

BOARD OF COUNTY COMMISSIONERS

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District Two

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County Manager

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County Attorney

Diana M. Parker
County Hearing Examiner

June 29, 2012

**RUSSELL SCHROPP
HENDERSON FRANKLIN
1715 MONROE ST
FORT MYERS FL 33901**

Re: DANIELS MARKETPLACE
BCCR11-10-01 Extension (F)
DCI2012-00024

Dear RUSSELL SCHROPP:

In accord with BCCR11-10-01, development permits meeting certain criteria are entitled to one 4-year extension from the existing/initial permit expiration date. Accordingly, the effectiveness of the Master Concept Plan identified in Zoning Resolution, Z-08-043, DCI2007-00076, DANIELS MARKETPLACE, is hereby extended for the following:

APPROVAL OF A 4-YEAR EXTENSION FROM APRIL 6, 2014 TO APRIL 6, 2018 FOR DANIELS MARKETPLACE.

No additional extensions under BCCR11-10-01 may be granted for the above-referenced development permit. All underlying conditions of the zoning resolution remain in full force and effect. Failure to comply with zoning conditions may result in enforcement action as provided under Florida law and local regulations.

This extension applies only to the specific approvals identified above. If your project requires additional development permits or authorizations to continue construction, you are required to obtain the necessary approvals, including related permit extensions. If you hold other permits or authorizations that qualify for an extension under BCCR11-10-01, you must file a specific request for each qualifying development permit.

If you have any questions, please do not hesitate to contact me.

Sincerely,

Department of Community Development
Division of Zoning


for Pam Houck
Director

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

WHEREAS, Daniels Parkway JV Investment, LLC, filed an application on behalf of the property owners, Daniels Parkway JV Investment, LLC, Vision Quest Holdings, LLC, and Oculus Atlantic Holdings, LLC, to rezone a 65.5± acre parcel from Agricultural (AG-2) to Commercial Planned Development (CPD), in reference to Daniels Marketplace; and,

WHEREAS, a public hearing was advertised and held on November 13, 2008, before the Lee County Zoning Hearing Examiner, who gave full consideration to the evidence in the record for Case #DCI2007-00076; and,

WHEREAS, a second public hearing was advertised and held on March 2, 2009, before the Lee County Board of Commissioners (Board), at which time the Board continued the hearing to April 6, 2009; and,

WHEREAS, a third public hearing was held on April 6, 2009, before the Board 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 rezone 65.5± acres from AG-2 to CPD, to allow 50,000 square feet of Medical Office, 90,000 square feet of General Office, 250,000 square feet of Retail Commercial, and a 120-room hotel, with a maximum height of 75 feet. Connections to Central Water and sanitary sewage will be provided.

The property is located in the General Interchange Future Land Use Category and is legally described in attached Exhibit A. The request is APPROVED, SUBJECT TO the conditions specified in Sections B below.

SECTION B. CONDITIONS:

1. Master Concept Plan/Development Parameters

The development of this project must be consistent with the four-page Master Concept Plan (MCP) entitled "Daniels Marketplace," date-stamped "Received May 01 2009 Community Development," last revised "05-01-09," and attached hereto as Exhibit C, except as modified by the conditions below. This development must comply with all requirements of the Lee County Land Development Code (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 MCP are subsequently pursued, appropriate approvals will be necessary.

This project will allow a maximum of 90,000 square feet of General Office, 50,000 square feet of Medical Office, 250,000 square feet of Retail Commercial and a 120-room hotel.

Uses may be converted based on the Land Use Conversion Table. However, any land use conversion must be reviewed and approved through an Administrative Amendment application.

All references to uses are as defined or listed in the Lee County LDC

2. Uses and Site Development Regulations

The following limits apply to the project and uses:

a. Schedule of Uses

Use Area "C"

Accessory Uses and Structures
Administrative Offices
Agricultural Uses, Subject to Condition #8
Animal Clinic or Kennel-When completely enclosed in a building
ATM (Automatic Teller Machine)
Auto Parts Store
Automotive Repair and Service, Group I
Bait and Tackle Shop
Banks and Financial Establishments, All Groups
Bar or Cocktail Lounge, In conjunction with a restaurant or hotel and limited to three (3) such establishments
Boat Parts Store
Broadcast Studio and Television
Business Services: Groups I and II
Bus Station
Car Wash
Cleaning and Maintenance Services
Clothing Stores: General
Clubs: Commercial, Fraternal, Private
Computer and Data Processing Services
Consumption on Premises, Limited to Five (5)
Contractors and Builders, Groups I and II
Convenience Food and Beverage Store, Two (2) convenience food and beverage stores in conjunction with a maximum of 16 self-service fuel pumps each
Cultural Facilities
Day Care Center, Child, Adult
Department Store
Drive Through Facility for Any Permitted Use

Drug Store, Pharmacy
 Emergency Operations Center
 Essential Services
 Essential Service Facilities, Group I
 Excavation, Water Retention. No Blasting.
 Fences and Walls
 Food and Beverage Service, Limited
 Food Stores, Group I
 Gift and Souvenir Shop
 Hardware Store
 Health Care Facilities: Groups III and IV - limited to 65 beds and no emergency trauma facilities. Additional beds may be requested by Administrative Amendment, subject to Condition 14
 Hobby, Toy and Game Shops
 Hotel/Motel, Limited to one hotel with a maximum of 120 rooms
 Household and Office Furnishings, All Groups
 Insurance Companies
 Laundry or Dry Cleaning: All Groups
 Lawn and Garden Supply Stores
 Library
 Medical Office
 Motion Picture Studio
 Nightclubs, In conjunction with hotel
 Non-Store Retailers: All Groups
 Package Store
 Paint, Glass and Wallpaper - No Outdoor Storage or Display.
 Parcel and Express Services
 Parking Lot: Accessory, Ancillary, Garage, Temporary
 Personal Services, Group I
 Personal Services, Group II – Limited to Beauty Spas, Health Clubs Reducing or Slenderizing Salons or Spas
 Personal Services, Group III
 Personal Services, Group IV – Limited to Debt Counseling or Adjustment Services to Individuals, Portrait Copying, Shopping Services, and Tax Return Preparation Services
 Pet Services
 Pet Shops: Indoor Only - No Outdoor Runs
 Printing and Publishing
 Real Estate Sales Office
 Recreation Facilities, Commercial, Groups I, III and IV
 Rental or Leasing Establishments, Groups II and III
 Repair Shops, Groups I, II and III
 Research and Development Laboratories: Groups II and IV
 Restaurants, Fast Food, Limited to two such restaurants
 Restaurants, All Groups
 Schools, Commercial
 Signs per Chapter 30 of the LDC
 Social Services: Group I

Social Service: Group II – Limited to Job Training, Manpower Training, Skill Training
Specialty Retail Shops: All Groups
Storage: Indoor Only
Studios
Temporary Uses, Limited to construction trailers and contractors storage units
during construction
Theater, Indoor
Used Merchandise Stores: Groups I and II
Variety Store

Use Area "O/C" **

Accessory Uses and Structures
Administrative Offices
Agricultural Uses, Subject to Condition #8
ATM (Automatic Teller Machine)
Banks and Financial Establishments, All Groups - No drive thrus
Business Services: Group I
Cleaning and Maintenance Services
Clothing Stores: General
Computer and Data Processing Services
Contractors and Builders, Group I
Cultural Facilities
Essential Services
Essential Service Facilities, Group I
Excavation, Water Retention. No Blasting.
Fences and Walls
Gift and Souvenir Shop
Health Care Facilities: Group III
Hobby, Toy and Game Shops
Household and Office Furnishings, All Groups
Insurance Companies
Laundry or Dry Cleaning: Group I
Library
Medical Office
Non-Store Retailers: All Groups
Paint, Glass and Wallpaper - No Outdoor Storage or Display.
Parking Lot: Accessory, Ancillary, Temporary
Personal Services, Group I
Personal Services, Group II – Limited to Beauty Spas, Health Clubs Reducing or
Slenderizing Salons or Spas
Personal Services, Group III
Personal Services, Group IV – Limited to Debt Counseling or Adjustment Services
to Individuals, Portrait Copying, Shopping Services, and Tax Return
Preparation Services
Pet Shops: Indoor Only. No Outdoor Runs
Printing and Publishing
Real Estate Sales Office

Repair Shops, Groups I, II and III
 Research and Development Laboratories: Groups II and IV
 Signs per Chapter 30 of the LDC
 Social Services: Group I
 Social Service: Group II – Limited to Job Training, Manpower Training, Skill Training
 Specialty Retail Shops: All Groups
 Storage: Indoor Only
 Studios
 Temporary Uses, Limited to construction trailers and contractors storage units during construction
 Used Merchandise Stores: Groups I and II
 Variety Store

****See Condition 3.c. hereinbelow**

b. Site Development Regulations

Building Setbacks:

Street:	In accordance with LDC § 34-2192(A)
Rear:	20 feet
Side	15 feet
Development Perimeter:	25 feet
Waterbody:	25 feet
Indigenous Preserve:	20 feet

Building Separation: One half the sum of the height of both buildings, or 20 feet, whichever is greater.

