



**COCONUT POINT MPD/DRI (TRACT 1D-3)**  
**Mixed Use Planned Development Amendment**  
**Supplemental Zoning Staff Report**

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**PROJECT NAME:** HILTON GARDEN INN ON TRACT 1D-3  
**CASE TYPE:** PLANNED DEVELOPMENT AMENDMENT  
**CASE NUMBER:** DCI2017 - E003  
**PLANNING & ZONING BOARD DATE:** April 17, 2018 (Continued from March 20, 2018)  
**COUNCIL FIRST READING DATE:** May 9, 2018  
**COUNCIL SECOND READING DATE:** June 20, 2018

**REQUEST AND STAFF RECOMMENDATION**

The applicant is requesting an amendment to the Coconut Point MPD Mixed-use Planned Development Zoning to allow a hotel with 120 rooms and a height of 55 feet (5 stories) on Tract 1D-3, a 2.16-acre parcel within the Coconut Point DRI. The amendment is needed because the hotel land use is not allowed on this tract and there is a height limitation of 45 feet.

The 2.16-acre site is located east of South Tamiami Trail (US-41), west of Via Villagio, and south of Sweetwater Ranch Boulevard, adjacent to the Estero Fire Department fire station and the Rapallo development.

This case was reviewed by the Planning and Zoning Board on April 17 and March 20, 2018. The Planning and Zoning Board had recommended that this case not be reviewed by Council until additional stormwater information is provided satisfactory to the Village engineer showing that the hotel development will not have any adverse offsite impacts, including the lakes at Rapallo.

Subsequent to the Planning and Zoning Board meeting, the applicant submitted additional stormwater information and met with staff. **After several meetings and a series of reviews, staff recommends approval of the request with the conditions in the revised Ordinance 2018-05.**

**Please refer to the staff report and packet from the first reading May 9<sup>th</sup> for further information. Please also see the attached ordinance which has been revised to add a stormwater condition.**

## **COUNCIL FIRST READING SUMMARY**

The Council first reading was on May 9, 2018. The Council requested that the applicant address items at the second reading, including:

1. Additional information pertaining to ownership. The applicant has recently supplied information that the property is owned by CP Land Investment, LLC and is under contract for purchase by REA Trust, LLC.
2. Whether the applicant could build a 3-story, 120 room hotel on the site. The applicant can address this item at the Public Hearing.

## **UPDATE ON STORMWATER INFORMATION**

At the Planning and Zoning Board meeting, several Rapallo residents appeared voicing concerns about flooding from the 2017 storms and hurricane, and concerns about the potential impacts of additional development (the hotel and remaining undeveloped tracts) on Rapallo and its lake system.

The staff requested additional information from the applicant's engineer including stormwater modeling information that was reviewed by the Village Public Works Director. The attached memo indicates that the addition of the hotel use is not expected to affect the overall stormwater management design.

Ned Dewhirst, Senior Vice President of Oakbrook Properties, manager for the CP Land Investment, LLC, has met with Rapallo and proposed several improvements consisting of the addition of two "spillway" overflow structures; one on the hotel site and one on the Tract 1A apartment site. Another improvement proposed by the applicant to help Rapallo in general consists of pipe improvements to the lake system at Rapallo.

An additional zoning condition is proposed to require construction of the overflow structure on the hotel site. The pipe improvements at Rapallo have been approved by the water management district and are now under review by Village staff. The proposed structure on the Tract 1-A apartment site is part of the development order submittal.

## **DEVELOPMENT OF REGIONAL IMPACT**

This project is part of a Development of Regional Impact: Coconut Point DRI. The DRI was amended by the Village as part of the Coconut Point Tract 1-A zoning case. The Development of Regional Impact Development Order was codified and updated into one document at that time (Ninth Development Order and Restatement). The DRI does not need to be amended since it includes the hotel use, but the zoning does need to be amended to add the use to Tract 1D-3. See the attached memoranda from Land Use Counsel.

## **PROPOSED REVISIONS TO ORDINANCE**

As stated above, a condition has been offered to require the construction of an overflow structure (spillway) on the hotel site. This is condition 7 of the revised ordinance (attached).

Conditions 2 and 3 have also been revised to clarify that the building height on Tract 1D-3 will be increased to 55 feet for the hotel use only. The applicant has further agreed to reduce the height on Tract 1C from 55 to 45 feet.

**ATTACHMENTS:**

1. Revised Ordinance 2018-05
2. Memorandum from Public Works Director, dated June 7, 2018
3. Ownership information submitted by applicant
4. Memoranda from Land Use Counsel Nancy Stroud, dated June 11, 2018 and May 24, 2018
5. Minutes from Council First Reading, dated May 9, 2018
6. Minutes from Planning and Zoning Board April 17, 2018 meeting
7. Ordinance 2017-02

VILLAGE OF ESTERO, FLORIDA  
ZONING  
ORDINANCE NO. 2018 - 05

AN ORDINANCE OF THE VILLAGE COUNCIL OF THE VILLAGE OF ESTERO, FLORIDA, APPROVING WITH CONDITIONS A ZONING AMENDMENT TO ALLOW A HOTEL USE ON TRACT 1D-3 OF THE COCONUT POINT MIXED USE PLANNED DEVELOPMENT AND DEVIATIONS FOR HEIGHT OF BUILDING AND ARCHITECTURAL FEATURES FOR PROPERTY LOCATED AT 8009 SWEETWATER RANCH BOULEVARD IN THE VILLAGE OF ESTERO, FLORIDA, AND COMPRISING APPROXIMATELY 2.16 ACRES; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, applicant, ~~Equity, Inc.~~REA Trust, LLC, has applied for a zoning amendment and deviations on the property ("Property") which comprises **Tract 1D-3 of Coconut Point**, located off US 41, on Sweetwater Ranch Boulevard, for a proposed **Hilton Garden Inn**; and

WHEREAS, the property is part of the larger Coconut Point Development of Regional Impact which was rezoned in 2002 by Lee County to Mixed Use Planned Development (MPD) in Resolution Z-02-009 and most recently amended by Ordinance No. 2017-02; and

WHEREAS, the property is also subject to the DRI Development Order; and

WHEREAS, the applicant applied for an amendment to the MPD to add a hotel use and applied for deviations for building height, and the height of architectural features; and

WHEREAS, the Property STRAP number is 04-47-25-E3-301D3.0000; and

WHEREAS, the public information meeting was held for this application at the Planning and Zoning Board on August 15, 2017; and

WHEREAS, the Planning and Zoning Board considered the application at its meeting on April 17, 2018 (continued from March 20, 2018) and recommended approval with conditions of the requests; and

42           **WHEREAS**, a duly noticed first reading was held before the Village Council on May  
43 9, 2018; and

44  
45           **WHEREAS**, a duly noticed second reading and public hearing was held before the  
46 Village Council on June 20, 2018, at which time the Village Council gave consideration to the  
47 evidence presented by the applicant and the Village staff, the recommendations of the Planning  
48 and Zoning Board, and the comments of the public.

49  
50           **NOW, THEREFORE**, be it ordained by the Village Council of the Village of Estero,  
51 Florida:

52  
53           **Section 1.**     **Zoning Amendment.**

54  
55           The Village Council hereby amends the Coconut Point Mixed Use Planned  
56 Development, Resolution Z-02-009 as amended most recently by Ordinance No. 2017-02, to  
57 approve a hotel use on Tract 1D-3 and deviations for height of the hotel building and  
58 architectural features as follows:

59  
60           **Section 2.**     **Conditions.**

61  
62           1. Master Concept Plan  
63           The development of the 120 unit hotel building on Tract 1D-3 must be substantially  
64 consistent with the Master Concept Plan for Coconut Point MPD last revised on  
65 05/18/2018. Hotel use is added to Tract 1D and eliminated from Tract 1C.

