

RESOLUTION NUMBER Z-05-051

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

WHEREAS, Hawk's Haven Developers, L.L.C., filed an application on behalf of the property owner, Levitt and Sons at Hawk's Haven, L.L.C., and The School District of Lee County, to rezone a 1,978.44± acre parcel from Residential Planned Development (RPD) and Agricultural (Ag-2) to Residential Planned Development/Commercial Planned Development (RPD/CPD) in reference to River Hall (f/k/a Hawks' Haven RPD); and

WHEREAS, a public hearing was advertised and held on June 15, 2005, before the Lee County Zoning Hearing Examiner Diana Parker, who gave full consideration to the evidence in the record for Case #DCI2004-00054; and

WHEREAS, a second public hearing was advertised and held on September 19, 2005, before the Lee County Board of Commissioners, who gave full and complete consideration to the recommendations of the staff, the Hearing Examiner, the documents on record and the testimony of all interested persons.

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

SECTION A. REQUEST

The applicant filed a request to rezone a 1,978.44± acre parcel from RPD and AG-2 to RPD/CPD, to add 181 acres, 401 dwelling units, an elementary school site, and a town center consisting of a maximum of 45,000 square feet of commercial uses to the Hawk's Haven RPD, Zoning Resolution #Z-99-056. The request consists of a total of 1,999 dwelling units (single- and multi-family) with a golf course, a public school, and a maximum of 15,000 square feet of office and 30,000 square feet of retail uses. Maximum building heights are 45 feet (three stories) for residential uses, 35 feet (two stories) for commercial uses, and 60 feet (three stories) for recreational uses. No development blasting is requested. The property is located in the Rural (1,647.55 acres), Suburban (79.47 acres), and Wetlands (251.42 acres) Future Land Use Categories. The legal description is set forth 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. Development of this project must be consistent with the two-page Master Concept Plan (MCP) entitled "RIVER HALL: Formerly known as Hawk's Haven", stamped received January 6, 2006, last revised January 3, 2006, 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.
2. The following limits apply to the project and uses:

- a. SCHEDULE OF USES

RESIDENTIAL, GOLF & AMENITY SITES

Accessory Uses and Structures

Administrative Office

Agricultural Uses - See Conditions 3.h and 8.

Club - country and private

Consumption on Premises - limited to the clubhouse/amenity areas. No outdoor seating unless approved as a special exception (public hearing required).

Dwelling Units - maximum of 1,999 units to be comprised of single-family (R-1 or RMF-1), two-family attached (RMF-1), townhouse (RMF-1), multiple-family (RMF-1), zero-lot-line units (RMF-1)

Densities may not be shifted between future land use categories unless a new public hearing occurs and the allocation of density complies with provisions of Policy 5.1.11 of the Lee Plan.

Entrance Gates and Gatehouse

Essential Services

Essential Services Facilities, Group I

Excavation, Water Retention - No blasting and removal of excavated material off site is not permitted.

Fences and Walls

Golf Course - 36 holes, golf maintenance facility, cart barn and related accessory uses to a golf course. (See Condition 23 for additional requirements)

Golf and Tennis Pro Shops (limited to ancillary use in clubhouse)

Golf Driving Range

Golf Training Facility

Model Home and Model Unit - must be in compliance with LDC §34-1954

Model Display Center, must be in compliance with LDC §34-1955, limited to one which must be located in the sales center area shown on the MCP and must only serve this project.

Parking Lot, Accessory

Parks, Group I

Real Estate Sales Office - limited to sales of lots, homes or units within the development, and must be located in the clubhouse, amenity or model

unit sites.

Recreational Facilities - Private, On-site only

Residential Accessory Uses - In compliance with LDC §622(c)42 and LDC Article VII Division 2.

Signs, in compliance with LDC Chapter 30

Storage, Open, recreational vehicles, boats and similar items for residents only, limited to locations shown on the MCP and must be shielded behind a continuous visual screening at least eight feet in height when visible from any residential use, and six feet in height when visible from any street right-of-way or street easement. (See Condition 22 for additional requirements)

Temporary Uses

TOWN CENTER (CPD)

Maximum 15,000 sf office and maximum 30,000 sf retail within the Town Center CPD parcel only.

Accessory Uses and Structures

Administrative Office

Agricultural Uses - See Condition 3.h and 8.

Banks and Financial Establishments, Group I

Business Services, Group I

Consumption on Premises - Indoor only in conjunction with a Restaurant use only. No outdoor seating unless approved as a special exception (public hearing required).

Day Care Center, Adult & Child

Drive-through in connection with any approved use except drugstore/pharmacy

EMS, Fire or Sheriff's Station

Essential Services

Essential Service Facilities, Group I

Excavation, Water Retention - No blasting; Removal of excavated material off site not permitted.

Food Stores, Group I (may sell food and non-food products)

Hardware Store

Laundry or Dry Cleaning, Group I

Parking lot, accessory

Personal Services, Group I

Pharmacy/Drugstore - limited to one with a multi-occupancy complex only and no drive-through.

Place of Worship, Religious Facilities

Real Estate Sales Office

Repair Shop, Group I

Restaurant, Groups I, II, III

Specialty Retail Shops, Group I

Temporary Uses

ELEMENTARY SCHOOL SITE

Public Schools and Related Accessory Uses

b. SITE DEVELOPMENT REGULATIONS

Minimum Lot Area and Dimensions - Single-Family

Width: 45 feet
Depth: 120 feet
Lot Size: 5,400 sf

Minimum Lot Area and Dimensions - Multi-Family

Width: 75 feet
Depth: 100 feet
Lot Size: 10,000 sf

Minimum Lot Area and Dimensions - Commercial

Width: 200 feet
Depth: 100 feet
Lot Size: 20,000 sf

Minimum Setbacks

Single Family

Road - Palm Beach Blvd 25 feet/Private Roads 20 feet
Side - 5 feet, See Condition 2.b.i.
Rear- 15 feet
Water Body - 20 feet
Accessory - Per the LDC

Maximum Lot Coverage - 60 percent

2.b.i. Structures, including but not limited to, sidewalks, air conditioners, mechanical equipment, door stoops, walls, etc. may not be located within the required 5-foot side setback of each lot. Prior to issuance of Certificate of Occupancy on each lot, the Engineer of Record must certify that the drainage for each lot is built in compliance with the *typical lot grading detail* provided.

Two-Family Attached and Zero Lot Line

Road - Palm Beach Blvd 25 feet/Private Roads 20 feet
Side - 0/5 feet, See Condition 2.b.ii.

Rear - 15 feet
Water Body - 20 feet
Accessory - Per the LDC

Minimum Distance Between Buildings: 15 feet

Maximum Lot Coverage - 60 percent

2.b.ii. Side opposite zero-lot-line or two-family attached structure. Structures, including but not limited to, sidewalks, air conditioners, mechanical equipment, door stoops, walls, etc. may not be located within the required 5-foot side setbacks; or prior to issuance of Certificate of Occupancy on each lot, the Engineer of Record must certify that the drainage for each lot is built in compliance with the *typical lot grading detail* provided.

Townhouse & Multi-family

Road - Palm Beach Blvd 25 feet/Private Roads 20 feet
Side - N/A
Rear- 15 feet
Water Body - 20 feet
Accessory - Per the LDC

Minimum Distance Between Buildings - 20 feet

Maximum Lot Coverage - 60 percent

Clubhouse, Amenity & Golf Maintenance Buildings

Road - Palm Beach Blvd 25 feet/Private Roads 20 feet
Side - 15 feet
Rear- 15 feet
Water Body - 20 feet
Accessory - Per the LDC

Minimum Distance Between Buildings - 20 feet

Maximum Lot Coverage - 60 percent

Commercial

Road - Palm Beach Blvd 25 feet/Private Roads 20 feet
Side - 15 feet
Rear - 20 feet
Water Body - 20 feet
Accessory - Per the LDC

Minimum Distance Between Buildings - 20 feet

Maximum Lot Coverage - 45 percent

Maximum Height

45 feet/3 stories for Residential uses

35 feet/3 stories for Commercial uses

35 feet/3 stories for Recreational/Amenity sites on the perimeter of the subject property

Recreational/Amenity sites on the interior of the project may be 60 feet/three stories

c. GOLF DRIVING RANGE:

If the Golf Driving Range is open after daylight hours, all lighting must comply with LDC §34-936(g), be of the lowest intensity meeting life safety codes, and be shielded and directed away from adjacent residential areas.

3. The following conditions address environmental issues:

- a. The "American Alligator Management Plan" provided as part of the "Protected Species Management Plan for Schulman Parcel" counter stamped May 19, 1999 incorporated into this resolution of approval as Exhibit D. Prior to local development order approval, the location of the American Alligator Management Plan signage must be delineated on the development order plans for Division of Environmental Sciences' review and approval. Warning signs must be placed where there is potential for human/alligator interaction. These signs must discourage the feeding or harassment of alligators.
- b. The "Gopher Tortoise Management Plan" provided as part of the "Protected Species Management Plan For Shulman Parcel" counter stamped May 19, 1999 incorporated into this resolution of approval as Exhibit D. Any revisions to the Tortoise Management Plan are subject to Environmental Sciences' review and approval.
- c. The "Florida Burrowing Owl Management Plan" provided as part of the "Protected Species Management Plan For Schulman Parcel," counter stamped May 19, 1999, must be revised for Division of Environmental Sciences' review and approval at the time of local development order submittal. The plan must either commit to preserving the existing burrowing owl burrows in place with a buffer in accordance with LDC Appendix H, or commit to a detailed relocation management plan. The developer demonstrates it is necessary to impact the burrows, the management proposal must provide details about where appropriate replacement habitat for the owls will be provided, how the owls will be attracted to this area, and how it will be protected during construction activities on the site.