Maximum Lot Coverage: 45 percent

Area Dimensions:

Minimum Lot Area:	10,000 Square feet
Minimum Lot Width:	100 feet
Minimum Lot Depth:	100 feet

Maximum Building Heights:

Tracts Labeled "C": 75 feet Except as noted on MCP page 3 of 4.
 Tracts Labeled "OC" 35 feet

Land Use Conversion Table:

1,000 Square feet Retail	= 1,800 square feet General Office
	= 750 square feet Medical Office
1,000 Square feet General Office	= 550 square feet Retail
	= 400 square feet Medical Office

1 Hotel Room	= 250 square feet Retail
	= 470 square feet General Office
	= 200 square feet Medical Office

3. Environmental Conditions

- a. Prior to local development order approval, development order plans must provide a minimum of 17.73 acres of open space. Tracts 1 through 6 may provide a minimum of 10 percent open space within each tract provided that the indigenous preserve, water management lakes and lake maintenance easements abutting the preserve, and tract perimeter buffers are not included in the minimum 10 percent acreage requirement depicted in Table D (2) of the approved MCP.
- b. Prior to local development order approval, the development order plans must be consistent with the Bald Eagle Management Plan dated October 2008. The development order plans clearly address all conditions including enhancement plantings specified in the Bald Eagle Management Plan.
- c. Prior to local development order approval, the uses for Tract 4 must be consistent with the Schedule of Uses for the O/C designation, except for the addition of the following uses:
 - 1) Auto parts store, no service or repair
 - 2) Drive-through facility for Bank and Drug store, subject to Condition 3.d. and 3.e.
 - 3) Food Stores, Group I, Specialty Food Stores, including food items such as, but not limited to, health foods, spices, herbs, coffee, tea, vitamins, dietetic foods, and mineral water
 - 4) Package Store
 - 5) Restaurants, Group I and II, limited to no outdoor seating and no drive-through facility
- d. Prior to local development order approval, all buildings with the O/C area designated on the MCP must be designed to place the rear of the building, with minimal doors and windows, facing the bald eagle preserve. The development interface planting plan cross section and elevations as depicted on the MCP must include a minimum five canopy trees and three sabal palms per 100 linear feet. Canopy trees must be installed at a minimum 12-14 feet, three - four caliper inches at four and a half feet above ground. Sabal palms must be installed at a minimum 12-16 foot clear trunk, staggered heights. The buffer must also include a single continuous hedge row installed a minimum 24 inches in height, three-gallon container size, three-foot on center; and
- e. The applicant can request an Administrative Amendment to allow access road or limited parking adjacent to the preserve within the O/C area. The applicant will be required to demonstrate an alternative design which includes screening for the limited area to the satisfaction of Division of Environmental Sciences staff. If an alternative design can not be agreed to, then the applicant can request a public hearing to revise the condition.

- f. Prior to local development order approval, development order plans must depict a minimum 8.88-acre preservation area in conceptual compliance with the approved MCP to include the 0.68 acre and 0.22 acre cypress wetlands incorporated within the storm water management lakes. Final surface water management lake design to be consistent with an approved South Florida Water Management District Environmental Resource Permit.
- g. Prior to local development order approval, the applicant must submit an Indigenous Management Plan for the entire preservation area as per the LDC § 10-415(b)(4) for Division of Environmental Sciences review and approval. The management plan must include, but not be limited to, analysis of how the diversion of storm water into the preserve will benefit the indigenous vegetation and demonstrate there will be no negative affect on the indigenous preserve. The amount of water, the depth of water, and the duration of holding the water within the preserve must be determined on the basis of maintaining the indigenous vegetation within the preserve and not on surface water management requirements. Additionally, the development order plans must demonstrate how the storm water will be pre-treated prior to any discharge into the indigenous preserve.
- h. Prior to local development order approval, the applicant must submit an enhancement plan for the entire preservation area. The plan must include, but not be limited to:
 - 1) supplemental plantings for the upland and wetland woodland pasture preservation areas consistent with South Florida Water Management District Environmental Resource Permit mitigation requirements; and,
 - 2) enhancement of the ±0.5 acres along the southwest portion of the eagle preserve (indicated as wetland area enhancement on the MCP page 2 of 4) to include the trees required to be installed with a minimum six-feet in height, five-gallon container size, 25 feet on centers, and 50 percent of the shrubs requirement be installed with a minimum three feet in height, three-gallon container size, 15 feet on centers; and,
 - 3) replanting of cypress (*Taxodium distichum*) trees within the 0.22 acre cypress wetland to enhance the density following exotic removal (tree installation a minimum six-foot in height, five-gallon container size, 10-foot on centers in areas devoid of vegetation after exotic removal); and,
 - 4) schedule of invasive exotic removal for the 21 species identified in the LDC § 10-420(h); and,
 - 5) supplement planting success criteria consistent with South Florida Water Management District Environmental Resource Permit mitigation requirements

4. Traffic Conditions.

- a. Roadway Access Condition: Access from the Daniels Marketplace project is conditioned upon the following: - see applicant's Exhibit 20 A and B attached hereto as Exhibit D.
 - 1) In the event the County approves an amendment to the Daniels Parkway Controlled Access Resolution (Resolution No. 89-10-11, as amended), that accommodates the improvements to the Daniels Parkway Frontage Road shown on applicant's Exhibit 20 prior to submittal of a development order for all or a portion of the Daniels Marketplace project, the project may connect to the Daniels Parkway Frontage Road only if:
 - a) the improvements to the Daniels Parkway Frontage Road shown on Exhibit 20 are constructed and open to traffic; or,
 - b) Three Oaks Parkway is constructed and open to traffic as, at least, a two-lane roadway between Daniels Parkway and the Daniels Marketplace project.
 - 2) In order to fulfill the requirements of Condition 1.a, the applicant may:
 - a) Design, permit, and construct (subject to the approval of LCDOT) the improvements to the Daniels Parkway frontage road, shown on applicant's Exhibit 20A and B, prior to issuance of the first certificate of compliance for Daniels Marketplace. If the applicant elects to construct those improvements, the applicant will receive road impact fee credits equal to 100 percent of the cost of the improvements less the dollar amount attributable to the percentage of trips projected to use the frontage road that are generated by Daniels Marketplace; or,
 - b) Construct Three Oaks Parkway Extension North based on CIP#4053 plans (with any modifications subject to review and approval by Lee County Department of Transportation [LCDOT]) between the project and Daniels Parkway, if the County has acquired all of the necessary right-of-way west of Daniels Marketplace for this improvement. If the applicant elects to construct these improvements, the applicant will receive road impact fee credits in the amount of 100 percent of the cost of the Three Oaks Parkway improvements, subject to the requirements set forth in the LDC section governing Road Impact Fee Credits.
 - 3) In the event the County does not approve an amendment to the Daniels Parkway Controlled Access Resolution (Resolution 89-10-11, as amended) that accommodates the improvements to the Daniels Parkway frontage road, shown on applicant's Exhibit 20A and B, prior to submittal of a development order for all or a portion of the Daniels Marketplace project, OR, in the event that LCDOT does not approve the design, permitting and

construction of the improvements to the Daniels Parkway frontage road as proposed by the applicant, development of the project accessing the Daniels Parkway frontage road is limited to a maximum projected PM peak hour trip generation of 320 trips (two-way) until Three Oaks Parkway is constructed between the project and Daniels Parkway as, at least, a two-lane roadway.

- a) In order to avoid the peak hour trip generation limitation set forth above, the applicant may elect to construct the improvements to Three Oaks Parkway Extension North, based on CIP#4053 plans (with any modifications subject to review and approval by LCDOT), if the County has acquired all of the necessary right-of-way for this improvement west of Daniels Marketplace.

If the applicant elects to construct those improvements, the applicant will receive road impact fee credits in the amount of 100 percent of the cost of the Three Oaks Parkway improvements subject to the requirements set forth in the LDC governing Road Impact Fee Credits.

