



VILLAGE OF ESTERO
PLANNED DEVELOPMENT and DRI AMENDMENT
STAFF REPORT

PROJECT NAME: COCONUT POINT TRACT 1-A
CASE TYPE: PLANNED DEVELOPMENT/DEVELOPMENT OF REGIONAL IMPACT
AMENDMENT
CASE NUMBER: DCI 2016E-02

PLANNING & ZONING BOARD DATE: November 15, 2016

REQUEST AND STAFF RECOMMENDATION

The applicant is requesting a Planned Development amendment of the Coconut Point Mixed Use Planned Development/Development of Regional Impact (MPD/DRI) to allow a multifamily development of 200 dwelling units. The development approval for Tract 1A was last amended by Lee County Zoning Resolution Z-13-016 and provided for 200 assisted living facility (ALF) units on the Master Concept Plan. The current request would modify the Mixed Planned Development (MPD) to permit multifamily development in lieu of 200 assisted living facility (ALF) units. Multifamily development is not currently a permitted use. As part of the MPD amendment, the applicant is also requesting five deviations including one means of access to the property, reduced parking, reduced building separation, reduced solid waste space and to allow four stories where three stories are permitted.

This property is part of the Coconut Point DRI. The Florida Statutes state a project is not a substantial deviation from the original DRI approval if it does not increase the number of external peak hour trips and does not reduce open space and conserved areas. The applicant proposes to reduce the commercial retail square footage permitted in Development Area #1 by 16,100 SF, from 85,000 SF to 68,900 SF. Therefore, the proposed 200 residential dwelling units will not result in an increase in the number of external peak hour trips and the DRI amendment is not considered a substantial deviation. However, the changes proposed would require the Village to amend the DRI development order, which would be its ninth amendment. Staff recommends denial of the request.

APPLICATION SUMMARY

Applicant: Arnaud Karsenti, Managing Principal

Location: The subject property is located East of Via Coconut Point and South of Williams Road. The subject property STRAP number is 04-47-25-E2-3001A.0000.

Request: Amend the MPD for Tract 1-A of the Coconut Point DRI to allow a multifamily development of 200 dwelling units, and the Coconut Point DRI to reflect the new uses on Tract 1-A and reduce the commercial retail square footage permitted in Development Area #1 by 16,100 SF, from 85,000 SF to 68,900 SF. The request also includes five deviations:

Deviation 1: One means of access to the property instead of two means of access

Deviation 2: A reduction in parking from 440 spaces to 383 spaces

Deviation 3: A reduction of required building separation from 22 ½ feet to 20 feet.

Deviation 4: A reduction solid waste container storage square footage of 1,616 square feet to 700 square feet.

Deviation 5: Allowing four stories where three stories are permitted.

LAND USE CATEGORY

Urban Community and Mixed Use Overlay

PUBLIC INFORMATION WORKSHOP

A public information workshop for this application was held at the Planning and Zoning Board on September 20, 2016.

PROJECT HISTORY

The site is currently vacant and is part of the Coconut Point MPD/DRI. The property is owned by CP Land Investment, LLC.

The Coconut Point MPD/DRI was approved in 2002 by Lee County as a mixed-use project consisting of residential, office, and retail development, which has been approved for numerous amendments since its initial adoption. The overall project has developed with a variety of residential and commercial uses, including the Hertz Corporate Headquarters. The current request for an amendment to the MPD/DRI affects Tract 1A, a 6.62 acre parcel at the northern end of the MPD/DRI, at the southeast corner of the intersection of Williams Road and Via Coconut Point. It also reduces the retail uses on Development Area #1 by 16,100 square feet.

The development approval for Tract 1A was last amended in August 2013 by Lee County Zoning Resolution Z-13-016. That application amended the Coconut Point Development of Regional Impact development order and MPD zoning approvals to modify the project development parameters as follows: Decreased number of dwelling units, decreased retail floor area, decreased number of hotel units, increased office square footage and deleted performing arts center use. In addition, the amendment extended compliance dates for project build out, termination and transportation concurrency vesting.

The Master Concept Plan (MCP) shows 200 ALF units/50,000 SF of office allowed on Tract 1A; however the list of Permitted Uses within the Zoning Resolution text does not include the ALF use. The applicant

seeks to amend the MPD for Tract 1A to permit the development of 200 multifamily dwelling units, developed as apartments, rather than the ALF units currently permitted by the MCP. The applicant argues that the multifamily dwelling units are equivalent to the ALF uses, and that the resolution needs to be corrected for a "scrivener's error" to include 200 ALF units in the list of Permitted Uses. Staff disagrees with this interpretation.

PROJECT DESCRIPTION

The subject property is located east of Via Coconut Point and south of Williams Road, within the Coconut Point MPD/DRI. The applicant is requesting an Amendment to allow a multifamily development of 200 dwelling units as well as five deviations on Tract 1A and to reduce the commercial retail square footage permitted in Development Area #1 outside of Tract 1A by 16,100 square feet, from 85,000 SF. to 68,900 SF.

The Coconut Point MPD/DRI was approved in 2002 by Lee County as a mixed-use project consisting of residential, office, and retail development, and has been approved for numerous amendments since its initial adoption. The overall project has developed with a variety of residential and commercial uses, including the Hertz Corporate Headquarters. The current request for an amendment to the MPD affects Tract 1A, a 6.62 acre parcel at the northern end of the MPD/DRI, at the southeast corner of the intersection of Williams Road and Via Coconut Point. The applicant seeks to develop Tract 1A with 200 multifamily dwelling units.

MASTER CONCEPT PLAN

The applicant is proposing a single gated ingress/egress onto Via Coconut Point. The 200 dwelling units are arranged in four buildings, each a total of four stories in height. The first story is parking and three stories above are for the residential units. These buildings are located around the perimeter of the site with surface parking located internal to the site. The development also provides a pool and amenity center for residents. The architectural style is Mediterranean, consistent with the architectural vision of the Village of Estero as well as the Coconut Point Design Review Guidelines.

The site will connect to the existing sidewalk system along Via Coconut Point and to the sidewalk on the north side of Williams Road. However, there is no sidewalk on the south side of Williams Road. This results in pedestrians crossing the intersection of Via Coconut Point and Williams Road to walk on the north side of the road, if they wish to travel east from the site. The internal accessway forms a "loop" around the property, and sidewalks are provided throughout the project, with pedestrian access to all buildings and parking areas.

The applicant has indicated that landscaping will be enhanced above minimum code requirements by providing additional plantings along the eastern property line, both trees and shrubs; additional tall palms along the northern and western property lines; and additional canopy trees along the southern property line. According to the applicant, the Coconut Point Design Review Authority has given preliminary approval to the architectural elevation, and required the applicant to provide additional, off-site landscaping within the median on Via Coconut Point. No details have been provided to staff.

SURROUNDING ZONING AND LAND USE

North of the subject property is designated under the Future Land Use Element as Village Center land use designation. This designation allows for four 'tiers' or levels of development. Additional density may be available in exchange for a mixed-use design and public features offered by developers such as enhanced streetscapes, public hiking and bicycling trails, gathering places (including outdoor cafes), and other amenities or improvements. The site immediately north of the property is vacant, and part of an approved Development of Regional Impact known as North Point, which has an MPD zoning designation and a conceptual site plan which allows mixed uses including hotel, office and residential uses.

East of the subject property, separated by the SCL rail line is the Brooks DRI, which is developed as a master planned development for single family residential and other uses under an MPD zoning. The land use designation is Rural which allows one unit per acre.

South of the subject property is a retention area. Southwest is the Rapallo residential community. The zoning is MPD. The land use designation is Urban Community within the Mixed-Use Overlay. The Rapallo community is developed as multifamily condominiums, with associated amenities, at a density of 5.8 units per acre.

West of the subject property is the recently developed Hertz facility as well as a vacant parcel. The zoning is MPD with permitted uses of office. The land use designation is Urban Community within the Mixed-Use Overlay.

STAFF ANALYSIS

The staff analysis section of this report includes information on various issues, such as environmental issues, transportation impacts, density, height, compatibility, and Comprehensive Plan considerations (including Estero-specific goals and policies).

When the Planning and Zoning Board evaluates a zoning case, it must review these issues and provide a recommendation to Council, including whether the proposal is consistent with the Comprehensive Plan and with the Land Development Code. In order to assist, staff has provided a summary of the project's advantages and disadvantages below. Following this section is more information on each of the issues.

Summary of Advantages and Disadvantages

Disadvantages:

- Although the subject parcel is part of the Coconut Point DRI, the property functions as a separate parcel. It is separated from the remainder of the DRI by Via Coconut Point, resulting in a 6.62 acre outparcel which is not connected to the overall DRI. The proposed development is a gated, multifamily development with only one point of access. There is also limited pedestrian access due to the lack of a sidewalk on the southern side of the property.

- The 200 units proposed on this parcel results in a density over 30 units per acre, which is higher than any other site in the Village. The closest municipalities with similar densities include Fort Myers and Marco Island. In both communities, additional density is provided through performance standards within the Land Development Code, such as Traditional Neighborhood Design or LEED. This proposed project does not offer additional performance standards nor has a public benefit component. It is also outside of the Village Center land use designation.
- The numerous deviations do not enhance the project. Instead, all deviations together would permit a project more intensive than permitted under the code.
- The proposed request of 200 dwelling units is more intensive than the original approval of 200 ALF units. Due to the demographics, ALF facilities typically require less parking demands and result in fewer trips due to fewer residents owning their own vehicles and instead utilizing shuttle type services.
- The substitution of ALF units to multifamily units cannot be made as a "scrivener's error." The Land Development Code indicates an ALF unit that has its own kitchen within the unit has a 1:1 ratio to multifamily, however if there are not kitchens within the units, then the density is projected as four people per 1 unit. The latter is not equivalent to a multifamily unit.
- The approval of this project could result in additional requests for higher density projects in the Village that fail to provide adequate public benefits.

Advantages:

- Although the applicant is requesting a deviation on the number of stories, the intent is for some of the required parking to be integrated into the building to reduce surface parking.
- The surface parking is internal to the site and not visible from the rights-of-ways.
- The landscape buffer is proposed to be enhanced on all sides of the subject property by providing additional plantings along the eastern property line, both trees and shrubs; additional tall palms along the northern and western property lines; and additional canopy trees along the southern property line.
- The architectural style is attractive and consistent with Coconut Point.

Height and Density

Section 34-932 of the Land Development Code limits height in the Residential Planned Development districts to 45 feet/three stories. The proposed maximum height of this development will be 45 feet/four stories. The applicant has requested a deviation for the additional story. The intent is to use the first story for parking purposes and have three levels of residential above the one story garage. Height is measured from grade to the mean height level between eaves and ridge of gable, hip and gambrel roofs. Therefore, the pitch of the roof as well as the architectural features will exceed 45 feet in height.

The Comprehensive Plan regulates the density. The Urban Community Land Use designation limits density to 6 units per acre. This site is within the Coconut Point MPD/DRI. The requested number of residential units may be allowed by the DRI within the overall project, but the MPD must be amended to allow the use on this particular site. The amendment would result in over 30 units per acre on this 6.62 acre parcel.

Environmental Issues

Staff performed an environmental inspection on the property. The following are the findings:

- There are no wetlands on the site.
- There are no native vegetative communities or critical habitat that could support listed species.
- There are no imperiled (listed) species on the site and no potential since there is no critical habitat.
- There are no floodways.
- The site falls within the Special Flood Hazard Area and therefore will need to adhere to the criteria in LDC Sections 6-401, which applies to development in a flood hazard area and 10-253, regarding soil conditions in a flood hazard area.
- This is a highly disturbed site. Most of it is maintained in a mowed state but there is a mix of some native and non-native vegetation on the site. The provisions of the Land Development Code relating to removal of vegetation will apply.
- The majority of the site is maintained in a mowed state; however, there are native and indigenous trees on the site. The applicant will need to submit a detailed tree inventory when they submit the Development Order application to be able to determine appropriate tree preservation and mitigation.

Transportation Issues

Coconut Point Tract 1-A will be served by a new full access driveway connection along Via Coconut Point at the existing "T" (three-way) intersection with Via Villagio. The proposed parcel within the Coconut Point MPD/DRI will include 200 apartment units. The 200 apartments will generate 1,336 daily two way trips as well as 128 weekday P.M. peak hour trips. The 200 Assisted Living Facility (ALF) units would generate 454 daily two way trips as well as 58 weekday P.M. peak hour trips. The multifamily traffic would be almost triple the amount of traffic generated by an ALF. The applicant has proposed to delete the 200 ALF units as well as eliminating 16,100 square feet of retail square footage from a different parcel (Tract 1-C) of the Coconut Point MPD/DRI. The combined effect of the change in land uses results in the identical number of weekday P.M. peak hour trips and a slight increase of 103 daily trips in the Coconut Point MPD/DRI.

The closest major intersection for the Tract 1-A parcel is the Williams Road and Via Coconut Point Roundabout. The applicant's traffic statement provided a road segment analysis for existing and future conditions on Williams Road (east and west of Via Coconut Point) and on Via Coconut Point (north and south of Williams Road). Traffic count data used for the road segment analysis in the applicant's traffic impact statement was taken from the Lee County 2015 Concurrency Report and recent manual turning movement counts collected at each intersection. An annual growth rate of 12.2% was applied to the 2015 peak hour peak direction volume for Williams Road and the project trips were added in order to provide the 2022 peak hour peak direction volume. An annual growth rate of 4.0% was applied to the 2015 peak hour peak direction volume for Via Coconut Point and the project trips were added in order to provide the 2022 peak hour peak direction volume. The table indicates that three road segments will operate at an acceptable level of service at project

buildout in the year 2022, but Williams Road will operate at a LOS F east of Via Coconut Point, by the year 2022.

| Roadway Link | Roadway Link Location | 2015 Peak Hour Peak Direction Volume | 2015 LOS | 2022 Peak Hour Peak Direction Volume | 2022 LOS |
|-------------------|---------------------------|--------------------------------------|----------|--------------------------------------|----------|
| Williams Road | East of Via Coconut Point | 393 | D | 900 | F |
| Williams Road | West of Via Coconut Point | 269 | C | 614 | D |
| Via Coconut Point | North of Williams Road | 249 | C | 340 | C |
| Via Coconut Point | South of Williams Road | 394 | C | 513 | C |

Note(s): Information taken from Traffic Impact Statement for Coconut Point Tract 1-A prepared by Transportation Consultants, Inc. dated 05/25/16 as Amended

The applicant's traffic statement evaluated the future traffic operations of the Via Coconut Point and Via Villagio/Tract 1-A driveway. The unsignalized intersection operates at a LOS A (2.5 seconds of delay) in the P.M. peak hour in 2022 with a 95th percentile vehicle queue stacking of 38 lineal feet for the eastbound left turn vehicles on Via Villagio. The existing roundabout at Via Coconut Point and Williams Road is projected to operate at a LOS A (10 seconds of delay) in the P.M. peak hour in 2022. The applicant's traffic statement projects a volume to capacity ratio that does not exceed 0.53 (or 53%) for any approach movement.

The portion of Via Coconut Point road segment south of Williams Road is on a horizontal curve and is in close proximity to the intersection with Via Villagio. There is only approximately 580 lineal feet between the Via Villagio intersection and the Williams Road roundabout which does not allow for a lot of vehicle stacking on Via Coconut Point. The vehicles on Via Villagio attempting to make an eastbound left turn onto Via Coconut Point to travel northbound will have to evaluate if proper gaps in the traffic are available as well as the sight distance concerns based on Via Coconut Point being on a horizontal curve. This potential safety issue must be further evaluated if this project is considered for approval.

Additionally, if the project is approved, staff recommends a northbound right turn lane be provided on Via Coconut Point at the new driveway connection to the unsignalized Via Villagio intersection. Via Coconut Point is at the end of a horizontal curve near the future new driveway connection at Via Villagio and a separate northbound right turn lane with sufficient storage and transition will aid in the safe and adequate access for vehicles.

The applicant should also provide a supplemental corridor and safety analysis along Williams Road from Via Coconut Point to Three Oaks Parkway. The following items should be included:

- Evaluation of traffic operations along the corridor during arrival and dismissal on a normal school day.
- A travel time and delay analysis that would provide the average travel speed on Williams Road between Via Coconut Point and Three Oaks Parkway.
- A review of the 5 year crash history along Williams Road between Via Coconut Point and Three Oaks Parkway inclusive of all approaches to the existing roundabout

- A vehicle queueing analysis that includes vehicle stacking at the existing roundabout at Williams Road and Via Coconut Point due to factors such as a potential train crossing at the existing tracks.

There is only one access point to this 200 unit project. Staff recommends that if this project is approved, a secondary point of ingress and egress should be provided on Williams Road for emergency vehicles at a minimum.

Tract 1-A is part of the Coconut Point MPD/DRI. Traffic mitigation was previously paid to Lee County in order to satisfy the DRI's proportionate fair share obligation. A development agreement specified road construction and mitigation obligations.

Neighborhood Compatibility Issues

The properties to the west across Via Coconut Point are part of the Coconut Point DRI and include a vacant lot as well as the Hertz Corporate Headquarters Facility. The Village Center, located directly north of the subject parcel, is where Estero envisioned higher density projects. The Village Center land use has a tiered approach to density. Increasing the density of parcels in the Village Center requires that the developer provide a more urban design, which may include mixed uses and public amenities. The Village Center highest density tier, tier four has a base density of 21 units per acre plus 6 units per acre after consideration of accepted incentive offers, for a maximum of 27 units per acre.

One project has been approved recently within The Village Center. Genova, located at the southeast corner of Via Coconut Point and Corkscrew Road, was approved at approximately 11 units per acre. There is a second pending project which is requesting approximately 15 units per acre.

The Village Center is separated by Williams Road from the subject parcel. The subject property is outside of the Village Center. Therefore, the higher density on this parcel (over 30 units per acre) does not have the same requirements for incentives and is being proposed in an area outside of the community's desired location for higher density parcels. No community benefit has been proffered with this project and there is no relationship established to the remainder of the DRI. It functions as a stand-alone outparcel.

The Brooks, which is to the east of this parcel and separated by the SCL rail line, has a density of one unit per acre.

Immediately south of this parcel is a retention area. Southwest of the subject parcel is Rapallo, which is a multifamily development within the Urban Community land use designation. This land use designation has a standard density range of one dwelling unit per acre to six dwelling units per acre. This property consists of 77.39 acres with 450 dwelling units resulting in an overall density of 5.8 units per acre. Rapallo's buildings are visually similar to the architecture of the proposed project; however the density is substantially lower (by 80%).

This project is substantially more dense than any nearby project. The proposal is not compatible with the neighborhood. The height of 4 stories is taller than the adjacent Brooks development of one and two stories.

Comprehensive Plan Considerations

The Future Land Use designation of this property is Urban Community. The Urban Community designation is intended for areas characterized by a mixture of relatively intense commercial and residential uses with future development in this category encouraged to be developed as a mixed-use where appropriate. Standard density ranges from one dwelling unit per acre (1 du/acre) to six dwelling units per acre (6 du/acre), with a maximum total density of ten dwelling units per acre (10 du/acre) only with "bonus" density. This property is also located in the Mixed-Use Overlay per the Comprehensive Plan. Sites within this overlay are locations desirable for mixed use located in close proximity to: public transit routes; education facilities; recreation opportunities; and, existing residential, shopping and employment centers. Appropriate locations in this overlay are expected to have a positive impact on transportation facilities through increased transit service, internal trip capture, and reduced travel distance.

This site is part of the Coconut Point DRI. The 200 dwelling units proposed are within the allowable units of the DRI as a whole. For MPD zoning purposes, however, the proposed multifamily units at over 30 units per acre are much more dense than the currently approved 200 ALF units which are not equivalent to the proposed multifamily uses. Further, the specific site is not functionally integrated into the DRI and instead functions as an outparcel. The approval of this project, including the multiple deviations, would permit a density on the subject property of over 30 units per acre, which is higher than anywhere else in the Village, including the Village Center.

An evaluation of pertinent Comprehensive Plan Policies is below.

POLICY 1.1.4: *The Urban Community areas are areas outside of Fort Myers and Cape Coral that are characterized by a mixture of relatively intense commercial and residential uses. Included among them, for example, are parts of Lehigh Acres, San Carlos Park, South Fort Myers, Iona/McGregor, Pine Island, and Gasparilla Island. Although the Urban Communities have a distinctly urban character, they should be developed at slightly lower densities. As the vacant portions of these communities are urbanized, they will need to maintain their existing bases of urban services and expand and strengthen them accordingly. As in the Central Urban area, predominant land uses in the Urban Communities will be residential, commercial, public and quasi-public, and limited light industry (see Policy 7.1.6) with future development in this category encouraged to be developed as a mixed-use, as described in Policy 2.12.3., where appropriate. Standard density ranges from one dwelling unit per acre (1 du/acre) to six dwelling units per acre (6 du/acre), with a maximum total density of ten dwelling units per acre (10 du/acre).*

The Comprehensive Plan encourages a "slightly lower density" (1-6 units per acre) for properties with an Urban Community land use designation. This project would provide a much higher density than other properties with this land use designation.

OBJECTIVE 4.3: *Development, redevelopment, and infill rezonings located within the Mixed Use Overlay that utilize the Mixed Use Planned Development (MPD) zoning category and that incorporate the following Mixed Use, New Urbanism, Traditional Neighborhood Development (TND), and Transit Oriented Development (TOD) criteria will be allowed to use the area of commercial, office, light industrial, natural water bodies and other non-residential uses in their density calculations. These areas will be compact, multi-purpose, mixed use centers which integrate commercial development with residential, civic, and open space within the same neighborhood and buildings.*

The Comprehensive Plan envisions new development in a MPD zoning within the Mixed Use Overlay to be multi-purposed and integrated. If so, then the applicant has the benefit of potentially gaining additional density by utilizing the strategies within Objective 4.3. The subject proposal does not incorporate mixed use features, but instead provides for a single use with more units per acre than elsewhere in the Village.

POLICY 4.3.3: *Site and Building Design: Integrate commercial, residential, civic, and open spaces to create multipurpose developments that feature unique style and ambiance through design, encouraging civic involvement and events to promote community interaction.*

The proposed development is solely related to multifamily dwelling units and is not a multipurpose development. It is not integrated into the overall MPD/DRI.

POLICY 19.1.3: *Encourage new developments that achieve the Estero community's vision and planning goal and policies and are consistent with mixed-use design, architectural, location, connectivity and public access standards by establishing and implementing development incentives within the Lee Plan and Land Development Code that:*

- a. Promote urban integrated forms of development in targeted areas identified on the Mixed-Use Overlay;*
- b. Promote targeted industries in appropriate areas of Estero—e.g.: healthcare, arts and culture, technology, and research and development facilities;*
- c. Promote the use of green design, sustainable energy, water, and other environmental features;*
- d. Expedite development projects particularly in targeted incentive zones where the community has adopted mixed-use plans and LDC standards;*
- e. Enable infill of underutilized commercial and residential lands; and*
- f. Encourage residential developments to use the bonus density established through the Lee Plan Urban land use categories.*

Estero's vision included the concentration of higher density within the Village Center. The intent of the higher density at that location is to provide a true walkable, mixed use environment where more density helps to create a "village." This site is outside of the Village Center and due to its location east of Via Coconut Point, does not correlate to the overall DRI. The site plan does not provide a public benefit such as increased connectivity or a community feature.

POLICY 19.2.1: *Where feasible, provide for the development of walkable mixed-use town centers and economic areas featuring diverse housing options; government offices and public facilities; medical facilities; employment centers; public gathering places, parks, outdoor plazas, and other*

public spaces; greenway trails and pathways; and public access to the community's natural resources through Lee Plan policies and LDC regulations that support Estero's distinct community character and the following community priorities:

- a. Support the development of a central town center to unify the community;*
- b. Improve the connectivity between Estero's residential neighborhoods, economic areas, civic uses, and park and recreational facilities;*
- c. Diversify the community's economic base and employment opportunities;*
- d. Encourage the development of targeted industry clusters—particularly health industries, professional services and businesses, and technology, research, and development;*
- e. Expand multi-modal transportation options through improved pedestrian access, bikeways, transit service, and rail opportunities;*
- f. Improve access to the community's blueways—particularly the Estero river—, greenway trails, other open spaces;*
- g. Promote the community's cultural and historic resources; public spaces, parks, and recreational facilities; and other community amenities;*
- h. Commercial and mixed-use developments will maintain a unified and consistent aesthetic/visual quality in landscaping, architecture, lighting, and signage; and*
- i. Promote and incentivize private investment within mixed-use centers and economic areas.*

The proposed project does not enhance the pedestrian access system since a sidewalk is not provided on the south side of Williams Road. It also does not provide connectivity as it functions as a separate outparcel, not connected to the Village Center. Public or community amenities are not included in this project. Providing multimodal options as well as improving connectivity between residential and commercial areas is a specific provision of the Estero policies in the Comprehensive Plan. The proposed plan does not provide for pedestrian connectivity and therefore the proposal is not consistent with the Comprehensive Plan.

POLICY 19.4.1: *Establish land development code standards that ensure the development of a well-connected transportation system that includes pedestrian pathways, bikeways, transit, and roadways. These standards should:*

- a. Require, where feasible, interconnects with adjacent uses;*
- b. To the extent feasible, minimize access points onto primary road corridors by providing multiple access to adjacent properties;*
- c. Link neighborhoods, commercial and mixed-use centers, public facilities, and parks; and*
- d. Enable multi-modal transportation access (pedestrian, bike, vehicular, and transit) within and between the different neighborhoods, economic and employment centers, civic uses, and public space, park, and recreational facilities within the Estero Community.*

The proposed project does not interconnect with adjacent uses and the applicant is requesting one point of access to the property rather than the required two access points. Williams Road continues east, which would allow vehicular and bicycle traffic, however multi-modal access is also lacking since there is no sidewalk on the south side of Williams Road to provide pedestrian access to the east.

Deviations

The applicant has requested several deviations from the Land Development Code. The applicant's Deviations and Justification document is found as an attachment to this report.

1. Deviation (1) seeks relief from the LDC §10-291(3) requirement, that residential developments of more than five acres must provide more than one means of ingress or egress for the development, to allow for one point of ingress and egress into the development.

Comment: The applicant has indicated that the deviation is justified due to the approved Master Concept Plan for the subject property showing only one access point into the property, from Via Coconut Point and aligned with Via Villagio. A second access point is important for safety purposes, especially with the proposed increase in vehicles to be expected by the shift from ALF to standard multifamily units. At a minimum, an emergency exit is appropriate. Staff does not support this deviation since the request is not consistent with the Comprehensive Plan's policies for connectivity, specifically Policy 19.4.1.

2. Deviation (2) seeks relief from the LDC §34-2020(a) requirement to provide a minimum of two (2) parking spaces per multiple-family unit which results in a reduction in parking from 440 spaces to 383 spaces.

Comment: The applicant has indicated that the justification for the parking reduction is based on an industry standard for suburban apartments as well as the potential for employment at Hertz and nearby amenities in Coconut Point. While internal capture of trips related to residential near commercial uses may be a legitimate justification for a reduction of parking for commercial uses, it is not a justification for reducing residential parking. Staff does not support this deviation.

3. Deviation (3) seeks relief from the LDC §34-935(e)(4) requirement to provide a minimum building separation of one-half the sum of the building heights or 20 feet, whichever is greater. The request would allow a minimum building separation of 20 feet where 22.5 feet is required.

Comment: The applicant has indicated that the deviation requested would be applicable in two places, as shown on the Concept Plan, and would allow for flexibility in the design of the site. The 20 foot building separation is adequate to accommodate access by fire trucks and the buildings will meet the requirements from the Florida Building Code for required building separation in order to protect public safety. However, the reduction of required building separation also creates a more crowded site and allows for additional units that create an inappropriate density on the site, and does not enhance the project. Staff does not support the deviation.

4. Deviation (4) seeks relief from the LDC §10-261(a) requirement that all new multifamily residential developments provide container space at a minimum square footage of 1,616

square feet for this property. The request is to provide multiple containers totaling 700 square feet.

Comment: The applicant has justified this deviation by designing the site to accommodate trash and recycling containers within each of the four buildings on the ground (parking) level, rather than providing a single disposal facility location. The total square footage for these four facilities will be less than that required by code (approximately 700 SF), due to the nature of the facilities, which will not require a trash compactor, fencing, landscaping, sidewalks, etc., which would be accommodated with additional area. Garbage and recycling trucks will enter the site, back up into a loading area between the buildings, and wheel trash and recyclable receptacles to the trucks for disposal. Lee County Solid Waste has issued a letter of no objection to this deviation. However, the reduction in solid waste containers results in a more crowded site, and additional residential units at a density that is not appropriate for the site. The deviation does not enhance the project. Staff does not support the deviation.

5. Deviation (5) seeks relief from the LDC §33-229 requirement that buildings outside of the Interstate Highway Interchange Areas are limited to a maximum of three stories or 45 feet, to allow a maximum of four stories, no greater than 45 feet.

The deviation requested would not change the overall height of the buildings, but would permit four floors instead of the permitted three floors. The building is designed to incorporate the parking on the first floor. The additional story permits the applicant to provide four floors, one being parking, without reducing the number of units they are proposing. The result is a higher density project at an inappropriate density. Therefore, staff does not support this deviation due to the staff recommendation of denial for the project.

FINDINGS AND CONCLUSIONS

After balancing the advantages and disadvantages of this project and its impacts, the Planning and Zoning Board will make a recommendation to the Village Council for the amendment to the Mixed Planned Development. Staff has reviewed the entirety of the application and is recommending denial. The denial recommendation is based on the project being too dense for the property and would result in the highest density in the Village. The requested density is much higher than adjacent projects. The height is not comparable to the adjacent Brooks project. The request is not consistent with the Comprehensive Plan. The deviations do not enhance the project, instead they contribute to allowing more density on the site and a more crowded site. Based upon an analysis of the application and the standards for approval in the Land Development Code, staff has proposed the following Findings of Fact for review:

1. The applicant has not provided justification for the deviations or demonstrated how they enhance the project.
2. The applicant has not demonstrated compliance with the Comprehensive Plan relating to the Estero specific policies and the Mixed Use Overlay.

3. The justification provided by the applicant for the request of 200 residential units is that a scrivener's error was made that did not list 200 ALF units on the permitted use list. However, that is not justification to modify ALF units to residential dwelling units. The Land Development Code recognizes differences in the equivalency of ALF units and standard multifamily units.
4. The project may meet the design guidelines within the Beauty Book, but no public space or amenities are provided.
5. The density proposed is higher than any other site in the Village.
6. There is not a continuation of the sidewalk on the south side of Williams Road to offer pedestrian opportunities from the site and there is no design for multimodal opportunities.
7. The Village Center is preferred location for higher density and the subject property is outside of the Village Center.
8. The combined deviations allow for more residential units on site. If the applicant were to meet the code requirements, fewer units may have been able to be provided.
9. Only one access for ingress and egress poses a potential safety concern for traffic and emergency vehicles. The Estero specific policies within the Comprehensive Plan promote connectivity, which is not provided in this application.
10. The proposed development is not compatible with the adjacent properties relating to density and height.

ATTACHMENTS

- A. Zoning Map
- B. Land Use Map
- C. Master Concept Plan
- D. Applicant's Information
- E. Public Comment Letter
- F. Zoning Resolutions



The Village of Estero Zoning Map

Legend

- Town Boundary
- Zoning**
- AG-2
- AG-3
- C-1
- C-1A
- CC
- CF
- CFPD
- CPD
- CS-2
- CG
- EC
- IL
- MH-1
- MH-2
- MH-3
- MHC-2
- MPD
- PUD
- RM-2
- RPD
- RPD-CPD
- RS-1
- RS-2
- RS-3
- RS-4
- RSC-1
- RV-3
- TFC-2

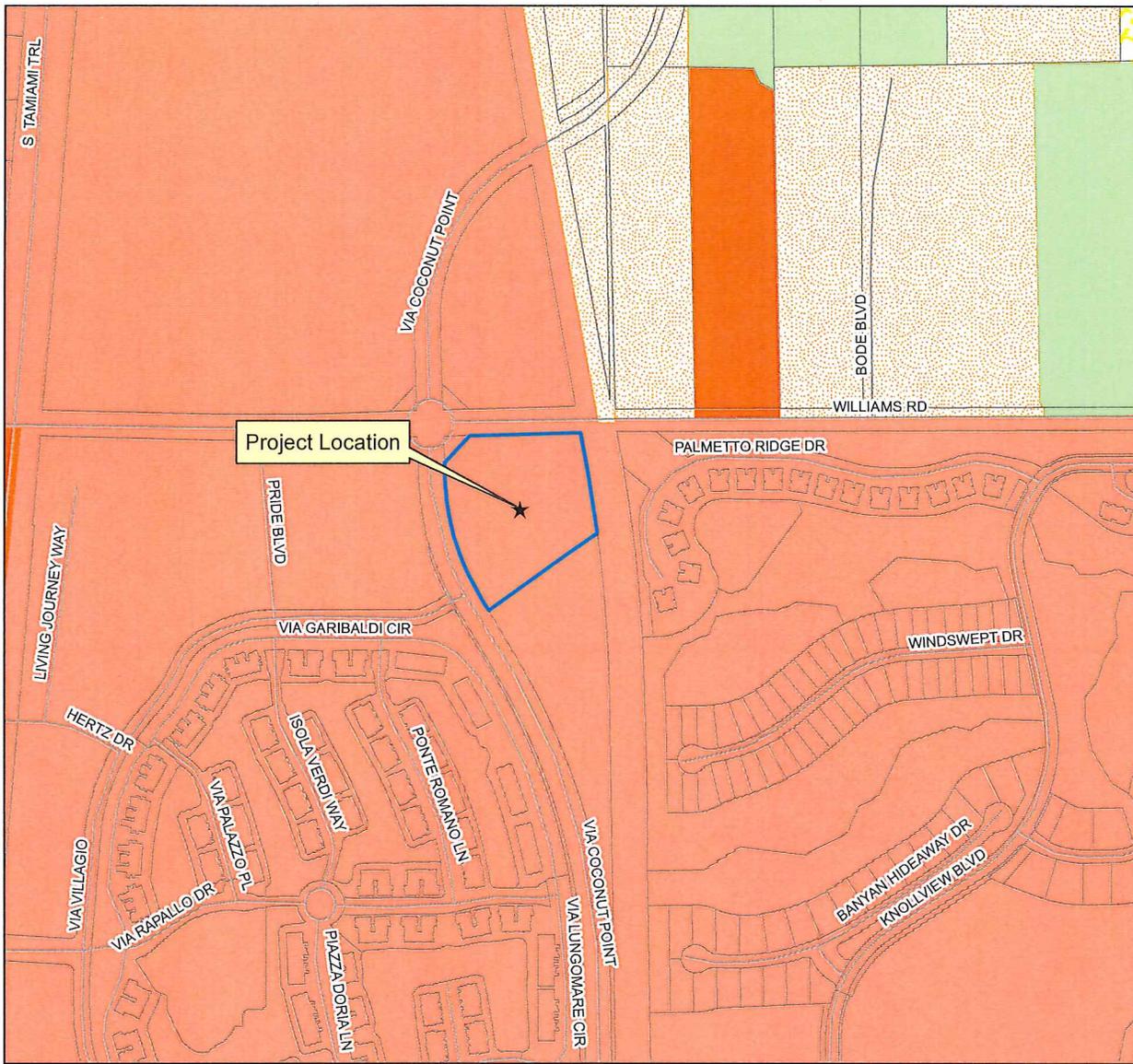


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Print Date: 10-24-2016

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The Village of Estero Future Land Use Map

Legend

- Town Boundary
- Land Use**
- Conservation Lands Upland
- Conservation Lands Wetland
- Density Reduction/ Groundwater Resource
- General Interchange
- Intensive Development
- Outlying Suburban
- Public Facilities
- Rural
- Suburban
- University Community
- Urban Community
- Wetlands



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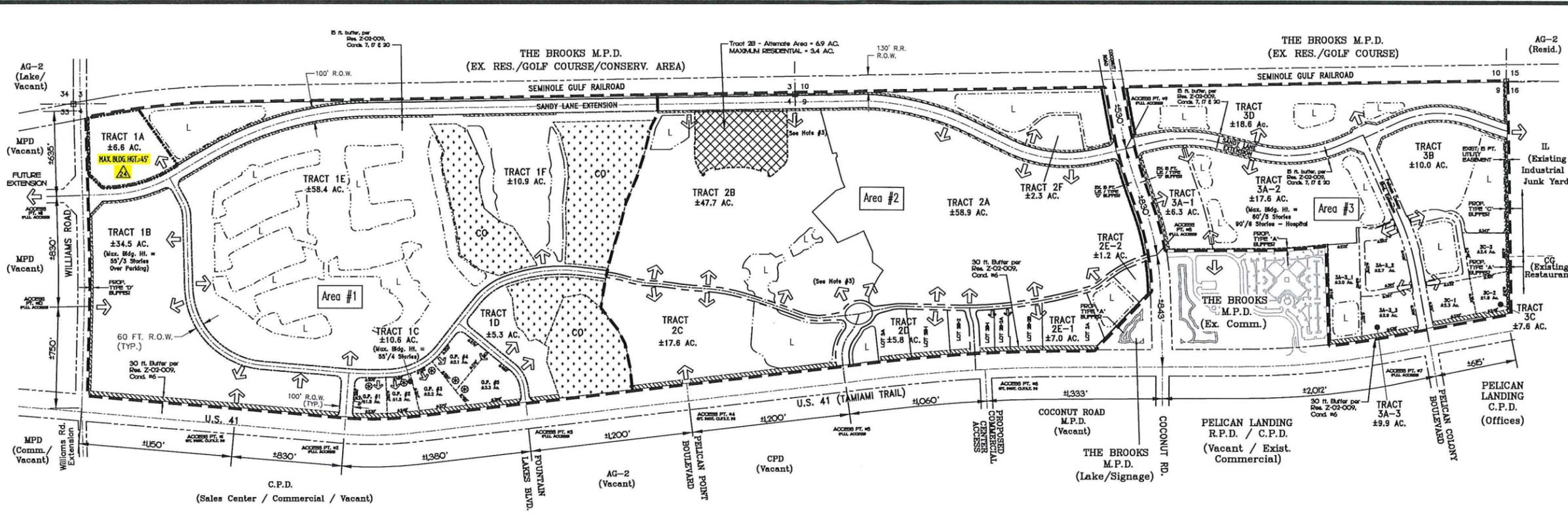
Print Date: 10-24-2016

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Geographic Information Systems Services



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PROJECT SUMMARY:

- REQUEST: A REZONING FROM AG-2 TO MIXED USE PLANNED DEVELOPMENT (MPD)
- OVERALL CONCEPTUAL PROJECT ACREAGE:

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

- CONCEPTUAL TRACT AND LAND USE / ACREAGE BREAKDOWN:

a. DEVELOPMENT AREAS:

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

| | |
|---|------------|
| Proposed Lakes | ± 28.1 Ac. |
| Proposed Internal/Private R.O.W. | ± 8.2 Ac. |
| Proposed Public R.O.W. (Sandy Lane Extension) | ± 10.1 Ac. |
| Conservation Areas | ± 33.4 Ac. |
| Green Areas / Open Space | ± 4.7 Ac. |
| Development Areas (Tracts 1A - 1F) | ±126.3 Ac. |
| Total Development Area #1 | ±210.8 Ac. |

- Development Area #2: (Residential - 450 M.F. Units / Retail - Comm. 1,450,000 Sq.Ft. / Gen. Office 90,000 Sq.Ft. / Hotel - 200 Rooms)
- | | |
|---|-------------|
| Proposed Lakes | ± 17.0 Ac. |
| Proposed Internal/Private R.O.W. | ± 6.1 Ac. |
| Proposed Public R.O.W. (Sandy Lane Extension) | ± 8.1 Ac. |
| Green Areas / Open Space | ± 4.0 Ac. |
| Development Areas (Tracts 2A - 2F) | ± 140.5 Ac. |
| Total Development Area #2 | ±175.7 Ac. |

- Development Area #3: (Residential - 424 M.F. / A.L.F. Units / Retail - Comm. 72,500 Sq.Ft. / Office 341,167 Sq.Ft. / 160 Hospital Beds)
- | | |
|---|------------|
| Proposed Lakes | ± 13.7 Ac. |
| Proposed Internal/Private R.O.W. | ± 5.9 Ac. |
| Proposed Public R.O.W. (Sandy Lane Extension) | ± 7.4 Ac. |
| Development Areas (Tracts 3A-1 thru 3 - 3D) | ± 68.9 Ac. |
| Total Development Area #3 | ± 95.9 Ac. |

- b. MAXIMUM DEVELOPMENT TRACT INTENSITY: (NOTE: CUMULATIVE INTENSITIES WILL NOT EXCEED MAXIMUM PROPOSED LAND USES FOR EACH DEVELOPMENT AREA)
- Development Area #1:
- | | |
|----------|--|
| Tract 1A | 200 MF/ALF Units / 50,000 s.f. Office |
| Tract 1B | 450,000 s.f. Office |
| Tract 1C | 90,000 s.f. Retail / 20,000 s.f. Office / 120 Room Hotel |
| Tract 1D | 5,000 s.f. Retail / 35,000 s.f. Office / Fire Station |
| Tract 1E | 450 M.F. DU's |
| Tract 1F | 90 M.F. DU's |

- Development Area #2:
- | | |
|------------|---|
| Tract 2A | 650,000 s.f. Retail / 450 M.F. DU's / 60,000 s.f. Office / 200 Room Hotel |
| Tract 2B | 600,000 s.f. Retail / 200 Room Hotel / 200 M.F. DU's |
| Tract 2C | 150,000 s.f. Retail / 20,000 s.f. Office / 200 Room Hotel |
| Tract 2D/E | 150,000 s.f. Retail / 30,000 s.f. Office / 200 Room Hotel |
| Tract 2F | 20,000 s.f. Retail / 30,000 s.f. Office / 100 Multi-family Units |
- Development Area #3:
- | | |
|-------------------|--|
| Tract 3A-1 thru 3 | 60,000 s.f. Retail / 300,000 s.f. Office / 160 Hospital Beds (1) |
| Tract 3B | 200 A.L.F. Units |
| Tract 3C | 40,000 s.f. Retail / 90,000 s.f. Office |
| Tract 3D | 224 M.F. DU's |

(1) ANY COMBINATION OF PERMITTED LAND USES MAY DEVELOP WITHIN TRACTS 3A-1, 3A-2 AND 3A-3 PROVIDED TRIP GENERATION DOES NOT EXCEED 479 NET NEW EXTERNAL TRIPS.

