APPLICATION



Lee County Board of County Commissioners
Department of Community Development

Division of Planning Post Office Box 398

Fort Myers, FL 33902-0398 Telephone: (239) 479-8585

ephone: (239) 479-8585 FAX: (239) 479-8519

APPLICATION FOR A COMPREHENSIVE PLAN AMENDMENT

	(To be completed at time of intake)	
DATE REC'D	REC'D BY:	
APPLICATION FEE	TIDEMARK NO:	
THE FOLLOWING VERIFICATION CONTRIBUTION CONTRIBUTION ON FLUM	ED: Commissioner District	
	(To be completed by Planning Staff)	
Plan Amendment Cycle:	Normal Small Scale DRI Emergency	
Request No:		
additional space is needed sheets in your application in Submit 6 copies of the continuity including maps, to the Lee	npletely and accurately. Please print or type responses. If I, number and attach additional sheets. The total number of	
Department of Community		
I, the undersigned owner or authorized representative, hereby submit this application and the attached amendment support documentation. The information and documents provided are complete and accurate to the best of my knowledge.		
6/19/67 M DATE SIGN	The Wesley NATURE OF OWNER OR AUTHORIZED REPRESENTATIVE	

Lee County Comprehensive Plan Amendment Application Form (06/06)

SOUTHWEST FLORIDA

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I. APPLICANT/AGENT/OWNER INFORMATION

Russ Attree, President, Capital In	vestment Corp. of SW Florida	
APPLICANT	•	
2165 US 27 South		
ADDRESS		
Lake Placid, FL 33852	FL	33852
CITY	STATE	ZIP
(863) 699-4044		(863) 699-4045
TELEPHONE NUMBER		FAX NUMBER
Michael E. Roeder, Knott, Consoc	er, Ebelini, Hart & Swett, P.A.	
AGENT*		
1625 Hendry Street, Suite 301		
ADDRESS	El	33901
Fort Myers	FL	ZIP
CITY (220) 224 2722	STATE	
(239) 334-2722		(239) 334-1446
TELEPHONE NUMBER		FAX NUMBER
Capital Investment Corp. of SW F	orida	
OWNER(s) OF RECORD		
2165 US 27 South		
ADDRESS		20052
Lake Placid, FL 33852	FL	33852
CITY	STATE	ZIP
(863) 699-4044	FL	(863) 699-4045
TELEPHONE NUMBER		FAX NUMBER

Name, address and qualification of additional planners, architects, engineers, environmental consultants, and other professionals providing information contained in this application.

* This will be the person contacted for all business relative to the application.



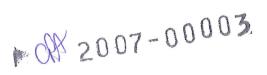
COMMUNITY DEVELOPMENT



Lee County Comprehensive Plan Amendment



II.	RE	EQUESTED CHANGE (Please see Item 1 for Fee Schedule)
	Α.	TYPE: (Check appropriate type)
	[Text Amendment X Future Land Use Map Series Amendment (Maps 1 thru 21) List Number(s) of Map(s) to be amended Map 1
	В.	SUMMARY OF REQUEST (Brief explanation):
		Modify the existing future land use map to change a portion of parcel
		21-43-25-04-00000.B000 from an existing future land use code of
		"Suburban" to "Industrial Development."
III.		ROPERTY SIZE AND LOCATION OF AFFECTED PROPERTY or amendments affecting development potential of property)
	Α.	Property Location:
		1. Site Address: 17600 East Street, North Fort Myers, FL 33917
		2. STRAP(s): 21-43-25-04-00000.B000
	В.	Property Information
		Total Acreage of Property: 38.78 AC
		Total Acreage included in Request: 7.50 AC
		Area of each Existing Future Land Use Category: 100% Suburban
		Total Uplands: 6.76 AC
		Total Wetlands: 0.74 AC
		Current Zoning: AG-2
		Current Future Land Use Designation: Suburban
		Existing Land Use:Vacant
		nty Comprehensive Plan Amendment Page 3 of 9 ion Form (06/06) G;\AM\$\IADCapital\FinalCompPlanAmendmentApp.doc



C.	State if the subject property is located in one of the following areas and if so how does the proposed change effect the area:		
	Le	high Acres Commercial Overlay: _	No
	Aiı	rport Noise Zone 2 or 3: <u>No</u>	
	Ac	quisition Area: <u>No</u>	
	Jo	int Planning Agreement Area (adjoin	ing other jurisdictional lands): No
	Co	nmunity Redevelopment Area:	No More The Control of the Control o
D.	Pr	oposed change for the Subject Pro	perty:
	Ch	ange from "Suburban" to "Industria	I Development" JUN 1 9 2007
			COMMUNITY DEVELOPMENT
E.			
	1.	Calculation of maximum allowable	development under existing FLUM:
		Residential Units/Density	6 units/acre
		Commercial intensity	Not larger than a neighborhood center
		Industrial intensity	Not permitted
	2.	Calculation of maximum allowable	development under proposed FLUM:
		Residential Units/Density	Not permitted
		Commercial intensity	30,000 SF per development or not more
			Than 10% of area
		Industrial intensity	Regulated by Development Order

IV. AMENDMENT SUPPORT DOCUMENTATION

At a minimum, the application shall include the following support data and analysis. These items are based on comprehensive plan amendment submittal requirements of the State of Florida, Department of Community Affairs, and policies contained in the Lee County Comprehensive Plan. Support documentation provided by the applicant will be used by staff as a basis for evaluating this request. To assist in the preparation of amendment packets, the applicant is encouraged to provide all data and analysis electronically. (Please contact the Division of Planning for currently accepted formats)

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A. General Information and Maps

NOTE: For <u>each</u> map submitted, the applicant will be required to provide a reduced map (8.5" x 11") for inclusion in public hearing packets.

The following pertains to all proposed amendments that will affect the development potential of properties (unless otherwise specified).

- 1. Provide any proposed text changes.
- 2. Provide a Future Land Use Map showing the boundaries of the subject property, surrounding street network, surrounding designated future land uses, and natural resources.
- 3. Map and describe existing land *uses* (not designations) of the subject property and surrounding properties. Description should discuss consistency of current uses with the proposed changes.
- 4. Map and describe existing zoning of the subject property and surrounding properties.
- 5. The legal description(s) for the property subject to the requested change.
- 6. A copy of the deed(s) for the property subject to the requested change.
- 7. An aerial map showing the subject property and surrounding properties.
- 8. If applicant is not the owner, a letter from the owner of the property authorizing the applicant to represent the owner.

B. Public Facilities Impacts

NOTE: The applicant must calculate public facilities impacts based on a maximum development scenario (see Part II.H.).

1. Traffic Circulation Analysis

The analysis is intended to determine the effect of the land use change on the Financially Feasible Transportation Plan/Map 3A (20-year horizon) and on the Capital Improvements Element (5-year horizon). Toward that end, an applicant must submit the following information:

Long Range – 20-year Horizon:

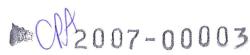
- a. Working with Planning Division staff, identify the traffic analysis zone (TAZ) or zones that the subject property is in and the socio-economic data forecasts for that zone or zones;
- b. Determine whether the requested change requires a modification to the socio-economic data forecasts for the host zone or zones. The land uses for the proposed change should be expressed in the same format as the



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socio-economic forecasts (number of units by type/number of employees by type/etc.);

- c. If no modification of the forecasts is required, then no further analysis for the long range horizon is necessary. If modification is required, make the change and provide to Planning Division staff, for forwarding to DOT staff. DOT staff will rerun the FSUTMS model on the current adopted Financially Feasible Plan network and determine whether network modifications are necessary, based on a review of projected roadway conditions within a 3mile radius of the site;
- d. If no modifications to the network are required, then no further analysis for the long range horizon is necessary. If modifications are necessary, DOT staff will determine the scope and cost of those modifications and the effect on the financial feasibility of the plan;
- e. An inability to accommodate the necessary modifications within the financially feasible limits of the plan will be a basis for denial of the requested land use change;
- f. If the proposal is based on a specific development plan, then the site plan should indicate how facilities from the current adopted Financially Feasible Plan and/or the Official Trafficways Map will be accommodated.

Short Range – 5-year CIP horizon:

- a. Besides the 20-year analysis, for those plan amendment proposals that include a specific and immediated development plan, identify the existing roadways serving the site and within a 3-mile radius (indicate laneage, functional classification, current LOS, and LOS standard);
- b. Identify the major road improvements within the 3-mile study area funded through the construction phase in adopted CIP's (County or Cities) and the State's adopted Five-Year Work Program;
- Projected 2020 LOS under proposed designation (calculate anticipated number of trips and distribution on roadway network, and identify resulting changes to the projected LOS);
- c. For the five-year horizon, identify the projected roadway conditions (volumes and levels of service) on the roads within the 3-mile study area with the programmed improvements in place, with and without the proposed development project. A methodology meeting with DOT staff prior to submittal is required to reach agreement on the projection methodology;
- d. Identify the additional improvements needed on the network beyond those programmed in the five-year horizon due to the development proposal.
- 2. Provide an existing and future conditions analysis for:
 - a. Sanitary Sewer
 - b. Potable Water
 - c. Surface Water/Drainage Basins
 - d. Parks, Recreation, and Open Space.



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Analysis should include (but is not limited to) the following:

- Franchise Area, Basin, or District in which the property is located;
- Current LOS, and LOS standard of facilities serving the site;
- Projected 2020 LOS under existing designation;
- Projected 2020 LOS under proposed designation;
- Improvements/expansions currently programmed in 5 year CIP, 6-10 year CIP, and long range improvements; and
- Anticipated revisions to the Community Facilities and Services Element and/or Capital Improvements Element (state if these revisions are included in this amendment).
- 3. Provide a letter from the appropriate agency determining the adequacy/provision of existing/proposed support facilities, including:
 - a. Fire protection with adequate response times;
 - b. Emergency medical service (EMS) provisions;
 - c. Law enforcement;
 - c. Solid Waste;
 - d. Mass Transit; and
 - e. Schools.

In reference to above, the applicant should supply the responding agency with the information from Section's II and III for their evaluation. This application should include the applicant's correspondence to the responding agency.

C. Environmental Impacts

Provide an overall analysis of the character of the subject property and surrounding properties, and assess the site's suitability for the proposed use upon the following:

- 1. A map of the Plant Communities as defined by the Florida Land Use Cover and Classification system (FLUCCS).
- 2. A map and description of the soils found on the property (identify the source of the information).
- 3. A topographic map with property boundaries and 100-year flood prone areas indicated (as identified by FEMA).
- 4. A map delineating wetlands, aquifer recharge areas, and rare & unique uplands.
- 5. A table of plant communities by FLUCCS with the potential to contain species (plant and animal) listed by federal, state or local agencies as endangered, threatened or species of special concern. The table must include the listed species by FLUCCS and the species status (same as FLUCCS map).

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D. Impacts on Historic Resources

List all historic resources (including structure, districts, and/or archeologically sensitive areas) and provide an analysis of the proposed change's impact on these resources. The following should be included with the analysis:

- 1. A map of any historic districts and/or sites, listed on the Florida Master Site File, which are located on the subject property or adjacent properties.
- 2. A map showing the subject property location on the archeological sensitivity map for Lee County.

E. Internal Consistency with the Lee Plan

- 1. Discuss how the proposal affects established Lee County population projections, Table 1(b) (Planning Community Year 2020 Allocations), and the total population capacity of the Lee Plan Future Land Use Map.
- 2. List all goals and objectives of the Lee Plan that are affected by the proposed amendment. This analysis should include an evaluation of all relevant policies under each goal and objective.
- 3. Describe how the proposal affects adjacent local governments and their comprehensive plans.
- 4. List State Policy Plan and Regional Policy Plan goals and policies which are relevant to this plan amendment.

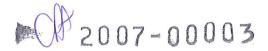
F. Additional Requirements for Specific Future Land Use Amendments

- 1. Requests involving Industrial and/or categories targeted by the Lee Plan as employment centers (to or from)
 - a. State whether the site is accessible to arterial roadways, rail lines, and cargo airport terminals,
 - b. Provide data and analysis required by Policy 2.4.4,
 - c. The affect of the proposed change on county's industrial employment goal specifically policy 7.1.4.
- 2. Requests moving lands from a Non-Urban Area to a Future Urban Area
 - a. Demonstrate why the proposed change does not constitute Urban Sprawl. Indicators of sprawl may include, but are not limited to: low-intensity, low-density, or single-use development; 'leap-frog' type development; radial, strip, isolated or ribbon pattern type development; a failure to protect or conserve natural resources or agricultural land; limited accessibility; the loss of large amounts of functional open space; and the installation of costly and duplicative infrastructure when opportunities for infill and redevelopment exist.

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- 3. Requests involving lands in critical areas for future water supply must be evaluated based on policy 2.4.2.
- 4. Requests moving lands from Density Reduction/Groundwater Resource must fully address Policy 2.4.3 of the Lee Plan Future Land Use Element.
- G. Justify the proposed amendment based upon sound planning principles. Be sure to support all conclusions made in this justification with adequate data and analysis.

Item 1: Fee Schedule

Map Amendment Flat Fee	\$2,000.00 each
Map Amendment > 20 Acres	\$2,000.00 and \$20.00 per 10 acres up to a
	maximum of \$2,255.00
Small Scale Amendment (10 acres or less)	\$1,500.00 each
Text Amendment Flat Fee	\$2,500.00 each

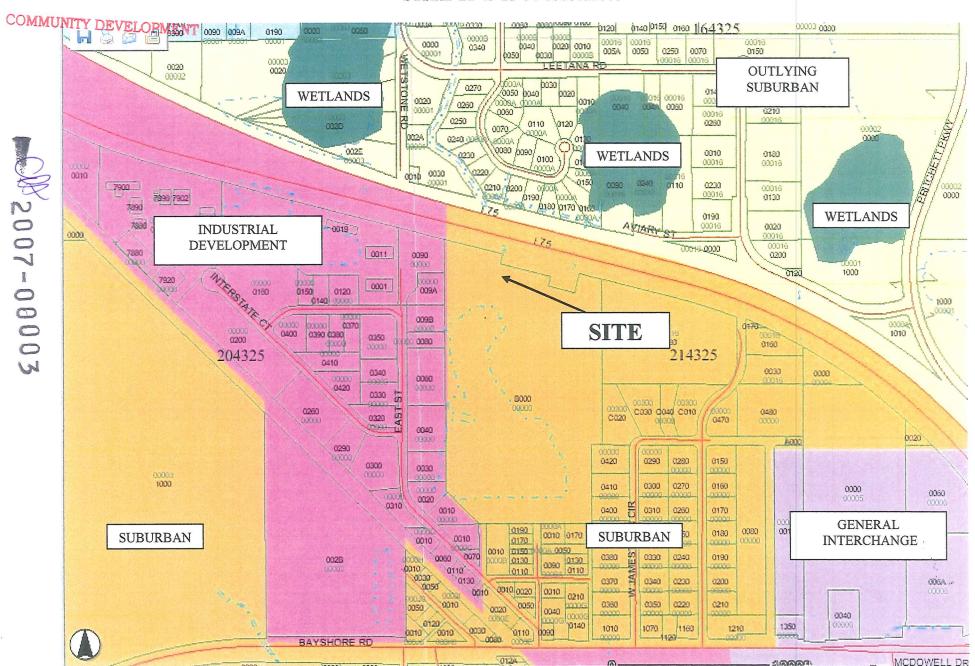
AFFIDAVIT 1. Russ Attree as President of Capital Investment Corp. of SW Florida, a Florida Corporation certify that I am the owner or authorized representative of the property described herein, and that at answers to the questions in this application and any sketches, data, or other supplementary matter attached to and made a part of this application, are honest and true to the best of my knowledge and belief. I also authorize the staff of Lee County Community Development to enter upon the property during normal working hours for the purpose of investigating and evaluating the request made through this application. Signature of owner or owner-authorized agent Page 2 of State OF FLORIDA (SEAL) August 2005 Bodd The Notary Public Undommitted Application Form (02/04) Page 2 of States Of States Organization Comprehensive Plan Amendment Page 2 of States Organization Comprehensive Plan Amendment Page 2 of States Organization Comprehensive Plan Amendment Page 2 of States Organization Comprehensive Plan Amendment		1,000.00 CACII
certify that I am the owner or authorized representative of the property described herein, and that all answers to the questions in this application and any sketches, data, or other supplementary matter attached to and made a part of this application, are honest and true to the best of my knowledge and belief. I also authorize the staff of Lee County Community Development to enter upon the property during normal working hours for the purpose of investigating and evaluating the request made through this application. Signature of owner or owner-authorized agent Date Russ Attree Typed or printed name The foregoing instrument was certified and subscribed before me this day of August 2005 by Attrice The foregoing instrument was certified and subscribed before me this day of August 2005 by Attrice Who is personally known to me or who has produced as identification. Signature of notary public ALISON M. STOWE Printed name of notary public Page 9 of 5	AFFIDAV	T .
answers to the questions in this application and any sketches, data, or other supplementary matter attached to and made a part of this application, are honest and true to the best of my knowledge and belief. I also authorize the staff of Lee County Community Development to enter upon the property during normal working hours for the purpose of investigating and evaluating the request made through this application. Signature of owner or owner-authorized agent Date Russ Attree Typed or printed name The foregoing instrument was certified and subscribed before me this day of August 2005 by August 20		
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belief. I also authorize the staff of Lee County Community Development to enter upon the property during normal working hours for the purpose of investigating and evaluating the request made through this application. Signature of owner or owner-authorized agent Page 9 of 5 Page 9 of 5 Page 9 of 5		
Signature of owner or owner-authorized agent Russ Attree Typed or printed name STATE OF FLORIDA) COMMUNITY DEVELOPMENT The foregoing instrument was certified and subscribed before me this who is personally known to me or who has produced as identification. (SEAL) ALISON M. STOWE MY COMMISSION # DD 408447 EXPIRES: March 13, 2009 Bonded Tru Neture Plan Amendment Page 9 of 5 Printed name of notary public		
Signature of owner or owner-authorized agent Russ Attree Typed or printed name STATE OF FLORIDA) COMMUNITY DEVELOPMENT COMMUNITY DEVELOPMENT The foregoing instrument was certified and subscribed before me this day of August 2005 by August Attree Who is personally known to me or who has produced as identification. (SEAL) AUSON M. STOWE MY COMMISSION # DD 406447 EXPIRIES: March 13, 2009 Bonded Thru Nobay Public Underwriters Printed name of notary public		
Signature of owner or owner-authorized agent Russ Attree Typed or printed name STATE OF FLORIDA) COMMUNITY DEVELOPMENT COUNTY OF LEE) The foregoing instrument was certified and subscribed before me this day of August 2005 by Kussa Attree, who is personally known to me or who has produced as identification. (SEAL) ALISON M. STOWE EXPIRES: March 13, 2009 Bonded Thu Notary Public Underwriters Printed name of notary public Rege 9 of 5		and evaluating the request made through this
Russ Attree Typed or printed name STATE OF FLORIDA) COMMUNITY DEVELOPMENT COUNTY OF LEE) The foregoing instrument was certified and subscribed before me this day of May of	Addt	aus 26/05
STATE OF FLORIDA) COMMUNITY DEVELOPMENT The foregoing instrument was certified and subscribed before me this day of August 2005 by August August 2005 by August August 2005 Who is personally known to me or who has produced as identification. (SEAL) ALISON M. STOWE MY COMMISSION # DD 406447 EXPIRES: March 13, 2009 Bonded Thru Notary Public Underwriters Printed name of notary public	Signature of owner or owner-authorized agent	Date
STATE OF FLORIDA) COUNTY OF LEE The foregoing instrument was certified and subscribed before me this who is personally known to me or who has produced as identification. (SEAL) ALISON M. STOWE MY COMMISSION # DD 406447 EXPIRES: March 13, 2009 Bonded Thu Notary Public Underwriters Printed name of notary public Rege 9 of 5		DECEIVED
The foregoing instrument was certified and subscribed before me this		JUN 1 9 2007
(SEAL) ALISON M. STOWE MY COMMISSION # DD 406447 EXPIRES: March 13, 2009 Bonded Thru Notary Public Underwriters Lee County Comprehensive Plan Amendment Page ? of 5	COUNTY OF LEE)	
(SEAL) ALISON M. STOWE MY COMMISSION # DD 406447 EXPIRES: March 13, 2009 Bonded Thru Notary Public Underwriters Printed name of notary public Page 9 of 5	The foregoing instrument was certified and subscribed be	efore me this day of _August_2005
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EXPIRES: March 13, 2009 Bonded Thru Notary Public Underwriters Printed name of notary public Page 9 of 5		Signature of notary public
Lee County Comprehensive Plan Amendment Page 9 of 5	EXPIRES: March 13, 2009	
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	and the state of t	Page 9 of 9 G:\AM\$\IADCapital\CompPlanAmendmentApp.doc





Future Land Use Map Showing Designations of Subject Property and Surrounding Properties

East Street Commerce Center 17600 East Street · North Fort Myers, Florida · 33917 STRAP 21-43-25-04-00000.B000



Map and Description of Existing Land Uses of Subject Property and Surrounding Properties

East Street Commerce Center 17600 East Street · North Fort Myers, Florida · 33917 STRAP 21-43-25-04-00000,B000

00000 B000

Subject site proposed as light industrial use

Single family residences buffered by I-75



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Existing light industrial uses within the boundaries of the Bayshore Industrial Park

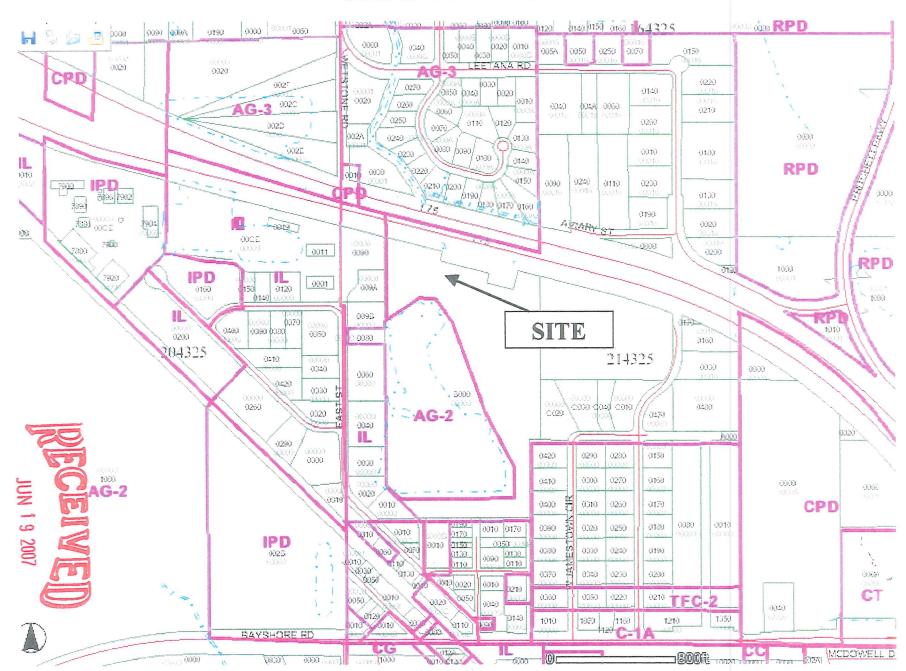
Single family subdivision in planning stages buffered by wetlands

Proposed recreation facility in permitting phases

Existing single family residences buffered by lake and vegetation

Existing Zoning Map of Subject Property and Surrounding Properties

East Street Commerce Center 17600 East Street · North Fort Myers, Florida · 33917 STRAP 21-43-25-04-00000,B000



2007-0003 COMMUNITY DEVELOPMENT



DESCRIPTION OF A PARCEL OF LAND LYING IN SECTION 21, TOWNSHIP 43 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA (TRACTS "B" & "C", I-75/ BAYSHORE ROAD INDUSTRIAL PARK)

A TRACT OR PARCEL OF LAND LYING IN THE STATE OF FLORIDA, COUNTY OF LEE, SITUATED IN SECTION 21, TOWNSHIP 43 SOUTH, RANGE 25 EAST, BEING ALL OF TRACTS "B" AND "C", I-75/BAYSHORE ROAD INDUSTRIAL PARK, ACCORDING TO THE MAP OR PLAT THEREOF, AS RECORDED IN PLAT BOOK 34, AT PAGES 42 THROUGH 45 IN THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID TRACT "B", SAID POINT LYING ON THE SOUTHERLY RIGHT-OF-WAY OF INTERSTATE HIGHWAY 75 (I-75); THENCE S.75°41'07"E. ALONG SAID SOUTHERLY RIGHT-OF-WAY, A DISTANCE OF 398.04 FEET; THENCE S.14°18'53"W. LEAVING SAID SOUTHERLY RIGHT-OF-WAY, A DISTANCE OF 65.00 FEET; THENCE S.75°41'07"E., A DISTANCE OF 340.00 FEET; THENCE S.14°18'53"W., A DISTANCE OF 65.00 FEET; THENCE S.75°41'07"E., A DISTANCE OF 180.00 FEET; THENCE N.14°18'53"E., A DISTANCE OF 130.00 FEET TO A POINT ON SAID SOUTHERLY RIGHT-OF-WAY OF SAID I-75; THENCE S.75°41'07"E. ALONG SAID SOUTHERLY RIGHT-OF-WAY, A DISTANCE OF 153.50 FEET TO THE NORTHEAST CORNER OF SAID TRACT "C"; THENCE S.00°07'54"W. ALONG THE EAST LINE OF SAID TRACT "C", A DISTANCE OF 1083.10 FEET; THENCE N.89°42'29"W., A DISTANCE OF 76.05 FEET; THENCE S.00°07'41"W. ALONG SAID EAST LINE OF SAID TRACT "C", A DISTANCE OF 516.99 FEET TO THE SOUTHEAST CORNER OF SAID TRACT "C"; THENCE S.89°49'43"W. ALONG THE SOUTH LINE OF SAID TRACTS "B" AND "C", A DISTANCE OF 733.11 FEET; THENCE N.45°40'50"W. ALONG THE SOUTHWESTERLY LINE OF SAID TRACT "B", A DISTANCE OF 318.06 FEET; THENCE N.00°04'23"E. ALONG THE WEST LINE OF SAID TRACT "B", A DISTANCE OF 1644.61 FEET TO THE NORTHWEST CORNER OF SAID TRACT "B" AND THE POINT OF BEGINNING.

SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS AND RIGHTS-OF-WAY OF RECORD (WRITTEN AND UNWRITTEN, RECORDED AND UNRECORDED).

SUBJECT PARCEL CONTAINS 38.77 ACRES, MORE OR LESS.

BEARINGS ARE BASED ON THE SOUTH LINE OF TRACTS "B" AND "C" AS BEARING S.89°49'43"W. ACCORDING TO SAID PLAT.

Certification for Description

Surveyor and Mapper in Responsible Charge:

Denis J. O'Connell, Jr., LS #5430

Metron Surveying & Mapping, LLC, LB #7071

9/67

10970 S. Cleveland Ave., Suite #605

Fort Myers, EL 33907

Signed

Date: 4/1

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SHEET 1 OF 2

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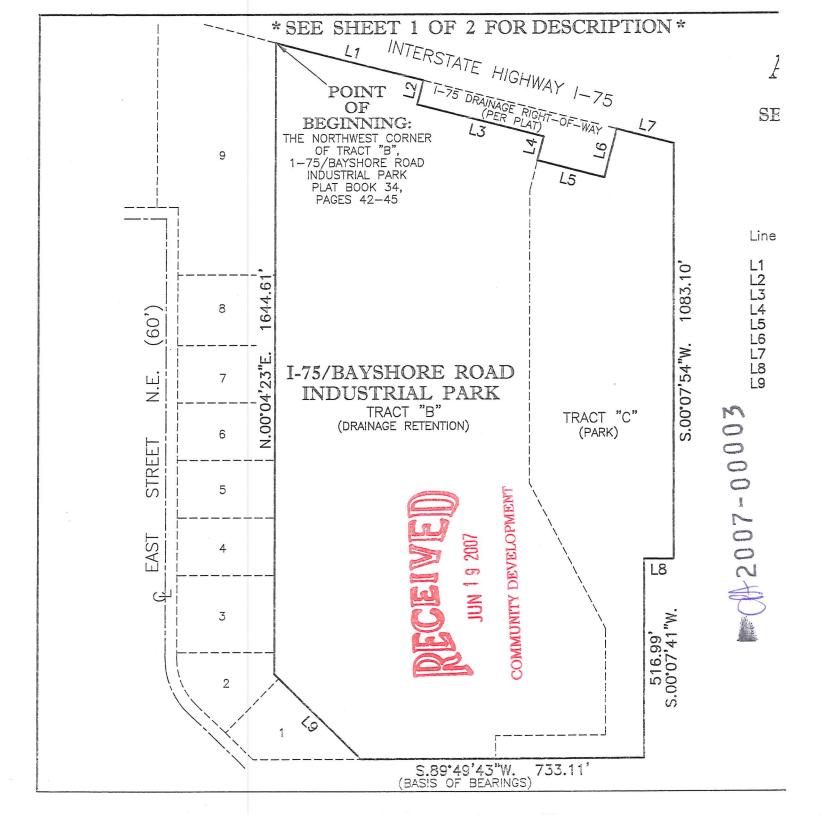


EXHIBIT A.6

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Prepared by and return to: Samuel J. Hagan, IV, Esq. Roetzel & Andress, L.P.A. 2320 First Street, Suite 1000 Fort Myers, FL 33901-2904 239-337-3850 File Number: 106462.0001 Will Call No.: Box 8 INSTR # 5475669
OR BK 03665 PG 2760
MEDOWALE BOYAR COOR OF SILES O

Property Appraisers Parcel Identification Numbers: 20-43-25-01-00000.A000 20-43-25-01-00000.B000

20-43-25-01-0000A.0010

_[Space Above This Line For Recording Data]

Quit Claim Deed

This Quit Claim Deed made this day of _______, 2002 between Pri-Car, a Florida general partnership, (as to the real property described on Exhibit "A" attached hereto) and Richard H. Pritchett, III, individually and as Successor Trustee under Agreement dated March 1, 1980 (as to the real property described on Exhibit "B" attached hereto), whose post office address is 6601 Bayshore Road, Fort Myers, FL 33918, grantor, and Capital Investment Corp. of S.W. Florida, a Florida corporation whose post office address is 3131 East Riverside Drive, Fort Myers, FL 33916, grantee:

(Whenever used herein the terms "grantor" and "grantee" include all the parties to this instrument and the heirs, legal representatives, and assigns of individuals, and the successors and assigns of corporations, trusts and trustees)

Witnesseth, that said grantor, for and in consideration of the sum TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable consideration to said grantor in hand paid by said grantee, the receipt whereof is hereby acknowledged, does hereby remise, release, and quitclaim to the said grantee, and grantee's heirs and assigns forever, all the right, title, interest, claim and demand which grantor has in and to the following described land, situate, lying and being in Lee County, Florida to-wit:

See Exhibits "A" and "B" attached hereto and made a part hereof as if fully set forth herein.

