

Lee County, Florida
DEPARTMENT OF COMMUNITY DEVELOPMENT
ZONING SECTION
STAFF REPORT

CASE NUMBER: DCI2023-00050
CASE NAME: DIPLOMAT HOUSE F/K/A DIPLOMAT RPD AMENDMENT
TYPE OF CASE: MAJOR PLANNED DEVELOPMENT AMENDMENT
HEARING EXAMINER DATE: JUNE 26, 2024
SUFFICIENCY DATE: MAY 14, 2024

REQUEST:

An application has been submitted by Stacy Ellis Hewitt, AICP of Atwell, LLC on behalf of Diplomat Fort Myers, LLC for an amendment to the Diplomat North RPD/CPD (Resolution Z-11-002, as amended) to replace the previously approved entitlement of 238 dwelling units (or 138 dwelling units and 400 assisted living facility units) and 50,000 square feet of commercial square footage with a maximum height of 50 feet, with a maximum entitlement of 360 multi-family dwelling units with amenities with a maximum height of 60 feet within the Mixed Use Overlay.

The subject property is located on the north side of Diplomat Parkway East, approximately 0.3 miles west of the intersection with North Cleveland Avenue (US 41), Lee County, FL. (District #4). The STRAP Number for the property is 34-43-24-00-00001.3030 and a Legal Description can be found in Attachment R.

SUMMARY:

Staff recommends APPROVAL of the applicant's request, with the Conditions found in Attachment C. These conditions carry forward the conditions and deviations of prior approvals except as noted in this report. There are two additional deviations from required building separation and backout parking limitations within internal rights-of-way. Staff recommends approval of these deviations, with conditions.

HISTORY OF PARCEL:

The subject property is part of the 65-acre Diplomat Property RPD/CPD, which exists on both sides of Diplomat Parkway. This planned development was approved by Resolution Z-06-004 to allow a maximum of 400,000 square feet of commercial intensity, including a maximum of 100,000 square feet of retail uses, and up to 120 hotel rooms. It should be noted that a condition was approved to allow the required indigenous preservation to be located on the property south of Diplomat Parkway.

ADD2007-00169 then amended the planned development to revise the property development regulations for townhouses and approved a deviation to allow the use of garbage toters instead of a dumpster.

Resolution Z-11-002 then amended the planned development to allow a maximum of 400 assisted living facility beds and 138 dwelling units. This approval also established a northern Commercial Planned Development (CPD) boundary within the larger planned development, which allowed for a

maximum development intensity of 50,000 square feet of commercial uses (Attachment J). This approval was subsequently amended by the following zoning actions:

- ADD2019-00085 approved a clarification to Condition 1 of Resolution Z-11-002 to allow the residential development without the approved commercial component pursuant to the approved development plan of ADD2007-00169 (Attachment K).
- ADD2019-00181 approved an alternate Master Concept Plan to show a development plan for single-family, duplex, and two-family attached townhomes with a maximum height of 35 feet on property south of Diplomat Parkway (Attachment L).
- ADD2020-00034 approved removal of references to site location standards and amended the schedule of uses to allow a conversion ratio for commercial intensity to be converted to residential density for up to 116 dwelling units (Attachment M).

The applicant previously sought this development plan through a conventional rezoning, variance, and administrative relief process, but ultimately withdrew that request and pursued the request through this application.

CHARACTER OF THE AREA:

The subject property is located to the west of North Cleveland Avenue, a State-maintained Arterial Road, and north of Diplomat Parkway East, a City-maintained Road. The subject property is part of an overall Residential Planned Development/Commercial Planned Development (RPD/CPD) that exists on the north and south sides of Diplomat Parkway East. The surrounding development pattern is heavily settled within the North Fort Myers Community Plan Area and includes a mix of commercial and residential uses. The subject property is also located in the Mixed-Use Overlay as described in Lee Plan Objective 11.2. The following zoning districts and land use categories surround the subject property:

North

Property to the north is zoned Mobile Home Residential District (MH-2) and is in the Central Urban future land use category. This is developed with a mobile home park named Serendipity Mobile Home Village.

West:

Property to the west is zoned Mobile Home Residential District (MH-2) and is in the Central Urban future land use category. This land is developed with a mobile home subdivision named Six Lakes Country Club Mobile Home Park.

South:

Properties to the south are within the same planned development and are currently vacant. These properties are in the Central Urban future land use category and the Mixed-Use Overlay and are zoned Residential Planned Development (RPD) and Commercial Planned Development (CPD).

East:

Property to the east is zoned Residential Planned Development (RPD) approved by Resolution Z-23-003 (Attachment N). This resolution rezoned property from Commercial (C-1A) and Commercial Planned Development (CPD) to Residential Planned Development (RPD) to allow up to 285 multiple-family dwelling units. This property is currently being reviewed for a development order (DOS2022-00141) but is currently undeveloped.

ANALYSIS

This request is to amend a 38.13± acre northern tract of the Diplomat North RPD/CPD approved by Resolution Z-11-002, as amended to replace 238 dwelling units (or 138 dwelling units and 400 assisted living facility units) and 50,000 SF of commercial with a maximum height of 50 feet; with a maximum of 360 multi-family dwelling units with amenities with a maximum height of 60 feet. The 38.13-acre parcel has approximately 29.75 acres designated as Residential Planned Development (RPD) and 5.43 acres as Commercial Planned Development (CPD). The applicant seeks to derive density from an additional two commercial tracts (designated as Future Commercial Development Parcel 1 and 2 on the Master Concept Plan) which adds an additional 2.95 acres to the density calculation. Upon completion of development of the north commercial tract with residential uses, there will be four remaining commercial tracts within the development.

If approved, the maximum development parameters for this planned development will be 360 dwelling units for the northern residential tract, 105 dwelling units (with an additional 21 units of market-rate housing) for the southern residential tract, and a maximum of 200,000 square feet of commercial intensity on the remaining commercial tracts.

Planned Development Amendment:

Section 34-612 of the Lee County Land Development Code describes the intent of the utilization of the Planned Development zoning district. The purpose of planned development zoning is to further implement the goals, objectives, and policies of the Lee Plan, while providing some degree of flexibility in the planning and design of proposed developments.

LDC Section 34-145(d) establishes the review criteria for all rezoning requests. Before recommending approval of a rezoning request, the Hearing Examiner must find the request:

- a) Complies with the Lee Plan;
- b) Meets the Land Development Code and other applicable County regulations or qualifies for deviations;
- c) Is compatible with existing and planned uses in the surrounding area;
- d) Will provide access sufficient to support the proposed development intensity;
- e) The expected impacts on transportation facilities will be addressed by existing County regulations and conditions of approval;
- f) Will not adversely affect environmentally critical or sensitive areas and natural resources; and
- g) Will be served by urban services, defined in the Lee Plan, if located in a Future Urban Area category.

For Planned Development rezoning requests, the Hearing Examiner must also find:

- a) The proposed use or mix of uses is appropriate at the proposed location;

- b) The recommended conditions provide sufficient safeguards to the public interest and are reasonably related to the impacts on the public's interest expected from the proposed development; and
- c) That each requested deviation:
 - 1) Enhances the achievement of the objectives of the planned development; and
 - 2) Preserves and promotes the general intent of this Code to protect the public health, safety and welfare.

Section 34-380(a) of the Lee County Land Development Code states that amendments to the Master Concept Plan or its attendant documentation may be requested at any time during the useful life of the Planned Development.

Master Concept Plan:

The applicant has provided a three-page Master Concept Plan which incorporates previous zoning amendments into the approved master concept plan and provides two development alternatives for the north residential tract (Attachment D). The plan also depicts designated preserve areas, deviation locations, access points and development tracts.

Development Pattern Considerations:

Much of the subject property is in the Central Urban future land use category as described in Lee Policy 1.1.3, which describes these areas as the 'urban core' of the county. Areas designated as Central Urban allow for standard densities from four dwelling units per acre to ten units per acre as well as a mix of commercial, public and semi-public, and limited light industrial land uses. The request proposes residential development that maximizes the proposed density while continuing to consider many commercial uses. Staff finds the proposed request consistent with Lee Plan Policy 1.1.3.

Objectives 2.1 and 2.2 of the Lee Plan intend to direct new growth to future urban areas in compact and contiguous growth patterns where adequate public facilities exist. The subject property is located near an arterial corridor where urban services exist. The applicant has provided letters of water and wastewater availability (Attachment O) as well as a Traffic Impact Statement (Attachment H) to demonstrate that the surrounding roadway system can support the proposed uses. Staff finds the rezoning request, as conditioned, consistent with Objective 2.1, Objective 2.2, and Policy 2.2.1.

Policy 5.1.2 prohibits residential development where natural physical constraints or hazards exist, including hurricane and flood hazards, soil or geologic conditions, environmental limitations, or aircraft noise. The subject property is not located in a Coastal High Hazard Area but a small portion on the west side of the development is in floodway. the subject property is located in Flood Insurance Rate Map (FIRM) Zone AE-EL15.1. Regardless of the lack of physical constraints evident on the subject property, the applicant will be required to meet the requirements of Chapter 2, Article XI of the Land Development Code regarding hurricane preparedness and mitigation at the time of application for a local development order. This includes the determination of necessary hurricane sheltering, and mitigation of impacts to state evacuation times for residential development. Staff finds the request, as conditioned, consistent with Policy 5.1.2.

Policy 5.1.5 of the Lee Plan intends to protect the existing and future residential areas from any encroachment of uses that are potentially destructive to the character and integrity of existing and planned residential uses. The proposed use is residential, and conditions from previous zoning approvals are proposed to remain to ensure compatibility with existing and planned residential uses

to the north, east, and west. Within the planned development itself, residential and non-residential uses are proposed to be located in separate tracts, which will continue to provide a mix of commercial and residential uses within the development in a way that is compatible with both internal and neighboring residential uses. Staff finds the request, as conditioned, consistent with Policy 5.1.5.

Policy 6.1.1 of the Lee Plan requires that applications with proposed commercial uses to reviewed for traffic and access impacts, incorporate landscaping and detailed site planning, screening, and buffering, ensure availability of services and facilities, minimize impacts on adjacent uses, be located in proximity to other similar centers, and properly mitigate environmental impacts. The applicant has provided the requisite information for a review of these factors. Staff finds the planned development rezoning request consistent with Policy 6.1.1.

Policy 6.1.4 of the Lee Plan requires that commercial uses be approved only when compatible with adjacent existing and proposed land uses as well as existing and programmed services and facilities. There are sufficient programmed services and facilities to accommodate the proposed development as later described in this report and commercial uses are sufficiently conditioned to be compatible with surrounding residential uses. Staff finds this request consistent with Policy 6.1.4.

Policy 6.1.6 of the Lee Plan requires commercial development to provide adequate and appropriate landscaping, open space, and buffering. The applicant has demonstrated compliance with the landscaping, open space, and buffering requirements of the LDC. Staff finds the request, as conditioned, consistent with Policy 6.1.6.

Policy 6.1.7 of the Lee Plan prohibits commercial developments from locating in a way that opens new areas to premature, scattered, or strip development. The subject property is located in an area that is heavily settled within the North Fort Myers Community Plan Area. Prior zoning approvals included entitlements for commercial uses, and the subject request will continue to do so. This amendment does not open the area to new premature development. Staff finds this planned development rezoning request consistent with Policy 6.1.7.

Goal 11 of the Lee Plan establishes Objectives and Policies to encourage mixed-use development to diversify land use types, facilitate a variety of housing types, and increase connectivity between housing, employment, and retail uses, while reducing vehicle trip lengths and providing greater access to alternative means of transportation. Objective 11.1 allows and encourages mixed use development within future land use categories and at appropriate locations where sufficient infrastructure exists to support the development. The request proposes a mix of uses within a cohesive development that will create new employment opportunities and provide for residential uses where there is sufficient infrastructure for existing and future development. Staff finds this planned development rezoning request consistent with Objective 11.1.

Goal 125 of the Lee Plan establishes objectives and policies to ensure that water quality is maintained or improved for the environment and people of Lee County. Objective 125.1 states that development must maintain high water quality, meeting or exceeding state and federal water quality standards. Policies 125.1.2 and 125.1.3 require new development to not degrade surface and groundwater quality and require the design of drainage systems that minimize nutrient loading and pollution. Staff finds the request, as conditioned, consistent with Goal 125, Objective 125.1, and Policies 125.1.2 and 125.1.3.

Goal 135 of the Lee Plan addresses the necessity to meet housing needs as Lee County grows in population. Policy 135.1.9 states that the county will ensure a mix of residential housing types on a

county-wide basis through the planned development process. This request proposes up to 360 multiple-family dwelling, which assists in meeting the housing needs of the county. Staff finds the request consistent with Goal 135 and Policy 135.1.9.

Goal 158 of the Lee Plan establishes the County's intent to provide a diversified and stable economy by providing a positive business climate and employment opportunities for the residents of Lee County. The request proposes a mix of commercial and residential uses that would facilitate employment in the area that is nearby to compatible non-residential uses consistent with the intent of his Goal. Staff finds the request consistent with Goal 158.

Transportation Considerations:

The applicant has provided a traffic study relative to the proposed planned development amendment (Attachment H). Lee County DOT staff provided an analysis of the traffic study and notes that the request does not significantly impact the surrounding roadway system (Attachment I).

Bicycle and Pedestrian Facilities:

The subject property fronts on Diplomat Parkway East, which is designated as a future bike/pedestrian way on Lee Plan Map 3-D. Currently there are Bicycle facilities on Diplomat Parkway East, but no pedestrian facilities are developed. At the time of development order approval, all new development must comply with the requirements of Chapter 10 of the Land Development Code.

Transit Facilities:

LeeTran Route 595 operates along Diplomat Parkway East. At the time of development order approval, the applicant will be required to comply with the requirements of Chapter 10 of the Land Development Code regarding transit stop improvements.

Urban Services:

The subject property is serviced by the North Fort Myers Fire Station and EMS Station, located approximately 2.6 miles from the property, and a Sheriff's station located approximately 2.7 miles from the property. The proposed development is currently supported by a host of urban services; therefore, the request is consistent with Lee Plan Standards 4.1.1, 4.1.2, and Policy 6.1.1.

Deviation Requests:

The applicant has submitted a revised Schedule of Deviations, carrying forward deviations from previous approvals (Attachment F). The applicant proposes to amend Deviations 7 and 8 to update the language to reflect the subject request; the applicant also seeks approval of two additional deviations. Deviations 7 and 8, as amended in strikethrough/underline format, and the two new deviations are as follows:

7. **Curbside garbage collection for townhouse units and reduction in collection area for multi-family units** - Deviation 7 (previously approved by ADD2007-00169 and subsequent approvals) seeks relief from the LDC §10-261 requirement that all new multiple-family residential developments to provide sufficient space for the placement of garbage containers or receptacles, to allow for curbside garbage pickup at the proposed townhouse units that are planned within the project and to allow a reduction in required multi-family container space

of 216 SF (120 + 96) for first 25 multi-family units plus 8 SF for each additional unit, to allow space for a compactor and a minimum area of 144 square feet for the storage of recyclable materials within the North RPD.

This request is to amend this deviation to allow a reduction in required multi-family container space of 216 SF (120 + 96) for first 25 multi-family units plus 8 SF for each additional unit; to allow space for a compactor and a minimum of 144 square feet for a recyclable materials collection area for the North RPD.

Staff recommends continues to recommend **approval** of this deviation.

8. **Certain internal buffers not required** - Deviation 8 [previously approved by Resolution Z-11-002 and subsequent approvals from LDC §10-416(d)(3)] seeks relief from the LDC §10-416(d)(3) 10-425(f)(1)a requirement that a Type C/F for a five-foot wide buffer along rights-of-way planted with five trees per 100 linear feet between the proposed RPD/CPD uses internal to the development, to allow no buffer between the RPD/CPD uses where the commercial uses are separated from the residential uses within the North RPD project to along internal rights-of-way by a private road.

This request is to amend this deviation to allow no buffers to along internal rights-of-way for the North RPD. Staff continues to recommend **approval** of this deviation.

9. **Backout parking within internal right-of-way** –Deviation 9 seeks relief from the LDC §34-2013(a)(2) requirement that back-out parking into rights-of-way in residential developments must be for amenities to the development such as parks and recreational facilities and not for dwelling units or commercial uses, to allow backout parking spaces for dwelling units and guests limited to the locations shown on the MCP.

The applicant notes that this deviation is to address a specific area interior to the gated portion of the residential development. Staff recommends **approval** of this deviation.

10. **Minimum Building Separation** –Deviation 10 seeks relief from the LDC §34-935(e)(4) requirement to provide a minimum building separation of one-half the sum of the building heights between two buildings, or 20 feet, whichever is greater, to allow a minimum building separation of 20 feet.

Staff recommends **approval** of this deviation.

CONCLUSION:

Based on the analysis provided above, staff offers the following review of the decision-making criteria for the planned development amendment request. Staff finds that the proposed request:

- a) Complies with the Lee Plan;

Based on the analysis above, staff finds that the request is consistent with the Lee Plan. The proposed use and intensity is compatible with existing and proposed uses and meets or exceeds the objectives and policies herein.

- b) Meets this Code and other applicable County regulations or qualifies for deviations;

The applicant seeks modifications to two previously approved deviations and two additional deviations, and staff recommends approval of these deviations. The applicant held the public information session within the North Fort Myers Community Plan area in accordance with LDC Section 33-1532 and provided the requisite public information session summary in accordance with this section (Attachment Q).

- c) Is compatible with existing and planned uses in the surrounding area;

The mix of uses considered within the development has been previously deemed compatible with the surrounding uses and will continue to do so. The request, as conditioned, is consistent with surrounding existing and planned uses.

- d) Will provide access sufficient to support the proposed development intensity;

Access is proposed on Diplomat Parkway, a City-maintained arterial roadway. Staff finds that there will be sufficient access to support the request.

- e) The expected impacts on transportation facilities will be addressed by existing County regulations and conditions of approval;

Staff has reviewed the transportation impacts of the development and has concluded that the request does not significantly impact the roadway network in the area.

- f) Will not adversely affect environmentally critical or sensitive areas and natural resources;

Staff has reviewed the potential environmental impacts and has determined that the request, as conditioned, meets the requirements of the Land Development Code and Lee Plan and sufficiently protects existing environmentally critical areas and natural resources.

- g) Will be served by urban services, defined in the Lee Plan, if located in a Future Urban area category.

Additionally, staff has concluded:

- a) The proposed use or mix of uses is appropriate at the proposed location;

The proposed mix of uses is appropriate at the location.

- b) The recommended conditions provide sufficient safeguards to the public interest and are reasonably related to the impacts on the public's interest expected from the proposed development; and

Staff finds the proposed conditions appropriate for approval and sufficiently address the public's interest expected from the proposed development.

- c) That each requested deviation enhances the achievement of the objectives of the planned development and reserves and promotes the general intent of the Land Development Code to protect the public health, safety and welfare:

Staff recommends approval of the two requested deviations, and staff finds that each deviation request, as conditioned, serves to protect public health, safety, and welfare.