- d. The developer must submit a detailed Scrub Jay Management Plan to the Division of Environmental Sciences for review and approval at the time of local development order submittal. This plan must follow the general guidelines of the "Florida Scrub Jay Management Plan" provided as part of the "Protected Species Management Plan For Schulman Parcel," counter stamped May 19, 1999 and incorporated into this resolution of approval as Exhibit D. The finalized Scrub Jay Management Plan must be approved by the Florida Fish and Wildlife Conservation Commission (FWC) prior to local development order approval.
 - e. The developer must submit a detailed Sandhill Crane Management Plan to the Division of Environmental Sciences for review and approval at the time of local development order submittal.
 - f. Open space must be provided in accordance with the MCP. All individual tracts must provide a minimum of ten percent open space within the tract and may be met with private open space.
 - g. The developer must provide a minimum of 465 acres of indigenous preservation areas in substantial compliance with the MCP. The preserves must be delineated on the local development order plans when they are within or adjacent to the development phase or tract to be developed.
 - h. The developer must barricade all indigenous preservation areas to exclude cattle grazing within 60 days of approval of the planned development by the Board of County Commissioners.
 - i. Prior to local development order approval, the plans for any residential units on individual lots that abut a preserve must delineate a preserve boundary sign location at every other lot line and provide a detail of the sign for the Division of Environmental Sciences' Staff review and approval.
 - j. Every effort must be made in the final design of the golf course and residential tracts to preserve large native trees. The developer must schedule an on-site preconstruction meeting with Division of Environmental Sciences' Staff prior to the issuance of a vegetation removal permit for any phase of development to confirm preservation and barricading requirements prior to the initiation of site clearing.
4. The following recommendations are presented in order to mitigate future hurricane damage and loss of life, as well as to ensure compliance with Lee Plan objectives.
- a. The developer must establish a homeowners' or residents' association that will provide an educational program on an annual basis, in conjunction with the staff of Emergency Management, who will provide literature, brochures and speakers for Hurricane Awareness/Preparedness Seminars, describing the

risks of natural hazards. The intent of this recommendation is to provide a mechanism to educate residents concerning the actions they should take to mitigate the dangers inherent in these hazards.

- b. The developer must formulate an emergency hurricane notification and evacuation plan, which will be subject to review and approval by the Lee County Office of Emergency Management.
 - c. If access to this development or any portions thereof, is through a security gate or similar device that is not manned 24 hours a day, it must be equipped with an override strip installed in a glass covered box to be used by drivers of emergency vehicles to gain entry, consistent with LDC §34-1749.
 - d. The developer must cooperate with the Division of Public Safety/Emergency Management in determining and participating in a means to lessen hurricane shelter impacts on the County's hurricane preparedness process and public safety. Those "means" could include the provision of equipment, monies in lieu of equipment, or such other goods, materials or actions deemed appropriate by Emergency Management that results in the provision of additional shelters, or improvement of roads for use as additional evacuation routes. The choice of "means" will rest with the developer, so long as the choice adequately mitigates the adverse impacts.
5. The following conditions are included to address Lee Plan consistency issues:
- a. The portion of the property within the Rural future land use category must maintain densities of one dwelling unit per acre or less. No more than 1,648 dwelling units may be constructed in the Rural designated areas of the project.
 - b. Given the limited existing available Rural 2020 Planning Community Acreage Allocation, at the time of rezoning, the available Rural allocation must be determined by the Planning Division prior to any development order approval for residential use in the Rural portions of the site. No development order will be issued or approved if the acreage, when added to the acreage contained in the updated existing land use database, exceeds the limitation established by Lee Plan Table 1 (b), Acreage Allocation Table (per Lee Plan Policy 1.7.6). In order to develop more Rural acreage with residential uses, the Lee Plan must be amended to change the Rural residential acreage allocation for the Fort Myers Shores planning community in Table 1 (b). Adequate data and analysis to support this amendment must be submitted by the applicant at the time of the request for the Lee Plan amendment. Development in excess of the current Table 1 (b) allocations will not be permitted until Table 1 (b) is amended accordingly.
6. The following conditions are included to address the golf course:

- a. The developer of the golf course must use fertilizers with a low leaching potential (slow release). The fertilizers must not be applied after active growth of the turfgrass has ceased, and must be kept to the lowest reasonable levels; and
- b. To reduce sources of pollutants, especially nutrients and pesticides associated with the golf course, the golf course manager must implement a chemicals management plan that includes an integrated pest management (IPM) program and a nutrient management program so that nutrients and pesticides are used only when absolutely necessary. The program must address prevention, diagnosis, and limited treatment with pesticides when necessary rather than blanket treatment with broad spectrum pesticides as insurance against all pest species. The application of pesticides will involve only the purposeful and minimal application of pesticides, aimed only at identified targeted species. The regular widespread application of broad spectrum pesticides is prohibited. The IPM program must minimize the use of pesticides and must include the use of the US Department of Agriculture - Natural Resources Conservation Service (USDA-NRCS) Soil Pesticide Interaction Rating guide to select pesticides for use that have a minimum potential for leaching or loss from runoff. The nutrient management program must be based upon the USDA-NRCS Nutrient Management Standard and must include the use of soil tests to determine needed applications of nutrients. Only EPA-approved chemicals may be used. Turf managed areas (including fairways, tees, and greens) within 35 feet of wetlands or preserve areas are prohibited. This chemicals management plan must be submitted to and approved by Lee County Planning Division Staff prior to the development order approval.
- c. The golf course manager must coordinate the application of pesticides with the irrigation practices (the timing and application rates of irrigation water) to reduce runoff and the leaching of applied pesticides and nutrients.
- d. The utilization of a golf course manager licensed by the state to use restricted pesticides and experienced in the principles of IPM is required. The golf course manager is responsible for ensuring that the golf course fertilizers are selected and applied to minimize fertilizer runoff into the surface water and the leaching of those fertilizers into the groundwater.
- e. The storage, mixing, and loading of fertilizer and pesticides must be designed to prevent/minimize the pollution of the natural environment.
- f. The golf course must comply with the "Best Management Practices for Golf Course Maintenance Departments," prepared by the Florida Department of Environmental Protection, as amended.
- g. The golf course must be planted with a turfgrass cultivated variety that is drought and pest resistant, and that requires relatively low fertilizer use.

- h. The irrigation system must operate on an "as needed" basis through the utilization of weather forecasting and ongoing assessment of the moisture content of the soil.
 - i. All fairways, greens, and tees must be elevated above the 25-year flood level, and all greens must utilize underdrains. The effluent from these underdrains must be pre-treated prior to discharge into the balance of the project's water management system.
 - j. Stormwater run-off must be pre-treated through an acceptable recreated natural system or dry retention and water retention system, prior to discharging the run-off into existing lake or wetland (any aquatic) systems.
 - k. An annual monitoring report of ground water and surface water quality is required for the golf course operation. The monitoring program must include: testing to assess whether there are any herbicide, pesticide or fertilizer pollution of the water within the area of the golf course; identification of the locations for the ground water monitoring and testing on a map(s); testing and recording requirements. The developer must submit the test results with the monitoring report to the Lee County Planning Division. The monitoring program will be established and operated at the expense of the developer, or other comparable legal entity charged with the legal responsibility of managing the golf course. This plan will be evaluated in accordance with the directives of Chapter 17-302, F.A.C., water quality standards.
 - l. If groundwater or surface water pollution occurs, as that term is defined by the rules or regulations in effect at the time, and if the pollution is caused by the application of fertilizers, herbicides or pesticides to the golf course, the application must cease until the developer submits a revised management plan. If mitigation is necessary to address the pollution, the developer must implement a mitigation plan approved by Lee County.
7. Model units and homes are permitted in compliance with the following conditions:
- a. Each model must be a unique example. Multiple examples of the same unit are not permitted; and
 - b. All model sites must be designated on the development order plans; and
 - c. Prior to constructing model homes within this project, the lots upon which the model homes will be constructed will have been shown on a preliminary plat filed concurrently with the required local development order for this project. Such model home(s) will comply with all setbacks set forth within the Property Development Regulations for River Hall (f/k/a Hawk's Haven) or the LDC, whichever applies. Should setback problems arise after construction of a model

home, it will be the responsibility of the owner/developer to resolve the setback problem.

- d. Hours of operation for model units and real estate sales within the model units are limited to Monday through Sunday, 8 a.m. through 8 p.m.
8. AGRICULTURAL USES: Existing bona fide agricultural uses on this site are allowed only in strict compliance with the following:
- a. Bona fide agricultural uses that are in existence at the time the application for this project was filed, and as shown on Exhibit E attached hereto, may continue until approval of a local development order for the area of the project containing those uses.
 - b. Additional clearing of trees or other vegetation in agricultural areas is prohibited. Existing areas of bona fide agricultural use may be maintained, i.e., mowed, but not cleared or expanded. This prohibition is not intended to preclude County approved requests for the removal of invasive exotic vegetation.
 - c. Prior to issuance of a local development order, the property owner must provide written proof, subject to approval by the County Attorney's Office, of the following:
 - i. Termination of all agricultural use on any portion of the property included in the development order application/approval. Proof must include a sworn affidavit from the person or entity holding title to the subject property that specifically provides:
 - (1) the date the agricultural uses ceased;
 - (2) the legal description of the property subject to the development order approval;
 - (3) an affirmative statement that the owner acknowledges and agrees that all agricultural uses are illegal and prohibited on the property and that the owner covenants with the county that they will not allow any such uses on the property unless and until the property is re-zoned to permit such uses; and,
 - (4) that the affidavit constitutes a covenant between the owner and the county that is binding on the owner and their assignees and successors in interest.

The covenant must be properly recorded in the public records of the county at the owner's expense.