5. Vehicular/Pedestrian Impacts. Approval of this zoning request does not address mitigation of the project's vehicular or pedestrian traffic impacts. Additional conditions consistent with the Lee County LDC may be required to obtain a local development order.
6. Lee Plan Consistency. Approval of this zoning request does not guarantee local development order approval. Future development order approvals must satisfy the requirements of the Lee Plan Planning Communities Map and Acreage Allocation Table, Map 16 and Table 1(b), be reviewed for, and found consistent with, the retail commercial standards for site area, including range of gross floor area, location, tenant mix and general function, as well as all other Lee Plan provisions.
7. Concurrency. Approval of this rezoning does not constitute a finding that the proposed project meets the concurrency requirements set forth in LDC Chapter 2 and the Lee Plan. The developer is required to demonstrate compliance with all concurrency requirements prior to issuance of a local development order.
8. Agricultural. Agricultural Uses: Existing bona fide agricultural uses on this site are allowed only in strict compliance with the following:
 - a. Bona fide agricultural uses that are in existence at the time the application for this project was filed, and as shown on Exhibit E attached hereto, may continue until approval of a local development order for the area of the project containing those uses.
 - b. Additional clearing of trees or other vegetation in agricultural areas is prohibited. Existing areas of bona fide agricultural use may be maintained, i.e., mowed, but not cleared or expanded. This prohibition is not intended to preclude County approved requests for the removal of invasive exotic vegetation.

- c. Prior to issuance of a local development order, the property owner must provide written proof, subject to approval by the County Attorney's Office, of the following:
- 1) Termination of all agricultural use on any portion of the property included in the development order application/approval. Proof must include a sworn affidavit from the person or entity holding title to the subject property that specifically provides:
 - a) the date the agricultural uses ceased;
 - b) the legal description of the property subject to the development order approval;
 - c) an affirmative statement that the owner acknowledges and agrees that all agricultural uses are illegal and prohibited on the property and that the owner covenants with the county that they will not allow any such uses on the property unless and until the property is re-zoned to permit such uses; and,
 - d) that the affidavit constitutes a covenant between the owner and the County that is binding on the owner and their assignees and successors in interest.
 - e) The covenant must be properly recorded in the public records of the County at the owner's expense.
 - 2) Termination of the agricultural tax exemption for any portion of the property included in the development order application/approval. Proof as to termination must include of a copy of the request to terminate the tax exemption provided to the Property Appraiser.
9. Solid Waste. As part of local development order approval for vertical construction within any individual tracts, the developer must designate facilities for solid waste/recycling storage and disposal in compliance with LDC § 10-261.
10. Tall Structures. The proposed development will be subject to the provisions of the Lee County LDC § 34-1008, "Permit for Tall Structures." Depending on the height and location of the proposed structures, an application may need to be submitted for review and approval to the Federal Aviation Administration (FAA) and the Lee County Port Authority to determine airspace impacts of the proposed permanent buildings, wireless communication facilities, and any temporary construction equipment (cranes) within the site.
11. Buffer. A 20-foot right-of-way buffer along both sides of Three Oaks Parkway must be provided consisting of a two-foot high berm with five canopy and three palm trees, 66 shrubs, and 56 ground cover plants per 100 linear feet. Required canopy trees must be a minimum of 14 feet in height at time of planting. The clustering of trees and shrubs is strongly recommended to create visibility windows into the tracts, and provide a more naturalistic buffer. All trees and shrubs, used to meet the buffer requirement, must be indigenous to Southwest Florida.

12. Utilities. The utility lines for potable water and sanitary sewer must be extended to the site and this development must be connected to those services as part of any development activity on this site.
13. Sidewalks. All internal roads and driveways must contain sidewalks at least on one side of them. An internal pedestrian connections plan must be submitted to the County for review and approval as part infrastructure development order for the site.
14. Hospital. No hospital greater than 65 beds is allowed in this development until and unless Three Oaks Parkway extension, from Alico Road to Daniels Parkway, is completed and operational.
15. Additional Limitations within 660 feet of Bald Eagle's Nests. No fuel pumps, fast food restaurants, or convenience stores are permitted within 660 feet of the Bald Eagle nests as depicted on the MCP.

SECTION C. 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: Proposed Improvements to Daniels Parkway and Frontage Road
- Exhibit E: Bona Fide Agricultural Uses Affidavit

The applicant has indicated that the STRAP numbers for the subject property are:

22-45-25-00-00001.0140
22-45-25-00-00007.0000

SECTION D. 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;
 - b. is consistent with the densities, intensities and general uses set forth in the Lee Plan;
 - c. is compatible with existing or planned uses in the surrounding area;
 - 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 and the bald eagles that have a nest tree on site.
3. The rezoning satisfies the following criteria:
- a. the proposed use or mix of uses is appropriate at the subject location;
 - 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.

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

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

DULY PASSED AND ADOPTED this 6th day of April 2009.

ATTEST:
CHARLIE GREEN, CLERK

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: Marcia Wilson
Deputy Clerk

BY: Ray Judah
Ray Judah, Chair

Approved as to form by:

Michael D. Jacob
Michael D. Jacob
Assistant County Attorney



RECEIVED
MINUTES OFFICE
mw
2009 MAY 12 AM 9:40

Exhibit A
Legal Description
Property located in Lee County,
Florida
Page 1 of 2

SKETCH OF DESCRIPTION

(NOT A SURVEY)

SECTION 22, TOWNSHIP 45 SOUTH, RANGE 25 EAST
LEE COUNTY, FLORIDA

DESCRIPTION:

THAT PART OF THE SOUTHEAST QUARTER (SE 1/4) OF SECTION 22, TOWNSHIP 45 SOUTH, RANGE 25 EAST, LYING WEST OF INTERSTATE 75 AND LYING SOUTHERLY OF DANIELS PARKWAY RIGHT-OF-WAY, LEE COUNTY FLORIDA.

THE EAST ONE HALF (E1/2) OF THE SOUTHEAST QUARTER (SE 1/4) OF THE SOUTHWEST QUARTER SECTION 22, TOWNSHIP 45 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA.

TOGETHER WITH A NON EXCLUSIVE EASEMENT FOR INGRESS AND EGRESS OVER "INDIAN PAINT LANE" AS DESCRIBED IN INSTRUMENT RECORDED AT OFFICIAL RECORDS BOOK 511, PAGE 518, PUBLIC RECORDS OF LEE COUNTY, FLORIDA

BEING FURTHER DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

COMMENCE AT THE CENTER OF SAID SECTION 22 AND RUN S01°01'58"E, ALONG THE WEST LINE OF THE SOUTHEAST ONE-QUARTER OF SAID SECTION 22, A DISTANCE OF 162.60 FEET TO THE NORTHEAST CORNER OF A PARCEL OF LAND RECORDED IN INSTRUMENT NUMBER 2006000424258 PUBLIC RECORDS LEE COUNTY, FLORIDA AND THE SOUTH RIGHT-OF-WAY LINE OF AN INTERSTATE 75 SERVICE ROAD AND THE POINT OF BEGINNING OF THE PARCEL OF LAND HEREIN DESCRIBED; THENCE N89°21'01"E, ALONG THE SAID SOUTH RIGHT-OF-WAY LINE, A DISTANCE OF 20.58 FEET; THENCE N01°01'58"W A DISTANCE OF 60.00 FEET TO THE SOUTHERLY RIGHT-OF-WAY LINE OF DANIELS PARKWAY; THENCE ALONG THE SOUTHERLY AND WESTERLY RIGHT OF WAY LINE OF INTERSTATE 75 THE FOLLOWING EIGHT COURSES

1. S86°27'08"E A DISTANCE OF 349.38 FEET;
2. S51°43'05"E A DISTANCE OF 258.16 FEET;
3. S22°07'24"E A DISTANCE OF 168.65 FEET;
4. S18°01'44"E A DISTANCE OF 617.97 FEET;
5. S13°58'40"E A DISTANCE OF 311.29 FEET;
6. S05°51'00"E A DISTANCE OF 311.31 FEET;
7. S01°46'50"E A DISTANCE OF 898.82 FEET;
8. S00°33'32"E A DISTANCE OF 99.54 FEET