Staff, therefore, recommends approval of this amendment to the Diplomat North RPD/CPD, as conditioned in Attachment C.

ATTACHMENTS:

- A. Expert Witness List
- B. Aerial, Current Zoning, and Future Land Use Maps
- C. Conditions and Deviations
- D. Master Concept Plan
- E. Applicant's Proposed Conditions
- F. Applicant's Schedule of Deviations and Justifications
- G. Applicant's Request Narrative and Lee Plan Consistency
- H. Traffic Impact Statement
- I. Lee County Infrastructure Planning Staff Memorandum
- J. Resolution Z-11-002
- K. ADD2019-00085
- L. ADD2019-00181
- M. ADD2020-00034
- N. Resolution Z-23-003
- O. Water/Sewer Availability Letters
- P. Waiver of Submittal Requirements
- Q. Public Information Session Summary
- R. Legal Description, Sketch and Boundary Survey

ATTACHMENT A

LEE COUNTY STAFF EXPERT WITNESS INFORMATION
PROVIDED PURSUANT TO AC-2-6, SECTION 2.2.b(5)(f)3.

Dirk Danley, AICP, Principal Planner, Zoning, 1500 Monroe Street, Fort Myers, FL 33901

- Previously qualified as an expert witness by the Lee County Hearing Examiner. Current resume is on file with the Hearing Examiner.
- Seeking to be qualified as an expert witness in the Lee County Land Development Code, Lee Plan, zoning, and land use planning.
- Report and documents are submitted with the Staff Report for this case. Additional documents that may be relied upon and used as evidence during the hearing include: the Lee County Land Development Code; the Lee Plan; and documentation submitted by the applicant as part of the subject application.

Elizabeth Workman, Principal Planner, Zoning, 1500 Monroe Street, Fort Myers, FL 33901

- Previously qualified as an expert witness by the Lee County Hearing Examiner. Current resume is on file with the Hearing Examiner.
- Seeking to be qualified as an expert witness in the Lee County Land Development Code, Lee Plan, zoning, and land use planning.
- Report and documents are submitted with the Staff Report for this case. Additional documents that may be relied upon and used as evidence during the hearing include: the Lee County Land Development Code; the Lee Plan; and documentation submitted by the applicant as part of the subject application.

Marcus Evans P.E., Senior Engineer, Development Services, 1500 Monroe Street, Fort Myers, FL 33901

- Previously qualified as an expert witness by the Lee County Hearing Examiner. Current resume is on file with the Hearing Examiner.
- Seeking to be qualified as an expert witness in Traffic Engineering and Transportation Planning.
- Report and documents are submitted with the Staff Report for this case. Additional documents that may be relied upon and used as evidence during the hearing include: the Lee County Land Development Code; the Lee Plan; and documentation submitted by the applicant as part of the subject application.

Brandon Dunn, Planning Manager, Planning, 1500 Monroe Street, Fort Myers, FL 33901

- Previously qualified as an expert witness by the Lee County Hearing Examiner. Current resume is on file with the Hearing Examiner.
- Seeking to be qualified as an expert witness in the Lee Plan and land use planning.
- Report and documents are submitted with the Staff Report for this case. Additional documents that may be relied upon and used as evidence during the hearing include: the Lee County Land Development Code; the Lee Plan; and documentation submitted by the applicant as part of the subject application.

Rebecca Sweigert, Senior Manager, DCD, 1500 Monroe Street, Fort Myers, FL 33901

- Previously qualified as an expert witness by the Lee County Hearing Examiner. Current resume is on file with the Hearing Examiner.
- Seeking to be qualified as an expert witness in the Lee Plan and land use planning.
- Report and documents are submitted with the Staff Report for this case. Additional documents that may be relied upon and used as evidence during the hearing include: the Lee County Land Development Code; the Lee Plan; and documentation submitted by the applicant as part of the subject application.

Nicholas DeFilippo, Senior Environmental Planner, Planning, 1500 Monroe Street, Fort Myers, FL 33901

- Previously qualified as an expert witness by the Lee County Hearing Examiner. Current resume is on file with the Hearing Examiner.
- Seeking to be qualified as an expert witness in the Lee Plan and land use planning.
- Report and documents are submitted with the Staff Report for this case. Additional documents that may be relied upon and used as evidence during the hearing include: the Lee County Land Development Code; the Lee Plan; and documentation submitted by the applicant as part of the subject application.

Phil Gillogly, P.E., Surface Water Manager, Natural Resources, 1500 Monroe Street, Fort Myers, FL 33901

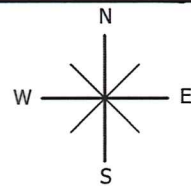
- Previously qualified as an expert witness by the Lee County Hearing Examiner. Current resume is on file with the Hearing Examiner.
- Seeking to be qualified as an expert witness in the Lee Plan and land use planning.
- Report and documents are submitted with the Staff Report for this case. Additional documents that may be relied upon and used as evidence during the hearing include: the Lee County Land Development Code; the Lee Plan; and documentation submitted by the applicant as part of the subject application.

Lee Werst, Natural Resources Supervisor, Natural Resources, 1500 Monroe Street, Fort Myers, FL 33901

- Previously qualified as an expert witness by the Lee County Hearing Examiner. Current resume is on file with the Hearing Examiner.
- Seeking to be qualified as an expert witness in the Lee Plan and land use planning.
- Report and documents are submitted with the Staff Report for this case. Additional documents that may be relied upon and used as evidence during the hearing include: the Lee County Land Development Code; the Lee Plan; and documentation submitted by the applicant as part of the subject application.

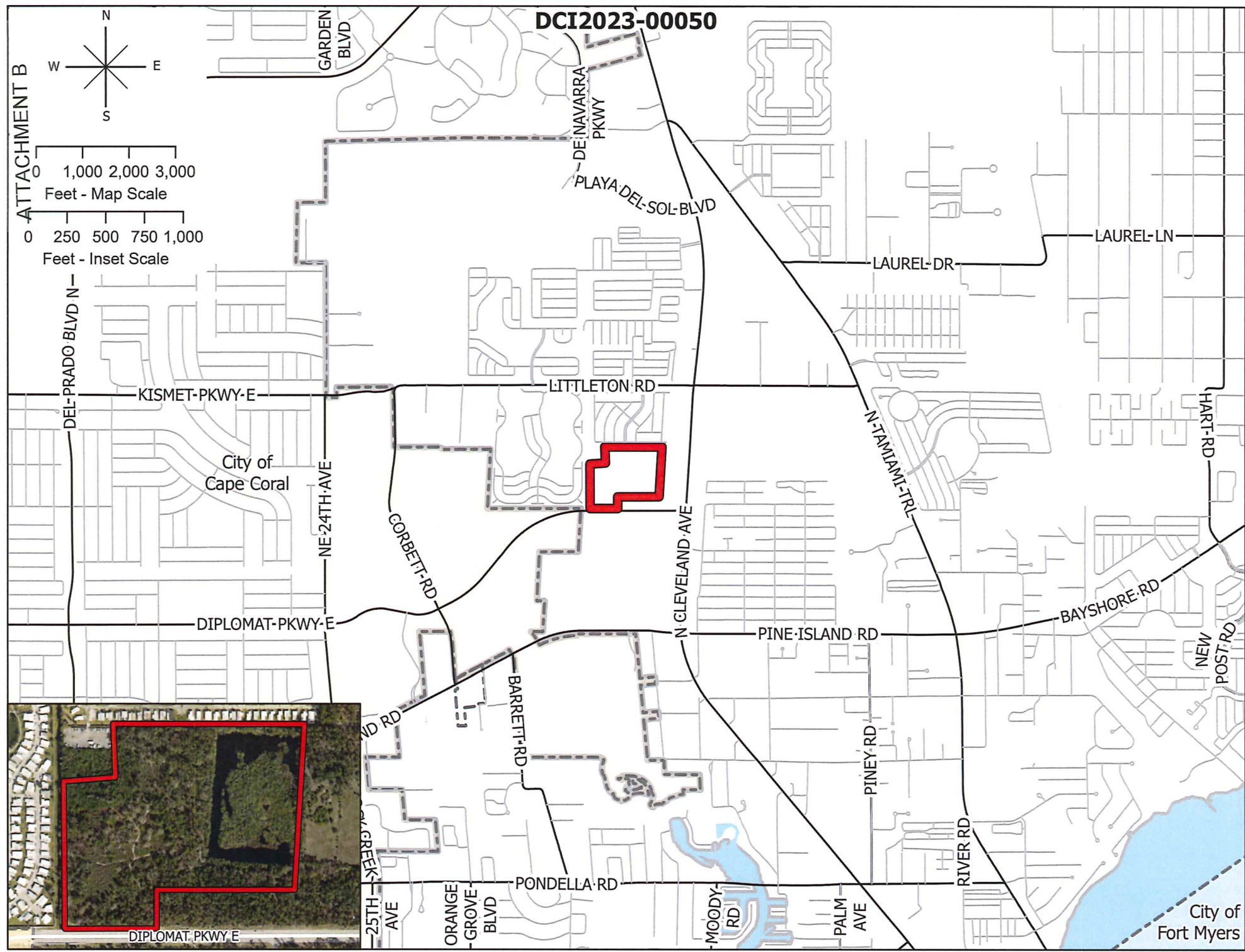
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ATTACHMENT B



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Feet - Map Scale

0 250 500 750 1,000
Feet - Inset Scale

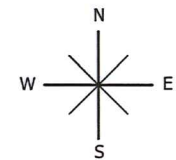


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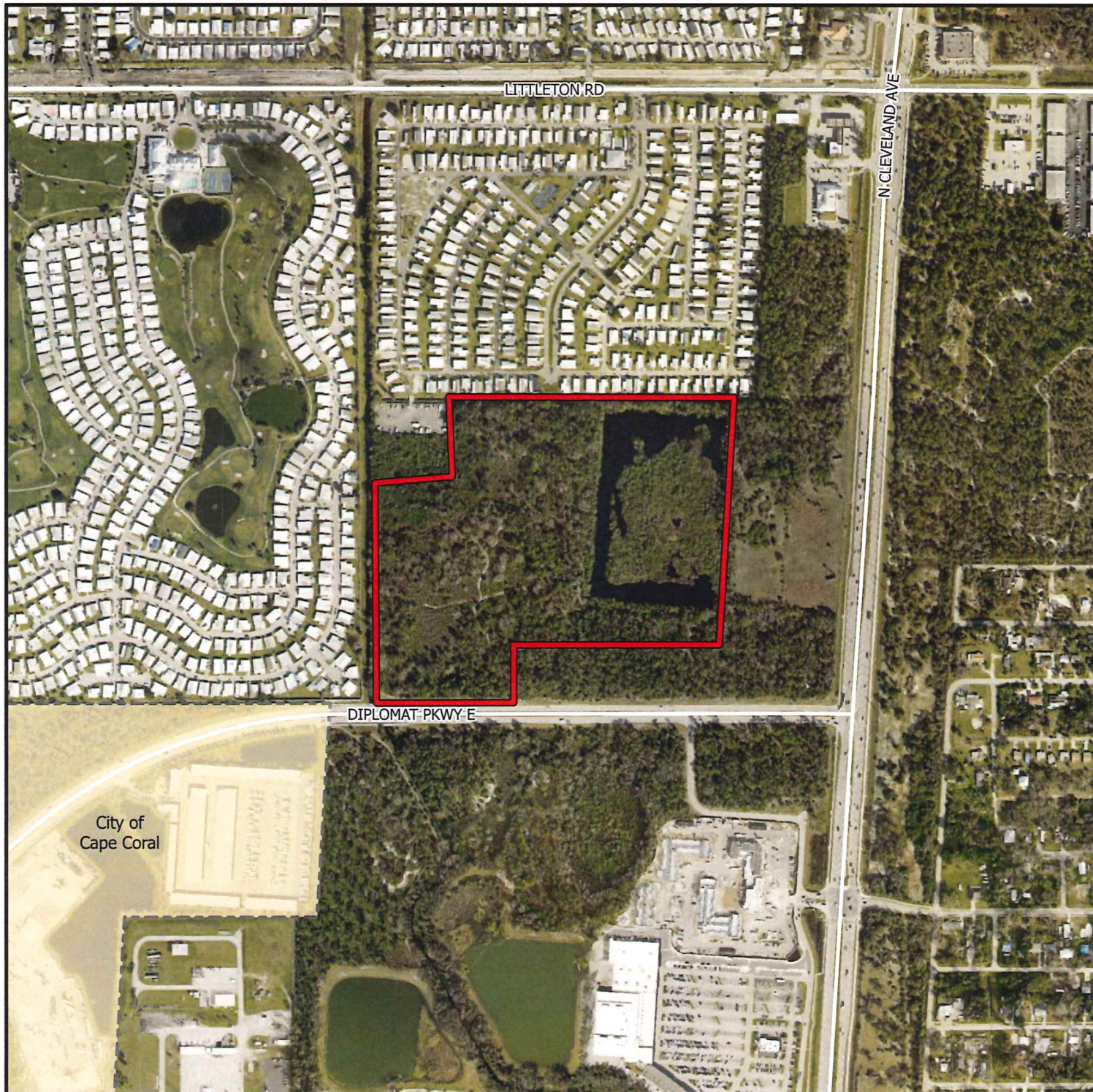
Aerial

 Subject Property

 City Limits



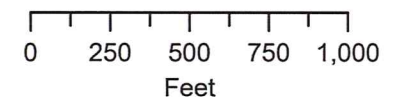
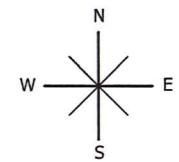
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DCI2023-00050

Future Land Use

-  Subject Property
-  Central Urban
-  Public Facilities
-  City Limits



LITTLETON RD

N CLEVELAND AVE

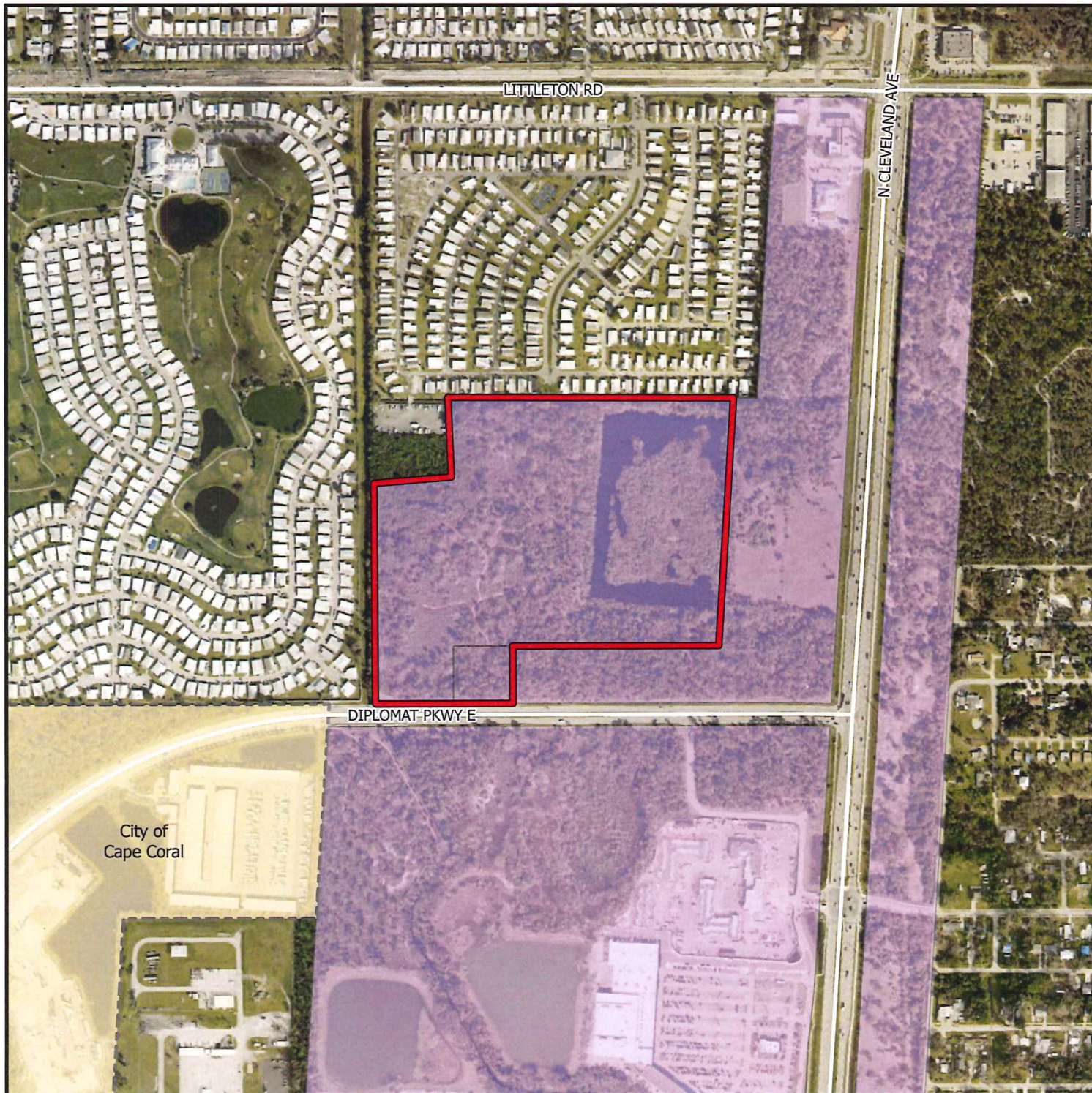
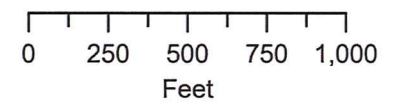
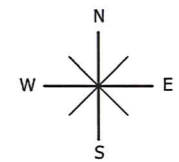
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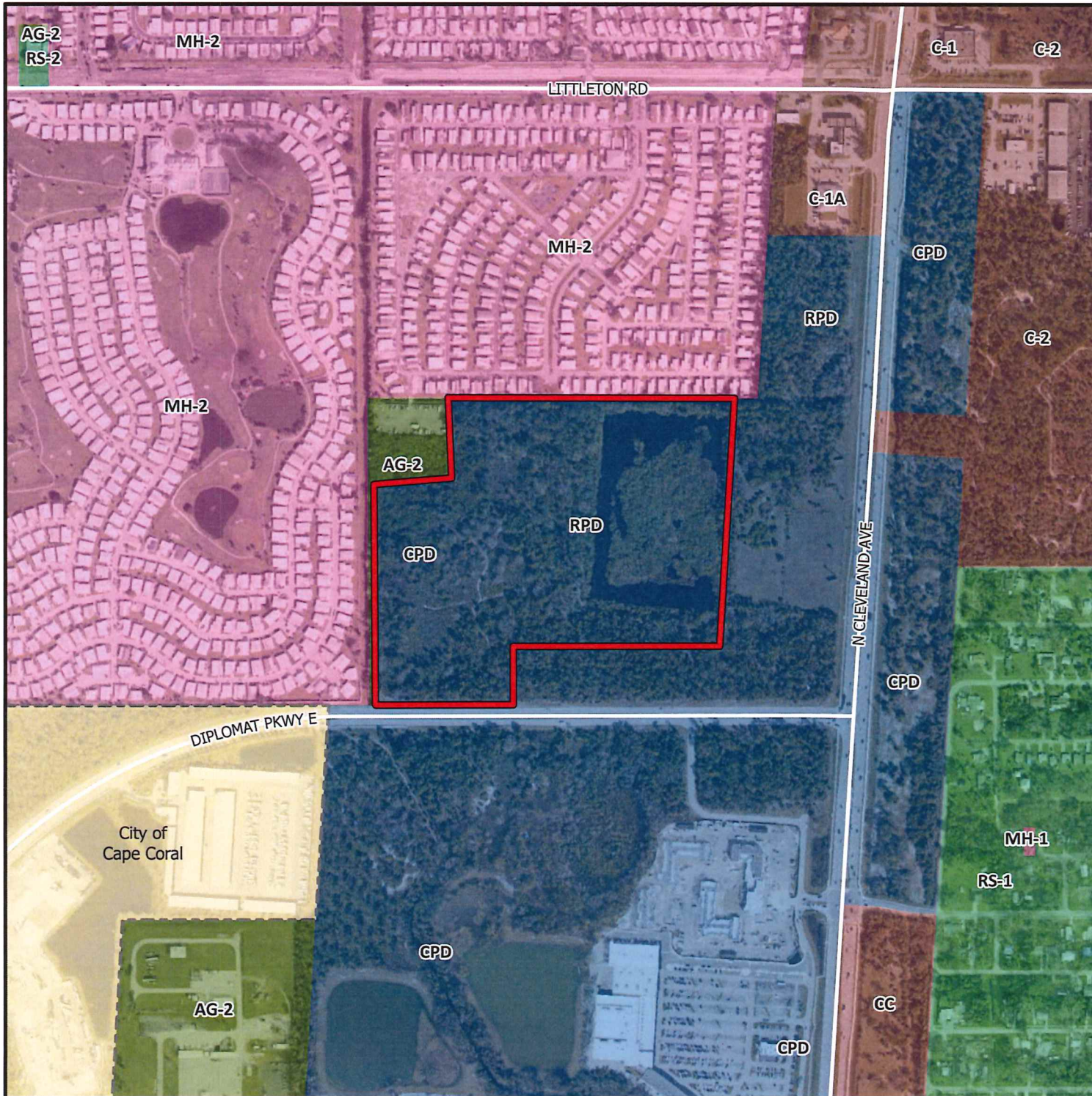
City of
Cape Coral

