

RESOLUTION NUMBER Z-11-020

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

WHEREAS, William Milam, filed an application on behalf of the property owner, Formosa Commerce Center, LLC., to amend the Formosa Commerce Center Industrial Planned Development (IPD), Zoning Resolution Z-05-066; and

WHEREAS, a public hearing before the Lee County Zoning Hearing Examiner, Richard A. Gescheidt, was advertised and held on September 14, 2011. At the conclusion of the hearing, the Hearing Examiner left the record open and requested Staff and the Applicant to submit written submissions to his Office on or before October 7, 2011, October 14, 2011, October 21, 2011, November 8, 2011, and November 21, 2011; and

WHEREAS, the Hearing Examiner gave full consideration to the evidence in the record for Case #DCI2011-00003 and recommended APPROVAL of the Request; and

WHEREAS, a second public hearing was advertised and held on February 6, 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 the Formosa Commerce Center Industrial Planned Development (IPD), Zoning Resolution Z-05-066, to re-configure Lots 1-10 of the Master Concept Plan (MCP), amend the schedule of uses to allow a Convenience Food and Beverage Store with self service fuel pumps as an approved use, and to amend Condition 20a. to address buffering requirements along Alico Road. No development blasting is requested. Any development must connect to public potable water and public sanitary sewer service.

The property is located in the Industrial Development 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 of this project must be consistent with the three-page Master Concept Plan (MCP) entitled "Formosa Commerce Center," prepared by Andrew Fitzgerald., date

Case No. DCI2011-00003

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stamped received NOV 17 2011, and attached hereto as Exhibit C, except as modified by the conditions below. Development must comply with all requirements of the LDC at time of local development order approval, except as may be granted by deviation as part of this planned development. If changes to the MCP are subsequently pursued, appropriate approvals will be necessary.

The terms and conditions of the original Zoning Resolution Z-05-066, Administrative Amendments ADD2006-00051(A) and ADD2006-00226 are all null and void and are superseded by this zoning action.

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

A. Schedule of Uses

All uses, including those with an asterisk, are permitted on Lots 8-17, as may be further limited below. All uses with an asterisk are permitted on Lots 1-7.

- *Accessory Uses and Structures
- *Administrative Offices
- *Agricultural Services: office/base operations
- *Agricultural Uses and Agricultural Accessory Uses - See Agricultural Condition
- *Animals: Clinic or Kennel (No outdoor runs)
- *ATM - Automatic Teller Machine
- Automobile Service Station
- Auto Repair and Service, Groups I and II
- *Bait and Tackle Shop
- *Boat Parts Store
- Boats: Boat Rental, Boat Repair and Service, Boatyard
- *Broadcast Studio, Commercial Radio and Television
- *Building Material Sales
- *Business Services, Groups I and II
- Bus Station/ Depot
- *Cleaning and Maintenance Services
- Cold Storage, Pre-Cooling, Warehouse
- *Computer and Data Processing Services
- *Consumption on Premises, in conjunction with a restaurant or night club
(See LDC §34-1264.)
- *Contractors and Builders, Groups I, II and III. Lots 1-7 limited to Groups I and II only
- *Convenience Food & Beverage Store (Lot 1 only)
- *Drive through facility for any permitted use
- *Emergency Operations Center
- *EMS, Fire or Sheriff's Station
- *Entrance Gate and Gatehouse
- *Essential Services
- *Essential Service Facilities, Groups I & II. Lots 1-7 limited to Group I only
- *Excavation, Water Retention, Excavated material may not be removed from the site

- *Factory Outlets, Point of Manufacture Only
- Farm Equipment, Sales, Storage, Rental or Service
- *Fences, Walls
- Flea Market, Open
- *Food Stores, Groups I & II. Lots 1-7 limited to Group I only
- *Gasoline Dispensing Systems, Special Government Maintenance Facility
- *Health Care Facilities, Group III
- *Laundry or Dry Cleaning, Groups I and II
- Manufacturing of
 - *Apparel Products
 - Boats
 - Chemical and Allied Products: Groups I and II. Lots 1-7 limited to Group I only
 - *Electrical Machinery and Equipment
 - Fabricated Metal Products, Groups I, II and III
 - *Food and Kindred Products, Group III
 - *Furniture and Fixtures
 - *Leather Products, Group II
 - *Lumber and Wood Products, Groups I, II, III, IV, V and VI. Lots 1-7 limited to Group II only
 - *Machinery, Groups I, II, and III. Lots 1-7 limited to Groups I and II only
 - *Measuring, Analyzing and Controlling Instruments
 - *Novelties, Jewelry, Toys, and Signs: Groups I, II and III
 - *Paper and Allied Products, Groups II and III
 - Rubber and Plastic Products, Group II
 - Stone, Clay, Glass and Concrete Products: Groups I, II, III and IV
 - Textile Mill Products, Groups I, II, and III
 - Transportation Equipment, Groups I, II, and III
- *Medical Office - Limited to Lots 1-7
- *Motion Picture Production Studio
- *Nightclub - Limited to Lots 1-7 Maximum 6,000 square feet
- *Nonstore Retailer, Groups I, II, and III
- *Parcel and Express Services
- *Parking Lot, Accessory, Garage - Public Parking, Temporary
- *Personal Services, Groups I and II
- *Photofinishing Laboratory
- *Post Office
- *Printing and Publishing
- Processing and Warehousing
- *Recreational Facilities: Personal, Private - On - Site
- *Rental or Leasing Establishment, Groups II, III and IV. Lots 1-7 limited to Groups II and III only
- *Repair Shops, Groups I, II, III, IV and V. Lots 1-7 limited to Groups I, II, and III only
- *Research and Development Laboratories, Groups II and IV
- *Restaurants, Groups I, II, III, IV. Limited to Lots 1-7. No stand-alone fast food restaurants. Fast food within a multi-occupancy building may be permitted on Lots 1-7

- *Retail and Wholesale Sales when clearly incidental and subordinate to a permitted principal use on the same premises
- Salvage and Disposal of Materials, limited to auto junkyards and impound yards, see LDC §34-2441 *et. seq.* Lots 12-14 only
- *Schools, Commercial
- Self Service Fuel Pumps - 24 maximum Lot 1 only
- *Signs in Accordance with Chapter 30
- *Social Services, Group II
- Storage
 - *Indoor Only
 - Open Storage
- Transportation Services, Groups II, III and IV. Lots 1-7 limited to Groups II and III only
- Truck Stop, Trucking Terminal
- *Vehicle and Equipment Dealers, Groups I, II, III, and IV. Lots 1-7 limited to Groups I and II only
- *Warehouse
- *Mini-Warehouse
 - *Private
 - *Public
- Wireless Communication Facilities - See Condition 8. Lots 8-10 only
- *Wholesale Establishments - Groups I, III and IV
- *Wrecking Yard: Auto and Other

Schedule of Uses - Lots 16 and 17

- Accessory Uses and Structures
- Administrative Offices
- Agricultural Services: office/base operations
- Agricultural Uses and Agricultural Accessory Uses - See Agricultural Condition
- ATM - Automatic Teller Machine
- Bait and Tackle Shop
- Broadcast Studio, Commercial Radio Television
- Business Services, Groups I and II
- Cleaning and Maintenance Services
- Computer and Data Processing Services
- Contractors and Builders, Groups I and II
- Drive through facility for any permitted use
- Essential Services
- Essential Service Facilities, Group I only
- Excavation, Water Retention. Excavated material may not be removed from the site
- Factory Outlets, Point of Manufacture Only
- Fences, Walls
- Gasoline Dispensing Systems, Special
- Health Care Facilities, Group III
- Laundry or Dry Cleaning, Groups I and II
- Manufacturing of

- Apparel Products
- Chemical and Allied Products: Group I only
- Electrical Machinery and Equipment
- Leather Products: Group II only
- Machinery, Groups I and II. Assembly only
- Measuring, Analyzing and Controlling Instruments
- Novelties, Jewelry, Toys, and Signs: Groups I, II and III
- Paper and Allied Products, Group II only
- Stone, Clay, Glass and Concrete Products: Group I only
- Textile Mill Products, Groups I and II only
- Motion Picture Production Studio
- Nonstore Retailer, Groups I, II, and III
- Parking Lot, Accessory, Temporary
- Personal Services, Groups I and III
- Photofinishing Laboratory
- Post Office
- Printing and Publishing
- Processing and Warehousing
- Recreational Facilities: Personal, Private - On - Site
- Rental or Leasing Establishment, Groups I and III
- Repair Shops, Groups I, II and III
- Research and Development Laboratories, Groups II and IV
- Retail and Wholesale Sales when clearly incidental and subordinate to a permitted principal use on the same premises
- Schools, Commercial
- Signs in Accordance with Chapter 30
- Social Services, Group II
- Storage
 - Indoor Only
- Transportation Services - Group II only
- Warehouse
 - Mini-Warehouse
 - Private
 - Public
- Wholesale Establishments, Group III only

B. Site Development Regulations

Minimum Lot Area and Dimensions:

Area: 10, 000 square feet
 Width: 100 feet
 Depth: 100 feet

Minimum Setbacks:

Street: In accordance with §34-2192(a) of the Lee County LDC
 Side: 15 feet

Rear: 15 feet

Water Body: 25 feet

Maximum Building Height: 45 feet/3 stories - without wetland restoration as recommended by staff

Area of Reduced Intensity (Portion of Lot 16) - 3 stories/ 30 feet (See MCP)

Area of Reduced Intensity (Portion of Lot 16) - 2 stories/24 feet (See MCP)

Minimum Building Separation:

One-half the sum of the heights of both buildings, or 20 feet, whichever is greater

Maximum Lot Coverage: 40 percent

Development Perimeter Building Setback: 25 feet

3. Development Parameters.

A maximum of 1.1 million square feet of industrial uses and 30,000 square feet of commercial office/retail will be permitted on +/-129.77 acres of land, not to exceed a total of 2,499 parking spaces.

4. Environmental Conditions.

- a. The Project must provide a minimum of 20.3 acres of common open space as depicted on the MCP. The remaining 6.9 acres of open space must be provided on individual lots, with Lot 1 required to provide a minimum 20 percent open space, and Lots 2-17 required to provide a minimum 10 percent open space.
- b. Prior to local development order approval, the 0.69 acre and 0.49 acre wetlands must be delineated on the plans and designated as indigenous preservation. These wetlands must be incorporated into the surface water management system for the development to maintain and enhance the hydrology and health of the wetland preserves.

5. Design Standards and Guidelines for Commercial Buildings and Development. All industrial or commercial buildings and structures located on or in proximity to Alico Road (Lots 1-7) must comply with Chapter 10, Article IV, Design Standards and Guidelines for Commercial Buildings and Development, of the Lee County LDC.

6. Land Use. Land within the Rural Future Land Use Category (located on the northern 150 feet of Lot 16) may be used for water management, wetland preserve, buffering, open space, and accessory parking only.

7. Accessory Uses. 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.
8. Wireless Communication Facilities.
 - a. Freestanding wireless communication facilities (towers, including stealth type) are limited to one for the entire 129.77 - acre site, if approved in accordance with Lee County LDC §34-1441, *et. seq.*
 - b. Wireless Communication Facilities are limited to the monopole design only, and are restricted to the southern one-half of the site.
 - c. Other Wireless Communication Facilities (including wall-mounted and roof-mounted antennas) may be approved in accordance with Lee County LDC §34-1441, *et. seq.*
 - d. Federal Communication Commission review will be required for any wireless communication facilities to ensure that signals from the wireless communication facilities do not interfere with navigation aids and radar at the Lee County Port Authority (and airport).
 - e. Wireless communication facilities, if approved in accordance with Lee County LDC §34-1441, *et. seq.* are permitted on Lots 8-11 only. Wireless communication facilities may not exceed 90 feet in height above average grade level (AGL), without a Special Exception. Wireless communication facilities greater than 90.1 feet and less than 149 feet must first obtain Special Exception approval. Wireless communication facilities, with heights greater than 149 feet, must be in accordance with Lee County LDC §34-1441, *et. seq.*, including variance criteria per Lee County LDC §34-1453.
 - f. Before the approval of a freestanding Wireless Communication Facility, the developer must demonstrate that attempts to collocate on existing towers in the area were not successful in achieving the desired goals for coverage.
9. Tall Structures. The proposed development will be subject to the provisions of the Lee County LDC §34-1008 "Permit for Tall Structures." Depending on the height and location of the proposed structures, an application may need to be submitted for review and approval to the Federal Aviation Administration (FAA) and the Lee County Port Authority to determine airspace impacts of proposed permanent buildings, wireless communication facilities, and any temporary construction equipment cranes within the site.
10. Noise Zone. The subject property is located within the area that the Southwest Florida International Airport FAR Part 150 Study had identified as noise sensitive. It is located within the 60 DNL Contour area as depicted on the 2020 Composite DNL Contours Map.

Noise sensitive land uses (including residential dwelling units, places of worship, libraries, schools, hospitals, correctional institutions, or nursing homes) are prohibited consistent

with LDC §34-1006 *et. seq.* as amended.

11. Agricultural Uses. Existing bona fide agricultural uses on this site are allowed only in strict compliance with the following:
- a. Bona fide agricultural uses that are in existence at the time the application for this project was filed, and as shown on Exhibit D, attached hereto, may continue until approval of a local development order for the area of the project containing those uses.
 - b. Additional clearing of trees or other vegetation in agricultural areas is prohibited. Existing areas of bona fide agricultural use may be maintained, i.e., mowed, but not cleared or expanded. This prohibition is not intended to preclude County approved requests for the removal of invasive exotic vegetation.
 - c. Prior to issuance of a local development order, the property owner must provide written proof, subject to approval by the County Attorney's Office, of the following:
 - (1) Termination of all agricultural use on any portion of the property included in the development order application/approval. Proof must include a sworn affidavit from the person or entity holding title to the subject property that specifically provides:
 - a) the date the agricultural uses ceased;
 - b) the legal description of the property subject to the development order approval;
 - c) an affirmative statement that the owner acknowledges and agrees that all agricultural uses are illegal and prohibited on the property and that the owner covenants with the County that they will not allow any such uses on the property unless and until the property is re-zoned to permit such uses; and,
 - d) that the affidavit constitutes a covenant between the owner and the County that is binding on the owner and their assignees and successors in interest.

The covenant must be properly recorded in the public records of the County at the owner's expense.

 - (2) Termination of the agricultural tax exemption for any portion of the property included in the development order application/approval. Proof as to termination must include a copy of the request to terminate the tax exemption provided to the Property Appraiser.
12. Development Blasting. Development blasting has not been requested as part of this planned development. No development blasting is permitted as part of this project unless

approved at a subsequent public hearing as an amendment to the planned development.

13. Building Height. Buildings exceeding 35 feet in height must maintain additional building separation and setbacks as regulated by Lee County LDC §§ 34-2174(a) and 34-935(e)(4).
14. Master Concept Plan. If the Tracts shown on the MCP are substantially reconfigured, the developer will be required to receive approval of an amendment to this Industrial Planned Development, pursuant to Lee County LDC §34-380.
15. Vehicular/Pedestrian Impacts. 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.
16. Lee Plan Consistency. Approval of this rezoning does not guarantee local development order approval. Future development order approvals must satisfy the requirements of the Lee County Comprehensive 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 County Comprehensive Plan provisions.
17. Building Height. Due to the proximity to the airport runways, buildings in excess of 45 feet in height, including wireless communication facilities, may only be approved if after review by the Federal Aviation Administration and the Lee County Port Authority, they are found not to be an obstruction to air traffic.
18. Buffers.
 - a. Alico Road: Prior to development order approval, the development plans must provide an enhanced Type "D" buffer along Alico Road. The enhanced Type D buffer must consist of 10 trees per 100 linear feet, 30 shrubs per 100 linear feet (24-inch height, 3-gallon container size at planting, and maintained at a minimum 36-inch height); and 25 shrubs per 100 linear feet (48-inch height at planting and maintained at a minimum 60-inch height). The buffer must be placed outside of any easements. The trees must be a variety of native tree such as Florida Slash Pines and Sabal Palms, and may be installed in clusters to provide a more natural looking vegetative pattern.

Alico Road Lot 1: If a Convenience Food and Beverage Store use is proposed, development plans must provide a buffer as required by LDC §34-1353(e). The trees must be a variety of native trees, and may be installed in clusters to provide a more natural looking vegetative pattern; and the entire Alico Road right-of-way buffer must be designed with a similar planting scheme. The Alico Road right-of-way buffer must be placed outside of any easements. The planting area must be a minimum of 12.5-feet in width.
 - b. North Property Line: As part of the initial development order and prior to the issuance of a Certificate of Compliance for any part of the development, a 75-foot

wide buffer with a 12-foot height berm (maximum 3:1 slope) must be provided along the north property line and must be planted with 25 native trees (minimum 10-foot height, 2-inch caliper at planting) per 100 linear feet along the top of the berm with the remaining 15 trees per 100 linear feet staggered along the north side of the berm to allow the trees to grow in a healthy natural form. A minimum of three tree species including, but not limited to, Live Oak, South Florida Slash Pine and Wax Myrtle that will provide a varying level of mature height must be provided to create, to the greatest extent possible, a dense vegetative barrier across the top of the berm and vegetative cover on the north face of the berm. See the approved MCP Sheet 1 on Exhibit C hereto. All other areas of the berm must be sodded or mulched, as appropriate, and properly maintained.

The berm will be connected to the adjacent berm to the west with the Alico 254 IPD project so that there is one continuous berm. The height of the berm will be measured from the existing grade elevation on the Formosa Commerce IPD site, and will extend across the full width of the property. Existing grade elevation will be established at no less than 18' NVGD in the form of trees, or additional berm material. If the grade elevation on the Formosa Commerce IPD site is different from that of the Alico 254 site, the finished height of the berm on the Formosa site must be level with that of the Alico 254 berm. In no case will the top of the Formosa IPD berm be less than 32' NGVD in height.

- c. 3.2-acres Preserve: As part of the initial development order, and prior to the issuance of a Certificate of Compliance for any part of the development, the approximately 3.2-acre wetland preservation (0.49 acres) and the native upland restoration area (2.7 acres) will be restored consistent with the attached restoration plan dated August 9, 2005. The restoration plantings will include 595 3-gallon container size wax myrtles and 795 3-gallon container size south Florida Slash Pines to be installed in a random manner within the 2.7 acre upland restoration area. The developer must provide a structural barrier, i.e., chain link or wrought iron fence, must be provided between any lot, development area and the preserves.

All required buffers must utilize 100 percent native vegetation.

- 19. Concurrency. Approval of this rezoning does not constitute a finding that the proposed project meets the concurrency requirements set forth in Lee County LDC Chapter 2 and the Lee County Comprehensive Plan. The developer is required to demonstrate compliance with all concurrency requirements prior to issuance of a local development order.
- 20. Accessory uses. Accessory uses must be located on the same tract, parcel or outparcel where principal use is located. Accessory uses must be incidental and subordinate to the principal use of the tract, parcel or outparcel.
- 21. Solid Waste/Recycling. Prior to local development order approval for vertical development, the developer must provide facilities in compliance with Lee County LDC §10-261 and Lee County Solid Waste Ordinance #08-10 for the pick up/disposal of solid

waste and recyclables. The minimum area required for and specific locations of these facilities, will be reviewed at the time of local development order application.

22. Drainage Improvements. The development plans for Lot 1 will depict improvements to the Alico Road Right-of-Way, in conjunction with the joint access driveway connection to Alico Road. The attached Exhibit E depicts the described improvement. The improvements will provide a 15' accessible unpaved platform between the curb of Alico Road and the top of the bank of the Alico Road drainage ditch. The improvements shall include piping of the water quality swale within the existing Alico Road right-of-way along the section of Alico Road between Lee Road and the start of the proposed turn lane serving the joint access driveway. The compensation storage volume for the area from Alico Road between Lee Road and the start of the proposed turn lane that is being displaced by the piping of the water quality treatment swale will be included within the water management system of Lot 1, in accordance with South Florida Water Management District requirements.

SECTION C. DEVIATIONS:

1. Deviation (1) seeks relief from the Lee County LDC §10-415(b) requirement to provide large developments to provide 50 percent of the required open space as indigenous preservation, to allow the preservation and restoration of 3.2 acres of indigenous native vegetation. This deviation was originally approved in Zoning Resolution Z-05-066. This deviation is APPROVED SUBJECT TO Condition 18.c above.
2. Deviation (2) seeks relief from the Lee County LDC §10-418 requirement to provide surface water management features to mimic natural systems, to allow narrow lakes with enhanced littoral plantings and create marsh. This deviation was originally approved in Administrative Amendment ADD2006-00226. This deviation is APPROVED SUBJECT TO the following condition.

Prior to local development order approval, the development order plans must delineate the enhanced littoral plantings and marsh creation areas as shown on the approved MCP.

3. Deviation (3) seeks relief from the Lee County LDC §10-329(d)(1)3 requirement to provide a 50-foot lake setback from a property line under separate ownership, to allow a 25-foot lake setback along the eastern boundary of the overall development. This deviation was originally approved in Administrative Amendment ADD2006-00226. This deviation is APPROVED.
4. Deviation (4) seeks relief from Lee County LDC §10-285(a) requirement to provide a minimum 660-foot driveway separation on an arterial road, to allow a 400-foot separation on Alico Road for a joint access driveway from Lee Road extension. This deviation is APPROVED.
5. Deviation (5) seeks relief from the Lee County LDC §34-1353(e)(1) requirement to provide a 25-foot landscape buffer width along right-of-way external to the development project, to allow the landscape buffer along Lee Road to be reduced to a 15-foot width, as depicted

for Lot 1 on the MCP. This deviation is APPROVED SUBJECT TO the following condition:

Prior to development order approval for Lot 1, development plans must depict Lot 1 to provide an external right-of-way buffer along Lee Road (west property line) as per Lee County LDC §34-1353(e) to include a tiered double hedge row consisting of 33 shrubs per 100 linear feet (24-inch height, 3-gallon container size at planting, and maintained at a minimum 24-inch height) and 33 shrubs per 100 linear feet (24-inch height, 3-gallon container size at planting and maintained at a minimum 36-inch height); and 50 groundcover plants per 100 linear feet (1-gallon container size at planting).

6. Deviation (6) seeks relief from the Lee County LDC §34-1353(e)(1) requirement to provide a 15-foot landscape buffer width along right-of-ways internal to commercial development projects consisting of convenience food and beverage stores uses, to allow the landscape buffer along the rear property line to be reduced to a minimum 11.5-foot width as depicted for Lot 1 on the MCP. This deviation is APPROVED SUBJECT TO the following condition:

Prior to development order approval for Lot 1, development plans must depict Lot 1 to provide an internal access road buffer (north property line) as per Lee County LDC §34-1353(e) to also include increased shrub heights (installed at minimum 36-inches and maintained at minimum 60-inches) within the buffer hedge adjacent to and flush with the dumpster enclosure area.

7. Deviation (7) seeks relief from Lee County LDC §10-328(a) requirement to provide developments abutting a watercourse, drainageway, canal, IDD easement, lake, pond or stream, to provide on one side a 20-foot wide easement for maintenance purposes, to allow for no requirement of a 20-foot maintenance easement along the north side of the existing 50-foot drainage easement traversing the southerly 50 feet of Lot 1 of the subject property. This deviation is APPROVED SUBJECT TO the following condition:

Development must be in compliance with Condition 22 above.

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: Agricultural Uses
- Exhibit E: Drainage Improvements

The applicant has indicated that the STRAP number for the subject property is: 04-46-25-05-00000.0010

SECTION E. FINDINGS AND CONCLUSIONS:

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

Commissioner Judah made a motion to adopt the foregoing resolution, seconded by Commissioner Mann. 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 6th day of February 2012.

ATTEST:
CHARLIE GREEN, CLERK

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: Marcia Wilson
Deputy Clerk

BY: John Manning
John Manning, Chair

Approved as to form by:

Michael D. Jacob
Michael D. Jacob
Assistant County Attorney
County Attorney's Office



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SKETCH OF DESCRIPTION (THIS IS NOT A BOUNDARY SURVEY)

LEGAL DESCRIPTION:

FORMOSA 129 INDUSTRIAL PARK SUBDIVISION, ACCORDING TO THE MAP OR PLAT THEREOF AS RECORDED IN INSTRUMENT NUMBER 2008000142731, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, BEING FURTHER DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGIN AT THE SOUTHWEST CORNER OF SAID SUBDIVISION; THENCE ALONG THE WEST LINE OF SAID SUBDIVISION, $N00^{\circ}59'17''W$, 6175.65 FEET, TO THE NORTHWEST CORNER OF SAID SUBDIVISION; THENCE ALONG THE NORTH LINE OF SAID SUBDIVISION, $N89^{\circ}06'32''E$, 910.22 FEET, TO THE NORTHEAST CORNER OF SAID SUBDIVISION; THENCE ALONG THE EAST LINE OF SAID SUBDIVISION, THE FOLLOWING TWO (2) COURSES: 1) $S01^{\circ}05'06''E$, 3659.51 FEET; 2) $S00^{\circ}59'09''E$, 2526.25 FEET, TO THE SOUTHEAST CORNER OF SAID SUBDIVISION; THENCE ALONG THE SOUTH LINE OF SAID SUBDIVISION AND THE NORTH RIGHT-OF-WAY LINE OF ALICO ROAD, $S89^{\circ}44'24''W$, 916.39 FEET, TO THE POINT OF BEGINNING.

CONTAINING 129.77 ACRES, MORE OR LESS.

LEGEND

ABBREVIATIONS

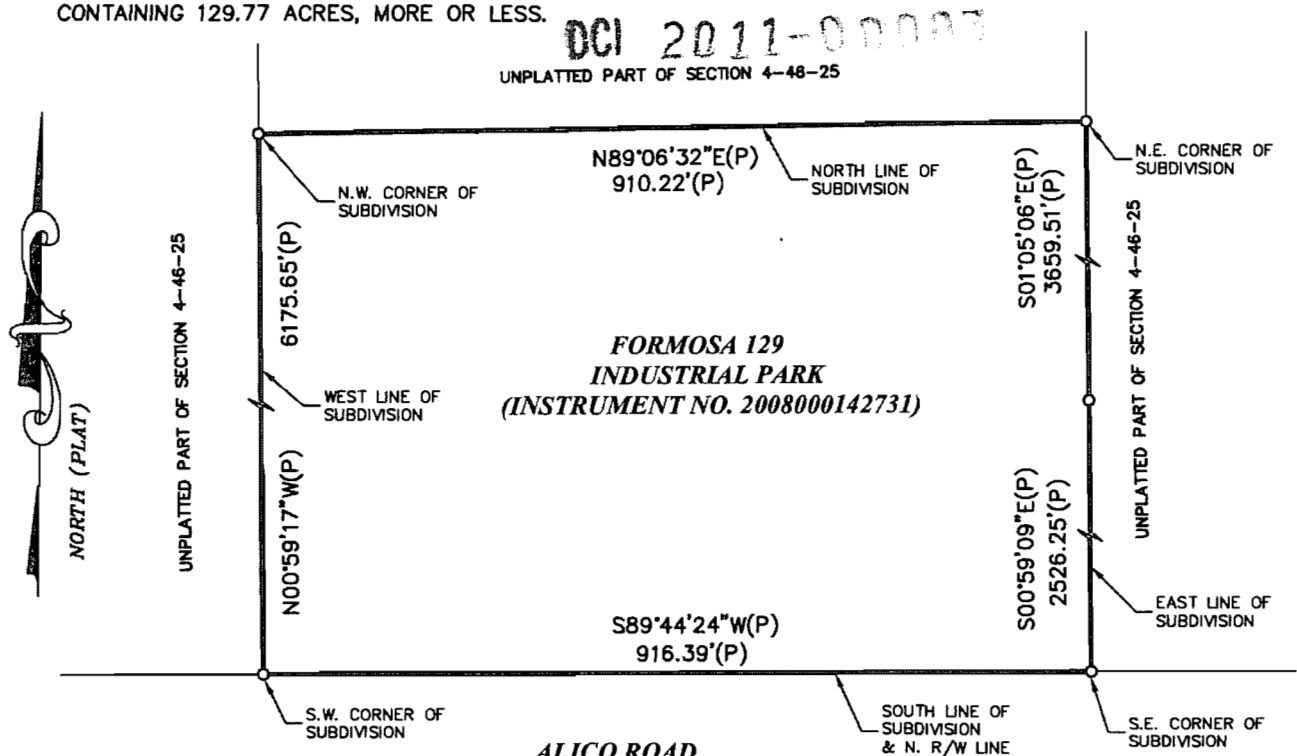
LB LICENSED BUSINESS NUMBER
LS LICENSED SURVEYOR
ORB OFFICIAL RECORDS BOOK
PG PAGE
P.L.S. PROFESSIONAL LAND SURVEYOR

GRAPHIC SCALE



(IN FEET)

1 inch = 200 feet



EBI Surveying

8415 Sunstate Street
Tampa, Florida 33634

Phone: (813) 886-6080 / Fax: (813) 886-6081
Certificate of Authorization Number: LB-7652

APPROVED
LEGAL 4/27/11
CJ

SHEET NO.

1
OF 1

SKETCH REPORT:

1. NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

DATE: 1/04/2011
DRAWN: JRC
CHECKED: JRC
REVISION:
FILE: RT28ZDX.dwg
SCALE: 1" = 200'

PROJECT NUMBER:
RTPI0028

SKETCH OF DESCRIPTION

METES AND BOUNDS

FORMOSA 129 INDUSTRIAL PARK

SECTION 4-46-25
LEE COUNTY, FLORIDA

I HEREBY CERTIFY THAT THIS SKETCH WAS MADE UNDER MY DIRECTION AND MEETS THE MINIMUM TECHNICAL STANDARD REQUIREMENTS OF CHAPTER 61G17-6 OF THE FLORIDA ADMINISTRATIVE CODE.

JERRY R. CARTWRIGHT
License Number: LS-4525

Date Signed: 4/4/2011

INSTR # 2008000142731, Doc Type #PLT, Page 6, Recorded 05/23/2008 at 11:03 AM.
 Chazlie Green, Lee County Clerk of Circuit Court, Deputy Clerk TBAH

FORMOSA 129 INDUSTRIAL PARK

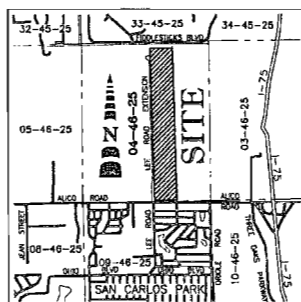
A SUBDIVISION OF A PARCEL OF LAND
 LYING IN
 SECTION 4, TOWNSHIP 46 SOUTH, RANGE 25 EAST,
 LEE COUNTY, FLORIDA

INSTRUMENT NUMBER: 2008000142731

SHEET 1 OF 6

THIS INSTRUMENT PREPARED BY:

METRON
 SURVEYING & MAPPING, LLC
 LAND SURVEYORS - PLANNERS
 L.B. #7071
 10970 S. CLEVELAND AVENUE, SUITE #805
 FORT WORTH, FLORIDA 33507
 PHONE: (239) 275-8575
 FAX: (239) 275-8587



VICINITY SKETCH
 (NOT TO SCALE)

SEE SHEET 2 OF 6 FOR DEDICATIONS

NOTICE:

LANDS DESCRIBED IN THIS PLAT MAY BE SUBDIVIDED BY THE DEVELOPER WITHOUT THE ROADS, DRAINAGE, WATER & 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 THE EXPENSE OF CONSTRUCTION, MAINTENANCE OR IMPROVEMENT OF ROADS, DRAINAGE, WATER & SEWER FACILITIES.

NOTICE:

THIS PLAT, AS RECORDED IN GRAPHIC FORM, IS THE OFFICIAL DEPICTION OF THE SUBDIVIDED LANDS DESCRIBED HEREIN AND WILL IN NO CIRCUMSTANCES BE SUPPLANTED IN AUTHORITY BY ANY OTHER GRAPHIC OR DIGITAL FORM OF THE PLAT. THERE MAY BE ADDITIONAL RESTRICTIONS THAT ARE NOT RECORDED ON THIS PLAT THAT MAY BE FOUND IN THE PUBLIC RECORDS OF THIS COUNTY.

DESCRIPTION:

A PARCEL OF LAND BEING THE SAME LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 3308, PAGE 2484 AND 2485 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, SECTION 4, TOWNSHIP 46 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTH 1/4 CORNER OF SAID SECTION 4; THENCE NORTH 08°55'17" WEST ALONG THE NORTH-SOUTH 1/4 SECTION LINE, A DISTANCE OF 100.91 FEET TO A POINT ON THE NORTH RIGHT OF WAY LINE ALSO ROAD AS DESCRIBED IN THE ORDER OF TRACING RECORDED IN OFFICIAL RECORDS BOOK 3308, PAGE 337 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE NORTH 89°30'48" EAST ALONG SAID NORTH LINE, A DISTANCE OF 1.19 FEET TO AN ANGLE POINT; THENCE NORTH 89°44'24" EAST ALONG SAID NORTH LINE A DISTANCE OF 226.31 FEET TO THE POINT OF BEGINNING; THENCE NORTH 02°55'17" WEST ALONG A LINE THAT IS PARALLEL TO SAID NORTH-SOUTH 1/4 SECTION LINE, A DISTANCE OF 815.65 FEET TO A POINT ON THE SOUTH BRANCH RIGHT OF WAY LINE RECORDED IN OFFICIAL RECORDS BOOK 3448, PAGE 1231 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE NORTH 89°08'32" EAST ALONG SAID SOUTH LINE, A DISTANCE OF 910.29 FEET TO A POINT ON A LINE THAT IS 1506.33 FEET WEST OF AND PARALLEL TO THE EAST LINE OF THE NORTHEAST 1/4 OF SAID SECTION 4; THENCE SOUTH 01°08'04" EAST ALONG SAID PARALLEL LINE, A DISTANCE OF 369.51 FEET TO AN ANGLE POINT; THENCE SOUTH 02°55'17" EAST ALONG A LINE THAT IS 1506.33 FEET WEST OF AND PARALLEL TO THE EAST LINE OF THE SOUTHWEST 1/4 OF SAID SECTION 4, A DISTANCE OF 2558.29 FEET TO A POINT ON SAID NORTH RIGHT OF WAY LINE OF ALCO ROAD; THENCE SOUTH 89°44'24" WEST ALONG SAID NORTH LINE, A DISTANCE OF 910.36 FEET TO THE POINT OF BEGINNING.

CONTAINING 129.77 ACRES, MORE OR LESS.

NOTES

1. DIMENSIONS SHOWN ARE IN FEET AND DECIMAL PARTS THEREOF.
2. ALL CURVES ARE CIRCULAR.
3. ALL LOT LINES ON CURVES ARE RADIAL UNLESS NOTED OTHERWISE.
4. DRAWINGS ARE BASED ON THE SOUTH LINE OF THE SOUTHWEST 1/4 OF SECTION 4, TOWNSHIP 46 SOUTH, RANGE 25 EAST, AS BEARING N 89°44'24" E

SURVEYOR'S CERTIFICATION

I HEREBY CERTIFY THAT THE ATTACHED PLAT OF FORMOSA 129 INDUSTRIAL PARK, A PLAT OF A PARCEL OF LAND LYING IN SECTION 4, TOWNSHIP 46 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA, WAS PREPARED UNDER MY DIRECTION AND SUPERVISION AND COMPLES WITH ALL OF THE SURVEY REQUIREMENTS OF CHAPTER 177, PART 1, FLORIDA STATUTES. I FURTHER CERTIFY THAT THE PERMANENT REFERENCE MONUMENTS (TWO) HAVE BEEN PLACED AT THE LOCATIONS SHOWN ON THIS PLAT.

METRON SURVEYING & MAPPING, LLC, L.B. #7071
 10970 S. CLEVELAND AVENUE, SUITE #805
 FORT WORTH, FLORIDA 33507

DATE: 5/23/08

CLINT A. O'DONNELL, JR. P.S.M. - FLORIDA CERTIFICATE NO. 3130

CLERK'S CERTIFICATION:

I HEREBY CERTIFY THAT THE ATTACHED PLAT OF FORMOSA 129 INDUSTRIAL PARK, A SUBDIVISION OF A PARCEL OF LAND LYING IN SECTION 4, TOWNSHIP 46 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA, WAS FILED FOR RECORD AT 11:03 AM, THIS 23RD DAY OF MAY, 2008, AND IS RECORDED IN INSTRUMENT NUMBER 2008000142731 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

INSTRUMENT NUMBER 2008000142731

CHARLIE GREEN
 CLERK OF THE CIRCUIT COURT IN AND FOR
 LEE COUNTY, FLORIDA

APPROVAL

THIS PLAT IS ACCEPTED AND APPROVED BY THE BOARD OF COUNTY COMMISSIONERS, LEE COUNTY, FLORIDA, THIS 12TH DAY OF MAY, 2008.

Ray J. Judd
 CHAIRMAN OF THE BOARD
 PRINT NAME: RAY JUDD

Michael O. Judd
 ASSISTANT COUNTY ATTORNEY
 PRINT NAME: MICHAEL O. JUDD

Man Gills
 DIRECTOR, DEPARTMENT OF
 COMMUNITY DEVELOPMENT
 PRINT NAME: MAN GILLS

Charlie Green
 CLERK OF THE BOARD
 PRINT NAME: CHARLIE GREEN

Peter J. Eckenrode
 DIRECTOR, DIVISION OF DEVELOPMENT
 SERVICES
 PRINT NAME: PETER J. ECKENRODE

REVIEW BY THE DESIGNATED COUNTY PSN
 DETERMINED THAT THIS PLAT CONFORMS
 TO THE REQUIREMENTS OF F.S. CH. 177,
 PART 1.
 Michael L. Hannon, PSN
 PRINT NAME: MICHAEL L. HANNON

10970 S. CLEVELAND AVENUE, SUITE #605
FORT MYERS, FLORIDA 33907
PHONE: (238) 275-8576
FAX: (238) 275-8457

SECTION 4, TOWNSHIP 46 SOUTH, RANGE 25 EAST,
LEE COUNTY, FLORIDA

SHEET 2 OF 6

- A. LAKE MAINTENANCE EASEMENT (L.M.E.), A NONEXCLUSIVE EASEMENT FOR THE PURPOSES OF CONSTRUCTION, INSTALLATION, MAINTENANCE AND OPERATION OF THESE FACILITIES
- B. LAKE MAINTENANCE AND DRAINAGE EASEMENT (L.M.D.E.), A NONEXCLUSIVE EASEMENT FOR THE PURPOSES OF CONSTRUCTION, INSTALLATION, MAINTENANCE AND OPERATION OF THESE FACILITIES
- C. DRAINAGE EASEMENTS (D.E.) A NONEXCLUSIVE EASEMENT FOR THE PURPOSES OF CONSTRUCTION, INSTALLATION, MAINTENANCE AND OPERATION OF THESE FACILITIES
- D. A PRESTORM EASEMENT
- E. A LANDSCAPE BUFFER EASEMENT (L.B.E.)
- F. TRACT "A" AS A LAKE TRACT.

MY COMMISSION EXPIRES: 7-22-11

IN WITNESS WHEREOF ALCO ROAD BUSINESS FARM, L.P., A FLORIDA LIMITED PARTNERSHIP, HAS

PRINT NAME: Kim Felle
MY COMMISSION EXPIRES: 7-15-09

PRINT NAME: LIM, J REEL
MY COMMISSION EXPIRES: 7-15-09

PRINT NAME: TERESA A. WOODS
MY COMMISSION EXPIRES: 11/1/10

14912 8 2008000142731 Page Number: 3 of 6

FORMOSA 129 INDUSTRIAL PARK

A SUBDIVISION OF A PARCEL OF LAND
LYING IN
SECTION 4, TOWNSHIP 46 SOUTH, RANGE 25 EAST,
LEE COUNTY, FLORIDA

INSTRUMENT NUMBER: 2008000142731

SHEET 3 OF 6

THIS INSTRUMENT PREPARED BY:

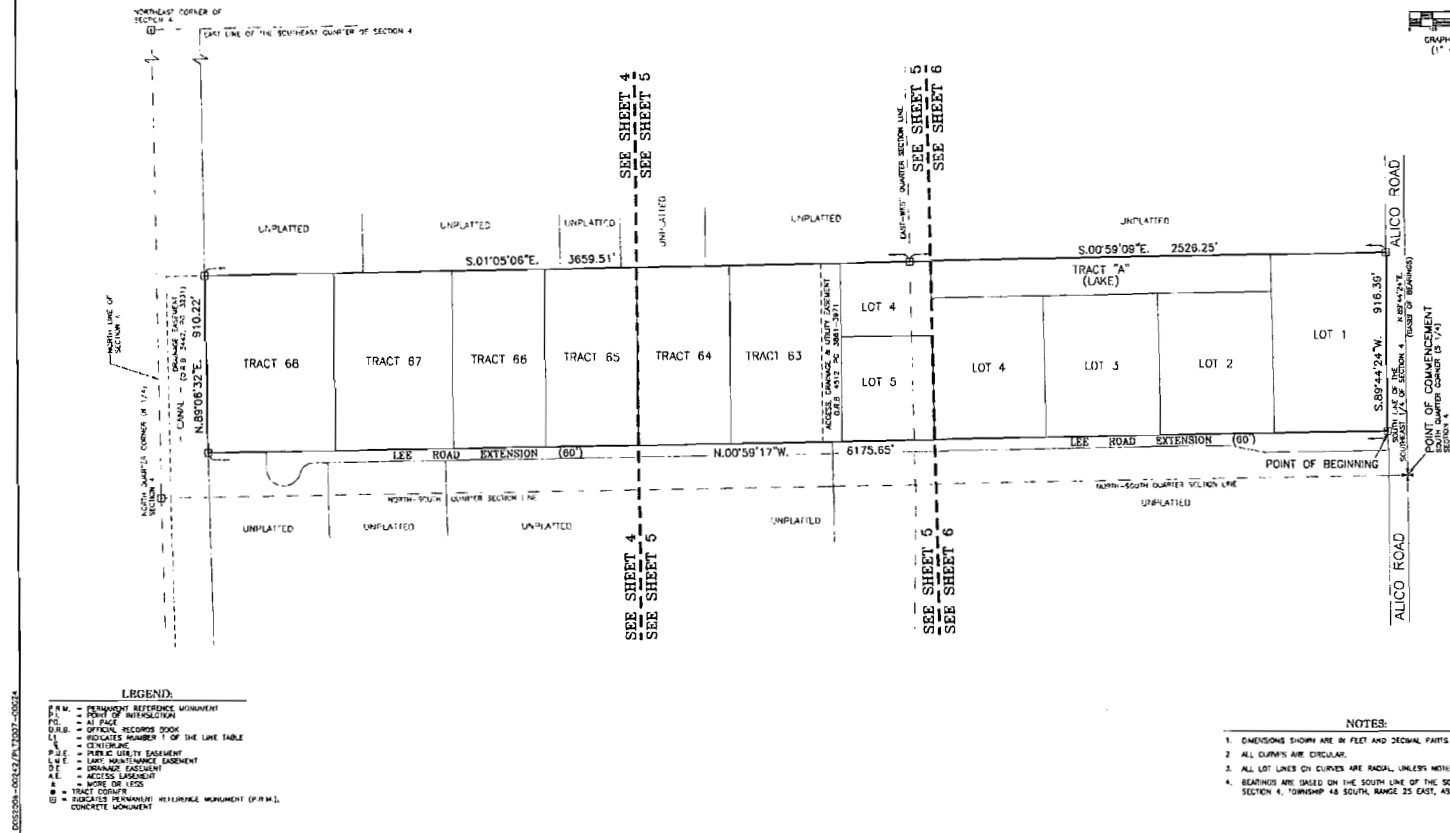
METRON
SURVEYING & MAPPING, LLC
LAND SURVEYORS-PLANNERS
L.B. #7071

10970 S. CLEVELAND AVENUE, SUITE #400
FORT WORTH, FLORIDA 33607
PHONE: (214) 275-8570
FAX: (214) 275-8157

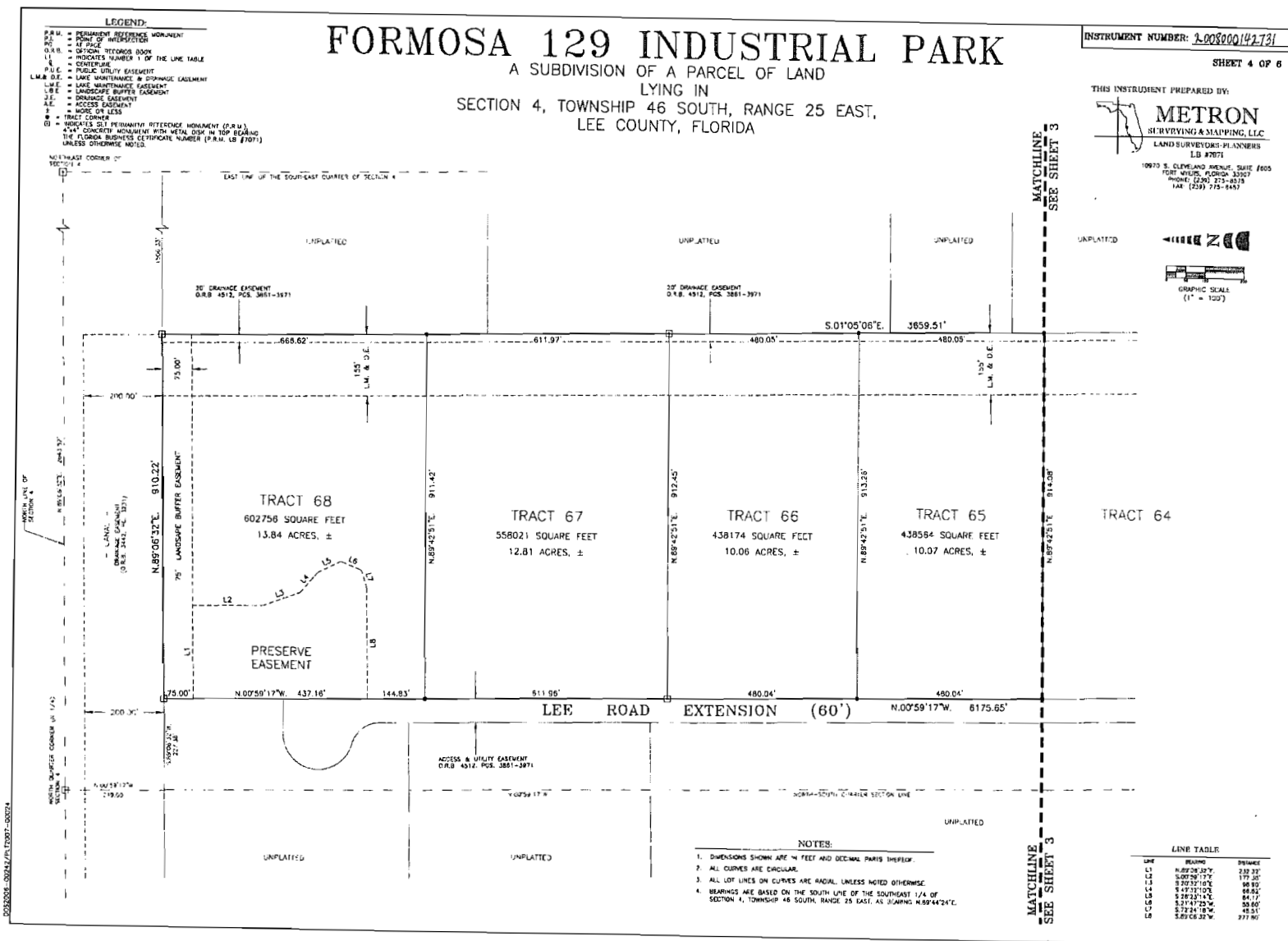
INDEX MAP



GRAPHIC SCALE
(1" = 250')



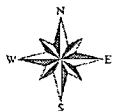
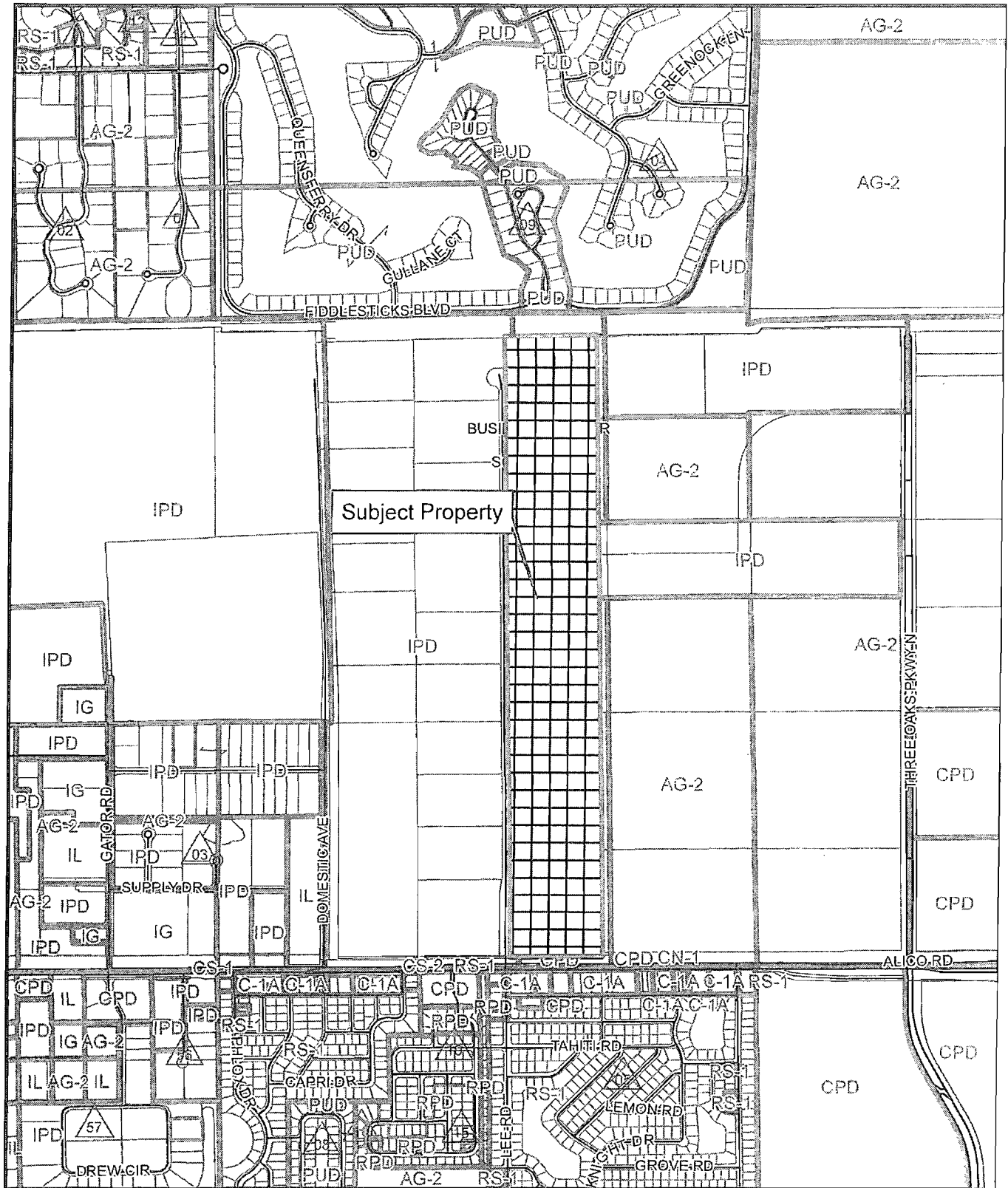
INSTRUMENT # 2022000142731 Page Number: 4 of 6







Zoning Map



OWNER/DEVELOPER RACETRAC PETROLEUM, INC. 3225 CUMBERLAND BLVD. SUITE 100 ATLANTA, GA 30339 (770) 431-7600	PROJECT: FORMOSA COMMERCE CENTER PART OF SEC. 04 TWP. 46 S., RNG. 25 E., LEE COUNTY, FL.
--	--

ENGINEER OF RECORD: ANDREW D. FITZGERALD, P.E. (FOR THE FIRM) FLORIDA - P.E. NO. 58776 1603 HENDRY STREET FORT MYERS, FLORIDA, 33901 PHONE: 239-418-0691	DELISI FITZGERALD, INC. <i>Planning • Engineering • Project Management</i> 1605 Hendry Street Fort Myers, FL 33901 239-418-0691 • 239-418-0692 fax Florida Certificate of Authorization: Engineering LB #: 26978
--	---

PLAN REVISIONS:	DATE:	DESCRIPTION:

MASTER CONCEPT PLAN		
(SHEET 1 of 3)		
Project Manager:	AJF	
Drawn By:	CAD	
Checked By:	AJF	
Project Number:	21189	
Cad File:	FILE	
Xref:	.	
Xref:	.	

Status:	
FOR PERMITTING PURPOSES ONLY	
NOT FOR CONSTRUCTION	

Sheet Number:	01
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[illegible]



- DCI 2011-00003
RECEIVED
FEB 07 2012

ENGINEER OF RECORD:
ANDREW D. FITZGERALD, P.E. (FOR THE FIRM)
FLORIDA P.E. NO. 55778
1605 HENDRY STREET
FORT MYERS, FLORIDA 33901
PHONE: 239-416-6661

DELISI FITZGERALD, INC.
Planning • Engineering • Project Management

1605 Hendry Street
Fort Myers, FL 33901
239-418-0691 • 239-418-0692 fax

Florida Certificate of Authorization:
Engineering LB #: 26978

PART OF SEC. 04, TWP. 46 S., RNG. 25 E., LEE COUNTY, FL.

PLAN REVISIONS:

DATE:	DESCRIPTION:
-------	--------------

TYPICAL LOT LAYOUT
(SHEET 3 of 3)

Project Manager:	ADF
Drawn By:	CAD
Checked By:	ADF
Project Number:	21189
Cad File:	FILE
Xref:	-
Xref:	-

Status:
FOR PERMITTING PURPOSES ONLY
NOT FOR CONSTRUCTION

Sheet Number:	03
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Exhibit D

FORMOSA COMMERCE CENTER, LLC

14975 Technology Court
Fort Myers, FL 33912
Phone: (239) 277-7099
Fax: (239) 267-1492

May 24, 2011

DCI 2011-00003

Lee County Department of Community Development
Zoning Division
P.O. Box 398
Fort Myers, FL 33902-0398

RECEIVED
JUN 1 6 2011

RE: Formosa Commerce Center

COMMUNITY DEVELOPMENT

To Whom It May Concern:

Please accept this statement as the notarized statement required pursuant to Section 34-202(b)(7) of the LDC. The owner is required to provide a notarized statement describing the type and intensity of the bona fide agricultural uses in existence on the date of the zoning approval.

The type of agricultural use on the property is cattle grazing

The area of the property subject to cattle grazing is the entire parcel of 50+/- acres.

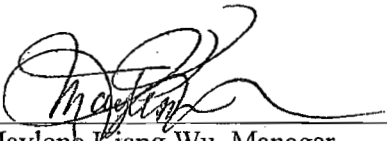
The intensity of the use is the number of cattle that can be adequately accommodated by the parcel; this is determined in part by the health and amount of the vegetation which can vary from time to time.

Further, the continuation of these agricultural uses is supported by the comprehensive plan, policy 9.2.2.

Planned development rezoning within the Future Urban Areas must not establish new, or expand existing, agricultural uses. Bona fide agricultural uses that exist at the time of rezoning may be approved and the use allowed to continue until development commences. The approved existing agricultural uses must not expand beyond the boundaries that existed at the time of rezoning. Existing agricultural uses within any tract or phase must be discontinued upon local development order approval including that tract or phase.

Lee County Department of Community Development
Page 2
May 24, 2011

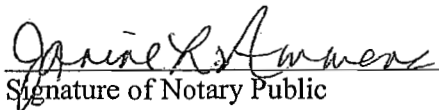
I have reviewed the above statements and submit that they are true and correct.

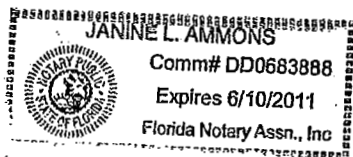
By: 
Maylene Kiang Wu, Manager
Formosa Commerce Center, LLC

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was acknowledged before me this 28th day of May, 2011 by Maylene Kiang Wu, who is personally known to me or has produced _____ as identification and who did (did not) take an oath.

(Notary Seal)


Signature of Notary Public



Janine L. Ammons
(Print, type or stamp commissioned name of Notary Public)

Commission No: DD0683888

RECEIVED
JUN 14 2011

COMMUNITY DEVELOPMENT

OCI 2011-00003

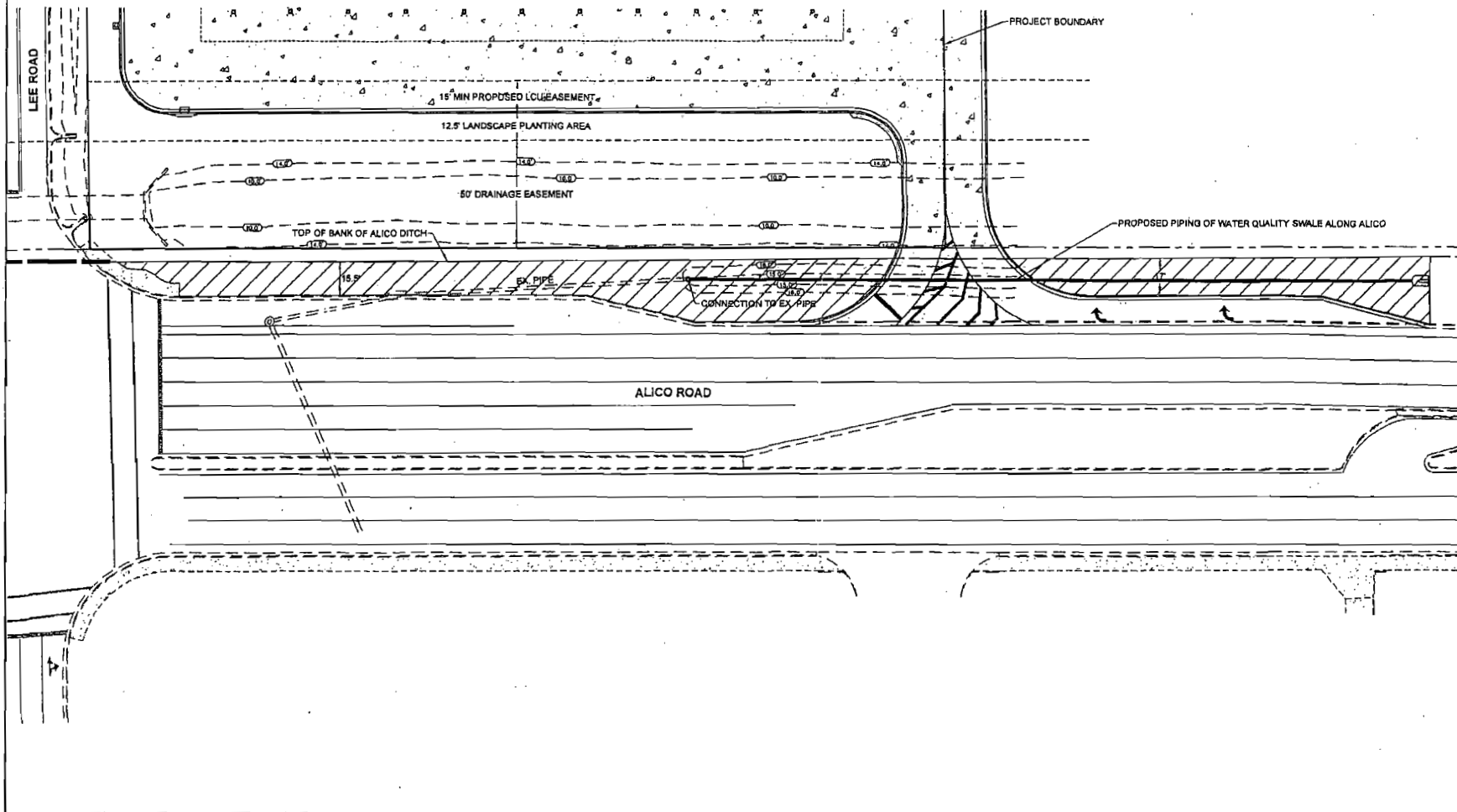
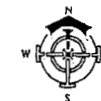
ATTACHMENT D

NOTE:

1. THE APPLICANT WILL PROVIDE COMPENSATING STORAGE ON-SITE FOR DISPLACED WATER QUALITY STORAGE WITHIN SWALE ALONG ALICO ROAD IN ACCORDANCE WITH SPWMD REQUIREMENTS.

LEGEND

- (10.0) - EXISTING TOPOGRAPHY (NAVD)
- [Hatched Box] - DRAINAGE MAINTENANCE AREA



DELISH FITZGERALD, INC.
 Planning - Engineering - Project Management
 1405 Hendry Street
 Fort Myers, FL 33901
 239-418-0691, 239-418-0692 fax
 Florida Certificate of Authorization
 Engineering LB #: 26978

ENGINEER OF RECORD:
 DELISH FITZGERALD, INC.
 1405 HENDRY STREET
 FORT MYERS, FL 33901
 PROJECT: 22-01-001

OWNER/DEVELOPER:
 RACETRAC PETROLEUM, INC.
 3225 CUMBERLAND BLVD., SUITE 100
 ATLANTA, GA 30339
 (770) 431-7000
PROJECT:
 FORMOSA COMMERCE CENTER
 PART OF SEC. 04, TWP. 46 S., RING. 25 E., LEE COUNTY, FL.

PLAN REVISIONS:	DATE:	DESCRIPTION:

EXHIBIT A

Project Manager:	ADP
Drawn By:	SD
Checked By:	ADP
Project Number:	2118
Sheet Title:	FILE
Scale:	
Date:	

Stamp
 FOR PERMITTING PURPOSES ONLY
 NOT FOR CONSTRUCTION

Sheet Number: 01

EXHIBIT E