- ii. Termination of the agricultural tax exemption for any portion of the property included in the development order application/approval. Proof as to termination must include of a copy of the request to terminate the tax exemption provided to the Property Appraiser.
9. Construction traffic is prohibited on Hickey Creek Road.
10. Buildings exceeding 35 feet in height must maintain additional building separation as regulated by LDC §34-2174(a).
11. Approval of this zoning request does not address access onto S.R. 80, since Lee County has no jurisdiction over that roadway. The developer must pursue this access approval with the Florida Department of Transportation (FDOT). Approval of this zoning request does not address mitigation of the project's vehicular or pedestrian traffic impacts. Additional conditions consistent with the Lee County LDC may be required to obtain a local development order.
12. Approval of this rezoning does not give the developer an undeniable right to receive local development order approval. Future development order approvals must satisfy the requirements of the Lee Plan Planning Communities Map and Acreage Allocations Table, Map 16 and Table 1(b).
13. This development must comply with all of the requirements of the LDC at the time of local development order approval, except as may be granted by deviations approved as part of this planned development.
14. The developer is required to design the project in a manner that will provide the internal "outparcels" (separate tracts encapsulated by the project property) the ability to obtain reasonable and practicable access through the subject property, unless the developer provides a circuit court order indicating that the internal outparcels are not legally entitled to access through the subject property. However, this rezoning does not obviate the developer's responsibility to provide access to the internal "outparcels" in accordance with Florida law.
15. If the developer constructs structures other than conventional single-family homes within 100 feet of the "outparcels," the developer must provide a 25-foot-wide enhanced vegetative buffer completely around the outparcel. In addition, the enhanced vegetative buffer must utilize native vegetation, indigenous to the plant community in which it is to be planted. The vegetation must be installed prior to vertical construction and it must be installed according to the following density and size:

- a. Six trees per 100 linear feet - At installation, trees must be a minimum of 12 to 14 feet tall, with a 2-1/2 inch minimum caliper and a 5-foot minimum canopy. No palm trees, or completely deciduous trees, may be used to meet the requirements of this enhanced buffer.
 - b. 33 shrubs per 100 linear feet - 1) At installation, all shrubs must be 18 to 24 inches in height, 3-gallon pots, and spaced 30 to 36 inches on center; and 2) all shrubs used to meet the enhanced buffer requirements must reach a mature height in excess of six feet under normal growing conditions. If these "outparcels" come under the control of the developer prior to construction within the 100-foot-wide area, then compliance with this condition is not required.
- 16. Vehicle access from the northern boundary of the subject property over and across Hickory Creek Road is prohibited.
- 17. Accessory uses must be located on the same tract, parcel or outparcel where a principal use is located. Accessory uses must be incidental and subordinate to the principal use of the tract, parcel or outparcel.
- 18. No development blasting is permitted as part of this project unless approved at a subsequent public hearing as an amendment to the planned development.
- 19. All required buffers must utilize 100 percent native vegetation.
- 20. Upon passage of this Zoning Resolution, Zoning Resolution #Z-99-056 and Administrative Amendment ADD2004-00067 are null and void.
- 21. The school site is limited to a public school operated by the School District of Lee County.
- 22. Outdoor storage areas must be in compliance with §34-3001, *et seq*, of the Lee County LDC, with the additional requirements as outlined on page 2 of 2 of the attached MCP, including a 200-foot perimeter setback and enhanced buffer.
- 23. A plan showing landscaping in accordance with page 2 of 2 of the approved MCP must be submitted and approved prior to the issuance of a development order for the golf course maintenance facility and amenity center.
- 24. Signage referencing the town center is prohibited within 50 feet of the right-of-way of Palm Beach Boulevard (State Road 80).
- 25. BUFFERS.
 - a. A Type "B" buffer must be added to the MCP for the "Town Center" portion bordering agriculturally-zoned property to the east, in accordance with the LDC.

This buffer will not include the existing conservation areas shown on the approved MCP.

- b. A Type "D" buffer must be added to the MCP on the "spine" Road for the commercial Town Center portion of the property, in accordance with the LDC.
26. The MCP must be amended to include a 2nd full access that crosses the existing 50-foot-wide canal to the south to connect into 75th Street West in Lehigh Acres. The developer may show the access at any location along the southern boundary of the property except where the MCP shows conservation easements. The developer is not obligated to construct this access until Lee County has issued a certificate of occupancy for 1,598 homes within the project. Responsibilities regarding improvements to 75th Street West or other abutting Lehigh roads will be determined at the time the access is approved for construction. The County will work with the developer to obtain approval to bridge the 50-foot-wide canal.
 27. Approval of this zoning request does not address mitigation of the project's vehicular or pedestrian traffic impacts. Additional conditions consistent with the Lee County LDC may be required to obtain a local development order.

The developer may obtain the necessary development orders when the project meets Lee County Concurrency requirements. This approval may require either road improvements or a reduction in requested intensity and density.

SECTION C. DEVIATIONS:

1. Deviation (1) seeks relief from the LDC §10-385(d)(3)a requirement to provide a maximum fire hydrant spacing of 800 feet in the one- and two-dwelling unit area, to eliminate this requirement in areas along the "spine" road where no homes exist. This deviation is APPROVED.
2. Deviation (2) Withdrawn.
3. Deviation (3) seeks relief from the LDC §10-329(d)(4) requirement to provide lake banks to be sloped at a maximum 4:1 slope, to allow bulkheads for up to 25 percent of the shoreline of lake banks. This deviation is APPROVED.
4. Deviation (4) seeks relief from the LDC §34-2194(b) requirement to provide a 25-foot setback from bodies of water, to allow 20-foot setbacks for the manmade lakes to be consistent with the existing development orders and permits. This deviation is APPROVED.

SECTION D. EXHIBITS AND STRAP NUMBER:

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

- Exhibit A.1: Legal description of the overall property
- Exhibit A.2: Legal description of the CPD property
- Exhibit A.3: Legal description of the RPD property
- Exhibit B: Zoning Map (subject parcel identified with shading)
- Exhibit C: The Master Concept Plan stamped Received January 6, 2006, last revised January 3, 2006
- Exhibit D: Protected Species Management Plan for Schulman Parcel (American Alligator Management Plan; Gopher Tortoise Management Plan; and Scrub Jay Management Plan)
- Exhibit E: Affidavit of bona fide agricultural uses

The applicant has indicated that the STRAP numbers for the property are: 25-43-26-00-00121.0000, 26-43-26-00-00011.0000, 26-43-26-00-00011.0010, 27-43-26-00-00003.0010, 27-43-26-00-00003.0020, 27-43-26-00-00016.0000, 34-43-26-00-00001.0010, 34-43-26-00-00001.0020, 36-43-26-00-00001.0000, 35-43-26-00-00001.0010, 35-43-26-00-00001.0000, 35-43-26-00-00002.0000.

SECTION E. FINDINGS AND CONCLUSIONS:

1. The applicant has proven entitlement to the rezoning by demonstrating compliance with the Lee Plan, the LDC, and any other applicable code or regulation.
2. The rezoning, as approved:
 - a. meets or exceeds all performance and locational standards set forth for the potential uses allowed by the request; and,
 - b. is consistent with the densities, intensities and general uses set forth in the Lee Plan; and,
 - c. is compatible with existing or planned uses in the surrounding area; and,
 - d. will not place an undue burden upon existing transportation or planned infrastructure facilities and will be served by streets with the capacity to carry traffic generated by the development; and,
 - e. will not adversely affect environmentally critical areas or natural resources.
3. The rezoning satisfies the following criteria:
 - a. the proposed use or mix of uses is appropriate at the subject location; and

- b. the recommended conditions to the concept plan and other applicable regulations provide sufficient safeguard to the public interest; and
 - c. the recommended conditions are reasonably related to the impacts on the public interest created by or expected from the proposed development.
4. Urban services, as defined in the Lee Plan, are, or will be, available and adequate to serve the proposed land use.
 5. The approved deviations, as conditioned, enhance achievement of the planned development objectives, and preserve and promote the general intent of LDC Chapter 34, to protect the public health, safety and welfare.

The foregoing resolution was adopted by the Lee County Board of Commissioners upon the motion of Commissioner Judah, seconded by Commissioner Hall and, upon being put to a vote, the result was as follows:

Robert P. Janes	Absent
Douglas R. St. Cerny	Aye
Ray Judah	Aye
Tammara Hall	Aye
John E. Albion	Aye

DULY PASSED AND ADOPTED this 19th day of September 2005.

ATTEST:
CHARLIE GREEN, CLERK

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: Michelle S. Cooper
Deputy Clerk

BY: Tammara Hall
Tammara Hall, Chairwoman

Approved as to form by:

Dawn E. Perry-Lehnert
Dawn E. Perry-Lehnert
County Attorney's Office



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DCI 2005-00054

RECEIVED
MAR 31 2005Legal Description

Parcel in

Sections 25, 26, 27, 34, 35 and 36, Township 43 South, Range 26 East
Lee County, Florida

A tract or parcel of land lying in Sections 25, 26, 27, 34, 35 and 36, Township 43 South, Range 26 East, Lee County, Florida, said tract or parcel of land being more particularly described as follows:

Beginning at the Southeast corner of said Section 34 run N00°59'34"W along the East line of the Southeast Quarter (SE 1/4) of said Section 34 for 2,654.70 feet to the East Quarter Corner of said Section 34; thence run S89°15'30"W along the North line of the South Half (S 1/2) of said Section 34 for 5,100.92 feet to a point on a non-tangent curve at the intersection with the Easterly line of lands described in a deed recorded in Official Record Book 4107, at Page 886, Lee County Records; thence run northwesterly along said Easterly line and along an arc of curve to the left of radius 240.00 feet (delta 21°30'24") (chord bearing N34°21'11"W) (chord 89.56 feet) for 90.09 feet to a point of tangency; thence run N45°06'23"W along said Easterly line for 156.71 feet to a point of curvature; thence run northwesterly along said Easterly line and along an arc of curve to the left of radius 240.00 feet (delta 06°54'55") (chord bearing N48°33'50"W) (chord 28.95 feet) for 28.97 feet to an intersection with the West line of the Northwest Quarter (NW 1/4) of said Section 34; thence run N00°49'55"W along said West line for 2,437.57 feet to the Southwest Corner of said Section 27; thence run N00°49'48"W along the West line of the Southwest Quarter (SW 1/4) of said Section 27 for 659.59 feet to the Southwest corner of the Northwest Quarter (NW 1/4) of the Southwest Quarter (SW 1/4) of the Southwest Quarter (SW 1/4) of said Section 27; thence run N89°06'39"E along the South line of the North Half (N 1/2) of the Southwest Quarter (SW 1/4) of the Southwest Quarter (SW 1/4) of said Section 27 for 1,316.66 feet to the Southeast corner of the Northeast Quarter (NE 1/4) of the Southwest Quarter (SW 1/4) of the Southwest Quarter (SW 1/4) of said Section 27; thence run N00°50'33"W along the East line of said Fraction for 660.48 feet to the Northeast Corner of said Fraction; thence run S89°04'20"W along the North line of said Fraction for 659.26 feet to the Southeast corner of the Southwest Quarter (SW 1/4) of the Northwest Quarter (NW 1/4) of the Southwest Quarter (SW 1/4) of said Section 27; thence run N00°50'10"W along the East line of said Fraction for 660.23 feet to the Northeast Corner of said Fraction; thence run S89°02'22"W along the North line of said Fraction for 659.19 feet to an intersection with the West line of the Southwest Quarter (SW 1/4) of said Section 27; thence run N00°49'48"W along said West line for 659.85 feet to the West Quarter Corner of said Section 27; thence run N00°47'16"W along the West line of the Northwest Quarter (NW 1/4) of said Section 27 for 1,328.51 feet to an intersection with the Southerly right of way line of State Road 80, (150 feet wide); thence run N77°10'14"E along the Southerly right of way line for 2,020.27 feet to an intersection with the West line of the Southeast Quarter (SE 1/4) of the Northeast Quarter (NE 1/4) of the Northwest Quarter (NW 1/4) of said Section 27; thence run S00°50'17"E along said West line for 421.56 feet to the Southwest Corner of said Fraction, being designated as POINT "A"; thence run