4. PROJECT PHASING:

| | M.F. / A.L.F. (UNITS) | RETAIL (SQ.FT.) | COMM. (SQ.FT.) | OFFICE (SQ.FT.) | HOTEL (ROOMS) | Bank w/ DT (SQ.FT.) | HOSPITAL (BEDS) |
|-------------|-----------------------|-----------------|----------------|-----------------|---------------|---------------------|-----------------|
| 2001 - 2024 | 1,614* | 1,607,500 | 912,444 | 320 | 8,000 | 160 | |

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

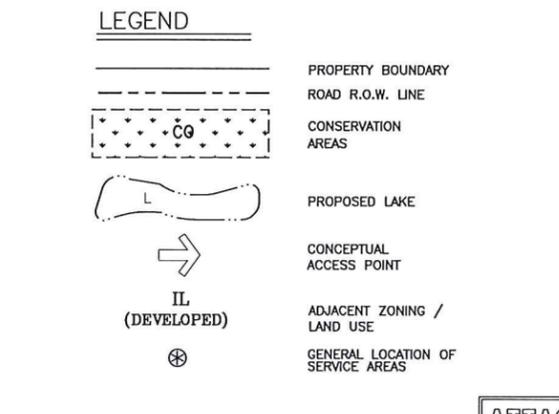
5. CONCEPTUAL OPEN SPACE (Tract 2B Alternate Plan):
- a. REQUIRED (per L.C.L.D.C.):*
- | | | |
|--|-----------------|-------------|
| Development Area #1: (LESS Sandy Lane Extension and Tracts 1A+1E & 1F) | 124.8 Ac. x 30% | ± 37.44 Ac. |
| (Tracts 1A / 1E / 1F) | 75.9 Ac. x 40% | ± 30.36 Ac. |
- Development Area #2 [ALT 1, TRACT 2B ALT AREA = 3.4 AC RESIDENTIAL MAX]: (LESS Sandy Lane Extension & Resid. Area)
- | | | |
|--------------------|-----------------|--------------|
| (Residential Area) | 158.4 Ac. x 30% | ± 47.5 Ac.** |
| | 9.2 Ac. x 40% | ± 3.7 Ac. |
- Development Area #2 [ALT 2, TRACT 2B ALT AREA = NO RESIDENTIAL]: (LESS Sandy Lane Extension & Resid. Area)
- | | | |
|--------------------|-----------------|------------|
| (Residential Area) | 161.8 Ac. x 30% | ± 48.5 Ac. |
| | 5.8 Ac. x 40% | ± 2.3 Ac. |
- Development Area #3: (LESS Sandy Lane Extension & Tracts 3B & 3D)
- | | | |
|-----------------|----------------|------------|
| (Tract 3B & 3D) | 59.7 Ac. x 30% | ± 17.9 Ac. |
| | 28.8 Ac. x 40% | ± 11.5 Ac. |
- Total Open Space Required [ALT 1]: ±148.4 Ac.
Total Open Space Required [ALT 2]: ±148.0 Ac.

- b. PROVIDED (per L.C.L.D.C.):
- | | |
|--|------------|
| Prop. Lake Areas (@ <25.0% of 150.2 Ac.) | ± 37.6 Ac. |
| Prop. Conservation Areas | ± 33.4 Ac. |
- Development Area #1: Commercial Development (Tracts 1B/1C/1D) 50.4 Ac. x 19.65% ± 9.9 Ac.
Residential Development (Tracts 1E/1F) 75.9 Ac. x 30.0% ± 22.8 Ac.
Sub-total: ± 32.7 Ac.
- Development Area #2 [1A / ALT 1, TRACT 2B ALT AREA = 3.4 AC RESIDENTIAL MAX]: Commercial Development (Tracts 2A - 2F) 131.3 Ac. x 19.52% ± 25.6 Ac.
Residential Development (Tract 2A) 5.8 Ac. x 23.60% ± 1.4 Ac.
Residential Development (Tracts 2B) 3.4 Ac. x 23.50% ± 0.8 Ac.
Sub-total: ± 27.8 Ac.
- Development Area #2 [ALT 2, TRACT 2B ALT AREA = NO RESIDENTIAL]: Commercial Development (Tracts 2A - 2F) 134.7 Ac. x 19.52% ± 26.3 Ac.
Residential Development (Tract 2A) 5.8 Ac. x 23.60% ± 1.4 Ac.
Sub-total: ± 27.7 Ac.

6. INDIGENOUS OPEN SPACE: DUE TO THE EXISTING AGRICULTURAL LAND USE AND THE EXTENT OF MELALEUCA INVASION WITHIN THE REMAINING FORESTED AREAS, NO INDIGENOUS OPEN SPACE IS REQUIRED.
7. NOTES:
- Internal access will be provided to allow through traffic between US 41 and Sandy Lane Extension.
 - For Tract 1C general service area locations, see above MCP.
 - The project will be designed to facilitate the use of the Lee Tran services in accordance with Lee County LDC Sec. 34-411(e) and 10-442.

Development Area #3: Commercial Development Tracts (Tracts 3A-1 thru -3 & 3C) 42.6 Ac. x 19.55% ± 8.3 Ac.
Residential Development (Tracts 3B & 3D) 28.8 Ac. x 30.00% ± 8.6 Ac.
Sub-total: ± 16.9 Ac.

Total Open Space Provided [ALT 1]: ±148.4 Ac.
Total Open Space Provided [ALT 2]: ±148.0 Ac.



| REVISIONS | NUMBER | DATE |
|---|----------|------|
| Added MF Units to Tract 2B (No Increase in max units) | 01/26/08 | |
| Added Access Pt. for Tract 3A-1 | 11/16/05 | |
| Revised for Administrative Amendment #8 Tract 3D | 11/16/05 | |
| Revised for Admin. Amendment ADD2005-0000 | 09/22/05 | |
| Revised for Administrative Amendment Submittal | 02/04/05 | |
| Revised for Administrative Amendment Submittal | 05/19/04 | |
| Revised for Administrative Amendment Submittal | 02/27/04 | |
| Revised per County Attorney's Office Memo | 12/09/03 | |
| Revised Tracts / O.S. Calc. / Permitted Uses | 12/16/01 | |
| Revised per County Staff 1st R.A.L. | 03/08/01 | |

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

H.M.
HOLE MONTES
ENGINEERS-PLANNERS-SURVEYORS

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

ADMINISTRATIVE AMENDMENT 1A
ZONING AMENDMENT 1A
4/25/16

| | |
|----------------|------------------------|
| CHECKED E.M.C. | DATE 08/16/05 |
| DRAWN C.R.B. | DATE 08/16/05 |
| CHECKED N.E.D. | DATE 05/28/16 |
| VERT. SCALE | HORIZ. SCALE 1" = 400' |

SCALE: 1" = 400'

ATTACHMENT "A"

REFERENCE NO. 9779B_MCP8
PROJECT NO. 97.79-B
SHEET NO. 1 of 1

Applicant's Information

REQUEST STATEMENT COCONUT POINT TRACT 1A

The Coconut Point Mixed-use Planned Development/Development of Regional Impact (MPD/DRI) was approved in 2002 by Lee County as a mixed-use project consisting of residential, office, and retail development. The project development parameters have been modified several times over the last fourteen years.

The Coconut Point MPD/DRI is located east of U.S. 41, from Williams Road south to the northern boundary of the City of Bonita Springs. The project has developed with a variety of residential and commercial uses, including Hertz Corporate Headquarters and Lee Memorial Health Systems. The current request for a minor amendment to the MPD affects Tract 1A, a 6.62 acre parcel at the northern end of the MPD/DRI, at the southeast corner of the intersection of Williams Road and Via Coconut Point. The applicant seeks to develop Tract 1A with 200 multifamily dwelling units.

Proposed Site Plan & Landscaping Enhancements

The site plan provides a gated ingress/egress onto Via Coconut Point, consistent with the access previously approved through the MPD/DRI process. The 200 dwelling units are arranged in four buildings, each three stories over parking, situated around the perimeter of the site, with surface parking located internal to the site, behind the buildings. Please see the Conceptual Site Plan. The development also provides a pool and amenity center for residents. The architectural style is Mediterranean, consistent with the architectural vision of the Village of Estero as well as the Coconut Point "Beauty Book." Conceptual architectural elevations and a line of sight exhibit (from the Brooks) are included with this application. Additionally, the applicant will record rental regulations that will restrict students from renting within the development.

The site will connect to the existing sidewalk system along Via Coconut Point and to the sidewalk on the north side of Williams Road. The internal accessway forms a "loop" around the property, and sidewalks are provided throughout the project, with pedestrian access to all buildings and parking areas.

Landscaping will be enhanced above minimum code requirements by providing additional plantings along the eastern property line, both trees and shrubs; additional tall palms along the northern and western property lines; and additional canopy trees along the southern property line. A conceptual architectural elevation, showing the Mediterranean design and landscaping, is shown below.

Mixed-Use Planned Development

The development approval for Tract 1A was last amended by Lee County Zoning Resolution Z-13-016. There was a scrivener's error, in that the Master Concept Plan (MCP) shows 200 ALF units/50,000 SF of office allowed on Tract 1A, but the list of Permitted Uses did not include the residential use. The applicant seeks to develop Tract 1A with 200 multifamily dwelling units, developed as apartments, rather than the ALF multifamily units currently allowed.

The proposed apartment units will meet the need, identified by the Estero Community Market Assessment prepared by Peloton Research Partners in September of 2013, for a "significant amount of rental housing ... to provide housing for working couples, singles, and retirees." The Peloton Report goes on to state that the "... availability of quality rental housing is an important factor ... for businesses looking to relocate ..." (page 12). The need for rental and workforce housing is reiterated in the Community Planning Initiative Report (the "Seth Harry Report") and identified as both a critical need and an opportunity for growth (Section 1.2).

The applicant is not requesting any changes to development standards, such as height, setbacks, or lot coverage, and the change from ALF units to multifamily units will not increase the demands on infrastructure (i.e. potable water, sanitary sewer, solid waste). Traffic impacts were analyzed for the entire Coconut Point MPD, and there will be no increase in weekday PM peak hour trips associated with this change.

Development of Regional Impact

DRIs are developments that have a substantial effect on health, safety, or welfare of citizens of more than one county. Florida law anticipates that DRIs may modify the original plan of development for a variety of reasons, including changes in market conditions. The Florida legislature adopted statutory review criteria to evaluate whether proposed changes alter the external impacts of a project to a degree that warrants further DRI review. Certain changes are presumed to create a substantial deviation from the original development approvals, while others are recognized as *not* substantial deviations. Per Florida Statutes, Section 380.06(19)(e)2.k.:

2. The following changes, individually or cumulatively with any previous changes, are not substantial deviations: ...
 - k. Changes that do not increase the number of external peak hour trips and do not reduce open space and conserved areas within the project except as otherwise permitted by sub-subparagraph j.

The original DRI Development Order (DO) established the required mitigation for the traffic impacts of the entire Coconut Point development. The developer paid the proportionate share obligation, which vested, for concurrency purposes, the land-uses approved by the DRI DO through December 31, 2024. As previously stated, the applicant now proposes 200 multifamily

apartment units, and will reduce the commercial retail square footage permitted in Development Area #1 by 16,100 SF, from 85,000 SF to 68,900 SF, so that there will be no increase in the number of external peak hour trips.

Likewise, the conversion of 200 Assisted Living Facility multifamily dwelling units, which could be constructed on Tract 1A currently, with 200 multifamily units (apartments), will not change any areas designated as open space or preserve.

As these changes are not considered “substantial” under Florida Statutes, there is no required Notice of Proposed Change (NOPC) and no required change to the DRI Development Order (DO). The applicant will coordinate with the Florida Department of Economic Opportunity and the Southwest Florida Regional Planning Council to obtain their official determination that no NOPC or DRI DO amendment is required and copy the Village on this correspondence.



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COCONUT POINT M.P.D.
LEE COUNTY, FLORIDA

TRACT 1-A
AERIAL EXHIBIT - 2016



H/M
HOLE MONTES
ENGINEERS-ARCHITECTS

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

**SCHEDULE OF DEVIATIONS
COCONUT POINT TRACT 1A**

INGRESS AND EGRESS

1. Deviation (1) seeks relief from the LDC §10-291(3) requirement, that residential developments of more than five acres must provide more than one means of ingress or egress for the development, to allow for one point of ingress and egress into the development.

Justification: The approved Master Concept Plan for the subject property shows only one access point into the property, from Via Coconut Point and aligned with Via Villagio, consistent with the access proposed with this MPD amendment and the existing curb cut.

Additional access points may conflict with the roundabout at the intersection of Williams and Via Coconut and the Railway Crossing, possibly creating a traffic safety concern.

The site is relatively small, 6.62 acres, close to the threshold for this requirement, and will be developed with 200 apartment homes. The current site design defines the adjacent streets with a consistent building frontage. This is not a large site with spread-out homes, where access to emergency vehicles would be affected by providing only one access point. The entrance is a divided boulevard that could allow emergency access in either lane. An emergency access plan will be provided, as required by the Land Development Code, and recorded in the public records prior to issuance of a local development order, detailing how access by emergency providers will be accommodated to maintain public health and safety.

Additionally, limiting ingress and egress to one point of access will make the site easier to secure and does not affect overall connectivity of the area, as the site is bordered to the east by the Seaboard Coastline Railroad ROW, and to the south by an existing lake, part of the overall water management system for Coconut Point.

PARKING STANDARD

2. Deviation (2) seeks relief from the LDC §34-2020(a) requirement to provide a minimum of two (2) parking spaces per multiple-family unit, to allow the parking standard as shown on the Tract 1A Concept Plan.

Justification: The proposed development plan for Tract 1A would provide for 200 multifamily dwelling units in four buildings along with associated recreational facilities. The project is currently proposed as an apartment complex that will include a mix of unit sizes and styles. Almost half of the units will be studio or one-bedroom units (44%), and the rest 2- and 3-bedrooms. The anticipated market for these apartments will be empty nesters and young professionals, attracted to the proximity to

Hertz Global Headquarters (directly across Via Coconut Point) and shopping and restaurants at Coconut Point Mall. The 200 units proposed are part of the overall mixed-use and walkable development of the Coconut Point DRI/MPD, with access to bike lanes, sidewalks, and transit stops.

Additionally, each unit will be assigned parking spaces, and visitor parking spaces will be designated in the surface parking lot areas. Covered parking areas will also be available at a premium added cost. This will help to promote efficient utilization of the parking area and allow additional control measures by the leasing company if necessary.

The developer is also actively pursuing ways to increase pedestrian access to the site and promote connectivity with the Coconut Point Mall, such as providing easily accessible bicycle parking or perhaps an extension of the mall's trolley service to the project. Sidewalks are located along both sides of Via Coconut Point and Williams Road adjacent to the project, and the current site design provides for three connections and extension from these sidewalks into the site. In addition, Lee Tran Route 600, which connects to Collier County transit, runs along Via Coconut Point approximately three-quarters of a mile south of the subject site, with service every 90 minutes, and Routes 140 and 240 run along US 41 approximately one-third of a mile to the west, with service every 15-20 minutes.

The current Lee County Land Development Code in effect within the Village of Estero requires a blanket 2 parking spaces for every multifamily residential unit, regardless of type, plus an additional 10 percent for visitor parking. See the table, below.

REQUIRED PARKING PER CODE

| | |
|--------------------------------|------------|
| 200 units @ 2 spaces / unit | = 400 |
| Additional 10% Visitor parking | = 40 |
| Parking Required | 440 |

The national average parking generation standard for suburban apartments, according to the Institute of Transportation Engineers, is 1.23 spaces per unit, and a review of parking requirements from adjacent municipalities shows that they all would require less parking for the same 200-unit apartment complex. This is because smaller sized units, such as studios and one-bedrooms, are generally recognized as creating less parking demand than larger units. See the comparison in the table, below. Also note that previous to LDC amendments adopted in 2012, Lee County parking standards were the same as those in the City of Bonita Springs.

| Tract 1A | | Estero | | Collier Co. | | Bonita Springs | | Fort Myers | |
|--------------|-------------------------|----------|----------------|-------------|----------------|----------------|----------------|----------------|----------------|
| Unit Mix | | Standard | Total Required | Standard | Total Required | Standard | Total Required | Standard | Total Required |
| 23 | Studio | 2 | 46 | 1.5 | 34.5 | 1.25 | 28.75 | 1.5 | 34.5 |
| 65 | 1-bedroom | 2 | 130 | 1.75 | 113.75 | 1.5 | 97.5 | 1.5 | 97.5 |
| 88 | 2-bedroom | 2 | 176 | 2 | 176 | 1.75 | 154 | 2 | 176 |
| 24 | 3-bedroom | 2 | 48 | 2 | 48 | 2 | 48 | 2 | 48 |
| | (guest) | 10% | 40 | | | 10% | 32.825 | 1 per 15 units | 23.733 |
| 6000 | (recreation facilities) | | | 1/100 SF | 60 | | | | |
| 1500 | (pool) | | | (see below) | 17 | | | | |
| | | | | 50% | 38.5 | | | | |
| Total | Required | | 440 | | 411 | | 361 | | 380 |

Pool: 1/75 first 1000 SF, 1 for each additional 125 SF

Given the ratio of studio and one-bedroom units, the targeted demographic for these units, and the proximity to employment and commercial attractors, the developer proposes the following parking standard:

PROPOSED PARKING: STUDIOS @ SPACE/ UNIT, 1 BEDS @ 1.5 SPACES/UNIT

Studios -23 units @ 1 space / unit = 23
 1BR - 65 units @ 1.5 space per unit = 97.5
 2BR - 88 units @ 2 spaces / unit = 176
 3BR - 24 units @ 2 space / unit = 48
 Parking Required Subtotal = 344.5

Additional 10% visitor parking = 34 parking spaces
 PARKING REQUIRED TOTAL = 379 parking spaces
 PARKING PROVIDED TOTAL = 383 parking spaces (Included 9 A.D.A. spaces)
 (In-building Parking Spaces = 163; Standard parking lot spaces = 221)

In summary, the number of parking spaces provided will be adequate to meet the parking demand with no detrimental effects, given the nature of the project and the demographic it will serve, along with its location within an established mixed-use project.

MINIMUM BUILDING SEPARATION

- Deviation (3) seeks relief from the LDC §34-935(e)(4) requirement to provide a minimum building separation of one-half the sum of the building heights or 20 feet, whichever is greater, to allow a minimum building separation of 20 feet.

Justification: The deviation requested would be applicable in two places, as shown on the Concept Plan, and would allow for this flexibility in the design of the site. The 20' building separation will be adequate to accommodate access by fire trucks and the buildings will meet the requirements from the Florida Building Code for required building separation in order to protect public safety.

PROVISION OF CONTAINER SPACE

4. Deviation (4) seeks relief from the LDC §10-261(a) requirement that all new multifamily residential developments provide container space at a minimum square footage, to allow the container spaces as shown on the Concept Plan.

Justification: The LDC requires that a minimum area be set aside for refuse and solid waste disposal facilities within multifamily residential developments. The standard requires 216 SF for the first 25 units, and 8 SF for each additional dwelling unit. Based on 200 multifamily units, the minimum area required for this site would be 1,616 SF.

Rather than provide a single disposal facility location, the site has been designed to accommodate trash and recycling containers within each of the four buildings on the ground (parking) level. The facilities will be more conveniently located for the units, and enclosed to reduce the attraction to nuisance animals. The total square footage for these four facilities will be less than that required by code (approximately 700 SF), due to the nature of the facilities, which will not require a trash compactor, fencing, landscaping, sidewalks, etc., which would be accommodated with additional area.

Garbage and recycling trucks will enter the site, back up into a loading area between the buildings, and wheel trash and recyclable receptacles to the trucks for disposal.

BUILDING HEIGHT

5. Deviation (5) seeks relief from the LDC §33-229 requirement that buildings outside of the Interstate Highway Interchange Areas are limited to a maximum of three stories or 45 feet, to allow a maximum of 45 feet.

Justification: The deviation requested would not change the overall height of the buildings, but would eliminate the restriction on the number of floors. The design of the buildings accommodates a portion of the required parking under the buildings, maximizing utilization of the subject site while not affecting compatibility with neighboring properties. We have provided a line of sight exhibit that demonstrates views from The Brooks into the subject property to demonstrate this compatibility.

**COCONUT POINT TRACT 1A
EDERA AT COCONUT POINT**

**Summary of the Public Information Meeting
September 20, 2016**

The Public Information Meeting for this minor PD amendment (DCI-2016E-02) was originally scheduled for August 23, 2016, and was continued, due to a full agenda, to September 20th. The following questions were posed by the Planning & Zoning Board members and members of the public. Seven members of the public spoke. Two members of the public identified themselves as residents of Shadow Wood at the Brooks, but were not residents of the Palmetto Ridge community located directly across the railroad tracks to the east. One speaker identified himself as a resident of Rapallo. The other four speakers were representatives of the Estero Council of Community Leaders. We look forward to being able to respond more fully to all questions during the official hearings, in addition to the information provided in this summary.

Density

Several members of the public expressed confusion over how the density had been calculated for this site. Density is calculated based on the entire Coconut Point MPD/DRI, not on the net area of one tract within the overall, 482-acre mixed-use development. Additional information is provided below.

The Coconut Point Mixed-use Planned Development/Development of Regional Impact (MPD/DRI) was approved in 2002 by Lee County as a mixed-use project consisting of residential, office, and retail development. The underlying future land use designation of the Coconut Point MPD/DRI is Urban Community, which allows 6 dwelling units per acre. Within an MPD zoning district, density is calculated on gross residential density of the entire site. See Sec. 34-1492 of the Land Development Code (LDC), which defines gross density, and Sec. 34-1493 of the LDC, which dictates how the total number of permissible housing units is calculated. Density was calculated in accordance with these provisions of code, as required, and the requested number of units is consistent with the comprehensive plan, the LDC, and the approved MPD/DRI. The Estero "Village Center" allows densities from 6-27 dwelling units per gross acre, which can be aggregated across the site in the same way.

Multifamily dwelling units/Assisted Living Facility dwelling units

Some members of the public were concerned that the allowed use of 200 ALF dwelling units constituted a different density than the requested 200 MF dwelling units. Per Sec. 34-1494, which establishes "density equivalents" for some uses, ALF units, wherein each unit has its own cooking facilities, are calculated on a 1:1 ratio. That is, one ALF unit=one "regular" residential unit. There is no net increase in density associated with the proposed amendment from 200 ALF

units to 200 MF units. There is an increase in traffic, which is being addressed (see Traffic, below).

Traffic/Intersection Analysis

Several residents and board members expressed concern regarding an increase in traffic, specifically at the intersections with Via Villagio and at Williams Road, and thought the roundabout at Williams Road is over its designed capacity. While an intersection analysis is typically only required with a development order submittal, the applicant prepared an intersection analysis, at the request of staff, and found no adverse impacts to either intersection. There is an existing left turn lane into the site, and the traffic analysis did not find that a right-turn lane (north on Via Coconut) was warranted.

The original DRI Development Order (DO) established the required mitigation for the traffic impacts of the entire Coconut Point development. As part of that mitigation, the original developer of Coconut Point constructed the entirety of Via Coconut (FKA Sandy Lane Extension) in order to accommodate anticipated trip generation. The developer also paid the proportionate share obligation, which vested, for concurrency purposes, the land-uses approved by the DRI DO through December 31, 2024. The applicant will reduce the commercial retail square footage permitted in Development Area #1 by 16,100 SF, from 85,000 SF to 68,900 SF, so that there will be no increase in the number of external peak hour trips.

The traffic consultant will be in attendance at the hearings to respond to any questions regarding the conclusions of the report.

Rentals

Three representatives from ECCL expressed concern that there are too many rentals in Estero. As was stated during the meeting, zoning does not distinguish between ownership types. However, the applicant will be prepared to present additional analysis regarding the need for rental housing at the next meeting.

Line of sight

Two speakers expressed concern that the location of the buildings would block views into the roundabout. The buildings are set back 25' from the property line and approximately 68' from the edge of pavement and do not present a safety hazard. The proposed development complies with Sec. 34-3131 of the LDC, *Vehicle visibility at intersections*. The transportation consultant will address this further at hearing.

Reserved parking

Parking spaces reserved as open space will not be used towards minimum open space requirements. These green areas are being provided in addition to and above code minimum required open space.

Building separation

Some speakers were concerned with the proposed minimum building separation of 20 feet. The 20' building separation will accommodate access by fire trucks. Estero Fire has reviewed the conceptual site plan and provided a letter of no objection, dated July 19, 2016, based on the fact that the buildings will be sprinklered. The proposed building separation also meets the requirements from the Florida Building Code in order to protect public safety.

Rather than construct one continuous building along Via Coconut and Williams Road, the applicant has chosen a design that would break up the mass of the buildings and allow for convenient access to the parking areas below the buildings.

Height of the building

Questions were asked regarding how height is measured. The height deviation requested is to remove the restriction on the number of stories. The 45' height proposed is consistent with that currently allowed on the site and will, in all other respects, be measured per the standard LDC requirements, as they are applied throughout Estero. The decorative element of the towers are consistent with the overall Mediterranean design concept required by the Coconut Point Beauty Book and will enhance the architectural design of the project. See Sec. 34-2171 and Sec. 34-2173 of the LDC for how height is measured.

Single point of ingress/egress

Some residents expressed concern over a perceived safety issue with a single point of ingress/egress into the site. The applicant proposes to use the existing, constructed access into the site, which aligns with Via Villagio. Installing an ingress/egress point onto Williams Road has the potential to create conflicts with the railway crossing, possibly creating a traffic safety concern.

The entrance is a divided, 2-lane boulevard that could allow emergency access in either lane. That is, there is little possibility that the entire access could become "blocked," preventing access by emergency vehicles. The LDC requires that an emergency access plan be developed and recorded in the public records prior to issuance of a local development order, detailing how access by emergency providers will be accommodated to maintain public health and safety. Also, Estero Fire Rescue, which will provide emergency services to this site, has reviewed the

Conceptual Site Plan and provided a letter of no objection, dated July 19, 2016. The letter states that “**adequate emergency services vehicle access will be provided.**”

This deviation has been approved for many residential developments in Estero, without detriment to public health, safety, and welfare. A small sample of these projects is included below.

- Marsh Landing (120 acres and 404 dwelling units)
- Pebble Point in the Brooks (38 acres and 200 dwelling units)
- Reserve at Estero (126 acres and 500 dwelling units)
- Villa Palmeras (11 acres and 110 dwelling units), and
- Copper Oaks (24 acres and 292 dwelling units).

The site is relatively small, 6.62 acres, close to the threshold for the additional access point requirement, and will be developed with 200 apartment homes.

Trash pickup

A resident asked whether the location of garbage pickup would negatively affect the residents on the east side of Palmetto Ridge Drive on the other side of the railroad tracks. Garbage and recycling bins will be kept inside the buildings and only wheeled outside for pickup. There is an approximately 6’ tall berm, 6’ tall wall, and mature landscaping including large canopy trees on the Brooks property, the 130’ railroad ROW, and the landscape buffer on Tract 1A to provide buffer for any noise from garbage and recycling pickup.

Age restriction

The community will not be age-restricted.

Off-site landscaping improvements

One speaker expressed interest in pines instead of palm trees within the roundabout at Williams Road.

Sublet policy

A board member asked whether the apartments could be sublet. No, the leases will not allow for subletting of the apartments.

Sidewalks

A board member asked whether there would be a sidewalk connection to the pedestrian shelter. Yes, one will be provided. An ECCL member asked whether there would be sidewalks all

around. Yes, there is an existing sidewalk on Via Coconut. A sidewalk on the south side of Williams Road will be constructed to provide access into the site from the north.

Village Center

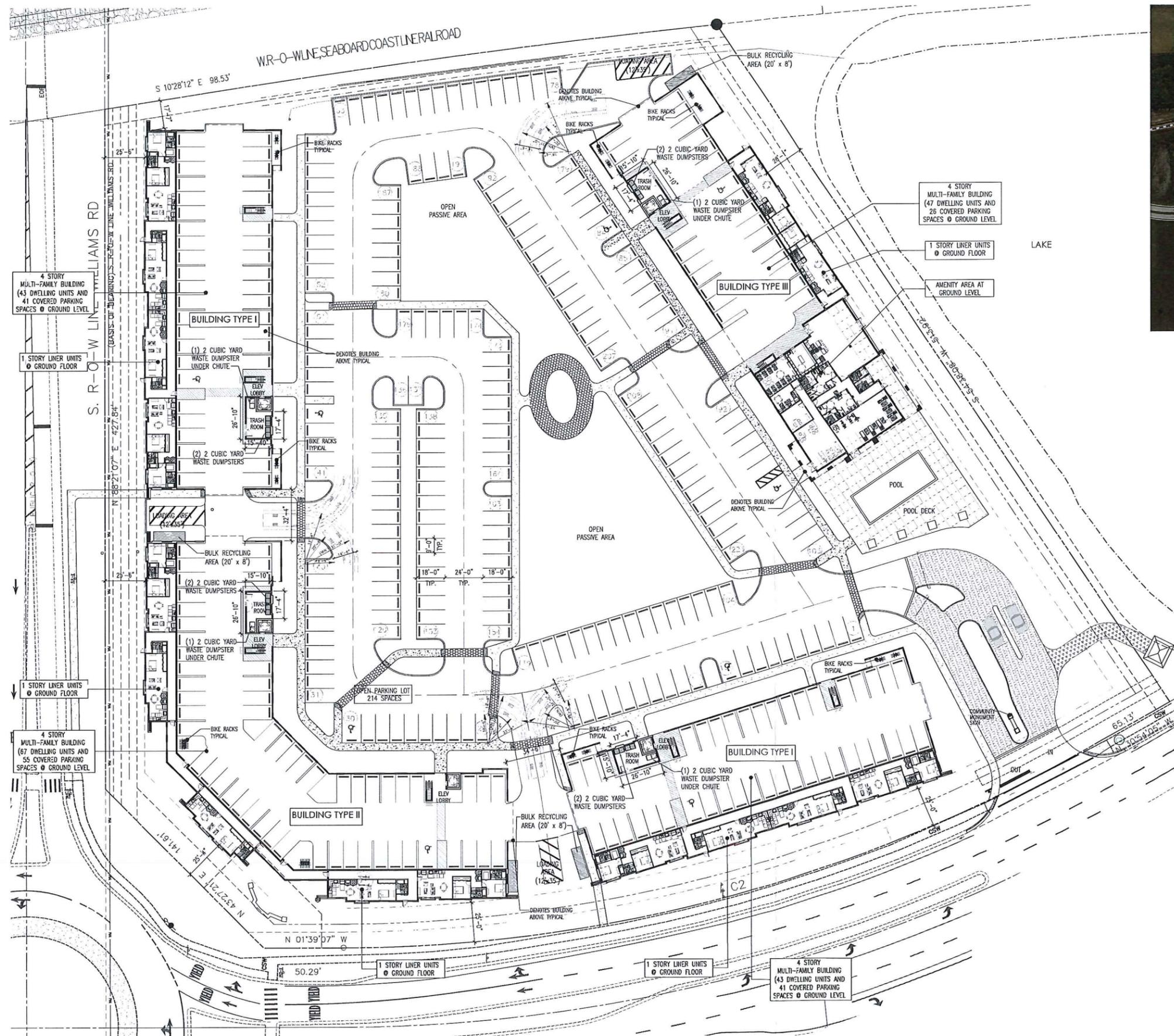
A member of ECCL opined that the Coconut Point DRI/MPD should be included in the Village Center. Coconut Point was not included in the Zoning in Progress or in the adopted Village Center land development regulations.

Gating

An ECCL member objected to the project being gated. Connectivity of the overall area is not affected by gating this site.

Amenities

Two residents opined that additional amenities were needed. One resident opined that no amenities should be provided.



SITE/ GROUND FLOOR PLAN
SCALE: 1"= 30'-0"



LOCATION MAP
N.T.S.

PROJECT SUMMARY:

EXISTING LAND USAGE:

| SUBJECT PARCEL | USE | ZONING |
|----------------|-------------------------------|--------|
| NORTH | Williams Road R.O.W. | R.O.W. |
| WEST | Seaboard C.L. Railroad R.O.W. | R.O.W. |
| SOUTH | Tract 'L-1' (Existing Lake) | MPD |
| EAST | Via Coconut Point R.O.W. | R.O.W. |

PROPOSED ZONING AMENDMENT REQUESTED:

- Request schedule of uses allowed within Tract-1A to be amended to also include "Multi-Family Residential".
- Request Maximum Building Height allowed within Tract-1A to be (4) Stories.
- Request Building Separation for Tract-1A to be 20 Feet.
- Request approval to use minimum Required Open Space for residential project within Tract-1A as 30%.
- Request approval to allow 1 means of ingress / egress by public hearing pursuant to Lee County Development Standards Section 10-291 (3).

