

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 Repair shops, Groups I, II and III
- 222 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 Restaurants, Groups I, II, III and IV
- 226 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)
- 227 Signs, in accordance with Chapter 30
- 229 Social Services, Groups I and II
- 230 Specialty retail shops, Groups I, II, III and IV
- 231 Storage: Indoor only §34-3001 *et seq.*
- 232 Used merchandise stores, Group I
- 233 Variety store
- 234 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)

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	<u>  x  </u>	<u>      </u>
454	Vice Mayor Ribble	<u>  x  </u>	<u>      </u>
455	Councilmember Batos	<u>  x  </u>	<u>      </u>
456	Councilmember Errington	<u>  x  </u>	<u>      </u>
457	Councilmember Levitan	<u>  x  </u>	<u>      </u>
458	Councilmember McLain	<u>  x  </u>	<u>      </u>
459	Councilmember Wilson	<u>  x  </u>	<u>      </u>





# Exhibit B

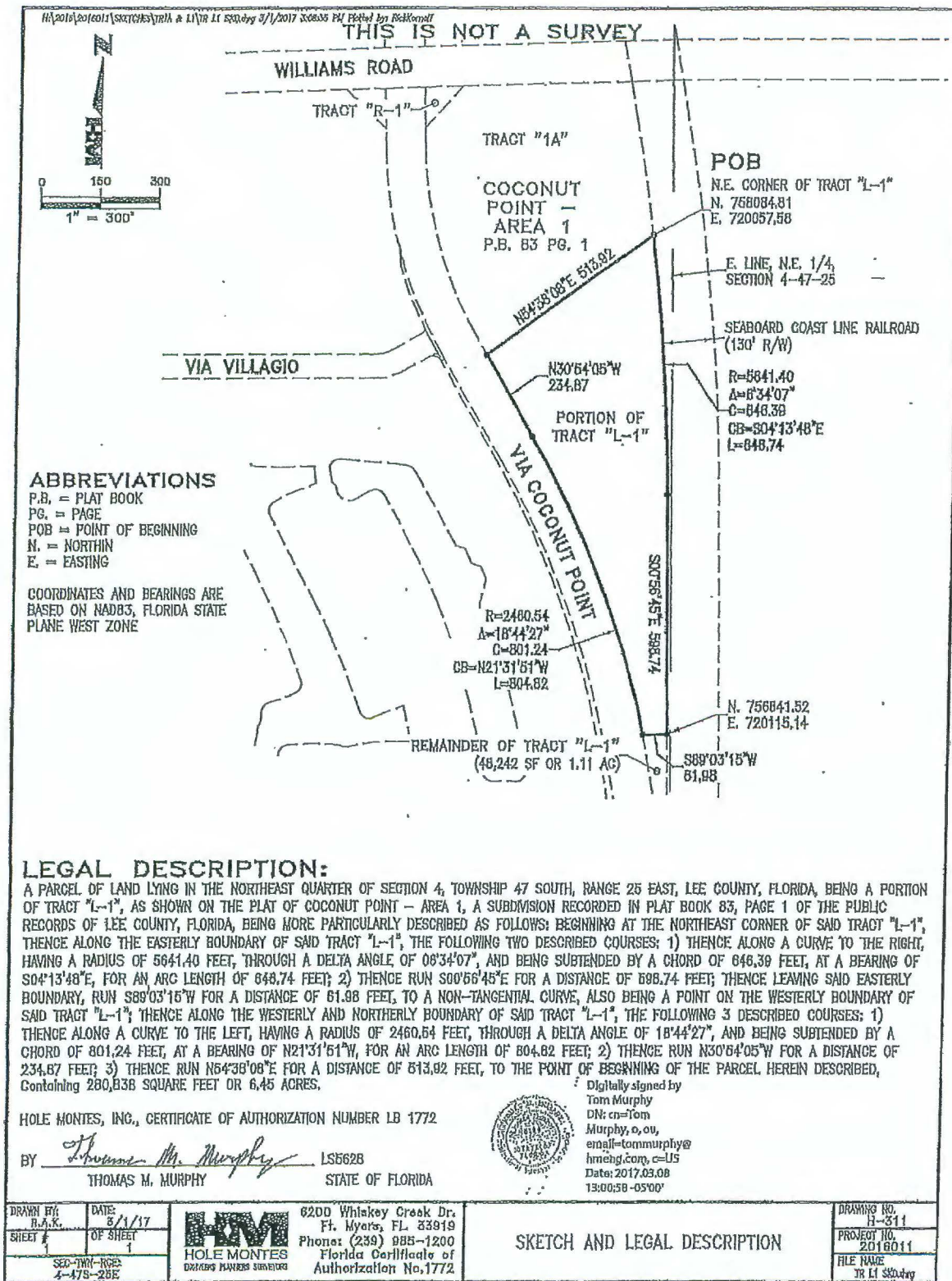


Exhibit C

RECEIVED

JUN 30 2017

VILLAGE OF ESTERO



COCONUT  
POINT

*Coconut Point*  
ESTERO, FLORIDA

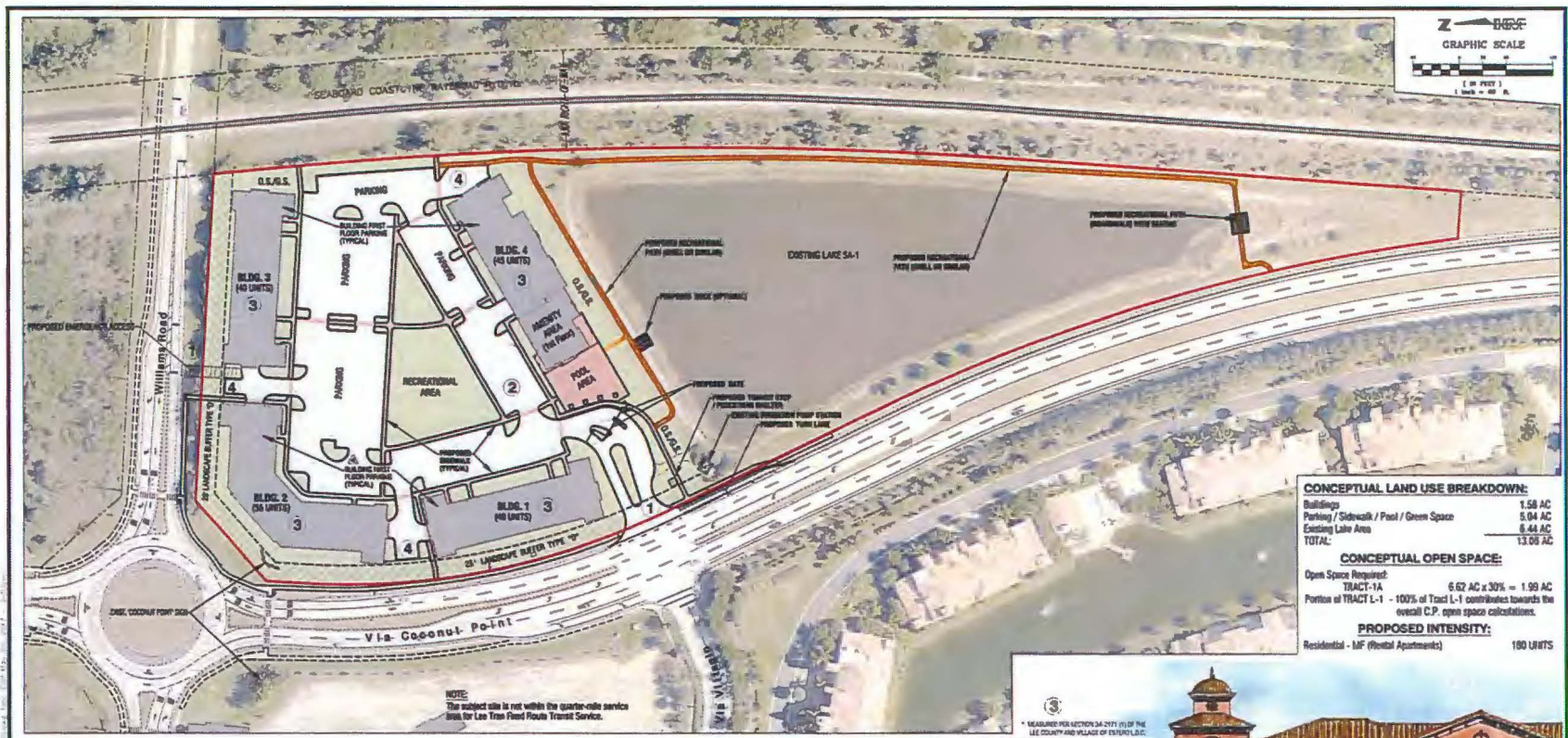
DESIGN REVIEW GUIDELINES

# 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	6.62 AC x 30% = 1.99 AC
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)	100 UNITS
--------------------------------------	-----------