DCI 2004-00054

N88°54'52"E along the South line of said Fraction for 658.74 feet to an intersection with the West line of the East Half (E ½) of said Section 27; thence run S00°51'17"E along said West line for 3,420.35 feet to an intersection with the North line of the South 50 feet of said former Seaboard All Florida Railroad right of way (100 feet wide); thence run N89°00'08"E along said North line for 7,949.61 feet to an intersection with the West line of the Southwest Quarter (SW 1/4) of said Section 25; thence run N00°33'55"W along said West line for 50.00 feet to an intersection with the Northerly right of way line of the former Seaboard All Florida Railroad (100 feet wide); thence run N89°00'08"E along said right of way line for 5,295.61 feet to an intersection with the East line of the Southeast Quarter (SE 1/4) of said Section 25; thence run S01°39'28"E along said East line for 629.62 feet to the Northeast Corner of said Section 36 being designated as POINT "B"; thence run S00°16'51"E along the East line of the Northeast Quarter (NE 1/4) of said Section 36 for 2,647.36 feet to the East Quarter Corner of said Section 36; thence run S00°45'42"E along the East line of the Southeast Quarter (SE 1/4) of said Section 36 for 2,644.68 feet to the Southeast Corner of said Section 36; thence run S89°12'27"W along the South line of the Southeast Quarter (SE 1/4) of said Section 36 for 2,644.62 feet to the South Quarter Corner of said Section 36; thence run S89°11'43"W along the South line of the Southwest Quarter (SW 1/4) of said Section 36 for 2,643.63 feet to the Southeast Corner of said Section 35; thence run S88°54'06"W along the South line of the Southeast Quarter (SE 1/4) of said Section 35 for 2,643.62 feet to the South Quarter Corner of said Section 35; thence run S88°53'41"W along the South line of the Southwest Quarter (SW 1/4) of said Section 35 for 2,642.70 feet to the POINT OF BEGINNING.

LESS and EXCEPT the following described parcels:

From the point designated as POINT "A" run S88°54'52"W along the South line of the Northeast Quarter (NE 1/4) of the Northwest Quarter (NW 1/4) of said Section 27 for 858.74 feet to the Northeast Corner of the Northeast Quarter (NE 1/4) of the Southwest Quarter (SW 1/4) of the Northwest Quarter (NW 1/4) of said Section 27 and POINT OF BEGINNING.

From said Point of Beginning run S00°49'17"E along the East line of said Fraction for 660.13 feet to the Southeast Corner of said Fraction; thence run S88°57'38"W along the South line of said Fraction for 658.93 feet to the Southwest Corner of said Fraction; thence run N00°48'16"W along the West line of said Fraction for 659.60 feet to the Northwest Corner of said Fraction; thence run N88°54'52"E along the North line of said Fraction for 658.74 feet to the POINT OF BEGINNING.

AND

From the point designated as POINT "B" run S88°44'46" along the South line of the Southeast Quarter (SE 1/4) for said Section 25 for 2,674.22 feet to the South Quarter Corner of said Section 25, run S89°12'44"W along the South line of the Southwest Quarter (SW 1/4) of said Section 25 for 2,633.46 feet to the Southeast Corner of said Section 26 and POINT OF BEGINNING.

From said Point of Beginning run S89°14'15"W along the South line of the Southeast Quarter (SE 1/4) of said Section 26 for 1,327.50 feet to the Southwest Corner of the Southeast Quarter (SE 1/4) of the Southeast Quarter (SE 1/4) of said Section 26; thence run N00°23'46"W along the West line of said Fraction for 526.48 feet to an intersection with the Southerly right of way line of the former Seaboard All Florida Railroad (100 feet wide); thence run N89°00'08"E along said Southerly right of way line for 1,325.98 feet to

RECEIVED
MAR 31 2005

an intersection with the East line of the Southeast Quarter (SE 1/4) of said Section 26; thence run S00°33'55"E along said East line for 531.91 feet to the POINT OF BEGINNING.

Containing a Total Area of 1,978.44 Acres, more or less.

Bearings hereinabove mentioned are State Plane for the Florida West Zone (1983/90 adjustment) and are based on the west line of the Northwest Quarter (NW 1/4) of said Section 34 to bear N00°49'55"W.

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MAR 31 2005

DCI2004-00054

Barraco

and Associates, Inc.

www.barraco.net
Civil Engineers, Land Surveyors and Planners

DC12004-00054

RECEIVED
MAY 23 2005

DESCRIPTION

Parcel in

Section 27, Township 43 South, Range 26 East
Lee County, Florida

PERMIT COUNTER

A tract or parcel of land lying in Section 27, Township 43 South, Range 26 East, Lee county, Florida, said tract or parcel of land being more particularly described as follows:

Commencing at the North Quarter Corner of said Section 27 run S00°51'17"E along the East line of the West Half (W 1/2) of said Section 27 for 1322.39 feet to the Southeast corner of the Southeast Quarter (SE 1/4) of the Northeast Quarter (NE 1/4) of the Northwest Quarter (NW 1/4) of said Section 27 and the POINT OF BEGINNING.

From said Point of Beginning continue S00°51'17"E along said East line for 897.03 feet; thence run S89°08'43"W for 678.49 feet to an intersection with the Northwesternly line of Conservation Easement CE-5, described in a deed recorded in Official Record Book 3492, at Page 568, Lee County Records; thence run N50°41'11"W leaving said Northwesternly line for 752.69 feet; thence run N00°49'17"W for 199.39 feet to an intersection with the Northerly line of Conservation Easement CE-2, described in a deed recorded in Official Record Book 3492, at Page 568, Lee County Records; thence run N56°53'01"E leaving said Northerly line for 164.06 feet to a point on a non-tangent curve and intersection with the Westerly right of way line of a Proposed Road described in a deed recorded in Official Record Book 4326, at Page 1851, Lee County Records; thence run northwesterly along an arc of curve to the right of radius 550.00 feet (delta 31°54'17") (chord bearing N28°46'55"W) (chord 302.32 feet) for 306.26 feet to a point of tangency; thence run N12°49'46"W along said Westerly right of way line for 146.41 feet to an intersection with the Southerly right of way line of State Road 80, (150 feet wide); thence run N77°10'14"E along said Southerly right of way line for 641.66 feet to an intersection with the West line of the Southeast Quarter (SE 1/4) of the Northeast Quarter (NE 1/4) of the Northwest Quarter (NW 1/4) of said Section 27; thence run S00°50'17"E along said West line for 421.56 feet to the Southwest Corner of said Fraction thence run N88°54'52"E along the South line of said Fraction for 658.74 feet to the POINT OF BEGINNING.

Containing 27.05 acres, more or less.

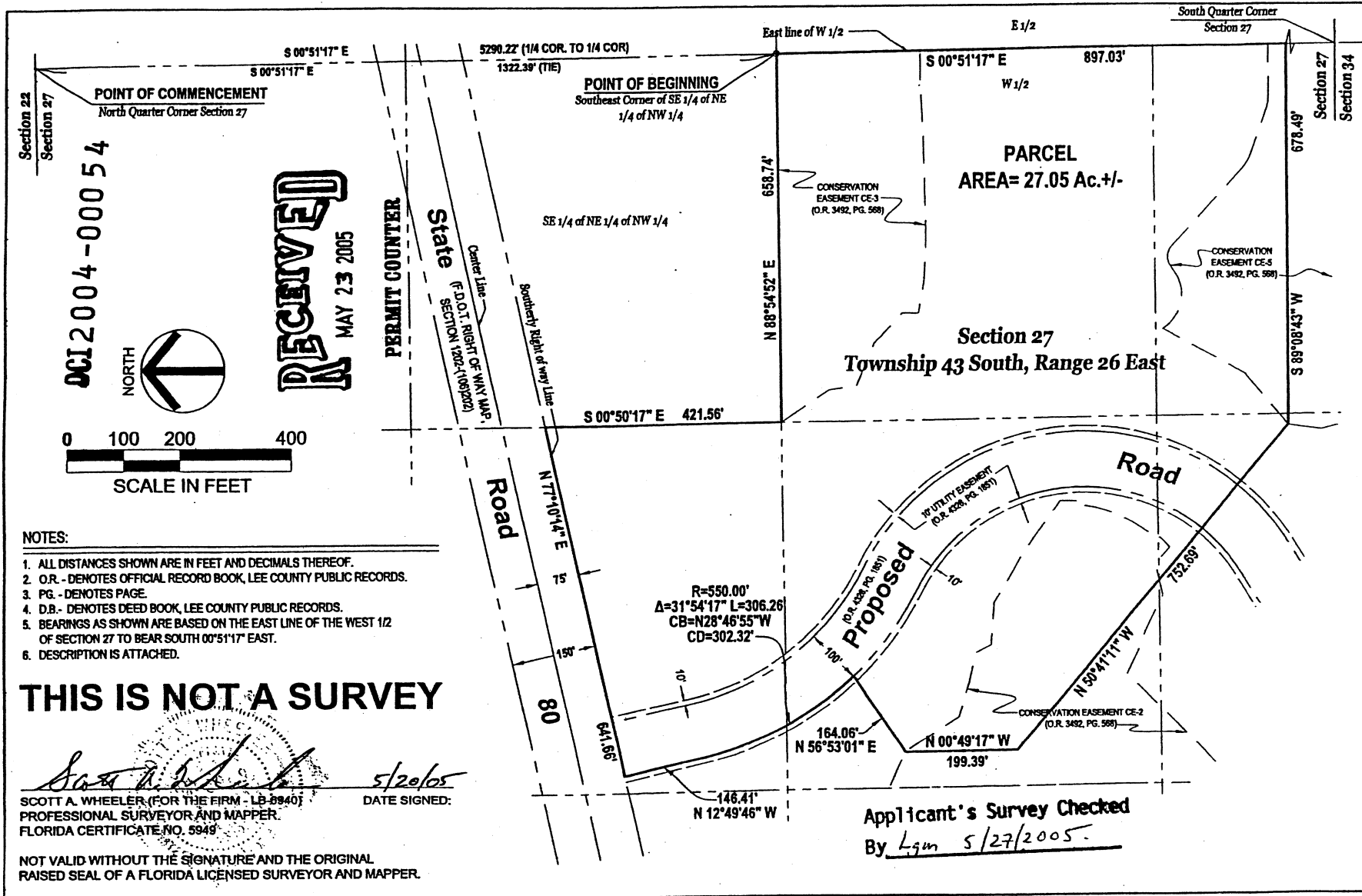
Bearings hereinabove mentioned are State Plane for the Florida West Zone (1983/90 adjustment) and are based on the East line of the West Half (W 1/2) of said Section 27 to bear S00°51'17"E.