66  
67           2. Previous Approvals  
68           The previous approvals (contained in Ordinance No. 2017-02) including conditions  
69 and deviations remain in effect except the hotel/motel use in Condition 6 is  
70 eliminated and the height in Condition 5 is modified to 55 feet for the hotel use  
71 only as stated in Condition 3 below and 45 feet for any use in Tract 1C.

72  
73           3. Maximum Building Height and Uses  
74           Maximum Building Height Tract 1D-3 only: 55 feet or 5 stories for hotel use only.  
75  
76           Maximum Building Height Tract 1C only: 45 feet or 3 stories. Hotel Use is  
77 eliminated from Tract 1C.

78  
79           4. Pattern Book  
80           The project design must be consistent with the Pattern Book, titled “Hilton Garden  
81 Inn at Coconut Point, Supplemental Pattern Book, Tract 1D-3”, stamped “Received  
82 April 9, 2018”.

- 83 5. Base Flood Elevation  
84 The finished first floor of the hotel must meet base flood elevation (AE – EL 15  
85 NAVD) at a minimum plus one foot of free board.  
86
- 87 6. Off-site Parking Sidewalk Connection & Easement  
88 The applicant must provide a sidewalk connection, including the provision of  
89 crosswalks across Sweetwater Ranch Boulevard, to the offsite parking lot on the  
90 north side of Sweetwater Ranch Boulevard to the hotel. These improvements must  
91 be made prior to a certificate of compliance being issued for the Development Order  
92 for the proposed hotel. This off-site parking area will provide up to 10 parking  
93 spaces and will be accessed by way of easement to be provided at the time of  
94 Development Order.  
95
- 96 7. Stormwater Management  
97 ~~The applicant shall provide additional stormwater information satisfactory to~~  
98 ~~Village staff prior to scheduling a Village Council second reading, showing that the~~  
99 ~~hotel development will not have any adverse impacts offsite, including the lakes at~~  
100 ~~Rapallo.~~  
101  
102 The developer of Tract 1D-3 (hotel site) will construct the recommended onsite  
103 overflow structure as referenced in the Coconut Point North Village Surface Water  
104 Management Analysis – Basin 5A (prepared by Hole Montes dated March 27,  
105 2018) prior to issuance of the Certificate of Compliance for infrastructure for Tract  
106 1D-3. The overflow structure will be subject to SFWMD, Village of Estero and the  
107 North Village Association review and approval.  
108
- 109 8. Deviation 1  
110 Deviation 1 is from the LDC Section 33-229, “Maximum Height,” which limits  
111 maximum building height outside of the Interstate Highway Interchange Areas to a  
112 maximum of three (3) stories or 45-feet, to allow a maximum building height of 55  
113 feet, as measured in accordance with LDC Section 34-2171(1). **Deviation 1 is**  
114 **Approved** as depicted in the Pattern Book.  
115
- 116 9. Deviation 2  
117 Deviation 2 is from LDC Section 33-229, “Maximum Height,” which requires a  
118 deviation to exceed the maximum height limitations for architectural elements that  
119 enhance visibility or create focal points or amenities, such as turrets, sculpture,  
120 clock tower, and corner accentuating rooflines, to allow for architectural elements  
121 not to exceed an additional 22 feet in height for a maximum architecture feature  
122 height of 77 feet as depicted in the Pattern Book. **Deviation 2 is Approved** as  
123 depicted in the Pattern Book.

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10. Deviation 3

Deviation 3 seeks a deviation from the LDC Section 33-351, “Landscaping Buffers,” which requires a 20-foot Type D landscape buffer between commercial and right-of-way uses, to allow a 15-foot Type D landscape buffer, of which 10 feet will be located in a utility easement. **Deviation 3 is Approved** as depicted in the Pattern Book. Required trees must be planted outside of the utility easement.

**Section 3. Findings and Conclusions.**

The Council finds and concludes as follows:

1. The applicant has provided sufficient justification for the zoning amendment by demonstrating compliance with the Comprehensive Plan, the Land Development Code, and other applicable codes.
2. The proposal, as conditioned, does not increase allowable intensity within the DRI/MPD and, therefore, is not anticipated to increase vehicular trips above what has already been anticipated.
3. The application is generally compatible with existing or planned uses in the surrounding area. The proposed use is set back approximately 140 feet from the fire station and 170 feet from the nearest residence in Rapallo. The applicant’s Line of Sight exhibit contained in the Pattern Book illustrates that the hotel top floor will be visible from some Rapallo residences, but the approved hotel use on Tract C (which is being eliminated) would have the same visual impact.
4. Urban services will be available and adequate to serve the proposed use.
5. The request will not adversely affect environmentally critical areas and natural resources.
6. The proposed use, with the proposed conditions, is appropriate at the subject location.
7. The recommended conditions provide sufficient safeguards to the public interest and are reasonably related to impacts on the public’s interest created by or expected from the proposed development.
8. The deviations recommended for approval:
  - a. Enhance the planned development; and

165 b. Preserve and promote the general intent of the LDC to protect the public, health,  
166 safety and welfare.  
167

168 **Section 4.** Exhibits.

169  
170 The following exhibits are attached to this Ordinance and incorporated by reference:

- 171  
172 Exhibit A Legal Description  
173 Exhibit B Master Concept Plan, titled "Coconut Point M.P.D." dated 05/18/17  
174 stamped "Received June 11, 2018"  
175 Exhibit C Supplemental Pattern Book titled "Hilton Garden Inn at Coconut Point"  
176 stamped "Received April 9, 2018"  
177

178 **Section 5.** Conflicts.

179  
180 All Sections or part of Sections of the Code of Ordinances, all Ordinances or parts of  
181 Ordinances, and all resolutions or parts of Resolutions, in conflict with this Ordinance  
182 shall be repealed to the extent of such conflict upon the effective date of this Ordinance.  
183

184 **Section 6.** Severability.

185  
186 Should any section, paragraph, sentence, clause, phrase or other part of this Ordinance  
187 subsequent to its effective date be declared by a court of competent jurisdiction to be  
188 invalid, such decision shall not affect the validity of this Ordinance as a whole or any  
189 portion thereof, other than the part so declared to be invalid.  
190

191 **Section 7.** Effective Date.

192  
193 This Ordinance shall be effective immediately upon adoption.  
194

195 **PASSED** on first reading this 9<sup>th</sup> day of May, 2018.  
196

197 **PASSED AND ADOPTED BY THE VILLAGE COUNCIL** of the Village of Estero,  
198 Florida this 20<sup>th</sup> day of June, 2018.  
199

200 Attest:

**VILLAGE OF ESTERO, FLORIDA**

201  
202  
203 By: \_\_\_\_\_  
204 Kathy Hall, MMC, Village Clerk  
205

By: \_\_\_\_\_  
James R. Boesch, Mayor



206 Reviewed for legal sufficiency:

207

208 By: \_\_\_\_\_  
209 Nancy Stroud, Esq., Village Land Use Attorney

210

211

212	Vote:	AYE	NAY
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213	Mayor Boesch	_____	_____
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214	Vice Mayor Ribble	_____	_____
-----	-------------------	-------	-------

215	Councilmember Batos	_____	_____
-----	---------------------	-------	-------

216	Councilmember Errington	_____	_____
-----	-------------------------	-------	-------

217	Councilmember Levitan	_____	_____
-----	-----------------------	-------	-------

218	Councilmember McLain	_____	_____
-----	----------------------	-------	-------

219	Councilmember Wilson	_____	_____
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Exhibit A

**LEGAL DESCRIPTION**

Tract "1D-3", of Coconut Point-Area 1, according to the Plat thereof, as recorded in Plat Book 83, Pages 1 through 13, inclusive, of the public records of Lee County, Florida.



