

Attachment 7

VILLAGE OF ESTERO, FLORIDA  
ZONING  
ORDINANCE NO. 2017 - 02

1  
2  
3  
4  
5 AN ORDINANCE OF THE VILLAGE COUNCIL OF THE  
6 VILLAGE OF ESTERO, FLORIDA, (APPROVING)  
7 (DENYING) ZONING AND DRI DEVELOPMENT ORDER  
8 AMENDMENTS FOR THE COCONUT POINT MIXED USE  
9 PLANNED DEVELOPMENT AND DEVELOPMENT OF  
10 REGIONAL IMPACT FOR PROPERTY BOUNDED BY US  
11 41 ON THE WEST, WILLIAMS ROAD ON THE NORTH,  
12 SEMINOLE GULF RAILROAD RIGHT-OF-WAY ON THE  
13 EAST AND THE SOUTHERN BOUNDARY FOR THE  
14 VILLAGE OF ESTERO LIMITS, ALL IN THE VILLAGE  
15 OF ESTERO, FLORIDA; PROVIDING FOR  
16 SEVERABILITY; AND PROVIDING AN EFFECTIVE  
17 DATE.  
18

19 WHEREAS, the Coconut Point Development of Regional Impact (DRI), and the  
20 Coconut Point Mixed Planned Development (MPD) were considered by the Lee County Board  
21 of County Commissioners on October 21, 2002; and  
22

23 WHEREAS, the Lee County Board of County Commissioners adopted Resolution  
24 Number Z-02-009, the resolution approving the MPD and DRI Development Order, State DRI  
25 #09-2001-153/Case #DRI2000-00015; and  
26

27 WHEREAS, an amendment to the DRI and MPD was filed and considered by the Lee  
28 County Board of County Commissioners on October 29, 2007; and  
29

30 WHEREAS, the Lee County Board of County Commissioners adopted Resolution  
31 Z-07-040 and the 3rd DRI DO Amendment which is included as part of Resolution Z-07-040;  
32 and  
33

34 WHEREAS, an amendment to the DRI and MPD was filed and considered by the Lee  
35 County Board of County Commissioners on August 5, 2013; and  
36

37 WHEREAS, the Lee County Board of County Commissioners adopted Resolution  
38 Z-13-016 and the 7th DRI DO Amendment which is included as part of Resolution Z-13-016;  
39 and  
40

41 WHEREAS, an amendment to the DRI and MPD was filed and considered by the Lee  
42 County Board of County Commissioners on May 7, 2014; and  
43  
44

43           **WHEREAS**, the Lee County Board of County Commissioners adopted Resolution  
44 Z-14-005 and the 8th DRI DO Amendment which is included in Resolution Z-14-005; and

45  
46           **WHEREAS**, the electors approved the charter for the Village of Estero as set forth in  
47 House Bill 1373 on November 4, 2014 for the establishment of the Village of Estero; and

48  
49           **WHEREAS**, the Coconut Point DRI and Coconut Point MPD are now under the  
50 jurisdiction of the Village of Estero; and

51  
52           **WHEREAS**, an administrative amendment to the DRI and MPD was filed and  
53 considered by the Village of Estero on August 31, 2016; and

54  
55           **WHEREAS**, the Village of Estero adopted Ordinance 2016-10 which approved  
56 amendments to Zoning Resolution Z-14-005 and the 8th DRI DO Amendment; and

57  
58           **WHEREAS**, numerous time extensions provided for by law have been submitted and  
59 accepted by Lee County and the Village of Estero; and

60  
61           **WHEREAS**, the conditions set forth in Resolution Z-02-009 and the amendments to  
62 the 8<sup>th</sup> DRI DO Amendment for Coconut Point DRI remain in full force and effect except as  
63 amended by the resolutions identified herein and the time extensions; and

64  
65           **WHEREAS**, a planned development application to amend the 8th DRI DO  
66 Amendment and MPD has been filed with the Village of Estero to eliminate 200 assisted living  
67 facility (ALF) units from Tract 1A and 18,900 square feet of commercial retail uses from Tract  
68 1C and to add 180 multi-family apartment (MF-Apt) units on Tract 1A of the combined Tract  
69 1A and Tract L1 application, all within Development Area #1. The reduction in ALF units and  
70 commercial retail square footage and increase in MF-Apt units are reflected in the proposed  
71 MPD and the 9<sup>th</sup> DRI DO Amendment; and

72  
73           **WHEREAS**, the public information meeting was held for this application at the  
74 Planning and Zoning Board on September 20, 2016; and

75  
76           **WHEREAS**, the Planning and Zoning Board considered the application at its meetings  
77 on November 15, 2016 and December 13, 2016 and recommended denial of the requests; and

78  
79           **WHEREAS**, a duly noticed first reading was deferred by the Village Council on  
80 February 15, 2017 to a future date based on the fact that the applicant was proposing revisions  
81 to the project; and

82  
83           **WHEREAS**, the applicant subsequently submitted a revised application to staff for  
84 review; and

85           **WHEREAS**, a duly noticed first reading was held before the Village Council on June  
86 21, 2017, and the Council remanded the revised request to the Planning and Zoning Board for  
87 further review; and  
88

89           **WHEREAS**, the Planning and Zoning Board held a public hearing on July 18, 2017 to  
90 review the revised request and was split on its recommendation 3-3, with one abstention; and  
91

92           **WHEREAS**, a duly noticed second reading was held before the Village Council on  
93 July 26, 2017, at which time the Village Council gave consideration to the evidence presented  
94 by the Applicant and the Village staff, the recommendations of the Planning and Zoning Board,  
95 and the comments of the public.  
96

97           **NOW, THEREFORE**, be it ordained by the Village Council of the Village of Estero,  
98 Florida:  
99

100           **Section 1.**     **DRI and Zoning Amendments.**  
101

102           The Village Council approves the amendments to the Coconut Point DRI Development  
103 Order and Zoning Resolution with the following conditions and deviations.  
104

105           **Section 2.**     **Conditions of Approval.**  
106

107           1.     The terms and conditions of Resolutions Z-02-009, Resolution Z-07-040,  
108 Z-13-016, Z-14-005 and Ordinance No. 2016-10 that have not been deleted or amended  
109 remain in full force and effect, as do all time extensions approved by Lee County and  
110 the Village of Estero.  
111

112           2.     Development of the project must be consistent with the amended Zoning Master  
113 Concept Plan (MCP) entitled Coconut Point M.P.D. Exhibit IV-E Rev 24 dated  
114 Received June 30, 2017 and the Conceptual Site Plan entitled Coconut Point Tract –  
115 1A and other Exhibits contained in the Pattern Book “Edera at Coconut Point” dated  
116 Received June 30, 2017, both attached to this Ordinance as Exhibits “A” and “C”.  
117

118           3.     Development must be consistent with the 9<sup>th</sup> DRI Development Order  
119 Amendment attached hereto and incorporated herein as Exhibit “D”.  
120

121           4.     The approved development intensity for the DRI and MPD is as follows:  
122

- 123                   1214 MF Dwelling Units
- 124                   180 MF-Apartment Units
- 125                   200 Assisted living units
- 126                   1,546,210 sq. ft. retail commercial
- 127                   835,777 sq. ft. office (of which 234,000 sq. ft. medical office max)

128 370 hotel rooms  
129 8,000 sq. ft. Bank w/drive thru  
130

131 The intensity of development in each Development Area and each individual tract is  
132 limited as provided for on the approved zoning Master Concept Plan.  
133

134 The Tract 1A project is approved to develop a maximum of 180 multi-family dwelling  
135 units.  
136

137 5. The property development regulations for Tracts 1A, 1B, 1C and 1D are set  
138 forth below:

139	Lot Width	100 feet
140	Lot Depth	100 feet
141	Lot Area	20,000 square feet
142	Maximum Lot Coverage	40 percent

143  
144 NOTE: Tract 1A will not be subdivided  
145

146 Minimum Setbacks

147	Front (street)	25 feet
148	Side	10 feet
149	Rear	25 feet (5 feet for an accessory structure)
150	Water body	25 feet (20 feet for an accessory structure)

151  
152 Minimum Building Separation One-half the sum of the building heights  
153 but not less than 20 feet  
154

155 Maximum Building Height

156	Tract 1A	45 feet (3 stories over 1 story of parking)
157	Tract 1B	55 feet (As conditioned in Section C. 158 Deviation in Z-13-016)
159	Tract 1C	55 feet / 4 stories
160	Tract 1D	45 feet / 3 stories

161  
162 6. Permitted Uses within Tract 1A, 1B and 1C:  
163

164 Accessory Uses and Structures permitted ancillary to a permitted principal use  
165 Administrative offices  
166 Adult Living Facilities (ALF) (Tract 1A only)  
167 Animals Clinic  
168 ATM (automatic teller machine)  
169 Auto parts store  
170 Auto repair and service, Group I, limited to one

171	Banks and Financial Establishments Group I
172	Banks and Financial Establishments Group II, limited to SIC Codes 604, 621,
173	672, 673 and 674
174	Business services, Groups I and II
175	Car wash (limited to one)
176	Cleaning and maintenance services
177	Clothing stores, general
178	Contractors and builders, Groups I and II
179	Convenience Food & Beverage store (limited to one with attendant service
180	station: however, the entire site is limited to a maximum of two)
181	Consumption on premises in compliance with LDC §34-1264 (limited to and in
182	conjunction with a standard restaurant)
183	Cultural facilities, excluding zoos
184	Day care center, child, adult
185	Department Store
186	Drive thru facility for any permitted use
187	Drug store (limited to one total, however, the entire site is limited to two)
188	Dwelling Units: multi-family building (Tract 1A only)
189	Entrance gates and gatehouse, in compliance with LDC §34-1748 (Tract 1A
190	only)
191	Essential services
192	Essential service facilities, Group I
193	Excavation, water retention (as shown on the Master Concept Plan)
194	Fences, walls
195	Food Stores, Groups I and II
196	Gift and souvenir shop
197	Hardware store
198	Health care facility, Group III
199	Hobby, toy and game shops
200	Hotel/Motel (Tract 1C only)
201	Household and office furnishings, Groups I, II, III (no outdoor display)
202	Insurance companies
203	Laundromat
204	Laundry or dry cleaning Group I
205	Lawn and garden supply store
206	Medical office
207	Model units (Tract 1A only)
208	Nonstore retailers, all groups
209	Paint glass and wallpaper store
210	Parking lot: Accessory
211	Personal services, Groups I, II and III (excluding escort services, palm readers,
212	fortunetellers, card readers and tattoo parlors)
213	Pet services

- 214 Pet shop
- 215 Pharmacy
- 216 Printing and publishing
- 217 Real estate sales office
- 218 Recreation facilities, commercial, Groups I and IV
- 219 Recreational facilities, private (Tract 1A and 1B only)
- 220 Rental or leasing establishments Groups I and II (excluding passenger car pick up and drop off for Tracts 1A and 1C only)
- 221
- 222 Repair shops, Groups I, II and III
- 223 Research and development laboratories Groups II and IV
- 224 Restaurant, fast food (limited to two, however, the entire site is limited to a maximum of four outside of the Regional food court/service area)
- 225
- 226 Restaurants, Groups I, II, III and IV
- 227 Self-service fuel pumps (limited to one in conjunction with a Convenience Food and Beverage Store, however, entire site is limited to a maximum of two)
- 228
- 229 Signs, in accordance with Chapter 30
- 230 Social Services, Groups I and II
- 231 Specialty retail shops, Groups I, II, III and IV
- 232 Storage: Indoor only §34-3001 *et seq.*
- 233 Used merchandise stores, Group I
- 234 Variety store
- 235 Vehicle and equipment dealers (section 34-1352), Group 1 (Tract 1B only / No incidental servicing, repairs and stocking of replacement parts) (Outdoor display limited to a maximum of 1 acre)
- 236
- 237
- 238

239 7. The developer of Tract 1A will be responsible for the installation of offsite  
 240 landscaping in the Williams Road/Via Coconut Point roundabout and medians as  
 241 depicted on the landscaping plans in the Pattern Book dated Received June 30, 2017  
 242 and attached as Exhibit "C", and consistent with a roadway landscape plan for Via  
 243 Coconut Point adopted by the Village. The landscaping plans are subject to the Village  
 244 of Estero review / approval and the Coconut Point Design Review Guidelines (DRGs).  
 245 The landscaping must be irrigated and maintained by the developer of Tract 1A or the  
 246 Coconut Point North Village Association. The landscaping must be installed prior to  
 247 the issuance of the Certificate of Compliance for infrastructure for Tract 1A.  
 248

249 8. The developer of Tract 1A must construct a transit / school bus stop shelter as  
 250 depicted on the Conceptual Site Plan prior to the issuance of the Certificate of  
 251 Compliance for infrastructure for the project. The transit / school bus stop shelter is  
 252 subject to the Coconut Point DRGs and will be maintained by the developer.  
 253

254  
 255 9. The architecture for the residential development of Tract 1A must be consistent  
 256 with the conceptual architectural elevations in the Pattern Book attached hereto as

257 Exhibit "C", subject to the Coconut Point DRGs and the review / approval of the Estero  
258 Design Review Board.

259  
260 10. The developer will provide external pedestrian connections as depicted on the  
261 Conceptual Site Plan Exhibit "A". These external pedestrian connections will be  
262 installed prior to the issuance of the Certificate of Compliance for infrastructure for  
263 Tract 1A.

264  
265 11. The developer will provide enhanced onsite landscaping / buffers as depicted  
266 on the landscaping plans in the Pattern Book dated Received June 30, 2017 and attached  
267 as Exhibit "C". The landscaping plans are subject to the Coconut Point Design Review  
268 Guidelines.

269  
270 12. All rental leases for the project must require i) minimum annual leases; ii) proof  
271 of sufficient income without third party guarantor; and iii) a limit on the maximum  
272 number of occupants per unit acceptable to staff at the time of development order.

273  
274 13. The developer will provide the following features prior to the issuance of the  
275 Certificate of Compliance for infrastructure for the project, to improve connectivity to  
276 the overall Coconut Point DRI/MPD:

- 277  
278 i. The developer must provide parking for bicycles dispersed within the  
279 project area at a rate of 10% of the constructed vehicular parking and  
280 accessible from each building.  
281 ii. The developer will implement and maintain an onsite bike sharing  
282 program.  
283 iii. The developer will implement and maintain an onsite trolley (on-road  
284 capability) servicing the Coconut Point DRI area or participate in a  
285 shared trolley service (on-road capability) with the Coconut Point Town  
286 Center.

287  
288 14. All residential buildings for the project will be required to have elevators to  
289 service all habitable floors.

290  
291 15. The developer of Tract 1A will construct the Lake 5A-1 pedestrian  
292 improvements as depicted on the Conceptual Site Plan, subject to permitting, prior to  
293 the issuance of the Certificate of Compliance for infrastructure for the project. The  
294 pedestrian improvements will be maintained by the developer, its successor or assigns,  
295 or the Coconut Point North Village Association. The North Village Association will  
296 provide an easement to the Village of Estero for the public's use of the lake Tract L-1  
297 including pedestrian path and observation deck, subject to approval prior to the  
298 Certificate of Compliance for infrastructure for the project.

299

300 16. The developer will install a right turn lane on Via Coconut into the subject  
301 project entrance as depicted on the Conceptual Site Plan. The turn lane will be subject  
302 to the Village of Estero review / approval at time of the local DO, and must be  
303 constructed prior to the issuance of the Certificate of Compliance for infrastructure for  
304 the project. The Village reserves the right to close or modify the Via Coconut/Via  
305 Villagio project entrance median opening when determined appropriate for traffic  
306 safety purposes.

307  
308 17. CP Land Development, LLC, the owner of Tract 1A and grantor of certain deed  
309 restrictions for Tract 1B within the Coconut Point Development Area One, recorded  
310 under Instrument #2013000207198 with Lee County, Florida, hereby commits to not  
311 modifying the limitation on development within such deed restrictions for any  
312 residential land use purposes without the approval of the Village of Estero.

313  
314 18. The developer will provide the following to address landscape buffering  
315 concerns by the neighboring Brooks/Palmetto Ridge subdivision: i) developer will  
316 make a contribution of \$3000, within 15 days after local development order approval  
317 by the Village, to the Palmetto Ridge HOA for purchase and installation of  
318 shrubs/hedge plant material around the HOA pool area; and ii) developer will modify  
319 the proposed lake Tract L-1 Enhanced Landscaping Plans at the time of local  
320 development order in order to position proposed palms next to lake and proposed  
321 walking path, and across from the HOA's one gap within its existing landscape buffer  
322 next to the railroad ROW. The landscape plans are subject to the Coconut Point DRGs  
323 and the review/approval of the Estero Design Review Board.