PROPERTY DEVELOPMENT REGULATIONS (Z-02-09 AND Z-13-16):

| TRACT IA, IB, IC and 1D: | |
|-------------------------------|-------------|
| Lot Width | 100 feet |
| Lot Depth | 100 feet |
| Lot area | 20,000 s.f. |
| Building Maximum Lot Coverage | 40% |

| Minimum Setbacks: | |
|-------------------|---|
| Front / Street | 25 feet |
| Side | 10 feet |
| Rear | 25 feet (5 feet for accessory structure) |
| Water Body | 25 feet (20 feet for accessory structure) |

Minimum Building Separation: One-half of the sum of the building heights but not less than 20 feet (REQUEST 20 FEET)
Maximum Building Height for Tract IA and 1D: 45 feet / 3 stories (REQUEST 4 STORIES)

LAND COVER DATA:

| TRACT IA | S.F. | AC. | % TOTAL |
|-----------------------------|----------------|--------------|----------------|
| Pavement / Curb | 88,368 | 2.03± | 30.66% |
| Sidewalk / Pool / Pool deck | 18,593 | 0.43± | 6.45% |
| Buildings | 78,530 | 1.80± | 27.24% |
| Total Impervious Area | 185,491 | 4.26± | 64.35% |
| Pervious area | 102,753 | 2.36± | 35.65% |
| TRACT IA TOTAL | 288,244 | 6.62± | 100.00% |

OPEN SPACE:

| TRACT IA | S.F. | AC. | % TOTAL |
|---------------------|---------|-------|---------|
| Open Space Provided | 104,435 | 2.40± | 36.23% |

(REQUEST MIN. REQUIRED = 30%)

PARKING CALCULATIONS:

A deviation is requested from Lee County Zoning Ordinance section 34-2020(a).
REQUIRED PARKING SPACES FOR RESIDENTIAL USES
To reduce the required parking for studio units to 1 space/unit; and 1 BR units to 1.5 spaces per unit.

The Required Parking would thus be:

| | |
|-------------------------------------|----------------|
| Studios -23 units @ 1 space / unit | = 23 |
| 1BR - 65 units @ 1.5 space per unit | = 97.5 |
| 2BR - 88 units @ 2 spaces / unit | = 176 |
| 3BR - 24 units @ 2 space / unit | = 48 |
| Parking Required Subtotal | = 344.5 |

| | |
|---|--|
| Additional 10% visitor parking | = 34 parking spaces |
| PARKING REQUIRED TOTAL | = 379 parking spaces |
| PARKING PROVIDED TOTAL | = 383 parking spaces (Included 9 A.D.A. spaces) |
| (In-building Parking Spaces = 163; Standard parking lot spaces = 221) | |



CORWILARCHITECTS
4210 LAGUNA ST. CORAL GABLES FL. 33146
LIC. NO. AA-C002151 T. 305.448.7383

PROJECT:
COCONUT POINT TRACK 1A
LEE COUNTY, FLORIDA

OWNER:

PRELIMINARY SITE PLAN

PHASE
PRELIMINARY

REVISIONS

SEAL

DATE: 01-15-2016

JOB NO. 2016-01

DRAWN BY MC

APPR BY AMC

PRINTED DATE 01-04-2016

SHEET NUMBER:

A-1.00

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CJP

Rick Scott
GOVERNOR



FLORIDA DEPARTMENT of
ECONOMIC OPPORTUNITY

Cissy Proctor
EXECUTIVE DIRECTOR

RECEIVED
JUL 21 2016

COMMUNITY DEVELOPMENT

July 19, 2016

Ms. Neale Montgomery
Pavese Law Firm
1833 Hendry Street
Fort Myers, Florida 33901

RE: Coconut Point DRI Proposed Change to Development Order

Dear Ms. Montgomery:

The Department has evaluated your request, dated May 31, 2016, for a letter verifying whether the proposed change to the Coconut Point Development of Regional Impact Development Order would qualify as a change pursuant to Section 380.06(19)(e)2.k., Florida Statutes (F.S.). The proposed change is to add 200 multi-family residential units to Tract 1A in lieu of the approved 200 assisted living units and to decrease the amount of retail use from 85,900 square feet to 68,900 square feet on Tract C (net decrease of 17,000 square feet of retail). The traffic analysis submitted with your request indicates that the proposed change would not result in an increase in net new external peak hour trips. The proposed change does not reduce open space or conserved areas within the project. Thus, pursuant to Subparagraph 380.06(19)(e)2.k, F.S., the proposed change does not require the filing of a notice of proposed change. However, an application to the local government to amend the development order in accordance with the local government's procedures for amendment of a development order is required; and if approved, the local government must render the amended development order to the Department.

Any questions regarding this determination may be directed to Scott Rogers, Planning Analyst, at (850) 717-8510, or by email at scott.rogers@deo.myflorida.com.

Sincerely,

Taylor Teepell, Director
Division of Community Development

TT/sr

cc: David Loveland, Director, Lee County Community Development Department
Margaret Wuerstle, Executive Director, Southwest Florida Regional Planning Council

Florida Department of Economic Opportunity | Caldwell Building | 107 E. Madison Street | Tallahassee, FL 32399
850.245.7105 | www.floridajobs.org
www.twitter.com/FLDEO | www.facebook.com/FLDEO

An equal opportunity employer/program. Auxiliary aids and service are available upon request to individuals with disabilities. All voice telephone numbers on this document may be reached by persons using TTY/TTD equipment via the Florida Relay Service at 711.



LEE COUNTY
SOUTHWEST FLORIDA
BOARD OF COUNTY COMMISSIONERS

John E. Manning
District One

July 21, 2016

Cecil L Pendergrass
District Two

VIA e-mail to

Larry Kiker
District Three

Ms. Paula McMichael, Hole Montes, Inc.

Brian Hamman
District Four

And

Mr. Albert Cordoves, Corwil Architects

Frank Mann
District Five

Roger Desjarlais
County Manager

**SUBJECT: Coconut Point – Tract 1A – MPD Amendment
HM Project 2016.011 – DCI2016E-02**

Richard Wm. Wesch
County Attorney

Donna Marie Collins
Hearing Examiner

Dear Ms. McMichael and Mr. Cordoves:

Thank you for revising your site plan by allocating space for the set out of bulky waste and recycling containers for each of the buildings. The Lee County Solid Waste Division further reviewed the plan for access of collection vehicles to service the garbage dumpsters (roll out type 2 cubic yards) and size of the trash room. All concerns previously stated in my e mail to Mrs. Jenkins-Owen of June 10, 2016 have been addressed by Mr. Cordoves to the Division's complete satisfaction.

If you have any questions, please call me at (239) 533-8000.

Sincerely,

Brigitte Kantor
Operations Manager
Solid Waste Division

Cc: Anthony Danalewich, Environmental Specialist Sr.
Sharon Jenkins-Owen, DCD, Principal Planner



Estero Fire Rescue
21500 Three Oaks Parkway
Estero, Florida 33928
(239) 390.8000
(239) 390.8020 (Fax)
www.esterofire.org

July 19, 2016

Richard Brylanski, P.E.
Hole Montes, Inc.
6200 Whiskey Creek Drive
Fort Myers, Florida 33919

Re: Coconut Point Tract 1A Rezoning

Mr. Brylanski,

In regards to the deviations from the Village of Estero Land Development Code for the project at Coconut Point Tract 1A, Estero Fire Rescue has no objections to the request. This is based on the fact that the buildings are sprinkled and that adequate emergency services vehicle access will be provided.

If you request any additional information, please feel free to contact me at 239-390-8000.

Respectfully,

Phillip Green
Fire Marshal







Public Comment



RECEIVED
SEP 26 2016
VILLAGE OF ESTERO

September 22, 2016

Mr. Leonard "Scotty" Wood
Village of Estero Planning and Zoning Board
9401 Corkscrew Palms Circle
Estero, FL 33928

Re: The Concerns of the Shadow Wood Community with regard to the Coconut Point Tract 1A Development Proposals

Dear Mr. Wood,

As the President of the Shadow Wood Community Association (SWCA) Board of Directors, it behooves me on behalf of the SWCA Board and our residents in Shadow Wood, to highlight critical concerns about the proposed development. Our observations center on community safety, environmental impact, home values, and aesthetics of the Village of Estero. This proposal appears to stray from the philosophy which we believe the Village of Estero Council and its members cherish.

In response to specifics outlined in the proposal, I will bullet-point our remarks:

Village of Estero Mission:

High-density apartment buildings are a significant departure from the nature of our Estero Village environment. This venture is not in keeping with the mission as the Village grows and develops.

Neighbors' Aesthetics:

As you research your impact on the Village, you will notice that in the neighborhood bordering the northern edge of Estero Village, there is already a plethora of apartment buildings. Hence, a question arises of the necessity for this development which would have a density of over 30 homes per acre! This is contrary to the nature of our environment here in Estero Village. An apartment building for potentially professional families and/or single individuals is quite different from the original goal of providing residential "Care Facilities".

Visual Pollution:

The proposed building which would border the low density neighborhood of Shadow Wood offers little to no aesthetically pleasing elements. The negative impact on the "line of sight" (which requires further examination) is to the residents of at least the Palmetto Ridge neighborhood. The height of the overall buildings to the top of the roof is totally unacceptable, and in fact, as proposed, just plain ugly.

Odor:

"Any way the wind blows..." (To quote a line from Queen). The noxious odors from garbage bins is an issue that needs no explanation.

Noise:

Have you ever been jolted by the sound of the garbage collection trucks? Emptying the large bins is extremely noisy and offensive, albeit only 10-20 minutes. It is currently unclear how the noise from the pool/recreational area will impact Shadow Wood.

Traffic:

Traffic is always an issue, no matter what the development to be proposed. However, these proposed rental units will have a transient population, unlike owner-occupied units. If indeed this proposal caters to young/senior professionals and Hertz employees, then it seems logical that these units will each have more than one car. So, you will have 2 x 200 cars.

Crowding:

The proposed reduction in the space between the buildings will also adversely impact the neighborhood.

Elephant in the Room:

It is optimistic to speculate that all renters will be professionals who live a “kinder and gentler” existence than students. In reality, students are quite resourceful. Despite the proposed considerable rent being charged, there is reason to believe several students will habituate. I’m sure that we or our offspring have taken that path at least once during college years.

Without question, these impacts listed above will reduce the resale value of the homes towards the west end of Palmetto Ridge, and potentially a wider area within Shadow Wood. Obviously, this is an unacceptable consequence for our community. Furthermore, it clearly sets a precedent for other developers to seek to modify and alter our long established concept of the multifamily home development within Estero when they challenge the regulations for their own parcels of land.

Safety:

This is probably the most noteworthy concern.

The site area is very small and has only one entrance. Emergency personnel and fire fighters, and their very large equipment will have difficulty accessing the site. Additionally, fire and emergency service access will be even greater if there is an agreement to reduce parking spaces to fewer than 2 per apartment. The current norm is 2 parking spaces per unit plus 10% for visitors.

Traffic flow westerly on Williams Road to Via Coconut roundabout as well as the traffic flow northerly to the roundabout on Via Coconut will have decreased visibility. As we all have experienced, many drivers continue to struggle with the correct way to negotiate a roundabout. This significantly increases the risk of major as well as minor traffic incidents when compounded by restricted visibility as one approaches the roundabout from those directions.

The single entrance onto the north bound lane from the proposed development on Via Coconut, and opposite the entrance to the Rapallo development, amplifies the risk of traffic accidents as traffic from Rapallo turns north across the median.

In sum, there is little logic to allow this development to proceed in its current form or with the proposed amendments. The potential targeted demographic profile is not guaranteed. This MUST be thoroughly analyzed, given that the consequence of allowing the building to become occupied by young and exuberant college students would bring an even greater impact on parts of Shadow Wood and significantly change the Estero Village environment. As an aside, other newer developments have grappled with this issue – renting to college students – and have reactively enacted significant restrictions on rentals.

The SWCA Board, neighborhood representatives, and other concerned residents urge you and your colleagues to take the thoughtful concerns, analyses and prior experiences expressed in this letter under serious consideration. The concerns within Shadow Wood cannot be stressed enough on our negative impact. And we also believe the development will adversely impact the immediate area at Williams and Via Coconut.

Yours truly,



Wayne Wickens
President
Shadow Wood Community Association, Inc.

Zoning Resolutions

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

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

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

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

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

WHEREAS, the Lee County Board of Commissioners gave full and complete consideration to the recommendations of the staff, the Hearing Examiner, the documents on record and the testimony of all interested persons.

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

SECTION A. REQUEST

The Applicant filed a Request to amend the Coconut Point Development of Regional Impact development order and MPD zoning approvals to modify the project development parameters as follows:

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

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

SECTION B. CONDITIONS:

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

1. Master Concept Plan/Development Parameters

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

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

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

2. Development Intensity

The approved overall development intensity is as follows:

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

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

3. Schedule of Uses

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

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

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

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

4. Property Development Regulations

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

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

NOTE: Tract 1A may not be subdivided

Minimum Setbacks:

| | |
|----------------|---------|
| Front (street) | 25 feet |
| Side | 10 feet |

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

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

Maximum Building Height:

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

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

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

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

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

SECTION C. HEIGHT DEVIATION:

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

SECTION D. EXHIBITS:

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

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

SECTION E. FINDINGS AND CONCLUSIONS:

1. The applicant has proven entitlement to the rezoning by demonstrating compliance with the Lee Plan, the LDC, and any other applicable code or regulation.
2. The rezoning, as approved:
 - a. meets or exceeds all performance and locational standards set forth for the potential uses allowed by the request;
 - b. is consistent with the densities, intensities and general uses set forth in the Lee Plan;
 - c. is compatible with existing or planned uses in the surrounding area;
 - d. will not place an undue burden upon existing transportation or planned infrastructure facilities and will be served by streets with the capacity to carry traffic generated by the development; and
 - e. will not adversely affect environmentally critical areas or natural resources.
3. The rezoning satisfies the following criteria:
 - a. the proposed use or mix of uses is appropriate at the subject location;
 - b. the recommended conditions to the concept plan and other applicable regulations provide sufficient safeguard to the public interest; and
 - c. the recommended conditions are reasonably related to the impacts on the public interest created by or expected from the proposed development.
4. Urban services, as defined in the Lee Plan, are, or will be, available and adequate to serve the proposed land use.

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

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

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

DULY PASSED AND ADOPTED this 5th day of August, 2013.

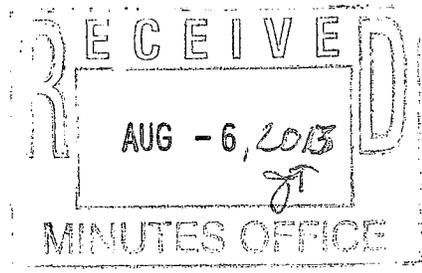
ATTEST:
LINDA DOGGETT, CLERK

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: Joyce Townsend
Deputy Clerk

BY: [Signature]
Cecil L Pendergrass, Chair

Approved as to form by:
[Signature]
Denna Marie Collins
Chief Assistant County Attorney
County Attorney's Office





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

Applicant's Legal Checked

by CSJ 5/15/13
Pgs 1 thru 3

RECEIVED
MAY 10 2013

HM PROJECT #1997079
05/03/13
REF. DWG. #A-994-3
PAGE 1 OF 3

LEGAL DESCRIPTION:

COMMUNITY DEVELOPMENT

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

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

AND

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

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

DCI 2013-00010
Naples • Fort Myers

DR12013-00003

EXHIBIT A

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

SOUTHERLY; THENCE RUN EASTERLY, ALONG SAID NORTHERLY RIGHT-OF-WAY LINE AND ALONG THE ARC OF SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 3,175.00 FEET, THROUGH A CENTRAL ANGLE OF 09°15'04", 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 386.536 ACRES, MORE OR LESS.

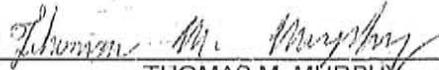
NOTES:

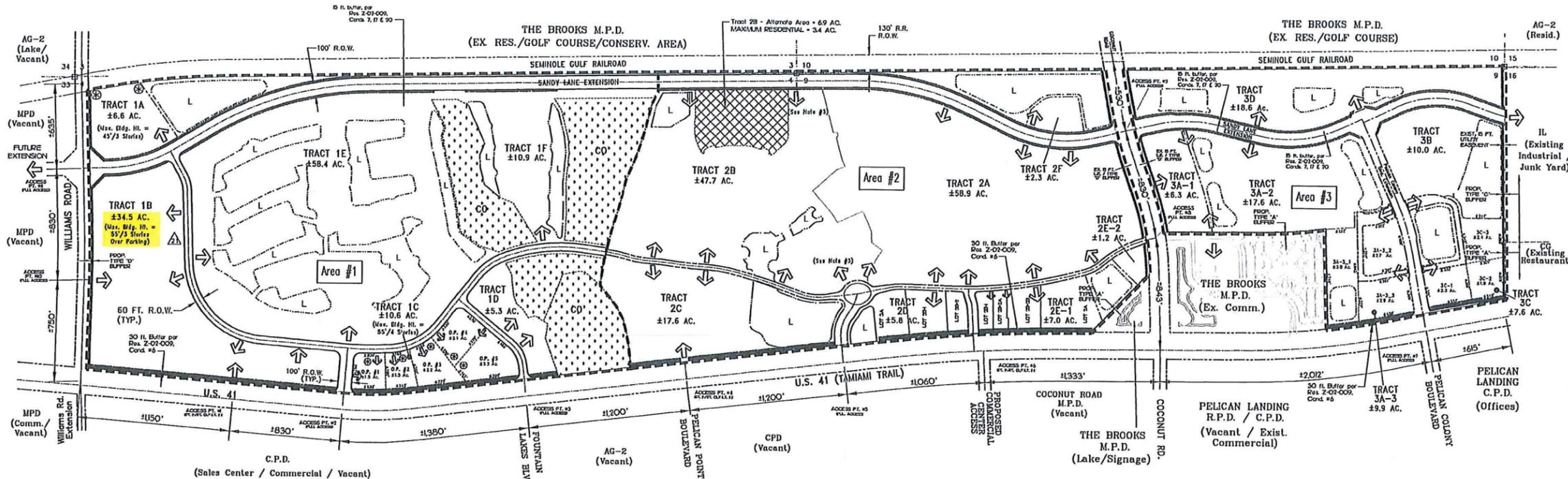
THIS PROPERTY IS SUBJECT TO EASEMENTS, RESERVATIONS OR RESTRICTIONS OF RECORD.

TOTAL PROPERTY AREA: 482.421 ACRES, MORE OR LESS.

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

HOLE MONTES, INC.
CERTIFICATE OF AUTHORIZATION LB #1772

BY  P.S.M. #5628
THOMAS M. MURPHY STATE OF FLORIDA



PROJECT SUMMARY:

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

2.) OVERALL CONCEPTUAL PROJECT ACREAGES:

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

3.) CONCEPTUAL TRACT LAND USE/ACREAGE BREAKDOWN:

| | |
|---|-------------------|
| a.) DEVELOPMENT AREAS: | |
| Development Area #1: (Residential - 740 M.F./A.L.F. Units / Retail - Comm. 85,000 Sq.Ft. / Office 481,277 Sq.Ft. / Hotel 120 Rooms / Bank w/ D.T. - 8,000 Sq.Ft.) | |
| Proposed Lakes | ± 28.1 Ac. |
| Proposed Internal/Private R.O.W. | ± 8.2 Ac. |
| Proposed Public R.O.W. (Sandy Lane Extension) | ± 10.1 Ac. |
| Conservation Areas | ± 33.4 Ac. |
| Green Areas / Open Space | ± 4.7 Ac. |
| Development Areas (Tracts 1A - 1F) | ± 126.3 Ac. |
| Total Development Area #1 | ±210.8 Ac. |
| Development Area #2: (Residential - 450 M.F. Units / Retail - Comm. 1,450,000 Sq.Ft. / Gen. Office 90,000 Sq.Ft. / Hotel - 200 Rooms) | |
| Proposed Lakes | ± 17.0 Ac. |
| Proposed Internal/Private R.O.W. | ± 6.1 Ac. |
| Proposed Public R.O.W. (Sandy Lane Extension) | ± 8.1 Ac. |
| Green Areas / Open Space | ± 4.0 Ac. |
| Development Areas (Tracts 2A - 2F) | ± 140.5 Ac. |
| Total Development Area #2 | ±175.7 Ac. |
| Development Area #3: (Residential - 424 M.F. / A.L.F. Units / Retail - Comm. 72,500 Sq.Ft. / Office 211,500 Sq.Ft.) | |
| Proposed Lakes | ± 13.7 Ac. |
| Proposed Internal/Private R.O.W. | ± 5.9 Ac. |
| Proposed Public R.O.W. (Sandy Lane Extension) | ± 7.4 Ac. |
| Development Areas (Tracts 3A-1 thru 3 - 3D) | ± 68.9 Ac. |
| Total Development Area #3 | ±95.9 Ac. |

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

| | |
|----------------------|---|
| Development Area #1: | |
| Tract 1A | 200 A.L.F. Units / 50,000 s.f. Office |
| Tract 1B | 450,000 s.f. Office |
| Tract 1C | 90,000 s.f. Retail / 20,000 s.f. Office / 120 Room Hotel |
| Tract 1D | 5,000 s.f. Retail / 35,000 s.f. Office / Fire Station |
| Tract 1E | 450 M.F. DU's |
| Tract 1F | 90 M.F. DU's |
| Development Area #2: | |
| Tract 2A | 650,000 s.f. Retail / 450 M.F. DU's / 60,000 s.f. Office / 200 Room Hotel |
| Tract 2B | 600,000 s.f. Retail / 200 Room Hotel / 200 M.F. DU's |
| Tract 2C | 150,000 s.f. Retail / 20,000 s.f. Office / 200 Room Hotel |
| Tract 2D/E | 150,000 s.f. Retail / 30,000 s.f. Office / 200 Room Hotel |
| Tract 2F | 20,000 s.f. Retail / 30,000 s.f. Office / 100 Multi-family Units |
| Development Area #3: | |
| Tract 3A-1 thru 3 | 60,000 s.f. Retail / 170,000 s.f. Office |
| Tract 3B | 200 A.L.F. Units |
| Tract 3C | 40,000 s.f. Retail / 90,000 s.f. Office |
| Tract 3D | 224 M.F. DU's |

4.) PROJECT PHASING:

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

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

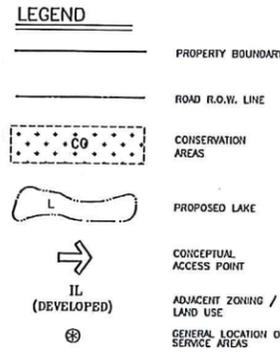
5.) CONCEPTUAL OPEN SPACE (Tract 2B Alternate Plan):

| | |
|--|--|
| a.) REQUIRED (per L.C.L.D.C.): | |
| Development Area #1: | (LESS Sandy Lane Extension and Tracts 1E & 1F) |
| 131.4 Ac. x 30% | ± 39.4 Ac. |
| (Tracts 1E / 1F) | 69.3 Ac. x 40% |
| | ± 27.7 Ac. |
| Development Area #2 [ALT 1, TRACT 2B ALT AREA = 3.4 AC RESIDENTIAL MAX]: (LESS Sandy Lane Extension & Resid. Area) | |
| 158.4 Ac. x 30% | ± 47.5 Ac.** |
| 9.2 Ac. x 40% | ± 3.7 Ac. |
| Development Area #2 [ALT 2, TRACT 2B ALT AREA = NO RESIDENTIAL]: (LESS Sandy Lane Extension & Resid. Area) | |
| 161.8 Ac. x 30% | ± 48.5 Ac.** |
| 5.8 Ac. x 40% | ± 2.3 Ac. |
| Development Area #3: (LESS Sandy Lane Extension & Tracts 3B & 3D) | |
| 59.7 Ac. x 30% | ± 17.9 Ac. |
| 28.8 Ac. x 40% | ± 11.5 Ac. |
| Total Open Space Required [ALT 1]: | ±147.7 Ac. |
| Total Open Space Required [ALT 2]: | ±147.3 Ac. |
| *The % of Open Space may vary depending upon the ultimate land uses. | |
| **Includes Residential above Commercial uses. | |

| | |
|--|----------------------|
| b.) PROVIDED (per L.C.L.D.C.): | |
| Prop. Lake Areas (0 ≤ 25.0% of 150.2 Ac.) | ± 37.6 Ac. |
| Prop. Conservation Areas | ± 33.4 Ac. |
| Development Area #1: | |
| Commercial Development (Tracts 1A/1B/1C/1D) | 57.0 Ac. x 19.65% |
| Residential Development (Tracts 1E/1F) | 69.3 Ac. x 30.0% |
| | ± 11.2 Ac. |
| | ± 20.8 Ac. |
| | Sub-total ± 32.0 Ac. |
| Development Area #2 [ALT 1, TRACT 2B ALT AREA = 3.4 AC RESIDENTIAL MAX]: | |
| Commercial Development (Tracts 2A - 2F) | 131.3 Ac. x 19.52% |
| Residential Development (Tract 2A) | 5.8 Ac. x 23.60% |
| Residential Development (Tracts 2B) | 3.4 Ac. x 23.5% |
| | ± 25.6 Ac. |
| | ± 1.4 Ac. |
| | ± 0.8 Ac. |
| | Sub-total ± 27.8 Ac. |
| Development Area #2 [ALT 2, TRACT 2B ALT AREA = NO RESIDENTIAL]: | |
| Commercial Development (Tracts 2A - 2F) | 134.7 Ac. x 19.52% |
| Residential Development (Tract 2A) | 5.8 Ac. x 23.60% |
| | ± 26.3 Ac. |
| | ± 1.4 Ac. |
| | Sub-total ± 27.7 Ac. |
| Development Area #3: | |
| Commercial Development Tracts (Tracts 3A-1 thru -3 & 3C) | 42.6 Ac. x 19.55% |
| Residential Development (Tracts 3B & 3D) | 28.8 Ac. x 30% |
| | ± 8.3 Ac. |
| | ± 8.6 Ac. |
| | Sub-total ± 16.9 Ac. |
| Total Open Space Provided [ALT 1]: | ±147.7 Ac. |
| Total Open Space Provided [ALT 2]: | ±147.6 Ac. |

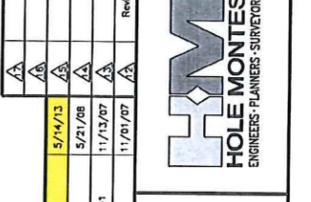
6.) INDIGENOUS OPEN SPACE: DUE TO THE EXISTING AGRICULTURAL LAND USE AND THE EXTENT OF MELALEUCA INVASION WITHIN THE REMAINING FORESTED AREAS, NO INDIGENOUS OPEN SPACE IS REQUIRED.

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



| NO. | REVISIONS | DATE |
|-----|---|----------|
| 1 | Added M.P. Units to Tract 3B (No increase in total units) | 01/26/05 |
| 2 | Added Access Pt. for Tract 3A-1 | 11/16/05 |
| 3 | Revised for Administrative Amendment #8 Tract 3D | 11/16/05 |
| 4 | Revised for Admin. Amendment #0000-0000 | 08/22/05 |
| 5 | Revised for Administrative Amendment Submittal | 02/14/05 |
| 6 | Revised for Administrative Amendment Submittal | 06/19/04 |
| 7 | Revised for Administrative Amendment Submittal | 02/27/04 |
| 8 | Revised per County Attorney's Office Memo | 12/29/02 |
| 9 | Revised Tracts / C.S. Cases / Remitted Uses | 12/16/01 |
| 10 | Revised per County Staff 1st R.A.L. | 03/08/01 |

6200 Whiskey Creek Drive
 Fort Myers, FL 33919
 Phone : (941) 986-1200
 Professional Registration No.1772
 Naples - Fort Myers - Venice - Englewood



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

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

ATTACHMENT 'A'

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



COMMUNITY DEVELOPMENT

DCI 2013-00010 DRI 2013-00003

EXHIBIT B

Zoning Map

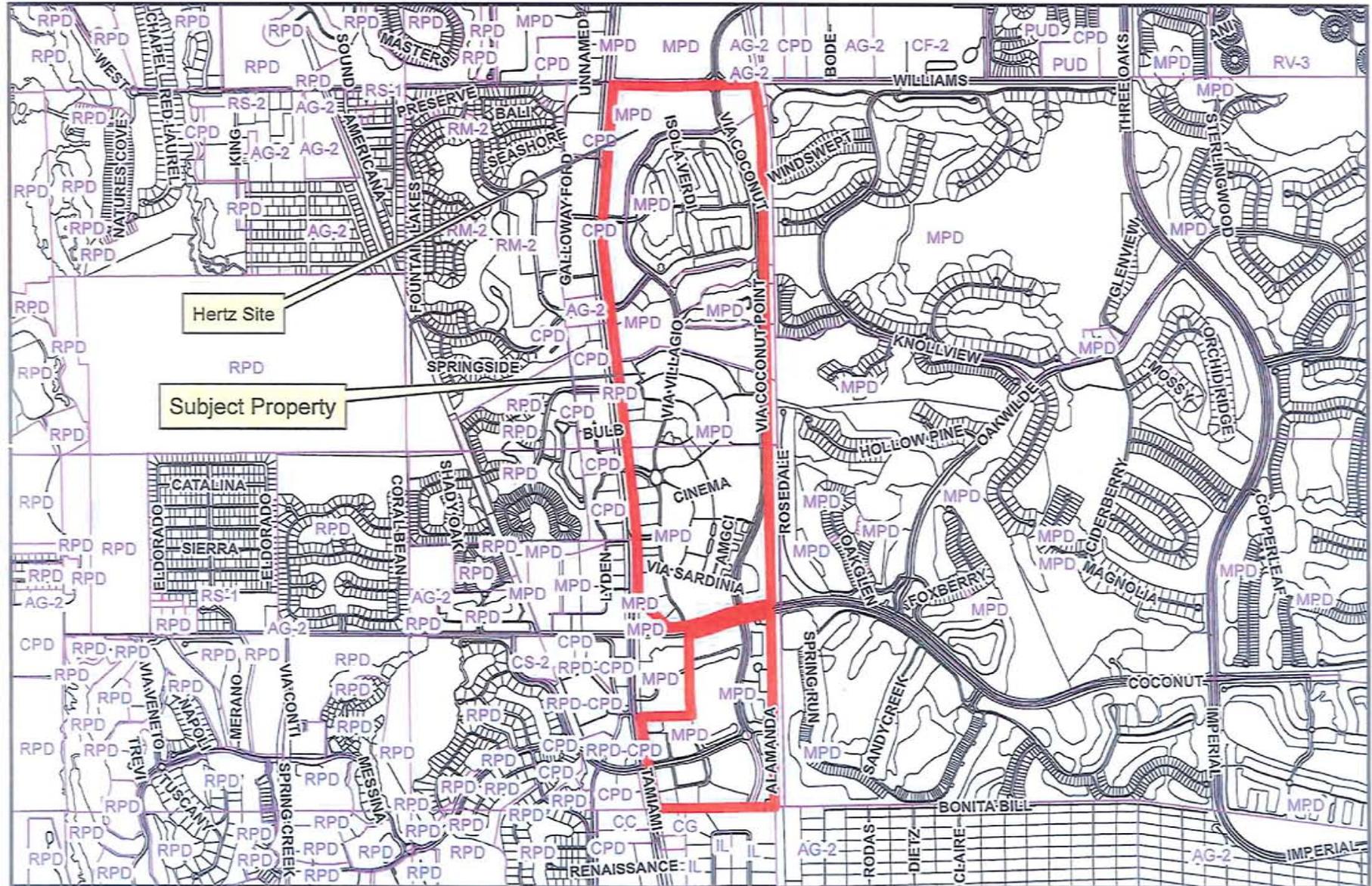
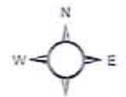


EXHIBIT C



Coconut Point Zoning Actions (May 16, 2013)

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

DRI2004-00008; Z-04-079 – Amend DRI changes to residential dwelling unit distribution
ADD2004-00048 – Rapallo (relief from excavation slopes amongst others)
ADD2004-00060(A-C) – Sign Package, Excavation Setbacks, Schedule of Uses, Lot Standards
ADD2004-00187 & 187(A) – Change number of residential units and types, increase hotel size
ADD2004-00206 – Modify buffer on US41 to allow view corridors

ADD2005-00011 – Rapallo (reduce size of waste container pad)
ADD2005-00026 – Area 3 excavation setbacks from road and private property line)
ADD2005-00080(A) – Revisions to condition 2b and open space distribution within tract 2
ADD2005-00122 – Rapallo (deviations for parking, waste, pavement, setbacks from water features)
ADD2005-00177 – Area 3 reconfigure tracts and lakes
ADD2005-00233 – Right in Right out to Coconut Road Area 3

DRI2006-00002, Resolution #06-08-23
DRI2006-00009 and DCI2006-00080, Z-07-040
ADD2006-00011 – Rapallo (lake/water feature configuration)
ADD2006-00024 – Area 2 add hotel/motel, amend property development regs, multi family in tract 2b
ADD2006-00143 – Teds Montana Grill
ADD2006-00168 – Reduced building setbacks for movie theater
ADD2006-00229 – Additional signage for movie theater
COP2006-00035, amended by COP2006-00035A, Ted's Montana Grill
COP2006-00121(A) – COP for The Grill Room
COP2005-00125 – sign off for 2APS license for package sales
COP2006-00150, amended by COP2006-00150B - Blue Water Bistro
COP2006-00169, amended by COP2006-00169A - The Grape
COP2006-00176, amended by COP2006-00176A - California Pizza Kitchen

DRI2006-0009 and DCI2006-00080, Resolution Z-07-040
ADD2007-00028 – Area 3 allow an adult living community
ADD2007-00087 – Setbacks
ADD2007-00182 – Waterbody setback and reduced building separation
ADD2007-00184 – Commercial lot split w/deviation for internal buffer
ADD2007-00192 – Sign Deviations
ADD2007-00207 – Increase building height for tract 3C-2
ADD2007-00208 – Deviation for connection separation on Via Villagio
COP2007-00012 – Doc Greens administrative approval for a 2-COP
COP2007-00018 – sign off for COP for Bice Grand Café
COP2007-00065 – COP for outdoor seating for Bice Grand Café
COP2007-00093 - Moe's Southwest Grill
COP2007-00112 – Two Brothers Pizza & Italia sign off for a 2 COP license
COP2007-00134 - Hurricane's Grill and Wings
COP2007-00161 – Cusi 2, COP for outdoor seating
COP2007-00233 – T.G.I. Fridays
COP2007-00194, amended by COP2007-00194A - Pagelli's Cucina
COP2007-00201, Tijuana Flats Burrito Company

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

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

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

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

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

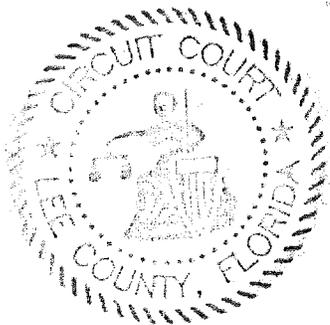
COP2013-00075 - Stir Crazy

STATE OF FLORIDA

COUNTY OF LEE

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

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



LINDA DOGGETT,
Clerk of Circuit Court
Lee County, Florida

By: Joyce Townsend
Deputy Clerk

SEVENTH DEVELOPMENT ORDER AMENDMENT¹
FOR
COCONUT POINT DRI
STATE DRI # 09-2001-153

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

I. FINDINGS OF FACT AND CONCLUSIONS OF LAW

A. The Coconut Point DRI is a master planned commercial development consisting of 482.4+/- acres located in unincorporated south central Lee County at the intersection of US 41 and Coconut Road. The Coconut Point DRI is a mixed use development that will consist of: 1,450,000 gross leasable square feet of retail/regional mall (Regional Retail Center), ~~488,900~~157,500 gross leasable square feet of retail on other parcels adjacent to the regional mall (Community Commercial Retail), 8,000 gross leasable square feet of Banks, ~~383,333~~782,777 square feet of office, of which no more than ~~68,333~~104,333 square feet may be medical office, ~~440~~320 hotel rooms, ~~1,528~~1,214 condominium units, and a 200~~400~~ unit assisted living facility ~~and a 506 seat performing~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Under §252.363, Florida Statutes, Executive Order Numbers 11-128 (extended by 11-172 and 11-202), 12-140 (extended by 12-192 and 12-217) and 12-199, each extended the buildout dates for valid DRI Development Orders an additional 6 months (totaling 18 months less 24 days for effective date of §252.363 (July 1, 2011)). Coconut Point DRI qualified for that extension of the DRI's compliance dates. The extension does not constitute a substantial deviation of the original development order approvals warranting further DRI review.

II. ACTION ON THE REQUEST AND CONDITIONS OF APPROVAL

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

A. AFFORDABLE HOUSING

1. *150 Affordable Housing Units (\$600,000).²*

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

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

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

B. ENERGY

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

These features are:

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

³ This requirement was satisfied in October 2004.

