

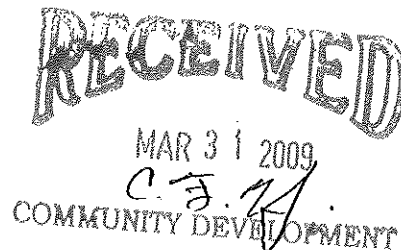


Reply to
Amanda L. Brock
Direct Fax Number 239.344.1543
Direct Dial Number 239.344.1269
E-Mail: amanda.brock@henlaw.com

March 31, 2009

VIA HAND DELIVERY

Nettie Richardson
Lee County Department of Community Development
1500 Monroe Street
Fort Myers, FL 33901



Re: ADD2009-00001

Dear Nettie:

Since the issuance of the above-referenced Administrative Amendment to Zoning Resolution Z-05-014 (the "Amendment"), it has come to our attention that the notation on page 2 of the Amendment incorrectly states the required parking spaces for the permitted Palms at Monterrey project as approved by DOS2000-00005. The Amendment indicates that 693 parking spaces are required under that approval, while the actual requirement is only 447 spaces.

We feel that this error is insignificant, as the approved Amendment does not contain any conditions affected by the parking space indication, but we desired to bring it to your attention and ask that this letter be placed in your file for the Amendment to avoid any future confusion or complication. The currently-existing project provides nearly twice the number of required parking spaces, and the Amendment, as conditioned, requires that any future remodeling of the existing project be done only with Development Order approval, which will address any change to parking space requirements at that time.

Thank you, and please do not hesitate to contact me with any questions.

Very truly yours,

Amanda L. Brock

ALB/

cc: Ms. Debi Pendlebury
Mr. Paul Schack

Henderson, Franklin, Starnes & Holt, P.A.

ADD 2009-00001

SEE Henderson-Franklin letter dated 3-31-09 concerning corrected parking requirements.

ADMINISTRATIVE AMENDMENT (PD) ADD2009-00001

ADMINISTRATIVE AMENDMENT
LEE COUNTY, FLORIDA

WHEREAS, BTS Monterrey Holdings, LLC., filed an application for administrative approval to amend Resolution Z-05-014 to allow the addition of timeshare units to the Schedule of Uses on a project known as The Palms of Monterrey located at Sonoma Drive, described more particularly as:

LEGAL DESCRIPTION: In Section 33, Township 45 South, Range 24 East, Lee County, Florida:

See Exhibit "A"

WHEREAS, the property was originally rezoned to Commercial Planned Development (CPD) in case number 87-3-10 DRI (with subsequent amendments in case numbers Z-93-081 (87-03-10 DRI (D)), Z-98-011 (96-02-220-.04Z), Z-01-002 (DCI2000-00054), Z-01-021 (DRI2000-00023 & DCI2000-00093), Z-05-014 (DRI2004-00007 & DCI2004-00048)); and

WHEREAS, the subject property is located in the Urban Community Future Land Use Category as designated by the Lee Plan; and

WHEREAS, the Lee County Land Development Code provides for certain administrative changes to planned development master concept plans and planned unit development final development plans; and

WHEREAS, Resolution Z-05-014 amended the DRI Development Order for HealthPark Florida which a) revised the Master Development Plan to change locations of various uses within the project; b) modify the Land Use Schedule to reflect increases and decreased in various land uses approved as part of the DRI; c) extend the build out date by four years to 2012; d) modified the transportation related conditions to reflect the results of traffic reassessment; and e) revised the frequency of filing monitoring reports from annually to bi-annually; and

WHEREAS, the amended Resolution Z-05-014 permitted the following: 1,015,413 square feet (558) beds of acute care, specialty hospital space, and future health care functions; 465,000 square feet of medical and general office space; 160,000 square feet of general retail space (food and beverage, financial, business and retail services); 478 independent living units; 445 beds of assisted living and skilled nursing care; 1,156 residential dwelling units; and 172 units of lodging. The approved maximum building height within this planned development is 124 feet for the hospital. Appurtenances necessary for mechanical or structure functions of the hospital may extend another 16 feet in height. All other development continues to be limited to a maximum building height of 95 feet; and