324  
325 19. Deviations:

326  
327 a. Deviation (1) seeks relief from the LDC Section 10-291 (3) which  
328 requires more than one means of ingress and egress for a development  
329 greater than five acres in size to permit one project access point and one  
330 stabilized emergency access point. The deviation is hereby  
331 APPROVED subject to the construction and maintenance of the  
332 stabilized emergency access installed in the location identified on the  
333 Conceptual Site Plan (Exhibit "A") and constructed prior to the issuance  
334 of the Certificate of Compliance for infrastructure for Tract 1A.

335  
336 b. Deviation (2) seeks relief from the LDC Section 34-2020(b) which  
337 requires 4 spaces per 1000 square feet for Recreational Facilities,  
338 Indoor, to permit 0 spaces per 1000 square feet, resulting in a 14 parking  
339 space reduction. The deviation is hereby APPROVED, subject to the  
340 following conditions:

341



- 342 i. All parking spaces for the project will be assigned by unit type  
343 and to specific leases, and limited to no more than 2 spaces per  
344 unit.  
345 ii. All visitor parking for the project will be designated.  
346  
347 c. Deviation (3) seeks relief from the LDC Section 33-229 which requires  
348 buildings outside of the Interstate Highway Interchange Areas to be a  
349 maximum three stories or 45 feet, to permit three habitable stories over  
350 1 story of parking with a maximum building height of 45 feet. The  
351 deviation is hereby APPROVED.  
352  
353 d. Deviation (4) seeks relief from LDC Section 10-261 (b) which requires  
354 a minimum overhead clearance of 22 feet and a 12-foot wide  
355 unobstructed access opening, to permit an alternative solid waste  
356 disposal facilities and design incorporated under and adjacent to the  
357 proposed buildings as shown on the Conceptual Site Plan and described  
358 within the application. The deviation is hereby APPROVED.  
359  
360 e. Deviation (5) seeks relief from LDC Section 33-229 which requires a  
361 deviation to exceed the maximum height limitations (45 feet); to permit  
362 architectural features as required by LDC Section 33-330; per  
363 Conceptual Building Elevation sketch stamped received July 21, 2017.  
364 (Exhibit "E") The deviation is hereby APPROVED.  
365

366 **Section 3. Findings and Conclusions.**

367  
368 Based upon an analysis of the application and the standards for the approval in the Land  
369 Development Code, the following findings are made:

- 370  
371 1. The applicant has provided sufficient justification for the zoning amendment by  
372 demonstrating compliance with the Land Development Code.  
373  
374 2. The application is generally compatible with the properties to the north, south  
375 and west.  
376  
377 3. The application is not compatible with the densities of property to the east,  
378 however, the applicant has demonstrated through a line of sight graphic that  
379 only the architectural features at the top of the structures will be visible and thus  
380 is visually compatible.  
381  
382 4. Urban services will be available and adequate to serve the proposed use.  
383

- 384 5. The proposed use, with the proposed conditions, is appropriate at the subject  
385 location.  
386
- 387 6. The multifamily traffic would be more than three times the amount of traffic  
388 generated by an assisted living facility. The applicant has proposed to delete the  
389 200 ALF units as well as eliminating 18,900 square feet of retail square footage  
390 from a different parcel (Tract 1-C) of the Coconut Point MPD/DRI. The  
391 combined effect of the change in land uses results in the identical number of  
392 weekday P.M. peak hour trips and a slight reduction of 111 daily trips in the  
393 Coconut Point MPD/DRI.  
394
- 395 7. The proposed rezoning, DRI amendment and associated conditions provide  
396 sufficient safeguards to the public interest and are reasonably related to impacts  
397 on the public's interest created by or expected from the proposed development.  
398
- 399 8. The deviations recommended for approval:  
400
- 401 a. Enhance the planned development; and
  - 402 b. Preserve and promote the general intent of the LDC to protect the public,  
403 health, safety and welfare.  
404

405 **Section 4. Exhibits.**

406  
407 The following exhibits are attached to this Ordinance and incorporated herein by  
408 reference:  
409

- 410 Exhibit A Coconut Point Zoning Master Concept Plan
- 411 Exhibit B Legal Description
- 412 Exhibit C Pattern Book – “Edera at Coconut Point” dated Received June 30, 2017
- 413 Exhibit D Coconut Point 9th DRI DO Amendment
- 414 Exhibit E Conceptual Building Elevation Sketch, stamped Received July 21, 2017  
415

416 **Section 5. Conflicts.**

417  
418 All sections or part of Sections of the Code of Ordinances, all Ordinances or parts of  
419 Ordinances, and all Resolutions, or parts of Resolutions, in conflict with this Ordinance  
420 shall be repealed to the extent of such conflict upon the effective date of this Ordinance.  
421

422 **Section 6. Severability.**

423  
424 Should any section, paragraph, sentence, clause, phrase or other part of this Ordinance  
425 subsequent to its effective date be declared by a court of competent jurisdiction to be

426 invalid, such decision shall not affect the validity of this Ordinance as a whole or any  
427 portion thereof, other than the part so declared to be invalid.

428

429 **Section 7. Effective Date.**

430

431 This Ordinance shall be effective immediately upon adoption.

432

433 **PASSED** on first reading this 21<sup>st</sup> day of June, 2017.

434

435 **PASSED AND ADOPTED BY THE VILLAGE COUNCIL** of the Village of Estero,  
436 Florida this 26<sup>th</sup> day of July, 2017.

437

438 Attest:

**VILLAGE OF ESTERO, FLORIDA**

439

440

441 By: Kathy Hall  
442 Kathy Hall, MMC, Village Clerk

By: James R. Boesch, Mayor  
443

444

445 Reviewed for legal sufficiency:

446

447

448 By: Nancy E. Strodd  
449 Nancy E. Strodd, Village Land Use Attorney

450

451

452 Vote: AYE NAY

453 Mayor Boesch   x         

454 Vice Mayor Ribble   x         

455 Councilmember Batos   x         

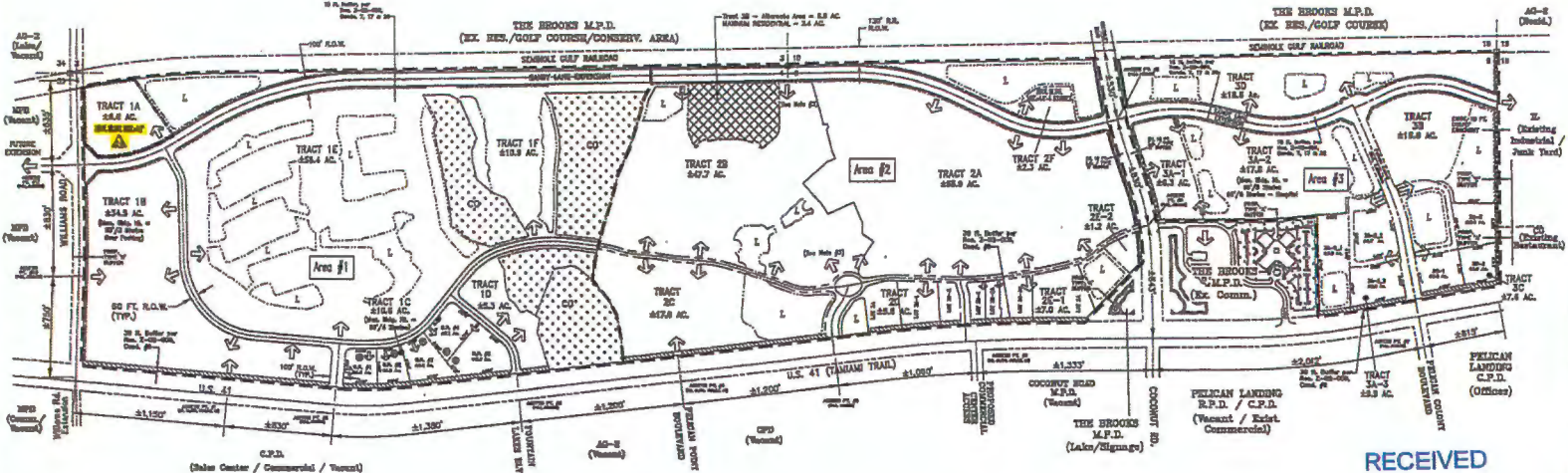
456 Councilmember Errington   x         

457 Councilmember Levitan   x         

458 Councilmember McLain   x         

459 Councilmember Wilson   x

### EXHIBIT A



**RECEIVED**  
**JUN 30 2017**  
**VILLAGE OF ESTERO**

**PROJECT SUMMARY:**

- 1. REQUEST A REZONING FROM AG-2 TO MIXED USE PLANNED DEVELOPMENT (MUD)
- 2. GENERAL CONCEPTUAL PROJECT ARCHITECTURE:
  - CONSERVATION AREAS ≈ 33.4 ACRES
  - LAKE ≈ 36.8 ACRES
  - INTERNAL (PRIVATE) R.O.W. ≈ 28.2 ACRES
  - INTERNAL (PUBLIC) R.O.W. ≈ 25.9 ACRES
  - CONV. AREAS / OPEN SPACE ≈ 8.7 ACRES
  - ADJACENTLY TRACT AREAS ≈ 363.7 ACRES
  - TOTAL ≈ 492.4 ACRES
- 3. CONCEPTUAL TRACT AND LAND USE / ACREAGE BREAKDOWN:
  - Development Area #1:** (Residential - 79,913 A.L.U./Units / Retail - Comm. 67,200 Sq.Ft., Offices 492,277 Sq.Ft. / Total 123 Acres / Block w/ D.T. - 4,100 Sq.Ft.)
    - Proposed Tables ≈ 28.1 Ac.
    - Proposed Internal R.O.W. ≈ 3.2 Ac.
    - Proposed Public R.O.W. (Steady Lane Extension) ≈ 13.1 Ac.
    - Conservation Areas ≈ 23.6 Ac.
    - Conv. Areas / Open Space ≈ 4.7 Ac.
    - Development Areas (Tracts 1A - 1F) ≈ 128.9 Ac.
    - Total Development Area #1 ≈ 210.6 Ac.
  - Development Area #2:** (Residential - 450 M.U. Units / Retail - Comm. 148,110 Sq.Ft., Offices 90,000 Sq.Ft. / Total - 253 Acres)
    - Proposed Tables ≈ 17.9 Ac.
    - Proposed Internal R.O.W. ≈ 5.1 Ac.
    - Proposed Public R.O.W. (Steady Lane Extension) ≈ 8.1 Ac.
    - Conservation Areas ≈ 4.0 Ac.
    - Development Areas (Tracts 2A - 2F) ≈ 143.5 Ac.
    - Total Development Area #2 ≈ 178.6 Ac.
  - Development Area #3:** (Residential - 434 M.U./A.L.U. Units / Retail - Comm. 44,920 Sq.Ft., Offices 191,200 Sq.Ft.)
    - Proposed Tables ≈ 13.7 Ac.
    - Proposed Internal R.O.W. ≈ 5.8 Ac.
    - Proposed Public R.O.W. (Steady Lane Extension) ≈ 7.4 Ac.
    - Development Areas (Tracts 3A - 3C) ≈ 59.9 Ac.
    - Total Development Area #3 ≈ 55.9 Ac.
- 4. PROJECT PHASING:
 

M.U./A.L.U./Units	RETAIL COMM.	OFFICE	HOTEL	Bank w/ AT
2001 - 2024	1,100,000	1,540,000	535,771	270
	1,100,000	1,540,000	535,771	270

\* M.U./A.L.U./Units MAY BE REPLACED WITH S.R./T.R./F.M./DIVERSE USES SO LONG AS THE TOTAL NO. OF PEAK HOUR VEHICLE TRIPS GENERATED BY THE DEVELOPMENT IS NOT INCREASED AND APPROVAL IS OBTAINED BY ACCORDANCE WITH RESOLUTIONS 1-0-005.
- 5. CONCEPTUAL OPEN SPACE (Tract 2B Alternative Plan):
  - Development Area #1:**
    - LESS Steady Lane Extension and Tracts 1A + 1B + 1F) 524.8 Ac. x 30% ≈ 37.49 Ac.
    - (Tracts 1A / 1B / 1F) 73.9 Ac. x 40% ≈ 30.56 Ac.
  - Development Area #2 (ALT 1, TRACT 2B ALT AREA - 3.4 AC RESIDENTIAL MAX):**
    - (LESS Steady Lane Extension & Retail Area) 159.4 Ac. x 30% ≈ 47.9 Ac. \*\*
    - (Residential Area) 8.2 Ac. x 40% ≈ 3.7 Ac.
  - Development Area #2 (ALT 2, TRACT 2B ALT AREA - NO RESIDENTIAL):**
    - (LESS Steady Lane Extension & Retail Area) 157.8 Ac. x 30% ≈ 48.5 Ac.
    - (Residential Area) 5.8 Ac. x 40% ≈ 2.3 Ac.
  - Development Area #3:**
    - (LESS Steady Lane Extension & Tracts 3B & 3C) 53.7 Ac. x 30% ≈ 17.9 Ac.
    - (Tracts 3B & 3C) 28.8 Ac. x 40% ≈ 11.5 Ac.

Total Open Space Required (ALT 1): ≈ 114.6 Ac.  
Total Open Space Provided (ALT 1): ≈ 99.9 Ac.

\*\* The % of Open Space may vary depending upon the ultimate land uses.  
\*\*\* Includes Residential above Commercial uses.
- 6. INDETERMINATE OPEN SPACE: DUE TO THE EXISTING AGRICULTURAL LAND USE AND THE EXTENT OF METALINCA INVASION WITHIN THE REMAINING FORESTED AREAS, NO INDETERMINATE OPEN SPACE IS REQUIRED.
- 7. NOTES:
  - A. Internal access will be provided to allow through traffic between US 41 and Steady Lane Extension.
  - B. For Tract 1C ground service use limitations, see above MCF.
  - C. The project will be designed to include the use of the Low Tens services in accordance with Lee County LDC Sec. 34-411(b) and 10-442.

**LEGEND**

- PROPERTY BOUNDARY
- - - ROAD R.O.W. LINE
- ▨ CONSERVATION AREAS
- - - PROPOSED LAKE
- CONCEPTUAL ACCESS POINT
- ⊕ ADJACENT ZONING / LAND USE
- ⊕ GENERAL LOCATION OF SERVICE AREAS

ADMINISTRATIVE ASSIGNMENT	4/24/14	6/14/14	6/14/14	6/14/14	6/14/14	6/14/14	6/14/14	6/14/14	6/14/14	6/14/14	6/14/14	6/14/14	6/14/14	6/14/14	6/14/14	6/14/14	6/14/14	6/14/14
Subdivision Rezone	Δ	Δ	Δ	Δ	Δ	Δ	Δ	Δ	Δ	Δ	Δ	Δ	Δ	Δ	Δ	Δ	Δ	Δ
Subdivision Plat	Δ	Δ	Δ	Δ	Δ	Δ	Δ	Δ	Δ	Δ	Δ	Δ	Δ	Δ	Δ	Δ	Δ	Δ
Subdivision Amend	Δ	Δ	Δ	Δ	Δ	Δ	Δ	Δ	Δ	Δ	Δ	Δ	Δ	Δ	Δ	Δ	Δ	Δ
Subdivision Amend (P.D. Only)	Δ	Δ	Δ	Δ	Δ	Δ	Δ	Δ	Δ	Δ	Δ	Δ	Δ	Δ	Δ	Δ	Δ	Δ
Subdivision Amend (C.P.D. Only)	Δ	Δ	Δ	Δ	Δ	Δ	Δ	Δ	Δ	Δ	Δ	Δ	Δ	Δ	Δ	Δ	Δ	Δ
Subdivision Amend (M.P.D. Only)	Δ	Δ	Δ	Δ	Δ	Δ	Δ	Δ	Δ	Δ	Δ	Δ	Δ	Δ	Δ	Δ	Δ	Δ
Subdivision Amend (M.P.D. & C.P.D. Only)	Δ	Δ	Δ	Δ	Δ	Δ	Δ	Δ	Δ	Δ	Δ	Δ	Δ	Δ	Δ	Δ	Δ	Δ
Subdivision Amend (M.P.D. & C.P.D. & M.P.D. Only)	Δ	Δ	Δ	Δ	Δ	Δ	Δ	Δ	Δ	Δ	Δ	Δ	Δ	Δ	Δ	Δ	Δ	Δ

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

62000 Whiskey Creek Drive  
Fort Myers, FL 33919  
Phone: (239) 985-1200  
Florida Certificate of  
Authorization No. 1772