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

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

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

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

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

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

11. Including porch and patio areas in residential units.

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

C. STORMWATER MANAGEMENT

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

D. TRANSPORTATION

1. Significant Impacts

a. Assessment Parameters

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

Buildout (2019)

| | |
|---|--|
| Multifamily Condominiums (ITE LUC 230) (450 d.u. Town Center, 854 <u>540</u> d.u. North Village) 224 d.u. South Village | 1,528 <u>1,214</u> d.u. |
| Assisted Living Facility (ITE LUC 252) (200 d.u. South Village, <u>200</u> d.u. North Village) | 200 <u>400</u> d.u. |
| Hotel (ITE LUC 310) (200 rooms Town Center, 120 rooms South Village 120 rooms North Village) | 440 <u>320</u> rooms |
| Community Retail (ITE LUC 820) (131,400 <u>85,000</u> square feet North Village, 57,500 <u>75,000</u> square feet South Village) | 188,900 <u>157,500</u> sq. ft. (gla) |
| Regional Retail Center (ITE LUC 820) (1,450,000 square feet Town Center) | 1,450,000 sq. ft. (gla) |
| General Office (ITE LUC 710) (78,333 <u>481,277</u> square feet North Village, 90,000 square Town Center, 446,667 <u>107,167</u> square feet South Village) | 315,000 <u>678,444</u> sq. ft. |
| Medical Office (ITE LUC 720) (68,333 <u>104,333</u> square feet South Village) | 68,333 <u>104,333</u> sq. ft. |
| Bank with drive-thru (4,000 <u>8,000</u> square feet North Village) 4,000 square feet South Village | 8,000 sq. ft. |
| Performing Arts Theater (North Village) | 506 seats |

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

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

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

b. *Buildout Impacts*

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

Roadway Improvements Needed

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

Intersection Improvements Needed

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

US 41 @ Pelican Colony Boulevard

Add dual WB left turn lane⁽²⁾

Add WB right turn lane⁽²⁾

Add NB right turn lane⁽²⁾

Add 2nd NB left turn lane

Add dual SB left turn lane⁽²⁾

Add 2nd EB left turn lane

Add EB right turn lane

Add 2nd WB left turn lane

Add 2nd NB right turn lane

Add 2nd NB left turn lane

Add 2nd SB left turn lane

Add 2nd EB left turn lane

Add EB right turn lane

Add NB right turn lane⁽²⁾

Add SB left turn lane⁽²⁾⁽³⁾

Add WB right turn lane⁽²⁾

Signalization⁽²⁾⁽³⁾

US 41 @ Coconut Road

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

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

Add NB right turn lane⁽²⁾

Add dual SB left turn lane⁽²⁾

Add dual WB left turn lane⁽²⁾

Add WB right turn lane⁽²⁾

Signalization⁽²⁾⁽³⁾

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

Add NB right turn lane⁽²⁾

Add SB Left turn lane⁽²⁾

Add WB right turn lane⁽²⁾

Signalization⁽²⁾⁽³⁾

US 41 @ Driveway 3/Fountain Lakes Boulevard⁽¹⁾

Add NB right turn lane⁽²⁾

Add SB left turn lane⁽²⁾

Add dual WB left turn lane⁽²⁾

Add WB thru lane⁽²⁾

Add WB right turn lane⁽²⁾

Signalization⁽²⁾⁽³⁾

US 41 @ Driveway 2/Estero Greens⁽¹⁾

Add NB right turn lane⁽²⁾

Add dual SB left turn lane⁽²⁾

Add dual WB left turn lane⁽²⁾

Add WB thru lane⁽²⁾

Add WB right turn lane⁽²⁾

Add EB right turn lane⁽²⁾

Signalization⁽²⁾⁽³⁾

US 41 @ Driveway 1/Community Commercial⁽¹⁾

Add NB right turn lane⁽²⁾

| | |
|---|---|
| US 41 @ Williams Road ⁽¹⁾ | Add SB left turn lane ⁽²⁾ Add WB right turn lane ⁽²⁾ Add 2 nd SB left turn lane Add 2 nd WB left turn lane |
| US 41 @ Corkscrew Road ⁽¹⁾ | Add 2 nd WB left turn lane |
| US 41 @ Broadway ⁽¹⁾ | Signal retiming |
| US 41 @ Koreshan Boulevard | Signalization ⁽³⁾ |
| US 41 @ Sanibel Boulevard ⁽¹⁾ | Signal retiming |
| US 41 @ Metro Parkway ⁽¹⁾ | Add 2 nd NB right turn lane |
| US 41 @ Alico Road ⁽¹⁾ | Signal retiming |
| US 41 @ Island Park Road ⁽¹⁾ | Signal retiming |
| US 41 @ Ben Pratt/Six Mile Cypress Parkway ⁽¹⁾ | Add EB thru lane Add WB thru lane |
| Williams Road @ Driveway 1/Comm Commercial ⁽¹⁾ | Signalization ⁽³⁾ |
| Williams Road @ River Ranch Road ⁽¹⁾ | Signalization ⁽³⁾ |
| Williams Road @ Sandy Lane ⁽²⁾ | Signalization ⁽³⁾ 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 ⁽³⁾ |

⁽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. Buildout Proportionate Share

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

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

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

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

b. *Mitigation Options*

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

(1) Traffic Mitigation Option 1

(a) Payment

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

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

(b) Concurrency

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

(2) Traffic Mitigation Option 2⁴

(a) Payment

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

Concurrency certificates issued pursuant to this option will be effective until December 31, ~~2017~~2019⁷, 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

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

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

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

c. *Application of Payments*

(1) Cash.

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

(2) Pipelined Improvements.⁹

⁸ 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.

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

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

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

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

maintenance in accordance with the requirements of the responsible jurisdiction.

d. *Buildout Extension*

(1) Requirement for Reanalysis

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

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

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

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

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

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

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

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

(2) Alternative for Reanalysis

(a) *Extension of Buildout.*¹²

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

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

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

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

3. **Comprehensive Plan Mitigation**

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

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

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

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

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

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

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

4. Access and Site Related Improvements

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

5. Committed Improvements^{13 14}

¹³ 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.

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

Roadway Improvements

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

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

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

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

6. Annual Transportation Monitoring Program

a. Design of Monitoring Program

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

b. Submittal of Monitoring Report

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

c. Minimum Requirements for Report Contents

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

¹⁵ The first monitoring report was submitted in January 2004.

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

d. *Implications*¹⁶

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

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

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

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

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

E. **VEGETATION AND WILDLIFE/WETLANDS**

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

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

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

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

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

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

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

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

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

F. HURRICANE PREPAREDNESS

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

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

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

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

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

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

5. The Developer is also proposing to develop ~~440320~~ hotel or motel rooms, within the Coconut Point DRI. Prior to issuance of a local development order for the hotel/motel, the hotel/motel Developer must contact Lee County Emergency Management with respect to establishing written hurricane preparation and evacuation/sheltering procedures. These procedures must be reduced to a written plan, prepared by the hotel/motel Developer, and approved by Lee County Emergency Management prior to occupancy of the hotel/motel.

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

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

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

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

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

G. WASTEWATER MANAGEMENT/WATER SUPPLY

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

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

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

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

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

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

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

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

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

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

H. COMPREHENSIVE PLAN

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

I. POLICE AND FIRE PROTECTION

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

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

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

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

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

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

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

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

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

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

J. EDUCATION

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

P. Biennial Reports. The Developer must submit a report biennial to the Lee County Department of Community Development, the SWFRPC and Florida DCA on Form RPM-BSP-Annual Report-1. The content of the report must include the information set forth in Exhibit D, and must also be consistent with the rules of the FDCA. The first monitoring report must be submitted to the DRI coordinator for SWFRPC, DCA, and Lee County no later than one year after the effective date of this Development Order²⁰. Further reporting must be submitted every two years for subsequent calendar years thereafter, until buildout, whether actual or declared. Failure to comply with this reporting procedure is governed by §380.06(18), Florida Statutes, which provides for the temporary suspension of the DRI Development Order.

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

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

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

²⁰ The first monitoring report was submitted in January 2004.

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

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

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

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

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

DULY PASSED AND ADOPTED this 5th day of August, 2013.

ATTEST:
Linda Doggett, Clerk

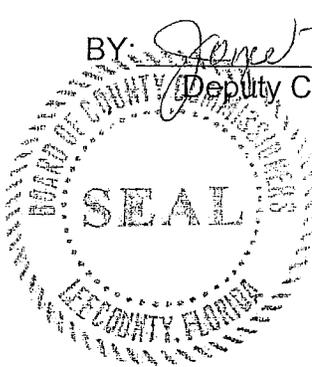
BOARD OF COUNTY COMMISSIONERS
LEE COUNTY, FLORIDA

BY: *Jane Townsend*
Deputy Clerk

By: *Cecil L Pendergrass*
Cecil L Pendergrass, Chair

APPROVED AS TO FORM

By: *Donna Marie Collins*
Donna Marie Collins
County Attorney's Office



Exhibits:

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



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

Applicant's Legal Checked

by CSJ 5/15/13
Pg 1 thru 3

RECEIVED
MAY 10 2013

HM PROJECT #1997079
05/03/13
REF. DWG. #A-994-3
PAGE 1 OF 3

LEGAL DESCRIPTION:

COMMUNITY DEVELOPMENT

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

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

AND

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

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

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Naples Fort Myers

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EXHIBIT A

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

SOUTHERLY; THENCE RUN EASTERLY, ALONG SAID NORTHERLY RIGHT-OF-WAY LINE AND ALONG THE ARC OF SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 3,175.00 FEET, THROUGH A CENTRAL ANGLE OF 09°15'04", 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 386.536 ACRES, MORE OR LESS.

NOTES:

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

TOTAL PROPERTY AREA: 482.421 ACRES, MORE OR LESS.

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

HOLE MONTES, INC.
CERTIFICATE OF AUTHORIZATION LB #1772

BY *Thomas M. Murphy* P.S.M. #5628
THOMAS M. MURPHY STATE OF FLORIDA

DRI
EXHIBIT C

Development Parameters and Phasing Schedule

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

* Gross Leasable Area

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

DRI EXHIBIT C-1

Land Use Conversion Table

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

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

DRI
EXHIBIT D

BIENNIAL MONITORING REPORT REQUIREMENTS

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

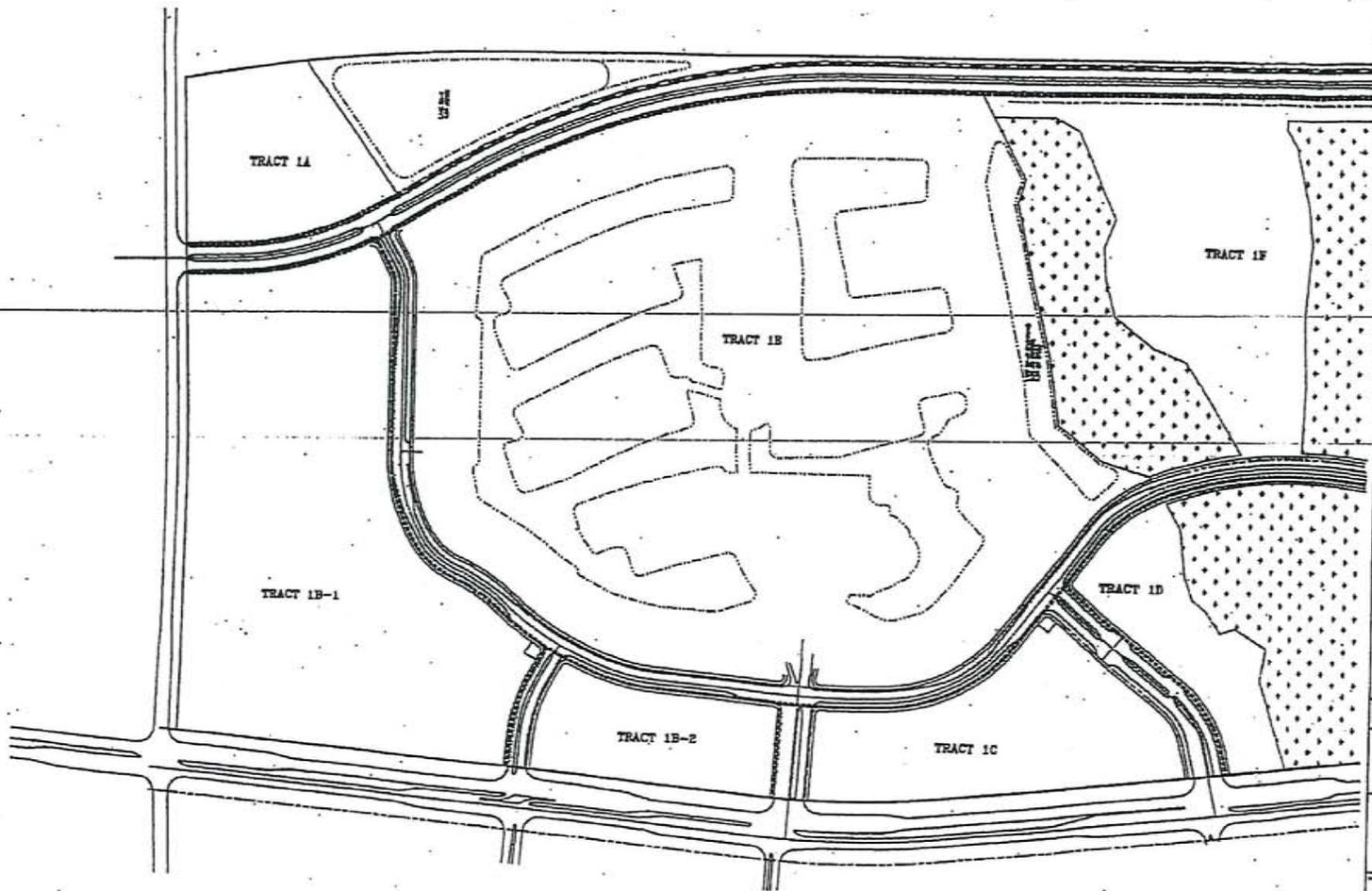
- A. Any changes in the plan of development or in the representations contained in the application for development approval, or in the phasing for the reporting year and for the next year;
- B. A summary comparison of development activity proposed and actually conducted for the year;
- C. Identification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

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

DRI
EXHIBIT E
Calculation of Road Impact Fee Obligation²¹

| 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 |

²¹ 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.



TRACT 1A

TRACT 1B

TRACT 1F

TRACT 1B-1

TRACT 1D

TRACT 1B-2

TRACT 1C

LEGEND:
 ===== PRIMARY PEDESTRIAN
 WALKWAYS (typ.)

SIMON
 Simon City Center
 111 N. Washington Street
 Bonita Springs, FL 34134
 (941) 661-1000

The Shops at
 Coconut Point

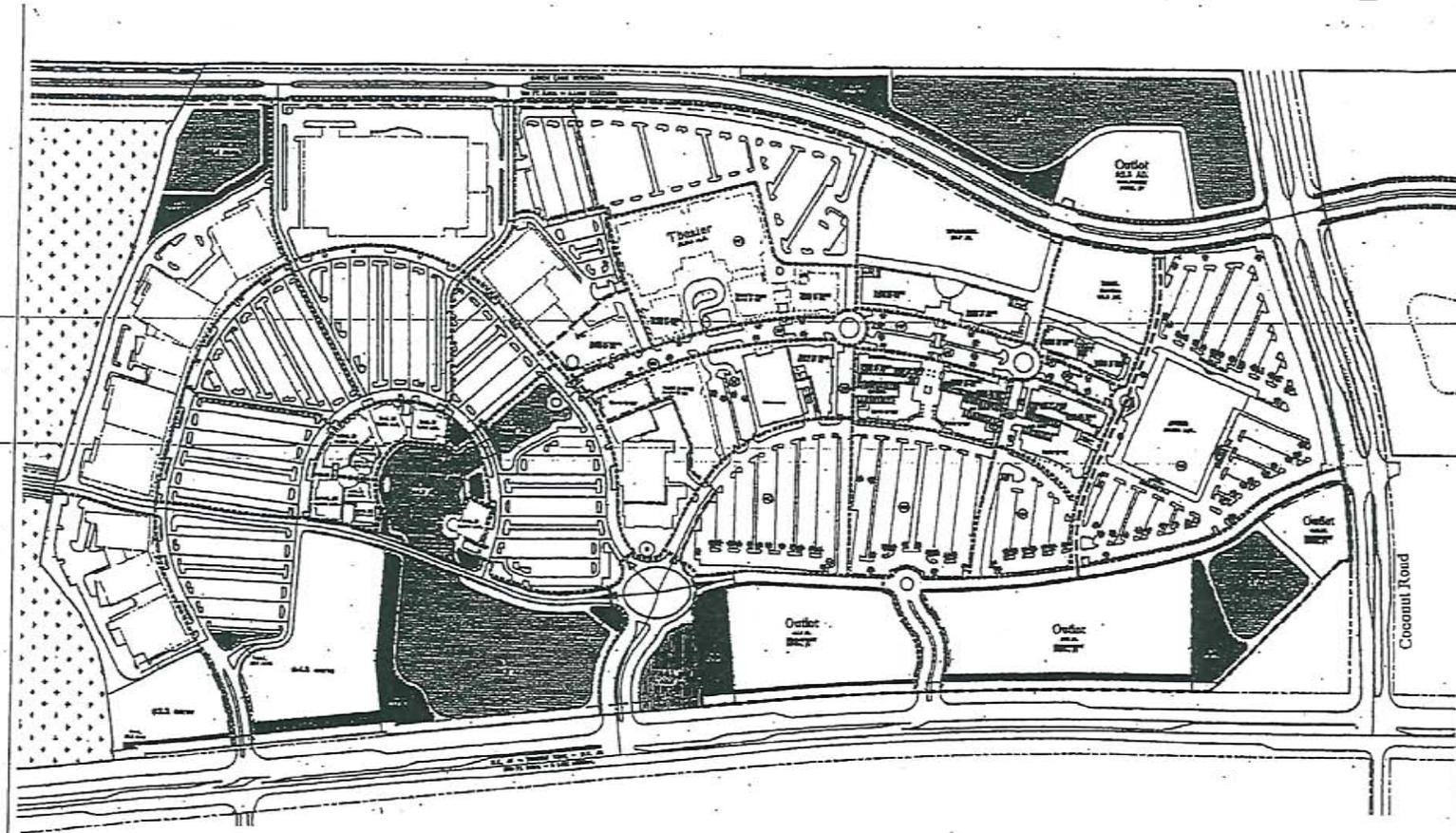
**BONITA SPRINGS
 FLORIDA**

**PROPOSED PEDESTRIAN
 CIRCULATION PLAN**

| | |
|------|----------|
| DATE | ISSUED |
| DATE | REVISION |
| DATE | REVISION |
| DATE | REVISION |

8/11/10_PED_CIRC_PLAN_8/11/10





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



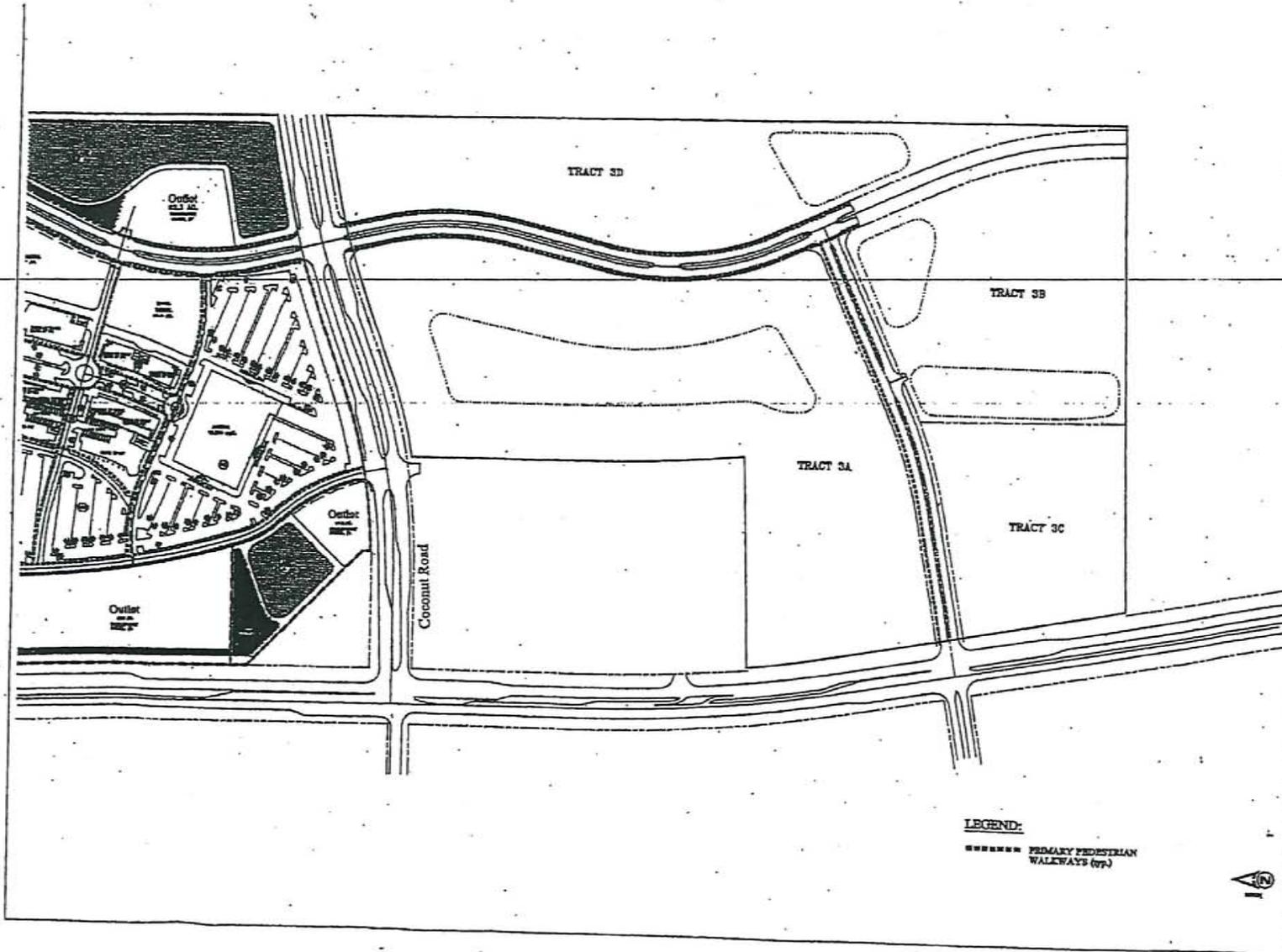
SIMON
 Real Estate Group
 123 W. Washington Street
 Indianapolis, IN 46204
 (317) 634-2000

The Shops at
 Coconut Point
 BONITA SPRINGS
 FLORIDA

PROPOSED PEDESTRIAN
 CIRCULATION PLAN

| NO. | DATE | DESCRIPTION |
|-----|------|-------------|
| | | |
| | | |
| | | |

031140_PSD_CIRC PLAN_030504



LEGEND:
 ----- PRIMARY PEDESTRIAN WALKWAYS (PP)

SIMON
 The Shop at Coconut Point
 125 W. Washington Blvd.
 Bonita Springs, FL 34105
 941.534.1234

The Shops at
 Coconut Point

**BONITA SPRINGS
 FLORIDA**

**PROPOSED PEDESTRIAN
 CIRCULATION PLAN**

| | |
|-----------|----------------------------|
| DATE: | 10/15/10 |
| SCALE: | AS SHOWN |
| PROJECT: | THE SHOPS AT COCONUT POINT |
| CLIENT: | THE SHOPS AT COCONUT POINT |
| DESIGNER: | SIMON DESIGN GROUP |

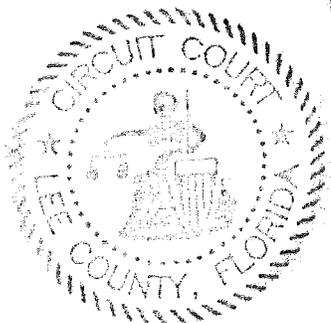
031140_PED CIRC PLAN_ISSUE

STATE OF FLORIDA

COUNTY OF LEE

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

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



LINDA DOGGETT,
Clerk of Circuit Court
Lee County, Florida

By: Joyce Townsend
Deputy Clerk

LEE COUNTY
RECEIVED

714

12 DEC 20 AM 8:57

RESOLUTION NUMBER Z-02-009

CO. PL. DEV/
PUB. WORKS. CNTR.
SECOND FLOOR

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

WHEREAS, Simon Property Group and Oakbrook Properties, Inc. filed an application on behalf of the property owner, Edward J. McArdle, Trustee, to consider an Application for Development Approval (ADA) for a Development of Regional Impact (DRI) and rezone from Agriculture (AG-2) to a Mixed Use Planned Development (MPD), in reference to Coconut Point DRI (f/n/a Simon Suncoast DRI); and

WHEREAS, the initial public hearing was advertised and held on January 30, 2002, and continued to January 31, 2002, March 19, 2002, March 20, 2002, and March 22, 2002 before the Lee County Zoning Hearing Examiner, who gave full consideration to the evidence in the record for Case #DRI2000-00015 and DCI2001-00005; and

WHEREAS, a second public hearing was advertised and held on October 21, 2002 before the Lee County Board of Commissioners, who gave full and complete consideration to the recommendations of the staff, the Hearing Examiner, the documents on record and the testimony of all interested persons.

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

SECTION A. REQUEST

The applicant filed a request to:

- a) consider an Application for Development Approval for a Development of Regional Impact known as Coconut Point DRI (f/n/a Simon Suncoast DRI); and
- b) rezone a 482.4± acre parcel from AG-2 to MPD to permit a regional mall development consisting of 1,800,000 square feet of retail floor area, 300,000 square feet of office floor area, 1,200 dwelling units and 600 hotel units, all not to exceed 60 feet in height.

The property is located in the Rural and Wetlands Land Use Category and legally described in attached Exhibit A. The request is APPROVED, SUBJECT TO the conditions specified in Section B below.

SECTION B. CONDITIONS:

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

1. The development of this project must be consistent with the two-page Master Concept Plan entitled "Simon Suncoast," prepared by Hole Montes, dated October 9, 2000, last revised

December 9, 2002, and stamped "Received Dec 12 2002 Community Development." The development must also be consistent with the approved DRI Development Order for Coconut Point DRI (DRI#09-2001-153). This development must comply with all requirements of the Lee County LDC at time of local development order approval, except as may be granted by deviation as part of this planned development. If changes to the Master Concept Plan are subsequently pursued, appropriate approvals will be necessary.

2. The following limits apply to the project and uses:

a. Schedule of Uses

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

Accessory Uses and Structures permitted ancillary to a permitted principal use
Administrative offices
Animal clinic
ATM (automatic teller machine)
Auto parts store
Auto repair and service, Group I, limited to one
Banks and financial establishments, Group I
Banks and financial establishments, Group II, limited to SIC Codes 604, 621, 672, 673 and 674
Business services, Groups I and II
Car wash (limited to one)
Cleaning and maintenance services
Clothing stores, general
Contractors and Builders, Groups I and II
Convenience Food and Beverage Store (limited to one with attendant service station: however, the entire site is limited to a maximum of two)
Consumption on premises in compliance with LDC §34-1264 (limited to and in conjunction with a standard restaurant)
Cultural facilities, excluding zoos
Day care center, adult, child
Department Store
Drive thru facility for any permitted use
Drugstore (limited to one total, however, the entire site is limited to two)
Entrance gates and gatehouse, in compliance with LDC §34-1748
Essential services
Essential service facilities, Group I
Excavation, water retention (as shown on the Master Concept Plan)
Fences, walls
Food Stores, Groups I and II
Gift and souvenir shop
Hardware store
Health care facility, Group III
Hobby, toy, and game shops
Household and office furnishings, Groups I, II, III (no outdoor display)
Insurance companies

Laundromat
Laundry or dry cleaning Group I
Lawn and garden supply store
Medical office
Nonstore retailers, all groups
Paint glass and wallpaper store
Parking lot: Accessory
Personal services, Groups I, II, and III (excluding escort services, palm readers, fortunetellers, card readers, and tattoo parlors)
Pet services
Pet shop
Pharmacy
Printing and publishing
Real estate sales office
Recreation facilities, commercial, Groups I and IV
Rental or leasing establishments Groups I & II (excluding passenger car pick up and drop off)
Repair shops, Groups I, II and III
Research and development laboratories Groups II and IV
Restaurant, fast food (limited to two, however, the entire site is limited to a maximum of four outside of the Regional food court/service area)
Restaurants, Groups I, II, III, and IV
Self service fuel pumps (limited to one in conjunction with a Convenience Food and Beverage Store, however entire site is limited to a maximum of two)
Signs, in accordance with Chapter 30
Social Services, Groups I and II
Specialty retail shops, Groups I, II, III and IV
Storage: Indoor only §34-3001 *et seq.*
Used merchandise stores, Group I
Variety store

Permitted uses within Tract 1D

Accessory Uses and Structures permitted ancillary to a permitted principal use
Administrative offices
Business services, Group I
Cultural facilities, excluding zoos
Day care center, adult, child
Emergency medical services station
Entrance Gate and Gatehouse, in compliance with LDC §34-1748
Essential Services
Essential Service Facilities, Group I
Fences, walls
Fire station
Health care facility, Group III
Hobby, toy, and game shops
Household and office furnishings, Groups I, II, III (no outdoor display)
Insurance companies

Library
Medical office
Parks, Group II, limited to community park
Parking lot: Accessory
Personal services, Groups I, II, and III (excluding escort services, palm readers, fortunetellers, card readers, and tattoo parlors)
Place of worship
Police or sheriff's station
Post office
Real estate sales office
Religious facilities
Restaurants, Groups I, II, and III
Signs, in compliance with LDC Chapter 30
Social Services, Groups I and II
Specialty retail shops, Groups I and II
Storage: Indoor only §34-3001 *et seq.*

Permitted uses within Tracts 1E and 1F

Accessory Uses and Structures permitted ancillary to a permitted principal use
Administrative offices

Club, private

Dwelling Units:

*Single-family

*Duplex

Multiple-Family Building

Townhouse

*Two-family attached

*Zero lot line

*(may be approved administratively upon findings that the use is compatible with other uses in the tract and consistent with the Traffic Conversion Table)

Entrance Gate and Gatehouse, in compliance with LDC §34-1748

Essential Services

Essential Service Facilities, Group I

Excavation, water retention (as shown on the Master Concept Plan)

Fences, walls

Home occupation, with no outside help

Model display center

Model home

Model unit

Parking lot, accessory only

Parks, Group I, limited to neighborhood park

Parks, Group II, limited to community park

Recreation Facilities, Private on-site, Personal

Residential Accessory Uses

Signs, in compliance with LDC Chapter 30

Permitted uses within Tract 2A (Regional Mall Parcel)

Accessory Uses and Structures permitted ancillary to a permitted principal use

Administrative offices

Animal clinic

ATM (automatic teller machine)

Auto parts store

Auto repair and service, Group I, if accessory to a department store

Banks and financial establishments, Group I

Banks and financial establishments, Group II, limited to SIC Codes 604, 621, 672, 673 and 674

Business services, Groups I and II

Cleaning and maintenance services

Clothing stores, general

Convenience Food and Beverage Store (limited to one, however, the entire site is limited to a maximum of two)

Consumption on premises in compliance with LDC §34-1264 (limited to and in conjunction with a standard restaurant)

Cultural facilities, excluding zoos

Day care center, adult, child

Department Store

Drive thru facility for any permitted use

Dwelling Units:

*Single-family

*Duplex

Multiple-Family Building

Townhouse

*Two-family attached

*Zero lot line

*(may be approved administratively upon findings that the use is compatible with other uses in the tract and consistent with the Traffic Conversion Table)

Entrance gates and gatehouse, in compliance with LDC §34-1748

Essential services

Essential service facilities, Group I

Excavation, water retention (as shown on the Master Concept Plan)

Fences, walls

Food Store, Group I

Gift and souvenir shop

Hardware store

Hobby, toy, and game shops

Hotel/motel

Household and office furnishings, Groups I, II, III (no outdoor display)

Insurance companies

Laundry or dry cleaning Group I

Lawn and garden stores

Nonstore retailers, all groups

Paint glass and wallpaper store

Parking garage
Parking lot: Accessory
Personal services, Groups I, II, and III (excluding escort services, palm readers, fortunetellers, card readers, and tattoo parlors)
Pet services
Pet shop
Pharmacy
Police or sheriffs station
Real estate sales office
Recreation facilities, commercial, Groups I and IV (limited to indoor theater)
Rental or leasing establishments Groups I & II (excluding passenger car pick up and drop off)
Repair shops, Groups I and II, limited to clocks, jewelry, music, cameras, calculators, computers and optical devices
Restaurant, fast food (limited to one outside of food court/service area and the entire site is limited to a maximum of four outside of Regional Center food court/service area)
Restaurants, Groups I, II, III, and IV
Self service fuel pumps (limited to one in conjunction with a Convenience Food and Beverage Store, however entire site is limited to a maximum of two)
Signs, in accordance with Chapter 30
Specialty retail shops, Groups I, II, III and IV
Storage: Indoor only §34-3001 *et seq.*
Used merchandise stores, Group I
Variety store

Permitted uses within Tract 2B - 1

Accessory Uses and Structures permitted ancillary to a permitted principal use
Administrative offices
Animal clinic
ATM (automatic teller machine)
Banks and financial establishments, Group I
Banks and financial establishments, Group II, limited to SIC Codes 604, 621, 672, 673 and 674
Business services, Group I
Business services, Group II, limited to parcel and express services and packaging services
Cleaning and maintenance services
Clothing stores, general
Consumption on Premises, only in connection with a Group III restaurant
Day Care Center, adult or child
Drugstores, limited to one and the entire site is limited to a maximum of two
Essential services
Essential service facilities, Group I
Excavation, water retention (as shown on the Master Concept Plan)
Fences, walls
Gift and souvenir shop

Hardware store
Hobby, toy, and game shops
Household and office furnishings, Groups I and II
Insurance companies
Laundry or dry cleaning Group I
Lawn and garden store
Non-store retailers, all groups
Paint glass and wallpaper store
Parking lot: Accessory
Personal services, Groups I, II, and III (excluding escort services, palm readers, fortunetellers, card readers, and tattoo parlors)
Pet services
Pet shop
Pharmacy
Police or sheriffs station
Real estate sales office
Recreational facilities, commercial, Group IV, limited to Health Clubs
Rental and leasing establishments, Groups I and II, passenger car pickup and drop off excluded
Repair shops, Groups I and II
Restaurants, Groups I - IV
Signs, in accordance with Chapter 30
Specialty retail shops, Groups I, II, III and IV
Storage: Indoor only §34-3001 *et seq.*
Used merchandise stores, Group I
Variety store

Permitted uses within Tract 2B - 2

Accessory Uses and Structures permitted ancillary to a permitted principal use

Administrative offices

Club, private

Dwelling Units:

*Single-Family

*Duplex

Multiple-Family Building

Townhouse

*Two-family attached

*Zero lot line

*(may be approved administratively upon finding that the use is compatible with other uses in the tract and consistent with the Traffic Conversion Table)

Entrance Gate and Gatehouse, in compliance with LDC §34-1748

Essential Services

Essential Service Facilities, Group I

Excavation, water retention

Fences, walls

Home occupation, with no outside help

Model display center
Model home
Model unit
Parking lot, accessory only
Parks, Group I, limited to neighborhood park
Parks, Group II, limited to community park
Recreation Facilities, Private on-site, Personal
Residential Accessory Uses
Signs, in compliance with LDC Chapter 30

Permitted uses within Tracts 2C, 2D, and 2E
(Uses on Tract 2E are subject to condition 20)

Accessory Uses and Structures permitted ancillary to a permitted principal use
Administrative offices
Animal clinic
ATM (automatic teller machine)
Auto parts store (Tracts 2C and 2D only)
Auto repair and service, Group I (Tracts 2C and 2D only)
Banks and financial establishments, Group I
Banks and financial establishments, Group II, limited to SIC Codes 604, 621, 672,
673 and 674
Business services, Groups I and II
Cleaning and maintenance services
Clothing stores, general
Contractors and Builders, Group I
Consumption on premises in compliance with LDC §34-1264 (limited to and in
conjunction with a standard restaurant)
Convenience Food and Beverage Stores, limited to one (on either Tract 2C or 2D
only), however, the entire site is limited to a maximum of two
Cultural facilities, excluding zoos
Day care center, adult, child
Department Store
Drive thru facility for any permitted use (subject to condition 19)
Drugstores, limited to one (total), however, the entire site is limited to a maximum
of two
Entrance gates and gatehouse, in compliance with LDC §34-1748
Essential services
Essential service facilities, Group I
Excavation for water retention (as shown on the Master Concept Plan)
Fences, walls
Fire Station (limited to Tract 2C only)
Food Stores, Groups I and II (prohibited on Tract 2E except for specialty stores
such as health food store, vitamin store or similar type stores)
Gift and souvenir shop
Hardware store
Health care facility, Group III
Hobby, toy, and game shops

Hotel/motel (Tract 2D only)
Household and office furnishings, Groups I, II, III (no outdoor display)
Insurance companies
Laundromat (Tracts 2C and 2D only)
Laundry or dry cleaning Group I
Lawn and garden supply store
Medical office
Nonstore retailers, all groups
Paint glass and wallpaper store
Parking lot: Accessory only
Personal services, Groups I, II, and III ((Tracts 2C and 2D only, excluding escort services, palm readers, fortunetellers, card readers, and tattoo parlors and stand alone massage parlors)
Pet services
Pet shop
Pharmacy
Printing and publishing (Tracts 2C and 2D only)
Real estate sales office
Recreation facilities, commercial, Groups I and IV (limited to indoor theater)
Rental or leasing establishments Groups I & II (excluding passenger car pick up and drop off)
Repair shops, Groups I, II and III
Research and development laboratories Groups II and IV
Restaurants, Fast-food, limited to one (total), however, the entire site is limited to a maximum of four outside of the Regional Center food court/service area
Restaurants, Groups I, II, III, and IV
Signs, in accordance with Chapter 30
Social Services, Groups I and II (Tracts 2C and 2D only)
Specialty retail shops, Groups I, II, III and IV
Storage: Indoor only §34-3001 *et seq.*
Used merchandise stores, Group I
Variety Store

Permitted uses within Tracts 3A and 3C

Accessory Uses and Structures permitted ancillary to a permitted principal use
Administrative offices
Animal clinic
ATM (automatic teller machine)
Auto parts store
Banks and financial establishments, Group I
Banks and financial establishments, Group II, limited to SIC Codes 604, 621, 672, 673 and 674
Business services, Groups I and II
Cleaning and maintenance services
Clothing stores, general
Contractors and Builders, Group I

Consumption on premises in compliance with LDC §34-1264 (limited to and in conjunction with a standard restaurant)

Convenience Food and Beverage Store, limited to one (total), however, the entire site is limited to a maximum of two

Cultural facilities, excluding zoos

Day care center, adult, child

Department Store

Drive thru facility for any permitted use

Drugstores, limited to one (total), however, the entire site is limited to a maximum of two

Entrance gates and gatehouse, in compliance with LDC §34-1748

Essential services

Essential service facilities, Group I

Excavation, water retention (as shown on the Master Concept Plan)

Fences, walls

Food Stores, Groups I and II

Gift and souvenir shop

Hardware store

Health care facility, Group III

Hobby, toy, and game shops

Hotel/motel

Household and office furnishings, Groups I, II, III (no outdoor display)

Insurance companies

Laundromat

Laundry or dry cleaning Group I

Lawn and garden supply store

Medical office

Nonstore retailers, all groups

Paint glass and wallpaper store

Parking lot: Accessory only

Personal services, Groups I, II, and III (excluding escort services, palm readers, fortunetellers, card readers, and tattoo parlors)