DCI2023-00050

Mixed Use Overlay

-  Subject Property
-  Mixed Use Overlay
-  City Limits



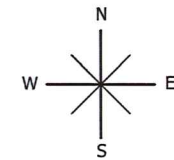


DCI2023-00050

Zoning

 Subject Property

 City Limits



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Feet

ATTACHMENT C

DIPLOMAT HOUSE f/k/a DIPLOMAT NORTH RPD AMENDMENT
SCHEDULE OF USES, PROPERTY DEVELOPMENT REGULATIONS &
CONDITIONS

1. Development ~~north of Diplomat Parkway East~~¹ must be substantially consistent with the ~~1-3~~
~~three~~-page Master Concept Plan (MCP) entitled:

Page 1 of 3: "ALTERNATE DIPLOMAT NORTH RPD MASTER CONCEPT PLAN, DIPLOMAT HOUSE" ~~last revised 3/12/2024~~; DIPLOMAT PROPERTY RPD/CPD (NORTH PARCEL)," dated ~~last revised 4-22-21~~ and date stamped "Received APR 27 2011 Community Development" AND OR

~~The 1 page~~ Page 2 of 3 ~~of the~~ Master Concept Plan entitled "Master Concept Plan, DIPLOMAT PARCEL, Lee County, Florida," dated 08-27-2007, last revised 01-23-2008 ~~03/12/2024~~; OR

Page 3 of 3: and date stamped "Received JAN 30 2008 Permit Counter," Development south of Diplomat Parkway East must be substantially consistent with the 1 page MCP entitled "Master Concept Plan, DIPLOMAT PARCEL, Lee County, Florida," dated 08-27-2007, last revised 03/12/2007, last revised 03/12/2025 01-23-2008 and date stamped "Received JAN 30, 2008 Permit Counter," OR the 1 page Page 3 of 3 of the MCP entitled "ALTERNATE DIPLOMAT SOUTH RPD MCP, DIPLOMAT PARCEL" dated 10/28/2019, ~~last revised 03/12/2024~~, except as modified by the conditions below.

Note: the portion of the project on the north side of Diplomat Parkway includes Commercial Development Parcels 1, 2 and 3 (West 3 and East 3). It also includes a 29.75-acre ~~35.2-acre~~ site that may be developed either as an RPD with RPD uses or and and/or an ALF/CCF, with or without a commercial component on the westerly portion of that site identified as the 5.43 acre North CPD Parcel.

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

Maximum number of dwelling units (North RPD/CPD Parcel): ~~138~~ 360 dwelling units (Standard Density utilizing North RPD/CPD (38.13 acres), Commercial Parcel 1 (1.48 Acres) and Commercial Parcel 2(1.47 acres) plus a maximum of 400 beds for assisted living facilities/continuing care facilities. Dwelling units may be converted per Table "B" of the approved MCP.

Maximum Number of Dwelling Units (South RPD parcel): 105 dwelling units. An additional 21 units may be constructed if they are marketed at a price point that is affordable to moderate income households at the time of building permit application. Further, the additional 21 units

may only be sold to buyers who qualify as a moderate income household at time of purchase. Moderate income household means 120 percent of the yearly median income based on yearly income levels developed for the SHIP Program by the Housing Section of the Lee County Division of Planning.

Eight (8.0) dwelling units per acre maximum, for the 13.19 acres of RPD South of Diplomat Parkway. An additional 1.6 units per acre may be constructed subject to the affordability requirements above.

~~Maximum Commercial Floor Area (North CPD Parcel): 50,000 square feet of medical office. Medical Office may be converted per Table "B" of the approved MCP.~~

Maximum Total Commercial Floor Area (CPD Parcels 1, 2, 3, and 4): 200,000 square feet of commercial uses. ~~A maximum of 100,000 s/f of which may be retail.~~ North RPD Parcel utilizes CPD Parcels 1 and 2 acreage for residential density with no impact to approved commercial intensity for these parcels due to the planned development's location within the Mixed Use Overlay.

~~Retail development is limited to Parcel 4 (which meets Commercial Site Location Standards). Retail development is not permitted on Commercial Parcels 1, 2 or 3 (which do not meet Site Location Standards).~~

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

a SCHEDULE OF USES

RPD- South of Diplomat Parkway

Accessory Uses and Structures

Administrative Office

Clubs, Private - as shown on the approved MCP

Community Garden

Dwelling Units

Single-family

Duplex

Two-family attached

Multiple-family

Townhomes – limited to a maximum of 105 dwelling units (or up to 126 dwelling units pursuant to Condition 1)

Entrance Gates and Gatehouse

Essential Services

Essential Service Facilities, Group I only

Excavation, Water Retention - not to include the removal of excavated material from the site.

~~No blasting.~~

Fences and Walls

Home Occupation, No outside help Home

Care Facility

Model Home, Model Display Center, Model Unit - ALSO SEE MODEL HOME/REAL ESTATE SALES CONDITIONS

Parking Lot, Accessory

Real Estate Sales - limited to sales of lots, homes or units within the development. Model home and club locations only. ALSO SEE MODEL HOME/REAL ESTATE SALES CONDITIONS.

Recreational Facilities - Private, On-site only. LIMITED TO THOSE SHOWN ON THE APPROVED MCP.

Residential Accessory Uses

Signs

Temporary Uses

CPD - ~~Parcels 1, 2, 3 & 4~~ - North and South of Diplomat Parkway

Administrative Office

Animals: Clinic, Kennel, Control Center (including Humane Society) - indoors, no outdoor runs

Automatic Teller Machine

Auto Parts Store - No installation service Auto

Repair and Service, Group I only Bait and

Tackle Shop

Banks and Financial Establishments, Groups I and II Boat

Part Stores

Building Material Sales (indoor only, no outdoor display)

Business Services, Groups I and II (no impound yards or armored car services)

Cleaning and Maintenance Services

Clothing Stores, General

Communication facilities, wireless (in accordance with LDC Chapter 34, Division 11) A wireless communication facility may be administratively approved, provided it is co-located on a building and the height of the tower does not exceed 50 feet from existing grade

Community Garden (Note: This use may not be utilized until such time as the LDC is amended to permit this use in a CPD.)

Consumption on Premises - Indoors. In conjunction with Group III restaurants only. Outdoor Consumption on Premises will require special exception approval (public hearing)

Contractors and Builders, Groups I and II (~~but not Group III~~)

Cultural Facilities

Day Care, Adult, Child

Department Store

Drive-through facility for any permitted use. No fast-food drive-through

Drugstore, Pharmacy (limited to 1 on Parcel 3 or 4)

Dwelling units, multiple-family (Limited to North of Diplomat Parkway) See Conditions 25, 26 & 27

Entrance Gate and Gatehouse

Emergency Operations Center EMS,

Fire or Sheriff's Station Essential

Services

Essential Service Facilities, Group I only

Excavation, Water Retention - not to include the removal of excavated material from the site.

Fences and Walls

Flea Market, Indoor Only

Food and Beverage Services, Limited

Food Stores, Groups I and II

Funeral Home or Mortuary, with or without cremation

Gasoline Dispensing System, Special

Hardware Store

Health Care Facility, Groups I, II and III (~~but not Group IV~~).

Hobby, Toy and Game Store

Hotel/Motel - Limited to 120 rooms maximum.

Household and Office Furnishings - (indoor only, no outdoor display)

Insurance Companies

Lawn and Garden Supply Stores - (indoor only, no outdoor display)

Library

Medical Office

Model Home, Model Display Center, Model Unit (Limited to Parcels 3 and 4)

Non-store Retailer, All Groups

Paint, Glass and Wallpaper - (indoor only, no outdoor display)

Parking Lot, Accessory, Commercial, Garage, Public Parking, Temporary Personal

Services, Groups I, II, III and IV. Excluding Laundromats,

Laundry Agents, Massage Establishments, Massage Parlors, Steam or Turkish

Baths, Dating Services, Escort Services, Palm Readers, Fortune Tellers, Card

Readers, Tattoo Parlors

Pet Services, Pet Shops - Indoor only, no outdoor display. No outdoor runs

Place of Worship

Plant Nursery Post

Office

Printing and Publishing Processing and Warehousing

Real Estate Sales, Limited to rental/sales of units within multiple-family development

Real Estate Sales Office

Religious Facilities

Rental or Leasing Establishments, Group II only (and excluding tools and equipment primarily for home use). Indoor only. No outdoor display.

Repair Shop, Groups I, II and III

Research and Development Laboratories, Groups I, II, III and IV

Residential accessory uses

Restaurants, Groups I, II, III and IV

Restaurant, Fast Food, No stand-alone or drive-through – within a multiple-occupancy building only.

Schools, Commercial and Non-Commercial

~~Signs in Accordance with LDC Chapter 30~~

Social Services Group I only

Specialty Retail, Groups I, II, III and IV

Storage, Indoor Only

Studios Supermarkets

Temporary Uses

Used Merchandise, Groups I and II, Indoor only. No outdoor display.

Variety Store

RPD - North of Diplomat Parkway

Accessory Uses and Structures

Administrative Office

~~Assisted Living Facilities – (pursuant to Condition 1)~~

Clubs, Private - as shown on the approved MCP (Recreation Areas)

Community Garden

~~Continuing Care Facilities~~

~~Dwelling Units; single-family, duplex, two-family attached;~~

~~Multi-family~~

~~Townhomes - (pursuant to Condition 1)~~

Entrance Gates and Gatehouse

Essential Services

Essential Service Facilities, Group I only

Excavation, Water Retention - not to include the removal of excavated material from the site.

~~No blasting.~~

Fences and Walls.

Home Occupation, No outside help

Home Care Facility

Model Home, Model Display Center, Model Unit - ALSO SEE MODEL HOME/REAL ESTATE SALES CONDITIONS.

Parking Lot, Accessory.

Real Estate Sales - limited to sales of lots, homes or units within the development.

Model home and club locations only. ALSO SEE MODEL HOME/REAL ESTATE SALES CONDITIONS.

Recreational Facilities - Private, On-site only. LIMITED TO THOSE SHOWN ON THE APPROVED MCP.

Religious Facilities

Residential Accessory Uses

~~Signs, in compliance with LDC Chapter 30~~

Temporary Uses

Temporary Real Estate Sales Office

CPD – 5.43-Acre Parcel north of Diplomat Parkway

~~Administrative Office~~

~~Animals: Clinic, Kennel, Control Center (including Humane Society) – indoors, no outdoor runs~~

~~Automatic Teller Machine~~

~~Banks and Financial Establishments, Groups I and II~~

~~Business Services, Groups I and II (no impound yards or armored car services)~~

~~Cleaning and Maintenance Services~~

~~Communication facilities, wireless (in accordance with LDC Chapter 34, Division 11) A wireless communication facility may be administratively approved, provided it is co-located on a building and the height of the tower does not exceed 50 feet from existing grade.~~

~~Community Garden (Note: This use may not be utilized until such time as the LDC is amended to permit this use in a CPD.)~~

~~Cultural Facilities~~

~~Entrance Gate and Gatehouse~~

~~Emergency Operations Center~~

~~EMS, Fire or Sheriff's Station~~

~~Essential Services~~

~~Essential Service Facilities, Group I only~~

~~Excavation, Water Retention – not to include the removal of excavated material from the site:
No blasting.~~

~~Fences and Walls:~~

~~Health Care Facility, Groups I, II and III (no Group IV)~~

~~Insurance Companies~~

~~Medical Office~~

~~Parking Lot, Accessory~~

~~Personal Services, Groups I and II~~

~~Pharmacy – accessory to medical office use only~~

~~Real Estate Sales Office~~

~~Religious Facilities~~

~~Research and Development Laboratories, Groups I, II, III and IV~~

~~Schools, Commercial and Non-Commercial~~

~~Signs in Accordance with LDC Chapter 30~~

~~Social Services Group I only~~

~~Temporary Uses~~

b SITE DEVELOPMENT REGULATIONS

RPD - South of Diplomat Parkway

SINGLE-FAMILY:

Minimum Lot Size and Dimensions

Lot Size	7,500 square feet
Lot Width	75 feet
Lot Depth	100 feet

Minimum Setbacks		
Street		25 feet (public) 20 feet (private)
Side		5 feet
Rear		30 feet on all sides containing the enhanced buffer 20 feet on all other lots
Waterbody		25 feet
All Accessory Uses		Per the LDC
Setbacks from Preserves (All Structures)		25 feet, per the LDC.
Minimum Perimeter Setbacks		25 feet 30 feet on all lots containing an enhanced buffer
Minimum Building Separation	10 feet	
Maximum Building Height	35 feet/3-stories	
Maximum Lot Coverage	45 percent	

DUPLEX, TWO-FAMILY ATTACHED, TOWNHOUSE:

Minimum Lot Size and Dimensions

Lot Size	7,500 square feet
Lot Width	75 feet
Lot Depth	100 feet

Minimum Setbacks

Street	25 feet (public) 20 feet (private)
Side	5 feet (zero feet for common wall unit)
Rear	30 feet on all sides containing the enhanced buffer 20 feet on all other lots
Waterbody	25 feet
All Accessory Uses	Per the LDC
Setbacks from Preserves (All Structures)	25 feet, per the LDC.
Minimum Perimeter Setbacks	25 feet 30 feet on all lots containing an enhanced buffer

Minimum Building Separation 10 feet

Maximum Building Height 35 feet/3-stories

Maximum Lot Coverage 45 percent

MULTIPLE-FAMILY:

Minimum Lot Size and Dimensions

Lot Size	10,000 square feet
Lot Width	100 feet
Lot Depth	100 feet

Minimum Setbacks

Street	25 feet (public) 20 feet (private)
Side	10 feet
Rear	30 feet on all sides containing the enhanced buffer 20 feet on all other lots
Waterbody	25 feet
All Accessory Uses	Per the LDC
Setbacks from Preserves (All Structures)	25 feet, per the LDC
Minimum Perimeter Setbacks	25 feet 30 feet on all lots containing an enhanced buffer

Minimum Building Separation 10 feet

Maximum Building Height 35 feet/2 stories

Maximum Lot Coverage 45 percent

RECREATIONAL AREA/FACILITIES:

Minimum Lot Size and Dimensions

Lot Size	9,000 square feet
Lot Width	50 feet
Lot Depth	120 feet

Minimum Setbacks

	(See Deviation 5)
Street	25 feet (public) 20 feet (private)
Side	10 feet
Rear	20 feet
Waterbody	25 feet
All Accessory Uses	Per the LDC
Setbacks from Preserves (All Structures)	25 feet, per the LDC.
Minimum Perimeter Setbacks	25 feet
Minimum Building Separation	10 feet
Maximum Building Height	35 feet/2 stories

Maximum Lot Coverage 45 percent

Commercial Development North and South of Diplomat Parkway

Minimum Lot Size and Dimensions

Lot Size	10,000 square feet
Lot Width	100 feet
Lot Depth	100 feet

Minimum Setbacks

Street	25 feet (public) 20 feet (private)
Side	10 feet
Rear	20 feet
Waterbody	25 feet
All Accessory Uses	Per the LDC
Setbacks from Preserves (All Structures)	25 feet, per the LDC.
Minimum Perimeter Setbacks	25 feet

Minimum Building Separation 20 feet, but buildings exceeding 35 feet in height must maintain additional building separation as regulated by LDC Section 34-2174

Maximum Building Height 50 feet/ 3 stories
35 feet/2 stories – adjacent to west boundary

Maximum Lot Coverage 60 percent

RPD - NORTH OF DIPLOMAT PARKWAY:

ASSISTED LIVING:

Minimum Lot Areas and Dimensions

Lot Size:	10,000 square feet
Lot Width:	100 feet
Lot Depth:	100 feet

Minimum Setbacks

Street	25 feet (public)/20 feet (private)
Side	10 feet 20 feet on all other lots

Water body 25 feet

All Accessory Uses: Per the LDC.

Setbacks from Preserves (All structures): 25 feet, per the LDC.

Minimum Perimeter Setbacks: 25 feet

30 feet on all lots containing and enhanced buffer

Minimum Building Separation: ~~1/2 building height, but not less than 15 feet~~

Maximum Building Height: ~~45 feet~~

Maximum Lot Coverage: ~~45 percent~~

SINGLE-FAMILY:

Minimum Lot Areas and Dimensions

Lot Size: ~~7,200 square feet~~

Lot Width: ~~60 feet~~

Lot Depth: ~~100 feet~~

Minimum Setbacks

Street ~~25 feet (public)/20 feet (private)~~

Side ~~5 feet~~

~~20 feet on all other lots~~

Water body ~~25 feet~~

All Accessory Uses: Per the LDC.

