mosquito-productive nuisance plant species (e.g., water lettuce, water hyacinth, cattails and primrose willows) from all system nodes, reaches, and percolation basins, as well as from the lake littoral zones employed in the system.

17. When required by the SFWMD permit, any isolated wading bird "pools" constructed in lake littoral zones must be excavated to a depth that provides aquatic habitat for mosquito larvae predators, such as *Gambusia affinis*.

18. The Developer will establish a legal operating entity in accordance with the SFWMD Basis of Review and Lee County Land Development Code to maintain the internal stormwater management lakes, ditches and wetlands. Easements, common areas or other legal mechanisms may be utilized to ensure there is sufficient access to the stormwater management areas for maintenance purposes.

D. TRANSPORTATION

1. Significant Impacts

a. Assessment Parameters

The traffic impact assessment for the Project assumes the following development parameters, as a single phase:

	<u>Buildout (2007)</u>
Multifamily Apartments (ITE LUC 220) (250 d.u. South Village)	250 d.u.
Multifamily Condominiums (ITE LUC 230) (450 d.u. Town Center, 854 d.u. North Village) <u>224 d.u. South Village</u>	1,000 <u>1,528</u> d.u.
Assisted Living Facility (ITE LUC 252) (200 d.u. South Village)	200 d.u.
Hotel (ITE LUC 310) (200 rooms Town Center, 450 <u>120</u> rooms South Village) <u>120 rooms North Village</u>	350 <u>440</u> rooms
Community Retail (ITE LUC 820) (280,000 <u>131,400</u> square feet North Village, 70,000 <u>57,500</u> square feet South Village)	350,000 <u>188,900</u> sq. ft. (gla)
Regional Retail Center (ITE LUC 820) (1,450,000 square feet Town Center)	1,450,000 sq. ft. (gla)
General Office (ITE LUC 710) (70,000 <u>78,333</u> square feet North Village, 90,000 square Town Center, 40,000 <u>146,667</u> square feet South Village)	200,000 <u>315,000</u> sq. ft.
Medical Office (ITE LUC 720) (100,000 <u>68,333</u> square feet South Village)	100,000 <u>68,333</u> sq. ft.
<u>Bank with drive-thru (4,000 square feet North Village)</u>	<u>8,000 sq. ft.</u>
<u>4,000 square feet South Village</u>	
<u>Performing Arts Theater (North Village)</u>	<u>506 seats</u>

The above parameters form the basis for the Project impacts and the mitigation requirements contained herein. The assumed land uses associated with the general parameters are identified by the Land Use Code (LUC) from the Institute of Transportation Engineers (ITE) Trip Generation Manual, 6th Edition. While approved zoning categories may allow a wider range of uses, from a DRI standpoint the Project impacts are based on the above parameters and assumed uses. If the Developer exercises Mitigation Option 2 and is granted concurrency vesting for all or a portion of the DRI, any significant change in the assumed uses, mix of uses or location of uses on the Master Concept Plan will require a re-evaluation of the DRI transportation impacts. A significant change is one that would increase the external project traffic by 5% or more or that would change the projected distribution and assignment of project traffic so as to result in a net increase in road miles of significantly and adversely impacted roadway links. This condition does not apply if Mitigation Option 1 is selected.

The overall traffic at the Project driveway entrances based on the above parameters is estimated to be 5,909 trips. They include 4,120 PM net new external peak hour trips, 757 pass-by trips, and 1,032 interzonal trip ends based upon the original buildout date of 2006. ("Interzonal trip ends" are from one part of the project to another that travel along or across public roadways.)

b. *Buildout Impacts*

The assessment on an existing-plus-committed network assuming the advancement of certain projects indicates that the significantly impacted roadways and intersections described below will be operating below acceptable levels of service at the end of Buildout (2007):

Roadway Improvements Needed

<u>Roadways</u>	<u>Needed Improvement</u>
I-75	
- Corkscrew Road to Daniels Parkway	Widen to 6 lanes
Three Oaks Parkway	
- Williams Road to Corkscrew Road	Widen to 6 lanes

US 41

– Koreshan Boulevard to San Carlos Boulevard
- Bonita Beach Road to Coconut Road

Widen to 6 lanes
Widen to 6 lanes

Old US 41

- Rosemary Drive to US 41

Widen to 4 lanes

Intersection Improvements Needed

Bonita Beach Road @ Old 41⁽¹⁾

Coconut Road @ Driveway 9/Regional Retail Center⁽²⁾
Add 2nd SB left turn lane
Add WB right turn lane
Add SB right turn lane
Add SB left turn lane
Add dual EB left turn lane
Signalization⁽³⁾

Coconut Road @ Sandy Lane⁽²⁾

Add WB left turn lane
Add WB right turn lane
Add NB right turn lane
Add NB left turn lane
Add SB left turn lane
Add SB right turn lane
Add EB left turn lane
Add EB right turn lane
Signalization⁽³⁾

Corkscrew Road @ Ben Hill Griffin Parkway⁽¹⁾

Add 2nd EB left turn lane
Add 2nd NB left turn lane
Add 2nd SB left turn lane

Corkscrew Road @ River Ranch Road⁽¹⁾

Signal retiming

Corkscrew Road @ Three Oaks Parkway

Add 2nd WB left turn lane
Add 2nd NB left turn lane
Add 2nd SB left turn lane

I-75 @ Corkscrew Road⁽¹⁾

Add 2nd EB left turn lane⁽⁴⁾
Add 2nd WB left turn lane⁽⁴⁾

Old 41 @ Dean Street⁽¹⁾

Add 2nd NB left turn lane

Old 41 @ Pennsylvania Avenue⁽¹⁾

Add 2nd SB left turn lane

Old 41 @ West Terry Street⁽¹⁾

Signalization⁽³⁾

Signal retiming

Three Oaks Parkway @ Koreshan Boulevard⁽¹⁾

Add 2nd NB thru lane

Three Oaks Parkway @ Williams Road⁽¹⁾

Add 2nd SB thru lane

Signalization⁽³⁾

Signalization⁽³⁾

Three Oaks Parkway @ Coconut Road⁽¹⁾
US 41 @ Immokalee Road⁽¹⁾
US 41 @ Old 41⁽¹⁾ (Collier County)
US 41 @ Bonita Beach Road
US 41 @ West Terry Street
US 41 @ Old 41/Pelican Landing Parkway

US 41 @ Pelican Colony Boulevard

US 41 @ Coconut Road

US 41 @ Driveway 6/Regional Retail Center⁽¹⁾

US 41 @ Driveway 5/Internal East-west Road⁽¹⁾

US 41 @ Driveway 4/Pelican Point Boulevard⁽¹⁾

US 41 @ Driveway 3/Fountain Lakes Boulevard⁽¹⁾

Signalization⁽³⁾
Signal retiming
Signal retiming
Signal retiming
Add 2nd WB right turn lane
Add 2nd NB left turn lane
Add 2nd SB left turn lane
Add 2nd EB left turn lane
Add dual WB left turn lane⁽²⁾
Add WB right turn lane⁽²⁾
Add NB right turn lane⁽²⁾
Add 2nd NB left turn lane
Add dual SB left turn lane⁽²⁾
Add 2nd EB left turn lane
Add EB right turn lane
Add 2nd WB left turn lane
Add 2nd NB right turn lane
Add 2nd NB left turn lane
Add 2nd SB left turn lane
Add 2nd EB left turn lane
Add EB right turn lane
Add NB right turn lane⁽²⁾
Add SB left turn lane⁽²⁾⁽³⁾
Add WB right turn lane⁽²⁾
Signalization⁽²⁾⁽³⁾
Add NB right turn lane⁽²⁾
Add dual SB left turn lane⁽²⁾
Add dual WB left turn lane⁽²⁾
Add WB right turn lane⁽²⁾
Signalization⁽²⁾⁽³⁾
Add NB right turn lane⁽²⁾
Add SB Left turn lane⁽²⁾
Add WB right turn lane⁽²⁾
Signalization⁽²⁾⁽³⁾
Add NB right turn lane⁽²⁾
Add SB left turn lane⁽²⁾
Add dual WB left turn lane⁽²⁾
Add WB thru lane⁽²⁾
Add WB right turn lane⁽²⁾
Signalization⁽²⁾⁽³⁾

US 41 @ Driveway 2/Estero Greens ⁽¹⁾	Add NB right turn lane ⁽²⁾ Add dual SB left turn lane ⁽²⁾ Add dual WB left turn lane ⁽²⁾ Add WB thru lane ⁽²⁾ Add WB right turn lane ⁽²⁾ Add EB right turn lane ⁽²⁾ Signalization ⁽²⁾⁽³⁾
US 41 @ Driveway 1/Community Commercial ⁽¹⁾	Add NB right turn lane ⁽²⁾ Add SB left turn lane ⁽²⁾ Add WB right turn lane ⁽²⁾
US 41 @ Williams Road ⁽¹⁾	Add 2 nd SB left turn lane Add 2 nd WB left turn lane
US 41 @ Corkscrew Road ⁽¹⁾	Add 2 nd WB left turn lane
US 41 @ Broadway ⁽¹⁾	Signal retiming
US 41 @ Koreshan Boulevard	Signalization ⁽³⁾
US 41 @ Sanibel Boulevard ⁽¹⁾	Signal retiming
US 41 @ Metro Parkway ⁽¹⁾	Add 2 nd NB right turn lane
US 41 @ Alico Road ⁽¹⁾	Signal retiming
US 41 @ Island Park Road ⁽¹⁾	Signal retiming
US 41 @ Ben Pratt/Six Mile Cypress Parkway ⁽¹⁾	Add EB thru lane Add WB thru lane
Williams Road @ Driveway 1/Comm Commercial ⁽¹⁾	Signalization ⁽³⁾
Williams Road @ River Ranch Road ⁽¹⁾	Signalization ⁽³⁾
Williams Road @ Sandy Lane ⁽²⁾	Signalization ⁽³⁾ Add WB left turn lane Add NB right turn lane Add NB left turn lane Add EB right turn lane
Williams Road @ Three Oaks Parkway	Signalization ⁽³⁾

- (1) *This intersection is not included in a significantly and adversely impacted roadway segment.*
- (2) *This intersection is considered a site-related improvement.*
- (3) *Signalization only if warranted and subject to approval by the maintaining agency.*
- (4) *Dual EB and WB left turn lanes should be provided if they can be constructed without requiring reconstruction of the I-75 overpass bridge structure.*

The intersection improvements include at grade geometric improvements, such as turn lanes and signalization when warranted. Intersection improvements are accounted for in the overall proportionate share calculation. Site-related needs at the Project entrances are not addressed

in the proportionate share calculation and must be addressed by the Developer at the time of local development order approval.

2. **Mitigation**

a. *Buildout Proportionate Share*

The buildout proportionate share is \$14,600,000 in year 2002 dollars. This figure represents the Developer's share of necessary roadway and intersection improvements based on the development parameters set forth in Section II.D.1.a. The estimated roads impact fees based on the schedule effective July 1, 2000 is \$10,196,250, which is lower than the proportionate share estimate.

As noted in Condition D.3 below, the Developer must pay \$170,000 as mitigation for the project's Comprehensive Plan impacts to the 2020 level of service on US 41 from Koreshan Boulevard to Alico Road. Therefore, the total proportionate share obligation deemed sufficient to mitigate both the buildout DRI-related transportation impacts on the non-site related roads and intersections set forth in Paragraph D.1.b and the project's Comprehensive Plan impacts is \$14,770,000. However, if the reanalysis described in section D.2.d.1 demonstrates that additional funds are necessary to mitigate the project's transportation impacts, then the Developer will be required to pay the higher mitigation amount.

No independent fee calculation will be permitted for the project, or a subpart thereof, absent a Notice of Proposed Change.

b. *Mitigation Options*

The Developer must choose one of the two mitigation options identified below to satisfy the proportionate share obligation.

(1) Traffic Mitigation Option 1

(a) Payment

All development within the project must pay roads impact fees in effect at the time of building permit issuance. In addition to roads impact fees, and prior to the issuance of the first building permit for vertical construction of any portion of the Regional Retail Center, the Developer must make a lump sum cash

payment of \$4,573,750 in year 2002 dollars. This lump sum cash payment is intended to mitigate the transportation impacts associated with the Regional Retail Center and satisfy the proportionate share obligation that is due over and above road impact fees.

In accordance with local policies and regulations, the Developer may be entitled to roads impact fee credits for road improvements constructed within the area surrounding the project.

(b) Concurrency

All development within the project will be subject to the County's Concurrency Management System at the time it obtains a local development order.

(2) Traffic Mitigation Option 2⁴

(a) Payment

The Developer may vest, for concurrency purposes, up to 400,000 square feet of retail uses and all of the non-retail uses by making an up-front payment of \$6,270,000 in 2002 dollars on or before December 31, 2003 or the issuance of the first building permit for the site, whichever comes first (excepting any public uses mandated by this Development Order). The remaining portion of the project will be entitled to concurrency vesting upon the payment of \$8,500,000 in 2002 dollars on or before December 31, 2004 or the issuance of the first building permit for the retail uses of the project over 400,000 square feet, whichever comes first. The value of creditable pipelined improvements identified in the Development Agreement may be subtracted from the second payment only.

Concurrency certificates issued pursuant to this option will be effective until December 31, 2007, or for three (3) years, whichever is later.

⁴ The Developer chose Option 2 and made the two installment payments in a timely manner.

(b) Development Agreement

Exercise of traffic mitigation option 2 requires a Local Government Development Agreement executed pursuant to §163.3220, Florida Statutes, and Chapter 2, Article III of the Lee County Land Development Code. The Developer must submit a draft Development Agreement to Lee County within 6 months of the adoption of the original DRI Development Order or prior to submittal of any local development order application for the Regional Retail Center or the Community Commercial Retail. The Development Agreement must be executed prior to issuance of a local development order allowing vertical construction anywhere on the site, excepting public uses mandated by this Development Order. The agreement must specify the payment schedule for the total proportionate share obligation in accordance with subparagraph (2)(a) above.

c. *Application of Payments*

(1) Cash.

The County will apply all impact fees and cash payments made by the DRI toward the non-site related improvements identified in Section D.1.b. In the alternative, the County will apply the fees toward improvements that relieve those roadways, provided those improvements are deemed necessary to maintain the County's adopted level of service standards. If the improvements identified in Section D.1.b are ultimately funded through other sources, in whole or in part, or deemed unnecessary to maintain the adopted level of service standards, Lee County may apply the impact fees and cash payments paid by the DRI to other improvements consistent with the requirements of Lee County LDC Chapter 2. Potential applications of the cash payment can be specified in the Development Agreement.⁵

⁵ An Interlocal Agreement addressing the traffic impacts to the City of Bonita Springs precipitated by approval of the Coconut Point DRI was approved by the Board of County Commissioners on March 23, 2003. The Agreement required the County to: (1) conduct the Sandy Lane Alignment Study; (2) transfer \$2.184 million to the City for the DRI impacts to Old U.S. 41 between Rosemary Drive and the intersection of Old U.S. 41 with U.S. 41 and Pelican

(2) Pipelined Improvements.⁶

The Developer may propose in the Development Agreement to provide a specific roadway improvement or improvements in lieu of the second cash payment to the County of \$8,500,000 in 2002 dollars, which is referenced in Section D.2.b.(2)(a). The proposed pipeline improvements are subject to County approval. In addition to the improvements listed in Section D.1.b, potential improvements for pipelining consideration include (but are not limited to):

- (a) Sandy Lane 2-lane Extension, from the south property line to the north property line (Williams Road) and from Williams Road to Corkscrew Road. Consistent with the County's long-range plan for Sandy Lane as a 2-lane collector and the County's standards for collector roads, no more than 100 feet of right-of-way and 2 lanes of construction will be eligible for credits against the proportionate share obligation. The reasonable cost of providing the railroad crossing between Williams Road and Corkscrew Road will be eligible for credits against the project's proportionate share obligation. If the Developer chooses to build more than 2 lanes, it will be at the Developer's sole expense.
- (b) Interim improvements not requiring right-of-way at the Corkscrew Road/I-75 interchange (subject to FDOT approval).