Pet services

Pet shop

Pharmacy

Printing and publishing

Real estate sales office

Recreation facilities, commercial, Groups I and IV (limited to indoor theater)

Rental or leasing establishments Groups I & II (excluding passenger car pick up and drop off)

Repair shops, Groups I, II and III

Research and development laboratories Groups II and IV

Restaurants, Fast-food, limited to one (total), however, the entire site is limited to a maximum of four outside the Regional Center food court/service area

Restaurants, Groups I, II, III, and IV

Signs, in accordance with Chapter 30

Social Services, Groups I and II

Specialty retail shops, Groups I, II, III and IV

Storage: Indoor only §34-3001 *et seq.*
Used merchandise stores, Group I

Permitted uses within Tracts 3B and 3D

Accessory Uses and Structures permitted ancillary to a permitted principal use

Administrative offices

Adult Living Facilities (ALF) (Tract 3B only)

Club, private

Dwelling Unit:

*Single-Family

*Duplex

Multiple-Family Building

Townhouse

*Two-family attached

*Zero lot line

*(may be approved administratively upon findings that the use is compatible with other uses in the tract and consistent with the Traffic Conversion Table)

Entrance Gate and Gatehouse, in compliance with LDC §34-1748

Essential Services

Essential Service Facilities, Group I

Excavation, water retention

Fences, walls

Home occupation, with no outside help

Model display center

Model home

Model unit

Parking lot, accessory only

Parks, Group I, limited to neighborhood park

Recreation Facilities, Private on-site, Personal

Residential Accessory Uses

Signs, in compliance with LDC Chapter 30

b. Site Development Regulations (See also c. below)

Tract 1A, 1B 1C and 1D

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

Minimum Setbacks

| | |
|----------------|---|
| Front (street) | 25 feet |
| Side | 10 feet |
| Rear | 25 feet (5 feet for an accessory structure) |

Water body 25 feet (20 feet for an accessory structure)

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

Maximum Building Height: 45 feet / 3 stories

Tracts 1E, 1F, 2B-2, 3D and 3B

Minimum Lot Size: Townhouse

Lot Width Per Unit 25 feet
Lot Depth Per Unit 80 feet
Lot Area Per Unit 2,000 square feet
Maximum Building Height 35 feet / 2 stories
Maximum Lot Coverage 50 percent

Minimum Setbacks:

Front (street, private) 20 feet
Front (street, public) 25 feet
Side 10 feet
Side (interior) 0 feet
Rear 15 feet (5 feet for an accessory structure)
Waterbody 25 feet (10 feet for an accessory structure)

Minimum Lot Size: Multiple Family Building

Lot Width 100 feet
Lot Depth 100 feet
Lot Area 10,000 square feet
Maximum Lot Coverage 40 percent

Minimum Setbacks

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

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

Maximum Building Height: 45 feet / 3 stories

Tracts 2A, 2B-1, 2C, 2D, 3A and 3C

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

Minimum Setbacks

| | |
|----------------|--|
| Front (street) | 25 feet |
| Side | 10 feet |
| Rear | 25 feet (5 feet for an accessory structure) |
| Water body | 25 feet (20 feet for an accessory structure) |

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

Maximum Building Height for Tract 2B-1, 2C, 2D and 3C: 45 feet / 3 stories

Maximum Building Height for Tract 2A and Tract 3A: 60 feet / 5 stories *

*subject to the following setback from Sandy Lane Extension:

| | |
|----------|----------|
| Tract 2A | 300 feet |
| Tract 3A | 100 feet |

Tract 2E

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

Minimum Setbacks

| | |
|----------------|--|
| Front (street) | 25 feet |
| Side | 10 feet |
| Rear | 25 feet (5 feet for an accessory structure) |
| Water body | 25 feet (20 feet for an accessory structure) |

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

Maximum Building Height: 40 feet / 2 stories

c. **Additional Site Development Regulations for Tracts 1E, 1F, 2A, 2B-2, 3B and 3D**

Single-family, Duplex, Two-family attached and Zero lot line dwelling units consistent with the Master Concept Plan and the following Conversion Table:

| <u>From Multi-Family (MF)</u> | <u>To Single-family (SF)</u> |
|-------------------------------|------------------------------|
| 100 MF Apartments | 53 SF dwelling units |
| 100 MF Residential condos | 40 SF dwelling units |
| 100 ALF units | 13 SF dwelling units |

3. The development of the subject property must include a regional shopping center, which incorporates a shopping center and commercial and residential tracts all developed with a common architectural theme. The entire project must include a common landscaping and graphic theme throughout the project. The architectural theme, landscaping and graphic design theme must be reviewed and approved by the Lee County Department of Community Development prior to the issuance of any local development order for the property. Any change from the proposed "regional mall" development will necessitate an amendment to the MPD zoning approval through the public hearing process.
4. Subject to Condition 3 above, the development of the subject property is limited to a maximum of 1,800,000 gross square feet of retail floor area and 300,000 gross square feet of office floor area. These limitations are further restricted to the maximum totals allowed for each Development "Area" and the maximum totals allowed for each Development "Tract" as indicated on the approved Master Concept Plan.
5. This development, including the proposed regional shopping center, must incorporate a common architectural theme on all sides of all buildings that are visible from the Brooks MPD, U.S. 41, Coconut Road, Williams Road and Sandy Lane Extension rights-of-way to ensure an equally attractive architectural elevation for all facets of the development. The common architectural theme must include streetscape landscaping and enhanced building architectural features. This condition is applicable to the entire development including any proposed outparcels within the MPD. A plan reflecting the design standards required by this condition must be submitted for review and approval by the Lee County Department of Community Development prior to the issuance of any local development order for property within this MPD.
6. A 30-foot-wide buffer is required along the entire length of U.S. 41. The buffer must be designed to utilize the entire 30-foot width by meandering and clustering plants. The buffer must be planted with a minimum of the following:
 - a) 10 trees per 100 linear foot; minimum 10-foot 2-inch caliper with 4-foot spread -or- minimum 10-foot clear trunk for palms. A minimum of 50 percent of the trees must be canopy type trees (i.e. not palms); and
 - b) Double staggered shrub hedge; minimum 24-inch height 3-gallon container size at planting to be maintained at 36 inches of height.

The buffer must be installed along U.S. 41 for the entire frontage of the development area (#1, #2 or #3) shown on the Master Concept Plan prior to the issuance of a Certificate of

Compliance for any development (excluding public uses mandated by the DRI Development Order) within that development area.

7. Any property abutting the Sandy Lane extension must provide a 15-foot-wide street tree planting area along Sandy Lane. Residential developments must provide five live oak trees per 100 linear feet that must be planted in the street tree planting area. Commercial developments must provide five live oak trees per 100 linear feet and a double staggered hedge within the street tree planting area. Plantings must meet the minimum size standards referenced in LDC §10-420. Utility easements must be located in accordance with LDC §10-421(a).
8. A Type "C" buffer must be provided along the southern boundary of Tract 3B.
9. Prior to local development order approval, open space must be provided as detailed in the open space table on the Master Concept Plan with the condition that any residential dwelling units requiring open space per LDC §10-415(a) must provide 30 percent common open space within Tracts 1-E, 1-F, 2-B2, 3-B, and 3-D.
10. Prior to local development order approval for any development order, a detailed exotic removal plan for the preserved wetland area must be submitted for the Division of Environmental Sciences staff review and approval. Removal methods must not disturb the soil or existing native vegetation.

Prior to the issuance of a Certificate of Compliance for any development order, the exotic vegetation must be removed from the preserved wetlands per an approved exotic removal plan, and a detailed wetland enhancement planting plan must be submitted for the Division of Environmental Sciences staff review and approval. Lee County recognizes that the wetland restoration planting efforts can be utilized as compensatory mitigation for the proposed wetland impacts shown on Exhibit "D" during subsequent permitting review processes with the state and federal regulatory agencies. The wetland restoration planting plan will be subject to the review and approval of the South Florida Water Management District and the Department of the Army Corps of Engineers, and will include:

- a) documentation of existing native vegetation/baseline monitoring with photographs; and
 - b) plant specifications including species, size and number of native wetland plants to be installed. Both herbaceous plants and trees must be included; and
 - c) planting schedule including a starting and completion date; and
 - d) 5-year monitoring plan.
11. The MPD zoning and DRI development order, as conditioned, will only be effective upon the adoption and finding of compliance of the Lee Plan Future Land Use Map and Text amendment that is being concurrently reviewed with this rezoning and DRI application for development approval (Lee County Plan Amendment CPA2000-00030).

12. A minimum of one acre of the property must be provided or set aside for use as an Estero Fire District fire station. The location of the fire station property must be mutually agreed upon by the developer/property owner and representatives of the Estero Fire District.
13. A minimum of five acres of the property, or an equivalent amount of property in this general location must be provided or set aside for use as a Lee County public school. The location of the public school property must be mutually agreed upon by the developer/property owner and representatives of the Lee County School District.
14. The development must provide separate pedestrian connections (i.e., sidewalks or pedestrian paths) between the commercial and residential tracts within the development. A generalized pedestrian circulation plan for the entire property must be submitted to the County for Administrative Approval prior to the approval of the first local development order for the project.
15. Approval of this zoning request does not address mitigation of the project's local vehicular or pedestrian traffic impacts. Additional conditions consistent with the Lee County LDC may be required to obtain a local development order.
16. Approval of this rezoning does not guarantee local development order approval. Future development order approvals must satisfy the requirements of the Lee Plan Planning Communities Map and Acreage Allocation Table, Map 16 and Table 1(b), be reviewed for, and found consistent with, the retail commercial standards for site area, including range of gross floor area, location, tenant mix and general function, as well as all other Lee Plan provisions.
17. A Type "C" buffer, as that term is defined in LDC section 10-416, must be shown on local development order plans and must be installed along the eastern side of Sandy Lane whenever any existing or proposed residences in The Brooks are or would be located within 250 feet of the eastern edge of the pavement of Sandy Lane before Sandy Lane is determined to be substantially complete.
18. Lighting within the project and along Sandy Lane must be designed to prevent direct glare and light spillage on the Brooks.
19. Any drive-thru facility that is constructed on Tract 2E must be oriented towards Sandy Lane or Coconut Road.
20. A 15 foot wide buffer including a berm or berm/wall combination 8 feet in height, 10 trees per 100 linear feet and a hedge is required along the eastern boundary of parcel 2E as a condition of local development order approval for any use on Tract 2E that typically operates prior to 8:00am or after 6:00pm.

SECTION C. EXHIBITS AND STRAP NUMBER:

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

- Exhibit A: The legal description of the property
- Exhibit B: Zoning Map (subject parcel identified with shading)
- Exhibit C: The Master Concept Plan
- Exhibit D: Wetlands Map
- Exhibit E: Coconut Point DRI Development Order

The applicant has indicated that the STRAP numbers for the subject property are: 04-47-25-00-00001.0000 & 09-47-25-00-00001.0010.

SECTION D. FINDINGS AND CONCLUSIONS:

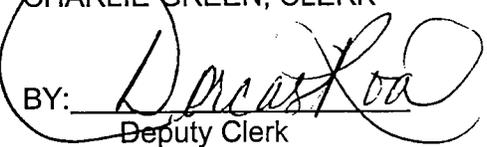
1. The applicant has proven entitlement to the MPD rezoning by demonstrating compliance with Florida Statutes Chapter 380, the Lee Plan, the LDC, and any other applicable code or regulation.
2. The rezoning, as approved:
 - a. meets or exceeds all performance and locational standards set forth for the potential uses allowed by the request; and,
 - b. is consistent with the densities, intensities and general uses set forth in the Lee Plan; and,
 - c. is compatible with existing or planned uses in the surrounding area; and,
 - d. will not place an undue burden upon existing transportation or planned infrastructure facilities and will be served by streets with the capacity to carry traffic generated by the development; and,
 - e. will not adversely affect environmentally critical areas or natural resources.
3. The rezoning satisfies the following criteria:
 - a. the proposed use or mix of uses is appropriate at the subject location; and
 - b. the recommended conditions to the concept plan and other applicable regulations provide sufficient safeguard to the public interest; and
 - c. the recommended conditions are reasonably related to the impacts on the public interest created by or expected from the proposed development.
4. Urban services, as defined in the Lee Plan, are, or will be, available and adequate to serve the proposed land use.

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

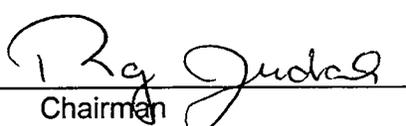
| | |
|----------------------|--------|
| Robert P. Janes | Aye |
| Douglas R. St. Cerny | Aye |
| Ray Judah | Aye |
| Andrew W. Coy | Absent |
| John E. Albion | Aye |

DULY PASSED AND ADOPTED this 21st day of October 2002.

ATTEST:
CHARLIE GREEN, CLERK

BY: 
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: 
Chairman

Approved as to form by:


Dawn E. Perry-Lehnert
County Attorney's Office



RECEIVED
MINUTES OFFICE

2002 DEC 19 AM 11:40

EXHIBIT "A"
LEGAL DESCRIPTION
Property located in Lee County, Florida
PAGE 1 OF 3



950 Encore Way - Naples, Florida 34110

RECEIVED
JAN 31 2001

PROJECT #1997079
1/17/01
REF. DWG. #A-994-2
PAGE 1 OF 23

PERMIT COUNTER

LEGAL DESCRIPTION

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

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

AND

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

COMMENCE AT THE SOUTHEAST CORNER OF SECTION 9, TOWNSHIP 47 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA; THENCE RUN S.88°56'17"W., ALONG THE SOUTH LINE OF THE

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 1/17/01
 REF. DWG. #A-994-2
 PAGE 2 OF 23

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

DRI 2000-00015

NOT TO SCALE

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REF. DWG. #A-994-2
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CURVE; THENCE RUN N.70°20'35"E., ALONG SAID NORTHERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 200.00 FEET TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE, CONCAVE SOUTHERLY; THENCE RUN EASTERLY, ALONG SAID NORTHERLY RIGHT-OF-WAY LINE AND ALONG THE ARC OF SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 3,175.00 FEET, THROUGH A CENTRAL ANGLE OF 09°15'04", 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 386.536 ACRES, MORE OR LESS.

NOTES:

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

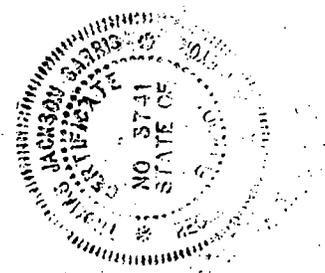
TOTAL PROPERTY AREA: 482.421 ACRES, MORE OR LESS.

INFORMATION RELATING TO BOUNDARY DATA OF SECTIONS 3, 4, 9 AND 10, TOWNSHIP 47 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA, TOGETHER WITH THE LOCATION OF THE US HIGHWAY #41 RIGHT-OF-WAY, WAS OBTAINED FROM A SURVEY OF THE SWEETWATER RANCH PREPARED BY DENI ASSOCIATES HAVING ORDER NUMBER 8409031, DATED 9/14/84. INFORMATION RELATING TO THE LOCATION OF COCONUT ROAD AND ADJOINING EXCEPTED PARCELS WAS OBTAINED FROM PROPERTY DESCRIPTIONS PROVIDED BY CLIENT.

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

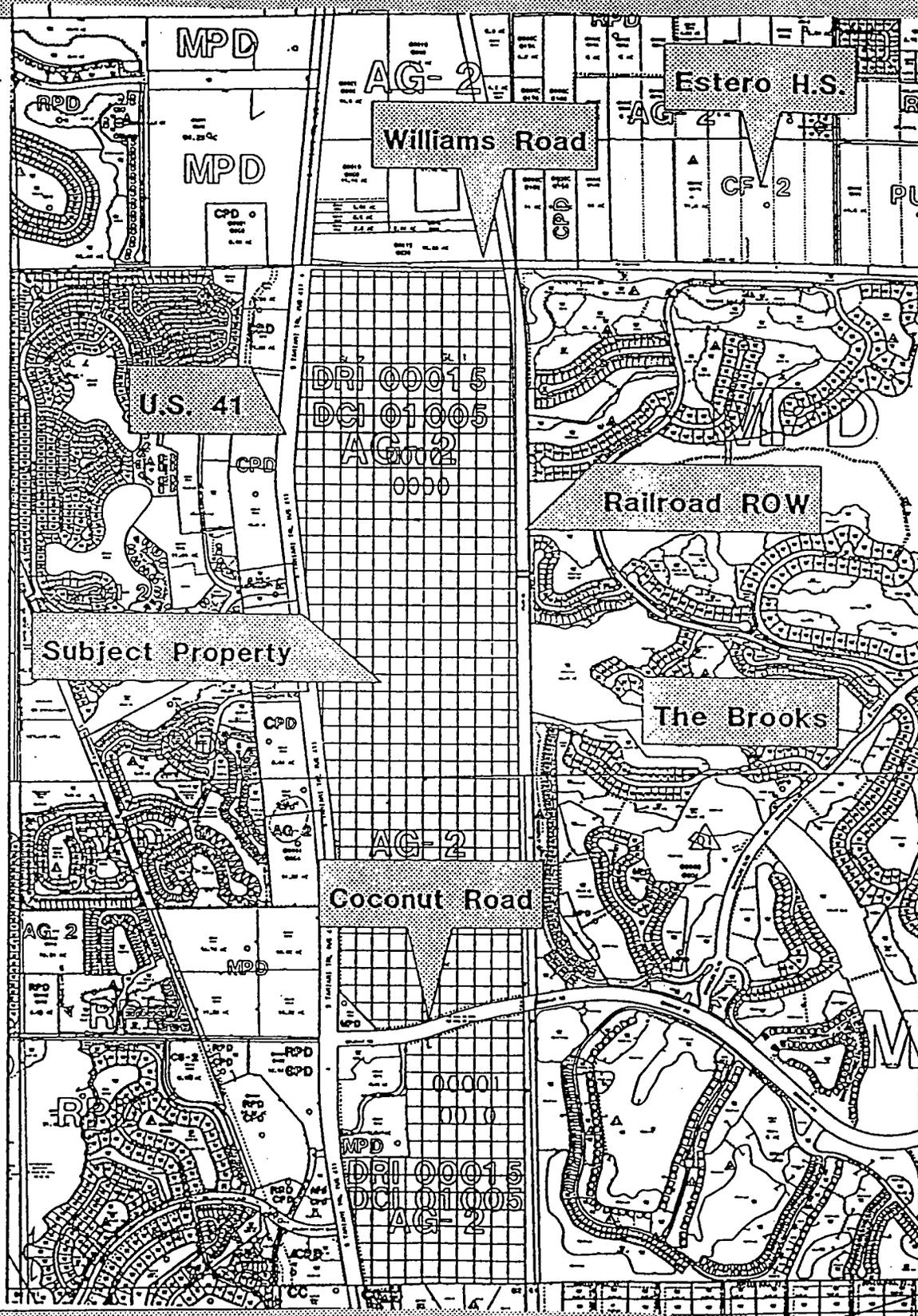
BY Thomas J. Garris P.L.S. #3741
THOMAS J. GARRIS STATE OF FLORIDA



Applicant's Legal Checked
by Jm 1/13/02

DCI 2001-00005
DRI 2000-00015

ZONING MAP



DEVELOPMENT ORDER
FOR
COCONUT POINT DRI
STATE DRI # 09-2001-153
CASE #DRI2000-00015

Let it Be Known That, pursuant to Florida Statutes §380.06, the Board of County Commissioners of Lee County, Florida, has 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 has 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, finds and determines that:

I. FINDINGS OF FACT AND CONCLUSIONS OF LAW

A. The Coconut Point DRI is a master planned commercial development consisting of 482.4+/- acres located in unincorporated south central Lee County at the intersection of US 41 and Coconut Road. The Coconut Point DRI is a mixed use development that will consist of: 1,450,000 gross leasable square feet of retail/regional mall (Regional Retail Center), 350,000 gross leasable square feet of retail on other parcels adjacent to the regional mall (Community Commercial Retail), 300,000 square feet of office, of which no more than 100,000 square feet may be medical office, 600 hotel rooms, 1,000 multi-family units and a 200 unit assisted living facility. The project will include 32.7 acres of conservation areas, 47.1 acres of lakes, 50.2 acres of road rights-of-way and 11.6 acres of green area/open space.

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

The project phasing schedule consists of one phase with buildout in 2006.

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

C. The property was zoned AG-2, and coincident with the approval of this Development Order the property will be rezoned to Mixed Planned Development (MPD).

The property is currently in active agricultural use.

D. The Application for Development Approval (ADA), submitted on September 12, 2000, is consistent with the requirements of §380.06, Florida Statutes. The application went through two sufficiency reviews.

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

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

G. The development has been reviewed by the Southwest Florida Regional Planning Council (SWFRPC) and is the subject of the report and recommendations adopted by that body on January 17, 2001. The SWFRPC report and recommendations were subsequently forwarded to Lee County. The development, as proposed in the ADA and modified by this Development Order, is generally consistent with the report and recommendations of the SWFRPC pursuant to §380.06(11), Florida Statutes.

H. The development is located in the Rural and Wetlands future land use categories. The development proposed is currently not consistent with the Lee Plan and can not be conditioned to attain consistency. However, a Lee Plan amendment is currently being considered by DCA that will, if ultimately adopted, allow the project as conditioned to be consistent with the Lee County Comprehensive Plan and the Lee County Land Development Code (LDC).

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

II. ACTION ON THE REQUEST AND CONDITIONS OF APPROVAL

NOW THEREFORE, be it resolved by the Board of County Commissioners of Lee County, Florida, in a public meeting duly advertised, constituted and assembled that the Development of Regional Impact Application for Development Approval submitted on behalf of Simon Property Group, L.P. and the Oakbrook Properties, Inc., for the project known as the Coconut Point DRI, is hereby Approved subject to the conditions, restrictions and limitations that follow. For the purpose of this Development Order, the term "Developer" refers to Simon Property Group, L.P. and Oakbrook Properties, Inc., and includes all successors or assigns, and all references to County Ordinances or other regulations, including future amendments.

A. AFFORDABLE HOUSING

1. 150 Affordable Housing Units (\$600,000).

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

B. ENERGY

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

These features are:

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

transit system to service the project area.

4. Energy efficient features in window design (e.g. tinting and exterior shading), operable windows, ceiling fans, appliances and equipment.
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 measure 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 District will evaluate this issue in greater detail.

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

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

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

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

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

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

8. Any shoreline banks created along the onsite stormwater management system must include littoral zones constructed on slopes consistent with District and Lee County requirements and be planted in native emergent or submergent aquatic vegetation. The applicant 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 applicant must conduct annual inspections of the Master Stormwater Management System and any preserved/enhanced wetland areas on the project site to ensure that these areas are maintained in keeping with the final approved designs, and that the water management system is capable of accomplishing the level of stormwater storage and treatment for which it was intended. The Developer or operating entity must undertake any cleaning and repair determined to be necessary based upon the annual

inspection.

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

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

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

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

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

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

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

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

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

D. TRANSPORTATION

1. Significant Impacts

a. Assessment Parameters

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

| | <u>Buildout (2006)</u> |
|--|-------------------------|
| Multifamily Apartments (ITE LUC 220) (200 d.u. Town Center, 250 d.u. South Village) | 450 d.u. |
| Multifamily Condominiums (ITE LUC 230) (550 d.u. North Village) | 550 d.u. |
| Assisted Living Facility (ITE LUC 252) (200 d.u. South Village) | 200 d.u. |
| Hotel (ITE LUC 310) (450 rooms Town Center, 150 rooms South Village) | 600 rooms |
| Community Retail (ITE LUC 820) (280,000 square feet North Village, 70,000 square feet South Village) | 350,000 sq. ft. (gla) |
| Regional Retail Center (ITE LUC 820) (1,450,000 square feet Town Center) | 1,450,000 sq. ft. (gla) |
| General Office (ITE LUC 710) (70,000 square feet North Village, 90,000 square feet Town Center, 40,000 square feet South Village) | 200,000 sq. ft. |
| Medical Office (ITE LUC 720) (100,000 square feet South Village) | 100,000 sq. ft. |

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, 6th Edition. While approved zoning categories may allow a wider range of uses, from a DRI standpoint the Project impacts are based on the above parameters and assumed uses. If the Developer exercises Mitigation

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

The overall traffic at the Project driveway entrances based on the above parameters is estimated to be 5,909 trips. They include 4,120 PM net new external peak hour trips, 757 pass-by trips, and 1,032 interzonal trip ends at buildout in 2006. ("Interzonal trip ends" are from one part of the project to another that travel along or across public roadways.)

b. *Buildout Impacts*

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

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 - Bonita Beach Road to Coconut Road | Widen to 6 lanes Widen to 6 lanes |
| Old US 41 - Rosemary Drive to US 41 | Widen to 4 lanes |

Intersection Improvements Needed

| | |
|---|---------------------------------------|
| Bonita Beach Road @ Old 41 ⁽¹⁾ | Add 2 nd SB left turn lane |
| Coconut Road @ Driveway 9/Regional Retail Center ⁽²⁾ | Add WB right turn lane |

Coconut Road @ Sandy Lane⁽²⁾

Add SB right turn lane
Add SB left turn lane
Add dual EB left turn lane
Signalization⁽³⁾

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⁽³⁾

Corkscrew Road @ Ben Hill Griffin Parkway⁽¹⁾

Add 2nd EB left turn lane
Add 2nd NB left turn lane
Add 2nd SB left turn lane

Corkscrew Road @ River Ranch Road⁽¹⁾
Corkscrew Road @ Three Oaks Parkway

Signal retiming

Add 2nd WB left turn lane
Add 2nd NB left turn lane
Add 2nd SB left turn lane

I-75 @ Corkscrew Road⁽¹⁾

Add 2nd EB left turn lane⁽⁴⁾
Add 2nd WB left turn lane⁽⁴⁾

Add 2nd NB left turn lane
Add 2nd SB left turn lane
Signalization⁽³⁾

Old 41 @ Dean Street⁽¹⁾

Old 41 @ Pennsylvania Avenue⁽¹⁾

Old 41 @ West Terry Street⁽¹⁾

Signal retiming

Add 2nd NB thru lane
Add 2nd SB thru lane

Three Oaks Parkway @ Koreshan Boulevard⁽¹⁾

Signalization⁽³⁾

Three Oaks Parkway @ Williams Road⁽¹⁾

Signalization⁽³⁾

Three Oaks Parkway @ Coconut Road⁽¹⁾

Signalization⁽³⁾

US 41 @ Immokalee Road⁽¹⁾

Signal retiming

US 41 @ Old 41⁽¹⁾ (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 2nd WB right turn lane

Add 2nd NB left turn lane

Add 2nd SB left turn lane

Add 2nd EB left turn lane

US 41 @ Pelican Colony Boulevard

Add dual WB left turn lane⁽²⁾

Add WB right turn lane⁽²⁾

Add NB right turn lane⁽²⁾

Add 2nd NB left turn lane

US 41 @ Coconut Road

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

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

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

US 41 @ Driveway 3/Fountain Lakes Boulevard⁽¹⁾

US 41 @ Driveway 2/Estero Greens⁽¹⁾

US 41 @ Driveway 1/Community Commercial⁽¹⁾

US 41 @ Williams Road⁽¹⁾

US 41 @ Corkscrew Road⁽¹⁾

US 41 @ Broadway⁽¹⁾

US 41 @ Koreshan Boulevard

Add dual SB left turn lane⁽²⁾

Add 2nd EB left turn lane

Add EB right turn lane

Add 2nd WB left turn lane

Add 2nd NB right turn lane

Add 2nd NB left turn lane

Add 2nd SB left turn lane

Add 2nd EB left turn lane

Add EB right turn lane

Add NB right turn lane⁽²⁾

Add SB left turn lane⁽²⁾⁽³⁾

Add WB right turn lane⁽²⁾

Signalization⁽²⁾⁽³⁾

Add NB right turn lane⁽²⁾

Add dual SB left turn lane⁽²⁾

Add dual WB left turn lane⁽²⁾

Add WB right turn lane⁽²⁾

Signalization⁽²⁾⁽³⁾

Add NB right turn lane⁽²⁾

Add SB Left turn lane⁽²⁾

Add WB right turn lane⁽²⁾

Signalization⁽²⁾⁽³⁾

Add NB right turn lane⁽²⁾

Add SB left turn lane⁽²⁾

Add dual WB left turn lane⁽²⁾

Add WB thru lane⁽²⁾

Add WB right turn lane⁽²⁾

Signalization⁽²⁾⁽³⁾

Add NB right turn lane⁽²⁾

Add dual SB left turn lane⁽²⁾

Add dual WB left turn lane⁽²⁾

Add WB thru lane⁽²⁾

Add WB right turn lane⁽²⁾

Add EB right turn lane⁽²⁾

Signalization⁽²⁾⁽³⁾

Add NB right turn lane⁽²⁾

Add SB left turn lane⁽²⁾

Add WB right turn lane⁽²⁾

Add 2nd SB left turn lane

Add 2nd WB left turn lane

Add 2nd WB left turn lane

Signal retiming

Signalization⁽³⁾

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

- (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. Buildout Proportionate Share

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

As noted in Condition D.3 below, the Developer must pay \$170,000 as

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

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

b. *Mitigation Options*

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

(1) Traffic Mitigation Option 1

(a) Payment

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

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

(b) Concurrency

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

(2) Traffic Mitigation Option 2

(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, 2006, or for three (3) years, whichever is later; provided, however, that the concurrency certificates will be extended upon approval of an extension pursuant to Section D. 2. d(2) for the period of the extension not to exceed one year.

(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.

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.

(2) Pipelined Improvements.

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

- (a) Sandy Lane 2-lane Extension, from the south property line to the north property line (Williams Road) and from Williams Road to Corkscrew Road. Consistent with the County's long-range plan for Sandy Lane as a 2-lane collector and the County's standards for collector roads, no more than 100 feet of right-of-way and 2 lanes of construction will be eligible for credits against the proportionate share obligation. The reasonable cost of providing the railroad crossing between Williams Road and Corkscrew Road will be eligible for credits against the project's proportionate share obligation. If the Developer chooses to build more than 2 lanes, it will be

at the Developer's sole expense.

- (b) Interim improvements not requiring right-of-way at the Corkscrew Road/I-75 interchange (subject to FDOT approval).

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

d. *Buildout Extension*

(1) Requirement for Reanalysis

Extension of the buildout date beyond 2006 may alter the project's impact to the area road network. Therefore, if the Developer: (a) files a Notice of Proposed Change resulting in an extension of project buildout beyond December 31, 2006; or (b) desires to extend the concurrency certificates issued pursuant to Condition D.2.b(2), then the Developer must provide a detailed traffic assessment to Lee County DOT for review and approval.

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

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

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

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

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

(2) Alternative for Reanalysis

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

the time the extension application is approved. Full payment of the required mitigation pursuant to Mitigation Option 2 constitutes an election under this section. In this case a cumulative traffic reanalysis is not required for the portion of the balance that is mitigated as part of the original DRI Development order. This section is not intended to supersede the standard submittal requirements for a typical Notice of Proposed Change under state law.

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 applicant, and are treated much as a proportionate share obligation. In this case, the applicant 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 applicant 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 applicant'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

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CURVE; THENCE RUN N.70°20'35"E., ALONG SAID NORTHERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 200.00 FEET TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE, CONCAVE SOUTHERLY; THENCE RUN EASTERLY, ALONG SAID NORTHERLY RIGHT-OF-WAY LINE AND ALONG THE ARC OF SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 3,175.00 FEET, THROUGH A CENTRAL ANGLE OF 09°15'04", 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 386.536 ACRES, MORE OR LESS.

NOTES:

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

TOTAL PROPERTY AREA: 482.421 ACRES, MORE OR LESS.

INFORMATION RELATING TO BOUNDARY DATA OF SECTIONS 3, 4, 9 AND 10, TOWNSHIP 47 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA, TOGETHER WITH THE LOCATION OF THE US HIGHWAY #41 RIGHT-OF-WAY, WAS OBTAINED FROM A SURVEY OF THE SWEETWATER RANCH PREPARED BY DENI ASSOCIATES HAVING ORDER NUMBER 8409031, DATED 9/14/84. INFORMATION RELATING TO THE LOCATION OF COCONUT ROAD AND ADJOINING EXCEPTED PARCELS WAS OBTAINED FROM PROPERTY DESCRIPTIONS PROVIDED BY CLIENT.

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 Thomas J. Garris P.L.S. #3741
THOMAS J. GARRIS STATE OF FLORIDA



Applicant's Legal Checked
by Jm 1/13/02

Engineer and consistent with the Lee County Land Development Code for the Project's access points onto U.S. 41, Coconut Road, and Williams Road. The improvements include the installation of a signal coordination system on U.S. 41 from Pelican Colony Boulevard to Williams Road. During the local development order review process, site-related improvements must be evaluated based on weekday, PM peak hour conditions. Saturday mid-day conditions must be considered in the design of turn lanes due to the retail component of the DRI. Site-related improvements are not eligible for credit against impact fees and may not be used to offset the proportionate share obligation. Project accesses onto US 41 are subject to obtaining a connection permit from FDOT.

5. Committed Improvements

Roadway Improvements

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

| | | |
|---|-----|-------------|
| US 41 | | |
| - Old 41 (Collier County) to N. of Bonita Beach Road | 03 | 6 Lanes |
| - San Carlos Boulevard to Alico Road | U/C | 6 Lanes |
| Williams Road | | |
| - River Ranch Road to Three Oaks Parkway | 02 | 2 Lane Ext. |

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

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

| | | |
|-----------------------------|-----|--|
| Three Oaks Ext. 4 Lane | | Terry St. to Coconut Rd. |
| | AND | |
| Old 41 - 4 lane | | Rosemary dr. to US 41 |
| | AND | |
| Metro Pkwy. Ext.- 6 Lane | | Alico Rd. to ben C Pratt/ Six Mile Cypress Pkwy |
| | AND | |
| Three Oaks Ext- 4 Lane | | Alico Rd. to Daniels Pkwy |
| | or | |
| Treeline Ext.-4L | | Alico Rd. to Daniels Pkwy. |

6. **Annual Transportation Monitoring Program**

a. *Design of Monitoring Program*

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

b. *Submittal of Monitoring Report*

The Developer must submit an annual transportation monitoring report to the following entities for review and approval: Lee County Department of Transportation, FDOT, FDCA, and SWFRPC. The first monitoring report will be submitted one year after the effective date of the DRI Development Order. 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 an annual transportation monitoring report has been submitted, a report must be submitted annually thereafter until Project buildout, whether actual or declared.

c. *Minimum Requirements for Report Contents*

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

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

d. *Implications*

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

7. Pedestrian/Bicycle and Transit Facilities

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

E. VEGETATION AND WILDLIFE/WETLANDS

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

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

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

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

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

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

7. Wetlands and surface waters remaining on the project site must be protected

during construction through the implementation of temporary erosion and sedimentation control procedures.

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

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

F. HURRICANE PREPAREDNESS

1. The applicant 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 applicant 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 applicant is also proposing to develop 600 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 applicant must commit to providing roadway capacity improvements above and beyond those improvements required by Rule 9J-2.0255, FAC; or
- c. The applicant 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 District rules.
5. The Developer must demonstrate at the time of local development order approval that sufficient potable water and wastewater treatment capacity is available. If

BSU cannot provide the necessary service, then the Developer must obtain service from an alternate provider with capacity or construct on-site interim facilities that satisfy BSU Standards. Interim facilities must be dismantled at the Developer's expense when service by BSU is available.

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

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

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

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

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

H. COMPREHENSIVE PLAN

Lee County may not issue a local development order unless the proposed development order is consistent with the County's Comprehensive Plan, Land Development Code.¹

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

¹ 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.

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.

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

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

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

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.

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

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

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

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/n/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, 200; and
3. The governing zoning resolution for the Coconut Point (f/n/a Simon Suncoast) MPD .

C. Master Plan of Development. Map H, stamped received at the Zoning Counter on February 7, 2001 and attached hereto as Exhibit "B", and is incorporated by reference. It is understood that because it is a concept plan it is very general. The Developer may modify the boundaries of development areas and the 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 South Florida Water Management District, as delegated by the Department of Environmental Protection and the Army Corp of Engineers.

D. Binding Effect. The Development Order is binding upon the Developer, its successors and assigns. Where the Development Order refers to lot owners, business

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

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

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

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

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

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

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

1. There is a substantial deviation from the terms or conditions of this

Development Order or other changes to the approved development plans that create a reasonable likelihood of an additional regional impact or any other regional impact created by the change that has not been evaluated and reviewed by the Regional Planning Council; or

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

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

K. **Buildout and Termination Dates.** The project has a buildout date of December 31, 2006, and a termination date of December 31, 2012. The termination date is based on a 4 year buildout and the recognition that a local Development Order, which is valid for six years, may be obtained prior to December 31, 2012. No permits for development will be issued by the County subsequent to the termination date or expiration date unless the conditions set forth in §380.06(15)(g) are applicable.

L. **Commencement of Physical Development.** Commencement of substantial physical development of the project must occur no later than December 31, 2004. Further development must occur in accordance with the development parameters and phasing schedule set forth in Exhibit C.

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

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

O. **Protection of Development Rights.** The project will not be subject to down-zoning, unit density reduction, or intensity reduction prior to December 31, 2013. If the

County demonstrates at a public hearing that substantial changes have occurred in the conditions underlying the approval of this Development Order, or finds that the Development Order was based on substantially inaccurate information provided by the Developer, or that the change is clearly established by Lee County to be essential to public health, safety and welfare, then down-zoning, unit density reduction, or intensity reduction may occur. [See 9J-2.025(3)(b)13]

P. Annual Reports. The Developer must submit a report annually to the Lee County Department of Community Development, the SWFRPC and Florida DCA on Form RPM-BSP-Annual Report-1. The content of the annual report must include the information set forth in Exhibit D, and must also be consistent with the rules of the FDCA. The first monitoring report must be submitted to the DRI coordinator for SWFRPC, DCA, and Lee County no later than one year after the effective date of this Development Order. Further reporting must be submitted not later than one year for subsequent calendar years thereafter, until buildout, whether actual or declared. Failure to comply with this annual 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 annual monitoring reports until actual or declared buildout of the project. The Simon Property Group is the party responsible for filing the annual 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 annual reporting requirement. Tenants or owners of individual lots or units have no obligation to comply with this reporting condition.