Applicant's Legal Checked

by Lgm 5/27/2005

Scott A. Wheeler 5/20/05
Scott A. Wheeler (For The Firm)
Professional Surveyor and Mapper
Florida Certificate No. 3929

L:\21988 - Hawks Haven\DESC\21988SK2odesc.doc



Barraco
and Associates, Inc.
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LAND PLANNING - LANDSCAPE DESIGN
www.barraco.net
3711 HUNTER BOULEVARD
PORT MYERS, FLORIDA 33908-3808
PHONE (888) 461-3178
FAX (888) 461-3188
FLORIDA CERTIFICATES OF AUTHORIZATION
ENGINEERING: 7888 - SURVEYING: LB-4048

LandMar
GROUP, LLC
2306 NORTH WEST SHORE BOULEVARD
SUITE 125
TAMPA, FLORIDA 33607
PHONE (813) 287-4138
FAX (813) 754-4200

HAWK'S HAVEN

PART OF SECTIONS 25, 26, 27, 28 AND 29
TOWNSHIP 43 SOUTH
RANGE 26 EAST
LEE COUNTY, FLORIDA

PROJECT SURVEYOR
SCOTT A. WHEELER
Professional Surveyor and Mapper
Florida Certificate No. 5949

FILE NAME: 20050520
LOCATION: 20050520
PLAN DATE: 5/20/05
PLAN BY: SCOTT A. WHEELER
CHECKED BY: LGM
SCALE: 1"=400'
FIELD BOOK: 20050520

SKETCH TO ACCOMPANY DESCRIPTION

PROJECT FILE NO. 20050520
SHEET NUMBER 2 OF 2

DESCRIPTION

RPD

Parcel in

Sections 25, 26, 27 34, 35 and 36, Township 43 South, Range 26 East
Lee County, Florida

A tract or parcel of land lying in Sections 25, 26, 27 34, 35 and 36, Township 43 South, Range 26 East, Lee County, Florida, said tract or parcel of land being more particularly described as follows:

Beginning at the Southeast corner of said Section 34 run $N00^{\circ}59'34''W$ along the East line of the Southeast Quarter (SE $\frac{1}{4}$) of said Section 34 for 2,654.70 feet to the East Quarter Corner of said Section 34; thence run $S89^{\circ}15'30''W$ along the North line of the South Half (S $\frac{1}{2}$) of said Section 34 for 5,100.92 feet to a point on a non-tangent curve at the intersection with the Easterly line of lands described in a deed recorded in Official Record Book 4107, at Page 886, Lee County Records; thence run northwesterly along said Easterly line and along an arc of curve to the left of radius 240.00 feet (delta $21^{\circ}30'24''$) (chord bearing $N34^{\circ}21'11''W$) (chord 89.56 feet) for 90.09 feet to a point of tangency; thence run $N45^{\circ}06'23''W$ along said Easterly line for 156.71 feet to a point of curvature; thence run northwesterly along said Easterly line and along an arc of curve to the left of radius 240.00 feet (delta $06^{\circ}54'55''$) (chord bearing $N48^{\circ}33'50''W$) (chord 28.95 feet) for 28.97 feet to and intersection with the West line of the Northwest Quarter (NW $\frac{1}{4}$) of said Section 34; thence run $N00^{\circ}49'55''W$ along said West line for 2,437.57 feet to the Southwest Corner of said Section 27; thence run $N00^{\circ}49'48''W$ along the West line of the Southwest Quarter (SW $\frac{1}{4}$) of said Section 27 for 659.59 feet to the Southwest corner of the Northwest Quarter (NW $\frac{1}{4}$) of the Southwest Quarter (SW $\frac{1}{4}$) of the Southwest Quarter (SW $\frac{1}{4}$) of said Section 27; thence run $N89^{\circ}06'39''E$ along the South line of the North Half (N $\frac{1}{2}$) of the Southwest Quarter (SW $\frac{1}{4}$) of the Southwest Quarter (SW $\frac{1}{4}$) of said Section 27 for 1,318.66 feet to the Southeast corner of the Northeast Quarter (NE $\frac{1}{4}$) of the Southwest Quarter (SW $\frac{1}{4}$) of the Southwest Quarter (SW $\frac{1}{4}$) of said Section 27; thence run $N00^{\circ}50'33''W$ along the East line of said Fraction for 660.48 feet to the Northeast Corner of said Fraction; thence run $S89^{\circ}04'20''W$ along the North line of said Fraction for 659.26 feet to the Southeast corner of the Southwest Quarter (SW $\frac{1}{4}$) of the Northwest Quarter (NW $\frac{1}{4}$) of the Southwest Quarter (SW $\frac{1}{4}$) of said Section 27; thence run $N00^{\circ}50'10''W$ along the East line of said Fraction for 660.23 feet to the Northeast Corner of said Fraction, being designated as POINT "A"; thence run $S89^{\circ}02'22''W$ along the North line of said Fraction for 659.19 feet to an intersection with the West line of the Southwest Quarter (SW $\frac{1}{4}$) of said Section 27; thence run $N00^{\circ}49'48''W$ along said West line for 659.85 feet to the West Quarter Corner of said Section 27; thence run $N00^{\circ}47'16''W$ along the West line of the Northwest Quarter (NW $\frac{1}{4}$) of said Section 27 for 1,328.51 feet to an intersection with the Southerly right of way line of State Road 80, (150 feet wide); thence run $N77^{\circ}10'14''E$ along said Southerly right of way line for 1,378.61 feet; thence run $S12^{\circ}49'46''E$ for 146.41 feet to a point of curvature; thence run southeasterly along an arc of curve to the left of radius 550.00 feet (delta $31^{\circ}54'17''$) (chord bearing $S28^{\circ}46'55''E$) (chord 302.32 feet) for 306.26 feet;

DESCRIPTION (Cont.)

thence run S56°53'01"W for 164.63 feet; thence run S00°49'17"E for 199.08 feet; thence run S50°41'11"E for 752.69 feet; thence run N89°08'43"E for 678.49 feet to an intersection with the West line of the East Half (E ½) of said Section 27; thence run S00°51'17"E along said West line for 2,523.31 feet to an intersection with the North line of the South 50 feet of the former Seaboard All Florida Railroad right of way (100 feet wide); thence run N89°00'08"E along said North line for 7,949.61 feet to an intersection with the West line of the Southwest Quarter (SW ¼) of said Section 25; thence run N00°33'55"W along said West line for 50.00 feet to an intersection with the Northerly right of way line of the former Seaboard All Florida Railroad (100 feet wide); thence run N89°00'08"E along said right of way line for 5,295.61 feet to an intersection with the East line of the Southeast Quarter (SE ¼) of said Section 25; thence run S01°39'28"E along said East line for 629.62 feet to the Northeast Corner of said Section 36 being designated as POINT "B"; thence run S00°16'51"E along the East line of the Northeast Quarter (NE ¼) of said Section 36 for 2,647.36 feet to the East Quarter Corner of said Section 36; thence run S00°45'42"E along the East line of the Southeast Quarter (SE ¼) of said Section 36 for 2,644.68 feet to the Southeast Corner of said Section 36; thence run S89°12'27"W along the South line of the Southeast Quarter (SE ¼) of said Section 36 for 2,644.62 feet to the South Quarter Corner of said Section 36; thence run S89°11'43"W along the South line of the Southwest Quarter (SW ¼) of said Section 36 for 2,643.63 feet to the Southeast Corner of said Section 35; thence run S88°54'06"W along the South line of the Southeast Quarter (SE ¼) of said Section 35 for 2,643.62 feet to the South Quarter Corner of said Section 35; thence run S88°53'41"W along the South line of the Southwest Quarter (SW ¼) of said Section 35 for 2,642.70 feet to the POINT OF BEGINNING.

LESS and EXCEPT the following described parcels.

From the point designated as POINT "A" run N00°50'10"W along the East line of the Northwest Quarter (NW ¼) of the Northwest Quarter (NW ¼) Southwest Quarter (SW ¼) of the of said Section 27 for 660.23 feet to the Southeast Corner of the Southwest Quarter (SW ¼) of the Southwest Quarter (SW ¼) of the Northwest Quarter (NW ¼) of said Section 27 ; thence run N00°48'16"W along the East line of said Fraction for 659.60 to the Southwest Corner of the Northeast Quarter (NE ¼) of the Southwest Quarter (SW ¼) of the Northwest Quarter (NW ¼) of said Section 27 and the POINT OF BEGINNING.

From said Point of Beginning run N00°48'16"W along the West line of said Fraction for 659.60 feet to the Northwest Corner of said Fraction; thence run N88°54'52"E along the North line of said Fraction for 658.74 feet to the Northeast Corner of said Fraction; thence run S00°49'17"E along the East line of said Fraction for 660.13 feet to the Southeast Corner of said Fraction; thence run S88°57'38"W along the South line of said Fraction for 658.93 feet to the POINT OF BEGINNING.

AND

LESS and EXCEPT the following described parcel.

From the point designated as POINT "B" run S88°44'46"W along the South line of the Southeast Quarter (SE ¼) of said Section 25 for 2,674.22 feet to the South Quarter Corner of said Section 25; thence run S89°12'44"W along the South line of

DESCRIPTION (Cont.)

the Southwest Quarter (SW ¼) of said Section 25 for 2,633.46 feet to the Southeast Corner of said Section 26 and POINT OF BEGINNING.

From said Point of Beginning run S89°14'15"W along the South line of the Southeast Quarter (SE ¼) of said Section 26 for 1,327.50 feet to the Southwest Corner of the Southeast Quarter (SE ¼) of the Southeast Quarter (SE ¼) of said Section 26; thence run N00°23'46"W along the West line of said Fraction for 526.48 feet to an intersection with the Southerly right of way line of the former Seaboard All Florida Railroad (100 feet wide); thence run N89°00'08"E along said Southerly right of way line for 1,325.98 feet to an intersection with the East line of the Southeast Quarter (SE ¼) of said Section 26; thence run S00°33'55"E along said East line for 531.91 feet to the POINT OF BEGINNING.