**REQUESTED DEVIATIONS:**

- 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.
- 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.
- 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.
- 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.



REVISION PER VILLAGE REVIEW	05-08-2011
GENERAL REVISION	05-14-2011
REVISION PER RELEASE REVIEW	11-10-2011
REVISION PER RELEASE REVIEW	02-20-2012
REVISION	03-07-12

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

**H.M. HOLE MONTES**  
DESIGNER-PLANNER-ARCHITECT

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

**CONCEPTUAL SITE PLAN**

PROJECT NUMBER	16011 CSP
DATE	2016011
SHEET	1

**Conceptual Site Plan**







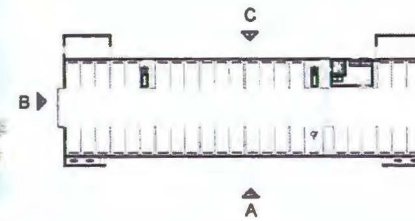
**ELEVATION - A**  
SCALE: 3/32" = 1'-0"



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



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



**KEY PLAN**  
SCALE: N.T.S.



**CORWIL ARCHITECTS**  
4011 LAKEVIEW ST. COVING TOWNSHIP, FL 33414  
LIC. NO. AA-000291-01 (03/04/06/07/08)

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

OWNER

**BUILDING TYPE I  
COLOR ELEVATIONS**

PHASE  
PRELIMINARY

REVISIONS

SCALE

REVISIONS

DATE: 07/13/2014

JOB NO.: 2014-02

DRAWN BY: MIC

APP'D BY: JMC

PRINTED DATE: 07-04-2014

SHEET NUMBER:

**A-2.00A**

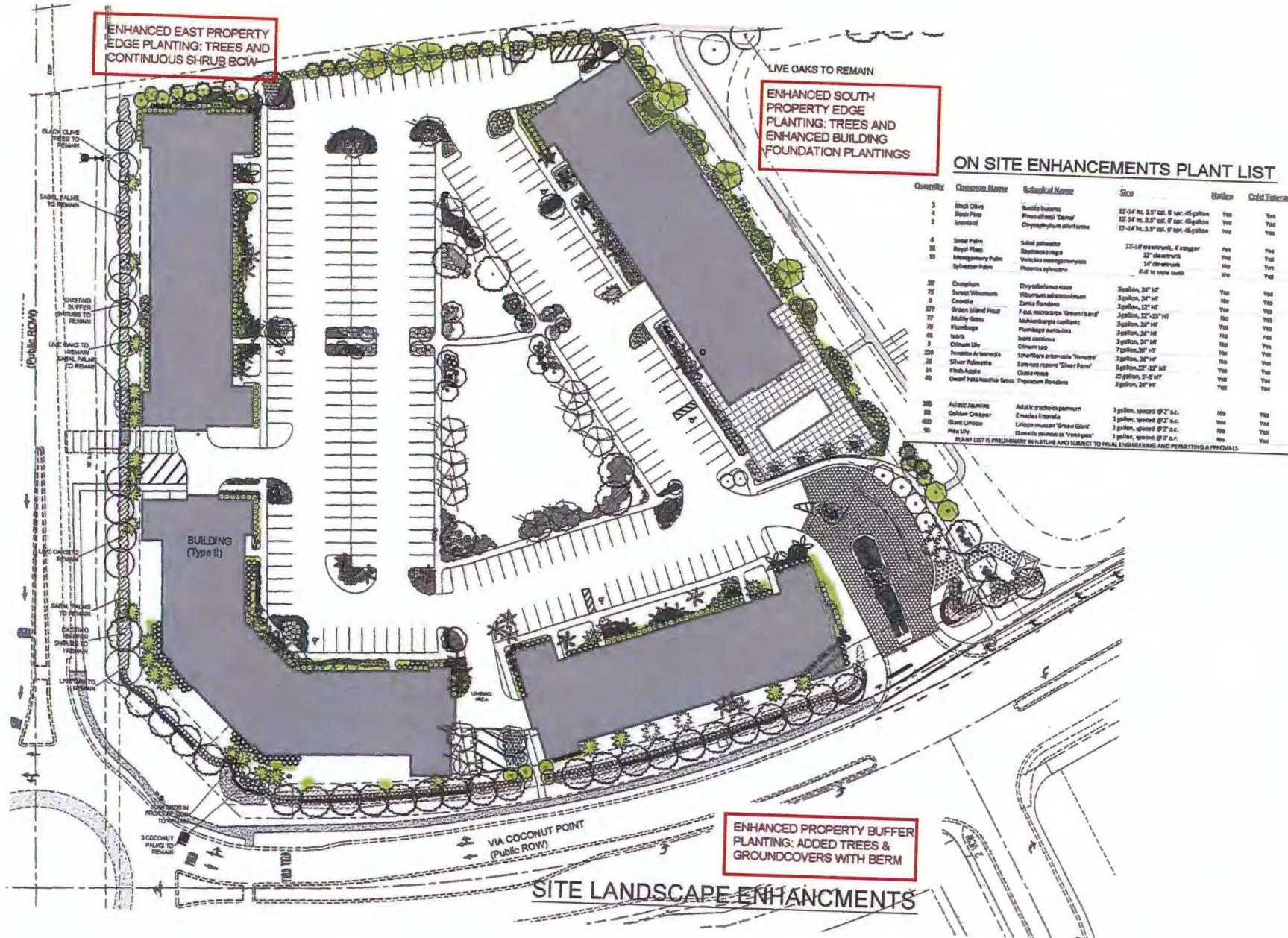


# Building Elevation









**ON SITE ENHANCEMENTS PLANT LIST**

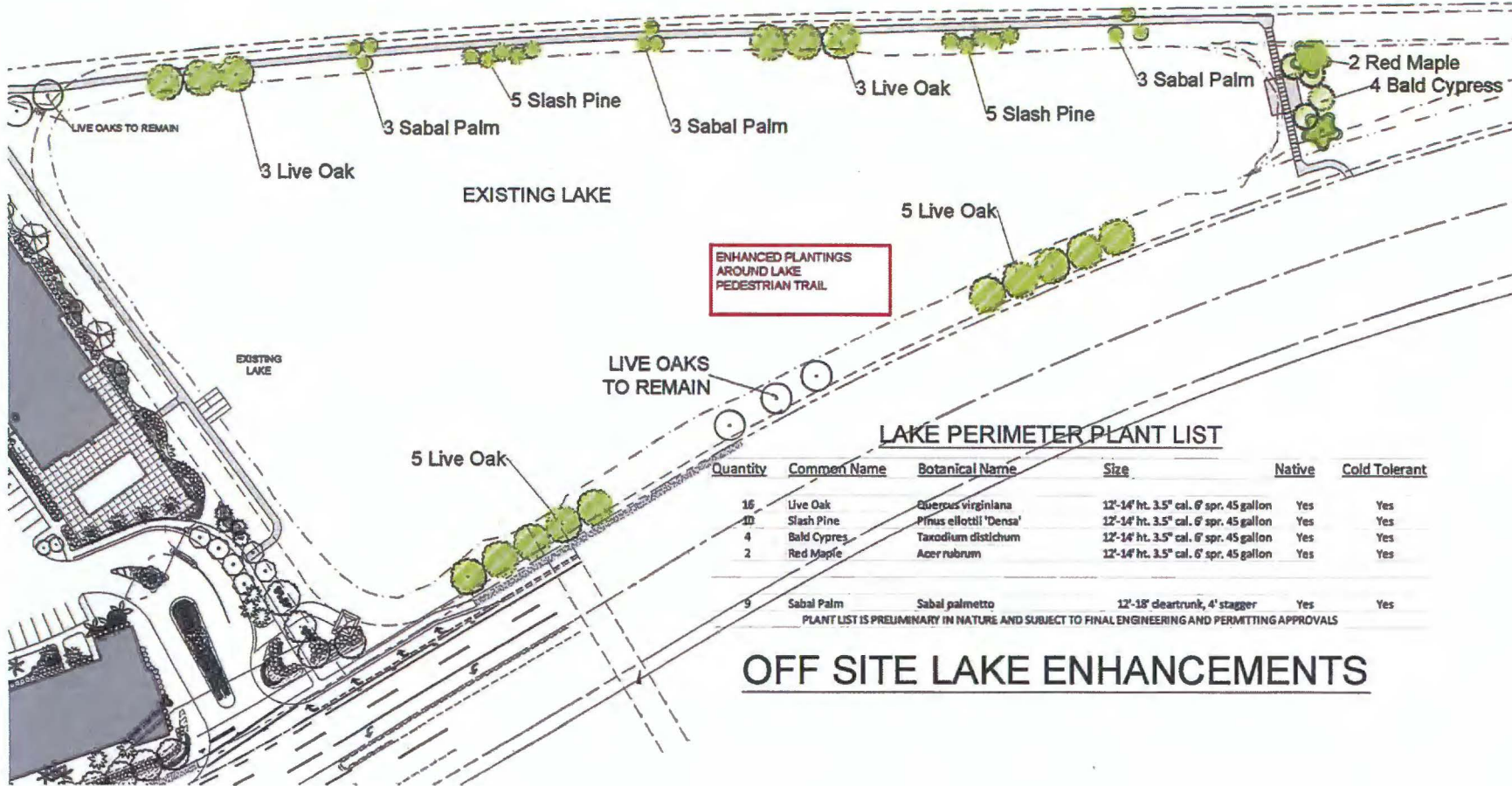
Quantity	Common Name	Botanical Name	Size	Notes	Cold Tolerant
3	Black Olive	<i>Buffa lucida</i>	12'-14" ht. 3" cal. 5' var. 45 gallon	Yes	Yes
4	Black Palm	<i>Phoenix alleni</i> 'Damen'	12'-14" ht. 3.5" cal. 6' var. 45 gallon	Yes	Yes
2	Swedish Palm	<i>Chrysalidocarpus edulis</i>	12'-14" ht. 3.5" cal. 6' var. 45 gallon	Yes	Yes
6	Small Palm	<i>Sabal palmetto</i>	12'-18" db trunk, 4' stagger	Yes	Yes
33	Royal Palm	<i>Bismillahia</i>	12' db trunk	Yes	Yes
10	Mossy Palm	<i>Washingtonia filifera</i>	12' db trunk	Yes	Yes
	Sylvestris Palm	<i>Phoenix sylvestris</i>	6'-8' ht. 10" trunk	No	Yes
50	Ornamental	<i>Chrysalidocarpus</i>	3 gallon, 24" ht	Yes	Yes
75	Street Viburnum	<i>Viburnum adpressum</i>	3 gallon, 24" ht	No	Yes
