

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

WHEREAS, The Hertz Corporation filed an application on behalf of the property owner, CP Land Investment, LLC to amend the Coconut Point Development of Regional Impact Development Order and MPD zoning approvals; and

WHEREAS, a public hearing before the Lee County Zoning Hearing Examiner, Laura B. Belflower, was advertised and held on June 27, 2013; and

WHEREAS, the Hearing Examiner gave full consideration to the evidence in the record for Case #DRI2013-00003 & DCI2013-00010 and recommended APPROVAL of the Request; and

WHEREAS, a second public hearing was advertised and held on August 5, 2013 before the Lee County Board of Commissioners; and,

WHEREAS, the Lee County Board of Commissioners 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 amend the Coconut Point Development of Regional Impact development order and MPD zoning approvals to modify the project development parameters as follows:

Decrease number of dwelling units, decrease retail floor area, decrease number of hotel units, increase office square footage and delete performing arts center use. In addition, extend compliance dates for project build out, termination and transportation concurrency vesting.

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

## SECTION B. CONDITIONS:

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

### 1. Master Concept Plan/Development Parameters

Development of this project must be consistent with the one-page Master Concept Plan (MCP) date stamped received MAY 16 2013 entitled "Coconut Point M.P.D." prepared by Hole Montes, and one page Area #1 – Tract 1B Concept Plan date stamped received JUN 12 2013 attached hereto as Exhibit B, except as modified by the conditions below. Development must comply with all requirements of the LDC at time of local development order approval, except as may be granted by deviation as part of this planned development. If changes to the MCP are subsequently pursued, appropriate approvals will be necessary.

Development and use of the property must be consistent with the original zoning approval adopted in Zoning Resolution Z-02-009, as amended by subsequent action and the actions herein.

Attachment D provides a list of the zoning actions governing development on this site. Actions inadvertently left off of this list that have not been amended remain valid.

### 2. Development Intensity

The approved overall development intensity is as follows:

1,214 Multiple Family dwelling units,  
400 Assisted Living Units,  
320 Hotel/Motel rooms,  
1,607,500 square feet of Retail floor area,  
8,000 square feet of Bank(s), and  
782,777 square feet of Office, of which not more than 104,333 may be  
Medical office.

The intensity of development in each Development Area and each individual tract is limited as provided for on the approved Master Concept Plan.

### 3. Schedule of Uses

The revised Schedule of Uses for Tracts 1A, 1B, and 1C is set forth below. There is no change to the approved Schedule of Uses for the remaining Development Areas/Tracts within the planned development.

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

Accessory Uses and Structures permitted ancillary to a permitted principal use  
Administrative offices  
Animals Clinic  
ATM (automatic teller machine)  
Auto parts store  
Auto repair and service, Group I, limited to one  
Banks and Financial Establishments, Group I  
Banks and Financial Establishments, Group II, limited to SIC Codes 604, 621, 672, 673 and 674  
Business services, Groups I and II  
Car wash (limited to one)  
Cleaning and maintenance services  
Clothing stores, general  
Contractors and builders, Groups I and II  
Convenience Food & Beverage store (limited to one with attendant service station: however, the entire site is limited to a maximum of two)  
Consumption on premises in compliance with LDC §34-1264 (limited to and in conjunction with a standard restaurant)  
Cultural facilities, excluding zoos  
Day care center, child, adult  
Department Store  
Drive thru facility for any permitted use  
Drug store (limited to one total, however, the entire site is limited to two)  
Entrance gates and gatehouse, in compliance with LDC §34-1748  
Essential services  
Essential service facilities, Group I  
Excavation, water retention (as shown on the Master Concept Plan)  
Fences, walls  
Food Stores, Groups I and II  
Gift and souvenir shop  
Hardware store  
Health care facility, Group III  
Hobby, toy and game shops  
Hotel/Motel (Tract 1 C only)  
Household and office furnishings, Groups I, II, III (no outdoor display)  
Insurance companies  
Laundromat  
Laundry or dry cleaning Group I  
Lawn and garden supply store  
Medical office  
Non-store retailers, all groups



Paint, glass and wallpaper store  
 Parking lot: Accessory  
                     Garage  
 Personal services, Groups I, II and III (excluding escort services, palm readers, fortune tellers, card readers and tattoo parlors)  
 Pet services  
 Pet shop  
 Pharmacy  
 Printing and publishing  
 Real estate sales office  
 Recreation facilities, commercial, Groups I and IV  
 Recreational facilities, private (Tract 1B)  
 Rental or leasing establishments Groups I and II (excluding passenger car pick up and drop off for Tracts 1A and 1C only)  
 Repair shops, Groups I, II and III  
 Research and development laboratories Groups II and IV  
 Restaurant, fast food (limited to two, however, the entire site is limited to a maximum of four outside of the Regional food court/service area)  
 Restaurants, Groups I, II, III and IV  
 Self service fuel pumps (limited to one in conjunction with a Convenience Food and Beverage Store, however, entire site is limited to a maximum of two)  
 Signs, in accordance with Chapter 30  
 Social Services, Groups I and II  
 Specialty retail shops, Groups I, II, III and IV  
 Storage: Indoor only §34-3001 *et seq.*  
 Used merchandise stores, Group I  
 Variety store  
 Vehicle and equipment dealers (Section 34-1352), Group I (Tract 1B only / No incidental servicing, repairs and stocking of replacement parts) (Outdoor display limited to a maximum of 1 acre)

#### 4. Property Development Regulations

Tract 1A. 1B. 1C and 1D:

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

NOTE: Tract 1A may not be subdivided

Minimum Setbacks:

Front (street)	25 feet
Side	10 feet



Rear	25 feet (5 feet for accessory structure)
Water body	25 feet (20 feet for accessory structure)

Minimum Building Separation: one-half sum of the building heights but not less than 20 feet

Maximum Building Height:

Tracts 1A and 1D	45 feet / 3 stories
Tract 1B	55 feet (As conditioned in Section C Deviation)
Tract 1C	55 feet / 4 stories

5. Condition 9 of Resolution Z-02-009 (as amended) is replaced with the following:

Prior to local development order approval for the first local development order for vertical development of any buildings, open space must be provided as detailed in the open space table on the Master Concept Plan stamped received May 16, 2013 with the condition that any residential dwelling units requiring open space per LDC §10-415(a) must provide 30 percent common open space within Tracts 1-E, 1-F, 3-B, and 3-D.

A minimum of 27.7 acres of open space must be provided within Area 2. If Tract 2B-Alternate Area is to developed as a mix of residential and commercial uses, then the development order plans must calculate the required open space as 40% for the residential area and 30% for the commercial area. Any residential parcel within Area 2 must provide a minimum 20% open space. Any commercial parcel within Area 2 must provide a minimum 10% open space. The provided open space for Area 2 must be tracked on all development orders within Area 2 to insure the required open space is provided within the overall tract.

The only exception to the above language is the development of a building for the Estero Fire District.

#### SECTION C. HEIGHT DEVIATION:

1. Deviation (1) seeks relief from the LDC §33-229 requirement to provide buildings in specified areas of the Estero Planning Community to a maximum height of three stories or 45 feet, whichever is less, to allow three stories or 55 feet. This height deviation is APPROVED SUBJECT TO the condition that buildings within Coconut Point Area 1B utilizing the maximum building height of 55 feet be no closer than 200 feet from existing residential uses.

#### SECTION D. EXHIBITS:

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

- Exhibit A: Legal description of the property
- Exhibit B: The Master Concept Plan
- Exhibit C: Zoning Map (with the subject parcel indicated)
- Exhibit D: List of Zoning Actions
- Exhibit E: Coconut Point DRI DO 7<sup>th</sup> Amendment

#### 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 height deviation, as conditioned, enhances achievement of the planned development objectives, and preserves and promotes the general intent of LDC Chapter 34, to protect the public health, safety and welfare.
6. The requests, as conditioned, in the Seventh Amendment to the Coconut Point DRI Development Order attached as Exhibit E, do not create a new or additional un-reviewed regional impacts, and do not constitute a substantial Deviation, as that term is defined in §380.06(19) of the Florida Statutes.

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

John Manning	Aye
Cecil L Pendergrass	Aye
Larry Kiker	Aye
Tammara Hall	Aye
Frank Mann	Aye

DULY PASSED AND ADOPTED this 5<sup>th</sup> day of August, 2013.

ATTEST:  
LINDA DOGGETT, CLERK

BOARD OF COUNTY COMMISSIONERS  
OF LEE COUNTY, FLORIDA

BY:

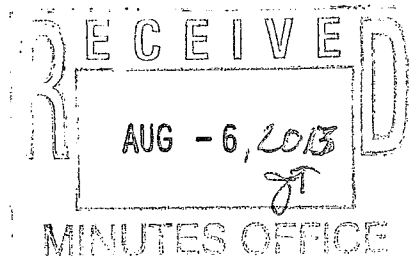
Joyce Townsend  
Deputy Clerk

BY:

Cecil L Pendergrass, Chair

Approved as to form by:

Donna Marie Collins  
Donna Marie Collins  
Chief Assistant County Attorney  
County Attorney's Office







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

Applicant's Legal Checked

by CSG 5/15/13  
Pgs 1 thru 3

RECEIVED  
MAY 10 2013

HM PROJECT #1997079

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REF. DWG. #A-994-3

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LEGAL DESCRIPTION:

COMMUNITY DEVELOPMENT

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

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

AND

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

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

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Naples • Fort Myers

DR12013-00003

EXHIBIT A



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

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05/03/13

REF. DWG. #A-994-3

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

**NOTES:**

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

TOTAL PROPERTY AREA: 482.421 ACRES, MORE OR LESS.

BEARINGS REFER TO THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SECTION 9, TOWNSHIP 47 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA, AS BEING  $S.88^{\circ}56'17''W.$

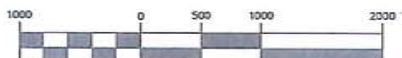
**HOLE MONTES, INC.**

**CERTIFICATE OF AUTHORIZATION LB #1772**

BY *Thomas M. Murphy*  
THOMAS M. MURPHY

P.S.M. #5628  
STATE OF FLORIDA



[illegible]

DRI 2013-00003

CURVE TABLE				
CURVE	RADIUS	LENGTH	CHORD	DELTA
C1	2025.00	325.42	325.67	93°58'48"
C2	3025.00	492.42	492.69	93°58'07"
C3	7025.00	208.14	208.08	93°58'53"
C4	2725.00	549.25	549.30	93°58'44"
C5	11564.33	1394.36	1394.08	93°58'07"
C6	1695.00	338.22	338.32	93°58'24"
C7	3135.00	267.63	267.63	93°58'07"

Applicant's Legal Checked  
by CA 5/15/13 -m's-



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

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

SKETCH AND LEGAL DESCRIPTION  
OF A PORTION OF SECTIONS

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

LEE COUNTY

FLORIDA

## LEGAL DISCUSSION

[illegible]

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

[illegible]

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

INFORMATION RELATING TO BOUNDARY DATA OF SECTIONS 3, 4, 5 AND 10, TOWNSHIP 47 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA, TOGETHER WITH THE LOCATION OF THE US HIGHWAY 91 RIGHT-OF-WAY, WAS OBTAINED FROM A SURVEY OF THE SUGARHAWK RANCH PREPARED BY DENE ASSOCIATES A/K/A/DI ORDER NUMBER 840535, DATED 5/14/84. INFORMATION RELATING TO THE LOCATION OF COCOONUT ROAD AND ADJOINING EXCEPTED PARCELS WAS OBTAINED FROM PROPERTY DESCRIPTIONS PROVIDED BY CLIENT.