The estimated costs of any improvements made by the Developer (including design, right-of-way acquisition, drainage,

Colony Boulevard; (3) transfer \$138,000 for specified intersection improvements; and, (4) set the alignment of Sandy Lane between Pelican Landing Boulevard and the southern DRI boundary. As of November 2004, all requirements of the Interlocal Agreement have been fulfilled and the Interlocal is considered terminated by its own terms.

⁶The developer chose to pipeline improvements by constructing Sandy Lane Extension (now known as via Coconut Point) from Pelican Colony Boulevard to Corkscrew Road. Lee County accepted that portion of Sandy Lane Extension from Pelican Colony Boulevard to Williams Road for maintenance on January 16, 2007. Acceptance of Sandy Lane Extension from Williams Road to Corkscrew Road is still pending as of May 2007.

permitting, water retention, construction, and the like) must be documented and submitted to the County for review and approval. The County reserves the right to obtain its own estimates for comparison purposes. Credit against the proportionate share obligation will be based on the final actual costs of the agreed upon improvements. Any right-of-way granted to the County will be valued as of the day prior to the DRI and zoning approval and subject to the compliance with applicable LDC provisions. Credit for the construction costs will be subject to the provisions of the County Land Development Code and standard practice related to project timing. The improvements must be built to applicable County or State standards and accepted for maintenance in accordance with the requirements of the responsible jurisdiction.

d. *Buildout Extension*

(1) Requirement for Reanalysis

Extension of the buildout date beyond 2007 may alter the project's impact to the area road network. Therefore, if the Developer files a Notice of Proposed Change resulting in an extension of project buildout beyond December 31, 2007 then the Developer must provide a detailed traffic assessment to Lee County DOT for review and approval.⁷

The assessment must include, but is not limited to, identification of the adjusted phasing, the level of development anticipated for the revised phasing, estimated traffic impacts, needed improvements, and the project's proportionate share of those improvements.

The assessment must include a cumulative analysis of the project's traffic impacts. The assessment must also identify mitigation for significantly and adversely impacted road segments by cumulative project traffic at the extended buildout year in accordance with the Transportation Uniform Standard Rule in the Florida Administrative Code. Prior to conducting a

⁷The original DRI Development Order established a buildout date of December 31, 2006 and allowed a one year extension without traffic reanalysis, to December 31, 2007. Based upon a 2006 NOPC, the Developer sought and obtained the one year extension contemplated and allowed under the original DRI Development Order (See sections D.2(b)(2) and D.2.(d)(2).)

reassessment analysis, the Developer must attend a transportation methodology meeting with the County, and other review agencies as necessary, to establish the appropriate methodology.

The traffic assessment will be prepared by the Developer following generally acceptable transportation planning procedures consistent with the standards in effect at the time of reanalysis. Payment of additional mitigation, if any, resulting from the traffic assessment must be specified in an amended development order. The development order must be amended via a Notice of Proposed Change to reflect the revised phasing and additional mitigation.

The County will provide credit against the recalculated proportionate share for all mitigation paid through the date of the new traffic assessment. Proportionate share payments previously made by the Developer will be adjusted to then current year dollars. This will be accomplished by increasing the principal amount paid by an amount equal to the increase as determined in the State Highway Bid Index for the State of Florida, published in the Engineering News Record, using an average of the last four quarterly factors. This increase will be expressed as a percentage and will be measured from the index published for the fourth quarter of 2001 to the index published in the then latest available edition.

Under no circumstances will reimbursement be granted for any portion of a payment made in exchange for concurrency vesting, regardless of the outcome of a reanalysis.

(2) Alternative for Reanalysis

(a) *Extension of Buildout to December 31, 2007.*⁸

If all or a part of the Regional Retail Center has received building permits prior to December 31, 2006, the Developer may choose to pay the traffic mitigation for some or all of the balance of the development

⁸The developer paid the lump sums required to exercise Mitigation Option 2 in December 2004 and December 2005. The second DRI Development Order Amendment adopted August 1, 2006 served to extend the buildout date to December 31, 2007. This was approved without a traffic reanalysis.

through buildout in a lump sum at the time the extension application is approved. Full payment of the required mitigation pursuant to Mitigation Option 2 constitutes an election under this section. In this case a cumulative traffic reanalysis is not required for the portion of the balance that is mitigated as part of the original DRI Development order. This section is not intended to supersede the standard submittal requirements for a typical Notice of Proposed Change under state law.

- (b) NOPC filed to extend buildout beyond 2007.

If the entirety of the Coconut Point DRI is not built out by December 31, 2007, the NOPC requesting a buildout date extension must be accompanied by a complete cumulative traffic reanalysis, as contemplated by the June 15, 2005 RPC recommendation.

3. Comprehensive Plan Mitigation

An amendment to the Future Land Use Map, to change 435 acres from "Rural" to "Urban Community" was necessary to accommodate the approval of this DRI. To support the Map amendment, an analysis different from the DRI Transportation Analysis was necessary. This Comprehensive Plan analysis required review of the effects of the proposed DRI project in the year 2020 on the planned, financially feasible roadway network. The result of this analysis indicated that four road segments, beyond those planned for improvement as part of the 2020 financially feasible roadways network plan, will fail with the addition of the Coconut Point (aka Simon Suncoast) project. The failure for three of the identified segments will likely be addressed through other means, but the segment of US 41 from Koreshan Boulevard to Alico Road is projected to fail even after the six-lane improvement identified in paragraph D.1.b.

The comprehensive plan amendment transmittal package approved by the Board of County Commissioners on December 13, 2001, indicated that appropriate traffic impact mitigation must be provided at the time of rezoning or DRI development approval.

The costs for needed improvements beyond those planned in the 2020 Financially Feasible Plan are solely the responsibility of the Developer, and are treated much as a proportionate share obligation. In this case, the Developer has estimated that the provision of dual left turn lanes at a number of key intersections along the impacted segment of US 41 will improve the capacity enough to allow satisfactory operation. The Developer estimated that the cost of providing these turn lanes would be roughly \$692,000,

not including the costs of maintenance of traffic, mobilization and permitting. The Developer's proportionate share of the cost of the turn lanes is \$170,000. This figure has been added to the project's DRI proportionate share, as noted above.

4. Access and Site Related Improvements

In addition to the proportionate share obligation set forth above, the Developer is responsible for its share of the following site-related roadway and intersection improvements: all internal roadways, all intersection improvements, including signalization, turn lanes, deceleration lanes, and other improvements deemed necessary by the County Engineer and consistent with the Lee County Land Development Code for the Project's access points onto U.S. 41, Coconut Road, and Williams Road. The improvements include the installation of a signal coordination system on U.S. 41 from Pelican Colony Boulevard to Williams Road. During the local development order review process, site-related improvements must be evaluated based on weekday, PM peak hour conditions. Saturday mid-day conditions must be considered in the design of turn lanes due to the retail component of the DRI. Site-related improvements are not eligible for credit against impact fees and may not be used to offset the proportionate share obligation. Project accesses onto US 41 are subject to obtaining a connection permit from FDOT.

5. Committed Improvements⁹

Roadway Improvements

<u>Roadways</u>	<u>Start Year</u>	<u>Improvement</u>
Alico Road		
– US 41 to Seminole Gulf Railway	02	4 Lanes
– Seminole Gulf Railway to I-75 West Ramps	02	6 Lanes
Ben Hill Griffin Parkway/Treeline Avenue		
– Alico Road to Daniels Parkway	02	4 Lane Ext.
Bonita Beach Road		
- Imperial Street to I-75	03	6 Lanes

⁹ As of the date the Third DRI DO was adopted, many of the improvements identified as committed are complete. The completed improvements include Alico Road, Ben Hill Griffin/Treeline, Bonita Beach Road, Livingston/Imperial, Three Oaks from Coconut Road to Corkscrew Road, US 41 and Williams Road. Three Oaks from Corkscrew Road to Alico Road is currently under construction. Construction of Three Oaks Parkway from Alico to Daniels Parkway is delayed; and the Metro Parkway project is currently not funded.

Livingston/Imperial Connection

– Immokalee Road to Bonita Beach Road U/C 2 Lane Ext.

Metro Parkway

– U.S. 41/Alico Road to Ben Pratt/Six
 Mile Cypress Pkwy (including interchange) 04 6 Lane Ext.

Three Oaks Parkway

– S. of Coconut Road to Williams Road U/C 4 Lane Ext.

– Williams Road to Corkscrew Road U/C 4 Lane Ext.

– Corkscrew Road to Alico Road 03 4 Lanes

– Alico Road to Daniels Parkway 03 4 Lane Ext.

US 41

– Old 41 (Collier County)
 to N. of Bonita Beach Road 03 6 Lanes

- San Carlos Boulevard to Alico Road U/C 6 Lanes

Williams Road

– River Ranch Road to Three Oaks Parkway 02 2 Lane Ext.

The Regional Retail Center has the potential to create a temporary burden on the transportation network. The following Staging Schedule is an effort to minimize the temporary transportation burden while providing the Developer with the ability to obtain building permits for vertical construction of retail uses. Issuance of any building permit for vertical construction will require prior compliance with the mitigation options set forth in condition D.2. The “Maximum Square Footage” column identifies the maximum gross retail square footage for which building permits allowing vertical construction may be issued prior to the corresponding date, unless the improvements identified “to Avoid Interim Level of Service Problem” are under construction on or before the identified date. If all required interim improvements are completed or under construction on or before the identified date, then building permits for the maximum amount of retail square footage as identified in conjunction with the corresponding date may be issued.

<u>Date</u>	<u>Maximum Square Footage</u>	<u>Needed Improvements to Avoid Interim Level of Service Problem</u>	
		<u>Route</u>	<u>Limit</u>
Adoption of DRI DO AND Compliance with Cond. D.2	400,000	Not Applicable	Not Applicable
July 1, 2004	800,000	U. S. 41 - 6 Lane	Collier County line to Bonita Beach Road
July 1, 2005	1,200,000	Three Oaks Ext. 4L OR Livingston Rd./ Imperial St. 4 Lane	Terry St. to Coconut Rd. Immokalee Rd. to E. Terry St.
July 1, 2006	1,800,000	US 41-6Lane AND Three Oaks Ext. 4 Lane AND Old 41 - 4 lane AND Metro Pkwy. Ext.- 6 Lane AND Three Oaks Ext- 4 Lane or Treeline Ext.-4L	Corkscrew Rd. to San Carlos Terry St. to Coconut Rd. Rosemary dr. to US 41 Alico Rd. to ben C Pratt/ Six Mile Cypress Pkwy Alico Rd. to Daniels Pkwy Alico Rd. to Daniels Pkwy.

6. Annual Transportation Monitoring Program

a. Design of Monitoring Program

The transportation monitoring program will be designed in cooperation with the Lee County Department of Transportation, the Florida Department of Transportation (FDOT), the Southwest Florida Regional Planning Council (SWFRPC), and the Florida Department of Community Affairs (FDCA) prior

to submittal of the first report. The methodology of the annual transportation monitoring report may be revised if agreed upon by all parties.

b. *Submittal of Monitoring Report*

The Developer must submit an annual transportation monitoring report to the following entities for review and approval: Lee County Department of Transportation, FDOT, FDCA, and SWFRPC. The first monitoring report will be submitted one year after the effective date of the DRI Development Order.¹⁰ The Developer must provide written notice to the above review agencies if the Developer concludes that a traffic monitoring report is not required because no traffic impacts have been created. Once the transportation monitoring report has been submitted, a report must be submitted annually thereafter until Project buildout, whether actual or declared.

c. *Minimum Requirements for Report Contents*

The monitoring report will measure the Project's actual external roadway impacts and the level of service conditions on the impacted roads and intersections, and determine the timing for needed improvements. The traffic monitoring report must also contain the following information:

- (1) P.M. peak Signalization⁽²⁾⁽³⁾ hour traffic counts with turning movements at the Project's access points onto U.S. 41, Coconut Road, Williams Road, Pelican Colony Boulevard and Sandy Lane, and on the external road segments and intersections identified in Paragraph D.1.b. (Traffic counts/volumes may be obtained from original traffic counts, public agency reports, other monitoring reports, and other available data.)
- (2) A comparison of field measured external Project traffic volumes to the 5,909 total P.M. Peak hour external (including 757 pass-by and 1,032 interzonal trip ends) project trip generation from all driveways onto U.S. 41, Coconut Road, Williams Road, Pelican Colony Boulevard and Sandy Lane assumed in the DRI analysis. If an interconnection is provided to The Brooks parcel at the southeast corner of U.S. 41 and

¹⁰ The first monitoring report was submitted in January 2004.

Coconut Road, a methodology must be developed to identify pass-through trips generated by The Brooks parcel.

- (3) Estimated existing levels of service and needed improvements for the roads and intersections specified in Paragraph D.1.b. above.
- (4) Estimated future levels of service and needed improvements for the roads and intersections specified in Paragraph D.1.b. above, based on a one-year projection of future volumes. A summary of the status of road improvements assumed to be committed by Collier County, Lee County and FDOT.

d. *Implications*

- (1) If the transportation monitoring report reveals that the Project trip generation exceeds the original assumptions contained herein, then the statutory provisions regarding substantial deviations will govern.
- (2) Changes to development parameters or buildout may require the Developer to rebut the statutory presumption of substantial deviation. In some instances, the evidence necessary to rebut the presumption may involve a comparison of Project trip distribution and assignment.

7. Pedestrian/Bicycle and Transit Facilities

The Developer will provide for pedestrian and bicycle facilities and bus stop locations in accordance with the map attached as Exhibit F.

E. VEGETATION AND WILDLIFE/WETLANDS

1. Impacts to the habitat value of the site (i.e. habitat utilized by dispersing juveniles and possible habitat available to adults occupying the Corkscrew area) must be considered during the permitting review process with the SFWMD and the Department of Army Corps of Engineers (ACOE). This impact must be assessed in terms of the type and function of the forested habitat on site, and the site's contribution as a connection between preserve lands to support wide-ranging and wetland dependent species. The Developer

will coordinate with the U.S. Fish and Wildlife Service (USFWS) and Florida Fish and Wildlife Conservation Commission (FFWCC) to address the impacts the proposed project may have on habitat utilized by wide-ranging listed species including the Florida Panther and Florida Black Bear.