**H.M.**  
**HOLE MONTES ENGINEERS-RANSER-SERVICES**

9779B\_MCPB  
97.79-B | 1-1

Exhibit B

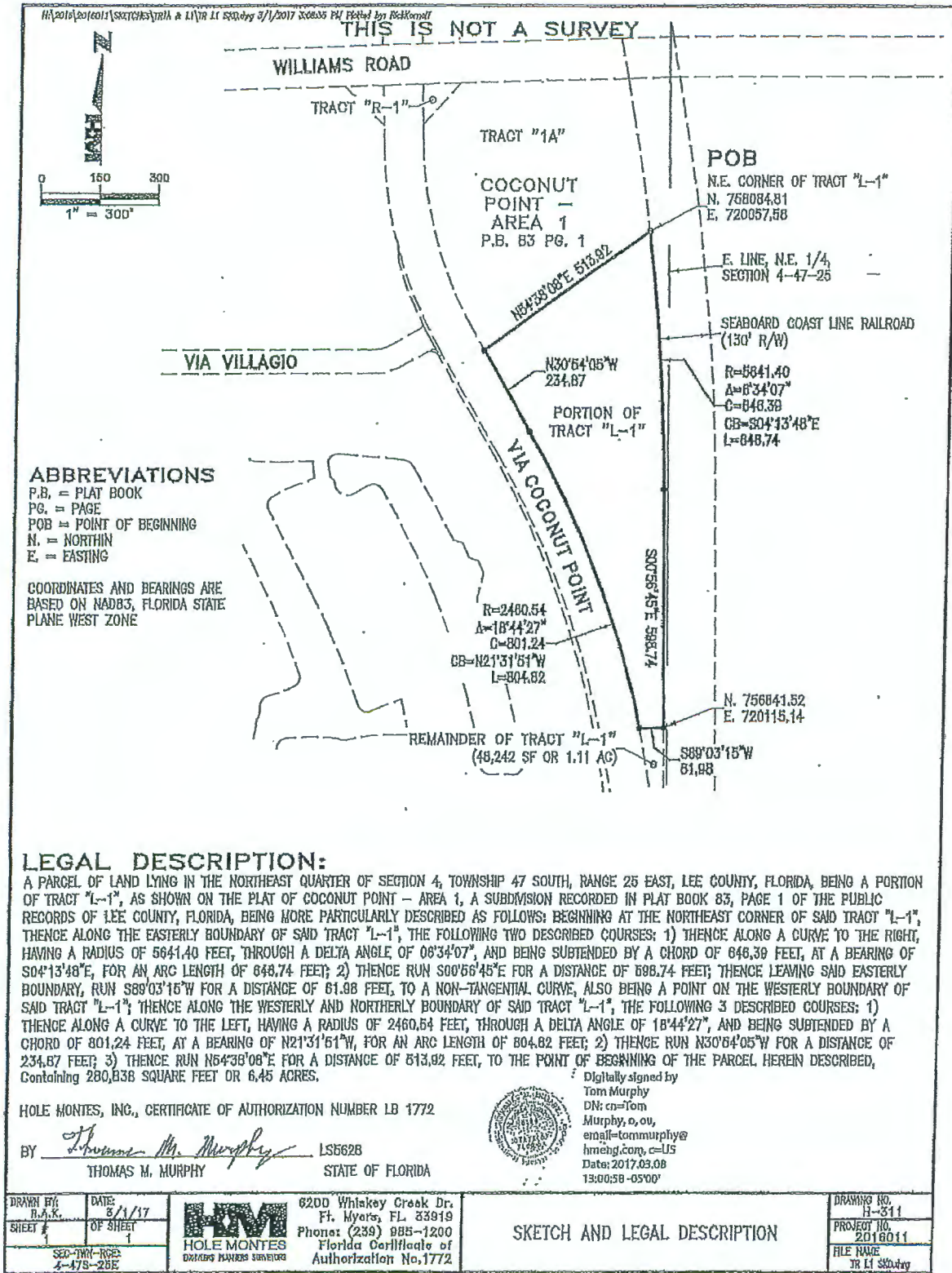


Exhibit C

RECEIVED

JUN 30 2017

VILLAGE OF ESTERO



COCONUT  
POINT

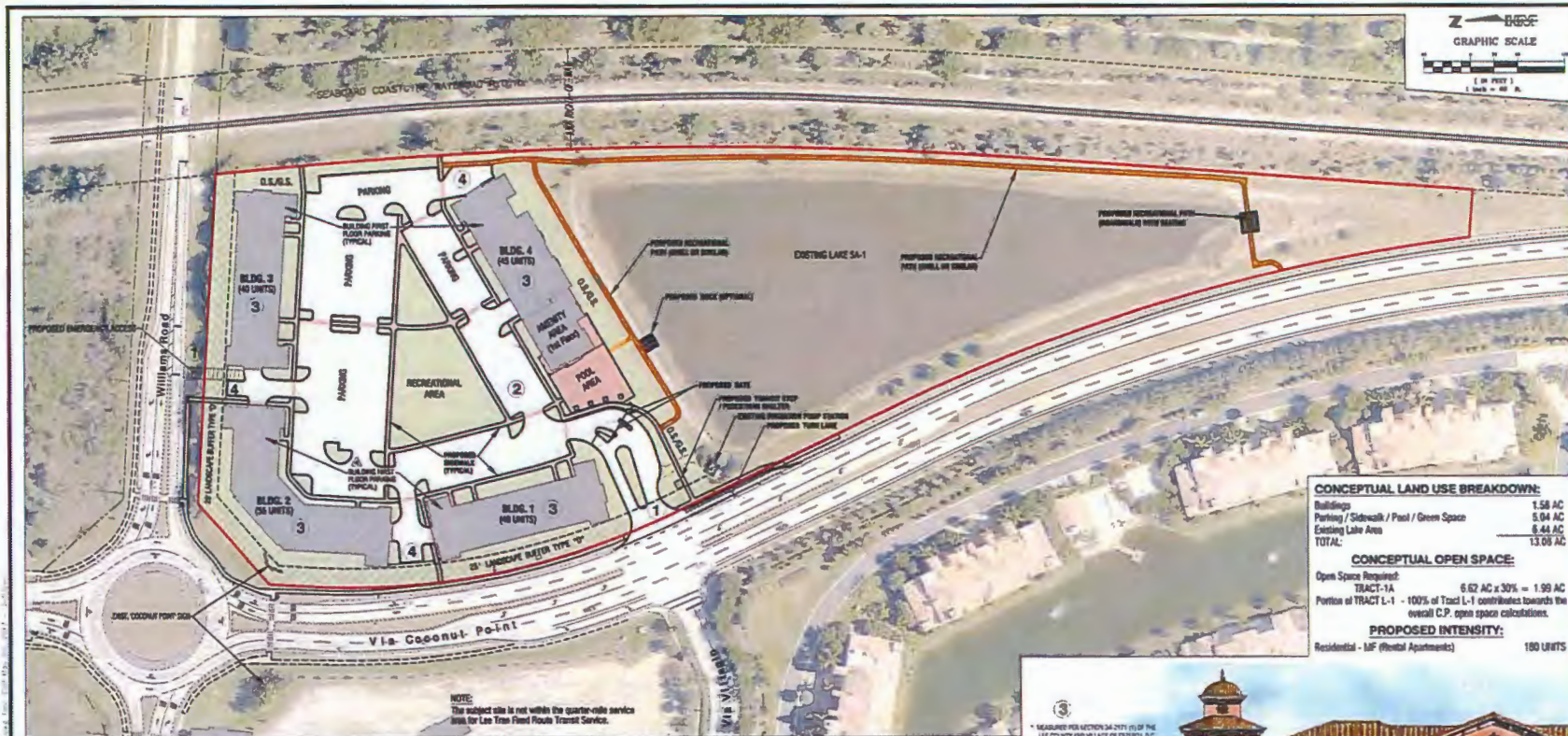
*Coconut Point*  
ESTERO, FLORIDA

DESIGN REVIEW GUIDELINES

# Edera at Coconut Point

Supplemental Pattern Book

Tracts 1A and L-1



**CONCEPTUAL LAND USE BREAKDOWN:**

Buildings	1.58 AC
Parking / Sidewalk / Pool / Green Space	5.04 AC
Existing Lake Area	6.44 AC
<b>TOTAL:</b>	<b>13.06 AC</b>

**CONCEPTUAL OPEN SPACE:**

Open Space Required:  
 TRACT-1A 6.62 AC x 30% = 1.99 AC  
 Portion of TRACT L-1 - 100% of Tract L-1 contributes towards the overall C.P. open space calculations.

**PROPOSED INTENSITY:**  
 Residential - MF (Rental Apartments) 180 UNITS

**NOTE:**  
 The subject site is not within the quarter-mile service area for Lee Trolley Route Transit Service.

**REQUESTED DEVIATIONS:**

1. Deviation (1) seeks relief from the LDC Section 10-291 (3) which requires more than one means of ingress and egress for a development greater than five acres in size to permit one project access point and one stabilized emergency access point as depicted on the Conceptual Site Plan.
2. Deviation (2) seeks relief from the LDC Section 34-2020(b) which requires 4 spaces per 1000 square feet of Recreational Facilities, Indoor, to allow no additional spaces for these facilities.
3. Deviation (3) seeks relief from the LDC Section 33-229 which requires buildings outside of the Interstate Highway Interchange Areas to be a maximum three stories or 45 feet, to permit a maximum building height of 45 feet.
4. Deviation (4) seeks relief from LDC Section 10-261 (b) which requires a minimum overhead clearance of 22 feet and a 12-foot wide unobstructed access opening, to permit an alternative solid waste disposal facilities and design incorporated under and adjacent to the proposed buildings as shown on the Conceptual Site Plan and described within the application.



**CONCEPTUAL BUILDING ELEVATION**

REVISION	DESCRIPTION	DATE
1	REVISION PER PLANNING REVIEW	05-08-2017
2	REVISION PER PLANNING REVIEW	05-14-2017
3	REVISION PER PLANNING REVIEW	11-19-2016
4	REVISION PER PLANNING REVIEW	02-22-2016
5	REVISION	DATE

**EDERA AT COCONUT POINT**  
 LEE COUNTY, FLORIDA



6200 Whiskey Creek Drive  
 Fort Myers, FL 33919  
 Phone: (239) 965-1200  
 Florida Certificate of  
 Authorization No. 1772

**CONCEPTUAL SITE PLAN**

PROJECT NO.	16011 CSP
DATE	2016011
SHEET NO.	1

**Conceptual Site Plan**





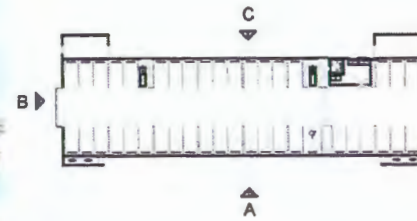
ELEVATION - A  
SCALE 3/32" = 1'-0"



ELEVATION - C  
SCALE 3/32" = 1'-0"



ELEVATION - B  
SCALE 3/32" = 1'-0"



KEY PLAN  
SCALE N.T.S.



**CORWIL ARCHITECTS**  
401 HAVEN ST. COVINGTON, LA 70424  
LIC. NO. AA-0007151 EXPIRES 1/30/16

PROJECT  
**COCONUT POINT  
TRACK 1A**  
LEE COUNTY, FLORIDA

OWNER

BUILDING TYPE I  
COLOR ELEVATIONS

PHASE  
PRELIMINARY

REVISIONS  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
DATE

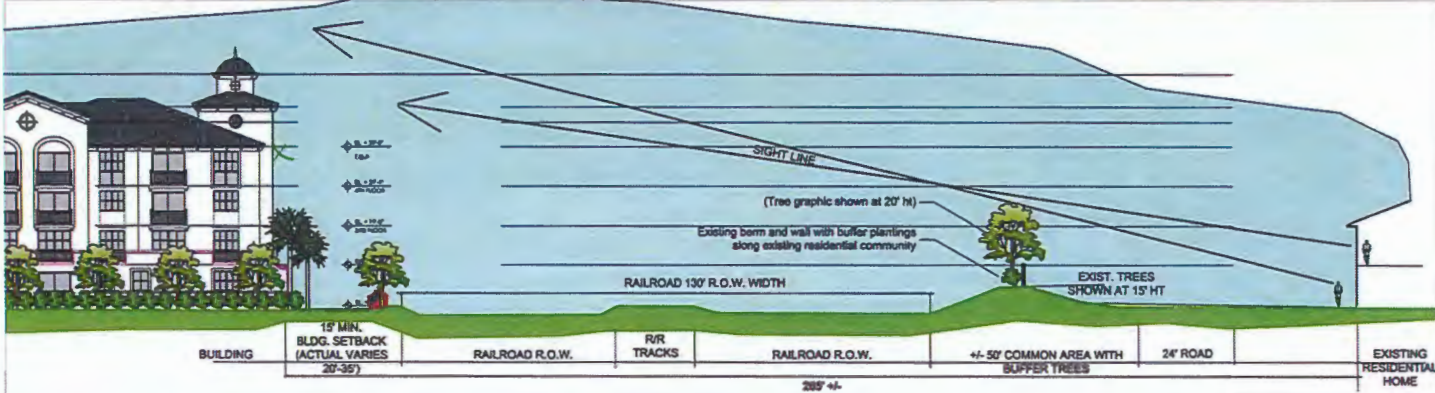
DATE: 11/13/14  
JOB NO.: 384407  
DRAWN BY: MC  
CHECK BY: ABC  
PRINTED DATE: 01-04-2015  
SHEET NUMBER

A-2.00A



# Building Elevation





SIGHT VIEW DIAGRAM - SECTION 1-1

H:\LOCAL\2017\COCONUT POINT\20170617.dwg, Job: 10, (L) Jan. 26, 2017 - 11:17am

**COCONUT POINT TRACT-1A**  
LEE COUNTY, FLORIDA

REVISION	DATE	BY	CHKD BY



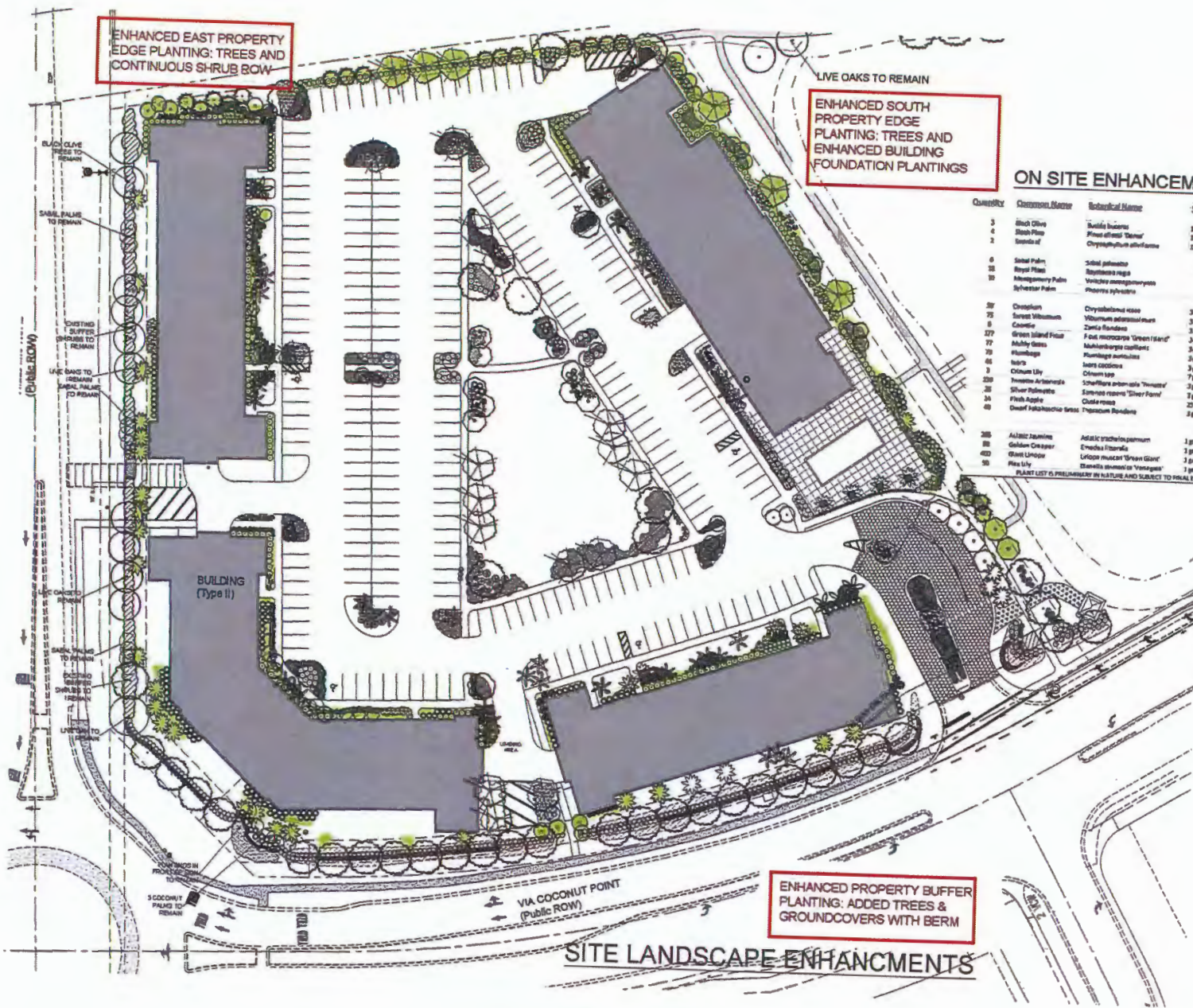
6200 Whiskey Creek Drive  
Fort Myers, FL 33919  
Phone: (239) 985-1200  
Florida Certificate of  
Authorization No. 1772

