# Exhibit B

RESOLUTION NUMBER Z-04-062

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

WHEREAS, KB Homes filed an application on behalf of the property owners, Kim Venditto, Gloria McEwan, Sharon McGonnell, Robert Curtis, Dawn Maguire, James McGonnell, Todd McGonnell, Gabriel Curtis, Kris Irey, Diana McGonnell and Brian McGonnell, to rezone 57.53± acres from the Agricultural (AG-2) zoning district to the Residential Planned Development (RPD), in reference to Vistanna RPD; and,

WHEREAS, a public hearing was advertised and held on September 22, 2004, with the record held open for written submissions until September 29, 2004, before the Lee County Zoning Hearing Examiner, who gave full consideration to the evidence in the record for Case #DCI2004-00028; and

WHEREAS, a second public hearing was advertised and held on November 1, 2004, before the Lee County Board of Commissioners, who gave full and complete consideration to the recommendations of the staff, the Hearing Examiner, the documents on record and the testimony of all interested persons.

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

SECTION A. REQUEST

The applicant filed a request to rezone 57.53± acres from the AG-2 zoning district to the RPD zoning district to permit a maximum of 296 dwelling units (two-family attached) with a maximum building height of 35 feet/ three stories. Development blasting is not being requested. The property is located in the Central Urban Future Land Use Category and is legally described in attached Exhibit A. The request is APPROVED, SUBJECT TO the conditions and deviations specified in Sections B and C below.

SECTION B. CONDITIONS:

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

1. Development must be consistent with the one-page Master Concept Plan (MCP) entitled "MASTER CONCEPT PLAN, VISTANA," dated 4-28-04 and stamped "Received Nov 10 2004 Permit Counter," except as modified by the conditions below.

   This development must comply with all requirements of the Lee County LDC at time of local development order approval, except as may be granted by deviation as part of this planned development. If changes to the MCP are subsequently pursued, appropriate approvals will be necessary.

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

a. Schedule of Uses

Accessory Uses and Structures, in compliance with the LDC
Administrative Offices - Limited to the Recreation (Rec.) Areas as located on the approved MCP
Clubhouse - Private
Maximum 2,000-square-foot building
Limited to one within the Recreation (Rec.) Area as located on the approved MCP
Dwelling Units - Two-Family attached
296 Maximum total dwelling units
Entrance gates and Gatehouse - in compliance with §34-1748
Essential Services
Essential Service Facilities - Group I Only
Group II by Special Exception (Public Hearing) only
Excavation, Water Retention - No Blasting
As shown on the approved MCP
Removal of excavated material is not permitted off-site
Fences, Walls, per §34-1741
Home Occupation, per §34-1741 *et seq.* - No Outside Help
Models: per §34-1951 *et seq.* - 4 units maximum
Model Display Center
Model Home
Model Unit
Also see Conditions below
Parking Lot, Accessory
Real Estate Sales Office - (including Temporary Sales Trailer)
See Conditions below
Recreation Facilities, Personal, Private, On-Site - See Conditions below
Signs, in accordance with Chapter 30
Temporary Uses

b. Site Development Regulations

TWO-FAMILY ATTACHED

Minimum Lot Areas and Dimensions

| | |
|---|---|
| Lot Size: | 4,200 square feet |
| Lot Width: | 35 feet |
| Lot Depth: | 120 |

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Minimum Setbacks

| | |
|---|---|
| Street | 25 feet public/20 feet private |
| Side | Zero/5 feet * |
| Rear | 20 feet |
| Water body | 25 feet |
| Building Separation | 10 feet |
| Accessory | Per §§34-1171 & 34-2194 |
| Maximum Height: | Three stories /35 feet |
| Maximum Lot Coverage: | 45.5 percent |

* No side setback is required from the common lot line for two-family attached.

ALL OTHER STRUCTURES - (INCLUDING CLUBHOUSE)

Minimum Lot Areas and Dimensions

| | |
|---|---|
| Lot Size: | N/A |
| Lot Width: | N/A |
| Lot Depth: | N/A |

Minimum Setbacks

| | |
|---|---|
| Street | 25 feet public/20 feet private |
| Side | 10 feet |
| Rear | 20 feet |
| Water body | 25 feet |
| Accessory | Per §§34-1171 & 34-2194 |
| Maximum Height: | three stories/35 feet |
| Maximum Lot Coverage: | 45 percent |

3. No development blasting is permitted as part of this project unless approved at a subsequent public hearing as an amendment to the planned development.