WHEREAS, the subject property was approved by DOS2000-00005 for the following:

- 408 multi-family rental units in 17 buildings (24 units per building),
- 144 1 - bedroom units,
- 204 - 2 bedroom units,

- 60 - 3 bedroom units,
- 693 required parking spaces; 805 parking spaces provided,
- streets,
- covered and open parking,
- utilities,
- stormwater management facilities,
- a 5,540 square feet building for a clubhouse,
- a swimming pool,
- two tennis courts,
- related site improvements; and

WHEREAS, the applicant has requested the Administrative Amendment to allow the conversion of the 408 multi-family rental units into 312 timeshare unit, leaving 96 units that will be used for various programs offered to the residents and guest of the timeshare units; and

WHEREAS, the applicant is changing the overall use of the existing multi-family development into a timeshare community with amenities. The timeshare community will function as a wellness community offering programs such as yoga instruction, informative lectures associated with wellness, nutrition, and physical improvement, food preparation instruction, art and dance studios etc. for the use of the residents and guest only of the timeshare units; and

WHEREAS, the Land Development Code (LDC) does not define a "wellness community" however Resolution Z-05-014 allows Personal Services Groups I, II, III, and IV as a permitted use which includes a health club at this location; and

WHEREAS, the remaining 96 units not converted into timeshare units will be used by the health club for various programs such as yoga instruction, informative lectures associated with wellness, nutrition, and physical improvement, food preparation instruction, art and dance studios etc. for the use of the residents and guest only of the timeshare units; and

WHEREAS, the 408 multi-family units were included in the density for the overall residential dwelling count of 1,156 residential dwelling units in HealthPark; and

WHEREAS, HealthPark is currently developed with a total of 1099 residential units based on the following residential developments:

- Portofino Springs apartments - 200 units;
- Sail Harbour at HealthPark - 473 units;
- The Palms at Monterrey - 408 units;
- Ronald McDonald House - 18 units

WHEREAS, Section 34-1494(b)(5) provides the density equivalency factors for timeshare units having lock-off accommodations. The 312 timeshare units will not have lock off units, therefore Section 34-2194(a) then states the permissible density may not exceed the density limitations set forth in the zoning district or land use category (whichever is less); and

WHEREAS, the conversion of the 408 dwelling units into 312 timeshare units will reduce the total residential unit count to 1003 and will continue to be consistent with the Urban Community land use density requirements and with the overall density approval for HealthPark; and

WHEREAS, Section 34-2020(1) 3.g. states timeshare units has the same parking requirements as for multi-family buildings unless the timeshare units have lock off units then additional parking spaces are required. The 312 timeshare units will not have lock off accommodations; and

WHEREAS, the timeshare units will be sold in increments of 1 week or longer; and

WHEREAS, the 312 timeshare units which contain an estimated 60 - 1 bedroom, 204 - 2 bedrooms and 48 - 3 bedrooms requires 543 parking spaces, leaving 200 parking spaces available for the various programs that will be used by the residents and guests of the timeshare; and

WHEREAS, after the conversion, the existing 805 parking spaces will provide adequate parking spaces for the timeshare units and the units used by the health club; and

WHEREAS, the applicant provided a Traffic Impact Statement(TIS) demonstrating the conversion of the 408 multi family unit rental complex to 312 timeshare units; and

WHEREAS, Lee County Development Services reviewed the TIS and finds the conversion of 408 multi-family rental units to 312 timeshare units that after the conversion the volume of AM peak hour project traffic will decrease, and the volume of PM peak hour project traffic will remain the same. The conversion will have no effect on the level of service of either Bass Road or Summerlin Road (see Exhibit "B"); and

WHEREAS, the subject application and plans have been reviewed by the Lee County Department of Community Development in accordance with applicable regulations for compliance with all terms of the administrative approval procedures; and

WHEREAS, it is found that the proposed amendment does not increase density or intensity within the development; does not decrease buffers or open space required by the LDC; does not underutilize public resources or infrastructure; does not reduce total open space, buffering, landscaping or preservation areas; and does not otherwise adversely impact on surrounding land uses.