**SIGHT VIEW DIAGRAM**

<small>THIS PLANSET IS NOT A FINAL PLAN UNLESS SO INDICATED BY THE DATE AND SIGNATURE OF THE DESIGNER.</small> <small>DATE: June 28, 2017</small>	<small>CAD FILE NAME:</small> SIGHT VIEW DIAGRAM	<small>PROJECT NO.:</small> 2016011	<small>SHEET NO.:</small> 1
--	---	--	--------------------------------

# Line of Sight





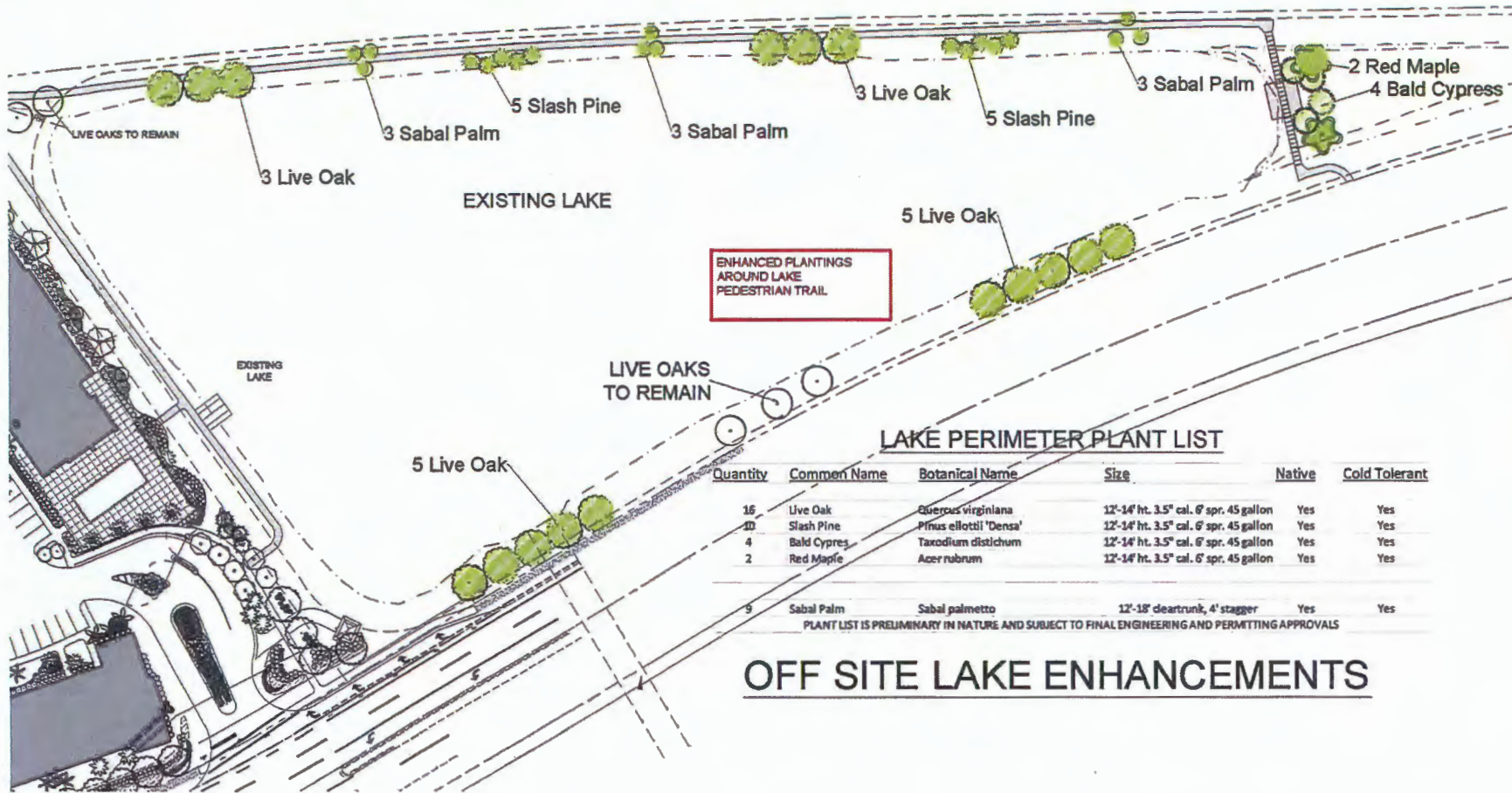
**ON SITE ENHANCEMENTS PLANT LIST**

Quantity	Common Name	Botanical Name	Size	Notes	Cold Tolerant
3	Black Olive	Buffa lucida	12'-14" ht. 1.5" cal. 5' var. 45 gallon	Yes	Yes
4	Black Rose	Prunella 'Sensu'	12'-14" ht. 3.5" cal. 6' var. 45 gallon	Yes	Yes
2	bananae	Chrysalidula albiflora	12'-14" ht. 3.5" cal. 6' var. 45 gallon	Yes	Yes
6	Small Palm	Small palmaceae	12'-18" diam trunk, 4' stagger	Yes	Yes
15	Royal Palm	Bismarckia nipa	12" diam trunk	Yes	Yes
10	Manzanita Palm	Washingtonia robusta	12" diam trunk	No	Yes
	Sylvestra Palm	Phoenix sylvestris	6-8' ht. male trunk	No	Yes
50	Ornamental	Chrysalidula rosea	3 gallon, 24" ht	Yes	Yes
75	Forest Viburnum	Viburnum acerifolium	3 gallon, 24" ht	No	Yes
5	Camellia	Zamia floridana	3 gallon, 12" ht	Yes	Yes
127	Green Island Plant	2 gal. microcarpa 'Green Island'	3 gallon, 12" - 20" ht	No	Yes
77	Mulberry Grass	Andropogon glaucus	3 gallon, 24" ht	No	Yes
70	Flumbago	Flumbago auriculata	3 gallon, 24" ht	No	Yes
45	Verb	Isatis tinctoria	3 gallon, 24" ht	No	Yes
3	Clayton Lily	Claytonia	3 gallon, 24" ht	No	Yes
250	Travertine Arteresia	Schizanthus litoralis 'Travertine'	3 gallon, 24" ht	No	Yes
30	Silver Palmetto	Sabal palmetto 'Silver Palm'	3 gallon, 22" - 25" ht	Yes	Yes
14	Flora Apple	Malus domestica 'Flora Apple'	3 gallon, 22" - 25" ht	Yes	Yes
40	Dwarf Subshrub	Thymus serpyllifolius	3 gallon, 24" ht	Yes	Yes
205	Adiantum	Adiantum species	1 gallon, spaced @ 2' o.c.	No	Yes
80	Golden Creeper	Epiphyllum phyllanthoides	1 gallon, spaced @ 2' o.c.	Yes	Yes
400	Great Linum	Linum catharticum 'Green Glass'	1 gallon, spaced @ 2' o.c.	No	Yes
50	Flora Lily	Stemodia ciliolata 'Flora Lily'	1 gallon, spaced @ 2' o.c.	No	Yes

PLANT LIST IS PRELIMINARY IN NATURE AND SUBJECT TO FINAL ENGINEERING AND PERMITTING APPROVALS

Landscape—Tract 1A





ENHANCED PLANTINGS  
AROUND LAKE  
PEDESTRIAN TRAIL

**LAKE PERIMETER PLANT LIST**

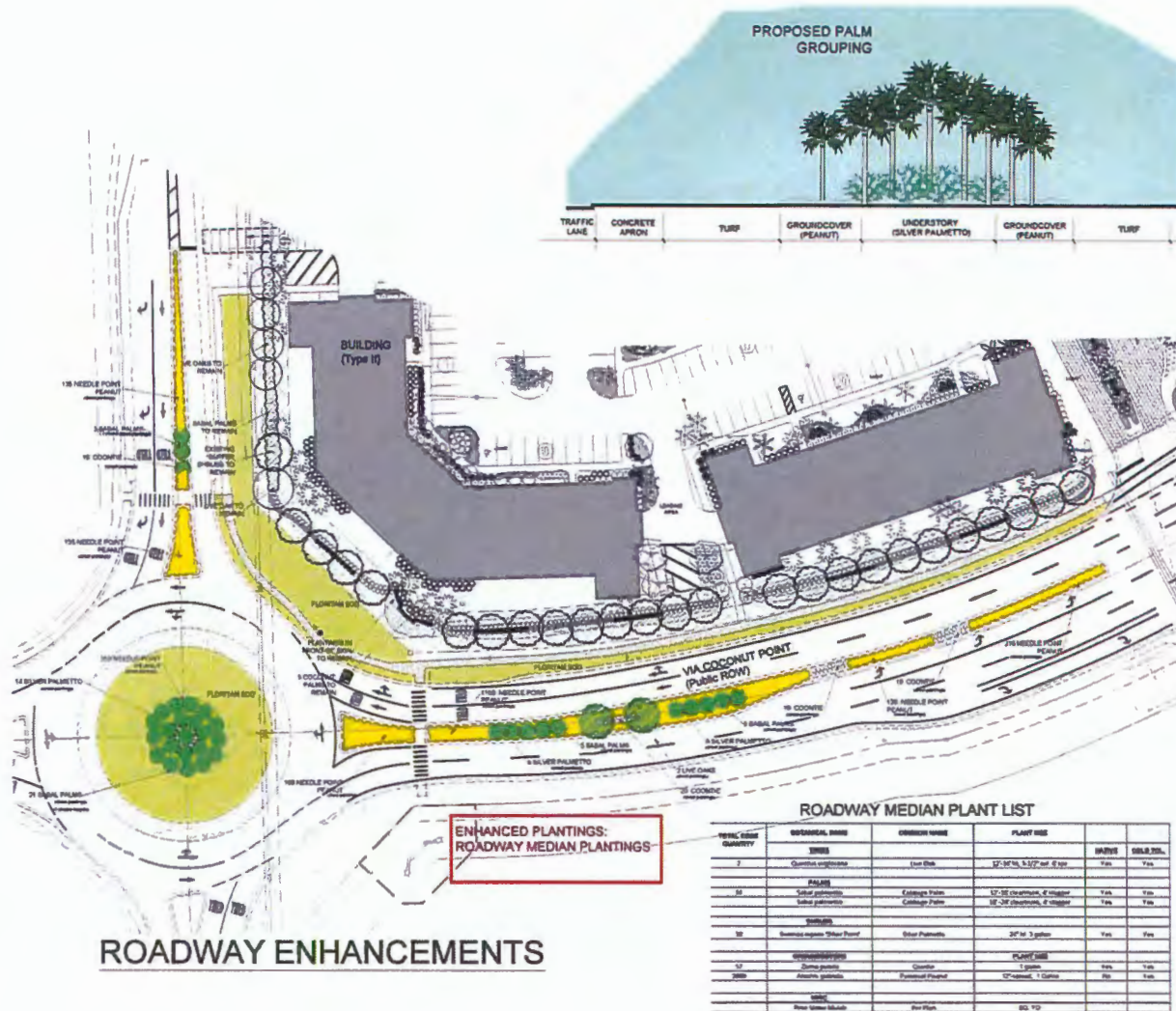
Quantity	Common Name	Botanical Name	Size	Native	Cold Tolerant
16	Live Oak	<i>Quercus virginiana</i>	12'-14' ht. 3.5" cal. 6' spr. 45 gallon	Yes	Yes
10	Slash Pine	<i>Pinus ellottii</i> 'Densa'	12'-14' ht. 3.5" cal. 6' spr. 45 gallon	Yes	Yes
4	Bald Cypress	<i>Taxodium distichum</i>	12'-14' ht. 3.5" cal. 6' spr. 45 gallon	Yes	Yes
2	Red Maple	<i>Acer rubrum</i>	12'-14' ht. 3.5" cal. 6' spr. 45 gallon	Yes	Yes
9	Sabal Palm	<i>Sabal palmetto</i>	12'-18' cleartrunk, 4' stagger	Yes	Yes

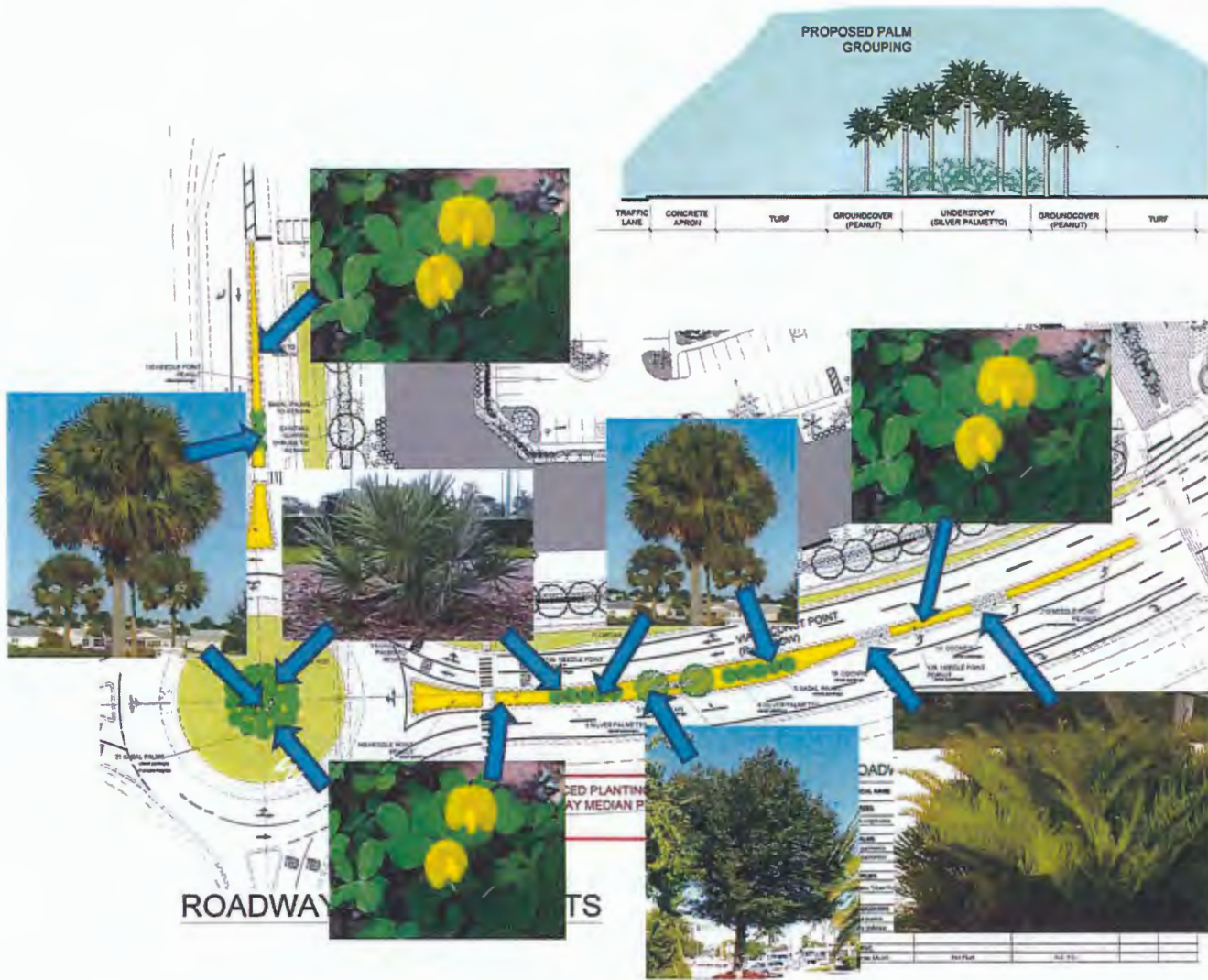
PLANT LIST IS PRELIMINARY IN NATURE AND SUBJECT TO FINAL ENGINEERING AND PERMITTING APPROVALS

**OFF SITE LAKE ENHANCEMENTS**



# Landscape—Median





# Landscape—Median

EXHIBIT D  
NINTH DEVELOPMENT ORDER AMENDMENT AND RESTATEMENT<sup>1</sup>  
FOR COCONUT POINT DRI  
STATE DRI # 09-2001-153

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

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

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

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

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

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

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

---

<sup>1</sup> This is a codification and restatement of the Coconut Point DRI Development Orders as amended through July 26, 2017.

