



**CPA2005-00001**  
**Vicott, Inc.**  
**SMALL-SCALE**  
**AMENDMENT**  
**TO THE**

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Lee County Comprehensive Plan

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**THE LEE PLAN**

**Privately Sponsored Application  
and Staff Analysis**

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LPA Public Hearing Document  
for the  
March 26, 2007 Public Hearing

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*Lee County Planning Division  
1500 Monroe Street  
P.O. Box 398  
Fort Myers, FL 33902-0398  
239-479-8585*

**March 16, 2007**



**LEE COUNTY  
DIVISION OF PLANNING  
STAFF REPORT FOR  
COMPREHENSIVE PLAN AMENDMENT  
CPA2005-01**

☐

Text Amendment

☒

Map Amendment

✓	<b>This Document Contains the Following Reviews</b>
✓	<b>Staff Review</b>
	<b>Local Planning Agency Review and Documentation</b>
	<b>Board of County Commissioners Hearing and Adoption</b>

ORIGINAL STAFF REPORT DATE: March 16, 2007

**PART I - BACKGROUND AND STAFF REPORT RECOMMENDATION**

**A. SUMMARY OF APPLICATION**

**1. APPLICANT:**

Vicott, Inc.  
10950 Old South Way  
Fort Myers, FL 33908

Stacy Hewitt, Director of Planning  
Banks Engineering  
10511 Six Mile Cypress Parkway, Suite 101  
Fort Myers, FL 33908

**2. REQUEST:** Amend the Lee Plan Future Land Use Map Series for two parcels totaling approximately 7.67 ± acres located in Section 05, Township 46, Range 24, to change Map 1 from Industrial Development and Wetlands to Urban Community and Wetlands Conservation Lands. In the alternative, staff recommends to change the subject site on Map



1 from Industrial Development and Wetlands to Commercial and Wetlands Conservation Lands.

**3. SUMMARY DISCUSSION:** The applicant is pursuing a change to the Future Land Use Map Series, Map 1 of the Lee Plan for a  $7.67 \pm$  acre parcel, changing  $5.41 \pm$  acres from the Industrial Development Land Use designation to Urban Community land use designation and preserving the remaining  $2.26 \pm$  acres of wetlands in the Wetlands Conservation Land Use designation. The property is located north of Summerlin Road, east of the Fort Myers Beach Sewage Treatment Ponds, west of conservation wetlands owned by Lee County, and south of the proposed Waterstone RPD (DCI2005-00078). The map amendment site is located within the Iona/McGregor Planning community and is not located in a special planning area that would be regulated by geographically specific, Goals, Objectives, or Policies.

## **B. STAFF RECOMMENDATION AND FINDINGS OF FACT SUMMARY**

**1. RECOMMENDATION:** Planning staff recommends that Map 1 of the Future Land Use Map be amended to change the Future Land Use designation to the new Future Land Use designation of Commercial (CPA2005-39) and Wetlands Conservation Lands instead of the applicant's request to change the Future Land Use designation to Urban Community and Conservation Lands.

### **2. BASIS AND RECOMMENDATION FINDINGS OF FACT:**

- The amendment site is located in the Coastal High Hazard Area (CHHA) as defined in the Lee Plan.
- The requested amendment from Industrial Development and Wetlands to Urban Community and Wetlands Conservation Land Future Land Use designation allows increased residential density in the CHHA.
- The Urban Community would allow additional residential development within the CHHA. In addition, any land use change other than Industrial Development would allow residential development through the Lee Plan Future Urban Areas.
- The new Commercial Future Land Use category does not allow residential development. The Commercial Future Land Use designation is intended for implementation on land where residential development is undesirable in areas such as the CHHA of the County.
- The applicant's intention is to develop commercial uses pursuant to a CPD and staff's recommendation of the new Commercial Future Land Use designation is consistent with this intent.



- The amendment site is adjacent to the existing Fort Myers Beach Sewage Treatment Ponds. Planning staff's recommendation eliminates any future potential residential conflicts with this public facility.
- The property is currently zoned Agriculture (AG-2) and will need to be rezoned to CPD prior to being developed with any commercial uses. Impacts to the provision of public services and facilities will be evaluated during the rezoning process, based on the specific uses and intensities requested by the planned development application. In addition, potential traffic impacts will be evaluated at the time of rezoning and development orders.

## **C. BACKGROUND INFORMATION**

### **1. EXISTING CONDITIONS**

**SIZE OF PROPERTY:** 7.67 ± acres

**PROPERTY LOCATION:** The subject parcel is situated east of the Fort Myers Beach Sewage Treatment ponds, west of conservation wetlands in the Cow Slough owned by Lee County and on the north side of Summerlin Road.

**EXISTING USE OF LAND:** Vegetated and vacant parcel.

**CURRENT ZONING:** AG-2

**CURRENT FUTURE LAND USE CLASSIFICATION:** 5.41 ± acres of Industrial Development and 2.26 ± acres of Wetlands

### **2. INFRASTRUCTURE AND SERVICES**

**WATER & SEWER:** The property is located within the Lee County Utilities franchise area.

**FIRE:** The property is located within the Iona McGregor Fire District.

**TRANSPORTATION:** Access will be from a proposed access point on Summerlin Road. The parcel is within the Iona/McGregor planning community, located on a stretch of Summerlin Road that is currently being widening to six lanes.

**SOLID WASTE FRANCHISE:** The subject property is within the Lee County, Solid Waste District, Area 2. The franchise company responsible for collection in District Area 2 is Veolia Environmental Services. Lee County, Solid Waste Division was contacted regarding the amendment request and no concerns were reported.



## **PART II - STAFF ANALYSIS**

### **A. STAFF DISCUSSION**

#### **INTRODUCTION**

The applicant has requested a Future Land Use designation change from Industrial Development and Wetlands to Urban Community and Conservation Lands on approximately 7.67 ± acres of land located in the Iona/McGregor Planning Community on the north side of Summerlin Rd. The property is currently vacant.

The Urban Community Land Use category standard density range permits up to six dwelling units per acre (6du/acre) with a maximum of ten dwelling units per area (10du/acre). If residential uses were permitted on the amendment site, the proposed Urban Community Land Use designation could allow up to 32 dwelling units (5.41 upland acreage X 6 du/acre and a maximum of 43 dwelling units with the wetland density transfer per Table 1(a) of the Lee Plan. Estimated potential commercial intensity for the subject property would be 54,100 square feet depending on site design.

#### **PROJECT SUMMARY**

The subject property consists of two STRAP numbers, 05-46-24-00-00003.0030 and 05-46-24-00-00003.0020. The latter parcel was purchased by Vicott Inc LLC. on April 5, 2006 from Sunset Falls LLC. In addition, LDO2006-00459 was approved for a lot split of the subject parcel and the parcels associated with the pending Waterstone Residential Planned Development (DCI2005-00078) to the north. The applicant plans to use the subject property for retail or commercial office space. In order to permit these desired uses, should the plan amendment be approved, the applicant will need to rezone the subject property from its current zoning classification of AG-2 an appropriate commercial zoning category.

#### **COMPREHENSIVE PLAN BACKGROUND**

The subject property was designated "Industrial Business Area" by the original Lee County Land Use Map, adopted in 1984. Whereas other urban land use categories were designated to include a broad combination of residential, commercial, public, and limited industrial land uses, the Industrial Business Areas land use category was reserved mainly for industrial uses *per se*, as well as for selective land use mixtures such as a combination of industrial, research, and related office complexes. There was considerable confusion regarding the Industrial/Business land use category. The term "Business" within the title inferred that commercial retail was an allowable use within this category. The omission of commercial from the text of the Industrial/Business category as well as the conclusions derived from Thomas Robert's 1983 "Industrial Land Use Needs in the Lee County Comprehensive Plan" report seemed to clearly indicate that commercial was not intended to be included in this category. This Future Land Use category was eventually changed to Industrial Development.



## **ADJACENT ZONING AND USES**

The subject property is zoned AG-2. The properties to the east, north, and south are zoned AG-2 and the property to west is zoned CF-3. The Fort Myers Beach Treatment ponds are located to the west. Vacant lands surround the property on the east, north, and south. These properties have remained vacant due to their location within the Cow Slough wetland area. In addition, the property to the north is included within the pending Waterstone Residential Planned Development rezoning case (DCI2005-00078).

## **POPULATION ACCOMMODATION CAPACITY DISCUSSION**

The request is to change the Future Land Use Map (FLUM) categories of 5.41 ± acres of Industrial Development and 2.26 ± acres of Wetlands to Urban Community and Conservation Lands. The Industrial Development category does not allow residential densities. The Urban Community land use designation permits up to 6 du/acre with a Bonus Density of up to 10 du/acre. This means that 32 residential units could be developed on the subject parcel if the amendment request is granted and the property is rezoned to residential. Staff however, is recommending the Commercial Future Land Use category which would eliminate any potential for increased residential density within the Coastal High Hazard Area. The applicant has agreed to no residential development on this site. Therefore, if the proposed Commercial Future Land Use amendment is adopted as part of this map amendment it will no significantly affect Lee County's population projections.

## **CONSISTENCY WITH THE "URBAN COMMUNITY" LAND USE CATEGORY**

The applicant is proposing that the subject area's land use designation be amended to Urban Community and Conservation Lands. The Urban Community and Conservation Lands areas are outlined in Policy 1.1.4 and described below:

***POLICY 1.1.4:*** *The Urban Community areas are areas outside of Fort Myers and Cape Coral that are characterized by a mixture of relatively intense commercial and residential uses. Included among them, for example, are parts of Lehigh Acres, San Carlos Park, Fort Myers Beach, South Fort Myers, the city of Bonita Springs, Pine Island, and Gasparilla Island. Although the Urban Communities have a distinctly urban character, they should be developed at slightly lower densities. As the vacant portions of these communities are urbanized, they will need to maintain their existing bases of urban services and expand and strengthen them accordingly. As in the Central Urban area, predominant land uses in the Urban Communities will be residential, commercial, public and quasi-public, and limited light industry (see Policy 7.1.6). Standard density ranges from one dwelling unit per acre (1 du/acre) to six dwelling units per acre (6 du/acre), with a maximum of ten dwelling units per acre (10 du/acre). (Amended by Ordinance No. 94-30, 02-02)*

***POLICY 1.4.6:*** *The Conservation Lands include uplands and wetlands that are owned and used for long range conservation purposes. Upland and wetland conservation lands will be shown as separate categories on the FLUM. Upland conservation lands will be subject to the provisions of this policy. Wetland conservation lands will be subject to the provisions of*



*both the Wetlands category described in Objective 1.5 and the Conservation Lands category described in this policy. The most stringent provisions of either category will apply to wetland conservation lands. Conservation lands will include all public lands required to be used for conservation purposes by some type of legal mechanism such as statutory requirements, funding and/or grant conditions, and mitigation preserve areas required for land development approvals. Conservation Lands may include such uses as wildlife preserves; wetland and upland mitigation areas and banks; natural resource based parks; ancillary uses for environmental research and education, historic and cultural preservation, and natural resource based parks (such as signage, parking facilities, caretaker quarters, interpretive kiosks, research centers, and quarters and other associated support services); and water conservation lands such as aquifer recharge areas, flowways, flood prone areas, and well fields. 2020 lands designated as conservation are also subject to more stringent use provisions of the 2020 Program or the 2020 ordinances. (Added by Ordinance No. 98-09, Amended by Ordinance No. 02-02)*

#### **MAP 16-PLANNING COMMUNITIES AND TABLE 1(b)**

The subject area is located within the Iona/McGregor Planning Community. In this planning community, 697 acres are allocated for residential uses by the year 2020. Recent data collected by the Division of Planning indicates that there are 669 acres currently developed with residential uses within the Urban Community designation, leaving a total of 28 acres that could be developed with residential uses. Planning staff recommends the newly Commercial Future Land Use category, therefore, residential allocation does not pertain to this amendment request. In addition, in the Iona/McGregor planning community, 782 acres is allocated for commercial uses for the year 2020 and 579 acres is currently developed with commercial uses. CPA2005-00026 proposes to update the commercial allocation by extending them in the Iona/McGregor area to 1100 acres by the year 2030 (see Allocation Comparison Table Attachment). This amendment has a scheduled adoption hearing on April 11<sup>th</sup> 2007.

#### **TRANSPORTATION ISSUES**

Lee County Department of Transportation staff have reviewed the amendment request and has provided a memo dated October 19, 2006. The memo include the following comments:

*" Compared to the residential and light industrial uses, 54,100 square feet of commercial is the worst case in terms of trip generation from this site, and will generate 417 trips (including pass-by trips) on a PM peak hour basis. The Lee County MPO 2030 FSUTMS model shows that Summerlin Road, a 6-lane facility onto which the property will have an access , will have 1,937 trips on a PM peak hour basis, and the LOS will be at "B". Adding this project's traffic, the LOS on Summerlin Road will be still at "B". Therefore, we determine that the land use change on this property will not alter the future road network system."*

#### **PUBLIC SAFETY ISSUES**



The applicant has provided letters from public safety agencies and service providers. The purpose of these letters is to determine the adequacy of existing or proposed support facilities regarding the proposed land use amendment request.

#### **1. EMS**

Lee County Emergency Medical Services staff have reviewed the proposal and provided a Statement of No Concern September 12, 2006 that for the requested land use designation of Urban Community with the maximum development potential of 54,100 sq. ft. of building or a maximum of 32 dwelling units.

#### **2. FIRE**

The Iona McGregor Fire Department staff have reviewed the proposal and provided a letter dated September 12, 2006 stating that there is capability to serve the subject parcel as long as all state and local codes are adhered to.

#### **3. SHERIFF**

The Lee County Sheriff Department staff have reviewed the proposal and provided a letter dated September 12, 2006 stating there are no objections to the project and an adequate "core" level of law enforcement services will be provided for the subject parcel.

#### **4. SCHOOL IMPACTS**

The School District of Lee County staff have reviewed the proposal provided comments dated September 13, 2006. In that letter there were no objections to the proposed land use map amendment request.

#### **5. SOILS**

The 1984 U.S. Department of Agriculture Soil Survey of Lee County classified 3 soil types on the subject parcel - 6 Hallendale fine sand, 13 Boca fine sand, 45 Copeland sandy loam depressional, and 56 Isle Muck. All listed soil types found on the subject parcel are hydric soils and good indicators of wetland habitat. Hydric soils are those soils that in their natural conditions are saturated, flooded, or ponded long enough during the growing season (February to December in Lee County) to develop anaerobic conditions that favor the growth and regeneration of hydrophytic (wetland) vegetation.

#### **6. HISTORICAL AND ARCHAEOLOGICAL IMPACTS**

The Florida Department of State Division of Historical Resources submitted a letter dated September 12, 2006 that the Florida Master Site File lists no previously recorded cultural resources on the subject parcel. In addition, the Lee County DCD Division of Planning submitted a letter dated January 5, 2007 that there are no historic sites on the subject parcel. The applicant will be required to apply for a Certificate to Dig as a condition for obtaining a development order. In reviewing the Certificate to Dig application, staff may require that the applicant have an archaeological survey conducted by an archeologist. Conditions may be imposed based on the results of the survey.



## **7. ENDANGERED SPECIES**

The protected species survey dated May 13, 2005 was prepared by Boylan Environmental Consultants, Inc. for the subject parcel was submitted with the as apart of the Waterstone RPD rezoning case (DCI2005-00078). According to that report, no protected species were observed on the subject parcel.

## **8. PARKS, RECREATION AND OPEN SPACE**

Lee County Parks & Recreation Staff have reviewed the amendment request and provided comments via email dated December 12, 2005. In that email, Parks & Recreation staff suggested that 100 feet be required on the eastern boundary of the site to protect water quality and wildlife habitat in the Deep Lagoon Preserve. The applicant has proposed to preserve the existing wetland habitat in this area and has requested that this portion of the site be placed in the Conservation Lands Land Use Category. In addition, the eastern 222 ± feet of the subject property is within a SFWMD Conservation Easement.

## **9. DRAINAGE/SURFACE WATER MANAGEMENT**

The applicant has provided the following comments for surface water management requirements:

*" The development's surface water management system will be developed in accordance with South Florida Water Management District and Lee County Development regulations. The project has been permitted under South Florida Water Management District permit number 36-05751-P. A copy of the permit is attached. The eastern 222± feet of the subject property is within a SFWMD Conservation Easement and is proposed for Conservation Lands: Wetland Land Use designation."*

## **10. MASS TRANSIT**

Lee County Transit Division staff have reviewed the amendment request and provided the following comments to the applicant in a memo, dated September 12, 2006. The memo includes the following:

*" Lee County Transit staff has reviewed the follow-up information you provided in regards to your service adequacy request for the above-mentioned Lee County Small Scale Comprehensive Plan Amendment application. The updated use of 54,100 square or a maximum of 32 dwelling units does not change our previous determination."*

*We currently provide service on Summerlin Road in front of the subject property 6 days a week with our Route 50. Service frequencies Monday through Saturday are every 70 minutes, which likely does not provide for a core level of transit service to this area. However, we do have capacity for additional passengers to use this route as a result of the proposed project*



*although; improved frequency needs to occur in order to begin attracting single occupant automobile users to the transit systems."*

## **11. SOLID WASTE**

Lee County Solid Waste Division staff have reviewed the amendment request and has provided the following comments to the applicant in a memo, dated September 12, 2006. The memo includes the following:

*" The Lee County Waste Division is capable of providing solid waste collection service for the additional units proposed for the 7.67 acre site located on the north side of Summerlin Rd., between Pine Ridge Road and Bass Road through our franchised hauling contractors. Disposal of the solid waste from this development 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 certain multi-family commercial solid waste containers.*

## **12. UTILITIES**

Lee County Utilities staff have reviewed the amendment request and has provided the following comments via email on October 10, 2006. The email includes:

*" Utilities has no issues regarding the capacity to serve the development proposed in this CPA. As always, the developer will be responsible for off-site improvements to infrastructure to extend facilities to the project. In this case both water and sewer infrastructure will need to extended."*

## **13. COASTAL HIGH HAZARD AREA ISSUE (CHHA)**

The subject property is located in the CHHA area per the Lee Plan Map 5. There have been past discussions regarding the concern of increasing density in this area. Planning staff recommendation of the new Commercial Land Use designation eliminates any potential residential uses. The 1991 "Hurricane Storm Tide Atlas for Lee County", prepared by the Southwest Florida Regional Planning Council, shows the subject property is located within the Tropical Storm surge zone. The proposed commercial development does not increase residential density in the CHHA.

## **B. CONCLUSIONS**

The proposed amendment is consistent with Policy 1.1.4, the Urban Community Future Land Use category descriptor policy and Policy 1.4.6, the Conservation Lands Future Land Use category descriptor policy. The intent of the applicant is to develop commercial office and retail uses which is compatible with the surrounding uses. The subject parcel is located between the Urban Community Future Land Use category to the north, the Wetlands Future Land Use category to the



east, the Outlying Suburban Future Land Use category to the south, and the Community Facilities Future Land Use category to the west. The commercial intensities proposed are allowed in the Urban Community land use designation. If the amendment is approved a maximum of 54,100 square feet of commercial development could be constructed. This increase in commercial square footage is insignificant in the Urban Community Future land use designation.

Although the proposed amendment is consistent with the Urban Community and Conservation Lands Future Land Use categories and the surrounding uses in the area, staff have concerns with the proposal. The subject parcel is located within the CHHA as defined in the Lee Plan. **Policy 5.1.2. of the Lee Plan** prohibits residential development where physical constraints or hazards exist, require the density and design to be adjusted accordingly. Such constraints include but are not limited to flood, storm, or hurricane hazards; unstable soil or geologic conditions; environmental limitations; aircraft noise; or other characteristics that may endanger the residential community. Planning staff have concluded that the proposed amendment request has the potential to place future populations at risk. Therefore, staff is unable to support the adoption of the proposed amendment request. However, Planning staff recommends the new Future Land Use category of Commercial that was initiated by the Board of County Commissioners on September 28, 2004. This new category was the result of two privately initiated small scale amendments that are located in the southeast quadrant of the Summerlin Road and Pine Ridge road intersection. The amendments requested a future land use map change from the Industrial Development Future Land Use category to the Urban Future Land Use category. Staff noted that residential development would not be highly favored on the site due to the existing surrounding commercial and industrial uses and the location of the parcels at the intersection. As part of the review for each request, staff discussed the coastal issues involved in the map change. The properties were located in the CHHA as defined in the Lee Plan. While it was unlikely that the properties would ever be developed with residential uses, the amendment did impose a potential to increase residential densities in th CHHA. Based on the review of the two small scale amendments, staff found a growing need for a Commercial Development Future Land Use category.

### C. STAFF RECOMMENDATIONS

Planning staff **recommends denial** of the applicant's request to amend Map 1, the Future Land Use Map, to change the Future Land Use designation of the subject area from Industrial Development and Wetlands to Urban Community and Conservation Lands Future Land Use designation. However, Planning staff does **recommend transmittal** of the subject property to the newly adopted Future Land Use category of Commercial. This recommended future land use designation would eliminate any potential for increased residential density within the CHHA.



**PART III-LOCAL PLANNING AGENCY  
REVIEW AND RECOMMENDATION**

DATE OF PUBLIC HEARING: March 26, 2007

**A. LOCAL PLANNING AGENCY REVIEW**

**B. LOCAL PLANNING AGENCY RECOMMENDATIONS AND FINDINGS OF FACT  
SUMMARY**

**1. RECOMMENDATION**

**2. BASIS AND RECOMMENDATION FINDINGS OF FACT:**

**C. VOTE:**

NOEL ANDRESS

\_\_\_\_\_

DEREK BURR

\_\_\_\_\_

LES COCHRAN

\_\_\_\_\_

RON INGE

\_\_\_\_\_

CARLETON RYFFEL

\_\_\_\_\_

RAE ANN WESSEL

\_\_\_\_\_



**PART IV - BOARD OF COUNTY COMMISSIONERS  
HEARING FOR ADOPTION OF PROPOSED AMENDMENT**

DATE OF ADOPTION HEARING:

**A. BOARD REVIEW:**

**B. BOARD ACTION AND FINDINGS OF FACT SUMMARY:**

**1. BOARD ACTION AND FINDINGS OF FACT SUMMARY:**

**2. BASIS AND RECOMMENDED FINDINGS OF FACT**

**C. VOTE:**

**A. BRIAN BIGELOW**

\_\_\_\_\_

**TAMMARA HALL**

\_\_\_\_\_

**BOB JANES**

\_\_\_\_\_

**RAY JUDAH**

\_\_\_\_\_

**FRANKLIN B. MANN**

\_\_\_\_\_



# WATERSTONE

## STORMWATER MANAGEMENT PLANS

PREPARED FOR:

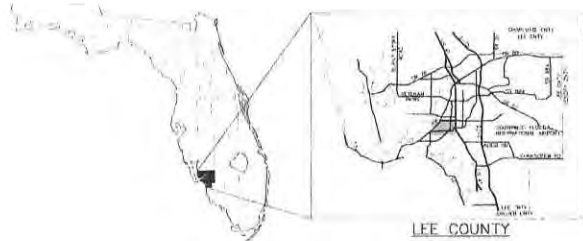
VICOTT, INC.

1325 SE 47TH STREET; SUITE G

CAPE CORAL, FLORIDA 33904

**PHONE: (239) 540-4110**

**FAX: (239) 540-5568**



#### LOCATION MAP

SECTION 5, TOWNSHIP 46 SOUTH, RANGE 24 EAST  
LEE COUNTY, FLORIDA



## SITE INFORMATION

PROJECT AREA: 109.03 ACRES

<b>PARCEL STRAP NO.:</b>	05-46-24-00	00003 0070
	05-46-24-00	00003 0070
	05-46-24-00	00003 0070
	05-46-24-01	00003 0070
	05-46-24-01	00003 0070
	05-46-24-01	00003 0070
	05-46-24-01	00003 0070
	05-46-24-00	00003 0070

PARCEL ADDRESS: SUMNER RD.

CURRENT ZONING: AG - MH - NV - 2

PROPOSED USE: RESIDENTIAL PLANNED DEVELOPMENT

SFWMD PERMIT NO.: PENDING

LEE COUNTY DEVELOPMENT ORDER NO.: PLADING

## UTILITY SERVICE PROVIDERS

WATER: FET. QUANTITY 177.00 LBS.  
1502 ANCHOR STREET  
FORT MYERS, FLORIDA 3390  
PHONE: (202) 870-1100

SEWER: SEE COUNTY FILES  
1540 MONROE STREET  
FIVE MYRS, FLORIDA 3300  
PHONE (229) 379-1140

**ELECTRIC:** FLORIDA POWER AND LIGHT  
15854 WHEELER ROAD  
FORT MYERS, FLORIDA 33907  
PHONE (772) 811-1310

PHONE: 305-441-1111

FIRE PROTECTION: FORT MYERS FIRE DEPARTMENT  
1501 WHEEL ROAD  
FORT MYRS, FLORIDA 33901  
PHONE: (714) 433-0000

**SOLID WASTE DISPOSAL:** **WASTE DISPOSAL, INC.**  
POST OFFICE BOX 3400  
FORT MYERS, FLORIDA 33901  
(800) 370-0335, FAX: 435

IRRIGATION: SEE COUNTY UTILITIES  
1100 MONROE STREET  
YORBA LINDA, CALIFORNIA 92501  
PHONE: (714) 876-8700

Banks Engineering, Inc.

Professional Engineers, Planners &amp; Land Surveyors

FORT MYERS - NAPLES - SARASOTA

License Number EB-0006469

10511 SIX MILE CYPRESS PARKWAY - SUITE 101; FORT MYERS, FLORIDA 33912

PHONE: (239) 939-5490 FAX: (239) 939-2523

## INDEX OF SHEETS

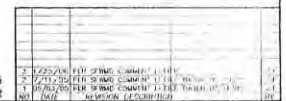
SHEET	TITLE
1	COVER
2	AERIAL PHOTOGRAPH
3	MASTER SITE PLAN
4	MASTER STORM WATER PLAN
5-12	STORM WATER PLANS
13	PAVING, GRADING, AND DRAINAGE DETAILS
14	TYPICAL SECTIONS
15	GENERAL NOTES
16	BEST MANAGEMENT PRACTICE DETAILS
9 OF 9	BOUNDARY SURVEY



APPLICATION NUMBER  
050113-134

EXHIBIT 2.0

SEAN C. MARTIN, P.E.  
FLORIDA REG. No. 60901









**PARKING REQUIREMENTS:**  
YES

**SINGLE-FAMILY RESIDENCE**

A PARKING PLAN IS NOT REQUIRED

**RESIDENTIAL CONSTRUCTION SINGLE-FAMILY VILLAGES**

A PARKING PLAN IS NOT REQUIRED  
THE REQUIRED 2 SPACES PER UNIT MAY BE PROVIDED IN ADJACENT AND CHARGED.

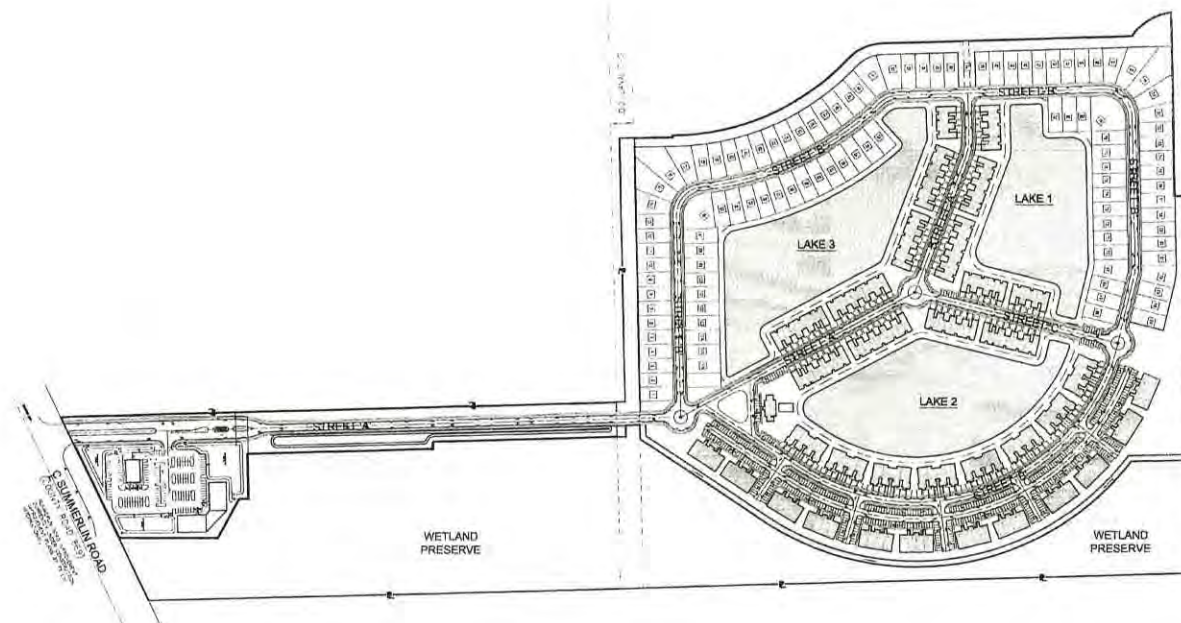
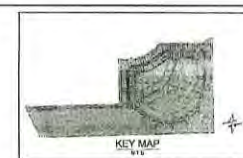
**RESIDENTIAL CONSTRUCTION MULTI-FAMILY COMPLEXES**

A PARKING PLAN IS REQUIRED

THE REQUIRED SPACES IS AS FOLLOWS:

2 BEDROOM UNIT 2.00 SPACES PER UNIT  
3 BEDROOM UNIT 2.50 SPACES PER UNIT  
4 BEDROOMS PER BUILDING 8 + 1.50 SPACES 14 SPACES  
4 BEDROOMS PER BUILDING 8 + 2.50 SPACES 16 SPACES  
4 BEDROOMS PER BUILDING 8 + 3.00 SPACES 18 SPACES PER BUILDING

NO SPACES ARE REQUIRED, 20 BEDROOMS. 20 SPACES ARE REQUIRED IN ADJACENT TO ADJACENT VILLAGES

[illegible]

APPLICATION NUMBER  
050113-13#

ADD/REVISED SUBMITTAL  
JAN 25 2006  
IWC SERVICE CENTER

EXHIBIT 2.2

**VICOTT, INC.**

1525 SE 47TH STREET, SUITE G  
CAPE CORAL, FLORIDA 33904  
PHONE: (239) 540-4110  
FAX: (239) 540-5008

**Banks Engineering, Inc.**  
Professional Engineers, Planners & Land Surveyors

10311 W. MEE CYPRESS PARKWAY - #188-101  
FORT MYERS, FLORIDA 33917  
PHONE (238) 939-5400 FAX (238) 939-2021  
ENGINEERING LICENSE # CH 6463  
SURVEY LICENSE # CH 6460

MASTER SITE PLAN  
**WATERSTONE**  
LEE COUNTY, FLORIDA

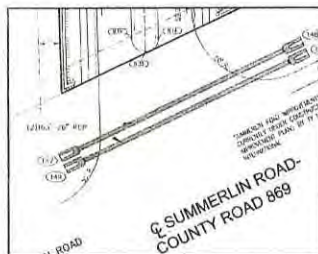
DATE	PROJECT	DRAWING	DESIGN	DRAWN	CHECKED	SCALE	NOTES	FILE NO.
11-15-04	FR55	M-SP	SCM	WFI	SCM	1"=16.0'		







NO.	DESCRIPTION	DATE	REVISION
100	10" DIA. 10' W/GRATE	10/10/00	1
101	10" DIA. 10' W/GRATE	10/10/00	1
102	10" DIA. 10' W/GRATE	10/10/00	1
103	10" DIA. 10' W/GRATE	10/10/00	1
104	10" DIA. 10' W/GRATE	10/10/00	1
105	10" DIA. 10' W/GRATE	10/10/00	1
106	10" DIA. 10' W/GRATE	10/10/00	1
107	10" DIA. 10' W/GRATE	10/10/00	1
108	10" DIA. 10' W/GRATE	10/10/00	1
109	10" DIA. 10' W/GRATE	10/10/00	1
110	10" DIA. 10' W/GRATE	10/10/00	1
111	10" DIA. 10' W/GRATE	10/10/00	1
112	10" DIA. 10' W/GRATE	10/10/00	1
113	10" DIA. 10' W/GRATE	10/10/00	1
114	10" DIA. 10' W/GRATE	10/10/00	1
115	10" DIA. 10' W/GRATE	10/10/00	1
116	10" DIA. 10' W/GRATE	10/10/00	1
117	10" DIA. 10' W/GRATE	10/10/00	1
118	10" DIA. 10' W/GRATE	10/10/00	1
119	10" DIA. 10' W/GRATE	10/10/00	1
120	10" DIA. 10' W/GRATE	10/10/00	1
121	10" DIA. 10' W/GRATE	10/10/00	1
122	10" DIA. 10' W/GRATE	10/10/00	1
123	10" DIA. 10' W/GRATE	10/10/00	1
124	10" DIA. 10' W/GRATE	10/10/00	1
125	10" DIA. 10' W/GRATE	10/10/00	1
126	10" DIA. 10' W/GRATE	10/10/00	1
127	10" DIA. 10' W/GRATE	10/10/00	1
128	10" DIA. 10' W/GRATE	10/10/00	1
129	10" DIA. 10' W/GRATE	10/10/00	1
130	10" DIA. 10' W/GRATE	10/10/00	1
131	10" DIA. 10' W/GRATE	10/10/00	1
132	10" DIA. 10' W/GRATE	10/10/00	1
133	10" DIA. 10' W/GRATE	10/10/00	1
134	10" DIA. 10' W/GRATE	10/10/00	1
135	10" DIA. 10' W/GRATE	10/10/00	1
136	10" DIA. 10' W/GRATE	10/10/00	1
137	10" DIA. 10' W/GRATE	10/10/00	1
138	10" DIA. 10' W/GRATE	10/10/00	1
139	10" DIA. 10' W/GRATE	10/10/00	1
140	10" DIA. 10' W/GRATE	10/10/00	1
141	10" DIA. 10' W/GRATE	10/10/00	1
142	10" DIA. 10' W/GRATE	10/10/00	1
143	10" DIA. 10' W/GRATE	10/10/00	1
144	10" DIA. 10' W/GRATE	10/10/00	1
145	10" DIA. 10' W/GRATE	10/10/00	1
146	10" DIA. 10' W/GRATE	10/10/00	1
147	10" DIA. 10' W/GRATE	10/10/00	1
148	10" DIA. 10' W/GRATE	10/10/00	1
149	10" DIA. 10' W/GRATE	10/10/00	1
150	10" DIA. 10' W/GRATE	10/10/00	1
151	10" DIA. 10' W/GRATE	10/10/00	1
152	10" DIA. 10' W/GRATE	10/10/00	1
153	10" DIA. 10' W/GRATE	10/10/00	1
154	10" DIA. 10' W/GRATE	10/10/00	1
155	10" DIA. 10' W/GRATE	10/10/00	1
156	10" DIA. 10' W/GRATE	10/10/00	1
157	10" DIA. 10' W/GRATE	10/10/00	1
158	10" DIA. 10' W/GRATE	10/10/00	1
159	10" DIA. 10' W/GRATE	10/10/00	1
160	10" DIA. 10' W/GRATE	10/10/00	1
161	10" DIA. 10' W/GRATE	10/10/00	1
162	10" DIA. 10' W/GRATE	10/10/00	1
163	10" DIA. 10' W/GRATE	10/10/00	1
164	10" DIA. 10' W/GRATE	10/10/00	1
165	10" DIA. 10' W/GRATE	10/10/00	1
166	10" DIA. 10' W/GRATE	10/10/00	1
167	10" DIA. 10' W/GRATE	10/10/00	1
168	10" DIA. 10' W/GRATE	10/10/00	1
169	10" DIA. 10' W/GRATE	10/10/00	1
170	10" DIA. 10' W/GRATE	10/10/00	1
171	10" DIA. 10' W/GRATE	10/10/00	1
172	10" DIA. 10' W/GRATE	10/10/00	1
173	10" DIA. 10' W/GRATE	10/10/00	1
174	10" DIA. 10' W/GRATE	10/10/00	1
175	10" DIA. 10' W/GRATE	10/10/00	1
176	10" DIA. 10' W/GRATE	10/10/00	1
177	10" DIA. 10' W/GRATE	10/10/00	1
178	10" DIA. 10' W/GRATE	10/10/00	1
179	10" DIA. 10' W/GRATE	10/10/00	1
180	10" DIA. 10' W/GRATE	10/10/00	1
181	10" DIA. 10' W/GRATE	10/10/00	1
182	10" DIA. 10' W/GRATE	10/10/00	1
183	10" DIA. 10' W/GRATE	10/10/00	1
184	10" DIA. 10' W/GRATE	10/10/00	1
185	10" DIA. 10' W/GRATE	10/10/00	1
186	10" DIA. 10' W/GRATE	10/10/00	1
187	10" DIA. 10' W/GRATE	10/10/00	1
188	10" DIA. 10' W/GRATE	10/10/00	1
189	10" DIA. 10' W/GRATE	10/10/00	1
190	10" DIA. 10' W/GRATE	10/10/00	1
191	10" DIA. 10' W/GRATE	10/10/00	1
192	10" DIA. 10' W/GRATE	10/10/00	1
193	10" DIA. 10' W/GRATE	10/10/00	1
194	10" DIA. 10' W/GRATE	10/10/00	1
195	10" DIA. 10' W/GRATE	10/10/00	1
196	10" DIA. 10' W/GRATE	10/10/00	1
197	10" DIA. 10' W/GRATE	10/10/00	1
198	10" DIA. 10' W/GRATE	10/10/00	1
199	10" DIA. 10' W/GRATE	10/10/00	1
200	10" DIA. 10' W/GRATE	10/10/00	1



**VICOTT, INC.**  
 1325 SE 47TH STREET, SUITE 0  
 CAPE CORAL, FLORIDA 33904  
 PHONE: (239) 540-4110  
 FAX: (239) 540-5568

**Banks Engineering, Inc.**  
 Professional Engineers, Planners & Land Surveyors

10211 US 90, SUITE 100, FORT MYERS, FLORIDA 33907  
 PHONE: (239) 939-5400 FAX: (239) 939-5522  
 ENGINEERING LICENSE # 101,540  
 SURVEY LICENSE # 101,540

APPLICATION NUMBER  
 050 113-13#

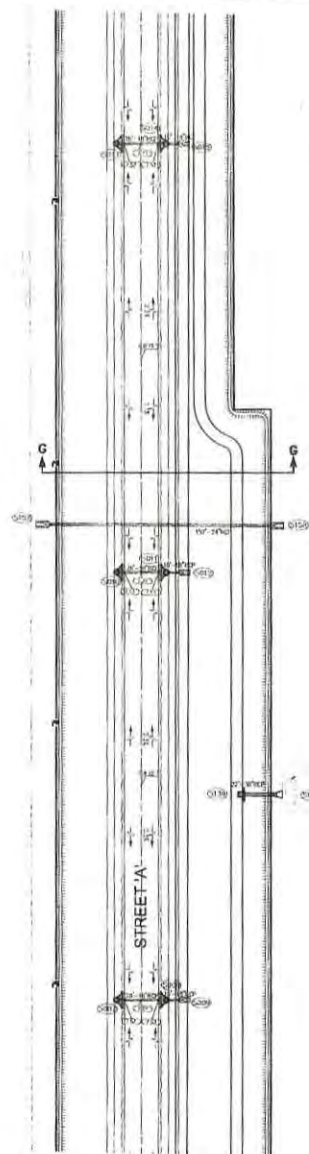
APPROVED SUBMITTAL  
 JAN 25 2006  
 LWC SERVICE CENTER



**STORMWATER PLAN**  
**WATERSTONE** EXHIBIT 24  
 LEE COUNTY, FLORIDA

DATE	PROJECT	DESIGNER	DESIGN	THROW	SCALE	UNIT
11-10-04	1856	SWD	SCM	WET	2CM	1"=20'





WETLAND PRESERVE



LEGEND

- BLOCKING CENTER
- 1 STORY (IN UNITS)
- 2NDY 10R (IN UNITS)
- 3RDY 10R (IN UNITS)

### DRAINAGE STRUCTURE TABLE

**DRAINAGE STRUCTURE TABLE**

REFER TO SHEETS PGD SHEETS FOR DRAINAGE, FIVE (5) MINUTE, ONE (1) DAY

5003	100% 100% 100% 100%	100%
5004	100% 100% 100% 100%	100%
5005	100% 100% 100% 100%	100%
5006	100% 100% 100% 100%	100%
5007	100% 100% 100% 100%	100%
5008	100% 100% 100% 100%	100%
5009	100% 100% 100% 100%	100%
5010	100% 100% 100% 100%	100%
5011	100% 100% 100% 100%	100%
5012	100% 100% 100% 100%	100%
5013	100% 100% 100% 100%	100%
5014	100% 100% 100% 100%	100%
5015	100% 100% 100% 100%	100%
5016	100% 100% 100% 100%	100%
5017	100% 100% 100% 100%	100%
5018	100% 100% 100% 100%	100%
5019	100% 100% 100% 100%	100%
5020	100% 100% 100% 100%	100%

APPLICATION NUMBER  
050113-134

ADJUDICATED SUBMITTAL  
JAN 25 2005  
LWC SERVICE CENTER

**VICOTT, INC.**  
1325 SE 47TH STREET, SUITE 1  
CAPE CORAL, FLORIDA 33904  
PHONE: (239) 540-4110  
FAX: (239) 540-1568

**Banks Engineering, Inc.**  
Professional Engineers, Planners & Land Surveyors

SEASIDE WILLY CYPRESS PARKWAY - SUITE 101  
FORT MYERS, FLORIDA 33902  
PHONE: (813) 920-3490 FAX: (813) 920-2523  
ENGINEERING LICENSE # 33164-A  
SURVEY LICENSE # 100600

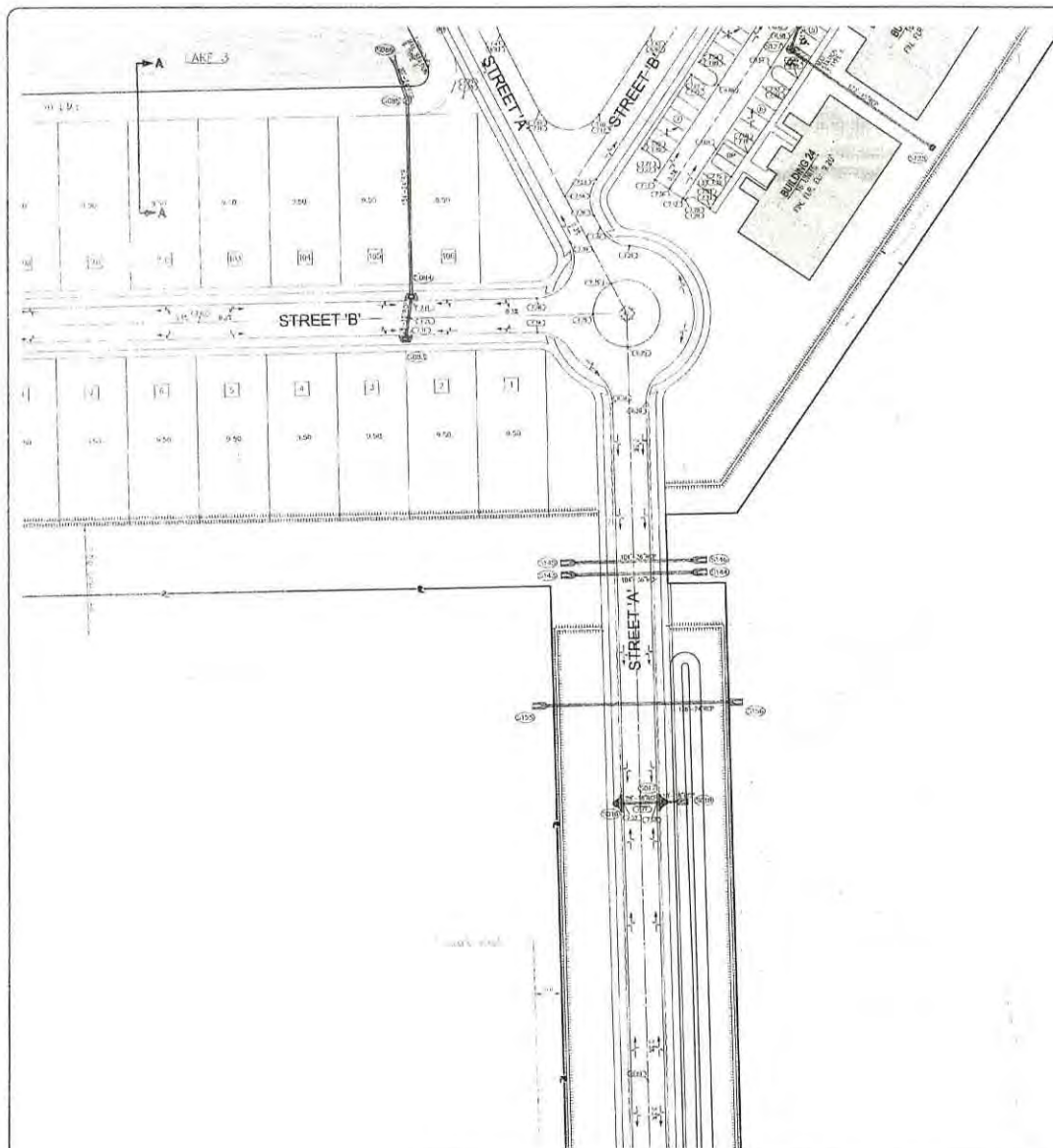
SEAN C. MARTIN, P.E.  
FLORIDA REG. NO. 10904

STORMWATER PLAN  
**WATERSTONE**  
LEE COUNTY, FLORIDA

EXHIBIT 2.5

DATE	PROJECT	DRAWING	DESIGN	DRAWN	CHECKED	SCALE	SHEET	OF	TOTAL SHEETS
11-15-04	11136	-SW02	SCM	WET	SCM	1"=40'	6	16	16





WETLAND PRESERVE



**DRAINAGE STRUCTURE TABLE**  
 REFER TO SHEETS FOR DETAILED ELEVATIONS AND DIMENSIONS

NO.	STRUCTURE	INLET ELEVATION	OUTLET ELEVATION	WIDTH	DEPTH	LENGTH	CONCRETE	REINFORCED	DIAPHRAGM	WALL	FOOTING	FOUNDATION
1001	18" DIA. MANHOLE	10.00	9.80	18"	24"	10'	Y	N	N	N	N	N
1002	24" DIA. MANHOLE	10.00	9.80	24"	24"	10'	Y	N	N	N	N	N
1003	36" DIA. MANHOLE	10.00	9.80	36"	24"	10'	Y	N	N	N	N	N
1004	48" DIA. MANHOLE	10.00	9.80	48"	24"	10'	Y	N	N	N	N	N
1005	60" DIA. MANHOLE	10.00	9.80	60"	24"	10'	Y	N	N	N	N	N
1006	72" DIA. MANHOLE	10.00	9.80	72"	24"	10'	Y	N	N	N	N	N
1007	84" DIA. MANHOLE	10.00	9.80	84"	24"	10'	Y	N	N	N	N	N
1008	96" DIA. MANHOLE	10.00	9.80	96"	24"	10'	Y	N	N	N	N	N
1009	108" DIA. MANHOLE	10.00	9.80	108"	24"	10'	Y	N	N	N	N	N
1010	120" DIA. MANHOLE	10.00	9.80	120"	24"	10'	Y	N	N	N	N	N
1011	144" DIA. MANHOLE	10.00	9.80	144"	24"	10'	Y	N	N	N	N	N
1012	168" DIA. MANHOLE	10.00	9.80	168"	24"	10'	Y	N	N	N	N	N
1013	192" DIA. MANHOLE	10.00	9.80	192"	24"	10'	Y	N	N	N	N	N
1014	216" DIA. MANHOLE	10.00	9.80	216"	24"	10'	Y	N	N	N	N	N
1015	240" DIA. MANHOLE	10.00	9.80	240"	24"	10'	Y	N	N	N	N	N
1016	264" DIA. MANHOLE	10.00	9.80	264"	24"	10'	Y	N	N	N	N	N
1017	288" DIA. MANHOLE	10.00	9.80	288"	24"	10'	Y	N	N	N	N	N
1018	312" DIA. MANHOLE	10.00	9.80	312"	24"	10'	Y	N	N	N	N	N
1019	336" DIA. MANHOLE	10.00	9.80	336"	24"	10'	Y	N	N	N	N	N
1020	360" DIA. MANHOLE	10.00	9.80	360"	24"	10'	Y	N	N	N	N	N

PREPARED FOR:  
**VICOTT, INC.**  
 1335 SE 47TH STREET, SUITE G  
 CAPE CORRAL, FLORIDA 33904  
 PHONE: (239) 540-4110  
 FAX: (239) 540-5560

NO.	REVISION	DATE	BY	CHKD.	APP'D.
1	REVISED FOR STORMWATER CONTROL	11/15/04	WET		
2	REVISED FOR STORMWATER CONTROL	11/15/04	WET		

**Banks Engineering, Inc.**  
 Professional Engineers, Planners & Land Surveyors  
 1001 22nd STREET, SUITE 101  
 MIAMI, FLORIDA 33136  
 PHONE: (305) 430-5400 FAX: (305) 430-2523  
 ENGINEERING LICENSE # 000000  
 SURVEYING LICENSE # 000000

DATE: 11-15-04  
 PROJECT: 1836  
 DRAWING: SW03

**STORMWATER PLAN**  
**WATERSTONE EXHIBIT 2.6**  
 LEE COUNTY, FLORIDA

DESIGN	DRAWN	CHECKED	DATE
SCM	WET	SCM	11-15-04











[illegible]

STORMWATER PLAN  
**WATERSTONE**  
 LEE COUNTY, FLORIDA



**DRAINAGE STRUCTURE TABLE**  
 REFER TO SHEETS AND SHEETS FOR DRAINAGE PIPE LENGTHS AND SIZES

NO.	STRUCTURE DESCRIPTION	GRAVE	INVERT ELEVATION
1501	12" C. BELL W/IN APRON 10' x 7.28	1-2.00, W-2.00	
1502	12" C. BELL W/IN APRON 10' x 7.28	1-1.50, W-1.50	
1503	12" C. BELL W/IN APRON 10' x 7.28	1-1.00	
1504	12" C. BELL W/IN APRON 10' x 7.28	1-0.50, W-0.50	
1505	12" C. BELL W/IN APRON 10' x 7.28	1-0.00	
1506	12" C. BELL W/IN APRON 10' x 7.28	1-0.50, W-0.50	
1507	12" C. BELL W/IN APRON 10' x 7.28	1-0.00	
1508	12" C. BELL W/IN APRON 10' x 7.28	1-0.50, W-0.50	
1509	12" C. BELL W/IN APRON 10' x 7.28	1-0.00	
1510	12" C. BELL W/IN APRON 10' x 7.28	1-0.50, W-0.50	
1511	12" C. BELL W/IN APRON 10' x 7.28	1-0.00	
1512	12" C. BELL W/IN APRON 10' x 7.28	1-0.50, W-0.50	
1513	12" C. BELL W/IN APRON 10' x 7.28	1-0.00	
1514	12" C. BELL W/IN APRON 10' x 7.28	1-0.50, W-0.50	
1515	12" C. BELL W/IN APRON 10' x 7.28	1-0.00	
1516	12" C. BELL W/IN APRON 10' x 7.28	1-0.50, W-0.50	
1517	12" C. BELL W/IN APRON 10' x 7.28	1-0.00	
1518	12" C. BELL W/IN APRON 10' x 7.28	1-0.50, W-0.50	
1519	12" C. BELL W/IN APRON 10' x 7.28	1-0.00	
1520	12" C. BELL W/IN APRON 10' x 7.28	1-0.50, W-0.50	
1521	12" C. BELL W/IN APRON 10' x 7.28	1-0.00	
1522	12" C. BELL W/IN APRON 10' x 7.28	1-0.50, W-0.50	
1523	12" C. BELL W/IN APRON 10' x 7.28	1-0.00	
1524	12" C. BELL W/IN APRON 10' x 7.28	1-0.50, W-0.50	
1525	12" C. BELL W/IN APRON 10' x 7.28	1-0.00	
1526	12" C. BELL W/IN APRON 10' x 7.28	1-0.50, W-0.50	
1527	12" C. BELL W/IN APRON 10' x 7.28	1-0.00	
1528	12" C. BELL W/IN APRON 10' x 7.28	1-0.50, W-0.50	
1529	12" C. BELL W/IN APRON 10' x 7.28	1-0.00	
1530	12" C. BELL W/IN APRON 10' x 7.28	1-0.50, W-0.50	
1531	12" C. BELL W/IN APRON 10' x 7.28	1-0.00	
1532	12" C. BELL W/IN APRON 10' x 7.28	1-0.50, W-0.50	
1533	12" C. BELL W/IN APRON 10' x 7.28	1-0.00	
1534	12" C. BELL W/IN APRON 10' x 7.28	1-0.50, W-0.50	
1535	12" C. BELL W/IN APRON 10' x 7.28	1-0.00	
1536	12" C. BELL W/IN APRON 10' x 7.28	1-0.50, W-0.50	
1537	12" C. BELL W/IN APRON 10' x 7.28	1-0.00	
1538	12" C. BELL W/IN APRON 10' x 7.28	1-0.50, W-0.50	
1539	12" C. BELL W/IN APRON 10' x 7.28	1-0.00	
1540	12" C. BELL W/IN APRON 10' x 7.28	1-0.50, W-0.50	
1541	12" C. BELL W/IN APRON 10' x 7.28	1-0.00	
1542	12" C. BELL W/IN APRON 10' x 7.28	1-0.50, W-0.50	
1543	12" C. BELL W/IN APRON 10' x 7.28	1-0.00	
1544	12" C. BELL W/IN APRON 10' x 7.28	1-0.50, W-0.50	
1545	12" C. BELL W/IN APRON 10' x 7.28	1-0.00	
1546	12" C. BELL W/IN APRON 10' x 7.28	1-0.50, W-0.50	
1547	12" C. BELL W/IN APRON 10' x 7.28	1-0.00	
1548	12" C. BELL W/IN APRON 10' x 7.28	1-0.50, W-0.50	
1549	12" C. BELL W/IN APRON 10' x 7.28	1-0.00	
1550	12" C. BELL W/IN APRON 10' x 7.28	1-0.50, W-0.50	
1551	12" C. BELL W/IN APRON 10' x 7.28	1-0.00	
1552	12" C. BELL W/IN APRON 10' x 7.28	1-0.50, W-0.50	
1553	12" C. BELL W/IN APRON 10' x 7.28	1-0.00	
1554	12" C. BELL W/IN APRON 10' x 7.28	1-0.50, W-0.50	
1555	12" C. BELL W/IN APRON 10' x 7.28	1-0.00	
1556	12" C. BELL W/IN APRON 10' x 7.28	1-0.50, W-0.50	
1557	12" C. BELL W/IN APRON 10' x 7.28	1-0.00	
1558	12" C. BELL W/IN APRON 10' x 7.28	1-0.50, W-0.50	
1559	12" C. BELL W/IN APRON 10' x 7.28	1-0.00	
1560	12" C. BELL W/IN APRON 10' x 7.28	1-0.50, W-0.50	
1561	12" C. BELL W/IN APRON 10' x 7.28	1-0.00	
1562	12" C. BELL W/IN APRON 10' x 7.28	1-0.50, W-0.50	
1563	12" C. BELL W/IN APRON 10' x 7.28	1-0.00	
1564	12" C. BELL W/IN APRON 10' x 7.28	1-0.50, W-0.50	
1565	12" C. BELL W/IN APRON 10' x 7.28	1-0.00	
1566	12" C. BELL W/IN APRON 10' x 7.28	1-0.50, W-0.50	
1567	12" C. BELL W/IN APRON 10' x 7.28	1-0.00	
1568	12" C. BELL W/IN APRON 10' x 7.28	1-0.50, W-0.50	
1569	12" C. BELL W/IN APRON 10' x 7.28	1-0.00	
1570	12" C. BELL W/IN APRON 10' x 7.28	1-0.50, W-0.50	
1571	12" C. BELL W/IN APRON 10' x 7.28	1-0.00	
1572	12" C. BELL W/IN APRON 10' x 7.28	1-0.50, W-0.50	
1573	12" C. BELL W/IN APRON 10' x 7.28	1-0.00	
1574	12" C. BELL W/IN APRON 10' x 7.28	1-0.50, W-0.50	
1575	12" C. BELL W/IN APRON 10' x 7.28	1-0.00	
1576	12" C. BELL W/IN APRON 10' x 7.28	1-0.50, W-0.50	
1577	12" C. BELL W/IN APRON 10' x 7.28	1-0.00	
1578	12" C. BELL W/IN APRON 10' x 7.28	1-0.50, W-0.50	
1579	12" C. BELL W/IN APRON 10' x 7.28	1-0.00	
1580	12" C. BELL W/IN APRON 10' x 7.28	1-0.50, W-0.50	
1581	12" C. BELL W/IN APRON 10' x 7.28	1-0.00	
1582	12" C. BELL W/IN APRON 10' x 7.28	1-0.50, W-0.50	
1583	12" C. BELL W/IN APRON 10' x 7.28	1-0.00	
1584	12" C. BELL W/IN APRON 10' x 7.28	1-0.50, W-0.50	
1585	12" C. BELL W/IN APRON 10' x 7.28	1-0.00	
1586	12" C. BELL W/IN APRON 10' x 7.28	1-0.50, W-0.50	
1587	12" C. BELL W/IN APRON 10' x 7.28	1-0.00	
1588	12" C. BELL W/IN APRON 10' x 7.28	1-0.50, W-0.50	
1589	12" C. BELL W/IN APRON 10' x 7.28	1-0.00	
1590	12" C. BELL W/IN APRON 10' x 7.28	1-0.50, W-0.50	
1591	12" C. BELL W/IN APRON 10' x 7.28	1-0.00	
1592	12" C. BELL W/IN APRON 10' x 7.28	1-0.50, W-0.50	
1593	12" C. BELL W/IN APRON 10' x 7.28	1-0.00	
1594	12" C. BELL W/IN APRON 10' x 7.28	1-0.50, W-0.50	
1595	12" C. BELL W/IN APRON 10' x 7.28	1-0.00	
1596	12" C. BELL W/IN APRON 10' x 7.28	1-0.50, W-0.50	
1597	12" C. BELL W/IN APRON 10' x 7.28	1-0.00	
1598	12" C. BELL W/IN APRON 10' x 7.28	1-0.50, W-0.50	
1599	12" C. BELL W/IN APRON 10' x 7.28	1-0.00	
1600	12" C. BELL W/IN APRON 10' x 7.28	1-0.50, W-0.50	

**VICOTT, INC.**

1325 SE 47TH STREET, SUITE D  
 CAPE CORAL, FLORIDA 33904  
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 ENGINEERING LICENSE # 101 0403  
 SURVEYING LICENSE # 101 0403

*J. M. T.*  
 1/24/04  
 J. M. T., P.E.  
 FLORIDA REG. NO. 10000

**STORMWATER PLAN  
 WATERSTONE EXHIBIT 2.10  
 LEE COUNTY, FLORIDA**

DATE	PROJECT	DRAWING	DESIGN	CHECK	SCALE	SHEET
11-15-04	1836	2007	SCM	WET	SCM	1























## SOUTH FLORIDA WATER MANAGEMENT DISTRICT

sfwmd.gov



## Application &amp; Permit Information Dashboard

On the fast track to permit

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## South Florida Water Management District

### ERP Permits Issued and Applications Received by SFWMD for LEE

If documents have been electronically attached to the application or permit file, they will be available by clicking on the Appl No#.

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22 to 24 of 45


[First Page](#)

[Previous](#)

[Next](#)

[Last Page](#)

<b>Appl No#:</b>	050126-12	<b>Permit#:</b>	36-03426-P	<b>Approved Date:</b>	29-Aug-2005
<b>Issuing Office:</b>	FTM				
<b>Permit Type:</b>	Environmental Resource (General Permit Modification)				
<b>Expiration Date:</b>		<b>Project Acres:</b>	2.28		
<b>Project Name:</b>	Summerlin Park Lot B	<b>Receiving Body:</b>	Existing Master Swms		
<b>Location:</b>	Lee S04/T46/R24	<b>Landuse(s):</b>	Residential		
<b>Owner:</b>	Matthew T And Fiona M Finn 8695 College Pkwy Unit 300 Fort Myers FL 33919				
<b>Owner:</b>	Summerlin Bass Llc Edward Adkins 15051 S Tamiami Trail # 203 Fort Myers FL 33908				
<b>Agent:</b>	Banks Engineering Inc Sean C Martin Pe 10511 Six Mile Cypress Parkway Fort Myers FL 33912				
<b>Oper Entity:</b>	Summerlin Park Property Owners Association				

<b>Appl No#:</b>	050113-13	<b>Permit#:</b>	36-05751-P	<b>Approved Date:</b>	
<b>Issuing Office:</b>	FTM				
<b>Permit Type:</b>	Environmental Resource (New Construction/Operation)				
<b>Expiration Date:</b>		<b>Project Acres:</b>	109.03		
<b>Project Name:</b>	Sunset Falls (F.K.A. Waterstone)	<b>Receiving Body:</b>	Caloosahatchee River Via Idd Canal C Via Adjacent Wetlands		
<b>Location:</b>	Lee S5/T46/R24	<b>Landuse(s):</b>	Residential Commercial		
<b>Applicant:</b>	Vicott, Inc. Anthony M Maul 10950 Old South Way Fort Myers FL 33904				
<b>Applicant:</b>	Sunset Falls, Llc Eddy Garcia 8045 Nw 155 Street Miami Lakes FL 33016				
<b>Engr</b>	Banks Engineering Inc Gerald Ripo, E. I. 10511-101 Six Mile Cypress Parkway Fort Myers FL 33912				
<b>Consultant:</b>					
<b>Oper Entity:</b>	Waterstone Community Association, Inc.				

<b>Appl No#:</b>	041130-25	<b>Permit#:</b>	36-04936-P	<b>Approved Date:</b>	27-Dec-2004
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W. W. WESTON

The first map on the left shows the state of Florida with a black square highlighting Lee County in the southwestern corner. The second map on the right is a detailed map of Lee County, Florida, showing a network of roads, including US Highway 90, and various landmarks such as the Gulf of Mexico, the Gulf Breeze Naval Air Station, and the Egmont Air Force Base. The text 'LEE COUNTY' is printed at the bottom of the second map.



LOCATION MAP

SECTION 5, TOWNSHIP 46 SOUTH, RANGE 24 EAST  
LEE COUNTY, FLORIDA

## UTILITY SERVICE PROVIDERS

WATER: (77) COUNTY UTILITIES  
PAGE NUMBER: 2302  
CITY MAPS, LINDSEY, 1990  
PAGE NO. 2302

SEWER: (77) COUNTY UTILITIES  
PAGE NUMBER: 2302  
CITY MAPS, LINDSEY, 1990  
PAGE NO. 2302

ELECTRIC: (77) COUNTY UTILITIES  
PAGE NUMBER: 2302  
CITY MAPS, LINDSEY, 1990  
PAGE NO. 2302

PHONE: (77) COUNTY UTILITIES  
PAGE NUMBER: 2302  
CITY MAPS, LINDSEY, 1990  
PAGE NO. 2302

FIRE PROTECTION: (77) COUNTY UTILITIES  
PAGE NUMBER: 2302  
CITY MAPS, LINDSEY, 1990  
PAGE NO. 2302

SOLID WASTE DISPOSAL: (77) COUNTY UTILITIES  
PAGE NUMBER: 2302  
CITY MAPS, LINDSEY, 1990  
PAGE NO. 2302

IRRIGATION: (77) COUNTY UTILITIES  
PAGE NUMBER: 2302  
CITY MAPS, LINDSEY, 1990  
PAGE NO. 2302

SHEET	TITLE
1	COVER
2	AERIAL PHOTOGRAPH
3	MASTER SITE PLAN
4	MASTER STORM WATER PLAN
5-12	STORM WATER PLANS
13	PAVING, GRADING, AND DRAINAGE DETAILS
14	TYPICAL SECTIONS
15	GENERAL NOTES
16	BEST MANAGEMENT PRACTICE DETAILS
9 OF 9	BOUNDARY SURVEY

Banks Engineering, Inc.

Professional Engineers, Planners & Land Surveyors  
FORT MYERS - NAPLES SARASOTA  
License Number EB-0006469

10511 SIX MILE CYPRESS PARKWAY - SUITE 101; FORT MYERS, FLORIDA 33912  
PHONE: (239) 939-5490 FAX: (239) 939-2523

ADDREVISSED SUBMITAL  
JAN 7 5 2008  
CWC SERVICE CENTER

APPLICATION NUMBER  
050113-13#

EXHIBIT 2.0

SEAN C. MARTIN, P.E.  
FLORIDA REG. No. 6090

RECEIVED  
JAN 25 2002  
LWC SERVICE CENTER

[illegible]



REF: TO SHEETS AND SHEETS FOR DRAINAGE HPI ENDINGS AND SIZES

NO.	STRUCTURE DESCRIPTION	DEPTH	INVERT ELEVATION
101	12" DIA. 10' LONG	10'	1.00
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199	12" DIA. 10' LONG	10'	1.00
200	12" DIA. 10' LONG	10'	1.00



**VICOTT, INC.**  
 5525 SW 47TH STREET, SUITE 10  
 CAPE CORAL, FLORIDA 33904  
 PHONE: (239) 540-4119  
 FAX: (239) 540-5068

**Banks Engineering, Inc.**  
 Professional Engineers, Planners & Land Surveyors

8001 NW 11TH AVENUE, SUITE 100  
 MIAMI, FLORIDA 33150  
 PHONE: (305) 441-1111  
 TELEFAX: (305) 441-1112  
 PROJECT NO. 050113-13#

SEAN C. MANDER, P.E.  
 FLORIDA REG. NO. 68041

DATE: 11-15-04 PROJECT: 1836 DRAWING: SW01 SHEET: SCM

STORMWATER PLAN  
**WATERSTONE**  
 LEE COUNTY, FLORIDA

**EXHIBIT 24**

APPLICATION NUMBER  
 050113-13#

APPROVED SUBMITTAL  
 JAN 21, 2005  
 LWC SERVICE CENTER

SEAL AND SIGNATURE





SUMMERLIN ROAD

POSTAL PERMIT NO. 1000 NEW YORK, N.Y. 10108  
JAN 7 5 1999  
U.S. MAIL

AERIAL  
WATERSTONE EXHIBIT 2-1  
LEE COUNTY, FLORIDA

$t_1 = (2 \times 10^7)$	18.56	0.45	62.76	WU	2.36	$\sigma = 2.10$	$\frac{\sigma}{\mu}$
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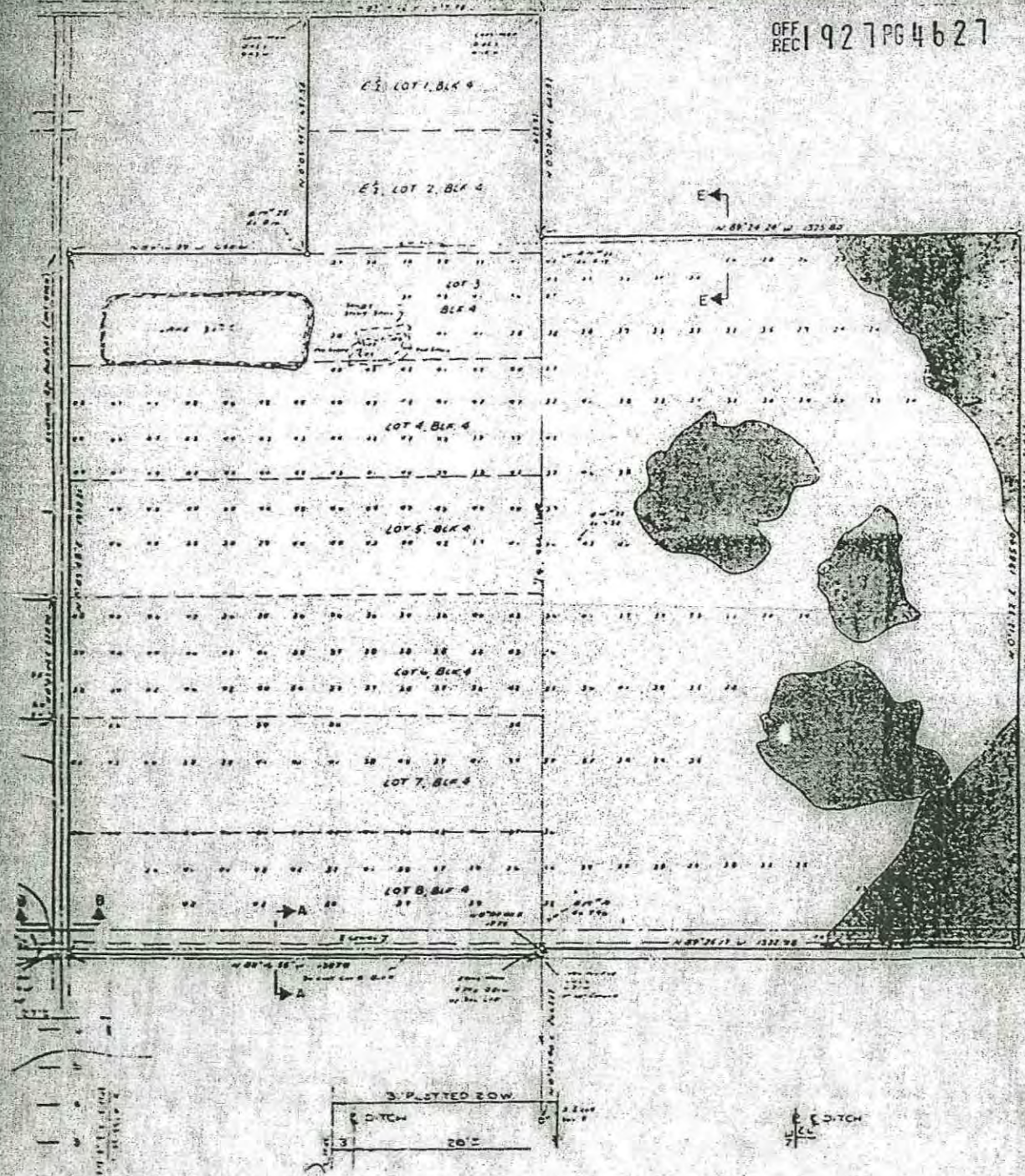
## LEE PLANTATION: "1"

THAT PART OF LOTS 4 THUR 8, IN BLOCK 4, E.P. BATES PINE RIDGE TRUCK FARMS, A SUBDIVISION AS RECORDED IN PLAT BOOK 3, ON PAGE 68, IN THE PUBLIC RECORDS, OF LEE COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 8, THENCE N 00°03'48" E 1546.48 FEET, THENCE S 89°56'12" E 66.67 FEET; THENCE SOUTHEASTERLY ALONG THE ARC OF A CURVE TO THE RIGHT, HAVING A RADIUS OF 150.00 FEET, A CENTRAL ANGLE OF 162°39'18", AN ARC OF 425.83 FEET, TO A POINT WHICH BEARS S 62°54'51" E 296.57 FEET; THENCE S 17°24'48" W 142.47 FEET, TO THE P.C. OF A CURVE; THENCE SOUTHERLY ALONG SAID CURVE TO THE LEFT, HAVING A RADIUS OF 125.00 FEET, A CENTRAL ANGLE OF 34°54'25", AN ARC OF 76.15 FEET, TO A POINT WHICH BEARS S 00°02'24" E 74.98 FEET; THENCE EASTERLY ALONG A CURVE TO THE RIGHT, HAVING A RADIUS OF 630.00 FEET, A CENTRAL ANGLE OF 24°21'47", AN ARC OF 267.89 FEET, TO THE P.T. OF THE CURVE WHICH BEARS N 77°52'54" E 265.87 FEET; THENCE S 89°56'12" E 194.29 FEET; THENCE S 00°03'48" W 324.05 FEET TO THE P.C. OF A CURVE; THENCE SOUTHEASTERLY ALONG THE ARC OF A CURVE TO THE LEFT, HAVING A RADIUS OF 170.00 FEET, A CENTRAL ANGLE OF 44°58'59", AN ARC OF 133.47 FEET, TO A POINT WHICH BEARS S 22°25'42" E 130.07 FEET, BEING A POINT OF REVERSE CURVATURE; THENCE SOUTHEASTERLY ALONG THE ARC OF A CURVE TO THE RIGHT, HAVING A RADIUS 855.00 FEET, A CENTRAL ANGLE OF 45°29'54", AN ARC OF 678.95 FEET, TO THE POINT OF TANGENCY WHICH BEARS S 22°10'14" E 561.25 FEET; THENCE S 00°34'43" W 15.00 FEET; THENCE S 89°25'17" E 6.78 FEET; THENCE S 00°34'43" W 202.12 FEET, TO THE SOUTH LINE OF SAID LOT 8; THENCE N 89°16'55" W 1049.86 FEET TO THE POINT OF BEGINNING. CONTAINING 28.574 ACRES MORE OR LESS.



OFF REC 1927 PG 4627





APR 10, 1987  
JN 850095

DESCRIPTION - WETLANDS PARCEL I

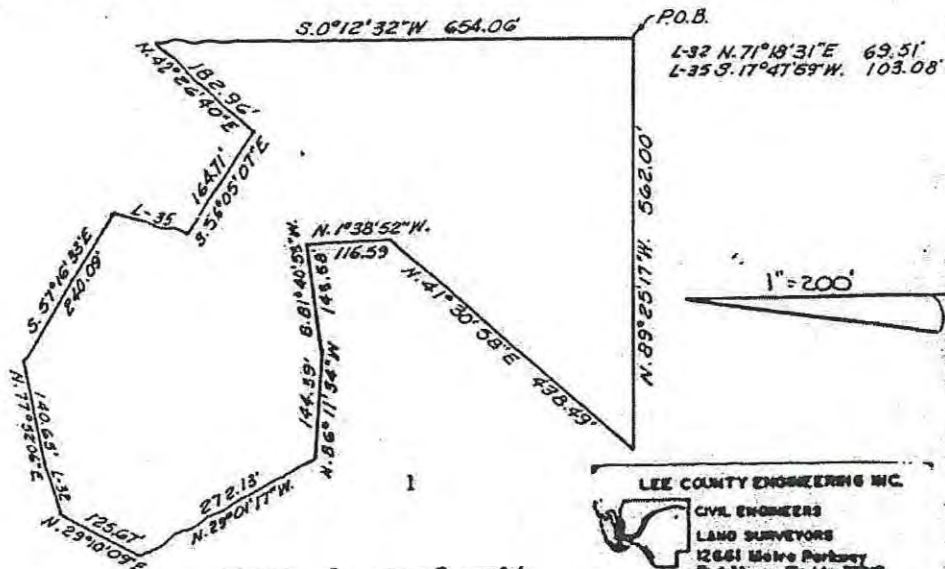
A PARCEL OF LAND LYING IN SECTION 5, TOWNSHIP 46 SOUTH, RANGE 24 EAST, LEE COUNTY, FLORIDA. SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 5; THENCE N 89°25'17"W ALONG THE SOUTH LINE OF SAID SOUTHWEST QUARTER FOR 562.00 FEET; THENCE N 41°30'58"E FOR 438.49 FEET; THENCE N 01°38'52"W FOR 116.59 FEET; THENCE S 81°40'53"W FOR 143.58 FEET; THENCE N 86°11'34"W FOR 144.39 FEET; THENCE N 29°01'17"W FOR 272.13 FEET; THENCE N 29°10'09"E FOR 125.67 FEET; THENCE N 71°18'31"E FOR 69.51 FEET; THENCE N 77°52'06"E FOR 140.65 FEET; THENCE S 57°16'33"E FOR 240.09 FEET; THENCE S 17°47'59"W FOR 103.08 FEET; THENCE S 56°05'07"E FOR 164.71 FEET; THENCE N 42°26'40"E FOR 182.96 FEET TO THE WEST LINE OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 5; THENCE S 00°12'32"W ALONG SAID WEST LINE FOR 654.06 FEET TO THE POINT OF BEGINNING. CONTAINING 7.868 ACRES.

I, A FLORIDA PROFESSIONAL LAND SURVEYOR HEREBY CERTIFY THAT THE BOUNDARY SKETCH ATTACHED HERETO REPRESENTS THE LANDS AS DESCRIBED AND MEETS THE MINIMUM TECHNICAL STANDARDS PER RULE NUMBER 21HH-6.06.

*James L. Clements*  
JAMES L. CLEMENTS  
FLORIDA REGISTRATION NO. 4091

DATE 7/1/87



NOT A SURVEY

LEE COUNTY ENGINEERING INC.  
CIVIL ENGINEERS  
LAND SURVEYORS  
12661 Moore Parkway  
Fort Myers, Florida 33622  
Phone: (813) 768-0077



APR 10, 1987  
JN 850095

DESCRIPTION - WETLANDS PARCEL II

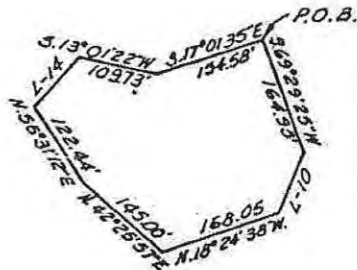
A PARCEL OF LAND LYING IN SECTION 5, TOWNSHIP 46 SOUTH, RANGE 24 EAST, LEE COUNTY, FLORIDA. SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

FROM THE SOUTHEAST CORNER OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 5; THENCE N 00°12'32"E ALONG THE EAST LINE OF SAID SOUTHWEST QUARTER FOR 931.43 FEET; THENCE N 89°47'28"W FOR 190.09 FEET TO THE POINT OF BEGINNING; THENCE S 69°29'25"W FOR 164.95 FEET; THENCE N 64°23'19"W FOR 88.79 FEET; THENCE N 18°24'38"W FOR 168.05 FEET; THENCE N 42°25'57"E FOR 145.00 FEET; THENCE N 55°31'12"E FOR 122.44 FEET; THENCE S 47°43'12"E FOR 91.84 FEET; THENCE S 13°01'22"W FOR 109.73 FEET; THENCE S 17°10'35"E FOR 154.58 FEET TO THE POINT OF BEGINNING. CONTAINING 1.596 ACRES.

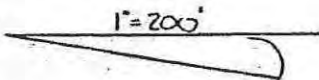
I, A FLORIDA PROFESSIONAL LAND SURVEYOR HEREBY CERTIFY THAT THE BOUNDARY SKETCH ATTACHED HERETO REPRESENTS THE LANDS AS DESCRIBED AND MEETS THE MINIMUM TECHNICAL STANDARDS PER RULE NUMBER 21HH-6.06.

*James L. Clements*  
JAMES L. CLEMENTS  
FLORIDA REGISTRATION NO. 4091

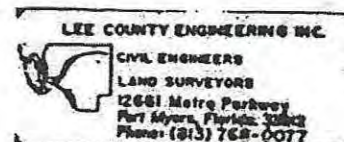
DATE 7-1-87



L10 N.64°23'19"W 88.79'  
L14 S.47°43'12"E 91.84'



1  
NOT A SURVEY





APR 10, 1987  
JN 850095

DESCRIPTION - WETLANDS PARCEL III

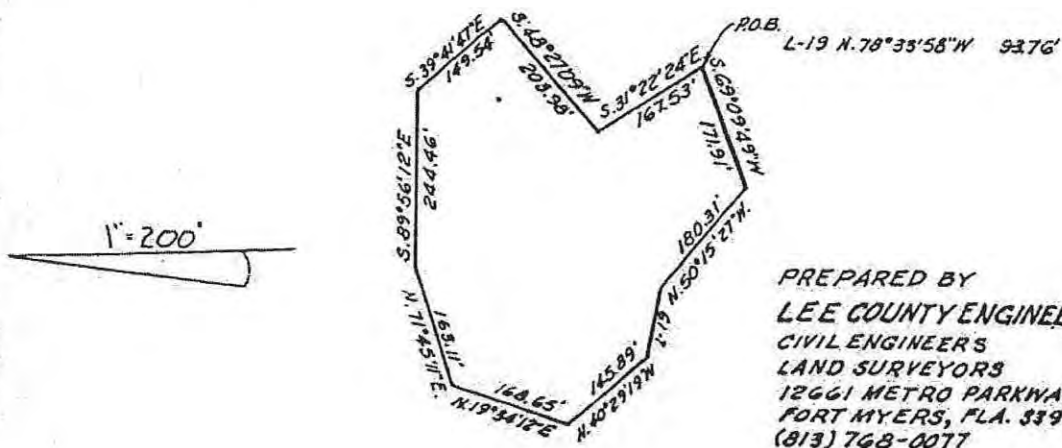
A PARCEL OF LAND LYING IN SECTION 5, TOWNSHIP 46 SOUTH, RANGE 24 EAST, LEE COUNTY, FLORIDA. SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

FROM THE SOUTHEAST CORNER OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 5; THENCE N 00°12'32"E ALONG THE WEST LINE OF SAID SOUTHWEST QUARTER FOR 1072.86 FEET; THENCE N 89°47'28"W FOR 540.05 FEET TO THE POINT OF BEGINNING; THENCE S 69°09'49"W FOR 171.91 FEET; THENCE N 50°15'27"W FOR 180.31 FEET; THENCE N 78°33'58"W FOR 93.76 FEET; THENCE N 40°29'19"W FOR 145.89 FEET; THENCE N 19°34'12"E FOR 168.65 FEET; THENCE N 71°45'11"E FOR 163.11 FEET; THENCE S 89°56'12"E FOR 244.46 FEET; THENCE S 39°41'47"E FOR 149.54 FEET; THENCE S 48°27'09"W FOR 203.98 FEET; THENCE S 31°22'24"E FOR 167.53 FEET TO THE POINT OF BEGINNING. CONTAINING 3.711 ACRES.

I, A FLORIDA PROFESSIONAL LAND SURVEYOR HEREBY CERTIFY THAT THE BOUNDARY SKETCH ATTACHED HERETO REPRESENTS THE LANDS AS DESCRIBED AND MEETS THE MINIMUM TECHNICAL STANDARDS PER RULE NUMBER 21HH-6.06.

James L. Clements  
JAMES L. CLEMENTS  
FLORIDA REGISTRATION NO. 4091

DATE 7-1-87



NOT A SURVEY

EXHIBIT THREE

Page 3 of 4



APR 10, 1987  
JN 850095

DESCRIPTION - WETLANDS PARCEL IV

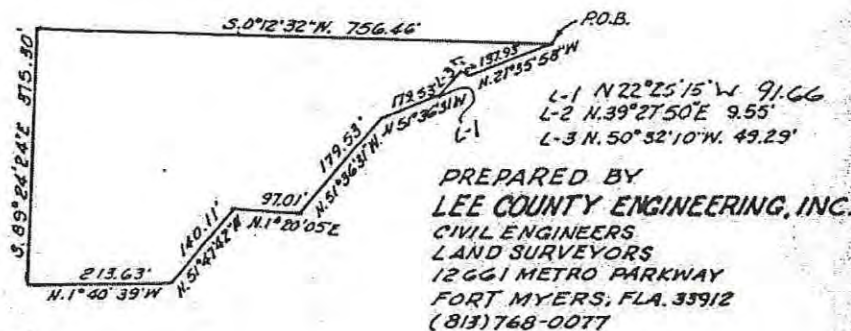
A PARCEL OF LAND LYING IN SECTION 5, TOWNSHIP 46 SOUTH, RANGE 24 EAST, LEE COUNTY, FLORIDA. SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

FROM THE SOUTHEAST CORNER OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 5; THENCE N 00°12'32"E ALONG THE EAST LINE OF SAID SOUTHWEST QUARTER FOR 1228.94 FEET TO THE POINT OF BEGINNING; THENCE N 21°35'58"W FOR 137.93 FEET; THENCE N 39°27'50"E FOR 9.55 FEET; THENCE N 50°32'10"W FOR 49.29 FEET; THENCE N 22°25'15"W FOR 91.66 FEET; THENCE N 51°36'31"W FOR 179.53 FEET; THENCE N 01°20'05"E FOR 97.01 FEET; THENCE N 51°47'42"W FOR 140.11 FEET; THENCE N 01°40'39"W FOR 213.63 FEET; THENCE S 89°24'24"E FOR 375.30 FEET TO THE EAST LINE OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 5; THENCE S 00°12'32"W ALONG SAID EAST LINE FOR 756.46 FEET TO THE POINT OF BEGINNING. CONTAINING 3.815 ACRES.

I, A FLORIDA PROFESSIONAL LAND SURVEYOR HEREBY CERTIFY THAT THE BOUNDARY SKETCH ATTACHED HERETO REPRESENTS THE LANDS AS DESCRIBED AND MEETS THE MINIMUM TECHNICAL STANDARDS PER RULE NUMBER 21HH-6.06.

*James L. Clements*  
JAMES L. CLEMENTS  
FLORIDA REGISTRATION NO. 4091

DATE 7-1-87



NOT A SURVEY

EXHIBIT THREE

Page 4 of 4

RECORDED IN RECORDS  
JUL 7 3 09 PM '87

JUL 7 3 09 PM '87

RECORDERS MEMO:  
Legibility of Writing, Typing or Printing Unsatisfactory in This Document When Received.





# **Banks Engineering, Inc.**

Professional Engineers, Planners & Land Surveyors

10511 SIX MILE CYPRESS PARKWAY - SUITE 101  
FORT MYERS, FLORIDA 33912  
PHONE (239) 939-3490 FAX (239) 939-3521  
ENGINEERING LICENSE # EB 6469  
SURVEY LICENSE # LB 5690

AERIAL, LAND USE AND ZONING MAP

**VICOTT, INC.**

LEE COUNTY, FLORIDA

DATE	PROJECT	DRAWING	DESIGN	DRAWN	CHECKED	SCALE	SHEET	OF	FILE NO. (S-T-R)
09-22-05	1836	1836_AER	SDJ	SDJ	JGH	1"=200'	1	-	(05-46-24)



# **Banks Engineering**

Professional Engineers, Planners & Land Surveyors

12653 SW C.R. 769, Suite B

Lake Suzy, Florida 34269

(941) 625-1165

Fax (941) 625-1149

## DESCRIPTION OF A PARCEL LYING IN SECTION 5, T-46-S, R-24-E, LEE COUNTY, FLORIDA

(7.67 ACRES±)

A TRACT OR PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, LYING IN SECTION 5, TOWNSHIP 46 SOUTH, RANGE 24 EAST, BEING A PART OF THE EAST HALF OF THE WEST HALF OF THE SOUTHEAST QUARTER OF SAID SECTION 5, AND BEING FURTHER BOUNDED AND DESCRIBED AS FOLLOWS:

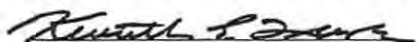
COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 5; THENCE S.89°01'42"W. ALONG THE SOUTH LINE OF SAID SECTION FOR 1319.00 FEET TO THE EAST LINE OF SAID EAST HALF OF THE WEST HALF OF THE SOUTHEAST QUARTER; THENCE N.01°26'45"W. ALONG SAID EAST LINE FOR 974.54 FEET TO AN INTERSECTION WITH THE NORTH RIGHT OF WAY LINE OF SUMMERLIN ROAD, (COUNTY ROAD 869), AND THE POINT OF BEGINNING; THENCE CONTINUE N.01°26'45"W., ALONG SAID EAST LINE, FOR 357.68 FEET; THENCE S.88°58'25"W., ALONG THE NORTH LINE OF THE SOUTH HALF OF SAID EAST HALF OF THE WEST HALF OF THE SOUTHEAST QUARTER, FOR 660.47 FEET; THENCE S.01°29'16"E., ALONG THE WEST LINE OF SAID EAST HALF OF THE WEST HALF OF THE SOUTHEAST QUARTER, FOR 654.93 FEET TO AN INTERSECTION WITH SAID NORTH RIGHT OF WAY LINE OF SUMMERLIN ROAD, (COUNTY ROAD 869); THENCE N.64°39'27"E., ALONG SAID NORTH RIGHT OF WAY, FOR 721.85 FEET TO THE POINT OF BEGINNING.

SAID PARCEL CONTAINS 334105.20 SQUARE FEET OR 7.67 ACRES MORE OR LESS.

BEARINGS ARE BASED ON THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 5 AS BEARING S.89°01'42"W.

BANKS ENGINEERING,  
FLORIDA LICENSED BUSINESS NO. LB6690

SEPTEMBER 14, 2006

  
KENNETH E. TRASK  
PROFESSIONAL LAND SURVEYOR  
FLORIDA LICENSE NO. LS4684

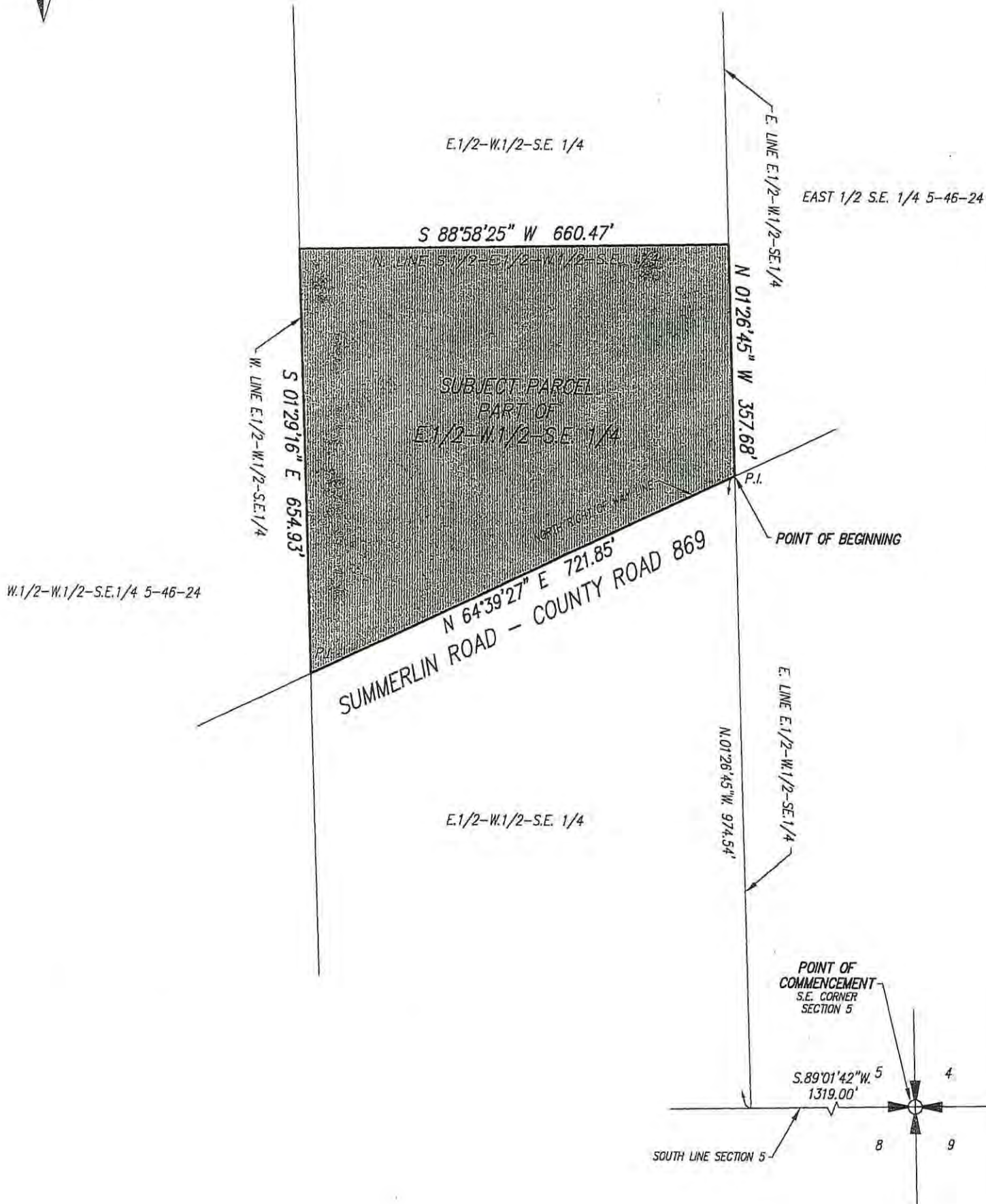
### SHEET 1 OF 2

**Fort Myers Office**  
10511 Six Mile Cypress  
Pkwy., Suite 101  
Fort Myers, FL  
33912  
(239) 939-5490  
Fax (239) 939-2523

**Naples Office**  
6640 Willow Park Dr.  
Suite B  
Naples, Florida  
34109  
(239) 597-2061  
Fax (239) 597-3082

**Sarasota Office**  
1144 Tallevast Road  
Suite # 115  
Sarasota, Florida  
34243  
(941) 360-1618  
Fax (941) 360-6918





LEGEND

LS LAND SURVEYOR  
P.I. POINT OF INTERSECTION

THIS IS NOT A BOUNDARY SURVEY

*Kenneth E. Trask*  
KENNETH E. TRASK  
FLORIDA CERTIFICATE NO. LS4684

THIS IS NOT A BOUNDARY SURVEY

Banks Engineering				SKETCH TO ACCOMPANY DESCRIPTION							
Professional Engineers, Planners & Land Surveyors FORT MYERS ♦ NAPLES ♦ SARASOTA ♦ PORT CHARLOTTE 10511 SIX MILE CYPRESS PARKWAY - SUITE 101 FORT MYERS, FLORIDA 33912 PHONE: (239) 939-5490 FAX: (239) 939-2523 ENGINEERING LICENSE # EB 6468 SURVEY LICENSE # LS 6690				7.67 ACRES±							
				LYING IN SECTION 5, T-46-S, R-24-E							
				LEE COUNTY, FLORIDA							
DATE	PROJECT	DRAWING	DESIGN	DRAWN	CHECKED	SCALE	SHEET	FILE NO. (S-T-R)			
09-14-2006	1836	1836-SUMRLN- PL-SKT-DESC		BJC	KT	1"=200'	2 OF 2	5-46-24			



# **Banks Engineering**

Professional Engineers, Planners & Land Surveyors

12653 SW C.R. 769, Suite B

Lake Suzy, Florida 34269

(941) 625-1165

Fax (941) 625-1149

DESCRIPTION OF AN EASEMENT  
LYING IN SECTION 5, T-46-S, R-24-E,  
LEE COUNTY, FLORIDA

(URBAN COMMUNITY PARCEL)

A TRACT OR PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, LYING IN SECTION 5, TOWNSHIP 46 SOUTH, RANGE 24 EAST, BEING A PORTION OF THE EAST HALF OF THE WEST HALF OF THE SOUTHEAST QUARTER OF SAID SECTION 5 AND BEING FURTHER BOUNDED AND DESCRIBED AS FOLLOWS:

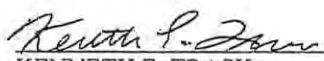
COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 5; THENCE S.89°01'42"W. ALONG THE SOUTH LINE OF SAID SECTION FOR 1319.00 FEET TO AN INTERSECTION WITH THE EAST LINE OF THE WEST HALF OF THE SOUTHEAST QUARTER OF SAID SECTION; THENCE N.01°26'45"W. ALONG SAID FRACTIONAL LINE FOR 974.54 FEET TO AN INTERSECTION WITH THE NORTH RIGHT OF WAY LINE OF SUMMERLIN ROAD, (COUNTY ROAD 869); THENCE S.64°39'27"W. ALONG SAID NORTH RIGHT OF WAY LINE FOR 244.28 FEET TO THE **POINT OF BEGINNING**; THENCE N.00°04'41"E. FOR 348.06 FEET; THENCE N.61°35'24"W. FOR 156.47 FEET; THENCE N.01°01'35"W. FOR 33.37 FEET; THENCE S.88°58'25"W. FOR 310.91 FEET; THENCE S 01°29'16" E, ALONG THE WEST LINE OF SAID EAST HALF OF THE WEST HALF OF THE SOUTHEAST QUARTER, FOR 654.93 FEET TO SAID NORTH RIGHT OF WAY LINE; THENCE N 64°39'27" E, ALONG SAID NORTH RIGHT OF WAY LINE, FOR 477.57 FEET TO THE **POINT OF BEGINNING**.

CONTAINING 236077 SQUARE FEET OR 5.41 ACRES MORE OR LESS.

BEARINGS ARE BASED ON THE SOUTH LINE OF SECTION 5 AS BEARING S.89°01'42"W.

BANKS ENGINEERING,  
FLORIDA LICENSED BUSINESS NO. LB6690

JANUARY 12, 2007

  
KENNETH E. TRASK  
PROFESSIONAL LAND SURVEYOR  
FLORIDA LICENSE NO. LS4684

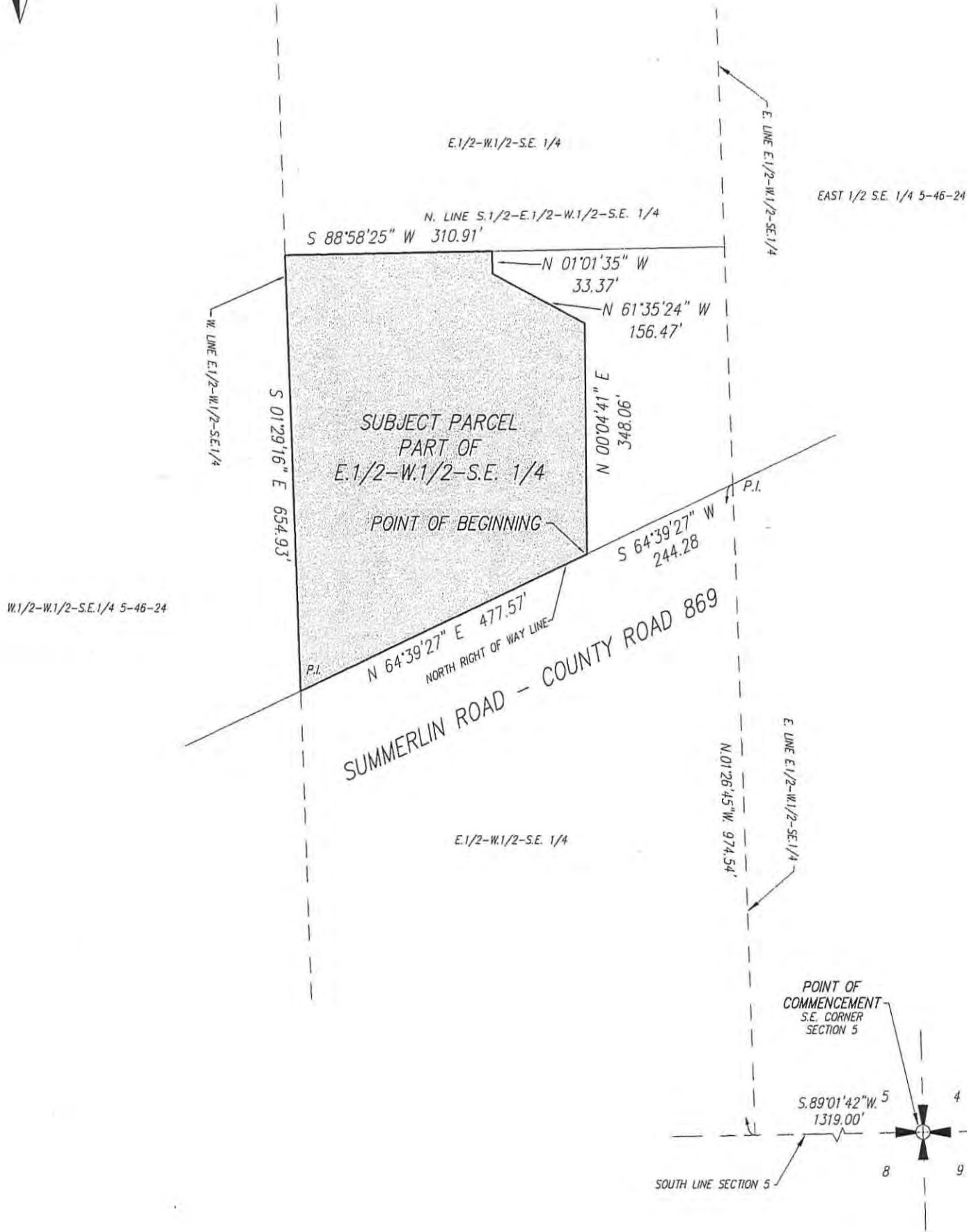
## SHEET 1 OF 2

**Fort Myers Office**  
10511 Six Mile Cypress  
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33912  
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Fax (239) 939-2523

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Suite B  
Naples, Florida  
34109  
(239) 597-2061  
Fax (239) 597-3082

**Sarasota Office**  
1144 Tallevast Road  
Suite # 115  
Sarasota, Florida  
34243  
(941) 360-1618  
Fax (941) 360-6918





LEGEND

LS LAND SURVEYOR  
P.I. POINT OF INTERSECTION

THIS IS NOT A BOUNDARY SURVEY

*Kenneth E. Trask*  
KENNETH E. TRASK  
FLORIDA CERTIFICATE NO. LS4684

THIS IS NOT A BOUNDARY SURVEY

SKETCH TO ACCOMPANY DESCRIPTION

5.41 ACRES±  
LYING IN SECTION 5, T-46-S, R-24-E  
LEE COUNTY, FLORIDA

**Hanks Engineering**  
Professional Engineers, Planners & Land Surveyors  
FORT MYERS ♦ NAPLES ♦ SARASOTA ♦ PORT CHARLOTTE  
10511 SIX MILE CYPRESS PARKWAY - SUITE 101  
FORT MYERS, FLORIDA 33912  
PHONE: (239) 939-5490 FAX: (239) 939-2523  
ENGINEERING LICENSE # EB 6469  
SURVEY LICENSE # LB 6690

DATE	PROJECT	DRAWING	DESIGN	DRAWN	CHECKED	SCALE	SHEET	FILE NO (S-T-R)
1-12-2007	1836	1816-CL-POL-SKT		BJC	KT	1"=200'	2 OF 2	5-46-24



# **Banks Engineering**

Professional Engineers, Planners & Land Surveyors

12653 SW C.R. 769, Suite B

Lake Suzy, Florida 34269

(941) 625-1165

Fax (941) 625-1149

DESCRIPTION OF AN EASEMENT  
LYING IN SECTION 5, T-46-S, R-24-E,  
LEE COUNTY, FLORIDA

(CONSERVATION LANDS PARCEL)

A TRACT OR PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, LYING IN SECTION 5, TOWNSHIP 46 SOUTH, RANGE 24 EAST, BEING A PORTION OF THE EAST HALF OF THE WEST HALF OF THE SOUTHEAST QUARTER OF SAID SECTION 5 AND BEING FURTHER BOUNDED AND DESCRIBED AS FOLLOWS:

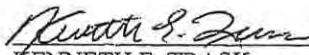
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CONTAINING 98230 SQUARE FEET OR 2.26 ACRES MORE OR LESS.

BEARINGS ARE BASED ON THE SOUTH LINE OF SECTION 5 AS BEARING S.89°01'42"W.

BANKS ENGINEERING,  
FLORIDA LICENSED BUSINESS NO. LB6690

JANUARY 12, 2007

  
KENNETH E. TRASK  
PROFESSIONAL LAND SURVEYOR  
FLORIDA LICENSE NO. LS4684

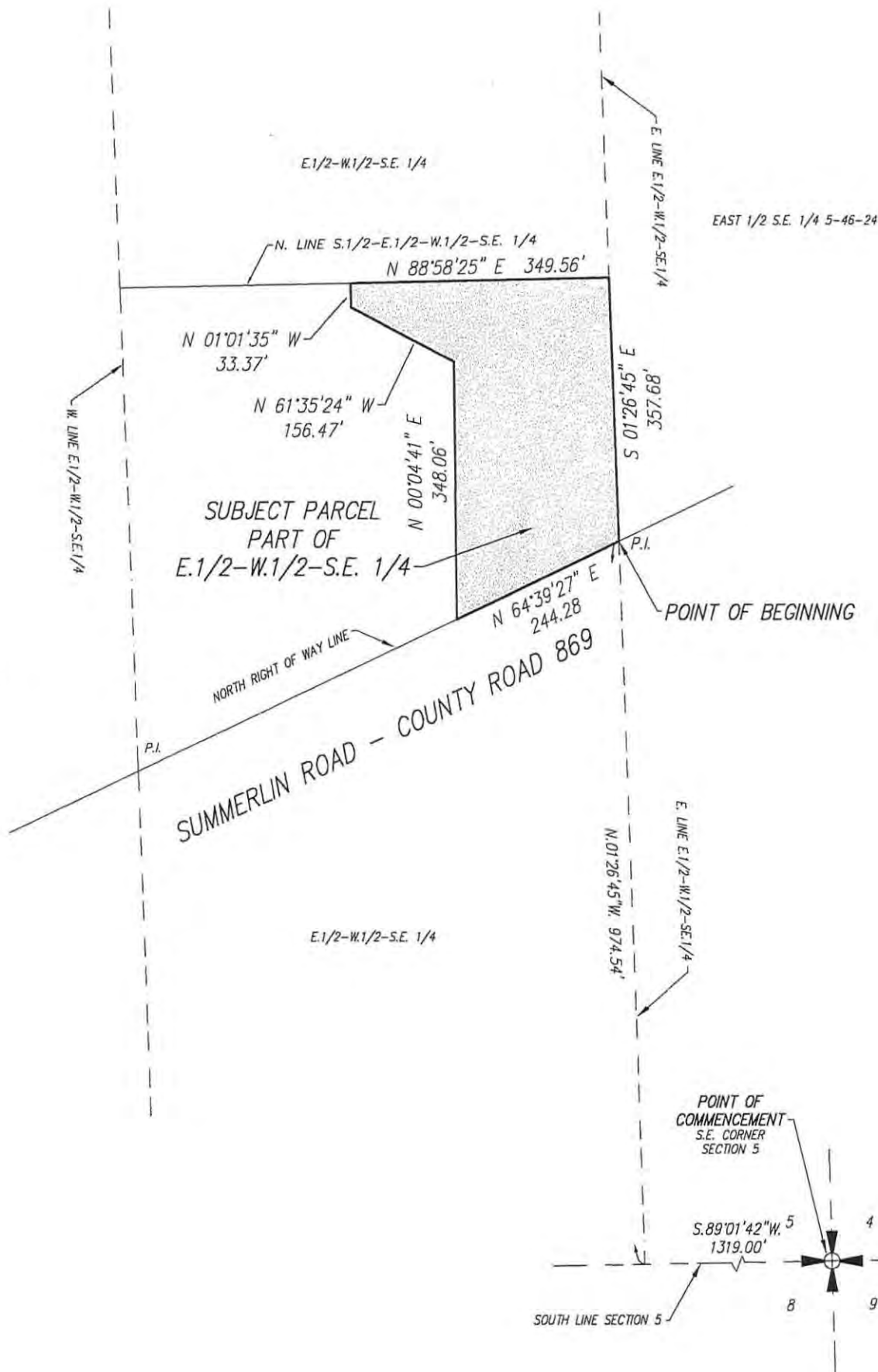
## **SHEET 1 OF 2**

**Fort Myers Office**  
10511 Six Mile Cypress  
Pkwy., Suite 101  
Fort Myers, FL  
33912  
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Fax (239) 939-2523

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**Sarasota Office**  
1144 Tallevast Road  
Suite # 115  
Sarasota, Florida  
34243  
(941) 360-1618  
Fax (941) 360-6918





LEGEND

LS LAND SURVEYOR  
P.I. POINT OF INTERSECTION

THIS IS NOT A BOUNDARY SURVEY

*Kenneth E. Trask*  
KENNETH E. TRASK  
FLORIDA CERTIFICATE NO. LS4684

THIS IS NOT A BOUNDARY SURVEY

**Banks Engineering**

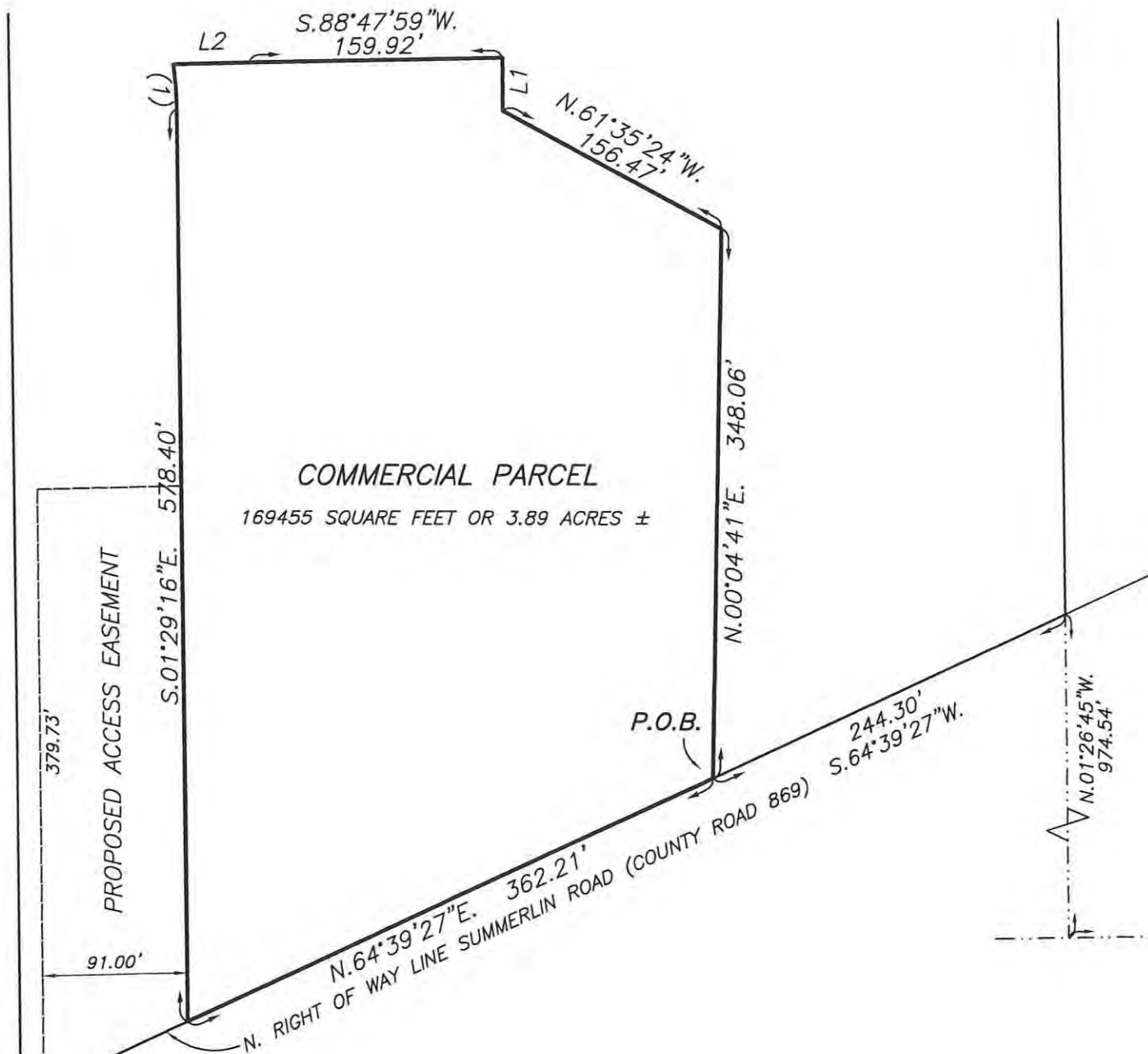
Professional Engineers, Planners & Land Surveyors  
FORT MYERS ♦ NAPLES ♦ SARASOTA ♦ PORT CHARLOTTE  
10511 SIX MILE CYPRESS PARKWAY - SUITE 101  
FORT MYERS, FLORIDA 33912  
PHONE: (239) 939-5490 FAX: (239) 939-2523  
ENGINEERING LICENSE # EB 6469  
SURVEY LICENSE # LB 6690

SKETCH TO ACCOMPANY DESCRIPTION

2.26 ACRES±  
LYING IN SECTION 5, T-46-S, R-24-E  
LEE COUNTY, FLORIDA

DATE	PROJECT	DRAWING	DESIGN	DRAWN	CHECKED	SCALE	SHEET	FILE NO. (S-T-R)
1-12-2007	1836	1836-Q- PQ-SKI		BJC	KT	1"=200'	2 OF 2	5-46-24





## LEGEND:

O.R. OFFICIAL RECORDS BOOK  
PG. PAGE  
P.O.B. POINT OF BEGINNING  
P.O.C. POINT OF COMMENCEMENT

## LINE TABLE

Line	Bearing	Distance
L1	N.01°01'35\"W.	33.37'
L2	S.88°30'44\"W.	47.37'

Curve number 1

Radius= 212.00'  
Delta= 07°38'23\"  
Arc= 28.27'  
Tangent= 14.16'  
Chord= 28.25'  
Chord Brg.= S.05°18'28\"E.

P.O.C.  
S.E. CORNER  
SECTION 5

THIS IS NOT A BOUNDARY SURVEY

*Kenneth E. Trask*  
KENNETH E. TRASK  
PROFESSIONAL LAND SURVEYOR  
FLORIDA CERTIFICATE NO. LS4684

**Blank Engineering, Inc.**  
Professional Engineers, Planners & Land Surveyors  
FORT MYERS ♦ NAPLES ♦ SARASOTA  
10511 SHAW CYPRESS PARKWAY - SUITE 101  
PHONE: (239) 838-9480 FAX: (239) 838-2523  
ENGINEERING LICENSE # EB 8468  
SURVEY LICENSE # LB 8680

SKETCH TO ACCOMPANY DESCRIPTION  
EASEMENT LYING IN SECTION 5, T-46-S, R-24-E  
LEE COUNTY, FLORIDA

DATE	PROJECT	DRAWING	DESIGN	DRAWN	CHECKED	SCALE	SHEET	FILE NO. (S-T-R)
3-28-2005	1836	1836COMM	KT	KT		1\"=200'	2 of 2	5-46-24



# **Banks Engineering, Inc.**

Professional Engineers, Planners & Land Surveyors  
FORT MYERS ♦ CHARLOTTE ♦ NAPLES ♦ SARASOTA

DESCRIPTION OF AN EASEMENT  
LYING IN SECTION 5, T-46-S, R-24-E,  
LEE COUNTY, FLORIDA.

(COMMERCIAL AREA)

A TRACT OR PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, LYING IN SECTION 5, TOWNSHIP 46 SOUTH, RANGE 24 EAST, BEING FURTHER BOUNDED AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 5; THENCE S.89°01'42"W., ALONG THE SOUTH LINE OF SAID SECTION 5, FOR 1319.00 FEET; THENCE N.01°26'45"W., FOR 974.54 FEET TO THE NORTHERLY RIGHT OF WAY LINE OF SUMMERLIN ROAD (COUNTY ROAD 869); THENCE S.64°39'27"W., ALONG SAID NORTHERLY RIGHT OF WAY LINE, FOR 244.30 FEET TO THE POINT OF BEGINNING; THENCE N.00°04'41"E., FOR 348.06 FEET; THENCE N.61°35'24"W., FOR 156.47 FEET; THENCE N.01°01'35"W., FOR 33.37 FEET; THENCE S.88°47'59"W., FOR 159.92 FEET; THENCE S.88°30'44"W., FOR 47.37 FEET TO A POINT ON A CURVE TO THE RIGHT, HAVING: A RADIUS OF 212.00 FEET, A CENTRAL ANGLE OF 07°38'23", A CHORD BEARING OF S.05°18'28"E. AND A CHORD LENGTH OF 28.25 FEET; THENCE ALONG THE ARC OF SAID CURVE, AN ARC LENGTH OF 28.27 FEET TO THE POINT OF TANGENCY OF SAID CURVE; THENCE S.01°29'16"E., FOR 578.40 FEET TO SAID NORTHERLY RIGHT OF WAY LINE; THENCE N.64°39'27"E., ALONG SAID RIGHT OF WAY LINE, FOR 362.21 FEET TO THE POINT OF BEGINNING.

PARCEL CONTAINS 169455 SQUARE FEET OR 3.89 ACRES, MORE OR LESS.

BEARINGS ARE BASED ON SAID NORTHERLY RIGHT OF WAY LINE OF SUMMERLIN ROAD AS BEARING S.64°39'27"W.

BANKS ENGINEERING, INC.  
FLORIDA LICENSED BUSINESS NO. LB6690

JUNE 23, 2005

  
KENNETH E. TRASK  
PROFESSIONAL LAND SURVEYOR  
FLORIDA LICENSE NO. LS4684

SHEET 1 OF 2





Prepared by and return to:  
George L. Consoer, Jr., Esq.  
Knott, Consoer, Ebelini, Hart & Swett, P.A.  
1625 Hendry Street Suite 300  
Fort Myers, FL 33901  
239-334-2722  
File Number: Maul Swor  
Will Call No.: 94

INSTR # 5929465  
Official Records BK 04025 PG 4121  
RECORDED 08/13/2003 04:26:18 PM  
CHARLIE GREEN, CLERK OF COURT  
LEE COUNTY  
RECORDING FEE 6.00  
DEED DOC 3,325.00  
DEPUTY CLERK L Parent

Parcel Identification No. 05-46-24-00-00003.0010

[Space Above This Line For Recording Data]

6.00  
3325.00

## Warranty Deed

(STATUTORY FORM - SECTION 689.02, F.S.)

This Indenture made this 12th day of August, 2003 between David W. Swor, individually, and as Trustee whose post office address is 6000 Forest Boulevard, Fort Myers, FL 33908 of the County of Lee, State of Florida, grantor\*, and Vicott, Inc., a Florida corporation whose post office address is 1325 SE 47th Street, Suite G, Cape Coral, FL 33904 of the County of Lee, State of Florida, grantee\*,

Witnesseth, that said grantor, for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable considerations to said grantor in hand paid by said grantee, the receipt whereof is hereby acknowledged, has granted, bargained, and sold to the said grantee, and grantee's heirs and assigns forever, the following described land, situate, lying and being in Lee County, Florida, to-wit:

The East one-half (E1/2) of the Northwest 1/4 of the Southeast 1/4 of Section 5, Township 46 South, Range 24 East and the East one-half (E1/2) of the Southwest 1/4 of the Southeast 1/4 of Section 5, Township 46 South, Range 24 East North of Summerlin Road a/k/a County Road 869 Lee County, Florida.

Grantor warrants that at the time of this conveyance, the subject property is not the Grantor's homestead within the meaning set forth in the constitution of the state of Florida, nor is it contiguous to or a part of homestead property. Grantor's residence and homestead address is: 6000 Forest Boulevard, Fort Myers, FL 33908.

and said grantor does hereby fully warrant the title to said land, and will defend the same against lawful claims of all persons whomsoever.

\* "Grantor" and "Grantee" are used for singular or plural, as context requires.

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

Signed, sealed and delivered in our presence:

Bonnie Fice  
Witness Name: Bonnie Fice

W.A. Scanlon  
Witness Name: W.A. Scanlon

David W. Swor (Seal)  
David W. Swor, individually and as Trustee

State of Florida  
County of Lee

The foregoing instrument was acknowledged before me this 12th day of August, 2003 by David W. Swor, who ☐ is personally known or ☒ has produced a driver's license as identification.

[Notary Seal]



Judy Mallett  
MY COMMISSION EXPIRES  
May 23, 2004  
SIGNED INTO MY Notary Public

Notary Public

Printed Name:

My Commission Expires:

Judy Mallett

Judy MALLETT

5/23/04



**VICOTT, INC.**  
**SMALL SCALE COMPREHENSIVE PLAN AMENDMENT**  
**AMENDMENT SUPPORT DOCUMENTATION**

**B. PUBLIC FACILITIES IMPACTS:**

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).

*The proposed land use change from Industrial Development to Urban Community will have no effect on the Financially Feasible Transportation Plan/Map 3A (20-year horizon) or on the Capital Improvements Element (5-year horizon). The land use change is being requested to allow the site to be rezoned and developed as a commercial planned development for a 16,000+/- s.f. of buildings consisting of commercial and office uses. The proposed commercial site will have negligible impacts on the level-of-serve to the existing roads. Summerlin Road is a four-lane controlled access arterial roadway that borders the subject site to the south. Summerlin Road is currently being widened to six-lanes from San Carlos Boulevard to Gladiolus Drive by the Lee County D.O.T.*

2a. Provide an existing and future conditions analysis for Sanitary Sewer.

*Lee County Utilities maintains service in this area through the Fort Myers Beach Wastewater Treatment Plant.*

Policy 56.1.2 of the Lee Plan has established that “the minimum acceptable level-of-service standards for sanitary sewer connections to Lee County Utilities shall be available basic facility capacity to treat and dispose of a volume of wastewater equal to 200 gallons per day per equivalent residential connection (ERC) for the peak month...”

*According to the June 2005 Concurrency Management report, the Fort Myers Beach Wastewater Treatment Plant has a design capacity of 6 million gallons per day and a projected flow for 2006 of 4,900,000 gallons per day.*

*The proposed amendment will have negligible impacts on the sanitary sewer facilities.*



2b. Provide an existing and future conditions analysis for Potable Water.

*Lee County Utilities maintains service for this area through the Corkscrew Water Treatment Plant.*

Policy 53.1.2 of the Lee Plan has established that “the minimum acceptable level-of-service standards for potable water connections to Lee County Utilities shall be available supply and treatment capacity of 250 gallons per day per equivalent residential connection (ERC) for the peak month...”

*According to the June 2005 Concurrency Management report, the Corkscrew Water Treatment Plant has a design capacity of 15 million gallons per day and a projected flow for 2006 of 11,950,000 gallons per day.*

*The proposed amendment will have negligible impacts on the sanitary sewer facilities.*

2c. Provide an existing and future conditions analysis for Surface Water/Drainage Basins.

*The subject property is located in the Deep Lagoon Watershed #43 as indicated in the Lee County Surface Water Management Master Plan. Any development will be in compliance with South Florida Water Management District and the Lee County Development Code with regard to surface water management.*

Lee County Policy 60.3.1-D of the Lee Plan has established level-of-service standards for the private and public development as follows:

Surface water management systems in new private and public developments (excluding widening of existing roads) must be designed to SFWMD standards (to detain or retain excess stormwater to match the predevelopment discharge rate for the 25-year, 3-day storm event [rainfall]). Stormwater discharges from development must meet relevant water quality and surface water management standards as set forth in Chapters 17-3, 17-40, and 17-302, and rule 40E-4, F.A.C. New developments must be designed to avoid increased flooding of surrounding areas. Development must be designed to minimize increases of discharge to public water management infrastructure (or to evapotranspiration) that exceed historic rates, to approximate the natural surface water systems in terms of rate, hydroperiod, basin and quality, and to eliminate the disruption of wetlands and flow-ways, whose preservation is deemed in the public interest. (Amended by Ordinance No. 92-35, 94-29, 00-22)



*The June 2005 Concurrency Management report states on page 2 that "All new developments that receive approval from the South Florida Water Management District and which comply with standards in Chapters 17-3, 17-40, and 17-302 of the Florida Statutes, and Rule 40E-4 of the Florida Administrative Code are deemed Concurrent with the Level of Service standards set forth in THE LEE PLAN."*

- 2d. Provide an existing and future conditions analysis for Parks, Recreation, and Open Space.

*The Iona-McGregor Planning Community including the area surrounding the site has access to existing parks and recreational facilities. The area will have available parks and recreation facilities available at Lakes Regional and San Carlos Parks and has access to mass transit and bicycle facilities. Open space will be provided per Lee County requirements and evaluated at the time of rezoning. The proposed amendment will have negligible impact to the parks, recreation and open space facilities.*

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; d) Solid Waste; e) Mass Transit; and f) Schools.

*Please see attached letters.*



**Iona McGregor Fire District  
15961 Winkler Rd.  
Ft. Myers, Florida 33908  
(239) 433-0660  
(239) 433-2673**

September 7, 2005

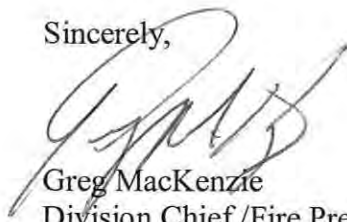
Mr. Jon Hagan  
Director of Planning  
Banks Engineering  
10511-101 Six Mile Cypress  
Ft. Myers, Florida 33912

Re: Vicott Inc.  
Strap no: 05-46-24-00-00003.0020

Dear Jon:

I am writing you this letter in regards to the Fire Departments capability to serve the above project. I foresee no problem providing fire protection as long as all state & local codes are met.

Sincerely,



Greg MacKenzie  
Division Chief / Fire Prevention



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*

September 20, 2005

Mr. Jon G. Hagan  
Director of Planning  
Banks Engineering, Inc.  
10511-101 Six Mile Cypress Parkway  
Fort Myers, FL 33912

**Re: Vicott, Inc.**  
**Strap No. 05-46-24-00-00003.0020**

Dear Mr. Hagan:

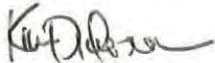
Lee County Emergency Medical Services (EMS) has reviewed your letter dated August 19, 2005, reference to a proposed commercial planned development in Fort Myers, Florida. Your proposal indicates a 16,000+/- s.f. of buildings that will consist of commercial and office uses.

This proposal will not significantly impact our current and projected EMS resources for this area. The current and planned budgetary projections for additional EMS resources should adequately address any increased demand for service from persons occupying this parcel or any support facilities.

If you have any additional questions or concerns, please feel free to contact me.

Sincerely,

**DIVISION OF PUBLIC SAFETY/EMS**



Kim Dickerson, EMT-P, RN  
EMS Operations Chief  
Lee County Emergency Medical Services  
[kdickerson@leegov.com](mailto:kdickerson@leegov.com)



**Mike Scott**  
**Office of the Sheriff**



**State of Florida**  
**County of Lee**

September 13, 2006

Banks Engineering, Inc.  
10511-11 Six Mile Cypress Pkwy.  
Ft. Myers, FL 33912

ATTN: Jon G. Hagan

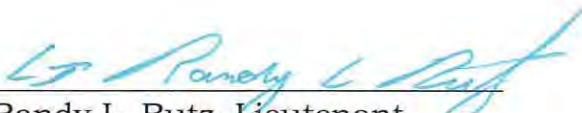
RE: Written determination of adequacy for Vicott Inc.  
Summerlin Rd.  
Ft. Myers, Lee County  
STRAP # 05-46-24-00-00003.0020

Dear Sir,

The proposed commercial planned development located at STRAP # 05-46-24-00-00003.0020 on Summerlin Rd. within Ft. Myers, Lee County, Florida is within the service area for the Lee County Sheriff's Office. It is the policy of the Lee County Sheriff's Office to support growth within Lee County and we will do everything possible to accommodate the law enforcement needs of this development.

We anticipate that we will receive the reasonable and necessary funding to support growth within Lee County. We therefore believe that the Lee County Sheriff's Office will be able to serve your project as it builds out.