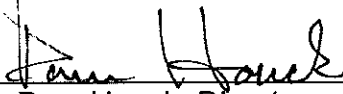
NOW, THEREFORE, IT IS HEREBY DETERMINED that the application for administrative approval to amend Resolution Z-05-014 to allow the addition of timeshare units to the Schedule of Uses is APPROVED.

Approval is subject to the following conditions:

1. **The Schedule of Uses outlined in Resolution Z-05-014 is hereby amended to include Timeshare Units in conjunction with various programs such as yoga instruction, informative lectures associated with wellness, nutrition, and physical improvement, food preparation instruction, art and dance studios etc. for the use of the residents and guest only of the timeshare units; and**
2. **The ADD is limited to the conversion of 408 multi-family rental units into 312 timeshare units. Lock off units are not allowed.**

3. The remaining 96 units may not be converted back to residential units unless the entire project is converted back via an administrative amendment to a residential multi-family project of 408 units. The project may also request an increase of the number of timeshare units through a public hearing amendment to the zoning.
4. A Development Order or Building Permit for the remodeling of the remaining 96 units into rooms to be used for ancillary uses must be obtained prior to the issuance of a Certificate of Occupancy. The remaining 96 units must be converted into rooms for ancillary uses (such as yoga instruction, informative lectures associated with wellness, nutrition, and physical improvement, food preparation instruction, art and dance studios etc. for the use of the residents and guest only of the timeshare units) in connection with the timeshare units.
5. The conversion of the project units to timeshare use shall not be effective until and unless a Declaration of Timeshare is filed with the State of Florida. Until the filing of the Timeshare Declaration the project may continue to be used for 408 residential multi-family apartment units.
6. The timeshare units must be sold in increments of 1 week or longer.
7. The timeshare units may not be used as a hotel.
8. The terms and conditions of the original zoning resolutions as amended remain in full force and effect.

DULY SIGNED this 23rd day of March, A.D., 2009.

BY: 
Pam Houck, Director
Division of Zoning
Department of Community Development

Exhibits:

A - Legal Description

B - Memo from Development Services dated January 29, 2009

SHEET 2 OF 3

RECEIVED

JAN 07 2009

April 29, 2005

DESCRIPTION

ADD 2009-00001

**HEALTHPARK FLORIDA EAST
SECTION 33, TOWNSHIP 45 SOUTH, RANGE 24 EAST
AND
SECTION 4, TOWNSHIP 46 SOUTH, RANGE 24 EAST
LEE COUNTY, FLORIDA**

A tract or parcel of land lying in Section 33, Township 45 South, Range 24 East and Section 4, Township 46 South, Range 24 East, Lee County, Florida, being described as follows:

From the southeast corner of said Section 33 run N 01° 05' 59" W along the east line of said Section 33 for 433.12 feet to an intersection with the northwesterly right-of-way line of Summerlin Road (County Road 869) (225 feet wide) and the Point of Beginning.

From said Point of Beginning run S 44° 17' 24" W along said northwesterly right-of-way line of Summerlin Road for 3,613.16 feet to an intersection with the east right-of-way line of Bass Road (150 feet wide) as described in deed recorded in Official Record Book 2209 at Page 2942 of the Public Records of Lee County, Florida; thence run N 01° 16' 30" W along said east right-of-way line for 2,109.86 feet to an intersection with the north line of said Section 4, thence run N 01° 02' 25" W continuing along the east right-of-way line of Bass Road as described in deed recorded in Official Record Book 2413 at Page 2522 of said Public Records for 1,323.90 feet to an intersection with the north line of the South Half (S-1/2) of the Southeast Quarter (SE-1/4) of said Section 33; thence run N 88° 58' 18" E along said north line for 2,577.29 feet to an intersection with the east line of said Section 33; thence run S 01° 05' 59" E along said Section line for 893.09 feet to the Point of Beginning.