2. The lake designs must include draw down pool features in littoral shelf slopes to favor use by woodstork and other wading birds.

3. The Developer must follow the Standard U.S. Fish and Wildlife Service Protection Measures for the Eastern Indigo Snake; and an Eastern Indigo Snake Protection Plan to be submitted for review and approval by the FFWCC as a condition of local development order approval.

4. The Developer must provide an on-site preserve management plan for review and approval by the FFWCC as a condition of local development order approval.

5. The 482± acre site originally consisted of 36.23± acres of SFWMD jurisdictional wetlands. The Developer is committed to conserving 22.15 acres of jurisdictional wetlands and 4.81 acres of jurisdictional surface waters. An estimated 9.27 acres of jurisdictional wetlands are proposed to be impacted with an additional 14.56 acres of non-jurisdictional surface waters to be filled (borrow lakes). 3.76 acres of the proposed wetland impacts have been previously permitted by the SFWMD and the Army Corp of Engineers (ACOE) under the Sweetwater MPD/Brooks project (e.g., eradication of exotic vegetation and wetland hydroperiod enhancement).

6. Prior to impacting the additional 5.51 acres of jurisdictional wetlands, the Developer must modify existing SFWMD and ACOE permits and provide additional mitigation.

7. Wetlands and surface waters remaining on the project site must be protected during construction through the implementation of temporary erosion and sedimentation control procedures.

8. Littoral plantings will be incorporated into the final design of the proposed stormwater management ponds. Plantings of desirable wetland herbaceous plants, to include species such as pickerelweed, maiden cane, and blue flag iris, cypress and black gum.

9. The existing flow-way is part of the Halfway Creek Watershed and headwaters. The 32.7 acre flow-way must be preserved and enhanced. An enhancement

plan must be submitted as part of the local development order approval process. This plan must include a restoration planting plan for the 8.49± acres melaleuca dominated slash pine-cypress mixed wetland forest and the 6.84± acre area located in the southeast branch of the flow-way that was previously cleared/disturbed. The restoration planting plan, which is outside of the mitigation requirements under the existing permits, can be utilized as compensatory mitigation for additional wetland impacts during subsequent permitting review processes with the state and federal regulatory agencies.

F. HURRICANE PREPAREDNESS

1. The Developer has stated an intention to utilize various community buildings, which are to be built in several locations throughout the development, as onsite emergency shelters for the project's residents. Based on the estimate of needed shelter space prepared by the staff of the Southwest Florida Regional Planning Council, the total shelter space provided by the Developer within Coconut Point DRI will be 10,480 square feet.

2. Construction of the buildings to serve, as onsite shelters must be started no later than the issuance of the 100th residential unit certificate of occupancy within each separate community in the overall development. All buildings to be utilized, as shelters must meet the following criteria:

- a. elevated above the Category 3 storm surge level;
- b. constructed in accordance with the requirements in Rule 9J-2.0257(6)(e), FAC, to withstand winds of at least one hundred twenty (120) miles per hour;
- c. all windows in the building are shuttered;
- d. equipped with an emergency power generator with adequate capacity to handle the following:
 - (1) ventilation fans;
 - (2) emergency lighting;
 - (3) life safety equipment (i.e., intercom, fire and smoke alarms); and
 - (4) refrigeration and cooking equipment.
- e. have an auxiliary potable water supply.

3. As an alternative to providing all or part of the shelter space in on-site buildings, the Developer may limit the onsite shelter demand of the project by elevating all or portion of the residential units above 15.9 to 16.8 feet NGVD, if the units are located in these elevation ranges, which is the maximum predicted Category 3 storm surge flooding level. The amount of shelter space to be constructed or shelter impact fees to be paid will be determined by the Lee County Office of Emergency Management.

4. All deeds to property located within the Coconut Point DRI must include or be accompanied by a disclosure statement in the form of a covenant stating the property is located in a hurricane vulnerability zone and that the hurricane evacuation clearance time for Lee County or the Southwest Florida Region is high and hurricane shelter spaces are limited.

5. The Developer is also proposing to develop ~~350~~ 440 hotel or motel rooms, within the Coconut Point DRI. Prior to issuance of a local development order for the hotel/motel, the hotel/motel Developer must contact Lee County Emergency Management with respect to establishing written hurricane preparation and evacuation/sheltering procedures. These procedures must be reduced to a written plan, prepared by the hotel/motel Developer, and approved by Lee County Emergency Management prior to occupancy of the hotel/motel.

6. Mitigation for hurricane evacuation route impacts will be accomplished through implementation of one of the following provisions. The mitigation option to be used must be identified by the Developer as part of the local development order process.

- a. Establish and maintain a public information program within the proposed homeowners associations for the purpose of educating the development's residents regarding the potential hurricane threat; the need for timely evacuation in the event of an impending hurricane; the availability and location of hurricane shelters (specifically including the onsite shelters); and the identification of steps to minimize property damage and protect human life.

In order to use the above mitigation option, the Developer must provide a continuing hurricane awareness program and a hurricane evacuation plan. The hurricane evacuation plan must address and include, at a minimum, the following items: operational procedures for the warning and notification of all residents and visitors prior to and during a hurricane watch and warning period; a public awareness program that addresses vulnerability, hurricane evacuation, hurricane shelter alternatives including hotels, the locations of

both the onsite hurricane shelters and onsite or offsite public shelters, and other protective actions that may be specific to the development; identification of who is responsible for implementing the plan; and other items as deemed appropriate. The plan must be developed in coordination with local emergency management officials. In order to use this mitigation option, the final plan must be found sufficient by the reviewing agencies and must address the recommendations provided by the reviewing agencies; or

- b. Alternatively, the Developer must commit to providing roadway capacity improvements above and beyond those improvements required by Rule 9J-2.0255, FAC; or
- c. The Developer must commit to providing funds to be used for the purpose of procuring communications equipment, which would upgrade the existing warning and notification capability of local emergency management officials. In order to use this mitigation option, the Developer must provide reasonable assurance to local emergency management officials regarding the provision's ability to reduce the development's hurricane evacuation impacts. The amount of the funding will be determined and approved by the local emergency management officials.

G. WASTEWATER MANAGEMENT/WATER SUPPLY

- 1. The Developer will obtain a SFWMD permit for groundwater withdrawals for landscape irrigation, for irrigation well construction, as well as for any dewatering needed to construct the project lakes, roads or building foundations.
- 2. The Developer will utilize water conserving devices and methods necessary to meet the criteria established in the water conservation plan of the public water supply permit issued to Bonita Springs Utilities (BSU).
- 3. The Developer will coordinate with BSU or other water supplier to ensure that adequate potable water is available to meet the demands of the project.
- 4. The Developer will provide any necessary verification to the SFWMD that the Developer's plumbing and irrigation designs are consistent with ~~District~~SFWMD rules.
- 5. The Developer must demonstrate at the time of local development order approval that sufficient potable water and wastewater treatment capacity is available. If BSU cannot provide the necessary service, then the Developer must obtain service from

an alternate provider with capacity or construct on-site interim facilities that satisfy BSU Standards. Interim facilities must be dismantled at the Developer's expense when service by BSU is available.

6. The on-site lakes, wetlands, and stormwater management system must be buffered from treated effluent contamination in accordance with SFWMD regulations.

7. Septic systems utilized in conjunction with construction trailers, sales offices and model homes must be temporary. When it is feasible to connect the temporary uses to the regional wastewater treatment facilities, all temporary septic systems must be abandoned or removed by a licensed septic system firm, in accordance with all applicable regulations.

8. The Developer must submit copies of all local development order application plans that include potable water or wastewater collection and distribution systems to BSU. BSU will review the plans for compliance with the BSU specifications manual.

9. Lee County will evaluate all potable water facilities to ensure that the facilities are properly sized to meet average, peak day, and fire flow demands in accordance with the LDC. Lee County will consult with the appropriate fire protection district to confirm that the fire flow demands will be satisfied by the proposed potable water facility.

10. The Developer must use the lowest, yet acceptable for the intended purpose, quality of water available for all non-potable water purposes.

H. COMPREHENSIVE PLAN

On October 21, 2002 the Board adopted a resolution amending the Lee Plan to reclassify the DRI site to the Urban Community land use category.

I. POLICE AND FIRE PROTECTION

1. The Developer will ensure that first responders to the area are adequately trained by TECO/People Gas to address accidental natural gas releases from the natural gas pipelines that are to be located on or adjacent to the site to ensure the safety of the residents and visitors to the area.

2. The project must be constructed and maintained in accordance with the adopted Life Safety and Fire Code requirements.

3. The owner or operator of a facility qualifying under the Superfund Amendments Reauthorization Act (SARA) Title III of 1986, and the Florida Hazardous Materials Emergency Response and Community Right to Know Act of 1988, must file hazardous materials reporting applications in accordance with §§302, 303, 304, 311, 312, or 313. The applications must be updated annually by each reporting facility.

4. The Developer will provide the Lee County Sheriff's Department with finished shell space in the main regional mall complex (Regional Retail Center) for use as a Sheriff's substation to facilitate law enforcement activities. This space will be provided at nominal cost to the Sheriff's Department.

5. The Fire and EMS impacts of this project will be mitigated by the payment of impact fees in accordance with the schedules set forth in the LDC. However, the Developer must provide the Estero Fire Rescue District with an appropriate parcel (not less than 1 acre in size) for the location of a fire-rescue station and emergency medical services facility on the project site. Upon transfer of this site to the Fire District, the Developer will be entitled to fire impact fee credits in accordance with the LDC.¹¹

6. The Developer will conduct a comprehensive security study and evaluation during the design and construction of each retail development phase. The purpose of this study is to design and implement site specific security measures. The plan must provide for review on a quarterly basis by regional security audits. A copy of this plan must be submitted to the County as a condition of local development order approval.

7. The water mains, fire hydrants, and site access must be designed and constructed in accordance with Lee County regulations and BSU guidelines by providing large water mains meeting minimum diameters based upon proposed land use, and installation of fire hydrants in suitable locations to provide adequate fire protection coverage. Internal fire sprinkler systems may be required for structures to meet supplemental fire protection.

8. Any on-site facilities with commercial pool operations must comply with appropriate codes and statutes including required safety measures such as chemical sensors, internal alarm systems, or emergency shutdown systems.

¹¹The requirement to provide property to the Estero Fire Rescue District was satisfied by the recording of a deed at OR Book 4097 Page 0672, dated July 31, 2003.

J. EDUCATION

1. The education impact of this project will be mitigated by the payment of school impact fees in accordance with the schedules set forth in the LDC. However, the Developer must provide a site at least five acres in size and appropriately located to accommodate the growing school needs in this area of the county. Upon transfer of this site to the School District, the Developer may be entitled to seek school impact fee credits in accordance with the LDC.¹²

2. This project will have an impact on the Estero High School and surrounding neighborhood traffic. The Developer will use reasonable efforts to prevent the project's construction traffic from using Williams Road east of the railroad tracks.

III. LEGAL EFFECT AND LIMITATIONS OF THIS DEVELOPMENT ORDER, AND ADMINISTRATIVE REQUIREMENTS

A. Resolution. This Development Order constitutes a resolution of Lee County adopted by the Board of County Commissioners in response to the DRI ADA filed for Coconut Point DRI and this subsequently filed Notice of Proposed Change.

B. Additional Developer Commitments. All commitments and impact mitigating actions volunteered by the Developer in the ADA and supplementary documents that are not in conflict with conditions or stipulations specifically enumerated above are incorporated by reference into this Development Order. These documents include, but are not limited to the following:

1. The Coconut Point (f/k/a Simon Suncoast) Application for Development Approval, stamped received on September 12, 2000;
2. The Coconut Point DRI sufficiency responses stamped received on February 7, 2001 and April 10, 2001 (transportation) and April 13, 2001; and
3. The governing zoning resolution for the Coconut Point (f/k/a Simon Suncoast) MPD.

¹²Developer entered an Agreement with the School District on April 3, 2007 to provide a 5 acre tract as a school site. A copy of this Agreement is attached as Exhibit G.

C. Master Plan of Development. Map H, stamped received at the Zoning Counter on ~~November 17, 2004~~ April 11, 2007 and attached hereto as Exhibit "B", and is incorporated by reference. It is understood that because it is a concept plan it is very general. The Developer may modify the boundaries of development areas and the locations of internal roadways to accommodate topography, vegetation, market conditions, traffic circulation, or other site related conditions as long as the modifications meet local development regulations. This provision may not be used to reduce the size of wetland preserve areas. Precise wetland boundaries will be determined by the ~~South Florida Water Management District~~ SFWMD, as delegated by the Department of Environmental Protection (FDEP) and the Army Corp of Engineers (ACOE).

D. Binding Effect. The Development Order is binding upon the Developer, its successors and assigns. Where the Development Order refers to lot owners, business owners or other specific reference, those provisions are binding on the entities or individuals referenced. Those portions of this Development Order that clearly apply only to the project Developer are binding upon any builder/developer who acquires a tract of land within the DRI. The Developer may impose or pass on the requirements of this DRI development order to ultimate purchasers through covenants that run with the land and phasing schedule.

E. Reliance. The terms and conditions set out in this Development Order constitute a basis upon which the Developer and the County may rely with respect to future actions necessary to fully implement the final development contemplated by this Development Order. The development parameters and phasing schedule upon which this development order approval is based is set forth in Exhibit C. These development parameters may be adjusted to the extent contemplated by, and in accordance with, the Land Use Conversion Table set forth in Exhibit C-1. Change to the development mix or phasing schedule may require a reanalysis of project impacts in order to rebut a presumption of substantial deviation.

F. Enforcement. All conditions, restrictions, stipulations and safeguards contained in this Development Order may be enforced by either party by action at law or equity. All costs of those proceedings, including reasonable attorney's fees, will be paid by the defaulting party.

G. Successor Agencies. References to governmental agencies will be construed to mean future instrumentalities that may be created and designated as successors in interest to, or which otherwise possess, the powers and duties of the referenced governmental agencies in existence on the effective date of this Development Order.

H. Severability. If any portion or section of this Development Order is determined to be invalid, illegal or unconstitutional by a court of competent jurisdiction, then that decision will not affect the remaining portions or sections of the Development Order, which will remain in full force and effect.

I. Applicability of Regulations. This Development Order does not negate the Developer's responsibility to comply with federal, state, regional and local regulations.

J. Further Review. Subsequent requests for local development permits do not require further DRI review pursuant to §380.06, Florida Statutes. However, upon a finding at a public hearing by the Board that any of the following conditions exist, the Board must order a termination of all development activity in that portion of the development affected by substantial deviation until a DRI Application for Development Approval, Notice of Substantial Deviation or Notice of Proposed Change has been submitted, reviewed and approved in accordance with §380.06, Florida Statutes.

1. There is a substantial deviation from the terms or conditions of this Development Order or other changes to the approved development plans that create a reasonable likelihood of an additional regional impact or any other regional impact created by the change that has not been evaluated and reviewed by the Regional Planning Council; or

2. Expiration of the period of effectiveness of the Development Order. Any request to extend the effectiveness of this Development Order will be evaluated based on the criteria for the extension of the buildout date set forth in §380.06(19), Florida Statutes.