Exhibit C



*Coconut Point*

ESTERO, FLORIDA

DESIGN REVIEW GUIDELINES

# Hilton Garden Inn at Coconut Point

## Supplemental Pattern Book

### Tract 1D-3

RECEIVED  
APR 09 2108  
VILLAGE OF ESTERO

# Conceptual Site Plan

## Tract 1D-3



CONCEPT PLAN  
 TRACT D-3  
 COCONUT POINT

AS1

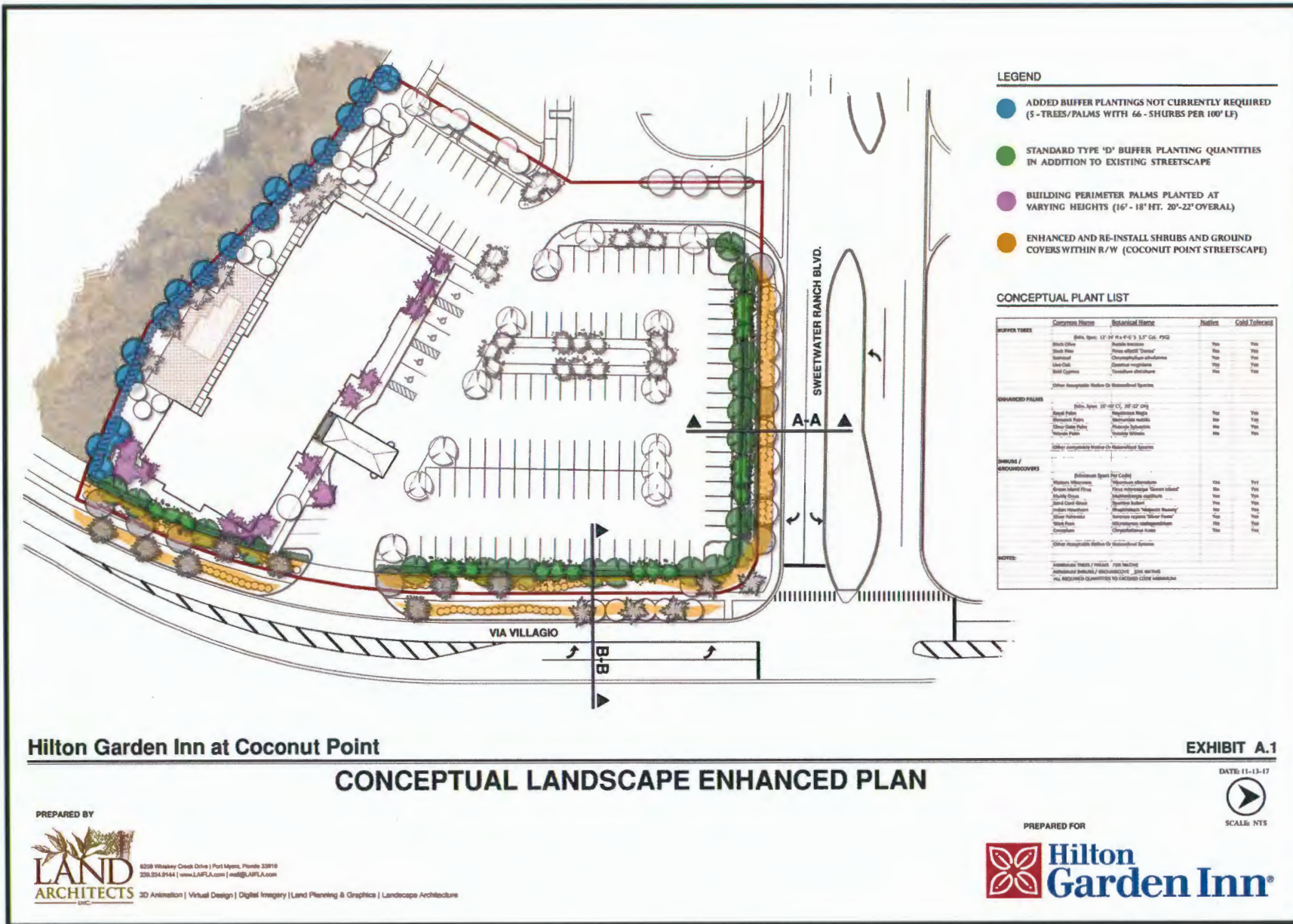
CONCEPT PLAN  
 TRACT D-3  
 COCONUT POINT

DATE: 10/15/10  
 DRAWN BY: [Name]  
 CHECKED BY: [Name]  
 APPROVED BY: [Name]

PROJECT NO.: [Number]  
 SHEET NO.: [Number]  
 TOTAL SHEETS: [Number]

SCALE: 1" = 100'





- LEGEND**
- ADDED BUFFER PLANTINGS NOT CURRENTLY REQUIRED (5 - TREES/PALMS WITH 66 - SHRUBS PER 100' LF)
  - STANDARD TYPE 'D' BUFFER PLANTING QUANTITIES IN ADDITION TO EXISTING STREETSCAPE
  - BUILDING PERIMETER PALMS PLANTED AT VARYING HEIGHTS (16' - 18' HT. 20'-22' OVERAL)
  - ENHANCED AND RE-INSTALL SHRUBS AND GROUND COVERS WITHIN R/W (COCONUT POINT STREETSCAPE)

**CONCEPTUAL PLANT LIST**

Category	Common Name	Botanical Name	Height	Cold Tolerant	
BUFFER TREES	Bella Spec. 12'-14' H x 4'-6" S.D. Cal. PG2		Yes	Yes	
	Black Olive	Nauclea oleacea	Yes	Yes	
	Shrub Olive	Nauclea oleacea	Yes	Yes	
	Spanish Olive	Chromolaena odorata	Yes	Yes	
	Live Oak	Quercus agrifolia	Yes	Yes	
	Small Cypress	Taxodium distichum	Yes	Yes	
	Other acceptable Native Or Non-Native Species				
	ENHANCED PALMS	Bella Spec. 18'-22' H x 12" S.D. Cal. PG2		Yes	Yes
		Small Palm	Hyacinthoides	Yes	Yes
		Shrub Palm	Chromolaena odorata	Yes	Yes
Shrub Palm		Chromolaena odorata	Yes	Yes	
Shrub Palm		Chromolaena odorata	Yes	Yes	
Other acceptable Native Or Non-Native Species					
SHRUBS / GROUNDCOVERS		Bullfinch Spurge	For Cacti	Yes	Yes
		Waxleaf	Chromolaena odorata	Yes	Yes
		Orange Laurel Olive	For Cacti	Yes	Yes
		Shrub Olive	Chromolaena odorata	Yes	Yes
	Small Olive	Chromolaena odorata	Yes	Yes	
	Small Olive	Chromolaena odorata	Yes	Yes	
	Small Olive	Chromolaena odorata	Yes	Yes	
	Small Olive	Chromolaena odorata	Yes	Yes	
	Small Olive	Chromolaena odorata	Yes	Yes	
	Small Olive	Chromolaena odorata	Yes	Yes	
Other acceptable Native Or Non-Native Species					
NOTES: 1. ALL PLANTING TO BE INSTALLED WITHIN 180 DAYS OF PROJECT START DATE. 2. ALL PLANTING TO BE INSTALLED WITHIN 180 DAYS OF PROJECT START DATE. 3. ALL PLANTING TO BE INSTALLED WITHIN 180 DAYS OF PROJECT START DATE. 4. ALL PLANTING TO BE INSTALLED WITHIN 180 DAYS OF PROJECT START DATE. 5. ALL PLANTING TO BE INSTALLED WITHIN 180 DAYS OF PROJECT START DATE. 6. ALL PLANTING TO BE INSTALLED WITHIN 180 DAYS OF PROJECT START DATE. 7. ALL PLANTING TO BE INSTALLED WITHIN 180 DAYS OF PROJECT START DATE. 8. ALL PLANTING TO BE INSTALLED WITHIN 180 DAYS OF PROJECT START DATE. 9. ALL PLANTING TO BE INSTALLED WITHIN 180 DAYS OF PROJECT START DATE. 10. ALL PLANTING TO BE INSTALLED WITHIN 180 DAYS OF PROJECT START DATE.					

