

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

WHEREAS, Jerry Schmoyer, Vice President, Miromar Development Corporation, Managing Member, Miromar Lakes, LLC, filed an application on behalf of the property owner, Miromar Lakes CDD, for Notice of Proposed Change (NOPC) for the Miromar Lakes DRI and amend the existing Mixed Use Planned Development (MPD) zoning (Resolution Number Z-02-072), in reference to Miromar Lakes; and,

WHEREAS, a public hearing was advertised and held on June 24, 2010, with the record held open until July 9, 2010, for written submissions, before the Lee County Zoning Hearing Examiner, who gave full consideration to the evidence in the record for Case Nos. DRI2009-00011 and DCI2010-00002; and

WHEREAS, a second public hearing was advertised and held on September 20, 2010, 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:

1. DRI2009-00011: Application for Notice of Proposed Change (NOPC) for Miromar Lakes DRI (DRI# 11-9798-14) to: change the build out and termination dates, change from annual to biennial reporting, eliminate Conditions II.A.2. and 3. related to re-analysis of affordable housing needs, and revision of conditions that have been complied with.
2. DCI2010-00002: Amend existing MPD zoning (Resolution Number Z-02-072), to eliminate existing Deviation 29 related to LDC §34-381(a)(2)c. (A Master Concept Plan (MCP) approved other than as an Option 1 or Option 2 type MCP after March 8, 2001, is vacated if development order for a substantial portion of the project is not approved within five years of the date of the approval of the planned development.)

The property is located in the University Community, Conservation Lands Wetland, Conservation Lands Upland and Wetlands Future Land Use Categories and is legally described in attached Exhibit A.

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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).

A. CONDITIONS:

(These include a recodification of the Conditions and Deviations in Lee County Zoning Resolutions Z-99-029, Z-02-072 and Z-06-064)

1. a. Development must be consistent with the:
 - 1) MCP, entitled "Map H, Miromar Lakes, Miromar Lakes, Florida," dated December 23, 2009 and date-stamped "Received DEC 29 2009 Community Development" (attached as EXHIBIT C), except as modified by the conditions below. Development must comply with the LDC at time of local development order approval, except as may be granted by deviation as part of this planned development approval. If changes to the MCP are subsequently pursued, appropriate approvals will be necessary.
 - 2) The Fifth Amendment to the Miromar Lakes DRI Development Order, as may be amended.
- b. Development of the subject property is limited to the following parameters:

USE	PARAMETERS OF DEVELOPMENT	TOTAL UNITS	ACRES
Single Family Residential	700 du	2,600	1042
Multi Family Residential	1,900 du		
Retail Commercial	250,000 sq ft (GFA)		114
Office	340,000 sq ft (GFA)		
Research & Development	40,000 sq ft (GFA)		
Hotel	450 rooms		
Lakes/Recreation/Buffers	N/A		312
Conservation Areas	N/A		338

- Notes:**
- 1) The beach club, tennis club and golf clubhouse uses may each include up to 10,000 square feet of retail uses, which are ancillary to the residential uses and do not count against the project's approved total commercial square footage.
 - 2) Commercial uses within an Assisted Living Facility are limited to a total floor area not to exceed 10 percent of the total residential area contained therein, exclusive of vehicular parking and service areas.
- c. The developer must obtain Final Plan Approval (FPA) when parcel development includes vertical (structural) development or when further deviations are requested. If FPA is required, then the developer must file an application prior to, or simultaneous with, a local development order that proposes vertical development. The purpose of this process is to ensure that vertical development is generally in compliance with the approved zoning resolution, MCP and DRI Development Order, while at the same time allowing flexibility in response to changing development practices.
- d. The Application for Administrative Action for Final Plan Approval must include the following additional information:
- 1) Type and amount of uses, i.e. the number of residential dwelling units, total square feet of commercial uses, or other measures of intensity.
 - 2) an ongoing tabulation of the total number of residential dwelling units, commercial square footage, and other measures of intensity that have received local development order approval;
 - 3) location and dimensions of access points; internal roadways; buildings/structures and parking spaces/areas;
 - 4) setbacks and building heights;
 - 5) certified sketch of and description of perimeter boundary of development tract;
 - 6) adjacent zoning and land uses;
 - 7) buffers and landscape strips required or proposed;
 - 8) open space, including an ongoing tabulation of required open space; and
 - 9) detail drawings showing the location and application of deviations

2. The Schedule of Uses and Property Development Regulations are set forth in Exhibit E.
3. Hurricane Mitigation
 - a. The developer must initiate the establishment of a property owner's or resident's association(s). The organization must provide an educational program on an annual basis, in conjunction with the staff of Emergency Management, which will provide literature, brochures and technical assistance for Hurricane Awareness/Preparedness Seminars, describing the risks of natural hazards. The intent of this recommendation is to provide a mechanism to educate residents concerning the actions they should take to mitigate the dangers inherent in these hazards.
 - b. The developer must formulate an emergency hurricane notification and evacuation plan for the development, which will be SUBJECT TO review and approval by the Lee County Office of Emergency Management prior to issuance of a local development order.
 - c. The developer's proportionate share payment of \$10.9 million for the development's impacts on significantly and adversely impacted roadway network, including Alico Road, will adequately mitigate the development's hurricane evacuation impacts.
4. If access to this development or into portions of this development is through a security gate or similar device, which is not manned twenty-four hours a day, the gate must be equipped with an override strip installed in a glass-covered box to be used by drivers of emergency vehicles to gain entry consistent with LDC §34-1798.
5. If required by federal, state or local regulations:
 - a. The purchaser/end user of parcels that will be used to store, manufacture, or use hazardous materials, must contact the Lee County Office of Emergency Management Hazardous Material Representative, to discuss the proposed development in relation to the potential type, use, and storage of hazardous materials that will be located on the premises.
 - b. The purchaser/end user must prepare or have available material safety data sheets (MSDS) and submit either copies of MSDS or a list of chemicals to the appropriate local fire district and to the Lee County Division of Public Safety.
 - c. The applicant must establish an emergency notification system to be used in the event of a hazardous material release.

6. Agricultural Uses

Agriculture is not approved as a permanent use in the Schedule of Uses for this property. All agricultural uses must cease upon approval of the requested rezoning, EXCEPT as follows:

- a. Existing bona fide agricultural uses as shown on attached Exhibit F may continue and Plant Nurseries may be instituted 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. The property owner must terminate the agricultural tax exemption for any portion of the property that receives a local development order. The agricultural use must cease by December 31st of the calendar year in which the local development order is issued. The exemption termination must be filed with the Property Appraiser's Office by December 31st of the calendar year in which the local development order is issued. A copy of the exemption termination must be provided to the Office of the County Attorney.
7. Future land uses within Miromar Lakes must be consistent with the recommendations of the of the Federal Aviation Regulations Part 150 Noise Study for the Southwest Florida International Airport as adopted by the Board of County Commissioners on February 1, 1995. Upon the adoption by the Board of County Commissioners of regulations based on the 1995 Study, the developer will be SUBJECT TO the adopted regulations, and not the adopted Study. The Study specifically provides that no residential living units, churches, libraries, schools, day care centers, hospitals, correctional institutions or nursing homes may be permitted within the area proposed for inclusion in Airport Noise Zone 3.
8. Commercial buildings, especially hotel and motel facilities located in the area proposed for inclusion in Airport Noise Zone 3, must consider the use of sound insulating materials.
9. As a condition of approval of a subdivision plat or issuance of a building permit for any property located in the area proposed for inclusion in Airport Noise Zone 3, the applicant/owner must sign and record a noise and aviation easement to the County. The easement must authorize any and all aircraft noise on and overflights of the property that might occur during the operation of the Southwest Florida International Airport at present and future operational levels.
10. The development must comply with LDC §34-1008 for any tall structures including permanent buildings, antenna supporting structures, wireless communications facilities and temporary construction cranes.

11. The development of helistop(s) within the Miromar Lakes MPD is SUBJECT TO review and approval by the Florida Department of Transportation (FDOT) and the Lee County Port Authority.
12. Prior to local development order approval for property that includes Big Cypress Fox Squirrel habitat, the developer must amend the draft "Big Cypress Fox Squirrel Management Program" counter-stamped July 6, 1998, as amended on January 2002, (Exhibit G) to meet the requirements of the Department of Community Affairs and the Southwest Regional Planning Council. The developer must provide evidence of the management plan approval and the finalized management plan must be adopted as part of the local development order. Prior to issuance of a Vegetation Removal Permit, the developer must resurvey the property south of Stewart Cypress Slough specifically for Big Cypress fox squirrel nests. The developer must barricade and maintain a 75-foot radius undisturbed buffer around all active nests until after all young fox squirrels leave the nest or the squirrels and nest are relocated. The developer must first coordinate with and must receive approval for any relocation activities from the Florida Fish and Wildlife Conservation Commission.
13. Prior to issuance of a local development order, the developer must:
 - a. Resurvey the gopher tortoise habitat west of the preserve depicted within the area south of Stewart Cypress Slough and east of Ben Hill Griffin Parkway specifically for gopher tortoises and burrows; and
 - b. Delineate on the development order plans between Ben Hill Griffin Parkway and the wetland and hammock areas of the large wetland/upland preserve shown on the MCP, a permanent gopher tortoise preserve no less than 3 acres in size that includes appropriate gopher tortoise habitat; and
 - c. Submit a final gopher tortoise management plan for the Division of Environmental Sciences (DES) Staff review and approval.
14. The developer must provide educational materials describing the eastern indigo snake and regulations related to its protection/listed status to filed survey and construction crews prior to commencement of construction activities. A qualified biologist must be present during the construction clearing phases of the project for the first week, with at least two spot checks per week thereafter, to survey ahead of clearing activities and to verify that appropriate steps are being followed to protect these snakes. If an indigo snake is located, the clearing operations must cease until the developer secures the snake, relocates it to an appropriate preserve, and notifies the DES Staff that an indigo snake was found and relocated.
15. At the time of local development order submittal, the "Miromar Lakes Snail Kite Management Plan" dated January 11, 1999 (Exhibit H) must be revised and provided for DES' review and approval. The plan must include a narrative of how the cattails will be managed to allow more open waters within the borrow lakes to provide snail kite foraging areas. Commitments must be made to conduct the recommended management activities.

16. All residents must be provided with an informational pamphlet regarding the protection of alligators and how to live with alligators. Prior to local development order approval, the developer must submit a copy of this pamphlet to the Division of Environmental Sciences staff for review and approval.

Two signs must be placed within the golf course south of Stewart Cypress Slough, one near the clubhouse and one half way through the course, that informs golfers of the presence of alligators and that it is illegal to feed or harass alligators. Prior to local development order approval, the development order plans must provide detail of the signs including wording and size, and the location of the signs must be delineated on the landscape plans.

17. Prior to issuance of a local development order for property containing least terns or its habitat, suitable habitat for least terns must be re-surveyed during the least tern nesting season (April - August). If least tern nesting is documented on the property, the developer must submit a management plan per LDC §10-474.
18. Prior to local development order approval, the plans must include open space calculations and delineate how the required open space will be provided in compliance with the "Miromar Lakes Open Space and Indigenous Preservation" requirements attached as Exhibit I.
19. The developer must make reasonable efforts to preserve existing native vegetation within common open space areas including the golf course and lakes in the final design. This requirement will not be interpreted in a manner to impair good golf course design, or to reduce the overall number of residential dwelling units approved for the project. The developer must hold an onsite preconstruction meeting with DES Staff, prior to the issuance of a vegetation removal permit for any phase of development, to confirm preservation and barricading requirements prior to the initiation of site clearing.
20. The paving, grading and landscape plans must delineate for preservation the area dominated by cypress canopy and identified as FLUCCS code 621E1 on the Environmental Resource Permit (ERP) FLUCCS map and generally identified on attached as Exhibit J, prior to local development order approval.
21. Prior to approval of local development order, the plans must indicate the following:
 - a. The roadway abutting the conservation area ("CO") south and southeast of the Florida Gulf Coast University (FGCU) campus must provide a wildlife underpass or bridge which will accommodate both Florida black bear and Florida panther. The wildlife underpass must, at a minimum, provide an area equivalent to two 4-foot by 10-foot culverts placed side by side with a maximum 45-foot length (crossing under the road width); and
 - b. A single row native shrub hedge along both sides of the road (planted at a minimum 24-inch height; maintained at a minimum 6-foot height); and

- c. Roadway signage including "Wildlife Crossing" signs and a maximum 20 mph speed limit signs along the portion of the road abutting the conservation area for all traffic. The design of the signs and location must be shown on the development order plans.
- 22. The use of the borrow pit lakes at the northwest boundary of the property for water quality and wet retention associated with mining operations must cease prior to development order approval for the hydrologic connection indicated on the MCP as "FUTURE POTENTIAL LAKE CONNECTION" in substantial compliance with the MCP.
- 23. Prior to issuance of a Certificate of Compliance for any local development order that requires a dumpster, the dumpsters must be wildlife-proofed to discourage bear foraging. The developer must provide information to employees and residents regarding Florida black bears including details of proper disposal of garbage to prevent bear foraging in dumpsters and garbage cans. Prior to local development order approval, a copy of the Florida black bear brochure must be submitted to the DES Staff for review and approval.
- 24. Outdoor seating in conjunction with consumption on premises is prohibited within 500 feet of a religious facility, school (noncommercial), day care center (child), park or dwelling unit under separate ownership except as approved by Deviation 3 or as an amendment to the MPD.
- 25. Additional conditions pertaining to vehicular or pedestrian traffic impacts may be required to obtain a local development order.
- 26. Approval of this rezoning does not give the developer an undeniable right to receive 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 I (b).
- 27. DELETED AT PUBLIC HEARING.
- 28. DELETED AT PUBLIC HEARING.
- 29. Future access to County Road 951 will be SUBJECT TO the recommendations set forth in the PD&E for that roadway.
- 30. The developer must use every reasonable effort to address the housing needs of students, faculty, administration, other University personnel and employees of the university's associated support development. Student housing and market rate rental housing will be provided on three parcels indicated by large, asterisk-shaped symbols on the MCP. A portion of the C-1 parcel (12.5 acres), located east of Ben Hill Griffin Parkway is planned for a 500-bed student housing project. A portion of the southernmost R parcel (13 acres), located west of Ben Hill Griffin Parkway, should be developed with student housing and/or market rate rental housing, and such housing must be within the affordable range of the student population. The

residential portions of the University Village, the C-1 parcel located west of Ben Hill Griffin Parkway at the entrance to the University, should contain a mixture of market rate rental housing and "for sale" residential demonstrated to be affordable to University faculty and personnel, and to the employees of the University's associated support development.

31. The Golf Maintenance Facility use proposed in conjunction with the additional 18-hole golf course in the 534-acre addition must be landscaped and buffered from all proximate roadways in accordance with the three-page diagram package counter stamped April 7, 2003, attached as Exhibit K.

32. Each single-family lakefront lot is allowed to have one dock. Single-family lakefront lot docks may be converted to multiple-family slips for wet boat storage on a one for one (1:1) basis. An additional 250 (maximum) ancillary slips for wet boat storage are allowed on the lake. A maximum 400 slips for dry boat storage are allowed in conjunction with the Boat Club. All structures utilized for dry boat storage must comply with the design standards for commercial buildings provided in LDC §10- 20. In the alternative, and SUBJECT TO review by the director in conjunction with final plan approval, the developer may construct the following buffers along any portion of the structure that does not comply with the commercial design standards:

a. Buffer on the west property line:

Minimum width 50 feet

Berm and Palms Palms must be planted in double staggered rows and spaced 10 feet on center. The combination of these required palms and any berm along the west property line must be between 26 feet and 30 feet at installation. Trees of no less than four inches in diameter at 12 inches above the ground and no less than 16 feet in height at the time of planting may substitute for some of the palms (1 tree = 2 palms).

Hedges Hedges must be planted in double staggered rows. Shrubs must be a minimum 10-gallon container size and be spaced 36 inches on center. They must be at least 48 inches in height at installation and maintained in perpetuity at a height of no less than 60 inches.

b. Buffer on the south property line:

Minimum width 25 feet

Berms and Palms Palms must be planted in double staggered rows and spaced 10 feet on center. The combination of these required palms and any berm along the west property

line must be between 26 feet and 30 feet at installation. Trees of no less than four inches in diameter at 12 inches above the ground and no less than 16 feet in height at the time of planting may substitute for some of the palms (1 tree = 2 palms).

Hedges

Hedges must be planted in double staggered rows. Shrubs must be a minimum 10-gallon container size and be spaced 36 inches on center. They must be at least 48 inches in height at installation and maintained in perpetuity at a height of no less than 60 inches.

- c. The developer must provide a Type "D" buffer on the east property line.
- d. No buffer is required along the water's edge (the north property line).

At least 75 percent of the trees and 50 percent of the shrubs used to fulfill these requirements must be native Florida species.

- 33. Any hotel located in the area identified as C-2 must be a luxury hotel. Guest, tenant and owner stays may not exceed 30 days in a calendar year. Hotel rooms and suites will not include kitchen facilities. All occupancies must be in conformity with the Noise Zone regulations set forth in the Lee Plan and LDC.
- 34. Time-share units may be developed within the C-2 parcel if the legal description of the Airport Noise Zone 3 is amended so as to exclude the area occupied by the proposed luxury hotel, SUBJECT TO the following conditions:
 - a. The units must be in conjunction with a bona fide hotel use located in the southernmost portion of the C-2 parcel; and
 - b. The units must not exceed 25 percent of the total number of rooms being constructed in the hotel use.
- 35. 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).

SECTION C. DEVIATIONS:

- 1. Deviation (1) seeks relief from the LDC §34-1954(d)(1) requirement to restrict model homes to a time limitation of 3 years; to allow model homes within the Miromar Lakes development to be permitted until the build out of the project. This deviation is APPROVED for the entire project.
- 2. Deviation (2) seeks relief from the LDC §34-1954(d)(2) requirement to restrict model units within a townhouse or multiple family building not to extend beyond the initial

sale period for that phase; to allow the model units until project build out. This deviation is APPROVED for the entire project.

3. Deviation (3) seeks relief from the LDC §34-1263(e) requirement to prohibit a package store or other establishment primarily engaged in the sale of alcoholic beverages for consumption on or off the premises from within 500 feet of any school (noncommercial) or dwelling unit; to allow a bar or cocktail lounge, package store and dwelling units on Tract C-1, which was approved by Resolution Z-99-029, but limited to Tract C-1 located on the west side of Ben Hill Griffin Parkway.

This deviation is APPROVED, SUBJECT TO the condition that any establishment primarily engaged in the sale of alcoholic beverages for consumption on or off the premises must be located a minimum of 500 feet from any residential unit located outside of Tract C-1.

4. Deviation (4) was WITHDRAWN.

5. Deviation (5) seeks relief from the LDC §10-291(3)(b) (Access to Street) requirement to provide, where practical, two (2) or more means of ingress and egress to residential developments of at least 5 acres in size; to allow only one means of ingress and egress for those development parcels that are surrounded by golf course, water body, or conservation areas or any combination of thereof.

This deviation is APPROVED, SUBJECT TO the condition that the developer must install a full-sized cul-de-sac at the dead end, and the Emergency Service District approves, in writing, the ingress and egress of each development parcel in conjunction with the application for final plan approval.

6. Deviation (6) seeks relief from the LDC §10-296(b), Table 3, requirement to provide a right-of-way width of 35 feet for two-way closed drainage, rear lot drainage or inverted crown; to allow a right-of-way width to coincide with the back of the curb for local private roads. This deviation is APPROVED for the entire project, SUBJECT TO the condition that required drainage and utility easements are located outside of the right-of-way and the developer makes adequate provisions for road drainage and utilities.

7. Deviation (7) seeks relief from the LDC §10-296(d), Table 4(7)c), requirement to provide that wearing surfaces for local and access roads for Class A development must be 1.5-inch asphaltic concrete of Florida Department of Transportation Type S-1; to allow for cement concrete or decorative pavers within private local roadways within Miromar Lakes. This deviation is APPROVED for local private roads within the entire project, SUBJECT TO the condition that the structural number of the proposed alternate cross-section will equal or exceed the structural number of a "standard" Class A local road flexible pavement cross-section.

8. Deviation (8) was WITHDRAWN.

9. Deviation (9) seeks relief from the LDC §10-296(m)(4)(a) requirement that allows privately maintained access ways that meet criteria as outlined in item 4(a) to be exempt from minimum right-of-way widths as specified in LDC §10-296(b); to permit access ways providing access up to 100 residential units to be exempt from the minimum roadway widths as specified in LDC §10-296(b). This deviation is APPROVED for the entire project, SUBJECT TO the following conditions:
- a. the design and posted speed will be 20 mph or less;
 - b. this deviation will apply to private access ways only; and
 - c. where determined to be practical by the design engineer, the developer will provide traffic calming devices identified in the ITE Residential Street Design and Traffic Control book.
10. Deviation (10) seeks relief from the LDC §10-329(e)(l)(a)(3) requirement there be a minimum 50-foot setback from a water retention or detention excavation to private property lines under separate ownership; to allow a zero-foot setback limited to the property line contiguous to Miromar Lakes and Alico, Inc. in the north mining lake. This deviation is APPROVED.
11. Deviation (11) seeks relief from the LDC §10-329(e)(l)a.2. requirement to provide a minimum 50-foot setback from a water retention or detention excavation to existing or proposed rights-of-way or easements for an arterial or collector streets; to permit a 25-foot setback, SUBJECT TO the developer providing elements for the protection of wayward vehicles in accordance with LDC §10-329(e)(l)a.2., as well as a Type "F" curb at the locations. This deviation is APPROVED for the entire project.
12. Deviation 12 was WITHDRAWN.
13. Deviation (13) seeks relief from the LDC §10-355 requirement to provide a 10-foot public utility easement on both sides of a roadway; to allow the public utility easement on one side only provided the applicable utility companies agree to the elimination of the easement in writing. This deviation is APPROVED for the entire project.
14. Deviation (14) seeks relief from the LDC §10-415(a) requirement that open space be calculated as a percentage of development area; to require open space based on the area of development excluding that portion of the development consisting of the existing mining lakes, as approved by Resolution Z-99-029 with the following condition:

The entire acreage of the existing mining lakes located on the east side of Ben Hill Griffin Parkway is exempt from open space requirements. These lakes may not be used to satisfy open space requirements on the site.

This deviation is APPROVED for the entire project.

15. Deviation (15) seeks relief from the LDC §§10-41 6(d)(I) and 10-421(a)(5) requirements that no portion of a buffer area consisting of trees and shrubs be located in an easement; to allow planted buffers in easements, as approved by Resolution 2-99-029, provided that, if any required buffer or landscape strip plantings installed within easements must be removed, then the property owner's association or Uniform Community Development District (UCDD) must replace the plantings with like size and species at no expense to Lee County. The requirement must be clearly stated in each property owner's documents. This deviation is APPROVED, IN PART, SUBJECT TO it being limited to those portions of the project that received final plan approval and local development orders prior to November 13, 2001. This deviation is DENIED for the 534-acre addition to the property.
16. Deviation (16) seeks relief from the LDC §10-415(b) requirement that 50 percent of the required open space to incorporate existing indigenous vegetation; to allow all of the required indigenous vegetation to be provided in the conservation areas shown on the MCP and to permit all of the restored vegetation within the wetland slough to count toward the required indigenous vegetation requirement. This deviation was approved by Resolution Z-99-029 with the condition that existing indigenous preservation requirements be met within the Conservation Area shown on the MCP last revised August 16, 1999. This deviation is APPROVED for the 534-acre addition to the project, SUBJECT TO the following condition:

In conjunction with an application for local development order approval, the developer must submit a detailed invasive exotic removal and replanting plan for the Division of Environmental Sciences' Staff review and approval. The developer must delineate on the local development order plans a minimum of 111 acres of indigenous preservation and 47.7 acres of restoration consistent with the MCP.
17. Deviation (17) seeks relief from the LDC §§10-416(d)(I) and 10-421(a)(5) requirements to prohibit the planting of trees and shrubs within any right-of-way; to allow these plantings within the right-of-way. This deviation is APPROVED, IN PART, SUBJECT TO it being limited to only for those portions of the Miromar Lakes project that received final plan approval and local development orders prior to November 13, 2001, but is limited to private local roads, provided the plantings are in compliance with the LDC §34-3131 (visibility), and are properly maintained by the developer or property owner's association. This deviation is DENIED for the 534-acre addition to the project.
18. Deviation (18) seeks relief from the LDC §10-418(a)(2)b. requirement for a minimum number of native wetland herbaceous plants per linear foot of lake shoreline; to allow required plants in compliance with the Lake Management Plan and Lake Shoreline Planting Plan attached as Exhibit L, approved by Zoning Resolution No. Z-99-029, provided that herbaceous plant requirements per LDC §10-418 are calculated on the entire length of the lake shoreline, including

bulkhead portions. The developer may substitute wetland trees and shrubs for up to 50 percent of the total number of herbaceous plants required, at a ratio of 1 tree or 2 shrubs for 10 herbaceous plants. This deviation is APPROVED.

19. Deviation (19) was WITHDRAWN.
20. Deviation (20) seeks relief from the LDC § 34-2194(c)(1)(a) requirement that the Board of County Commissioners may grant less stringent setbacks from bodies of water when the development surrounding the entire body of water is under unified control; so as to allow the development of buildings and accessory structures within zero feet of the mining lake adjacent to Tract C-2 when the development surrounding the entire body of water will not be under the unified control of Miromar. This deviation is APPROVED, SUBJECT TO the condition that it is limited to the 1,500 linear feet of lake frontage adjacent to this tract.
21. Deviation (21) was WITHDRAWN.
22. Deviation (22) seeks relief from the LDC §10-285 requirement to provide a minimum of 125-foot separation between driveway access points to a local road; to allow two connections for each short cul-de-sac (eyebrows) at a spacing less than 125 feet. This deviation is APPROVED for the entire project, SUBJECT TO the following conditions:
 - a. each "eyebrow" must be provided with signage indicating one-way traffic in a counterclockwise direction; and
 - b. the minimum separation will be 60 feet; and
 - c. it applies only to private local roads; and
 - d. it is approved only for those typical situations including, but to limited to, those designated in the graphic submitted for this deviation.
23. Deviation (23) was WITHDRAWN.
24. Deviation (24) seeks relief from the LDC §10-416(d)(3) requirement that commercial developments adjoining existing residential development provide a buffer including a fence or wall between the uses; to allow commercial developments to provide alternative means of separation that may include no buffers, fencing or walls. This deviation is APPROVED, SUBJECT TO the following conditions:
 - a. The southern boundary of Tract C-2 and the internal areas of Tract C-I (University Village) intended to contain a mixture of residential and commercial uses in a "town center" design.
 - b. Between the Miromar Lakes Sales Center and the abutting Miromar Lakes residential tracts.

- c. Between the Miromar Lakes C1 west of Ben Hill Griffin Parkway and the abutting Miromar Lakes residential tracts.
 - d. Between the Miromar Lakes C2 tract and the abutting Miromar Lakes residential tract.
- 24A. Deviation (24A) seeks relief from the LDC §10-416(d)(3) requirement that multiple-family and commercial developments adjoining a right-of-way must provide a Type D buffer; to require no buffer for a small commercial parcel and a small residential parcel abutting FGCU's northerly access road. This deviation is APPROVED.
- 24B. Deviation (24B) seeks relief from the LDC §10-416(d)(3) requirement that multiple-family uses adjoining existing single family uses must provide a buffer including a fence or wall between the uses; to allow alternative means of separating internal residential uses including no buffers, fencing or walls. This deviation is APPROVED.
25. Deviation (25) was WITHDRAWN.
26. Deviation (26) was WITHDRAWN.
27. Deviation (27) was WITHDRAWN.
28. Deviation (28) seeks relief from the LDC §34-935(f)(3)(e) requirement that limits building heights in the University Community future land use category to 45 feet above minimum flood elevation with no more than 3 habitable stories. This Deviation was approved for the following three areas depicted on the 1999 MCP; specifically:
- 1) The "R" residential area in the northerly portion of the project lying westerly of Ben Hill Griffin Parkway (BHGP),
 - 2) The "R" residential areas associated with the "Beach Club", and
 - 3) The "C2" area in the northerly portion of the project lying easterly of BHGP and south of Alico Road.

This deviation is APPROVED for the entire project, SUBJECT TO the following conditions:

- a. The MCP must be revised to eliminate the deviation from the first "R" area described above because it is currently developed with single family homes; and
- b. The deviation is revised and extended to allow heights not to exceed 65 feet, as set forth in the revised property development regulations-in the remaining "R" areas lying to the east of BHGP and north of the FGCU, and the areas specifically oriented toward student and moderate income

housing, as indicated with large open asterisk shaped symbols on the MCP, to allow the applicant additional flexibility to accomplish Condition 30; and

- c. Heights exceeding 45 feet may be allowed in areas set back a minimum of 800 feet from FGCU and 800 feet from DR/GR areas, which may only be relaxed in conjunction with the following:

At the time of final plan approval (FPA), the mandatory 800-foot setback for buildings and structures exceeding 45 feet in height may be relaxed if the proposed final development plan demonstrates that it satisfies at least one of the following conditions:

- 1) The DR/GR designated area adjacent to the area for which final plan approval is requested is an existing lake, the width of which measured at right angles from the DR/GR boundary-is a minimum of 800 feet wide along the entire boundary with the DR/GR.
- 2) The development area proposed for final plan approval must provide a minimum 100-foot-wide linear park, measured perpendicularly, along the DR/GR boundary with the proposed development area. To satisfy this requirement, the linear park must:
 - (a) include a six-foot-wide boardwalk, sidewalk or similarly ADA accessible pedestrian way to provide recreational opportunities;
 - (b) include benches, native species and ecosystem interpretation facilities; and
- 3) They must be planted in random fashion with the following native vegetation for every 5,000 square feet of upland area:
 - (a) a minimum of 10 trees (minimum 10-foot canopy trees with four-inch caliper; palms may be substituted for 50 percent of the trees on a three palms per one tree (3:1) ratio;
 - (b) a minimum of Thirty 48 inch shrubs; and
 - (c) a minimum of Seventy 24 inch, three-gallon container size shrubs. The above must contain a minimum of 3 tree species and 3 shrub species.
4. A waterway interconnection may be included within the linear park, but a minimum 50-foot-wide continuous or ADA-accessible, interconnected upland area must be planted as prescribed in (3) above. The shoreline must be planted with One 7-gallon container native wetland tree no less than 6 feet in height at a minimum quantity of one tree for every 10 linear feet of shoreline.

29. Deviation (29) was WITHDRAWN.

SECTION D. EXHIBITS:

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 (Map H)
Exhibit D:	Fifth Amendment to the DRI Development Order
Exhibit E:	Schedule of Uses and Property Development Regulations
Exhibit F:	Existing Bona Fide Agricultural Uses
Exhibit G:	"Big Cypress Fox Squirrel Management Program," counter-stamped July 6, 1998, as amended on January 2002
Exhibit H:	The "Miromar Lakes Snail Kite Management Plan" dated January 11, 1999
Exhibit I:	Miromar Lakes Open Space and Indigenous Preservation
Exhibit J:	Environmental Resource Permit (ERP) FLUCCS Map
Exhibit K:	Golf Maintenance Facility landscaping and buffer diagram
Exhibit L:	Lake Management Plan and Lake Shoreline Planting Plan

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;
 - 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.
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.
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.

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

John E. Manning	Aye
Brian Bigelow	Aye
Ray Judah	Aye
Tammara Hall	Aye
Frank Mann	Aye

DULY PASSED AND ADOPTED this 20th day of September, 2010.

ATTEST:
CHARLIE GREEN, CLERK

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: Marcia Wilson
Deputy Clerk

BY: Ray Judah
~~Tammara Hall, Chair~~ Commissioner



Approved as to form by:

John J. Fredyma
John J. Fredyma
Assistant County Attorney
County Attorney's Office

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850 Encore Way • Naples, Florida 34110 • Phone: 239.254.2000 • Fax: 239.254.2099

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SECOND FLOOREXHIBIT A
(7 Pages)HMP PROJECT #2000106X
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PAGE 1 OF 1
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LEGAL DESCRIPTION:

A PARCEL OF LAND LOCATED IN A PORTION OF SECTIONS 10, 11, 14 AND 23, TOWNSHIP 46 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT SOUTHEAST CORNER OF SECTION 23, TOWNSHIP 46 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA; THENCE RUN N.89°44'39"W., ALONG THE SOUTH LINE OF SAID SECTION 23, FOR A DISTANCE OF 851.54 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF BEN HILL GRIFFIN PARKWAY (A.K.A. TREELINE DRIVE), A 150.00 FOOT WIDE RIGHT-OF-WAY, RECORDED IN O.R. BOOK 2745, PAGES 1550 THROUGH 1554 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA AND TO THE POINT OF BEGINNING OF THE PARCEL OF LAND HEREIN DESCRIBED; THENCE CONTINUE N.89°44'39"W. ALONG THE SOUTH LINE OF SAID SECTION 23, FOR A DISTANCE OF 2,821.79 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF INTERSTATE 75; THENCE RUN N.18°17'51"W. ALONG THE EASTERLY RIGHT-OF-WAY LINE OF INTERSTATE 75, FOR A DISTANCE OF 855.62 FEET TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE, CONCAVE EASTERLY; THENCE RUN NORTHERLY ALONG THE EASTERLY RIGHT-OF-WAY LINE OF INTERSTATE 75 AND ALONG THE ARC OF SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 17,026.80 FEET, THROUGH A CENTRAL ANGLE OF 04°04'42", SUBTENDED BY A CHORD OF 1,211.72 FEET AT A BEARING OF N.16°15'30"W., FOR A DISTANCE OF 1,211.97 FEET TO THE END OF SAID CURVE; THENCE RUN N.14°13'09"W. ALONG THE EASTERLY RIGHT-OF-WAY LINE OF INTERSTATE 75, FOR A DISTANCE OF 8,126.88 FEET; THENCE RUN N.76°08'54"E., FOR A DISTANCE OF 527.61 FEET; THENCE RUN N.79°14'37"E., FOR A DISTANCE OF 501.77 FEET; THENCE RUN N.84°36'26"E., FOR A DISTANCE OF 384.54 FEET; THENCE RUN S.95°27'53"E., FOR A DISTANCE OF 381.51 FEET; THENCE RUN S.74°31'06"E., FOR A DISTANCE OF 209.82 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF SAID BEN HILL GRIFFIN PARKWAY AND A POINT ON A CIRCULAR CURVE, CONCAVE EASTERLY, WHOSE RADIUS POINT BEARS S.69°47'11"E., A DISTANCE OF 3,075.80 FEET THEREFROM; THENCE RUN SOUTHERLY ALONG THE WESTERLY RIGHT-OF-WAY LINE OF SAID BEN HILL GRIFFIN PARKWAY AND ALONG THE ARC OF SAID CURVE TO THE LEFT, HAVING A RADIUS OF 3,075.00 FEET, THROUGH A CENTRAL ANGLE OF 23°44'14", SUBTENDED BY A CHORD OF 1,284.85 FEET AT A BEARING OF S.08°20'42"W., FOR A DISTANCE OF 1,273.94 FEET TO THE END OF SAID CURVE; THENCE RUN S.03°31'24"E. ALONG THE WESTERLY RIGHT-OF-WAY LINE OF SAID BEN HILL GRIFFIN PARKWAY, FOR A DISTANCE OF 3,887.79 FEET TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE, CONCAVE EASTERLY; THENCE RUN SOUTHERLY ALONG THE WESTERLY RIGHT-OF-WAY LINE OF SAID BEN HILL GRIFFIN PARKWAY AND ALONG THE ARC OF SAID CURVE TO THE LEFT, HAVING A RADIUS OF 2,000.00 FEET, THROUGH A CENTRAL ANGLE OF 20°33'03", SUBTENDED BY A CHORD OF 713.62 FEET AT A BEARING OF S.13°47'56"E., FOR A DISTANCE OF 717.36 FEET TO THE END OF SAID CURVE; THENCE RUN S.24°04'27"E. ALONG THE WESTERLY RIGHT-OF-WAY LINE OF SAID BEN HILL GRIFFIN PARKWAY, FOR A DISTANCE OF 1,593.09 FEET TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE, CONCAVE NORTHEASTERLY; THENCE RUN SOUTHEASTERLY ALONG THE WESTERLY RIGHT-OF-WAY LINE OF SAID BEN HILL GRIFFIN PARKWAY AND ALONG THE ARC OF SAID CURVE TO THE LEFT, HAVING A RADIUS OF 2,876.00 FEET, THROUGH A CENTRAL ANGLE OF 31°18'49", SUBTENDED BY A CHORD OF 1,550.16 FEET AT A BEARING OF S.39°42'52"E., FOR A DISTANCE OF 1,569.58 FEET TO THE END OF SAID CURVE; THENCE RUN S.55°21'16"E. ALONG THE WESTERLY RIGHT-OF-WAY LINE OF SAID BEN HILL GRIFFIN PARKWAY, FOR A DISTANCE OF

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Pages 1 thru 7

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HM PROJECT #2000106X
7/30/2003
REF: DWG. #A-1583
PAGE 1 OF 1

1,884.71 FEET TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE, CONCAVE SOUTHWESTERLY; THENCE RUN SOUTHEASTERLY ALONG THE WESTERLY RIGHT-OF-WAY LINE OF SAID BEN HILL GRIFFIN PARKWAY AND ALONG THE ARC OF SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 1,325.00 FEET, THROUGH A CENTRAL ANGLE OF 54°31'33", SUBTENDED BY A CHORD OF 1,213.90 FEET AT A BEARING OF S.28°05'29"E., FOR A DISTANCE OF 1,260.94 FEET TO THE END OF SAID CURVE; THENCE RUN S.00°49'43"E. ALONG THE WESTERLY RIGHT-OF-WAY LINE OF SAID BEN HILL GRIFFIN PARKWAY, FOR A DISTANCE OF 600.19 FEET TO THE POINT OF BEGINNING; CONTAINING 396.652 ACRES, MORE OR LESS.

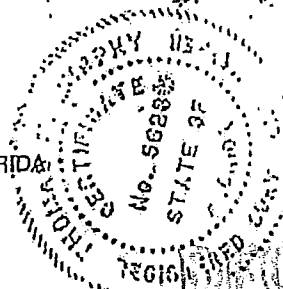
THIS PROPERTY IS SUBJECT TO EASEMENTS, RESERVATIONS OR RESTRICTIONS OF RECORD.

BEARINGS SHOWN HEREON REFER TO THE SOUTH LINE OF SECTION 23, TOWNSHIP 46 SOUTH, RANGE 25 EAST, OF LEE COUNTY, FLORIDA AS BEING N.89°44'39"W.