Sincerely and respectfully,

  
Randy L. Butz, Lieutenant  
Commander, Planning and Research







**LEE COUNTY**  
SOUTHWEST FLORIDA

**BOARD OF COUNTY COMMISSIONERS**

(239) 338-3302

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 30, 2005

Mr. John G. Hagen  
Banks Engineering, Inc.  
10511-101 Six Mile Cypress Pkwy.  
Ft. Myers, FL 33912

**SUBJECT: Vicott, Inc.**  
**STRAP No. 05-46-24-00-00003.0020**

Dear Mr. Hagan:

The Lee County Solid Waste Division is capable of providing solid waste collection service for the commercial planned development of 3.79 acres located on Summerland Road (STRAP # .5-46-24-00-00003.0020) through our franchised hauling contractors. Disposal of the solid waste generated at this location 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 (00-20, sections 16B & 17) has 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





**LEE COUNTY**  
SOUTHWEST FLORIDA

**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

Robert W. Gray  
Deputy County Attorney

Diana M. Parker  
County Hearing  
Examiner

August 31, 2005

Mr. Jon G. Hagan  
Banks Engineering, Inc.  
10511-10 Six Mile Cypress Parkway  
Fort Myers, FL 33912

**RE: WRITTEN DETERMINATION OF ADEQUACY FOR VICOTT, INC.**  
**STRAP #05-46-24-00-00003.0020**

Dear Mr. Hagan:

Lee County Transit staff has reviewed the information you provided in regards to your service adequacy request for the above-mentioned Lee County Small Scale Comprehensive Plan Amendment application. We currently provide service on Summerlin Road in front of the subject property 6 days a week with our Route 50. Service frequencies Monday through Saturday are every 60 minutes, which provides only a core level of service to this area. However, we do have capacity for additional passengers to use this route as a result of the proposed project. Frequency improvements need to be made to this in-adequate level of service however; we anticipate the current service level to remain the same until at least 2007.

If you have any further questions or comments, please call me or e-mail me at [mhorsting@leegov.com](mailto:mhorsting@leegov.com).

Sincerely,

TRANSIT DIVISION

Michael Horsting  
Transit Planner





# THE SCHOOL DISTRICT OF LEE COUNTY

2055 CENTRAL AVENUE • FORT MYERS, FLORIDA 33901 • (239) 334-1102 • TTD/TTY (239) 335-1512

ELINOR C. SCRIPCA, Ph.D.  
CHAIRMAN • DISTRICT 5

ROBERT D. CHILMONIK  
VICE CHAIRMAN • DISTRICT 1

JEANNE S. DOZIER  
DISTRICT 2

JANE E. KUCKEL, Ph.D.  
DISTRICT 3

STEVEN K. TEUBER  
DISTRICT 4

JAMES W. BROWDER, Ed.D.  
SUPERINTENDENT

KEITH B. MARTIN  
BOARD ATTORNEY

August 24, 2005

Banks Engineering, Inc.  
Jon G. Hagen  
Professional Engineers, Planners & Land Surveyors  
10511-101 Six Mile Cypress Parkway  
Fort Myers, FL 33912

Re: Vicott, Inc.  
Strap No. 05-46-24-00-00003.0020

Dear Mr. Block:

Thank you for the opportunity to review Vicott, Inc for substantive comments with regard to educational impacts. This proposed development is in the South Choice Zone of the District, on Summerlin Road in the South Fort Myers Planning Area. This letter is in response to your request dated August 19, 2005.

This development should have no impact on classroom needs based on the applicant's indication that this is a commercial 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,

Tina Silcox, Community Development Planner  
Planning Department

Cc: William G. Moore, Jr.  
Executive Director, School Support



*Mike Scott*  
Office of the Sheriff



State of Florida  
County of Lee

September 13, 2006

Banks Engineering, Inc.  
10511-11 Six Mile Cypress Pkwy.  
Ft. Myers, FL 33912

ATTN: Jon G. Hagan

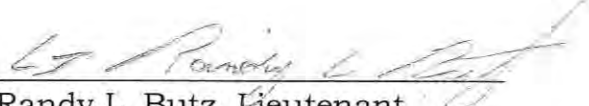
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Summerlin Rd.  
Ft. Myers, Lee County  
STRAP # 05-46-24-00-00003.0020

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Sincerely and respectfully,

  
Randy L. Butz, Lieutenant  
Commander, Planning and Research







# THE SCHOOL DISTRICT OF LEE COUNTY

2055 CENTRAL AVENUE • FORT MYERS, FLORIDA 33901 • (239) 334-1102 • TTD/TTY (239) 335-1512

ELINOR C. SCRICCA, Ph.D.  
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SUPERINTENDENT

KEITH B. MARTIN  
BOARD ATTORNEY

August 24, 2005

Banks Engineering, Inc.  
Jon G. Hagen  
Professional Engineers, Planners & Land Surveyors  
10511-101 Six Mile Cypress Parkway  
Fort Myers, FL 33912

Re: Vicott, Inc.  
Strap No. 05-46-24-00-00003.0020

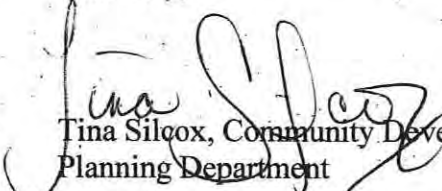
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Thank you for your attention to this issue. If I may be of further assistance, please give me a call at (239) 335-1415.

Sincerely,

  
Tina Silcox, Community Development Planner  
Planning Department

Cc: William G. Moore, Jr.  
Executive Director, School Support





FLORIDA DEPARTMENT OF STATE  
**Glenda E. Hood**  
Secretary of State  
DIVISION OF HISTORICAL RESOURCES

Ms. Alicia Kuhn  
Boylan Environmental Consultants, Inc  
11000 Metro Parkway, Suite 4  
Fort Myers, Florida 33912

January 28, 2005

Re: DHR No. 2005-890  
Received by DHR: January 24, 2005  
Proposed Waterstone Project  
Lee County

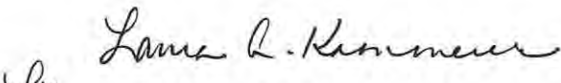
Dear Ms. Kuhn:

Our office received and reviewed the referenced project in accordance with Chapters 267 and 373, *Florida Statutes*, Florida's Coastal Management Program, and implementing state regulations, for possible impact to historic properties listed, or eligible for listing, in the *National Register of Historic Places*, or otherwise of historical, architectural or archaeological value. The State Historic Preservation Officer is to advise and assist state and federal agencies when identifying historic properties, assessing effects upon them, and considering alternatives to avoid or minimize adverse effects.

Our review of the Florida Master Site File indicates that no significant archaeological or historical resources are recorded within the project area. Furthermore, because of the location and/or nature of the projects it is unlikely that any such sites will be affected.

If there are any questions concerning our comments or recommendations, please contact Claire Nanfro, Historic Sites Specialist, by phone at (850)245-6333, or by electronic mail at [cenanfro@dos.state.fl.us](mailto:cenanfro@dos.state.fl.us). We appreciate your continued interest in protecting Florida's historic properties.

Sincerely,

  
for Frederick Gaske, Director and  
State Historic Preservation Officer

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

☐ Director's Office  
(850) 245-6300 • FAX: 245-6436

☐ Archaeological Research  
(850) 245-6444 • FAX: 245-6436

☒ Historic Preservation  
(850) 245-6333 • FAX: 245-6437

☐ Historical Museums  
(850) 245-6400 • FAX: 245-6433

☐ Southeast Regional Office  
(954) 467-4990 • FAX: 467-4991

☐ Northeast Regional Office  
(904) 825-5045 • FAX: 825-5044

☐ Central Florida Regional Office  
(813) 272-3843 • FAX: 272-2340



**VICOTT, INC.**  
**SMALL SCALE COMPREHENSIVE PLAN AMENDMENT**  
**AMENDMENT SUPPORT DOCUMENTATION**

**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.

*N/A – Residential uses will not be developed on the subject property.*

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.

**POLICY 1.1.4:** The Urban Community areas are areas outside of Fort Myers and Cape Coral that are characterized by a mixture of relatively intense commercial and residential uses. Included among them, for example, are parts of Lehigh Acres, San Carlos Park, Fort Myers Beach, South Fort Myers, the city of Bonita Springs, Pine Island, and Gasparilla Island. Although the Urban Communities have a distinctly urban character, they should be developed at slightly lower densities. As the vacant portions of these communities are urbanized, they will need to maintain their existing bases of urban services and expand and strengthen them accordingly. As in the Central Urban areas, predominant land uses in the Urban Communities will be residential, commercial, public and quasi-public, and limited light industry (see Policy 7.1.6). Standard density ranges from one dwelling unit per acre (1 du/acre) to six dwelling units per acre (6 du/acre), with a maximum of ten dwelling units per acre (10 du/acre). Amended by Ordinance No. 94-30, 02-02)

*The proposed residential planned development is located on the north side of Summerlin Road, west of the HealthPark, between Pine Ridge Road and Bass Road in the Iona-McGregor Planning Community. The development will connect to existing water and sewer services provided by Lee County Utilities. The property will have access to Summerlin Road, an arterial right-of-way, which is adequate to handle the proposed development. The residential development is proposing 633 units on 101.36+/- acres of land, thus creating 6 du/acre. This is an allowable usage within the Urban Community category, which allows one (1) to six (6) dwelling units/acre with a maximum of ten (10) dwelling units/acre.*

**GOAL 2: GROWTH MANAGEMENT.** To provide for an economically feasible plan which coordinates the location and timing of new development with the provision of infrastructure by government agencies, private utilities, and other sources.



**OBJECTIVE 2.1: DEVELOPMENT LOCATION.** Contiguous and compact growth patterns will be promoted through the rezoning process to contain urban sprawl, minimize energy costs, conserve land, water, and natural resources, minimize the cost of services, prevent development patterns where large tracts of land are by-passed in favor of development more distant from services and existing communities. (Amended by Ordinance No. 94-30, 00-22)

**OBJECTIVE 2.2: DEVELOPMENT TIMING.** Direct new growth to those portions of the Future Urban areas where adequate public facilities exist and where compact and contiguous development patterns can be created.

**POLICY 2.2.1:** Rezoning and development-of-regional impact proposals shall be evaluated as to the availability and proximity of the road network; central sewer and dewater lines; community facilities and services such as schools, EMS, fire and police protection, and other public facilities; compatibility with surrounding land uses; and any other relevant facts affecting the public health, safety, and welfare. (Amended by Ordinance No. 94-30, 00-22)

*The development is tied into the street roadway system of an existing arterial street (Summerlin Road). The project will connect to existing water and sewer facilities provided by Lee County Utilities. Its residents will have available health, safety and welfare facilities provided by HealthPark, Iona-McGregor Fire District, Lee County Sheriff's office, Lakes Regional Park, San Carlos Park Elementary School, Cypress Lake High School, Rutenberg Branch Library and Edison Community College.*

*The proposed development will be compatible with the existing and proposed land uses in the surrounding areas. The property to the west is zoned MH-2 and CF-3 and is developed with mobile homes. The proposed development will have single-family residences adjacent to these uses and are compatible with these uses. The property to the north is zoned RV-3 and AG-2 and is vacant. The property to the east is zoned AG-2 and is vacant. The property to the south is zoned AG-2 and is vacant. An access easement will be provided to Summerlin Road through this parcel.*

**GOAL 4: DEVELOPMENT DESIGN-GENERAL.** To maintain innovative land development regulations which encourage creative site designs and mixed used developments. (Amended by Ordinance No. 94-30)

**OBJECTIVE 4.1:** Maintain the current planned development rezoning process which combines site planning flexibility with rigorous review. By the end of 1995, take specific steps to further promote the creation of mixed-use developments to reduce the impact on collector and arterial roads. (Amended by Ordinance No. 91-19, 94-30)

**POLICY 4.1.1:** Development designs will be evaluated to ensure that land uses and structures are well integrated, properly oriented, and functionally related to the



topographic and natural features of the site, and that the placement of uses or structures within the development minimizes the expansion and construction of street and utility improvements. (Amended by Ordinance No. 91-19, 00-22)

**POLICY 4.1.2:** Development designs will be evaluated to ensure that the internal street system is designed for the efficient and safe flow of vehicles and pedestrians without having a disruptive effect on the activities and functions contained within or adjacent to the development. (Amended by Ordinance 91-19, 00-22)

*The proposed project will meet or exceed the design criteria established for planned developments in the Lee County Land Development Code. The site design will minimize the construction of both street and utility improvements. The on-site lake will be utilized for the stormwater management area. The internal street system is designed for the efficient and safe flow of vehicles without having a disruptive effect on pedestrian activity. The streets are functional and meet intersection separation requirements. In addition, a large wetland preserve will be provided on-site to further preserve the natural features on the property.*

**GOAL 6: COMMERCIAL LAND USES.** To permit orderly and well-planned commercial development at appropriate locations within the county. (Amended by Ordinance No. 94-30)

**OBJECTIVE 6.1:** All development approvals for commercial land uses must be consistent with the following policies, the general standards under Goal 11 and other provisions of this plan. (Amended by Ordinance No. 94-30)

**POLICY 6.1.1:** All applications for commercial development will be reviewed and evaluated as to: a) Traffic and access impacts; b) Landscaping and detailed site planning; c) Screening and buffering; d) Availability and adequacy of services and facilities; e) Impact on adjacent land uses and surrounding neighborhoods; f) Proximity to other similar centers; g) Environmental considerations.

*The subject property will address these issues as part of a planned developed application or rezoning.*

**POLICY 6.1.2:** All commercial development must be consistent with the location criteria in this policy, except where specifically excepted by this policy or by Policy 6.1.7, or in Lehigh Acres by Policies 1.8.1 through 1.8.3.

1. Minor Commercial

10. The Board of County Commissioners may approve applications for minor commercial centers that do not comply with the location standards for such centers but which are consistent with duly adopted CRA and Community plans.

*The subject property meets the criteria of a Minor Commercial development. The development is tied into the street roadway system of an existing arterial street*



*(Summerlin Road). The proposed use will be a 16,000+/- s.f. of buildings consisting of commercial and office uses.*

**POLICY 6.1.4:** Commercial development will be approved only when compatible with adjacent existing and proposed land uses and with existing and programmed public services and facilities. (Amended by Ordinance No. 94-30, 00-22)

*The proposed commercial planned development for the subject property is compatible with existing CPD developments in the surrounding area. One of the predominant land uses in the Urban Community Land Use Category is commercial.*

**POLICY 6.1.6:** The land development regulations will require that commercial development provide adequate and appropriate landscaping, open space, and buffering. Such development is encouraged to be architecturally designed so as to enhance the appearance of structures and parking areas and blend with the character of existing or planned surrounding land uses.

*The proposed commercial planned development will provide adequate open space and buffering as required in the Land Development Code (LDC). The proposed project will meet or exceed the design criteria established for planned developments in the Land Development Code.*

**POLICY 6.1.7:** Prohibit commercial developments from locating in such a way as to open new areas to premature, scattered, or strip development; but permit commercial development to infill on small parcels in areas where existing commercial development would make a residential use clearly unreasonable.

*The proposed commercial planned development will be located on a 3.89+/- acre parcel of land near existing commercial and commercial planned developments having access to Summerlin Road.*

**GOAL 11: WATER, SEWER, TRAFFIC, AND ENVIRONMENTAL REVIEW STANDARDS.** To insure that appropriate water, sewer, traffic, and environmental review standards are considered in reviewing rezoning applications and are met prior to issuance of a county development order.

**STANDARD 11.1: WATER.**

*The proposed Commercial Planned Development will connect to an existing public water system provided by Lee County Utilities.*

**STANDARD 11.2: SEWER.**

*The proposed Commercial Planned Development will connect to an existing sanitary sewer system provided by Lee County Utilities.*



**STANDARD 11.3: TRAFFIC.**

*The proposed rezoning will not have a detrimental impact on the surrounding roadway system. The existing roadway network as well as the improvements programmed by Lee County within the next three years can accommodate the additional new vehicle trips the development is anticipated to generate. Intersection analysis was performed at the site access drive on Summerlin. Based on the results of the analysis, all of the approaches to the site access intersection on Summerlin Road was shown to operate at acceptable Level of Service conditions under the 2010 build-out traffic conditions for the proposed rezoning.*

**STANDARD 11.4: ENVIRONMENTAL REVIEW FACTORS.**

*Please see attached Protected Species Survey prepared by Boylan Environmental Consultants, Inc. dated May 13, 2005. The survey was prepared for the Waterstone RPD rezoning project current in review (DCI2005-00078) and the subject property was included in the report.*

**GOAL 39: DEVELOPMENT REGULATIONS.** Maintain clear, concise, and enforceable development regulations that fully address on-site and off-site development impacts and protect and preserve public transportation facilities. (Amended by Ordinance No. 98-09, 99-15)

**OBJECTIVE 39.1: DEVELOPMENT IMPACTS.** The county will maintain and enforce development regulations to ensure that impacts of development approvals occur concurrently with adequate roads, and to achieve maximum safety, efficiency, and cost effectiveness. (Amended by Ordinance No. 99-15)

**POLICY 39.1.1:** New development must:

- Have adequate on-site parking.
- Have access to the existing or planned public road system except where other public policy would prevent such access.

*The proposed Commercial Planned Development will be designed with sufficient on-site parking for the proposed uses. The development will have access to an existing arterial right-of-way (Summerlin Road) that will operate at an acceptable level of service.*

**GOAL 61: PROTECTION OF WATER RESOURCES:** To protect the county's water resources through the application of innovative and sound methods of surface water management and by ensuring that the public and private construction, operation, and maintenance of surface water management systems are consistent with the need to protect receiving waters.

**POLICY 61.2.5:** The policies above (41.2.1 through 41.2.4) are not intended to prohibit any permissible surface water management solution that is consistent with good engineering practices and adopted environmental criteria.



*The development will be engineered and permitted utilizing the design criteria as established by the South Florida Water Management District as well as Lee County Development Regulations in accordance with good engineering practices and adopted environmental criteria.*

**OBJECTIVE 61.3: GENERAL SURFACE WATER MGMT. STANDARDS.** Lee County will continue to provide sufficient performance and/or design standards for development protection of the function of natural drainage systems. (Amended by Ordinance No. 94-30, 00-22)

**POLICY 61.3.1:** Provide sufficient performance and design standards to require post-development runoff to approximate and total characteristics of the natural flow prior to development.

**POLICY 61.3.6:** Developments must have and maintain an adequate surface water management system, provisions for acceptable programs for operation and maintenance, and post-development runoff conditions which reflect the natural surface water flow in terms of rate, direction, quality, hydroperiod, and drainage basin. Detailed regulations will continue to be integrated with other county development regulations. (Amended by Ordinance No. 00-22)

*The developments' surface water management system will be developed in accordance with South Florida Water Management District (District) and Lee County Development regulations.*

**POLICY 61.3.11:** Runoff must be routed through retention or detention areas and vegetated swales in order to reduce flow velocity, allow for percolation, and trap and remove suspended solids and pollutants. (Amended by Ordinance No. 00-22)

*The stormwater management system will be designed in accordance with South Florida Water Management District (SFWMD) requirements to provide for attenuation/retention of stormwater runoff from the site. Issuance of a SFWMD permit shall be deemed to be in compliance with Chapter 10 of the LDC and review of the project shall be limited to external impacts and wet season water table elevation. For purposes of stormwater management calculations, the assumed water table will be established by an engineer in accordance with sound engineering practice. The stormwater management system will be reviewed for compliance with Chapter 10 of the LDC through the development order process.*

**POLICY 61.3.13:** Installation of erosion control devices for development activities adjacent to water bodies, watercourses and wetlands shall be required. Such control devices shall be maintained to ensure operational effectiveness.

*Erosion control devices will be installed in accordance with local and state regulations.*



**GOAL 77: DEVELOPMENT DESIGN REQUIREMENTS.** To require new development to provide adequate open space for improved aesthetic appearance, visual relief, environmental quality, preservation of existing native trees and plant communities, and the planting of required vegetation. (Amended by Ordinance No. 94-30, 02-02)

**OBJECTIVE 77.1:** Development regulations will continue to require that new residential developments provide sufficient open space to meet the needs of their residents. (Amended by Ordinance No. 94-30, 00-22, 02-02)

*Open space will be provided per Lee County requirements and evaluated at the time of rezoning.*

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

*The impact of changing 3.89+/- acres of subject property from Industrial Development to Urban Community will have no impact on any local government.*

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

*The State Policy Plan and Regional Policy Plan goals and policies that are relevant to this plan amendment consist of conforming with the Lee Plan and its objectives and policies.*



VICOTT, INC.  
SMALL SCALE COMPREHENSIVE PLAN AMENDMENT  
AMENDMENT SUPPORT DOCUMENTATION

**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.  
*The site is accessible to Summerlin Road an existing arterial right-of-way. It is not accessible to rail lines nor cargo airport terminals.*
  - b. Provide data and analysis required by Policy 2.4.4.  
*Table 1(b) indicates that the Iona/McGregor Planning District has 782 acres of commercial uses. The Lee County total is 9,460 acres.*
  - c. The affect of the proposed change on county's industrial employment goal specifically policy 7.1.4.  
*The impact of changing 3.79+/- acres from Industrial Development to Urban Community will have negligible effect on the county's industrial employment goal of employing 3% of the county's population in manufacturing activities by the year 2010.*
2. Requests moving lands from 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.  
*The existing Industrial Development land use classification and the proposed Urban Community land use classification are both classified as Future Urban Areas. The proposed change does not constitute Urban Sprawl.*
3. Request involving lands in critical areas for future water supply must be evaluated based on policy 2.4.2.  
*N/A - The proposed change is not in the listed critical areas for future potable water supply as listed in Policy 2.4.2.; therefore, the site does not require evaluation based on this policy.*



4. Requests moving lands form Density Reduction/Groundwater Resource must fully address Policy 2.4.3 of the Lee Plan Future Land Use Element.

*N/A - The proposed change does not request moving lands from Density Reduction/Groundwater Resource; therefore Policy 2.4.3 does not need to be addressed.*



**VICOTT, INC.**  
**SMALL SCALE COMPREHENSIVE PLAN AMENDMENT**  
**AMENDMENT SUPPORT DOCUMENTATION**

**G. PROPOSED AMENDMENT JUSTIFICATION:**

Justify the proposed amendment based upon sound planning principles. Be sure to support all conclusions made in this justification with adequate data and analysis.

*The proposed amendment is consistent with the Urban Community designation for the following reasons:*

- *The subject property is located on the north side of Summerlin, west of HealthPark, between Pine Ridge Road and Bass Road in the Iona-McGregor Planning Community. The property will have access to Summerlin road, an arterial right-of-way, which is adequate to handle the proposed commercial development.*
- *The proximity of the subject property to the intersection is consistent with the location criteria of Policy 6.1.2 of the Lee Plan for Commercial Land Uses.*
- *The proposed commercial use is consistent with the "Urban Community" land use category.*
- *The attached letters from the Iona-McGregor Fire District, EMS, Lee County Sheriff's Office, Lee County Solid Waste Division, Lee County Mass Transit and Lee County Public School District confirm that the urban community services required to support the small-scale amendment change can be provided.*



LEE COUNTY ORDINANCE NO. 06-\_\_\_\_  
(Small Scale Amendment 7.67-Acre Parcel from  
Industrial Development to Urban Community)

**AN ORDINANCE AMENDING THE LEE COUNTY COMPREHENSIVE PLAN, COMMONLY KNOWN AS THE "LEE PLAN" AS ADOPTED BY ORDINANCE NO. 89-02, AS AMENDED, SO AS TO ADOPT SMALL SCALE AMENDMENT CPA 2005-01 (PERTAINING TO THE DESIGNATION OF A 7.67-ACRE VICOTT, INC. PARCEL FROM INDUSTRIAL DEVELOPMENT TO THE URBAN COMMUNITY FUTURE LAND USE CATEGORY) APPROVED DURING A SMALL SCALE COMPREHENSIVE PLAN AMENDMENT EFFORT; PROVIDING FOR AMENDMENT TO THE FUTURE LAND USE MAP SERIES, MAP 1; PURPOSE AND SHORT TITLE; LEGAL EFFECT OF "THE LEE PLAN"; GEOGRAPHICAL APPLICABILITY; SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS, AND AN EFFECTIVE DATE.**

WHEREAS, the Lee County Comprehensive Plan ("Lee Plan") Policy 2.4.1 and Chapter XIII, provides for adoption of amendments to the Plan in compliance with State statutes and in accordance with administrative procedures adopted by the Board of County Commissioners ("Board"); and,

WHEREAS, the Board, in accordance with Section 163.3181, Florida Statutes, and Lee County Administrative Code AC-13-6 provide an opportunity for private individuals to request amendment to the Future Land Use Map through a small scale amendment public hearing process; and,

WHEREAS, the Board held a public hearing for the adoption of the proposed amendment on \_\_\_\_\_, 2006. At that hearing, the Board approved a motion to adopt proposed amendment CPA2005-01 pertaining to the redesignation of a 7.67-acre parcel from Industrial Development to Urban Community on the Future Land Use Map Series, Map 1. The subject parcel is located northeast of the Summerlin Road and Pine Ridge Road intersection, and east of the Lee County sewage treatment ponds. (Vicott, Inc.)

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY**



## **COMMISSIONERS OF LEE COUNTY, FLORIDA, THAT:**

### **SECTION ONE: PURPOSE, INTENT, AND SHORT TITLE**

The Board of County Commissioners of Lee County, Florida, in compliance with Chapter 163, Part II, Florida Statutes, and with Lee County Administrative Code AC-13-6, conducted a public hearing to review a proposed amendment to the Future Land Use Map Series of the Lee Plan. The purpose of this ordinance is to adopt the amendment to the Lee Plan discussed at that meeting and later approved by a majority of the Board of County Commissioners. The short title and proper reference for the Lee County Comprehensive Land Use Plan, as hereby amended, will continue to be the "Lee Plan." This amending ordinance may be referred to as the "2006 Small Scale Amendment CPA 2005-01, redesignation of the 7.67-acre Vicott parcel located northeast of the Summerlin and Pine Ridge Roads Intersection Ordinance."

### **SECTION TWO: ADOPTION OF SMALL SCALE AMENDMENT TO LEE PLAN FUTURE LAND USE MAPS SERIES, MAP 1**

The Lee County Board of County Commissioners hereby amends the existing Lee Plan, adopted by Ordinance Number 89-02, as amended, by adopting an amendment to the Future Land Use Map Series, Map 1, by changing the designation of a 7.67-acre parcel from the Industrial Development to the Urban Community Future Land Use category. The subject parcel is located northeast of the Summerlin and Pine Ridge Roads intersection, and east of the Lee County sewage treatment ponds.

The corresponding staff report and analysis, along with all attachments for this amendment, are adopted as "support documentation" for the Lee Plan.

### **SECTION THREE: LEGAL EFFECT OF THE "LEE PLAN"**

No public or private development will be permitted except in conformity with the Lee



Plan. All land development regulations and land development orders must be consistent with the Lee Plan as amended.

#### SECTION FOUR: GEOGRAPHIC APPLICABILITY

The Lee Plan is applicable throughout the unincorporated area of Lee County, Florida, except in those unincorporated areas included in joint or interlocal agreements with other local governments that specifically provide otherwise.

#### SECTION FIVE: SEVERABILITY

The provisions of this ordinance are severable and it is the intention of the Board of County Commissioners of Lee County, Florida, to confer the whole or any part of the powers herein provided. If any of the provisions of this ordinance are held unconstitutional by a court of competent jurisdiction, the decision of that court will not affect or impair the remaining provisions of this ordinance. It is hereby declared to be the legislative intent of the Board of County Commissioners that this ordinance would have been adopted had the unconstitutional provisions not been included therein.

#### SECTION SIX: INCLUSION IN CODE, CODIFICATION, SCRIVENERS' ERROR

It is the intention of the Board of County Commissioners that the provisions of this ordinance will become and be made a part of the Lee County Code. Sections of this ordinance may be renumbered or relettered and the word "ordinance" may be changed to "section," "article," or other appropriate word or phrase in order to accomplish this intention; and regardless of whether inclusion in the code is accomplished, sections of this ordinance may be renumbered or relettered. The correction of typographical errors that do not affect the intent, may be authorized by the County Manager, or his or her designee, without need of public hearing, by filing a corrected or recodified copy with the Clerk of the Circuit Court.

#### SECTION SEVEN: EFFECTIVE DATE



The small scale Lee Plan amendment adopted by this ordinance will be effective 31 days after adoption unless challenged within 30 days after adoption. If challenged within 30 days after adoption, the small scale amendment to the Lee Plan will not be effective until the Florida Department of Community Affairs or the Administrative Commission issues a final order determining the small scale amendment is in compliance with Florida Statutes, Section 163.3184. No development orders, development permits, or land uses dependent on this amendment may be issued or commence before the amendment has become effective.

Commissioner \_\_\_\_\_ made a motion to adopt the foregoing ordinance, seconded by Commissioners \_\_\_\_\_. The vote was as follows:

Robert P. Janes

\_\_\_\_\_

Ray Judah

Tammara Hall

Franklin B. Mann

DONE AND ADOPTED this \_\_\_\_ of \_\_\_\_\_ 2006.

ATTEST:  
CHARLIE GREEN, CLERK

LEE COUNTY  
BOARD OF COUNTY COMMISSIONERS

BY: \_\_\_\_\_  
Deputy Clerk

BY: \_\_\_\_\_  
Chairwoman

DATE: \_\_\_\_\_

Approved as to form by:

\_\_\_\_\_  
Donna Marie Collins  
County Attorney's Office



**NOTICE OF PROPOSED AMENDMENT TO THE  
LEE COUNTY COMPREHENSIVE LAND USE PLAN  
(Small Scale)**

On Tuesday, \_\_\_\_\_, 2006, the Lee County Board of Commissioners will hold a public hearing to consider amending the Lee County Comprehensive Land Use Plan (Lee Plan). The hearing will be held in the Board of County Commissioners Hearing Chambers in the renovated Courthouse at 2120 Main Street in downtown Fort Myers. The hearing will commence at 5:05 p.m. or as soon thereafter as may be heard. The nature of the proposed Lee Plan amendment is to:

Amend the Future Land Use Map Series, Map 1, to change the Future Land Use classification on a 7.67 +/- acre parcel from Industrial to Urban Community. The subject parcel is located northeast of the Pine Ridge Road and Summerlin Intersection and east of the Lee County sewage treatment ponds.

Sponsor: Vicott, Inc.

At the conclusion of the hearing, the Board will vote to adopt, adopt with specific modifications, or not adopt the proposed amendment through the adoption of the following ordinance:

**AN ORDINANCE AMENDING THE LEE COUNTY COMPREHENSIVE PLAN, COMMONLY KNOWN AS THE "LEE PLAN" AS ADOPTED BY ORDINANCE NO. 89-02, AS AMENDED, SO AS TO ADOPT SMALL SCALE AMENDMENT CPA 2005-01 (PERTAINING TO THE DESIGNATION OF A 7.67-ACRE VICOTT, INC. PARCEL FROM INDUSTRIAL DEVELOPMENT TO THE URBAN COMMUNITY FUTURE LAND USE CATEGORY) APPROVED DURING A SMALL SCALE COMPREHENSIVE PLAN AMENDMENT EFFORT; PROVIDING FOR AMENDMENT TO THE FUTURE LAND USE MAP SERIES, MAP 1; PURPOSE AND SHORT TITLE; LEGAL EFFECT OF "THE LEE PLAN"; GEOGRAPHICAL APPLICABILITY; SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS, AND AN EFFECTIVE DATE.**

The proposed ordinance may be inspected by the public at the Office of the County Attorney, Courthouse Administration Building, 2115 Second Street, 6<sup>th</sup> Floor, Fort Myers, Florida.

This meeting is open to the public and all interested parties are encouraged to attend. Interested parties may appear and be heard with respect to the proposed amendment to the Lee Plan. Pursuant to Florida Statutes, persons participating in the Comprehensive Plan Amendment process, who provide their name and address on the record, will receive a courtesy information statement from DCA prior to the publication of the Notice of Intent to find the plan amendment in compliance. If a person decides to appeal the Board's decision, he or she will need a record of the proceedings, and, for such purpose, he or she may need to ensure that a verbatim record of the proceeding is



made, which record includes the testimony and evidence upon which the appeal is to be based. Further information may be obtained by contacting the Lee County Division of Planning at 239-479-8585.

In accordance with the Americans with Disabilities Act, reasonable accommodations will be made upon request. If you are in need of a reasonable accommodation, please contact Janet Miller at 239-479-8583.

\_\_\_\_\_, 2006  
5:05 p.m.  
AGENDA

1. **Call to order; certification of Affidavit of Publication by County Attorney.**
2. **Lee Plan Amendment proposed for adoption by Board of County Commissioners:**  
CPA2005-01 – Amend Future Land Use Map Series, Map 1, to redesignate a 7.67-acre parcel from Industrial Development to Urban Community Future Land Use Classification. The subject parcel is located northeast of the Pine Ridge road/Summerlin intersection, just east of the Lee County Sewage Treatment ponds.
3. **Adjourn**



**Gaither, Wayne**

---

**From:** Polito, Ann M.  
**Sent:** Tuesday, October 17, 2006 1:51 PM  
**To:** Gaither, Wayne; Noble, Matthew A.  
**Cc:** Collins, Donna Marie  
**Subject:** CPA2005-01 - Small Scale Amendment (Vicott)  
**Attachments:** CPA2005-01 - Small Scale Amendment Ord.wpd; CPA2005-01 - Small Scale Amendment Ad -Vicott.doc

Matt and Wayne, Attached please find the draft ordinance and draft ad for CPA2005-01 Small Scale Amendment. Please review these documents and get back to DMC with your comments. Many thanks. Ann

10/18/2006



**VICOTT, INC.**  
**SMALL SCALE COMPREHENSIVE PLAN AMENDMENT**  
**AMENDMENT SUPPORT DOCUMENTATION**

**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).

*Please see attached portion of the Protected Species Survey prepared by Boylan Environmental Consultants, Inc. dated May 13, 2005. The survey was prepared for the Waterstone RPD rezoning project currently in review (DCI2005-00078) and included the subject property. According to their report, Brazilian Pepper Invaded Pine Flatwoods (Code 411/422) and Cattail Marsh (6412) have been identified on the subject property.*

2. A map and description of the soils found on the property (identify the source of the information).

*Please see attached portion of the Protected Species Survey Map prepared by Boylan Environmental Consultants, Inc. dated May 13, 2005. According to their report, Copeland sandy loam, depressional (Code 45), Boca f.s. (Code 13), Hallandale f.s. (Code 6) and Isles muck (Code 56) have been identified on the subject property.*

3. A topographic map with property boundaries and 100-year flood prone areas indicated (as identified by FEMA).

*Please see attached Federal Emergency Management Agency (FEMA) Community Panel 125124 0435B dated September 19, 1984 indicating the subject area and surrounding flood zones. The subject property has been identified as Zone A10 and the base flood elevation is 9' NGVD(MSL).*

4. A map delineating wetlands, aquifer recharge areas, and rare & unique uplands.

*Please see attached portion of the Protected Species Survey prepared by Boylan Environmental Consultants, Inc. dated May 13, 2005.*



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).

*Please see attached table of protected species list from the Protected Species Survey prepared by Boylan Environmental Consultants, Inc. dated May 13, 2005. As indicated, no protected species or signs thereof were identified.*

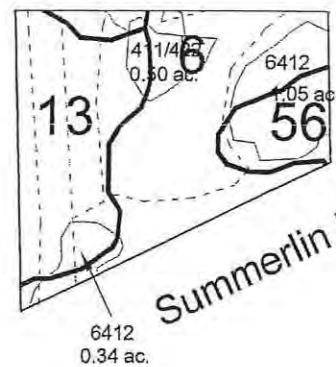




0 200 400 600  
GRAPHIC SCALE 1"=200'

#### FLUCFCS LEGEND

Code	Community	Upland Acreage	Wetland Acreage
411	Pine Flatwoods	2.82	—
411/422	Brazilian Pepper Invaded Pine Flatwoods	0.50	—
422/437	Austrailian Pine/Brazilian Pepper	0.60	—
428H	Hydric Cabbage Palm	—	1.23
428/422H	Hydric Cabbage Palm/Brazilian Pepper	—	3.15
612	Mangrove Forest	—	9.71
619	Exotic Wetland	—	25.11
6412	Cattail Marsh	—	9.37
744/193	Urban Fill Area	57.00	—
		60.92	48.57
Total Site Acreage: 109.49			



#### NRCS SOIL SURVEY LEGEND

Code	Soil Type	Hydric*?
6	Hallandale f.s.	N
13	Boca f.s.	Y
27	Pompano f.s., depressional	Y
42	Wabasso sand, limestone substrate	N
45	Copeland sandy loam, depressional	Y
56	Isles muck	Y
69	Matlacha gravelly f.s.	N
*According to the Hydric Soils of Florida Handbook (2000)		

#### Banks Engineering, Inc.

Professional Engineers, Planners & Land Surveyors

10511 SIX MILE CYPRESS PARKWAY - SUITE 101  
FORT MYERS, FLORIDA 33912  
PHONE: (239) 939-5490 FAX: (239) 939-2523  
ENGINEERING LICENSE # EB 6469  
SURVEY LICENSE # LB 6690

#### FLUCCS AND SOILS MAP

VICOTT, INC.

LEE COUNTY, FLORIDA

DATE	PROJECT	DRAWING	DESIGN	DRAWN	CHECKED	SCALE	SHEET	OF	FILE NO. (S-T-R)
09/22/2005	1836	836_FLUCCS	SDJ	SDJ	JGH	1"=200'	1	1	(05-46-24)



# NATIONAL FLOOD INSURANCE PROGRAM

## FIRM FLOOD INSURANCE RATE MAP

COUNTY OF  
LEE,  
FLORIDA  
(UNINCORPORATED AREAS)

**PANEL 435 OF 550**

(SEE MAP INDEX FOR PANELS NOT PRINTED)

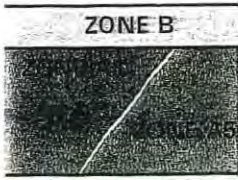
**COMMUNITY-PANEL NUMBER**  
**125124 0435 B**

**EFFECTIVE DATE:**  
**SEPTEMBER 19, 1984**



Federal Emergency Management Agency

### KEY TO MAP

500-Year Flood Boundary	—————
100-Year Flood Boundary	—————
Zone Designations*	
100-Year Flood Boundary	—————
500-Year Flood Boundary	—————
Base Flood Elevation Line With Elevation In Feet**	~~~~~513~~~~~
Base Flood Elevation in Feet Where Uniform Within Zone**	(EL 987)
Elevation Reference Mark	RM7X
Zone D Boundary	—————
River Mile	•M1.5

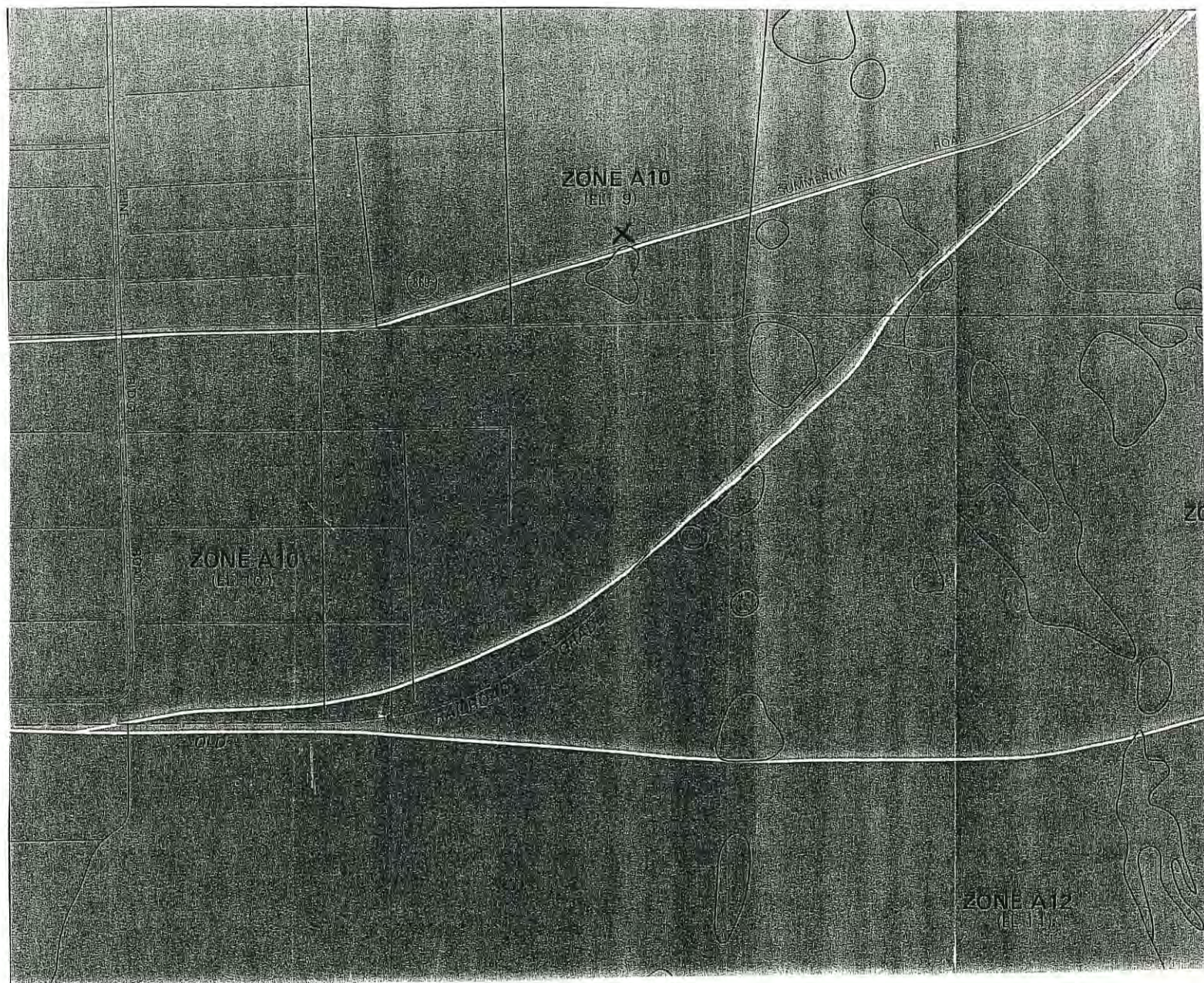
\*\*Referenced to the National Geodetic Vertical Datum of 1929

### \*EXPLANATION OF ZONE DESIGNATIONS

ZONE	EXPLANATION
A	Areas of 100-year flood; base flood elevations and flood hazard factors not determined.
A0	Areas of 100-year shallow flooding where depths are between one (1) and three (3) feet; average depths of inundation are shown, but no flood hazard factors are determined.
AH	Areas of 100-year shallow flooding where depths are between one (1) and three (3) feet; base flood elevations are shown, but no flood hazard factors are determined.
A1-A30	Areas of 100-year flood; base flood elevations and flood hazard factors determined.
A99	Areas of 100-year flood to be protected by flood protection system under construction; base flood elevations and flood hazard factors not determined.
B	Areas between limits of the 100-year flood and 500-year flood; or certain areas subject to 100-year flooding with average depths less than one (1) foot or where the contributing drainage area is less than one square mile; or areas protected by levees from the base flood. (Medium shading)
C	Areas of minimal flooding. (No shading)
D	Areas of undetermined, but possible, flood hazards.
V	Areas of 100-year coastal flood with velocity (wave action); base flood elevations and flood hazard factors not determined.
V1-V30	Areas of 100-year coastal flood with velocity (wave action); base flood elevations and flood hazard factors determined.

### NOTES TO USER







# **Banks Engineering, Inc.**

Professional Engineers, Planners & Land Surveyors  
10511-101 Six Mile Cypress Parkway  
Fort Myers, Florida 33912  
(239) 939-5490  
Fax (239) 939-2523

**RECEIVED**  
SEP 29 2005

*Please Reply To:*  
FORT MYERS OFFICE

**COMMUNITY DEVELOPMENT**

## **VICOTT, INC.**

### **SMALL SCALE COMPREHENSIVE PLAN AMENDMENT SEPTEMBER 29, 2005**

---

**Naples Office**  
6640 Willow Park Dr.  
Suite B  
Naples, Florida  
34109  
(239) 597-2061  
Fax (239) 597-3082

**Sarasota Office**  
1144 Tallevast Road  
Suite # 115  
Sarasota, Florida  
34243  
(941) 360-1618  
Fax (941) 360-6918

**Port Charlotte Office**  
12653 SW CR 769  
Suite B  
Lake Suzy, Florida  
34691  
(941) 625-1165  
Fax (941) 625-1149



## **TABLE OF CONTENTS**

### **VICOTT, INC.**

COVER LETTER

APPLICATION FORM

GENERAL INFORMATION AND MAPS

PUBLIC FACILITIES IMPACTS

ENVIRONMENTAL IMPACTS

IMPACTS ON HISTORIC RESOURCES

INTERNAL CONSISTENCY WITH THE LEE PLAN

ADDITIONAL REQUIREMENTS FOR SPECIFIC FUTURE LAND USE  
AMENDMENTS

JUSTIFICATION FOR PROPOSED AMENDMENT



**Table.** Protected species list according to FLUCCS category obtained from Lee County with corresponding field survey results.

FLUCCS	Potential Listed Species	% Coverage	Present	Absent	Density	Visibility (ft)
193	Burrowing Owl	95		X		40
	Least Tern	95		X		40
411	Beautiful Pawpaw	100		X		20
	Big Cypress Fox Squirrel	100		X		20
	Eastern Indigo Snake	100		X		20
	Fakahatchee Burmannia	100		X		20
	Florida Black Bear	100		X		20
	Florida Coontie	100		X		20
	Florida Panther	100		X		20
	Gopher Frog	100		X		20
	Gopher Tortoise	100		X		20
	Red-Cockaded Woodpecker	100		X		20
	Satin leaf	100		X		20
	Southeastern American Kestrel	100		X		20
	Twisted Air Plant	100		X		20
422	NONE	75	--	--	--	20
428	Audubon's Crested Caracara	90		X		20
	Eastern Indigo Snake	90		X		20
	Florida Black Bear	90		X		20
	Florida Panther	90		X		20
	Simpson's Stopper	90		X		20
437	NONE	90	--	--	--	20
612	Brown Pelican	90		X		20
	Florida Black Bear	90		X		20
	Little Blue Heron	90		X		20
	Prickly-apple	90		X		20
	Roseate Spoonbill	90		X		20
	Snowy Egret	90		X		20
	Tricolored Heron	90		X		20
619	NONE		--	--	--	20
641	American Alligator	90		X		20
	Everglades Mink	90		X		20
	Florida Sand hill Crane	90		X		20



	Little Blue Heron	90		X		20
	Limpkin	90		X		20
	Reddish Egret	90		X		20
	Snail Kite	90		X		20
	Snowy Egret	90		X		20
	Tricolored Heron	90		X		20
	Wood Stork	90		X		20
744	Gopher Tortoise	100		X		20



**VICOTT, INC.**  
**SMALL SCALE COMPREHENSIVE PLAN AMENDMENT**  
**AMENDMENT SUPPORT DOCUMENTATION**

**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 in 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.

*Please see attached letter from the Florida Division of Historical Resources. Their review of the Florida Master Site File indicates that no significant archaeological or historical resources are recorded within the project area.*





FLORIDA DEPARTMENT OF STATE  
**Glenda E. Hood**  
Secretary of State  
DIVISION OF HISTORICAL RESOURCES

Ms. Alicia Kuhn  
Boylan Environmental Consultants, Inc  
11000 Metro Parkway, Suite 4  
Fort Myers, Florida 33912

January 28, 2005

Re: DHR No. 2005-890  
Received by DHR: January 24, 2005  
Proposed Waterstone Project  
Lee County

Dear Ms. Kuhn:

Our office received and reviewed the referenced project in accordance with Chapters 267 and 373, *Florida Statutes*, Florida's Coastal Management Program, and implementing state regulations, for possible impact to historic properties listed, or eligible for listing, in the *National Register of Historic Places*, or otherwise of historical, architectural or archaeological value. The State Historic Preservation Officer is to advise and assist state and federal agencies when identifying historic properties, assessing effects upon them, and considering alternatives to avoid or minimize adverse effects.

Our review of the Florida Master Site File indicates that no significant archaeological or historical resources are recorded within the project area. Furthermore, because of the location and/or nature of the projects it is unlikely that any such sites will be affected.

If there are any questions concerning our comments or recommendations, please contact Claire Nanfro, Historic Sites Specialist, by phone at (850)245-6333, or by electronic mail at [cenanfro@dos.state.fl.us](mailto:cenanfro@dos.state.fl.us). We appreciate your continued interest in protecting Florida's historic properties.

Sincerely,

for Frederick Gaske, Director and  
State Historic Preservation Officer

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

☐ Director's Office  
(850) 245-6300 • FAX: 245-6436

☐ Archaeological Research  
(850) 245-6444 • FAX: 245-6436

☒ Historic Preservation  
(850) 245-6333 • FAX: 245-6437

☐ Historical Museums  
(850) 245-6400 • FAX: 245-6433

☐ Southeast Regional Office  
(954) 467-4990 • FAX: 467-4991

☐ Northeast Regional Office  
(904) 825-5045 • FAX: 825-5044

☐ Central Florida Regional Office  
(813) 272-3843 • FAX: 272-2340



**VICOTT, INC.**  
**SMALL SCALE COMPREHENSIVE PLAN AMENDMENT**  
**AMENDMENT SUPPORT DOCUMENTATION**

**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.

*N/A – Residential uses will not be developed on the subject property.*

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.

**POLICY 1.1.4:** The Urban Community areas are areas outside of Fort Myers and Cape Coral that are characterized by a mixture of relatively intense commercial and residential uses. Included among them, for example, are parts of Lehigh Acres, San Carlos Park, Fort Myers Beach, South Fort Myers, the city of Bonita Springs, Pine Island, and Gasparilla Island. Although the Urban Communities have a distinctly urban character, they should be developed at slightly lower densities. As the vacant portions of these communities are urbanized, they will need to maintain their existing bases of urban services and expand and strengthen them accordingly. As in the Central Urban areas, predominant land uses in the Urban Communities will be residential, commercial, public and quasi-public, and limited light industry (see Policy 7.1.6). Standard density ranges from one dwelling unit per acre (1 du/acre) to six dwelling units per acre (6 du/acre), with a maximum of ten dwelling units per acre (10 du/acre). Amended by Ordinance No. 94-30, 02-02)

*The proposed residential planned development is located on the north side of Summerlin Road, west of the HealthPark, between Pine Ridge Road and Bass Road in the Iona-McGregor Planning Community. The development will connect to existing water and sewer services provided by Lee County Utilities. The property will have access to Summerlin Road, an arterial right-of-way, which is adequate to handle the proposed development. The residential development is proposing 633 units on 101.36+/- acres of land, thus creating 6 du/acre. This is an allowable usage within the Urban Community category, which allows one (1) to six (6) dwelling units/acre with a maximum of ten (10) dwelling units/acre.*

**GOAL 2: GROWTH MANAGEMENT.** To provide for an economically feasible plan which coordinates the location and timing of new development with the provision of infrastructure by government agencies, private utilities, and other sources.



**OBJECTIVE 2.1: DEVELOPMENT LOCATION.** Contiguous and compact growth patterns will be promoted through the rezoning process to contain urban sprawl, minimize energy costs, conserve land, water, and natural resources, minimize the cost of services, prevent development patterns where large tracts of land are by-passed in favor of development more distant from services and existing communities. (Amended by Ordinance No. 94-30, 00-22)

**OBJECTIVE 2.2: DEVELOPMENT TIMING.** Direct new growth to those portions of the Future Urban areas where adequate public facilities exist and where compact and contiguous development patterns can be created.

**POLICY 2.2.1:** Rezonings and development-of-regional impact proposals shall be evaluated as to the availability and proximity of the road network; central sewer and dewater lines; community facilities and services such as schools, EMS, fire and police protection, and other public facilities; compatibility with surrounding land uses; and any other relevant facts affecting the public health, safety, and welfare. (Amended by Ordinance No. 94-30, 00-22)

*The development is tied into the street roadway system of an existing arterial street (Summerlin Road). The project will connect to existing water and sewer facilities provided by Lee County Utilities. Its residents will have available health, safety and welfare facilities provided by HealthPark, Iona-McGregor Fire District, Lee County Sheriff's office, Lakes Regional Park, San Carlos Park Elementary School, Cypress Lake High School, Rutenberg Branch Library and Edison Community College.*

*The proposed development will be compatible with the existing and proposed land uses in the surrounding areas. The property to the west is zoned MH-2 and CF-3 and is developed with mobile homes. The proposed development will have single-family residences adjacent to these uses and are compatible with these uses. The property to the north is zoned RV-3 and AG-2 and is vacant. The property to the east is zoned AG-2 and is vacant. The property to the south is zoned AG-2 and is vacant. An access easement will be provided to Summerlin Road through this parcel.*

**GOAL 4: DEVELOPMENT DESIGN-GENERAL.** To maintain innovative land development regulations which encourage creative site designs and mixed used developments. (Amended by Ordinance No. 94-30)

**OBJECTIVE 4.1:** Maintain the current planned development rezoning process which combines site planning flexibility with rigorous review. By the end of 1995, take specific steps to further promote the creation of mixed-use developments to reduce the impact on collector and arterial roads. (Amended by Ordinance No. 91-19, 94-30)

**POLICY 4.1.1:** Development designs will be evaluated to ensure that land uses and structures are well integrated, properly oriented, and functionally related to the



topographic and natural features of the site, and that the placement of uses or structures within the development minimizes the expansion and construction of street and utility improvements. (Amended by Ordinance No. 91-19, 00-22)

**POLICY 4.1.2:** Development designs will be evaluated to ensure that the internal street system is designed for the efficient and safe flow of vehicles and pedestrians without having a disruptive effect on the activities and functions contained within or adjacent to the development. (Amended by Ordinance 91-19, 00-22)

*The proposed project will meet or exceed the design criteria established for planned developments in the Lee County Land Development Code. The site design will minimize the construction of both street and utility improvements. The on-site lake will be utilized for the stormwater management area. The internal street system is designed for the efficient and safe flow of vehicles without having a disruptive effect on pedestrian activity. The streets are functional and meet intersection separation requirements. In addition, a large wetland preserve will be provided on-site to further preserve the natural features on the property.*

**GOAL 6: COMMERCIAL LAND USES.** To permit orderly and well-planned commercial development at appropriate locations within the county. (Amended by Ordinance No. 94-30)

**OBJECTIVE 6.1:** All development approvals for commercial land uses must be consistent with the following policies, the general standards under Goal 11 and other provisions of this plan. (Amended by Ordinance No. 94-30)

**POLICY 6.1.1:** All applications for commercial development will be reviewed and evaluated as to: a) Traffic and access impacts; b) Landscaping and detailed site planning; c) Screening and buffering; d) Availability and adequacy of services and facilities; e) Impact on adjacent land uses and surrounding neighborhoods; f) Proximity to other similar centers; g) Environmental considerations.

*The subject property will address these issues as part of a planned developed application or rezoning.*

**POLICY 6.1.2:** All commercial development must be consistent with the location criteria in this policy, except where specifically excepted by this policy or by Policy 6.1.7, or in Lehigh Acres by Policies 1.8.1 through 1.8.3.

1. Minor Commercial

10. The Board of County Commissioners may approve applications for minor commercial centers that do not comply with the location standards for such centers but which are consistent with duly adopted CRA and Community plans.

*The subject property meets the criteria of a Minor Commercial development. The development is tied into the street roadway system of an existing arterial street*



*(Summerlin Road). The proposed use will be a 16,000+/- s.f. of buildings consisting of commercial and office uses.*

**POLICY 6.1.4:** Commercial development will be approved only when compatible with adjacent existing and proposed land uses and with existing and programmed public services and facilities. (Amended by Ordinance No. 94-30, 00-22)

*The proposed commercial planned development for the subject property is compatible with existing CPD developments in the surrounding area. One of the predominant land uses in the Urban Community Land Use Category is commercial.*

**POLICY 6.1.6:** The land development regulations will require that commercial development provide adequate and appropriate landscaping, open space, and buffering. Such development is encouraged to be architecturally designed so as to enhance the appearance of structures and parking areas and blend with the character of existing or planned surrounding land uses.

*The proposed commercial planned development will provide adequate open space and buffering as required in the Land Development Code (LDC). The proposed project will meet or exceed the design criteria established for planned developments in the Land Development Code.*

**POLICY 6.1.7:** Prohibit commercial developments from locating in such a way as to open new areas to premature, scattered, or strip development; but permit commercial development to infill on small parcels in areas where existing commercial development would make a residential use clearly unreasonable.

*The proposed commercial planned development will be located on a 3.89+/- acre parcel of land near existing commercial and commercial planned developments having access to Summerlin Road.*

**GOAL 11: WATER, SEWER, TRAFFIC, AND ENVIRONMENTAL REVIEW STANDARDS.** To insure that appropriate water, sewer, traffic, and environmental review standards are considered in reviewing rezoning applications and are met prior to issuance of a county development order.

**STANDARD 11.1: WATER.**

*The proposed Commercial Planned Development will connect to an existing public water system provided by Lee County Utilities.*

**STANDARD 11.2: SEWER.**

*The proposed Commercial Planned Development will connect to an existing sanitary sewer system provided by Lee County Utilities.*



**STANDARD 11.3: TRAFFIC.**

*The proposed rezoning will not have a detrimental impact on the surrounding roadway system. The existing roadway network as well as the improvements programmed by Lee County within the next three years can accommodate the additional new vehicle trips the development is anticipated to generate. Intersection analysis was performed at the site access drive on Summerlin. Based on the results of the analysis, all of the approaches to the site access intersection on Summerlin Road was shown to operate at acceptable Level of Service conditions under the 2010 build-out traffic conditions for the proposed rezoning.*

**STANDARD 11.4: ENVIRONMENTAL REVIEW FACTORS.**

*Please see attached Protected Species Survey prepared by Boylan Environmental Consultants, Inc. dated May 13, 2005. The survey was prepared for the Waterstone RPD rezoning project current in review (DCI2005-00078) and the subject property was included in the report.*

**GOAL 39: DEVELOPMENT REGULATIONS.** Maintain clear, concise, and enforceable development regulations that fully address on-site and off-site development impacts and protect and preserve public transportation facilities. (Amended by Ordinance No. 98-09, 99-15)

**OBJECTIVE 39.1: DEVELOPMENT IMPACTS.** The county will maintain and enforce development regulations to ensure that impacts of development approvals occur concurrently with adequate roads, and to achieve maximum safety, efficiency, and cost effectiveness. (Amended by Ordinance No. 99-15)

**POLICY 39.1.1:** New development must:

- Have adequate on-site parking.
- Have access to the existing or planned public road system except where other public policy would prevent such access.

*The proposed Commercial Planned Development will be designed with sufficient on-site parking for the proposed uses. The development will have access to an existing arterial right-of-way (Summerlin Road) that will operate at an acceptable level of service.*

**GOAL 61: PROTECTION OF WATER RESOURCES:** To protect the county's water resources through the application of innovative and sound methods of surface water management and by ensuring that the public and private construction, operation, and maintenance of surface water management systems are consistent with the need to protect receiving waters.

**POLICY 61.2.5:** The policies above (41.2.1 through 41.2.4) are not intended to prohibit any permissible surface water management solution that is consistent with good engineering practices and adopted environmental criteria.



*The development will be engineered and permitted utilizing the design criteria as established by the South Florida Water Management District as well as Lee County Development Regulations in accordance with good engineering practices and adopted environmental criteria.*

**OBJECTIVE 61.3: GENERAL SURFACE WATER MGMT. STANDARDS.** Lee County will continue to provide sufficient performance and/or design standards for development protection of the function of natural drainage systems. (Amended by Ordinance No. 94-30, 00-22)

**POLICY 61.3.1:** Provide sufficient performance and design standards to require post-development runoff to approximate and total characteristics of the natural flow prior to development.

**POLICY 61.3.6:** Developments must have and maintain an adequate surface water management system, provisions for acceptable programs for operation and maintenance, and post-development runoff conditions which reflect the natural surface water flow in terms of rate, direction, quality, hydroperiod, and drainage basin. Detailed regulations will continue to be integrated with other county development regulations. (Amended by Ordinance No. 00-22)

*The developments' surface water management system will be developed in accordance with South Florida Water Management District (District) and Lee County Development regulations.*

**POLICY 61.3.11:** Runoff must be routed through retention or detention areas and vegetated swales in order to reduce flow velocity, allow for percolation, and trap and remove suspended solids and pollutants. (Amended by Ordinance No. 00-22)

*The stormwater management system will be designed in accordance with South Florida Water Management District (SFWMD) requirements to provide for attenuation/retention of stormwater runoff from the site. Issuance of a SFWMD permit shall be deemed to be in compliance with Chapter 10 of the LDC and review of the project shall be limited to external impacts and wet season water table elevation. For purposes of stormwater management calculations, the assumed water table will be established by an engineer in accordance with sound engineering practice. The stormwater management system will be reviewed for compliance with Chapter 10 of the LDC through the development order process.*

**POLICY 61.3.13:** Installation of erosion control devices for development activities adjacent to water bodies, watercourses and wetlands shall be required. Such control devices shall be maintained to ensure operational effectiveness.

*Erosion control devices will be installed in accordance with local and state regulations.*



**GOAL 77: DEVELOPMENT DESIGN REQUIREMENTS.** To require new development to provide adequate open space for improved aesthetic appearance, visual relief, environmental quality, preservation of existing native trees and plant communities, and the planting of required vegetation. (Amended by Ordinance No. 94-30, 02-02)

**OBJECTIVE 77.1:** Development regulations will continue to require that new residential developments provide sufficient open space to meet the needs of their residents. (Amended by Ordinance No. 94-30, 00-22, 02-02)

*Open space will be provided per Lee County requirements and evaluated at the time of rezoning.*

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

*The impact of changing 3.89+/- acres of subject property from Industrial Development to Urban Community will have no impact on any local government.*

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

*The State Policy Plan and Regional Policy Plan goals and policies that are relevant to this plan amendment consist of conforming with the Lee Plan and its objectives and policies.*



VICOTT, INC.  
SMALL SCALE COMPREHENSIVE PLAN AMENDMENT  
AMENDMENT SUPPORT DOCUMENTATION

**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.  
*The site is accessible to Summerlin Road an existing arterial right-of-way. It is not accessible to rail lines nor cargo airport terminals.*
  - b. Provide data and analysis required by Policy 2.4.4.  
*Table 1(b) indicates that the Iona/McGregor Planning District has 782 acres of commercial uses. The Lee County total is 9,460 acres.*
  - c. The affect of the proposed change on county's industrial employment goal specifically policy 7.1.4.  
*The impact of changing 3.79+/- acres from Industrial Development to Urban Community will have negligible effect on the county's industrial employment goal of employing 3% of the county's population in manufacturing activities by the year 2010.*
2. Requests moving lands from 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.  
*The existing Industrial Development land use classification and the proposed Urban Community land use classification are both classified as Future Urban Areas. The proposed change does not constitute Urban Sprawl.*
3. Request involving lands in critical areas for future water supply must be evaluated based on policy 2.4.2.  
*N/A - The proposed change is not in the listed critical areas for future potable water supply as listed in Policy 2.4.2.; therefore, the site does not require evaluation based on this policy.*



4. Requests moving lands from Density Reduction/Groundwater Resource must fully address Policy 2.4.3 of the Lee Plan Future Land Use Element.

*N/A - The proposed change does not request moving lands from Density Reduction/Groundwater Resource; therefore Policy 2.4.3 does not need to be addressed.*



**VICOTT, INC.**  
**SMALL SCALE COMPREHENSIVE PLAN AMENDMENT**  
**AMENDMENT SUPPORT DOCUMENTATION**

**G. PROPOSED AMENDMENT JUSTIFICATION:**

Justify the proposed amendment based upon sound planning principles. Be sure to support all conclusions made in this justification with adequate data and analysis.

*The proposed amendment is consistent with the Urban Community designation for the following reasons:*

- *The subject property is located on the north side of Summerlin, west of HealthPark, between Pine Ridge Road and Bass Road in the Iona-McGregor Planning Community. The property will have access to Summerlin road, an arterial right-of-way, which is adequate to handle the proposed commercial development.*
- *The proximity of the subject property to the intersection is consistent with the location criteria of Policy 6.1.2 of the Lee Plan for Commercial Land Uses.*
- *The proposed commercial use is consistent with the "Urban Community" land use category.*
- *The attached letters from the Iona-McGregor Fire District, EMS, Lee County Sheriff's Office, Lee County Solid Waste Division, Lee County Mass Transit and Lee County Public School District confirm that the urban community services required to support the small-scale amendment change can be provided.*



# **Banks Engineering, Inc.**

Professional Engineers, Planners & Land Surveyors  
10511-101 Six Mile Cypress Parkway  
Fort Myers, Florida 33912  
(239) 939-5490  
Fax (239) 939-2523

**RECEIVED**  
SEP 29 2005

*Please Reply To:*  
FORT MYERS OFFICE

**COMMUNITY DEVELOPMENT**

## **VICOTT, INC.**

**SMALL SCALE  
COMPREHENSIVE PLAN AMENDMENT  
SEPTEMBER 29, 2005**

---

**Naples Office**  
6640 Willow Park Dr.  
Suite B  
Naples, Florida  
34109  
(239) 597-2061  
Fax (239) 597-3082

**Sarasota Office**  
1144 Tallevast Road  
Suite # 115  
Sarasota, Florida  
34243  
(941) 360-1618  
Fax (941) 360-6918

**Port Charlotte Office**  
12653 SW CR 769  
Suite B  
Lake Suzy, Florida  
34691  
(941) 625-1165  
Fax (941) 625-1149



## **TABLE OF CONTENTS**

### **VICOTT, INC.**

COVER LETTER

APPLICATION FORM

GENERAL INFORMATION AND MAPS

PUBLIC FACILITIES IMPACTS

ENVIRONMENTAL IMPACTS

IMPACTS ON HISTORIC RESOURCES

INTERNAL CONSISTENCY WITH THE LEE PLAN

ADDITIONAL REQUIREMENTS FOR SPECIFIC FUTURE LAND USE  
AMENDMENTS

JUSTIFICATION FOR PROPOSED AMENDMENT



## APPLICATION FOR A COMPREHENSIVE PLAN AMENDMENT

(To be completed at time of intake)

DATE REC'D 9/29/05

REC'D BY: DLL

APPLICATION FEE 1500.00

TIDEMARK NO: CPA 2005-00001

THE FOLLOWING VERIFIED:

Zoning ☐

Commissioner District ☐

Designation on FLUM ☐

-----  
(To be completed by Planning Staff)

Plan Amendment Cycle: ☐ Normal ☒ Small Scale ☐ DRI ☐ Emergency

Request No: \_\_\_\_\_

### APPLICANT PLEASE NOTE:

Answer all questions completely and accurately. Please print or type responses. If additional space is needed, number and attach additional sheets. The total number of sheets in your application is: 45

Submit **6** copies of the complete application and amendment support documentation, including maps, to the Lee County Division of Planning. Additional copies may be required for Local Planning Agency, Board of County Commissioners hearings and the Department of Community Affairs' packages.

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.

8/30/05

Rudolph M. Mail

DATE

SIGNATURE OF OWNER OR AUTHORIZED REPRESENTATIVE



**I. APPLICANT/AGENT/OWNER INFORMATION**

**Vicott, Inc.**

APPLICANT

**10950 Old South Way**

ADDRESS

**Fort Myers,**

**FL**

**33908**

CITY

STATE

ZIP

**(239) 489-1814**

**(239) 489-1816**

TELEPHONE NUMBER

FAX NUMBER

**Banks Engineering, Inc., Jon G. Hagan**

AGENT\*

**10511 Six Mile Cypress Parkway, Suite 101**

ADDRESS

**Fort Myers,**

**FL**

**33908**

CITY

STATE

ZIP

**(239) 939-5490**

**(239) 939-2523**

TELEPHONE NUMBER

FAX NUMBER

**Vicott, Inc.**

OWNER(s) OF RECORD

**10950 Old South Way**

ADDRESS

**Fort Myers,**

**FL**

CITY

STATE

ZIP

**(239) 939-5490**

**(239) 489-1816**

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.

**Jon G. Hagan**

**Director of Planning**

**Banks Engineering, Inc.**

**10511 Six Mile Cypress Parkway, Suite 101**

**Fort Myers, FL 33908**

**Phone: (239) 939-5490**

**Fax: (239) 939-2523**

**e-mail: [jhagan@bankseng.com](mailto:jhagan@bankseng.com)**



**II. REQUESTED CHANGE (Please see Item 1 for Fee Schedule)**

A. TYPE: (Check appropriate type)

☐ Text Amendment

☒ Future Land Use Map Series Amendment  
(Maps 1 thru 20)  
List Number(s) of Map(s) to be amended  
**Map No. 1**

B. SUMMARY OF REQUEST (Brief explanation):

**Change Future Land Use Map of subject property from  
Industrial Development to Urban Community to allow for the property  
to be rezoned and developed as a commercial planned development.**

**III. PROPERTY SIZE AND LOCATION OF AFFECTED PROPERTY  
(for amendments affecting development potential of property)**

A. Property Location:

1. Site Address: **Summerlin Road, Fort Myers, FL 33908**

2. STRAP(s): **05-46-24-00-00003.0020**

B. Property Information

Total Acreage of Property: **3.89+/- Ac.**

Total Acreage included in Request: **3.89+/- Ac.**

Area of each Existing Future Land Use Category:

Total Uplands: **3.46+/- Ac.**

Total Wetlands: **.43+/- Ac.**

Current Zoning: **AG-2**

Current Future Land Use Designation: **Industrial Development**

Existing Land Use: **Vacant**



- 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:

Lehigh Acres Commercial Overlay: N/A

Airport Noise Zone 2 or 3: N/A

Acquisition Area: N/A

Joint Planning Agreement Area (adjoining other jurisdictional lands): N/A

Community Redevelopment Area: N/A

- D. Proposed change for the Subject Property:

**From "Industrial Development" to "Urban Community"**

- E. Potential development of the subject property:

1. Calculation of maximum allowable development under existing FLUM:

Residential Units/Density -0-

Commercial intensity 4,152 s.f.

Industrial intensity 41,520 s.f.

2. Calculation of maximum allowable development under proposed FLUM:

Residential Units/Density 20 DUS

Commercial intensity 34,600 s.f.

Industrial intensity -0-

#### 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)

A. General Information and Maps

*NOTE: For each 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 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 3-mile 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.

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).



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.



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

I, \_\_\_\_\_, 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.

A. Rudolph Maul  
Signature of owner or owner-authorized agent

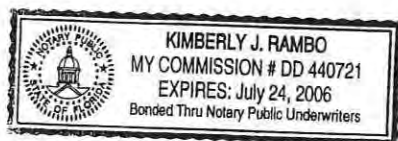
8/30/05  
Date

A. Rudolph Maul  
Typed or printed name

STATE OF FLORIDA )  
COUNTY OF LEE )

The foregoing instrument was certified and subscribed before me this 30th day of August 2005, by Anthony Rudolph Maul, who is personally known to me or who has produced FL DL # M400-016-53-337-5 as identification.

(SEAL)



Kimberly J. Rambo  
Signature of notary public

Kimberly J Rambo  
Printed name of notary public



**VICOTT, INC.**  
**SMALL SCALE COMPREHENSIVE PLAN AMENDMENT**  
**AMENDMENT SUPPORT DOCUMENTATION**

**A. GENERAL INFORMATION AND MAPS:**

1. Provide any proposed text changes: *N/A*
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.

*Please see attached Existing Future Land Use Map and Proposed Future Land Use Map.*

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.

*Please see attached Aerial Photograph, Land Use and Zoning Map.*

*The property to the north is in the Urban Community Future Land Use Category and is currently vacant. The property to the east is in the Urban Community and Wetlands Future Land Use Categories and is currently vacant. Immediately to the south is Summerlin Road and the land south of the right-of-way is in Wetlands/Outlying Suburban Land Use Categories and Public Facilities Land Use Categories and is currently vacant. The property to the west is in the Public Facilities Land Use Category and consists of the Lee County Sewage Treatment ponds.*

*The subject property is compatible with the existing and proposed land uses in the surrounding areas.*

4. Map and describe existing zoning of the subject property and surrounding properties.

*Please see attached Aerial Photograph, Land Use and Zoning Map.*

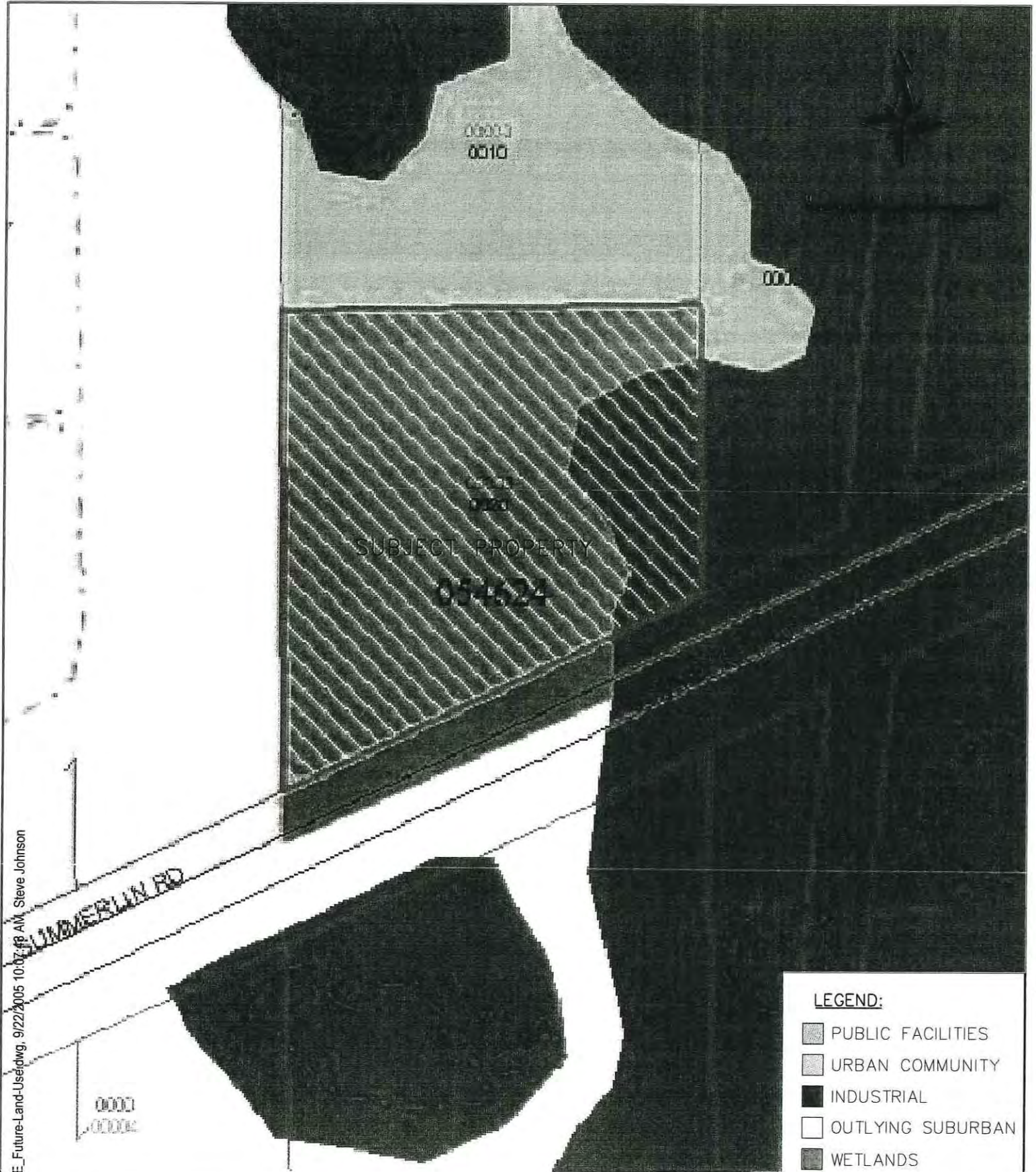
*The subject property is zoned AG-2. The property to the north is zoned AG-2 and a Planned Development application for the Waterstone project is currently being reviewed to rezone the property to a Residential Planned Development (DCI2005-00078). The property to the east is zoned AG-2 and is currently vacant. The subject property abuts Summerlin Road right-of-way to the south. The property on the south of Summerlin Road is zoned AG-2 and is currently vacant. The property to the west of the subject property is zoned CF-3 and consists of Lee County Sewage Treatment ponds.*



5. The legal description(s) for the property subject to the requested change.  
*Please see attached legal description.*
6. A copy of the deed(s) for the property subject to the requested change.  
*Please see attached Warranty Deed.*
7. An aerial map showing the subject property and surrounding properties.  
*Please see attached Aerial Photograph, Land Use and Zoning Map.*
8. If an applicant is not the owner, a letter from the owner of the property authorizing the applicant to represent the owner.  
*N/A – The applicant is the owner.*



S:\Jobs\18XX\1836\Zoning\IE\_Future Land-Use.dwg, 9/22/2005 10:07:48 AM, Steve Johnson



**Banks Engineering, Inc.**

Professional Engineers, Planners & Land Surveyors

10511 SIX MILE CYPRESS PARKWAY - SUITE 101  
FORT MYERS, FLORIDA 33912  
PHONE: (239) 939-5490 FAX: (239) 939-2523  
ENGINEERING LICENSE # EB 6469  
SURVEY LICENSE # LB 6690

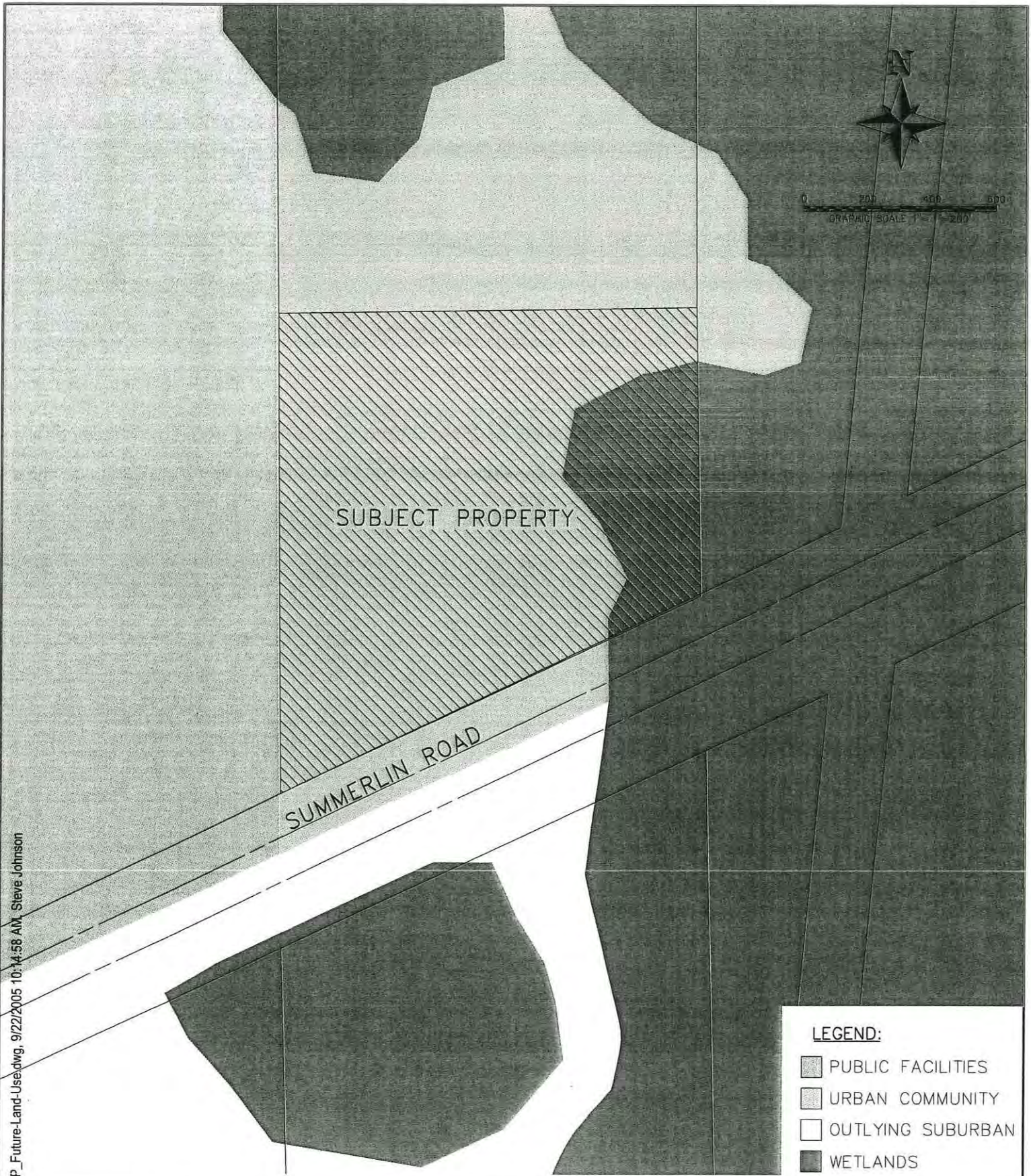
EXISTING FUTURE LAND USE MAP

**VICOTT, INC.**

LEE COUNTY, FLORIDA

DATE	PROJECT	DRAWING	DESIGN	DRAWN	CHECKED	SCALE	SHEET	OF	FILE NO. (S-T-R)
09/21/2005	1836	1836_FLU	SDJ	SDJ	JGH	1"=200'	1	1	05-46-24





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**LEGEND:**

- PUBLIC FACILITIES
- URBAN COMMUNITY
- OUTLYING SUBURBAN
- WETLANDS

**Banks Engineering, Inc.**

Professional Engineers, Planners & Land Surveyors

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FORT MYERS, FLORIDA 33912  
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ENGINEERING LICENSE # EB 6469  
SURVEY LICENSE # LB 6590

**PROPOSED FUTURE LAND USE MAP**

**VICOTT, INC.**

**LEE COUNTY, FLORIDA**

DATE	PROJECT	DRAWING	DESIGN	DRAWN	CHECKED	SCALE	SHEET	OF	FILE NO. (S-T-R)
09/21/2005	1836	1836_FLU	SDJ	SDJ	JGH	1"=200'	1	1	05-46-24





S:\Jobs\1836\1836\Doc

**Banks Engineering, Inc.**

Professional Engineers, Planners & Land Surveyors

10511 SIX MILE CYPRESS PARKWAY - SUITE 101  
FORT MYERS, FLORIDA 33912  
PHONE: (239) 939-5490 FAX: (239) 939-2523  
ENGINEERING LICENSE # EB 6469  
SURVEY LICENSE # LB 6690

AERIAL, LAND USE AND ZONING MAP

**VICOTT, INC.**

LEE COUNTY, FLORIDA

DATE	PROJECT	DRAWING	DESIGN	DRAWN	CHECKED	SCALE	SHEET	OF	FILE NO. (S-T-R)
09-22-05	1836	1836_AER	SDJ	SDJ	JGH	1"=200'	1	1	(05-46-24)



# Banks Engineering, Inc.

Professional Engineers, Planners & Land Surveyors  
FORT MYERS ♦ CHARLOTTE ♦ NAPLES ♦ SARASOTA

## DESCRIPTION OF AN EASEMENT LYING IN SECTION 5, T-46-S, R-24-E, LEE COUNTY, FLORIDA.

(COMMERCIAL AREA)

A TRACT OR PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, LYING IN SECTION 5, TOWNSHIP 46 SOUTH, RANGE 24 EAST, BEING FURTHER BOUNDED AND DESCRIBED AS FOLLOWS:

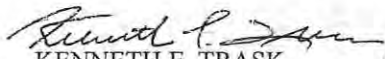
COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 5; THENCE S.89°01'42"W., ALONG THE SOUTH LINE OF SAID SECTION 5, FOR 1319.00 FEET; THENCE N.01°26'45"W., FOR 974.54 FEET TO THE NORTHERLY RIGHT OF WAY LINE OF SUMMERLIN ROAD (COUNTY ROAD 869); THENCE S.64°39'27"W., ALONG SAID NORTHERLY RIGHT OF WAY LINE, FOR 244.30 FEET TO THE POINT OF BEGINNING; THENCE N.00°04'41"E., FOR 348.06 FEET; THENCE N.61°35'24"W., FOR 156.47 FEET; THENCE N.01°01'35"W., FOR 33.37 FEET; THENCE S.88°47'59"W., FOR 159.92 FEET; THENCE S.88°30'44"W., FOR 47.37 FEET TO A POINT ON A CURVE TO THE RIGHT, HAVING: A RADIUS OF 212.00 FEET, A CENTRAL ANGLE OF 07°38'23", A CHORD BEARING OF S.05°18'28"E. AND A CHORD LENGTH OF 28.25 FEET; THENCE ALONG THE ARC OF SAID CURVE, AN ARC LENGTH OF 28.27 FEET TO THE POINT OF TANGENCY OF SAID CURVE; THENCE S.01°29'16"E., FOR 578.40 FEET TO SAID NORTHERLY RIGHT OF WAY LINE; THENCE N.64°39'27"E., ALONG SAID RIGHT OF WAY LINE, FOR 362.21 FEET TO THE POINT OF BEGINNING.

PARCEL CONTAINS 169455 SQUARE FEET OR 3.89 ACRES, MORE OR LESS.

BEARINGS ARE BASED ON SAID NORTHERLY RIGHT OF WAY LINE OF SUMMERLIN ROAD AS BEARING S.64°39'27"W.

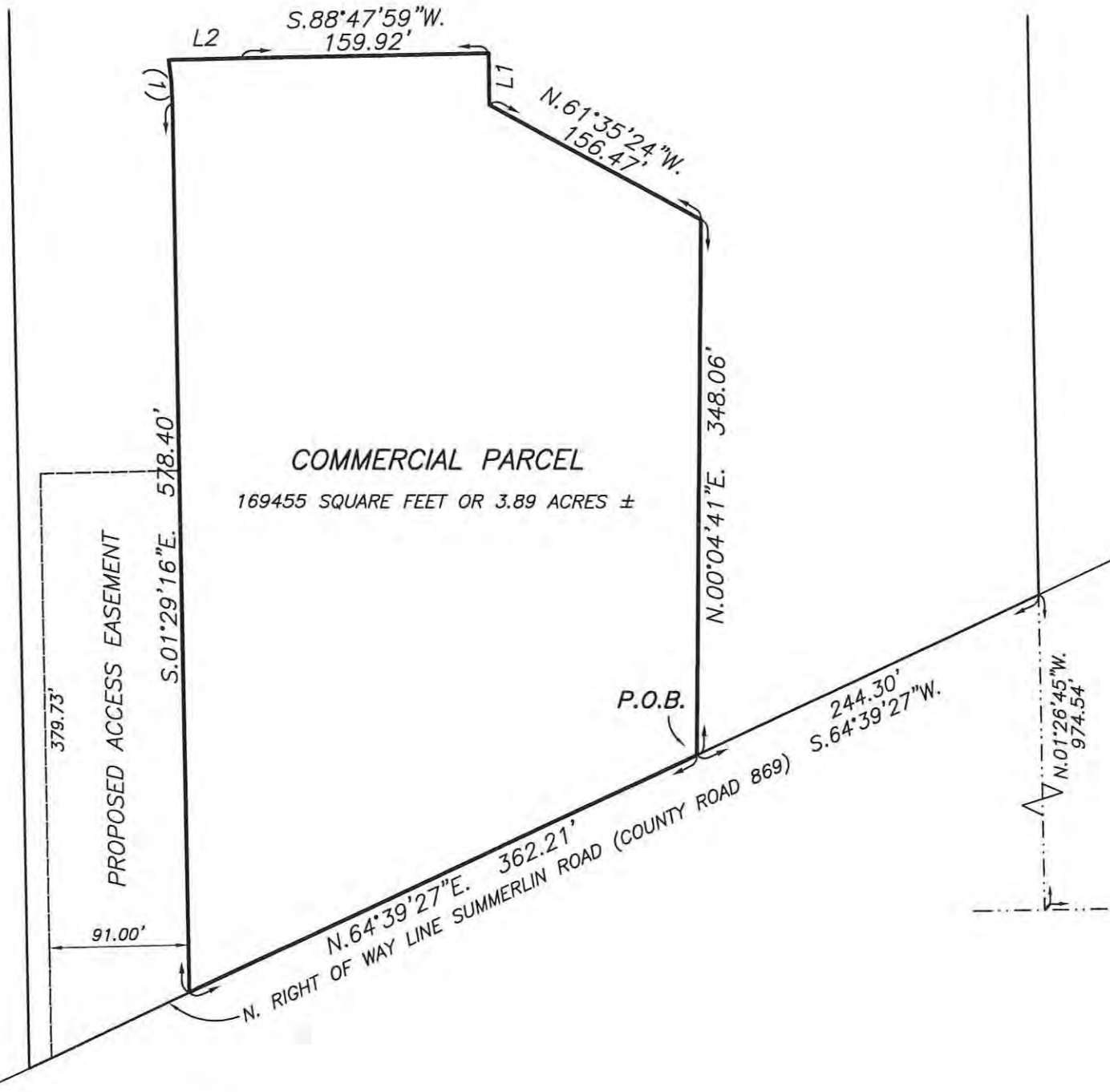
BANKS ENGINEERING, INC.  
FLORIDA LICENSED BUSINESS NO. LB6690

JUNE 23, 2005

  
KENNETH E. TRASK  
PROFESSIONAL LAND SURVEYOR  
FLORIDA LICENSE NO. LS4684

SHEET 1 OF 2





## LEGEND:

O.R. OFFICIAL RECORDS BOOK  
PG. PAGE  
P.O.B. POINT OF BEGINNING  
P.O.C. POINT OF COMMENCEMENT

## LINE TABLE

Line	Bearing	Distance
L1	N.01°01'35"W.	33.37'
L2	S.88°30'44"W.	47.37'

### Curve number 1

Radius= 212.00'  
Delta= 07°38'23"  
Arc= 28.27'  
Tangent= 14.16'  
Chord= 28.25'  
Chord Brg.= S.05°18'28"E.

P.O.C.  
S.E. CORNER  
SECTION 5

THIS IS NOT A BOUNDARY SURVEY

*Kenneth E. Trask*  
KENNETH E. TRASK  
PROFESSIONAL LAND SURVEYOR  
FLORIDA CERTIFICATE NO. LS4684

**Trank Engineering, Inc.**

Professional Engineers, Planners & Land Surveyors  
FORT MYERS ♦ NAPLES ♦ SARASOTA  
10511 SIX MILE CYPRESS PARKWAY - SUITE 101  
FORT MYERS, FLORIDA 33912  
PHONE: (239) 935-5460 FAX: (239) 939-2523  
ENGINEERING LICENSE # EB 6469  
SURVEY LICENSE # LB 6660

SKETCH TO ACCOMPANY DESCRIPTION

EASEMENT LYING IN SECTION 5, T-46-S, R-24-E

LEE COUNTY, FLORIDA

DATE	PROJECT	DRAWING	DESIGN	DRAWN	CHECKED	SCALE	SHEET	FILE NO. (S-T-R)
3-28-2005	1836	1836COMM	KT	KT		1"=200'	2 of 2	5-46-24





FLORIDA DEPARTMENT OF STATE  
**Glenda E. Hood**  
Secretary of State  
DIVISION OF HISTORICAL RESOURCES

Ms. Alicia Kuhn  
Boylan Environmental Consultants, Inc  
11000 Metro Parkway, Suite 4  
Fort Myers, Florida 33912

January 28, 2005

Re: DHR No. 2005-890  
Received by DHR: January 24, 2005  
Proposed Waterstone Project  
Lee County

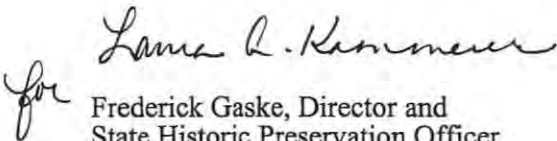
Dear Ms. Kuhn:

Our office received and reviewed the referenced project in accordance with Chapters 267 and 373, *Florida Statutes*, Florida's Coastal Management Program, and implementing state regulations, for possible impact to historic properties listed, or eligible for listing, in the *National Register of Historic Places*, or otherwise of historical, architectural or archaeological value. The State Historic Preservation Officer is to advise and assist state and federal agencies when identifying historic properties, assessing effects upon them, and considering alternatives to avoid or minimize adverse effects.

Our review of the Florida Master Site File indicates that no significant archaeological or historical resources are recorded within the project area. Furthermore, because of the location and/or nature of the projects it is unlikely that any such sites will be affected.

If there are any questions concerning our comments or recommendations, please contact Claire Nanfro, Historic Sites Specialist, by phone at (850)245-6333, or by electronic mail at [cenanfro@dos.state.fl.us](mailto:cenanfro@dos.state.fl.us). We appreciate your continued interest in protecting Florida's historic properties.

Sincerely,

  
for Frederick Gaske, Director and  
State Historic Preservation Officer

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

☐ Director's Office  
(850) 245-6300 • FAX: 245-6436

☐ Archaeological Research  
(850) 245-6444 • FAX: 245-6436

☒ Historic Preservation  
(850) 245-6333 • FAX: 245-6437

☐ Historical Museums  
(850) 245-6400 • FAX: 245-6433

☐ Southeast Regional Office  
(954) 467-4990 • FAX: 467-4991

☐ Northeast Regional Office  
(904) 825-5045 • FAX: 825-5044

☐ Central Florida Regional Office  
(813) 272-3843 • FAX: 272-2340



**VICOTT, INC.**  
**SMALL SCALE COMPREHENSIVE PLAN AMENDMENT**  
**AMENDMENT SUPPORT DOCUMENTATION**

**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.

*N/A – Residential uses will not be developed on the subject property.*

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.

**POLICY 1.1.4:** The Urban Community areas are areas outside of Fort Myers and Cape Coral that are characterized by a mixture of relatively intense commercial and residential uses. Included among them, for example, are parts of Lehigh Acres, San Carlos Park, Fort Myers Beach, South Fort Myers, the city of Bonita Springs, Pine Island, and Gasparilla Island. Although the Urban Communities have a distinctly urban character, they should be developed at slightly lower densities. As the vacant portions of these communities are urbanized, they will need to maintain their existing bases of urban services and expand and strengthen them accordingly. As in the Central Urban areas, predominant land uses in the Urban Communities will be residential, commercial, public and quasi-public, and limited light industry (see Policy 7.1.6). Standard density ranges from one dwelling unit per acre (1 du/acre) to six dwelling units per acre (6 du/acre), with a maximum of ten dwelling units per acre (10 du/acre). Amended by Ordinance No. 94-30, 02-02)

*The proposed residential planned development is located on the north side of Summerlin Road, west of the HealthPark, between Pine Ridge Road and Bass Road in the Iona-McGregor Planning Community. The development will connect to existing water and sewer services provided by Lee County Utilities. The property will have access to Summerlin Road, an arterial right-of-way, which is adequate to handle the proposed development. The residential development is proposing 633 units on 101.36+/- acres of land, thus creating 6 du/acre. This is an allowable usage within the Urban Community category, which allows one (1) to six (6) dwelling units/acre with a maximum of ten (10) dwelling units/acre.*

**GOAL 2: GROWTH MANAGEMENT.** To provide for an economically feasible plan which coordinates the location and timing of new development with the provision of infrastructure by government agencies, private utilities, and other sources.



**OBJECTIVE 2.1: DEVELOPMENT LOCATION.** Contiguous and compact growth patterns will be promoted through the rezoning process to contain urban sprawl, minimize energy costs, conserve land, water, and natural resources, minimize the cost of services, prevent development patterns where large tracts of land are by-passed in favor of development more distant from services and existing communities. (Amended by Ordinance No. 94-30, 00-22)

**OBJECTIVE 2.2: DEVELOPMENT TIMING.** Direct new growth to those portions of the Future Urban areas where adequate public facilities exist and where compact and contiguous development patterns can be created.

**POLICY 2.2.1:** Rezoning and development-of-regional impact proposals shall be evaluated as to the availability and proximity of the road network; central sewer and dewater lines; community facilities and services such as schools, EMS, fire and police protection, and other public facilities; compatibility with surrounding land uses; and any other relevant facts affecting the public health, safety, and welfare. (Amended by Ordinance No. 94-30, 00-22)

*The development is tied into the street roadway system of an existing arterial street (Summerlin Road). The project will connect to existing water and sewer facilities provided by Lee County Utilities. Its residents will have available health, safety and welfare facilities provided by HealthPark, Iona-McGregor Fire District, Lee County Sheriff's office, Lakes Regional Park, San Carlos Park Elementary School, Cypress Lake High School, Rutenberg Branch Library and Edison Community College.*

*The proposed development will be compatible with the existing and proposed land uses in the surrounding areas. The property to the west is zoned MH-2 and CF-3 and is developed with mobile homes. The proposed development will have single-family residences adjacent to these uses and are compatible with these uses. The property to the north is zoned RV-3 and AG-2 and is vacant. The property to the east is zoned AG-2 and is vacant. The property to the south is zoned AG-2 and is vacant. An access easement will be provided to Summerlin Road through this parcel.*

**GOAL 4: DEVELOPMENT DESIGN-GENERAL.** To maintain innovative land development regulations which encourage creative site designs and mixed used developments. (Amended by Ordinance No. 94-30)

**OBJECTIVE 4.1:** Maintain the current planned development rezoning process which combines site planning flexibility with rigorous review. By the end of 1995, take specific steps to further promote the creation of mixed-use developments to reduce the impact on collector and arterial roads. (Amended by Ordinance No. 91-19, 94-30)

**POLICY 4.1.1:** Development designs will be evaluated to ensure that land uses and structures are well integrated, properly oriented, and functionally related to the



topographic and natural features of the site, and that the placement of uses or structures within the development minimizes the expansion and construction of street and utility improvements. (Amended by Ordinance No. 91-19, 00-22)

**POLICY 4.1.2:** Development designs will be evaluated to ensure that the internal street system is designed for the efficient and safe flow of vehicles and pedestrians without having a disruptive effect on the activities and functions contained within or adjacent to the development. (Amended by Ordinance 91-19, 00-22)

*The proposed project will meet or exceed the design criteria established for planned developments in the Lee County Land Development Code. The site design will minimize the construction of both street and utility improvements. The on-site lake will be utilized for the stormwater management area. The internal street system is designed for the efficient and safe flow of vehicles without having a disruptive effect on pedestrian activity. The streets are functional and meet intersection separation requirements. In addition, a large wetland preserve will be provided on-site to further preserve the natural features on the property.*

**GOAL 6: COMMERCIAL LAND USES.** To permit orderly and well-planned commercial development at appropriate locations within the county. (Amended by Ordinance No. 94-30)

**OBJECTIVE 6.1:** All development approvals for commercial land uses must be consistent with the following policies, the general standards under Goal 11 and other provisions of this plan. (Amended by Ordinance No. 94-30)

**POLICY 6.1.1:** All applications for commercial development will be reviewed and evaluated as to: a) Traffic and access impacts; b) Landscaping and detailed site planning; c) Screening and buffering; d) Availability and adequacy of services and facilities; e) Impact on adjacent land uses and surrounding neighborhoods; f) Proximity to other similar centers; g) Environmental considerations.

*The subject property will address these issues as part of a planned developed application or rezoning.*

**POLICY 6.1.2:** All commercial development must be consistent with the location criteria in this policy, except where specifically excepted by this policy or by Policy 6.1.7, or in Lehigh Acres by Policies 1.8.1 through 1.8.3.

1. Minor Commercial

10. The Board of County Commissioners may approve applications for minor commercial centers that do not comply with the location standards for such centers but which are consistent with duly adopted CRA and Community plans.

*The subject property meets the criteria of a Minor Commercial development. The development is tied into the street roadway system of an existing arterial street*



*(Summerlin Road). The proposed use will be a 16,000+/- s.f. of buildings consisting of commercial and office uses.*

**POLICY 6.1.4:** Commercial development will be approved only when compatible with adjacent existing and proposed land uses and with existing and programmed public services and facilities. (Amended by Ordinance No. 94-30, 00-22)

*The proposed commercial planned development for the subject property is compatible with existing CPD developments in the surrounding area. One of the predominant land uses in the Urban Community Land Use Category is commercial.*

**POLICY 6.1.6:** The land development regulations will require that commercial development provide adequate and appropriate landscaping, open space, and buffering. Such development is encouraged to be architecturally designed so as to enhance the appearance of structures and parking areas and blend with the character of existing or planned surrounding land uses.

*The proposed commercial planned development will provide adequate open space and buffering as required in the Land Development Code (LDC). The proposed project will meet or exceed the design criteria established for planned developments in the Land Development Code.*

**POLICY 6.1.7:** Prohibit commercial developments from locating in such a way as to open new areas to premature, scattered, or strip development; but permit commercial development to infill on small parcels in areas where existing commercial development would make a residential use clearly unreasonable.

*The proposed commercial planned development will be located on a 3.89+/- acre parcel of land near existing commercial and commercial planned developments having access to Summerlin Road.*

**GOAL 11: WATER, SEWER, TRAFFIC, AND ENVIRONMENTAL REVIEW STANDARDS.** To insure that appropriate water, sewer, traffic, and environmental review standards are considered in reviewing rezoning applications and are met prior to issuance of a county development order.

**STANDARD 11.1: WATER.**

*The proposed Commercial Planned Development will connect to an existing public water system provided by Lee County Utilities.*

**STANDARD 11.2: SEWER.**

*The proposed Commercial Planned Development will connect to an existing sanitary sewer system provided by Lee County Utilities.*



**STANDARD 11.3: TRAFFIC.**

*The proposed rezoning will not have a detrimental impact on the surrounding roadway system. The existing roadway network as well as the improvements programmed by Lee County within the next three years can accommodate the additional new vehicle trips the development is anticipated to generate. Intersection analysis was performed at the site access drive on Summerlin. Based on the results of the analysis, all of the approaches to the site access intersection on Summerlin Road was shown to operate at acceptable Level of Service conditions under the 2010 build-out traffic conditions for the proposed rezoning.*

**STANDARD 11.4: ENVIRONMENTAL REVIEW FACTORS.**

*Please see attached Protected Species Survey prepared by Boylan Environmental Consultants, Inc. dated May 13, 2005. The survey was prepared for the Waterstone RPD rezoning project current in review (DCI2005-00078) and the subject property was included in the report.*

**GOAL 39: DEVELOPMENT REGULATIONS.** Maintain clear, concise, and enforceable development regulations that fully address on-site and off-site development impacts and protect and preserve public transportation facilities. (Amended by Ordinance No. 98-09, 99-15)

**OBJECTIVE 39.1: DEVELOPMENT IMPACTS.** The county will maintain and enforce development regulations to ensure that impacts of development approvals occur concurrently with adequate roads, and to achieve maximum safety, efficiency, and cost effectiveness. (Amended by Ordinance No. 99-15)

**POLICY 39.1.1:** New development must:

- Have adequate on-site parking.
- Have access to the existing or planned public road system except where other public policy would prevent such access.

*The proposed Commercial Planned Development will be designed with sufficient on-site parking for the proposed uses. The development will have access to an existing arterial right-of-way (Summerlin Road) that will operate at an acceptable level of service.*

**GOAL 61: PROTECTION OF WATER RESOURCES:** To protect the county's water resources through the application of innovative and sound methods of surface water management and by ensuring that the public and private construction, operation, and maintenance of surface water management systems are consistent with the need to protect receiving waters.

**POLICY 61.2.5:** The policies above (41.2.1 through 41.2.4) are not intended to prohibit any permissible surface water management solution that is consistent with good engineering practices and adopted environmental criteria.



*The development will be engineered and permitted utilizing the design criteria as established by the South Florida Water Management District as well as Lee County Development Regulations in accordance with good engineering practices and adopted environmental criteria.*

**OBJECTIVE 61.3: GENERAL SURFACE WATER MGMT. STANDARDS.** Lee County will continue to provide sufficient performance and/or design standards for development protection of the function of natural drainage systems. (Amended by Ordinance No. 94-30, 00-22)

**POLICY 61.3.1:** Provide sufficient performance and design standards to require post-development runoff to approximate and total characteristics of the natural flow prior to development.

**POLICY 61.3.6:** Developments must have and maintain an adequate surface water management system, provisions for acceptable programs for operation and maintenance, and post-development runoff conditions which reflect the natural surface water flow in terms of rate, direction, quality, hydroperiod, and drainage basin. Detailed regulations will continue to be integrated with other county development regulations. (Amended by Ordinance No. 00-22)

*The developments' surface water management system will be developed in accordance with South Florida Water Management District (District) and Lee County Development regulations.*

**POLICY 61.3.11:** Runoff must be routed through retention or detention areas and vegetated swales in order to reduce flow velocity, allow for percolation, and trap and remove suspended solids and pollutants. (Amended by Ordinance No. 00-22)

*The stormwater management system will be designed in accordance with South Florida Water Management District (SFWMD) requirements to provide for attenuation/retention of stormwater runoff from the site. Issuance of a SFWMD permit shall be deemed to be in compliance with Chapter 10 of the LDC and review of the project shall be limited to external impacts and wet season water table elevation. For purposes of stormwater management calculations, the assumed water table will be established by an engineer in accordance with sound engineering practice. The stormwater management system will be reviewed for compliance with Chapter 10 of the LDC through the development order process.*

**POLICY 61.3.13:** Installation of erosion control devices for development activities adjacent to water bodies, watercourses and wetlands shall be required. Such control devices shall be maintained to ensure operational effectiveness.

*Erosion control devices will be installed in accordance with local and state regulations.*



**GOAL 77: DEVELOPMENT DESIGN REQUIREMENTS.** To require new development to provide adequate open space for improved aesthetic appearance, visual relief, environmental quality, preservation of existing native trees and plant communities, and the planting of required vegetation. (Amended by Ordinance No. 94-30, 02-02)

**OBJECTIVE 77.1:** Development regulations will continue to require that new residential developments provide sufficient open space to meet the needs of their residents. (Amended by Ordinance No. 94-30, 00-22, 02-02)

*Open space will be provided per Lee County requirements and evaluated at the time of rezoning.*

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

*The impact of changing 3.89+/- acres of subject property from Industrial Development to Urban Community will have no impact on any local government.*

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

*The State Policy Plan and Regional Policy Plan goals and policies that are relevant to this plan amendment consist of conforming with the Lee Plan and its objectives and policies.*



**VICOTT, INC.**  
**SMALL SCALE COMPREHENSIVE PLAN AMENDMENT**  
**AMENDMENT SUPPORT DOCUMENTATION**

**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.  
*The site is accessible to Summerlin Road an existing arterial right-of-way. It is not accessible to rail lines nor cargo airport terminals.*
  - b. Provide data and analysis required by Policy 2.4.4.  
*Table 1(b) indicates that the Iona/McGregor Planning District has 782 acres of commercial uses. The Lee County total is 9,460 acres.*
  - c. The affect of the proposed change on county's industrial employment goal specifically policy 7.1.4.  
*The impact of changing 3.79+/- acres from Industrial Development to Urban Community will have negligible effect on the county's industrial employment goal of employing 3% of the county's population in manufacturing activities by the year 2010.*
2. Requests moving lands from 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.  
*The existing Industrial Development land use classification and the proposed Urban Community land use classification are both classified as Future Urban Areas. The proposed change does not constitute Urban Sprawl.*
3. Request involving lands in critical areas for future water supply must be evaluated based on policy 2.4.2.  
*N/A - The proposed change is not in the listed critical areas for future potable water supply as listed in Policy 2.4.2.; therefore, the site does not require evaluation based on this policy.*



4. Requests moving lands form Density Reduction/Groundwater Resource must fully address Policy 2.4.3 of the Lee Plan Future Land Use Element.

*N/A - The proposed change does not request moving lands from Density Reduction/Groundwater Resource; therefore Policy 2.4.3 does not need to be addressed.*



**VICOTT, INC.**  
**SMALL SCALE COMPREHENSIVE PLAN AMENDMENT**  
**AMENDMENT SUPPORT DOCUMENTATION**

**G. PROPOSED AMENDMENT JUSTIFICATION:**

Justify the proposed amendment based upon sound planning principles. Be sure to support all conclusions made in this justification with adequate data and analysis.

*The proposed amendment is consistent with the Urban Community designation for the following reasons:*

- *The subject property is located on the north side of Summerlin, west of HealthPark, between Pine Ridge Road and Bass Road in the Iona-McGregor Planning Community. The property will have access to Summerlin road, an arterial right-of-way, which is adequate to handle the proposed commercial development.*
- *The proximity of the subject property to the intersection is consistent with the location criteria of Policy 6.1.2 of the Lee Plan for Commercial Land Uses.*
- *The proposed commercial use is consistent with the "Urban Community" land use category.*
- *The attached letters from the Iona-McGregor Fire District, EMS, Lee County Sheriff's Office, Lee County Solid Waste Division, Lee County Mass Transit and Lee County Public School District confirm that the urban community services required to support the small-scale amendment change can be provided.*



# **Banks Engineering**

Professional Engineers, Planners & Land Surveyors  
FORT MYERS ♦ NAPLES ♦ SARASOTA  
PORT CHARLOTTE

## **LETTER OF TRANSMITTAL**

DATE: April 18, 2007

TO: Brent Cunningham, Planning  
Zoning Division – 2<sup>nd</sup> Floor  
Lee County Development Ser.  
\_\_\_\_\_  
\_\_\_\_\_

PHONE: \_\_\_\_\_  
FAX: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

REFERENCE: Vicott Comp. Plan Amend. (CPA2005-00001) JOB NO. 1836-VIC

COPIES	DESCRIPTION
1	Affidavit of Posting Notice

### REASON:

- ☐ Your Comments  
☐ Your Approval  
☐ Your Information  
☒ As Per Your Request  
☐ Your Review

### VIA:

- ☐ Fax:    Pages Total  
☐ Regular Mail  
☒ Courier  
☐ Overnight Express  
☐ Pick-up

COMMENTS: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Thank You  
\_\_\_\_\_



Stacy Ellis Hewitt  
Director of Planning



## INSTRUCTIONS

(Section A.2.b., Lee County Administrative Code AC 13.7)

A Planning Division notification sign must be posted on a parcel(s) subject to any comprehensive plan map amendment application for a minimum of fifteen (15) calendar days in advance of the Local Planning Agency's Hearing and maintained through the Board of County Commissioners Hearing, if any. This sign will be provided by the Planning Division in the following manner:

- a. Sign for case # **CPA2005-01 Vicott Inc.**
- b. The sign must be erected in full view of the public, not more than five (5) feet from the nearest street right-of-way or easement.
- c. The sign must be securely affixed by nails, staples or other means to a wood frame or to a wood panel and then fastened securely to a post, or other structure. The sign may not be affixed to a tree or other foliage.
- d. The applicant must make a good faith effort to maintain the sign in place, and in a readable condition until the requested action has been heard and a final decision rendered.
- e. If the sign is destroyed, lost, or rendered unreadable, the applicant must report the condition to the Planning Division, and obtain duplicate copies of the sign from the Planning Division.

The Division may require the applicant to erect additional signs where large parcels are involved with street frontages extending over considerable distances. If required, such additional signs must be placed not more than three hundred (300) feet apart.

When a parcel abuts more than one (1) street, the applicant must post signs along each street.

When a subject parcel does not front a public road, the applicant must post the sign at a point on a public road which leads to the property, and the sign must include a notation which generally indicates the distance and direction to the parcel boundaries and the dimensions of the parcel.

**NOTE: AFTER THE SIGN HAS BEEN POSTED, THE AFFIDAVIT OF POSTING NOTICE, BELOW, SHOULD BE RETURNED NO LATER THAN THREE (3) WORKING DAYS BEFORE THE HEARING DATE TO LEE COUNTY PLANNING DIVISION, 1500 Monroe Street, Fort Myers, FL 33901**

**(Return the completed Affidavit below to the Planning Division as indicated in previous paragraph.)**

### AFFIDAVIT OF POSTING NOTICE

STATE OF FLORIDA  
COUNTY OF LEE

BEFORE THE UNDERSIGNED AUTHORITY, PERSONALLY APPEARED

Stacy Ellis Hewitt

WHO ON OATH SAYS THAT HE/SHE HAS POSTED PROPER NOTICE AS REQUIRED BY SECTION 34-236(b) OF THE LEE COUNTY LAND DEVELOPMENT CODE ON THE PARCEL COVERED IN THE ZONING APPLICATION REFERENCED BELOW:

[Signature]  
SIGNATURE OF APPLICANT OR AGENT

STACY ELLIS HEWITT, BANKS ENGINEERING  
NAME (TYPED OR PRINTED)

10511 SIX MILE CYPRESS PKWY, Suite 101  
ST. OR PO BOX

FORT MYERS, FL 33906  
CITY, STATE & ZIP

date 4/17/07 initials [Signature]

STATE OF FLORIDA  
COUNTY OF LEE

The foregoing instrument was sworn to and subscribed before me this 18th day of April, 2007 by Stacy Ellis Hewitt, personally known to me or who produced as identification and who did/did not take an oath.



MARY C. GAGNON  
MY COMMISSION # DD 501986  
EXPIRES: January 27, 2010  
Bonded Thru Budget Notary Services

Signature of Notary Public

Printed Name of Notary Public

My Commission Expires: 1/27/10

Mary C. Gagnon



# **Banks Engineering**

Professional Engineers, Planners & Land Surveyors  
FORT MYERS ♦ NAPLES ♦ SARASOTA  
PORT CHARLOTTE

## **LETTER OF TRANSMITTAL**

**RECEIVED**  
MAR 21 2007  
*M*

DATE: March 21, 2007

*CPA 2005-00001*

TO: Brent Cunningham, Planning  
Zoning Division  
Lee County Development Ser.  
\_\_\_\_\_  
\_\_\_\_\_

PHONE: \_\_\_\_\_  
FAX: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

REFERENCE: Vicott Comp. Plan Amend. (CPA2005-00001) JOB NO. 1836-VIC

COPIES	DESCRIPTION
1	Affidavit of Posting Notice

### REASON:

- ☐ Your Comments  
☐ Your Approval  
☐ Your Information  
☒ As Per Your Request  
☐ Your Review

### VIA:

- ☐ Fax:    Pages Total  
☐ Regular Mail  
☒ Courier  
☐ Overnight Express  
☐ Pick-up

COMMENTS: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Thank You

*Stacy Ellis Hewitt*  
Stacy Ellis Hewitt  
Director of Planning



## INSTRUCTIONS

(Section A.2.b., Lee County Administrative Code AC 13.7)

A Planning Division notification sign must be posted on a parcel(s) subject to any comprehensive plan map amendment application for a minimum of fifteen (15) calendar days in advance of the Local Planning Agency's Hearing and maintained through the Board of County Commissioners Hearing, if any. This sign will be provided by the Planning Division in the following manner:

- Sign for case **CPA2005-01** e posted by **March 15, 2007**.
- The sign must be erected in full view of the public, not more than five (5) feet from the nearest street right-of-way or easement.
- The sign must be securely affixed by nails, staples or other means to a wood frame or to a wood panel and then fastened securely to a post, or other structure. The sign may not be affixed to a tree or other foliage.
- The applicant must make a good faith effort to maintain the sign in place, and in a readable condition until the requested action has been heard and a final decision rendered.
- If the sign is destroyed, lost, or rendered unreadable, the applicant must report the condition to the Planning Division, and obtain duplicate copies of the sign from the Planning Division.

The Division may require the applicant to erect additional signs where large parcels are involved with street frontages extending over considerable distances. If required, such additional signs must be placed not more than three hundred (300) feet apart.

When a parcel abuts more than one (1) street, the applicant must post signs along each street.

When a subject parcel does not front a public road, the applicant must post the sign at a point on a public road which leads to the property, and the sign must include a notation which generally indicates the distance and direction to the parcel boundaries and the dimensions of the parcel.

**NOTE: AFTER THE SIGN HAS BEEN POSTED, THE AFFIDAVIT OF POSTING NOTICE, BELOW, SHOULD BE RETURNED NO LATER THAN THREE (3) WORKING DAYS BEFORE THE HEARING DATE TO LEE COUNTY PLANNING DIVISION, 1500 Monroe Street, Fort Myers, FL 33901**

**(Return the completed Affidavit below to the Planning Division as indicated in previous paragraph.)**

### AFFIDAVIT OF POSTING NOTICE

STATE OF FLORIDA  
COUNTY OF LEE

BEFORE THE UNDERSIGNED AUTHORITY, PERSONALLY APPEARED STACY ELLIS HEWITT  
WHO ON OATH SAYS THAT HE/SHE HAS POSTED PROPER NOTICE AS REQUIRED BY SECTION 34-236(b) OF THE  
LEE COUNTY LAND DEVELOPMENT CODE ON THE PARCEL COVERED IN THE ZONING APPLICATION  
REFERENCED BELOW:

**RECEIVED**  
MAR 21 2007

CPA 2005-00001

SIGNATURE OF APPLICANT OR AGENT

STACY ELLIS HEWITT, BANKS ENGINEERING  
NAME (TYPED OR PRINTED)

10511 SIX MILE CYPRESS PKWY, Suite 101  
ST. OR PO BOX

Fort Myers, FL 33966  
CITY, STATE & ZIP

CPA 2005-00002 - Webb Buckingham Map Amendment date 2/27/10 initials MEH

STATE OF FLORIDA  
COUNTY OF LEE

The foregoing instrument was sworn to and subscribed before me this 21<sup>st</sup> day of March,  
2007, by Stacy Ellis Hewitt, personally known to me or who produced \_\_\_\_\_  
as identification and who did/did not take an oath.



MARY C. GAGNON  
MY COMMISSION # DD 501986  
EXPIRES: January 27, 2010  
Bonded Thru Budget Notary Services

Signature of Notary Public

Mary C. Gagnon  
Printed Name of Notary Public

My Commission Expires: 1/27/10  
(Stamp with serial number)



# **Banks Engineering, Inc.**

Professional Engineers, Planners & Land Surveyors  
FORT MYERS ♦ NAPLES ♦ SARASOTA  
HOLMES BEACH ♦ PORT CHARLOTTE

February 8, 2006

Mr. Wayne Gaither  
Division of Planning  
1500 Monroe Street  
Fort Myers, FL 33901

**RE: CPA2005-00001**  
**Vicott, Inc. Property**

Dear Mr. Gaither,

This is in response to your December 12, 2006 letter regarding the above referenced Comprehensive Plan Amendment.

## **Property Information**

1. The Property Appraiser's office does not currently list a site address for the subject property.
2. The small scale amendment is only for the portion of the property that is contained in the legal description that was provided with the application.
3. The proposed amendment will not have a detrimental effect on public facilities or the surrounding road network. The proposed access point to the proposed development will be a shared access point with the residential subdivision that is proposed to the north of the subject property. As part of the rezoning for the residential subdivision, the applicant is proposing to relocate the Summerlin Road controlled access point 110' + to the east. The relocated access point is being coordinated with Lee County DOT and will need their approval as part of the rezoning request.

## **Environmental Impacts**

1. The proposed residential subdivision to the north is under contract to Watermen Development who is the applicant for the proposed rezoning. The Waterstone RPD is in the process of obtaining a South Florida Water Management permit to determine what impacts to the wetland will be allowed. The Waterstone RPD property will eventually be purchased by Watermen Development in accordance with the conditions of the contract. Once the Comprehensive Plan Amendment has been processed, the subject property will apply for a rezoning to a Commercial Planned Development. The subject property will have to obtain approval from the Governmental Agencies prior to any development taking place



on the property.

### **Historic Impacts**

1. The Waterstone RPD is as well as this property is owned by Vicott, Inc. The Waterstone RPD is under contract to Watermen Development who is the applicant for the proposed rezoning. The letter from the Division of Historical Resources covered this property as well as the Waterstone RPD property.
2. Please find attached a copy of the Lee County Archeologically Sensitivity map with the subject property highlighted.

### **Internal Consistency with the Lee Plan**

1. Currently there are 202 acres of commercial development in the Urban Community Land Use Category for the Iona/McGregor planning community. The proposed Comprehensive Plan Amendment would add an additional 3.89 acres while eliminating 3.89 acres from industrial development.
2. No impacts are anticipated to the adjacent local governments or their Comprehensive Plans.
3. State and Regional policy goals will not be affected by the proposed Comprehensive Plan Amendment.

### **Additional Requirements**

1. No major changes in employment are anticipated with the proposed Comprehensive Plan Amendment. The property is currently in the Industrial Development land use category and if the appropriate permits are obtained the property could be developed with an industrial use which would provide employment. If the Comprehensive Plan Amendment is approved, then the property could be developed with commercial development if the appropriate permits are obtained. This too would provide employment on the subject property.
2. A legal description and sketch was provided with the Comprehensive Plan Amendment application which described 3.89 acres. This is the property that is subject to the proposed amendment.

### **Lee County DOT**

1. A Commercial Planned Development will be requested once the Comprehensive Plan Amendment has been processed.




**Lee County Parks and Recreation**

1. The subject property will have to obtain all the necessary permits from the various governmental agencies prior to any development taking place on the subject property.
2. The current Future Land Use Map of the Comprehensive Plan indicates that the property is located in the Industrial Development Land Use category.
3. The subject property will have to obtain all the necessary permits from the various governmental agencies prior to any development taking place on the subject property.
4. Acknowledged.

Please continue your review of our responses to the sufficiency checklists. Should you have any questions or require additional information, please do not hesitate to contact me at 939-5490.

Sincerely,  
BANKS ENGINEERING, INC.



Jon Hagan  
Director of Planning



# **Banks Engineering, Inc.**

Professional Engineers, Planners & Land Surveyors  
FORT MYERS ♦ NAPLES ♦ SARASOTA  
HOLMES BEACH ♦ PORT CHARLOTTE

May 19, 2006

Mr. Wayne Gaither  
Division of Planning  
1500 Monroe Street  
Fort Myers, FL 33901

**RECEIVED**  
MAY 22 2006  
*mk*  
COMMUNITY DEVELOPMENT

**RE: CPA2005-00001**  
**Vicott, Inc. Property**

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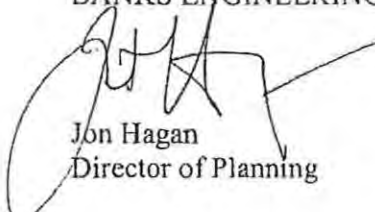


**Lee County Parks and Recreation**

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4. Acknowledged.

Please continue your review of our responses to the sufficiency checklists. Should you have any questions or require additional information, please do not hesitate to contact me at 939-5490.

Sincerely,  
BANKS ENGINEERING, INC.



Jon Hagan  
Director of Planning





Scale 1:50,000  
Date 1910  
Source U.S. Army  
Topographic Corps

Subject  
Property

LEE COUNTY  
FLORIDA





33.00

REC 92784625

2301440

## DEDICATION OF LAND AS WETLANDS

This instrument is dated this 19<sup>th</sup> day of March, 1987.

WHEREAS, TIBCO, INC., a Florida Corporation (hereinafter referred to as "TIBCO") is the owner of all of the parcel of land known as the LEE PLANTATION OVERALL PARCEL (hereinafter referred to as "LEE PLANTATION"), which lies in Lee County, Florida and is more particularly described on attached Exhibit One (1), and

WHEREAS, TIBCO desires to develop such land as a residential subdivision, and

WHEREAS, TIBCO desires to dedicate a certain portion of the property as wetlands,

NOW THEREFORE, TIBCO, INC., for itself, its successors and assigns, hereby makes the following dedication for those portions of LEE PLANTATION, (hereinafter collectively referred to as the "DEDICATED PARCELS") being the parcels marked and delineated with crossbars on attached Exhibit Two (2) A, and more particularly described on attached Exhibit Three (3):

The DEDICATED PARCELS are hereby dedicated and shall be held and used only as "Wetlands", as that term is described in the publication entitled "Basis of Review for Surface Water Management Permit Applications Within The South Florida Water Management District, July 1986", as incorporated by reference into Chapter 40E of the Florida Administrative Code by Section 40E-4.091.

This dedication is perpetual and shall run with the land unless and until it is terminated, altered or modified by an instrument in writing recorded in the Public Records of Lee County, Florida and executed by both the then owner of the DEDICATED PARCELS and an appropriate official of the South Florida Water Management District of the State of Florida.

IN WITNESS WHEREOF, the undersigned has caused these presents to be executed in its name, and its corporate seal to be hereunto affixed, by its proper officer thereunto duly authorized, the day and year first above mentioned.

SIGNED, SEALED AND DELIVERED IN  
THE PRESENCE OF:

Michael E. Crane  
Mary Lou Breaz

TIBCO, INC., A Florida Corporation

BY: Lawrence J. Tibstra  
Lawrence J. Tibstra, President

STATE OF FLORIDA  
COUNTY OF COLLIER

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State and County aforesaid to take acknowledgements, personally appeared, Lawrence J. Tibstra, well known to me to be the President of the Tibco, Inc., A Florida Corporation, and that he severally acknowledged executing the same in the presence of two subscribing witnesses freely and voluntarily under authority duly vested in him by said corporation and that the seal affixed thereto is the true corporate seal of said corporation.

WITNESS my hand and official seal in the County and State last aforesaid, this 19<sup>th</sup> day of March, 1987.

Mary Lou Breaz  
Notary Public  
My Commission Expires:

PREPARED BY: MICHAEL E. CRANE

USE TRAIL BLVD. NO.

MAPLES, FL. 33463

NOTARY PUBLIC STATE OF FLORIDA  
MY COMMISSION EXPIRES: 01-01-1988  
GUARANTY TRUST COMPANY, INC.



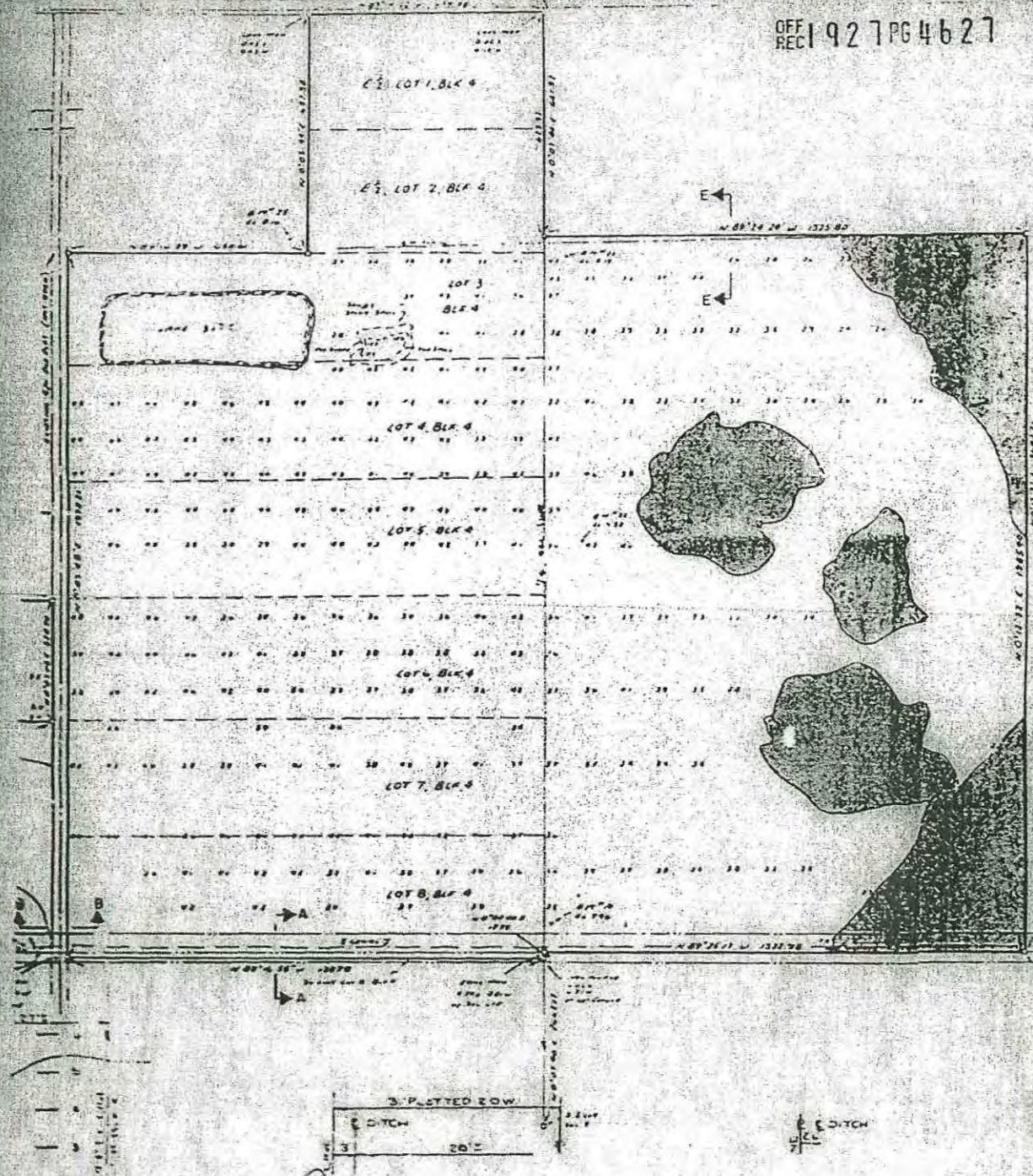
LEE PLANTATION: "1"

THAT PART OF LOTS 4 THUR 8, IN BLOCK 4, E.P. BATES PINE RIDGE TRUCK FARMS, A SUBDIVISION AS RECORDED IN PLAT BOOK 3, ON PAGE 68, IN THE PUBLIC RECORDS, OF LEE COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 8, THENCE N 00°03'48" E 1546.48 FEET, THENCE S 89°56'12" E 66.67 FEET; THENCE SOUTHEASTERLY ALONG THE ARC OF A CURVE TO THE RIGHT, HAVING A RADIUS OF 150.00 FEET, A CENTRAL ANGLE OF 162°39'18", AN ARC OF 425.83 FEET, TO A POINT WHICH BEARS S 67°54'51" E 296.57 FEET; THENCE S 17°24'48" W 142.47 FEET, TO THE P.C. OF A CURVE; THENCE SOUTHERLY ALONG SAID CURVE TO THE LEFT, HAVING A RADIUS OF 125.00 FEET, A CENTRAL ANGLE OF 34°54'25", AN ARC OF 76.15 FEET, TO A POINT WHICH BEARS S 00°02'24" E 74.98 FEET; THENCE EASTERLY ALONG A CURVE TO THE RIGHT, HAVING A RADIUS OF 630.00 FEET, A CENTRAL ANGLE OF 24°21'47", AN ARC OF 267.89 FEET, TO THE P.T. OF THE CURVE WHICH BEARS N 77°52'54" E 265.87 FEET; THENCE S 89°56'12" E 194.29 FEET; THENCE S 00°03'48" W 324.05 FEET TO THE P.C. OF A CURVE; THENCE SOUTHEASTERLY ALONG THE ARC OF A CURVE TO THE LEFT, HAVING A RADIUS OF 170.00 FEET, A CENTRAL ANGLE OF 44°58'59", AN ARC OF 133.47 FEET, TO A POINT WHICH BEARS S 22°25'42" E 130.07 FEET, BEING A POINT OF REVERSE CURVATURE; THENCE SOUTHEASTERLY ALONG THE ARC OF A CURVE TO THE RIGHT, HAVING A RADIUS 855.00 FEET, A CENTRAL ANGLE OF 45°29'54", AN ARC OF 678.95 FEET, TO THE POINT OF TANGENCY WHICH BEARS S 22°10'14" E 661.25 FEET; THENCE S 00°34'43" W 15.00 FEET; THENCE S 89°25'17" E 6.78 FEET; THENCE S 00°34'43" W 202.12 FEET, TO THE SOUTH LINE OF SAID LOT 8; THENCE N 89°16'55" W 1049.86 FEET TO THE POINT OF BEGINNING.  
CONTAINING 28,574 ACRES MORE OR LESS.



OFF  
REC 1927 PG 4627





APR 10, 1987  
JN 850095

DESCRIPTION - WETLANDS PARCEL I

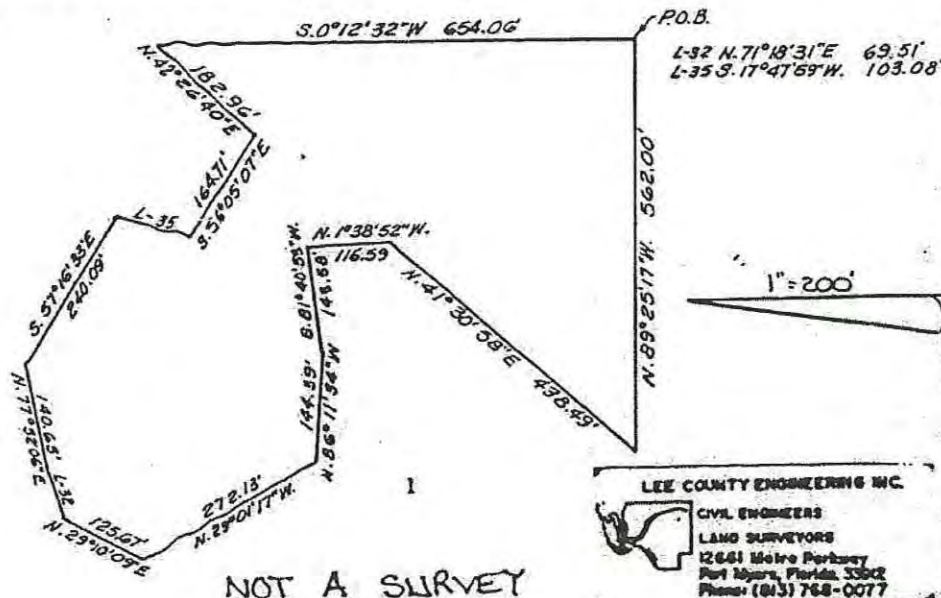
A PARCEL OF LAND LYING IN SECTION 5, TOWNSHIP 46 SOUTH, RANGE 24 EAST, LEE COUNTY, FLORIDA. SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 5; THENCE N 89°25'17"W ALONG THE SOUTH LINE OF SAID SOUTHWEST QUARTER FOR 562.00 FEET; THENCE N 41°30'58"E FOR 438.49 FEET; THENCE N 01°38'52"W FOR 116.59 FEET; THENCE S 81°40'53"W FOR 143.58 FEET; THENCE N 86°11'34"W FOR 144.39 FEET; THENCE N 29°01'17"W FOR 272.13 FEET; THENCE N 29°10'09"E FOR 125.67 FEET; THENCE N 71°18'31"E FOR 69.51 FEET; THENCE N 77°52'06"E FOR 140.65 FEET; THENCE S 57°16'33"E FOR 240.09 FEET; THENCE S 17°47'59"W FOR 103.08 FEET; THENCE S 56°05'07"E FOR 164.71 FEET; THENCE N 42°26'40"E FOR 182.96 FEET TO THE WEST LINE OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 5; THENCE S 00°12'32"W ALONG SAID WEST LINE FOR 654.06 FEET TO THE POINT OF BEGINNING. CONTAINING 7.868 ACRES.

I, A FLORIDA PROFESSIONAL LAND SURVEYOR HEREBY CERTIFY THAT THE BOUNDARY SKETCH ATTACHED HERETO REPRESENTS THE LANDS AS DESCRIBED AND MEETS THE MINIMUM TECHNICAL STANDARDS PER RULE NUMBER 21HH-6.06.

*James L. Clements*  
JAMES L. CLEMENTS  
FLORIDA REGISTRATION NO. 4091

DATE 7/1/87





APR 10, 1987  
JN 850095

DESCRIPTION - WETLANDS PARCEL II

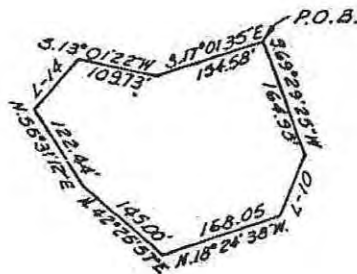
A PARCEL OF LAND LYING IN SECTION 5, TOWNSHIP 46 SOUTH, RANGE 24 EAST, LEE COUNTY, FLORIDA. SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

FROM THE SOUTHEAST CORNER OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 5; THENCE N  $00^{\circ}12'32''$ E ALONG THE EAST LINE OF SAID SOUTHWEST QUARTER FOR 931.43 FEET; THENCE N  $89^{\circ}47'28''$ W FOR 190.09 FEET TO THE POINT OF BEGINNING; THENCE S  $69^{\circ}29'25''$ W FOR 164.95 FEET; THENCE N  $64^{\circ}23'19''$ W FOR 88.79 FEET; THENCE N  $18^{\circ}24'38''$ W FOR 168.05 FEET; THENCE N  $42^{\circ}25'57''$ E FOR 145.00 FEET; THENCE N  $55^{\circ}31'12''$ E FOR 122.44 FEET; THENCE S  $47^{\circ}43'12''$ E FOR 91.84 FEET; THENCE S  $13^{\circ}01'22''$ W FOR 109.73 FEET; THENCE S  $17^{\circ}10'35''$ E FOR 154.58 FEET TO THE POINT OF BEGINNING. CONTAINING 1.596 ACRES.

I, A FLORIDA PROFESSIONAL LAND SURVEYOR HEREBY CERTIFY THAT THE BOUNDARY SKETCH ATTACHED HERETO REPRESENTS THE LANDS AS DESCRIBED AND MEETS THE MINIMUM TECHNICAL STANDARDS PER RULE NUMBER 21HH-6.06.

*James L. Clements*  
JAMES L. CLEMENTS  
FLORIDA REGISTRATION NO. 4091

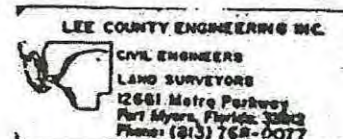
DATE 7-1-87



L10 N.  $64^{\circ}23'19''$ W 88.79'  
L14 S.  $47^{\circ}43'12''$ E 91.84'

1"=200'

1  
NOT A SURVEY





APR 10, 1987  
JN 850095

DESCRIPTION - WETLANDS PARCEL III

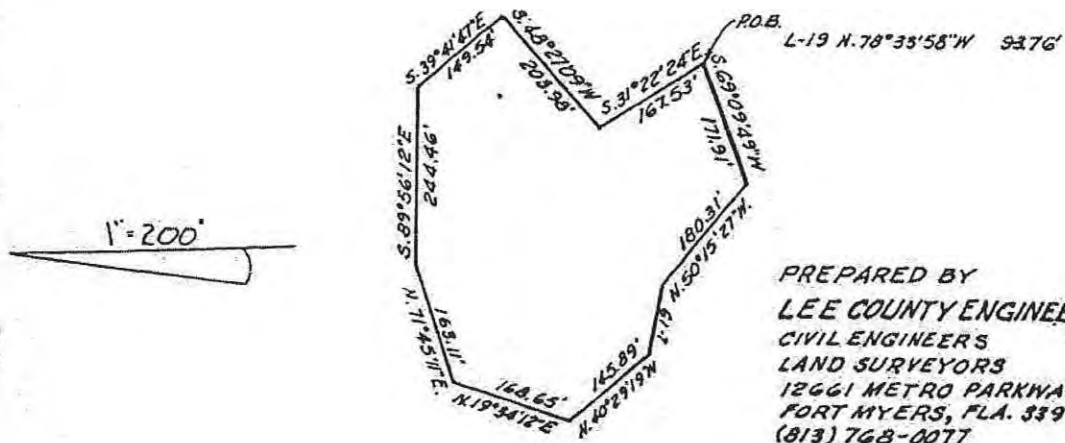
A PARCEL OF LAND LYING IN SECTION 5, TOWNSHIP 46 SOUTH, RANGE 24 EAST, LEE COUNTY, FLORIDA. SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

FROM THE SOUTHEAST CORNER OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 5; THENCE N 00°12'32"E ALONG THE WEST LINE OF SAID SOUTHWEST QUARTER FOR 1072.86 FEET; THENCE N 89°47'28"W FOR 540.05 FEET TO THE POINT OF BEGINNING; THENCE S 69°09'49"W FOR 171.91 FEET; THENCE N 50°15'27"W FOR 180.31 FEET; THENCE N 78°33'58"W FOR 93.76 FEET; THENCE N 40°29'19"W FOR 145.89 FEET; THENCE N 19°34'12"E FOR 168.65 FEET; THENCE N 71°45'11"E FOR 163.11 FEET; THENCE S 89°56'12"E FOR 244.46 FEET; THENCE S 39°41'47"E FOR 149.54 FEET; THENCE S 48°27'09"W FOR 203.98 FEET; THENCE S 31°22'24"E FOR 167.53 FEET TO THE POINT OF BEGINNING. CONTAINING 3.711 ACRES.

I, A FLORIDA PROFESSIONAL LAND SURVEYOR HEREBY CERTIFY THAT THE BOUNDARY SKETCH ATTACHED HERETO REPRESENTS THE LANDS AS DESCRIBED AND MEETS THE MINIMUM TECHNICAL STANDARDS PER RULE NUMBER 21HH-6.06.

James L. Clements  
JAMES L. CLEMENTS  
FLORIDA REGISTRATION NO. 4091

DATE 7-1-87



NOT A SURVEY



APR 10, 1987  
JN 850095

DESCRIPTION - WETLANDS PARCEL IV

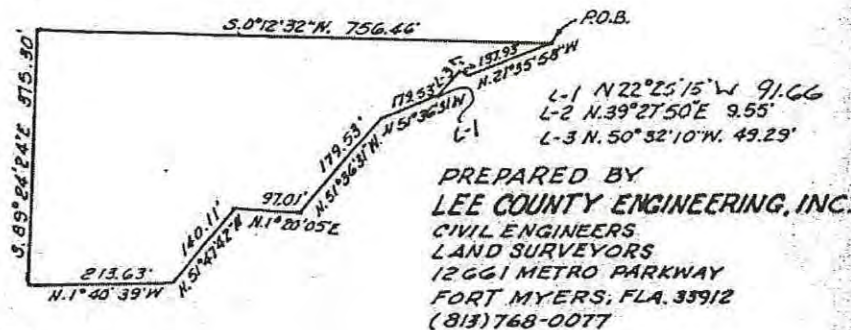
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I, A FLORIDA PROFESSIONAL LAND SURVEYOR HEREBY CERTIFY THAT THE BOUNDARY SKETCH ATTACHED HERETO REPRESENTS THE LANDS AS DESCRIBED AND MEETS THE MINIMUM TECHNICAL STANDARDS PER RULE NUMBER 21HH-6.06.

*James L. Clements*  
JAMES L. CLEMENTS  
FLORIDA REGISTRATION NO. 4091

DATE 7-1-87



NOT A SURVEY

EXHIBIT THREE

Page 4 of 4

RECORDED IN RECORDS UNIT  
JUL 7 3 09 PM '87

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**SOUTH FLORIDA WATER MANAGEMENT DISTRICT  
ENVIRONMENTAL RESOURCE  
STANDARD GENERAL PERMIT NO. 36-05751-P  
DATE ISSUED: February 22, 2007**

Form #0941  
08/95

**PERMITTEE:** SUNSET FALLS, LLC  
8045 NW 155 ST  
MIAMI LAKES, FL 33016

**PROJECT DESCRIPTION:** This application is a request for a modification of an Environmental Resource Permit authorizing Construction and Operation of a surface water management system serving a 109.63-acre residential/ commercial development known as Sunset Falls (F.K.A. Waterstone) with discharge into waters of Caloosahatchee River via IDD Canal C via sheetflow through adjacent wetlands.

**PROJECT LOCATION:** LEE COUNTY, SEC 5 TWP 46S RGE 24E

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

This is to notify you of the District's agency action concerning Notice of Intent for Permit Application No. 060926-8, dated September 26, 2006. 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 6).
3. the attached 18 Special Conditions (See Pages : 5 - 6 of 6) and
4. the attached 2 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 22nd day of February, 2007, in accordance with Section





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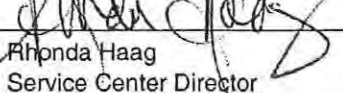
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BY:   
Rhonda Haag  
Service Center Director  
Lower West Coast Service Center

Certified mail number 7006 0810 0003 3837 5414

1/02/21/07.



## **NOTICE OF RIGHTS**

As required by Sections 120.569(1), and 120.60(3), Fla. Stat., following is notice of the opportunities which may be available for administrative hearing and/or judicial review when the substantial interests of a party are determined by an agency. 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.

### **Right to Request Administrative Hearing**

A person whose substantial interests are or may be affected by the South Florida Water Management District's (SFWMD or District) action has the right to request an administrative hearing on that action pursuant to Sections 120.569, 120.57, and 120.60(3), Fla. Stat. Persons seeking a hearing on a District decision which does or may determine their substantial interests shall file a petition for hearing with the District Clerk within 21 days of receipt of written notice of the decision in accordance with Rule 28-106.111, Fla. Admin. Code. Any person who receives written notice of a District decision and fails to file a written request for hearing within 21 days waives the right to request a hearing on that decision as provided by Subsection 28-106.111(4), Fla. Admin. Code.

The Petition must be filed at the Office of the District Clerk of the SFWMD, 3301 Gun Club Road, P.O. Box 24680, West Palm Beach, Florida, 33416, and must comply with the requirements of Rule 28-106.104, Fla. Admin. Code. Filings with the District Clerk may be made by mail, hand-delivery or facsimile. **Filings by e-mail will not be accepted.** A petition for administrative hearing is deemed filed upon receipt during normal business hours by the District Clerk at SFWMD headquarters in West Palm Beach, Florida. Pursuant to Rule 28-106.104, Fla. Admin. Code, any document received by the office of the District Clerk after 5:00 p.m. shall be filed as of 8:00 a.m. on the next regular business day.

- Filings made by mail must include the original and one copy and must be addressed to the Office of the District Clerk, P.O. Box 24680, West Palm Beach, Florida 33416.
- Filings by hand-delivery must also include the original and one copy of the petition. **Delivery of a petition to the District's security desk does not constitute filing. To ensure proper filing, it will be necessary to request the District's security officer to contact the Clerk's office.** An employee of the District's Clerk's office will file the petition and return the extra copy reflecting the date and time of filing.
- Filings by facsimile must be transmitted to the District Clerk's Office at (561) 682-6010. Pursuant to Subsections 28-106.104(7), (8) and (9), Fla. Admin. Code, a party who files a document by facsimile represents that the original physically signed document will be retained by that party for the duration of that proceeding and of any subsequent appeal or subsequent proceeding in that cause. Any party who elects to file any document by facsimile shall be responsible for any delay, disruption, or interruption of the electronic signals and accepts the full risk that the document may not be properly filed with the clerk as a result. The filing date for a document filed by facsimile shall be the date the District Clerk receives the complete document.



The following provisions may be applicable to SFWMD actions in combination with the applicable Uniform Rules of Procedure (Subsections 40E-0.109(1)(a) and 40E-1.511(1)(a), Fla. Admin. Code):

- (1)(a) "Receipt of written notice of agency decision" as set forth in Rule 28-106.111, Fla. Admin. Code, means receipt of either written notice through mail or posting that the District has or intends to take final agency action, or publication of notice that the District has or intends to take final agency action.
- (b) If notice is published pursuant to Chapter 40E-1, F.A.C., publication shall constitute constructive notice to all persons. Until notice is published, the point of entry to request a formal or informal administrative proceeding shall remain open unless actual notice is received.
- (2) If the District's Governing Board takes action which substantially differs from the notice of intended agency decision, the persons who may be substantially affected shall have an additional point of entry pursuant to Rule 28-106.111, Fla. Admin. Code, unless otherwise provided by law. The District Governing Board's action is considered to substantially differ from the notice of intended agency decision when the potential impact on water resources has changed.
- (3) Notwithstanding the timeline in Rule 28-106.111, Fla. Admin. Code, intended agency decisions or agency decisions regarding consolidated applications for Environmental Resource Permits and Use of Sovereign Submerged Lands pursuant to Section 373.427, Fla. Stat., shall provide a 14 day point of entry to file petitions for administrative hearing.

#### **Hearings Involving Disputed Issues of Material Fact**

The procedure for hearings involving disputed issues of material fact is set forth in Subsection 120.57(1), Fla. Stat., and Rules 28-106.201-.217, Fla. Admin. Code. Petitions involving disputed issues of material fact shall be filed in accordance with Rule 28-106.104, Fla. Admin. Code, and must comply with the requirements set forth in Rule 28-106.201, Fla. Admin. Code.

#### **Hearings Not Involving Disputed Issues of Material Fact**

The procedure for hearings not involving disputed issues of material fact is set forth in Subsection 120.57(2), Fla. Stat., and Rules 28-106.301-.307, Fla. Admin. Code. Petitions not involving disputed issues of material fact shall be filed in accordance with Rule 28-106.104, Fla. Admin. Code, and must comply with the requirements set forth in Rule 28-106.301, Fla. Admin. Code.

#### **Mediation**

As an alternative remedy under Sections 120.569 and 120.57, Fla. Stat., any person whose substantial interests are or may be affected by the SFWMD's action may choose to pursue mediation. The procedures for pursuing mediation are set forth in Section 120.573, Fla. Stat., and Rules 28-106.111 and 28-106.401-.405, Fla. Admin. Code. Choosing mediation will not adversely affect the rights to a hearing if mediation does not result in a settlement.

#### **DISTRICT COURT OF APPEAL**

Pursuant to Sections 120.60(3) and 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.



### 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.
6. Within 30 days after completion of construction of the permitted activity, the permittee 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



### GENERAL CONDITIONS

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 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



### **GENERAL CONDITIONS**

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 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.



### SPECIAL CONDITIONS

1. The construction phase of this permit shall expire on February 22, 2012.
2. Operation of the surface water management system shall be the responsibility of SUNSET FALLS COMMUNITY ASSOCIATION, INC.. Within one year of permit issuance or concurrent with the engineering certification of construction completion, whichever comes first, the permittee shall submit a copy of the recorded deed restrictions (or declaration of condominium, if applicable), a copy of the filed articles of incorporation, and a copy of the certificate of incorporation for the association.
3. Discharge Facilities:  
  
Basin: B1, Structure: S029  
1-11" W X 13.5" H RECTANGULAR ORIFICE with invert at elev. 4' NGVD.  
1-4.5' W X 3' L drop inlet with crest at elev. 7.5' NGVD.  
Receiving body : Adjacent Wetlands  
Control elev : 4 feet NGVD.  
  
Basin: B3  
1-.25' dia. CIRCULAR ORIFICE with invert at elev. 4' NGVD.  
1-3.08' W X 2' L drop inlet with crest at elev. 5.7' NGVD.  
Receiving body : Basin 1 - Lake B1L3  
Control elev : 4 feet NGVD.
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. Minimum building floor elevation:



### SPECIAL CONDITIONS

- BASIN: B1 - 9.00 feet NGVD.  
BASIN: B3 - 9.00 feet NGVD.
13. Minimum road crown elevation:  
Basin: B1 - 6.50 feet NGVD.  
Basin: B3 - 6.50 feet NGVD.
  14. A Water Use Permit must be obtained prior to irrigation withdrawals, unless the work is exempt pursuant to Chapter 40E-2.051 F.A.C.
  15. All special conditions and exhibits previously stipulated by permit number 36-05751-P, application number 050113-13 remain in effect unless otherwise revised and shall apply to this modification.
  16. Activities associated with the implementation of the mitigation, monitoring and maintenance plan(s) shall be completed in accordance with the work schedule attached to permit number 36-05751-P, application number 050113-13. Any deviation from these time frames will require prior approval from the District's Environmental Resource Compliance staff. Such requests must be made in writing and shall include (1) reason for the change, (2) proposed start/finish and/or completion dates; and (3) progress report on the status of the project development or mitigation effort.
  17. The permittee shall not construct any works or engage in any land clearing activities within 50 feet of the landward extent of wetlands or other surface waters or proposed upland preservation areas on the project site.
  18. At the time of issuance of this modification to permit number 36-05751-P, there are areas within the development site, dedicated as wetland areas with restricted use (identified in a previous now expired permit). This document is currently being processed for release of the use restriction.



**Last Date For Agency Action:** 22-FEB-2007

**GENERAL ENVIRONMENTAL RESOURCE PERMIT STAFF REPORT**

**Project Name:** Sunset Falls Llc

**Permit No.:** 36-05751-P

**Application No.:** 060926-8      **Associated File:**

**Application Type:** Environmental Resource (General Permit Modification)

**Location:** Lee County, S5/T46S/R24E

**Permittee :** Sunset Falls, Llc

**Operating Entity :** Sunset Falls Community Association, Inc.

**Project Area:** 109.63 acres

**Project Land Use:** Residential  
Commercial

**Drainage Basin:** TIDAL CALOOSAHATCHEE      **Sub Basin:** DEEP LAGOON

**Receiving Body:** CALOOSAHATCHEE RIVER VIA IDD CANAL C VIA      **Class:** CLASS III  
ADJACENT WETLANDS

**Special Drainage District:** NA

**Total Acres Wetland Onsite:** 24.59

**Total Acres Wetland Preserved Onsite:** 24.59

**Total Acres Presv/Mit Compensation Onsite:** 27.49

**Conservation Easement To District :** Yes

**Soverelgn Submerged Lands:** No

**PROJECT PURPOSE:**

This application is a request for a modification of an Environmental Resource Permit authorizing Construction and Operation of a surface water management system serving a 109.63-acre residential/commercial development known as Sunset Falls (F.K.A. Waterstone) with discharge into waters of Caloosahatchee River via IDD Canal C via sheetflow through adjacent wetlands.



**PROJECT EVALUATION:****PROJECT SITE DESCRIPTION:**

The approximately 109.63 acre site is located on the north side of Summerlin Road, approximately 2,000 feet east of Pine Ridge Road in the City of Fort Myers, Lee County. A location map is provided as Exhibit 1.0.

The project site contains a total of 48.57 acres of wetlands, 2.16 acres of IDD easement area and 60.92 acres of uplands. For further details of wetland areas to be impacted and preserved please refer to the Wetlands table and application number 050113-13. No changes to wetland impact acreage, onsite preserve acreage or mitigation and monitoring plans are proposed with this application.

**PROJECT BACKGROUND:**

Authorization for construction and operation of a surface water management system serving 109.63 acres of commercial and residential areas was granted by the District's Governing Board on June 14, 2006 (Permit No. 36-05751-P / Application No. 051113-13). That application did not meet the U.S. Army Corps of Engineers criteria for pre- vs. post- nutrient loadings. This application modified the site design from basins discharging off-site through multiple discharge points to a two basin surface water management system. The current application consists of the commercial basin, (Basin 3) discharging to Basin 1 to meet the U.S. Army Corps of Engineers criteria and District criteria.

**PROPOSED PROJECT:**

The proposed surface water management system consists of two basins. Basin 3, the upstream basin, consists of commercial development with treatment and attenuation provided via dry detention. This basin includes three commercial buildings, pavement, and 2 interconnected dry detention areas. Stormwater flows via sheetflow and catchbasins to the dry detention areas. This basin discharges to Basin 1, in particular the swales located on the east side of the proposed entrance road prior to discharging to the interconnected wet detention areas located in the residential portion of the development.

Basin 1 includes the entrance roads, 106 single family residential lots, a clubhouse, and 34 multi-family residential buildings, and a surface water management system. Within this basin three interconnected wet detention areas provide the required water quality treatment and attenuation prior to discharging to on-site wetlands. This proposed project modifies the previous authorization from multiple discharge points to a single discharge to the wetlands.

**LAND USE:****Construction:****Project:**

	<b>This Phase</b>	<b>Total Project</b>	
Building Coverage	20.79	20.79	acres
Impervious	15.32	15.32	acres
Other	2.16	2.16	acres
Pervious	26.64	26.64	acres
Preserved	28.50	28.50	acres
Water Mgmt Acreage	15.62	15.62	acres



	<b>This Phase</b>	<b>Total Project</b>
<b>Total:</b>	<b>109.03</b>	<b>109.03</b>

**Basin : B1**

	<b>This Phase</b>	<b>Total Basin</b>	
Building Coverage	20.15	20.15	acres
Impervious	12.86	12.86	acres
Pervious	24.32	24.32	acres
Water Mgmt Acreage	15.62	15.62	acres
<b>Total:</b>	<b>72.95</b>	<b>72.95</b>	

**Basin : B3**

	<b>This Phase</b>	<b>Total Basin</b>	
Building Coverage	.64	.64	acres
Impervious	2.46	2.46	acres
Pervious	2.32	2.32	acres
<b>Total:</b>	<b>5.42</b>	<b>5.42</b>	

**WATER QUANTITY :****Discharge Rate :**

The allowable discharge rate for this project is limited to 50 CSM (0.078 cfs/ acre), established for developments in Deep Lagoon Basin. As shown in the table below, the total peak discharge rate from the project, 6.11 cfs, is within the allowable limit, 6.12 cfs.

Discharge Storm Frequency : 25 YEAR-3 DAY

Design Rainfall : 11.3 inches

<b>Basin</b>	<b>Allow Disch (cfs)</b>	<b>Method Of Determination</b>	<b>Peak Disch (cfs)</b>	<b>Peak Stage ( ft, NGVD)</b>
B1	6.1	Conveyance Limitation	6.1	7.5
B3	n/a	n/a	n/a	7.5

**Finished Floors :**

Building Storm Frequency : 100 YEAR-3 DAY

Design Rainfall : 14.5 inches

<b>Basin</b>	<b>Peak Stage ( ft, NGVD)</b>	<b>Proposed Min. Finished Floors ( ft, NGVD)</b>	<b>FEMA Elevation ( ft, NGVD)</b>
B1	8.2	9	8.2
B3	8.2	9	9.2

**Road Design :**



Road Storm Frequency : 10 YEAR-1 DAY

Design Rainfall: 6.6 inches

Basin	Peak Stage ( ft, NGVD)	Proposed Min. Road Crown ( ft, NGVD)
B1	6.1	6.5
B3	6.1	6.5

**Control Elevation :**

Basin	Area (Acres)	Ctrl Elev ( ft, NGVD)	WSWT Ctrl Elev ( ft, NGVD)	Method Of Determination
B1	72.95	4	4.00	Previously Permitted
B3	5.42	4	4.00	Previously Permitted

**Receiving Body :**

Basin	Str.#	Receiving Body
B1	S029	Adjacent Wetlands
B3	S-003	Basin 1 - Lake B1L3

**Discharge Structures:** Note: The units for all the elevation values of structures are ( ft, NGVD)**Inlets:**

Basin	Str#	Count	Type	Width	Length	Dia.	Crest Elev.
B1	S029	1	Fdot Mod E Drop Inlet	4.5'	3'		7.5

**Water Quality Structures:** Note: The units for all the elevation values of structures are ( ft, NGVD)**Bleeders:**

Basin	Str#	Count	Type	Width	Height	Length	Dia.	Invert Angle	Invert Elev.
B1	S029	1	Rectangular Orifice	11"	13.5"				4
B3	S-003	1	Circular Orifice				.25'		4

**Inlets:**

Basin	Str#	Count	Type	Width	Length	Dia.	Crest Elev.
B3	S-003	1	Fdot Mod C Drop Inlet	3.08'	2'		5.7

**WATER QUALITY :**

The proposed surface water management system provides the required water quality treatment for the proposed development. As shown in the table below, the proposed surface water management system provides 9.84 ac-ft of water quality treatment volume, exceeding the required water quality treatment volume of 9.83 ac-ft.

Basin 3 provides water quality treatment volume in dry detention areas based on 2.5-inches over the impervious area and an additional 50% water quality treatment volume. Basin 1 provides water quality treatment via 3 interconnected wet detention areas based on 1-inch over the basin area and an additional 50% water quality treatment volume.

In addition to the required water quality, the system discharges from Basin 1 through spreader swales to wetland systems where additional unquantified water quality treatment occurs. An Urban Stormwater Management Program (Exhibit "D" of the Property Owners Association documents) are part of the



required water quality. In addition, a Construction Pollution Prevention Plan has already been included for this Permit through Permit No. 36-05751-P / Application No. 050113-13.

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

Basin	Treatment Method		Vol Req.d (ac-ft)	Vol Prov'd
B1	Treatment	Wet Detention	9.18	9.18
B3	Treatment	Dry Detention	.65	.66

#### WETLANDS:

The following table depicts the previously authorized mitigation for unavoidable impacts to wetlands. For further details please refer to application number 050113-13.

It is anticipated that this modification will not adversely impact the hydro-period of the preserved wetlands.

#### Wetland Inventory :

##### CONSTRUCTION NEW -WATERSTONE- WETLANDS ON-SITE

Site Id	Site Type	Pre-Development				Post-Development						
		Pre Fluc cs	AA Type	Acreage (Acres)	Current Wo Pres	With Project	Time Lag (Yrs)	Risk Factor	Pres. Adj. Factor	Post Flucss	Adj Delta	Functional Gain / Loss
2Aii	ON	624	Preservation	.62	.40	.63	4	1.50		624		
2Bii	ON	619	Preservation	.52	.35	.63	4	1.50		624		
2Cii	ON	612	Preservation	9.66	.40	.63	4	1.50		612		
2Dii	ON	619	Preservation	10.95	.35	.63	4	1.50		624		
2Eii	ON	641	Preservation	2.84	.45	.63	4	1.50		641		
<b>Total:</b>				24.59								

#### Wetland Inventory :

##### CONSTRUCTION NEW -WATERSTONE-UPLAND MITIGATION ON-SITE

Site Id	Site Type	Pre-Development				Post-Development						
		Pre Fluc cs	AA Type	Acreage (Acres)	Current Wo Pres	With Project	Time Lag (Yrs)	Risk Factor	Pres. Adj. Factor	Post Flucss	Adj Delta	Functional Gain / Loss
5	ON	411	Preservation	1.15	.00	.75	1	1.00	1.00	411	.750	.863
6	ON	411	Preservation	1.75	.00	.75	1	1.00	1.00	411	.750	1.313
<b>Total:</b>				2.90								2.18



<b>Flucss Code</b>	<b>Description</b>
411	Pine Flatwoods
411	Pine Flatwoods - Hydric
411	Pine Flatwoods - Upland
612	Mangrove Swamps
619	Melaleuca - Brazilian Pepper - Exotics Hardwoods
624	Cypress - Pine - Cabbage Palm
641	Freshwater Marshes

#### **LEGAL ISSUES:**

The original permit (Permit No. 36-05751-P / Application No. 050113-13) determined the financial assurance required for mitigation and monitoring and that conservation easements for the on-site mitigation areas would comprise a total of 28.5 acres. Please refer to Special Condition number 18 and previous application, number 050113-13, for further details.

#### **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-4.361(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 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.



## **RELATED CONCERNS:**

### **Water Use Permit Status:**

The applicant had previously indicated that surface water lakes and groundwater wells would be used as a source for irrigation water for the project. Water Use application number 051017-2 submitted at the time of permit issuance was denied due to the lack of information supplied. Therefore, irrigation shall not be permitted on this site until a water use application has been re-submitted and a permit issued. Please refer to Special Condition number 16 .

The applicant previously indicated that dewatering would be required for construction of this project. Water Use application number 051020-1 was processed concurrently for this project and water use permit, number 36-05818-W was issued.

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.

### **CERP:**

The proposed project is not located within or adjacent to a Comprehensive Everglades Restoration Project component.

### **Potable Water Supplier:**

Lee County Utilities.

### **Waste Water System/Supplier:**

Lee County Utilities.

### **Right-Of-Way Permit Status:**

A Right-of-Way Permit is not required for this project.

### **DRI Status:**

This project is not a DRI.

### **Historical/Archeological Resources:**

For the previous application (Application No. 050113-13), the District received correspondence from the Florida Department of State, Division of Historical Resources indicating that the agency has no objections to the issuance of this permit.

### **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.

### **Third Party Interest:**

Pollutant Loading calculations submitted with the application and reviewed by staff appear to be consistent with the information in the September 2003 Evaluation of Alternative Stormwater Regulations for Southwest Florida report which demonstrate the surface water management system reduces the post-



development loadings of storm water nutrients to levels equal to or less than the loadings generated under pre-development conditions.

No third party has contacted the District with concerns about this application.

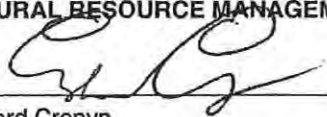
**Enforcement:**

There has been no enforcement activity associated with this application.

**STAFF REVIEW:**

**DIVISION APPROVAL:**

**NATURAL RESOURCE MANAGEMENT:**

  
Edward Cronyn

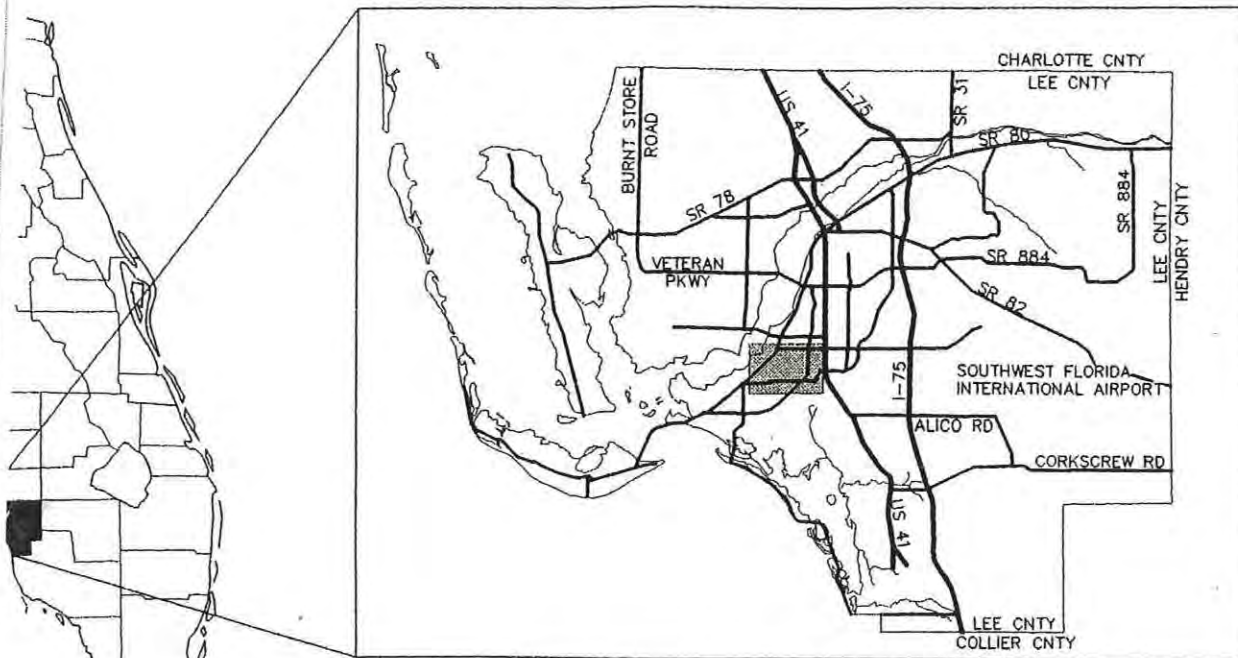
DATE: 2/20/07

**SURFACE WATER MANAGEMENT:**

  
William Foley, P.E.

DATE: 2/20/07

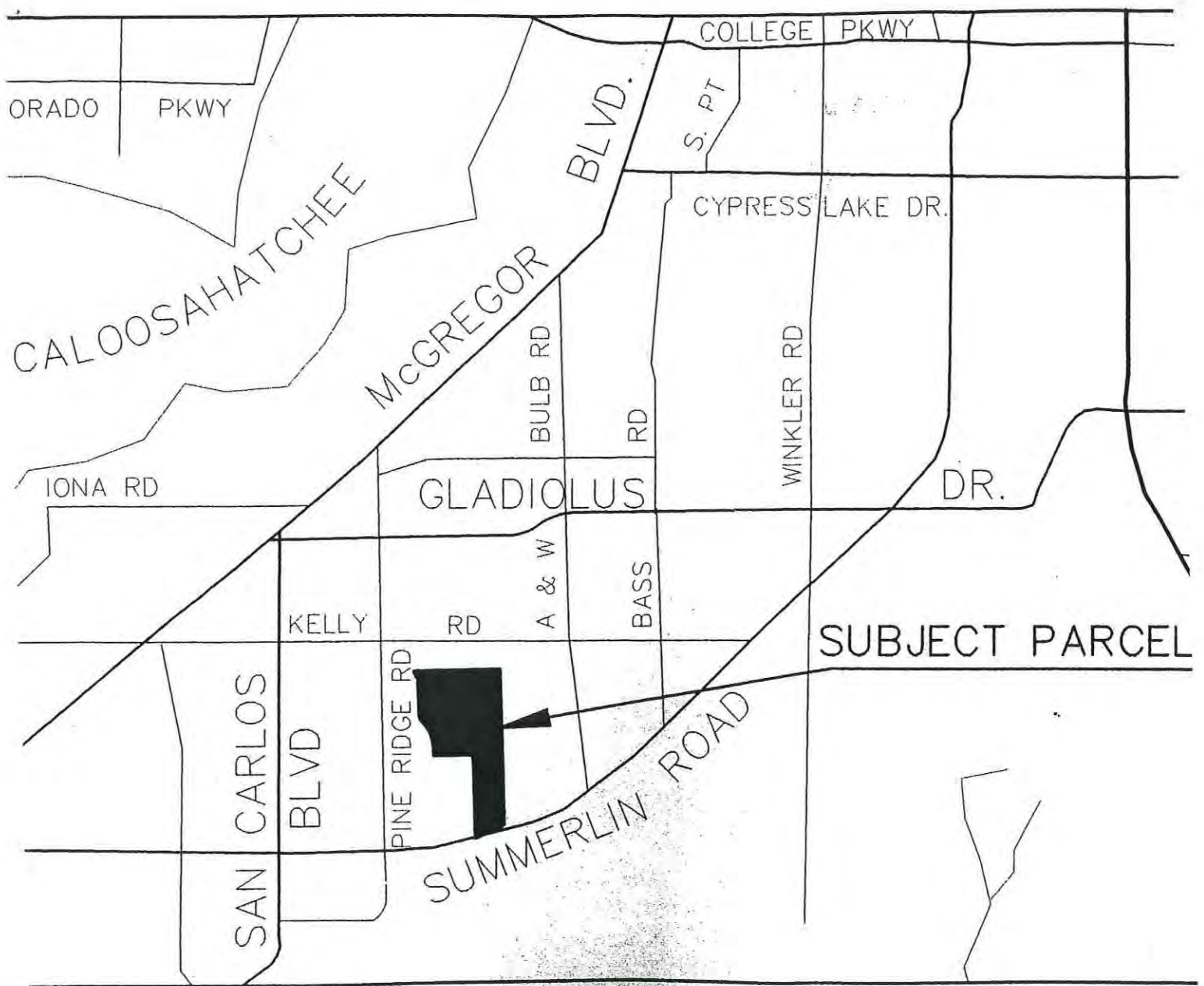




## LEE COUNTY

**EXHIBIT 1.0**





LOCATION MAP

15, TOWNSHIP 46 SOUTH, RANGE 24 EAS  
LEE COUNTY, FLORIDA

EXHIBIT 1.1



## STAFF REPORT DISTRIBUTION LIST

SUNSET FALLS LLC

Application No: 060926-8

Permit No: 36-05751-P

### INTERNAL DISTRIBUTION

- X Catherine Hawkins - 2261
- X William Foley, P.E. - 2261
- X Edward Cronyn - 2261
- X ERC Engineering - 6861
- X ERC Environmental - 6861
- X Fort Myers Backup File - 6861
- X M. Soto-4240
- X Permit File

### EXTERNAL DISTRIBUTION

- X Permittee - Sunset Falls, Llc
- X Agent - Banks Engineering, Inc.

### GOVERNMENT AGENCIES

- X Div of Recreation and Park - District 4 - 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. Jim Beever



## STAFF REPORT DISTRIBUTION LIST

### ADDRESSES

Banks Engineering, Inc.  
10511-101 Six Mile Cypress Pkwy  
Fort Myers FL 33912

Div of Recreation and Park - District 4 - 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. Jim Beaver  
1926 Victoria Avenue  
Fort Myers FL 33901

Sunset Falls, Llc  
8045 Nw 155 St  
Miami Lakes FL 33016

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





## SOUTH FLORIDA WATER MANAGEMENT DISTRICT

3301 Gun Club Road, West Palm Beach, Florida 33406 • (561) 686-8800 • FL WATS 1-800-432-2045 • TDD (561) 697-2574  
Mailing Address: P.O. Box 24680, West Palm Beach, FL 33416-4680 • [www.sfwmd.gov](http://www.sfwmd.gov)

February 20, 2007

Sarah Spector, Attorney at Law  
Henderson, Franklin, Starnes & Holt, P.A.  
1715 Monroe Street  
P.O. Box 280  
Fort Myers, FL 33902

**SUBJECT: Sunset Falls Release of Dedication of Lands as Wetlands  
Application #060926-8  
Lee County**

Dear Ms. Spector:

1987  
This letter is a follow-up to several phone conversations and emails with regard to the above-listed project. During the review of the subject application and the research into recording a conservation easement over the proposed mitigation area for the new project, the applicant discovered that there is an existing restriction recorded over a portion of the property. This document was called "Dedication of Lands as Wetlands" (Dedication) and was placed on the property pursuant to a previously issued South Florida Water Management District (District) permit #36-00419-S. This permit has since expired, however the recorded document is still in place.

Upon further research, you indicated that the applicant requires that the District sign a form releasing the Dedication. A release of this document requires the approval of the District's Governing Board. As a result, staff will recommend approval of the release of the document at the March 15, 2007 Governing Board meeting.

I apologize for any confusion or delay related to this issue. If you have any further questions, please call me at (561)682-6866.

Sincerely,

A handwritten signature in cursive script that reads "Anita R. Bain".

Anita R. Bain, Director  
Natural Resource Management Division

AB/ab

C: Sean Martin, Watermen Development Group

### GOVERNING BOARD

Kevin McCarty, *Chair*  
Irela M. Bagué, *Vice-Chair*  
Miya Burt-Stewart

Alice J. Carlson  
Michael Collins  
Nicolás J. Gutiérrez, Jr., Esq.

### EXECUTIVE OFFICE

Lennart E. Lindahl, P.E.  
Harkley R. Thornton  
Malcolm S. Wade, Jr.

Carol Ann Wehle, *Executive Director*



Bc: Susan Martin, Office of Counsel  
Ed Cronyn, LWC Svc Center  
Catherine Hawkins, LWC Svc Center

Addresses:

Sean C. Martin, P.E.  
Watermen Development Group  
1415 Dean Street, Suite 104  
Fort Myers, FL 33901



Lee County Geographic Information System - Microsoft Internet Explorer

Lee County Geographic Information System

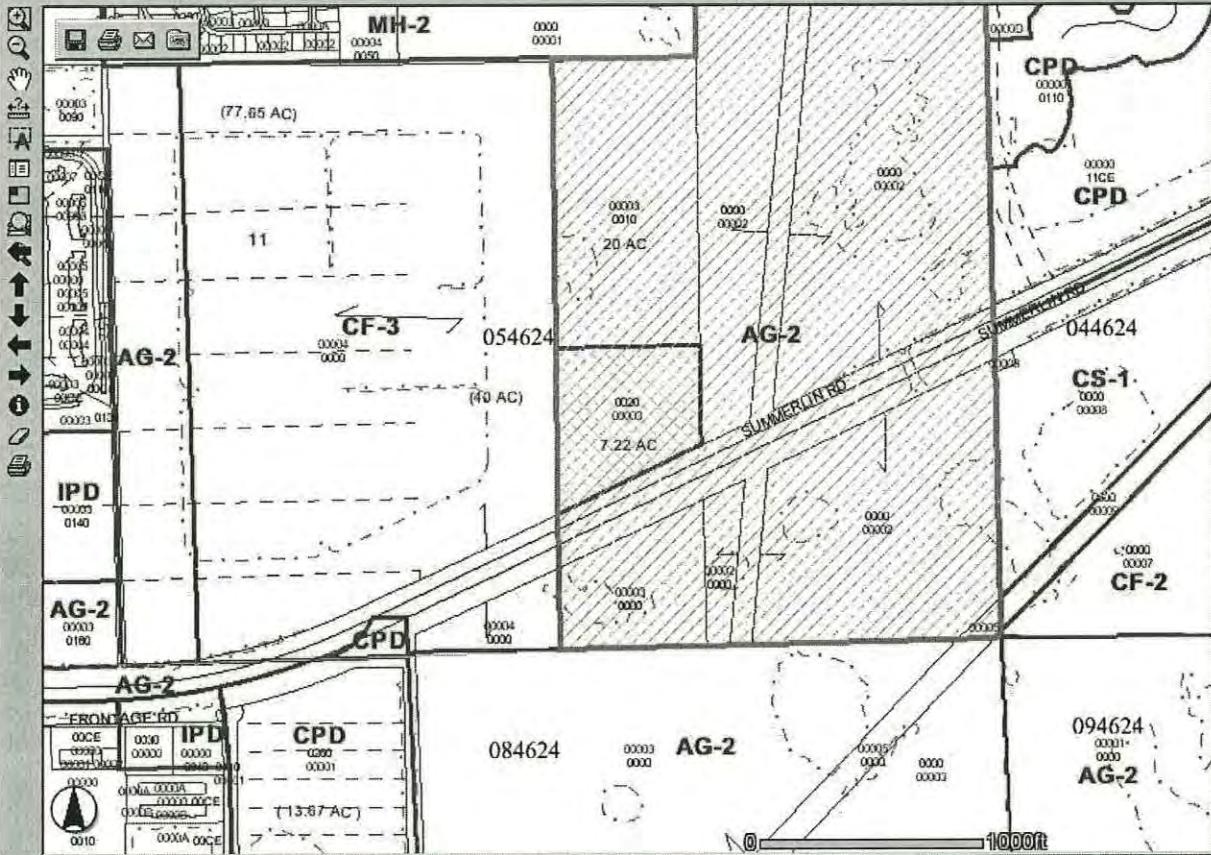
| Help | Reset

STRAP 05-46-24-00-00003.0020

[ Draw | Select ]

Search - Select one -

Applications - Select one -



## Zoning Query

Click Map Location For Zoning Info.

AG-2

[Zoning Notes](#)[Zoning Description](#)[Zoning Regulations](#)[Cancel](#)

## Parcels / Land Records

☐ Easement Labels☐ Mobile Home Lots☐ Easements☒ Lot Lines☐ Subdivisions☒ Parcel Labels☒ Parcel Lines☐ Pointers☐ Wetland Labels☐ Wetland Lines☐ Witness Labels☐ Witness Lines☐ Cape Coral Units☐ County Lands

## Zoning Query

Map: 681122.14, 786416.18 -- Image: 409, 290 -- ScaleFactor: 6.711229382360276

Internet

Start | Novell-delivered ... | Docimg Search - ... | Lee County Geo... | Lee County Prop...

11:11



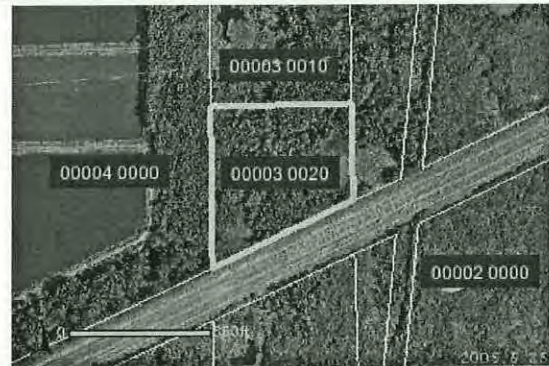
## Lee County Property Appraiser - Online Parcel Inquiry - Microsoft Internet Explorer

[Back](#) [Forward](#) [Home](#) [Search](#) [Favorites](#) [Media](#) [Print](#) [Help](#)

LEE COUNTY PROPERTY APPRAISER

**PROPERTY DATA FOR PARCEL 05-46-24-00-00003.0020**  
**TAX YEAR 2005 TRIM**Parcel data is available for the following tax years:  
[ [2001](#) | [2002](#) | [2003](#) | [2004](#) | [2005 \(Trim\)](#) ][ [Next Lower Parcel Number](#) | [Next Higher Parcel Number](#) | [Display Tax Bills on this Parcel](#) | [NEW! Tax Estimator](#) ]

OWNERSHIP, LEGAL, SALES AND DISTRICT DATA ARE FROM THE CURRENT DATABASE. LAND, BUILDING, VALUE AND EXEMPTION DATA ARE FROM THE 2005 TRIM ROLL.

**PROPERTY DETAILS****OWNER OF RECORD**[ [VIEWER](#) ] [TAX MAP](#) [ [PRINT](#) ]VICOTT INC  
10950 OLD SOUTH WAY  
FORT MYERS FL 33908**SITE ADDRESS**SUMMERLIN RD  
FORT MYERS FL 33908**LEGAL DESCRIPTION**E 1/2 OF SW 1/4 OF SE 1/4  
N OF CR 869[ [PICTOMETRY](#) ]**TAXING DISTRICT****DOR CODE**

110 - COUNTY/IONA MCGREGOR FIRE

00 - VACANT RESIDENTIAL

Start | Novell-delivered Applic... | Docimg Search - Micros... | Lee County Geographic... | Lee County Propert... | 11:11



## Memo

To: Paul O' Connor, Division of Planning  
From: <sup>LW</sup>Lili Wu, Senior Transportation Planner  
Date: January 30, 2006  
Subject: **CPA 2005-00001, Vicott Property-Small Scale Amendment**

---

RECEIVED  
JAN 31 2006  
COMMUNITY DEVELOPMENT

We have reviewed the above application which requests the land use designation of approximately 3.89 acres be changed from "Industrial Development" to "Urban Community." It is indicated in the application that given the existing FLUM designation of Industrial Development, 4,152 square feet of commercial or 41,520 square feet of industrial could be built in the subject area. The proposed Urban Community designation would allow 20 dwelling units or 34,600 square feet of commercial to be built in the subject area. If this amendment is adopted, there will be an increase of 144 trips in the worst case scenario on a PM peak hour basis. After running the FSUTMS travel demand model for year 2020 conditions we have determined that this land use change will not alter the future road network plans.

Please let me know if you have any questions.

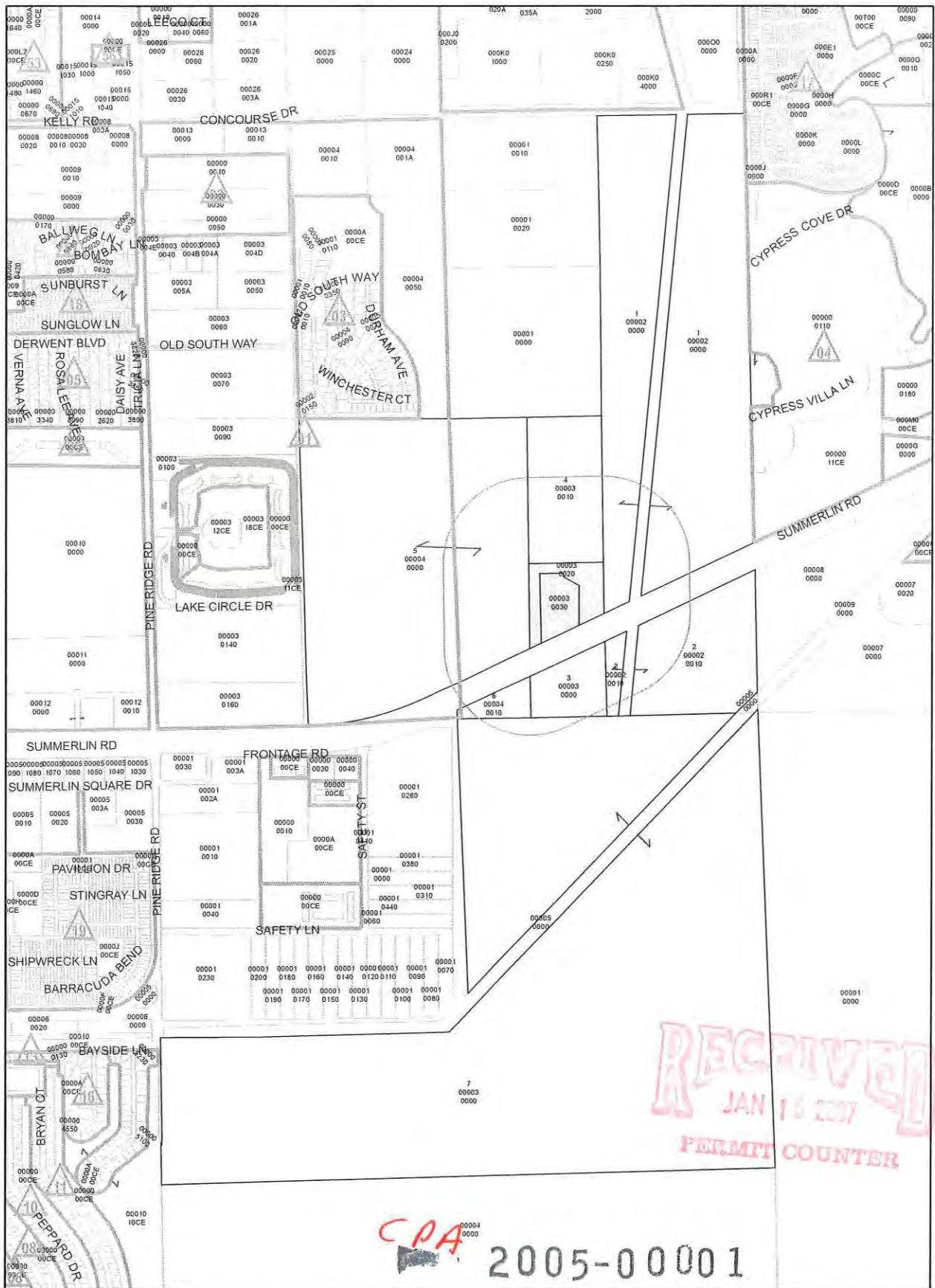
LW/llj



# VARIANCE REPORT

1/08/2007

Subject Parcels : 2 Affected Parcels : 7 Buffer Distance : 750 ft



05-46-24-00-00003.0020 et al.

1,200600 0

1,200 Feet





# Lee County Property Appraiser

**Kenneth M. Wilkinson, C.F.A.**

GIS Department / Map Room

Phone: (239) 533-6159 • Fax: (239) 533-6139 • eMail: MapRoom@LeePA.org

## VARIANCE REPORT

**Date of Report:** January 08, 2007  
**Buffer Distance:** 750 ft  
**Parcels Affected:** 7  
**Subject Parcel:** 05-46-24-00-00003.0020, 05-46-24-00-00003.0030

<u>OWNER NAME AND ADDRESS</u>	<u>STRAP AND LOCATION</u>	<u>LEGAL DESCRIPTION</u>	<u>Map Index</u>
LEE COUNTY PO BOX 398 FORT MYERS FL 33902	<b>05-46-24-00-00002.0000</b> ACCESS UNDETERMINED FORT MYERS FL 33908	E 1/2 OF E 1/2 LESS PARL S OF SR 869	1
TIITF STATE OF FLORIDA DEPT OF ENVIR PROTECTION 3900 COMMONWEALTH BLVD TALLAHASSEE FL 32399	<b>05-46-24-00-00002.0010</b> ACCESS UNDETERMINED FORT MYERS FL 33908	PARL IN E 1/2 OF E 1/2 LYING S OF SR 869 LESS SEABOARD ALL FL RAILWAY DESC IN DB 111 PG 141	2
YEATTER TAD M 13731 FERN TRAIL DR NORTH FORT MYERS FL 33903	<b>05-46-24-00-00003.0000</b> ACCESS UNDETERMINED FORT MYERS FL 33908	E 1/2 OF SW 1/4 OF SE 1/4 S OF CR 869	3
SUNSET FALLS LLC 8045 NW 155TH ST MIAMI LAKES FL 33016	<b>05-46-24-00-00003.0010</b> ACCESS UNDETERMINED FORT MYERS FL 33908	E 1/2 OF NW 1/4 OF SE 1/4	4
LEE COUNTY PO BOX 398 FORT MYERS FL 33902	<b>05-46-24-00-00004.0000</b> ACCESS UNDETERMINED FORT MYERS FL 33908	W 1/2 OF W 1/2 OF SE 1/4+ BATE PINE RDGE TRK FARM BLK 4 PB 3 PG 68 LTS9-16 LESS PARL S OF SR 869	5
TIITF STATE OF FLORIDA DEPT OF ENVIR PROTECTION 3900 COMMONWEALTH BLVD TALLAHASSEE FL 32399	<b>05-46-24-00-00004.0010</b> ACCESS UNDETERMINED FORT MYERS FL 33908	W 1/2 OF W 1/2 OF SE 1/4 LYING S OF SR 869	6
TIITF/CAMA DEPT OF ENVIR PROTECTION 3900 COMMONWEALTH BLVD TALLAHASSEE FL 32399	<b>08-46-24-00-00003.0000</b> ACCESS UNDETERMINED FORT MYERS FL 33908	NE 1/4 + N 1/2 OF S 1/2 LESS ABANDONED SAL RR R/W	7

**7 RECORDS PRINTED**

RECEIVED  
JAN 11 2007  
PERMIT COUNTER

CPA 2005-00001



05-46-24-00-00002.0000

LEE COUNTY  
PO BOX 398  
FORT MYERS, FL 33902

05-46-24-00-00003.0000

YEATTER TAD M  
13731 FERN TRAIL DR  
NORTH FORT MYERS, FL 33903

05-46-24-00-00003.0020

SUNSET FALLS LLC  
8045 NW 155TH ST  
MIAMI LAKES, FL 33016

05-46-24-00-00004.0000

LEE COUNTY  
PO BOX 398  
FORT MYERS, FL 33902

08-46-24-00-00003.0000

TIITF/CAMA  
DEPT OF ENVIR PROTECTION  
3900 COMMONWEALTH BLVD  
TALLAHASSEE, FL 32399

05-46-24-00-00002.0010

TIITF STATE OF FLORIDA  
DEPT OF ENVIR PROTECTION  
3900 COMMONWEALTH BLVD  
TALLAHASSEE, FL 32399

05-46-24-00-00003.0010

SUNSET FALLS LLC  
8045 NW 155TH ST  
MIAMI LAKES, FL 33016

05-46-24-00-00003.0030

VICOTT INC  
10950 OLD SOUTH WAY  
FORT MYERS, FL 33908

05-46-24-00-00004.0010

TIITF STATE OF FLORIDA  
DEPT OF ENVIR PROTECTION  
3900 COMMONWEALTH BLVD  
TALLAHASSEE, FL 32399



# **Banks Engineering**

Professional Engineers, Planners & Land Surveyors  
FORT MYERS ♦ NAPLES ♦ SARASOTA  
PORT CHARLOTTE

## **LETTER OF TRANSMITTAL**

DATE: March 14, 2007

TO: Brent Cunningham, Planning  
Zoning Division  
Lee County Development Ser.  
\_\_\_\_\_  
\_\_\_\_\_

PHONE: \_\_\_\_\_  
FAX: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

REFERENCE: Vicott Comp. Plan Amend. (CPA2005-00001) JOB NO. 1836

COPIES	DESCRIPTION
1	Variance Report

### REASON:

- ☐ Your Comments  
☐ Your Approval  
☐ Your Information  
☒ As Per Your Request  
☐ Your Review

### VIA:

- ☐ Fax:    Pages Total  
☐ Regular Mail  
☒ Courier  
☐ Overnight Express  
☐ Pick-up

COMMENTS: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Thank You  
\_\_\_\_\_



Mary Lou Missall  
Planning Technician



## VARIANCE REPORT

3/14/2007

Subject Parcels : 2 Affected Parcels : 17 Buffer Distance : 1520 ft



05-46-24-00-00003.0020 et al.

2,000 1,000 0 2,000 Feet





# Lee County Property Appraiser

**Kenneth M. Wilkinson, C.F.A.**

GIS Department / Map Room

Phone: (239) 533-6159 • Fax: (239) 533-6139 • eMail: MapRoom@LeePA.org

## VARIANCE REPORT

**Date of Report:** March 14, 2007  
**Buffer Distance:** 1520 ft  
**Parcels Affected:** 17  
**Subject Parcel:** 05-46-24-00-00003.0020, 05-46-24-00-00003.0030

<b><u>OWNER NAME AND ADDRESS</u></b>	<b><u>STRAP AND LOCATION</u></b>	<b><u>LEGAL DESCRIPTION</u></b>	<b><u>Map Index</u></b>
HELMERICH FRANK W II TR 5845 RIVERSIDE LANE FORT MYERS FL 33919	<b>04-46-24-00-00008.0000</b> ACCESS UNDETERMINED FORT MYERS FL 33908	SW 1/4 N OF RR AND S OF PROPOSED S R 869 LESS PARL 8.0020	1
LEE COUNTY PO BOX 398 FORT MYERS FL 33902	<b>04-46-24-00-00008.0020</b> ACCESS UNDETERMINED FORT MYERS FL 33908	A PARL OF LAND IN SEC 04 TWP 46 R 24 AS DESC IN OR 1586 PG 2302	2
FLORIDA POWER + LIGHT CO PROPERTY TAX DEPT PO BOX 14000 JUNO BEACH FL 33408	<b>04-46-24-00-00009.0000</b> FPL EASEMENT FORT MYERS FL 33908	STRIP OF LAND 100 FT.WIDE FORMER SAL RR R/W LESS OR 2082 PG 1929	3
LEE MEMORIAL HOSPITAL INC CYPRESS COVE 10200 CYPRESS COVE DR FORT MYERS FL 33908	<b>04-46-24-04-00000.0110</b> 10000-600 CYPRESS COVE DR FORT MYERS FL 33908	HEALTHPARK FLA WEST PH 1-F PB 53 PGS 81 - 90 PT LT 11 + DESC OR 3693/4170	4
LEE HEALTH VENTURES INC HEALTHPARK FL WEST OWNERS ASSN 9800 HEALTHPARK DR STE 405 FORT MYERS FL 33908	<b>04-46-24-04-00000.11CE</b> SUBMERGED FL	HEALTHPARK FLA WEST PH 1-F PB 53 PG 81-90 LT 11 LESS OR 3693/4170 LESS OR 4260/2391	5
SUNSET FALLS LLC 8045 NW 155TH ST MIAMI LAKES FL 33016	<b>05-46-24-00-00001.0000</b> ACCESS UNDETERMINED FORT MYERS FL 33908	W 1/2 OF NE 1/4 LESS PARCEL 1.001 + PARCEL 1.002	6
LEE COUNTY PO BOX 398 FORT MYERS FL 33902	<b>05-46-24-00-00002.0000</b> ACCESS UNDETERMINED FORT MYERS FL 33908	E 1/2 OF E 1/2 LESS PARL S OF SR 869	7
TIITF STATE OF FLORIDA DEPT OF ENVIR PROTECTION 3900 COMMONWEALTH BLVD TALLAHASSEE FL 32399	<b>05-46-24-00-00002.0010</b> ACCESS UNDETERMINED FORT MYERS FL 33908	PARL IN E 1/2 OF E 1/2 LYING S OF SR 869 LESS SEABOARD ALL FL RAILWAY DESC IN DB 111 PG 141	8
YEATTER TAD M 13731 FERN TRAIL DR NORTH FORT MYERS FL 33903	<b>05-46-24-00-00003.0000</b> ACCESS UNDETERMINED FORT MYERS FL 33908	E 1/2 OF SW 1/4 OF SE 1/4 S OF CR 869	9
SUNSET FALLS LLC 8045 NW 155TH ST MIAMI LAKES FL 33016	<b>05-46-24-00-00003.0010</b> ACCESS UNDETERMINED FORT MYERS FL 33908	E 1/2 OF NW 1/4 OF SE 1/4	10
LEE COUNTY PO BOX 398 FORT MYERS FL 33902	<b>05-46-24-00-00004.0000</b> ACCESS UNDETERMINED FORT MYERS FL 33908	W 1/2 OF W 1/2 OF SE 1/4+ BATE PINE RDGE TRK FARM BLK 4 PB 3 PG 68 LTS9-16 LESS PARL S OF SR 869	11
TIITF STATE OF FLORIDA DEPT OF ENVIR PROTECTION 3900 COMMONWEALTH BLVD TALLAHASSEE FL 32399	<b>05-46-24-00-00004.0010</b> ACCESS UNDETERMINED FORT MYERS FL 33908	W 1/2 OF W 1/2 OF SE 1/4 LYING S OF SR 869	12



<b><u>OWNER NAME AND ADDRESS</u></b>	<b><u>STRAP AND LOCATION</u></b>	<b><u>LEGAL DESCRIPTION</u></b>	<b><u>Map Index</u></b>
FLORIDA POWER + LIGHT CO PROPERTY TAX DEPT PO BOX 14000 JUNO BEACH FL 33408	<b>05-46-24-00-00005.0000</b> RIGHT OF WAY FORT MYERS FL 33908	STRIP OF LAND FORMER SAL RR R/W IN SE COR SEC.5	13
SUNSET FALLS LLC 8045 NW 155TH ST MIAMI LAKES FL 33016	<b>05-46-24-01-00004.0050</b> 10900 OLD SOUTH WAY FORT MYERS FL 33908	BATES PINE RDGE TRK FARMS BLK 4 PB 3 PG 68 LOTS 5 THRU 8 + E 1/2 OF LOT 3 + 4 LESS S/D	14
FLORIDA FUN FACTORY HOLDING CO 779 MEDICAL DR STE 7 ENGLEWOOD FL 34223	<b>08-46-24-00-00001.0260</b> 17051-081 SAFETY ST FORT MYERS FL 33908	PARL IN N W 1/4 AS DESC IN OR 1415 PG 72	15
TIITF/CAMA DEPT OF ENVIR PROTECTION 3900 COMMONWEALTH BLVD TALLAHASSEE FL 32399	<b>08-46-24-00-00003.0000</b> ACCESS UNDETERMINED FORT MYERS FL 33908	NE 1/4 + N 1/2 OF S 1/2 LESS ABANDONED SAL RR R/W	16
FLORIDA POWER + LIGHT CO PROPERTY TAX DEPT PO BOX 14000 JUNO BEACH FL 33408	<b>08-46-24-00-00005.0000</b> RIGHT OF WAY FORT MYERS FL 33908	STRIP OF LAND FORMERLY SAL RR R/W ACROSS SEC 8	17

## 17 RECORDS PRINTED



DATE: April 16, 2007

CASE NUMBER: CPA2005-00001

CASE NAME: Vicott, Inc. (Small Scale) Comprehensive Plan Amendment

REQUEST: Amend the Lee Plan Future Land Use Map Series for two parcels totaling approximately 7.67 ± acres located in Section 05, Township 46, Range 24, to change Map 1 from Industrial Development and Wetlands to Urban Community and Conservation Wetlands. In the alternative, staff recommends changing the subject site on Map 1 from Industrial Development and Wetlands to Commercial and Conservation Wetlands.

LOCATION: Access Undetermined  
Fort Myers, FL 33908

STRAPS: 05-46-24-00-00003.0020 & .0030

PROPERTY OWNER'S  
REPRESENTATIVE: Banks Engineering  
Stacey Hewitt, Director of Planning  
10511 Six Mile Cypress Parkway, Suite 101  
Fort Myers, FL 33966  
(239) 489-1814

LEE COUNTY PLANNER: Brent Cunningham  
(239) 479-8567

The file may be reviewed Monday through Friday between the hours of 8:00 AM and 4:30 PM at Lee County Department of Community Development, Division of Planning, 1500 Monroe St. Fort Myers, FL 33901. Call 239-479-8583 for additional information.

This is a courtesy notice. Please review the New-Press for Board of County Commissioner's meeting notices.

This case will be reviewed by the Board of County Commissioners on: April 24, 2007



DATE: March 13, 2007

CASE NUMBER: CPA2005-00001

CASE NAME: Vicott, Inc. (Small Scale) Comprehensive Plan Amendment  
*Banks Eng.*

REQUEST: Amend the Lee Plan Future Land Use Map Series for two parcels totaling approximately 7.67 ± acres located in Section 05, Township 46, Range 24, to change Map 1 from Industrial Development and Wetlands to Urban Community and Conservation Wetlands. In the alternative, staff recommends changing the subject site on Map 1 from Industrial Development and Wetlands to Commercial and Conservation Wetlands.

LOCATION: Access Undetermined  
Fort Myers, FL 33908

STRAPS: 05-46-24-00-00003.0020 & .0030

PROPERTY OWNER'S  
REPRESENTATIVE: Banks Engineering  
Stacey Hewitt, Director of Planning  
10511 Six Mile Cypress Parkway, Suite 101  
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This is a courtesy notice. Please review the New-Press for Local Planning Agency meeting notices.

This case is anticipated to be reviewed by the Local Planning Agency on: March 26, 2007



**VICOTT, INC.**  
**SMALL SCALE COMPREHENSIVE PLAN AMENDMENT**  
**AMENDMENT SUPPORT DOCUMENTATION**

**A. GENERAL INFORMATION AND MAPS:**

1. Provide any proposed text changes: *There are no 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.  
*Please see attached Existing Future Land Use Map and Proposed Future Land Use Map.*

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.  
*Please see attached Aerial Photograph, Land Use and Zoning Map.*

*The property to the north is in the Urban Community Future Land Use Category and is currently vacant with a pending rezoning to RPD. The property to the east is in the Urban Community and Wetlands Future Land Use Categories and is currently vacant. Immediately to the south is Summerlin Road and the land south of the right-of-way is in Wetlands/Outlying Suburban Land Use Categories and Public Facilities Land Use Categories and is currently vacant. The property to the west is in the Public Facilities Land Use Category and consists of the Lee County Sewage Treatment ponds.*

*The proposed land use change for the subject property from Industrial Development and Wetlands to Urban Community and Conservation Lands – Wetlands will increase the compatibility with the existing and proposed land uses in the surrounding areas.*

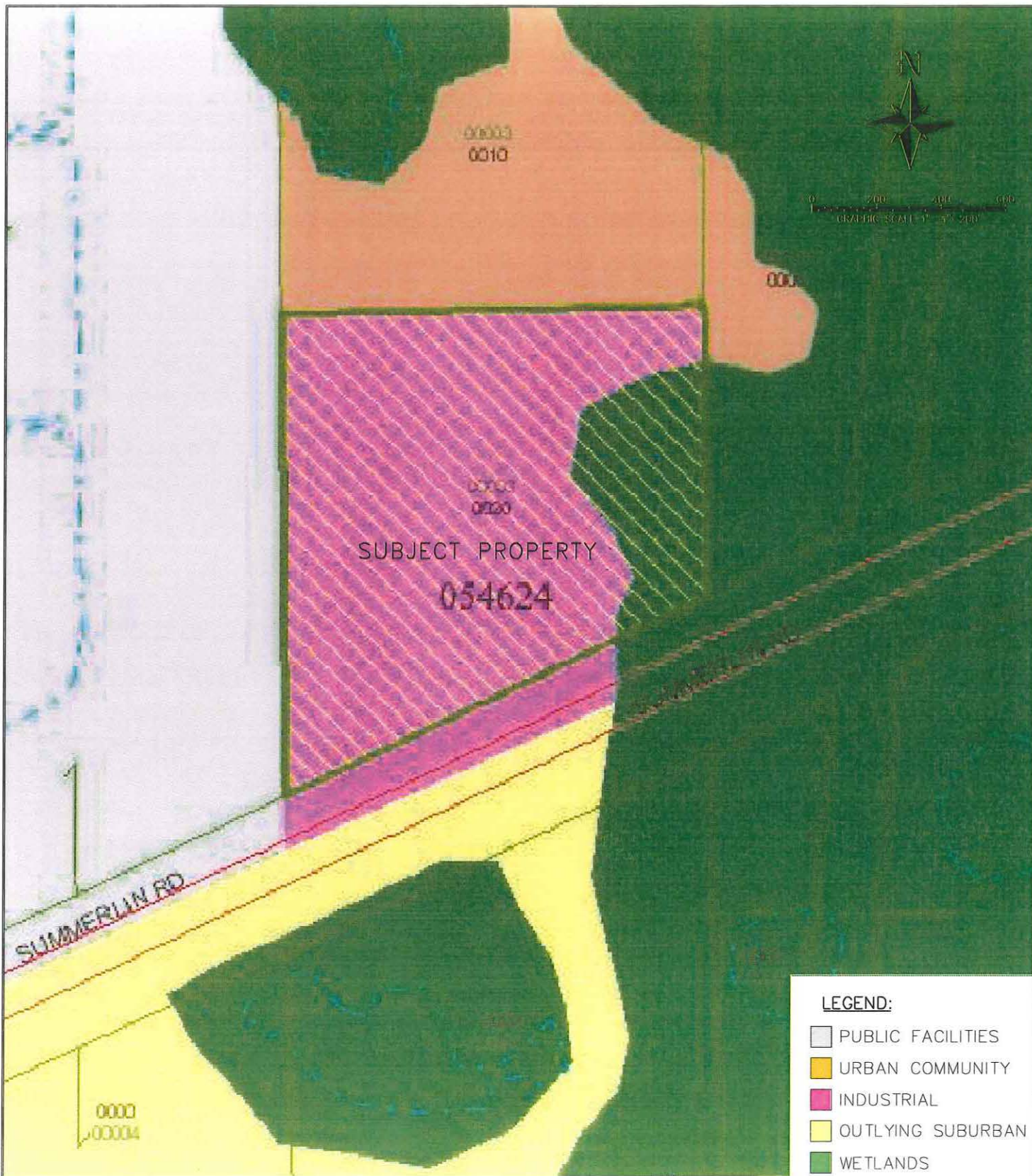
4. Map and describe existing zoning of the subject property and surrounding properties.  
*Please see attached Aerial Photograph, Land Use and Zoning Map.*

*The subject property is zoned AG-2. The property to the north is zoned AG-2 and a Planned Development application for the Sunset Falls f/k/a Waterstone RPD project is currently being reviewed to rezone the property to a Residential Planned Development (DCI2005-00078). The property to the east is zoned AG-2 and is currently vacant. The subject property abuts Summerlin Road right-of-way to the south. The property on the south of Summerlin Road is zoned AG-2 and is currently vacant. The property to the west of the subject property is zoned CF-3 and consists of Lee County Sewage Treatment ponds.*



5. The legal description(s) for the property subject to the requested change.  
*The legal description included with the request includes all land subject to the Comprehensive Plan Amendment and encompasses 7.67 acres of land.*
6. A copy of the deed(s) for the property subject to the requested change.  
*Please see attached Warranty Deeds and Declaration of Restrictive Covenants..*
7. An aerial map showing the subject property and surrounding properties.  
*Please see attached Aerial Photograph, Land Use and Zoning Map.*
8. If an applicant is not the owner, a letter from the owner of the property authorizing the applicant to represent the owner.  
*Letters of authorization are attached.*





**LEGEND:**

- PUBLIC FACILITIES
- URBAN COMMUNITY
- INDUSTRIAL
- OUTLYING SUBURBAN
- WETLANDS

**Banks Engineering, Inc.**

Professional Engineers, Planners & Land Surveyors

10511 SIX MILE CYPRESS PARKWAY - SUITE 101  
FORT MYERS, FLORIDA 33912  
PHONE: (239) 939-5490 FAX: (239) 939-2523  
ENGINEERING LICENSE # E9 6469  
SURVEY LICENSE # LB 6690

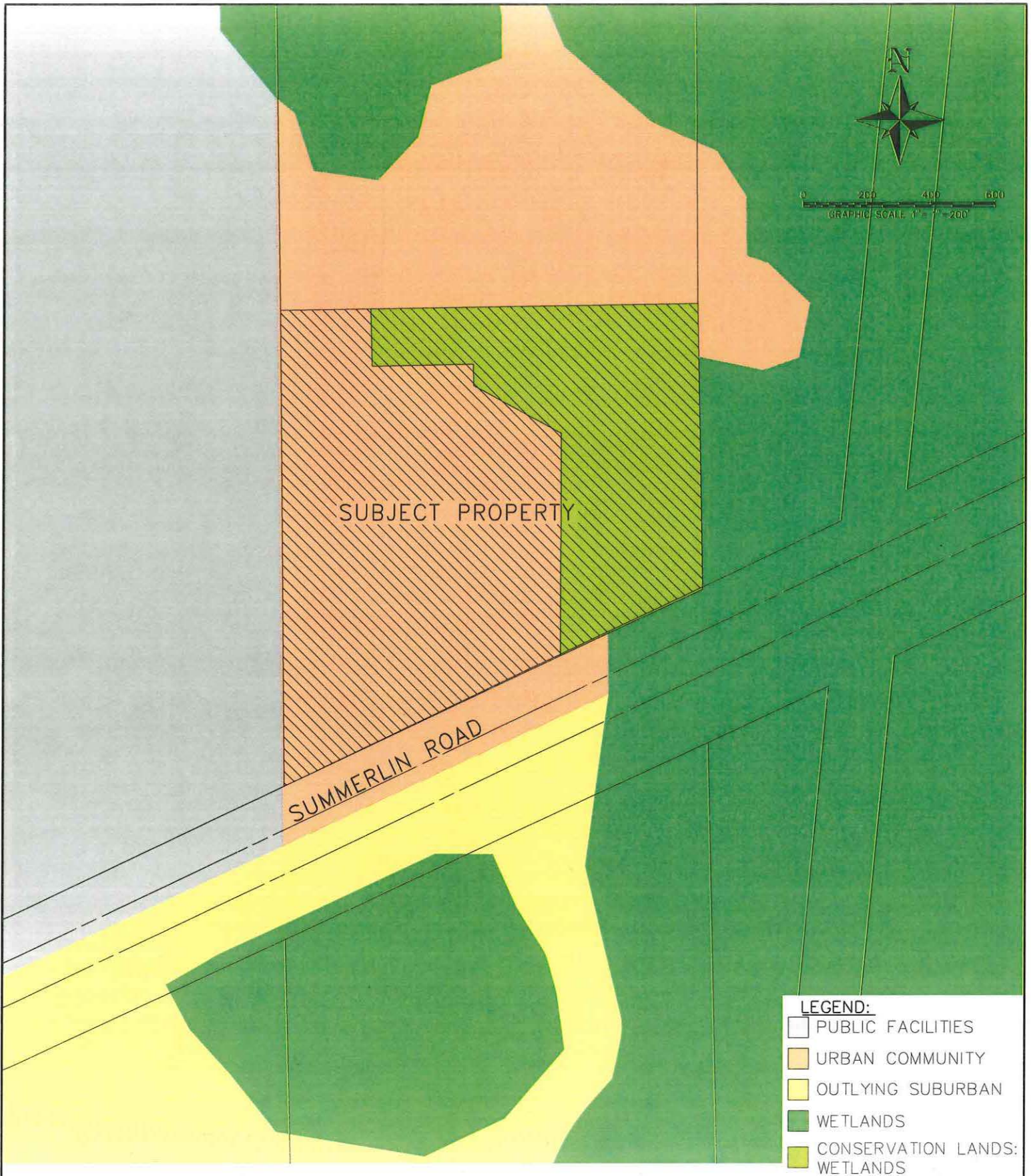
**EXISTING FUTURE LAND USE MAP**

**VICOTT, INC.**

LEE COUNTY, FLORIDA

DATE	PROJECT	DRAWING	DESIGN	DRAWN	CHECKED	SCALE	SHEET	OF	FILE NO. (S-T-R)
09/21/2005	1836	1836_FLU	SDJ	SDJ	JGH	1"=200'	1	1	05-46-24





**LEGEND:**

- PUBLIC FACILITIES
- URBAN COMMUNITY
- OUTLYING SUBURBAN
- WETLANDS
- CONSERVATION LANDS:  
WETLANDS

**Banks Engineering, Inc.**

Professional Engineers, Planners & Land Surveyors

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FORT MYERS, FLORIDA 33912  
PHONE: (239) 939-5490 FAX: (239) 939-2523  
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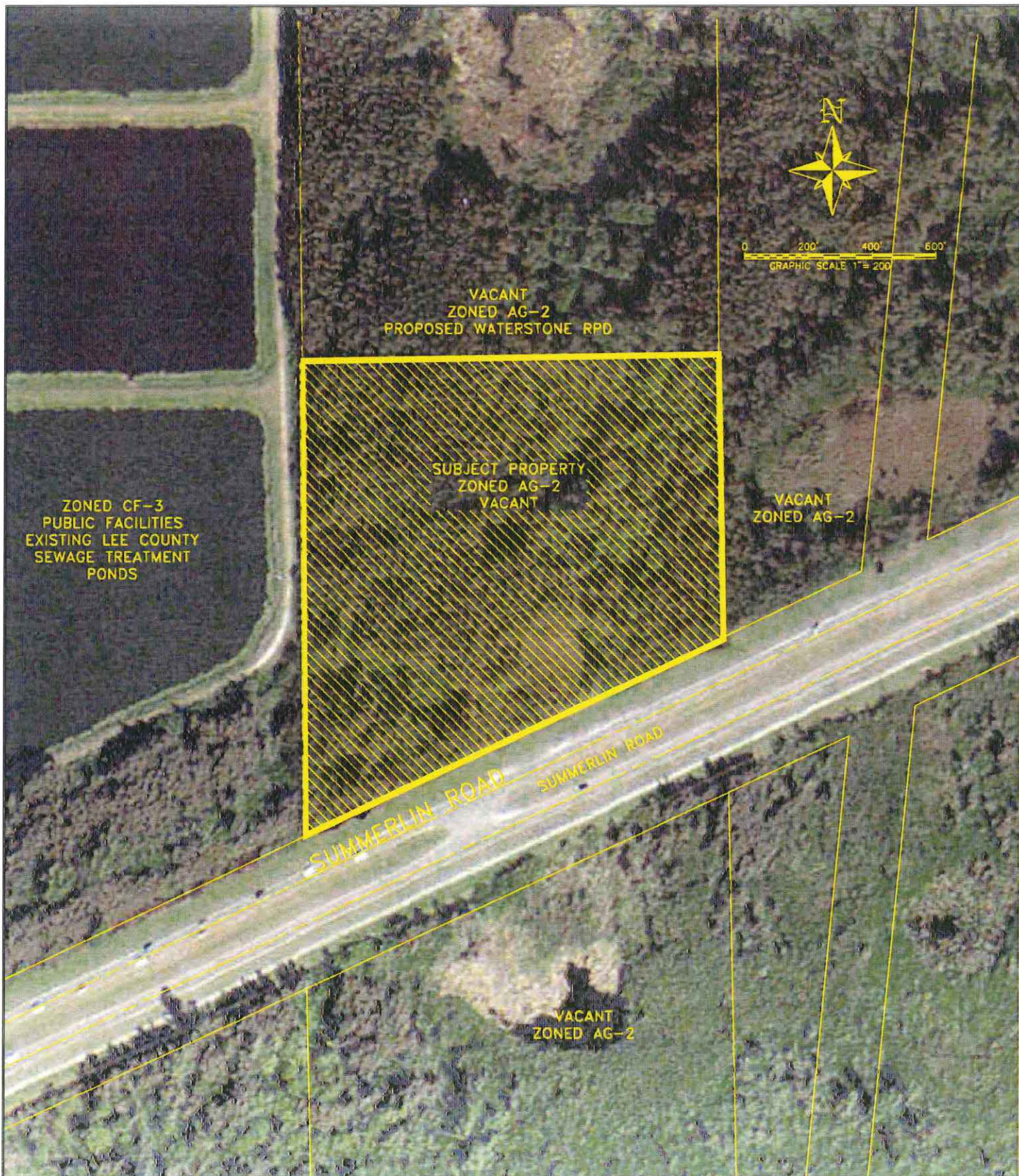
PROPOSED FUTURE LAND USE MAP

**VICOTT, INC.**

LEE COUNTY, FLORIDA

DATE	PROJECT	DRAWING	DESIGN	DRAWN	CHECKED	SCALE	SHEET	OF	FILE NO. (S-T-R)
01/08/07	1836	1836_FLU	SDJ	SDJ	JGH	1"=200'	1	1	05-46-24





**Banks Engineering, Inc.**

Professional Engineers, Planners & Land Surveyors

10511 SIX MILE CYPRESS PARKWAY - SUITE 101  
FORT MYERS, FLORIDA 33912  
PHONE: (239) 939-5490 FAX: (239) 939-2523  
ENGINEERING LICENSE # EB 6469  
SURVEY LICENSE # LB 6690

AERIAL, LAND USE AND ZONING MAP

**VICOTT, INC.**

LEE COUNTY, FLORIDA

DATE	PROJECT	DRAWING	DESIGN	DRAWN	CHECKED	SCALE	SHEET	OF	FILE NO. (S-T-R)
09-22-05	1836	1836_AER	SDJ	SDJ	JGH	1"=200'	1	1	(05-46-24)



# **Banks Engineering**

Professional Engineers, Planners & Land Surveyors  
12653 SW C.R. 769, Suite B  
Lake Suzy, Florida 34269  
(941) 625-1165  
Fax (941) 625-1149

## DESCRIPTION OF A PARCEL LYING IN SECTION 5, T-46-S, R-24-E, LEE COUNTY, FLORIDA

(7.67 ACRES±)

A TRACT OR PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, LYING IN SECTION 5, TOWNSHIP 46 SOUTH, RANGE 24 EAST, BEING A PART OF THE EAST HALF OF THE WEST HALF OF THE SOUTHEAST QUARTER OF SAID SECTION 5, AND BEING FURTHER BOUNDED AND DESCRIBED AS FOLLOWS:


COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 5; THENCE S.89°01'42"W. ALONG THE SOUTH LINE OF SAID SECTION FOR 1319.00 FEET TO THE EAST LINE OF SAID EAST HALF OF THE WEST HALF OF THE SOUTHEAST QUARTER; THENCE N.01°26'45"W. ALONG SAID EAST LINE FOR 974.54 FEET TO AN INTERSECTION WITH THE NORTH RIGHT OF WAY LINE OF SUMMERLIN ROAD, (COUNTY ROAD 869), AND THE **POINT OF BEGINNING**; THENCE CONTINUE N.01°26'45"W., ALONG SAID EAST LINE, FOR 357.68 FEET; THENCE S.88°58'25"W., ALONG THE NORTH LINE OF THE SOUTH HALF OF SAID EAST HALF OF THE WEST HALF OF THE SOUTHEAST QUARTER, FOR 660.47 FEET; THENCE S.01°29'16"E., ALONG THE WEST LINE OF SAID EAST HALF OF THE WEST HALF OF THE SOUTHEAST QUARTER, FOR 654.93 FEET TO AN INTERSECTION WITH SAID NORTH RIGHT OF WAY LINE OF SUMMERLIN ROAD, (COUNTY ROAD 869); THENCE N.64°39'27"E., ALONG SAID NORTH RIGHT OF WAY, FOR 721.85 FEET TO THE **POINT OF BEGINNING**.

SAID PARCEL CONTAINS 334105.20 SQUARE FEET OR 7.67 ACRES MORE OR LESS.

BEARINGS ARE BASED ON THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 5 AS BEARING S.89°01'42"W.

BANKS ENGINEERING,  
FLORIDA LICENSED BUSINESS NO. LB6690

SEPTEMBER 14, 2006

  
KENNETH E. TRASK  
PROFESSIONAL LAND SURVEYOR  
FLORIDA LICENSE NO. LS4684

### SHEET 1 OF 2

**Fort Myers Office**  
10511 Six Mile Cypress  
Pkwy., Suite 101  
Fort Myers, FL  
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Fax (239) 939-2523

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34109  
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**Sarasota Office**  
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Suite # 115  
Sarasota, Florida  
34243  
(941) 360-1618  
Fax (941) 360-6918





E.1/2-W.1/2-S.E. 1/4

EAST 1/2 S.E. 1/4 5-46-24

S 88°58'25" W 660.47'

N. LINE S.1/2-E.1/2-W.1/2-S.E. 1/4

SUBJECT PARCEL  
PART OF  
E.1/2-W.1/2-S.E. 1/4

S 01°29'16" E 654.93'  
W. LINE E.1/2-W.1/2-S.E.1/4

N 01°26'45" W 357.68'

NORTH RIGHT OF WAY LINE

POINT OF BEGINNING

W.1/2-W.1/2-S.E.1/4 5-46-24

SUMMERLIN ROAD - COUNTY ROAD 869  
N 64°39'27" E 721.85'

E.1/2-W.1/2-S.E. 1/4

N.01°26'45" W. 974.54'

POINT OF  
COMMENCEMENT  
S.E. CORNER  
SECTION 5

S.89°01'42" W. 5  
1319.00'

SOUTH LINE SECTION 5

#### LEGEND

LS LAND SURVEYOR  
P.I. POINT OF INTERSECTION

THIS IS NOT A BOUNDARY SURVEY

*Kenneth E. Trask*  
KENNETH E. TRASK  
FLORIDA CERTIFICATE NO. LS4684

THIS IS NOT A BOUNDARY SURVEY

SKETCH TO ACCOMPANY DESCRIPTION

7.67 ACRES±

LYING IN SECTION 5, T-46-S, R-24-E  
LEE COUNTY, FLORIDA

**Banks Engineering**  
Professional Engineers, Planners & Land Surveyors  
FORT MYERS ♦ NAPLES ♦ SARASOTA ♦ PORT CHARLOTTE  
10511 SIX MILE CYPRESS PARKWAY - SUITE 101  
FORT MYERS, FLORIDA 33912  
PHONE: (239) 939-5490 FAX: (239) 939-2523  
ENGINEERING LICENSE # EB 6469  
SURVEY LICENSE # LB 6690

DATE	PROJECT	DRAWING	DESIGN	DRAWN	CHECKED	SCALE	SHEET	FILE NO. (S-T-R)
09-14-2006	1836	1836-SUMRLN-POL-SKT-DESC		BJC	KT	1"=200'	2 OF 2	5-46-24



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Professional Engineers, Planners & Land Surveyors  
12653 SW C.R. 769, Suite B  
Lake Suzy, Florida 34269  
(941) 625-1165  
Fax (941) 625-1149

DESCRIPTION OF AN EASEMENT  
LYING IN SECTION 5, T-46-S, R-24-E,  
LEE COUNTY, FLORIDA

(URBAN COMMUNITY PARCEL)

A TRACT OR PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, LYING IN SECTION 5, TOWNSHIP 46 SOUTH, RANGE 24 EAST, BEING A PORTION OF THE EAST HALF OF THE WEST HALF OF THE SOUTHEAST QUARTER OF SAID SECTION 5 AND BEING FURTHER BOUNDED AND DESCRIBED AS FOLLOWS:

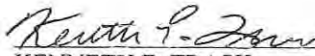
COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 5; THENCE S.89°01'42"W. ALONG THE SOUTH LINE OF SAID SECTION FOR 1319.00 FEET TO AN INTERSECTION WITH THE EAST LINE OF THE WEST HALF OF THE SOUTHEAST QUARTER OF SAID SECTION; THENCE N.01°26'45"W. ALONG SAID FRACTIONAL LINE FOR 974.54 FEET TO AN INTERSECTION WITH THE NORTH RIGHT OF WAY LINE OF SUMMERLIN ROAD, (COUNTY ROAD 869); THENCE S.64°39'27"W. ALONG SAID NORTH RIGHT OF WAY LINE FOR 244.28 FEET TO THE **POINT OF BEGINNING**; THENCE N.00°04'41"E. FOR 348.06 FEET; THENCE N.61°35'24"W. FOR 156.47 FEET; THENCE N.01°01'35"W. FOR 33.37 FEET; THENCE S.88°58'25"W. FOR 310.91 FEET; THENCE S 01°29'16" E, ALONG THE WEST LINE OF SAID EAST HALF OF THE WEST HALF OF THE SOUTHEAST QUARTER, FOR 654.93 FEET TO SAID NORTH RIGHT OF WAY LINE; THENCE N 64°39'27" E, ALONG SAID NORTH RIGHT OF WAY LINE, FOR 477.57 FEET TO THE **POINT OF BEGINNING**.

CONTAINING 236077 SQUARE FEET OR 5.41 ACRES MORE OR LESS.

BEARINGS ARE BASED ON THE SOUTH LINE OF SECTION 5 AS BEARING S.89°01'42"W.

BANKS ENGINEERING,  
FLORIDA LICENSED BUSINESS NO. LB6690

JANUARY 12, 2007

  
KENNETH E. TRASK  
PROFESSIONAL LAND SURVEYOR  
FLORIDA LICENSE NO. LS4684

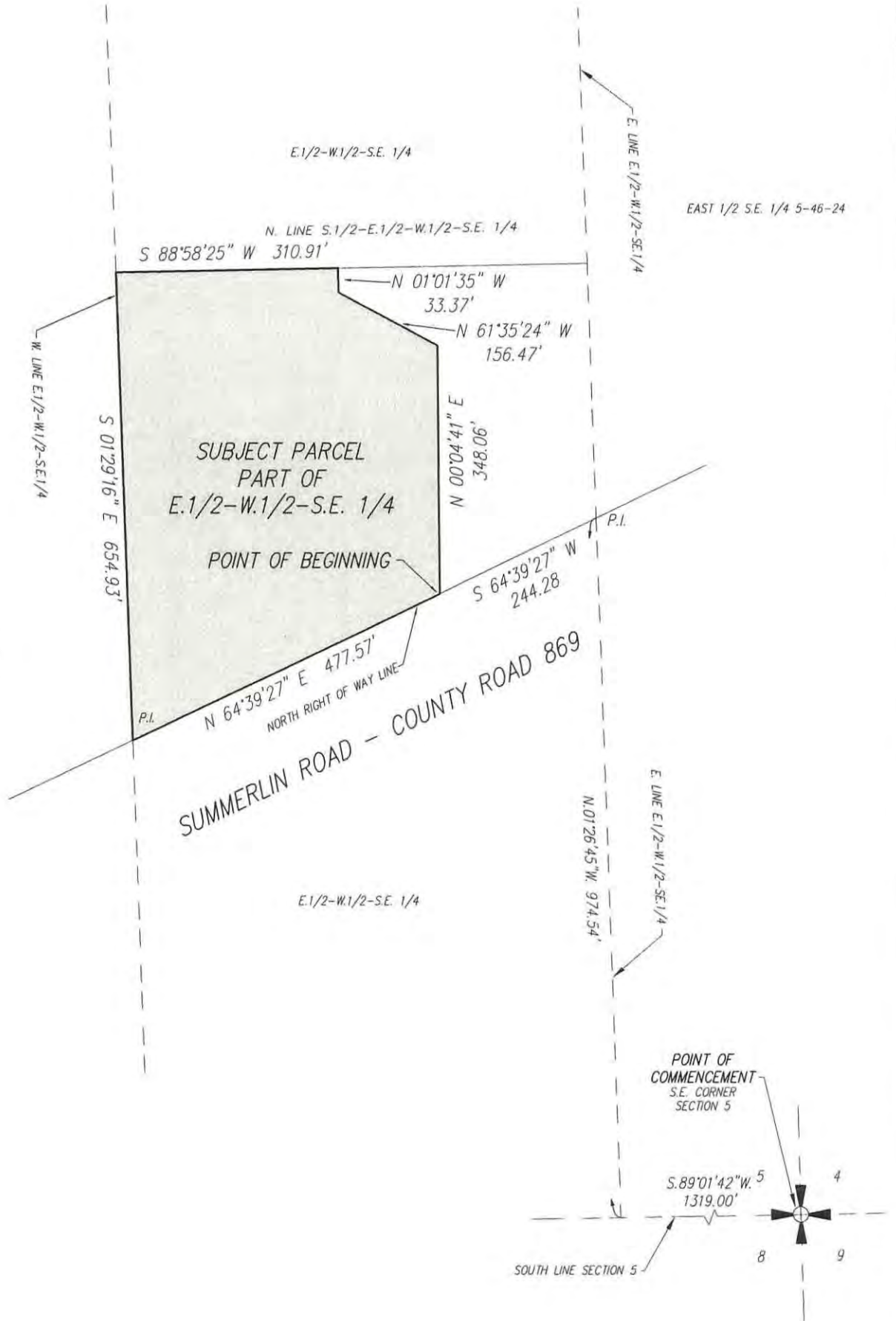
SHEET 1 OF 2

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(941) 360-1618  
Fax (941) 360-6918





LEGEND

LS LAND SURVEYOR  
P.I. POINT OF INTERSECTION

THIS IS NOT A BOUNDARY SURVEY

*Kenneth E. Trask*  
KENNETH E. TRASK  
FLORIDA CERTIFICATE NO. LS4684

THIS IS NOT A BOUNDARY SURVEY

SKETCH TO ACCOMPANY DESCRIPTION

5.41 ACRES±

LYING IN SECTION 5, T-46-S, R-24-E  
LEE COUNTY, FLORIDA

**Banks Engineering**  
Professional Engineers, Planners & Land Surveyors  
FORT MYERS ♦ NAPLES ♦ SARASOTA ♦ PORT CHARLOTTE  
10511 SIX MILE CYPRESS PARKWAY - SUITE 101  
FORT MYERS, FLORIDA 33912  
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ENGINEERING LICENSE # EB 6469  
SURVEY LICENSE # LB 6690

DATE	PROJECT	DRAWING	DESIGN	DRAWN	CHECKED	SCALE	SHEET	FILE NO. (S-T-R)
1-12-2007	1836	1836-D- PCL-SKT		BJC	KT	1"=200'	2 OF 2	5-46-24



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Professional Engineers, Planners & Land Surveyors  
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(941) 625-1165  
Fax (941) 625-1149

DESCRIPTION OF AN EASEMENT  
LYING IN SECTION 5, T-46-S, R-24-E,  
LEE COUNTY, FLORIDA

(CONSERVATION LANDS PARCEL)

A TRACT OR PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, LYING IN SECTION 5, TOWNSHIP 46 SOUTH, RANGE 24 EAST, BEING A PORTION OF THE EAST HALF OF THE WEST HALF OF THE SOUTHEAST QUARTER OF SAID SECTION 5 AND BEING FURTHER BOUNDED AND DESCRIBED AS FOLLOWS:

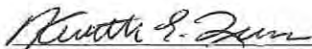
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CONTAINING 98230 SQUARE FEET OR 2.26 ACRES MORE OR LESS.

BEARINGS ARE BASED ON THE SOUTH LINE OF SECTION 5 AS BEARING S.89°01'42"W.

BANKS ENGINEERING,  
FLORIDA LICENSED BUSINESS NO. LB6690

JANUARY 12, 2007

  
KENNETH E. TRASK  
PROFESSIONAL LAND SURVEYOR  
FLORIDA LICENSE NO. LS4684

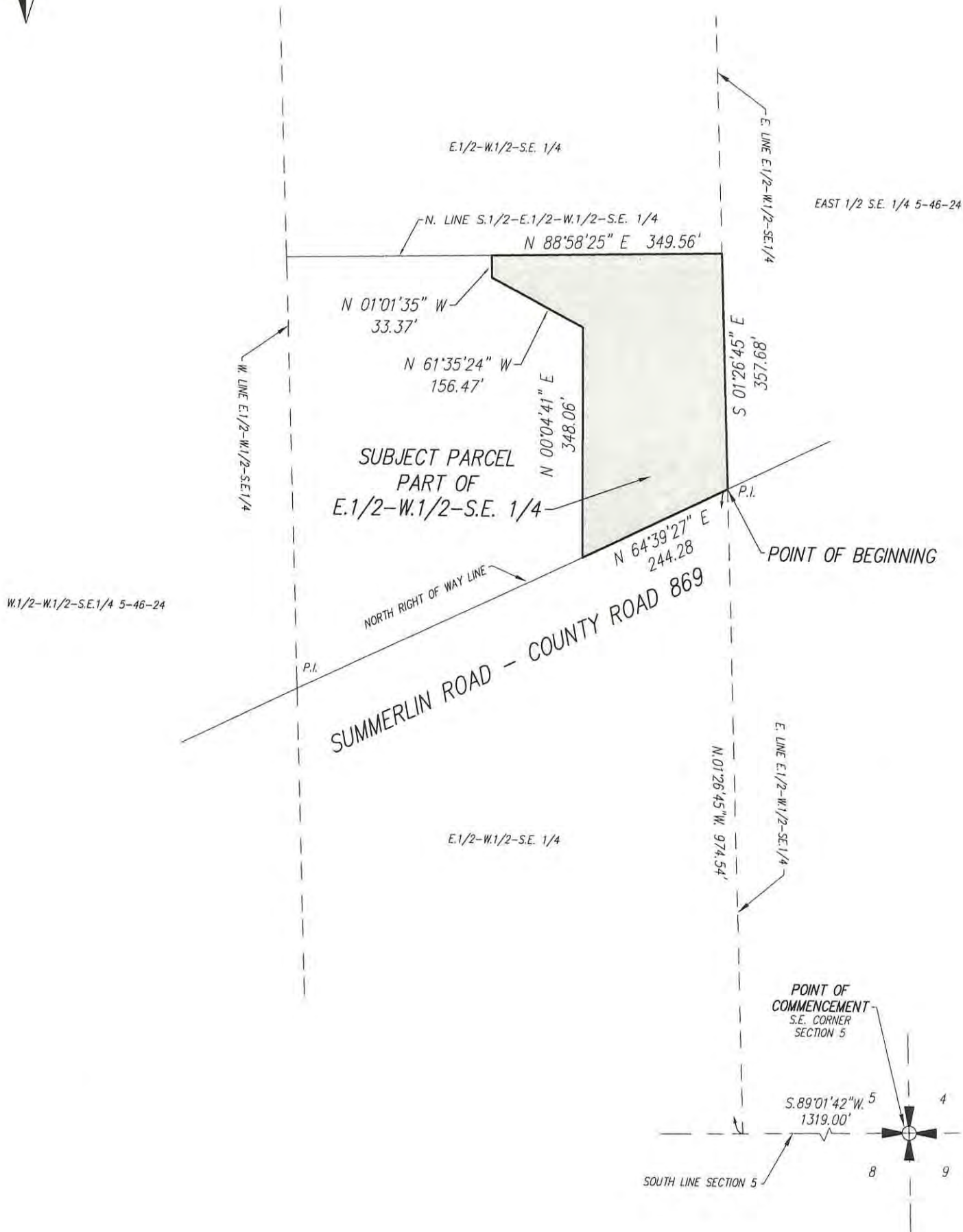
SHEET 1 OF 2

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Fax (941) 360-6918





LEGEND

LS LAND SURVEYOR  
P.I. POINT OF INTERSECTION

THIS IS NOT A BOUNDARY SURVEY

*Kenneth E. Trask*  
KENNETH E. TRASK  
FLORIDA CERTIFICATE NO. LS4684

THIS IS NOT A BOUNDARY SURVEY

SKETCH TO ACCOMPANY DESCRIPTION

2.26 ACRES±

LYING IN SECTION 5, T-46-S, R-24-E  
LEE COUNTY, FLORIDA

**Hanks Engineering**  
Professional Engineers, Planners & Land Surveyors  
FORT MYERS ♦ NAPLES ♦ SARASOTA ♦ PORT CHARLOTTE  
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ENGINEERING LICENSE # EB 6469  
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DATE	PROJECT	DRAWING	DESIGN	DRAWN	CHECKED	SCALE	SHEET	FILE NO. (S-T-R)
1-12-2007	1836	1836-02- P2-SK1		BUC	KT	1"=200'	2 OF 2	5-46-24





Prepared by and return to:  
George L. Consoer, Jr., Esq.  
Knott, Consoer, Ebelini, Hart & Swett, P.A.  
1625 Hendry Street Suite 300  
Fort Myers, FL 33901  
239-334-2722  
File Number: Maul Swor  
Will Call No.: 94

INSTR # 5929465  
Official Records BK 04025 PG 4121  
RECORDED 08/13/2003 04:26:18 PM  
CHARLIE GREEN, CLERK OF COURT  
LEE COUNTY  
RECORDING FEE 6.00  
DEED DOC 3,325.00  
DEPUTY CLERK L Parent

Parcel Identification No. 05-46-24-00-00003.0010

[Space Above This Line For Recording Data]

## Warranty Deed

(STATUTORY FORM - SECTION 689.02, F.S.)

This Indenture made this 12th day of August, 2003 between David W. Swor, individually, and as Trustee whose post office address is 6000 Forest Boulevard, Fort Myers, FL 33908 of the County of Lee, State of Florida, grantor\*, and Vicott, Inc., a Florida corporation whose post office address is 1325 SE 47th Street, Suite G, Cape Coral, FL 33904 of the County of Lee, State of Florida, grantee\*,

Witnesseth, that said grantor, for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable considerations to said grantor in hand paid by said grantee, the receipt whereof is hereby acknowledged, has granted, bargained, and sold to the said grantee, and grantee's heirs and assigns forever, the following described land, situate, lying and being in Lee County, Florida, to-wit:

The East one-half (E1/2) of the Northwest 1/4 of the Southeast 1/4 of Section 5, Township 46 South, Range 24 East and the East one-half (E1/2) of the Southwest 1/4 of the Southeast 1/4 of Section 5, Township 46 South, Range 24 East North of Summerlin Road a/k/a County Road 869 Lee County, Florida.

Grantor warrants that at the time of this conveyance, the subject property is not the Grantor's homestead within the meaning set forth in the constitution of the state of Florida, nor is it contiguous to or a part of homestead property. Grantor's residence and homestead address is: 6000 Forest Boulevard, Fort Myers, FL 33908.

and said grantor does hereby fully warrant the title to said land, and will defend the same against lawful claims of all persons whomsoever.

\* "Grantor" and "Grantee" are used for singular or plural, as context requires.

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

Signed, sealed and delivered in our presence:

Donnie Fice  
Witness Name: Donnie Fice

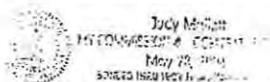
David W. Swor (Seal)  
David W. Swor, individually and as Trustee

W. R. Scanlon  
Witness Name: W. R. Scanlon

State of Florida  
County of Lee

The foregoing instrument was acknowledged before me this 12th day of August, 2003 by David W. Swor, who ☐ is personally known or ☒ has produced a driver's license as identification.

[Notary Seal]



Judy Mallett  
Notary Public  
Printed Name: Judy Mallett  
My Commission Expires: 5/28/04



This Instrument Prepared by  
and Return to:  
George L. Consoer, Jr.  
Knott, Consoer, Ebelini,  
Hart & Swett, P.A.  
1625 Hendry Street, Suite 301  
Fort Myers, FL 33901  
239/334-2722  
Folio Nos: 05-46-24-00-00003.0020;  
05-46-24-00-00003.0010

**SPECIAL WARRANTY DEED**

THIS INDENTURE made this 5 day of April, 2006, between Vicott, Inc., a Florida Corporation, herein referred to as Grantor, whose mailing address is 10950 Old South Way, Fort Myers, Florida 33908, and Sunset Falls, LLC, a Florida Limited Liability Company, herein referred to as Grantee, whose mailing address is 8045 NW 155<sup>th</sup> Street, Miami Lakes, Florida 33016.

**WITNESSETH:**

That said Grantor, for and in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable considerations to said Grantor in hand paid by said Grantee, the receipt whereof is hereby acknowledged, has granted, bargained and sold to the said Grantee, and Grantee's successors and assigns forever, the following described land situate, lying and being in Lee County, Florida, to wit:

LEGAL DESCRIPTION: Attached as Exhibit "A"

**THIS CONVEYANCE IS SUBJECT TO**

1. Taxes for the current and subsequent years.
2. Conditions, easements and restrictions of record.
3. Zoning ordinances and other restrictions and prohibitions imposed by applicable governmental authorities.

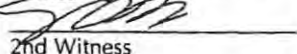
Grantor does hereby covenant with Grantee that the Grantor is lawfully seized of said land in fee simple; that the Grantor has good right and lawful authority to sell and convey said land and will warrant the title and defend the same against the lawful claims and demands of all persons claiming by, through or under him, but against none other.

IN WITNESS WHEREOF, Grantor has hereunto set Grantor's hand and seal the day and year first above written.

Signed, sealed and delivered  
in the presence of:

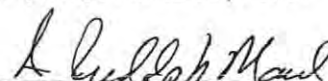
  
1st Witness

Summer M.O. Johnson  
Printed Name

  
2nd Witness

Eric M. Bonga  
Printed Name

VICOTT, INC., a Florida Corporation

By:   
A. Rudolph Maul, Manager

STATE OF FLORIDA )  
COUNTY OF LEE )

The foregoing instrument was acknowledged before me on this 5<sup>th</sup> day of April, 2006, by A. Rudolph Maul, President of Vicott, Inc. He is personally known to me or who has produced \_\_\_\_\_, as identification.

My Commission Expires:



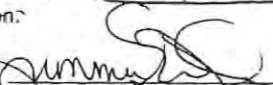
  
Notary Public  
Summer M.O. Johnson  
Printed Name



EXHIBIT "A"  
VICOTT, INC.

PARCEL A:

THE EAST ONE-HALF OF THE NORTHWEST  $\frac{1}{4}$  OF THE SOUTHEAST  $\frac{1}{4}$  OF SECTION 5, TOWNSHIP 46 SOUTH, RANGE 24 EAST AND THE EAST ONE-HALF (E  $\frac{1}{2}$ ) OF THE SOUTHWEST  $\frac{1}{4}$  OF THE SOUTHEAST  $\frac{1}{4}$  OF SECTION 5, TOWNSHIP 46 SOUTH, RANGE 24 EAST NORTH OF SUMMERLIN ROAD A/K/A COUNTY ROAD 869 LEE COUNTY, FLORIDA.

LESS:

A TRACT OR PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, LYING IN SECTION 5, TOWNSHIP 46 SOUTH, RANGE 24 EAST, BEING FURTHER BOUNDED AND DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 5; THENCE S.89°01'42"W., ALONG THE SOUTH LINE OF SAID SECTION 5, FOR 1319.00 FEET; THENCE N.01°26'45"W., FOR 974.54 FEET TO THE NORTHERLY RIGHT OF WAY LINE OF SUMMERLIN ROAD (COUNTY ROAD 869); THENCE S.64°39'27"W., ALONG SAID NORTHERLY RIGHT OF WAY LINE, FOR 244.30 FEET TO THE POINT OF BEGINNING; THENCE N.00°04'41"E., FOR 348.06 FEET; THENCE N.61°35'24"W., FOR 156.47 FEET; THENCE N.01°01'35"W., FOR 33.37 FEET; THENCE S.88°47'59"W., FOR 159.92 FEET; THENCE S.88°30'44"W., FOR 47.37 FEET TO A POINT ON A CURVE TO THE RIGHT, HAVING: A RADIUS OF 212.00 FEET, A CENTRAL ANGLE OF 07°38'23", A CHORD BEARING OF S.05°18'28"E., AND A CHORD LENGTH OF 28.25 FEET; THENCE ALONG THE ARC OF SAID CURVE, AN ARC LENGTH OF 28.27 FEET TO THE POINT OF TANGENCY OF SAID CURVE; THENCE S.01°29'16"E., FOR 578.40 FEET TO SAID NORTHERLY RIGHT OF WAY LINE; THENCE N.64°39'27"E., ALONG SAID RIGHT OF WAY LINE FOR 362.21 FEET TO THE POINT OF BEGINNING.



## LETTER OF AUTHORIZATION

The undersigned do hereby swear or affirm that they are the fee simple title-holders and owners of record of property commonly known as Vicott, Inc. and legally described in exhibit "A" attached hereto.

STRAP #'s: 05-46-24-00-00003.0030

The property described herein is the subject of an application for zoning or development. We hereby designate Banks Engineering as the legal representative of the property and as such, this individual is authorized to legally bind all owners of the property in the course of seeking the necessary approvals to develop. This authority includes but is not limited to the hiring and authorizing of agents to assist in the preparation of applications, plans, surveys, and studies necessary to obtain zoning and development on the site. This representative will remain the only entity to authorize development activity on the property until such time as a new or amended authorization is delivered to Lee County.

Company: Vicott, Inc.

By: A. Rudolph Maul

Signature

*A. Rudolph Maul*

STATE OF FLORIDA

COUNTY OF Lee

The foregoing instrument was sworn (or affirmed) and subscribed before me 8 day of September, 20 06

by Anthony Rudolph Maul as President  
of Vicott, Inc.

on behalf of the corporation. He / she is personally known to me or has produced Drivers License  
as identification.

*Regina Bell*  
Notary Signature

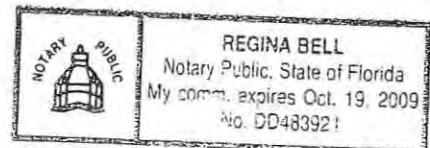




EXHIBIT II - D

LETTER OF AUTHORIZATION

The undersigned do hereby swear or affirm that they are the fee simple title-holders and owners of record of property commonly known as Sunset Falls, LLC and legally described in exhibit "A" attached hereto.

STRAP #'s: 05-46-24-00-00003.0020

The property described herein is the subject of an application for zoning or development. We hereby designate Banks Engineering as the legal representative of the property and as such, this individual is authorized to legally bind all owners of the property in the course of seeking the necessary approvals to develop. This authority includes but is not limited to the hiring and authorizing of agents to assist in the preparation of applications, plans, surveys, and studies necessary to obtain zoning and development on the site. This representative will remain the only entity to authorize development activity on the property until such time as a new or amended authorization is delivered to Lee County.

Company: Sunset Falls, LLC

By: Eddy Garcia

Eddy Garcia  
Signature

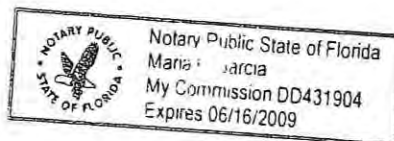
STATE OF FLORIDA

COUNTY OF Dade

The foregoing instrument was sworn (or affirmed) and subscribed before me 14th day of September, 2006

by Eddy Garcia as manager  
of Sunset Falls, LLC

on behalf of the corporation. ☒ He ☐ she is personally known to me or has produced personally known  
as identification.



Maria Garcia  
Notary Signature



**VICOTT, INC.**  
**SMALL SCALE COMPREHENSIVE PLAN AMENDMENT**  
**AMENDMENT SUPPORT DOCUMENTATION**

**B. PUBLIC FACILITIES IMPACTS:**

**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).

*Please see attached Memorandum from TR Transportation Consultants, Inc. dated January 4, 2007.*

*Summerlin Road is currently being widened to six-lanes from San Carlos Boulevard to Gladiolus Drive by the Lee County D.O.T. The proposed access point to the proposed development will be a shared access point with the residential subdivision that is proposed to the north of the subject property. As part of the rezoning for the residential subdivision, the applicant is proposing to relocate the designed Summerlin Road controlled access point 140' ± to the north. The relocated access point is being coordinated with Lee County DOT and will need approval by the Board of County Commissioners as part of the rezoning request. Attached please find a copy of a memo with attachments from Lee County DOT dated September 7, 2006 which states that they have no objection to the request and a copy of the grant of access easement.*

**2a. Provide an existing and future conditions analysis for Sanitary Sewer.**

*Lee County Utilities maintains service in this area through the Fort Myers Beach Wastewater Treatment Plant.*

Policy 56.1.2 of the Lee Plan has established that "the minimum acceptable level-of-service standards for sanitary sewer connections to Lee County Utilities shall be available basic facility capacity to treat and dispose of a volume of wastewater equal to 200 gallons per day per equivalent residential connection (ERC) for the peak month..."

*According to the June 2006 Concurrency Management report, the Fort Myers Beach Wastewater Treatment Plant has a design capacity of 6 million gallons per day and a projected flow for 2007 of 4,632,000 gallons per day. The maximum development potential for the proposed land use change would generate between 5,410 and 8,115 GPD wastewater. The proposed amendment will not have a detrimental effect on the sanitary sewer facilities.*

**2b. Provide an existing and future conditions analysis for Potable Water.**



*Lee County Utilities maintains service for this area through the Corkscrew Water Treatment Plant.*

Policy 53.1.2 of the Lee Plan has established that “the minimum acceptable level-of-service standards for potable water connections to Lee County Utilities shall be available supply and treatment capacity of 250 gallons per day per equivalent residential connection (ERC) for the peak month...”

*According to the June 2006 Concurrency Management report, the Corkscrew Water Treatment Plant has a design capacity of 15 million gallons per day and a projected flow for 2007 of 10,500,000 gallons per day. The maximum development potential for the proposed land use change would generate between 5,410 and 8,115 GPD potable water. The proposed amendment will not have a detrimental effect on the potable water facilities.*

2c. Provide an existing and future conditions analysis for Surface Water/Drainage Basins.

*The subject property is located in the Deep Lagoon Watershed #43 as indicated in the Lee County Surface Water Management Master Plan. Any development will be in compliance with South Florida Water Management District and the Lee County Development Code with regard to surface water management. The project has been permitted under South Florida Water Management District permit number 36-05751-P. A copy of the permit is attached. The eastern 222+/- feet of the subject property is within a SFWMD Conservation Easement and is proposed for Conservation Lands:Wetlands Land Use designation.*

Lee County Policy 60.3.1-D of the Lee Plan has established level-of-service standards for the private and public development as follows:

Surface water management systems in new private and public developments (excluding widening of existing roads) must be designed to SFWMD standards (to detain or retain excess stormwater to match the predevelopment discharge rate for the 25-year, 3-day storm event [rainfall]). Stormwater discharges from development must meet relevant water quality and surface water management standards as set forth in Chapters 17-3, 17-40, and 17-302, and rule 40E-4, F.A.C. New developments must be designed to avoid increased flooding of surrounding areas. Development must be designed to minimize increases of discharge to public water management infrastructure (or to evapotranspiration) that exceed historic rates, to approximate the natural surface water systems in terms of rate, hydroperiod, basin and quality, and to eliminate the disruption of wetlands and flow-ways, whose preservation is deemed in the public interest. (Amended by Ordinance No. 92-35, 94-29, 00-22)



*The June 2006 Concurrency Management report states on page 3 that "All new developments that receive approval from the South Florida Water Management District and which comply with standards in Chapters 17-3, 17-40, and 17-302 of the Florida Statutes, and Rule 40E-4 of the Florida Administrative Code are deemed Concurrent with the Level of Service standards set forth in THE LEE PLAN."*

- 2d. Provide an existing and future conditions analysis for Parks, Recreation, and Open Space.

*The Iona-McGregor Planning Community including the area surrounding the site has access to existing parks and recreational facilities. The area will have parks and recreation facilities available at Lakes Regional and San Carlos Parks and has access to mass transit and bicycle facilities. Open space will be provided per Lee County requirements and evaluated at the time of rezoning. The proposed amendment will have negligible impact to the parks, recreation and open space facilities.*

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; d) Solid Waste; e) Mass Transit; and f) Schools.

*Please see attached letters.*



MEMORANDUM

TO: Ms. Stacy Hewitt  
Banks Engineering, Inc.

FROM: David L. Wheeler, E.I.  
Transportation Consultant

Ted B. Treesh  
President

DATE: January 4, 2007

RE: Vicott Small Scale Comprehensive Plan Amendment  
Traffic Circulation Analysis  
Lee County, Florida

TR Transportation Consultants, Inc. has completed a traffic circulation analysis for the Vicott property pursuant to the requirements outlined in the application document for Comprehensive Plan Amendment requests. This analysis will determine the impacts of the requested land use change from Industrial Development and Wetlands to Urban Community and Conservation Lands – Wetlands. The approximately 7.67-acre site is located on the north side of Summerlin Road approximately two thirds of a mile east of its intersection with Pine Ridge Road in Lee County, Florida.

The transportation related impacts of the proposed Comprehensive Plan Amendment were evaluated pursuant to the criteria in the application document. This included an evaluation of the long range impact (20-year horizon) and short range impact (5-year horizon) the proposed amendment would have on the existing and future roadway infrastructure.

The proposed Map Amendment would change the future land use designation on the subject site from Industrial Development and Wetlands to Urban Community and Conservation Lands – Wetlands. Based on the existing land use designations (Industrial Development and Wetlands) the subject site could be developed with up to approximately 64,920 square feet of industrial uses and up to approximately 6,492 square feet of commercial uses. Based on the proposed land use designations (Urban Community and Conservation Lands – Wetlands) the subject site could be developed with up to approximately 54,100 square feet of commercial uses. It should be noted that no



residential development would be permitted on the subject site either before or after the proposed land use designation change due to existing deed restrictions. **Table 1** highlights the intensity of uses that could be constructed under the existing land use designations and the intensity of uses under the proposed land use designations.

**Table 1  
Land Uses  
Vicott Parcel**

Land Use Category	Intensity
Existing Land Uses	6,492 sq. ft. of Retail
	64,920 sq. ft. of Industrial
Proposed Land Uses	54,100 sq. ft. of Retail
	0 sq. ft. of Industrial

The trip generation for the site was determined by referencing the Institute of Transportation Engineer's (ITE) report, titled *Trip Generation*, 7th Edition. Land Use Code 820 (Shopping Center) was utilized for the trip generation purposes of the retail portion of the proposed development. Land Use Code 110 (General Light Industrial) was utilized for the trip generation purposes of the industrial portion of the proposed development. **Table 2** indicates the potential trip generation of the Vicott Parcel based on the existing land use designations (Industrial Development and Wetlands).

**Table 2  
Trip Generation  
Existing Land Use Designations  
Vicott Parcel**

Land Use	A.M. Peak Hour			P.M. Peak Hour			Daily (2-way)
	In	Out	Total	In	Out	Total	
Shopping Center (6,492 square feet)	20	10	30	50	55	105	1,150
General Light Industrial (64,920 square feet)	55	5	60	10	55	65	450
<b>Total Trips</b>	<b>75</b>	<b>15</b>	<b>90</b>	<b>60</b>	<b>110</b>	<b>170</b>	<b>1,600</b>

**Table 3** indicates the potential trip generation of the Vicott Parcel based on the proposed land use designations (Urban Community and Conservation Lands – Wetlands).



**Table 3**  
**Trip Generation**  
**Proposed Land Use Designations**  
**Vicott Parcel**

Land Use	A.M. Peak Hour			P.M. Peak Hour			Daily (2-way)
	In	Out	Total	In	Out	Total	
Shopping Center (54,100 square feet)	65	45	110	200	215	415	4,555

**Table 4** indicates the trip generation difference between the proposed and existing land use designations.

**Table 4**  
**Trip Generation**  
**Vicott Parcel**

Land Use	A.M. Peak Hour			P.M. Peak Hour			Daily (2-way)
	In	Out	Total	In	Out	Total	
Proposed Land Use Designations (54,100 s.f. retail)	65	45	110	200	215	415	4,555
Existing Land Use Designations (6,492 s.f. retail/64,920 s.f. industrial)	-75	-15	-90	-60	-110	-170	-1,600
<b>Resultant Trip Change</b>	<b>-10</b>	<b>30</b>	<b>20</b>	<b>140</b>	<b>105</b>	<b>245</b>	<b>2,955</b>

**Long Range Impacts (20-year horizon)**

The Lee County Metropolitan Planning Organization's (MPO) 2030 Long Range Transportation Plan was reviewed to determine if any future roadway improvements were planned in the vicinity of the subject site. Based on the review there are no roadway improvements programmed for Summerlin Road in the vicinity of the subject site.

The Lee County Metropolitan Planning Organization's (MPO) long range transportation travel model was also reviewed in order to determine the impacts the amendment would have on the surrounding area. The subject site lies within Traffic Analysis Zone (TAZ) 794. The model has both productions and attractions included in this zone. The productions include both single-family homes and multi-family units. The attractions include industrial employment, commercial employment, and service employment. **Table 5** identifies the land uses currently contained in the long range travel model utilized by the MPO and Lee County for the Long Range Transportation Analysis.



**Table 5  
TAZ 794**

**Land Uses in Existing Travel Model (2030)**

<b>Land Use Category</b>	<b>Intensity</b>
Single Family Homes	94 dwelling units
Multi-Family Homes	90 dwelling units
Industrial Employment	26 employees
Commercial Employment	162 employees
Service Employment	156 employees

The proposed small scale map amendment would decrease the overall employment potential of the subject site from approximately 156 employees to approximately 133 employees. Based on the employment data currently contained within TAZ 794, no modifications will be warranted due to the proposed change in land use designation. Therefore, as there is sufficient employment already accounted for in TAZ 794, it is not anticipated that the proposed map amendment will have any effect on the long range transportation plan as currently adopted by the Lee County MPO.

**Short Range Impacts (5-year horizon)**

The 2006/2007-2010/2011 Lee County Transportation Capital Improvement Plan and the 2007-2011 Florida Department of Transportation Adopted Work Program were reviewed to determine the short term impacts the proposed land use change would have on the surrounding roadways. Based on this review there are no programmed improvements in the vicinity of the subject site.

The proposed map amendment will increase the overall trip generation of the subject site by approximately 20 vehicles during the A.M. peak hour and approximately 245 vehicles during the P.M. peak hour. Table 1A and 2A attached to this report indicate the future Level of Service on Summerlin Road based on the uses that would be permitted under the proposed land use designations. Based on this analysis, no modifications will be necessary to the Lee County or FDOT short term capital improvement program.

**Conclusion**

The proposed Comprehensive Plan Amendment is to modify the future land use designation on the subject site from Industrial Development and Wetlands to Urban Community and Conservation Lands – Wetlands. The approximately 7.67-acre site is located on the north side of Summerlin Road approximately two thirds of a mile east of its intersection with Pine Ridge Road in Lee County, Florida. Based on the analysis, no modifications are necessary to the Short Term or the Long Range Transportation plan to support the proposed Comprehensive Plan Amendment. In addition, no modifications to the socio-economic data forecasts are necessary as a result of this amendment as there is sufficient employment already accounted for in TAZ 794. Site specific road improvements such as turn lanes, traffic control devices, etc. will be further evaluated at the re-zoning and Development Order stages as the property is developed. The project



will proceed through the zoning and Development Order process and be subject to the Concurrency Management System requirements in effect at the time of this process.



**TABLE 1A**  
**PEAK DIRECTION**  
**PROJECT TRAFFIC VS. 10% LOS C LINK VOLUMES**

TOTAL AM PEAK HOUR PROJECT TRAFFIC = 110 VPH      IN= 65      OUT= 45  
TOTAL PM PEAK HOUR PROJECT TRAFFIC = 415 VPH      IN= 200      OUT= 215

								PERCENT		
		ROADWAY	LOS A	LOS B	LOS C	LOS D	LOS E	PROJECT	PROJECT	PROJ/
<u>ROADWAY</u>	<u>SEGMENT</u>	<u>CLASS</u>	<u>VOLUME</u>	<u>VOLUME</u>	<u>VOLUME</u>	<u>VOLUME</u>	<u>VOLUME</u>	<u>TRAFFIC</u>	<u>TRAFFIC</u>	<u>LOS C</u>
Summerlin Rd.	E. of Pine Ridge Rd.	4LD	270	1,620	1,970	2,030	2,030	40%	86	4.4%
	E. of Site	4LD	270	1,620	1,970	2,030	2,030	60%	129	6.5%

\* Level of Service Thresholds obtained from Lee County Generalized Peak Hour Directional Service Volumes



**TABLE 2A  
LEE COUNTY TRAFFIC COUNTS AND CALCULATIONS**

TOTAL PROJECT TRAFFIC AM = 110 VPH IN = 65 OUT = 45  
 TOTAL PROJECT TRAFFIC PM = 415 VPH IN = 200 OUT = 215

<u>ROADWAY</u>	<u>SEGMENT</u>	<u>PCS</u>	<u>ADT</u>	<u>ADT</u>	<u>GROWTH</u>	<u>RATE</u>	2006	2011	<u>PERCENT</u>	<u>AM PROJ</u>	<u>PM PROJ</u>	2011	2011
							PK HR	PK HR				BCKGRND	BCKGRND
							PEAK DIR.	PEAK DIR. <sup>2</sup>				+ AM PROJ	+ PM PROJ
Summerlin Rd.	E. of Pine Ridge Rd.	1	28,900	32,400	9	1.28%	1,256	1,338	40%	26	86	1,364	1,424
	E. of Site	1	28,900	32,400	9	1.28%	1,256	1,338	60%	39	129	1,377	1,467

\* The 2006 Peak Hour, Peak Season, Peak Direction Traffic Volume was obtained from the 2005/2006-2006/2007 Lee County Concurrency Management Inventory and Projections Report, dated June 2006

**100TH HIGHEST HOUR LOS ANALYSIS**

	2011	2011	2011
	BCKGRND	BCKGRND	BCKGRND
	TRAFFIC	+ AM PROJ	+ PM PROJ
	<u>LOS</u>	<u>LOS</u>	<u>LOS</u>
Summerlin Rd. E. of Pine Ridge Rd.	B	B	B
E. of Site	B	B	B



ZDATA

Existing 2030 Model Data for TAZ 794

ZDATA1:

1	794	94	45	27	147	17	37	46	90	0	0	144	8	71	21	0	99	0
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ZDATA2:

2	2	794	26	162	156	344	0	0	0
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**Lee County**  
**Generalized Peak Hour Directional Service Volumes**  
**Urbanized Areas**

Sept., 2005

c:\input2

Uninterrupted Flow Highway						
Level of Service						
Lane	Divided	A	B	C	D	E
1	Undivided	100	360	710	1,000	1,270
2	Divided	1,060	1,720	2,480	3,210	3,650
3	Divided	1,590	2,580	3,720	4,820	5,480

Arterials						
Class I (>0.00 to 1.99 signalized intersections per mile)						
Level of Service						
Lane	Divided	A	B	C	D	E
1	Undivided	*	290	760	900	920
2	Divided	450	1,630	1,900	1,950	1,950
3	Divided	670	2,490	2,850	2,920	2,920
4	Divided	890	3,220	3,610	3,700	3,700

Class II (>2.00 to 4.50 signalized intersections per mile)						
Level of Service						
Lane	Divided	A	B	C	D	E
1	Undivided	*	210	660	850	900
2	Divided	*	490	1,460	1,790	1,890
3	Divided	*	760	2,240	2,700	2,830
4	Divided	*	1,000	2,970	3,500	3,670

Class III (more than 4.50 signalized intersections per mile)						
Level of Service						
Lane	Divided	A	B	C	D	E
1	Undivided	*	*	370	720	850
2	Divided	*	*	870	1,640	1,790
3	Divided	*	*	1,340	2,510	2,690
4	Divided	*	*	1,770	3,270	3,480

Controlled Access Facilities						
Level of Service						
Lane	Divided	A	B	C	D	E
1	Undivided	120	740	930	960	960
2	Divided	270	1,620	1,970	2,030	2,030
3	Divided	410	2,490	2,960	3,040	3,040

Collectors						
Level of Service						
Lane	Divided	A	B	C	D	E
1	Undivided	*	*	530	800	850
1	Divided	*	*	560	840	900
2	Undivided	*	*	1,180	1,620	1,720
2	Divided	*	*	1,240	1,710	1,800

Note: the service volumes for I-75 (freeway) should be from FDOT's most current version of LOS Handbook.



# TRIP GENERATION EQUATIONS

## VICOTT PARCEL – COMPREHENSIVE PLAN AMENDMENT ITE TRIP GENERATION REPORT, 7<sup>th</sup> EDITION

Land Use	Weekday AM Peak Hour	Weekday PM Peak Hour	Weekday
Shopping Center (LUC 820)	$\ln(T) = 0.60 \ln(X) + 2.29$ (61% In/39% Out)	$\ln(T) = 0.66 \ln(X) + 3.40$ (48% In/52% Out)	$\ln(T) = 0.65 \ln(X) + 5.83$
T = Number of Trips, X = 1000's of Square Feet GLA			
General Light Industrial (LUC 110)	$T = 0.92 (X)$ (88% In/12% Out)	$T = 0.98 (X)$ (12% In/88% Out)	$T = 6.97 (X)$
T = Number of Trips, X = 1000's of Square Feet GLA			

NOTE: The trip generation rates were utilized for LUC 110 due to the size of the proposed development.





## 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 additional changes for maximum development potential under the new land use for a proposed use of 54,100 square feet of buildings or a maximum of 32 dwelling units for the parcel with the Strap # 05-46-24-00-00003.0020 & 05-46-24-00-00003.0030. The proposed commercial and office uses at this parcel have to be in compliance with the Lee County Development Code.

This statement does not indicate that any plans have been received, it just identifies that Lee County EMS has no concerns with the requested change from Industrial Development to Urban Community for the Vicott, Inc. Small Scale Comprehensive Plan Amendment on the north side of Summerlin Road, west of HealthPark, between Pine Ridge Road and Bass Road, Fort Myers, Florida.

A handwritten signature of Kim Dickerson in black ink, written over a horizontal line.

(Signature)

A handwritten title "EMS Operations Chief" in black ink, written over a horizontal line.

(Title)

A handwritten printed name "Kim Dickerson" in black ink, written over a horizontal line.

(Printed Name)

A handwritten date "9-12-06" in black ink, written over a horizontal line.

(Date)



**Iona McGregor Fire District  
15961 Winkler Rd.  
Ft. Myers, Florida 33908  
Phn: (239) 433-0660  
Fax: (239) 433-2673**

September 12, 2006

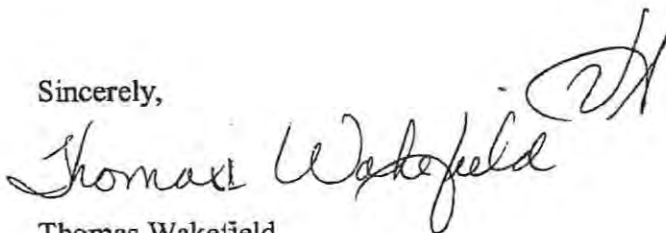
Ms. Stacy Hewitt  
Planner  
Banks Engineering  
10511-101 Six Mile cypress  
Ft. Myers, Fl. 33912

RE: Vicott Inc, Summerlin Road Job #1836-02  
Strap # 05-46-24-00-00003.0020  
# 05-46-24-00-00003.0030

Dear Stacy,

Please be advised the Fire Department will have the capability to serve the above referenced project as long as all state & local codes are adhered to.

Sincerely,

A handwritten signature in cursive script, reading "Thomas Wakefield". The signature is written in dark ink and is positioned above the printed name and title.

Thomas Wakefield  
Fire Inspector



**LEE COUNTY**  
SOUTHWEST FLORIDA**BOARD OF COUNTY COMMISSIONERS**

239-533-0333

Writer's Direct Dial Number: \_\_\_\_\_

Bob Jones  
*District One*Douglas R. St. Corny  
*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*

September 12, 2006

Ms. Stacy Ellis Hewitt  
Banks Engineering, Inc.  
10511-101 Six Mile Cypress Parkway  
Fort Myers, FL 33966

**RE: WRITTEN DETERMINATION OF ADEQUACY FOR VICOTT, INC.**  
**STRAP #05-46-24-00-00003.0020 & 05-46-24-00-00003.0030**  
**First Revision**

Dear Ms. Hewitt:

Lee County Transit staff has reviewed the follow-up information you provided in regards to your service adequacy request for the above-mentioned Lee County Small Scale Comprehensive Plan Amendment application. The updated use of 54,100 square feet of commercial and/or office buildings, or a maximum of 32 dwelling units does not change our previous determination.

We currently provide service on Summerlin Road in front of the subject property 6 days a week with our Route 50. Service frequencies Monday through Saturday are every 70 minutes, which likely does not provide for a core level of transit service to this area. However, we do have capacity for additional passengers to use this route as a result of the proposed project although; improved frequency needs to occur in order to begin attracting single occupant automobile users to the transit system.

If you have any further questions or comments, please call me or e-mail me at [mhorsting@leegov.com](mailto:mhorsting@leegov.com).

Sincerely,

TRANSIT DIVISION

Michael Horsting  
Transit Planner





## 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. SCRIPCA, Ph.D.  
VICE CHAIRMAN • DISTRICT 5

ROBERT D. CHILMONIK  
DISTRICT 1

JEANNE S. DOZIER  
DISTRICT 2

JANE E. KUCKEL, Ph.D.  
DISTRICT 3

JAMES W. BROWDER, Ed.D.  
SUPERINTENDENT

KEITH B. MARTIN  
BOARD ATTORNEY

September 13, 2006

Ms. Stacy Ellis Hewitt  
Banks Engineering  
10511 Six Mile Cypress  
Fort Myers, FL 33966

Re: Vicott, Inc.  
STRAP No. 05-46-24-00-00003.0020 & 05-24-00-00003.0030

Dear Ms. Hewitt:

Thank you for the opportunity to review the proposed Vicott, Inc. Project for educational impacts. This proposed development is in the South Choice Zone of the District. This letter is in response to your request dated September 12, 2006.

Your letter stated a maximum number of 32 dwelling units, however it did not state the type of dwelling units. If the type of dwelling units have not been determined yet this letter will use the formula for single family units which would estimate at the highest number of students generated, as opposed to multi-family units which has a lesser generation amount. Based on the proposed maximum total of 32 single family residential dwelling units, the School District estimates the project could generate up to 10 additional school-aged children. This uses a generation rate of 0.316 students per unit.

The Lee County Board of County Commissioners adopted a School Impact Fee Ordinance on November 27, 2001, which was revised in November, 2005. This letter uses the revised generation rates.

Thank you for your attention to this issue. If I may be of further assistance, please give me a call at (239) 337-8678.

Sincerely,

Ellen Lindblad, Long Range Planner  
Planning & School Capacity



**Mike Scott**  
Sheriff



**State of Florida**  
**County of Lee**

Ms. Stacy Ellis Hewitt  
Banks Engineering  
10511-101 Six Mile Cypress Parkway  
Fort Myers, Florida 33966

September 13, 2006

Dear Ms. Hewitt:

The Sheriff's Office has reviewed your fax dated September 12, 2006 outlining your intention to revise your small scale comprehensive plan amendment submittal to Lee County for the project referenced as *Vicott Inc. Strap No. 05-46-24-00-00003.0020 & 05-6-24-00-00003.0030*. It is my understanding that the purpose of the amendment, if approved, would be to increase the commercial density of the project from 16,000 square feet of commercial space to a maximum of 54,100 square feet of commercial space and that this project lies in a 7.67 +/- acre site located on the north side of Summerlin Road between Pine Ridge and Bass Roads in south Lee County, Florida. According to my staff, this project does not yet have a tentative start or completion date and you are amending your plan to conform to current Lee County requirements for proposed land use.

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







# LEE COUNTY

## SOUTHWEST FLORIDA

### BOARD OF COUNTY COMMISSIONERS

(239) 338-3302

Writer's Direct Dial Number: \_\_\_\_\_

Bob Janes  
District One

Douglas R. St. Cerny  
District Two

Ray Judah  
District Three

Tammy Hall  
District Four

John F. Albion  
District Five

Donald D. Stilwell  
County Manager

David M. Owen  
County Attorney

Diana M. Parker  
County Hearing  
Examiner

September 12, 2006

Ms. Stacy Ellis Hewitt  
Banks Engineering  
10511-101 Six Mile Cypress Pkwy.  
Fort Myers, FL 33966

**SUBJECT: Vicott, Inc. Comp Plan Amendment**

Dear Ms. Hewitt:

The Lee County Solid Waste Division is capable of providing solid waste collection service for the additional units proposed for the 7.67 acre site located on the north side of Summerlin Rd., between Pine Ridge Road and Bass Road through our franchised hauling contractors. Disposal of the solid waste from this development 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 certain multi-family and 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



**LEE COUNTY DEPARTMENT OF COMMUNITY DEVELOPMENT  
DIVISION OF PLANNING  
SUFFICIENCY REVIEW FOR  
HISTORIC AND ARCHAEOLOGICAL RESOURCES**

**PROJECT NAME:** CPA 2005 00001

**CASE NUMBER:** CPA 2005 00001

**STRAP NUMBERS:** 05 46 24 00 00003 0020  
05 46 24 00 00003 0030

**DATE OF REVIEW:** January 5, 2007

**REVIEWED BY:** Gloria M. Sajgo, AICP, Principal Planner  
Lee County Planning Division  
POB 398  
Fort Myers, FL 33902  
Phone 941 479 8311 Fax 941 479-8319  
e-mail: sajgogm@leegov.com

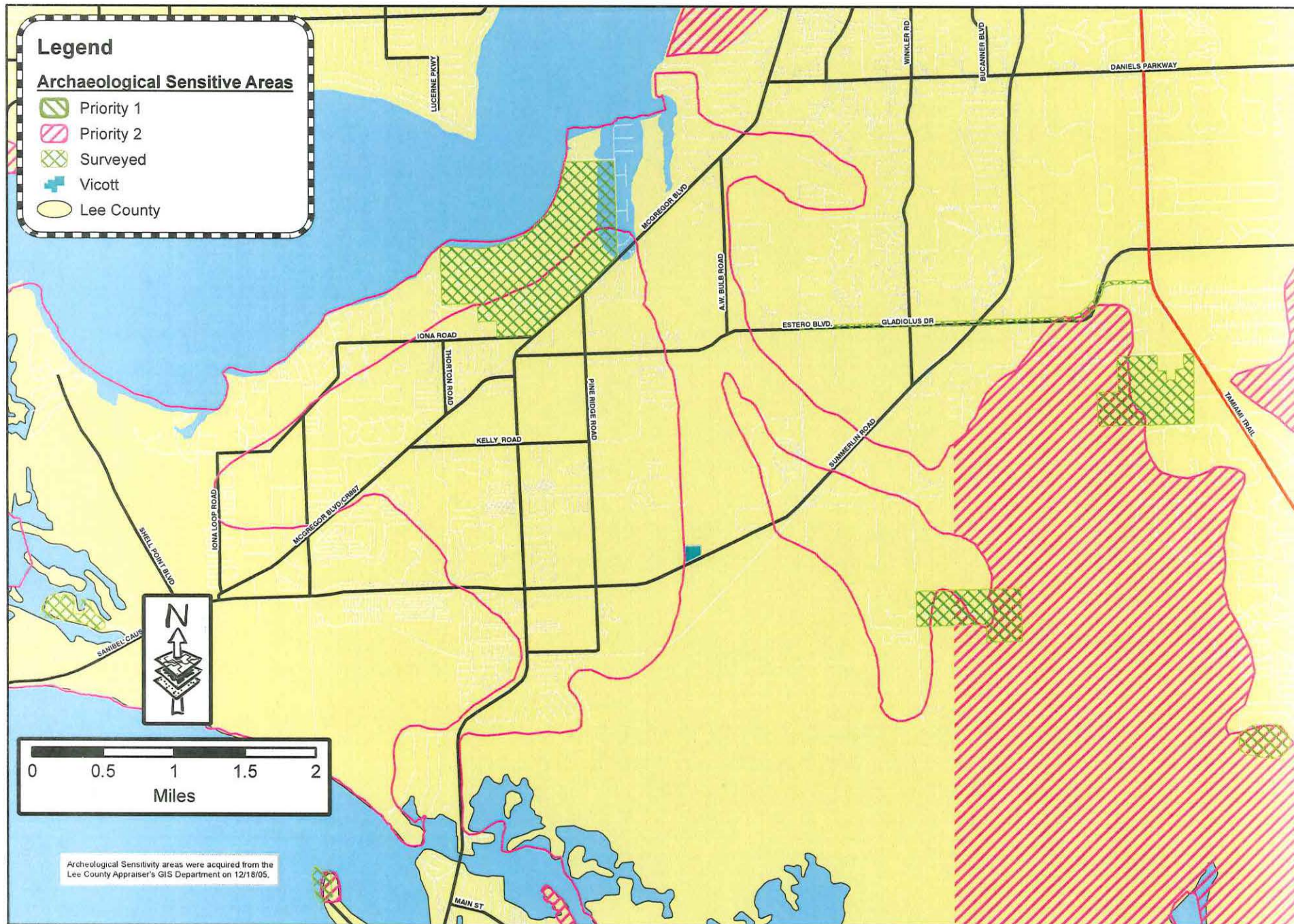
**Historical Sites:** There are no known historic sites on the subject parcel.

**Archaeological Sites:** There are no known archaeological sites on the subject parcel.

**Level 1 or Level 2 zones of Archaeological Sensitivity:** The subject area is located within Level 2 zone of archaeological sensitivity. The applicant will be required to apply for a Certificate to Dig as a condition for obtaining a Development Order. In reviewing the Certificate to Dig application, staff **may** require that the applicant have an archaeological survey conducted by an archaeologist. Conditions may be imposed depending on the results of the survey.

Copy:  
Matt Noble, Principal Planner  
Stacy Ellis Hewitt, Banks Engineering.





Designed by:	Date:	SEC/TYP/RNG:	Revisions	Date:	Exhibit Number
BKM	9/14/06	5/46S/24E			
Drawn by:	Date:	Category:			
BKM	9/14/06	Archeological Sensitivity Map			
File Name:	County:				
9676	Lee				





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

September 12, 2006

Jim Keltner  
Boylan Environmental Consultants, Inc.  
11000 Metro Parkway, Suite 4  
Fort Myers, Florida 33912  
Fax: 941-418-0672

Dear Mr. Keltner:

In response to your inquiry of September 12, 2006, the Florida Master Site File lists no previously recorded cultural resources in the following parcels:

T46S, R24E, Section 05

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, unrecorded historically important structures, or both.
- As you may know, state and federal 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 of cultural resources. 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*  
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](mailto:fmsfile@dos.state.fl.us)  
Web: <http://www.dos.state.fl.us/dhr/msf/>

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

☐ Director's Office  
(850) 245-6300 • FAX: 245-6435

☐ Archaeological Research  
(850) 245-6444 • FAX: 245-6436

☐ Historic Preservation  
(850) 245-6333 • FAX: 245-6437

☐ Historical Museums  
(850) 245-6400 • FAX: 245-6433

☐ Palm Beach Regional Office  
(561) 279-1475 • FAX: 279-1476

☐ St. Augustine Regional Office  
(904) 825-5045 • FAX: 825-5044

☐ Tampa Regional Office  
(813) 272-3843 • FAX: 772-7740

TOTAL P.02



#### IV. AMENDMENT SUPPORT DOCUMENTATION

##### 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 Forms Classification System (FLUCFS).**

See attached FLUCCS map for community locations in Parcel. The vegetation communities were mapped according to the Florida Land Use, Cover and Forms Classification System (FLUCCS) (Florida Department of Transportation, 1999). The mapping utilized Level III FLUCCS. The site was inspected and the mapping superimposed on a 2006 digital aerial photographs. Acreages were approximated using AutoCAD.

The following is a discussion of the existing land uses and vegetative associations found on site. The following table summarizes the FLUCCS communities discussed below.

**411/422 Brazilian Pepper Invaded Pine Flatwoods (approximately 0.50 acres)**

This upland community is dominated by a mixture a Brazilian pepper and slash pine. Cabbage palm, melaleuca and saw palmetto are also present in this community.

**619E4 Exotic Wetland (approximately 5.51 acres)**

This wetland is dominated by large stature melaleuca or Brazilian pepper. These wetlands also had scattered cabbage palm in the upper canopy. The understory consists of scattered leather fern.

**624E2 Cabbage Palm Wetlands (approximately 0.27 acres)**

This wetland community is dominated by cabbage palm in the canopy with varying amounts of Brazilian pepper and melaleuca. Understory species are dominated by leather fern and swamp fern.

**6412E4 Cattail Marsh (approximately 1.39 acres)**

These marshes consist solely of nuisance cattails.



## PLANTS

Listed plant species that were not observed but which have the potential to occur on the project site are listed in the following table. These potential occurrences were determined by referencing the Field Guide to Rare Plants of Florida (Florida Natural Areas Inventory 2000). The Florida Endangered Species, Threatened Species and Species of Special Concern; Official Lists, dated August 1997 was used to identify the status of the potentially occurring species.

<u>Name</u>	Scientific Name	Habitat	Status	
			FDA	FWS
Beautiful paw-paw	<i>Deeringothamnus pulchellus</i>	411/422	E	E
Fakahatchee Burmannia	<i>Burmannia flava</i>	411/422	E	--
Florida coontie	<i>Zamia Floridana</i>	411/422	C	--
Satinleaf	<i>Chrysophyllum oliviforme</i>	411/422	E	--
Twisted Air Plant	<i>Tillandsia flexuosa</i>	411/422	E	--

FWC-Florida Fish and Wildlife Conservation Commission

FWS-U.S. Fish and Wildlife Service

SSC-Species of Special Concern

T-Threatened

E-Endangered

C-Commercially Exploited

### D. Impacts on Historic Resources

List all historic resources (including structure, districts, and/or archaeologically 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.

Attached are the results of the Florida Master Site File. The Master Site File lists no previously recorded cultural resources in the parcels vicinity.

2. A map showing the subject property location on the archaeological sensitivity map for Lee County.

See attached sensitivity map that shows the property in relationship to the limits of the archaeologically sensitive areas.



**D. Impacts on Historic Resources (Cont.):**

*Please see attached Sufficiency Review for Historic and Archaeological Resources from Lee County Department of Community Development, Division of Planning.*



<b>FLUCFCS</b>	<b>Description</b>	<b>Acreage</b>	<b>Percent of Total</b>
411/422	Brazilian Pepper Invaded Pine Flatwoods	0.50	6.5%
619E4	Exotic Wetlands	5.51	71.8%
624E2	Cabbage Palm Wetlands	0.27	3.5%
6412E4	Cattail Marsh	1.39	18.2%
	<b>Total</b>	<b>+/- 7.67</b>	<b>100%</b>

**2. A map and description of the soils found on the property (identify the source of the information).**

See attached map for soil mappings based on NRCS soil survey for Lee County. The NRCS mapped the property as being underlain by Boca Fine Sand, Copeland Sandy Loam Depressional, Isles Fine Sand, and Isles Muck.

**3. A topographic map with property boundaries and 100-year flood prone areas indicated (as identified by FEMA).**

See attached USGS Topography and FEMA Flood Zone Maps. The parcel is located in the 100 year – flood prone zone.

**4. A map delineating wetlands, aquifer recharge areas, and rare and unique uplands.**

See attached FLUCCS map for locations of mapped wetlands. The property has 5.51 acres of Exotic Wetlands, 0.27 acres of Cabbage Palm Wetlands, and 1.39 acres of Cattail Marsh; approximately 93.5% of the site is considered wetlands.

**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 FLUCFS and the species status (same as FLUCCS map).**

## **ANIMALS**

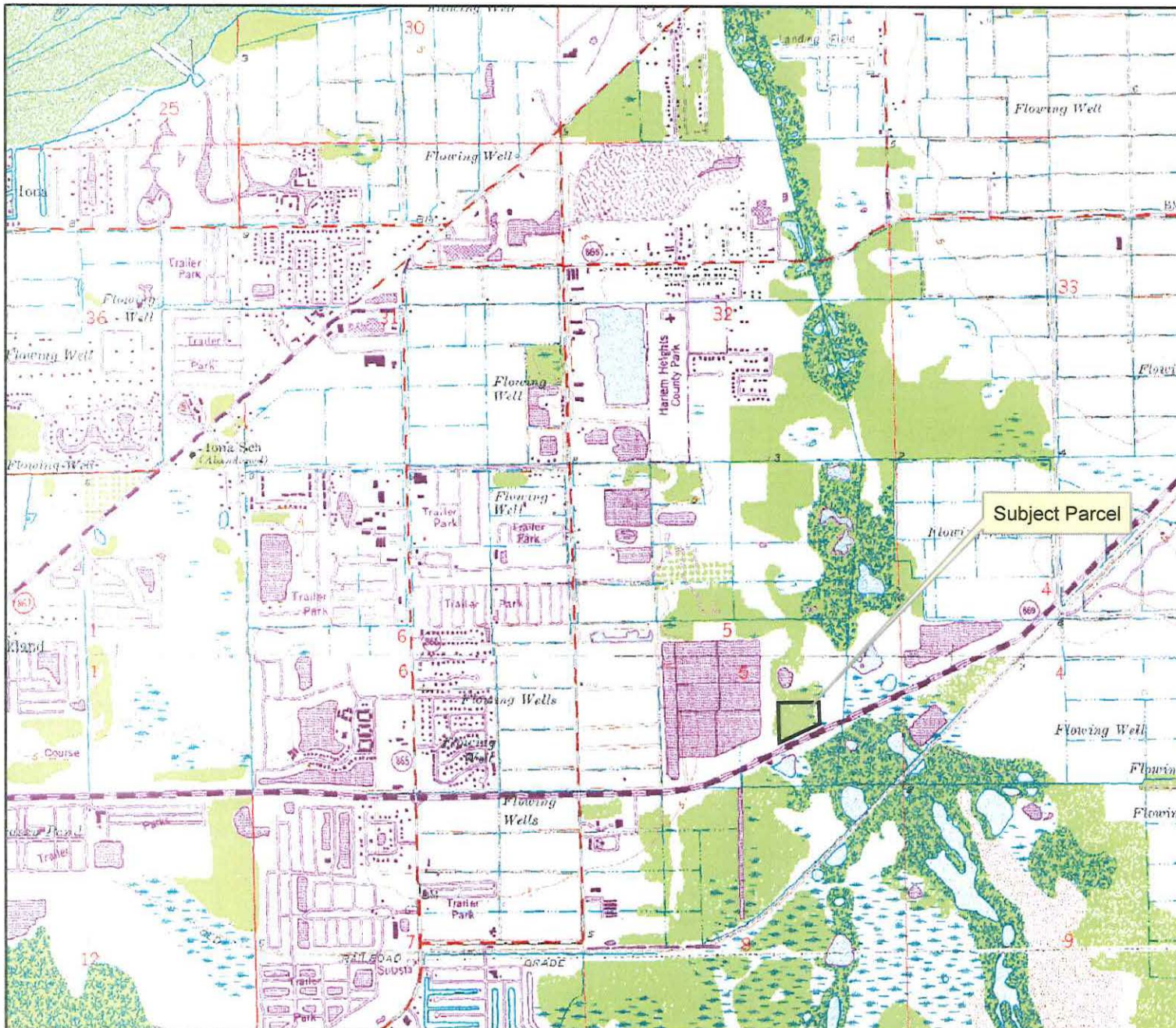
Listed wildlife species that have the potential to occur on the project site are listed in the following table. These potential occurrences were determined by referencing the Field Guide to Rare Animals of Florida (Florida Natural Areas Inventory 2000), Florida Atlas of Breeding Sites for Herons and Their Allies (Runde et. al. 1991), Lee County Eagle Technical Advisory Committee (ETAC) Active 2000-2001 Season map. The Florida Endangered Species, Threatened Species and Species of Special Concern; Official Lists, dated August 1997 was used to identify the status of the potentially occurring species.



Name	Scientific Name	Habitat	State & Fed Status	
			FWC	FWS
Big Cypress Fox Squirrel	<i>Sciurus niger avicennia</i>	411/422	T	No listing
Eastern Indigo Snake	<i>Drymarchon corais couperi</i>	411/422	T	T
Florida Black Bear	<i>Ursus americanus floridanus</i>	411/422, 624E2	T	No listing
Gopher Frog	<i>Rana areolata</i>	411/422, 624E2	SSC	No listing
Gopher Tortoise	<i>Gopherus polyphemus</i>	411/422	SSC	No listing
Red-cockaded Woodpecker	<i>Picoides borealis</i>	411/422	T	E
Southeastern American Kestrel	<i>Falco sparverius paulus</i>	411/422	T	No listing
Snowy Egret	<i>Egretta thula</i>	624E2, 6412E4	SSC	No listing
Tricolored Heron	<i>Egretta tricolor</i>	624E2, 6412E4	SSC	No listing
American Alligator	<i>Alligator mississippiensis</i>	624E2, 6412E4	SSC	No listing
Everglades Mink	<i>Mustela vison evergladensis</i>	624E2, 6412E4	T	No listing
Little Blue Heron	<i>Egretta caerulea</i>	624E2, 6412E4	SSC	No listing
Limpkin	<i>Aramus guarauna</i>	624E2, 6412E4	SSC	No listing
Wood Stork	<i>Mycteria americana</i>	624E2, 6412E4	E	T
Florida Sandhill Crane	<i>Grus Canadensis pratensis</i>	6412E4	T	No listing
Reddish Egret	<i>Egretta rufescens</i>	6412E4	SSC	No listing
Snail Kite	<i>Rostrhamus sociabilis plumbeus</i>	6412E4	E	E

FWC-Florida Fish and Wildlife Conservation Commission\FWS-U.S. Fish and Wildlife Service  
SSC-Species of Special Concern/T-Threatened/E-Endangered  
T(S/A)-Threatened due to similarity of appearance





4,200

Feet

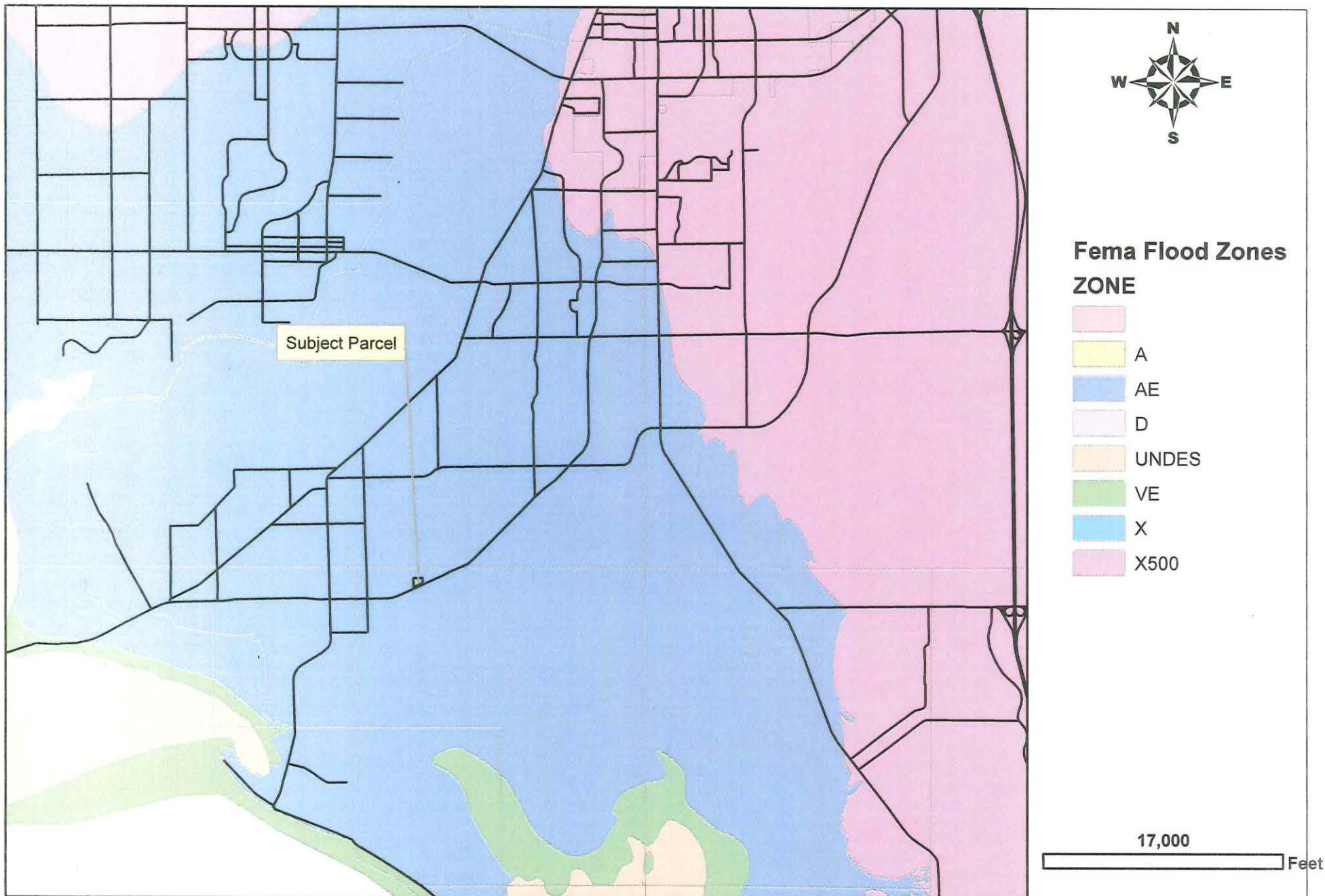
**Boylan Environmental Consultants, Inc.**  
 Wetland & Wildlife Surveys, Environmental Permitting,  
 & Impact Assessments

11000 Metro Parkway, Suite 4  
 Fort Myers, FL 33912  
 Office: (239)418-0671  
 Fax: (239)418-0672

VICOTT, INC  
 USGS TOPO MAP

Designed by	Date	SEC/TWP/RNG	Revisions	Date	Exhibit Number
JDK	9/12/06	5/46S/24E			
Drawn by	Date	Category			
File Name		County			
topo		Lee			



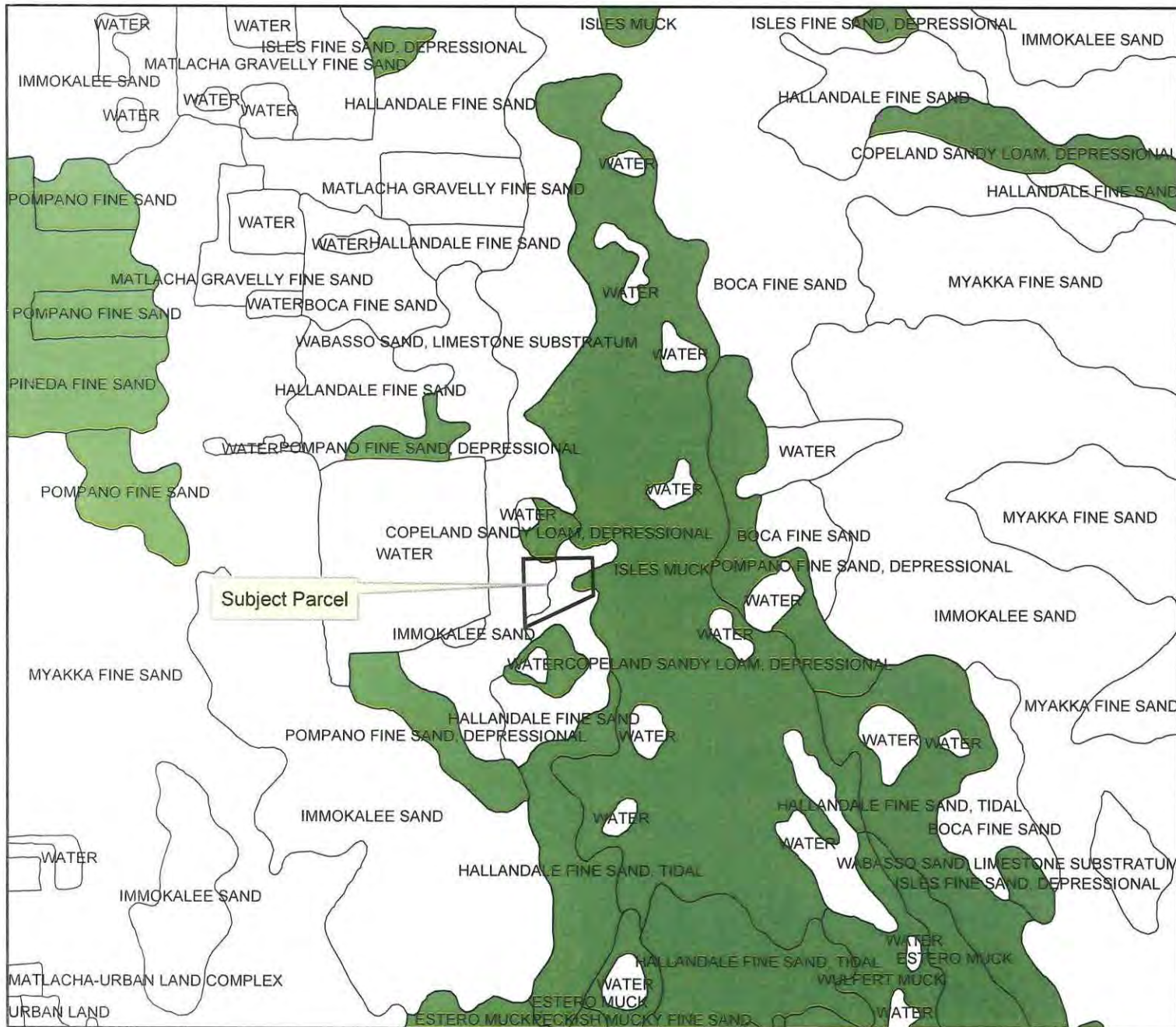


**Boylan Environmental Consultants, Inc.**  
 (Wetland & Wildlife Services, Erosion Control, Remediation, & Impact Assessment)  
 11000 Metro Parkway, Suite 4  
 Fort Myers, FL 33912  
 Office: (239)418-0671  
 Fax: (239)418-0672

**VICOTT, INC**  
**FEMA FLOOD ZONES**

Designed by: JDK	Date: 9/12/06	SEC/TWPRNG 5/46S/24E	Revisions	Date:	Exhibit Number
Drawn by:	Date:	Category:			
File Name FEMA		County Lee			





## SCS Soils HYDRIC SOILS

YES

2,400

Feet

**Boylan**  
Environmental  
Consultants, Inc.  
Wildlife & Wetlands Services • Land Use Planning & Remediation • Biological Assessments

11000 Metro Parkway, Suite 4  
Fort Myers, FL 33912  
Office: (239)418-0671  
Fax: (239)418-0672

VICOTT, INC  
SCS SOILS MAP

Designed by	Date:	SECTYP/RNG	Revisions	Date:	Exhibit Number
JDK	9/12/06	5/46S/24E			
Drawn by	Date:	Geoproy			
File Name		County			
soils		Lee			





#### FLUCCS LEGEND

Code	Community	Upland Acreage	Wetland Acreage
411/422	Brazilian Pepper Invaded Pine Flatwoods	0.50	--
619E4	Exotic Wetland	--	5.51
624E2	Hydric Cabbage Palm	--	0.27
6412E4	Cattail Marsh	--	1.39
Total Site Acreage: 7.67		0.50	7.17

#### WETLAND EXOTIC COVERAGE LEGEND

- E1 = 0-25% EXOTIC OR NUISANCE COVERAGE  
 E2 = 25-50% EXOTIC OR NUISANCE COVERAGE  
 E3 = 50-75% EXOTIC OR NUISANCE COVERAGE  
 E4 = > 75% EXOTIC OR NUISANCE COVERAGE

Revisions	Date:	Page

### VICOTT, INC FLUCCS MAP

Drawn By:	Date:	Category
JDK	9/12/06	FLUCCS
Job Number	9676	Scale:
	S/T/R	1" = 200'
	5/46S/24E	County
		Lee


**Boylan Environmental Consultants, Inc.**  
 Wetland & Wildlife Survey, Environmental Consulting, Impact Assessments  
 11000 Metro Parkway, Suite 4, Ft. Myers, FL 33906 (239) 418-0071



**VICOTT, INC.**  
**SMALL SCALE COMPREHENSIVE PLAN AMENDMENT**  
**AMENDMENT SUPPORT DOCUMENTATION**

**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.

*The proposal does not affect established Lee County population projections as residential uses will not be developed on the subject property. Table 1(b) Planning Community Year 2020 Allocation currently lists 782 acres commercial and 298 acres industrial for the Iona/McGregor planning community. The proposed plan amendment would revise these to 790 acres commercial and 290 acres industrial. This change is a benefit to the Planning Community, as it will remove a secluded industrial future land use area with little potential to be developed as industrial due to the nature of the existing and proposed uses surrounding the property. Community Development records indicate that there are currently 196 acres of Industrial available in the Iona/McGregor planning community. With the proposed amendment, there will still be 188 acres of Industrial available in more appropriate locations.*

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.

**POLICY 1.1.4:** The Urban Community areas are areas outside of Fort Myers and Cape Coral that are characterized by a mixture of relatively intense commercial and residential uses. Included among them, for example, are parts of Lehigh Acres, San Carlos Park, Fort Myers Beach, South Fort Myers, the city of Bonita Springs, Pine Island, and Gasparilla Island. Although the Urban Communities have a distinctly urban character, they should be developed at slightly lower densities. As the vacant portions of these communities are urbanized, they will need to maintain their existing bases of urban services and expand and strengthen them accordingly. As in the Central Urban areas, predominant land uses in the Urban Communities will be residential, commercial, public and quasi-public, and limited light industry (see Policy 7.1.6). Standard density ranges from one dwelling unit per acre (1 du/acre) to six dwelling units per acre (6 du/acre), with a maximum of ten dwelling units per acre (10 du/acre). Amended by Ordinance No. 94-30, 02-02)

*The proposed land use amendment and future commercial planned development is located on the north side of Summerlin Road, west of the HealthPark, between Pine Ridge Road and Bass Road in the Iona-McGregor Planning Community. The development will connect to existing water and sewer services provided by*



*Lee County Utilities. The property will have access to Summerlin Road, an arterial right-of-way, which is adequate to handle the proposed development.*

**GOAL 2: GROWTH MANAGEMENT.** To provide for an economically feasible plan which coordinates the location and timing of new development with the provision of infrastructure by government agencies, private utilities, and other sources.

**OBJECTIVE 2.1: DEVELOPMENT LOCATION.** Contiguous and compact growth patterns will be promoted through the rezoning process to contain urban sprawl, minimize energy costs, conserve land, water, and natural resources, minimize the cost of services, prevent development patterns where large tracts of land are by-passed in favor of development more distant from services and existing communities. (Amended by Ordinance No. 94-30, 00-22)

**OBJECTIVE 2.2: DEVELOPMENT TIMING.** Direct new growth to those portions of the Future Urban areas where adequate public facilities exist and where compact and contiguous development patterns can be created.

**POLICY 2.2.1:** Rezoning and development-of-regional impact proposals shall be evaluated as to the availability and proximity of the road network; central sewer and dewater lines; community facilities and services such as schools, EMS, fire and police protection, and other public facilities; compatibility with surrounding land uses; and any other relevant facts affecting the public health, safety, and welfare. (Amended by Ordinance No. 94-30, 00-22)

*The development is tied into the street roadway system of an existing arterial street (Summerlin Road). The project will connect to existing water and sewer facilities provided by Lee County Utilities. The project will have available health, safety and welfare facilities provided by HealthPark, Iona-McGregor Fire District, Lee County Sheriff's office, Lakes Regional Park, San Carlos Park Elementary School, Cypress Lake High School, Rutenberg Branch Library and Edison Community College.*

*The proposed development will be compatible with the existing and proposed land uses in the surrounding areas. The subject property is zoned AG-2. The property to the north is zoned AG-2 and a Planned Development application for the Sunset Falls f/k/a Waterstone project is currently being reviewed to rezone the property to a Residential Planned Development (DCI2005-00078). The property to the east is zoned AG-2 and is currently vacant. The subject property abuts Summerlin Road right-of-way to the south. The property on the south of Summerlin Road is zoned AG-2 and is currently vacant. The property to the west of the subject property is zoned CF-3 and consists of Lee County Sewage Treatment ponds.*



**GOAL 4: DEVELOPMENT DESIGN-GENERAL.** To maintain innovative land development regulations which encourage creative site designs and mixed used developments. (Amended by Ordinance No. 94-30)

**OBJECTIVE 4.1:** Maintain the current planned development rezoning process which combines site planning flexibility with rigorous review. By the end of 1995, take specific steps to further promote the creation of mixed-use developments to reduce the impact on collector and arterial roads. (Amended by Ordinance No. 91-19, 94-30)

**POLICY 4.1.1:** Development designs will be evaluated to ensure that land uses and structures are well integrated, properly oriented, and functionally related to the topographic and natural features of the site, and that the placement of uses or structures within the development minimizes the expansion and construction of street and utility improvements. (Amended by Ordinance No. 91-19, 00-22)

**POLICY 4.1.2:** Development designs will be evaluated to ensure that the internal street system is designed for the efficient and safe flow of vehicles and pedestrians without having a disruptive effect on the activities and functions contained within or adjacent to the development. (Amended by Ordinance 91-19, 00-22)

*The proposed project will meet or exceed the design criteria established for planned developments in the Lee County Land Development Code. The site design will minimize the construction of both street and utility improvements.*

**GOAL 6: COMMERCIAL LAND USES.** To permit orderly and well-planned commercial development at appropriate locations within the county. (Amended by Ordinance No. 94-30)

**OBJECTIVE 6.1:** All development approvals for commercial land uses must be consistent with the following policies, the general standards under Goal 11 and other provisions of this plan. (Amended by Ordinance No. 94-30)

**POLICY 6.1.1:** All applications for commercial development will be reviewed and evaluated as to: a) Traffic and access impacts; b) Landscaping and detailed site planning; c) Screening and buffering; d) Availability and adequacy of services and facilities; e) Impact on adjacent land uses and surrounding neighborhoods; f) Proximity to other similar centers; g) Environmental considerations.

*The subject property will address these issues as part of a planned developed application or rezoning.*

**POLICY 6.1.2:** All commercial development must be consistent with the location criteria in this policy, except where specifically excepted by this policy or by Policy 6.1.7, or in Lehigh Acres by Policies 1.8.1 through 1.8.3.

1. Minor Commercial



10. The Board of County Commissioners may approve applications for minor commercial centers that do not comply with the location standards for such centers but which are consistent with duly adopted CRA and Community plans.

*The subject property meets the criteria of a Minor Commercial development. The development is tied into the street roadway system of an existing arterial street (Summerlin Road). The proposed use will be 54,100+/- s.f. of buildings consisting of commercial and office uses.*

**POLICY 6.1.4:** Commercial development will be approved only when compatible with adjacent existing and proposed land uses and with existing and programmed public services and facilities. (Amended by Ordinance No. 94-30, 00-22)

*The proposed commercial planned development for the subject property is compatible with existing and proposed developments in the surrounding area. One of the predominant land uses in the Urban Community Land Use Category is commercial.*

**POLICY 6.1.6:** The land development regulations will require that commercial development provide adequate and appropriate landscaping, open space, and buffering. Such development is encouraged to be architecturally designed so as to enhance the appearance of structures and parking areas and blend with the character of existing or planned surrounding land uses.

*The proposed commercial planned development will provide adequate open space and buffering as required in the Land Development Code (LDC). The proposed project will meet or exceed the design criteria established for planned developments in the Land Development Code.*

**POLICY 6.1.7:** Prohibit commercial developments from locating in such a way as to open new areas to premature, scattered, or strip development; but permit commercial development to infill on small parcels in areas where existing commercial development would make a residential use clearly unreasonable.

*The proposed commercial planned development will be located on a 7.67+/- acre parcel of land near existing commercial and commercial planned developments having access to Summerlin Road.*

**GOAL 11: WATER, SEWER, TRAFFIC, AND ENVIRONMENTAL REVIEW STANDARDS.** To insure that appropriate water, sewer, traffic, and environmental review standards are considered in reviewing rezoning applications and are met prior to issuance of a county development order.

**STANDARD 11.1: WATER.**

*The proposed Commercial Planned Development will connect to an existing public water system provided by Lee County Utilities.*



**STANDARD 11.2: SEWER.**

*The proposed Commercial Planned Development will connect to an existing sanitary sewer system provided by Lee County Utilities.*

**STANDARD 11.3: TRAFFIC.**

*The proposed land use change will not have a detrimental impact on the surrounding roadway system. The existing roadway network as well as the improvements programmed by Lee County within the next three years can accommodate the additional new vehicle trips the development is anticipated to generate. Intersection analysis was performed at the site access drive on Summerlin. Based on the results of the analysis, all of the approaches to the site access intersection on Summerlin Road were shown to operate at acceptable Level of Service conditions under the 2010 build-out traffic conditions for the proposed rezoning.*

**STANDARD 11.4: ENVIRONMENTAL REVIEW FACTORS.**

*Please see attached IV.C. Amendment Support Documentation - Environmental Impacts.*

**GOAL 39: DEVELOPMENT REGULATIONS.** Maintain clear, concise, and enforceable development regulations that fully address on-site and off-site development impacts and protect and preserve public transportation facilities. (Amended by Ordinance No. 98-09, 99-15)

**OBJECTIVE 39.1: DEVELOPMENT IMPACTS.** The county will maintain and enforce development regulations to ensure that impacts of development approvals occur concurrently with adequate roads, and to achieve maximum safety, efficiency, and cost effectiveness. (Amended by Ordinance No. 99-15)

**POLICY 39.1.1:** New development must:

- Have adequate on-site parking.
- Have access to the existing or planned public road system except where other public policy would prevent such access.

*The proposed Commercial Planned Development will be designed with sufficient on-site parking for the proposed uses. The development will have access to an existing arterial right-of-way (Summerlin Road) that will operate at an acceptable level of service.*

**GOAL 61: PROTECTION OF WATER RESOURCES:** To protect the county's water resources through the application of innovative and sound methods of surface water management and by ensuring that the public and private construction, operation, and maintenance of surface water management systems are consistent with the need to protect receiving waters.



**POLICY 61.2.5:** The policies above (41.2.1 through 41.2.4) are not intended to prohibit any permissible surface water management solution that is consistent with good engineering practices and adopted environmental criteria.

*The development will be engineered and permitted utilizing the design criteria as established by the South Florida Water Management District as well as Lee County Development Regulations in accordance with good engineering practices and adopted environmental criteria. The project has been permitted under South Florida Water Management District permit number 36-05751-P. A copy of the permit is attached. The eastern 222± feet of the subject property is within a SFWMD Conservation Easement and is proposed for Conservation Lands:Wetlands Land Use designation.*

**OBJECTIVE 61.3: GENERAL SURFACE WATER MGMT. STANDARDS.** Lee County will continue to provide sufficient performance and/or design standards for development protection of the function of natural drainage systems. (Amended by Ordinance No. 94-30, 00-22)

**POLICY 61.3.1:** Provide sufficient performance and design standards to require post-development runoff to approximate and total characteristics of the natural flow prior to development.

**POLICY 61.3.6:** Developments must have and maintain an adequate surface water management system, provisions for acceptable programs for operation and maintenance, and post-development runoff conditions which reflect the natural surface water flow in terms of rate, direction, quality, hydroperiod, and drainage basin. Detailed regulations will continue to be integrated with other county development regulations. (Amended by Ordinance No. 00-22)

*The developments' surface water management system will be developed in accordance with South Florida Water Management District (District) and Lee County Development regulations. The project has been permitted under South Florida Water Management District permit number 36-05751-P. A copy of the permit is attached. The eastern 222± feet of the subject property is within a SFWMD Conservation Easement and is proposed for Conservation Lands:Wetlands Land Use designation.*

**POLICY 61.3.11:** Runoff must be routed through retention or detention areas and vegetated swales in order to reduce flow velocity, allow for percolation, and trap and remove suspended solids and pollutants. (Amended by Ordinance No. 00-22)

*The stormwater management system will be designed in accordance with South Florida Water Management District (SFWMD) requirements to provide for attenuation/retention of stormwater runoff from the site. Issuance of a SFWMD permit shall be deemed to be in compliance with Chapter 10 of the LDC and*



*review of the project shall be limited to external impacts and wet season water table elevation. For purposes of stormwater management calculations, the assumed water table will be established by an engineer in accordance with sound engineering practice. The stormwater management system will be reviewed for compliance with Chapter 10 of the LDC through the development order process. The project has been permitted under South Florida Water Management District permit number 36-05751-P. A copy of the permit is attached. The eastern 222± feet of the subject property is within a SFWMD Conservation Easement and is proposed for Conservation Lands:Wetlands Land Use designation.*

**POLICY 61.3.13:** Installation of erosion control devices for development activities adjacent to water bodies, watercourses and wetlands shall be required. Such control devices shall be maintained to ensure operational effectiveness.

*Erosion control devices will be installed in accordance with local and state regulations.*

**GOAL 77: DEVELOPMENT DESIGN REQUIREMENTS.** To require new development to provide adequate open space for improved aesthetic appearance, visual relief, environmental quality, preservation of existing native trees and plant communities, and the planting of required vegetation. (Amended by Ordinance No. 94-30, 02-02)

**OBJECTIVE 77.1:** Development regulations will continue to require that new residential developments provide sufficient open space to meet the needs of their residents. (Amended by Ordinance No. 94-30, 00-22, 02-02)

*Open space will be provided per Lee County requirements and evaluated at the time of rezoning.*

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

*No impacts are anticipated to the adjacent local governments or their comprehensive plans from the changing of 7.67+/- acres of subject property from Industrial Development and Wetlands to Urban Community and Conservation Lands:Wetlands.*

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

*State and Regional policy goals will not be affected by the proposed Comprehensive Plan Amendment.*



Table 1(b)  
Planning Community Year 2020 Allocations

Future Land Use Category		Lee County Totals	Alva	Boca Grande	Bonita Springs	Fort Myers Shores	Burnt Store	Cape Coral	Captiva	Fort Myers	Fort Myers Beach	Gateway/ Airport	Daniels Parkway
Residential By Future Land Use Category	Intensive Development	1,484				80		27		297			
	Central Urban	9,558				208				545			
	Urban Community	12,893	519	437		449							
	Suburban	15,448				1,803				206			
	Outlying Suburban	5,231	15			300	20	2	435				1,352
	Industrial	96								48		18	
	Public Facilities	2		1					1				
	University Community	860											
	Industrial Interchange												
	General Interchange	53											2
	General Commercial Interchange	7				7							
	Industrial Commercial Interchange												
	University Village Interchange												
	Mixed Use Interchange												
	New Community	1,644								360		1,284	
	Tradeport	9										9	
	Airport												
	Rural	8,977	1,419			783	633			184		111	1,255
	Rural Community Preserve	3,046											
	Outer Island	216	5			1			172				
	Open Lands	2,091	175				588						47
	Density Reduction/ Groundwater Resource	5,544	40									94	
	Wetlands												
Unincorporated County Total Residential		67,159	2,173	438		3,631	1,241	29	608	1,640		1,516	2,656
Commercial		9,460	46	56		257	26	17	112	153		824	398
Industrial		6,311	26	14		391	5	26		733		3,096	10
Non Regulatory Allocations													
Public		58,676	3,587	537		1,724	1,193	6	1,981	750		6,136	1,854
Active AG		34,145	6,098			620				279		569	254
Passive AG		65,414	14,633			4,375	6,987	10		631		3,580	575
Conservation		79,488	2,236	296		1,125	3,672		1,347	1,006		3,482	1,918
Vacant		44,720	1,525	2		33	1,569	25	5	495		792	578
Total		365,373	30,324	1,343		12,156	14,693	113	4,053	5,687		19,995	8,243



VICOTT, INC.  
SMALL SCALE COMPREHENSIVE PLAN AMENDMENT  
AMENDMENT SUPPORT DOCUMENTATION

**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.  
*The site is accessible to Summerlin Road an existing arterial right-of-way. It is not accessible to rail lines nor cargo airport terminals.*
  - b. Provide data and analysis required by Policy 2.4.4.  
*No major changes in employment are anticipated with the proposed Comprehensive Plan Amendment. The property is currently in the Industrial Development land use category and if the appropriate permits were obtained, the property could be developed with an industrial use which would provide employment opportunities. If the Comprehensive Plan Amendment is approved, then the property could be developed with commercial development if the appropriate permits are obtained. This too would provide employment on the subject property.*
  - c. The affect of the proposed change on county's industrial employment goal specifically policy 7.1.4.  
*The impact of changing 7.67+/- acres from Industrial Development and Wetlands to Urban Community and Conservation Lands:Wetlands will have negligible effect on the county's industrial employment goal of employing 3% of the county's population in manufacturing activities by the year 2010.*
2. Requests moving lands from 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.  
*The existing Industrial Development land use classification and the proposed Urban Community land use classification are both classified as Future Urban Areas. The proposed change does not constitute Urban Sprawl.*



3. Request involving lands in critical areas for future water supply must be evaluated based on policy 2.4.2.

*The proposed change is not in the listed critical areas for future potable water supply as listed in Policy 2.4.2.; therefore, the site does not require evaluation based on this policy.*

4. Requests moving lands from Density Reduction/Groundwater Resource must fully address Policy 2.4.3 of the Lee Plan Future Land Use Element.

*The proposed change does not request moving lands from Density Reduction/Groundwater Resource; therefore Policy 2.4.3 does not need to be addressed.*



**VICOTT, INC.**  
**SMALL SCALE COMPREHENSIVE PLAN AMENDMENT**  
**AMENDMENT SUPPORT DOCUMENTATION**

**G. PROPOSED AMENDMENT JUSTIFICATION:**

Justify the proposed amendment based upon sound planning principles. Be sure to support all conclusions made in this justification with adequate data and analysis.

*The proposed amendment is consistent with the Urban Community designation for the following reasons:*

- *The subject property is located on the north side of Summerlin, west of HealthPark, between Pine Ridge Road and Bass Road in the Iona-McGregor Planning Community. The property will have access to Summerlin road, an arterial right-of-way, which is adequate to handle the proposed commercial development.*
- *The proximity of the subject property to the intersection is consistent with the location criteria of Policy 6.1.2 of the Lee Plan for Commercial Land Uses.*
- *The proposed commercial use is consistent with the "Urban Community" land use category.*
- *The attached letters from the Iona-McGregor Fire District, EMS, Lee County Sheriff's Office, Lee County Solid Waste Division, Lee County Mass Transit and Lee County Public School District confirm that the urban community services required to support the small-scale amendment change can be provided.*



**VICOTT, INC.**  
**SMALL SCALE COMPREHENSIVE PLAN AMENDMENT**  
**AMENDMENT SUPPORT DOCUMENTATION**

**ADDITIONAL REQUIRED EXHIBITS:**

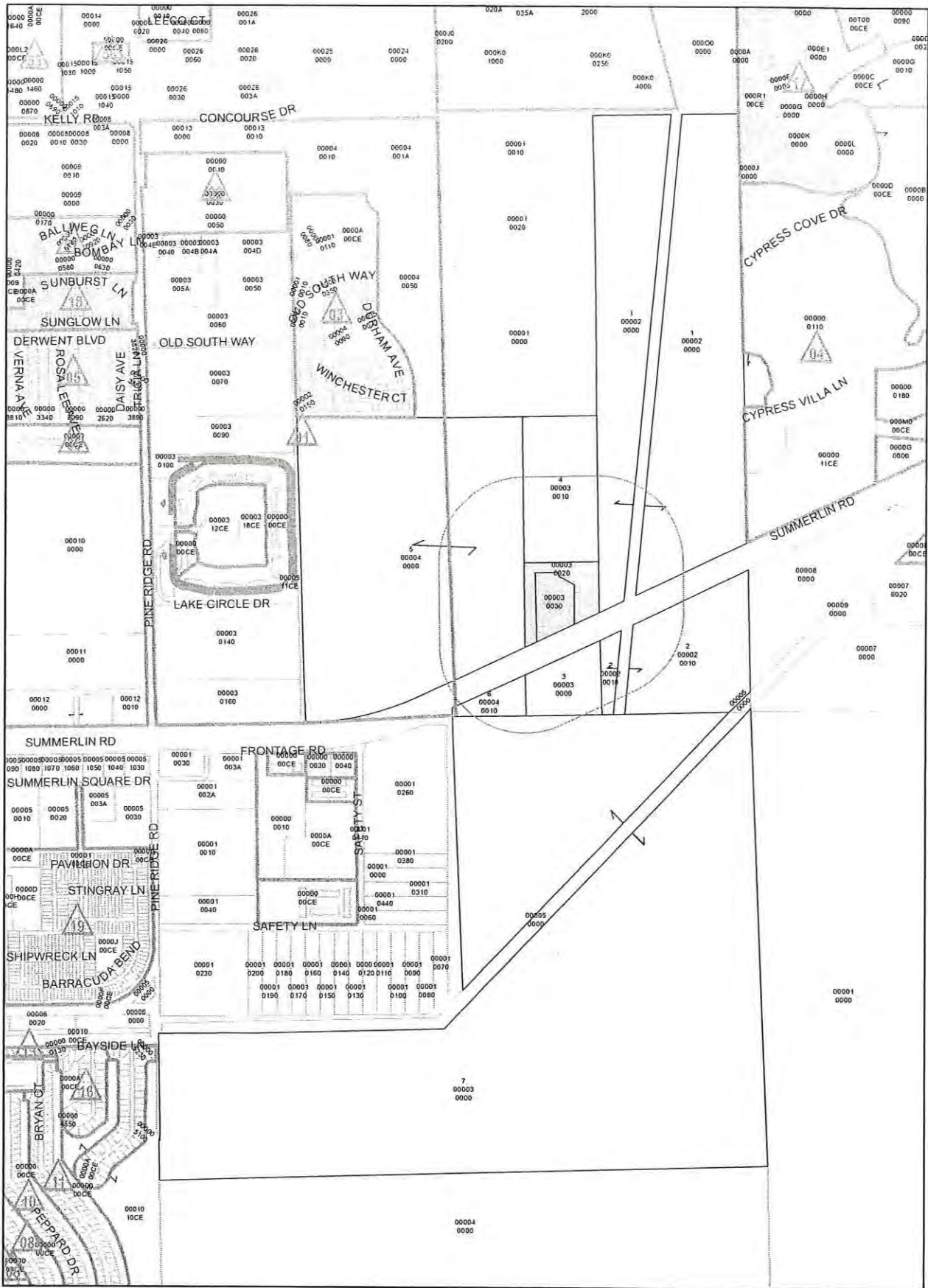
- *Variance Report*
- *Declaration of Restrictive Covenants*
- *Grant of Access Easement*
- *Memo from Lee DOT and Draft Resolution which designates Summerlin Road as a controlled access road and established permanent access points*
- *SFWMD Permit No. 36-05751-P*



# VARIANCE REPORT

1/08/2007

Subject Parcels : 2 Affected Parcels : 7 Buffer Distance : 750 ft



05-46-24-00-00003.0020 et al.

1,200600 0 1,200 Feet







# Lee County Property Appraiser

**Kenneth M. Wilkinson, C.F.A.**

GIS Department / Map Room

Phone: (239) 533-6159 • Fax: (239) 533-6139 • eMail: MapRoom@LeePA.org

## VARIANCE REPORT

Date of Report: January 08, 2007  
Buffer Distance: 750 ft  
Parcels Affected: 7  
Subject Parcel: 05-46-24-00-00003.0020, 05-46-24-00-00003.0030

<u>OWNER NAME AND ADDRESS</u>	<u>STRAP AND LOCATION</u>	<u>LEGAL DESCRIPTION</u>	<u>Map Index</u>
LEE COUNTY PO BOX 398 FORT MYERS FL 33902	<b>05-46-24-00-00002.0000</b> ACCESS UNDETERMINED FORT MYERS FL 33908	E 1/2 OF E 1/2 LESS PARL S OF SR 869	1
TIITF STATE OF FLORIDA DEPT OF ENVIR PROTECTION 3900 COMMONWEALTH BLVD TALLAHASSEE FL 32399	<b>05-46-24-00-00002.0010</b> ACCESS UNDETERMINED FORT MYERS FL 33908	PARL IN E 1/2 OF E 1/2 LYING S OF SR 869 LESS SEABOARD ALL FL RAILWAY DESC IN DB 111 PG 141	2
YEATTER TAD M 13731 FERN TRAIL DR NORTH FORT MYERS FL 33903	<b>05-46-24-00-00003.0000</b> ACCESS UNDETERMINED FORT MYERS FL 33908	E 1/2 OF SW 1/4 OF SE 1/4 S OF CR 869	3
SUNSET FALLS LLC 8045 NW 155TH ST MIAMI LAKES FL 33016	<b>05-46-24-00-00003.0010</b> ACCESS UNDETERMINED FORT MYERS FL 33908	E 1/2 OF NW 1/4 OF SE 1/4	4
LEE COUNTY PO BOX 398 FORT MYERS FL 33902	<b>05-46-24-00-00004.0000</b> ACCESS UNDETERMINED FORT MYERS FL 33908	W 1/2 OF W 1/2 OF SE 1/4+ BATE PINE RDGE TRK FARM BLK 4 PB 3 PG 68 LTS9-16 LESS PARL S OF SR 869	5
TIITF STATE OF FLORIDA DEPT OF ENVIR PROTECTION 3900 COMMONWEALTH BLVD TALLAHASSEE FL 32399	<b>05-46-24-00-00004.0010</b> ACCESS UNDETERMINED FORT MYERS FL 33908	W 1/2 OF W 1/2 OF SE 1/4 LYING S OF SR 869	6
TIITF/CAMA DEPT OF ENVIR PROTECTION 3900 COMMONWEALTH BLVD TALLAHASSEE FL 32399	<b>08-46-24-00-00003.0000</b> ACCESS UNDETERMINED FORT MYERS FL 33908	NE 1/4 + N 1/2 OF S 1/2 LESS ABANDONED SAL RR R/W	7

**7 RECORDS PRINTED**



Prepared by and Return to:  
Eric M. Borgia, Esq.  
P.O. Box 280  
Fort Myers, FL 33902-0280

### DECLARATION OF RESTRICTIVE COVENANTS

THIS DECLARATION OF RESTRICTIVE COVENANTS (the "Declaration") dated this 5 day of April, 2006, by and between SUNSET FALLS, LLC, a Florida limited liability company ("Sunset Falls"), whose mailing address is 8045 N.W. 155<sup>th</sup> St., Miami Lakes, FL 33016, and VICOTT, INC., a Florida corporation ("Vicott") and SUMMERLIN INVESTMENT, LLC, a Florida limited liability company ("Summerlin"), whose mailing address is 10960 Old South Way ("Vicott" and "Summerlin" may be referred to collectively as "Seller"). Fort Myers, FL 33908

WHEREAS, WATERMEN DEVELOPMENT GROUP CORP., a Florida corporation ("Watermen") and Vicott entered into a Contract dated November 25, 2003 (the "Contract") wherein Watermen agreed to purchase and Vicott agreed to sell the certain real property; and

WHEREAS, Watermen subsequently assigned its right, title and interest under the Contract to Sunset Falls; and

WHEREAS, Summerlin acquired title to a portion of the Property that is to be conveyed to Purchaser pursuant to the terms of the Contract; and

WHEREAS, Seller retained ownership of certain contiguous real property more particularly described on attached Exhibit "A" (the "Property"); and

WHEREAS, in the Contract, the parties agreed to certain development restrictions and use restrictions with regard to the Property.

### WITNESSETH:

NOW, THEREFORE, in consideration of the covenants contained herein and other good and valuable consideration, the adequacy and sufficiency of said consideration having been acknowledged by Sunset Falls and Seller, the parties covenant and agree as follows:

1. Recitals: The above-referenced recitals are true and correct and are incorporated herein by reference.



2. Restrictive Covenants: The parties agree that the following restrictions shall apply to the Property:

(a) Seller shall utilize the Property for retail commercial uses or professional offices. This provision shall survive the closing of the Contract for a period of thirty (30) years. The restriction shall run with the land and shall be binding on Seller and Seller's successors and assigns.

(b) Because of potential impacts on lands owned by Sunset Falls in close proximity to the Property, Seller hereby agrees that Sunset Falls shall have the right to approve, in Sunset Falls' reasonable discretion, all site plans, building plans and landscaping plans for the Property. Sunset Falls may reject Seller's plans based solely on aesthetic considerations if the design is out of character with the residential community Sunset Falls will construct on the property Sunset Falls purchased from Seller. Prior to submitting for building permits or development permits for any improvements to the Property, Seller shall deliver a proposed site plan, proposed building plans (including building elevations) and a landscaping plan for the Property. Sunset Falls shall have fifteen (15) business days in which to accept or reject the plans. Sunset Falls' failure to approve or disapprove Seller's plans shall be deemed an approval of the plans, unless Sunset Falls rejects the plans in writing specifying the deficiencies within the said fifteen (15) business day period. In the event Sunset Falls disapproves any plan or plans, Seller may correct the plans to accommodate Sunset Falls' objections and resubmit the plans for approval. This provision shall survive Closing until thirty (30) years from the date of the recording of the Deed. This provision shall also apply to any reconstruction or redevelopment of the Property. The restriction shall run with the land and shall be binding on Seller and Seller's successors and assigns.

(c) SELLER shall not make any of the following uses of the Property: a flea market; a school or other place of instruction where an individual class will exceed fifty students at any one time; an adult entertainment facility (including, but not limited to, an adult-type bookstore, adult video store, nude or semi-nude entertainment facility); a massage parlor oriented to sexual activity; a tattoo parlor; a skating rink; a mortuary; a labor camp, a junkyard or stockyard; a landfill, garbage dump or facility for the dumping, disposing, incineration or reduction of garbage; a recycling center; a bar, nightclub, discotheque, bottle club or any other establishment whose predominant business is selling or serving alcoholic beverages for on-premises consumption; a bowling alley, pool hall (other than a pool hall oriented to family entertainment), arcade or game room; a theater (motion picture or live performance), an auditorium or other place of public assembly which serves more than 100 customers at any one time; a service station or truck stop; any off-track betting, gaming or bingo establishment; any use which creates or includes obnoxious odors (excepting odors emanating from a restaurant, medical office or beauty salon) which extend beyond the boundaries of the Property, loud noises which extend beyond the boundaries of the Property, crowds of more than 100 people, any use which a reasonable man or woman would find immoral, offensive or obnoxious; and any use which is not allowable under existing zoning for the Property. This



provision shall survive the Closing for a period of thirty (30) years. The restriction shall run with the land and shall be binding on Seller and Seller's successors and assigns.

3. Remedies: The restrictions contained herein may be enforced by Sunset Falls by injunctive relief or by any other action at law or in equity.

4. Notices: All notices authorized or required by this Declaration shall be in writing and shall be considered delivered when:

(a) hand delivered;

(b) received by facsimile on a business day during normal business hours to the machine listed below for each party, and such facsimile is followed-up by delivery via recognized overnight delivery service;

(c) three (3) days after being sent by registered or certified mail, return receipt requested; or

(d) the first business day after being sent by recognized overnight delivery service and addressed as follows:

SUNSET FALLS: Sunset Falls, L.L.C.  
Attn: Eddy Garcia  
8045 N.W. 155<sup>th</sup> St.  
Miami Lakes, FL 33016  
Phone: (305) 828-0103  
Fax: (305) 828-0147

With a copy to: Thomas H. Gunderson, Esq.  
Henderson, Franklin, Starnes & Holt, P.A.  
1715 Monroe Street  
Fort Myers, FL 33901  
Phone: (239)-344-1210  
Fax: (239)-344-1575

SELLER: Vicott, Inc.  
Summerlin Investment, LLC  
Attn: Rudy Maul  
10950 Old Southway  
Ft. Myers, FL 33908  
Phone: 489-1814  
Fax: 489-1816



With a copy to:

George Consoer, Esq.  
Knott, Consoer, Ebelini, Hart & Swett, P.A.  
1625 Hendry St.  
Fort Myers, FL 33901  
Phone: (239) 334-2722  
Fax: (239) 334-1446

5. Miscellaneous:

(a) Entire Agreement: This Declaration constitutes the entire agreement by and between Estuary and Seller with respect to the subject matter hereof and supersedes all prior agreements, understandings, negotiations and discussions, both written and oral, by and between the parties hereto with respect to such subject matter. No representations, warranties or agreements have been made or, if made, have been relied upon by either party, except as specifically set forth herein. This Declaration may not be amended or modified in any way except by a written instrument executed by each party hereto.

(b) Binding Effect: All terms and provisions of this Declaration shall be binding upon, inure for the benefit of and be enforceable by and against the parties hereto and their respective personal or other legal representatives, heirs, successors and assigns.

(c) Waiver: The waiver by either party of the prompt and complete performance, or breach or violation hereof, of any provision of this Declaration shall not operate as, nor be construed to be, a waiver of any subsequent breach or violation, and the waiver by either party of the exercise of any right or remedy that it may possess shall not operate as, nor be construed to be, the waiver of such right or remedy by any other party or parties or a bar to the exercise of such right or remedy by such party or parties upon the occurrence of any subsequent breach or violation.

(d) Headings: The headings in this Declaration are for convenient reference only and shall not have the effect of modifying or amending the express terms and provisions of this Declaration, nor shall they be used in connection with the interpretation hereof.

(e) Pronouns; Gender: All pronouns and any variations thereof shall be deemed to refer to the masculine, feminine, neuter, singular or plural as the context may require.

(f) Severability: The invalidity of any provision of this Declaration shall not affect the enforceability of the remaining provisions of this Declaration or any part hereof, all of which are inserted conditionally on their being valid in law, and, in the event that a provision of this Declaration shall be declared invalid by a court of competent jurisdiction, this Declaration shall be construed as if such invalid provisions had not been inserted.



(g) Governing Law: This Declaration shall be governed by, and construed and interpreted in accordance with, the internal laws of the State of Florida without regard to principles of conflicts or choice of laws.

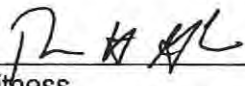
(h) Jurisdiction and Venue: Each of the parties irrevocably and unconditionally: (i) agrees that any suit, action or legal proceeding arising out of or relating to this Declaration shall be brought in the appropriate court of the Florida Twentieth Judicial Circuit located in Lee County, Florida; (ii) consents to the jurisdiction of each such court in any suit, action or proceeding; and (iii) waives any objection which it may have to the laying of venue of any such suit, action or proceeding in any of such courts.

(i) Further Assurances. Each party will, whenever and as often as he shall be reasonably requested to do so by the other party, execute, acknowledge and deliver any and all documents so requested or as are necessary in order to carry out the intent and purposes of this Declaration.

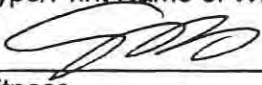
IN WITNESS WHEREOF, the parties hereto have caused this Declaration of Restrictive Covenants to be properly executed as of the day and year first above written.

Signed, Sealed, and Delivered  
in the Presence of:

SUNSET FALLS, LLC,  
a Florida limited liability company

  
\_\_\_\_\_  
Witness  
Thomas H. Gundersen  
(Type/Print Name of Witness)

By:   
\_\_\_\_\_  
Eddy Garcia, Manager

  
\_\_\_\_\_  
Witness  
Eric M. Bong  
(Type/Print Name of Witness)



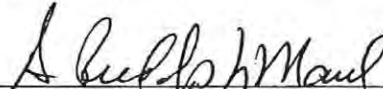
  
Witness **Summer M.O. Johnson**

(Type/Print Name of Witness)

  
Witness

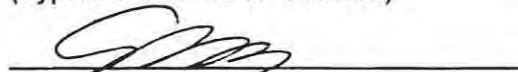
**Eric M. Borgatta**  
(Type/Print Name of Witness)

VICOTT, INC.,  
a Florida corporation

By:   
A. Rudolph Maul, President

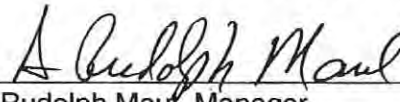
  
Witness **Summer M.O. Johnson**

(Type/Print Name of Witness)

  
Witness

**Eric M. Borgatta**  
(Type/Print Name of Witness)

SUMMERLIN INVESTMENT, LLC,  
a Florida limited liability company

By:   
A. Rudolph Maul, Manager



STATE OF FLORIDA

COUNTY OF Lee

The foregoing instrument was acknowledged before me this 4th day of April, 2006 by Eddy Garcia, as Manager of SUNSET FALLS, LLC, a Florida limited liability company, who executed the foregoing Declaration of Restrictive Covenants on behalf of said company and who is personally known to me or who produced \_\_\_\_\_ as identification.

My Commission Expires:



Thomas H. Gunderson  
MY COMMISSION # DD228349 EXPIRES  
March 24, 2008  
BONDED THRU TROY FAIN INSURANCE, INC.

[Signature]  
Notary Public

Print/Type Name of Notary

Commission No. \_\_\_\_\_

STATE OF FLORIDA

COUNTY OF LEE

The foregoing instrument was acknowledged before me this 5th day of April, 2006 by A. Rudolph Maul, as President of VICOTT, INC., a Florida corporation and as Manager of SUMMERLIN INVESTMENT, LLC, a Florida limited liability company, on behalf of the company and who is personally known to me or who has produced \_\_\_\_\_ as identification.

My Commission Expires:



SUMMER M.O. JOHNSON  
MY COMMISSION # DD 375913  
EXPIRES: December 1, 2008  
Bonded Thru Notary Public Underwriters

[Signature]  
Notary Public

**Summer M.O. Johnson**

Print/Type Name of Notary

Commission No. \_\_\_\_\_



## **Banks Engineering, Inc.**

Professional Engineers, Planners & Land Surveyors  
FORT MYERS ♦ CHARLOTTE ♦ NAPLES ♦ SARASOTA

DESCRIPTION OF AN EASEMENT  
LYING IN SECTION 5, T-46-S, R-24-E,  
LEE COUNTY, FLORIDA.

(COMMERCIAL AREA)

A TRACT OR PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, LYING IN SECTION 5, TOWNSHIP 46 SOUTH, RANGE 24 EAST, BEING FURTHER BOUNDED AND DESCRIBED AS FOLLOWS:

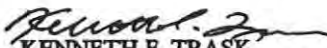
COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 5; THENCE S.89°01'42"W., ALONG THE SOUTH LINE OF SAID SECTION 5, FOR 1319.00 FEET; THENCE N.01°26'45"W., FOR 974.54 FEET TO THE NORTHERLY RIGHT OF WAY LINE OF SUMMERLIN ROAD (COUNTY ROAD 869); THENCE S.64°39'27"W., ALONG SAID NORTHERLY RIGHT OF WAY LINE, FOR 244.30 FEET TO THE POINT OF BEGINNING; THENCE N.00°04'41"E., FOR 348.06 FEET; THENCE N.61°35'24"W., FOR 156.47 FEET; THENCE N.01°01'35"W., FOR 33.37 FEET; THENCE S.88°47'59"W., FOR 159.92 FEET; THENCE S.88°30'44"W., FOR 47.37 FEET TO A POINT ON A CURVE TO THE RIGHT, HAVING: A RADIUS OF 212.00 FEET, A CENTRAL ANGLE OF 07°38'23", A CHORD BEARING OF S.05°18'28"E. AND A CHORD LENGTH OF 28.25 FEET; THENCE ALONG THE ARC OF SAID CURVE, AN ARC LENGTH OF 28.27 FEET TO THE POINT OF TANGENCY OF SAID CURVE; THENCE S.01°29'16"E., FOR 578.40 FEET TO SAID NORTHERLY RIGHT OF WAY LINE; THENCE N.64°39'27"E., ALONG SAID RIGHT OF WAY LINE, FOR 362.21 FEET TO THE POINT OF BEGINNING.

PARCEL CONTAINS 169455 SQUARE FEET OR 3.89 ACRES, MORE OR LESS.

BEARINGS ARE BASED ON SAID NORTHERLY RIGHT OF WAY LINE OF SUMMERLIN ROAD AS BEARING S.64°39'27"W.

BANKS ENGINEERING, INC.  
FLORIDA LICENSED BUSINESS NO. LB6690

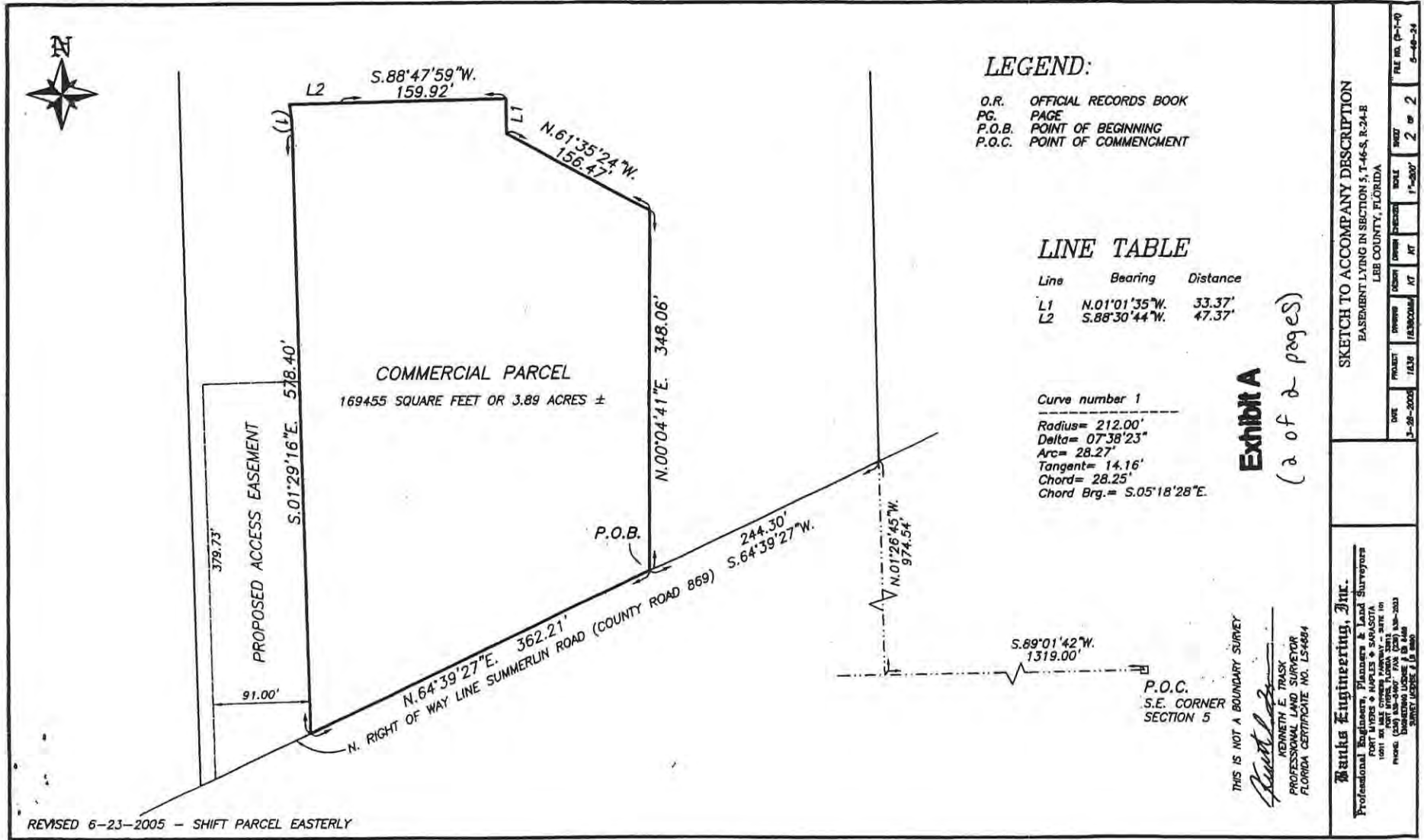
JUNE 23, 2005

  
KENNETH E. TRASK  
PROFESSIONAL LAND SURVEYOR  
FLORIDA LICENSE NO. LS4684

SHEET 1 OF 2

**Exhibit A**  
(1 of 2 pages)

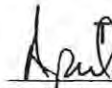






Prepared By:  
Eric M. Borgia, Esq.  
P. O. Box 280  
Fort Myers, FL 33902-0280

**GRANT OF ACCESS EASEMENT**

 THIS GRANT OF EASEMENT, is made and entered into this 5 day of  
April, 2006, by SUNSET FALLS, LLC, a Florida limited liability company ("Sunset  
Falls") in favor of VICOTT, INC., a Florida corporation ("Vicott").

**WITNESSETH:**

**WHEREAS**, Sunset Falls is the owner of the real property described on attached  
Exhibit "A" ("Sunset Falls Property"); and

**WHEREAS**, Vicott is the owner of the real property lying adjacent to, and  
contiguous with, the Sunset Falls Property described on attached Exhibit "B" ("Vicott  
Property"); and

**WHEREAS**, Vicott desires a perpetual non-exclusive ingress and egress  
easement over that portion of the Sunset Falls Property described on attached Exhibit  
"C" ("Easement Property"); and

**WHEREAS**, Sunset Falls is willing to convey a perpetual non-exclusive ingress  
and egress easement to Vicott over the Easement Property.

**NOW THEREFORE**, in consideration of the sum of Ten Dollars (\$10.00) and  
other good and valuable consideration, the parties hereby agree as follows:

1. Sunset Falls hereby grants and conveys to Vicott, its successors and  
assigns, a perpetual, non-exclusive ingress and egress over the Easement Property.
2. Sunset Falls shall construct an entry road on the Easement Property.
3. Vicott hereby agrees to indemnify, defend and hold harmless Sunset Falls,  
and any successor owner of the Sunset Falls Property, from all demands, claims and  
causes of action and repair any damage to the Sunset Falls Property and the Easement  
Property that relates specifically to Vicott or its agents, contractor's, employees',  
designees', invitees' or subcontractor's work on or use of the Easement Property.
4. The entry road shall be maintained by Sunset Falls or its successors.  
Vicott shall be responsible for 13% of the cost of the maintenance of the entry road.  
Sunset Falls shall be responsible for the remaining maintenance cost of the entry road.
5. This Grant of Easement shall be governed by and construed in  
accordance with the laws of the State of Florida. The venue for any legal or  
administrative proceeding regarding this Agreement shall be exclusively in Lee County,  
Florida.



6. All of the covenants, terms, agreements, conditions and restrictions set forth in this Agreement are intended to and shall be construed as running with the title to the respective properties, binding upon, inuring to the benefit of, and enforceable by the parties hereto, their respective successors and assigns.

7. This Agreement may be executed in any number of counterparts, each of which when executed and delivered shall be an original, and such counterparts shall together constitute one and the same instrument.

8. The prevailing party in any litigation arising out of this Agreement shall be entitled to recover its reasonable attorneys' fees and court costs, both at trial and on appeal, from the non-prevailing party.

IN WITNESS WHEREOF, the parties have set their hands and seals the day and year first above written.

Signed, Sealed and Delivered  
in the Presence of:

SUNSET FALLS, LLC, a  
Florida limited liability company

TH H G  
Witness  
Thomas H. Gunderson  
Print/Type Name of Witness

EM B  
Witness  
Eric M. Borgia  
Print/Type Name of Witness

By Eddy Garcia  
Eddy Garcia, Manager

STATE OF FLORIDA  
COUNTY OF LEE

The foregoing instrument was acknowledged before me this 4th day of April, 2006, by Eddy Garcia, as Manager of SUNSET FALLS, LLC, a Florida limited liability company, who is personally known to me or who has produced \_\_\_\_\_ as identification.

My Commission Expires:

TH H G  
Notary Public

\_\_\_\_\_  
Type/Print Name of Notary  
Commission No. \_\_\_\_\_



Thomas H. Gunderson  
MY COMMISSION # DD298549 EXPIRES  
March 24, 2008  
BONDED THRU TROY FAUN INSURANCE, INC.



Signed and Sealed in the  
presence of:

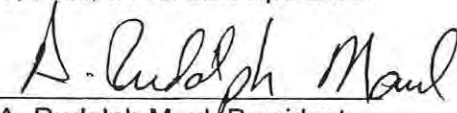
  
\_\_\_\_\_  
Witness Signature

Summer M.O. Johnson  
Type/Print Witness Name

  
\_\_\_\_\_  
Witness Signature

ERIC M. BORGIA  
Type/Print Witness Name

VICOTT, INC., a Florida corporation

By:   
\_\_\_\_\_  
A. Rudolph Maul, President

STATE OF FLORIDA  
COUNTY OF LEE

The foregoing instrument was acknowledged before me this 5<sup>th</sup> day of April, 2006, by A. Rudolph Maul, as President of VICOTT, INC., a Florida corporation, who is personally known to me or who has produced \_\_\_\_\_ as identification.

My Commission Expires:



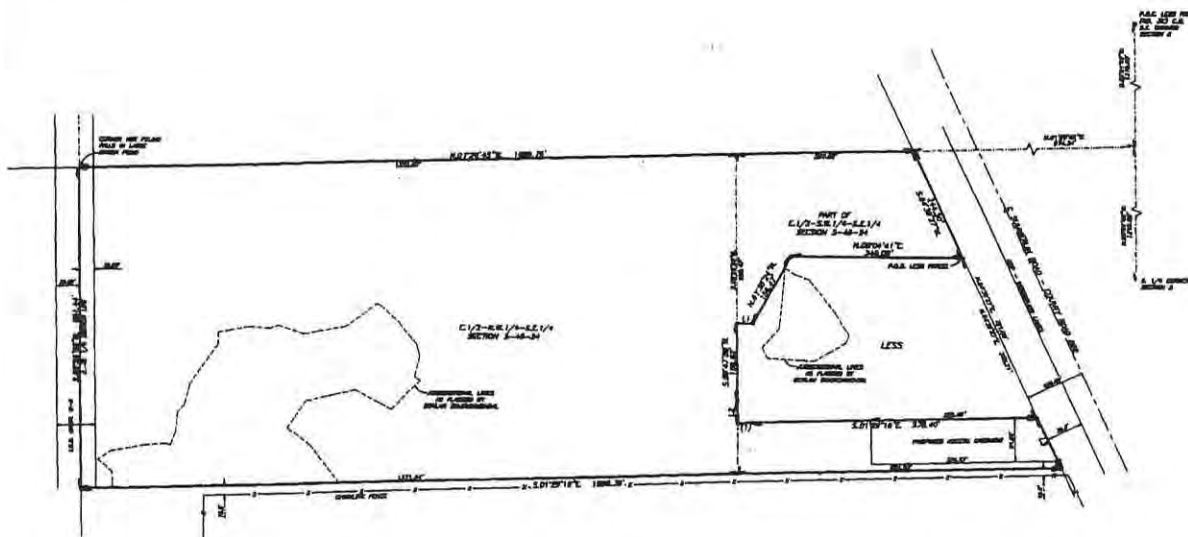
  
\_\_\_\_\_  
Notary Public  
**Summer M.O. Johnson**

Type/Print Name of Notary  
Commission No. \_\_\_\_\_

#1409793v.3



A PARCEL OF LAND LYING IN  
SECTION 3, TOWNSHIP 46 SOUTH, RANGE 24 EAST,  
LEF COUNTY, FLORIDA



THE FIRST FIRST MICHIGAN STYLE BLENDED CIGARETTE COMPANY COMMITMENT FILE NO. 88-200-0000, DATED SEPTEMBER 22, 2008 AT 10:00AM.]

A STATE OF CALIFORNIA, COUNTY OF LOS ANGELES, ss. I, the undersigned, County Clerk of said County, do hereby certify that the foregoing is a true and correct copy of the original as the same appears in the records of said County.

[illegible][illegible]

I HEREBY CERTIFY TO THE BEST OF MY  
KNOWLEDGE, BELIEF, AND TRUTH THAT ALL OF THE  
ABOVE DESCRIBED PROPERTY IS A TRUE  
AND LEGAL INTEREST OF A FIELD SURVEY MADE UNDER  
THE AUTHORITY AND AS OF 12-20-80. I HAVE NOTED THE  
LOCAL RECORDS, AND I HAVE NOTED THE RECORDS OF THE  
COUNTY, STATE OF FLORIDA, AND THE COUNTY OF  
FLORIDA IN SECTION 27-28, FLORIDA. I HAVE NOTED  
THE RECORDS OF THE COUNTY OF FLORIDA, AND THE  
COUNTY OF FLORIDA, AND THE COUNTY OF FLORIDA.

- THE SUBJECT IS NOT WILD ENOUGH TO BE CONSIDERED AS THE GENUINE, ANIMAL SIDE, OF A FURTHER LEARNING THROUGH AND SUPPORT.
- ANOTHER IS BELIEVING IN SACRED WAYS OF EXISTENCE OF THOSE WHOSE THE SUBJECT PARTS ON THEM AS FORMING THROUGH OTHERS CHANGING OF THE SUBJECT MUST BE REVEAL.
- THE CONCEPTS OF THE FIVE FOR THE LARGEST CONCEPTS ARE.
- IT IS NOT A CONCEPT OF THE FIVE, BEING, BECAUSE, IN THE FIVE OF THE FIVE.

UNITED STATES OF AMERICA  
 DISTRICT COURT OF THE DISTRICT OF COLUMBIA  
 IN RE: THE ESTATE OF JAMES EARL RAY, JR.  
 DECEASED

[illegible]



## **Banks Engineering, Inc.**

Professional Engineers, Planners & Land Surveyors  
FORT MYERS ♦ CHARLOTTE ♦ NAPLES ♦ SARASOTA

DESCRIPTION OF AN EASEMENT  
LYING IN SECTION 5, T-46-S, R-24-E,  
LEE COUNTY, FLORIDA.

(COMMERCIAL AREA)

A TRACT OR PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, LYING IN SECTION 5, TOWNSHIP 46 SOUTH, RANGE 24 EAST, BEING FURTHER BOUNDED AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 5; THENCE S.89°01'42"W., ALONG THE SOUTH LINE OF SAID SECTION 5, FOR 1319.00 FEET; THENCE N.01°26'45"W., FOR 974.54 FEET TO THE NORTHERLY RIGHT OF WAY LINE OF SUMMERLIN ROAD (COUNTY ROAD 869); THENCE S.64°39'27"W., ALONG SAID NORTHERLY RIGHT OF WAY LINE, FOR 244.30 FEET TO THE POINT OF BEGINNING; THENCE N.00°04'41"E., FOR 348.06 FEET; THENCE N.61°35'24"W., FOR 156.47 FEET; THENCE N.01°01'35"W., FOR 33.37 FEET; THENCE S.88°47'59"W., FOR 159.92 FEET; THENCE S.88°30'44"W., FOR 47.37 FEET TO A POINT ON A CURVE TO THE RIGHT, HAVING: A RADIUS OF 212.00 FEET, A CENTRAL ANGLE OF 07°38'23", A CHORD BEARING OF S.05°18'28"E. AND A CHORD LENGTH OF 28.25 FEET; THENCE ALONG THE ARC OF SAID CURVE, AN ARC LENGTH OF 28.27 FEET TO THE POINT OF TANGENCY OF SAID CURVE; THENCE S.01°29'16"E., FOR 578.40 FEET TO SAID NORTHERLY RIGHT OF WAY LINE; THENCE N.64°39'27"E., ALONG SAID RIGHT OF WAY LINE, FOR 362.21 FEET TO THE POINT OF BEGINNING.

PARCEL CONTAINS 169455 SQUARE FEET OR 3.89 ACRES, MORE OR LESS.

BEARINGS ARE BASED ON SAID NORTHERLY RIGHT OF WAY LINE OF SUMMERLIN ROAD AS BEARING S.64°39'27"W.

BANKS ENGINEERING, INC.  
FLORIDA LICENSED BUSINESS NO. LB6690

JUNE 23, 2005

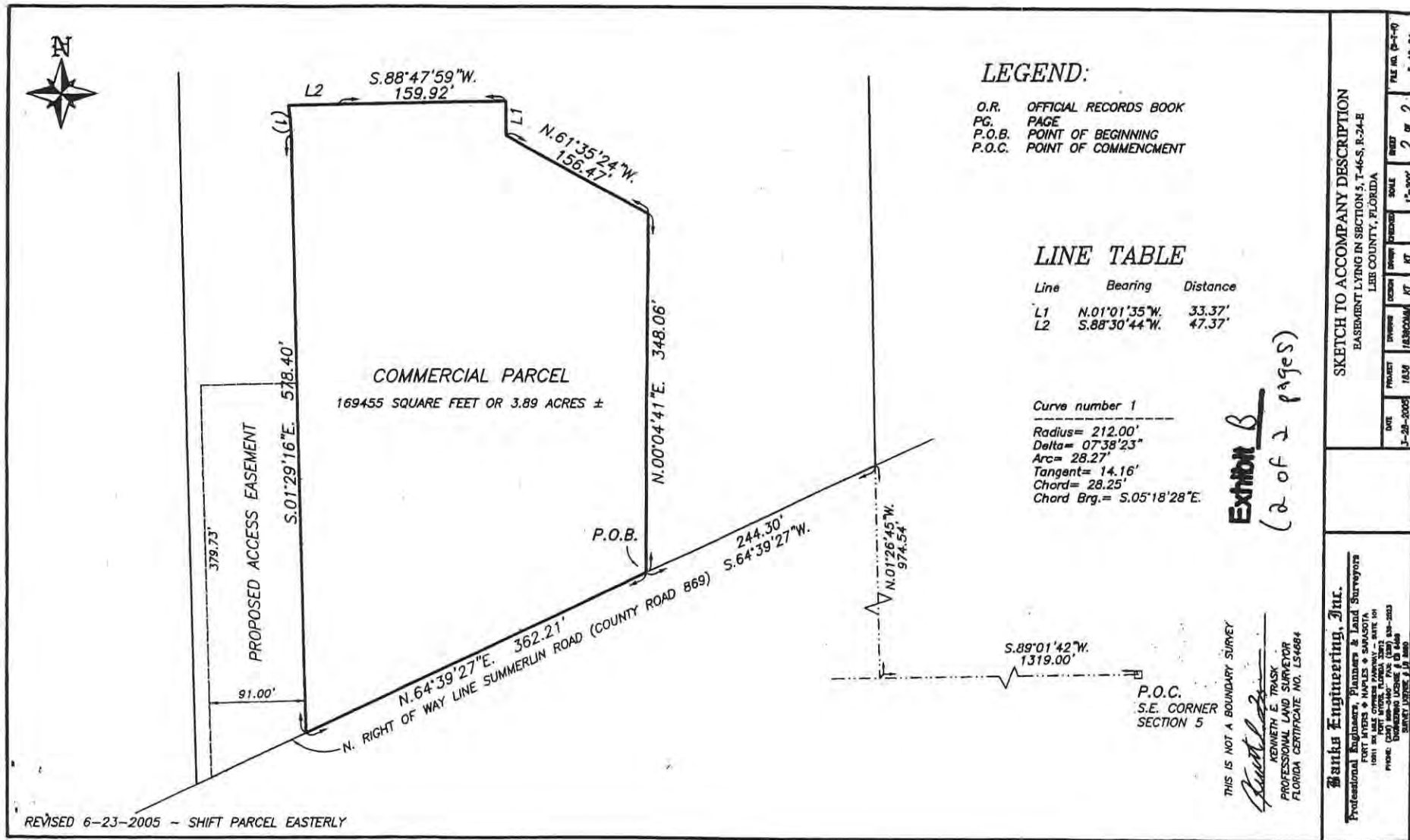
  
KENNETH E. TRASK  
PROFESSIONAL LAND SURVEYOR  
FLORIDA LICENSE NO. LS4684

SHEET 1 OF 2

**Exhibit B**

(1 of 2 pages)







## **Banks Engineering, Inc.**

Professional Engineers, Planners & Land Surveyors  
FORT MYERS ♦ CHARLOTTE ♦ NAPLES ♦ SARASOTA

DESCRIPTION OF AN EASEMENT  
LYING IN SECTION 5, T-46-S, R-24-E,  
LEE COUNTY, FLORIDA.

(COMMERCIAL ACCESS EASEMENT)

AN EASEMENT SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, LYING IN SECTION 5, TOWNSHIP 46 SOUTH, RANGE 24 EAST, BEING FURTHER BOUNDED AND DESCRIBED AS FOLLOWS:


COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 5; THENCE S.89°01'42"W., ALONG THE SOUTH LINE OF SAID SECTION 5, FOR 1319.00 FEET; THENCE N.01°26'45"W., FOR 974.54 FEET TO THE NORTHERLY RIGHT OF WAY LINE OF SUMMERLIN ROAD (COUNTY ROAD 869); THENCE S.64°39'27"W., ALONG SAID NORTHERLY RIGHT OF WAY LINE, FOR 606.52 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE S.64°39'27"W., ALONG SAID NORTHERLY RIGHT OF WAY LINE, FOR 99.50 FEET; THENCE N.01°29'16"W., FOR 379.73 FEET; N.88°30'44"E., FOR 91.00 FEET; THENCE S.01°29'16"E., FOR 339.49 FEET TO THE POINT OF BEGINNING.

PARCEL CONTAINS 32725 SQUARE FEET OR 0.75 ACRES, MORE OR LESS.

BEARINGS ARE BASED ON SAID NORTHERLY RIGHT OF WAY LINE OF SUMMERLIN ROAD AS BEARING S.64°39'27"W.

BANKS ENGINEERING, INC.  
FLORIDA LICENSED BUSINESS NO. LB6690

JUNE 23, 2005

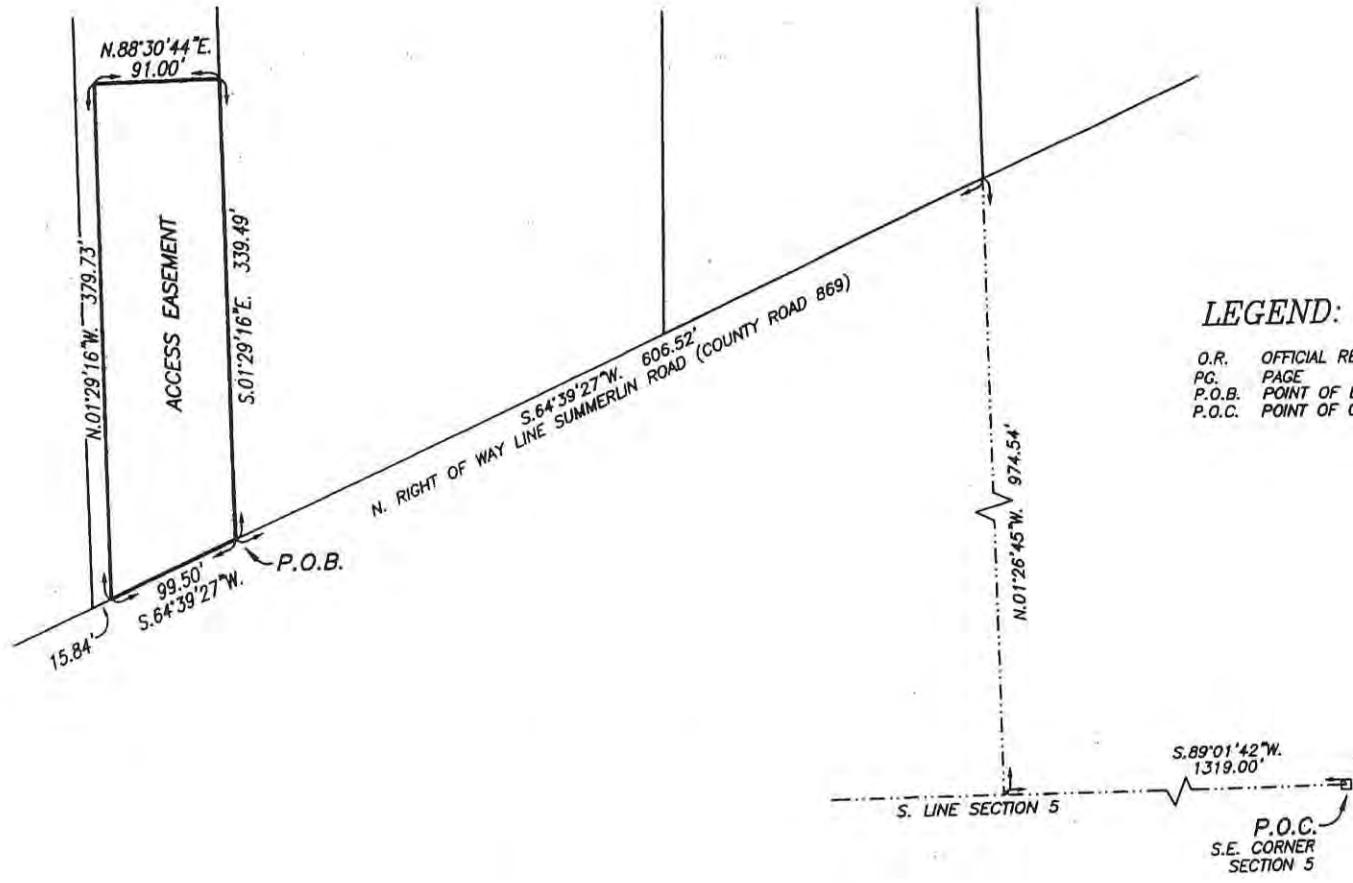
  
KENNETH E. TRASK  
PROFESSIONAL LAND SURVEYOR  
FLORIDA LICENSE NO. LS4684

SHEET 1 OF 2

**Exhibit C**

(1 of 2 pages)





**LEGEND:**

- O.R. OFFICIAL RECORDS BOOK
- PG. PAGE
- P.O.B. POINT OF BEGINNING
- P.O.C. POINT OF COMMENCEMENT

**Exhibit C**  
(2 of 2 pages)

THIS IS NOT A BOUNDARY SURVEY  
*Kenneth E. Trask*  
KENNETH E. TRASK  
PROFESSIONAL LAND SURVEYOR  
FLORIDA CERTIFICATE NO. LS4684

**Hanks Engineering, Inc.**  
Professional Engineers, Planners & Land Surveyors  
FORT MYERS • NAPLES • SANICEDON  
1001 N. MIAMI AVE., SUITE 100  
FORT MYERS, FLORIDA 33901  
PHONE: (888) 888-8888 • FAX: (888) 888-8888  
WWW.HANKS-INC.COM

SKETCH TO ACCOMPANY DESCRIPTION  
EASEMENT LYING IN SECTION 5, T-46-S, R-24-E  
LEE COUNTY, FLORIDA

DATE	PROJECT	INSTR	BOOK	PAGE	SHEET	FILE NO. (P-1-0)
3-28-2005	1838	1838AC	NT	2	2	8-16-04



# Memo

To: Josh Philpott  
Senior Planner

From: Andrew Getch, P.E.  
Engineering Manager I

Date: September 7, 2006

**Subject: Waterstone RPD – DC12005-00078**

---

The Lee County Department of Transportation (LCDOT) has reviewed the Application for Public Hearing. The application is requesting to relocate the center of the approved connection point from STA 205+50 to STA 206+40. The current six-laning plans for Summerlin Road relocate the existing access point approximately 50 feet to the south to approximately STA 205+00. The proposal by the applicant relocates the designed access point approximately 140 feet to the north. The applicant is working with staff to modify the six-laning plans and LCDOT has no objection to the request. A draft revision to the Controlled Access Resolution is attached.

The current designated connection point is at a property line. The proposed roadway connecting to Summerlin Road is adjacent to STRAP 05-46-24-00-00003.0030, currently owned by Vicott Inc, and STRAP 05-46-24-00-00000.0020, currently owned by Lee County. The applicant has addressed the requirements of AC-11-10 for relocation of an approved access point. To ensure access to adjacent parcels, LCDOT recommends the following condition:

Prior to local development order approval, an access easement(s) for the use of adjacent properties at STRAP 05-46-24-00-00000.4000 and STRAP 05-46-24-00-00003.0030 must be recorded in the public records.

AJG/ajg

cc: Harry Campbell, LCDOT, Traffic  
Donna Marie Collins, Assistant County Attorney



**LEE COUNTY RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA, AMENDING RESOLUTION NO. 93-11-112, AS AMENDED, WHICH DESIGNATED SUMMERLIN ROAD AS A CONTROLLED ACCESS ROAD AND ESTABLISHED PERMANENT ACCESS POINTS.**

**WHEREAS**, Section 10-285(h) of the Lee County Land Development Code provides for the designation of certain streets in Lee County as "controlled access" facilities to which permanent access points are restricted to locations established and set by design study and plans adopted by resolution of the Lee County Board of County Commissioners; and

**WHEREAS**, the Board of County Commissioners retains the right and authority to exercise its police power to modify roadway median openings, access points and turning movements to protect the health, safety and welfare of the traveling public; and

**WHEREAS**, on November 17, 1993, the Board of County Commissioners adopted Resolution No. 93-11-112 Summerlin Road as a controlled access facility from Boy Scout Road southeast to McGregor Boulevard, and establishing permanent access points; and

**WHEREAS**, Resolution No. 93-11-112 was subsequently amended on May 18, 1994 by Resolution No. 94-05-24 which added a connection point at Station 327+38 +/- 50 on the west side of Summerlin Road for full access by school busses only; and

**WHEREAS**, Resolution No. 93-11-112 was further amended by Board Resolutions adopted as follows:

1. No. 95-06-60, adopted 6-21-95 adding a right-in/right-out only connection point on the east side at Station 244+62 +/-50;
2. No. 95-10-44, adopted 10-16-95 adding a right-in only connection point on the east side at Station 203+28 +/-50; and
3. No. 97-12-10, adopted on 12-9-97, relocating an existing access point from Station 229+90 +/-50 to Station 274+17 +/-50 and establishing an eastbound left-in, right-in and right-out access only on the north side; and
4. No. 99-01-13, adopted 1-12-99, adding a right-in/right-out only connection point on the east side at Station 186+68 +/-50; and



5. No. 99-07-05, adopted 7-6-99, relocating an existing right-in/right-out only access point on the east side from Station 244+62 +/-50 to Station 248+82 +/-50; and
6. No. 99-11-42, adopted 11-15-99, adding a left-in, right-in and right-out only connection point on the east side of Summerlin Road at Station 125+50 +/-50; and
7. No. 00-05-05, adopted 5-1-2000, adding an eastbound left-in, right-in and right-out only connection point on the northwest side at Station 308+35 +/-50 on the northwest side; and
8. No. 03-04-33, adopted 3-21-2003, adding a right-in/ right-out only connection point on the northwest side at Station 326+56 +/-50; and
9. No. 06-08-47, adopted 8-21-2006, relocating an existing right-in/right-out only access point on the east side from Station 339+71 +/-50 to Station 338+68 +/-50.

**WHEREAS**, the Watermen Development Group, desires to relocate an existing median opening from Station 205+50 to Station 206+40; and

**WHEREAS**, the Lee County Department of Transportation, has concluded that, the relocation of the designated connection point will not hinder traffic capacity nor be contrary to the protection of the health, safety and welfare of the citizens of Lee County.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of County Commissioners of Lee County, Florida that:

1. Summerlin Road, from Colonial Boulevard southwest to McGregor Boulevard, including its intersections, is designated a controlled access road facility.
2. Absent subsequent Board action in accordance with applicable County regulations, the connection points are limited to those identified on attached Exhibit "A." Provided, however, no vested right to a particular connection point location is granted by virtue of adopting Exhibit "A." The County retains full power and authority to exercise its police power to modify connection points, median openings and turning movements to protect the health, safety and welfare of the traveling public.

Resolution No. 93-11-112 is hereby further amended, as stated in attached Exhibit A, to relocate an existing median opening from Station 205+50 to Station 206+40.



The foregoing Resolution was adopted by the Lee County Board of County Commissioners upon a motion by \_\_\_\_\_, and seconded by \_\_\_\_\_, and, upon being put to a vote, the result was as follows:

ROBERT JANES	_____
DOUGLAS R. ST. CERNY	_____
RAY JUDAH	_____
TAMMARA HALL	_____
JOHN E. ALBION	_____

DULY PASSED AND ADOPTED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2006.

ATTEST:

CHARLIE GREEN, CLERK

BOARD OF COUNTY  
COMMISSIONERS  
OF LEE COUNTY, FLORIDA

By \_\_\_\_\_ Deputy Clerk      By: \_\_\_\_\_ Tammara Hall, Chairwoman

APPROVED AS TO FORM

By: \_\_\_\_\_  
Office of the Lee County Attorney



## EXHIBIT A

STATION	DISTANCE (FEET)		ORIGIN	MEDIAN OPENING	MOVEMENTS	CONNECTION	REMARKS
	North/West	South/East					
100+02+/-50						Gladiolus Dr	Highway Station looking north
108+24+/-50	822	822	1	YES	ALL	Country Rd (W)	Existing median opening
116+20+/-50	n/a	796	2	NO	RT.IN/RT.OUT	Elderberry Ln (E)	Existing temporary connection to be replaced by frontage road
125+50+/-50	n/a	930	2	YES	SBL RT.IN/RT.OUT	E	New - Does not exist (7)
136+50+/-50	2826	1100	1	YES	ALL	Lakewood Blvd(W)	Existing signalized median opening
167+81+/-50	3131	3131	1	YES	ALL	Reflections Parkway (E) & W	Approved 3/26/76 - Existing median opening administratively shifted from STA 155+75 on 1/4/95 (5)
186+68+/-50	n/a	1887	2	NO	RT.IN/RT.OUT	E	New existing connection (5)
189+18+/-50	2137	n/a	2	NO	RT.IN/RT.OUT	W	Existing connection
196+68+/-50	750	1000	1	YES	ALL	Cypress Lake Dr	Existing signalized median opening
203+28+/-50	n/a	660	2	NO	R.IN	E	Existing connection (3)
210+44+/-50	1376	716	2	YES	ALL	Univ Ctr Blvd (E) & Edison CC (W)	Existing median opening
237+35+/-50	2691	2691	1	YES	ALL	College Parkway	Existing signalized median opening
244+62+/-50	n/a	727	2	NO	RT.IN/RT.OUT	E	Existing connection - relocated from 244+62 (2) (6)
252+12+/-50	n/a	750	1	YES	SBL RT.IN/RT.OUT	Brantley Rd (E)	Existing - Originally full median opening, directionalized for safety
274+60+/-50	3725	2248	1	YES	ALL	Park Meadows Dr (E)	Existing signalized median opening
302+60+/-50	2800	2800	1	YES	SBL RT.IN/RT.OUT	Maple Dr (E)	Existing connection
319+12+/-50	1652	1652	1	YES	ALL	E & W	Existing median opening
327+38+/-50	826	826	1	YES	ALL	E & W	Existing connection - School buses only west (1)
334+47+/-50	709	709	1	YES	ALL	Boy Scout Rd	Existing signalized median opening

Thirty-seven permanent access points

Two temporary access points

One pending access point

Length 10.31 miles

Avg spacing 1611 feet

WBL = Westbound left

EBL = Eastbound left

NBL = Northbound left

SBL = Southbound left

## Notes

- 1 Original plan
- 2 Development access
- (1) Modified by Amending Resolution #94-05-24
- (2) Added by Amending Resolution #95-06-60
- (3) Added by Amending Resolution #95-10-44
- (4) Added by Amending Resolution #97-12-10
- (5) Added by Amending Resolution #99-01-13
- (6) Added by Amending Resolution #99-07-05
- (7) Added by Amending Resolution #99-11-42
- (8) Added by Amending Resolution #00-05-05
- (9) Added by Amending Resolution #03-04-33
- (10) Modified by Amending Resolution #06-08-47
- (11) Modified by Amending Resolution #\_\_-\_\_-\_\_





FORM #0145  
Rev. 08/95

**SOUTH FLORIDA WATER MANAGEMENT DISTRICT  
ENVIRONMENTAL RESOURCE PERMIT NO. 36-05751-P  
DATE ISSUED: JUNE 14, 2006**

**PERMITTEE:** VICOTT, INC.  
(SUNSET FALLS (F.K.A. WATERSTONE))  
10950 OLD SOUTH WAY,  
FORT MYERS, FL 33904

SUNSET FALLS, LLC  
(SUNSET FALLS (F.K.A. WATERSTONE))  
8045 NW 155 STREET,  
MIAMI LAKES, FL 33016

**PROJECT DESCRIPTION:** CONSTRUCTION AND OPERATION OF A SURFACE WATER MANAGEMENT SYSTEM SERVING A 109.03-ACRE RESIDENTIAL/ COMMERCIAL DEVELOPMENT KNOWN AS SUNSET FALLS (F.K.A. WATERSTONE) WITH DISCHARGE INTO WATERS OF CALOOSAHATCHEE RIVER VIA THE IDD CANAL C VIA SHEETFLOW THROUGH ADJACENT WETLANDS.

**PROJECT LOCATION:** LEE COUNTY, SECTION 5 TWP 46S RGE 24E

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

This Permit is issued pursuant to Application No. 050113-13, dated January 13, 2005. Permittee agrees to hold and save the South Florida Water Management District and its successors harmless from any and all damages, claims or liabilities which may arise by reason of the construction, operation, maintenance or use of activities authorized by this Permit. This Permit is issued under the provisions of Chapter 373, Part IV Florida Statutes (F.S.), and the Operating Agreement Concerning Regulation Under Part IV, Chapter 373 F.S., between South Florida Water Management District and the Department of Environmental Protection. Issuance of this Permit constitutes certification of compliance with state water quality standards where necessary pursuant to Section 401, Public Law 92-500, 33 USC Section 1341, unless this Permit is issued pursuant to the net improvement provisions of Subsections 373.414(1)(b), F.S., or as otherwise stated herein.

This Permit may be transferred pursuant to the appropriate provisions of Chapter 373, F.S. and Sections 40E-1.6107(1) and (2), and 40E-4.351(1), (2), and (4), Florida Administrative Code (F.A.C.). This Permit may be revoked, suspended, or modified at any time pursuant to the appropriate provisions of Chapter 373, F.S. and Sections 40E-4.351(1), (2), and (4), F.A.C.

This Permit shall be subject to the General Conditions set forth in Rule 40E-4.381, F.A.C., unless waived or modified by the Governing Board. The Application, and the Environmental Resource Permit Staff Review Summary of the Application, including all conditions, and all plans and specifications incorporated by reference, are a part of this Permit. All activities authorized by this Permit shall be implemented as set forth in the plans, specifications, and performance criteria as set forth and incorporated in the Environmental Resource Permit Staff Review Summary. Within 30 days after completion of construction of the permitted activity, the Permittee shall submit a written statement of completion and certification by a registered professional engineer or other appropriate individual, pursuant to the appropriate provisions of Chapter 373, F.S. and Sections 40E-4.361 and 40E-4.381, F.A.C.

In the event the property is sold or otherwise conveyed, the Permittee will remain liable for compliance with this Permit until transfer is approved by the District pursuant to Rule 40E-1.6107, F.A.C.

**SPECIAL AND GENERAL CONDITIONS ARE AS FOLLOWS:**

SEE PAGES 2 - 5 OF 8 (30 SPECIAL CONDITIONS).  
SEE PAGES 6 - 8 OF 8 (19 GENERAL CONDITIONS).

SOUTH FLORIDA WATER MANAGEMENT  
DISTRICT, BY ITS GOVERNING BOARD

On           ORIGINAL SIGNED BY:            
By           ELIZABETH VEGUILLA            
DEPUTY CLERK



## SPECIAL CONDITIONS

1. The construction phase of this permit shall expire on June 14, 2011.
2. Operation of the surface water management system shall be the responsibility of WATERSTONE COMMUNITY ASSOCIATION, INC. Within one year of permit issuance or concurrent with the engineering certification of construction completion, whichever comes first, the permittee shall submit a copy of the recorded deed restrictions (or declaration of condominium, if applicable), a copy of the filed articles of incorporation, and a copy of the certificate of incorporation for the association.
3. Discharge Facilities:

## Basin B1

1 - 10.25" W X 13.50" H RECTANGULAR ORIFICE with invert at elev. 4.00' NGVD.  
422 LF of 30" dia. REINFORCED CONCRETE PIPE culvert.  
1 - 4.00' W X 5.50' L FDOT Mod. type "E" drop inlet with crest at elev. 7.33' NGVD.

Receiving body : Adjacent Wetlands  
Control elev : 4.00 feet NGVD.

## Basin B2

1 - 3.50" dia. CIRCULAR ORIFICE with invert at elev. 3.73' NGVD.  
22 LF of 24" dia. REINFORCED CONCRETE PIPE culvert.  
1 - 3.33' W X 4.42' L FDOT Mod. type "C" drop inlet with crest at elev. 6.84' NGVD.

Receiving body : Adjacent Wetlands  
Control elev : 3.73 feet NGVD.

## Basin B3

1 - 2" WIDE BROAD CRESTED weir with crest at elev. 6.00' NGVD.  
1 - 3.75" dia. CIRCULAR ORIFICE with invert at elev. 3.73' NGVD.  
14 LF of 24" dia. REINFORCED CONCRETE PIPE culvert.  
1 - 3.33' W X 4.42' L FDOT Mod. type "C" drop inlet with crest at elev. 7.15' NGVD.

Receiving body : Adjacent Wetlands  
Control elev : 3.73 feet NGVD.

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. Minimum building floor elevation:
  - Basin B1 - 9.20 feet NGVD.
  - Basin B3 - 9.20 feet NGVD.
13. Minimum road crown elevation:
  - Basin B1 - 6.50 feet NGVD.
  - Basin B2 - 6.00 feet NGVD.
  - Basin B3 - 6.70 feet NGVD.
14. Minimum parking lot elevation:
  - Basin B1 - 6.50 feet NGVD.
  - Basin B2 - 6.00 feet NGVD.
  - Basin B3 - 6.70 feet NGVD.
15. The Permittee shall utilize the criteria contained in the Stormwater Pollution Prevention Plan and on the applicable approved construction drawings for the duration of the projects construction activities. Exhibits No. 4.0-4.8 have been incorporated by reference and shall be retained in the permit file.
16. The Urban Stormwater Management Program (Exhibit Nos.5.0-5.5) shall be included as part of the Property Owners Association documents prior to being recorded. Prior to recording of the Property Owners Association documents the amended documents shall be submitted to the Enforcement and Compliance section at the Fort Myers Lower West Coast Service Center for approval. Exhibit "D" of the draft Property Owners Association documents, Urban Stormwater Management Program has been included in this permit by reference (please see permit file).
17. Any proposed revisions to the permitted work schedule shown on Exhibit No. 3.4 must include documentation that mitigation work will be completed prior to or concurrently with authorized wetland impacts.
18. Prior to the commencement of construction, the permittee shall conduct a pre-construction meeting with field representatives, contractors and District staff. The purpose of the meeting will be to discuss with the permittee and contractors the construction methods and sequencing. The topics shall include the method proposed to retain native vegetation within preserve areas while removing exotic vegetation species, the type and location of erosion controls to be implemented during construction, the mobilization and staging of contractor equipment and construction dewatering. The permittee shall contact District Environmental Resource Compliance staff from the Lower West Coast Service Center at (239)338-2929 to schedule the pre-construction meeting.



19. Permanent physical markers designating the preserve status of the wetland preservation areas and buffer zones shall be placed as shown on Exhibit No. 2.13, cross-section H-H. The markers shall be maintained in perpetuity.
20. No root structure, including aerial prop-roots of red mangroves, may be altered, regardless of their size or height. Additionally, all mangrove ground cover and leaf litter are to remain undisturbed.
21. Prior to the commencement of construction, the perimeter of protected wetlands, buffer zones and upland preservation areas shall be staked and roped to prevent encroachment into the protected areas. Using Global Positioning System (GPS) technology, the perimeter of the preserve area(s) shall be identified for future reference. The data shall be differentially corrected and accurate to less than a meter (+/- one meter or better). Electronic copies of the GPS data shall be provided to the District's Environmental Resource Compliance staff. The permittee shall notify the District's Environmental Resource Compliance staff in writing upon completion of the staking and roping and schedule an inspection of this work. The staking and roping shall be subject to District staff approval. The permittee shall modify the staking and roping if District staff determines that it is insufficient or is not in conformance with the intent of this permit. The staking and roping shall remain in place until all adjacent construction activities are complete.
22. Prior to the commencement of construction and in conformance with the work schedule in Exhibit 3.4, the permittee shall provide an original letter of credit/bond in the amount of \$141,900 to ensure the permittee's financial ability and commitment to complete the proposed mitigation, monitoring and maintenance plan as shown on Exhibit No. 3.3. The letter of credit/bond shall be in substantial conformance with Exhibit No. 3.7. When a performance bond is established, the permittee shall also establish a standby trust fund for deposit of all payments under bond. The letter of credit/bond shall remain in effect for the entire period of the mitigation and monitoring program. Notification of the District by the financial institution that the letter of credit/bond will not be renewed or is no longer in effect shall constitute non-compliance with the permit.
23. A monitoring and maintenance program for the mitigation area(s) shall be implemented in accordance with Exhibit No. 3.3. The monitoring program shall extend for a period of five years with annual reports submitted to District Environmental Resource Compliance staff, or longer as needed to demonstrate compliance with the criteria below.

Vegetative success criteria for the mitigation areas are:

A) All mitigation areas:

1) Will be maintained to less than 5% exotic nuisance plants (as defined by the Florida Exotic Pest Plant Council at the time of permit issuance) for 5 consecutive years to achieve success, then in perpetuity per the long-term maintenance provisions.

2) Other nuisance plants shall be controlled at no more than 5% coverage and maintained at or below this level for 5 consecutive years, and in perpetuity per the long-term maintenance provisions.

3) In addition, exotic and other nuisance plants shall be controlled such that these species do not dominate any one section of those areas. Specifically, no area of 1/2 acre in size shall exceed the 5% coverage required for the overall conservation area.

B) Uplands/Buffers:

4) The percent cover of native plant species in the uplands shall not decrease for 5 consecutive years, nor in perpetuity per the long-term maintenance provisions.



## C) Wetlands:

5) Shall remain free of livestock, not be subject to tree cutting (other than removal of exotic or nuisance species) and have sustainable wetland hydrology with at least 3 months of inundation and saturation during years with typical rainfall.

6) Created wetlands shall have at least 80% coverage of beneficial native wetland species within 3 years. If this coverage is not achieved, additional mulching and/or planting will be done to assure 80% coverage.

7) Planted trees shall have at least an 80% survival for 5 consecutive years, showing normal growth (girth and height).

24. Prior to commencement of construction in wetlands and in accordance with the work schedule in Exhibit No. 3.4, the permittee shall submit documentation from Florida Department of Environmental Protection that 2.96 salt water forested credits and 1.92 fresh water herbaceous credits have been deducted from the ledger for Little Pine Island Mitigation Bank.
25. A mitigation program for Sunset Falls (formerly known as Waterstone) shall be implemented in accordance with Exhibit No. 3.3. The permittee shall create 1.15 acres of transitional wetland, enhance 24.59 acres of wetlands, enhance 1.75 acres of upland and 1.01 acres of upland preserve.
26. If monitoring reports or other information show the preserved wetlands have been negatively affected by the permitted development in a manner that is irreversible (such as impounding the wetland and drowning the existing vegetation or a reduction in the hydroperiod resulting in the transition of wetlands into upland/transitional habitat), the permittee shall be required to submit a remediation plan within 30 days of notification by the District's Environmental Resource Compliance staff of such conditions. The remediation plan may include onsite or offsite mitigation as necessary to address any deficiencies.
27. Permanent physical markers designating the preserve status of the wetland preservation areas and buffer zones shall be placed at the intersection of the buffer and each lot line. These markers shall be maintained in perpetuity.
28. The wetland impacts authorized by this permit may only occur subsequent to or concurrently with construction and implementation of the mitigation plan. If revisions to the work schedule shown on Exhibit No. 3.4 and referenced in special condition No. 29 are necessary, the permittee shall coordinate with the District's Environmental Resource Compliance Department to ensure compliance with this condition.
29. Activities associated with the implementation of the mitigation, monitoring and maintenance plan(s) shall be completed in accordance with the work schedule attached as Exhibit No. 3.4. Any deviation from these time frames will require prior approval from the District's Environmental Resource Compliance staff. Such requests must be made in writing and shall include (1) reason for the change, (2) proposed start/finish and/or completion dates; and (3) progress report on the status of the project development or mitigation effort.
30. In accordance with Exhibit No. 3.4, the permittee shall provide to the District the fully executed and recorded document depicted in Exhibit 3.6 to this staff report.



## 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.
6. Within 30 days after completion of construction of the permitted activity, the permittee 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 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 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.



## 40E-4.321 Duration of Permits

(1) Unless revoked or otherwise modified the duration of an environmental resource permit issued under this chapter or Chapter 40E-40, F.A.C. is as follows:

(a) For a conceptual approval, two years from the date of issuance or the date specified as a condition of the permit, unless within that period an application for an individual or standard general permit is filed for any portion of the project. If an application for an environmental resource permit is filed then the conceptual approval remains valid until final action is taken on the environmental resource permit application. If the application is granted, then the conceptual approval is valid for an additional two years from the date of issuance of the permit. Conceptual approvals which have no individual or standard general environmental resource permit applications filed for a period of two years shall expire automatically at the end of the two year period.

(b) For a conceptual approval filed concurrently with a development of regional impact (DRI) application for development approval (ADA) and a local government comprehensive plan amendment, the duration of the conceptual approval shall be two years from whichever one of the following occurs at the latest date:

1. the effective date of the local government's comprehensive plan amendment.
2. the effective date of the local government development order.
3. the date on which the District issues the conceptual approval, or
4. the latest date of the resolution of any Chapter 120.57, F.A.C., administrative proceeding or other legal appeals.

(c) For an individual or standard general environmental resource permit, five years from the date of issuance or such amount of time as made a condition of the permit.

(d) For a noticed general permit issued pursuant to chapter 40-E-400, F.A.C., five years from the date the notice of intent to use the permit is provided to the District.

(2)(a) Unless prescribed by special permit condition, permits expire automatically according to the timeframes indicated in this rule. If application for extension is made in writing pursuant to subsection (3), the permit shall remain in full force and effect until:

1. the Governing Board takes action on an application for extension of an individual permit,
- or

2. staff takes action on an application for extension of a standard general permit.

(b) Installation of the project outfall structure shall not constitute a vesting of the permit.

(3) The permit extension shall be issued provided that a permittee files a written request with the District showing good cause prior to the expiration of the permit. For the purpose of this rule, good cause shall mean a set of extenuating circumstances outside of the control of the permittee. Requests for extensions, which shall include documentation of the extenuating circumstances and how they have delayed this project, will not be accepted more than 180 days prior to the expiration date.

(4) Substantial modifications to Conceptual Approvals will extend the duration of the Conceptual Approval for two years from the date of issuance of the modification. For the purposes of this section, the term "substantial modification" shall mean a modification which is reasonably expected to lead to substantially different water resource or environmental impacts which require a detailed review.

(5) Substantial modifications to individual or standard general environmental resource permits issued pursuant to a permit application extend the duration of the permit for three years from the date of issuance of the modification. Individual or standard general environmental resource permit modifications do not extend the duration of a conceptual approval.

(6) Permit modifications issued pursuant to subsection 40E-4.331(2)(b), F.A.C. (letter modifications) do not extend the duration of a permit.

(7) Failure to complete construction or alteration of the surface water management system and obtain operation phase approval from the District within the permit duration shall require a new permit authorization in order to continue construction unless a permit extension is granted.



Return recorded document to:  
South Florida Water Management District  
3301 Gun Club Road, MSC 4230  
West Palm Beach, FL 33406

 DRAFT

APPLICATION NUMBER  
050113-13

### DEED OF CONSERVATION EASEMENT

THIS DEED OF CONSERVATION EASEMENT is given this 6th day of April, 2006, by Sunset Falls, LLC ("Grantor") whose mailing address is 8045 NW 155 Street Miami Lakes, FL 33016 to the South Florida Water Management District ("Grantee"). As used herein, the term "Grantor" shall include any and all heirs, successors or assigns of the Grantor, and all subsequent owners of the "Property" (as hereinafter defined) and the term "Grantee" shall include any successor or assignee of Grantee.

#### WITNESS

WHEREAS, the Grantor is the owner of certain lands situated in Lee County, Florida, and more specifically described in Exhibit "A" attached hereto and incorporated herein ("Property"); and

WHEREAS, the Grantor desires to construct Sunset Falls ("Project") at a site in Lee County, which is subject to the regulatory jurisdiction of South Florida Water Management District ("District"); and

WHEREAS, District Permit No. App#050113-13 ("Permit") authorizes certain activities which affect waters in or of the State of Florida; and

WHEREAS, this Permit requires that the Grantor preserve, enhance, restore and/or mitigate wetlands and/or uplands under the District's jurisdiction; and

WHEREAS, the Grantor, in consideration of the consent granted by the Permit, is agreeable to granting and securing to the Grantee a perpetual Conservation Easement as defined in Section 704.06, Florida Statutes, over the Property.

NOW, THEREFORE, in consideration of the issuance of the Permit to construct and operate the permitted activity, and as an inducement to Grantee in issuing the Permit, together with other good and valuable consideration, the adequacy and receipt of which are hereby acknowledged, Grantor hereby grants, creates, and establishes a perpetual Conservation Easement for and in favor of the Grantee upon the Property which shall run with the land and be binding upon the Grantor, and shall remain in full force and effect forever.





The scope, nature, and character of this Conservation Easement shall be as follows:

1. Recitals. The recitals hereinabove set forth are true and correct and are hereby incorporated into and made a part of this Conservation Easement.

2. Purpose. It is the purpose of this Conservation Easement to retain land or water areas in their natural, vegetative, hydrologic, scenic, open, agricultural or wooded condition and to retain such areas as suitable habitat for fish, plants or wildlife. Those wetland and/or upland areas included in this Conservation Easement which are to be enhanced or created pursuant to the Permit shall be retained and maintained in the enhanced or created conditions required by the Permit.

To carry out this purpose, the following rights are conveyed to Grantee by this easement:

a. To enter upon the Property at reasonable times with any necessary equipment or vehicles to enforce the rights herein granted in a manner that will not unreasonably interfere with the use and quiet enjoyment of the Property by Grantor at the time of such entry; and

b. To enjoin any activity on or use of the Property that is inconsistent with this Conservation Easement and to enforce the restoration of such areas or features of the Property that may be damaged by any inconsistent activity or use.

3. Prohibited Uses. Except for restoration, creation, enhancement, maintenance and monitoring activities, or surface water management improvements, or other activities described herein that are permitted or required by the Permit, the following activities are prohibited in or on the easement area:

a. Construction or placing of buildings, roads, signs, billboards or other advertising, utilities, or other structures on or above the ground;

b. Dumping or placing of soil or other substance or material as landfill, or dumping or placing of trash, waste, or unsightly or offensive materials;

c. Removal or destruction of trees, shrubs, or other vegetation, except for the removal of exotic or nuisance vegetation in accordance with a District approved maintenance plan;

d. Excavation, dredging, or removal of loam, peat, gravel, soil, rock, or other material substance in such manner as to affect the surface;

e. Surface use except for purposes that permit the land or water area to remain in its natural or enhanced condition;

f. Activities detrimental to drainage, flood control, water conservation, erosion control, soil conservation, or fish and wildlife habitat preservation including, but not limited to, ditching, diking and fencing;



g. Acts or uses detrimental to such aforementioned retention of land or water areas;

h. Acts or uses which are detrimental to the preservation of the structural integrity or physical appearance of sites or properties having historical, archaeological, or cultural significance.

4. Grantor's Reserved Rights. Grantor reserves all rights as owner of the Property, including the right to engage in uses of the Property that are not prohibited herein and which are not inconsistent with any District rule, criteria, permit and the intent and purposes of this Conservation Easement.

5. No Dedication. No right of access by the general public to any portion of the Property is conveyed by this Conservation Easement.

6. Grantee's Liability. Grantee shall not be responsible for any costs or liabilities related to the operation, upkeep or maintenance of the Property.

7. Acts Beyond Grantor's Control. Nothing contained in this instrument shall be construed to entitle Grantee to bring any action against Grantor for any injury to or change in any portion of the Property other than Conservation Areas specified in Permit No. App#050113-13, that result from natural causes beyond Grantor's control, and not initiated by the Grantor, including but not limited to fire, flood, storm and earth movement. Should any Conservation Area be injured or changed from natural causes, including but not limited to fire, flood, storm and earth movement, the Grantor shall be provided notice and a reasonable opportunity to restore the affected Conservation Area to a condition that satisfies the permit requirements prior to the Grantee bringing any action for noncompliance with the Permit.

8. Property Taxes. Grantor shall keep the payment of taxes and assessments on the Easement Parcel current and shall not allow any lien on the Easement Parcel superior to this Easement. In the event Grantor fails to extinguish or obtain a subordination of such lien, in addition to any other remedy, the Grantee may, but shall not be obligated to, elect to pay the lien on behalf of the Grantor and Grantor shall reimburse Grantee for the amount paid by the Grantee, together with Grantee's reasonable attorney's fees and costs, with interest at the maximum rate allowed by law, no later than thirty days after such payment. In the event the Grantor does not so reimburse the Grantee, the debt owed to Grantee shall constitute a lien against the Easement Parcel which shall automatically relate back to the recording date of this Easement. Grantee may foreclose this lien on the Easement Parcel in the manner provided for mortgages on real property.

9. Enforcement. Enforcement of the terms, provisions and restrictions of this Conservation Easement shall be at the reasonable discretion of Grantee, and any forbearance on behalf of Grantee to exercise its rights hereunder in the event of any breach hereof by Grantor, shall not be deemed or construed to be a waiver of Grantee's rights hereunder.

10. Assignment. Grantee will hold this Conservation Easement exclusively for



conservation purposes. Grantee will not assign its rights and obligations under this Conservation Easement except to another organization or entity qualified to hold such interests under the applicable state laws.

11. Severability. If any provision of this Conservation Easement or the application thereof to any person or circumstances is found to be invalid, the remainder of the provisions of this Conservation Easement shall not be affected thereby, as long as the purpose of the Conservation Easement is preserved.

12. Terms and Restrictions. Grantor shall insert the terms and restrictions of this Conservation Easement in any subsequent deed or other legal instrument by which Grantor divests itself of any interest in the Property.

13. Written Notice. All notices, consents, approvals or other communications hereunder shall be in writing and shall be deemed properly given if sent by United States certified mail, return receipt requested, addressed to the appropriate party or successor-in-interest.

14. Modifications. This Conservation Easement may be amended, altered, released or revoked only by written agreement between the parties hereto or their heirs, assigns or successors-in-interest, which shall be filed in the public records in Lee County.

TO HAVE AND TO HOLD unto Grantee forever. The covenants, terms, conditions, restrictions and purposes imposed with this Conservation Easement shall be binding upon Grantor, and shall continue as a servitude running in perpetuity with the Property.

Grantor hereby covenants with said Grantee that Grantor is lawfully seized of said Property in fee simple; that the Property is free and clear of all encumbrances that are inconsistent with the terms of this Conservation Easement; and all mortgages and liens have been subordinated to this Conservation Easement; and that Grantor has good right and lawful authority to convey this Conservation Easement; and that it hereby fully warrants and defends the title to the Conservation Easement hereby conveyed against the lawful claims of all persons whomsoever.

APPLICATION NUMBER

050113-13

ADD/REVISED SUBMITTAL
APR 12 2006
LWC SERVICE CENTER

EXHIBIT

3-6D



IN WITNESS WHEREOF, Sunset Falls, LLC (Grantor) has hereunto set its authorized hand this 6th day of April, 2006.

Sunset Falls, LLC

a Florida corporation

By: [Signature]

Print Name: Eddy Garcia

Title: Managing Member

Signed, sealed and delivered  
in our presence as witnesses:

By: [Signature]

Print Name: Maria D Garcia

By: [Signature]

Print Name: William D Hughes



STATE OF FLORIDA

) ss:

COUNTY OF Lee

On this 6th day of April, 2006, before me, the undersigned notary public, personally appeared Eddy Garcia, the person who subscribed to the foregoing instrument, as the Managing Member (Title) of Sunset Falls, LLC (Corporation), a Florida corporation, and acknowledged that he/she executed the same on behalf of said corporation and that he/she was duly authorized to do so. He/She is personally known to me or has produced a Personally Known (state) driver's license as identification.

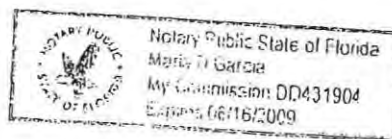
IN WITNESS WHEREOF, I hereunto set my hand and official seal.

NOTARY PUBLIC, STATE OF FLORIDA

[Signature]

Print Name: Maria D. Garcia

My Commission Expires: 6/16/09



APPLICATION NUMBER  
050113-13



## MORTGAGEE JOINDER, CONSENT AND SUBORDINATION

For Ten Dollars (\$10.00) and other good and valuable consideration, the adequacy and receipt of which are hereby acknowledged, \_\_\_\_\_, the owner and holder of a mortgage dated \_\_\_\_\_, in the original principal amount of \$\_\_\_\_\_, given by \_\_\_\_\_ ("Grantor") to \_\_\_\_\_ ("Mortgagee"), encumbering the real property described on Exhibit "A" attached hereto ("Property"), which is recorded in Official Records Book \_\_\_\_\_, at Page \_\_\_\_\_, (together with that certain Assignment of Leases and Rents recorded in Official Records Book \_\_\_\_\_, at Page \_\_\_\_\_ and those certain UCC-1 Financing Statement(s) recorded in Official Records Book \_\_\_\_\_, at Page \_\_\_\_\_), all of the Public Records of \_\_\_\_\_ County, Florida (said mortgage, assignment of leases and rents, and UCC-1 Financing Statements, as modified, are hereinafter referred to as the "Mortgage"), hereby joins in, consents to and subordinates the lien of its Mortgage, as it has been, and as it may be, modified, amended and assigned from time to time, to the foregoing Conservation Easement, executed by \_\_\_\_\_, in favor of the South Florida Water Management District applicable to the Property ("Easement"), as said Easement may be modified, amended and assigned from time to time, with the intent that the Mortgage shall be subject and subordinate to the Easement.

IN WITNESS WHEREOF, this Mortgagee Joinder, Consent and Subordination is made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

(Mortgagee) N/A

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

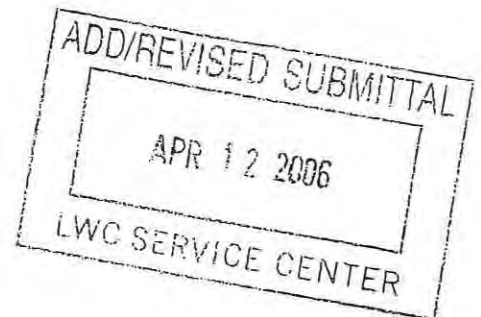
WITNESSES:

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

By: \_\_\_\_\_

Print Name: \_\_\_\_\_



APPLICATION NUMBER  
050113-13

EXHIBIT

3-6 F



STATE OF FLORIDA  
COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,  
by \_\_\_\_\_ (print name), as \_\_\_\_\_ (title) of \_\_\_\_\_ (Grantor of Mortgage), on behalf of the \_\_\_\_\_  
(Mortgagee, Grantor of the Easement). He/She is personally known to me or has produced a \_\_\_\_\_  
(state) driver's license as identification.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

NOTARY PUBLIC, STATE OF FLORIDA

\_\_\_\_\_  
Print Name: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

EXHIBIT

3-69



EXHIBIT "A"

[DESCRIPTION OF PROPERTY]

EXHIBIT

3.6 H



# Banks Engineering

Professional Engineers, Planners & Land Surveyors

12653 SW C.R. 769, Suite B

Lake Suzy, Florida 34269

(941) 625-1165

Fax (941) 625-1149

## DESCRIPTION OF AN EASEMENT LYING IN SECTION 5, T-46-S, R-24-E, LEE COUNTY, FLORIDA

### (CONSERVATION EASEMENT)

AN EASEMENT SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, LYING IN SECTION 5, TOWNSHIP 46 SOUTH, RANGE 24 EAST, BEING OVER, ACROSS AND THROUGH A PORTION OF THE WEST HALF OF THE SOUTHEAST QUARTER AND THE WEST HALF OF THE NORTHEAST QUARTER, INCLUSIVE SAID SECTION 5, AND BEING FURTHER BOUNDED AND DESCRIBED AS FOLLOWS

#### PART "A"

COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 5, THENCE S.89°01'42"W ALONG THE SOUTH LINE OF SAID SECTION FOR 1319.00 FEET TO AN INTERSECTION WITH THE EAST LINE OF THE WEST HALF OF THE SOUTHEAST QUARTER OF SAID SECTION, THENCE N.01°26'45"W ALONG SAID FRACTIONAL LINE FOR 974.54 FEET TO AN INTERSECTION WITH THE NORTH RIGHT OF WAY LINE OF SUMMERLIN ROAD, (COUNTY ROAD 869) AND THE POINT OF BEGINNING, THENCE S.64°39'27"W ALONG SAID NORTH RIGHT OF WAY LINE FOR 244.30 FEET THENCE N.00°04'41"E FOR 348.06 FEET, THENCE N.61°35'24"W FOR 156.47 FEET, THENCE N.01°01'35"W FOR 33.37 FEET, THENCE S.88°47'59"W FOR 159.95 FEET, THENCE N.01°29'13"W FOR 651.93 FEET, THENCE S.88°06'21"W FOR 25.96 FEET, THENCE N.01°29'20"W FOR 650.51 FEET TO AN INTERSECTION WITH THE SOUTH LINE OF I.D.D. CANAL C-9; THENCE N.88°55'06"E ALONG SAID SOUTH LINE BEING PARALLEL WITH AND 30.00 FEET SOUTH OF THE EAST WEST QUARTER SECTION LINE OF SAID SECTION 5 FOR 536.43 FEET TO AN INTERSECTION WITH THE EAST LINE OF THE WEST HALF OF THE SOUTHEAST QUARTER OF SAID SECTION 5 BEING POINT "A", THENCE S.01°26'45"E ALONG SAID FRACTIONAL LINE FOR 1659.76 FEET TO THE POINT OF BEGINNING.

CONTAINING 779068.4 SQUARE FEET OR 17.88 ACRES MORE OR LESS

TOGETHER WITH:

#### PART "B"

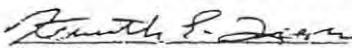
COMMENCING AT POINT "A", THENCE N.01°27'32"W ALONG THE EAST LINE OF THE WEST HALF OF THE SOUTHEAST QUARTER OF SAID SECTION 5 AND THE EAST LINE OF THE WEST HALF OF THE NORTHEAST QUARTER OF SAID SECTION 5 FOR 80.00 FEET TO AN INTERSECTION WITH THE NORTH LINE OF I.D.D. CANAL C-9 AND THE POINT OF BEGINNING, THENCE S.88°55'06"W ALONG SAID NORTH LINE OF I.D.D. CANAL C-9 BEING PARALLEL WITH AND 50.00 FEET NORTH OF THE EAST WEST QUARTER SECTION LINE OF SAID SECTION 5 FOR 577.48 FEET, THENCE N.01°29'16"W FOR 20.00 FEET, THENCE N.88°55'06"E FOR 40.42 FEET, THENCE N.34°02'52"E FOR 507.64 FEET TO THE BEGINNING OF A CURVE TO THE LEFT HAVING A RADIUS OF 940.00 FEET, THENCE NORTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 86°48'37" FOR 1424.22 FEET, THENCE N.01°03'34"W FOR 222.28 FEET, THENCE N.88°56'26"E FOR 418.63 FEET TO AN INTERSECTION WITH THE EAST LINE OF THE WEST HALF OF THE NORTHEAST QUARTER OF SAID SECTION 5, THENCE S.01°26'47"E ALONG SAID FRACTIONAL LINE FOR 1935.73 FEET TO THE POINT OF BEGINNING

CONTAINING 461699.9 SQUARE FEET OR 10.60 ACRES MORE OR LESS

BEARINGS ARE BASED ON THE EAST WEST QUARTER SECTION LINE OF SECTION 5 AS BEARING S.88°55'06"W.

BANKS ENGINEERING,  
FLORIDA LICENSED BUSINESS NO. LB6690

JANUARY 18, 2006

  
KENNETH E. TRASK  
PROFESSIONAL LAND SURVEYOR  
FLORIDA LICENSE NO. LS4684

#### SHEET 1 OF 2

Fort Myers Office  
10511 Six Mile Cypress  
Pkwy., Suite 101  
Fort Myers, FL  
33912  
(239) 939-5490  
Fax (239) 939-2523

Naples Office  
6640 Willow Park Dr.  
Suite B  
Naples, Florida  
34109  
(239) 597-2061  
Fax (239) 597-3082

Sarasota Office  
1144 Tallevast Road  
Suite # 115  
Sarasota, Florida  
34243  
(941) 360-1618  
Fax (941) 360-6918

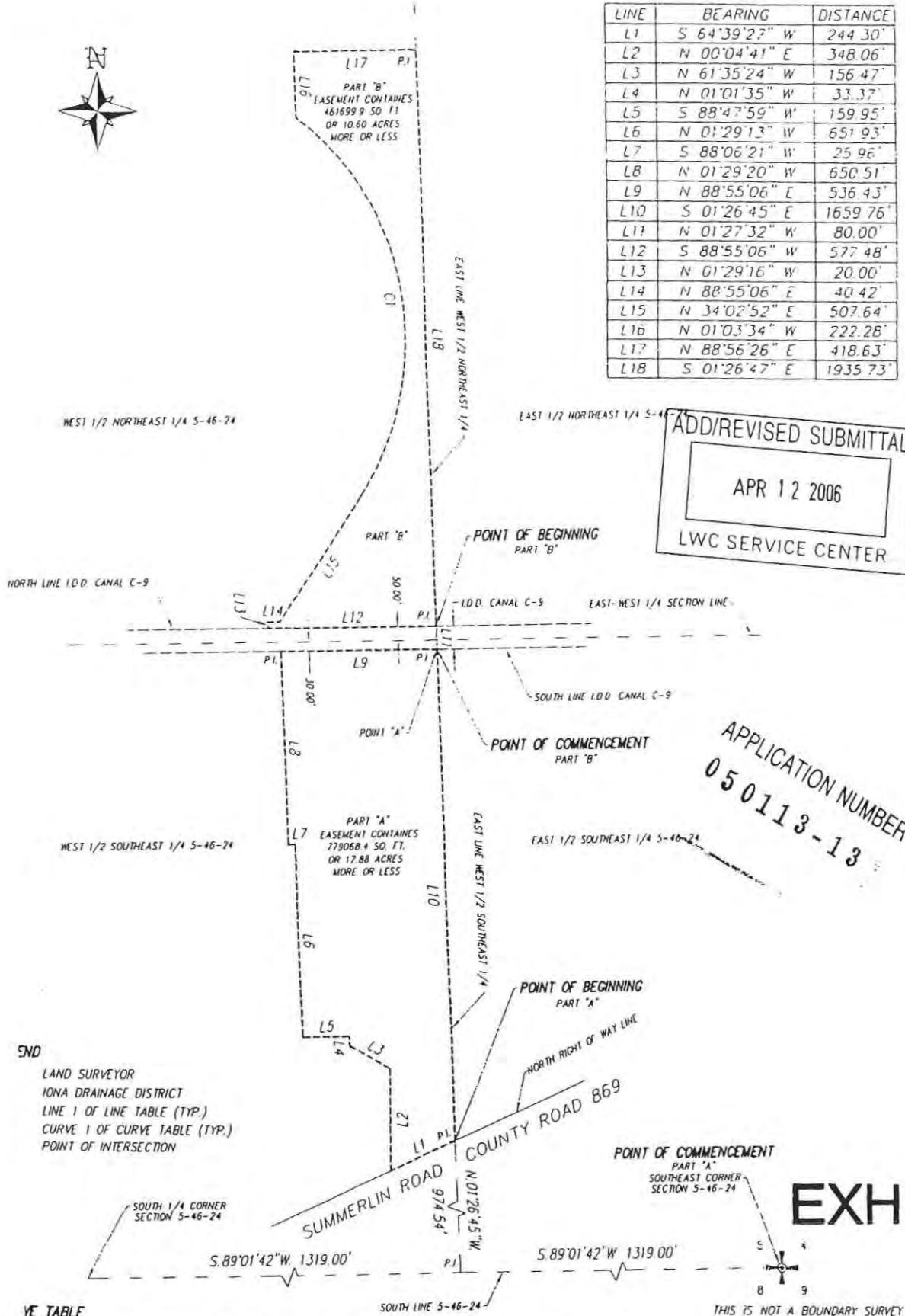
## EXHIBIT

# 361



# LINE TABLE

LINE	BEARING	DISTANCE
L1	S 64°39'22" W	244.30'
L2	N 00°04'41" E	348.06'
L3	N 61°35'24" W	156.47'
L4	N 01°01'35" W	33.37'
L5	S 88°47'59" W	159.95'
L6	N 01°29'13" W	651.93'
L7	S 88°06'21" W	25.96'
L8	N 01°29'20" W	650.51'
L9	N 88°55'06" E	536.43'
L10	S 01°26'45" E	1659.76'
L11	N 01°27'32" W	80.00'
L12	S 88°55'06" W	577.48'
L13	N 01°29'16" W	20.00'
L14	N 88°55'06" E	40.42'
L15	N 34°02'52" E	507.64'
L16	N 01°03'34" W	222.28'
L17	N 88°56'26" E	418.63'
L18	S 01°26'47" E	1935.73'



END

LAND SURVEYOR  
IONA DRAINAGE DISTRICT  
LINE 1 OF LINE TABLE (TYP.)  
CURVE 1 OF CURVE TABLE (TYP.)  
POINT OF INTERSECTION

## LINE TABLE

RVE	RADIUS	ARC	CHORD	CHORD BEARING	DELTA ANGLE
C1	940.00'	1424.22'	1291.85'	N 09°21'26" W	86°48'37"

POINT OF COMMENCEMENT  
PART 'A'  
SOUTHEAST CORNER  
SECTION 5-46-24

EXHIBIT

3.65

THIS IS NOT A BOUNDARY SURVEY

*Kenneth E. Trask*  
KENNETH E. TRASK  
FLORIDA CERTIFICATE NO. LS4684

THIS IS NOT A BOUNDARY SURVEY

SKETCH TO ACCOMPANY DESCRIPTION  
CONSERVATION EASEMENT  
LYING IN SECTION 5, T-46-S, R-24-E  
LEE COUNTY, FLORIDA

**Banks Engineering**  
Professional Engineers, Planners & Land Surveyors  
FORT MYERS • NAPLES • SARASOTA • PORT CHARLOTTE  
10511 5th MILE CYPRESS PARKWAY - SUITE 101  
FORT MYERS, FLORIDA 33912  
PHONE: (239) 939-5400 FAX: (239) 939-2323  
ENGINEERING LICENSE # EB 8468  
SURVEY LICENSE # LB 8460

DATE	PROJECT	DRAWING	DESIGN	DRAWN	CHECKED	SCALE	SHEET	FILE NO. (S-T-R)
01-18-06	18M	18M-0200P-12M-SKETCH	BC	KT	KT	1"=400'	3 of 3	5-46-24



Bob Janes  
District One

September 1, 2006

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

Mr. Joh Hagan  
Banks Engineering  
10511 Six Mile Cypress Parkway, Suite 101  
Fort Myers, FL 33908

Re: CPA2005-00001

Dear Mr. Hagan:

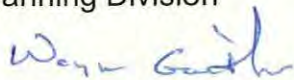
On September 29, 2005 an application was submitted for the above referenced project. Our records indicate the last correspondence in regards to the application was on May 26, 2006.

Please **provide a completed application addressing sufficiency comments by September 15, 2006** or the case will be deemed withdrawn.

Please feel free to contact us if you require clarification or additional information.

Sincerely,

DEPARTMENT OF COMMUNITY DEVELOPMENT  
Planning Division



Wayne Gaither  
Planner

cc: Vicott, Inc  
Planning File





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  
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 VERIFIED:

Zoning ☐

Commissioner District ☐

Designation on FLUM ☐

-----  
(To be completed by Planning Staff)

Plan Amendment Cycle: ☐ Normal ☒ Small Scale ☐ DRI ☐ Emergency

Request No: CPA2005-00001

### APPLICANT PLEASE NOTE:

Answer all questions completely and accurately. Please print or type responses. If additional space is needed, number and attach additional sheets. The total number of sheets in your application is: 111

Submit **6** copies of the complete application and amendment support documentation, including maps, to the Lee County Division of Planning. Additional copies may be required for Local Planning Agency, Board of County Commissioners hearings and the Department of Community Affairs' packages.

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.

01/09/07

DATE

SIGNATURE OF OWNER OR AUTHORIZED REPRESENTATIVE



## I. APPLICANT/AGENT/OWNER INFORMATION

Vicott, Inc.

APPLICANT

10950 Old South Way

ADDRESS

Fort Myers,

FL

33908

CITY

STATE

ZIP

(239) 489-1814

(239) 489-1816

TELEPHONE NUMBER

FAX NUMBER

Banks Engineering, c/o Stacy Ellis Hewitt, Director of Planning

AGENT\*

10511 Six Mile Cypress Parkway, Suite 101

ADDRESS

Fort Myers,

FL

33966

CITY

STATE

ZIP

(239) 939-5490

(239) 939-2523

TELEPHONE NUMBER

FAX NUMBER

Vicott, Inc.

AND Sunset Falls, LLC

(Strap No. 05-46-24-00-00003.0030)

(Strap No. 05-46-24-00-00003.0020)

OWNER(s) OF RECORD

10950 Old South Way

8045 NW 115 Street

ADDRESS

Fort Myers, FL 33908

Miami Lakes, FL 33016

CITY/STATE/ZIP

(239) 489-1814 / (239) 489-1816

(305) 828-0103 / (305) 828-0147

TELEPHONE/FAX NUMBERS

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.



## II. REQUESTED CHANGE (Please see Item 1 for Fee Schedule)

### A. TYPE: (Check appropriate type)

☐ Text Amendment



Future Land Use Map Series Amendment  
(Maps 1 thru 21)

List Number(s) of Map(s) to be amended  
Map No. 1

### B. SUMMARY OF REQUEST (Brief explanation):

Change Future Land Use Map of subject property from  
Industrial Development and Wetlands to Urban Community and Conservation  
Lands – Wetlands to allow for the property to be rezoned and developed as a  
Commercial Planned Development.

## III. PROPERTY SIZE AND LOCATION OF AFFECTED PROPERTY (for amendments affecting development potential of property)

### A. Property Location:

1. Site Address: Access Undetermined, Fort Myers, FL 33908
2. STRAP(s): 05-46-24-00-00003.0030 & 05-46-24-00-00003.0020

### B. Property Information

Total Acreage of Property: 7.67+/- Ac.

Total Acreage included in Request: 7.67+/- Ac.

Area of each Existing Future Land Use Category: \_\_\_\_\_

Total Uplands: Industrial Development: 5.41+/- Ac

Total Wetlands: Industrial Development: 1.21± Ac. / Wetlands: 1.05± Ac.

Current Zoning: AG-2

Current Future Land Use Designation: Industrial Development and Wetlands

Existing Land Use: Vacant



- 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:

Lehigh Acres Commercial Overlay: N/A

Airport Noise Zone 2 or 3: N/A

Acquisition Area: N/A

Joint Planning Agreement Area (adjoining other jurisdictional lands): N/A

Community Redevelopment Area: N/A

- D. Proposed change for the Subject Property: Industrial Development and Wetlands to Urban Community and Conservation Lands - Wetlands

- E. Potential development of the subject property:

1. Calculation of maximum allowable development under existing FLUM:

Residential Units/Density -0-

Commercial intensity 6,492 s.f.

Industrial intensity 64,920 s.f.

2. Calculation of maximum allowable development under proposed FLUM:

Residential Units/Density -0- (see attached restrictive covenants)

Commercial intensity 54,100 s.f.

Industrial intensity -0-

#### 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)

A. General Information and Maps

*NOTE: For each 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 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 3-mile 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.

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).



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.



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
Small Scale Amendment (10 acres or less)	\$1,500.00 each
Text Amendment Flat Fee	\$2,500.00 each

**AFFIDAVIT**

I, Stacy Ellis Hewitt, 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

01/08/07

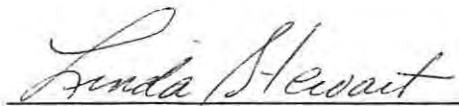
Date

Stacy Ellis Hewitt, Director of Planning  
Typed or printed name

STATE OF FLORIDA )  
COUNTY OF LEE )

The foregoing instrument was certified and subscribed before me this 8th day of Jan 2007,  
by Stacy Ellis Hewitt, who is personally known to me or who has produced  
\_\_\_\_\_ as identification.



  
Signature of notary public

LINDA STEWART  
Printed name of notary public



# **Banks Engineering**

Professional Engineers, Planners & Land Surveyors

10511-101 Six Mile Cypress Parkway

Fort Myers, Florida 33966

(239) 939-5490

Fax (239) 939-2523

*Please Reply To:*  
FORT MYERS OFFICE

## **VICOTT, INC.**

### **SMALL SCALE COMPREHENSIVE PLAN AMENDMENT January 8, 2007**

---

**Naples Office**  
6640 Willow Park Dr.  
Suite B  
Naples, Florida  
34109  
(239) 597-2061  
Fax (239) 597-3082

**Sarasota Office**  
1144 Tallevast Road  
Suite # 115  
Sarasota, Florida  
34243  
(941) 360-1618  
Fax (941) 360-6918

**Port Charlotte Office**  
12653 SW CR 769  
Suite B  
Lake Suzy, Florida  
34691  
(941) 625-1165  
Fax (941) 625-1149



## **TABLE OF CONTENTS**

### **VICOTT, INC.**

#### **APPLICATION FOR A COMPREHENSIVE PLAN AMENDMENT**

#### **AMENDMENT SUPPORTING DOCUMENTATION:**

- A. GENERAL INFORMATION AND MAPS**
- B. PUBLIC FACILITIES IMPACTS**
- C. ENVIRONMENTAL IMPACTS**
- D. IMPACTS ON HISTORIC RESOURCES**
- E. INTERNAL CONSISTENCY WITH THE LEE PLAN**
- F. ADDITIONAL REQUIREMENTS FOR SPECIFIC FUTURE LAND USE AMENDMENTS**
- G. JUSTIFICATION FOR PROPOSED AMENDMENT**

#### **ADDITIONAL REQUIRED EXHIBITS:**

- 1. VARIANCE REPORT**
- 2. DECLARATION OF RESTRICTIVE COVENANTS**
- 3. GRANT OF ACCESS EASEMENT**
- 4. MEMO FROM LEE DOT AND DRAFT RESOLUTION WHICH DESIGNATES SUMMERLIN ROAD AS A CONTROLLED ACCESS ROAD AND ESTABLISHED PERMANENT ACCESS POINTS**
- 5. SFWMD PERMIT NO. 36-05751-P**



# **Banks Engineering**

Professional Engineers, Planners & Land Surveyors  
10511 Six Mile Cypress Parkway  
Fort Myers, Florida 33966  
(239) 939-5490  
Fax (239) 939-2523

*Please Reply To:*  
FORT MYERS OFFICE

January 12, 2007

Mr. Wayne Gaither  
Division of Planning  
1500 Monroe Street  
Fort Myers, FL 33901



*CPA* 2005-00001

**RE: CPA2005-00001**  
**Sufficiency Submittal No. 3**

Dear Mr. Gaither:

This is in response to your November 20, 2006 letter regarding the above-referenced Comprehensive Plan Amendment:

**Comment #1:**

It was understood through previous conversations that the 2.26 acres of wetlands were intended to be changed to a Conservation Land Use designation. If this is still the intent of the applicant the application will need to be changed to reflect the additional land use designation.

*Response: The application and the Proposed Future Land Use Map have been revised to reflect the 2.26 acres of wetlands as proposed land use change to Conservation Land Use designation. Additional legal descriptions are also attached to reflect the areas for each proposed Land Use designation.*

**Comment #2:**

Additionally, we have new Administrative Codes concerning comprehensive plan amendments. Notification needs to be sent out to property owners within **500 feet** of a CPA. To meet this requirement the applicant is now required to obtain a variance report from the Property Appraiser's Office (both hard copy and in

---

**Naples Office**  
6640 Willow Park Dr.  
Suite B  
Naples, Florida  
34109  
(239) 597-2061  
Fax (239) 597-3082

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1144 Tallevast Road  
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Fax (941) 360-6918

**Port Charlotte Office**  
12653 SW CR 769  
Suite B  
Lake Suzy, Florida  
34269  
(941) 625-1165  
Fax (941) 625-1149



digital format, preferably MS Word), including mailing labels. The applicant is also responsible for prepaying the cost of mailing these notices. This must be done within 15 calendar days of finding the applicant sufficient. The applicant is also responsible for posting a notice (provided by DCD) 15 calendar days before the LPA hearing.

*Response: The variance report, including mailing labels is attached. The digital format has been sent via email.*

**III (A)(1): Site Address:**

Please provide the site address for the parcel of land.

*Response: The Property Appraiser lists the site address as Access Undetermined, Fort Myers, FL 33908.*

**III (B): Property Information – Total Acreage of Property & Total Acreage included in Request:**

The Property Appraiser lists this parcel as being 8.89+/- acres. The application refers to the STRAP and provides a legal description for a portion of the STRAP. The application lists the Total Acreage of the Property as 7.67 acres and a Total Acreage Included in the Request is 7.67 acres. It appears the legal description pushes the property line roughly 100 feet north of the Property Appraisers parcel boundaries. Please verify that all property that currently has the land use designation of Industrial Development, at this site, is included in the comprehensive plan amendment.

*Response: There appear to be errors on the Property Appraiser's website in relation to the subject property area and map. The legal description included with the request includes all land subject to this comprehensive plan amendment and encompasses 7.67 acres of land.*

**III (B): Property Information – Area of each Existing Future Land Use Category:**

Please provide the areas of each individual land use category being impacted by this comprehensive plan amendment.

*Response: The application has been revised to reflect existing land use as 6.62± acres as Industrial Development (5.41± acres uplands, 1.21± acres wetlands) and 1.05± acres as Wetlands (1.05± acres wetlands). The 5.41± acres of uplands are proposed to be changed to Urban Community and the wetlands (2.26± acres) are proposed to be changed to Conservation Lands - Wetlands.*

**III (B): Property Information – Current Future Land Use Designation:**

It appears part of the property has existing wetlands designated. If this is the case, list it as a Future Land Use designation. This could impact the response to III(B): Property Information – Area of each Existing Future Land Use Category.



*Response: The application has been revised to reflect existing land use as 6.62± acres as Industrial Development (5.41± acres uplands, 1.21± acres wetlands) and 1.05± acres as Wetlands (1.05± acres wetlands). The 5.41± acres of uplands are proposed to be changed to Urban Community and the wetlands (2.26± acres) are proposed to be changed to Conservation Lands - Wetlands.*

**IV (B): Public Facilities**

- (1a) Identify the TAZ the comprehensive plan amendment site is located in. Is the comprehensive plan amendment going to impact the socio-economic data forecasts for that zone?

*Response: Please see attached Memorandum from TR Transportation Consultants, Inc.*

- (1b) Identify any changes to existing TAZ socio-economic data that will be required based on the comprehensive plan amendment. If no modifications are necessary, please state so. If changes are necessary. Respond to subsequent question 1c-f as necessary, if changes are made to the TAX socio-economic data.

*Response: Please see attached Memorandum from TR Transportation Consultants, Inc.*

**IV (B): Short Range – 5 Year CIP**

- (a) Three Mile Radius analysis to identify the existing roadways serving the site needs to be conducted. Indicate the laneage, functional classification, current LOS, and LOS standard.

*Response: Please see attached Memorandum from TR Transportation Consultants, Inc.*

- (c) For the five year horizon, identify the projected roadway conditions within the three-miles study area for both existing conditions and with the proposed plan amendment.

*Response: Please see attached Memorandum from TR Transportation Consultants, Inc.*

Please contact the Lee County Department of Transportation concerning this section of the application for comprehensive plan amendment.

**IV (C): Environmental Impacts**

- (1) Environmental assessment provided by Boylan Environmental Consultants, Inc. identifies a 7.67 acre site, please verify acreage.



*Response: This acreage is correct.*

- (3) Please identify the FIRM category the amendment site is located within. The graphic designating the FIRM category was originally color and was reproduced in black and white.

*Response: The subject property lies within flood zone A10:EL9 pursuant to Community 125124, Panel 0435, Version B, dated 09/19/84. Color exhibits are attached.*

#### **IV (D): Historic Impacts**

- (2) The comprehensive plan amendment site is located within a Lee County Archaeological Area, Sensitivity Level II site. Please provide analysis of the impacts the proposed amendment may have.

“Sensitivity Level 2: Those areas containing known archaeological sites that have not been assessed for significance but are likely to conform to the criteria for local designation, or areas where there is a high likelihood that unrecorded sites of potential significance are present.”

Please contact Gloria Sajgo for further information on Archaeological Sensitivity Level 2 areas.

*Response: Attached please find the Sufficiency Review for Historic and Archaeological Resources. This document states that there are no known historic sites or archaeological sites on the subject parcel and further states that the property is within Level 2 zone of archaeological sensitivity. The applicant will be required to apply for a Certificate to Dig as a condition for obtaining a Development Order. In reviewing the Certificate to Dig application, staff **may** require that the applicant have an archaeological survey conducted by an archaeologist. Conditions may be imposed depending on the results of the survey.*

#### **IV (E): Internal Consistency with the Lee Plan**

- (1) Table 1(b) pertains to the allocation of uses. Please expand your discussion to explain how your plan amendment will impact the Planning Community Allocation Table 1(b) and if the change is a benefit or a detriment to the Planning Community.

*Response: Currently there are 202 acres of commercial development in the Urban Community Land Use Category for the Iona/McGregor planning community. The proposed Comprehensive Plan Amendment would add an additional 5.41 acres to the commercial development while eliminating 5.41 acres from industrial development. This change will be a benefit to the Planning Community as the location is better suited for commercial development.*



- (3) Please describe how the proposed small scale amendment affects the adjacent local governments and their comprehensive plans, if no impact is anticipated please state so, NA is not an acceptable answer.

*Response: No impacts are anticipated to the adjacent local governments or their Comprehensive Plans.*

- (4) If State and Regional policy goals are not affected by the small scale amendment please state so, NA is not an acceptable answer.

*Response: State and Regional policy goals will not be affected by the proposed Comprehensive Plan Amendment.*

In addition to the above listed questions/concerns, prepared by the Division of Planning, your application was submitted to various agencies and divisions of Lee County Government responsible for a wide range of public services.

The comments to the original (1<sup>st</sup> submittal) are reproduced below:

**Lee DOT:**

Lee DOT is requesting the anticipated Zoning Category you will be applying for. This information will be used in running the transportation model used to determine the impact you will be generating on the surrounding transportation network.

*Response: A Commercial Planned Development will be requested once the Comprehensive Plan Amendment has been processed.*

**Lee County Parks and Recreation:**

- (1) I did not see any topographic map, but I assume the site is low in elevation based on a site inspection I did several years ago when this site was a Conservation 20/20 nomination and the entire site was flooded. It would appear that this site is entirely within the floodplain of Cow Slough and thus I assume that compensatory storage will be an issue with the development of this site.

*Response: The project has been permitted under South Florida Water Management District permit number 36-05751-P. A copy of the permit is attached. The eastern 222+/- feet of the subject property is within a SFWMD Conservation Easement and is proposed for Conservation Lands:Wetlands Land Use designation.*

- (2) The Future Land Use Map does not appear correct as the county owned portion to the east is comprised of Cow Slough, which is part of the Deep Lagoon Preserve.



We worked with Rob Irving in Environmental Sciences to have this site changed to Conservation Lands. Could you check with him on this designation?

*Response: The Future Land Use Map currently shows the property as Industrial Development and Wetlands land use categories.*

- (3) I suggest comparing the FLUCFCS map provided with that done when the site was going through review as a Conservation 20/20 nomination and the county paid an environmental consultant to map the uplands and wetlands. It was my recollection that most of the site was mapped as wetlands. This is supported to some extent by the soils map provided which indicates at least the western portion of the site has wetland characteristics as evidence by hydric soils.

*Response: The project has been permitted under South Florida Water Management District permit number 36-05751-P. A copy of the permit is attached. The eastern 222+/- feet of the subject property is within a SFWMD Conservation Easement and is proposed for Conservation Lands; Wetlands Land Use designation.*

- (4) I suggest that a buffer of at least 100' be required on the eastern boundary of the site if the rezoning is approved to protect water quality and wildlife habitat in the Deep Lagoon Preserve.

*Response: The eastern 222+/- feet of the subject property is within a SFWMD Conservation Easement and is proposed for Conservation Lands; Wetlands Land Use designation which will provide the desired protection.*

The comments from the 2<sup>nd</sup> submittal are reproduced below:

#### Smart Growth

Usually a site like this is an opportunity to attempt small scale mixed use. I would recommend that for this site, also, with most of the discussion at the plan development stage. However, there are two issues. The site is located next to the sewage treatment ponds, and the site seems to access onto Summerlin.

Regarding the ponds, the concern is whether there is any aerosol/odor issues, that makes residential inappropriate? The industrial designation would seem more likely to not have a conflict with this utility use.

*Response: The subject property has deed restrictions that do not allow residential development on the site. The Declaration of Restrictive Covenants is attached for reference.*

Second, access on Summerlin. At one time, Summerlin was considered a limited access roadway, with the intent to ensure that parcel division/subdivision was tied to coordinated



plans between parcels to limit access points. Is this parcel one with such a constraint?


*Response: The proposed access point to the proposed development will be a shared access point with the residential subdivision that is proposed to the north of the subject property. As part of the rezoning for the residential subdivision, the applicant is proposing to relocate the designed Summerlin Road controlled access point 140' ± to the north. The relocated access point is being coordinated with Lee County DOT and will need approval by the Board of County Commissioners as part of the rezoning request. Attached please find a copy of a memo with attachments from Lee County DOT dated September 7, 2006 which states that they have no objection to the request and a copy of the grant of access easement.*

This letter should not be viewed as a final dead-line for comments from the above listed agencies. Should additional comments come in regarding sufficiency questions, they will be submitted to you in a timely a manner as possible.

Please continue your review of our responses to the sufficiency checklists. Should you have any questions or require additional information, please do not hesitate to contact me at 939-5490.

Sincerely,

BANKS ENGINEERING



Stacy Ellis Hewitt  
Director of Planning

cc: Rudy Maul  
Eddy Garcia



# **Banks Engineering, Inc.**

Professional Engineers, Planners & Land Surveyors  
FORT MYERS ♦ NAPLES ♦ SARASOTA  
HOLMES BEACH ♦ PORT CHARLOTTE

May 19, 2006

Mr. Wayne Gaither  
Division of Planning  
1500 Monroe Street  
Fort Myers, FL 33901



**RE: CPA2005-00001**  
**Vicott, Inc. Property**

Dear Mr. Gaither,

This is in response to your December 12, 2006 letter regarding the above referenced Comprehensive Plan Amendment.

## **Property Information**

1. The Property Appraiser's office does not currently list a site address for the subject property.
2. The small scale amendment is only for the portion of the property that is contained in the legal description that was provided with the application.
3. The proposed amendment will not have a detrimental effect on public facilities or the surrounding road network. The proposed access point to the proposed development will be a shared access point with the residential subdivision that is proposed to the north of the subject property. As part of the rezoning for the residential subdivision, the applicant is proposing to relocate the Summerlin Road controlled access point 110' + to the east. The relocated access point is being coordinated with Lee County DOT and will need their approval as part of the rezoning request.

## **Environmental Impacts**

1. The proposed residential subdivision to the north is under contract to Watermen Development who is the applicant for the proposed rezoning. The Waterstone RPD is in the process of obtaining a South Florida Water Management permit to determine what impacts to the wetland will be allowed. The Waterstone RPD property will eventually be purchased by Watermen Development in accordance with the conditions of the contract. Once the Comprehensive Plan Amendment has been processed, the subject property will apply for a rezoning to a Commercial Planned Development. The subject property will have to obtain approval from the Governmental Agencies prior to any development taking place



on the property.

### **Historic Impacts**

1. The Waterstone RPD is as well as this property is owned by Vicott, Inc. The Waterstone RPD is under contract to Watermen Development who is the applicant for the proposed rezoning. The letter from the Division of Historical Resources covered this property as well as the Waterstone RPD property.
2. Please find attached a copy of the Lee County Archeologically Sensitivity map with the subject property highlighted.

### **Internal Consistency with the Lee Plan**

1. Currently there are 202 acres of commercial development in the Urban Community Land Use Category for the Iona/McGregor planning community. The proposed Comprehensive Plan Amendment would add an additional 3.89 acres while eliminating 3.89 acres from industrial development.
2. No impacts are anticipated to the adjacent local governments or their Comprehensive Plans.
3. State and Regional policy goals will not be affected by the proposed Comprehensive Plan Amendment.

### **Additional Requirements**

1. No major changes in employment are anticipated with the proposed Comprehensive Plan Amendment. The property is currently in the Industrial Development land use category and if the appropriate permits are obtained the property could be developed with an industrial use which would provide employment. If the Comprehensive Plan Amendment is approved, then the property could be developed with commercial development if the appropriate permits are obtained. This too would provide employment on the subject property.
2. A legal description and sketch was provided with the Comprehensive Plan Amendment application which described 3.89 acres. This is the property that is subject to the proposed amendment.

### **Lee County DOT**

1. A Commercial Planned Development will be requested once the Comprehensive Plan Amendment has been processed.

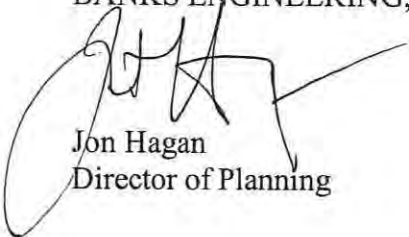


### **Lee County Parks and Recreation**

1. The subject property will have to obtain all the necessary permits from the various governmental agencies prior to any development taking place on the subject property.
2. The current Future Land Use Map of the Comprehensive Plan indicates that the property is located in the Industrial Development Land Use category.
3. The subject property will have to obtain all the necessary permits from the various governmental agencies prior to any development taking place on the subject property.
4. Acknowledged.

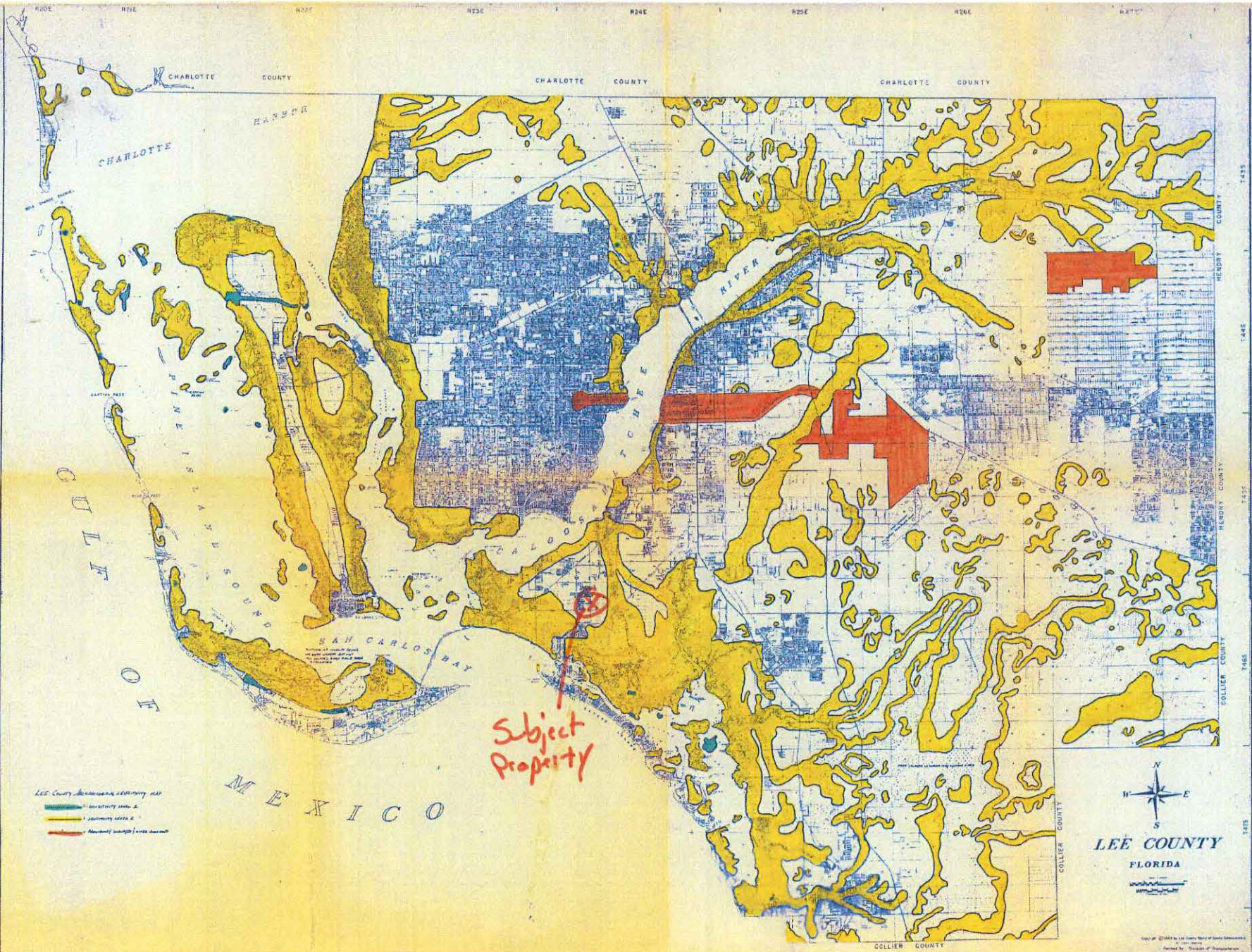
Please continue your review of our responses to the sufficiency checklists. Should you have any questions or require additional information, please do not hesitate to contact me at 939-5490.

Sincerely,  
BANKS ENGINEERING, INC.



Jon Hagan  
Director of Planning





Lee County boundaries, existing and  
proposed under 2  
proposed under 2  
proposed under 2



Copyright © 1994 by Lee County Board of County Commissioners  
Printed in the United States of America  
Map of Lee County, Florida





**LEE COUNTY**  
SOUTHWEST FLORIDA

**BOARD OF COUNTY COMMISSIONERS**

Writer's Direct Dial Number: (239) 479-8567

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

February 28, 2006

John, G. Hagan  
Banks Engineering, Inc.  
10511 Six Mile Cypress Parkway, Suite 101  
Fort Myers, FL 33908

RE: CPA2005-00001 (Small Scale Map Amendment)  
05-46-24-00-00003.0020  
Vicott, Inc Property

Mr. Hagan:

This letter is sent as a reminder that the application for the above referenced Comprehensive Plan Amendment was found insufficient. To date we have not received a reply.

A thirty (30) day time frame is needed to review the re-submitted Comprehensive Plan Amendment by the various agencies/departments within Lee County to ensure sufficiency. This must be done before the application and all supplemental information is analyzed and a staff report is generated.

If your intentions to pursue a comprehensive plan amendment have changed, please notify me, in writing, so we may close the case.

Your time in this matter is greatly appreciated.

Sincerely,

H. Wayne Gaither  
Planner  
479-8567  
[wgaither@leegov.com](mailto:wgaither@leegov.com)

CC:

file





**LEE COUNTY**  
SOUTHWEST FLORIDA

**BOARD OF COUNTY COMMISSIONERS**

Writer's Direct Dial Number: (239) 479-8567

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Donald D. Stilwell  
County Manager

David M. Owen  
County Attorney

Diana M. Parker  
County Hearing  
Examiner

May 8, 2006

John, G. Hagan  
Banks Engineering, Inc.  
10511 Six Mile Cypress Parkway, Suite 101  
Fort Myers, FL 33908

RE: CPA2005-00001 (Small Scale Map Amendment)  
05-46-24-00-00003.0020  
Vicott, Inc Property

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Your time in this matter is greatly appreciated.

Sincerely,

H. Wayne Gaither  
Planner  
479-8567  
[wgaither@leegov.com](mailto:wgaither@leegov.com)

CC:  
Matt Noble  
Vicott, Inc.  
file





Engineers, Planners & Development Consultants

11000 Metro Parkway, Suite 30 • Fort Myers, Florida 33912  
Tel: (239) 936-5222 • Fax: (239) 936-7228

**RECEIVED**

SEP 15 2006

Cwm 11:35am

COMMUNITY DEVELOPMENT

TO: *Paul O'Conner*  
~~Pam Houck~~

Lee County Development Services  
1500 Monroe Street  
Fort Myers, FL 33901

## LETTER OF TRANSMITTAL

DATE: 15-Sep-06

PROJECT: Three Oaks North CPA

JOB #: 06-08-20

RE: CPA ReSubmittal

CPA2005-00005

### THE FOLLOWING ITEMS ARE BEING SENT VIA:

☐

FAX with page(s) to follow

☐

U.S. Mail

☒

Hand delivery

☐

Federal/Airborne Express

Quantity	DESCRIPTION
6	Resposne Package: Application w/all required Exhibits

### REMARKS:

CC: File

FROM:

Asheley Mass, Permitting Manager

Please notify us at once if attachments are not as noted



# **Banks Engineering**

Professional Engineers, Planners & Land Surveyors  
10511-101 Six Mile Cypress Parkway  
Fort Myers, Florida 33966  
(239) 939-5490  
Fax (239) 939-2523

*Please Reply To:*  
FORT MYERS OFFICE

## **VICOTT, INC.**

### **SMALL SCALE COMPREHENSIVE PLAN AMENDMENT September 15, 2006**

**RECEIVED**  
SEP 15 2006

**CPA 2005-00001**

---

**Naples Office**  
6640 Willow Park Dr.  
Suite B  
Naples, Florida  
34109  
(239) 597-2061  
Fax (239) 597-3082

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Lake Suzy, Florida  
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Fax (941) 625-1149



## **TABLE OF CONTENTS**

### **VICOTT, INC.**

COVER LETTER

APPLICATION FORM

GENERAL INFORMATION AND MAPS

PUBLIC FACILITIES IMPACTS

ENVIRONMENTAL IMPACTS

IMPACTS ON HISTORIC RESOURCES

INTERNAL CONSISTENCY WITH THE LEE PLAN

ADDITIONAL REQUIREMENTS FOR SPECIFIC FUTURE LAND USE  
AMENDMENTS

JUSTIFICATION FOR PROPOSED AMENDMENT





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  
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 VERIFIED:

Zoning ☐ Commissioner District ☐

Designation on FLUM ☐

-----  
(To be completed by Planning Staff)

Plan Amendment Cycle: ☐ Normal ☒ Small Scale ☐ DRI ☐ Emergency

Request No: CPA2005-00001

### APPLICANT PLEASE NOTE:

Answer all questions completely and accurately. Please print or type responses. If additional space is needed, number and attach additional sheets. The total number of sheets in your application is: 52

Submit **6** copies of the complete application and amendment support documentation, including maps, to the Lee County Division of Planning. Additional copies may be required for Local Planning Agency, Board of County Commissioners hearings and the Department of Community Affairs' packages.

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.

09/15/06

DATE

SIGNATURE OF OWNER OR AUTHORIZED REPRESENTATIVE



## I. APPLICANT/AGENT/OWNER INFORMATION

Vicott, Inc.

APPLICANT

10950 Old South Way

ADDRESS

Fort Myers,

FL

33908

CITY

STATE

ZIP

(239) 489-1814

(239) 489-1816

TELEPHONE NUMBER

FAX NUMBER

Banks Engineering, c/o Stacy Hewitt, Planner

AGENT\*

10511 Six Mile Cypress Parkway, Suite 101

ADDRESS

Fort Myers,

FL

33966

CITY

STATE

ZIP

(239) 770-2527

(239) 939-2523

TELEPHONE NUMBER

FAX NUMBER

Vicott, Inc.

AND Sunset Falls, LLC

(Strap No. 05-46-24-00-00003.0030)

(Strap No. 05-46-24-00-00003.0020)

OWNER(s) OF RECORD

10950 Old South Way

8045 NW 115 Street

ADDRESS

Fort Myers, FL 33908

Miami Lakes, FL 33016

CITY/STATE/ZIP

(239) 489-1814 / (239) 489-1816

(305) 828-0103 / (305) 828-0147

TELEPHONE/FAX NUMBERS

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.



**II. REQUESTED CHANGE (Please see Item 1 for Fee Schedule)**

**A. TYPE: (Check appropriate type)**

☐ Text Amendment



Future Land Use Map Series Amendment  
(Maps 1 thru 21)

List Number(s) of Map(s) to be amended  
Map No. 1

**B. SUMMARY OF REQUEST (Brief explanation):**

Change Future Land Use Map of subject property from

Industrial Development to Urban Community to allow for the property

to be rezoned and developed as a Commercial Planned Development.

**III. PROPERTY SIZE AND LOCATION OF AFFECTED PROPERTY  
(for amendments affecting development potential of property)**

**A. Property Location:**

1. Site Address: Access Undetermined, Fort Myers, FL 33908

2. STRAP(s): 05-46-24-00-00003.0030 & 05-46-24-00-00003.0020

**B. Property Information**

Total Acreage of Property: 7.67+/- Ac.

Total Acreage included in Request: 7.67+/- Ac.

Area of each Existing Future Land Use Category: \_\_\_\_\_

Total Uplands: 5.41+/- Ac

Total Wetlands: 2.26+/- Ac

Current Zoning: AG-2

Current Future Land Use Designation: Industrial Development

Existing Land Use: Vacant



- 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:

Lehigh Acres Commercial Overlay: N/A

Airport Noise Zone 2 or 3: N/A

Acquisition Area: N/A

Joint Planning Agreement Area (adjoining other jurisdictional lands): N/A

Community Redevelopment Area: N/A

- D. Proposed change for the Subject Property: Industrial Development to Urban Community

- E. Potential development of the subject property:

1. Calculation of maximum allowable development under existing FLUM:

Residential Units/Density -0-

Commercial intensity 6,492 s.f.

Industrial intensity 64,920 s.f.

2. Calculation of maximum allowable development under proposed FLUM:

Residential Units/Density 32 DUS

Commercial intensity 54,100 s.f.

Industrial intensity -0-

#### 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)

A. General Information and Maps

*NOTE: For each 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 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 3-mile 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.

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).



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.



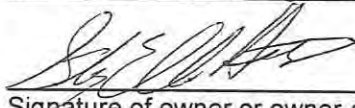
3. Requests involving lands in critical areas for future water supply must be evaluated based on policy 2.4.2.
  4. Requests moving lands from Density Reduction/Groundwater Resource must fully address Policy 2.4.3 of the Lee Plan Future Land Use Element.
- G. Justify the proposed amendment based upon 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
Small Scale Amendment (10 acres or less)	\$1,500.00 each
Text Amendment Flat Fee	\$2,500.00 each

**AFFIDAVIT**

I, STACY ELLIS HEWITT, 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

09/15/06

Date

Stacy Ellis Hewitt, Planner  
Typed or printed name


STATE OF FLORIDA )  
COUNTY OF LEE )

The foregoing instrument was certified and subscribed before me this 15th day of Sept ~~19~~ 2006 by STACY ELLIS HEWITT, who is personally known to me or who has produced \_\_\_\_\_ as identification.

(SEAL)



Karen M Smith  
My Commission DD229366  
Expires October 23, 2007

  
Signature of notary public

KAREN M SMITH  
Printed name of notary public



**VICOTT, INC.**  
**SMALL SCALE COMPREHENSIVE PLAN AMENDMENT**  
**AMENDMENT SUPPORT DOCUMENTATION**

**A. GENERAL INFORMATION AND MAPS:**

1. Provide any proposed text changes: *N/A*
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.  
*Please see attached Existing Future Land Use Map and Proposed Future Land Use Map.*

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.  
*Please see attached Aerial Photograph, Land Use and Zoning Map.*

*The property to the north is in the Urban Community Future Land Use Category and is currently vacant with a pending rezoning to RPD. The property to the east is in the Urban Community and Wetlands Future Land Use Categories and is currently vacant. Immediately to the south is Summerlin Road and the land south of the right-of-way is in Wetlands/Outlying Suburban Land Use Categories and Public Facilities Land Use Categories and is currently vacant. The property to the west is in the Public Facilities Land Use Category and consists of the Lee County Sewage Treatment ponds.*

*The proposed land use change for the subject property from Industrial Development to Urban Community will increase the compatibility with the existing and proposed land uses in the surrounding areas.*

4. Map and describe existing zoning of the subject property and surrounding properties.  
*Please see attached Aerial Photograph, Land Use and Zoning Map.*

*The subject property is zoned AG-2. The property to the north is zoned AG-2 and a Planned Development application for the Waterstone project is currently being reviewed to rezone the property to a Residential Planned Development (DCI2005-00078). The property to the east is zoned AG-2 and is currently vacant. The subject property abuts Summerlin Road right-of-way to the south. The property on the south of Summerlin Road is zoned AG-2 and is currently vacant. The property to the west of the subject property is zoned CF-3 and consists of Lee County Sewage Treatment ponds.*

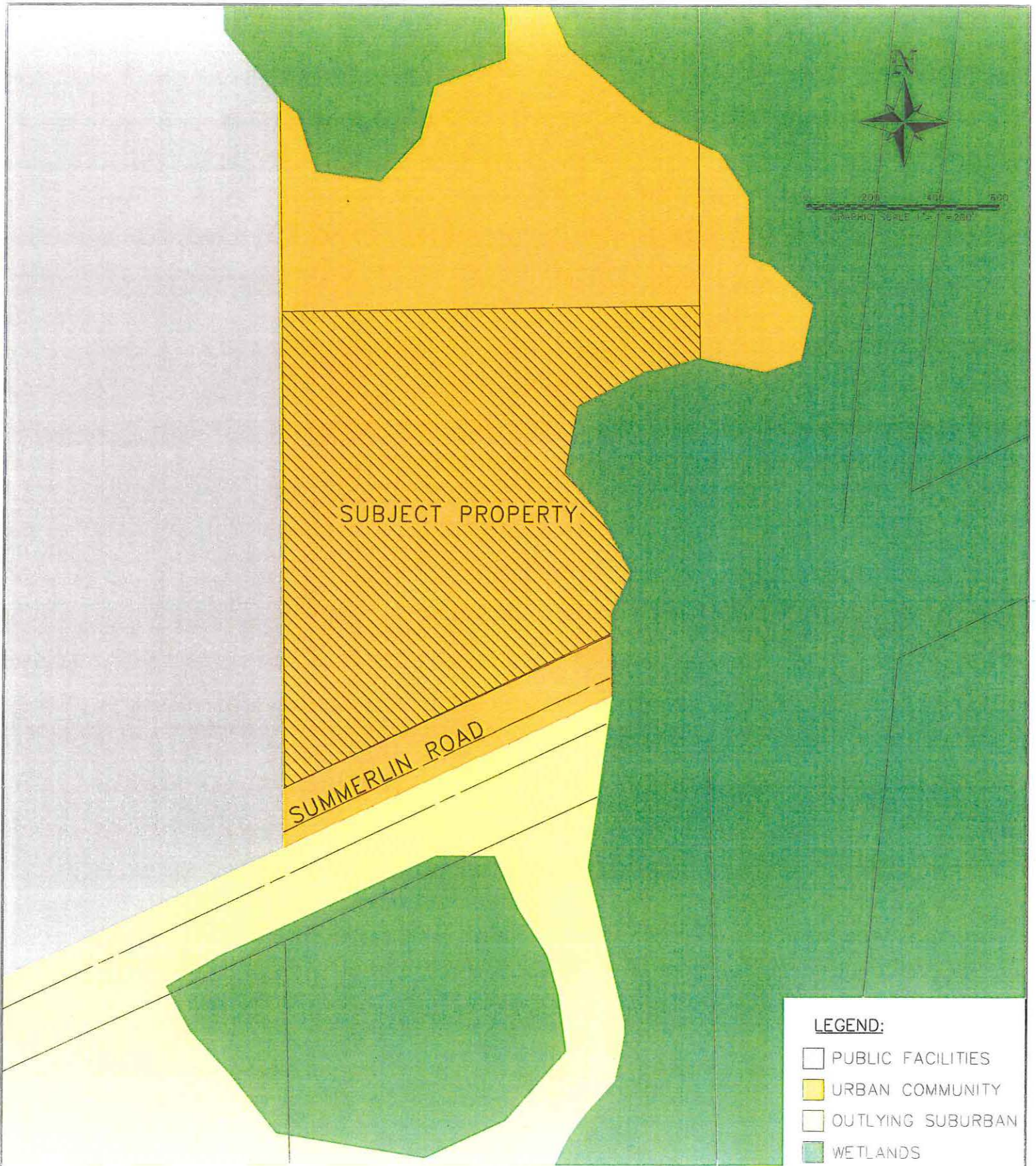


5. The legal description(s) for the property subject to the requested change.  
*Please see attached legal description.*
6. A copy of the deed(s) for the property subject to the requested change.  
*Please see attached Warranty Deeds.*
7. An aerial map showing the subject property and surrounding properties.  
*Please see attached Aerial Photograph, Land Use and Zoning Map.*
8. If an applicant is not the owner, a letter from the owner of the property authorizing the applicant to represent the owner.  
*Letters of authorization are attached.*









### **Banks Engineering, Inc.**

**Professional Engineers, Planners & Land Surveyors**

10511 SIX MILE CYPRESS PARKWAY - SUITE 101  
FORT MYERS, FLORIDA 33912  
PHONE: (239) 939-5490 FAX: (239) 939-2523  
ENGINEERING LICENSE # EB 5489  
SURVEY LICENSE # LB 5690

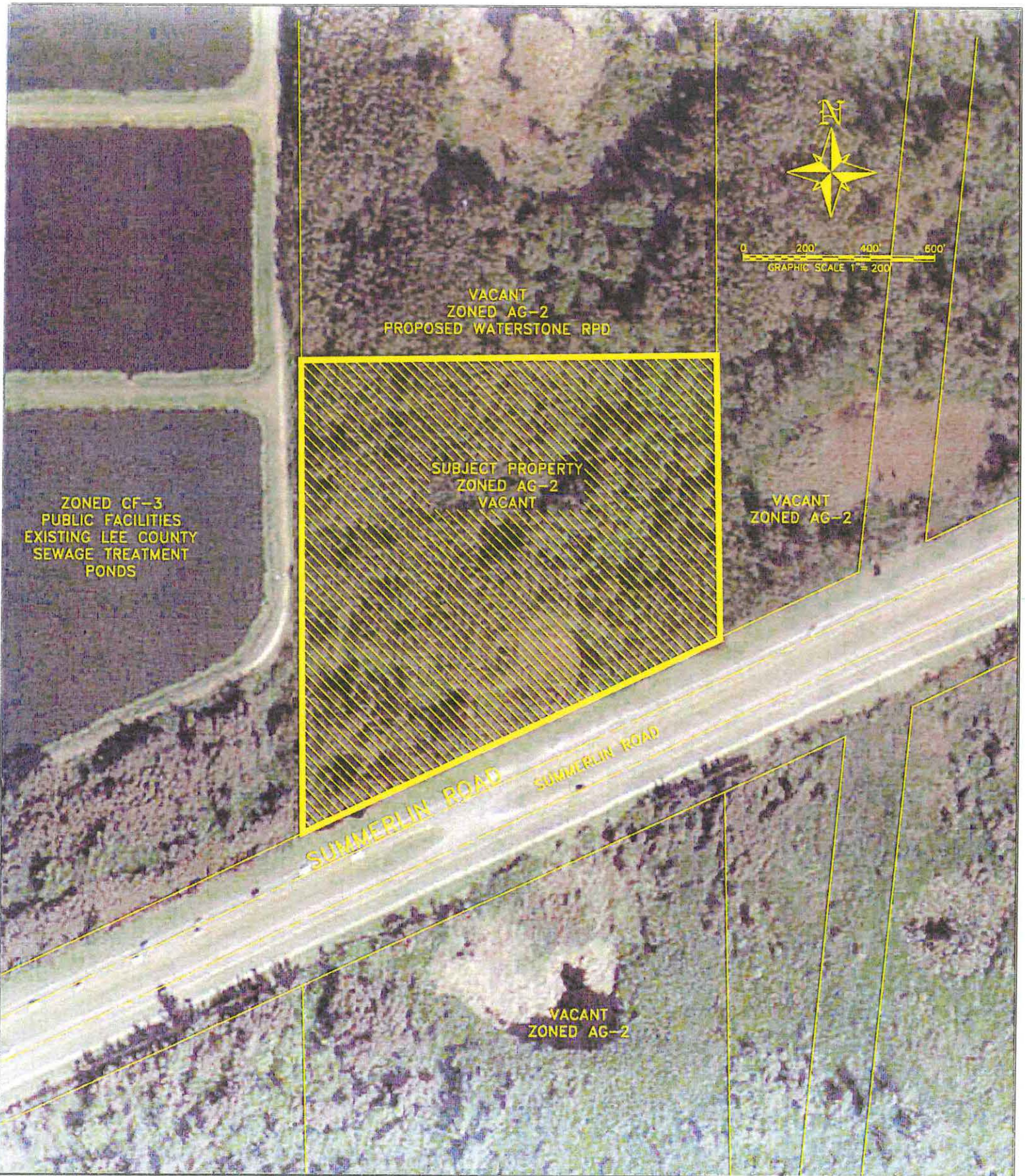
PROPOSED FUTURE LAND USE MAP

**VICOTT, INC.**

LEE COUNTY, FLORIDA

DATE	PROJECT	DRAWING	DESIGN	DRAWN	CHECKED	SCALE	SHEET	OF	FILE NO. (S-T-R)
09/21/2005	1836	1836_FLU	SDJ	SDJ	JGH	1"=200'	1	1	05-46-24





**Banks Engineering, Inc.**

Professional Engineers, Planners & Land Surveyors

10511 SIX MILE CYPRESS PARKWAY - SUITE 101

FORT MYERS, FLORIDA 33912

PHONE: (239) 939-5490 FAX: (239) 939-2523

ENGINEERING LICENSE # EB 5469

SURVEY LICENSE # LB 6690

AERIAL, LAND USE AND ZONING MAP

**VICOTT, INC.**

LEE COUNTY, FLORIDA

DATE	PROJECT	DRAWING	DESIGN	DRAWN	CHECKED	SCALE	SHEET	OF	FILE NO. (S-T-R)
09-22-05	1836	1836_AER	SDJ	SDJ	JGH	1"=200'	1	1	(05-46-24)



# **Banks Engineering**

Professional Engineers, Planners & Land Surveyors

12653 SW C.R. 769, Suite B

Lake Suzy, Florida 34269

(941) 625-1165

Fax (941) 625-1149

## DESCRIPTION OF A PARCEL LYING IN SECTION 5, T-46-S, R-24-E, LEE COUNTY, FLORIDA

(7.67 ACRES±)

A TRACT OR PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, LYING IN SECTION 5, TOWNSHIP 46 SOUTH, RANGE 24 EAST, BEING A PART OF THE EAST HALF OF THE WEST HALF OF THE SOUTHEAST QUARTER OF SAID SECTION 5, AND BEING FURTHER BOUNDED AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 5; THENCE S.89°01'42"W. ALONG THE SOUTH LINE OF SAID SECTION FOR 1319.00 FEET TO THE EAST LINE OF SAID EAST HALF OF THE WEST HALF OF THE SOUTHEAST QUARTER; THENCE N.01°26'45"W. ALONG SAID EAST LINE FOR 974.54 FEET TO AN INTERSECTION WITH THE NORTH RIGHT OF WAY LINE OF SUMMERLIN ROAD, (COUNTY ROAD 869), AND THE **POINT OF BEGINNING**; THENCE CONTINUE N.01°26'45"W., ALONG SAID EAST LINE, FOR 357.68 FEET; THENCE S.88°58'25"W., ALONG THE NORTH LINE OF THE SOUTH HALF OF SAID EAST HALF OF THE WEST HALF OF THE SOUTHEAST QUARTER, FOR 660.47 FEET; THENCE S.01°29'16"E., ALONG THE WEST LINE OF SAID EAST HALF OF THE WEST HALF OF THE SOUTHEAST QUARTER, FOR 654.93 FEET TO AN INTERSECTION WITH SAID NORTH RIGHT OF WAY LINE OF SUMMERLIN ROAD, (COUNTY ROAD 869); THENCE N.64°39'27"E., ALONG SAID NORTH RIGHT OF WAY, FOR 721.85 FEET TO THE **POINT OF BEGINNING**.

SAID PARCEL CONTAINS 334105.20 SQUARE FEET OR 7.67 ACRES MORE OR LESS.

BEARINGS ARE BASED ON THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 5 AS BEARING S.89°01'42"W.

BANKS ENGINEERING,  
FLORIDA LICENSED BUSINESS NO. LB6690

SEPTEMBER 14, 2006



KENNETH E. TRASK  
PROFESSIONAL LAND SURVEYOR  
FLORIDA LICENSE NO. LS4684

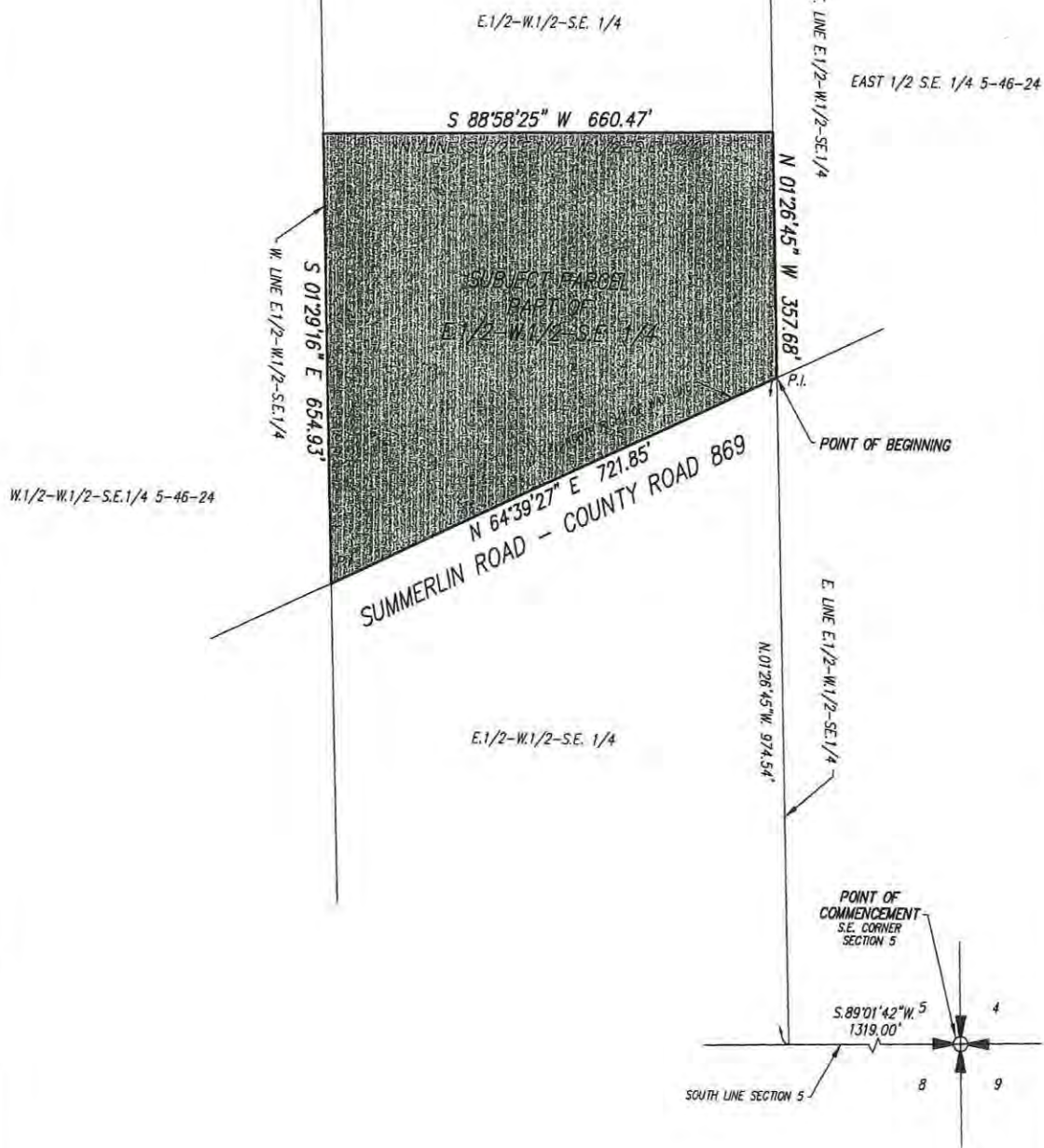
### SHEET 1 OF 2

**Fort Myers Office**  
10511 Six Mile Cypress  
Pkwy., Suite 101  
Fort Myers, FL  
33912  
(239) 939-5490  
Fax (239) 939-2523

**Naples Office**  
6640 Willow Park Dr.  
Suite B  
Naples, Florida  
34109  
(239) 597-2061  
Fax (239) 597-3082

**Sarasota Office**  
1144 Tallevast Road  
Suite # 115  
Sarasota, Florida  
34243  
(941) 360-1618  
Fax (941) 360-6918





LEGEND

LS LAND SURVEYOR  
P.I. POINT OF INTERSECTION

THIS IS NOT A BOUNDARY SURVEY

*Kenneth E. Trask*  
KENNETH E. TRASK  
FLORIDA CERTIFICATE NO. LS4684

THIS IS NOT A BOUNDARY SURVEY

SKETCH TO ACCOMPANY DESCRIPTION

7.67 ACRES±  
LYING IN SECTION 5, T-46-S, R-24-E  
LEE COUNTY, FLORIDA

**Banks Engineering**  
Professional Engineers, Planners & Land Surveyors  
FORT MYERS ♦ NAPLES ♦ SARASOTA ♦ PORT CHARLOTTE  
10511 SIX MILE CYPRESS PARKWAY - SUITE 101  
FORT MYERS, FLORIDA 33912  
PHONE: (239) 939-5490 FAX: (239) 939-2523  
ENGINEERING LICENSE # EB 6468  
SURVEY LICENSE # LB 8890

DATE	PROJECT	DRAWING	DESIGN	DRAWN	CHECKED	SCALE	SHEET	FILE NO. (S-T-R)
09-14-2006	1836	1836-SUM-11-12-06		BAC	KT	1"=200'	2 OF 2	5-46-24





Prepared by and return to:  
George L. Consoer, Jr., Esq.  
Knott, Consoer, Ebelini, Hart & Swett, P.A.  
1625 Hendry Street Suite 300  
Fort Myers, FL 33901  
239-334-2722  
File Number: Maul Swor  
Will Call No.: 94

INSTR # 5929465  
Official Records BK 04025 PG 4121  
RECORDED 08/13/2003 04:26:18 PM  
CHARLIE GREEN, CLERK OF COURT  
LEE COUNTY  
RECORDING FEE 6.00  
DEED DOC 3,325.00  
DEPUTY CLERK L Parent

Parcel Identification No. 05-46-24-00-00003.0010

[Space Above This Line For Recording Data]

## Warranty Deed

(STATUTORY FORM - SECTION 689.02, F.S.)

This Indenture made this 12th day of August, 2003 between David W. Swor, individually, and as Trustee whose post office address is 6000 Forest Boulevard, Fort Myers, FL 33908 of the County of Lee, State of Florida, grantor\*, and Vicott, Inc., a Florida corporation whose post office address is 1325 SE 47th Street, Suite G, Cape Coral, FL 33904 of the County of Lee, State of Florida, grantee\*,

Witnesseth, that said grantor, for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable considerations to said grantor in hand paid by said grantee, the receipt whereof is hereby acknowledged, has granted, bargained, and sold to the said grantee, and grantee's heirs and assigns forever, the following described land, situate, lying and being in Lee County, Florida, to-wit:

The East one-half (E1/2) of the Northwest 1/4 of the Southeast 1/4 of Section 5, Township 46 South, Range 24 East and the East one-half (E1/2) of the Southwest 1/4 of the Southeast 1/4 of Section 5, Township 46 South, Range 24 East North of Summerlin Road n/k/a County Road 869 Lee County, Florida.

Grantor warrants that at the time of this conveyance, the subject property is not the Grantor's homestead within the meaning set forth in the constitution of the state of Florida, nor is it contiguous to or a part of homestead property. Grantor's residence and homestead address is: 6000 Forest Boulevard, Fort Myers, FL 33908.

and said grantor does hereby fully warrant the title to said land, and will defend the same against lawful claims of all persons whomsoever.

\* "Grantor" and "Grantee" are used for singular or plural, as context requires.

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

Signed, sealed and delivered in our presence:

Bonnie Fice  
Witness Name: Bonnie Fice

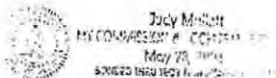
W. A. Swor  
Witness Name: W. A. Swor

David W. Swor (Seal)  
David W. Swor, individually and as Trustee

State of Florida  
County of Lee

The foregoing instrument was acknowledged before me this 12th day of August, 2003 by David W. Swor, who ☐ is personally known or ☒ has produced a driver's license as identification.

[Notary Seal]



Notary Public, Judy Mallett

Printed Name: Judy Mallett

My Commission Expires: 5/18/04



This Instrument Prepared by  
and Return to:  
George L. Consoer, Jr.  
Knott, Consoer, Ebelini,  
Hart & Swett, P.A.  
1625 Hendry Street, Suite 301  
Fort Myers, FL 33901  
239/334-2722  
Folio Nos: 05-46-24-00-00003.0020;  
05-46-24-00-00003.0010

**SPECIAL WARRANTY DEED**

THIS INDENTURE made this 5 day of April, 2006, between Vicott, Inc., a Florida Corporation, herein referred to as Grantor, whose mailing address is 10950 Old South Way, Fort Myers, Florida 33908, and Sunset Falls, LLC, a Florida Limited Liability Company, herein referred to as Grantee, whose mailing address is 8045 NW 155<sup>th</sup> Street, Miami Lakes, Florida 33016.

**WITNESSETH:**

That said Grantor, for and in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable considerations to said Grantor in hand paid by said Grantee, the receipt whereof is hereby acknowledged, has granted, bargained and sold to the said Grantee, and Grantee's successors and assigns forever, the following described land situate, lying and being in Lee County, Florida, to wit:

LEGAL DESCRIPTION: Attached as Exhibit "A"

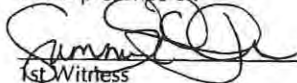
**THIS CONVEYANCE IS SUBJECT TO**

1. Taxes for the current and subsequent years.
2. Conditions, easements and restrictions of record.
3. Zoning ordinances and other restrictions and prohibitions imposed by applicable governmental authorities.

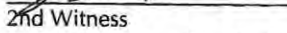
Grantor does hereby covenant with Grantee that the Grantor is lawfully seized of said land in fee simple; that the Grantor has good right and lawful authority to sell and convey said land and will warrant the title and defend the same against the lawful claims and demands of all persons claiming by, through or under him, but against none other.

IN WITNESS WHEREOF, Grantor has hereunto set Grantor's hand and seal the day and year first above written.

Signed, sealed and delivered  
in the presence of:

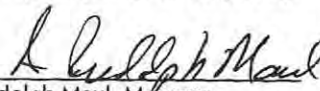
  
1st Witness

Summer M.O. Johnson  
Printed Name

  
2nd Witness

ERIC M. BONGIA  
Printed Name

VICOTT, INC., a Florida Corporation

By:   
A. Rudolph Maul, Manager

STATE OF FLORIDA )  
COUNTY OF LEE )

The foregoing instrument was acknowledged before me on this 5<sup>th</sup> day of April, 2006, by A. Rudolph Maul, President of Vicott, Inc. He is personally known to me or who has produced \_\_\_\_\_ as identification.

My Commission Expires:

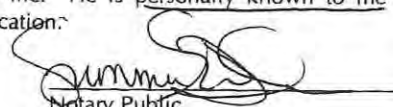
  
Notary Public  
Summer M.O. Johnson  
Printed Name





EXHIBIT "A"  
VICOTT, INC.

PARCEL A:

THE EAST ONE-HALF OF THE NORTHWEST  $\frac{1}{4}$  OF THE SOUTHEAST  $\frac{1}{4}$  OF SECTION 5, TOWNSHIP 46 SOUTH, RANGE 24 EAST AND THE EAST ONE-HALF ( $E \frac{1}{2}$ ) OF THE SOUTHWEST  $\frac{1}{4}$  OF THE SOUTHEAST  $\frac{1}{4}$  OF SECTION 5, TOWNSHIP 46 SOUTH, RANGE 24 EAST NORTH OF SUMMERLIN ROAD A/K/A COUNTY ROAD 869 LEE COUNTY, FLORIDA.

LESS:

A TRACT OR PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, LYING IN SECTION 5, TOWNSHIP 46 SOUTH, RANGE 24 EAST, BEING FURTHER BOUNDED AND DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 5; THENCE S.89°01'42"W., ALONG THE SOUTH LINE OF SAID SECTION 5, FOR 1319.00 FEET; THENCE N.01°26'45"W., FOR 974.54 FEET TO THE NORTHERLY RIGHT OF WAY LINE OF SUMMERLIN ROAD (COUNTY ROAD 869); THENCE S.64°39'27"W., ALONG SAID NORTHERLY RIGHT OF WAY LINE, FOR 244.30 FEET TO THE POINT OF BEGINNING; THENCE N.00°04'41"E., FOR 348.06 FEET; THENCE N.61°35'24"W., FOR 156.47 FEET; THENCE N.01°01'35"W., FOR 33.37 FEET; THENCE S.88°47'59"W., FOR 159.92 FEET; THENCE S.88°30'44"W., FOR 47.37 FEET TO A POINT ON A CURVE TO THE RIGHT, HAVING: A RADIUS OF 212.00 FEET, A CENTRAL ANGLE OF 07°38'23", A CHORD BEARING OF S.05°18'28"E., AND A CHORD LENGTH OF 28.25 FEET; THENCE ALONG THE ARC OF SAID CURVE, AN ARC LENGTH OF 28.27 FEET TO THE POINT OF TANGENCY OF SAID CURVE; THENCE S.01°29'16"E., FOR 578.40 FEET TO SAID NORTHERLY RIGHT OF WAY LINE; THENCE N.64°39'27"E., ALONG SAID RIGHT OF WAY LINE FOR 362.21 FEET TO THE POINT OF BEGINNING.



EXHIBIT II - D

LETTER OF AUTHORIZATION

The undersigned do hereby swear or affirm that they are the fee simple title-holders and owners of record of property commonly known as Vicott, Inc. and legally described in exhibit "A" attached hereto.

STRAP #'s: 05-46-24-00-00003.0030

The property described herein is the subject of an application for zoning or development. We hereby designate Banks Engineering as the legal representative of the property and as such, this individual is authorized to legally bind all owners of the property in the course of seeking the necessary approvals to develop. This authority includes but is not limited to the hiring and authorizing of agents to assist in the preparation of applications, plans, surveys, and studies necessary to obtain zoning and development on the site. This representative will remain the only entity to authorize development activity on the property until such time as a new or amended authorization is delivered to Lee County.

Company: Vicott, Inc.

By: A. Rudolph Maul

Signature

*A. Rudolph Maul*

STATE OF FLORIDA

COUNTY OF Lee

The foregoing instrument was sworn (or affirmed) and subscribed before me 8 day of September, 20 06

this

by Anthony Rudolph Maul as President  
of Vicott, Inc.

on behalf of the corporation. He / she is personally known to me or has produced Drivers License  
as identification.

*Regina Bell*  
Notary Signature

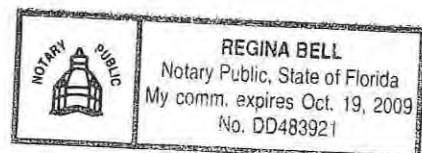




EXHIBIT II - D

LETTER OF AUTHORIZATION

The undersigned do hereby swear or affirm that they are the fee simple title-holders and owners of record of property commonly known as Sunset Falls, LLC and legally described in exhibit "A" attached hereto.

STRAP #'s: 05-46-24-00-00003.0020

The property described herein is the subject of an application for zoning or development. We hereby designate Banks Engineering as the legal representative of the property and as such, this individual is authorized to legally bind all owners of the property in the course of seeking the necessary approvals to develop. This authority includes but is not limited to the hiring and authorizing of agents to assist in the preparation of applications, plans, surveys, and studies necessary to obtain zoning and development on the site. This representative will remain the only entity to authorize development activity on the property until such time as a new or amended authorization is delivered to Lee County.

Company: Sunset Falls, LLC

By: Eddy Garcia

Eddy Garcia  
Signature

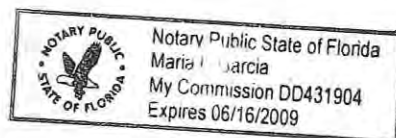
STATE OF FLORIDA

COUNTY OF Dade

The foregoing instrument was sworn (or affirmed) and subscribed before me 14th day of September, 2006

by Eddy Garcia as manager  
of Sunset Falls, LLC

on behalf of the corporation. ☒ (He) she is personally known to me or has produced personally known  
as identification.



Maria Garcia  
Notary Signature



**VICOTT, INC.**  
**SMALL SCALE COMPREHENSIVE PLAN AMENDMENT**  
**AMENDMENT SUPPORT DOCUMENTATION**

**B. PUBLIC FACILITIES IMPACTS:**

**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).

*The proposed land use change from Industrial Development to Urban Community will have no effect on the Financially Feasible Transportation Plan/Map 3A (20-year horizon) or on the Capital Improvements Element (5-year horizon). The land use change is being requested to allow the site to be rezoned and developed as a commercial planned development for a 54,100+/- s.f. of buildings consisting of commercial and office uses. The proposed commercial site will have negligible impacts on the level-of-service to the existing roads. The proposed amendment will not have a detrimental effect on the surrounding road network. Summerlin Road is a four-lane controlled access arterial roadway that borders the subject site to the south. Summerlin Road is currently being widened to six-lanes from San Carlos Boulevard to Gladiolus Drive by the Lee County D.O.T. The proposed access point to the proposed development will be a shared access point with the residential subdivision that is proposed to the north of the subject property. As part of the rezoning for the residential subdivision, the applicant is proposing to relocate the Summerlin Road controlled access point 100'+ to the east. The relocated access point is being coordinated with Lee County DOT and will need their approval as part of the rezoning request.*

**2a. Provide an existing and future conditions analysis for Sanitary Sewer.**

*Lee County Utilities maintains service in this area through the Fort Myers Beach Wastewater Treatment Plant.*

Policy 56.1.2 of the Lee Plan has established that “the minimum acceptable level-of-service standards for sanitary sewer connections to Lee County Utilities shall be available basic facility capacity to treat and dispose of a volume of wastewater equal to 200 gallons per day per equivalent residential connection (ERC) for the peak month...”

*According to the June 2006 Concurrency Management report, the Fort Myers Beach Wastewater Treatment Plant has a design capacity of 6 million gallons per day and a projected flow for 2007 of 4,632,000 gallons per day. The maximum development potential for the proposed land use change would generate between*



*6,400 and 8,115 GPD wastewater. The proposed amendment will not have a detrimental effect on the sanitary sewer facilities.*

2b. Provide an existing and future conditions analysis for Potable Water.

*Lee County Utilities maintains service for this area through the Corkscrew Water Treatment Plant.*

Policy 53.1.2 of the Lee Plan has established that “the minimum acceptable level-of-service standards for potable water connections to Lee County Utilities shall be available supply and treatment capacity of 250 gallons per day per equivalent residential connection (ERC) for the peak month...”

*According to the June 2006 Concurrency Management report, the Corkscrew Water Treatment Plant has a design capacity of 15 million gallons per day and a projected flow for 2007 of 10,500,000 gallons per day. The maximum development potential for the proposed land use change would generate between 6,400 and 8,115 GPD potable water. The proposed amendment will not have a detrimental effect on the potable water facilities.*

2c. Provide an existing and future conditions analysis for Surface Water/Drainage Basins.

*The subject property is located in the Deep Lagoon Watershed #43 as indicated in the Lee County Surface Water Management Master Plan. Any development will be in compliance with South Florida Water Management District and the Lee County Development Code with regard to surface water management.*

Lee County Policy 60.3.1-D of the Lee Plan has established level-of-service standards for the private and public development as follows:

Surface water management systems in new private and public developments (excluding widening of existing roads) must be designed to SFWMD standards (to detain or retain excess stormwater to match the predevelopment discharge rate for the 25-year, 3-day storm event [rainfall]). Stormwater discharges from development must meet relevant water quality and surface water management standards as set forth in Chapters 17-3, 17-40, and 17-302, and rule 40E-4, F.A.C. New developments must be designed to avoid increased flooding of surrounding areas. Development must be designed to minimize increases of discharge to public water management infrastructure (or to evapotranspiration) that exceed historic rates, to approximate the natural surface water systems in terms of rate, hydroperiod, basin and quality, and to eliminate the disruption of wetlands and flow-ways, whose preservation



is deemed in the public interest. (Amended by Ordinance No. 92-35, 94-29, 00-22)

*The June 2006 Concurrency Management report states on page 3 that "All new developments that receive approval from the South Florida Water Management District and which comply with standards in Chapters 17-3, 17-40, and 17-302 of the Florida Statutes, and Rule 40E-4 of the Florida Administrative Code are deemed Concurrent with the Level of Service standards set forth in THE LEE PLAN."*

- 2d. Provide an existing and future conditions analysis for Parks, Recreation, and Open Space.

*The Iona-McGregor Planning Community including the area surrounding the site has access to existing parks and recreational facilities. The area will have parks and recreation facilities available at Lakes Regional and San Carlos Parks and has access to mass transit and bicycle facilities. Open space will be provided per Lee County requirements and evaluated at the time of rezoning. The proposed amendment will have negligible impact to the parks, recreation and open space facilities.*

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; d) Solid Waste; e) Mass Transit; and f) Schools.

*Please see attached letters.*





## 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 additional changes for maximum development potential under the new land use for a proposed use of 54,100 square feet of buildings or a maximum of 32 dwelling units for the parcel with the Strap # 05-46-24-00-00003.0020 & 05-46-24-00-00003.0030. The proposed commercial and office uses at this parcel have to be in compliance with the Lee County Development Code.

This statement does not indicate that any plans have been received, it just identifies that Lee County EMS has no concerns with the requested change from Industrial Development to Urban Community for the Vicott, Inc. Small Scale Comprehensive Plan Amendment on the north side of Summerlin Road, west of HealthPark, between Pine Ridge Road and Bass Road, Fort Myers, Florida.

Kim Dickerson  
(Signature)

EMS Operations Chief  
(Title)

Kim Dickerson  
(Printed Name)

9-12-06  
(Date)



**Iona McGregor Fire District  
15961 Winkler Rd.  
Ft. Myers, Florida 33908  
Phn: (239) 433-0660  
Fax: (239) 433-2673**

September 12, 2006

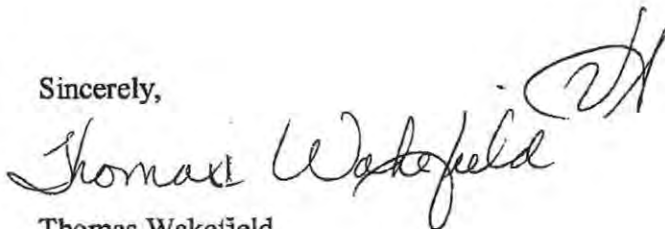
Ms. Stacy Hewitt  
Planner  
Banks Engineering  
10511-101 Six Mile cypress  
Ft. Myers, FL 33912

RE: Vicott Inc, Summerlin Road Job #1836-02  
Strap # 05-46-24-00-00003.0020  
# 05-46-24-00-00003.0030

Dear Stacy,

Please be advised the Fire Department will have the capability to serve the above referenced project as long as all state & local codes are adhered to.

Sincerely,

A handwritten signature in cursive script, reading "Thomas Wakefield". To the right of the signature is a large, stylized initial "W".

Thomas Wakefield  
Fire Inspector





## BOARD OF COUNTY COMMISSIONERS

239-533-0333

Writer's Direct Dial Number: \_\_\_\_\_

Bob Jones  
District One

Douglas R. St. Comy  
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

September 12, 2006

Ms. Stacy Ellis Hewitt  
Banks Engineering, Inc.  
10511-101 Six Mile Cypress Parkway  
Fort Myers, FL 33966

**RE: WRITTEN DETERMINATION OF ADEQUACY FOR VICOTT, INC.**  
STRAP #05-46-24-00-00003.0020 & 05-46-24-00-00003.0030  
First Revision

Dear Ms. Hewitt:

Lee County Transit staff has reviewed the follow-up information you provided in regards to your service adequacy request for the above-mentioned Lee County Small Scale Comprehensive Plan Amendment application. The updated use of 54,100 square feet of commercial and/or office buildings, or a maximum of 32 dwelling units does not change our previous determination.

We currently provide service on Summerlin Road in front of the subject property 6 days a week with our Route 50. Service frequencies Monday through Saturday are every 70 minutes, which likely does not provide for a core level of transit service to this area. However, we do have capacity for additional passengers to use this route as a result of the proposed project although; improved frequency needs to occur in order to begin attracting single occupant automobile users to the transit system.

If you have any further questions or comments, please call me or e-mail me at [mhorsting@leegov.com](mailto:mhorsting@leegov.com).

Sincerely,

TRANSIT DIVISION

Michael Horsting  
Transit Planner





# 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. SCRIOGA, Ph.D.  
VICE CHAIRMAN • DISTRICT 5

ROBERT D. CHILMONIK  
DISTRICT 1

JEANNE S. DOZIER  
DISTRICT 2

JANE E. KUCKEL, Ph.D.  
DISTRICT 3

JAMES W. BROWDER, Ed.D.  
SUPERINTENDENT

KEITH B. MARTIN  
BOARD ATTORNEY

September 13, 2006

Ms. Stacy Ellis Hewitt  
Banks Engineering  
10511 Six Mile Cypress  
Fort Myers, FL 33966

Re: Vicott, Inc.  
STRAP No. 05-46-24-00-00003.0020 & 05-24-00-00003.0030

Dear Ms. Hewitt:

Thank you for the opportunity to review the proposed Vicott, Inc. Project for educational impacts. This proposed development is in the South Choice Zone of the District. This letter is in response to your request dated September 12, 2006.

Your letter stated a maximum number of 32 dwelling units, however it did not state the type of dwelling units. If the type of dwelling units have not been determined yet this letter will use the formula for single family units which would estimate at the highest number of students generatated, as opposed to multi-family units which has a lesser generation amount. Based on the proposed maximum total of 32 single family residential dwelling units, the School District estimates the project could generate up to 10 additional school-aged children. This uses a generation rate of 0.316 students per unit.

The Lee County Board of County Commissioners adopted a School Impact Fee Ordinance on November 27, 2001, which was revised in November, 2005. This letter uses the revised generation rates.

Thank you for your attention to this issue. If I may be of further assistance, please give me a call at (239) 337-8678.

Sincerely,

Ellen Lindblad, Long Range Planner  
Planning & School Capacity



**Mike Scott**  
Sheriff



**State of Florida**  
**County of Lee**

Ms. Stacy Ellis Hewitt  
Banks Engineering  
10511-101 Six Mile Cypress Parkway  
Fort Myers, Florida 33966

September 13, 2006

Dear Ms. Hewitt:

The Sheriff's Office has reviewed your fax dated September 12, 2006 outlining your intention to revise your small scale comprehensive plan amendment submittal to Lee County for the project referenced as *Vicott Inc. Strap No. 05-46-24-00-00003.0020 & 05-6-24-00-00003.0030*. It is my understanding that the purpose of the amendment, if approved, would be to increase the commercial density of the project from 16,000 square feet of commercial space to a maximum of 54,100 square feet of commercial space and that this project lies in a 7.67 +/- acre site located on the north side of Summerlin Road between Pine Ridge and Bass Roads in south Lee County, Florida. According to my staff, this project does not yet have a tentative start or completion date and you are amending your plan to conform to current Lee County requirements for proposed land use.

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







# LEE COUNTY

## SOUTHWEST FLORIDA

### BOARD OF COUNTY COMMISSIONERS

(239) 338-3302

Writer's Direct Dial Number: \_\_\_\_\_

Bob Janes  
District One

Douglas R. St. Cerny  
District Two

Ray Judah  
District Three

Tammy Hall  
District Four

John F. Albion  
District Five

Donald D. Stilwell  
County Manager

David M. Owen  
County Attorney

Diana M. Parker  
County Hearing  
Examiner

September 12, 2006

Ms. Stacy Ellis Hewitt  
Banks Engineering  
10511-101 Six Mile Cypress Pkwy.  
Fort Myers, FL 33966

**SUBJECT: Vicott, Inc. Comp Plan Amendment**

Dear Ms. Hewitt:

The Lee County Solid Waste Division is capable of providing solid waste collection service for the additional units proposed for the 7.67 acre site located on the north side of Summerlin Rd., between Pine Ridge Road and Bass Road through our franchised hauling contractors. Disposal of the solid waste from this development 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 certain multi-family and 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



#### IV. AMENDMENT SUPPORT DOCUMENTATION

##### 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 Forms Classification System (FLUCFS).**

See attached FLUCCS map for community locations in Parcel. The vegetation communities were mapped according to the Florida Land Use, Cover and Forms Classification System (FLUCCS) (Florida Department of Transportation, 1999). The mapping utilized Level III FLUCCS. The site was inspected and the mapping superimposed on a 2006 digital aerial photographs. Acreages were approximated using AutoCAD.

The following is a discussion of the existing land uses and vegetative associations found on site. The following table summarizes the FLUCCS communities discussed below.

**411/422 Brazilian Pepper Invaded Pine Flatwoods (approximately 0.50 acres)**

This upland community is dominated by a mixture a Brazilian pepper and slash pine. Cabbage palm, melaleuca and saw palmetto are also present in this community.

**619E4 Exotic Wetland (approximately 5.51 acres)**

This wetland is dominated by large stature melaleuca or Brazilian pepper. These wetlands also had scattered cabbage palm in the upper canopy. The understory consists of scattered leather fern.

**624E2 Cabbage Palm Wetlands (approximately 0.27 acres)**

This wetland community is dominated by cabbage palm in the canopy with varying amounts of Brazilian pepper and melaleuca. Understory species are dominated by leather fern and swamp fern.

**6412E4 Cattail Marsh (approximately 1.39 acres)**

These marshes consist solely of nuisance cattails.



<b>FLUCFCS</b>	<b>Description</b>	<b>Acreage</b>	<b>Percent of Total</b>
411/422	Brazilian Pepper Invaded Pine Flatwoods	0.50	6.5%
619E4	Exotic Wetlands	5.51	71.8%
624E2	Cabbage Palm Wetlands	0.27	3.5%
6412E4	Cattail Marsh	1.39	18.2%
	<b>Total</b>	<b>+/- 7.67</b>	<b>100%</b>

**2. A map and description of the soils found on the property (identify the source of the information).**

See attached map for soil mappings based on NRCS soil survey for Lee County. The NRCS mapped the property as being underlain by Boca Fine Sand, Copeland Sandy Loam Depressional, Isles Fine Sand, and Isles Muck.

**3. A topographic map with property boundaries and 100-year flood prone areas indicated (as identified by FEMA).**

See attached USGS Topography and FEMA Flood Zone Maps. The parcel is located in the 100 year – flood prone zone.

**4. A map delineating wetlands, aquifer recharge areas, and rare and unique uplands.**

See attached FLUCCS map for locations of mapped wetlands. The property has 5.51 acres of Exotic Wetlands, 0.27 acres of Cabbage Palm Wetlands, and 1.39 acres of Cattail Marsh; approximately 93.5% of the site is considered wetlands.

**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 FLUCFS and the species status (same as FLUCCS map).**

## **ANIMALS**

Listed wildlife species that have the potential to occur on the project site are listed in the following table. These potential occurrences were determined by referencing the Field Guide to Rare Animals of Florida (Florida Natural Areas Inventory 2000), Florida Atlas of Breeding Sites for Herons and Their Allies (Runde et. al. 1991), Lee County Eagle Technical Advisory Committee (ETAC) Active 2000-2001 Season map. The Florida Endangered Species, Threatened Species and Species of Special Concern; Official Lists, dated August 1997 was used to identify the status of the potentially occurring species.



<u>Name</u>	Scientific Name	Habitat	State & Fed Status	
			FWC	FWS
Big Cypress Fox Squirrel	<i>Sciurus niger avicennia</i>	411/422	T	No listing
Eastern Indigo Snake	<i>Drymarchon corais couperi</i>	411/422	T	T
Florida Black Bear	<i>Ursus americanus floridanus</i>	411/422, 624E2	T	No listing
Gopher Frog	<i>Rana areolata</i>	411/422, 624E2	SSC	No listing
Gopher Tortoise	<i>Gopherus polyphemus</i>	411/422	SSC	No listing
Red-cockaded Woodpecker	<i>Picoides borealis</i>	411/422	T	E
Southeastern American Kestrel	<i>Falco sparverius paulus</i>	411/422	T	No listing
Snowy Egret	<i>Egretta thula</i>	624E2, 6412E4	SSC	No listing
Tricolored Heron	<i>Egretta tricolor</i>	624E2, 6412E4	SSC	No listing
American Alligator	<i>Alligator mississippiensis</i>	624E2, 6412E4	SSC	No listing
Everglades Mink	<i>Mustela vison evergladensis</i>	624E2, 6412E4	T	No listing
Little Blue Heron	<i>Egretta caerulea</i>	624E2, 6412E4	SSC	No listing
Limpkin	<i>Aramus guarauna</i>	624E2, 6412E4	SSC	No listing
Wood Stork	<i>Mycteria americana</i>	624E2, 6412E4	E	T
Florida Sandhill Crane	<i>Grus Canadensis pratensis</i>	6412E4	T	No listing
Reddish Egret	<i>Egretta rufescens</i>	6412E4	SSC	No listing
Snail Kite	<i>Rostrhamus sociabilis plumbeus</i>	6412E4	E	E

FWC-Florida Fish and Wildlife Conservation Commission\FWS-U.S. Fish and Wildlife Service  
SSC-Species of Special Concern/T-Threatened/E-Endangered  
T(S/A)-Threatened due to similarity of appearance



## PLANTS

Listed plant species that were not observed but which have the potential to occur on the project site are listed in the following table. These potential occurrences were determined by referencing the Field Guide to Rare Plants of Florida (Florida Natural Areas Inventory 2000). The Florida Endangered Species, Threatened Species and Species of Special Concern; Official Lists, dated August 1997 was used to identify the status of the potentially occurring species.

Name	Scientific Name	Habitat	Status	
			FDA	FWS
Beautiful paw-paw	<i>Deeringothamnus pulchellus</i>	411/422	E	E
Fakahatchee Burmannia	<i>Burmannia flava</i>	411/422	E	--
Florida coontie	<i>Zamia Floridana</i>	411/422	C	--
Satinleaf	<i>Chrysophyllum oliviforme</i>	411/422	E	--
Twisted Air Plant	<i>Tillandsia flexuosa</i>	411/422	E	--

FWC-Florida Fish and Wildlife Conservation Commission

FWS-U.S. Fish and Wildlife Service

SSC-Species of Special Concern

T-Threatened

E-Endangered

C-Commercially Exploited

### D. Impacts on Historic Resources

**List all historic resources (including structure, districts, and/or archaeologically 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.**

Attached are the results of the Florida Master Site File. The Master Site File lists no previously recorded cultural resources in the parcels vicinity.

- 2. A map showing the subject property location on the archaeological sensitivity map for Lee County.**

See attached sensitivity map that shows the property in relationship to the limits of the archaeologically sensitive areas.



N  
B  
E  
C

Scale: 1" = 200'

624E2  
0.27 ac.

411/422  
0.50 ac.

619E4  
5.51 ac.

6412E4  
1.05 ac.

6412E4  
0.34 ac.

SUMMERLIN BLVD

#### FLUCCS LEGEND

Code	Community	Upland Acreage	Wetland Acreage
411/422	Brazilian Pepper Invaded Pine Flatwoods	0.50	--
619E4	Exotic Wetland	--	5.51
624E2	Hydric Cabbage Palm	--	0.27
6412E4	Cattail Marsh	--	1.39
Total Site Acreage: 7.67		0.50	7.17

#### WETLAND EXOTIC COVERAGE LEGEND

E1 = 0-25%	EXOTIC OR NUISANCE COVERAGE
E2 = 25-50%	EXOTIC OR NUISANCE COVERAGE
E3 = 50-75%	EXOTIC OR NUISANCE COVERAGE
E4 = > 75%	EXOTIC OR NUISANCE COVERAGE

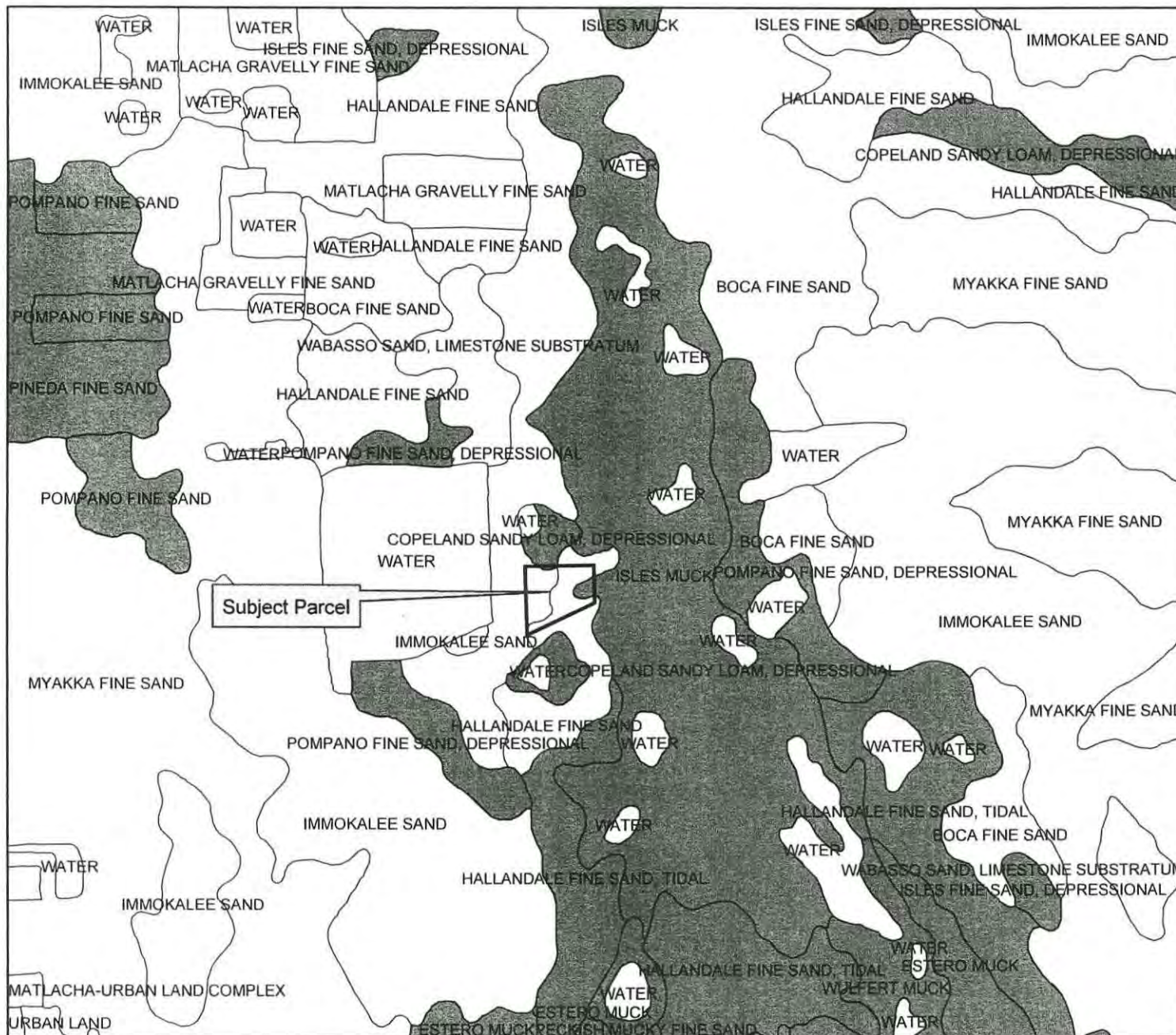
Revisions	Date:	Page

### VICOTT, INC FLUCCS MAP

Drawn By:	Date:	Category
JDK	9/12/06	FLUCCS
Job Number		Scale:
9676		1" = 200'
S/T/R		County
5/46S/24E		Lee

**Boylan Environmental Consultants, Inc.**  
Wetland & Wildlife Surveys, Environmental Permitting,  
Impact Assessment  
11800 Metro Parkway, Suite 4, Ft. Myers, FL 33906 (239) 418-0671





# **SCS Soils** **HYDRIC SOILS**

 YES

2,400

Feet

**Boylan**  
**Environmental**  
**Consultants, Inc.**  
Wetland & Wildlife Surveys, Environmental Permitting,  
& Impact Assessments

11000 Metro Parkway, Suite 4  
Fort Myers, FL 33912  
Office: (239)418-0671  
Fax: (239)418-0672

VICOTT, INC  
SCS SOILS MAP








Designed by	Date	SEC/MP/RMG	Revisions	Date	Exhibit Number
JDK	9/12/06	5/46S/24E			
Drawn by	Date	Covirgy			
File Name		County			
soils		Lee			





# Fema Flood Zones

## ZONE

-  A
-  AE
-  D
-  UNDES
-  VE
-  X
-  X500

17,000

Feet



Designed by:	Date:	SEC/TW/PP/NG	Revisions	Date:	Exhibit Number
JDK	9/12/06	5/46S/24E			
Drawn by:	Date:	Category:			
File Name:	County:				
FEMA	Lee				





4,200

Feet

**Boylan Environmental Consultants, Inc.**  
Wetland & Wildlife Surveys, Land Use Planning, & Impact Assessments

11000 Metro Parkway, Suite 4  
Fort Myers, FL 33912  
Office: (239)418-0671  
Fax: (239)418-0672

VICOTT, INC  
USGS TOPO MAP

Designed by	Date	DESCRIPTION	Revisions	Date	Exhibit Number
JDK	9/12/06	5/46S/24E			
Drawn by	Date	Category			
File Name		County			
topo		Lee			





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

September 12, 2006

Jim Keltner  
Boylan Environmental Consultants, Inc.  
11000 Metro Parkway, Suite 4  
Fort Myers, Florida 33912  
Fax: 941-418-0672

Dear Mr. Keltner:

In response to your inquiry of September 12, 2006, the Florida Master Site File lists no previously recorded cultural resources in the following parcels:

T46S, R24E, Section 05

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, unrecorded historically important structures, or both.
- As you may know, state and federal 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 of cultural resources. 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*  
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](mailto:fmsfile@dos.state.fl.us)  
Web: <http://www.dos.state.fl.us/dhr/msf/>

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

☐ Director's Office  
(850) 245-6300 • FAX: 245-6435

☐ Archaeological Research  
(850) 245-6444 • FAX: 245-6436

☐ Historic Preservation  
(850) 245-6333 • FAX: 245-6437

☐ Historical Museums  
(850) 245-6400 • FAX: 245-6433

☐ Palm Beach Regional Office  
(561) 279-1475 • FAX: 279-1476

☐ St. Augustine Regional Office  
(904) 825-5045 • FAX: 825-5044

☐ Tampa Regional Office  
(813) 272-3843 • FAX: 277-7340







**VICOTT, INC.**  
**SMALL SCALE COMPREHENSIVE PLAN AMENDMENT**  
**AMENDMENT SUPPORT DOCUMENTATION**

**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.

*The proposal does not affect established Lee County population projections as residential uses will not be developed on the subject property. Table 1(b) Planning Community Year 2020 Allocation currently lists 782 acres commercial and 298 acres industrial for the Iona/McGregor planning community. The proposed plan amendment would revise these to 790 acres commercial and 290 acres industrial. This change is a benefit to the Planning Community, as it will remove a secluded industrial future land use area with little potential to be developed as industrial due to the nature of the existing and proposed uses surrounding the property. Community Development records indicate that there are currently 196 acres of Industrial available in the Iona/McGregor planning community. With the proposed amendment, there will still be 188 acres of Industrial available in more appropriate locations.*

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.

**POLICY 1.1.4:** The Urban Community areas are areas outside of Fort Myers and Cape Coral that are characterized by a mixture of relatively intense commercial and residential uses. Included among them, for example, are parts of Lehigh Acres, San Carlos Park, Fort Myers Beach, South Fort Myers, the city of Bonita Springs, Pine Island, and Gasparilla Island. Although the Urban Communities have a distinctly urban character, they should be developed at slightly lower densities. As the vacant portions of these communities are urbanized, they will need to maintain their existing bases of urban services and expand and strengthen them accordingly. As in the Central Urban areas, predominant land uses in the Urban Communities will be residential, commercial, public and quasi-public, and limited light industry (see Policy 7.1.6). Standard density ranges from one dwelling unit per acre (1 du/acre) to six dwelling units per acre (6 du/acre), with a maximum of ten dwelling units per acre (10 du/acre). Amended by Ordinance No. 94-30, 02-02)

*The proposed land use amendment and future commercial planned development is located on the north side of Summerlin Road, west of the HealthPark, between Pine Ridge Road and Bass Road in the Iona-McGregor Planning Community. The development will connect to existing water and sewer services provided by*



*Lee County Utilities. The property will have access to Summerlin Road, an arterial right-of-way, which is adequate to handle the proposed development.*

**GOAL 2: GROWTH MANAGEMENT.** To provide for an economically feasible plan which coordinates the location and timing of new development with the provision of infrastructure by government agencies, private utilities, and other sources.

**OBJECTIVE 2.1: DEVELOPMENT LOCATION.** Contiguous and compact growth patterns will be promoted through the rezoning process to contain urban sprawl, minimize energy costs, conserve land, water, and natural resources, minimize the cost of services, prevent development patterns where large tracts of land are by-passed in favor of development more distant from services and existing communities. (Amended by Ordinance No. 94-30, 00-22)

**OBJECTIVE 2.2: DEVELOPMENT TIMING.** Direct new growth to those portions of the Future Urban areas where adequate public facilities exist and where compact and contiguous development patterns can be created.

**POLICY 2.2.1:** Rezonings and development-of-regional impact proposals shall be evaluated as to the availability and proximity of the road network; central sewer and dewater lines; community facilities and services such as schools, EMS, fire and police protection, and other public facilities; compatibility with surrounding land uses; and any other relevant facts affecting the public health, safety, and welfare. (Amended by Ordinance No. 94-30, 00-22)

*The development is tied into the street roadway system of an existing arterial street (Summerlin Road). The project will connect to existing water and sewer facilities provided by Lee County Utilities. The project will have available health, safety and welfare facilities provided by HealthPark, Iona-McGregor Fire District, Lee County Sheriff's office, Lakes Regional Park, San Carlos Park Elementary School, Cypress Lake High School, Rutenberg Branch Library and Edison Community College.*

*The proposed development will be compatible with the existing and proposed land uses in the surrounding areas. The subject property is zoned AG-2. The property to the north is zoned AG-2 and a Planned Development application for the Waterstone project is currently being reviewed to rezone the property to a Residential Planned Development (DCI2005-00078). The property to the east is zoned AG-2 and is currently vacant. The subject property abuts Summerlin Road right-of-way to the south. The property on the south of Summerlin Road is zoned AG-2 and is currently vacant. The property to the west of the subject property is zoned CF-3 and consists of Lee County Sewage Treatment ponds.*

**GOAL 4: DEVELOPMENT DESIGN-GENERAL.** To maintain innovative land development regulations which encourage creative site designs and mixed used developments. (Amended by Ordinance No. 94-30)



**OBJECTIVE 4.1:** Maintain the current planned development rezoning process which combines site planning flexibility with rigorous review. By the end of 1995, take specific steps to further promote the creation of mixed-use developments to reduce the impact on collector and arterial roads. (Amended by Ordinance No. 91-19, 94-30)

**POLICY 4.1.1:** Development designs will be evaluated to ensure that land uses and structures are well integrated, properly oriented, and functionally related to the topographic and natural features of the site, and that the placement of uses or structures within the development minimizes the expansion and construction of street and utility improvements. (Amended by Ordinance No. 91-19, 00-22)

**POLICY 4.1.2:** Development designs will be evaluated to ensure that the internal street system is designed for the efficient and safe flow of vehicles and pedestrians without having a disruptive effect on the activities and functions contained within or adjacent to the development. (Amended by Ordinance 91-19, 00-22)

*The proposed project will meet or exceed the design criteria established for planned developments in the Lee County Land Development Code. The site design will minimize the construction of both street and utility improvements.*

**GOAL 6: COMMERCIAL LAND USES.** To permit orderly and well-planned commercial development at appropriate locations within the county. (Amended by Ordinance No. 94-30)

**OBJECTIVE 6.1:** All development approvals for commercial land uses must be consistent with the following policies, the general standards under Goal 11 and other provisions of this plan. (Amended by Ordinance No. 94-30)

**POLICY 6.1.1:** All applications for commercial development will be reviewed and evaluated as to: a) Traffic and access impacts; b) Landscaping and detailed site planning; c) Screening and buffering; d) Availability and adequacy of services and facilities; e) Impact on adjacent land uses and surrounding neighborhoods; f) Proximity to other similar centers; g) Environmental considerations.

*The subject property will address these issues as part of a planned developed application or rezoning.*

**POLICY 6.1.2:** All commercial development must be consistent with the location criteria in this policy, except where specifically excepted by this policy or by Policy 6.1.7, or in Lehigh Acres by Policies 1.8.1 through 1.8.3.

1. Minor Commercial

10. The Board of County Commissioners may approve applications for minor commercial centers that do not comply with the location standards for such centers but which are consistent with duly adopted CRA and Community plans.



*The subject property meets the criteria of a Minor Commercial development. The development is tied into the street roadway system of an existing arterial street (Summerlin Road). The proposed use will be 54,100+/- s.f. of buildings consisting of commercial and office uses.*

**POLICY 6.1.4:** Commercial development will be approved only when compatible with adjacent existing and proposed land uses and with existing and programmed public services and facilities. (Amended by Ordinance No. 94-30, 00-22)

*The proposed commercial planned development for the subject property is compatible with existing and proposed developments in the surrounding area. One of the predominant land uses in the Urban Community Land Use Category is commercial.*

**POLICY 6.1.6:** The land development regulations will require that commercial development provide adequate and appropriate landscaping, open space, and buffering. Such development is encouraged to be architecturally designed so as to enhance the appearance of structures and parking areas and blend with the character of existing or planned surrounding land uses.

*The proposed commercial planned development will provide adequate open space and buffering as required in the Land Development Code (LDC). The proposed project will meet or exceed the design criteria established for planned developments in the Land Development Code.*

**POLICY 6.1.7:** Prohibit commercial developments from locating in such a way as to open new areas to premature, scattered, or strip development; but permit commercial development to infill on small parcels in areas where existing commercial development would make a residential use clearly unreasonable.

*The proposed commercial planned development will be located on a 7.67+/- acre parcel of land near existing commercial and commercial planned developments having access to Summerlin Road.*

**GOAL 11: WATER, SEWER, TRAFFIC, AND ENVIRONMENTAL REVIEW STANDARDS.** To insure that appropriate water, sewer, traffic, and environmental review standards are considered in reviewing rezoning applications and are met prior to issuance of a county development order.

**STANDARD 11.1: WATER.**

*The proposed Commercial Planned Development will connect to an existing public water system provided by Lee County Utilities.*

**STANDARD 11.2: SEWER.**

*The proposed Commercial Planned Development will connect to an existing sanitary sewer system provided by Lee County Utilities.*



**STANDARD 11.3: TRAFFIC.**

*The proposed land use change will not have a detrimental impact on the surrounding roadway system. The existing roadway network as well as the improvements programmed by Lee County within the next three years can accommodate the additional new vehicle trips the development is anticipated to generate. Intersection analysis was performed at the site access drive on Summerlin. Based on the results of the analysis, all of the approaches to the site access intersection on Summerlin Road were shown to operate at acceptable Level of Service conditions under the 2010 build-out traffic conditions for the proposed rezoning.*

**STANDARD 11.4: ENVIRONMENTAL REVIEW FACTORS.**

*Please see attached IV.C. Amendment Support Documentation - Environmental Impacts.*

**GOAL 39: DEVELOPMENT REGULATIONS.** Maintain clear, concise, and enforceable development regulations that fully address on-site and off-site development impacts and protect and preserve public transportation facilities. (Amended by Ordinance No. 98-09, 99-15)

**OBJECTIVE 39.1: DEVELOPMENT IMPACTS.** The county will maintain and enforce development regulations to ensure that impacts of development approvals occur concurrently with adequate roads, and to achieve maximum safety, efficiency, and cost effectiveness. (Amended by Ordinance No. 99-15)

**POLICY 39.1.1:** New development must:

- Have adequate on-site parking.
- Have access to the existing or planned public road system except where other public policy would prevent such access.

*The proposed Commercial Planned Development will be designed with sufficient on-site parking for the proposed uses. The development will have access to an existing arterial right-of-way (Summerlin Road) that will operate at an acceptable level of service.*

**GOAL 61: PROTECTION OF WATER RESOURCES:** To protect the county's water resources through the application of innovative and sound methods of surface water management and by ensuring that the public and private construction, operation, and maintenance of surface water management systems are consistent with the need to protect receiving waters.

**POLICY 61.2.5:** The policies above (41.2.1 through 41.2.4) are not intended to prohibit any permissible surface water management solution that is consistent with good engineering practices and adopted environmental criteria.



*The development will be engineered and permitted utilizing the design criteria as established by the South Florida Water Management District as well as Lee County Development Regulations in accordance with good engineering practices and adopted environmental criteria.*

**OBJECTIVE 61.3: GENERAL SURFACE WATER MGMT. STANDARDS.** Lee County will continue to provide sufficient performance and/or design standards for development protection of the function of natural drainage systems. (Amended by Ordinance No. 94-30, 00-22)

**POLICY 61.3.1:** Provide sufficient performance and design standards to require post-development runoff to approximate and total characteristics of the natural flow prior to development.

**POLICY 61.3.6:** Developments must have and maintain an adequate surface water management system, provisions for acceptable programs for operation and maintenance, and post-development runoff conditions which reflect the natural surface water flow in terms of rate, direction, quality, hydroperiod, and drainage basin. Detailed regulations will continue to be integrated with other county development regulations. (Amended by Ordinance No. 00-22)

*The developments' surface water management system will be developed in accordance with South Florida Water Management District (District) and Lee County Development regulations.*

**POLICY 61.3.11:** Runoff must be routed through retention or detention areas and vegetated swales in order to reduce flow velocity, allow for percolation, and trap and remove suspended solids and pollutants. (Amended by Ordinance No. 00-22)

*The stormwater management system will be designed in accordance with South Florida Water Management District (SFWMD) requirements to provide for attenuation/retention of stormwater runoff from the site. Issuance of a SFWMD permit shall be deemed to be in compliance with Chapter 10 of the LDC and review of the project shall be limited to external impacts and wet season water table elevation. For purposes of stormwater management calculations, the assumed water table will be established by an engineer in accordance with sound engineering practice. The stormwater management system will be reviewed for compliance with Chapter 10 of the LDC through the development order process.*

**POLICY 61.3.13:** Installation of erosion control devices for development activities adjacent to water bodies, watercourses and wetlands shall be required. Such control devices shall be maintained to ensure operational effectiveness.

*Erosion control devices will be installed in accordance with local and state regulations.*



**GOAL 77: DEVELOPMENT DESIGN REQUIREMENTS.** To require new development to provide adequate open space for improved aesthetic appearance, visual relief, environmental quality, preservation of existing native trees and plant communities, and the planting of required vegetation. (Amended by Ordinance No. 94-30, 02-02)

**OBJECTIVE 77.1:** Development regulations will continue to require that new residential developments provide sufficient open space to meet the needs of their residents. (Amended by Ordinance No. 94-30, 00-22, 02-02)

*Open space will be provided per Lee County requirements and evaluated at the time of rezoning.*

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

*No impacts are anticipated to the adjacent local governments or their comprehensive plans from the changing of 7.67+/- acres of subject property from Industrial Development to Urban Community.*

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

*State and Regional policy goals will not be affected by the proposed Comprehensive Plan Amendment.*



VICOTT, INC.  
SMALL SCALE COMPREHENSIVE PLAN AMENDMENT  
AMENDMENT SUPPORT DOCUMENTATION

**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.  
*The site is accessible to Summerlin Road an existing arterial right-of-way. It is not accessible to rail lines nor cargo airport terminals.*
  - b. Provide data and analysis required by Policy 2.4.4.  
*No major changes in employment are anticipated with the proposed Comprehensive Plan Amendment. The property is currently in the Industrial Development land use category and if the appropriate permits were obtained, the property could be developed with an industrial use which would provide employment opportunities. If the Comprehensive Plan Amendment is approved, then the property could be developed with commercial development if the appropriate permits are obtained. This too would provide employment on the subject property.*
  - c. The affect of the proposed change on county's industrial employment goal specifically policy 7.1.4.  
*The impact of changing 7.67+/- acres from Industrial Development to Urban Community will have negligible effect on the county's industrial employment goal of employing 3% of the county's population in manufacturing activities by the year 2010.*
2. Requests moving lands from 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.  
*The existing Industrial Development land use classification and the proposed Urban Community land use classification are both classified as Future Urban Areas. The proposed change does not constitute Urban Sprawl.*



3. Request involving lands in critical areas for future water supply must be evaluated based on policy 2.4.2.

*N/A - The proposed change is not in the listed critical areas for future potable water supply as listed in Policy 2.4.2.; therefore, the site does not require evaluation based on this policy.*

4. Requests moving lands from Density Reduction/Groundwater Resource must fully address Policy 2.4.3 of the Lee Plan Future Land Use Element.

*N/A - The proposed change does not request moving lands from Density Reduction/Groundwater Resource; therefore Policy 2.4.3 does not need to be addressed.*



**VICOTT, INC.**

**SMALL SCALE COMPREHENSIVE PLAN AMENDMENT  
AMENDMENT SUPPORT DOCUMENTATION**

**G. PROPOSED AMENDMENT JUSTIFICATION:**

Justify the proposed amendment based upon sound planning principles. Be sure to support all conclusions made in this justification with adequate data and analysis.

*The proposed amendment is consistent with the Urban Community designation for the following reasons:*

- *The subject property is located on the north side of Summerlin, west of HealthPark, between Pine Ridge Road and Bass Road in the Iona-McGregor Planning Community. The property will have access to Summerlin road, an arterial right-of-way, which is adequate to handle the proposed commercial development.*
- *The proximity of the subject property to the intersection is consistent with the location criteria of Policy 6.1.2 of the Lee Plan for Commercial Land Uses.*
- *The proposed commercial use is consistent with the "Urban Community" land use category.*
- *The attached letters from the Iona-McGregor Fire District, EMS, Lee County Sheriff's Office, Lee County Solid Waste Division, Lee County Mass Transit and Lee County Public School District confirm that the urban community services required to support the small-scale amendment change can be provided.*



		<b>Lee County Board Of County Commissioners</b>				<b>Blue Sheet No. 20070604</b>			
<b>Agenda Item Summary</b>									
<b>1. ACTION REQUESTED/PURPOSE:</b> Adopt an ordinance that adopts a Lee Plan Small Scale Amendment, CPA2005-00001 Vicott Inc. Small Scale Amendment.									
<b>2. FUNDING SOURCE:</b> N/A									
<b>3. WHAT ACTION ACCOMPLISHES:</b> Changes the Lee Plan Future Land Use Map Series, Map 1, for two parcels totaling in 7.67 ± acres from Industrial Development and Wetlands to Commercial and Wetlands Conservation Lands located on Summerlin Road east of the Fort Myers Beach Sewage Treatment Ponds and west of Cow Slough.									
<b>4. MANAGEMENT RECOMMENDATION:</b> Approve									
<b>5. Departmental Category:</b> 04						<b>6. Meeting Date:</b> April 24, 2007			
<b>7. Agenda:</b>		<b>8. Requirement/Purpose: (specify)</b>			<b>9. Request Initiated:</b>				
	Consent	X	Statute	163.3187	Commissioner				
	Administrative		Ordinance		Department		Community Development		
	Appeals	X	Admin. Code	13-6	Division		Planning		
X	Public 5:05pm		Other		By:		Paul O'Connor, AICP		
	Walk-On								
<p><b>10. Background:</b> Administrative Code 13-6 and Florida Statute 163.3187 provides that small-scale amendments to the County's Comprehensive Plan (the Lee Plan) may be proposed at any time during a calendar year. The applicant, Vicott Inc., has requested a small-scale amendment for two parcels totaling in 7.67 ± acres located in Section 19, Township 43 South, and Range 25 East. Initially, the applicant was seeking an amendment to the Lee Plan's Future Land Use Map series to change the Future Land Use classification shown on Map 1 from Industrial Development and Wetlands to Urban Community and Wetlands Conservation Lands Future Land Use designations to develop the site for commercial uses. However, Planning staff recommends the newly Commercial (CPA2005-39) and the Wetlands Conservation Lands Future Land Use classifications due to the amendment parcels location in the Coastal High Hazard Area (CHHA).</p> <p>The Local Planning Agency (LPA) reviewed this amendment on March 26, 2007. At that meeting, the LPA concurred with the staff recommendation and approved a motion recommending that the Board of County Commissioners adopt the proposed amendment.</p> <p>Attachments:  Staff Report CPA2005-01 Vicott Inc. Small Scale Amendment  Proposed Ordinance</p>									
<b>11. Review for Scheduling:</b>									
Department Director	Purchasing or Contracts	Human Resources	Other	County Attorney	Budget Services				County Manager/P. W. Director
	N/A	N/A	N/A		Analyst	Risk	Grants	Mgr.	
<b>12. Commission Action:</b> <input type="checkbox"/> Approved <input type="checkbox"/> Deferred <input type="checkbox"/> Denied <input type="checkbox"/> Other									



# NEWS-PRESS

Published every morning - Daily and  
Sunday  
Fort Myers, Florida  
**Affidavit of Publication**

STATE OF FLORIDA  
COUNTY OF LEE

Before the undersigned authority, personally appeared  
**Kathy Allebach**  
who on oath says that he/she is the  
**Legal Assistant** of the News-Press, a  
daily newspaper, published at Fort Myers, in Lee County,  
Florida; that the attached copy of advertisement, being a  
**Display**

In the matter of  
**Meeting Notice**  
In the court was published in said newspaper in the  
issues of  
**March 16, 2007**

Affiant further says that the said News-Press is a paper of  
general circulation daily in Lee, Charlotte, Collier, Glades  
and Hendry Counties and published at Fort Myers, in said Lee  
County, Florida and that said newspaper has heretofore been  
continuously published in said Lee County, Florida, each day,  
and has been entered as a second class mail matter at the post  
office in Fort Myers in said Lee County, Florida, for a period of  
one year next preceding the first publication of the attached copy  
of the advertisement; and affiant further says that he/she has  
neither paid nor promised any person, firm or corporation any  
discount, rebate, commission or refund for the purpose of  
securing this advertisement for publication in the said  
newspaper.

*Kathy Allebach*

Sworn to and subscribed before me this

16th day of March 2007 by

**Kathy Allebach**

personally known to me or who has produced

as identification, and who did or did not take an  
oath.

Notary Public

Print Name

My commission expires



## MEETING NOTICE LOCAL PLANNING AGENCY PUBLIC HEARING

Notice is hereby given that the Lee County Local Planning Agency (LPA) will meet on Monday, March 26, 2007. The meeting will be held in the Board Chambers located in the Old Courthouse, -2120 Main Street in downtown Fort Myers. The meeting will commence at 8:30 a.m.

### AGENDA

1. Call to Order; Certification of Affidavit of Publication
2. Pledge of Allegiance
3. Public Forum
4. Approval of Minutes: January 29, 2007
5. CPA2005-00001 Vicott, Inc. (Small Scale) Comprehensive Plan Amendment - Amend the Lee Plan Future Land Use Map Series for two parcels totaling approximately 7.67 + acres located in Section 05, Township 46, Range 24, to change Map 1 from Industrial Development and Wetlands to Urban Community and Conservation Wetlands. In the alternative, staff recommends changing the subject site on Map 1 from Industrial Development and Wetlands to Commercial and Conservation Wetlands.
6. Other Business
7. Adjournment

This meeting is open to the public and all interested parties are encouraged to attend. Interested parties may appear and be heard with respect to all proposed actions. If a person decides to appeal any decision made by the board, agency or commission with respect to any matter considered at such meeting or hearing, he or she will need a record of the proceedings, and that, for such purpose, he or she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. Further information may be obtained by contacting the Lee County Division of Planning at 479-8585. In accordance with the Americans with Disabilities Act, reasonable accommodations will be made upon request. If you are in need of a reasonable accommodation, please contact Janet Miller at 479-8583.

**RECEIVED**  
MAR 20 2007

COMMUNITY DEVELOPMENT



**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

South Florida Water Management District  
Attn: P.K. Sharma, Lead Planner  
P.O. Box 24680  
West Palm Beach, FL 33416-4680

*Vicott***COMPLETE THIS SECTION ON DELIVERY**

A. Signature

*X*

- ☐ Agent  
☒ Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes  
If YES, enter delivery address below ☒ No

**MAY 24 2007**

Service Type

- ☒ Certified Mail ☐ Express Mail  
☐ Registered ☒ Return Receipt for Merchandise  
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

2. Article Number

(Transfer from service)

**7006 0810 0002 8335 5691**



NEWS-PRESS  
Published every morning - Daily and  
Sunday  
Fort Myers, Florida  
Affidavit of Publication

STATE OF FLORIDA  
COUNTY OF LEE

Before the undersigned authority, personally appeared  
Elisha Wells  
who on oath says that he/she is the  
Legal Assistant of the News-Press, a  
daily newspaper, published at Fort Myers, in Lee County,  
Florida; that the attached copy of advertisement, being a  
Display  
In the matter of  
Notice of Proposed Amendment  
In the court was published in said newspaper in the  
issues of

April 16, 2007

Affiant further says that the said News-Press is a paper of  
general circulation daily in Lee, Charlotte, Collier, Glades  
and Hendry Counties and published at Fort Myers, in said Lee  
County, Florida and that said newspaper has heretofore been  
continuously published in said Lee County, Florida, each day,  
and has been entered as a second class mail matter at the post  
office in Fort Myers in said Lee County, Florida, for a period of  
one year next preceding the first publication of the attached copy  
of the advertisement; and affiant further says that he/she has  
neither paid nor promised any person, firm or corporation any  
discount, rebate, commission or refund for the purpose of  
securing this advertisement for publication in the said  
newspaper.

*Elisha Wells*

Sworn to and subscribed before me this

16th day of April 2007 by,

Elisha Wells

personally known to me or who has produced

as identification, and who did or did not take an  
oath.

Notary Public

Print Name

My commission expires

*Gladys D. Vanderbeck*  
Gladys D. Vanderbeck  
Commission # 00378967  
Expires December 13, 2008  
Notary Public  
My commission expires

RECEIVED  
APR 23 2007

COMMUNITY DEVELOPMENT



NOTICE OF PROPOSED AMENDMENT TO THE  
LEE COUNTY COMPREHENSIVE LAND USE PLAN  
(Small Scale)

On Tuesday, April 24, 2007, the Lee County Board of Commissioners will hold a public hearing to consider two small scale amendments to the Lee County Comprehensive Land Use Plan (Lee Plan). The hearing will be held in the Board of County Commissioners Hearing Chambers in the renovated Courthouse at 2120 Main Street in downtown Fort Myers. The hearing will commence at 5:05 p.m. or as soon thereafter as may be heard. The nature of the proposed Lee Plan amendments is to amend the Future Land Use Map Series, Map 1, to change the Future Land Use classification of two specific parcels of land described below:

1. Amend the Future Land Use Map Series, Map 1, to change the Future Land Use classification of a 7.67 +/- acre parcel from Industrial to Commercial and Wetlands Conservation. The subject parcel is located northeast of the Pine Ridge Road and Summerlin Intersection and east of the Lee County sewage treatment ponds.  
Sponsor: Vicotti, Inc.

At the conclusion of the hearing, the Board will vote to adopt, adopt with specific modifications, or not adopt the proposed small scale amendment through the adoption of the following ordinance:

AN ORDINANCE AMENDING THE LEE COUNTY COMPREHENSIVE PLAN, COMMONLY KNOWN AS THE "LEE PLAN" AS ADOPTED BY ORDINANCE NO. 89-02, AS AMENDED, SO AS TO ADOPT SMALL SCALE AMENDMENT CPA 2005-01 (PERTAINING TO THE DESIGNATION OF A 7.67-ACRE VICOTTI, INC. PARCEL FROM INDUSTRIAL DEVELOPMENT TO THE COMMERCIAL AND WETLANDS CONSERVATION LANDS FUTURE LAND USE CATEGORIES) APPROVED DURING A SMALL SCALE COMPREHENSIVE PLAN AMENDMENT EFFORT; PROVIDING FOR AMENDMENT TO THE FUTURE LAND USE MAP SERIES, MAP 1; PURPOSE AND SHORT TITLE; LEGAL EFFECT OF "THE LEE PLAN" GEOGRAPHICAL APPLICABILITY; SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS, AND AN EFFECTIVE DATE.

2. Amend the Future Land Use Map Series, Map 1, to change the Future Land Use classification on a 5.43 +/- acre parcel from Rural to Suburban. The subject parcel is located in North Fort Myers, north of Bayshore Road on the east side of Slater Road.  
Sponsor: SW Florida Twelve, L.L.C.

At the conclusion of the hearing, the Board will vote to adopt, adopt with specific modifications, or not adopt the proposed small scale amendment through the adoption of the following ordinance:

AN ORDINANCE AMENDING THE LEE COUNTY COMPREHENSIVE PLAN, COMMONLY KNOWN AS THE "LEE PLAN" AS ADOPTED BY ORDINANCE NO. 89-02, AS AMENDED, SO AS TO ADOPT SMALL SCALE AMENDMENT CPA2006-04 (PERTAINING TO THE DESIGNATION OF A 5.43-ACRE PARCEL FROM RURAL TO THE SUBURBAN FUTURE LAND USE CATEGORY) APPROVED DURING A SMALL SCALE COMPREHENSIVE PLAN AMENDMENT EFFORT; PROVIDING FOR AMENDMENT TO THE FUTURE LAND USE MAP SERIES, MAP 1; PURPOSE AND SHORT TITLE; LEGAL EFFECT OF "THE LEE PLAN" GEOGRAPHICAL APPLICABILITY; SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS, AND AN EFFECTIVE DATE.

The proposed ordinance may be inspected by the public at the Office of the County Attorney, Courthouse Administration Building, 2115 Second Street, 6th Floor, Fort Myers, Florida.

This meeting is open to the public and all interested parties are encouraged to attend. Interested parties may appear and be heard with respect to the proposed amendment to the Lee Plan. Pursuant to Florida Statutes, persons participating in the Comprehensive Plan Amendment process, who provide their name and address on the record, will receive a courtesy information statement from DCA prior to the publication of the Notice of Intent to find the plan amendment in compliance. If a person decides to appeal the Board's decision, he or she will need a record of the proceedings, and, for such purpose, he or she may need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence upon which the appeal is to be based. Further information may be obtained by contacting the Lee County Division of Planning at 239-479-8585.

In accordance with the Americans with Disabilities Act, reasonable accommodations will be made upon request. If you are in need of a reasonable accommodation, please contact Janet Miller at 239-479-8583.

April 24, 2007  
5:05 p.m.  
AGENDA

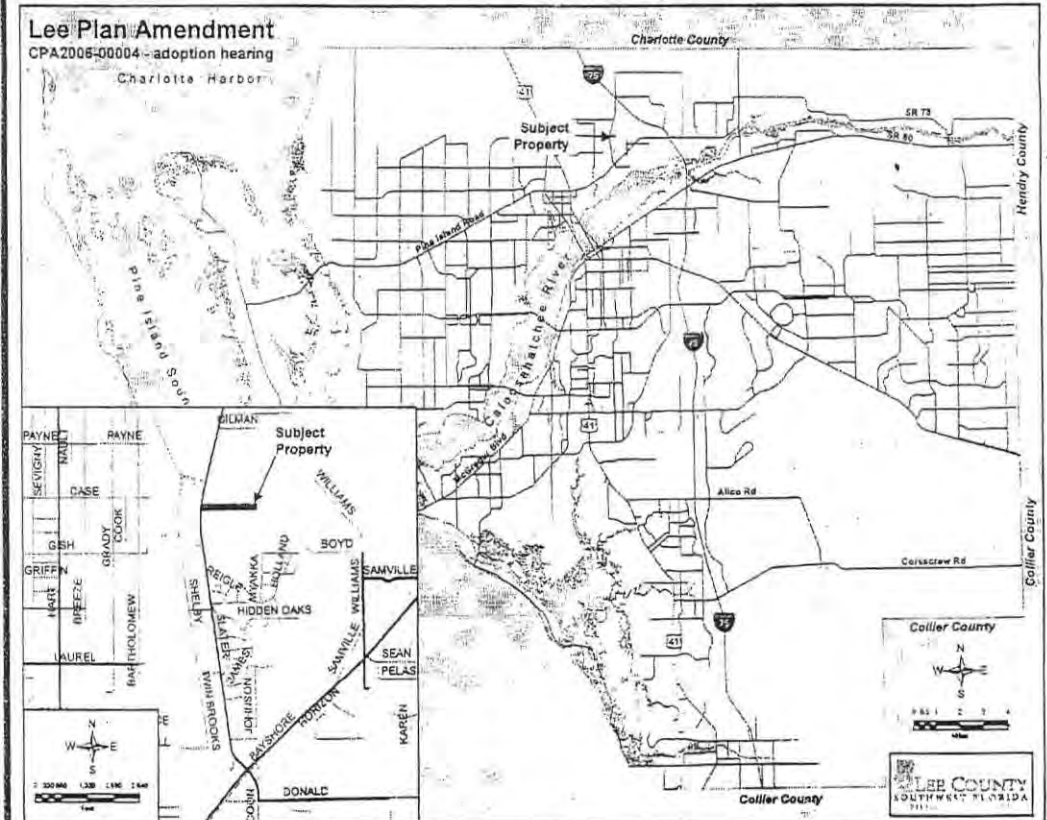
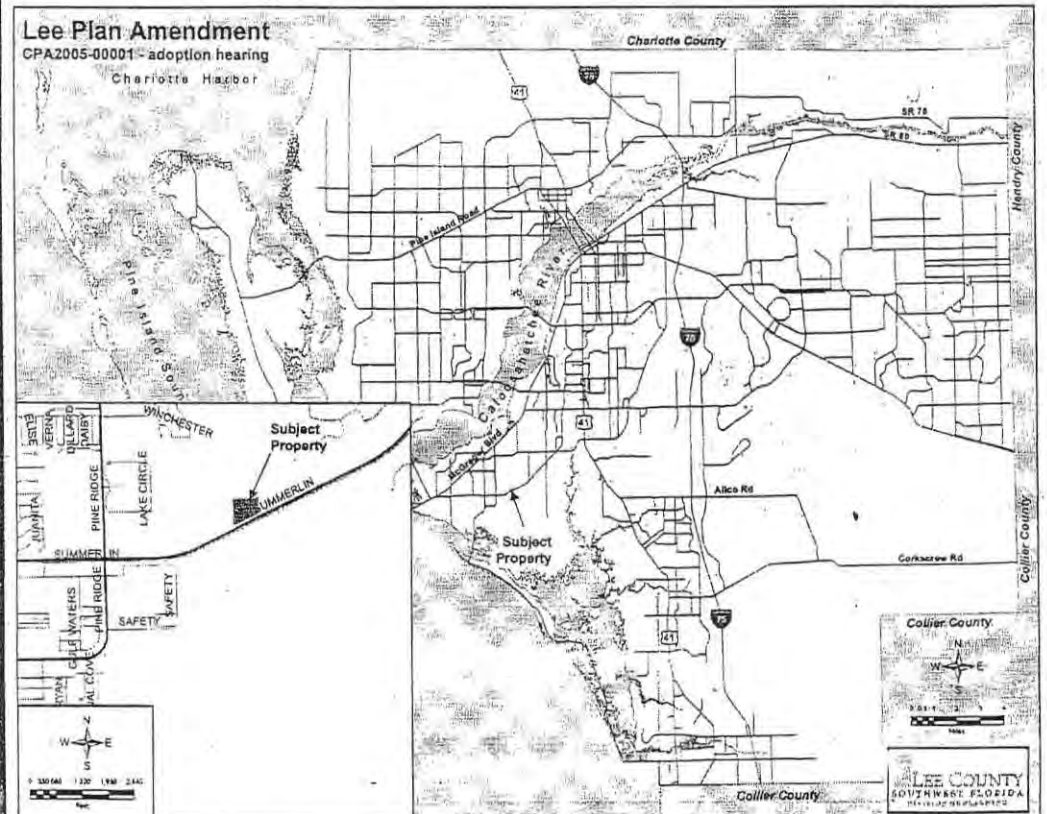
1. Call to order; certification of Affidavit of Publication by County Attorney.

2. Lee Plan Amendment proposed for adoption by Board of County Commissioners:  
CPA2005-01 - Amend Future Land Use Map Series, Map 1, to redesignate a 7.67-acre parcel from Industrial Development to Urban Community Future Land Use Classification. The subject parcel is located northeast of the Pine Ridge Road/Summerlin Intersection, just east of the Lee County Sewage Treatment ponds.  
Sponsor: Vicotti, Inc.

3. Lee Plan Amendment proposed for adoption by Board of County Commissioners:

CPA2006-04 amends Future Land Use Map Series, Map 1, to redesignate a 5.43-acre parcel from Rural to the Suburban Future Land Use classification. The subject parcel is located north of Bayshore Road on the eastside of the Slater Road intersection.  
Sponsor: SW Florida Twelve, LLC

4. Adjourn





## LETTER OF AUTHORIZATION

The undersigned do hereby swear or affirm that they are the fee simple title-holders and owners of record of property commonly known as Vicott, Inc. and legally described in exhibit "A" attached hereto.

STRAP #'s: 05-46-24-00-00003.0030

The property described herein is the subject of an application for zoning or development. We hereby designate Banks Engineering as the legal representative of the property and as such, this individual is authorized to legally bind all owners of the property in the course of seeking the necessary approvals to develop. This authority includes but is not limited to the hiring and authorizing of agents to assist in the preparation of applications, plans, surveys, and studies necessary to obtain zoning and development on the site. This representative will remain the only entity to authorize development activity on the property until such time as a new or amended authorization is delivered to Lee County.

Company: Vicott, Inc.

By: A. Rudolph Maul

Signature

*A. Rudolph Maul*

STATE OF FLORIDA

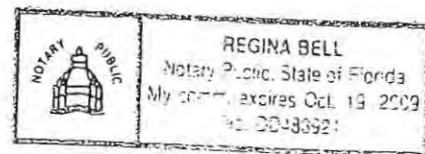
COUNTY OF Lee

The foregoing instrument was sworn (or affirmed) and subscribed before me 8 day of September, 20 06

by Anthony Rudolph Maul as President  
of Vicott, Inc.

on behalf of the corporation. He / she is personally known to me or has produced Drivers License  
as identification.

*Regina Bell*  
Notary Signature





DER: COMPLETE THIS SECTION

Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits.

Article Addressed to:

Wendy Evans, Admin Assistant II  
Office of Planning and Budgeting  
The Capitol  
Tallahassee, FL 32399-0810

Article Number  
Transfer from service label: 7006 0810 0002 8335 5622

Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540

COMPLETE THIS SECTION ON DELIVERY

A. Signature  
X *M. Carruthers* ☐ Agent ☒ Addressee

B. Received by (Printed Name) C. Date of Delivery  
M. Carruthers 5/24/07

D. Is delivery address different from item 1? ☐ Yes  
If YES, enter delivery address below: ☐ No

3. Service Type  
☒ Certified Mail ☐ Express Mail  
☐ Registered ☒ Return Receipt for Merchandise  
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

SENDER: COMPLETE THIS SECTION

Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Attn: Susan Harp, Historic Preservation Planner  
Bureau of Historic Preservation  
500 South Bronough Street  
Tallahassee, FL 32399-0250

2. Article Number  
(Transfer from service label) 7006 0810 0002 8335 5653

PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540

COMPLETE THIS SECTION ON DELIVERY

A. Signature  
X *[Signature]* ☐ Agent ☒ Addressee

B. Received by (Printed Name) C. Date of Delivery  
[Name] MAY 24 2007

D. Is delivery address different from item 1? ☐ Yes  
If YES, enter delivery address below: ☐ No

3. Service Type  
☒ Certified Mail ☐ Express Mail  
☐ Registered ☒ Return Receipt for Merchandise  
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

DER: COMPLETE THIS SECTION

Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits.

Article Addressed to:

Attn: Alex L. Carswell, Administrator  
Educational Facilities Planning  
Florida Department of Education  
325 West Gaines Street #1054  
Tallahassee, FL 32399

Article Number  
Transfer from service label: 7006 0810 0002 8335 5639

Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540

COMPLETE THIS SECTION ON DELIVERY

A. Signature  
X *[Signature]* ☐ Agent ☒ Addressee

B. Received by (Printed Name) C. Date of Delivery  
[Name] 04/04/07

D. Is delivery address different from item 1? ☐ Yes  
If YES, enter delivery address below: ☐ No

3. Service Type  
☒ Certified Mail ☐ Express Mail  
☐ Registered ☒ Return Receipt for Merchandise  
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

SENDER: COMPLETE THIS SECTION

Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Attn: Mary Ann Poole, Director  
Office of Policy and Stakeholder Building  
620 South Meridian Street, Farris Bryant Building  
Tallahassee, FL 32399-1600

2. Article Number  
(Transfer from service label) 7006 0810 0002 8335 5660

PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540

COMPLETE THIS SECTION ON DELIVERY

A. Signature  
X *Cedric G. Jones* ☐ Agent ☒ Addressee

B. Received by (Printed Name) C. Date of Delivery  
Cedric Jones 5-24-07

D. Is delivery address different from item 1? ☐ Yes  
If YES, enter delivery address below: ☐ No

3. Service Type  
☒ Certified Mail ☐ Express Mail  
☐ Registered ☒ Return Receipt for Merchandise  
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

DER: COMPLETE THIS SECTION

Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits.

Article Addressed to:

Attn: Ray Eubanks, Plan Processing Administrator  
Division of Community Planning  
55 Shumard Oak Blvd.  
Tallahassee, FL 32399

Article Number  
Transfer from service label: 7006 0810 0002 8335 5615

Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540

COMPLETE THIS SECTION ON DELIVERY

A. Signature  
X *[Signature]* ☐ Agent ☒ Addressee

B. Received by (Printed Name) C. Date of Delivery  
[Name] MAY 24 2007

D. Is delivery address different from item 1? ☐ Yes  
If YES, enter delivery address below: ☐ No

3. Service Type  
☒ Certified Mail ☐ Express Mail  
☐ Registered ☒ Return Receipt for Merchandise  
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

SENDER: COMPLETE THIS SECTION

Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Florida Department of Transportation  
Attn: Michael Rippe  
2295 Victoria Avenue #292  
Ft. Myers, FL 33901

2. Article Number  
(Transfer from service label) 7006 0810 0002 8335 5707

PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540

COMPLETE THIS SECTION ON DELIVERY

A. Signature  
X *[Signature]* ☐ Agent ☒ Addressee

B. Received by (Printed Name) C. Date of Delivery  
[Name]

D. Is delivery address different from item 1? ☐ Yes  
If YES, enter delivery address below: ☐ No

3. Service Type  
☒ Certified Mail ☐ Express Mail  
☐ Registered ☒ Return Receipt for Merchandise  
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

DER: COMPLETE THIS SECTION

Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits.

Article Addressed to:

Attn: Jim Quinn, Environmental Manager  
Office of Intergovernmental Programs  
10 Commonwealth Boulevard, Mail Station 47  
Tallahassee, FL 32399-3000

Article Number  
Transfer from service label: 7006 0810 0002 8335 5646

Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540

COMPLETE THIS SECTION ON DELIVERY

A. Signature  
X *[Signature]* ☐ Agent ☒ Addressee

B. Received by (Printed Name) C. Date of Delivery  
[Name] MAY 24 2007

D. Is delivery address different from item 1? ☐ Yes  
If YES, enter delivery address below: ☐ No

3. Service Type  
☒ Certified Mail ☐ Express Mail  
☐ Registered ☒ Return Receipt for Merchandise  
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

SENDER: COMPLETE THIS SECTION

Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Southwest Florida Regional Planning Council  
Attn: David Crawford, Senior Planner  
1926 Victoria Avenue  
Ft. Myers, FL 33901

2. Article Number  
(Transfer from service label) 7006 0810 0002 8335 5714

PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540

COMPLETE THIS SECTION ON DELIVERY

A. Signature  
X *[Signature]* ☐ Agent ☒ Addressee

B. Received by (Printed Name) C. Date of Delivery  
[Name]

D. Is delivery address different from item 1? ☐ Yes  
If YES, enter delivery address below: ☐ No

3. Service Type  
☒ Certified Mail ☐ Express Mail  
☐ Registered ☒ Return Receipt for Merchandise  
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

U.S. Postal Service<sup>TM</sup>  
CERTIFIED MAIL<sup>TM</sup> RECEIPT  
(Domestic Mail Only; No Insurance Coverage Provided)  
For delivery information visit our website at www.usps.com<sup>®</sup>

OFFICIAL USE

Postage \$  
Certified Fee  
Return Receipt Fee (Endorsement Required)  
Postmark Here

Office of Tourism, Trade & Economic Development  
Mary Helen Blakeslee, Chief Analyst  
Suite 2001, The Capitol  
Tallahassee, FL 32399-0001

U.S. Postal Service<sup>TM</sup>  
CERTIFIED MAIL<sup>TM</sup> RECEIPT  
(Domestic Mail Only; No Insurance Coverage Provided)  
For delivery information visit our website at www.usps.com<sup>®</sup>

OFFICIAL USE

Postage \$  
Certified Fee  
Return Receipt Fee (Endorsement Required)  
Postmark Here

South Florida Water Management District  
Attn: P.K. Sharma, Lead Planner  
P.O. Box 24680  
West Palm Beach, FL 33416-4680



## LETTER OF AUTHORIZATION

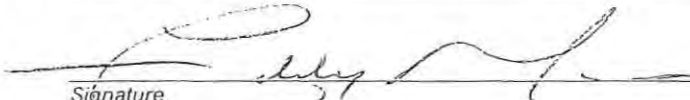
The undersigned do hereby swear or affirm that they are the fee simple title-holders and owners of record of property commonly known as Sunset Falls, LLC and legally described in exhibit "A" attached hereto.

STRAP #'s: 05-46-24-00-00003.0020

The property described herein is the subject of an application for zoning or development. We hereby designate Banks Engineering as the legal representative of the property and as such, this individual is authorized to legally bind all owners of the property in the course of seeking the necessary approvals to develop. This authority includes but is not limited to the hiring and authorizing of agents to assist in the preparation of applications, plans, surveys, and studies necessary to obtain zoning and development on the site. This representative will remain the only entity to authorize development activity on the property until such time as a new or amended authorization is delivered to Lee County

Company: Sunset Falls, LLC

By: Eddy Garcia

  
Signature

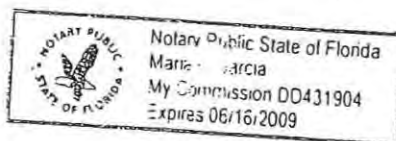
STATE OF FLORIDA


COUNTY OF Dade

The foregoing instrument was sworn (or affirmed) and subscribed before me 14th day of September, 2006

by Eddy Garcia as manager  
of Sunset Falls, LLC

on behalf of the corporation. (He) she is personally known to me or has produced personally known  
as identification.



  
Notary Signature



**BOARD OF COUNTY COMMISSIONERS**

Writer's Direct Number: (239) 479-8309

Bob Janes  
District One

May 22, 2007

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

Ray Eubanks, Administrator, Plan Review and Processing  
Florida Department of Community Affairs  
Division of Resource Planning and Management  
Bureau of Local Planning  
Plan Processing Team  
2555 Shumard Oak Boulevard  
Tallahassee, FL. 32399-2100

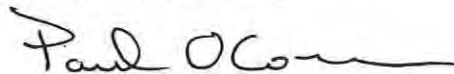
Re: Amendment to the Lee Plan  
Adoption Submission Package for CPA 2005-01 Vicott Small scale amendment

Dear Mr. Eubanks:

In accordance with the provisions of Section 163.3187(1)(c), F.S. and of 9J-11.015, this submission package constitutes the adopted small scale amendment to the Lee Plan, known as CPA 2005-01. The adoption hearing for this plan amendment was held on April 24, 2007. Per 9J-11.015(1), this is the second small scale amendment adopted in the 2007 calendar year, making the "cumulative total number of acres" for small scale amendments adopted in the 2007 calendar year approximately 13.1 ± acres.

Included with this package, Per 9J-11.015, is one copy of the adopted amendment, supporting data and analysis, and the adopting ordinance No. 07-07. By copy of this letter and its attachments I certify that this amendment has been sent to the Regional Planning Council.

Sincerely,  
**DEPT. OF COMMUNITY DEVELOPMENT**  
**Division of Planning**



Paul O'Connor, AICP  
Director





# LEE COUNTY

## SOUTHWEST FLORIDA

### BOARD OF COUNTY COMMISSIONERS

All documents and reports attendant to this adoption are being sent, by copy of this cover, to:

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*

Wendy Evans  
Department of Agriculture and Consumer Services

Mike Rippe  
Florida Department of Transportation

Alex Carswell  
Department of Education

Jim Quinn  
Department of Environmental Protection

Susan Harp  
Department of State

Mary Ann Poole  
Florida Fish and Wildlife Conservation Commission

Mary Helen Blakeslee  
Office of Tourism, Trade, and Economic Development

David Burr  
Southwest Florida Regional Planning Council

P.K. Sharma  
South Florida Water Management District



## Comprehensive Plan Citizen Courtesy Information List

**Local Government:** LEE COUNTY

**Hearing Date:** 4/24/07

**Type of Hearing:** Adopt Comp Plan Small Scale Amendment - CPA2005-01 Vicott, Inc., Small Scale Amendment

**DCA Amendment Number:** \_\_\_\_\_ (DCA Official Use)

**PLEASE PRINT CLEARLY**

Citizen Name	Address, City, State, Zip Code	Check (√) Appropriate Response(s)		Identify Amendment which is of Interest
		Written Comment	Spoken Comment	



SMALL SCALE DEVELOPMENT AMENDMENT  
SUBMITTAL FORM

1. Name of Local Government Lee County  
 Person completing this form Paul O'Connor, AICP Phone Number 239-479-8585  
 Name of Newspaper that notice of small scale development amendment was published \_\_\_\_\_  
The News Press - Fort Myers, Florida  
 Date Publication Noticed \_\_\_\_\_  
 (Please attach copy of notice)
2. Number of acres of small scale development amendments contained in package:
  - a. Within Urban Infill, Urban Redevelopment or Downtown Revitalization as defined by Section 163.3164, FS \_\_\_\_\_
  - b. Within Transportation Concurrency Exception Area pursuant to Section 163.3180(5), FS \_\_\_\_\_
  - c. Within Regional Activity Centers or Urban Central Business Districts pursuant to Section 380.06(2)(e), FS \_\_\_\_\_
  - d. Outside categories a., b. and c. ±7.67
3. Cumulative total number of acres of small scale development amendments for the calendar year:
  - a. Categories listed in Item 2 a, b, and c. above \_\_\_\_\_
  - b. Categories listed in Item 2 d above ± 13.1
4. Total number of acres of small scale development amendments in this package that are located within a coastal high hazard area as identified in the comprehensive plan ±7.67

Pursuant to Rule 9J-11.015(2), Florida Administrative code, this form must be mailed with all small scale development amendments as defined by Section 163.3187(1)(c), Florida Statutes to:

DEPARTMENT OF COMMUNITY AFFAIRS  
 BUREAU OF STATE PLANNING  
 PLAN PROCESSING SECTION  
 2555 Shumard Oak Boulevard  
 Tallahassee, Florida 32399-2100  
 (850) 488-4925



MEMORANDUM  
FROM THE  
OFFICE OF COUNTY ATTORNEY

**RECEIVED**  
MAY 11 2007

COMMUNITY DEVELOPMENT

DATE: May 10, 2007

To: Matt Noble  
Planning Division

FROM: *Ann Pacifico for*  
Donna Marie Collins  
Assistant County Attorney

RE: Lee County Ordinance No. 07-07  
Small Scale Amendment - Vicott  
Amending the Lee County Comprehensive Plan  
Adopted April 24, 2007

Attached please find two (2) certified copies of the above-referenced ordinance. If you have any questions, please do not hesitate to contact me.

/amp  
Attachments

cc: Donna Marie Collins, Assistant County Attorney



LEE COUNTY ORDINANCE NO. 07-07  
(Small Scale Amendment 7.67-Acre Parcel from  
Industrial Development to Commercial and Wetlands  
Conservation Lands)

**AN ORDINANCE AMENDING THE LEE COUNTY COMPREHENSIVE PLAN, COMMONLY KNOWN AS THE "LEE PLAN" AS ADOPTED BY ORDINANCE NO. 89-02, AS AMENDED, SO AS TO ADOPT SMALL SCALE AMENDMENT CPA 2005-01 (PERTAINING TO THE DESIGNATION OF A 7.67-ACRE VICOTT, INC. PARCEL FROM INDUSTRIAL DEVELOPMENT TO THE COMMERCIAL AND WETLANDS CONSERVATION LANDS FUTURE LAND USE CATEGORY) APPROVED DURING A SMALL SCALE COMPREHENSIVE PLAN AMENDMENT EFFORT; PROVIDING FOR AMENDMENT TO THE FUTURE LAND USE MAP SERIES, MAP 1; PURPOSE AND SHORT TITLE; LEGAL EFFECT OF "THE LEE PLAN"; GEOGRAPHICAL APPLICABILITY; SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS, AND AN EFFECTIVE DATE.**

WHEREAS, the Lee County Comprehensive Plan ("Lee Plan") Policy 2.4.1 and Chapter XIII, provides for adoption of amendments to the Plan in compliance with State statutes and in accordance with administrative procedures adopted by the Board of County Commissioners ("Board"); and,

WHEREAS, the Board, in accordance with Section 163.3181, Florida Statutes, and Lee County Administrative Code AC-13-6 provide an opportunity for private individuals to request amendment to the Future Land Use Map through a small scale amendment public hearing process; and,

WHEREAS, the Local Planning Agency held a public hearing on the proposed adoption of the proposed small scale amendment to the Plan on March 26, 2007. The LPA recommended that the Board adopt the Vicott small scale amendment. The Board of County Commissioners later held a public hearing for the adoption of the proposed amendment on April 24, 2007. At that hearing, the Board approved a motion to adopt proposed amendment CPA2005-01 pertaining to the designation of a 7.67-acre parcel from Industrial Development to Commercial and Wetlands Conservation Lands on the Future



Land Use Map Series, Map 1. The subject parcel is located northeast of the Summerlin Road and Pine Ridge Road intersection, and immediately to the East of the Lee County sewage treatment ponds. (Vicott, Inc.)

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA, THAT:**

**SECTION ONE: PURPOSE, INTENT, AND SHORT TITLE**

The Board of County Commissioners of Lee County, Florida, in compliance with Chapter 163, Part II, Florida Statutes, and with Lee County Administrative Code AC-13-6, conducted a public hearing to review a proposed amendment to the Future Land Use Map Series of the Lee Plan. The purpose of this ordinance is to adopt the amendment to the Lee Plan discussed at that meeting and later approved by a majority of the Board of County Commissioners. The short title and proper reference for the Lee County Comprehensive Land Use Plan, as hereby amended, will continue to be the "Lee Plan." This amending ordinance may be referred to as the "2006 Small Scale Amendment CPA 2005-01, designation of the 7.67-acre Vicott parcel located northeast of the Summerlin and Pine Ridge Roads Intersection Ordinance."

**SECTION TWO: ADOPTION OF SMALL SCALE AMENDMENT TO LEE PLAN FUTURE LAND USE MAPS SERIES, MAP 1**

The Lee County Board of County Commissioners hereby amends the existing Lee Plan, adopted by Ordinance Number 89-02, as amended, by adopting an amendment to the Future Land Use Map Series, Map 1, by changing the designation of a 7.67-acre parcel from the Industrial Development to the Commercial and Wetlands Conservation Lands Future Land Use categories. The subject parcel is located East of the Summerlin and Pine Ridge Road intersection, and east of the Lee County sewage treatment ponds.



The corresponding staff report and analysis, along with all attachments for this amendment, are adopted as "support documentation" for the Lee Plan.

### SECTION THREE: LEGAL EFFECT OF THE "LEE PLAN"

No public or private development will be permitted except in conformity with the Lee Plan. All land development regulations and land development orders must be consistent with the Lee Plan as amended.

### SECTION FOUR: GEOGRAPHIC APPLICABILITY

The Lee Plan is applicable throughout the unincorporated area of Lee County, Florida, except in those unincorporated areas included in joint or interlocal agreements with other local governments that specifically provide otherwise.

### SECTION FIVE: SEVERABILITY

The provisions of this ordinance are severable and it is the intention of the Board of County Commissioners of Lee County, Florida, to confer the whole or any part of the powers herein provided. If any of the provisions of this ordinance are held unconstitutional by a court of competent jurisdiction, the decision of that court will not affect or impair the remaining provisions of this ordinance. It is hereby declared to be the legislative intent of the Board of County Commissioners that this ordinance would have been adopted had the unconstitutional provisions not been included therein.

### SECTION SIX: INCLUSION IN CODE, CODIFICATION, SCRIVENERS' ERROR

It is the intention of the Board of County Commissioners that the provisions of this ordinance will become and be made a part of the Lee County Code. Sections of this ordinance may be renumbered or relettered and the word "ordinance" may be changed to "section," "article," or other appropriate word or phrase in order to accomplish this intention; and regardless of whether inclusion in the code is accomplished, sections of this ordinance may be renumbered or relettered. The correction of typographical errors that do not affect



the intent, may be authorized by the County Manager, or his or her designee, without need of public hearing, by filing a corrected or recodified copy with the Clerk of the Circuit Court.

#### SECTION SEVEN: EFFECTIVE DATE

The small scale Lee Plan amendment adopted by this ordinance will be effective 31 days after adoption unless challenged within 30 days after adoption. If challenged within 30 days after adoption, the small scale amendment to the Lee Plan will not be effective until the Florida Department of Community Affairs or the Administrative Commission issues a final order determining the small scale amendment is in compliance with Florida Statutes, Section 163.3184. No development orders, development permits, or land uses dependent on this amendment may be issued or commence before the amendment has become effective.

Commissioner Bigelow made a motion to adopt the foregoing ordinance, seconded by Commissioners Hall. The vote was as follows:

Robert P. Janes	Aye
Brian Bigelow	Aye
Ray Judah	Absent
Tammara Hall	Aye
Frank Mann	Aye



DONE AND ADOPTED this 24<sup>th</sup> of April 2007.

ATTEST:  
CHARLIE GREEN, CLERK

BY: Marcia Wilson  
Deputy Clerk

LEE COUNTY  
BOARD OF COUNTY COMMISSIONERS

BY: Robert P. Janes  
Chair

DATE: 4-24-07

Approved as to form by:

Donna Marie Collins  
Donna Marie Collins  
County Attorney's Office





STATE OF FLORIDA

COUNTY OF LEE

I Charlie Green, Clerk of Circuit Court, Lee County, Florida, and ex-Officio Clerk of the Board of County Commissioners, Lee County, Florida, do hereby certify that the above and foregoing, is a true and correct copy of Ordinance No. 07-07, adopted by the Board of Lee County Commissioners, at their meeting held on the 24th day of April, 2007 and same filed in the Clerk's Office.

Given under my hand and seal, at Fort Myers, Florida, this 10th day of May 2007.

CHARLIE GREEN,  
Clerk of Circuit Court  
Lee County, Florida

By:



Deputy Clerk





LEE COUNTY ORDINANCE NO. 07-07  
(Small Scale Amendment 7.67-Acre Parcel from  
Industrial Development to Commercial and Wetlands  
Conservation Lands)

**AN ORDINANCE AMENDING THE LEE COUNTY COMPREHENSIVE PLAN, COMMONLY KNOWN AS THE "LEE PLAN" AS ADOPTED BY ORDINANCE NO. 89-02, AS AMENDED, SO AS TO ADOPT SMALL SCALE AMENDMENT CPA 2005-01 (PERTAINING TO THE DESIGNATION OF A 7.67-ACRE VICOTT, INC. PARCEL FROM INDUSTRIAL DEVELOPMENT TO THE COMMERCIAL AND WETLANDS CONSERVATION LANDS FUTURE LAND USE CATEGORY) APPROVED DURING A SMALL SCALE COMPREHENSIVE PLAN AMENDMENT EFFORT; PROVIDING FOR AMENDMENT TO THE FUTURE LAND USE MAP SERIES, MAP 1; PURPOSE AND SHORT TITLE; LEGAL EFFECT OF "THE LEE PLAN"; GEOGRAPHICAL APPLICABILITY; SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS, AND AN EFFECTIVE DATE.**

WHEREAS, the Lee County Comprehensive Plan ("Lee Plan") Policy 2.4.1 and Chapter XIII, provides for adoption of amendments to the Plan in compliance with State statutes and in accordance with administrative procedures adopted by the Board of County Commissioners ("Board"); and,

WHEREAS, the Board, in accordance with Section 163.3181, Florida Statutes, and Lee County Administrative Code AC-13-6 provide an opportunity for private individuals to request amendment to the Future Land Use Map through a small scale amendment public hearing process; and,

WHEREAS, the Local Planning Agency held a public hearing on the proposed adoption of the proposed small scale amendment to the Plan on March 26, 2007. The LPA recommended that the Board adopt the Vicott small scale amendment. The Board of County Commissioners later held a public hearing for the adoption of the proposed amendment on April 24, 2007. At that hearing, the Board approved a motion to adopt proposed amendment CPA2005-01 pertaining to the designation of a 7.67-acre parcel from Industrial Development to Commercial and Wetlands Conservation Lands on the Future



Land Use Map Series, Map 1. The subject parcel is located northeast of the Summerlin Road and Pine Ridge Road intersection, and immediately to the East of the Lee County sewage treatment ponds. (Vicott, Inc.)

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA, THAT:**

**SECTION ONE: PURPOSE, INTENT, AND SHORT TITLE**

The Board of County Commissioners of Lee County, Florida, in compliance with Chapter 163, Part II, Florida Statutes, and with Lee County Administrative Code AC-13-6, conducted a public hearing to review a proposed amendment to the Future Land Use Map Series of the Lee Plan. The purpose of this ordinance is to adopt the amendment to the Lee Plan discussed at that meeting and later approved by a majority of the Board of County Commissioners. The short title and proper reference for the Lee County Comprehensive Land Use Plan, as hereby amended, will continue to be the "Lee Plan." This amending ordinance may be referred to as the "2006 Small Scale Amendment CPA 2005-01, designation of the 7.67-acre Vicott parcel located northeast of the Summerlin and Pine Ridge Roads Intersection Ordinance."

**SECTION TWO: ADOPTION OF SMALL SCALE AMENDMENT TO LEE PLAN FUTURE LAND USE MAPS SERIES, MAP 1**

The Lee County Board of County Commissioners hereby amends the existing Lee Plan, adopted by Ordinance Number 89-02, as amended, by adopting an amendment to the Future Land Use Map Series, Map 1, by changing the designation of a 7.67-acre parcel from the Industrial Development to the Commercial and Wetlands Conservation Lands Future Land Use categories. The subject parcel is located East of the Summerlin and Pine Ridge Road intersection, and east of the Lee County sewage treatment ponds.



The corresponding staff report and analysis, along with all attachments for this amendment, are adopted as "support documentation" for the Lee Plan.

### SECTION THREE: LEGAL EFFECT OF THE "LEE PLAN"

No public or private development will be permitted except in conformity with the Lee Plan. All land development regulations and land development orders must be consistent with the Lee Plan as amended.

### SECTION FOUR: GEOGRAPHIC APPLICABILITY

The Lee Plan is applicable throughout the unincorporated area of Lee County, Florida, except in those unincorporated areas included in joint or interlocal agreements with other local governments that specifically provide otherwise.

### SECTION FIVE: SEVERABILITY

The provisions of this ordinance are severable and it is the intention of the Board of County Commissioners of Lee County, Florida, to confer the whole or any part of the powers herein provided. If any of the provisions of this ordinance are held unconstitutional by a court of competent jurisdiction, the decision of that court will not affect or impair the remaining provisions of this ordinance. It is hereby declared to be the legislative intent of the Board of County Commissioners that this ordinance would have been adopted had the unconstitutional provisions not been included therein.

### SECTION SIX: INCLUSION IN CODE, CODIFICATION, SCRIVENERS' ERROR

It is the intention of the Board of County Commissioners that the provisions of this ordinance will become and be made a part of the Lee County Code. Sections of this ordinance may be renumbered or relettered and the word "ordinance" may be changed to "section," "article," or other appropriate word or phrase in order to accomplish this intention; and regardless of whether inclusion in the code is accomplished, sections of this ordinance may be renumbered or relettered. The correction of typographical errors that do not affect



the intent, may be authorized by the County Manager, or his or her designee, without need of public hearing, by filing a corrected or recodified copy with the Clerk of the Circuit Court.

#### SECTION SEVEN: EFFECTIVE DATE

The small scale Lee Plan amendment adopted by this ordinance will be effective 31 days after adoption unless challenged within 30 days after adoption. If challenged within 30 days after adoption, the small scale amendment to the Lee Plan will not be effective until the Florida Department of Community Affairs or the Administrative Commission issues a final order determining the small scale amendment is in compliance with Florida Statutes, Section 163.3184. No development orders, development permits, or land uses dependent on this amendment may be issued or commence before the amendment has become effective.

Commissioner Bigelow made a motion to adopt the foregoing ordinance, seconded by Commissioners Hall. The vote was as follows:

Robert P. Janes	Aye
Brian Bigelow	Aye
Ray Judah	Absent
Tammara Hall	Aye
Frank Mann	Aye



DONE AND ADOPTED this 24<sup>th</sup> of April 2007.

ATTEST:  
CHARLIE GREEN, CLERK

BY: Marcia Wilson  
Deputy Clerk

LEE COUNTY  
BOARD OF COUNTY COMMISSIONERS

BY: Robert P. Janes  
Chair

DATE: 4-24-07

Approved as to form by:

Donna Marie Collins  
Donna Marie Collins  
County Attorney's Office





STATE OF FLORIDA

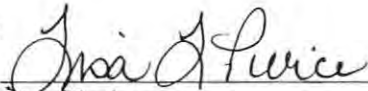
COUNTY OF LEE

I Charlie Green, Clerk of Circuit Court, Lee County, Florida, and ex-Officio Clerk of the Board of County Commissioners, Lee County, Florida, do hereby certify that the above and foregoing, is a true and correct copy of Ordinance No. 07-07, adopted by the Board of Lee County Commissioners, at their meeting held on the 24th day of April, 2007 and same filed in the Clerk's Office.

Given under my hand and seal, at Fort Myers, Florida, this 10th day of May 2007.

CHARLIE GREEN,  
Clerk of Circuit Court  
Lee County, Florida

By:



Deputy Clerk





**CPA2005-00001**  
**Vicott, Inc.**  
**SMALL-SCALE**  
**AMENDMENT**  
**TO THE**

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Lee County Comprehensive Plan

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**THE LEE PLAN**

**Privately Sponsored Application  
and Staff Analysis**

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BCC Adoption Document

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*Lee County Planning Division  
1500 Monroe Street  
P.O. Box 398  
Fort Myers, FL 33902-0398  
239-479-8585*

April 24, 2007



**LEE COUNTY  
DIVISION OF PLANNING  
STAFF REPORT FOR  
COMPREHENSIVE PLAN AMENDMENT  
CPA2005-01**

☐

Text Amendment

☒

Map Amendment

✓	<b>This Document Contains the Following Reviews</b>
✓	<b>Staff Review</b>
✓	<b>Local Planning Agency Review and Documentation</b>
✓	<b>Board of County Commissioners Hearing and Adoption</b>

ORIGINAL STAFF REPORT DATE: March 16, 2007

**PART I - BACKGROUND AND STAFF REPORT RECOMMENDATION**

**A. SUMMARY OF APPLICATION**

**1. APPLICANT/REPRESENTATIVE:**

Vicott, Inc.  
0950 Old South Way  
Fort Myers, FL 33908

Stacy Hewitt, Director of Planning  
Banks Engineering  
10511 Six Mile Cypress Parkway, Suite 101  
Fort Myers, FL 33908

**2. REQUEST:** Amend the Lee Plan Future Land Use Map Series for two parcels totaling approximately 7.67 ± acres located in Section 05, Township 46, Range 24, to change Map 1 from Industrial Development and Wetlands to Urban Community and Wetlands Conservation Lands. In the alternative, staff recommends to change the subject site on Map 1 from Industrial Development and Wetlands to Commercial and Wetlands Conservation Lands.



**3. SUMMARY DISCUSSION:** The applicant is pursuing a change to the Future Land Use Map Series, Map 1 of the Lee Plan for a 7.67 ± acre parcel, changing 5.41 ± acres from the Industrial Development Land Use designation to Urban Community land use designation and preserving the remaining 2.26 ± acres of wetlands in the Wetlands Conservation Land Use designation. The property is located north of Summerlin Road, east of the Fort Myers Beach Sewage Treatment Ponds, west of conservation wetlands owned by Lee County, and south of the proposed Waterstone RPD (DCI2005-00078). The map amendment site is located within the Iona/McGregor Planning community and is not located in a special planning area that would be regulated by geographically specific, Goals, Objectives, or Policies.

## **B. STAFF RECOMMENDATION AND FINDINGS OF FACT SUMMARY**

**1. RECOMMENDATION:** Planning staff recommends that Map 1 of the Future Land Use Map be amended to change the Future Land Use designation to the new Future Land Use designation of Commercial (CPA2005-39) and Wetlands Conservation Lands instead of the applicant's request to change the Future Land Use designation to Urban Community and Conservation Lands.

### **2. BASIS AND RECOMMENDATION FINDINGS OF FACT:**

- The amendment site is located in the Coastal High Hazard Area (CHHA) as defined in the Lee Plan.
- The requested amendment from Industrial Development and Wetlands to Urban Community and Wetlands Conservation Land Future Land Use designation allows increased residential density in the CHHA.
- The Urban Community would allow additional residential development within the CHHA. In addition, any land use change other than Industrial Development would allow residential development through the Lee Plan Future Urban Areas.
- The new Commercial Future Land Use category does not allow residential development. The Commercial Future Land Use designation is intended for implementation on land where residential development is undesirable in areas such as the CHHA of the County.
- The applicant's intention is to develop commercial uses pursuant to a CPD and staff's recommendation of the new Commercial Future Land Use designation is consistent with this intent.
- The amendment site is adjacent to the existing Fort Myers Beach Sewage Treatment Ponds. Planning staff's recommendation eliminates any future potential residential conflicts with this public facility.



- The property is currently zoned Agriculture (AG-2) and will need to be rezoned to CPD prior to being developed with any commercial uses. Impacts to the provision of public services and facilities will be evaluated during the rezoning process, based on the specific uses and intensities requested by the planned development application. In addition, potential traffic impacts will be evaluated at the time of rezoning and development orders.

## **C. BACKGROUND INFORMATION**

### **1. EXISTING CONDITIONS**

**SIZE OF PROPERTY:** 7.67 ± acres

**PROPERTY LOCATION:** The subject parcel is situated east of the Fort Myers Beach Sewage Treatment ponds, west of conservation wetlands in the Cow Slough owned by Lee County and on the north side of Summerlin Road.

**EXISTING USE OF LAND:** Vegetated and vacant parcel.

**CURRENT ZONING:** AG-2

**CURRENT FUTURE LAND USE CLASSIFICATION:** 5.41 ± acres of Industrial Development and 2.26 ± acres of Wetlands

### **2. INFRASTRUCTURE AND SERVICES**

**WATER & SEWER:** The property is located within the Lee County Utilities franchise area.

**FIRE:** The property is located within the Iona McGregor Fire District.

**TRANSPORTATION:** Access will be from a proposed access point on Summerlin Road. The parcel is within the Iona/McGregor planning community, located on a stretch of Summerlin Road that is currently being widening to six lanes.

**SOLID WASTE FRANCHISE:** The subject property is within the Lee County, Solid Waste District, Area 2. The franchise company responsible for collection in District Area 2 is Veolia Environmental Services. Lee County, Solid Waste Division was contacted regarding the amendment request and no concerns were reported.



## **PART II - STAFF ANALYSIS**

### **A. STAFF DISCUSSION**

#### **INTRODUCTION**

The applicant has requested a Future Land Use designation change from Industrial Development and Wetlands to Urban Community and Conservation Lands on approximately 7.67 ± acres of land located in the Iona/McGregor Planning Community on the north side of Summerlin Rd. The property is currently vacant.

The Urban Community Land Use category standard density range permits up to six dwelling units per acre (6du/acre) with a maximum of ten dwelling units per area (10du/acre). If residential uses were permitted on the amendment site, the proposed Urban Community Land Use designation could allow up to 32 dwelling units (5.41 upland acreage X 6 du/acre and a maximum of 43 dwelling units with the wetland density transfer per Table 1(a) of the Lee Plan. Estimated potential commercial intensity for the subject property would be 54,100 square feet depending on site design.

#### **PROJECT SUMMARY**

The subject property consists of two STRAP numbers, 05-46-24-00-00003.0030 and 05-46-24-00-00003.0020. The latter parcel was purchased by Vicott Inc LLC. on April 5, 2006 from Sunset Falls LLC. In addition, LDO2006-00459 was approved for a lot split of the subject parcel and the parcels associated with the pending Waterstone Residential Planned Development (DCI2005-00078) to the north. The applicant plans to use the subject property for retail or commercial office space. In order to permit these desired uses, should the plan amendment be approved, the applicant will need to rezone the subject property from its current zoning classification of AG-2 an appropriate commercial zoning category.

#### **COMPREHENSIVE PLAN BACKGROUND**

The subject property was designated "Industrial Business Area" by the original Lee County Land Use Map, adopted in 1984. Whereas other urban land use categories were designated to include a broad combination of residential, commercial, public, and limited industrial land uses, the Industrial Business Areas land use category was reserved mainly for industrial uses *per se*, as well as for selective land use mixtures such as a combination of industrial, research, and related office complexes. There was considerable confusion regarding the Industrial/Business land use category. The term "Business" within the title inferred that commercial retail was an allowable use within this category. The omission of commercial from the text of the Industrial/Business category as well as the conclusions derived from Thomas Robert's 1983 "Industrial Land Use Needs in the Lee County Comprehensive Plan" report seemed to clearly indicate that commercial was not intended to be included in this category. This Future Land Use category was eventually changed to Industrial Development.



## **ADJACENT ZONING AND USES**

The subject property is zoned AG-2. The properties to the east, north, and south are zoned AG-2 and the property to west is zoned CF-3. The Fort Myers Beach Treatment ponds are located to the west. Vacant lands surround the property on the east, north, and south. These properties have remained vacant due to their location within the Cow Slough wetland area. In addition, the property to the north is included within the pending Waterstone Residential Planned Development rezoning case (DCI2005-00078).

## **POPULATION ACCOMMODATION CAPACITY DISCUSSION**

The request is to change the Future Land Use Map (FLUM) categories of 5.41 ± acres of Industrial Development and 2.26 ± acres of Wetlands to Urban Community and Conservation Lands. The Industrial Development category does not allow residential densities. The Urban Community land use designation permits up to 6 du/acre with a Bonus Density of up to 10 du/acre. This means that 32 residential units could be developed on the subject parcel if the amendment request is granted and the property is rezoned to residential. Staff however, is recommending the Commercial Future Land Use category which would eliminate any potential for increased residential density within the Coastal High Hazard Area. The applicant has agreed to no residential development on this site. Therefore, if the proposed Commercial Future Land Use amendment is adopted as part of this map amendment it will no significantly affect Lee County's population projections.

## **CONSISTENCY WITH THE "URBAN COMMUNITY" LAND USE CATEGORY**

The applicant is proposing that the subject area's land use designation be amended to Urban Community and Conservation Lands. The Urban Community and Conservation Lands areas are outlined in Policy 1.1.4 and described below:

***POLICY 1.1.4:** The Urban Community areas are areas outside of Fort Myers and Cape Coral that are characterized by a mixture of relatively intense commercial and residential uses. Included among them, for example, are parts of Lehigh Acres, San Carlos Park, Fort Myers Beach, South Fort Myers, the city of Bonita Springs, Pine Island, and Gasparilla Island. Although the Urban Communities have a distinctly urban character, they should be developed at slightly lower densities. As the vacant portions of these communities are urbanized, they will need to maintain their existing bases of urban services and expand and strengthen them accordingly. As in the Central Urban area, predominant land uses in the Urban Communities will be residential, commercial, public and quasi-public, and limited light industry (see Policy 7.1.6). Standard density ranges from one dwelling unit per acre (1 du/acre) to six dwelling units per acre (6 du/acre), with a maximum of ten dwelling units per acre (10 du/acre). (Amended by Ordinance No. 94-30, 02-02)*

***POLICY 1.4.6:** The Conservation Lands include uplands and wetlands that are owned and used for long range conservation purposes. Upland and wetland conservation lands will be shown as separate categories on the FLUM. Upland conservation lands will be subject to the provisions of this policy. Wetland conservation lands will be subject to the provisions of both the Wetlands category described in Objective 1.5 and the Conservation Lands category*



*described in this policy. The most stringent provisions of either category will apply to wetland conservation lands. Conservation lands will include all public lands required to be used for conservation purposes by some type of legal mechanism such as statutory requirements, funding and/or grant conditions, and mitigation preserve areas required for land development approvals. Conservation Lands may include such uses as wildlife preserves; wetland and upland mitigation areas and banks; natural resource based parks; ancillary uses for environmental research and education, historic and cultural preservation, and natural resource based parks (such as signage, parking facilities, caretaker quarters, interpretive kiosks, research centers, and quarters and other associated support services); and water conservation lands such as aquifer recharge areas, flowways, flood prone areas, and well fields. 2020 lands designated as conservation are also subject to more stringent use provisions of the 2020 Program or the 2020 ordinances. (Added by Ordinance No. 98-09, Amended by Ordinance No. 02-02)*

#### **MAP 16-PLANNING COMMUNITIES AND TABLE 1(b)**

The subject area is located within the Iona/McGregor Planning Community. In this planning community, 697 acres are allocated for residential uses by the year 2020. Recent data collected by the Division of Planning indicates that there are 669 acres currently developed with residential uses within the Urban Community designation, leaving a total of 28 acres that could be developed with residential uses. Planning staff recommends the newly Commercial Future Land Use category, therefore, residential allocation does not pertain to this amendment request. In addition, in the Iona/McGregor planning community, 782 acres is allocated for commercial uses for the year 2020 and 579 acres is currently developed with commercial uses. CPA2005-00026 proposes to update the commercial allocation by extending them in the Iona/McGregor area to 1100 acres by the year 2030 (see Allocation Comparison Table Attachment). This amendment has a scheduled adoption hearing on April 11<sup>th</sup> 2007.

#### **TRANSPORTATION ISSUES**

Lee County Department of Transportation staff have reviewed the amendment request and has provided a memo dated October 19, 2006. The memo include the following comments:

*" Compared to the residential and light industrial uses, 54,100 square feet of commercial is the worst case in terms of trip generation from this site, and will generate 417 trips (including pass-by trips) on a PM peak hour basis. The Lee County MPO 2030 FSUTMS model shows that Summerlin Road, a 6-lane facility onto which the property will have an access , will have 1,937 trips on a PM peak hour basis, and the LOS will be at "B". Adding this project's traffic, the LOS on Summerlin Road will be still at "B". Therefore, we determine that the land use change on this property will not alter the future road network system."*



## **PUBLIC SAFETY ISSUES**

The applicant has provided letters from public safety agencies and service providers. The purpose of these letters is to determine the adequacy of existing or proposed support facilities regarding the proposed land use amendment request.

### **1. EMS**

Lee County Emergency Medical Services staff have reviewed the proposal and provided a Statement of No Concern September 12, 2006 that for the requested land use designation of Urban Community with the maximum development potential of 54,100 sq. ft. of building or a maximum of 32 dwelling units.

### **2. FIRE**

The Iona McGregor Fire Department staff have reviewed the proposal and provided a letter dated September 12, 2006 stating that there is capability to serve the subject parcel as long as all state and local codes are adhered to.

### **3. SHERIFF**

The Lee County Sheriff Department staff have reviewed the proposal and provided a letter dated September 12, 2006 stating there are no objections to the project and an adequate "core" level of law enforcement services will be provided for the subject parcel.

## **SCHOOL IMPACTS**

The School District of Lee County staff have reviewed the proposal provided comments dated September 13, 2006. In that letter there were no objections to the proposed land use map amendment request.

## **SOILS**

The 1984 U.S. Department of Agriculture Soil Survey of Lee County classified 3 soil types on the subject parcel - 6 Hallendale fine sand, 13 Boca fine sand, 45 Copeland sandy loam depressional, and 56 Isle Muck. All listed soil types found on the subject parcel are hydric soils and good indicators of wetland habitat. Hydric soils are those soils that in their natural conditions are saturated, flooded, or ponded long enough during the growing season (February to December in Lee County) to develop anaerobic conditions that favor the growth and regeneration of hydrophytic (wetland) vegetation.

## **HISTORICAL AND ARCHAEOLOGICAL IMPACTS**

The Florida Department of State Division of Historical Resources submitted a letter dated September 12, 2006 that the Florida Master Site File lists no previously recorded cultural resources on the subject parcel. In addition, the Lee County DCD Division of Planning submitted a letter dated January 5, 2007 that there are no historic sites on the subject parcel. The applicant will be required to apply for a Certificate to Dig as a condition for obtaining a development order. In reviewing the Certificate to Dig application, staff may require that the applicant have an archaeological survey conducted by an archeologist. Conditions may be imposed based on the results of the survey.



## **ENDANGERED SPECIES**

The protected species survey dated May 13, 2005 was prepared by Boylan Environmental Consultants, Inc. for the subject parcel was submitted with the as part of the Waterstone RPD rezoning case (DCI2005-00078). According to that report, no protected species were observed on the subject parcel.

## **PARKS, RECREATION AND OPEN SPACE**

Lee County Parks & Recreation Staff have reviewed the amendment request and provided comments via email dated December 12, 2005. In that email, Parks & Recreation staff suggested that 100 feet be required on the eastern boundary of the site to protect water quality and wildlife habitat in the Deep Lagoon Preserve. The applicant has proposed to preserve the existing wetland habitat in this area and has requested that this portion of the site be placed in the Conservation Lands Land Use Category. In addition, the eastern 222 ± feet of the subject property is within a SFWMD Conservation Easement.

## **DRAINAGE/SURFACE WATER MANAGEMENT**

The applicant has provided the following comments for surface water management requirements:

*"The development's surface water management system will be developed in accordance with South Florida Water Management District and Lee County Development regulations. The project has been permitted under South Florida Water Management District permit number 36-05751-P. A copy of the permit is attached. The eastern 222± feet of the subject property is within a SFWMD Conservation Easement and is proposed for Conservation Lands: Wetland Land Use designation."*

## **MASS TRANSIT**

Lee County Transit Division staff have reviewed the amendment request and provided the following comments to the applicant in a memo, dated September 12, 2006. The memo includes the following:

*"Lee County Transit staff has reviewed the follow-up information you provided in regards to your service adequacy request for the above-mentioned Lee County Small Scale Comprehensive Plan Amendment application. The updated use of 54,100 square or a maximum of 32 dwelling units does not change our previous determination."*

*We currently provide service on Summerlin Road in front of the subject property 6 days a week with our Route 50. Service frequencies Monday through Saturday are every 70 minutes, which likely does not provide for a core level of transit service to this area. However, we do have capacity for additional passengers to use this route as a result of the proposed project although; improved frequency needs to occur in order to begin attracting single occupant automobile users to the transit systems."*



## **SOLID WASTE.**

Lee County Solid Waste Division staff have reviewed the amendment request and has provided the following comments to the applicant in a memo, dated September 12, 2006. The memo includes the following:

*" The Lee County Waste Division is capable of providing solid waste collection service for the additional units proposed for the 7.67 acre site located on the north side of Summerlin Rd., between Pine Ridge Road and Bass Road through our franchised hauling contractors. Disposal of the solid waste from this development 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 certain multi-family commercial solid waste containers.*

## **UTILITIES**

Lee County Utilities staff have reviewed the amendment request and has provided the following comments via email on October 10, 2006. The email includes:

*" Utilities has no issues regarding the capacity to serve the development proposed in this CPA. As always, the developer will be responsible for off-site improvements to infrastructure to extend facilities to the project. In this case both water and sewer infrastructure will need to extended."*

## **COASTAL HIGH HAZARD AREA ISSUE (CHHA)**

The subject property is located in the CHHA area per the Lee Plan Map 5. There have been past discussions regarding the concern of increasing density in this area. Planning staff recommendation of the new Commercial Land Use designation eliminates any potential residential uses. The 1991 "Hurricane Storm Tide Atlas for Lee County", prepared by the Southwest Florida Regional Planning Council, shows the subject property is located within the Tropical Storm surge zone. The proposed commercial development does not increase residential density in the CHHA.

## **B. CONCLUSIONS**

The proposed amendment is consistent with Policy 1.1.4, the Urban Community Future Land Use category descriptor policy and Policy 1.4.6, the Conservation Lands Future Land Use category descriptor policy. The intent of the applicant is to develop commercial office and retail uses which is compatible with the surrounding uses. The subject parcel is located between the Urban Community Future Land Use category to the north, the Wetlands Future Land Use category to the east, the Outlying Suburban Future Land Use category to the south, and the Community Facilities Future Land Use category to the west. The commercial intensities proposed are allowed in the Urban Community land use designation. If the amendment is approved a maximum of 54,100 square feet



of commercial development could be constructed. This increase in commercial square footage is insignificant in the Urban Community Future land use designation.

Although the proposed amendment is consistent with the Urban Community and Conservation Lands Future Land Use categories and the surrounding uses in the area, staff have concerns with the proposal. The subject parcel is located within the CHHA as defined in the Lee Plan. **Policy 5.1.2. of the Lee Plan** prohibits residential development where physical constraints or hazards exist, require the density and design to be adjusted accordingly. Such constraints include but are not limited to flood, storm, or hurricane hazards; unstable soil or geologic conditions; environmental limitations; aircraft noise; or other characteristics that may endanger the residential community. Planning staff have concluded that the proposed amendment request has the potential to place future populations at risk. Therefore, staff is unable to support the adoption of the proposed amendment request. However, Planning staff recommends the new Future Land Use category of Commercial that was initiated by the Board of County Commissioners on September 28, 2004. This new category was the result of two privately initiated small scale amendments that are located in the southeast quadrant of the Summerlin Road and Pine Ridge road intersection. The amendments requested a future land use map change from the Industrial Development Future Land Use category to the Urban Future Land Use category. Staff noted that residential development would not be highly favored on the site due to the existing surrounding commercial and industrial uses and the location of the parcels at the intersection. As part of the review for each request, staff discussed the coastal issues involved in the map change. The properties were located in the CHHA as defined in the Lee Plan. While it was unlikely that the properties would ever be developed with residential uses, the amendment did impose a potential to increase residential densities in th CHHA. Based on the review of the two small scale amendments, staff found a growing need for a Commercial Development Future Land Use category.

### **C. STAFF RECOMMENDATIONS**

Planning staff **recommends denial** of the applicant's request to amend Map 1, the Future Land Use Map, to change the Future Land Use designation of the subject area from Industrial Development and Wetlands to Urban Community and Conservation Lands Future Land Use designation. However, Planning staff does **recommend transmittal** of the subject property to the newly adopted Future Land Use category of Commercial. This recommended future land use designation would eliminate any potential for increased residential density within the CHHA.



### **PART III-LOCAL PLANNING AGENCY REVIEW AND RECOMMENDATION**

DATE OF PUBLIC HEARING: March 26, 2007

#### **A. LOCAL PLANNING AGENCY REVIEW:**

Planning staff explained that the commercial land use category is a new future land use category designed for the areas that are more useful for commercial activity only, specifically Coastal High Hazard Areas (CHHA) where increased residential densities are not favored. Planning staff explained concerns about the location of the parcel in the CHHA, its location adjacent to the Fort Myers Beach Sewage Treatment ponds and the compatibility of residential uses adjacent to the ponds. In addition, staff explained that the commercial land use category is intended to be a fairly intensive urban category that would allow a general range of commercial uses from retail to office.

One member of the LPA had questions about what zoning districts the new commercial land use category relates to. Planning staff explained that the land use category is meant to accommodate a variety of commercial zoning districts from CG to CPDs. One LPA member noted that the subject property involves a 7.67 acres tract and that there is only a half-acre of upland on the site and seems to be an all wetland site. Planning staff stated that even though the FLUCCS map shows it as having only a half-acre of uplands on the site, there is more than a half an acre of uplands on the site. In addition, staff explained that the applicant would have to obtain the necessary permits to fill and that the Commercial Future Land Use designation would allow less intense uses on the property than the existing Industrial Development designation. One LPA member asked if the project had access off of Summerlin Road and if the road was a limited access road. Staff confirmed that Summerlin Road is a limited access road and the applicant is proposing an additional rezoning application that will modify the access resolution for Summerlin Road. One LPA member referred to comments in the staff report that mention the Waterstone RPD rezoning to the north of the Vicott project. In addition, the LPA member mentioned that in order for the Waterstone residents to access Summerlin they would have to go through the Vicott development. Stacy Hewitt with Banks Engineering confirmed that there will be a shared access with the proposed Waterstone RPD. The relocated median opening has been reviewed by DOT and they are in agreement with it. In addition, she stated that a South Florida Management District (SFWMD) permits have been obtained for the amendment site and the property to the north. In addition, Ms. Hewitt stated that property was reviewed for wetland mitigation, and showed LPA members the portions that will be placed in the in the Wetlands Conservation Land Future Land Use designation.

One LPA member questioned why the amendment parcel was not included within the Wetland Future Land Use category. Planning staff explained that the County first began trying to map wetlands in 1986 and that the wetlands probably did not appear correctly on the national wetland mapping when staff originally pursued those mapping efforts. One LPA member noted that the packets did not included a map that correlates to the entire property to see what the district did approved or did not approve for wetland impacts. Stacy Hewitt, from Banks Engineering, explained that the SFWMD permit was done for the amendment parcel and the property to the north and



showed the Board again where the Conservation easement was. A LPA member asked if the applicant would be closing the current median access. Ms Hewitt stated that DOT was incorporating the median ongoing with the widening project for Summerlin Road.

One LPA member asked how water and sewer would be addressed. Ms. Hewitt stated that there is the availability of water and sewer service and that all appropriate agencies had no objections to the proposed amendment request. In addition, Ms. Hewitt stated that the applicant had no objections to Planning staff's recommendation to transmit the amendment parcel to the new Commercial Future Land Use designation.

**B. LOCAL PLANNING AGENCY RECOMMENDATIONS AND FINDINGS OF FACT SUMMARY:**

**1. RECOMMENDATION:**

The Local Planning Agency recommends that the Board of County Commissioners adopt the proposed plan amendment.

**2. BASIS AND RECOMMENDATION FINDINGS OF FACT:**

The LPA accepted the facts advanced by planning staff.

**C. VOTE:**

NOEL ANDRESS        AYE  

DEREK BURR          AYE  

LES COCHRAN         AYE  

RON INGE             ABSENT  

CARLETON RYFFEL     AYE  

RAE ANN WESSEL      AYE



**PART IV - BOARD OF COUNTY COMMISSIONERS  
HEARING FOR ADOPTION OF PROPOSED AMENDMENT**

DATE OF ADOPTION HEARING: April 24, 2007

**A. BOARD REVIEW:**

The Board agreed unanimously to adopt the proposed plan amendment request.

**B. BOARD ACTION AND FINDINGS OF FACT SUMMARY:**

**1. BOARD ACTION AND FINDINGS OF FACT SUMMARY**

The Board of County Commissioners adopted the proposed plan amendment.

**2. BASIS AND RECOMMENDED FINDINGS OF FACT**

The Board of County Commissioners accepted the facts that were advanced by staff and the LPA.

**C. VOTE:**

**A. BRIAN BIGELOW**          AYE    

**TAMMARA HALL**          AYE    

**BOB JANES**          AYE    

**RAY JUDAH**          AYE    

**FRANKLIN B. MANN**          AYE



# **Banks Engineering**

Professional Engineers, Planners & Land Surveyors  
10511 Six Mile Cypress Parkway  
Fort Myers, Florida 33966  
(239) 939-5490  
Fax (239) 939-2523

*Please Reply To:*  
FORT MYERS OFFICE

January 12, 2007

Mr. Wayne Gaither  
Division of Planning  
1500 Monroe Street  
Fort Myers, FL 33901

**RE: CPA2005-00001**  
**Sufficiency Submittal No. 3**

Dear Mr. Gaither:

This is in response to your November 20, 2006 letter regarding the above-referenced Comprehensive Plan Amendment:

**Comment #1:**

It was understood through previous conversations that the 2.26 acres of wetlands were intended to be changed to a Conservation Land Use designation. If this is still the intent of the applicant the application will need to be changed to reflect the additional land use designation.

*Response: The application and the Proposed Future Land Use Map have been revised to reflect the 2.26 acres of wetlands as proposed land use change to Conservation Land Use designation. Additional legal descriptions are also attached to reflect the areas for each proposed Land Use designation.*

**Comment #2:**

Additionally, we have new Administrative Codes concerning comprehensive plan amendments. Notification needs to be sent out to property owners within **500 feet** of a CPA. To meet this requirement the applicant is now required to obtain a variance report from the Property Appraiser's Office (both hard copy and in

---

**Naples Office**  
6640 Willow Park Dr.  
Suite B  
Naples, Florida  
34109  
(239) 597-2061  
Fax (239) 597-3082

**Sarasota Office**  
1144 Tallevast Road  
Suite # 115  
Sarasota, Florida  
34243  
(941) 360-1618  
Fax (941) 360-6918

**Port Charlotte Office**  
12653 SW CR 769  
Suite B  
Lake Suzy, Florida  
34269  
(941) 625-1165  
Fax (941) 625-1149



digital format, preferably MS Word), including mailing labels. The applicant is also responsible for prepaying the cost of mailing these notices. This must be done within 15 calendar days of finding the applicant sufficient. The applicant is also responsible for posting a notice (provided by DCD) 15 calendar days before the LPA hearing.

*Response: The variance report, including mailing labels is attached. The digital format has been sent via email.*

**III (A)(1): Site Address:**

Please provide the site address for the parcel of land.

*Response: The Property Appraiser lists the site address as Access Undetermined, Fort Myers, FL 33908.*

**III (B): Property Information – Total Acreage of Property & Total Acreage included in Request:**

The Property Appraiser lists this parcel as being 8.89+/- acres. The application refers to the STRAP and provides a legal description for a portion of the STRAP. The application lists the Total Acreage of the Property as 7.67 acres and a Total Acreage Included in the Request is 7.67 acres. It appears the legal description pushes the property line roughly 100 feet north of the Property Appraisers parcel boundaries. Please verify that all property that currently has the land use designation of Industrial Development, at this site, is included in the comprehensive plan amendment.

*Response: There appear to be errors on the Property Appraiser's website in relation to the subject property area and map. The legal description included with the request includes all land subject to this comprehensive plan amendment and encompasses 7.67 acres of land.*

**III (B): Property Information – Area of each Existing Future Land Use Category:**

Please provide the areas of each individual land use category being impacted by this comprehensive plan amendment.

*Response: The application has been revised to reflect existing land use as 6.62± acres as Industrial Development (5.41± acres uplands, 1.21± acres wetlands) and 1.05± acres as Wetlands (1.05± acres wetlands). The 5.41± acres of uplands are proposed to be changed to Urban Community and the wetlands (2.26± acres) are proposed to be changed to Conservation Lands - Wetlands.*

**III (B): Property Information – Current Future Land Use Designation:**

It appears part of the property has existing wetlands designated. If this is the case, list it as a Future Land Use designation. This could impact the response to III(B): Property Information – Area of each Existing Future Land Use Category.



*Response: The application has been revised to reflect existing land use as 6.62± acres as Industrial Development (5.41± acres uplands, 1.21± acres wetlands) and 1.05± acres as Wetlands (1.05± acres wetlands). The 5.41± acres of uplands are proposed to be changed to Urban Community and the wetlands (2.26± acres) are proposed to be changed to Conservation Lands - Wetlands.*

**IV (B): Public Facilities**

- (1a) Identify the TAZ the comprehensive plan amendment site is located in. Is the comprehensive plan amendment going to impact the socio-economic data forecasts for that zone?

*Response: Please see attached Memorandum from TR Transportation Consultants, Inc.*

- (1b) Identify any changes to existing TAZ socio-economic data that will be required based on the comprehensive plan amendment. If no modifications are necessary, please state so. If changes are necessary. Respond to subsequent question 1c-f as necessary, if changes are made to the TAX socio-economic data.

*Response: Please see attached Memorandum from TR Transportation Consultants, Inc.*

**IV (B): Short Range – 5 Year CIP**

- (a) Three Mile Radius analysis to identify the existing roadways serving the site needs to be conducted. Indicate the laneage, functional classification, current LOS, and LOS standard.

*Response: Please see attached Memorandum from TR Transportation Consultants, Inc.*

- (c) For the five year horizon, identify the projected roadway conditions within the three-miles study area for both existing conditions and with the proposed plan amendment.

*Response: Please see attached Memorandum from TR Transportation Consultants, Inc.*

Please contact the Lee County Department of Transportation concerning this section of the application for comprehensive plan amendment.

**IV (C): Environmental Impacts**

- (1) Environmental assessment provided by Boylan Environmental Consultants, Inc. identifies a 7.67 acre site, please verify acreage.



*Response: This acreage is correct.*

- (3) Please identify the FIRM category the amendment site is located within. The graphic designating the FIRM category was originally color and was reproduced in black and white.

*Response: The subject property lies within flood zone A10:EL9 pursuant to Community 125124, Panel 0435, Version B, dated 09/19/84. Color exhibits are attached.*

#### **IV (D): Historic Impacts**

- (2) The comprehensive plan amendment site is located within a Lee County Archaeological Area, Sensitivity Level II site. Please provide analysis of the impacts the proposed amendment may have.

“Sensitivity Level 2: Those areas containing known archaeological sites that have not been assessed for significance but are likely to conform to the criteria for local designation, or areas where there is a high likelihood that unrecorded sites of potential significance are present.”

Please contact Gloria Sajgo for further information on Archaeological Sensitivity Level 2 areas.

*Response: Attached please find the Sufficiency Review for Historic and Archaeological Resources. This document states that there are no known historic sites or archaeological sites on the subject parcel and further states that the property is within Level 2 zone of archaeological sensitivity. The applicant will be required to apply for a Certificate to Dig as a condition for obtaining a Development Order. In reviewing the Certificate to Dig application, staff **may** require that the applicant have an archaeological survey conducted by an archaeologist. Conditions may be imposed depending on the results of the survey.*

#### **IV (E): Internal Consistency with the Lee Plan**

- (1) Table 1(b) pertains to the allocation of uses. Please expand your discussion to explain how your plan amendment will impact the Planning Community Allocation Table 1(b) and if the change is a benefit or a detriment to the Planning Community.

*Response: Currently there are 202 acres of commercial development in the Urban Community Land Use Category for the Iona/McGregor planning community. The proposed Comprehensive Plan Amendment would add an additional 5.41 acres to the commercial development while eliminating 5.41 acres from industrial development. This change will be a benefit to the Planning Community as the location is better suited for commercial development.*



- (3) Please describe how the proposed small scale amendment affects the adjacent local governments and their comprehensive plans, if no impact is anticipated please state so, NA is not an acceptable answer.

*Response: No impacts are anticipated to the adjacent local governments or their Comprehensive Plans.*

- (4) If State and Regional policy goals are not affected by the small scale amendment please state so, NA is not an acceptable answer.

*Response: State and Regional policy goals will not be affected by the proposed Comprehensive Plan Amendment.*

In addition to the above listed questions/concerns, prepared by the Division of Planning, your application was submitted to various agencies and divisions of Lee County Government responsible for a wide range of public services.

The comments to the original (1<sup>st</sup> submittal) are reproduced below:

**Lee DOT:**

Lee DOT is requesting the anticipated Zoning Category you will be applying for. This information will be used in running the transportation model used to determine the impact you will be generating on the surrounding transportation network.

*Response: A Commercial Planned Development will be requested once the Comprehensive Plan Amendment has been processed.*

**Lee County Parks and Recreation:**

- (1) I did not see any topographic map, but I assume the site is low in elevation based on a site inspection I did several years ago when this site was a Conservation 20/20 nomination and the entire site was flooded. It would appear that this site is entirely within the floodplain of Cow Slough and thus I assume that compensatory storage will be an issue with the development of this site.

*Response: The project has been permitted under South Florida Water Management District permit number 36-05751-P. A copy of the permit is attached. The eastern 222+/- feet of the subject property is within a SFWMD Conservation Easement and is proposed for Conservation Lands: Wetlands Land Use designation.*

- (2) The Future Land Use Map does not appear correct as the county owned portion to the east is comprised of Cow Slough, which is part of the Deep Lagoon Preserve.



We worked with Rob Irving in Environmental Sciences to have this site changed to Conservation Lands. Could you check with him on this designation?

*Response: The Future Land Use Map currently shows the property as Industrial Development and Wetlands land use categories.*

- (3) I suggest comparing the FLUCFCS map provided with that done when the site was going through review as a Conservation 20/20 nomination and the county paid an environmental consultant to map the uplands and wetlands. It was my recollection that most of the site was mapped as wetlands. This is supported to some extent by the soils map provided which indicates at least the western portion of the site has wetland characteristics as evidence by hydric soils.

*Response: The project has been permitted under South Florida Water Management District permit number 36-05751-P. A copy of the permit is attached. The eastern 222+/- feet of the subject property is within a SFWMD Conservation Easement and is proposed for Conservation Lands:Wetlands Land Use designation.*

- (4) I suggest that a buffer of at least 100' be required on the eastern boundary of the site if the rezoning is approved to protect water quality and wildlife habitat in the Deep Lagoon Preserve.

*Response: The eastern 222+/- feet of the subject property is within a SFWMD Conservation Easement and is proposed for Conservation Lands:Wetlands Land Use designation which will provide the desired protection.*

The comments from the 2<sup>nd</sup> submittal are reproduced below:

#### Smart Growth

Usually a site like this is an opportunity to attempt small scale mixed use. I would recommend that for this site, also, with most of the discussion at the plan development stage. However, there are two issues. The site is located next to the sewage treatment ponds, and the site seems to access onto Summerlin.

Regarding the ponds, the concern is whether there is any aerosol/odor issues, that makes residential inappropriate? The industrial designation would seem more likely to not have a conflict with this utility use.

*Response: The subject property has deed restrictions that do not allow residential development on the site. The Declaration of Restrictive Covenants is attached for reference.*

Second, access on Summerlin. At one time, Summerlin was considered a limited access roadway, with the intent to ensure that parcel division/subdivision was tied to coordinated



plans between parcels to limit access points. Is this parcel one with such a constraint?

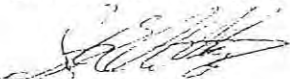
*Response: The proposed access point to the proposed development will be a shared access point with the residential subdivision that is proposed to the north of the subject property. As part of the rezoning for the residential subdivision, the applicant is proposing to relocate the designed Summerlin Road controlled access point 140' ± to the north. The relocated access point is being coordinated with Lee County DOT and will need approval by the Board of County Commissioners as part of the rezoning request. Attached please find a copy of a memo with attachments from Lee County DOT dated September 7, 2006 which states that they have no objection to the request and a copy of the grant of access easement.*

This letter should not be viewed as a final dead-line for comments from the above listed agencies. Should additional comments come in regarding sufficiency questions, they will be submitted to you in a timely a manner as possible.

Please continue your review of our responses to the sufficiency checklists. Should you have any questions or require additional information, please do not hesitate to contact me at 939-5490.

Sincerely,

BANKS ENGINEERING



Stacy Ellis Hewitt  
Director of Planning

cc: Rudy Maul  
Eddy Garcia



# Banks Engineering

Professional Engineers, Planners & Land Surveyors  
10511-101 Six Mile Cypress Parkway  
Fort Myers, Florida 33966  
(239) 939-5490  
Fax (239) 939-2523

*Please Reply To:*  
FORT MYERS OFFICE

## VICOTT, INC.

### SMALL SCALE COMPREHENSIVE PLAN AMENDMENT January 8, 2007

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Naples Office  
6640 Willow Park Dr.  
Suite B  
Naples, Florida  
34109  
(239) 597-2061  
Fax (239) 597-3082

Sarasota Office  
1144 Tallevast Road  
Suite # 115  
Sarasota, Florida  
34243  
(941) 360-1618  
Fax (941) 360-6918

Port Charlotte Office  
12653 SW CR 769  
Suite B  
Lake Suzy, Florida  
34691  
(941) 625-1165  
Fax (941) 625-1149



## TABLE OF CONTENTS

### VICOTT, INC.

#### APPLICATION FOR A COMPREHENSIVE PLAN AMENDMENT

#### AMENDMENT SUPPORTING DOCUMENTATION:

- A. GENERAL INFORMATION AND MAPS
- B. PUBLIC FACILITIES IMPACTS
- C. ENVIRONMENTAL IMPACTS
- D. IMPACTS ON HISTORIC RESOURCES
- E. INTERNAL CONSISTENCY WITH THE LEE PLAN
- F. ADDITIONAL REQUIREMENTS FOR SPECIFIC FUTURE LAND USE AMENDMENTS
- G. JUSTIFICATION FOR PROPOSED AMENDMENT

#### ADDITIONAL REQUIRED EXHIBITS:

- 1. VARIANCE REPORT
- 2. DECLARATION OF RESTRICTIVE COVENANTS
- 3. GRANT OF ACCESS EASEMENT
- 4. MEMO FROM LEE DOT AND DRAFT RESOLUTION WHICH DESIGNATES SUMMERLIN ROAD AS A CONTROLLED ACCESS ROAD AND ESTABLISHED PERMANENT ACCESS POINTS
- 5. SFWMD PERMIT NO. 36-05751-P





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  
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 VERIFIED:

Zoning ☐

Commissioner District ☐

Designation on FLUM ☐

(To be completed by Planning Staff)

Plan Amendment Cycle: ☐ Normal ☒ Small Scale ☐ DRI ☐ Emergency

Request No: CPA2005-00001 \_\_\_\_\_

### APPLICANT PLEASE NOTE:

Answer all questions completely and accurately. Please print or type responses. If additional space is needed, number and attach additional sheets. The total number of sheets in your application is: 111

Submit **6** copies of the complete application and amendment support documentation, including maps, to the Lee County Division of Planning. Additional copies may be required for Local Planning Agency, Board of County Commissioners hearings and the Department of Community Affairs' packages.

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.

01/09/07

DATE

SIGNATURE OF OWNER OR AUTHORIZED REPRESENTATIVE



I. APPLICANT/AGENT/OWNER INFORMATION

Vicott, Inc.

APPLICANT

10950 Old South Way

ADDRESS

Fort Myers,

FL

33908

CITY

STATE

ZIP

(239) 489-1814

(239) 489-1816

TELEPHONE NUMBER

FAX NUMBER

Banks Engineering, c/o Stacy Ellis Hewitt, Director of Planning

AGENT\*

10511 Six Mile Cypress Parkway, Suite 101

ADDRESS

Fort Myers,

FL

33966

CITY

STATE

ZIP

(239) 939-5490

(239) 939-2523

TELEPHONE NUMBER

FAX NUMBER

Vicott, Inc.

AND Sunset Falls, LLC

(Strap No. 05-46-24-00-00003.0030)

(Strap No. 05-46-24-00-00003.0020)

OWNER(s) OF RECORD

10950 Old South Way

8045 NW 115 Street

ADDRESS

Fort Myers, FL 33908

Miami Lakes, FL 33016

CITY/STATE/ZIP

(239) 489-1814 / (239) 489-1816

(305) 828-0103 / (305) 828-0147

TELEPHONE/FAX NUMBERS

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.



**II. REQUESTED CHANGE (Please see Item 1 for Fee Schedule)**

**A. TYPE: (Check appropriate type)**

☐ Text Amendment

☒ Future Land Use Map Series Amendment  
(Maps 1 thru 21)  
List Number(s) of Map(s) to be amended  
Map No. 1

**B. SUMMARY OF REQUEST (Brief explanation):**

Change Future Land Use Map of subject property from  
Industrial Development and Wetlands to Urban Community and Conservation  
Lands – Wetlands to allow for the property to be rezoned and developed as a  
Commercial Planned Development.

**III. PROPERTY SIZE AND LOCATION OF AFFECTED PROPERTY  
(for amendments affecting development potential of property)**

**A. Property Location:**

1. Site Address: Access Undetermined, Fort Myers, FL 33908
2. STRAP(s): 05-46-24-00-00003.0030 & 05-46-24-00-00003.0020

**B. Property Information**

Total Acreage of Property: 7.67+/- Ac.

Total Acreage included in Request: 7.67+/- Ac.

Area of each Existing Future Land Use Category: \_\_\_\_\_

Total Uplands: Industrial Development: 5.41+/- Ac

Total Wetlands: Industrial Development: 1.21± Ac. / Wetlands: 1.05± Ac.

Current Zoning: AG-2

Current Future Land Use Designation: Industrial Development and Wetlands

Existing Land Use: Vacant



- 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:

Lehigh Acres Commercial Overlay: N/A

Airport Noise Zone 2 or 3: N/A

Acquisition Area: N/A

Joint Planning Agreement Area (adjoining other jurisdictional lands): N/A

Community Redevelopment Area: N/A

- D. Proposed change for the Subject Property: Industrial Development and Wetlands to Urban Community and Conservation Lands - Wetlands

- E. Potential development of the subject property:

1. Calculation of maximum allowable development under existing FLUM:

Residential Units/Density -0-

Commercial intensity 6,492 s.f.

Industrial intensity 64,920 s.f.

2. Calculation of maximum allowable development under proposed FLUM:

Residential Units/Density -0- (see attached restrictive covenants)

Commercial intensity 54,100 s.f.

Industrial intensity -0-

#### 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)

A. General Information and Maps

*NOTE: For each 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 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 3-mile 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.

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).



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.



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
Small Scale Amendment (10 acres or less)	\$1,500.00 each
Text Amendment Flat Fee	\$2,500.00 each

#### AFFIDAVIT

I, Stacy Ellis Hewitt, 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

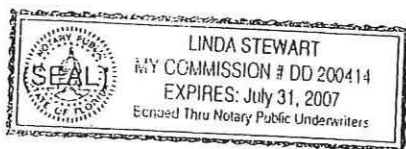
01/08/07

Date

Stacy Ellis Hewitt, Director of Planning  
Typed or printed name

STATE OF FLORIDA )  
COUNTY OF LEE )

The foregoing instrument was certified and subscribed before me this 8th day of Jan 2007,  
by Stacy Ellis Hewitt, who is personally known to me or who has produced  
\_\_\_\_\_ as identification.



Linda Stewart  
Signature of notary public

LINDA STEWART  
Printed name of notary public



VICOTT, INC.  
SMALL SCALE COMPREHENSIVE PLAN AMENDMENT  
AMENDMENT SUPPORT DOCUMENTATION

A. GENERAL INFORMATION AND MAPS:

1. Provide any proposed text changes: *There are no 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.  
*Please see attached Existing Future Land Use Map and Proposed Future Land Use Map.*

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.  
*Please see attached Aerial Photograph, Land Use and Zoning Map.*

*The property to the north is in the Urban Community Future Land Use Category and is currently vacant with a pending rezoning to RPD. The property to the east is in the Urban Community and Wetlands Future Land Use Categories and is currently vacant. Immediately to the south is Summerlin Road and the land south of the right-of-way is in Wetlands/Outlying Suburban Land Use Categories and Public Facilities Land Use Categories and is currently vacant. The property to the west is in the Public Facilities Land Use Category and consists of the Lee County Sewage Treatment ponds.*

*The proposed land use change for the subject property from Industrial Development and Wetlands to Urban Community and Conservation Lands – Wetlands will increase the compatibility with the existing and proposed land uses in the surrounding areas.*

4. Map and describe existing zoning of the subject property and surrounding properties.  
*Please see attached Aerial Photograph, Land Use and Zoning Map.*

*The subject property is zoned AG-2. The property to the north is zoned AG-2 and a Planned Development application for the Sunset Falls f/k/a Waterstone RPD project is currently being reviewed to rezone the property to a Residential Planned Development (DCI2005-00078). The property to the east is zoned AG-2 and is currently vacant. The subject property abuts Summerlin Road right-of-way to the south. The property on the south of Summerlin Road is zoned AG-2 and is currently vacant. The property to the west of the subject property is zoned CF-3 and consists of Lee County Sewage Treatment ponds.*



5. The legal description(s) for the property subject to the requested change.  
*The legal description included with the request includes all land subject to the Comprehensive Plan Amendment and encompasses 7.67 acres of land.*
6. A copy of the deed(s) for the property subject to the requested change.  
*Please see attached Warranty Deeds and Declaration of Restrictive Covenants.*
7. An aerial map showing the subject property and surrounding properties.  
*Please see attached Aerial Photograph, Land Use and Zoning Map.*
8. If an applicant is not the owner, a letter from the owner of the property authorizing the applicant to represent the owner.  
*Letters of authorization are attached.*



PROPOSED  
SUNSET FALLS  
F.K.A. WATERSTONE RPD  
URBAN COMMUNITY

PROPOSED  
CONSERVATION LANDS  
WETLANDS LAND  
USE DESIGNATION

VACANT  
WETLANDS  
ZONED AG-2

ZONED CF-3  
PUBLIC FACILITIES  
EXISTING LEE COUNTY  
SEWAGE TREATMENT  
PONDS

PROPOSED  
COMMERCIAL  
LAND USE  
DESIGNATION

SUMMERLIN ROAD

VACANT  
OUTLYING SUBURBAN  
ZONED AG-2



0 200 400 600  
GRAPHIC SCALE 1" = 200'

# **Banks Engineering**

Professional Engineers, Planners & Land Surveyors

0511 SIX MILL CYPRESS PARKWAY  
FORT MYERS, FLORIDA 33966  
(239) 939-5490 FAX (239) 939-2800  
ENGINEERING LICENSE # 00 5400  
SURVEY LICENSE # 00 5690

AERIAL LAND USE AND ZONING MAP

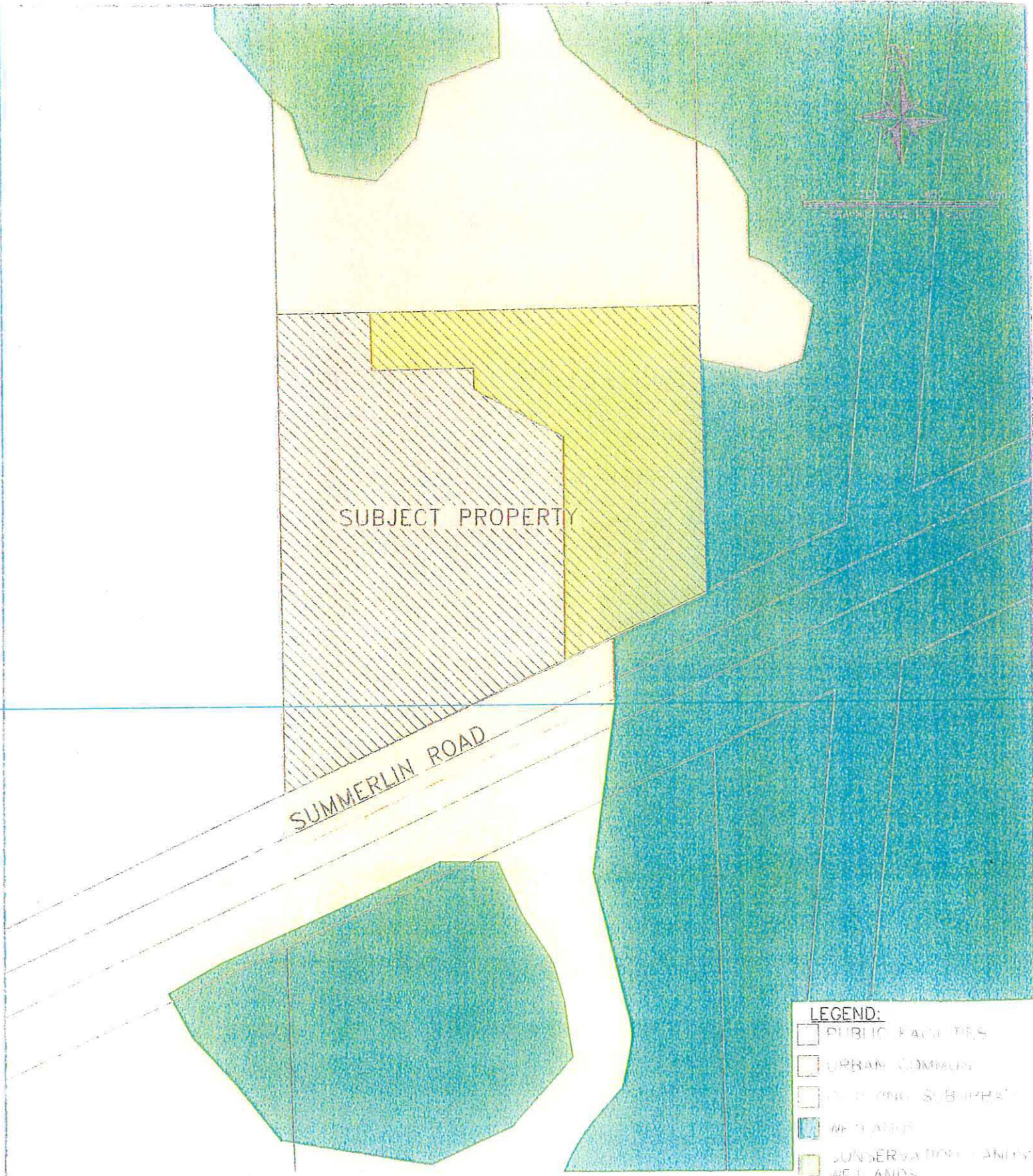
**VICOTT, INC.**  
LEE COUNTY, FLORIDA

DATE	PROJECT	DRAWING	DESIGN	GRAPH	CHECKED	SCALE	SHEET	NO.	OF TOTAL SHEETS
04-17-2007	1835	1835_AER	SDJ	SDJ	JCH	1"=200'	1	1	(05-98-24)









**LEGEND:**

- ☐ PUBLIC FACILITIES
- ☐ URBAN COMMERCIAL
- ☐ MEDIUM DENSITY RESIDENTIAL
- ☐ WETLANDS
- ☐ CONSERVATION/OPEN SPACE/WETLANDS

**Banks Engineering, Inc.**

Professional Engineers, Planners & Land Surveyors

10501 SIX MILE EXPRESS PARKWAY - SUITE 100  
FORT MYERS, FLORIDA 33917  
PHONE: (239) 330-5490 FAX: (239) 539-1521  
ENGINEERING LICENSE # 15,6447  
SURVEY LICENSE # 13,4620

**PROPOSED FUTURE LAND USE MAP**

**VICOTT, INC.**

LEE COUNTY, FLORIDA

DATE	PROJECT	DRAWING	DESIGN	DRAWN	CHECKED	SCALE	SHEET	NO.	PREPARED BY
01/08/07	1836	1836_LU	SDJ	SDJ	JGH	1"=200'	1		05-46-24



# **Banks Engineering**

Professional Engineers, Planners & Land Surveyors

12653 SW C.R. 769, Suite B

Lake Suzy, Florida 34269

(941) 625-1165

Fax (941) 625-1149

## DESCRIPTION OF A PARCEL LYING IN SECTION 5, T-46-S, R-24-E, LEE COUNTY, FLORIDA

(7.67 ACRES±)

A TRACT OR PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, LYING IN SECTION 5, TOWNSHIP 46 SOUTH, RANGE 24 EAST, BEING A PART OF THE EAST HALF OF THE WEST HALF OF THE SOUTHEAST QUARTER OF SAID SECTION 5, AND BEING FURTHER BOUNDED AND DESCRIBED AS FOLLOWS:

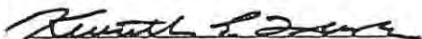
COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 5; THENCE S.89°01'42"W. ALONG THE SOUTH LINE OF SAID SECTION FOR 1319.00 FEET TO THE EAST LINE OF SAID EAST HALF OF THE WEST HALF OF THE SOUTHEAST QUARTER; THENCE N.01°26'45"W. ALONG SAID EAST LINE FOR 974.54 FEET TO AN INTERSECTION WITH THE NORTH RIGHT OF WAY LINE OF SUMMERLIN ROAD, (COUNTY ROAD 869), AND THE POINT OF BEGINNING; THENCE CONTINUE N.01°26'45"W., ALONG SAID EAST LINE, FOR 357.68 FEET; THENCE S.88°58'25"W., ALONG THE NORTH LINE OF THE SOUTH HALF OF SAID EAST HALF OF THE WEST HALF OF THE SOUTHEAST QUARTER, FOR 660.47 FEET; THENCE S.01°29'16"E., ALONG THE WEST LINE OF SAID EAST HALF OF THE WEST HALF OF THE SOUTHEAST QUARTER, FOR 654.93 FEET TO AN INTERSECTION WITH SAID NORTH RIGHT OF WAY LINE OF SUMMERLIN ROAD, (COUNTY ROAD 869); THENCE N.64°39'27"E., ALONG SAID NORTH RIGHT OF WAY, FOR 721.85 FEET TO THE POINT OF BEGINNING.

SAID PARCEL CONTAINS 334105.20 SQUARE FEET OR 7.67 ACRES MORE OR LESS.

BEARINGS ARE BASED ON THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 5 AS BEARING S.89°01'42"W.

BANKS ENGINEERING,  
FLORIDA LICENSED BUSINESS NO. LB6690

SEPTEMBER 14, 2006

  
KENNETH E. TRASK  
PROFESSIONAL LAND SURVEYOR  
FLORIDA LICENSE NO. LS4684

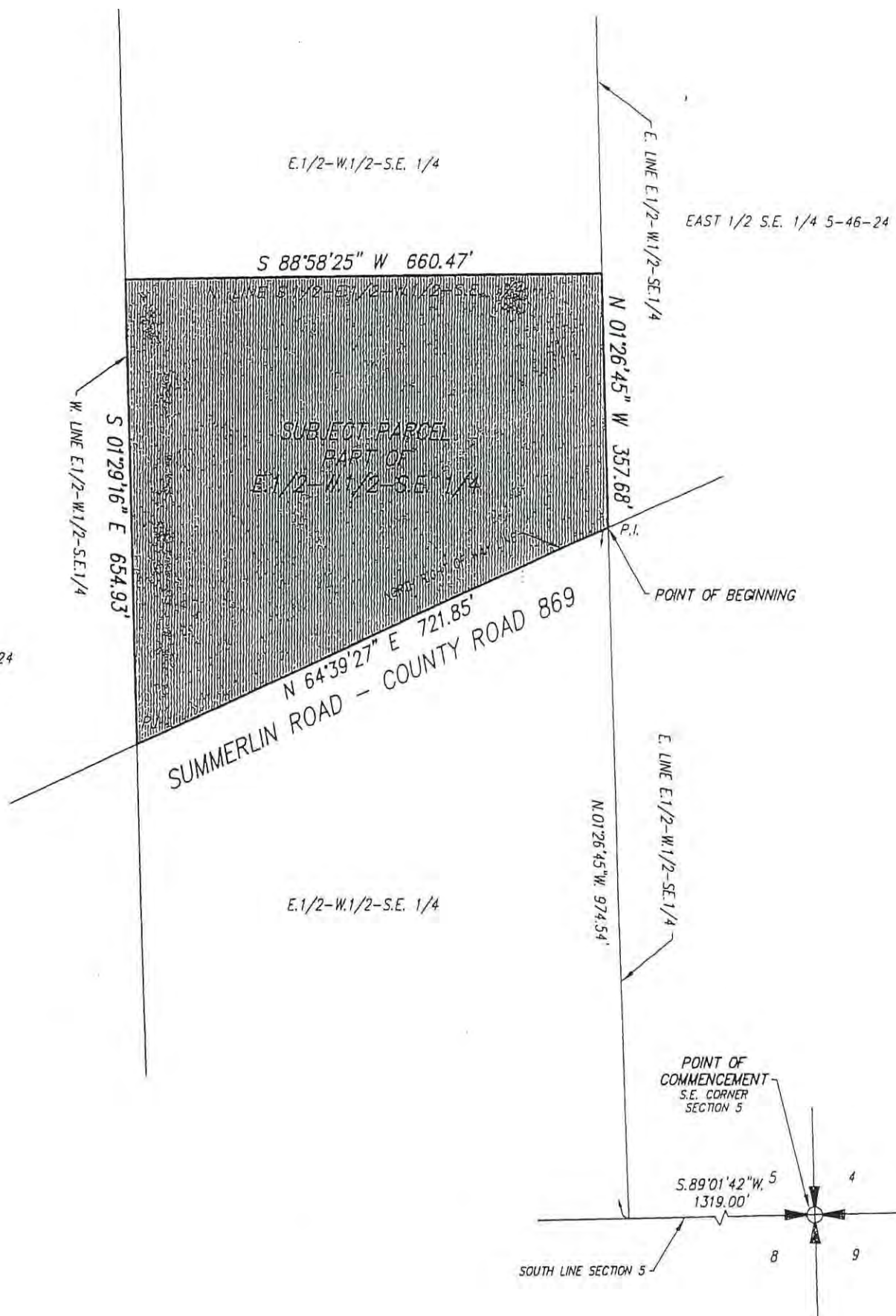
### SHEET 1 OF 2

Fort Myers Office  
10511 Six Mile Cypress  
Pkwy., Suite 101  
Fort Myers, FL  
33912  
(239) 939-5490  
Fax (239) 939-2523

Naples Office  
6640 Willow Park Dr.  
Suite B  
Naples, Florida  
34109  
(239) 597-2061  
Fax (239) 597-3082

Sarasota Office  
1144 Tallevast Road  
Suite # 115  
Sarasota, Florida  
34243  
(941) 360-1618  
Fax (941) 360-6918





KENNETH E. TRASK  
FLORIDA CERTIFICATE NO. LS4684

LS LAND SURVEYOR  
P.I. POINT OF INTERSECTION

SKETCH TO ACCOMPANY DESCRIPTION  
7.67 ACRES±  
LYING IN SECTION 5, T-46-S, R-24-E  
LEE COUNTY, FLORIDA

**Banks Engineering**

**Professional Engineers, Planners & Land Surveyors**  
 FORT MYERS ♦ NAPLES ♦ SARASOTA ♦ PORT CHARLOTTE  
 10511 SIX MILE CYPRESS PARKWAY - SUITE 101  
 FORT MYERS, FLORIDA 33912  
 PHONE: (239) 939-5400 FAX: (239) 939-2523  
 ENGINEERING LICENSE # EB 6469  
 SURVEY LICENSE # LB 8890

SKETCH TO ACCOMPANY DESCRIPTION  
**7.67 ACRES±**  
 LYING IN SECTION 5, T-46-S, R-24-E  
 LEE COUNTY, FLORIDA

DATE	PROJECT	DRAWING	DESIGN	DRAWN	CHECKED	SCALE	SHEET	FILE NO. (S-T-R)
09-14-2006	18JG	18JG-SUBMIT-PLOT-SKT-DESE		BUC	KT	1"=200'	2 of 2	5-46-24



# Banks Engineering

Professional Engineers, Planners & Land Surveyors

12653 SW C.R. 769, Suite B

Lake Suzy, Florida 34269

(941) 625-1165

Fax (941) 625-1149

DESCRIPTION OF AN EASEMENT  
LYING IN SECTION 5, T-46-S, R-24-E,  
LEE COUNTY, FLORIDA

(URBAN COMMUNITY PARCEL)

A TRACT OR PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, LYING IN SECTION 5, TOWNSHIP 46 SOUTH, RANGE 24 EAST, BEING A PORTION OF THE EAST HALF OF THE WEST HALF OF THE SOUTHEAST QUARTER OF SAID SECTION 5 AND BEING FURTHER BOUNDED AND DESCRIBED AS FOLLOWS:

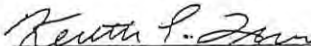
COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 5; THENCE S.89°01'42"W. ALONG THE SOUTH LINE OF SAID SECTION FOR 1319.00 FEET TO AN INTERSECTION WITH THE EAST LINE OF THE WEST HALF OF THE SOUTHEAST QUARTER OF SAID SECTION; THENCE N.01°26'45"W. ALONG SAID FRACTIONAL LINE FOR 974.54 FEET TO AN INTERSECTION WITH THE NORTH RIGHT OF WAY LINE OF SUMMERLIN ROAD, (COUNTY ROAD 869); THENCE S.64°39'27"W. ALONG SAID NORTH RIGHT OF WAY LINE FOR 244.28 FEET TO THE POINT OF BEGINNING; THENCE N.00°04'41"E. FOR 348.06 FEET; THENCE N.61°35'24"W. FOR 156.47 FEET; THENCE N.01°01'35"W. FOR 33.37 FEET; THENCE S.88°58'25"W. FOR 310.91 FEET; THENCE S 01°29'16" E, ALONG THE WEST LINE OF SAID EAST HALF OF THE WEST HALF OF THE SOUTHEAST QUARTER, FOR 654.93 FEET TO SAID NORTH RIGHT OF WAY LINE; THENCE N 64°39'27" E, ALONG SAID NORTH RIGHT OF WAY LINE, FOR 477.57 FEET TO THE POINT OF BEGINNING.

CONTAINING 236077 SQUARE FEET OR 5.41 ACRES MORE OR LESS.

BEARINGS ARE BASED ON THE SOUTH LINE OF SECTION 5 AS BEARING S.89°01'42"W.

BANKS ENGINEERING,  
FLORIDA LICENSED BUSINESS NO. LB6690

JANUARY 12, 2007

  
KENNETH E. TRASK  
PROFESSIONAL LAND SURVEYOR  
FLORIDA LICENSE NO. LS4684

## SHEET 1 OF 2

Fort Myers Office  
10511 Six Mile Cypress  
Pkwy., Suite 101  
Fort Myers, FL  
33912  
(239) 939-5490  
Fax (239) 939-2523

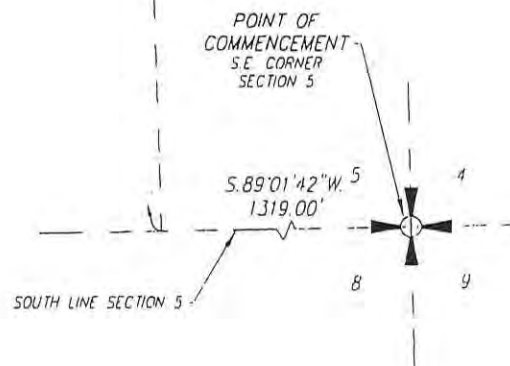
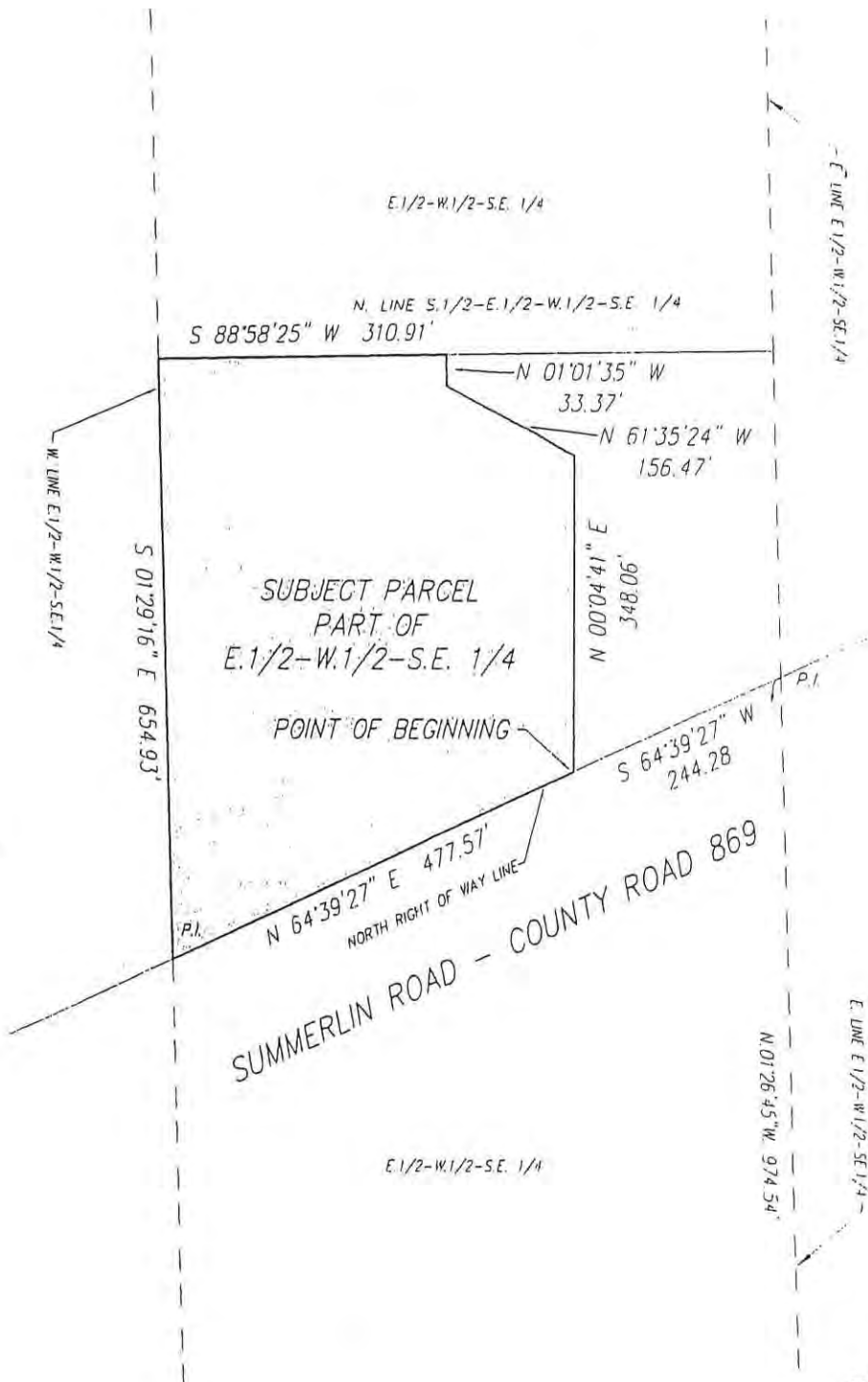
Naples Office  
6640 Willow Park Dr.  
Suite B  
Naples, Florida  
34109  
(239) 597-2061  
Fax (239) 597-3082

Sarasota Office  
1144 Tallevast Road  
Suite # 115  
Sarasota, Florida  
34243  
(941) 360-1618  
Fax (941) 360-6918





W. 1/2 - W. 1/2 - S.E. 1/4 5-46-24



#### LEGEND

LS LAND SURVEYOR  
P.I. POINT OF INTERSECTION

THIS IS NOT A BOUNDARY SURVEY

*Kenneth E. Trask*  
KENNETH E. TRASK  
FLORIDA CERTIFICATE NO. 15466

THIS IS NOT A BOUNDARY SURVEY

SKETCH TO ACCOMPANY DESCRIPTION

5.41 ACRES±

LYING IN SECTION 5, T-46-S, R-24-E  
LEE COUNTY, FLORIDA

**Thanks Engineering**  
Professional Engineers, Planners & Land Surveyors  
FORT MYERS ♦ NAPLES ♦ SARASOTA ♦ PORT CHARLOTTE  
10511 SIX MILE CYPRESS PARKWAY - SUITE 101  
FORT MYERS, FLORIDA 33912  
PHONE: (239) 939-5400 FAX: (239) 939-2523  
ENGINEERING LICENSE # EB 6469  
SURVEY LICENSE # LB 6690

DATE	PROJECT	DRAWING	DESIGN	DRAWN	CHECKED	SCALE	SHEET	FILE NO.
1-12-2007	1836	1836-D- P2-SK1		BJC	KT	1"=200'	2 OF 2	5-46-24



# Banks Engineering

Professional Engineers, Planners & Land Surveyors

12653 SW C.R. 769, Suite B

Lake Suzy, Florida 34269

(941) 625-1165

Fax (941) 625-1149

DESCRIPTION OF AN EASEMENT  
LYING IN SECTION 5, T-46-S, R-24-E,  
LEE COUNTY, FLORIDA

(CONSERVATION LANDS PARCEL)

A TRACT OR PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, LYING IN SECTION 5, TOWNSHIP 46 SOUTH, RANGE 24 EAST, BEING A PORTION OF THE EAST HALF OF THE WEST HALF OF THE SOUTHEAST QUARTER OF SAID SECTION 5 AND BEING FURTHER BOUNDED AND DESCRIBED AS FOLLOWS:

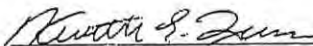
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CONTAINING 98230 SQUARE FEET OR 2.26 ACRES MORE OR LESS.

BEARINGS ARE BASED ON THE SOUTH LINE OF SECTION 5 AS BEARING S.89°01'42"W.

BANKS ENGINEERING,  
FLORIDA LICENSED BUSINESS NO. LB6690

JANUARY 12, 2007



KENNETH E. TRASK  
PROFESSIONAL LAND SURVEYOR  
FLORIDA LICENSE NO. LS4684

## SHEET 1 OF 2

Fort Myers Office  
10511 Six Mile Cypress  
Pkwy., Suite 101  
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33912  
(239) 939-5490  
Fax (239) 939-2523

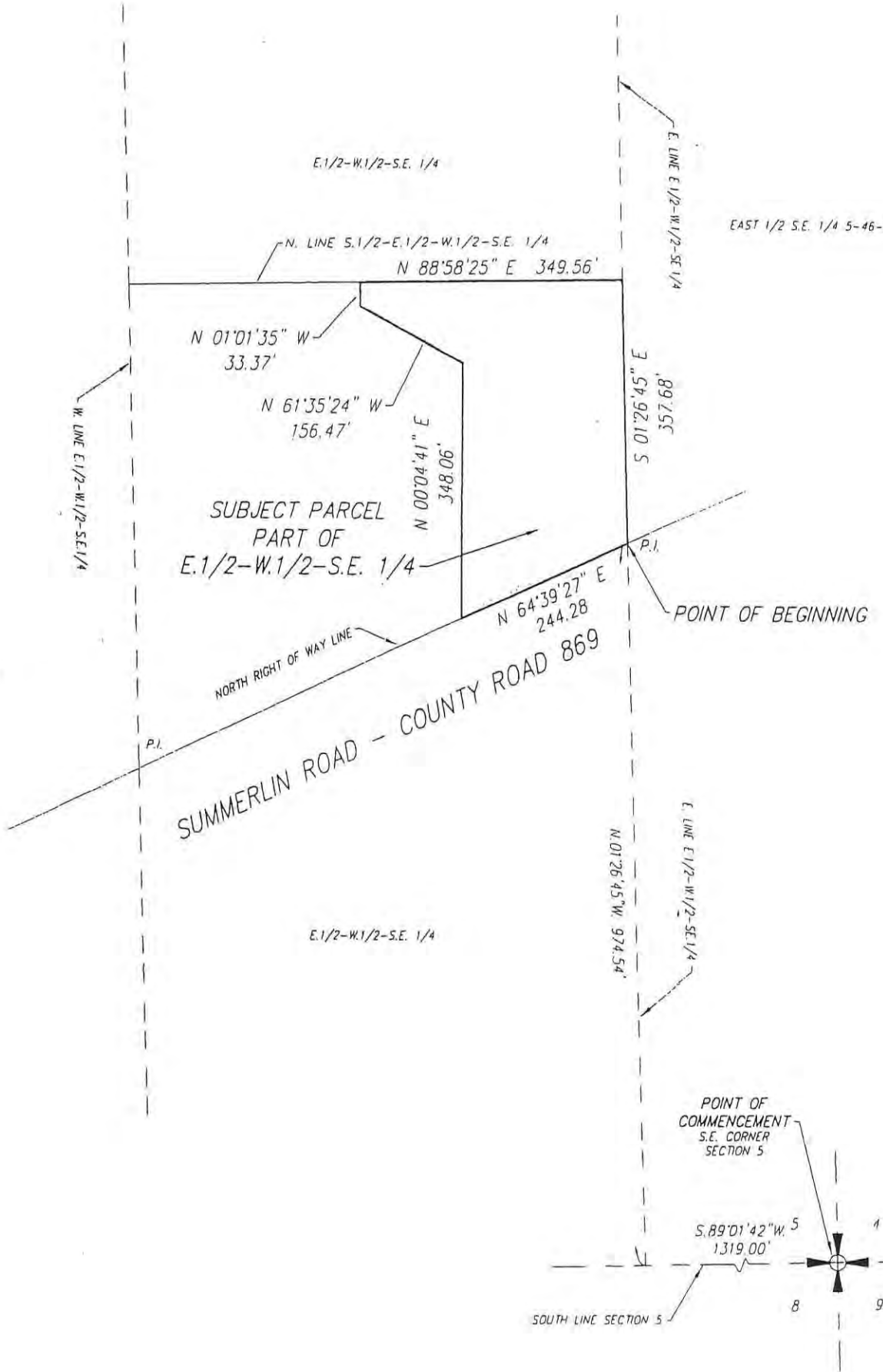
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(941) 360-1618  
Fax (941) 360-6918





W. 1/2 - W. 1/2 - S.E. 1/4 5-46-24



#### LEGEND

LS LAND SURVEYOR  
P.I. POINT OF INTERSECTION

THIS IS NOT A BOUNDARY SURVEY

*Kenneth E. Trask*  
KENNETH E. TRASK  
FLORIDA CERTIFICATE NO. LS468

THIS IS NOT A BOUNDARY SURVEY

SKETCH TO ACCOMPANY DESCRIPTION

2.26 ACRES±

LYING IN SECTION 5, T-46-S, R-24-E  
LEE COUNTY, FLORIDA

**Banks Engineering**  
Professional Engineers, Planners & Land Surveyors  
FORT MYERS ♦ NAPLES ♦ SARASOTA ♦ PORT CHARLOTTE  
10511 SIX MILE CYPRESS PARKWAY - SUITE 101  
FORT MYERS, FLORIDA 33912  
PHONE: (239) 939-5490 FAX: (239) 939-2523  
ENGINEERING LICENSE # EB 6489  
SURVEY LICENSE # LB 6690

DATE	PROJECT	DRAWING	DESIGN	DRAWN	CHECKED	SCALE	SHEET	FILE NO.
1-12-2007	1836	1836-D-PQ-SX1		BJC	KT	1"=200'	2 OF 2	5-46-24



# 2005 FOR PROFIT CORPORATION ANNUAL REPORT

DOCUMENT# P97000082961

Entity Name: VICOTT, INC.

FILED  
Apr 30, 2005  
Secretary of State

## Current Principal Place of Business:

1325 SE 47TH STREET  
SUITE G  
CAPE CORAL, FL 33904

## Current Mailing Address:

1325 SE 47TH STREET  
SUITE G  
CAPE CORAL, FL 33904

## New Principal Place of Business:

10950 OLD SOUTH WAY  
FT. MYERS, FL 33908

## New Mailing Address:

10950 OLD SOUTH WAY  
FT. MYERS, FL 33908

FEI Number: 65-0784185

FEI Number Applied For ( )

FEI Number Not Applicable ( )

Certificate of Status Desired ( )

## Name and Address of Current Registered Agent:

MAUL, ANTHONY A  
2418 SE 28TH STREET  
CAPE CORAL, FL 33904 US

## Name and Address of New Registered Agent:

The above named entity submits this statement for the purpose of changing its registered office or registered agent, or both, in the State of Florida.

SIGNATURE:

Electronic Signature of Registered Agent

Date

Election Campaign Financing Trust Fund Contribution ( ).

## OFFICERS AND DIRECTORS:

Title: PD ( ) Delete  
Name: MAUL, ANTHONY R  
Address: 2418 SE 28TH STREET  
City-St-Zip: CAPE CORAL, FL 33904

Title: VS ( ) Delete  
Name: MAUL, DONNA  
Address: 2418 SE 28TH STREET  
City-St-Zip: CAPE CORAL, FL 33904

## ADDITIONS/CHANGES TO OFFICERS AND DIRECTORS:

Title: ( ) Change ( ) Addition  
Name:  
Address:  
City-St-Zip:

Title: ( ) Change ( ) Addition  
Name:  
Address:  
City-St-Zip:

I hereby certify that the information supplied with this filing does not qualify for the for the exemption stated in Section 119.07(3)(i), Florida Statutes. I further certify that the information indicated on this report or supplemental report is true and accurate and that my electronic signature shall have the same legal effect as if made under oath; that I am an officer or director of the corporation or the receiver or trustee empowered to execute this report as required by Chapter 607, Florida Statutes; and that my name appears above, or on an attachment with an address, with all other like empowered.

SIGNATURE: DONNA MAUL

VS

04/30/2005

Electronic Signature of Signing Officer or Director

Date



P97000082961

# LEE PLANTATION

10950 Old South Way  
Fort Myers, Florida 33908

Office Use Only

## CORPORATION NAME(S) & DOCUMENT NUMBER(S), (if known):

800003407608--

-09/28/00--01035--001

\*\*\*\*\*35.00 \*\*\*\*\*35.0

1. \_\_\_\_\_  
(Corporation Name) (Document #)
2. \_\_\_\_\_  
(Corporation Name) (Document #)
3. \_\_\_\_\_  
(Corporation Name) (Document #)
4. \_\_\_\_\_  
(Corporation Name) (Document #)

- |                                    |                                       |  |
|------------------------------------|---------------------------------------|--|
| <input type="checkbox"/> Walk in   | <input type="checkbox"/> Pick up time | <input type="checkbox"/> Certified Copy        |
| <input type="checkbox"/> Mail out  | <input type="checkbox"/> Will wait    | <input type="checkbox"/> Certificate of Status |
| <input type="checkbox"/> Photocopy |                                       |  |

### NEW FILINGS

- ☐ Profit
- ☐ Not for Profit
- ☐ Limited Liability
- ☐ Domestication
- ☐ Other

### OTHER FILINGS

- ☐ Annual Report
- ☐ Fictitious Name

### AMENDMENTS

- ☐ Amendment
- ☐ Resignation of R.A., Officer/Director
- ☐ Change of Registered Agent
- ☐ Dissolution/Withdrawal
- ☐ Merger

### REGISTRATION/QUALIFICATION

- ☐ Foreign
- ☐ Limited Partnership
- ☐ Reinstatement
- ☐ Trademark
- ☐ Other

SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

00 SEP 28 PM 12:15

FILED

T. LEWIS OCT 4 2000

Examiner's Initials



ARTICLES OF AMENDMENT  
TO  
ARTICLES OF INCORPORATION  
OF

TRACO Realty of Southwest Florida, Inc.

Vicott, Inc.

(present name)

FILED  
00 SEP 28 PM 12:15  
SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

Pursuant to the provisions of section 607.1006, Florida Statutes, this Florida profit corporation adopts the following articles of amendment to its articles of incorporation:

**FIRST:** Amendment(s) adopted: (indicate article number(s) being amended, added or deleted)

Corporation Name Change to

Vicott, Inc

10950 Old South Way  
Ft. Myers, FL 33908

941-481-1499

**SECOND:** If an amendment provides for an exchange, reclassification or cancellation of issued shares, provisions for implementing the amendment if not contained in the amendment itself, are as follows:



**THIRD:** The date of each amendment's adoption: 4-25-2000

**FOURTH:** Adoption of Amendment(s) (CHECK ONE)

- ☒ The amendment(s) was/were approved by the shareholders. The number of votes cast for the amendment(s) was/were sufficient for approval.
- ☐ The amendment(s) was/were approved by the shareholders through voting groups. *The following statement must be separately provided for each voting group entitled to vote separately on the amendment(s):*

"The number of votes cast for the amendment(s) was/were sufficient for approval by \_\_\_\_\_ voting group."

- ☐ The amendment(s) was/were adopted by the board of directors without shareholder action and shareholder action was not required.
- ☐ The amendment(s) was/were adopted by the incorporators without shareholder action and shareholder action was not required.

Signed this 5 day of September, 2000

Signature

Anthony R. Maul

(By the Chairman or Vice Chairman of the Board of Directors, President or other officer if adopted by the shareholders)

OR

(By a director if adopted by the directors)

OR

(By an incorporator if adopted by the incorporators)

Anthony R. Maul

Typed or printed name

President

Title



# **Electronic Articles of Incorporation For**

P03000013199  
FILED  
February 04, 2003  
Sec. Of State

VICOTT CONSULTING, INC.

The undersigned incorporator, for the purpose of forming a Florida profit corporation, hereby adopts the following Articles of Incorporation:

## **Article I**

The name of the corporation is:

VICOTT CONSULTING, INC.

## **Article II**

The principal place of business address:

1325 SE 47TH STREET  
SUITE G  
FORT MYERS, FL. US 33904

The mailing address of the corporation is:

1325 SE 47TH STREET  
SUITE G  
FORT MYERS, FL. US 33904

## **Article III**

The purpose for which this corporation is organized is:

ANY AND ALL LAWFUL BUSINESS.

## **Article IV**

The number of shares the corporation is authorized to issue is:

1000

## **Article V**

The name and Florida street address of the registered agent is:

GEORGE L CONSOER JR.  
1625 HENDRY STREET  
SUITE 301  
FORT MYERS, FL. 33901



I certify that I am familiar with and accept the responsibilities of registered agent.

**P03000013199**  
**FILED**  
**February 04, 2003**  
**Sec. Of State**

Registered Agent Signature: GEORGE L. CONSOER, JR.

### **Article VI**

The name and address of the incorporator is:

VICOTT, INC.  
1325 SE 47TH STREET, SUITE G  
CAPE CORAL, FL 33904

Incorporator Signature: A. RUDOLPH MAUL

### **Article VII**

The initial officer(s) and/or director(s) of the corporation is/are:

Title: P  
A. RUDOLPH MAUL  
1325 SE 47TH STREET, SUITE G  
FORT MYERS, FL. 33904 US

Title: VP  
DONNA MAUL  
1325 SE 47TH STREET, SUITE G  
FORT MYERS, FL. 33904 US

### **Article VIII**

The effective date for this corporation shall be:

02/04/2003



Prepared by and return to:

George L. Consoer, Jr., Esq.  
 Knott, Consoer, Ebelini, Hart & Swett, P.A.  
 1625 Hendry Street Suite 300  
 Fort Myers, FL 33901  
 239-334-2722  
 File Number: Maul Swor  
 Will Call No.: 94

INSTR # 5929465

Official Records BK 04025 PG 4121

RECORDED 08/13/2003 04:26:18 PM

CHARLIE GREEN, CLERK OF COURT

LEE COUNTY

RECORDING FEE 6.00

DEED DOC 3,325.00

DEPUTY CLERK L Parent

Parcel Identification No. 05-46-24-00-00003.0010

[Space Above This Line For Recording Data]

**Warranty Deed**

(STATUTORY FORM - SECTION 689.02, F.S.)

**This Indenture** made this 12th day of August, 2003 between David W. Swor, individually, and as Trustee whose post office address is 6000 Forest Boulevard, Fort Myers, FL 33908 of the County of Lee, State of Florida, grantor\*, and Vicott, Inc., a Florida corporation whose post office address is 1325 SE 47th Street, Suite G, Cape Coral, FL 33904 of the County of Lee, State of Florida, grantee\*,

**Witnesseth**, that said grantor, for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable considerations to said grantor in hand paid by said grantee, the receipt whereof is hereby acknowledged, has granted, bargained, and sold to the said grantee, and grantee's heirs and assigns forever, the following described land, situate, lying and being in Lee County, Florida, to-wit:

The East one-half (E1/2) of the Northwest 1/4 of the Southeast 1/4 of Section 5, Township 46 South, Range 24 East and the East one-half (E1/2) of the Southwest 1/4 of the Southeast 1/4 of Section 5, Township 46 South, Range 24 East North of Summerlin Road a/k/a County Road 869 Lee County, Florida.

Grantor warrants that at the time of this conveyance, the subject property is not the Grantor's homestead within the meaning set forth in the constitution of the state of Florida, nor is it contiguous to or a part of homestead property. Grantor's residence and homestead address is: 6000 Forest Boulevard, Fort Myers, FL 33908.

and said grantor does hereby fully warrant the title to said land, and will defend the same against lawful claims of all persons whomsoever.

\* "Grantor" and "Grantee" are used for singular or plural, as context requires.

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

Signed, sealed and delivered in our presence:

Bonnie Fice  
 Witness Name: Bonnie Fice

W.A. Scanlon  
 Witness Name: W.A. Scanlon

David W. Swor (Seal)  
 David W. Swor, individually and as Trustee

State of Florida  
 County of Lee

The foregoing instrument was acknowledged before me this 12th day of August, 2003 by David W. Swor, who ☐ is personally known or ☒ has produced a driver's license as identification.

Charles M. Swett

6.00  
 3325.00





FORM #0145  
Rev. 08/95

SOUTH FLORIDA WATER MANAGEMENT DISTRICT  
ENVIRONMENTAL RESOURCE PERMIT NO. 36-05751-P  
DATE ISSUED: JUNE 14, 2006

PERMITTEE: VICOTT, INC.  
(SUNSET FALLS (F.K.A. WATERSTONE))  
10950 OLD SOUTH WAY,  
FORT MYERS, FL 33904

SUNSET FALLS, LLC  
(SUNSET FALLS (F.K.A. WATERSTONE))  
8045 NW 155 STREET,  
MIAMI LAKES, FL 33016

**PROJECT DESCRIPTION:** CONSTRUCTION AND OPERATION OF A SURFACE WATER MANAGEMENT SYSTEM SERVING A 109.03-ACRE RESIDENTIAL/ COMMERCIAL DEVELOPMENT KNOWN AS SUNSET FALLS (F.K.A. WATERSTONE) WITH DISCHARGE INTO WATERS OF CALOOSA HATCHEE RIVER VIA THE IDD CANAL C VIA SHEETFLOW THROUGH ADJACENT WETLANDS.

**PROJECT LOCATION:** LEE COUNTY, SECTION 5 TWP 46S RGE 24E

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

This Permit is issued pursuant to Application No. 050113-13, dated January 13, 2005. Permittee agrees to hold and save the South Florida Water Management District and its successors harmless from any and all damages, claims or liabilities which may arise by reason of the construction, operation, maintenance or use of activities authorized by this Permit. This Permit is issued under the provisions of Chapter 373, Part IV Florida Statutes (F.S.), and the Operating Agreement Concerning Regulation Under Part IV, Chapter 373 F.S., between South Florida Water Management District and the Department of Environmental Protection. Issuance of this Permit constitutes certification of compliance with state water quality standards where necessary pursuant to Section 401, Public Law 92-500, 33 USC Section 1341, unless this Permit is issued pursuant to the net improvement provisions of Subsections 373.414(1)(b), F.S., or as otherwise stated herein.

This Permit may be transferred pursuant to the appropriate provisions of Chapter 373, F.S. and Sections 40E-1.6107(1) and (2), and 40E-4.351(1), (2), and (4), Florida Administrative Code (F.A.C.). This Permit may be revoked, suspended, or modified at any time pursuant to the appropriate provisions of Chapter 373, F.S. and Sections 40E-4.351(1), (2), and (4), F.A.C.

This Permit shall be subject to the General Conditions set forth in Rule 40E-4.381, F.A.C., unless waived or modified by the Governing Board. The Application, and the Environmental Resource Permit Staff Review Summary of the Application, including all conditions, and all plans and specifications incorporated by reference, are a part of this Permit. All activities authorized by this Permit shall be implemented as set forth in the plans, specifications, and performance criteria as set forth and incorporated in the Environmental Resource Permit Staff Review Summary. Within 30 days after completion of construction of the permitted activity, the Permittee shall submit a written statement of completion and certification by a registered professional engineer or other appropriate individual, pursuant to the appropriate provisions of Chapter 373, F.S. and Sections 40E-4.361 and 40E-4.381, F.A.C.

In the event the property is sold or otherwise conveyed, the Permittee will remain liable for compliance with this Permit until transfer is approved by the District pursuant to Rule 40E-1.6107, F.A.C.

**SPECIAL AND GENERAL CONDITIONS ARE AS FOLLOWS:**

SEE PAGES 2 - 5 OF 8 (30 SPECIAL CONDITIONS).  
SEE PAGES 6 - 8 OF 8 (19 GENERAL CONDITIONS).

SOUTH FLORIDA WATER MANAGEMENT  
DISTRICT, BY ITS GOVERNING BOARD

On \_\_\_\_\_ ORIGINAL SIGNED BY:  
By ELIZABETH VEGUILLA  
DEPUTY CLERK

PAGE 1 OF 8

CPA 2005-00001





## SPECIAL CONDITIONS

1. The construction phase of this permit shall expire on June 14, 2011.
2. Operation of the surface water management system shall be the responsibility of WATERSTONE COMMUNITY ASSOCIATION, INC. Within one year of permit issuance or concurrent with the engineering certification of construction completion, whichever comes first, the permittee shall submit a copy of the recorded deed restrictions (or declaration of condominium, if applicable), a copy of the filed articles of incorporation, and a copy of the certificate of incorporation for the association.
3. Discharge Facilities:

## Basin B1

1 - 10.25" W X 13.50" H RECTANGULAR ORIFICE with invert at elev. 4.00' NGVD.  
422 LF of 30" dia. REINFORCED CONCRETE PIPE culvert.  
1 - 4.00' W X 5.50' L FDOT Mod. type "E" drop inlet with crest at elev. 7.33' NGVD.

Receiving body : Adjacent Wetlands  
Control elev : 4.00 feet NGVD.

## Basin B2

1 - 3.50" dia. CIRCULAR ORIFICE with invert at elev. 3.73' NGVD.  
22 LF of 24" dia. REINFORCED CONCRETE PIPE culvert.  
1 - 3.33' W X 4.42' L FDOT Mod. type "C" drop inlet with crest at elev. 6.84' NGVD.

Receiving body : Adjacent Wetlands  
Control elev : 3.73 feet NGVD.

## Basin B3

1 - 2" WIDE BROAD CRESTED weir with crest at elev. 6.00' NGVD.  
1 - 3.75" dia. CIRCULAR ORIFICE with invert at elev. 3.73' NGVD.  
14 LF of 24" dia. REINFORCED CONCRETE PIPE culvert.  
1 - 3.33' W X 4.42' L FDOT Mod. type "C" drop inlet with crest at elev. 7.15' NGVD.

Receiving body : Adjacent Wetlands  
Control elev : 3.73 feet NGVD.

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.

C PA 2005-00001





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. Minimum building floor elevation:  

Basin B1 -	9.20 feet NGVD.
Basin B3 -	9.20 feet NGVD.
13. Minimum road crown elevation:  

Basin B1 -	6.50 feet NGVD.
Basin B2 -	6.00 feet NGVD.
Basin B3 -	6.70 feet NGVD.
14. Minimum parking lot elevation:  

Basin B1 -	6.50 feet NGVD.
Basin B2 -	6.00 feet NGVD.
Basin B3 -	6.70 feet NGVD.
15. The Permittee shall utilize the criteria contained in the Stormwater Pollution Prevention Plan and on the applicable approved construction drawings for the duration of the projects construction activities. Exhibits No. 4.0-4.8 have been incorporated by reference and shall be retained in the permit file.
16. The Urban Stormwater Management Program (Exhibit Nos.5.0-5.5) shall be included as part of the Property Owners Association documents prior to being recorded. Prior to recording of the Property Owners Association documents the amended documents shall be submitted to the Enforcement and Compliance section at the Fort Myers Lower West Coast Service Center for approval. Exhibit "D" of the draft Property Owners Association documents, Urban Stormwater Management Program has been included in this permit by reference (please see permit file).
17. Any proposed revisions to the permitted work schedule shown on Exhibit No. 3.4 must include documentation that mitigation work will be completed prior to or concurrently with authorized wetland impacts.
18. Prior to the commencement of construction, the permittee shall conduct a pre-construction meeting with field representatives, contractors and District staff. The purpose of the meeting will be to discuss with the permittee and contractors the construction methods and sequencing. The topics shall include the method proposed to retain native vegetation within preserve areas while removing exotic vegetation species, the type and location of erosion controls to be implemented during construction, the mobilization and staging of contractor equipment and construction dewatering. The permittee shall contact District Environmental Resource Compliance staff from the Lower West Coast Service Center at (239)338-2929 to schedule the pre-construction meeting.

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2005-00001





19. Permanent physical markers designating the preserve status of the wetland preservation areas and buffer zones shall be placed as shown on Exhibit No. 2.13, cross-section H-H. The markers shall be maintained in perpetuity.
20. No root structure, including aerial prop-roots of red mangroves, may be altered, regardless of their size or height. Additionally, all mangrove ground cover and leaf litter are to remain undisturbed.
21. Prior to the commencement of construction, the perimeter of protected wetlands, buffer zones and upland preservation areas shall be staked and roped to prevent encroachment into the protected areas. Using Global Positioning System (GPS) technology, the perimeter of the preserve area(s) shall be identified for future reference. The data shall be differentially corrected and accurate to less than a meter (+/- one meter or better). Electronic copies of the GPS data shall be provided to the District's Environmental Resource Compliance staff. The permittee shall notify the District's Environmental Resource Compliance staff in writing upon completion of the staking and roping and schedule an inspection of this work. The staking and roping shall be subject to District staff approval. The permittee shall modify the staking and roping if District staff determines that it is insufficient or is not in conformance with the intent of this permit. The staking and roping shall remain in place until all adjacent construction activities are complete.
22. Prior to the commencement of construction and in conformance with the work schedule in Exhibit 3.4, the permittee shall provide an original letter of credit/bond in the amount of \$141,900 to ensure the permittee's financial ability and commitment to complete the proposed mitigation, monitoring and maintenance plan as shown on Exhibit No. 3.3. The letter of credit/bond shall be in substantial conformance with Exhibit No. 3.7. When a performance bond is established, the permittee shall also establish a standby trust fund for deposit of all payments under bond. The letter of credit/bond shall remain in effect for the entire period of the mitigation and monitoring program. Notification of the District by the financial institution that the letter of credit/bond will not be renewed or is no longer in effect shall constitute non-compliance with the permit.
23. A monitoring and maintenance program for the mitigation area(s) shall be implemented in accordance with Exhibit No. 3.3. The monitoring program shall extend for a period of five years with annual reports submitted to District Environmental Resource Compliance staff, or longer as needed to demonstrate compliance with the criteria below.

Vegetative success criteria for the mitigation areas are:

A) All mitigation areas:

- 1) Will be maintained to less than 5% exotic nuisance plants (as defined by the Florida Exotic Pest Plant Council at the time of permit issuance) for 5 consecutive years to achieve success, then in perpetuity per the long-term maintenance provisions.
- 2) Other nuisance plants shall be controlled at no more than 5% coverage and maintained at or below this level for 5 consecutive years, and in perpetuity per the long-term maintenance provisions.
- 3) In addition, exotic and other nuisance plants shall be controlled such that these species do not dominate any one section of those areas. Specifically, no area of 1/2 acre in size shall exceed the 5% coverage required for the overall conservation area.

B) Uplands/Buffers:

- 4) The percent cover of native plant species in the uplands shall not decrease for 5 consecutive years, nor in perpetuity per the long-term maintenance provisions.

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2005-00001

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## C) Wetlands:

- 5) Shall remain free of livestock, not be subject to tree cutting (other than removal of exotic or nuisance species) and have sustainable wetland hydrology with at least 3 months of inundation and saturation during years with typical rainfall.
- 6) Created wetlands shall have at least 80% coverage of beneficial native wetland species within 3 years. If this coverage is not achieved, additional mulching and/or planting will be done to assure 80% coverage.
- 7) Planted trees shall have at least an 80% survival for 5 consecutive years, showing normal growth (girth and height).
24. Prior to commencement of construction in wetlands and in accordance with the work schedule in Exhibit No. 3.4, the permittee shall submit documentation from Florida Department of Environmental Protection that 2.96 salt water forested credits and 1.92 fresh water herbaceous credits have been deducted from the ledger for Little Pine Island Mitigation Bank.
25. A mitigation program for Sunset Falls (formerly known as Waterstone) shall be implemented in accordance with Exhibit No. 3.3. The permittee shall create 1.15 acres of transitional wetland, enhance 24.59 acres of wetlands, enhance 1.75 acres of upland and 1.01 acres of upland preserve.
26. If monitoring reports or other information show the preserved wetlands have been negatively affected by the permitted development in a manner that is irreversible (such as impounding the wetland and drowning the existing vegetation or a reduction in the hydroperiod resulting in the transition of wetlands into upland/transitional habitat), the permittee shall be required to submit a remediation plan within 30 days of notification by the District's Environmental Resource Compliance staff of such conditions. The remediation plan may include onsite or offsite mitigation as necessary to address any deficiencies.
27. Permanent physical markers designating the preserve status of the wetland preservation areas and buffer zones shall be placed at the intersection of the buffer and each lot line. These markers shall be maintained in perpetuity.
28. The wetland impacts authorized by this permit may only occur subsequent to or concurrently with construction and implementation of the mitigation plan. If revisions to the work schedule shown on Exhibit No. 3.4 and referenced in special condition No. 29 are necessary, the permittee shall coordinate with the District's Environmental Resource Compliance Department to ensure compliance with this condition.
29. Activities associated with the implementation of the mitigation, monitoring and maintenance plan(s) shall be completed in accordance with the work schedule attached as Exhibit No. 3.4. Any deviation from these time frames will require prior approval from the District's Environmental Resource Compliance staff. Such requests must be made in writing and shall include (1) reason for the change, (2) proposed start/finish and/or completion dates; and (3) progress report on the status of the project development or mitigation effort.
30. In accordance with Exhibit No. 3.4, the permittee shall provide to the District the fully executed and recorded document depicted in Exhibit 3.6 to this staff report.

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## 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.
6. Within 30 days after completion of construction of the permitted activity, the permittee 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

CPA 2005-00001





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 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

CPA 2005-00001

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PERMIT COUNTER



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 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.



CPA 2005-00001



## 40E-4.321 Duration of Permits

(1) Unless revoked or otherwise modified the duration of an environmental resource permit issued under this chapter or Chapter 40E-40, F.A.C., is as follows:

(a) For a conceptual approval, two years from the date of issuance or the date specified as a condition of the permit, unless within that period an application for an individual or standard general permit is filed for any portion of the project. If an application for an environmental resource permit is filed then the conceptual approval remains valid until final action is taken on the environmental resource permit application. If the application is granted, then the conceptual approval is valid for an additional two years from the date of issuance of the permit. Conceptual approvals which have no individual or standard general environmental resource permit applications filed for a period of two years shall expire automatically at the end of the two year period.

(b) For a conceptual approval filed concurrently with a development of regional impact (DRI) application for development approval (ADA) and a local government comprehensive plan amendment, the duration of the conceptual approval shall be two years from whichever one of the following occurs at the latest date:

1. the effective date of the local government's comprehensive plan amendment.
2. the effective date of the local government development order.
3. the date on which the District issues the conceptual approval, or
4. the latest date of the resolution of any Chapter 120.57, F.A.C., administrative proceeding or other legal appeals.

(c) For an individual or standard general environmental resource permit, five years from the date of issuance or such amount of time as made a condition of the permit.

(d) For a noticed general permit issued pursuant to chapter 40-E-400, F.A.C., five years from the date the notice of intent to use the permit is provided to the District.

(2)(a) Unless prescribed by special permit condition, permits expire automatically according to the timeframes indicated in this rule. If application for extension is made in writing pursuant to subsection (3), the permit shall remain in full force and effect until:

1. the Governing Board takes action on an application for extension of an individual permit, or
2. staff takes action on an application for extension of a standard general permit.

(b) Installation of the project outfall structure shall not constitute a vesting of the permit.

(3) The permit extension shall be issued provided that a permittee files a written request with the District showing good cause prior to the expiration of the permit. For the purpose of this rule, good cause shall mean a set of extenuating circumstances outside of the control of the permittee. Requests for extensions, which shall include documentation of the extenuating circumstances and how they have delayed this project, will not be accepted more than 180 days prior to the expiration date.

(4) Substantial modifications to Conceptual Approvals will extend the duration of the Conceptual Approval for two years from the date of issuance of the modification. For the purposes of this section, the term "substantial modification" shall mean a modification which is reasonably expected to lead to substantially different water resource or environmental impacts which require a detailed review.

(5) Substantial modifications to individual or standard general environmental resource permits issued pursuant to a permit application extend the duration of the permit for three years from the date of issuance of the modification. Individual or standard general environmental resource permit modifications do not extend the duration of a conceptual approval.

(6) Permit modifications issued pursuant to subsection 40E-4.331(2)(b), F.A.C. (letter modifications) do not extend the duration of a permit.

(7) Failure to complete construction or alteration of the surface water management system and obtain operation phase approval from the District within the permit duration shall require a new permit authorization in order to continue construction unless a permit extension is granted.

Specific authority 373.044, 373.113 F.S. Law Implemented 373.413, 373.416, 373.419, 373.426 F.S. History—New 9-3-81, Amended 1-31-82, 12-1-82, Formerly 16K-4.07(4), Amended 7-1-86, 4/20/94, Amended 7-1-86, 4/20/94, 10-3-95

CPA



2005-00001





Return recorded document to:  
South Florida Water Management District  
3301 Gun Club Road, MSC 4230  
West Palm Beach, FL 33406

 DRAFT

APPLICATION NUMBER  
050113-13

DEED OF CONSERVATION EASEMENT

THIS DEED OF CONSERVATION EASEMENT is given this 6th day of April, 2006, by Sunset Falls, LLC ("Grantor") whose mailing address is 8045 NW 155 Street Miami Lakes, FL 33016 to the South Florida Water Management District ("Grantee"). As used herein, the term "Grantor" shall include any and all heirs, successors or assigns of the Grantor, and all subsequent owners of the "Property" (as hereinafter defined) and the term "Grantee" shall include any successor or assignee of Grantee.

WITNESS

WHEREAS, the Grantor is the owner of certain lands situated in Lee County, Florida, and more specifically described in Exhibit "A" attached hereto and incorporated herein ("Property"); and

WHEREAS, the Grantor desires to construct Sunset Falls ("Project") at a site in Lee County, which is subject to the regulatory jurisdiction of South Florida Water Management District ("District"); and

WHEREAS, District Permit No. App#050113-13 ("Permit") authorizes certain activities which affect waters in or of the State of Florida; and

WHEREAS, this Permit requires that the Grantor preserve, enhance, restore and/or mitigate wetlands and/or uplands under the District's jurisdiction; and

WHEREAS, the Grantor, in consideration of the consent granted by the Permit, is agreeable to granting and securing to the Grantee a perpetual Conservation Easement as defined in Section 704.06, Florida Statutes, over the Property.

NOW, THEREFORE, in consideration of the issuance of the Permit to construct and operate the permitted activity, and as an inducement to Grantee in issuing the Permit, together with other good and valuable consideration, the adequacy and receipt of which are hereby acknowledged, Grantor hereby grants, creates, and establishes a perpetual Conservation Easement for and in favor of the Grantee upon the Property which shall run with the land and be binding upon the Grantor, and shall remain in full force and effect forever.



CPA 2005-00001

ADD/REVISED SUBMITTAL  
APR 12 2006  
**EXHIBIT**  
LWC SERVICE CENTER  
**3-6A**



15. JAN 11 2005  
PERMIT COUNTER

The scope, nature, and character of this Conservation Easement shall be as follows:

1. Recitals. The recitals hereinabove set forth are true and correct and are hereby incorporated into and made a part of this Conservation Easement.

2. Purpose. It is the purpose of this Conservation Easement to retain land or water areas in their natural, vegetative, hydrologic, scenic, open, agricultural or wooded condition and to retain such areas as suitable habitat for fish, plants or wildlife. Those wetland and/or upland areas included in this Conservation Easement which are to be enhanced or created pursuant to the Permit shall be retained and maintained in the enhanced or created conditions required by the Permit.

To carry out this purpose, the following rights are conveyed to Grantee by this easement:

a. To enter upon the Property at reasonable times with any necessary equipment or vehicles to enforce the rights herein granted in a manner that will not unreasonably interfere with the use and quiet enjoyment of the Property by Grantor at the time of such entry; and

b. To enjoy any activity on or use of the Property that is inconsistent with this Conservation Easement and to enforce the restoration of such areas or features of the Property that may be damaged by any inconsistent activity or use.

3. Prohibited Uses. Except for restoration, creation, enhancement, maintenance and monitoring activities, or surface water management improvements, or other activities described herein that are permitted or required by the Permit, the following activities are prohibited in or on the easement area:

a. Construction or placing of buildings, roads, signs, billboards or other advertising, utilities, or other structures on or above the ground;

b. Dumping or placing of soil or other substance or material as landfill, or dumping or placing of trash, waste, or unsightly or offensive materials;

c. Removal or destruction of trees, shrubs, or other vegetation, except for the removal of exotic or nuisance vegetation in accordance with a District approved maintenance plan;

d. Excavation, dredging, or removal of loam, peat, gravel, soil, rock, or other material substance in such manner as to affect the surface;

e. Surface use except for purposes that permit the land or water area to remain in its natural or enhanced condition;

f. Activities detrimental to drainage, flood control, water conservation, erosion control, soil conservation, or fish and wildlife habitat preservation including, but not limited to, ditching, diking and fencing;

CPA 2005-00001



g. Acts or uses detrimental to such aforementioned retention of land or water areas;

h. Acts or uses which are detrimental to the preservation of the structural integrity or physical appearance of sites or properties having historical, archaeological, or cultural significance.

4. Grantor's Reserved Rights. Grantor reserves all rights as owner of the Property, including the right to engage in uses of the Property that are not prohibited herein and which are not inconsistent with any District rule, criteria, permit and the intent and purposes of this Conservation Easement.

5. No Dedication. No right of access by the general public to any portion of the Property is conveyed by this Conservation Easement.

6. Grantee's Liability. Grantee shall not be responsible for any costs or liabilities related to the operation, upkeep or maintenance of the Property.

7. Acts Beyond Grantor's Control. Nothing contained in this instrument shall be construed to entitle Grantee to bring any action against Grantor for any injury to or change in any portion of the Property other than Conservation Areas specified in Permit No. App#050113-13, that result from natural causes beyond Grantor's control, and not initiated by the Grantor, including but not limited to fire, flood, storm and earth movement. Should any Conservation Area be injured or changed from natural causes, including but not limited to fire, flood, storm and earth movement, the Grantor shall be provided notice and a reasonable opportunity to restore the affected Conservation Area to a condition that satisfies the permit requirements prior to the Grantee bringing any action for noncompliance with the Permit.

8. Property Taxes. Grantor shall keep the payment of taxes and assessments on the Easement Parcel current and shall not allow any lien on the Easement Parcel superior to this Easement. In the event Grantor fails to extinguish or obtain a subordination of such lien, in addition to any other remedy, the Grantee may, but shall not be obligated to, elect to pay the lien on behalf of the Grantor and Grantor shall reimburse Grantee for the amount paid by the Grantee, together with Grantee's reasonable attorney's fees and costs, with interest at the maximum rate allowed by law, no later than thirty days after such payment. In the event the Grantor does not so reimburse the Grantee, the debt owed to Grantee shall constitute a lien against the Easement Parcel which shall automatically relate back to the recording date of this Easement. Grantee may foreclose this lien on the Easement Parcel in the manner provided for mortgages on real property.

9. Enforcement. Enforcement of the terms, provisions and restrictions of this Conservation Easement shall be at the reasonable discretion of Grantee, and any forbearance on behalf of Grantee to exercise its rights hereunder in the event of any breach hereof by Grantor, shall not be deemed or construed to be a waiver of Grantee's rights hereunder.

10. Assignment. Grantee will hold this Conservation Easement exclusively for



conservation purposes. Grantee will not assign its rights and obligations under this Conservation Easement except to another organization or entity qualified to hold such interests under the applicable state laws.

11. Severability. If any provision of this Conservation Easement or the application thereof to any person or circumstances is found to be invalid, the remainder of the provisions of this Conservation Easement shall not be affected thereby, as long as the purpose of the Conservation Easement is preserved.

12. Terms and Restrictions. Grantor shall insert the terms and restrictions of this Conservation Easement in any subsequent deed or other legal instrument by which Grantor divests itself of any interest in the Property.

13. Written Notice. All notices, consents, approvals or other communications hereunder shall be in writing and shall be deemed properly given if sent by United States certified mail, return receipt requested, addressed to the appropriate party or successor-in-interest.

14. Modifications. This Conservation Easement may be amended, altered, released or revoked only by written agreement between the parties hereto or their heirs, assigns or successors-in-interest, which shall be filed in the public records in Lee County.

TO HAVE AND TO HOLD unto Grantee forever. The covenants, terms, conditions, restrictions and purposes imposed with this Conservation Easement shall be binding upon Grantor, and shall continue as a servitude running in perpetuity with the Property.

Grantor hereby covenants with said Grantee that Grantor is lawfully seized of said Property in fee simple; that the Property is free and clear of all encumbrances that are inconsistent with the terms of this Conservation Easement; and all mortgages and liens have been subordinated to this Conservation Easement; and that Grantor has good right and lawful authority to convey this Conservation Easement; and that it hereby fully warrants and defends the title to the Conservation Easement hereby conveyed against the lawful claims of all persons whomsoever.

APPLICATION NUMBER

050113-13

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PERMIT CENTER

CPA 2005-00001

ADD/REVISED SUBMITTAL
APR 12 2006
LWC SERVICE CENTER

EXHIBIT

3-6D



IN WITNESS WHEREOF, Sunset Falls, LLC (Grantor) has hereunto set its authorized hand this 6th day of April, 2006.

Sunset Falls, LLC

a Florida corporation

By: [Signature]

Print Name: Eddy Garcia

Title: Managing Member



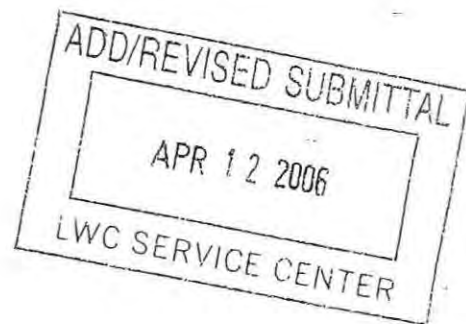
Signed, sealed and delivered  
in our presence as witnesses:

By: [Signature]

Print Name: Maria D Garcia

By: [Signature]

Print Name: William D. Hughes



STATE OF FLORIDA

) ss:

COUNTY OF Lee

On this 6th day of April, 2006, before me, the undersigned notary public, personally appeared Eddy Garcia, the person who subscribed to the foregoing instrument, as the Managing Member (Title) of Sunset Falls, LLC (Corporation), a Florida corporation, and acknowledged that he/she executed the same on behalf of said corporation and that he/she was duly authorized to do so. He/She is personally known to me or has produced a Personally Known (state) driver's license as identification.

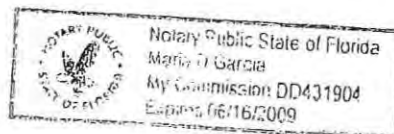
IN WITNESS WHEREOF, I hereunto set my hand and official seal.

NOTARY PUBLIC, STATE OF FLORIDA

[Signature]

Print Name: Maria D. Garcia

My Commission Expires: 6/16/09



CPA 2005-00001  
APPLICATION NUMBER  
050113-13

EXHIBIT  
3-6E



## MORTGAGEE JOINDER, CONSENT AND SUBORDINATION

For Ten Dollars (\$10.00) and other good and valuable consideration, the adequacy and receipt of which are hereby acknowledged, \_\_\_\_\_, the owner and holder of a mortgage dated \_\_\_\_\_, in the original principal amount of \$\_\_\_\_\_, given by \_\_\_\_\_ ("Grantor") to \_\_\_\_\_ ("Mortgagee"), encumbering the real property described on Exhibit "A" attached hereto ("Property"), which is recorded in Official Records Book \_\_\_\_\_, at Page \_\_\_\_\_, (together with that certain Assignment of Leases and Rents recorded in Official Records Book \_\_\_\_\_, at Page \_\_\_\_\_ and those certain UCC-1 Financing Statement(s) recorded in Official Records Book \_\_\_\_\_, at Page \_\_\_\_\_), all of the Public Records of \_\_\_\_\_ County, Florida (said mortgage, assignment of leases and rents, and UCC-1 Financing Statements, as modified, are hereinafter referred to as the "Mortgage"), hereby joins in, consents to and subordinates the lien of its Mortgage, as it has been, and as it may be, modified, amended and assigned from time to time, to the foregoing Conservation Easement, executed by \_\_\_\_\_, in favor of the South Florida Water Management District applicable to the Property ("Easement"), as said Easement may be modified, amended and assigned from time to time, with the intent that the Mortgage shall be subject and subordinate to the Easement.

IN WITNESS WHEREOF, this Mortgagee Joinder, Consent and Subordination is made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

(Mortgagee) N/A

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

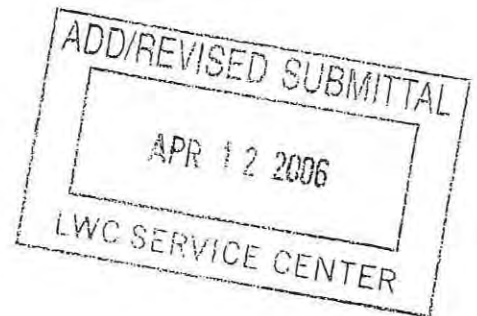
WITNESSES:

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

By: \_\_\_\_\_

Print Name: \_\_\_\_\_



APPLICATION NUMBER  
050113-13

C/PA 2005-00001

EXHIBIT

3-6 F



STATE OF FLORIDA  
COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_ (print name), as \_\_\_\_\_ (title) of \_\_\_\_\_ (Grantor of Mortgage), on behalf of the \_\_\_\_\_ (Mortgagee, Grantor of the Easement). He/She is personally known to me or has produced a \_\_\_\_\_ (state) driver's license as identification.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

NOTARY PUBLIC, STATE OF FLORIDA

\_\_\_\_\_  
Print Name: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

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EXHIBIT

3-69



EXHIBIT "A"

[DESCRIPTION OF PROPERTY]

RECEIVED  
JAN 10 2007  
PERMIT COUNTER

CPA 2005-00001

EXHIBIT

3.6 H



# **Banks Engineering**

Professional Engineers, Planners & Land Surveyors

12653 SW C.R. 769, Suite B

Lake Suzy, Florida 34269

(941) 625-1165

Fax (941) 625-1149

DESCRIPTION OF AN EASEMENT  
LYING IN SECTION 5, T-46-S, R-24-E,  
LEE COUNTY, FLORIDA

(CONSERVATION EASEMENT)

AN EASEMENT SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, LYING IN SECTION 5, TOWNSHIP 46 SOUTH, RANGE 24 EAST, BEING OVER, ACROSS AND THROUGH A PORTION OF THE WEST HALF OF THE SOUTHEAST QUARTER AND THE WEST HALF OF THE NORTHEAST QUARTER, INCLUSIVE SAID SECTION 5, AND BEING FURTHER BOUNDED AND DESCRIBED AS FOLLOWS:

## **PART "A"**

COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 5; THENCE S.89°01'42"W ALONG THE SOUTH LINE OF SAID SECTION FOR 1319.00 FEET TO AN INTERSECTION WITH THE EAST LINE OF THE WEST HALF OF THE SOUTHEAST QUARTER OF SAID SECTION; THENCE N.01°26'45"W ALONG SAID FRACTIONAL LINE FOR 974.54 FEET TO AN INTERSECTION WITH THE NORTH RIGHT OF WAY LINE OF SUMMERLIN ROAD, (COUNTY ROAD 869) AND THE POINT OF BEGINNING; THENCE S.64°39'27"W ALONG SAID NORTH RIGHT OF WAY LINE FOR 244.30 FEET; THENCE N.00°04'41"E FOR 348.06 FEET; THENCE N.61°35'24"W FOR 156.47 FEET; THENCE N.01°01'35"W FOR 33.37 FEET; THENCE S.88°47'59"W FOR 159.95 FEET; THENCE N.01°29'13"W FOR 651.93 FEET; THENCE S.88°06'21"W FOR 25.96 FEET; THENCE N.01°29'20"W FOR 650.51 FEET TO AN INTERSECTION WITH THE SOUTH LINE OF I.D.D. CANAL C-9; THENCE N.88°55'06"E ALONG SAID SOUTH LINE BEING PARALLEL WITH AND 30.00 FEET SOUTH OF THE EAST WEST QUARTER SECTION LINE OF SAID SECTION 5 FOR 536.43 FEET TO AN INTERSECTION WITH THE EAST LINE OF THE WEST HALF OF THE SOUTHEAST QUARTER OF SAID SECTION 5 BEING POINT "A"; THENCE S.01°26'45"E ALONG SAID FRACTIONAL LINE FOR 1659.76 FEET TO THE POINT OF BEGINNING.

CONTAINING 779068.4 SQUARE FEET OR 17.88 ACRES MORE OR LESS.

TOGETHER WITH:

## **PART "B"**

COMMENCING AT POINT "A", THENCE N.01°27'32"W ALONG THE EAST LINE OF THE WEST HALF OF THE SOUTHEAST QUARTER OF SAID SECTION 5 AND THE EAST LINE OF THE WEST HALF OF THE NORTHEAST QUARTER OF SAID SECTION 5 FOR 80.00 FEET TO AN INTERSECTION WITH THE NORTH LINE OF I.D.D. CANAL C-9 AND THE POINT OF BEGINNING; THENCE S.88°55'06"W ALONG SAID NORTH LINE OF I.D.D. CANAL C-9 BEING PARALLEL WITH AND 50.00 FEET NORTH OF THE EAST WEST QUARTER SECTION LINE OF SAID SECTION 5 FOR 577.48 FEET; THENCE N.01°29'16"W FOR 20.00 FEET; THENCE N.88°55'06"E FOR 40.42 FEET; THENCE N.34°02'52"E FOR 507.64 FEET TO THE BEGINNING OF A CURVE TO THE LEFT HAVING A RADIUS OF 940.00 FEET; THENCE NORTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 86°48'37" FOR 1424.22 FEET; THENCE N.01°03'34"W FOR 222.28 FEET; THENCE N.88°56'26"E FOR 418.63 FEET TO AN INTERSECTION WITH THE EAST LINE OF THE WEST HALF OF THE NORTHEAST QUARTER OF SAID SECTION 5; THENCE S.01°26'47"E ALONG SAID FRACTIONAL LINE FOR 1935.73 FEET TO THE POINT OF BEGINNING.

CONTAINING 461699.9 SQUARE FEET OR 10.60 ACRES MORE OR LESS.

BEARINGS ARE BASED ON THE EAST WEST QUARTER SECTION LINE OF SECTION 5 AS BEARING S.88°55'06"W.

BANKS ENGINEERING,  
FLORIDA LICENSED BUSINESS NO. LB6690

JANUARY 18, 2006

*Kenneth E. Trask*  
KENNETH E. TRASK  
PROFESSIONAL LAND SURVEYOR  
FLORIDA LICENSE NO. LS4634

CPA 2005-00001



## **EXHIBIT**

# **361**

Fort Myers Office  
10511 Six Mile Cypress  
Pkwy., Suite 101  
Fort Myers, FL  
33912  
(239) 939-5490  
Fax (239) 939-2523

SHEET 1 OF 2  
Naples Office  
6640 Willow Park Dr.  
Suite B  
Naples, Florida  
34109  
(239) 597-2061  
Fax (239) 597-3082

Sarasota Office  
1144 Tallevast Road  
Suite # 115  
Sarasota, Florida  
34243  
(941) 360-1618  
Fax (941) 360-6918







# **Banks Engineering**

Professional Engineers, Planners & Land Surveyors  
10511 Six Mile Cypress Parkway  
Fort Myers, Florida 33966  
(239) 939-5490  
Fax (239) 939-2523

*Please Reply To:*  
FORT MYERS OFFICE

January 12, 2007

Mr. Wayne Gaither  
Division of Planning  
1500 Monroe Street  
Fort Myers, FL 33901



**RE: CPA2005-00001**  
**Sufficiency Submittal No. 3**

Dear Mr. Gaither:

This is in response to your November 20, 2006 letter regarding the above-referenced Comprehensive Plan Amendment:

**Comment #1:**

It was understood through previous conversations that the 2.26 acres of wetlands were intended to be changed to a Conservation Land Use designation. If this is still the intent of the applicant the application will need to be changed to reflect the additional land use designation.

*Response: The application and the Proposed Future Land Use Map have been revised to reflect the 2.26 acres of wetlands as proposed land use change to Conservation Land Use designation. Additional legal descriptions are also attached to reflect the areas for each proposed Land Use designation.*

**Comment #2:**

Additionally, we have new Administrative Codes concerning comprehensive plan amendments. Notification needs to be sent out to property owners within **500 feet** of a CPA. To meet this requirement the applicant is now required to obtain a variance report from the Property Appraiser's Office (both hard copy and in

---

**Naples Office**  
6640 Willow Park Dr.  
Suite B  
Naples, Florida  
34109  
(239) 597-2061  
Fax (239) 597-3082

**Sarasota Office**  
1144 Tallevast Road  
Suite # 115  
Sarasota, Florida  
34243  
(941) 360-1618  
Fax (941) 360-6918

**Port Charlotte Office**  
12653 SW CR 769  
Suite B  
Lake Suzy, Florida  
34269  
(941) 625-1165  
Fax (941) 625-1149





digital format, preferably MS Word), including mailing labels. The applicant is also responsible for prepaying the cost of mailing these notices. This must be done within 15 calendar days of finding the applicant sufficient. The applicant is also responsible for posting a notice (provided by DCD) 15 calendar days before the LPA hearing.

*Response: The variance report, including mailing labels is attached. The digital format has been sent via email.*

**III (A)(1): Site Address:**

Please provide the site address for the parcel of land.

*Response: The Property Appraiser lists the site address as Access Undetermined, Fort Myers, FL 33908.*

**III (B): Property Information – Total Acreage of Property & Total Acreage included in Request:**

The Property Appraiser lists this parcel as being 8.89+/- acres. The application refers to the STRAP and provides a legal description for a portion of the STRAP. The application lists the Total Acreage of the Property as 7.67 acres and a Total Acreage Included in the Request is 7.67 acres. It appears the legal description pushes the property line roughly 100 feet north of the Property Appraisers parcel boundaries. Please verify that all property that currently has the land use designation of Industrial Development, at this site, is included in the comprehensive plan amendment.

*Response: There appear to be errors on the Property Appraiser's website in relation to the subject property area and map. The legal description included with the request includes all land subject to this comprehensive plan amendment and encompasses 7.67 acres of land.*

**III (B): Property Information – Area of each Existing Future Land Use Category:**

Please provide the areas of each individual land use category being impacted by this comprehensive plan amendment.

*Response: The application has been revised to reflect existing land use as 6.62± acres as Industrial Development (5.41± acres uplands, 1.21± acres wetlands) and 1.05± acres as Wetlands (1.05± acres wetlands). The 5.41± acres of uplands are proposed to be changed to Urban Community and the wetlands (2.26± acres) are proposed to be changed to Conservation Lands - Wetlands.*

**III (B): Property Information – Current Future Land Use Designation:**

It appears part of the property has existing wetlands designated. If this is the case, list it as a Future Land Use designation. This could impact the response to III(B): Property Information – Area of each Existing Future Land Use Category.

PA 2005-00001





*Response: The application has been revised to reflect existing land use as 6.62± acres as Industrial Development (5.41± acres uplands, 1.21± acres wetlands) and 1.05± acres as Wetlands (1.05± acres wetlands). The 5.41± acres of uplands are proposed to be changed to Urban Community and the wetlands (2.26± acres) are proposed to be changed to Conservation Lands - Wetlands.*

**IV (B): Public Facilities**

- (1a) Identify the TAZ the comprehensive plan amendment site is located in. Is the comprehensive plan amendment going to impact the socio-economic data forecasts for that zone?

*Response: Please see attached Memorandum from TR Transportation Consultants, Inc.*

- (1b) Identify any changes to existing TAZ socio-economic data that will be required based on the comprehensive plan amendment. If no modifications are necessary, please state so. If changes are necessary. Respond to subsequent question 1c-f as necessary, if changes are made to the TAX socio-economic data.

*Response: Please see attached Memorandum from TR Transportation Consultants, Inc.*

**IV (B): Short Range – 5 Year CIP**

- (a) Three Mile Radius analysis to identify the existing roadways serving the site needs to be conducted. Indicate the laneage, functional classification, current LOS, and LOS standard.

*Response: Please see attached Memorandum from TR Transportation Consultants, Inc.*

- (c) For the five year horizon, identify the projected roadway conditions within the three-miles study area for both existing conditions and with the proposed plan amendment.

*Response: Please see attached Memorandum from TR Transportation Consultants, Inc.*

Please contact the Lee County Department of Transportation concerning this section of the application for comprehensive plan amendment.

**IV (C): Environmental Impacts**

- (1) Environmental assessment provided by Boylan Environmental Consultants, Inc. identifies a 7.67 acre site, please verify acreage.

PA 2005-00001





*Response: This acreage is correct.*

- (3) Please identify the FIRM category the amendment site is located within. The graphic designating the FIRM category was originally color and was reproduced in black and white.

*Response: The subject property lies within flood zone A10:EL9 pursuant to Community 125124, Panel 0435, Version B, dated 09/19/84. Color exhibits are attached.*

**IV (D): Historic Impacts**

- (2) The comprehensive plan amendment site is located within a Lee County Archaeological Area, Sensitivity Level II site. Please provide analysis of the impacts the proposed amendment may have.

“Sensitivity Level 2: Those areas containing known archaeological sites that have not been assessed for significance but are likely to conform to the criteria for local designation, or areas where there is a high likelihood that unrecorded sites of potential significance are present.”

Please contact Gloria Sajgo for further information on Archaeological Sensitivity Level 2 areas.

*Response: Attached please find the Sufficiency Review for Historic and Archaeological Resources. This document states that there are no known historic sites or archaeological sites on the subject parcel and further states that the property is within Level 2 zone of archaeological sensitivity. The applicant will be required to apply for a Certificate to Dig as a condition for obtaining a Development Order. In reviewing the Certificate to Dig application, staff may require that the applicant have an archaeological survey conducted by an archaeologist. Conditions may be imposed depending on the results of the survey.*

**IV (E): Internal Consistency with the Lee Plan**

- (1) Table 1(b) pertains to the allocation of uses. Please expand your discussion to explain how your plan amendment will impact the Planning Community Allocation Table 1(b) and if the change is a benefit or a detriment to the Planning Community.

*Response: Currently there are 202 acres of commercial development in the Urban Community Land Use Category for the Iona/McGregor planning community. The proposed Comprehensive Plan Amendment would add an additional 5.41 acres to the commercial development while eliminating 5.41 acres from industrial development. This change will be a benefit to the Planning Community as the location is better suited for commercial development.*

CPA 2005-00001





- (3) Please describe how the proposed small scale amendment affects the adjacent local governments and their comprehensive plans, if no impact is anticipated please state so, NA is not an acceptable answer.

*Response: No impacts are anticipated to the adjacent local governments or their Comprehensive Plans.*

- (4) If State and Regional policy goals are not affected by the small scale amendment please state so, NA is not an acceptable answer.

*Response: State and Regional policy goals will not be affected by the proposed Comprehensive Plan Amendment.*

In addition to the above listed questions/concerns, prepared by the Division of Planning, your application was submitted to various agencies and divisions of Lee County Government responsible for a wide range of public services.

The comments to the original (1<sup>st</sup> submittal) are reproduced below:

**Lee DOT:**

Lee DOT is requesting the anticipated Zoning Category you will be applying for. This information will be used in running the transportation model used to determine the impact you will be generating on the surrounding transportation network.

*Response: A Commercial Planned Development will be requested once the Comprehensive Plan Amendment has been processed.*

**Lee County Parks and Recreation:**

- (1) I did not see any topographic map, but I assume the site is low in elevation based on a site inspection I did several years ago when this site was a Conservation 20/20 nomination and the entire site was flooded. It would appear that this site is entirely within the floodplain of Cow Slough and thus I assume that compensatory storage will be an issue with the development of this site.

*Response: The project has been permitted under South Florida Water Management District permit number 36-05751-P. A copy of the permit is attached. The eastern 222+/- feet of the subject property is within a SFWMD Conservation Easement and is proposed for Conservation Lands:Wetlands Land Use designation.*

- (2) The Future Land Use Map does not appear correct as the county owned portion to the east is comprised of Cow Slough, which is part of the Deep Lagoon Preserve.

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JAN 15 2007  
PERMIT COUNTS

We worked with Rob Irving in Environmental Sciences to have this site changed to Conservation Lands. Could you check with him on this designation?

*Response: The Future Land Use Map currently shows the property as Industrial Development and Wetlands land use categories.*

- (3) I suggest comparing the FLUCFCS map provided with that done when the site was going through review as a Conservation 20/20 nomination and the county paid an environmental consultant to map the uplands and wetlands. It was my recollection that most of the site was mapped as wetlands. This is supported to some extent by the soils map provided which indicates at least the western portion of the site has wetland characteristics as evidence by hydric soils.

*Response: The project has been permitted under South Florida Water Management District permit number 36-05751-P. A copy of the permit is attached. The eastern 222+/- feet of the subject property is within a SFWMD Conservation Easement and is proposed for Conservation Lands:Wetlands Land Use designation.*

- (4) I suggest that a buffer of at least 100' be required on the eastern boundary of the site if the rezoning is approved to protect water quality and wildlife habitat in the Deep Lagoon Preserve.

*Response: The eastern 222+/- feet of the subject property is within a SFWMD Conservation Easement and is proposed for Conservation Lands:Wetlands Land Use designation which will provide the desired protection.*

The comments from the 2<sup>nd</sup> submittal are reproduced below:

#### Smart Growth

Usually a site like this is an opportunity to attempt small scale mixed use. I would recommend that for this site, also, with most of the discussion at the plan development stage. However, there are two issues. The site is located next to the sewage treatment ponds, and the site seems to access onto Summerlin.

Regarding the ponds, the concern is whether there is any aerosol/odor issues, that makes residential inappropriate? The industrial designation would seem more likely to not have a conflict with this utility use.

*Response: The subject property has deed restrictions that do not allow residential development on the site. The Declaration of Restrictive Covenants is attached for reference.*

Second, access on Summerlin. At one time, Summerlin was considered a limited access roadway, with the intent to ensure that parcel division/subdivision was tied to coordinated

CPA 2005-00001



plans between parcels to limit access points. Is this parcel one with such a constraint?

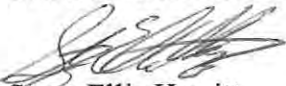
*Response: The proposed access point to the proposed development will be a shared access point with the residential subdivision that is proposed to the north of the subject property. As part of the rezoning for the residential subdivision, the applicant is proposing to relocate the designed Summerlin Road controlled access point 140' ± to the north. The relocated access point is being coordinated with Lee County DOT and will need approval by the Board of County Commissioners as part of the rezoning request. Attached please find a copy of a memo with attachments from Lee County DOT dated September 7, 2006 which states that they have no objection to the request and a copy of the grant of access easement.*

This letter should not be viewed as a final dead-line for comments from the above listed agencies. Should additional comments come in regarding sufficiency questions, they will be submitted to you in a timely a manner as possible.

Please continue your review of our responses to the sufficiency checklists. Should you have any questions or require additional information, please do not hesitate to contact me at 939-5490.

Sincerely,

BANKS ENGINEERING



Stacy Ellis Hewitt  
Director of Planning

cc: Rudy Maul  
Eddy Garcia

CPA  
2005-00001





## SOUTH FLORIDA WATER MANAGEMENT DISTRICT

3301 Gun Club Road, West Palm Beach, Florida 33406 • (561) 686-8800 • FL WATS 1-800-432-2045 • TDD (561) 697-2574  
Mailing Address: P.O. Box 24680, West Palm Beach, FL 33416-4680 • [www.sfwmd.gov](http://www.sfwmd.gov)

June 1, 2006

Vicott Inc.  
10950 Old South Way  
Fort Myers, FL 33904

Sunset Falls, LLC.  
8045 Nw 155 Street  
Miami Lakes, FL 33016

Subject: Application No- 050113-13- **Sunset Falls (F.K.A. Waterstone)**  
Lee County S5/T46S/R24E

Enclosed is a copy of the South Florida Water Management District's staff report covering the permit application referenced therein. It is requested that you read this staff report thoroughly and understand its contents. The recommendations as stated in the staff report will be presented to our Governing Board for consideration on **Wednesday, June 14, 2006**. **Please note, the meeting will be held at the Broward Convention Center located at 1950 Eisenhower Blvd, in Fort Lauderdale.**

Should you wish to object to the staff recommendation or file a petition, please provide written objections, petitions and/or waivers (refer to the attached "Notice of Rights") to:

Elizabeth Veguilla, Deputy Clerk  
South Florida Water Management District  
Post Office Box 24680  
West Palm Beach, Florida 33416-4680

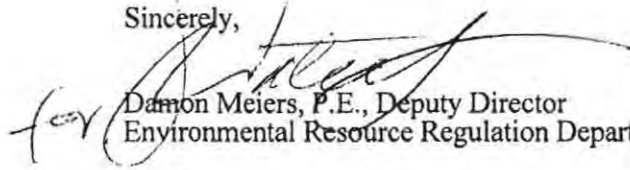
The "Notice of Rights" addresses the procedures to be followed if you desire a public hearing or other review of the proposed agency action. You are advised, however, to be prepared to defend your position regarding the permit application when it is considered by the Governing Board for final agency action, even if you agree with the staff recommendation as the Governing Board may take final agency action which differs materially from the proposed agency action.

Please contact the District if you have any questions concerning this matter.

### CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a "Notice of Rights" has been mailed to the addressee this 1<sup>st</sup> day of June, 2006 in accordance with Section 120.60 (3), Florida Statutes.

Sincerely,

  
Damon Meiers, P.E., Deputy Director  
Environmental Resource Regulation Department

DM/lj

CERTIFIED # 7000 0500 0002 7382 5134, 7003 0500 0002 7382 5158  
RETURN RECEIPT REQUESTED

#### GOVERNING BOARD

Kevin McCarty, *Chair*  
Irela M. Bagué, *Vice-Chair*  
Miya Burt-Stewart

Alice J. Carlson  
Michael Collins  
Nicolás J. Gutiérrez, Jr., *Esq.*

Lennart E. Lindahl, *P.E.*  
Harkley R. Thornton  
Malcolm S. Wade, Jr.

#### EXECUTIVE OFFICE

Carol Ann Wehle, *Executive Director*



## **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. **Formal Administrative Hearing:** 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 15<sup>th</sup> 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**

10. A property owner who alleges a specific action 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

(4) a statement of relief sought.

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 fairness (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:

(b) Petition for (Variance from) or (Waiver of) Rule (Citation)

(c) The name, address, telephone number and any facsimile number of the petitioner;

(d) The name, address telephone number and any facsimile number of the attorney or qualified representative of the petitioner, (if any);

(e) the applicable rule or portion of the rule;

(f) the citation to the statute the rule is implementing;

(g) the type of action requested;

(h) the specific facts that demonstrate a substantial hardship or violation of principles of fairness that would justify a waiver or variance for the petitioner;

(i) the reason why the variance or the waiver requested would serve the purposes of the underlying statute; and

(j) 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.



**Last Date For Agency Action:** 14-JUN-2006

**INDIVIDUAL ENVIRONMENTAL RESOURCE PERMIT STAFF REPORT**

**Project Name:** Sunset Falls (F.K.A. Waterstone)

**Permit No.:** 36-05751-P

**Application No.:** 050113-13

**Associated File:** 051017-2 WU

051020-1 WU

**Application Type:** Environmental Resource (New Construction/Operation)

**Location:** Lee County, S5/T46S/R24E

**Permittee :** Vicott, Inc.  
Sunset Falls, Llc

**Operating Entity :** Waterstone Community Association, Inc.

**Project Area:** 109.03 acres

**Project Land Use:** Residential  
Commercial

**Drainage Basin:** TIDAL CALOOSAHATCHEE

**Sub Basin:** DEEP LAGOON

**Receiving Body:** CALOOSAHATCHEE RIVER VIA IDD CANAL C VIA  
ADJACENT WETLANDS

**Class:** CLASS III

**Special Drainage District:** NA

**Total Acres Wetland Onsite:** 48.57

**Total Acres Wetland Preserved Onsite:** 24.59

**Total Acres Impacted Onsite :** 23.98

**Total Acres Presv/Mit Compensation Onsite:** 27.49

**Offsite Mitigation Credits-Mit.Bank:** 7.84 Little Pine Island

**Conservation Easement To District :** Yes

**Sovereign Submerged Lands:** No



**PROJECT PURPOSE:**

This application is a request for an Individual Environmental Resource Permit authorizing Construction and Operation of a surface water management system serving a 109.03-acre residential/ commercial development known as Sunset Falls (F.K.A. Waterstone) with discharge into waters of Caloosahatchee River via IDD Canal C via sheetflow through adjacent wetlands.



## **PROJECT EVALUATION:**

### **PROJECT SITE DESCRIPTION:**

The applicant proposes a residential / commercial development within parcels totaling 109.03 acres located on the north side of Summerlin Road, approximately 2,000 feet east of Pine Ridge Road in the City of Fort Myers, Lee County. A location map is provided as Exhibit 1.0.

The properties surrounding the project site include: a Lee County waste water treatment facility located along the southwestern boundary of the site, a residential development located on the northwest boundary of the site known as the Plantation, Summerlin Road which is located along the southern boundary of the site and undeveloped Lee County land which is located along the eastern boundary of the site. This eastern Lee County land contains an FP&L easement and abuts Cow Slough. Land to the north is comprised of three (3) undeveloped parcels. The western two are Lee County land and the third most western parcel is owned by Summerlin development LLC. In addition, an IDD canal traverses the site east to west.

There are no permitted surface water management facilities within the project area. The project is located within Deep Lagoon Basin, covering the southwestern area of Lee County. The main conveyance drainage systems in Deep Lagoon Basin are old Iona Drainage District (IDD) Canals. The IDD Canal C-9 lies west-east across the site and connected to the IDD Canal C, lying south-north, at approximately 600 feet east of the site. Most of developments surrounding the project area discharge into the IDD Canal C-9. Storm water runoff from adjacent lands located between the IDD Canal C-9 and Summerlin Road, approximately 115.80 acres including the adjacent Lee County Utilities Re-use Pond site, discharges to the east to the IDD Canal C via sheetflow through the site.

Project area contains 48.57 acres of wetlands, 2.16 acres of IDD easement area and 60.92 acres of uplands. Of the upland areas there are 57 acres which are comprised of urban fill. This urban fill area is derived from previously permitted construction activities that remained incomplete and is located mainly within the northwestern portion of the site. The wetland areas are located mainly in the eastern portion of the site and are a mosaic of habitat types the main type (over 50%) being a *Melaleuca* monoculture. Other habitats present include mangrove forest, fresh water marsh and hydric cabbage palm areas as depicted on the FLUCCs map attached as Exhibit 3.0.

### **PROPOSED PROJECT:**

The applicant proposes a 109.03-acre residential / commercial development consisting of multi-family buildings, single-family lots, clubhouse, commercial buildings, internal roadways, parking areas, landscaped areas and related infrastructures.

The project site is divided into three (3) drainage basins: Basin B1, B2 and B3, based on the proposed roadway profile and offsite flows contributed from the existing IDD Canal C-9 and adjacent upstream lands.

Basin B1, the major portion of the project site, covers 68.74 acres. The development within Basin B1 consists of single-family lots, multi-family buildings, clubhouse, internal roadways, parking areas, landscaped areas and related infrastructures. Basin B1 is located at the northern part of the project site and divided from Basin B2 by the existing IDD Canal C-9, lying west-east across through the site. The proposed surface water management system serving the residential developments within this basin is a wet detention system, composed of three interconnected wet detention lakes, conveyance swales, drainage structures and culverts and one (1) control structure, discharging to IDD Canal C via sheetflow through adjacent wetlands. The proposed surface water management serving Basin B1 provides the required first inch (1") of runoff within the developed area with an additional 50% water quality volume and attenuation for the 25 year - 3 day storm event.



Basin B2, covering 4.21 acres, comprises an access roadway, landscaped areas and dry detention area. The surface water management system, serving the access roadway within Basin B2, consists of a dry detention area, drainage structures and culverts and one (1) control structure, discharging to IDD Canal C via sheetflow through adjacent wetlands. The proposed surface water management serving Basin B2 provides the required first inch (1") of runoff within the developed area with an additional 50% water quality volume and attenuation for the 25 year - 3 day storm event.

Basin B3 covers 5.42 acres. The development within Basin B3 consists of commercial buildings, access roadway, parking lot, landscaped areas and related infrastructures. The proposed surface water management system serving the commercial developments within this basin is a dry detention system, composed of three interconnected dry detention areas, drainage structures and culverts and one (1) control structure, discharging to IDD Canal C via sheetflow through adjacent wetlands. The proposed surface water management serving Basin B3 provides the required total runoff of 2.5 inches times the percentage of imperviousness with an additional 50% water quality volume and attenuation for the 25 year - 3 day storm event.

No adverse water quality or quantity impacts are anticipated as a result from the proposed project.

#### LAND USE:

- The land use category "Other" represents the acreage of the IDD Canal easement.
- The land use category "Preserved" consists of 27.49-acre wetlands and upland preserved areas and 1.01-acre upland buffer.

#### Construction:

##### Project:

	This Phase	Total Project	
Building Coverage	20.79	20.79	acres
Dry Detention Areas	2.40	2.40	acres
Lake	15.62	15.62	acres
Other	2.16	2.16	acres
Pavement	15.32	15.32	acres
Pervious	24.24	24.24	acres
Preserved	28.50	28.50	acres
<b>Total:</b>	<b>109.03</b>	<b>109.03</b>	

##### Basin : Basin B1

	This Phase	Total Basin	
Building Coverage	20.15	20.15	acres
Lake	15.62	15.62	acres
Pavement	11.83	11.83	acres
Pervious	21.14	21.14	acres
<b>Total:</b>	<b>68.74</b>	<b>68.74</b>	



**Basin : Basin B2**

	<b>This Phase</b>	<b>Total Basin</b>	
Dry Detention Areas	1.30	1.30	acres
Pavement	1.03	1.03	acres
Pervious	1.88	1.88	acres
<b>Total:</b>	<b>4.21</b>	<b>4.21</b>	

**Basin : Basin B3**

	<b>This Phase</b>	<b>Total Basin</b>	
Building Coverage	.64	.64	acres
Dry Detention Areas	1.10	1.10	acres
Pavement	2.46	2.46	acres
Pervious	1.22	1.22	acres
<b>Total:</b>	<b>5.42</b>	<b>5.42</b>	

**WATER QUANTITY :****Discharge Rate :**

The allowable discharge rate for this project is limited to 50 CSM (0.078 cfs/ acre), established for developments in Deep Lagoon Basin. As shown in the table below, the total peak discharge rate from all basins, 6.20 cfs, is within the allowable limit, 6.25 cfs.

Discharge Storm Frequency : 25 YEAR-3 DAY

Design Rainfall : 11.3 inches

<b>Basin</b>	<b>Allow Disch (cfs)</b>	<b>Method Of Determination</b>	<b>Peak Disch (cfs)</b>	<b>Peak Stage ( ft, NGVD)</b>
Basin B1	5.5	Conveyance Limitation	5.46	7.3
Basin B2	.33	Conveyance Limitation	.32	6.8
Basin B3	.42	Conveyance Limitation	.42	7.15

**Finished Floors :**

Building Storm Frequency : 100 YEAR-3 DAY

Design Rainfall : 14.5 inches

<b>Basin</b>	<b>Peak Stage ( ft, NGVD)</b>	<b>Proposed Min. Finished Floors ( ft, NGVD)</b>	<b>FEMA Elevation ( ft, NGVD)</b>
Basin B1	7.95	9.2	9
Basin B2	7.8	N/A	9
Basin B3	8.2	9.2	9

**Road Design :**

Road Storm Frequency : 10 YEAR-1 DAY

Design Rainfall: 6.6 inches



Basin	Peak Stage ( ft, NGVD)	Proposed Min. Road Crown ( ft, NGVD)
Basin B1	6.5	6.5
Basin B2	6	6
Basin B3	6.68	6.7

**Parking Lot Design :**

Parking Lot Storm Frequency : 10 YEAR-1 DAY

Design Rainfall 6.6 inches

Basin	Peak Stage ( ft, NGVD)	Proposed Min. Parking Elev. ( ft, NGVD)
Basin B1	6.5	6.5
Basin B2	6	6
Basin B3	6.68	6.7

**Offsite Flows:**

The IDD Canal C-9 conveyance capacity at the location of the project site was designed by the Iona Drainage District with the flow rate 29.20 cfs. The flow within the canal shall be directed through the project via two (2) 104 LF of 36" RCPs. The flow in the canal discharges into the IDD Canal C, located to the east of the project site.

In addition to the offsite flow mentioned above, offsite flows totaling 20.00 cfs are anticipated from the 115.80-acre adjacent upstream lands including the Lee County Utilities Re-use Pond site, located to the west of the project. The flows shall be conveyed through the site via two (2) 152 LF of 24" RCPs and one (1) 128 LF of 24" RCP. Located in Basin 2, these culverts direct the offsite flows through the project site to the adjacent wetlands prior to discharging into the IDD Canal C to maintain the pre-development flow pattern.

**Control Elevation :**

Basin	Area (Acres)	Ctrl Elev ( ft, NGVD)	WSWT Ctrl Elev ( ft, NGVD)	Method Of Determination
Basin B1	68.74	4	4.00	Wetland Indicator Elevation
Basin B2	4.21	3.73	3.73	Wetland Indicator Elevation
Basin B3	5.42	3.73	3.73	Wetland Indicator Elevation

**Receiving Body :**

Basin	Str.#	Receiving Body
Basin B1	S029	Adjacent Wetlands
Basin B2	S139	Adjacent Wetlands
Basin B3	WCS1	Adjacent Wetlands

**Discharge Structures:** Note: The units for all the elevation values of structures are ( ft, NGVD)**Bleeders:**

Basin	Str#	Count	Type	Width	Height	Length	Dia.	Invert Angle	Invert Elev.
Basin B1	S029	1	Rectangular Orifice	.85'	1.13'				4
Basin B2	S139	1	Circular Orifice				.29'		3.73
Basin B3	WCS1	1	Circular Orifice				.31'		3.73



**Discharge Structures:****Culverts:**

Basin	Str#	Count	Type	Width	Length	Dia.
Basin B1	S029	1	Reinforced Concrete Pipe		422'	30"
Basin B2	S139	1	Reinforced Concrete Pipe		22'	24"
Basin B3	WCS1	1	Reinforced Concrete Pipe		14'	24"

**Inlets:**

Basin	Str#	Count	Type	Width	Length	Dia.	Crest Elev.
Basin B1	S029	1	Fdot Mod E Drop Inlet	4'	5.5'		7.33
Basin B2	S139	1	Fdot Mod C Drop Inlet	3.33'	4.42'		6.84
Basin B3	WCS1	1	Fdot Mod C Drop Inlet	3.33'	4.42'		7.15

**Weirs:**

Basin	Str#	Count	Type	Width	Height	Length	Dia.	Elev.
Basin B3	WCS1	1	Broad Crested	2"				6 (crest)

**WATER QUALITY :**

The proposed surface water management system provides the required water quality treatment for the proposed development. As shown in the table below, the proposed surface water management system provides the total water quality volume 9.84 ac-ft, equivalent to the required water quality volume.

Storm water runoff within Basin B1 will be directed to three (3) interconnected wet detention lakes via sheetflow, conveyance swales and interconnected drainage structures and pipes. The interconnected wet detention lakes provide the required water quality volume, based on 150% of the first inch (1") of runoff within the developed area, prior to discharging to the adjacent wetlands through a spreader swale.

Storm water runoff within Basin B2 will be directed to the dry detention area via sheetflow and interconnected drainage structures and pipes. The dry detention area provides the required water quality volume, based on 150% of the first inch (1") of runoff within the developed area, prior to discharging to the adjacent wetlands through a spreader swale.

Similar to Basin B2, storm water runoff within Basin B3 will be directed to three (3) interconnected dry detention areas via sheetflow and interconnected drainage structures and pipes. The interconnected dry detention areas provide the required water quality volume, based on 150% of the total runoff of 2.5 inches times the percentage of imperviousness, prior to discharging to the adjacent wetlands through a spreader swale.

In addition to the required water quality, the system discharges through spreader swales to wetland systems where additional unquantified water quality treatment occurs. An Urban Stormwater Management Program (Exhibit "D" of the Property Owners Association documents) 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. 15-16 and Exhibits Nos. 4.0-4.8 and 5.0-5.5 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.

Basin	Treatment Method		Vol Req'd (ac-ft)	Vol Prov'd
Basin B1	Treatment	Wet Detention	8.8	8.8



Basin	Treatment Method		Vol Req.d (ac-ft)	Vol Prov'd
Basin B2	Treatment	Dry Detention	.39	.39
Basin B3	Treatment	Dry Detention	.65	.65

**WETLANDS:****Wetland Description:**

There are essentially four types of wetland within the project boundary. These are: mangrove forest (9.71 acres), Melaleuca monoculture (25.11 acres), fresh water marshes (9.37 acres) and 2.23 acres of hydric cabbage palm wetlands that are invaded with exotic vegetation to a greater or lesser extent. Please see the FLUCCs map attached as Exhibit 3.0.

The Melaleuca monoculture wetland areas are located where the greatest soil disturbance has occurred and includes the southern portion of the site adjacent to Summerlin Road and those wetlands abutting the northwestern portion of the site which were previously cleared and filled. The mangrove forest areas are confined to the eastern portion of the site and extend off site to the east into Lee County owned land. The fresh water marsh areas are dominated by cattails and are located in four areas: the southeastern corner along Summerlin Road, the southwestern boundary adjacent to the Lee County facility and two areas in the center of the northeast portion of the site.

In addition, the IDD canal contains approximately approximately 0.6 acres of wetlands.

**Wetland Impacts:**

The application proposes to impact 23.98 acres of wetlands, the majority of which (57%) are comprised of Melaleuca monoculture wetlands (13.68 acres). Other wetlands proposed to be impacted are 6.78 acres of cat tail marsh, 0.61 acres of hydric cabbage palm wetland areas and 1.51 acres of cabbage palm wetland areas which are 75% invaded with exotic vegetation species. Please see the impact map attached as Exhibit 3.1.

**Mitigation Proposal:**

The proposed project was designed to reduce and eliminate direct wetland impacts through restricting adverse impacts to wetland areas of a lower quality and preserving the high quality wetlands while reducing habitat fragmentation and maintaining contiguous wetland areas.

To off-set the impacts proposed by this project, the applicant proposes to enhance on-site 24.59 acres of wetlands and 1.75 acres of uplands. A total of 1.01 acres of upland buffer is also provided. In addition, off-site mitigation is proposed at Little Pine Island Mitigation Bank and is comprised of 2.96 salt water forested credits and 1.92 herbaceous fresh water credits. Please refer to Exhibit No. 3.2. Please refer to Special Condition No. 24.

The salt water forested mitigation, although representing a different type of wetland than the impacts, provides functions comparable to and supportive of the functions provided by the freshwater melaleuca-infested wetlands on this site. The on-site melaleuca-infested wetlands occur adjacent to on-site mangrove preserves and provide roosting and cover functions to the wildlife on this site, some of which are dependent upon the adjacent mangrove wetlands. In addition to the roosting and cover functions, the salt water forested mitigation also provides food-chain and nesting functions to wildlife using mangroves. Therefore, the purchase of salt water forested mitigation credits appropriately mitigates impacts to fresh water wetlands on this site. This analysis is specific to this site and does not apply to



sites with different characteristics and functions.

The applicant has also committed to enhance the wetlands within the IDD canal easement although this enhancement activity is not considered as mitigation.

Watersheds for the onsite and offsite wetlands were maintained in the design of the project's stormwater management system. Spreader swales will be utilized prior to discharging treated stormwater into the receiving wetland system. Control elevations were established for the stormwater management ponds utilizing on site information that included adventitious rootings, stainlines, and wetland/upland edge elevations. The control elevations utilized are consistent in maintaining offsite and onsite wetland hydroperiods. Stormwater runoff will be directed into stormwater ponds and treated prior to discharging into on-site wetland areas.

Structural and upland buffers have been incorporated in the stormwater management design in order to minimize the project secondary impacts. The structural buffers involve planting a continuous hedge of *Spartina* sp. and Buttonwood and are detailed on the construction plan views and cross-sections. The upland buffers are a minimum of 15 feet and an average of 25 feet wide and are also detailed on the construction plans. The structural buffer is included in the conservation easement. Sediment and erosion control plans are included on the construction plans and will be installed in areas located adjacent to wetlands or in areas that have the potential to discharge to offsite or onsite wetlands and/or surface waters.

The proposed project has been evaluated for cumulative impacts and to determine if the project is contrary to the public interest. The on and off site mitigation is located within the same drainage basin as the project and the mitigation offsets the wetland functions proposed to be impacted by the project. Based on the proposed project design, the District has determined the project will not result in cumulative impacts within the basin and is not contrary to the public interest.

#### **Monitoring/Maintenance:**

A monitoring and maintenance plan is proposed for the mitigation areas and is attached as Exhibit No. 3.3.

Percent coverages of nuisance and exotic vegetation shall be reduced to less than 5 percent following each maintenance event. Survival of planted species shall be at least 80 percent. Failure of the mitigation areas to achieve 80 percent coverage of native species within two years from the first maintenance event shall require the applicant to submit a supplemental planting plan to be approved by the LWC District Compliance staff. Periodic assessments of the preserved areas will be conducted to identify any potential infestations. The mitigation areas shall be maintained in perpetuity at percent coverages of nuisance and exotic vegetation of less than 5 percent. Please refer to Special Condition No. 23.

Monitoring of each mitigation area will include a vegetation assessment, wildlife utilization and photographic documentation. The locations of the vegetative transects and photo stations are depicted on Exhibit 3.3. The results of maintenance and monitoring shall be submitted as a report annually to the District for review. A schedule of monitoring and maintenance activities is attached as Exhibit 3.4.

#### **Wetland Inventory:**

The project proposes both on-site wetland and upland mitigation, and off-site mitigation at Little Pine Island Mitigation Bank. The following tables summarize in the first table, the impacts to the on-site wetlands along with the enhancement of onsite wetlands and the resulting functional loss (-5.47). The second table summarizes the preservation of on-site uplands and the resulting functional gain (2.18). The third table shows the off-site mitigation credits. The on-site net functional loss (-3.29) is not directly



comparable to the number of credits purchased at Little Pine Island Mitigation Bank. Calculation of these credits are completed using the Wetland Rapid Assessment Procedure (WRAP) and this method assess the amount of mitigation bank credits required to off-set the net onsite functional loss of -3.29.



**Wetland Inventory :****CONSTRUCTIO NEW -WATERSTONE- WETLANDS ON-SITE**

Site Id	Site Type	Pre-Development				Post-Development						
		Pre Fluc cs	AA Type	Acreage (Acres)	Current Wo Pres	With Project	Time Lag (Yrs)	Risk Factor	Pres. Adj. Factor	Post Fluc cs	Adj Delta	Functional Gain / Loss
1A	ON	624	Direct	1.05	.40	.00					-.400	-.420
1B	ON	641	Direct	2.16	.45	.00					-.450	-.972
1C	ON	619	Direct	2.58	.35	.00					-.350	-.903
2Ai	ON	624	Direct	.61	.40	.00					-.400	-.244
2Aii	ON	624	Enhancement	.62	.40	.63	4	1.50		624	.139	.086
2Bi	ON	619	Direct	1.58	.35	.00					-.350	-.553
2Bii	ON	619	Enhancement	.52	.35	.63	4	1.50		624	.170	.088
2Ci	ON	612	Direct	.05	.40	.00					-.400	-.020
2Cii	ON	612	Enhancement	9.66	.40	.63	4	1.50		612	.139	1.347
2Di	ON	619	Direct	11.12	.35	.00					-.350	-3.892
2Dii	ON	619	Enhancement	10.95	.35	.63	4	1.50		624	.170	1.858
2Ei	ON	641	Direct	4.62	.45	.00					-.450	-2.079
2Eii	ON	641	Enhancement	2.84	.45	.63	4	1.50		641	.109	.310
3	ON	619	Direct	.21	.35	.00					-.350	-.074
<b>Total:</b>				48.57								-5.47

**Wetland Inventory :****CONSTRUCTIO NEW -WATERSTONE- UPLAND MITIGATION ON-SITE**

Site Id	Site Type	Pre-Development				Post-Development						
		Pre Fluc cs	AA Type	Acreage (Acres)	Current Wo Pres	With Project	Time Lag (Yrs)	Risk Factor	Pres. Adj. Factor	Post Fluc cs	Adj Delta	Functional Gain / Loss
5	ON	411	Preservation	1.15	.00	.75	1	1.00	1.00	411	.750	.863
6	ON	411	Preservation	1.75	.00	.75	1	1.00	1.00	411	.750	1.313
<b>Total:</b>				2.90								2.18

<b>Fluc cs Code</b>	<b>Description</b>
411	Pine Flatwoods
411	Pine Flatwoods - Hydric
411	Pine Flatwoods - Upland
612	Mangrove Swamps
619	Melaleuca - Brazilian Pepper - Exotics Hardwoods
624	Cypress - Pine - Cabbage Palm



<u>Flucss Code</u>	<u>Description</u>
641	Freshwater Marshes

MITBANK

LITTLE PINE ISLAND

Type Of Credits	Number Of Credits
	<b>Mitigation Bank Cr Used</b>
Fresh Water Herbaceous	1.92
Salt Water Forested	2.96
Salt Water Forested	2.96
<b>Total:</b>	<b>7.84</b>

**Endangered Species:**

A listed species survey was conducted over several days during the first week of May, 2005. It is likely that wading birds utilize the site for foraging, although the abundance of exotic vegetation precludes intensive use. The removal of exotic vegetation should enhance the wading bird foraging habitat.

The site may also contain the Big Cypress Fox squirrel. Several day beds were recorded on-site during the listed species survey and although they could have been constructed by Gray squirrels.

Management plans for the Big Cypress Fox squirrel and for wading birds have been developed and are attached as Exhibit No. 3.5.

This permit does not relieve the applicant from complying with all applicable rules and any other agencies' requirements if, in the future, other listed species or species of special concern are discovered on the site.

**LEGAL ISSUES:**

Conservation easements for the mitigation areas within the project site will comprise a total of 28.5 acres, which includes approximately 24.59 acres of wetlands, 1.75 acres of uplands, 1.15 acres of transitional wetlands and 1.01 acres of upland buffer. A draft conservation easement is attached as Exhibit No.3.6. Please refer to Special Condition No. 30.

A draft letter of credit providing financial assurances equal to 110% of the cost of onsite and offsite mitigation, monitoring and maintenance activities is attached as Exhibit 3.7. Please see Special Condition No.22.

District has reviewed the proposed homeowner's association documents for Sunset Falls (FKA Waterstone) and the documents include language alerting residents to the perpetual maintenance obligations regarding the onsite mitigation areas.

**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 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.



**RELATED CONCERNS:**

**Water Use Permit Status:**

The applicant has indicated that surface water lakes and groundwater wells will be used as a source for irrigation water for the project. Water Use application number 051017-2 is being processed concurrently for this project.

The applicant has indicated that dewatering is required for construction of this project. Water Use application number 051020-1 is being processed concurrently for 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.

**Potable Water Supplier:**

Lee County Utilities.

**Waste Water System/Supplier:**

Lee County Utilities.

**Right-Of-Way Permit Status:**

A Right-of-Way Permit is not required for this project.

**DRI Status:**

This project is not a DRI.

**Historical/Archeological Resources:**

The District has received correspondence from the Florida Department of State, Division of Historical Resources indicating that the agency has no objections to the issuance of this permit.

**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.

**Third Party Interest:**

No third party has contacted the District with concerns about this application.

**Enforcement:**

There has been no enforcement activity associated with this application.



**STAFF RECOMMENDATION:**

The Staff recommends that the following be issued :

Construction and Operation of a surface water management system serving a 109.03-acre residential/ commercial development known as Sunset Falls (F.K.A. Waterstone) with discharge into waters of Caloosahatchee River via the IDD Canal C via sheetflow through adjacent wetlands.

Based on the information provided, District rules have been adhered to.

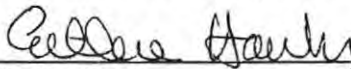
Staff recommendation is for approval subject to the attached  
General and Special Conditions.



**STAFF REVIEW:**

**NATURAL RESOURCE MANAGEMENT DIVISION APPROVAL**

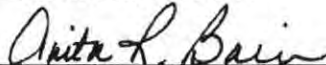
**ENVIRONMENTAL EVALUATION**

  
Catherine Hawkins

**SUPERVISOR**

  
Edward Cronyn

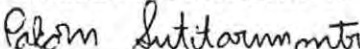
**DIVISION DIRECTOR :**

  
Anita R. Bain

DATE: 5/26/06

**SURFACE WATER MANAGEMENT DIVISION APPROVAL**

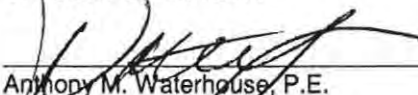
**ENGINEERING EVALUATION**

  
Pakorn Sutitarnnontr, P.E.

**SUPERVISOR**

  
William Foley, P.E.

**DIVISION DIRECTOR :**

  
Anthony M. Waterhouse, P.E.

DATE: 5/26/06



## 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.
6. Within 30 days after completion of construction of the permitted activity, the permittee 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



## GENERAL CONDITIONS

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 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,



### GENERAL CONDITIONS

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 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.



### **SPECIAL CONDITIONS**

1. The construction phase of this permit shall expire on June 14, 2011.
2. Operation of the surface water management system shall be the responsibility of WATERSTONE COMMUNITY ASSOCIATION, INC. Within one year of permit issuance or concurrent with the engineering certification of construction completion, whichever comes first, the permittee shall submit a copy of the recorded deed restrictions (or declaration of condominium, if applicable), a copy of the filed articles of incorporation, and a copy of the certificate of incorporation for the association.

3. Discharge Facilities:

**Basin B1**

- 1 - 10.25" W X 13.50" H RECTANGULAR ORIFICE with invert at elev. 4.00' NGVD.
- 422 LF of 30" dia. REINFORCED CONCRETE PIPE culvert.
- 1 - 4.00' W X 5.50' L FDOT Mod. type "E" drop inlet with crest at elev. 7.33' NGVD.

Receiving body : Adjacent Wetlands  
Control elev : 4.00 feet NGVD.

**Basin B2**

- 1 - 3.50" dia. CIRCULAR ORIFICE with invert at elev. 3.73' NGVD.
- 22 LF of 24" dia. REINFORCED CONCRETE PIPE culvert.
- 1 - 3.33' W X 4.42' L FDOT Mod. type "C" drop inlet with crest at elev. 6.84' NGVD.

Receiving body : Adjacent Wetlands  
Control elev : 3.73 feet NGVD.

**Basin B3**

- 1 - 2" WIDE BROAD CRESTED weir with crest at elev. 6.00' NGVD.
- 1 - 3.75" dia. CIRCULAR ORIFICE with invert at elev. 3.73' NGVD.
- 14 LF of 24" dia. REINFORCED CONCRETE PIPE culvert.
- 1 - 3.33' W X 4.42' L FDOT Mod. type "C" drop inlet with crest at elev. 7.15' NGVD.

Receiving body : Adjacent Wetlands  
Control elev : 3.73 feet NGVD.

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



### SPECIAL CONDITIONS

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. Minimum building floor elevation:
  - Basin B1 - 9.20 feet NGVD.
  - Basin B3 - 9.20 feet NGVD.
13. Minimum road crown elevation:
  - Basin B1 - 6.50 feet NGVD.
  - Basin B2 - 6.00 feet NGVD.
  - Basin B3 - 6.70 feet NGVD.
14. Minimum parking lot elevation:
  - Basin B1 - 6.50 feet NGVD.
  - Basin B2 - 6.00 feet NGVD.
  - Basin B3 - 6.70 feet NGVD.
15. The Permittee shall utilize the criteria contained in the Stormwater Pollution Prevention Plan and on the applicable approved construction drawings for the duration of the projects construction activities. Exhibits No. 4.0-4.8 have been incorporated by reference and shall be retained in the permit file.
16. The Urban Stormwater Management Program (Exhibit Nos.5.0-5.5) shall be included as part of the Property Owners Association documents prior to being recorded. Prior to recording of the Property Owners Association documents the amended documents shall be submitted to the Enforcement and Compliance section at the Fort Myers Lower West Coast Service Center for approval. Exhibit "D" of the draft Property Owners Association documents, Urban Stormwater Management Program has been included in this permit by reference (please see permit file).
17. Any proposed revisions to the permitted work schedule shown on Exhibit No. 3.4 must include documentation that mitigation work will be completed prior to or concurrently with authorized wetland impacts.
18. Prior to the commencement of construction, the permittee shall conduct a pre-construction meeting with field representatives, contractors and District staff. The purpose of the meeting will be to discuss with the permittee and contractors the construction methods and sequencing. The topics shall include the method proposed to retain native vegetation within preserve areas while removing exotic vegetation species, the type and location of erosion controls to be implemented during construction, the mobilization and staging of contractor equipment and construction dewatering. The permittee shall contact District Environmental Resource Compliance staff from the Lower West Coast Service Center at (239)338-2929 to schedule the pre-construction meeting.
19. Permanent physical markers designating the preserve status of the wetland preservation areas and



### **SPECIAL CONDITIONS**

buffer zones shall be placed as shown on Exhibit No. 2.13, cross-section H-H. The markers shall be maintained in perpetuity.

20. No root structure, including aerial prop-roots of red mangroves, may be altered, regardless of their size or height. Additionally, all mangrove ground cover and leaf litter are to remain undisturbed.
21. Prior to the commencement of construction, the perimeter of protected wetlands, buffer zones and upland preservation areas shall be staked and roped to prevent encroachment into the protected areas. Using Global Positioning System (GPS) technology, the perimeter of the preserve area(s) shall be identified for future reference. The data shall be differentially corrected and accurate to less than a meter (+/- one meter or better). Electronic copies of the GPS data shall be provided to the District's Environmental Resource Compliance staff. The permittee shall notify the District's Environmental Resource Compliance staff in writing upon completion of the staking and roping and schedule an inspection of this work. The staking and roping shall be subject to District staff approval. The permittee shall modify the staking and roping if District staff determines that it is insufficient or is not in conformance with the intent of this permit. The staking and roping shall remain in place until all adjacent construction activities are complete.
22. Prior to the commencement of construction and in conformance with the work schedule in Exhibit 3.4, the permittee shall provide an original letter of credit/bond in the amount of \$141,900 to ensure the permittee's financial ability and commitment to complete the proposed mitigation, monitoring and maintenance plan as shown on Exhibit No. 3.3. The letter of credit/bond shall be in substantial conformance with Exhibit No. 3.7. When a performance bond is established, the permittee shall also establish a standby trust fund for deposit of all payments under bond. The letter of credit/bond shall remain in effect for the entire period of the mitigation and monitoring program. Notification of the District by the financial institution that the letter of credit/bond will not be renewed or is no longer in effect shall constitute non-compliance with the permit.
23. A monitoring and maintenance program for the mitigation area(s) shall be implemented in accordance with Exhibit No. 3.3. The monitoring program shall extend for a period of five years with annual reports submitted to District Environmental Resource Compliance staff, or longer as needed to demonstrate compliance with the criteria below.

Vegetative success criteria for the mitigation areas are:

**A) All mitigation areas:**

- 1) Will be maintained to less than 5% exotic nuisance plants (as defined by the Florida Exotic Pest Plant Council at the time of permit issuance) for 5 consecutive years to achieve success, then in perpetuity per the long-term maintenance provisions.
- 2) Other nuisance plants shall be controlled at no more than 5% coverage and maintained at or below this level for 5 consecutive years, and in perpetuity per the long-term maintenance provisions.
- 3) In addition, exotic and other nuisance plants shall be controlled such that these species do not dominate any one section of those areas. Specifically, no area of 1/2 acre in size shall exceed the 5% coverage required for the overall conservation area.

**B) Uplands/Buffers:**

- 4) The percent cover of native plant species in the uplands shall not decrease for 5 consecutive years, nor in perpetuity per the long-term maintenance provisions.

**C) Wetlands:**



### SPECIAL CONDITIONS

- 5) Shall remain free of livestock, not be subject to tree cutting (other than removal of exotic or nuisance species) and have sustainable wetland hydrology with at least 3 months of inundation and saturation during years with typical rainfall.
- 6) Created wetlands shall have at least 80% coverage of beneficial native wetland species within 3 years. If this coverage is not achieved, additional mulching and/or planting will be done to assure 80% coverage.
- 7) Planted trees shall have at least an 80% survival for 5 consecutive years, showing normal growth (girth and height).
24. Prior to commencement of construction in wetlands and in accordance with the work schedule in Exhibit No. 3.4, the permittee shall submit documentation from Florida Department of Environmental Protection that 2.96 salt water forested credits and 1.92 fresh water herbaceous credits have been deducted from the ledger for Little Pine Island Mitigation Bank.
25. A mitigation program for Sunset Falls (formerly known as Waterstone) shall be implemented in accordance with Exhibit No. 3.3. The permittee shall create 1.15 acres of transitional wetland, enhance 24.59 acres of wetlands, enhance 1.75 acres of upland and 1.01 acres of upland preserve.
26. If monitoring reports or other information show the preserved wetlands have been negatively affected by the permitted development in a manner that is irreversible (such as impounding the wetland and drowning the existing vegetation or a reduction in the hydroperiod resulting in the transition of wetlands into upland/transitional habitat), the permittee shall be required to submit a remediation plan within 30 days of notification by the District's Environmental Resource Compliance staff of such conditions. The remediation plan may include onsite or offsite mitigation as necessary to address any deficiencies.
27. Permanent physical markers designating the preserve status of the wetland preservation areas and buffer zones shall be placed at the intersection of the buffer and each lot line. These markers shall be maintained in perpetuity.
28. The wetland impacts authorized by this permit may only occur subsequent to or concurrently with construction and implementation of the mitigation plan. If revisions to the work schedule shown on Exhibit No. 3.4 and referenced in special condition No. 29 are necessary, the permittee shall coordinate with the District's Environmental Resource Compliance Department to ensure compliance with this condition.
29. Activities associated with the implementation of the mitigation, monitoring and maintenance plan(s) shall be completed in accordance with the work schedule attached as Exhibit No. 3.4. Any deviation from these time frames will require prior approval from the District's Environmental Resource Compliance staff. Such requests must be made in writing and shall include (1) reason for the change, (2) proposed start/finish and/or completion dates; and (3) progress report on the status of the project development or mitigation effort.
30. In accordance with Exhibit No. 3.4, the permittee shall provide to the District the fully executed and recorded document depicted in Exhibit 3.6 to this staff report.



# Waterstone



Location Map

## EXHIBIT I.O



# WATERSTONE

## STORMWATER MANAGEMENT PLANS

PREPARED FOR:

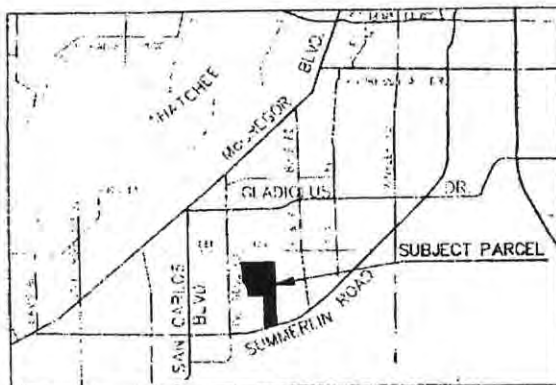
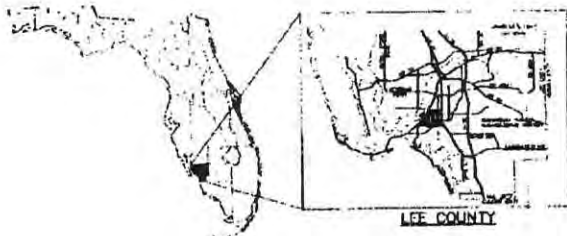
**VICOTT, INC.**

1325 SE 47TH STREET; SUITE G

**CAPE CORAL, FLORIDA 33904**

**PHONE: (239) 540-4110**

**FAX: (239) 540-5568**



LOCATION MAP

SECTION 5, TOWNSHIP 46 SOUTH, RANGE 24 EAST  
LEE COUNTY, FLORIDA



## SITE INFORMATION

PROJECT AREA: 1200 S ACRES

PARCEL STRIP NO.: 64-36-24 70-00003 2072  
65-36-24 62-00025 0006  
66-36-24 67-00074 0006  
67-36-24 69-00008 0006  
68-36-24 69-00003 0006  
69-36-24 69-00003 0006  
70-36-24 69-00003 0006

PARCEL ADDRESS: SHERIDAN ROAD  
ST. MICHAEL, IDAHO

CURRENT ZONING: AL-2 UN-1 (V)

PROPOSED USE: RESIDENTIAL, P. APPROX. 10,000 S.F.

SPINNING PLANT NO. 1

LIFE LIBRARY DEVELOPMENT ORDER NO.: PHONE:

## UTILITY SERVICE PROVIDERS

WATER:	121. CALVER ST. AVE. 115 "SA. BIRMINGHAM 35014 ELECT. 877-611-1234 PHONE: (205) 476-1000
SEWER:	121. CALVER ST. AVE. 115 "SA. BIRMINGHAM 35014 ELECT. 877-611-1234 PHONE: (205) 476-1000
ELECTRIC:	121. CALVER ST. AVE. 115 "SA. BIRMINGHAM 35014 ELECT. 877-611-1234 PHONE: (205) 476-1000
PHONE:	121. CALVER ST. AVE. 115 "SA. BIRMINGHAM 35014 ELECT. 877-611-1234 PHONE: (205) 476-1000
FIRE PROTECTION:	121. CALVER ST. AVE. 115 "SA. BIRMINGHAM 35014 ELECT. 877-611-1234 PHONE: (205) 476-1000
SOLID WASTE DISPOSAL:	121. CALVER ST. AVE. 115 "SA. BIRMINGHAM 35014 ELECT. 877-611-1234 PHONE: (205) 476-1000
IRRIGATION:	121. CALVER ST. AVE. 115 "SA. BIRMINGHAM 35014 ELECT. 877-611-1234 PHONE: (205) 476-1000

## INDEX OF SHEETS

SHEET	TITLE
1	COVER
2	AERIAL PHOTOGRAPH
3	MASTER SITE PLAN
4	MASTER STORM WATER PLAN
5-12	STORM WATER PLANS
13	PAVING, GRADING, AND DRAINAGE DETAILS
14	TYPICAL SECTIONS
15	GENERAL NOTES
16	BEST MANAGEMENT PRACTICE DETAILS
9 OF 9	BOUNDARY SURVEY

**Banks Engineering, Inc.**

Professional Engineers, Planners &amp; Land Surveyors

PORT MYERS - NAIL'S - SARASOTA

License Number EB-0006469

10511 SIX MILE CYPRESS PARKWAY - SUITE 101; FORT MYERS, FLORIDA 33912

PHONE: (239) 939-5490 FAX: (239) 939-2523



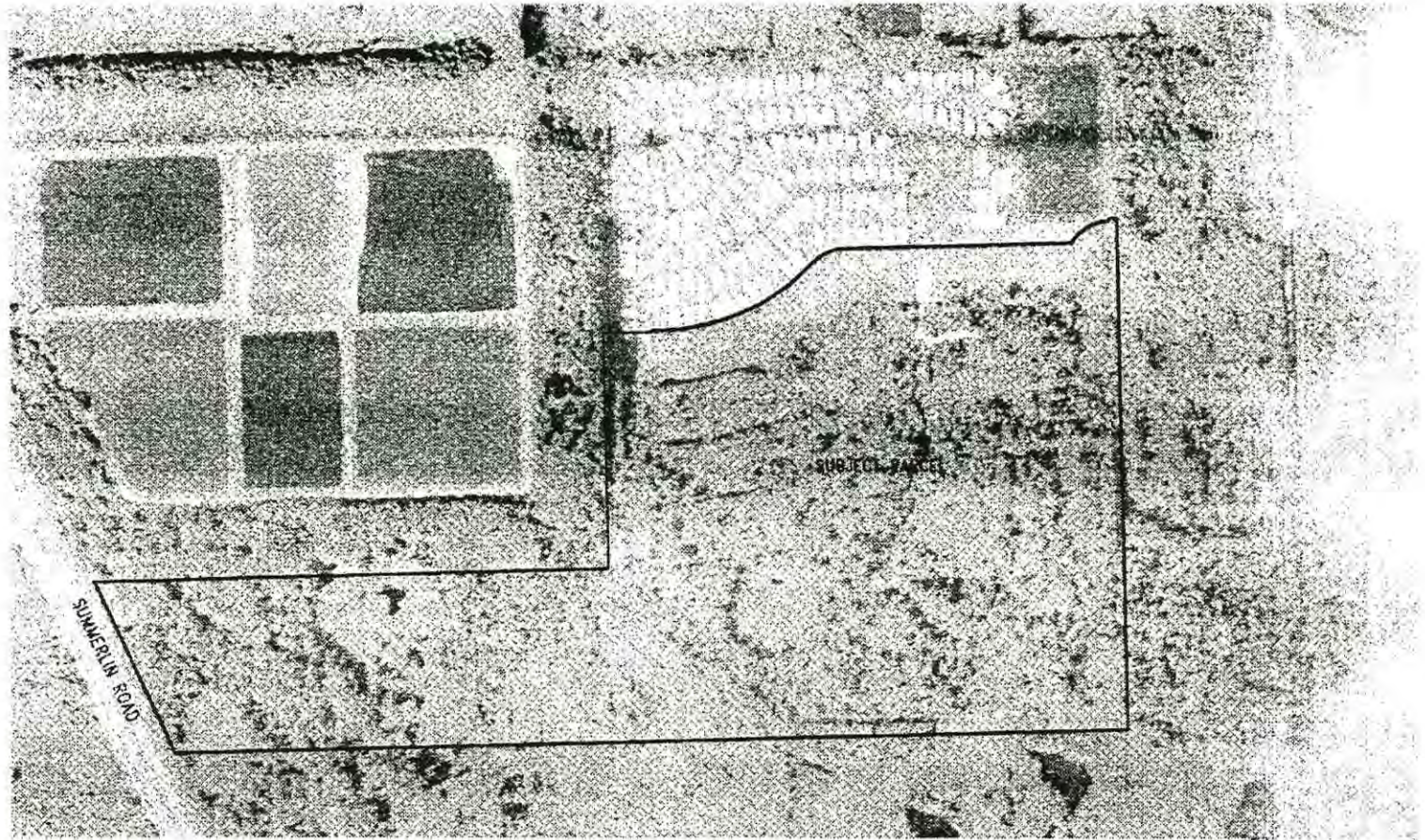
APPLICATION NUMBER:  
050 113-130

EXHIBIT 20



SEAN C. MARTIN, P.I.  
FLORIDA REG. No. 6090





AERIAL  
WATERSTONE EXHIBIT 2.1  
LEE COUNTY, FLORIDA

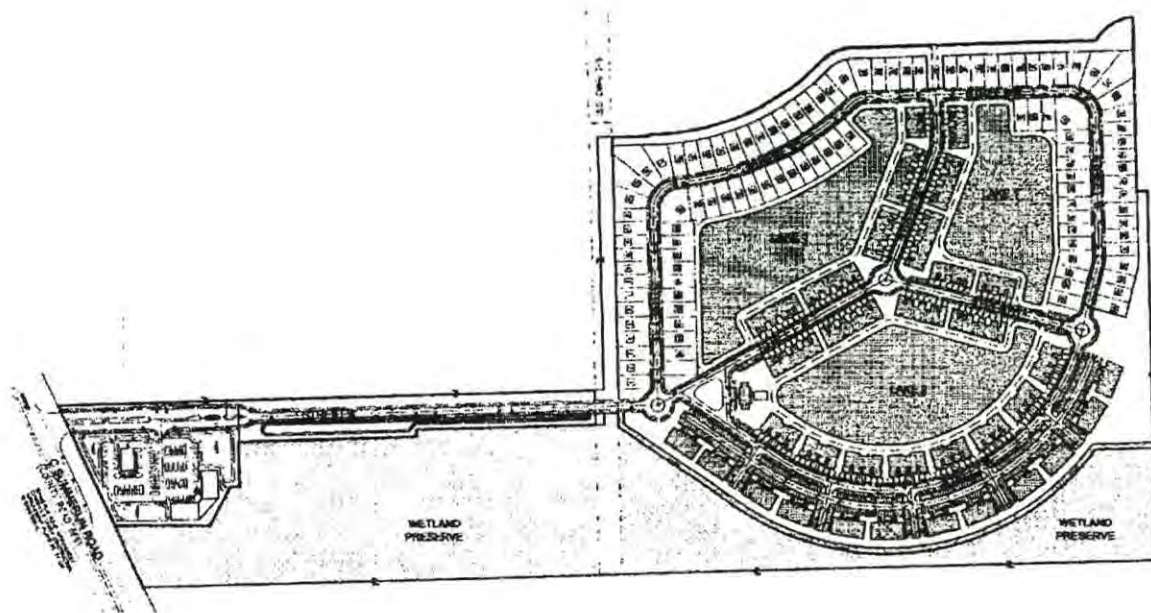
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#### PARKING REQUIREMENTS:

[illegible]

**LEGEND**

[illegible]

APPLICATION NUMBER  
Q5G113-138

ADMITTED SUBJECT  
JAN 7 8 2005  
LAW ENFORCEMENT CENTER

## EXHIBIT 2.2

**VICOTT, INC.**

1375 DE 47TH STREET E; SUITE C  
CAPE CORRAL, FLORIDA 33904  
PHONE: (279) 340-4510  
FAX: (279) 340-7585

**Banks Engineering, Inc.**  
Professional Engineers, Planners & Land Surveyors

1981 LA WELLY SYMBOLS PROGRAMS - NEW 50  
1982 WELLY, FLORIDA 2007  
PHONE: (704) 476-1000 FAX: (704) 476-1001  
DISTRIBUTION: 1000 1/2 S.W. 10th  
MIAMI, FLORIDA 33135

Blair C. Smith, P.C.  
Florida, N.D., 1988

MASTER SITE PLAN  
**WATERSTONE**  
LEE COUNTY, FLORIDA

DATE	PROJECT	DESIGNER	DESIGN	DRIVER	DRIVER	WAGE	TIME	PER	TIME (HRS)
11-15-84	1636	W-SP	SON	WET	SON	17.00	0	0	0.00



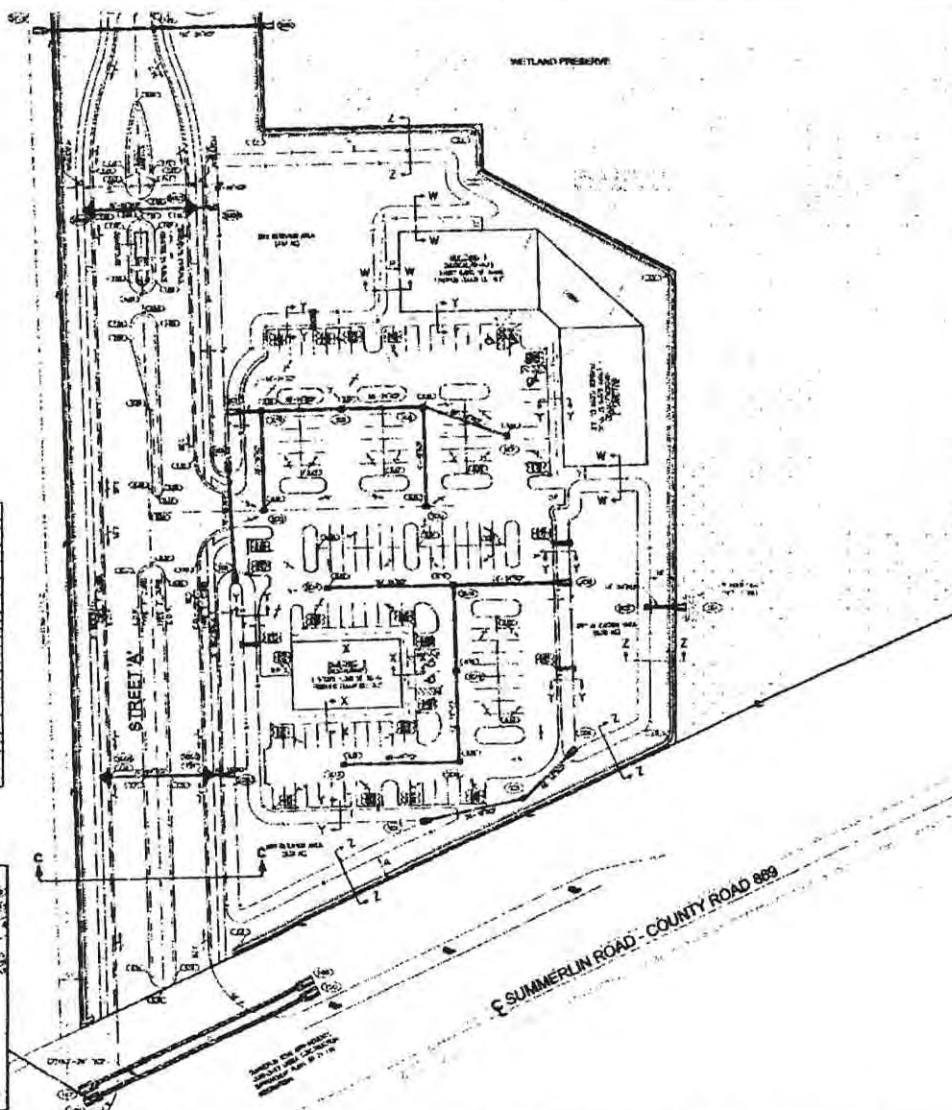




**DRAINAGE STRUCTURE TABLE**

TYPE: STRUCTURE DESCRIPTION: SIZE: MATERIAL: INLET: OUTLET: ELEVATION: REMARKS:

NO.	TYPE	DESCRIPTION	SIZE	MATERIAL	INLET	OUTLET	ELEVATION	REMARKS
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N

**LEGEND**

- 1. EXISTING PAVEMENT
- 2. EXISTING CURB
- 3. EXISTING GUTTER
- 4. EXISTING SIDEWALK
- 5. EXISTING DRIVEWAY
- 6. EXISTING LOT
- 7. EXISTING BUILDING
- 8. EXISTING FENCE
- 9. EXISTING UTILITY
- 10. EXISTING TREE
- 11. EXISTING LANDSCAPE
- 12. EXISTING SIGN
- 13. EXISTING LIGHT
- 14. EXISTING BIKEWAY
- 15. EXISTING TRAIL
- 16. EXISTING PATH
- 17. EXISTING STAIR
- 18. EXISTING RAMP
- 19. EXISTING ELEVATOR
- 20. EXISTING ESCALATOR
- 21. EXISTING PLATFORM
- 22. EXISTING CANOPY
- 23. EXISTING AWNING
- 24. EXISTING BALCONY
- 25. EXISTING TERRACE
- 26. EXISTING PATIO
- 27. EXISTING PORCH
- 28. EXISTING DECK
- 29. EXISTING GAZEBO
- 30. EXISTING PERGOLA
- 31. EXISTING SHED
- 32. EXISTING GARAGE
- 33. EXISTING DRIVE
- 34. EXISTING ALLEY
- 35. EXISTING COURT
- 36. EXISTING YARD
- 37. EXISTING FIELD
- 38. EXISTING POND
- 39. EXISTING LAKE
- 40. EXISTING RIVER
- 41. EXISTING STREAM
- 42. EXISTING CREEK
- 43. EXISTING CANYON
- 44. EXISTING MOUNTAIN
- 45. EXISTING HILL
- 46. EXISTING VALLEY
- 47. EXISTING PLAIN
- 48. EXISTING DESERT
- 49. EXISTING TUNDRA
- 50. EXISTING SAVANNAH

**NOTES**

1. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE FDOT STANDARD SPECIFICATIONS FOR ROAD AND BRIDGE CONSTRUCTION.
2. THE DESIGNER HAS CONDUCTED VISUAL INSPECTIONS OF THE SITE AND HAS FOUND NO OBVIOUS OBSTRUCTIONS TO THE PROPOSED CONSTRUCTION.
3. THE DESIGNER HAS CONDUCTED VISUAL INSPECTIONS OF THE SITE AND HAS FOUND NO OBVIOUS OBSTRUCTIONS TO THE PROPOSED CONSTRUCTION.
4. THE DESIGNER HAS CONDUCTED VISUAL INSPECTIONS OF THE SITE AND HAS FOUND NO OBVIOUS OBSTRUCTIONS TO THE PROPOSED CONSTRUCTION.
5. THE DESIGNER HAS CONDUCTED VISUAL INSPECTIONS OF THE SITE AND HAS FOUND NO OBVIOUS OBSTRUCTIONS TO THE PROPOSED CONSTRUCTION.

**KEY PLAN**

**VICOTT, INC.**  
1325 DE 47TH STREET, SUITE A  
CAPE CORAL, FLORIDA 33904  
PHONE: (239) 549-4110  
FAX: (239) 549-0400

**Ranks Engineering, Inc.**  
Professional Engineers, Planners & Land Surveyors  
1001 S. 98th STREET, SUITE 100  
FORT MYERS, FLORIDA 33907  
PHONE: (239) 486-1000 FAX: (239) 486-1001  
ON SITE: 1001 S. 98th STREET, SUITE 100  
FORT MYERS, FLORIDA 33907

**STORMWATER PLAN**  
**WATERSTONE**  
LEE COUNTY, FLORIDA

**EXHIBIT 24**

DATE: 11-15-04  
PROJECT: 1836  
DESIGNER: JMM  
CHECKER: JMM  
INCHES: 1/8" = 1'-0"

SCALE: 1/8" = 1'-0"

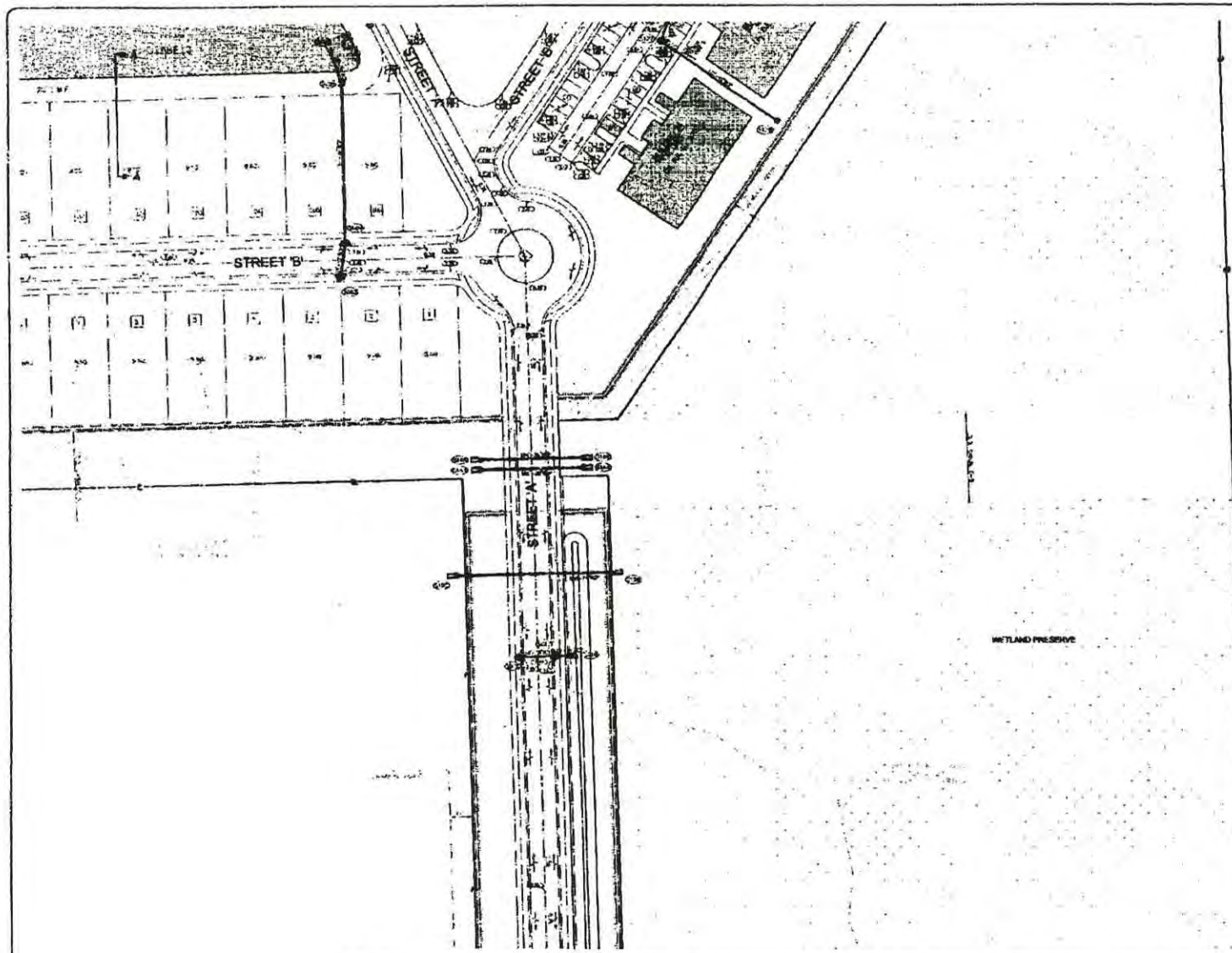
DATE: 11-15-04  
PROJECT: 1836  
DESIGNER: JMM  
CHECKER: JMM  
INCHES: 1/8" = 1'-0"

DATE: 11-15-04  
PROJECT: 1836  
DESIGNER: JMM  
CHECKER: JMM  
INCHES: 1/8" = 1'-0"







[illegible]

DRAMAAGE SIMULATION TABLE			
TIME	DRAMAAGE	TIME	DRAMAAGE
1000	DRAMAAGE	1000	DRAMAAGE
1001	DRAMAAGE	1001	DRAMAAGE
1002	DRAMAAGE	1002	DRAMAAGE
1003	DRAMAAGE	1003	DRAMAAGE
1004	DRAMAAGE	1004	DRAMAAGE
1005	DRAMAAGE	1005	DRAMAAGE
1006	DRAMAAGE	1006	DRAMAAGE
1007	DRAMAAGE	1007	DRAMAAGE
1008	DRAMAAGE	1008	DRAMAAGE
1009	DRAMAAGE	1009	DRAMAAGE
1010	DRAMAAGE	1010	DRAMAAGE
1011	DRAMAAGE	1011	DRAMAAGE
1012	DRAMAAGE	1012	DRAMAAGE
1013	DRAMAAGE	1013	DRAMAAGE
1014	DRAMAAGE	1014	DRAMAAGE
1015	DRAMAAGE	1015	DRAMAAGE
1016	DRAMAAGE	1016	DRAMAAGE
1017	DRAMAAGE	1017	DRAMAAGE
1018	DRAMAAGE	1018	DRAMAAGE
1019	DRAMAAGE	1019	DRAMAAGE
1020	DRAMAAGE	1020	DRAMAAGE



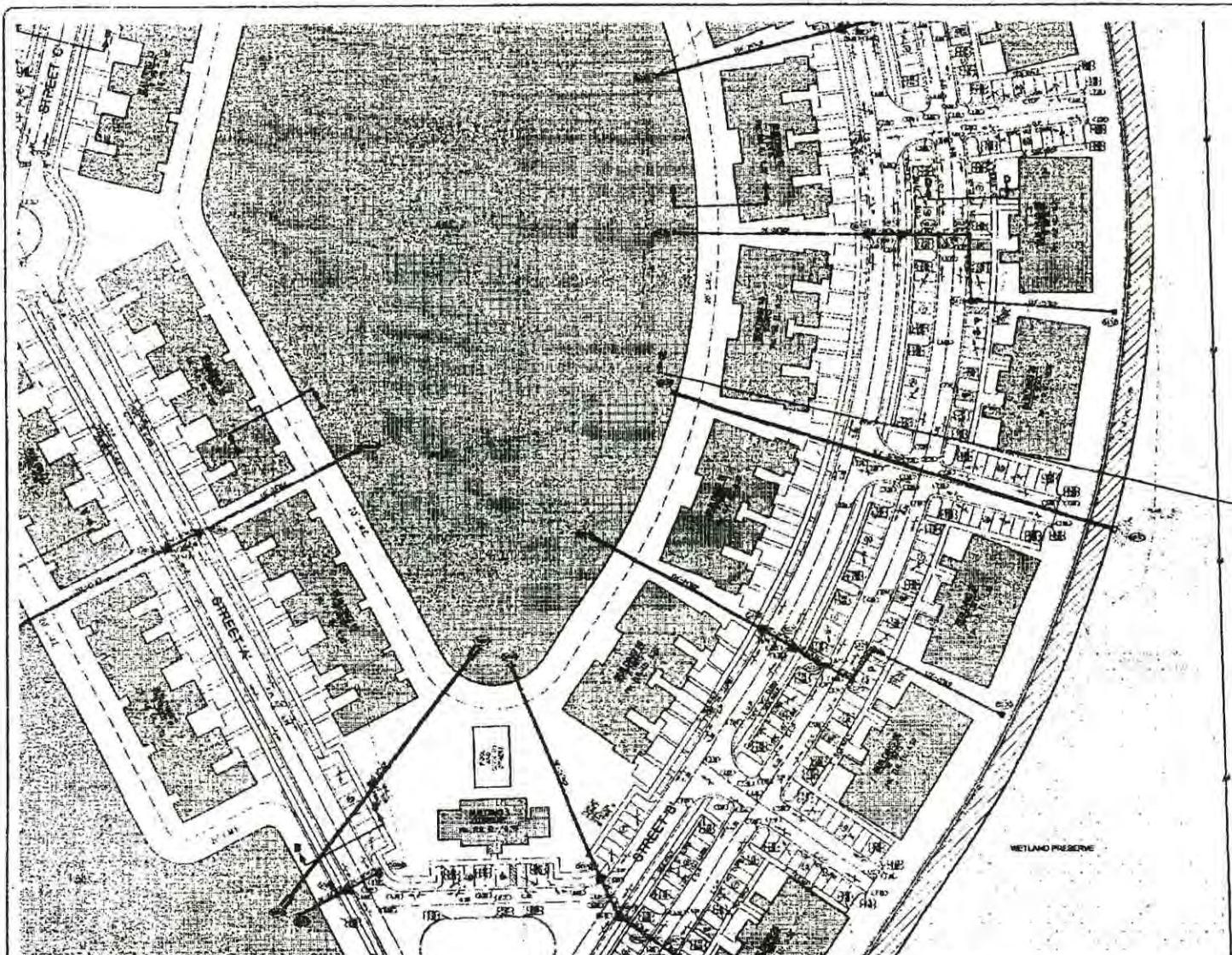
**VICOTT, INC.**  
1325 DE 47TH AVENUE, SUITE D  
DAFT CROWN, FLORIDA 33404  
PHONE: (239) 549-4118  
FAX: (239) 549-5084

**Banks Engineering, Inc.**  
Professional Engineers, Planners & Land Surveyors  
1201 10th St. S.E. 2nd Floor - SEASIDE  
FORT MYERS, FLORIDA 33901  
PHONE (239) 238-5800 - FAX (239) 486-2707  
TELETYPE (239) 238-5800  
SAFETY LICENSE # 1000

1-11-74  
1-11-74

STORMWATER PLAN  
**WATERSTONE** EXHIBIT 2.6  
 LEE COUNTY, FLORIDA





**LEGEND**

- PROPOSED LOT
- EXISTING LOT
- PROPOSED LOT
- EXISTING LOT

**LEGEND**

- PROPOSED LOT
- EXISTING LOT
- PROPOSED LOT
- EXISTING LOT

**DRAINAGE STRUCTURE TABLE**

TABLE 1: DRAINAGE STRUCTURES

NO.	STRUCTURE	TYPE	SIZE	LOCATION
1	18" DIA. MANHOLE	CONCRETE	18"	LOT 1
2	24" DIA. MANHOLE	CONCRETE	24"	LOT 2
3	30" DIA. MANHOLE	CONCRETE	30"	LOT 3
4	36" DIA. MANHOLE	CONCRETE	36"	LOT 4
5	42" DIA. MANHOLE	CONCRETE	42"	LOT 5
6	48" DIA. MANHOLE	CONCRETE	48"	LOT 6
7	54" DIA. MANHOLE	CONCRETE	54"	LOT 7
8	60" DIA. MANHOLE	CONCRETE	60"	LOT 8
9	66" DIA. MANHOLE	CONCRETE	66"	LOT 9
10	72" DIA. MANHOLE	CONCRETE	72"	LOT 10
11	78" DIA. MANHOLE	CONCRETE	78"	LOT 11
12	84" DIA. MANHOLE	CONCRETE	84"	LOT 12
13	90" DIA. MANHOLE	CONCRETE	90"	LOT 13
14	96" DIA. MANHOLE	CONCRETE	96"	LOT 14
15	102" DIA. MANHOLE	CONCRETE	102"	LOT 15
16	108" DIA. MANHOLE	CONCRETE	108"	LOT 16
17	114" DIA. MANHOLE	CONCRETE	114"	LOT 17
18	120" DIA. MANHOLE	CONCRETE	120"	LOT 18
19	126" DIA. MANHOLE	CONCRETE	126"	LOT 19
20	132" DIA. MANHOLE	CONCRETE	132"	LOT 20
21	138" DIA. MANHOLE	CONCRETE	138"	LOT 21
22	144" DIA. MANHOLE	CONCRETE	144"	LOT 22
23	150" DIA. MANHOLE	CONCRETE	150"	LOT 23
24	156" DIA. MANHOLE	CONCRETE	156"	LOT 24
25	162" DIA. MANHOLE	CONCRETE	162"	LOT 25
26	168" DIA. MANHOLE	CONCRETE	168"	LOT 26
27	174" DIA. MANHOLE	CONCRETE	174"	LOT 27
28	180" DIA. MANHOLE	CONCRETE	180"	LOT 28
29	186" DIA. MANHOLE	CONCRETE	186"	LOT 29
30	192" DIA. MANHOLE	CONCRETE	192"	LOT 30
31	198" DIA. MANHOLE	CONCRETE	198"	LOT 31
32	204" DIA. MANHOLE	CONCRETE	204"	LOT 32
33	210" DIA. MANHOLE	CONCRETE	210"	LOT 33
34	216" DIA. MANHOLE	CONCRETE	216"	LOT 34
35	222" DIA. MANHOLE	CONCRETE	222"	LOT 35
36	228" DIA. MANHOLE	CONCRETE	228"	LOT 36
37	234" DIA. MANHOLE	CONCRETE	234"	LOT 37
38	240" DIA. MANHOLE	CONCRETE	240"	LOT 38
39	246" DIA. MANHOLE	CONCRETE	246"	LOT 39
40	252" DIA. MANHOLE	CONCRETE	252"	LOT 40
41	258" DIA. MANHOLE	CONCRETE	258"	LOT 41
42	264" DIA. MANHOLE	CONCRETE	264"	LOT 42
43	270" DIA. MANHOLE	CONCRETE	270"	LOT 43
44	276" DIA. MANHOLE	CONCRETE	276"	LOT 44
45	282" DIA. MANHOLE	CONCRETE	282"	LOT 45
46	288" DIA. MANHOLE	CONCRETE	288"	LOT 46
47	294" DIA. MANHOLE	CONCRETE	294"	LOT 47
48	300" DIA. MANHOLE	CONCRETE	300"	LOT 48
49	306" DIA. MANHOLE	CONCRETE	306"	LOT 49
50	312" DIA. MANHOLE	CONCRETE	312"	LOT 50
51	318" DIA. MANHOLE	CONCRETE	318"	LOT 51
52	324" DIA. MANHOLE	CONCRETE	324"	LOT 52
53	330" DIA. MANHOLE	CONCRETE	330"	LOT 53
54	336" DIA. MANHOLE	CONCRETE	336"	LOT 54
55	342" DIA. MANHOLE	CONCRETE	342"	LOT 55
56	348" DIA. MANHOLE	CONCRETE	348"	LOT 56
57	354" DIA. MANHOLE	CONCRETE	354"	LOT 57
58	360" DIA. MANHOLE	CONCRETE	360"	LOT 58
59	366" DIA. MANHOLE	CONCRETE	366"	LOT 59
60	372" DIA. MANHOLE	CONCRETE	372"	LOT 60
61	378" DIA. MANHOLE	CONCRETE	378"	LOT 61
62	384" DIA. MANHOLE	CONCRETE	384"	LOT 62
63	390" DIA. MANHOLE	CONCRETE	390"	LOT 63
64	396" DIA. MANHOLE	CONCRETE	396"	LOT 64
65	402" DIA. MANHOLE	CONCRETE	402"	LOT 65
66	408" DIA. MANHOLE	CONCRETE	408"	LOT 66
67	414" DIA. MANHOLE	CONCRETE	414"	LOT 67
68	420" DIA. MANHOLE	CONCRETE	420"	LOT 68
69	426" DIA. MANHOLE	CONCRETE	426"	LOT 69
70	432" DIA. MANHOLE	CONCRETE	432"	LOT 70
71	438" DIA. MANHOLE	CONCRETE	438"	LOT 71
72	444" DIA. MANHOLE	CONCRETE	444"	LOT 72
73	450" DIA. MANHOLE	CONCRETE	450"	LOT 73
74	456" DIA. MANHOLE	CONCRETE	456"	LOT 74
75	462" DIA. MANHOLE	CONCRETE	462"	LOT 75
76	468" DIA. MANHOLE	CONCRETE	468"	LOT 76
77	474" DIA. MANHOLE	CONCRETE	474"	LOT 77
78	480" DIA. MANHOLE	CONCRETE	480"	LOT 78
79	486" DIA. MANHOLE	CONCRETE	486"	LOT 79
80	492" DIA. MANHOLE	CONCRETE	492"	LOT 80
81	498" DIA. MANHOLE	CONCRETE	498"	LOT 81
82	504" DIA. MANHOLE	CONCRETE	504"	LOT 82
83	510" DIA. MANHOLE	CONCRETE	510"	LOT 83
84	516" DIA. MANHOLE	CONCRETE	516"	LOT 84
85	522" DIA. MANHOLE	CONCRETE	522"	LOT 85
86	528" DIA. MANHOLE	CONCRETE	528"	LOT 86
87	534" DIA. MANHOLE	CONCRETE	534"	LOT 87
88	540" DIA. MANHOLE	CONCRETE	540"	LOT 88
89	546" DIA. MANHOLE	CONCRETE	546"	LOT 89
90	552" DIA. MANHOLE	CONCRETE	552"	LOT 90
91	558" DIA. MANHOLE	CONCRETE	558"	LOT 91
92	564" DIA. MANHOLE	CONCRETE	564"	LOT 92
93	570" DIA. MANHOLE	CONCRETE	570"	LOT 93
94	576" DIA. MANHOLE	CONCRETE	576"	LOT 94
95	582" DIA. MANHOLE	CONCRETE	582"	LOT 95
96	588" DIA. MANHOLE	CONCRETE	588"	LOT 96
97	594" DIA. MANHOLE	CONCRETE	594"	LOT 97
98	600" DIA. MANHOLE	CONCRETE	600"	LOT 98
99	606" DIA. MANHOLE	CONCRETE	606"	LOT 99
100	612" DIA. MANHOLE	CONCRETE	612"	LOT 100

**VICOTT, INC.**  
1200 W. 10TH STREET, SUITE 2  
FORT WORTH, TEXAS 76104  
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FAX: (817) 636-1111

**Banks Engineering, Inc.**  
Professional Engineers, Planners & Land Surveyors  
1001 W. 10TH STREET, SUITE 200  
FORT WORTH, TEXAS 76104  
PHONE: (817) 636-1111  
FAX: (817) 636-1111

**STORMWATER PLAN**  
**WATERSTONE**  
LEE COUNTY, FLORIDA

**EXHIBIT 2.7**

DATE: 11-15-04  
PROJECT: 1001  
DRAWN: JMM  
CHECKED: JMM  
SCALE: 1"=40'

DATE: 11-15-04  
PROJECT: 1001  
DRAWN: JMM  
CHECKED: JMM  
SCALE: 1"=40'

DATE: 11-15-04  
PROJECT: 1001  
DRAWN: JMM  
CHECKED: JMM  
SCALE: 1"=40'

DATE: 11-15-04  
PROJECT: 1001  
DRAWN: JMM  
CHECKED: JMM  
SCALE: 1"=40'







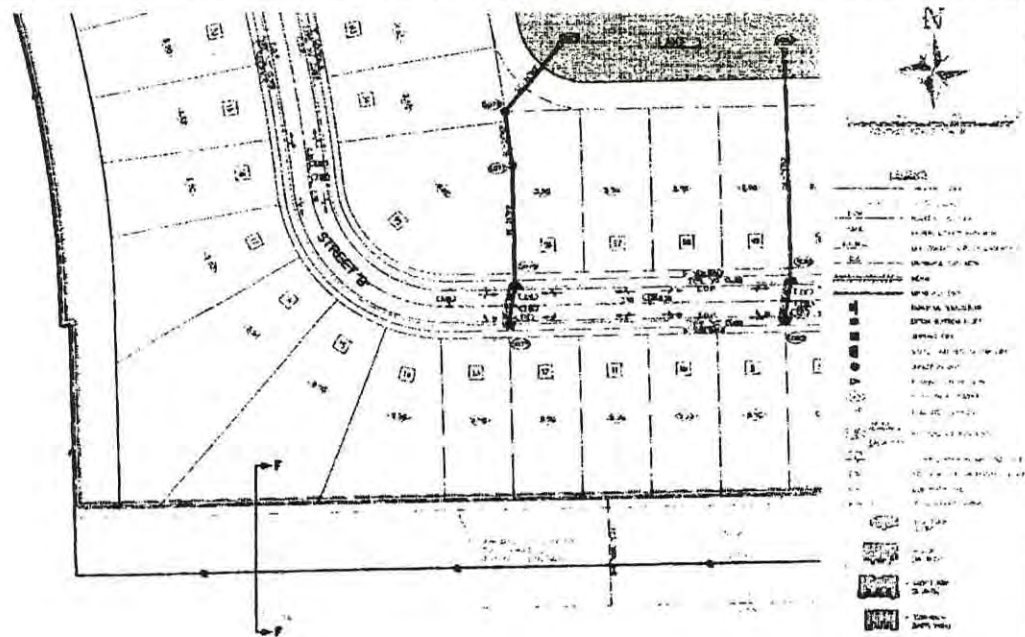
This is a detailed plat map of a residential subdivision. The map shows a grid of lots, with a large central area shaded with cross-hatching, likely representing a park or undeveloped land. A street labeled "STREET B" runs horizontally across the middle. To the left, a street labeled "STREET A" runs vertically. The map includes lot numbers, street names, and a legend in the bottom right corner. A north arrow is located in the top right corner.

DATE	TIME	LOCATION	NO. OF	TYPE	REMARKS	BY	REMARKS
11-15-64	1456	200	304	101	204	11-15	101









**DRAINAGE STRUCTURE TABLE**

REFER TO SHEETS FOR SHEETS FOR DRAINAGE PIPING, CATCH BASINS, ETC.

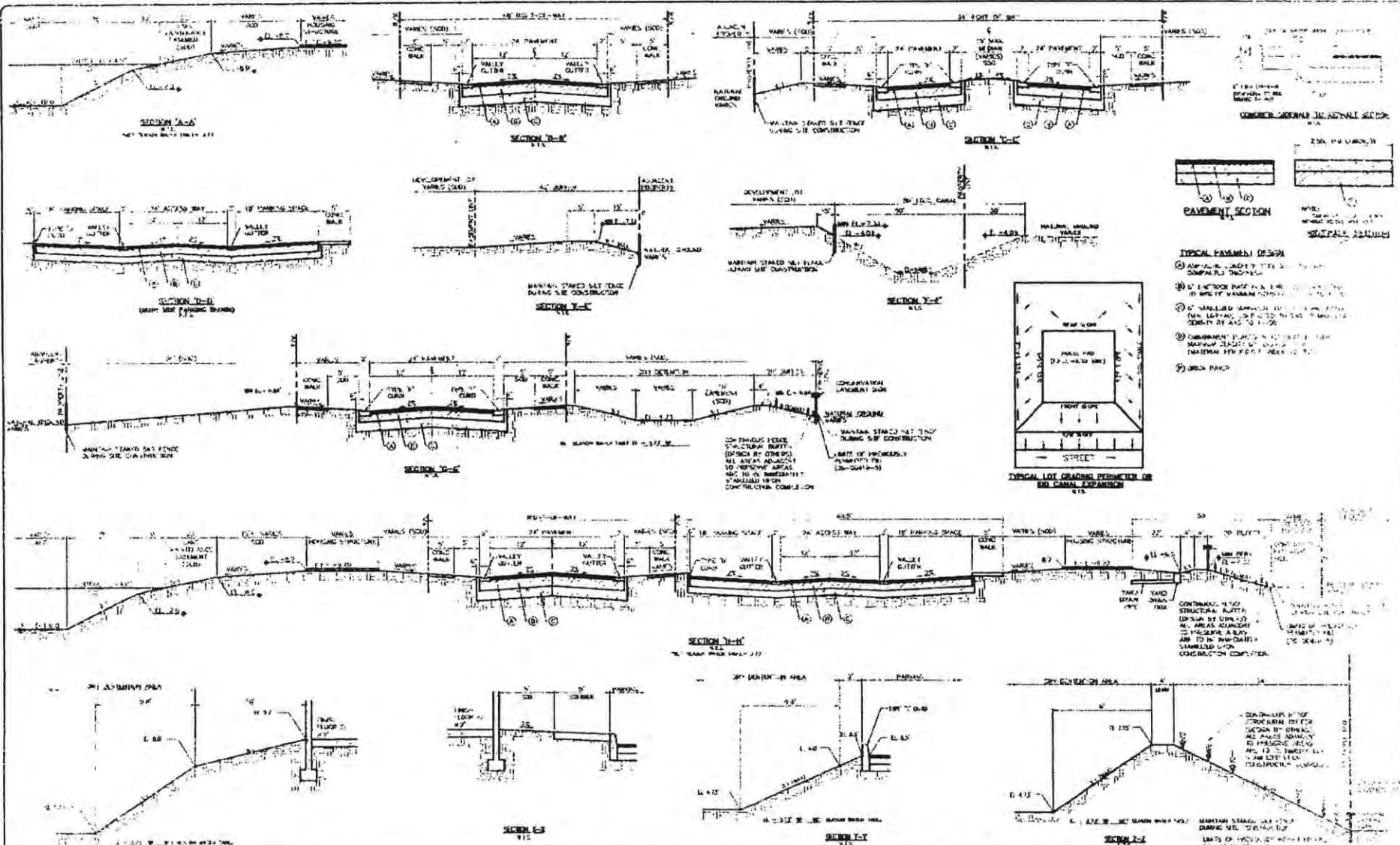
NO.	STRUCTURE	LOCATION	REMARKS
1	MANHOLE	LOT 1	12" DIA. 10' DEEP
2	MANHOLE	LOT 2	12" DIA. 10' DEEP
3	MANHOLE	LOT 3	12" DIA. 10' DEEP
4	MANHOLE	LOT 4	12" DIA. 10' DEEP
5	MANHOLE	LOT 5	12" DIA. 10' DEEP
6	MANHOLE	LOT 6	12" DIA. 10' DEEP
7	MANHOLE	LOT 7	12" DIA. 10' DEEP
8	MANHOLE	LOT 8	12" DIA. 10' DEEP
9	MANHOLE	LOT 9	12" DIA. 10' DEEP
10	MANHOLE	LOT 10	12" DIA. 10' DEEP
11	MANHOLE	LOT 11	12" DIA. 10' DEEP
12	MANHOLE	LOT 12	12" DIA. 10' DEEP
13	MANHOLE	LOT 13	12" DIA. 10' DEEP
14	MANHOLE	LOT 14	12" DIA. 10' DEEP
15	MANHOLE	LOT 15	12" DIA. 10' DEEP
16	MANHOLE	LOT 16	12" DIA. 10' DEEP
17	MANHOLE	LOT 17	12" DIA. 10' DEEP
18	MANHOLE	LOT 18	12" DIA. 10' DEEP
19	MANHOLE	LOT 19	12" DIA. 10' DEEP
20	MANHOLE	LOT 20	12" DIA. 10' DEEP
21	MANHOLE	LOT 21	12" DIA. 10' DEEP
22	MANHOLE	LOT 22	12" DIA. 10' DEEP
23	MANHOLE	LOT 23	12" DIA. 10' DEEP
24	MANHOLE	LOT 24	12" DIA. 10' DEEP
25	MANHOLE	LOT 25	12" DIA. 10' DEEP
26	MANHOLE	LOT 26	12" DIA. 10' DEEP
27	MANHOLE	LOT 27	12" DIA. 10' DEEP
28	MANHOLE	LOT 28	12" DIA. 10' DEEP
29	MANHOLE	LOT 29	12" DIA. 10' DEEP
30	MANHOLE	LOT 30	12" DIA. 10' DEEP
31	MANHOLE	LOT 31	12" DIA. 10' DEEP
32	MANHOLE	LOT 32	12" DIA. 10' DEEP
33	MANHOLE	LOT 33	12" DIA. 10' DEEP
34	MANHOLE	LOT 34	12" DIA. 10' DEEP
35	MANHOLE	LOT 35	12" DIA. 10' DEEP
36	MANHOLE	LOT 36	12" DIA. 10' DEEP
37	MANHOLE	LOT 37	12" DIA. 10' DEEP
38	MANHOLE	LOT 38	12" DIA. 10' DEEP
39	MANHOLE	LOT 39	12" DIA. 10' DEEP
40	MANHOLE	LOT 40	12" DIA. 10' DEEP
41	MANHOLE	LOT 41	12" DIA. 10' DEEP
42	MANHOLE	LOT 42	12" DIA. 10' DEEP
43	MANHOLE	LOT 43	12" DIA. 10' DEEP
44	MANHOLE	LOT 44	12" DIA. 10' DEEP
45	MANHOLE	LOT 45	12" DIA. 10' DEEP
46	MANHOLE	LOT 46	12" DIA. 10' DEEP
47	MANHOLE	LOT 47	12" DIA. 10' DEEP
48	MANHOLE	LOT 48	12" DIA. 10' DEEP
49	MANHOLE	LOT 49	12" DIA. 10' DEEP
50	MANHOLE	LOT 50	12" DIA. 10' DEEP
51	MANHOLE	LOT 51	12" DIA. 10' DEEP
52	MANHOLE	LOT 52	12" DIA. 10' DEEP
53	MANHOLE	LOT 53	12" DIA. 10' DEEP
54	MANHOLE	LOT 54	12" DIA. 10' DEEP
55	MANHOLE	LOT 55	12" DIA. 10' DEEP
56	MANHOLE	LOT 56	12" DIA. 10' DEEP
57	MANHOLE	LOT 57	12" DIA. 10' DEEP
58	MANHOLE	LOT 58	12" DIA. 10' DEEP
59	MANHOLE	LOT 59	12" DIA. 10' DEEP
60	MANHOLE	LOT 60	12" DIA. 10' DEEP
61	MANHOLE	LOT 61	12" DIA. 10' DEEP
62	MANHOLE	LOT 62	12" DIA. 10' DEEP
63	MANHOLE	LOT 63	12" DIA. 10' DEEP
64	MANHOLE	LOT 64	12" DIA. 10' DEEP
65	MANHOLE	LOT 65	12" DIA. 10' DEEP
66	MANHOLE	LOT 66	12" DIA. 10' DEEP
67	MANHOLE	LOT 67	12" DIA. 10' DEEP
68	MANHOLE	LOT 68	12" DIA. 10' DEEP
69	MANHOLE	LOT 69	12" DIA. 10' DEEP
70	MANHOLE	LOT 70	12" DIA. 10' DEEP
71	MANHOLE	LOT 71	12" DIA. 10' DEEP
72	MANHOLE	LOT 72	12" DIA. 10' DEEP
73	MANHOLE	LOT 73	12" DIA. 10' DEEP
74	MANHOLE	LOT 74	12" DIA. 10' DEEP
75	MANHOLE	LOT 75	12" DIA. 10' DEEP
76	MANHOLE	LOT 76	12" DIA. 10' DEEP
77	MANHOLE	LOT 77	12" DIA. 10' DEEP
78	MANHOLE	LOT 78	12" DIA. 10' DEEP
79	MANHOLE	LOT 79	12" DIA. 10' DEEP
80	MANHOLE	LOT 80	12" DIA. 10' DEEP
81	MANHOLE	LOT 81	12" DIA. 10' DEEP
82	MANHOLE	LOT 82	12" DIA. 10' DEEP
83	MANHOLE	LOT 83	12" DIA. 10' DEEP
84	MANHOLE	LOT 84	12" DIA. 10' DEEP
85	MANHOLE	LOT 85	12" DIA. 10' DEEP
86	MANHOLE	LOT 86	12" DIA. 10' DEEP
87	MANHOLE	LOT 87	12" DIA. 10' DEEP
88	MANHOLE	LOT 88	12" DIA. 10' DEEP
89	MANHOLE	LOT 89	12" DIA. 10' DEEP
90	MANHOLE	LOT 90	12" DIA. 10' DEEP
91	MANHOLE	LOT 91	12" DIA. 10' DEEP
92	MANHOLE	LOT 92	12" DIA. 10' DEEP
93	MANHOLE	LOT 93	12" DIA. 10' DEEP
94	MANHOLE	LOT 94	12" DIA. 10' DEEP
95	MANHOLE	LOT 95	12" DIA. 10' DEEP
96	MANHOLE	LOT 96	12" DIA. 10' DEEP
97	MANHOLE	LOT 97	12" DIA. 10' DEEP
98	MANHOLE	LOT 98	12" DIA. 10' DEEP
99	MANHOLE	LOT 99	12" DIA. 10' DEEP
100	MANHOLE	LOT 100	12" DIA. 10' DEEP

<b>VICOTT, INC.</b> 1420 N. 17TH STREET, SUITE C CAPE CORAL, FLORIDA 33904 PHONE (239) 540-1110 FAX (239) 540-1000		<b>Banks Engineering, Inc.</b> Professional Engineers, Planners & Land Surveyors 1001 17TH STREET, SUITE 200 CAPE CORAL, FLORIDA 33904 PHONE (239) 540-1110 FAX (239) 540-1000		<b>STORMWATER PLAN</b> <b>WATERSTONE</b> LEE COUNTY, FLORIDA <b>EXHIBIT 211</b>	
DATE	PROJECT	REVISION	BY	CHKD	DATE
11-10-04	1836	1800	SCM	WET	11-10-04









VICOTT, INC.

1300 W. 17TH STREET, SUITE C  
CAPE CORRAL, FLORIDA 33904  
PHONE: (214) 248-4118  
FAX: (214) 248-5548

Hanks Engineering, Inc.  
Professional Engineers, Planners & Land Surveyors

1001 W. 17TH STREET, SUITE C  
CAPE CORRAL, FLORIDA 33904  
PHONE: (214) 248-4118  
FAX: (214) 248-5548

1/4" = 1'-0"

TYPICAL SECTIONS  
WATERSTONE  
LEE COUNTY, FLORIDA

EXHIBIT 2.13

DATE	PROJECT	REVISION	DESIGN	DATE	PROJECT	REVISION	DESIGN	DATE	PROJECT	REVISION	DESIGN
11-13-04	1838	301	SCM	WET	SCM	N.T.S.	14	15	16	17	18



[illegible]





Notes: This fence is to be used for silt control and is not to be used for erosion control.

TYPE III SILT FENCE



Type III Silt Fence



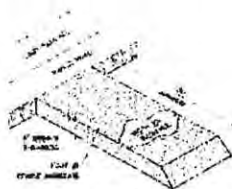
Type III Silt Fence



Type III Silt Fence

Notes: This fence is to be used for silt control and is not to be used for erosion control.

SILT FENCE APPLICATIONS



GRAVEL CONSTRUCTION ENTRANCE

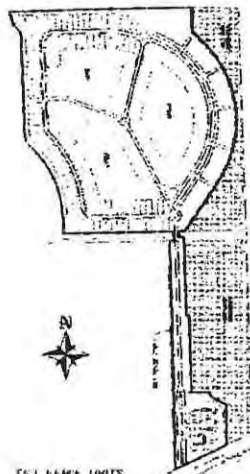


TYPE II

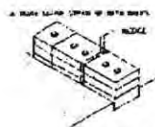
Barrier for Unpaved Ditches



TYPE II



Gravel Construction Entrance



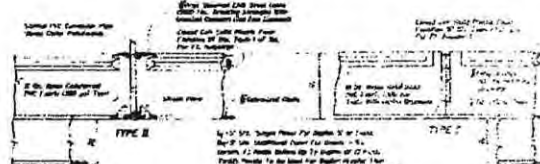
CONSTRUCTION OF A STRAW BALE BARRIER



PROPER PLACEMENT OF A STRAW BALE BARRIER IN DRAINAGE WAY

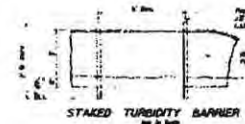


BALES BACKED BY FENCE

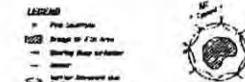


Notes: This barrier is to be used for turbidity control and is not to be used for erosion control.

FLOATING TURBIDITY BARRIERS

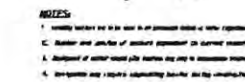


STAKED TURBIDITY BARRIER



Legend

Legend:  
1. 12' high, 12' wide, 12' deep  
2. 12' high, 12' wide, 12' deep  
3. 12' high, 12' wide, 12' deep



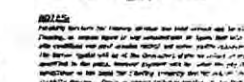
Notes

Notes:  
1. This barrier is to be used for turbidity control and is not to be used for erosion control.  
2. This barrier is to be used for turbidity control and is not to be used for erosion control.  
3. This barrier is to be used for turbidity control and is not to be used for erosion control.



Legend

Legend:  
1. 12' high, 12' wide, 12' deep  
2. 12' high, 12' wide, 12' deep  
3. 12' high, 12' wide, 12' deep



Notes

Notes:  
1. This barrier is to be used for turbidity control and is not to be used for erosion control.  
2. This barrier is to be used for turbidity control and is not to be used for erosion control.  
3. This barrier is to be used for turbidity control and is not to be used for erosion control.

TURBIDITY BARRIER APPLICATIONS



DITCH INLET

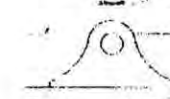


Notes

Notes:  
1. This barrier is to be used for turbidity control and is not to be used for erosion control.



PARTIAL INLET



COMPLETED INLET

PROTECTION AROUND INLETS OR SIMILAR STRUCTURES

GENERAL NOTES

GENERAL NOTES:  
1. THIS IS A CONSTRUCTION OF A BARRIER FOR EROSION CONTROL. IT IS NOT TO BE USED FOR EROSION CONTROL.  
2. THE FOLLOWING BARRIER REQUIREMENTS ARE RECOMMENDED: (REFERENCE FLORIDA DEPARTMENT OF TRANSPORTATION, FDOT, P. 100.000)  
a. 12' high, 12' wide, 12' deep  
b. 12' high, 12' wide, 12' deep  
c. 12' high, 12' wide, 12' deep  
3. THIS BARRIER IS TO BE USED FOR EROSION CONTROL. IT IS NOT TO BE USED FOR EROSION CONTROL.

VICOTT, INC.

VICOTT, INC.  
1200 N. 14TH STREET, SUITE 10  
CAPE CORRAL, FLORIDA 33041  
PHONE: (772) 340-4110  
FAX: (772) 340-0208

Banks Engineering, Inc.

Banks Engineering, Inc.  
Professional Engineers, Planners & Land Surveyors  
1200 N. 14TH STREET, SUITE 10  
CAPE CORRAL, FLORIDA 33041  
PHONE: (772) 340-4110  
FAX: (772) 340-0208

BEST MANAGEMENT PRACTICE DETAILS

BEST MANAGEMENT PRACTICE DETAILS  
WATERSTONE  
LEE COUNTY, FLORIDA

EXHIBIT 215

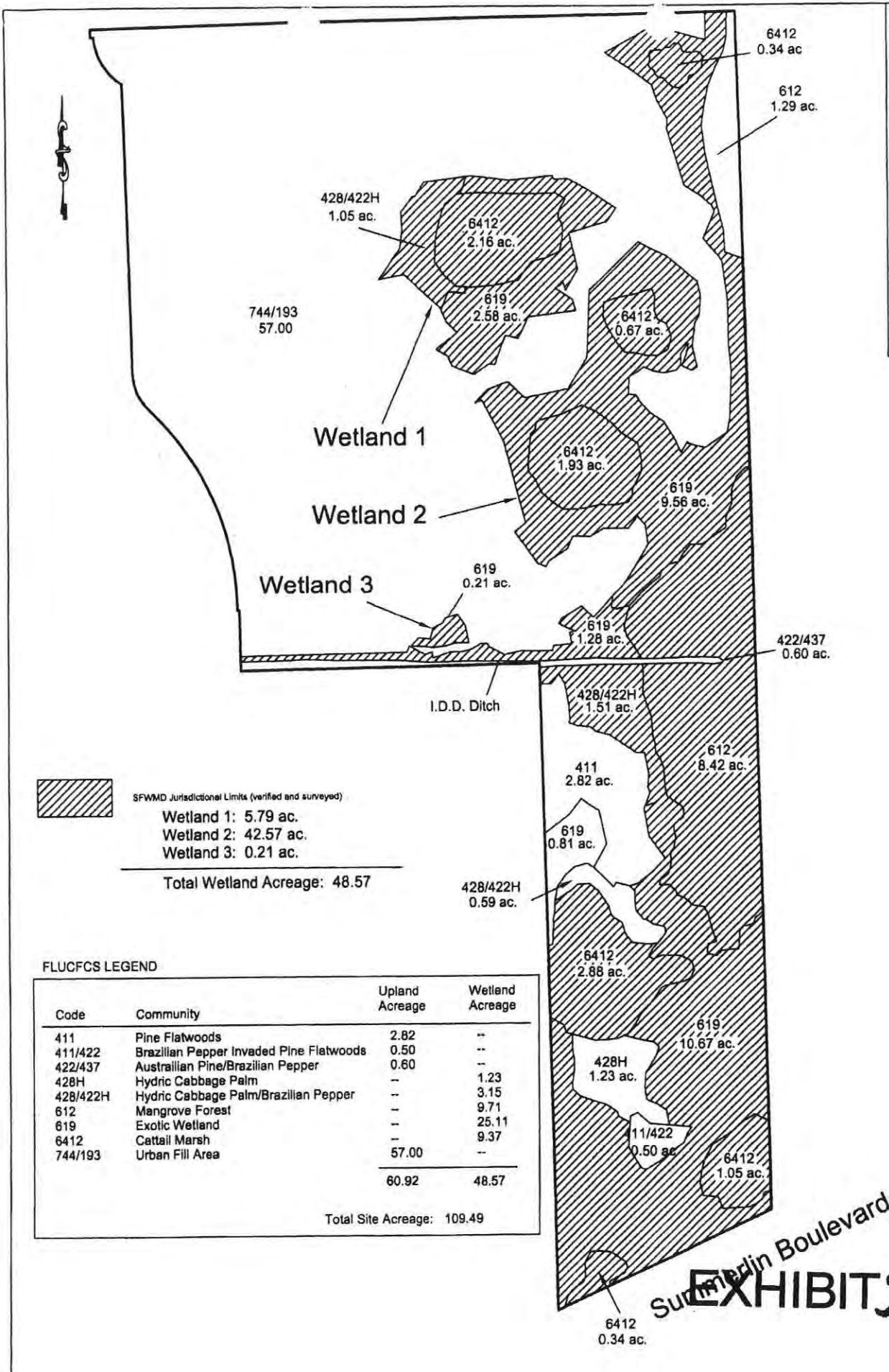
DATE	PROJECT	DESIGNER	CLIENT	SCALE	DATE	DATE	DATE	DATE	DATE
11-15-04	1856	BT	SCM	WET	SCM	WET	SCM	WET	SCM



COUNTY Lee  
 SEC 5  
 TWP 46  
 R1G 24  
 REVISIONS

**WATERSTONE**  
 Wetland I.D. Map

JOB #  
 SCALE 1"=400'  
 FILE FLUCCS  
 DRAWN BY K.K.  
 DATE 1-9-04





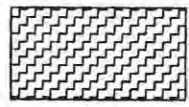
COUNTY	Lee
SEC	5
TWP	46
RNG	24
REVISIONS	

**SUNSET FALLS**  
 Wetland Impact Map

JOB #	
SCALE	1"=400'
FILE	FLUCCS
DRAWN BY	JDK
DATE	6/29/05

**EXHIBIT 3-1**

**IMPACT LEGEND**



Excavation, 3.90 ac. (125,839 cu. yds.)



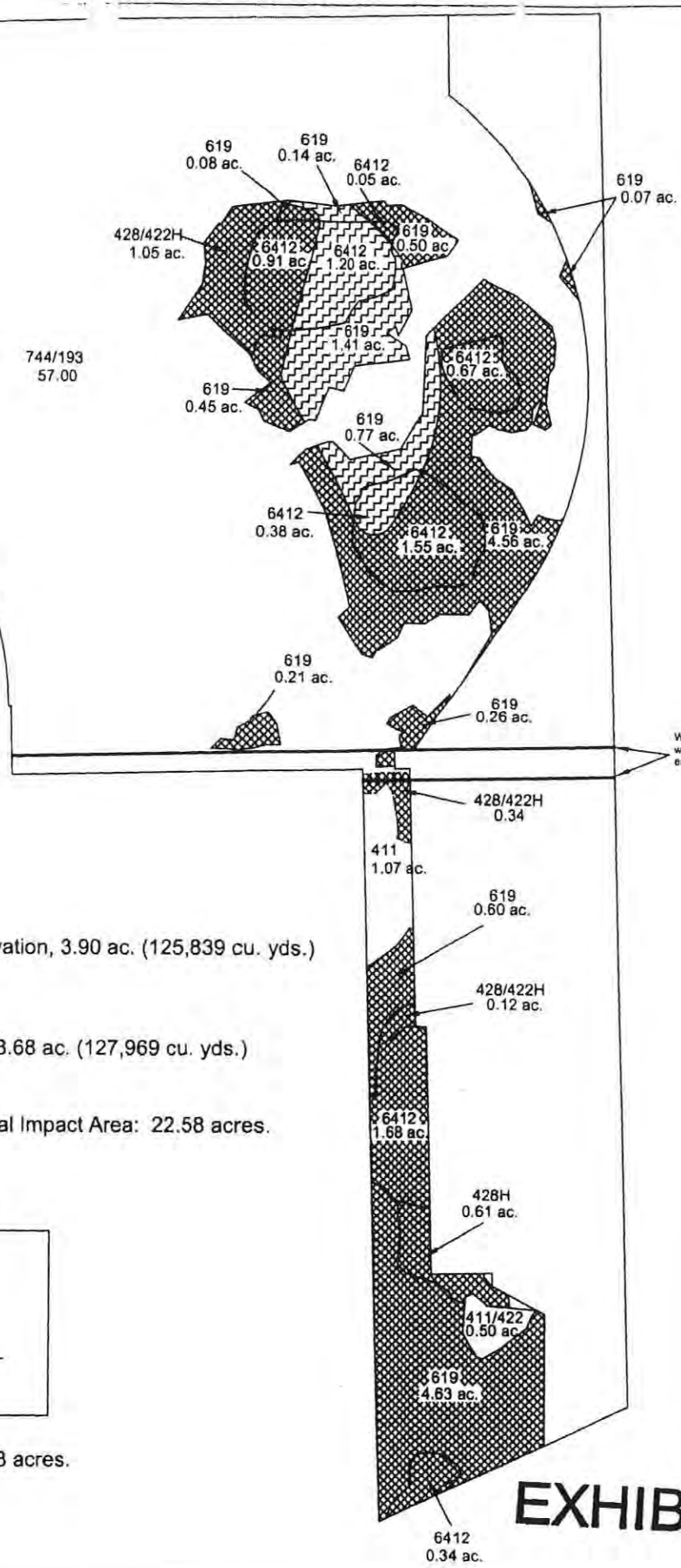
Fill, 18.68 ac. (127,969 cu. yds.)

Total Impact Area: 22.58 acres.

**Impact by Community**

428H	0.61
428/422H	1.51
619	13.68
6412	6.78
Total: 22.58 acres	

Total Site Area: 109.03 acres.







March 30, 2006

Ed Garcia  
Watermen Development Group  
8045 N.W. 155 St  
Miami Lakes, FL 33016

Re: Little Pine Island Wetland Mitigation Bank Credits/Sunset Falls

Dear Ed,

This is to confirm that the Little Pine Island Wetland Mitigation Bank has 2.96 Forested Saltwater and 1.92 Herbaceous Freshwater mitigation credits available and reserved to the above referenced project.

Please call me if I can provide any further assistance.

Sincerely,

Richard C. Anderson  
Director of Sales & Customer Service  
Little Pine Island Wetland Restoration & Mitigation Bank

RCA/sjo

**EXHIBIT 3.2**



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**MITIGATION PLAN  
FOR  
SUNSET FALLS**

Boylan Environmental Consultants, Inc.  
January 23, 2006; revised February 27, 2006

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**MITIGATION PLAN**

Compensation for 22.58 acres of permanent impacts to wetlands will consist of the following:

- preservation and enhancement of 25.99 acres of wetland,
- preservation and enhancement of 1.75 acres of uplands,
- preservation, enhancement and planting of 1.15 acres of upland.
- preservation and planting of 1.01 acres of buffer.

Total conservation area will be 27.94 acres. Note, that the former IDD easement will not be placed under a conservation easement.

These areas will correspond to zones described below and will be placed under a conservation easement and maintained in perpetuity by the owner or their successor according to the Exotic and Nuisance Removal and Maintenance Program.

In addition, 2.96 saltwater forested and 1.92 freshwater herbaceous credits will be purchased from Panther Island Mitigation Bank for a total of 4.88 credits.

**Zone A Preserve (9.71 acres)**

This area is primarily composed of mangrove species with scattered exotics. All exotics and nuisance plants, where present, will be cut at stump height and treated with a herbicide. This herbicide treatment will be performed only when standing water is not present in order to minimize any environmental impact. Due to the limited amounts of exotic and nuisance vegetation, the cut material may be left in place. If the resultant cut debris impedes the colonization of native plants, then the cut debris will be removed from the preserve. Exotic and nuisance treatment shall occur manually.

**Zone B Enhancement and Planting if necessary (16.28 acres)**

This area had melaleuca and Brazilian pepper concentrations ranging from 25-100 percent. In addition, this area included cattail concentrations up to 100 percent in places. Exotics and nuisance plants will be cut at stump height, treated, and plants less than 4" diameter may be stacked via the teepee method. Larger plants will be removed from the wetland. Cattails can be treated in place and left standing. Brazilian pepper will be treated in place, however, if the resulting treated debris is a physical impediment to colonization of native species, the exotics will be removed from the wetland. The herbicide treatment will be performed only when standing water is not present in order to minimize any environmental impact. No mechanical removal may be allowed unless prescribed by a biologist and approved by SFWMD.

In the event that within two years there is less than 80 percent coverage of vegetation within two years, then the following planting plan will be implemented.

**EXHIBIT 3.3 A**



Common name	Scientific name	Minimum size or better	Planting density
Buttonwood	Conocarpus erectus	1 gal.	20' o.c.
Dahoon holly	Ilex cassine	1 gal.	20' o.c.
Wax myrtle	Myrica cerifera	1 gal.	20' o.c.
Myrsine	Papana punctata	1 gal.	20' o.c.
Marsh elder	Iva frutescens	1 gal.	5' o.c.
Black needle rush	Juncus roemerianus	2" liner	5' o.c.
Saw grass	Cladium jamaicense	2" liner	5' o.c.
Salt meadow Cord grass	Spartina patens	2" liner	5' o.c.
Smooth cord grass	Spartina alterniflora	2" liner	5' o.c.
Leather fern	Acrostichum danaeifolium	2" liner	5' o.c.
Salt grass	Distichilis spicata	2" liner	5' o.c.

#### **Zone C Upland Enhancement (1.75 acres)**

This area contained minor amounts of exotic and nuisance plant species. Treatment will be according the method outlined in Zone B. No planting is needed.

#### **Zone D Transitional Area Enhancement and Planting (1.15 acres)**

This area was dominated by Australian pine and melaleuca with concentrations ranging from 50-75 percent. Much blow down of the Australian pine has occurred following Hurricane Charley resulting in Australian pine root wads. These well be removed, resulting in an effect of lowering of the former grade. Following the exotic removal, the area will then be planted with the following plant species. Each species will be planting in its appropriate hydrologic regime that results following exotic removal.

Common name	Scientific name	Minimum size or better	Planting density
White mangrove	Laguncularia racemosa	1 gal.	20' o.c.
Buttonwood	Conocarpus erectus	1 gal.	20' o.c.
Marsh elder	Iva frutescens	1 gal.	3' o.c.
Black needle rush	Juncus roemerianus	2" liner	3' o.c.
Salt meadow cord grass	Spartina patens	2" liner	3' o.c.
Smooth cord grass	Spartina alterniflora	2" liner	3' o.c.
Salt grass	Distichilis spicata	2" liner	3' o.c.
Slash pine	Pinus elliotii	6 foot tree	20 o.c.
Wax myrtle	Myrica cerifera	3 gal.	8' o.c.
Myrsine	Rapana punctata	1 gal.	8' o.c.
Dahoon holly	Ilex cassine	3 gal.	20' o.c.
Wild coffee	Psychotria nervosa	1 gal.	20' o.c.
Fakahatchee grass	Tripsacum dactyloides	1 gal.	8' o.c.
Buttonbush	Cephalanthaus occidentalis	3 gal.	8 o.c.



**Zone E Buffer Planting (1.01 acres)**

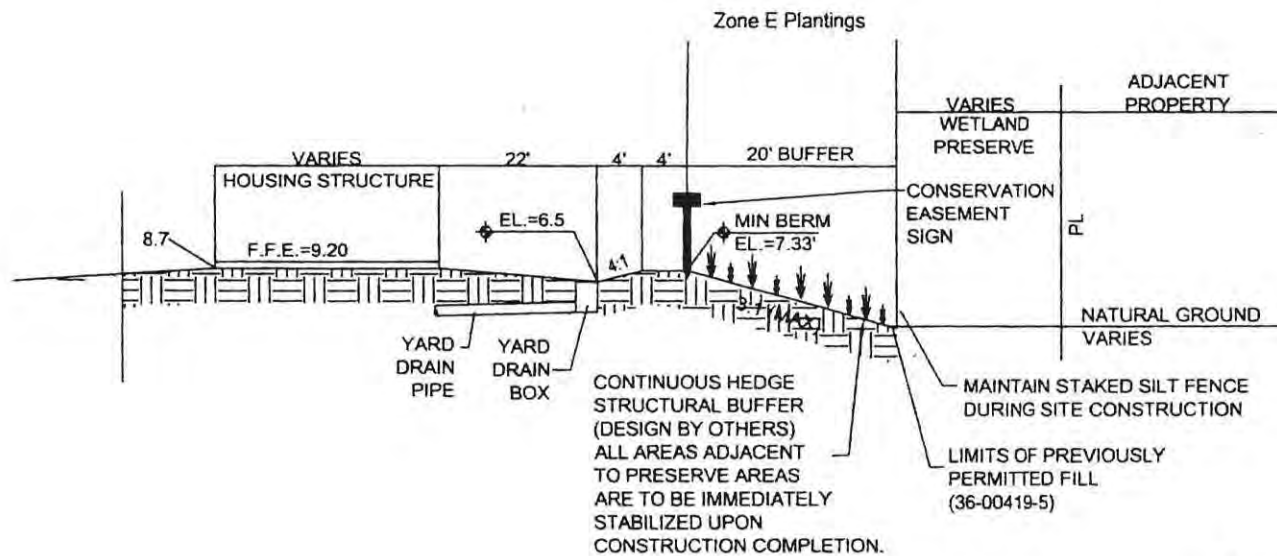
This area consists of the fill slope of the development area and will be planted as follows. The area will be mulched. No cypress mulch is to be used. The area will not be mowed nor fertilized. Native plants will be utilized in the buffer.

Common name	Scientific name	Minimum size or better	Planting density
Smooth cord grass	<i>Spartina alterniflora</i>	2" liner	3' o.c.
Buttonwood	<i>Conocarpus erectus</i>	1 gal.	3' o.c.

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**EXHIBIT 3.3c**

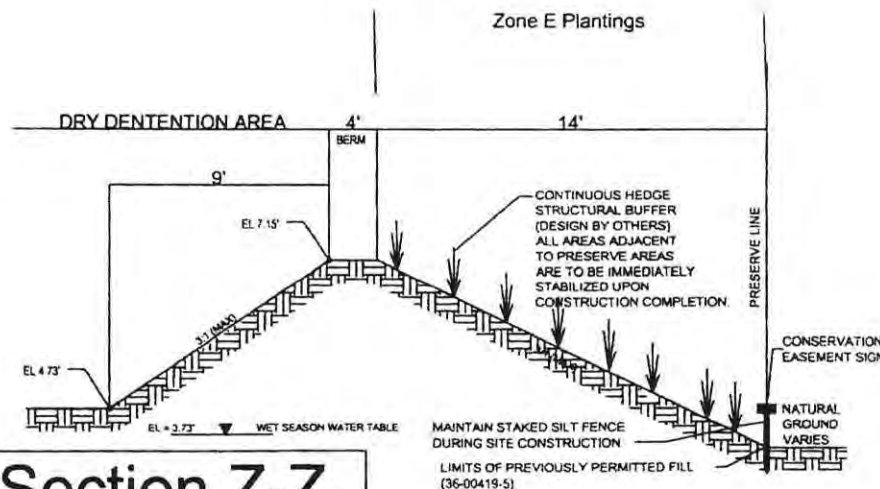




## Section H-H

## ZONE E PLANTINGS

BUFFER WILL BE COMPRISED OF A CONTINUOUS HEDGE OF PLANTED SPARTINA AND/OR BUTTONWOOD PLANTED ON 3 FOOT CENTERS, MULCHED AND NOT SODDED. NO MECHANICAL MAINTENANCE ALLOWED OR FERTILIZER TREATMENT.



## Section Z-Z

EXHIBIT 3.3D

JOB #  
SCALE 1"=400'  
FILE FLUCCS  
DRAWN BY JDK  
DATE 6/29/05

## SUNSET FALLS

Cross-sections for Planting Zone E

COUNTY Lee  
SEC 5  
TWP 46  
RNG 24  
REVISIONS

Boylan  
Environmental  
Consultants, Inc.

Wetland & Wildlife Surveys, Environmental Permitting,  
Impact Assessments

11000 Metro Parkway, Suite 4, Ft. Myers, 33912 (239)418-0671



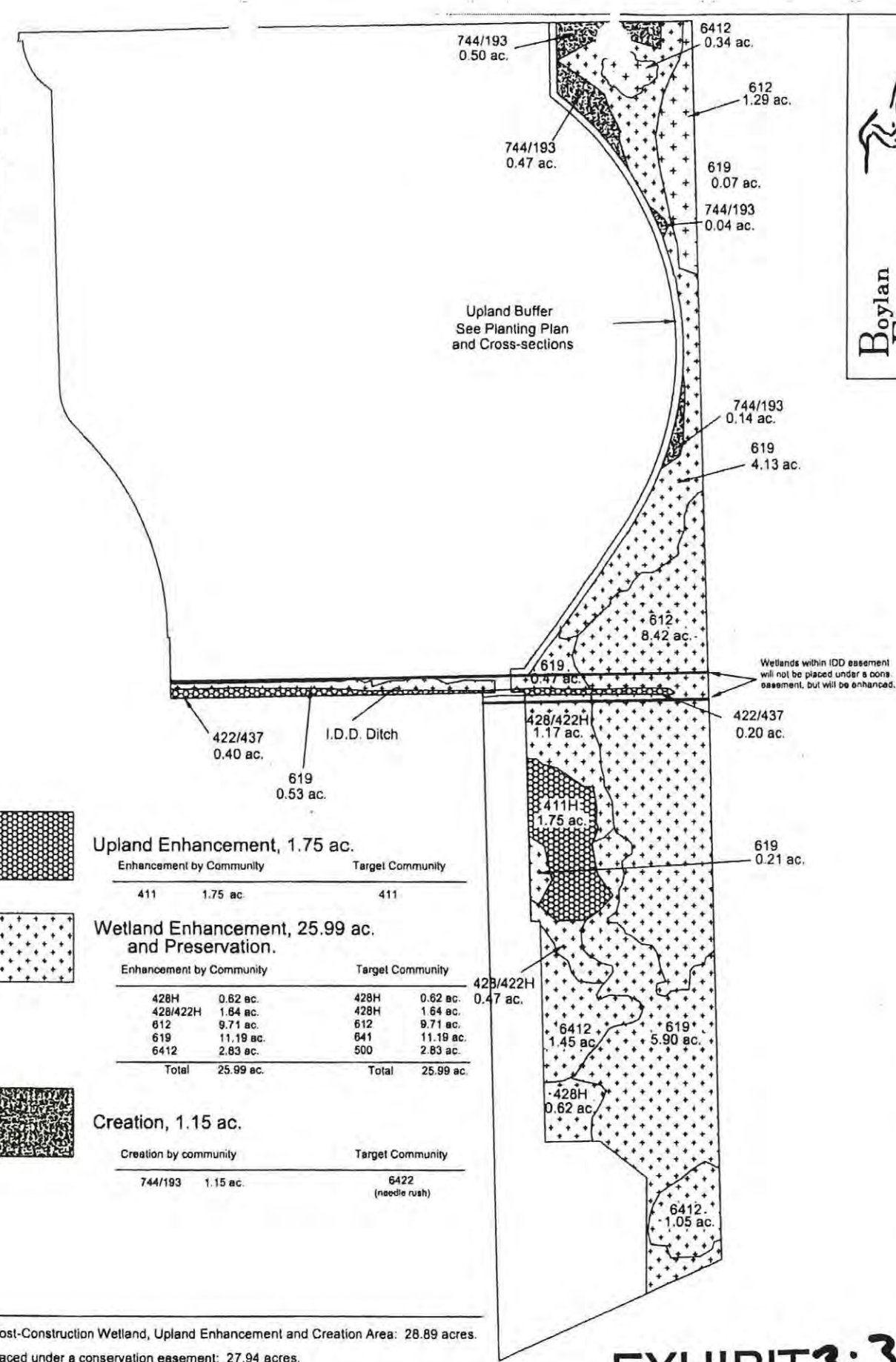


**Boylan Environmental Consultants, Inc.**  
 Wetland & Wildlife Surveys, Environmental Permitting,  
 Impact Assessments  
 11000 Metro Parkway, Suite 4, Ft. Myers, 33912 (239) 418-0671

COUNTY	Lee
SEC	5
TWP	46
RNG	24
REVISIONS	

**SUNSET FALLS**  
 Wetland Preserve Map

JOB #	
SCALE	1"=400'
FILE	FLUCCS
DRAWN BY	JDK
DATE	6/29/05



**Upland Enhancement, 1.75 ac.**

Enhancement by Community	Target Community
411 1.75 ac.	411

**Wetland Enhancement, 25.99 ac.  
and Preservation.**

Enhancement by Community	Target Community
428H 0.62 ac.	428H 0.62 ac.
428/422H 1.84 ac.	428H 1.84 ac.
612 9.71 ac.	612 9.71 ac.
619 11.19 ac.	641 11.19 ac.
6412 2.83 ac.	500 2.83 ac.
<b>Total 25.99 ac.</b>	<b>Total 25.99 ac.</b>

**Creation, 1.15 ac.**

Creation by community	Target Community
744/193 1.15 ac.	6422 (needle rush)

Total Post-Construction Wetland, Upland Enhancement and Creation Area: 28.89 acres.  
 Area placed under a conservation easement: 27.94 acres.  
 IDD ditch area not under a conservation easement.

**EXHIBIT 3.3**



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**EXOTIC/NUISANCE PLANT REMOVAL AND MAINTENANCE PROGRAM FOR  
SUNSET FALLS DEVELOPMENT**

Boylan Environmental Consultants, Inc.

January 23, 2006

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The colonization of exotic and nuisance plants displaces native plants and reduces habitat values, as well as negatively impact aesthetic values. An active exotic and nuisance plant removal and maintenance program will ensure the viability, value, and aesthetics of the undeveloped portions of the property. The exotic plant removal and maintenance program will be implemented by, and the responsibility of the owner or its successor.

The purpose of this plan is to ensure that wetland preserves, conservation areas, open space areas, or undeveloped areas are maintained free of exotic and nuisance plants in perpetuity. This is achieved by establishing a scheduled program to maintain the site free of exotic and nuisance plants). The program involves two phases, the initial exotic removal and the subsequent maintenance; each is described below.

**Initial Exotic Plant Removal Phase** - this phase is applicable to areas where exotic and nuisance plant removal has not yet been conducted.

Wetland preserves, upland preserves, conservation areas, open space areas, and undeveloped portions of the property will be walked and all exotic and nuisance plants, shall be killed in a manner consistent with current approved practices. It is recommended that any use of herbicides be applied by a licensed herbicide applicator. The herbicide treatment will be performed only when standing water is not present in order to minimize any environmental impact. In all cases, the method may not involve mechanical removal, whereby machinery is used to remove the exotics, unless directed by the biologist and approved by the Lower West Coast Service Center ERC staff.

Exotics and nuisance plants will be cut at stump height, treated, and plants less than 4" diameter may be stacked via the teepee method, however, if the resultant debris will impede the colonization of native plants, or affect the restoration, the material will be removed from the site. Larger plants will be removed from the wetland. Cattails can be treated in place and left standing. Brazilian pepper will be treated in place, however, if the resulting treated debris is a physical impediment to colonization of native species, the exotics will be removed from the wetland.

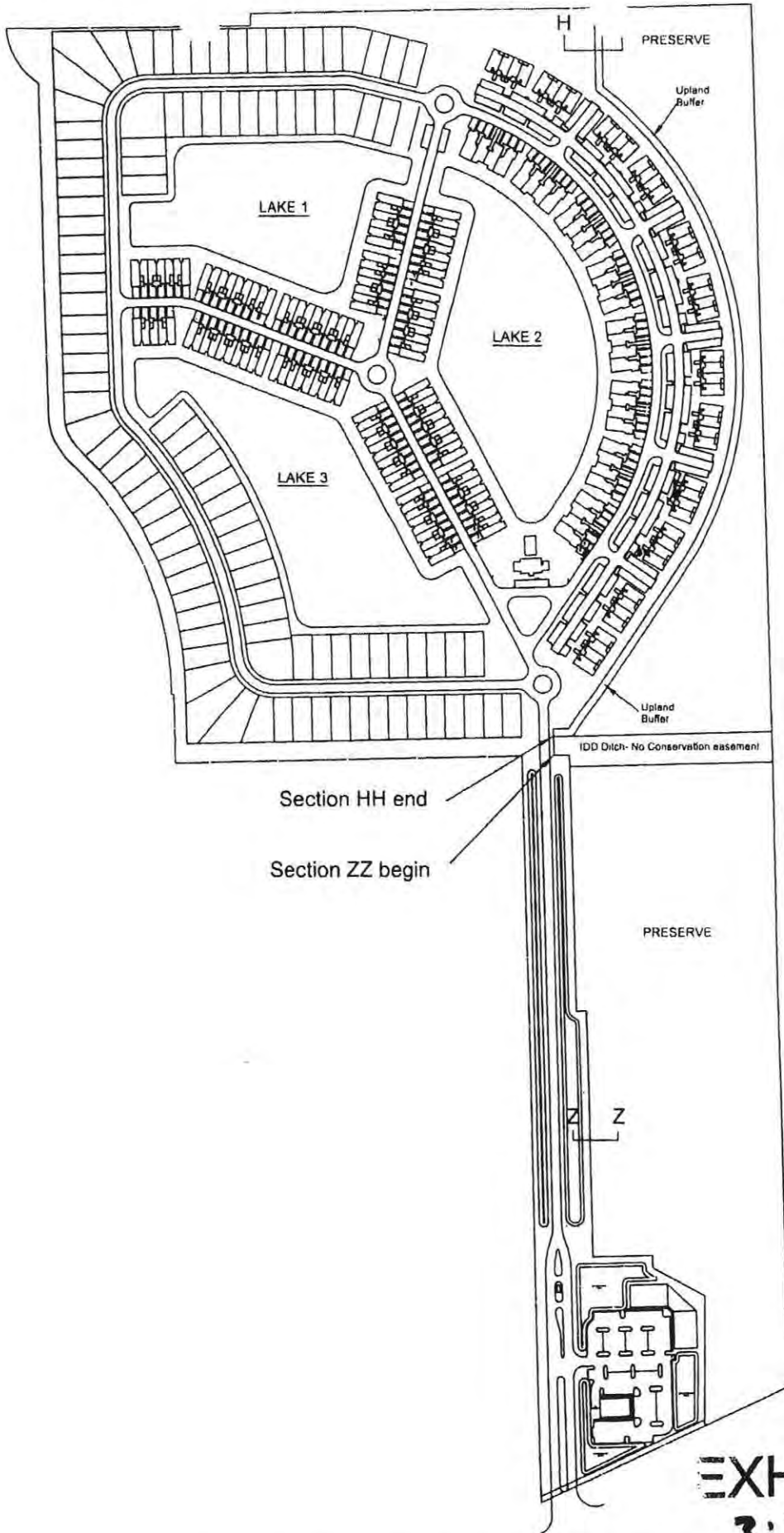
Exotic vegetation include, but not limited too: *Melaleuca* species (pump tree, cajuput tree, paperbark tree), *Casuarina* species (Australian pines), *Schinus terebinthifolius* (Brazilian pepper, Florida holly), *Rhodomyrtus tomentosa* (downy rosemyrtle) and *Acacia auriculiformis* (earleaf acacia) and *Lygodium japonicum* (Japanese climbing fern) or any other species listed by the Florida Exotic Pest Plant Council as exotic or a nuisance plant. Nuisance vegetation may also include cattails, primrose willow and grape vine.

**Maintenance Phase** - Wetland preserves, conservation areas, open space areas, and undeveloped portions of the property will be walked and inspected at least once yearly for the presence of exotic vegetation and all exotic or nuisance plants will be killed in the manner described above. At no time shall exotic and nuisance vegetation comprise more than 5 percent of the total vegetative cover between inspections. The maintenance program will be conducted in perpetuity.

---

**EXHIBIT 3.3 f**





**EXHIBIT**  
**339**

**Boylan  
Environmental  
Consultants, Inc.**

Wetland & Wildlife Surveys, Environmental Permitting,  
Impact Assessments

1000 Metro Parkway, Suite 4, Ft. Myers, 33912 (239) 418-0671

COUNTY	Lee
SEC	5
TWP	46
RNG	24
REVISIONS	10-18-05

**SUNSET FALLS**  
Site Plan

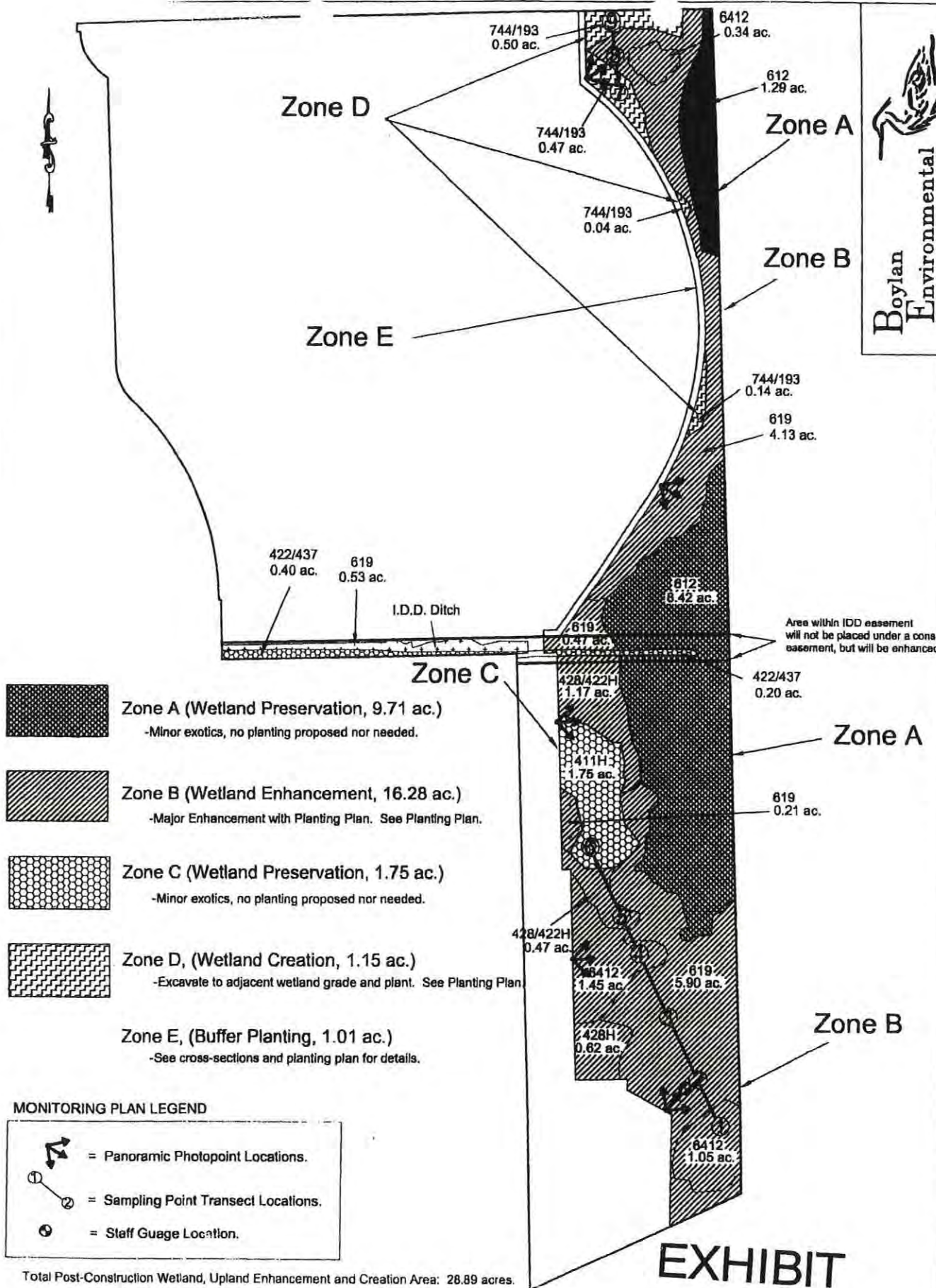
JOB #	
SCALE	1"=400'
FILE	FLUCCS
DRAWN BY	K.K.
DATE	1-9-05



COUNTY Lee  
 SEC 5  
 TWP 46  
 RANG 24  
 REVISIONS

**WATERSTONE**  
 Mitigation and Monitoring Plan Map

JOB #  
 SCALE 1"=400'  
 FILE FLUCCS  
 DRAWN BY JCK  
 DATE 6/29/05





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## **MONITORING PLAN FOR THE SUNSET FALLS DEVELOPMENT**

Boylan Environmental Consultants, Inc.

January 23, 2006

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The objective of the monitoring will be to determine the health of the preserved areas in terms of its vegetation composition. Monitoring will be the responsibility of the owner or its successor. Monitoring will be conducted annually for five years and a report will be prepared and submitted to the SFWMD documenting the following parameters:

- Panoramic Photographs (see monitoring map for locations).
- Description of vegetation composition and percent coverage at sampling point locations (see monitoring map for locations).
- Percent cover of nuisance and exotic plant species.
- Wildlife observations.

A report summarizing the findings of the data collected from the field will be prepared. The report will also evaluate the success of the mitigation and exotic removal effort, activities included to date and any remedial activities that are necessary to ensure the success of the mitigation areas.

**EXHIBIT 3.3I**



**South Florida Water Management District  
Work Schedule Requirements**

**Application No** : 050113-13

Page 1 of 1

**Mitigation Plan ID:** SUNSET FALLS

<b>Activity</b>	<b>Due Date</b>
SUBMITTAL OF RECORDED CONSERVATION EASEMENT	14-SEP-2006
BASELINE MONITORING REPORT	14-SEP-2006
SUBMITTAL OF FINANCIAL ASSURANCE DOCUMENTATION	14-SEP-2006
SUBMITTAL OF MITIGATION BANK DOCUMENTATION	14-SEP-2006
EXOTIC VEGETATION REMOVAL	14-DEC-2006
SITE INSPECTION	14-MAR-2007
TIME ZERO MONITORING REPORT	14-JUN-2007
EXOTIC VEGETATION REMOVAL	14-DEC-2007
SITE INSPECTION	14-JAN-2008
FIRST MONITORING REPORT	14-JUN-2008
EXOTIC VEGETATION REMOVAL	14-DEC-2008
SECOND MONITORING REPORT	14-JUN-2009
EXOTIC VEGETATION REMOVAL	14-DEC-2009
THIRD MONITORING REPORT	14-JUN-2010
EXOTIC VEGETATION REMOVAL	14-DEC-2010
FOURTH MONITORING REPORT	14-JUN-2011
EXOTIC VEGETATION REMOVAL	14-DEC-2011
FIFTH MONITORING REPORT	14-JUN-2012

**EXHIBIT**

**Exhibit No :**

**3.4**



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## **BIG CYPRESS FOX SQUIRREL MANAGEMENT PLAN**

Boylan Environmental Consultants, Inc.

March 7, 2006

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Several small nest-like structures or day beds were observed on the property. These were small in size and attributed to the gray squirrel, however, this management plan is prepared in the event that Big Cypress fox squirrels are discovered on the property.

The goals of the management plan are to protect the nests of any nesting Big Cypress fox squirrels during the construction phase and maintain suitable Big Cypress fox squirrel habitat on site after development.

### **Pre-development Details.**

No sooner than three weeks before construction on any phase of development, the areas slated for clearing will be surveyed for squirrel nests. The nests will be observed for five (5) consecutive days during the early morning and late afternoon hours. If Big Cypress fox squirrels are found to be actively nesting, a temporary 150 foot no clear buffer will be marked around the nest tree. Any deviations from this dimension will be presented to FWC for review and approval prior to implementation. There will be no clearing or construction within this buffer until the young, if present, have left the nest.

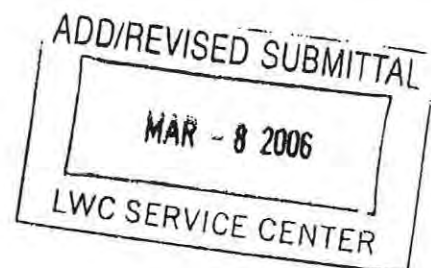
### **Post-development Details.**

#### Preservation and Enhancement

The development will place in preservation status approximately 27.14 acres of wetland and 1.75 acres of upland. This area will be enhanced through exotic and nuisance plant removal. Areas devoid of native vegetation following exotic removal will be planted. The preserves will be kept free of exotics in perpetuity.

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APPLICATION NUMBER  
050113-13



**EXHIBIT  
3.5 A**



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## LISTED WADING BIRD MANAGEMENT PLAN

Boylan Environmental Consultants, Inc.

March 7, 2006

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Because the property contains wetlands, there is a potential for listed wading birds to utilize the property for foraging. A management plan has been developed to protect these species.

### Pre-development Details.

No sooner than three weeks before construction on any phase of development, the areas slated for clearing will be surveyed for wading birds and specifically wading bird nests. If present, the nests will be observed for five (5) consecutive days during the early morning and late afternoon hours. If listed wading birds are found to be actively nesting, a temporary 150 foot no clear buffer will be marked around the nest tree. Any deviations from this dimension will be presented to FWC for review and approval prior to implementation. There will be no clearing or construction within this buffer until the young, if present, have left the nest.

### Post-development Details.

#### Preservation and Enhancement

The development will place in preservation status approximately 27.14 acres of wetland and 1.75 acres of upland. This area will be enhanced through exotic and nuisance plant removal. Areas devoid of native vegetation following exotic removal will be planted. The preserves will be kept free of exotics in perpetuity.

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APPLICATION NUMBER

05 0113 - 13

ADD/REVISED SUBMITTAL

MAR - 8 2006

LWC SERVICE CENTER

EXHIBIT

3-5B



Return recorded document to:  
South Florida Water Management District  
3301 Gun Club Road, MSC 4230  
West Palm Beach, FL 33406

 **DRAFT**

**APPLICATION NUMBER**  
**050113-13**

**DEED OF CONSERVATION EASEMENT**

THIS DEED OF CONSERVATION EASEMENT is given this 6th day of April, 2006, by Sunset Falls, LLC ("Grantor") whose mailing address is 8045 NW 155 Street Miami Lakes, Fl 33016 to the South Florida Water Management District ("Grantee"). As used herein, the term "Grantor" shall include any and all heirs, successors or assigns of the Grantor, and all subsequent owners of the "Property" (as hereinafter defined) and the term "Grantee" shall include any successor or assignee of Grantee.

**WITNESS**

WHEREAS, the Grantor is the owner of certain lands situated in Lee County, Florida, and more specifically described in Exhibit "A" attached hereto and incorporated herein ("Property"); and

WHEREAS, the Grantor desires to construct Sunset Falls ("Project") at a site in Lee County, which is subject to the regulatory jurisdiction of South Florida Water Management District ("District"); and

WHEREAS, District Permit No. App#050113-13 ("Permit") authorizes certain activities which affect waters in or of the State of Florida; and

WHEREAS, this Permit requires that the Grantor preserve, enhance, restore and/or mitigate wetlands and/or uplands under the District's jurisdiction; and

WHEREAS, the Grantor, in consideration of the consent granted by the Permit, is agreeable to granting and securing to the Grantee a perpetual Conservation Easement as defined in Section 704.06, Florida Statutes, over the Property.

NOW, THEREFORE, in consideration of the issuance of the Permit to construct and operate the permitted activity, and as an inducement to Grantee in issuing the Permit, together with other good and valuable consideration, the adequacy and receipt of which are hereby acknowledged, Grantor hereby grants, creates, and establishes a perpetual Conservation Easement for and in favor of the Grantee upon the Property which shall run with the land and be binding upon the Grantor, and shall remain in full force and effect forever.





The scope, nature, and character of this Conservation Easement shall be as follows:

1. Recitals. The recitals hereinabove set forth are true and correct and are hereby incorporated into and made a part of this Conservation Easement.

2. Purpose. It is the purpose of this Conservation Easement to retain land or water areas in their natural, vegetative, hydrologic, scenic, open, agricultural or wooded condition and to retain such areas as suitable habitat for fish, plants or wildlife. Those wetland and/or upland areas included in this Conservation Easement which are to be enhanced or created pursuant to the Permit shall be retained and maintained in the enhanced or created conditions required by the Permit.

To carry out this purpose, the following rights are conveyed to Grantee by this easement:

a. To enter upon the Property at reasonable times with any necessary equipment or vehicles to enforce the rights herein granted in a manner that will not unreasonably interfere with the use and quiet enjoyment of the Property by Grantor at the time of such entry; and

b. To enjoin any activity on or use of the Property that is inconsistent with this Conservation Easement and to enforce the restoration of such areas or features of the Property that may be damaged by any inconsistent activity or use.

3. Prohibited Uses. Except for restoration, creation, enhancement, maintenance and monitoring activities, or surface water management improvements, or other activities described herein that are permitted or required by the Permit, the following activities are prohibited in or on the easement area:

a. Construction or placing of buildings, roads, signs, billboards or other advertising, utilities, or other structures on or above the ground;

b. Dumping or placing of soil or other substance or material as landfill, or dumping or placing of trash, waste, or unsightly or offensive materials;

c. Removal or destruction of trees, shrubs, or other vegetation, except for the removal of exotic or nuisance vegetation in accordance with a District approved maintenance plan;

d. Excavation, dredging, or removal of loam, peat, gravel, soil, rock, or other material substance in such manner as to affect the surface;

e. Surface use except for purposes that permit the land or water area to remain in its natural or enhanced condition;

f. Activities detrimental to drainage, flood control, water conservation, erosion control, soil conservation, or fish and wildlife habitat preservation including, but not limited to, ditching, diking and fencing;



g. Acts or uses detrimental to such aforementioned retention of land or water areas;

h. Acts or uses which are detrimental to the preservation of the structural integrity or physical appearance of sites or properties having historical, archaeological, or cultural significance.

4. Grantor's Reserved Rights. Grantor reserves all rights as owner of the Property, including the right to engage in uses of the Property that are not prohibited herein and which are not inconsistent with any District rule, criteria, permit and the intent and purposes of this Conservation Easement.

5. No Dedication. No right of access by the general public to any portion of the Property is conveyed by this Conservation Easement.

6. Grantee's Liability. Grantee shall not be responsible for any costs or liabilities related to the operation, upkeep or maintenance of the Property.

7. Acts Beyond Grantor's Control. Nothing contained in this instrument shall be construed to entitle Grantee to bring any action against Grantor for any injury to or change in any portion of the Property other than Conservation Areas specified in Permit No. App#050113-13, that result from natural causes beyond Grantor's control, and not initiated by the Grantor, including but not limited to fire, flood, storm and earth movement. Should any Conservation Area be injured or changed from natural causes, including but not limited to fire, flood, storm and earth movement, the Grantor shall be provided notice and a reasonable opportunity to restore the affected Conservation Area to a condition that satisfies the permit requirements prior to the Grantee bringing any action for noncompliance with the Permit.

8. Property Taxes. Grantor shall keep the payment of taxes and assessments on the Easement Parcel current and shall not allow any lien on the Easement Parcel superior to this Easement. In the event Grantor fails to extinguish or obtain a subordination of such lien, in addition to any other remedy, the Grantee may, but shall not be obligated to, elect to pay the lien on behalf of the Grantor and Grantor shall reimburse Grantee for the amount paid by the Grantee, together with Grantee's reasonable attorney's fees and costs, with interest at the maximum rate allowed by law, no later than thirty days after such payment. In the event the Grantor does not so reimburse the Grantee, the debt owed to Grantee shall constitute a lien against the Easement Parcel which shall automatically relate back to the recording date of this Easement. Grantee may foreclose this lien on the Easement Parcel in the manner provided for mortgages on real property.

9. Enforcement. Enforcement of the terms, provisions and restrictions of this Conservation Easement shall be at the reasonable discretion of Grantee, and any forbearance on behalf of Grantee to exercise its rights hereunder in the event of any breach hereof by Grantor, shall not be deemed or construed to be a waiver of Grantee's rights hereunder.

10. Assignment. Grantee will hold this Conservation Easement exclusively for



conservation purposes. Grantee will not assign its rights and obligations under this Conservation Easement except to another organization or entity qualified to hold such interests under the applicable state laws.

11. Severability. If any provision of this Conservation Easement or the application thereof to any person or circumstances is found to be invalid, the remainder of the provisions of this Conservation Easement shall not be affected thereby, as long as the purpose of the Conservation Easement is preserved.

12. Terms and Restrictions. Grantor shall insert the terms and restrictions of this Conservation Easement in any subsequent deed or other legal instrument by which Grantor divests itself of any interest in the Property.

13. Written Notice. All notices, consents, approvals or other communications hereunder shall be in writing and shall be deemed properly given if sent by United States certified mail, return receipt requested, addressed to the appropriate party or successor-in-interest.

14. Modifications. This Conservation Easement may be amended, altered, released or revoked only by written agreement between the parties hereto or their heirs, assigns or successors-in-interest, which shall be filed in the public records in Lee County.

TO HAVE AND TO HOLD unto Grantee forever. The covenants, terms, conditions, restrictions and purposes imposed with this Conservation Easement shall be binding upon Grantor, and shall continue as a servitude running in perpetuity with the Property.

Grantor hereby covenants with said Grantee that Grantor is lawfully seized of said Property in fee simple; that the Property is free and clear of all encumbrances that are inconsistent with the terms of this Conservation Easement; and all mortgages and liens have been subordinated to this Conservation Easement; and that Grantor has good right and lawful authority to convey this Conservation Easement; and that it hereby fully warrants and defends the title to the Conservation Easement hereby conveyed against the lawful claims of all persons whomsoever.

APPLICATION NUMBER

050113-13 =

ADD/REVISED SUBMITTAL
APR 12 2006
LWC SERVICE CENTER

EXHIBIT

3-6D



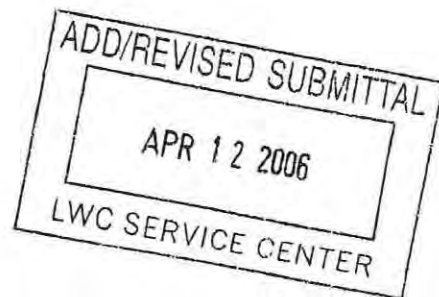
IN WITNESS WHEREOF, Sunset Falls, LLC (Grantor) has hereunto set its authorized hand this 6th day of April, 2006.

Sunset Falls, LLC  
a Florida corporation  
By: [Signature]  
Print Name: Eddy Garcia  
Title: Managing Member

Signed, sealed and delivered  
in our presence as witnesses:

By: [Signature]  
Print Name: Maria D Garcia

By: [Signature]  
Print Name: William D Hughes



STATE OF FLORIDA

) ss:

COUNTY OF Lee

On this 6th day of April, 2006, before me, the undersigned notary public, personally appeared Eddy Garcia, the person who subscribed to the foregoing instrument, as the Managing Member (Title) of Sunset Falls, LLC (Corporation), a Florida corporation, and acknowledged that he/she executed the same on behalf of said corporation and that he/she was duly authorized to do so. He/She is personally known to me or has produced a Personally Known (state) driver's license as identification.

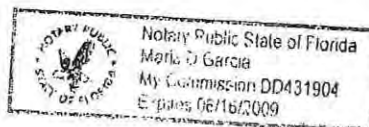
IN WITNESS WHEREOF, I hereunto set my hand and official seal.

NOTARY PUBLIC, STATE OF FLORIDA

[Signature]

Print Name: Maria D. Garcia

My Commission Expires: 6/16/09



APPLICATION NUMBER  
**050113-13**

**EXHIBIT**  
**3-6E**



## MORTGAGEE JOINDER, CONSENT AND SUBORDINATION

For Ten Dollars (\$10.00) and other good and valuable consideration, the adequacy and receipt of which are hereby acknowledged, \_\_\_\_\_, the owner and holder of a mortgage dated \_\_\_\_\_, in the original principal amount of \$\_\_\_\_\_, given by \_\_\_\_\_ ("Grantor") to \_\_\_\_\_ ("Mortgagee"), encumbering the real property described on Exhibit "A" attached hereto ("Property"), which is recorded in Official Records Book \_\_\_\_\_, at Page \_\_\_\_\_, (together with that certain Assignment of Leases and Rents recorded in Official Records Book \_\_\_\_\_, at Page \_\_\_\_\_ and those certain UCC-1 Financing Statement(s) recorded in Official Records Book \_\_\_\_\_, at Page \_\_\_\_\_), all of the Public Records of \_\_\_\_\_ County, Florida (said mortgage, assignment of leases and rents, and UCC-1 Financing Statements, as modified, are hereinafter referred to as the "Mortgage"), hereby joins in, consents to and subordinates the lien of its Mortgage, as it has been, and as it may be, modified, amended and assigned from time to time, to the foregoing Conservation Easement, executed by \_\_\_\_\_, in favor of the South Florida Water Management District applicable to the Property ("Easement"), as said Easement may be modified, amended and assigned from time to time, with the intent that the Mortgage shall be subject and subordinate to the Easement.

IN WITNESS WHEREOF, this Mortgagee Joinder, Consent and Subordination is made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

(Mortgagee) N/A  
By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_

### WITNESSES:

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
  
By: \_\_\_\_\_  
Print Name: \_\_\_\_\_



APPLICATION NUMBER  
050113-13

EXHIBIT

3-6 F



STATE OF FLORIDA  
COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_,  
by \_\_\_\_\_ (print name), as \_\_\_\_\_ (title) of \_\_\_\_\_ (Grantor of Mortgage), on behalf of the \_\_\_\_\_  
(Mortgagee, Grantor of the Easement). He/She is personally known to me or has produced a \_\_\_\_\_  
(state) driver's license as identification.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

NOTARY PUBLIC, STATE OF FLORIDA

\_\_\_\_\_  
Print Name: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

EXHIBIT

3-69



**EXHIBIT "A"**

[DESCRIPTION OF PROPERTY]

**EXHIBIT**

**3.6 H**



STWMM  
PKT-1

# **Banks Engineering**

Professional Engineers, Planners & Land Surveyors

12653 SW C.R. 769, Suite B

Lake Suzy, Florida 34269

(941) 625-1165

Fax (941) 625-1149

DESCRIPTION OF AN EASEMENT  
LYING IN SECTION 5, T-46-S, R-24-E,  
LEE COUNTY, FLORIDA

(CONSERVATION EASEMENT)

AN EASEMENT SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, LYING IN SECTION 5, TOWNSHIP 46 SOUTH, RANGE 24 EAST, BEING OVER, ACROSS AND THROUGH A PORTION OF THE WEST HALF OF THE SOUTHEAST QUARTER AND THE WEST HALF OF THE NORTHEAST QUARTER, INCLUSIVE SAID SECTION 5, AND BEING FURTHER BOUNDED AND DESCRIBED AS FOLLOWS:

## **PART "A"**

COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 5; THENCE S.89°01'42"W. ALONG THE SOUTH LINE OF SAID SECTION FOR 1319.00 FEET TO AN INTERSECTION WITH THE EAST LINE OF THE WEST HALF OF THE SOUTHEAST QUARTER OF SAID SECTION; THENCE N.01°26'45"W. ALONG SAID FRACTIONAL LINE FOR 974.54 FEET TO AN INTERSECTION WITH THE NORTH RIGHT OF WAY LINE OF SUMMERLIN ROAD, (COUNTY ROAD 869) AND THE **POINT OF BEGINNING**; THENCE S.64°39'27"W. ALONG SAID NORTH RIGHT OF WAY LINE FOR 244.30 FEET; THENCE N.00°04'41"E. FOR 348.06 FEET; THENCE N.61°35'24"W. FOR 156.47 FEET; THENCE N.01°01'35"W. FOR 33.37 FEET; THENCE S.88°47'59"W. FOR 159.95 FEET; THENCE N.01°29'13"W. FOR 651.93 FEET; THENCE S.88°06'21"W. FOR 25.96 FEET; THENCE N.01°29'20"W. FOR 650.51 FEET TO AN INTERSECTION WITH THE SOUTH LINE OF I.D.D. CANAL C-9; THENCE N.88°55'06"E. ALONG SAID SOUTH LINE BEING PARALLEL WITH AND 30.00 FEET SOUTH OF THE EAST WEST QUARTER SECTION LINE OF SAID SECTION 5 FOR 536.43 FEET TO AN INTERSECTION WITH THE EAST LINE OF THE WEST HALF OF THE SOUTHEAST QUARTER OF SAID SECTION 5 BEING POINT "A"; THENCE S.01°26'45"E. ALONG SAID FRACTIONAL LINE FOR 1659.76 FEET TO THE **POINT OF BEGINNING**.

CONTAINING 779068.4 SQUARE FEET OR 17.88 ACRES MORE OR LESS.

TOGETHER WITH:

## **PART "B"**

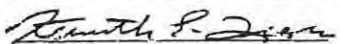
COMMENCING AT POINT "A"; THENCE N.01°27'32"W. ALONG THE EAST LINE OF THE WEST HALF OF THE SOUTHEAST QUARTER OF SAID SECTION 5 AND THE EAST LINE OF THE WEST HALF OF THE NORTHEAST QUARTER OF SAID SECTION 5 FOR 80.00 FEET TO AN INTERSECTION WITH THE NORTH LINE OF I.D.D. CANAL C-9 AND THE **POINT OF BEGINNING**; THENCE S.88°55'06"W. ALONG SAID NORTH LINE OF I.D.D. CANAL C-9 BEING PARALLEL WITH AND 50.00 FEET NORTH OF THE EAST WEST QUARTER SECTION LINE OF SAID SECTION 5 FOR 577.48 FEET; THENCE N.01°29'16"W. FOR 20.00 FEET; THENCE N.88°55'06"E. FOR 40.42 FEET; THENCE N.34°02'52"E. FOR 507.64 FEET TO THE BEGINNING OF A CURVE TO THE LEFT HAVING A RADIUS OF 940.00 FEET, THENCE NORTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 86°48'37" FOR 1424.22 FEET, THENCE N.01°03'34"W. FOR 222.28 FEET, THENCE N.88°56'26"E. FOR 418.63 FEET TO AN INTERSECTION WITH THE EAST LINE OF THE WEST HALF OF THE NORTHEAST QUARTER OF SAID SECTION 5; THENCE S.01°26'47"E. ALONG SAID FRACTIONAL LINE FOR 1935.73 FEET TO THE **POINT OF BEGINNING**.

CONTAINING 461699.9 SQUARE FEET OR 10.60 ACRES MORE OR LESS.

BEARINGS ARE BASED ON THE EAST WEST QUARTER SECTION LINE OF SECTION 5 AS BEARING S.88°55'06"W.

BANKS ENGINEERING,  
FLORIDA LICENSED BUSINESS NO. LB6690

JANUARY 18, 2006



KENNETH E. TRASK  
PROFESSIONAL LAND SURVEYOR  
FLORIDA LICENSE NO. LS4684

SHEET 1 OF 2

**Fort Myers Office**  
10511 Six Mile Cypress  
Pkwy., Suite 101  
Fort Myers, FL  
33912  
(239) 939-5490  
Fax (239) 939-2523

**Naples Office**  
6640 Willow Park Dr.  
Suite B  
Naples, Florida  
34109  
(239) 597-2061  
Fax (239) 597-3082

**Sarasota Office**  
1144 Tallevast Road  
Suite # 115  
Sarasota, Florida  
34243  
(941) 360-1618  
Fax (941) 360-6918

# **EXHIBIT**

# **361**





LINE TABLE

LINE	BEARING	DISTANCE
L1	S 64°39'27" W	244.30'
L2	N 00°04'41" E	348.06'
L3	N 61°35'24" W	156.47'
L4	N 01°01'35" W	33.37'
L5	S 88°47'59" W	159.95'
L6	N 01°29'13" W	651.93'
L7	S 88°06'21" W	25.96'
L8	N 01°29'20" W	650.51'
L9	N 88°55'06" E	536.43'
L10	S 01°26'45" E	1659.76'
L11	N 01°27'32" W	80.00'
L12	S 88°55'06" W	577.48'
L13	N 01°29'16" W	20.00'
L14	N 88°55'06" E	40.42'
L15	N 34°02'52" E	507.64'
L16	N 01°03'34" W	222.28'
L17	N 88°56'26" E	418.63'
L18	S 01°26'47" E	1935.73'

ADD/REVISED SUBMITTAL  
APR 12 2006  
LWC SERVICE CENTER

APPLICATION NUMBER  
050113-13

EXHIBIT

3.6J

THIS IS NOT A BOUNDARY SURVEY

*Kenneth E. Trask*  
KENNETH E. TRASK  
FLORIDA CERTIFICATE NO. LS4684

THIS IS NOT A BOUNDARY SURVEY

SKETCH TO ACCOMPANY DESCRIPTION  
CONSERVATION EASEMENT  
LYING IN SECTION 5, T-46-S, R-24-E  
LEE COUNTY, FLORIDA

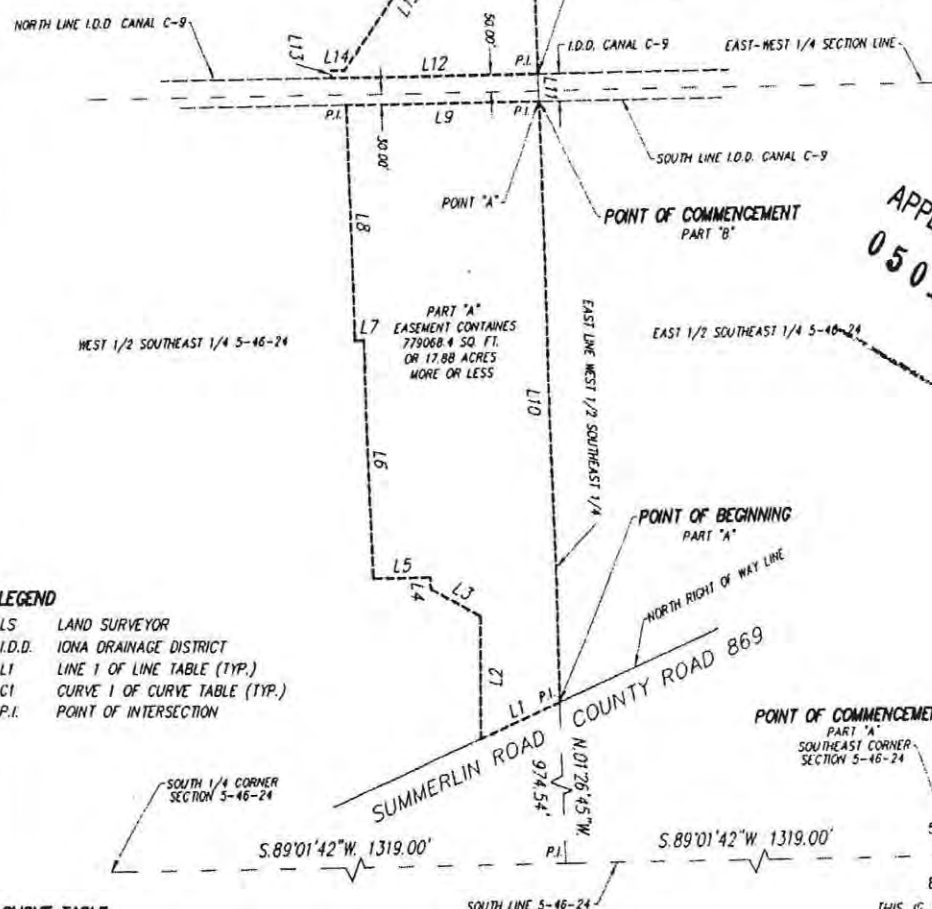
DATE	PROJECT	DRAWING	DESIGN	DRAWN	CHECKED	SCALE	SHEET	FILE NO. (S-1-B)
01-18-06	1836	1836-0000- 1836-0001	BC	AT	1"=400'	3	OF 3	5-46-24

- LEGEND**
- LS LAND SURVEYOR
  - I.D.D. IONA DRAINAGE DISTRICT
  - L1 LINE 1 OF LINE TABLE (TYP.)
  - C1 CURVE 1 OF CURVE TABLE (TYP.)
  - P.I. POINT OF INTERSECTION

CURVE TABLE

CURVE	RADIUS	ARC	CHORD	CHORD BEARING	DELTA ANGLE
C1	940.00'	1424.22'	1291.85'	N 09°21'26" W	86°48'37"

**Wanka Engineering**  
Professional Engineers, Planners & Land Surveyors  
FORT MYERS • NAPLES • SARASOTA • PORT CHARLOTTE  
10311 SIX MILE CYPRESS PARKWAY - SUITE 101  
FORT MYERS, FLORIDA 33912  
PHONE: (239) 936-5480 FAX: (239) 936-2323  
ENGINEERING LICENSE # EB 9489  
SURVEY LICENSE # LS 6690



WEST 1/2 NORTHEAST 1/4 5-46-24

EAST 1/2 NORTHEAST 1/4 5-46-24

WEST 1/2 SOUTHEAST 1/4 5-46-24

EAST 1/2 SOUTHEAST 1/4 5-46-24



# REGIONS

BANK

INTERNATIONAL DIVISION-STANDBY LETTER OF CREDIT DEPARTMENT  
9700 N.W. 112<sup>TH</sup> AVENUE, MIAMI, FLORIDA 33178, U.S.A.  
TELEPHONE NO. [786] 845-4400 - FAX NO. [786] 845-4782  
SWIFT ADDRESS: UPNBUS44MIA-TELEX 6737871 UPBMIA

Date: April 4, 2006

**BENEFICIARY:**

SOUTH FLORIDA WATER MANAGEMENT DISTRICT (District)  
PO BOX 24680  
WEST PALM BEACH, FL. 33416-4680

**APPLICANT:**

Estuary By The Bay, LLC  
8045 NW 155 Street,  
Miami Lakes, FL 33016

ADD/REVISED SUBMITTAL

APR 12 2006

LWC SERVICE CENTER

Dear Sirs:

AMENDMENT TO IRREVOCABLE STANDBY LETTER OF CREDIT NO: L064922  
AMENDMENT NO.: 01

The above-referenced Letter of Credit is hereby amended as follows:

- **Change applicant's name to now read as follows:  
Sunset Falls, LLC.**

All other terms and conditions of the credit remain unchanged.

This is the operative instrument forming an integral part of the above-mentioned Letter of Credit and must be attached thereto.

Regions Bank

ORIGINAL

APPLICATION NUMBER  
050113-13

EXHIBIT

3.7A

AUTHORIZED SIGNATURE

AUTHORIZED SIGNATURE



# REGIONS

International Division - Letter Of Credit Department  
9700 N.W. 112th Avenue, Miami, Florida 33178  
Tel. 786-845-4400  
Fax 786-845-4782 Fax 786-845-4952  
S.W.I.F.T. Address: UPNBUS44MIA - Telex 6737871 UPBMIA

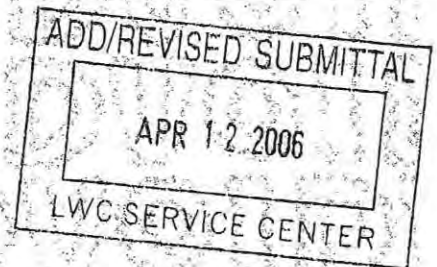
APPLICATION NUMBER  
050113-13

**IRREVOCABLE STANDBY LETTER OF CREDIT No. L064922**

Date: March 20, 2006

**SOUTH FLORIDA WATER MANAGEMENT DISTRICT (District)**  
**PO BOX 24680**  
**WEST PALM BEACH, FL. 33416-4680**

**IRREVOCABLE STANDBY LETTER OF CREDIT NO. L064922**  
**EXPIRATION DATE: March 20, 2007**



Gentlemen:

We hereby establish our Irrevocable Letter of Credit No. L064922 ("Letter of Credit") in the District's favor, at the request and for the account of Estuary By The Bay, LLC, 8045 NW 155 Street, Miami Lakes, FL 33016 ("Permitee") up to the aggregate amount of United States Dollars One Hundred Forty One Thousand Nine Hundred and 00/100 (**\$141,900.00**) available upon presentation of:

- 1) your sight draft, bearing reference to the Letter of Credit No. L064922, and either:
  - a) a Certificate issued by the South Florida Water Management District in the form of Certificate I attached hereto and made a part hereof, or
  - b) a Certificate issued by the South Florida Water Management District in the form of Certificate II attached hereto and made a part hereof.

The issuer of this Letter of Credit has authority to issue letters of credit and the issuer's letter of credit operations are regulated and examined by a federal or Florida state agency. This letter of credit is established with a financial institution licensed in Florida.

The District is the sole beneficiary of this Letter of Credit. The original Letter of Credit shall be retained by the District.

This Letter of Credit may be drawn on to cover the following mitigation activities of the on site mitigation preserve as authorized and required by District Environmental Resources Permit number 050113-13 (the "Permit") as such permit may be amended and include all plans approved by such permit.

EXHIBIT

3-7-B

Michelle Escandon  
Vice President

AUTHORIZED SIGNATURE

ORIGINAL

Gilda Villar  
Assistant Vice-President

AUTHORIZED SIGNATURE



# REGIONS

Letter of Credit No. L064922

Page 2

This Letter of Credit is effective as of March 20, 2006. This date is prior to the date the activity authorized by the permit commences. This Letter of Credit shall continue to be effective through March 20, 2007 but such expiration date shall be automatically extended without amendment for additional periods of one year from the present or future expiration date. This Letter of Credit cannot be revoked, terminated or cancelled unless, at least 90 days before the cancellation date, the issuer send notice to the District of its intent to not extend the Letter of Credit. In the event the District is so notified, any unused portion of the Letter of Credit shall be available to the District, upon the District's written request. If the District notifies Estuary By The Bay, LLC (PERMITEE) that it does not intend to draw upon the Letter of Credit, then within 90 days of receipt by Estuary By The Bay, LLC of actual or constructive notice of revocation, termination or cancellation of this Letter of Credit or other actual constructive notice of cancellation, Estuary By The Bay, LLC (PERMITEE) shall provide an alternate financial responsibility mechanism which meets the requirements of subsections 4.3.7.4.3.7.9, of the Basis of Review for Environmental Resource Permit Applications.

Whenever this Letter of Credit is drawn on under and in compliance with the terms of this Letter of Credit, we shall duly honor such draft upon presentation to us, and we shall tender the draft directly to the District in accordance with your instructions.

We hereby waive the requirement to be notified of amendments to the Estuary By The Bay, LLC, F/K/A Waterstone mitigation plans, permit, applicable laws, statutes, rules and regulations and agree that no such amendment shall in any way alleviate us of our obligation under this Letter of Credit.

This Credit is subject to the International Standby Practices ISP98, International Chamber of Commerce, Publication No. 590.

REGIONS BANK

APPLICATION NUMBER

050113-13

ADD/REVISED SUBMITTAL

APR 12 2006

LWC SERVICE CENTER

EXHIBIT

37C

Michelle Escandon  
Vice President

ORIGINAL

Gilda Villar  
Assistant Vice-President

AUTHORIZED SIGNATURE

AUTHORIZED SIGNATURE



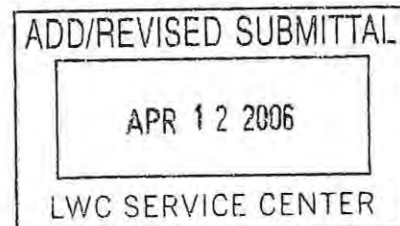
APPLICATION NUMBER  
050113-13

CERTIFICATE I  
TO  
IRREVOCABLE LETTER OF CREDIT No.L064922  
REGIONS BANK

Date: \_\_\_\_\_ 20 \_\_\_\_\_

Regions Bank  
9700 NW 112<sup>th</sup> Avenue  
Miami, Florida 33178

Estuary By The Bay, LLC  
8045 NW 155 Street  
Miami Lakes, FL 33016



Ladies and Gentlemen:

The undersigned \_\_\_\_\_ the Director of the Natural Resource Management Division of the South Florida Water Management District (the "District"), or \_\_\_\_\_, the Director's designee, hereby certifies to Estuary By The Bay, LLC (the "Permittee") and Regions Bank, with reference to Irrevocable Letter of Credit No L064922 dated March 20, 2006(the "Letter of Credit"), issued by the Bank in favor of the District as follows:

1. The District has heretofore provided written notice by placing in the U.S. Mail to Estuary By The Bay, LLC of the District's present right to draw upon the Letter of Credit in accordance with the provision of that certain Environmental Resource Permit # 050113-13 dated \_\_\_\_\_, issued by the district in favor of Estuary By The Bay, LLC.
2. Estuary By The Bay, LLC has failed to comply with the terms and conditions of the Permit.

IN WITNESS WHEREOF, this Certificate has been duly executed and delivered on behalf of the District as of this \_\_\_\_\_ day of \_\_\_\_\_

SOUTH FLORIDA WATER  
MANAGEMENT DISTRICT

By \_\_\_\_\_  
(Name)  
Director, Natural Resource Management  
Division or Designee.

EXHIBIT

37D



CERTIFICATE II  
TO  
UNION PLANTERS BANK  
IRREVOCABLE NONTRANSFERABLE  
LETTER OF CREDIT No. L064922

Date: \_\_\_\_\_ 20 \_\_\_\_\_

Regions Bank  
9700 NW 112<sup>th</sup> Avenue  
Miami, Florida 33178

Estuary By The Bay, LLC  
8045 NW 155 Street  
Miami Lakes, FL 33016

Ladies and Gentlemen:

The undersigned \_\_\_\_\_ the Director of the Natural Resource Management Division of the South Florida Water Management District (the "District"), or \_\_\_\_\_, the Director's designee, hereby certifies to REGIONS BANK (the "Bank") of its intent to draw upon Irrevocable Letter of Credit No L064922 dated March 20, 2006 (the "Letter of Credit"), issued by the Bank in favor of the District as follows:

1. The Bank has heretofore provided written notice to the District of the Bank's intent not to renew the Letter of Credit following the expiration date thereof.
2. The District has provided prior written notice by placing in the U.S. Mail to Estuary By The Bay, LLC that it intends to draw upon the Letter of Credit.
3. Estuary By The Bay, LLC has failed to provide the District with substitute Financial Assurance.

IN WITNESS WHEREOF, this Certificate has been duly executed and delivered on behalf of the District as of this \_\_\_\_\_ day of \_\_\_\_\_

SOUTH FLORIDA WATER  
MANAGEMENT DISTRICT

By \_\_\_\_\_  
(name)  
Director, Natural Resource Management  
Division or Designee.

**EXHIBIT**  
**3.7E**



# **WATERSTONE**

---

## **STORMWATER POLLUTION PREVENTION PLAN FOR CONSTRUCTION ACTIVITIES**

### **PROJECT DESCRIPTION**

This project consists of 120+/- acre parcel to be developed for residential use. The site is located between Summerlin Road and Kelly Road. The address is 10551 Kelly Road, 10900 Old South Way, Ft. Myers, Florida 33908. All other parcels are Access Undetermined. The strap numbers are 05-46-24-01-00004.001A, 05-46-24-00-00001.0020, 05-46-24-01-00004.0050, 05-46-24-01-00001.0000, 05-46-24-00-00003.0010, 05-46-24-00-00003.0020. The Owner of the project is Vicott, Inc., 10950 Old South Way, Fort Myers, Florida 33908, phone (239) 489-1814, fax (239) 489-1816.

### **SEQUENCE OF MAJOR ACTIVITIES**

Best Management Practices must be installed at least 48 hours prior to any land disturbing activity takes place. The order of activities will be as follow:

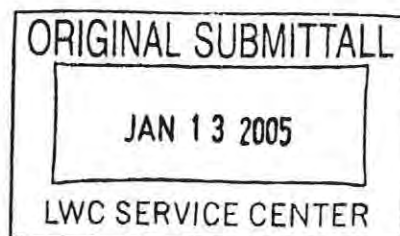
- 1) Install stabilized construction entrance
- 2) Install perimeter berm or straw bale barrier and filter barrier in wetland areas if required
- 3) Clear and grub for earth dike and sediment basin
- 4) Construct sedimentation basin
- 5) Continue clearing and grading, lake excavation or detention area excavation, embankment for roads, site, and building areas.
- 6) Pile topsoil
- 7) Stabilized denuded areas and stockpiles within 14 days of last construction activity in that area
- 8) Install utilities, storm sewer, curb and gutter
- 9) Apply stone to parking area and road
- 10) Construct building(s)
- 11) Complete grading, subgrade, base construction, and install permanent seeding and planting
- 12) Complete final paving
- 13) Remove accumulated sediment from basin
- 14) When all construction activity is complete and the site is stabilized, remove earth dike, straw hay bale barriers, silt filter barriers (if necessary) and reseed any areas disturbed by their removal.

### **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 21 days from the last construction activity in that area. The temporary seed shall be Rye (grain) applied at the rate of 120 pounds per acre. Prior to seeding, 1,000 pounds of 10-10-10 fertilizer shall be applied to each acre to be stabilized. After seeding, each area shall be mulched with 4,000 pounds per acre of straw. Areas of the site which are to be paved will be temporarily stabilized by applying stone sub-base until bituminous pavement can be applied.





#### **FILL MATERIAL STOCKPILES**

Fill material stockpiles which will not be utilized for at least 90 days will be stabilized with temporary seed no later than 21 days from the last placement of fill in that area. The temporary seed shall be Rye (grain) applied at the rate of 120 pounds per acre.

#### **PERMANENT STABILIZATION**

Disturbed portions of the site where construction activities permanently cease shall be stabilized immediately with permanent seed.

#### **STORMWATER MANAGEMENT GENERAL**

Swales, storm sewers, and stormwater detention facilities in accordance with South Florida Water Management District (SFWMD) criteria will provide Stormwater drainage. The areas that are not developed will be graded at less than 0.5:1 and have permanent seeding or plantings. When construction is complete the entire site will drain to the lake detention facilities. It is expected that this design will result in an 80 percent removal of total suspended solids from the site's stormwater runoff. The outlet of the lake will be stabilized by a riprap apron or other approved control structure.

### **OTHER CONTROLS**

#### **WASTE MATERIALS**

All waste materials will be collected and stored in a securely lidded metal dumpster. The dumpster will meet all local County and any State solid waste management regulations. All trash and construction debris from the site will be deposited in the dumpster. The dumpster will be emptied a minimum of once per week or more often if necessary. A licensed waste management company will haul this trash off site. No construction waste materials will be buried on-site. All personnel will be instructed regarding the correct procedure for waste disposal.

#### **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.

#### **SANITARY WASTE**

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

#### **OFF-SITE VEHICLE TRACKING**

A stabilized construction entrance will be provided to help reduce vehicle tracking of sediments. 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 from the construction site will be covered.

#### **TIMING OF CONTROLS/MEASURES**

Stabilized construction entrance and bale/silt barriers (within wetlands) will be constructed prior to extensive clearing or grading of any other portions of the site. Areas where construction activity temporarily ceases for more than 14 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.

## **EXHIBIT 4.1**



### **CERTIFICATION OF COMPLIANCE WITH FEDERAL, STATE, & LOCAL REGULATIONS**

The stormwater pollution prevention plan reflects United States Environmental Protection Agency (EPA) and SFWMD requirements for stormwater management and erosion and sediment control, as established in FS Chapter 373, and the Florida Administrative Code (FAC). This plan was prepared in accordance with the "Basis of Review and Permit Information Manual", published by the SFWMD.

### **MAINTENANCE/INSPECTION PROCEDURES**

#### **EROSION AND SEDIMENT CONTROL INSPECTION AND MAINTENANCE PRACTICES**

The following 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 (1/wk) and within 24 hours following any storm event of 0.25" or greater.
- All measures will be maintained in good working order; if a repair is necessary, it will be initiated within 24 hours of report.
- Built up sediment will be removed from silt fence when it has reached  $\frac{1}{2}$  the height of the fence.
- Silt fence will be inspected for depth of sediment, breaches, 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 will be inspected for depth of sediment, and built up sediment will be removed when it reaches 10% of the design capacity or at the end of the job.
- Diversion berm (if constructed) 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. A copy of the report form to be completed by the inspector is attached.
- Site Superintendent will select one individual who will be responsible for inspections, maintenance and repair activities, and filling out the inspection and maintenance report.
- Personnel selected for inspection and maintenance responsibilities will receive training from Site Superintendent. They will be trained in all the inspection and maintenance practices necessary for keeping the erosion and sediment controls used on-site in good working order.

#### **NON-STORMWATER DISCHARGES**

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

- Water from water line flushing.
- Pavement wash waters (where no spills or leaks of toxic or hazardous materials have occurred).

All non-stormwater discharges will be directed to the Water Management Detention Facilities basin, prior to discharge.

#### **INVENTORY FOR POLLUTION PREVENTION PLAN:**

The materials or substances listed below are expected to be present on-site during construction:

- |                           |                 |                            |
|---------------------------|-----------------|----------------------------|
| • Cleaning Solvents       | • Bricks        | • Metal Studs              |
| • Detergents              | • Concrete      | • Petroleum Based Products |
| • Fertilizers             | • Masonry Block | • Roofing shingles         |
| • Paints (enamel & latex) | • Wood          | • Tar                      |



### **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 stormwater runoff.

#### **GOOD HOUSEKEEPING**

The following good housekeeping practices will be followed on-site during the construction project:

- An effort will be made to store only enough product required to do the job.
- All materials stored on-site will be stored in a neat, orderly manner in their appropriate containers and, if possible, under a roof 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 the product will be used 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 on-site.

#### **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 since 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.
- Products shall be kept under cover and lock & key if possible.
- Material Safety Data Sheets (MSDS) shall be on-site so that in the event of a spill, proper clean-up procedures will be followed.

### **PRODUCT SPECIFIC PRACTICES**

#### **PETROLEUM PRODUCTS**

All on-site 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 that are clearly labeled. Any asphalt substances used on-site 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 stormwater. Storage will be in a covered shed. 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.

## **EXHIBIT 4.3**



### **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 clean up:

- Manufacturers' recommended methods for spill clean up will be clearly posted and site personnel will be made aware of the procedures and the location of the information and clean up supplies.
- Materials and equipment necessary for spill clean up will be kept in the material storage area on-site. Equipment and materials will include, but not be limited to, brooms, dustpans, 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 hazardous substance.
- Spills of toxic or hazardous material will be reported to the appropriate State or local government agency, regardless of the size.
- The spill prevention plan will be adjusted to include measures to prevent this type of spill from reoccurring and how to clean up the spill if there is another one. A description of the spill, what caused it, and the clean up measures will also be included.
- The site superintendent responsible for the day-to-day site operations, will be the spill prevention, and clean up coordinator. He will designate at least two (2) other site personnel who will receive spill prevention and clean up training. These individuals will each become responsible for a particular phase of prevention and clean up. The names of responsible spill personnel will be posted in the material storage area and in the office trailer on-site.

### **REFERENCES:**

- South Florida Water Management District (SFWMD) Permit
- Florida Administrative Code, Chapter 62-25, 62-40, 62-620, 62-621
- Florida Statutes, Chapter 373
- Federal Register, Vol. 65, No. 83, Friday, April 28, 2000, Part IV, Environmental Protection Agency: "Final Modification of the National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges From Construction Activities; Notices"
- Federal Register, Vol. 63, No. 61, Tuesday, March 31, 1998, Part III, EPA: "NPDES General Permit for Storm Water Discharges From Construction Activities; Notice"
- "SWP3 Preparation Guide", United States Environmental Protection Agency (USEPA).
- "Guidance Manual for Developing Best Management Practices" doc.# EPA 833-B-93-004.
- "Storm Water Management for Construction Activities: Developing Pollution Prevention Plans and Best Management Practices", EPA 832-R-92-005, September 1992
- "Florida Land Development Manual: A Guide to Sound Land and Water Management", FDEP, 1988.
- "Florida Erosion and Sediment Control Inspector's Manual"

## **EXHIBIT 4.4**



## **POLLUTION PREVENTION PLAN CERTIFICATIONS**

### **Project Name and Location:**

Project Name: **WATERSTONE**  
Location: **10551 Kelly Road, 10900 Old South Way, Ft. Myers, Florida 33908. All other parcels are Access Undetermined.**  
Latitude: **26°29'49" N** Longitude: **81°55'27" W**

### **OWNER'S 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.

Signature: \_\_\_\_\_  
Date: \_\_\_\_\_  
*Print or Type*  
Name & Title: **Anthony R. Maul**  
Company: **Vicott, Inc.**  
Address: **10950 Old South Way, Ft. Myers, Florida 33908**  
Phone Number: **(239) 489-1814**  
Fax Number: **(239) 489-1816**  
E-Mail: \_\_\_\_\_

### **PREPARER'S CERTIFICATION**

I certify that to the best of my knowledge, this Stormwater Pollution Prevention Plan presented herein has been prepared in accordance with the "NPDES General Permit for Stormwater Discharges from Construction Activities that are classified as 'Associated with Industrial Activity'" as published in the Federal Register on September 9, 1992 / The Florida Stormwater Erosion & Sedimentation Control Inspectors Manual / Good Engineering Practices.

Signature: \_\_\_\_\_  
Date: \_\_\_\_\_  
*Print or Type*  
Name & Title: **Sean Martin, P.E., Project Manager**  
Company: **Banks Engineering, Inc.**  
Address: **10511-101 Six Mile Cypress Pkwy., Fort Myers, FL 33912**  
Phone Number: **(239) 939-5490**  
Fax Number: **(239) 939-2523**  
E-Mail: **smartin@BanksEng.com**

*Note: Certifications to be signed before construction commences.*

# **EXHIBIT 4.5**



## **POLLUTION PREVENTION PLAN CERTIFICATIONS**

### **Project Name and Location:**

Project Name: **WATERSTONE**  
Location: **10551 Kelly Road, 10900 Old South Way, Ft. Myers, Florida 33908. All other parcels are Access Undetermined.**  
Latitude **26°29'49" N** Longitude: **81°55'27" W**

### **CONTRACTOR'S CERTIFICATIONS**

I certify under penalty of law that I understand the terms and conditions of the general National Pollutant Discharge Elimination System (NPDES) permit that authorizes the stormwater discharges associated with industrial activity from the construction site identified as part of this certification. Further, by my signature, I understand that I am becoming a co-permittee, along with the owner(s) and other contractors and subcontractors signing such certifications, to the general NPDES permit for the stormwater discharges associated with industrial activity from the identified site. As a co-permittee, I understand that I, and my company, are legally required under the Clean Water Act, to ensure compliance with the terms and conditions of the stormwater pollution prevention plan developed under the NPDES permit and the terms of the NPDES permit.

#### **GENERAL CONTRACTOR RESPONSIBLE FOR:**

Signature: \_\_\_\_\_  
Date: \_\_\_\_\_  
*Print or Type*  
Name & Title: \_\_\_\_\_  
Company: \_\_\_\_\_  
Address: \_\_\_\_\_  
Phone Number: \_\_\_\_\_  
Fax Number: \_\_\_\_\_  
Mobile: \_\_\_\_\_  
E-Mail: \_\_\_\_\_  
\* 24-Hour Emergency Phone: \_\_\_\_\_

#### **GENERAL CONTRACTOR RESPONSIBLE FOR:**

Signature: \_\_\_\_\_  
Date: \_\_\_\_\_  
*Print or Type*  
Name & Title: \_\_\_\_\_  
Company: \_\_\_\_\_  
Address: \_\_\_\_\_  
Phone Number: \_\_\_\_\_  
Fax Number: \_\_\_\_\_  
Mobile: \_\_\_\_\_  
E-Mail: \_\_\_\_\_  
\* 24-Hour Emergency Phone: \_\_\_\_\_

*Note: Certification to be signed before construction commences.*

*Storm Water Pollution Prevention Plan  
Waterstone*

# **EXHIBIT 4.6**

Page 7 of 9

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# **POLLUTION PREVENTION PLAN CERTIFICATIONS**

## **Project Name and Location:**

Project Name: **WATERSTONE**  
Location: **10551 Kelly Road, 10900 Old South Way, Ft. Myers, Florida 33908. All other parcels are Access Undetermined.**  
Latitude **26°29'49" N** Longitude: **81°55'27" W**

## **INSPECTOR'S CERTIFICATION**

I certify under penalty of law that this document and all attachments have been reviewed by me with full understanding of the plan. Subsequent inspections required by this Stormwater Pollution Prevention Plan shall be made by me or by individual(s) under my direct supervision in accordance with this document. I am aware that there are significant penalties for falsifying reports, including the possibility of fine and imprisonment for known violations.

### **INSPECTOR RESPONSIBLE FOR:**

Signature: \_\_\_\_\_  
Date: \_\_\_\_\_  
*Print or Type*  
Name & Title: \_\_\_\_\_  
Company: \_\_\_\_\_  
Address: \_\_\_\_\_  
Phone Number: \_\_\_\_\_  
Fax Number: \_\_\_\_\_  
Mobile: \_\_\_\_\_  
E-Mail: \_\_\_\_\_  
\* 24-Hour Emergency Phone: \_\_\_\_\_

### **INSPECTOR RESPONSIBLE FOR:**

Signature: \_\_\_\_\_  
Date: \_\_\_\_\_  
*Print or Type*  
Name & Title: \_\_\_\_\_  
Company: \_\_\_\_\_  
Address: \_\_\_\_\_  
Phone Number: \_\_\_\_\_  
Fax Number: \_\_\_\_\_  
Mobile: \_\_\_\_\_  
E-Mail: \_\_\_\_\_

**EXHIBIT 4.7**

\* 24-Hour Emergency Phone: \_\_\_\_\_

*Note: Certification to be signed before construction commences.*



SWP3 - Project Name: **WATERSTONE**

Weekly Construction Inspection Report

Weekly or within 24 hours of 0.25" rainfall

* Site of Drainage Area	Approximate Location	Date Last Disturbed	Date of Stabilization	Control Measures	Current Condition	Corrective Actions Taken and / or Remarks	Condition Codes																														
							U - Upgrade Needed																														
							R - Replacement Needed																														
							M - Maintenance Needed																														
							C - Cleaning Needed																														
							I - Increase Measures																														
							S - Stable (no action)																														
							01 - Other:																														
							02 - Other:																														
* See site map for affected drainage areas. Site may include: borrow source, haul roads, contractor's yard, stockpiles, etc...  <b>INITIALS HERE:</b> _____ CERTIFIES THAT PROJECT WAS / IS IN COMPLIANCE WITH NPDES PERMIT, SWP3 AND GENERAL PERMIT DURING  <b>INSPECTION DATE:</b> _____				<b>Control Measure Codes</b> <table border="1"> <tbody> <tr> <td>1. Temporary Grass Seeding</td> <td>11. Perimeter Ditches</td> <td>21. Dampen Road's for Dust Control</td> </tr> <tr> <td>2. Permanent Planting, Sod / Seed</td> <td>12. Flumes</td> <td>22. Remove Excess Dirt from Roadway</td> </tr> <tr> <td>3. Temporary Mulching</td> <td>13. Ditch Liner</td> <td>23. Other:</td> </tr> <tr> <td>4. Artificial Covering</td> <td>14. Rock Bed @ Const. Entrance</td> <td></td> </tr> <tr> <td>5. Buffer Zone</td> <td>15. Rip Rap</td> <td>24. Other:</td> </tr> <tr> <td>6. Preserve Natural Resource</td> <td>16. Sediment Trap</td> <td></td> </tr> <tr> <td>7. Silt Fence</td> <td>17. Sediment Basin</td> <td>25. Other:</td> </tr> <tr> <td>8. Hay Bales</td> <td>18. Inlet Sediment Trap</td> <td></td> </tr> <tr> <td>9. Sand Bagging</td> <td>19. Velocity Control Devices</td> <td></td> </tr> <tr> <td>10. Earthen Berms</td> <td>20. Turbidity Barrier</td> <td>SWP3 Log Form Env Analyst</td> </tr> </tbody> </table>				1. Temporary Grass Seeding	11. Perimeter Ditches	21. Dampen Road's for Dust Control	2. Permanent Planting, Sod / Seed	12. Flumes	22. Remove Excess Dirt from Roadway	3. Temporary Mulching	13. Ditch Liner	23. Other:	4. Artificial Covering	14. Rock Bed @ Const. Entrance		5. Buffer Zone	15. Rip Rap	24. Other:	6. Preserve Natural Resource	16. Sediment Trap		7. Silt Fence	17. Sediment Basin	25. Other:	8. Hay Bales	18. Inlet Sediment Trap		9. Sand Bagging	19. Velocity Control Devices		10. Earthen Berms	20. Turbidity Barrier	SWP3 Log Form Env Analyst
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EXHIBIT 4.8



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**EXHIBIT "D"**

**URBAN STORMWATER MANAGEMENT PROGRAM**

**1.0 Introduction**

This document provides details of the Urban Stormwater Management Program for the Waterstone project in Lee County, Florida. 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 Waterstone 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; and (5) 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.

The Association must commit itself to the practice of responsible and careful landscape design and maintenance of the property to prevent contamination of surface waters. The guidelines included in this section are intended to help the Association make educated environmental choices regarding the maintenance of landscaping 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 the project. The plan must be comprehensive in nature and follow the landscape design guidelines established by the Association and must promote revegetation of the property as quickly as possible after the completion of construction.

Commercial applicators of chemical lawn products must register with the 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



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employees working under the direction of a licensed commercial applicator are exempt from the educational requirements.

Only registered commercial applicators and Association employees are permitted to apply chemicals within the property. 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 Nutrient Management Program**

Management and application of nutrients and fertilizers in Waterstone 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 ( $P_2O_5$ ) 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 ( $P_2O_5$ ) 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 ( $P_2O_5$ ) 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 ( $P_2O_5$ ) 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



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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:

- 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 Waterstone 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 Waterstone 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.



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### **5.0 Stormwater Management and Treatment System**

The stormwater management system for Waterstone 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.

#### **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**



## **DRAFT FOR DISCUSSION PURPOSES ONLY**

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 regraded 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 regrading. 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 recede gradually.

### **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 Construction Activities**



## **DRAFT FOR DISCUSSION PURPOSES ONLY**

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.