

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

WHEREAS, an application was filed by the property owner, Coconut Point Developers, LLC, to amend 110± acres of the Mixed Use Planned Development (MPD) zoning, in reference to Coconut Point; and,

WHEREAS, a public hearing before the Lee County Zoning Hearing Examiner was advertised and held on June 21, 2012; and

WHEREAS, the Hearing Examiner gave full consideration to the evidence in the record for Case #DCI2012-00017 and recommended approval with conditions of the request; and

WHEREAS, a second public hearing was advertised and held on November 5, 2012 before the Lee County Board of Commissioners; and,

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

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

SECTION A. REQUEST

The applicant filed a request to amend 110± acres of the MPD to allow live outdoor entertainment in association with restaurants with consumption on premises and outdoor seating located in Development Areas 2A and 2B. The property is located in the Urban Community Future Land Use Category and is legally described in attached Exhibit A. The request is APPROVED, SUBJECT TO the conditions specified in Section B below.

SECTION B. CONDITIONS:

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

1. Development and use of the property within the Coconut Point development must be consistent with the original zoning approval adopted in Zoning Resolution Z-02-009, as amended.

2. The approved Schedule of Uses is hereby amended as follows for Restaurants with approved Consumption on Premises with outdoor seating:

Permitted uses within Tracts 2A and Tract 2B:
(Regional Mall Parcel)

COP - live outdoor entertainment, solely in conjunction with a Restaurant (not Restaurant, fast food) with approved Consumption on Premises and outdoor seating, subject to Condition 26.

3. Condition 26 is hereby added, as follows:

Live Outdoor Entertainment

Live Outdoor Entertainment is an accessory use to the approved Consumption on Premises (COP) use, and is subject to the following:

- a. This accessory use may only be located within the identified area of the COP in association with the outdoor seating for a restaurant located within Tract SC-1, Coconut Point Area 2, according to the plat thereof as recorded in Instrument No. 2006000409925 of the Public Records of Lee County, Florida.
- b. The following restaurants with existing COPs and outdoor seating are hereby allowed to have Live Outdoor Entertainment. Upon approval by the Board of County Commissioners, Development Review Staff will issue administrative amendments for each of these COPs, revising their conditions and limitations to conform to those being imposed herein.

COP2006-00035, amended by COP2006-00035A, Ted's Montana Grill
COP2006-00150, amended by COP2006-00150B, Blue Water Bistro
COP2006-00169, amended by COP2006-00169A, The Grape
COP2006-00176, amended by COP2006-00176A, California Pizza Kitchen
COP2007-00065, Grand Cafe
COP2007-00093, Moe's Southwest Grill
COP2007-00134, Hurricane's Grill and Wings
COP2007-00194, amended by COP2007-00194A, Pagelli's Cucina
COP2008-00007, Hemingway's Island Grill
COP2008-00103, Tony Sacco's Coal Oven Pizza
COP2008-00152, Stir Crazy
COP2012-00060, Chuey's Tacos

- c. Prior to establishing the use of any other new Live Outdoor Entertainment, each Restaurant seeking the use must obtain an Administrative Amendment of the approved planned development which can be combined with a COP with outdoor seating. As part of this application, the COP Applicant must include a copy of a Noise Abatement Plan, and a Site Plan showing the proposed location of the use.

- d. Within 30 days of the approval of this amendment of the planned development by the Board of County Commissioners, the property owner (currently identified as Coconut Point Developers LLC) must send a letter to every owner of record within 2,500 feet of the boundaries of the regional mall parcel. The letter must include a phone number for people to call to register a complaint in the event they are disturbed by outdoor entertainment at the mall. If the contact information is changed in the future, a new letter must be sent out in accordance with this condition. A copy of said letter will be provided to the Director of Lee County Department of Community Development for inclusion in the official zoning file for this case.
 - e. The Noise Abatement Plan must, at a minimum, address hours of operation and methods by which noise will be limited to a conversational level at all regional mall boundary lines.
 - f. All outdoor entertainment plans will require the activity to cease by 11:30 PM unless the Restaurant applies for and receives permission to operate later through the County public hearing process amending the COP approval, or unless the existing COP – with outdoor entertainment - has already received a later closing time in the approval of that COP.
4. Temporary Use Permits, as provided for in §34-210, are not prohibited by these conditions.
 5. Approval of this rezoning does not guarantee local development order approval. Future development order approvals must satisfy the requirements of the Lee Plan Planning Communities Map and Acreage Allocations Table, Map 16 and Table 1(b).