THIS SKETCH AND LEGAL HAS BEEN PREPARED BASED UPON THE BANKS ENGINEERING, INC. PARCEL DESCRIPTIONS AS SHOWN ON DRAWINGS 1155SR, SHEETS 1 THROUGH 4, DATED 4/10/2000

HOLE MONTES, INC.
CERTIFICATE OF AUTHORIZATION NUMBER LB 1772

BY Thomas M. Murphy P.S.M. #5628
THOMAS M. MURPHY STATE OF FLORIDA



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Applicant's Legal Checked
by [Signature] 11/14/03

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LEGAL DESCRIPTION:

A PARCEL OF LAND LOCATED IN A PORTION OF SECTIONS 11, 12, 13, 14, 23, AND 24, TOWNSHIP 46 SOUTH, RANGE 25 EAST, AND SECTION 18, TOWNSHIP 46 SOUTH, RANGE 26 EAST, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE SOUTHEAST CORNER OF SECTION 23, TOWNSHIP 46 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA; THENCE RUN N.89°44'39"W. ALONG THE SOUTH LINE OF SAID SECTION 23, FOR A DISTANCE OF 501.52 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF BEN HILL GRIFFIN PARKWAY (A.K.A. TREELINE DRIVE), A 150 FOOT WIDE RIGHT-OF-WAY, RECORDED IN O.R. BOOK 2745, PAGES 1550 THROUGH 1564 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE RUN N.00°49'43"W. ALONG SAID EASTERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 603.03 FEET TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE, CONCAVE SOUTHWESTERLY; THENCE RUN NORTHWESTERLY ALONG THE SAID EASTERLY RIGHT-OF-WAY LINE AND ALONG THE ARC OF SAID CURVE TO THE LEFT, HAVING A RADIUS OF 1,476.00 FEET, THROUGH A CENTRAL ANGLE OF 54°31'33", SUBTENDED BY A CHORD OF 1,351.32 FEET AT A BEARING OF N.28°05'29"W., FOR A DISTANCE OF 1,403.69 FEET TO THE END OF SAID CURVE; THENCE RUN N.55°21'16"W. ALONG THE SAID EASTERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 423.86 FEET; THENCE RUN N.38°37'17"E., FOR A DISTANCE OF 180.44 FEET; THENCE RUN N.40°45'20"W., FOR A DISTANCE OF 1,287.06 FEET; THENCE RUN N.51°22'43"W., FOR A DISTANCE OF 275.00 FEET; THENCE RUN N.20°50'23"W., FOR A DISTANCE OF 170.81 FEET; THENCE RUN N.03°26'59"W., FOR A DISTANCE OF 196.02 FEET; THENCE RUN N.49°19'44"E., FOR A DISTANCE OF 344.71 FEET; THENCE RUN S.54°09'13"E., FOR A DISTANCE OF 1,057.59 FEET; THENCE RUN S.05°08'14"W., FOR A DISTANCE OF 497.67 FEET; THENCE RUN S.87°48'55"E., FOR A DISTANCE OF 1,464.81 FEET; THENCE RUN N.88°17'13"E., FOR A DISTANCE OF 233.73 FEET; THENCE RUN S.31°47'37"E., FOR A DISTANCE OF 831.21 FEET; THENCE RUN N.62°11'53"E., FOR A DISTANCE OF 2,704.05 FEET; THENCE RUN N.21°20'50"E., FOR A DISTANCE OF 1,025.79 FEET; THENCE RUN N.02°13'31"W., FOR A DISTANCE OF 889.05 FEET; THENCE RUN N.73°40'08"E., FOR A DISTANCE OF 497.73 FEET; THENCE RUN N.84°27'10"E., FOR A DISTANCE OF 848.86 FEET; THENCE RUN N.20°19'20"W., FOR A DISTANCE OF 155.37 FEET; THENCE RUN N.04°47'10"W., FOR A DISTANCE OF 137.24 FEET; THENCE RUN N.10°20'25"E., FOR A DISTANCE OF 89.58 FEET; THENCE RUN N.88°40'48"W., FOR A DISTANCE OF 108.51 FEET; THENCE RUN N.35°22'24"E., FOR A DISTANCE OF 61.49 FEET; THENCE RUN N.24°10'35"E., FOR A DISTANCE OF 16.58 FEET; THENCE RUN N.18°58'33"E., FOR A DISTANCE OF 22.30 FEET; THENCE RUN N.01°25'10"W., FOR A DISTANCE OF 17.20 FEET; THENCE RUN N.02°00'52"E., FOR A DISTANCE OF 22.73 FEET; THENCE RUN N.10°34'22"E., FOR A DISTANCE OF 27.69 FEET; THENCE RUN N.08°31'29"E., FOR A DISTANCE OF 27.56 FEET; THENCE RUN N.04°17'29"W., FOR A DISTANCE OF 27.64 FEET; THENCE RUN N.03°50'00"E., FOR A DISTANCE OF 32.88 FEET; THENCE RUN N.05°16'54"E., FOR A DISTANCE OF 34.74 FEET; THENCE RUN N.14°36'53"W., FOR A DISTANCE OF 12.71 FEET; THENCE RUN N.49°59'45"W., FOR A DISTANCE OF 15.85 FEET; THENCE RUN N.67°08'11"W., FOR A DISTANCE OF 67.75 FEET; THENCE RUN N.67°33'34"E., FOR A DISTANCE OF 68.16 FEET; THENCE RUN N.57°34'58"E., FOR A DISTANCE OF 15.64 FEET; THENCE RUN N.53°45'20"E., FOR A DISTANCE OF 13.61 FEET; THENCE RUN N.58°32'02"E., FOR A DISTANCE OF 11.22 FEET; THENCE RUN N.54°40'50"E., FOR A DISTANCE OF 13.85 FEET; THENCE RUN N.49°38'55"E., FOR A DISTANCE OF 19.09 FEET; THENCE RUN N.37°17'03"E., FOR A DISTANCE OF 14.40 FEET; THENCE RUN N.25°04'13"E., FOR A DISTANCE OF 22.74 FEET; THENCE RUN N.30°25'33"E., FOR A DISTANCE OF

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40.77 FEET; THENCE RUN S.70°47'07"E, FOR A DISTANCE OF 50.50 FEET; THENCE RUN N.19°32'42"E, FOR A DISTANCE OF 63.26 FEET; THENCE RUN N.62°41'55"E, FOR A DISTANCE OF 33.33 FEET; THENCE RUN N.60°03'38"E, FOR A DISTANCE OF 27.79 FEET; THENCE RUN N.68°58'32"E, FOR A DISTANCE OF 33.67 FEET; THENCE RUN N.69°27'09"E, FOR A DISTANCE OF 39.32 FEET; THENCE RUN N.76°09'54"E, FOR A DISTANCE OF 38.69 FEET; THENCE RUN N.84°37'56"E, FOR A DISTANCE OF 35.30 FEET; THENCE RUN N.71°01'39"E, FOR A DISTANCE OF 38.05 FEET; THENCE RUN N.56°16'09"E, FOR A DISTANCE OF 22.32 FEET; THENCE RUN N.54°45'23"E, FOR A DISTANCE OF 72.52 FEET; THENCE RUN N.43°40'48"E, FOR A DISTANCE OF 14.33 FEET; THENCE RUN N.36°37'28"E, FOR A DISTANCE OF 31.97 FEET; THENCE RUN N.16°16'53"E, FOR A DISTANCE OF 27.07 FEET; THENCE RUN N.00°14'32"W, FOR A DISTANCE OF 18.58 FEET; THENCE RUN N.01°01'18"W, FOR A DISTANCE OF 22.80 FEET; THENCE RUN N.11°30'29"E, FOR A DISTANCE OF 41.68 FEET; THENCE RUN N.25°25'32"E, FOR A DISTANCE OF 18.52 FEET; THENCE RUN N.29°13'14"E, FOR A DISTANCE OF 12.77 FEET; THENCE RUN N.09°42'26"E, FOR A DISTANCE OF 13.86 FEET; THENCE RUN N.10°10'17"W, FOR A DISTANCE OF 8.24 FEET; THENCE RUN N.25°29'33"W, FOR A DISTANCE OF 11.70 FEET; THENCE RUN N.71°45'42"W, FOR A DISTANCE OF 21.85 FEET; THENCE RUN N.59°03'27"W, FOR A DISTANCE OF 13.21 FEET; THENCE RUN N.37°04'03"W, FOR A DISTANCE OF 27.24 FEET; THENCE RUN N.00°38'43"W, FOR A DISTANCE OF 28.85 FEET; THENCE RUN N.10°12'59"E, FOR A DISTANCE OF 35.02 FEET; THENCE RUN N.01°52'01"E, FOR A DISTANCE OF 31.20 FEET; THENCE RUN N.05°34'22"E, FOR A DISTANCE OF 13.39 FEET; THENCE RUN N.01°01'36"W, FOR A DISTANCE OF 30.61 FEET; THENCE RUN N.15°40'00"W, FOR A DISTANCE OF 27.26 FEET; THENCE RUN N.22°54'25"W, FOR A DISTANCE OF 20.48 FEET; THENCE RUN N.20°19'15"W, FOR A DISTANCE OF 21.36 FEET; THENCE RUN N.17°17'45"W, FOR A DISTANCE OF 18.27 FEET; THENCE RUN N.25°34'23"W, FOR A DISTANCE OF 16.79 FEET; THENCE RUN N.15°41'23"W, FOR A DISTANCE OF 49.27 FEET; THENCE RUN N.00°29'10"W, FOR A DISTANCE OF 19.63 FEET; THENCE RUN S.65°22'51"W, FOR A DISTANCE OF 893.03 FEET; THENCE RUN S.62°02'33"W, FOR A DISTANCE OF 548.61 FEET; THENCE RUN N.84°00'27"W, FOR A DISTANCE OF 113.75 FEET; THENCE RUN S.73°01'40"W, FOR A DISTANCE OF 332.94 FEET; THENCE RUN S.88°47'09"W, FOR A DISTANCE OF 386.95 FEET; THENCE RUN N.01°12'51"W, FOR A DISTANCE OF 738.65 FEET; THENCE RUN N.76°24'23"E, FOR A DISTANCE OF 644.66 FEET; THENCE RUN N.02°55'16"W, FOR A DISTANCE OF 211.27 FEET; THENCE RUN N.18°49'36"E, FOR A DISTANCE OF 1,336.10 FEET; THENCE RUN S.88°44'00"W, FOR A DISTANCE OF 3,706.01 FEET; THENCE RUN N.00°58'18"W, FOR A DISTANCE OF 320.16 FEET; THENCE RUN S.89°01'42"W, FOR A DISTANCE OF 450.42 FEET; THENCE RUN S.09°10'23"E, FOR A DISTANCE OF 490.66 FEET; THENCE RUN S.88°17'12"W, FOR A DISTANCE OF 1,027.71 FEET; THENCE RUN S.01°42'48"E, FOR A DISTANCE OF 306.15 FEET; THENCE RUN S.47°45'12"W, FOR A DISTANCE OF 1,604.06 FEET; THENCE RUN S.88°27'56"W, FOR A DISTANCE OF 1,780.04 FEET TO A POINT ON THE SAID EASTERLY RIGHT-OF-WAY LINE; THENCE RUN N.03°31'24"W, ALONG THE SAID EASTERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 3,304.77 FEET TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE, CONCAVE EASTERLY; THENCE RUN NORTHERLY ALONG THE SAID EASTERLY RIGHT-OF-WAY LINE AND ALONG THE ARC OF SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 2,925.00 FEET, THROUGH A CENTRAL ANGLE OF 23°44'19", SUBTENDED BY A CHORD OF 1,203.14 FEET AT A BEARING OF N.08°20'42"E, FOR A DISTANCE OF 1,211.79 FEET TO THE END OF SAID CURVE; THENCE RUN N.20°12'49"E, ALONG THE SAID EASTERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 473.65 FEET TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE, CONCAVE WESTERLY; THENCE RUN NORTHERLY ALONG THE SAID EASTERLY RIGHT-OF-WAY LINE AND ALONG THE ARC OF SAID CURVE TO THE LEFT, HAVING A RADIUS OF 10,076.00 FEET, THROUGH A CENTRAL ANGLE OF 19°11'28", SUBTENDED BY A

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REF. DWG. #A-1582

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CHORD OF 3,358.85 FEET AT A BEARING OF N.10°37'06"E., FOR A DISTANCE OF 3,374.60 FEET TO THE END OF SAID CURVE; THENCE RUN N.01°01'21"E. ALONG THE SAID EASTERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 909.75 FEET; THENCE RUN S.89°42'24"E., FOR A DISTANCE OF 1,049.81 FEET; THENCE RUN S.01°00'21"E., FOR A DISTANCE OF 847.76 FEET; THENCE RUN S.04°19'45"W., FOR A DISTANCE OF 1,091.78 FEET; THENCE RUN S.00°39'26"E., FOR A DISTANCE OF 1,432.24 FEET; THENCE RUN S.00°16'17"E., FOR A DISTANCE OF 606.52 FEET; THENCE RUN N.88°47'48"E., FOR A DISTANCE OF 376.79 FEET; THENCE RUN S.40°48'12"E., FOR A DISTANCE OF 322.81 FEET; THENCE RUN S.19°01'17"E., FOR A DISTANCE OF 249.77 FEET; THENCE RUN S.88°53'28"E., FOR A DISTANCE OF 216.94 FEET; THENCE RUN S.24°26'51"E., FOR A DISTANCE OF 150.17 FEET; THENCE RUN S.77°09'26"E., FOR A DISTANCE OF 573.01 FEET; THENCE RUN S.88°10'13"E., FOR A DISTANCE OF 1,363.08 FEET; THENCE RUN S.19°42'28"E., FOR A DISTANCE OF 157.73 FEET; THENCE RUN S.87°09'14"E., FOR A DISTANCE OF 469.81 FEET; THENCE RUN N.88°02'24"E., FOR A DISTANCE OF 612.22 FEET; THENCE RUN S.21°30'12"E., FOR A DISTANCE OF 81.17 FEET; THENCE RUN N.88°10'32"E., FOR A DISTANCE OF 846.89 FEET; THENCE RUN N.88°10'32"E., FOR A DISTANCE OF 1,137.62 FEET; THENCE RUN S.20°09'57"E., FOR A DISTANCE OF 344.08 FEET; THENCE RUN S.89°48'06"E., FOR A DISTANCE OF 80.00 FEET; THENCE RUN S.20°09'57"E., FOR A DISTANCE OF 807.57 FEET; THENCE RUN S.15°43'44"E., FOR A DISTANCE OF 978.45 FEET; THENCE RUN S.89°46'43"E., FOR A DISTANCE OF 516.03 FEET TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE, CONCAVE SOUTHWESTERLY; THENCE RUN SOUTHEASTERLY ALONG THE ARC OF SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 500.00 FEET, THROUGH A CENTRAL ANGLE OF 88°55'56", SUBTENDED BY A CHORD OF 700.49 FEET AT A BEARING OF S.45°18'45"E., FOR A DISTANCE OF 776.08 FEET TO THE END OF SAID CURVE; THENCE RUN S.00°50'47"E., FOR A DISTANCE OF 1,447.68 FEET; THENCE RUN S.09°57'20"W., FOR A DISTANCE OF 533.67 FEET TO A POINT ON THE EAST LINE OF SECTION 13, TOWNSHIP 46 SOUTH, RANGE 25 EAST; THENCE RUN S.00°50'47"E. ALONG THE EAST LINE OF SAID SECTION 13, FOR A DISTANCE OF 957.10 FEET TO THE NORTHWEST CORNER OF SECTION 24, TOWNSHIP 46 SOUTH, RANGE 25 EAST; THENCE RUN S.00°50'13"E. ALONG THE EAST LINE OF THE NORTHEAST ONE-QUARTER OF SAID SECTION 24, FOR A DISTANCE OF 2,839.78 FEET TO THE EAST QUARTER CORNER OF SAID SECTION 24; THENCE RUN S.00°48'26"E. ALONG THE EAST LINE OF THE SOUTHEAST ONE-QUARTER OF SAID SECTION 24, FOR A DISTANCE OF 2,843.97 FEET TO THE SOUTHEAST CORNER OF SAID SECTION 24; THENCE RUN S.89°28'32"W. ALONG THE SOUTH LINE OF SAID SECTION 24, FOR A DISTANCE OF 5,249.70 FEET TO THE POINT OF BEGINNING, CONTAINING 1,408.994 ACRES, MORE OR LESS.

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

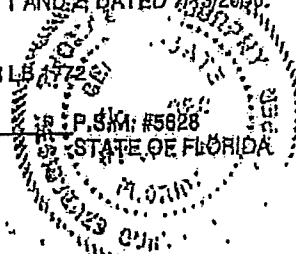
BEARINGS SHOWN HEREON REFER TO THE SOUTH LINE OF SECTION 24, TOWNSHIP 46 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA AS BEING S.89°28'32"W.

THIS SKETCH AND LEGAL HAS BEEN PREPARED BASED UPON THE BANKS ENGINEERING, INC. PARCEL DESCRIPTIONS AS SHOWN ON DRAWINGS 1418SR, SHEETS 1 THROUGH 4, DATED 4/10/2000 AND DRAWINGS 1418SR, SHEETS 1 AND 2 DATED 7/13/2000.

HOLE MONTES, INC.

CERTIFICATE OF AUTHORIZATION NUMBER LB 1772

BY Thomas M. Murphy
THOMAS M. MURPHY



Applicant's Legal Checked
by 194613

RECEIVED
JUL 31 2003

PERMIT COUNTER

DC12001-00033

DRI 2009-00011

COMMUNITY DEVELOPMENT

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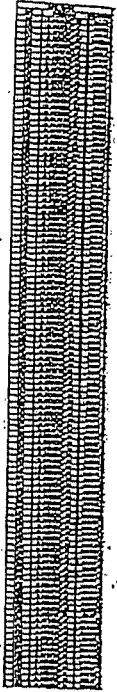
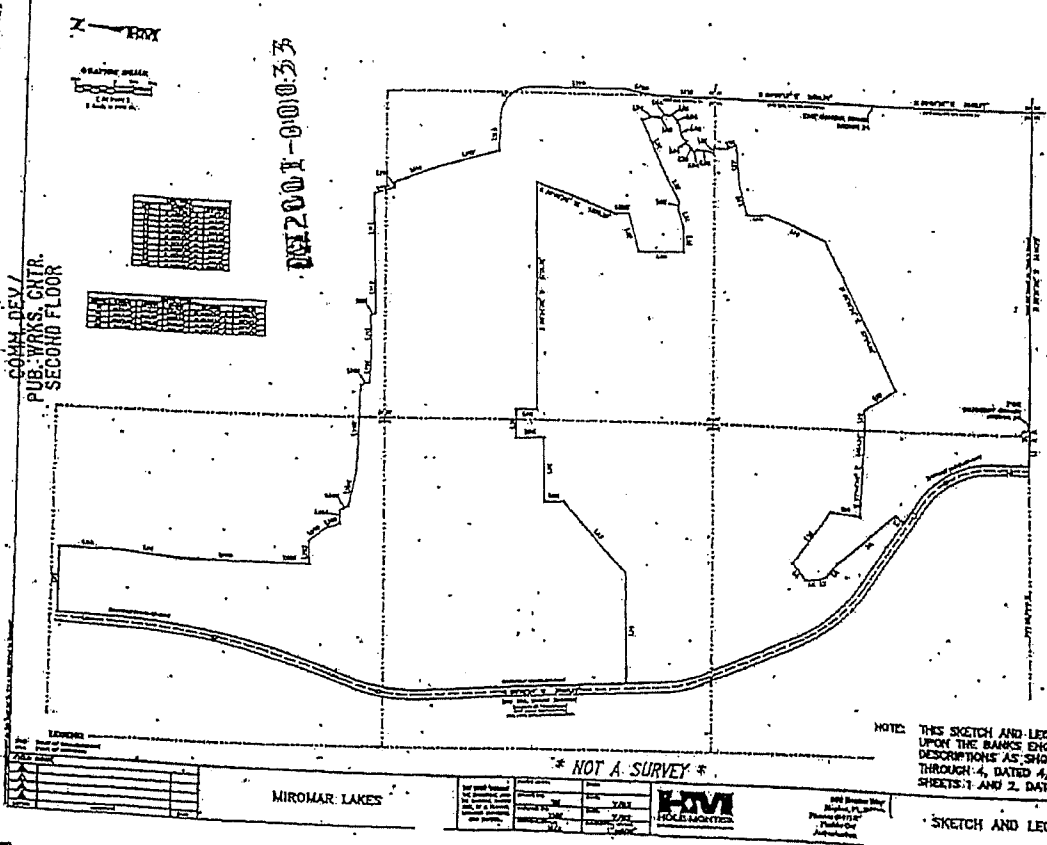
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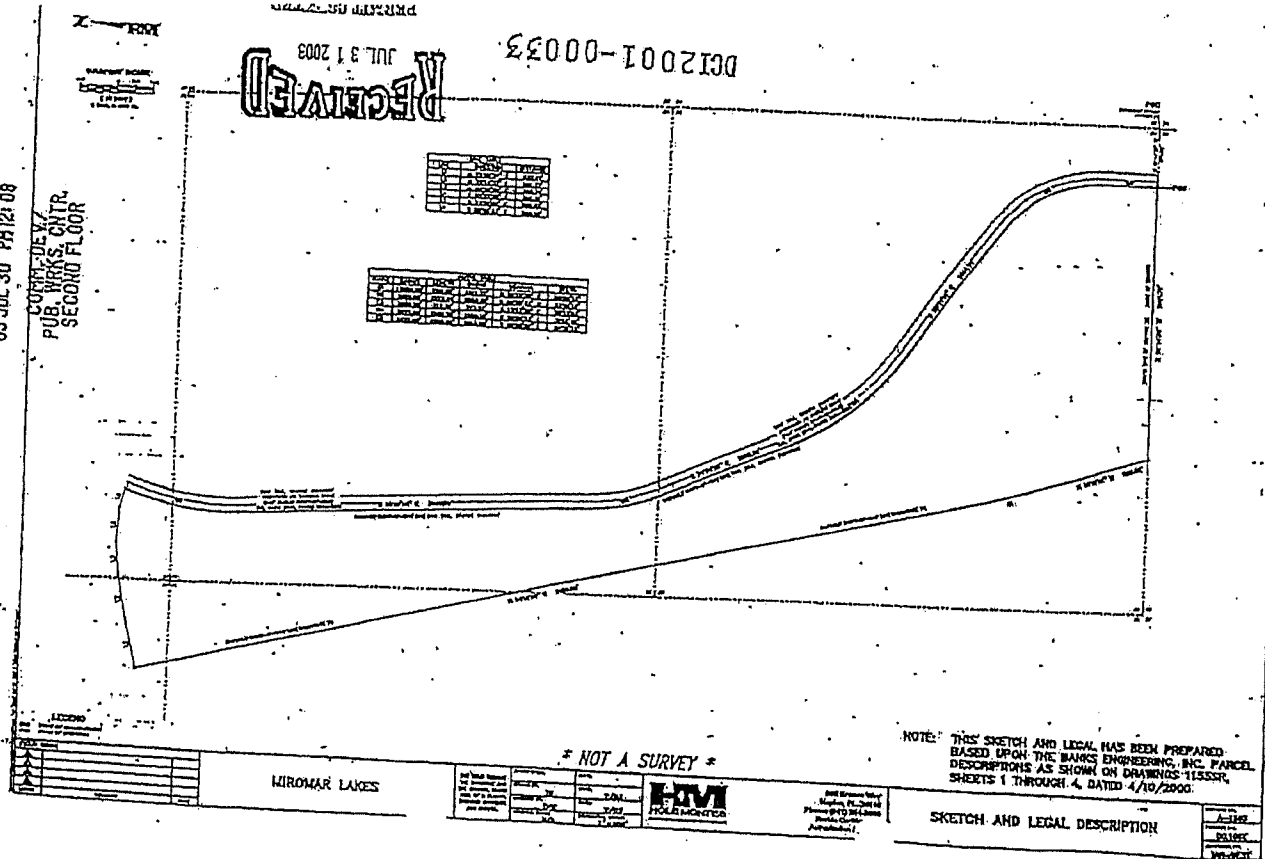
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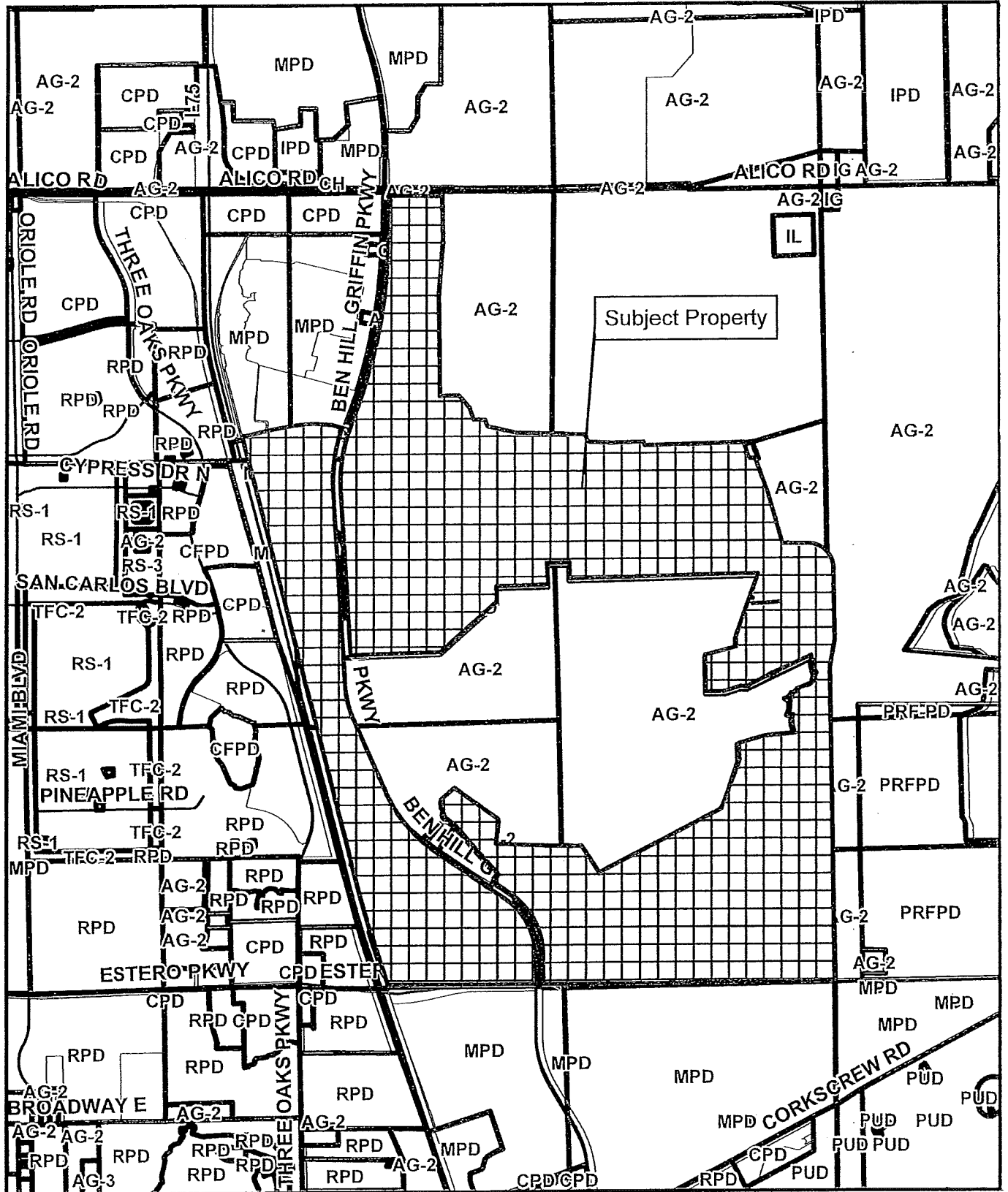


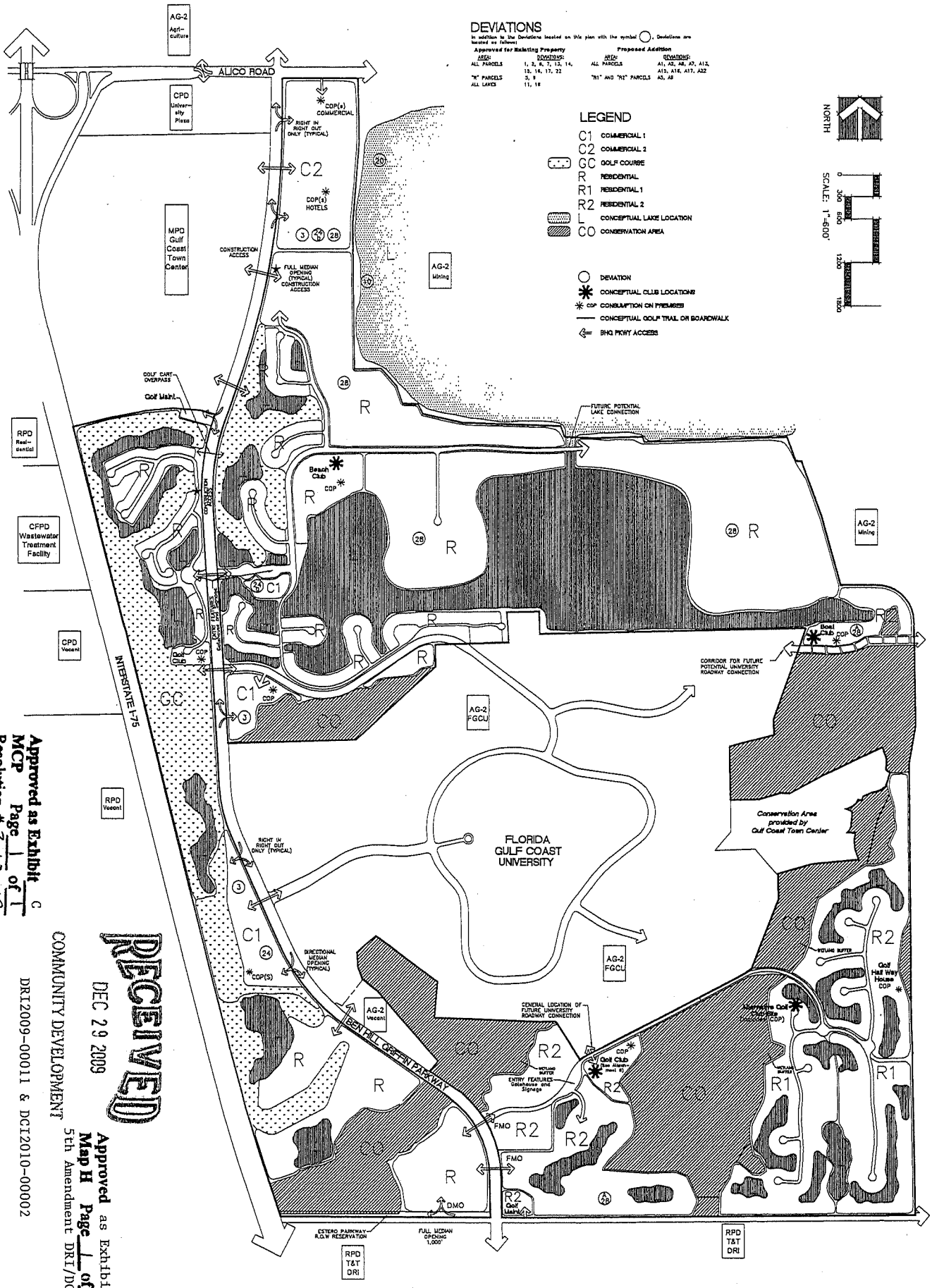
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Zoning Map

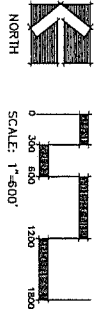
5/20/2010





DEVIATIONS			
In addition to the Deviations located on this plan with the symbol  , Deviations are located as follows:			
Approved for Marketing Property		Proposed Addition	
AREA	LOCATION	AREA	LOCATION
ALL PARCELS	1, 2, 4, 7, 12, 14, 15, 16, 17, 22	ALL PARCELS	A1, A2, A4, A5, A12, A13, A16, A17, A22
"H" PARCELS	2, 4	"H1" AND "H2" PARCELS	A5, A6
ALL LOTS	11, 16		

- LEGEND**
- C1 COMMERCIAL 1
 - C2 COMMERCIAL 2
 - GC GOLF COURSE
 - R RESIDENTIAL
 - R1 RESIDENTIAL 1
 - R2 RESIDENTIAL 2
 - L CONCEPTUAL LAKE LOCATION
 - CO CONSERVATION AREA
-  DEVIATION
-  CONCEPTUAL CLUB LOCATIONS
-  CONCEPTUAL COUNTRY CLUBS
-  CONCEPTUAL GOLF TRAIL OR BOARDWALK
-  BIKE PATH ACCESS



Approved as Exhibit C
MCP Page 1 of 1
Resolution # 2-10-09

RECEIVED
DEC 29 2009
Approved as Exhibit C
Map H Page 1 of 1
COMMUNITY DEVELOPMENT
5th Amendment DRI/DO

Exhibit D

5th Amendment to the DRI Development Order

With the Following Exhibits:

- A. Legal Description (1,805± Acres)
- B. Development Parameters and Phasing Schedule
- C. Map H (dated 12-23-09)
- D. Pedestrian and Bicycle Facilities and Bus Stop Locations
- E. Biennial Monitoring Report Requirements
- F. Invasive exotic vegetation listed by Florida Pet Plant Council

FIFTH DEVELOPMENT ORDER
AMENDMENT FOR
MIROMAR LAKES
(CODIFIED)
A DEVELOPMENT OF REGIONAL IMPACT
STATE DRI #11-9798-142

LET IT BE KNOWN THAT, PURSUANT TO SECTION 380.06 OF THE FLORIDA STATUTES, THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA ADOPTED THE APPLICATION FOR DEVELOPMENT APPROVAL ORIGINALLY SUBMITTED AS THE ALICO AMDA, BUT THEREAFTER REDUCED TO AN ADA AND RENAMED AS THE MIROMAR LAKES DRI (HEREINAFTER REFERRED TO AS MIROMAR LAKES) BY ALICO, INC., AS THE OWNER/APPLICANT, FOR MIROMAR LAKES, L.L.C., AS THE DEVELOPER. THE ORIGINAL ADOPTION HEARING WAS HELD ON NOVEMBER 29, 1999. MIROMAR LAKES WAS ORIGINALLY APPROVED AS A MIXED USE DEVELOPMENT THAT INCLUDED APPROXIMATELY 1,271.12± ACRES TO BE DEVELOPED IN ACCORDANCE WITH THE APPLICATION FOR DEVELOPMENT APPROVAL SUBMITTED TO LEE COUNTY ON APRIL 23, 1990, AND AMENDED ON NOVEMBER 10, 1997.

WHEREAS, the Lee County Board of County Commissioners, in a public meeting duly advertised, constituted and assembled November 29, 1999, adopted the Development of Regional Impact (DRI) Application for Development Approval for the project known as Miromar Lakes, subject to conditions, restrictions and limitations; and

WHEREAS, the Miromar Lakes DRI Development Order was subsequently amended on December 10, 2002 to revise the adjustment rate applicable to the unpaid balance of the proportionate share assessment; and

WHEREAS, the Miromar Lakes DRI Development Order was subsequently amended a second time on December 15, 2003, to amend the Miromar Lakes DRI development order to add approximately 534 +/- acres of property to the project (total project to be 1805 +/- acres). This change included a proposal to increase the number of golf holes by 18, add a clubhouse, and golf maintenance facility on the property; and

WHEREAS, in 2001, the Board approved the third amendment to the Miromar Lakes DRI Development Order when the applicant filed an application to amend the Lee Plan to re-designate approximately 19.85±/- acres from the Future Land Use Category "Density Reduction Groundwater Resource" to "University Community" and also to re-designate 170.92± acres from "University Community and Wetlands" to "Conservation Lands- Uplands" and "Conservation Lands - Wetlands."; and

WHEREAS, the Miromar Lakes DRI Development Order was amended for a fourth time, this time by Board Resolution, as reflected in Board Resolution 07-09-18, adopted September 11, 2007, to extend the build out date to December 31, 2011, pursuant to HB7203; and

WHEREAS, on June 1, 2009, Senate Bill 360 (SB360) was signed into law by the Governor of the State of Florida. SB360 provided a statutory two-year extension to DRIs with build out dates expiring between September 1, 2008 through January 1, 2012; and

WHEREAS, the Board of County Commissioners recognized the statutory extension and established a procedure for implementing SB360 in Lee County Resolution 09-06-22 on June 23, 2009; and

WHEREAS, on June 17, 2009, Lee County received a request for an extension of the DRI build out date and Concurrency Certificate for the Miromar Lakes DRI; and

WHEREAS, Miromar Lakes DRI qualifies for the two-year extension of its build out date from December 31, 2011 to December 31, 2013, resulting in a fifth amendment of the Miromar Lakes DRI Development Order; and

WHEREAS, under Lee County Resolution 09-06-22, concurrency vesting is also extended to December 31, 2013, consistent with the build out extension; and

WHEREAS, under SB 360, the two-year extension does not constitute a substantial deviation from the original development approvals warranting further DRI review; and

WHEREAS, in 2010, Miromar Lakes, LLC, filed an application to amend the existing MPD (Resolution Number Z-02-072) in Case Number DCI2010-00002, and for a Notice of Proposed Change (NOPC) for the Miromar Lakes DRI (DRI# 11-9798-14) to change the buildout and termination dates, change from annual to biennial reporting for transportation monitoring reports, to eliminate Conditions II.A.2. and 3. as related to the re-analysis of affordable housing needs and a revision of conditions that have been complied with; and

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

I. FINDINGS OF FACT AND CONCLUSIONS OF LAW.

- A. Miromar Lakes is a master planned community located in unincorporated south Lee County, east of I-75, north of Corkscrew Road, south of Alico Road, on either side of Ben Hill Griffin Parkway. The site is 1,805.646+/- acres. Miromar is a mixed use development that will consist of: 2,600 residential units, 250,000 square feet of retail, 450 hotel rooms, 340,000 square feet of office, 250 wet slips, 400 dry slips,

40,000 square feet of research and development, and all accessory uses to these uses. In addition, there will be 312 acres of lakes/buffers and recreation, and a minimum of 338 of conservation lands. The recreational uses will include golf, tennis, clubhouses, and active and passive recreation. The legal description of the project is set forth in Exhibit A

The assessment was based on a phasing schedule that includes two five-year phases described in Exhibit B. Site preparation ~~will commenced~~ will commence upon completion of all necessary permitting. The project buildout date is December 31, ~~2013~~ 2020. The termination date is December 31, ~~2018~~ 2026.

Water supply and wastewater treatment will be provided by Gulf Environmental Services.

- B. The factual findings, conclusions of law, conditions and other terms of this Development Order apply to the property legally described in Exhibit A and known as the Miromar Lakes DRI.
- C. The original 1,271.12± acres was zoned AG-2, and coincident with the 1999 approval of the Development Order the property was rezoned to a Mixed Use Planned Development (MPD). In the recent past, portions of the property have been utilized for mining and related activity. The mining, and related activity, will cease on any portion of the property under active development. The 534 +/- acre addition was initially zoned AG-2, but was rezoned to MPD coincident with the Second DRI Development Order Amendment.
- D. The AMDA went through sufficiency and a report and recommendation were issued. The application was put on hold, then reduced to an Application for Development Approval (ADA). The ADA for Miromar Lakes is consistent with the requirements of Section 380.06, Florida Statutes. The project went through two sufficiency rounds and the Developer exercised its right to refuse participation in further rounds.
- E. The development is not located in an area designated as an Area of Critical State Concern under the provision of Section 380.05, Florida Statutes.
- F. The development does 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 it is developed in accordance with the development parameters and conditions of approval set forth in this development order.
- G. The development has been reviewed by the Southwest Florida Regional Planning Council (SWFRPC) and is the subject of reports and recommendations adopted by that body on December 17, 1998 and June 21, 2001. The SWFRPC report and recommendations were subsequently forwarded to Lee County pursuant to Section

380.06, Florida Statutes. The development, as proposed in the ADA and modified by this Development Order, is consistent with the reports and recommendations of the SWFRPC pursuant to Section 380.06(11), Florida Statutes.

- H. The development, as conditioned, is located in, and is consistent with, the University Community, "Conservation Lands - Uplands", and "Conservation Lands- Wetlands" future land use categories.
- I. The conditions set forth below meet the criteria found in Section 380.06(15)(d), Florida Statutes.
- J. The Phase II and build out dates were extended by three years to 2012 and 2017 respectively pursuant to House Bill 7203, which amended Florida Statutes, Section 380.06(19)(c).
- K. Senate Bill 360 (SB360), as signed into law by the Governor of the State of Florida on June 1, 2009 (codified as a note to F.S. §§373.414 and 380.06) provides a statutory two-year extension to build out dates expiring between September 1, 2008 through January 1, 2012. The Board of County Commissioners recognized the statutory extension in Lee County Resolution 09-06-22, adopted on June 23, 2009,

In accord with SB 360, Miormar Lakes DRI qualifies for a two-year extension of its build out date from December 31, 2011 to December 31, 2013. Under Lee County Resolution 09-06-22, concurrency is also extended to December 31, 2013, consistent with the build out extension. Under SB 360, the two-year extension does not constitute a substantial deviation of the original development order approvals warranting further DRI review.

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 September 20, 2010, the Fifth Amendment to the Miormar Lakes Development of Regional Impact is hereby approved subject to the conditions, restrictions and limitations that follow. For the purpose of this Development Order, the term "Developer" refers to Miormar Lakes, L.L.C., and includes all of its successors or assigns, and all references to County Ordinances or other regulations including future amendments.

A. AFFORDABLE HOUSING.

1. The Applicant conducted a survey in accordance with an approved methodology to determine whether a sufficient number of affordable housing units are available to meet the demands of the projected, non-construction, permanent employees of Phase I of the Project. The survey results demonstrated there was no unmet demand through build out of Phase I.

2. Prior to initiation of the second phase of the Project, the Developer must conduct a re-analysis of the affordable housing needs of the projected, non-construction, permanent employees of that phase using a methodology acceptable to the County, SWFRPC and the Department of Community Affairs (DCA). The methodology must limit the percentage of mobile homes that comprise the total available supply to 20 percent.

3. If the second phase re-analysis of the affordable housing needs shows a ~~potential~~ shortage of affordable housing units that exceeds the threshold for regionally significant impact for the DRI, the Developer must mitigate the need by following the options outlined in Rule 9J-2.048(8), the Adequate Housing Uniform Standard Rule, or other measures agreed to by the County, SWFRPC and DCA.

B. ENERGY.

The Developer will utilize the energy conservation measures outlined in the ADA.

C. STORM WATER MANAGEMENT.

1. The Developer has obtained an Environmental Resource Permit (ERP) from South Florida Water Management District (SFWMD) - Permit No. 951122-7 Miromar Lakes. Prior to construction, the Developer must provide Lee County Development Services with a copy of the ERP, and any early work permit. The Developer must provide the Lee County Development Services Division with a copy of all amendments to the ERP that include property that was not a part of the original application.

2. The Developer, Property Owner's Association, Uniform Community Development District (UCDD), or other entity with operational responsibility for the surface water management system must comply with Class III water quality standards for all water discharged into the lakes generally referred to as the north and south mining lakes.

3. The Developer must incorporate best management practices (BMPs) into the surface water management plans submitted to SFWMD. The Developer must also utilize BMPs during construction for control of erosion and sediment. These practices will be identified on the aforementioned plans submitted to SFWMD, and other agencies with jurisdiction.

4. The first habitable floor of all structures must be at or above the 100-year flood elevations. The 25-year/three-day storm event must be used in computing off-site discharge rates, taking into account the backwater elevations along on-site flowways.

5. The Developer must obtain a SFWMD permit for dewatering activities as required by Sections 2.5 and 5.2.2 Dewatering, Basis of Review (water use).
6. Upon completion of construction and stabilization of side slopes, the Developer must remove all silt barriers, hay bales, anchor soil, and accumulated silt.
7. The Developer must establish a legal operating entity in accordance with the SFWMD Basis of Review and Lee County Land Development Code (LDC), to maintain all internal storm water management lakes, ditches, and wetlands. The same condition applies to that portion of the north and south mining lakes under the ownership and control of the Developer. Easements, common areas or other legal mechanisms may be utilized to ensure sufficient access to the storm water management areas.
8. Where applicable, the storm water management plan submitted to SFWMD must consider measures to reduce runoff rates and volumes, including, but not limited to, fixed control structures, perforated pipes, and grass swale conveyances. The Developer must use swales rather than closed systems whenever practical.
9. The Developer must create littoral zones along the shoreline banks of the storm water management system consistent with the requirements of SFWMD and Lee County. The littoral zones must consist of native emergent or submergent aquatic vegetation. The Developer must ensure, by supplemental replanting if necessary, at least 80 percent cover by native aquatic vegetation within the required littoral zones.
10. The surface water management system design must incorporate natural flowway corridors and restore impacted natural flow way corridors.
 - (a) Storm water run-off must be pre-treated consistent with the South Florida Water Management District permit prior to discharging the run-off into existing lake or wetland (any aquatic) systems.
 - (b) The development must maintain the function and integrity of the Stewart Slough, the natural flowway being restored through the South Florida Water Management District's ERP, contained within the boundaries of this DRI. Flowways are precluded from being primary surface water treatment areas.
11. The Developer, or the legal operating entity, must perform annual inspections of the project's on-site storm water management system to ensure that the system is maintained in accordance with the final approved design.
12. The Developer must meet all Army Corps. of Engineers, Department of Environmental Protection, South Florida Water Management District, and Lee County requirements regarding the impact of the proposed storm water

management system on state or federally listed plants or animal species occurring on-site. When required by federal, state, or local permits, the Developer will provide mitigation for those impacts.

13. The Developer must vacuum sweep all commercial streets and parking areas within the development on a regularly scheduled basis.

14. When required by SFWMD in accordance with Section 5.2.2, Basis of Review (E.R.P.), the Developer must provide at least one-half inch of dry pre-treatment (retention or detention), or an equivalent alternative, for commercial and industrial uses.

15. The Developer must participate in any Countywide storm water management system adopted by Lee County that directly benefits the development, under the same fiscal terms and conditions applicable to other benefitted properties.

16. As part of the routine maintenance of the project, the Developer must:

- (a) mow grassed storm water management areas;
- (b) remove accumulated debris within treatment areas;
- (c) replace all identifiable erosion to banks; and
- (d) remove noxious exotic vegetation that may potentially interfere with the proper function of the treatment areas.

17. The Developer must inspect, clean and repair all under-drain systems and grease baffles on a regular basis. The period between inspections may not exceed eighteen months.

18. The storm water management system must be designed to ensure that the quality and quantity of the water entering the wetlands is adequate to ensure the wetland survivability. The impact of the storm water management system on the wetland mitigation areas will be evaluated by the SFWMD during the ERP process.

19. All individual tenants or residents must comply with applicable laws and regulations regarding the management and use of hazardous materials.