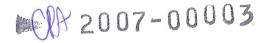
Reserving and retaining unto grantor, its successors and assigns, any and all tower and outdoor advertising signage rights, including, without limitation, the exclusive right to enter into leases, ground leases, licenses, easements and other agreements for the construction, maintenance and use of the real property described herein for cellular and other communications towers and outdoor advertising signage and billboards, and the exclusive right to collect and receive all rents, deposits, fees and other income resulting therefrom. Grantor shall have the unlimited and unconditional right to enter into leases, ground leases, licenses, easements and other agreements for communications towers and outdoor advertising signage at any time and from time to time anywhere on that part of the real property shown on the cross hatched area described on Exhibit "B" attached hereto. In the event grantor desires to enter into a license, lease, or other agreement for a communications tower or outdoor advertising signage at any other location on the real property, Grantor must receive grantee's prior written consent, such consent not to be unreasonably withheld. Grantee shall have no right to construct or derive any income from communications towers or outdoor advertising signage. This reservation and retention of rights by grantor is perpetual and shall run with the land in perpetuity. This reservation and retention of rights is more particularly described in that certain Easement Agreement for Communication Towers and Outdoor Advertising dated of even date between grantor and grantee, as recorded at O.R. Book _, Page _ , of the Public Records of Lee County, Florida, which is incorporated herein by reference. In the event of any inconsistencies between the terms and conditions contained herein and those contained in said Easement, the terms and conditions of said Easement shall control.

Subject to taxes for 2002 and subsequent years; covenants, conditions, restrictions, easements, reservations and limitations of record, if any.

To Have and to Hold, the same together with all and singular the appurtenances thereto belonging or in anywise appertaining, and all the estate, right, title, interest, lien, equity and claim whatsoever of grantors, either in law or equity, for the use, benefit and profit of the said grantee forever.

In Witness Whereof, grantor has hereunto set grantor's hand and seal the day and year first above written.

(Signatures on following page)



Witness Name: Thomas M. Dryd	By: Richard H. Pritchett, III General Partner Richard H. Pritchett, III, Individually and as Trustee under Agreement dated March 1, 1980
State of Florida County of Lee The foregoing instrument was acknowledged before me- Pritchett, III, Individually and as Trustee under Agreem Pri-Car, a Florida general partnership. He is persidentification.	this day of VAL, 2002 by Richard H. ent dated March 1, 1980 and as General Partner on behalf of conally known to me or has produced a driver's license as
[Notary Seal]	Notary Public, State of Florida Printed Name:
COMMISSION PUPINES ANY PUPIN OFFICIAL NOTARY SEAL SAMUEL J HAGAN IV COMMISSION NUMBER DL026997 ANY COMMISSION EXPIRES MAY 17,2005	My Commission Expires:

EXHIBIT "A"

(Legal Description)

Banks Hingineering, Inc.

10501 Six Mile Cypress Parkway - Suite 104 Fort Myers, Florida 33912 Ph: (941) 939-5490 Fax: (941) 939-2623

DESCRIPTION OF A PARCEL OF LAND LYING IN SECTION 20, TOWNSHIP 43 SOUTH, RANGE 25 EAST LEE COUNTY, FLORIDA

A TRACT OR PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, LYING IN SECTION 20, TOWNSHIP 43 SOUTH, RANGE 25 EAST, BEING A PORTION OF TRACT "A", BAYSHORE ROAD INDUSTRIAL PARK, A SUBDIVISION RECORDED IN PLAT BOOK 34 AT PAGES 42 THROUGH 45, LEE COUNTY PUBLIC RECORDS AND BEING FURTHER BOUND AND DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEASTERLY CORNER OF SAID TRACT "A"; THENCE 500°04'23"W ALONG THE LINE COMMON TO SAID TRACT "A" AND LOT 11 OF SAID SUBDIVISION FOR 145.28 FEET; THENCE 575°41'07"E ALONG THE LINE COMMON TO SAID LOT 11 AND SAID TRACT "A" FOR 350.29 FEET; THENCE 500°04'23"W ALONG THE LINE COMMON TO SAID TRACT "A" AND SAID LOT 11 FOR 51.59 FEET; THENCE N75°41'07"W FOR 515.36 FEET; THENCE N00°04'23"E FOR 196.87 FEET TO THE NORTHERLY LINE OF SAID TRACT "A"; THENCE 575°41'07"E ALONG SAID NORTHERLY LINE FOR 165.07 FEET TO THE POINT OF BEGINNING.

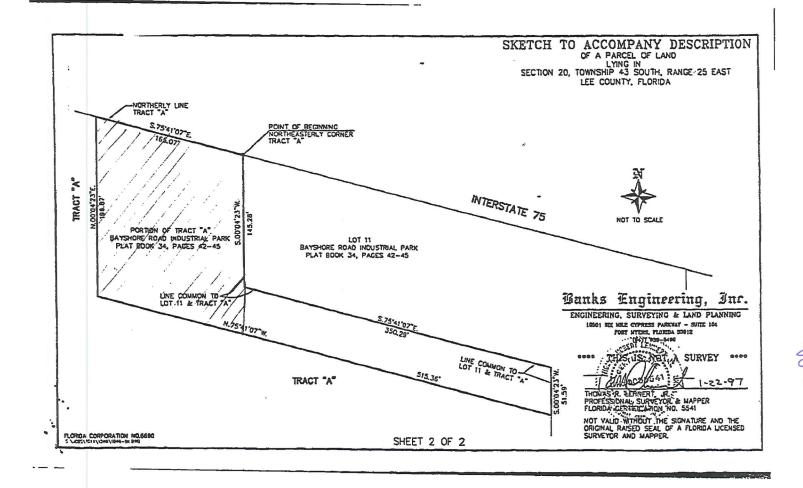
SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS AND RIGHTS-OF-WAY OF RECORD.

BEARINGS ARE BASED ON THE NORTHERLY LINE OF SAID LOT IT AS BEARING N75°41'07°W.

SUBJECT PARCEL CONTAINS 1.13 ACRES, MORE OR LESS.

FILE: 1046.7

SHEET 1 OF 2



GR BOOK 03665 PAGE 2754

EXHIBIT "B"

(Legal Description)

Tracts A, B and C, I-75 Bayshore Road Industrial Park, according to the map or plat thereof recorded at Plat Book 34, Page 45, of the Public Records of Lee County, Florida, LESS AND EXCEPT that portion of Tract A described at O.R. Book 2795, Page 751 and 752.

TRAFFIC IMPACT STATEMENT FOR THE

East Street Commerce Center

PREPARED FOR:

IAD Capital Corporation 2165 US HWY 27 South Lake Placid, FL 33852

PREPARED BY:



8695 College Parkway, Suite 106, Fort Myers, Florida 33919 Phone (239) 433-4231 Fax (239) 433-9632

August 2006



COMMUNITY DEVELOPMENT

M 2007-00003

1. PURPOSE

OBJECTIVE

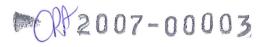
This report has been prepared in accordance with Lee County Department of Community Development criteria as outlined in the Lee County Traffic Impact Statement Guidelines and the Lee County Turn Lane Policy for projects seeking Development Order approvals. This report analyzes the anticipated traffic conditions of the proposed development in order to determine any adverse roadway impacts associated with the addition of the East Street Commerce Center.

The subject parcel as surveyed by Metron Surveying & Mapping, LLC. is 38.8 acres. The development area is 7.5 acres.

This Traffic Impact Statement is based on the assumption that the proposed development will be completed in 2007.



COMMUNITY DEVELOPMENT



2. SITE DESCRIPTION

SITE LOCATION

The East Street Commerce Center is a 7.5-acre project located on the East side of East Street in Section 21, Township 43 South, Range 25, Lee County, Florida (see Exhibit 1). The applicant proposes to construct two multi-tenant light industrial buildings with office and warehouse space. The proposed development will consist of two (2) single-level buildings. Total buildings square footage is 72,400.

Access to the proposed development will be provided by one (1) full-access driveway to the site through an ingress/egress easement across the lot with strap # 21-43-25-04-00000.009A and at the address 17610 East Street, North Fort Myers, FL 33917. This report is based on this one (1) driveway.



COMMUNITY DEVELOPMENT



3. OBSERVATIONS

3.1 TRIP GENERATION CALCULATIONS

Vehicular trips generated by the proposed development were calculated by using the equations provided by the Institute of Transportation Engineers, 7th Edition of the Trip Generation Manual, Industrial Park Land Use Code (130) Industrial Park using the average rates or the fitted curve equations shown in the tables. The manual gives the following description for this land use code: "Industrial parks contain a number of industrial or related facilities. They are characterized by a mix of manufacturing, service, and warehouse facilities with a wide variation in the proportion of each type of use from one location to another. Many industrial parks contain highly diversified facilities – some with a large number of small businesses and others with one or two dominant industries". Such a description is consistent with the proposed development.

Table 1: Raw Trip Generation

72,400 Square Feet Gross Floor Area

- A. Daily Vehicle Trip Ends, Weekday*
 - T = 6.96 (72.40) = 504 (252 Enter, 252 Exit)
- B. A.M. Peak Hour Vehicle Trip Ends (Adjacent Street)*

$$Ln(T) = 0.84(72.40) = 61 (50 Enter, 11 Exit)$$

A.M. Peak Hour Vehicle Trip Ends (Generator)*

$$T = 0.82 (72.40) = 60 (52 Enter, 8 Exit)$$

C. P.M. Peak Hour Vehicle Trip Ends (Adjacent Street)*

$$T = 0.86 (72.40) = 63 (13 \text{ Enter}, 50 \text{ Exit})$$

P.M. Peak Hour Vehicle Trip Ends (Generator)*

$$T = 0.86 (72.40) = 63 (13 Enter, 50 Exit)$$

* The average rate was used because the fitted curve equations yield unrealistic traffic counts.

Source: TDM, 2006





Based on this, the proposed development will be analyzed using the criteria established for developments generating less than three hundred (300) vehicle trips during the peak hour as outlined in the Lee County Traffic Impact Guidelines.

3.2 TRIP DISTRIBUTION

Traffic will enter and exit at the existing full-access driveway on East Street. Bayshore Road is the nearest arterial being accessed. Based on the 2005 Traffic Count Report prepared by the Lee County Department of Transportation, traffic on Bayshore Road near the proposed development heads East 50% of the time and West 50% of the time in the A.M. peak. In the P.M. peak, traffic heads East 49% of the time and West 51% of the time. However, since East Street connects to First Street, which then connects to Bayshore Road, and East Street has no connection to other collector or arterial roadways, it is estimated for this report that 100% of the traffic for this development will enter from Bayshore after moving North on First and East Street and 100% of the traffic exiting the development will exit heading South on East Street to First Street and then to Bayshore Road.

3.3 EXISTING TRAFFIC CONDITIONS

East Street is not listed on the Lee County Existing Functional Roadway Classification Map and is therefore a two way local road. The posted speed limit is thirty (30) miles per hour on East Street. Per the 2005 Lee County Concurrency Management Plan, Bayshore Road, the nearest arterial, has an existing "B" Level of Service near the project site with a forecasted peak direction of flow volume of 1,069 vehicles per hour, a Performance Standard "E" Level of Service, and a Performance Standard Capacity of 1,950 vehicles per hour. Bayshore Road is currently under construction by the FDOT to widen it to 4 lanes (2 Eastbound and 2 Westbound). A deceleration lane for right in onto First Street is part of this construction.



3-2

3.4 TURN LANE ANALYSIS (EAST STREET)

A. Traffic Conditions on East Street (Local)

• A.M. Peak Hour Vehicle Trip Ends - 61

• P.M. Peak Hour Vehicle Trip Ends - 63

Posted Speed Limit
 30 mph

B. Deceleration and Left Turn Lane

Based on the Turn Lane Policy, a deceleration and left turn lane not is required on East Street. Two (2) of the required warrants are not satisfied. The entrance exists at the end of East Street on a cul-de-sac, therefore no cars are making left turning movements.

C. Separate Left Turn Lane on the Access Point Driveway

Based on the Turn Lane Policy, a separate left turn lane on the access point driveway is not required or proposed. Only one (1) of the required warrants is satisfied. The posted speed limit on the intersecting street is equal to the threshold. However, the number of left turning vehicles from the access point connection is below the threshold during the peak hours, and the local street being accessed is not designated as a controlled access facility.

D. Deceleration and Right Turn Lane

Based on the Turn Lane Policy, a deceleration and right turn lane is not required or proposed. Only one (1) of the required warrants is satisfied. The posted speed limit on the local street is equal to the threshold. However, the number of right turning movements from the local street is less than the threshold during the peak hour, the available sight distance is above the requirement in table A-1 for the posted speed limit, and the access point connection is not controlled by a traffic signal.





100TH HIGHEST HOUR LEVEL OF SERVICE CALCULATION BAYSHORE ROAD (S.R. 78)

TDM Consulting, Inc.

ENGINEER: Dean Martin, P.E.

September 1, 2006

DATE: September 1, 2006

PROJECT NAME: East Street Commerce Center

PROJECT LOCATION: East side of East Street, North Fort Myers

PERMANENT COUNTING STATION NUMBER: 4

100TH HOUR V.P.H.

LEVEL OF SERVICE =

(Year & Rate) = 2006 1,069

YEAR FOLLOWING PROJECT CONSTRUCTION: 2008

ADJUSTMENT FACTOR =

Count & Yr min 16,200 1996

Count & Yr max 22,300 2005

52 (A.M. Entering) x 50% (West-

Adjustment Factor = $(22300 / 16200^{0.11})^2$ 1.074

ADJUSTED 100TH **HOUR V.P.H.** = $1,069 \times 1.074$ 1,148

EXISTING LEVEL OF SERVICE =

PROJECT V.P.H. = Bound) 26

TOTAL V.P.H. = 1,148 + 26 1,174

TOTAL VII III

COMMENTS:

RECEIVE

2007-00003



C

E. Separate Right Turn Lane on the Access Point Driveway

Based on the Turn Lane Policy, a separate right turn lane on the access point driveway is not required or proposed. Since the access point is proposed on a culde-sac no cars will exit the development making a right turn.

3.5 TURN LANE ANALYSIS (BAYSHORE ROAD - S.R. 78)

A. Traffic Conditions on Bayshore Road (Arterial)

• A.M. Peak Hour Vehicle Trip Ends - 61

• P.M. Peak Hour Vehicle Trip Ends - 63

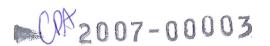
Posted Speed Limit - 55 mph

B. Deceleration and Left Turn Lane

Based on the Turn Lane Policy, a deceleration and left turn lane is required on Bayshore Road. Two (2) of the required warrants are satisfied. The posted speed limit is above the threshold and the number of peak hour left turning movements is also above the threshold. The estimated two-way peak season, peak hour through volume is greater than 500 vehicles per hour, and the number of left turning movements is above the threshold for the through volume. This deceleration and left turn lane is under construction as part of the FDOT widening project on Bayshore Road.

C. Separate Left Turn Lane on the Intersecting Street

Based on the Turn Lane Policy, a separate left turn lane on the intersection of Bayshore Road and First Street is not required or proposed. Only one (1) of the required warrants is satisfied. The posted speed limit on the intersecting street is above to the threshold. However, the number of left turning vehicles from the access point connection is below the threshold during the peak hours, the arterial street being accessed is not designated as a controlled access facility, and the intersecting street connection is not controlled by a traffic signal.



JUN 1 9 2007

D. **Deceleration and Right Turn Lane**

Based on the Turn Lane Policy, a deceleration and right turn lane is required. Two (2) of the required warrants are satisfied. The posted speed limit on the arterial street is more than the threshold and the number of right turning movements from the arterial street is equal to the threshold during the peak hours. Although, the available sight distance is above the requirement in table A-1 for the posted speed limit, the arterial street has not been designated as a controlled access facility, and the access point connection is not controlled by a traffic signal. This required right turn and deceleration lane is currently under construction as part of the FDOT widening project on Bayshore Road.

Separate Right Turn Lane on the Access Point Driveway E.

Based on the Turn Lane Policy, a separate right turn lane at the intersection is not required or proposed. The arterial street being accessed is operating at a level of service above a "C" rating on a peak season, peak hour basis.

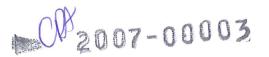
RECOMMENDED IMPROVEMENTS (EAST STREET) 3.6

One (1) typical full-access driveway entrance is proposed with one (1) entrance lane and one (1) exit lane. No additional improvements on East Street or at the access point are required or proposed.

RECOMMENDED IMPROVEMENTS (BAYSHORE ROAD - S.R. 78) 3.7

One (1) right turn and deceleration lane is required and currently under construction as part of the FDOT Bayshore Road widening project. One (1) left turn and deceleration lane is required and currently under construction as part of the FDOT Bayshore Road widening project.



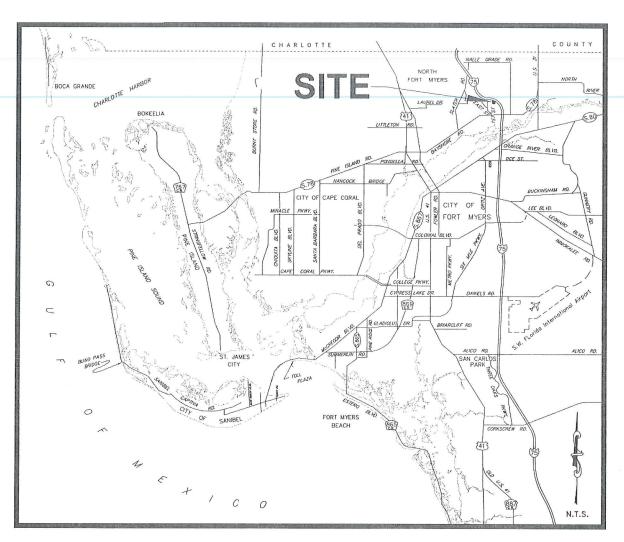


3-5

LEVEL OF SERVICE ANALYSIS (BAYSHORE ROAD - S.R. 78) 3.8

The proposed development will not introduce a significant increase in traffic flows and will not degrade the Level of Service of Bayshore Road during the peak season following the build-out year below the Performance Standard Level of Service (see attached 100th Highest Hour Level of Service Calculation).



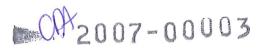


LOCATION SKETCH

N.T.S.



N.T.S



COMMUNITY DEVELOPMENT

EXHIBIT A
TRAFFIC IMPACT STATEMENT
LOCATION MAP
EAST STREET COMMERCE CENTER
EAST ST.

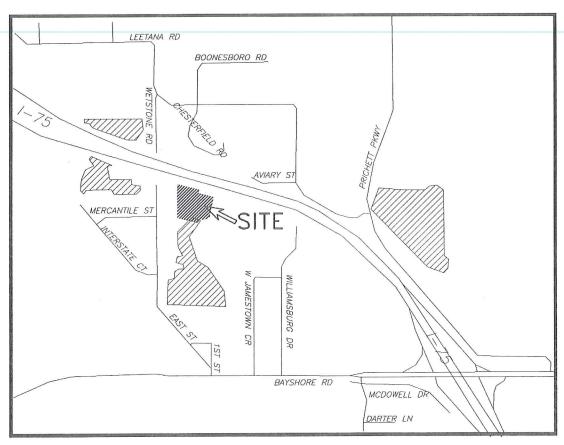
SOURCE: TDM, 2006

DATE: 08/15

FILE: TIS-MOVEMENTS

Consulting, Inc.

8695 COLLEGE PARKWAY, SUITE 106
FORT MYERS, FLORIDA 33919
(239) 433–4231



VICINITY MAP

N.T.S.



N.T.S.



EXHIBIT B TRAFFIC IMPACT STATEMENT VICINITY MAP EAST STREET COMMERCE CENTER EAST ST.

SOURCE: TDM, 2006

DATE: 08/15

FILE: TIS-MOVEMENTS

Consulting, Inc. 8695 COLLEGE PARKWAY, SUITE 106 FORT MYERS, FLORIDA 33919 (239) 433-4231

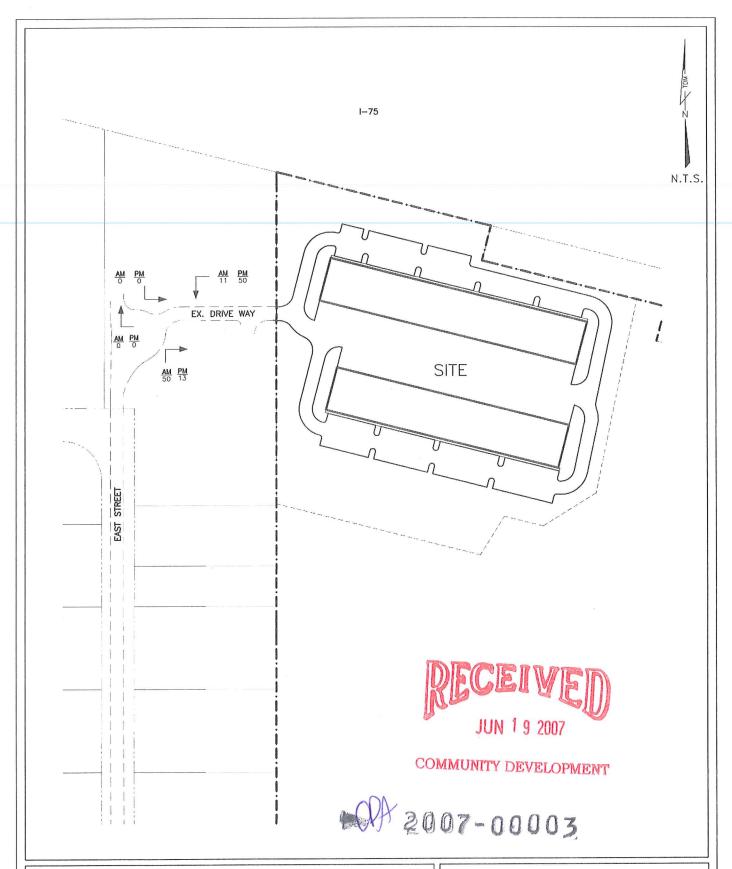


EXHIBIT C TRAFFIC IMPACT STATEMENT PEAK A.M. AND P.M. TRAFFIC DISTRIBUTION EAST STREET COMMERCE CENTER EAST ST.

SOURCE: TDM, 2006

DATE: 08/15

FILE: TIS-MOVEMENTS

Consulting, Inc. 8695 COLLEGE PARKWAY, SUITE 106 FORT MYERS, FLORIDA 33919 (239) 433-4231

EXISTING AND FUTURE CONDITIONS ANALYSIS

FOR THE

East Street Commerce Center

PREPARED FOR:

IAD Capital Corporation 2165 US HWY 27 South Lake Placid, FL 33852

PREPARED BY:



8695 College Parkway, Suite 106, Fort Myers, Florida 33919 Phone (239) 433-4231 Fax (239) 433-9632

September 2006



CP 2007-00U03

COMMUNITY DEVELOPMENT

EXISTING AND FUTURE CONDITIONS ANALYSIS

SANITARY SEWER ANALYSIS

Available Service On Site:

The proposed development is located within the service area of North Fort Myers Utilities; however the closest available sanitary sewer facilities are located on Bayshore Road approximately 1 mile away from the project site. The applicant is therefore proposing to provide adequate onsite septic systems (Reference Master Concept Plan). The use of septic systems is consistent with all developments past and present within the Bayshore Industrial Park including recent developments such as the expansion of the Raymond Building Supply Facility. A meeting was held with Tony Reeves, Utilities Director for North Fort Myers Utilities, to inquire about any plans to extend sanitary sewer services north from Bayshore Road to East Street and ultimately to the proposed site. Mr. Reeves indicated that North Fort Myers Utilities has no current plans to extend service in the vicinity of the project site.

Proposed Service Provider:

On-site septic by applicant

Forecasted Demand and Capacity:

The proposed development contains 72,400 SF of gross floor area. Per F.A.C. 64E-6, the following calculations apply:

15 GPD per 100 SF of GFA (72,400 SF) = 10,860 GPD

The proposed master concept plan depicts adequate septic tank volumes and drainfield areas for 10,860 GPD of sewage flow per F.A.C. 64E-6.

POTABLE WATER ANALYSIS

Available Service On Site:

The proposed development will be connected to the Lee County Utilities water supply, currently provided by the Olga plant (the future North Lee County water plant). The available Level of Service is currently 5 million GPD, with an expected increase to 10 million GPD, according to Melissa Bibeau, Engineering Technician, at Lee County Utilities. The available services are both adequate and available to the proposed site with no additional facilities or improvements needed

Service Provider: Lee County Utilities



COMMUNITY DEVELOPMENT

JUN 19 200

Forecasted Demand and Capacity:

The forecasted demand is calculated at 15 GPD per 100 SF of gross floor area. The proposed development contains 72,400 SF of gross floor area, which equals a 10,860 GPD flow required. The available services are both available and adequate to service the proposed site.

SURFACE WATER/DRAINAGE ANALYSIS

Available Service On Site:

The applicant will specify a control structure at the time of the Development Order application which will mimic the historic drainage patterns and discharge pre-treated stormwater run-off to either the existing wetland area to the East or the existing body of water to the South of the project area. Historically the project area appears to drain eastward into the existing wetland and eventually to an existing ditch within the wetland, which in turn flows into the nearby Bayshore creek South East of the project site. The master concept plan shows adequate areas and volumes to provide the requisite pretreatment of stormwater prior to discharge. A SFWMD permit will be procured during the development order process.

Service Provider:

On-site by applicant

Forecasted Demand and Capacity:

The total detention required was calculated using the standard "1" times impervious area" and "2.5" times percent impervious area" formulas as required by the SFWMD and Lee County. The result of the equations yielded 23,833 CF of storage required for the proposed development. The master concept plan depicts 30,700 CF of storage which exceeds the requirement. Detailed stormwater runoff calculations and provisions will be provided during the development order process.

PARKS, RECREATION AND OPEN SPACE ANALYSIS



Available Service On Site:

Currently there are no parks or recreational facilities immediately serving the site. The proposed development is located in the I-75 Bayshore Industrial Park area. The surrounding zoning and land uses are mostly Industrial and Agricultural with a small Residential section to the southeast of the site. A proposed public outdoor commercial recreational facility is located to the South of the project site and is currently in the permitting process by a private developer. This proposed park area will provide recreational opportunities for local residents and future employees of the proposed facilities.



Service Provider: Not applicable

Forecasted Demand and Capacity:

The proposed large light industrial development has an open space requirement of 20% (65,375 SF). The applicant is proposing to provide, as shown on the master concept plan, approximately 130,529 SF of open space (40% of the project area). The final calculations for open space will be shown in detail drawings on the development order plans and will meet or exceed the LCLDC requirement of 20%.