3. Conditions in this development order that specify circumstances in which the development will be required to undergo additional DRI review. See 9J-2.025(10).

K. Buildout and Termination Dates. The project has a buildout date of December 31, 2007, and a termination date of December 31, 2013. The termination date is based on a 4-year buildout and the recognition that a local Development Order, which is valid for six years, may be obtained prior to December 31, 2013. No permits for development will be issued by the County subsequent to the termination date or expiration date unless the conditions set forth in §380.06(15)(g) are applicable.

L. Commencement of Physical Development. As of November 2004, commencement of substantial physical development of the project has occurred. Further

development must occur in accordance with the development parameters and phasing schedule set forth in Exhibit C.

M. Assurance of Compliance. The administrative director of the Lee County Department of Community Development, or their designee, will be the local official responsible for assuring compliance with this Development Order. Lee County is primarily responsible for monitoring the development and enforcing the provisions of the development order. No permits or approvals will be issued if the Developer fails to act in substantial compliance with the development order.

N. Credits Against Local Impact Fees. Pursuant to §380.06(16), Florida Statutes, the Developer may be eligible for credits for contributions, construction, expansion, or acquisition of public facilities, if the Developer is also subject by local ordinances to impact fees or exactions to meet the same needs. However, no credit will be provided for internal or external site-related facilities required by County regulations, or to any off-site facilities to the extent those facilities are necessary to provide safe and adequate services to the development.

O. Protection of Development Rights. The project will not be subject to down-zoning, unit density reduction, or intensity reduction prior to December 31, 2013. If the County demonstrates at a public hearing that substantial changes have occurred in the conditions underlying the approval of this Development Order, or finds that the Development Order was based on substantially inaccurate information provided by the Developer, or that the change is clearly established by Lee County to be essential to public health, safety and welfare, then down-zoning, unit density reduction, or intensity reduction may occur. [See 9J-2.025(3)(b)13]

P. Annual Biennial Reports. The Developer must submit a report ~~annually~~ biennial to the Lee County Department of Community Development, the SWFRPC and Florida DCA on Form RPM-BSP-Annual Report-1. The content of the report must include the information set forth in Exhibit D, and must also be consistent with the rules of the FDCA. The first monitoring report must be submitted to the DRI coordinator for SWFRPC, DCA, and Lee County no later than one year after the effective date of this Development Order¹³. Further reporting must be submitted ~~not later than one year~~ every two years for subsequent calendar years thereafter, until buildout, whether actual or declared. Failure to comply with this ~~annual~~ reporting procedure is governed by §380.06(18), Florida Statutes, which provides for the temporary suspension of the DRI Development Order.

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The first monitoring report was submitted in January 2004.

The Developer must file the ~~annual~~ monitoring reports until actual or declared buildout of the project. The Simon Property Group is the party responsible for filing the ~~annual~~ monitoring reports until one or more successor entities are named in the development order. The Developer must inform successors in title to the undeveloped portion of the real property covered by this development order of the ~~annual~~ reporting requirement. Tenants or owners of individual lots or units have no obligation to comply with this reporting condition.

The Developer must also submit a transportation annual report in accordance with the provisions set forth in Section II.D. of this development order.

Q. Community Development District. The Developer might elect to petition for the formation of a Uniform Community Development District to serve all or a portion of the project pursuant to Florida Statutes, Chapter 190, as it may be in effect from time to time. Lee County hereby gives its approval that any such district may undertake the construction and/or funding of all or any of the mitigation and public infrastructure projects for which the Developer is responsible under the terms of this development order, whether within or without the boundaries of the district, and including the payment of mitigation amounts provided for in this development order, as a co-obligor hereunder. This provision may not be construed to require the approval of any petition to form such a district, and in no event will the Developer be released from its obligations under this development order.

R. Transmittal and Effective Date. The County will forward certified copies of this Development Order to the SWFRPC, the Developer, and appropriate state agencies. This Development Order is rendered as of the date of that transmittal, but will not be effective until the expiration of the statutory appeal period (45 days from rendition) or until FDCA has completed their review and has determined not to take an appeal, should that occur prior to the expiration of the 45-day period, or until the completion of any appellate proceedings, whichever time is greater. In accordance with the requirements of §380.06(15)f, Florida Statutes, once this development order is effective, the Developer must record notice of its adoption in the office of the Clerk of the Circuit Court of Lee County.

S. Continued Agricultural Use of Property. Bona fide agricultural uses in existence on the date of this DRI initially approved October 21, 2005 may continue until the first development order approval for a site within the particular tract, as designed on Map H, (excluding public uses mandated by this Development Order). No development activity of any kind may occur on the property, including the clearing of vegetation or cutting of trees, unless such activity is reviewed and approved in accordance with Lee County regulations as if no agricultural use existed on the property. The purpose of the limitation is to eliminate any exemption or other special considerations or procedures that might

otherwise be available under Lee County regulations by virtue of the existing agriculture on the property.

Commissioner Judah made a motion to adopt the foregoing third amendment, seconded by Commissioner Mann. The vote was as follows:

Robert P. Janes	Aye
Brian Bigelow	Aye
Ray Judah	Aye
Tammara Hall	Aye
Frank Mann	Aye

DULY PASSED AND ADOPTED this 29th day of October 2007.

ATTEST:
CHARLIE GREEN, CLERK

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: Marcia Wilson
Deputy Clerk

BY: Robert P. Janes
Robert P. Janes, Chair

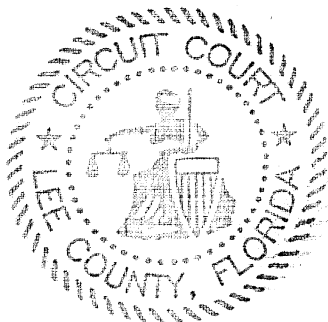


Approved as to form
By: Dawn E. Perry-Lehnert
Dawn E. Perry-Lehnert
Assistant County Attorney

Exhibits:

- A. Legal Description
- B. Master Plan of Development (Map H) Stamped Received November 17, 2004 May 9, 2007
- C. Development Parameters and Phasing Schedule
- C-1 Land Use Conversion Table
- D. Annual Biennial Monitoring Report Requirements
- E. Calculation of Road Impact Fee Obligation
- F. Pedestrian, Bicycle and Bus Stop Plan
- G. School Site Dedication Agreement

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FINAL



State of Florida
County of Lee

I Charlie Green, Clerk of the Circuit Court for Lee County, Florida, do hereby certify this document to be a true and correct copy of the original document filed in the Minutes Department.

Given under my hand and official seal at Fort Myers, Florida, this 6th day of December, A.D. 2007

CHARLIE GREEN, CLERK

By: Marcia Wilson
Deputy Clerk

DRI 2006-00009



6200 Whiskey Creek Drive • Fort Myers, Florida 33909 • Phone 239.985.7000 • Fax 239.985.1259

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AUG 30 2006

HM PROJECT #1997079

1/17/01

REF. DWG. #A-994-3

PAGE 1 OF 3

LEGAL DESCRIPTION

COMMUNITY DEVELOPMENT

A PORTION OF SECTION 9, TOWNSHIP 47 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHEAST CORNER OF SECTION 9, TOWNSHIP 47 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA; THENCE RUN S.88°56'17"W., ALONG THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 9, FOR A DISTANCE OF 5.89 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF THE SEABOARD COASTLINE RAILROAD, A 130.00 FOOT RIGHT-OF-WAY, AND THE POINT OF BEGINNING OF THE PARCEL OF LAND HEREIN DESCRIBED; THENCE CONTINUE S.88°56'17"W., ALONG THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 9, FOR A DISTANCE OF 1,733.04 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF U.S. HWY. NO. 41 (FLORIDA STATE ROAD NO. 45), A 200.00 FOOT RIGHT-OF-WAY; THENCE RUN N.10°32'05"W., ALONG SAID EASTERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 971.33 FEET TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE, CONCAVE EASTERLY; THENCE RUN NORTHERLY, ALONG SAID EASTERLY RIGHT-OF-WAY LINE AND ALONG THE ARC OF SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 5,605.39 FEET, THROUGH A CENTRAL ANGLE OF 04°03'11", SUBTENDED BY A CHORD OF 396.43 FEET AT A BEARING OF N.08°30'30"W., FOR A DISTANCE OF 396.52 FEET TO THE END OF SAID CURVE; THENCE RUN N.88°07'51"E. FOR A DISTANCE OF 747.22 FEET TO A POINT ON A CIRCULAR CURVE, CONCAVE EASTERLY, WHOSE RADIUS POINT BEARS N.82°31'42"E., A DISTANCE OF 3,909.60 FEET THEREFROM; THENCE RUN NORTHERLY, ALONG THE ARC OF SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 3,909.60 FEET, THROUGH A CENTRAL ANGLE OF 08°29'31", SUBTENDED BY A CHORD OF 578.92 FEET AT A BEARING OF N.03°13'32"W., FOR A DISTANCE OF 579.45 FEET TO THE END OF SAID CURVE; THENCE RUN N.00°15'56"W., FOR A DISTANCE OF 583.09 FEET; THENCE RUN N.00°15'56"W., FOR A DISTANCE OF 47.04 FEET TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF COCONUT ROAD, A 150.00 FOOT RIGHT-OF-WAY, THE SAME BEING A POINT ON A CIRCULAR CURVE, CONCAVE NORTHERLY, WHOSE RADIUS POINT BEARS N.10°26'58"W., A DISTANCE OF 2,025.00 FEET THEREFROM; THENCE RUN EASTERLY, ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE AND ALONG THE ARC OF SAID CURVE TO THE LEFT, HAVING A RADIUS OF 2,025.00 FEET, THROUGH A CENTRAL ANGLE OF 09°12'27", SUBTENDED BY A CHORD OF 325.07 FEET AT A BEARING OF N.74°56'48"E., FOR A DISTANCE OF 325.42 FEET TO THE END OF SAID CURVE; THENCE RUN N.70°20'35"E., ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE FOR A DISTANCE OF 200.00 FEET TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE, CONCAVE SOUTHERLY; THENCE RUN EASTERLY, ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE AND ALONG THE ARC OF SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 3,025.00 FEET, THROUGH A CENTRAL ANGLE OF 09°15'04", SUBTENDED BY A CHORD OF 487.89 FEET AT A BEARING OF N.74°58'07"E., FOR A DISTANCE OF 488.42 FEET TO THE END OF SAID CURVE; THENCE RUN N.79°35'39"E., ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 238.23 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF THE SEABOARD COASTLINE RAILROAD, A 130.00 FOOT RIGHT-OF-WAY; THENCE RUN S.00°59'47"E., ALONG SAID WESTERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 2,869.10 FEET TO THE POINT OF BEGINNING; CONTAINING 95.885 ACRES, MORE OR LESS.

AND

A PORTION OF SECTIONS 3, 4, 9, AND 10, TOWNSHIP 47 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHEAST CORNER OF SECTION 9, TOWNSHIP 47 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA; THENCE RUN S.88°56'17"W., ALONG THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 9, FOR A DISTANCE OF 5.89 FEET TO A POINT ON THE

EXHIBIT A

WESTERLY RIGHT-OF-WAY LINE OF THE SEABOARD COASTLINE RAILROAD, A 130.00 FOOT RIGHT-OF-WAY; THENCE RUN N.00°59'47"W., ALONG SAID WESTERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 3,021.15 FEET TO THE POINT OF BEGINNING OF THE PARCEL OF LAND HEREIN DESCRIBED; THENCE RUN N.00°59'47"W., ALONG SAID WESTERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 2,320.56 FEET TO A POINT ON THE NORTH LINE OF THE NORTHWEST QUARTER OF SECTION 10, TOWNSHIP 47 SOUTH, RANGE 25 EAST; THENCE RUN N.00°59'47"W., ALONG SAID WESTERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 2,692.32 FEET TO A POINT ON THE NORTH LINE OF THE SOUTHEAST QUARTER OF SECTION 4, TOWNSHIP 47 SOUTH, RANGE 25 EAST; THENCE RUN N.00°56'59"W., ALONG SAID WESTERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 1,590.78 FEET TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE, CONCAVE WESTERLY; THENCE RUN NORTHERLY, ALONG SAID WESTERLY RIGHT-OF-WAY LINE AND ALONG THE ARC OF SAID CURVE TO THE LEFT, HAVING A RADIUS OF 5,641.38 FEET, THROUGH A CENTRAL ANGLE OF 09°31'27", SUBTENDED BY A CHORD OF 936.68 FEET AT A BEARING OF N.05°42'42"W., FOR A DISTANCE OF 937.76 FEET TO THE END OF SAID CURVE; THENCE RUN N.10°28'26"W., ALONG SAID WESTERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 98.54 FEET TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF WILLIAMS ROAD, A 100.00 FOOT RIGHT-OF-WAY; THENCE RUN S.88°20'53"W., ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 1,029.70 FEET TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE, CONCAVE NORTHERLY; THENCE RUN WESTERLY, ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE AND ALONG THE ARC OF SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 7,050.00 FEET, THROUGH A CENTRAL ANGLE OF 03°00'00", SUBTENDED BY A CHORD OF 369.09 FEET AT A BEARING OF S.89°50'53"W., FOR A DISTANCE OF 369.14 FEET TO THE END OF SAID CURVE; THENCE RUN N.88°39'07"W., ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 674.92 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF U.S. HWY. NO. 41 (FLORIDA STATE ROAD NO. 45), A 200.00 FOOT RIGHT-OF-WAY; THENCE RUN S.04°52'41"W., ALONG SAID EASTERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 1,901.57 FEET TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE, CONCAVE EASTERLY; THENCE RUN SOUTHERLY, ALONG SAID EASTERLY RIGHT-OF-WAY LINE AND ALONG THE ARC OF SAID CURVE TO THE LEFT, HAVING A RADIUS OF 2,725.19 FEET, THROUGH A CENTRAL ANGLE OF 11°32'50", SUBTENDED BY A CHORD OF 548.30 FEET AT A BEARING OF S.00°53'44"E., FOR A DISTANCE OF 549.23 FEET TO THE END OF SAID CURVE; THENCE RUN S.06°40'09"E., ALONG SAID EASTERLY RIGHT-OF-WAY LINE FOR A DISTANCE OF 225.81 FEET TO A POINT ON THE NORTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 4; THENCE CONTINUE S.06°40'09"E., ALONG SAID EASTERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 2,710.61 FEET TO A POINT ON THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 4; THENCE CONTINUE S.06°40'09"E., ALONG SAID EASTERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 626.03 FEET TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE, CONCAVE WESTERLY; THENCE RUN SOUTHERLY, ALONG SAID EASTERLY RIGHT-OF-WAY LINE AND ALONG THE ARC OF SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 11,584.73 FEET, THROUGH A CENTRAL ANGLE OF 06°24'13", SUBTENDED BY A CHORD OF 1,294.08 FEET AT A BEARING OF S.03°28'03"E., FOR A DISTANCE OF 1,294.76 FEET TO THE END OF SAID CURVE; THENCE RUN S.00°15'56"E., ALONG SAID EASTERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 274.74 FEET; THENCE RUN S.46°02'16"E., FOR A DISTANCE OF 577.44 FEET; THENCE RUN S.01°57'26"E. FOR A DISTANCE OF 25.19 FEET TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF COCONUT ROAD, A 150.00 FOOT RIGHT-OF-WAY; THENCE RUN N.88°02'34"E., ALONG SAID NORTHERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 32.80 FEET TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE, CONCAVE NORTHERLY; THENCE RUN EASTERLY, ALONG SAID NORTHERLY RIGHT-OF-WAY LINE AND ALONG THE ARC OF SAID CURVE TO THE LEFT, HAVING A RADIUS OF 1,875.00 FEET, THROUGH A CENTRAL ANGLE OF 17°41'59", SUBTENDED BY A CHORD OF 576.92 FEET AT A BEARING OF N.79°11'34"E., FOR A DISTANCE OF 579.22 FEET TO THE END OF SAID CURVE; THENCE RUN N.70°20'35"E., ALONG SAID NORTHERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 200.00 FEET TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE, CONCAVE

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AUG 30 2006

DRI 2006-00009

HM PROJECT #1997079

1/17/01

COMMUNITY DEVELOPMENT

REF. DWG. #A-994-3

PAGE 3 OF 3

SOUTHERLY; THENCE RUN EASTERLY, ALONG SAID NORTHERLY RIGHT-OF-WAY LINE AND ALONG THE ARC OF SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 3,175.00 FEET, THROUGH A CENTRAL ANGLE OF 09°15'04", SUBTENDED BY A CHORD OF 512.09 FEET AT A BEARING OF N.74°58'07"E., FOR A DISTANCE OF 512.65 FEET TO THE END OF SAID CURVE; THENCE RUN N.79°35'39"E., ALONG SAID NORTHERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 263.08 FEET TO THE POINT OF BEGINNING; CONTAINING 386.536 ACRES, MORE OR LESS.