RECEIVED
JUN - 3 2008

PERMIT COUNTER

TO THE SOUTH LINE OF THE SOUTHEAST ONE-QUARTER OF SAID SECTION 22; THENCE S89°32'46"W, ALONG THE SOUTH LINE OF THE SOUTHEAST ONE-QUARTER OF SAID SECTION 22, A DISTANCE OF 916.72 FEET TO THE SOUTH ONE-QUARTER CORNER OF SAID SECTION 22; THENCE S89°33'48"W, ALONG THE SOUTH LINE OF THE SOUTHWEST ONE-QUARTER OF SAID SECTION 22, A DISTANCE OF 615.69 FEET TO THE INTERSECTION OF THE EAST RIGHT-OF-WAY LINE OF INDIAN PAINT LANE AND THE SOUTH RIGHT-OF-WAY LINE OF INDIAN PONY DRIVE; THENCE N01°00'43"W, ALONG THE EAST RIGHT-OF-WAY LINE OF INDIAN PAINT LANE, A DISTANCE OF 1322.83 FEET TO THE NORTH LINE OF THE EAST ONE-HALF OF THE SOUTHEAST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER OF SAID SECTION 22; THENCE N89°34'03"E, ALONG THE NORTH LINE OF THE EAST ONE-HALF OF THE SOUTHEAST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER OF SAID SECTION 22, A DISTANCE OF 615.20 FEET TO THE WEST LINE OF THE SOUTHEAST ONE-QUARTER OF SAID SECTION 22; THENCE N01°01'58"W, ALONG THE WEST LINE OF THE SOUTHWEST ONE-QUARTER OF SAID SECTION 22, A DISTANCE OF 1159.76 FEET TO THE POINT OF BEGINNING.

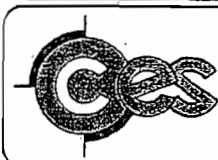
CONTAINING 65.52 ACRES OF LAND MORE OR LESS.

Applicant's Legal Checked
6-5-08

SHEET 1 OF 2

REVISIONS:

PROJECT NO: 07-101
SCALE: NA
DRAWN BY: JNS
CHECKED BY: RLH
DATE DRAWN: 11/14/07
FIELD BOOK/PAGE: NA



community engineering services, inc.
civil engineering surveying project management

EB-0006613 LB-6572

8991 Daniels Center Drive, Suite 103
Fort Myers, Florida 33912

Telephone (239) 936-8777 Fax (239) 936-0064

THIS SKETCH IS NOT VALID WITHOUT THE ORIGINAL SIGNATURE AND RAISED SEAL OF THE FLORIDA LICENSED SURVEYOR AND MAPPER

MARK A. TEXTER
FLORIDA REGISTRATION NO: 6332
DATE SIGNED: 6-2-08

T:\SURVEY\07-101 Daniels-175\07-101 Sketch of Description.dwg

DCI 2007-00076

EXHIBIT A

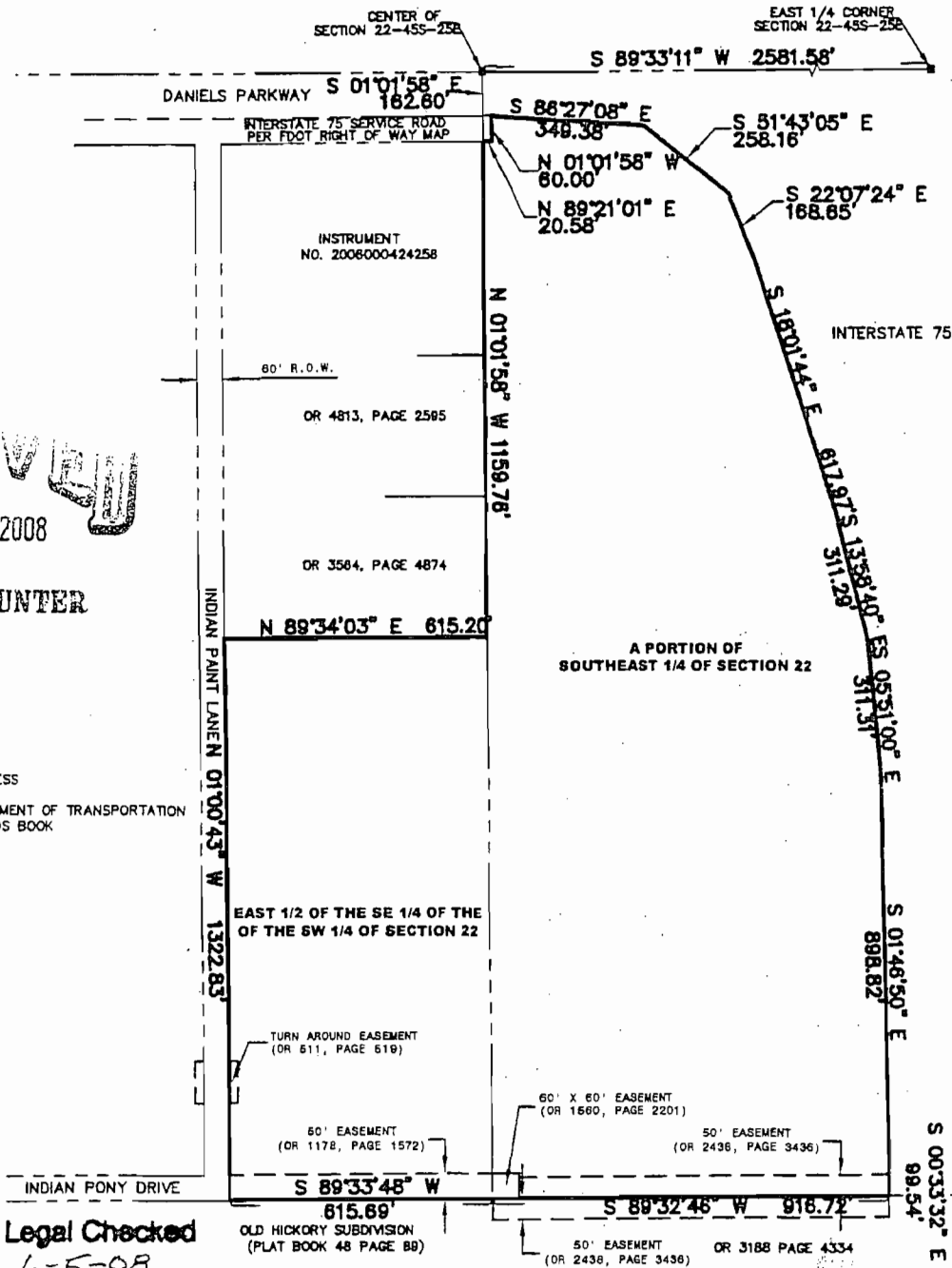
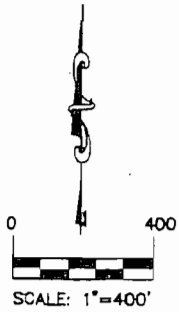
EXHIBIT A

Page 2 of 2

SKETCH OF DESCRIPTION

(NOT A SURVEY)

SECTION 22, TOWNSHIP 45 SOUTH, RANGE 25 EAST
LEE COUNTY, FLORIDA



RECEIVED
JUN - 3 2008

PERMIT COUNTER

LEGEND:

- L.B. = LICENSED BUSINESS
- R.O.W. = RIGHT-OF-WAY
- F.D.D.T. = FLORIDA DEPARTMENT OF TRANSPORTATION
- O.R. = OFFICIAL RECORDS BOOK
- NO. = NUMBER

Applicant's Legal Checked
by CSJ 6-5-08

SHEET 2 OF 2

REVISIONS:

PROJECT NO.: 07-101
SCALE: 1"=400'
DRAWN BY: JNS
CHECKED BY: RLH
DATE DRAWN: 11/14/07
FIELD BOOK/PAGE: NA



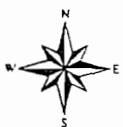
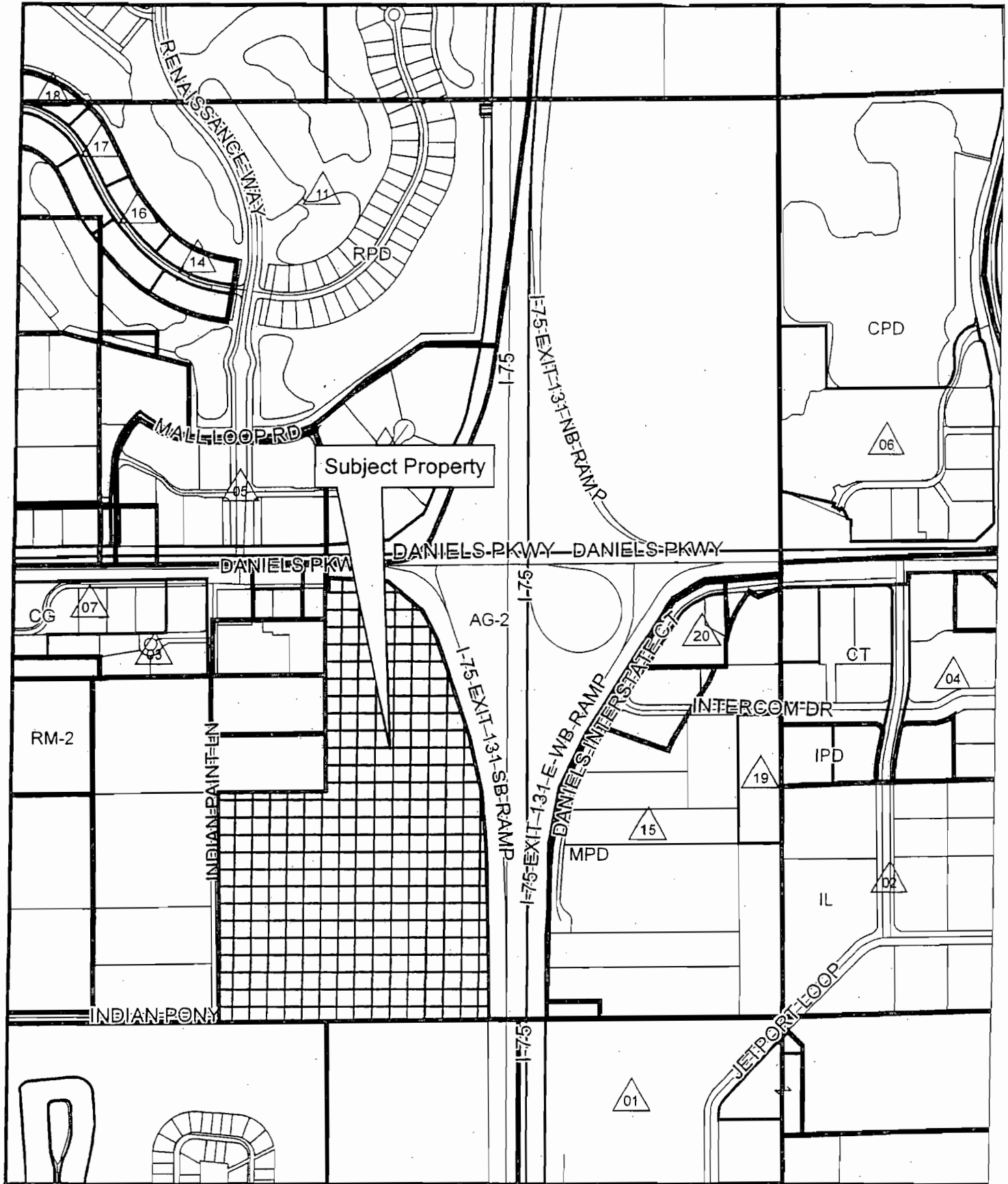
community engineering services, inc.
civil engineering surveying project management

EB-0006613 LB-6572
8991 Daniels Center Drive, Suite 103
Fort Myers, Florida 33912
Telephone (239) 936-8777 Fax (239) 936-0064

THIS SKETCH IS NOT VALID WITHOUT
THE ORIGINAL SIGNATURE AND RAISED
SEAL OF THE FLORIDA LICENSED
SURVEYOR AND MAPPER.

Mark A. Texter
MARK A. TEXTER
FLORIDA REGISTRATION NO. 6392
DATE SIGNED: 6-2-08

DCI 2007-00076



LEGEND:

- PROPERTY BOUNDARY LINE
- OPEN SPACE / WATER MANAGEMENT
- PRESERVATION
- C COMMERCIAL USE AREA
- O/C OFFICE / COMMERCIAL USE AREA

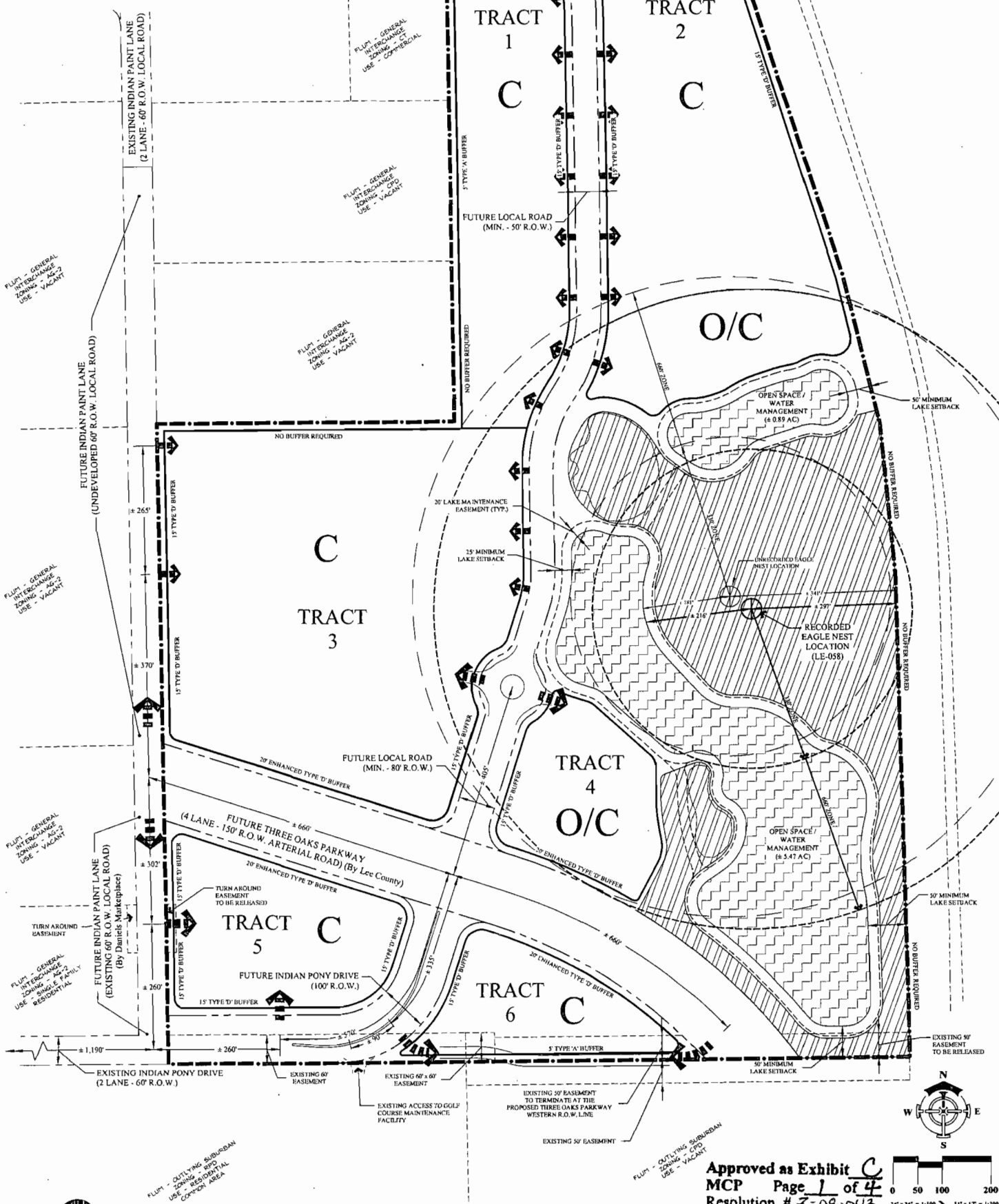
EXISTING DANIELS PARKWAY
(6 LANE - 200' R.O.W. ARTERIAL ROAD)

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MAY 01 2009

COMMUNITY DEVELOPMENT

DCI 2007-00076

INTERSTATE 75
(4 LANE INTERSTATE
HIGHWAY - R.O.W. VARIES)



PROJECT:
Daniels Marketplace
TITLE:
Master Concept Plan

OWNER/CLIENT:
Daniels Parkway JV Investment, LLC.
P.O. Box 61199
Fort Myers, Florida 33906

Approved as Exhibit C
MCP Page 1 of 4
Resolution # Z-08-043

EXHIBIT C
Page 1 of 4

D-7-M.2
1 of 4
Project Number: 1082-01
Cad File: 1082-01-MCPO1.dwg
Date: 10-13-08
Revised: 05-01-09 Per BOCC Action

LEGEND:

- PROPERTY BOUNDARY LINE
- UPLAND PRESERVATION - INDIGENOUS NATIVE TREES (± 3.85 AC. WITH BONUS)
- WETLAND PRESERVATION - INDIGENOUS NATIVE TREES & HABITAT (± 5.63 AC.)
- WETLAND PRESERVATION - INDIGENOUS HABITAT ONLY (± 0.90 AC. MAY BE UTILIZED FOR WATER MANAGEMENT PURPOSES)
- WETLAND AREA ENHANCEMENT (± 0.50 AC.)
- OPEN SPACE / WATER MANAGEMENT

EXISTING DANIELS PARKWAY
(6 LANE - 200' R.O.W. ARTERIAL ROAD)

EXISTING SERVICE ROAD
(2 LANE - 60' R.O.W. LOCAL ROAD)

INTERSTATE 75
(4 LANE INTERSTATE
HIGHWAY - R.O.W. VARIES)

FUTURE LOCAL ROAD
(MIN. - 50' R.O.W.)