COMMUNITY DEVELOPMENT

P2007-00003



Lee County Southwest Florida

Statement of No Concern

I, Kim Dickerson, authorized by the Lee County Emergency Medical Services (EMS) confirm with my signature below, that Lee County EMS has no concern with the proposed changes for the development noted below:

Project Location:

Bayshore Industrial Park

17600 East Street, North Fort Myers, FL 33917

21-43-25-04-00000.B000

Proposed Changes: The property is currently designated Suburban and intends to apply for a Comprehensive Plan Amendment for 7.5 acres to change the designation to Industrial Development.

This statement does not indicate that any plans have been received, it just identifies that Lee County EMS has no concerns with the requested changes noted above.

EMS Operations Chief (Title)

Kim Dickerson (Printed Name)

February 15, 2007

(Date)





COMMUNITY DEVELOPMENT

Wagar-00003







State of Florida County of Lee

Ms. Allison M. Stowe Knott, Consoer, Ebelini, Hart & Swett P.A. 1625 Hendry St. Fort Myers, FL. 33902-2449

August 23, 2006

Dear Ms. Stowe:

The Sheriff's Office has reviewed your letter dated August 10, 2006 outlining your intention to request Lee County to consider a comprehensive plan amendment for the area of the Bayshore Industrial Park located in North Fort Myers, Florida. According to my staff, the amendment, if approved, will allow approximately 7.5 acres of the property to be developed for light industrial use, thus limiting the potential for residential development, and that the project has a tentative start up date sometime during the years of 2007 - 2008.

If the proposed development follows that which you have discussed with my staff then the Sheriff's Office has no objection to this project and I am confident that we can provide an adequate "core" level of law enforcement services to the area. As is our policy, we evaluate from year to year the demand for law enforcement services based on a formula derived from our calls for service, size of the service population and optimal response times. As this project builds out we will factor its impact into our annual manpower review and make adjustments accordingly.

We look forward to further discussions on this matter as the development progresses. Please let us know if there are any significant changes in the proposed use or density of the project.

Sincerely,

Mike Scott

Sheriff, Lee County Florida

RECEIVED
JUN 1 9 2007

COMMUNITY DEVELOPMENT







EXHIBIT B.3.c. (#2)

RECEIVED Knott, Consoer, Ebelini Hart & Swett, P.A.

(239) 338-3302

AN FEB 2 2 2007 78|9|10|11|12|1|2|3|4|5|6

Á

BOARD OF COUNTY COMMISSIONERS

Bob Janes District One

A. Brian Bigelow District Two

Ray Judah District Three

Tammy Hall

District Four
Frank Mann
District Five

Donald D. Stilwell County Manager

David M. Owen County Attorney

Diana M. Parker County Hearing Examiner February 19, 2006

Ms. Alison M. Stowe Knott, Consoer, Ebelini Hart & Swett, P.A. 1625 Hendry Street P.O. Box 2449

Fort Myers, FL 33902-2449

SUBJECT: Comprehensive Plan Amendment for Bayshore Industrial Park

Dear Ms. Stowe:

The Lee County Solid Waste Division is capable of providing solid waste collection service for the proposed expansion of light industrial uses at the 7.5 acre property located in North Ft. Myers through our franchised hauling contractors. Disposal of the solid waste from this project will be accomplished at the Lee County Resource Recovery Facility and the Lee-Hendry Regional Landfill. Plans have been made, allowing for growth, to maintain long-term disposal capacity at these facilities.

The Solid Waste Ordinance (05-13, Section 21) and the Lee County Land Development Code, Chapter 10, Section 10-261 have requirements for providing on-site space for placement and servicing of commercial solid waste containers. Please review these requirements when planning the project. If you have any questions, please call me at (239) 338-3302.

Sincerely,

William T. Newman Operations Manager

Solid Waste Division

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JUN 1 9 2007

COMMUNITY DEVELOPMENT

cc: Wayne Gaither

CPV 2007-00U03

EXHIBIT B.3.d



BOARD OF COUNTY COMMISSIONERS

(239) 533-0333

Writer's Direct Dial Number:

Bob Janes District One

Douglas R. St. Cerny District Two

Ray Judah District Three

Tammy Hall District Four

John E. Albion District Five

Donald D. Stilwell County Manager

David M. Owen County Attorney

Diana M. Parker County Hearing Examiner August 14, 2006

Ms. Alison M. Stowe

Knott, Consoer, Ebelini, Hart & Swett, P.A.

P.O. Box 2449

Fort Myers, FL 33902

Re: Bayshore Industrial Park

Mr. Stowe:

Lee County Transit received your letter on October 11, 2006 in reference to the Comprehensive Plan Amendment Application for the subject property adjacent to the Bayshore Industrial Park. Lee County does not currently provide public transportation services to the subject property or to the surrounding area. Planning studies have not identified the need to extend service to the site anytime within the existing Lee County Transit Development Plan, which goes through 2013 and the Lee County Long Range Transportation Plan, which goes through 2030.

If you have any questions please contact me at the telephone number listed above or you can use mhorsting@leegov.com for e-mail correspondence.

Sincerely

Michael Horsting, AICP

Planner

Lee County Transit

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JUN 1 9 2007

COMMUNITY DEVELOPMENT

2007-00003



EXHIBIT B.3.e



THE SCHOOL DISTRICT OF LEE COUNTY

2055 Central Avenue • Fort Myers, Florida 33901 • (239) 334-1102 • TTD/TTY (239) 335-1512

STEVEN K. TEUBER, J.D. CHAIRMAN · DISTRICT 4

ELINOR C. SCRICCA, PH.D. VICE CHAIRMAN • DISTRICT 5

ROBERT D. CHILMONIK

JEANNE S. DOZIER

JANE E. KUCKEL, PH.D.

District 3

JAMES W. BROWDER, ED.D.
SUPERINTENDENT

KEITH B. MARTIN BOARD ATTORNEY

DISTRICT 2

August 17, 2006

Ms. Alison Stowe Knott, Consoer, Ebelini, Hart & Swett P.O. Box 2449 Fort Myers, FL 33902-2449

Re: Comprehensive Plan Amendment for Bayshore Industrial Park

Dear Ms. Stowe:

Thank you for the opportunity to review your Comprehensive Plan Amendment for Bayshore Industrial Park for comments with regard to educational impacts. This proposed development is in the East Choice Zone of the District. This letter is in response to your request dated August 10, 2006.

This development should have no impact on classroom needs based on the applicant's indication that this is an industrial park project only and will not have any residential units.

Thank you for your attention to this issue. If I may be of further assistance, please give me a call at (239) 335-1415.

Sincerely,
Ellen Shallh

Ellen Lindblad, Long Range Planner

Dept. of Planning, Growth, and School Capacity

RECEIVED
JUN 1 9 2007

COMMUNITY DEVELOPMENT

2007-00003

Environmental Assessment

Prepared For:

Capital Investment Corp. of SW Florida 2165 US 27 South Lake Placid, FL 33852

Site Location:

7.5 Acre Parcel Section 21, Twp. 43 S., Rng. 25 E. Lee County, Florida

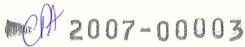
Prepared By:

Mr. Jeffrey Adair Environmental Restoration Consultants, Inc. 24571 Redfish Street Bonita Springs, FL 34134 Phone: (239) 287-2706



August 22, 2006

COMMUNITY DEVELOPMENT





Environmental Restoration Consultants, Inc.



Environmental Restoration Consultants, Inc.

August 22, 2006

Mr. Russell Attree Capital Investment Corp. of SW Florida 2165 US 27 South Lake Placid, FL 33852

Re:

Environmental Assessment - 7.50 Acres Total

Portion of Strap No. 21-43-25-04-00000. B000, Lee County, Florida

Dear Mr. Attree:

On your behalf, Environmental Restoration Consultants, Inc. (ERC) performed site inspections of the above referenced property on January 6 and 18, 2006. The purpose of the field investigation and this report is to address the environmental items listed in the Lee County "Application for a Comprehensive Plan Amendment". As such, this report is a compilation of information from field observations and existing sources. The report includes a characterization of existing plant communities (FLUCCS categories) and potentially associated protected species, available soil information, topographic quadrangle information, and delineation of state jurisdictional wetlands, and other relevant information.

Site Location

The 7.50-acre project area is within the northwest quadrant of a 38.62 property located in Section 21, Twp. 43 S., Rng. 25 E., un-incorporated Lee County, Florida (ref. Site Location Map). Adjacent land uses include an industrial park along the west perimeter; Interstate I-75 immediately to the north; mixed wetland hardwoods and improved pasture to the east (pasture currently zoned and being permitted for residential (SFWMD Appl. No. 050509-34); and the industrial park stormwater reservoir located both onsite and to the south (SFWMD Permit No. 36-00217-S). Access to the property is currently from East Street and through an open storage facility. As portions of the property have recently been used for pasture or exist as trails, visual inspection of the parcel is relatively easy and unimpeded.

Vegetation

In accordance with the Florida Land Use, Cover and Forms Classification System (FLUCCS; FDOT, 1999), we have characterized the parcel as five (5) community types and land use categories. The location, extent, and acreage of each category was determined by field observation and visual interpretation of aerial photography (Lee County, 2005), and is depicted on the attached FLUCCS Map. A general description and representative vegetation for each category is provided in the table below.



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- "In most years, under natural condition, the water table is at a depth of less than 10 inches for 1 to 3 months. It is a depth of 10 to 40 inches fro more than 6 months, and it recedes to depth of more than 40 inches during extended dry periods"
- Natural vegetation consists of saw palmetto, South Florida slash pine, pineland threeawn, and meadowbeauty."

Copeland sandy loam, depressional (45)

- "This is a low, nearly level, poorly drained soil in depressions."
- "Under natural condition, the water table is above the surface for 3 to 6 months. It is 10 to 40 inches below the surface for about 3 to 6 months".
- Natural vegetation is cypress, wax myrtle, cabbage palm, fern, redroot, and other water-tolerant plants."

Topography and Flood Zoning

General topography information is provided on the U.S.G.S. Quadrangle Map exhibit. Review of elevation contours and spot elevations on the map appear to indicate the parcel lies at approximately 15 ft. NGVD. To date, ERC is unaware of any topographical survey for this parcel.

Review of the FIRM Map indicates the project is located in Zone X, which is determined by FEMA to be outside the 500-year flood-plain (ref. FIRM Map exhibit attached; also ref. FEMA web site).

Wetland Assessment

ERC performed the initial wetland assessment in September 2004 in accordance with the state jurisdiction determination guidelines (Chapter 62-340, F.A.C). The South Florida Water Management District (SFWMD) field verified the wetland delineation with ERC during a site visit on April 7, 2005. A copy of the state wetland certification (letter dated 10/7/05; exhibit signed 10/5/05) is enclosed. Note that the wetland line has been survey located and is also depicted on FLUCCS Map.

State jurisdictional wetlands within the project include the mixed wetland hardwoods (617). Jurisdictional surface waters include the reservoir (533). The reservoir is part of the stormwater drainage system for the I-75 Bayshore Road Industrial Park (SFWMD Permit No. 36-00217-S).

Proposed impacts to the hardwood and/or surface water will require authorization from the SFWMD and the U.S. Army Corps of Engineers. Note that the Corps will not conduct a site visit until an Environmental Resource Permit (ERP) application is submitted.

Wildlife

Preliminary field investigations were performed to identify potential critical habitat and/or note any direct observations or signs of protected wildlife species as required by the Lee County Comprehensive Plan Amendment application, and designated by the Lee County Land Development Code (LDC), Appendix H – Protected Species List. Designation of a particular habitat type on-site relative to the associated species listed in the LDC indicates the potential for such species to reside and/or forage on-site and is used as a review "tool" by Lee County environmental staff, but by no means indicates that such species utilize the site. The table below lists habitat types existing on-site and potential species affiliated with the respective

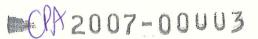
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community. In addition, species not associated with a generalized FLUCCS category, but frequently affiliated with particular site conditions (i.e. gopher tortoises with berms), are also listed based on existing landscape features observed during the inspections. Based on the information provided herein, or otherwise known or deemed necessary, the County may require species specific surveys during review of any proposed project.

Potential Protected Species

FLUCCS	Fauna/Flora	Status			Observed		Comments	
		Lee	FWC	FWS	Yes	No		
Unimproved	Eastern indigo snake	L	T	T		X	Construction restrictions likely	
Pasture (212)	Gopher tortoise	L	SSC	-		x	Potential low-mesic conditions throughout; berm areas inspected by ERC	
	Red-cockaded woodpecker	L	SSC	Е		x	Potential low; mature pines inspected for cavities	
	Florida panther	L	Е	Е		x	Potential low; project area isolated and habitat fragmented	
	Big cypress fox squirrel	L	Т	-		х	Not known in area; however, foraging and nesting habitat available; not observed during preliminary survey	
Reservoir, >10-ac. (533)	American alligator	L	SSC	T	x		2 observed by others	
	Roseate spoonbill	L	SSC	-		х	Potential low; foraging habitat limited-steep embankments	
	Limpkin	L	SSC	-		х	Potential low; foraging habitat limited-steep embankments	
	Little blue heron	L	SSC	- `		x	Potential foraging habitat	
	Reddish egret	L	SSC	-		x	Potential foraging habitat	
	Snowy egret	L	SSC	-		x	Potential foraging habitat	
	Tricolor heron	L	SSC	\ -		x	Potential foraging habitat	
	White ibis	-	SSC	-		х	Potential low; foraging habitat limited-steep embankments	
	Wood stork	L	Е	Е		х	Potential low; foraging habitat limited-steep embankments	
	Snail kite	L	Е	-		x	Not known in this area	
	Everglades mink	L	Т	-		X	Not known in this area	





		creeper (<i>Parthenocissus quinquefolia</i>), fox grape (<i>Vitis aestivalis</i>), and string lily (<i>Crinum americanum</i>). The ground was not inundated during the site inspection, although stain marks and lichen lines indicate standing water may reach a depth of approx. 16" during portions of the year.
Disturbed Lands (740), 0.80 acre	10.7%	Primarily cleared areas that have re-vegetated with weedy species. Disturbed lands adjacent the unimproved pasture encompass several immature and mature slash pine (P. elliottii) and a midstory of scattered Brazilian pepper (S. terebinthifolius). Much of this area includes rock rubble and small spoil piles. Disturbed lands fringing the mixed wetland hardwood community include canopy species such cabbage palm (S. palmetto), laurel oak (Q. laurifolia), and red bay (P. borbonia) with the midstory consisting of scattered Brazilian pepper (S. terebinthifolius). Common ground cover within these areas includes Johnsongrass (S. halepense), ragweed (Ambosia artemisiifolia), Spanish needles (Bidens sp.), morning glory (Ipomoea spp.), false nettle (Boehmeria cylindrical), muscadine grape (V. rotundifolia), and poison ivy (T. radicans). Other noted species included broomgrass (Andropogon glomeratus), coastal dropseed (S. virginicus), whitehead broom (Spermacoce verticillata), flat sedge (Cyperus odoratus), dogfennel (E. capillifolium), Caesar weed (Urena lobata), blackberry (Rubus sp.), swamp fern (B. serrulatum), greenbrier (Smilax sp.), dayflower (Commelina sp.), pennywort (Hydrocotyle sp), and other sedges (Cyperus spp.).
Primitive Trails (8146); 0.68 acre	9.1%	The trail follows the perimeter of the reservoir and is vegetated with a variety of grasses and other weedy species. Common flora include coastal dropseed (S. virginicus), Spanish needles (Bidens sp.), sandbur (Cenchrus sp.), and ragweed (A. artemisiifolia). Other noted species include rockfinger grass (Eustachys petraea), crowsfootgrass (Dactyloctenium aegyptium), flat sedge (C. odoratus), and ground cherry (Phyalis angulata).

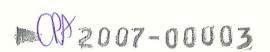
Soil Types

Review of the Soil Survey of Lee County, Florida (USDA-SCS, 1984; ref. Soil Map) indicates the project area is underlain by Oldsmar sand (33) and Copeland sandy loam, depressional (45). Oldsmar sand is designated as a non-hydric soil type by the Natural Resource Conservation Service (NRCS; a.k.a. SCS), and Copeland sandy loam, depressional is classified as hydric.

Relevant environmental and hydrologic exerts for each soil type selected from the Soil Survey are provided below:

Oldsmar sand (33)

"This is a nearly level, poorly drained soil on low, broad flatwoods areas."



COMMUNITY DEVELOPMENT

Vegetation Communities

FLUCCS Community (Code)	Percent Coverage	Location/Comments
Unimproved Pasture (212); 3.91 acres		Canopy dominated by slash (<i>Pinus elliottii</i>) of varying age. Midstory is open, and includes scattered young laurel oak (<i>Quercus laurifolia</i>). Cabbage palm (<i>Sabal palmetto</i>) and earleaf acacia (<i>Acacia auriculiformis</i>) were noted. Ground cover was low (14" – 24" ht.). Common species included saw palmetto (<i>Serenoa repens</i>), forked
		panicum (Panicum dichotomum), hurricane grass (Fimbristylis sp.), sedges (Cyperus spp.), rustweed (Polypremum procumbens), and matchweed (Phyla nodiflora). Other noted ground cover included wax myrtle (Myrica cerifera), slash pine (P. elliottii), laurel oak (Q. laurifolia), and winged sumac (Rhus copallina) seedlings, and pennyroyal (Piloblephis rigida), rusty lyonia (Lyonia ferruginea), poison ivy (Taxicodendron radicans), partridge pea (Cassia chamaecrista), swamp fern (Blechnum serrulatum), dogfennel (Eupatorium capillifolium), Caesar weed (Urena lobata), foxtail (Setaria geniculata), bracken fern (Pteridium aquilinum), beauty berry (Callicarpa americana), pawpaw (Asimina sp.), soda apple (Solanum ciliatum), Spanish needles (Bidens sp.), Johnsongrass (Sorghum halepense), greenbrier (Smilax spp.), air yam (Dioscorea bulbifera), and muscadine grape (Vitis rotundifolia). Several specimens of elderberry (Sambucus simpsonii), Brazilian pepper (Schinus terebinthifolius), and pokeberry (Phytolacca americana) were noted along the berm on the east fringe
Reservoir, >10-ac. (533); 1.37 acres	18.3%	Open surface water; provides stormwater storage for the I-75 Bayshor Road Industrial Park (SFWMD Permit No. 36-00217-S, issued December 11, 1980). No littoral shelf present. Depth unknown, but appears to be variable. Common flora along the embankments include smartweed (<i>Polygonum</i> sp.), coastal dropseed (<i>Sporobolus virginicus</i>) pennywort (<i>Hydrocotyle</i> sp), climbing hempweed (<i>Mikania</i> sp.), and sedges (<i>Cyperus</i> spp.). Other noted species included cattail (<i>Typha</i> sp. spike rush (<i>Eleocharis cellulosa</i>), bulrush (<i>Scirpus validus</i>), primrose willow (<i>Ludwigia</i> sp.), willow (<i>Salix caroliniana</i>), and Brazilian peppe (<i>S. terebinthifolius</i>).
Mixed Wetland Hardwoods (617); 0.74 acres FCEIVED JUN 1 9 2007	9.9%	Canopy co-dominated by cypress (<i>Taxodium distichum</i>), laurel oak (<i>Q laurifolia</i>), and red maple (<i>Acer rubrum</i>). Other common species include cabbage palm (<i>S. palmetto</i>), red bay (<i>Persea borbonia</i>), and dahoon holly (<i>Ilex cassine</i>). Midstory is relatively open, but includes scattered cabbage palm (<i>S. palmetto</i>) and dahoon holly (<i>I.cassine</i>). Ground cover is primarily shield fern (<i>Thelypteris</i> sp.), swamp fern (<i>Blechnum serrulatum</i>), and pennywort (<i>Hydrocotyle</i> sp). Other noted species, particularly along the western fringe, include wild coffee (<i>Psychotria</i> spp.), saw palmetto (<i>S. repens</i>), blackberry (<i>Rubus</i> sp), myrsine (<i>Myrsine guianensis</i>), cocoplum (<i>Chrysobalanus icaco</i>), Java plum (<i>Syzygium cumini</i>)), dayflower (<i>Commelina</i> sp.), poison ivy (<i>T. radicans</i>), greenbrier (<i>Smilax</i> sp.), air yam (<i>D. bulbifera</i>), Virginia

Mixed Wetland	American alligator	L	SSC	T	X	Potential high; adjacent to reservoir
Hardwoods (617)	Limpkin	L	SSC	-	x	Habitat present
	Little blue heron	L	SSC	-	х	Habitat present
	Reddish egret	L	SSC	-	x	Habitat present
	Snowy egret	L	SSC	-	x	Habitat present
	Tricolor heron	L	SSC	_	x	Habitat present
	White ibis	- i	SSC	-	x	Habitat present
	Wood stork	L	Е	Е	x	Habitat present
	Florida panther	L	E	Е	x	Potential low; project area isolated and habitat fragmented
	Big cypress fox squirrel	L	Т	-	x	Not known in area; however, foraging and nesting habitat available; not observed during preliminary survey
	Florida black bear	L	Т	-	X	Potential low; project area isolated and habitat fragmented
Disturbed Lands (740)	Gopher tortoise	L	SSC	-	х	This FLUCCS category is not recognized as critical habitat for protected species. However, spoil mounds should be monitored for the presence of gopher tortoise
Primitive Trails (8146)	American alligator	L	SSC	Т	x	This FLUCCS category is not recognized as critical habitat for protected species. However, because of its immediate proximity to the reservoir and mixed wetland hardwood communities, alligator may bask along the trail

L = Listed in the Lee County, Protected Species List (Appendix H)

E = Endangered (as designated by the FFWCC and/or USFWS)

T = Threatened (as designated by the FFWCC and/or USFWS)

SSC = Species of Special Concern (as designated by the FFWCC)

Direct observations of American alligator in the reservoir have been reported by two people over the course of the last year. In addition, various wading birds have been noted foraging along the reservoir embankments, and an osprey is known to utilize the area. However, no other observations or signs of protected species have been revealed during the preliminary site visits or by others familiar with the site. However, appropriate habitat and/or FLUCCS associations exist for the fox squirrel and wood stork. As





such, a specific species survey(s) will likely be required if the project proceeds to agency review. In particular, a survey will likely be required for the fox squirrel. A gopher tortoise survey should be conducted prior to construction.

Review of the FFWCC web site pertaining to bald eagle (Haliaeetus leucocephalus) nest locations appears to indicate that the project area is outside of USFWS's primary and secondary management zones (1,500' and 750'radii, respectively). However, according to the web site, which is current through April 2004, nest LE068 is located approximately 0.6 mile southwest of the project. Therefore, although known active eagle nest(s) are in the vicinity of the project, we are not aware of any nests within Federal management zones for this site.

Should you have any questions regarding the site inspections or this report, please do not hesitate to contact me at 287-2706.