NOTES:

THIS PROPERTY IS SUBJECT TO EASEMENTS, RESERVATIONS OR RESTRICTIONS OF RECORD.

TOTAL PROPERTY AREA: 482.421 ACRES, MORE OR LESS.

INFORMATION RELATING TO BOUNDARY DATA OF SECTIONS 3, 4, 9 AND 10, TOWNSHIP 47 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA, TOGETHER WITH THE LOCATION OF THE US HIGHWAY #41 RIGHT-OF-WAY, WAS OBTAINED FROM A SURVEY OF THE SWEETWATER RANCH PREPARED BY DENI ASSOCIATES HAVING ORDER NUMBER 8409031, DATED 9/14/84. INFORMATION RELATING TO THE LOCATION OF COCONUT ROAD AND ADJOINING EXCEPTED PARCELS WAS OBTAINED FROM PROPERTY DESCRIPTIONS PROVIDED BY CLIENT.

BEARINGS REFER TO THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SECTION 9, TOWNSHIP 47 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA, AS BEING S.88°56'17"W.

HOLE MONTES, INC.

CERTIFICATE OF AUTHORIZATION LB #1772

BY


JERRY L. RIFFELMACHER

P.S.M. #6130

STATE OF FLORIDA

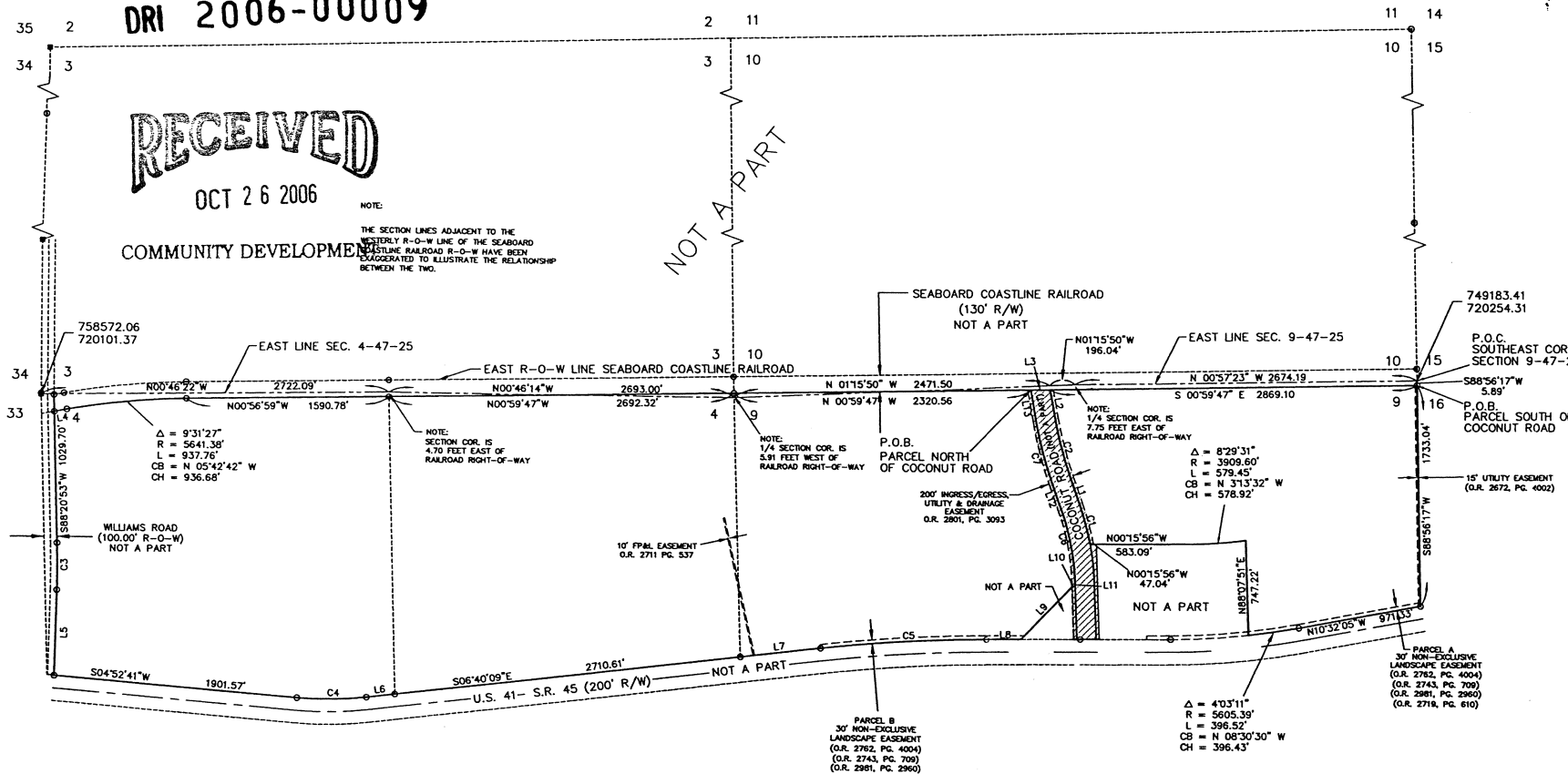


(IN FEET)

DRI 2006-00009

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OCT 26 2006

COMMUNITY DEVELOPMENT



LINE	LENGTH	BEARING
L1	200.00	N70°20'35"E
L2	238.23	N72°35'59"E
L3	152.05	N00°39'47"W
L4	98.54	N10°28'26"W
L5	674.92	S06°40'09"E
L6	225.81	S06°40'09"E
L7	626.03	S06°40'09"E
L8	274.74	S00°15'56"E
L9	577.44	S46°32'16"E
L10	25.19	S01°57'26"E
L11	32.80	N88°02'34"E
L12	200.00	N70°20'35"E
L13	263.08	N72°35'59"E

CURVE	RADIUS	LENGTH	CHORD	BEARING	DELTA
C1	2025.00	325.42	325.07	N74°56'48"E	91°22'21"
C2	3025.00	486.42	487.89	N74°58'07"E	91°50'44"
C3	7050.00	369.14	369.09	S89°50'53"W	300°00'00"
C4	2725.10	549.23	548.30	S00°33'47"E	113°25'50"
C5	11584.75	1294.76	1294.08	S03°28'03"E	87°43'13"
C6	1875.00	579.22	576.92	N78°11'34"E	174°15'59"
C7	3175.00	912.65	912.09	N74°58'07"E	91°50'44"



6202F Presidential Court
Ft. Myers, FL 33919
Phone: (239) 985-1200
Florida Certificate of
Authorization No.1772

NOT VALID WITHOUT
THE SIGNATURE AND
SEAL OF A FLORIDA
LICENSED SURVEYOR
AND MAPPER.

SKETCH AND LEGAL DESCRIPTION
OF A PORTION OF SECTIONS

3,4,9 AND 10
TOWNSHIP 47 SOUTH, RANGE 25 EAST

LEE COUNTY

FLORIDA

LEGAL DESCRIPTION

A PORTION OF SECTION 9, TOWNSHIP 47 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHEAST CORNER OF SECTION 9, TOWNSHIP 47 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA; THENCE RUN S.88°56'17"W, ALONG THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 9, FOR A DISTANCE OF 5.89 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF THE SEABOARD COASTLINE RAILROAD, A 130.00 FOOT RIGHT-OF-WAY, AND THE POINT OF BEGINNING OF THE PARCEL OF LAND HEREIN DESCRIBED; THENCE CONTINUE S.88°56'17"W, ALONG THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 9, FOR A DISTANCE OF 1,733.04 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF U.S. HWY. NO. 41 (FLORIDA STATE ROAD NO. 45), A 200.00 FOOT RIGHT-OF-WAY, THENCE RUN N.10°28'26"W, ALONG SAID EASTERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 871.33 FEET TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE, CONCAVE EASTERLY; THENCE RUN NORTHERLY, ALONG SAID EASTERLY RIGHT-OF-WAY LINE AND ALONG THE ARC OF SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 5,605.39 FEET, THROUGH A CENTRAL ANGLE OF 04°03'11", SUBTENDED BY A CHORD OF 396.43 FEET AT A BEARING OF N.08°30'30"W, FOR A DISTANCE OF 396.52 FEET TO THE END OF SAID CURVE; THENCE RUN N.00°59'47"W, FOR A DISTANCE OF 747.22 FEET TO A POINT ON A CIRCULAR CURVE, CONCAVE EASTERLY, WHOSE RADIUS POINT BEARS N.82°31'42"E, A DISTANCE OF 3,909.60 FEET THEREFROM; THENCE RUN NORTHERLY, ALONG THE ARC OF SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 3,909.60 FEET, THROUGH A CENTRAL ANGLE OF 09°23'31", SUBTENDED BY A CHORD OF 578.92 FEET AT A BEARING OF N.03°13'32"W, FOR A DISTANCE OF 579.45 FEET TO THE END OF SAID CURVE; THENCE RUN N.00°15'56"E, FOR A DISTANCE OF 583.09 FEET, THENCE RUN N.00°15'56"E, FOR A DISTANCE OF 47.04 FEET TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF COCONUT ROAD, A 150.00 FOOT RIGHT-OF-WAY, THE SAME BEING A POINT ON A CIRCULAR CURVE, CONCAVE NORTHERLY, WHOSE RADIUS POINT BEARS N.10°28'26"W, A DISTANCE OF 3,021.15 FEET THEREFROM; THENCE RUN EASTERLY, ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE AND ALONG THE ARC OF SAID CURVE TO THE LEFT, HAVING A RADIUS OF 3,021.15 FEET, THROUGH A CENTRAL ANGLE OF 09°15'04", SUBTENDED BY A CHORD OF 487.89 FEET AT A BEARING OF N.74°58'07"E, FOR A DISTANCE OF 488.42 FEET TO THE END OF SAID CURVE; THENCE RUN N.74°58'07"E, ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 238.23 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF THE SEABOARD COASTLINE RAILROAD, A 130.00 FOOT RIGHT-OF-WAY, THENCE RUN S.00°39'47"E, ALONG SAID WESTERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 2,069.10 FEET TO THE POINT OF BEGINNING, CONTAINING 95.885 ACRES, MORE OR LESS.

AND

A PORTION OF SECTIONS 3, 4, 9, AND 10, TOWNSHIP 47 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHEAST CORNER OF SECTION 9, TOWNSHIP 47 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA; THENCE RUN S.88°56'17"W, ALONG THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 9, FOR A DISTANCE OF 5.89 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF THE SEABOARD COASTLINE RAILROAD, A 130.00 FOOT RIGHT-OF-WAY, THENCE RUN N.00°59'47"W, ALONG SAID WESTERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 3,021.15 FEET TO THE POINT OF BEGINNING OF THE PARCEL OF LAND HEREIN DESCRIBED; THENCE RUN N.00°59'47"W, ALONG SAID WESTERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 2,069.10 FEET TO A POINT ON THE NORTH LINE OF THE SOUTHEAST QUARTER OF SECTION 9, TOWNSHIP 47 SOUTH, RANGE 25 EAST, THENCE RUN N.00°59'47"W, ALONG SAID WESTERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 2,069.10 FEET TO THE POINT OF BEGINNING OF THE PARCEL OF LAND HEREIN DESCRIBED; THENCE RUN N.00°59'47"W, ALONG SAID WESTERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 3,021.15 FEET TO THE POINT OF BEGINNING OF A TANGENTIAL CIRCULAR CURVE, CONCAVE NORTHERLY, WHOSE RADIUS POINT BEARS N.10°28'26"W, A DISTANCE OF 3,021.15 FEET THEREFROM; THENCE RUN EASTERLY, ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE AND ALONG THE ARC OF SAID CURVE TO THE LEFT, HAVING A RADIUS OF 3,021.15 FEET, THROUGH A CENTRAL ANGLE OF 09°15'04", SUBTENDED BY A CHORD OF 487.89 FEET AT A BEARING OF N.74°58'07"E, FOR A DISTANCE OF 488.42 FEET TO THE END OF SAID CURVE; THENCE RUN N.74°58'07"E, ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 238.23 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF THE SEABOARD COASTLINE RAILROAD, A 130.00 FOOT RIGHT-OF-WAY, THENCE RUN S.00°39'47"E, ALONG SAID WESTERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 2,069.10 FEET TO THE POINT OF BEGINNING, CONTAINING 95.885 ACRES, MORE OR LESS.

NOTES:

THIS PROPERTY IS SUBJECT TO EASEMENTS, RESERVATIONS OR RESTRICTIONS OF RECORD.

TOTAL PROPERTY AREA 482.421 ACRES MORE OR LESS.

INFORMATION RELATING TO BOUNDARY DATA OF SECTIONS 3, 4, 9 AND 10, TOWNSHIP 47 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA, TOGETHER WITH THE LOCATION OF THE U.S. HIGHWAY #41 RIGHT-OF-WAY, WAS OBTAINED FROM A SURVEY OF THE SWEETWATER RANCH PREPARED BY DEAN ASSOCIATES HAVING RECORD NUMBER 8408031, DATED 8/14/94. INFORMATION RELATING TO THE LOCATION OF COCONUT ROAD AND ADJOINING EXCEPTED PARCELS WAS OBTAINED FROM PROPERTY DESCRIPTIONS PROVIDED BY CLIENT.

BEARINGS REFER TO THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SECTION 9, TOWNSHIP 47 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA, AS BEING S.88°56'17"W.