Hilton Garden Inn at Coconut Point

CONCEPTUAL LANDSCAPE ENHANCED PLAN

EXHIBIT A.1

DATE: 11-13-17



SCALE: NTS

PREPARED BY



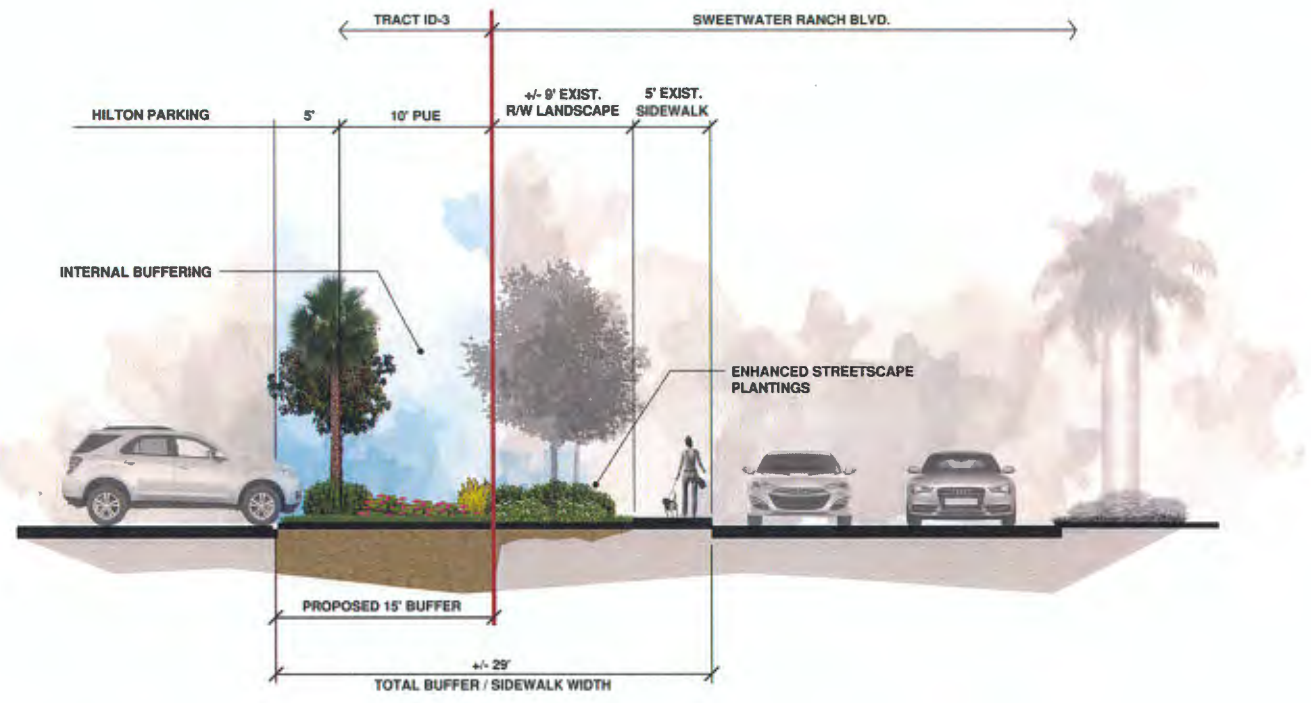
6209 Wilshire Coast Drive | Fort Myers, Florida 33919  
 239.324.9144 | www.LANDARCHITECTS.COM | info@LANDARCHITECTS.COM

3D Animation | Virtual Design | Digital Imagery | Land Planning & Graphics | Landscape Architecture

PREPARED FOR



Enhanced Landscaping



Hilton Garden Inn at Coconut Point

EXHIBIT A.2

DATE: 11-13-17

CROSS SECTION 'A-A' - SWEETWATER RANCH BLVD.

PREPARED BY



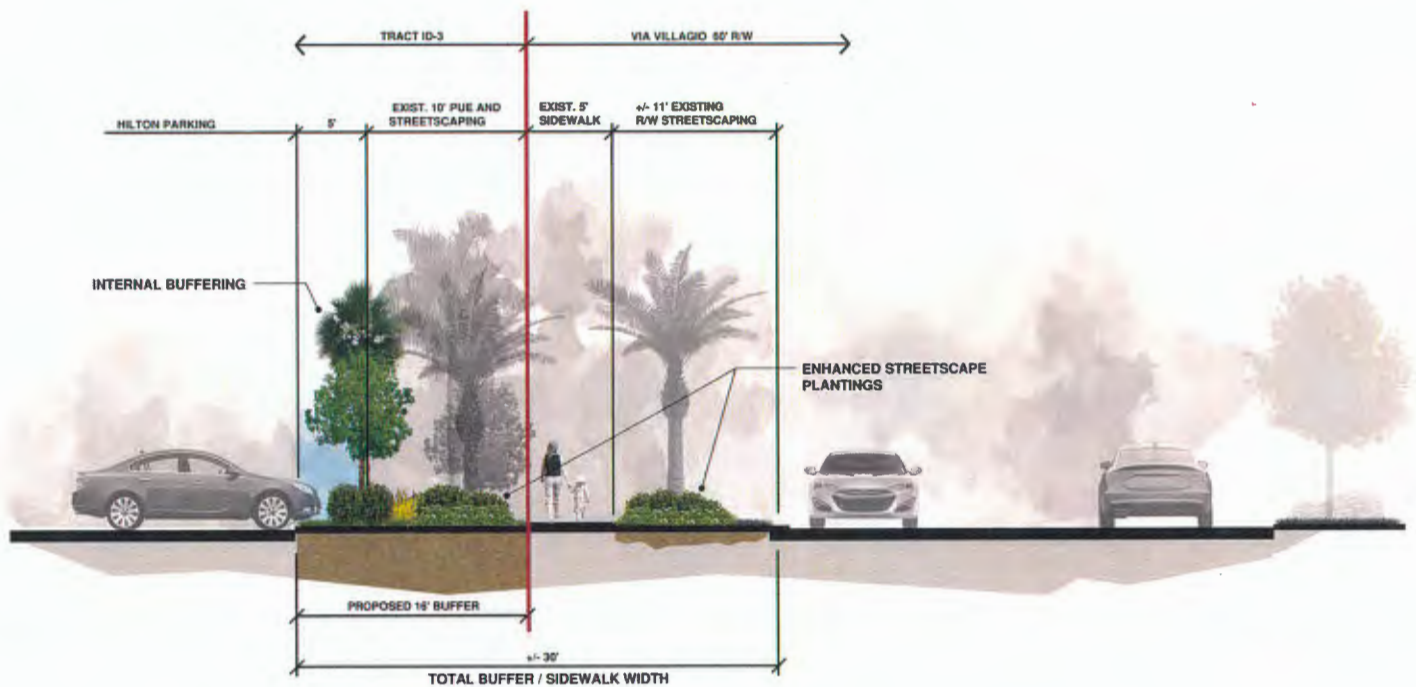
6306 Windway Court, Suite 101 | Fort Myers, Florida 33910  
238.334.9144 | www.LANFLA.com | mail@LANFLA.com

3D Animation | Virtual Design | Digital Imagery | Land Planning & Graphics | Landscape Architecture

PREPARED FOR



Enhanced Landscaping



Hilton Garden Inn at Coconut Point

EXHIBIT A.3

CROSS SECTION 'B-B' - VIA VILLAGIO

DATE: 11-13-17

PREPARED BY



6208 Wesley Creek Drive | Fort Myers, Florida 33919  
 239.334.9144 | www.LANDARCHITECTS.com | info@LANDARCHITECTS.com  
 3D Animation | Virtual Design | Digital Imagery | Land Planning & Graphics | Landscape Architecture