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

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

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

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

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

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

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

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

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

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

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

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

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

WHEREAS, on August 5, 2013, the DRI Development Order was amended a seventh time to: (a) decrease the number of residential units from 1,528 to 1,214; (b) decrease the retail square footage from 1,638,900 to 1,607,500; (c) increase the office square footage from 315,000 to 782,777; (d) eliminate the performing arts center; (e) increase the number of ALF units from 200 to 400; (f) reduce the number of hotel units from 440 to 320; and (g) extend the build out and termination dates to December 31, 2019 and December 31, 2025, respectively; and

WHEREAS, on September 20, 2013, Lee County received a request for an Eighth Amendment to the Coconut Point DRI Development Order to: (1) add an acute care hospital and increase the amount of medical office from 104,333 sf. to 234,000 sf. and (2) extend the build out date and termination date to December 31, 2024, and December 31, 2030, respectively; and

WHEREAS, the Eighth Amendment (1) provided an option to develop an acute care hospital within Tract 3A; (2) increased the square footage of office that can be constructed within Tract 3A so long as net new external trips from Tract 3A do not exceed 614; and (3) extended the buildout and termination dates to December 31, 2024, and December 31, 2030, respectively.

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

WHEREAS, the Board approved the Eighth Amendment on May 7, 2014 finding the proposed changes did not constitute a substantial deviation from the original development approvals; and

WHEREAS, the Village of Estero was created on or about December 31, 2014, and the Coconut Point DRI is now under the jurisdiction of the Village of Estero; and

WHEREAS, an application was submitted by Lee Memorial Health System to make corrections to the DRI DO created by the Eighth Amendment. These corrections allowed Tract 3A-1, 3A-2, and 3A-3 1 in the South Village to be developed with (1) a 160-bed acute care hospital constructed only within Tracts 3A-1, 3A-2 and 3A-3\_1, and (2) with any of the following land uses or combinations so long as they do not exceed 479 total net new external trips: up to 60,000 gross leasable square feet of retail, 300,000 square feet office (of which a maximum of 198,000 square feet may be medical office), 160 acute care hospital beds. These corrections were approved by the Village Council as



Ordinance 2016-10 on August 31, 2016. The corrections approved by Ordinance 2016-10 are included in this Ninth Development Order Amendment and Restatement ("Ninth Amendment"); and

WHEREAS, an application to amend the Eighth DRI Development Order was submitted by Coconut Point Holdings, LP on or about August 16, 2016 to (1) reduce 200 assisted living facility (ALF) units; (2) reduce 18,900 square feet of commercial retail; and (3) to add 180 multi-family apartment (MF-APT) units within Development Area 1; and

WHEREAS, Department of Economic Opportunity (DEO) issued a letter on or about July 19, 2016 finding that the amendment is a change pursuant to Section 380.06(19)(e).2.k., Florida Statutes and not a substantial deviation; and

WHEREAS, the Village of Estero Council has determined that the amendment is not a substantial deviation and concurred with DEO that the amendment is a Section 380.06(19)(e).2.k. change; and

WHEREAS, this Ninth Amendment will correct certain inconsistencies of land use intensity changes that were approved by previous amendments but not corrected in the previous amendments; and

NOW, THEREFORE, be it resolved by the Village Council of the Village of Estero, Florida, that the Development Order for the Coconut Point DRI is hereby amended and restated as follows:

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

A. The Coconut Point DRI is a master planned commercial development consisting of 482.4+/- acres located in unincorporated south central Lee County at the intersection of US 41 and Coconut Road. The Coconut Point DRI is a mixed use development that will consist of: 1,440,110 gross leasable square feet of retail/regional mall (Regional Retail Center), 106,100 gross leasable square feet of retail on other parcels adjacent to the regional mall (Community Commercial Retail), 8,000 gross leasable square feet of Banks, 835,777 square feet of office, of which no more than 234,000 square feet may be medical office, 370 hotel rooms, 1,214 condominium units, 180 multi-family apartment units, and a 200 unit assisted living facility. The project will include 33.4 acres of conservation areas, 57.1 acres of lakes, 43.2 acres of road rights-of-way and 9.0 acres of green area/open space.

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

The project phasing schedule consists of one phase with build out in 2028.

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

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

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

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

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

H. On July 19, 2016, the Department of Economic Opportunity determined that the Ninth Amendment was not a substantial deviation and did not require the filing of a Notice of Proposed Change.

I. The development is located in the Urban Community and Wetlands future land use categories. The project, as proposed and conditioned herein, is consistent with the Village of Estero Comprehensive Plan and the Village of Estero Land Development Code.

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

## **II. ACTION ON THE REQUEST AND CONDITIONS OF APPROVAL**

NOW THEREFORE, be it resolved by the Village Council of the Village of Estero, Florida, in a public meeting duly advertised, constituted and assembled that the Development of Regional Impact Application for Development Approval submitted on behalf of Simon Property Group, L.P. and the Oakbrook Properties, Inc., for the project known as the Coconut Point DRI, originally approved October 21, 2002, is hereby further amended subject to the following conditions, restrictions and limitations. For the purpose of this Development Order, the term "Developer" refers to Simon Property Group, L.P., Oakbrook Properties, Inc., and Coconut Point Developers, LLC, and includes all successors or assigns. All references to County Ordinances or other regulations, including amendments thereto up to and including the date at which the Village was incorporated. References to Village Ordinances and regulations include all amendments that may take effect in the future.

### **A. AFFORDABLE HOUSING**

1. *150 Affordable Housing Units (\$600,000).*<sup>2</sup>
  - a. The Developer must provide, either directly or through third parties, 150 units (combined total) of affordable housing for very low, low, and moderate-income persons within the identified DRI housing assessment area on or before December 31, 2006.
  - b. In the event the Developer does not provide all of the 150 units required above prior to December 31, 2006, the Developer may satisfy the remaining affordable housing obligation by paying \$4,000 (\$600,000 divided by 150 units) for each unit of the shortfall to the Lee County Affordable Housing Trust Fund.

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

3. The changes to the development parameters proposed in the Ninth Amendment do not create impacts to affordable housing warranting further mitigation.

## **B. ENERGY**

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

These features are:

1. A bicycle/pedestrian system connecting all land uses, to be placed along arterial and collector roads within the project and also along Sandy Lane. This system will be consistent with LDC regulations.
2. Bicycle racks or storage facilities in recreational, commercial and multi-family residential areas.

---

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

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

3. Bus stops, shelters and other passenger and system accommodations for a transit system to service the project area.

4. Energy efficient features in window design (e.g. tinting and exterior shading), operable windows, ceiling fans, appliances and equipment.

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

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

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

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

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

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

11. Including porch and patio areas in residential units.

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

### **C. STORMWATER MANAGEMENT**

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

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

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

4. Best management practices are subject to the Village of Estero review and approval and must be included on all construction plans for development.

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

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

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

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

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

10. The Developer must confirm, to the satisfaction of all applicable federal, state, and local review agencies, and the SFWMD, that the proposed storm water management system will not impact habitats of any state or federally listed plant and/or

animal species potentially occurring onsite, or that such impacts will be mitigated to the benefit of onsite populations of those species.

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

12. If the Village of Estero establishes a Village-wide storm water management system, the Developer must participate to the extent the system benefits the development.

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

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

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

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

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

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

#### **D. TRANSPORTATION**

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

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

The traffic impact assessment for the Project assumes the following development parameters as a worst case traffic scenario achievable under the maximum potential development parameters identified in Exhibit C,

	Build out (2028)
Multifamily Condominiums (ITE LUC 230) (450 d.u. Town Center, 540 d.u. North Village) 224 d.u. South Village	1,214 d.u.
Multifamily Apartments (ITE LUC 220) (180 d.u. North Village)	180 d.u.
Assisted Living Facility (ITE LUC 252) (200 d.u. South Village)	200 d.u.
Hotel (ITE LUC 310) (250 rooms Town Center, 120 rooms South Village)	370 rooms
Community Retail (ITE LUC 820) (66,100 square feet North Village, 40,000 square feet South Village*)	106,100 sq. ft. (gla)
Regional Retail Center (ITE LUC 820) 1,440,110 square feet Town Center)	1,440,110 sq.ft (gla)
General Office (ITE LUC 710) (481,277 square feet North Village, 90,000 square feet Town Center, 30,500 square feet South Village*)	601,777 sq. ft.
Medical Office (ITE LUC 720) (234,000 square feet South Village*)	234,000 sq. ft.
Bank with drive-thru (8,000 square feet North Village)	8,000 sq. ft.

\*Tracts 3A-1, 3A-2, and 3A-3 1 in the South Village (shown on page 3 of Map H attached hereto as Exhibit "B") may be developed with up to 60,000 gross leasable sq. ft. retail, 300,000 sq. ft. office (of which a maximum of 198,000 sq. ft. may be medical office), 160 acute care hospital beds, or any combination of these uses that do not exceed 479 net new external trips.

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

above parameters and assumed uses. If the Developer exercises Mitigation Option 2 and is granted concurrency vesting for all or a portion of the DRI, any significant change in the assumed uses, mix of uses or location of uses on the Master Concept Plan will require a re-evaluation of the DRI transportation impacts. A significant change is one that would increase the external project traffic by 5% or more or that would change the projected distribution and assignment of project traffic so as to result in a net increase in road miles of significantly and adversely impacted roadway links. This condition does not apply if Mitigation Option 1 is selected.

The overall traffic at the Project driveway entrances based on the 2002 development parameters, was estimated to be 5,909 trips, including 4,120 PM net new external peak hour trips. The approval of the Seventh Development Order Amendment increased the overall traffic at the driveway entrances to 6,467 trips, including 4,565 PM net new external peak hour trips. The approval of the Eighth Amendment increased the overall traffic at the driveway entrances to 6,588 trips, including 4,734 PM net new external peak hour.

b. *Build Out Impacts*

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

Roadway Improvements Needed

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

Intersection Improvements Needed

Bonita Beach Road @ Old 41 <sup>(1)</sup>	Add 2 <sup>nd</sup> SB left turn lane
---	---------------------------------------



Coconut Road @ Driveway 9/Regional Retail Center <sup>(2)</sup>	Add WB right turn lane Add SB right turn lane Add SB left turn lane Add dual EB left turn lane Signalization <sup>(3)</sup>
Coconut Road @ Sandy Lane <sup>(2)</sup>	Add WB left turn lane Add WB right turn lane Add NB right turn lane Add NB left turn lane Add SB left turn lane Add SB right turn lane Add EB left turn lane Add EB right turn lane Signalization <sup>(3)</sup>
Corkscrew Road @ Ben Hill Griffin Parkway <sup>(1)</sup>	Add 2 <sup>nd</sup> EB left turn lane Add 2 <sup>nd</sup> NB left turn lane Add 2 <sup>nd</sup> SB left turn lane
Corkscrew Road @ River Ranch Road <sup>(1)</sup>	Signal retiming
Corkscrew Road @ Three Oaks Parkway	Add 2 <sup>nd</sup> WB left turn lane Add 2 <sup>nd</sup> NB left turn lane Add 2 <sup>nd</sup> SB left turn lane
I-75 @ Corkscrew Road <sup>(1)</sup>	Add 2 <sup>nd</sup> EB left turn lane <sup>(4)</sup> Add 2 <sup>nd</sup> WB left turn lane <sup>(4)</sup> Add 2 <sup>nd</sup> NB left turn lane Add 2 <sup>nd</sup> SB left turn lane
Old 41 @ Dean Street <sup>(1)</sup>	Signalization <sup>(3)</sup>
Old 41 @ Pennsylvania Avenue <sup>(1)</sup>	Signal retiming
Old 41 @ West Terry Street <sup>(1)</sup>	Add 2 <sup>nd</sup> NB thru lane Add 2 <sup>nd</sup> SB thru lane
Three Oaks Parkway @ Koreshan Boulevard <sup>(1)</sup>	Signalization <sup>(3)</sup>
Three Oaks Parkway @ Williams Road <sup>(1)</sup>	Signalization <sup>(3)</sup>
Three Oaks Parkway @ Coconut Road <sup>(1)</sup>	Signalization <sup>(3)</sup>
US 41 @ Immokalee Road <sup>(1)</sup>	Signal retiming
US 41 @ Old 41 <sup>(1)</sup> (Collier County)	Signal retiming
US 41 @ Bonita Beach Road	Signal retiming
US 41 @ West Terry Street	Signal retiming
US 41 @ Old 41/Pelican Landing Parkway	Add 2 <sup>nd</sup> WB right turn lane Add 2 <sup>nd</sup> NB left turn lane Add 2 <sup>nd</sup> SB left turn lane Add 2 <sup>nd</sup> EB left turn lane
US 41 @ Pelican Colony Boulevard	Add dual WB left turn lane <sup>(2)</sup> Add WB right turn lane <sup>(2)</sup> Add NB right turn lane <sup>(2)</sup> Add 2 <sup>nd</sup> NB left turn lane Add dual SB left turn lane <sup>(2)</sup>

US 41 @ Coconut Road	Add 2 <sup>nd</sup> EB left turn lane Add EB right turn lane Add 2 <sup>nd</sup> WB left turn lane Add 2 <sup>nd</sup> NB right turn lane Add 2 <sup>nd</sup> NB left turn lane Add 2 <sup>nd</sup> SB left turn lane Add 2 <sup>nd</sup> EB left turn lane Add EB right turn lane
US 41 @ Driveway 6/Regional Retail Center <sup>(1)</sup>	Add NB right turn lane <sup>(2)</sup> Add SB left turn lane <sup>(2)(3)</sup> Add WB right turn lane <sup>(2)</sup> Signalization <sup>(2)(3)</sup>
US 41 @ Driveway 5/Internal East-west Road <sup>(1)</sup>	Add NB right turn lane <sup>(2)</sup> Add dual SB left turn lane <sup>(2)</sup> Add dual WB left turn lane <sup>(2)</sup> Add WB right turn lane <sup>(2)</sup> Signalization <sup>(2)(3)</sup>
US 41 @ Driveway 4/Pelican Point Boulevard <sup>(1)</sup>	Add NB right turn lane <sup>(2)</sup> Add SB Left turn lane <sup>(2)</sup> Add WB right turn lane <sup>(2)</sup> Signalization <sup>(2)(3)</sup>
US 41 @ Driveway 3/Fountain Lakes Boulevard <sup>(1)</sup>	Add NB right turn lane <sup>(2)</sup> Add SB left turn lane <sup>(2)</sup> Add dual WB left turn lane <sup>(2)</sup> Add WB thru lane <sup>(2)</sup> Add WB right turn lane <sup>(2)</sup> Signalization <sup>(2)(3)</sup>
US 41 @ Driveway 2/Estero Greens <sup>(1)</sup>	Add NB right turn lane <sup>(2)</sup> Add dual SB left turn lane <sup>(2)</sup> Add dual WB left turn lane <sup>(2)</sup> Add WB thru lane <sup>(2)</sup> Add WB right turn lane <sup>(2)</sup> Add EB right turn lane <sup>(2)</sup> Signalization <sup>(2)(3)</sup>
US 41 @ Driveway 1/Community Commercial <sup>(1)</sup>	Add NB right turn lane <sup>(2)</sup> Add SB left turn lane <sup>(2)</sup> Add WB right turn lane <sup>(2)</sup>
US 41 @ Williams Road <sup>(1)</sup>	Add 2 <sup>nd</sup> SB left turn lane Add 2 <sup>nd</sup> WB left turn lane
US 41 @ Corkscrew Road <sup>(1)</sup>	Add 2 <sup>nd</sup> WB left turn lane
US 41 @ Broadway <sup>(1)</sup>	Signal retiming
US 41 @ Koreshan Boulevard	Signalization <sup>(3)</sup>
US 41 @ Sanibel Boulevard <sup>(1)</sup>	Signal retiming

US 41 @ Metro Parkway <sup>(1)</sup>	Add 2 <sup>nd</sup> NB right turn lane
US 41 @ Alico Road <sup>(1)</sup>	Signal retiming
US 41 @ Island Park Road <sup>(1)</sup>	Signal retiming
US 41 @ Ben Pratt/Six Mile Cypress Parkway <sup>(1)</sup>	Add EB thru lane
	Add WB thru lane
Williams Road @ Driveway 1/Comm Commercial <sup>(1)</sup>	Signalization <sup>(3)</sup>
Williams Road @ River Ranch Road <sup>(1)</sup>	Signalization <sup>(3)</sup>
Williams Road @ Sandy Lane <sup>(2)</sup>	Signalization <sup>(3)</sup>
	Add WB left turn lane
	Add NB right turn lane
	Add NB left turn lane
	Add EB right turn lane
Williams Road @ Three Oaks Parkway	Signalization <sup>(3)</sup>

- (1) *This intersection is not included in a significantly and adversely impacted roadway segment.*
- (2) *This intersection is considered a site-related improvement.*
- (3) *Signalization only if warranted and subject to approval by the maintaining agency.*
- (4) *Dual EB and WB left turn lanes should be provided if they can be constructed without requiring reconstruction of the I-75 overpass bridge structure.*

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

## 2. Mitigation

### a. Build Out Proportionate Share

The build out proportionate share is \$14,600,000 in year 2002 dollars. This figure represents the Developer's share of necessary roadway and intersection improvements based on the development parameters set forth in Section II.D.1.a. The estimated roads impact fees based on the schedule effective July 1, 2000 is \$10,196,250, which is lower than the proportionate share estimate.