20. Golf Course:

- (a) Prior to development order approval for the first 18-hole golf course, the developer must conduct a pre-development groundwater and surface water analysis and submit the analysis to the County. This analysis is intended to establish baseline data for groundwater and surface water monitoring for the

project area. The analysis must be designed to identify those nutrients and chemicals that are anticipated to be associated with the project. Prior to commencing this baseline study, the developer must submit the methodology for review, comment, and approval by the County.

- (b) The developer must submit an annual monitoring report of surface water quality on the first 18-hole golf course for a period of five years from the issuance of the certificate of completion for the golf course, or the last violation, if any, of Chapter 62-302, F.A.C. water quality standards. The monitoring program will include: testing to assess whether there are any herbicide, pesticide or fertilizer pollution of the water at the project's outfall locations, which are the south mining lake, the Stewart Cypress Slough, and the north headwaters of Estero River. The developer will submit the test results with the monitoring report. The monitoring program will be established and operated at the expense of the developer, or other comparable legal entity charged with the legal responsibility of managing the golf course. This plan will be evaluated in accordance with the directives of Chapter 62-302, F.A.C., water quality standards.
- (c) The developer must conduct a pre-development ground water and surface water analysis and submit the analysis to the County prior to development order approval for the second 18-hole golf course. The analysis will establish the baseline data for groundwater and surface water monitoring of the project area. The developer must design the analysis to identify the nutrients and chemicals anticipated to be associated with the second 18 hole golf course. The methodology employed in the base line study must first be reviewed and approved by the county.
- (d) The operator of the second 18 hole golf course must submit an annual monitoring report of ground water and surface water quality. The proposed monitoring program will be reviewed by the Natural Resources Division and evaluated in accordance with the requirements of Chapter 62-302 FAC water quality standards. The monitoring program must include: testing to assess whether there are unacceptable increased levels of herbicide, pesticide or fertilizer at project outfalls; identification of the locations of the ground water monitoring and project outfalls; identification of the locations of ground water monitoring and testing on a map(s); an outline of the testing and recording requirements. The operator must submit test results and the monitoring report to the Lee County Natural Resources Division. The monitoring program will be established and operated at the expense of the developer or other legal entity charged with the legal responsibility of managing the golf course. Compliance with the program will be evaluated at the project outfalls utilizing the water quality standards set forth in Chapter 62-302 F.A.C. The monitoring program will continue in perpetuity.

21. If groundwater or surface water pollution occurs, as that term is defined by the rules or regulations in effect at the time, and if the pollution is caused by the application of fertilizers, herbicides or pesticides to the golf course, the application of the pollutant must cease until there is a revised management plan for the application of the pollutant. A determination that the application of fertilizers, herbicides or pesticides to the golf course are the cause and source of the pollution must be based on competent and substantial evidence. If mitigation is necessary to address the pollution, a mitigation plan approved by Lee County and other appropriate agencies will be implemented by the developer.

D. TRANSPORTATION

1. Significant Impacts

(a) Assessment Parameters

The traffic impact assessment for the project assumes the following development parameters:

	<u>Phase I (2004)</u>	<u>Buildout (2013)</u>
Residential		
Single Family (ITE LUC 210)	314 D.U.	700 D.U.
Multi-Family	1,100 D.U. Total	1,900 D.U. Total
Apartments (LUC 220)	200 D.U.	200 D.U.
Residential Condominiums (LUC 230)	900 D.U.	1,700 D.U.
Non-Residential		
--Service/Office (LUC 710)	100,000 sq. ft.	340,000 sq. ft.
--General Retail (LUC 820)	160,000 sq. ft.	250,000sq. ft.
--Hotel (LUC 310)	350 rooms	450 rooms
--Industrial/R & D (LUC 760)	0 sq. ft.	40,000 sq. ft.
--Golf Course (LUC 430)	36 holes	36 holes
 --Community Use (LUC 495)	 20,000 sq. ft.	 20,000 sq. ft.
(Golf Clubhouse)		
--Beach Park (LUC 415)	10 acres	10 acres
(Including a Beach Clubhouse for use of residents and their guests.)		

The above parameters form the basis for the project impacts and 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. Any significant change in the assumed uses or mix of uses will require a re-evaluation of the DRI transportation impacts. A significant change is one that would

increase the external project traffic by five (5) percent or more **or** that would significantly change the projected distribution and assignment of project traffic, so as to result in additional significantly and adversely impacted roadway links. The overall traffic at the project entrances based on the above parameters is estimated to be 3,931 p.m. peak hour trips.

(b) Phase I Impacts

The assessment indicates that the significantly impacted roadways and intersections described below ~~will~~ were anticipated to be operating below acceptable levels of service at the end of Phase I (2004):

<u>Roadways</u>	<u>Needed Improvement</u>
Alico Road	
--U.S. 41 to Seminole Gulf Railway	Widen to six (6) lanes*
--I-75 to Ben Hill Griffin Parkway	Widen to six (6) lanes
<i>* or realignment/interchange as part of Metro Parkway extension (6 lanes), US 41 to Six Mile Parkway</i>	
<u>Intersections</u>	
Alico Road/Three Oaks Parkway	Add 2 nd NB left, 2 nd WB left, 2 nd SB left
Alico Road/Project Entrance	Intersection Improvements
Ben Hill Griffin Parkway/Alico Road	Add 2 nd NB left
Ben Hill Griffin Parkway/Project Entrances	Intersection Improvements
Ben Hill Griffin Parkway/Corkscrew Road	Signalization, add 2 nd EB left, 2 nd SB left
US 41/Alico Road	Add 2 nd WB right, 3 rd SB left

The intersection improvements include geometric improvements, such as turn lanes and signalization when warranted. The Developer will be fully responsible for improvements needed at the project entrances that are deemed site-related (See Paragraph D.4). The intersections are addressed in the overall proportionate share calculation. As noted above, however, site-related needs at the project entrances are not addressed in the proportionate share calculation.

(c) Buildout Impacts

The assessment indicates that the significantly impacted roadways and intersections described below will were anticipated to be operating below acceptable levels of service at the end of buildout (2009¹):

<u>Roadways</u>	<u>Needed Improvement</u>
Alico Road	
--U.S. 41 to Seminole Gulf Railway	Widen to six (6) lanes
--Lee Road to I-75	Widen to eight (8) lanes
--I-75 to Ben Hill Griffin Parkway	Widen to six (6) lanes
Ben Hill Griffin Parkway	
--T&T Entrance to Alico Road	Widen to six (6) lanes
Corkscrew Road	
--Three Oaks Parkway to Ben Hill Griffin Parkway	Widen to six (6) lanes
Daniels Parkway	
-- Metro Parkway to Six Mile Cypress Parkway	Widen to eight (8) lanes
--Six Mile Cypress Parkway to Fiddlesticks Boulevard	Widen to ten (10) lanes
--Fiddlesticks Boulevard to I-75	Widen to eight (8) lanes
U.S. 41	
-- Coconut Road to Williams Road	Widen to six (6) lanes
--Alico Road to Six Mile Cypress Parkway	Alternate facility needed*

**Metro Parkway extension (six (6) lanes), US 41 to Six Mile Parkway*

Intersections

Alico Road/Oriole Road	Add 2 nd WB left, signalization
Alico Road/Three Oaks Parkway	Add 3 rd EB left, 3 rd NB through, 3 rd SB through
Alico Road/I-75 East Ramp	Add 2 nd WB left, 2 nd NB left
Alico Road/Project Entrance	Intersection Improvements
Ben Hill Griffin Parkway/Alico Road	Add 3 rd NB left, 3 rd SB through, 3 rd WB through, 2 nd EB left

¹ The build out date of the Miromar DRI was extended by two years to 2013. However, the transportation analysis was conducted assuming a build out date of December 31, 2009. For this reason, the reference to 2009 was not amended in this paragraph.

Ben Hill Griffin Parkway/Project Entrances
Ben Hill Griffin Parkway/Corkscrew Road

Corkscrew Road/Three Oaks Parkway
US 41/Alico Road

Intersection Improvements
Add 2nd EB left, 2nd NB left,
2nd SB left
Add 2nd EB left
Add 3rd SB left

The intersection improvements include geometric improvements, such as turn lanes and signalization when warranted. The Developer will be fully responsible for improvements needed at the project entrances that are deemed site-related (see Paragraph D.4). The intersections are addressed in the overall proportionate share calculation. As noted above, however, site-related needs at the project entrances are not addressed in the proportionate share calculation.

The amended traffic assessment indicates that the significantly impacted roadways described below will be operating below acceptable levels of service at the end of buildout in 2020.

<u>Roadways</u>	<u>Needed Improvement</u>
<u>Ben Hill Griffin Parkway</u> <u>-- Miromar Lakes Entrance to College Club Drive</u>	<u>Widen to six (6) lanes</u>

2. Mitigation

(a) Phase I Proportionate Share

The total proportionate share obligation to mitigate the Phase I transportation impacts on the non site-related roads and intersections set forth in Paragraph D.1.b. above is estimated to be \$1,270,796 in 1999 dollars. The Phase I road impact fees anticipated to be generated by the project based on the development parameters set forth in Paragraph D.1.a and under the current County road impact fee schedules are \$3,171,928, or \$1,901,132 more than the Phase I proportionate share obligation.

(b) Buildout Proportionate Share

The total proportionate share obligation to mitigate the build out transportation impacts on the non-site related roads and intersections set forth in Paragraph D.1.c. above is estimated to be \$10,914,866 in 1999 dollars. The total road impact fees anticipated to be generated by the project through buildout based on the development parameters set forth in Paragraph D.1.a. and under the current County road impact fee schedules are \$5,686,010. The proportionate share obligation is approximately \$5,228,856 more than impact fees in 1999 dollars.

(c) Traffic Mitigation

The Developer must mitigate its overall project traffic impacts through the payment of the entire project proportionate share obligation of \$10,914,866 for project buildout. The details of this payment must be established in a Local Government Development Agreement executed pursuant to Section 163.3220, Florida Statutes, and Chapter 2, Article III of the Lee County Land Development Code. The Developer must submit to Lee County a Development Agreement within 90 days of the effective date of this DRI Development Order.

Generally, the payment is to be accomplished in the following manner:

Within 120 days of the effective date of this DRI Development Order, the Developer must deliver as Maker a promissory note, payable to Lee County, in the original principal amount of \$10,914,866.00, representing the entire proportionate share obligation. The note will provide for payment of the entire amount to be paid the County before December 30, 2005. Additionally, the note must provide for interest to be paid at a rate of 7.4 percent on the unpaid balance of the proportionate share assessment.

The promissory note will provide for payments of principal as follows:

The first principal installment will be in the amount of the Phase I impact fee obligation, \$3,171,928.00, and will be due and payable on or before the earlier of one year from the date of final DRI Development Order approval or the date of the issuance of the first building permit for vertical construction. However, some development such as the golf course, golf clubhouse, information/sales center/model center, and beach club may proceed prior to the first payment. That development will be required to pay road impact fees at the time permits are received. Impact fee payments will be deducted from the first principal payment;

The second principal installment in the amount of \$6,000,000.00, will be due and payable on December 30, 2002;

The final payment of principal in the amount of \$1,742,938.00, will be due and payable December 30, 2005.

Interest will be payable on December 30th of each year beginning December 30, 2000 and continuing until the promissory note is paid in full. Upon payment of the six million dollar principal payment prior to December 30, 2002, the 2002 interest payment will be based on the remaining principal balance of \$1,742,938.00. Each payment will be in the amount of all accrued and unpaid interest to the date thereof. Except for the year 2002,

the amount of interest accrued will be based on the daily principal balance outstanding during the preceding year. The applicable interest rate will be equal to 7.4 percent. Interest payments are due and owing on December 30th of each calendar year. All prepayments of principal shall be credited to the next installment(s) due. All interest payments will be deposited in the District 3 impact fee account.

The Developer may choose to provide certain improvements such as the right-of-way for Koreshan Boulevard Extension along the south property line for Miromar Lakes or the six-laning of Ben Hill Griffin Parkway in exchange for credits against the overall payment obligation. These improvements are subject to concurrence by Lee County DOT on their scope and timing, and the contributions will be treated as prepayments of principal. Dedication of the Koreshan Boulevard Extension right-of-way will be valued consistent with the provisions of the Lee County Land Development Code, based on the date prior to DRI Development Order approval.

The portion of the payment in lieu of impact fees, estimated at \$5,686,010.00, will be treated as impact fees as outlined in the Lee County Land Development Code and deposited in the District 3 impact fee account. Cash payments above and beyond those in lieu of impact fees will be applied by Lee County toward the following improvements and in the following priority:

The list of significantly and adversely impacted roads and intersections from Paragraphs D.1.b and D.1.c.

Other non-site related roadway improvements benefitting Miromar Lakes.

(d) Concurrency

1. If the development agreement and promissory note specified in Paragraph D.2.c. above are provided as described and in the time frames noted, the Miromar Lakes DRI will be granted a concurrency certificate for buildout of the project, that is, the certificate will be valid until the project completes the buildout development parameters specified in Paragraph D.1.a. or December 31, ~~2013~~ 2020, whichever is sooner. Thereafter, further development of the project will be subject to the Concurrency Management System, unless the concurrency certificate is extended as provided in Condition D.2.d.2 below. Under the payment schedules identified above, the Developer will not be required to pay road impact fees at the building permit stage, except as previously noted for that limited development that may occur prior to the first payment. If the payments are not made as described, then no further building permits will be issued until the

Developer makes the payment. Concurrency vesting is contingent on the payment schedule and amounts set forth in Paragraph D.2.c. ~~If the Developer fails to comply with the payment schedule and amounts due, The proportionate share required herein was paid in full and the project will not lose its vested status and will not be subject to the County's Concurrency Management System for all future development as long as the development is constructed within the adopted development parameters.~~ The Developer will have a 15 day grace period following the due date for each payment within which to make the required payment without affecting the concurrency vesting.

2. The developer filed a Notice of Proposed Change that resulted in an extension of project buildout to December 31, 2020, extended the concurrency certificate in Condition II.D.2.d.1. above to December 31, 2020, and provided a detailed traffic assessment to the Lee County Department of Transportation for review and approval.

If the developer files a Notice of Proposed Change that results in an extension of project build out beyond December 31, 2013 2020 and the developer desires to extend the concurrency certificate in Condition D.2.d.1. above beyond 2020, the developer must provide a detailed traffic assessment to Lee County DOT for review and approval. The assessment must include, but not limited to, identifying the adjusted phasing, level of development anticipated for the revised phasing, estimated traffic impacts, needed improvements, and the project's proportionate share of those improvements.

The assessment will be a cumulative analysis of the project's traffic impacts. The County will provide credit against the recalculated proportionate share for all mitigation paid through the date of the new traffic assessment. The 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. This increase will be expressed as a percentage and will be measured from the index published for the second quarter of 1999 to the index published in the then latest available edition. In no event may the adjustment result in a refund of money paid to the County. The assessment must identify mitigation for those roadway segments that are significantly and adversely impacted by cumulative project traffic at the extended build-out year in accordance with the Transportation Uniform Standard Rule in the Florida Administrative Code. Prior to conducting a 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. Additional mitigation, if any, resulting from the traffic assessment must be paid in a manner generally consistent with that of the original mitigation. For example, the development order and any corresponding development agreement must be amended to reflect the revised phasing and additional mitigation.

3. Amendments to Phasing Schedule

If the project phasing is expanded in the future, the phases must be limited to not more than five-year intervals and a new analysis will be required at the start of each phase.

4. Access and Site-Related Improvements

The Developer is fully responsible for its share of the following site-related roadway and intersection improvements: 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 Alico Road and Ben Hill Griffin Parkway. Site-related improvements are not eligible for credit against impact fees and are also ineligible for offset against the project's proportionate share obligation.

5. Annual Biennial Transportation Monitoring Report

(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~~ biennial transportation monitoring report may be revised if agreed upon by all parties.

(b) Submittal of Monitoring Report

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

(c) Minimum Requirements for Report Contents

At a minimum, 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 ~~annual~~ biennial traffic monitoring report must also contain the following information:

- 1) P.M. peak hour traffic counts with turning movements at the project's access points onto Alico Road and Ben Hill Griffin Parkway, and on the external road segments and intersections identified in Paragraph D.1.c.
- 2) A comparison of field measured project traffic volumes to the project trip generation assumed in the DRI analysis. The Developer will need to specify in the methodology how the internal interaction will be measured.
- 3) Estimated existing levels of service and needed improvements for the roads and intersections specified in Paragraph D.1.c. above.
- 4) Estimated future levels of service and needed improvements for the roads and intersections specified in Paragraph D.1.c. above, based on a one-year projection of future volumes.

- 5) A summary of the status of road improvements assumed to be committed by Lee County and FDOT as set forth below:

<u>Roadways</u>	<u>Improvement</u>	<u>Construction Schedule</u>
Alico Road		
--US 41 to Seminole Gulf Railway	four (4) lanes	FY 98/99
--Seminole Gulf Railway to I-75 West Ramps	six (6) lanes	FY 98/99
Corkscrew Road		
--Sandy Lane to I-75	four (4) lanes	FY 98/99
Three Oaks Parkway		
--Alico Road to Daniels Parkway	four (4) lanes	FY 00/01
Treeline Avenue		
--Alico Road to Daniels Parkway	four (4) lanes	FY 01/02
US 41		
--Alico Road to Daniels Parkway	four (4) lanes	FY 98/99
<u>Intersections</u>	<u>Improvement</u>	<u>Construction Schedule</u>
I-75 Ramps/Alico Road	Signalization	FY 98/99

(d) Implications

- 1) If the ~~annual~~ biennial transportation monitoring report reveals that the project trip generation exceeds the thresholds identified in 380.06(19)(b)15, Florida Statutes, then the statutory provisions regarding substantial deviations will govern. If the project is deemed to be a substantial deviation, the Developer must then undergo additional DRI review. This review must reanalyze the project impacts on the County road network in general, and specifically evaluate the potential project impacts on the roadway segments identified in Paragraph D.3 above.
- 2) Changes to development parameters or phasing may trigger the need to rebut the statutory presumption of substantial deviation. In some instances, the evidence necessary to rebut the presumption may involve the need for a comparison of project trip distribution and assignment.

6. Other

(a) Access to FGCU

The Developer ~~must~~ has accommodated a second access to FGCU that connects to Ben Hill Griffin Parkway at STA 916+43.75, as contemplated in the FGCU Master Plan.

In addition, the Developer ~~must~~ has accommodated two additional accesses to the FGCU campus from: 1) the southern project entrance off Ben Hill Griffin Parkway; and 2) the east boundary of the project as reflected on Map H.

(b) Access Locations and Movements

1) The transportation assessment was based on the access locations and movements identified in the DRI Master Plan (Map H) dated ~~January 20, 2004~~ 12/23/09, printed by ~~Wilson, Miller, Barton and Peek, Inc~~ Miromar Development Corporation. Additional accesses may require further analysis by the Lee County Department of Transportation for the DRI.

2) Access to the ~~Koreshan Boulevard extension~~ Estero Parkway will be subject to the access management plan for the roadway proposed in conjunction with the design. Median openings, ~~if any, will be~~ were determined as part of the roadway design process as well.

(c) Pedestrian/Bicycle and Transit Facilities

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

(d) Access to Future 951

Future access to County Road 951 will be subject to the recommendations set forth in the PD&E for the roadway.

7. Land Use Conversion

The approved parameters, as specified in this Development Order, may be modified by the Developer without further amendment to this Development Order, subject to the conditions of Paragraph D.1.a. and as set forth below.

(a) No more than 700 single-family units will be built at Miromar Lakes. Given that single family units generate more total and external traffic than multi-

family and, therefore, have a greater traffic impact, single family units may be converted to multi-family units at a one-to-one (1:1) ratio. This conversion may occur without further DRI or substantial deviation review.

- (b) Residential condominium units may be converted to apartment units at a ratio of 1.15 residential condominium units to one apartment unit. However, no more than 700 residential condominium units may be converted to apartment units. This conversion may occur without further DRI or substantial deviation review.
- (c) Office use may be converted to Research and Development (R&D) at a ratio of 1,000 square feet of Office to 1,100 square feet of Research and Development. There is no limitation on the conversion of Office use to Research and Development (R&D) at the above ratio.
- (d) Notice of any conversion must be provided to the County, the Regional Planning Council, and the Department of Community Affairs. In addition, the amount of conversion must be reported as part of the subsequent annual monitoring report.

8. Golf Cart Crossing

- (a) Any golf cart crossing of Ben Hill Griffin Parkway by the Miromar Lakes DRI must be grade-separated. At-grade golf cart crossings of Ben Hill Griffin Parkway are prohibited. The golf cart crossing must be elevated over Ben Hill Griffin Parkway.
- (b) ~~Any~~ The elevated golf cart crossing of Ben Hill Griffin Parkway ~~must be~~ was reviewed and approved by Lee County DOT. The review ~~will included~~ but is ~~not limited to~~ issues such as structural requirements and adequate sight distances for Ben Hill Griffin Parkway. The Developer ~~must~~ obtained a right-of-way permit from Lee County DOT and ~~must~~ agreed to adequately maintain the structure within the right-of-way.

E. VEGETATION AND WILDLIFE/WETLANDS.

- 1. Where feasible and appropriate for bird usage, storm water management lakes must include draw-down pool features in littoral shelf slopes. These features will be reviewed as part of the ERP permit and will be considered because they favor use by wood storks and wading birds.
- 2. Identifiable impacts to the Florida panther habitat will be addressed through the Army Corps. of Engineers (ACOE) permitting process. The ACOE is consulting with U.S. Fish and Wildlife (USFWS) Service as part of the Section 7 consultation under the Endangered Species Act. The ACOE will

evaluate, through the permitting process, the impacts to the Florida panther. The impact must be assessed in accordance with Section 404 Federal Register and Section 7 of the Endangered Species Act.

The panther mitigation for buildout of the development, as depicted on Map H, has been identified in the ACOE Permit #199507483 (IP-MN) and SAJ1995-07483 (IP-MN) Addition and South Florida Water Management District (SFWMD) Environmental Resource Permit (ERP) No. 36-03568-P, as modified. The 12.65 Panther Island Mitigation credits have been transferred and 548.0 acres (194.0 and 353.0 acre parcels) of off-site land for panther mitigation has been acquired by the applicant. The 353-acre parcel must be accepted by appropriate agencies and conservation easements as per ACOE and SFWMD permit condition requirements must be recorded over the 194.0 and 353.0 acre parcels.

3. The Big Cypress Fox Squirrel Management Plan, dated July 2, 1998, must be amended to:
 - (a) address the quantity and quality of the Big Cypress Fox Squirrel habitat to be protected, and
 - (b) to identify the entity that will be responsible for the perpetual maintenance of the habitat.

The afore-stated amendments to the Big Cypress Fox Squirrel Management Plan are subject to review and approval by Lee County, DCA, and SWFRPC. Once approved, the management plan must be incorporated into this DRI Development Order. (9J-2.041 FAC)

4. The Developer must obtain an incidental take permit or relocation permit from the Florida Game and Fresh Water Fish Commission (FGFWFC) for gopher tortoises. If the Developer obtains an incidental take permit, tortoises and commensal species must be located out of harm's way to appropriate upland locations. The Developer will relocate tortoises to appropriate on-site upland preserves. Regardless of the type of permit obtained from the FGFWFC, a minimum of 3.0 acres of upland habitat appropriate for gopher tortoises will be preserved south of Stewart Cypress Slough between Ben Hill Griffin Parkway and the approximate 156-acre wetland/upland conservation area.
5. Where appropriate, the Developer must design internal roads that cross the Stewart Cypress and other strand areas to accommodate wildlife crossings of appropriate size for use by Florida panther and Florida black bear. Such size and design must correspond to the size and design set out in Condition 21 to the MPD.

6. Seventy-five(75) percent of the total number of required trees used in buffers and landscaping must be indigenous native varieties. Fifty percent (50%) of the total number of required shrubs used in buffers and landscaping must be indigenous native varieties. Where practicable, ecologically viable existing native vegetation should be incorporated into the landscape design. Xeriscaped landscape areas should not be irrigated after the initial start-up period, unless weather conditions and the survival of the areas require otherwise. Category 1 invasive exotic vegetation listed by the Florida Pest Plant Council may not be used for landscaping south of the main branch of the Stewart Cypress Slough (see Exhibit F attached hereto), except that Ficus benjaminia trees are permitted only along Ben Hill Griffin Parkway to screen the residential community and to carry forward the existing landscaping theme of the northern and western portions of the DRI.
7. The following management guidelines must be implemented to further reduce the potential for ground and surface water impacts from the golf course:
 - (a) The course must be planted with a turf grass cultivated variety having drought and pest resistant qualities and requiring relatively low fertilizer use;
 - (b) The irrigation system should operate on an "as needed" basis by the utilization of weather forecasting and ongoing assessment of the moisture content of the soil. It is not the intent of this provision to require the purchase or installation of high technology weather forecasting or rain monitoring equipment.
 - (c) Fertilizers with a low leaching potential (slow release) must be used whenever possible. Fertilizers may not be applied after active growth of the turf grass has ceased. Application rates must be kept to the lowest reasonable levels;
 - (d) To reduce sources of pollutants, especially nutrients and pesticides associated with the golf course, the golf course manager must implement a chemicals management plan which includes an integrated pest management (IPM) program and a nutrient management program so that nutrients and pesticides are used only when absolutely necessary and only in the most conservative manner through minimal species-specific applications. The nutrient management program must include the use of soil tests to determine needed applications of nutrients. Only EPA-approved chemicals are permitted. Turf managed areas (including fairways, tees, and greens) are prohibited within 35 feet of the Conservation Areas (CO) shown on the Master Concept Plan for Miromar Lakes.

- (e) The golf course manager will coordinate the application of pesticides with the irrigation practices (the timing and application rates of irrigation water) to reduce runoff and the leaching of any applied pesticides and nutrients.
- (f) The Developer must employ a golf course manager licensed by the state to use restricted pesticides and experienced in the principles of IPM. The golf course manager will be responsible for ensuring that the golf course fertilizers are selected and applied to minimize fertilizer runoff into the surface water and the leaching of those same fertilizers into the groundwater.
- (g) The storage, mixing, and loading of fertilizer and pesticides will be designed to prevent/minimize the pollution of the natural environment. The golf course must comply with the publication "Best Management Practices for Golf Course Maintenance Departments, May 1995" published by the Florida Department of Environmental Protection.

8. Golf Cart Crossing

- (a) Golf course crossing of the Stewart Cypress Slough must be grade-separated. At grade golf cart crossings of this Slough are prohibited.
- (b) At the time of final plan approval, all proposed elevated golf cart crossings of the Slough must be reviewed and approved by the Lee County Division of Environmental Sciences. The review will include, but is not limited to, the structural requirements of the crossing and function of the Slough.

9. The wetland mitigation for buildout of the development, as depicted on Map H, has been identified in the ACOE Permit #199507483 (IP-MN) and SAJ1995-07483 (IP-MN), and SFWMD ERP No. 36-03568-P, as modified. In addition to mitigation as discussed in Condition II.E.2., requirements include a minimum of 354.0 acres of on-site wetland and upland preservation, restoration and enhancement in substantial compliance with the areas delineated as conservation areas (CO) on Map H. If modifications to Map H are proposed to include additional land and/or impacts to required conservation areas, then jurisdictional agency review is required. Should additional land be added to the DRI, the impacts to wetlands on the additional lands will be reviewed in accordance with the laws in effect at that time. The inclusion of additional land will not subject the wetland mitigation identified in ACOE Permit #199507483 (IP-MN) and SAJ1995-07483 (IP-MN) to additional review or changes unless the applicant proposes changes to the wetland impacts and/or the required wetland mitigation.

F. WASTEWATER MANAGEMENT/WATER SUPPLY.

1. The project must incorporate water conserving devices or methods, including low volume water use plumbing fixtures, self-closing or metered water faucets. The water conserving devices must meet the criteria outlined in the water conservation plan of the public water supply permit issued to Gulf Environmental Services (GES) by SFWMD.
2. The Developer must obtain Water Use Permits for water withdrawals for landscape irrigation. Permits may only be issued for applications that meet the SFWMD criteria in effect at the time of permitting. Permits must be received prior to construction of the irrigation system.
3. Prior to the commencement of construction, plans and specifications for the water and wastewater collection system must be reviewed by Gulf Environmental Services, in accordance with their adopted rules and regulations.
4. The Developer must design potable water facilities in accordance with the Lee County Land Development Code (LDC). The LDC will also govern the applicable design for domestic and fire flow.
5. The Developer must comply with the LDC provisions that require the availability of adequate water and wastewater at the time of local final Development Order approval. Potable water, wastewater collection and treatment, and eventually non potable water must be obtained from Gulf Environmental Services. If GES is unable to provide the service, the Developer must construct interim potable water and wastewater treatment facilities, or postpone development until GES has sufficient capacity. Interim facilities must be constructed to LDC standards, and must be dismantled at the Developer's expense upon connection to GES facilities.
6. If the Developer utilizes treated effluent for irrigation, the Developer must buffer the on-site lakes, preserved wetlands, and storm water management system from possible effluent contamination in accordance with applicable SFWMD regulations.
7. Temporary septic systems may be used in conjunction with the construction office, sales offices, and model homes. Temporary septic systems must be properly abandoned and removed by a licensed septic system firm when permanent or interim wastewater treatment facilities are operational. Permanent septic systems are permitted for golf course restrooms. All other septic systems are prohibited.
8. The Developer must use the lowest quality of water available and acceptable

for all non-potable water uses. Potable water may not be utilized for non-potable uses if adequate and acceptable non-potable water is readily available.

G. COMPREHENSIVE PLAN CONSISTENCY.

1. Lee County may not issue a local Development Order unless the Development Order is consistent with the County's Comprehensive Plan, Land Development Code, University Window Overlay, Ben Hill Griffin Parkway Access Management Plan, and Concurrency Management System.
2. Given the 114 acres proposed for commercial development, the project is limited to no more than 1,140,000 square feet of commercial retail, office, hotel, and research and development uses. All commercial ancillary uses are included in this limitation; no residential or recreational ancillary uses are included in this amount. All building area must be included in this calculation to show compliance with this limitation. If multiple local development orders are requested, it is the developer's responsibility to provide a cumulative total of previous development order approvals prior to the issuance of the requested local development order.
3. The requested 340,000 square feet of office use may be converted to research and development use on a one square-foot to 1.1 square-foot ratio.

H. FIRE.

1. The Developer must address its fire and emergency services impacts through the payment of impact fees in accordance with the schedule set forth in the Lee County Land Development Code.
2. When required by Superfund Amendments Reauthorization Act (SARA) Title III, and the Florida Hazardous Materials Emergency Response and Community Right to Know Act of 1988, the Developer must file hazardous materials reports and updates.

I. AIRPORT NOISE ZONE.

Residential development is prohibited within all areas designated as Airport Noise Zone 3. However, this does not preclude the development of time-share units in conjunction with a bona-fide hotel use, provided the time-share units do not comprise more than 25 percent of the total approved hotel rooms. In such an instance, time-share units are not deemed to be a residential use.

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 Miromar Lakes DRI.
- 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 Alico AMDA filed September 13, 1990, as amended by The Miromar Lakes Development of Regional Impact ADA sufficiency response filed November 10, 1997.
 2. The Miromar Lakes DRI sufficiency responses, stamped received on:

January 16, 1991
April 2, 1991
July 10, 1991
November 17, 1997
March 27, 1998
July 6, 1998
 3. The Miromar Lakes Notice of Proposed Change, ~~stamped received on May 15, 2004~~ as amended by subsequent submittals.
- C. Master Plan of Development. Map H, dated ~~January 20, 2004~~ 12/23/09, is attached hereto as Exhibit C, and is incorporated by reference. The Developer may modify the boundaries of development areas and the location of internal roadways to accommodate topography, vegetation, market conditions, traffic circulation, or other site related conditions as long as the modification meets local development regulations. However, 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, as delegated by the Department of Environmental Protection and the Army Corps. of Engineers.
- D. Binding Effect. This Development Order is binding upon the Developer(s), and its assignees or successors in interest. Where the Development Order refers to lot owners, business owners or other specific references, 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 or parcel of land within the DRI. The

Developer may impose or pass on the requirements of this DRI DO to ultimate purchasers through covenants that run with the land.

- E. Reliance. The terms and conditions and phasing schedule set out in this Development Order constitute a basis upon which the Developer and the County may rely in 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 B. Changes 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. The cost 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, 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 Section 380.06, Florida Statutes. However, upon a finding 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 the 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 Section 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 adverse regional impacts or other regional impacts that have not been evaluated in the review 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 Section 380.06(19), Florida Statutes.
 3. Conditions in the development order that specify circumstances in which the development will be required to undergo additional DRI review. See 9J-2.025(10).
- K. Commencement of Physical Development. Substantial physical development of the project ~~must occurred~~ no later than December 31, 2000. Further development must occur in accordance with the development parameters and phasing schedule set forth in Exhibit ~~A~~ B.
- L. Buildout and Termination Dates. The project has a buildout date of December 31, 2013 ~~2020~~, and a termination date of December 31, 2019 ~~2026~~. ~~However, the effective termination date may be as late as December 31, 2026. This date~~ The termination date is based on a 10-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 Section 380.06(15)(g) are applicable.
- 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 Chapter 380.06(16), 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 on-site 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. Assuming the project can comply with the County's Concurrency Management Program at the time development permits are requested, the project will not be subject to down-zoning, unit density reduction, intensity reduction or prohibition of development until December 31, 2014 ~~30, 2026~~. 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 prohibition of development may occur. [See 9J-2.025(3)(b)13]

- P. Biennial Reports. The Developer must submit a report biennially to the Lee County Department of Community Development, the SWFRPC and Florida DCA on Form RPM-BSP-Annual Report-1. The content of the biennial report must include the information set forth in Exhibit E, 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 not later than one year after the effective date of this Development Order. Further reporting must be submitted not later than two years from the previously submitted report, until buildout, whether actual or declared. Failure to comply with this biennial reporting procedure is governed by Section 380.06(18), Florida Statutes, which provides for the temporary suspension of the DRI Development Order.

The Developer must file the biennial monitoring reports until actual or declared buildout of the project. Miromar Lakes, L.L.C., is the party responsible for filing the biennial 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 biennial 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 biennial 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 shall not be construed to require the approval of any petition to form such a district, and in no event shall 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 Section 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.

Commissioner John Manning made a motion to adopt the foregoing Fifth Amendment to the Miromar Lakes DRI Development Order, seconded by Commissioner Ray Judah. The vote was as follows:

John Manning	Aye
Brian Bigelow	Aye
Ray Judah	Aye
Tammara Hall	Aye
Frank Mann	Aye

DULY PASSED AND ADOPTED this 20th day of September, 2010.

ATTEST:
CHARLIE GREEN, CLERK

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: _____
Deputy Clerk

BY: _____
Tammara Hall, Chair

Approved as to form

By: _____
Assistant County Attorney
John J. Fredyma
Assistant Count Attorney

Exhibits:

- A. Legal Description (1,805 +/- acres)
- B. Development Parameters and Phasing Schedule
- C. Map H dated ~~January 20, 2004~~ 12/23/09
- D. Pedestrian and Bicycle Facilities and Bus Stop Locations
- E. Biennial Monitoring Report Requirements
- F. Invasive exotic vegetation listed by Florida Pest Plant Council



ORI 2009-00011

850 Encore Way • Naples, Florida 34110 • Phone: 239.254.2000 • Fax: 239.254.2099

LEE COUNTY
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SECOND FLOOREXHIBIT A
(7 Pages)HM PROJECT #2000106X
7/30/2003
REF. DWG. 1A-1583
PAGE 1 OF 1
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LEGAL DESCRIPTION:

A PARCEL OF LAND LOCATED IN A PORTION OF SECTIONS 10, 11, 12, 13, 14, 15, 16 AND 23, TOWNSHIP 46 SOUTH, RANGE 26 EAST, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT SOUTHEAST CORNER OF SECTION 23, TOWNSHIP 46 SOUTH, RANGE 26 EAST, LEE COUNTY, FLORIDA; THENCE RUN N.89°44'39"W., ALONG THE SOUTH LINE OF SAID SECTION 23, FOR A DISTANCE OF 851.54 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF BEN HILL GRIFFIN PARKWAY (A.K.A. TREELINE DRIVE), A 150.00 FOOT WIDE RIGHT-OF-WAY, RECORDED IN O.R. BOOK 2745, PAGES 1550 THROUGH 1554 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA AND TO THE POINT OF BEGINNING OF THE PARCEL OF LAND HEREIN DESCRIBED; THENCE CONTINUE N.89°44'39"W. ALONG THE SOUTH LINE OF SAID SECTION 23, FOR A DISTANCE OF 2,921.78 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF INTERSTATE 75; THENCE RUN N.18°17'51"W. ALONG THE EASTERLY RIGHT-OF-WAY LINE OF INTERSTATE 75, FOR A DISTANCE OF 955.62 FEET TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE, CONCAVE EASTERLY; THENCE RUN NORTHERLY ALONG THE EASTERLY RIGHT-OF-WAY LINE OF INTERSTATE 75 AND ALONG THE ARC OF SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 17,026.80 FEET, THROUGH A CENTRAL ANGLE OF 04°04'42", SUBTENDED BY A CHORD OF 1,211.72 FEET AT A BEARING OF N.16°15'30"W., FOR A DISTANCE OF 1,211.97 FEET TO THE END OF SAID CURVE; THENCE RUN N.14°13'09"W. ALONG THE EASTERLY RIGHT-OF-WAY LINE OF INTERSTATE 75, FOR A DISTANCE OF 8,126.68 FEET; THENCE RUN N.76°08'64"E, FOR A DISTANCE OF 527.61 FEET; THENCE RUN N.79°14'37"E, FOR A DISTANCE OF 501.77 FEET; THENCE RUN N.84°36'26"E, FOR A DISTANCE OF 384.54 FEET; THENCE RUN S.85°27'53"E, FOR A DISTANCE OF 381.51 FEET; THENCE RUN S.74°31'06"E, FOR A DISTANCE OF 209.92 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF SAID BEN HILL GRIFFIN PARKWAY AND A POINT ON A CIRCULAR CURVE, CONCAVE EASTERLY, WHOSE RADIUS POINT BEARS S.69°47'11"E, A DISTANCE OF 3,075.00 FEET THEREFROM; THENCE RUN SOUTHERLY ALONG THE WESTERLY RIGHT-OF-WAY LINE OF SAID BEN HILL GRIFFIN PARKWAY AND ALONG THE ARC OF SAID CURVE TO THE LEFT, HAVING A RADIUS OF 3,075.00 FEET, THROUGH A CENTRAL ANGLE OF 23°44'14", SUBTENDED BY A CHORD OF 1,284.85 FEET AT A BEARING OF S.08°20'42"W., FOR A DISTANCE OF 1,273.94 FEET TO THE END OF SAID CURVE; THENCE RUN S.03°31'24"E. ALONG THE WESTERLY RIGHT-OF-WAY LINE OF SAID BEN HILL GRIFFIN PARKWAY, FOR A DISTANCE OF 3,887.79 FEET TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE, CONCAVE EASTERLY; THENCE RUN SOUTHERLY ALONG THE WESTERLY RIGHT-OF-WAY LINE OF SAID BEN HILL GRIFFIN PARKWAY AND ALONG THE ARC OF SAID CURVE TO THE LEFT, HAVING A RADIUS OF 2,000.00 FEET, THROUGH A CENTRAL ANGLE OF 20°33'03", SUBTENDED BY A CHORD OF 713.52 FEET AT A BEARING OF S.13°47'58"E, FOR A DISTANCE OF 717.36 FEET TO THE END OF SAID CURVE; THENCE RUN S.24°04'27"E. ALONG THE WESTERLY RIGHT-OF-WAY LINE OF SAID BEN HILL GRIFFIN PARKWAY, FOR A DISTANCE OF 1,593.09 FEET TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE, CONCAVE NORTHEASTERLY; THENCE RUN SOUTHEASTERLY ALONG THE WESTERLY RIGHT-OF-WAY LINE OF SAID BEN HILL GRIFFIN PARKWAY AND ALONG THE ARC OF SAID CURVE TO THE LEFT, HAVING A RADIUS OF 2,875.00 FEET, THROUGH A CENTRAL ANGLE OF 31°18'49", SUBTENDED BY A CHORD OF 1,550.16 FEET AT A BEARING OF S.39°42'52"E, FOR A DISTANCE OF 1,569.58 FEET TO THE END OF SAID CURVE; THENCE RUN S.55°21'16"E. ALONG THE WESTERLY RIGHT-OF-WAY LINE OF SAID BEN HILL GRIFFIN PARKWAY, FOR A DISTANCE OF

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Naples • Fort Myers • Venice • Englewood

APPROVED
LEGAL 34 1-6-10
Pages 1 thru 7Exhibit A
(Page 1 of 7)

HM PROJECT #2000106X

7/30/2003

REF: DWG. #A-1583

PAGE 1 OF 1

1,684.71 FEET TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE, CONCAVE SOUTHWESTERLY; THENCE RUN SOUTHEASTERLY ALONG THE WESTERLY RIGHT-OF-WAY LINE OF SAID BEN HILL GRIFFIN PARKWAY AND ALONG THE ARC OF SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 1,325.00 FEET, THROUGH A CENTRAL ANGLE OF 54°31'33", SUBTENDED BY A CHORD OF 1,213.90 FEET AT A BEARING OF S.28°05'29"E., FOR A DISTANCE OF 1,260.94 FEET TO THE END OF SAID CURVE; THENCE RUN S.00°49'43"E. ALONG THE WESTERLY RIGHT-OF-WAY LINE OF SAID BEN HILL GRIFFIN PARKWAY, FOR A DISTANCE OF 600.19 FEET TO THE POINT OF BEGINNING; CONTAINING 396.652 ACRES, MORE OR LESS.

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

BEARINGS SHOWN HEREON REFER TO THE SOUTH LINE OF SECTION 23, TOWNSHIP 46 SOUTH, RANGE 25 EAST, OF LEE COUNTY, FLORIDA AS BEING N.89°44'39"W.

THIS SKETCH AND LEGAL HAS BEEN PREPARED BASED UPON THE BANKS ENGINEERING, INC. PARCEL DESCRIPTIONS AS SHOWN ON DRAWINGS 1155SR, SHEETS 1 THROUGH 4, DATED 4/10/2000

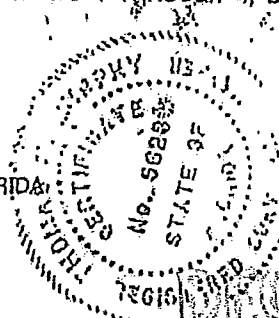
HOLE MONTES, INC.