4. Agriculture is not a permitted use within this Planned Development.

5. Model homes:

   a. The number of model homes or model units will be limited to no more than four within the development.

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b. Any model homes or units must be developed within the area identified as "Models" on the approved MCP.

c. Models cannot be of the same floor plan and each must be a separate different design.

d. Model Display Centers or Model Display Groups must be shown on the development order plans. Parking areas for these uses will be buffered with a single row hedge and tree canopy for parking areas per the LDC.

e. Hours of operation are limited to Monday through Sunday 8:00 a.m. through 8:00 p.m.

6. Real Estate Sales/Temporary Sales Trailer:

a. Real estate sales are limited to the temporary sales trailer, models, and recreation (rec.) area as located on the approved MCP.

b. The temporary sales trailer limited to 3,000 square feet.

c. The temporary sales trailer is limited for use prior to construction of any model units.

d. Real estate sales will be limited to the sale of lots or units within the development only.

e. Hours of operation are limited to Monday through Sunday, 8:00 a.m. through 8:00 p.m.

7. Recreational facilities, a clubhouse and a "tot lot" may be developed within the "Recreation Area" located, as depicted on the MCP, at the entrance to the development.

8. Approval of this zoning request does not address mitigation of the project's vehicular or pedestrian traffic impacts. Additional conditions consistent with the Lee County LDC may be required to obtain a local development order.

9. Approval of this rezoning does not guarantee local development order approval. Future development order approvals must satisfy the requirements of the Lee Plan Planning Communities Map and Acreage Allocation Table, Map 16 and Table 1(b), be reviewed for, and found consistent with, the retail commercial standards for site area, including range of gross floor area, location, tenant mix and general function, as well as all other Lee Plan provisions.

10. Accessory uses must be located on the same tract, parcel or outparcel where a principal use is located. Accessory uses must be incidental and subordinate to the principal use of the tract, parcel or outparcel.

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11. No development order or permitting (including land clearing) will be issued by Lee County without the vacation, release, or relocation of easements shown on the approved MCP.

    Written documentation of compliance with this condition must be submitted to the County prior to development order approval or permitting (including land clearing).

12. A Type "D" buffer must be planted along the length of Beth Stacey Boulevard in accordance with the approved MCP.

13. All required buffers must utilize 100 percent all native vegetation.

14. The lake shorelines must be sinuous at time of local development order.

15. As a condition for 5-foot side setbacks for residential construction, prior to the issuance of a Certificate of Occupancy for residential construction, each home site must be inspected by a civil engineer who must certify to the County that the site is graded in accordance with the approved site grading plan on the Development Order. The Division of Development Services will be responsible for the enforcement of this condition.

16. Prior to local development order approval, the development order must delineate 23 acres of open space of which 9.47 acres must be preservation areas in substantial compliance with the approved MCP. All Heritage Trees on the property must be flagged and numbered onsite for the Division of Environmental Sciences staff field verification. The number of Heritage Trees to be preserved and impacted must be included on the development order plans, with the replacement of any of the impacted heritage trees with 20-foot-tall trees of the same species within the preserve area.

SECTION C. DEVIATIONS:

1. Deviation (1) seeks relief from the §10-291(3) requirement of residential development of more than five (5) acres to provide more than one means of ingress or egress, to allow a 20-foot-wide stabilized access for the second means of ingress or egress. This deviation is APPROVED, SUBJECT TO the following conditions:

    A. No trees in excess of 25 feet in height at maturity may be planted within the access point area per the Expanded Entrance Plan stamped "Received Sep 29 2004 Zoning" and attached as Exhibit D.

    B. No walls or fences may be constructed within the access point area per the Expanded Entrance Plan stamped "Received Sep 29 2004 Zoning" and attached as Exhibit D.

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C. All utilities along the entrance from Beth Stacy Boulevard, as shown on the Expanded Entrance Plan stamped "Received Sep 29 2004 Zoning" and attached as Exhibit D, must be placed underground.