STATE PLANE COORDINATES SHOWN HARDCODED INTO FLORIDA STATE PLANE CASE ZONE N.A.D. 83. 11770

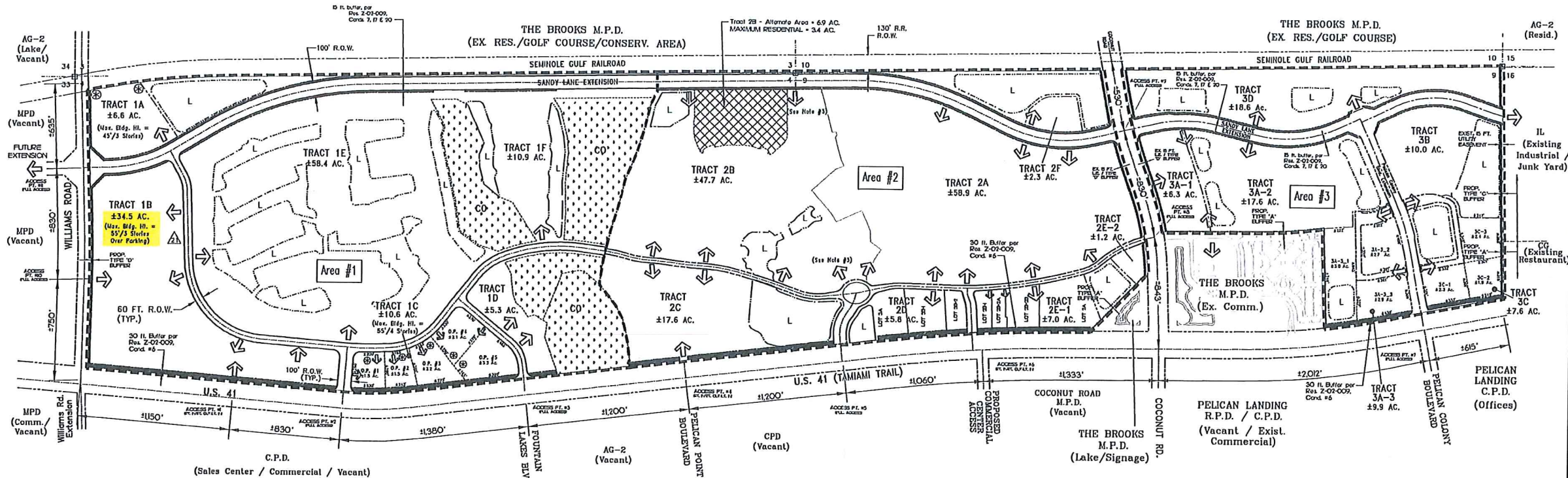
FOLE, MONTE, INC.

BY Thomas M. Murphy P.S.N. 17620  
THOMAS M. MURPHY STATE OF FLORIDA

\* NOT A SURVEY \*

REVISION No.		DESCRIPTION		DATE
1		REVISE SIGNING SURVEYOR		05/03/13
DRAWN BY:	DATE	SECTION	PROJECT No.	
BA	1/01	3,4,9,10	19970798	
	F.B.	TOWNSHIP	47	
CHECKED BY:	PAGE	RANGE	DRAWING No.	
TJG	REFERENCE	25	E-231	
	SWEETREY3-1 11X17			





# PROJECT SUMMARY:

1.) REQUEST: A Rezoning from AG-2 to Mixed Use Planned Development (MPD)

## 2.) OVERALL CONCEPTUAL PROJECT ACRES:

CONSERVATION AREAS	±33.4 ACRES
LAKES	±58.8 ACRES
INTERNAL (PRIVATE) R.O.W.	±20.2 ACRES
INTERNAL (PUBLIC) R.O.W.	±25.6 ACRES
GREEN AREAS / OPEN SPACE	± 8.7 ACRES
DEVELOPMENT TRACT AREAS	±335.7 ACRES
<b>TOTAL</b>	<b>±482.4 ACRES</b>

## 3.) CONCEPTUAL TRACT LAND USE/ACREAGE BREAKDOWN:

### a.) DEVELOPMENT AREAS:

Development Area #1: (Residential - 740 M.F./A.L.F. Units / Retail - Comm. 85,000 Sq.Ft. / Office 481,277 Sq.Ft. / Hotel 120 Rooms / Bank w/ D.T. - 8,000 Sq.Ft.)

Proposed Lakes	± 28.1 Ac.
Proposed Internal/Private R.O.W.	± 8.2 Ac.
Proposed Public R.O.W. (Sandy Lane Extension)	± 10.1 Ac.
Conservation Areas	± 33.4 Ac.
Green Areas / Open Space	± 4.7 Ac.
Development Areas (Tracts 1A - 1F)	± 126.3 Ac.

Total Development Area #1 ±210.8 Ac.

Development Area #2: (Residential - 450 M.F. Units / Retail - Comm. 1,450,000 Sq.Ft. / Gen. Office 90,000 Sq.Ft. / Hotel - 200 Rooms)

Proposed Lakes	± 17.0 Ac.
Proposed Internal/Private R.O.W.	± 8.1 Ac.
Proposed Public R.O.W. (Sandy Lane Extension)	± 8.1 Ac.
Green Areas / Open Space	± 4.0 Ac.
Development Areas (Tracts 2A - 2F)	± 140.5 Ac.

Total Development Area #2 ±175.7 Ac.

Development Area #3: (Residential - 424 M.F. / A.L.F. Units / Retail - Comm. 72,500 Sq.Ft. / Office 211,500 Sq.Ft.)

Proposed Lakes	± 13.7 Ac.
Proposed Internal/Private R.O.W.	± 5.9 Ac.
Proposed Public R.O.W. (Sandy Lane Extension)	± 7.4 Ac.
Development Areas (Tracts 3A-1 thru 3 - 3D)	± 68.9 Ac.

Total Development Area #3 ±95.9 Ac.

### b.) MAXIMUM DEVELOPMENT TRACT INTENSITY:

(NOTE: CUMULATIVE INTENSITIES WILL NOT EXCEED MAXIMUM PROPOSED LAND USES FOR EACH DEVELOPMENT AREA)

#### Development Area #1:

Tract 1A	200 A.L.F. Units / 50,000 s.f. Office
Tract 1B	450,000 s.f. Office
Tract 1C	90,000 s.f. Retail / 20,000 s.f. Office / 120 Room Hotel
Tract 1D	5,000 s.f. Retail / 35,000 s.f. Office / Fire Station
Tract 1E	450 M.F. DU's
Tract 1F	90 M.F. DU's

#### Development Area #2:

Tract 2A	650,000 s.f. Retail / 450 M.F. DU's / 60,000 s.f. Office / 200 Room Hotel
Tract 2B	600,000 s.f. Retail / 200 Room Hotel / 200 M.F. DU's
Tract 2C	150,000 s.f. Retail / 20,000 s.f. Office / 200 Room Hotel
Tract 2D/E	150,000 s.f. Retail / 30,000 s.f. Office / 200 Room Hotel
Tract 2F	20,000 s.f. Retail / 30,000 s.f. Office / 100 Multi-family Units

#### Development Area #3:

Tract 3A-1 thru 3	60,000 s.f. Retail / 170,000 s.f. Office
Tract 3B	200 A.L.F. Units
Tract 3C	40,000 s.f. Retail / 90,000 s.f. Office
Tract 3D	224 M.F. DU's

### 4.) PROJECT PHASING:

	M.F. / A.L.F. (UNITS)	RETAIL COMM. (SQ.FT.)	OFFICE (SQ.FT.)	HOTEL (ROOMS)	BANK w DT (SQ.FT.)
2001 - 2019	1,614*	1,607,500	782,777	320	8,000

\*M.F. / A.L.F. UNITS MAY BE REPLACED WITH S.F. / T.F. / T.H. / DUPLEX USES SO LONG AS THE TOTAL NO. OF PEAK HOUR VEHICULAR TRIPS GENERATED BY THE DEVELOPMENT IS NOT INCREASED AND APPROVAL IS OBTAINED IN ACCORDANCE WITH RESOLUTION 2-02-009.

### 5.) CONCEPTUAL OPEN SPACE (Tract 2B Alternate Plan):

#### a.) REQUIRED (per L.C.L.D.C.):

Development Area #1:	
(LESS Sandy Lane Extension and Tracts 1E & 1F)	131.4 Ac. x 30% ± 39.4 Ac.
(Tracts 1E / 1F)	69.3 Ac. x 40% ± 27.7 Ac.

Development Area #2 [ALT 1, TRACT 2B ALT AREA = 3.4 AC RESIDENTIAL MAX]:	
(LESS Sandy Lane Extension & Resid. Area)	158.4 Ac. x 30% ± 47.5 Ac.
(Residential Area)	9.2 Ac. x 40% ± 3.7 Ac.

Development Area #2 [ALT 2, TRACT 2B ALT AREA = NO RESIDENTIAL]:	
(LESS Sandy Lane Extension & Resid. Area)	161.8 Ac. x 30% ± 48.5 Ac.
(Residential Area)	5.8 Ac. x 40% ± 2.3 Ac.

Development Area #3:	
(LESS Sandy Lane Extension & Tracts 3B & 3D)	59.7 Ac. x 30% ± 17.9 Ac.
(Tracts 3B & 3D)	28.8 Ac. x 40% ± 11.5 Ac.

<b>Total Open Space Required [ALT 1]:</b>	<b>±147.7 Ac.</b>
<b>Total Open Space Required [ALT 2]:</b>	<b>±147.3 Ac.</b>

\*The % of Open Space may vary depending upon the ultimate land uses.

#### b.) PROVIDED (per L.C.L.D.C.):

Prop. Lake Areas (0 ≤ 25.0% of 150.2 Ac.)	± 37.6 Ac.
Prop. Conservation Areas	± 33.4 Ac.

Development Area #1:	
Commercial Development (Tracts 1A/1B/1C/1D)	57.0 Ac. x 19.65% ± 11.2 Ac.
Residential Development (Tracts 1E/1F)	69.3 Ac. x 30.0% ± 20.8 Ac.
<b>Sub-total</b>	<b>± 32.0 Ac.</b>

Development Area #2 [ALT 1, TRACT 2B ALT AREA = 3.4 AC RESIDENTIAL MAX]:	
Commercial Development (Tracts 2A - 2F)	131.3 Ac. x 19.52% ± 25.6 Ac.
Residential Development (Tract 2A)	5.8 Ac. x 23.60% ± 1.4 Ac.
Residential Development (Tract 2B)	3.4 Ac. x 23.5% ± 0.8 Ac.
<b>Sub-total</b>	<b>± 27.8 Ac.</b>

Development Area #2 [ALT 2, TRACT 2B ALT AREA = NO RESIDENTIAL]:	
Commercial Development (Tracts 2A - 2F)	134.7 Ac. x 19.52% ± 26.3 Ac.
Residential Development (Tract 2A)	5.8 Ac. x 23.60% ± 1.4 Ac.
<b>Sub-total</b>	<b>± 27.7 Ac.</b>

Development Area #3:	
Commercial Development Tracts (Tracts 3A-1 thru -3 & 3C)	42.6 Ac. x 19.55% ± 8.3 Ac.
Residential Development (Tracts 3B & 3D)	28.8 Ac. x 30% ± 8.6 Ac.
<b>Sub-total</b>	<b>± 16.9 Ac.</b>

<b>Total Open Space Provided [ALT 1]:</b>	<b>±147.7 Ac.</b>
<b>Total Open Space Provided [ALT 2]:</b>	<b>±147.6 Ac.</b>

### 6.) INDIGENOUS OPEN SPACE:

DUE TO THE EXISTING AGRICULTURAL LAND USE AND THE EXTENT OF MELALEUCA INVASION WITHIN THE REMAINING FORESTED AREAS, NO INDIGENOUS OPEN SPACE IS REQUIRED.

### 7.) NOTES:

- Internal access will be provided to allow through traffic between US 41 and Sandy Lane Extension.
- For Tracts 1A and 1C general service area locations, see above MCP.
- The project will be designed to facilitate the use of the Lee Tran services in accordance with Lee County LDC Sec. 34-411(e) and 10-442.