CERTIFICATE OF AUTHORIZATION NUMBER LB 1772

BY Thomas M. Murphy
THOMAS M. MURPHY

P.S.M. #5628

STATE OF FLORIDA



Applicant's Legal Checked

By [Signature] 11/14/03

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LEE COUNTY
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PERMIT COUNTER

03 JUL 30 PM 12:07 3585 Esplanade Way • Naples, Florida 34110 • Phone: 239.254.2000 • Fax: 239.254.2075

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PUB. WRKS. CNTR.
SECOND FLOOR

HM PROJECT #2000106X
7/30/2003
REF. DWG. #A-1582
Page 1 of 3

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LEGAL DESCRIPTION:

A PARCEL OF LAND LOCATED IN A PORTION OF SECTIONS 11, 12, 13, 14, 23, AND 24, TOWNSHIP 46 SOUTH, RANGE 25 EAST, AND SECTION 18, TOWNSHIP 46 SOUTH, RANGE 26 EAST, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE SOUTHEAST CORNER OF SECTION 23, TOWNSHIP 46 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA; THENCE RUN N.89°44'39"W. ALONG THE SOUTH LINE OF SAID SECTION 23, FOR A DISTANCE OF 501.52 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF BEN HILL GRIFFIN PARKWAY (A.K.A. TREELINE DRIVE), A 150 FOOT WIDE RIGHT-OF-WAY, RECORDED IN O.R. BOOK 2745, PAGES 1550 THROUGH 1554 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE RUN N.00°49'43"W. ALONG SAID EASTERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 603.03 FEET TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE, CONCAVE SOUTHWESTERLY; THENCE RUN NORTHWESTERLY ALONG THE SAID EASTERLY RIGHT-OF-WAY LINE AND ALONG THE ARC OF SAID CURVE TO THE LEFT, HAVING A RADIUS OF 1,475.00 FEET, THROUGH A CENTRAL ANGLE OF 54°31'33", SUBTENDED BY A CHORD OF 1,351.32 FEET AT A BEARING OF N.28°05'29"W., FOR A DISTANCE OF 1,403.69 FEET TO THE END OF SAID CURVE; THENCE RUN N.55°21'16"W. ALONG THE SAID EASTERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 423.86 FEET; THENCE RUN N.38°37'17"E. FOR A DISTANCE OF 180.44 FEET; THENCE RUN N.40°45'20"W. FOR A DISTANCE OF 1,287.06 FEET; THENCE RUN N.51°22'43"W. FOR A DISTANCE OF 275.00 FEET; THENCE RUN N.20°50'23"W. FOR A DISTANCE OF 170.61 FEET; THENCE RUN N.03°26'59"W. FOR A DISTANCE OF 196.02 FEET; THENCE RUN N.49°19'44"E. FOR A DISTANCE OF 344.71 FEET; THENCE RUN S.54°09'13"E. FOR A DISTANCE OF 1,057.59 FEET; THENCE RUN S.05°08'14"W. FOR A DISTANCE OF 497.67 FEET; THENCE RUN S.87°48'55"E. FOR A DISTANCE OF 1,464.61 FEET; THENCE RUN N.88°17'13"E. FOR A DISTANCE OF 233.73 FEET; THENCE RUN S.31°47'37"E. FOR A DISTANCE OF 631.21 FEET; THENCE RUN N.62°11'53"E. FOR A DISTANCE OF 2,704.05 FEET; THENCE RUN N.21°20'50"E. FOR A DISTANCE OF 1,025.79 FEET; THENCE RUN N.02°13'31"W. FOR A DISTANCE OF 389.05 FEET; THENCE RUN N.73°40'08"E. FOR A DISTANCE OF 497.73 FEET; THENCE RUN N.84°27'10"E. FOR A DISTANCE OF 848.96 FEET; THENCE RUN N.20°19'20"W. FOR A DISTANCE OF 155.37 FEET; THENCE RUN N.04°47'10"W. FOR A DISTANCE OF 137.24 FEET; THENCE RUN N.10°20'25"E. FOR A DISTANCE OF 89.58 FEET; THENCE RUN N.88°40'48"W. FOR A DISTANCE OF 108.51 FEET; THENCE RUN N.35°22'24"E. FOR A DISTANCE OF 61.49 FEET; THENCE RUN N.24°10'35"E. FOR A DISTANCE OF 16.58 FEET; THENCE RUN N.18°58'33"E. FOR A DISTANCE OF 22.30 FEET; THENCE RUN N.01°25'10"W. FOR A DISTANCE OF 17.20 FEET; THENCE RUN N.02°00'52"E. FOR A DISTANCE OF 22.73 FEET; THENCE RUN N.10°34'22"E. FOR A DISTANCE OF 27.69 FEET; THENCE RUN N.08°31'29"E. FOR A DISTANCE OF 27.56 FEET; THENCE RUN N.04°17'29"W. FOR A DISTANCE OF 27.54 FEET; THENCE RUN N.03°50'00"E. FOR A DISTANCE OF 32.88 FEET; THENCE RUN N.05°16'54"E. FOR A DISTANCE OF 34.74 FEET; THENCE RUN N.14°86'53"W. FOR A DISTANCE OF 12.71 FEET; THENCE RUN N.49°59'45"W. FOR A DISTANCE OF 15.85 FEET; THENCE RUN N.67°08'11"W. FOR A DISTANCE OF 67.75 FEET; THENCE RUN N.67°33'34"E. FOR A DISTANCE OF 68.16 FEET; THENCE RUN N.57°34'53"E. FOR A DISTANCE OF 15.64 FEET; THENCE RUN N.53°45'20"E. FOR A DISTANCE OF 13.61 FEET; THENCE RUN N.58°32'02"E. FOR A DISTANCE OF 11.22 FEET; THENCE RUN N.54°40'50"E. FOR A DISTANCE OF 13.85 FEET; THENCE RUN N.49°38'55"E. FOR A DISTANCE OF 19.09 FEET; THENCE RUN N.37°17'03"E. FOR A DISTANCE OF 14.40 FEET; THENCE RUN N.25°04'13"E. FOR A DISTANCE OF 22.71 FEET; THENCE RUN N.30°25'33"E. FOR A DISTANCE OF

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40.77 FEET; THENCE RUN S.70°47'07"E., FOR A DISTANCE OF 50.50 FEET; THENCE RUN N.19°32'42"E., FOR A DISTANCE OF 63.26 FEET; THENCE RUN N.62°41'55"E., FOR A DISTANCE OF 33.33 FEET; THENCE RUN N.60°03'38"E., FOR A DISTANCE OF 27.79 FEET; THENCE RUN N.68°58'32"E., FOR A DISTANCE OF 33.67 FEET; THENCE RUN N.69°27'09"E., FOR A DISTANCE OF 39.32 FEET; THENCE RUN N.76°09'54"E., FOR A DISTANCE OF 38.69 FEET; THENCE RUN N.84°37'56"E., FOR A DISTANCE OF 35.30 FEET; THENCE RUN N.71°01'39"E., FOR A DISTANCE OF 38.05 FEET; THENCE RUN N.56°16'09"E., FOR A DISTANCE OF 22.32 FEET; THENCE RUN N.54°45'23"E., FOR A DISTANCE OF 72.52 FEET; THENCE RUN N.43°40'48"E., FOR A DISTANCE OF 14.33 FEET; THENCE RUN N.36°37'28"E., FOR A DISTANCE OF 31.97 FEET; THENCE RUN N.16°15'53"E., FOR A DISTANCE OF 27.07 FEET; THENCE RUN N.00°14'32"W., FOR A DISTANCE OF 18.58 FEET; THENCE RUN N.01°01'18"W., FOR A DISTANCE OF 22.80 FEET; THENCE RUN N.11°30'29"E., FOR A DISTANCE OF 41.68 FEET; THENCE RUN N.25°25'32"E., FOR A DISTANCE OF 18.52 FEET; THENCE RUN N.29°13'14"E., FOR A DISTANCE OF 12.77 FEET; THENCE RUN N.09°42'26"E., FOR A DISTANCE OF 13.86 FEET; THENCE RUN N.10°10'17"W., FOR A DISTANCE OF 8.24 FEET; THENCE RUN N.25°29'33"W., FOR A DISTANCE OF 11.70 FEET; THENCE RUN N.71°45'42"W., FOR A DISTANCE OF 21.85 FEET; THENCE RUN N.59°03'27"W., FOR A DISTANCE OF 13.21 FEET; THENCE RUN N.37°04'03"W., FOR A DISTANCE OF 27.24 FEET; THENCE RUN N.00°38'48"W., FOR A DISTANCE OF 28.85 FEET; THENCE RUN N.10°12'59"E., FOR A DISTANCE OF 35.02 FEET; THENCE RUN N.01°52'01"E., FOR A DISTANCE OF 31.20 FEET; THENCE RUN N.05°34'22"E., FOR A DISTANCE OF 13.39 FEET; THENCE RUN N.01°01'36"W., FOR A DISTANCE OF 30.61 FEET; THENCE RUN N.15°40'00"W., FOR A DISTANCE OF 27.25 FEET; THENCE RUN N.22°54'25"W., FOR A DISTANCE OF 20.48 FEET; THENCE RUN N.20°19'15"W., FOR A DISTANCE OF 21.36 FEET; THENCE RUN N.17°17'45"W., FOR A DISTANCE OF 18.27 FEET; THENCE RUN N.26°34'23"W., FOR A DISTANCE OF 16.79 FEET; THENCE RUN N.15°41'23"W., FOR A DISTANCE OF 49.27 FEET; THENCE RUN N.00°29'10"W., FOR A DISTANCE OF 19.63 FEET; THENCE RUN S.65°22'51"W., FOR A DISTANCE OF 893.03 FEET; THENCE RUN S.62°02'33"W., FOR A DISTANCE OF 548.61 FEET; THENCE RUN N.84°00'27"W., FOR A DISTANCE OF 113.75 FEET; THENCE RUN S.73°01'40"W., FOR A DISTANCE OF 332.94 FEET; THENCE RUN S.88°47'09"W., FOR A DISTANCE OF 386.85 FEET; THENCE RUN N.01°12'51"W., FOR A DISTANCE OF 733.65 FEET; THENCE RUN N.76°24'23"E., FOR A DISTANCE OF 644.66 FEET; THENCE RUN N.02°55'18"W., FOR A DISTANCE OF 211.27 FEET; THENCE RUN N.18°49'36"E., FOR A DISTANCE OF 1,336.10 FEET; THENCE RUN S.88°44'00"W., FOR A DISTANCE OF 3,706.01 FEET; THENCE RUN N.00°58'18"W., FOR A DISTANCE OF 320.18 FEET; THENCE RUN S.89°01'42"W., FOR A DISTANCE OF 450.42 FEET; THENCE RUN S.03°10'23"E., FOR A DISTANCE OF 430.66 FEET; THENCE RUN S.88°17'12"W., FOR A DISTANCE OF 1,027.71 FEET; THENCE RUN S.01°42'48"E., FOR A DISTANCE OF 306.15 FEET; THENCE RUN S.47°45'12"W., FOR A DISTANCE OF 1,504.06 FEET; THENCE RUN S.88°27'56"W., FOR A DISTANCE OF 1,780.04 FEET TO A POINT ON THE SAID EASTERLY RIGHT-OF-WAY LINE; THENCE RUN N.03°31'24"W. ALONG THE SAID EASTERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 3,304.77 FEET TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE, CONCAVE EASTERLY; THENCE RUN NORTHERLY ALONG THE SAID EASTERLY RIGHT-OF-WAY LINE AND ALONG THE ARC OF SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 2,925.00 FEET, THROUGH A CENTRAL ANGLE OF 23°44'13", SUBTENDED BY A CHORD OF 1,203.14 FEET AT A BEARING OF N.08°20'42"E., FOR A DISTANCE OF 1,211.79 FEET TO THE END OF SAID CURVE; THENCE RUN N.20°12'49"E. ALONG THE SAID EASTERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 473.65 FEET TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE, CONCAVE WESTERLY; THENCE RUN NORTHERLY ALONG THE SAID EASTERLY RIGHT-OF-WAY LINE AND ALONG THE ARC OF SAID CURVE TO THE LEFT, HAVING A RADIUS OF 10,075.00 FEET, THROUGH A CENTRAL ANGLE OF 19°11'28", SUBTENDED BY A

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REF. DWG. #A-1582
Page 3 of 3

CHORD OF 3,358.85 FEET AT A BEARING OF N.10°37'06"E., FOR A DISTANCE OF 3,374.60 FEET TO THE END OF SAID CURVE; THENCE RUN N.01°01'21"E. ALONG THE SAID EASTERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 909.76 FEET; THENCE RUN S.89°42'24"E., FOR A DISTANCE OF 1,049.81 FEET; THENCE RUN S.01°00'21"E., FOR A DISTANCE OF 847.76 FEET; THENCE RUN S.04°19'45"W., FOR A DISTANCE OF 1,091.78 FEET; THENCE RUN S.00°39'26"E., FOR A DISTANCE OF 1,432.24 FEET; THENCE RUN S.00°16'17"E., FOR A DISTANCE OF 606.62 FEET; THENCE RUN N.88°47'46"E., FOR A DISTANCE OF 376.79 FEET; THENCE RUN S.40°48'12"E., FOR A DISTANCE OF 322.81 FEET; THENCE RUN S.19°01'17"E., FOR A DISTANCE OF 249.77 FEET; THENCE RUN S.88°53'28"E., FOR A DISTANCE OF 216.94 FEET; THENCE RUN S.24°26'51"E., FOR A DISTANCE OF 150.17 FEET; THENCE RUN S.77°09'28"E., FOR A DISTANCE OF 673.01 FEET; THENCE RUN S.88°10'13"E., FOR A DISTANCE OF 1,363.08 FEET; THENCE RUN S.19°42'28"E., FOR A DISTANCE OF 157.73 FEET; THENCE RUN S.87°09'14"E., FOR A DISTANCE OF 469.81 FEET; THENCE RUN N.88°02'24"E., FOR A DISTANCE OF 612.22 FEET; THENCE RUN S.21°30'12"E., FOR A DISTANCE OF 81.17 FEET; THENCE RUN N.88°10'32"E., FOR A DISTANCE OF 846.89 FEET; THENCE RUN N.88°10'32"E., FOR A DISTANCE OF 1,137.62 FEET; THENCE RUN S.20°09'57"E., FOR A DISTANCE OF 344.08 FEET; THENCE RUN S.89°48'06"E., FOR A DISTANCE OF 80.00 FEET; THENCE RUN S.20°09'57"E., FOR A DISTANCE OF 807.57 FEET; THENCE RUN S.15°43'44"E., FOR A DISTANCE OF 878.45 FEET; THENCE RUN S.89°46'43"E., FOR A DISTANCE OF 516.03 FEET TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE, CONCAVE SOUTHWESTERLY; THENCE RUN SOUTHEASTERLY ALONG THE ARC OF SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 500.00 FEET, THROUGH A CENTRAL ANGLE OF 88°55'56", SUBTENDED BY A CHORD OF 700.49 FEET AT A BEARING OF S.45°18'45"E., FOR A DISTANCE OF 776.08 FEET TO THE END OF SAID CURVE; THENCE RUN S.00°50'47"E., FOR A DISTANCE OF 1,447.68 FEET; THENCE RUN S.09°57'20"W., FOR A DISTANCE OF 633.67 FEET TO A POINT ON THE EAST LINE OF SECTION 13, TOWNSHIP 46 SOUTH, RANGE 25 EAST; THENCE RUN S.00°50'47"E. ALONG THE EAST LINE OF SAID SECTION 13, FOR A DISTANCE OF 857.10 FEET TO THE NORTHWEST CORNER OF SECTION 24, TOWNSHIP 46 SOUTH, RANGE 25 EAST; THENCE RUN S.00°50'13"E. ALONG THE EAST LINE OF THE NORTHEAST ONE-QUARTER OF SAID SECTION 24, FOR A DISTANCE OF 2,839.78 FEET TO THE EAST QUARTER CORNER OF SAID SECTION 24; THENCE RUN S.00°48'26"E. ALONG THE EAST LINE OF THE SOUTHEAST ONE-QUARTER OF SAID SECTION 24, FOR A DISTANCE OF 2,843.97 FEET TO THE SOUTHEAST CORNER OF SAID SECTION 24; THENCE RUN S.89°28'32"W. ALONG THE SOUTH LINE OF SAID SECTION 24, FOR A DISTANCE OF 5,249.70 FEET TO THE POINT OF BEGINNING; CONTAINING 1,408.994 ACRES, MORE OR LESS.

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

BEARINGS SHOWN HEREON REFER TO THE SOUTH LINE OF SECTION 24, TOWNSHIP 46 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA AS BEING S.89°28'32"W.

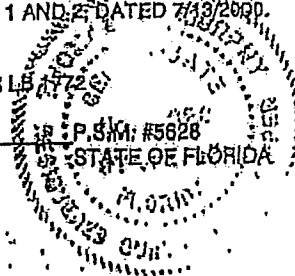
THIS SKETCH AND LEGAL HAS BEEN PREPARED BASED UPON THE BANKS ENGINEERING, INC. PARCEL DESCRIPTIONS AS SHOWN ON DRAWINGS 1418SR, SHEETS 1 THROUGH 4, DATED 4/10/2000 AND DRAWINGS 1418SR, SHEETS 1 AND 2 DATED 7/13/2000.

HOLE MONTES, INC.

CERTIFICATE OF AUTHORIZATION NUMBER LB 177251

BY

Thomas M. Murphy
THOMAS M. MURPHY



Applicant's Legal Checked
by *Ann 1941613*

RECEIVED
JUL 31 2003

PERMIT COUNTER

DCI2001-00033

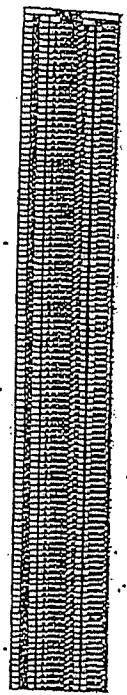
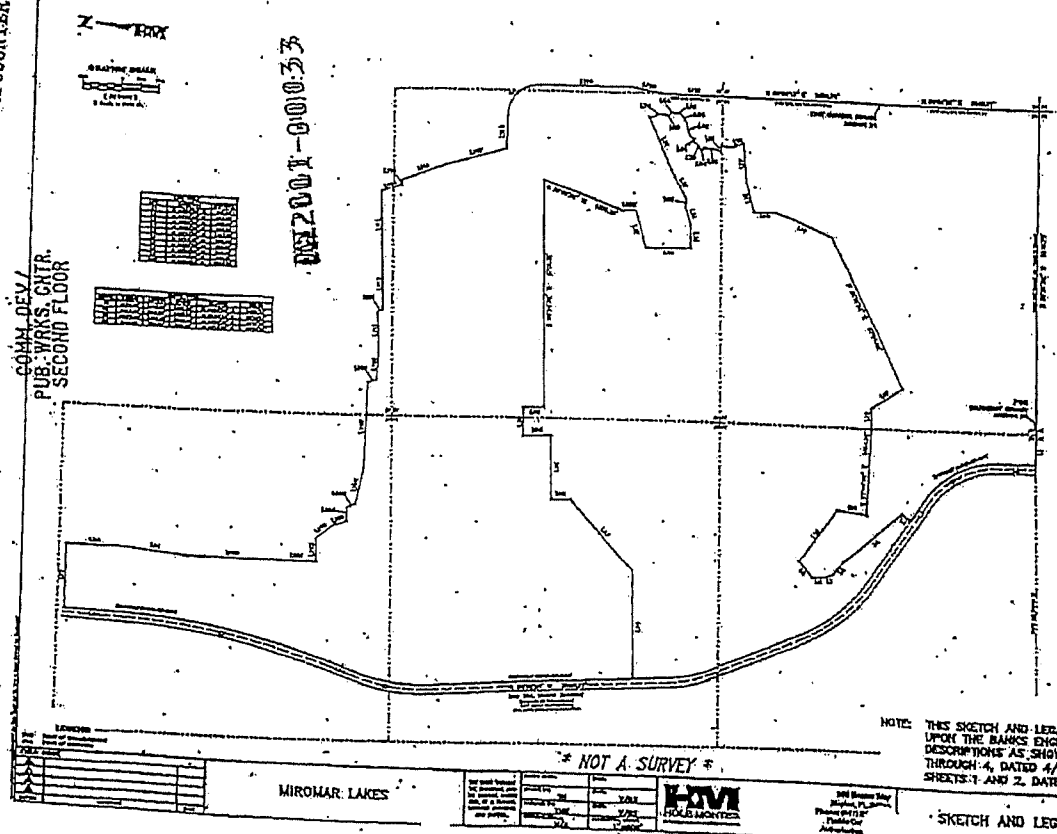
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COMMUNITY DEVELOPMENT

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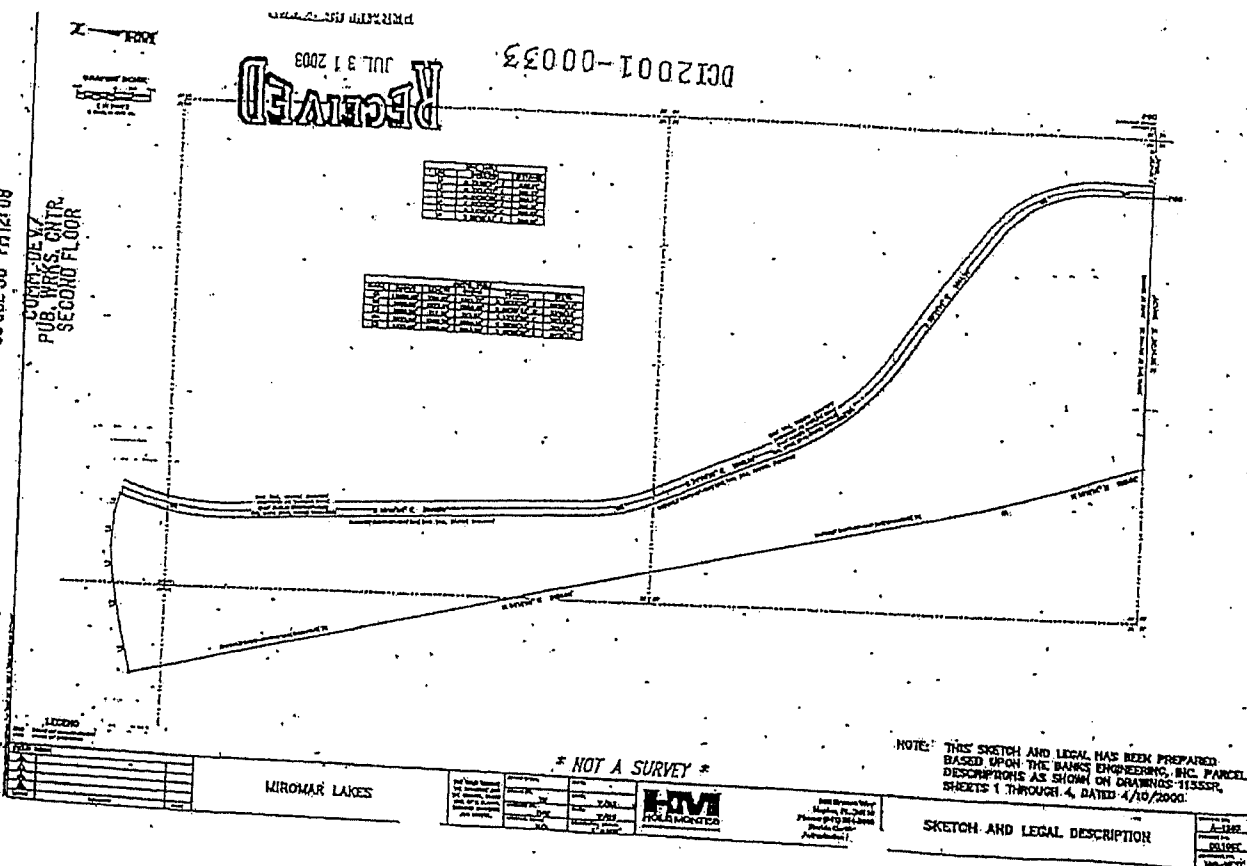


EXHIBIT B
Page 1 of 2

DEVELOPMENT PARAMETERS AND PHASING SCHEDULE - 2020

LAND USE	ACRES
Residential	1042
Commercial/Office/ Hotel	114
Lake/Miscellaneous Recreation/Buffers	312
Conservation Areas	338

LAND USE	PHASE ONE 2003	PHASE TWO 2013	TOTAL
RESIDENTIAL	1,414	1,186	2,600
Single-Family	314	386	700
Multiple-Family	1,100	800	1,900
RETAIL COMMERCIAL (gfa)	160,000	90,000	250,000
HOTEL ROOMS	350	100	450
OFFICE (gfa)*	100,000	240,000	340,000
RESEARCH & DEVELOPMENT (gfa)	-	40,000	40,000
CLUBHOUSE	20,000	20,000	40,000
GOLF COURSE	18 Holes	18 Holes	36 Holes
BEACH PARK	10 Acres	-	10 Acres

*The 340,000 square feet of office use may be converted to Research and Development use on a one-square foot to 1.1 square foot ratio.

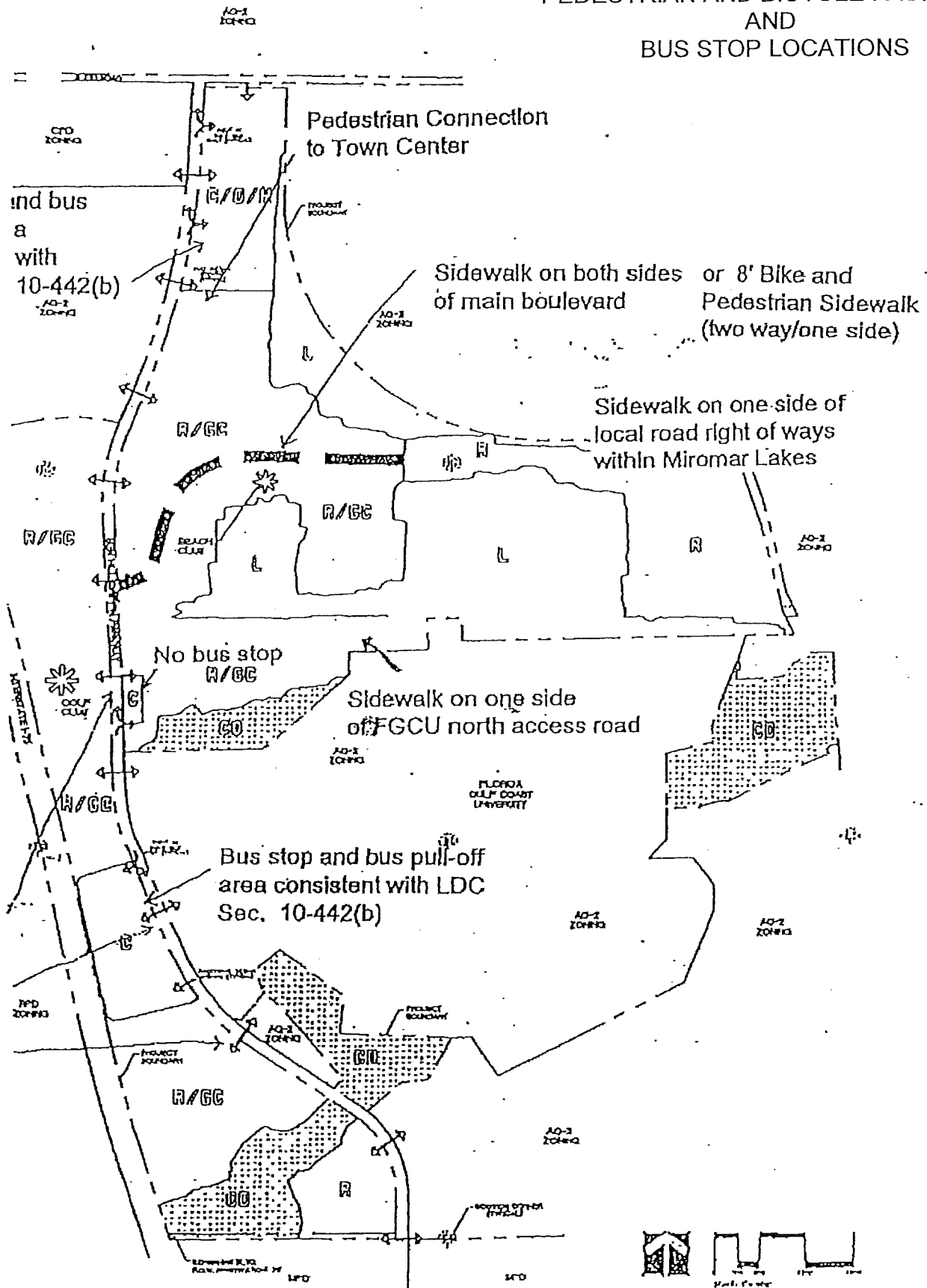
EXHIBIT B
Page 2 of 2

	ANCILLARY BOATING FACILITIES					
	PHASE ONE			PHASE TWO		
	Slips	Day Slips	Boat Ramp	Slips	Day Slips	
Multiple-Family Parcel	25			25		
Beach Club	10	40	✓			
Town Center	25	25	✓	25	25	
Single Family Homes	Individual Docks as Applicable					
Boat Club				10	40	✓

1. A maximum of 250 ancillary wet boat slips may be located in the "R", "R2", "C2", the Beach Club and the Boat Club tracts in addition to a dock for each single-family lakefront lot as of 11/29/1999.
2. Single-family docks may be converted to multiple-family slips on a 1:1 basis.
3. Up to 250 wet slips may be converted to dry storage associated with the Boat Club on a 1:1 basis.

EXHIBIT D

PEDESTRIAN AND BICYCLE FACILITIES AND BUS STOP LOCATIONS



DRI
EXHIBIT E
BIENNIAL MONITORING REPORT REQUIREMENTS

The 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 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 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 biennial 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 biennial report. The Administrative Code requires that the biennial report will be submitted to DCA, the RPC, and the local government on Form RPM-BSP-Annual Report-1.

DEFINITIONS: *Exotic*—a species introduced to Florida, purposefully or accidentally, from a natural range outside of Florida. *Native*—a species whose natural range included Florida at the time of European contact (1500 AD). *Naturalized exotic*—an exotic that sustains itself outside cultivation (it has not "become" native). *Invasive exotic*—an exotic that not only has naturalized but is expanding on its own in Florida plant communities.

Abbreviations used: for "Gov. List": P = Prohibited by Fla. Dept. of Environ. Protection, N = Noxious Weed listed by Fla. Dept. of Agriculture & Consumer Services, U = Noxious Weed listed by U.S. Dept. of Agriculture. for "Reg. Dis.": N = north, C = central, S = south, referring to each species' current distribution in general regions of Florida (not its potential range in the state). See map.



LIST PREPARED BY THE *Florida* Exotic Pest Plant Council's

PEST PLANT LIST COMMITTEE:

Keith A. Bradley, Institute for Regional Conservation, 22601 S.W. 152nd Ave., Miami, FL 33170
 Kathy Craddock Burks (CHAIR), Invasive Plant Management, Florida Dept. of Environmental Protection, 3300 Commonwealth Blvd., MS 705, Tallahassee, FL 32399
 Nancy Craft Coile, Botanist Emeritus, Division of Plant Industry, Florida Dept. of Agriculture and Consumer Services, 22804 N.W. CR-2054, Alachua, FL 32615
 James G. Duquesnel, Florida Park Service, Fla. Dept. of Environmental Protection, P.O. Box 487, Key Largo, FL 33037
 Edward Freeman, The Nature Conservancy, 1413 Boulevard of the Arts, Sarasota, FL 34236
 David W. Hall, Private Consulting Botanist, 3666 N.W. 13th Place, Gainesville, FL 32605
 Roger L. Hammer, Miami-Dade Parks Department, Castellow Hammock Nature Center, 22301 S.W. 162nd Ave., Miami, FL 33030
 Kenneth A. Langeland, Center for Aquatic and Invasive Plants, IFAS, University of Florida, 7922 N.W. 71st St., Gainesville, FL 32606
 Robert W. Pemberton, Agricultural Research Station, U.S. Department of Agriculture, 2305 College Ave., Ft. Lauderdale, FL 33314
 Daniel B. Ward, Department of Botany, 220 Bartram Hall, University of Florida, Gainesville, FL 32611
 Richard P. Wunderlin, Institute for Systematic Botany, Department of Biological Sciences, University of South Florida, Tampa, FL 33620

For more information on invasive exotic plants, including links to related web pages, visit the

Florida EPPC web site: <http://www.fleppc.org>

5/20/03

Category I - Invasive exotics that are altering native plant communities by displacing native species, changing community structures or ecological functions, or hybridizing with natives. This definition does not rely on the economic severity or geographic range of the problem, but on the documented ecological damage caused.

Scientific Name	Common Name	Reg. Dis.	Gov. List	Scientific Name	Common Name	Reg. Dis.	Gov. List
<i>Abrus precatorius</i>	rosary pea	C, S		<i>Lygodium japonicum</i>	Jap. climbing fern	NCS	N
<i>Acacia auriculiformis</i>	catclaw acacia	S		<i>Lygodium microphyllum</i>	Old World climbing fern	C, S	N
<i>Albizia julibrissin</i>	mimosa, silk tree	N, C		<i>Macfadyena unguis-cati</i>	cat's-claw vine	NCS	
<i>Albizia lebbbeck</i>	woman's tongue	C, S		<i>Manihara zapota</i>	sapodilla	S	
<i>Ardisia crenata</i>	coral ardisia	N, C		<i>Melaleuca</i>	melaleuca	C, S	P, N, U
<i>Ardisia elliptica</i>	shoebutton ardisia	S		<i>Quinquefovia</i>	chinaberry	NCS	
<i>Asparagus densiflorus</i>	asparagus-fern	C, S		<i>Mimosa pigra</i>	catclaw mimosa	C, S	P, N, U
<i>Bauhinia variegata</i>	orchid-tree	C, S		<i>Nandina domestica</i>	heavenly bamboo	N	
<i>Bischofia javanica</i>	bischofia	C, S		<i>Nephrolepis cordifolia</i>	sword fern	NCS	
<i>Calophyllum antillarum</i>	santa maria ("mass wood," "Alexandrian laurel" used in cultivation)	S		<i>Nephrolepis multiflora</i>	Asian sword fern	C, S	
<i>Casuarina equisetifolia</i>	Australian pine	NCS	P	<i>Neyraudia reynoldiana</i>	Burma reed	C, S	N
<i>Casuarina glauca</i>	suckering Australian pine	C, S	P	<i>Paederia cruddasiana</i>	sewer vine	S	N
<i>Cinnamomum camphora</i>	camphor tree	NCS		<i>Paederia foetida</i>	skunk vine	N, C	N
<i>Colocasia</i>	taro, wild taro	NCS		<i>Panicum repens</i>	torpedo grass	NCS	
<i>Cratogeomys</i>	lathyrus	S		<i>Pennisetum purpureum</i>	Napier grass	C, S	
<i>Colubrina asiatica</i>	latherleaf	C, S	N	<i>Pistia stratiotes</i>	water-lettuce	NCS	P
<i>Cupaniopsis anacardioides</i>	carrotwood	C, S	N	<i>Psidium cattleianum</i>	strawberry guava	C, S	
<i>Dioscorea alata</i>	winged yam	NCS	N	<i>Psidium guajava</i>	guava	C, S	
<i>Dioscorea bulbifera</i>	air-potato	NCS	N	<i>Pueraria montana</i>	kudzu vine	NCS	N, U
<i>Elchhornia crassipes</i>	water-hyacinth	NCS	P	<i>Rhodomerytus tomentosa</i>	downy rose-myrtle	C, S	N
<i>Eugenia uniflora</i>	Surinam-cherry	C, S		<i>Ruellia brittaniana</i>	Mexican petunia	NCS	
<i>Ficus microcarpa</i>	laurel fig	S		<i>Sapling scaberum</i>	Chinese willow	NCS	N
<i>Hydrilla verticillata</i>	hydrilla	NCS	P, U	<i>Scaevola sericea</i>	beach naupaka	C, S	
<i>Hygrophila polysperma</i>	green hygro	NCS	P, U	<i>Schefflera actinophylla</i>	schefflera	C, S	
<i>Hymenocallis amplexicaulis</i>	West Indian marsh grass	C, S		<i>Schinus terebinthifolius</i>	Brazilian pepper	NCS	P, N
<i>Imperata cylindrica</i>	cogon grass	NCS	N, U	<i>Senna pendula</i>	Christmas senna	C, S	
<i>Ipomoea aquatica</i>	water-spinach	C	P, U	<i>Solanum tamplense</i>	wetland nightshade	C, S	N, U
<i>Jasminum dichotomum</i>	Gold Coast jasmine	C, S		<i>Solanum viarum</i>	tropical soda apple	NCS	N, U
<i>Jasminum fluminense</i>	Brazilian jasmine	C, S		<i>Syngonium podophyllum</i>	arrowhead vine	C, S	
<i>Lantana camara</i>	lantana	NCS		<i>Syzygium cumini</i>	Java plum	S	
<i>Ligustrum lucidum</i>	glossy privet	N, C		<i>Tectaria indica</i>	Indian helioid	S	
<i>Ligustrum sinense</i>	Chinese privet	NCS		<i>Thespesia populnea</i>	lani	C, S	
<i>Lonicera japonica</i>	honeysuckle	NCS		<i>Tradescantia fluminensis</i>	white-flowered wandering Jew	N, C	
				<i>Tradescantia spathacea</i>	oyster plant	S	
				<i>Urochloa mutica</i>	Parí grass	C, S	

Category II - Invasive exotics that have increased in abundance or frequency but have not yet altered Florida plant communities to the extent shown by Category I species. These species may become ranked as Category I, if ecological damage is demonstrated.

Scientific Name	Common Name	Reg. Dis.	Gov. List	Scientific Name	Common Name	Reg. Dis.	Gov. List
<i>Adenanthera pavonina</i>	red sandalwood	S		<i>Leucaena</i>	lead tree	NCS	
<i>Agave sisalana</i>	sisal hemp	C, S		<i>Leucocephala</i>			
<i>Aleurites fordii</i>	tung oil tree	N, C		<i>Limnophila sessiliflora</i>	Asian marshweed	NCS	P
<i>Alstonia macrophylla</i>	devil-tree	S		<i>Livistona chinensis</i>	Chinese fan palm	C, S	
<i>Alternanthera philoxeroides</i>	alligator weed	NCS	P	<i>Merremia tuberosa</i>	wood-rose	S	
<i>Anitagonon leptopus</i>	coral vine	NCS		<i>Murraya paniculata</i>	orange-jessamine	S	
<i>Aristolochia litoralis</i>	calico flower	N, C		<i>Myriophyllum apicatum</i>	Eurasian watermilfoil	NCS	P
<i>Arystasia gangetica</i>	Ganges peonrose	C, S		<i>Nymphoides cristata</i>	snowflake	C, S	
<i>Begonia cucullata</i>	wax begonia	N, C		<i>Panicum maximum</i>	Guinea grass	C, S	
<i>Broussonetia papyrifera</i>	paper mulberry	N, C		<i>Paspalum blythii</i>	2-flower paspalum v.	S	
<i>Callisia fragrans</i>	inch plant	C, S		<i>Pennisetum setaceum</i>	green fountain grass	S	
<i>Casuarina cunninghamiana</i>	Australian pine	C, S	P	<i>Phoenix reclinata</i>	Senegal date palm	C, S	
<i>Cecropia palmata</i>	trumpet tree	S		<i>Phyllostachys aurea</i>	golden bamboo	N, C	
<i>Cestrum diurnum</i>	day jessamine	C, S		<i>Pteris vitata</i>	Chinese brake fern	NCS	
<i>Chamaedorea seifrizii</i>	bamboo palm	S		<i>Psychotria elegans</i>	solitaire palm	S	
<i>Cryptostegia madagascariensis</i>	rubber vine	C, S		<i>Rhynchosyris repens</i>	Natal grass	NCS	
<i>Cyperus involucratus</i> (C. alternifolius misapplied)	umbrella plant	C, S		<i>Ricinus communis</i>	castor bean	NCS	
<i>Cyperus proflifer</i>	dwarf papyrus	C		<i>Santveria hyacinthoides</i>	bowstring hemp	C, S	
<i>Dalbergia sissoo</i>	Indian rosewood	C, S		<i>Senecio punicea</i>	purple sesban	NCS	
<i>Elaeagnus pungens</i>	silvertorn	N, C		<i>Solanum diphyllum</i>	2-leaf nightshade	NCS	
<i>Epipremnum pinnatum</i> cv. Aureum	pothos	C, S		<i>Solanum jamaicense</i>	Jamaica nightshade	C	
<i>Ficus altissima</i>	false banyan, council tree	S		<i>Solanum torvum</i>	turkey berry	NCS	N, U
<i>Flacourtia indica</i>	governor's plume	S		<i>Syagrus romanzoffiana</i> (= <i>Arecastrum romanzoffianum</i>)	queen palm	C, S	
<i>Hemarthria altissima</i>	limpo grass	C, S		<i>Syzygium jambos</i>	rose-apple	C, S	
<i>Hibiscus tiliaceus</i>	maboc	C, S		<i>Terminalia catappa</i>	tropical almond	C, S	
<i>Ipomoea fistulosa</i> (= I. carnea ssp. fistulosa)	shrub morning-glory	C, S	P	<i>Terminalia muelleri</i>	Australian almond	C, S	
<i>Jasminum sambac</i>	Arabian jasmine	S		<i>Tribulus cistoides</i>	puncture vine	NCS	
<i>Kalanchoe pinnata</i>	life plant	C, S		<i>Urena lobata</i>	Caesar's weed	NCS	
<i>Koeleruteria elegans</i>	flamegold	C, S		<i>Wedelia trilobata</i>	wedelia	NCS	
				<i>Wisteria sinensis</i>	Chinese wisteria	N, C	
				<i>Xanthosoma sagittifolium</i>	elephant ear	NCS	



Application for Membership in the Florida Exotic Pest Plant Council

Annual Membership Levels (CIRCLE ONE)

Individual

Student \$10
General \$20
Contributor \$50
Donor over \$50

Institutional

Library \$100
Contributor \$500
Donor \$501 - \$10,000
Patron over \$10,000

Name

Organization

Mailing Address

City, State, Zip

Telephone

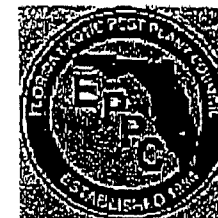
Fax

E-mail

Mail application & dues to:

Kris Serbesoff-King
3301 Gun Club Rd.
West Palm Beach, FL 33406

(Or sign up on-line at www.fleppc.org.)



Florida Exotic Pest Plant Council's 2003 List of Invasive Species

PURPOSE OF THE LIST:

To focus attention on 1) the adverse effects exotic pest plants currently have on Florida's native biodiversity and the functioning of native plant communities, 2) the habitat losses from exotic pest plant infestations, 3) the impacts on endangered species via habitat loss and alteration, 4) the need to prevent habitat losses through pest-plant management, 5) the socio-economic impacts of these plants (e.g., increased wildfires in Melaleuca areas), 6) changes in the seriousness of different pest plants over time, and 7) the need to provide information that helps natural area managers set priorities for control programs.