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

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

R. Transmittal and Effective Date. The County will forward certified copies of this Development Order to the SWFRPC, the Developer, and appropriate state agencies. This Development Order is rendered as of the date of that transmittal, but will not be

effective until the expiration of the statutory appeal period (45 days from rendition) or until FDCA has completed their review and has determined not to take an appeal, should that occur prior to the expiration of the 45-day period, or until the completion of any appellate proceedings, whichever time is greater. In accordance with the requirements of §380.06(15)f, Florida Statutes, once this development order is effective, the Developer must record notice of its adoption in the office of the Clerk of the Circuit Court of Lee County.

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

THE MOTION TO ADOPT this Development Order was offered by Commissioner Ray Judah, and seconded by Commissioner Douglas St. Cerny and upon a poll of the members present, the vote was as follows:

| | |
|-------------------|--------|
| Robert Janes | Aye |
| Douglas St. Cerny | Aye |
| Ray Judah | Aye |
| Andrew W. Coy | Absent |
| John E. Albion | Aye |

DULY PASSED AND ADOPTED this 21st day of October 2002

ATTEST:
CHARLIE GREEN, CLERK

By: _____

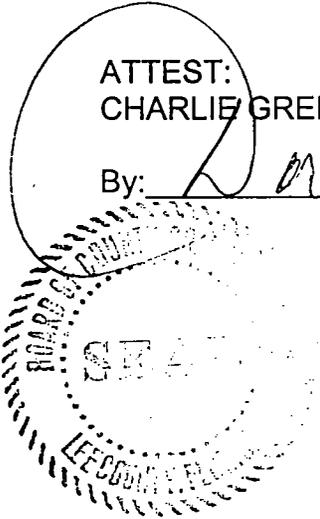
BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

By: _____

Approved as to form

By: _____

Dawn E. Perry-Lehnert
Assistant County Attorney
Office of the County Attorney



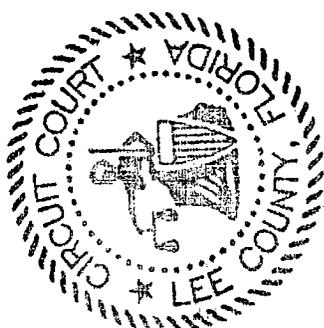
State of Florida
County of Lee

I, Charlie Green, Clerk of the Circuit Court for Lee County, Florida, do hereby certify this document to be a true and correct copy of the original document filed in the Minutes Department.

Given under my hand and official seal at Fort Myers, Florida, this 20th day of December, A.D. 2002

CHARLIE GREEN, CLERK

By: _____
Deputy Clerk



Exhibits:

- A. Legal Description
- B. Master Plan of Development (Map H) Stamped Received February 7, 2001
- C. Development Parameters and Phasing Schedule
- D. Annual Monitoring Report Requirements
- E. Calculation of Road Impact Fee Obligation
- F. Pedestrian, Bicycle and Bus Stop Plan

EXHIBIT "A"
LEGAL DESCRIPTION
Property located in Lee County, Florida
PAGE 1 OF 3



950 Encore Way - Naples, Florida 34110

RECEIVED
JAN 31 2001

PROJECT #1997079
1/17/01
REF. DWG. #A-994-2
PAGE 1 OF 23

PERMIT COUNTER

LEGAL DESCRIPTION

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

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

AND

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

COMMENCE AT THE SOUTHEAST CORNER OF SECTION 9, TOWNSHIP 47 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA; THENCE RUN S.88°56'17"W., ALONG THE SOUTH LINE OF THE

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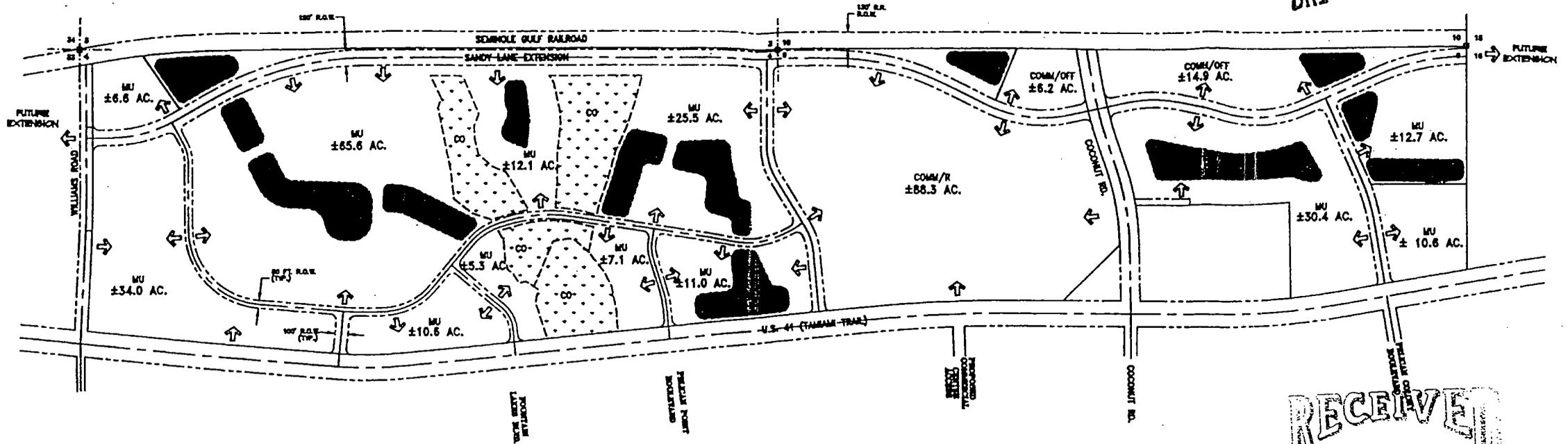
HM PROJECT #1997079
 1/17/01
 REF. DWG. #A-994-2
 PAGE 2 OF 23

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

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RECEIVED
FEB 07 2001

LAND USE BREAKDOWN

| | |
|-------------------------|---------------------|
| CONSERVATION AREAS | ±32.7 ACRES |
| LAKES | ±47.1 ACRES |
| INTERNAL R.O.W. | ±80.2 ACRES |
| GREEN AREA / OPEN SPACE | ±11.8 ACRES |
| DEVELOPMENT AREAS | ±340.8 ACRES |
| TOTAL | ±482.4 ACRES |

PROJECT INTENSITY

| | |
|---|-----------|
| RESIDENTIAL UNITS | 1,200 |
| COMMERCIAL/RETAIL (GROSS LEASABLE AREA) | 1,800,000 |
| GENERAL OFFICE (S.F.) | 200,000 |
| MEDICAL OFFICE (S.F.) | 100,000 |
| HOTEL (ROOMS) | 800 |

- 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, ALF, AND PUBLIC FACILITY LAND USES.

ZONING COUNTER

LEGEND

- | | |
|---------------------|-------------------------|
| COMM | RETAIL/COMMERCIAL |
| MU | MIXED USE |
| OFF | OFFICE/MEDICAL |
| R | RESIDENTIAL |
| --- | PROPERTY BOUNDARY |
| - - - - | ROAD R.O.W. LINE |
| [Dotted Box] | CONSERVATION AREAS |
| [Solid Black Shape] | PROPOSED LAKE |
| [Arrow] | CONCEPTUAL ACCESS POINT |

EXHIBIT B

September 2000
Not to Scale



Simon Suncoast

Map H - Master Development Plan

DRI
EXHIBIT C

Development Parameters and Phasing Schedule

| | | <u>Buildout</u> |
|----------------------------|--------------------|-----------------|
| Regional Retail Commercial | 1,450,000* sq. ft. | 2006 |
| Community Retail | 350,000* sq. ft. | 2006 |
| Office | 300,000** sq. ft. | 2006 |
| Hotel | 600 Rooms | 2006 |
| Residential, Multi-family | 1000 du | 2006 |
| Assisted Living Facility | 200 units | 2006 |

* Gross Leasable Area

**Up to 100,000 sq. ft., may be medical office

DRI
EXHIBIT D

ANNUAL MONITORING REPORT REQUIREMENTS

The Annual 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 which are contained in the application for development approval and which 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 which have been obtained or which 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 annual 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 annual report. The Administrative Code requires that the annual 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

| 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 |



November 4, 2016

Mary Gibbs, AICP, Director
Village of Estero Community Development
9401 Corkscrew Palms Circle
Estero, FL 33928

**Re: Coconut Point Tract 1-A
(DCI-2016E-02 Minor PD Amendment)
HM File No.: 2016.011**

Dear Ms. Gibbs:

Attached please find several letters of support for the proposed development of 200 multifamily units on Tract 1A of the Coconut Point Mixed-use Planned Development. We are also submitting for your consideration several articles, some local and some national, which further document the ongoing need for rental housing. Finally, we have revised the justification for the requested parking deviation, which we hope clarifies the reasons the proposed parking standard of 1.75 spaces per unit is appropriate for this particular project. Attached are the following:

- One (1) copy of Wall Street Journal article, “Home Buyer Shortage Threatens Recovery;”
- One (1) copy of White House Report, “Housing Development Toolkit;”
- One (1) copy of Charlotte County Action, “Incentive Density Adopted for Rental Development;”
- One (1) copy of Collier County Action on an Agreement with the Urban Land Institute to result in high level housing policy recommendations;
- One (1) copy of Parking Justification for Deviation;
- One (1) copy of Letter of Support from the following:
 - Collier County Public Schools
 - Premier Commercial
 - Bonita Springs Estero EDC
 - School District of Lee County
 - AJS Realty Group
 - Harbour Insurance
 - Lee Memorial Health System
 - Lee Building Industry Association

- One (CD) with documents and plans.

Mary Gibbs, AICP, Director
Village of Estero Community Development
Re: Coconut Point Tract 1-A
(DCI-2016E-02 Minor PD Amendment)
HM File No.: 2016.011
November 4, 2016
Page 2

If you have any questions, please don't hesitate to contact us.

Very truly yours,

HOLE MONTES, INC.



Paula N. C. McMichael, AICP
Director of Planning
PNCM/sek

Enclosures as noted

cc: Lorie Maiorana w/out enclosures
Neale Montgomery, Esq. w/out enclosures
Ned Dewhirst w/out enclosures

Home Buyer Shortage Threatens Recovery

BY LAURA KUSISTO

The housing recovery that began in 2012 has lifted the overall market but left behind a broad swath of the middle class, threatening to create a generation of permanent renters and sowing economic anxiety and frustration for millions of Americans.

Home prices rose in 83% of the nation's 178 major real-estate markets in the second quarter, according to figures released Wednesday by the National Association of Realtors. Overall prices are now just 2% below the peak reached in July 2006, according to S&P CoreLogic Case-Shiller Indices.

But most of the price gains, economists said, stem from a lack of fresh supply rather than a surge of buyers. The pace of new home construction remains at levels typically associated with recessions, while the homeownership rate in the second quarter was at its lowest point since the Census Bureau began tracking quarterly data in 1965 and the share of first-time home purchases remains mired near three-decade lows.

The lopsided recovery has shut out millions of aspiring homeowners who have been

Please see HOMES page A2

Priciest Market in U.S.? San Jose

California city is nation's first to see median home price exceed \$1 million

By LAURA KUSISTO

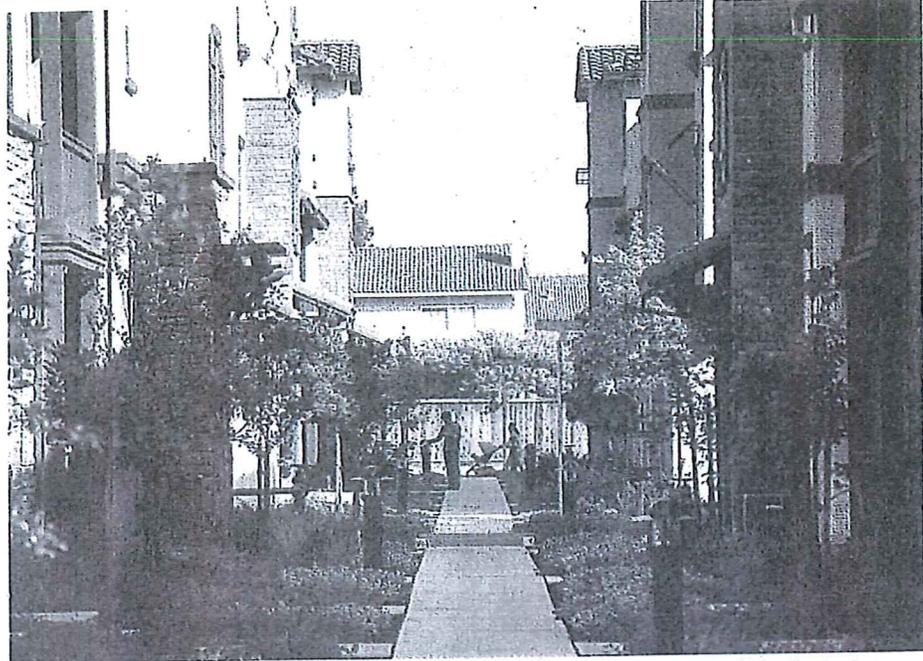
The second-quarter surge in home prices made San Jose, Calif., the first city where the price of a typical home eclipses \$1 million, underscoring growing affordability concerns.

San Jose was the most expensive metropolitan area in the country, with a median home price of \$1.085 million, followed by San Francisco at \$885,600 and Anaheim-Santa Ana, Calif., at \$742,200.

Data released Wednesday by the National Association of Realtors showed year-to-year increases in home prices in 83% of metropolitan areas across the country in the second quarter, only a slight decline from the first quarter, when increases were reported in 87% of metro areas.

Still, there were some signs the market is starting to cool, bringing welcome relief for home buyers. Twenty-five out of the 178 metropolitan areas included in the report experienced double-digit price gains, down significantly from the same period last year, when 34 metro areas saw double-digit gains.

Twenty-nine metro areas also experienced price declines



DAVID PAUL MORRIS/BLOOMBERG NEWS

Three California metro regions topped the list: San Jose, San Francisco and Anaheim-Santa Ana.

this quarter, according to NAR.

Nonetheless, home prices hit records during the quarter, driven by rapidly rising prices in California and northwestern cities, such as Portland and Seattle.

The national median home price was \$240,700, according to NAR, up nearly 5% from the previous peak in the second quarter of 2015.

Falling mortgage rates and modest income gains failed to improve housing affordability

for average families.

To purchase a single-family home at the national median price, a buyer making a 5% down payment would need an income of \$52,255. During the same quarter last year, such a buyer would have needed to make just over \$49,000.

"Many listings in a majority of markets—and especially those in lower price ranges—had multiple offers and went under contract quickly because of severely inadequate supply,"

said Lawrence Yun, chief economist at NAR.

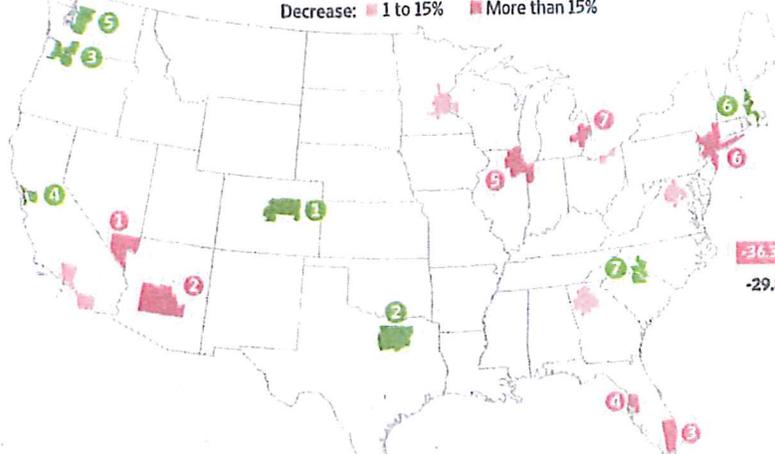
News Corp., owner of The Wall Street Journal, also owns Move Inc., which operates a website and mobile products for the National Association of Realtors.

Housing Recovery a Mixed Bag

While home prices in many areas such as San Francisco are above their peak before the housing crash, others, including large sections of Florida, remain well below their precrash high.

Percentage change in home prices from precrash peak to May 2016, by metro area

Increase: ■ 1 to 15% ■ More than 15%
Decrease: ■ 1 to 15% ■ More than 15%



Metro areas with the strongest recovery

| | | |
|-----------------|---|-------|
| Denver | 1 | 31.0% |
| Dallas | 2 | 29.5 |
| Portland, Ore. | 3 | 8.3 |
| San Francisco | 4 | 4.2 |
| Seattle | 5 | 3.9 |
| Boston | 6 | 3.7 |
| Charlotte, N.C. | 7 | 3.0 |

Metro areas with the weakest recovery

| | | |
|--------|---|-------------|
| -36.3% | 1 | Las Vegas |
| -29.8 | 2 | Phoenix |
| -24.1 | 3 | Miami |
| -23.4 | 4 | Tampa, Fla. |
| -19.8 | 5 | Chicago |
| -16.2 | 6 | New York |
| -16.1 | 7 | Detroit |

Source: S&P Dow Jones Indices, S&P CoreLogic Case-Shiller Home Price Indices

THE WALL STREET JOURNAL

HOMES

Continued from Page One

forced to rent because of damaged credit, swelling student loans, tough credit standards and a dearth of affordable homes, economists said.

In all, some 200,000 to 300,000 fewer U.S. households are purchasing a new home each year than would during normal market conditions, estimates Ken Rosen, chairman of the Fisher Center of Real Estate and Urban Economics at the University of California at Berkeley.

"I don't think we are in a normal housing market," said Lawrence Yun, chief economist at the National Association of Realtors. "The losers are clearly the rising rental population that isn't able to participate in this

housing equity appreciation. They are missing out on [a big] source of middle-class wealth."

Anxiety about missed economic opportunities is a key driver of the anti-incumbent anger on both sides of the political spectrum that has shaken up the 2016 election season, helping fuel the insurgent presidential campaigns of Donald Trump and Bernie Sanders.

"You have these people who can't get housing, and it's turning into this rage," said Kevin Finkel, executive vice president at Philadelphia-based Resource Real Estate, which owns or manages 25,550 apartments around the U.S.

While economists expected the homeownership rate to begin edging up this year, the rate fell to a 51-year low of 62.9% in the second quarter from 63.4% in the same quarter last year.

The rate could fall to 58% or lower by 2050, according to a recent prediction by housing experts Arthur Acolin of the University of Southern California, Laurie Goodman of the Urban Institute and Susan Wachter of the Wharton School at the University of Pennsylvania.

Long-term declines could erase gains made by middle-class Americans since World War II. Owning a home provides protection against rising rents and has been a key component of retirement saving and wealth creation.

"The default savings mechanism for American households has been homeownership," Ms. Wachter said. "Today we have historic lows for young households in terms of ownership so they're not getting on this path."

That can ripple throughout the economy. Homeowners often use home equity to pay for college tuition, vacations or home renovations, which help boost consumer spending. The mere knowledge that home values are rising can make consumers comfortable spending money other places, a process known as the wealth effect.

"We're seeing a divide between the wealth of homeowners and the wealth of renters," said Nela Richardson, chief economist at real-estate brokerage firm Redfin.

After peaking in July 2006, the Case-Shiller index plunged 27% over the next six years. Since then the recovery has been swift, particularly in markets with strong job growth and limited supply, creating problems for entry-level buyers in particular.

Across the country the recovery has been divided between strong West Coast markets and Texas, which have rebounded swiftly beyond their 2006 peaks, while prices from the Rust Belt to southern Florida may not return to those levels for decades.

Prices in the Boulder, Colo., metro area are 45% above their prior peak, while those in Dallas are 26% above their boom-time highs, according to data pro-

vider CoreLogic Inc. Meanwhile, prices in the Saginaw, Mich., area remain nearly 40% below their peak levels and those in Atlantic City are still 38% lower.

The main reason for falling homeownership, economists say: mortgage availability. Lenders chastened by the financial crisis—which was fueled partly by home loans issued to borrowers ill-equipped to repay them—have consequently been fearful of making loans to borrowers with dings on their credit, student debt or credit-card bills, or younger buyers with shorter credit histories.

"Right now our mortgage finance system is still not working well for lower- and middle-income households and first-time buyers," said Mr. Rosen.

A dearth of home construction, especially at the lower end, is taking a toll. Nationally, the

The main reason for declining ownership, economists say: mortgage availability.

inventory of homes for sale has dropped more than 37% since 2011, according to Zillow, a real estate information firm. Some of that reflects the clearing away of distressed inventory, but economists said the pendulum has swung toward a housing shortage.

An estimated 1 million new households were formed last year, but only 620,000 new housing units were built, according to the Urban Institute. An analysis of census data by the Urban Institute showed that all of the net new households formed between 2006 and 2014 were renters rather than owners.

"We went so many years without building there are in many places in the country a shortage of housing," said Richard Green, the Lusk Chair in Real Estate at the University of Southern California. "I think that overshadows everything else in terms of normalcy."



HOUSING DEVELOPMENT TOOLKIT

September 2016



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Executive Summary

Over the past three decades, local barriers to housing development have intensified, particularly in the high-growth metropolitan areas increasingly fueling the national economy. The accumulation of such barriers – including zoning, other land use regulations, and lengthy development approval processes – has reduced the ability of many housing markets to respond to growing demand. The growing severity of undersupplied housing markets is jeopardizing housing affordability for working families, increasing income inequality by reducing less-skilled workers' access to high-wage labor markets, and stifling GDP growth by driving labor migration away from the most productive regions. By modernizing their approaches to housing development regulation, states and localities can restrain unchecked housing cost growth, protect homeowners, and strengthen their economies.

Locally-constructed barriers to new housing development include beneficial environmental protections, but also laws plainly designed to exclude multifamily or affordable housing. Local policies acting as barriers to housing supply include land use restrictions that make developable land much more costly than it is inherently, zoning restrictions, off-street parking requirements, arbitrary or antiquated preservation regulations, residential conversion restrictions, and unnecessarily slow permitting processes. The accumulation of these barriers has reduced the ability of many housing markets to respond to growing demand.

Accumulated barriers to housing development can result in significant costs to households, local economies, and the environment.

- Housing production has not been able to keep up with demand in many localities, impacting construction and other related jobs, limiting the requisite growth in population needed to sustain economic growth, and limiting potential tax revenue gains.
- Barriers to housing development are exacerbating the housing affordability crisis, particularly in regions with high job growth and few rental vacancies.
- Significant barriers to new housing development can cause working families to be pushed out of the job markets with the best opportunities for them, or prevent them from moving to regions with higher-paying jobs and stronger career tracks. Excessive barriers to housing development result in increasing drag on national economic growth and exacerbate income inequality.
- When new housing development is limited region-wide, and particularly precluded in neighborhoods with political capital to implement even stricter local barriers, the new housing that does get built tends to be disproportionately concentrated in low-income communities of color, causing displacement and concerns of gentrification in those neighborhoods. Rising rents region-wide can exacerbate that displacement.
- The long commutes that result from workers seeking out affordable housing far from job centers place a drain on their families, their physical and mental well-being, and negatively impact the environment through increased gas emissions.

- When rental and production costs go up, the cost of each unit of housing with public assistance increases, putting a strain on already-insufficient public resources for affordable housing, and causing existing programs to serve fewer households.

Modernized housing regulation comes with significant benefits.

- Housing regulation that allows supply to respond elastically to demand helps cities protect homeowners and home values while maintaining housing affordability.
- Regions are better able to compete in the modern economy when their housing development is allowed to meet local needs.
- Smart housing regulation optimizes transportation system use, reduces commute times, and increases use of public transit, biking and walking.
- Modern approaches to zoning can also reduce economic and racial segregation, as recent research shows that strict land use regulations drive income segregation of wealthy residents.

Cities and states across the country are interested in revising their often 1970s-era zoning codes and housing permitting processes, and increasingly recognize that updating local land use policies could lead to more new housing construction, better leveraging of limited financial resources, and increased connectivity between housing to transportation, jobs and amenities.

This toolkit highlights actions that states and local jurisdictions have taken to promote healthy, responsive, affordable, high-opportunity housing markets, including:

- Establishing by-right development
- Taxing vacant land or donate it to non-profit developers
- Streamlining or shortening permitting processes and timelines
- Eliminate off-street parking requirements
- Allowing accessory dwelling units
- Establishing density bonuses
- Enacting high-density and multifamily zoning
- Employing inclusionary zoning
- Establishing development tax or value capture incentives
- Using property tax abatements

"We can work together to break down rules that stand in the way of building new housing and that keep families from moving to growing, dynamic cities."

-- President Obama, remarks to the U.S. Conference of Mayors, January 21, 2016

A stable, functioning housing market is vital to our nation's economic strength and resilience. Businesses rely on responsive housing markets to facilitate growth and employee recruitment. Construction workers, contractors, and realtors depend on stable housing markets to fuel their careers. And the availability of quality, affordable housing is foundational for every family – it determines which jobs they can access, which schools their children can attend, and how much time they can spend together at the end of a day's commutes.

Our nation's housing market was in crisis when President Obama took office. In the first quarter of 2009, national home prices had fallen roughly 20 percent since mid-2005, leaving nearly 13 million households underwater. Today, the market nationwide has made tremendous strides, as the recovery helped households regain \$6.3 trillion of the real estate equity lost during the recession and lifted 7.4 million households out of negative equity since 2011, more than cutting in half the number of homeowners underwater.

This national recovery, while central to our broader economic recovery, has occurred during a period of increasing awareness of underlying regional challenges in housing markets. The recovery has been measured in home and property values but new production starts have not kept pace with historic levels we saw before the recession. In a growing number of metropolitan areas, the returning health of the housing market and vibrant job growth haven't led to resurgent construction industries and expanding housing options for working families, due to state and local rules inhibiting new housing development that have proliferated in recent decades. In such regions, these rules have resulted in undersupplied markets, reducing options for working families and causing housing costs to grow much faster than wages and salaries. And as Matthew Desmond recently documented in *Evicted*, families facing extreme rent burden often suffer lasting trauma resulting from their housing insecurity, destabilizing their lives and marring their prospects for upward economic mobility.¹

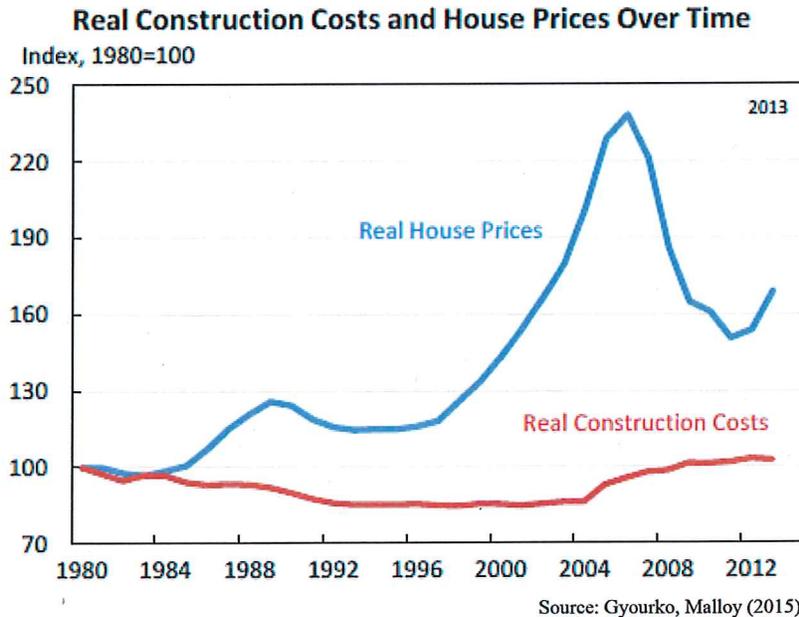
As fewer families have been able to find affordable housing in the regions with the best jobs for them, labor mobility has slowed, exacerbating income inequality and stifling our national economic growth. But this hasn't happened everywhere. In more and more regions across the country, local and neighborhood leaders have said yes, in our backyard, we need to break down the rules that stand in the way of building new housing – because we want new development to replace vacant lots and rundown zombie properties, we want our children to be able to afford their first home, we want hardworking families to be able to take the next job on their ladder of opportunity, and we want our community to be part of the solution in reducing income inequality and growing the economy nationwide.

This toolkit highlights the steps those communities have taken to modernize their housing strategies and expand options and opportunities for hardworking families.

Prevalence of Local Barriers to Housing Development

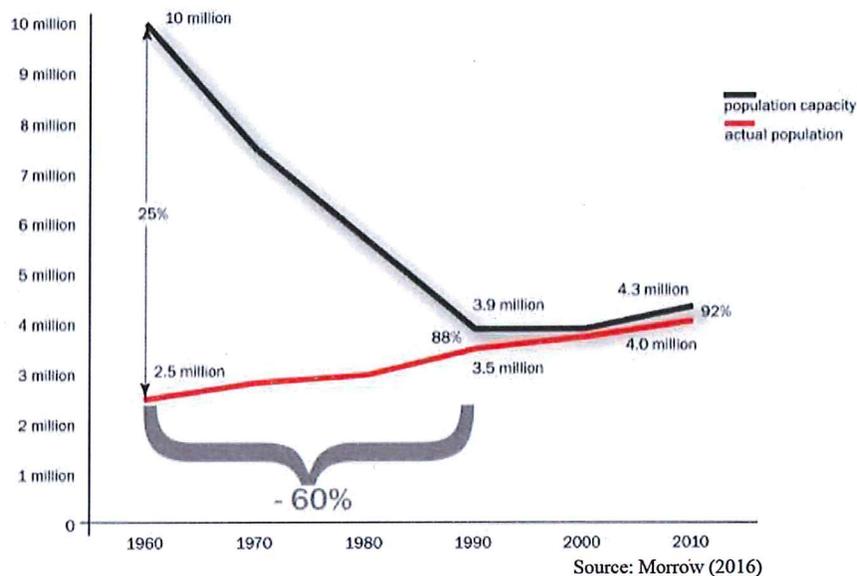
Over the past three decades, local barriers to housing development have intensified, particularly in the high-growth metropolitan areas increasingly fueling the national economy. Locally-constructed barriers to new housing development include beneficial environmental protections or well-intentioned permitting processes or historic preservation rules, but also laws plainly designed to exclude multifamily or affordable housing. Local policies acting as barriers to housing supply include land use restrictions that make developable land much more costly than it is inherently, zoning restrictions, off-street parking requirements, arbitrary or antiquated preservation regulations, residential conversion restrictions, and unnecessarily slow permitting processes.

Though no comprehensive and uniform measure for such barriers exists, given the wide range of local regulations and processes affecting housing development volumes and timelines, several national and local indicators support the observations of housing researchers and practitioners that such barriers have tightened. Researchers examining proxy measures – including the prevalence of zoning and land use cases in state courts, which correlate strongly with static indices of housing barriers and supply constraint surveys – have found that barriers to housing development increased rapidly from 1970 to 1990, and continue to increase through the present day.² Researchers have also documented a sharp increase in the gap between home prices and construction costs, with stringent housing regulations now driving cost increases previously shaped by construction costs and quality improvements.^{3,4} Localized studies have supported these national conclusions – documenting sharp increases in zoning and other land use restrictions in metropolitan Boston,⁵ New York City,⁶ Los Angeles,⁷ and San Francisco.⁸



Barriers to housing development are erected largely at the local level, and vary widely across states and metropolitan areas as a result. But the intensity and impact of such barriers are most evident in the vibrant job-generating regions where fervent demand far outstrips supply. Though popular coverage of these challenges has been most focused on the Bay Area, Seattle, and major East Coast cities, Los Angeles provides a clear illustration of the impact of the primary barrier to development – restrictive zoning. In 1960, Los Angeles was zoned to accommodate 10 million people; after decades of population growth and increased demand, the city is today zoned for only 4.3 million people.⁹ As Los Angeles leaders face a housing affordability and homelessness crisis, Mayor Garcetti and members of the City Council have tackled this problem by endorsing state plans to increase development and pushing for updated city plans and approval processes to facilitate new housing construction, in addition to committing new city funds toward affordable housing.

Los Angeles – Zoned Residential Capacity Over Time



The vast majority of the nation’s largest cities are feeling the crush of sharply increased housing costs outpacing wages, with 9 of the largest 11 cities seeing rising rents and tightening vacancy rates, but this problem is now being felt in smaller cities and non-coastal locations that have historically enjoyed the benefits that come with an adequate supply of housing affordable to low- and moderate-income families. Growing, dynamic cities like Atlanta, Denver, and Nashville used to be able to tout housing affordability as a key asset – but now see rents rising above the reach of many working families.¹⁰ Inland cities have experienced some of the largest increases in rent in recent years, despite lacking the topological space constraints faced by coastal cities.

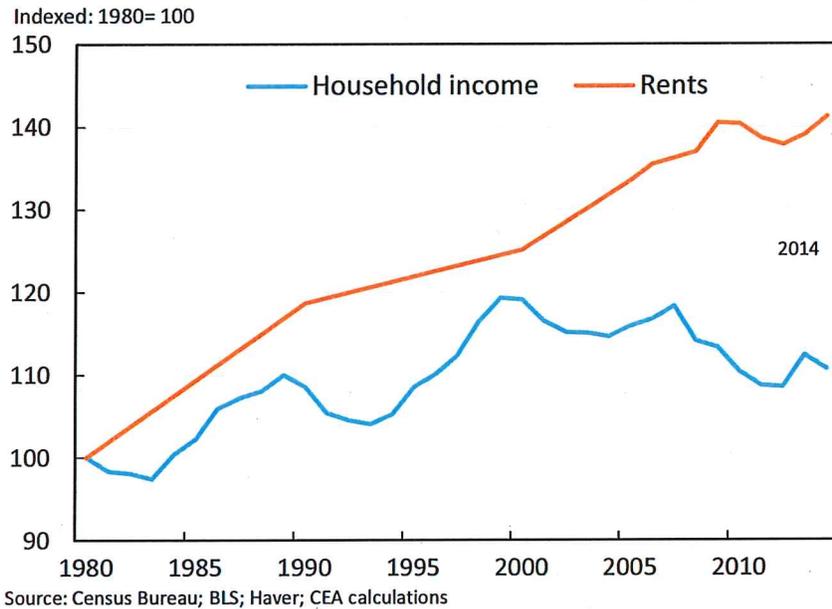
Effects of Local Barriers to Housing Development

The accumulation of state and local barriers to housing development – including zoning, other land use regulations, and unnecessarily lengthy development approval processes – has reduced the ability of many housing markets to respond to growing demand. The increasing severity of

undersupplied housing markets is jeopardizing housing affordability for working families, exacerbating income inequality by reducing workers' access to higher-wage labor markets, and stifling GDP growth by driving labor migration away from the most productive regions.

These effects are increasingly visible in communities nationwide. In just the last 10 years, the number of very low-income renters paying more than half their income for rent has increased by almost 2.5 million households, to 7.7 million nationwide, in part because barriers to housing development are limiting housing supply.¹¹ Since 1960, the share of renters paying more than 30 percent of their income for rent has more than doubled from 24 percent to 49 percent.¹² And over that time, real household income increased by 18 percent, but inflation adjusted rents rose by 64 percent.

Median rents vs. median household income, 1980-2014



Emerging research has shown that in areas with high-cost housing such as California, zoning and other land-use controls contribute significantly to recent sharp cost increases, reflecting the increasing difficulty of obtaining regulatory approval for building new homes.¹³

Not all barriers to housing development have negative impacts – local land use policies and regulations can increase the supply of well-located affordable housing, address externalities such as environmental impacts associated with development, create better connections between housing options accessible to transit, and support the fiscal health of states and localities. But the accumulation of even well-intentioned land-use policies can restrict housing availability; create uncertainty for developers and limit private investment; exacerbate the imbalance between jobs and housing; and induce urban sprawl.

Costs and negative impacts of excessive barriers to housing development

Housing production has failed to expand in too many regions with strong demand, artificially depressing the availability of construction and related jobs, limiting the ability for local populations to expand in response to job growth, and reducing the potential for increased local tax revenue. In these regions, new market-rate construction shifts toward predominantly, and sometimes exclusively, larger or higher-end units as a manifestation of supply constraints, because when there are large fixed costs to building, as is the case when land use policies are onerous, even developers that aren't profit-maximizing find it difficult to make profits from smaller or more affordable units.

Barriers to housing development are exacerbating the **housing affordability** crisis, particularly in vibrant regions with high job growth and few rental vacancies.^{14,15,16} The most recent data shows that half of renters pay more than 30 percent of their income in rent,¹⁷ and more than 1 in 4 are severely rent-burdened, paying more than 50 percent of their income in rent.¹⁸ For families working to buy their first home, rent burdens delay their plans, making it more difficult to save for a down payment. While the housing market recovery has meant growing home values for existing homeowners, barriers to development concentrate those gains among existing homeowners, pushing the costs of ownership out of reach for too many first-time buyers. This has contributed to a lower homeownership rate in the US, which has fallen to its lowest level in 50 years.¹⁹ Homelessness is on the rise in some of our nation's most rent-burdened cities despite continued decreases in homelessness nationwide – for example, according to figures released by local homelessness coalitions, Washington, D.C. saw a 31 percent increase in family homelessness last year amid a 14 percent increase in homelessness overall, and homelessness grew by 6 percent in Seattle and Los Angeles.

Increasingly, working families are pushed out of the job markets with the best opportunities for them, or can't afford to move to regions with higher-paying jobs and stronger career tracks. As Jason Furman recently discussed in a National Press Club speech, this phenomenon exacerbates **income inequality**. For the first time in over 100 years, income convergence across states has stopped, as population flows to wealthier regions has decreased – which researchers attribute to increased housing prices as a result of high local barriers to housing development.²⁰ Where housing markets are able to respond more elastically, workers can shift to meet job and wage growth through relocation, reducing income inequality.