### LEGEND

	PROPERTY BOUNDARY
	ROAD R.O.W. LINE
	CONSERVATION AREAS
	PROPOSED LAKE
	CONCEPTUAL ACCESS POINT
	IL (DEVELOPED)
	ADJACENT ZONING / LAND USE
	GENERAL LOCATION OF SERVICE AREAS



SCALE: 1" = 400'

ATTACHMENT "A"

DATE	REVISIONS	NUMBER
01/26/05	Added UP Units to Tract 3B (No increase in total units)	AA
11/16/05	Added Access Pt. for Tract 3A-1	AA
11/16/05	Revised for Administrative Amendment #8 Tract 3D	AA
08/22/05	Revised for Admin. Amendment ADD0005-00080	AA
02/04/05	Revised for Administrative Amendment Submittal	AA
08/25/04	Revised for Administrative Amendment Submittal	AA
05/19/04	Revised for Administrative Amendment Submittal	AA
02/27/04	Revised for Administrative Amendment Submittal	AA
12/09/02	Revised per County Attorney's Office Memo	AA
12/16/01	Revised Tracts / C.S. Colors / Permitted Uses	AA
03/08/01	Revised per County Staff 1st R.A.L.	AA



COCONUT POINT M.P.D.  
MASTER CONCEPT PLAN  
EXHIBIT IV-E

DESIGNED E.M.C.	DATE 08/16/05
DRAWN C.R.B.	DATE 08/16/05
CHECKED H.E.D.	DATE 08/19/05
VERT. SCALE 1" = 400'	
DRAWING NO.	
REFERENCE NO. 9779B_MCP8	
PROJECT NO. 97.79-B	SHEET NO. 1 of 1

Approved as Exhibit B  
MCP Page 1 of 2  
Resolution # 2-13-016

RECEIVED  
MAY 16 2013

COMMUNITY DEVELOPMENT

DCI 2013-00010

DR12013-00003

EXHIBIT B





General Office	450,000 sf
Vehicle Sales/Leasing Facility	5,000 sf/ 50 Spaces Max.

**RAPALLO**  
(Existing Residential)

COMMUNITY DEVELOPMENT  
REC'D SECOND FLOOR

⇒ CONCEPTUAL ACCESS POINT

[1] OPEN SPACE AND LANDSCAPING TO BE PROVIDED IN ACCORDANCE WITH LDC.

Approved as Exhibit B  
MCP Page 2 of 2  
Resolution # 2-13-016

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



COCONUT POINT  
Area #1 – Tract 1B Concept Plan

DESIGNED	DATE
DRAWN T.W.M.	DATE 06/08/13
CHECKED	DATE
TEXT SCALE	NOTE SCALE 1" = 100'
DRAWING NO.	
REFERENCE NO. 13025B_MCP	
PROJECT NO. 13.025-B	SHEET NO. 1 OF 1

1	2	3	NUMBER	REASONS	DATE
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1,000 500 0 1,000 2,000

Feet



**Coconut Point Zoning Actions (May 16, 2013)**

DRI2000-00015 and DCI2001-00005, Z-02-009 - Original DRI and planned development approval

DRI2004-00008; Z-04-079 – Amend DRI changes to residential dwelling unit distribution

ADD2004-00048 – Rapallo (relief from excavation slopes amongst others)

ADD2004-00060(A-C) – Sign Package, Excavation Setbacks, Schedule of Uses, Lot Standards

ADD2004-00187 & 187(A) – Change number of residential units and types, increase hotel size

ADD2004-00206 – Modify buffer on US41 to allow view corridors

ADD2005-00011 – Rapallo (reduce size of waste container pad)

ADD2005-00026 – Area 3 excavation setbacks from road and private property line)

ADD2005-00080(A) – Revisions to condition 2b and open space distribution within tract 2

ADD2005-00122 – Rapallo (deviations for parking, waste, pavement, setbacks from water features)

ADD2005-00177 – Area 3 reconfigure tracts and lakes

ADD2005-00233 – Right in Right out to Coconut Road Area 3

DRI2006-00002, Resolution #06-08-23

DRI2006-00009 and DCI2006-00080, Z-07-040

ADD2006-00011 – Rapallo (lake/water feature configuration)

ADD2006-00024 – Area 2 add hotel/motel, amend property development regs, multi family in tract 2b

ADD2006-00143 – Teds Montana Grill

ADD2006-00168 – Reduced building setbacks for movie theater

ADD2006-00229 – Additional signage for movie theater

COP2006-00035, amended by COP2006-00035A, Ted's Montana Grill

COP2006-00121(A) – COP for The Grill Room

COP2005-00125 – sign off for 2APS license for package sales

COP2006-00150, amended by COP2006-00150B - Blue Water Bistro

COP2006-00169, amended by COP2006-00169A - The Grape

COP2006-00176, amended by COP2006-00176A - California Pizza Kitchen

DRI2006-000 9 and DCI2006-00080, Resolution Z-07-040

ADD2007-00028 – Area 3 allow an adult living community

ADD2007-00087 – Setbacks

ADD2007-00182 – Waterbody setback and reduced building separation

ADD2007-00184 – Commercial lot split w/deviation for internal buffer

ADD2007-00192 – Sign Deviations

ADD2007-00207 – Increase building height for tract 3C-2

ADD2007-00208 – Deviation for connection separation on Via Villagio

COP2007-00012 – Doc Greens administrative approval for a 2-COP

COP2007-00018 – sign off for COP for Bice Grand Café

COP2007-00065 – COP for outdoor seating for Bice Grand Café

COP2007-00093 - Moe's Southwest Grill

COP2007-00112 – Two Brothers Pizza & Italia sign off for a 2 COP license

COP2007-00134 - Hurricane's Grill and Wings

COP2007-00161 – Così 2, COP for outdoor seating

COP2007-00233 – T.G.I. Fridays

COP2007-00194, amended by COP2007-00194A - Pagelli's Cucina

COP2007-00201, Tijuana Flats Burrito Company

COP2007-00238 - Hemingway's Island Grill  
ADD2008-00010 - Art District increase building height  
ADD2008-00011 - Art District building setback  
ADD2008-00012 - Connection separation and pavement width  
ADD2008-00043 - Parking requirements area 3  
ADD2008-00054 - Commercial lot split w/deviations for buffers and parking  
ADD2008-00078 - administrative variance for signage  
ADD2008-00092 - COP for outdoor seating by the pool and room service beer and wine.  
COP2008-00007 - Hemingway's Island Grill  
COP2008-00038 - Target Store  
COP2008-00103 - Tony Sacco's Coal Oven Pizza  
COP2008-00152 - Stir Crazy

DRI2009-00001 - Senate Bill 360 extension to build out date, termination date and down zoning date-  
ADD2009-00008 - Art District curbside pickup  
ADD2009-00032 - signage deviation for Area 3, Tract 3C-2 for a monument sign

ADD2010-00062 - COP for Tract 2D  
ADD2010-00079 & 00079(A)- Olive Garden @ Coconut Point  
ADD2010-00093 - Sign Deviations  
COP2010-00111 - Johnny Rockets  
COP2010-00181 - Amore Brick Oven Pizza

DRI2011-00006 - extension of all DRI timeframes in the Coconut Point DRI pursuant to HB 7207  
ADD2011-00008 - Add Temporary Uses to the schedule of uses

DRI2012-00008 - senate bill 2156 extension of buildout date  
DRI2012-00011 - section 252.363 Extension  
DCI2012-00017, Z-12-017 - allow live outdoor entertainment w/restaurants w/COP & outdoor seating  
DCI2012-00020 - Extension of Resolution and MCP  
ADD2012-00016 - Waterbody setback reductions  
COP2012-00060 - Chuey's Tacos  
COP2012-00147 - The Grape Bar

COP2013-00075 - Stir Crazy

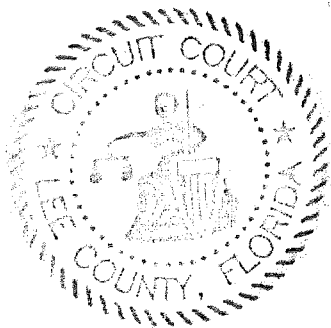


STATE OF FLORIDA

COUNTY OF LEE

I Linda Doggett, Clerk of Circuit Court, Lee County, Florida, and ex-Officio Clerk of the Board of County Commissioners, Lee County, Florida, do hereby Certify that the above and foregoing is a true and correct copy of Resolution No. Z-13-016 adopted by the Board of Lee County Commissioners at their meeting held on the 5th day of August, 2013.

Given under my hand and seal, at Fort Myers, Florida, this 7th day of August, 2013.



LINDA DOGGETT,  
Clerk of Circuit Court  
Lee County, Florida

By:

*Joyce Townsend*  
Deputy Clerk

SEVENTH DEVELOPMENT ORDER AMENDMENT<sup>1</sup>  
FOR  
COCONUT POINT DRI  
STATE DRI # 09-2001-153

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

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

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

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

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

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

WHEREAS, the Coconut Point DRI was amended a fourth time on March 18, 2008 to provide the benefit of the statutory extension to all phase buildout and expiration dates as provided under HB 7203; and

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<sup>1</sup> This is a codification and restatement of the Coconut Point DRI Development Orders as amended through ~~January 8, 2013~~ August 5, 2013.



WHEREAS, the Coconut Point DRI was amended a fifth time on December 19, 2009 to provide the benefit of the statutory extension to all phase buildout and expiration dates as provided under SB 360; and

WHEREAS, on June 2, 2011, House Bill 7207 (HB 7207) was signed into law by the Governor of the State of Florida. HB 7207, as codified in Chapter 2011-139, Laws of Florida, authorizes a four year extension for all valid DRI Development Orders. At the option of the developer, all commencement, phase, buildout and expiration dates for valid Developments of Regional Impacts may be extended by four (4) years regardless of previous extensions issued in the past; and

WHEREAS, on June 29, 2011, Lee County received a request to extend the DRI compliance dates as contemplated under HB 7207, resulting in an extension to December 31, 2016; and

WHEREAS, Executive Order Number 11-128 provided for an extension of 60 days (extended an additional 60 days by Executive Order 11-172 and an additional 30 days by Executive Order 11-202), for buildout, commencement and completion dates for valid DRI Development Orders at the option of the developer; and

WHEREAS, under Florida Statutes §252.363 (effective July 1, 2011) buildout dates for valid DRI Development Orders were extended an additional 6 months;

WHEREAS, on January 26, 2012, Lee County received a request to extend the DRI compliance dates as contemplated under Executive Order Number 11-128 (extended by 11-172 and 11-202) and Florida Statutes §252.363, resulting in an extension to November 6, 2017; and

WHEREAS, Executive Order Number 12-140 provided for an extension of 60 days (extended an additional 30 days by Executive Order 12-192 and an additional 5 days by Executive Order 12-217) for buildout, commencement and completion dates for valid DRI Development Orders at the option of the developer; and

WHEREAS, under Florida Statutes §252.363, buildout dates for valid DRI Development Orders were extended an additional 6 months; and

WHEREAS, on July 2, 2012, Lee County received a request to extend the DRI compliance dates as contemplated under Executive Order Number 12-140 (extended by 12-192 and 12-217) and Florida Statutes §252.363, resulting in an extension to August 8, 2018; and

WHEREAS, Executive Order Number 12-199 provided for an extension of 60 days for buildout, commencement and completion dates for valid DRI Development Orders at the option of the developer; and

WHEREAS, under Florida Statutes §252.363, Executive Order Number 12-199 extended the buildout dates for valid DRI Development Orders an additional 6 months; and

WHEREAS, on October 2, 2012, Lee County received a request to extend the DRI compliance dates as contemplated under Executive Order Number 12-199 and Florida Statutes §252.363, resulting in an extension to April 7, 2019; and

WHEREAS, on January 8, 2013, the Coconut Point DRI was amended a sixth time to extend the buildout and termination dates to April 7, 2019, and April 7, 2025, respectively; and

WHEREAS, on May 10, 2013, Lee County received a request for a Seventh Amendment to: (a) decrease the number of residential units from 1,528 to 1,214; (b) decrease the retail square footage from 1,638,900 to 1,607,500; (c) increase the office square footage from 315,000 to 782,777; (d) eliminate the performing arts center; (e) increase the number of ALF units from 200 to 400; (f) reduce the number of hotel units from 440 to 320; and (g) extend the buildout and termination dates to December 31, 2019 and December 31, 2025, respectively; and

WHEREAS, the amendment application was reviewed by the Southwest Florida Regional Planning Council and by the Lee County Hearing Examiner, who found it consistent with the Lee County Comprehensive Plan; and

WHEREAS, Coconut Point DRI qualifies for all the requested extensions of the DRI compliance dates; and

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

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

#### **I. FINDINGS OF FACT AND CONCLUSIONS OF LAW**

A. The Coconut Point DRI is a master planned commercial development consisting of 482.4+/- acres located in unincorporated south central Lee County at the intersection of US 41 and Coconut Road. The Coconut Point DRI is a mixed use development that will consist of: 1,450,000 gross leasable square feet of retail/regional mall (Regional Retail Center), ~~188,900~~157,500 gross leasable square feet of retail on other parcels adjacent to the regional mall (Community Commercial Retail), 8,000 gross leasable square feet of Banks, ~~383,333~~782,777 square feet of office, of which no more than ~~68,333~~104,333 square feet may be medical office, ~~440~~320 hotel rooms, ~~1,528~~1,214 condominium units, ~~and a 200~~400 unit assisted living facility ~~and a 506 seat performing~~



arts theater. The project will include 33.4 acres of conservation areas, 57.1 acres of lakes, 43.2 acres of road rights-of-way and 9.0 acres of green area/open space.