WWW.FLEPPC.ORG

Exhibit E - Page 1 of 11
Schedule of Uses and Property Development Regulations

SCHEDULE OF USES

RESIDENTIAL "R"

PERMITTED USES AND STRUCTURES

Accessory Uses and Structures

Administrative Offices

Agricultural Uses and Agricultural Accessory Uses (limited to existing only and subject to Condition # 6)

Assisted Living Facility - Density in accordance with § 34-1494

Churches, Synagogues, and other Places of Worship

Club: Beach, private and public

Accessory uses including but not limited to:

Bait Shop

Boat Dock

Boat Ramp

Consumption on premises including outdoor seating (subject to Z-99-029, Condition # 46)

Day Care Center

Fishing Pier

Food and Beverage Service

Locker Rooms

Personal Services, limited to ATM, barber or beauty shop, health club, steam bath and massage establishment

Rental or leasing establishment, Group I, (limited to beach chairs, umbrellas, boats, and other beach related items etc. **excluding** jet skis, wave runners, sea doos and other similar personal water craft)

School, commercial, limited to boating and water skiing

Specialty Retail Shop

Club: Country, private and public

Accessory uses including but not limited to:

Consumption on premises including outdoor seating (subject to Z-99-029, Condition # 46)

Personal Services, limited to ATM, barber or beauty shop, health club, steam bath and massage establishment)

Pro Shop

Tennis Courts

Consumption on Premises, limited to within the clubhouse(s)

Continuing Care Facility

Cultural Facilities

Customary accessory uses and structures, including but not limited to

Private garages

Swimming pools

Dwelling Units:

Single Family, detached

Duplex

Multiple Family Building

Townhouse

Two-Family attached

Zero lot line

Dormitory

Exhibit E - Page 2 of 11
Schedule of Uses and Property Development Regulations

Day Care Centers adult and child (when compatible with adjacent uses)
Entrance Gates and Gatehouse (subject to Z-99-029, Condition # 31)
Essential Services
Essential Service Facilities, Group I
Excavation - Water Retention
Fraternity House/Sorority House
Golf Courses, Golf Course Accessory uses, including but not limited to:
 Consumption on premises, including outdoor seating on the golf course and
 in the Snack Bar at the ninth hole or other appropriate location
 Cart barn
 Clubhouse, including Restaurant, Group III, with outdoor seating
 Food and beverage service limited
 Locker Rooms
 Maintenance Facility
 Personal Services, (limited to beauty shop, photo agent, health club, massage
 establishment accessory to the clubhouse)
 Pro Shop
 Snack Bar at the ninth hole or other appropriate location
 Specialty Retail Shop, accessory to clubhouse only
Helistop (subject to Z-99-029, Condition # 38)
Home Occupations (in accordance with LDC § 34-1772)
Model Homes, Model Units and Model Display Center and Speculative Homes
 (limited to residential uses within Miromar Lakes)
Parking lot, accessory only to Model Homes, Model Units and Model Display Center
Plant Nurseries [subject to Condition 6 (previously Condition 33, Z-99-029)]
Public and private parks, playgrounds, play fields and commonly owned
 open space
Real Estate Sales and Rental office for Miromar Lakes project only
Recreational Facilities, personal and private including but not limited to:
 Fishing Piers
 Boardwalks
 Swimming Pools
 Tennis Courts
 Horseshoe Pits
 Shuffleboard Courts
 Vita Course
 Picnic Areas
 Bike Paths
 Nature Trails
 Boat Docks
 Boat Ramps
 Parks
 Playground
 Bocce Courts
 Jogging Paths
Recreational Hall, private
Residential Accessory Uses, including but not limited to:
 Docks
 Private garages, carports and parking areas
 Private swimming pools and enclosures
 Private tennis courts
Signs, in compliance with LDC Chapter 30
Temporary Sales and/or Construction Office
Water Taxi Stand

Any activity comparable in nature with the foregoing uses and which the Director of
the Lee County Department of Community Development determines to be
compatible in "R" District.

RESIDENTIAL "R 1"
PERMITTED USES AND STRUCTURES

Exhibit E - Page 3 of 11
Schedule of Uses and Property Development Regulations

- Accessory Uses and Structures
- Administrative Offices
- Agricultural Uses and Agricultural Accessory Uses (limited to existing only and subject to Condition #6)
- Assisted Living Facility- Density in accordance with § 34-1494
- Churches, Synagogues and other Places of Worship
- Civic and Cultural Facilities
- Club, Country, private and public including tennis club.
 - Accessory uses including but not limited to:
 - Consumption on premises including outdoor seating (subject to Condition #24)
- Day Care Center
- Food and beverage service
- Restaurant(s) Standard includes outdoor seating (subject to Condition #24)
- Locker Rooms Pro Shops Personal services, limited to ATM's, barbershops or beauty clubs, steam baths, massage and the like.
- Snack Bar at an appropriate location
- Specialty Retail Shops
- Tennis Courts
- Cultural Facilities
- Dwelling Units
 - Single Family, detached
 - Duplex
 - Townhouse
 - Two family attached
 - Zero lot line
- Entrance Gates and Gatehouses (subject to Condition # 4)
- Essential Services
- Essential Services Facilities, Group I
- Excavation - Water Retention
- Golf Courses, Golf Clubhouse, Golf Course Accessory and Associated Uses, including but not limited to:
 - Consumption on premises in the Clubhouse including outdoor seating on the Golf Course and in the Snack Bar at the ninth hole or other appropriate location\
- Cart barns
- Food and Beverage
- Service Locker rooms
- Maintenance facility (subject to Condition 31 and in accordance with the landscape buffering diagrams, **Exhibit B** hereto)
- Restrooms and other uses which are normal and accessory to the golf course
- Snack Bar at the ninth hole or other appropriate location
- Pro Shop
- Specialty retail shops, accessory to clubhouse only
- Restaurant(s) including outdoor seating
- Personal service, limited to ATM's, barbershops or beauty shops, photo agents, health clubs, steam baths, massage and the like.
- Home Occupations (subject to standards in LDC § 34-1772)
- Models: Model Display Center, Model Homes and Model Units, (limited to residential uses within Miromar Lakes)
- Parking Lot: accessory
- Plant Nurseries [subject to Condition 6 (previously Condition 33, Z99-029)]
- Real Estate Sales and Rental Office for Miromar Lakes project only

Exhibit E - Page 4 of 11
Schedule of Uses and Property Development Regulations

Recreation facilities, personal and private to include the following or other comparable uses:

Fishing Piers	Bike paths
Boardwalks	Nature Trails
Swimming pools	Tennis Courts
Horseshoe pits	Parks
Shuffleboard courts	Playgrounds
Vita Course	Bocce courts
Picnic areas	Jogging paths

Recreational Hall, private

Residential accessory uses, including but not limited to:

Private garages, carports and parking areas, Private swimming pools and enclosures, Private tennis courts

Signs in compliance with LDC Chapter 30.

Temporary Sales and/or Construction Office

Any activity comparable in nature with the foregoing uses and which the Director of Lee County Department of Community Development determines to be compatible in the Miromar Lakes "R1" District.

RESIDENTIAL "R 2"

PERMITTED USES AND STRUCTURES

All of the permitted uses and structures listed for the R-1 Residential District (subject to conditions)

Assisted Living Facility- Density in accordance with § 34-1494

Club, Boat and accessory uses including but not limited to:

Bait and tackle shop

Boat docks

Boat ramps

Boat dry storage

Consumption on premises including outdoor seating subject to Condition #24)

Fishing piers

Locker rooms

Food and beverage service

Specialty retail shops

School, commercial, limited to boating and water skiing,

Rental or leasing establishment, Group I (limited to beach chairs, umbrellas, boats and other beach related items etc., excluding jet skis, wave runners, sea doos and other personal watercraft)

Continuing Care Facility

Cultural Facilities

Dwelling Units - Multi-family Building

Dormitory

Day Care Centers child, adult (where compatible with adjacent uses)

Plant Nurseries [subject to Condition 6 (previously Condition 33, Z99-029)]

Recreation facilities, personal and private to include the following or other comparable uses:

Fishing Piers	Bike paths
Boat docks	Boat ramps

Residential accessory uses, including but not limited to Boat Docks

Water Taxi/Stand

Exhibit E - Page 5 of 11
Schedule of Uses and Property Development Regulations

Any activity comparable in nature with the forgoing uses and which the Director of Lee County Department of Community Development determines to be compatible in the Miromar Lakes "R2" District.

COMMERCIAL "C-1"

PERMITTED USES AND STRUCTURES

Accessory Uses and Structures customarily associated with the uses permitted in this district.

Administrative Offices

Agriculture Uses and Agricultural Accessory Uses (limited to existing only and subject to Condition 33)

Animals: Clinic

Antenna-Supporting Structures (in accordance with LDC § 34-1441 *et seq.*)

Assisted Living Facility

ATM (Automatic Teller Machine)

Automobile Service Station

Banks and Financial Establishments, Groups I and II

Bar and Cocktail Lounge (Limited to one and subject to conditions of Deviation #5)

Bed and Breakfast

Broadcast Studio, Commercial Radio and Television

Business Services, Group I (excluding: bail bonding and blood donor, stations) and Group II

Car Wash

Caretaker's Residence

Civic and Governmental Services

Cleaning and Maintenance Services

Clothing Stores

Clubs, Country, Commercial, Fraternal and Private. Accessory uses include but are not limited to the following:

Consumption on premises

Day Care Center

Food and beverage service

Restaurant(s), Standard includes outdoor seating (subject to Z-99-029, Condition # 46)

Locker Rooms

Pro Shops

Personal services, limited to ATM's, barbershops or beauty clubs, steam baths, massage and the like.

Restrooms and other uses which are normal and accessory to the golf course

Snack Bar at an appropriate location

Specialty Retail Shops

Computer and Data Processing

Consumption on Premises

Continuing Care Facility

Convenience Food and Beverage Stores (limited to a total of three, one on each commercial tract)

Cultural Facilities

Day Care Center, Adult, Child

Department Store

Dormitories

Drive-Through Facility for any Permitted Use

Drug Store, Pharmacy

Exhibit E - Page 6 of 11
Schedule of Uses and Property Development Regulations

Dwelling Units including:

- Zero lot line
- Duplex
- Two family attached
- Townhouse
- Multi-family

Emergency Medical Service (ambulance station)

Entrance Gates and Gatehouses (subject to Z-99-029, Condition # 4)

Essential Services

Essential Service Facilities, Group I

Excavation: Water Retention

Fences, Walls

Food Stores, Group I and II

Fraternity/Sorority House

Gasoline Dispensing System, Special

Gift and Souvenir Shop

Hardware Store

Health Care Facility, Group I, II, III and IV

Helistop (subject to Z-99-029, Condition 38)

Hobby, Toy, Game Shops

Home occupation

Hospice

Hotel, Motel and accessory uses including but are not limited to the following:

- Consumption on premises

- Restaurant(s), Standard Groups I, II, III and IV (includes outdoor seating, subject to Z-99-029, Condition # 46)

- Specialty retail shops

- Day care center

- Personal services, limited to ATM's barbershops or beauty shops, photo agents, health clubs, steam baths, massage and the like.

Household and Office Furnishings, Groups I and II

Insurance Companies

Laundry or Dry Cleaning, Group I (excluding Plant)

Lawn and Garden Supply Store

Library

Medical Office

Model Homes, Model Units and Model Display Center (limited to residential uses within the Miromar Lakes project only)

Non-Store Retailers, All Groups

Outdoor Display of Merchandise

Package Store (Limited to one, subject to conditions of Z-99-029, Deviation # 5)

Paint, Glass and Wallpaper

Parcel and Express Service

Parks, Public, Groups I and II

Parking Lot:

- Accessory

- Commercial

- Garage, Public

- Temporary (Subject to LDC § 34-2022)

Personal Services:

- Group I

- Group II (Excluding Massage Establishments, Massage Parlors, Steam or Turkish Baths)

Exhibit E - Page 7 of 11
Schedule of Uses and Property Development Regulations

Group III, Group IV (Excluding Escort Services, Palm Readers, Fortune Teller
or Card Reader and Tattoo Parlors)

Pet Services
Pet Shop
Pharmacy
Photo Finishing Laboratory
Place of Worship
Plant Nurseries [subject to Condition 6 (previously Condition 33, Z99-029)]
Post Office
Printing and Publishing
Recreation - Personal
Recreation - Private, On-site, Off-site
Recreation Commercial: Groups I, II, III and IV
Recreation Hall
Religious Facilities
Rental and Leasing Establishments, Group I, II and III
Repair Shops, Groups I and II
Restaurant(s) Fast Food (includes outdoor seating, subject to Z-99-029, Condition #
46)
Restaurant(s), Standard Groups I, II, III and IV (includes outdoor seating, subject to
Z-99-029, Condition # 46)
Schools, Commercial
Schools, Non-Commercial
Self Service Fuel Pumps
Signs
Social Services: Groups I, II and III
Specialty Retail Shops, Groups I, II, III and IV
Storage, indoor only
Studios
Taxi stand
Temporary Uses (LDC § 34-3041)
Theater, indoor
Time Share Unit
Used Merchandise Store: Groups I and II
Variety Store
Wireless Communications Facilities (in accordance with LDC § 34-1441 *et seq.*)
Wholesale Establishment, Group III

Any commercial use or professional service which is comparable in nature with the
forgoing uses and which the Director of the Lee County Department of
Community Development determines to be compatible in the Miromar Lakes
"C-1" district.

COMMERCIAL "C-2"

PERMITTED USES AND STRUCTURES

**All of the permitted uses and structures, as conditioned, listed for the C-1
Commercial Area, including Time Share Units, which are restricted to the hotel
in the southernmost portion of the C-2 parcel, subject to Condition 33.**

**In addition, the parcel area designated as commercial C-2 may not include the
following uses:**

Exhibit E - Page 8 of 11
Schedule of Uses and Property Development Regulations

Assisted Living Facility
Bed and Breakfast
Continuing Care Facility
Caretakers Residence
Day Care Center, Adult, Child
Dormitories
Dwelling Units
Fraternity/Sorority House
Health Care Facility, Group II, III and IV
Home occupation
Hospice
Library
Place of Worship
Religious Facilities
Schools, Commercial
Schools, Non-Commercial
Social Services: Group III

The following additional uses are also permitted in the parcel designated as Commercial C-2:

Accessory Uses and Structures including Boat docking and fueling facility, Boat rental and sale of fuel.
Auto Part Store
Boat Ramp
Boat Rental, Sale of Bait, Fuel and Related Supplies
Boating Schools and Clubs
Hotel, Motel and accessory uses including but are not limited to the following:
 Consumption on premises
 Restaurant(s), Standard Groups I, II, III and IV (includes outdoor seating, subject to Z-99-029, Condition # 46)
 Specialty retail shops
 Fishing piers
 Boat docking and Fueling Facility
 Boat ramps
 Boating clubs/lessons
 Water skiing clubs/lessons
 Boat and Vehicle Storage
 Rentals/leasing of inflatables, boats, cabanas, beach equipment, fishing rods, bicycles and the like.
 Personal services, limited to ATM's barbershops or beauty shops, photo agents, health clubs, steam baths, massage and the like.
Mini-Warehouse
Motion Picture Production Studio
Research and Development Laboratories, Groups I, II, III and IV
Vehicle and Equipment Dealers, Group II only.
Water Skiing Schools and Clubs
Water Taxi/Stand

Any commercial use or professional service that is comparable in nature with the forgoing uses and that the Director of the Lee County Department of Community Development determines to be compatible in the Miromar Lakes Commercial "C-2" district.

CONSERVATION AREA "CO"

PERMITTED USES AND STRUCTURES

Interpretive centers, rain shelters, gazebos

Nature and foot trails including boardwalks and jogging paths

Paths, boardwalks and bridges to provide access from the uplands to the wetlands
and to allow fishing piers, observation towers and golf cart crossings.

Recreational shelters, restroom facilities, passive parks, and picnic areas.

Signs

Water Management Facilities

Wildlife Management

Mitigation Activities

Accessory uses and structures customarily associated with the uses permitted in this
district.

Other activities which are comparable in nature with the forgoing uses and which the
Director of the Lee County Department of Community Development
determines to be compatible with the Miromar Lakes "CO" district.

Exhibit E - Page 10 of 11
Schedule of Uses and Property Development Regulations

Attachment 2a

RESIDENTIAL PROPERTY DEVELOPMENT REGULATIONS

These regulations apply to all of the areas marked "R", "R1" and "R2" on the Master Concept Plan

LAND USES	Minimum Lot or Tract			Minimum Building Setbacks (ft)					Max. # of Habitable Floors/Max Building Height ³		Min. Bldg Separation (ft)	Max. Lot Cover
	Area (sq ft)	Depth (ft)	Width	Side incl. Corner	Rear abut Lots	Rear abut CO/Golf	Front ²	Water Body ^{5&6}	Between I-75 and BHG Pkwy	East of BHG Pkwy		
SINGLE FAMILY RESIDENTIAL USES												
Single Family Detached	5,500	70	50	5	20	10	12 ⁴ or 20	0 ^{5&6} or 20	3/45	3/45	10	55%
Patio/Cluster Homes	3,500	70	35	5	10	10	12 ⁴ or 20	0 ^{5&6} or 20	3/45	3/45	10	55%
Zero Lot Line, Single Family Attached or Townhouse	2,800	70	25	0 or 5	10	10	12 ⁴ or 20	0 ^{5&6} or 20	3/45	3/45	10	55%
Overwater Residential Uses ⁶	3,500	70	35	0 ⁶ or 5	0 ⁶ or 10	n/a	12 ⁴ or 20	0 ^{5&6} or 20	3/45	3/45	0 or 10	55%
MULTI FAMILY RESIDENTIAL USES												
Multi-Family and Student Housing	6,000	100	n/a	10	20	10	20	0 ^{5&6} or 20	3/45 or 5/65 ³	3/45 or 5/65 ³	10	55%
Overwater Residential Uses ⁶	6,000	100	n/a	0 ⁶ or 10	0 ⁶ or 20	n/a	20	0 ^{5&6} or 20	3/45	3/45 or 5/65 ³	20	55%
Assisted Living Facility	10,000	100	100	12 1/2	20	10	20	20	3/45	3/45 or 5/65 ³	25	55%
OTHER USES												
Clubhouse and Dry Boat Storage	n/a	n/a	n/a	5	20	10	n/a	0 ^{5&6} or 20	45	45	10	n/a
Accessory Structures	n/a	n/a	n/a	5	10	10	n/a	0 ^{5&6} or 20	45	45	n/a	n/a

Notes (apply to both Residential and Commercial Tables):

¹ Pie-shaped lots and flag lots are not required to meet minimum lot widths.

² Measured from back of curb where the back of curb is at the ROW or street easement.

³ Five stories over one story of parking, with a maximum building height of 65 feet, where allowed by Deviation 28. See Deviation 28 and Master Concept Plan for the location of the buildings with heights greater than 45 feet.

⁴ The 12' setback applies only to the non-garaged part of a house or for units with a e entry garage.

⁵ A maximum of 1,500 linear feet of lake frontage will have a 0' setback for buildings and accessory uses.

⁶ Structures, including residential and commercial buildings, may extend on pilings over the man-made lakes within Miromar Lakes so long as they do not extend past than the platted property lines.

⁷ Conversion of uses restricted as set out in Section II.D.2.d.7 of the DRI Development Order.

Exhibit E - Page 11 of 11
Schedule of Uses and Property Development Regulations

Attachment 2b

COMMERCIAL PROPERTY DEVELOPMENT REGULATIONS

These regulations apply to all of the areas marked "C1 and C2" on the Master Concept Plan

LAND USES	Minimum Lot or Tract			Minimum Building Setbacks (ft)					Max. Bldg Height ²		Min. Bldg Separation (ft)	Max. Lot Cover
	Area (sq ft)	Depth (ft)	Width ¹ (ft)	Side Incl. Corner	Rear abut Lots	Rear abut CO/Golf	Front ¹	Water Body ^{5&6}	C-1	C-2		
CONVENTIONAL DEVELOPMENT TRACTS												
Commercial Use	10,000	100	100	0 or 15	20	10	15	0 ^{5&6} or 20	3/45	6/75 ⁷	0 or 1/2 bldg. Height	55%
Hotel and Office Use	10,000	100	100	0 or 15	20	10	15	0 ^{5&6} or 20	3/45	6/75 ⁷	0 or 1/2 bldg. Height	55%
Overwater Uses ⁶	10,000	100	100	0 ⁶ or 15	0 ⁶ or 20	n/a	15	0 ^{5&6} or 20	3/45	6/75 ⁷	0 or 1/2 bldg. Height	55%
LOTS WITHIN DEVELOPMENT TRACTS												
All Uses	1,300	65	20	0 or 5	0 or 20	10	15	0 ^{5&6}	3/45	6/75 ⁷	0 or 1/2 bldg. Height	100%
OTHER USES												
Accessory Structures	n/a	n/a	n/a	5	10	10	n/a	0 ^{5&6}	n/a	n/a	n/a	n/a

Notes (apply to both Residential and Commercial Tables):

Notes (apply to both Residential and Commercial Tables):

¹ Pie-shaped lots and flag lots are not required to meet minimum lot widths.

² Measured from back of curb where the back of curb is at the ROW or street easement.

³ Deviation 28 and Master Concept Plan for the location of the buildings with heights greater than 45 feet.

⁴ The 12' setback applies only to the non-garaged part of a house or for units with a side entry garage.

⁵ A maximum of 1,500 linear feet of lake frontage will have a 0' setback for buildings and accessory uses.

⁶ Structures, including residential and commercial buildings, may extend on pilings over the man-made lakes within Miramar Lakes so long as they do not extend past the platted property lines.

⁷ Six stories over one story of parking, with a maximum building height of 75 feet.

⁸ Conversion of uses restricted as set out in Section II.D.2.d.7 of the DRI Development Order.

COMMUNITY DEVELOPMENT

DEC 29 2009

11-46-25-00-00001.0040
(140.52 acres) / (53.0 acre Agricultural Use)

LEGEND



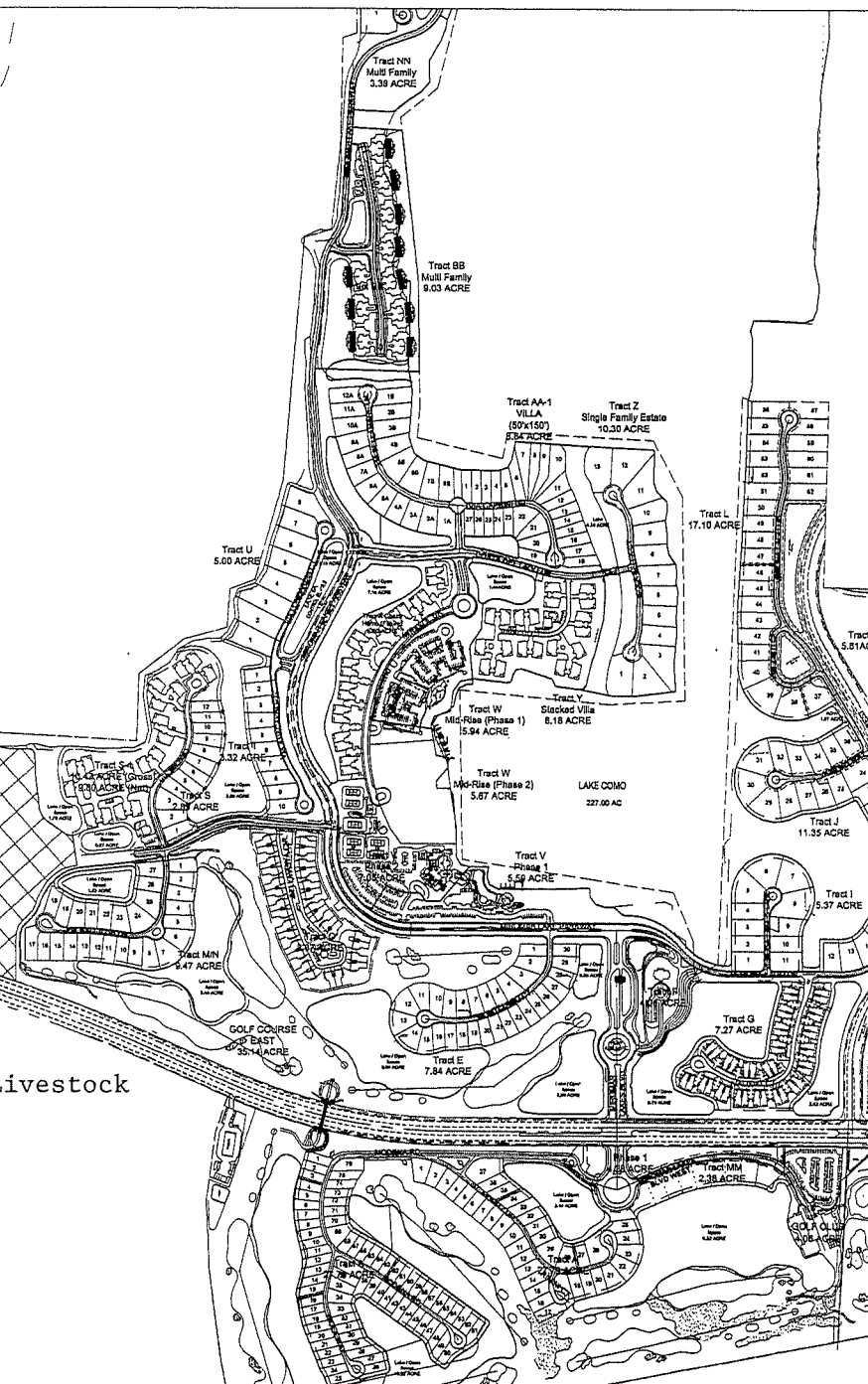
CURRENT AGRICULTURAL USE
53.0 ACRES / Grazing - Livestock

MIROMAR LAKES
NORTH PARCEL
AGRICULTURAL EXHIBIT

Scale 1"=1000'-0"

DR 2009-00011

LAKE MAGGIORE
418.23 AC



Date: 12/21/09

Revised:

BEACH & GOLF CLUB
MIROMAR LAKES

AGRICULTURAL EXHIBITS - NORTH PARCEL
MIROMAR LAKES
MIROMAR LAKES, FLORIDA



Scale 1"=1000'-0"

Drawn By
Name
Checked By
Name

EXHIBIT
B

PROJECT NO.
11-46-25-00-00001.0040

AMENDED BIG CYPRESS FOX SQUIRREL

WILDLIFE-MANAGEMENT PLAN

For The

MIROMAR LAKES DRILL, L.C.

March 2000

Originally Prepared by:

W. Dexter Bender & Associates, Inc.
2052 Virginia Avenue
Fort Myers, FL 33901

March 2000

Amended by:

Wilson Miller, Inc.
4571 Colonial Boulevard
Fort Myers, FL 33912

January XX, 2002

EXHIBIT

7 pages

Amended Big Cypress Fox Squirrel Management Plan
Miromar Lakes DRI

INTRODUCTION

A Big Cypress fox squirrel management plan for the Miromar Lakes DRI was prepared by W. Dexter Bender & Associates, Inc. in March 2000. Since that time, Miromar Lakes L.L.C. acquired an additional 500 acres of land (hereafter referred to as the Addition Parcel) adjacent to the existing development in Sections 13, 23, and 24, Township 46 South, Range 25 East; and Section 18, Township 46 South, Range 26 East, Lee County, Florida. At the time of this writing, the Addition Parcel was being added to the Miromar Lakes DRI via the Notice of Proposed Change process.

Big Cypress fox squirrels (*Sciurus niger avicennia*) have been documented on the Miromar Lakes property and the Addition Parcel during recent-listed species surveys. This species is classified under State law and regulations as a threatened species. Development plans for this site the original Miromar Lakes DRI project included preservation of four areas designated as Miromar Lakes Conservation Areas. These Conservation Areas contain both wetlands and uplands, which may provide suitable fox squirrel habitat. Development plans for the Addition Parcel include preservation of four additional preservation areas containing suitable wetland and upland fox squirrel habitats that will be enhanced and/or restored as part of the proposed project.

This amended management program plan was prepared to address the protection of Big Cypress fox squirrels (fox squirrel) on both the original Miromar Lakes DRI property and the Addition Parcel during and after construction and the maintenance, management, and potential enhancement of habitats contained in the Conservation Areas.

IDENTIFICATION

The fox squirrel is much larger than any other squirrel species in Florida. All fox squirrels have a white muzzle and forehead, and most have white patches on the backsides of the ears. The underside can be white, creamy yellow, rusty orange or black. The tail is long and bushy.

SQUIRREL HABITAT

Fox squirrels prefer open pine flatwoods and open pine-oak systems but can be found in pine-cypress stands and cypress strands. They forage extensively on the ground and do not do well where there is heavy ground cover. Periodic fires that kill hardwoods and promote grassy ground cover are necessary for populations to survive.

Original Miromar Lakes DRI Property

In Miromar Lakes' existing and potential fox squirrel habitat has been identified (see Figures 1 and 2) by Wilson-Miller staff as part of the original DRI process that began back in 1995. The existing habitat has been impacted from the invasion of melaleuca over the past four decades. Much of this existing habitat west of Ben Hill Griffin Parkway will become golf course. Golf courses with pine trees are suitable areas for fox squirrels. Landscaping along the roughs will include leaving pines, where appropriate, and planting pines to replace some that will be lost.

Areas in the mitigation sites will contain fox squirrel habitat. Mitigation areas in M1, and M2 will retain more existing native vegetation than M3 and M4. Each of these areas will have some pine flatwoods and mixed pine and cypress systems. At present, all but M2 are heavily impacted with melaleuca. There are ± 138.86 acres of pine FLUCCS (411 and 416) identified in Figure 1 as existing potential habitat. Melaleuca has invaded these pine areas. As of the 1993 survey done by Wilson Miller ± 129.4 acres were 34-66% melaleuca and ± 9.46 acres were 10-33% melaleuca. Over the past seven years melaleuca has increased its density, but no surveys have been done. Much of the contiguous potential habitat area (± 106.14 acres) west of Ben Hill Griffin Parkway will become a golf course. Some of the golf course will provide habitat for fox squirrels.

(roughs and pine trees lining some of the tees, fairways and holes). The typical golf course management will be attractive for fox squirrel use.

Habitat that will be managed for fox squirrels and other wildlife will occur in the four conservation areas (M1, M2, M3 and M4). These areas will have ±80.86 acres of pine FLUCCS (411, 416, and 641/621/411) and ±59.55 acres of cypress (621). All of the exotics will be removed from these areas. Planting of trees will occur in M3 and M4 as the result of extensive rework in some or most of these conservation/mitigation areas.

The developer will turn over the maintenance of the fox squirrel habitat to the existing Miramar Community Development District (CDD) for perpetual management.

Addition Parcel

In the Addition Parcel, existing and potential habitat has been identified (see Figures 31 and 42) by Wilson/Miller staff. As in the original DRI property, the existing habitat has been impacted from the invasion of melaleuca over the past four decades. Much of the existing pine flatwoods with palmetto understory (FLUCCS 411) habitat will become golf course and residential areas. Golf courses with pine trees are suitable areas for fox squirrels. Landscaping along the roughs will include leaving pines, where appropriate.

Habitat that will be managed for fox squirrels and other wildlife will occur in the five conservation areas (Conservation Areas #1 through #5). The majority of the forested wetlands and some of the forested upland areas will be preserved, enhanced, and/or restored in the conservation areas. Enhancement and restoration activities will include the removal of exotics (e.g., melaleuca) and planting of trees to improve fox squirrel habitat. Following enhancement/restoration, the forested portions of the conservation areas will include cypress swamps (2-58.54 acres), hydric pine flatwoods (2-18.44 acres), and mixed cypress-pine-cabbage palm forest (2-30.66 acres), upland pine flatwoods (2-11.65 acres), and live oak hammock (3.87 acres). These forested wetland areas will provide nesting and foraging habitat for fox squirrels.

The conservation areas will be maintained as fox squirrel habitat and will be placed under a conservation easement granted to the South Florida Water Management District. The developer will turn over the maintenance of the fox squirrel habitat to the existing Miramar Community Development District (CDD) for perpetual management.

MANAGEMENT DURING CONSTRUCTION

Efforts will be made during the various phases of construction to help ensure the safety of fox squirrels. Actions taken will include, but may not be limited to, the following:

- *Educational pamphlets* will be provided to contractors with contractual obligations to distribute this information to construction workers. These pamphlets will provide information regarding the special status of fox squirrels, the appearance of fox squirrels and their nests/day-beds, and measures to be taken during construction to help protect these squirrels. Workers performing clearing work will be informed to exercise caution in the immediate area where a fox squirrel is observed.
- *Inspection of areas to be cleared.* Prior to clearing within approximately 100 feet of forested areas, which constitute potential fox squirrel habitat, a qualified biologist will inspect the area to be cleared for the presence of fox squirrel nests. If a nest is observed, this person will visually inspect the nest interior to check for young. If no fox

squirrels are present, the nest will be removed to discourage squirrels from returning to the area of impact. If young fox squirrels are observed in the nest, a buffer having a radius of approximately 75 feet will be cordoned off around the tree using enviro-fence. No heavy construction will be performed in this buffer area until after the young fox squirrels leave the nest or the squirrels and nest are re-located. Any re-location activities would first be coordinated with and approved by the Florida Fish and Wildlife Conservation Game and Fresh Water Fish Commission (FWCGFC).

- *Coordination during clearing.* Workers involved in clearing of trees will be advised to call the project biologist if a fox squirrel is seen in an area being cleared. The project biologist and/or a specified crewmember will then chase the fox squirrels out of the area being cleared. The area will be inspected for fox squirrel nests and clearing activities will be continued if no nests are found.

PUBLIC EDUCATION

A program will be established to educate Miromar Lakes residents, visitors, and maintenance staff about fox squirrels. This program will include, but may not be limited to, the following:

- *Educational pamphlets* will be provided to all homeowners to inform residents of the potential presence of fox squirrels on site. Pamphlet information will include:
 1. A picture and description of the fox squirrel and its status as a listed species;
 2. Notes regarding the life history and ecology of the fox squirrel;
 3. Information regarding the interaction of the public with the fox squirrels, such as the potentially negative effects of feeding and of interactions with the squirrels;
 4. A note to homeowners who have dogs, requiring that they leash their dogs;
 5. Advice to homeowners that free-running house cats are predators of squirrels and that no house cats should be allowed to roam free; and
 6. A map showing the Conservation Areas together with a discussion of the protected status and nature of these areas.
 7. Grey squirrels are serious competitors for fox squirrels
- *Educational pamphlets and/or instructions* will be provided to the Miromar CDD personnel and golf course maintenance personnel by their supervisors regarding the safety and protection of fox squirrels encountered by workers onsite.
- *A notice will be posted* at the golf club informing golfers of Conservation Areas, the appearance and special status of fox squirrels and precautions to avoid harm to them.

HABITAT MANAGEMENT & MAINTENANCE ACTIVITIES AND SCHEDULE

Habitat Management & Maintenance Activities

Those portions of the Miromar Lakes property designated as Conservation Area in the permit will be managed and maintained in an effort to allow certain vegetation types in those areas to function as suitable fox squirrel habitat. While the primary goal of management of the Conservation Areas is to mitigate for wetland impacts, certain portions of those areas will also have a potential to provide habitat for fox squirrels. These areas potentially suitable for fox squirrels include pine flatwoods, pine-cypress wetlands and hammocks.

All management and maintenance activities will initially be the responsibility of the permittee. Eventually, this responsibility will be transferred to the Miromar Lakes CDD. All management and maintenance efforts will be performed by or under the direction of a qualified biologist or other

qualified environmental professional. Potential management and maintenance activities may include, but are not limited to, the following:

- Eradication of exotic and nuisance plant species within the Conservation Areas. The goal of these efforts will be to control the spread of these plants such that they constitute no more than 5 percent of the total vegetative cover present in a given Conservation Area between control periods. Exotic plant species targeted will include those listed by the Exotic and Pest Plant Council at the time of permit issuance. Nuisance plant species targeted will include any invasive native plant species deemed undesirable, from the standpoint of competition with desirable vegetation, by the permittee.
- Periodic chopping, mowing, and/or bush-hogging of the ground cover stratum within pine flatwoods and pine-cypress wetlands in the Conservation Areas. This will occur on an "as needed" basis to help maintain a relatively open understory (an open "park-like" habitat) and to suppress the growth of weedy or noxious vegetation. Maintenance personnel will be advised to leave pine cones, cabbage palm fruit, bromeliads, acorns, and ground fungi within the Conservation Areas as undisturbed as is feasible.
- Pruning and/or thinning of canopy and subcanopy vegetation within pine flatwoods and pine/cypress wetlands in the Conservation Areas. This will occur on an "as needed" basis to maintain an appropriate density of desirable woody species (e.g., trees and shrubs), particularly in the subcanopy stratum, thereby maintaining a relatively open midstory.
- Prescribed burns within the Conservation Areas. Such burns may be conducted to remove accumulated undercomposed organic matter ("duff") thereby promoting new plant growth, to reduce fuel loading which could minimize the potential adverse effects of uncontrolled fires, and to thin out ground cover and subcanopy vegetation. The burns would be performed on an "as needed" basis, and would be coordinated with the appropriate agencies.
- Reduction of gray squirrel populations in portions of the Conservation Areas. This would be conducted only in instances where it is determined that such populations represent a competitive threat to the continued survival of fox squirrels and other management options fail to improve the fox squirrel population. Gray squirrel populations would be controlled via live trapping (with subsequent release outside the Conservation Areas) and/or controlled hunting. Either method may require permission from Lee County and possibly coordination/permitting through FWC-GFC.
- Removal of feral cats from the Conservation Areas. This would be performed as necessary via live trapping of the cats. Captured individuals would be turned over to Lee County Animal Control. This method would require warnings to adjacent landowners, permission from Lee County and possibly coordination with Lee County Animal Control.
- Planting of desirable native trees within the Conservation Areas. Following initial eradication of exotic plants within the Conservation Areas, it may be determined that planting of native tree species is warranted where the exotic eradication efforts leave areas relatively devoid of native trees. Should such plantings be conducted, the following table lists potential species that may be planted. The specific species planted will depend on site conditions and market availability of plant material. The density of plantings and stock used will depend on site conditions. Re-planting would be conducted if the mortality of planted trees is deemed excessively high.

Common Name	Scientific Name
Strangler fig	<i>Ficus aurea</i>
Slash pine	<i>Pinus elliotii</i>
Laurel oak	<i>Quercus laurifolia</i>
Cabbage palm	<i>Sabal palmetto</i>
Bald cypress	<i>Taxodium distichum</i>

Habitat Management / Maintenance Schedule

There will be a management/maintenance schedule (or program) for the Conservation Areas. The following sections describe the short and long-term schedules.

Maintenance Schedule

The management/maintenance schedule will begin as of the date the permittee begins the first phase of construction of Phase I of Micromar Lakes. It will terminate on the date the fifth annual monitoring report required by SFWMD is submitted.

Management and maintenance will be initiated once the permittee has obtained all requisite permits necessary for construction of Phase I from SFWMD, the Corps, and Lee County and when construction actually begins (the start date). Initial eradication of exotic plants, an activity conducted pursuant to Corps permit requirements for the project, will be started at this time. It is anticipated that initial exotic and nuisance plant eradication efforts would be completed within a year of this start date. Most prescribed burns would probably not be conducted until the exotic eradication efforts are completed, although localized prescribed burns could be conducted prior to such completion in areas where there are relatively few exotics. Planting of native trees would occur following eradication of exotics and any initial controlled burns. Any initial bush-hogging of the ground cover stratum and initial pruning and/or thinning of canopy and subcanopy woody species would also not occur until initial exotic eradication efforts and initial controlled burns are completed. It is anticipated that all these initial activities would be completed within approximately 2.5 years from the start date.

Following completion of initial management activities, continued management and maintenance activities would be performed as necessary. ~~Determination of the necessary activities will be made by a qualified biologist.~~ A qualified biologist will make the determination of the necessary activities or similar environmental professional based on annual and possibly, during the first few years, semi-annual inspections of the Conservation Areas. Activities recommended by the biologist would be performed during the year following a given inspection. The exact date of initiation of certain activities, such as prescribed burns, brush-hogging, and re-planting, may be dependent on an appropriate time of year in which to perform the activities. It is anticipated that exotic and nuisance plant control will be conducted on a minimum semi-annual basis for the first two years after the initial eradication effort is completed. Thereafter, it may be possible to reduce the frequency of these activities.

Conditions present within a given Conservation Area will be documented in the annual monitoring reports submitted to SFWMD pursuant to the permitted monitoring schedule. Management activities performed since the previous annual report will be discussed and recommended management activities together with an anticipated schedule for conducting these activities will be discussed in these reports.

Following the termination of the management/maintenance program, the permittee will evaluate the need for further management and maintenance activities, the schedule for such activities, and the schedule for further inspections and reports. If the permittee determines that additional

management and maintenance activities are necessary, the permittee's findings along with a proposal regarding any future efforts (maintenance/management activities, schedules, etc.) will be submitted to Lee County for review and approval. Any new program for the continued management and maintenance of the Conservation Areas will thus be determined by the proposal approved by the County.

The permittee reserves the ability to modify the long-term management/maintenance program for the Conservation Areas at any time following its initiation. No modifications would be made unless first approved by Lee County. Such modifications might be deemed necessary to improve upon current concepts of management activities and/or schedules. It is also possible that the fox squirrel habitat management program for a particular Conservation Area could be discontinued entirely should it be determined that fox squirrels no longer inhabit the area.

PLANTINGS OUTSIDE OF CONSERVATION AREAS

Plantings in golf course open space/rough areas and in upland buffers adjacent to or in the immediate vicinity of the Conservation Areas will incorporate, where feasible, trees and shrubs that could provide favorable foraging, nesting, and/or resting habitat for fox squirrels. These plantings may include, but are not limited to, the species identified in the table that follows.

Common Name	Scientific Name
Strangler fig	<i>Ficus aurea</i>
Slash pine	<i>Pinus elliotii</i>
Laurel oak	<i>Quercus laurifolia</i>
Cabbage palm	<i>Sabal palmetto</i>
Bald cypress	<i>Taxodium distichum</i>
Dahoon holly	<i>Rex cassine</i>
Live oak	<i>Quercus virginiana</i>
Saw palmetto	<i>Serenoa repens</i>

DRI 2001-00004

DCI 2001-00033

LEE COUNTY
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03 AUG 14 AM 8:05

MIROMAR LAKES
SNAIL KITE MANAGEMENT PLAN

COMM. DEV./
PUB. WRKS. CNTR.
SECOND FLOOR

Project Description

The proposed project is comprised of residential and commercial uses. Residential is composed of neighborhoods for single family, multi-family and rental uses. Commercial sites are planned to serve both residents of Miromar Lakes and the expanding, surrounding neighborhood including the Florida Gulf Coast University (FGCU). The boundaries of Miromar Lakes are generally defined by Alico Road to the north, property boundary lines to the east, I-75 to the west and FGCU and property boundary lines to the south.