Parcel contains 5,579,214 square feet (128.08 acres), more or less.

Bearings hereinabove mentioned are based on the north line of the Northeast Quarter (NE-1/4) of Section 4, Township 46 South, Range 24 East to bear S 89° 01' 22" W.

Applicant's Legal Checked
by CS 11/12/09

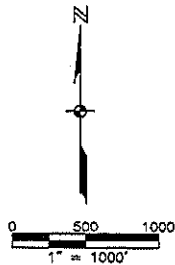
Michael W. Norman
Michael W. Norman (For The Firm LB-642)
Professional Surveyor and Mapper
Florida Certificate No. 4500

200033872-02 HP FL East 128.08 Acres 042905

Exhibit AA-3.C.1

EXHIBIT A

2122 Johnson Street ■ Post Office Box 1550 ■ Fort Myers, Florida 33902-1550
(239) 334-0046 ■ Fax (239) 334-3661

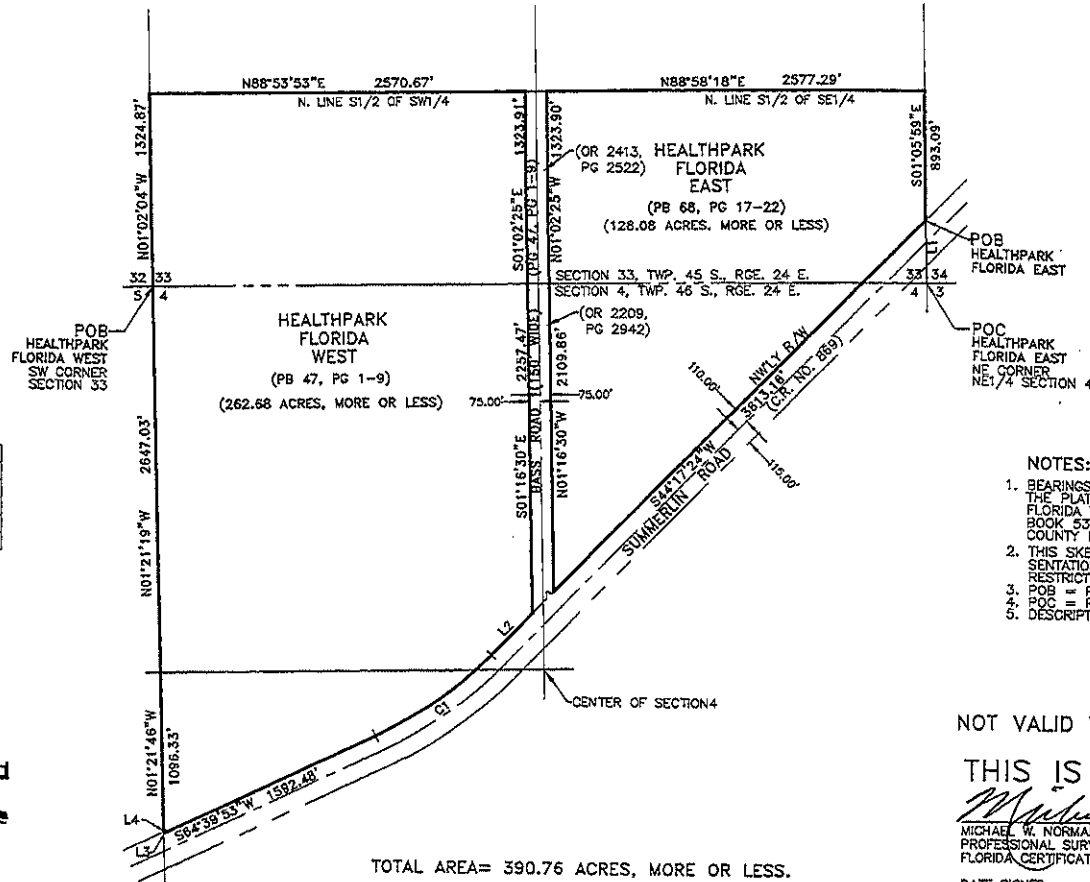


REC'D
JAN 07 2009
ADD 2009-00001

LINE TABLE		
LINE	BEARING	LENGTH
L1	N01°08'59"W	433.12
L2	S44°17'25"W	408.74
L3	N25°20'07"W	10.00
L4	S64°39'53"W	10.78

CURVE TABLE				
CURVE	RADIUS	DELTA	CHORD BEARING	CHORD LENGTH
C1	2754.79	20°22'29"	S54°28'38"W	974.47

Applicant's Legal Checked
by *EG* 4/12/09



NOTES:

1. BEARINGS SHOWN HEREON ARE BASED ON THE PLAT OF PHASE I-F HEALTHPARK FLORIDA WEST AS RECORDED IN PLAT BOOK 53, PAGES 81-90, IN LEE COUNTY PUBLIC RECORDS.
2. THIS SKETCH DOES NOT MAKE ANY REPRESENTATION AS TO ZONING OR DEVELOPMENT RESTRICTIONS ON SUBJECT PARCEL.
3. POB = POINT OF BEGINNING
4. POC = POINT OF COMMENCEMENT
5. DESCRIPTION ATTACHED.

NOT VALID WITHOUT SHEETS 1 & 2

THIS IS NOT A SURVEY

Michael W. Norman

MICHAEL W. NORMAN
PROFESSIONAL SURVEYOR AND MAPPER
FLORIDA CERTIFICATE NO. 4500