SECTION C. EXHIBITS:

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

Exhibit A: Legal description of the property

SECTION D. FINDINGS AND CONCLUSIONS:

1. The applicant has proven entitlement to the rezoning by demonstrating compliance with the Lee Plan, the LDC, and any other applicable code or regulation.
2. The rezoning, as approved:
 - a. meets or exceeds all performance and locational standards set forth for the potential uses allowed by the request;
 - b. is consistent with the densities, intensities and general uses set forth in the Lee Plan;
 - c. is compatible with existing or planned uses in the surrounding area;

- d. will not place an undue burden upon existing transportation or planned infrastructure facilities and will be served by streets with the capacity to carry traffic generated by the development; and
 - e. will not adversely affect environmentally critical areas or natural resources.
3. The rezoning satisfies the following criteria:
- a. the proposed use or mix of uses is appropriate at the subject location;
 - b. the recommended conditions to the concept plan and other applicable regulations provide sufficient safeguard to the public interest; and
 - c. the recommended conditions are reasonably related to the impacts on the public interest created by or expected from the proposed development.
4. Urban services, as defined in the Lee Plan, are, or will be, available and adequate to serve the proposed land use.

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

John Manning	Aye
Brian Bigelow	Absent
Ray Judah	Aye
Tammara Hall	Aye
Frank Mann	Aye

DULY PASSED AND ADOPTED this 5th day of November, 2012.

ATTEST:
CHARLIE GREEN, CLERK

BY: John Townsend
County Clerk



BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: John Manning
John Manning, Chair

Approved as to form by:

John J. Fredyma
John J. Fredyma
Assistant County Attorney
County Attorney's Office

LEGAL DESCRIPTION

Tracts SC-1, SC-2, SC-3, OS-1, L-1, L-2, L-3, L-4, and L-5, and Lot 7, Coconut Point Area 2,
according to the plat thereof as recorded in Instrument No. 2006000409925 of the Public
Records of Lee County, Florida.

DC12012-00017

4.6.12

COMMUNITY DEVELOPMENT

4.6.12
APPROVED
LEGAL

MA

MSR. # 2006-00499-2.5
SHEET 1 of 12

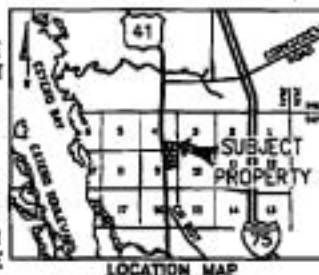
A SUBDIVISION LOCATED IN A PORTION OF SECTIONS 3, 4, 9 & 10, TOWNSHIP 47 SOUTH, RANGE 25 EAST,
LEE COUNTY, FLORIDA

NOTICE-

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LANDS DESCRIBED IN THIS PLAT MAY BE SUBDIVIDED BY THE DEVELOPER WITHOUT THE ROADS, DRAINAGE, WATER AND SEWER FACILITIES BEING ACCEPTED FOR MAINTENANCE BY LEE COUNTY. ANY PURCHASER OF A LOT IN THIS SUBDIVISION IS ADVISED TO DETERMINE WHETHER THE LOT MAY BE SUBJECT TO ASSESSMENT OR CALLED UPON TO BEAR A PORTION OF OR ALL OF THE EXPENSE OF CONSTRUCTION, MAINTENANCE OR IMPROVEMENT OF ROADS, DRAINAGE, WATER AND SEWER FACILITIES.