STATE PLANE COORDINATES SHOWN HEREON REFER TO FLORIDA STATE PLANE EAST ZONE N.A.D. 83, 1990 ADJUSTMENT.

HOLE, MONTES, INC.

CERTIFICATE OF AUTHORIZATION LB #1772

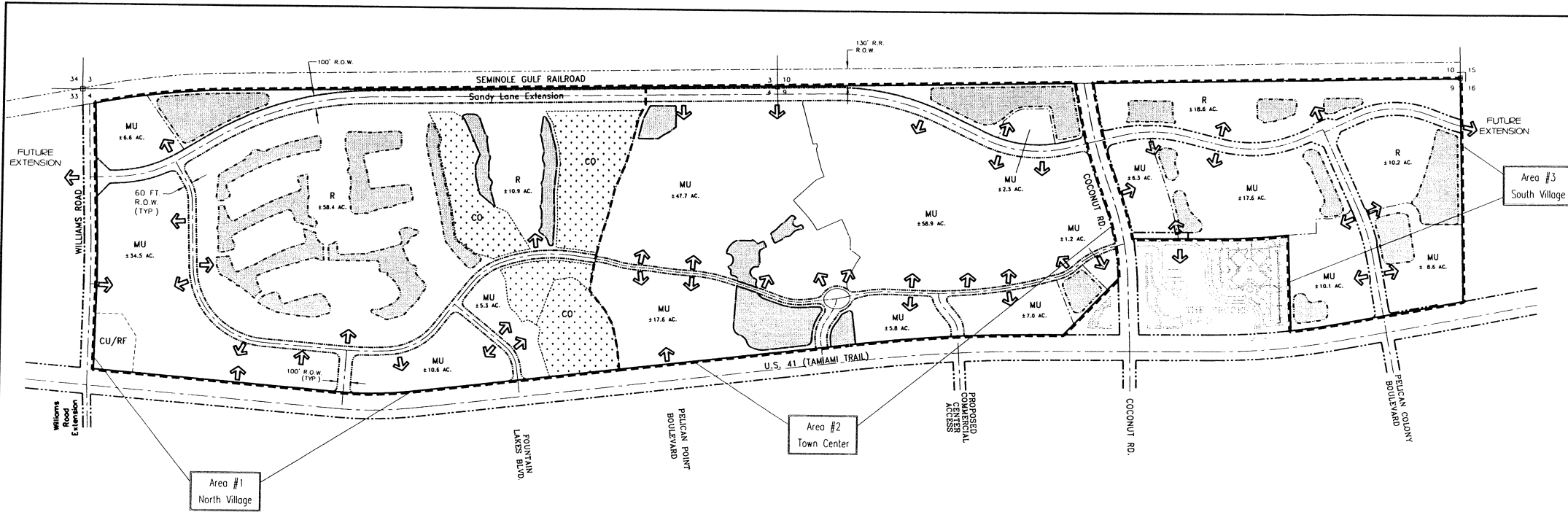
By *Jerry L. Riffel*
JERRY L. RIFFEL
STATE OF FLORIDA

P.S.M. #6130
STATE OF FLORIDA

REVISION No.	DESCRIPTION	DATE
REVISIONS		
DRAWN BY:	DATE 1/01	SECTION 3,4,9,10
BA	F.B.	TOWNSHIP 47
CHECKED BY:	PAGE	RANGE 25
TJG	REFERENCE	PROJECT No. 1997079B
		DRAWING No. E-231

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JA:197119710729-B, BDL-EDUNING, MGC, May 10, 2006 9:27:54AM, 455867.dwg, 5/9/2007, 8:46:17 AM, E3T



LAND USE BREAKDOWN

CONSERVATION AREAS	±33.4 ACRES
LAKES	±58.8 ACRES
INTERNAL (Private) R.O.W.	±17.7 ACRES
INTERNAL (Public) R.O.W.	±25.6 ACRES
GREEN AREA / OPEN SPACE	± 8.7 ACRES
DEVELOPMENT AREAS	±338.2 ACRES
TOTAL	±482.4 ACRES

NOTES:

1. LOCATIONS/CONFIGURATIONS OF PROPOSED LAND USES, SUCH AS LAKES, CONSERVATION AREAS, ROADWAYS AND OPEN SPACE ARE CONCEPTUALLY SHOWN AND SUBJECT TO CHANGE DURING FINAL DESIGN/PERMITTING.
2. THE MIXED USE (MU) DESIGNATION CONTAINS A MIX OF RETAIL/COMMERCIAL, HOTEL, OFFICE, RESIDENTIAL, ALF, AND PUBLIC FACILITY LAND USES.

PROJECT INTENSITY

RESIDENTIAL UNITS (MF)	1,528
RESIDENTIAL UNITS (ALF)	200
COMMERCIAL/RETAIL (GROSS LEASABLE AREA)	1,638,900
GENERAL OFFICE (S.F.)	315,000
MEDICAL OFFICE (S.F.)	68,333
HOTEL (ROOMS)	440
BANK w/ D.T. (S.F.)	8,000
PERFORMING ARTS THEATER (seats)	506

DEVELOPMENT AREA BREAKDOWN

RESIDENTIAL (R)	98.1 Ac. ±
MIXED USE (MU)	237.2 Ac. ±
CULTURAL/REC. FAC. (CU/RF)	2.9 Ac. ±

LEGEND

MU	MIXED USE
R	RESIDENTIAL
CU / RF	CULTURAL / RECREATIONAL FACILITIES
---	PROPERTY BOUNDARY
---	DELINEATION OF DEVELOPMENT AREAS
---	ROAD R.O.W. LINE
CO	CONSERVATION AREAS
~	PROPOSED LAKE
→	CONCEPTUAL ACCESS POINT

RECEIVED
MAY 09 2007
PERMIT COUNTER

DRI 2006-00009

Exhibit B



Revisions

04/20/07	Revisions
04/23/07	Revisions
10/17/06	Sufficiency
09/22/06	N.O.P.C.
11/19/04	N.O.P.C.
01/20/01	REVISING PER 1st SUFFICIENCY COMMENTS

NUMBER

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	100
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DATE

04/20/07	04/23/07	10/17/06	09/22/06	11/19/04	01/20/01
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REVISIONS

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REVISIONS

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DRI
EXHIBIT C

Development Parameters and Phasing Schedule

		<u>Buildout</u>
Regional Retail Commercial	1,450,000* sq. ft.	2007
Community Retail	350,000 <u>188,900</u> * sq. ft.	2007
Office	300,000 <u>383,333</u> ** sq. ft.	2007
Hotel	350 <u>440</u> Rooms	2007
Residential, Multi-family	4250 <u>1,528</u> du	2007
Assisted Living Facility	200 units	2007
<u>Banks</u>	<u>8,000</u> sq. ft.	<u>2007</u>
<u>Performing Arts Theater</u>	<u>506</u> seats	<u>2007</u>

* Gross Leasable Area

**Up to ~~400,000~~ 68,333 sq. ft., may be medical office

DRI EXHIBIT C-1

Land Use Conversion Table

Land Use	Max Increase*
Retail	54,999 sf
Office (Gen / Med)	65,999 sf
Residential	54 MF
Hotel	82 rms

*The purpose of this table is to permit one land use to be converted to a different use. The conversion may be approved only if the project's overall net new peak hour trips do not exceed 5,909 trips based upon the parameters set forth in Condition II.D.1.a.

DRI
EXHIBIT D

ANNUAL BIENNIAL MONITORING REPORT REQUIREMENTS

The ~~Annual~~ Biennial Monitoring Report that must be submitted by the Developer in accordance with Subsections 380.06(15) and 380.06(18), Florida Statutes, and 9J-2.025(7), Florida Administrative Code, must include the following:

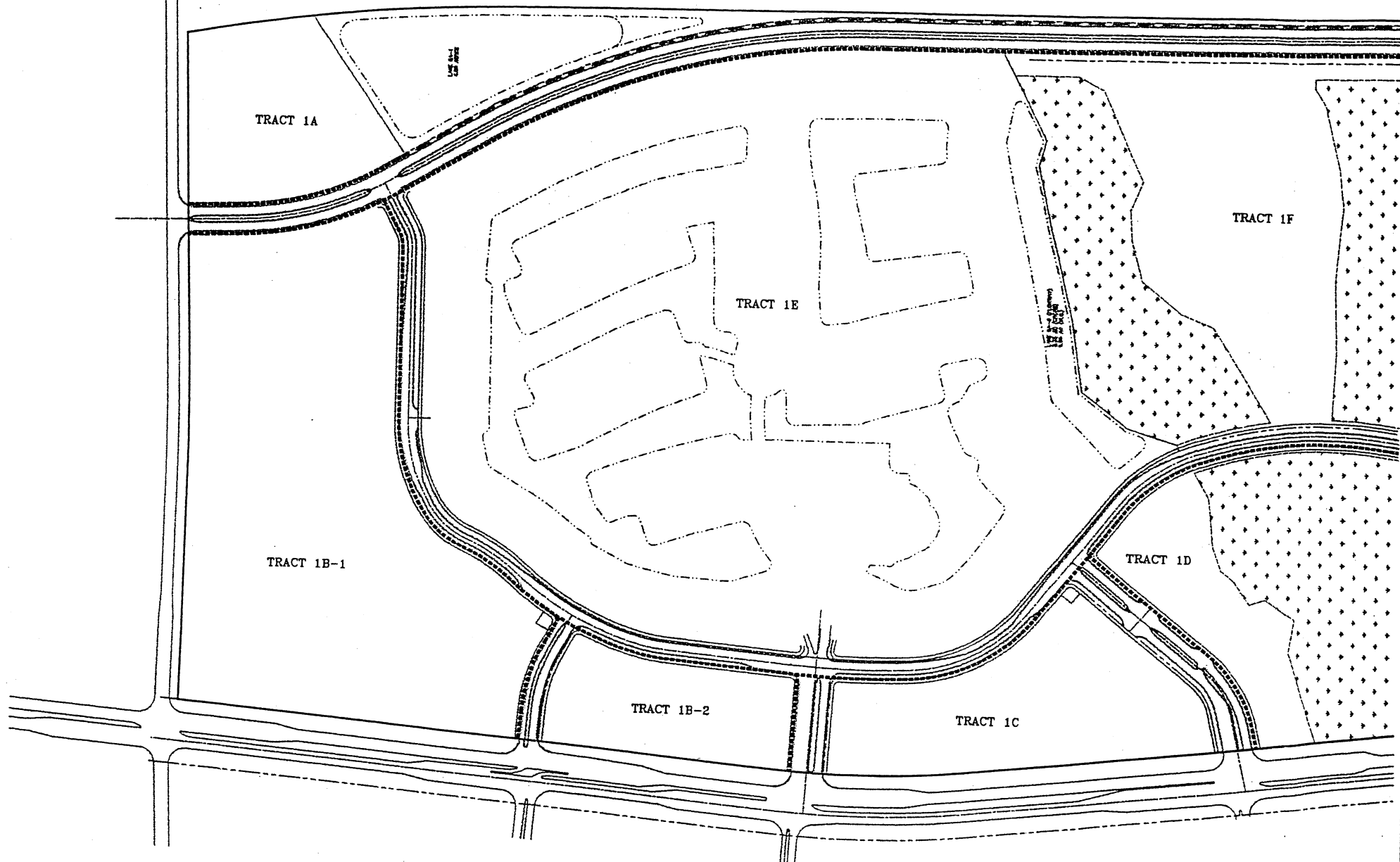
- A. Any changes in the plan of development or in the representations contained in the application for development approval, or in the phasing for the reporting year and for the next year;
- B. A summary comparison of development activity proposed and actually conducted for the year;
- C. Identification of undeveloped tracts of land, other than individual single family lots, that have been sold to separate entities or developers.
- D. Identification and intended use of lands purchased, leased, or optioned by the Developer adjacent to the original DRI site since the development order was issued;
- E. A specific assessment of the Developer's and the local government's compliance with each individual condition of approval contained in the DRI Development Order and the commitments ~~which are~~ contained in the application for development approval ~~and which that~~ have been identified by the local government, the RPC, or the DCA as being significant;
- F. Any requests for substantial deviation determination that were filed in the reporting year and to be filed during the following year;
- G. An indication of a change, if any, in local government jurisdiction for any portion of the development since the development order was issued;
- H. A list of significant local, state, and federal permits ~~which that~~ have been obtained or ~~which~~ are pending by agency, type of permit, permit number and purpose of each;
- I. A statement that all persons have been sent copies of the report in conformance with Subsections 380.06(15) and (18), Florida Statutes;
- J. A copy of any recorded notice of the adoption of a development order or the subsequent modification of an adopted development order that was recorded by the Developer pursuant to Paragraph 380.06(15)(f), Florida Statutes.

NOTE: The Florida Administrative Code specifically requires that the development order specify the requirements for the report. The Administrative Code requires that the report will be submitted to DCA, the RPC, and the local government on Form RPM-BSP-Annual Report-1.

DRI
EXHIBIT E
Calculation of Road Impact Fee Obligation¹⁴

LAND USE	ITE LUC	UNIT	RATE	SIZE	AMOUNT
GENERAL INDUSTRIAL	130	1000 SF	\$1,681.00	0	\$ -
WAREHOUSE	150	1000 SF	\$1,198.00	0	\$ -
MINI-WAREHOUSE	151	1000 SF	\$ 419.00	0	\$ -
SINGLE-FAMILY DETACHED	210	DU	\$2,436.00	0	\$ -
MULTI-FAMILY	220	DU	\$1,687.00	1000	\$ 1,687,000.00
MOBILE HOME (PARK UNIT)/RV SITE	240	DU	\$1,221.00	0	\$ -
ACLF	252	DU	\$ 550.00	200	\$ 110,000.00
HOTEL	310	ROOM	\$1,834.00	600	\$ 1,100,400.00
TIMESHARE	310	DU	\$1,834.00	0	\$ -
GOLF COURSE	430	ACRE	\$ 711.00	0	\$ -
MOVIE THEATRE	443	1000 SF	\$5,600.00	0	\$ -
ELEMENTARY/SECONDARY SCHOOL (PRIVATE)	520	1000 SF	\$ 611.00	0	\$ -
CHURCH	560	1000 SF	\$1,402.00	0	\$ -
DAYCARE	565	1000 SF	\$3,900.00	0	\$ -
HOSPITAL	610	1000 SF	\$2,941.00	0	\$ -
NURSING HOME	620	1000 SF	\$ 824.00	0	\$ -
OFFICE UNDER 100,000 SF	710	1000 SF	\$2,254.00	100	\$ 225,400.00
OFFICE 100,000 SF AND OVER	710	1000 SF	\$1,918.00	100	\$ 191,800.00
MEDICAL OFFICE	720	1000 SF	\$6,334.00	100	\$ 633,400.00
RETAIL UNDER 100,000 SF	820	1000 SF	\$3,992.00	100	\$ 399,200.00
RETAIL 100,000 SF TO 250,000 SF	820	1000 SF	\$3,869.00	150	\$ 580,350.00
RETAIL 250,000 SF TO 500,000	820	1000 SF	\$3,634.00	250	\$ 908,500.00
RETAIL 500,000 SF AND OVER	820	1000 SF	\$3,354.00	1300	\$ 4,360,200.00
STANDARD RESTAURANT	831	1000 SF	\$8,715.00	0	\$ -
FAST FOOD RESTAURANT	834	1000 SF	\$9,886.00	0	\$ -
CAR WASH, SELF-SERVICE	847	STALL	\$7,749.00	0	\$ -
CONVENIENCE FOOD AND BEVERAGE STORE	851	1000 SF	\$8,715.00	0	\$ -
BANK	911	1000 SF	\$6,063.00	0	\$ -
TOTAL					\$10,196,250.00

¹⁴ The calculations included here are based upon the impact fee schedule effective July 1, 2000. The fee schedule was used as a basis for establishing traffic mitigation option 1. The Developer did not ultimately choose option 1.