Sincerely,

Jeffrey A. Adair

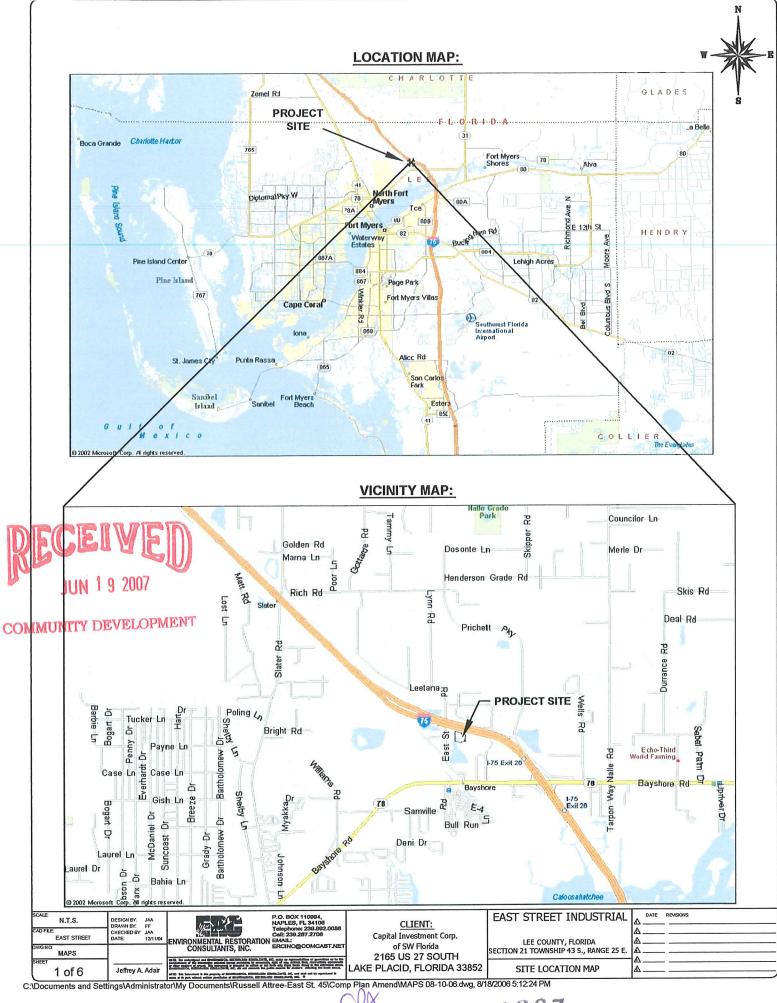
President

Enclosure

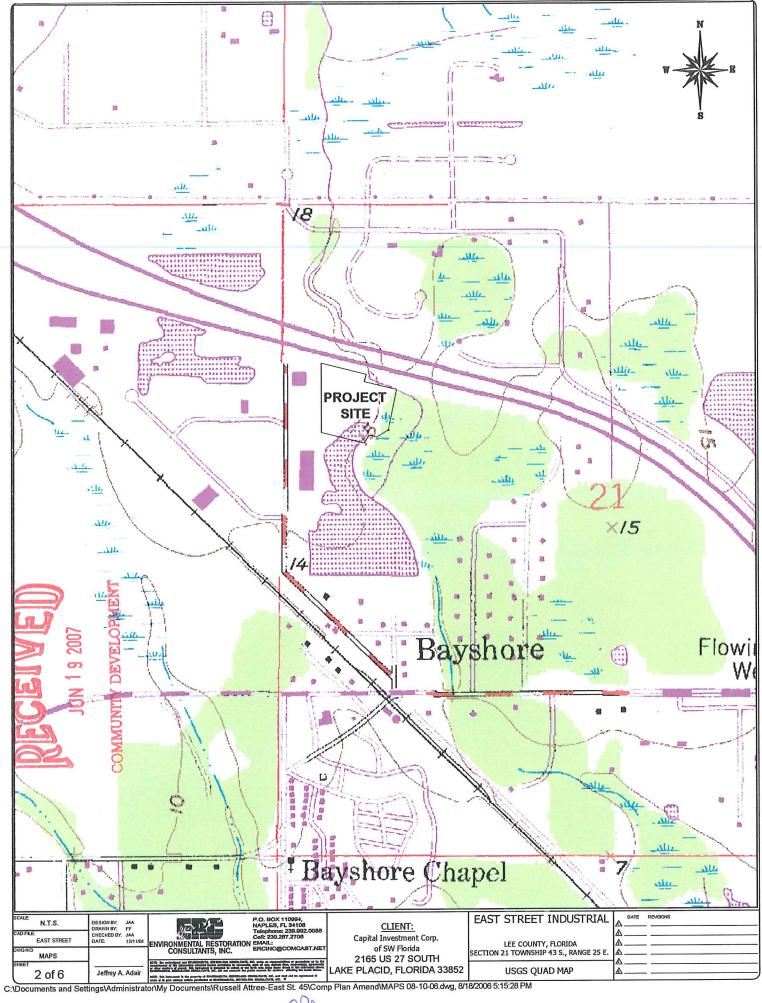


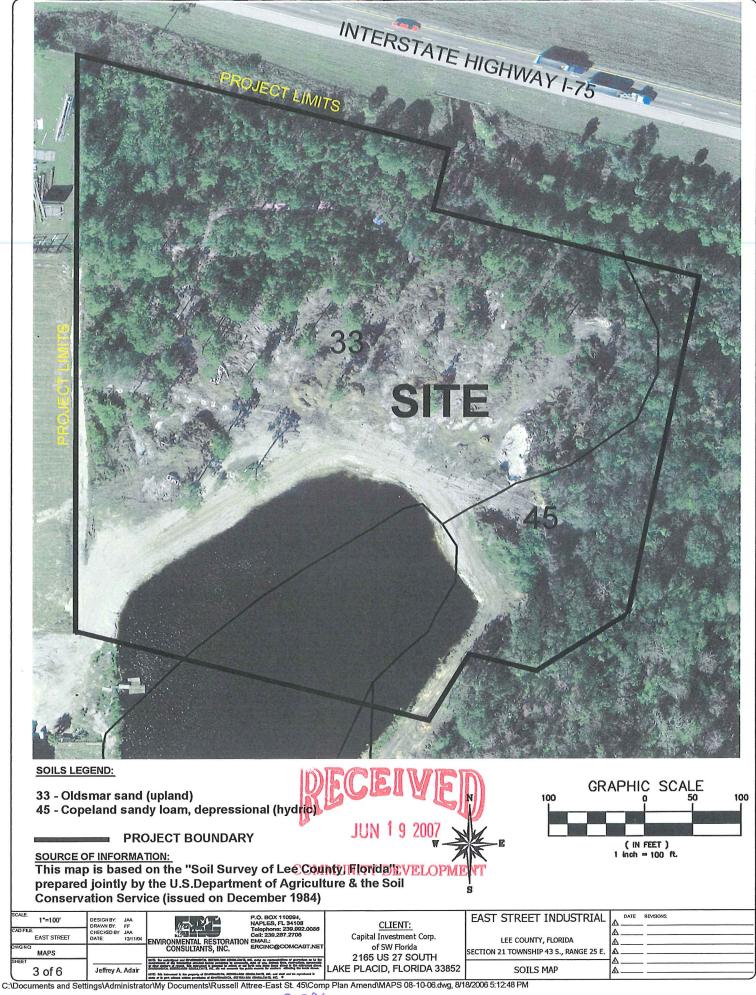
COMMUNITY DEVELOPMENT

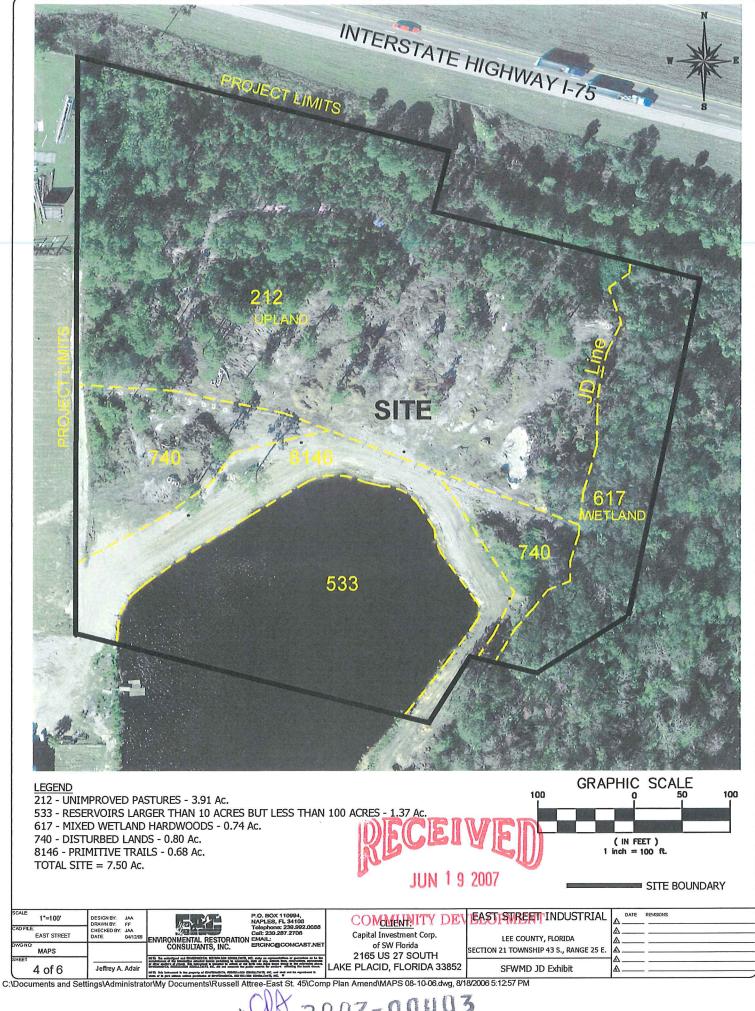
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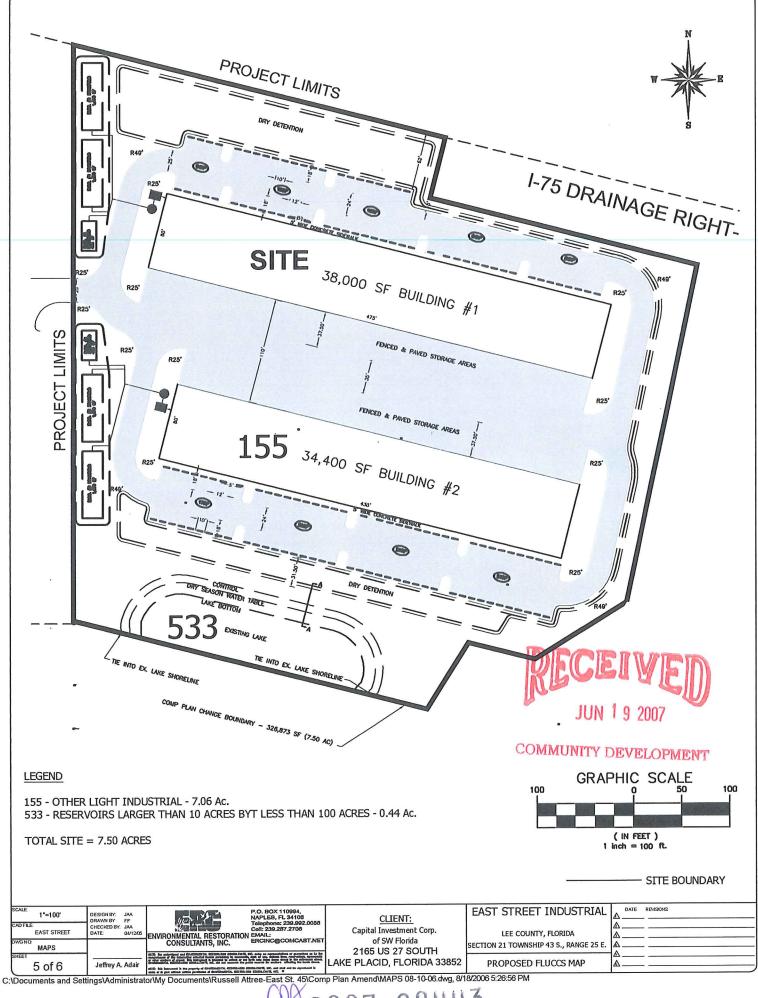
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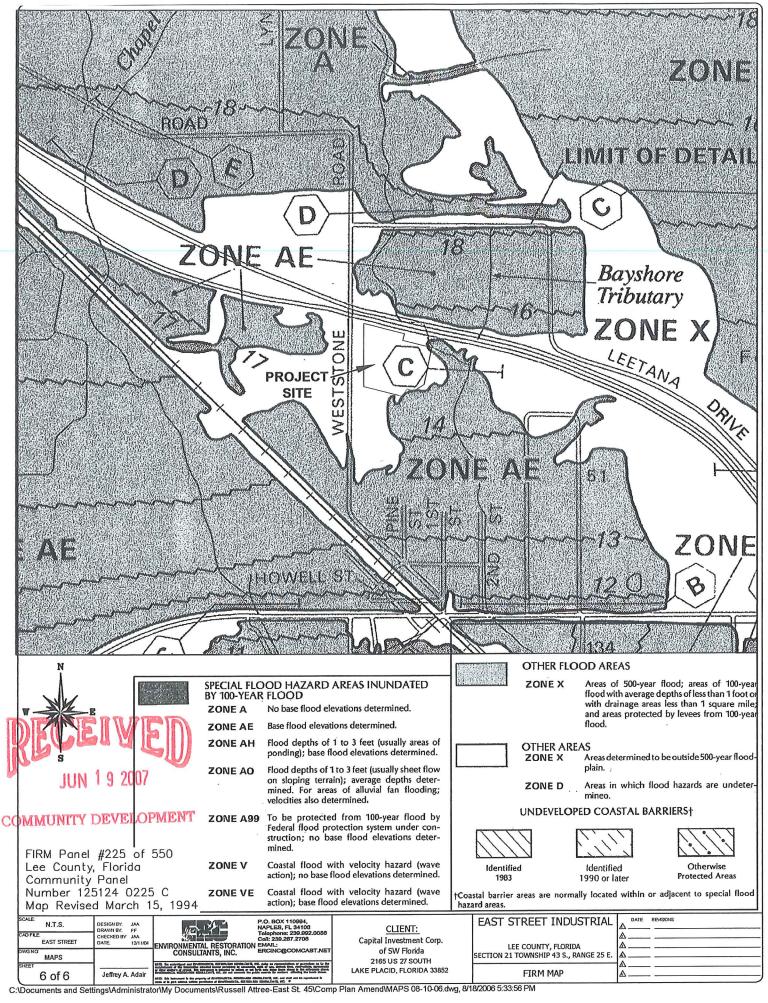




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South Florida Water Management District

LOWER WEST COAST REGIONAL SERVICE CENTER 2301 McGregor Boulevard, Fort Myers, FL 33901 (239) 338-2929 • FL WATS 1-800-248-1201 • Suncom 748-2929 • Fax (239) 338-2936 • www.sfwmd.gov/org/exo/ftmyers/

October 7, 2005

Mr. Jeffery Adair Environmental Restoration Consultants, Inc. P.O. Box 110994 Naples, Florida, FL 34108

Subject:

RV Park, 45 Acre Parcel - Section 21, Township 43 South, Range 25

East, Lee County

Dear Mr. Adair:

The District offers the following in response to your request for a determination of wetland boundaries and other surface waters located within the subject property. A site visit was conducted on April 7, 2005. The site is comprised mainly of a borrow pit/reservoir with some land surrounding it. Based on the site visit and other site information, the approximately 19 acre site contains wetlands as defined by Chapter 62-340 Florida Administrative Code (FAC). On the attached aerial photograph the bold black line defines the site boundary and the areas considered wetlands are shown with a solid blue line and labeled 'Wetland' and 'JD Line'.

This correspondence is an informal pre-application wetland determination pursuant to Chapter 373, Florida Statutes. It does not bind the District, its agents or employees, nor does it convey any legal rights, expressed or implied. Persons obtaining this informal pre-application wetland determination are not entitled to rely upon it for purposes of compliance with provision of law or District rules. A binding wetland determination may be obtained by petitioning the South Florida Water Management District for a wetland declaratory statement pursuant to FAC Rule 62-340 or by applying for an Environmental Resource permit.



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CPA 2007-00003

A file has been set up at the Lower West Coast Service Centre with pre-application materials. If you have any further questions, please contact me at (239) 338-2929 Ext. 7772.

Sincerely,

Catherine Hawkins

Environmental Analyst

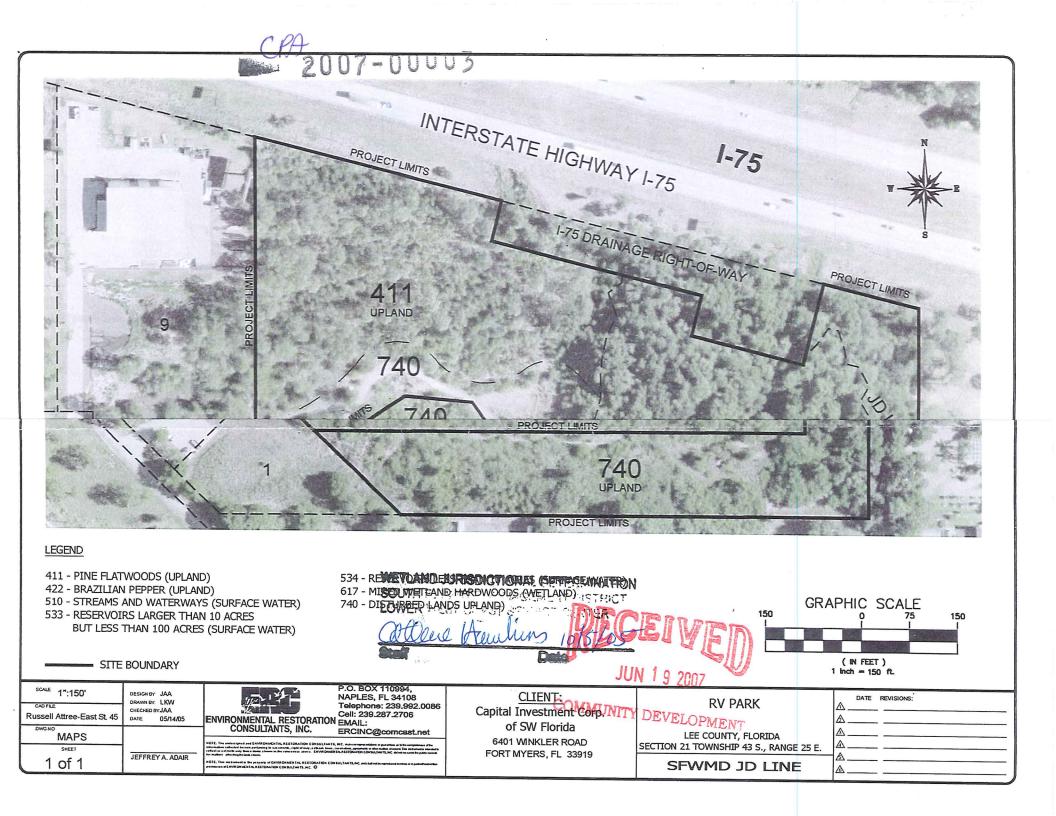
Lower West Coast Service Center

Attachment (aerial, location map)

C: USACOE- Ft. Myers, aerial, location map, land detail exhibit Lee County, aerial, location map, land detail exhibit File



COMMUNITY DEVELOPMENT





FLORIDA DEPARTMENT OF STATE Sue M. Cobb Secretary of State DIVISION OF HISTORICAL RESOURCES

July 11, 2006

Alison M. Stowe Knott, Consoer, Ebelini, Hart & Swett, P.A. 1625 Hendry Street Fort Myers, FL 33901 FAX: 239-334-1446

In response to your inquiry of July 11, 2006, the Florida Master Site File lists no previously recorded archaeological sites and three standing structures in the following parcels of Lee County:

T43S, R25E, Section 21

In interpreting the results of our search, please remember the following points:

- Areas which have not been completely surveyed, such as yours, may contain unrecorded archaeological sites or historical structures.
- While many of our records relate to historically significant properties, the entry of an archaeological site or an historical structure on the Florida Master Site File does not necessarily mean that the structure is significant.
- Since vandalism is common at Florida sites, we ask that you limit the distribution of location information on archaeological sites.
- As you may know, federal and state laws require formal environmental review for some projects. Record searches by the staff of the Florida Master Site File do not constitute such a review. If your project falls under these laws, you should contact the Compliance Review Section of the Bureau of Historic Preservation at 850-245-6333 or at this address.

If you have any further questions concerning the Florida Master Site File, please contact us as below.

Sincerely,

Celeste Ivory

Archaeological Data Analyst, Florida Master Site File

Division of Historical Resources

R. A. Gray Building

500 South Bronough Street

Tallahassee, Florida 32399-0250

Phone: 850-245-6440, Fax: 850-245-6439

State SunCom: 205-6440 Email: fmsfile@dos.state.fl.us

Web: http://www.dos.state.fl.us/dhr/msf/

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500 S. Bronough Street . Tallahassee, FL 32399-0250 . http://www.flheritage.com

					Walter and the second of the s			
SITEID	PORMNO	T-R-S	CR SITENAME	NRLIST SURVEY	LOCATION		OTHER	-
			SS 574 OLD BAYSHORE RD SS BAST ST			Uses: RESI,		
LL01461	199107 43	S/25E/21	SS 8520 BAYSHORE RD	3056	8520 BAYSHORE RD, FT MYERS	Built: 7777 Uses: RBSI, Built: 19250	RESI	

3 site(s) evaluated; 3 form(s) evaluated. Print date: 7/11/2006 8:18:49 AM



Internal Consistency with the Lee Plan EXHIBIT E

1). Discuss how the proposal affects established Lee County population projections, Table 1(b) (Planning Community Year 2020 Allocations), and the total population capacity of the Lee Plan Future Land Use Map.

This 7.5 acre parcel is located in the North Fort Myers Planning Community and it is currently designated Suburban on the Future Land Use Map. The maximum residential density under the Suburban designation would be 6 units per acre or 45 units. This would equate to a little more than 100 residents if zoned and developed at its maximum density.

The request is to amend the land use map to Industrial Development which would allow no residential development and which would therefore reduce the potential population of the land use map by this amount. In the current Lee Plan, there are 209 acres allocated in Table 1(b) to industrial activity in the North Fort Myers Planning District and there is 171 existing acres of industrial land, for a surplus of 38 acres. In the new proposed 2030 allocation that has been transmitted to DCA, there are now 554 acre allocated to the North Fort Myers Planning Community for industrial use.

2). List all goals and objectives of the Lee Plan that are affected by the proposed amendment. This analysis should include an evaluation of all relevant policies under each goal and objective.

This request is consistent with Goal 7 which says "To promote opportunities for well planned industrial development at suitable locations within the County." It is also consistent with the following policies:

Policy 7.1.3: Industrial land uses must be located in areas appropriate to their special needs and constraints, including, but not limited to, considerations of: topography; choice and flexibility in site selection; access by truck, air, deep water, and rails; commuter access from home to work trips; and utilities; greenbelt and other amenities; air and water quality considerations; proximity to supportive and related land uses; and compatibility with neighboring uses.

This site is adjacent and contiguous to a large industrial area of North Fort Myers that has existed in this location for many decades. It is a natural extension of this use, since its location next to I-75 and the industrial activity would make it very unsuitable for residential use which is the only other likely alternative. The property has good access to I-75 and the level of service on Bayshore Road is currently "B". In terms of compatibility, the situation is very favorable in that there is industrial uses to the west, I-75 to the north, and a large expanse of wetlands to the east and south which buffers single-family residential development.

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Policy 7.1.4: The Future Land Use Map must designate a sufficient quantity of land to accommodate industrial development that will employ 3% of the County's population in manufacturing activities by the year 2010. A report will be prepared by County staff every two years to monitor the County's progress towards this employment goal.

Last year the Planning staff appeared before the County Commission at a Management and Planning Committee to request a study of industrial land use needs in the County. They were concerned that existing industrial land was being converted to residential and commercial uses and that there will be a serious shortage in the future. The County has hired a consultant to look at this and a preliminary draft has only recently been distributed to the staff. However, it is quite clear that additional industrial land will be important tot he County, especially in favorable locations such as this one, and additional industrial land can only help to achieve the 3% goal.

Policy 7.1.5: The timing and location of industrial development will be permitted only with the availability and adequacy of existing or planned services and facilities.

The Traffic Impact Statement and utilities analysis that accompany this amendment show that there are adequate facilities to service this development, and there has been a growing demand for this type of use in this location.

Policy 7.1.9: Industrial development will not be permitted if it allows industrial traffic to travel through predominantly residential areas.

In this location, the traffic will primarily travel through existing industrial areas before it reaches Bayshore Road.

Policy 5.1.5: Protect existing and future residential areas from any encroachment of uses that are potentially destructive to the character and integrity of the residential environment...

As noted above, the property to the west is currently developed for industrial uses, to the north is I-75 and to the east and south is a large expanse of wetlands and a lake which separates this property from the nearest single-family residential subdivisions.

The request is also consistent with **Goal 158** of the economic element and many of the Objectives and Policies under that Goal which would promote a strong and diversified economy.

3). Describe how the proposal affects adjacent local governments and their comprehensive plans.

NA

4). List State Policy Plan and Regional Policy Plan goals and policies which are relevant to this plan amendment.

CP 2007-00003

The relevant portions of the State Comprehensive Plan would be **Section 187.201(15)(a) Goal:** in recognition of the importance of natural resources and enhancing the quality of life for the state, development shall be directed to those areas which have in place, or have an agreement to provide, the land and the water resources, fiscal abilities, and service capacity to accommodate growth in an environmentally acceptable manner.

(21) The Economy

(a) Goal: Florida shall promote an economic climate that provides economic stability, maximizes job opportunities, and increases per capita income for its residents.

(b) Policies

1. Attract new job producing industries, corporate headquarters, distribution and service centers, regional offices, and research and development facilities to provide quality employment for the residents of Florida.

The relevant portions of the Southwest Florida strategic regional policy plan would be found in the Economic Development Element. The most relevant portion of this element is **Goal 4: a diverse regional economy.**

Strategy: Diversify the regional economy by attracting new business and industry.



COMMUNITY DEVELOPMENT

Additional Requirements for Specific Future Land Use Amendments EXHIBIT F

- 1). Requests involving Industrial and/or categories targeted by the Lee Plan as employment centers (to or from)
 - a). State whether the site is accessible to arterial roadways, rail lines, and cargo or airport terminals

The site is accessible to Bayshore Road and from there less than a mile to I-75. While there is rail service in other sections of the Bayshore Industrial Park, there is no rail service directly to this site, nor are there any cargo airport terminals nearby.

b). Provide data and analysis required by Policy 2.4.4

Three years ago the City of Ft. Myers annexed the Arborwood development, which had the effect of converting over 2,500 acres of tradeport to residential uses. Last year, the staff had determined that there was now a potential long-range shortage of industrial land in Lee County. This application will help to address that pending shortfall.

c). The affect of the proposed change on county's industrial employment goal specifically Policy 7.1.4

Clearly adding 7.5 acres to the industrial development land use category will help the County meet their goal of 3% employment in the manufacturing spectrum.

2). Requests moving lands from a Non-Urban Area to a Future Urban Area

NA



COMMUNITY DEVELOPMENT

CP 2007-00UU3

Justification for Proposed Amendment EXHIBIT G

Given the size and location of this parcel, the justification is very straightforward. It is currently designated Suburban which would suggest a residential land use of up to 6 units per acre. However, the location of this property next to I-75 and the existing industrial park would make residential development very unlikely and virtually unmarketable. The site is a logical extension of the existing Bayshore industrial area, and as such has good transportation connections to I-75. There are some wetlands on the site and the proposed site plan anticipates impacting approximately 0.74 acres of these wetlands out of a much larger system which will provide buffering to the adjacent single-family residential subdivisions to the south and east. The application also anticipates filling in a small portion of the existing lake onsite to provide additional development area.



COMMUNITY DEVELOPMENT

CPA 2007-00003

CORRESPONDENCE



South Florida Water Management District

LOWER WEST COAST REGIONAL SERVICE CENTER 2301 McGregor Boulevard, Fort Myers, FL 33901 (239) 338-2929 • FL WATS 1-800-248-1201 • Suncom 748-2929 • Fax (239) 338-2936 • www.sfwmd.gov/org/exo/ftmyers/

October 7, 2005

Mr. Jeffery Adair Environmental Restoration Consultants, Inc. P.O. Box 110994 Naples, Florida, FL 34108

Subject:

RV Park, 45 Acre Parcel - Section 21, Township 43 South, Range 25

East, Lee County

Dear Mr. Adair:

The District offers the following in response to your request for a determination of wetland boundaries and other surface waters located within the subject property. A site visit was conducted on April 7, 2005. The site is comprised mainly of a borrow pit/reservoir with some land surrounding it. Based on the site visit and other site information, the approximately 19 acre site contains wetlands as defined by Chapter 62-340 Florida Administrative Code (FAC). On the attached aerial photograph the bold black line defines the site boundary and the areas considered wetlands are shown with a solid blue line and labeled 'Wetland' and 'JD Line'.

This correspondence is an informal pre-application wetland determination pursuant to Chapter 373, Florida Statutes. It does not bind the District, its agents or employees, nor does it convey any legal rights, expressed or implied. Persons obtaining this informal pre-application wetland determination are not entitled to rely upon it for purposes of compliance with provision of law or District rules. A binding wetland determination may be obtained by petitioning the South Florida Water Management District for a wetland declaratory statement pursuant to FAC Rule 62-340 or by applying for an Environmental Resource permit.

A file has been set up at the Lower West Coast Service Centre with pre-application materials. If you have any further questions, please contact me at (239) 338-2929 Ext. 7772.

Sincerely,

Catherine Hawkins

Environmental Analyst

Lower West Coast Service Center

Attachment (aerial, location map)

C: USACOE- Ft. Myers, aerial, location map, land detail exhibit Lee County, aerial, location map, land detail exhibit File



BOARD OF COUNTY COMMISSIONERS

(239) 338-3302

Bob Janes District One

A. Brian Bigelow District Two

Ray Judah District Three

Tammy Hall District Four

Frank Mann District Five

Donald D. Stilwell County Manager

David M. Owen County Attorney

Diana M. Parker County Hearing Examiner February 19, 2006

Ms. Alison M. Stowe Knott, Consoer, Ebelini Hart & Swett, P.A. 1625 Hendry Street P.O. Box 2449 Fort Myers, FL 33902-2449



COMMUNITY DEVELOPMENT

SUBJECT: Comprehensive Plan Amendment for Bayshore Industrial Park

Dear Ms. Stowe:

The Lee County Solid Waste Division is capable of providing solid waste collection service for the proposed expansion of light industrial uses at the 7.5 acre property located in North Ft. Myers through our franchised hauling contractors. Disposal of the solid waste from this project will be accomplished at the Lee County Resource Recovery Facility and the Lee-Hendry Regional Landfill. Plans have been made, allowing for growth, to maintain long-term disposal capacity at these facilities.

The Solid Waste Ordinance (05-13, Section 21) and the Lee County Land Development Code, Chapter 10, Section 10-261 have requirements for providing on-site space for placement and servicing of commercial solid waste containers. Please review these requirements when planning the project. If you have any questions, please call me at (239) 338-3302.

Sincerely,

William T. Newman Operations Manager

Solid Waste Division

cc: Wayne Gaither

Knott, Consoer, Ebelini Hart & Swett, P.A. ATTORNEYS - AT - LAW

George H. Knott *+ George L. Consoer, Jr. ** Mark A. Ebelini Thomas B. Hart H. Andrew Swett

Board Certified Civil Trial Lawyer
 Board Certified Real Estate Lawyer
 Board Certified Business Litigation Lawyer

1625 Hendry Street • Third Floor (33901) P.O. Box 2449 Fort Myers, Florida 33902-2449

> Telephone (239) 334-2722 Telecopier (239) 334-1446

AStowe@knott-law.com

Matthew D. Uhle Aaron A. Haak Derrick S. Eihausen Natly Torres-Alvarado David A. Burt

Director of Zoning and Land Use Planning Michael E. Roeder, AICP

MEMORANDUM

TO:

Department of Community Development

FROM:

Alison M. Stowe

DATE:

June 27, 2007

RE:

Capital Investment Corp. / CPA2007-00003

Attached please find 5 certified sketch and descriptions of the 7.5 acres intended to be amended for this project. Legal descriptions containing the parent parcel were submitted previously and we are submitting these revisions for your reference. If you have any questions, please feel free to contact me anytime.

ams Enclosures



A2007-00003

COMMUNITY DEVELOPMENT



DESCRIPTION OF A PARCEL OF LAND LYING IN SECTION 21, TOWNSHIP 43 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA (7.5 ACRE PARCEL IN TRACT "B", I-75/ BAYSHORE ROAD INDUSTRIAL PARK)

A TRACT OR PARCEL OF LAND LYING IN THE STATE OF FLORIDA, COUNTY OF LEE, SITUATED IN SECTION 21, TOWNSHIP 43 SOUTH, RANGE 25 EAST, BEING PART OF TRACT "B", I-75/BAYSHORE ROAD INDUSTRIAL PARK, ACCORDING TO THE MAP OR PLAT THEREOF, AS RECORDED IN PLAT BOOK 34, AT PAGES 42 THROUGH 45 IN THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID TRACT "B", SAID POINT LYING ON THE SOUTHERLY RIGHT-OF-WAY OF INTERSTATE HIGHWAY 75 (I-75); THENCE S.75°41'07"E. ALONG SAID SOUTHERLY RIGHT-OF-WAY, A DISTANCE OF 398.04 FEET; THENCE S.14°18'53"W., A DISTANCE OF 65.00 FEET; THENCE S.75°41'07"E., A DISTANCE OF 285.95 FEET; THENCE S.11°49'28"W., A DISTANCE OF 359.70 FEET; THENCE S.57°58'35"W., A DISTANCE OF 112.15 FEET; THENCE N.75°41'07"W., A DISTANCE OF 71.45 FEET; THENCE S.31°36'24"W., A DISTANCE OF 81.60 FEET; THENCE N.75°41'07"W., A DISTANCE OF 378.40 FEET TO A POINT ON THE WEST LINE OF SAID TRACT "B", I-75/BAYSHORE ROAD INDUSTRIAL PARK; THENCE N.00°04'23"E. ALONG SAID WEST LINE OF SAID TRACT "B", A DISTANCE OF 601.91 FEET TO THE POINT OF BEGINNING.

SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS AND RIGHTS-OF-WAY OF RECORD (WRITTEN AND UNWRITTEN, RECORDED AND UNRECORDED).

SUBJECT PARCEL CONTAINS 7.50 ACRES, MORE OR LESS.

BEARINGS ARE BASED ON THE WEST LINE OF TRACT "B", I-75/BAYSHORE ROAD INDUSTRIAL PARK AS BEARING N.00°04'23"E. ACCORDING TO SAID PLAT.