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

The project phasing schedule consists of one phase with buildout in 2019.

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

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

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

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

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

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

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

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

~~J. House Bill 7207 (HB 7207), signed into law by the Governor of the State of Florida on June 2, 2011 (as codified in Chapter 2011-139, Laws of Florida) authorized a four (4) year extension for all valid DRI Development Orders. At the option of the developer, all commencement, phase, buildout and expiration dates for valid~~

Developments of Regional Impacts may be extended by four years regardless of previous extensions issued in the past.

In accord with HB 7207, Coconut Point DRI qualified for that extension of the DRI's compliance dates. Under HB 7207, the extension of the DRI's compliance dates does not constitute a substantial deviation of the original development order approvals warranting further DRI review.

K. Executive Order Numbers 11-128 (extended by 11-172 and 11-202), 12-140 (extended by 12-192 and 12-217) and 12-199, provided for an extension for buildout, commencement and completion dates for valid DRI Development Orders of 60 days (extended an additional 90 days), 60 days (extended an additional 35 days) and 60 days, respectively (totaling 305 days), at the option of the developer. Coconut Point DRI qualified for that extension of the DRI's compliance dates. The extension does not constitute a substantial deviation of the original development order approvals warranting further DRI review.

Under §252.363, Florida Statutes, Executive Order Numbers 11-128 (extended by 11-172 and 11-202), 12-140 (extended by 12-192 and 12-217) and 12-199, each extended the buildout dates for valid DRI Development Orders an additional 6 months (totaling 18 months less 24 days for effective date of §252.363 (July 1, 2011)). Coconut Point DRI qualified for that extension of the DRI's compliance dates. The 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 that the Development of Regional Impact Application for Development Approval submitted on behalf of Simon Property Group, L.P. and the Oakbrook Properties, Inc., for the project known as the Coconut Point DRI, originally approved October 21, 2002, is hereby amended subject to the following conditions, restrictions and limitations. For the purpose of this Development Order, the term "Developer" refers to Simon Property Group, L.P., Oakbrook Properties, Inc., and Coconut Point Developers, LLC, and includes all successors or assigns, and all references to County Ordinances or other regulations, including future amendments.

### **A. AFFORDABLE HOUSING**

1. *150 Affordable Housing Units (\$600,000).<sup>2</sup>*

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



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

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

## **B. ENERGY**

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

These features are:

1. A bicycle/pedestrian system connecting all land uses, to be placed along arterial and collector roads within the project and also along Sandy Lane. This system will be consistent with LDC regulations.
2. Bicycle racks or storage facilities in recreational, commercial and multi-family residential areas.
3. Bus stops, shelters and other passenger and system accommodations for a transit system to service the project area.
4. Energy efficient features in window design (e.g. tinting and exterior shading), operable windows, ceiling fans, appliances and equipment.

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<sup>3</sup> This requirement was satisfied in October 2004.

5. Minimize coverage by asphalt, concrete, rock and similar substances in street, parking lots and other area to reduce local air temperatures and reflecting light and heat.

6. Energy-efficient lighting for streets, parking area, recreation area and other interior and exterior public areas.

7. Water closets with a maximum flush of 1.6 gallons and shower heads and faucets with a maximum flow rate of 2.5 gallons per minute (at 80 pounds of water pressure per square inch).

8. Selecting, planting and maintaining native plants, trees and other vegetation and landscape design features that reduce requirements for water, fertilizer, maintenance and other needs.

9. Planting native shade trees to provide reasonable shade for all recreation areas, street and parking areas. Planting native shade trees for each residential unit.

10. Placing trees to provide needed shade in the warmer months while not overly reducing the benefits of sunlight in the cooler months. Orienting structures, whenever possible, to reduce solar heat gain by walls and utilize the natural cooling effects of the wind.

11. Including porch and patio areas in residential units.

12. Establishing project architectural review committees that will consider energy conservation measures to assist builders and residents in the efforts to achieve greater energy efficiency in the development.

### **C. STORMWATER MANAGEMENT**

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### **D. TRANSPORTATION**

##### **1. Significant Impacts**

###### *a. Assessment Parameters*

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



### Buildout (2019)

Multifamily Condominiums (ITE LUC 230) (450 d.u. Town Center, <del>854</del> <u>540</u> d.u. North Village) <del>224</del> d.u. South Village	<del>1,528</del> <u>1,214</u> d.u.
Assisted Living Facility (ITE LUC 252) (200 d.u. South Village, <u>200</u> d.u. North Village)	<del>200</del> <u>400</u> d.u.
Hotel (ITE LUC 310) (200 rooms Town Center, 120 rooms South Village <del>120</del> rooms North Village)	<del>440</del> <u>320</u> rooms
Community Retail (ITE LUC 820) ( <del>131,400</del> <u>85,000</u> square feet North Village, <del>57,500</del> <u>75,000</u> square feet South Village)	<del>488,900</del> <u>157,500</u> sq. ft. (gla)
Regional Retail Center (ITE LUC 820) (1,450,000 square feet Town Center)	1,450,000 sq. ft. (gla)
General Office (ITE LUC 710)  ( <del>78,333</del> <u>481,277</u> square feet North Village, 90,000 square Town Center, <del>446,667</del> <u>107,167</u> square feet South Village)	<del>315,000</del> <u>678,444</u> sq. ft.
Medical Office (ITE LUC 720)  ( <del>68,333</del> <u>104,333</u> square feet South Village)	<del>68,333</del> <u>104,333</u> sq. ft.
Bank with drive-thru ( <del>4,000</del> <u>8,000</u> square feet North Village)	8,000 sq. ft.
<del>4,000 square feet South Village</del>	
<del>Performing Arts Theater (North Village)</del>	<del>506</del> seats

The above parameters form the basis for the Project impacts and the mitigation requirements contained herein. The assumed land uses associated with the general parameters are identified by the Land Use Code (LUC) from the Institute of Transportation Engineers (ITE) Trip Generation Manual, 6<sup>th</sup> Edition. While approved zoning categories may allow a wider range of uses, from a DRI standpoint the Project impacts are based on the above parameters and assumed uses. If the Developer exercises Mitigation Option 2 and is granted concurrency vesting for all or a

portion of the DRI, any significant change in the assumed uses, mix of uses or location of uses on the Master Concept Plan will require a re-evaluation of the DRI transportation impacts. A significant change is one that would increase the external project traffic by 5% or more or that would change the projected distribution and assignment of project traffic so as to result in a net increase in road miles of significantly and adversely impacted roadway links. This condition does not apply if Mitigation Option 1 is selected.

The overall traffic at the Project driveway entrances based on the above parameters iswas estimated, based on the 2002 development parameters, to be 5,909 trips. They include 4,120 PM net new external peak hour trips, 757 pass-by trips, and 1,032 interzonal trip ends based upon the original buildout date of 2006. ("Interzonal trip ends" are from one part of the project to another that travel along or across public roadways.) The approval of the Seventh Development Order Amendment increased the overall traffic at the driveway entrances to 6,467 trips, including 4,565 PM net new external peak hour trips, 860 pass-by trips, and 1,012 interzonal trip ends.

b. *Buildout Impacts*

The assessment on an existing-plus-committed network assuming the advancement of certain projects indicates that the significantly impacted roadways and intersections described below will be operating below acceptable levels of service at the end of the original 2006 Buildout:

Roadway Improvements Needed

<u>Roadways</u>	<u>Needed Improvement</u>
I-75	
– Corkscrew Road to Daniels Parkway	Widen to 6 lanes
Three Oaks Parkway	
- Williams Road to Corkscrew Road	Widen to 6 lanes
US 41	
– Koreshan Boulevard to San Carlos Boulevard	Widen to 6 lanes
- Bonita Beach Road to Coconut Road	Widen to 6 lanes
Old US 41	
- Rosemary Drive to US 41	Widen to 4 lanes



## Intersection Improvements Needed

Bonita Beach Road @ Old 41 <sup>(1)</sup>	Add 2 <sup>nd</sup> SB left turn lane
Coconut Road @ Driveway 9/Regional Retail Center <sup>(2)</sup>	Add WB right turn lane
	Add SB right turn lane
	Add SB left turn lane
	Add dual EB left turn lane
	Signalization <sup>(3)</sup>
Coconut Road @ Sandy Lane <sup>(2)</sup>	Add WB left turn lane
	Add WB right turn lane
	Add NB right turn lane
	Add NB left turn lane
	Add SB left turn lane
	Add SB right turn lane
	Add EB left turn lane
	Add EB right turn lane
	Signalization <sup>(3)</sup>
Corkscrew Road @ Ben Hill Griffin Parkway <sup>(1)</sup>	Add 2 <sup>nd</sup> EB left turn lane
	Add 2 <sup>nd</sup> NB left turn lane
	Add 2 <sup>nd</sup> SB left turn lane
	Signal retiming
Corkscrew Road @ River Ranch Road <sup>(1)</sup>	Add 2 <sup>nd</sup> WB left turn lane
Corkscrew Road @ Three Oaks Parkway	Add 2 <sup>nd</sup> NB left turn lane
	Add 2 <sup>nd</sup> SB left turn lane
	Add 2 <sup>nd</sup> EB left turn lane <sup>(4)</sup>
	Add 2 <sup>nd</sup> WB left turn lane <sup>(4)</sup>
	Add 2 <sup>nd</sup> NB left turn lane
	Add 2 <sup>nd</sup> SB left turn lane
	Signalization <sup>(3)</sup>
Old 41 @ Dean Street <sup>(1)</sup>	Signal retiming
Old 41 @ Pennsylvania Avenue <sup>(1)</sup>	Add 2 <sup>nd</sup> NB thru lane
Old 41 @ West Terry Street <sup>(1)</sup>	Add 2 <sup>nd</sup> SB thru lane
Three Oaks Parkway @ Koreshan Boulevard <sup>(1)</sup>	Signalization <sup>(3)</sup>
Three Oaks Parkway @ Williams Road <sup>(1)</sup>	Signalization <sup>(3)</sup>
Three Oaks Parkway @ Coconut Road <sup>(1)</sup>	Signalization <sup>(3)</sup>
US 41 @ Immokalee Road <sup>(1)</sup>	Signal retiming
US 41 @ Old 41 <sup>(1)</sup> (Collier County)	Signal retiming
US 41 @ Bonita Beach Road	Signal retiming
US 41 @ West Terry Street	Signal retiming
US 41 @ Old 41/Pelican Landing Parkway	Add 2 <sup>nd</sup> WB right turn lane
	Add 2 <sup>nd</sup> NB left turn lane
	Add 2 <sup>nd</sup> SB left turn lane
	Add 2 <sup>nd</sup> EB left turn lane