D. The MCP and local development order must depict a 70-foot-wide divided entrance that includes a 14-foot-wide median with two 14-foot-wide lanes on both sides of the median for ingress and egress.

E. If the divided entrance is ever gated, the gate must comply with all applicable regulations with respect to required equipment for an emergency override mechanism at the time of installation. Additionally, if an emergency necessitates the breaking of an entrance gate, the cost of repairing the gate and the emergency vehicle (if applicable) will be the responsibility of the owner or the operator of the gate.

2. Deviation (2) seeks relief from the §10-285(a) requirement of a connection separation of 660 feet for an arterial road, to allow for a connection separation of 639± feet for an arterial road. This deviation is APPROVED.

SECTION D. EXHIBITS AND STRAP NUMBER:

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

Exhibit A: Legal description of the property
Exhibit B: Zoning Map (with the subject parcel indicated)
Exhibit C: The Master Concept Plan
Exhibit D: Expanded Entrance Plan for Vistana RPD

The applicant has indicated that the STRAP numbers for the subject property are: 06-45-27-00-00001.004A, 06-45-27-00-00006.0080 & 06-45-27-00-00006.0090

SECTION E. FINDINGS AND CONCLUSIONS:

1. The applicant has proven entitlement to the rezoning by demonstrating compliance with the Lee Plan, the LDC, and any other applicable code or regulation.

2. The rezoning, as approved:

   a. meets or exceeds all performance and locational standards set forth for the potential uses allowed by the request; and

   b. is consistent with the densities, intensities and general uses set forth in the Lee Plan; and

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c. is compatible with existing or planned uses in the surrounding area; and

d. will not place an undue burden upon existing transportation or planned infrastructure facilities and will be served by streets with the capacity to carry traffic generated by the development; and

e. will not adversely affect environmentally critical areas or natural resources.

3. The rezoning satisfies the following criteria:

a. the proposed use or mix of uses is appropriate at the subject location; and

b. the recommended conditions to the concept plan and other applicable regulations provide sufficient safeguard to the public interest; and

c. the recommended conditions are reasonably related to the impacts on the public interest created by or expected from the proposed development.

4. Urban services, as defined in the Lee Plan, are, or will be, available and adequate to serve the proposed land use.

5. The approved deviations, as conditioned, enhance achievement of the planned development objectives, and preserve and promote the general intent of LDC Chapter 34, to protect the public health, safety and welfare.

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

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

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DULY PASSED AND ADOPTED this 1st day of November 2004.

ATTEST:
CHARLIE GREEN, CLERK

BY: _____
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: _____
Chairman

Approved as to form by:

_____
County Attorney's Office

BOARD OF COUNTY COMMISSIONERS SEAL LEE COUNTY FLORIDA

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**Banks Engineering, Inc.**
Professional Engineers, Planners & Land Surveyors
FORT MYERS ♦ NAPLES ♦ SARASOTA