Certification for Description

Surveyor and Mapper in Responsible Charge:

Denis J. O'Connell, Jr., LS #5430

Metron Surveying & Mapping, LLC, LB #7071

10970 S. Cleveland Ave.; Suite #605

Fort Myers, FL 33907

Signed:

Date:

6/22/07

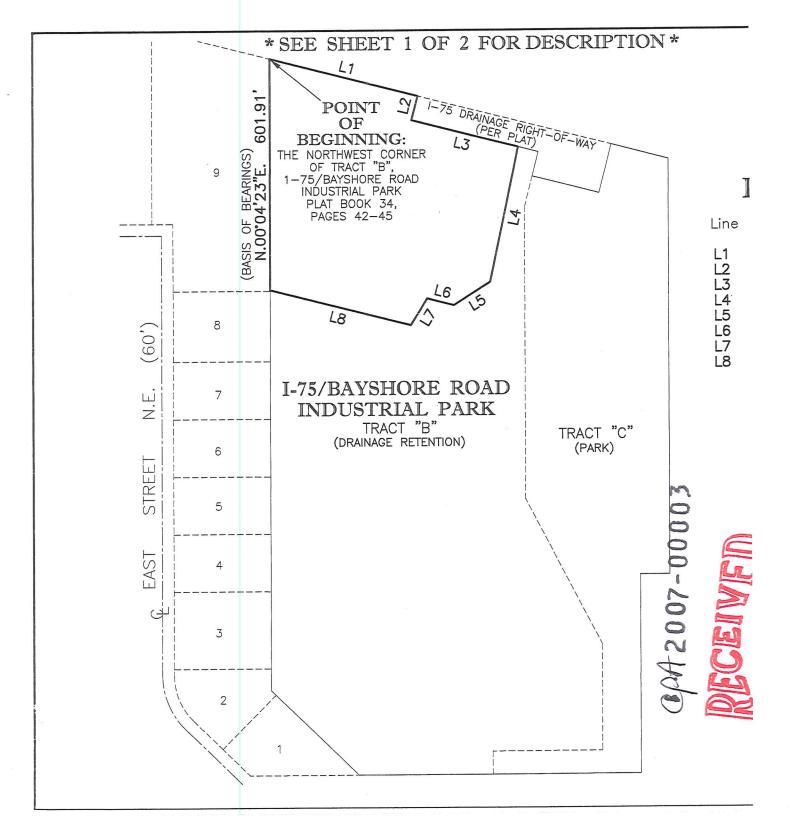
RECEIVED)
JUN 2 8 2007

COMMUNITY DEVELOPMENT

@A2007-00003

SHEET 1 OF 2

2882 7.5 Ac. Desc.doc



MEMORANDUM FROM

DEPARTMENT OF COMMUNITY DEVELOPMENT DIVISION OF ENVIRONMENTAL SCIENCES

Date:

October 26, 2007

To:

Brent Cunningham, Senior Planner

From:

Doug Griffith, Environmental Planner

Phone: 239-533-8323

E-mail:dgriffith@leegov.com

Project:

East Street Commerce Center

Case:

CPA2007-00003

Strap:

21-43-25-04-00000.B000

The applicant proposes to amend the Lee County comprehensive plan to light industrial on approximately 6 acres of a 38 acre parcel. The parcel has a 19.73 acre lake on the southwest portion of the site. A Limited Development Order (LDO) LDO2007-00258 has been filed and is being reviewed for the development of a cable ski lake. The eastern half of the site contains wetlands with a flow-way that flows under I-75, through the property, and ultimately connects to the Caloosahatchee River.

The following is ES staff's comments and concerns for the proposed project.

As mentioned previously there is a LDO in for the development of a ski cable system for the lake. ES staff is concerned with storm water run off from the proposed industrial development.

The total acreage of the property is 38.78 acres. Please include the entire 38.78 acre parcel in the application.

ES staff requests an environmental assessment for the 38 acre site.

There are two violations on file for the removal of indigenous vegetation, and for the storing of heavy equipment onsite. ENV2004120004 / VIO2004-24645 What is the status of these violations? What is the status of the restoration planned for the illegal clearing that occurred on the property?

Please include a conservation easement over the eastern portion of the site. Please indicate this area as conservation lands on site map.



DEPARTMENT OF TRANSPORTATION

Memo

Date:

October 30, 2007

To:

Paul O' Connor

Planning Division Director

From:

David Loveland, Manager

Transportation Planning

RE:

CPA2007-00003 (ALTREE SMALL SCALE AMENDMENT)

We have reviewed the above referenced application which requests that the land use designation of approximately 7.5 acres be changed from the existing "Suburban" to "Industrial Development". As indicated by an e-mail of your staff on October 19, 2007, the proposed "Industrial Development" designation would allow 70,000 square feet of industrial land uses and some ancillary commercial uses. After running the FSUTMS travel demand model for the year 2030 condition, we have determined that the land use change on this property will not alter the future road network plan.

Please let me know if you have any questions.

DL:llj

RECEIVE DO OCT 2 1 2007

COMMUNITY DEVELOPMENT

S:\DOCUMENT\LOVELAND\MEMOS\2007\CPA2007-00003.doc

Miller, Janet M.

From:

Cunningham, Brent

Sent:

Friday, November 02, 2007 4:39 PM

To:

Miller, Janet M.

Cc:

Gonzalez, Brandy L.; Noble, Matthew A.

Subject: FW: Altree Small Scale Amendment CPA2007-00003

FYI

Brent Cunningham, Senior Planner

LEE COUNTY DEPT. OF COMMUNITY DEVELOPMENT

Division of Planning phone: 239-533-8567 fax: 239-485-8319 bcunningham@leegov.com www.lee-county.com

From: Horsting, Michael S.

Sent: Friday, November 02, 2007 4:37 PM

To: Cunningham, Brent

Subject: RE: Altree Small Scale Amendment CPA2007-00003

Brent,

From our standpoint, this application is sufficient for review.

Mike Horsting, AICP Principal Planner - Lee County Transit 239-533-0333 tel

From: Cunningham, Brent

Sent: Friday, October 19, 2007 8:34 AM

To: Cranford, Richard M.; Campbell, George G.; wbergquist@sheriffleefl.org; jnygaard@sheriffleefl.org; Ottolini, Roland E.; Loveland, David M.; Horsting, Michael S.; Wu, Lili; Yarbrough, John H.; Sampson, Lindsey J.; Newman, William T.; Smith, Regina Y.; Lavender, James H.; Velez, Sergio I.; Houck, Pamela E.; Sweigert, Rebecca H.; Eckenrode, Peter J.; Pavese, Michael P.; Daltry, Wayne E.; Zettel, Mary S.; Roberts, Rickey G.; Collins, Donna Marie; SusanMTe@LeeSchools.Net; wbhorner@flylcpa.com; Wilson, John; Hansen, Hans C.;

'tpnfmfd@yahoo.com'; Griffith, Douglas

Cc: Noble, Matthew A.

Subject: Altree Small Scale Amendment CPA2007-00003

Distribution List:

John Wilson, Lee County Public Safety Chris Hansen, Lee County Public Safety, EMS Richard Cranford, Lee County Public Safety Gerald Campbell, Lee County Public Safety, Emergency Management W. Bergquist, Lee County Sheriff's Office

James Nygaard, Lee County Sheriff's Office Roland E. Ottolini, Lee County Natural Resources Management Becky Sweigert, Lee County Environmental Sciences Doug Griffith, Lee County Environmental Sciences Michael Horsting, Lee Tran Dave Loveland, Lee County Division of Transportation Lili Wu, Lee County, Division of Transportation John Yarbrough, Lee County Parks & Recreation Lindsey Sampson, Lee County Solid Waste William Newman, Lee County, Solid Waste Regina Smith, Lee County Economic Development Jim Lavender, Lee County Public Works Ivan Velez, Lee County Utilities Pam Houck, Lee County Zoning Pete Eckenrode, Lee County Development Services Michael Pavese, Lee County Public Works Wayne Daltry, Lee County Smart Growth Mary Zettel, DCD/Code Enforcement Rick Roberts, DCD/Code Enforcement Donna Marie Collins, County Attorney's Office Susan Teston, Lee County School Board William Horner, Airport Authority Terry Pye, North Fort Myers Fire & Rescue District

Planning staff requests your agencies help in reviewing the above referenced Lee Plan Amendment. The proposed map amendment would change the existing Land Use designation from **Suburban and Wetlands** to **Industrial Development and Wetlands**. The site is generally $38.78 \pm \text{acres}$ but the total acreage of the amendment request is $7.50 \pm \text{acres}$ in size.

The applicant is proposing to amend the Future Land Use Map (FLUM), Map 1.

The existing Land Use designation of Suburban is predominately residential and does not allow industrial uses. The proposed land use change would allow 70,000 sq. ft. of industrial land uses and some ancillary commercial uses.

Planning staff requests that your agency help determine the sufficiency of the proposed plan amendment application for review. If you can identify any deficiencies in the information provided, need clarification on the subject matter, or if you find the application sufficient for review, please provide these comments to us by **November 2, 2007**. A letter is being drafted to submit any additional data request to the applicant and your input concerning the potential impacts to your agency is important.

A link to the application is below. If you have problems opening the attachment or if you have any questions, please contact:

Matt Noble 479-8548 noblema@leegov.com

http://www.lee-county.com/dcd/PlanAmendments/SmallScale/CPA200703A1.pdf

Brent Cunningham, Senior Planner
LEE COUNTY DEPT. OF COMMUNITY DEVELOPMENT
Division of Planning
phone: 239-533-8567

fax: 239-485-8319 bcunningham@leegov.com www.lee-county.com

Miller, Janet M.

From:

Gonzalez, Brandy L.

Sent:

Monday, November 05, 2007 9:29 AM

To:

Miller, Janet M.

Subject:

FW: Altree Small Scale Amendment CPA 2007-00003

Importance: High

Janet -

Brent forwarded this e-mail to me for CPA2007-03. He mentioned you nay need it for the file.

From: Cunningham, Brent

Sent: Monday, November 05, 2007 8:52 AM

To: Gonzalez, Brandy L.

Subject: FW: Altree Small Scale Amendment CPA 2007-00003

Importance: High

FYI

Brent Cunningham, Senior Planner

LEE COUNTY DEPT. OF COMMUNITY DEVELOPMENT

Division of Planning phone: 239-533-8567 fax: 239-485-8319 bcunningham@leegov.com www.lee-county.com

From: Collins, Donna Marie

Sent: Wednesday, October 24, 2007 10:10 AM

To: Cunningham, Brent **Cc:** Noble, Matthew A.

Subject: Altree Small Scale Amendment CPA 2007-00003

Importance: High

Good Morning Brent

Thank you for sending over the application filed by Capital Investment Corp of SW Florida for a small scale amendment to the Lee Plan.

I have the following questions:

- 1. The SFWMD letter dated 10-7-07 refers to the site as 19 acres in size. This is only half the total site of 38.78. I understand that the property that is the subject of the plan amendment is 7.5 acres, but why wouldn't the District letter mention the entire site? Why only half?
- 2. What is the FLUM classification of the remaining 31.28 acres of the the parent tract? Obviously this is a small cut out of a parcel more than five times the size. Is

the remainder of the site to remain Suburban? Is it already Industrial? This is not clear as there is no good exhibit that shows the parent tract and the subject parcel in relationship to it. That type of exhibit should be provided by the applicant. Can you please request it?

- 3. Access to this site is not clear to me. I get that they will have an easement over property that fronts on East street, but is that parcel part of the parent tract? To what standard must it be improved to to support the level of industrial development that can be accommodated on the site? Is the easement wide enough for this purpose? Is there any road frontage to the site or is the easement to East street the only way in and out?
- 4. I have asked my assistant to pull the corporate records of Capital Investment Corp to confirm whether adequate authorization has been provided.
- 5. I will prepare a draft ordinance for the adoption of the small scale amendment, but would like to have answers to questions 1-3 above before this item is scheduled to be heard by the LPA.

Thanks for the opportunity to comment.

Donna Marie Collins Assistant County Attorney Lee County Attorney's Office Phone: 239-533-2236 Fax: 239-485-2106 collinsd@leegov.com

Please note that Florida has a broad public records law. Most written communications to or from County Employees and Officials regarding County business are public records subject to review by the public and media upon request. Your email communication may be subject to public disclosure.

"Patience is the companion of wisdom" - Saint Augustine

Miller, Janet M.

From:

Gonzalez, Brandy L.

Sent:

Wednesday, November 07, 2007 3:05 PM

To:

Miller, Janet M.

Subject:

FW: Altree Small Scale Amendment CPA 2007-00003

Importance: High

From: Cunningham, Brent

Sent: Monday, November 05, 2007 8:52 AM

To: Gonzalez, Brandy L.

Subject: FW: Altree Small Scale Amendment CPA 2007-00003

Importance: High

FYI

Brent Cunningham, Senior Planner
LEE COUNTY DEPT. OF COMMUNITY DEVELOPMENT

Division of Planning phone: 239-533-8567 fax: 239-485-8319 bcunningham@leegov.com www.lee-county.com

From: Collins, Donna Marie

Sent: Wednesday, October 24, 2007 10:10 AM

To: Cunningham, Brent **Cc:** Noble, Matthew A.

Subject: Altree Small Scale Amendment CPA 2007-00003

Importance: High

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Donna Marie Collins Assistant County Attorney Lee County Attorney's Office Phone: 239-533-2236 Fax: 239-485-2106 collinsd@leegov.com

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"Patience is the companion of wisdom" - Saint Augustine

Miller, Janet M.

Gonzalez, Brandy L. From:

Wednesday, November 07, 2007 3:05 PM Sent:

Miller, Janet M. To:

Subject: FW: Altree Small Scale Amendment CPA2007-00003

From: Cunningham, Brent

Sent: Monday, November 05, 2007 8:52 AM

To: Gonzalez, Brandy L.

Subject: FW: Altree Small Scale Amendment CPA2007-00003

FYI

Brent Cunningham, Senior Planner

LEE COUNTY DEPT. OF COMMUNITY DEVELOPMENT

Division of Planning phone: 239-533-8567 fax: 239-485-8319 bcunningham@leegov.com www.lee-county.com

From: Newman, William T.

Sent: Monday, October 22, 2007 10:09 AM

To: Cunningham, Brent

Subject: RE: Altree Small Scale Amendment CPA2007-00003

Solid Waste issues have been sufficiently addressed in this request.

Bill Newman **Operations Manager** Solid Waste Division (239) 338-3302

From: Cunningham, Brent

Sent: Friday, October 19, 2007 8:34 AM

To: Cranford, Richard M.; Campbell, George G.; wbergquist@sheriffleefl.org; jnygaard@sheriffleefl.org; Ottolini, Roland E.; Loveland, David M.; Horsting, Michael S.; Wu, Lili; Yarbrough, John H.; Sampson, Lindsey J.; Newman, William T.; Smith, Regina Y.; Lavender, James H.; Velez, Sergio I.; Houck, Pamela E.; Sweigert, Rebecca H.; Eckenrode, Peter J.; Pavese, Michael P.; Daltry, Wayne E.; Zettel, Mary S.; Roberts, Rickey G.; Collins, Donna Marie;

SusanMTe@LeeSchools.Net; wbhorner@flylcpa.com; Wilson, John; Hansen, Hans C.;

'tpnfmfd@yahoo.com'; Griffith, Douglas

Cc: Noble, Matthew A.

Subject: Altree Small Scale Amendment CPA2007-00003

Distribution List:

John Wilson, Lee County Public Safety Chris Hansen, Lee County Public Safety, EMS Richard Cranford, Lee County Public Safety Gerald Campbell, Lee County Public Safety, Emergency Management W. Bergquist, Lee County Sheriff's Office James Nygaard, Lee County Sheriff's Office Roland E. Ottolini, Lee County Natural Resources Management Becky Sweigert, Lee County Environmental Sciences Doug Griffith, Lee County Environmental Sciences Michael Horsting, Lee Tran Dave Loveland, Lee County Division of Transportation Lili Wu, Lee County, Division of Transportation John Yarbrough, Lee County Parks & Recreation Lindsey Sampson, Lee County Solid Waste William Newman, Lee County, Solid Waste Regina Smith, Lee County Economic Development Jim Lavender, Lee County Public Works Ivan Velez, Lee County Utilities Pam Houck, Lee County Zoning Pete Eckenrode, Lee County Development Services Michael Pavese, Lee County Public Works Wayne Daltry, Lee County Smart Growth Mary Zettel, DCD/Code Enforcement Rick Roberts, DCD/Code Enforcement Donna Marie Collins, County Attorney's Office Susan Teston, Lee County School Board William Horner, Airport Authority Terry Pye, North Fort Myers Fire & Rescue District

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A link to the application is below. If you have problems opening the attachment or if you have any questions, please contact:

Matt Noble 479-8548 noblema@leegov.com

http://www.lee-county.com/dcd/PlanAmendments/SmallScale/CPA200703A1.pdf

Brent Cunningham, Senior Planner
LEE COUNTY DEPT. OF COMMUNITY DEVELOPMENT

Division of Planning phone: 239-533-8567 fax: 239-485-8319

bcunningham@leegov.com www.lee-county.com



BOARD OF COUNTY COMMISSIONERS

(239) 533-8585

Bob Janes District One November 20, 2007

A. Brian Bigelow District Two

Michael Roeder

Knott, Consoer, Ebelini, Hart, & Swett, P.A.

Ray Judah
District Three

1625 Hendry Street, Suite 301 Fort Myers, Florida 33901

Tammy Hall District Four

RE: CPA2007-03 - Attree Small Scale Comprehensive Plan Amendment

Frank Mann District Five

Dear Mr. Roeder:

Donald D. Stilwell County Manager

Planning staff finds the above mentioned submittal is insufficient and further information is needed. The following comments pertain to Part IV of the application:

David M. Owen County Attorney A.2. Exhibit A.2. details the existing Future Land Use Map as part of the submittal materials but does not depict the boundaries of the portion of the property proposed for the Future Land

Diana M. Parker County Hearing Examiner does not depict the boundaries of the portion of the property proposed for the Future Land Use Map amendment. Staff recommends depicting the boundaries of the proposed amendment. This mapped information will be required as part of the public hearing submittals and as part of a transmittal package to the Department of Community Affairs.

Additionally, staff recommends including a **proposed** Future Land Use Map depicting the boundaries of the subject portion of the property, to include a surrounding street network, surrounding designated future land uses, and natural resources.

- A.5. Item 5 requires the submittal of a legal description for the subject property. Staff has found discrepancies in the legal description provided and requests that it be revised. The description requires a valid starting point. Please provide a corrected legal description.
- B.3. Staff has not received a letter from the Bayshore Fire District as part of the submittal.
- C. The Lee County Division of Environmental Sciences has reviewed the submittal and provided the attached written comments dated October 26, 2007.

In addition, based on previous discussions with Matthew Noble and Brent Cunningham of planning staff, it is my understanding that the existing violations on the site and the abatement of those violations were discussed. Staff previously discussed the potential of converting the proposed small scale amendment for the 7.5 acre site to include the entire 38.78 acre parcel into a regular plan amendment. This scenario would include adding the eastern portion of the parcel containing the wetland and flow way into the proposed amendment and placing the area into a conservation category. Also discussed was the possibility of adding residential uses to the southern portion of the property. The comments above are based on the current small scale application. Please keep me informed on the possibility of converting the small scale proposal into a regular amendment for the entire parcel. Unless indicated otherwise, staff will continue to review the proposal at its current status.

Please note that further requests for information may be forthcoming. Planning staff has not received comments from all of the reviewing agencies regarding the application. If I can be of any assistance or if you have any questions, please do not hesitate to call me at 533-8805.

Sincerely,

Brandy Gonzalez, Principal Planner

Department of Community Development, Division of Planning

cc: Planning file: CPA 2007-03

Dandy Lon Tal

MEMORANDUM FROM

DEPARTMENT OF COMMUNITY DEVELOPMENT DIVISION OF ENVIRONMENTAL SCIENCES

Date: October 26, 2007

To: Brent Cunningham, Senior Planner

From: Doug Griffith, Environmental Planner

Phone: 239-533-8323

E-mail:dgriffith@leegov.com

Project: East Street Commerce Center

Case: CPA2007-00003

Strap: 21-43-25-04-00000.B000

The applicant proposes to amend the Lee County comprehensive plan to light industrial on approximately 6 acres of a 38 acre parcel. The parcel has a 19.73 acre lake on the southwest portion of the site. A Limited Development Order (LDO) LDO2007-00258 has been filed and is being reviewed for the development of a cable ski lake. The eastern half of the site contains wetlands with a flow-way that flows under I-75, through the property, and ultimately connects to the Caloosahatchee River.

The following is ES staff's comments and concerns for the proposed project.

As mentioned previously there is a LDO in for the development of a ski cable system for the lake. ES staff is concerned with storm water run off from the proposed industrial development.

The total acreage of the property is 38.78 acres. Please include the entire 38.78 acre parcel in the application.

ES staff requests an environmental assessment for the 38 acre site.

There are two violations on file for the removal of indigenous vegetation, and for the storing of heavy equipment onsite. ENV2004120004 / VIO2004-24645 What is the status of these violations? What is the status of the restoration planned for the illegal clearing that occurred on the property?

Please include a conservation easement over the eastern portion of the site. Please indicate this area as conservation lands on site map.

Noble, Matthew A.

From: Mike Roeder [MRoeder@knott-law.com]

Sent: Tuesday, March 18, 2008 11:49 AM

To: Noble, Matthew A.

Subject: RE: Meeting with Mayor Feicthaler and staff

Matt,

I have spoken with Russ Attree a couple of times about having the meeting he wanted to have with you about expanding the scope of the request. I think he now has some bigger issues to address with the current real estate market. He realizes that the amendment is on hold until we made some decisions about expanding it or not.

Michael E. Roeder Director of Zoning and Land Use Planning Knott, Consoer, Ebelini, Hart & Swett, P.A. 239-334-2722 MRoeder@knott-law.com

From: Noble, Matthew A. [mailto:NOBLEMA@leegov.com]

Sent: Tuesday, March 18, 2008 11:31 AM

To: Mike Roeder

Subject: RE: Meeting with Mayor Feicthaler and staff

Mike do we need to talk about the Attree amendment?

From: Mike Roeder [mailto:MRoeder@knott-law.com]

Sent: Tuesday, March 18, 2008 10:09 AM

To: pzambran@capecoral.net

Cc: Blackwell, Peter C.; Noble, Matthew A.

Subject: FW: Meeting with Mayor Feicthaler and staff

Ms. Zambrano:

Peter Blackwell asked that I respond to your inquiry about our information regarding the availability of utilities for the site at the southeast corner of Pine Island Road and Veterans Parkway. I was not at the meeting described below, but John Cauthen has told me he thinks you may have been the planner in attendance. In any event, this was the source of our information.

I realize that the utility situation for these unincorporated enclaves is a bit uncertain at the present time. From the standpoint of the requested Plan amendment, it is not so critical to establish once and for all who will be supplying the utilities, as it is for everyone to recognize that this site will not be developed unless and until someone provides utilities. However, it will be much easier to answer that question if the property is given the requested designation of "Commercial" as compared to having the Plan identify this key intersection as "Rural". Please feel free to call me if you have any questions.

Michael E. Roeder
Director of Zoning and Land Use Planning

Knott, Consoer, Ebelini, Hart & Swett, P.A. 239-334-2722 MRoeder@knott-law.com

From: John Cauthen / GOMULCH.COM [mailto:jcauthen@gomulch.com]

Sent: Monday, March 17, 2008 7:16 PM

To: Mike Roeder

Cc: Richard Krieg/Pine-Island.com

Subject: Meeting with Mayor Feicthaler and staff

Mike, I believe the meeting was sometime during March of 2006.

In attendance from the city were the Mayor, Mike Jackson and a city planner whose name I do not recall. Richard Krieg and I attended the meeting. The discussion was focused on the widening of Pine Island road. The mayor made a case for how the property owners along Pine Island Road would benefit from the widening and how donating property for the right-of-way made good economic sense. I did not make notes at this meeting, but as I recall (as well as Richard), the planner stated that they would need 140+ feet from the road's centerline (approximately 10% of the entire property. She said that they would need the same on our property west of Veteran's. She plainly stated that the city was aware of our application for annexation into the city, and that annexation would be conditioned upon donation of our property for the right of way. A discussion of utilities then ensued. It was stated that the city would not have utilities available until "probably 2020". When we asked about the line available to the Publix shopping center across the street, it was explained that there was no additional capacity available there, and that likely we would have to bring a new line all the way from Chiquita Parkway. The Mayor and Mike Jackson were very friendly and cordial, but the planner made it quite clear that if we did not donate the property there would be no annexation. This is when we made a decision to stay in Lee County and retained your firm to assist us with modifying the comp plan.



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David M. Owen County Attorney

Diana M. Parker County Hearing Examiner

Michael Roeder Knott, Consoer, Ebelini, Hart, & Swett, P.A.

1625 Hendry Street, Suite 301 Fort Myers, Florida 33901

RE: CPA2007-03 - Attree Small Scale Comprehensive Plan Amendment

Dear Mr. Roeder:

On June 19, 2007 an application was submitted for the above referenced project. Our records indicate the last correspondence in regards to the application was November 20, 2007 when staff forwarded a sufficiency letter. To date there has been no response from the applicant addressing the insufficiency items addressed in the letter.

If Planning staff does not receive a response within 60 days, this application will be deemed withdrawn.

If you have any questions please feel free to contact me at the above telephone number.

Sincerely,

Brandy Gonzalez, Principal Planner

Dany Sonry

Department of Community Development, Division of Planning

Planning file: CPA 2007-03 cc:

Knott, Consoer, Ebelini Hart & Swett, P.A. ATTORNEYS-AT-LAW astowe@knott-law.com

1625 HENDRY STREET (33901) POST OFFICE BOX 2449 FORT MYERS, FL 33902-2449 TELEPHONE (239) 334-2722 TELECOPIER (239) 334-1446 WWW,KNOTT-LAW.COM

FAX TRANSMITTAL COVER SHEET

TOTAL PAGES INCLUDING COVER PAGE: 2

DATE:

June 12, 2008

TO:

Brandy Gonzalez

FAX #:

485-8319

FROM:

Alison M. Stowe

COMMENTS:

Re: Attree Small Scale Amendment / CPA2007-00003

#:	8435.000					
OR	IGINAL:	Mailed	Federal Expressed	Held in File	XX	
SHO	OULD YOU H	AVE PROBLE	MS RECEIVING THIS TRANSMISSION	N, PLEASE CAĽĽ	SENDER AT (23	39) 334-2722.
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Knott, Consoer, Ebelini Hart & Swett, P.A. ATTORNEYS · AT - LAW

George H. Knott *+ George L. Consoer, Jr. ** Mark A. Ebelini Thomas B. Hart H. Andrew Swett

Fort Myers, Florida 33902-2449 Telephone (239) 334-2722

Telecopier (239) 334-1446

1625 Hendry Street * Third Floor (33901)

P.O. Box 2449

MRoeder@knott-law.com

Matthew D. Uhle Aaron A. Haak Derdck S. Eihausen Nady Torres-Alvarado David A. Burt Madeline Ebelini

Director of Zoning and Land Use Planning Michael E. Roeder, AICP

June 12, 2008

Board Certified Civil Trial Lawyer
 Board Certified Real Estate Lawyer
 Board Certified Business Litigation Lawyer

Ms. Brandy Gonzalez Department of Community Development P.O. Box 398 Fort Myers, FL 33902

Re: Small Scale Amendment for IAD Capital / CPA2007-00003

Dear Brandy:

I have been in contact with our client regarding the staff's desire to enlarge this amendment to encompass all of this property and become a regular amendment. I believe he is willing to do that, but he still wants to have a meeting with the staff to have some questions answered to understand all of the implications. However, due to the current status of the economy, he is in North Carolina pursuing some business opportunities. I would therefore request that you grant an additional extension on this application, and it would probably be more practical to make it 180 days. We understand this would definitely take it out of this amendment cycle, but that seems to be the most appropriate course of action at this time. Please do not hesitate to contact me if you have any questions.

Very truly yours,

KNOTT, CONSOER, EBELINI, HART & SWETT, P.A.