As noted in Condition D.3, the Developer must pay \$170,000 as mitigation for the project's Comprehensive Plan impacts to the 2020 level of service on US 41 from Koreshan Boulevard to Alico Road. Therefore, the total proportionate share obligation deemed sufficient to mitigate both the build out DRI-related transportation impacts on the non-site related roads and

intersections set forth in Paragraph D.1.b and the project's Comprehensive Plan impacts is \$14,770,000. However, if the reanalysis described in section D.2.d.1 demonstrates that additional funds are necessary to mitigate the project's transportation impacts, then the Developer will be required to pay the higher mitigation amount.

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

b. *Mitigation Options*

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

(1) Traffic Mitigation Option 1

(a) Payment

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

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

(b) Concurrency

All development within the project will be subject to the Village of Estero Concurrency Management System at the time it obtains a local development order.

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

---

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

(a) Payment

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

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

(b) Development Agreement

Exercise of traffic mitigation option 2 requires a Local Government Development Agreement executed pursuant to §163.3220, Florida Statutes, and Chapter 2, Article III of the Lee County Land Development Code. The Developer must submit a draft Development Agreement to Lee County within 6 months of the adoption of the original DRI Development Order or prior to submittal of any local development order application for the Regional Retail Center or the Community Commercial Retail. The Development Agreement must be executed prior to issuance of a local development order allowing vertical construction anywhere on the site, excepting public uses mandated by this Development Order. The agreement must specify the payment schedule for the total proportionate share obligation in accordance with subparagraph (2)(a) above. An agreement was entered into

---

<sup>7</sup> In Lee County, concurrency is reviewed at the time of local development order approval, which is independent of the DRI review process. However, the Developer submitted a traffic analysis for a new build out scenario resulting from HB 7207 demonstrating that the DRI project will not significantly or adversely impact any of the relevant road segments. Based upon this analysis, concurrency vesting rights were extended to December 31, 2017. Analysis during the May 10, 2013 NOPC resulted in an extension of concurrency vesting until December 31, 2019. Concurrency vesting was subsequently extended to December 31, 2024 as a result of analyses performed for the seventh and eighth amendments to the DRI.

with Lee County pursuant to this provision prior to incorporation of the Village of Estero.

c. *Application of Payments*

(1) Cash.

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

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

The Developer may propose in the Development Agreement to provide a specific roadway improvement or improvements in lieu of the second cash payment to the County of \$8,500,000 in 2002 dollars, which is referenced in Section D.2.b.(2)(a). The proposed pipeline improvements are subject to County approval. In addition to the improvements

---

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

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

listed in Section D.1.b, potential improvements for pipelining consideration include (but are not limited to):

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

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

d. *Build out Extension*

(1) Requirement for Reanalysis

The original DRI Development Order approval indicated that extension of the build out date beyond 2007 may alter the project's impact to the area road network. Under the Second

DRI Development Order amendment, the Developer was obligated to file a complete traffic re-analysis in order to achieve an extension of the build out date beyond December 2007. However, a three-year statutory extension of the build out date was granted by 2007 legislation; and a two-year statutory extension of the build out date was granted by 2009 legislation.

As a result of HB 7207, Executive Order Numbers 11-128 (extended by 11-172 and 11-202), 12-140 (extended by 12-192 and 12-217) and 12-199, and §252.363, Florida Statutes, the DRI build out date was automatically extended to April 7, 2019. However, concurrency vesting was not automatically extended. The traffic analysis submitted by the Developer demonstrated that the DRI project will not significantly or adversely impact any of the relevant road segments up to December 31, 2017. A subsequent analysis included in the May 10, 2013 NOPC resulted in an extension of concurrency vesting until December 31, 2019. Analyses performed for subsequent seventh and eighth amendments to the DRI resulted in an extension of concurrency vesting to December 31, 2024. The extension of the build out date after December 31, 2024 will, therefore, require an additional traffic assessment to the Village of Estero for review and approval.

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

The assessment must include a cumulative analysis of the project's traffic impacts. The assessment must also identify mitigation for significantly and adversely impacted road segments by cumulative project traffic at the extended build out year in accordance with the Transportation Uniform Standard Rule in the Florida Administrative Code. Prior to conducting a reassessment analysis, the Developer must attend a transportation methodology meeting with the Village of Estero, and other review agencies as necessary, to establish the appropriate methodology.

The traffic assessment will be prepared by the Developer following generally acceptable transportation planning procedures consistent with the standards in effect at the time of reanalysis. Payment of additional mitigation, if any,



resulting from the traffic assessment must be specified in an amended development order. The development order must be amended via a Notice of Proposed Change to reflect the revised phasing and additional mitigation.

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

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

(2) Alternative for Reanalysis

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

If all or a part of the Regional Retail Center has received building permits prior to December 31, 2006, the Developer may choose to pay the traffic mitigation for some or all of the balance of the development

---

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

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

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

Concurrency vesting was subsequently extended to December 31, 2024 pursuant to subsequent seventh and eighth amendments.

through build out in a lump sum at the time the extension application is approved. Full payment of the required mitigation pursuant to Mitigation Option 2 constitutes an election under this section. This section is not intended to supersede the standard submittal requirements for a typical Notice of Proposed Change under state law.

(b) *NOPC filed to extend build out beyond 2012.*

If the entirety of the Coconut Point DRI is not built out by September 4, 2028, the NOPC requesting a build out date extension must be accompanied by a complete cumulative traffic reanalysis, as contemplated by the June 15, 2005 RPC recommendation. The traffic impact analysis must date back to 2010 and address all relevant impacts moving forward from December 31, 2010.

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

An amendment to the Future Land Use Map, to change 435 acres from “Rural” to “Urban Community” was necessary to accommodate the approval of this DRI. To support the Map amendment, an analysis different from the DRI Transportation Analysis was necessary. This Comprehensive Plan analysis required review of the effects of the proposed DRI project in the year 2020 on the planned, financially feasible roadway network. The result of this analysis indicated that four road segments, beyond those planned for improvement as part of the 2020 financially feasible roadways network plan, will fail with the addition of the Coconut Point (aka Simon Suncoast) project. The failure for three of the identified segments will likely be addressed through other means, but the segment of US 41 from Koreshan Boulevard to Alico Road is projected to fail even after the six-lane improvement identified in paragraph D.1.b.

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

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

#### 4. Access and Site Related Improvements

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

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

<u>Roadways</u>	<u>Roadway Improvements</u>	<u>Start Year</u>	<u>Improvement</u>
Alico Road			
– US 41 to Seminole Gulf Railway		02	4 Lanes
– Seminole Gulf Railway to I-75 West Ramps		02	6 Lanes
Ben Hill Griffin Parkway/Treeline Avenue			
– Alico Road to Daniels Parkway		02	4 Lane Ext.
Bonita Beach Road			
- Imperial Street to I-75		03	6 Lanes

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

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

Livingston/Imperial Connection		
– Immokalee Road to Bonita Beach Road	U/C	2 Lane Ext.
Metro Parkway		
– U.S. 41/Alico Road to Ben Pratt/Six Mile Cypress Pkwy (including interchange) 04		6 Lane Ext.
Three Oaks Parkway		
– S. of Coconut Road to Williams Road	U/C	4 Lane Ext.
– Williams Road to Corkscrew Road	U/C	4 Lane Ext.
– Corkscrew Road to Alico Road	03	4 Lanes
– Alico Road to Daniels Parkway	03	4 Lane Ext.
US 41		
– Old 41 (Collier County) to N. of Bonita Beach Road	03	6 Lanes
- San Carlos Boulevard to Alico Road	U/C	6 Lanes
Williams Road		
– River Ranch Road to Three Oaks Parkway	02	2 Lane Ext.

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

<u>Date</u>	<u>Maximum Square Footage</u>	<u>Needed Improvements to Avoid Interim Level of Service Problem</u>	
		<u>Route</u>	<u>Limit</u>
Adoption of DRI DO AND	400,000	Not Applicable	Not Applicable

Compliance  
with Cond. D.2

July 1, 2004	800,000	U. S. 41 - 6 Lane	Collier County line to Bonita Beach Road
July 1, 2005	1,200,000	Three Oaks Ext. 4L  OR Livingston Rd./ Imperial St. 4 Lane	Terry St. to Coconut Rd.  Immokalee Rd. to E.Terry St.
July 1, 2006	1,800,000	US 41-6Lane  AND Three Oaks Ext. 4 Lane  AND Old 41 - 4 lane  AND Metro Pkwy. Ext.- 6 Lane  AND Three Oaks Ext- 4 Lane  or Treeline Ext.-4L	Corkscrew Rd. to San Carlos  Terry St. to Coconut Rd.  Rosemary dr. to US 41  Alico Rd. to ben C Pratt/ Six Mile Cypress Pkwy  Alico Rd. to Daniels Pkw  Alico Rd. to Daniels Pkw.

6. **Annual Transportation Monitoring Program**

a. *Design of Monitoring Program*

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

b. *Submittal of Monitoring Report*

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

c. *Minimum Requirements for Report Contents*

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

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

---

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

- (4) Estimated future levels of service and needed improvements for the roads and intersections specified in Paragraph D.1.b. above, based on a one-year projection of future volumes. A summary of the status of road improvements assumed to be committed by Village of Estero, City of Bonita Springs, Collier County, Lee County and FDOT.

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

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

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

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

**E. VEGETATION AND WILDLIFE/WETLANDS**

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

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

---

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

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

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

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

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

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

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

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

## **F. HURRICANE PREPAREDNESS**

1. The Developer has stated an intention to utilize various community buildings, which are to be built in several locations throughout the development, as onsite emergency shelters for the project's residents. Based on the estimate of needed shelter



space prepared by the staff of the Southwest Florida Regional Planning Council, the total shelter space provided by the Developer within Coconut Point DRI will be 10,480 square feet.

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

- a. elevated above the Category 3 storm surge level;
- b. constructed in accordance with the requirements in Rule 9J-2.0257(6)(e), FAC, to withstand winds of at least one hundred twenty (120) miles per hour;
- c. all windows in the building are shuttered;
- d. equipped with an emergency power generator with adequate capacity to handle the following:
  - (1) ventilation fans;
  - (2) emergency lighting;
  - (3) life safety equipment (i.e., intercom, fire and smoke alarms); and
  - (4) refrigeration and cooking equipment.
- e. have an auxiliary potable water supply.

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

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

5. The Developer is also proposing to develop 370 hotel or motel rooms, within the Coconut Point DRI. Prior to issuance of a local development order for the hotel/motel, the hotel/motel Developer must contact Lee County Emergency Management with

respect to establishing written hurricane preparation and evacuation/sheltering procedures. These procedures must be reduced to a written plan, prepared by the hotel/motel Developer, and approved by Lee County Emergency Management prior to occupancy of the hotel/motel.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## H. COMPREHENSIVE PLAN

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

### I. POLICE AND FIRE PROTECTION

1. The Developer will ensure that first responders to the area are adequately trained by TECO/People Gas to address accidental natural gas releases from the natural gas pipelines that are to be located on or adjacent to the site to ensure the safety of the residents and visitors to the area.

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

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

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

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

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

7. The water mains, fire hydrants, and site access must be designed and constructed in accordance with Village of Estero regulations and BSU guidelines by

---

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

providing large water mains meeting minimum diameters based upon proposed land use, and installation of fire hydrants in suitable locations to provide adequate fire protection coverage. Internal fire sprinkler systems may be required for structures to meet supplemental fire protection.

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

#### **J. EDUCATION**

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

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

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

A. Resolution. This Development Order constitutes a resolution of the Village of Estero adopted by the Village in response to the amendment to the DRI filed for Coconut Point DRI.

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

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

---

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

3. The governing zoning resolution for the Coconut Point (f/k/a Simon Suncoast) MPD.

C. Master Plan of Development. Map H, dated May 17, 2017, attached hereto as Exhibit "B", is for the current DRI revision and is incorporated by reference. It is understood that because it is a concept plan it is very general. The Developer may modify the boundaries of development areas and the locations of internal roadways to accommodate topography, vegetation, market conditions, traffic circulation, or other site related conditions as long as the modifications meet local development regulations. This provision may not be used to reduce the size of wetland preserve areas. Precise wetland boundaries will be determined by the SFWMD, as delegated by the Department of Environmental Protection (FDEP) and the Army Corp of Engineers (ACOE).

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

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

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

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

H. Severability. If any portion or section of this Development Order is determined to be invalid, illegal or unconstitutional by a court of competent jurisdiction,

then that decision will not affect the remaining portions or sections of the Development Order, which will remain in full force and effect.

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

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

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

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

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

K. Build out and Termination Dates. The project has a build out date of September 4, 2028, and a termination date of September 5, 2034. The termination date is based on the recognition that a local Development Order is valid for six years after the build out date. No permits for development will be issued by the Village subsequent to the termination date or expiration date unless the conditions set forth in §380.06(15)(g) are applicable.

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

M. Assurance of Compliance. The director of the Village of Estero Department of Community Development, or their designee, will be the local official responsible for

assuring compliance with this Development Order. The Village of Estero is primarily responsible for monitoring the development and enforcing the provisions of the development order. No permits or approvals will be issued if the Developer fails to act in substantial compliance with the development order.

N. Credits Against Local Impact Fees. Pursuant to §380.06(16), Florida Statutes, the Developer may be eligible for credits for contributions, construction, expansion, or acquisition of public facilities, if the Developer is also subject by local ordinances to impact fees or exactions to meet the same needs. However, no credit will be provided for internal or external site-related facilities required by Village regulations, or to any off-site facilities to the extent those facilities are necessary to provide safe and adequate services to the development.

O. Protection of Development Rights. The project will not be subject to down-zoning, unit density reduction, or intensity reduction prior to September 4, 2028. If the Village demonstrates at a public hearing that substantial changes have occurred in the conditions underlying the approval of this Development Order, or finds that the Development Order was based on substantially inaccurate information provided by the Developer, or that the change is clearly established by the Village of Estero to be essential to public health, safety and welfare, then down-zoning, unit density reduction, or intensity reduction may occur.

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

The Developer must file the monitoring reports until actual or declared build out of the project. The Simon Property Group is the party responsible for filing the monitoring reports until one or more successor entities are named in the development order. The Developer must inform successors in title to the undeveloped portion of the real property covered by this development order of the reporting requirement. Tenants or owners of individual lots or units have no obligation to comply with this reporting condition.

---

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



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

Q. Community Development District. The Developer might elect to petition for the formation of a Uniform Community Development District to serve all or a portion of the project pursuant to Florida Statutes, Chapter 190, as it may be in effect from time to time. Lee County hereby gives its approval that any such district may undertake the construction and/or funding of all or any of the mitigation and public infrastructure projects for which the Developer is responsible under the terms of this development order, whether within or without the boundaries of the district, and including the payment of mitigation amounts provided for in this development order, as a co-obligor hereunder. This provision may not be construed to require the approval of any petition to form such a district, and in no event will the Developer be released from its obligations under this development order.