DESCRIPTION
OF A
PARCEL OF LAND
LYING IN
SECTION 6, TOWNSHIP 45 SOUTH, RANGE 27 EAST
LEE COUNTY, FLORIDA

**(57.53 ACRE PARCEL)**

A TRACT OR PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, LYING IN SECTION 6, TOWNSHIP 45 SOUTH, RANGE 27 EAST, SAID LEE COUNTY, FLORIDA BEING FURTHER BOUND AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF THE NORTHWEST QUARTER OF SAID SECTION ; THENCE S.89°35'44"W. ALONG THE NORTH LINE OF SAID FRACTION FOR 199.40 FEET TO AN INTERSECTION WITH THE EAST RIGHT-OF-WAY LINE OF BETH STACY BOULEVARD (106 FEET WIDE) ACCORDING TO THE PLAT OF PARKWOOD IV AS RECORDED IN PLAT BOOK 28, AT PAGES 96 THROUGH 100 AND PARKWOOD V AS RECORDED IN PLAT BOOK 28, AT PAGES 101 THROUGH 105, ALL OF THE PUBLIC RECORDS OF SAID LEE COUNTY, FLORIDA; THENCE S.01°38'38"E. ALONG SAID EAST LINE FOR 327.40 FEET TO AN INTERSECTION WITH THE WESTERLY PROLONGATION OF THE NORTH LINE OF THE NORTH THREE QUARTERS, OF THE NORTHWEST QUARTER, OF THE NORTHEAST QUARTER OF SAID SECTION AND THE POINT OF BEGINNING; THENCE CONTINUE S.01°38'38"E. ALONG SAID EAST LINE FOR 1641.13 FEET TO AN INTERSECTION WITH THE WESTERLY PROLONGATION OF THE SOUTH LINE OF THE NORTH HALF OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION; THENCE N.89°19'06"E. ALONG SAID PROLONGATION AND THE SOUTH LINE OF SAID FRACTION FOR 1532.85 FEET TO THE SOUTHEAST CORNER OF SAID FRACTION AND AN INTERSECTION WITH THE EAST LINE OF THE WEST HALF OF THE NORTHEAST QUARTER OF SAID SECTION; THENCE N.01°51'37"W. ALONG SAID EAST LINE FOR 1635.52 FEET TO THE NORTHEAST CORNER OF SAID NORTH THREE QUARTERS, OF THE NORTHWEST QUARTER, OF THE NORTHEAST QUARTER; THENCE S.89°32'00"W. ALONG THE NORTH LINE OF SAID FRACTION AND THE WESTERLY PROLONGATION THEREOF FOR 1526.77 FEET TO THE POINT OF BEGINNING.

PARCEL CONTAINS 57.53 ACRES, MORE OR LESS.

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

ASSUMED NORTH BASED ON THE NORTH LINE OF THE NORTHWEST QUARTER OF SECTION 6, TOWNSHIP 45 SOUTH, RANGE 27 EAST, LEE COUNTY, FLORIDA AS BEARING S.89°35'44"W.

DESCRIPTION PREPARED 05-03-04

Richard M. Ritz

RICHARD M. RITZ
REGISTERED LAND SURVEYOR
FLORIDA CERTIFICATION NO. 4009

RECEIVED
MAY 05 2004
COMMUNITY DEVELOPMENT

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Applicant's Legal Checked
by _____ July 9, 2004

DCI2004-00028

SHEET 1 OF 2

10511 Six Mile Cypress Pkwy, Suite 101, Ft Myers, Florida 33912 • (239) 939-5490 • Fax (239) 939-2923

**EXHIBIT "A"**
**Legal Description**

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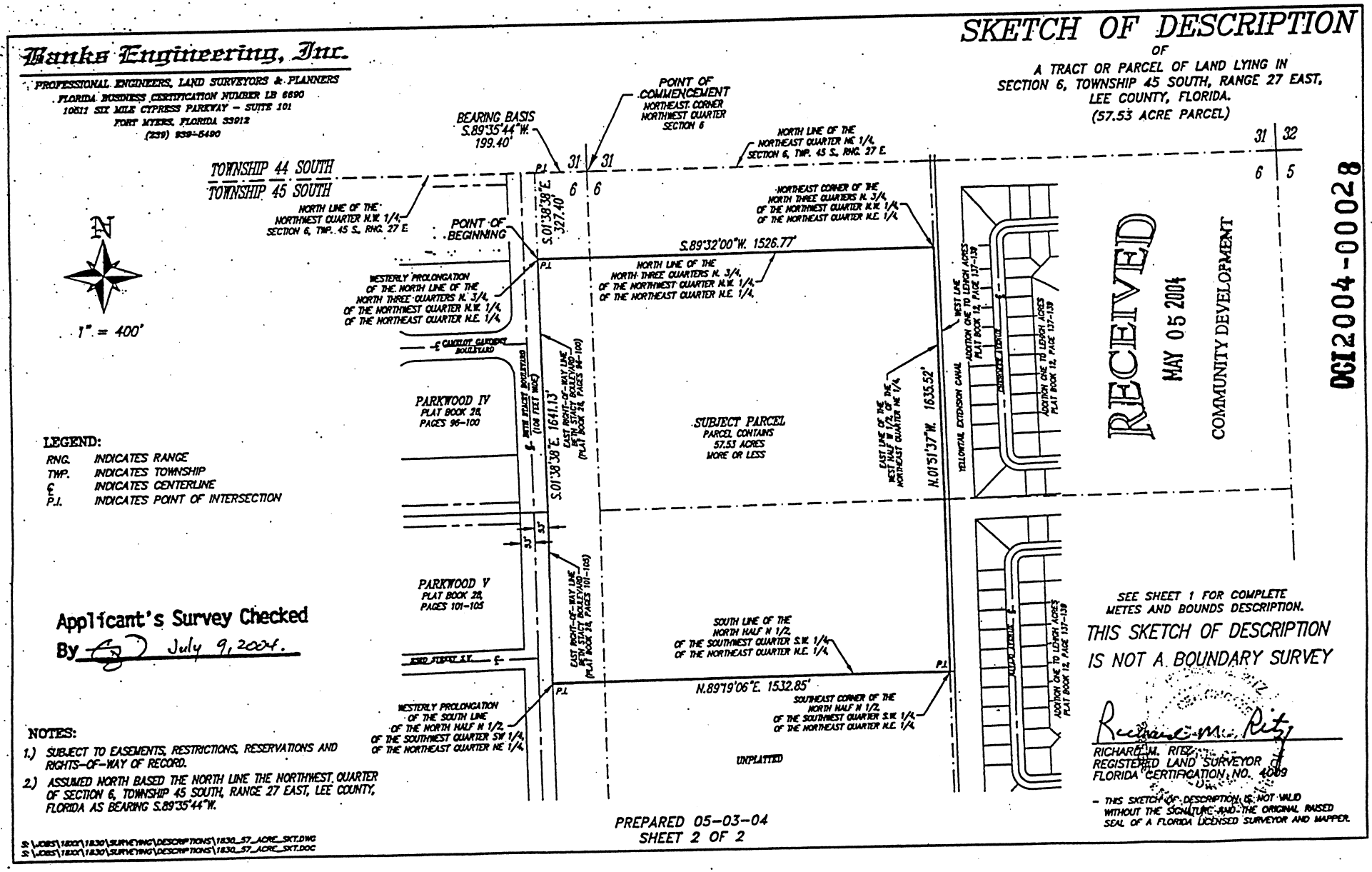