PREPARED FOR



Enhanced Landscaping





# Building Elevation

## Color Scheme - Option 1



# Building Elevation Color Scheme - Option 2

# Building Elevations



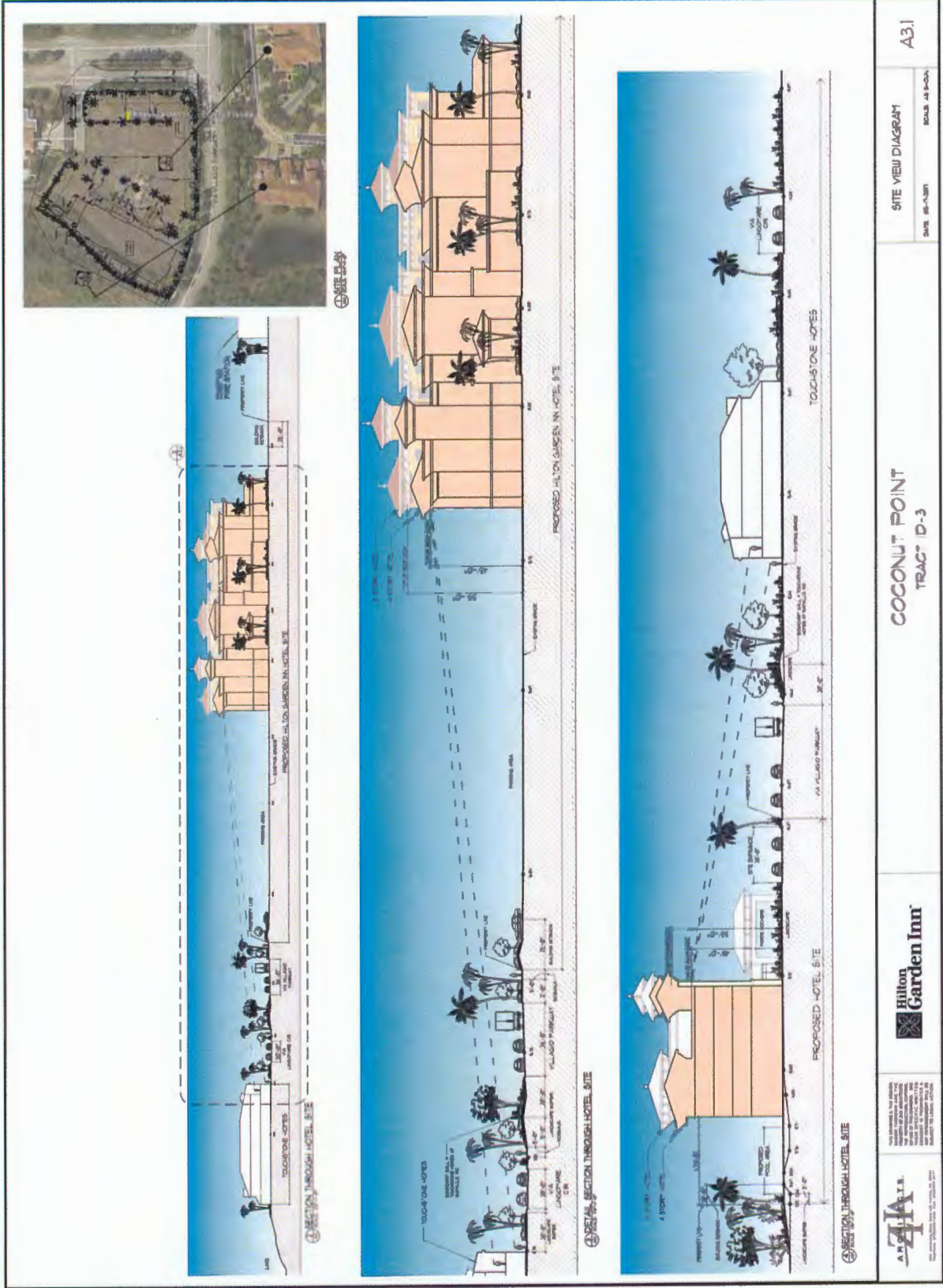
 <p style="font-size: 8px;">             American Institute of Architects              1735 N. 17th Avenue, Suite 200              Fort Lauderdale, FL 33305              Phone: (954) 525-8800              Fax: (954) 525-8801              Website: www.aia.org         </p>	<p style="font-size: 8px;">             PROJECT NO. 2017-001              CLIENT: COCONUT POINT              ARCHITECT: [Faded]              DATE: 07/20/2018         </p>	<p style="font-size: 8px;">             ELEVATIONS              LTON GARDEN INN              88700 FL         </p>	<p style="font-size: 8px;">             A2.1              07/20/2018         </p>	 <p style="text-align: center; font-size: 8px;">NORTH-SIDE ELEVATION</p>	 <p style="text-align: center; font-size: 8px;">SOUTH-SIDE ELEVATION</p>
--	--	--	---	--	---

# Building Elevations



 <p style="font-size: 8px;">             ALL INFORMATION CONTAINED              HEREIN IS UNCLASSIFIED              DATE 05/01/2013 BY 60322              (U)         </p>	<p style="font-size: 8px;">             ELEVATIONS              HILTON GARDEN INN              8875 RD. # 1000              MIAMI, FL 33156         </p>	<p style="font-size: 8px;">             A2.2              07/28/2008         </p>	 <p style="font-size: 8px; margin-top: 5px;">EAST SIDE ELEVATION</p>	 <p style="font-size: 8px; margin-top: 5px;">WEST SIDE ELEVATION</p>
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# Line of Sight



**SITE VIEW DIAGRAM**  
 DATE: 08-13-2011 SCALE: AS SHOWN

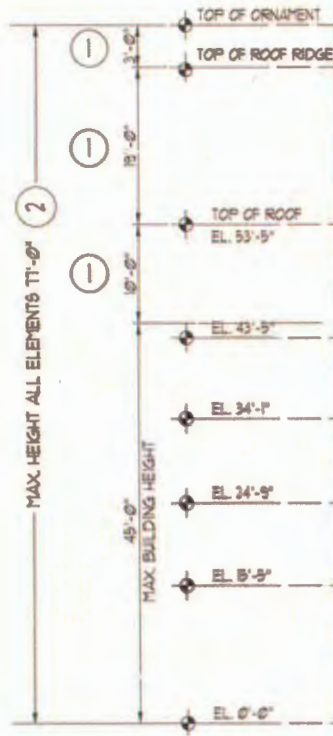
**COCONUT POINT**  
 TRAC D-3

**Hilton Garden Inn**

**ARQUITECTURA**  
ARQUITECTURA Y DISEÑO DE INTERIORES  
 1000 W. PALM BEACH BLVD. SUITE 100  
 PALM BEACH, FL 33480  
 TEL: 561.832.1111  
 WWW.ARQUITECTURAFL.COM

A3.1

# Height Deviation Exhibit



- ① DEVIATION 1 SEEKS RELIEF FROM THE LDC SECTION 33-229, *MAXIMUM HEIGHT*, WHICH LIMITS MAXIMUM BUILDING HEIGHT OUTSIDE OF THE INTERSTATE HIGHWAY INTERCHANGE AREAS TO A MAXIMUM OF THREE STORIES OR 45 FEET, TO ALLOW A MAXIMUM BUILDING HEIGHT OF 55 FEET, MEASURED PER SEC. 34-211 (1) OF THE LAND DEVELOPMENT CODE.
- ② DEVIATION 2 SEEKS RELIEF FROM LDC SECTION 33-229, *MAXIMUM HEIGHT*, WHICH REQUIRES A DEVIATION TO EXCEED THE MAXIMUM HEIGHT LIMITATIONS FOR ARCHITECTURAL ELEMENTS THAT ENHANCE VISIBILITY, OR CREATE FOCAL POINTS OR AMENITIES, SUCH AS TURRETS, SCULPTURE, CLOCK TOWER AND CORNER ACCENTUATING ROOFLINES, TO ALLOW FOR ARCHITECTURAL ELEMENTS NOT TO EXCEED AN ADDITIONAL 22 FEET IN HEIGHT.