LEGEND:
----- PRIMARY PEDESTRIAN WALKWAYS (typ.)



SIMON
National City Center
115 W. Washington Street
Indianapolis, IN 46204
(317) 636-1600

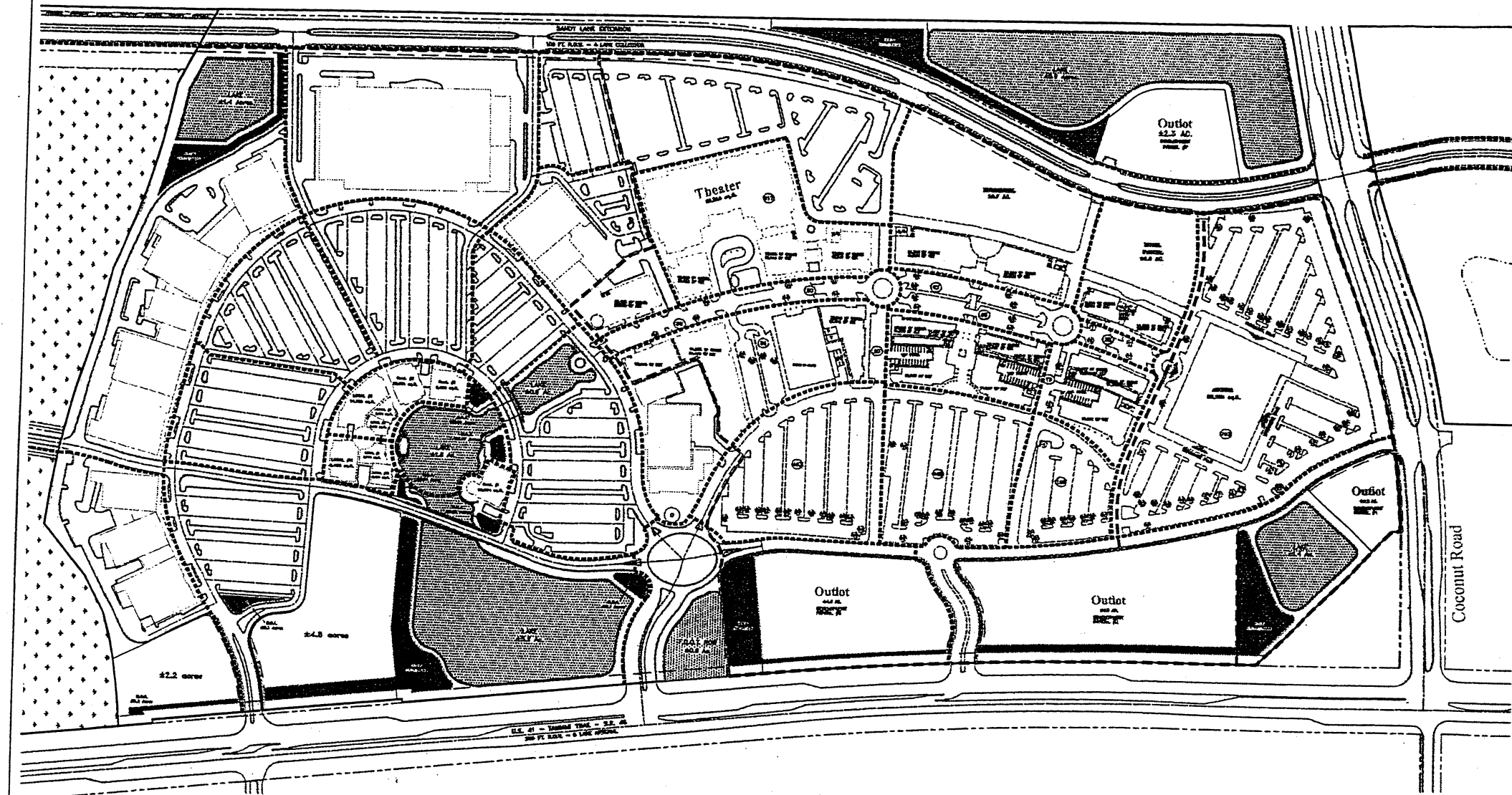
PROJECT:
The Shops at Coconut Point

LOCATION:
BONITA SPRINGS
FLORIDA

DESCRIPTION:
PROPOSED PEDESTRIAN CIRCULATION PLAN

DESIGNED BY:	C.B.S.	PROJECT NO.:	2008.134-D
DATE LAST MODIFIED:	March 20, 2011		
SCALE:	1" = 120'		

03116D_PED CIRC PLAN_030904



LEGEND:
 ■■■■■ PRIMARY PEDESTRIAN WALKWAYS (typ.)



SIMON
 National City Center
 115 W. Washington Street
 Indianapolis, IN 46204
 (317) 636-1600

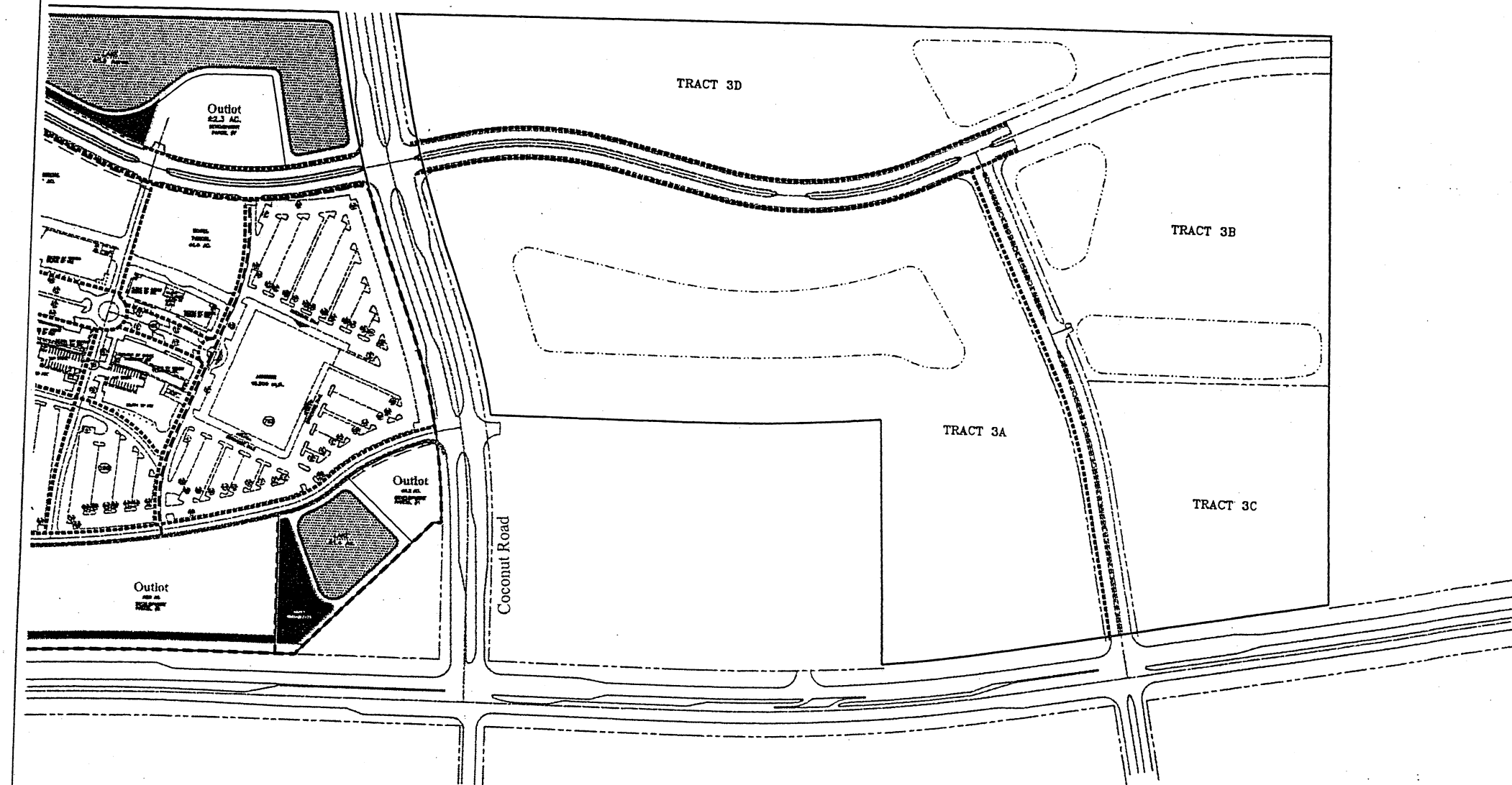
The Shops at Coconut Point

BONITA SPRINGS FLORIDA

PROPOSED PEDESTRIAN CIRCULATION PLAN

DESIGNED BY:	C.A.A.	PROJECT NO.	303.116D
DRAWN BY:	C.A.A.	DATE	March 26, 2004
CHECKED BY:		SCALE	1" = 150'

03116D_PED CIRC PLAN_030904



LEGEND:

----- PRIMARY PEDESTRIAN WALKWAYS (typ.)



SIMON
National City Center
115 W. Washington Street
Indianapolis, IN 46204
(317) 636-1600

PROJECT:
The Shops at
Coconut Point

LOCATION:
BONITA SPRINGS
FLORIDA

DESCRIPTION:
PROPOSED PEDESTRIAN
CIRCULATION PLAN

DATE: 03/11/04	PROJECT NO: 031116D
DESIGNED BY: C.B.E.	DATE LAST REVISION: March 09, 2004
DRAWN BY: C.B.E.	SCALE: 1" = 150'

031116D_PED CIRC PLAN_030904

APPROVED

APR 03 2007

SCHOOL BOARD OF
LEE COUNTY

SCHOOL SITE DEDICATION AGREEMENT

This Agreement, the "Agreement", is by and between THE SCHOOL BOARD OF LEE COUNTY, FLORIDA, (the "School Board"), Oakbrook Properties, Inc. and Coconut Point Developers, LLC ("Developer"), and DMM Development, LLC, a Florida limited liability company, ("DMM").

WITNESSETH:

WHEREAS, Oakbrook Properties, Inc. and Coconut Point Developers, LLC are the developers of Coconut Point, a Development of Regional Impact located in Lee County, Florida; and

WHEREAS, the School Board is in need of additional property for use as a school within Lee County; and

WHEREAS, Zoning Resolution Number Z-02-009 and DRI DO # 09-2001-153 requires the Developer to provide a five (5) acre parcel for use as a Lee County public school and the Developer and the School Board have agreed on that property being described on Exhibit "A" ("Impact Parcel") to satisfy that requirement; and

WHEREAS, in accordance with the Lee County Land Development Code, the County Attorney, the School Board Attorney, County Lands staff and representatives of the Developer met to discuss the appropriateness of the Impact Parcel and determined that the Impact Parcel is acceptable; and

WHEREAS, the Parties to this Agreement acknowledge that the conveyance of the Impact Parcel to the School Board is intended to fully satisfy the requirements of Zoning Resolution Number Z-02-009 and DRI DO # 09-2001-153; and

WHEREAS, the School Board acknowledges that school impact fees have been adopted by the County and the Developer will accept an impact fee credit for the full value of the dedication of the Impact Parcel, to the full extent that such impact fee credit may be issued subject to the terms of Lee County Ordinance 01-21; and

WHEREAS, the Developer acknowledges that the School Board does not directly issue school impact fee credits, which credits are issued by Lee County, subject to the terms of Lee County Ordinance 01-21; and

WHEREAS, DMM has acquired title to the Impact Parcel at the direction of the Developer; and

WHEREAS, DMM has also acquired title to a parcel described on Exhibit "B" which the School Board wishes to purchase from DMM ("Sale Parcel"); and

WHEREAS, the Developer will accept an impact fee credit for the full value of the dedication of the Sale Parcel, to the full extent that such impact fee credit may be issued subject to the terms of Lee County Ordinance 01-21; and

WHEREAS, The Impact Parcel and the Sale Parcel are sometimes collectively referred to as the "Property" herein; and

WHEREAS, the School Board has determined that this Agreement is in the best interest and benefit of the public; and

WHEREAS, the parties wish to memorialize the understanding between them;

NOW, THEREFORE, in consideration of the mutual promises contained herein, the undersigned parties agree as follows:

1. The above recitals are true and correct, and are incorporated as part of this Agreement.
2. The Impact Parcel will be conveyed to the School Board in exchange for impact fee credits in the amount of One Hundred Forty Thousand Dollars (\$140,000.00) and in satisfaction of Condition 13 of Lee County Zoning Resolution Number Z-02-009 and DRI DO # 09-2001-153 Condition II.J.1. The Sale Parcel will be conveyed to the School Board in exchange for impact fee credits in the amount of One Hundred Forty Thousand Dollars (\$140,000.00).
3. DMM acknowledges that in order to obtain credits, DMM must prepare and submit an application in accordance with section 2-413 a. (3) of the Lee County Land Development Code, including all submittals required thereby. The following must be submitted by DMM for the processing of the impact fee credit request for the Property and no credit will be issued until all such information has been provided:
 - a) Survey certified by a professional land surveyor licensed in the State of Florida.
 - b) Specimen of the Deed.
 - c) A title insurance commitment indicating that DMM will convey unencumbered fee simple title.
 - d) Appraisal prepared by a qualified professional. Within thirty (30) days of the date that this Agreement is executed by all parties, the School Board shall obtain appraisal reports for the Property.
4. An un-executed special warranty deed for the Property is attached hereto as Exhibit "C". The form of the un-executed special warranty deed has been reviewed by the School Board, and the parties agree that the form of the deed is acceptable. An executed special warranty deed for the Property shall be provided to the School Board at closing upon acknowledgment from Lee County that it has approved the issuance of the school impact fee credits as provided herein and which shall be created upon the recording of the special warranty deed in the Lee County Public Records Official Records Book and upon acknowledgement from Lee County of the satisfaction of Condition 13 of Lee County Zoning Resolution Number Z-02-009 and DRI DO #09-2001-153 Condition II.J.1.