THIS PLAN, AS REPRODUCED IN ITS GRAPHIC FORM, IS THE OFFICIAL
SUPERIOR OF THE BUREAU OF LANDS DEPARTMENT OF THE INTERIOR AND
NO OTHER REPRODUCED OR OTHER FORM OF THE PLAN, THERE WAS
IN ADDITIONAL REPRODUCED THAT ARE NOT REPRODUCED ON THIS
PLAN THAT MAY BE FOUND IN THE PUBLIC RECORDS OF THIS
COUNTY.

COUNTY APPROVALS:

THE FOLLOWS A SUMMARY OF THE RESEARCH BY THE STATE OF TEXAS, CONDUCTED

[Signature] for Mr. [Signature]
Mr. [Signature]
Mr. [Signature]
 [Signature] for Mr. [Signature]
Mr. [Signature]
Mr. [Signature]
 [Signature] for Mr. [Signature]
Mr. [Signature]
Mr. [Signature]

CLERK OF COURT CERTIFICATION:

Signature

REVIEW BY COUNTY PROFESSIONAL
SURVEYOR & MAPPER:

RECEIVED BY THE SECRETARY OF THE DEPARTMENT OF THE ARMY
WASHINGTON, D.C. 20315

SURVEYOR'S CERTIFICATION

1. The first step in the process is to identify the problem or issue that needs to be addressed. This involves gathering information and understanding the context of the problem.

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THIS INSTRUMENT WAS PREPARED BY
JERRY L. RITTMACHER, P.S.M. #6130



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SECRET

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ACKNOWLEDGEMENT

NAME OF COMPANY WILLIAMS
 STREET 1000
 CITY NEW YORK
 STATE NY
 ZIP 10018
 PHONE 212 692 1234
 FAX 212 692 1234
 E-MAIL WILLIAMS@WILLIAMS.COM
 TITLE SALES
 NAME OF COMPANY WILLIAMS
 STREET 1000
 CITY NEW YORK
 STATE NY
 ZIP 10018
 PHONE 212 692 1234
 FAX 212 692 1234
 E-MAIL WILLIAMS@WILLIAMS.COM
 TITLE SALES

Spencer's Foreigners - Value

John L. Linder, President
and partner
2275 24th St.
San Francisco, Calif.

ACKNOWLEDGEMENT

NAME OF VESSEL _____
 NUMBER OF DECKS _____
 THE FOLLOWING INFORMATION HAS BEEN OBTAINED FROM THE _____
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ACKNOWLEDGEMENT

NAME OF _____
 COUNTY OF _____
 WE HEREBY CERTIFY THAT THE ABOVE-NAMED PERSON IS THE
 AT _____
 OF THE _____
 OF THE _____
 OF THE _____

[Signature]

Joseph C. Guin
647072 9/24/72

ACKNOWLEDGEMENT

[illegible]

Donald E. Hunt

Shirley E. Hark
and others

40 51/13
10/1/19 10/1/19

EXHIBIT A
(Page 2 of 13)

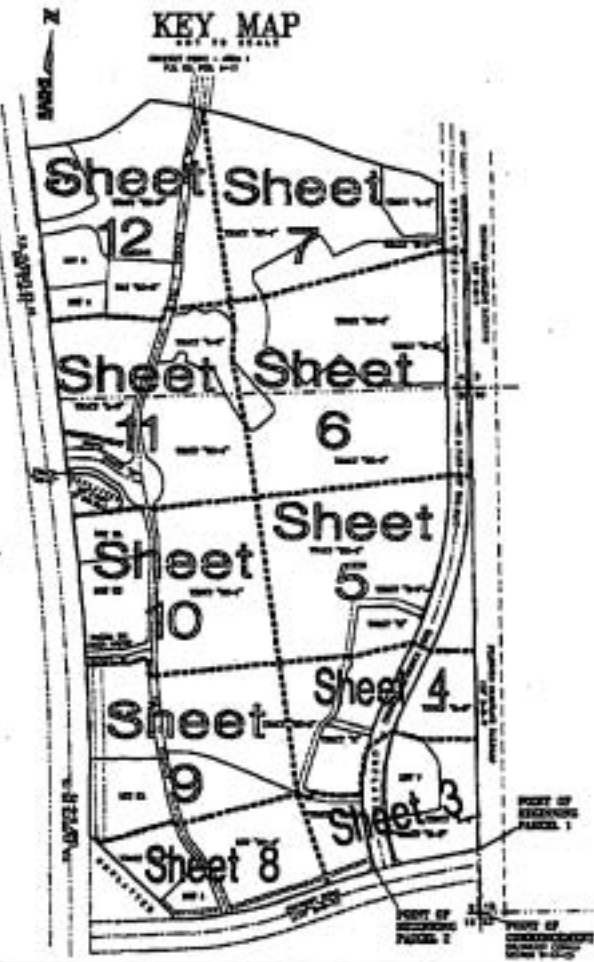
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SHEET 2 of 12