Containing a Total Area of 1951.39 Acres, more or less.

Bearings hereinabove mentioned are State Plane for the Florida West Zone (1983/90 adjustment) and are based on the west line of the Northwest Quarter (NW ¼) of said Section 34 to bear N00°49'55"W.


Scott A. Wheeler (For The Firm)
Professional Surveyor and Mapper
Florida Certificate No. 5949



0 1000 2000 4000

SCALE IN FEET

PROJECT / FILE NO.	SHEET NUMBER
21000 25-43-20	4 OF 4

Scott A. Wheel

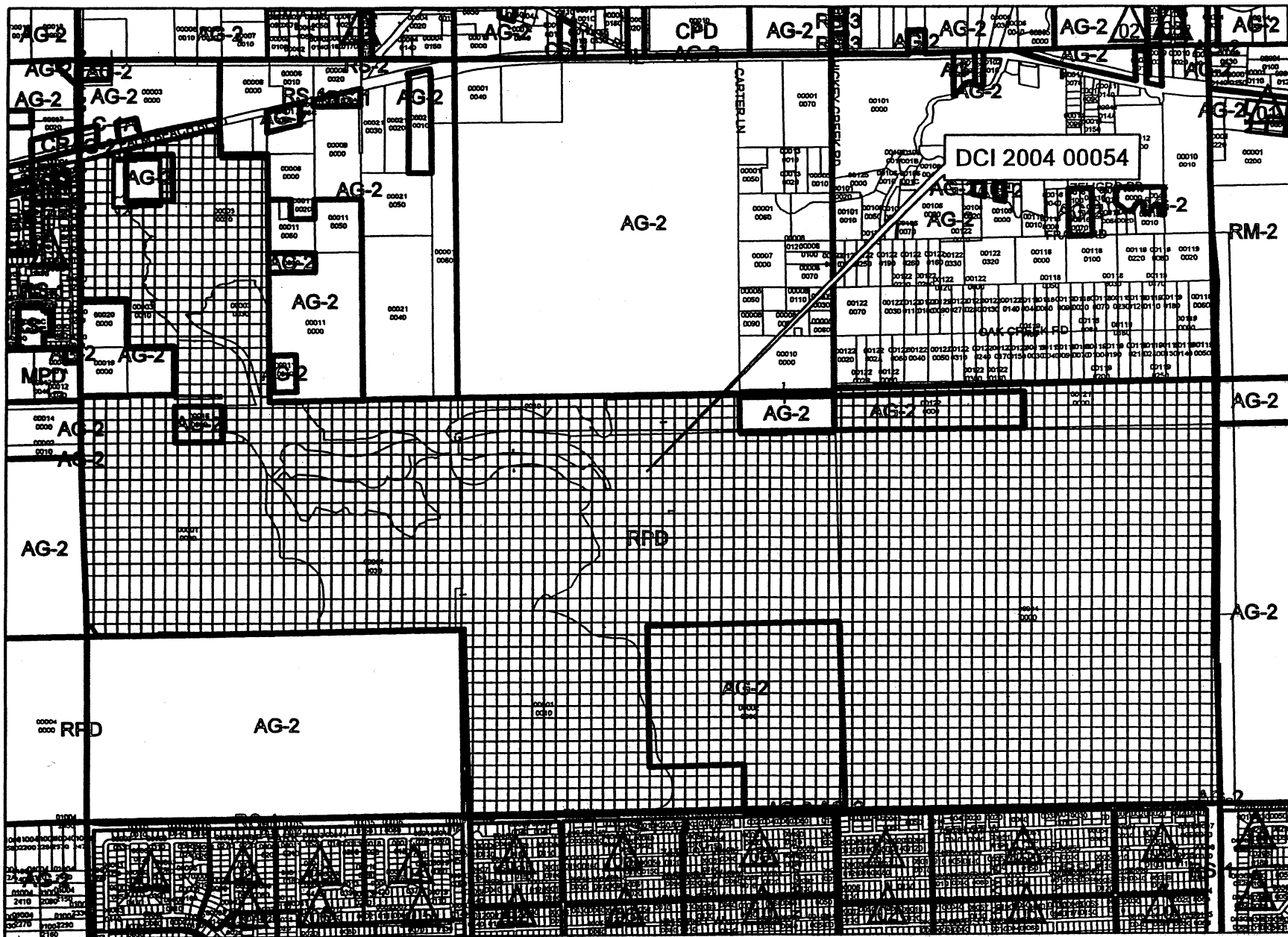
1/6/06

1. ALL DISTANCES SHOWN ARE IN FEET AND DECIMALS THEREOF.
2. O.R. - DENOTES OFFICIAL RECORD BOOK, LEE COUNTY PUBLIC RECORDS.
3. PG. - DENOTES PAGE.
4. D.B. - DENOTES DEED BOOK, LEE COUNTY PUBLIC RECORDS.
5. BEARINGS AS SHOWN ARE BASED ON THE WEST LINE OF THE NORTHWEST 1/4 OF SECTION 34 TO BEAR NORTH 00°49'55" WEST.
6. DESCRIPTION IS ATTACHED.

DCI2004-00054 RIVER HALL RPD/CPD (FKA HAWK'S HAVEN)

5/12/2005

EXHIBIT B



2,200 1,100 0 2,200 Feet

Exhibit C
Page 2 of 2
Approved as Exhibit C
MCP Page 2 of 2
Resolution #Z-05-051

Barraco
and Associates, Inc.
CIVIL ENGINEERING - LAND SURVEYING
LAND PLANNING - LANDSCAPE DESIGN
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PHONE (239) 461-3170
FAX (239) 461-3169
FLORIDA CERTIFICATES OF AUTHORIZATION
ENGINEERING 7995 - SURVEYING LB-6940

PREPARED FOR

LandMar
GROUP, LLC

2401 RIVER HALL PARKWAY
ALVA, FLORIDA 33920

PHONE (239) 274-0321
FAX (239) 274-0517

PROJECT DESCRIPTION

RIVER HALL
FORMERLY KNOWN AS
HAWKS HAVEN
PART OF SECTIONS 27, 34, 35 AND 36
TOWNSHIP 43 SOUTH
RANGE 26 EAST
LEE COUNTY, FLORIDA

THIS PLAN IS PRELIMINARY AND
INTENDED FOR CONCEPTUAL
PLANNING PURPOSES ONLY. SITE
LAYOUT AND LAND USE INTENSITIES
OR DENSITIES MAY CHANGE
SIGNIFICANTLY BASED UPON SURVEY
ENVIRONMENTAL, ENGINEERING AND
REGULATORY CONSTRAINTS
AND /OR OPPORTUNITIES.
* NOT FOR CONSTRUCTION *

NOT VALID WITHOUT EMBOSSED SEAL, SIGNATURE AND DATE
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FILE NAME	219882028.DWG
LAYOUT	LAYOUT 1
LOCATION	J:\21988\WG\ZONING\ZONE11
PLOT DATE	THU 1-5-2006 - 2:01 PM
PLOT BY	TOM HOLMUND
DESIGN BY	AUTHOR

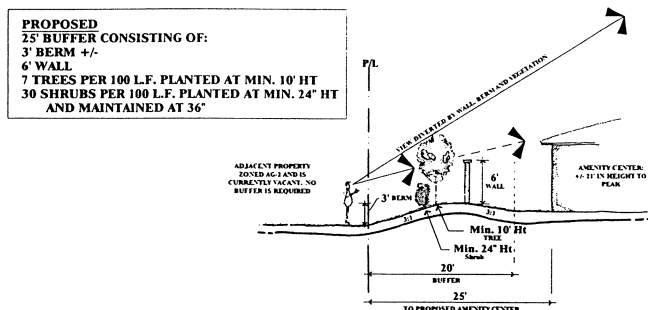
CROSS REFERENCED DRAWINGS

PLAN REVISIONS

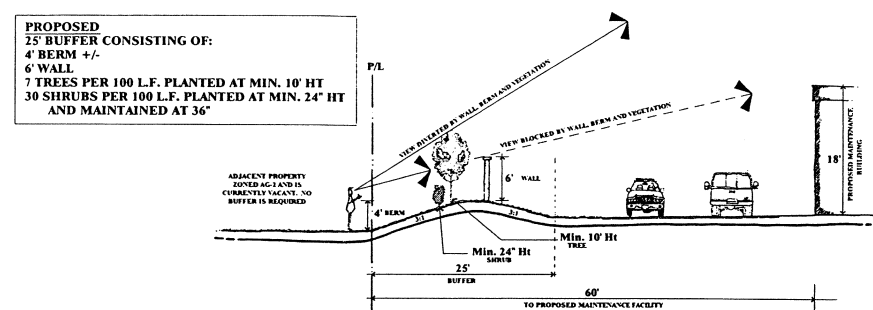
PLAN STATUS
APPROVAL SUBMITTAL PLANS
NOT FOR CONSTRUCTION

TYPICAL
SECTIONS
EXHIBIT C

PROJECT / FILE NO.	SHEET NUMBER
21988	2 OF 2



PROPOSED BUFFER FOR AMENITY CENTER (SECTION A-A)
NTS



PROPOSED BUFFER FOR GOLF COURSE MAINTENANCE FACILITY (SECTION B-B)
NTS

DCI 2004-00054

RECEIVED
JAN 06 2006
PERMIT CENTER

RECEIVED
MAY 19 1999

Protected Species Management Plan **PERMIT COUNTER**

For

Schulman Parcel

Sections 27,34,35,36, Township 43 South, Range 26 East

Prepared for:

Lee County Department of Community Development
Division of Planning / Environmental Sciences
1500 Monroe St.
P.O. Box 398
Ft. Myers, FL 33902-0398

Prepared By:

Consul-Tech Engineering, Inc.
24831 Old 41 Rd.
Bonita Springs, FL 34135

99 03-066 03 Z 01.01
PROJECT # _____
PROJECT TYPE _____ 12



CONSUL-TECH ENGINEERING, INC.

April 13, 1999

Ms. Betsi Newton-Hiatt
 Ms. Kim Trebatoski
 Lee County Department of Community Development
 Division of Planning / Environmental Sciences
 P.O. Box 398
 Fort Myers, Florida 33902

Re: Protected Species Management Plan
 1775 Acre Schulman Parcel
 CTE # 98-0408

Dear Ms. Newton & Ms. Trebatoski

Please accept this protected species management plan for the above referenced project as resubmittal for our rezoning application. Please note that these plans are based on best available information. As new information or agency input becomes available, it may become necessary to revise some management policies. Management details will be finalized and provided at the time of development order submittal.