Setbacks from Preserves (All structures): ~~25 feet, per the LDC.~~

Minimum Perimeter Setbacks: ~~25 feet~~

~~30 feet on all lots containing an enhanced buffer~~

Minimum Building Separation: ~~10 feet~~

Maximum Building Height: ~~35 feet~~

Maximum Lot Coverage: ~~45 percent~~

DUPLEX:

Minimum Lot Areas and Dimensions

Lot Size: ~~7,000 square feet~~

Lot Width: ~~70 feet~~

Lot Depth: ~~100 feet~~

Minimum Setbacks

Street ~~25 feet (public)~~

~~20 feet (private)~~

Side ~~5 feet~~

~~20 feet on all other lots~~

Water body ~~25 feet~~

All Accessory Uses: Per the LDC.

Setbacks from Preserves (All structures): 25 feet, per the LDC.

Minimum Perimeter Setbacks: 25 feet
30 feet on all lots containing an enhanced buffer

Minimum Building Separation: 10 feet.

Maximum Building Height: 35 feet

Maximum Lot Coverage: 45 percent

TOWNHOME:

Minimum Lot Size and Dimensions

Lot Size	4,600 square feet
Lot Width	16 feet
Lot Depth	400 feet

Minimum Setbacks

Street	25 feet (public) 20 feet (private)
Side	10 feet 0 feet (for a common wall)
Rear	30 feet on all sides containing the enhanced buffer 20 feet on all other lots
Waterbody	25 feet
All Accessory Uses	Per the LDC 0 feet
Setbacks from Preserves (All Structures)	25 feet, per the LDC.
Minimum Perimeter Setbacks	15 feet

Minimum Building Separation 20 feet

Maximum Building Height 35 feet

Maximum Lot Coverage 55 percent No Maximum

MULTIPLE-FAMILY:

Minimum Lot Size and Dimensions

Lot Size	40,000 square feet
Lot Width	40025 feet
Lot Depth	400 feet

Minimum Setbacks

Street	250 feet (public) 20 feet (private)
Side	10 feet 0 feet (for a common wall)
Rear	30 feet on all sides containing the enhanced buffer 20 feet on all other lots
Waterbody	25 feet
All Accessory Uses	Per the LDC 0 feet

Setbacks from Preserves

(All Structures) 25 feet, per the LDC.

Minimum Perimeter Setbacks 215 feet

Minimum Building Separation 20 feet

Maximum Building Height 560 feet

Maximum Lot Coverage 55 percent No Maximum

RECREATION AREA/CLUBHOUSE:

Minimum Lot Size and Dimensions

Lot Size	9,000 square feet
Lot Width	10025 feet
Lot Depth	100 feet

Minimum Setbacks

Street	250 feet (public) 20 feet (private)
Side	10 feet 0 feet (for a common wall)
Rear	30 feet on all sides containing the enhanced buffer 20 feet on all other lots
Waterbody	25 feet
All Accessory Uses	Per the LDC 0 feet

Setbacks from Preserves

(All Structures) 25 feet, per the LDC.

Minimum Perimeter Setbacks 215 feet

Minimum Building Separation 20 feet

Maximum Building Height 560 feet

Maximum Lot Coverage 45 percent No Maximum

CPD -- 5.43-acre North CPD Parcel:

Minimum Lot Areas and Dimensions

Lot Size: _____ 10,000 square feet

Lot Width: _____ 100 feet

Lot Depth: _____ 100 feet

Minimum Setbacks

Street _____ 25 feet (public)

20 feet (private)

Side _____ 10 feet

Rear _____ 20 feet

20 feet on all other lots

Water body _____ 25 feet

All Accessory Uses: Per the LDC

Setbacks from Preserves (All structures): 25 feet, per the LDC

Minimum Perimeter Setbacks: 25 feet

Minimum Building Separation: $\frac{1}{2}$ building height not less than 15 feet

Building Height: _____ 35 feet

Maximum Lot Coverage: 60 percent

3. CONCURRENCY

Approval of this rezoning does not constitute a finding that the proposed project meets the concurrency requirements set forth in LDC Chapter 2 and the Lee Plan. The developer is required to demonstrate compliance with all concurrency requirements prior to issuance of a local development order.

4. MODEL HOME AND REAL ESTATE SALES

Model units and homes (and real estate sales) are permitted in compliance with the following conditions:

- a. Each model must be a unique example. Multiple examples of the same unit are not permitted.
- b. All model sites must be designated on the development order plans.
- c. Prior to model home construction, the lots upon which model homes will be constructed must be shown on a preliminary plat (not the final). The preliminary plat must be filed concurrently with the local development order application. The model homes must comply with the setbacks set forth in the property development regulations for this project.
- d. Dry models are prohibited.
- e. The number of model homes or model units will be limited to no more than 10 within the

development at one time.

- f. ~~Any model homes or units must be developed within the areas identified as "models" on the approved MCP. Deleted.~~
- g. Real estate sales within the RPD are limited to the sale of lots or units within the development only. Real Estate sales are a permitted use within the CPD.
- h. Real estate sales within the RPD are limited to within model homes or clubhouse only.
- i. Hours of operation for both models and real estate sales (within the RPD) are limited to Monday through Sunday 8:00 a.m. to 8:00 p.m.
- j. Model homes and real estate sales within the RPD will be valid for a period of up to five years from the date of issuance of a certificate of occupancy of a model home per LDC §34-1954(d)(1).

5. NO AGRICULTURAL USES APPROVED

No agricultural uses are permitted on site.

~~6. BLASTING~~

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

7. NATIVE VEGETATION REQUIRED IN THE ENTIRE RPD AND CPD

All required ~~buffer~~s must utilize 100 percent all native vegetation.

8. ADDITIONAL BUILDING SEPARATION SETBACK REQUIRED

Buildings exceeding 35 feet in height must maintain additional building setback separation as regulated by LDC §34-2174(a).

9. TRAFFIC

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

10. LEE PLAN

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

11. INTERSECTION IMPROVEMENTS

The developer must contribute its proportionate share of the costs of intersection improvements at the time a traffic control device is warranted at the intersection of US 41 and Diplomat Road Parkway if requested by Florida Department of Transportation or City of Cape Coral.

12. WIRELESS COMMUNICATION FACILITIES

- a Freestanding wireless communication facilities (towers, including stealth type) are not permitted. Approval of freestanding wireless communication facilities will require an amendment to the planned development (public hearing).
- b Wireless Communication Facilities (including wall-mounted and roof-mounted antennas) may be approved in accordance with LDC §34-1441, et. seq. (Commercial parcels only).

13. ACCESSORY USES

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

14. OPEN SPACE

Prior to local development order approval, the landscape plans must demonstrate that each ~~commercial parcel~~ is providing a minimum of the open space requirement consistent with the open space table provided on the MCP. ~~30 percent open space, and a minimum of 40 percent common open space is provided within the residential tract.~~

15. ENVIRONMENTAL

Prior to local development order approval, if the Florida Fish and Wildlife Conservation Commission (FWC) allows the relocation of tortoises within on-site indigenous preserves:

- a The developer must submit a detailed indigenous preservation management plan for the Lee County Division of Environmental Sciences (DES) Staff review and approval that includes methods of maintaining the western 3.0 acres of the preserve as gopher tortoise habitat; and
- b The landscape plans must include a permanent gopher tortoise fence along Diplomat Parkway where the three-acre gopher tortoise preserve abuts this roadway and a double staggered native hedge (minimum three-gallon container size; 24-inch height at planting; maintained at a minimum 36-inch height) planted on the roadside of the fence; and
- c The landscape plans must delineate a double staggered native hedge (minimum three- gallon container size; 24-inch height at planting; maintained at a minimum 36-inch height) planted along the interface of the indigenous preserve with the residential tract.

- d Prior to issuance of a Vegetation Removal Permit, all invasive exotic vegetation and manmade debris must be hand removed from the indigenous preserve.

16. COMMERCIAL PARCELS NORTH OF DIPLOMAT PARKWAY

Commercial buildings located within Parcels 1, 2 and the westernmost 2.3 acres of Parcel 3 are limited to a maximum of 10,000 square feet per building and must not exceed two stories/35 feet in height. The building locations must alternate (be staggered) between the front and rear of the commercial parcels to provide a more campus-like setting. A parking plan must be devised to keep the amount of parking spaces along Diplomat Parkway to an absolute minimum. These parking areas and commercial buildings must be buffered, from Diplomat Parkway, by, at a minimum, a two-foot-high berm with 10 trees and a staggered 36-inch-high hedge per 100 linear feet. ~~Applicant is strongly encouraged to utilize the commercial site locational criteria established for the Estero community.~~

The commercial buildings on Commercial Parcels 1, 2, and 3 must be of the same or similar architectural design and coloring as the residential buildings, to identify them as a unified project. All project identification signs (commercial and residential) must also be of the same or similar architectural design and coloring.

17. NOT UTILIZED

18. SOLID WASTE/RECYCLING

Prior to local development order approval for vertical development, the Developer must provide facilities in compliance with LDC §10-261 and Lee County Solid Waste Ordinance #08-10 for the pick up/disposal of solid waste and recyclables. The minimum area required for and specific locations of these facilities will be reviewed at the time of local development order application (Also see Deviation 7).

19. PRIOR ZONING

The terms and conditions of ~~the original~~ Zoning Resolution Nos. Z-06-004 and Z-11-002 and Administrative Amendments ADD2007-00169, ADD2019-00085, ADD2019-00181 and ADD2020- 00034 are superseded by this zoning action and are rendered null and void by this approval. ~~The terms and conditions herein apply to the entire planned development previously covered by Zoning Resolution No. Z-06-004.~~

20. INDIGENOUS PRESERVATION/HERITAGE TREES (NORTH CPD PARCEL AND NORTH RPD PARCEL)

- a. Prior to local development order approval, a tree survey must be submitted depicting the location, diameter at breast height, and species of all heritage trees within the development area.
- b. Prior to local development order approval, landscape plans must depict heritage trees, located within the development footprint, that are determined to be of good health as per

a certified arborist. Those trees must be incorporated into the internal open space (i.e., perimeter planting, enlarged landscape areas, etc), or must be replaced with a 20- foot like species to a suitable open space area where final site design constraints (i.e., fill requirements, entrance roads, etc) do not allow preservation.

21. PROTECTED SPECIES

- a Prior to development order approval, the Applicant must first seek approval for on-site preservation of the gopher tortoises through avoidance or relocation before pursuing off-site relocation options. All communication with FWC verifying on-site avoidance or relocation attempts were made must be provided to DES Staff.
- b A copy of the appropriate gopher tortoise relocation permit issued by the FWC must be submitted to the DES Staff prior to excavation and moving of any gopher tortoises. The Applicant must first seek approval for an on-site relocation before pursuing off-site relocation options. Any gopher tortoises and commensal species found during burrow excavation must be moved to preserves containing suitable gopher tortoise habitat as approved by the FWC and DES Staff.

22. DELETED OPEN SPACE (NORTH CPD PARCEL AND NORTH RPD PARCEL)

~~Prior to local development order approval, the development order plans must delineate a minimum of 1.63 acres of open space for the CPD and 11.9 acres of open space for the RPD.~~

23. BUFFERS (NORTH CPD PARCEL AND NORTH RPD PARCEL)

- a ~~Prior to local development order approval, the development plans must demonstrate the preservation of native vegetation within the flood way. This vegetation may be utilized to meet the required type "F" buffer plantings. Upon removal of exotics from this area if it is found that the existing vegetation does not satisfy the buffer planting requirements, additional plants must be provided. These plants must be designed to mimic the natural area through the use of similar species and random planting throughout the area.~~
- b An enhanced type "F" buffer must be provided along the north property line west of the lake, as shown on the MCP. This buffer must be 30 feet in width and include 10 native canopy trees per 100 linear feet, and a double hedge row planted at 48" in height at time of planting.

24. NATIVE PLANTINGS REQUIRED (NORTH CPD PARCEL AND NORTH RPD PARCEL)

All required buffer plantings, general trees, and internal canopy trees must be 100 percent native species.

25. (Condition 3 from ADD2020-00034) CPD Parcels 3 and 4 may convert unused commercial intensity to multifamily dwelling units in accordance with the following Land Use Conversion Matrix:

	<u>Multifamily Residential LUC 220 (0.56 Trips/DU)</u>	<u>Commercial Retail (Shopping Center) LUC 820 (3.81 Trips/1,000 sq. ft.)</u>
<u>Multifamily Residential LUC 220 (0.56 Trips/DU)</u>	<u>Same</u>	<u>147 sq ft./1 DU</u>
<u>Commercial Retail (Shopping Center) LUC 820 (3.81 Trips/1,000 sq. ft.)</u>	<u>6.80 DU/1,000 sq. ft.</u>	<u>Same</u>

26. (Condition 4 from ADD2020-00034) A maximum of 116 multifamily dwelling units (8 dwelling units per acre) may be constructed on CPD Parcels 3 and 4 in accordance with the Land Use Conversion Matrix in Condition 325.

27. With any local development order application proposing multifamily residential development on CPD Parcels 3 and 4, the applicant must submit a report itemizing:

- a. The density (expressed in number of dwelling units) and, if applicable, the intensity (expressed in the square feet of floor area) of each use proposed by the local development order application.
- b. The cumulative total density and intensity permitted on CPD Parcels 1, 2, 3, and 4 by prior local development order approvals.
- c. The remaining density and intensity available for future development on CPD Parcels 1, 2, 3, and 4 for each individual classification in Condition 527(a).

SECTION C. DEVIATIONS:

(Deviations 1 through 8 were previously approved and remain applicable to the RPD/CPD and are recited below with minor language clarifications. Deviations 7 and 8 are proposed to be revised and Deviations 9 and 10 are new.)

1. **Intersection Separation** - Deviation 1 (previously contained in Resolution Z- 06-004 and A DD2007-00169subsequent approvals) seeks relief from the LDC §10-285(a) requirement to provide a minimum access connection separation of 660 feet on an arterial road to permit an access separation of 364 feet between the project's proposed main access and the proposed exit-only access for the residential portion of the southern parcel. This deviation is APPROVED.
2. **One dead-end street permitted** - Deviation 2 (previously contained in Resolution Z-06-004 and ADD2007-00169subsequent approvals) seeks relief from the LDC §10-296(k)(1) requirement that dead-end streets be closed at one end by a circular turn-around, to allow one dead-end street as shown on the approved MCP on the southern RPD. This deviation is APPROVED.

3. **Calculation for Open Space** - Deviation 3 (previously contained in Resolution Z-06-004 and ADD2007-00169 subsequent approvals) seeks relief from the LDC §10-415(b)(1)(a) requirement that large developments with indigenous vegetation communities to provide 50 percent of their open space percentage requirements through on-site preservation of existing native vegetative communities, to permit 0.45 acres of right of way to be vacated, enhanced and preserved to count toward the preservation requirement. This deviation is APPROVED, SUBJECT TO the following condition:

Prior to local development order approval for Commercial Parcel 4, the existing roadway easement depicted within the indigenous preserve must be vacated.

This deviation applies to the southern RPD and CPD.

4. **Installation of storm water management system** - Deviation 4 (previously contained in Resolution Z-06-004 and ADD2007-00169 subsequent approvals) seeks relief from the LDC §10-415(b)(1)a. requirement that large developments with existing indigenous native vegetation communities provide 50 percent of their open space requirement through on-site preservation of indigenous native vegetation, to allow portions of the preservation area to be disturbed and restored in order to install a storm water management system. This deviation is APPROVED, SUBJECT TO the following conditions:

- a. Prior to local development order, the development order plans must delineate the general location of the surface water management outfall through the indigenous preserve to the canal. The outfall must be designed as an open system that can be planted with native vegetation.
- b. Prior to issuance of a Vegetation Removal Permit, the location of the surface water management outfall through the indigenous preserve must be field staked to avoid impacting any large native trees or gopher tortoise burrows for the Division of Environmental Sciences Staff review and approval.

This deviation applies to the southern RPD and CPD.

5. **Separation from residential uses** - Deviation 5 (previously contained in Resolution Z-06-004 and ~~A DD2007-00169~~ subsequent approvals) seeks relief from the LDC §34-2474(b)(6) requirement that recreation halls and ancillary facilities and private clubs be located at least 40 feet from any residential dwelling unit, to allow a 20-foot minimum separation for any recreation building from a residential dwelling unit. This deviation is APPROVED, SUBJECT TO the following condition:

Development of a recreational facility and clubhouse must be generally consistent with the location shown on the approved MCP.

This deviation applies to the recreation area shown on the RPD to the north.

- 6a. **Single ingress into the development** - Deviation 6a (previously contained in Resolution Z-06-004 and A-DD2007-00169 subsequent approvals) seeks relief from the LDC §10-291(3) requirement (when practical) that residential developments of more than five acres in size provide two or more means of ingress into the development, to allow the residential portion to the north of Diplomat Parkway to be constructed with a single ingress/egress connection onto Diplomat Parkway. This deviation is APPROVED, SUBJECT TO the following conditions:
- a. Access to the residential component north of Diplomat Parkway must be generally consistent with the approved MCP; and
 - b. The approved MCP and local development order must depict a minimum 70-foot-wide divided entrance on the north side of Diplomat Parkway that includes a median with two lanes on both sides of the median for ingress and egress; and
 - c. Prior to issuance of a development order, the developer must provide written documentation from the North Fort Myers Fire District indicating that these access points are acceptable and provide adequate access for emergency vehicles. The development order must also include the plans for the secondary/emergency access required in the following paragraph.
 - d. Prior to build-out of the north residential development, Applicant must install a secondary/emergency access from the residential tract to commercial Parcel 3, as shown on the MCP. Any emergency access gate must comply with all applicable regulations with respect to required equipment for an emergency override mechanism at the time of installation. Additionally, if an emergency necessitates the breaking of an entrance gate, the cost of repairing the gate and the emergency vehicle (if applicable) will be the responsibility of the owner or operator of the gate.
- 6b. Deviation 6b (previously contained in Resolution Z-06-004 and subsequent approvals) seeks relief from the LDC §10-291(3) requirement (when practical) that residential developments of more than five acres in size provide two or more means of ingress into the development, to allow the residential portion to the south of Diplomat Parkway to be constructed with a single ingress/egress connection onto Diplomat Parkway. This deviation is APPROVED, SUBJECT TO the following conditions.
- a. Access to the residential component south of Diplomat Parkway must be generally consistent with the approved MCP; and
 - b. Any emergency access gate must comply with all applicable regulations with respect to required equipment for an emergency override mechanism at the time of installation. Additionally, if an emergency necessitates the breaking of an entrance gate, the cost of repairing the gate and the emergency vehicle (if applicable) will be the responsibility of the owner or the operator of the gate; and
 - c. Prior to issuance of a development order, the developer must provide written documentation from the North Fort Myers Fire District indicating that these access points are acceptable and provide adequate access for emergency vehicles.
7. **Curbside garbage collection for townhouse units and reduction in collection area for multi-family units** - Deviation 7 (townhouse previously contained in ADD2007-000169 and subsequent approvals) seeks relief from the LDC §10-261 requirement that all new multiple-family residential developments to provide sufficient space for the placement of garbage containers or receptacles, to allow for curbside garbage pickup at the proposed townhouse units that are planned within the project. This deviation is APPROVED.