A SUBDIVISION LOCATED IN A PORTION OF SECTIONS 3, 4, 9 & 10, TOWNSHIP 47 SOUTH, RANGE 25 EAST,
LEE COUNTY, FLORIDA

LEGAL DESCRIPTION

3. INDEX OF PLANS LOCATED IN A. PERTINENT TO SUBJECTS 1, 4, 5 AND 24, VARIETY OF BIRTH, NAME OF DEED, 625 GARDEN PLAZA, NEW YORK, NEW YORK, INCLUDING ALL PLANS.

KEY MAP



AREA TABLE

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NOTES

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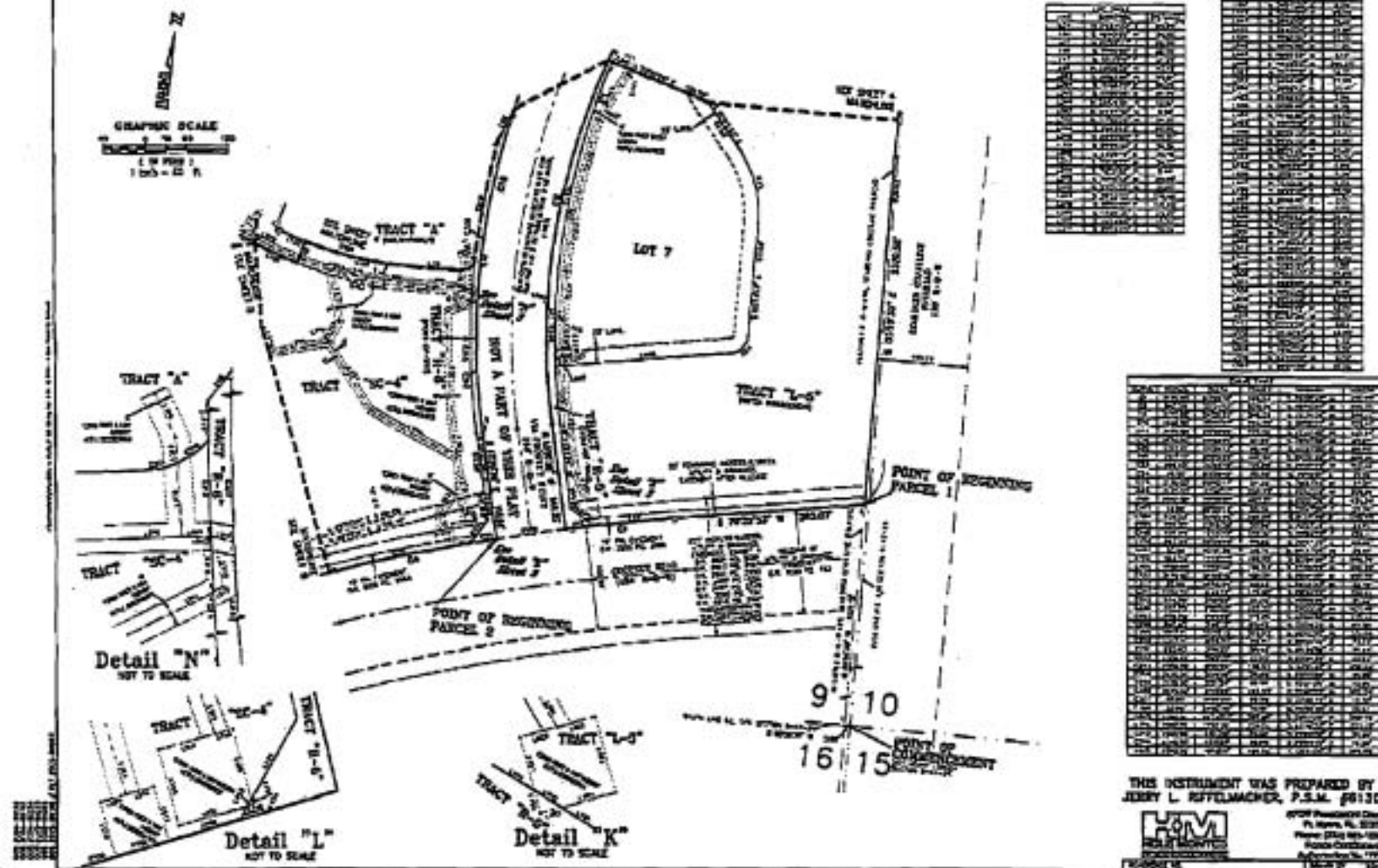
HAM
HOMELAND SECURITY