In the meantime, we would appreciate any suggestions you may have which might contribute to the success and longevity of listed species on this parcel. Should you have any comments or question regarding this management plan, please feel free to contact me at (941) 947-0266.

Sincerely,

CONSUL-TECH ENGINEERING, INC.

Matthew Goff
 Environmental Scientist

- Consulting Engineers
- Land Planners
- Land Surveyors
- Transportation Engineers
- Environmental Engineers
- Construction Managers
- GPS & GIS Consultants
- Forensic Engineers

Respond To:

Bonita Springs

24831 Old 41 Road
 Bonita Springs, FL 34135
 (941) 947-0266
 FAX (941) 947-1323
 E-mail: bonita@consul-t.com

Other Offices:

Corporate/Pompano Beach

(954) 785-8400
 FAX (954) 785-5923
 E-mail: corp@consul-t.com

FL. Pierce

(561) 467-9085
 FAX (561) 467-9350
 E-mail: pierce@consul-t.com

Jacksonville

(904) 276-3100
 FAX (904) 276-3102
 E-mail: jackson@consul-t.com

Miami

(305) 599-3141
 FAX (305) 599-3143
 E-mail: mia@consul-t.com

Orlando

(407) 843-0094
 FAX (407) 423-0085
 E-mail: orl@consul-t.com

Pembroke Pines

(954) 436-5786
 FAX (954) 436-7742
 E-mail: pines@consul-t.com

South Dade

(305) 248-9444
 FAX (305) 248-3644
 E-mail: cci@consul-t.com

99 - 03 - 066 .03 Z 01 .01

Gopher Tortoise Management Plan
1775-acre Schulman Property
S 25, 26, 27, 28, 33, 34, 35, 36 / T 43 S / R 26 E
Lee County, Florida
CTE Project No. 98-0408

Consul-Tech Engineering, Inc. (CTE) performed a Protected Species Survey of the above-referenced property from December 1998 through February 1999. Gopher tortoise (*Gopherus polyphemus*) burrows were found in several pine flatwoods, palmetto prairie, and rangeland habitats on the property (please see location maps provided with Protected Species Survey Report). Management practices shall follow established guidelines as referenced in Florida Game and Freshwater Fish Commission Nongame Wildlife Program Technical Report No. 4: Ecology and Habitat Protection Needs of Gopher Tortoise (*Gopherus polyphemus*) Populations Found on Lands Slated for Large-Scale Development in Florida. The following items will address preservation of this species onsite:

- 1) Certain areas are to be preserved onsite in areas where gopher tortoises currently reside. Preserve location and acreage are available on the attached Master Concept plan (MCP). A permanent management commitment for the preserve area will be ensured by the filing of a conservation easement pursuant to F.S. 704.06.
- 2) A take permit from the Florida Game and Freshwater Fish Commission will be sought to collect and relocate gopher tortoises from areas to be impacted to the onsite preserve areas. This permit will negate density requirements for preservation areas.
- 3) Collection and relocation of gopher tortoises from areas to be impacted will occur as per Florida Game and Freshwater Fish Commission guidelines taking into consideration nesting periods or other requirements. Capture of tortoises shall occur via the bucket trapping method, whereupon a five-gallon bucket will be buried at the burrow entrance. The bucket will be covered with a thin piece of paper overlain with soil and shall have a hole of no less than one inch at the bottom to insure proper drainage. Each bucket will be monitored at least once per day for at least 28 days. Buckets will be checked and tortoises/commensals released in the morning to allow for thermal considerations. Captured animals will be immediately released into the preserve area and evenly distributed throughout the site at either inactive or 'starter' burrows.
- 4) Each burrow will be destroyed after removal of gopher tortoises. Relocation will occur as close to construction dates as possible to prevent repatriation to areas slated for development. During construction, a wire fence shall be set two feet above and below the ground surrounding the preserve area to prevent tortoises from entering construction areas postrelocation. Excavation will be conducted by individuals experienced in such work.
- 5) Every effort will be made to prevent entombment of gopher tortoises as per Lee County requirements.
- 6) Land usage abutting preserve acreage shall be designated as golf course / low density housing to the greatest extent practicable (please refer to MCP). Efforts such as informational signing will be utilized to avoid / minimize impacts to the preserve.

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Florida Scrub Jay Management Plan
1775-acre Schulman Property
S 25, 26, 27, 28, 33, 34, 35, 36 / T 43 S / R 26 E
Lee County, Florida
CTE Project No. 98-0408

Consul-Tech Engineering, Inc. (CTE) performed a Protected Species Survey of the above-referenced property from December 1998 through February 1999. Additionally, a scrub jay specific spring survey was conducted between March 22 - April 2, 1999 in order to better qualify jay utilization of the subject parcel. The results of these surveys demonstrate the following: 1) there appears to be no scrub jay nesting on-site, however, 2) territorial boundaries from two separate jay families do extend onto the subject parcel.

CTE staff realize that, according to the Florida Game and Freshwater Fish Commission (FGFWFC): Non-Game Wildlife Program's Technical Report No. 8: Ecology and Development-Related Habitat Requirements of the Florida Scrub Jay, further surveys during foraging seasons (autumn) are required to accurately assess the scrub jay's habitat utilization on the site. Information regarding autumn acorn caching activities shall be integrated into the management strategy as it becomes available. The following activities are currently being planned to promote

Preservation measures shall be exclusively on-site. The following items will be used to address preservation of this species on-site:

- 1) Establishment of on-site satellite refuge. A refuge of approximately 80 acres is currently being planned in the southeast corner of Section 36 (please refer to Master Concept Plan for specific location). The preserve area is composed primarily of Type I habitat. Smaller areas of Type II habitat and wetlands occur within the preserve area as an artifact of site configuration. This area shall serve as an outlying forage zone and dispersal corridor for scrub jays in the vicinity of the subject parcel. Current preserve area is strategically located so as to provide a continuous landscape with the adjacent Hickey Creek Mitigation Park and maximal distance from major highways and other forms of human disturbance.
- 2) Commitment to the preserve area shall be demonstrated via the granting of a permanent conservation easement to the State of Florida.
- 3) Preserve area shall be managed in perpetuity to provide those habitat requirements essential to the well-being of scrub jay families. Final management activities to be provided in the development order submittal will address the following issues; A) financial responsibility, B) fire management program, C) placement of informational signage, D) prohibited property owner activities, E) preserve area fencing, F) appropriate landscaping considerations, G) preserve area monitoring.

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American Alligator Management Plan
1775-acre Schulman Property
S 25, 26, 27, 28, 33, 34, 35, 36 / T 43 S / R 26 E
Lee County, Florida
CTE Project No. 98-0408

Consul-Tech Engineering, Inc. (CTE) performed a Protected Species Survey of the above-referenced property from December 1998 through February 1999. Two American alligators (*Alligator mississippiensis*) were observed in the central herbaceous wetland areas located in Sections 35 and 36 on the property (please see location maps provided with Protected Species Survey Report). The following items will address preservation of this species onsite:

- 1) Available habitat (i.e. holds water year-round) for American Alligators on the subject site is currently restricted to two small artificial ponds. Construction of numerous lakes and deep-water areas on the subject site is anticipated (please see Master Concept Plan). These areas should significantly increase both the quality and quantity of habitat. Educational material such as signage and informational pamphlets will be strategically placed so as to discourage feeding and minimize interaction between residents and alligators.

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CONSUL-TECH ENGINEERING, INC.

Wading Birds Management Plan
1775-acre Schulman Property
S 25, 26, 27, 28, 33, 34, 35, 36 / T 43 S / R 26 E
Lee County, Florida
CTE Project No. 98-0408

Consul-Tech Engineering, Inc. (CTE) performed a Protected Species Survey of the above-referenced property from December 1998 through February 1999. The Lee County listed wading birds found onsite (non-nesting) were utilizing freshwater marsh areas (please see location maps provided with Protected Species Survey Report). Listed birds include little blue heron (*Egretta caerulea*), tricolored heron (*Egretta tricolor*), wood stork (*Mycteria americana*) and the sandhill crane (*Grus canadensis pratensis*). The following items will address preservation of potential foraging and nesting habitats onsite:

- 1) Potential habitat areas to be preserved onsite include the following: 641-B thru 641-M, 643-A and 643-C thru 643-H. Educational material such as signage and informational pamphlets will be utilized to minimize interaction between residents and the wading birds.

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CONSUL-TECH ENGINEERING, INC.

Florida Burrowing Owl Management Plan
1775-acre Schulman Property
S 25, 26, 27, 28, 33, 34, 35, 36 / T 43 S / R 26 E
Lee County, Florida
CTE Project No. 98-0408

Consul-Tech Engineering, Inc. (CTE) performed a Protected Species Survey of the above-referenced property from December 1998 through February 1999. Florida burrowing owl (*Speotyto cunicularia floridana*) burrows were located in three of the pastures on the property (please see location maps provided with Protected Species Survey Report). The following items will address preservation of this species onsite:

- 1) Several golf course areas are to be developed onsite adjacent to currently active owl burrows and will provide suitable replacement habitat for the Florida burrowing owl.
- 2) A take permit from the Florida Game and Freshwater Fish Commission will be sought to avoid accidental mortality and mitigate for impacts to burrows during construction in areas where owls are currently located. A take permit will be sought for each active burrow on the subject property.
- 3) No taking of active burrows will occur, i.e., nests with eggs or fledglings. If construction is to occur in the areas of the owl burrows while they are active, buffers of 150 feet in radius will be established and maintained in order to minimize disturbances around the burrows during this period. Buffers will be staked and roped off prior to initiating construction.
- 4) The burrows will be destroyed during periods when nests are generally considered inactive, that is from July 10 - February 15. Experienced CTE environmental staff will remove burrows by hand shoveling to ensure that no birds are harmed during the process.

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CONSUL-TECH ENGINEERING, INC.