THIS DRAWING AND THE DESIGN THEREON ARE THE PROPERTY OF ZTA ARCHITECTS, INC. NO PART OF THIS DRAWING OR DESIGN MAY BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, WITHOUT THE WRITTEN PERMISSION OF ZTA ARCHITECTS, INC. THIS DOCUMENT IS NOT TO BE USED FOR ANY OTHER PROJECT WITHOUT THE WRITTEN PERMISSION OF ZTA ARCHITECTS, INC.



HILTON GARDEN INN  
ESTERO, FL.

DEVIATION 1 & 2  
BUILDING HEIGHT

DATE: 8/8/2011      SCALE: NTS





9401 CORKSCREW PALMS CIRCLE  
ESTERO, FLORIDA 33928  
TEL 239-221-5035  
FAX 239-494-5343  
Estero-fl.gov

## MEMORANDUM

**TO: MARY GIBBS**

**FROM: DAVID WILLEMS, P.E.**

**DATE: JUNE 7, 2018**

**SUBJECT: DCI2017-E003 COCONUT POINT MPD TRACT 1D-3  
STORMWATER REVIEW**

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The above referenced zoning application is requesting the addition of hotel use to Tract 1D-3.

Tract 1D-3 is part of the Coconut Point North stormwater management system. The stormwater management system is bounded by US-41 to the west, Williams Road to the North, railroad tracks to the east and Halfway Creek to the south. All stormwater runoff is directed into the stormwater ponds located throughout Rapallo and one pond located east of Via Coconut Point. All ponds are interconnected through underground storm pipes. The system discharges to Halfway Creek through one control structure located in the Rapallo ponds. Stormwater runoff from Tract 1D-3 flows under Via Villagio to the stormwater ponds located within the Rapallo Community.

As a result of the August 2017 rains and Hurricane Irma, Rapallo experienced significant roadway flooding. According to residents, there was no structure flooding. Rapallo residents indicated 2017 was not the only time their roadways flooded. No definitive dates were given for previous roadway flooding.

The addition of hotel uses to Tract 1D-3 is not expected to affect the overall stormwater management system design. The parcel is already approved for other uses that would have similar impervious coverages and runoff volumes. However, flooding concerns for Rapallo residents are not related to design considerations but are more related to actual site conditions for the stormwater management system. When undeveloped parcels are developed, how will water levels in Rapallo be affected?

At the Village's request, the applicant provided several stormwater models to better demonstrate how future development could impact water levels within Rapallo. According to those models, after the hotel site only is developed, water elevations within the Rapallo lakes will be virtually unchanged compared to existing conditions. This is because Tract 1D-3 was previously filled above the 25-year 3-day peak stage. Tract 1D-3 doesn't provide storage for stormwater runoff. This was demonstrated during the 2017 storms when no standing water was observed on the

property. In addition, to further ensure Tract 1D-3 will not impact Rapallo water levels, the applicant has agreed to install a spillway that will direct flows from Tract 1D-3 in excess of a 25-year 3-day storm event into Halfway Creek, away from Rapallo.

It is important to note that while the stormwater models showed Tract 1D-3 will not impact water levels, development on other parcels could increase water levels and will need to be addressed with future applications for those parcels.



**DISCLOSURE OF INTEREST  
AFFIDAVIT**

BEFORE ME this day appeared Steven P. Wathen, who, being first duly sworn and deposed says:

1. That I am the record owner, or a legal representative of the record owner, of the property that is located at strip # 04-47-25-E3-30103.0000 Eskrow and is the subject of an Application for zoning action (hereinafter the "Property").

2. That I am familiar with the legal ownership of the Property and have full knowledge of the names of all individuals that have an ownership interest in the Property or a legal entity owning an interest in the Property.

[OPTIONAL PROVISION IF APPLICANT IS CONTRACT PURCHASER: In addition, I am familiar with the individuals that have an ownership interest in the legal entity that is under contract to purchase the Property.]

3. That, unless otherwise specified in paragraph 6 below, no Lee County Employee, County Commissioner, or Hearing Examiner has an Ownership Interest in the Property or any legal entity (Corporation, Company, Partnership, Limited Partnership, Trust, etc.) that has an Ownership Interest in the Property or that has contracted to purchase the Property.

4. That the disclosure identified herein does not include any beneficial Ownership Interest that a Lee County Employee, County Commissioner, or Hearing Examiner may have in any entity registered with the Federal Securities Exchange Commission or registered pursuant to Chapter 517, whose interest is for sale to the general public.

5. That, if the Ownership Interest in the Property changes and results in this affidavit no longer being accurate, the undersigned will file a supplemental Affidavit that identifies the name of any Lee County Employee, County Commissioner, or Hearing Examiner that subsequently acquires an interest in the Property.

6. Disclosure of Interest held by a Lee County Employee, County Commissioner, or Hearing Examiner.

N/A	Name and Address	Percentage of Ownership
	<u>Steven P. Wathen 4653 Trueman Blvd. Hilliard OH 43086</u>	<u>100%</u>

Under penalty of perjury, I declare that I have read the foregoing and the facts alleged are true to the best of my knowledge and belief.

Property Owner REA Trst, LLC

Steven P. Wathen, Manager

Print Name

\*\*\*\*\*NOTE: NOTARY PUBLIC IS NOT REQUIRED FOR ADMINISTRATIVE APPROVALS\*\*\*\*\*  
ALL OTHER APPLICATION TYPES MUST BE NOTARIZED

STATE OF FLORIDA *Ohio*  
COUNTY OF LEE *Florida*

The foregoing instrument was sworn to (or, affirmed) and subscribed before me on June 12, 2018 (date) by Steven P. Wathen (name of person providing oath or affirmation), who is personally known to me (type of identification) as identification.



CAMILA DI LISCIA  
ATTORNEY AT LAW  
NOTARY PUBLIC  
STATE OF OHIO  
My Comm. Has No  
Expiration Date  
Section 147.03 R. C.

Signature of Notary Public

## Mary Gibbs

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**From:** Hamish Williams <hwilliams@equity.net>  
**Sent:** Tuesday, June 12, 2018 12:45 PM  
**To:** Mary Gibbs  
**Cc:** Mike Concilla; Ned Dewhirst  
**Subject:** Re: Disclosure of Interest form for REA Trust, LLC

Mary,

To clarify, Equity Inc. is our parent company (located in Hilliard, Ohio) who operates our brokerage, property management and development divisions nationwide out of 10 offices. Which is why the initial and sustained communications will have the name "Equity Inc." associated and listed that way in the staff report. Steve Wathen is the founder and CEO.

REA Trust, LLC is the "buyer" of Coconut Point hotel site in the contract with CP Land Investments, LLC (aka Oakbrook), the "seller". Currently Steve Wathen is 100% owner of REA Trust, LLC.

Hope this helps put the buyer/applicant side in perspective. Happy to provide you any additional information you may need for council.

Thx,

Hamish N. Williams  
Senior Vice-President  
Equity Inc.  
2590 Northbrooke Plaza Drive, Suite 203  
Naples, FL 34119  
Mobile: (239) 313-3416  
Direct: (239) 431-8726  
Work: (239) 210-5900  
Fax: (239) 592-4130  
[hwilliams@equity.net](mailto:hwilliams@equity.net)  
[www.equity.net](http://www.equity.net)



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*Lewis Stroud & Deutsch, P.L.*

MEMORANDUM

TO: Village Council, Village of Estero

FROM: Nancy Stroud  
Village Land Use Counsel

RE: Coconut Point DRI/MPD Tract 1D-3 Hotel and 2018 Amendments to the Florida  
Development of Regional Impact Statute

DATE: June 11, 2018

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As explained in my memorandum of May 24, 2018, the 2018 Florida legislature enacted significant amendments to the Florida Development of Regional Impact (DRI) statute. The memorandum also explained that the effect of those amendments would need to be evaluated for each DRI on a case by case basis. I have been asked to explain the more specific impact of those amendments on the Equity Inc. application for an administrative amendment to allow a hotel within that part of the Master Concept Plan approved for the Coconut Point Mixed Use Planned Development.