ICOP Headquarters Corp.
P.O. Box 1000, Ft. Myers, FL 33901
Phone: (813) 838-0200
Florida Department of Transportation

COCONUT POINT - AREA 2

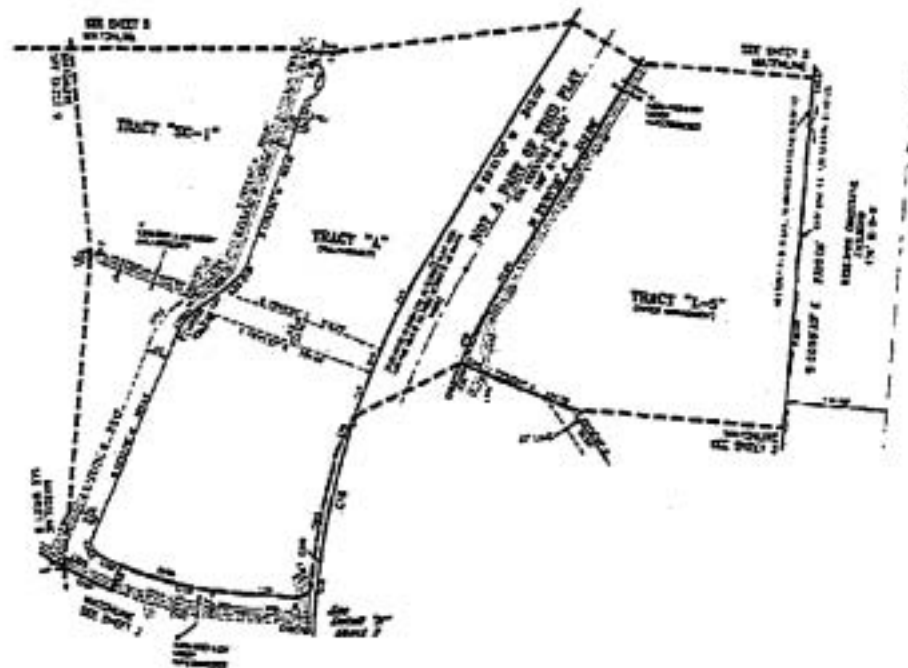
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LEE COUNTY, FLORIDA

DISTR. # 2004-00240-97.25
PAGE 3 of 12



DISTR. # 2000002169725
 SHEET 4 of 12

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LEE COUNTY, FLORIDA

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1007 Franklin Ave.
 Ft. Myers, FL 33901
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 Florida Department of
 Transportation 88-1772

COCONUT POINT - AREA 2

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LEE COUNTY, FLORIDA

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SHEET 9 of 12

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21 West St., 2010
P.O. Box 100
Palm Beach, FL 33480