US 41 @ Pelican Colony Boulevard

Add dual WB left turn lane<sup>(2)</sup>

Add WB right turn lane<sup>(2)</sup>

Add NB right turn lane<sup>(2)</sup>

Add 2<sup>nd</sup> NB left turn lane

Add dual SB left turn lane<sup>(2)</sup>

Add 2<sup>nd</sup> EB left turn lane

Add EB right turn lane

Add 2<sup>nd</sup> WB left turn lane

Add 2<sup>nd</sup> NB right turn lane

Add 2<sup>nd</sup> NB left turn lane

Add 2<sup>nd</sup> SB left turn lane

Add 2<sup>nd</sup> EB left turn lane

Add EB right turn lane

Add NB right turn lane<sup>(2)</sup>

Add SB left turn lane<sup>(2)(3)</sup>

Add WB right turn lane<sup>(2)</sup>

Signalization<sup>(2)(3)</sup>

US 41 @ Coconut Road

Add NB right turn lane<sup>(2)</sup>

Add dual SB left turn lane<sup>(2)</sup>

Add dual WB left turn lane<sup>(2)</sup>

Add WB right turn lane<sup>(2)</sup>

Signalization<sup>(2)(3)</sup>

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

Add NB right turn lane<sup>(2)</sup>

Add SB Left turn lane<sup>(2)</sup>

Add WB right turn lane<sup>(2)</sup>

Signalization<sup>(2)(3)</sup>

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

Add NB right turn lane<sup>(2)</sup>

Add SB left turn lane<sup>(2)</sup>

Add dual WB left turn lane<sup>(2)</sup>

Add WB thru lane<sup>(2)</sup>

Add WB right turn lane<sup>(2)</sup>

Signalization<sup>(2)(3)</sup>

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

Add NB right turn lane<sup>(2)</sup>

Add dual SB left turn lane<sup>(2)</sup>

Add dual WB left turn lane<sup>(2)</sup>

Add WB thru lane<sup>(2)</sup>

Add WB right turn lane<sup>(2)</sup>

Add EB right turn lane<sup>(2)</sup>

Signalization<sup>(2)(3)</sup>

US 41 @ Driveway 2/Estero Greens<sup>(1)</sup>

Add NB right turn lane<sup>(2)</sup>

US 41 @ Driveway 1/Community Commercial<sup>(1)</sup>



US 41 @ Williams Road <sup>(1)</sup>	Add SB left turn lane <sup>(2)</sup> Add WB right turn lane <sup>(2)</sup> Add 2 <sup>nd</sup> SB left turn lane Add 2 <sup>nd</sup> WB left turn lane Signal retiming Signalization <sup>(3)</sup>
US 41 @ Corkscrew Road <sup>(1)</sup>	Signal retiming
US 41 @ Broadway <sup>(1)</sup>	Add 2 <sup>nd</sup> NB right turn lane Signal retiming
US 41 @ Koreshan Boulevard	Signal retiming
US 41 @ Sanibel Boulevard <sup>(1)</sup>	Add EB thru lane Add WB thru lane
US 41 @ Metro Parkway <sup>(1)</sup>	Signalization <sup>(3)</sup>
US 41 @ Alico Road <sup>(1)</sup>	Signalization <sup>(3)</sup>
US 41 @ Island Park Road <sup>(1)</sup>	Signalization <sup>(3)</sup>
US 41 @ Ben Pratt/Six Mile Cypress Parkway <sup>(1)</sup>	Add WB left turn lane Add NB right turn lane Add NB left turn lane Add EB right turn lane Signalization <sup>(3)</sup>
Williams Road @ Driveway 1/Comm Commercial <sup>(1)</sup>	
Williams Road @ River Ranch Road <sup>(1)</sup>	
Williams Road @ Sandy Lane <sup>(2)</sup>	
Williams Road @ Three Oaks Parkway	
<sup>(1)</sup> This intersection is not included in a significantly and adversely impacted roadway segment.	
<sup>(2)</sup> This intersection is considered a site-related improvement.	
<sup>(3)</sup> Signalization only if warranted and subject to approval by the maintaining agency.	
<sup>(4)</sup> Dual EB and WB left turn lanes should be provided if they can be constructed without requiring reconstruction of the I-75 overpass bridge structure.	

The intersection improvements include at grade geometric improvements, such as turn lanes and signalization when warranted. Intersection improvements are accounted for in the overall proportionate share calculation. Site-related needs at the Project entrances are not addressed in the proportionate share calculation and must be addressed by the Developer at the time of local development order approval.

## 2. Mitigation

### a. Buildout Proportionate Share

The buildout proportionate share is \$14,600,000 in year 2002 dollars. This figure represents the Developer's share of necessary roadway and intersection improvements based on the development parameters set forth

in Section II.D.1.a. The estimated roads impact fees based on the schedule effective July 1, 2000 is \$10,196,250, which is lower than the proportionate share estimate.

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

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

b. *Mitigation Options*

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

(1) Traffic Mitigation Option 1

(a) Payment

All development within the project must pay roads impact fees in effect at the time of building permit issuance. In addition to roads impact fees, and prior to the issuance of the first building permit for vertical construction of any portion of the Regional Retail Center, the Developer must make a lump sum cash payment of \$4,573,750 in year 2002 dollars. This lump sum cash payment is intended to mitigate the transportation impacts associated with the Regional Retail Center and satisfy the proportionate share obligation that is due over and above road impact fees.

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

(b) Concurrency



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

(2) Traffic Mitigation Option 2<sup>4</sup>

(a) Payment

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

Concurrency certificates issued pursuant to this option will be effective until December 31, ~~2017~~2019<sup>7</sup>, or for three (3) years from the date a local development order is issued, whichever is later.

(b) Development Agreement

Exercise of traffic mitigation option 2 requires a Local Government Development Agreement executed pursuant to §163.3220, Florida Statutes, and Chapter 2, Article III of the Lee County Land Development Code. The Developer must submit a draft Development Agreement to Lee County within

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

<sup>7</sup> In Lee County, concurrency is reviewed at the time of local development order approval, which is independent of the DRI review process. However, the Developer submitted a traffic analysis for a new buildout scenario resulting from HB 7207 demonstrating that the DRI project will not significantly or adversely impact any of the relevant road segments. Based upon this analysis, concurrency vesting rights are~~were~~ extended to December 31, 2017. A subsequent analysis done with the 2013 NOPC resulted in an extension of concurrency vesting until December 31, 2019.

6 months of the adoption of the original DRI Development Order or prior to submittal of any local development order application for the Regional Retail Center or the Community Commercial Retail. The Development Agreement must be executed prior to issuance of a local development order allowing vertical construction anywhere on the site, excepting public uses mandated by this Development Order. The agreement must specify the payment schedule for the total proportionate share obligation in accordance with subparagraph (2)(a) above.

c. *Application of Payments*

(1) Cash.

The County will apply all impact fees and cash payments made by the DRI toward the non-site related improvements identified in Section D.1.b. In the alternative, the County will apply the fees toward improvements that relieve those roadways, provided those improvements are deemed necessary to maintain the County's adopted level of service standards. If the improvements identified in Section D.1.b are ultimately funded through other sources, in whole or in part, or deemed unnecessary to maintain the adopted level of service standards, Lee County may apply the impact fees and cash payments paid by the DRI to other improvements consistent with the requirements of Lee County LDC Chapter 2. Potential applications of the cash payment can be specified in the Development Agreement.<sup>8</sup>

(2) Pipelined Improvements.<sup>9</sup>

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<sup>8</sup> An Interlocal Agreement addressing the traffic impacts to the City of Bonita Springs precipitated by approval of the Coconut Point DRI was approved by the Board of County Commissioners on March 23, 2003. The Agreement required the County to: (1) conduct the Sandy Lane Alignment Study; (2) transfer \$2.184 million to the City for the DRI impacts to Old U.S. 41 between Rosemary Drive and the intersection of Old U.S. 41 with U.S. 41 and Pelican Colony Boulevard; (3) transfer \$138,000 for specified intersection improvements; and, (4) set the alignment of Sandy Lane between Pelican Landing Boulevard and the southern DRI boundary. As of November 2004, all requirements of the Interlocal Agreement have been fulfilled and the Interlocal is considered terminated by its own terms.

<sup>9</sup> The developer chose to pipeline improvements by constructing Sandy Lane Extension (now known as via Coconut Point) from Pelican Colony Boulevard to Corkscrew Road. Lee County accepted that portion of Sandy Lane Extension from Pelican Colony Boulevard to Williams Road for maintenance on January 16, 2007; and, the portion of Sandy Lane Extension from Williams Road to Corkscrew Road was accepted for maintenance on August 5, 2008.



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

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

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

maintenance in accordance with the requirements of the responsible jurisdiction.

d. *Buildout Extension*

(1) Requirement for Reanalysis

The original DRI Development Order approval indicated that extension of the buildout date beyond 2007 may alter the project's impact to the area road network. Under the Second DRI Development Order amendment, the Developer was obligated to file a complete traffic re-analysis in order to achieve an extension of the buildout date beyond December 2007. However, a three-year statutory extension of the buildout date was granted by 2007 legislation; and a two-year statutory extension of the buildout date was granted by 2009 legislation.

As a result of HB 7207, Executive Order Numbers 11-128 (extended by 11-172 and 11-202), 12-140 (extended by 12-192 and 12-217) and 12-199, and §252.363, Florida Statutes, the DRI buildout date was automatically extended to April 7, 2019. However, concurrency vesting was not automatically extended. The traffic analysis submitted by the Developer demonstrated that the DRI project will not significantly or adversely impact any of the relevant road segments up to December 31, 2017. A subsequent analysis included in the 2013 NOPC resulted in an extension of concurrency vesting until December 31, 2019. The extension of the buildout date to after April 7, 2019 ~~December 31, 2019~~ will, therefore, require an additional traffic assessment to Lee County DOT for review and approval.

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

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



Standard Rule in the Florida Administrative Code. Prior to conducting a reassessment analysis, the Developer must attend a transportation methodology meeting with the County, and other review agencies as necessary, to establish the appropriate methodology.

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

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

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

(2) Alternative for Reanalysis

(a) *Extension of Buildout.*<sup>12</sup>

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<sup>12</sup> The developer paid the lump sums required to exercise Mitigation Option 2 in December 2004 and December 2005. The second DRI Development Order Amendment adopted August 1, 2006 served to extend the buildout date to December 31, 2007. In accord with the terms of the original DRI Development Order approval, the one-year extension to 2007 was the maximum extension that could be approved without a complete traffic reanalysis. Adoption of HB7203 resulted in a three-year statutory extension of the DRI buildout date to December 31, 2010. The Developer submitted an abridged traffic analysis demonstrating that the concurrent status of the project could also be extended to December 31, 2010 because no additional roadways would be significantly or adversely impacted by the statutory extension of the buildout date.

If all or a part of the Regional Retail Center has received building permits prior to December 31, 2006, the Developer may choose to pay the traffic mitigation for some or all of the balance of the development through buildout in a lump sum at the time the extension application is approved. Full payment of the required mitigation pursuant to Mitigation Option 2 constitutes an election under this section. This section is not intended to supersede the standard submittal requirements for a typical Notice of Proposed Change under state law.

(b) *NOPC filed to extend buildout beyond 2012.*

If the entirety of the Coconut Point DRI is not built out by December 31, 2012, the NOPC requesting a buildout date extension must be accompanied by a complete cumulative traffic reanalysis, as contemplated by the June 15, 2005 RPC recommendation. The traffic impact analysis must date back to 2010 and address all relevant impacts moving forward from December 31, 2010.

### 3. **Comprehensive Plan Mitigation**

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

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A second statutory extension of the buildout date was granted to 2012 under SB 360 as adopted June 1, 2009. This second extension was not based upon additional traffic analysis due to the Board adoption of Resolution 09-06-22. Therefore, impacts from 2010 forward must be addressed in a subsequent extension of the buildout beyond 2012.

A third statutory extension of the buildout date was granted under HB 7207 and Executive Orders 11-128 and 12-140. With this third extension the Developer submitted a traffic analysis for a new buildout scenario demonstrating that the DRI project will not significantly or adversely impact any of the relevant road segments. Based upon this analysis, concurrency vesting was extended to December 31, 2017.

Concurrency vesting was subsequently extended to December 31, 2019 in the Seventh Amendment.



but the segment of US 41 from Koreshan Boulevard to Alico Road is projected to fail even after the six-lane improvement identified in paragraph D.1.b.

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

The costs for needed improvements beyond those planned in the 2020 Financially Feasible Plan are solely the responsibility of the Developer, and are treated much as a proportionate share obligation. In this case, the Developer has estimated that the provision of dual left turn lanes at a number of key intersections along the impacted segment of US 41 will improve the capacity enough to allow satisfactory operation. The Developer estimated that the cost of providing these turn lanes would be roughly \$692,000, not including the costs of maintenance of traffic, mobilization and permitting. The Developer's proportionate share of the cost of the turn lanes is \$170,000. This figure has been added to the project's DRI proportionate share, as noted above.

#### 4. Access and Site Related Improvements

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

#### 5. Committed Improvements<sup>13 14</sup>

<sup>13</sup> As of the date the Third DRI DO was adopted, many of the improvements identified as committed are complete. The completed improvements include Alico Road, Ben Hill Griffin/Treeline, Bonita Beach Road, Livingston/Imperial, Three Oaks from Coconut Road to Corkscrew Road, US 41 and Williams Road. Three Oaks from Corkscrew Road to Alico Road is currently under construction. Construction of Three Oaks Parkway from Alico to Daniels Parkway is delayed; and the Metro Parkway project is currently not funded.

<sup>14</sup> As of the date the Fifth DRI DO was adopted the following improvements were under construction: Metro Parkway Extension and the widening of a portion of I-75 to six lanes; and the segment of Three Oaks from Alico to Corkscrew is complete.

## Roadway Improvements

<u>Roadways</u>	<u>Start Year</u>	<u>Improvement</u>
Alico Road		
– US 41 to Seminole Gulf Railway	02	4 Lanes
– Seminole Gulf Railway to I-75 West Ramps	02	6 Lanes
Ben Hill Griffin Parkway/Treeline Avenue		
– Alico Road to Daniels Parkway	02	4 Lane Ext.
Bonita Beach Road		
- Imperial Street to I-75	03	6 Lanes
Livingston/Imperial Connection		
– Immokalee Road to Bonita Beach Road	U/C	2 Lane Ext.
Metro Parkway		
– U.S. 41/Alico Road to Ben Pratt/Six Mile Cypress Pkwy (including interchange)	04	6 Lane Ext.
Three Oaks Parkway		
– S. of Coconut Road to Williams Road	U/C	4 Lane Ext.
– Williams Road to Corkscrew Road	U/C	4 Lane Ext.
– Corkscrew Road to Alico Road	03	4 Lanes
– Alico Road to Daniels Parkway	03	4 Lane Ext.
US 41		
– Old 41 (Collier County) to N. of Bonita Beach Road	03	6 Lanes
- San Carlos Boulevard to Alico Road	U/C	6 Lanes
Williams Road		
– River Ranch Road to Three Oaks Parkway	02	2 Lane Ext.



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

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

6 Lane	Pratt/ Six Mile Cypress Pkwy
AND	
Three Oaks Ext- 4 Lane	Alico Rd. to Daniels Pkwy
or	
Treeline Ext.-4L	Alico Rd. to Daniels Pkwy.

## 6. Annual Transportation Monitoring Program

### a. *Design of Monitoring Program*

The transportation monitoring program will be designed in cooperation with the Lee County Department of Transportation, the Florida Department of Transportation (FDOT), the Southwest Florida Regional Planning Council (SWFRPC), and the Florida Department of Community Affairs (FDCA) prior to submittal of the first report. The methodology of the annual transportation monitoring report may be revised if agreed upon by all parties.

### b. *Submittal of Monitoring Report*

The Developer must submit an annual transportation monitoring report to the following entities for review and approval: Lee County Department of Transportation, FDOT, FDCA, and SWFRPC. The first monitoring report will be submitted one year after the effective date of the DRI Development Order.<sup>15</sup> The Developer must provide written notice to the above review agencies if the Developer concludes that a traffic monitoring report is not required because no traffic impacts have been created. Once the transportation monitoring report has been submitted, a report must be submitted annually thereafter until Project buildout, whether actual or declared.

### c. *Minimum Requirements for Report Contents*

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

<sup>15</sup> The first monitoring report was submitted in January 2004.



- (1) P.M. peak Signalization<sup>(2)(3)</sup> hour traffic counts with turning movements at the Project's access points onto U.S. 41, Coconut Road, Williams Road, Pelican Colony Boulevard and Sandy Lane, and on the external road segments and intersections identified in Paragraph D.1.b. (Traffic counts/volumes may be obtained from original traffic counts, public agency reports, other monitoring reports, and other available data.)
- (2) A comparison of field measured external Project traffic volumes to the 5,909 total P.M. Peak hour external (including 757 pass-by and 1,032 interzonal trip ends) project trip generation from all driveways onto U.S. 41, Coconut Road, Williams Road, Pelican Colony Boulevard and Sandy Lane assumed in the DRI analysis. If an interconnection is provided to The Brooks parcel at the southeast corner of U.S. 41 and Coconut Road, a methodology must be developed to identify pass-through trips generated by The Brooks parcel.
- (3) Estimated existing levels of service and needed improvements for the roads and intersections specified in Paragraph D.1.b. above.
- (4) Estimated future levels of service and needed improvements for the roads and intersections specified in Paragraph D.1.b. above, based on a one-year projection of future volumes. A summary of the status of road improvements assumed to be committed by Collier County, Lee County and FDOT.

d. *Implications*<sup>16</sup>

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

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<sup>16</sup> The statutory two-year extension granted under SB 360 did not serve to suspend the Developer's obligation to address impacts identified under this subsection in the event the monitoring report indicates a substantial deviation has occurred.

necessary to rebut the presumption may involve a comparison of Project trip distribution and assignment.

## **7. Pedestrian/Bicycle and Transit Facilities**

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

## **E. VEGETATION AND WILDLIFE/WETLANDS**

1. Impacts to the habitat value of the site (i.e. habitat utilized by dispersing juveniles and possible habitat available to adults occupying the Corkscrew area) must be considered during the permitting review process with the SFWMD and the Department of Army Corps of Engineers (ACOE). This impact must be assessed in terms of the type and function of the forested habitat on site, and the site's contribution as a connection between preserve lands to support wide-ranging and wetland dependent species. The Developer will coordinate with the U.S. Fish and Wildlife Service (USFWS) and Florida Fish and Wildlife Conservation Commission (FFWCC) to address the impacts the proposed project may have on habitat utilized by wide-ranging listed species including the Florida Panther and Florida Black Bear.

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

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

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

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

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



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

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

9. The existing flow-way is part of the Halfway Creek Watershed and headwaters. The 32.7 acre flow-way must be preserved and enhanced. An enhancement plan must be submitted as part of the local development order approval process. This plan must include a restoration planting plan for the 8.49± acres melaleuca dominated slash pine-cypress mixed wetland forest and the 6.84± acre area located in the southeast branch of the flow-way that was previously cleared/disturbed. The restoration planting plan, which is outside of the mitigation requirements under the existing permits, can be utilized as compensatory mitigation for additional wetland impacts during subsequent permitting review processes with the state and federal regulatory agencies.

#### **F. HURRICANE PREPAREDNESS**

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

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

- a. elevated above the Category 3 storm surge level;
- b. constructed in accordance with the requirements in Rule 9J-2.0257(6)(e), FAC, to withstand winds of at least one hundred twenty (120) miles per hour;
- c. all windows in the building are shuttered;

- d. equipped with an emergency power generator with adequate capacity to handle the following:
  - (1) ventilation fans;
  - (2) emergency lighting;
  - (3) life safety equipment (i.e., intercom, fire and smoke alarms); and
  - (4) refrigeration and cooking equipment.
- e. have an auxiliary potable water supply.

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

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

5. The Developer is also proposing to develop ~~440~~320 hotel or motel rooms, within the Coconut Point DRI. Prior to issuance of a local development order for the hotel/motel, the hotel/motel Developer must contact Lee County Emergency Management with respect to establishing written hurricane preparation and evacuation/sheltering procedures. These procedures must be reduced to a written plan, prepared by the hotel/motel Developer, and approved by Lee County Emergency Management prior to occupancy of the hotel/motel.

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

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



the identification of steps to minimize property damage and protect human life.

In order to use the above mitigation option, the Developer must provide a continuing hurricane awareness program and a hurricane evacuation plan. The hurricane evacuation plan must address and include, at a minimum, the following items: operational procedures for the warning and notification of all residents and visitors prior to and during a hurricane watch and warning period; a public awareness program that addresses vulnerability, hurricane evacuation, hurricane shelter alternatives including hotels, the locations of both the onsite hurricane shelters and onsite or offsite public shelters, and other protective actions that may be specific to the development; identification of who is responsible for implementing the plan; and other items as deemed appropriate. The plan must be developed in coordination with local emergency management officials. In order to use this mitigation option, the final plan must be found sufficient by the reviewing agencies and must address the recommendations provided by the reviewing agencies; or

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

#### **G. WASTEWATER MANAGEMENT/WATER SUPPLY**

1. The Developer will obtain a SFWMD permit for groundwater withdrawals for landscape irrigation, for irrigation well construction, as well as for any dewatering needed to construct the project lakes, roads or building foundations.

2. The Developer will utilize water conserving devices and methods necessary to meet the criteria established in the water conservation plan of the public water supply permit issued to Bonita Springs Utilities (BSU).

3. The Developer will coordinate with BSU or other water supplier to ensure that adequate potable water is available to meet the demands of the project.

4. The Developer will provide any necessary verification to the SFWMD that the Developer's plumbing and irrigation designs are consistent with SFWMD rules.

5. The Developer must demonstrate at the time of local development order approval that sufficient potable water and wastewater treatment capacity is available. If BSU cannot provide the necessary service, then the Developer must obtain service from an alternate provider with capacity or construct on-site interim facilities that satisfy BSU Standards. Interim facilities must be dismantled at the Developer's expense when service by BSU is available.

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

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

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

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

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

#### **H. COMPREHENSIVE PLAN**

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

#### **I. POLICE AND FIRE PROTECTION**

1. The Developer will ensure that first responders to the area are adequately trained by TECO/People Gas to address accidental natural gas releases from the natural



gas pipelines that are to be located on or adjacent to the site to ensure the safety of the residents and visitors to the area.

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

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

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

5. The Fire and EMS impacts of this project will be mitigated by the payment of impact fees in accordance with the schedules set forth in the LDC. However, the Developer must provide the Estero Fire Rescue District with an appropriate parcel (not less than 1 acre in size) for the location of a fire-rescue station and emergency medical services facility on the project site. Upon transfer of this site to the Fire District, the Developer will be entitled to fire impact fee credits in accordance with the LDC.<sup>17</sup>

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

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

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

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<sup>17</sup> The requirement to provide property to the Estero Fire Rescue District was satisfied by the recording of a deed at OR Book 4097 Page 0672, dated July 31, 2003.