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

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

(remainder of page intentionally left blank)

Councilmember Levitan made a motion to adopt the Ninth Development Order Amendment and Restatement, seconded by Councilmember Batos. The vote was as follows:

	AYE	NAY
Mayor Boesch	✓	_____
Vice Mayor Ribble	✓	_____
Councilmember Batos	✓	_____
Councilmember McLain	✓	_____
Councilmember Errington	✓	_____
Councilmember Levitan	✓	_____
Councilmember Wilson	✓	_____

DULY PASSED AND ADOPTED this 26th day of July, 2017.

ATTEST:

VILLAGE OF ESTERO, FLORIDA

BY: Kathy Hall  
Kathy Hall, MMC, Village Clerk

BY: James R. Boesch, Mayor  
James R. Boesch, Mayor

Reviewed for legal sufficiency:

By: Nancy Stroud  
Nancy Stroud Esq., Village Land Use Attorney

Exhibits:

- A. Legal Description
- B. Master Plan of Development (Map H) dated 5/17/17
- C. Development Parameters and Phasing Schedule
- C-1 Land Use Conversion Table
- D. Biennial Monitoring Report Requirements
- E. Calculation of Road Impact Fee Obligation
- F. Pedestrian, Bicycle and Bus Stop Plan



950 Encore Way • Naples, Florida 34108 Phone: 239.254.2000 Fax: 239.254.2099

Applicant's Legal Checked  
By CSJ 5/15/13  
Pg 1 thru 3

RECEIVED  
MAY 10 2013

HM PROJECT #1997079  
06/03/13  
REF. DWG. #A-994-3  
PAGE 1 OF 3

LEGAL DESCRIPTION:

COMMUNITY DEVELOPMENT

A PORTION OF SECTION 9, TOWNSHIP 47 SOUTH, RANGE 26 EAST, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHEAST CORNER OF SECTION 9, TOWNSHIP 47 SOUTH, RANGE 26 EAST, LEE COUNTY, FLORIDA; THENCE RUN S.88°56'17"W., ALONG THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 9, FOR A DISTANCE OF 5.89 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF THE SEABOARD COASTLINE RAILROAD, A 130.00 FOOT RIGHT-OF-WAY, AND THE POINT OF BEGINNING OF THE PARCEL OF LAND HEREIN DESCRIBED; THENCE CONTINUE S.88°56'17"W., ALONG THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 9, FOR A DISTANCE OF 1,733.04 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF U.S. HWY. NO. 41 (FLORIDA STATE ROAD NO. 45), A 200.00 FOOT RIGHT-OF-WAY; THENCE RUN N.10°32'05"W., ALONG SAID EASTERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 971.33 FEET TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE, CONCAVE EASTERLY; THENCE RUN NORTHERLY, ALONG SAID EASTERLY RIGHT-OF-WAY LINE AND ALONG THE ARC OF SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 5,606.39 FEET, THROUGH A CENTRAL ANGLE OF 04°03'11", SUBTENDED BY A CHORD OF 396.43 FEET AT A BEARING OF N.08°30'30"W., FOR A DISTANCE OF 396.52 FEET TO THE END OF SAID CURVE; THENCE RUN N.88°07'51"E. FOR A DISTANCE OF 747.22 FEET TO A POINT ON A CIRCULAR CURVE, CONCAVE EASTERLY, WHOSE RADIUS POINT BEARS N.82°31'42"E., A DISTANCE OF 3,909.80 FEET THEREFROM; THENCE RUN NORTHERLY, ALONG THE ARC OF SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 3,909.80 FEET, THROUGH A CENTRAL ANGLE OF 08°29'31", SUBTENDED BY A CHORD OF 578.92 FEET AT A BEARING OF N.03°13'32"W., FOR A DISTANCE OF 579.45 FEET TO THE END OF SAID CURVE; THENCE RUN N.00°16'56"W., FOR A DISTANCE OF 683.09 FEET; THENCE RUN N.00°16'56"W., FOR A DISTANCE OF 47.04 FEET TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF COCONUT ROAD, A 150.00 FOOT RIGHT-OF-WAY, THE SAME BEING A POINT ON A CIRCULAR CURVE, CONCAVE NORTHERLY, WHOSE RADIUS POINT BEARS N.10°28'58"W., A DISTANCE OF 2,025.00 FEET THEREFROM; THENCE RUN EASTERLY, ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE AND ALONG THE ARC OF SAID CURVE TO THE LEFT, HAVING A RADIUS OF 2,025.00 FEET, THROUGH A CENTRAL ANGLE OF 09°12'27", SUBTENDED BY A CHORD OF 325.07 FEET AT A BEARING OF N.74°56'48"E., FOR A DISTANCE OF 325.42 FEET TO THE END OF SAID CURVE; THENCE RUN N.70°20'35"E., ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE FOR A DISTANCE OF 200.00 FEET TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE, CONCAVE SOUTHERLY; THENCE RUN EASTERLY, ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE AND ALONG THE ARC OF SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 3,025.00 FEET, THROUGH A CENTRAL ANGLE OF 09°16'04", SUBTENDED BY A CHORD OF 487.89 FEET AT A BEARING OF N.74°58'07"E., FOR A DISTANCE OF 488.42 FEET TO THE END OF SAID CURVE; THENCE RUN N.79°36'39"E., ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 238.23 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF THE SEABOARD COASTLINE RAILROAD, A 130.00 FOOT RIGHT-OF-WAY; THENCE RUN S.00°59'47"E., ALONG SAID WESTERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 2,869.10 FEET TO THE POINT OF BEGINNING; CONTAINING 95.885 ACRES, MORE OR LESS.

AND

A PORTION OF SECTIONS 3, 4, 9, AND 10, TOWNSHIP 47 SOUTH, RANGE 26 EAST, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHEAST CORNER OF SECTION 9, TOWNSHIP 47 SOUTH, RANGE 26 EAST, LEE COUNTY, FLORIDA; THENCE RUN S.88°56'17"W., ALONG THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 9, FOR A DISTANCE OF 5.89 FEET TO A POINT ON THE

DCI 2013-00010  
Naples Fort Myers

ORI 2013-00003

EXHIBIT A

WESTERLY RIGHT-OF-WAY LINE OF THE SEABOARD COASTLINE RAILROAD, A 130.00 FOOT RIGHT-OF-WAY; THENCE RUN N.00°59'47"W., ALONG SAID WESTERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 3,021.15 FEET TO THE POINT OF BEGINNING OF THE PARCEL OF LAND HEREIN DESCRIBED; THENCE RUN N.00°59'47"W., ALONG SAID WESTERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 2,320.58 FEET TO A POINT ON THE NORTH LINE OF THE NORTHWEST QUARTER OF SECTION 10, TOWNSHIP 47 SOUTH, RANGE 26 EAST; THENCE RUN N.00°59'47"W., ALONG SAID WESTERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 2,692.32 FEET TO A POINT ON THE NORTH LINE OF THE SOUTHEAST QUARTER OF SECTION 4, TOWNSHIP 47 SOUTH, RANGE 26 EAST; THENCE RUN N.00°56'59"W., ALONG SAID WESTERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 1,590.78 FEET TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE, CONCAVE WESTERLY; THENCE RUN NORTHERLY, ALONG SAID WESTERLY RIGHT-OF-WAY LINE AND ALONG THE ARC OF SAID CURVE TO THE LEFT, HAVING A RADIUS OF 5,641.38 FEET, THROUGH A CENTRAL ANGLE OF 09°31'27", SUBTENDED BY A CHORD OF 936.68 FEET AT A BEARING OF N.06°42'42"W., FOR A DISTANCE OF 937.76 FEET TO THE END OF SAID CURVE; THENCE RUN N.10°28'26"W., ALONG SAID WESTERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 98.54 FEET TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF WILLIAMS ROAD, A 100.00 FOOT RIGHT-OF-WAY; THENCE RUN S.88°20'53"W., ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 1,029.70 FEET TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE, CONCAVE NORTHERLY; THENCE RUN WESTERLY, ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE AND ALONG THE ARC OF SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 7,050.00 FEET, THROUGH A CENTRAL ANGLE OF 03°00'00", SUBTENDED BY A CHORD OF 389.09 FEET AT A BEARING OF S.89°50'53"W., FOR A DISTANCE OF 389.14 FEET TO THE END OF SAID CURVE; THENCE RUN N.88°39'07"W., ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 674.92 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF U.S. HWY. NO. 41 (FLORIDA STATE ROAD NO. 45), A 200.00 FOOT RIGHT-OF-WAY; THENCE RUN S.04°52'41"W., ALONG SAID EASTERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 1,901.57 FEET TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE, CONCAVE EASTERLY; THENCE RUN SOUTHERLY, ALONG SAID EASTERLY RIGHT-OF-WAY LINE AND ALONG THE ARC OF SAID CURVE TO THE LEFT, HAVING A RADIUS OF 2,725.19 FEET, THROUGH A CENTRAL ANGLE OF 11°32'50", SUBTENDED BY A CHORD OF 548.30 FEET AT A BEARING OF S.00°53'44"E., FOR A DISTANCE OF 549.23 FEET TO THE END OF SAID CURVE; THENCE RUN S.06°40'09"E., ALONG SAID EASTERLY RIGHT-OF-WAY LINE FOR A DISTANCE OF 225.81 FEET TO A POINT ON THE NORTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 4; THENCE CONTINUE S.06°40'09"E., ALONG SAID EASTERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 2,710.61 FEET TO A POINT ON THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 4; THENCE CONTINUE S.06°40'09"E., ALONG SAID EASTERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 626.03 FEET TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE, CONCAVE WESTERLY; THENCE RUN SOUTHERLY, ALONG SAID EASTERLY RIGHT-OF-WAY LINE AND ALONG THE ARC OF SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 11,684.73 FEET, THROUGH A CENTRAL ANGLE OF 06°24'13", SUBTENDED BY A CHORD OF 1,294.08 FEET AT A BEARING OF S.03°28'03"E., FOR A DISTANCE OF 1,294.76 FEET TO THE END OF SAID CURVE; THENCE RUN S.00°16'66"E., ALONG SAID EASTERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 274.74 FEET; THENCE RUN S.46°02'16"E., FOR A DISTANCE OF 677.44 FEET; THENCE RUN S.01°57'26"E. FOR A DISTANCE OF 25.19 FEET TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF COCONUT ROAD, A 150.00 FOOT RIGHT-OF-WAY; THENCE RUN N.88°02'34"E., ALONG SAID NORTHERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 32.80 FEET TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE, CONCAVE NORTHERLY; THENCE RUN EASTERLY, ALONG SAID NORTHERLY RIGHT-OF-WAY LINE AND ALONG THE ARC OF SAID CURVE TO THE LEFT, HAVING A RADIUS OF 1,876.00 FEET, THROUGH A CENTRAL ANGLE OF 17°41'59", SUBTENDED BY A CHORD OF 576.92 FEET AT A BEARING OF N.79°11'34"E., FOR A DISTANCE OF 679.22 FEET TO THE END OF SAID CURVE; THENCE RUN N.70°20'36"E., ALONG SAID NORTHERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 200.00 FEET TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE, CONCAVE

HM PROJECT #1997079  
05/03/13  
REF. DWG. #A-994-3  
PAGE 3 OF 3

SOUTHERLY; THENCE RUN EASTERLY, ALONG SAID NORTHERLY RIGHT-OF-WAY LINE AND ALONG THE ARC OF SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 3,176.00 FEET, THROUGH A CENTRAL ANGLE OF 09°16'04", SUBTENDED BY A CHORD OF 512.09 FEET AT A BEARING OF N.74°58'07"E., FOR A DISTANCE OF 512.65 FEET TO THE END OF SAID CURVE; THENCE RUN N.79°35'39"E., ALONG SAID NORTHERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 263.08 FEET TO THE POINT OF BEGINNING; CONTAINING 386,636 ACRES, MORE OR LESS.

NOTES:

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

TOTAL PROPERTY AREA: . 482.421 ACRES, MORE OR LESS.

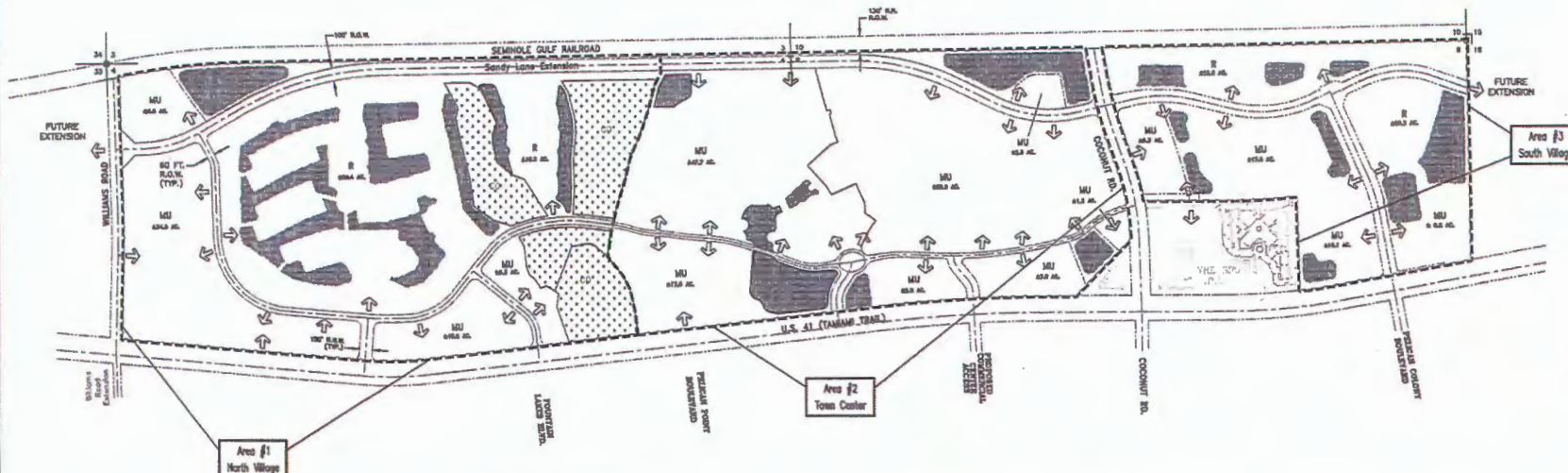
BEARINGS REFER TO THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SECTION 9, TOWNSHIP 47 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA, AS BEING S.88°56'17"W.

HOLE MONTES, INC.  
CERTIFICATE OF AUTHORIZATION LB #1772

BY  P.S.M. #6628  
THOMAS M. MURPHY STATE OF FLORIDA



DRI Exhibit B



**LAND USE BREAKDOWN**

CONSERVATION AREAS	±33.4 ACRES
LAGES	±56.8 ACRES
INTERNAL (Private) R.O.W.	±17.8 ACRES
INTERNAL (Public) R.O.W.	±25.8 ACRES
GREEN AREA / OPEN SPACE	± 8.7 ACRES
DEVELOPMENT AREAS	±338.2 ACRES
TOTAL	±482.4 ACRES

**PROJECT INTENSITY**

RESIDENTIAL UNITS (RF)	1,214
RESIDENTIAL UNITS (RF)	130
RESIDENTIAL UNITS (RF-APT)	180
COMMERCIAL/RETAIL (GROSS LEASABLE AREA)	1,546,218
GENERAL OFFICE (S.F.)	691,777
MEDICAL OFFICE (S.F.)	234,000
HOTEL (ROOMS)	370
BANK w/ O.T. (S.F.)	8,000

**DEVELOPMENT AREA BREAKDOWN**

RESIDENTIAL (R)	88.1 AC. ±
MIXED USE (MU)	240.1 AC. ±

**LEGEND**

- MU MIXED USE
- R RESIDENTIAL
- PROPERTY BOUNDARY
- - - DELINEATION OF DEVELOPMENT AREAS
- ROAD R.O.W. LINE
- [Pattern] CONSERVATION AREAS
- [Wave] PROPOSED LAKE
- CONCEPTUAL ACCESS POINT

- NOTES:**
- LOCATIONS/CONFIGURATIONS OF PROPOSED LAND USES, SUCH AS LAKES, CONSERVATION AREAS, ROADWAYS AND OPEN SPACE ARE CONCEPTUALLY SHOWN AND SUBJECT TO CHANGE DURING FINAL DESIGN/PERMITTING.
  - THE MIXED USE (MU) DESIGNATION CONTAINS A MIX OF RETAIL/COMMERCIAL, HOTEL, OFFICE, RESIDENTIAL, RF, AND PUBLIC FACILITY LAND USES.