EXISTING INDIAN PAINT LANE
(2 LANE - 60' R.O.W. LOCAL ROAD)

FUTURE INDIAN PAINT LANE
(UNDEVELOPED 60' R.O.W. LOCAL ROAD)

FUTURE INDIAN PAINT LANE
(EXISTING 60' R.O.W. LOCAL ROAD)
(By Daniels Marketplace)

FUTURE INDIAN PONY DRIVE
(100' R.O.W.)

EXISTING INDIAN PONY DRIVE
(2 LANE - 60' R.O.W.)

FUTURE THREE OAKS PARKWAY
(4 LANE - 150' R.O.W. ARTERIAL ROAD) (By Lec County)

1 AREA #1
UPLAND PRESERVE ± 0.29 AC.

2 UPLAND PRESERVE AREA #2
10% AREA BONUS @ ± 1.10 AC. ± 1.10 AC.
AREA WITH BONUS ± 0.11 AC.
 ± 1.21 AC.

3 AREA #3
UPLAND PRESERVE ± 0.09 AC.

4 AREA #4
UPLAND PRESERVE ± 0.01 AC.

5 UPLAND PRESERVE AREA #5
25% AREA BONUS @ ± 1.40 AC. ± 1.40 AC.
10% TYPE / LOCATION BONUS @ ± 1.40 AC. ± 0.35 AC.
AREA WITH BONUS ± 0.14 AC.
 ± 1.89 AC.

6 AREA #6
UPLAND PRESERVE ± 0.36 AC.

FUTURE LOCAL ROAD
(MIN. - 80' R.O.W.)

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0 50 100 200
1" = 50' 11" = 17' = 1:200

Approved as Exhibit C
MCP Page 2 of 4
Resolution # 2-08-043

DCI 2007-00076

COMMUNITY DEVELOPMENT



PROJECT:
Daniels Marketplace
TITLE:
Open Space / Indigenous Preservation & Restoration Plan

OWNER/CLIENT:
Daniels Parkway JV Investment, LLC.
P.O. Box 61199
Fort Myers, Florida 33906

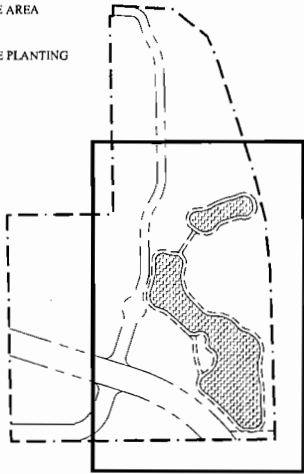
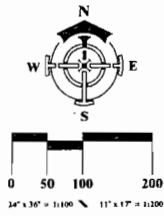
D-7-M.2
2 of 4

Project Number: 1082-01
Cad File: 1082-01-MCP02.dwg
Date: 10-13-08
Revised: 05-01-09 Per HOCC Action

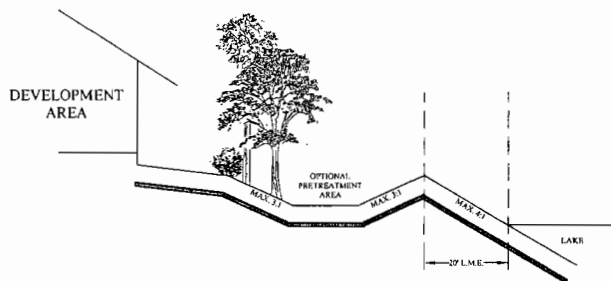
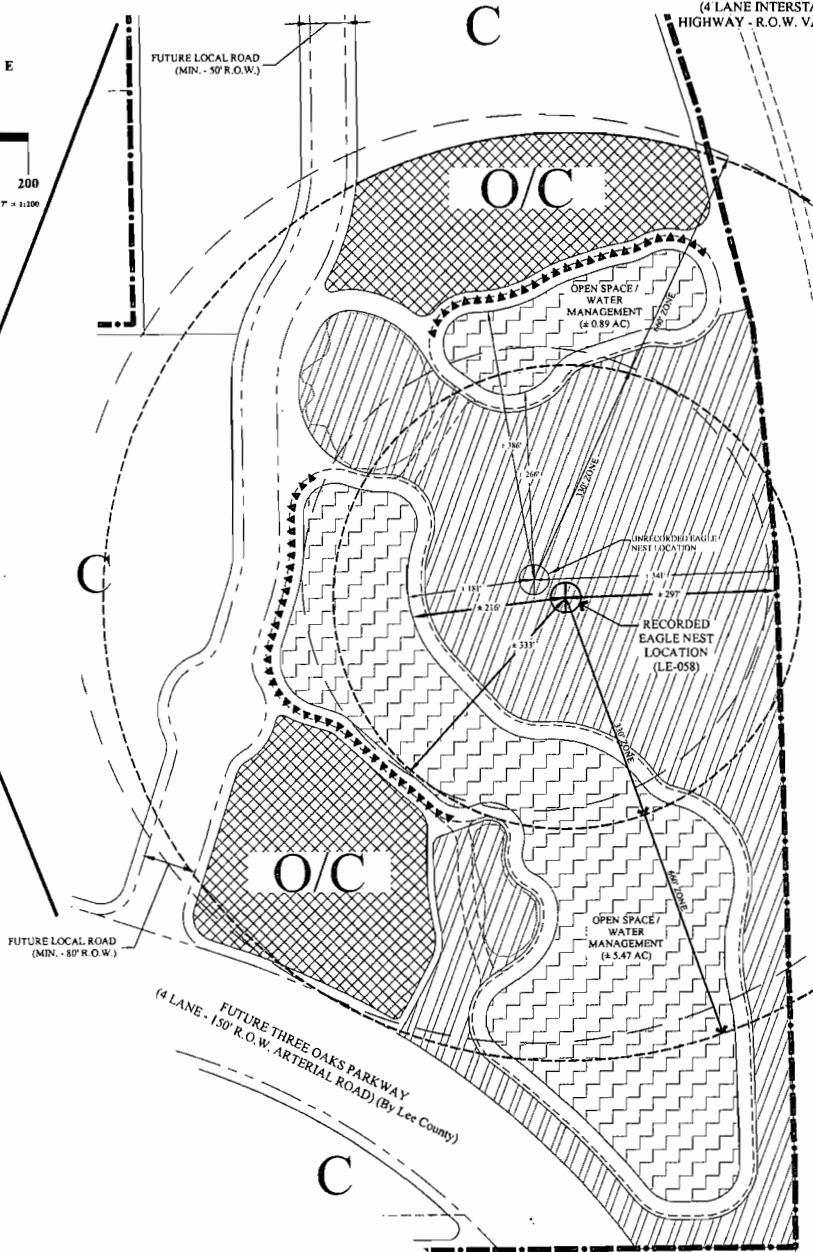
EXHIBIT C
Page 2 of 4

LEGEND:

- PROPERTY BOUNDARY LINE
- REDUCED BUILDING HEIGHT AREA 2 (2-STORIES OR 35 FEET)
- OPEN SPACE / WATER MANAGEMENT
- PRESERVATION
- C** COMMERCIAL USE AREA
- O/C** OFFICE / COMMERCIAL USE AREA
- ▲▲▲▲▲ DEVELOPMENT INTERFACE PLANTING

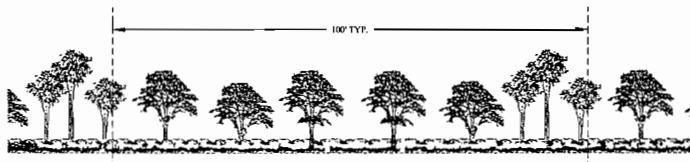


SITE KEY
SCALE: NTS



DEVELOPMENT INTERFACE PLANTING PLAN - ▲▲▲▲▲
SCALE: NTS

SINGLE CONTINUOUS HEDGE ROW INSTALLED AT A MINIMUM 24 INCHES IN HEIGHT, 3 GALLON CONTAINER SIZE, 36 INCHES ON CENTER.
5 NATIVE CANOPY TREES AND 3 SABAL PALMS PER 100 LINEAR FEET.
NATIVE CANOPY TREES INSTALLED AT A MINIMUM 12 - 14 FOOT HEIGHT, 3 - 4 INCH CALIPER, MEASURED AT 4 1/2 FEET ABOVE GROUND.
SABAL PALMS INSTALLED AT A MINIMUM 12 - 16 FOOT CLEAR TRUNK, STAGGERED HEIGHTS.