## **J. EDUCATION**

1. The education impact of this project will be mitigated by the payment of school impact fees in accordance with the schedules set forth in the LDC. However, the Developer must provide a site at least five acres in size and appropriately located to accommodate the growing school needs in this area of the county. Upon transfer of this site to the School District, the Developer may be entitled to seek school impact fee credits in accordance with the LDC.<sup>18</sup>

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

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

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

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

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

C. Master Plan of Development. Map H, stamped received at the Zoning Counter on ~~April 11, 2007~~ May 10, 2013 and attached hereto as Exhibit "B", and is incorporated by reference. It is understood that because it is a concept plan it is very general. The Developer may modify the boundaries of development areas and the

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<sup>18</sup> Developer transferred two 5-acre parcels to the School Board (instr # 2008000042208) on February 14, 2008. School impact fee credits in the amount of \$280,000 were issued to DMM Development, LLC (acct # 200805851).



locations of internal roadways to accommodate topography, vegetation, market conditions, traffic circulation, or other site related conditions as long as the modifications meet local development regulations. This provision may not be used to reduce the size of wetland preserve areas. Precise wetland boundaries will be determined by the SFWMD, as delegated by the Department of Environmental Protection (FDEP) and the Army Corp of Engineers (ACOE).

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

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

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

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

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

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

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

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

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

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

K. Buildout and Termination Dates. The project has a buildout date of ~~April 7, 2019~~December 31, 2019, and a termination date of ~~April 7, 2025~~December 31, 2025. The termination date is based on the recognition that a local Development Order is valid for six years. No permits for development will be issued by the County subsequent to the termination date or expiration date unless the conditions set forth in §380.06(15)(g) are applicable.

L. Commencement of Physical Development. As of November 2004, commencement of substantial physical development of the project has occurred. Further development must occur in accordance with the development parameters and phasing schedule set forth in Exhibit C.

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

N. Credits Against Local Impact Fees. Pursuant to §380.06(16), Florida Statutes, the Developer may be eligible for credits for contributions, construction,



expansion, or acquisition of public facilities, if the Developer is also subject by local ordinances to impact fees or exactions to meet the same needs. However, no credit will be provided for internal or external site-related facilities required by County regulations, or to any off-site facilities to the extent those facilities are necessary to provide safe and adequate services to the development.

O. Protection of Development Rights. The project will not be subject to down-zoning, unit density reduction, or intensity reduction prior to ~~April 7, 2019~~December 31, 2019. If the County demonstrates at a public hearing that substantial changes have occurred in the conditions underlying the approval of this Development Order, or finds that the Development Order was based on substantially inaccurate information provided by the Developer, or that the change is clearly established by Lee County to be essential to public health, safety and welfare, then down-zoning, unit density reduction, or intensity reduction may occur. ~~[See 9J-2.025(3)(b)13]~~

P. Biennial Reports. The Developer must submit a report biennial to the Lee County Department of Community Development, the SWFRPC and Florida DCA on Form RPM-BSP-Annual Report-1. The content of the report must include the information set forth in Exhibit D, and must also be consistent with the rules of the FDCA. The first monitoring report must be submitted to the DRI coordinator for SWFRPC, DCA, and Lee County no later than one year after the effective date of this Development Order<sup>20</sup>. Further reporting must be submitted every two years for subsequent calendar years thereafter, until buildout, whether actual or declared. Failure to comply with this reporting procedure is governed by §380.06(18), Florida Statutes, which provides for the temporary suspension of the DRI Development Order.

The Developer must file the monitoring reports until actual or declared buildout of the project. The Simon Property Group is the party responsible for filing the 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 reporting requirement. Tenants or owners of individual lots or units have no obligation to comply with this reporting condition.

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

Q. Community Development District. The Developer might elect to petition for the formation of a Uniform Community Development District to serve all or a portion of the project pursuant to Florida Statutes, Chapter 190, as it may be in effect from time to time. Lee County hereby gives its approval that any such district may undertake the construction and/or funding of all or any of the mitigation and public infrastructure projects

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<sup>20</sup> The first monitoring report was submitted in January 2004.

for which the Developer is responsible under the terms of this development order, whether within or without the boundaries of the district, and including the payment of mitigation amounts provided for in this development order, as a co-obligor hereunder. This provision may not be construed to require the approval of any petition to form such a district, and in no event will the Developer be released from its obligations under this development order.

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

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



Commissioner Manning made a motion to adopt the Seventh Development Order Amendment, seconded by Commissioner Hall. The vote was as follows:

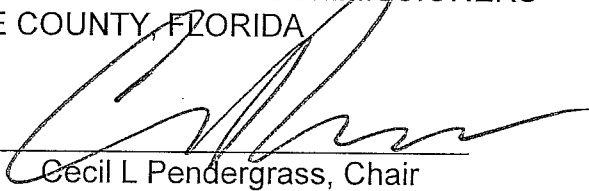
John Manning	Aye
Cecil L Pendergrass	Aye
Larry Kiker	Aye
Tammara Hall	Aye
Frank Mann	Aye

DULY PASSED AND ADOPTED this 5<sup>th</sup> day of August, 2013.

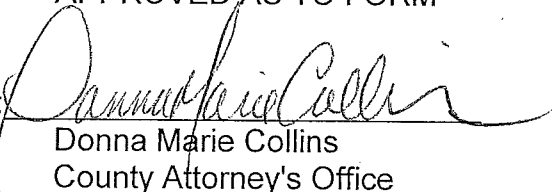
ATTEST:  
Linda Doggett, Clerk

BOARD OF COUNTY COMMISSIONERS  
LEE COUNTY, FLORIDA

BY:   
Deputy Clerk

By:   
Cecil L Pendergrass, Chair

APPROVED AS TO FORM

By:   
Donna Marie Collins  
County Attorney's Office

Exhibits:

- A. Legal Description
- B. Master Plan of Development (Map H) Stamped Received May 10, 2013
- C. Development Parameters and Phasing Schedule
- C-1 Land Use Conversion Table
- D. Biennial Monitoring Report Requirements
- E. Calculation of Road Impact Fee Obligation
- F. Pedestrian, Bicycle and Bus Stop Plan



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

Applicant's Legal Checked

by CSG 5/15/13  
Pg 1 thru 3

RECEIVED  
MAY 10 2013

HM PROJECT #1997079

05/03/13

REF. DWG. #A-994-3

PAGE 1 OF 3

LEGAL DESCRIPTION:

COMMUNITY DEVELOPMENT

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

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

AND

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

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

DCI 2013-00010  
Naples Fort Myers

DR12013-00003

EXHIBIT A



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

HM PROJECT #1997079

05/03/13

REF. DWG. #A-994-3

PAGE 3 OF 3

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

**NOTES:**

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

TOTAL PROPERTY AREA: 482.421 ACRES, MORE OR LESS.

BEARINGS REFER TO THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SECTION 9, TOWNSHIP 47 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA, AS BEING  $S.88^{\circ}56'17''W.$

**HOLE MONTES, INC.**

**CERTIFICATE OF AUTHORIZATION LB #1772**

BY *Thomas M. Murphy*  
THOMAS M. MURPHY

P.S.M. #5628  
STATE OF FLORIDA



REVISION No.		DESCRIPTION		DATE
1		REVISE SIGNING SURVEYOR		05/03/13
DRAWN BY:	DATE 1/01	SECTION 3,4,9,10	PROJECT No.	
BA	F.B.	TOWNSHIP 47	1997079B	
CHECKED BY:	PAGE	RANGE 25	DRAWING No.	
TJG	REFERENCE	SWFREV3-1 11x17	E-231	









DRI  
EXHIBIT C

Development Parameters and Phasing Schedule

		<u>Buildout</u>
Regional Retail Commercial	1,450,000* sq. ft.	2019
Community Retail	<del>188,900</del> <u>157,500</u> * sq. ft.	2019
Office	<del>383,333</del> <u>782,777</u> ** sq. ft.	2019
Hotel	<del>440</del> <u>320</u> Rooms	2019
Residential, Multi-family	<del>1,528</del> <u>1,214</u> du	2019
Assisted Living Facility	<del>200</del> <u>400</u> units	2019
Banks	8,000 sq. ft.	2019
Performing Arts Theater	<del>506 seats</del>	2019

\* Gross Leasable Area

\*\*Up to ~~68,333~~104,333 sq. ft., may be medical office



## DRI EXHIBIT C-1

Land Use Conversion Table

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

\*The purpose of this table is to permit one land use to be converted to a different use. The conversion may be approved only if the project's overall net new peak hour trips do not exceed ~~5,909~~6,467 trips based upon the parameters set forth in Condition II.D.1.a.

DRI  
EXHIBIT D

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 contained in the application for development approval that have been identified by the local government, the RPC, or the DCA as being significant;
- F. Any requests for substantial deviation determination that were filed in the reporting year and to be filed during the following year;
- G. An indication of a change, if any, in local government jurisdiction for any portion of the development since the development order was issued;
- H. A list of significant local, state, and federal permits that have been obtained or are pending by agency, type of permit, permit number and purpose of each;
- I. A statement that all persons have been sent copies of the report in conformance with Subsections 380.06(15) and (18), Florida Statutes;
- J. A copy of any recorded notice of the adoption of a development order or the subsequent modification of an adopted development order that was recorded by the Developer pursuant to Paragraph 380.06(15)(f), Florida Statutes.

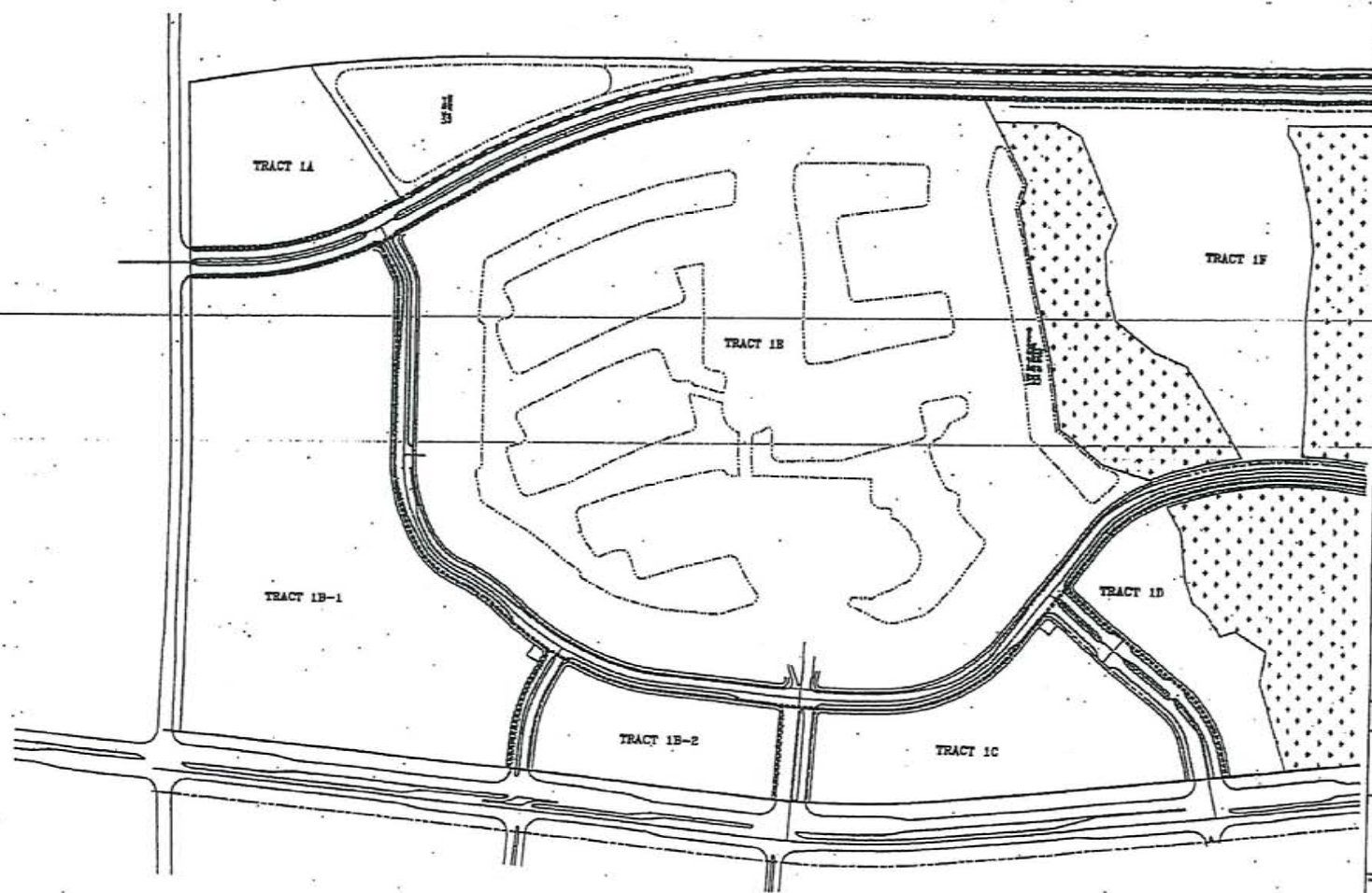
NOTE: The Florida Administrative Code specifically requires that the development order specify the requirements for the report. The Administrative Code requires that the report will be submitted to DCA, the RPC, and the local government on Form RPM-BSP-Annual Report-1.