**EXHIBIT "A"**
**Legal Description**
**(Page 2 of 2)**

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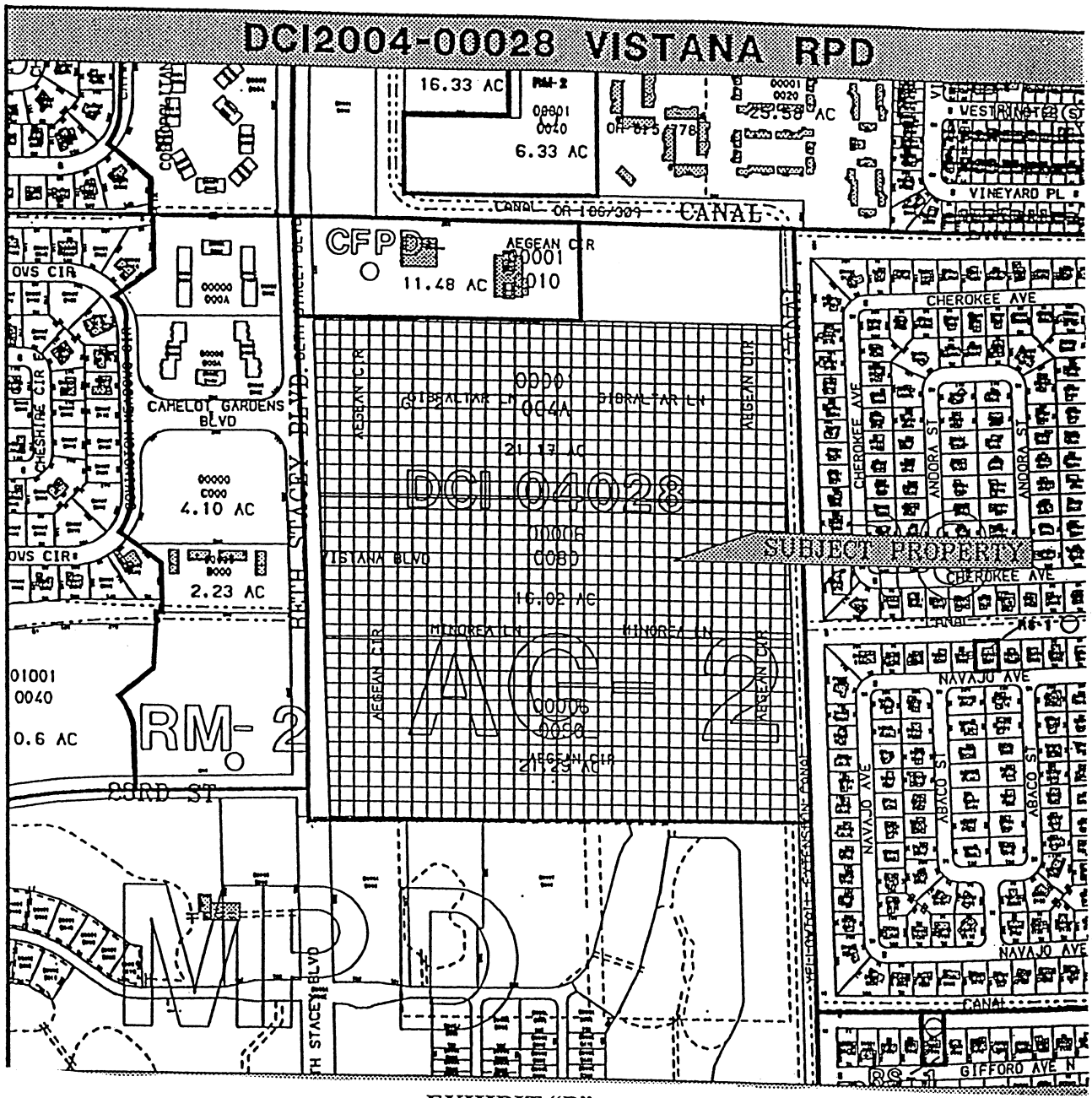
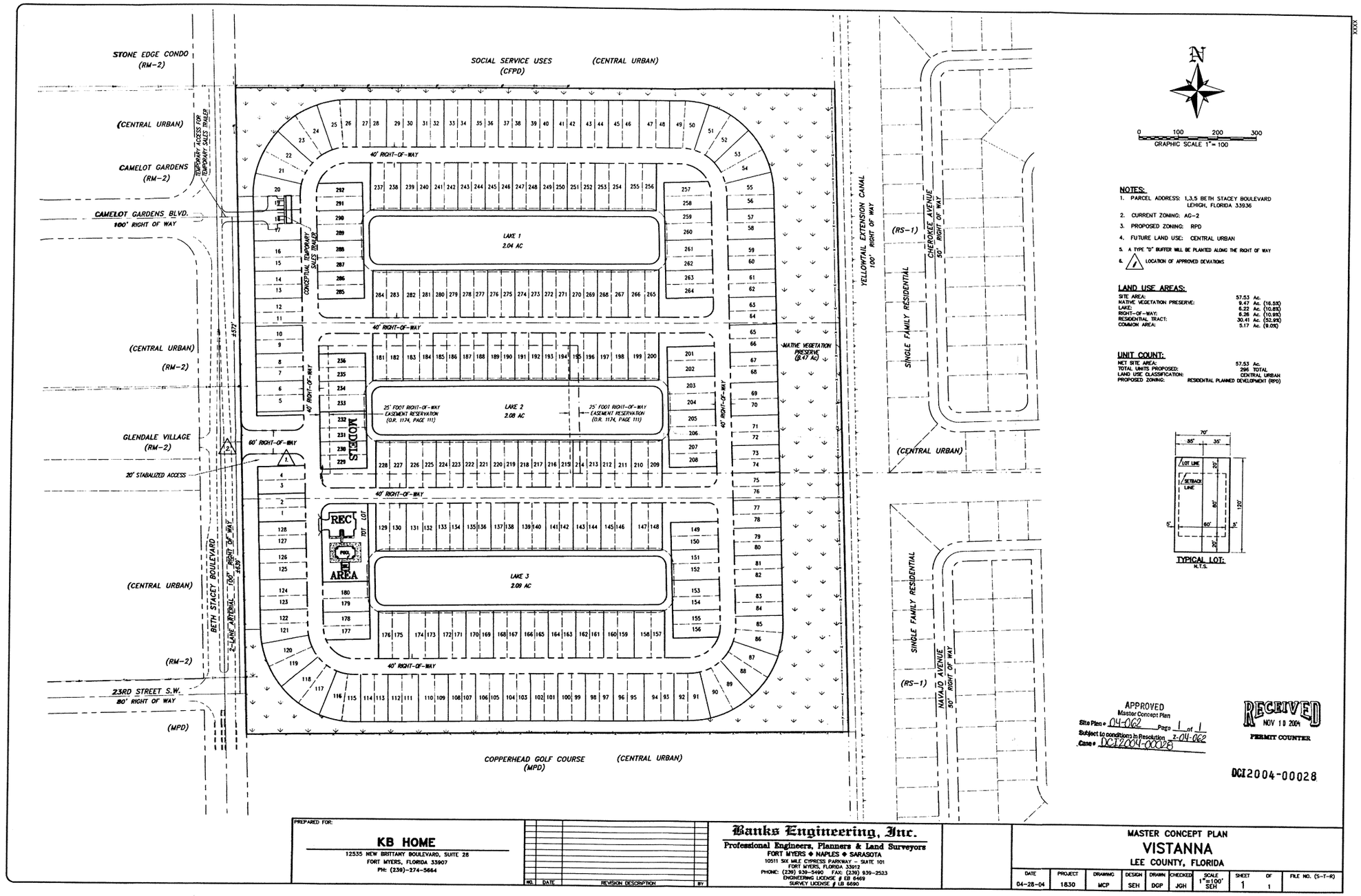