ELEVATION
SCALE: NTS

DQI2007-00076

Approved as Exhibit **C**
MCP Page **3** of **7**
Resolution # **Z-08-043**

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COMMUNITY DEVELOPMENT



PROJECT:
Daniels Marketplace
TITLE:
Eagle Protection Plan

OWNER/CLIENT:
Daniels Parkway JV Investment, LLC.
P.O. Box 61199
Fort Myers, Florida 33906

D-7-M.2
3 of 4

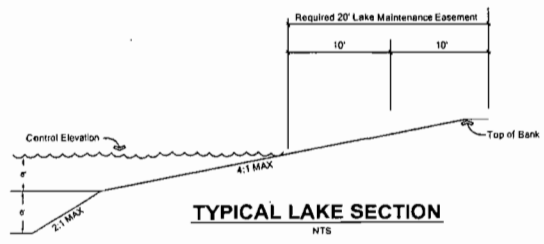
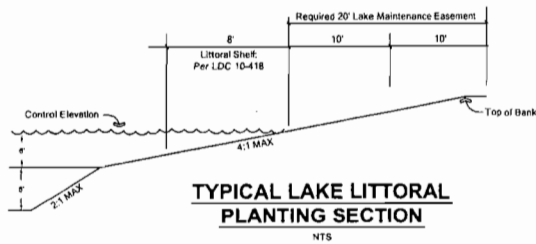
Project Number: 1082-01
Cad File: 1082-01-MCP03.dwg
Date: 05-13-08
Revised: 05-01-09 Per BOCC Action

TABLE D (1)

OPEN SPACE:	
TOTAL PROJECT AREA	±65.52 AC.
<small>(Includes Three Oaks Parkway & Indian Pony Drive)</small>	
PROPOSED COUNTY R.O.W.	±6.42 AC.
NET PROJECT AREA	±59.10 AC.
<small>(Excludes Three Oaks Parkway & Indian Pony Drive)</small>	
COMMERCIAL OPEN SPACE:	
REQUIRED: (30% OF NET AREA)	±17.73 AC.
*PROVIDED:	±17.73 AC.
LAKE: (25% OF TOTAL)	
**PRESERVE:	±8.88 AC.
*OTHER OPEN SPACE:	±4.42 AC.
TOTAL	±17.73 AC.
*EACH INDIVIDUAL LOT WILL PROVIDE A MINIMUM OF 10% OPEN SPACE. PLEASE SEE TABLE D (2).	
** DOES NOT INCLUDE BONUS CREDIT	
ENHANCEMENT:	
ENHANCEMENT AREA:	±0.50 AC.
INDIGENOUS:	
INDIGENOUS PRESERVE:	
REQUIRED: (50% OF REQUIRED OPEN SPACE)	±8.87 AC.
*** PROVIDED:	±9.48 AC.
*** UPLAND PRESERVE	±3.85 AC.
WETLAND PRESERVE	±5.63 AC.
TOTAL	±9.48 AC.
*** ACREAGE INCLUDES BONUS CREDIT	

TABLE D (2)

OPEN SPACE TABLE:		
TRACT	± ACREAGE	± OPENSACE 10%
1	6.5 AC.	0.65 AC.
2	10.4 AC.	1.04 AC.
3	12.5 AC.	1.25 AC.
4	2.7 AC.	0.27 AC.
5	3.6 AC.	0.36 AC.
6	2.5 AC.	0.25 AC.
TOTAL		3.82 AC.



Approved as Exhibit C
MCP Page 4 of 4
Resolution # Z-08-043

DCI 2007-00076

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COMMUNITY DEVELOPMENT

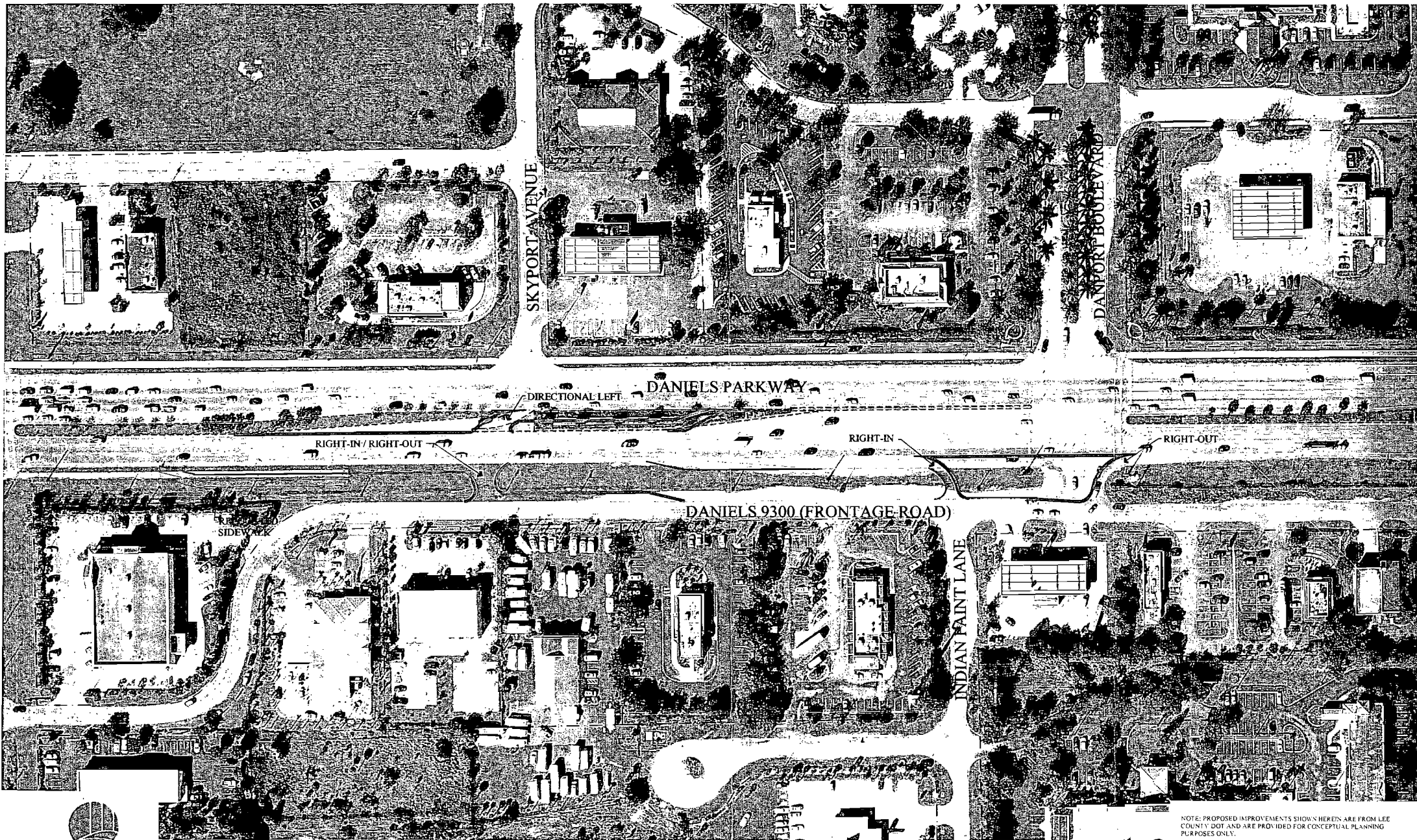
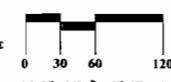