Request is to amend this deviation to allow reduction in required multi-family container space of 216 SF (120 + 96) for first 25 multi-family units plus 8 SF for each additional unit; to allow space for the compactor and a minimum 144 square feet for recyclable materials collection area for the North RPD.

8. **Certain internal buffers not required** - Deviation 8 [previously contained in Z-11-002 and subsequent approvals from LDC §10-416(d)(3)] seeks relief from the LDC §10-416(d)(3) 10-425(f)(1) requirement that a Type C/F for five-foot wide buffer along rights-of-way planted with five trees per 100 linear feet between the proposed RPD/CPD uses internal to the development, to allow no buffer between the RPD/CPD uses where the commercial uses are separated from the residential uses within the North RPD project to internal rights-of-way by a private road. This deviation is APPROVED.

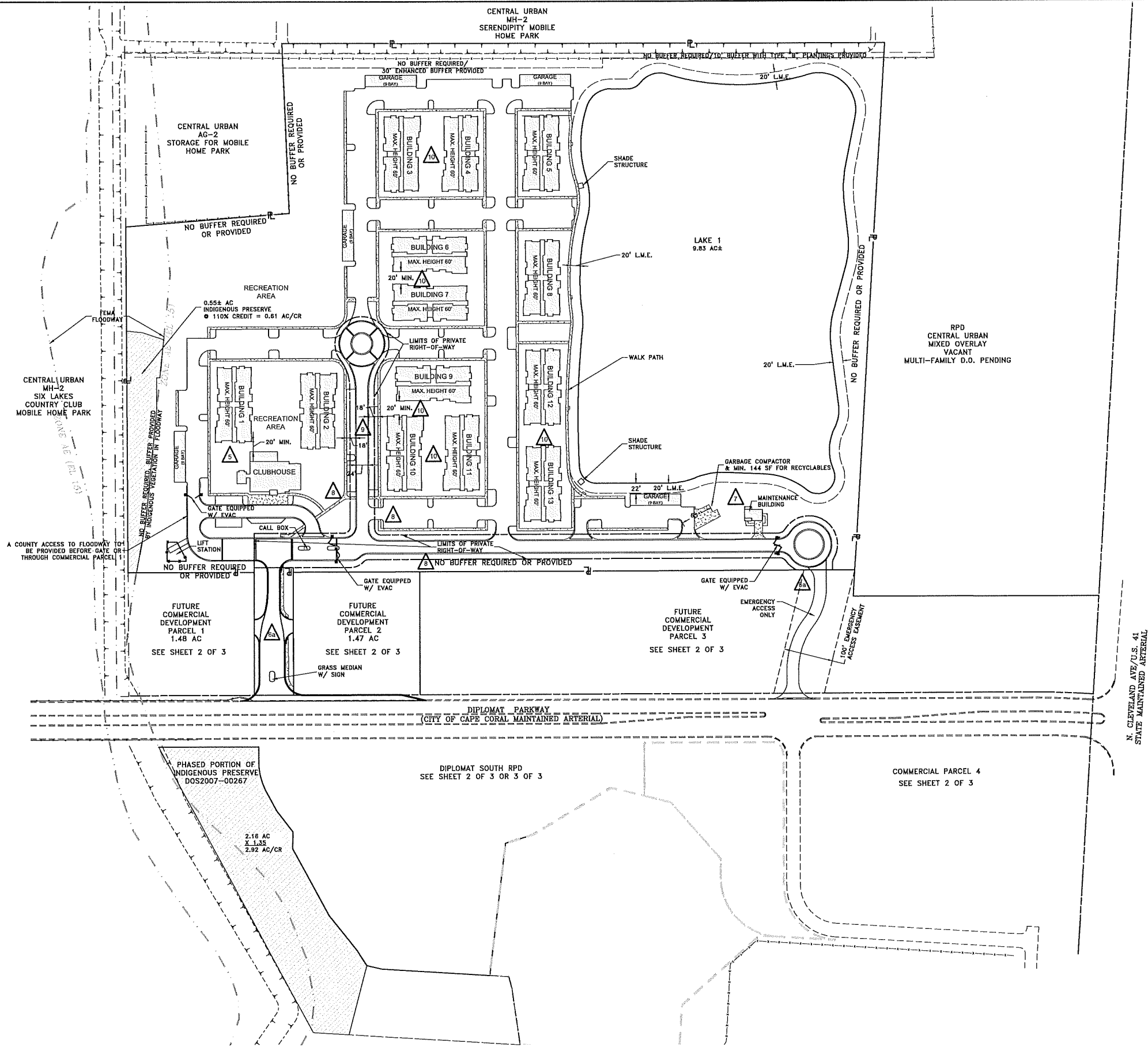
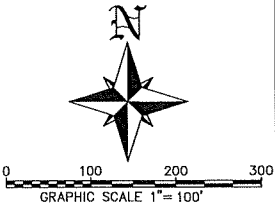
Request to amend this deviation to allow no buffers to internal rights-of-way for the North RPD.

9. **Backout parking within internal right-of-way** – New Deviation 9 seeks relief from LDC Section 34-2013(a)(2) requirement that parking that backs out into rights-of-way in residential developments must be for amenities to the development such as parks and recreational facilities and not for dwelling units or commercial uses; to allow backout parking spaces for dwelling units and guests limited to the location shown on the MCP.

This Deviation is APPROVED.

10. **Minimum Building Separation** – New Deviation 10 seeks relief from LDC §34-935(e)(4) requirement to provide a minimum building separation of one-half the sum of the building heights, or 20 feet, whichever is greater; to allow a minimum building separation of 20 feet.

This Deviation is APPROVED.



NORTH RPD OPEN SPACE:

- OPEN SPACE REQUIRED: 20% (35.18 AC X 0.2 = 7.04 AC)
- 50% OF REQUIRED OPEN SPACE MUST BE INDIGENOUS OPEN SPACE: (3.52 AC)
 - 0.554 AC INDIGENOUS PROVIDED WITHIN FLOODWAY
 - ONSITE WITH 110% CREDIT FOR MINIMUM 1/2 ACRE/50' WIDTH = 0.61 ACRE CREDIT. 3.52-0.61 = 2.91 AC REQUIRED TO BE MET ON SOUTH PARCEL.
 - INDIGENOUS OPEN SPACE PROVIDED ON SOUTH RPD FOR RESIDENTIAL NORTH PER DOS2007-00267: (7.03 AC)
 - 2.92 ACRE/CREDIT PHASED PORTION OF UPLAND INDIGENOUS PRESERVE ON SOUTH RPD PARCEL TO BE PROVIDED BEFORE CERTIFICATION OF COMPLETION OF D.O. FOR NORTH RPD. 2.92 AC/135% CREDIT* = MINIMUM 2.16 AC *135% CREDIT FOR MINIMUM 1 AC/75' WIDTH AND ADJACENT TO OFFSITE PRESERVE.
 - REGULAR OPEN SPACE REQUIRED ON SITE: (3.52 AC)
 - PROVIDED REGULAR OPEN SPACE ON SITE: MINIMUM 3.52 AC

OVERALL RPD/CPD OPEN SPACE CALCULATIONS:

OPEN SPACE CALCULATIONS (50% FOR COMMERCIAL/40% COMMON OPEN SPACE FOR RESIDENTIAL)				
BOLDITALIC TEXT DEPICTS REVISIONS FROM DOS2007-00267 OPEN SPACE TABLE				
NORTH RPD AMENDED TO UTILIZE MIXED USE OVERLAY				
TRACT	AREA	INDIGENOUS REQUIRED	OTHER OPEN SPACE REQUIRED	INDIGENOUS PROVIDED
COMMERCIAL 1	1.47 AC	0.22 AC 15%	0.22 AC(0)	0.22 AC(0)
COMMERCIAL 2	1.48 AC	0.22 AC 15%	0.22 AC(0)	0.22 AC(0)
COMMERCIAL 3	7.31 AC	1.10 AC 15%	1.10 AC(0)	1.10 AC(0)
COMMERCIAL 4	7.22 AC	1.08 AC 15%	1.08 AC(0)	1.08 AC(0)
RESIDENTIAL NORTH	35.18 AC	3.52 AC 10%	3.52 AC(0)	7.03 AC(0)+0.55 AC(0)
RESIDENTIAL SOUTH	12.47 AC	2.49 AC 20%	2.49 AC(0)	2.54 AC(0)
TOTALS	65.13 AC	12.14 AC	12.14 AC(0)	12.17 AC(0)

(1) INDIGENOUS OPEN SPACE AREA IS PROVIDED ON SOUTHERN PORTION OF DEVELOPMENT (12.33 CREDITS TOTAL PROVIDED) AND IS TO PROVIDE TOTAL REQUIRED INDIGENOUS OPEN SPACE FOR ALL TRACTS. (0) OTHER (NON-INDIGENOUS) OPEN SPACE SHALL BE PROVIDED ON THE RESPECTIVE TRACT AND SHALL BE IDENTIFIED AT THE TIME OF DEVELOPMENT ORDER PERMITTING.

(2) NORTH RPD PROVIDING 0.554 AC INDIGENOUS WITHIN FLOODWAY ONSITE WITH 110% CREDIT FOR MINIMUM 1/2 ACRE/50' WIDTH = 0.61 ACRE CREDIT.

(3) 2.92 ACRE/CREDIT PHASED PORTION BEFORE CERTIFICATION OF COMPLETION OF D.O. FOR NORTH RPD.

(4) 2.92 AC/135% CREDIT* = MINIMUM 2.16 AC *135% CREDIT FOR MINIMUM 1 AC/75' WIDTH AND ADJACENT TO OFFSITE PRESERVE.

INDIGENOUS NOTES:

- *150% CREDIT FOR MINIMUM 3 ACRES AND 100' WIDTH PER LDC SECTION 10-415(b)(2)(b).
- **125% CREDIT FOR MINIMUM 1 ACRE AND 75' WIDTH PER LDC SECTION 10-415(b)(2)(b). AND ADDITIONAL 10% CREDIT FOR PRESERVATION ADJACENT TO ROADWAY PER LDC SECTION 10-415(b)(2)(b).
- ***110% CREDIT FOR CONNECTION TO OFFSITE ENVIRONMENTAL CONSERVATION OR PRESERVE AREAS PER LDC SECTION 10-415(b)(2)(b).

LEGEND:

DEVIATIONS:

- TO ALLOW MINIMUM 20' SEPARATION BETWEEN RECREATION BUILDING AND DWELLING UNIT
- TO ALLOW ONE ACCESS AND EMERGENCY ONLY ACCESS
- TO ALLOW REDUCED MINIMUM COLLECTION CONTAINER AREA FOR RECYCLABLE MATERIALS DUE TO COMPACTOR
- TO ALLOW NO INTERNAL R.O.W. BUFFER
- TO ALLOW BACKOUT PARKING INTO R.O.W.
- TO ALLOW MINIMUM BUILDING SEPARATION OF 20'

INDIGENOUS PRESERVATION

ATTACHMENT D

ALTERNATE DIPLOMAT NORTH RPD MASTER CONCEPT PLAN

DIPLOMAT HOUSE
LEE COUNTY, FLORIDA

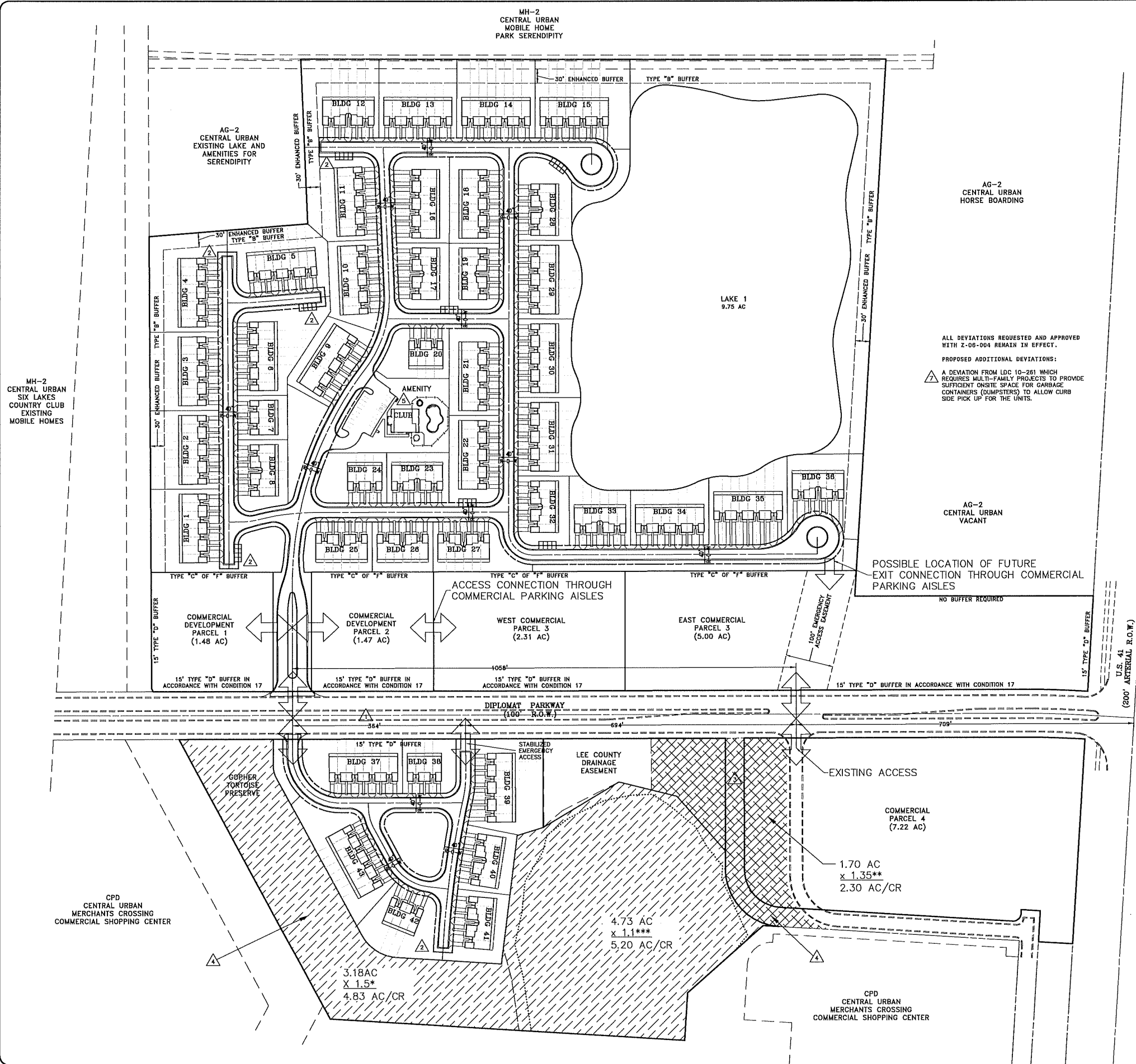
DATE	PROJECT	DRAWING	DESIGN	DRAWN	CHECKED	SCALE	SHEET
12/7/2023	2028TW	ALT_MCP	NFK	NFK	SWM	1"=100'	1 OF 3

NO.	DATE	REVISION DESCRIPTION	BY
1	3/12/2024	FIRST SUFFICIENCY	NFK

BANKS
ENGINEERING

Professional Engineers, Planners, & Land Surveyors
Serving The State Of Florida

10511 SIX MILE CYPRESS PARKWAY
FORT MYERS, FLORIDA 33908
PHONE: (239) 939-5490 FAX: (239) 939-2523
ENGINEERING LICENSE # EB 6469
SURVEY LICENSE # LB 6660
WWW.BANKSENG.COM



OPEN SPACE CALCULATIONS (30% FOR COMMERCIAL/40% COMMON OPEN SPACE FOR RESIDENTIAL)

SOLID ITALIC TEXT DEPICTS RETENTION FROM DESIGN-2017 OPEN SPACE TABLE

NORTH RPD AMENDED TO UTILIZE MIXED USE OVERLAY

TRACT	AREA	INDIGENOUS REQUIRED	OTHER OPEN SPACE REQUIRED	INDIGENOUS PROVIDED
COMMERCIAL 1	1.47 AC	0.22 AC	15%	0.22 AC(0)
COMMERCIAL 2	1.48 AC	0.22 AC	15%	0.22 AC(0)
COMMERCIAL 3	7.31 AC	1.10 AC	15%	1.10 AC(0)
COMMERCIAL 4	7.22 AC	1.08 AC	15%	1.08 AC(0)
RESIDENTIAL NORTH	35.18 AC	3.52 AC	10%	3.52 AC(0) + 0.55 AC(0)
RESIDENTIAL SOUTH	12.47 AC	2.49 AC	20%	2.49 AC(0)
TOTALS	65.13 AC	12.14 AC		12.17 AC(0)

(0) INDIGENOUS OPEN SPACE AREA IS PROVIDED ON SOUTHERN PORTION OF DEVELOPMENT (12.33 CREDITS TOTAL PROVIDED) AND IS TO PROVIDE TOTAL REQUIRED INDIGENOUS OPEN SPACE FOR ALL TRACTS.

(0) OTHER (NON-INDIGENOUS) OPEN SPACE SHALL BE PROVIDED ON THE RESPECTIVE TRACT AND SHALL BE IDENTIFIED AT THE TIME OF DEVELOPMENT ORDER PERMITTING.

(0) NORTH RPD PROVIDING 0.55 AC INDIGENOUS WITHIN FLOODWAY ON SITE WITH 110% CREDIT FOR MINIMUM 1/2 ACRES(50' WIDTH) = 0.61 ACRE CREDIT.

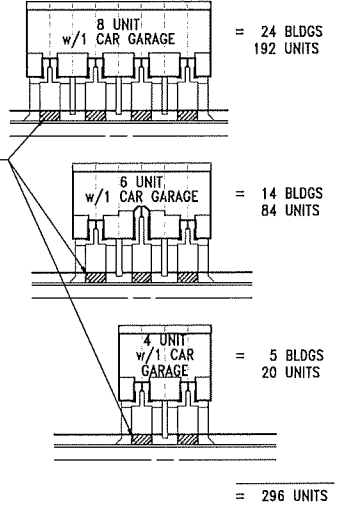
(0) 2.92 ACRE CREDIT PHASED PORTION BEFORE CERTIFICATION OF COMPLETION OF D.O. FOR NORTH RPD.

2.92 AC(135% CREDIT) = MINIMUM 2.16 AC(135% CREDIT FOR MINIMUM 1 AC(75' WIDTH AND ADJACENT TO OFFSITE PRESERVE).

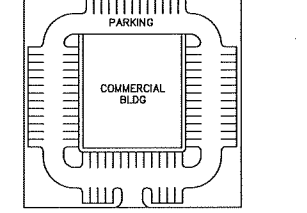
INDIGENOUS NOTES:

- *150% CREDIT FOR MINIMUM 3 ACRES AND 100' WIDTH PER LDC SECTION 10-415(b)(2)b.
- **125% CREDIT FOR MINIMUM 1 ACRE AND 75' WIDTH PER LDC SECTION 10-415(b)(2)b. AND ADDITIONAL 10% CREDIT FOR PRESERVATION ADJACENT TO ROADWAY PER LDC SECTION 10-415(b)(2)b.
- ***110% CREDIT FOR CONNECTION TO OFFSITE ENVIRONMENTAL CONSERVATION OR PRESERVE AREAS PER LDC SECTION 10-415(b)(2)b.