History

A snail kite was observed on the northern portion of the Miromar Lakes project area. This species is listed as Endangered by both the Florida Game and Fresh Water Fish Commission (FGFWFC) and the U.S. Fish and Wildlife Service. In May and early June, 1994, a solitary male kite was seen in Section 11 foraging in nearby agricultural ditches (FLUCCS 513). The second sighting was assumed to be the same bird. No females or immatures were seen. No mating or nesting behavior was observed and no snail kite nests were observed on the project site. This species was not seen during the last two weeks of the survey, nor has it been seen during any of a multitude of site visits by Wilson Miller biologists since then. Empty apple snail (*Pomacea paludosa*) shells were observed in aquatic habitats, usually near cattails. The apple snail is reported to be the exclusive diet of the snail kite.

The site contains a food resource, but generally lacks a large scale, persistently flooded, emergent scrubby marshland for nesting, the observed bird is thought to have been passing through the property at the time of the survey. Given the large scale wetland enhancement associated with the project, the food resource is not anticipated to be impacted. As a result, it is not anticipated that the species will be significantly impacted by the project. At the suggestion of Darryl Land with FGFWFC, Jack Abney called Jim Rodgers on August 7, 1998, to confirm this. Mr. Rodgers wrote the chapter on snail kites ⁽¹⁾ in the book Rare and Endangered Biota of Florida Vol. V, Birds and was described by Land as a snail kite specialist.

According to Rodgers, the time of year the bird was sighted is when snail kites wander erratically and often roost in unusual places. Abney described the location and habitat on site that is used by the kite, which is a shallow borrow pit vegetated primarily by cattail. Mr. Rodgers said cattail was not good foraging habitat for kites and that he personally had never seen a kite successfully capture a snail in dense cattail. He opined that this bird would probably move on in a short while.

In Rodgers' report ⁽¹⁾ on snail kites, he describes good foraging habitat as follows. "Kites capture snails by aerial hunting over foraging habitat that consists of relatively shallow (30-90 cm), clear and calm water.

(Sykes 1987a). Furthermore, ideal foraging habitat must have relatively open water with a low density of emergent vegetation (e.g. *Eleocharis* spp., maidencane... etc.) allowing kites to see and capture snails as they move along the stems feeding or rising to the surface...". The project area does not appear to fit that description.

A study of snail kite movements and site fidelity was conducted by Bennetts and Kitchens (1997)⁽²⁾. The scope of their study was to "include the entire population of Snail Kites in Florida..." No area of Lee County in the vicinity of the Miramar Lakes DRI was reported to be significant to snail kites. Their study determined that "there is considerable interchange of birds among wetlands in Florida." Bennetts (1997) also states that "...snail kites exhibit high rates of movement and frequently use different wetlands from one year to the next."

Corroboration of the poor quality of habitat provided by cattail is described in the report by Bennetts and Kitchens (1997)⁽²⁾. On page 124 of that report the authors cite Darby⁽³⁾ and others: "Darby et al. (1996a) found low abundance of apple snails associated with substrates containing high flocculent debris. Such a substrate often occurs in cattail. Plant species that respond to nutrients e.g., sawgrass, cattail...) also may increase in biomass choking out the more open water used by kites for foraging. The availability of apple snails to kites requires sufficiently open water to enable visual detection."

Based on this information, we have determined that no impact to snail kites is likely as a result of development of this site. However, to provide potential foraging opportunity for any kites that may wander through this area, portions of the on-site lakes will be enhanced to provide emergent herbaceous vegetation as potential habitat for apple snails. The Management Plan includes three components: 1) the creation of shallow littoral zones, 2) the removal of exotic vegetation along certain existing lake edges, and 3) subsequent planting of native species in these areas.

Littoral Zone Creation

Littoral zones will be created in accordance with the attached lake Littoral Planting Plan (see WMBP File No. D-0253-12. The planting plan includes three types of planting areas: 'A', 'B' and 'C'. Areas designated 'A' are standard littoral zones to be planted with herbaceous species. Areas designated 'B' have been selected for reforestation. Areas designated 'C' will include a bulkhead. A littoral zone will be created waterward of the bulkhead that will be planted with herbaceous species. The planting plan includes a list of species suitable for each elevation zone. Herbaceous species include arrowhead, pickerelweed, spikerush, and others that are suitable for apple snails. Note that the plantings will be clustered.

Exotic/Nuisance Species Removal/Adjacent Tree Plantings

Exotic and nuisance species will be removed from the shorelines of existing lakes that will remain in the proposed site plan. In areas designated 'B' on the above referenced Littoral Planting Plan, several tree

species will be planted. These include sweet bay magnolia, cypress, red maple, loblolly bay and dahoon holly.

Monitoring and Maintenance

Once plantings have been completed, annual monitoring and maintenance will be conducted. The monitoring will include a narrative description of the littoral zone, an estimate of the survival of planted species and an estimate of the cover of exotic and nuisance species. Annual reports will be provided to Lee County Division of Planning, Environmental Sciences for a five year period.

References

(1) Rare and Endangered Biota of Florida. Vol. V, Birds. Florida Snail Kite, pp. 42-51. Ed. By James A. Rodgers, Jr., Herbert W. Kale II and Henry T. Smith, Florida Committee on Rare and Endangered Plants and Animals. University Press of Florida, 1996.

(2) The Demography and Movements of Snail Kites in Florida. By Robert B. Bennetts and Wiley M. Kitchens. USGS/Biological Services Division, Florida Cooperative Fish and Wildlife Research Unit. Technical Report No. 56. 1997.

See esp. pp.: 84, 89, 118 (maps), 124 (discussion of cattail).

(3) Darby, P. C., et al. 1996b. Ecological Studies of Apple Snails (*Pomacea paludosa*). 1995 Report prepared for SFWMD and St. Johns River WMD. Florida Cooperative Fish and Wildlife Research Unit, Gainesville, FL.

DRI2001-00004 / DCI2001-00033

**MIROMAR LAKES
OPEN SPACE AND INDIGENOUS PRESERVATION**

Required Open Space:

Open space requirements for Miromar Lakes will be met within Miromar Lakes. Required open space will be calculated on the development area excluding the existing mining lakes (see deviation 14 under condition 16).

Required Open Space Percentage:

Residential Uses:

Residential uses must provide 40% common open space for tracts requiring open space.

The following are exempt from open space requirements:

- (1) Single family residence on a lot with a minimum lot size of 6,500 square feet and a maximum 45% lot coverage; and
- (2) Duplex on a single lot with a minimum lot size of 7,500 square feet and a maximum 45% lot coverage; and
- (3) Two-family attached units each on an individual minimum lot size of 3,750 square feet per unit and a maximum 45% lot coverage.

Commercial Uses:

Commercial uses will provide 30% open space. A minimum of 10% open space will be provided in each commercial tract with the remaining open space provided within the Miromar Lakes development.

Mixed Uses:

When a tract includes a mix of land uses, the required open space percentage will be prorated according to the extent of the uses within the tract.

Required Indigenous Preservation:

The required indigenous preservation includes:

- (1) A minimum of 325 acres of indigenous preservation and restoration in substantial compliance with the areas delineated on the Master Concept Plan; and
- (2) A minimum of 3 acres of gopher tortoise habitat as detailed in Condition 13 (Condition 40, Z-99-029, revised); and
- (3) Cypress wetland preservation as detailed in Condition 20; and
- (4) Preservation within common open space as detailed in Condition 19.

Staff Exhibit: Cypress Preservation Condition

FUTURE POTENTIAL
LAKE CONNECTION

CORRIDOR FOR FUTURE
POTENTIAL UNIVERSITY
ROADWAY CONNECTION

Cypress to be preserved.

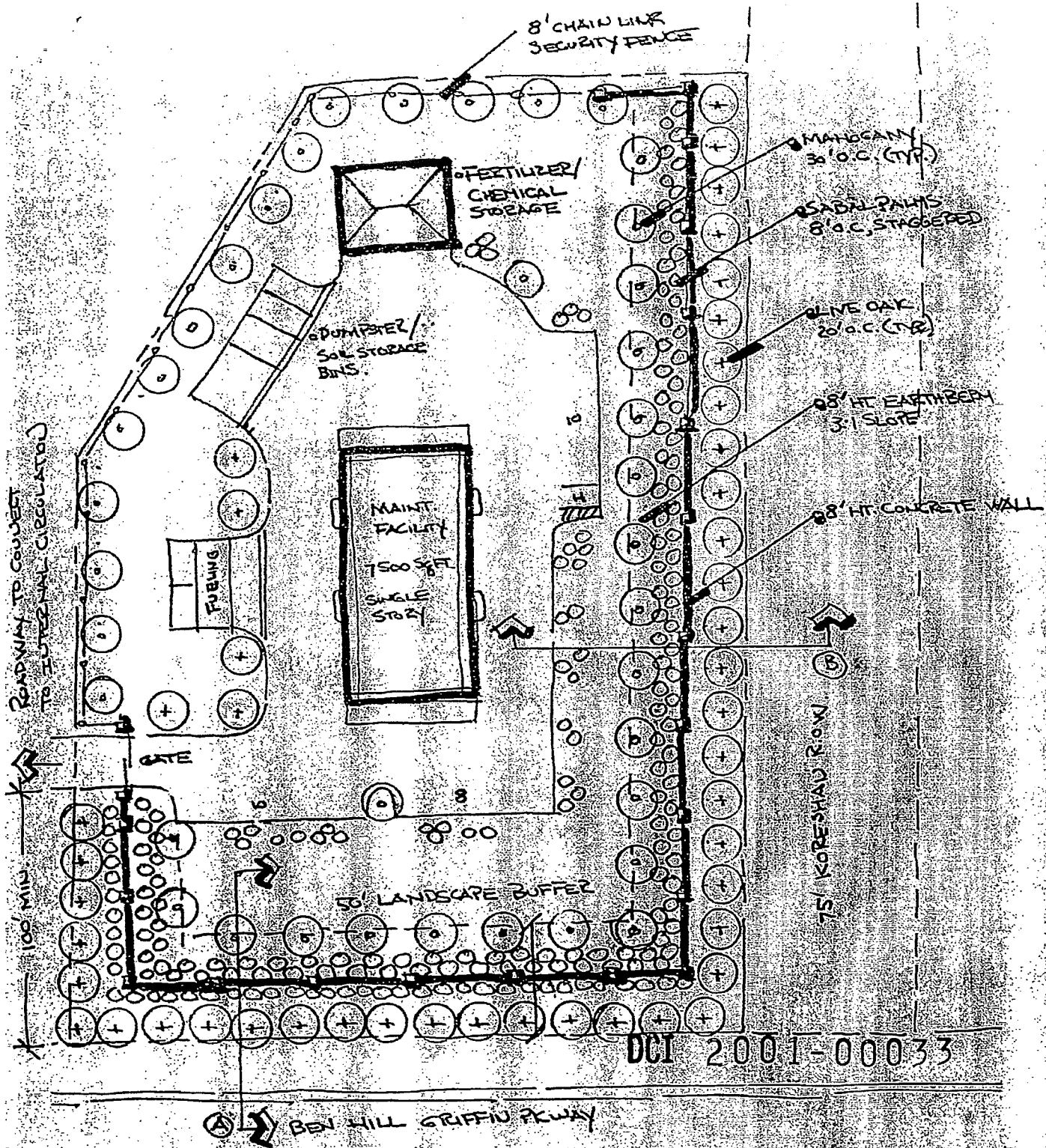
BOAT
ACEUB
Bldg. RE2
to AI
Boat
Attachment 6

AC-2
Milling

C1
C2

CO

CO



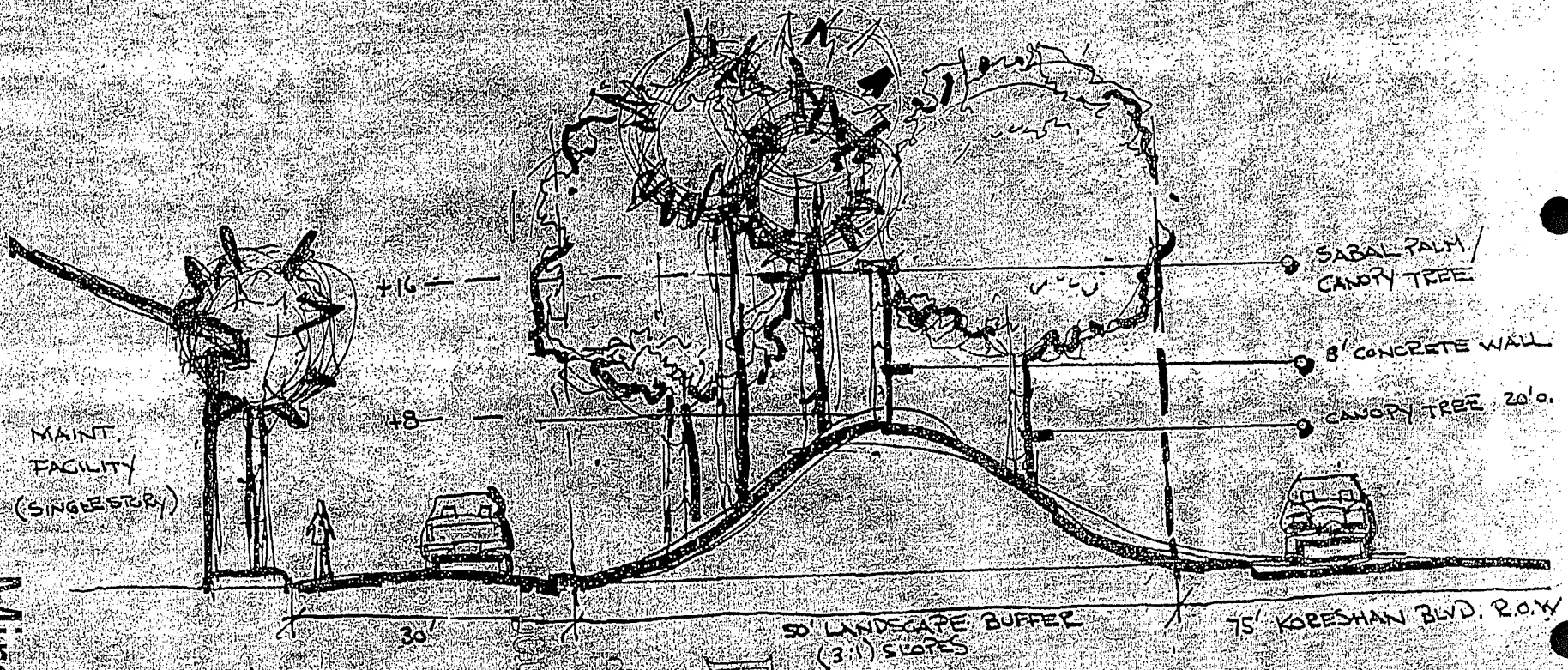
GOLF MAINTENANCE FACILITY
LANDSCAPE BUFFERING

RECEIVED

APR 07 2003

Miromar Lakes

COMMUNITY DEVELOPMENT



75' KORESHAN BLVD. R.O.W

50' LANDSCAPE BUFFER
(3:1) SLOPES

30'

RECEIVED

APR 07 2003

COMMUNITY DEVELOPMENT

2001-00053

SECTION B
NTS

MAINT.
FACILITY
(SINGLE STORY)

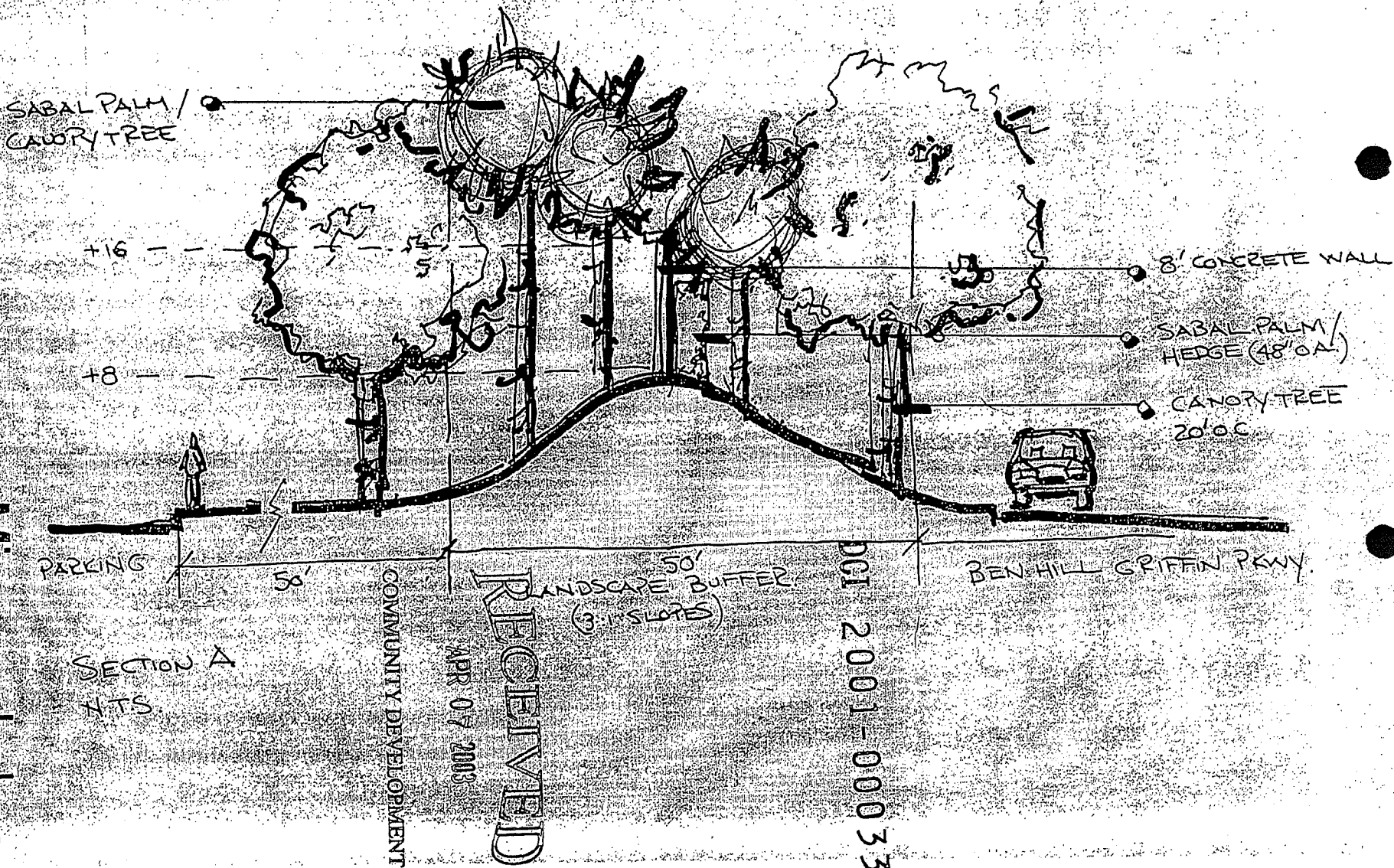
SABAL PALM /
CANOPY TREE

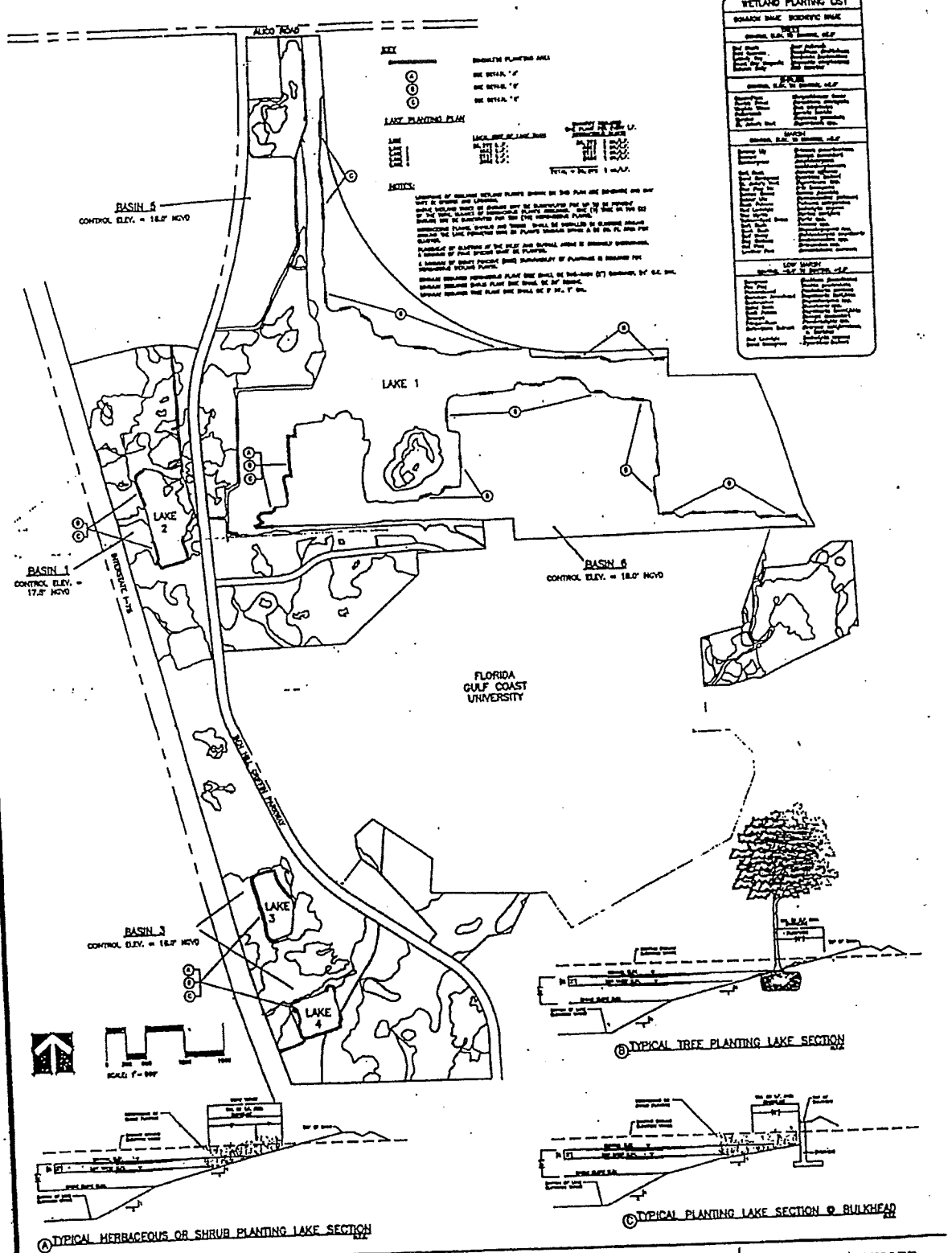
8' CONCRETE WALL

CANOPY TREE 20' O.

Miromar Lakes

Miramar Lakes





PRINTED

NO.	DATE	DESCRIPTION
1	11/11/88	1. PLANTING AREA
2	11/11/88	2. PLANTING AREA
3	11/11/88	3. PLANTING AREA
4	11/11/88	4. PLANTING AREA
5	11/11/88	5. PLANTING AREA

LITTORAL PLANTING PLAN
 MIROMAR LAKES DRI
 PREPARED FOR: ALCO, INC.

WILSON & MILLER
 Planners • Environmental Consultants • Engineers
 Surveyors • Landscape Architects • Construction Managers
 WILSON, MILLER, BARTON & TONG, INC.
 10000 North Central Expressway, Suite 200
 Dallas, Texas 75243
 Phone: (214) 343-1111

FIFTH DEVELOPMENT ORDER
AMENDMENT FOR
MIROMAR LAKES
(CODIFIED)
A DEVELOPMENT OF REGIONAL IMPACT
STATE DRI #11-9798-142

LET IT BE KNOWN THAT, PURSUANT TO SECTION 380.06 OF THE FLORIDA STATUTES, THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA ADOPTED THE APPLICATION FOR DEVELOPMENT APPROVAL ORIGINALLY SUBMITTED AS THE ALICO AMDA, BUT THEREAFTER REDUCED TO AN ADA AND RENAMED AS THE MIROMAR LAKES DRI (HEREINAFTER REFERRED TO AS MIROMAR LAKES) BY ALICO, INC., AS THE OWNER/APPLICANT, FOR MIROMAR LAKES, L.L.C., AS THE DEVELOPER. THE ORIGINAL ADOPTION HEARING WAS HELD ON NOVEMBER 29, 1999. MIROMAR LAKES WAS ORIGINALLY APPROVED AS A MIXED USE DEVELOPMENT THAT INCLUDED APPROXIMATELY 1,271.12± ACRES TO BE DEVELOPED IN ACCORDANCE WITH THE APPLICATION FOR DEVELOPMENT APPROVAL SUBMITTED TO LEE COUNTY ON APRIL 23, 1990, AND AMENDED ON NOVEMBER 10, 1997.

WHEREAS, the Lee County Board of County Commissioners, in a public meeting duly advertised, constituted and assembled November 29, 1999, adopted the Development of Regional Impact (DRI) Application for Development Approval for the project known as Miromar Lakes, subject to conditions, restrictions and limitations; and

WHEREAS, the Miromar Lakes DRI Development Order was subsequently amended on December 10, 2002 to revise the adjustment rate applicable to the unpaid balance of the proportionate share assessment; and

WHEREAS, the Miromar Lakes DRI Development Order was subsequently amended a second time on December 15, 2003, to amend the Miromar Lakes DRI development order to add approximately 534 +/- acres of property to the project (total project to be 1805 +/- acres). This change included a proposal to increase the number of golf holes by 18, add a clubhouse, and golf maintenance facility on the property; and

WHEREAS, in 2001, the Board approved the third amendment to the Miromar Lakes DRI Development Order when the applicant filed an application to amend the Lee Plan to re-designate approximately 19.85±/- acres from the Future Land Use Category "Density Reduction Groundwater Resource" to "University Community" and also to re-designate 170.92± acres from "University Community and Wetlands" to "Conservation Lands- Uplands" and "Conservation Lands - Wetlands."; and

WHEREAS, the Miromar Lakes DRI Development Order was amended for a fourth time, this time by Board Resolution, as reflected in Board Resolution 07-09-18, adopted September 11, 2007, to extend the build out date to December 31, 2011, pursuant to HB7203; and

WHEREAS, on June 1, 2009, Senate Bill 360 (SB360) was signed into law by the Governor of the State of Florida. SB360 provided a statutory two-year extension to DRIs with build out dates expiring between September 1, 2008 through January 1, 2012; and

WHEREAS, the Board of County Commissioners recognized the statutory extension and established a procedure for implementing SB360 in Lee County Resolution 09-06-22 on June 23, 2009; and

WHEREAS, on June 17, 2009, Lee County received a request for an extension of the DRI build out date and Concurrency Certificate for the Miromar Lakes DRI; and

WHEREAS, Miromar Lakes DRI qualifies for the two-year extension of its build out date from December 31, 2011 to December 31, 2013, resulting in a fifth amendment of the Miromar Lakes DRI Development Order; and

WHEREAS, under Lee County Resolution 09-06-22, concurrency vesting is also extended to December 31, 2013, consistent with the build out extension; and

WHEREAS, under SB 360, the two-year extension does not constitute a substantial deviation from the original development approvals warranting further DRI review; and

WHEREAS, in 2010, Miromar Lakes, LLC, filed an application to amend the existing MPD (Resolution Number Z-02-072) in Case Number DCI2010-00002, and for a Notice of Proposed Change (NOPC) for the Miromar Lakes DRI (DRI# 11-9798-14) to change the buildout and termination dates, change from annual to biennial reporting for transportation monitoring reports, to eliminate Conditions II.A.2. and 3. as related to the re-analysis of affordable housing needs and a revision of conditions that have been complied with; and

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

I. FINDINGS OF FACT AND CONCLUSIONS OF LAW.

- A. Miromar Lakes is a master planned community located in unincorporated south Lee County, east of I-75, north of Corkscrew Road, south of Alico Road, on either side of Ben Hill Griffin Parkway. The site is 1,805.646+/- acres. Miromar is a mixed use development that will consist of: 2,600 residential units, 250,000 square feet of retail, 450 hotel rooms, 340,000 square feet of office, 250 wet slips, 400 dry slips,

40,000 square feet of research and development, and all accessory uses to these uses. In addition, there will be 312 acres of lakes/buffers and recreation, and a minimum of 338 of conservation lands. The recreational uses will include golf, tennis, clubhouses, and active and passive recreation. The legal description of the project is set forth in Exhibit A

The assessment was based on a phasing schedule that includes two five-year phases described in Exhibit B. Site preparation will commenced upon completion of all necessary permitting. The project buildout date is December 31, 2013 2020. The termination date is December 31, 2018 2026.

Water supply and wastewater treatment will be provided by Gulf Environmental Services.

- B. The factual findings, conclusions of law, conditions and other terms of this Development Order apply to the property legally described in Exhibit A and known as the Miromar Lakes DRI.
- C. The original 1,271.12± acres was zoned AG-2, and coincident with the 1999 approval of the Development Order the property was rezoned to a Mixed Use Planned Development (MPD). In the recent past, portions of the property have been utilized for mining and related activity. The mining, and related activity, will cease on any portion of the property under active development. The 534 +/- acre addition was initially zoned AG-2, but was rezoned to MPD coincident with the Second DRI Development Order Amendment.
- D. The AMDA went through sufficiency and a report and recommendation were issued. The application was put on hold, then reduced to an Application for Development Approval (ADA). The ADA for Miromar Lakes is consistent with the requirements of Section 380.06, Florida Statutes. The project went through two sufficiency rounds and the Developer exercised its right to refuse participation in further rounds.
- E. The development is not located in an area designated as an Area of Critical State Concern under the provision of Section 380.05, Florida Statutes.
- F. The development does 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 it is developed in accordance with the development parameters and conditions of approval set forth in this development order.
- G. The development has been reviewed by the Southwest Florida Regional Planning Council (SWFRPC) and is the subject of reports and recommendations adopted by that body on December 17, 1998 and June 21, 2001. The SWFRPC report and recommendations were subsequently forwarded to Lee County pursuant to Section

380.06, Florida Statutes. The development, as proposed in the ADA and modified by this Development Order, is consistent with the reports and recommendations of the SWFRPC pursuant to Section 380.06(11), Florida Statutes.

- H. The development, as conditioned, is located in, and is consistent with, the University Community, "Conservation Lands - Uplands", and "Conservation Lands- Wetlands" future land use categories.
- I. The conditions set forth below meet the criteria found in Section 380.06(15)(d), Florida Statutes.
- J. The Phase II and build out dates were extended by three years to 2012 and 2017 respectively pursuant to House Bill 7203, which amended Florida Statutes, Section 380.06(19)(c).
- K. Senate Bill 360 (SB360), as signed into law by the Governor of the State of Florida on June 1, 2009 (codified as a note to F.S. §§373.414 and 380.06) provides a statutory two-year extension to build out dates expiring between September 1, 2008 through January 1, 2012. The Board of County Commissioners recognized the statutory extension in Lee County Resolution 09-06-22, adopted on June 23, 2009,

In accord with SB 360, Miormar Lakes DRI qualifies for a two-year extension of its build out date from December 31, 2011 to December 31, 2013. Under Lee County Resolution 09-06-22, concurrency is also extended to December 31, 2013, consistent with the build out extension. Under SB 360, the two-year extension does not constitute a substantial deviation of the original development order approvals warranting further DRI review.

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 September 20, 2010, the Fifth Amendment to the Miormar Lakes Development of Regional Impact is hereby approved subject to the conditions, restrictions and limitations that follow. For the purpose of this Development Order, the term "Developer" refers to Miormar Lakes, L.L.C., and includes all of its successors or assigns, and all references to County Ordinances or other regulations including future amendments.

A. AFFORDABLE HOUSING.

1. The Applicant conducted a survey in accordance with an approved methodology to determine whether a sufficient number of affordable housing units are available to meet the demands of the projected, non-construction, permanent employees of Phase I of the Project. The survey results demonstrated there was no unmet demand through build out of Phase I.

2. Prior to initiation of the second phase of the Project, the Developer must conduct a re-analysis of the affordable housing needs of the projected, non-construction, permanent employees of that phase using a methodology acceptable to the County, SWFRPC and the Department of Community Affairs (DCA). The methodology must limit the percentage of mobile homes that comprise the total available supply to 20 percent.

3. If the second phase re-analysis of the affordable housing needs shows a potential shortage of affordable housing units that exceeds the threshold for regionally significant impact for the DRI, the Developer must mitigate the need by following the options outlined in Rule 9J-2.048(8), the Adequate Housing Uniform Standard Rule, or other measures agreed to by the County, SWFRPC and DCA.

B. ENERGY.

The Developer will utilize the energy conservation measures outlined in the ADA.

C. STORM WATER MANAGEMENT.

1. The Developer has obtained an Environmental Resource Permit (ERP) from South Florida Water Management District (SFWMD) - Permit No. 951122-7 Miromar Lakes. Prior to construction, the Developer must provide Lee County Development Services with a copy of the ERP, and any early work permit. The Developer must provide the Lee County Development Services Division with a copy of all amendments to the ERP that include property that was not a part of the original application.

2. The Developer, Property Owner's Association, Uniform Community Development District (UCDD), or other entity with operational responsibility for the surface water management system must comply with Class III water quality standards for all water discharged into the lakes generally referred to as the north and south mining lakes.

3. The Developer must incorporate best management practices (BMPs) into the surface water management plans submitted to SFWMD. The Developer must also utilize BMPs during construction for control of erosion and sediment. These practices will be identified on the aforementioned plans submitted to SFWMD, and other agencies with jurisdiction.

4. The first habitable floor of all structures must be at or above the 100-year flood elevations. The 25-year/three-day storm event must be used in computing off-site discharge rates, taking into account the backwater elevations along on-site flowways.

5. The Developer must obtain a SFWMD permit for dewatering activities as required by Sections 2.5 and 5.2.2 Dewatering, Basis of Review (water use).
6. Upon completion of construction and stabilization of side slopes, the Developer must remove all silt barriers, hay bales, anchor soil, and accumulated silt.
7. The Developer must establish a legal operating entity in accordance with the SFWMD Basis of Review and Lee County Land Development Code (LDC), to maintain all internal storm water management lakes, ditches, and wetlands. The same condition applies to that portion of the north and south mining lakes under the ownership and control of the Developer. Easements, common areas or other legal mechanisms may be utilized to ensure sufficient access to the storm water management areas.
8. Where applicable, the storm water management plan submitted to SFWMD must consider measures to reduce runoff rates and volumes, including, but not limited to, fixed control structures, perforated pipes, and grass swale conveyances. The Developer must use swales rather than closed systems whenever practical.
9. The Developer must create littoral zones along the shoreline banks of the storm water management system consistent with the requirements of SFWMD and Lee County. The littoral zones must consist of native emergent or submergent aquatic vegetation. The Developer must ensure, by supplemental replanting if necessary, at least 80 percent cover by native aquatic vegetation within the required littoral zones.
10. The surface water management system design must incorporate natural flowway corridors and restore impacted natural flow way corridors.
 - (a) Storm water run-off must be pre-treated consistent with the South Florida Water Management District permit prior to discharging the run-off into existing lake or wetland (any aquatic) systems.
 - (b) The development must maintain the function and integrity of the Stewart Slough, the natural flowway being restored through the South Florida Water Management District's ERP, contained within the boundaries of this DRI. Flowways are precluded from being primary surface water treatment areas.
11. The Developer, or the legal operating entity, must perform annual inspections of the project's on-site storm water management system to ensure that the system is maintained in accordance with the final approved design.
12. The Developer must meet all Army Corps. of Engineers, Department of Environmental Protection, South Florida Water Management District, and Lee County requirements regarding the impact of the proposed storm water

management system on state or federally listed plants or animal species occurring on-site. When required by federal, state, or local permits, the Developer will provide mitigation for those impacts.

13. The Developer must vacuum sweep all commercial streets and parking areas within the development on a regularly scheduled basis.

14. When required by SFWMD in accordance with Section 5.2.2, Basis of Review (E.R.P.), the Developer must provide at least one-half inch of dry pre-treatment (retention or detention), or an equivalent alternative, for commercial and industrial uses.

15. The Developer must participate in any Countywide storm water management system adopted by Lee County that directly benefits the development, under the same fiscal terms and conditions applicable to other benefitted properties.

16. As part of the routine maintenance of the project, the Developer must:

- (a) mow grassed storm water management areas;
- (b) remove accumulated debris within treatment areas;
- (c) replace all identifiable erosion to banks; and
- (d) remove noxious exotic vegetation that may potentially interfere with the proper function of the treatment areas.

17. The Developer must inspect, clean and repair all under-drain systems and grease baffles on a regular basis. The period between inspections may not exceed eighteen months.

18. The storm water management system must be designed to ensure that the quality and quantity of the water entering the wetlands is adequate to ensure the wetland survivability. The impact of the storm water management system on the wetland mitigation areas will be evaluated by the SFWMD during the ERP process.

19. All individual tenants or residents must comply with applicable laws and regulations regarding the management and use of hazardous materials.

20. Golf Course:

- (a) Prior to development order approval for the first 18-hole golf course, the developer must conduct a pre-development groundwater and surface water analysis and submit the analysis to the County. This analysis is intended to establish baseline data for groundwater and surface water monitoring for the

project area. The analysis must be designed to identify those nutrients and chemicals that are anticipated to be associated with the project. Prior to commencing this baseline study, the developer must submit the methodology for review, comment, and approval by the County.

- (b) The developer must submit an annual monitoring report of surface water quality on the first 18-hole golf course for a period of five years from the issuance of the certificate of completion for the golf course, or the last violation, if any, of Chapter 62-302, F.A.C. water quality standards. The monitoring program will include: testing to assess whether there are any herbicide, pesticide or fertilizer pollution of the water at the project's outfall locations, which are the south mining lake, the Stewart Cypress Slough, and the north headwaters of Estero River. The developer will submit the test results with the monitoring report. The monitoring program will be established and operated at the expense of the developer, or other comparable legal entity charged with the legal responsibility of managing the golf course. This plan will be evaluated in accordance with the directives of Chapter 62-302, F.A.C., water quality standards.
- (c) The developer must conduct a pre-development ground water and surface water analysis and submit the analysis to the County prior to development order approval for the second 18-hole golf course. The analysis will establish the baseline data for groundwater and surface water monitoring of the project area. The developer must design the analysis to identify the nutrients and chemicals anticipated to be associated with the second 18 hole golf course. The methodology employed in the base line study must first be reviewed and approved by the county.
- (d) The operator of the second 18 hole golf course must submit an annual monitoring report of ground water and surface water quality. The proposed monitoring program will be reviewed by the Natural Resources Division and evaluated in accordance with the requirements of Chapter 62-302 FAC water quality standards. The monitoring program must include: testing to assess whether there are unacceptable increased levels of herbicide, pesticide or fertilizer at project outfalls; identification of the locations of the ground water monitoring and project outfalls; identification of the locations of ground water monitoring and testing on a map(s); an outline of the testing and recording requirements. The operator must submit test results and the monitoring report to the Lee County Natural Resources Division. The monitoring program will be established and operated at the expense of the developer or other legal entity charged with the legal responsibility of managing the golf course. Compliance with the program will be evaluated at the project outfalls utilizing the water quality standards set forth in Chapter 62-302 F.A.C. The monitoring program will continue in perpetuity.

21. If groundwater or surface water pollution occurs, as that term is defined by the rules or regulations in effect at the time, and if the pollution is caused by the application of fertilizers, herbicides or pesticides to the golf course, the application of the pollutant must cease until there is a revised management plan for the application of the pollutant. A determination that the application of fertilizers, herbicides or pesticides to the golf course are the cause and source of the pollution must be based on competent and substantial evidence. If mitigation is necessary to address the pollution, a mitigation plan approved by Lee County and other appropriate agencies will be implemented by the developer.

D. TRANSPORTATION

1. Significant Impacts

(a) Assessment Parameters

The traffic impact assessment for the project assumes the following development parameters:

	<u>Phase I (2004)</u>	<u>Buildout (2013)</u>
Residential		
Single Family (ITE LUC 210)	314 D.U.	700 D.U.
Multi-Family	1,100 D.U. Total	1,900 D.U. Total
Apartments (LUC 220)	200 D.U.	200 D.U.
Residential Condominiums (LUC 230)	900 D.U.	1,700 D.U.
Non-Residential		
--Service/Office (LUC 710)	100,000 sq. ft.	340,000 sq. ft.
--General Retail (LUC 820)	160,000 sq. ft.	250,000sq. ft.
--Hotel (LUC 310)	350 rooms	450 rooms
--Industrial/R & D (LUC 760)	0 sq. ft.	40,000 sq. ft.
--Golf Course (LUC 430)	36 holes	36 holes
 --Community Use (LUC 495)	 20,000 sq. ft.	 20,000 sq. ft.
(Golf Clubhouse)		
--Beach Park (LUC 415)	10 acres	10 acres
(Including a Beach Clubhouse for use of residents and their guests.)		

The above parameters form the basis for the project impacts and 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. Any significant change in the assumed uses or mix of uses will require a re-evaluation of the DRI transportation impacts. A significant change is one that would

increase the external project traffic by five (5) percent or more **or** that would significantly change the projected distribution and assignment of project traffic, so as to result in additional significantly and adversely impacted roadway links. The overall traffic at the project entrances based on the above parameters is estimated to be 3,931 p.m. peak hour trips.

(b) Phase I Impacts

The assessment indicates that the significantly impacted roadways and intersections described below ~~will~~ were anticipated to be operating below acceptable levels of service at the end of Phase I (2004):

<u>Roadways</u>	<u>Needed Improvement</u>
Alico Road	
--U.S. 41 to Seminole Gulf Railway	Widen to six (6) lanes*
--I-75 to Ben Hill Griffin Parkway	Widen to six (6) lanes
<i>* or realignment/interchange as part of Metro Parkway extension (6 lanes), US 41 to Six Mile Parkway</i>	
<u>Intersections</u>	
Alico Road/Three Oaks Parkway	Add 2 nd NB left, 2 nd WB left, 2 nd SB left
Alico Road/Project Entrance	Intersection Improvements
Ben Hill Griffin Parkway/Alico Road	Add 2 nd NB left
Ben Hill Griffin Parkway/Project Entrances	Intersection Improvements
Ben Hill Griffin Parkway/Corkscrew Road	Signalization, add 2 nd EB left, 2 nd SB left
US 41/Alico Road	Add 2 nd WB right, 3 rd SB left

The intersection improvements include geometric improvements, such as turn lanes and signalization when warranted. The Developer will be fully responsible for improvements needed at the project entrances that are deemed site-related (See Paragraph D.4). The intersections are addressed in the overall proportionate share calculation. As noted above, however, site-related needs at the project entrances are not addressed in the proportionate share calculation.