DRI  
EXHIBIT E  
Calculation of Road Impact Fee Obligation<sup>21</sup>

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

<sup>21</sup> The calculations included here are based upon the impact fee schedule effective July 1, 2000. The fee schedule was used as a basis for establishing traffic mitigation option 1. The Developer did not ultimately choose option 1.



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

**SIMON**  
 Simon City Corp.  
 101 W. Washington Street  
 Indianapolis, IN 46204  
 (317) 461-1000

The Shops at  
 Coconut Point

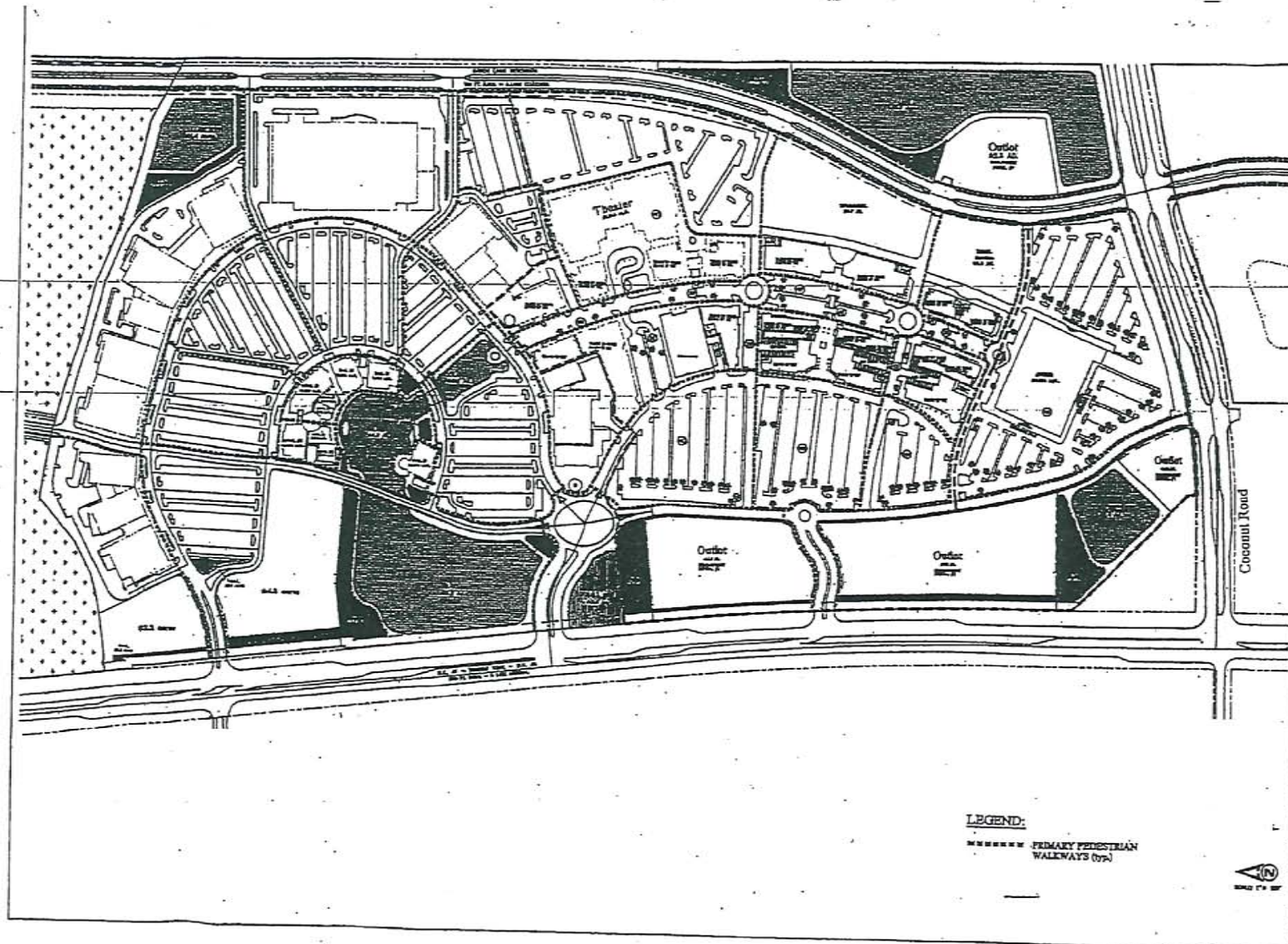
**BONITA SPRINGS  
 FLORIDA**

**PROPOSED PEDESTRIAN  
 CIRCULATION PLAN**

DATE	DESIGNED BY	CHECKED BY
10/1/00	10/1/00	10/1/00
10/1/00	10/1/00	10/1/00
10/1/00	10/1/00	10/1/00

SH160\_PED CIRC PLAN\_R000





**SIMON**  
 1001 Old City Center  
 100 W. Washington Street  
 Indianapolis, IN 46204  
 (317) 634-0000

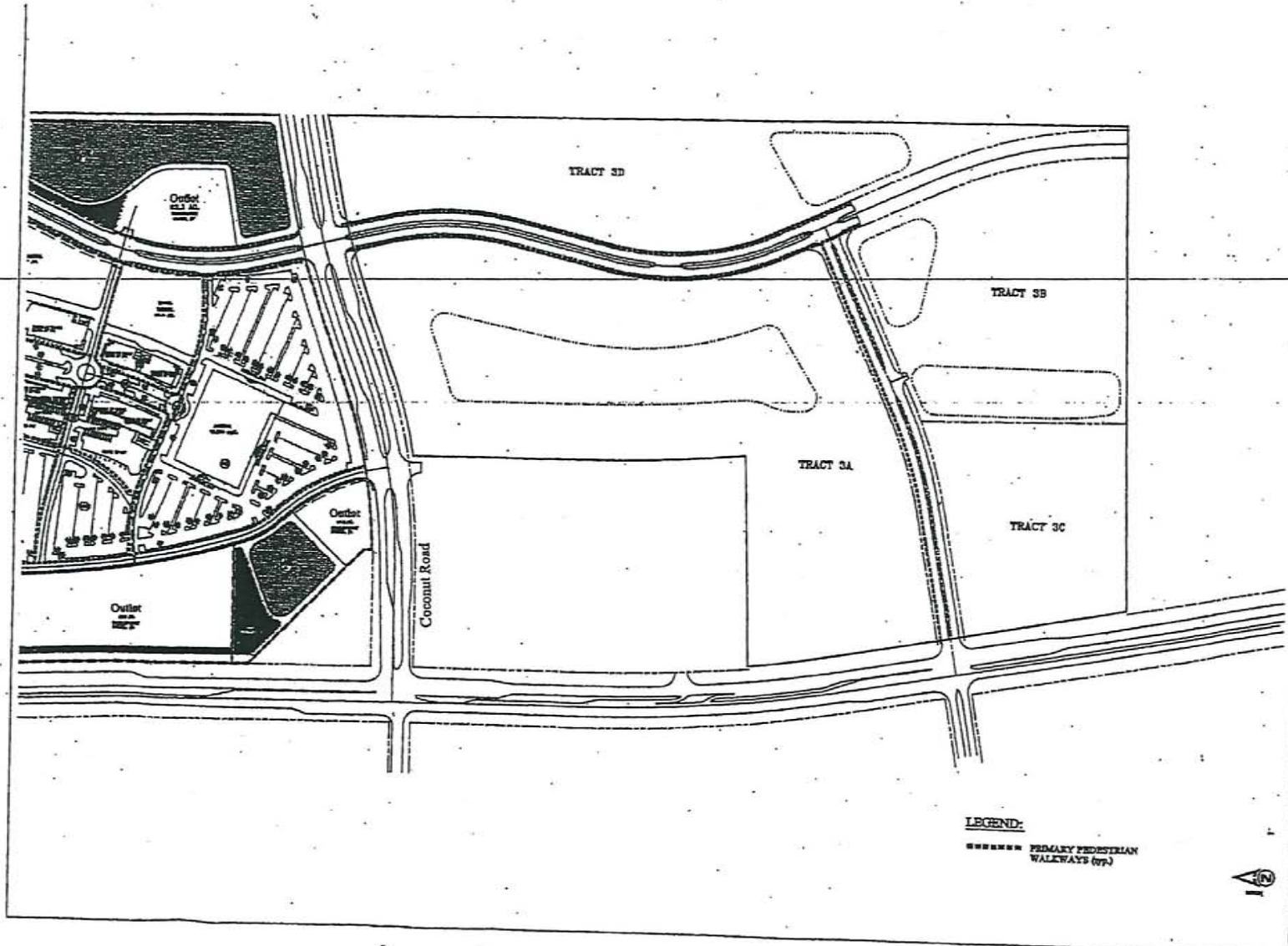
The Shops at  
 Coconut Point

**BONITA SPRINGS  
 FLORIDA**

**PROPOSED PEDESTRIAN  
 CIRCULATION PLAN**

DATE	BY	REVISION
01/14/00	PSD	000004

01/14/00\_PSD\_CIRC PLAN\_000004



TRACT 3D

TRACT 3B

TRACT 3A

TRACT 3C

Coconut Road

Outlet

Outlet

Outlet

**LEGEND:**

===== PRIMARY PEDESTRIAN WALKWAYS (PP)



**SIMON**  
 National City Center  
 135 W. Washington Street  
 Indianapolis, IN 46204  
 317.636.6666

The Shops at  
**BONITA SPRINGS**  
 FLORIDA

PROPOSED PEDESTRIAN  
 CIRCULATION PLAN

DATE:	10/10/2014
BY:	10/10/2014
SCALE:	1" = 100'

031140\_FED CIRC PLAN\_ISSUE4

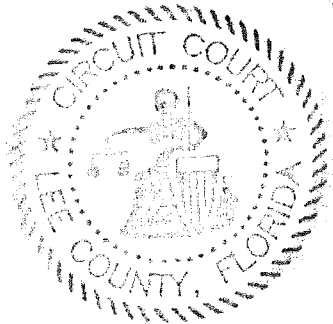


STATE OF FLORIDA

COUNTY OF LEE

I Linda Doggett, Clerk of Circuit Court, Lee County, Florida, and ex-Officio Clerk of the Board of County Commissioners, Lee County, Florida, do hereby certify that the above and foregoing is a true and correct copy of the Seventh Development Order Amendment for Coconut Point DRI, State DRI#09-2001-153, adopted by the Board of Lee County Commissioners at their meeting held on the 5th day of August, 2013.

Given under my hand and seal, at Fort Myers, Florida, this 7th day of August, 2013.



LINDA DOGGETT,  
Clerk of Circuit Court  
Lee County, Florida

By: Joyce Townsend  
Deputy Clerk