TYPICAL RESIDENTIAL BUILDING LEGEND:



TYPICAL COMMERCIAL BUILDING:



PREPARED FOR:

N.B.D. DEVELOPMENT, INC.

301 TAMAR ROAD, SUITE 3191
BOCA RATON, FL 33431
PH: (561) 884-8872
FAX: (561) 394-7138

DATE: 08-27-2007

PROJECT: 2028

DRAWING: MCP

DESIGN: CUD

CHECKED: CUD

SCALE: 1"=100'

SHEET: 2

OF: 3

FILE NO. (S-P-0): 34-43-24

MASTER CONCEPT PLAN

DIPLOMAT PARCEL

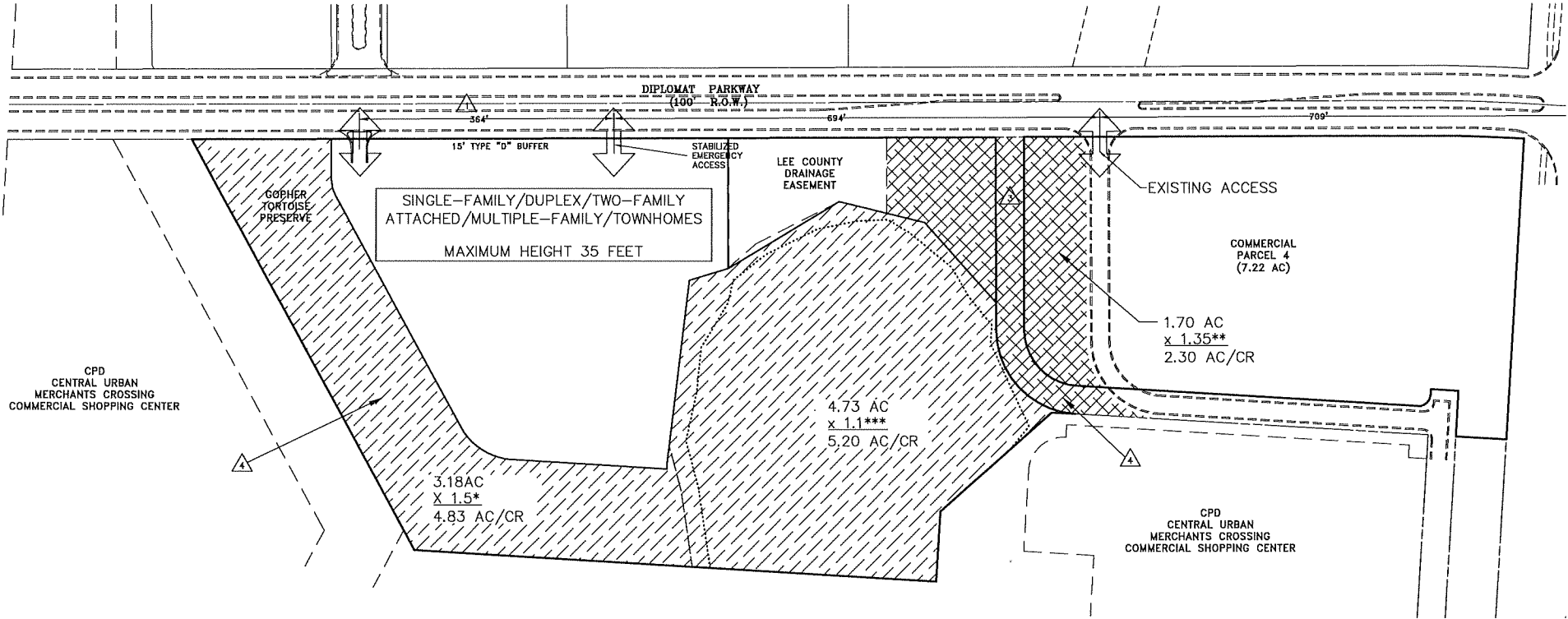
LEE COUNTY, FLORIDA

Banks Engineering

Professional Engineers, Planners & Land Surveyors

FOR: N.B.D. DEVELOPMENT, INC.

2515 NORTHBROOK PLAZA, SUITE 200
FORT MYERS, FLORIDA 33901
PHONE: (239) 937-1234
FAX: (239) 937-3082
SURVEY LICENSE # EB 0448



OPEN SPACE CALCULATIONS (30% FOR COMMERCIAL/40% COMMON OPEN SPACE FOR RESIDENTIAL)				
BOLD/ITALIC TEXT DEPICTS REVISIONS FROM DCS2007-00387 OPEN SPACE TABLE				
NORTH RPD AMENDED TO UTILIZE MIXED USE OVERLAY				
TRACT	AREA	INDIGENOUS REQUIRED	OTHER OPEN SPACE REQUIRED	INDIGENOUS PROVIDED
COMMERCIAL 1	1.47 AC	0.22 AC 15%	0.22 AC(2)	0.22 AC(2)
COMMERCIAL 2	1.41 AC	0.22 AC 15%	0.22 AC(2)	0.22 AC(2)
COMMERCIAL 3	7.31 AC	1.10 AC 15%	1.10 AC(2)	1.10 AC(2)
COMMERCIAL 4	7.22 AC	1.08 AC 15%	1.08 AC(2)	1.08 AC(2)
RESIDENTIAL NORTH	35.18 AC	3.52 AC 10%	3.52 AC(2)	7.03 AC(2) + 0.55 AC(2)
RESIDENTIAL SOUTH	12.47 AC	2.49 AC 20%	2.49 AC(2)	2.54 AC(2)
TOTALS	65.13 AC	12.14 AC	12.14 AC(2)	12.17 AC TOTAL

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(2) OTHER (NON-INDIGENOUS) OPEN SPACE SHALL BE PROVIDED ON THE RESPECTIVE TRACT AND SHALL BE IDENTIFIED AT THE TIME OF DEVELOPMENT ORDER PERMITTING.
(3) NORTH RPD PROVIDING 0.55 AC INDIGENOUS WITHIN FLOODWAY ON SITE WITH 110% CREDIT FOR MINIMUM 1/2 ACROSS WIDTH = 0.61 ACRE CREDIT.
(4) 2.92 ACRE/CREDIT PHASED PORTION BEFORE CERTIFICATION OF COMPLETION OF D.O. FOR NORTH RPD.
2.92 AC(135% CREDIT) = MINIMUM 2.16 AC (135% CREDIT FOR MINIMUM 1 AC(75% WIDTH AND ADJACENT TO OFFSITE PRESERVE).

INDIGENOUS NOTES:
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****10% CREDIT FOR CONNECTION TO OFFSITE ENVIRONMENTAL CONSERVATION OR PRESERVE AREAS PER LDC SECTION 10-415(b)(2)b.



0 100 200 300
GRAPHIC SCALE 1"=100'

- = RESIDENTIAL INDIGENOUS
- = COMMERCIAL INDIGENOUS
- = DEVIATION
PLEASE REFER TO SCHEDULE OF DEVIATIONS AND JUSTIFICATIONS

ALTERNATE DIPLOMAT SOUTH RPD MCP
DIPLOMAT PARCEL
LEE COUNTY, FLORIDA

10/28/2019
PROJECT
2028
DATE

DESIGN
MCP
DRAWING

SEEN
MCP
PROJECT

SCALE
1"=100'

SHEET
3

OF
3

FILE NO. (S-T-R)
34-42-24

Blanks Engineering
Professional Engineers, Planners & Land Surveyors
FERNALD & ASSOCIATES, INC.
2015 NORTHBROOK PLAZA DRIVE, SUITE 200
NORTH FORT MYERS, FLORIDA 33903
PHONE: (239) 448-1120
FAX: (239) 448-3092
SURVEY LICENSE # LB 0880
ENGINEERING LICENSE # EB 1448

PREPARED FOR:
LEE COUNTY HOUSING AUTHORITY
14170 WARNER CIRCLE
NORTH FORT MYERS, FL 33905

2028 DIPLOMAT PARCEL

DIPLOMAT HOUSE f/k/a DIPLOMAT NORTH RPD AMENDMENT
SCHEDULE OF USES, PROPERTY DEVELOPMENT REGULATIONS & CONDITIONS
 Conditions from Z-11-002 with footnotes to approved subsequent ADDs and proposed revisions for
 this amendment application provided in red strike-through/underline text.

1. Development ~~north of Diplomat Parkway East~~¹ must be substantially consistent with the ~~1-3~~-page Master Concept Plan (MCP) entitled:

Page 1 of 3: "ALTERNATE DIPLOMAT NORTH RPD MASTER CONCEPT PLAN, DIPLOMAT HOUSE" last revised 3/12/2024; DIPLOMAT PROPERTY RPD/CPD (NORTH PARCEL)," dated 09-22-10, last revised 4-22-11 and date stamped "Received APR 27 2011 Community Development" AND OR²

the 1-page Page 2 of 3: MCP entitled "Master Concept Plan, DIPLOMAT PARCEL, Lee County, Florida," dated 08-27-2007, last revised 01-23-2008 03/12/2024, OR

Page 3 of 3: and date stamped "Received JAN 30 2008 Permit Counter,". Development south of Diplomat Parkway East must be substantially consistent with the 1-page MCP entitled "Master Concept Plan, DIPLOMAT PARCEL, Lee County, Florida," dated 08-27-2007, last revised 03/12/2024 01-23-2008 and date stamped "Received JAN 30 2008 Permit Counter," OR the 1-page Page 3 of 3 of the MCP entitled "ALTERNATE DIPLOMAT SOUTH RPD MCP, DIPLOMAT PARCEL" dated 10-28-2019¹ last revised 03/12/2024, except as modified by the conditions below.

NOTE: ~~The portion of the project on the north side of Diplomat Parkway includes Commercial Development Parcels 1, 2 and 3 (West 3 and East 3). It also includes a 29.75 acres² 35.2 acre site² that may be developed either as an RPD with RPD uses², or and and/or² ALF/CCF, with or without a commercial component on the westerly portion of that site identified as the 5.43-acre North CPD Parcel.~~

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

Maximum Number of Dwelling Units (North RPD Parcel): ~~138~~ 360 dwelling units (standard density utilizing North RPD 35.18 acres and Commercial Parcel 1 – 1.48 acres and Commercial Parcel 2 – 1.47 acres plus a maximum of 400 beds for assisted living facilities/continuing care facilities. Dwelling units may be converted per Table "B" of the approved MCP.

Maximum Number of Dwelling Units (South RPD parcel): 105 dwelling units. An additional 21 units may be constructed if they are marketed at a price point that is affordable to moderate income households at the time of building permit application. Further, the additional 21 units may only be sold to buyers who qualify as a moderate income household at time of purchase. Moderate income household means 120 percent of the yearly median income based on yearly income levels developed for the SHIP Program by the Housing Section of the Lee County Division of Planning.

¹ ADD2019-00181

² ADD2019-00085

Eight (8.0) dwelling units per acre maximum, for the 13.19 acres of RPD (South of Diplomat Parkway). An additional 1.6 units per acre may be constructed subject to the affordability requirements above.

~~Maximum Commercial Floor Area (North CPD Parcel): 50,000 square feet of medical office. Medical office may be converted per Table "B" of the approved MCP.~~

Maximum Total Commercial Floor Area (CPD Parcels 1, 2, 3 and 4): 200,000 square feet of commercial uses. ~~A maximum of 100,000 s/f of which may be retail.~~³ North RPD utilizing CPD Parcels 1 and 2 acreage for residential density with no impact to commercial use since within Mixed Use Overlay.

~~Retail development is limited to Parcel 4 (which meets Commercial Site Location standards). Retail development is not permitted on Commercial Parcels 1, 2 or 3 (which do not meet Site Location standards).~~³

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

a. **SCHEDULE OF USES**

RPD- South of Diplomat Parkway

Accessory Uses and Structures

Administrative Office

Clubs, Private - as shown on the approved MCP.

Community Garden

Dwelling Units, single-family, duplex, two-family attached, multiple-family
and townhomes - 105 (up to 126 pursuant to Condition 1)

Entrance Gates and Gatehouse

Essential Services

Essential Service Facilities, Group I only

Excavation, Water Retention - not to include the removal of excavated material from the site.

No blasting.

Fences and Walls.

Home Occupation, No outside help.

Home Care Facility.

Model Home, Model Display Center, Model Unit - ALSO SEE MODEL HOME/REAL ESTATE SALES
CONDITIONS

Parking Lot, Accessory

Real Estate Sales - limited to sales of lots, homes or units within the development. Model
home and club locations only. ALSO SEE MODEL HOME/REAL ESTATE SALES CONDITIONS.

Recreational Facilities - Private, On-site only. LIMITED TO THOSE SHOWN ON THE APPROVED
MCP.

Residential Accessory Uses

Signs, in compliance with LDC Chapter 30

Temporary Uses, Temporary Real Estate Sales Office

³ ADD2020-00034

CPD - Parcels 1, 2, 3 & 4 - North and South of Diplomat Parkway

Administrative Office
Animals: Clinic, Kennel, Control Center (including Humane Society) - indoors, no outdoor runs.
Automatic Teller Machine
Auto Parts Store - No installation service.
Auto Repair and Service, Group I only
Bait and Tackle Shop
Banks and Financial Establishments, Groups I and II
Boat Part Stores
Building Material Sales (indoor only, no outdoor display)
Business Services, Groups I and II (no impound yards or armored car services)
Cleaning and Maintenance Services Clothing Stores, General
Communication facilities, wireless (in accordance with LDC Chapter 34, Division 11) A wireless communication facility may be administratively approved, provided it is co-located on a building and the height of the tower does not exceed 50 feet from existing grade
Community Garden (Note: This use may not be utilized until such time as the LDC is amended to permit this use in a CPD.)
Consumption on Premises - Indoors. In conjunction with Group III restaurants only. Outdoor Consumption on Premises will require special exception approval (public hearing)
Contractors and Builders, Groups I and II (but not Group III)
Cultural Facilities
Day Care, Adult, Child
Department Store
Drive-through facility for any permitted use. No fast food drive-through.
Drugstore, Pharmacy (limited to 1 on Parcel 3 or 4)
Dwelling units, multifamily (Limited to Parcels 3 and 4)³ [See Conditions 25, 26 & 27](#)
Entrance Gate and Gatehouse
Emergency Operations Center
EMS, Fire or Sheriff's Station
Essential Services
Essential Service Facilities, Group I only
Excavation, Water Retention - not to include the removal of excavated material from the site.
No blasting.
Fences and Walls
Flea Market, Indoor Only
Food and Beverage Services, Limited
Food Stores, .Groups I and II
Funeral Home or Mortuary, with or without cremation
Gasoline Dispensing System, Special
Hardware Store
Health Care Facility, Groups I, II and III (but not Group IV).
Hobby, Toy and Game Store

Hotel/Motel - Limited to 120 rooms maximum.
 Household and Office Furnishings - (indoor only, no outdoor display)
 Insurance Companies
 Lawn and Garden Supply Stores - (indoor only, no outdoor display)
 Library
 Medical Office
Model Home, Model Display Center, Model Unit (Limited to Parcels 3 and 4)³
 Nonstore Retailer
 Paint, Glass and Wallpaper - (indoor only, no outdoor display)
 Parking Lot, Accessory, Commercial, Garage, Public Parking, Temporary
 Personal Services, Groups I, II, III and IV. Excluding Laundromats,
 Laundry Agents, Massage Establishments, Massage Parlors, Steam or Turkish Baths,
 Dating Services, Escort Services, Palm Readers, Fortune Tellers, Card Readers, Tattoo
 Parlors.
 Pet Services, Pet Shops - Indoor only, no outdoor display. No outdoor runs.
 Place of Worship
 Plant Nursery
 Post Office
 Printing and Publishing
 Processing and Warehousing
Real Estate Sales
 Limited to rental/sales of units within multifamily development permitted on Parcels 3
 and 4³
 Real Estate Sales Office
 Religious Facilities
 Rental or Leasing Establishments, Group II only (and excluding tools and equipment primarily
 for home use). Indoor only. No outdoor display.
 Repair Shop, Groups I, II and III
 Research and Development Laboratories, Groups I, II, III and IV
Residential accessory uses (Limited to Parcels 3 and 4)³
 Restaurants, Groups I, II, III and IV
 Restaurant, Fast Food, No stand-alone or drive-through – within a multiple-occupancy building
 only.
 Schools, Commercial and Non-Commercial
 Signs in Accordance with LDC Chapter 30
 Social Services Group I only
 Specialty Retail, Groups I, II, III and IV
 Storage, Indoor Only
 Studios Supermarkets
 Temporary Uses
 Used Merchandise, Groups I and II, Indoor only. No outdoor display.
 Variety Store

RPD - North of Diplomat Parkway

Accessory Uses and Structures
 Administrative Office
~~Assisted Living Facilities (pursuant to Condition 1)~~
 Clubs, Private - as shown on the approved MCP (Recreation Areas)
 Community Garden
~~Continuing Care Facilities~~
 Dwelling Units, ~~single family, duplex, two family attached~~, multifamily, townhomes - (pursuant to Condition 1)
 Entrance Gates and Gatehouse
 Essential Services
 Essential Service Facilities, Group I only
 Excavation, Water Retention - not to include the removal of excavated material from the site.
 No blasting.
 Fences and Walls.
 Home Occupation, No outside help
 Home Care Facility
 Model Home, Model Display Center, Model Unit - ALSO SEE MODEL HOME/REAL ESTATE SALES CONDITIONS.
 Parking Lot, Accessory.
 Real Estate Sales - limited to sales of lots, homes or units within the development. Model home and club locations only. ALSO SEE MODEL HOME/REAL ESTATE SALES CONDITIONS.
 Recreational Facilities - Private, On-site only. LIMITED TO THOSE SHOWN ON THE APPROVED MCP.
 Religious Facilities
 Residential Accessory Uses
 Signs, in compliance with LDC Chapter 30
 Temporary Uses, Temporary Real Estate Sales Office

~~CPD—5.43-Acre Parcel north of Diplomat Parkway~~

~~Administrative Office~~
~~Animals: Clinic, Kennel, Control Center (including Humane Society) – indoors, no outdoor runs~~
~~Automatic Teller Machine~~
~~Banks and Financial Establishments, Groups I and II~~
~~Business Services, Groups I and II (no impound yards or armored car services)~~
~~Cleaning and Maintenance Services~~
~~Communication facilities, wireless (in accordance with LDC Chapter 34, Division 11) A wireless communication facility may be administratively approved, provided it is co-located on a building and the height of the tower does not exceed 50 feet from existing grade.~~
~~Community Garden (Note: This use may not be utilized until such time as the LDC is amended to permit this use in a CPD.)~~
~~Cultural Facilities~~
~~Entrance Gate and Gatehouse~~
~~Emergency Operations Center~~

- ~~_____ EMS, Fire or Sheriff's Station~~
- ~~_____ Essential Services~~
- ~~_____ Essential Service Facilities, Group I only~~
- ~~_____ Excavation, Water Retention – not to include the removal of excavated material from the site.~~
- ~~_____ No blasting.~~
- ~~_____ Fences and Walls.~~
- ~~_____ Health Care Facility, Groups I, II and III (no Group IV)~~
- ~~_____ Insurance Companies~~
- ~~_____ Medical Office~~
- ~~_____ Parking Lot, Accessory~~
- ~~_____ Personal Services, Groups I and II~~
- ~~_____ Pharmacy – accessory to medical office use only~~
- ~~_____ Real Estate Sales Office~~
- ~~_____ Religious Facilities~~
- ~~_____ Research and Development Laboratories, Groups I, II, III and IV~~
- ~~_____ Schools, Commercial and Non-Commercial~~
- ~~_____ Signs in Accordance with LDC Chapter 30~~
- ~~_____ Social Services Group I only~~
- ~~_____ Temporary Uses~~

b. SITE DEVELOPMENT REGULATIONS – South RPD and Commercial Parcels 1, 2, 3 and 4 may request administrative amendment to request to apply Mixed Use Overlay incentives.