Michael E. Roeder, AICP

Director of Zoning and Land Use Planning

MER/ams Attachments

cc: Russ Attree Matt Noble

Knott, Consoer, Ebelini Hart & Swett, P.A. A T T O R N E Y S A T A L A W

George H. Knott *+ George L. Consoer, Jr. ** Mark A. Ebelini Thomas B. Hart H. Andrew Swett 1625 Hendry Street • Third Floor (33901) P.O. Box 2449 Fort Myers, Florida 33902-2449

> Telephone (239) 334-2722 Telecopier (239) 334-1446

MRoeder@knott-law.com

Matthew D. Uhle Aaron A. Haak Derrick S. Eihausen Natly Torres-Alvarado David A. Burt Madeline Ebelini

Director of Zoning and Land Use Planning Michael E. Roeder, AICP

June 12, 2008

Board Certified Civil Trial Lawyer
 Board Certified Real Estate Lawyer
 Board Certified Business Litigation Lawyer

Ms. Brandy Gonzalez
Department of Community Development
P.O. Box 398
Fort Myers, FL 33902

Re: Small Scale Amendment for IAD Capital / CPA2007-00003

Dear Brandy:

I have been in contact with our client regarding the staff's desire to enlarge this amendment to encompass all of this property and become a regular amendment. I believe he is willing to do that, but he still wants to have a meeting with the staff to have some questions answered to understand all of the implications. However, due to the current status of the economy, he is in North Carolina pursuing some business opportunities. I would therefore request that you grant an additional extension on this application, and it would probably be more practical to make it 180 days. We understand this would definitely take it out of this amendment cycle, but that seems to be the most appropriate course of action at this time. Please do not hesitate to contact me if you have any questions.

Very truly yours,

KNOTT, CONSOER, EBELINI, HART & SWETT, P.A.

Michael E. Roeder, AICP

Director of Zoning and Land Use Planning

MER/ams Attachments

cc: Russ Attree Matt Noble DECIEUVE

COMMUNITY DEVELOPMENT

Gonzalez, Brandy L.

From:

Alison Stowe [AStowe@knott-law.com]

Sent:

Thursday, June 12, 2008 2:37 PM

To: Cc:

Gonzalez, Brandy L. Noble, Matthew A.

Subject:

Attree Small Scale Amendment / CPA2007-00003

Attachments:

Extension Request.pdf



Extension

Request.pdf (39 KB)
Please see attached. The original will follow by US Mail. Thanks.

Alison Stowe Zoning Department Knott, Consoer, Ebelini, Hart & Swett, P.A. 239-334-2722 AStowe@knott-law.com



BOARD OF COUNTY COMMISSIONERS

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1625 Hendry Street, Suite 301

1625 Hendry Street, Suite 301 Fort Myers, Florida 33901

Donald D. Stilwell County Manager

David M. Owen County Attorney

RE: CPA2007-03 - Attree Small Scale Comprehensive Plan Amendment

Diana M. Parker County Hearing Examiner

Dear Mr. Roeder:

On June 12, 2008 staff received your correspondence requesting a 180 day extension for the above referenced comprehensive plan amendment in order for the applicant to pursue further discussions with staff regarding the inclusion of the entire property into the proposed amendment. As you mentioned, the extension would result in the proposed amendment being omitted from the current amendment cycle. The sufficiency letter dated November 20, 2007 will need to be addressed prior to scheduling the amendment for public hearing before the Local Planning Agency.

If you have any questions please feel free to contact me at the above telephone number.

Sincerely,

Brandy Gonzalez, Principal Planner

Department of Community Development, Division of Planning

cc: Planning file: CPA 2007-03

Recycled Paper

P.O. Box 398, Fort Myers, Florida 33902-0398 (239) 335-2111 Internet address http://www.lee-county.com AN EQUAL OPPORTUNITY AFFIRMATIVE ACTION EMPLOYER 116



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April 3, 2009

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David M. Owen County Attorney

Diana M. Parker County Hearing Examiner Michael Roeder

Knott, Consoer, Ebelini, Hart, & Swett, P.A.

1625 Hendry Street, Suite 301

Fort Myers, Florida 33901

RE: CPA2007-03 - Attree Small Scale Comprehensive Plan Amendment

Dear Mr. Roeder:

The Lee County Division of Planning is currently maintaining a file for the above referenced application for a small scale comprehensive plan amendment. The application was filed on June 19, 2007. On April 14, 2008 planning staff sent a letter to notify you that our records indicated the last correspondence in regards to the application was November 20, 2007 when staff forwarded a sufficiency letter. The letter advised that if Planning staff did not receive a response within 30 days, this application would be deemed withdrawn. Staff received correspondence from your office dated June 12, 2008 requesting a 180 day extension. To date there has been no response from the applicant and the application has been deemed withdrawn.

Sincerely,

DEPT. OF COMMUNITY DEVELOPMENT Division of Planning

(239) 533-8585

Brandy Gonzalez

Brandy Aon 23

Principal Planner

cc: Planning file: CPA2007-03

Russ Attree, Applicant

Capital Investment Corp. of SW Florida, Owner

MISCELLANEOUS

STAFF REPORT DISTRIBUTION LIST

BAYSHORE INDUSTRIAL PARK PART OF LOT 2

Application No: 050309-22 **Permit No:** 36-00217-S

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- X Agent Quattrone And Associates Inc

GOVERNMENT AGENCIES

- X Div of Recreation and Park District 8 FDEP
- X FDEP
- X Florida Fish & Wildlife Conservation Commission Imperiled Species Mgmt Section
- X Lee County Development Services Director
- X Lee County Engineer

OTHER INTERESTED PARTIES

- X Audubon of Florida Charles Lee
- X League of Women Voters of Lee County Clara Anne Graham Elliott
- X S.W.F.R.P.C. Marisa Barmby
- X Water Management Institute Michael N. Vanatta

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ADDRESSES

Quattrone And Associates Inc 11000-30 Metro Pkwy Fort Myers FL 33912

Div of Recreation and Park - District 8 - FDEP 1843 South Tamiami Trail Osprey FL 34229

Florida Fish & Wildlife Conservation Commission -Imperiled Species Mgmt Section 620 South Meridian Street Tallahassee FL 32399-6000

Lee County Engineer P.O.Box 398 Fort Myers FL 33902-0398

Audubon of Florida - Charles Lee 1101 Audubon Way Maitland FL 32751

S.W.F.R.P.C. Marisa Barmby 1926 Victoria Avenue Fort Myers FL 33901 Sox Development 14565 Eagle Ridge Dr Fort Myers FL 33912

FDEP 2295 Victoria Avenue Fort Myers FL 33901

Lee County - Development Services Director 1500 Monroe Street Ft Myers FL 33901

League of Women Voters of Lee County - Clara Anne Graham Elliott 25201 Divot Drive Bonita Springs FL 333923

Water Management Institute - Michael N. Vanatta Po Box 6446 Vero Beach FL 32961



SOUTH FLORIDA WATER MANAGEMENT DISTRICT **ENVIRONMENTAL RESOURCE** STANDARD GENERAL PERMIT NO. 36-00217-S DATE ISSUED: June 8, 2005

Form #0941 08/95

PERMITTEE: SOX DEVELOPMENT

14565 EAGLE RIDGE DR FORT MYERS, FL 33912

PROJECT DESCRIPTION: This application is a request for a General Permit Modification authorizing

Construction and Operation of a surface water management system serving a 2.01acre commercial development known as Bayshore Industrial Park Part of Lot 2, part of an industrial/commercial development known as I-75/Bayshore Road Industrial Park, with discharge into Caloosahatchee River via the existing un-named creek via

the existing master surface water management system.

PROJECT LOCATION:

LEE COUNTY,

SEC 21 TWP 43S RGE 25E

PERMIT DURATION:

See Special Condition No:1. See attached Rule 40E-4.321, Florida Administrative

This is to notify you of the District's agency action concerning Notice of Intent for Permit Application No. 050309-22, dated March 9, 2005. This action is taken pursuant to Rule 40E-1.603 and Chapter 40E-40, Florida Administrative Code (F.A.C.).

Based on the information provided, District rules have been adhered to and an Environmental Resource General Permit is in effect for this project subject to:

- 1. Not receiving a filed request for a Chapter 120, Florida Statutes, administrative hearing.
- 2. the attached 19 General Conditions (See Pages: 2-4 of 5),
- 3. the attached 16 Special Conditions (See Pages: 5 - 5 of 5) and
- 4. the attached 3 Exhibit(s).

Should you object to these conditions, please refer to the attached "Notice of Rights" which addresses the procedures to be followed if you desire a public hearing or other review of the proposed agency action. Please contact this office if you have any questions concerning this matter. If we do not hear from you in accordance with the "Notice of Rights," we will assume that you concur with the District's action.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a "Notice of Rights" has been mailed to the Permittee (and the persons listed in the attached distribution list) no later than 5:00 p.m. on this 8th day of June, 2005, in accordance with Section 120.60(3), Florida Statutes

Jadqueline Rippe, P.E.

Director

Lower West Coast Service Center

Certified mail number

7004 2510 0001 4614 4454

Page 1 of 5

NOTICE OF RIGHTS

Section 120.569(1), Fla. Stat. (1999), requires that "each notice shall inform the recipient of any administrative hearing or judicial review that is available under this section, s. 120.57, or s. 120.68; shall indicate the procedure which must be followed to obtain the hearing or judicial review, and shall state the time limits which apply." Please note that this Notice of Rights is not intended to provide legal advice. Not all the legal proceedings detailed below may be an applicable or appropriate remedy. You may wish to consult an attorney regarding your legal rights.

Petition for Administrative Proceedings

- 1. A person whose substantial interests are affected by the South Florida Water Management District's (SFWMD) action has the right to request an administrative hearing on that action. The affected person may request either a formal or an informal hearing, as set forth below. A point of entry into administrative proceedings is governed by Rules 28-106.111 and 40E-1.511, Fla. Admin. Code, (also published as an exception to the Uniform Rules of Procedure as Rule 40E-0.109), as set forth below. Petitions are deemed filed upon receipt of the original documents by the SFWMD Clerk.
- a. <u>Formal Administrative Hearing:</u> If a genuine issue(s) of material fact is in dispute, the affected person seeking a formal hearing on a SFWMD decision which does or may determine their substantial interests shall file a petition for hearing pursuant to Sections 120.569 and 120.57(1), Fla. Stat. or for mediation pursuant to Section 120.573, Fla. Stat. within 21 days, except as provided in subsections c. and d. below, of either written notice through mail or posting or publication of notice that the SFWMD has or intends to take final agency action. Petitions must substantially comply with the requirements of Rule 28-106.201(2), Fla. Admin. Code, a copy of the which is attached to this Notice of Rights.
- b. Informal Administrative Hearing: If there are no issues of material fact in dispute, the affected person seeking an informal hearing on a SFWMD decision which does or may determine their substantial interests shall file a petition for hearing pursuant to Sections 120.569 and 120.57(2), Fla. Stat. or for mediation pursuant to Section 120.573, Fla. Stat. within 21 days, except as provided in subsections c. and d. below, of either written notice through mail or posting or publication of notice that the SFWMD has or intends to take final agency action. Petitions must substantially comply with the requirements of Rule 28-106.301(2), Fla. Admin. Code, a copy of the which is attached to this Notice of Rights.
- c. Administrative Complaint and Order:

 If a Respondent objects to a SFWMD Administrative Complaint and Order, pursuant to Section 373.119, Fla. Stat. (1997), the person named in the Administrative Complaint and Order may file a petition for a hearing no later than 14 days after the date such order is served. Petitions must substantially comply with the requirements of either subsection a. or b. above.

- d. State Lands Environmental Resource Permit: Pursuant to Section 373.427, Fla. Stat., and Rule 40E-1.511(3), Fla. Admin. Code (also published as an exception to the Uniform Rules of Procedure as Rule 40E-0.109(2)(c)), a petition objecting to the SFWMD's agency action regarding consolidated applications for Environmental Resource Permits and Use of Sovereign Submerged Lands (SLERPs), must be filed within 14 days of the notice of consolidated intent to grant or deny the SLERP. Petitions must substantially comply with the requirements of either subsection a. or b. above.
- e. Emergency Authorization and Order:
 A person whose substantial interests are affected by a SFWMD Emergency Authorization and Order, has a right to file a petition under Sections 120.569, 120.57(1), and 120.57(2), Fla. Stat., as provided in subsections a. and b. above. However, the person, or the agent of the person responsible for causing or contributing to the emergency conditions shall take whatever action necessary to cause immediate compliance with the terms of the Emergency Authorization and Order.
- f. Order for Emergency Action: A person whose substantial interests are affected by a SFWMD Order for Emergency Action has a right to file a petition pursuant to Rules 28-107.005 and 40E-1.611, Fla. Admin. Code, copies of which are attached to this Notice of Rights, and Section 373.119(3), Fla. Stat., for a hearing on the Order. Any subsequent agency action or proposed agency action to initiate a formal revocation proceeding shall be separately noticed pursuant to section g. below.
- g. Permit Suspension, Revocation, Annulment, and Withdrawal: If the SFWMD issues an administrative complaint to suspend, revoke, annul, or withdraw a permit, the permittee may request a hearing to be conducted in accordance with Sections 120.569 and 120.57, Fla. Stat., within 21 days of either written notice through mail or posting or publication of notice that the SFWMD has or intends to take final agency action. Petitions must substantially comply with the requirements of Rule 28-107.004(3), Fla. Admin. Code, a copy of the which is attached to this Notice of Rights.
- 2. Because the administrative hearing process is designed to formulate final agency action, the filing of a petition means that the SFWMD's final action may be different from the position taken by it previously. Persons whose substantial interests may be affected by

any such final decision of the SFWMD shall have, pursuant to Rule 40E-1.511(2), Fla. Admin. Code (also published as an exception to the Uniform Rules of Procedure as Rule 40E-0.109(2)(c)), an additional 21 days from the date of receipt of notice of said decision to request an administrative hearing. However, the scope of the administrative hearing shall be limited to the substantial deviation.

- 3. Pursuant to Rule 40E-1.511(4), Fla. Admin. Code, substantially affected persons entitled to a hearing pursuant to Section 120.57(1), Fla. Stat., may waive their right to such a hearing and request an informal hearing before the Governing Board pursuant to Section 120.57(2), Fla. Stat., which may be granted at the option of the Governing Board.
- 4. Pursuant to Rule 28-106.111(3), Fla. Admin. Code, persons may file with the SFWMD a request for extension of time for filing a petition. The SFWMD, for good cause shown, may grant the extension. The request for extension must contain a certificate that the petitioner has consulted with all other parties, if any, concerning the extension and that the SFWMD and all other parties agree to the extension.

CIRCUIT COURT

- 5. Pursuant to Section 373.617, Fla. Stat., any substantially affected person who claims that final agency action of the SFWMD relating to permit decisions constitutes an unconstitutional taking of property without just compensation may seek judicial review of the action in circuit court by filing a civil action in the circuit court in the judicial circuit in which the affected property is located within 90 days of the rendering of the SFWMD's final agency action.
- 6. Pursuant to Section 403.412, Fla. Stat., any citizen of Florida may bring an action for injunctive relief against the SFWMD to compel the SFWMD to enforce the laws of Chapter 373, Fla. Stat., and Title 40E, Fla. Admin. Code. The complaining party must file with the SFWMD Clerk a verified complaint setting forth the facts upon which the complaint is based and the manner in which the complaining party is affected. If the SFWMD does not take appropriate action on the complaint within 30 days of receipt, the complaining party may then file a civil suit for injunctive relief in the 15th Judicial Circuit in and for Palm Beach County or circuit court in the county where the cause of action allegedly occurred.
- 7. Pursuant to Section 373.433, Fla. Stat., a private citizen of Florida may file suit in circuit court to require the abatement of any stormwater management system, dam, impoundment, reservoir, appurtenant work or works that violate the provisions of Chapter 373, Fla. Stat.

DISTRICT COURT OF APPEAL

8. Pursuant to Section 120.68, Fla. Stat., a party who is adversely affected by final SFWMD action may seek judicial review of the SFWMD's final decision by filing a notice of appeal pursuant to Florida Rule of Appellate Procedure 9.110 in the Fourth District Court of Appeal or in the appellate district where a party resides and filing a second copy of the notice with the SFWMD Clerk within 30 days of rendering of the final SFWMD action.

LAND AND WATER ADJUDICATORY COMMISSION

9. A party to a "proceeding below" may seek review by the Land and Water Adjudicatory Commission (FLAWAC) of SFWMD's final agency action to determine if such action is consistent with the provisions and purposes of Chapter 373, Fla. Stat. Pursuant to Section 373.114. Fla. Stat., and Rules 42-2.013 and 42-2.0132, Fla. Admin. Code, a request for review of (a) an order or rule of the SFWMD must be filed with FLAWAC within 20 days after rendition of the order or adoption of the rule sought to be reviewed; (b) an order of the Department of Environmental Protection (DEP) requiring amendment or repeal of a SFWMD rule must be filed with FLAWAC within 30 days of rendition of the DEP's order, and (c) a SFWMD order entered pursuant to a formal administrative hearing under Section 120.57(1), Fla. Stat., must be filed no later than 20 days after rendition of the SFWMD's final order. Simultaneous with filing, a copy of the request for review must be served on the DEP Secretary, any person named in the SFWMD or DEP final order, and all parties to the proceeding below. A copy of Rule 42-2.013, Fla. Admin. Code is attached to this Notice of Rights.

PRIVATE PROPERTY RIGHTS PROTECTION ACT

of the SFWMD has inordinately burdened an existing use of the real property, or a vested right to a specific use of the real property, may file a claim in the circuit court where the real property is located within 1 year of the SFWMD action pursuant to the procedures set forth in Subsection 70.001(4)(a), Fla. Stat.

LAND USE AND ENVIRONMENTAL DISPUTE RESOLUTION

11. A property owner who alleges that a SFWMD development order (as that term is defined in Section 70.51(2)(a), Fla. Stat. to include permits) or SFWMD enforcement action is unreasonable, or unfairly burdens the use of the real property, may file a request for relief with the SFWMD within 30 days of receipt of the SFWMD's order or notice of agency action pursuant to the procedures set forth in Subsections 70.51(4) and (6), Fla. Stat.

MEDIATION

12. A person whose substantial interests are, or may be, affected by the SFWMD's action may choose mediation as an alternative remedy under Section 120.573, Fla. Stat. Pursuant to Rule 28-106.111(2), Fla. Admin. Code, the petition for mediation shall be filed within 21 days of either written notice through mail or posting or

publication of notice that the SFWMD has or intends to take final agency action. Choosing mediation will not affect the right to an administrative hearing if mediation does not result in settlement.

Pursuant to Rule 28-106.402, Fla. Admin. Code, the contents of the petition for mediation shall contain the following information:

- (1) the name, address, and telephone number of the person requesting mediation and that person's representative, if any;
- (2) a statement of the preliminary agency action:
- (3) an explanation of how the person's substantial interests will be affected by the agency determination; and
- a statement of relief sought. (4) As provided in Section 120.573, Fla. Stat. (1997), the timely agreement of all the parties to mediate will toll the time limitations imposed by Sections 120,569 and 120,57. Fla. Stat., for requesting and holding an administrative hearing. Unless otherwise agreed by the parties, the mediation must be concluded within 60 days of the execution of the agreement. If mediation results in settlement of the dispute, the SFWMD must enter a final order incorporating the agreement of the parties. Persons whose substantial interest will be affected by such a modified agency decision have a right to petition for hearing within 21 days of receipt of the final order in accordance with the requirements of Sections 120.569 and 120.57, Fla. Stat., and SFWMD Rule 28-106.201(2), Fla. Admin Code. If mediation terminates without settlement of the dispute, the SFWMD shall notify all parties in writing that the administrative hearing process under Sections 120.569 and 120.57, Fla. Stat., remain available for disposition of the dispute, and the notice will specify the deadlines that then will apply for challenging the agency action.

VARIANCES AND WAIVERS

- 13. A person who is subject to regulation pursuant to a SFWMD rule and believes the application of that rule will create a substantial hardship or will violate principles of faimess (as those terms are defined in Subsection 120.542(2), Fla. Stat.) and can demonstrate that the purpose of the underlying statute will be or has been achieved by other means, may file a petition with the SFWMD Clerk requesting a variance from or waiver of the SFWMD rule. Applying for a variance or waiver does not substitute or extend the time for filing a petition for an administrative hearing or exercising any other right that a person may have concerning the SFWMD's action. Pursuant to Rule 28-104.002(2), Fla. Admin. Code, the petition must include the following information:
- (a) the caption shall read:
 Petition for (Variance from) or (Waiver of) Rule (Citation)
- (b) The name, address, telephone number and any facsimile number of the petitioner;

- (c) The name, address telephone number and any facsimile number of the attorney or qualified representative of the petitioner, (if any);
 - (d) the applicable rule or portion of the rule:
- (e) the citation to the statue the rule is implementing;
 - (f) the type of action requested:
- (g) the specific facts that demonstrate a substantial hardship or violation of principals of fairness that would justify a waiver or variance for the petitioner:
- (h) the reason why the variance or the waiver requested would serve the purposes of the underlying statute; and
- (i) a statement of whether the variance or waiver is permanent or temporary, If the variance or waiver is temporary, the petition shall include the dates indicating the duration of the requested variance or waiver.

A person requesting an emergency variance from or waiver of a SFWMD rule must clearly so state in the caption of the petition. In addition to the requirements of Section 120.542(5), Fla. Stat. pursuant to Rule 28-104.004(2), Fla. Admin. Code, the petition must also include:

- a) the specific facts that make the situation an emergency; and
- b) the specific facts to show that the petitioner will suffer immediate adverse effect unless the variance or waiver is issued by the SFWMD more expeditiously than the applicable timeframes set forth in Section 120.542, Fla. Stat.

WAIVER OF RIGHTS

14. Failure to observe the relevant time frames prescribed above will constitute a waiver of such right.

28-106.201 INITIATION OF PROCEEDINGS (INVOLVING DISPUTED ISSUES OF MATERIAL FACT)

- (2) All petitions filed under these rules shall contain:
- (a) The name and address of each agency affected and each agency's file or identification number, if known;
- (b) The name, address, and telephone number of the petitioner; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding, and an explanation of how the petitioner's substantial interests will be affected by the agency determination;
- (c) A statement of when and how the petitioner received notice of the agency decision:
- (d) A statement of all disputed issues of material fact. If there are none, the petition must so indicate:
- (e) A concise statement of the ultimate facts alleged, as well as the rules and statutes which entitle the petitioner to relief; and
 - (f) A demand for relief.

28-106.301 INITIATION OF PROCEEDINGS

(NOT INVOLVING DISPUTED ISSUES OF MATERIAL FACT)

- (2) All petitions filed under these rules shall contain:
- (a) The name and address of each agency affected and each agency's file or identification number, if known;
- (b) The name, address, and telephone number of the petitioner; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding, and an explanation of how the petitioner's substantial interests will be affected by the agency determination;
- (c) A statement of when and how the petitioner received notice of the agency decision;
- (d) A concise statement of the ultimate facts alleged, as well as the rules and statutes which entitle the petitioner to relief; and
 - (e) A demand for relief.

28-107.004 SUSPENSION, REVOCATION, ANNULMENT, OR WITHDRAWAL

- (3) Requests for hearing filed in accordance with this rule shall include:
- (a) The name and address of the party making the request, for purposes of service;
- (b) A statement that the party is requesting a hearing involving disputed issues of material fact, or a hearing not involving disputed issues of material fact; and
- (c) A reference to the notice, order to show cause, administrative complaint, or other communication that the party has received from the agency.

42-2.013 REQUEST FOR REVIEW PURSUANT TO SECTION 373.114 OR 373.217

- (1) In any proceeding arising under Chapter 373, F.S., review by the Florida Land and Water Adjudicatory Commission may be initiated by the Department or a party by filing a request for such review with the Secretary of the Commission and serving a copy on any person named in the rule or order, and on all parties to the proceeding which resulted in the order sought to be reviewed. A certificate of service showing completion of service as required by this subsection shall be a requirement for a determination of sufficiency under Rule 42-2.0132. Failure to file the request with the Commission within the time period provided in Rule 42-2.0132 shall result in dismissal of the request for review.
- (2) The request for review shall identify the rule or order requested to be reviewed, the proceeding in which the rule or order was entered and the nature of the rule or order. A copy of the rule or order sought to be reviewed shall be attached. The request for review shall state with particularity:
- (a) How the order or rule conflicts with the requirements, provisions and purposes of Chapter 373, F.S., or rules duly adopted thereunder;

- (b) How the rule or order sought to be reviewed affects the interests of the party seeking review;
- (c) The oral or written statement, sworn or unsworn, which was submitted to the agency concerning the matter to be reviewed and the date and location of the statement, if the individual or entity requesting the review has not participated in a proceeding previously instituted pursuant to Chapter 120, F.S., on the order for which review is sought;
- (d) If review of an order is being sought, whether and how the activity authorized by the order would substantially affect natural resources of statewide or regional significance, or whether the order raises issues of policy, statutory interpretation, or rule interpretation that have regional or statewide significance from a standpoint of agency precedent, and all the factual bases in the record which the petitioner claims support such determination(s); and
- (e) The action requested to be taken by the Commission as a result of the review, whether to rescind or modify the order, or remand the proceeding to the water management district for further action, or to require the water management district to initiate rulemaking to adopt, amend or repeal a rule.

28-107.005 EMERGENCY ACTION

- (1) If the agency finds that immediate serious danger to the public health, safety, or welfare requires emergency action, the agency shall summarily suspend, limit, or restrict a license.
- (2) the 14-day notice requirement of Section 120.569(2)(b), F. S., does not apply and shall not be construed to prevent a hearing at the earliest time practicable upon request of an aggrieved party.
- (3) Unless otherwise provided by law, within 20 days after emergency action taken pursuant to paragraph (1) of this rule, the agency shall initiate a formal suspension or revocation proceeding in compliance with Sections 120.569, 120.57. and 120.60, F.S.

40E-1.611 EMERGENCY ACTION

- (1) An emergency exists when immediate action is necessary to protect public health, safety or welfare; the health of animals, fish or aquatic life; the works of the District; a public water supply, or recreational, commercial, industrial, agricultural or other reasonable uses of land and water resources.
- (2) The Executive Director may employ the resources of the District to take whatever remedial action necessary to alleviate the emergency condition without the issuance of an emergency order, or in the event an emergency order has been issued, after the expiration of the requisite time for compliance with that order.

GENERAL CONDITIONS

- 1. All activities authorized by this permit shall be implemented as set forth in the plans, specifications and performance criteria as approved by this permit. Any deviation from the permitted activity and the conditions for undertaking that activity shall constitute a violation of this permit and Part IV, Chapter 373. F.S.
- 2. This permit or a copy thereof, complete with all conditions, attachments, exhibits, and modifications shall be kept at the work site of the permitted activity. The complete permit shall be available for review at the work site upon request by District staff. The permittee shall require the contractor to review the complete permit prior to commencement of the activity authorized by this permit.
- 3. Activities approved by this permit shall be conducted in a manner which does not cause violations of State water quality standards. The permittee shall implement best management practices for erosion and pollution control to prevent violation of State water quality standards. Temporary erosion control shall be implemented prior to and during construction, and permanent control measures shall be completed within 7 days of any construction activity. Turbidity barriers shall be installed and maintained at all locations where the possibility of transferring suspended solids into the receiving waterbody exists due to the permitted work. Turbidity barriers shall remain in place at all locations until construction is completed and soils are stabilized and vegetation has been established. All practices shall be in accordance with the guidelines and specifications described in Chapter 6 of the Florida Land Development Manual; A Guide to Sound Land and Water Management (Department of Environmental Regulation, 1988), incorporated by reference in Rule 40E-4.091, F.A.C. unless a project-specific erosion and sediment control plan is approved as part of the permit. Thereafter the permittee shall be responsible for the removal of the barriers. The permittee shall correct any erosion or shoaling that causes adverse impacts to the water resources.
- 4. The permittee shall notify the District of the anticipated construction start date within 30 days of the date that this permit is issued. At least 48 hours prior to commencement of activity authorized by this permit, the permittee shall submit to the District an Environmental Resource Permit Construction Commencement Notice Form Number 0960 indicating the actual start date and the expected construction completion date.
- 5. When the duration of construction will exceed one year, the permittee shall submit construction status reports to the District on an annual basis utilizing an annual status report form. Status report forms shall be submitted the following June of each year.
- Within 30 days after completion of construction of the permitted activity, the permitee shall submit a written statement of completion and certification by a professional engineer or other individual authorized by law, utilizing the supplied Environmental Resource/Surface Water Management Permit Construction Completion/Certification Form Number 0881A, or Environmental Resource/Surface Water Management Permit Construction Completion Certification For Projects Permitted prior to October 3, 1995 Form No. 0881B, incorporated by reference in Rule 40E-1.659, F.A.C. The statement of completion and certification shall be based on onsite observation of construction or review of as-built drawings for the purpose of determining if the work was completed in compliance with permitted plans and specifications. This submittal shall serve to notify the District that the system is ready for inspection. Additionally, if deviation from the approved drawings are discovered during the certification process, the certification must be accompanied by a copy of the approved permit drawings with deviations noted. Both the original and revised specifications must be clearly shown. The plans must be clearly labeled as "as-built" or "record" drawings. All surveyed dimensions and elevations shall be certified by a registered surveyor.
- 7. The operation phase of this permit shall not become effective: until the permittee has complied with the requirements of condition (6) above, and submitted a request for conversion of Environmental Resource Permit from Construction Phase to Operation Phase, Form No. 0920; the District determines the system to be in compliance with the permitted plans and specifications; and the entity approved by the District in accordance with Sections 9.0 and 10.0 of the Basis of Review for Environmental Resource Permit Applications within the South Florida Water Management District, accepts responsibility for operation and maintenance of the system. The permit shall not be transferred to such approved operation and

GENERAL CONDITIONS

maintenance entity until the operation phase of the permit becomes effective. Following inspection and approval of the permitted system by the District, the permittee shall initiate transfer of the permit to the approved responsible operating entity if different from the permittee. Until the permit is transferred pursuant to Section 40E-1.6107, F.A.C., the permittee shall be liable for compliance with the terms of the permit.