5. As a material consideration for this Agreement, DMM and the Developer make the following representations and warranties to the best of their knowledge, without independent investigation, each of which is material and is being relied upon by School Board and shall be continuing from the Effective Date of this Agreement through the date of closing:

a) There is no existing violation of any building code, building or use restriction, zoning ordinance, building permit or other authorization, governmental order, or statute, rule or regulation applicable to the Property;

b) There is no pending or threatened litigation, administrative action or claim relating to the Property, or to the ownership, use or operation thereof, or that would adversely affect the ability of DMM or Developer to perform its obligations under this Agreement;

c) There are no charges, assessments or liens presently outstanding or unpaid for local improvements or otherwise which have or may become a lien against the Property, nor are there any public improvements which have been ordered to be made and/or which have not heretofore been completed, assessed, and fully paid for;

d) All necessary action and any required consents have been taken and/or obtained to authorize the execution and delivery of this Agreement and have been or, prior to Closing, will be taken and/or obtained to authorize the performance of its terms and conditions and those of the other documents, instruments and agreements provided for herein; and this Agreement and all such other documents, instruments and agreements provided for herein shall be valid, legally binding obligations of DMM enforceable against DMM in accordance with their terms, subject only to applicable bankruptcy, insolvency, reorganization, moratorium and similar laws or equitable principles affecting or limiting the right of contracting parties generally;

e) DMM is not (and neither the execution, delivery or performance of this Agreement or of the documents, instruments and agreements provided for herein will result) in breach of or default under any document, instrument, order, or agreement to which DMM is a party or by which it is bound. There are no facts or events which, with notice or the passage of time or both, would constitute a default by DMM under any such document, instrument, order or agreement;

f) No condemnation or eminent domain proceeding affecting the Property has been commenced or threatened, or, to the best of DMM's knowledge, is contemplated, nor does DMM have any knowledge of (i) any intended public improvement which may involve a charge being levied against the Property, or (ii) any intended statute, ordinance, rule or regulation which would be specifically applicable to the Property and materially and adversely affect its use.

g) All amounts due and owing for the furnishing of labor, equipment and/or materials to or for DMM have been, or prior to Closing will be, fully paid. In the event that any claim is made by any party, before or after closing, for payment of any amount due for the furnishing of labor, equipment and/or materials to or for DMM prior to the closing, or in the event that any lien is filed against the Property, before or after closing, as a result of the furnishing of such labor, equipment and/or materials prior to the closing, DMM, at its sole cost and expense, immediately shall either (i) pay the said claim and discharge said lien, or (ii) post a sufficient bond to insure over such lien and thereafter diligently proceed to resolve such a lien.

h) With respect to the environmental condition of the Property: (i) during the period from DMM's acquisition of the Property through the Closing Date; (A) to the best of DMM's knowledge, no Hazardous Substances (as that term is hereinafter defined) have been placed, used,

generated, stored, discharged, or released on, in or about the Property (B) DMM has not used or permitted the Property to be used as a landfill or dump, or for the use, generation, storage or discharge of Hazardous Substances, (C) no underground storage tanks of any type have been placed on or in the Property by DMM, and to the best of DMM's knowledge, by any tenant or their contractors or agents, and (D) to the best of DMM's knowledge, neither DMM nor any tenant has created or permitted any surface or subsurface conditions to exist which constitute, or with the passage of time may constitute, a public or private nuisance; and (ii) prior to the date of DMM acquisition of the Property, to the best of DMM's knowledge; (X) no Hazardous Substances were placed, used, generated, stored, discharged, or released on, in or about the Property, (Y) the Property was not used as a landfill or dump, or for the storage or generation of any Hazardous Substances, and no underground storage tank of any type was placed on or in the Property, and (Z) there were no surface or subsurface conditions which constituted a public or private nuisance. The term hazardous substances, as used herein, means any hazardous or toxic substance, material or waste, including without limitation any substance, material or waste which is (i) designated as a "hazardous substance" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 6901, et seq., (ii) asbestos or asbestos-containing building materials, (iii) petroleum or petroleum byproducts, or (iv) defined as a hazardous or toxic waste, substance, material or waste under any other applicable federal, state, county or local law, ordinance, rule or regulation.

i) DMM owns the Property free and clear of any and all liens, claims, encumbrances, easements, leases, and other exceptions to title, or as is otherwise shown on the Commitment furnished by DMM to School Board pursuant to this Agreement. To the best of DMM's knowledge, there are no obligations in connection with the Property other than between the parties hereto which will be binding upon School Board after the closing, except matters set forth in the Commitment and this Agreement.

j) DMM is in sole and undisputed possession of the Property, and to the best of DMM's knowledge, no other person or entity is entitled to possession of all or any portion of the Property, and there are no boundary disputes.

k) No attachments, execution proceedings, assignments for the benefit of creditors, insolvency, bankruptcy, reorganization or other proceeding are pending or threatened against DMM, nor are any of such proceedings contemplated by DMM.

6. The Property is valued at \$280,000.00. It is a condition precedent to the conveyance of the Property and the closing of this transaction that Lee County (subject to submittal of application(s) by DMM for the issuance of impact fee credits as required by and pursuant to the terms of Lee County Ordinance 21-01), issue DMM Two Hundred Eighty Thousand Dollars (\$280,000.00) of impact fee credits for the dedication of the Property. In the event it is determined that DMM is not entitled to impact fee credits as provided in this Paragraph 6 or that DMM is entitled to impact fee credits in lesser amounts than as specified in this Paragraph 6, the School Board shall have the option to pay the difference in cash, failing which DMM may elect to terminate this Contract and the parties shall be relieved of all further obligations hereunder.

7. DMM shall select the title agent and shall pay the costs of the title search and premium for the ALTA Title Insurance Policy in the amount of \$280,000.00 for the Property and shall be responsible for the documentary stamp tax due on the deed. DMM shall convey to School Board marketable title to the Property, subject only to the title exceptions as to which Purchaser has waived its right to object. Marketable title shall be determined according to the Uniform Title Standards adopted by The Florida Bar. Within twenty (20) calendar days following the Effective

Date of this Agreement, DMM shall deliver to the School Board a Title Commitment, together with a copy of each instrument shown as an exception. If the Title Commitment reflects that title to the Property is subject to any exception that would render title to the Property to be unmarketable, or if at any time after delivery of the Title Commitment and prior to Closing, School Board receives notice of or otherwise discovers that title to the Property is subject to any additional title exceptions, School Board shall notify DMM in writing of the title exceptions to which School Board objects within ten (10) calendar days after School Board receives notice of such exceptions. If School Board fails to deliver timely notice to DMM of any objections, School Board shall be deemed to have waived its right to object to same, and School Board shall proceed to closing as hereinafter provided. If School Board has timely notified DMM of any title exceptions to which School Board objects, DMM will have thirty (30) days from receipt of notice to remove the exceptions and shall notify School Board whether or not DMM has been able to remove the exceptions within said thirty (30) days. If DMM has not been able to remove the exceptions, School Board may either: (i) extend the time for a reasonable period not to exceed sixty (60) days within which DMM shall use diligent effort to remove the exceptions; or (ii) the School Board may elect to terminate this Agreement by written notice to DMM and the parties shall be relieved of all further obligations hereunder.

8. The Property shall be conveyed by DMM to the School Board in accordance with the form of the deed described in Paragraph 2 and as attached hereto as Exhibit "C". The original of the recorded deed will be provided to the School Board as soon as practicable when returned from recording.

9. Subject to all of the provisions of this Agreement, the Developer, DMM and School Board shall close this transaction on a date which is not more than ninety (90) days from the Effective Date of this Agreement or sooner at the option of School Board provided that all conditions precedent to the parties obligations to close have been met or waived as applicable.

10. Either party to this Agreement shall be entitled to reimbursement of all attorneys' fees and costs reasonably incurred in the successful enforcement of its rights hereunder in any judicial proceeding relating thereto.

11. This Agreement: (a) represents the full Agreement of the parties with respect to its subject matter; (b) shall be construed according to the laws of the State of Florida; (c) shall not be amended, modified or terminated, except in writing executed by the affected parties; and (d) shall be liberally construed to effect its purposes without regard to any rule of construction relating to the principal drafting hereof.

12. The provisions hereof shall be severable, and in the event any provision is found to be unenforceable, the remaining provisions shall be enforced as if the unenforceable provision had never been included.

13. The effective date of this Agreement shall be the date on which the later of the parties to the Agreement affix their signature ("Effective Date"). Time is of the essence in the performance of all obligations by the parties under this Agreement.

14. The obligations assumed by the parties in this Agreement shall be binding upon any successors in interest.

Any notices sent pursuant to this Agreement must be sent to: Oakbrook Properties Inc., Ned Dewhirst, P.O. Box 366879, Bonita Springs, FL 34135; Coconut Point Developers, LLC, Tom Schneider, 225 West Washington Street Indianapolis, IN 46204-3438; DMM Development LLC,

David McArdle, PO Box 64 St. Charles, IL 60174; Jeanne S. Dozier, Chairman of Lee County School Board, 2055 Central Avenue, Fort Myers, FL 33901, Mr. Keith Martin, Attorney for Lee County School Board, 2055 Central Avenue, Fort Myers, FL 33901 and Heather W. Hawkins, Esq., Attorney for School Support, 3308 Canal Street, Fort Myers, FL 33916.

Attest:

By:

James W. Browder, III
James W. Browder, III, Ed.D.
Secretary and District Superintendent

THE SCHOOL BOARD OF LEE COUNTY,
FLORIDA

By:

Jeanne S. Dozier
Jeanne S. Dozier
Chairman

Approved as to Form:

[Signature]
School Board Attorney

STATE OF FLORIDA

COUNTY OF LEE

APPROVED

APR 03 2007

SCHOOL BOARD OF
LEE COUNTY

The foregoing instrument was acknowledged before me this 3rd day of April, 2007 by Jeanne S. Dozier, as Chairman of the School Board of Lee County, Florida, who is [] personally known to me or who has [] produced n/a as identification.

My Commission Expires:

Ruth H. Moon
Notary Public

Ruth H. Moon
Print/Type Name of Notary

Commission No. DD 363955



Oakbrook Properties, Inc.




Witness

Rodney A. Welty

(Print/Type Name of Witness)

By:



David D. A. McAvoy

Title:

President



Witness

JEAN RYAN

(Print/Type Name of Witness)

Witness Darlene Harvey
Darlene Garvey

(Print/Type Name of Witness)

Coconut Point Developers, LLC

By: [Signature]

David Simon
Title: Chief Executive Officer

Witness

Edith L. Hicks
(Print/Type Name of Witness)
Edith L. Hicks

DMM Development LLC, a Florida limited liability company

By: [Signature]

Title: Manager -- Oakbrook Properties, Inc.
David J. A. McAuley, President

Witness

[Signature]
Rodney A. Welty
(Print/Type Name of Witness)

Witness

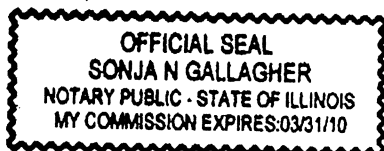
[Signature]

JEAN RYAN
(Print/Type Name of Witness)

STATE OF Illinois
COUNTY OF Kane

The foregoing instrument was acknowledged before me this 12th day of April, 2007 by David A. McArdle as President of Oakbrook Properties, Inc. on behalf of the Corporation, who is ☒ personally known to me or who has ☐ produced _____ as identification.

My Commission Expires:



Sonja N. Gallagher
Notary Public

Sonja N. Gallagher
Print/Type Name of Notary

Commission No. 376644

STATE OF Indiana
COUNTY OF Marion

The foregoing instrument was acknowledged before me this 26th day of April, 2007 by David Simon as Chief Executive Officer of Coconut Point Developers, LLC on behalf of the company, who is ☐ personally known to me or who has ☒ produced _____ as identification.

My Commission Expires:



Joan Walker-Emminger
Res. Of Shelby County
Comm. Exp. 2/6/2013

Joan Walker-Emminger
Notary Public

Print/Type Name of Notary

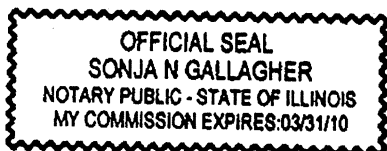
Commission No. _____

STATE OF Illinois
COUNTY OF Kane

The foregoing instrument was acknowledged before me this 12th day of April, 2007 by David A. McArdle as Mgr, Oakbrook Props. of DMM Development, LLC on behalf of the company, who is ☐ personally known to me or who has ☐ produced _____ as identification.

David A. McArdle, Pres.

My Commission Expires:



Sonja N. Gallagher
Notary Public

Sonja N. Gallagher

Print/Type Name of Notary

Commission No. 376644

Exhibit "A"

The South Half (S1/2) of Lot 20, Block C, Florida Gulf Land Company's Subdivision, according to the plat thereof recorded in Plat Book 1 at Page 59 of the Public Records of Lee County, Florida.

Exhibit "B"

The South Half (S1/2) of Lot 19, Block C, Florida Gulf Land Company's Subdivision, according to the plat thereof recorded in Plat Book 1 at Page 59 of the Public Records of Lee County, Florida.

Prepared by and return to:
Truman J. Costello

Truman J. Costello, P.A.
12670 New Brittany Blvd.
Fort Myers, FL 33907
239-939-2222
File Number: 07-0128
Will Call No.:

Parcel Identification No. 34-46-25-01-0000C.0190

[Space Above This Line For Recording Data]

Warranty Deed

(STATUTORY FORM - SECTION 689.02, F.S.)

This Indenture made this ____ day of _____, 2007 between DMM Development, LLC, a Florida limited liability company, whose post office address is 24880 Burnt Pine Drive #8, Bonita Springs, FL, 34134, of the County of Lee, State of Florida, grantor*, and Lee County School Board, whose post office address is 2055 Central Avenue, Fort Myers, FL 33901 of the County of Lee, State of Florida, grantee*,

Witnesseth that said grantor, for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable considerations to said grantor in hand paid by said grantee, the receipt whereof is hereby acknowledged, has granted, bargained, and sold to the said grantee, and grantee's heirs and assigns forever, the following described land, situate, lying and being in Lee County, Florida, to-wit:

The South Half (S-1/2) of Lot 19, Block C, FLORIDA GULF LAND COMPANY'S SUBDIVISION, according to the plat thereof recorded in Plat Book 1 at Page 59 of the Public Records of Lee County, Florida.

AND

The South Half (S-1/2) of Lot 20, Block C, FLORIDA GULF LAND COMPANY'S SUBDIVISION, according to the plat thereof recorded in Plat Book 1 at Page 59 of the Public Records of Lee County, Florida.

and said grantor does hereby fully warrant the title to said land, and will defend the same against lawful claims of all persons whomsoever.

* "Grantor" and "Grantee" are used for singular or plural, as context requires.

In Witness Whereof, grantor has hereunto set grantor's hand and seal the day and year first above written.

EXHIBIT C

Signed, sealed and delivered in our presence:

Witness

Printed Name of Witness

Witness

Printed Name of Witness

DMM Development, LLC, a Florida limited liability company

By: Oakbrook Properties, Inc., a Delaware corporation, its Manager

By: _____
David A. McArdle, President

State of _____
County of _____

The foregoing instrument was acknowledged before me this _____ day of _____, 2007 by David A. McArdle, President of Oakbrook Properties, Inc., a Delaware corporation, Manager of DMM Development, LLC, a Florida limited liability company. He is ☐ personally known to me or ☐ has produced a driver's license as identification.

[Notary Seal]

Notary Public

Printed Name: _____

My Commission Expires: _____