8	Camellia	<i>Zamia floridana</i>	3 gallon, 12" ht	No	Yes
277	Green Island Palm	<i>Fax oel macrocarpa</i> 'Green Island'	3 gallon, 12"-15" ht	Yes	Yes
77	Shady Grass	<i>Manisuris</i>	3 gallon, 24" ht	No	Yes
79	Humbug	<i>Humbug</i>	3 gallon, 24" ht	Yes	Yes
45	Wax	<i>Isatis tinctoria</i>	3 gallon, 24" ht	No	Yes
3	Chinese Elm	<i>Ulmus parvifolius</i>	3 gallon, 24" ht	No	Yes
210	Japanese Ardisia	<i>Schubertia armata</i> 'Tricolor'	7 gallon, 24" ht	No	Yes
38	Silver Palm	<i>Silver Palm</i>	3 gallon, 24" ht	Yes	Yes
14	Fish Scale	<i>Quercus</i>	3 gallon, 12"-15" ht	Yes	Yes
40	Dwarf Palmetto	<i>Palmetto</i>	25 gallon, 2'-6" ht	Yes	Yes
		<i>Palmetto</i>	3 gallon, 24" ht	Yes	Yes
285	Adiantum	<i>Adiantum</i>	1 gallon, spaced @ 2' o.c.	No	Yes
88	Golden Creeper	<i>Epiphyllum</i>	3 gallon, spaced @ 2' o.c.	Yes	Yes
422	Blue Linum	<i>Linum</i>	3 gallon, spaced @ 2' o.c.	No	Yes
50	Blue Linum	<i>Linum</i>	3 gallon, spaced @ 2' o.c.	No	Yes