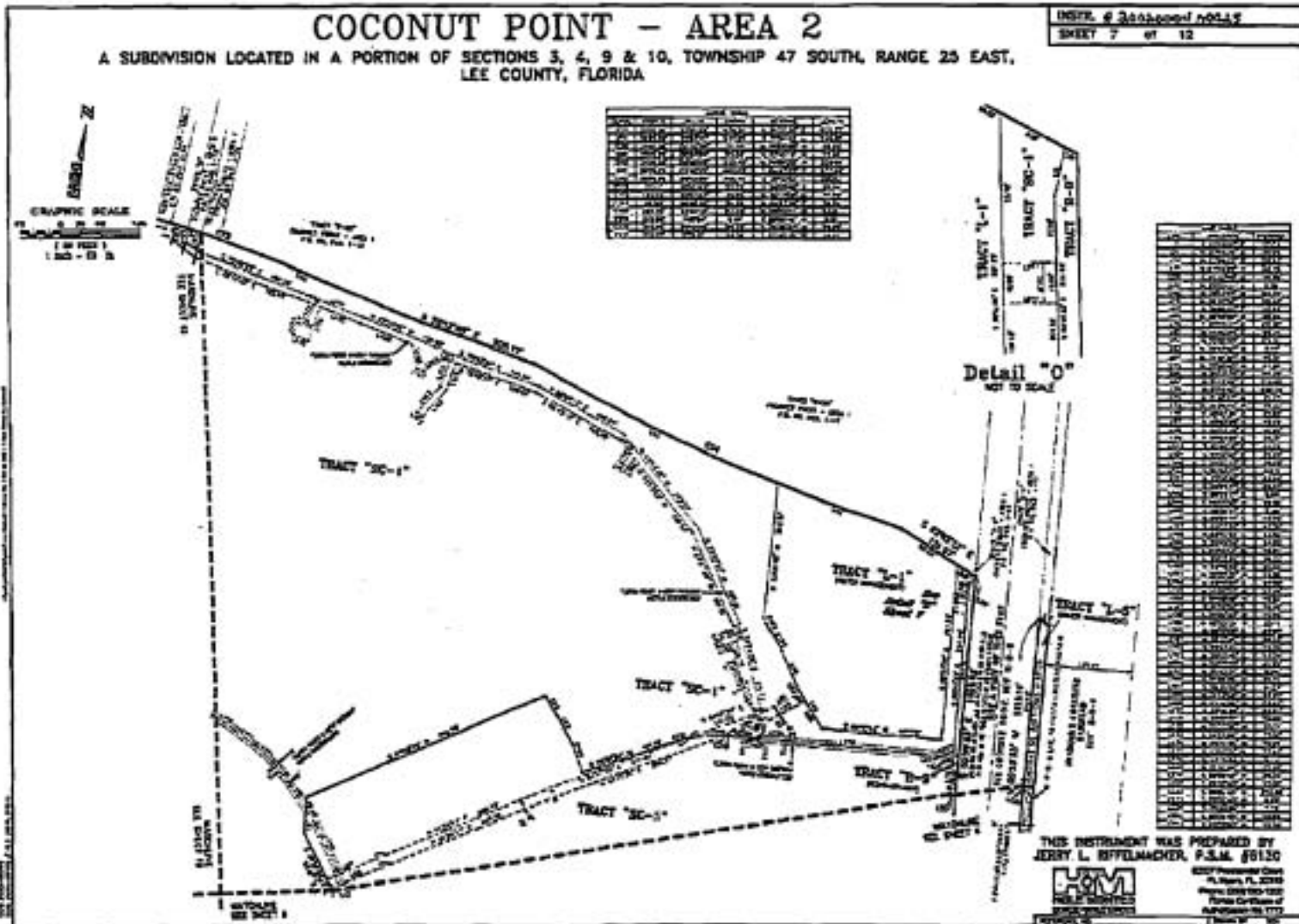


EXHIBIT A
(Page 8 of 13)