AFFIDAVIT

STATE OF FLORIDA)
)
 COUNTY OF DUVAL)

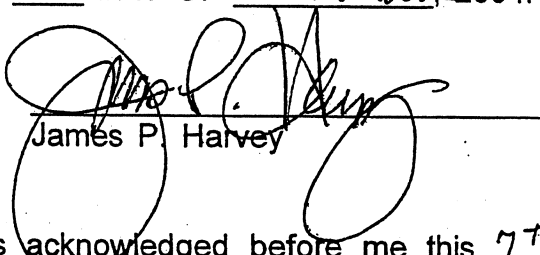
BEFORE ME this day appeared JAMES P. HARVEY, who, being first duly sworn, proposes and says:

1. He is the Vice-President of Hawk's Haven Developers, L.L.C., the applicant for rezoning in Case DCI2004-00054.

2. A portion of the subject property is currently being used, and historically has been used, for cattle grazing. A sketch showing the areas in question is attached as Exhibit "A".

FURTHER, AFFIANT SAYETH NAUGHT.

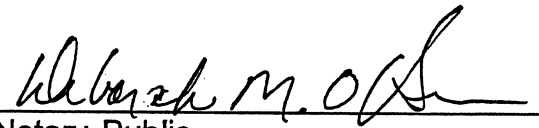
DONE AND EXECUTED THIS 7 DAY OF September 2004.



 James P. Harvey

The foregoing instrument was acknowledged before me this 7th day of SEPTEMBER, 2004 by JAMES P. HARVEY, who is personally known to me ☒, or has produced _____ as identification ☐, and did/did not take an oath.

My Commission Expires:



 Notary Public

DEBORAH M. O'HERN

 Printed Name



Deborah M O'Hern
 My Commission DD046676
 Expires August 01, 2005



DCI2004-00054

PERMIT COUNTER

DCI 2004-00054

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MAR 31 2005Legal Description

Parcel in

Sections 25, 26, 27, 34, 35 and 36, Township 43 South, Range 26 East
Lee County, Florida

A tract or parcel of land lying in Sections 25, 26, 27, 34, 35 and 36, Township 43 South, Range 26 East, Lee County, Florida, said tract or parcel of land being more particularly described as follows:

Beginning at the Southeast corner of said Section 34 run N00°59'34"W along the East line of the Southeast Quarter (SE 1/4) of said Section 34 for 2,654.70 feet to the East Quarter Corner of said Section 34; thence run S89°15'30"W along the North line of the South Half (S ½) of said Section 34 for 5,100.92 feet to a point on a non-tangent curve at the intersection with the Easterly line of lands described in a deed recorded in Official Record Book 4107, at Page 886, Lee County Records; thence run northwesterly along said Easterly line and along an arc of curve to the left of radius 240.00 feet (delta 21°30'24") (chord bearing N34°21'11"W) (chord 89.56 feet) for 90.09 feet to a point of tangency; thence run N45°06'23"W along said Easterly line for 156.71 feet to a point of curvature; thence run northwesterly along said Easterly line and along an arc of curve to the left of radius 240.00 feet (delta 06°54'55") (chord bearing N48°33'50"W) (chord 28.95 feet) for 28.97 feet to an intersection with the West line of the Northwest Quarter (NW 1/4) of said Section 34; thence run N00°49'55"W along said West line for 2,437.57 feet to the Southwest Corner of said Section 27; thence run N00°49'48"W along the West line of the Southwest Quarter (SW 1/4) of said Section 27 for 659.59 feet to the Southwest corner of the Northwest Quarter (NW 1/4) of the Southwest Quarter (SW 1/4) of the Southwest Quarter (SW 1/4) of said Section 27; thence run N89°06'39"E along the South line of the North Half (N ½) of the Southwest Quarter (SW 1/4) of the Southwest Quarter (SW 1/4) of said Section 27 for 1,316.66 feet to the Southeast corner of the Northeast Quarter (NE 1/4) of the Southwest Quarter (SW 1/4) of the Southwest Quarter (SW 1/4) of said Section 27; thence run N00°50'33"W along the East line of said Fraction for 660.48 feet to the Northeast Corner of said Fraction; thence run S89°04'20"W along the North line of said Fraction for 659.26 feet to the Southeast corner of the Southwest Quarter (SW 1/4) of the Northwest Quarter (NW 1/4) of the Southwest Quarter (SW 1/4) of said Section 27; thence run N00°50'10"W along the East line of said Fraction for 660.23 feet to the Northeast Corner of said Fraction; thence run S89°02'22"W along the North line of said Fraction for 659.19 feet to an intersection with the West line of the Southwest Quarter (SW 1/4) of said Section 27; thence run N00°49'48"W along said West line for 659.85 feet to the West Quarter Corner of said Section 27; thence run N00°47'16"W along the West line of the Northwest Quarter (NW 1/4) of said Section 27 for 1,328.51 feet to an intersection with the Southerly right of way line of State Road 80, (150 feet wide); thence run N77°10'14"E along the Southerly right of way line for 2,020.27 feet to an intersection with the West line of the Southeast Quarter (SE 1/4) of the Northeast Quarter (NE 1/4) of the Northwest Quarter (NW 1/4) of said Section 27; thence run S00°50'17"E along said West line for 421.56 feet to the Southwest Corner of said Fraction, being designated as POINT "A"; thence run

N88°54'52"E along the South line of said Fraction for 658.74 feet to an intersection with the West line of the East Half (E ½) of said Section 27; thence run S00°51'17"E along said West line for 3,420.35 feet to an intersection with the North line of the South 50 feet of said former Seaboard All Florida Railroad right of way (100 feet wide); thence run N89°00'08"E along said North line for 7,949.61 feet to an intersection with the West line of the Southwest Quarter (SW 1/4) of said Section 25; thence run N00°33'55"W along said West line for 50.00 feet to an intersection with the Northerly right of way line of the former Seaboard All Florida Railroad (100 feet wide); thence run N89°00'08"E along said right of way line for 5,295.61 feet to an intersection with the East line of the Southeast Quarter (SE 1/4) of said Section 25; thence run S01°39'28"E along said East line for 629.62 feet to the Northeast Corner of said Section 36 being designated as POINT "B"; thence run S00°16'51"E along the East line of the Northeast Quarter (NE 1/4) of said Section 36 for 2,647.36 feet to the East Quarter Corner of said Section 36; thence run S00°45'42"E along the East line of the Southeast Quarter (SE 1/4) of said Section 36 for 2,644.68 feet to the Southeast Corner of said Section 36; thence run S89°12'27"W along the South line of the Southeast Quarter (SE 1/4) of said Section 36 for 2,644.62 feet to the South Quarter Corner of said Section 36; thence run S89°11'43"W along the South line of the Southwest Quarter (SW 1/4) of said Section 36 for 2,643.63 feet to the Southeast Corner of said Section 35; thence run S88°54'06"W along the South line of the Southeast Quarter (SE 1/4) of said Section 35 for 2,643.62 feet to the South Quarter Corner of said Section 35; thence run S88°53'41"W along the South line of the Southwest Quarter (SW 1/4) of said Section 35 for 2,642.70 feet to the POINT OF BEGINNING.

LESS and EXCEPT the following described parcels:

From the point designated as POINT "A" run S88°54'52"W along the South line of the Northeast Quarter (NE 1/4) of the Northwest Quarter (NW 1/4) of said Section 27 for 858.74 feet to the Northeast Corner of the Northeast Quarter (NE 1/4) of the Southwest Quarter (SW 1/4) of the Northwest Quarter (NW 1/4) of said Section 27 and POINT OF BEGINNING.

From said Point of Beginning run S00°49'17"E along the East line of said Fraction for 660.13 feet to the Southeast Corner of said Fraction; thence run S88°57'38"W along the South line of said Fraction for 658.93 feet to the Southwest Corner of said Fraction; thence run N00°48'16"W along the West line of said Fraction for 659.60 feet to the Northwest Corner of said Fraction; thence run N88°54'52"E along the North line of said Fraction for 658.74 feet to the POINT OF BEGINNING.

AND

From the point designated as POINT "B" run S88°44'46" along the South line of the Southeast Quarter (SE 1/4) for said Section 25 for 2,674.22 feet to the South Quarter Corner of said Section 25, run S89°12'44"W along the South line of the Southwest Quarter (SW 1/4) of said Section 25 for 2,633.46 feet to the Southeast Corner of said Section 26 and POINT OF BEGINNING.

From said Point of Beginning run S89°14'15"W along the South line of the Southeast Quarter (SE 1/4) of said Section 26 for 1,327.50 feet to the Southwest Corner of the Southeast Quarter (SE 1/4) of the Southeast Quarter (SE 1/4) of said Section 26; thence run N00°23'46"W along the West line of said Fraction for 526.48 feet to an intersection with the Southerly right of way line of the former Seaboard All Florida Railroad (100 feet wide); thence run N89°00'08"E along said Southerly right of way line for 1,325.98 feet to

DCI 2004-00054

EXHIBIT E
PAGE 4 OF 5

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an intersection with the East line of the Southeast Quarter (SE 1/4) of said Section 26; thence run S00°33'55"E along said East line for 531.91 feet to the POINT OF BEGINNING.

Containing a Total Area of 1,978.44 Acres, more or less.

Bearings hereinabove mentioned are State Plane for the Florida West Zone (1983/90 adjustment) and are based on the west line of the Northwest Quarter (NW 1/4) of said Section 34 to bear N00°49'55"W.

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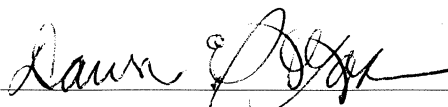
DCI 2004-00054

MEMORANDUM
FROM THE
OFFICE OF COUNTY ATTORNEY

DATE: January 13, 2006

To: Carmen Solome
Executive Assistant to
Chairwoman Tammara Hall

FROM:


Dawn E. Perry-Lehnert
Assistant County Attorney

**RE: BOCC ZONING RESOLUTION FROM THE SEPTEMBER 19, 2005 MEETING
RIVER HALL, fka Hawk's Haven RPD
RESOLUTION Z-05-051**

Attached is an original resolution adopted by the Board at the September 19, 2005, zoning meeting. This resolution has been reviewed and approved as to form and is ready for the Chairwoman's signature. After the Chairwoman signs the resolution, please forward it to the Minutes Department for attestation and further processing.

Please note, the delay of this submission for the Chairwoman's signature is due to required revisions to the approved Master Concept Plan (MCP) by the project applicant. Lee County Land Development Code, Section 34-377(b)(6), requires the project's MCP conform to the Board's approval. Consequently, changes had to be made to the MCP before the resolution could be signed.

Thank you for your assistance with respect to the above. Should you have any questions, please do not hesitate to contact me.

DPL/amp
Attachment

cc: Jamie Pringing, DCD, Zoning
Lisa Pierce, Minutes Department

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MINUTES OFFICE
2006 JAN 18 AM 8:55