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

Landscape—Tract 1A



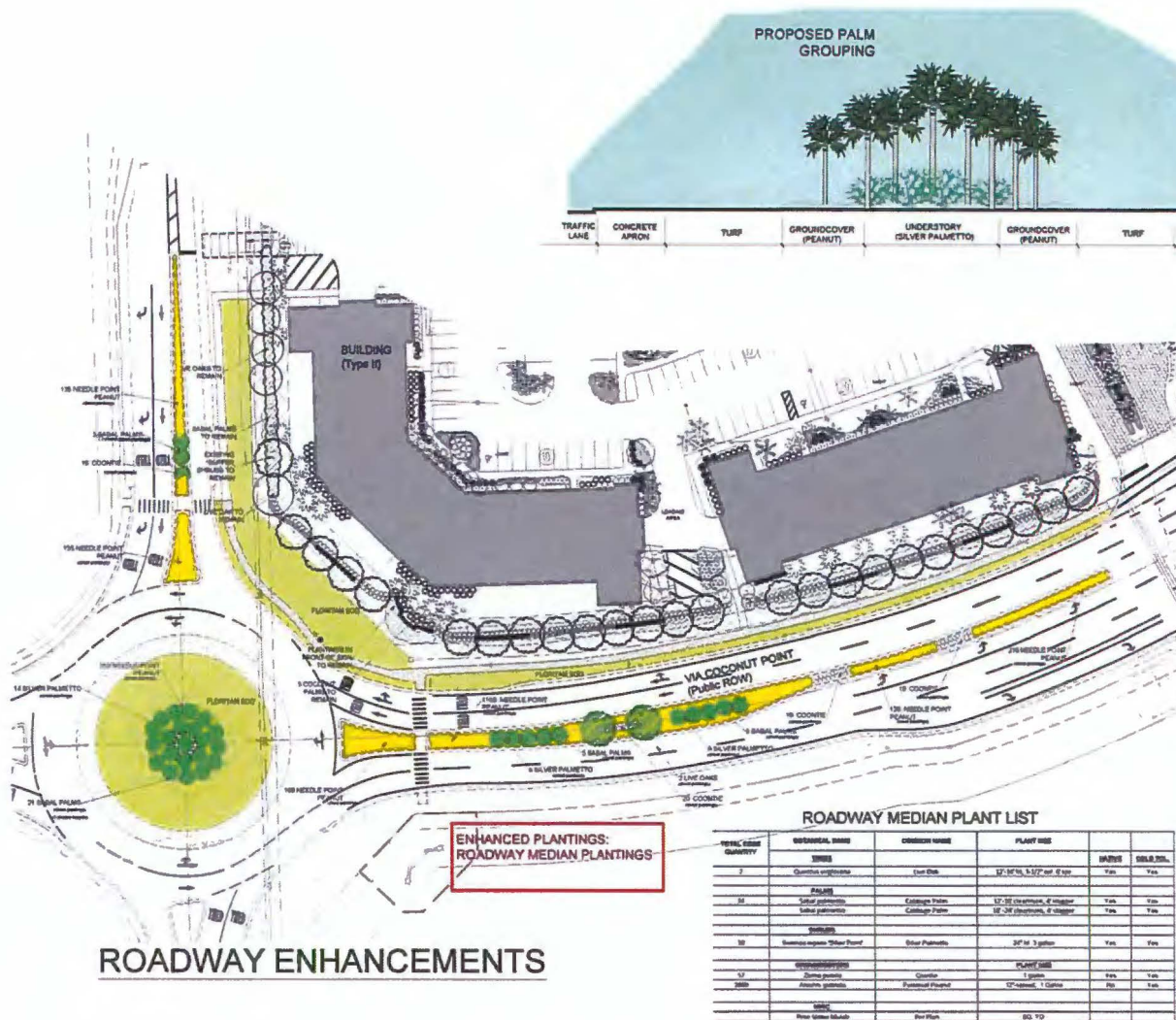




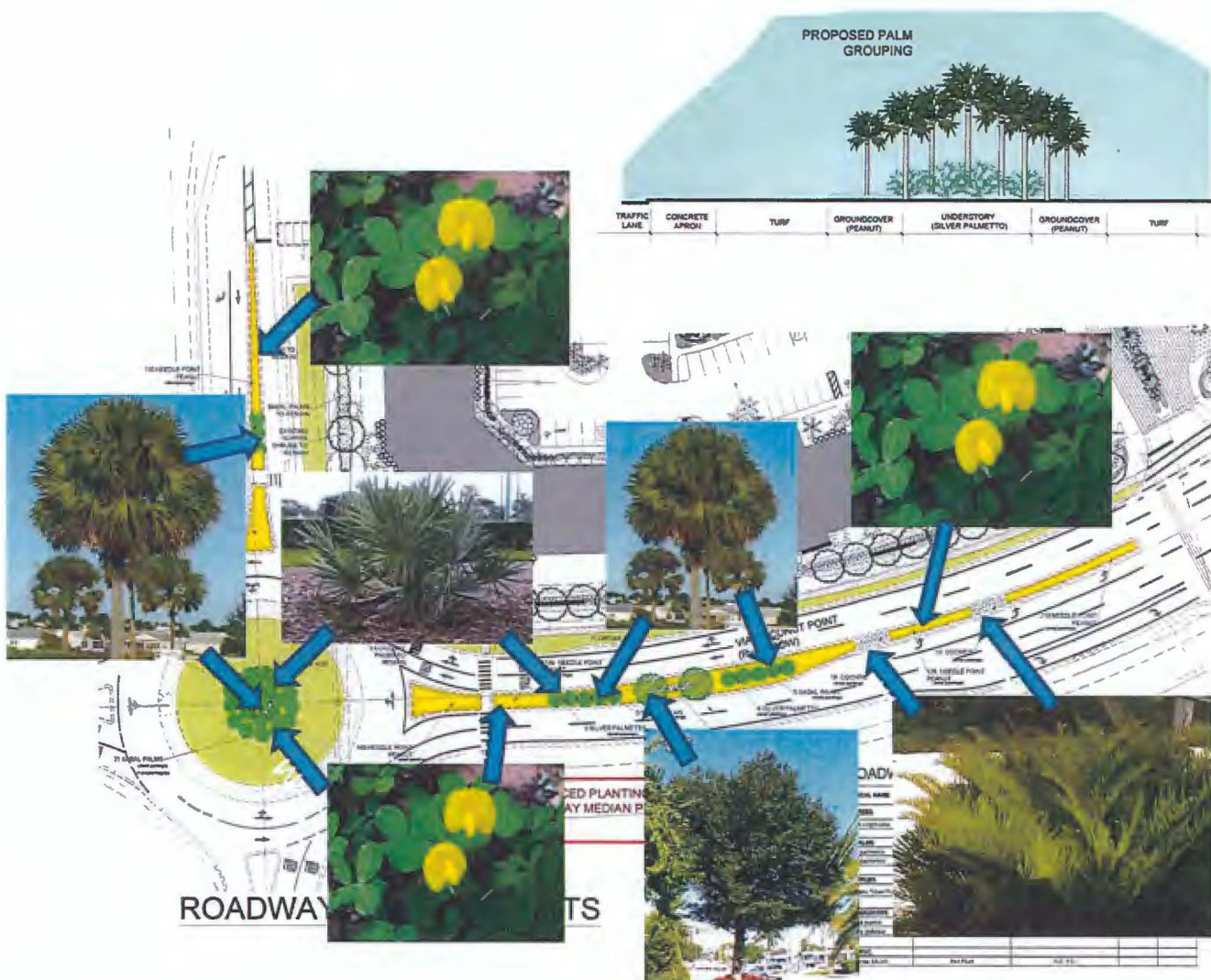
# Landscape—Tract L-1



# 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

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<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.

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

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<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

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<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

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

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