RPD - South of Diplomat Parkway

SINGLE-FAMILY:

Minimum Lot Areas and Dimensions

Lot Size:	7,500 square feet
Lot Width:	75 feet
Lot Depth:	100 feet

Minimum Setbacks

Street	25 feet (public)/20 feet (private)
Side	5 feet
Rear	30 feet on all lots containing enhanced buffer 20 feet on all other lots

Water body	25 feet
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All Accessory Uses: Per the LDC.

Setbacks from Preserves (All structures): 25 feet, per the LDC.

Minimum Perimeter Setbacks:	25 feet 30 feet on all lots containing an enhanced buffer
Minimum Building Separation:	10 feet
Maximum Building Height:	35 feet/ 3 stories ¹
Maximum Lot Coverage:	45 percent

DUPLEX, TWO-FAMILY ATTACHED, TOWNHOUSE:

Minimum Lot Areas and Dimensions

Lot Size:	7,500 square feet
Lot Width:	75 feet (37.5 per unit)
Lot Depth:	100 feet

Minimum Setbacks

Street	25 feet (public)/20 feet (private)
Side	5 feet (zero feet for common wall unit)
Rear	30 feet on all lots containing enhanced buffer 20 feet on all other lots

Water body	25 feet
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All Accessory Uses: Per the LDC.

Setbacks from Preserves (All structures): 25 feet, per the LDC.

Minimum Perimeter Setbacks:	25 feet 30 feet on all lots containing an enhanced buffer
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Minimum Building Separation:	10 feet.
Maximum Building Height:	35 feet/ 2 stories ¹
Maximum Lot Coverage:	45 percent.

MULTIPLE-FAMILY:

Minimum Lot Areas and Dimensions

Lot Size:	10,000 square feet
Lot Width:	100 feet
Lot Depth:	100 feet

Minimum Setbacks

Street	25 feet (public)/20 feet (private)
Side	10 feet
Rear	30 feet on all lots containing enhanced buffer 20 feet

Water body	25 feet
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All Accessory Uses: Per the LDC.

Setbacks from Preserves (All structures): 25 feet, per the LDC.

Minimum Perimeter Setbacks: 25 feet
30 feet on all lots containing an enhanced buffer

Minimum Building Separation: 20 feet.

Maximum Building Height:	35 feet/ 2 stories ¹
Maximum Lot Coverage:	45 percent.

RECREATIONAL AREA/FACILITIES:

Minimum Lot Areas and Dimensions

Lot Size:	9,000 square feet
Lot Width:	50 feet

Lot Depth: 120 feet

Minimum Setbacks - Also see Deviation 5

Street	25 feet (public)/20 feet (private)
Side	10 feet
Rear	20 feet

Water body	25 feet
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All Accessory Uses: Per the LDC.

Setbacks from Preserves (All structures): 25 feet, per the LDC.

Minimum Perimeter Setbacks: 25 feet

Minimum Building Separation: 10 feet

Maximum Building Height:	35 feet/2 stories
Maximum Lot Coverage:	45 percent

CPD - PARCELS 1, 2, 3 & 4:

Minimum Lot Areas and Dimensions

Lot Size:	10,000 square feet
Lot Width:	100 feet
Lot Depth:	100 feet

Minimum Setbacks

Street	25 feet (public)/20 feet (private)
Side	10 feet
Rear	20 feet

Water body	25 feet
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All Accessory Uses: Per the LDC.

Setbacks from Preserves (All structures): 25 feet, per the LDC.

Minimum Perimeter Setbacks: 25 feet

Minimum Building Separation: 20 feet, but buildings exceeding 35 feet in height must maintain additional building separation as regulated by LDC §34-2174(a).

Maximum Building Height: 50 feet/ 3 stories
35 feet/2 stories - adjacent to west boundary

Maximum Lot Coverage: 60 percent

RPD - NORTH OF DIPLOMAT PARKWAY:

~~ASSISTED LIVING:~~

~~Minimum Lot Areas and Dimensions~~

Lot Size:	10,000 square feet
Lot Width:	100 feet
Lot Depth:	100 feet

~~Minimum Setbacks~~

Street	25 feet (public)/20 feet (private)
Side	10 feet
Rear	30 feet on all lots containing enhanced buffer
	20 feet on all other lots

Water body	25 feet
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_____ All Accessory Uses: Per the LDC.
_____ Setbacks from Preserves (All structures): 25 feet, per the LDC.
_____ Minimum Perimeter Setbacks: 25 feet
_____ 30 feet on all lots containing an enhanced buffer

_____ Minimum Building Separation: $\frac{1}{2}$ building height, but not less than 15 feet

_____ Maximum Building Height: 45 feet
_____ Maximum Lot Coverage: 45 percent

_____ **SINGLE-FAMILY:**

_____ Minimum Lot Areas and Dimensions
_____ Lot Size: 7,200 square feet
_____ Lot Width: 60 feet
_____ Lot Depth: 100 feet

_____ Minimum Setbacks
_____ Street 25 feet (public)/20 feet (private)
_____ Side 5 feet
_____ Rear 30 feet on all lots containing an enhanced buffer
_____ 20 feet on all other lots

_____ Water body 25 feet

_____ All Accessory Uses: Per the LDC.

_____ Setbacks from Preserves (All structures): 25 feet, per the LDC.

_____ Minimum Perimeter Setbacks: 25 feet
_____ 30 feet on all lots containing an enhanced buffer

_____ Minimum Building Separation: 10 feet

_____ Maximum Building Height: 35 feet
_____ Maximum Lot Coverage: 45 percent

_____ **DUPLEX:**

_____ Minimum Lot Areas and Dimensions
_____ Lot Size: 7,000 square feet
_____ Lot Width: 70 feet
_____ Lot Depth: 100 feet

Minimum Setbacks	
Street	25 feet (public)
	20 feet (private)
Side	5 feet
Rear	30 feet on all lots containing enhanced buffer
	20 feet on all other lots
Water body	25 feet
All Accessory Uses: Per the LDC.	
Setbacks from Preserves (All structures): 25 feet, per the LDC.	
Minimum Perimeter Setbacks: 25 feet	
	30 feet on all lots containing an enhanced buffer
Minimum Building Separation: 10 feet.	
Maximum Building Height: 35 feet	
Maximum Lot Coverage: 45 percent	

TOWNHOME:

Minimum Lot Areas and Dimensions

Lot Size:	1,600 square feet
Lot Width:	16 feet
Lot Depth:	100 feet

Minimum Setbacks

Street	25 0 feet (public)
	20 feet (private)
Side	10 feet
	0 feet (for a common wall)
Rear	30 feet on all lots containing enhanced buffer
	20 feet on all other lots

Water body	25 feet
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All Accessory Uses: ~~Per the LDC.~~ 0

Setbacks from Preserves (All structures): ~~25 feet,~~ per the LDC.

Minimum Perimeter Setbacks: ~~21~~5 feet
~~30 feet on all lots containing an enhanced buffer~~

Minimum Building Separation: 20 feet

Maximum Building Height: 35 feet

Maximum Lot Coverage: ~~55 percent~~ No maximum

MULTIPLE-FAMILY:

Minimum Lot Areas and Dimensions

Lot Size: ~~10,000~~ square feet

Lot Width: ~~100~~25 feet

Lot Depth: ~~100~~ feet

Minimum Setbacks

Street ~~250~~ feet (public)

~~20~~ feet (private)

Side ~~10~~ feet

Rear ~~30~~ feet ~~on all lots containing enhanced buffer~~

~~20 feet on all other lots~~

Water body 25 feet

All Accessory Uses: ~~Per the LDC~~0

Setbacks from Preserves (All structures): ~~25 feet~~, per the LDC

Minimum Perimeter Setbacks: ~~21~~5 feet

Minimum Building Separation: ~~1/2 building height, but not less than 15~~20 feet

Maximum Building Height: ~~50~~60 feet

Maximum Lot Coverage: ~~45 percent~~ No maximum

RECREATION AREA/CLUBHOUSE:

Minimum Lot Areas and Dimensions

Lot Size: ~~9,000~~ square feet

Lot Width: ~~100~~25 feet

Lot Depth: ~~100~~ feet

Minimum Setbacks

Street ~~250~~ feet (public)

~~20~~ feet (private)

Side ~~10~~ feet
Rear ~~20~~ feet

Water body 25 feet

All Accessory Uses: ~~Per the LDC, 0~~

Setbacks from Preserves (All structures): ~~25 feet,~~ per the LDC.

Minimum Perimeter Setbacks: ~~21~~5 feet
~~30 feet on all lots containing an enhanced buffer~~

Minimum Building Separation: 10 feet

Maximum Building Height: 35 feet
Maximum Lot Coverage: ~~45 percent~~ No maximum

~~CPD—5.43-acre North CPD Parcel:~~

~~Minimum Lot Areas and Dimensions~~

~~Lot Size: 10,000 square feet~~
~~Lot Width: 100 feet~~
~~Lot Depth: 100 feet~~

~~Minimum Setbacks~~

~~Street 25 feet (public)~~
~~20 feet (private)~~
~~Side 10 feet~~
~~Rear 20 feet~~
~~20 feet on all other lots~~

~~Water body 25 feet~~

~~All Accessory Uses: Per the LDC~~

~~Setbacks from Preserves (All structures): 25 feet, per the LDC~~

~~Minimum Perimeter Setbacks: 25 feet~~

~~Minimum Building Separation: ½ building height not less than 15 feet~~

~~Building Height: 35 feet~~

~~Maximum Lot Coverage: 60 percent~~

3. CONCURRENCY

Approval of this rezoning does not constitute a finding that the proposed project meets the concurrency requirements set forth in LDC Chapter 2 and the Lee Plan. The developer is required to demonstrate compliance with all concurrency requirements prior to issuance of a local development order.

4. MODEL HOME AND REAL ESTATE SALES

Model units and homes (and real estate sales) are permitted in compliance with the following conditions:

- a. Each model must be a unique example. Multiple examples of the same unit are not permitted.
- b. All model sites must be designated on the development order plans.
- c. Prior to model home construction, the lots upon which model homes will be constructed must be shown on a preliminary plat (not the final). The preliminary plat must be filed concurrently with the local development order application. The model homes must comply with the setbacks set forth in the property development regulations for this project.
- d. Dry models are prohibited.
- e. The number of model homes or model units will be limited to no more than 10 within the development at one time.
- ~~f. Any model homes or units must be developed within the areas identified as "models" on the approved MCP.~~~~DELETED~~
- g. Real estate sales within the RPD are limited to the sale of lots or units within the development only. Real Estate sales are a permitted use within the CPD.
- h. Real estate sales within the RPD are limited to within model homes or clubhouse only.
- i. Hours of operation for both models and real estate sales (within the RPD) are limited to Monday through Sunday 8:00 a.m. to 8:00 p.m.
- j. Model homes and real estate sales within the RPD will be valid for a period of up to five years from the date of issuance of a certificate of occupancy of a model home per LDC §34-1954(d)(1).

5. NO AGRICULTURAL USES APPROVED

No agricultural uses are permitted on site.

6. BLASTING

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

7. NATIVE VEGETATION REQUIRED IN THE ENTIRE RPD AND CPD

All required buffers must utilize 100 percent all native vegetation.

8. ADDITIONAL BUILDING ~~SEPARATION~~ SETBACK REQUIRED

Buildings exceeding 35 feet in height must maintain additional building set~~back~~paration as regulated by LDC §34-2174(a).

9. TRAFFIC

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

10. LEE PLAN

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

11. INTERSECTION IMPROVEMENTS

The developer must contribute its proportionate share of the costs of intersection improvements at the time a traffic control device is warranted at the intersection of US 41 and Diplomat Road if requested by Florida Department of Transportation or City of Cape Coral.

12. WIRELESS COMMUNICATION FACILITIES

- a. Freestanding wireless communication facilities (towers, including stealth type) are not permitted. Approval of freestanding wireless communication facilities will require an amendment to the planned development (public hearing).
- b. Wireless Communication Facilities (including wall-mounted and roof-mounted antennas) may be approved in accordance with LDC §34-1441, et. seq. (Commercial parcels only).

13. ACCESSORY USES

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

14. OPEN SPACE

Prior to local development order approval, the landscape plans must demonstrate that each ~~commercial~~-parcel is providing a minimum of the open space requirement consistent with the

~~open space table provided on the MCP30-percent open space, and a minimum of 40-percent common open space is provided within the residential tract.~~

15. ENVIRONMENTAL

Prior to local development order approval, if the Florida Fish and Wildlife Conservation Commission (FWC) allows the relocation of tortoises within on-site indigenous preserves:

- a. The developer must submit a detailed indigenous preservation management plan for the Lee County Division of Environmental Sciences (DES) Staff review and approval that includes methods of maintaining the western 3.0 acres of the preserve as gopher tortoise habitat; and
- b. The landscape plans must include a permanent gopher tortoise fence along Diplomat Parkway where the three-acre gopher tortoise preserve abuts this roadway and a double staggered native hedge (minimum three-gallon container size; 24-inch height at planting; maintained at a minimum 36-inch height) planted on the roadside of the fence; and
- c. The landscape plans must delineate a double staggered native hedge (minimum three-gallon container size; 24-inch height at planting; maintained at a minimum 36-inch height) planted along the interface of the indigenous preserve with the residential tract.
- d. Prior to issuance of a Vegetation Removal Permit, all invasive exotic vegetation and manmade debris must be hand removed from the indigenous preserve.

16. COMMERCIAL PARCELS NORTH OF DIPLOMAT PARKWAY

Commercial buildings located within Parcels 1, 2 and the westernmost 2.3 acres of Parcel 3 are limited to a maximum of 10,000 square feet per building, and must not exceed two stories/35 feet in height. The building locations must alternate (be staggered) between the front and rear of the commercial parcels to provide a more campus-like setting. A parking plan must be devised to keep the amount of parking spaces along Diplomat Parkway to an absolute minimum. These parking areas and commercial buildings must be buffered, from Diplomat Parkway, by, at a minimum, a two-foot high berm with 10 trees and a staggered 36-inch high hedge per 100 linear feet. ~~Applicant is strongly encouraged to utilize the commercial site locational criteria established for the Estero community.~~

The commercial buildings on Commercial Parcels 1, 2, and 3 must be of the same or similar architectural design and coloring as the residential buildings, to identify them as a unified project. All project identification signs (commercial and residential) must also be of the same or similar architectural design and coloring.

17. NOT UTILIZED

18. SOLID WASTE/RECYCLING

Prior to local development order approval for vertical development, the Developer must provide facilities in compliance with LDC §10-261 and Lee County Solid Waste Ordinance #08-10 for the

pick up/disposal of solid waste and recyclables. The minimum area required for and specific locations of these facilities will be reviewed at the time of local development order application (Also see Deviation 7).

19. PRIOR ZONING

The terms and conditions of ~~the original~~ Zoning Resolution Nos. Z-06-004 and Z-11-002 and Administrative Amendments ADD2007-00169, ADD2019-00085, ADD2019-00181 and ADD2020-00034 are superceded by this zoning action and are rendered null and void by this approval. ~~The terms and conditions herein apply to the entire planned development previously covered by Zoning Resolution No. Z-06-004.~~

20. INDIGENOUS PRESERVATION/HERITAGE TREES (~~NORTH CPD PARCEL AND~~ NORTH RPD PARCEL)

- a. Prior to local development order approval, a tree survey must be submitted depicting the location, diameter at breast height, and species of all heritage trees within the development area.
- b. Prior to local development order approval, landscape plans must depict heritage trees, located within the development footprint, that are determined to be of good health as per a certified arborist. Those trees must be incorporated into the internal open space (i.e., perimeter planting, enlarged landscape areas, etc), or must be replaced with a 20-foot like species to a suitable open space area where final site design constraints (i.e., fill requirements, entrance roads, etc) do not allow preservation.

21. PROTECTED SPECIES

- a. Prior to development order approval, the Applicant must first seek approval for on-site preservation of the gopher tortoises through avoidance or relocation before pursuing off-site relocation options. All communication with FWC verifying on-site avoidance or relocation attempts were made must be provided to DES Staff.
- b. A copy of the appropriate gopher tortoise relocation permit issued by the FWC must be submitted to the DES Staff prior to excavation and moving of any gopher tortoises. The Applicant must first seek approval for an on-site relocation before pursuing off-site relocation options. Any gopher tortoises and commensal species found during burrow excavation must be moved to preserves containing suitable gopher tortoise habitat as approved by the FWC and DES Staff.

22. ~~DELETED OPEN SPACE (NORTH CPD PARCEL AND NORTH RPD PARCEL)~~

~~Prior to local development order approval, the development order plans must delineate a minimum of 1.63 acres of open space for the CPD and 11.9 acres of open space for the RPD.~~

23. BUFFERS (~~NORTH CPD PARCEL AND~~ NORTH RPD PARCEL)

- a. Prior to local development order approval, the development plans must demonstrate the preservation of native vegetation within the flood way. ~~This vegetation may be utilized to meet the required type "F" buffer plantings. Upon removal of exotics from this area if it is~~

~~found that the existing vegetation does not satisfy the buffer planting requirements, additional plants must be provided. These plants must be designed to mimic the natural area through the use of similar species and random planting throughout the area.~~

- b. An enhanced type "F" buffer must be provided along the north property line west of the lake, as shown on the MCP. This buffer must be 30 feet in width and include 10 native canopy trees per 100 linear feet, and a double hedge row planted at 48" in height at time of planting.

24. NATIVE PLANTINGS REQUIRED (~~NORTH CPD PARCEL AND~~ NORTH RPD PARCEL)

All required buffer plantings, general trees, and internal canopy trees must be 100 percent native species.