**EXHIBIT "B"**
**Zoning Map**

ADD2017-00142 Lee County ePlan

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0 100 200 300
GRAPHIC SCALE 1" = 100

**NOTES:**

1. PARCEL ADDRESS: 1,3,5 BETH STACEY BOULEVARD LEHIGH, FLORIDA 33936
2. CURRENT ZONING: AG-2
3. PROPOSED ZONING: RPD
4. FUTURE LAND USE: CENTRAL URBAN
5. A TYPE "D" BUFFER WILL BE PLANTED ALONG THE RIGHT OF WAY
6. ⚠ LOCATION OF APPROVED DEVIATIONS

**LAND USE AREAS:**

| | |
|---|---|
| SITE AREA: | 57.53 Ac. |
| NATIVE VEGETATION PRESERVE: | 9.47 Ac. (16.5%) |
| LAKE: | 6.22 Ac. (10.8%) |
| RIGHT-OF-WAY: | 6.26 Ac. (10.9%) |
| RESIDENTIAL TRACT: | 30.41 Ac. (52.9%) |
| COMMON AREA: | 5.17 Ac. (9.0%) |

**UNIT COUNT:**

| | |
|---|---|
| NET SITE AREA: | 57.53 Ac. |
| TOTAL UNITS PROPOSED: | 296 TOTAL |
| LAND USE CLASSIFICATION: | CENTRAL URBAN |
| PROPOSED ZONING: | RESIDENTIAL PLANNED DEVELOPMENT (RPD) |




TYPICAL LOT:
N.T.S.

APPROVED
Master Concept Plan
Site Plan # 04-062 Page 1 of 1
Subject to conditions in Resolution Z-04-062
Case # DCI2004-00028

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NOV 10 2004
PERMIT COUNTER

DCI2004-00028

PREPARED FOR:
**KB HOME**
12535 NEW BRITTANY BOULEVARD, SUITE 28
FORT MYERS, FLORIDA 33907
PH: (239)-274-5664

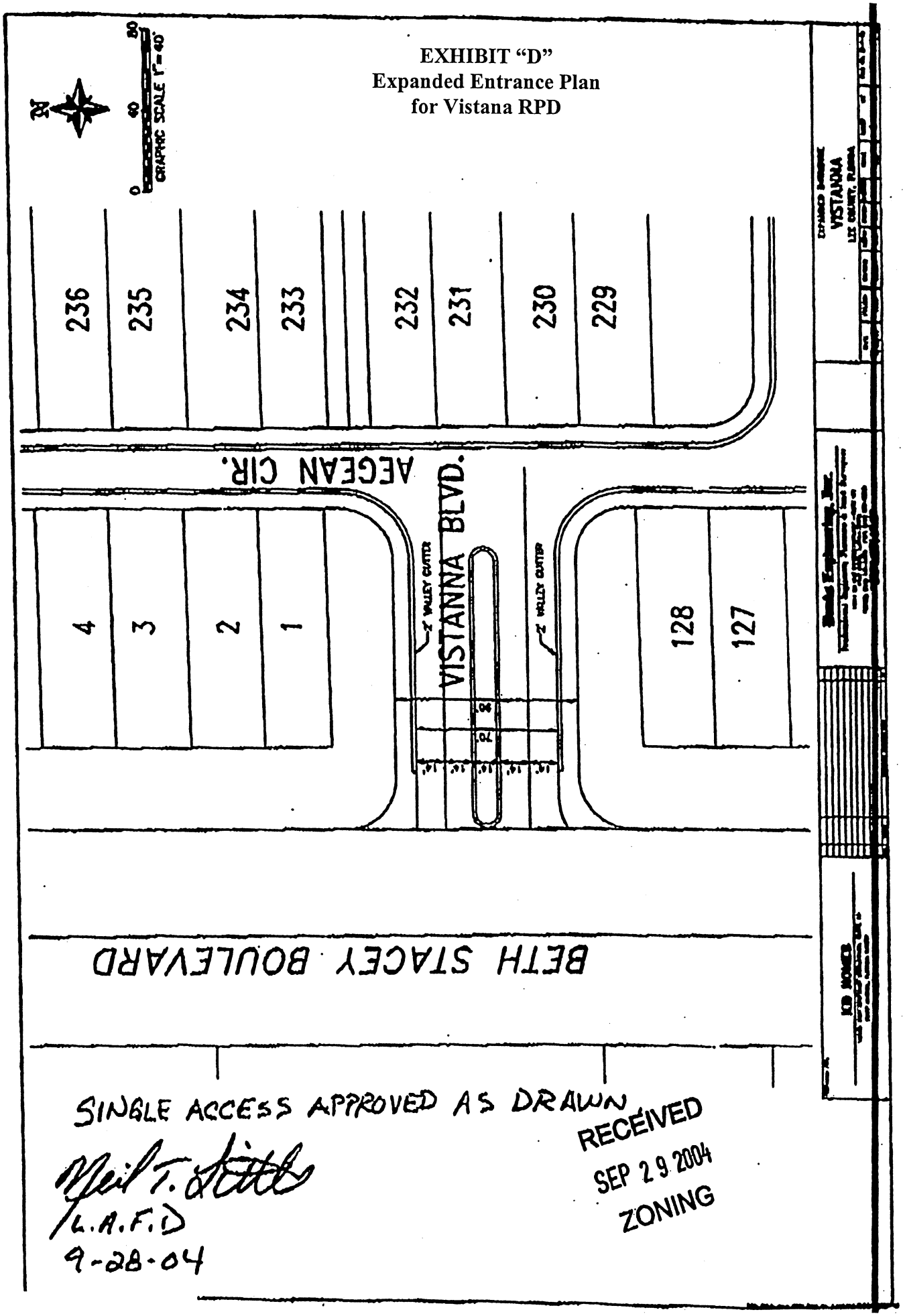
| NO. | DATE | REVISION DESCRIPTION | BY |
|---|---|---|---|

**Banks Engineering, Inc.**
Professional Engineers, Planners & Land Surveyors
FORT MYERS ◆ NAPLES ◆ SARASOTA
10511 SIX MILE CYPRESS PARKWAY – SUITE 101
FORT MYERS, FLORIDA 33912
PHONE: (239) 939-5490 FAX: (239) 939-2523
ENGINEERING LICENSE # EB 8469
SURVEY LICENSE # LB 6690

# MASTER CONCEPT PLAN
# VISTANNA
## LEE COUNTY, FLORIDA

| DATE | PROJECT | DRAWING | DESIGN | DRAWN | CHECKED | SCALE | SHEET | OF | FILE NO. (S-T-R) |
|---|---|---|---|---|---|---|---|---|---|
| 04-28-04 | 1830 | MCP | SEH | DGP | JGH | 1"=100' SEH | 1 | 1 | |

**EXHIBIT "D"**
**Expanded Entrance Plan**
**for Vistana RPD**




SINGLE ACCESS APPROVED AS DRAWN

Neil T. Little
L.A.F.D
9-28-04

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