DISTR. # 204-000102235

A SUBDIVISION LOCATED IN A PORTION OF SECTIONS 3, 4, 9 & 10, TOWNSHIP 47 SOUTH, RANGE 25 EAST,
LEE COUNTY, FLORIDA

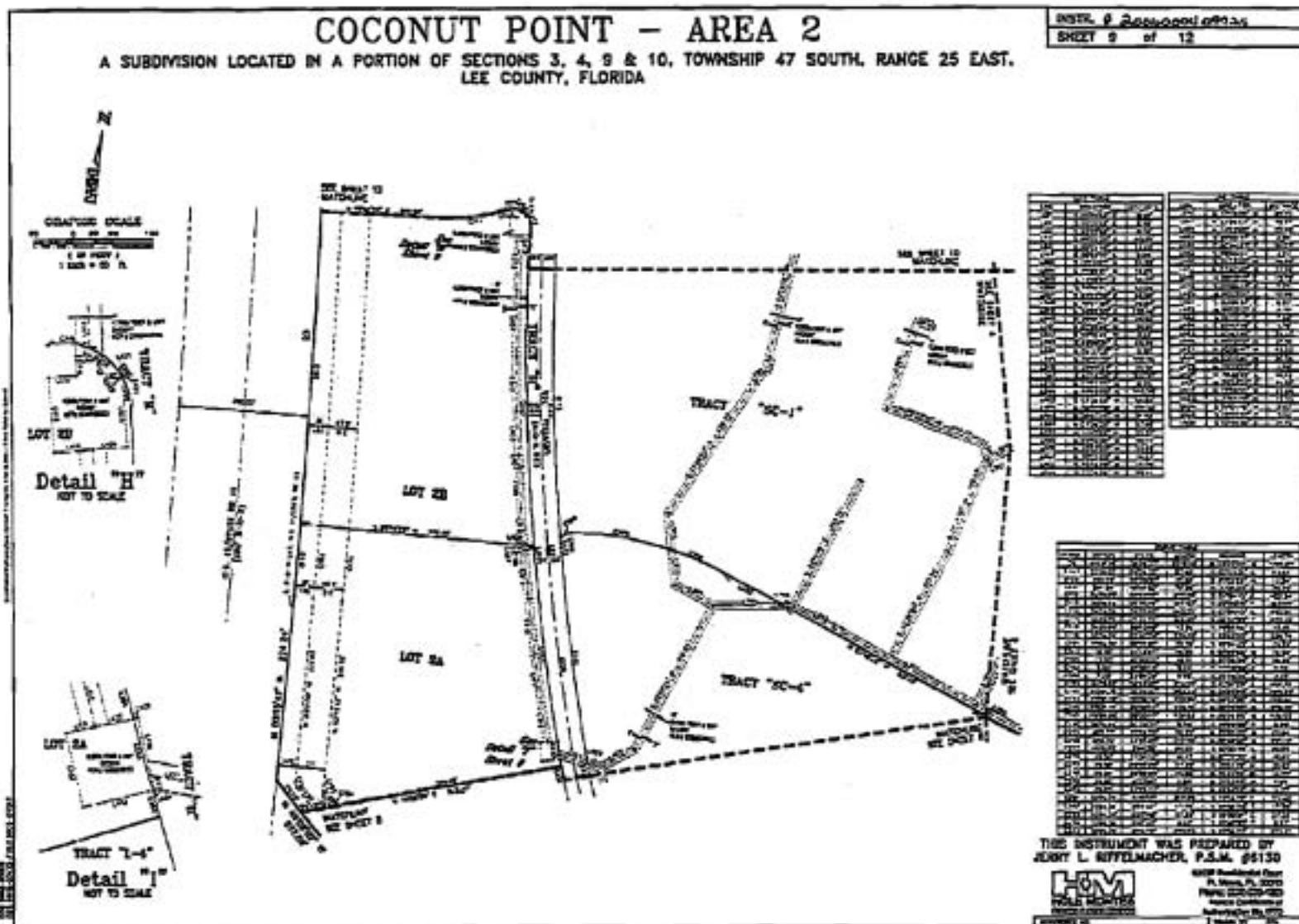
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THIS INSTRUMENT WAS PREPARED BY
JERRY L. RUFFELMACHER, P.S.M. #6130



U.S. District Court
for the District of Columbia
Case No. 03-1000
Filed 03/10/03
Page 1 of 1



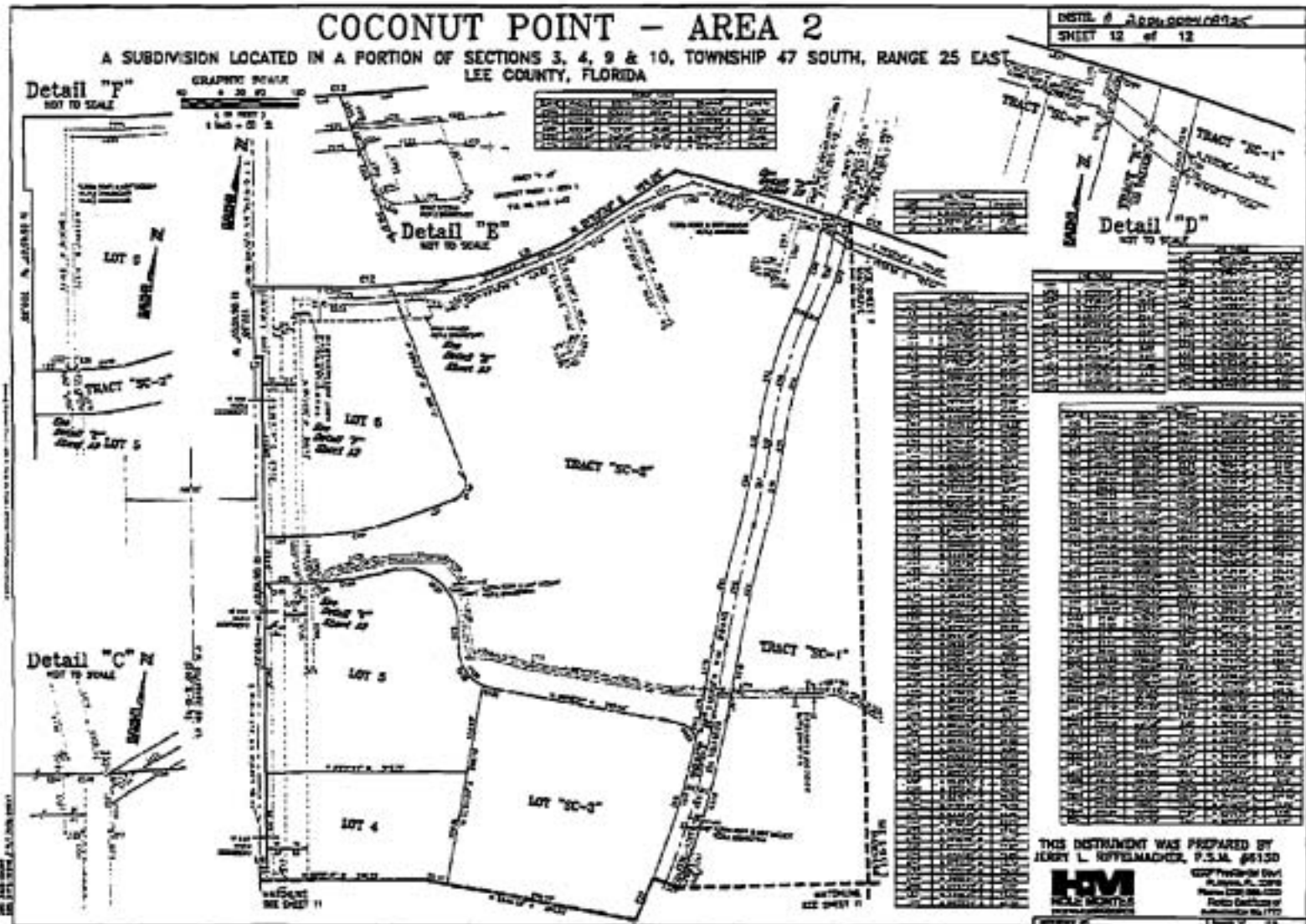


EXHIBIT A
(Page 13 of 13)