(c) Buildout Impacts

The assessment indicates that the significantly impacted roadways and intersections described below ~~will~~ were anticipated to be operating below acceptable levels of service at the end of buildout (2009¹):

<u>Roadways</u>	<u>Needed Improvement</u>
Alico Road	
--U.S. 41 to Seminole Gulf Railway	Widen to six (6) lanes
--Lee Road to I-75	Widen to eight (8) lanes
--I-75 to Ben Hill Griffin Parkway	Widen to six (6) lanes
Ben Hill Griffin Parkway	
--T&T Entrance to Alico Road	Widen to six (6) lanes
Corkscrew Road	
--Three Oaks Parkway to Ben Hill Griffin Parkway	Widen to six (6) lanes
Daniels Parkway	
-- Metro Parkway to Six Mile Cypress Parkway	Widen to eight (8) lanes
--Six Mile Cypress Parkway to Fiddlesticks Boulevard	Widen to ten (10) lanes
--Fiddlesticks Boulevard to I-75	Widen to eight (8) lanes
U.S. 41	
-- Coconut Road to Williams Road	Widen to six (6) lanes
--Alico Road to Six Mile Cypress Parkway	Alternate facility needed*

**Metro Parkway extension (six (6) lanes), US 41 to Six Mile Parkway*

Intersections

Alico Road/Oriole Road	Add 2 nd WB left, signalization
Alico Road/Three Oaks Parkway	Add 3 rd EB left, 3 rd NB through, 3 rd SB through
Alico Road/I-75 East Ramp	Add 2 nd WB left, 2 nd NB left
Alico Road/Project Entrance	Intersection Improvements
Ben Hill Griffin Parkway/Alico Road	Add 3 rd NB left, 3 rd SB through, 3 rd WB through, 2 nd EB left

¹ The build out date of the Miromar DRI was extended by two years to 2013. However, the transportation analysis was conducted assuming a build out date of December 31, 2009. For this reason, the reference to 2009 was not amended in this paragraph.

Ben Hill Griffin Parkway/Project Entrances
Ben Hill Griffin Parkway/Corkscrew Road

Corkscrew Road/Three Oaks Parkway
US 41/Alico Road

Intersection Improvements
Add 2nd EB left, 2nd NB left,
2nd SB left
Add 2nd EB left
Add 3rd SB left

The intersection improvements include geometric improvements, such as turn lanes and signalization when warranted. The Developer will be fully responsible for improvements needed at the project entrances that are deemed site-related (see Paragraph D.4). The intersections are addressed in the overall proportionate share calculation. As noted above, however, site-related needs at the project entrances are not addressed in the proportionate share calculation.

The amended traffic assessment indicates that the significantly impacted roadways described below will be operating below acceptable levels of service at the end of buildout in 2020.

<u>Roadways</u>	<u>Needed Improvement</u>
<u>Ben Hill Griffin Parkway</u> <u>-- Miromar Lakes Entrance to College Club Drive</u>	<u>Widen to six (6) lanes</u>

2. Mitigation

(a) Phase I Proportionate Share

The total proportionate share obligation to mitigate the Phase I transportation impacts on the non site-related roads and intersections set forth in Paragraph D.1.b. above is estimated to be \$1,270,796 in 1999 dollars. The Phase I road impact fees anticipated to be generated by the project based on the development parameters set forth in Paragraph D.1.a and under the current County road impact fee schedules are \$3,171,928, or \$1,901,132 more than the Phase I proportionate share obligation.

(b) Buildout Proportionate Share

The total proportionate share obligation to mitigate the build out transportation impacts on the non-site related roads and intersections set forth in Paragraph D.1.c. above is estimated to be \$10,914,866 in 1999 dollars. The total road impact fees anticipated to be generated by the project through buildout based on the development parameters set forth in Paragraph D.1.a. and under the current County road impact fee schedules are \$5,686,010. The proportionate share obligation is approximately \$5,228,856 more than impact fees in 1999 dollars.

(c) Traffic Mitigation

The Developer must mitigate its overall project traffic impacts through the payment of the entire project proportionate share obligation of \$10,914,866 for project buildout. The details of this payment must be established in a Local Government Development Agreement executed pursuant to Section 163.3220, Florida Statutes, and Chapter 2, Article III of the Lee County Land Development Code. The Developer must submit to Lee County a Development Agreement within 90 days of the effective date of this DRI Development Order.

Generally, the payment is to be accomplished in the following manner:

Within 120 days of the effective date of this DRI Development Order, the Developer must deliver as Maker a promissory note, payable to Lee County, in the original principal amount of \$10,914,866.00, representing the entire proportionate share obligation. The note will provide for payment of the entire amount to be paid the County before December 30, 2005. Additionally, the note must provide for interest to be paid at a rate of 7.4 percent on the unpaid balance of the proportionate share assessment.

The promissory note will provide for payments of principal as follows:

The first principal installment will be in the amount of the Phase I impact fee obligation, \$3,171,928.00, and will be due and payable on or before the earlier of one year from the date of final DRI Development Order approval or the date of the issuance of the first building permit for vertical construction. However, some development such as the golf course, golf clubhouse, information/sales center/model center, and beach club may proceed prior to the first payment. That development will be required to pay road impact fees at the time permits are received. Impact fee payments will be deducted from the first principal payment;

The second principal installment in the amount of \$6,000,000.00, will be due and payable on December 30, 2002;

The final payment of principal in the amount of \$1,742,938.00, will be due and payable December 30, 2005.

Interest will be payable on December 30th of each year beginning December 30, 2000 and continuing until the promissory note is paid in full. Upon payment of the six million dollar principal payment prior to December 30, 2002, the 2002 interest payment will be based on the remaining principal balance of \$1,742,938.00. Each payment will be in the amount of all accrued and unpaid interest to the date thereof. Except for the year 2002,

the amount of interest accrued will be based on the daily principal balance outstanding during the preceding year. The applicable interest rate will be equal to 7.4 percent. Interest payments are due and owing on December 30th of each calendar year. All prepayments of principal shall be credited to the next installment(s) due. All interest payments will be deposited in the District 3 impact fee account.

The Developer may choose to provide certain improvements such as the right-of-way for Koreshan Boulevard Extension along the south property line for Miromar Lakes or the six-laning of Ben Hill Griffin Parkway in exchange for credits against the overall payment obligation. These improvements are subject to concurrence by Lee County DOT on their scope and timing, and the contributions will be treated as prepayments of principal. Dedication of the Koreshan Boulevard Extension right-of-way will be valued consistent with the provisions of the Lee County Land Development Code, based on the date prior to DRI Development Order approval.

The portion of the payment in lieu of impact fees, estimated at \$5,686,010.00, will be treated as impact fees as outlined in the Lee County Land Development Code and deposited in the District 3 impact fee account. Cash payments above and beyond those in lieu of impact fees will be applied by Lee County toward the following improvements and in the following priority:

The list of significantly and adversely impacted roads and intersections from Paragraphs D.1.b and D.1.c.

Other non-site related roadway improvements benefitting Miromar Lakes.

(d) Concurrency

1. If the development agreement and promissory note specified in Paragraph D.2.c. above are provided as described and in the time frames noted, the Miromar Lakes DRI will be granted a concurrency certificate for buildout of the project, that is, the certificate will be valid until the project completes the buildout development parameters specified in Paragraph D.1.a. or December 31, ~~2013~~ 2020, whichever is sooner. Thereafter, further development of the project will be subject to the Concurrency Management System, unless the concurrency certificate is extended as provided in Condition D.2.d.2 below. Under the payment schedules identified above, the Developer will not be required to pay road impact fees at the building permit stage, except as previously noted for that limited development that may occur prior to the first payment. If the payments are not made as described, then no further building permits will be issued until the

Developer makes the payment. Concurrency vesting is contingent on the payment schedule and amounts set forth in Paragraph D.2.c. ~~If the Developer fails to comply with the payment schedule and amounts due, The proportionate share required herein was paid in full and the~~ project will not lose its vested status and will not be subject to the County's Concurrency Management System for all future development as long as the development is constructed within the adopted development parameters. The Developer will have a 15 day grace period following the due date for each payment within which to make the required payment without affecting the concurrency vesting.

2. The developer filed a Notice of Proposed Change that resulted in an extension of project buildout to December 31, 2020, extended the concurrency certificate in Condition II.D.2.d.1. above to December 31, 2020, and provided a detailed traffic assessment to the Lee County Department of Transportation for review and approval.

If the developer files a Notice of Proposed Change that results in an extension of project build out beyond December 31, 2013 2020 and the developer desires to extend the concurrency certificate in Condition D.2.d.1. above beyond 2020, the developer must provide a detailed traffic assessment to Lee County DOT for review and approval. The assessment must include, but not limited to, identifying the adjusted phasing, level of development anticipated for the revised phasing, estimated traffic impacts, needed improvements, and the project's proportionate share of those improvements.

The assessment will be a cumulative analysis of the project's traffic impacts. The County will provide credit against the recalculated proportionate share for all mitigation paid through the date of the new traffic assessment. The 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. This increase will be expressed as a percentage and will be measured from the index published for the second quarter of 1999 to the index published in the then latest available edition. In no event may the adjustment result in a refund of money paid to the County. The assessment must identify mitigation for those roadway segments that are significantly and adversely impacted by cumulative project traffic at the extended build-out year in accordance with the Transportation Uniform Standard Rule in the Florida Administrative Code. Prior to conducting a 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. Additional mitigation, if any, resulting from the traffic assessment must be paid in a manner generally consistent with that of the original mitigation. For example, the development order and any corresponding development agreement must be amended to reflect the revised phasing and additional mitigation.

3. Amendments to Phasing Schedule

If the project phasing is expanded in the future, the phases must be limited to not more than five-year intervals and a new analysis will be required at the start of each phase.

4. Access and Site-Related Improvements

The Developer is fully responsible for its share of the following site-related roadway and intersection improvements: 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 Alco Road and Ben Hill Griffin Parkway. Site-related improvements are not eligible for credit against impact fees and are also ineligible for offset against the project's proportionate share obligation.

5. Annual Biennial Transportation Monitoring Report

(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~~ biennial transportation monitoring report may be revised if agreed upon by all parties.

(b) Submittal of Monitoring Report

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

(c) Minimum Requirements for Report Contents

At a minimum, 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 ~~annual~~ biennial traffic monitoring report must also contain the following information:

- 1) P.M. peak hour traffic counts with turning movements at the project's access points onto Alico Road and Ben Hill Griffin Parkway, and on the external road segments and intersections identified in Paragraph D.1.c.
- 2) A comparison of field measured project traffic volumes to the project trip generation assumed in the DRI analysis. The Developer will need to specify in the methodology how the internal interaction will be measured.
- 3) Estimated existing levels of service and needed improvements for the roads and intersections specified in Paragraph D.1.c. above.
- 4) Estimated future levels of service and needed improvements for the roads and intersections specified in Paragraph D.1.c. above, based on a one-year projection of future volumes.

- 5) A summary of the status of road improvements assumed to be committed by Lee County and FDOT as set forth below:

<u>Roadways</u>	<u>Improvement</u>	<u>Construction Schedule</u>
Alico Road		
--US 41 to Seminole Gulf Railway	four (4) lanes	FY 98/99
--Seminole Gulf Railway to I-75 West Ramps	six (6) lanes	FY 98/99
Corkscrew Road		
--Sandy Lane to I-75	four (4) lanes	FY 98/99
Three Oaks Parkway		
--Alico Road to Daniels Parkway	four (4) lanes	FY 00/01
Treeline Avenue		
--Alico Road to Daniels Parkway	four (4) lanes	FY 01/02
US 41		
--Alico Road to Daniels Parkway	four (4) lanes	FY 98/99
<u>Intersections</u>	<u>Improvement</u>	<u>Construction Schedule</u>
I-75 Ramps/Alico Road	Signalization	FY 98/99

(d) Implications

- 1) If the ~~annual~~ biennial transportation monitoring report reveals that the project trip generation exceeds the thresholds identified in 380.06(19)(b)15, Florida Statutes, then the statutory provisions regarding substantial deviations will govern. If the project is deemed to be a substantial deviation, the Developer must then undergo additional DRI review. This review must reanalyze the project impacts on the County road network in general, and specifically evaluate the potential project impacts on the roadway segments identified in Paragraph D.3 above.
- 2) Changes to development parameters or phasing may trigger the need to rebut the statutory presumption of substantial deviation. In some instances, the evidence necessary to rebut the presumption may involve the need for a comparison of project trip distribution and assignment.

6. Other

(a) Access to FGCU

The Developer ~~must~~ has accommodated a second access to FGCU that connects to Ben Hill Griffin Parkway at STA 916+43.75, as contemplated in the FGCU Master Plan.

In addition, the Developer ~~must~~ has accommodated two additional accesses to the FGCU campus from: 1) the southern project entrance off Ben Hill Griffin Parkway; and 2) the east boundary of the project as reflected on Map H.

(b) Access Locations and Movements

1) The transportation assessment was based on the access locations and movements identified in the DRI Master Plan (Map H) dated ~~January 20, 2004~~ 12/23/09, printed by ~~Wilson, Miller, Barton and Peek, Inc~~ Miromar Development Corporation. Additional accesses may require further analysis by the Lee County Department of Transportation for the DRI.

2) Access to the ~~Koreshan Boulevard extension~~ Estero Parkway will be subject to the access management plan for the roadway proposed in conjunction with the design. Median openings, ~~if any, will be~~ were determined as part of the roadway design process as well.

(c) Pedestrian/Bicycle and Transit Facilities

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

(d) Access to Future 951

Future access to County Road 951 will be subject to the recommendations set forth in the PD&E for the roadway.

7. Land Use Conversion

The approved parameters, as specified in this Development Order, may be modified by the Developer without further amendment to this Development Order, subject to the conditions of Paragraph D.1.a. and as set forth below.

(a) No more than 700 single-family units will be built at Miromar Lakes. Given that single family units generate more total and external traffic than multi-

family and, therefore, have a greater traffic impact, single family units may be converted to multi-family units at a one-to-one (1:1) ratio. This conversion may occur without further DRI or substantial deviation review.

- (b) Residential condominium units may be converted to apartment units at a ratio of 1.15 residential condominium units to one apartment unit. However, no more than 700 residential condominium units may be converted to apartment units. This conversion may occur without further DRI or substantial deviation review.
- (c) Office use may be converted to Research and Development (R&D) at a ratio of 1,000 square feet of Office to 1,100 square feet of Research and Development. There is no limitation on the conversion of Office use to Research and Development (R&D) at the above ratio.
- (d) Notice of any conversion must be provided to the County, the Regional Planning Council, and the Department of Community Affairs. In addition, the amount of conversion must be reported as part of the subsequent annual monitoring report.

8. Golf Cart Crossing

- (a) Any golf cart crossing of Ben Hill Griffin Parkway by the Miromar Lakes DRI must be grade-separated. At-grade golf cart crossings of Ben Hill Griffin Parkway are prohibited. The golf cart crossing must be elevated over Ben Hill Griffin Parkway.
- (b) Any ~~The~~ elevated golf cart crossing of Ben Hill Griffin Parkway ~~must be~~ was reviewed and approved by Lee County DOT. The review ~~will included~~ but is not limited to issues such as structural requirements and adequate sight distances for Ben Hill Griffin Parkway. The Developer ~~must obtained~~ a right-of-way permit from Lee County DOT and ~~must agreed~~ to adequately maintain the structure within the right-of-way.

E. VEGETATION AND WILDLIFE/WETLANDS.

- 1. Where feasible and appropriate for bird usage, storm water management lakes must include draw-down pool features in littoral shelf slopes. These features will be reviewed as part of the ERP permit and will be considered because they favor use by wood storks and wading birds.
- 2. Identifiable impacts to the Florida panther habitat will be addressed through the Army Corps. of Engineers (ACOE) permitting process. The ACOE is consulting with U.S. Fish and Wildlife (USFWS) Service as part of the Section 7 consultation under the Endangered Species Act. The ACOE will

evaluate, through the permitting process, the impacts to the Florida panther. The impact must be assessed in accordance with Section 404 Federal Register and Section 7 of the Endangered Species Act.

The panther mitigation for buildout of the development, as depicted on Map H, has been identified in the ACOE Permit #199507483 (IP-MN) and SAJ1995-07483 (IP-MN) Addition and South Florida Water Management District (SFWMD) Environmental Resource Permit (ERP) No. 36-03568-P, as modified. The 12.65 Panther Island Mitigation credits have been transferred and 548.0 acres (194.0 and 353.0 acre parcels) of off-site land for panther mitigation has been acquired by the applicant. The 353-acre parcel must be accepted by appropriate agencies and conservation easements as per ACOE and SFWMD permit condition requirements must be recorded over the 194.0 and 353.0 acre parcels.

3. The Big Cypress Fox Squirrel Management Plan, dated July 2, 1998, must be amended to:
 - (a) address the quantity and quality of the Big Cypress Fox Squirrel habitat to be protected, and
 - (b) to identify the entity that will be responsible for the perpetual maintenance of the habitat.

The afore-stated amendments to the Big Cypress Fox Squirrel Management Plan are subject to review and approval by Lee County, DCA, and SWFRPC. Once approved, the management plan must be incorporated into this DRI Development Order. (9J-2.041 FAC)

4. The Developer must obtain an incidental take permit or relocation permit from the Florida Game and Fresh Water Fish Commission (FGFWFC) for gopher tortoises. If the Developer obtains an incidental take permit, tortoises and commensal species must be located out of harm's way to appropriate upland locations. The Developer will relocate tortoises to appropriate on-site upland preserves. Regardless of the type of permit obtained from the FGFWFC, a minimum of 3.0 acres of upland habitat appropriate for gopher tortoises will be preserved south of Stewart Cypress Slough between Ben Hill Griffin Parkway and the approximate 156-acre wetland/upland conservation area.
5. Where appropriate, the Developer must design internal roads that cross the Stewart Cypress and other strand areas to accommodate wildlife crossings of appropriate size for use by Florida panther and Florida black bear. Such size and design must correspond to the size and design set out in Condition 21 to the MPD.

6. Seventy-five(75) percent of the total number of required trees used in buffers and landscaping must be indigenous native varieties. Fifty percent (50%) of the total number of required shrubs used in buffers and landscaping must be indigenous native varieties. Where practicable, ecologically viable existing native vegetation should be incorporated into the landscape design. Xeriscaped landscape areas should not be irrigated after the initial start-up period, unless weather conditions and the survival of the areas require otherwise. Category 1 invasive exotic vegetation listed by the Florida Pest Plant Council may not be used for landscaping south of the main branch of the Stewart Cypress Slough (see Exhibit F attached hereto), except that Ficus benjaminia trees are permitted only along Ben Hill Griffin Parkway to screen the residential community and to carry forward the existing landscaping theme of the northern and western portions of the DRI.
7. The following management guidelines must be implemented to further reduce the potential for ground and surface water impacts from the golf course:
 - (a) The course must be planted with a turf grass cultivated variety having drought and pest resistant qualities and requiring relatively low fertilizer use;
 - (b) The irrigation system should operate on an "as needed" basis by the utilization of weather forecasting and ongoing assessment of the moisture content of the soil. It is not the intent of this provision to require the purchase or installation of high technology weather forecasting or rain monitoring equipment.
 - (c) Fertilizers with a low leaching potential (slow release) must be used whenever possible. Fertilizers may not be applied after active growth of the turf grass has ceased. Application rates must be kept to the lowest reasonable levels;
 - (d) To reduce sources of pollutants, especially nutrients and pesticides associated with the golf course, the golf course manager must implement a chemicals management plan which includes an integrated pest management (IPM) program and a nutrient management program so that nutrients and pesticides are used only when absolutely necessary and only in the most conservative manner through minimal species-specific applications. The nutrient management program must include the use of soil tests to determine needed applications of nutrients. Only EPA-approved chemicals are permitted. Turf managed areas (including fairways, tees, and greens) are prohibited within 35 feet of the Conservation Areas (CO) shown on the Master Concept Plan for Miromar Lakes.

- (e) The golf course manager will coordinate the application of pesticides with the irrigation practices (the timing and application rates of irrigation water) to reduce runoff and the leaching of any applied pesticides and nutrients.
- (f) The Developer must employ a golf course manager licensed by the state to use restricted pesticides and experienced in the principles of IPM. The golf course manager will be responsible for ensuring that the golf course fertilizers are selected and applied to minimize fertilizer runoff into the surface water and the leaching of those same fertilizers into the groundwater.
- (g) The storage, mixing, and loading of fertilizer and pesticides will be designed to prevent/minimize the pollution of the natural environment. The golf course must comply with the publication "Best Management Practices for Golf Course Maintenance Departments, May 1995" published by the Florida Department of Environmental Protection.

8. Golf Cart Crossing

- (a) Golf course crossing of the Stewart Cypress Slough must be grade-separated. At grade golf cart crossings of this Slough are prohibited.
- (b) At the time of final plan approval, all proposed elevated golf cart crossings of the Slough must be reviewed and approved by the Lee County Division of Environmental Sciences. The review will include, but is not limited to, the structural requirements of the crossing and function of the Slough.

9. The wetland mitigation for buildout of the development, as depicted on Map H, has been identified in the ACOE Permit #199507483 (IP-MN) and SAJ1995-07483 (IP-MN), and SFWMD ERP No. 36-03568-P, as modified. In addition to mitigation as discussed in Condition II.E.2., requirements include a minimum of 354.0 acres of on-site wetland and upland preservation, restoration and enhancement in substantial compliance with the areas delineated as conservation areas (CO) on Map H. If modifications to Map H are proposed to include additional land and/or impacts to required conservation areas, then jurisdictional agency review is required. Should additional land be added to the DRI, the impacts to wetlands on the additional lands will be reviewed in accordance with the laws in effect at that time. The inclusion of additional land will not subject the wetland mitigation identified in ACOE Permit #199507483 (IP-MN) and SAJ1995-07483 (IP-MN) to additional review or changes unless the applicant proposes changes to the wetland impacts and/or the required wetland mitigation.

F. WASTEWATER MANAGEMENT/WATER SUPPLY.

1. The project must incorporate water conserving devices or methods, including low volume water use plumbing fixtures, self-closing or metered water faucets. The water conserving devices must meet the criteria outlined in the water conservation plan of the public water supply permit issued to Gulf Environmental Services (GES) by SFWMD.
2. The Developer must obtain Water Use Permits for water withdrawals for landscape irrigation. Permits may only be issued for applications that meet the SFWMD criteria in effect at the time of permitting. Permits must be received prior to construction of the irrigation system.
3. Prior to the commencement of construction, plans and specifications for the water and wastewater collection system must be reviewed by Gulf Environmental Services, in accordance with their adopted rules and regulations.
4. The Developer must design potable water facilities in accordance with the Lee County Land Development Code (LDC). The LDC will also govern the applicable design for domestic and fire flow.
5. The Developer must comply with the LDC provisions that require the availability of adequate water and wastewater at the time of local final Development Order approval. Potable water, wastewater collection and treatment, and eventually non potable water must be obtained from Gulf Environmental Services. If GES is unable to provide the service, the Developer must construct interim potable water and wastewater treatment facilities, or postpone development until GES has sufficient capacity. Interim facilities must be constructed to LDC standards, and must be dismantled at the Developer's expense upon connection to GES facilities.
6. If the Developer utilizes treated effluent for irrigation, the Developer must buffer the on-site lakes, preserved wetlands, and storm water management system from possible effluent contamination in accordance with applicable SFWMD regulations.
7. Temporary septic systems may be used in conjunction with the construction office, sales offices, and model homes. Temporary septic systems must be properly abandoned and removed by a licensed septic system firm when permanent or interim wastewater treatment facilities are operational. Permanent septic systems are permitted for golf course restrooms. All other septic systems are prohibited.
8. The Developer must use the lowest quality of water available and acceptable

for all non-potable water uses. Potable water may not be utilized for non-potable uses if adequate and acceptable non-potable water is readily available.

G. COMPREHENSIVE PLAN CONSISTENCY.

1. Lee County may not issue a local Development Order unless the Development Order is consistent with the County's Comprehensive Plan, Land Development Code, University Window Overlay, Ben Hill Griffin Parkway Access Management Plan, and Concurrency Management System.
2. Given the 114 acres proposed for commercial development, the project is limited to no more than 1,140,000 square feet of commercial retail, office, hotel, and research and development uses. All commercial ancillary uses are included in this limitation; no residential or recreational ancillary uses are included in this amount. All building area must be included in this calculation to show compliance with this limitation. If multiple local development orders are requested, it is the developer's responsibility to provide a cumulative total of previous development order approvals prior to the issuance of the requested local development order.
3. The requested 340,000 square feet of office use may be converted to research and development use on a one square-foot to 1.1 square-foot ratio.

H. FIRE.

1. The Developer must address its fire and emergency services impacts through the payment of impact fees in accordance with the schedule set forth in the Lee County Land Development Code.
2. When required by Superfund Amendments Reauthorization Act (SARA) Title III, and the Florida Hazardous Materials Emergency Response and Community Right to Know Act of 1988, the Developer must file hazardous materials reports and updates.

I. AIRPORT NOISE ZONE.

Residential development is prohibited within all areas designated as Airport Noise Zone 3. However, this does not preclude the development of time-share units in conjunction with a bona-fide hotel use, provided the time-share units do not comprise more than 25 percent of the total approved hotel rooms. In such an instance, time-share units are not deemed to be a residential use.

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 Miromar Lakes DRI.

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 Alico AMDA filed September 13, 1990, as amended by The Miromar Lakes Development of Regional Impact ADA sufficiency response filed November 10, 1997.

2. The Miromar Lakes DRI sufficiency responses, stamped received on:

January 16, 1991
April 2, 1991
July 10, 1991
November 17, 1997
March 27, 1998
July 6, 1998

3. The Miromar Lakes Notice of Proposed Change, ~~stamped received on May 15, 2004~~ as amended by subsequent submittals.

C. Master Plan of Development. Map H, dated ~~January 20, 2004~~ 12/23/09, is attached hereto as Exhibit C, and is incorporated by reference. The Developer may modify the boundaries of development areas and the location of internal roadways to accommodate topography, vegetation, market conditions, traffic circulation, or other site related conditions as long as the modification meets local development regulations. However, 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, as delegated by the Department of Environmental Protection and the Army Corps. of Engineers.

D. Binding Effect. This Development Order is binding upon the Developer(s), and its assignees or successors in interest. Where the Development Order refers to lot owners, business owners or other specific references, 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 or parcel of land within the DRI. The

Developer may impose or pass on the requirements of this DRI DO to ultimate purchasers through covenants that run with the land.

- E. Reliance. The terms and conditions and phasing schedule set out in this Development Order constitute a basis upon which the Developer and the County may rely in 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 B. Changes 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. The cost 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, 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 Section 380.06, Florida Statutes. However, upon a finding 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 the 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 Section 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 adverse regional impacts or other regional impacts that have not been evaluated in the review 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 Section 380.06(19), Florida Statutes.
 3. Conditions in the development order that specify circumstances in which the development will be required to undergo additional DRI review. See 9J-2.025(10).
- K. Commencement of Physical Development. Substantial physical development of the project ~~must occurred~~ no later than December 31, 2000. Further development must occur in accordance with the development parameters and phasing schedule set forth in Exhibit ~~A~~ B.
- L. Buildout and Termination Dates. The project has a buildout date of December 31, 2013 ~~2020~~, and a termination date of December 31, 2019 ~~2026~~. However, the effective termination date may be as late as December 31, 2026. This date ~~The~~ termination date is based on a 10-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 Section 380.06(15)(g) are applicable.
- 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 Chapter 380.06(16), 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 on-site 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. Assuming the project can comply with the County's Concurrency Management Program at the time development permits are requested, the project will not be subject to down-zoning, unit density reduction, intensity reduction or prohibition of development until December 31, 2014 ~~30, 2026~~. 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 prohibition of development may occur. [See 9J-2.025(3)(b)13]

- P. Biennial Reports. The Developer must submit a report biennially to the Lee County Department of Community Development, the SWFRPC and Florida DCA on Form RPM-BSP-Annual Report-1. The content of the biennial report must include the information set forth in Exhibit E, 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 not later than one year after the effective date of this Development Order. Further reporting must be submitted not later than two years from the previously submitted report, until buildout, whether actual or declared. Failure to comply with this biennial reporting procedure is governed by Section 380.06(18), Florida Statutes, which provides for the temporary suspension of the DRI Development Order.

The Developer must file the biennial monitoring reports until actual or declared buildout of the project. Miromar Lakes, L.L.C., is the party responsible for filing the biennial 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 biennial 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 biennial 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 shall not be construed to require the approval of any petition to form such a district, and in no event shall 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 Section 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.

Commissioner John Manning made a motion to adopt the foregoing Fifth Amendment to the Miromar Lakes DRI Development Order, seconded by Commissioner Ray Judah. The vote was as follows:

John Manning	Aye
Brian Bigelow	Aye
Ray Judah	Aye
Tammara Hall	Aye
Frank Mann	Aye

DULY PASSED AND ADOPTED this 20th day of September, 2010.

ATTEST:
CHARLIE GREEN, CLERK

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: Marcia Wilson
Deputy Clerk

BY: Ray Judah
~~Tammara Hall, Chair~~ Commissioner

Approved as to form

By: John J. Fredyma
Assistant County Attorney
John J. Fredyma
Assistant Count Attorney



Exhibits:

- A. Legal Description (1,805 +/- acres)
- B. Development Parameters and Phasing Schedule
- C. Map H dated ~~January 20, 2004~~ 12/23/09
- D. Pedestrian and Bicycle Facilities and Bus Stop Locations
- E. Biennial Monitoring Report Requirements
- F. Invasive exotic vegetation listed by Florida Pest Plant Council



I CERTIFY THIS DOCUMENT TO BE A
TRUE AND CORRECT COPY OF THE
ORIGINAL ON FILE IN MY OFFICE
CHARLIE GREEN, CLERK CIRCUIT COURT
LEE COUNTY, FLORIDA

DATED: 9-28-10

BY: Marcia Wilson
Deputy Clerk



ORI 2009-00011

950 Encore Way • Naples, Florida 34110 • Phone: 239.254.2000 • Fax: 239.254.2099

LEE COUNTY
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COMM. DEV./
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SECOND FLOOREXHIBIT A
(7 Pages)HM PROJECT #2000106X
7/30/2003
REF. DWG. #A-1583
PAGE 1 OF 1RECEIVED
DEC 29 2003

LEGAL DESCRIPTION:

A PARCEL OF LAND LOCATED IN A PORTION OF SECTIONS 10, 11, 14 AND 23, TOWNSHIP 46 SOUTH, RANGE 26 EAST, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT SOUTHEAST CORNER OF SECTION 23, TOWNSHIP 46 SOUTH, RANGE 26 EAST, LEE COUNTY, FLORIDA; THENCE RUN N.89°44'39"W., ALONG THE SOUTH LINE OF SAID SECTION 23, FOR A DISTANCE OF 851.54 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF BEN HILL GRIFFIN PARKWAY (A.K.A. TREELINE DRIVE), A 150.00 FOOT WIDE RIGHT-OF-WAY, RECORDED IN O.R. BOOK 2745, PAGES 1550 THROUGH 1554 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA AND TO THE POINT OF BEGINNING OF THE PARCEL OF LAND HEREIN DESCRIBED; THENCE CONTINUE N.89°44'39"W. ALONG THE SOUTH LINE OF SAID SECTION 23, FOR A DISTANCE OF 2,921.79 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF INTERSTATE 75; THENCE RUN N.18°17'51"W. ALONG THE EASTERLY RIGHT-OF-WAY LINE OF INTERSTATE 75, FOR A DISTANCE OF 955.62 FEET TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE, CONCAVE EASTERLY; THENCE RUN NORTHERLY ALONG THE EASTERLY RIGHT-OF-WAY LINE OF INTERSTATE 75 AND ALONG THE ARC OF SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 17,026.80 FEET, THROUGH A CENTRAL ANGLE OF 04°04'42", SUBTENDED BY A CHORD OF 1,211.72 FEET AT A BEARING OF N.16°15'30"W., FOR A DISTANCE OF 1,211.97 FEET TO THE END OF SAID CURVE; THENCE RUN N.14°13'09"W. ALONG THE EASTERLY RIGHT-OF-WAY LINE OF INTERSTATE 75, FOR A DISTANCE OF 8,126.68 FEET; THENCE RUN N.76°08'54"E., FOR A DISTANCE OF 527.61 FEET; THENCE RUN N.79°14'37"E., FOR A DISTANCE OF 501.77 FEET; THENCE RUN N.84°38'26"E., FOR A DISTANCE OF 384.54 FEET; THENCE RUN S.85°27'53"E., FOR A DISTANCE OF 381.51 FEET; THENCE RUN S.74°31'06"E., FOR A DISTANCE OF 209.82 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF SAID BEN HILL GRIFFIN PARKWAY AND A POINT ON A CIRCULAR CURVE, CONCAVE EASTERLY, WHOSE RADIUS POINT BEARS S.69°47'11"E., A DISTANCE OF 3,075.00 FEET THEREFROM; THENCE RUN SOUTHERLY ALONG THE WESTERLY RIGHT-OF-WAY LINE OF SAID BEN HILL GRIFFIN PARKWAY AND ALONG THE ARC OF SAID CURVE TO THE LEFT, HAVING A RADIUS OF 3,075.00 FEET, THROUGH A CENTRAL ANGLE OF 23°44'14", SUBTENDED BY A CHORD OF 1,284.85 FEET AT A BEARING OF S.08°20'42"W., FOR A DISTANCE OF 1,273.94 FEET TO THE END OF SAID CURVE; THENCE RUN S.03°31'24"E. ALONG THE WESTERLY RIGHT-OF-WAY LINE OF SAID BEN HILL GRIFFIN PARKWAY, FOR A DISTANCE OF 3,887.79 FEET TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE, CONCAVE EASTERLY; THENCE RUN SOUTHERLY ALONG THE WESTERLY RIGHT-OF-WAY LINE OF SAID BEN HILL GRIFFIN PARKWAY AND ALONG THE ARC OF SAID CURVE TO THE LEFT, HAVING A RADIUS OF 2,000.00 FEET, THROUGH A CENTRAL ANGLE OF 20°33'03", SUBTENDED BY A CHORD OF 713.62 FEET AT A BEARING OF S.13°47'56"E., FOR A DISTANCE OF 717.36 FEET TO THE END OF SAID CURVE; THENCE RUN S.24°04'27"E. ALONG THE WESTERLY RIGHT-OF-WAY LINE OF SAID BEN HILL GRIFFIN PARKWAY, FOR A DISTANCE OF 1,593.09 FEET TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE, CONCAVE NORTHEASTERLY; THENCE RUN SOUTHEASTERLY ALONG THE WESTERLY RIGHT-OF-WAY LINE OF SAID BEN HILL GRIFFIN PARKWAY AND ALONG THE ARC OF SAID CURVE TO THE LEFT, HAVING A RADIUS OF 2,875.00 FEET, THROUGH A CENTRAL ANGLE OF 31°18'49", SUBTENDED BY A CHORD OF 1,550.16 FEET AT A BEARING OF S.39°42'52"E., FOR A DISTANCE OF 1,569.58 FEET TO THE END OF SAID CURVE; THENCE RUN S.55°21'16"E. ALONG THE WESTERLY RIGHT-OF-WAY LINE OF SAID BEN HILL GRIFFIN PARKWAY, FOR A DISTANCE OF

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Naples • Fort Myers • Venice • Englewood

APPROVED

LEGAL 34 1-6-10
Pages 1 thru 7Exhibit A
(Page 1 of 7)

HM PROJECT #2000106X
7/30/2003
REF. DWG. #A-1583
PAGE 1 OF 1

1,684.71 FEET TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE, CONCAVE SOUTHWESTERLY; THENCE RUN SOUTHEASTERLY ALONG THE WESTERLY RIGHT-OF-WAY LINE OF SAID BEN HILL GRIFFIN PARKWAY AND ALONG THE ARC OF SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 1,325.00 FEET, THROUGH A CENTRAL ANGLE OF $54^{\circ}31'33''$, SUBTENDED BY A CHORD OF 1,213.90 FEET AT A BEARING OF $S.28^{\circ}05'29''E.$, FOR A DISTANCE OF 1,260.94 FEET TO THE END OF SAID CURVE; THENCE RUN $S.00^{\circ}49'43''E.$ ALONG THE WESTERLY RIGHT-OF-WAY LINE OF SAID BEN HILL GRIFFIN PARKWAY, FOR A DISTANCE OF 600.19 FEET TO THE POINT OF BEGINNING; CONTAINING 396.652 ACRES, MORE OR LESS.

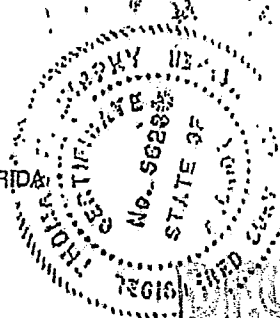
THIS PROPERTY IS SUBJECT TO EASEMENTS, RESERVATIONS OR RESTRICTIONS OF RECORD.