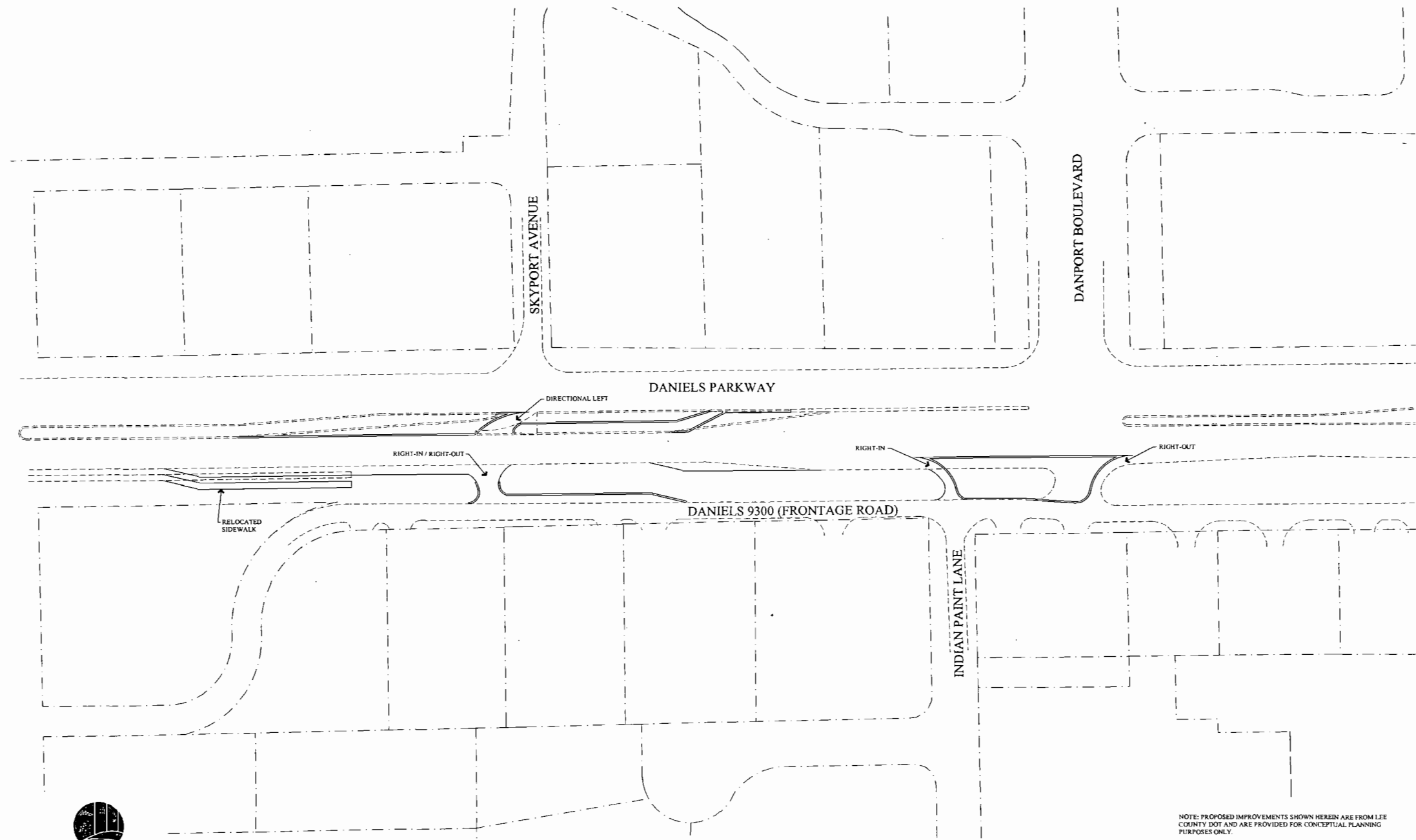
EXHIBIT D
PAGE 1 OF 2



Proposed Improvements
 Project Number: 1082-01
 Civil File: 1082-01-DanielsImp
 Date: 11-11-08

NOTE: PROPOSED IMPROVEMENTS SHOWN HEREIN ARE FROM LEE COUNTY DOT AND ARE PROVIDED FOR CONCEPTUAL PLANNING PURPOSES ONLY.

THIS EXHIBIT IS INTENDED FOR ILLUSTRATIVE PURPOSES ONLY




AFFIDAVIT

STATE OF FLORIDA
COUNTY OF LEE

BEFORE ME, the undersigned notary public, on this 31st day of October, 2007, personally appeared Alexander Eaton as Managing Member of **Daniels Parkway JV Investment, LLC**, who is personally known to me and who, after first being duly sworn, deposes and says that:

1. He is an authorized representative of the corporate entity that owns the Property described and shown in Exhibit "A" attached hereto and incorporated herein by reference.
2. The Property has been and is currently being utilized for a bona fide agricultural purpose.
3. The specific agricultural activity occurring on the Property is cattle grazing. Cattle graze over the ±65.5 acre Property.
4. The specific location and type of ongoing agricultural use is set forth on the sketch of the Property attached hereto as Exhibit "B" and incorporated herein by reference.

FURTHER AFFIANT SAYETH NAUGHT.



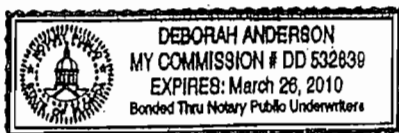
Daniels Parkway JV Investment, LLC

The foregoing instrument was sworn to and subscribed before me this 31st day of October, 2007, by owner, who is personally known to me or produced _____ as identification.

My commission expires:



Notary Public



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NOV 21 2007

PERMIT COUNTER

DCI 2007-00076



Application and Return for Agricultural Classification of Lands

Section 193.451

DR-482

R. 12/00

10259486

The undersigned, hereby request that the lands listed hereon, where appropriate, be classified as Agricultural Lands for property tax purposes, by the property appraiser of the county in which the lands are located.

This form must be signed and both copies returned on or before March 1st.

Applicant's Name and Address:

Daniels Parkway JV Investment, LLC
12731 New Brittany Boulevard
Ft. Myers, FL 33907

Telephone No. (239) 418-0329

Return To:

Lee County Property Appraiser
Attn: AG Department
P.O. Box 1548
Fort Myers, FL 33902

Legal Description

Access Undetermined - Fort Myers, FL 33912

Property ID Number

22-45-25-00-00007.0000

13841 Indian Paint Lane, Fort Myers, FL 33912

22-45-25-00-00001.0140

Lands used primarily for agricultural purposes are as follows:
How Long in this use?

Agricultural income from this property (Please complete for the past four (4) years).

Crop or Use	Year	Gross Income	Expenses	Net Income
Citrus	Acres	Yrs.		
Cropland	Acres	Yrs.		
Grazing Land	Acres	Yrs.		
No. of Livestock	Acres	Yrs.		
Timberland	Acres	Yrs.		
Poultry, Swine or Beehives	Acres	Yrs.		
Other	Acres	Yrs.		

Date Purchased:

Purchase Price:

June 2007
1,600,000.00

Has a Tangible Personal Property Tax Return been filed with the County Property Appraiser for machinery and equipment?

Yes ☐ No ☒ If yes, what name was the Tangible Return filed under?

Is the real property leased to others? Yes ☐ No ☒ If Yes, attach copy of Lease Agreement.

Has the real property been zoned to a nonagricultural use at the request of the owner? Yes ☐ No ☒

As of January 1st of this year, the lands listed above were used primarily for "Bona Fide" Agricultural Purposes. Bona Fide Agricultural Purpose means "Good Faith Commercial Agricultural use of the Land."

I understand that the property appraiser may require supplemental and additional information, other than the application, and I am willing to comply with any reasonable request to furnish such information.

Under penalties of perjury, I declare that I have read the foregoing application and that the facts stated in it are true. If prepared by someone other than the applicant, his/her declaration is based on all information of which he/she has any knowledge.

Signature:

Date:

[Signature] - *[Name]*
July 28, 2008

For Record Purposes Only

This acknowledges receipt of your Application for Agricultural Classification of Lands on _____ for the above described property.

Property Appraiser: _____ County _____

Record of Action of County Property Appraiser

(Check Only the Appropriate Box Below)

- Application approved and all lands are classified Agricultural
 - Application disapproved and Agricultural Classification of Lands denied on all Lands
 - Application ☐ approved in part, and ☐ disapproved in part
- ☐ Agricultural Classification of Lands approved on the following described portion (Use this space only if item 3 above is checked)

☒
☐

Property Appraiser:

Date:

[Signature]
1-28-08

EXHIBIT E

Page 2 of 2