As an initial matter, it should be noted that DRIs typically have been approved in the past by a zoning resolution approving the DRI development order that is attached to the resolution containing other local zoning approvals for the project. In Lee County, this local zoning approval has typically involved a rezoning to a Planned Development. The DRI development order addresses the state and regional regulatory requirements, while the remainder of the resolution addresses the details of the Planned Development. Lee County in 2002 adopted the original approvals for the Coconut Point DRI and Mixed Use Planned Development rezoning by Resolution Z-02-009. The DRI development order, and the zoning approvals granted by the original resolution have been amended many times since then, sometimes only amending the zoning approval or the DRI, and sometimes amending both, as the legal circumstances warranted. The Village most recently amended the DRI and the zoning at Coconut Point to approve the multifamily development on Tract 1A. Ordinance No 17-02 approved the zoning for the multifamily development, and incorporated a separately approved Ninth Development Order Amendment and Restatement that updated the DRI approval.

The current application does not request an amendment to the Coconut Point DRI development order, but only an amendment to the Planned Development zoning approval, including an amendment to the Master Concept Plan to locate the hotel in a different location than originally approved and to eliminate the original hotel location. The DRI allows the number of hotel units being requested and does not restrict their location, and thus a DRI amendment for this purpose is not required. The application also requests height deviations, which do not implicate the DRI approval but only the local zoning restrictions which currently limit height at

*One Lincoln Place, 1900 Glades Road, Suite 251, Boca Raton, Florida 33431*  
*Telephone — 561 826 2800 Facsimile — 561 826 2828*

that location to 45 feet. Because there is no requested DRI amendment, then, the new legislation does not affect the Council's review. However, it also should be noted that the DRI legislation reaffirms the current law that once a DRI has paid its proportionate fair share in infrastructure improvements, it cannot be required to contribute more unless a proposed change to the project creates new infrastructure impacts that were not previously mitigated. This applies to any local zoning action taken in regard to the DRI.

As a final note, where the land development code or comprehensive plan has changed since the DRI approval, the law allows new regulation to apply as long as it does not interfere with the DRI's vested rights.<sup>1</sup> Those rights are to develop the DRI as approved, but there are no vested rights to proposed changes. In this case, the applicant is not claiming a vested right to relocate the hotel or to the requested deviations.

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<sup>1</sup> An exception to this general principle may have been created by the new DRI legislation that, in the case of a DRI amendment "that has the effect of reducing the originally approved height, density, or intensity of the development," the change must be reviewed for consistency with the comprehensive plan in effect at the time the DRI was originally approved, and not the current comprehensive plan. Section 380.06(7)(a), Florida Statutes.

*Lewis Stroud & Deutsch, P.L.*

MEMORANDUM

TO: Village Council, Village of Estero

FROM: Nancy Stroud  
Village Land Use Counsel

RE: 2018 Amendments to the Florida Development of Regional Impact Statute

DATE: May 24, 2018

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The Florida legislature in its 2018 regular session enacted significant amendments to the Florida Development of Regional Impact (DRI) statute.<sup>1</sup> As originally created, section 380.06, Florida Statutes, established a state and regional review process for DRIs, which are defined by the statute as “any development which, because of its character, magnitude, or location, would have a substantial effect upon the health, safety, or welfare of citizens of more than one county.” The DRI process was created in 1972 to assure that local governments identify and mitigate impacts of large-scale developments on state and regional resources, and was enacted during a period when many local governments were not very sophisticated in their development review processes. Much of the Village of Estero was developed under the DRI process, and some DRIs in Estero still include undeveloped land for which development applications may be submitted in the future.

The new legislation eliminates the state and regional review process throughout Florida, and instead local governments are tasked with review and decision-making on any DRI amendments in accordance with local government standards and processes. This means, for example, that the prior processes for determining if a DRI amendment is a “substantial deviation” are no longer applicable, and any change to an existing DRI will be reviewed under local land development regulations. Appeals of a local government DRI decision will proceed according to local land development regulations, and no longer will be subject to a state administrative process and no longer limited to only certain parties. At the same time, the legislation preserved certain rights for approved DRIs that cannot be changed by local government. These include:

1. Preservation of capital contribution front loading agreements between a developer and a local government, and any agreements between a local government and a developer to reimburse the developer for voluntary contributions paid in excess of the development’s fair share.
2. Preservation of time extensions previously granted by statute.
3. Provision that notwithstanding any comprehensive plan provision or land development regulation, the adoption by the local government of an amendment to a DRI development order does not diminish or alter any prior credits for a development

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<sup>1</sup> The new legislation is contained in Chapter 2018-158, Laws of Florida.

4. Provision that development within a portion of the DRI that is not directly affected by a proposed change is allowed to continue during the review of the proposed change, and provides that the review is limited to impacts created by the proposed change.

Additionally, the legislation does not change the separate provision in Section 163.3167(5), Florida Statutes that provides for the vested rights of DRIs in regard to local land development regulations and comprehensive plans:

“Nothing in this act shall limit or modify the rights of any person to complete any development that has been authorized as a development of regional impact pursuant to chapter 380 or who has been issued a final local development order and development has commenced and is continuing in good faith.”

This provision has been interpreted judicially to mean that a developer’s only vested development right is in completing development authorized by the original DRI, while any proposed changes to the DRI may be reviewed under the land development regulations and comprehensive plan in effect at the time the changes are reviewed. *Bay Point Club, Inc. v. Bay County*, 890 So. 2d 256 (Fla. 1st DCA 2004). The new legislation modifies this ruling to require the local government to review certain DRI changes under the comprehensive plan in effect when the DRI was originally approved:

“However, a change to a development of regional impact that has the effect of reducing the originally approved height, density, or intensity of the development must be reviewed by the local government based on the standards in the local comprehensive plan at the time the development was originally approved, and if the development would have been consistent with the comprehensive plan in effect when the development was originally approved, the local government may approve the change.”

The effect of this provision must be evaluated for each already approved DRI.

The 2018 legislation may prompt some revisions to the Village land development regulations, which can be incorporated in the current preparation of the new Village land development code. For example, the legislation no longer requires the DRI developer to create annual reports, and the Village may wish to require these reports. Other updates to reflect the new legislation also should be considered.

Attachment 5

**Village Council Hearing May 9, 2018**

**Hearing Minutes Excerpt**

DRAFT

**FINAL ACTION AGENDA/MINUTES  
VILLAGE COUNCIL ZONING HEARINGS**

**Village of Estero Council Chambers  
9401 Corkscrew Palms Circle  
Estero, FL 33928  
May 9, 2018 9:30 a.m.**

**2. ZONING ORDINANCE FIRST READING – COCONUT POINT DRI/MPD  
TRACT 1D-3 HOTEL – HILTON GARDEN INN:**

Zoning Ordinance No. 2018-05 An Ordinance of the Village Council of the Village of Estero, Florida, Approving with Conditions a Zoning Amendment to Allow a Hotel Use on Tract 1D-3 of the Coconut Point Mixed Use Planned Development and Deviations for Height of Building and Architectural Features for Property Located at 8009 Sweetwater Ranch Boulevard in the Village of Estero, Florida, and Comprising Approximately 2.16 Acres; Providing for Conflicts; Providing for Severability; and Providing an Effective Date

Mayor Boesch provided an introductory statement, noting that this was not a public hearing and the second reading and public hearing would take place at a future date. The title of Ordinance No. 2018-05 was read by Recording Secretary Radcliffe.