- 8. Each phase or independent portion of the permitted system must be completed in accordance with the permitted plans and permit conditions prior to the initiation of the permitted use of site infrastructure located within the area served by that portion or phase of the system. Each phase or independent portion of the system must be completed in accordance with the permitted plans and permit conditions prior to transfer of responsibility for operation and maintenance of the phase or portion of the system to a local government or other responsible entity.
- 9. For those systems that will be operated or maintained by an entity that will require an easement or deed restriction in order to enable that entity to operate or maintain the system in conformance with this permit, such easement or deed restriction must be recorded in the public records and submitted to the District along with any other final operation and maintenance documents required by Sections 9.0 and 10.0 of the Basis of Review for Environmental Resource Permit applications within the South Florida Water Management District, prior to lot or units sales or prior to the completion of the system, whichever comes first. Other documents concerning the establishment and authority of the operating entity must be filed with the Secretary of State, county or municipal entities. Final operation and maintenance documents must be received by the District when maintenance and operation of the system is accepted by the local government entity. Failure to submit the appropriate final documents will result in the permittee remaining liable for carrying out maintenance and operation of the permitted system and any other permit conditions.
- 10. Should any other regulatory agency require changes to the permitted system, the permittee shall notify the District in writing of the changes prior to implementation so that a determination can be made whether a permit modification is required.
- 11. This permit does not eliminate the necessity to obtain any required federal, state, local and special district authorizations prior to the start of any activity approved by this permit. This permit does not convey to the permittee or create in the permittee any property right, or any interest in real property, nor does it authorize any entrance upon or activities on property which is not owned or controlled by the permittee, or convey any rights or privileges other than those specified in the permit and Chapter 40E-4 or Chapter 40E-40, F.A.C..
- 12. The permittee is hereby advised that Section 253.77, F.S. states that a person may not commence any excavation, construction, or other activity involving the use of sovereign or other lands of the State, the title to which is vested in the Board of Trustees of the Internal Improvement Trust Fund without obtaining the required lease, license, easement, or other form of consent authorizing the proposed use. Therefore, the permittee is responsible for obtaining any necessary authorizations from the Board of Trustees prior to commencing activity on sovereignty lands or other state-owned lands.
- 13. The permittee must obtain a Water Use permit prior to construction dewatering, unless the work qualifies for a general permit pursuant to Subsection 40E-20.302(3), F.A.C., also known as the "No Notice" Rule.
- 14. The permittee shall hold and save the District harmless from any and all damages, claims, or liabilities which may arise by reason of the construction, alteration, operation, maintenance, removal, abandonment or use of any system authorized by the permit.
- 15. Any delineation of the extent of a wetland or other surface water submitted as part of the permit application, including plans or other supporting documentation, shall not be considered binding, unless a specific condition of this permit or a formal determination under Section 373.421(2), F.S., provides otherwise.
- 16. The permittee shall notify the District in writing within 30 days of any sale, conveyance, or other transfer of

GENERAL CONDITIONS

ownership or control of a permitted system or the real property on which the permitted system is located. All transfers of ownership or transfers of a permit are subject to the requirements of Rules 40E-1.6105 and 40E-1.6107, F.A.C.. The permittee transferring the permit shall remain liable for corrective actions that may be required as a result of any violations prior to the sale, conveyance or other transfer of the system.

- 17. Upon reasonable notice to the permittee, District authorized staff with proper identification shall have permission to enter, inspect, sample and test the system to insure conformity with the plans and specifications approved by the permit.
- 18. If historical or archaeological artifacts are discovered at any time on the project site, the permittee shall immediately notify the appropriate District service center.
- 19. The permittee shall immediately notify the District in writing of any previously submitted information that is later discovered to be inaccurate.

Application No. 050309-22 Page 5 of 5

SPECIAL CONDITIONS

- 1. The construction phase of this permit shall expire on June 8, 2010.
- 2. Operation of the surface water management system shall be the responsibility of BAYSHORE ROAD INDUSTRIAL PARK OWNERS ASSOCIATION.
- 3. Discharge Facilities: Through previously permitted facilities.
- 4. The permittee shall be responsible for the correction of any erosion, shoaling or water quality problems that result from the construction or operation of the surface water management system.
- 5. Measures shall be taken during construction to insure that sedimentation and/or turbidity violations do not occur in the receiving water.
- 6. The District reserves the right to require that additional water quality treatment methods be incorporated into the drainage system if such measures are shown to be necessary.
- 7. Lake side slopes shall be no steeper than 4:1 (horizontal:vertical) to a depth of two feet below the control elevation. Side slopes shall be nurtured or planted from 2 feet below to 1 foot above control elevation to insure vegetative growth, unless shown on the plans.
- 8. Facilities other than those stated herein shall not be constructed without an approved modification of this permit.
- 9. A stable, permanent and accessible elevation reference shall be established on or within one hundred (100) feet of all permitted discharge structures no later than the submission of the certification report. The location of the elevation reference must be noted on or with the certification report.
- 10. The permittee shall provide routine maintenance of all of the components of the surface water management system in order to remove all trapped sediments/debris. All materials shall be properly disposed of as required by law. Failure to properly maintain the system may result in adverse flooding conditions.
- 11. This permit is issued based on the applicant's submitted information which reasonably demonstrates that adverse water resource related impacts will not be caused by the completed permit activity. Should any adverse impacts caused by the completed surface water management system occur, the District will require the permittee to provide appropriate mitigation to the District or other impacted party. The District will require the permittee to modify the surface water management system, if necessary, to eliminate the cause of the adverse impacts.
- 12. All special conditions and exhibits previously stipulated by permit number 36-00217-S remain in effect unless otherwise revised and shall apply to this modification.
- 13. The master surface water management system (roads, catch basins, culverts, lakes, dry pre-treatment swales, perimeter berm, and control structure) shall be constructed and operational prior to this phase of construction.
- 14. The Permittee shall utilize the criteria contained in the Construction Pollution Prevention Plan and on the applicable approved construction drawings for the duration of the projects construction activities. Exhibits No. 2.0-2.8 have been incorporated by reference and shall be retained in the permit file.
- 15. The Permittee shall utilize the criteria contained in the Urban Stormwater Management Program for post construction activities. Exhibits No. 3.0-3.4 have been incorporated by reference and shall be retained in the permit file.
- Plan sheets SD-1, SD-2, SD-3 and SD-4 signed and sealed by James Ottensmann, P.E. from Quattrone & Associates, Inc. on May 2, 2005 are incorporated by reference into this permit and will be retained in the permit file.

Last Date For Agency Action: 01-JUL-2005

GENERAL ENVIRONMENTAL RESOURCE PERMIT STAFF REPORT

Project Name:

Bayshore Industrial Park Part Of Lot 2

Permit No.:

36-00217-S

Application No.: 050309-22

Associated File: 050309-4 WU

Application Type: Environmental Resource (General Permit Modification)

Location:

Lee County, S21/T43S/R25E

Permittee:

Sox Development

Operating Entity: Bayshore Road Industrial Park Owners Association

Project Area: 2.01 acres

Project Land Use: Industrial

Drainage Basin:

TIDAL CALOOSAHATCHEE

Sub Basin: BAYSHORE CREEK

Receiving Body:

Caloosahatchee River via the existing creek via the

Class: CLASS III

existing SWM system

Special Drainage District: NA

Conservation Easement To District:

No

Sovereign Submerged Lands: No

PROJECT PURPOSE:

This application is a request for a General Permit Modification authorizing Construction and Operation of a surface water management system serving a 2.01-acre commercial development known as Bayshore Industrial Park Part of Lot 2, part of an industrial/commercial development known as I-75/Bayshore Road Industrial Park, with discharge into Caloosahatchee River via the existing un-named creek via the existing master surface water management system.

050309-22 Page 1 of 5 App.no.:

PROJECT EVALUATION:

PROJECT SITE DESCRIPTION:

The project site encompasses a portion of Lot 2 of the I-75/Bayshore Road Industrial Park, located northwest of the intersection of I-75 and Bayshore Road (SR 78) in the City of North Fort Myers, Lee County. Specifically, the project is located on the just east of the intersection of Mercantile Street and East Street. Location maps are attached as Exhibit 1.0 - 1.2.

The master surface water management system for the I-75/Bayshore Road Industrial Park is constructed and operational and provides the required water quality treatment and attenuation of the 25 year-3 day storm event.

There are no wetlands or other surface waters located within or affected by the proposed project and no adverse environmental impacts are anticipated as a result of project construction.

PROPOSED PROJECT:

The applicant proposes development of a 2.01-acre parcel for commercial use within the permitted 87.50-acre I-75/Bayshore Road Industrial Park. Development includes two one-story buildings with associated pavement, sidewalks, landscaped areas and a surface water management system. The total building coverage will be 20,075 sq.ft.

Construction for the entire 87.50-acre I-75/Bayshore Road Industrial Park surface water management system was permitted on October 11, 1984 under Permit No. 36-00217-S. The master surface water management system consists of two drainage basins, Basins "A" and "B". The surface water management system for each basin is composed of interconnected drainage structures and swales with discharge into an on-site wet detention lake prior to discharging to the un-named creek. The project site is located within Basin "B" with the discharge into Caloosahatchee River via the existing un-named creek with the control structure of 11.50 ft NGVD. The master surface water management system is constructed and operational and provides the required water quality within I-75/Bayshore Road Industrial Park. The master surface water management system also provides attenuation during the 25 year 3 day storm event.

Stormwater runoff on the proposed development will be directed to the dry detention area providing the required water quality storage for the proposed commercial use via sheetflow and interconnected underground drainage pipes. The proposed development has 57.30% impervious coverage and meets or exceeds the permitted original control elevation of 11.50 feet NGVD, the minimum road elevation at 14.00 feet NGVD and minimum finished floor elevation at 16.00 feet NGVD.

The project is in substantial compliance with the original permit. No adverse water quality or quantity effects are anticipated at this time.

LAND USE:

Construction:

Project:

This Phase

Building Coverage	.46	acres
Impervious	.69	acres
Pervious	.86	acres

Total: 2.01

App.no.: 050309-22 Page 2 of 5

WATER QUANTITY:

Discharge Rate:

The proposed project is consistent with the land use and site grading assumptions from the design of the surface water management system. Therefore, the surface water management system for this 2.01-acre project has not been designed to limit discharge for the design event to a specified rate.

WATER QUALITY:

The master surface water management system provides both the required water quality and attenuation volumes within I-75/Bayshore Road Industrial Park. This project directs all surface water runoff to the dry detention area which provides the required water quality treatment storage for the proposed commercial use prior to discharging to an adjacent lake, part of the master surface water management system through a modified type "C" inlet with the grate elevation at 16.00 feet NGVD and fitted with a minimum 3 inch diameter circular bleeder at 14.00 feet NGVD.

An Urban Stormwater Management Program and Construction Pollution Prevention Plan specifications and guidelines are part of the required water quality. Construction and daily operation of the project shall be conducted in accordance with Special Condition Nos. 14-15 and Exhibits Nos. 2.0-2.8 and 3.0-3.4 which are incorporated by reference and shall be retained in the permit file.

No adverse water quality impacts are anticipated as a result of the proposed project.

Endangered Species:

The project site does not contain preferred habitat for wetland-dependent endangered or threatened wildlife species or species of special concern. No wetland-dependent endangered/threatened species or species of special concern were observed onsite, and submitted information indicates that potential use of the site by such species is minimal. This permit does not relieve the applicant from complying with all applicable rules and any other agencies' requirements if, in the future, endangered/threatened species or species of special concern are discovered on the site.

CERTIFICATION AND MAINTENANCE OF THE WATER MANAGEMENT SYSTEM:

It is suggested that the permittee retain the services of a Professional Engineer registered in the State of Florida for periodic observation of construction of the surface water management (SWM) system. This will facilitate the completion of construction completion certification Form #0881 which is required pursuant to Section 10 of the Basis of Review for Environmental Resource Permit Applications within the South Florida Water Management District, and Rule 40E-4361(2), Florida Administrative Code (F.A.C.).

Pursuant to Chapter 40E-4 F.A.C., this permit may not be converted from the construction phase to the operation phase until certification of the SWM system is submitted to and accepted by this District. Rule 40E-4.321(7) F.A.C. states that failure to complete construction of the SWM system and obtain operation phase approval from the District within the permit duration shall require a new permit authorization unless a permit extension is granted.

For SWM systems permitted with an operating entity who is different from the permittee, it should be noted that until the permit is transferred to the operating entity pursuant to Rule 40E-1.6107, F.A.C., the permittee is liable for compliance with the terms of this permit.

The permittee is advised that the efficiency of a SWM system will normally decrease over time unless the system is periodically maintained. A significant reduction in flow capacity can usually be attributed to partial blockages of the conveyance system. Once flow capacity is compromised, flooding of the project may result. Maintenance of the SWM system is required to protect the public health, safety and the natural resources of the state. Therefore, the permittee must have periodic inspections of the SWM system

App.no.: 050309-22 Page 3 of 5

performed to ensure performance for flood protection and water quality purposes. If deficiencies are found, it is the responsibility of the permittee to correct these deficiencies in a timely manner.

App.no.: 050309-22

RELATED CONCERNS:

Water Use Permit Status:

The applicant has indicated that groundwater well will be used as a source for irrigation water for the project. Water Use application number 050309-4 is being processed concurrently for this project. The applicant has indicated that dewatering is not required for construction of this project.

This permit does not release the permittee from obtaining all necessary Water Use authorization(s) prior to the commencement of activities which will require such authorization, including construction dewatering and irrigation, unless the work qualifies for a No-Notice Short-Term Dewatering permit pursuant to Chapter 40E-20.302(3) or is exempt pursuant to Section 40E-2.051, FAC.

Historical/Archeological Resources:

No information has been received that indicates the presence of archaeological or historical resources or that the proposed activities could cause adverse impacts to archaeological or historical resources.

DCA/CZM Consistency Review:

The District has not received a finding of inconsistency from the Florida Department of Environmental Protection or other commenting agencies regarding the provisions of the federal Coastal Zone Management Plan.

Enforcement:

There has been no enforcement activity associated with this application.

STAFF REVIEW:

	• /
DIVISION APPROVAL:	
NATURAL RESOURCE MANAGEMENT:	
Edward Cronyn	DATE: 6/6/05
SURFACE WATER MANAGEMENT:	
William Foley, P.E.	DATE: 6-6-05

App.no.: 050309-22

Quattrone & Associates, Inc.

Engineers, Planners, & Development Consultants

11000 Metro Parkway, Suite 30 Fort Myers, Florida 33912 - 239-936-5222 JOB BAYSHORE

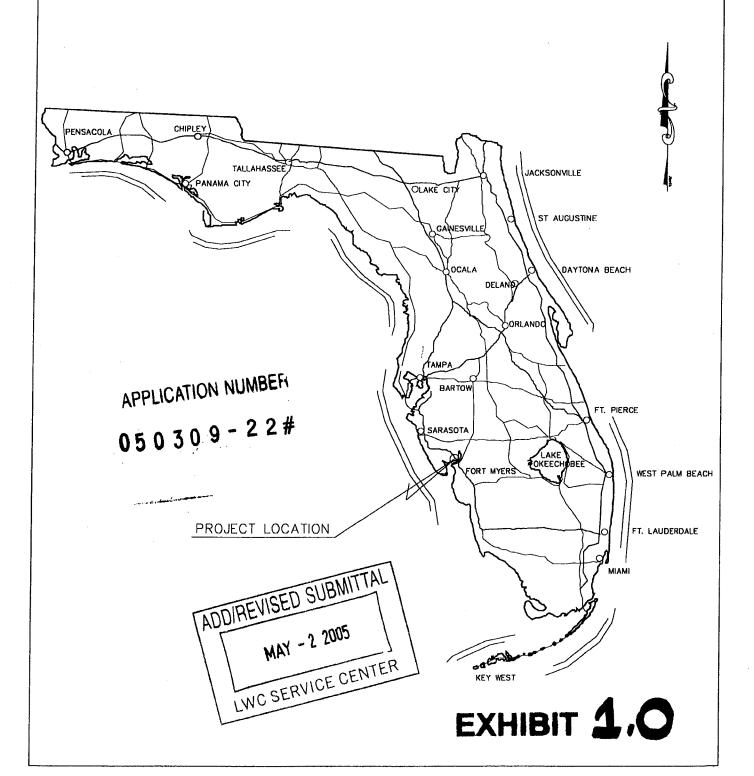
ADDRESS 17610 EAST STREET, N. FT.MYERS, FL.

STRAP# 21-43-25-04-00000.009A

DATE 05-02-05

CHECKED BY STRAKALUSE

SCALE OR DESCRIPTION N/A



Quattrone & Associates, Inc.

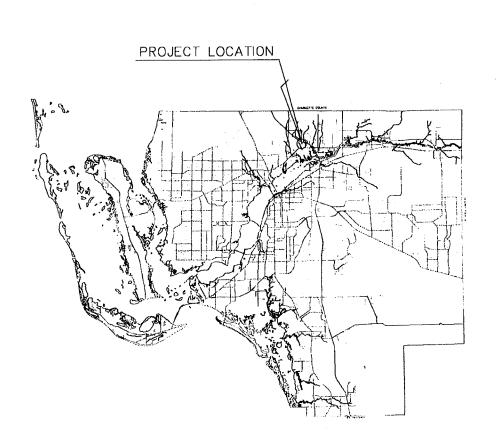
Engineers, Planners, & Development Consultants

11000 Metro Parkway, Suite 30 Fort Myers, Florida 33912 - 239-936-5222

JOB BAYS	HORE	
ADDRESS_	17610 EAST STREET, N. FT.MYERS, FL.	
STRAP#	21-43-25-04-00000.009A	
DATE 05-0	2-05	
CHECKED E	BY STRAKALUSE	

SCALE OR DESCRIPTION N/A

LEE COUNTY, FL.



APPLICATION NUMBER
050309-22#

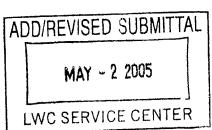
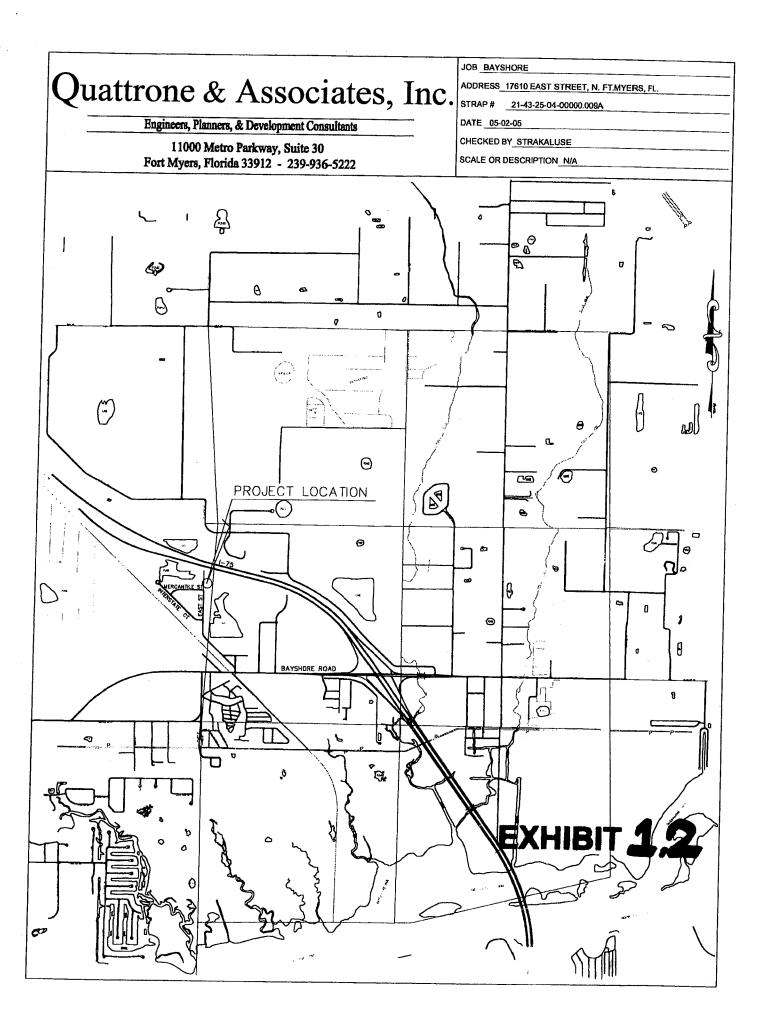


EXHIBIT 4.1

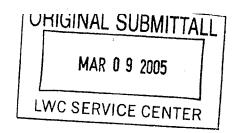


CONSTRUCTION PHASE STORM WATER POLLUTION PREVENTION PLAN

PART 1 - SITE DESCRIPTION

Project Name/P	Address: <u>Bayshore Industrial Park</u> <u>17610 East Street North I</u>	Fort Myers FI 33917
Owner:	Sox Development	
	Printed name and Title	
	14770 Soaring Eagle Ct.	Fort Myers FI 33912
	Street Address	City State ZIP Phone
Description:	,	
Types of Soil Distui stabilized constructi surface water man	ion entrance, perimeter, and other erosic	ement of this site will include: clearing and grubbing; installing a con and sediment controls; grading; excavation for the project d building foundations for a 20,075 SF commercial building al planting and seeding.
Runoff Coefficient	ts: Pre "C" = 0.20; Construction "C"= var	ies 0.20-0.65; Final "C" = 0.65.
Site Soil Type: Th	ne soils found on site are: <u>33 – Oldsmar S</u>	<u>and</u>
Site Data:		
	nately 2.01 acres of which 2.01	acres will be disturbed by construction activities. There are no
wetlands or protect		
Outfall Location:		
	7 3059.42774; Long. = 867874. 7543	<u>,, , , , , , , , , , , , , , , , , , ,</u>
Sequence of Majo The order of activiti	r Activities: es will be as follows:	
l inetall s	tabilized construction entrance.	11. Apply lime rock base to paved areas .
	nd grub for earth berm, sediment basin,	, , , , , , , , , , , , , , , , , , ,
	or staked hay bales (as applicable).	12. Construction of buildings continues.
-	ediment control measures per plan.	13. Final grade and tack coat lime rock
		in paved areas
4. Continu	ue clearing and grading, begin utility excav.	14. Continue site grading.
	ct subgrade of paved areas.	15. Complete final paving.
	ile topsoil (if suitable).	 16. Complete grading and install permanent plantings.
7. Stabilize	e denuded areas and stockpiles within 14	17. Remove accumulated sediment from
	t construction activity in that area.	installed control measures.
•	uilding construction.	18. When all construction activity is
_	ue site and utility work.	complete and the site is stabilized,
	l utilities, storm sewer, curb and gutter.	remove sediment control measures
10. 1113001	adminost and the second and a min Parents.	and reseed or sod any areas disturbed
	•	by their removal.
		FXHIBIT Q.C
		FXHIRII 12.C

Receiving Waters: Flows into the water management lake



APPLICATION NUMBER 05 03 09 - 22

PART 2 - CONTROLS

Part 2.1 - Erosion and Sediment Controls

Stabilization Practices:

Temporary Stabilization:

Top soil stock piles and disturbed portions of the site where construction activity temporarily ceases for at least 21 days will be, stabilized with temporary seed and mulch no later than 14 days from the last construction activity in that area. The temporary seeding shall be via "Hydro Seed & Mulch", or dry Rye seed applied at the rate of 120 pounds per acre. Prior to dry seeding, 1 0-10-10 fertilizer shall be applied to each area to be stabilized. After dry seeding, each area shall be mulched with 2,000 pounds of straw per acre. The straw mulch is to be tacked into place by a disk with blades set nearly straight. Areas of the site at slopes of greater than 5% which are to be paved will be temporarily stabilized by applying geotextile and stone subbase until bituminous pavement can be applied.

Permanent Stabilization:

Disturbed portions of the site where construction activities permanently ceases shall be stabilized with permanent seed or sod no later than 14 days after the last construction activity. Live sod coverage of disturbed areas is the preferred permanent stabilization method. Sodding shall be in accordance with accepted local practice. If seeding is to be utilized, the preferred permanent seeding shall be via "Hydro Seed & Mulch" in accordance with accepted local practice, If dry seeding is proposed, the permanent dry seed mix shall consist of 120 lbs/acre Argentine Bahia. Prior to dry seeding 1,000 pounds per acre of 10-10-10 fertilizer shall be applied to each area to be stabilized. Each dry seeded area shall be mulched with 2,000 pounds per acre of straw. The straw mulch will then be tacked into place by a disk with blades set nearly straight.

• Structural Practices:

Either Staked-in-place haybale dams, per Florida Department of Transportation Standard Road & Bridge Specifications sec. 104, will be placed at the up- and down-stream ends of the adjacent roadside swale, or Geotextile Silt Control Fencing, per FDOT Standard Specifications, Sec. 104, will be constructed along the site's roadway perimeter frontage to prevent erosion and keep sediment from entering the roadway drainage system and continuing offsite (see SWP3 plan). If any stormwater storage or conveyance facilities, ditches, or swales traverse the property, continuous geotextile silt control fencing will be installed along the site's top slope of such facilities to prevent erosion and keep sediment from entering the area drainage system and continuing offsite. The intent of these sediment control practice is to contain as much as possible of the construction site sediment within the limits of construction.

The proposed surface water management dry detention area will serve as a temporary & permanent sediment basin (see below).

A site specific Sediment Basin will be constructed on this site and will serve as a permanent surface water management dry detention area. This storage area exceeds the minimum required volume of 1178 cubic feet. The basin drains to a Lee County roadside swale via an onsite water management system. Stormwater conveyance ditches adjacent to the site will have silt fence constructed and in place during all construction activities.

Part 2.2 - Storm Water Management



Storm water drainage for the completed site will be provided by overland sheet flow to a system of grassed, flat-sloped (<1%) swales or curbs, gutters, storm sewers and / or catch basins for the developed areas. The areas which are not developed will be graded at less that 2% slope and have permanent seeding or plantings. Any areas shown on the plan to remain untouched and in its natural state will follow their natural drainage patterns. When construction is complete the entire site will drain to a dry detention basin, with outfall controls meeting SFWMD, FDOT and Lee County regulations. This detention basin also serves as a permanent sediment basin. Required periodic maintenance will include removal of accumulated sediment from the sediment basin, and maintaining the areas on the sides of the basin in a vegetated state. The dry detention area is designed with a permanent volume equivalent to post development runoff from the FDOT Critical Event Storm (100-YR, 4-HOUR) for the entire drainage area. The basin and outfall have been designed by a professional engineer to keep peak flow rates from the 100-YR,4 HOUR storm at the pre-development rates, as required by FDOT. The outlet of the detention basin will be stabilized by vegetative growth. If shoaling, or erosion becomes evident a riprap apron will be installed as future conditions warrant. It is expected that this detention pond and grassed conveyance swale design result in an 80 percent removal of total suspended solids from the site's storm water runoff.

Part 2.3 - Other Controls

Waste Disposal:

Waste Materials

All waste materials will be collected and stored in a wire fence containment area, a metal dumpster rented from the locally franchised waste disposal company, or other containment method. The trash containment system chosen by the General Contractor shall meet all local government and any State solid waste management regulations. All trash and construction debris from the site will be deposited in the dumpster, confined within a wire fence containment area, or other approved containment method. The accumulated debris will be removed as 80% of containment capacity is reached and the trash will be hauled to the Lee County Landfill or incinerator by a licensed solid waste management company. No construction waste materials will be buried or burned onsite. All personnel will be instructed regarding the correct procedure for waste disposal. Notices stating these practices will be posted in the office trailer and the individual who manages the day-to-day site operations (General contractor's construction superintendent), will be responsible for seeing that these procedures are followed.

Hazardous Waste

All hazardous waste materials will be disposed of in the manner specified by local or State regulation or by the manufacturer. Site personnel will be instructed in these practices and the individual who manages day-to-day site operations for the General Contractor will be responsible for seeing that these practices are followed.

Sanitary Waste

All sanitary waste will be collected from the portable units a minimum of three times per week by a properly licensed local sanitary waste management contractor, as required by local regulation.

Offsite Vehicle Tracking:

A stabilized construction entrance has been provided to help reduce vehicle tracking of sediments. All vehicular traffic to and from the site must use this entrance. No crossing of adjacent areas is to be permitted. The paved street adjacent to the site entrance will be swept as needed to remove any excess mud, dirt or rock tracked from the site. Dump trucks hauling material to and from the construction site will be covered with a tarpaulin; as required by local regulation. Any wet or saturated materials must be completely drained and drip-free prior to leaving the site by dump truck.