REVISED:	DATE:
11/24/11	
11/26/11	
11/29/11	
11/29/11	
11/29/11	
11/29/11	
11/29/11	
11/29/11	
11/29/11	

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

**H/M**  
**HOLE MONTES**  
ENGINEERS-PLANNERS-ARCHITECTS

COCONUT POINT  
MASTER CONCEPT PLAN  
MAP "H"

DATE:	11/25/11
C.R.B.:	
N.E.D.:	MAY/11
SCALE:	1" = 400'
PROJECT NO.:	9779BMAPH
PROJECT NO.:	97.79-B
SHEET NO.:	1 of 1



C:\Users\kyle\Documents\Projects\Coconut Point\Coconut Point Master Concept Plan\Map H.dwg, 11/25/11, 11:20:00 AM

DRI  
EXHIBIT C

Development Parameters and Phasing Schedule

		<u>Buildout</u>
Regional Retail Commercial	1,440,110* sq. ft.	2028
Community Retail	106,100* sq. ft.	2028
Office	835,777** sq. ft.	2028
Hotel	370 Rooms	2028
Residential, Multi-family	1,214 du	2028
Residential, MF Apartments	180 units	2028
Assisted Living Facility	200 units	2028
Banks	8,000 sq. ft.	2028

---

\* Gross Leasable Area

\*\*Up to 234,000 sq. ft., may be medical office

Note (1): a 160 acute care bed hospital may only be constructed within Tracts 3A-1, 3A-2 and 3A-3\_1 and; (2) Tracts 3A-1, 3A-2, and 3A-3\_1 may be developed with any of the following land uses or combinations so long as the uses do not exceed 479 total net new external trips: up to 60,000 gross leasable sq. ft. retail, 300,000 sq. ft. office (of which a maximum of 198,000 sq. ft. may be medical office), 160 acute care hospital beds.



DRI EXHIBIT C-1

Land Use Conversion Table

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

\*The purpose of this table is to permit one land use to be converted to a different use. The conversion may be approved only if the project's overall trips do not exceed the parameters set forth in Condition II.D.1.a.

DRI  
EXHIBIT D

BIENNIAL MONITORING REPORT REQUIREMENTS

The Biennial Monitoring Report that must be submitted by the Developer in accordance with Subsections 380.06(15) and 380.06(18), Florida Statutes, and 9J-2.025(7), Florida Administrative Code, must include the following:

- A. Any changes in the plan of development or in the representations contained in the application for development approval, or in the phasing for the reporting year and for the next year;
- B. A summary comparison of development activity proposed and actually conducted for the year;
- C. Identification of undeveloped tracts of land, other than individual single family lots, that have been sold to separate entities or developers.
- D. Identification and intended use of lands purchased, leased, or optioned by the Developer adjacent to the original DRI site since the development order was issued;
- E. A specific assessment of the Developer's and the local government's compliance with each individual condition of approval contained in the DRI Development Order and the commitments contained in the application for development approval that have been identified by the local government, the RPC, or the DCA as being significant;
- F. Any requests for substantial deviation determination that were filed in the reporting year and to be filed during the following year;
- G. An indication of a change, if any, in local government jurisdiction for any portion of the development since the development order was issued;
- H. A list of significant local, state, and federal permits that have been obtained or are pending by agency, type of permit, permit number and purpose of each;
- I. A statement that all persons have been sent copies of the report in conformance with Subsections 380.06(15) and (18), Florida Statutes;
- J. A copy of any recorded notice of the adoption of a development order or the subsequent modification of an adopted development order that was recorded by the Developer pursuant to Paragraph 380.06(15)(f), Florida Statutes.

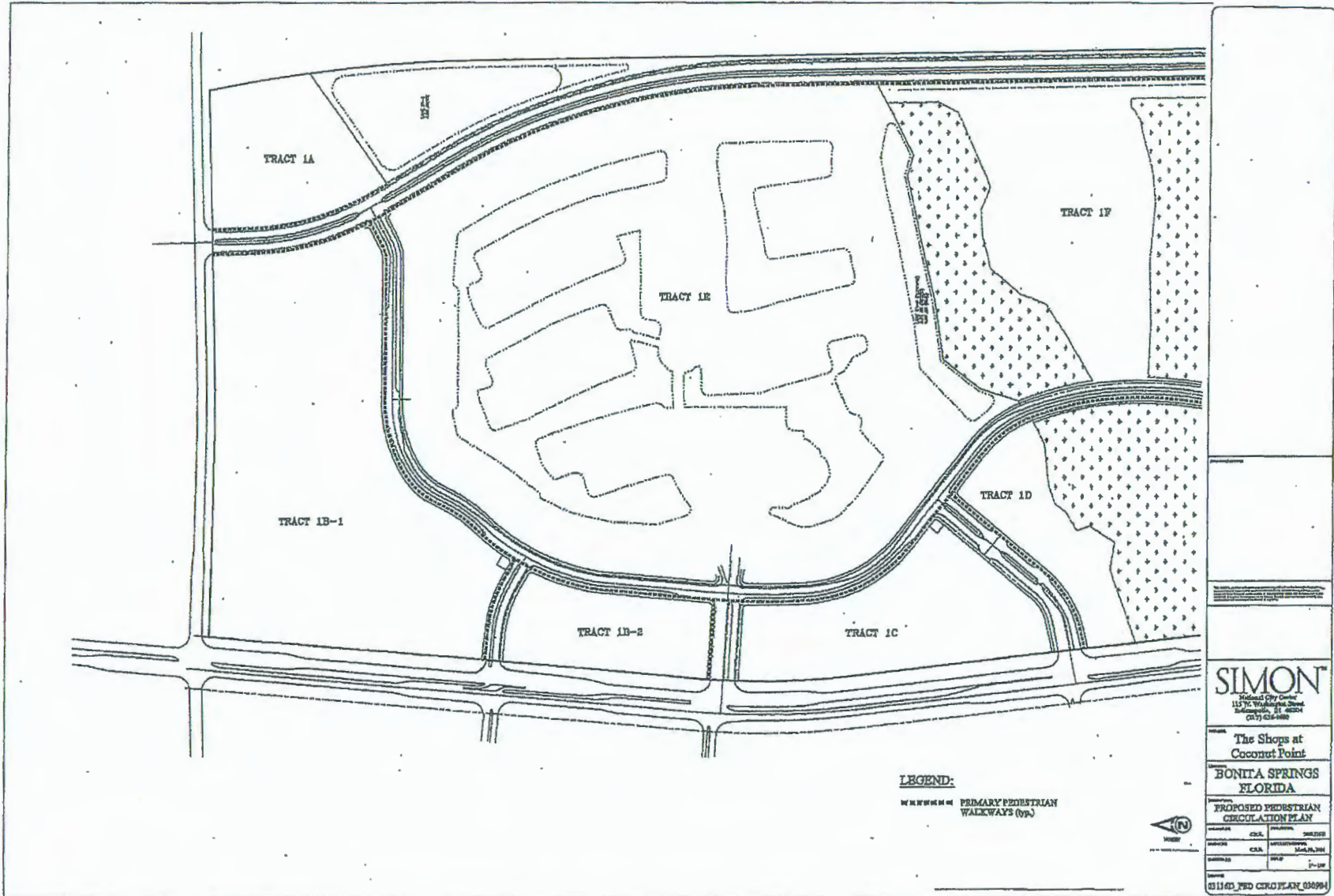
NOTE: The Florida Administrative Code specifically requires that the development order specify the requirements for the report. The Administrative Code requires that the report will be submitted to DCA, the RPC, and the local government on Form RPM-BSP-Annual Report-1.

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

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

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

DRI Exhibit F



**SIMON**  
 National City Center  
 117 N. Washington Street  
 Tallahassee, FL 32304  
 (904) 438-9888

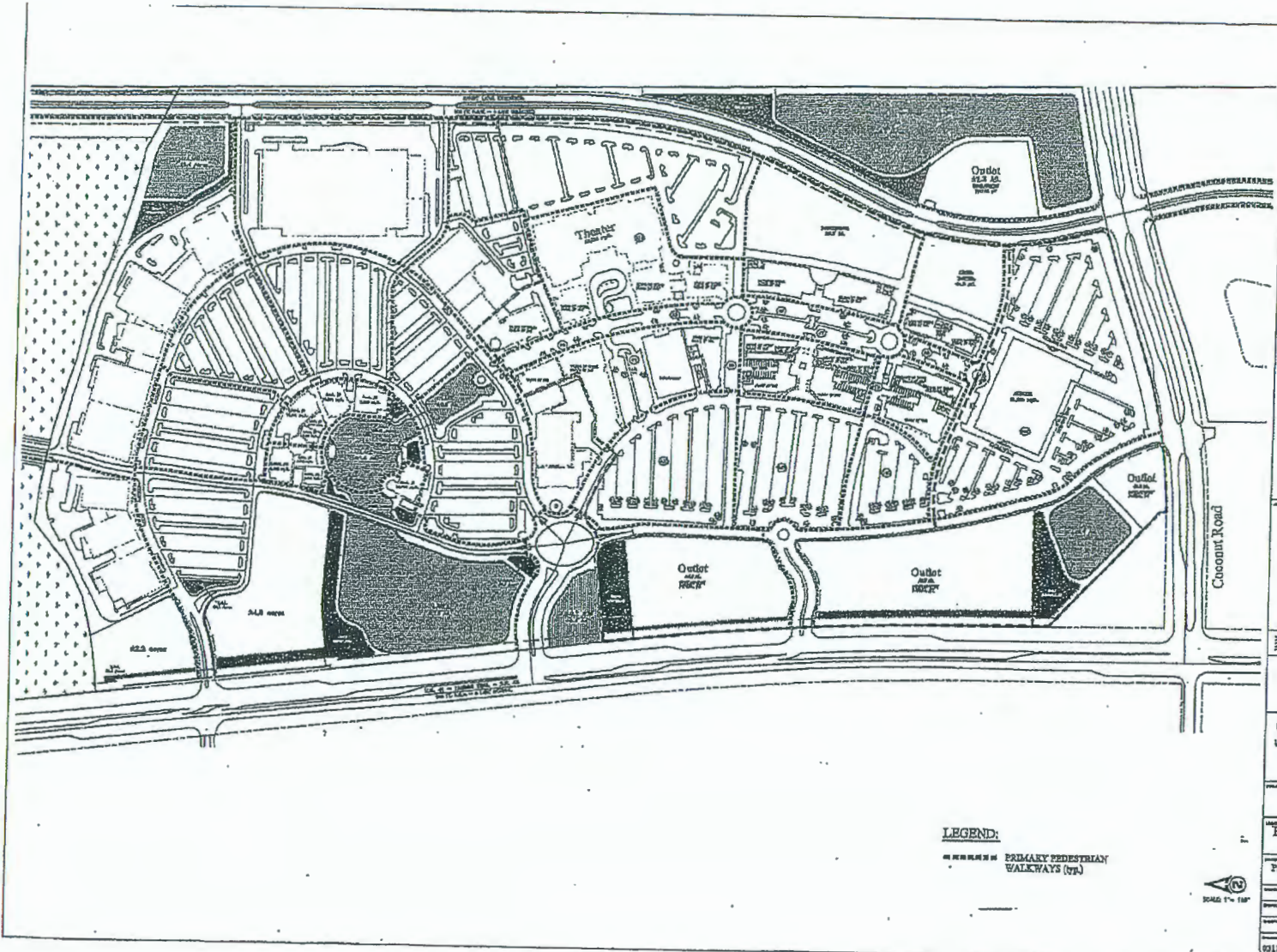
**The Shops at  
 Coconut Point**

**BONITA SPRINGS  
 FLORIDA**

**PROPOSED PEDESTRIAN  
 CIRCULATION PLAN**

DATE	SCALE	DATE
08/08/13	1"=100'	08/08/13
08/08/13	1"=100'	08/08/13
08/08/13	1"=100'	08/08/13

031163\_PED\_CIRC\_PLAN\_030994



**SIMON**  
 District City Center  
 110 W. Washington Street  
 Jacksonville, FL 32201  
 904.241.6100

The Shops at  
 Coconut Point  
**BONITA SPRINGS  
 FLORIDA**

PROPOSED PEDESTRIAN  
 CIRCULATION PLAN

DATE:	02/14/14
SCALE:	AS SHOWN
PROJECT:	THE SHOPS AT COCONUT POINT
CLIENT:	THE SHOPS AT COCONUT POINT
DESIGNER:	SIMON
DATE:	02/14/14

**LEGEND:**  
 ===== PRIMARY PEDESTRIAN  
 WALKWAYS (PW)



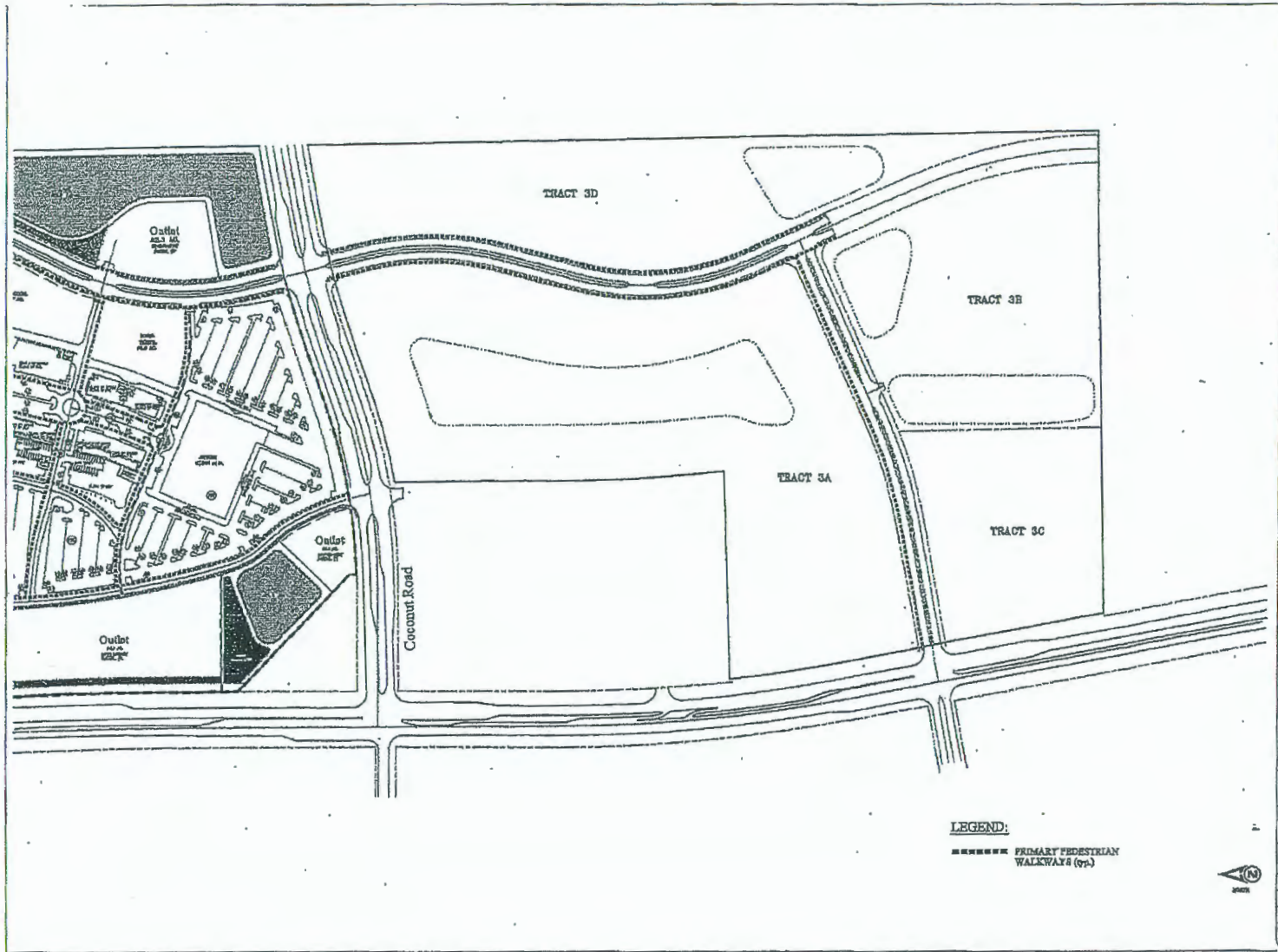


EXHIBIT F  
PAGE 3 OF 3

---

**SIMONT**  
Professional City Planner  
 111 W. Washington Street  
 Bonita Springs, FL 34135  
 (978) 436-1100

The Shops at  
 Coconut Point

BONITA SPRINGS  
 FLORIDA

PROPOSED PEDESTRIAN  
 CIRCULATION PLAN

DATE	ISSUED
SCALE	

031160\_PED CIRC PLAN\_090904