DATE SIGNED: NOV 24 2008
NOT VALID WITHOUT THE SIGNATURE OF THE PROFESSIONAL SURVEYOR
SEAL OF A FLORIDA LICENSED SURVEYOR

HEALTHPARK FLORIDA WEST
AND HEALTHPARK FLORIDA EAST
SECTION 33, TOWNSHIP 45 SOUTH, RANGE 24 EAST &
SECTION 4, TOWNSHIP 46 SOUTH, RANGE 24 EAST
LEE COUNTY, FLORIDA

JOHNSON
ENGINEERING

2158 JOHNSON STREET
P.O. BOX 1550
FORT MYERS, FLORIDA 33902-1550
PHONE (239) 334-0048
FAX (239) 334-3861
E.B. #642 & L.B. #642

SKETCH TO ACCOMPANY
DESCRIPTION

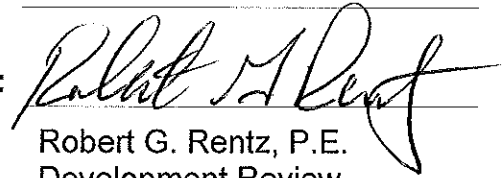
DATE	PROJECT NO.	FILE NO.	DATE	SHEET
03/22/06	20033872-02	33-45-24	NOV 24 2008	2 OF 3

MEMORANDUM
FROM THE
DEPARTMENT OF
COMMUNITY DEVELOPMENT
DEVELOPMENT SERVICES DIVISION

DATE: January 29, 2009

To: Nettie Richardson
Principal Planner

FROM:


Robert G. Rentz, P.E.
Development Review
Engineer

RE: **The Palms at Monterrey**
ADD2009-00001

The purpose of the proposed Administrative Deviation is to convert 408 Rental Apartments (ITE LUC 220) to 312 Timeshare Units (ITE LUC 265).

Based on the ITE Trip Generation Report, following the conversion the volume of AM peak hour project traffic will decrease, and the volume of PM peak hour project traffic will remain the same.

Also, based on the Lee County D.O.T. link-specific service volumes, and the Lee County Concurrency Report, the proposed conversion will have no effect on the level of service of either Bass Rd. or Summerlin Rd.

EXHIBIT B

BGR

S:/WRITERS/RENTZRG/ADD2009-00001TRIPGENERATION