When large flows of workers are unable to move to the jobs where they would be most productive, local barriers result in increasing **drag on national economic growth**. A recent study noted that in theoretical models of mobility, economic research suggests our Gross Domestic Product would have been more than 10 percent higher in 2009 if workers and capital had freely moved so that the relative wage distribution remained at its 1964 level.²¹ Most of this loss in wages and productivity is caused by increased constraints to housing supply in high-productivity regions, including zoning regulations and other local rules. This estimate is tentative, and would imply that some cities would see counterfactual employment increases of a significant magnitude resulting from reduced housing restrictions, but the underlying point is clear: output is lost when the supply of workers to high-productivity regions is restrained. Over time, this effect can be large enough to meaningfully reduce the nation's overall economic output.

When new housing development is limited region-wide, and particularly precluded in neighborhoods with political capital to implement even stricter local barriers, any new development tends to be disproportionately concentrated in low-income communities of color, causing displacement and concerns of **gentrification** in those neighborhoods, raising market rents within neighborhoods experiencing rapid changes while failing to reduce housing cost growth region-wide.²² As rents rise region-wide in response to insufficient housing supply, this displacement is exacerbated. Lowered region-wide barriers to new housing development would lead to more equitable distribution, allowing neighborhoods to retain character and resources as they evolve, while facilitating effective affordable housing preservation options by preventing excessively rapid change that generates displacement and dislocation.

As workers get pushed further and further from job centers – driving from Modesto to San Francisco, for example, often two hours each way – excessively **long commutes** pull them away from time with their families, increase strains on mental health and happiness, and contributing to further greenhouse gas emissions.^{23,24,25,26} The impact of these strains is being felt throughout the middle class, hurting workers that provide critical services like teachers, police officers and firefighters. For example, recent reports highlighted at least a dozen San Jose police officers living in RVs in a parking lot near Police Department headquarters to cope with the long commutes required by the lack of affordable housing nearby.²⁷

When barriers to housing development drive up rental and production costs, they constitute a countervailing force on housing assistance programs, reducing the impact of already-insufficient government resources for affordable housing. This **strain on public resources** occurs at all levels – federal, state and local. While President Obama’s budget calls for increasing investments to provide affordable housing and end family homelessness, HUD’s existing project-based and housing choice vouchers could serve more families if the per-unit cost wasn’t pushed higher and higher by rents rising in the face of barriers to new development. In order to build affordable housing, developers are often forced to supplement funding sources like tax credits with additional equities and loans, drawing down on state-allocated housing finance agency resources and city-held CDBG dollars. As each of these sources is piled onto a critical affordable housing resource, it is not available for preservation or additional new affordable housing elsewhere in the region.

Benefits of smart housing regulation

Housing regulation that allow supply to **respond elastically to demand** helps cities protect homeowners and home values while maintaining housing affordability. As cities make investments to attract residents and businesses, vibrant hubs of jobs and culture have attracted far more potential residents than many cities’ current zoning practices can accommodate. Without building adequate housing to meet the increased demand, cities that have invested in services for their residents see rents soar, making those benefits inaccessible to those they were intended to help. By allowing housing development to respond to demand, cities would capture the increased tax revenue they hope to draw by attracting more residents, and relieve pressure on existing working families that would otherwise be priced out of their communities and forced to move.

Regions are better able to **compete in the contemporary economy** when their housing development is allowed to meet local needs. When jobs and people move freely, local economies flourish, as adequate housing development reduces mismatches between housing and infrastructure, or housing and jobs. For decades, Sunbelt cities with more permeable boundaries have enjoyed outsized growth by allowing sprawl to meet their need for adequate housing supply. Space constrained cities can achieve similar gains, however, by building up with infill, reducing the eyesores of vacant lots and vacant or rundown buildings that go undeveloped in highly constrained regulatory environments. This approach facilitates cities expanding their economies across all sectors, including the essential service sector jobs that allow cities to remain attractive, rather than concentrating growth at the high end of the economy.

Smart housing regulation **optimizes transportation system use, reduces commute times, and increases use of public transit, biking and walking**. A preponderance of a metro area's commuters living far from work in pursuit of affordable housing prevents infrastructure, including public transit, from being used efficiently and effectively. Smart housing regulation would close the gap between proximity and affordability. More residents with access to walking, biking and public transit options also means less congestion on the roads and overall reductions in traffic congestion, greenhouse gas emissions, and commute times.

Modern approaches to zoning can also **reduce economic and racial segregation**, as recent research shows that strict land use regulations drive income segregation of wealthy residents.²⁸ Inclusionary zoning laws that facilitate working families accessing high-opportunity neighborhoods are effective in reducing segregation and improving educational outcomes for students in low-income families.²⁹ Research also finds that more localized pressure to regulate land use is linked to higher rates of income segregation, while more state involvement in setting standards and baselines for land use is connected to lower income segregation, reinforcing the key role that states can play in ensuring access to affordable housing is an even playing field for all residents.³⁰

Spotlight: Local Barriers and Housing Discrimination

In tight rental markets, renters flood landlords advertising quality, affordable housing. The stronger the local barriers to development, and the tighter the market, the higher the demand for units. High demand often reflects quality housing options; however, when rental supply is unresponsive to demand, competition can be high for even low-quality units. In such situations, it can be extremely difficult for low-income families to find the quality affordable housing they need, even when they receive a HUD Housing Choice Voucher to aid them with their rent – because some landlords simply refuse to rent to voucher-holders, a practice particularly jarring to the thousands of families struggling to escape homelessness through use of a housing voucher.

Federal fair housing law explicitly prohibits landlords from discriminating against renters on the basis of race, religion, familial status or other protected classes. But many states and localities consider discrimination on the basis of voucher payment for rent to be legal in the absence of explicit source-of-income protections. Available evidence indicates that renter discrimination is widespread, and most harmful in high-barrier rental markets with limited housing options for families receiving rental assistance, hindering efforts to enable more low-income families to access affordable housing in opportunity-rich neighborhoods.

Discrimination against voucher holders is prevalent nationwide, especially in high-cost markets, and remains prevalent even in the 13 states and dozens of localities that have made such discrimination explicitly illegal. Though cities like Chicago, Philadelphia, and Pittsburgh have these laws in place, local investigative reporting has documented high rates of ongoing, illegal renter discrimination. For example, landlords post “no Section 8” tags on sites like Craigslist.org, especially for units in relatively low-poverty areas where constraints to housing development are often highest. The rarely-enforced fine for this violation in Chicago is \$500.

Renter discrimination reduces voucher success rates, limiting low-income households’ housing options in general, and particularly their ability to move to high-opportunity neighborhoods. The Administration’s actions to increase economic mobility, reduce local barriers to housing development, advance fair housing, end homelessness, and expand access to opportunity depend in part on the ability of low-income families to lease units in neighborhoods of their choosing.

Barriers to housing development that prevent supply from responding elastically to demand put additional pressure on landlords and the rental market. Discrimination, even inadvertent discrimination, increases when market conditions increase competition among renters. Unsurprisingly, many cities with the highest local barriers have seen increases in homelessness in recent years, while nationwide homelessness has been sharply in decline.

Vouchers are a critical tool for meeting the Administration’s goals of ending veteran, chronic, and family homelessness. The President’s historic FY 2017 budget proposal to end homelessness by 2020 for every family with children nationwide would invest \$11 billion over 10 years, primarily in vouchers, to end families’ homelessness, stabilize their housing, and give them a foundation to succeed economically. These goals will be easier to achieve if local leaders reduce barriers to housing development and end renter discrimination in their jurisdictions.

Framework for Modern Housing Strategies

Cities across the country are interested in revising their often 1950s-era zoning codes and housing permitting processes, and increasingly recognize that updating local land use policies could lead to more new housing construction, better leveraging of limited financial resources, and increased connectivity between housing to transportation, jobs and amenities. The President's FY 2017 HUD budget includes a \$300 million proposal for Local Housing Policy Grants to help facilitate those cities' success in modernizing their housing regulatory approaches.

In markets with high demand but currently inelastic supply, these modern housing approaches are likely to lead to more new housing construction, including multifamily rental construction. Though much of that housing would likely be market-rate housing, its introduction into the marketplace would help slow cost growth in existing and otherwise affordable housing. In markets that have not yet but are poised to experience rapid economic growth in the near to mid-term (e.g., as result of their advantageous location, emerging industrial growth, or surge in resource extraction), promising practices can be embedded into local action as they develop their economic growth strategy to ensure that sustained economic growth is achieved.

The Administration has also taken action to reinforce these practices, as the Department of Transportation now examines cities' housing regulatory approaches, and their ability to respond elastically to new demand generated by transit projects, as part of their Small Starts and New Starts project reviews.

Cities like Chicago, Seattle, Sacramento, and Tacoma and states like California and Massachusetts have already begun to foster more affordable housing opportunities by removing restrictions, implementing transit-oriented zoning ordinances, and speeding up permitting and construction processes.

Role of states and localities

Both states and cities have proven they can break free of the constraints that have stifled responsive supply and driven up housing costs across the country. While most states have devolved land use control to localities and remain relatively hands-off when it comes to land use planning, a number of states have begun to take a more active role in reducing regulatory barriers. A strong baseline at the state level creates an even playing field for local land use decisions.

Cities and other localities have the greatest opportunity to innovate in efforts to reduce barriers to housing supply, given their proximity to the effects of either a constrained or flexible supply. Without action, excessive local barriers drive up housing costs, undermining affordable housing at most income levels, and resulting in declines in homeownership. Demonstrated success in addressing these challenges can help overcome apprehension about neighborhoods evolving and growing through new development.

Spotlight: Impacts on the Ground

“As the head of EMPath, a Boston-based non-profit, that helps low-income families move out of poverty, one of the greatest hurdles my staff and participants face is finding affordable housing. When we first start working with our participants, many of them are homeless and trying to make their way from emergency shelters into permanent housing. Affordable housing in Greater Boston is in such short supply, and the costs are so high that, at their average wages (\$10/hr), participants have to work 97 hours a week in order to afford the Fair Market rent on a one-bedroom apartment. If they seek lower cost housing outside of Boston, moving often rips apart the work, childcare, and support systems they count on to maintain their precarious family and financial stability.

And my staff experience similar problems. Pay at my organization is far from minimum wage. The average employee at EMPath has a Bachelor’s degree and makes about \$26/hour. But even at this level, it is hard for staff to find affordable housing in the city and many of them move as much as 25+ miles away in order lower housing costs. When they do this, they add hours of commuting to their work week and easily spend \$360+/month for their monthly transit passes. We routinely have to alter work schedules and the offices where our staff work in order to accommodate their commuting needs.

As can be seen from all of this, high housing costs create a drag on everything we are trying to do: stabilize people’s lives, decrease their dependence on public supports, get them into the workforce, and run our non-profit business. It is fundamentally important to address this issue if we are going to succeed in improving our economy and opportunity for low and middle income workers.”

Elisabeth Babcock
President and CEO
EMPath – Economic Mobility Pathways
Boston, MA

Toolkit – Taking Action

This toolkit highlights actions taken by states and local jurisdictions to promote healthy, responsive, high-opportunity housing markets, despite the common and sometimes challenging political barriers to reform and improvement. This list is not exhaustive – there is a substantial amount of good work being done all around the country – but provides several potential starting points for local efforts to modernize housing planning and development.

1. Establish by-right development

Most development today goes through a discretionary review process prior to approval, such as public hearings or local legislative actions. These processes predispose development decisions to become centers of controversy, and can add significant costs to the overall development budget due to the delay and uncertainty they engender. The tradeoffs that developers make to account for those additional costs can result in lost affordability, quality, or quantity of units developed. “As-of-right” or “by-right” development allows projects to be approved administratively when proposals meet local zoning requirements.³¹ Such streamlining allows for greater certainty and more efficient development and, depending on a locality’s regulatory approach, supports lessening of barriers from density limits and other zoning requirements. It can also be targeted to achieve public goals by making “by-right” approval contingent on increased affordable housing, transit-oriented development, or energy efficiency.

A 2014 report by the Urban Land Institute concludes that “municipalities can facilitate more efficient development time frames and reduce costs by enabling more by-right development. This can be accomplished by relaxing restrictions related to density, building height, unit size, and parking minimums, thereby freeing developers from the need to seek waivers, variances, or rezoning.”³²

Some states have enacted or pursued these approaches in efforts to facilitate affordable housing development. In California, Gov. Jerry Brown recently proposed a policy that would ensure that new developments that conform with existing local zoning rules and include set-asides for affordable housing would be approved “by right” – as long as the project is not located on sensitive sites, such as wetlands, farmland, flood plains, and earthquake fault zones, additional discretionary review requirements would no longer be required, facilitating more rapid development of affordable housing at lower costs.

States can also encourage localities to allow by-right development. For instance, Massachusetts allows communities to designate areas as Priority Development Sites, a designation that provides an incentive for municipalities to allow by-right development in localities where they seek to encourage economic growth.³³

Fairfax County, VA, has implemented by-right development in seven districts, with the goal of encouraging economic development through flexibility in zoning regulations and administrative processes in older commercial areas. These more flexible zoning regulations

include 40-50 foot increases in building height, parking requirement reductions, and abbreviated fees and approval processes for development changes.³⁴

2. Tax vacant land or donate it to non-profit developers

Nationwide, the number of vacant residential units increased from 7 million in 2000 to 10 million in 2014.³⁵ Vacant and abandoned properties not only represent lost housing opportunities, but can cause significant harm to the surrounding neighborhood. Strategies to address these properties can reduce blight and place them back into productive use. In-fill development can have significant environmental benefits, as well-resourced urban land can be accessed by more people and can also result in larger ridership for public transit when in proximity to city centers. A 2014 study found that in the Cleveland area, the sale price of homes within 500 feet of a vacant property depreciated by 1.7 percent in low-poverty areas and 2.1 percent in medium-poverty areas,³⁶ while a 2010 University of Pittsburgh study concluded that the rate of violent crime within 250 feet of a vacant property is 15% higher than that within 250 and 353 feet from the property.³⁷ Local governments bear the costs of these vacant properties. A 2010 study found that Philadelphia spends more than \$20 million annually to maintain 40,000 vacant properties, which cost the city over \$5 million per year in lost tax revenue³⁸.

Localities often face challenges in identifying vacant properties,³⁹ but many jurisdictions have enacted vacant property registration ordinances that require individuals to register vacant land and often pay a fee, with cities in Florida, California, Illinois and Michigan leading the way in implementation. Many localities in these states increase the fees the longer a property remains vacant, which encourages lot owners to put their properties to more productive use, such as redevelopment.⁴⁰ Once vacant property has been identified, jurisdictions are able to take action to combat the lost revenue and blight that come with vacant property by taxing vacant land or donating to non-profit developers.

At the city level, Dallas has addressed vacant property through a land bank, a “government-created nonprofit corporation designed to convert tax-delinquent and vacant properties into affordable housing or other productive uses,”⁴¹ which provides “a tool to enable cities to more effectively...pursue tax foreclosure on unproductive vacant properties in return for...placement into productive use in the development of affordable housing.”⁴² Dallas also acquires vacant lots for affordable single-family housing development, and allows nonprofit groups to develop affordable housing by purchasing foreclosed vacant lots or surplus vacant lots from the city's inventory at below market price, enabling Dallas to reduce the blight of vacant lots and foster more affordable housing development.⁴³

3. Streamline or shorten permitting processes and timelines

Permitting processes can introduce yet another source of cost and uncertainty in the effort to increase housing supply through production. Unnecessarily lengthy permitting processes restrict long-run housing supply responsiveness to demand, and also present an inefficiency for city planners and reviewers whose time could be more effectively spent on essential

tasks. Most localities' permitting processes do not fully leverage new technology to achieve greater speed, reliability and efficiency.

San Diego and Austin are two of many cities that have tackled these challenges, streamlining and shortening their permitting processes. San Diego's Expedite Program allows for expedited permit processing for eligible affordable/in-fill housing and sustainable building projects, with a 5 business day initial review.⁴⁴ In 2000, the Austin City Council created the S.M.A.R.T. Housing program which offers developers of housing that serves low-income families waivers for development fees and expedited development review; since 2005, more than 4,900 housing units have been completed through this approach.

States have also taken action, with both Rhode Island and Massachusetts driving localities toward more streamlined processes. The Rhode Island 2009 Expedited Permitting for Affordable Housing Act provides state permitting agencies with strict deadlines for making their decisions, for transit-oriented, dense, or historic preservation projects that are large enough to meaningfully increase availability of affordable housing in their communities. Massachusetts developed a model set of local permitting practices, with guidelines including predictable impact fees, use of objective criteria for by-right zoning, and uniform timelines. By incentivizing efficient permit processing at the state and local level, communities are better positioned to accelerate development, resulting in increased housing production, more stability for contractors and construction workers, and less risk for investors.

4. Eliminate off-street parking requirements

Parking requirements generally impose an undue burden on housing development, particularly for transit-oriented or affordable housing. When transit-oriented developments are intended to help reduce automobile dependence, parking requirements can undermine that goal by inducing new residents to drive, thereby counteracting city goals for increased use of public transit, walking and biking. Such requirements can also waste developable land, and reduce the potential for other amenities to be included; a recent Urban Land Institute study found that minimum parking requirements were the most noted barrier to housing development in the course of their research.⁴⁵ By reducing parking and designing more connected, walkable developments, cities can reduce pollution, traffic congestion and improve economic development. Businesses that can be accessed without a car can see increased revenue, increased use of alternative modes of transportation, and improved health outcomes for residents.

These requirements have a disproportionate impact on housing for low-income households because these families tend to own fewer vehicles but are nonetheless burdened by the extra cost of parking's inclusion in the development. The significant cost of developing parking – from \$5,000 per surface parking spot to \$60,000 underground – is incorporated at the start of the project, which can impede the viability and affordability of the construction.⁴⁶

In 2012, Seattle's city council voted to relax parking requirements, eliminating requirements in center-city areas with frequent transit services within ¼ mile, and reducing them by 50 percent in neighborhoods outside of those centers given the same minimum level of transit

service – sparking a wave of new development, including hundreds of units with no associated parking spaces. The study that accompanied this legislative change found that parking reduced the potential number of units at a site and increased the expected rental costs by 50 percent for a building without parking as compared to that with the mandated level of surface parking.⁴⁷

Cities such as Denver, Minneapolis and New York City have also demonstrated success in taking on minimum parking requirements – Denver lowered parking minimums for low-income housing, Minneapolis reduced requirements near transit stops, and New York City eliminated parking requirements for affordable housing located within ½ mile of a subway entrance. The Association of Bay Area Governments also published a rubric guiding parking requirement reform across the region, which accompanies the Metropolitan Transportation Commission’s Smart Parking Toolbox and funds parking plans for transit station areas. And in 2015, the State of California enacted a statewide override of local parking requirements for all residential projects near transit that incorporated affordable units.

5. Enact high-density and multifamily zoning

Local zoning code changes that allow for the development of higher-density and multifamily housing, especially in transit zones, can help to alleviate some of the pressure of the growing population in many city centers. In Massachusetts, the Smart Growth Zoning act provides incentives to local governments that make zoning changes and establish smart growth zoning districts, to foster, near transit nodes and city/town centers, denser residential or mixed-use zoning districts, including affordable units.⁴⁸ More recently, in June, the Fairfax, VA County Board of Supervisors approved changes to zoning codes to allow for taller buildings near Metro stations.⁴⁹ In Seattle, the city has nearly 800 micro-units with another 1,500 or so in the pipeline – more than any other city – yet, changes to the zoning code will disallow future approvals of such housing.⁵⁰

6. Allow accessory dwelling units

Accessory dwelling units can expand the available rental housing stock in areas zoned largely for single-family housing and can address the needs of families pulled between caring for their children and their aging parents, a demographic that has been growing rapidly in recent years. As a result of the recent recession, young adults have achieved financial independence at a slower rate than prior generations. While the number of Americans caring for both an aging parent and a child has increased only marginally, the costs associated with caring for multiple generations has increased significantly as a greater share of parents support their children beyond age 18.⁵¹ Accessory dwelling units offer one solution to this challenge by facilitating intergenerational living arrangements and allowing more seniors to age in place, something that nearly 90% of older Americans desire for themselves and their families.⁵² In addressing the temporary needs of families that are stretched thin, accessory dwelling units can create a permanent increase in affordable housing stock. Cities like Portland and Santa Cruz had explicitly encouraged this action, while others like San Diego have called for changes to allow more such units. The State of California moved earlier this month to streamline state regulations to promote construction of accessory dwelling units.

7. Establish density bonuses

Density bonuses encourage housing development and incentivize the addition of affordable housing units by granting projects in which the developer includes a certain number of affordable housing units the ability to construct a greater number of market rate units than would otherwise be allowed. Density bonuses are frequently tied to community goals of increased affordable housing and can be effective in driving larger quantities of units supplied through new construction. The State of California requires its local governments to grant a density bonus and concession or development incentive, if requested, for developments of five or more units including minimum portions of affordable housing or for senior housing.

8. Employ inclusionary zoning

Inclusionary zoning requires or encourages the inclusion of affordable units in new residential development projects. As of 2014, such policies had been implemented by nearly 500 local jurisdictions in 27 states and the District of Columbia.⁵³ Not only have such policies expanded the availability of affordable housing while allowing for new development that otherwise might have been locally opposed, they have also been shown to improve educational outcomes for low-income children gaining access to higher-performing schools.⁵⁴

As the Lincoln Institute of Land Policy has noted, inclusionary zoning policies require upfront commitment to long-term affordability, and perform best when both producing and preserving affordable housing.⁵⁵ While enforcement is a frequently cited obstacle to successful inclusionary housing requirements, Massachusetts' Chapter 40B provisions enables the local Zoning Boards of Appeals to approve affordable housing developments under flexible rules if at least 20-25% of the units have long-term affordability restrictions. This flexibility reduces barriers created by local approval processes and zoning.⁵⁶

9. Establish development tax or value capture incentives

Tax incentives for developers who construct affordable housing offer another avenue to incentivize development; such incentives have been demonstrated to spur development, and have recently been adopted in Seattle and New York City. The [Seattle Multifamily Tax Exemption program](#), which was modified and renewed in 2015, provides property owners and developers a tax exemption on new multifamily buildings that set aside 20-25% of the homes as income- and rent-restricted for 12 years; currently approximately 130 properties in Seattle are participating in the program and an additional 90 are expected to begin leasing MFTE units between 2016 and 2018. Adopted in 2015, The New York 420-c Tax Incentive program provides complete or partial exemption from real estate taxes for low-income housing up to a maximum of 60 years.

10. Use property tax abatements

Like tax incentives, property tax abatements or exemptions can encourage the construction of affordable housing and spur development more generally, including by providing abatements to affordable housing production during the development phase. In 1985, Oregon adopted an approach to provide property tax abatements to properties in which units will be exclusively available to eligible low-income individuals or to vacant land intended to be developed as low-income housing. Philadelphia offers a tax abatement from real estate tax for up to 30 months during the construction of residential housing.⁵⁷

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10/6/2016

For Immediate Release

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Incentive Density Adopted for Rental Development

CHARLOTTE COUNTY, Fla. (Oct. 6, 2016) – The Charlotte County Board of County Commissioners, at its regularly scheduled land use meeting on Sept. 27, 2016, approved an amendment to the county's comprehensive plan to allow incentive density to be granted to multi-family rental projects. This action was taken to address the significant shortage of rental housing in the region, and is available for all types of multi-family rental housing projects from very-low income up to market rate rentals.

The county hopes developers will take advantage of this new incentive and bring some much-needed multi-family rental projects to the county and will assist however we can.

###

EXECUTIVE SUMMARY

Recommendation to approve an Agreement with the Urban Land Institute (ULI) to convene an Advisory Services Panel in Collier County to result in high level housing policy recommendations and therefore assisting in the process of the Housing Plan Development; and to waive competition declaring this a single-source service and in the best interest of the County.

OBJECTIVE: To provide affordable/workforce housing in the County and to further the goals set forth in the Housing Element of the Growth Management Plan.

CONSIDERATIONS: As a result of the March 1, 2016 affordable/workforce housing workshop staff was directed to develop a request for proposal (RFP) to solicit a partner/consultant to work with the county to develop a housing plan to include policy level recommendations and an implementation plan. On June 14, 2016 the BCC approved the project charter and funding, and formed a stakeholder group through Resolution 2016-135.

The RFP (#16-6689) was released on August 3, 2016, and, even with an extended deadline, has generated little interest and no submissions to date. When informally inquiring with firms that might normally bid on this type of project as to their reasons for not participating in the RFP staff has learned that some firms are not seeking additional engagements at this time, and some prefer to focus on the implementation activities with specific deliverables rather than prolonged, labor intensive public participation information gathering and policy recommendations. Only one firm attended the pre-bid meeting, and only one additional inquiry has been received by the Procurement Services Division with respect to the active RFP.

Based on this feedback, along with the support of the Affordable Housing Advisory Committee and the Stakeholder Committee, it appears that it may be in the best interest of the County to separate the policy level work and implementation work into two distinct phases completed by two different firms. Phase one would be the public outreach and participation and high level policy recommendations, and phase two would be the implementation approach enacting those recommendations, also to include significant constituent input.

As the BCC and our community have been examining this issue for well over a year, it is recommended that instead of procuring one consultant/partner for both, the policy level analysis and implementation tasks, the engagement be separated into two parts. This is recommended to be in the best interest of the County, with the following planned outcomes:

- Policy level recommendations months sooner than originally planned
- Obtain expert and unbiased input from high-level professionals that are not otherwise available for engagement/consultancy
- Streamlined focus implementation activities with a competitively procured partner

In pursuit of the policy level partner/consultant, staff was made aware of the Urban Land Institute's Advisory Services (ULI). The ULI is a non-profit research and education organization whose mission is to promote responsible leadership in the use of land, including housing. The ULI conducts research, performs analysis, provides expert advice, and develops best practice recommendations that reflect the residential land use and development priorities of ULI members in all residential product types, with special attention to workforce and affordable housing.

10/25/2016

The ULI offers an Advisory Services Program where they develop teams of experts in real estate, planning, development and finance to provide objective unbiased advice on addressing challenging housing and related land use issues. Their services include convening a week long panel of national experts to perform extensive public outreach and research in our area to develop high level policy recommendations.

The Urban Land Institute Advisory Services is the only organization that provides multi-disciplinary teams of practitioners (developers, land economists, designers, planners, economic development experts, engineers, market analysts, etc). This approach will take the place of phase one in the previous Housing Plan RFP allowing Collier County to receive expert unbiased advice and recommendations from top-level professionals in their fields, whose services are not for sale or available through any other means.

Unlike hiring a specific consultant, using a ULI panel will help ensure unbiased and broad advice from experts from other regions. Collier County is not alone in requesting advice from ULI panels. Jurisdictions in Florida such as Manatee County, Hillsborough County, City of Tampa, Pasco County, Osceola County and Amelia Island have all had ULI panels review specific issues and make recommendations in the past few years. Staff has reviewed several of those engagements and found the contract terms, including cost, to be substantially similar to this proposal. ULI reports that each of those engagements (as well as every ULI panel commissioned since 2006) was also procured as a single-source service.

This approach will yield a far superior, more policy level result than first anticipated. The results will be unbiased, and will be achieved in a much faster time frame than originally contemplated in the RFP. If this item is approved the RFP will be cancelled and reissued to focus on phase 2 tasks and competitively bid allowing the selected partner/consultant to benefit from the results and recommendations of the ULI Panel.

The sole source services purchased through this engagement will be a week-long Advisory Services Panel provided by the ULI. Key elements:

- Multi-disciplinary top-level national practitioners/experts will convene in Naples to conduct extensive public input sessions and research to formulate high level policy recommendations specific to Collier County
- At the conclusion of the week, the panel will present their recommendations to the BCC at a public workshop
- Approximately 90 days after the presentation Collier County will receive a hardcopy report detailing the panel's recommendations

After due consideration, this approach was recommended for submission to the BCC for consideration by both the Affordable Housing Advisory Committee (AHAC) and by the Stakeholder Committee at their respective September 12, 2016 meetings. The proposed ULI Contract was approved by the AHAC at their 10/17/16 meeting.

The Procurement Director recommends pursuant to Procurement Ordinance 16-69, as amended, Section Nine Formal Competitive Threshold, B.2., for the Board to waive formal competition in the best interest of the County and authorize a waiver for single-source services.

FISCAL IMPACT: The amount for the ULI Advisory Services Panel is \$135,000. The ULI Foundation is contributing \$10,000 towards this project, leaving \$125,000 to be paid by Collier County. Funding for development of the Housing Plan has already been allocated by the Board of County Commissioners and

is available in Fund 116 (cost center 138711).

LEGAL CONSIDERATIONS: This item has been reviewed by the County Attorney. The Procurement Ordinance contains the following definition:

“*Single source* refers to situations in which only one vendor is chosen to provide the goods or services because of its specialized or unique characteristics.” (Ord. No. 2013-69, § 4)

It is the County Attorney’s opinion that the Urban Land Institute clearly has both specialized and unique characteristics. As a single source provider, the Procurement Ordinance provides as follows:

Exemption For Single Source Commodities: Purchases of commodities and services from a single source may be exempted by the Board of County Commissioners from formal competition upon certification by the Purchasing Director of one the following conditions:

1. The item(s) is the only one available that can properly perform the intended function(s);
2. The recommended vendor/contractor is the only one ready, willing and able to meet the County's requirements; or
3. The requested exemption is in the County's best interest. (Ord. No. 2013-69, § 9)

The Purchasing Director has certified that the requested exemption is in the County’s best interest. With that said, this item is approved as to form and legality, and requires majority vote for approval. - JAK

GROWTH MANAGEMENT IMPACT: Acceptance furthers the Goals, Objectives, and Policies of the Growth Management Plan and specifically the Housing Element.

RECOMMENDATION: That the Board of County Commissioners approves an agreement with the Urban Land Institute (ULI) to convene an Advisory Services Panel in Collier County to result in high level housing policy recommendations and therefore assisting in the process of the Housing Plan Development; and waive competition declaring this a single-source service and in the best interest of the County.

Prepared By: Kim Grant, Director, Community and Human Services

ATTACHMENT(S)

1. Attachment A- ULI Advisory Svcs Scope Stmts (DOCX)
2. ULI Contract - CAO Stamped (PDF)
3. Waiver Request 40 - Urban Land Institute APPVD (PDF)

10/25/2016

COLLIER COUNTY
Board of County Commissioners

Item Number: 11.D

Item Summary: ***This item to be heard at 10:00 a.m.***Recommendation to approve an Agreement with the Urban Land Institute (ULI) to convene an Advisory Services Panel in Collier County to result in high level housing policy recommendations and therefore assisting in the process of the Housing Plan Development; and to waive competition declaring this a single-source service and in the best interest of the County. (Kim Grant, Director, Community and Human Services)

Meeting Date: 10/25/2016

Prepared by:

Title: – Community & Human Services

Name: Cormac Giblin

10/18/2016 1:08 PM

Submitted by:

Title: Division Director - Cmnty & Human Svc – Public Services Department

Name: Kimberley Grant

10/18/2016 1:08 PM

Approved By:

Review:

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|---------------------------------|-------------------------|---|-----------|---------------------|
| Public Services Department | Kimberley Grant | Additional Reviewer | Completed | 10/18/2016 1:15 PM |
| Procurement Services | Lissett DeLaRosa | Level 1 Purchasing Gatekeeper | Completed | 10/18/2016 1:43 PM |
| Procurement Services | Sandra Herrera | Additional Reviewer | Completed | 10/18/2016 2:19 PM |
| Procurement Services | Ted Coyman | Additional Reviewer | Completed | 10/18/2016 3:45 PM |
| Public Services Department | Hailey Margarita Alonso | Level 1 Division Reviewer | Completed | 10/18/2016 4:19 PM |
| Public Services Department | Steve Carnell | Level 2 Division Administrator Review | Completed | 10/18/2016 5:04 PM |
| County Attorney's Office | Jennifer Belpedio | Level 2 Attorney of Record Review | Completed | 10/19/2016 11:54 AM |
| Office of Management and Budget | Valerie Fleming | Level 3 OMB Gatekeeper Review | Completed | 10/19/2016 12:00 PM |
| County Attorney's Office | Jeffrey A. Klatzkow | Level 3 County Attorney's Office Review | Completed | 10/19/2016 1:52 PM |
| Budget and Management Office | Mark Isackson | Additional Reviewer | Completed | 10/19/2016 2:05 PM |
| County Manager's Office | Leo E. Ochs | Level 4 County Manager Review | Completed | 10/19/2016 2:50 PM |
| Board of County Commissioners | MaryJo Brock | Meeting Pending | | 10/25/2016 9:00 AM |

**ATTACHMENT A
ULI Advisory Panel**

1. Why is it important for the county to have a balanced supply of housing, in terms of type, tenure, attainability, access and distribution?

Collier County’s primary economic engine is based on high-end second home communities, seasonal resort tourism and the businesses and amenities supporting them. A significant portion of the employment in Collier County is low- paying service jobs as well as low-paying jobs in the agricultural sector. Collier County also has a significant number of health care, school district and government employees and their wages are often insufficient to purchase homes at the market rate, or even afford the high cost of apartments. Collier County is also located in a high hazard hurricane zone with extensive amounts of environmentally sensitive lands both of which result in code requirements that increase the cost of development and housing.

For decades the housing policies embraced by Collier County and the development community have been driven by the notion that low density, single-family homeownership is the primary method of addressing housing needs. The result is that various segments of the population are being inadequately or inappropriately served or priced out of the market. Our housing production is not sufficiently diverse with regard to size, typology, location to adequately reflect social, economic and age related diversity of our population.

The result of these trends and policies is a significant disparity between the cost of housing and the incomes of the average person and the working poor. Furthermore, they have limited housing options for those households with regard to type and location. These disparities limit our ability to attract and retain a strong workforce and to sustain and expand our economy.

The challenge is to embrace public policies and encourage changes in development trends to insure that Collier County has a diverse affordable and workforce housing stock that reflects the diverse needs of our current and future population with regard to type, tenure and location.

2. In the view of key stakeholders, including residents, what are the major obstacles to producing and sustaining affordable and workforce housing in Collier County and what can be done to mitigate them?

There are numerous reasons why we have a lack of affordable and workforce housing production in Collier County. There is no real consensus on the barriers and the list varies significantly depending on which segment of the public or private sector you talk to. They vary from high impact fees, onerous development and building codes, regulatory uncertainty, high land cost, NIMBYism and lack of subsidy and financing.

Attachment: Attachment A- ULI Advisory Svcs Scope Stmt (2228 : Agreement with the Urban Land Institute (ULI) to convene an Advisory

The challenge is not only to isolate and determine the reality from the “urban legend” surrounding this discussion but to clearly articulate the obstacles and identify ways of overcoming these barriers.

3. What are the stakeholders’ perceptions of affordable and workforce housing and the existing tools and programs in place to support it and recommendations for change?

There has been much discussion among the development and real estate community, housing advocates, and the public about the definition of affordable and workforce housing and who it should serve. There is also a concern about the effectiveness, equity and fiscal soundness of the County’s existing housing programs and the tools used to incentivize and manage them. Again, there is no consensus among the stakeholders. The challenge is to gain an understanding of the perceptions and actual experiences of stakeholders regarding affordable and workforce housing and the existing practices and to create a dialogue that will enable them to reach consensus.

4. How can public policy encourage the redevelopment of underutilized areas of the developed coastal area that includes affordable and workforce housing while insuring that it will also be a component of new development in the urban and rural fringe areas.

One can summarize development trends in Collier County in three general areas. (1) The developed coastal area where most of the development has taken place in the past. (2) The urban fringe, which is laced with large acre semi-rural suburbs and agriculture and environmentally sensitive lands and, (3) the environmentally sensitive rural fringe of eastern Collier County. To date the most affordable housing is located in the urban fringe and the rural fringe of the county with the majority of the jobs located in the coastal developed area.

In the 1990’s Collier County undertook a ground breaking comprehensive plan to address development in the rural fringe. The multi-year process engaged stakeholders on issues of environmental, agricultural, government and development. The result was a consensus on a long-term plan that allowed development in acceptable areas, preserved sensitive lands and balanced the equities of all stakeholders. It has achieved national recognition as a best practice in the stewardship of land. As a result of this plan only 10% of the land area of Collier County has been designated suitable and open for new development.

Traditionally, affordable and workforce housing has been located in the urban fringe and more recently the rural fringe where land costs are low. These lower cost areas are not always ideally located in relation to jobs, services and transportation. This not only places the extra cost burden of longer commutes for those with modest or low incomes but also requires greater amount of public infrastructure and results in less diverse communities. Furthermore, as these traditionally lower cost

Attachment: Attachment A- ULI Advisory Svcs Scope Strmts (2228 : Agreement with the Urban Land Institute (ULI) to convene an Advisory

neighborhoods experience development pressures they become less affordable and accessible.

At this time, only 9% of the remaining land in the County is available for future development. Development is beginning to emerge in these areas, presumably in anticipation of the projected population increase for the County. At present, there is one new town under construction and one more in the planning stages. Due to the current policies of the County, many are concerned that the remaining development will be "allowed" to occur with little or no affordable workforce housing.

Furthermore, there has been little if any focus on the redeveloping underutilized areas of the developed coastal area. The general perception of government and the community has been that this area is built-out and there are few future development opportunities there. What has been overlooked is the fact that pockets of older development have outlived their usefulness or are underutilized. These areas are ripe for redevelopment and present excellent opportunities for higher density, mixed-used development that could provide housing for our workforce at more affordable prices and closer to their employment.

These trends pose two challenges. First, is to insure that affordable and workforce housing is an integral component of new development in remaining developable areas of Collier county. Second is to establish policies and strategies that will incentivize the redevelopment of underutilized areas in the developed coastal area and insure that affordable and workforce housing is included close to the jobs, services and transportation. This challenge might be addressed by taking lessons learned from the rural stewardship process and apply them to fashioning a redevelopment plan for the developed coastal area of the County.

5. What policies, strategies and best practices have worked in places similar to Collier County, and which would you recommend to the County?

For years we have looked at policies, strategies and best practices from communities around the country and discussed their applicability and viability given the unique dynamics of our market and population. However, there has been little if any consensus on which are applicable to our situation and which would succeed and fail. The challenge is to take a non-biased realistic view of Collier County's housing situation, the dynamics of the market and the political climate and identify those policies, strategies and best practices that will be effective and embraced and those that should be avoided within the context of Collier County's housing situation, market dynamics and political climate.

Attachment: Attachment A- ULI Advisory Svcs Scope Stmt (2228 : Agreement with the Urban Land Institute (ULI) to convene an Advisory

**ULI-The Urban Land Institute - Advisory Services Agreement For
Affordable/ Workforce Housing Policy, Collier County Florida
(County Agreement No. 17-7049)**

This Agreement, made and entered into on this ____ day of _____, 2016, by and between Collier County Florida ("County") and ULI-the Urban Land Institute, Inc. (Institute or ULI).

As part of its purpose, the Institute maintains an Advisory Services Program for the purpose of benefiting organizations, governments and the general public through improved planning and utilization of land. The County wishes to obtain advice and recommendations from the Institute on affordable/workforce housing policies (see Attachment A).

A. Pursuant to this Agreement, the Institute agrees:

1. To provide a panel composed of members of the Institute and others who collectively have a varied and broad experience and knowledge applicable to the particular problems to be considered.
2. To Perform the Following Tasks:
 - Task 1: Arrange for the panel members to visit Collier County starting upon issuance of Notice to Proceed (NTP). Coordinate and manage logistics for the on-site session including, but not limited to, recruitment of panel members; scope and secure interview and workspace; and, provide schedule and agenda details.
 - Task 2: Conduct the on-site Advisory Panel Session for a period of not less than five days, tentatively scheduled for January 2017. During that time the panel, directly and through ULI's staff, will
 - Review the material provided by the County, study the designated area, review and assimilate prior work and studies and identify any additional data or information that may be needed to form a rational basis for recommendations, and will become familiar with existing planning documents
 - Consult with public and private officials, representatives of other relevant organizations, and other individuals familiar with the problems involved; work collaboratively with the Affordable Housing Advisory Committee, the Stakeholder Committee, staff and the citizens of the County to develop recommended policies. Extensive stakeholder input is envisioned. ULI is expected to identify similarities and differences in stakeholder views of this matter, and find opportunities for consensus.

- Prepare its conclusions and policy level recommendations which will be presented to the County and its invited guests in oral form at the close of the on-site assignment. ULI will recommend housing policies and strategies that are best fit for Collier County. In so doing ULI will be expected to bring forth best practices in other comparably sized areas with similar characteristics and to address the items listed in Attachment A.
 - Task 3: To provide the County with a full-color written summary of its conclusions and recommendations illustrated with photographs and drawings, as appropriate. The County will be provided a draft copy of the report within sixty (60) days of the panel completion.
3. To absorb all related expenses of its panel and staff while on-site.
 4. To provide customary workers' compensation and liability insurance for the panel members and the Institute's employees.
 5. **Indemnification.** To the maximum extent permitted by Florida law, the ULI shall indemnify and hold harmless Collier County, its officers and employees from any and all liabilities, damages, losses and costs, including, but not limited to, reasonable attorneys' fees and paralegals' fees, to the extent caused by the negligence, recklessness, or intentionally wrongful conduct of the ULI or anyone employed or utilized by ULI in the performance of this Agreement. This indemnification obligation shall not be construed to negate, abridge or reduce any other rights or remedies which otherwise may be available to an indemnified party or person described in this paragraph.

This section does not pertain to any incident arising from the sole negligence of Collier County.

The duty to defend under this Article 5 is independent and separate from the duty to indemnify, and the duty to defend exists regardless of any ultimate liability of the ULI, County and any indemnified party. The duty to defend arises immediately upon presentation of a claim by any party and written notice of such claim being provided to ULI. ULI's obligation to indemnify and defend under this Article 5 will survive the expiration or earlier termination of this Agreement until it is determined by final judgment that an action against the County or an indemnified party for the matter indemnified hereunder is fully and finally barred by the applicable statute of limitations.

B. The County agrees, at its expense to the following:

1. To furnish each panel member, not less than ten (10) days in advance of the panel meeting, such pertinent background data in the form of reports, plans, charts, etc., as may be presently available or readily developed for the preliminary study of the panel, prior to its inspection on site. Two copies are to be sent to the ULI Project Manager.
2. To arrange, insofar as possible, to have appropriate persons, including public and private officials, representatives of the relevant organizations, and others, available for the purpose of consulting with and furnishing information to the panel on specific matters relevant to the assignment as may be necessary and advisable during the period of the panel's visit.
3. The cost of the panel to the County is \$125,000. Payment will occur as Tasks are completed as listed below and upon receipt of a proper invoice and upon approval by the Community and Human Service Director, or designee, and in compliance with Chapter 218, Fla. Stats., otherwise known as the "Local Government Prompt Payment Act."

| | |
|---|--|
| Task 1: Coordinate panel selection and logistics for on-site panel session | \$30,000 Lump Sum (may be invoiced when four (4) of the panelists are confirmed and a preliminary schedule/itinerary is provided) |
| Task 2: Conduct on-site Advisory Panel session | \$90,000 Lump Sum (may be invoiced upon completion of the on-site summary presentation) |
| Task 3: Provide Final Panel Report | \$5,000 Lump Sum (may be invoiced upon receipt of print copies along with an electronic version) |

The County may make such noncommercial use of the report as it may deem desirable. It is further understood that the Institute may make such noncommercial use of the report prepared of the panel's findings and recommendations as it may deem desirable, and the County herewith specifically agrees that the Institute may publish and disseminate such report or any part thereof in conjunction with its research and educational programs.

C. **Venue.** Any suit or action brought by either party to this Agreement against the other party relating to or arising out of this Agreement must be brought in the appropriate federal or state courts in Collier County, Florida, which courts have sole and exclusive jurisdiction on all such matters.

Attachment: ULI Contract - CAO Stamped (2228 : Agreement with the Urban Land Institute (ULI) to convene an Advisory Services Panel in

D. Dispute Resolution. Prior to the initiation of any action or proceeding permitted by this Agreement to resolve disputes between the parties, the parties shall make a good faith effort to resolve any such disputes by negotiation. The negotiation shall be attended by representatives of ULI with full decision-making authority and by County's staff person who would make the presentation of any settlement reached during negotiations to County for approval. Failing resolution, and prior to the commencement of depositions in any litigation between the parties arising out of this Agreement, the parties shall attempt to resolve the dispute through Mediation before an agreed-upon Circuit Court Mediator certified by the State of Florida. The mediation shall be attended by representatives of ULI with full decision-making authority and by County staff person who would make the presentation of any settlement reached at mediation to County's Board for approval. Should either party fail to submit to mediation as required hereunder, the other party may obtain a court order requiring mediation under Section 44.102, Fla. Stats.

Any suit or action brought by either party to this Agreement against the other party relating to or arising out of this Agreement must be brought in the appropriate federal or state courts in Collier County, Florida, which courts have sole and exclusive jurisdiction on all such matters.

E. Termination. Should the ULI be found to have failed to perform the services in a manner satisfactory to the County and requirements of this Agreement, the County may terminate said Agreement for cause; further the County may terminate this Agreement for convenience with a thirty (30) day written notice. The County shall be sole judge of non-performance.

In the event that the Agreement is terminated, ULI's recovery against the County shall be limited to that portion of the Agreement amount earned through the date of termination. ULI shall not be entitled to any other or further recovery against the County, including, but not limited to, any damages or any anticipated profit on portions of the services not performed or materials not provided.

F. Assignment. ULI shall not assign this Agreement or any part thereof, without the prior consent in writing of the County. Any attempt to assign or otherwise transfer this Agreement, or any part herein, without the County's consent, shall be void. If ULI does, with approval, assign this Agreement or any part thereof, it shall require that its assignee be bound to it and to assume toward ULI all of the obligations and responsibilities that ULI has assumed toward the County.

G. Public Records Compliance. By executing and entering into this Agreement, the ULI is formally acknowledging without exception or stipulation that it agrees to comply, at its own expense, with all federal, state and local laws, codes, statutes, ordinances, rules, regulations and requirements applicable to this Agreement, including but not limited to those dealing with the Immigration Reform and Control Act of 1986 as located at 8 U.S.C. 1324, et seq. and

regulations relating thereto, as either may be amended; taxation, workers' compensation, equal employment and safety (including, but not limited to, the Trench Safety Act, Chapter 553, Florida Statutes, and the Florida Public Records Law Chapter 119), including specifically those contractual requirements at F.S. § 119.0701(2)(a)-(b) as stated as follows:

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT:

Communication and Customer Relations Division
3299 Tamiami Trail East, Suite 102
Naples, FL 34112-5746
Telephone: (239) 252-8383

The Contractor must specifically comply with the Florida Public Records Law to:

1. Keep and maintain public records required by the public agency to perform the service.
2. Upon request from the public agency's custodian of public records, provide the public agency with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in this chapter or as otherwise provided by law.
3. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the ULI does not transfer the records to the public agency.
4. Upon completion of the contract, transfer, at no cost, to the public agency all public records in possession of the Contractor or keep and maintain public records required by the public agency to perform the service. If the Contractor transfers all public records to the public agency upon completion of the contract, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of the contract, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the public agency, upon request from the public agency's custodian of public records, in a format that is compatible with the information technology systems of the public agency.

ULI Advisory Services Agreement
Collier County Florida
Page 6 of 7

If Contractor observes that the Contract Documents are at variance therewith, it shall promptly notify the County in writing. Failure by the Contractor to comply with the laws referenced herein shall constitute a breach of this agreement and the County shall have the discretion to unilaterally terminate this agreement immediately.

H. ULI is acting in the capacity of an independent hereunder and not as an employee, or agent of, or joint venturer with County.

I. This Agreement constitutes the entire agreement between the parties regarding the services described herein and supersedes all prior agreements or understandings between the parties on this subject matter, whether written or verbal.

J. This Agreement may not be altered, amended or modified except by written document signed by all parties.

K. This Agreement shall be subject to and construed under the laws of the State of Florida. The undersigned parties and their duly authorized representatives represent and warrant that they have authority to enter into this Agreement and hereby agree to the terms set forth above.

Attachment: ULI Contract - CAO Stamped (2228 : Agreement with the Urban Land Institute (ULI) to convene an Advisory Services Panel in



ULI Advisory Services Agreement
Collier County Florida
Page 7 of 7

IN WITNESS WHEREOF, the parties hereto, have each, respectively, by an authorized person or agent, have executed this Agreement on the date and year first written above.

BOARD OF COUNTY COMMISSIONERS
COLLIER COUNTY, FLORIDA

ATTEST:
Dwight E. Brock, Clerk of Courts

By: _____

By: _____
Donna Fiala, Chairman

Dated: _____
(SEAL)

ULI – The Urban Land Institute
Consultant

First Witness

By: _____
Signature

↑Type/print witness name↑

↑Type/print signature and title↑

Second Witness

↑Type/print witness name↑

Approved as to Form and Legality:

Jennifer A. Belpedio, Assistant County Attorney

JoB
10/19/16

Attachment: ULI Contract - CAO Stamped (2228 : Agreement with the Urban Land Institute (ULI) to convene an Advisory Services Panel in



PARKING DEVIATION JUSTIFICATION

Sec. 34-2020(a) of the Land Development Code (LDC) requires a minimum of two parking spaces per multiple-family unit, plus 10 percent for visitor parking. For 200 multifamily units, 440 spaces are required.

REQUIRED PARKING PER CODE

| | |
|---------------------------------------|-------------|
| 200 units @ 2 spaces / unit | = 400 |
| <u>Additional 10% Visitor parking</u> | <u>= 40</u> |
| Parking Required | 440 |

The minimum code requirement over-estimates the number of parking spaces needed for this development, for the following reasons:

Unit Type

Almost half of the units will be studio or one-bedroom units (44%). If we made the reasonable assumption that all of the studio apartments and half of the one-bedroom units required only one parking space, the total number of spaces required would be 380.

| Unit Type | Standard | No. of Spaces Req'd |
|---|----------|---------------------|
| 23 studio | 1 | 23 spaces |
| 65 one-bedroom | 1.5 | 98 spaces |
| 112 2- and 3- bedroom x 2 spaces/unit = | 2 | 224 spaces |
| TOTAL: | | 345 spaces |
| Plus 10%: | | 380 spaces |

National Standards

The national average parking generation standard for suburban apartments, according to the Institute of Transportation Engineers (ITE), is 1.23 spaces per unit. The ITE is an international educational and scientific association of transportation professionals who are responsible for meeting mobility and safety needs. The ITE publishes *Parking Generation*, an informational report that includes data from more than 450 sites and organizes needed parking by land use classification. Relevant pages from the report are attached to this document. The ITE publication *Traffic Generation* is accepted as the standard used for traffic generation studies. If this parking standard were utilized, 246 spaces would be required.

$1.23 \times 200 = 246 \text{ spaces}$

Regional Standards

A review of parking requirements from adjacent municipalities shows that they all would require less parking for the same 200-unit apartment complex. This is because smaller sized units, such as studios and one-bedrooms, are generally recognized as creating less parking demand than larger units. See the comparison in the table, below. Also note that previous to LDC amendments adopted in 2012, Lee County parking standards were the same as those in the City of Bonita Springs.

| Tract 1A | | Estero | | Collier Co. | | Bonita Springs | | Fort Myers | |
|--------------|-------------------------|----------|----------------|-------------|----------------|----------------|----------------|----------------|----------------|
| Unit Mix | | Standard | Total Required | Standard | Total Required | Standard | Total Required | Standard | Total Required |
| 23 | Studio | 2 | 46 | 1.5 | 34.5 | 1.25 | 28.75 | 1.5 | 34.5 |
| 65 | 1-bedroom | 2 | 130 | 1.75 | 113.75 | 1.5 | 97.5 | 1.5 | 97.5 |
| 88 | 2-bedroom | 2 | 176 | 2 | 176 | 1.75 | 154 | 2 | 176 |
| 24 | 3-bedroom | 2 | 48 | 2 | 48 | 2 | 48 | 2 | 48 |
| | (guest) | 10% | 40 | | | 10% | 32.825 | 1 per 15 units | 23.733 |
| 6000 | (recreation facilities) | | | 1/100 SF | 60 | | | | |
| 1500 | (pool) | | | (see below) | 17 | | | | |
| | | | | 50% | 38.5 | | | | |
| Total | Required | | 440 | | 411 | | 361 | | 380 |

Pool: 1/75 first 1000 SF, 1 for each additional 125 SF

Operational Procedure

Each unit at Edera at Coconut Point will be assigned parking spaces by the leasing office by unit type, and visitor parking spaces will be designated in the surface parking lot areas. Covered parking areas will also be available at a premium added cost. This will help to promote efficient utilization of the parking area and allow additional control measures by the leasing company if it is found to be necessary.

Mixed-Use Development

This residential project is part of the overall mixed-use and walkable development of the Coconut Point DRI/MPD, with access to bike lanes, sidewalks, and transit stops. The developer is actively pursuing ways to increase pedestrian access to the site and promote connectivity with the Coconut Point Mall, such as providing easily accessible bicycle parking/bike racks, a bike sharing program, and perhaps an extension of the mall's trolley service to the project. Sidewalks are located along both sides of Via Coconut Point and Williams Road adjacent to the project, and the current site design provides for three connections and extension from these sidewalks into the site. In addition, Lee Tran Route 600, which connects to Collier County transit, runs along Via Coconut Point approximately three-quarters of a mile south of the subject site, with service every 90 minutes, and Routes 140 and 240 run along US 41 approximately one-third of a mile to the west, with service every 15-20 minutes. The applicant also will reserve area near the entry as a potential future transit stop/pedestrian shelter for when service along Via Coconut becomes available. This reduces the dependency on vehicles and further reduces the number of parking spaces required per unit.

A reasonable estimate of the reduction in required spaces would be 5 percent, based on reductions permitted by the LDC for bicycle and pedestrian amenities.

Section 34-2020 (c)(3) Bicycle and pedestrian facilities and amenities. The minimum required parking for a use may be reduced by five percent if bicycle and pedestrian facilities, identified on the Bikeways/Walkways Facility Plan - Planned Facilities and Existing Facilities, Map 3D-1 or Map 3D-2 of the Lee Plan, are located in the right-of-way adjacent to the property or on the property; a continuous bicycle path and pedestrian accommodations, consistent with section 10-610, are provided internal to the project from the bicycle/pedestrian facility to the primary entrance of the building; and, bicycle racks are provided on-site consistent with section 10-610(e)(3).

400 - 5 percent = 380 + 10 % = 418 spaces

Anticipated Demographics

The anticipated market for these apartments will be empty nesters and young professionals, attracted to the proximity to Hertz Global Headquarters (directly across Via Coconut Point) and shopping and restaurants at Coconut Point Mall. Tenants will be subject to strict background checks and must have proof of sufficient personal income displaying their ability to afford the unit. No third-party or family guarantors will be accepted. These requirements, including the distance from FGCU, will limit the anticipated number of student renters.

Proximity of Recreational Facilities

Staff has asked the applicant to provide additional parking spaces for the recreational facilities, even though these are ancillary uses and the code would not typically require additional parking. The maximum distance from a unit to the amenity center is less than 350’, or an approximately 80 second walk for the average pedestrian. It is reasonable to assume that a resident would be more likely to walk to the amenity center than to drive.

PROPOSED STANDARD

Given all of the above reasons, the applicant does not believe that the minimum number of spaces required by code accurately reflects the number necessary to accommodate the generation for this use in this location.

The applicant proposes a standard of 1.75 spaces/unit, with additional parking provided for the amenity center and leasing office, as shown below. This standard is above the national average and the requirements of other southwest Florida municipalities, and in line with the operational experience of 13th Floor.

| Parking Calculations | | | |
|----------------------|--------------------|-------------------|-----------------|
| | Units | Standard Proposed | Spaces Required |
| 200 | Multifamily | 1.75 | 350 |
| 3500 | SF Recreation Area | 3.5 per 1,000 SF | 12 |
| 1,650 | SF Office | 1 per 350 SF | 5 |
| TOTAL REQUIRED | | | 367 |

The applicant further commits to hold 16 potential parking spaces (5 percent of the total spaces) in “reserve,” in the event additional parking is found to be required, for a total of 383 spaces (367 paved and 16 in reserve). Until such time, the reserved parking areas will be kept as open space, providing approximately 2,500 square feet of additional green, landscaped area within the center of the site. The parking reservation area will not count towards the minimum open space requirement and will be provided in excess of code minimum requirements. Additional parking spaces will be available, in the unlikely event that 13th Floor finds that they are necessary, and the reservation will prevent the site from being over-parked with unnecessary areas of pavement and impervious surfaces. The proposed standard (1.75 spaces/unit) and parking reservation area are consistent with those recently approved for the Springs at Gulf Coast apartment complex.

| | |
|-----------------|-----|
| Paved spaces | 367 |
| Reserved spaces | 16 |
| Total Spaces | 383 |

CONCLUSION

In summary, the number of parking spaces provided will be adequate to meet the parking demand, with no detrimental effects, given the nature of the project and the demographic it will serve, along with its location within an established mixed-use project. Not “over-parking” the site will enhance the proposed design and protect public health, safety, and welfare by increasing open space and landscaping.

Parking Generation, 4th Edition

An Informational Report of the
Institute of Transportation Engineers

The Institute of Transportation Engineers (ITE) is an international educational and scientific association of transportation professionals who are responsible for meeting mobility and safety needs. ITE facilitates the application of technology and scientific principles to research, planning, functional design, implementation, operation, policy development and management for any mode of ground transportation. Through its products and services, ITE promotes professional development of its members, supports and encourages education, stimulates research, develops public awareness programs and serves as a conduit for the exchange of professional information.

Founded in 1930, ITE is a community of transportation professionals including, but not limited to transportation engineers, transportation planners, consultants, educators and researchers. Through meetings, seminars, publications and a network of 17,000 members, working in more than 90 countries, ITE is your source for expertise, knowledge and ideas.

***Parking Generation* is an informational report of the Institute of Transportation Engineers. The information has been obtained from the research and experiences of transportation engineering and planning professionals. ITE informational reports are prepared for informational purposes only and do not include Institute recommendations on which is the best course of action or the preferred application of the data.**



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Land Use: 221

Low/Mid-Rise Apartment

Description

Low/mid-rise apartments are rental dwelling units located within the same building with at least three other dwelling units; for example, quadrplexes and all types of apartment buildings. The study sites in this land use have one, two, three, or four levels. High-rise apartment (Land Use 222) is a related use.

Database Description

The database consisted of a mix of suburban and urban sites. Parking demand rates at the suburban sites differed from those at urban sites and, therefore, the data were analyzed separately.

- Average parking supply ratio: 1.4 parking spaces per dwelling unit (68 study sites). This ratio was the same at both the suburban and urban sites.
- Suburban site data: average size of the dwelling units at suburban study sites was 1.7 bedrooms, and the average parking supply ratio was 0.9 parking spaces per bedroom (three study sites).
- Urban site data: average size of the dwelling units was 1.9 bedrooms with an average parking supply ratio of 1.0 space per bedroom (11 study sites).

Saturday parking demand data were only provided at two suburban sites. One site with 1,236 dwelling units had a parking demand ratio of 1.33 vehicles per dwelling unit based on a single hourly count between 10:00 and 11:00 p.m. The other site with 55 dwelling units had a parking demand ratio of 0.92 vehicles per dwelling unit based on counts between the hours of 12:00 and 5:00 a.m.

Sunday parking demand data were only provided at two urban sites. One site with 15 dwelling units was counted during consecutive hours between 1:00 p.m. and 5:00 a.m. The peak parking demand ratio at this site was 1.00 vehicle per dwelling unit. The peak parking demand occurred between 12:00 and 5:00 a.m. The other site with 438 dwelling units had a parking demand ratio of 1.10 vehicles per dwelling unit based on a single hourly count between 11:00 p.m. and 12:00 a.m.

Four of the urban sites were identified as affordable housing.

Several of the suburban study sites provided data regarding the number of bedrooms in the apartment complex. Although these data represented only a subset of the complete database for this land use, they demonstrated a correlation between number of bedrooms and peak parking demand. Study sites with an average of less than 1.5 bedrooms per dwelling unit in the apartment complex reported peak parking demand at 92 percent of the average peak parking demand for all study sites with bedroom data. Study sites with less than 2.0 but greater than or equal to 1.5 bedrooms per dwelling unit reported peak parking demand at 98 percent of the average. Study sites with an average of 2.0 or greater bedrooms per dwelling unit reported peak parking demand at 13 percent greater than the average.

For the urban study sites, the parking demand data consisted of single or discontinuous hourly counts and therefore a time-of-day distribution was not produced. The following table presents a time-of-day distribution of parking demand at the suburban study sites.

Land Use: 221 Low/Mid-Rise Apartment

| <i>Based on Vehicles per Dwelling Unit (Suburban)</i> | <i>Weekday</i> | |
|---|------------------------|------------------------|
| Hour Beginning | Percent of Peak Period | Number of Data Points* |
| 12:00–4:00 a.m. | 100 | 14 |
| 5:00 a.m. | 96 | 14 |
| 6:00 a.m. | 92 | 14 |
| 7:00 a.m. | 74 | 1 |
| 8:00 a.m. | 64 | 1 |
| 9:00 a.m. | – | 0 |
| 10:00 a.m. | – | 0 |
| 11:00 a.m. | – | 0 |
| 12:00 p.m. | – | 0 |
| 1:00 p.m. | – | 0 |
| 2:00 p.m. | – | 0 |
| 3:00 p.m. | – | 0 |
| 4:00 p.m. | 44 | 1 |
| 5:00 p.m. | 59 | 1 |
| 6:00 p.m. | 69 | 1 |
| 7:00 p.m. | 66 | 9 |
| 8:00 p.m. | 75 | 9 |
| 9:00 p.m. | 77 | 10 |
| 10:00 p.m. | 92 | 14 |
| 11:00 p.m. | 94 | 14 |

* Subset of database

Parking studies of apartments should attempt to obtain information on occupancy rate and on the mix of apartment sizes (in other words, number of bedrooms per apartment and number of units in the complex). Future parking studies should also indicate the number of levels contained in the apartment building.

Additional Data

- Apartment occupancy can affect parking demand ratio. In the United States, successful apartment complexes commonly have a vacancy rate between 5 and 10 percent.¹

Study Sites/Years

Canada:

Central City, Not Downtown:

Brooks, AB (1998)

Puerto Rico:

Central City, Not Downtown:

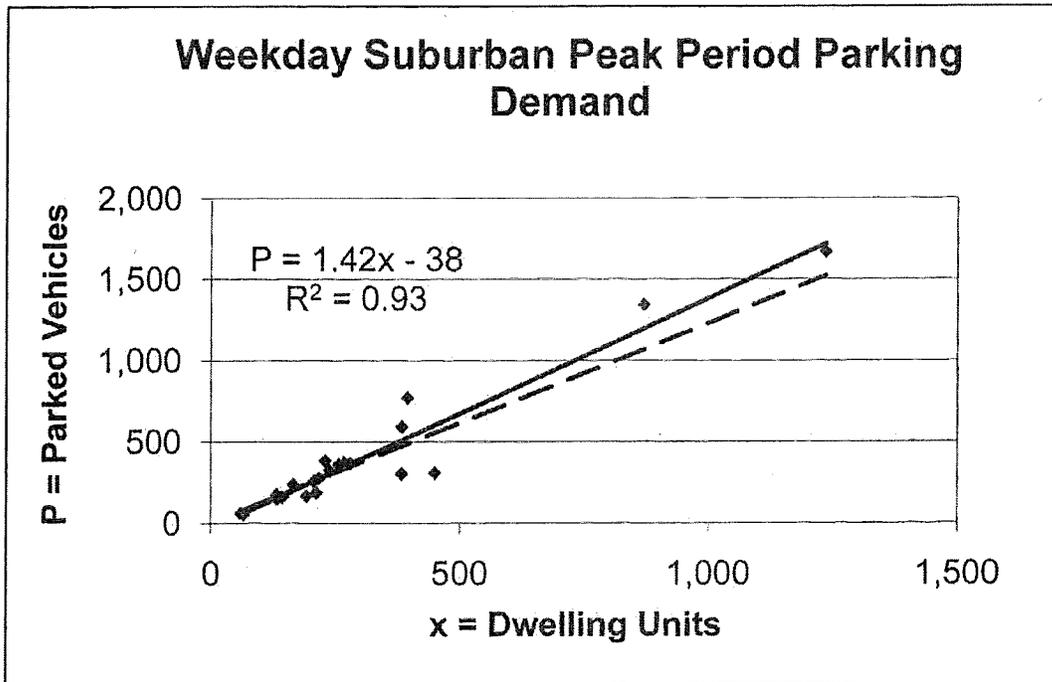
Mayaguez, PR (2007)

¹ Rental and Homeowner Vacancy Rates for the United States: 1960 and 1965 to 2009, U.S. Census Bureau. <http://www.census.gov/hhes/www/housing/hvs/qtr309/q309tab1.html>

Land Use: 221 Low/Mid-Rise Apartment

**Average Peak Period Parking Demand vs. Dwelling Units
On a Weekday
Location: Suburban**

| Statistic | Peak Period Demand |
|------------------------------------|--------------------------------------|
| Peak Period | 12:00–5:00 a.m. |
| Number of Study Sites | 21 |
| Average Size of Study Sites | 311 dwelling units |
| Average Peak Period Parking Demand | 1.23 vehicles per dwelling unit |
| Standard Deviation | 0.32 |
| Coefficient of Variation | 21% |
| 95% Confidence Interval | 1.10–1.37 vehicles per dwelling unit |
| Range | 0.59–1.94 vehicles per dwelling unit |
| 85th Percentile | 1.94 vehicles per dwelling unit |
| 33rd Percentile | 0.68 vehicles per dwelling unit |



◆ Actual Data Points — Fitted Curve - - - Average Rate



CCPS

Collier County
Public Schools

Human Resources

September 19, 2016

Mayor Nick Batos
Vice Mayor Howard Levitan
Councilman Bill Ribble
Councilman Donald Brown
Councilwoman Katy Errington
Councilman Jim Boesch
Councilman Jim Wilson
Village of Estero
9401 Corkscrew Palms Circle
Estero, FL 33928

RE: Support for variety of housing options

Dear Mayor and Village Council:

As an area employer hoping to attract and retain young professionals, Collier County Public Schools strongly supports development that promotes a variety of businesses and neighborhoods.

Collier County Public Schools is a top employer in the region with approximately 7,000 full-time and part-time employees and 5,500 volunteers. This year we hired just over 300 new teachers. Our recent experiences in recruiting and retaining key personnel have revealed that individuals who are relocating from out of the area are challenged by the limited variety and availability of housing options, particularly rental housing.

As we continue to fill our staffing needs, it is critical that there are a variety of housing options available for prospective employees.

Collier County Public Schools strongly supports projects that bring needed living opportunities to our region. Working together, we can provide for the needs of a multi-generational community that will continue to succeed and prosper.

Sincerely,

Ian T. Dean, MS, SPHR, SHRM-SCP
Executive Director of Human Resources
Collier County Public Schools

Today's Learners • Tomorrow's Leaders

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September 15, 2016

Mayor Nick Batos
Vice Mayor Howard Levitan
Councilman Bill Ribble
Councilman Donald Brown
Councilwoman Katy Errington
Councilman Jim Boesch
Councilman Jim Wilson

RE: Coconut Point Tract 1A (Edera) Mixed Planned Development (MPD) Amendment

Dear Mayor and Village Council:

We have reviewed the conceptual plans for the proposed Edera multi-family / apartment project within Coconut Point and support the addition of this high quality rental facility to the Village of Estero. As a long-time Lee County / Estero resident, I welcome the variety and immediate availability of housing options, particularly rental housing, given the current marketplace today.

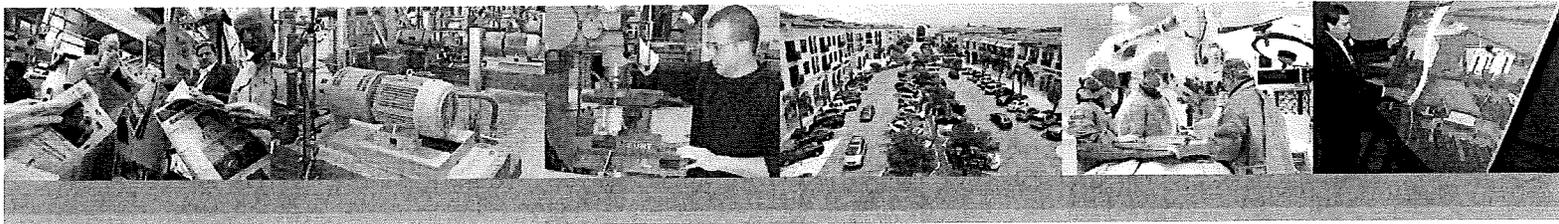
As an employer in real estate related jobs, we continuously recruit and retain young professionals that need affordable rental housing within close proximity to our offices. The Edera project will provide such housing within a live-work-play mixed planned development that was intended for Coconut Point.

Sincerely,

Andrew DeSalvo, MBA, ALC

Premier Commercial, Inc. – A Lutgert Company

With Offices in Naples • Bonita Springs



October 24, 2016

Mayor Nick Batos
Vice Mayor Howard Levitan
Councilman Bill Ribble
Councilman Donald Brown
Councilwoman Katy Errington
Councilman Jim Boesch
Councilman Jim Wilson

RE: Edera at Coconut Point (Tract 1A)
Coconut point Mixed Planned Development (MPD) Amendment

Dear Mayor and Village Council:

We have reviewed the conceptual plans for the proposed Edera multi-family/apartment project within Coconut Point and support the addition of this high quality facility to the Village of Estero. Being that we help relocate and attract businesses to the area, we welcome the variety and immediate availability of housing options, particularly rental housing to the Village area.

In addition, we continuously see young professionals that need reasonable rental housing within close proximity to their work facilities including Hertz and the new Healthcare Village by Lee Heath. The Edera project will provide such housing within a live-work-play mixed planned development such as Coconut Point to continue to create a vibrant community.

I hope that you will consider the requested amendment and please feel free to contact me with any questions.

Sincerely,

Tiffany Esposito
Executive Director
(239) 333-2332
Director@BonitaSpringsEsteroEDC.com



BONITA SPRINGS ESTERO
ECONOMIC DEVELOPMENT COUNCIL
QUALITY BUSINESS, QUALITY LIFE



THE SCHOOL DISTRICT OF LEE COUNTY

2855 COLONIAL BLVD. ♦ FORT MYERS, FLORIDA 33966 ♦ WWW.LEESCHOOLS.NET

DR. ANGELA J. PRUITT, PMP, SHRM-CP

CHIEF HUMAN RESOURCES OFFICER

ANGELAJP@LEESCHOOLS.NET

239.337.8509

September 12, 2016

Mayor Nick Batos
Vice Mayor Howard Levitan
Councilman Bill Ribble
Councilman Donald Brown
Councilwoman Katy Errington
Councilman Jim Boesch
Councilman Jim Wilson
Village of Estero
9401 Corkscrew Palms Circle
Estero, FL 33928

RE: Need for housing options for teachers

Dear Mayor and Village Council,

As an area employer hoping to attract and retain young professionals, the Lee County School District strongly supports development that promotes a variety of businesses and neighborhoods.

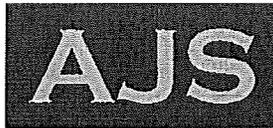
The Lee County School District is a top employer in Lee County with over 11,000 full- and part-time employees and nearly 19,000 volunteers. This year alone we hired almost 600 new teachers. Our recent experiences in recruiting and retaining key personnel have revealed that individuals who are relocating from out of the area are severely challenged by the limited variety and availability of housing options, particularly rental housing.

As we continue to fill our staffing needs, our organization faces many challenges recruiting and retaining critical employees. It is critical that there are a variety of housing options available.

The Lee County School District strongly supports projects that bring needed living opportunities within south Lee County. Working together, we can provide for the needs of a multi-generational community that will continue to succeed and prosper.

Sincerely,

Angela J. Pruitt, PhD
Chief Human Resources Officer
Lee County School District



REALTY GROUP, INC.

INVESTMENT * DEVELOPMENT * MANAGEMENT * LEASING

September 13, 2016

Mayor Nick Batos
Vice Mayor Howard Levitan
Councilman Bill Ribble
Councilman Donald Brown
Councilwoman Katy Errington
Councilman Jim Boesch
Councilman Jim Wilson

RE: Coconut Point Tract 1A (Edera) Mixed Planned Development (MPD) Amendment

Dear Mayor and Village Council:

We have reviewed the conceptual plans for the proposed Edera multi-family / apartment project within Coconut Point and support the addition of this high quality rental facility to the Village of Estero. With our existing portfolio of properties in the area, we welcome the variety and immediate availability of housing options, particularly rental housing, within the Village area.

The Edera project will provide an excellent housing opportunity within the live-work-play mixed planned development that was intended for Coconut Point.

Sincerely,

A handwritten signature in black ink, appearing to read "AS", is written over a horizontal line.

Andrew J. Saluan
AJS Realty Group, Inc.



September 14, 2016

Mayor Nick Batos
Vice Mayor Howard Levitan
Councilman Bill Ribble
Councilman Donald Brown
Councilwoman Katy Errington
Councilman Jim Boesch
Councilman Jim Wilson

RE: Coconut Point Tract 1A (Edera) Mixed Planned Development (MPD) Amendment

Dear Mayor and Village Council:

We have reviewed the conceptual plans for the proposed Edera multi-family / apartment project within Coconut Point and support the addition of this high quality rental facility to the Village of Estero. With our existing ownership within Coconut Point (Shoppes at Coconut Point and Tract 3C-1), we welcome the variety and immediate availability of housing options, particularly rental housing, within the Village area.

As an employer in the insurance industry within the area, I recruit and retain young professionals that need affordable rental housing within close proximity to our facilities. The Edera project will provide such housing within a live-work-play mixed planned development that was intended for Coconut Point. In addition, I feel this is a great addition to the Coconut Point project.

Sincerely,

Will Kastroll
President
wkastroll@hrm.us

September 20, 2016

Mayor Nick Batos
Vice Mayor Howard Levitan
Councilman Bill Ribble
Councilman Donald Brown
Councilwoman Katy Errington
Councilman Jim Boesch
Councilman Jim Wilson

RE: Coconut Point Tract 1A (Edera) Mixed Planned Development (MPD) Amendment

Dear Mayor and Village Council:

We are aware of the proposed Edera multi-family / apartment project within Coconut Point and support the addition of this quality rental facility to the Village of Estero. With our planned medical complex, Lee Health Coconut Point project, we welcome the variety and immediate availability of housing options, particularly rental housing to the Village area.

As a major employer in Lee County, we continuously recruit and retain young professionals that need affordable rental housing within close proximity to our facilities. The Edera project will provide such housing within a live-work-play mixed planned development such as Coconut Point.

Sincerely,



Larry Antonucci, M.D.
Chief Operating Officer
Lee Memorial Health System

LEE MEMORIAL HEALTH SYSTEM BOARD OF DIRECTORS

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November 2, 2016

The Honorable Nick Batos, Mayor
The Honorable Howard Levitan
The Honorable Bill Ribble
The Honorable Donald Brown
The Honorable Katy Errington
The Honorable Jim Boesch
The Honorable Jim Wilson

RE: Lee Building Industry Association Support for Moderate Income Rental Housing

Dear Mayor Batos and Council Members:

The Lee Building Industry Association supports quality residential developments within Lee, Hendry and Glades Counties. As you know we continuously see young professionals and hard working families in need of affordable housing and affordable rental housing within proximity of their places of employment.

The current situation is that many in the workforce and their families are edged out of living in some parts of our community due to the lack of affordable housing. The current state on our interstate and local highways is a testament to this situation.

We welcome the variety and availability of housing options for all of our citizens in the Estero area.

Sincerely,

A handwritten signature in black ink that reads "Michael J. Welch".

Michael J. Welch
Public Policy Director
Lee Building Industry Association

CC: Mr. Dan Beiter
President, Board of Directors
Lee Building Industry Association