BEARINGS SHOWN HEREON REFER TO THE SOUTH LINE OF SECTION 23, TOWNSHIP 46 SOUTH, RANGE 25 EAST, OF LEE COUNTY, FLORIDA AS BEING $N.89^{\circ}44'39''W.$

THIS SKETCH AND LEGAL HAS BEEN PREPARED BASED UPON THE BANKS ENGINEERING, INC. PARCEL DESCRIPTIONS AS SHOWN ON DRAWINGS 1155SR, SHEETS 1 THROUGH 4, DATED 4/10/2000

HOLE MONTES, INC.
CERTIFICATE OF AUTHORIZATION NUMBER LB 1772

BY Thomas M. Murphy P.S.M. #5628
THOMAS M. MURPHY STATE OF FLORIDA



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DEC 29 2003

Applicant's Legal Checked

by [Signature] 11/14/03

COMMUNITY DEVELOPMENT

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PERMIT COUNTER

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LEE COUNTY
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PERMIT COUNTER

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7500 Escrow Way • Naples, Florida 34110 • Phone: 239.254.2000 • Fax 239.254.2075

COMM. DEV./
PUB. WRKS. CNTR.
SECOND FLOOR

HM PROJECT #2000106X
7/30/2003
REF. DWG. #A-1582
Page 1 of 3

DCI2001-00033

LEGAL DESCRIPTION:

A PARCEL OF LAND LOCATED IN A PORTION OF SECTIONS 11, 12, 13, 14, 23, AND 24, TOWNSHIP 46 SOUTH, RANGE 25 EAST, AND SECTION 18, TOWNSHIP 46 SOUTH, RANGE 26 EAST, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE SOUTHEAST CORNER OF SECTION 23, TOWNSHIP 46 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA; THENCE RUN N.89°44'39"W. ALONG THE SOUTH LINE OF SAID SECTION 23, FOR A DISTANCE OF 501.52 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF BEN HILL GRIFFIN PARKWAY (A.K.A. TREELINE DRIVE), A 150 FOOT WIDE RIGHT-OF-WAY, RECORDED IN O.R. BOOK 2745, PAGES 1550 THROUGH 1564 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE RUN N.00°49'43"W. ALONG SAID EASTERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 603.03 FEET TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE, CONCAVE SOUTHWESTERLY; THENCE RUN NORTHWESTERLY ALONG THE SAID EASTERLY RIGHT-OF-WAY LINE AND ALONG THE ARC OF SAID CURVE TO THE LEFT, HAVING A RADIUS OF 1,475.00 FEET, THROUGH A CENTRAL ANGLE OF 54°31'33", SUBTENDED BY A CHORD OF 1,351.32 FEET AT A BEARING OF N.28°05'29"W., FOR A DISTANCE OF 1,403.69 FEET TO THE END OF SAID CURVE; THENCE RUN N.55°21'16"W. ALONG THE SAID EASTERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 423.86 FEET; THENCE RUN N.38°37'17"E., FOR A DISTANCE OF 180.44 FEET; THENCE RUN N.40°45'20"W., FOR A DISTANCE OF 1,287.06 FEET; THENCE RUN N.51°22'43"W., FOR A DISTANCE OF 275.00 FEET; THENCE RUN N.20°50'23"W., FOR A DISTANCE OF 170.61 FEET; THENCE RUN N.03°26'59"W., FOR A DISTANCE OF 196.02 FEET; THENCE RUN N.49°19'44"E., FOR A DISTANCE OF 344.71 FEET; THENCE RUN S.54°09'13"E., FOR A DISTANCE OF 1,057.59 FEET; THENCE RUN S.05°08'14"W., FOR A DISTANCE OF 497.67 FEET; THENCE RUN S.87°48'55"E., FOR A DISTANCE OF 1,464.61 FEET; THENCE RUN N.88°17'13"E., FOR A DISTANCE OF 233.73 FEET; THENCE RUN S.31°47'37"E., FOR A DISTANCE OF 631.21 FEET; THENCE RUN N.62°11'53"E., FOR A DISTANCE OF 2,704.05 FEET; THENCE RUN N.21°20'50"E., FOR A DISTANCE OF 1,025.79 FEET; THENCE RUN N.02°13'31"W., FOR A DISTANCE OF 339.05 FEET; THENCE RUN N.73°40'08"E., FOR A DISTANCE OF 497.73 FEET; THENCE RUN N.84°27'10"E., FOR A DISTANCE OF 648.86 FEET; THENCE RUN N.20°19'20"W., FOR A DISTANCE OF 155.37 FEET; THENCE RUN N.04°47'10"W., FOR A DISTANCE OF 137.24 FEET; THENCE RUN N.10°20'25"E., FOR A DISTANCE OF 89.58 FEET; THENCE RUN N.88°40'48"W., FOR A DISTANCE OF 108.51 FEET; THENCE RUN N.35°22'24"E., FOR A DISTANCE OF 61.49 FEET; THENCE RUN N.24°10'35"E., FOR A DISTANCE OF 16.58 FEET; THENCE RUN N.18°58'33"E., FOR A DISTANCE OF 22.30 FEET; THENCE RUN N.01°25'10"W., FOR A DISTANCE OF 17.20 FEET; THENCE RUN N.02°00'52"E., FOR A DISTANCE OF 22.73 FEET; THENCE RUN N.10°34'22"E., FOR A DISTANCE OF 27.69 FEET; THENCE RUN N.08°31'29"E., FOR A DISTANCE OF 27.56 FEET; THENCE RUN N.04°17'29"W., FOR A DISTANCE OF 27.64 FEET; THENCE RUN N.03°50'00"E., FOR A DISTANCE OF 32.88 FEET; THENCE RUN N.05°18'54"E., FOR A DISTANCE OF 34.74 FEET; THENCE RUN N.14°36'53"W., FOR A DISTANCE OF 12.71 FEET; THENCE RUN N.49°59'45"W., FOR A DISTANCE OF 15.95 FEET; THENCE RUN N.67°08'11"W., FOR A DISTANCE OF 67.75 FEET; THENCE RUN N.67°33'34"E., FOR A DISTANCE OF 68.16 FEET; THENCE RUN N.57°34'58"E., FOR A DISTANCE OF 15.64 FEET; THENCE RUN N.53°45'20"E., FOR A DISTANCE OF 13.61 FEET; THENCE RUN N.58°32'02"E., FOR A DISTANCE OF 11.22 FEET; THENCE RUN N.54°40'50"E., FOR A DISTANCE OF 13.85 FEET; THENCE RUN N.49°38'55"E., FOR A DISTANCE OF 19.09 FEET; THENCE RUN N.37°17'03"E., FOR A DISTANCE OF 14.40 FEET; THENCE RUN N.25°04'13"E., FOR A DISTANCE OF 22.74 FEET; THENCE RUN N.30°25'33"E., FOR A DISTANCE OF

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40.77 FEET; THENCE RUN S.70°47'07"E., FOR A DISTANCE OF 50.50 FEET; THENCE RUN N.19°32'42"E., FOR A DISTANCE OF 63.26 FEET; THENCE RUN N.62°41'55"E., FOR A DISTANCE OF 33.33 FEET; THENCE RUN N.60°03'38"E., FOR A DISTANCE OF 27.79 FEET; THENCE RUN N.68°58'32"E., FOR A DISTANCE OF 33.67 FEET; THENCE RUN N.69°27'09"E., FOR A DISTANCE OF 39.32 FEET; THENCE RUN N.76°09'54"E., FOR A DISTANCE OF 38.69 FEET; THENCE RUN N.84°37'56"E., FOR A DISTANCE OF 35.30 FEET; THENCE RUN N.71°01'39"E., FOR A DISTANCE OF 38.05 FEET; THENCE RUN N.56°16'09"E., FOR A DISTANCE OF 22.32 FEET; THENCE RUN N.54°45'23"E., FOR A DISTANCE OF 72.52 FEET; THENCE RUN N.43°40'48"E., FOR A DISTANCE OF 14.33 FEET; THENCE RUN N.36°37'28"E., FOR A DISTANCE OF 31.97 FEET; THENCE RUN N.16°15'53"E., FOR A DISTANCE OF 27.07 FEET; THENCE RUN N.00°14'32"W., FOR A DISTANCE OF 18.58 FEET; THENCE RUN N.01°01'18"W., FOR A DISTANCE OF 22.80 FEET; THENCE RUN N.11°30'29"E., FOR A DISTANCE OF 41.68 FEET; THENCE RUN N.25°25'32"E., FOR A DISTANCE OF 18.52 FEET; THENCE RUN N.29°13'14"E., FOR A DISTANCE OF 12.77 FEET; THENCE RUN N.09°42'26"E., FOR A DISTANCE OF 13.86 FEET; THENCE RUN N.10°10'17"W., FOR A DISTANCE OF 8.24 FEET; THENCE RUN N.25°29'33"W., FOR A DISTANCE OF 11.70 FEET; THENCE RUN N.71°45'42"W., FOR A DISTANCE OF 21.85 FEET; THENCE RUN N.59°03'27"W., FOR A DISTANCE OF 13.21 FEET; THENCE RUN N.37°04'03"W., FOR A DISTANCE OF 27.24 FEET; THENCE RUN N.00°38'43"W., FOR A DISTANCE OF 28.85 FEET; THENCE RUN N.10°12'59"E., FOR A DISTANCE OF 35.02 FEET; THENCE RUN N.01°52'01"E., FOR A DISTANCE OF 31.20 FEET; THENCE RUN N.05°34'22"E., FOR A DISTANCE OF 13.39 FEET; THENCE RUN N.01°01'36"W., FOR A DISTANCE OF 30.61 FEET; THENCE RUN N.15°40'00"W., FOR A DISTANCE OF 27.26 FEET; THENCE RUN N.22°54'25"W., FOR A DISTANCE OF 20.48 FEET; THENCE RUN N.20°19'15"W., FOR A DISTANCE OF 21.36 FEET; THENCE RUN N.17°17'45"W., FOR A DISTANCE OF 18.27 FEET; THENCE RUN N.25°34'23"W., FOR A DISTANCE OF 16.79 FEET; THENCE RUN N.15°41'23"W., FOR A DISTANCE OF 49.27 FEET; THENCE RUN N.00°29'10"W., FOR A DISTANCE OF 19.63 FEET; THENCE RUN S.65°22'51"W., FOR A DISTANCE OF 893.03 FEET; THENCE RUN S.62°02'33"W., FOR A DISTANCE OF 548.61 FEET; THENCE RUN N.84°00'27"W., FOR A DISTANCE OF 113.75 FEET; THENCE RUN S.73°01'40"W., FOR A DISTANCE OF 332.94 FEET; THENCE RUN S.88°47'09"W., FOR A DISTANCE OF 386.95 FEET; THENCE RUN N.01°12'51"W., FOR A DISTANCE OF 733.65 FEET; THENCE RUN N.76°24'23"E., FOR A DISTANCE OF 644.66 FEET; THENCE RUN N.02°55'16"W., FOR A DISTANCE OF 211.27 FEET; THENCE RUN N.19°49'36"E., FOR A DISTANCE OF 1,336.10 FEET; THENCE RUN S.88°44'00"W., FOR A DISTANCE OF 3,706.01 FEET; THENCE RUN N.00°58'18"W., FOR A DISTANCE OF 320.18 FEET; THENCE RUN S.89°01'42"W., FOR A DISTANCE OF 450.42 FEET; THENCE RUN S.03°10'23"E., FOR A DISTANCE OF 430.66 FEET; THENCE RUN S.88°17'12"W., FOR A DISTANCE OF 1,027.71 FEET; THENCE RUN S.01°42'48"E., FOR A DISTANCE OF 306.15 FEET; THENCE RUN S.47°45'12"W., FOR A DISTANCE OF 1,504.06 FEET; THENCE RUN S.88°27'56"W., FOR A DISTANCE OF 1,780.04 FEET TO A POINT ON THE SAID EASTERLY RIGHT-OF-WAY LINE; THENCE RUN N.03°31'24"W. ALONG THE SAID EASTERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 3,304.77 FEET TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE, CONCAVE EASTERLY; THENCE RUN NORTHERLY ALONG THE SAID EASTERLY RIGHT-OF-WAY LINE AND ALONG THE ARC OF SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 2,925.00 FEET, THROUGH A CENTRAL ANGLE OF 23°44'19", SUBTENDED BY A CHORD OF 1,203.14 FEET AT A BEARING OF N.08°20'42"E., FOR A DISTANCE OF 1,211.79 FEET TO THE END OF SAID CURVE; THENCE RUN N.20°12'49"E. ALONG THE SAID EASTERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 473.55 FEET TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE, CONCAVE WESTERLY; THENCE RUN NORTHERLY ALONG THE SAID EASTERLY RIGHT-OF-WAY LINE AND ALONG THE ARC OF SAID CURVE TO THE LEFT, HAVING A RADIUS OF 10,076.00 FEET, THROUGH A CENTRAL ANGLE OF 19°11'28", SUBTENDED BY A

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CHORD OF 3,358.85 FEET AT A BEARING OF N.10°37'08"E., FOR A DISTANCE OF 3,374.60 FEET TO THE END OF SAID CURVE; THENCE RUN N.01°01'21"E. ALONG THE SAID EASTERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 909.75 FEET; THENCE RUN S.89°42'24"E., FOR A DISTANCE OF 1,049.81 FEET; THENCE RUN S.01°00'21"E., FOR A DISTANCE OF 847.76 FEET; THENCE RUN S.04°19'45"W., FOR A DISTANCE OF 1,091.78 FEET; THENCE RUN S.00°39'26"E., FOR A DISTANCE OF 1,432.24 FEET; THENCE RUN S.00°16'17"E., FOR A DISTANCE OF 606.62 FEET; THENCE RUN N.88°47'46"E., FOR A DISTANCE OF 376.79 FEET; THENCE RUN S.40°48'12"E., FOR A DISTANCE OF 322.81 FEET; THENCE RUN S.19°01'17"E., FOR A DISTANCE OF 249.77 FEET; THENCE RUN S.88°53'28"E., FOR A DISTANCE OF 216.94 FEET; THENCE RUN S.24°26'51"E., FOR A DISTANCE OF 150.17 FEET; THENCE RUN S.77°09'26"E., FOR A DISTANCE OF 573.01 FEET; THENCE RUN S.88°10'13"E., FOR A DISTANCE OF 1,363.08 FEET; THENCE RUN S.19°42'28"E., FOR A DISTANCE OF 157.73 FEET; THENCE RUN S.87°09'14"E., FOR A DISTANCE OF 469.81 FEET; THENCE RUN N.88°02'24"E., FOR A DISTANCE OF 612.22 FEET; THENCE RUN S.21°30'12"E., FOR A DISTANCE OF 81.17 FEET; THENCE RUN N.88°10'32"E., FOR A DISTANCE OF 846.89 FEET; THENCE RUN N.88°10'32"E., FOR A DISTANCE OF 1,137.62 FEET; THENCE RUN S.20°09'57"E., FOR A DISTANCE OF 344.08 FEET; THENCE RUN S.89°48'06"E., FOR A DISTANCE OF 80.00 FEET; THENCE RUN S.20°09'57"E., FOR A DISTANCE OF 807.57 FEET; THENCE RUN S.15°43'44"E., FOR A DISTANCE OF 878.45 FEET; THENCE RUN S.89°46'43"E., FOR A DISTANCE OF 516.03 FEET TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE, CONCAVE SOUTHWESTERLY; THENCE RUN SOUTHEASTERLY ALONG THE ARC OF SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 500.00 FEET, THROUGH A CENTRAL ANGLE OF 88°55'56", SUBTENDED BY A CHORD OF 700.49 FEET AT A BEARING OF S.45°18'45"E., FOR A DISTANCE OF 776.08 FEET TO THE END OF SAID CURVE; THENCE RUN S.00°50'47"E., FOR A DISTANCE OF 1,447.68 FEET; THENCE RUN S.09°57'20"W., FOR A DISTANCE OF 533.67 FEET TO A POINT ON THE EAST LINE OF SECTION 19, TOWNSHIP 46 SOUTH, RANGE 25 EAST; THENCE RUN S.00°50'47"E. ALONG THE EAST LINE OF SAID SECTION 13, FOR A DISTANCE OF 857.10 FEET TO THE NORTHWEST CORNER OF SECTION 24, TOWNSHIP 46 SOUTH, RANGE 25 EAST; THENCE RUN S.00°50'13"E. ALONG THE EAST LINE OF THE NORTHEAST ONE-QUARTER OF SAID SECTION 24, FOR A DISTANCE OF 2,639.78 FEET TO THE EAST QUARTER CORNER OF SAID SECTION 24; THENCE RUN S.00°48'26"E. ALONG THE EAST LINE OF THE SOUTHEAST ONE-QUARTER OF SAID SECTION 24, FOR A DISTANCE OF 2,643.97 FEET TO THE SOUTHEAST CORNER OF SAID SECTION 24; THENCE RUN S.89°28'32"W. ALONG THE SOUTH LINE OF SAID SECTION 24, FOR A DISTANCE OF 5,249.70 FEET TO THE POINT OF BEGINNING; CONTAINING 1,408.994 ACRES, MORE OR LESS.

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

BEARINGS SHOWN HEREON REFER TO THE SOUTH LINE OF SECTION 24, TOWNSHIP 46 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA AS BEING S.89°28'32"W.

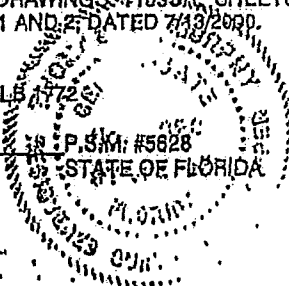
THIS SKETCH AND LEGAL HAS BEEN PREPARED BASED UPON THE BANKS ENGINEERING, INC. PARCEL DESCRIPTIONS AS SHOWN ON DRAWINGS 1418SR, SHEETS 1 THROUGH 4, DATED 4/10/2000 AND DRAWINGS 1418SR, SHEETS 1 AND 2, DATED 7/13/2000.

HOLE MONTES, INC.

CERTIFICATE OF AUTHORIZATION NUMBER LE 157251

BY

Thomas M. Murphy
THOMAS M. MURPHY



Applicant's Legal Checked
by *[Signature]* 7/30/2003

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PERMIT COUNTER

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Exhibit A

(Page 5 of 7)

(Page 6 of 7)

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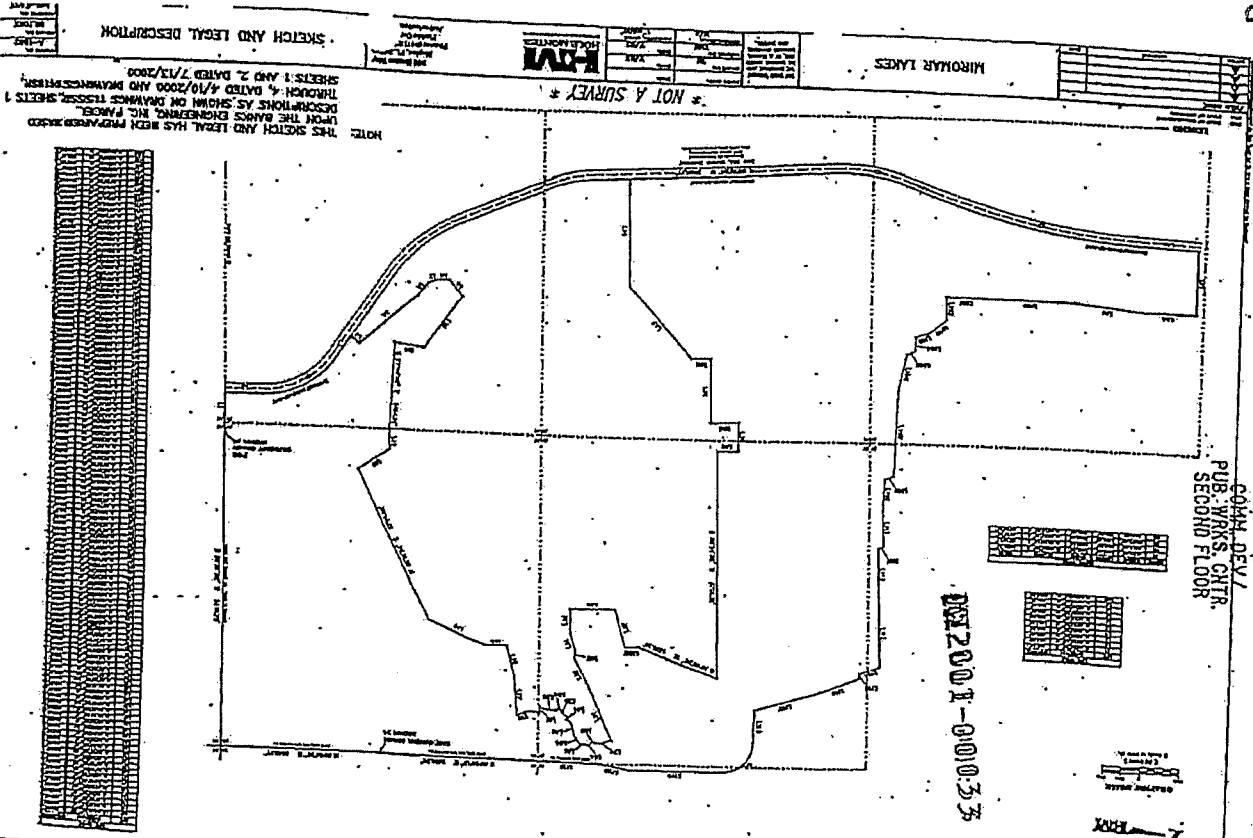
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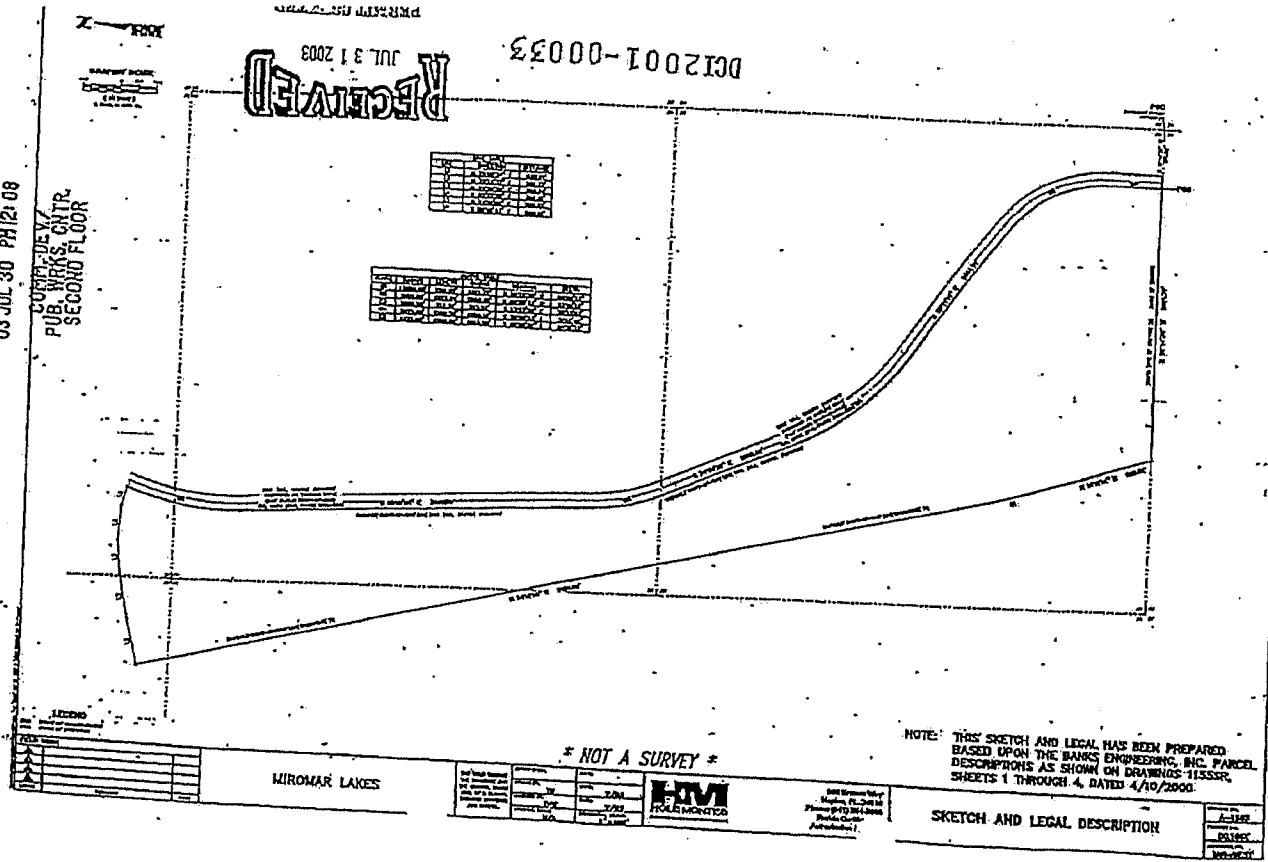


EXHIBIT B
Page 1 of 2

DEVELOPMENT PARAMETERS AND PHASING SCHEDULE - 2020

LAND USE	ACRES
Residential	1042
Commercial/Office/ Hotel	114
Lake/Miscellaneous Recreation/Buffers	312
Conservation Areas	338

LAND USE	PHASE ONE 2003	PHASE TWO 2013	TOTAL
RESIDENTIAL	1,414	1,186	2,600
Single-Family	314	386	700
Multiple-Family	1,100	800	1,900
RETAIL COMMERCIAL (gfa)	160,000	90,000	250,000
HOTEL ROOMS	350	100	450
OFFICE (gfa)*	100,000	240,000	340,000
RESEARCH & DEVELOPMENT (gfa)	-	40,000	40,000
CLUBHOUSE	20,000	20,000	40,000
GOLF COURSE	18 Holes	18 Holes	36 Holes
BEACH PARK	10 Acres	-	10 Acres

*The 340,000 square feet of office use may be converted to Research and Development use on a one-square foot to 1.1 square foot ratio.

EXHIBIT B
Page 2 of 2

	ANCILLARY BOATING FACILITIES					
	PHASE ONE			PHASE TWO		
	Slips	Day Slips	Boat Ramp	Slips	Day Slips	
Multiple-Family Parcel	25			25		
Beach Club	10	40	✓			
Town Center	25	25	✓	25	25	
Single Family Homes	Individual Docks as Applicable					
Boat Club				10	40	✓

1. A maximum of 250 ancillary wet boat slips may be located in the "R", "R2", "C2", the Beach Club and the Boat Club tracts in addition to a dock for each single-family lakefront lot as of 11/29/1999.
2. Single-family docks may be converted to multiple-family slips on a 1:1 basis.
3. Up to 250 wet slips may be converted to dry storage associated with the Boat Club on a 1:1 basis.

DEVIATIONS

In addition to the Deviations located on this plan with the symbol , Deviations are located as follows:

Approved for Marketing Property

ALL PARCELS 1, 2, 3, 4, 7, 13, 14, 15, 16, 17, 22
"B" PARCELS 5, 6
ALL LAKES 11, 18

Proposed Addition

ALL PARCELS A1, A2, A3, A4, A5, A13, A15, A16, A17, A22
"B1" AND "B2" PARCELS A6, A8

LEGEND

- C1 COMMERCIAL 1
- C2 COMMERCIAL 2
- GC GOLF COURSE
- R RESIDENTIAL
- R1 RESIDENTIAL 1
- R2 RESIDENTIAL 2
- L CONCEPTUAL LAKE LOCATION
- CO CONSERVATION AREA

-  DEVIATION
-  CONCEPTUAL CLUB LOCATIONS
-  CONCEPTUAL ON PREMISES
-  CONCEPTUAL GOLF TRAIL OR BOARDWALK
-  RHD PKWY ACCESS

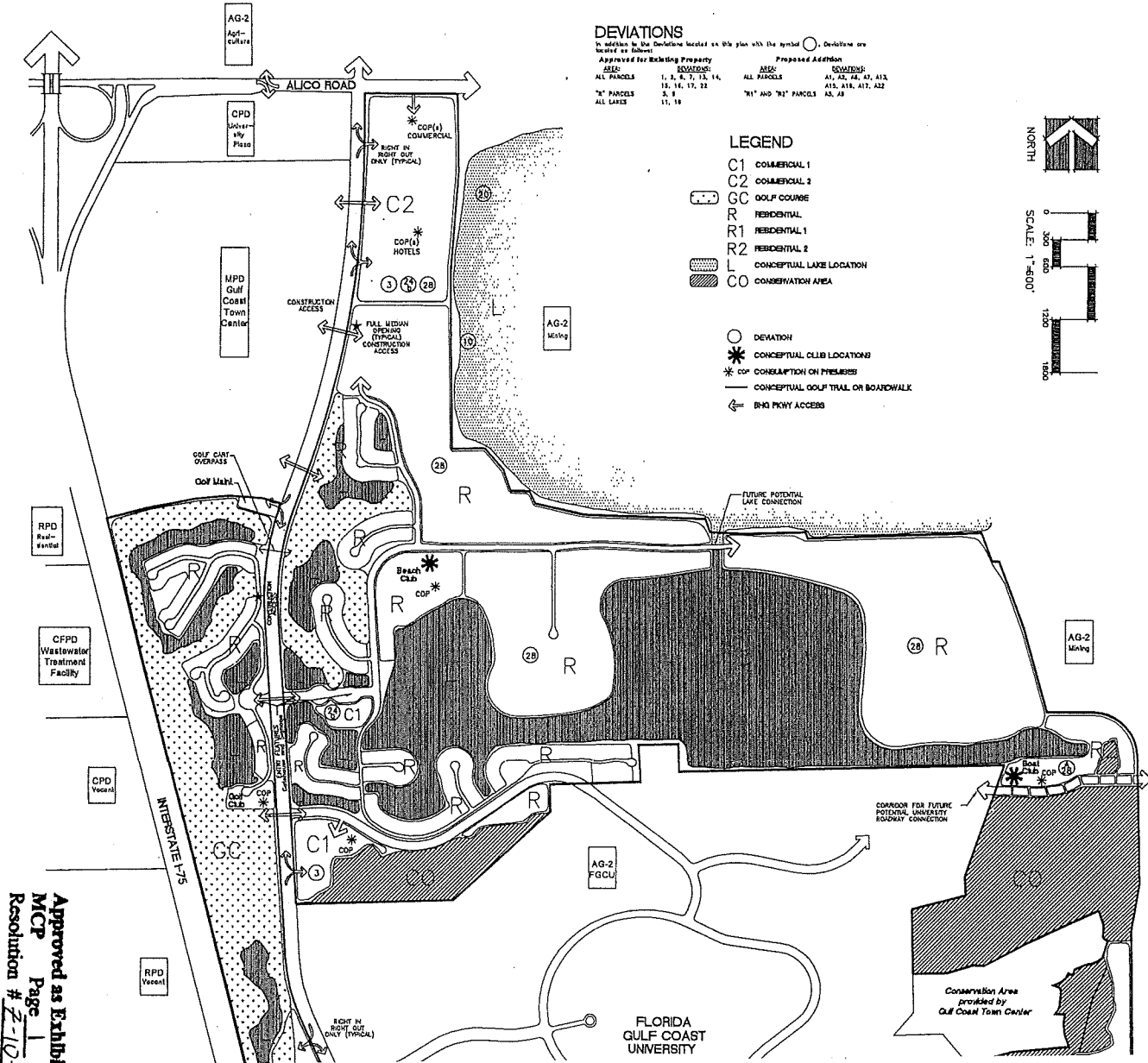
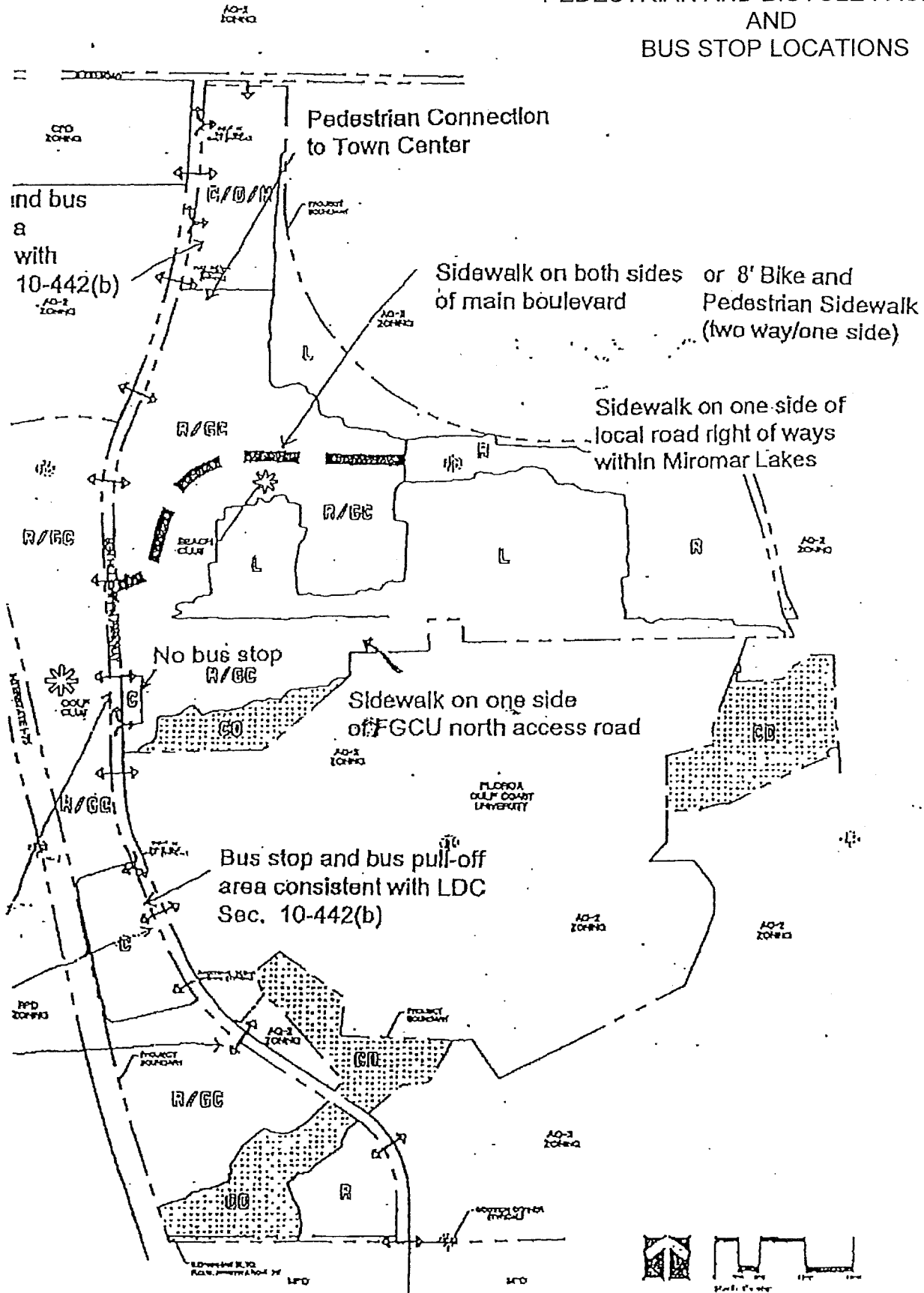


EXHIBIT D

PEDESTRIAN AND BICYCLE FACILITIES AND BUS STOP LOCATIONS



DRI
EXHIBIT E
BIENNIAL MONITORING REPORT REQUIREMENTS

The 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 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 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 biennial 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 biennial report. The Administrative Code requires that the biennial report will be submitted to DCA, the RPC, and the local government on Form RPM-BSP-Annual Report-1.

DEFINITIONS: *Exotic*—a species introduced to Florida, purposefully or accidentally, from a natural range outside of Florida. *Native*—a species whose natural range included Florida at the time of European contact (1500 AD). *Naturalized exotic*—an exotic that sustains itself outside cultivation (it has not "become" native). *Invasive exotic*—an exotic that not only has naturalized but is expanding on its own in Florida plant communities.

Abbreviations used: for "Gov. List": P = Prohibited by Fla. Dept. of Environ. Protection, N = Noxious Weed listed by Fla. Dept. of Agriculture & Consumer Services, U = Noxious Weed listed by U.S. Dept. of Agriculture. for "Reg. Dis.": N = north, C = central, S = south, referring to each species' current distribution in general regions of Florida (not its potential range in the state). See map.



LIST PREPARED BY THE *Florida* Exotic Pest Plant Council's

PEST PLANT LIST COMMITTEE:

Kelth A. Bradley, Institute for Regional Conservation, 22601 S.W. 152nd Ave., Miami, FL 33170
Kathy Craddock Burks (CHAIR), Invasive Plant Management, Florida Dept. of Environmental Protection, 3800 Commonwealth Blvd., MS 705, Tallahassee, FL 32399
Nancy Craft Coile, Botanist Emeritus, Division of Plant Industry, Florida Dept. of Agriculture and Consumer Services, 22804 N.W. CR-2054, Alachua, FL 32615
James G. Duquesnel, Florida Park Service, Fla. Dept. of Environmental Protection, P.O. Box 487, Key Largo, FL 33037
Edward Freeman, The Nature Conservancy, 1413 Boulevard of the Arts, Sarasota, FL 34236
David W. Hall, Private Consulting Botanist, 3666 N.W. 13th Place, Gainesville, FL 32605
Roger L. Hammer, Miami-Dade Parks Department, Castellow Hammock Nature Center, 22301 S.W. 162nd Ave., Miami, FL 33030
Kenneth A. Langeland, Center for Aquatic and Invasive Plants, IFAS, University of Florida, 7922 N.W. 71st St., Gainesville, FL 32606
Robert W. Pemberton, Agricultural Research Station, U.S. Department of Agriculture, 2305 College Ave., Ft. Lauderdale, FL 33314
Daniel B. Ward, Department of Botany, 220 Bartram Hall, University of Florida, Gainesville, FL 32611
Richard P. Wunderlin, Institute for Systematic Botany, Department of Biological Sciences, University of South Florida, Tampa, FL 33620

For more information on invasive exotic plants, including links to related web pages, visit the

Florida EPPC web site: <http://www.flepcc.org>

Category I - Invasive exotics that are altering native plant communities by displacing native species, changing community structures or ecological functions, or hybridizing with natives. This definition does not rely on the economic severity or geographic range of the problem, but on the documented ecological damage caused.

Scientific Name	Common Name	Reg. Dis.	Gov. List	Scientific Name	Common Name	Reg. Dis.	Gov. List
<i>Abrus precatorius</i>	rosary pea	C, S		<i>Lygodium japonicum</i>	Jap. climbing fern	NCS	N
<i>Acacia auriculiformis</i>	carleal acacia	S		<i>Lygodium microphyllum</i>	Old World climbing fern	C, S	N
<i>Albizia julibrissin</i>	mimosa, silk tree	N, C		<i>Macfadyena unguis-cati</i>	cat's-claw vine	NCS	
<i>Albizia lebbek</i>	woman's tongue	C, S		<i>Manihara zapota</i>	sapodilla	S	
<i>Ardisia crenata</i>	coral ardisia	N, C		<i>Melaleuca</i>	melaleuca	C, S	P, N, U
<i>Ardisia elliptica</i>	shoebutton ardisia	S		<i>Quinquenervia</i>	Chinaberry	NCS	
<i>Asparagus densiflorus</i>	asparagus-fern	C, S		<i>Mimosa pigra</i>	catclaw mimosa	C, S	P, N, U
<i>Bauhinia variegata</i>	orchid-tree	C, S		<i>Nandina domestica</i>	heavenly bamboo	N	
<i>Bischofia javanica</i>	bischofia	C, S		<i>Nephrolepis cordifolia</i>	sword fern	NCS	
<i>Calophyllum antillarum</i>	santa maria ("mast wood," "Alexanderian laurel" used in cultivation)	S		<i>Nephrolepis multiflora</i>	Asian sword fern	C, S	
<i>Casuarina equisetifolia</i>	Australian pine	NCS	P	<i>Neyraudia reynaudiana</i>	Burma reed	C, S	N
<i>Casuarina glauca</i>	suckering Australian pine	C, S	P	<i>Paederia cruddiana</i>	sewer vine	S	N
<i>Cinnamomum camphora</i>	camphor tree	NCS		<i>Paederia foetida</i>	skunk vine	N, C	N
<i>Colocasia esculenta</i>	taro, wild taro	NCS		<i>Panicum repens</i>	torpedo grass	NCS	
<i>Calubrina astilacea</i>	latherleaf	S		<i>Pennisetum purpureum</i>	Napier grass	C, S	
<i>Cupanopsis anacardioides</i>	carrotwood	C, S	N	<i>Pistia stratiotes</i>	water-lettuce	NCS	P
<i>Dioscorea alata</i>	winged yam	NCS	N	<i>Psidium cattleianum</i>	strawberry guava	C, S	
<i>Dioscorea bulbifera</i>	air-potato	NCS	N	<i>Psidium guajava</i>	guava	C, S	
<i>Eichhornia crassipes</i>	water-hyacinth	NCS	P	<i>Pueraria montana</i>	kudzu vine	NCS	N, U
<i>Eugenia uniflora</i>	Surinam-cherry	C, S		<i>Rhodomyrtus tomentosa</i>	downy rose-myrtle	C, S	N
<i>Ficus microcarpa</i>	laurel fig	S		<i>Ruellia brittaniana</i>	Mexican petunia	NCS	
<i>Hydrilla verticillata</i>	hydrilla	NCS	P, U	<i>Sapium sebiferum</i>	Chinese tallow	NCS	N
<i>Hygrophila polysperma</i>	green hygro	NCS	P, U	<i>Scaevola taccada</i>	beach noupaka	C, S	
<i>Hymenocallis amplexicaulis</i>	West Indian marsh grass	C, S		<i>Schefflera actinophylla</i>	schefflera	C, S	
<i>Imperata cylindrica</i>	coconut grass	NCS	N, U	<i>Schinus molle</i>	Brazilian pepper	NCS	P, N
<i>Ipomoea aquatica</i>	water-spinach	C	P, U	<i>Senna pendula</i>	Christmas senna	C, S	
<i>Jasminum dichotomum</i>	Gold Coast jasmine	C, S		<i>Solanum tamnense</i>	wetland nightshade	C, S	N, U
<i>Jasminum fluminense</i>	Brazilian jasmine	C, S		<i>Solanum vilarum</i>	tropical soda apple	NCS	N, U
<i>Lantana camara</i>	lantana	NCS		<i>Synedrella nodiflora</i>	arrowhead vine	C, S	
<i>Ligustrum lucidum</i>	glossy privet	N, C		<i>Syzygium cumini</i>	Java plum	S	
<i>Ligustrum sinense</i>	Chinese privet	NCS		<i>Tectaria incisa</i>	incised halberd fern	S	
<i>Lonicera japonica</i>	Japanese hobbesueckie	NCS		<i>Thespesia populnea</i>	acacia mahoe	C, S	
				<i>Tradescantia fluminensis</i>	white-flowered wandering Jew	N, C	
				<i>Tradescantia spathacea</i>	oyster plant	S	
				<i>Urochloa mutica</i>	Pará grass	C, S	

Category II - Invasive exotics that have increased in abundance or frequency but have not yet altered Florida plant communities to the extent shown by Category I species. These species may become ranked as Category I, if ecological damage is demonstrated.

Scientific Name	Common Name	Reg. Dis.	Gov. List	Scientific Name	Common Name	Reg. Dis.	Gov. List
<i>Adenanthera pavonina</i>	red sandalwood	S		<i>Leucaena</i>	lead tree	NCS	
<i>Agave sisalana</i>	sisal hemp	C, S		<i>Leucoccephala</i>			
<i>Alouaria fordii</i>	ting oil tree	N, C		<i>Limnophila sessiliflora</i>	Asian marshweed	NCS	P
<i>Alstonia macrophylla</i>	devil-tree	S		<i>Livistona chinensis</i>	Chinese fan palm	C, S	
<i>Alternanthera philoxeroides</i>	alligator weed	NCS	P	<i>Merremia tuberosa</i>	wood-rose	S	
<i>Antigonon leptopus</i>	coral vine	NCS		<i>Murraya paniculata</i>	orange-jessamine	S	
<i>Aristolochia flaccida</i>	calico flower	N, C		<i>Myriophyllum spicatum</i>	Eurasian watermilfoil	NCS	P
<i>Asystasia gangetica</i>	Ganges primrose	C, S		<i>Nymphoides cristata</i>	snowflake	C, S	
<i>Begonia cucullata</i>	wax begonia	N, C		<i>Panicum maximum</i>	Guinea grass	C, S	
<i>Broussonetia papyrifera</i>	paper mulberry	N, C		<i>Pastiflora biflora</i>	2-flower passion v.	S	
<i>Callisia fragrans</i>	inch plant	C, S		<i>Pennisetum setaceum</i>	green fountain grass	S	
<i>Casuarina cunninghamiana</i>	Australian pine	C, S	P	<i>Phoenix reclinata</i>	Senegal date palm	C, S	
<i>Cecropia palmata</i>	trumpet tree	S		<i>Phyllostachys aurea</i>	golden bamboo	N, C	
<i>Cestrum diurnum</i>	day jessamine	C, S		<i>Pteris vittata</i>	Chinese brake fern	NCS	
<i>Chamaedorea seifrizii</i>	bamboo palm	S		<i>Psychosperma elegans</i>	solitaire palm	S	
<i>Cryptostegia madagascariensis</i>	rubber vine	C, S		<i>Rhynchoselytrum repens</i>	Natal grass	NCS	
<i>Cyperus involucreatus</i>	umbrella plant	C, S		<i>Ricinus communis</i>	castor bean	NCS	
<i>Cyperus prolifer</i>	dwarf papyrus	C		<i>Sarsoveria hyacinthoides</i>	bowstring hemp	C, S	
<i>Dalbergia sissoo</i>	Indian rosewood	C, S		<i>Sesbania punctata</i>	purple sesban	NCS	
<i>Eleoagnus pungens</i>	silvertorn	N, C		<i>Solanum diphyllum</i>	2-leaf nightshade	NCS	
<i>Epipremnum pinnatum</i>	pothos	C, S		<i>Solanum jamaicense</i>	Jamaica nightshade	C	
<i>Ficus altissima</i>	false banyan, council tree	S		<i>Solanum torvum</i>	nutkey berry	NCS	N, U
<i>Flacourtia indica</i>	governor's plum	S		<i>Spargurus romanzoffiana</i>	queco palm	C, S	
<i>Hemarthria altissima</i>	limpo grass	C, S		(= <i>Arecastrum romanzoffianum</i>)			
<i>Hibiscus tiliaceus</i>	muhoe	C, S		<i>Syagium jambos</i>	rose-apple	C, S	
<i>Ipomoea fistulosa</i> (= <i>I. carnea</i> ssp. <i>fistulosa</i>)	shrub morning-glory	C, S	P	<i>Terminalia catappa</i>	tropical almond	C, S	
<i>Jasminum sambac</i>	Arabian jasmine	S		<i>Terminalia muelleri</i>	Australian almond	C, S	
<i>Kalanchoe pinnata</i>	life plant	C, S		<i>Tribulus cistoides</i>	puncture vine	NCS	
<i>Koeleruteria elegans</i>	flamegold	C, S		<i>Urena lobata</i>	Caesar's weed	NCS	
				<i>Wedelia trilobata</i>	wedelia	NCS	
				<i>Wisteria sinensis</i>	Chinese wisteria	N, C	
				<i>Xanthosoma sagittifolium</i>	elephant ear	NCS	



Application for Membership in the Florida Exotic Pest Plant Council

Annual Membership Levels (CIRCLE ONE)

Individual	Institutional
Student \$10	Library \$100
General \$20	Contributor \$500
Contributor \$50	Donor \$501 - \$10,000
Donor over \$50	Patron over \$10,000

Name _____

Organization _____

Mailing Address _____

City, State, Zip _____

Telephone _____

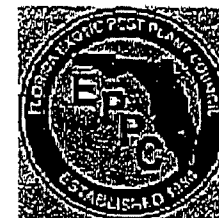
Fax _____

E-mail _____

Mail application & dues to:

Kris Serbesoff-King
3301 Gun Club Rd.
West Palm Beach, FL 33406

(Or sign up on-line at www.fleppc.org.)



Florida Exotic Pest Plant Council's 2003 List of Invasive Species

PURPOSE OF THE LIST:

To focus attention on 1) the adverse effects exotic pest plants currently have on Florida's native biodiversity and the functioning of native plant communities, 2) the habitat losses from exotic pest plant infestations, 3) the impacts on endangered species via habitat loss and alteration, 4) the need to prevent habitat losses through pest-plant management, 5) the socio-economic impacts of these plants (e.g., increased wildfires in Melaleuca areas), 6) changes in the seriousness of different pest plants over time, and 7) the need to provide information that helps natural area managers set priorities for control programs.

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