Community Development Director Gibbs provided an overview of the zoning ordinance and application to allow a hotel use on Tract 1D-3 of the Coconut Point Mixed Use Planned Development and deviations for building height and architectural features. She stated that the Planning and Zoning Board recommended approval with conditions that there be no further Council review until the stormwater issue with the Rapallo community was resolved. Ms. Gibbs also stated that if this item were approved, the hotel use on the adjacent property, Tract 1C, would be removed.

**Council Questions or Comments:** Inquiries were made regarding whether the applicant could build a 3-story, 120-room hotel and who the applicant principals involved



were. Ms. Gibbs stated that the applicant would address those concerns during the second reading/hearing.

**Motion:** Move to pass first reading of Ordinance No. 2018-05 and confirm second reading and public hearing to be scheduled at a future date.

**Motion by:** Vice Mayor Ribble

**Seconded by:** Councilmember McLain

**Action:** Passed first reading of Ordinance No. 2018-05 and confirmed second reading and public hearing to be scheduled at a future date.

**Vote:**

Aye: Unanimous (Council Member Batos absent)

Nay:

Abstentions:

Attachment 6

**Planning and Zoning Board April 17, 2018  
Meeting Minutes Excerpt**

**DRAFT pending approval June 19, 2018**

**FINAL ACTION AGENDA/MINUTES**

**Planning and Zoning Board Meeting**

**Village of Estero  
9401 Corkscrew Palms Circle  
Estero, FL 33928**

**April 17, 2018 5:30 p.m.**

**5. BUSINESS:**

**(c) Public Hearings:**

**(2)** Coconut Point DRI/MPD Tract 1D-3 Hotel (DCI2017-E003) (District 6). *Continued from the March 20, 2018 meeting.* 2.16-acre parcel in the Coconut Point Mixed Planned Development at the southwest corner of the intersection of Via Villagio and Sweetwater Ranch Boulevard adjacent to the Estero Fire Station. The applicant is requesting an amendment to the Coconut Point MPD zoning to add a hotel use to Tract 1D-3 and to increase the maximum height to 55 feet with deviations. The Public Information Meeting was held on August 15, 2017.

There were no ex parte communications or conflicts of interest noted. Community Development Director Gibbs provided a brief introduction.

**Presentation/Information by:** Ned Dewhirst, PE, Oakwood Properties; and Rick Brylanski, Hole Montes

Mr. Dewhirst provided an overview of the site plan, optional color scheme, building elevations, and landscaping. He stated that they are proposing a condition to reduce the height and use on Tract 1C prior to development of Tract 1D-3.

Mr. Dewhirst then provided an overview of the drainage report regarding the lakes at the Rapallo community. He explained that the report was completed and provided the timeline of meetings they have had with the residents of Rapallo, Village staff, South Florida Water Management, and Village constituents. He stated that the report concluded that there should be overflow structures to accommodate super storms, reduce the berm height to accommodate overflow, and proposing another overflow near the hotel.

**Board Questions or Comments:** Questions were asked and comments were made about how the applicant worked with the community to address their concerns and expressed appreciation in their efforts to keep the community abreast of the process.

Community Development Director Gibbs stated that there is a disconnect between the Planning and Zoning Board and Design Review Board regarding the roof height and that Village staff is trying to find a balance between the two Boards' opinions on rooflines. She also noted that Village Public Works Director David Willems is working with the applicant on the stormwater management on the proposed project and suggested that Condition #7 be reworded to strike the verbiage that states "...will be addressed at time of Development Order" to "applicant will provide prior to Village Council review." She also recommended not to include the applicant's proposed condition regarding Tract 1C.

**Public Comment:**

Anthony Rossi, Rapallo, President of the Rapallo Homeowners Association, spoke in support of the project but urged the Board to include conditions for approval: 1) have report certified and approved by the Village Public Works Director; and 2) have South Florida Water Management review mitigation plans proposed in the report.

Frank Moser, Rapallo, spoke in support of the project with inclusion of the two conditions suggested by Mr. Rossi. He urged the Board to continue this item until the conditions are met.

John Gotti, Jr., Rapallo, urged the Board to continue this item until the conditions are met and shared concerns regarding development in the area.

Community Development Director Gibbs explained that there is a stormwater study currently underway and that Village staff is working on the Capital Improvement Plan to address flooding issues.

**Board Comments:**

The Board applauded the applicant's efforts to keep the Rapallo community involved and apprised of the flooding report and the proposed project. Board Member Campos addressed the height limit stated in the Land Development Code and stated that the Planning and Zoning Board and Design Review Board is constantly in conflict with

interpretation of the roofline height. He stated that the Council will need to address the conflict in the near future.

**Motion:** Move to recommend that Village Council approve an amendment to the Coconut Point MPD zoning with the following conditions: 1) the development of the 120-unit hotel building on Tract 1D-3 must be substantially consistent with the Master Concept Plan for Coconut Point MPD last revised on 05/18/2018 and with the 120-room hotel shown as struck through on Tract 1C; 2) the previous approvals (contained in Ordinance No. 2017-02) including conditions and deviations remain in effect except as modified by the conditions contained in this approval; 3) maximum building height for Tract 1D-3 only is 55 feet or 5 stories and the maximum building height for Tract 1C only is 45 feet or 3 stories, and Hotel Use is eliminated from Tract 1C; 4) the project design must be consistent with the Pattern Book, titled “Hilton Garden Inn at Coconut Point, Supplemental Pattern Book, Tract 1D-3”, stamped received April 9, 2018; 5) the finished first floor of the hotel must meet base flood elevation (AE – EL 15 NAVD) at a minimum plus one foot of free board; 6) the applicant must provide a sidewalk connection, including the provision of crosswalks across Sweetwater Ranch Boulevard, to the offsite parking lot on the north side of Sweetwater Ranch Boulevard to the hotel. These improvements must be made prior to a certificate of compliance being issued for the Development Order for the proposed hotel. The off-site parking area will provide up to 10 parking spaces and will be accessed by way of easement to be provided at the time of Development Order; 7) the applicant shall provide additional stormwater information prior to Village Council review, showing that the hotel development will not have any adverse impacts offsite, including the lakes at Rapallo; and 8) acceptance and approval of stormwater report from the Village Public Works Director.

**Motion by:** Board Member Campos

**Seconded by:** Board Member Gargano

**Action:** Recommended that Village Council approve an amendment to the Coconut Point MPD zoning with the following conditions: 1) the development of the 120-unit hotel building on Tract 1D-3 must be substantially consistent with the Master Concept Plan for Coconut Point MPD last revised on 05/18/2018 and with the 120-room hotel shown as struck through on Tract 1C; 2) the previous approvals (contained in Ordinance No. 2017-02) including conditions and deviations remain in effect except as modified by the conditions contained in this approval; 3) maximum building height for Tract 1D-3 only is 55 feet or 5 stories and the maximum building height for Tract 1C only is 45 feet or 3 stories, and Hotel Use is eliminated from Tract 1C; 4) the project design must be consistent with the Pattern Book, titled “Hilton Garden Inn at Coconut Point, Supplemental Pattern Book, Tract 1D-3”, stamped received April 9, 2018; 5) the finished first floor of the hotel must meet base flood elevation (AE – EL 15 NAVD) at a minimum plus one foot of free board; 6) the applicant must provide

a sidewalk connection, including the provision of crosswalks across Sweetwater Ranch Boulevard, to the offsite parking lot on the north side of Sweetwater Ranch Boulevard to the hotel. These improvements must be made prior to a certificate of compliance being issued for the Development Order for the proposed hotel. The off-site parking area will provide up to 10 parking spaces and will be accessed by way of easement to be provided at the time of Development Order; 7) the applicant shall provide additional stormwater information prior to Village Council review, showing that the hotel development will not have any adverse impacts offsite, including the lakes at Rapallo; and 8) acceptance and approval of stormwater report from the Village Public Works Director.

**Vote:**

Aye: Unanimous

Nay:

Abstentions: