



LEE COUNTY
SOUTHWEST FLORIDA

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 9/29/05

REC'D BY: JLL

APPLICATION FEE \$500.00

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

Stendolph 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

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

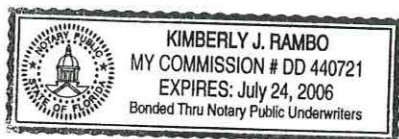
Date

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 192005, 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.

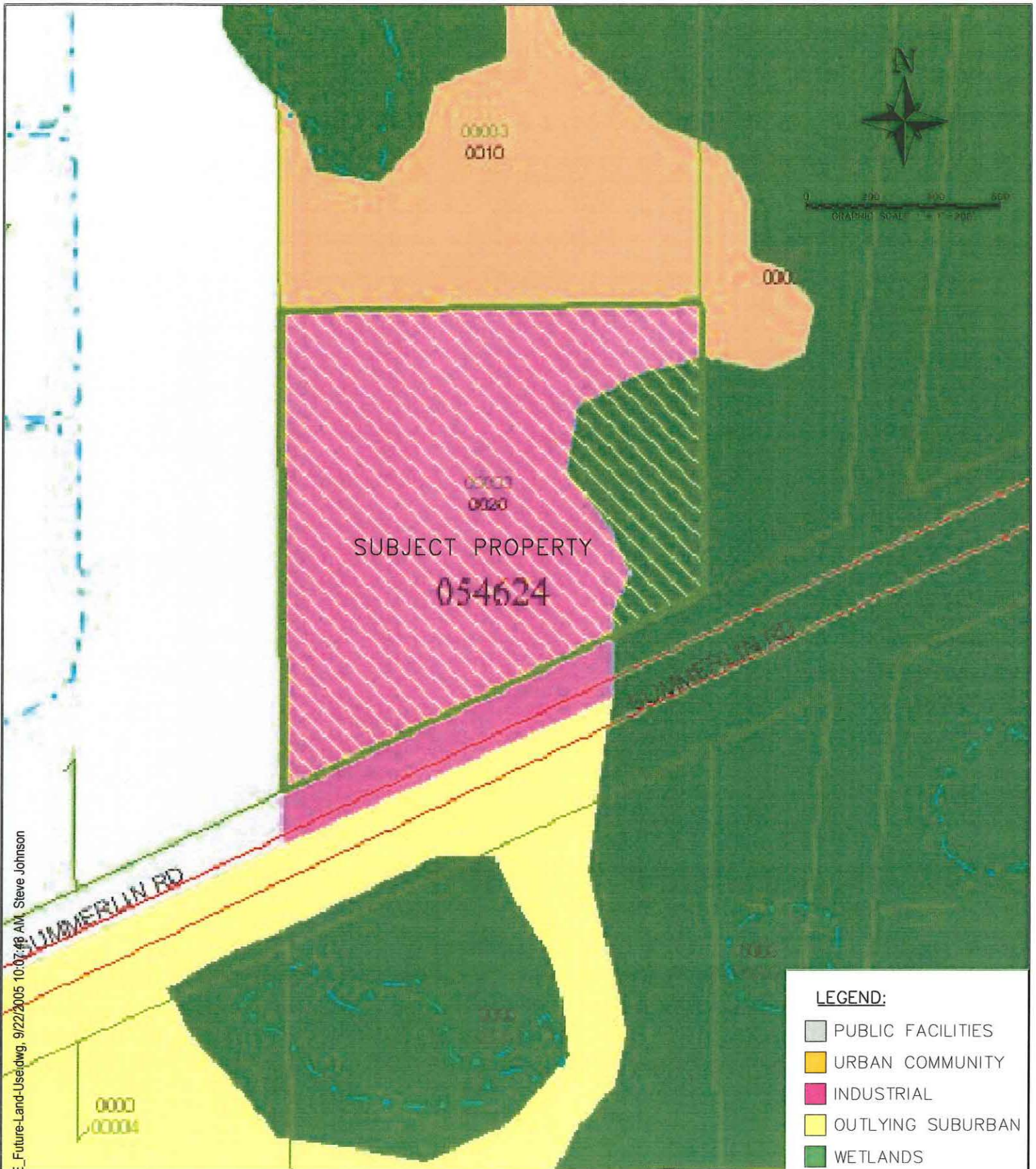
The property to the north is in the Urban Community Future Land Use Category and is currently vacant. The property to the east is in the Urban Community and Wetlands Future Land Use Categories and is currently vacant. Immediately to the south is Summerlin Road and the land south of the right-of-way is 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.



LEGEND:

- PUBLIC FACILITIES
- URBAN COMMUNITY
- INDUSTRIAL
- OUTLYING SUBURBAN
- WETLANDS

Banks Engineering, Inc.

Professional Engineers, Planners & Land Surveyors

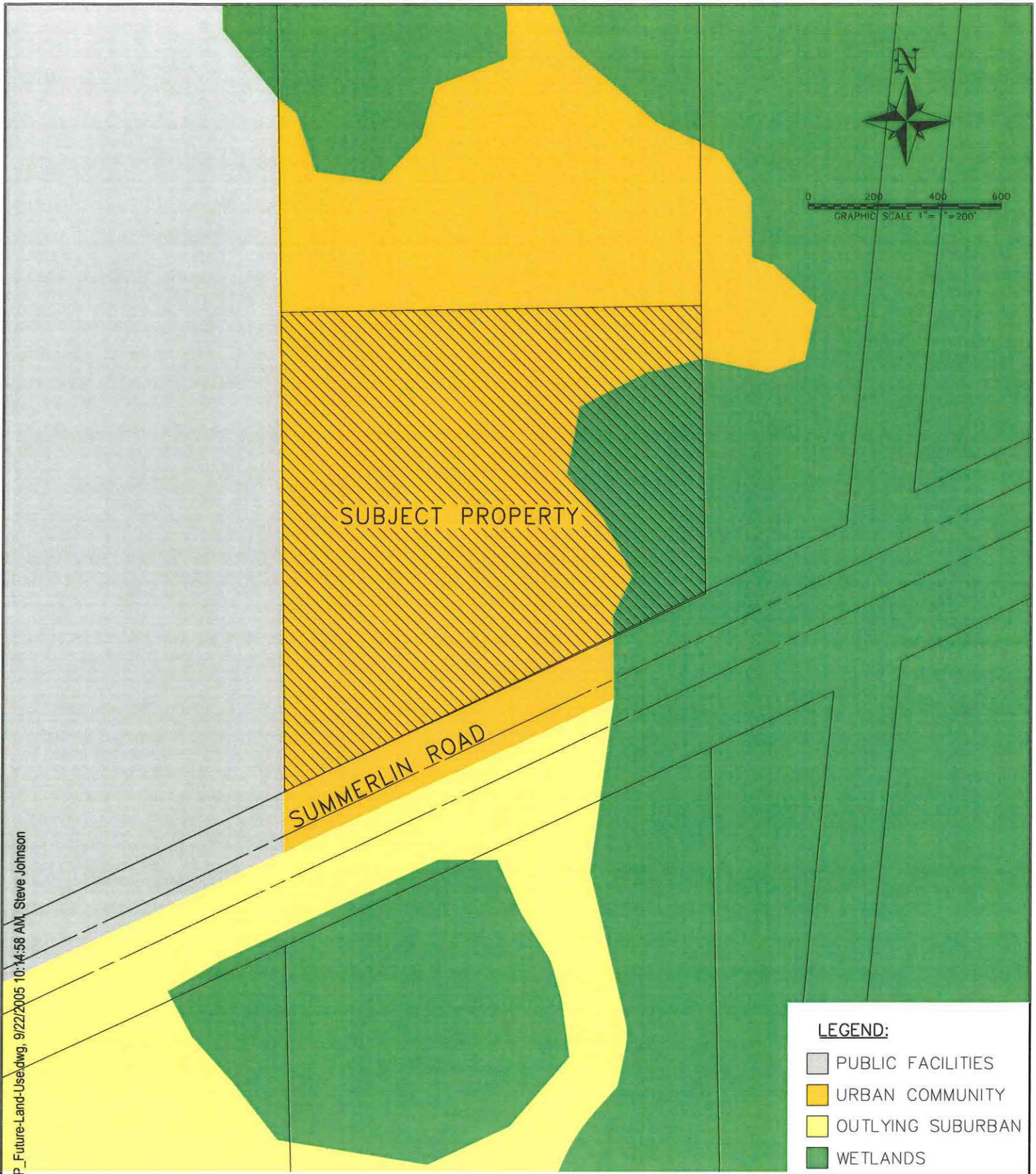
10511 SIX MILE CYPRESS PARKWAY - SUITE 101
FORT MYERS, FLORIDA 33912
PHONE: (239) 939-5490 FAX: (239) 939-2523
ENGINEERING LICENSE # EB 6469
SURVEY LICENSE # LB 6690

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



LEGEND:

- PUBLIC FACILITIES
- URBAN COMMUNITY
- 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 # EB 6469
SURVEY LICENSE # LB 6690

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\18XX\1836\Zoning\IP_Future-Land-Use.dwg, 9/22/2005 10:14:58 AM, Steve Johnson

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 155th 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"

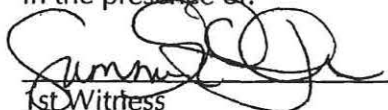
THIS CONVEYANCE IS SUBJECT TO

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.

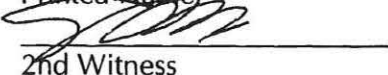
Grantor does hereby covenant with Grantee that the Grantor is lawfully seized of said land in fee simple; that the Grantor has good right and lawful authority to sell and convey said land and will warrant the title and defend the same against the lawful claims and demands of all persons claiming by, 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

EXHIBIT "A"
VICOTT, INC.

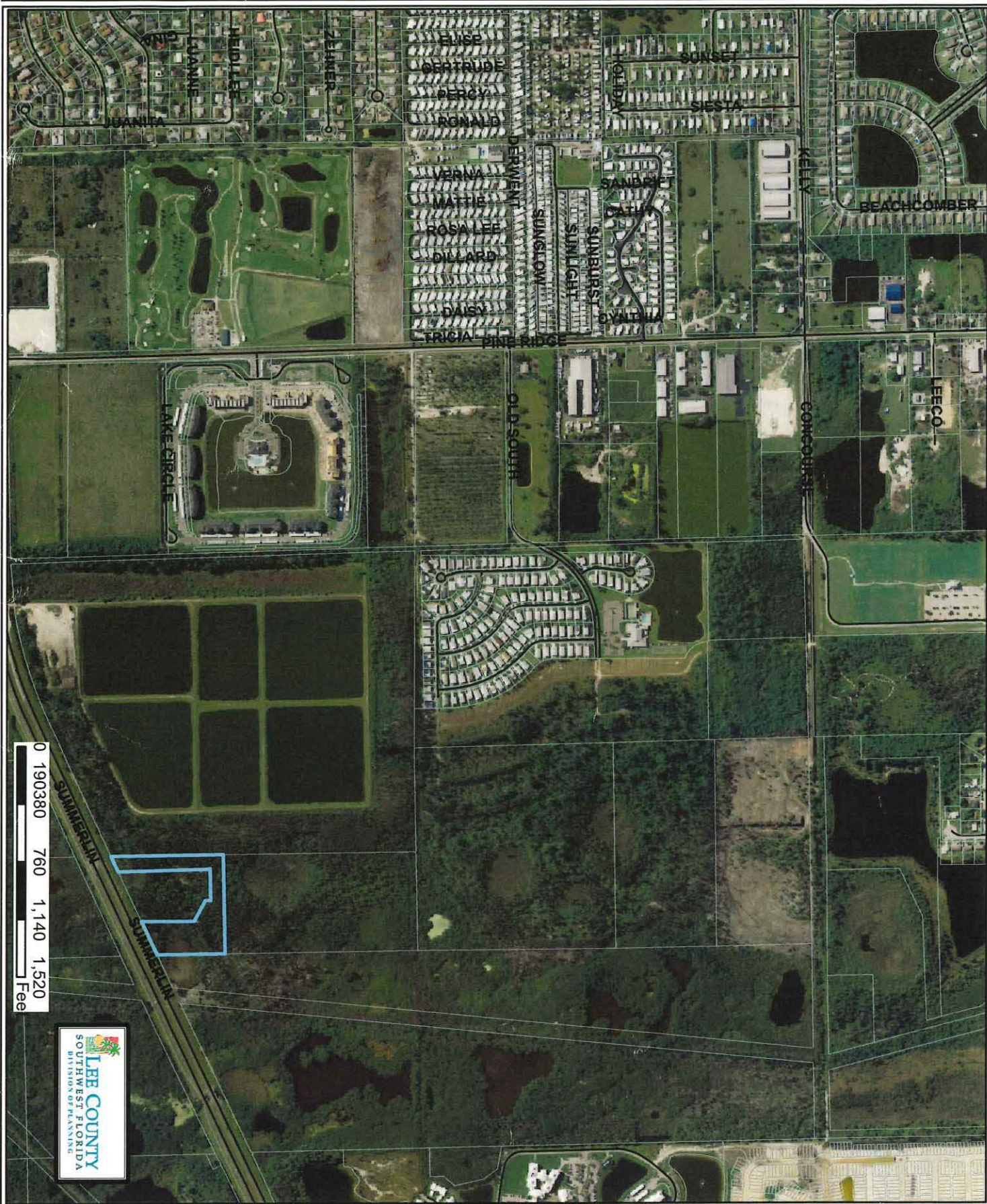
PARCEL A:

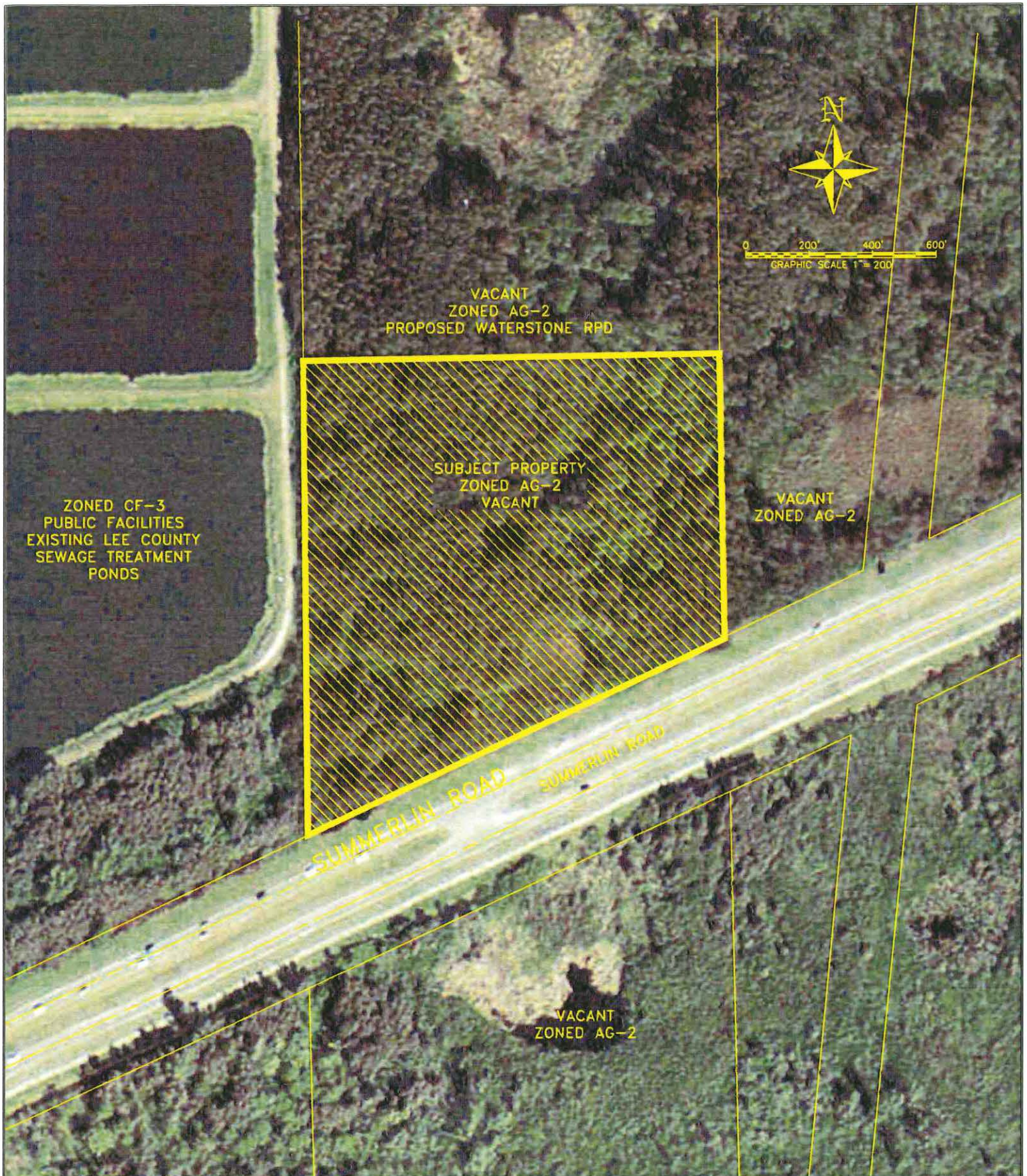
THE EAST ONE-HALF OF THE NORTHWEST $\frac{1}{4}$ OF THE SOUTHEAST $\frac{1}{4}$ OF SECTION 5, TOWNSHIP 46 SOUTH, RANGE 24 EAST AND THE EAST ONE-HALF ($E \frac{1}{2}$) OF THE SOUTHWEST $\frac{1}{4}$ OF THE SOUTHEAST $\frac{1}{4}$ OF SECTION 5, TOWNSHIP 46 SOUTH, RANGE 24 EAST NORTH OF SUMMERLIN ROAD A/K/A 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 $S.89^{\circ}01'42''W.$, ALONG THE SOUTH LINE OF SAID SECTION 5, FOR 1319.00 FEET; THENCE $N.01^{\circ}26'45''W.$, FOR 974.54 FEET TO THE NORTHERLY RIGHT OF WAY LINE OF SUMMERLIN ROAD (COUNTY ROAD 869); THENCE $S.64^{\circ}39'27''W.$, ALONG SAID NORTHERLY RIGHT OF WAY LINE, FOR 244.30 FEET TO THE POINT OF BEGINNING; THENCE $N.00^{\circ}04'41''E.$, FOR 348.06 FEET; THENCE $N.61^{\circ}35'24''W.$, FOR 156.47 FEET; THENCE $N.01^{\circ}01'35''W.$, FOR 33.37 FEET; THENCE $S.88^{\circ}47'59''W.$, FOR 159.92 FEET; THENCE $S.88^{\circ}30'44''W.$, FOR 47.37 FEET TO A POINT ON A CURVE TO THE RIGHT, HAVING: A RADIUS OF 212.00 FEET, A CENTRAL ANGLE OF $07^{\circ}38'23''$, A CHORD BEARING OF $S.05^{\circ}18'28''E.$, 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 $S.01^{\circ}29'16''E.$, FOR 578.40 FEET TO SAID NORTHERLY RIGHT OF WAY LINE; THENCE $N.64^{\circ}39'27''E.$, ALONG SAID RIGHT OF WAY LINE FOR 362.21 FEET TO THE POINT OF BEGINNING.

Vicott CPA2005-00001
05-46-24-00-00003.0020





Banka Engineering, Inc.

Professional Engineers, Planners & Land Surveyors

10511 SIX MILE CYPRESS PARKWAY - SUITE 101
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PHONE: (239) 939-5490 FAX: (239) 939-2523
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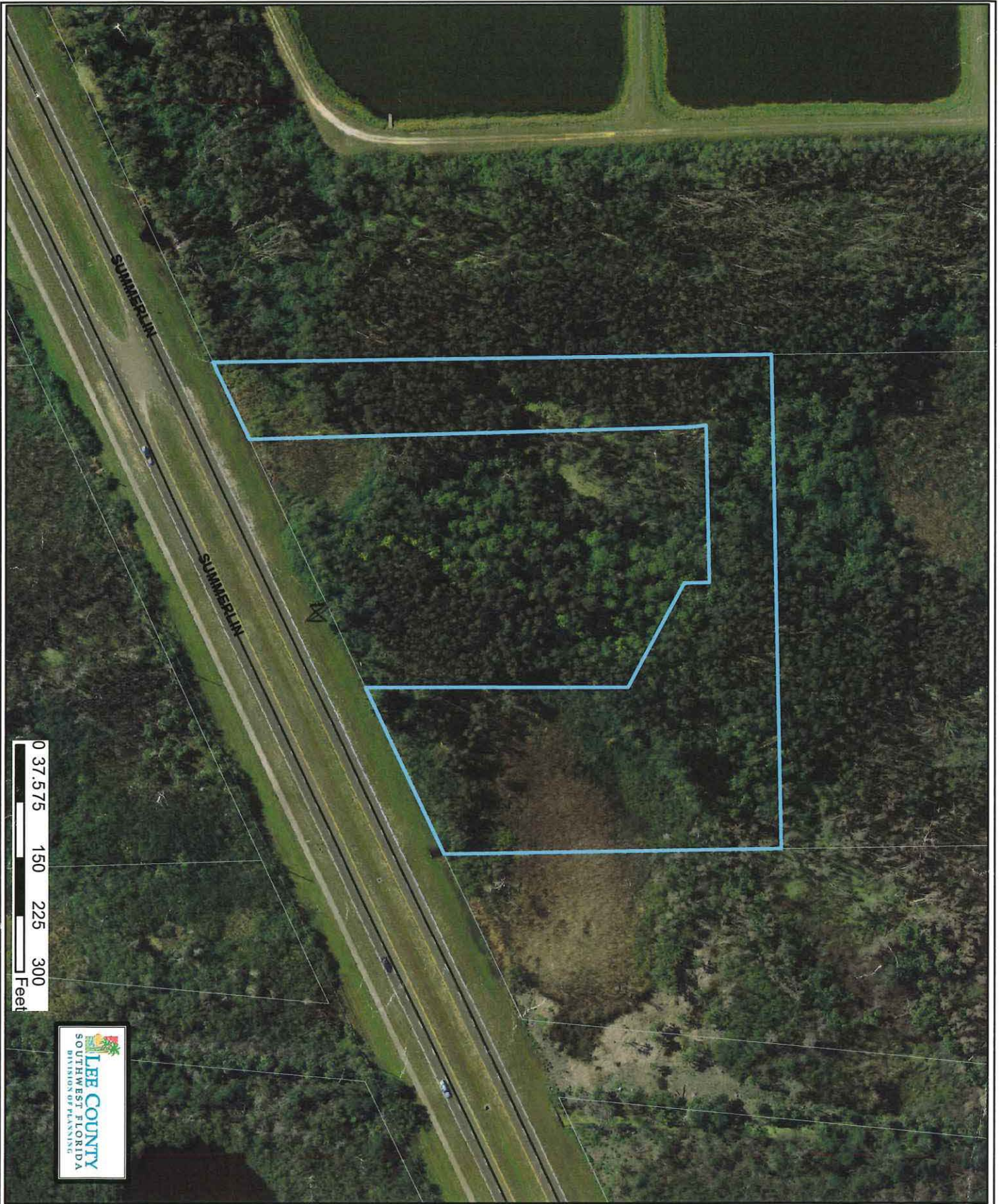
AERIAL, LAND USE AND ZONING MAP

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)

Vicott CPA2005-00001
05-46-24-00-00003.0020



33.00

REC-1 92784625

2301440

DEDICATION OF LAND AS WETLANDS

This instrument is dated this 19th day of March

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 crosshairs 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 19th day of March, 1987.

Mary Lou Breaz
Notary Public
My Commission Expires:

PREPARED BY: MICHAEL E. CRANE

6500 TRAIL BLVD. NW.

NAPLES, FL. 33963

NOTARY PUBLIC STATE OF FLORIDA
MY COMMISSION EXPIRES: JULY 1, 1992
EXAMER: JOHN L. HARRIS, III, JUDGE



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

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:

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

Carol Ann Wehle, *Executive Director*

Lennart E. Lindahl, *P.E.*
Harkley R. Thornton
Malcolm S. Wade, Jr.

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



**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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ENVIRONMENTAL RESOURCE
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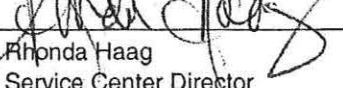
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I HEREBY CERTIFY that a "Notice of Rights" has been mailed to the Permittee (and the persons listed in the attached distribution list) no later than 5:00 p.m. on this 22nd day of February, 2007, in accordance with Section 120.60(3), Florida Statutes.

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

Certified mail number 7006 0810 0003 3837 5414

Handwritten: 11/02/21/07.

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
ADJACENT WETLANDS

Class: CLASS III

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

Sovereign 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:**

	This Phase	Total Project	
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

	This Phase	Total Project
Total:	109.03	109.03

Basin : B1

	This Phase	Total Basin	
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
Total:	72.95	72.95	

Basin : B3

	This Phase	Total Basin	
Building Coverage	.64	.64	acres
Impervious	2.46	2.46	acres
Pervious	2.32	2.32	acres
Total:	5.42	5.42	

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

Basin	Allow Disch (cfs)	Method Of Determination	Peak Disch (cfs)	Peak Stage (ft, NGVD)
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

Basin	Peak Stage (ft, NGVD)	Proposed Min. Finished Floors (ft, NGVD)	FEMA Elevation (ft, NGVD)
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
2Ail	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		
2Eil	ON	641	Preservation	2.84	.45	.63	4	1.50		641		
Total:				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
Total:				2.90								2.18

Fluccs Code	Description
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:

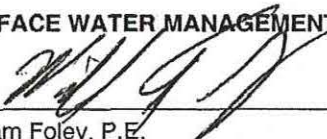
DIVISION APPROVAL:

NATURAL RESOURCE MANAGEMENT:

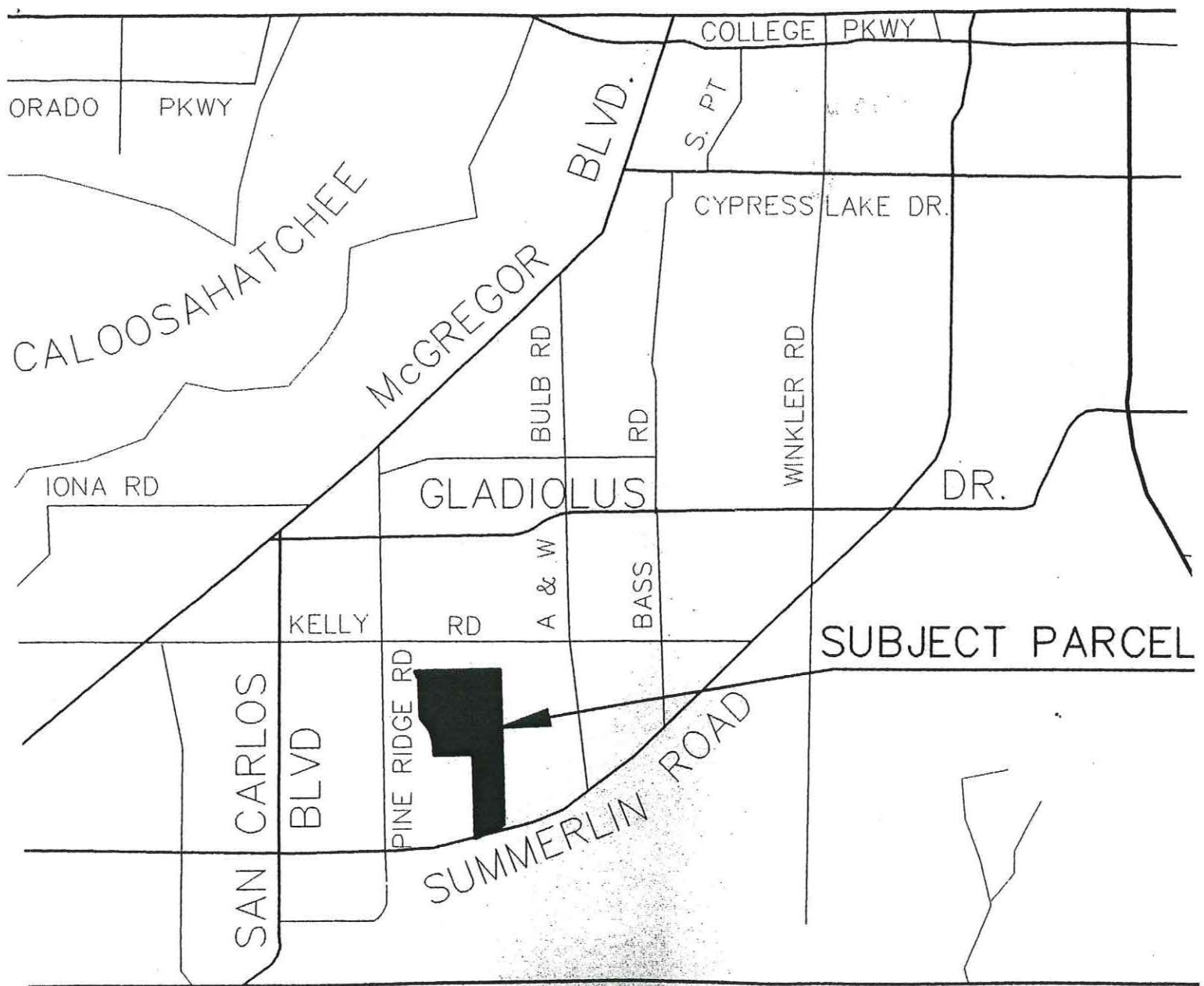

Edward Cronyn

DATE: 2/20/07

SURFACE WATER MANAGEMENT:


William Foley, P.E.

DATE: 2/20/07



LOCATION MAP

15, TOWNSHIP 46 SOUTH, RANGE 24 EAS
LEE COUNTY, FLORIDA

EXHIBIT 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 Beever
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

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 _____	By: _____
Deputy Clerk	Tammara Hall, Chairwoman

APPROVED AS TO FORM

By: _____
Office of the Lee County Attorney

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, 2006

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

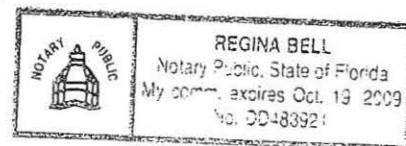


EXHIBIT II - D

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

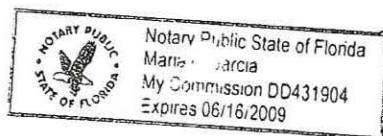
STATE OF FLORIDA

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



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. 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]



Judy Mallott
 Notary Public
 My Commission Expires
 5/24/04

Notary Public

Printed Name:

My Commission Expires:

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 155th 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:

[Signature]
1st Witness

Summer M.O. Johnson
Printed Name

[Signature]
2nd Witness

ERIC M. BONGIA
Printed Name

VICOTT, INC., a Florida Corporation

By: [Signature]
A. Rudolph Maul, Manager

STATE OF FLORIDA)
COUNTY OF LEE)

The foregoing instrument was acknowledged before me on this 5th 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:



[Signature]
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.

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. 155th 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 10950 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. 155th 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)


Witness

Eric M. Bongia
(Type/Print Name of Witness)

By:


Eddy Garcia, Manager



Witness **Summer M.O. Johnson**
(Type/Print Name of Witness)


Witness **Eric M. Borgia**
(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. Borgia**
(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 # 00028349 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 MO 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. _____



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 _____
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 40E-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

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 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;

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.

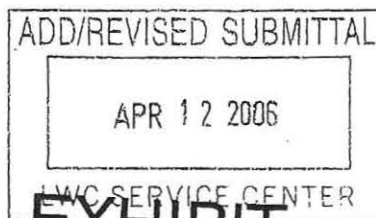
14. Modifications. This Conservation Easement may be amended, altered, released or revoked only by written agreement between the parties hereto or their heirs, assigns or successors-in-interest, which shall be filed in the public records in Lee County.

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



EXHIBIT

3-6D

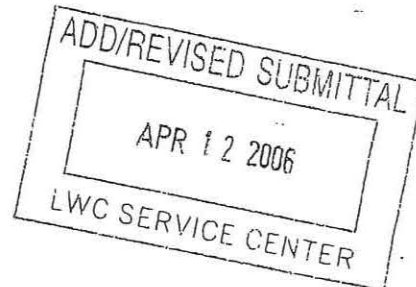
IN WITNESS WHEREOF, Sunset Falls, LLC (Grantor) has hereunto set its authorized hand this 6th day of April, 2006.

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.

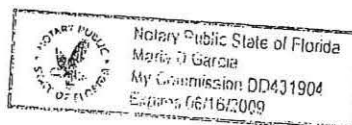
IN WITNESS WHEREOF, I hereunto set my hand and official seal.

NOTARY PUBLIC, STATE OF FLORIDA

[Signature]

Print Name: Maria D. Garcia

My Commission Expires: 6/16/09



APPLICATION NUMBER
050113-13

EXHIBIT
3-LF

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.

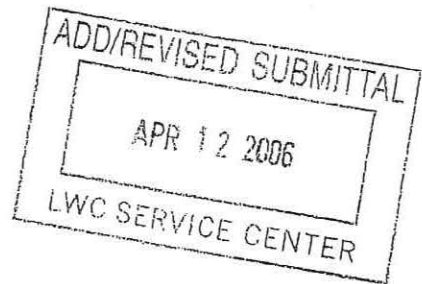
IN WITNESS WHEREOF, this Mortgagee Joinder, Consent and Subordination is made this _____ day of _____, 20____.

(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

EXHIBIT "A"

[DESCRIPTION OF PROPERTY]

EXHIBIT

3.6 H

3-4 SFWM
PHT-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"

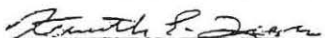
COMMENCING AT POINT "A", THENCE N.01°27'32"W ALONG THE EAST LINE OF THE WEST HALF OF THE SOUTHEAST QUARTER OF SAID SECTION 5 AND THE EAST LINE OF THE WEST HALF OF THE NORTHEAST QUARTER OF SAID SECTION 5 FOR 80.00 FEET TO AN INTERSECTION WITH THE NORTH LINE OF I.D.D. CANAL C-9 AND THE POINT OF BEGINNING; 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

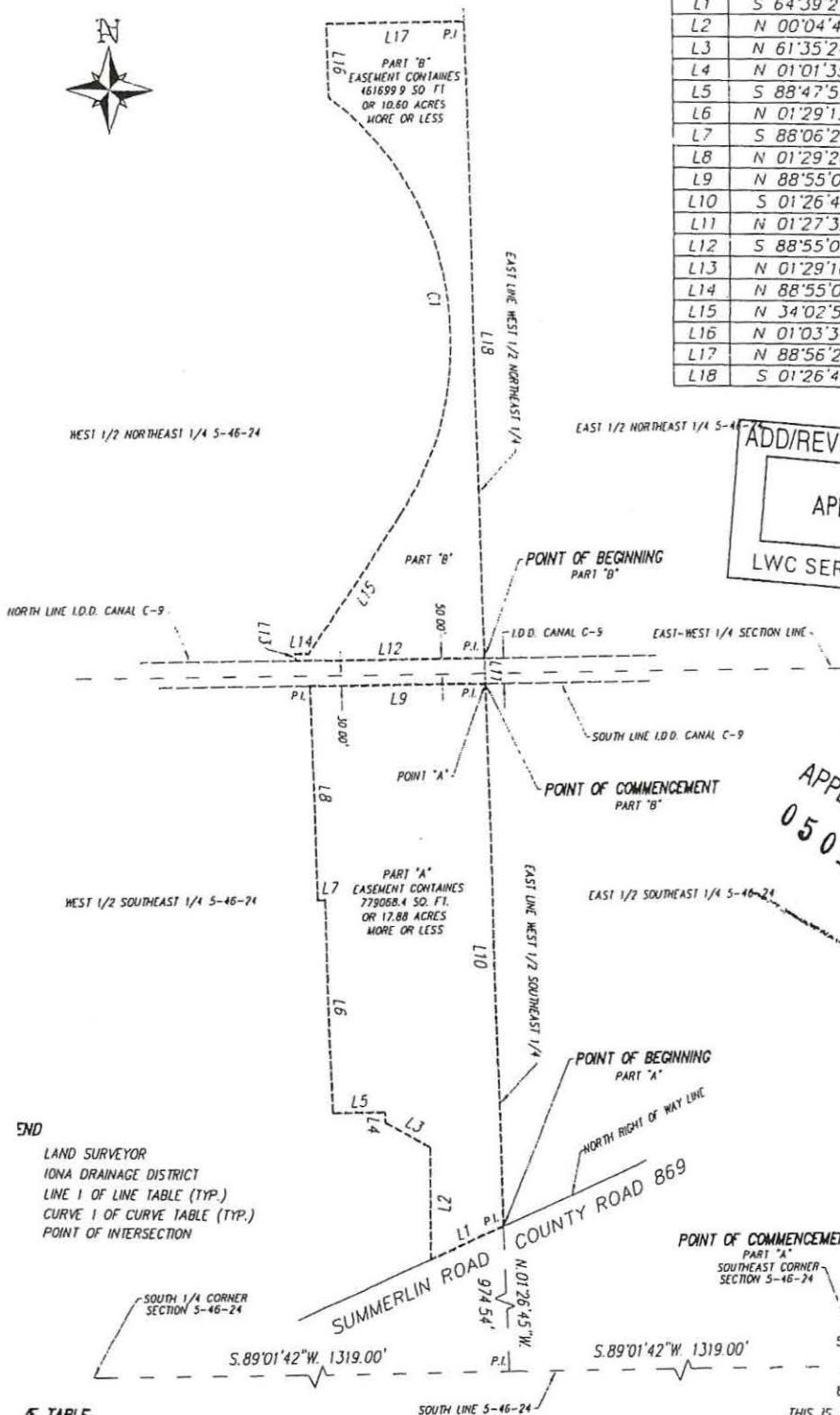
EXHIBIT

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

3.65

TABLE

RVE	RADIUS	ARC	CHORD	CHORD BEARING	DELTA ANGLE
1	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

THIS IS NOT A BOUNDARY SURVEY

Kenneth E. Trask
KENNETH E. TRASK
FLORIDA CERTIFICATE NO. 154684

THIS IS NOT A BOUNDARY SURVEY

Wank Engineering
Professional Engineers, Planners & Land Surveyors
DR. MYERS • NAPLES • SARASOTA • PORT CHARLOTTE
10511 5th MILE CYPRESS PARKWAY - SUITE 101
FORT MYERS, FLORIDA 33912
PHONE: (239) 338-5480 FAX: (239) 338-2522
ENGINEERING LICENSE # EB 6469
SURVEY LICENSE # LB 6460

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.	DATE
01-18-06	18.16	18.16	18.16	18.16	18.16	1"=400'	3 of 3	5-46-24	

How Technology Delivers for UPS – by Business Week Magazine

A couple of years ago if you wanted to go driving somewhere, you had to be prepared to fight with a huge map, or print out directions from the computer and somehow read while you were driving. In addition to that you had to hope that you were lucky enough and that the exit you needed to get off the highway was open.

All that had changed. Thanks to a new technology known as the GPS (Global Positioning System). This system is like map quest. Instead of using your computer, this new technology gets attached to your car and it will tell you step by step, both verbally and on a small monitor, how to get to your destination.

One company that benefits a lot from this new technology is UPS (United Parcel Service). The new system will help the delivery person do all their deliveries faster and in time, saving gas and time the driver wasted idling at stoplights or detouring due to street repairs.

While this is helping UPS by making the company more efficient, it is also helping make the environment more friendly. Why? Because the less driving UPS has to make the less time the truck will be on the road and the less fume it will release into the atmosphere. UPS, unknowingly, is putting their two cents into the green building idea.

One disadvantage that I see on this new system is that since it cuts down the time the delivery person spends on the road, does it mean that they need less people to do the same job? Or are the employees going to make less money because overtime is not available any more? I guess time will tell.

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

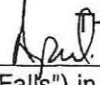
WBL = Westbound left
 EBL = Eastbound left
 NBL = Northbound left
 SBL = Southbound left

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 #__-__-__

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

Thomas H. Gunderson
Witness
Thomas H. Gunderson
Print/Type Name of Witness

Eric M. Burch
Witness
Eric M. Burch
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:

Thomas H. Gunderson
Notary Public
Type/Print Name of Notary
Commission No. _____



Thomas H. Gunderson
MY COMMISSION # DD298549 EXPIRES
March 24, 2008
BONDED THRU TROY FAIR INSURANCE, INC.

Signed and Sealed in the presence of:

Witness Signature

Summer MO Johnson
Type/Print Witness Name


Witness Signature

ERIC M. BORGIA
Type/Print Witness Name

VICOTT, INC., a Florida corporation

By: A. Rudolph Maul
A. Rudolph Maul, President

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, 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. _____

A PARCEL OF LAND LYING IN
SECTION 5, TOWNSHIP 46 SOUTH, RANGE 24 EAST,
LFT COUNTY, FLORIDA

DESCRIPTION:

(DO NOT POST ADDRESS STYLE DIFFERENCE COMPANY DOCUMENT #2 AN
JANUARY 24 1988 APPROX 22, 2000 AT 09:00)

[illegible]

LOVE BLOND, KISS WITH BLISS, LIPS LIKE LIPS, EYES LIKE EYES.

[illegible]

NOTES:

[illegible]

SAMPLE'S IDENTIFICATION

1. I WOULD GOODY TO THE BEST OF MY
PROFESSIONAL ABILITIES, THAT THE PLAN OF THE
RESEARCH DESCRIBED HEREIN IS A TRUE
REPRESENTATION OF A FIELD SURVEY TYPE LARVAL
SURVEILLANCE OF AN OUT-POST AREA OF THE
MILITARY DISTRICT, AND THAT THE PLAN OF
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THE PLAN OF CONDUCT, AND THE PLAN OF CONDUCT

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- JOURNAL OF COLLEGE IN WASHINGTON AND THE PART OF THE SUBJECT AND THE SUBJECT OF THE SUBJECT
- THE SUBJECT IS NOT THE LARGEST SUBJECT AREA
- IT IS NOT A SUBJECT OF THE SUBJECT, SUBJECT, SUBJECT, SUBJECT OF SUBJECTS

CERTIFICATIONS

1. DATE 7-14-48
 2. TO SAC, NEW YORK
 3. FROM SAC, NEW YORK
 4. SUBJECT [illegible]

1	12-2-87	WILLIAM J. BROWN
2	12-2-87	WILLIAM J. BROWN, JR.
3	12-2-87	WILLIAM J. BROWN, JR.
4	12-2-87	WILLIAM J. BROWN, JR.
5	12-2-87	WILLIAM J. BROWN, JR.
6	12-2-87	WILLIAM J. BROWN, JR.
7	12-2-87	WILLIAM J. BROWN, JR.
8	12-2-87	WILLIAM J. BROWN, JR.
9	12-2-87	WILLIAM J. BROWN, JR.
10	12-2-87	WILLIAM J. BROWN, JR.

Banks Engineering, Inc.

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED
DATE 07-20-2001 BY 60322 UCBAW/STP

BOUNDARY SURVEY

PREPARED FOR
WATERWAY DEVELOPMENT GROUP CORP.

[illegible]

Exhibit A

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

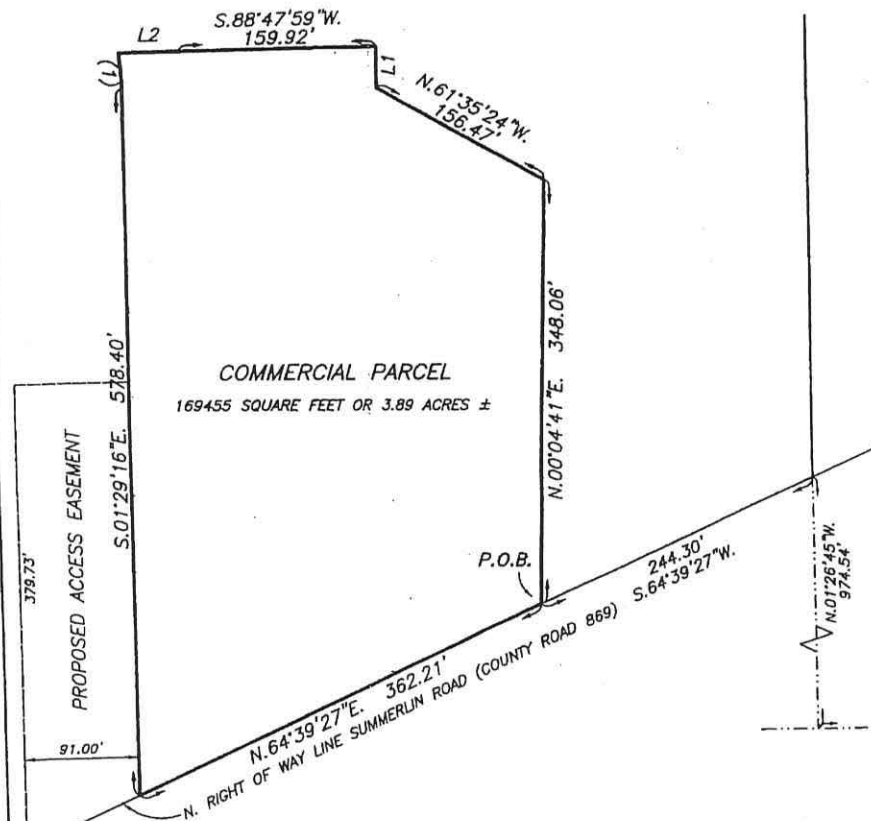
JUNE 23, 2005


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

SHEET 1 OF 2

Exhibit B

(1 of 2 pages)



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.

THIS IS NOT A BOUNDARY SURVEY

KENNETH E. TRASK

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

Banks Engineering, Inc.

Professional Engineers, Planners & Land Surveyors
PORT MYERS • NAPLES • SARASOTA
 10911 SIX MILE CREEK PARKWAY - SUITE 101
 PORT MYERS, FLORIDA 33912
 PHONE: (813) 688-4340 FAX: (813) 688-2823
 ENGINEERING LICENSE # 13 6448
 SURVEY LICENSE # 13 1860

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

DATE	PROJECT	DRAWING	DESIGN	DRAWN	CHECKED	SCALE	NOTED	FILE NO. (S-1-4)
12-28-2005	14.0	14.0000	KT	KT		1"=500'	2	2

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

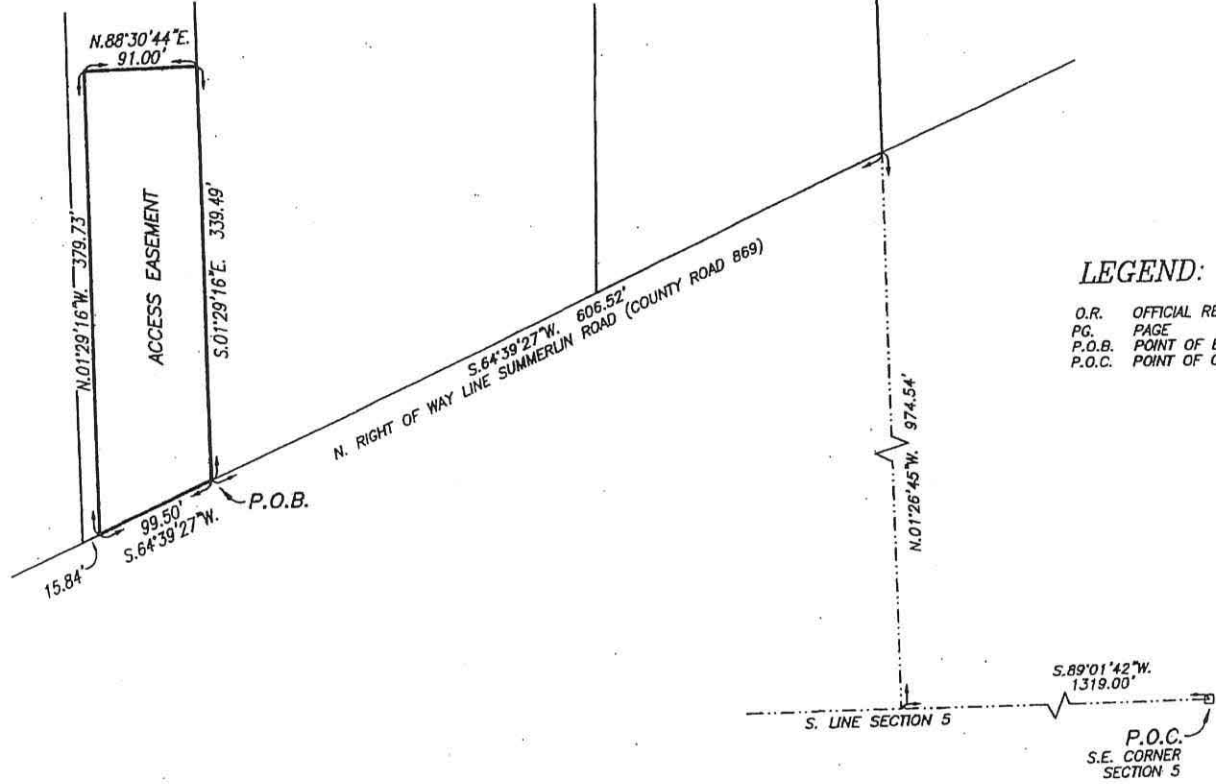
JUNE 23, 2005


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. 134684

Rankin Engineering, Inc.
Professional Engineers, Planners & Land Surveyors
1000 N. W. 10th Avenue, Suite 100
Fort Lauderdale, FL 33304
PHONE: (954) 561-1234 FAX: (954) 561-1235
WWW: WWW.RANKIN-ENG.COM

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

DATE	PROJECT	DRAWN	CHECKED	SCALE	SHEET	FILE NO.
3-29-2006	1639	1639	1639	1"=200'	2 of 2	5-46-S-24

REVISED 6-27-2005 - SHIFT EASEMENT EASTERLY



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. SCRIPPO, 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

239-533-0333

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@lccgov.com.

Sincerely,

TRANSIT DIVISION

Michael Horsting
Transit Planner

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

September 12, 2006

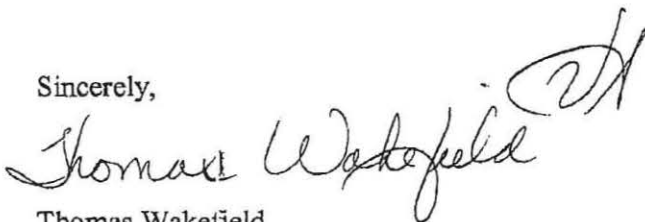
Ms. Stacy Hewitt
Planner
Banks Engineering
10511-101 Six Mile cypress
Ft. Myers, FL 33912

RE: Vicott Inc, Summerlin Road Job #1836-02
Strap # 05-46-24-00-00003.0020
05-46-24-00-00003.0030

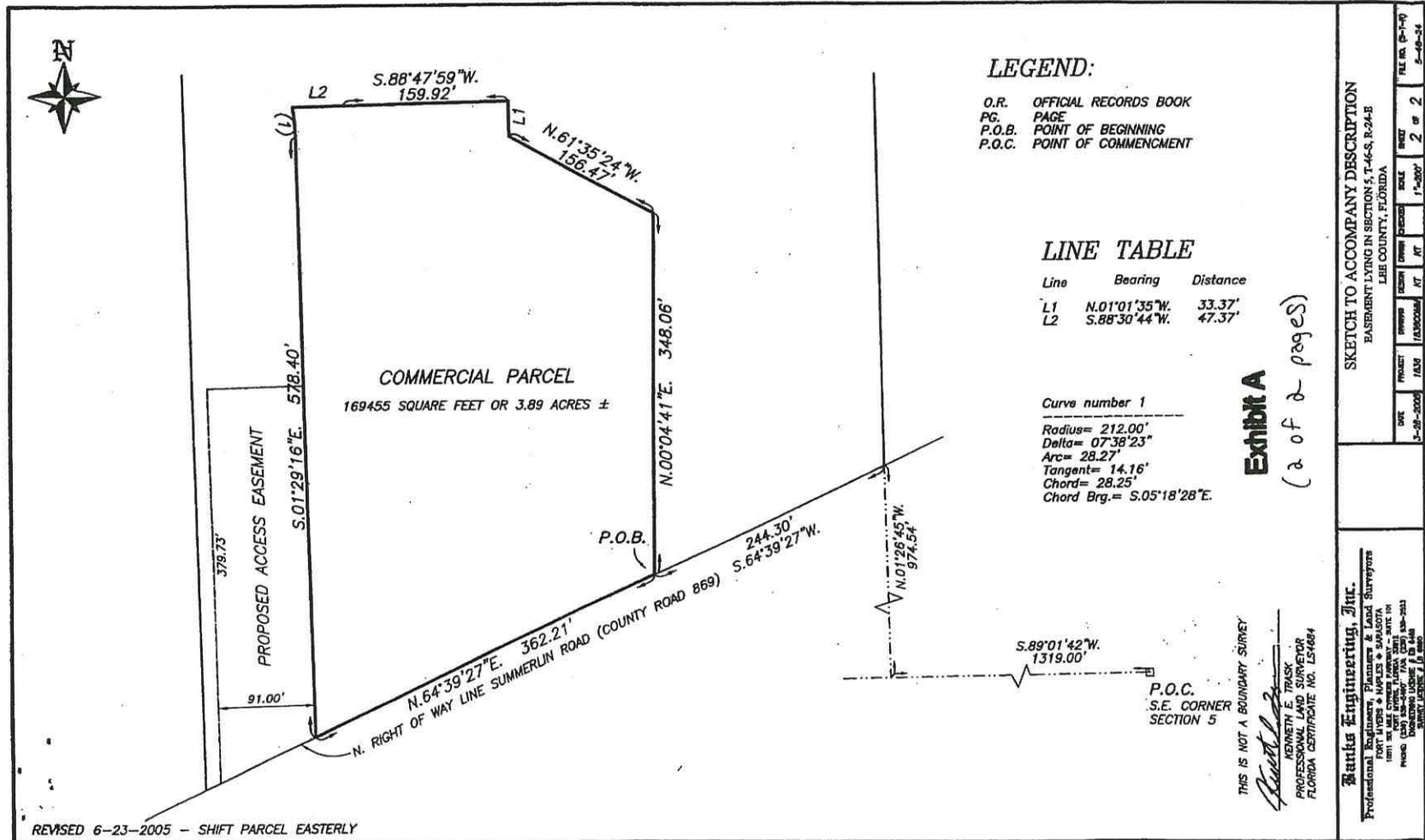
Dear Stacy,

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 that reads "Thomas Wakefield". To the right of the signature is a large, stylized initial "W".

Thomas Wakefield
Fire Inspector



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 permittable 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	525
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 form 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

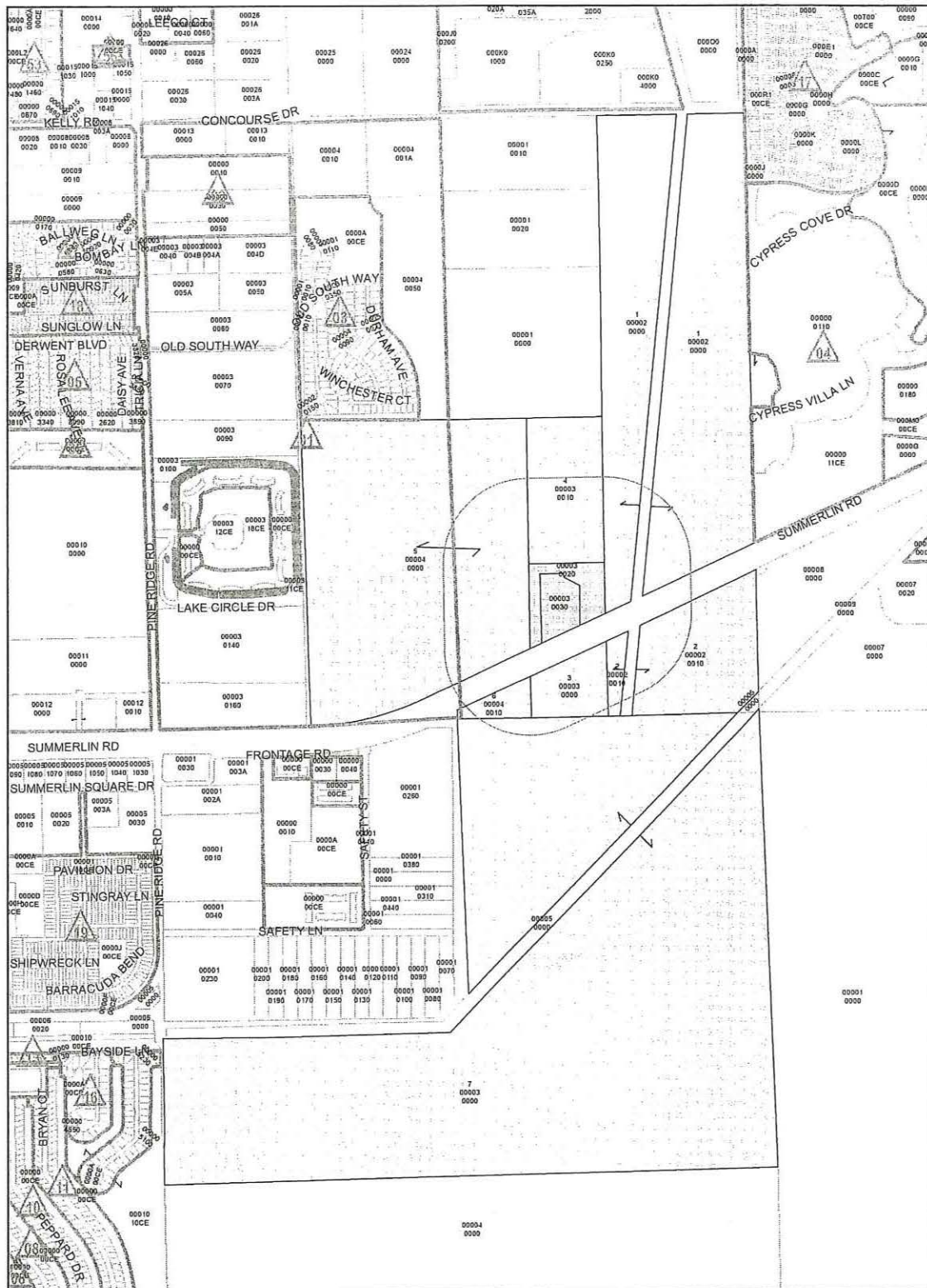
ADDITIONAL REQUIRED EXHIBITS:

- *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



1,200 600 0 1,200 Feet

05-46-24-00-00003.0020 et al.



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	05-46-24-00-00002.0000 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	05-46-24-00-00002.0010 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	05-46-24-00-00003.0000 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	05-46-24-00-00003.0010 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	05-46-24-00-00004.0000 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	05-46-24-00-00004.0010 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	08-46-24-00-00003.0000 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

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)



LEE COUNTY
SOUTHWEST FLORIDA

BOARD OF COUNTY COMMISSIONERS

(239) 338-3302

Writer's Direct Dial Number: _____

Bob Jones
District One

Douglas R. St. Cery
District Two

Ray Judah
District Three

Tammy Hall
District Four

John F. Albinn
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

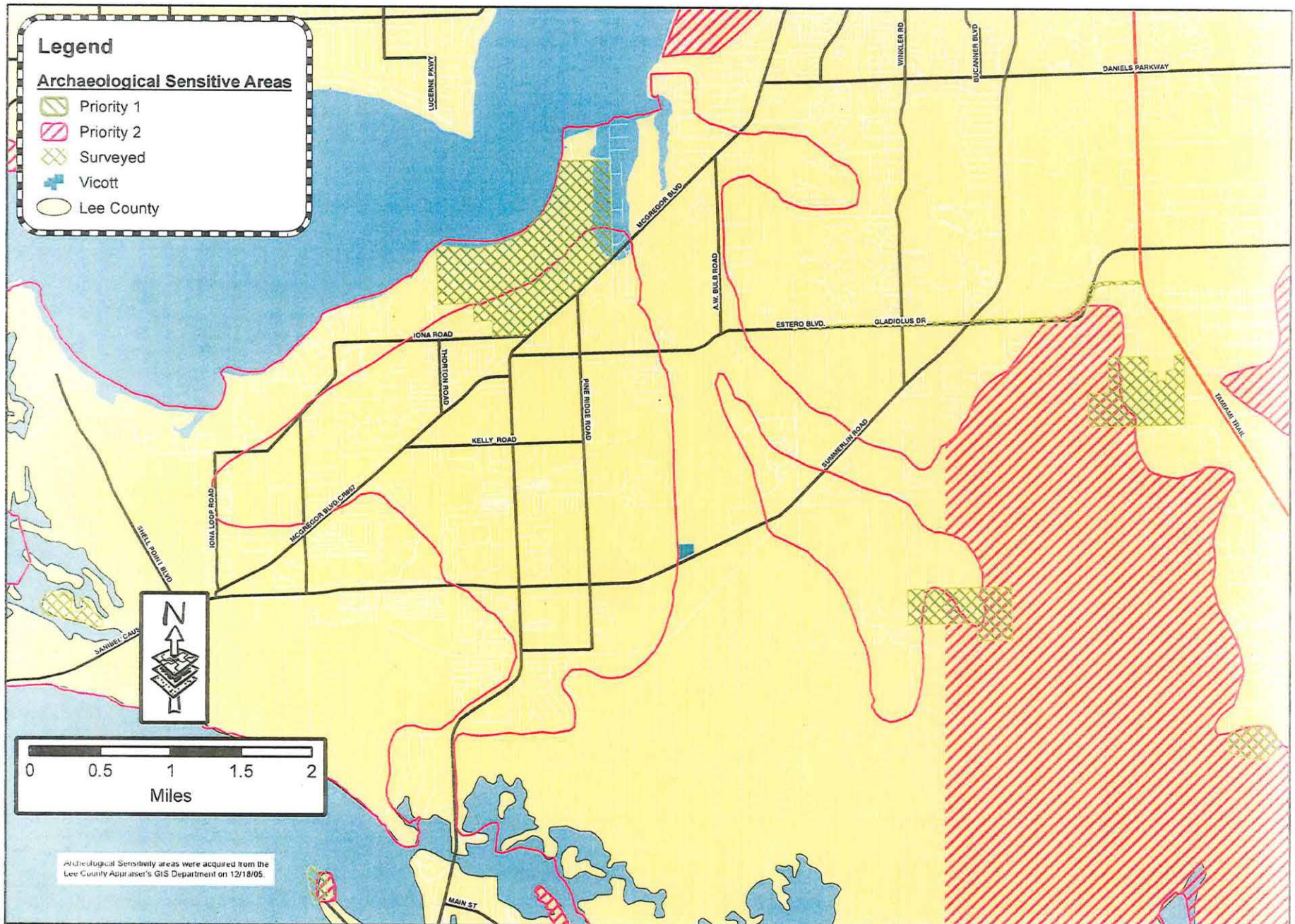
Dear Ms. Hewitt:

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



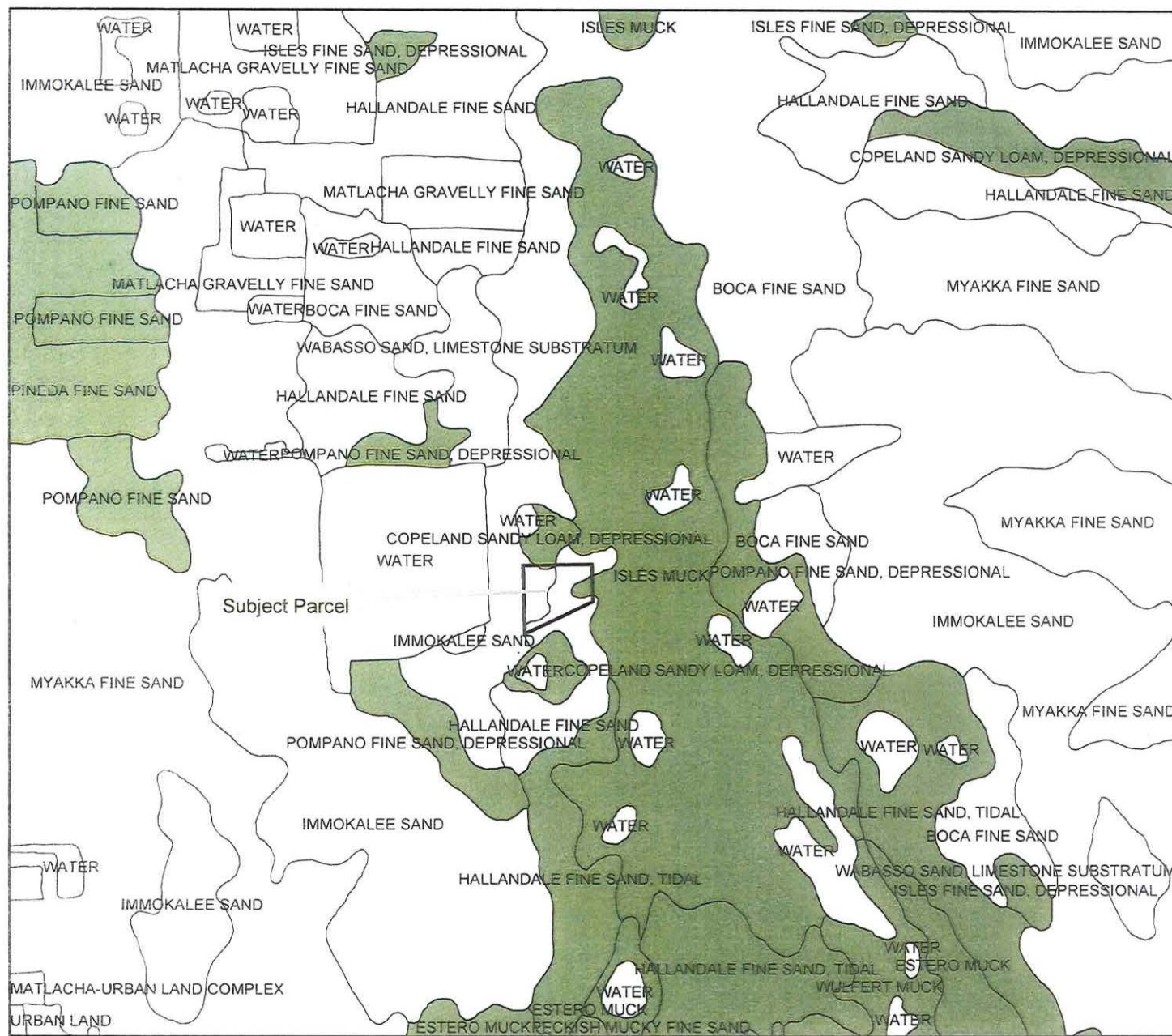
Boylan Environmental Consultants, Inc.

11000 Metro Parkway, Suite 4
Fort Myers, FL 33966
Office: (239)418-0671
Fax: (239)418-0672

VICOTT, INC.

ARCHEOLOGICAL SENSITIVITY MAP

Designed by	Date	Lee County	Revisions	Date	Exhibit Number
BKM	9/14/06	5/46S/24E			
Drawn by	Date	County			
BKM	9/14/06	Archeological Sensitivity Map			
File Name	County				
9676	Lee				

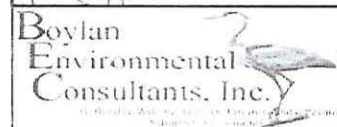


SCS Soils HYDRIC SOILS

YES

2,400

Feet



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	1810 TAP RING	Revisions	Date	Exhibit Number
JDK	9/12/06	5/46S/24E			
Drawn by	Title	Geology			
File Number	soils	Lee			

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.



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
Web: <http://www.dos.state.fl.us/dhr/msff>

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

<input type="checkbox"/> Director's Office (850) 245-6300 • FAX: 245-6435	<input type="checkbox"/> Archaeological Research (850) 245-6444 • FAX: 245-6436	<input type="checkbox"/> Historic Preservation (850) 245-6333 • FAX: 245-6437	<input type="checkbox"/> Historical Museums (850) 245-6400 • FAX: 245-6433
<input type="checkbox"/> Palm Beach Regional Office (561) 279-1475 • FAX: 279-1476	<input type="checkbox"/> St. Augustine Regional Office (904) 825-3043 • FAX: 825-3044	<input type="checkbox"/> Tampa Regional Office (813) 272-3843 • FAX: 272-7240	

TOTAL P.02



FLUCCS LEGEND

Code	Community	Upland Acreage	Wetland Acreage
411/422	Brazilian Pepper Invaded Pine Flatwoods	0.50	1.1
619E4	Exotic Wetland	5.51	5.51
624E2	Hydric Cabbage Palm	0.27	0.27
6412E4	Cattail Marsh	1.39	1.39

Total Site Acreage: 7.67

Upland Acreage

Wetland Acreage

WETLANDS 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 = 75-100% EXOTIC OR NUISANCE COVERAGE

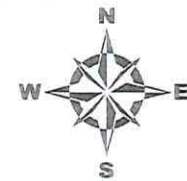
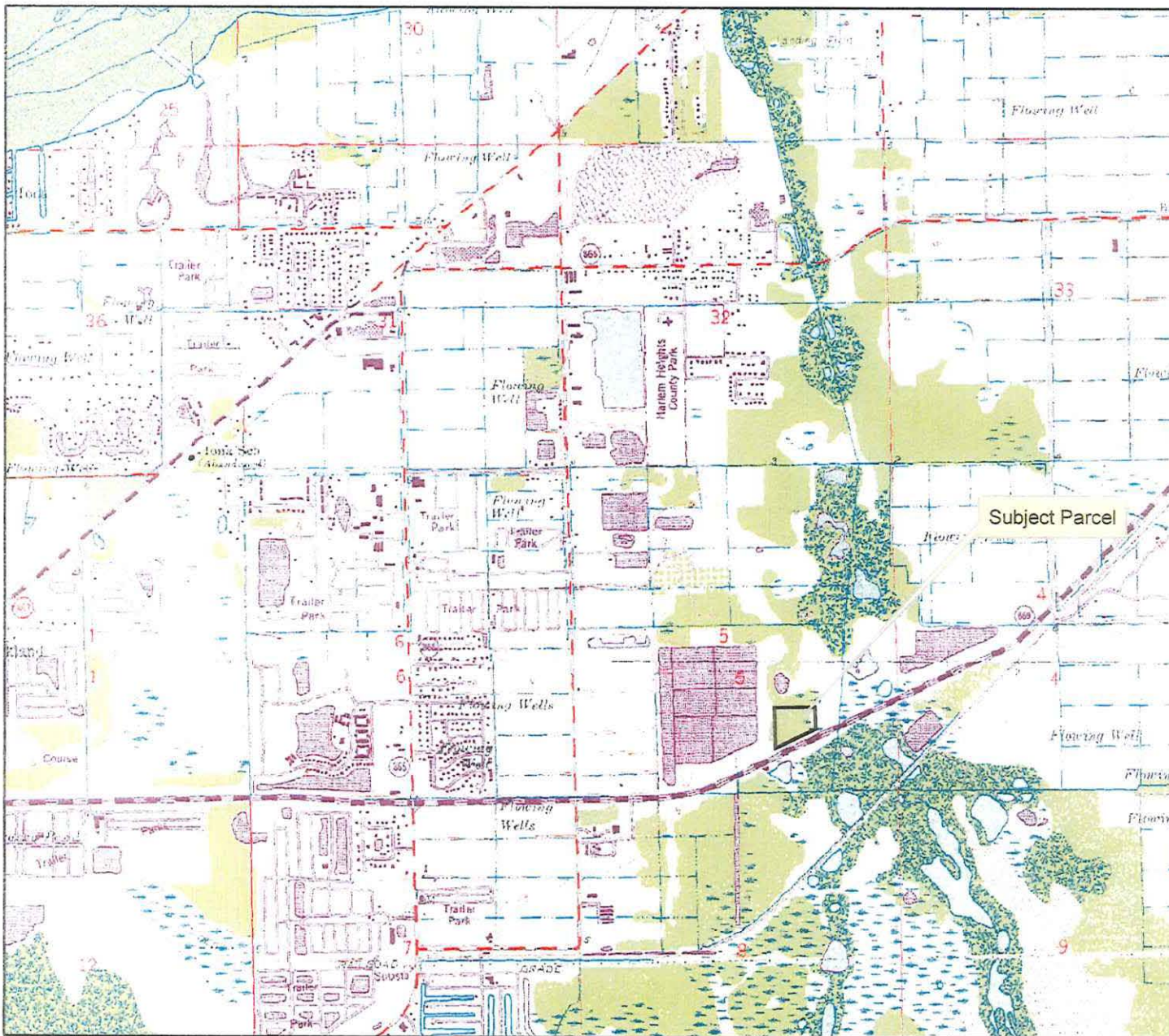
Page	Date:	Revisions	Exhibit

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	





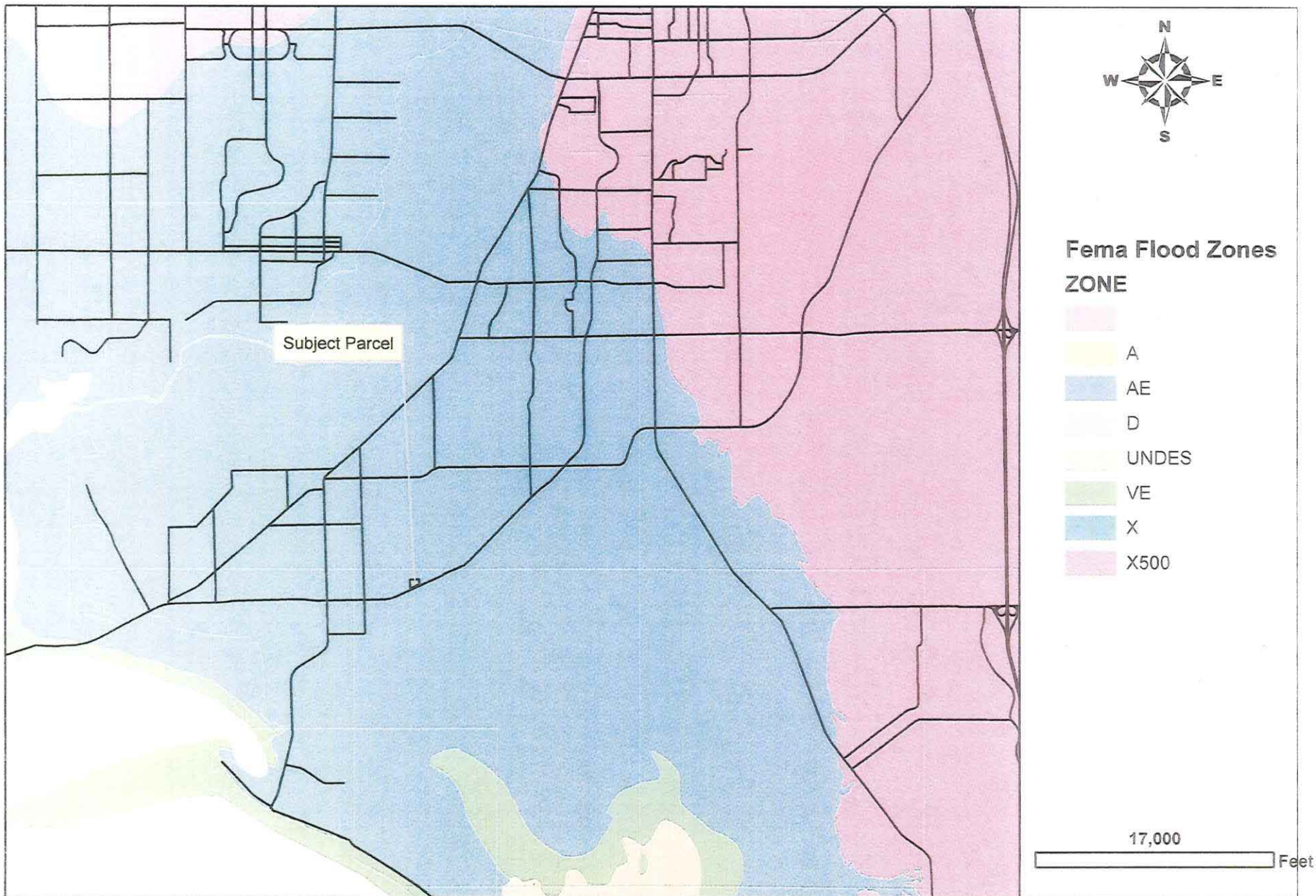
4,200

Feet

Boylan Environmental Consultants, Inc.
 11000 Metro Parkway, Suite 4
 Fort Myers, FL 33912
 Office: (239) 418-0671
 Fax: (239) 418-0672

VICOTT, INC
USGS TOPO MAP

Drawn by	Date	Scale/Projection	Revisions	Date	Exhibit Number
JDK	9/12/06	5/46S/24E			
Drawn by		County			
File Name		County			
topo		Lee			



Boylan Environmental Consultants, Inc.
 11000 Metro Parkway, Suite 4
 Fort Myers, FL 33912
 Office: (239)418-0671
 Fax: (239)418-0672

VICOTT, INC
FEMA FLOOD ZONES

Designed by	Date	Map Title	Revisions	Date	Exhibit Number
JDK	9/12/06	5/46S/24E			
Drawn by	Date	Color by			
File Name		County			
FEMA		Lee			

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.

FLUCFCS	Description	Acreage	Percent of Total
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%
	Total	+/- 7.67	100%

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

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
Total Trips	75	15	90	60	110	170	1,600

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
Resultant Trip Change	-10	30	20	140	105	245	2,955

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)

Land Use Category	Intensity
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

<u>ROADWAY</u>	<u>SEGMENT</u>	<u>ROADWAY</u> <u>CLASS</u>	<u>LOS A</u> <u>VOLUME</u>	<u>LOS B</u> <u>VOLUME</u>	<u>LOS C</u> <u>VOLUME</u>	<u>LOS D</u> <u>VOLUME</u>	<u>LOS E</u> <u>VOLUME</u>	<u>PERCENT</u>		
								<u>PROJECT</u> <u>TRAFFIC</u>	<u>PROJECT</u> <u>TRAFFIC</u>	<u>PROJ/</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

							2006	2011				2011	2011	
							PK HR	PK HR	PERCENT				BCKGRND	BCKGRND
							PK SEASON	PK SEASON	PROJECT	AM PROJ	PM PROJ	+ AM PROJ	+ PM PROJ	
<u>ROADWAY</u>	<u>SEGMENT</u>	<u>PCS</u>	<u>ADT</u>	<u>ADT</u>	<u>GROWTH</u>	<u>RATE</u>	<u>PEAK DIR.</u>	<u>PEAK DIR.²</u>	<u>TRAFFIC</u>	<u>TRAFFIC</u>	<u>TRAFFIC</u>	<u>TRAFFIC</u>	<u>TRAFFIC</u>	
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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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, 7th 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.

Kim Dickerson

(Signature)

EMS operators chief

(Title)

Kim Dickerson

(Printed Name)

9-12-06

(Date)

Banks Engineering, Inc.

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

September 29, 2005

RECEIVED
SEP 29 2005
ALL
CPA 2005-00001

Mr. Matt Noble, Principal Planner
Division of Zoning
Lee County Development Services
1500 Monroe Street
Fort Myers, FL 33901

Re: Vicott, Inc.
Small Scale Comprehensive Plan Amendment


Dear Mr. Noble:

Attached is an Application for a Small Scale Comprehensive Plan Amendment and supporting documentation for the above-referenced project. The purpose of the amendment is to request a change to the Future Land Use Map for the subject property from Industrial Development to Urban Community to allow the property to be rezoned and developed as a commercial planned development.

Should you have any questions or require any additional information, please feel free to contact me at 939-5490.

Sincerely,

BANKS ENGINEERING, INC.


Jon G. Hagan
Director of Planning

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

Please Reply To:
FORT MYERS OFFICE

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

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VICOTT, INC.

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ADDITIONAL REQUIREMENTS FOR SPECIFIC FUTURE LAND USE
AMENDMENTS

JUSTIFICATION FOR PROPOSED AMENDMENT

From: Pavese, Michael P.
To: Gaither, Wayne W.
Date: 12/13/05 1:37PM
Subject: RE: CPA2005-00001 (Vicott Property - Small Scale Amendment)

Wayne, Part E. of the application should be revised to reflect that there will not be a residential component to this project. That statement is made repeatedly throughout the application, however portions of part E. contradicts that statement. Pending the revision, PW staff finds the application sufficient for review and will provide substantive comments upon your request.

From: Gaither, Wayne [mailto:WGAITHER@leegov.com]
Sent: Wednesday, November 23, 2005 4:30 PM
To: Bradley, Gregory
Cc: Burris, Rick; Noble, Matthew
Subject: CPA2005-00001 (Vicott Property - Small Scale Amendment)

Distribution List:

John Wilson, Lee County Public Safety

Chris Hansen, Lee County Public Safety, EMS

Mike Scott, Lee County Sheriff's Office

Roland E. Ottolini, Lee County Natural Resources Management

Steve Boutelle, Lee County Natural Resources

Steven Myers, Lee Tran

John Yarbrough, Lee County Parks & Recreation

Kathy Babcock, Lee County School Board

Tina Silcox, Lee County School Board

Dave Loveland, Lee County Division of Transportation

Mike Carroll, Lee County Development Services

Rick Joyce, Lee County Division of Planning, Environmental Sciences

Lindsey Sampson, Lee County Solid Waste

Bill Horner, Lee County Port Authority

Regina Smith, Lee County Economic Development

Kim Trebatoski, Lee County Division of Planning, Environmental Sciences

George Campbell, Lee County Public Safety, Emergency Management

Chief Clint Simmons, Matlacha-Pine Island Fire District

Jim Lavender, Lee County Public Works

Rick Diaz, Lee County Utilities

Ivan Velez, Lee County Utilities

Pam Houck, Lee County Zoning

Nettie Richardson, Lee County Zoning

Pete Eckenrode, Lee County Development Services

Michael Pavese, Lee County Public Works

Wayne Daltry, Lee County Smart Growth

Mary Zettel, DCD/Code Enforcement

Rick Roberts, DCD/Code Enforcement

November 23, 2005

Public Service/Review Agencies

RE: CPA2005-00001 - Vicott, Inc. Property (Small Scale Amendment)

05-46-24-00-00003.0020

Planning Division staff requests your agencies help in reviewing the above referenced Lee Plan Amendment. The applicant is proposing a small scale amendment (less than 10 acres) to change the Future Land Use Map (FLUM) designation. The property's site address is Summerline Road and is generally 3.89 acres in size. The proposed map amendment would change the Land Use designation from Industrial Development to Urban Community. Attached is an electronic copy of the application.

The existing land use designation of Industrial Development recognizes a properties locational value such as transportation amenities (proximity to air, rail, or highway), and its ability to function as an area to expand job opportunities or production opportunities. Industrial Development areas are to be reserved mainly for industrial activities such as manufacturing, research, properly buffered recreational uses, and office complexes (as long as it is related to the adjoining industrial uses). General residential uses are not allowed.

The proposed land use designation of Urban Community is characterized by a mixture of relatively intense commercial and residential uses. Although the Urban Communities have a distinctly urban character, they should be developed at a slightly lower density. The predominant uses in the Urban Communities will be residential, commercial, public and quasi-public, and limited light industrial. Standard densities for residential development will be one to six dwelling units per acre (1-6 DU / acre).

Planning staff requests that your agency help determine the sufficiency of the proposed plan amendment

application for review. If you can identify any deficiencies in the information provided, need clarification on the subject matter, or if you find the application sufficient for review, please provide these comments to us by December 12, 2005. A letter is being drafted to submit any additional data requests to the applicant and your input concerning the potential impacts to your agency is important.

A copy of the application is also located within the Planning Departments website. The link below will bring you to the application:

<http://www.lee-county.com/dcd/ComprehensivePlanning/PlanAmendments/SmallScale.htm>

If you have any questions, please feel free to contact Wayne Gaither at:

479-8567

wgaither@leegov.com

H. Wayne Gaither
Lee County Community Development
Planning Department
(239) 479-8567
wgaither@leegov.com

From: Roger Clark
To: Gaither, Wayne
Date: 12/12/05 8:05AM
Subject: Re: Mr. Clark,

Wayne- I have quickly reviewed the environmental portions of subject and have the following questions and concerns:

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.
2. The FutureLand 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?
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 evidenced by hydric soils.
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.

I hope these comments are helpful. If you have questions please contact me. Thank you for the opportunity to review and comment on the rezoning.

Roger S. Clark
Land Stewardship Manager
Lee County Parks & Recreation
3410 Palm Beach Blvd.
Ft. Myers, FL 33916
roger@leegov.com
Phone #: 239-461-7453
FAX-239/461-7460

>>> Wayne Gaither 12/05/05 10:55AM >>>
Mr. Clark,

The link below will take you to the Vicott Small Scale Application. I am preparing a letter to the applicant expressing a need for additional information, your comments will be a part of that letter. If there are additional concerns that the applicant should consider that are not necessarily requests for additional information, this would be a good format to present those concerns.

Please feel free to contact me at your convenience.

<http://www.lee-county.com/dcd/ComprehensivePlanning/PlanAmendments/SmallScale.htm>

Wayne Gaither

H. Wayne Gaither
Lee County Community Development
Planning Department
(239) 479-8567
wgaiter@leegov.com

Wayne Gaither - Re: CPA2005-00001 (Vicott Property - Small Scale Amendment)

From: Michael Horsting
To: Gaither, Wayne
Date: 11/29/2005 4:19 PM
Subject: Re: CPA2005-00001 (Vicott Property - Small Scale Amendment)

Wayne,

We feel the Vicott application is sufficient for review. The subject property is located along an already existing transit route with sufficient capacity to carry more passengers. Short range and long range plans keep this service on the Summerlin Road corridor. Transit staff encourages more intense development in Lee County along transit routes as opposed to intense development in areas without transit service.

-Mike

Mike Horsting
 Transit Planner
 Lee County Transit
 6035 Landing View Road
 Fort Myers, FL 33907
mhorsting@leegov.com
 (239) 533-0333 - Telephone
 (239) 277-5064 - FAX

>>> Wayne Gaither 11/23/05 04:30PM >>>
 Distribution List:

John Wilson, Lee County Public Safety
Chris Hansen, Lee County Public Safety, EMS
Mike Scott, Lee County Sheriff's Office
Roland E. Ottolini, Lee County Natural Resources Management
Steve Boutelle, Lee County Natural Resources
Steven Myers, Lee Tran
John Yarbrough, Lee County Parks & Recreation
Kathy Babcock, Lee County School Board
Tina Silcox, Lee County School Board
Dave Loveland, Lee County Division of Transportation
Mike Carroll, Lee County Development Services
Rick Joyce, Lee County Division of Planning, Environmental Sciences
Lindsey Sampson, Lee County Solid Waste
Bill Horner, Lee County Port Authority
Regina Smith, Lee County Economic Development
Kim Trebatoski, Lee County Division of Planning, Environmental Sciences
George Campbell, Lee County Public Safety, Emergency Management
Chief Clint Simmons, Matlacha-Pine Island Fire District
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Ivan Velez, Lee County Utilities
Pam Houck, Lee County Zoning
Nettie Richardson, Lee County Zoning
Pete Eckenrode, Lee County Development Services
Michael Pavese, Lee County Public Works
Wayne Daltry, Lee County Smart Growth
Mary Zettel, DCD/Code Enforcement

Rick Roberts, DCD/Code Enforcement

November 23, 2005

Public Service/Review Agencies

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05-46-24-00-00003.0020

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If you have any questions, please feel free to contact Wayne Gaither at:

479-8567
wgaither@leegov.com

H. Wayne Gaither
Lee County Community Development
Planning Department
(239) 479-8567
wgaither@leegov.com

Wayne Gaither - Re: Fwd: CPA2005-00001 (Vicott Property - Small Scale Amendment)

From: David Berra
To: Clark, Roger
Date: 11/29/2005 3:19 PM
Subject: Re: Fwd: CPA2005-00001 (Vicott Property - Small Scale Amendment)
CC: Gaither, Wayne; Pavese, Michael

Roger, Wayne is the reviewer and can give you more information or coach you on the procedure for submitting comment. Mike Pavese can formalize your comments for us. Did you get the formal PDF file on what was submitted? If not I can send it. It contains the protected species survey etc. Wayne & Mike are copied.

>>> Roger Clark 11/29/05 03:10PM >>>

Dave I am concerned about this as it is adjacent to the Deep Lagoon Preserve and the site is wetlands. How can I find out more and get involved in the process?
Thanks.

Roger S. Clark
Land Stewardship Manager
Lee County Parks & Recreation
3410 Palm Beach Blvd.
Ft. Myers, FL 33916
roger@leegov.com
Phone #: 239-461-7453
FAX-239/461-7460

>>> David Berra 11/28/05 03:00PM >>>

This is a rezoning next to a preserve. Near Wakahatchee.

>>> John Yarbrough 11/28/05 09:53AM >>>

Mike another one.....thanks.....Jy

Gaither, Wayne

From: Newman, William T.
Sent: Wednesday, October 11, 2006 11:38 AM
To: Gaither, Wayne
Subject: RE: CPA2005-01 (Vicott)

Wayne:
The Solid Waste Division does not have any issues with this submittal.

Bill Newman
Operations Manager
Solid Waste Division
(239)338-3302
newmanwt@leegov.com

From: Gaither, Wayne
Sent: Monday, October 09, 2006 4:01 PM
To: gadema@ionafire.com; Bergquist, W.; Campbell, George G.; Carroll, Charles M.; Collins, Donna Marie ; Daltry, Wayne E.; Eckenrode, Peter J.; Hansen, Hans C.; Horsting, Michael S.; Houck, Pamela E.; Joyce, Rick K.; Lavender, James H.; Liddblad, Ellen; Loveland, David M.; Newman, William T.; Ottolini, Roland E.; Pavese, Michael P.; Roberts, Rickey G.; Sampson, Lindsey J.; Smith, Regina Y.; Trebatoski, Kim; Velez, Sergio I.; William Horner; Wilson, John; Wu, Lili ; Yarbrough, John H.; Zettel, Mary S.
Subject: CPA2005-01 (Vicott)

Distribution List:

*John Wilson, Lee County Public Safety
Chris Hansen, Lee County Public Safety, EMS
W. Bergquist, Lee County Sheriff's Office
Roland E. Ottolini, Lee County Natural Resources Management
Michael Horsting, Lee Tran
John Yarbrough, Lee County Parks & Recreation
Ellen Liddblad, Lee County School Board
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Pete Eckenrode, Lee County Development Services
Michael Pavese, Lee County Public Works
Wayne Daltry, Lee County Smart Growth*

Mary Zettel, DCD/Code Enforcement
Rick Roberts, DCD/Code Enforcement

Chief Gerald Adema, Iona-McGregor Fire District

October 9, 2006

2nd Submittal

Public Service/Review Agencies

RE: CPA2005-00001 – Vicott, Inc. Property (Small Scale Amendment)
05-46-24-00-00003.0020

This is a second submittal of the Comprehensive Plan Amendment. The major change is in the size of the plan amendment site, it is still considered a small scale amendment.

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A copy of the application is also located within the Planning Departments website. The link below will bring you to the application:

<http://www.lee-county.com/dcd/PlanAmendments/SmallScale/CPA200501A2.pdf>

If you have any questions, please feel free to contact Wayne Gaither at:

479-8567
wgaither@leegov.com

Gaither, Wayne

From: Wegis, Howard S.
Sent: Tuesday, October 10, 2006 9:47 AM
To: Gaither, Wayne
Cc: Velez, Sergio I.; Osterhout, Thom
Subject: Summerlin Road CPA2005-00001 – Vicott, Inc. Property (Small Scale Amendment)

Wayne,
Utilities has no issues regarding 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 be extended.

Howard S. Wegis
Staff Engineer
Lee County Utilities
P.O. Box 398
Fort Myers, FL 33901
Phone#: (239) 479-8163
Fax#: (239) 479-8176

10/18/2006

Gaither, Wayne

From: Daltry, Wayne E.
Sent: Monday, October 09, 2006 4:32 PM
To: Gaither, Wayne
Subject: RE: CPA2005-01 (Vicott)

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.

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?

Wayne Daltry, FAICP
 Director, Smart Growth
 239-335-2840
 fx -335-2262

From: Gaither, Wayne
Sent: Monday, October 09, 2006 4:01 PM
To: gadema@ionafire.com; Bergquist, W.; Campbell, George G.; Carroll, Charles M.; Collins, Donna Marie ; Daltry, Wayne E.; Eckenrode, Peter J.; Hansen, Hans C.; Horsting, Michael S.; Houck, Pamela E.; Joyce, Rick K.; Lavender, James H.; Liddblad, Ellen; Loveland, David M.; Newman, William T.; Ottolini, Roland E.; Pavese, Michael P.; Roberts, Rickey G.; Sampson, Lindsey J.; Smith, Regina Y.; Trebatoski, Kim; Velez, Sergio I.; William Horner; Wilson, John; Wu, Lili ; Yarbrough, John H.; Zettel, Mary S.
Subject: CPA2005-01 (Vicott)

Distribution List:

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Michael Horsting, Lee Tran
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George Campbell, Lee County Public Safety, Emergency Management
Jim Lavender, Lee County Public Works
Doug Meurer, Lee County Utilities
Ivan Velez, Lee County Utilities
Pam Houck, Lee County Zoning
Nettie Richardson, Lee County Zoning

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Chief Gerald Adema, Iona-McGregor Fire District

October 9, 2006

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If you have any questions, please feel free to contact Wayne Gaither at:

479-8567
wgaither@leegov.com

Cunningham, Brent

From: Gaither, Wayne
Sent: Monday, March 12, 2007 11:51 AM
To: Cunningham, Brent
Subject: FW: Vicott - Small Scale Amendment - CPA2005-00001

Brent,

I've received some comments concerning CPA's that were e-mailed out. I don't know if you have these or not.

W

H. Wayne Gaither
 LeeTran, Planner
 (239)533-0344

wgaither@leegov.com

From: Pavese, Michael P.
Sent: Thursday, February 22, 2007 2:32 PM
To: Gaither, Wayne
Cc: Noble, Matthew A.
Subject: RE: Vicott - Small Scale Amendment - CPA2005-00001

PW staff has reviewed the above referenced CPA and finds the application sufficient for review. Further, the proposed change from Industrial Development to the Urban Community/Conservation Lands -Wetlands land use categories will have no potential to result in additional residential dwelling units (per private restrictions and covenants). Consequently, the amendment, if approved, will not have any negative impacts on Lee County parks and recreation inventory. Should you have any questions or require any additional information please contact me. Thank you.

From: Gaither, Wayne
Sent: Wednesday, January 17, 2007 2:54 PM
To: Campbell, George G.; Carroll, Charles M.; Collins, Donna Marie ; Daltry, Wayne E.; Eckenrode, Peter J.; Hansen, Hans C.; Horsting, Michael S.; Houck, Pamela E.; Lavender, James H.; Liddblad, Ellen; Loveland, David M.; Newman, William T.; 'Nygaard, James'; Ottolini, Roland E.; Pavese, Michael P.; Roberts, Rickey G.; Smith, Regina Y.; Trebatoski, Kim; Velez, Sergio I.; 'William Horner'; Wilson, John; Wu, Lili ; Yarbrough, John H.; Zettel, Mary S.; ticefd@earthlink.net
Cc: Noble, Matthew A.
Subject: Vicott - Small Scale Amendment - CPA2005-00001

*John Wilson, Lee County Public Safety
 Chris Hansen, Lee County Public Safety, EMS
 James Nygaard, Lee County Sheriff's Office
 Roland E. Ottolini, Lee County Natural Resources Management
 Michael Horsting, Lee Tran
 John Yarbrough, Lee County Parks & Recreation
 Ellen Liddblad, Lee County School Board
 Dave Loveland, Lee County Division of Transportation*

3/12/2007

Bill Newman, Lee County Solid Waste
Bill Horner, Lee County Port Authority
Regina Smith, Lee County Economic Development
Kim Trebatoski, Lee County Division of Planning, Environmental Sciences
George Campbell, Lee County Public Safety, Emergency Management
Jim Lavender, Lee County Public Works
Ivan Velez, Lee County Utilities
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Nettie Richardson, Lee County Zoning
Pete Eckenrode, Lee County Development Services
Michael Pavese, Lee County Public Works
Wayne Daltry, Lee County Smart Growth
Mary Zettel, DCD/Code Enforcement
Rick Roberts, DCD/Code Enforcement

January 16, 2007

Public Service/Review Agencies

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05-46-24-00-00003.0020

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A copy of the application is also located within the Planning Departments website. The link below will bring you to the application:

<http://www.lee-county.com/dcd/PlanAmendments/SmallScale/CPA200501A3.pdf>

If you have any questions, please feel free to contact Matt Noble at:

479-8548
noblema@leegov.com

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

September 15, 2006

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



RE: CPA2005-00001
Sufficiency Submittal No. 2


Dear Mr. Gaither:

Pursuant to our discussions, attached is the revised Application for a Small Scale Comprehensive Plan Amendment and supporting documentation for the above-referenced project. Pursuant to your request, the submittal package has been revised to include the remainder of the surrounding Industrial Development land use area. The area has been revised from 3.89 acres to 7.67 acres, remaining as a Small Scale project. The purpose of the amendment is to request a change to the Future Land Use Map for the subject property from Industrial Development to Urban Community to allow the property to be rezoned and developed as a commercial planned development.

During your review, please do not hesitate to contact me at 770-2527 if you have any questions or require further information so we can move this application forward. Your assistance in this regard has been greatly appreciated.

Sincerely,

BANKS ENGINEERING


Stacy Ellis Hewitt
Planner



CA 2005-00001

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

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

CPA2005-00001

ORIGINAL

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



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.

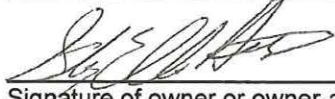
3. Requests involving lands in critical areas for future water supply must be evaluated based on policy 2.4.2.
 4. Requests moving lands from Density Reduction/Groundwater Resource must fully address Policy 2.4.3 of the Lee Plan Future Land Use Element.
- G. Justify the proposed amendment based upon 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 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.

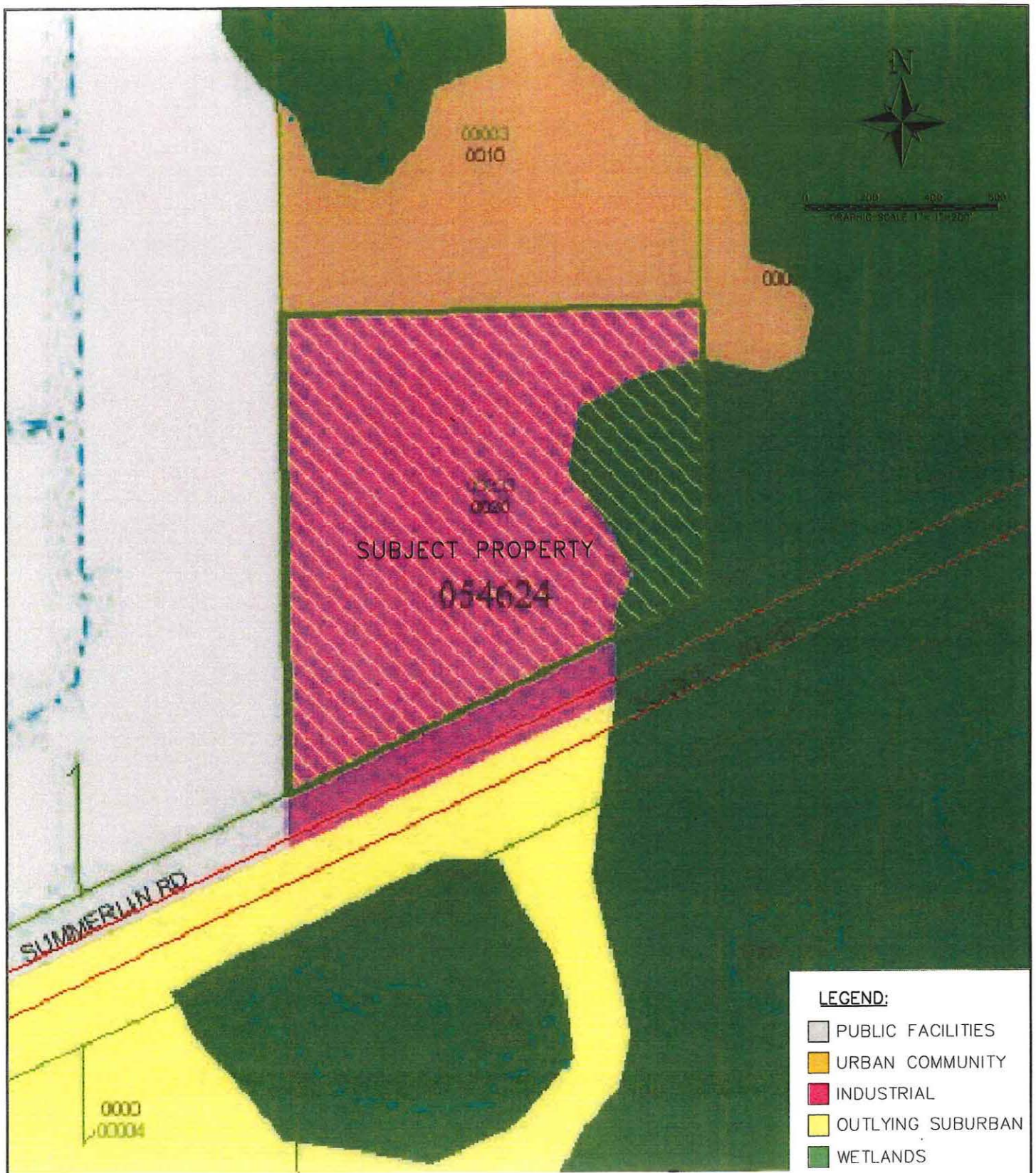
The proposed land use change for the subject property from Industrial Development to Urban Community will increase the compatibility with the existing and proposed land uses in the surrounding areas.

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.



LEGEND:

- PUBLIC FACILITIES
- URBAN COMMUNITY
- INDUSTRIAL
- OUTLYING SUBURBAN
- WETLANDS

Banks Engineering, Inc.

Professional Engineers, Planners & Land Surveyors

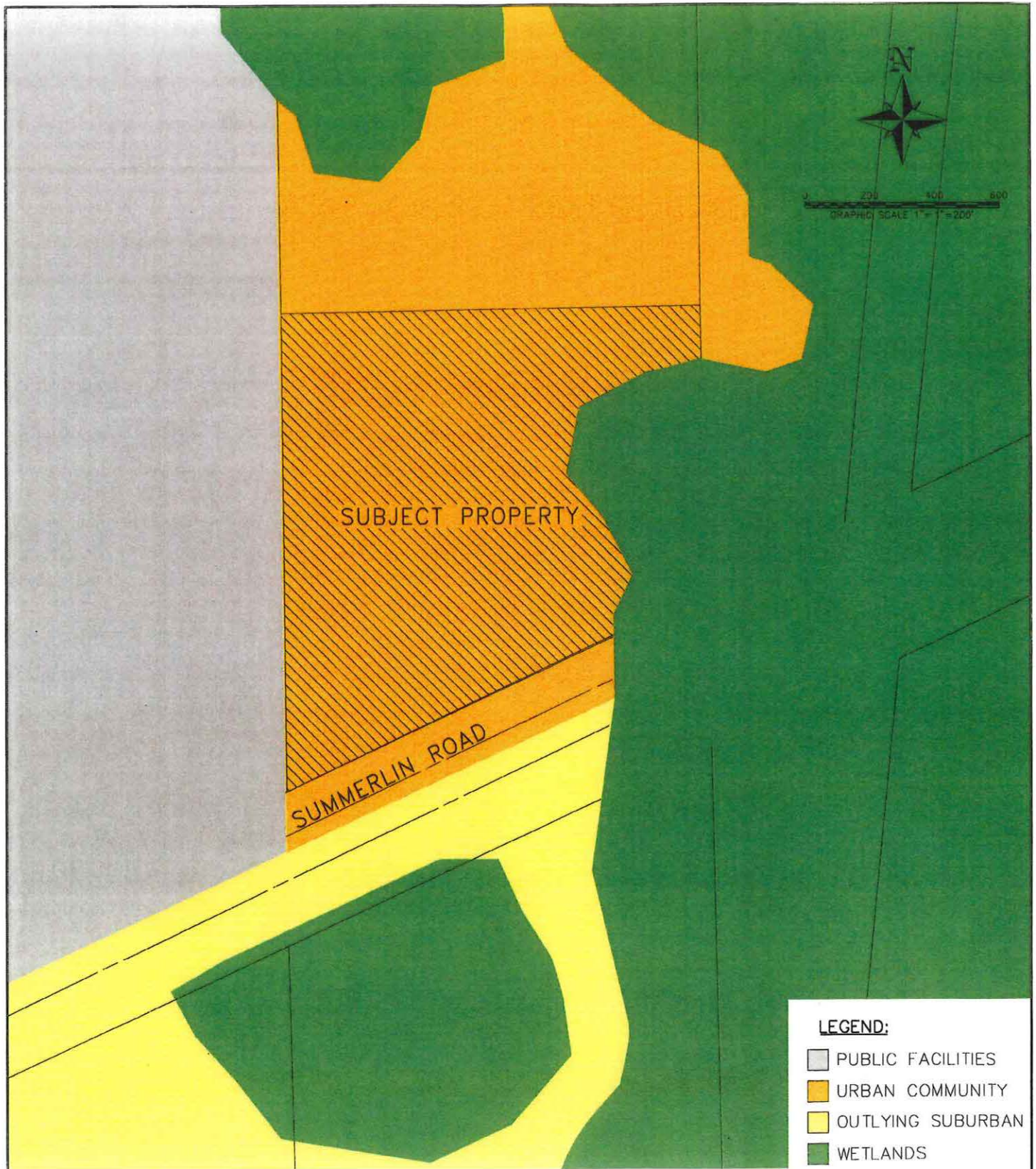
10511 SIX MILE CYPRESS PARKWAY - SUITE 101
FORT MYERS, FLORIDA 33912
PHONE: (239) 938-5490 FAX: (239) 938-2523
ENGINEERING LICENSE # EB 6469
SURVEY LICENSE # LB 6690

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



LEGEND:

- PUBLIC FACILITIES
- URBAN COMMUNITY
- OUTLYING SUBURBAN
- WETLANDS

Banks Engineering, Inc.

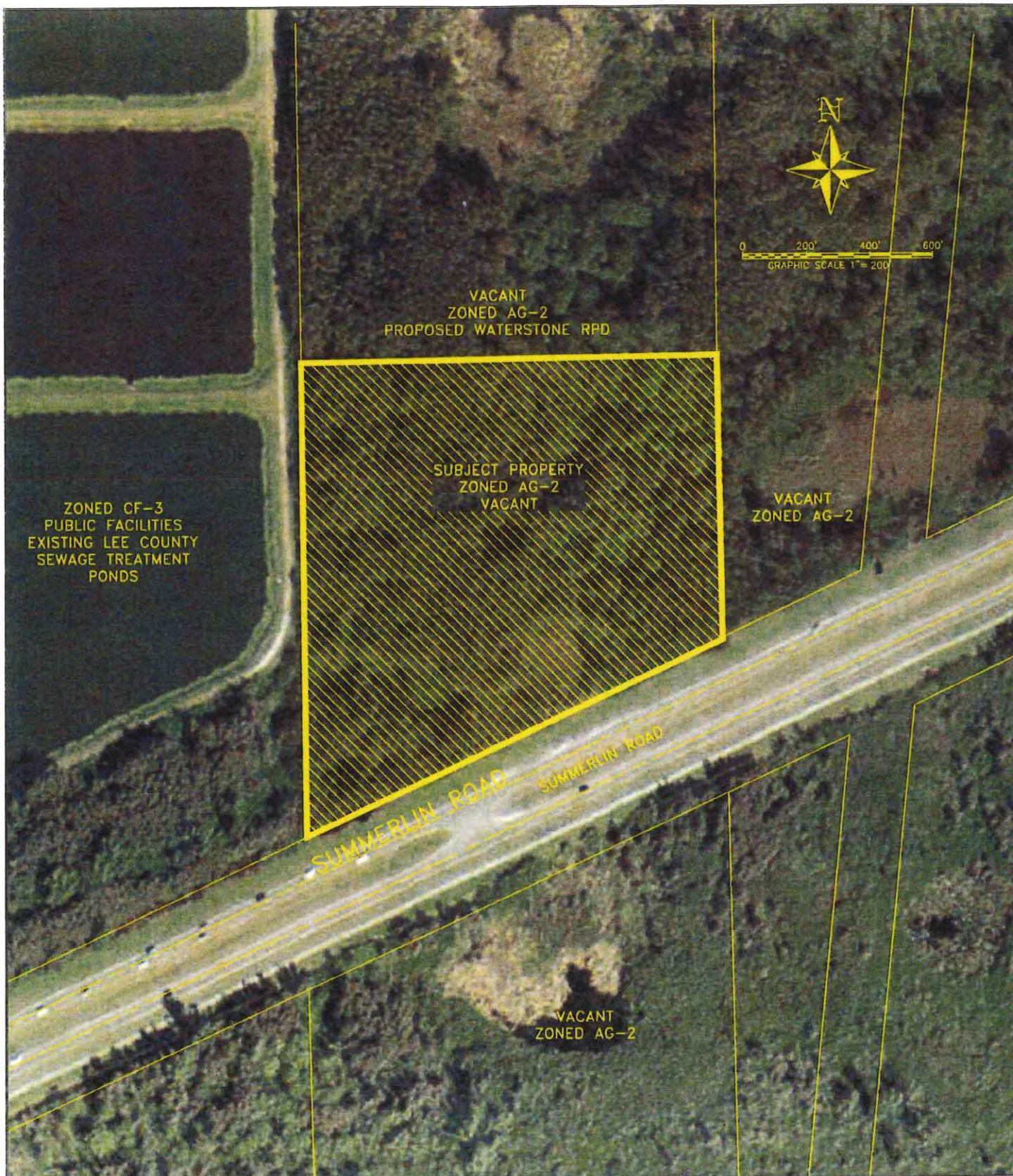
Professional Engineers, Planners & Land Surveyors

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

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	JCH	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

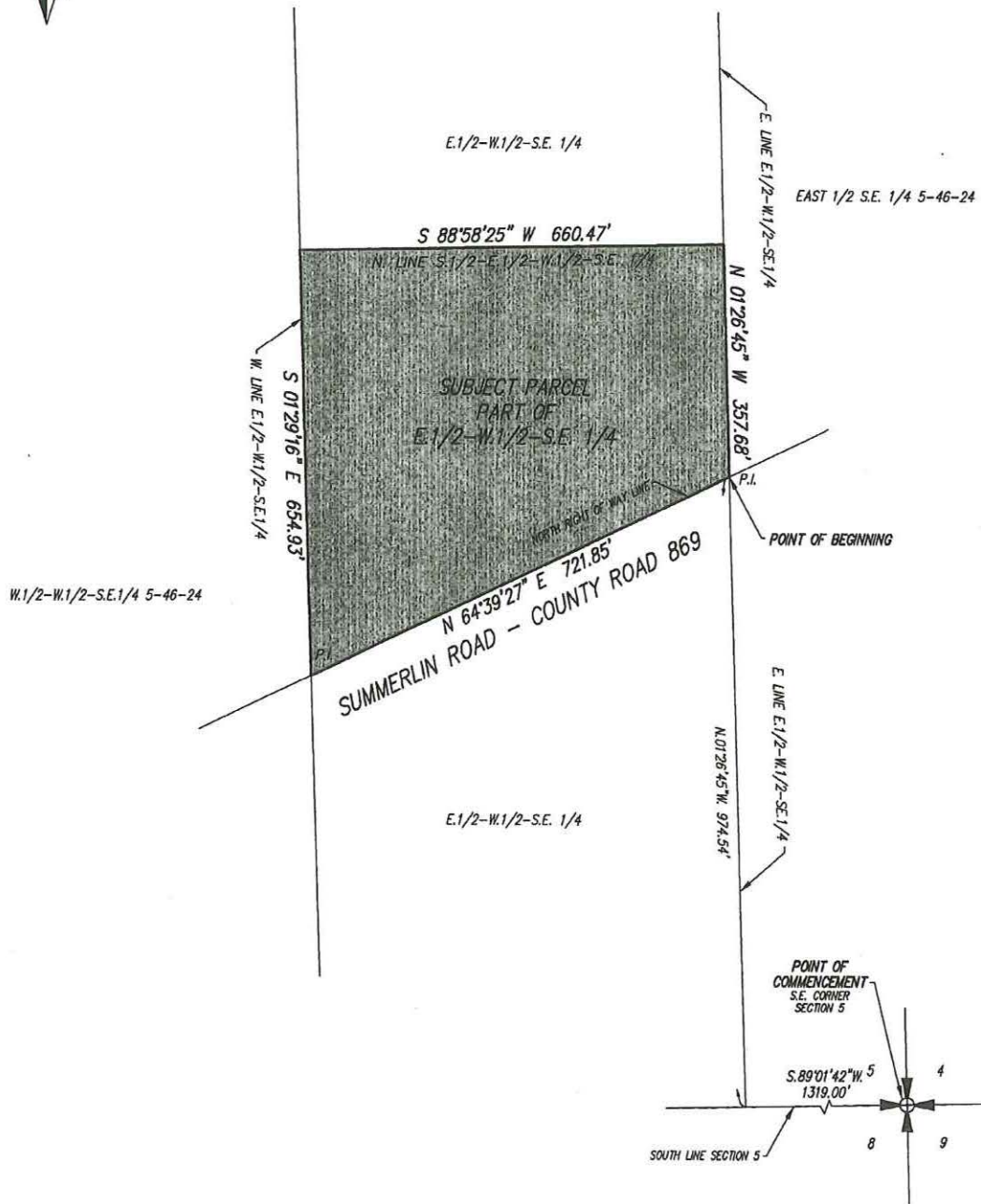

KENNETH E. TRASK
PROFESSIONAL LAND SURVEYOR
FLORIDA LICENSE NO. LS4684

SHEET 1 OF 2

Fort Myers Office
10511 Six Mile Cypress
Pkwy., Suite 101
Fort Myers, FL
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

Blanks Engineering
Professional Engineers, Planners & Land Surveyors
FORT MYERS • NAPLES • SARASOTA • PORT CHARLOTTE
10911 SIX MILE CYPRESS PARKWAY - SUITE 101
FORT MYERS, FLORIDA 33912
PHONE: (239) 938-5450 FAX: (239) 938-2523
ENGINEERING LICENSE # EB 6449
SURVEY LICENSE # LB 6090

SKETCH TO ACCOMPANY DESCRIPTION

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

DATE	PROJECT	DRAWING	DESIGN	DRAWN	CHECKED	SCALE	SHEET	FILE NO. (S-T-R)
09-14-2006	1835	MAP-SUM- PL-24-25C		BAC	KT	1"=200'	2 OF 2	5-66-24



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]

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 47h 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 28, 2006
 BONDED THROUGH 10/1/2005

Notary Public

Printed Name:

My Commission Expires:

Judy Mallett

Judy MALLETT

5/28/06

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 155th 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.

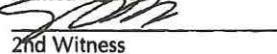
Grantor does hereby covenant with Grantee that the Grantor is lawfully seized of said land in fee simple; that the Grantor has good right and lawful authority to sell and convey said land and will warrant the title and defend the same against the lawful claims and demands of all persons claiming by, 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 5th 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

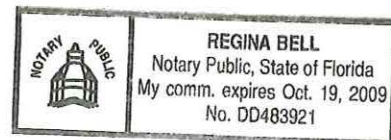


EXHIBIT II - D

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

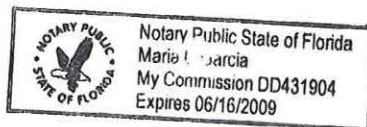
STATE OF FLORIDA

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.

(Signature)

(Title)

(Printed Name)

(Date)

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

September 12, 2006

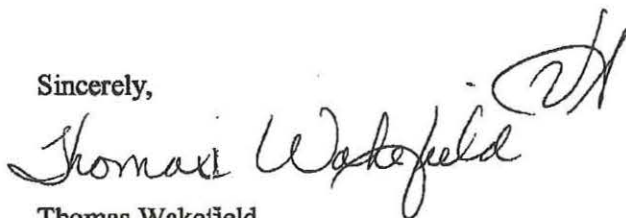
Ms. Stacy Hewitt
Planner
Banks Engineering
10511-101 Six Mile cypress
Ft. Myers, Fl. 33912

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 that reads "Thomas Wakefield". To the right of the signature is a large, stylized initial "W".

Thomas Wakefield
Fire Inspector

**LEE COUNTY**
SOUTHWEST FLORIDA**BOARD OF COUNTY COMMISSIONERS**

239-533-0333

Writer's Direct Dial Number: _____

Bob Janes
District OneDouglas R. St. Cerny
District TwoRay Judah
District ThreeTammy Hall
District FourJohn E. Albion
District FiveDonald D. Stilwell
County ManagerDavid M. Owen
County AttorneyDiana 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.

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. SCRIPPA, 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



14750 Six Mile Cypress Parkway • Fort Myers, Florida 33912-4406 • (239) 477-1000

TOTAL P.02



LEE COUNTY
SOUTHWEST FLORIDA

BOARD OF COUNTY COMMISSIONERS

Writer's Direct Dial Number: (239) 338-3302

Bob Jones
District One

Douglas R. St. Ceny
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.

FLUCFCS	Description	Acreage	Percent of Total
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%
	Total	+/- 7.67	100%

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

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

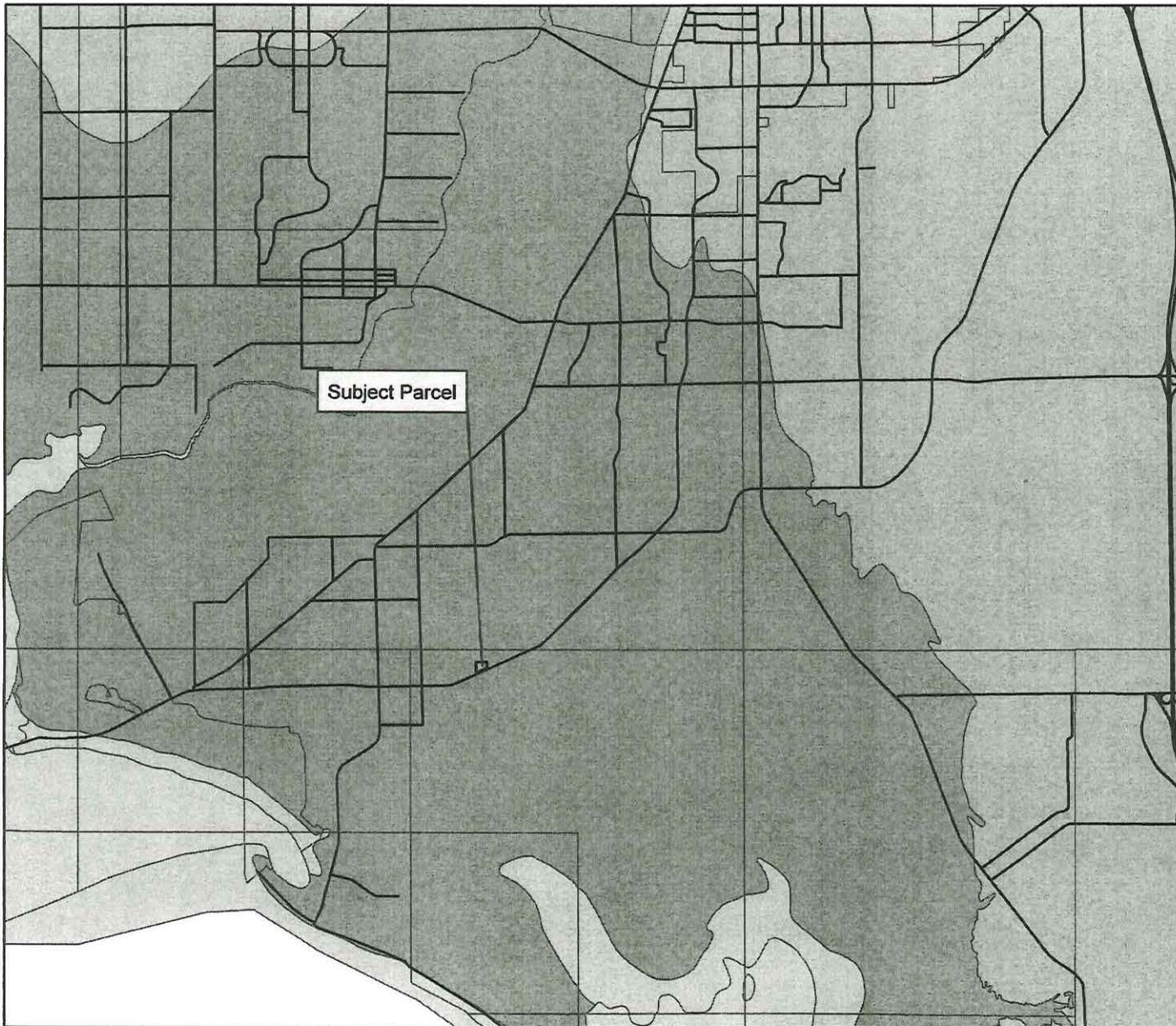
Total Site Acreage: 7.67

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		
Category	Date:	Exhibit
FLUCCS	9/12/06	
Scale:	Job Number	
1" = 200'	9676	
County	S/T/R	
Lee	5/46S/24E	

Boylan Environmental Consultants, Inc.
Wetland & Wildlife Survey, Environmental Impact Assessments
11000 Metro Parkway, Suite 4, Ft. Myers, 33906 (239) 418-0671



Fema Flood Zones

ZONE

-  A
-  AE
-  D
-  UNDES
-  VE
-  X
-  X500

17,000

Feet

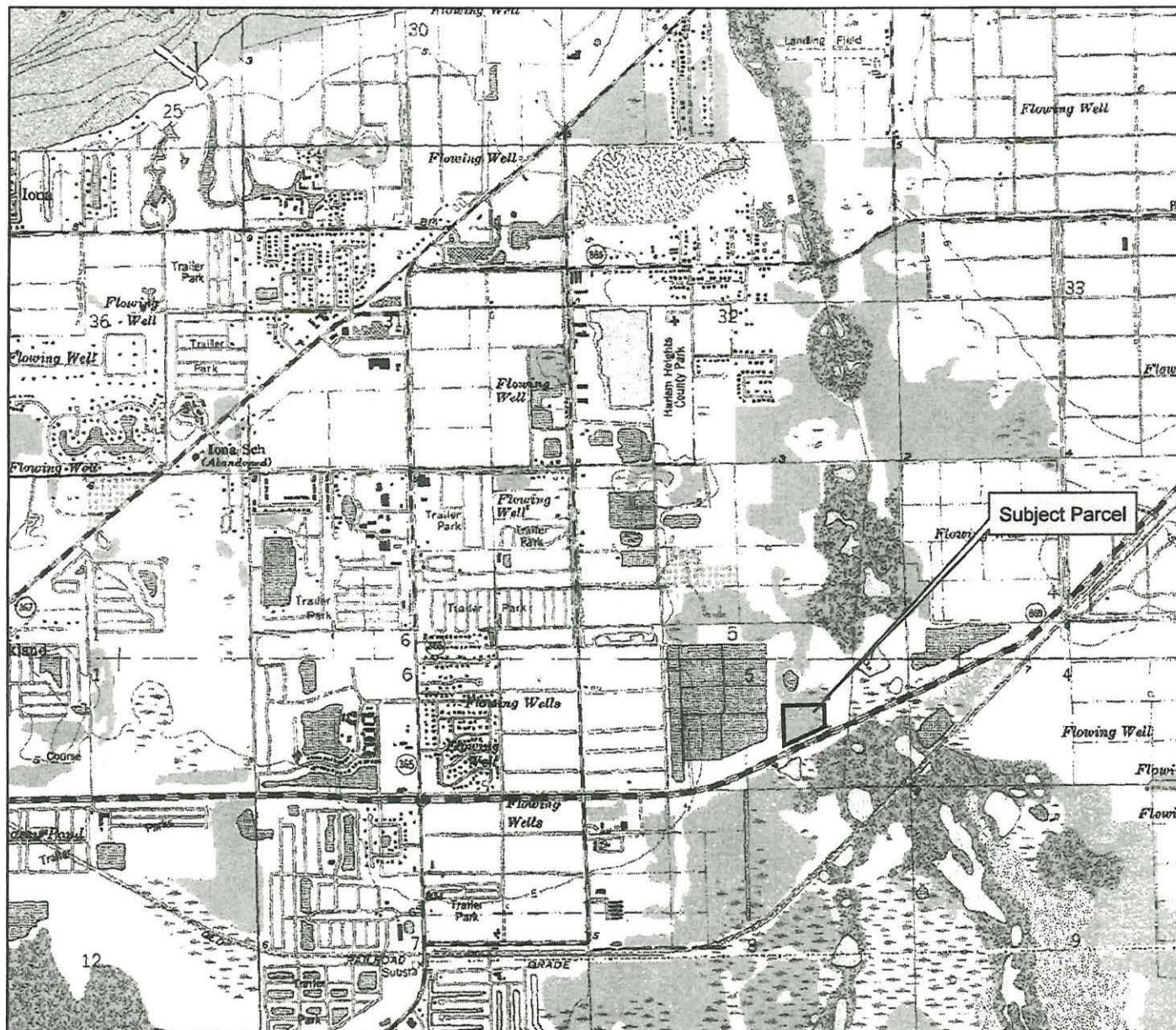


**Boylan
Environmental
Consultants, Inc.**
Wetland & Wildlife Surveys, Environmental Permitting,
& Impact Assessments

11000 Metro Parkway, Suite 4
Fort Myers, FL 33912
Office: (239)418-0671
Fax: (239)418-0672

VICOTT, INC
FEMA FLOOD ZONES

Designed by:	Date:	SECT/VP/IRAG	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.

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/TMP/IRAG	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
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

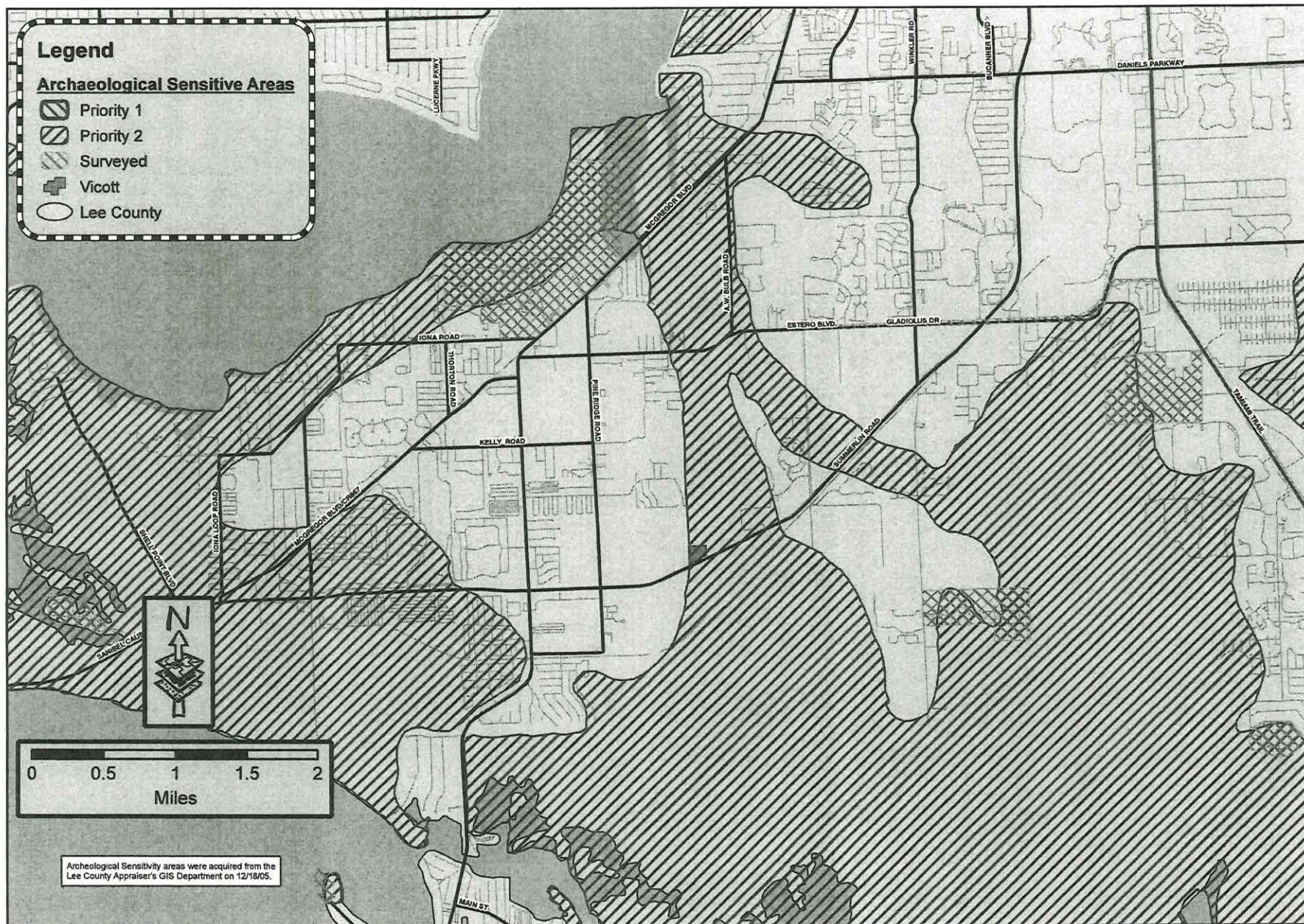
☐ Historical Museums
(850) 245-6400 • FAX: 245-6433

☐ 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: 272-7340

TOTAL P.02



Boylan Environmental Consultants, Inc.
 Wetland & Wildlife Surveys, Environmental Permittals, & Impact Assessments

11000 Metro Parkway, Suite 4
 Fort Myers, FL 33966
 Office: (239)418-0671
 Fax: (239)418-0672

VICOTT, INC.

ARCHEOLOGICAL SENSITIVITY MAP

Designed by	Date	SEC/TWP/RNG	Revisions	Date	Exhibit Number
BKM	9/14/06	S/46S/24E			
Drawn by	Date	Category			
BKM	9/14/06	Archeological Sensitivity Map			
File Name		County			
9676		Lee			

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 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.*

ROAD LINK VOLUMES													
Peak Direction of Flow													
ROADWAY LINK NAME	FROM	TO	ROAD TYPE	PERFORMANCE STANDARD		2005 100th HIGHEST HOUR		EST 2006 100th HIGHEST HOUR		FORECAST FUTURE VOL		NOTES*	LINK NO.
				LOS	CAPACITY	LOS	VOLUME	LOS	VOLUME	LOS	VOLUME		
SIX MILE CYPRESS PKWY.	METRO PKWY.	DANIELS RD.	4LD	E	2,020	B	1,128	B	1,146	B	1,200		23600
SIX MILE CYPRESS PKWY.	DANIELS PKWY.	WINKLER AVE. EXT.	4LD	E	2,030	B	1,010	B	1,013	B	1,046	4 Ln Funded in 06/07	23700
SLATER RD.	BAYSHORE RD. (S.R. 78)	NALLE GRADE RD.	2LU	E	970	C	300	C	304	C	306		24000
SOUTHPOINTE BLVD.	CYPRESS LAKE DR.	COLLEGE PKWY.	2LN	E	860	D	529	D	529	D	583		24100
S.R. 31	PALM BEACH BLVD. (S.R. 80)	BAYSHORE RD. (S.R. 78)	2LN	E	1,010	D	603	D	605	D	605		24200
S.R. 31	BAYSHORE RD. (S.R. 78)	CHARLOTTE COUNTY LINE	2LN	E	1,010	C	354	C	354	C	356		24300
STALEY RD.	ORANGE RIVER BLVD./S.R. 80A	TICE ST.	2LU	E	860	C	148	C	150	C	150		24400
STRINGFELLOW RD. (C.R. 767)	FIRST AVENUE	BERKSHIRE RD.	2LN	E	1,010	C	241	C	270	D	434		24500
STRINGFELLOW RD. (C.R. 767)	BERKSHIRE RD.	PINE ISLAND RD.	2LN	E	1,010	E	577	E	615	E	700		24600
STRINGFELLOW RD. (C.R. 767)	PINE ISLAND RD.	PINELAND RD.	2LN	E	1,010	D	500	D	519	E	590		24700
STRINGFELLOW RD. (C.R. 767)	PINELAND RD.	MAIN ST.	2LN	E	1,010	C	203	C	233	C	250		24800
SUMMERLIN RD. (C.R. 869)	McGREGOR BLVD. (C.R. 867)	KELLY COVE RD	4LD	E	2,050	B	936	B	936	B	1,011		24900
SUMMERLIN RD. (C.R. 869)	KELLY COVE RD	SAN CARLOS BLVD. (S.R.865)	4LD	E	2,050	B	1,008	B	1,008	B	1,008		25000
SUMMERLIN RD. (C.R. 869)	SAN CARLOS BLVD. (S.R.865)	PINE RIDGE RD.	6LD	E	3,040	B	875	B	905	B	912	6 Ln under construction	25100
SUMMERLIN RD. (C.R. 869)	PINE RIDGE RD.	BASS RD.	6LD	E	3,040	B	1,227	B	1,256	B	1,465	6 Ln under construction	25200
SUMMERLIN RD. (C.R. 869)	BASS RD.	GLADIOLUS DR.	6LD	E	3,040	B	1,712	B	1,769	B	1,796	6 Ln under construction	25300
SUMMERLIN RD. (C.R. 869)	GLADIOLUS DR.	CYPRESS LAKE DR.	4LD	E	1,960	B	993	B	1,067	B	1,085		25400
SUMMERLIN RD. (C.R. 869)	CYPRESS LAKE DR.	COLLEGE PKWY.	6LD	E	3,040	B	1,535	B	1,535	B	1,535	6 Ln funded in 07/08	25500

STAFF REPORT DISTRIBUTION LIST

SUNSET FALLS (F.K.A. WATERSTONE)

Application No: 050113-13

Permit No: 36-05751-P

INTERNAL DISTRIBUTION

- X Catherine Hawkins - 2261
- X Pakorn Sutiparnontr, P.E. - 2261
- X Edward Cronyn - 2261
- X William Foley, P.E. - 2261
- X A. Bain - 4250
- X A. Waterhouse - 4220
- X ERC Engineering - 6861
- X ERC Environmental - 6861
- X Fort Myers Backup File - 6861
- X Fort Myers Service Center Director - 6861
- X J. Golden - 4210
- X Pat McGary - 6861
- X Permit File

GOVERNING BOARD MEMBERS

- Mr. Harkley R. Thornton
- Mr. Kevin McCarty
- Mr. Lennart Lindahl
- Mr. Malcolm S. Wade, Jr.
- Mr. Michael Collins
- Mr. Nicolas Gutierrez, Jr.
- Ms. Alice J. Carlson
- Ms. Irela Bague
- Ms. Miya Burt-Stewart

EXTERNAL DISTRIBUTION

- X Permittee - Vicott, Inc.
- X Permittee - Sunset Falls, LLC
- X Engr Consultant - Banks Engineering Inc

GOVERNMENT AGENCIES

- X City Engineer, City of Fort Myers
- 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 Conservancy of Southwest Florida
- X League of Women Voters of Lee County - Clara Anne
Graham Elliott
- X S.W.F.R.P.C. Marisa Barmby
- X Water Management Institute - Michael N. Vanatta

64E-6.007 LOCATION OF SYSTEMS IN FLOODWAYS

Specific Authority: 154.06, 381.0011, 381.006, 381.0065, 489.553 and 489.557 FS. Law Implemented: 154.01, 381.001, 381.0011, 381.0012, 381.0025, 381.006, 381.0061, 381.0065, 381.00655, 381.0066, 381.0067, Part I 386, FS. History - New 4-16-92, Amended 1-3-95. Formerly 10D-6.0471. REPEALED 3-22-00

64E-6.008 SYSTEM SIZE DETERMINATIONS

(1) Minimum design flows for systems serving any structure, building or group of buildings shall be based on the estimated daily sewage flow as determined from Table I or the following:

(a) The DOH county health department shall accept, for other than residences and food operations, metered water use data in lieu of the estimated sewage flows set forth in Table I. For metered flow consideration, the applicant shall provide authenticated monthly water use data documenting water consumption for the most recent 12 month period for at least six similar establishments. Similar establishments are those like size operations engaged in the same type of business or service, which are located in the same type of geographic environment, and which have approximately the same operating hours. Metered flow values will not be considered to be a reliable indicator of typical water use where one or more of the establishments utilized in the sample has exceeded the monthly flow average for all six establishments by more than 25 percent or where the different establishments demonstrate wide variations in monthly flow totals. When metered flow data is accepted in lieu of estimated flows found in Table I, the highest flow which occurred in any month for any of the six similar establishments shall be used for system sizing purposes. Except for food operations which exceed domestic sewage waste quality parameters as defined in s. 64E-6.002(15), where an existing establishment which has been in continuous operation for the previous 24 months seeks to utilize its own metered flows, the applicant shall provide authenticated monthly water use data documenting water consumption for the most recent 24 month period. The highest monthly metered flow value for an existing establishment shall be used for system sizing purposes.

(b) When onsite systems use multiple strategies to reduce the total estimated sewage flow or the drainfield size, only one reduction method shall be credited.

TABLE I
For System Design
ESTIMATED SEWAGE FLOWS

TYPE OF ESTABLISHMENT	GALLONS PER DAY
COMMERCIAL:	
Airports, bus terminals, train stations, port & dock facilities,	
Bathroom waste only	
(a) per passenger	4
(b) add per employee per 8 hour shift	15
Barber & beauty shops per service chair	75
Bowling alley bathroom waste	
only per lane	50
Country club	
(a) per resident	100
(b) add per member or patron	25
(c) add per employee per 8 hour shift	15
Doctor and Dentist offices	
(a) per practitioner	250
(b) add per employee per 8 hour shift	15
Factories, exclusive of industrial wastes	
gallons per employee per 8 hour shift	
(a) No showers provided	15
(b) Showers provided	25
Flea Market open 3 or less days per week	
(a) per non-food service vendor space	15
(b) add per food service establishment	
using single service articles only per	
100 square feet of floor space	50
(c) per limited food service establishment	25
(d) for flea markets open more than	
3 days per week, estimated flows	
shall be doubled	
Food operations	

EFFECTIVE SEPTEMBER 5, 2000

(a) Restaurant operating 16 hours or less per day per seat.....	40
(b) Restaurant operating more than 16 hours per day per seat.....	60
(c) Restaurant using single service articles only and operating 16 hours or less per day per seat.....	20
(d) Restaurant using single service articles only and operating more than 16 hours per day per seat.....	35
(e) Bar and cocktail lounge per seat.....	20
add per pool table or video game.....	15
(f) Drive-in restaurant per car space.....	50
(g) Carry out only, including caterers	
1. per 100 square feet of floor space.....	50
2. add per employee per 8 hour shift.....	15
(h) Institutions per meal.....	5
(i) Food Outlets excluding deli's, bakery, or meat department per 100 square feet of floor space.....	10
1. add for deli per 100 square feet of deli floor space.....	40
2. add for bakery per 100 square feet of bakery floor space.....	40
3. add for meat department per 100 square feet of meat department floor space.....	75
4. add per water closet.....	200
Hotels & Motels	
(a) Regular per room.....	100
(b) Resort hotels, camps, cottages per room.....	200
(c) Add for establishments with self service laundry facilities per machine.....	750
Mobile Home Park	
(a) per single wide mobile home space, less than 4 single wide spaces connected to a shared onsite system.....	250
(b) per single wide mobile home space, 4 or more single wide spaces are connected to a shared onsite system.....	225
(c) per double wide mobile home space, less than 4 double wide mobile home spaces connected to a shared onsite system.....	300
(d) per double wide mobile home space, 4 or more double wide mobile home spaces connected to a shared onsite system.....	275
Office building	
per employee per 8 hour shift or.....	15
per 100 square feet of floor space, whichever is greater.....	15
Transient Recreational Vehicle Park	

EFFECTIVE SEPTEMBER 5, 2000

(a) Recreational vehicle space for overnight stay, without water and sewer hookup per vehicle space.....	50
(b) Recreational vehicle space for overnight stay, with water and sewer hookup per vehicle space.....	75
Service stations per water closet	
(a) Open 16 hours per day or less.....	250
(b) Open more than 16 hours per day.....	325
Shopping centers <u>without</u> food or laundry per square foot of floor space	0.1
Stadiums, race tracks, ball parks per seat.....	4
Stores per bath room.....	200
Swimming and bathing facilities, public per person	10
Theaters and Auditoriums, per seat	4
Veterinary Clinic	
(a) per practitioner.....	250
(b) add per employee per 8 hour shift	15
(c) add per kennel, stall or cage	20
Warehouse	
(a) add per employee per 8 hour shift	15
(b) add per loading bay.....	100
(c) self-storage, per unit (up to 200 units)	1
add 1 gallon for each 2 units or fraction thereof, for over 200 units and shall be in addition to employees, offices or living quarters flow rates.	
INSTITUTIONAL:	
Churches per seat which includes kitchen wastewater flows unless meals prepared on a routine basis.....	3
If meals served on a regular basis add per meal prepared	5
Hospitals per bed which does not include kitchen wastewater flows	200
add per meal prepared	5
Nursing, rest homes, adult congregate living facilities per bed which does not include kitchen wastewater flows.....	100
add per meal prepared	5
Parks, public picnic	
(a) with toilets only per person.....	4
(b) with bathhouse, showers & toilets per person	10
Public institutions other than schools and hospitals per person which does not include kitchen wastewater flows.....	100
add per meal prepared	5
Schools per student	
(a) Day-type	10
(b) Add for showers.....	4
(c) Add for cafeteria.....	4
(d) Add for day school workers.....	15
(e) Boarding-type	75
Work/construction camps, semi-permanent per worker	50
RESIDENTIAL:	

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Residences

(a) Single or multiple family per dwelling unit	
1 bedroom with 750 sq. ft. or less of building area.....	100
2 bedrooms with 751-1200 sq. ft. of building area.....	200
3 bedrooms with 1201-2250 sq. ft. of building area.....	300
4 bedrooms with 2251-3300 sq. ft. of building area.....	400
for each additional bedroom or each additional 750 square feet of building area or fraction thereof in a dwelling unit, system sizing shall be increased by 100 gallons per dwelling unit.	
(b) Other per occupant.....	50

Footnotes to Table I:

1. For food operations, kitchen wastewater flows shall normally be calculated as 66 percent of the total establishment wastewater flow.

2. Systems serving high volume establishments, such as restaurants, convenience stores and service stations located near interstate type highways and similar high-traffic areas, require special sizing consideration due to expected above average sewage volume. Minimum estimated flows for these facilities shall be 3.0 times the volumes determined from the Table I figures.

3. For residences, the volume of wastewater shall be calculated as 50 percent blackwater and 50 percent graywater.

4. Where the number of bedrooms indicated on the floor plan and the corresponding building area of a dwelling unit in Table I do not coincide, the criteria which will result in the greatest estimated sewage flow shall apply.

5. Convenience store estimated sewage flows shall be determined by adding flows for food outlets and service stations as appropriate to the products and services offered.

6. Estimated flows for residential systems assumes a maximum occupancy of two persons per bedroom. Where residential care facilities will house more than two persons in any bedroom, estimated flows shall be increased by 50 gallons per each additional occupant.

(2) Minimum/effective septic tank capacity shall be determined from Table II. However, where multiple family dwelling units are jointly connected to a septic tank system, minimum effective septic tank capacities specified in the table shall be increased 75 gallons for each dwelling unit connected to the system. With the exception noted in Rule 64E-6.013(2)(a), all septic tanks shall be multiple chambered or shall be placed in series to achieve the required effective capacity. The use of an approved outlet filter device shall be required. Outlet filters shall be installed within or following the last septic tank or septic tank compartment before distribution to the drainfield. The outlet filter device requirement includes blackwater tanks, but does not include graywater tanks or grease interceptors or laundry tanks. Outlet filter devices shall be placed to allow accessibility for routine maintenance. Utilization and sizing of outlet filter devices shall be in accordance with the manufacturers' recommendations. The approved outlet filter device shall be installed in accordance with the manufacturers' recommendations. The Bureau of Onsite Sewage Programs shall approve outlet filter devices per the department's Policy on Approval Standards For Onsite Sewage Treatment And Disposal Systems Outlet Filter Devices, August 1999, which is herein incorporated by reference.

**TABLE II
SEPTIC TANK AND PUMP TANK CAPACITY**

AVERAGE SEWAGE FLOW GALLONS/DAY	SEPTIC TANK MINIMUM EFFECTIVE CAPACITY GALLONS	PUMP TANK MINIMUM EFFECTIVE CAPACITY GALLONS	
		Residential	Commercial

EFFECTIVE SEPTEMBER 5, 2000

0-200.....	900.....	150.....	225.....
201-300.....	900.....	225.....	375.....
301-400.....	1050.....	300.....	450.....
401-500.....	1200.....	375.....	600.....
501-600.....	1350.....	450.....	600.....
601-700.....	1500.....	525.....	750.....
701-800.....	1650.....	600.....	900.....
801-1000.....	1900.....	750.....	1050.....
1001-1250.....	2200.....	900.....	1200.....
1251-1750.....	2700.....	1350.....	1900.....
1751-2500.....	3200.....	1650.....	2700.....
2501-3000.....	3700.....	1900.....	3000.....
3001-3500.....	4300.....	2200.....	3000.....
3501-4000.....	4800.....	2700.....	3000.....
4001-4500.....	5300.....	2700.....	3000.....
4501-5000.....	5800.....	3000.....	3000.....

(3) Where a separate graywater tank and drainfield system is used, the minimum effective capacity of the graywater tank shall be 250 gallons with such system receiving not more than 75 gallons of flow per day. For graywater systems receiving flows greater than 75 gallons per day, minimum effective tank capacity shall be based on the average daily sewage flow plus 200 gallons for sludge storage. Design requirements for graywater tanks are described in Rule 64E-6.013(2). Where separate graywater and blackwater systems are utilized, the size of the blackwater system can be reduced, but in no case shall the blackwater system be reduced by more than 25 percent. However, the minimum capacity for septic tanks disposing of blackwater shall be 900 gallons.

(4) Where building codes allow separation of discharge pipes of the residence to separate stubouts and where lot sizes and setbacks allow system construction, the applicant may request a separate laundry waste tank and drainfield system. Where an aerobic treatment unit is used, all blackwater, graywater and laundry waste flows shall be consolidated and treated by the aerobic treatment unit. Where a residential laundry waste tank and drainfield system is used:

(a) The minimum laundry waste trench drainfield absorption area for slightly limited soil shall be 75 square feet for a one or two bedroom residence with an additional 25 square feet for each additional bedroom. If an absorption bed drainfield is used the minimum drainfield area shall be 100 square feet with an additional 50 square feet for each additional bedroom over two bedrooms. The DOH county health department shall require additional drainfield area based on moderately limited soils and other site specific conditions, which shall not exceed twice the required amount of drainfield for a slightly limited soil.

(b) The laundry waste interceptor shall meet requirements of Rule 64E-6.013(2) and (9).

(c) The drainfield absorption area serving the remaining wastewater fixtures in the residence shall be reduced by 25 percent.

(5) The minimum absorption area for standard subsurface drainfield systems, graywater drainfield systems, and filled systems shall be based on estimated sewage flows and Table III so long as estimated sewage flows are 200 gallons per day or higher. When estimated sewage flows are less than 200 gallons per day, system size shall be based on a minimum of 200 gallons per day.

TABLE III
For Sizing of Drainfields Other Than Mounds

U.S. DEPARTMENT OF AGRICULTURE SOIL TEXTURAL CLASSIFICATION	SOIL TEXTURE LIMITATION (PERCOLATION RATE)	MAXIMUM SEWAGE LOADING RATE TO TRENCH & BED ABSORPTION SURFACE IN GALLONS PER SQUARE FOOT PER DAY	
		TRENCH	BED
Sand; Coarse Sand not associated with a seasonal water table of less than 48 inches; and Loamy Coarse Sand	Slightly limited (Less than 2 min/inch)	1.20	0.80
Loamy Sand; Sandy Loam; Coarse Sandy Loam; Fine Sand	Slightly limited (2-4 min/inch)	0.90	0.70

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Loam; Fine Sandy Loam; Silt Loam; Very Fine Sand; Very Fine Sandy Loam; Loamy Fine Sand; Loamy Very Fine Sand; Sandy clay loam	Moderately limited (5-10 min/inch)	0.65	0.35
Clay Loam; Silty Clay Loam; Sandy Clay; Silty Clay, Silt	Moderately limited (Greater than 15 min/inch but not exceeding 30 min/inch)	0.35	0.20
Clay; Organic Soils; Hardpan; Bedrock	Severely limited (Greater than 30 min/inch)	Unsatisfactory for standard subsurface system	
Coarse Sand with an estimated wet season high water table within 48 inches of the bottom of the proposed drainfield; Gravel or Fractured Rock or Oolitic Limestone	Severely limited (Less than 1 min/inch and a water table less than 4 feet below the drainfield)	Unsatisfactory for standard subsurface system	

Footnotes to Table III:

1. U.S. Department of Agriculture major soil textural classification groupings and methods of field identification are explained in Rule 64E-6.016. Laboratory sieve analysis of soil samples may be necessary to confirm field evaluation of specific soil textural classifications. The USDA Soil Conservation Service "Soil Textural Triangle" shall be used to classify soil groupings based on the proportion of sand, silt and clay size particles.

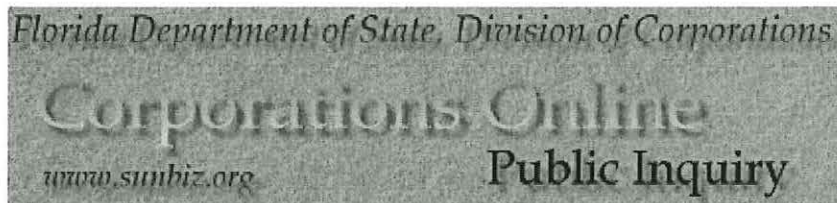
2. The permeability or percolation rate of a soil within a specific textural classification may be affected by such factors as soil structure, cementation and mineralogy. Where a percolation rate is determined using the falling head percolation test procedure described in the United States Environmental Protection Agency Design Manual for Onsite Wastewater Treatment and Disposal Systems, October, 1980, incorporated by reference into this rule, the calculated percolation test rate shall be used with Table III and evaluated by the DOH county health department with other factors such as history of performance of systems in the area in determining the minimum sizing for the drainfield area.

3. When all other site conditions are favorable, horizons or strata of moderately or severely limited soil may be replaced with slightly limited soil or soil of the same texture as the satisfactory slightly limited permeable layer lying below the replaced layer. The slightly limited permeable layer below the replaced layer shall be identified within the soil profile which was submitted as part of the permit application. The resulting soil profile must show complete removal of the moderately or severely limited soil layer being replaced and must be satisfactory to a minimum depth of 54 inches beneath the bottom surface of the proposed drainfield. The width of the replacement area shall be at least 2 feet wider and longer than the drain trench and for absorption beds shall include an area at least 2 feet wider and longer than the proposed bed. Drainfields shall be centered in the replaced area. Where at least 33 percent of the moderately limited soils at depths greater than 54 inches below the bottom of the drainfield have been removed to the depth of slightly limited soil, drainfield sizing shall be based on the following sewage loading rates. Where severely limited soils are being removed at depths greater than 54 inches below the bottom of the drainfield, 100 percent of the severely limited soils at depths greater than 54 inches shall be removed down to the depth of an underlying slightly limited soil. Maximum sewage loading rates for standard subsurface systems installed in replacement areas shall be 0.90 gallons per square foot per day for trench systems and 0.70 gallon per square foot per day for absorption beds in slightly limited soil textures. Where moderately limited soil materials are found beneath the proposed drainfield, and where system sizing is based on that moderately limited soil, soil replacements of less than 33% may be permitted.

4. Where coarse sand, gravel, or oolitic limestone directly underlies the drainfield area, the site shall be approved provided a minimum depth of 42 inches of the rapidly percolating soil beneath the bottom absorption surface of the drainfield and a minimum 12 inches of rapidly percolating soil contiguous to the drainfield sidewall absorption surfaces, is replaced with slightly limited soil material. Where such replacement method is utilized, the drainfield size shall be determined using a maximum sewage application rate of 0.80 gallons per square foot per day of drainfield in trenches and 0.70 gallon per square foot per day for drainfield absorption beds.

5. Where more than one soil texture classification is encountered within a soil profile and it is not removed as part of a replacement, drainfield sizing for standard subsurface drainfield systems and fill drainfield systems shall be based on the most restrictive soil texture encountered within 24 inches of the bottom of the drainfield absorption surface.

EFFECTIVE SEPTEMBER 5, 2000



Florida Limited Partnership

BRECKENRIDGE, LTD.

PRINCIPAL ADDRESS

52 CORPORATE CIRCLE
ALBANY NY 12203 US
Changed 01/29/1993

MAILING ADDRESS

% HUMPHREY & KNOTT
1625 HENDRY STREET, SUITE 301
FORT MYERS FL 33901 US
Changed 01/29/1993

Document Number A20559	FEI Number 592632313	Date Filed 08/13/1985
State FL	Status INACTIVE	Effective Date NONE
Last Event REVOKED FOR ANNUAL REPORT	Event Date Filed 04/14/1995	Event Effective Date NONE
Actual Contribution 2,000,000.00		

Registered Agent

Name & Address
GEORGE L. CONSOER,, ESQ ESQ % HUMPHREY & KNOTT, P.A. 1625 HENDRY STREET, SUITE 301 FORT MYERS FL 33901
Name Changed: 01/29/1993
Address Changed: 01/29/1993

General Partner Detail

Name & Address	Document Number
BRECKENRIDGE DEV., CORP. 1625 HENDRY ST., STE. 301 FT. MYERS FL	H64257
COLUMBIA-BRECKENRIDGE DEVELOPMENT CORP. 1625 HENDRY ST., STE. 301 FT. MYERS FL	K49833

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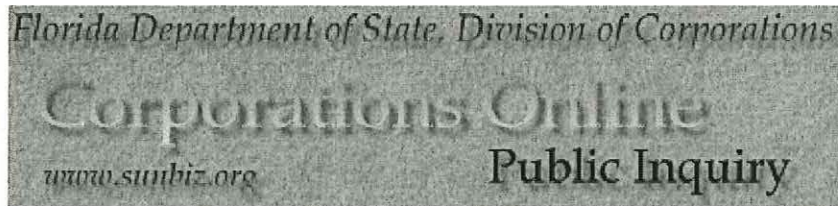
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Document Number	Date Filed	Effective Date	Status
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REVOKED FOR 04/14/1995
ANNUAL REPORT

AMENDMENT 06/14/1990

REINSTATEMENT 06/14/1990

REVOCATION 05/11/1990

AMENDED AND 02/10/1989
RESTATED CERTIFICATE

AMENDED AND 07/05/1988
RESTATED CERTIFICATE

REINSTATEMENT 07/05/1988

REVOCATION 05/06/1988

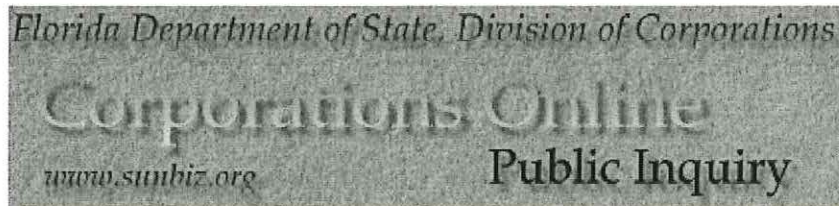
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Florida Profit

BRECKENRIDGE DEVELOPMENT CORPORATION

PRINCIPAL ADDRESS

2516 COLONIAL BLVD., STE. 201
FT. MYERS FL 33907
Changed 04/14/1989

MAILING ADDRESS

6818 GRIFFIN BLVD.
FT. MYERS FL 33908 US
Changed 07/22/1993

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Registered Agent

Name & Address
QUINN FREDERICK, V. J 6818 GRIFFIN BLVD. FT. MYERS FL 33909
Name Changed: 07/22/1993
Address Changed: 07/22/1993

Officer/Director Detail

Name & Address	Title
----------------	-------

QUINN, FREDERICK V., JR.
2516 COLONIAL BLVD. #201

P

FT. MYERS FL

Annual Reports

Report Year	Filed Date
1991	11/12/1991
1992	07/21/1992
1993	07/22/1993

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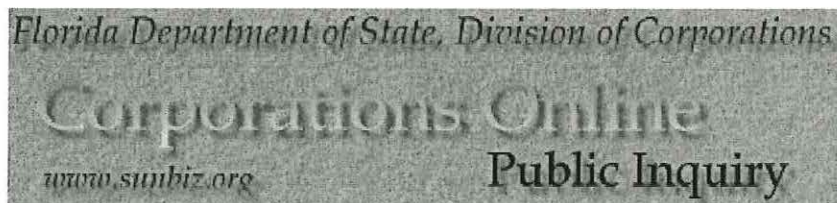
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COLUMBIA-BRECKENRIDGE DEVELOPMENT CORP.

PRINCIPAL ADDRESS

52 CORPORATE CIRCLR
ALBANY, NY 12203-5121
Changed 06/11/1991

MAILING ADDRESS

52 CORPORATE CIRCLR
ALBANY, NY 12203-5121
Changed 06/11/1991

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Registered Agent

Name & Address	
BURR, ROBERT	
HUMPHREY & KNOTT, P.A. 1625 HENDRY ST., STE 301 FORT MYERS FL 33901	
Name Changed: 06/11/1991	
Address Changed: 06/11/1991	

Officer/Director Detail

Name & Address	Title
----------------	-------

LED DUKE, DONALD
1 LUBBLE HILL CT

LOUDENVILLE NY

PD

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1993	04/30/1993
1994	05/01/1994

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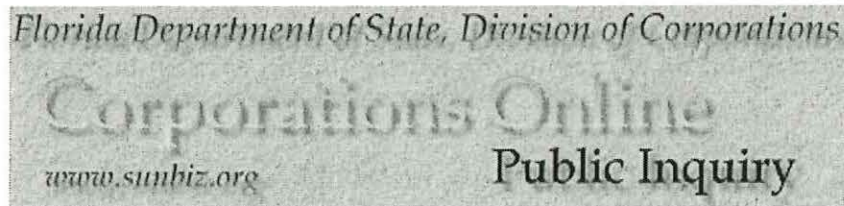
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Florida Limited Liability

SUNSET FALLS, LLC

PRINCIPAL ADDRESS

8045 NW 155 STREET
MIAMI LAKES FL 33016

MAILING ADDRESS

8045 NW 155 STREET
MIAMI LAKES FL 33016

Document Number
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03/07/2006

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FL

Status
ACTIVE

Effective Date
NONE

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LC NAME CHANGE

Event Date Filed
03/31/2006

Event Effective Date
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Total Contribution
0.00

Registered Agent

Name & Address
GARCIA, EDDY 8045 NW 155 STREET MIAMI LAKES FL 33016

Manager/Member Detail

Name & Address	Title
GARCIA, EDDY 8045 NW 155 STREET MIAMI LAKES FL 33016	MGR

KRAIZGRUN, DAVID 8045 NW 155 STREET MIAMI LAKES FL 33016	MGR
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LEE COUNTY

SOUTHWEST FLORIDA

BOARD OF COUNTY COMMISSIONERS

Writer's Direct Dial Number: (239) 474-8567

Bob Janes
District One

Douglas R. St. Cerny
District Two December 12, 2005

Ray Judah
District Three John, G. Hagan

Tammy Hall
District Four Banks Engineering, Inc.
10511 Six Mile Cypress Parkway, Suite 101
Fort Myers, FL 33908

John E. Albion
District Five

Donald D. Stillwell
County Manager RE: CPA2005-00001 (Small Scale Map Amendment)
05-46-24-00-00003.0020

David M. Owen
County Attorney Vicott, Inc Property

Diana M. Parker
County Hearing Examiner Mr. Hagan:

This letter is intended to identify all aspects of the Comprehensive Plan Amendment Application that did not have an answer or did not respond sufficiently to allow staff to review the application. It is recognized that some information maybe pending, however if it was not provided in the application it has been identified in this letter.

The application for a Comprehensive Plan (Small Scale) Amendment has been reviewed for completeness and has been found insufficient for review. Please review your responses to the specified questions and provide further comment.

II (A)(1): Please provide the site address for the parcel of land.

III(B): Property Information

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. Please clarify if the small scale amendment refers to the entire parcel or only the portion listed in the legal description.

All of the maps presented show the entire parcel except for the legal description, this matter would need verification as well. This could change the maps for questions IV(A)(1-4) or IV(A)(5) depending on the boundaries for the small scale amendment.

IV(B): Public Facilities

- (1) Please make the determination that the change in the land use designation either will or will not have an adverse impact on the surrounding transportation network. Will the small scale amendment require changes to the CIP or the 2020 financially feasible transportation plan. If no change is required please explain.

- (2a) Estimate the amount of wastewater generated on a daily basis for the proposed 16,000 square foot building. Is there adequate capacity to accommodate this? Determine if changes would be required to the CIP, if not please state so. NA is not an acceptable answer. Please provide methodologies.
- (2b) Estimate the amount of potable water needed on a daily basis for the proposed 16,000 square foot building. Is there adequate capacity to accommodate this? Determine if changes would be required to the CIP, if not please state so. NA is not an acceptable answer. Please provide methodologies.

IV(C): Environmental Impacts

- (1): Analysis stated to be pulled from the Waterstone RPD study prepared by Boylan Environmental Consultants, Inc. Please determine the relationship between the Vicott property and the Waterstone RDP property. No clear delineation has been made to show the relationship between the two areas even though data is shared.
- (2): Description and maps don't match. There is no indication from the map that Copeland Sandy Loam, depressional (Code 45) is located on the map used to delimit soils found on the Vicott property.
- (4): There is no map delineating wetlands, aquifer recharge areas and rare and unique uplands for the parcel in question.

The application states data prepared for the Waterstone RPD has been used to respond to several questions for the comprehensive plan amendment application. Please identify the location of the Waterstone RPD in relation to the Vicott property and provide a brief determination that this information is pertinent to the Vicott property.

IV(D): Historic Impacts

- (1): The letter from the Division of Historical Resources was written for the Waterstone RPD project, no documentation was presented showing the relationship between Waterstone RPD and the Vicott property.
- (2): No map depicting this area against the Lee County Archeologically Sensitive Layer was provided.

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.
- (3): Please describe how the proposed small scale amendment affects the adjacent local governments and their comprehensive plans, if not impact is anticipated please state so, NA is not an acceptable answer.
- (4): If State and Regional policy goals are not affected by the small scale amendment please state so, NA is not an acceptable answer.

IV(F): Additional Requirements for Specific Future Land Use Amendments

- (1b): Policy 2.4.4 deals the review of comprehensive plan applications that could expand Lee County's employment capabilities. Please review Policy 2.4.4. and provide comments concerning the potential changes the small scale amendment could have on employment. If no major changes are anticipated, please state so, NA is not an acceptable answer.
- (1c): Your response indicates a 3.79 acre small scale map amendment area, the parcel is roughly 8 acres in size. Please clarify the actual small scale amendment area.

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. Their comments are as follows:

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.

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.

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?

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 evidenced by hydric soils.

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."

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 as timely a manner as possible.

Should you have any questions, please feel free to contact me at your convenience.

Sincerely,



H. Wayne Gaither
Planner

(239) 479-8567

wgaither@leegov.com

**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.

October 30, 2006

Stacy Hewitt
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

Ms. Hewitt:

The application for a Comprehensive Plan (Small Scale) Amendment has been reviewed for completeness and has been found insufficient for review. Please review your responses to the specified questions and provide further comment.

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.

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 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 application sufficient. The applicant is also responsible for posting a notice (provided by DCD) 15 calendar days before the LPA hearing.

Attached you will find a copy of the Administrative Code 13-7 which will give you guidance.

III (A)(1): Please provide the site address for the parcel of land.

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 as 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.

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.
- (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.
- (4) If State and Regional policy goals are not affected by the small scale amendment please state so, NA is not an acceptable answer.

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 (1st 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.

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.

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?

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 evidenced by hydric soils.

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."

The comments from the 2nd 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.

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?

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 as timely a manner as possible.

Should you have any questions, please feel free to contact me at your convenience.

Sincerely,

H. Wayne Gaither
Planner
(239) 479-8567
wgaiter@leegov.com

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.

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.

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?
- (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 is necessary, if changes are made to the TAZ socio-economic data.

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
- (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.

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.
- (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.

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.

Memo

To: Paul O'Connor, Division of Planning
From: David Loveland *DL*
Date: October 19, 2006
Subject: CPA2005-01 (Vicott)

RECEIVED
OCT 19 2006

COMMUNITY DEVELOPMENT

We have reviewed the above application which requests that the land use designation of approximately 7.67 acres be changed from the existing "Industrial Development" to "Urban Community". As indicated by an e-mail of your staff on October 17, 2006, the proposed "Urban Community" designation would allow approximately 32 dwelling units, 54,100 square feet of commercial uses, or 64,920 square feet of light industrial uses on the property. Compared to the residential and light industrial uses, 54,100 square feet of commercial is a 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 plans.

DL:lcw

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**MINUTES REPORT
LOCAL PLANNING AGENCY
JANUARY 29, 2007**

MEMBERS PRESENT:

Noel Andress
Derek Burr (Chair)
Les Cochran
Ron Inge
Carleton Ryffel (Vice Chair)
Rae Ann Wessel

STAFF PRESENT:

Rick Burris, Planning Division
John Fredyma, Asst. Cty. Atty.
Wayne Gaither, Planning
Tim Jones, Asst. Cty. Atty.
Janet Miller, Recording Secretary
Matt Noble, Planning
Paul O'Connor, Planning

Agenda Item 1 – Call to Order, Certificate of Affidavit of Publication

Mr. Andress, Chair, called the meeting to order. Mr. Fredyma, Assistant County Attorney, certified the affidavit of publication and submitted it to the record.

Agenda Item 2 – Pledge of Allegiance

After the Pledge of Allegiance, Mr. Andress stated it was time to re-elect officers for Chair and Vice Chair.

Mr. Andress made a motion to nominate Derek Burr as Chair, seconded by Mr. Inge. There being no further discussion, the motion passed 6-0.

Mr. Inge made a motion to nominate Carleton Ryffel as Vice Chair, seconded by Mr. Andress. There being no further discussion, the motion passed 6-0.

At this point, Ms. Burr took over the meeting as Chair.

Agenda Item 3 – Public Forum - None

Agenda Item 4 – Approval of Minutes

Minutes of November 27, 2006

Mr. Inge made a motion to approve the November 27, 2006 meeting minutes, seconded by Mr. Address. There being no further discussion, the motion passed 5-0. Mr. Ryffel abstained since he was not present at the November 27, 2006 meeting.

Agenda Item 5 - Administrative Code 11-9 – Bicycle and Pedestrian Facilities – Construction on Major Roadways

Ms. Vicky Griffin from Lee County Department of Transportation stated she was the Bicycle and Pedestrian Coordinator for the County and the liaison to the district advisory committee. She reviewed proposed changes to Administrative Code 11-9, which deals with the Bicycle and Pedestrian Facilities – Construction on Major Roadways.

Ron Inge referred to Exhibit A on pages 1 and 2 that deal with the definition going from “Excessively disproportionate cost” to “Factors suggest absence of need.” Per his request, Ms. Griffin gave the rationale for the definition change.

Mr. Inge asked if these bicycle facilities were going to be in the public right-of-way as opposed to private property.

Ms. Griffin stated that generally speaking the bicycle facilities are in the public right-of-way. If the developer is unable to do that, another way to handle it is that the County permits easement with the property owner whereby they grant perpetual use so that anyone from the community at any time can be on that facility.

Mr. Inge asked about the liability issue if someone falls off their bike and gets injured. In other words, would the private property owner have some liability exposure in that instance.

Ms. Griffin stated this would be a question for the County Attorney’s office.

Mr. Ryffel asked if the County maintained these bike paths.

Mr. Fredyma stated that if the bike paths were dedicated to the County and accepted for maintenance, then the County would maintain them.

Mr. Ryffel asked what would happen if the County did not repair a part of the bike path and as a result someone was hurt.

Mr. Fredyma stated it would depend on a lot of factors and he gave some examples.

Mr. Inge stated this liability issue should be clarified if it goes forward to the Board of County Commissioners because he felt this would be a concern for most property owners.

Ms. Burr felt the density issue should be clarified as well. She hoped that people would not be limiting their land use just because they are getting an easement for a bike path.

Ms. Wessel referred to Exhibit A. Per her request, Ms. Griffin explained what was meant by Type E or F. Discussion also took place regarding the standard bike path being 5 feet in width with an option to reduce it by one foot.

Ms. Griffin explained the rationale for this option and also noted this language was design criteria from FDOT, which the County mimics. She explained that safety studies had been done and showed that it is safer to have a curb for bicyclists because if they get hit, they do not travel as far because there is an impediment in place.

Due to a question by Ms. Burr, it was clarified by Ms. Griffin that these bike lanes would be signed and marked.

Ms. Wessel asked if the Advisory Committees had viewed this language.

Ms. Griffin stated it was presented before EROC and LDCAC, both of which gave their support.

Ms. Wessel referred to the fee in lieu chart and asked what percentage the fee paid for since it did not cover the entire project cost.

Ms. Griffin explained the program and gave examples of how the fee in lieu was applied to various projects in conjunction with impact fee money received by the Bicycle and Pedestrian Advisory Committee each year.

Mr. Ryffel asked if the fee in lieu funds from the developers was put into an interest bearing account.

Ms. Griffin stated that all fee in lieu money is paid into separate accounts for the various impact fee districts because the money can only be spent in the impact fee district from which it is collected.

Mr. Fredyma stated he believed they were interest bearing accounts because all other trust accounts are interest bearing.

Ms. Griffin emphasized that these changes were at the request of the Bicycle and Pedestrian Committee. They would rather see the developers build the sidewalks and the sidewalks and facilities rather than having to go back and retrofit.

Mr. Ryffel noted some of the calculations listed on the Fee-in-Lieu page seemed incorrect.

Ms. Griffin noted the following corrections: 1) Under the second column for "Sidewalk," the figure next to "embankment" should be \$1.48 instead of \$2.23, and 2) The total under "Bicycle Path," should be \$89.31 instead of \$88.38.

Ms. Burr asked if anyone from the public wished to comment. There was no response.

Mr. Ryffel made a motion to find AC 11-9 consistent with the Lee Plan. Mr. Inge seconded the motion, but asked that the County Attorney's office be requested to work with DOT to address the liability issue and the density issue on easements. Mr. Ryffel agreed to this change. There being no further discussion, the motion passed 6-0.

Agenda Item 6 – CPA2006-00004 Adelson (Small Scale Amendment)

Mr. Inge announced a conflict of interest with this item and that he would be leaving the meeting at this point. He previously filed Form 8B (Voting Conflict) and he submitted an updated form for this month's meeting.

Mr. Gaither reviewed his staff report and recommendations.

Ms. Neale Montgomery gave an overview of their project, which included a PowerPoint presentation. After her presentation, she introduced Drew Fitzgerald with DeLisi-Fitzgerald who is a professional engineer with the State of Florida. He discussed drainage issues since it was a major concern for the residences in the area (transcript available upon request).

Ms. Burr asked if anyone from the public wished to comment on this issue.

Mr. Allen Walker discussed his concerns, which were the same as his other family members who also live in the area. Their concerns deal with property values. He asked for clarification of what was meant by "affordable income" or "low income." They did not want to see their land values decrease because of something that is being built across the street. He noted they were not trying to stop growth, but asked that the LPA look at the project realistically to evaluate how it will affect the area.

Mr. Ryffel clarified to the public that this was a land use change that would still need to go through the zoning process.

Mr. Walker stated he was aware of this, but felt the LPA Board should know what the public's concerns were. He realized he would have another opportunity to express these issues before the Board of County Commissioners. He also noted their biggest concern was not knowing what the nature of the residential development would be and that the community would appreciate more specifics.

Mr. Andress asked how the community would feel about a commercial project on the site.

Mr. Walker stated the community was less concerned with a commercial development because they do not generate the same type of traffic. Commercial projects also do not attract the element that the community does not want unlike what they have seen in the past with low income housing.

Mr. Tim DeNardis stated there were too many people on that amount of land. The project representatives are proposing to change the planning so it can allow more people on the whole project. He noted that over the past 20 years nothing has been developed on Slater Road that has that many people per square foot. He talked about concerns with water drainage since there is no city water or sewer in this area. He also noted that the area was mostly rural and that developments of this type are normally closer to town and not so far out into a rural area. Mr. DeNardis was also concerned about the traffic this project would generate because there is already a traffic problem with Slater Road and this would just add to it. Mr. DeNardis explained he had contacted the County to see what plans were in place for Slater Road, but was told that nothing was planned for that road over the next five years. Mr. DeNardis stated this was the first time the neighbors were notified that something was taking place.

Mr. Gaither noted that this was a land use change, not a rezoning. A rezoning would involve further notification at a later date. In this instance, the County sent out notifications to residents that were within 500 feet of the project.

Mr. Roy Reeves discussed his concerns with drainage and he related an instance where a development went up next door to him and its elevation was three feet above his house, which caused some drainage issues. He was concerned that this project would cause a similar problem. He wanted to know where the water would run off once this project was constructed. He was also concerned with what would be put on the site.

Ms. Joyce Walker expressed her concerns with Slater Road being very narrow and heavily used. She noted there was no walkway on the sides of the road. She stated this property would be placed right at the curve where you cannot see anything coming from the north. She asked that a study be done showing how they are going to enter without blocking traffic and if there would be a turn out lane. She noted there were children in the area and the trucks and cars speed by this area.

Mr. Ryffel asked staff if this applicant would be required to provide a traffic impact statement to address these kinds of issues once the property comes in for zoning. He also asked if the public would have access to this information.

Mr. Noble stated this was correct. The applicant would have to prepare a couple of different traffic analyses in addition to what has already been done to date before anything is built on the property. Mr. Noble confirmed that the public would have access to this information.

Ms. Montgomery responded to some of the comments made during the meeting (transcript available upon request).

Mr. Walker felt the bottom line was whether this project would help the neighborhood or hurt it. He did not see how the applicant could ask for something to be changed without being able to tell anyone what they are going to put on it. He felt the community had a right to know.

The public segment was closed.

Ms. Wessel stated the following:

- Land use projections for anticipated population showed an overage. This proposal would cause an increase in population from what was already sent in. There is no need for additional population in this area based on those projections, which met the 20-year projection for population. Approving this rural to suburban change would undermine the land use projection that was sent up.
- Approving this project would be setting a precedent. This proposal is a five-acre parcel that is being requested to be changed to a six fold increase. Going forward the requests could be ten, twenty, or 50 acre parcels that would also undermine our growth projections.
- She noted that approximately a year and a half ago, the property was cleared under the agricultural zoning. It was not just cleared for cows. Every piece of vegetation on this parcel was removed.

Ms. Montgomery objected stating that the property is fenced and does have cows on it.

- Ms. Wessel stated she contacted the County when this property was cleared and was told that no Notice of Clearing was issued. The environmental assessment was submitted after the parcel was completely cleared. Therefore, no record existed showing whether there were any potential species, nests, or wetland areas.
- She disagreed with the staff report and stated this project was not consistent with the Lee Plan. She referred to Policies 1.1.5, 1.4.1, 5.1.2, and Objective 2.1, and outlined how this project did not comply with those references.
- She also discussed traffic concerns with this two-lane road.

In closing, Ms. Wessel felt this was a rural area that should remain that way. The areas that are designated suburban are very low density (one-unit on multiple acres). She did not feel staff made the case for this project being consistent with the Lee Plan. She believed staff was taking issues that are specifically identified as meeting the consistency requirement and giving them value when they do not meet those conditions. Therefore, she was not in support of this amendment.

Due to a question by Mr. Andress, Rae Ann Boylan, Environmental Consultant, reviewed what she was told by Environmental Sciences when they sought to get a permit for clearing the parcel.

Mr. Andress expressed concern over this process because strict clearing guidelines were given for Pine Island projects, but yet this project was able to clear the land with no Notice of Clearing without producing any type of vegetative, wildlife, or wetland survey.

Discussion between staff and the Board ensued regarding why staff was advocating that this project be approved when a previous assessment of the amount of residential in the North Fort Myers plan was deemed to be adequate. In other words, why would staff want to add an increase from five to 30 acres on this particular parcel of land?

Mr. Andress stated that he heard both sides at today's meeting. He believed that during the review process all of the concerns raised today would be more adequately addressed as the project proceeds. He noted that currently the applicant could build 69 units on this property already, which is a considerable density. He believed it would be better if this property is combined with the other piece and the increase is given because that would help offset the cost of bringing utilities to adequately serve this site. He was in support of the proposed change because he believed it would be a much better project for the community and it would be a more cost effective project.

Mr. Andress made a motion to recommend adoption of CPA2006-04, seconded by Mr. Ryffel. The motion passed 4-1. Ms. Burr, Mr. Andress, Mr. Cochran, and Mr. Ryffel were in favor. Ms. Wessel was opposed. Mr. Inge abstained and was not in attendance during this and the remaining portion of the meeting.

Agenda Item 7 - Other Business

BOCC Advisory Committee Reception

Mr. O'Connor reminded the LPA that tomorrow, 1/30/07; the Board of County Commissioners would have a reception prior to their regular meeting for all the people who are on their advisory committees. It begins at 8:30 a.m.

Flowways Map

Mr. Andress asked for a status of the flowways map.

Mr. Noble stated he believed there was a draft completed.

Mr. Andress asked for this item to be presented at a future LPA meeting, so they could review and discuss the draft.

The meeting adjourned.

Miller, Janet M.

From: Ron Inge [ringe@landsolutions.net]
Sent: Friday, January 26, 2007 2:55 PM
To: Miller, Janet M.; NOEL ANDRESS; snook00; carleton819@aol.com; Rawessel@sccf.org
Cc: O Connor, Paul S.; Collins, Donna Marie
Subject: Inge conflict of Interest-For 8B
Attachments: 20070126145210880.pdf

Attached is an updated for 8B for CPA 2006-0004, Adelson Small Scale Comp Plan Amendment, that will come before the LPA on Monday, January 29, 2007.

My previously filed Form 8B was forwarded to you by Janet, however, this form updates that I am also an equity interest holder in the applicant, in addition to being president of the company that represents the applicant.

Ronald E. Inge
Land Solutions, Inc./Development Solutions, LLC.
6150 Diamond Centre Court, Bldg. 1300
Fort Myers, FL 33912
Phone 239-489-4066
Fax 239-481-8477
email: ringe@landsolutions.net

CONFIDENTIALITY STATEMENT

The information contained in this transmission may contain privileged and confidential information. It is intended only for the use of the person(s) named above to whom this message was sent. If you are not the intended recipient, you are hereby notified that any review, dissemination, distribution or duplication of this communication is strictly prohibited. If you are not the intended recipient, please contact the sender by reply e-mail and destroy all copies of the original message.

1/26/2007

FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS

LAST NAME—FIRST NAME—MIDDLE NAME INGE RONALD E		NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE LEE LOCAL PLANNING AGENCY	
MAILING ADDRESS 5571 HALEFAX AVE		THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF:	
CITY FORT MYERS, FL	COUNTY LEE	<input type="checkbox"/> CITY <input checked="" type="checkbox"/> COUNTY <input type="checkbox"/> OTHER LOCAL AGENCY	
DATE ON WHICH VOTE OCCURRED 1/19/01		NAME OF POLITICAL SUBDIVISION LEE COUNTY, FLORIDA	
		MY POSITION IS: <input type="checkbox"/> ELECTIVE <input checked="" type="checkbox"/> APPOINTIVE	

WHO MUST FILE FORM 8B

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies equally to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes.

Your responsibilities under the law when faced with voting on a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing the reverse side and filing the form.

INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

A person holding elective or appointive county, municipal, or other local public office **MUST ABSTAIN** from voting on a measure which inures to his or her special private gain. Each elected or appointed local officer also is prohibited from knowingly voting on a measure which inures to the special gain of a principal (other than a government agency) by whom he or she is retained (including the parent organization or subsidiary of a corporate principal by which he or she is retained); to the special private gain of a relative; or to the special private gain of a business associate. Commissioners of community redevelopment agencies under Sec. 163.356 or 163.357, F.S., and officers of independent special tax districts elected on a one-acre, one-vote basis are not prohibited from voting in that capacity.

For purposes of this law, a "relative" includes only the officer's father, mother, son, daughter, husband, wife, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

ELECTED OFFICERS:

In addition to abstaining from voting in the situations described above, you must disclose the conflict:

PRIOR TO THE VOTE BEING TAKEN by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting; and

WITHIN 15 DAYS AFTER THE VOTE OCCURS by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

APPOINTED OFFICERS:

Although you must abstain from voting in the situations described above, you otherwise may participate in these matters. However, you must disclose the nature of the conflict before making any attempt to influence the decision, whether orally or in writing and whether made by you or at your direction.

IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:

- You must complete and file this form (before making any attempt to influence the decision) with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes.
- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

DISCLOSURE OF LOCAL OFFICER'S INTEREST

I, Ronald E. Tate, hereby disclose that on JANUARY 29, 2007, 19

(a) A measure came or will come before my agency which (check one)

- ☐ inured to my special private gain;
- ☐ inured to the special gain of my business associate, _____;
- ☐ inured to the special gain of my relative, _____;
- ☒ inured to the special gain of Shel. FLORESA LAND SYSTEM, LLC by whom I am retained; or
- ☐ inured to the special gain of _____, which is the parent organization or subsidiary of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

CPA 2006-04 ADELSON SMALL SCALE AMENDMENT
WILL COME BEFORE THE CPA AND THE APPLICANT
IS A CLIENT OF MINE

I ALSO AM AN EQUITY INTEREST
HOLDER IN THE APPLICANT

Date Filed

1/26/07

Signature



NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317 (1991), A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$5,000.

LOCAL PLANNING AGENCY
ATTENDANCE RECORD FOR 2007

Committee Member	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sept	Oct	Nov	Dec	
Noel Andress	P	NM											
Derek Burr	P	NM											
Les Cochran	P	NM											
Ron Inge	P	NM											
Carleton Ryffel	P	NM											
Rae Ann Wessel	P	NM											

P - Present
A - Absent
NM - No Meeting
RES - Resignation

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
January 19, 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

9th day of January 2007 by

Kathy Allebach

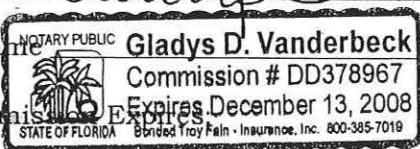
personally known to me or who has produced

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, January 29, 2007. The meeting will be held in the Human Resources Training Room located on the First Floor of the County Administration Building, 2115 Second Street in downtown Fort Myers. The meeting will commence at 1:30 p.m.

AGENDA

1. Call to Order; Certification of Affidavit of Publication
2. Pledge of Allegiance
3. Public Forum
4. Approval of Minutes: November 27, 2006
5. Administrative Code 11-9 - Bicycle and Pedestrian Facilities - Construction on Major Roadways
6. CPA2006-00004 Adelson (Small Scale Amendment) - Amend the Lee Plan Future Land Use Map series for a specified 5.43+/- acre portion of a parcel located in Section 19, Township 43 South, Range 25 East to change the Future Land Use classification shown on Map 1 from "Rural" to "Suburban." The site is generally located on the east side of Slater Road approximately 1 mile north of Bayshore Road.
7. Other Business
8. 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
JAN 25 2007

COMMUNITY DEVELOPMENT



LEE COUNTY
SOUTHWEST FLORIDA

BOARD OF COUNTY COMMISSIONERS

Writer's Direct Dial Number: 479-8547

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

March 31, 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
wgaiter@leegov.com

CC:

file

**REGULAR MEETING
OF THE
LOCAL PLANNING AGENCY**

**Monday, March 26, 2007
Board of County Commission Chambers
Old Courthouse
2120 Main Street, Fort Myers, FL
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.

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.

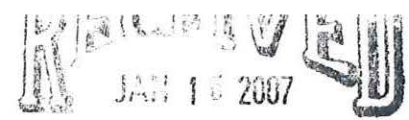
Comment #2:

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



PERMIT COUNTER

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.

C PA 2005-00001



PERMIT COUNTER

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.

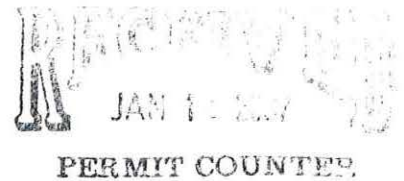
Response: Please see attached Memorandum from TR Transportation Consultants, Inc.

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.

CPA 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.

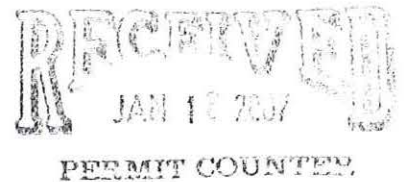
Response: Attached please find the Sufficiency Review for Historic and Archaeological Resources. This document states that there are no known historic sites or archaeological sites on the subject parcel and further states that the property is within Level 2 zone of archaeological sensitivity. The applicant 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 (1st 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.

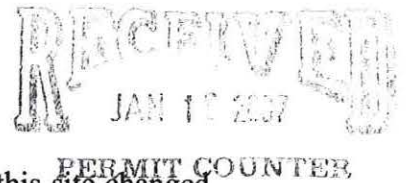
Lee County Parks and Recreation:

- (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.

CPA 20 5-00001



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 2nd 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

Banks Engineering

Professional Engineers, Planners & Land Surveyors
10511-101 Six Mile Cypress Parkway
Fort Myers, Florida 33966
(239) 939-5490
Fax (239) 939-2523

RECEIVED
JAN 10 2007
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Please Reply To:
FORT MYERS OFFICE

VICOTT, INC.

SMALL SCALE COMPREHENSIVE PLAN AMENDMENT January 8, 2007

CPA
2005-00001

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.

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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

CPA
2005-00001



LEE COUNTY
SOUTHWEST FLORIDA

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

CPA

2005-00001

RECEIVED
JAN 13 2007

PERMIT COUNTER

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.

2005-00001

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

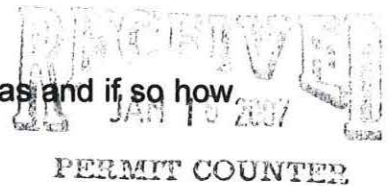
Current Future Land Use Designation: Industrial Development and Wetlands

Existing Land Use: Vacant

CPA

2005-00001

- 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	<u>-0-</u>
Commercial intensity	<u>6,492 s.f.</u>
Industrial intensity	<u>64,920 s.f.</u>

2. Calculation of maximum allowable development under proposed FLUM:

Residential Units/Density	<u>-0- (see attached restrictive covenants)</u>
Commercial intensity	<u>54,100 s.f.</u>
Industrial intensity	<u>-0-</u>

IV. AMENDMENT SUPPORT DOCUMENTATION

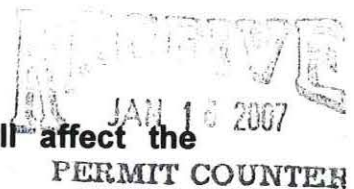
At a minimum, the application shall include the following support data and analysis. These items are based on comprehensive plan amendment submittal requirements of the State of Florida, Department of Community Affairs, and policies contained in the Lee County Comprehensive Plan. Support documentation 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.

CPA
2005-00001

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.);

CPA

2005-00001

- 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:

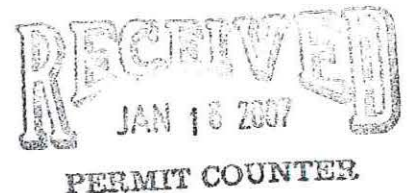
- a. Besides the 20-year analysis, for those plan amendment proposals that include a specific and immediated development plan, identify the existing roadways serving the site and within a 3-mile radius (indicate laneage, functional classification, current LOS, and LOS standard);
- b. Identify the major 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:

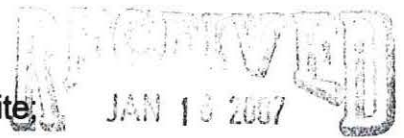
- a. Sanitary Sewer
- b. Potable Water
- c. Surface Water/Drainage Basins
- d. Parks, Recreation, and Open Space.



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

- Franchise Area, Basin, or District in which the property is located;

GPA 2005-00001



PERMIT COUNTER

- 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).

SPA 2005-00001

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.

SPA
2005-00001

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

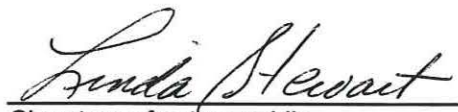


PERMIT COUNTER

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.

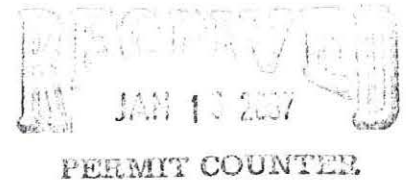



Signature of notary public

LINDA STEWART
Printed name of notary public

CPA 2005-00001

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.

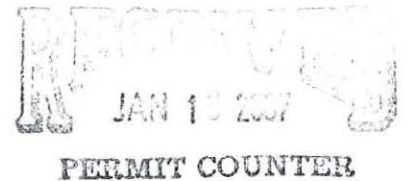
The proposed land use change for the subject property from Industrial Development and Wetlands to Urban Community and Conservation Lands – Wetlands will increase the compatibility with the existing and proposed land uses in the surrounding areas.

4. Map and describe existing zoning of the subject property and surrounding properties.
Please see attached Aerial Photograph, Land Use and Zoning Map.

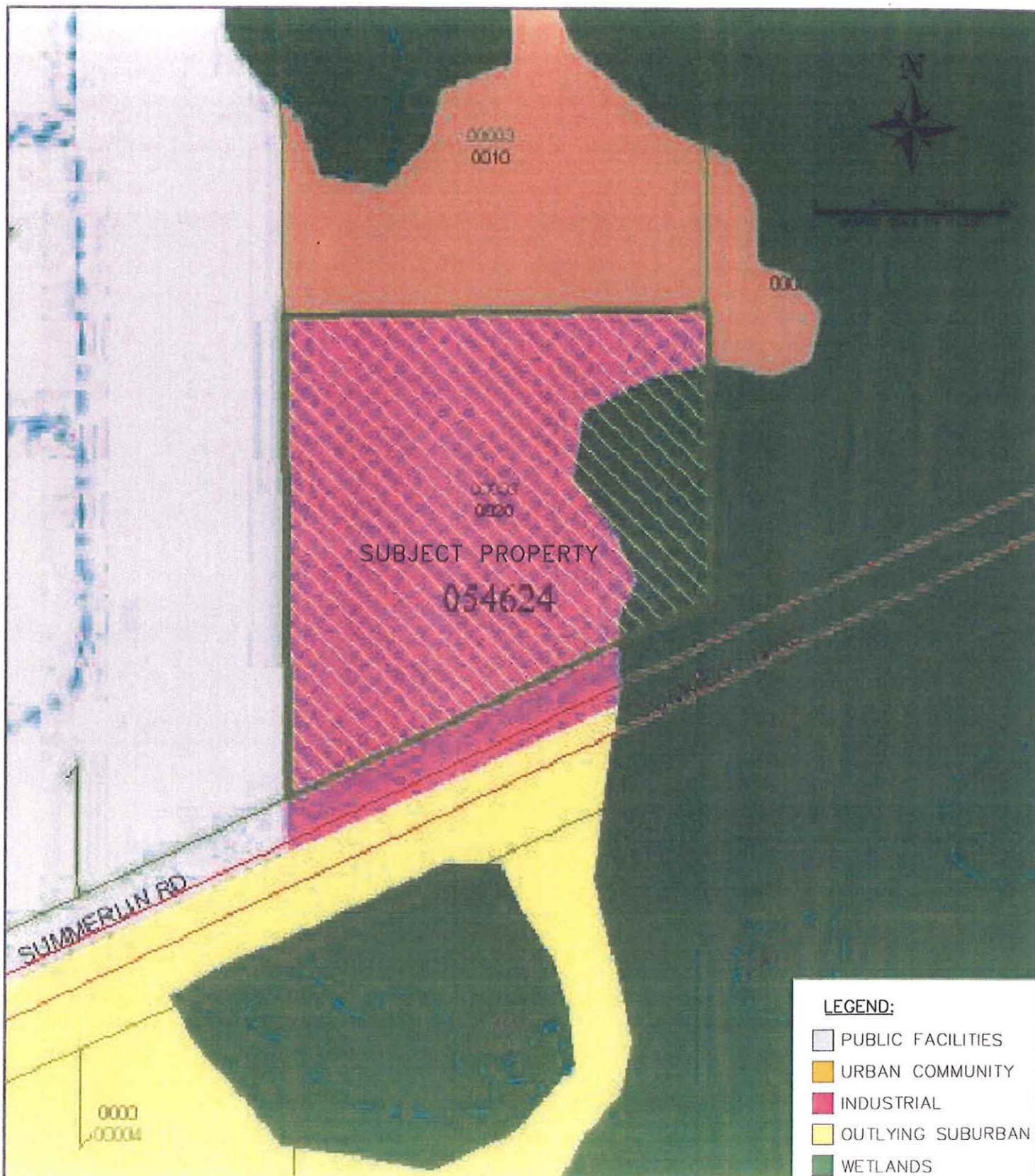
The subject property is zoned AG-2. The property to the north is zoned AG-2 and a Planned Development application for the Sunset Falls f/k/a Waterstone RPD project is currently being reviewed to rezone the property to a Residential Planned Development (DCI2005-00078). The property to the east is zoned 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.

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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.



CPA 2005-00001



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 # EB 6469
SURVEY LICENSE # LB 6690

EXISTING FUTURE LAND USE MAP

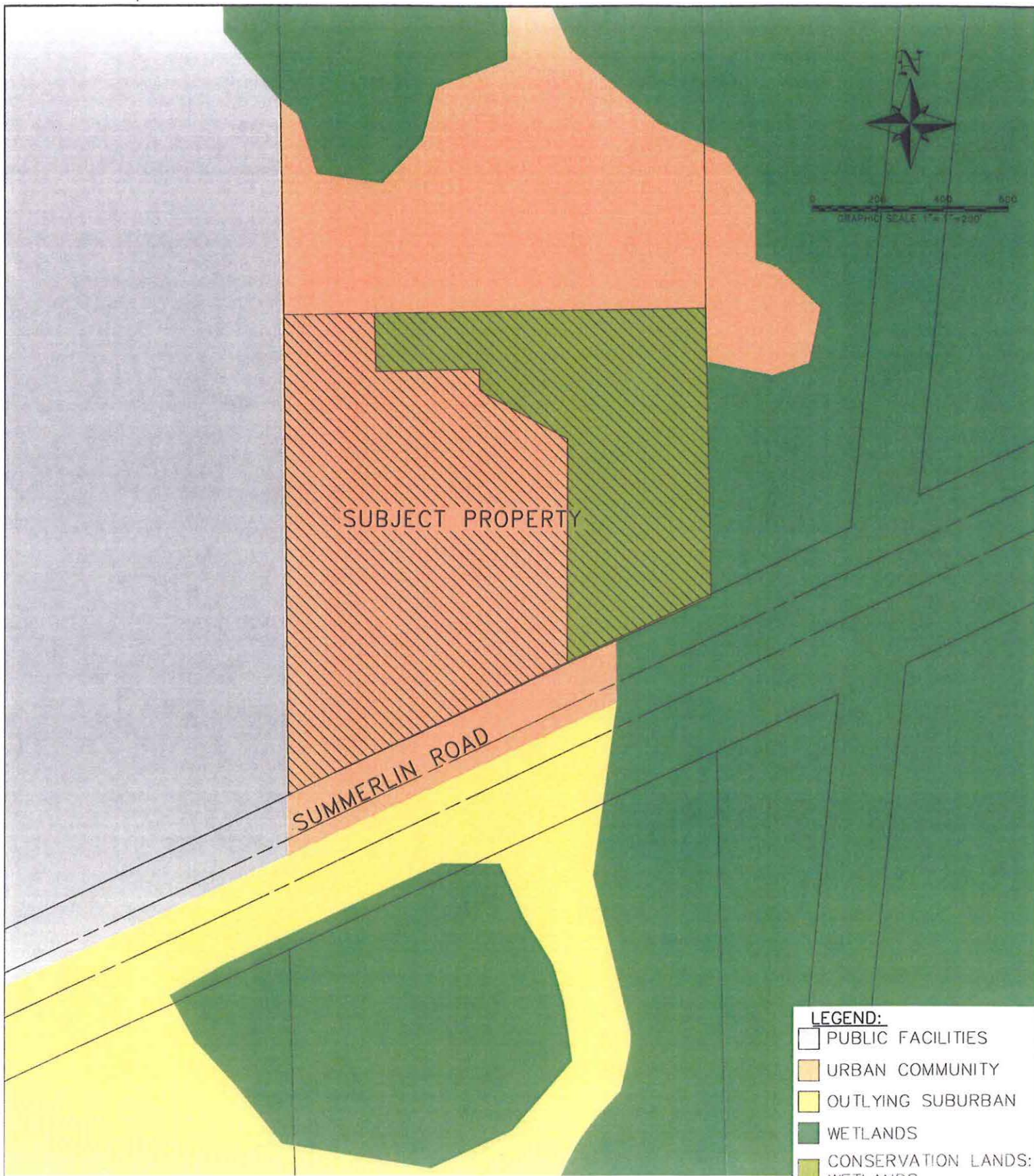
VICOTT, INC.

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

PERMIT COUNTER

CPA 2005-00001



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 6690

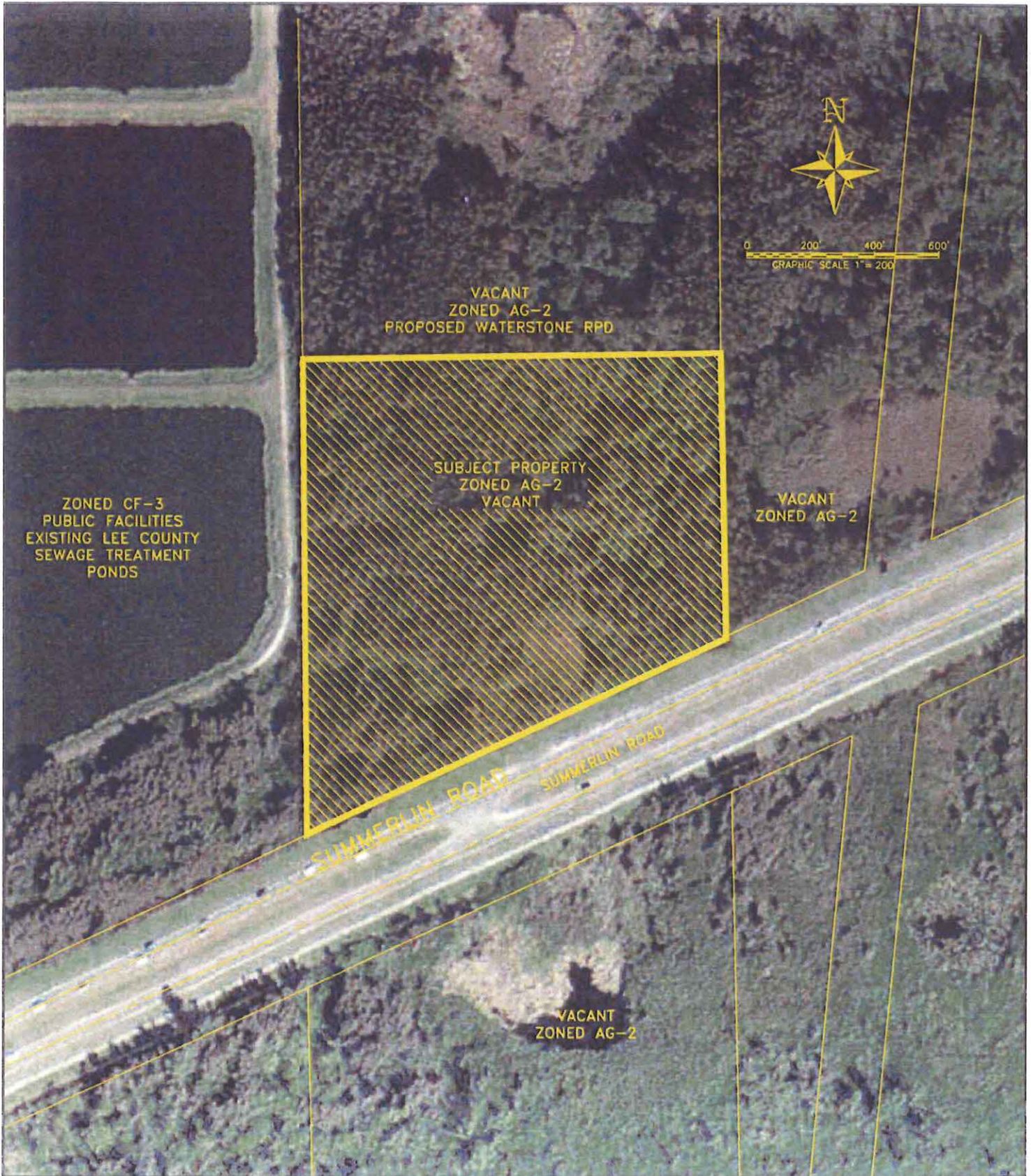


PROPOSED FUTURE LAND USE MAP

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	GGH	1"=200'	1	1	05-16-24



Banka 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 8469
SURVEY LICENSE # LB 8690

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)

PERMIT COUNTER

2005 00001

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

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CRA 2005-0000

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'

S 01°29'16" E 654.93'
W. LINE E. 1/2-W. 1/2-S.E. 1/4

E. LINE E. 1/2-W. 1/2-S.E. 1/4

N 01°26'45" W 357.68'

P.I.

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. LINE E. 1/2-W. 1/2-S.E. 1/4

N. 01°26'45" W. 97'

E. 1/2-W. 1/2-S.E. 1/4

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:

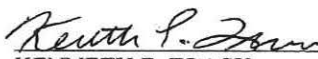
COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 5; THENCE S.89°01'42"W. ALONG THE SOUTH LINE OF SAID SECTION FOR 1319.00 FEET TO AN INTERSECTION WITH THE EAST LINE OF THE WEST HALF OF THE SOUTHEAST QUARTER OF SAID SECTION; THENCE N.01°26'45"W. ALONG SAID FRACTIONAL LINE FOR 974.54 FEET TO AN INTERSECTION 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**.

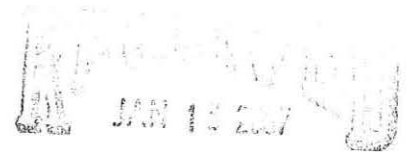
CONTAINING 236077 SQUARE FEET OR 5.41 ACRES MORE OR LESS.

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



PERMIT COUNTER

 2005-00001

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

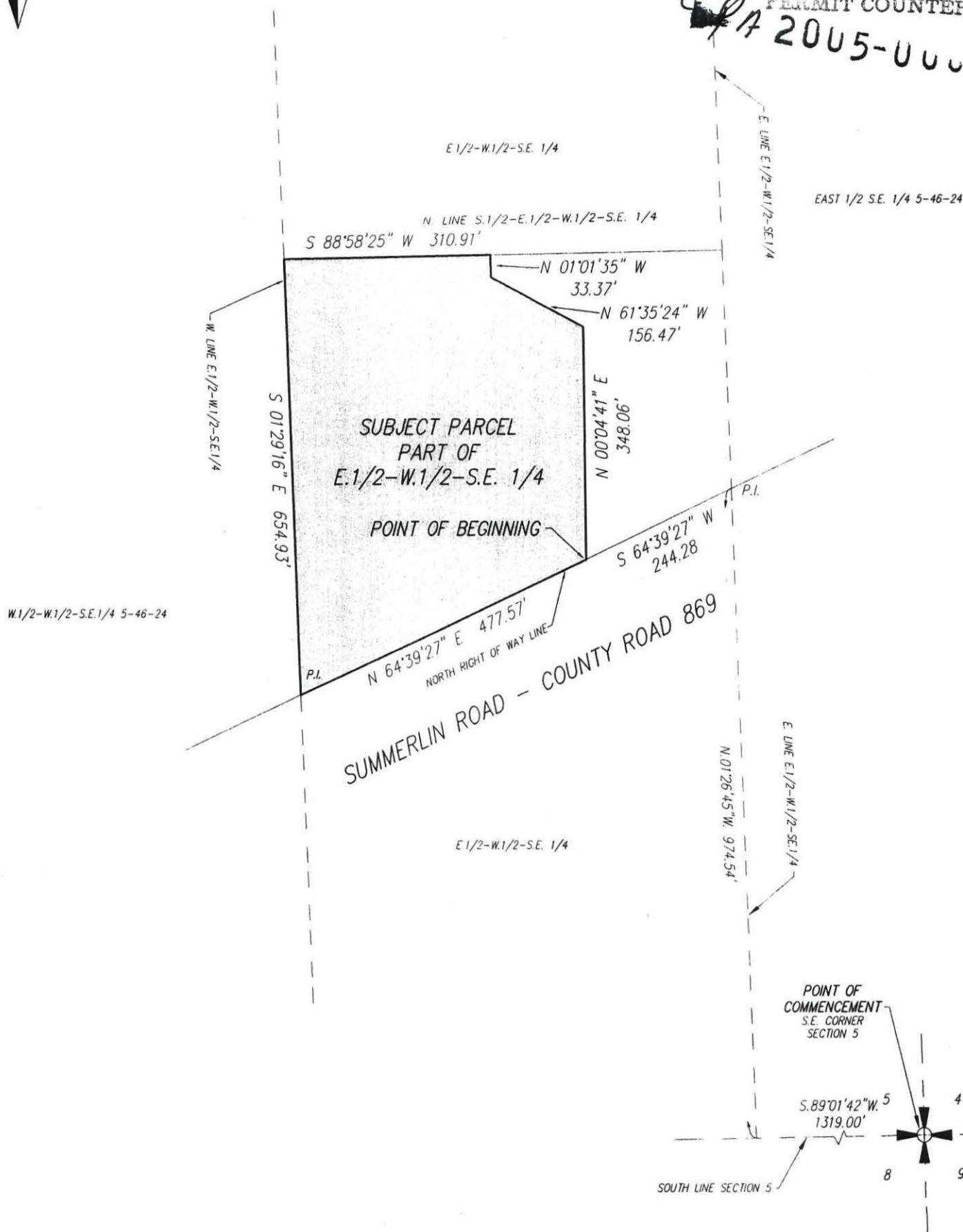
Naples Office
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Naples, Florida
34109
(239) 597-2061
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Sarasota Office
1144 Tallevast Road
Suite # 115
Sarasota, Florida
34243
(941) 360-1618
Fax (941) 360-6918



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7 2005-0000



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

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

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

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:

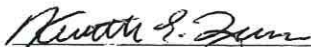
COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 5; THENCE S.89°01'42"W. ALONG THE SOUTH LINE OF SAID SECTION FOR 1319.00 FEET TO AN INTERSECTION WITH THE EAST LINE OF THE WEST HALF OF THE SOUTHEAST QUARTER OF SAID SECTION; THENCE N.01°26'45"W. ALONG SAID FRACTIONAL LINE FOR 974.54 FEET TO AN INTERSECTION 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 244.28 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 N.88°58'25"E. FOR 349.56 FEET; THENCE S.01°26'45"E. ALONG SAID EAST LINE OF THE WEST HALF OF THE SOUTHEAST QUARTER FOR 357.68 FEET TO THE **POINT OF BEGINNING**.

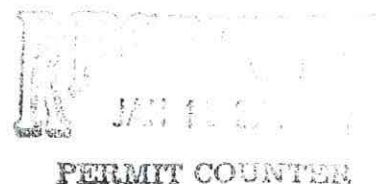
CONTAINING 98230 SQUARE FEET OR 2.26 ACRES MORE OR LESS.

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



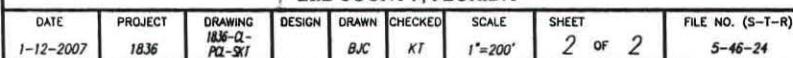
CIP 2005-00001

SHEET 1 OF 2

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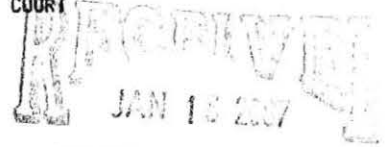
Sarasota Office
1144 Tallevast Road
Suite # 115
Sarasota, Florida
34243
(941) 360-1618
Fax (941) 360-6918





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



PERMIT COUNTER

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. Scashon
 Witness Name: W.A. Scashon

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

CPA 2005-00001

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]



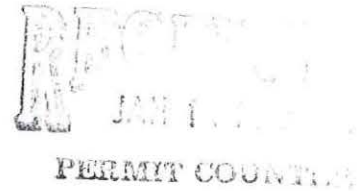
Judy Mallett
 Notary Public
 My Commission Expires May 18, 2006

Notary Public, Judy Mallett

Printed Name: JUDY MALLETT

My Commission Expires: 5/18/06

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 155th 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. BORGIA
Printed Name

STATE OF FLORIDA)
COUNTY OF LEE)

VICOTT, INC., a Florida Corporation

By:
A. Rudolph Maul, Manager

The foregoing instrument was acknowledged before me on this 5th 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



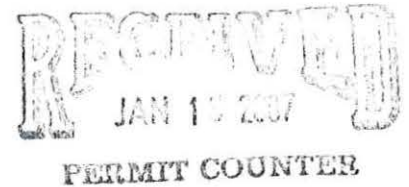


EXHIBIT "A"
VICOTT, INC.

PARCEL A:

THE EAST ONE-HALF OF THE NORTHWEST ¼ OF THE SOUTHEAST ¼ OF SECTION 5, TOWNSHIP 46 SOUTH, RANGE 24 EAST AND THE EAST ONE-HALF (E ½) OF THE SOUTHWEST ¼ OF THE SOUTHEAST ¼ 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.

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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.



PERMIT COUNTER

By: A. Rudolph Maul

Signature

A. Rudolph Maul

CPA 2005-00001

STATE OF FLORIDA

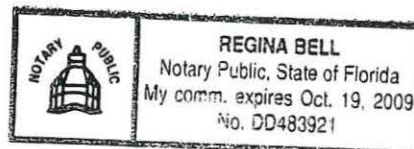
COUNTY OF Lee

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



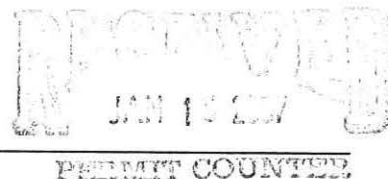
LETTER OF AUTHORIZATION

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

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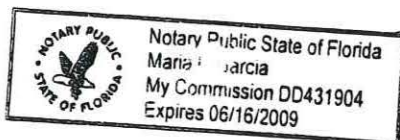
STATE OF FLORIDA

COUNTY OF Dade

The foregoing instrument was sworn (or affirmed) and subscribed before me 14th day of September, 2006

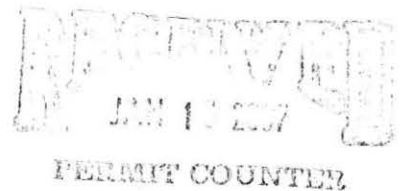
by Eddy Garcia as manager
of Sunset Falls, LLC

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.

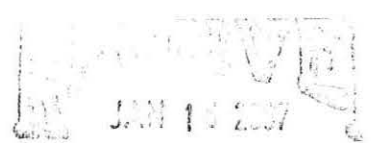
Lee County Utilities maintains service in this area through the Fort Myers Beach Wastewater Treatment Plant.

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.

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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)

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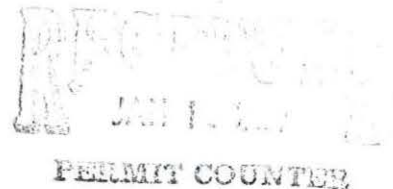
The June 2006 Concurrency Management report states on page 3 that "All new developments that receive approval from the South Florida Water Management District and which comply with standards in Chapters 17-3, 17-40, and 17-302 of the Florida Statutes, and Rule 40E-4 of the Florida Administrative Code 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.



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MEMORANDUM

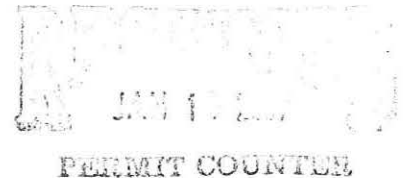
TO: Ms. Stacy Hewitt
Banks Engineering, Inc.

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

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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

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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
Total Trips	75	15	90	60	110	170	1,600

Table 3 indicates the potential trip generation of the Vicott Parcel based on the proposed land use designations (Urban Community and Conservation Lands – Wetlands).

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**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**

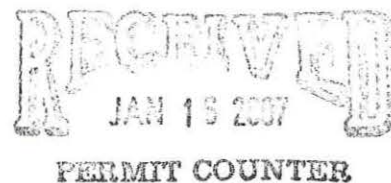
Land Use	A.M. Peak Hour			P.M. Peak Hour			Daily (2-way)
	In	Out	Total	In	Out	Total	
Proposed Land Use Designations (54,100 s.f. retail)	65	45	110	200	215	415	4,555
Existing Land Use Designations (6,492 s.f. retail/64,920 s.f. industrial)	-75	-15	-90	-60	-110	-170	-1,600
Resultant Trip Change	-10	30	20	140	105	245	2,955

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.

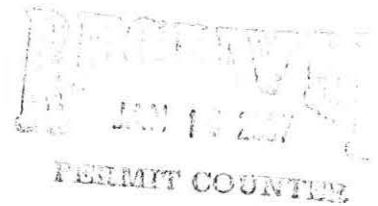
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**Table 5
TAZ 794**

Land Uses in Existing Travel Model (2030)

Land Use Category	Intensity
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

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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.

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**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

<u>ROADWAY</u>	<u>SEGMENT</u>	<u>ROADWAY CLASS</u>	<u>LOS A VOLUME</u>	<u>LOS B VOLUME</u>	<u>LOS C VOLUME</u>	<u>LOS D VOLUME</u>	<u>LOS E VOLUME</u>	<u>PERCENT</u>		
								<u>PROJECT TRAFFIC</u>	<u>PROJECT TRAFFIC</u>	<u>PROJ/ 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

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LEE COUNTY
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**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

							2006	2011				2011	2011	
							PK HR	PK HR	PERCENT				BCKGRND	BCKGRND
			BASE YR	2005	YRS OF	ANNUAL	PK SEASON	PK SEASON	PROJECT	AM PROJ	PM PROJ	+ AM PROJ	+ PM PROJ	
<u>ROADWAY</u>	<u>SEGMENT</u>	<u>PCS</u>	<u>ADT</u>	<u>ADT</u>	<u>GROWTH</u>	<u>RATE</u>	<u>PEAK DIR.</u>	<u>PEAK DIR.²</u>	<u>TRAFFIC</u>	<u>TRAFFIC</u>	<u>TRAFFIC</u>	<u>TRAFFIC</u>	<u>TRAFFIC</u>	
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

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LEE COUNTY
JUN 14 2007

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

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.

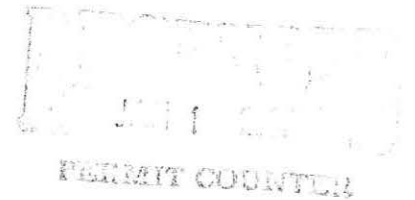
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TRIP GENERATION EQUATIONS

VICOTT PARCEL – COMPREHENSIVE PLAN AMENDMENT ITE TRIP GENERATION REPORT, 7th 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			

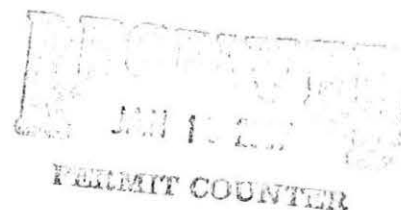
NOTE: The trip generation rates were utilized for LUC 110 due to the size of the proposed development.



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**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)

CPA

2005-00001

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

RECEIVED
SEP 11 2006
PERMIT COUNTY

September 12, 2006

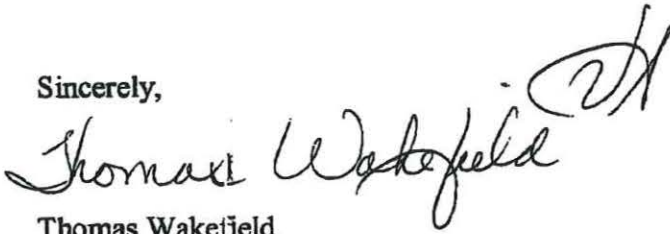
Ms. Stacy Hewitt
Planner
Banks Engineering
10511-101 Six Mile cypress
Ft. Myers, Fl. 33912

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,


Thomas Wakefield
Fire Inspector

CPA 2005-00001

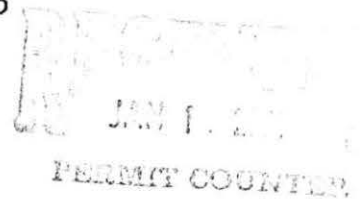
**LEE COUNTY**
SOUTHWEST FLORIDA**BOARD OF COUNTY COMMISSIONERS**

239-533-0333

Writer's Direct Dial Number: _____

Bob Janes
District OneDouglas R. St. Corny
District TwoRay Judah
District ThreeTammy Hall
District FourJohn E. Albion
District FiveDonald D. Stilwell
County ManagerDavid M. Owen
County AttorneyDiana 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.

Sincerely,

TRANSIT DIVISION

Michael Horsting
Transit Planner

SPA 2005-00001



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

SPA 2005-00001

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

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SEP 13 2006
PERMIT COUNTER

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

CPA 2005-00001





LEE COUNTY

SOUTHWEST FLORIDA

BOARD OF COUNTY COMMISSIONERS

Writer's Direct Dial Number: (239) 338-3302

Bob Janes
District One

Douglas R. St. Cerny
District Two

Ray Judah
District Three

Tammy Hall
District Four

John F. Albinn
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

CPA 2005-00001

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.

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FLUCFCS	Description	Acreage	Percent of Total
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%
	Total	+/- 7.67	100%

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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.

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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

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PLANTS

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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.

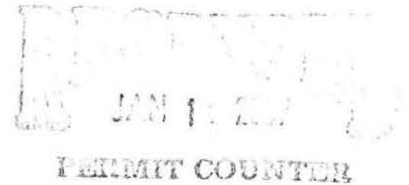
2. A map showing the subject property location on the archaeological sensitivity map for Lee County.

See attached sensitivity map that shows the property in relationship to the limits of the archaeologically sensitive areas.

CPA 2005-00001

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.*



CPA 2005-00001

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

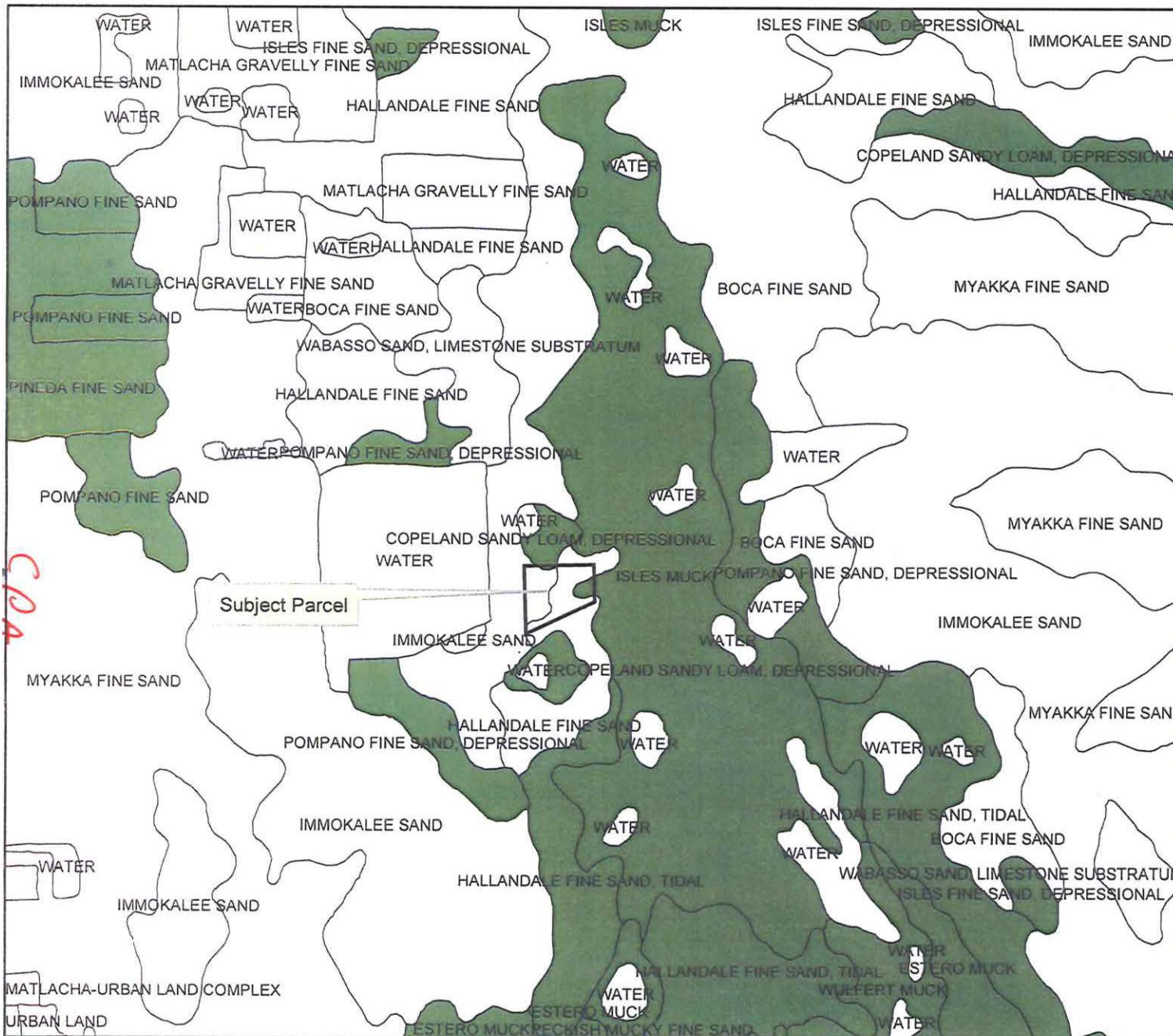
Revisions	Date:	Page
		Exhibit

APPROVED
JAN 13 2007
PERMIT CONTINUED

VICOTT, INC
FLUCCS MAP

Drawn By:	Date:	Category
JDK	9/12/06	FLUCCS
Job Number	9676	Scale:
S/R	5/46S/24E	1" = 200'
		County
		Lee

Boylan
Environmental
Consultants, Inc.
Wetland & Fluctile Survey, Environmental Permitting,
Impact
11000 Metro Parkway, Suite 411, Meriden, CT 06461
(203) 239-4100



SCS Soils **HYDRIC SOILS**

 YES

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2,400

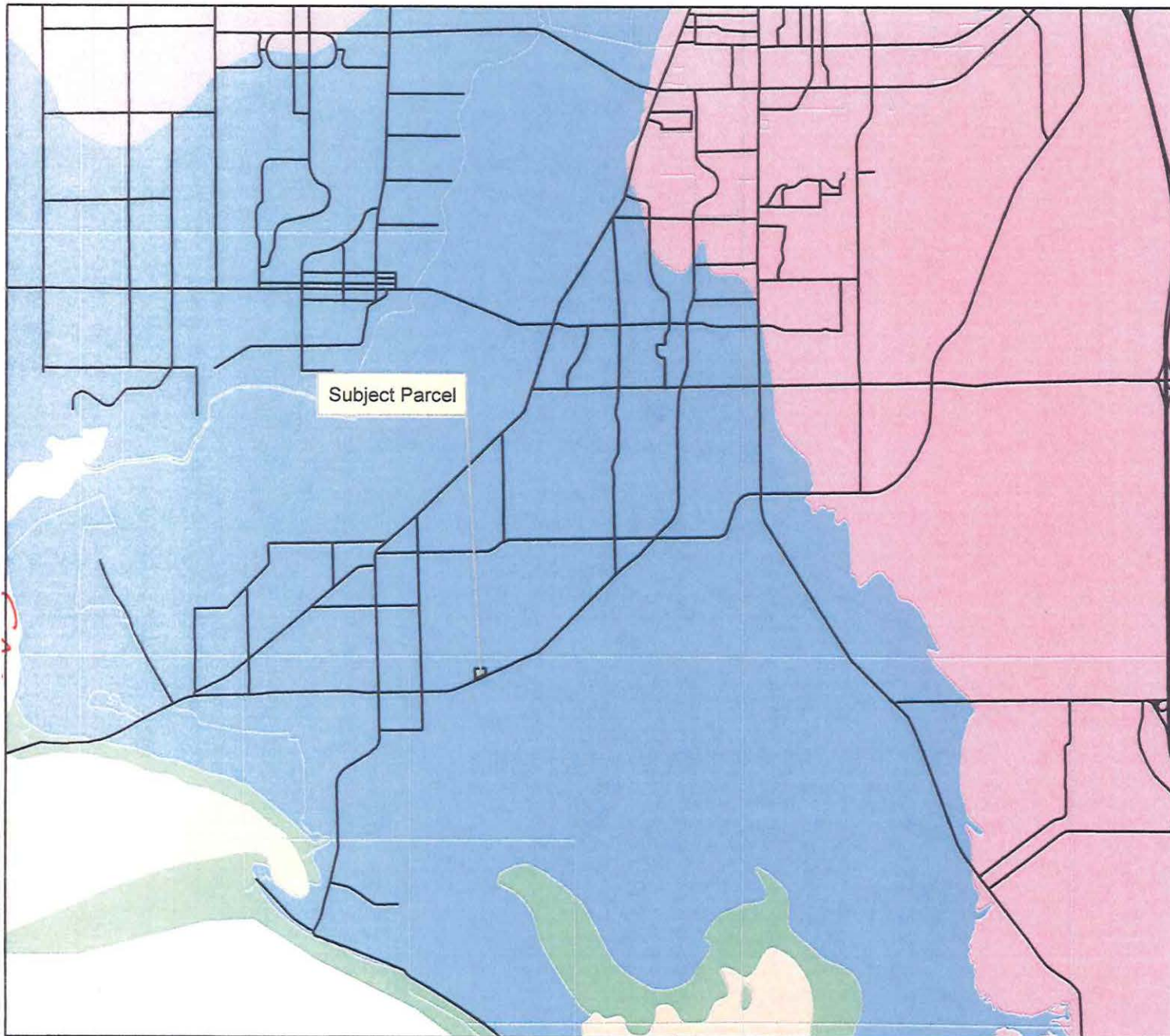
Feet



11000 Metro Parkway, Suite 4
Fort Myers, FL 33912
Office: (239)418-0671
Fax: (239)418-0672

VICOTT, INC
SCS SOILS MAP

Designed by: JDK	Date: 9/12/06	SECTIONING: 5/46S/24E	Revisions	Date:	Exhibit Number
Drawn by:	Date:	County:			
File Name: soils		County: Lee			



Fema Flood Zones ZONE

- X500
- A
- AE
- D
- UNDES
- VE
- X

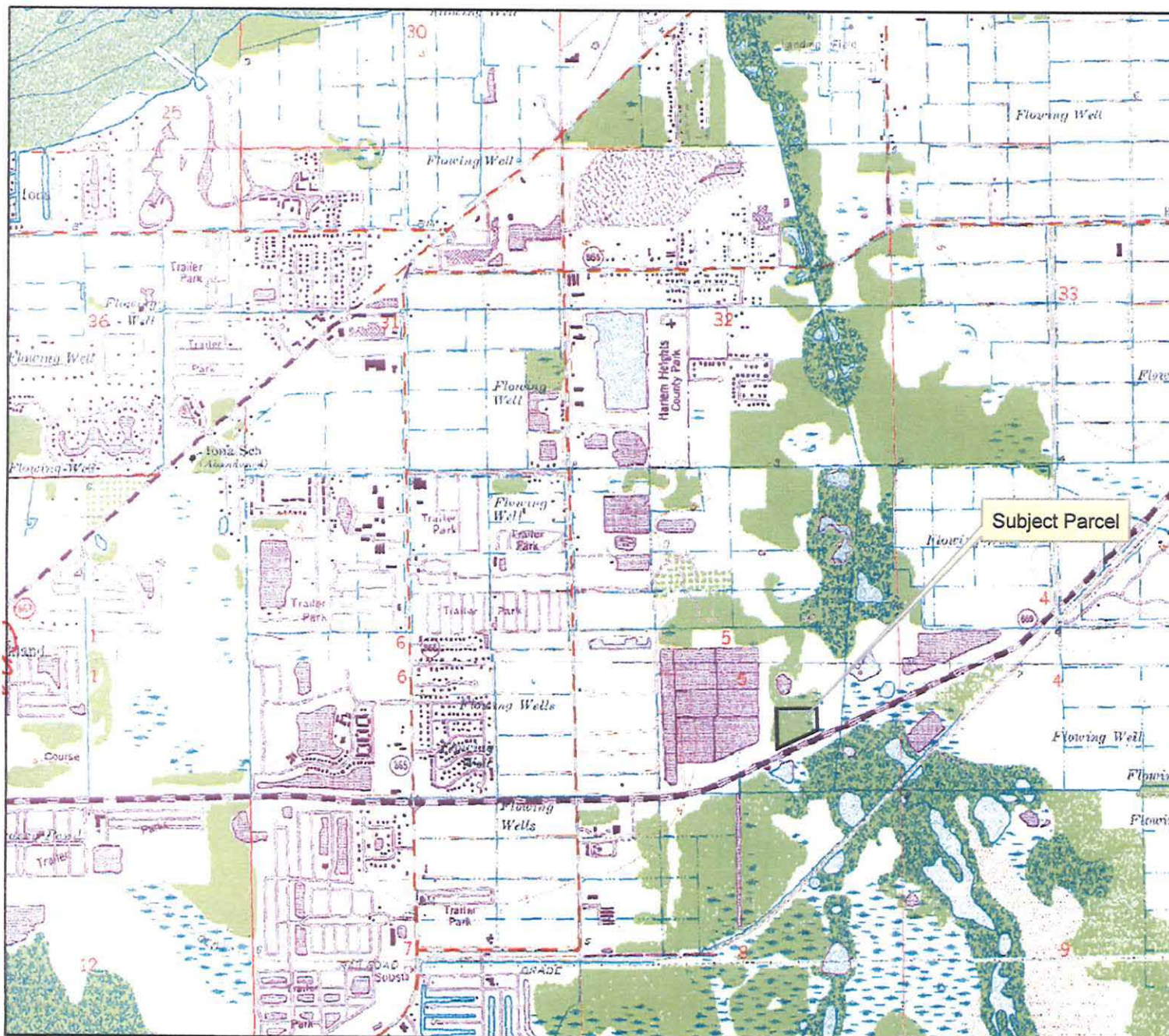


17,000 Feet

Boylan Environmental Consultants, Inc.
 11000 Metro Parkway, Suite 4
 Fort Myers, FL 33912
 Office: (239)418-0671
 Fax: (239)418-0672

VICOTT, INC
FEMA FLOOD ZONES

Designed by	Date	SECTION	Revisions	Date	Exhibit Number
JDK	9/12/06	5/46S/24E			
Drawn by	Date	Category			
File Name		County			
FEMA		Lee			



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 JAN 18 2007
 PERMIT COUNTY

4,200 Feet

Boylan Environmental Consultants, Inc.
 11000 Metro Parkway, Suite 4
 Fort Myers, FL 33912
 Office: (239)418-0671
 Fax: (239)418-0672

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:	SECTIONING:
JDK	9/12/06	5/46S/24E
Drawn by:	Date:	County:
topo		Lee

Revisions	Date	Exhibit Number



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

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JAN 15 2007
PERMIT COUNTER

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
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

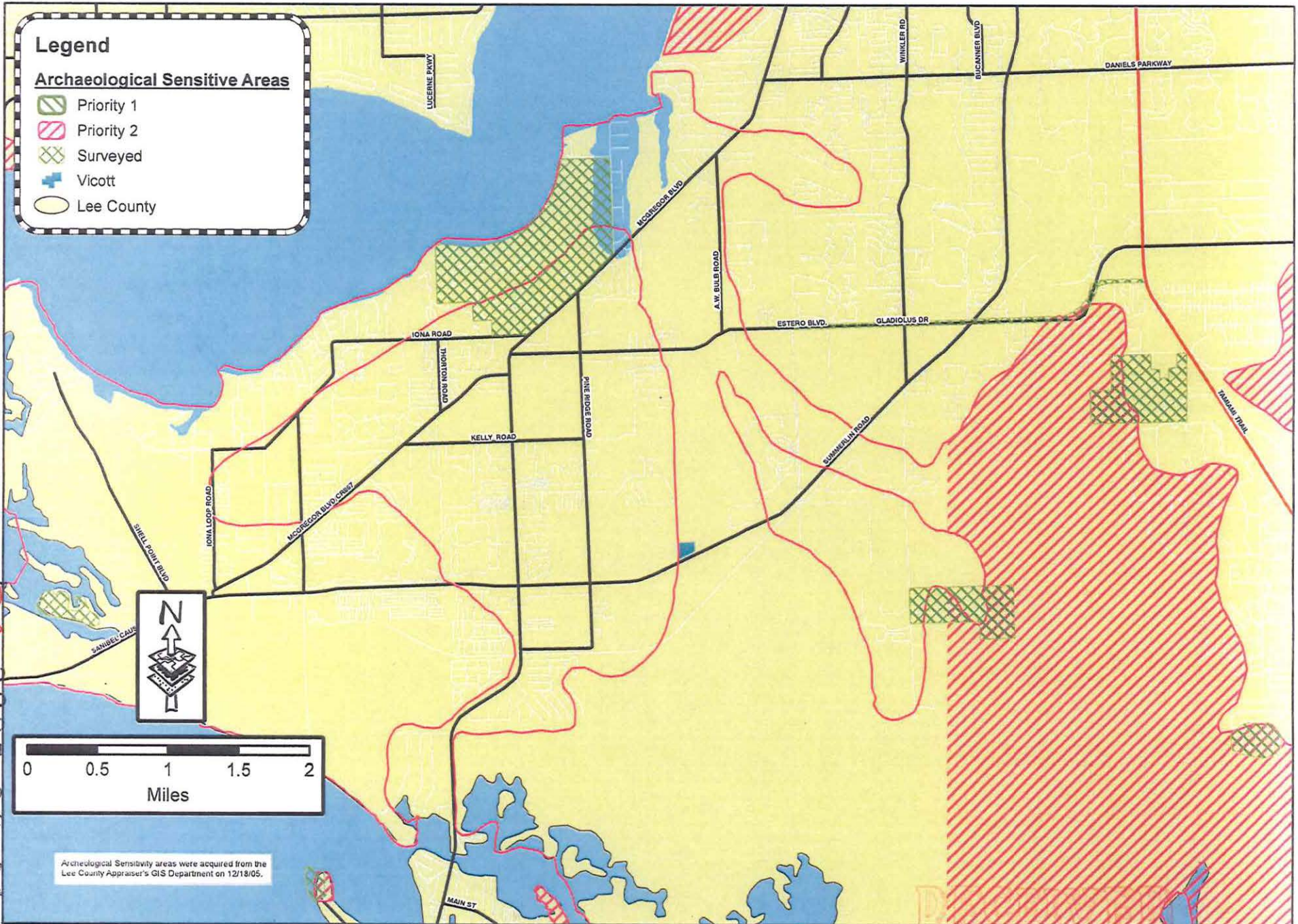
☐ Tampa Regional Office
(813) 272-3843 • FAX: 272-7340

TOTAL P.02

Legend

Archaeological Sensitive Areas

-  Priority 1
-  Priority 2
-  Surveyed
-  Vicott
-  Lee County



Archaeological Sensitivity areas were acquired from the Lee County Appraiser's GIS Department on 12/18/05.

Boylan Environmental Consultants, Inc.
With a focus on the environment, we provide the best solutions for your business.

11000 Metro Parkway, Suite 4
 Fort Myers, FL 33966
 Office: (239)418-0671
 Fax: (239)418-0672

VICOTT, INC.

ARCHEOLOGICAL SENSITIVITY MAP

Designed by	Date	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		

2005-00001

**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.

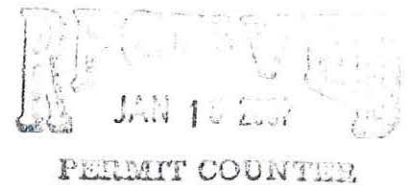
Archaeological Sites: There are no known archaeological sites on the subject parcel.

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.

CPA 2005-00001

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

CPA 2005-00001

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)

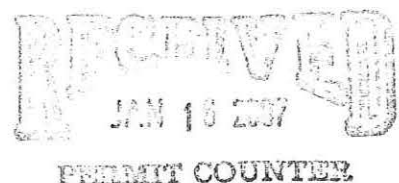
OBJECTIVE 2.2: DEVELOPMENT TIMING. Direct new growth to those portions of the Future Urban areas where adequate public facilities exist and where compact and contiguous development patterns can be created.

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.

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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

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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.

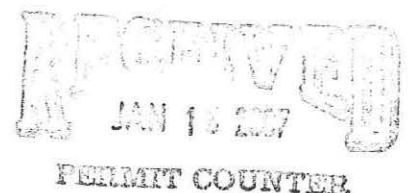
The proposed commercial planned development will be located on a 7.67+/- acre parcel of land near existing commercial and commercial planned developments having access to Summerlin Road.

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.

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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.

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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

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PERMIT COUNTY

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.

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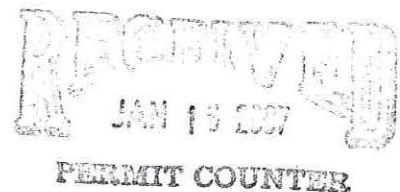


Table 1(b)
Planning Community Year 2020 Allocations

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

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LEE COUNTY
JAN 19 2007

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

PERMIT COUNTER

**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.

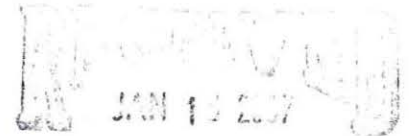
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3. Request involving lands in critical areas for future water supply must be evaluated based on policy 2.4.2.

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 form 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.



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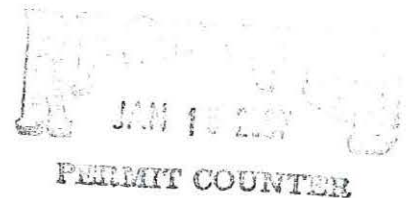
VICOTT, INC.
SMALL SCALE COMPREHENSIVE PLAN AMENDMENT
AMENDMENT SUPPORT DOCUMENTATION

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.*



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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*

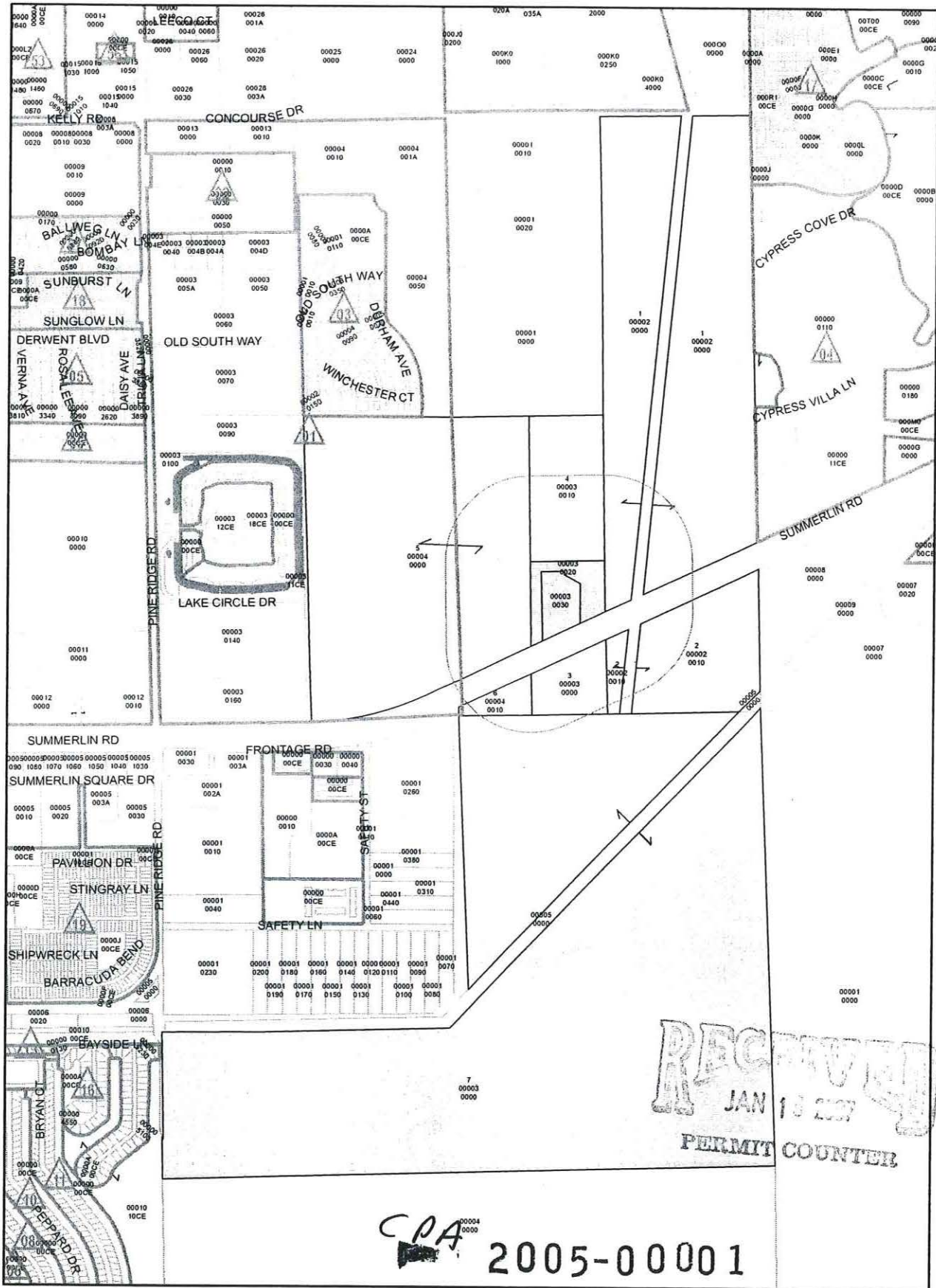
PERMIT COUNTER

SPA 2005-00001

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	05-46-24-00-00002.0000 ACCESS UNDETERMINED FORT MYERS FL 33908	E 1/2 OF E 1/2 LESS PARL S OF SR 869	1
STATE OF FLORIDA DEPT OF ENVIR PROTECTION 900 COMMONWEALTH BLVD ALLAHASSEE FL 32399	05-46-24-00-00002.0010 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
EATTER TAD M 3731 FERN TRAIL DR NORTH FORT MYERS FL 33903	05-46-24-00-00003.0000 ACCESS UNDETERMINED FORT MYERS FL 33908	E 1/2 OF SW 1/4 OF SE 1/4 S OF CR 869	3
UNSET FALLS LLC 045 NW 155TH ST MIAMI LAKES FL 33016	05-46-24-00-00003.0010 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	05-46-24-00-00004.0000 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
STATE OF FLORIDA DEPT OF ENVIR PROTECTION 900 COMMONWEALTH BLVD ALLAHASSEE FL 32399	05-46-24-00-00004.0010 ACCESS UNDETERMINED FORT MYERS FL 33908	W 1/2 OF W 1/2 OF SE 1/4 LYING S OF SR 869	6
ITF/CAMA DEPT OF ENVIR PROTECTION 900 COMMONWEALTH BLVD ALLAHASSEE FL 32399	08-46-24-00-00003.0000 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



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

CPA 2005-00001

05-46-24-00-00002.0000
LEE COUNTY
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05-46-24-00-00004.0000
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08-46-24-00-00003.0000
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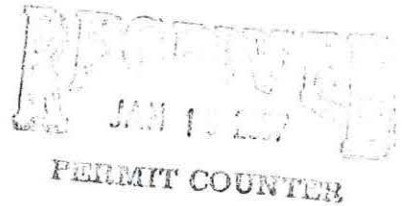
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05-46-24-00-00004.0010
TIITF STATE OF FLORIDA
DEPT OF ENVIR PROTECTION
3900 COMMONWEALTH BLVD
TALLAHASSEE, FL 32399

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. 155th 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 10950 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

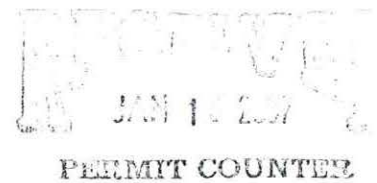
WHEREAS, in the Contract, the parties agreed to certain development restrictions and use restrictions with regard to the Property.

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.

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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

RECEIVED
JAN 11 2005
PERMIT COUNTY

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:

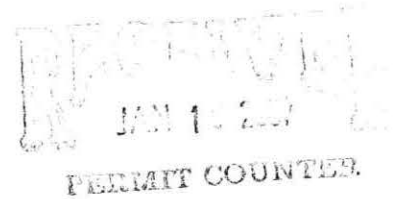
Sunset Falls, L.L.C.
Attn: Eddy Garcia
8045 N.W. 155th St.
Miami Lakes, FL 33016
Phone: (305) 828-0103
Fax: (305) 828-0147

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:

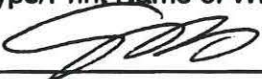
SUNSET FALLS, LLC,
a Florida limited liability company



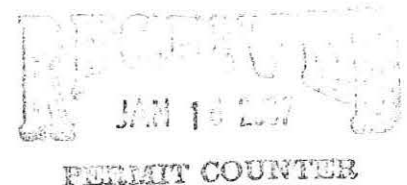
Witness
Thomas H. Gunderson
(Type/Print Name of Witness)

By: 


Eddy Garcia, Manager



Witness
Eric M. Bong
(Type/Print Name of Witness)

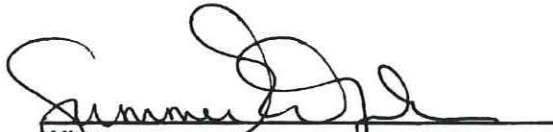


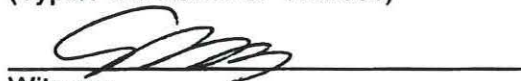

Witness **Summer M.O. Johnson**
(Type/Print Name of Witness)


Witness **Eric M. Borgia**
(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. Borgia**
(Type/Print Name of Witness)

SUMMERLIN INVESTMENT, LLC,
a Florida limited liability company

By: 
A. Rudolph Maul, Manager



PRELIFT COUNTER

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. Gustafson
MY COMMISSION # 000934 EXPIRES
March 24, 2008
Bonded Thru Troy Farn 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 MO 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. _____



PERMIT COUNTER

#1409665v3

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.

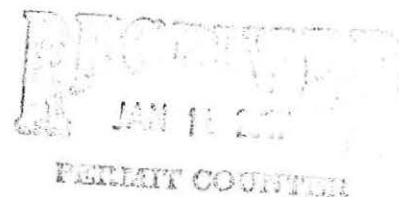
PARCEL CONTAINS 169455 SQUARE FEET OR 3.89 ACRES, MORE OR LESS.

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

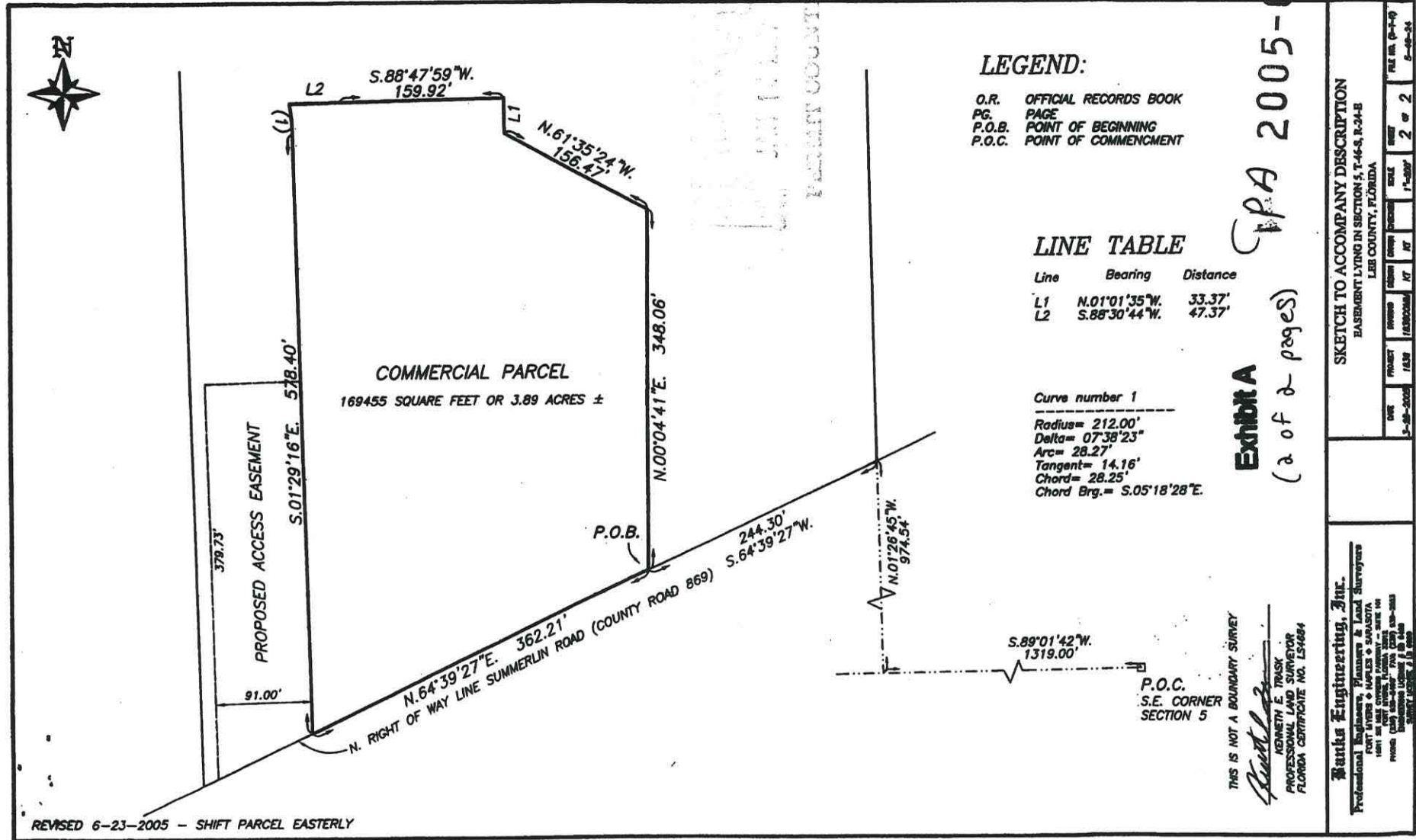

KENNETH E. TRASK
PROFESSIONAL LAND SURVEYOR
FLORIDA LICENSE NO. LS4684



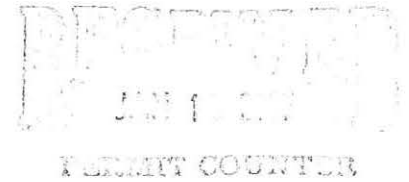
SHEET 1 OF 2

Exhibit A
(1 of 2 pages)

C/PA 2005-00001



Prepared By:
Eric M. Borgia, Esq.
P. O. Box 280
Fort Myers, FL 33902-0280



GRANT OF ACCESS EASEMENT

April THIS GRANT OF EASEMENT, is made and entered into this 5 day of
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.

PA 2005-00001

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

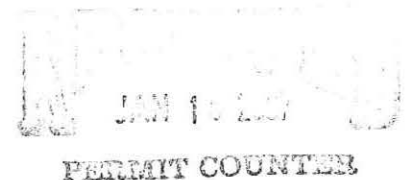
[Signature]
Witness

Thomas H. Gunderson
Print/Type Name of Witness

[Signature]
Witness

Eric M. Burgin
Print/Type Name of Witness

By [Signature]
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:

[Signature]
Notary Public

Type/Print Name of Notary
Commission No. _____



Thomas H. Gunderson
MY COMMISSION # DD298549 EXPIRES
March 24, 2008
BONDED THRU TROY FAIR INSURANCE, INC.

CPA 2005-00001

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

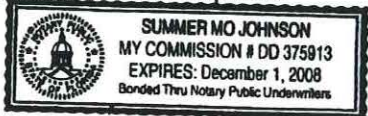
By: 

A. Rudolph Maul, President

STATE OF FLORIDA
COUNTY OF LEE

April The foregoing instrument was acknowledged before me this 5th day of
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:




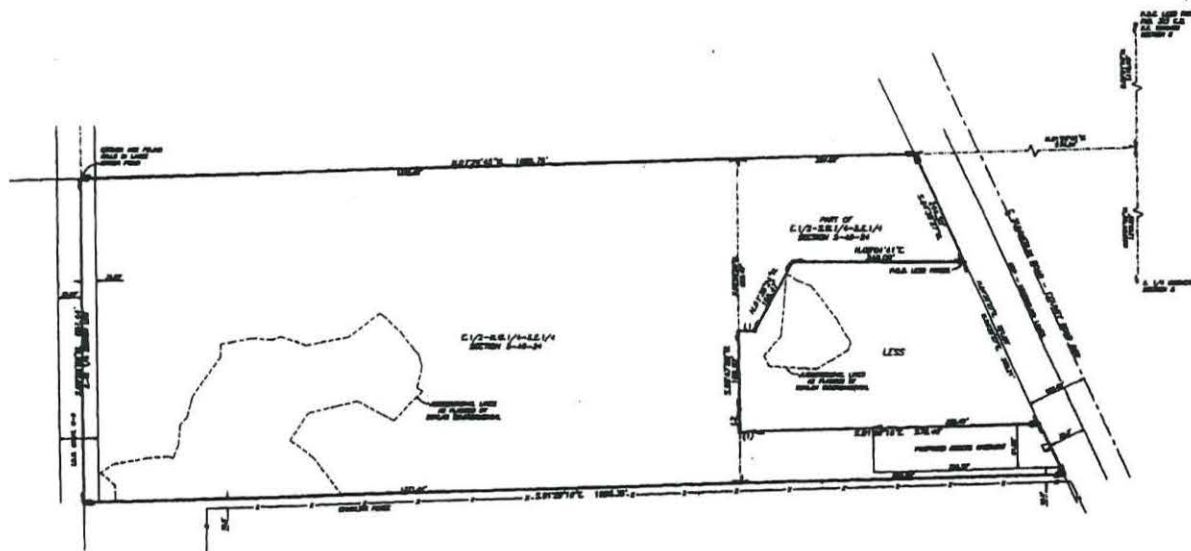


Notary Public
Summer M.O. Johnson

Type/Print Name of Notary
Commission No. _____

#1409793v.3


JAN 13 2007
PERMIT COUNTER



A PARCEL OF LAND LYING IN
SECTION 8, TOWNSHIP 46 SOUTH, RANGE 24 EAST,
LEF COUNTY, FLORIDA

DESCRIPTION:

THE FIRST PART HEREIN IS THE RELEASE COMPANY CONTRACT FILE NO. 0000-0000, DATED SEPTEMBER 22, 2000 AT 0000:00.

DATE RECD: MAR 27 1971 BY: [illegible]

[illegible]

NOTES:

[illegible]

SIGNATURE CERTIFICATION

[illegible]

2007年12月15日

- [illegible]

CERTIFICATIONS

DO NOT TYPE IN THESE SPACES

1	1-2-80	ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED
2	1-2-80	DATE 1-2-80 BY SP-5 JAC/STP
3	1-2-80	EX-100-100000-100000
4	1-2-80	ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED
5	1-2-80	DATE 1-2-80 BY SP-5 JAC/STP

Banks Engineering, Inc.
 10000 1st Avenue, Suite 100, San Diego, CA 92123
 (619) 591-1111

BOUNDARY SURVEY
PREPARED FOR
EN DEVELOPMENT GROUP CORP.

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.

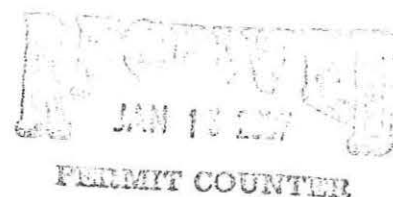
PARCEL CONTAINS 169455 SQUARE FEET OR 3.89 ACRES, MORE OR LESS.

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)

CRA 2005-00001

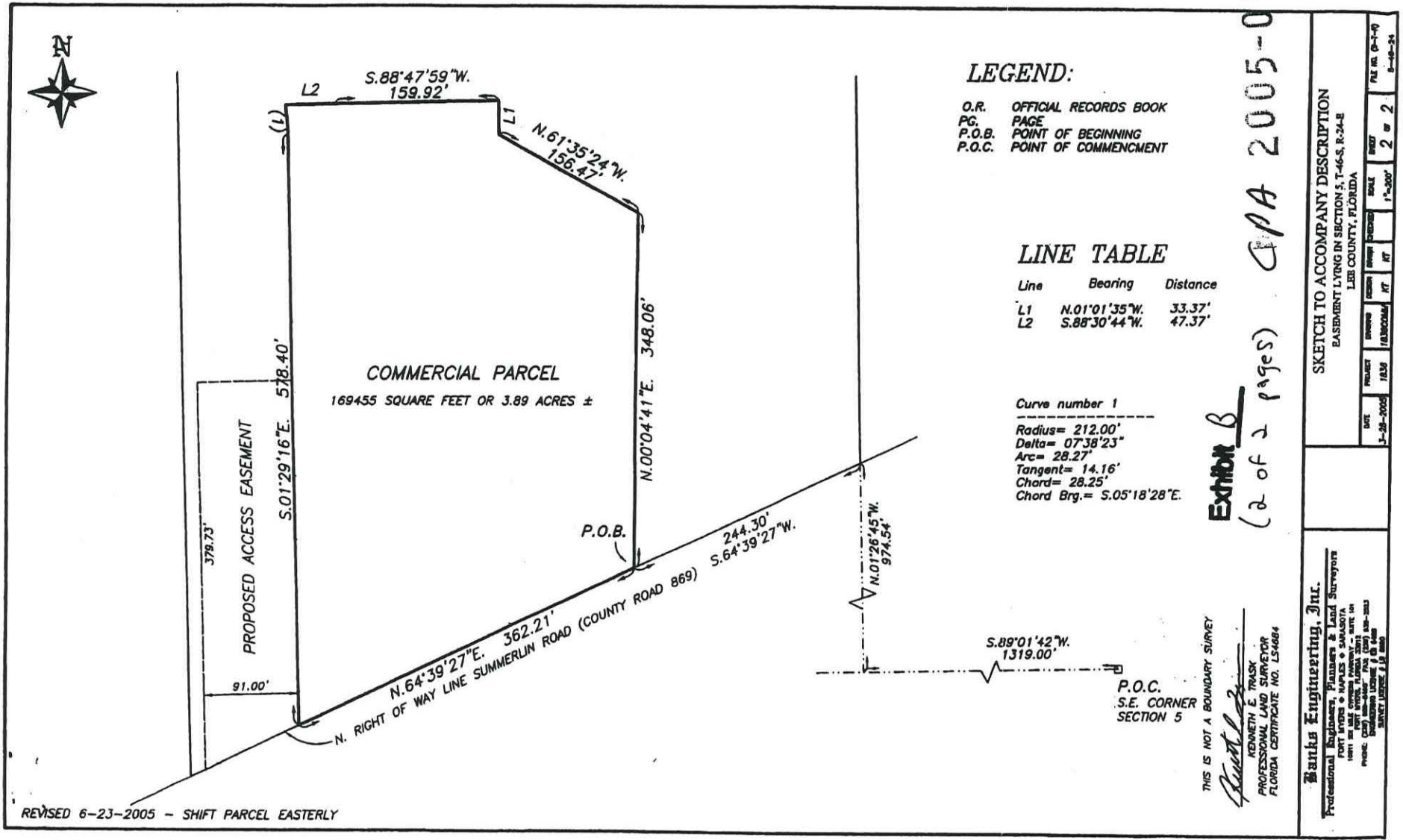


Exhibit B
(2 of 2 pages) CPA 2005-00001

REVISED 6-23-2005 - SHIFT PARCEL EASTERLY

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.

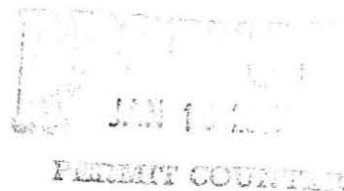
PARCEL CONTAINS 32725 SQUARE FEET OR 0.75 ACRES, MORE OR LESS.

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



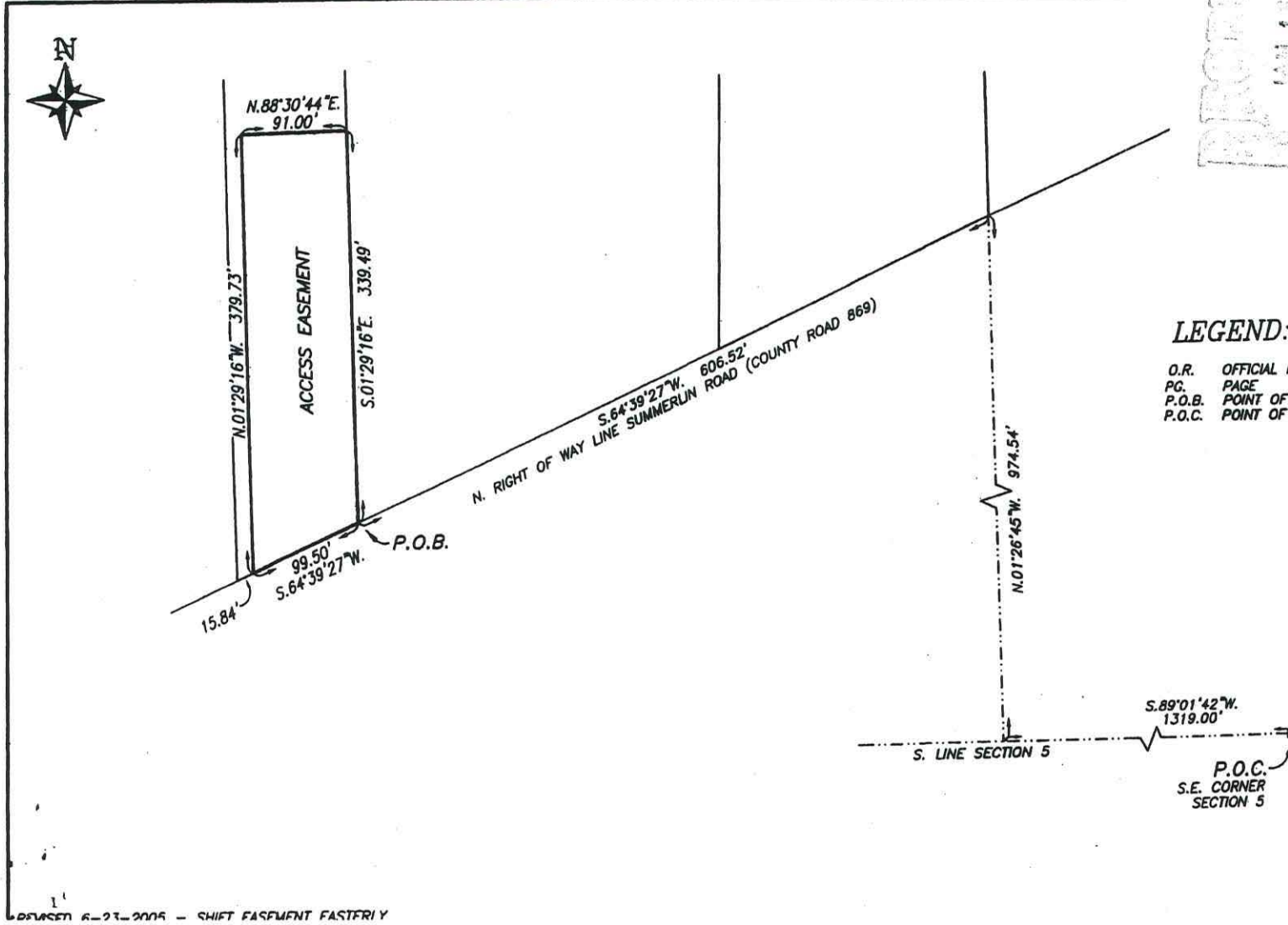
SHEET 1 OF 2

Exhibit C

(1 of 2 pages)

CPA

2005-00001



LEGEND:

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

THIS IS NOT A BOUNDARY SURVEY

Robert E. Trask
 ROBERT E. TRASK
 PROFESSIONAL LAND SURVEYOR
 FLORIDA CERTIFICATE NO. 154684

Exhibit C
 (2 of 2 pages)

Banks Engineering, Inc.
 Professional Engineers, Planners & Land Surveyors
 1001 W. 10th St. Suite 100
 Fort Worth, Texas 76102
 PHONE: (817) 338-1111 FAX: (817) 338-1112
 WWW: WWW.BANKSENG.COM

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

DATE	PROJECT	SCALE	BY	CHKD	DATE
3-29-2006	1438	AS SHOWN	RT	RT	2 of 2
FILE NO. 8-4-03					8-40-04

RECORDED
 JAN 18 2007

HERMIT COUNTY

CPA 2005-00001

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



CPA 2005-00001

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

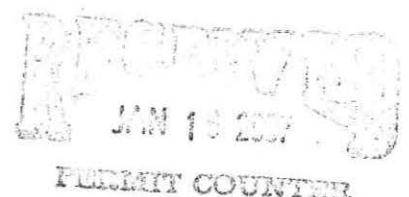
WHEREAS, on November 17, 1993, the Board of County Commissioners adopted Resolution No. 93-11-112 Summerlin Road as a controlled access facility from Boy Scout Road southeast to McGregor Boulevard, and establishing permanent access points; and

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

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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

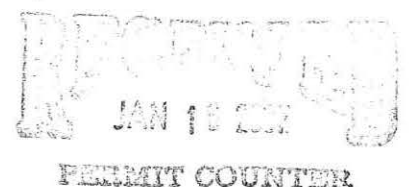
WHEREAS, the Lee County Department of Transportation, has concluded that, the relocation of the designated connection point will not hinder traffic capacity nor be contrary to the protection of the health, safety and welfare of the citizens of Lee County.

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.

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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



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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 # _ _ - _ _

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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

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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.

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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:

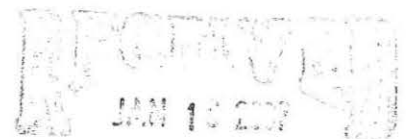
Basin B1 - 9.20 feet NGVD.
Basin B3 - 9.20 feet NGVD.
13. Minimum road crown elevation:

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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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:

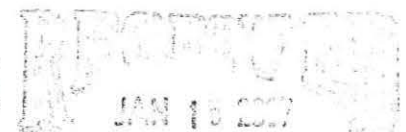
A) All mitigation areas:

- 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.

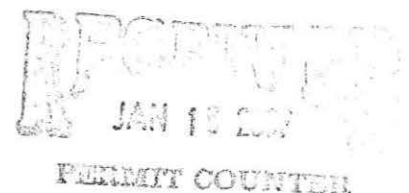
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C) Wetlands:

- 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.

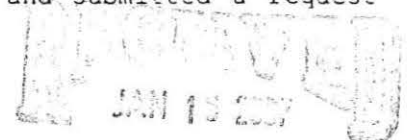
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GENERAL CONDITIONS

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

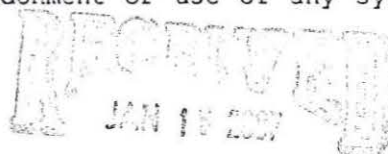
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for conversion of Environmental Resource Permit from Construction Phase to Operation Phase, Form No. 0920; the District determines the system to be in compliance with the permitted plans and specifications; and the entity approved by the District in 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.

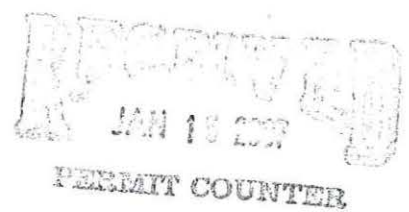
8. Each phase or independent portion of the permitted system must be completed in accordance with the permitted plans and permit conditions prior to the initiation of the permitted use of site infrastructure located within the area served by that portion or phase of the system. Each phase or independent 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

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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.



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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.

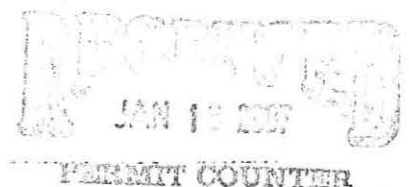
(6) Permit modifications issued pursuant to subsection 40E-4.331(2)(b), F.A.C. (letter modifications) do not extend the duration of a permit.

(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

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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

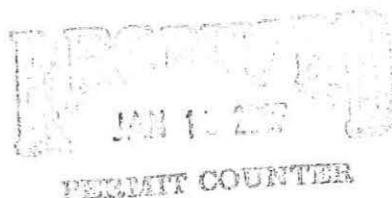
WHEREAS, the Grantor desires to construct Sunset Falls ("Project") at a site in Lee County, which is subject to the regulatory jurisdiction of South Florida Water Management District ("District"); and

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.



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 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;

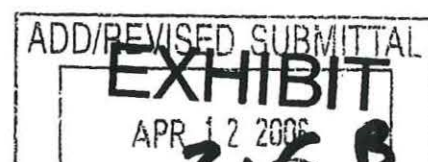
d. Excavation, dredging, or removal of loam, peat, gravel, soil, rock, or other material substance in such manner as to affect the surface;

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;

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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.

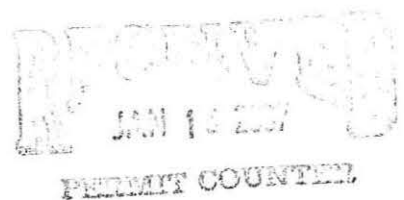
14. Modifications. This Conservation Easement may be amended, altered, released or revoked only by written agreement between the parties hereto or their heirs, assigns or successors-in-interest, which shall be filed in the public records in Lee County.

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.

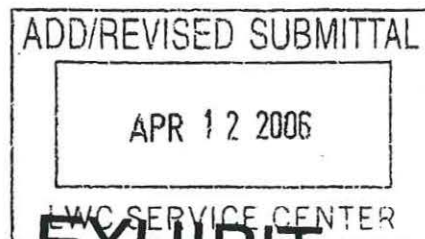
Grantor hereby covenants with said Grantee that Grantor is lawfully seized of said Property in fee simple; that the Property is free and clear of all encumbrances that are inconsistent with the terms of this Conservation Easement; and all mortgages and liens have been subordinated to this Conservation 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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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: Manuel 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.

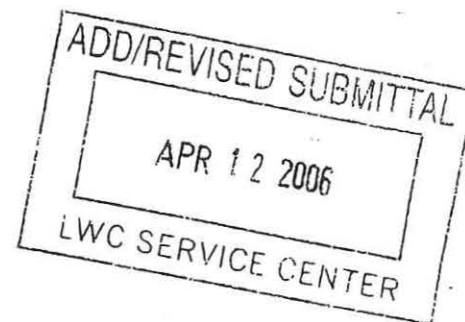
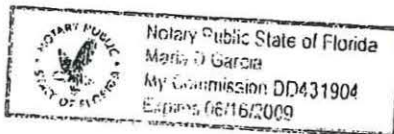
IN WITNESS WHEREOF, I hereunto set my hand and official seal.

NOTARY PUBLIC, STATE OF FLORIDA

[Signature]

Print Name: Maria D. Garcia

My Commission Expires: 6/16/09



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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: _____



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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: _____



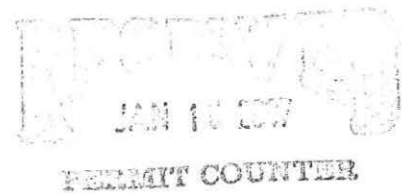
C PA 2005-00001

EXHIBIT

3-69

EXHIBIT "A"

[DESCRIPTION OF PROPERTY]



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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

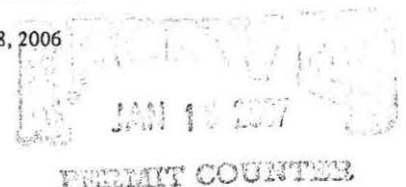
BEARINGS ARE BASED ON THE EAST WEST QUARTER SECTION LINE OF SECTION 5 AS BEARING S 88°55'06"W.

BANKS ENGINEERING,
FLORIDA LICENSED BUSINESS NO. LB6690

JANUARY 18, 2006

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

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EXHIBIT

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

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

PROJECT COUNTER

CPA 2005-00001

EXHIBIT

3.65

THIS IS NOT A BOUNDARY SURVEY

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

TABLE

VE	RADIUS	ARC	CHORD	CHORD BEARING	DELTA ANGLE
	940.00'	1424.22'	1291.85'	N 09°21'26" W	86°48'37"

Wanka Engineering

Civil Engineers, Planners & Land Surveyors
11 MYERS • NAPLES • SARASOTA • PORT CHARLOTTE
10511 SW MILE CYPRESS PARKWAY - SUITE 101
FORT MYERS, FLORIDA 33919
PHONE: (239) 938-3480 FAX: (239) 938-3523
ENGINEERING LICENSE # 68 6489
SURVEY LICENSE # 18 6489

DATE	PROJECT	DRAWING	DESIGN	DRAWN	CHECKED	SCALE	SHEET	FILE NO.
01-18-06	1836	1836-0000- CONSERVATION	BC	RT	RT	1"=100'	3 OF 3	5-46-24