Part 2.4 - Timing of Controls and Measures

As indicated in the Sequence of Major Activities, The haybale dams, or the continuous geotextile silt control fencing along the site's perimeter, earth berm, sediment basin, and the stabilized construction entrance (as called for by the plan) will be constructed prior to clearing or grading of any other portions of the site. Areas where construction activity temporarily

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ceases for more than 21 days will be stabilized with a temporary seed and mulch within 14 days of the last disturbance. Once construction activity ceases permanently in an area, that area will be stabilized with permanent seed and mulch or sod. After the entire site is stabilized, the accumulated sediment will be removed from the installed control measures and then they will be removed.

PART 3 - CERTIFICATION OF COMPLIANCE WITH FEDERAL, STATE, AND LOCAL REGULATIONS

The storm water pollution prevention plan reflects Lee County and the SFWMD requirements for storm water management and erosion and sediment control, as established in State Statute, the Lee County Land Development Code and other ordinances. To ensure NPDES compliance by the landowner, this plan was prepared in accordance with said regulations and was reviewed by Lee County and SFWMD for compliance prior to issuance of construction activity permits. To the best of my knowledge, there are no other applicable State or Federal requirements for sediment and erosion site plans (or permits), or storm water management site plans (or permits) for this site,

PART 4 - MAINTENANCE and INSPECTION PROCEDURES

Erosion and Sediment Control Inspection and Maintenance Practices

These are the inspection and maintenance practices that will be used to maintain erosion and sediment controls.

- All control measures will be inspected at least once each week and following any storm event of 0.5 inches or greater.
- all measures will be maintained in good working order; if a repair is necessary, it will be initiated within 24 hours of the report of deficiency.
- Built up sediment will be removed from silt fence when it has reached one-third the height of the fence.
- Silt fence will be inspected for depth of sediment, tears, to see if the fabric is securely attached to the fence posts, and to see that the fence posts are firmly in the ground.
- the sediment basin required by this plan will be inspected for depth of sediment, and built up sediment will be removed when it reaches 1 0 percent of the design capacity or at the end of the job, whichever occurs first.
- Diversion berm (if called for on the plan) will be inspected and any breaches promptly repaired.
- Temporary and permanent seeding and planting will be inspected for bare spots, washouts, and healthy growth.
- A maintenance inspection report will be made after each inspection.

The General Contractor's site superintendent will be responsible for inspections, maintenance and repair activities, and filling out the inspection and maintenance report.. The General Contractor shall select an alternate inspector who will be responsible for inspections, maintenance and repair activities, and filling out the inspection and maintenance report in the event of the site superintendent's absence. Any personnel selected for inspection and maintenance responsibilities will receive training from the General Contractor. They will be trained in all the inspection and maintenance practices necessary for keeping erosion aid sediment controls used onsite in good working order.

INVENTORY FOR POLLUTION PREVENTION PLAN

The materials or substances listed below are expected to be present onsite during construction:

Dry Concrete Mixes

Fertilizers

Detergents

Petroleum Based Products

Paints (enamel and latex)

Cleaning Solvents

Metal Studs

Wood and Other Construction Materials (nails, bolts, etc)

Redi-Mix Concrete

Masonry Block

Tar

Roofing Materials

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EXHIBIT 2,3

SPILL PREVENTION

Material Management Practices

The following are the material management practices that will be used to reduce the risk of spills or other accidental exposure of materials and substances to storm water runoff.

Good Housekeeping:

The following good housekeeping practices will be followed onsite during the construction project.

- An effort will be made to store only enough product required to do the job.
- All materials stored onsite will be elevated above ground level in a neat, orderly manner in their appropriate containers and, where necessary, under a roof, waterproof tarp, or other enclosure.
- Products will be kept in their original containers with the original manufacturer's label.
- Substances will not be mixed with one another unless recommended by the manufacturer.
- Whenever possible, all of a product will be used up before disposing of the container.
- Manufacturers' recommendations for proper use and disposal will be followed.
- The site superintendent will inspect daily to ensure proper use and disposal of materials onsite.

Hazardous Products:

These practices are used to reduce the risks associated with hazardous materials.

- Products will be kept in original containers unless they are not resealable
- Original labels and material safety data will be retained; they contain important product information
- If surplus product must be disposed of, manufacturers' or local and State recommended methods for proper disposal will be followed.

Product Specific Practices

The following product specific practices will be followed onsite:

Petroleum Products:

All onsite vehicles will be monitored for leaks and receive regular preventive maintenance to reduce the chance of leakage. Petroleum products will be stored in tightly sealed containers which are clearly labeled. Any asphalt substances used onsite will be applied according to the manufacturer's recommendations.

Fertilizers:

Fertilizers used will be applied only in the minimum amounts recommended by the manufacturer. Once applied, fertilizer will be worked into the soil to limit exposure to storm water. Storage will be above ground level under a roof, waterproof tarp, or other rain-proof shelter. The contents of any partially used bags of fertilizer will be transferred to a sealable plastic bin to avoid spills.

Paints:

All containers will be tightly sealed and stored when not required for use. Excess paint will not be discharged to the storm sewer system but will be properly disposed of according to manufacturers' instructions or State and local regulations.

Concrete Trucks:

Concrete trucks will not be allowed to wash out or discharge surplus concrete or drum wash water on the site.

Spill Control Practices

In addition to the good housekeeping and material management practices discussed in the previous sections of this plan, the following practices will be followed for spill prevention and cleanup:

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- Manufacturers' recommended methods for spill cleanup will be clearly posted and site personnel will be made aware of the procedures and the location of the information and cleanup supplies.
- Materials and equipment necessary for spill cleanup will be kept in the material storage area onsite.
- Equipment and materials will include but not be limited to brooms, dust pans, mops, rags, gloves, goggles, kitty litter, sand, sawdust, and plastic and metal trash containers specifically for this purpose.
- All spills will be cleaned up immediately after discovery.
- The spill area will be kept well ventilated and personnel will wear appropriate protective clothing to prevent injury from contact with a hazardous substance.
- Spills of toxic or hazardous material will be reported to the appropriate State or local government regardless of the size.

If a spill occurs, the spill prevention plan will be adjusted to include measures to prevent that type of spill from reoccurring and how to better clean up the spill if there is another one. A description of the spill, what caused it, and the cleanup measures used will also be included in a post-spill report to authorities. The site superintendent, who is responsible for the day-to-day site operations, will be the spill prevention and cleanup coordinator. The General Contractor shall select an alternate spill prevention and cleanup coordinator who will be responsible for spill prevention and cleanup in the event of the site superintendent's absence. Any personnel selected for inspection and maintenance responsibilities will receive training from the General Contractor. They will be trained in all the necessary practices and procedures for spill prevention and cleanup. The names of responsible spill personnel will be posted onsite

PART 5 - ALLOWABLE NON-STORM WATER DISCHARGES

It is expected that the following non-storm water discharges will occur from the site during the construction period:

- Water from utility line flushing.
- Water from normal cleaning activities associated with the construction.
- Water associated with normal fill dirt and pavement base grading and compaction operations.
- Pavement wash waters associated with normal finishing and final site clean up operations (where no spills or leaks of toxic or hazardous materials have occurred).
- Uncontaminated groundwater (from dewatering excavation).

The contractor shall insure that all non-storm water discharges will be kept to a minimum and are directed to the sediment control measures prior to discharge.

PREPARED BY: QUATTRONE & ASSOCIATES, INC. AL QUATTRONE, P.E.



PART 6 - CONTRACTOR'S CERTIFICATION

I certify under penalty of law that I understand the terms and conditions of the general National Pollutant Discharge Elimination System (NPDES) permit for the State of Florida that authorizes the storm water discharges associated with industrial activity from the construction site identified as part of this certification. I also have reviewed and understand the Storm Water Pollution Prevention Plan (SWPPP) and Notice of Intent prepared by the Owner, and filed with the DEP as part of the construction approvals for this site. All sub-contractors responsible for any site disturbing or stormwater discharge activities will be required to read and understand the NPDES and SWPPP and sign this certification (in separate form) as a condition of employment in conjunction with this site.

Signed:						
	Printed name and Title					
	Street Address	City	State	ZIP	Phone	
	Date:	•				

PART 7 - OWNER'S POLLUTION PREVENTION PLAN CERTIFICATION

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations. In accordance with Part II.b.(10) I further certify under penalty of law that I have read and understand the Part I.B. eligibility requirements for coverage under the general permit for storm water discharges from construction activities, including those requirements relating to the protection of endangered species identified in Appendix "C". To the best of my knowledge the discharges covered under this permit, and the construction and operation BMP's to control storm water runoff, are not likely to adversely impact any species identified in Appendix "C" of this permit, or are otherwise eligible for coverage under this permit, in accordance with Part I.B.3.e of the permit, due to previous authorization under the Endangered Species Act, or agreement to implement protective measures required by the Director (EPA) as a condition of eligibility. I further certify, to the best of my knowledge, that such discharges and the construction and operation BMP's to control storm water runoff, do not an effect on properties listed or eligible for listing on the National Historic Preservation Act, or are otherwise eligible for coverage, in accordance with Part I.B.3.f of the permit, due to previous agreement under the National historic Preservation Act. I understand that continued coverage under this storm water general permit is contingent upon maintaining eligibility as provided for in Part I.B.

Signed:	
	Printed name
	as
	(Title)
	Date:

ATTACHMENT #1 TO: CONSTRUCTION PHASE STORM WATER POLLUTION PREVENTION PLAN

Project: Bay shore Industrial Park	
Owner: Sox Development	

EPA CONSTRUCTION GENERAL PERMIT CHECKLIST

Storm Water Pollution Prevention Plan Construction/implementation Checklist

The General	l Co	ntractor shall be responsible for providing the Owner with the following:
		Maintain Records of Construction Activities, including:
		☐ Dates when major grading activities occur
		☐ Dates when construction activities temporarily cease on a portion of the site
		☐ Dates when construction activities permanently cease on a portion of the site
		☐ Dates when stabilization measures are initiated on the site
	2.	Prepare Inspection Reports summarizing:
		□ Name of inspector
		☐ Qualifications of inspector
		☐ Measures/areas inspected
		☐ Observed conditions
		☐ Any changes thought necessary to the SWPPP
	3.	Report Releases of Reportable Quantities of Oil or Hazardous Materials (if they occur):
		□ Notify National Response Center 800/424-8802 immediately
		□ Notify permitting authority in writing within 14 days
		☐ Modify the pollution prevention plan to include:
		★the date of release
•		★circumstances leading to the release
		★ steps taken to prevent reoccurrence of the release
	4.	Modify Pollution Prevention Plan as necessary to:
		☐ Comply with minimum permit requirements when notified by EPA that the plan does not comply
		\square Address a change in design, construction operation or maintenance which has an effect on the
potential for	disc	harge of pollutants
		☐ Prevent reoccurrence of reportable quantity releases of a hazardous material or oil

Storm Water Pollution Prevention Plan Final Stabilization/Termination Checklist

The General Contractor shall be responsible for notifying the Owner when the following actions are complete:

- 1. All soil disturbing activities are complete.
- 2. Temporary erosion and sediment control measures have been removed or will be removed at an appropriate time.
- 3. All areas of the construction site not otherwise covered by a permanent pavement or structure have been stabilized with a uniform perennial vegetative cover with a density of 70% or equivalent measures have been employed.

EXHIBIT 2.5

URBAN STORMWATER MANAGEMENT PROGRAM Bayshore Industrial Park

1.0 Introduction

This document provides details of the Urban Stormwater Management Program for the Lots 13 & 14 Metropolitan Business Park in Lee County. This Plan discusses non-structural controls, intended to improve the quality of stormwater runoff by reducing the generation and accumulation of potential stormwater runoff contaminants at or near the respective sources for each constituent, along with significant structural components of the primary stormwater treatment system. Although many of the methodologies and procedures outlined in this document are general Best Management Practices (BMP's) which can be useful in attenuating pollutants in many types of urbanized settings, the implementation of these practices has been optimized, to the maximum extent possible, to reflect the unique character of the Bayshore Industrial Park and the surrounding hydrologic features.

Pollution prevention guidelines are provided for the areas of (1) nutrient and pesticide management; (2) street sweeping; (3) solid waste management; (4) operation and maintenance of the stormwater management and treatment system; (5) routine water quality testing; and (6) construction activities. A discussion of each of these activities is given in the following sections.

2.0 Nutrient and Pesticide Management

Nutrient and pesticide management consists of a series of practices designed to manage the use of fertilizers and pesticides so as to minimize loss of these compounds into stormwater runoff and the resulting water quality impacts on adjacent waterbodies. Implementation of a management plan will also maximize the effectiveness of the nutrients and pesticides that are applied.

Each homeowner must commit themselves to the practice of responsible and careful landscape design and maintenance of each lot to prevent contamination of surface waters. The guidelines included in this section are intended to help homeowners make educated environmental choices regarding the maintenance of individual yards within the community. These maintenance and management guidelines are meant to promote an attractive neighborhood that preserves the health of adjacent waterways and environmental features.

2.1 General Requirements

A landscape plan must be developed for each residence. The plan must be comprehensive in nature and follow the landscape design guidelines established by the Homeowners Association and must promote revegetation of each lot as quickly as possible.

Commercial applicators of chemical lawn products must register with the Homeowners Association annually and provide a copy of their current occupational license, proof of business liability insurance, and proof of compliance with applicable education and licensing requirements. Individual employees working under the direction of a licensed commercial applicator are exempt from the educational requirements.

EXHIBIT 3.0

Only registered commercial applicators and individual lot owners are permitted to apply chemicals within the property on a private lot. All chemical products must be used in accordance with the manufacturer's recommendations. The application of any chemical product within five (5) feet of any surface water including but not limited to ponds, lakes, drainage ditches or canals, is prohibited. The use of any chemical product in a manner that will allow airborne or waterborne entry of such products into surface water is prohibited. This rule shall not apply to the use of chemical agents, by certified lake management specialists, for the control of algae and vegetation within the stormwater lakes or ponds.

2.2 <u>Nutrient Management Program</u>

Management and application of nutrients and fertilizers in the Bayshore Industrial Park will adhere to the following guidelines:

- A. All fertilizers shall be stored in a dry storage area protected from rainfall and ponding.
- B. No fertilizer containing in excess of 2% phosphate/phosphorus (P₂O₅) per guaranteed analysis label (as defined by Chapter 576, Florida Statutes) shall be applied to turf grass unless justified by a soil test.
- C. Fertilizer containing in excess of 2% phosphate/phosphorus (P₂O₅) per guaranteed analysis label shall not be applied within 5 feet of the edge of water or within 5 feet of a drainage facility.
- D. All fertilizer shall be applied such that spreading of fertilizer on all impervious surfaces is minimized.
- E. Liquid fertilizers containing in excess of 2% phosphate/phosphorus (P₂O₅) per guaranteed analysis label shall not be applied thorough an irrigation system within 10 feet of the edge of water or within 10 feet of a drainage facility.
- F. Liquid fertilizers containing in excess of 2% phosphate/phosphorus (P₂O₅) per guaranteed analysis label shall not be applied through high or medium mist application or directed spray application within 10 feet of the edge of water or within 10 feet of a drainage facility.

2.3 Pest Management Program

Proper maintenance of plants and turf areas will minimize the ability of pests to successfully attack landscaping. Several general guidelines follow:

- A. Apply fertilizer and water only when needed and in moderate amounts. Excessive amounts of either can cause rapid growth that is attractive to insects and disease.
- B. Mow St. Augustine grass to a height of 3-4 inches. If cut shorter, the plants may become stressed and more vulnerable to pest infestation. Each mowing should remove no more than one-third of the leaf blade, and those cuttings should remain on the lawn to decompose.
- C. It is recommended that pesticides, fungicides, and herbicides be used only in response to a specific problem and in the manner and amount recommended by the manufacturer to address the specific problem. Broad application of pesticides, fungicides and herbicides as a preventative measure is strongly discouraged.

The use of pesticides, fungicides, or herbicides is limited to products that meet the following criteria:

EXHIBIT 3.1

- A. Must be consistent with the USDA-NRCS Soil Rating for Selecting Pesticides
- B. Must have the minimum potential for leaching into groundwater or loss from runoff
- C. Products must be EPA-approved
- D. The half-life of products used shall not exceed seventy (70) days

3.0 Street Sweeping

This practice involves sweeping and vacuuming the primary streets to remove dry weather accumulation of pollutants, especially particulate matter, before wash-off of these pollutants can occur during a storm event. This practice reduces the potential for pollution impacts on receiving waterbodies by removing particulate matter and associated chemical constituents. Although street cleaning operations are frequently conducted primarily for aesthetic purposes, the primary objective of the street sweeping program for the Bayshore Industrial Park is to improve the quality of stormwater runoff generated from impervious traffic areas. Street sweeping activities can be particularly effective during periods of high leaf fall by removing solid leaf material and the associated nutrient loadings from roadside areas where they could easily become transported within stormwater flow.

Street sweeping operations will be performed in the Bayshore Industrial Park at a minimum frequency of one event every other month. A licensed vendor using a vacuum-type sweeping device will perform all street sweeping activities. Sweeping activities during each event will include all primary street surfaces. Disposal of the collected solid residual will be the responsibility of the street sweeping vendor.

4.0 Solid Waste Management

In general, solid waste management involves issues related to the management and handling of urban refuse, litter and leaves that will minimize the impact of these constituents as water pollutants.

Maintenance of adequate sanitary facilities for temporarily storing refuse on private premises prior to collection is considered the responsibility of the individual homeowner. Local requirements for refuse collection will be brought to the attention of every homeowner at closing for the sale of the property. Information will be distributed as necessary stating specifications for containers, separation of waste by type, where to place containers prior to collection, and established collection schedules.

Fallen tree leaves and other vegetation, along with grass clippings, may become direct water pollutants when they are allowed to accumulate in swales and street gutters. All homeowners will receive periodic educational materials that address proper disposal of leaves and other vegetation to minimize water quality impacts.

5.0 Stormwater Management and Treatment System

The stormwater management system for the Bayshore Industrial Park is designed to maximize the attenuation of stormwater generated pollutants prior to discharge to the off-site wetland systems. Operational details and maintenance requirements of the various system components are given in the following sections.

EXHIBIT 3.2

5.1 Wet Detention Lakes and Lake Interconnect Pipes

The basic element of the stormwater management system consists of a series of interconnected wet detention ponds that provide stormwater treatment through a variety of physical, biological, and chemical processes. A wet detention pond acts similar to a natural lake by temporarily detaining stormwater runoff, allowing opportunities for treatment processes to occur, prior to slow controlled discharge of the treated water through the outfall structure. Pollutant removal processes in wet detention systems occur during the quiescent period between storm events. Significant removal processes include gravity settling of particulate matter; biological uptake of nutrients and other ions by aquatic plants, algae and microorganisms; along with natural chemical flocculation and complexation processes.

Maintenance of the wet detention ponds will consist of an annual inspection. During each annual inspection, the following items will be reviewed and corrected as necessary:

- A. Inspect the outfall structure and orifices to ensure free-flowing conditions and overall engineering stability of the outfall system.
- B. Review the banks of the lakes and canals to ensure proper side slope stabilization and inspect for signs of excessive seepage that may indicate areas of excessive groundwater flow and possible subsurface channeling.
- C. Physically evaluate each of the lakes and canals for evidence of excessive sediment accumulation or erosion.
- D. Inspect the planted aquatic vegetation in the littoral zone to ensure that the desired vegetation species, percent coverage, and density are maintained.

At the completion of the inspections, a written inspection report will be prepared, listing any deficiencies that need to be addressed or corrected by the Homeowners Association.

5.2 Stormwater Inlets, Pipes and Culverts

The grates should be unobstructed and the bottom, inside the inlet, should be clean. Check for any accumulation of sediment, trash such as garbage bags, or debris in the culverts connecting these inlets. Flushing out with a high-pressure hose may clean some sediment. Any noted blockage (due to a possible obstruction, or broken pipe, etc.) should prompt further investigation. Crushed or corroded culverts should be replaced with new ones of the same size.

5.3 Swales and Grassed Water Storage Areas

These provide for conveyance and/or above-ground (or surface) storage of stormwater. With age, these areas usually fill in with vegetation and sediment. Swales may need to be regarded and/or revegetated. It is a good idea to compare the existing slope and dimensions of the swale with the permitted design plans prior to the removal of excess sediment or regarding. Areas that show erosion should be stabilized with appropriate material such as sod, planting, rock, sand bags, or other synthetic geotextile material.

Regular mowing of grass swales is essential. These areas also improve water quality by catching sediment and assimilating nutrients, and recharge the underground water table. Remove any undesirable exotic vegetation. Culverts underneath driveways should be checked for blockage, and, if necessary, flushed with a high-pressure hose. After a storm, swales may remain wet for an extended period of time. This is normal and the water will recode

5.4 Ditches or Canals

Fill material, yard waste, clippings and vegetation, sediment, trash, appliances, garbage bags, shopping carts, tires, cars, etc. should be completely removed. Also check to make sure there are no dead trees or any type of obstructions which could block the drainage flow way.

Maintenance cleaning/excavation must be limited to the same depth, width and side slope as approved in the current permit. Making a ditch deeper or wider may trigger a need for a permit modification. Provisions must also be made to prevent any downstream silting or turbidity (Contact the SFWMD Resource Compliance staff if you are unsure or need clarification.) Be sure to dispose of all removed material properly so it won't affect any other water storage or conveyance system, environmental area, or another owner's property.

5.5 Outfall Structure (also called the Discharged Control Structure or Weir)

The outfall structure should be routinely inspected to determine if any obstructions are present or repairs are needed. Trash or vegetation impeding water flow through the structure should be removed. The structure should have a "baffle" or trash collector to prevent flow blockage and also hold back any floating oils from moving downstream. Elevations and dimensions should be verified annually with all current permit information. Periodic inspections should then be regularly conducted to make sure these structures maintain the proper water levels and the ability to discharge.

5.6 Earthen Embankments (Dikes and Berms)

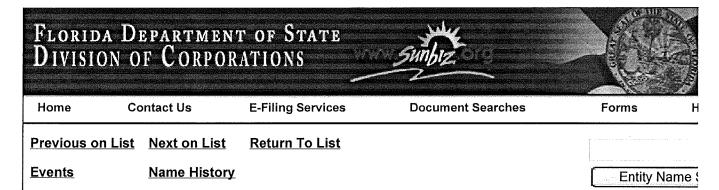
Check for proper elevations, width and stabilization. Worn down berms - especially if used by all-terrain vehicles or equestrian traffic – and rainfall – created washouts should be immediately repaired, compacted and re-vegetated.

6.0 Water Quality Testing

To ensure proper operation of the overall treatment system, monitoring will be performed at one outfall (SW-1) from the Bayshore Industrial Park if there is a flow over the weirs. According to the proposed Water Quality Monitoring Plan, monitoring may occur 3 times a year, once during the dry season (February/March) and twice during the wet season (August/September). A manual grab sample will be collected at the SW-1 outfall location and analyzed for various constituents and parameters as described in the Surface Water Quality Monitoring Plan. Trained and certified personnel will perform sample collection and laboratory analysis. The results of the laboratory analyses will be submitted to South Florida Water Management District as part of an annual water quality monitoring report by December 31 of each year.

7.0 Construction Activities

A Stormwater Pollution Prevention Plan (SWPPP) has been prepared for construction activities to minimize activities contamination that may be caused by erosion and sedimentation during the construction process. The plan includes provisions related to soil stabilization, structural erosion controls, waste collection disposal, offsite vehicle tracking, spill prevention and maintenance and inspection procedures. A copy of the SWPPP is attached hereto and made a part of hereof.



Detail by Entity Name

Florida Profit Corporation

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01/30/2005 -- ANNUAL REPORT

04/29/2004 -- ANNUAL REPORT

04/28/2003 -- ANNUAL REPORT

05/20/2002 -- Amendment and Name Change

04/28/2002 -- ANNUAL REPORT

09/12/2001 -- ANNUAL REPORT

06/16/2000 -- ANNUAL REPORT

10/18/1999 -- Domestic Profit

Note: This is not official record. See documents if question or conflict.

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Events Name History

Entity Name :

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SHEET I OF 4

I-75/BAYSHORE ROAD

A SUBDIVISION OF PORTIONS OF SECTIONS 20 & 21. TOWNSHIP 43 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA

DE LOZIER ENGINEERING COMPANY, Inc.

DESCRIPTION

A parcel of land lying in Sections 20 and 21, Township 43 South, Range 25 East, Lee County, Florida, more particularly described as follows:

Lée County, Floride, more particularly described as follows:

Commence at the Southeast corner of said Section 20 and run Noº04 23" along the Gast line of said Section 20 for 1942 08 feet to the intersection with the Northeasterly right-of-way line of the Seeboard Coast Line Railroad for the Point of Beginning; thence run N89°84'33" along the North boundary of R. H. HOWELL'S DIVISION, according to the plat thereof recorded in Plat Book S, Page I, of the Public Records of Lee County, Floride, for 1243'96 feet to the West boundary of COLONIAL ACRES, UNIT TWO, according to the plat thereof recorded in Plat Book 22, Page I, of the Public Records of Lee County, Florida; there recorded in Plat Book 22, Page I, of the Public Records of Lee County, Florida; thence run N°07'41" & along said West boundary for 518.39 feet to the South Ine of the West half of the Northwest yourter of said Section 21; thence run 839'42'25" & for 7605 feet to the Southnessery right-of-way line for 15130 feet, thence run N°54'407" W along said interstate right-of-way line for 15130 feet, thence run N°54'407" W along said interstate right-of-way line for 15130 feet, thence run N°54'10'3" W for 1800 feet; thence run N°4'18'33" W for 1800 fee

STATE OF FLORIDA I HEREBY CERTIFY: That on this day personally appeared before me Richard H. Prilichett, Vr., known to me to be country OF LEE the person described in and who executed the foregoing dedication and he acknowledged the execution thereof to be his free act and deed for the purposes therein expressed.

WITNESS my hand and official seal at Lee County, Florida this 1 day of SepTember , 1981.

My Commission expires 10-10- 92 Dorothy a. Wooten

DEDICATION

KNOW ALL MEN BY THESE PRESENTS: That Richard H. Pritchett, Ur., Trustee, owner of the lands described hereon has caused this plot of 1-75/BAYSHORE ROAD INDUSTRIAL PARK to be made and does hereby dedicate oil road rights-of way, park, and casements shown hereon to the perpetual use of the public for the purposes indicated.

IN WITNESS WHEREOF: Richard H. Pritchett, Jr., Trustee, has executed these presents this 1st day of September, 1981.

Dorge M. Terwilliger - Doland for

Richard H. Pritchett gr. 1471952 APPROVALS

day of September, 1981 in an open missioners of Lee County, Florida.

James Gaeger Michael Carroll

I HEREBY CERTIFY: That this plat of I-75/BRYSHORE ROAD INDUSTRIAL PARK has been examined by me and from my examination I find that said plat complies in form with the requirements of Chapter ITT, floride Statutes, I further certify that said plat was filed for record at 2.55 P. m. this 1 further certify that said plat was filed for record at 2.55 P. m. this 2.50 p. m. this of the Public Records of Lee County, Florida at Pages 42 through 45 of the Public Records of Lee County, Florida.

Clerk of the Circuit Court in and For Lee County, Florida Barre

CERTIFICATION

I HEREBY CERTIFY: That the attached plot of I-15/BAYSHORE ROAD INDUSTRIAL PARK is a true and correct representation of the hereindescribed land according to a recent survey made and platted under my direction and supervision and that the survey data complies with all the requirements of Chapter 177, Florida standards.

DE LOZIER ENGINEERING COMPANY, INC.

Watro a faite of Welter A. Poxton, Jr.
Registered Land Surveyor No. 2654
State of Florida

Date August 31,1981



I-75/BAYSHORE ROAD PLAT BOOK 34 PAGE 43 SHEET 2 OF 4 A SUBDIVISION OF PORTIONS OF SECTIONS 20 & 21, TOWNSHIP 43 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA 100 50 0 100 200 300 DE LOZIER ENGINEERING COMPANY, Inc. FORT MYERS N 89°55'37"W MATCH LINE - SEE SHEET 3 OF 4 35 LOCATION SKETCH 89°55 37" W 41 SURVEYOR'S NOTES 302.91 34 Denotes Permanent Reference Monument Denotes Permanent Control Point Bearings shown are based on the Florida Department of Transportation plans for Bayshore Road. Unless shown otherwise, e 6 foot wide easement along each side lot line and a 10 foot wide easement along the front and rear lines of each lot are hereby reserved for the installation and maintenance of public utilities and drainage facilities. 33 120' DRAINAGE EASEMENT 2 ZO' DRAINAGE EASEMENT 32 5 9 73.93 1/2 SEC LINE -14 COR WITNESS COR (TYP) 30 CURVE DATA 31 N 89° 49' 43"E HOWELLS DIVISTON