25. (Condition 3 from ADD2020-00034) CPD Parcels 3 and 4 may convert unused commercial intensity to multifamily dwelling units in accordance with the following Land Use Conversion Matrix:

	<u>Multifamily Residential LUC 220 (0.56 Trips/DU)</u>	<u>Commercial Retail (Shopping Center) LUC 820 (3.81 Trips/1,000 sq. ft.)</u>
<u>Multifamily Residential LUC 220 (0.56 Trips/DU)</u>	<u>Same</u>	<u>147 sq ft./1 DU</u>
<u>Commercial Retail (Shopping Center) LUC 820 (3.81 Trips/1,000 sq. ft.)</u>	<u>6.80 DU/1,000 sq. ft.</u>	<u>Same</u>

26. (Condition 4 from ADD2020-00034) A maximum of 116 multifamily dwelling units (8 dwelling units per acre) may be constructed on CPD Parcels 3 and 4 in accordance with the Land Use Conversion Matrix in Condition 325.

27. (Condition 5 from ADD2020-00034) With any local development order application proposing multifamily residential development on CPD Parcels 3 and 4, the applicant must submit a report itemizing:

- a. The density (expressed in number of dwelling units) and, if applicable, the intensity (expressed in the square feet of floor area) of each use proposed by the local development order application.
- b. The cumulative total density and intensity permitted on CPD Parcels 1, 2, 3, and 4 by prior local development order approvals.
- c. The remaining density and intensity available for future development on CPD Parcels 1, 2, 3, and 4 for each individual classification in Condition 527(a).

SECTION C. DEVIATIONS:

(Deviations 1 through ~~78~~ were previously approved and remain applicable to the RPD/CPD and are recited below with minor language clarifications. Deviations 7 and 8 are proposed to be revised and Deviations 89 and 10 ~~is~~are new.)

1. **Intersection Separation** - Deviation 1 (previously contained in Resolution Z-06-004 and ~~ADD2007-00169~~subsequent approvals) seeks relief from the LDC §10-285(a) requirement to provide a minimum access connection separation of 660 feet on an arterial road to permit an access separation of 364 feet between the project's proposed main access and the proposed exit-only access for the residential portion of the southern parcel. This deviation is APPROVED.
2. **One dead-end street permitted** - Deviation 2 (previously contained in Resolution Z-06-004 and ~~ADD2007-00169~~subsequesnt approvals) seeks relief from the LDC §10-296(k)(1) requirement that dead-end streets be closed at one end by a circular turn-around, to allow one dead-end street as shown on the approved MCP on the southern RPD. This deviation is APPROVED.
3. **Calculation for Open Space** - Deviation 3 (previously contained in Resolution Z-06-004 and ~~ADD2007-00169~~subsequent approvals) seeks relief from the LDC §10-415(b)(1)(a) requirement that large developments with indigenous vegetation communities to provide 50 percent of their open space percentage requirements through on-site preservation of existing native vegetative communities, to permit 0.45 acres of right of way to be vacated, enhanced and preserved to count toward the preservation requirement. This deviation is APPROVED, SUBJECT TO the following condition:

Prior to local development order approval for Commercial Parcel 4, the existing roadway easement depicted within the indigenous preserve must be vacated.

This deviation applies to the southern RPD and CPD.

4. **Installation of storm water management system** - Deviation 4 (previously contained in Resolution Z-06-004 and ~~ADD2007-00169~~susequent approvals) seeks relief from the LDC §10-415(b)(1)a. requirement that large developments with existing indigenous native vegetation communities provide 50 percent of their open space requirement through on-site preservation of indigenous native vegetation, to allow portions of the preservation area to be disturbed and restored in order to install a storm water management system. This deviation is APPROVED, SUBJECT TO the following conditions:
 - a. Prior to local development order, the development order plans must delineate the general location of the surface water management outfall through the indigenous preserve to the canal. The outfall must be designed as an open system that can be planted with native vegetation.
 - b. Prior to issuance of a Vegetation Removal Permit, the location of the surface water management outfall through the indigenous preserve must be field staked to avoid impacting any large native trees or gopher tortoise burrows for the Division of Environmental Sciences Staff review and approval.

This deviation applies to the southern RPD and CPD.

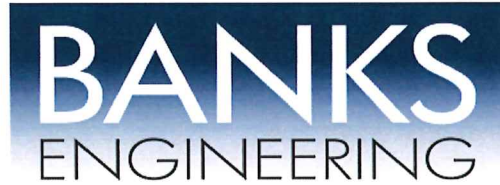
5. **Separation from residential uses** - Deviation 5 (previously contained in Resolution Z-06-004 and ~~ADD2007-00169~~subsequent approvals) seeks relief from the LDC §34-2474(b)(6) requirement that recreation halls and ancillary facilities and private clubs be located at least 40 feet from any residential dwelling unit, to allow a 20-foot minimum separation for any recreation building from a residential dwelling unit. This deviation is APPROVED, SUBJECT TO the following condition:

Development of a recreational facility and clubhouse must be generally consistent with the location shown on the approved MCP.

This deviation applies to the recreation area shown on the RPD to the north.

6. a. **Single ingress into the development** - Deviation 6a (previously contained in Resolution Z-06-004 and ~~ADD2007-00169~~subsequent approvals) seeks relief from the LDC §10-291(3) requirement (when practical) that residential developments of more than five acres in size provide two or more means of ingress into the development, to allow the residential portion to the north of Diplomat Parkway to be constructed with a single ingress/egress connection onto Diplomat Parkway. This deviation is APPROVED, SUBJECT TO the following conditions:
- a. Access to the residential component north of Diplomat Parkway must be generally consistent with the approved MCP; and
 - b. The approved MCP and local development order must depict a minimum 70-foot-wide divided entrance on the north side of Diplomat Parkway that includes a median with two lanes on both sides of the median for ingress and egress; and
 - c. Prior to issuance of a development order, the developer must provide written documentation from the North Fort Myers Fire District indicating that these access points are acceptable and provide adequate access for emergency vehicles. The development order must also include the plans for the secondary/emergency access required in the following paragraph.
 - d. Prior to build-out of the north residential development, Applicant must install a secondary/emergency access from the residential tract to commercial Parcel 3, as shown on the MCP. Any emergency access gate must comply with all applicable regulations with respect to required equipment for an emergency override mechanism at the time of installation. Additionally, if an emergency necessitates the breaking of an entrance gate, the cost of repairing the gate and the emergency vehicle (if applicable) will be the responsibility of the owner or operator of the gate.
- 6b. Deviation 6b (previously contained in Resolution Z-06-004 and subsequent approvals) seeks relief from the LDC §10-291(3) requirement (when practical) that residential developments of more than five acres in size provide two or more means of ingress into the development, to allow the residential portion to the south of Diplomat Parkway to be constructed with a single ingress/egress connection onto Diplomat Parkway. This deviation is APPROVED, SUBJECT TO the following conditions.

- a. Access to the residential component south of Diplomat Parkway must be generally consistent with the approved MCP; and
 - b. Any emergency access gate must comply with all applicable regulations with respect to required equipment for an emergency override mechanism at the time of installation. Additionally, if an emergency necessitates the breaking of an entrance gate, the cost of repairing the gate and the emergency vehicle (if applicable) will be the responsibility of the owner or the operator of the gate; and
 - c. Prior to issuance of a development order, the developer must provide written documentation from the North Fort Myers Fire District indicating that these access points are acceptable and provide adequate access for emergency vehicles.
7. **Curbside garbage collection for townhouse units and reduction in collection area for multi-family units** - Deviation 7 (townhouse previously contained in ADD2007-000169 and subsequent approvals) seeks relief from the LDC §10-261 requirement that all new multiple-family residential developments to provide sufficient space for the placement of garbage containers or receptacles, to allow for curbside garbage pick up at the proposed townhouse units that are planned within the project. This deviation is APPROVED.
Request to amend this deviation to allow reduction in required multi-family container space of 216 SF (120 + 96) for first 25 multi-family units plus 8 SF for each additional unit; to allow space for the compactor and a minimum 144 square feet for recyclable materials collection area for the North RPD.
8. **Certain internal buffers not required** - Deviation 8 [previously contained in Z-11-002 and subsequent approvals from LDC §10-416(d)(3)] seeks relief from the LDC ~~§10-416(d)(3)~~ 10-425(f)(1) requirement ~~that a Type C/F for five-foot wide~~ buffer along rights-of-way planted with five trees per 100 linear feet between the proposed RPD/CPD uses internal to the development, to allow no buffer ~~between the RPD/CPD uses where the commercial uses are separated from the residential uses~~ within the North RPD project ~~to internal rights-of-way by a private road~~. This deviation is APPROVED.
Request to amend this deviation to allow no buffers to internal rights-of-way for the North RPD.
9. **Backout parking within internal right-of-way** – New Deviation 9 seeks relief from LDC §34-2013(a)(2) requirement that parking that backs out into rights-of-way in residential developments must be for amenities to the development such as parks and recreational facilities and not for dwelling units or commercial uses; to allow backout parking spaces for dwelling units and guests limited to the location shown on the MCP.
10. **Minimum Building Separation** – New Deviation 10 seeks relief from LDC §34-935(e)(4) requirement to provide a minimum building separation of one-half the sum of the building heights, or 20 feet, whichever is greater; to allow a minimum building separation of 20 feet.



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Diplomat House f/ka Diplomat North RPD Amendment Schedule of Deviations and Justifications

DCI2023-00050 – Revised March 2024

Deviations 1 through 8 were previously approved and remain applicable to the RPD/CPD and are included in the submitted Schedule of Uses, Property Development Regulations and Conditions document with minor language clarifications shown in strike-through/underline. Revisions to Deviations 7 and 8 are proposed and new Deviations 9 and 10 are provided below with justifications.

7. **Curbside garbage collection for townhouse units and reduction in collection area for multi-family units** - Deviation 7 (townhouse previously contained in ADD2007-000169 and subsequent approvals) seeks relief from the LDC §10-261 requirement that all new multiple-family residential developments to provide sufficient space for the placement of garbage containers or receptacles, to allow for curbside garbage pick up at the proposed townhouse units that are planned within the project. This deviation is APPROVED.

Request to amend this deviation to allow reduction in required multi-family container space of 216 SF (120 + 96) for first 25 multi-family units plus 8 SF for each additional unit; to allow space for the compactor and a minimum 144 square feet for recyclable materials collection area for the North RPD.

Justification: The requested deviation is included in LDC Section 10-104(a)(1) list of provisions where the Development Services Director is authorized to grant administrative deviations. This deviation is necessary for the multi-family option only since the townhome option was previously approved for curbside pickup. The amended request is for the multi-family to allow one central location for the trash compactor and recyclable area instead of requiring multiple stops for solid waste collection.

LDC Section 10-261 (a) provides the breakdown between garbage and recyclable area for the first 25 dwelling units (DU), then combines the requirement for DU over 25. The recyclable calculation for the first 25 DU is 96 SF out of 216 SF total so 44%. 44% of 8 is 3.5 SF per unit for recyclable collection for each dwelling unit above 25.

First 25 DU = 96 SF

360 DU – 25 DU = 335 DU

335 DU x 3.5 SF = 1,172.5 SF

Total: 1,268.5 SF recyclable collection area required

Provided: 144 SF recyclable collection area provided

Consistent with LDC 10-261(d), sufficient space for the compactor and receiver is provided. According to Lee County's 2022 Concurrency Report, historic level-of-service demand for recyclables has consistently been 0.6 pounds/person/day for 2018 through 2021. According to U.S. Census bureau Population Estimates, July 1, 2021, the number of persons per household for 2016-2020 is 2.58 pph. 360 DU x 2.58 pph = 929 people.

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929x.6lbs recyclables/person/day = 557.4 lbs/day * 365 = 203,451 lbs/year / 52 = 3,913 lbs/week/2 for 2 collections per week = 1,957 lbs. According to the following excerpts from the Volume-to-Weight Conversion Factors from U.S. Environmental Protection Agency Office of Resource Conservation and Recovery dated April 2016, commingled recyclables are estimated at 262 pounds per cubic yard. 1,957 lbs/262lbs per CY = 7.47 CY. The provided minimum 144 square feet allows for adequate room for an 8 CY dumpster (Waste Pro dimensions: 86" width X 82" depth X 75" height) with required minimum 2' clearance on all sides (7.17' + 4' X 6.84'+2' = 94.75').

Volume-to-Weight Conversion Factors
 U.S. Environmental Protection Agency
 Office of Resource Conservation and Recovery
 April 2016

Standard Volume-to-Weight Conversion Factors

Recyclable Materials	Volume	Estimated Weight (lbs)
Containers (Plastic bottles, Aluminum cans, Steel cans, Glass bottles) and Paper		
Commingled Recyclables	cubic yard	262

The requested deviation is internal to the site and enhances the achievement of the objectives of the planned development and will protect public health, safety and welfare. The provided collection area has been situated off the internal roadway internal to the site. The solid waste collection area enclosure meets setbacks, consistent with LDC Section 10-261(e) requirement that enclosures may not be located within or encroach into the required perimeter landscape buffer width. Written approval from Lee County Solid Waste will be provided prior to development order approval. The development will coordinate with Lee County Solid Waste regarding the frequency of service at the time of development. This deviation has previously been approved and has proven successful. The request is also consistent with the applicable criteria for administrative deviations contained in LDC Section 10-104(b): (1) The alternative proposed to the standards contained herein is based on sound engineering practices (2) The alternative is no less consistent with the health, safety and welfare of abutting landowners and the general public than the standard from which the deviation is being requested; (3) not applicable; (4) The granting of the deviation is not inconsistent with any specific policy directive of the Board of County Commissioners, any other ordinance or any Lee Plan provision; and (5) not applicable; and (6) not applicable.

8. **Certain internal buffers not required** - Deviation 8 [previously contained in Z-11-002 and subsequent approvals from LDC §10-416(d)(3)] seeks relief from the LDC ~~§10-416(d)(3)~~ **10-425(f)(1)** requirement ~~that a Type C/F for a five-foot wide buffer along rights-of-way planted with five trees per 100 linear feet between the proposed RPD/CPD uses internal to the development, to allow no buffer between the RPD/CPD uses where the commercial uses are separated from the residential uses within the North RPD project to internal rights-of-way by a private road.~~ This deviation is APPROVED.
Request to amend this deviation to allow no buffers to internal rights-of-way for the North RPD.

Justification: Deviation 8 was added specifically for the North CPD Parcel with Z-11-002 and was for the subject property only, not the entire CPD/RPD as evidenced by the deviation references on the MCP approved by Z-11-002. It was specifically for the internal North CPD which is no longer needed. The application is proposing to revise Deviation 8 for the new request from 10-425(f)(1) and this deviation will remain for the subject property only. The site is located within the Mixed Use Overlay which only requires buffers along rights-of-way and single-family uses. The North RPD property is separated from the external rights-of-way of Diplomat Parkway E by 250± feet of commercial parcels and from N. Cleveland Ave./U.S. 41 by 500± feet of the adjacent RPD. There is an internal private right-of-way within the RPD where the applicant proposes this deviation to allow no right-of-way buffer internal to the site. LDC Section 10-416(d) is titled “buffering adjacent property” and subsection (1) states that a buffering area is required along the perimeter of the proposed development. The proposed internal private rights-of-way should not be required to provide a buffer since they are internal to the RPD. Portions of this internal private right-of-way function as parking lot aisles furthering justification of the request. The Mixed Use Overlay does not require buffers to the CPD adjacent to the south. The requested deviation is internal to the site and enhances the achievement of the objectives of the planned development and will protect the public health, safety and welfare.

9. Backout parking within internal right-of-way – New Deviation 9 seeks relief from LDC §34-2013(a)(2) requirement that parking that backs out into rights-of-way in residential developments must be for amenities to the development such as parks and recreational facilities and not for dwelling units or commercial uses; to allow backout parking spaces for dwelling units and guests limited to the location shown on the MCP.

Justification: This deviation is requested to allow backout parking spaces for the dwelling units and guests limited to the location shown on the MCP and will include a maximum 47 spaces. The backout parking is located in one specific area on the internal privately owned and maintained right-of-way within the gated development. Parking spaces will comply with the parking space dimensions set forth in section 34-2016(1) at the location of backout parking. The posted speed limit will be 25 miles per hour or less. The right-of-way provides a seamless connection and extension to the remainder of the parking lot aisles within the development and will function in the same manner. The requested deviation enhances the achievement of the objectives of the planned development and protects the public health, safety, and welfare.

10. Minimum Building Separation – New Deviation 10 seeks relief from LDC §34-935(e)(4) requirement to provide a minimum building separation of one-half the sum of the building heights, or 20 feet, whichever is greater; to allow a minimum building separation of 20 feet.

Justification: This deviation is requested to accommodate the proposed updated master concept plan for the updated multi-family development plan. The site is located within the Mixed Use Overlay and within the Central Urban future land use category which are

appropriate for a more urban setting. Building heights are allowed up to 135 feet in these Central Urban areas within the Mixed Use Overlay and conventional zoning districts are encouraged which do not have a minimum building separation requirement. Lee Plan Policy 11.2.5 states in part that Lee County will maintain land development regulations for properties within the Mixed Use Overlay that allow for urban forms of development. Policy 11.2.6 states in part that properties in a Mixed Use Overlay are eligible for development incentives to encourage a compact and functional development pattern. The requested increased height and reduced building separation are consistent with these Policies. The existing property development regulations allow for reductions in building separation below the requirements of LDC Section 34-935(e)(4). The north multi-family allows a building height of 50 feet with a building separation of $\frac{1}{2}$ the building height (but not less than 15 feet) or 25 feet which allows a 50% reduction. The ALF allows a building height of 45 feet with a building separation of $\frac{1}{2}$ building height or 22.5 feet which allows a 50% reduction from what this code would require. The north and south RPDs allow for single-family, duplex, two-family attached and recreation buildings with a maximum height of 35 feet with a building separation of 10 feet which allows a 71% reduction from what this code would require. The subject request is to allow a building height of 60 feet with a building separation of 20 feet which is a 67% reduction from what this code requires. The requested minimum 20 foot building separation allows adequate room for safety, allows for increased open space and recreation areas, and ensures the economic viability of the development. The recent approval for MIVO North Fort Myers adjacent to the east was approved for multi-family with a maximum height of 60 feet and does not have a minimum building separation included in the resolution, however the approved MCP demonstrates the compact nature and reduced building separation which is appropriate for this area. The requested deviation enhances the achievement of the objectives of the planned development and will protect the public health, safety and welfare.



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Diplomat House f/k/a North Diplomat RPD Amendment Narrative of Request

DCI2023-00050 – Revised March 2024

Introduction/Request

The applicant, Diplomat Fort Myers, LLC, is requesting approval of an amendment to 35.18± acres of the Diplomat North RPD/CPD from the Z-11-002/ADD2019-00085 approvals to replace 238 dwelling units (or 138 dwelling units and 400 assisted living facility units) and 50,000 SF of commercial with a maximum height of 50 feet; to allow 360 multi-family dwelling units with amenities with a maximum height of 60 feet within the Mixed Use Overlay. The site is located on the north side of Diplomat Parkway E. (City of Cape Coral maintained arterial), 0.31± mile west of its intersection with N. Cleveland Ave/U.S. 41 (State maintained arterial).

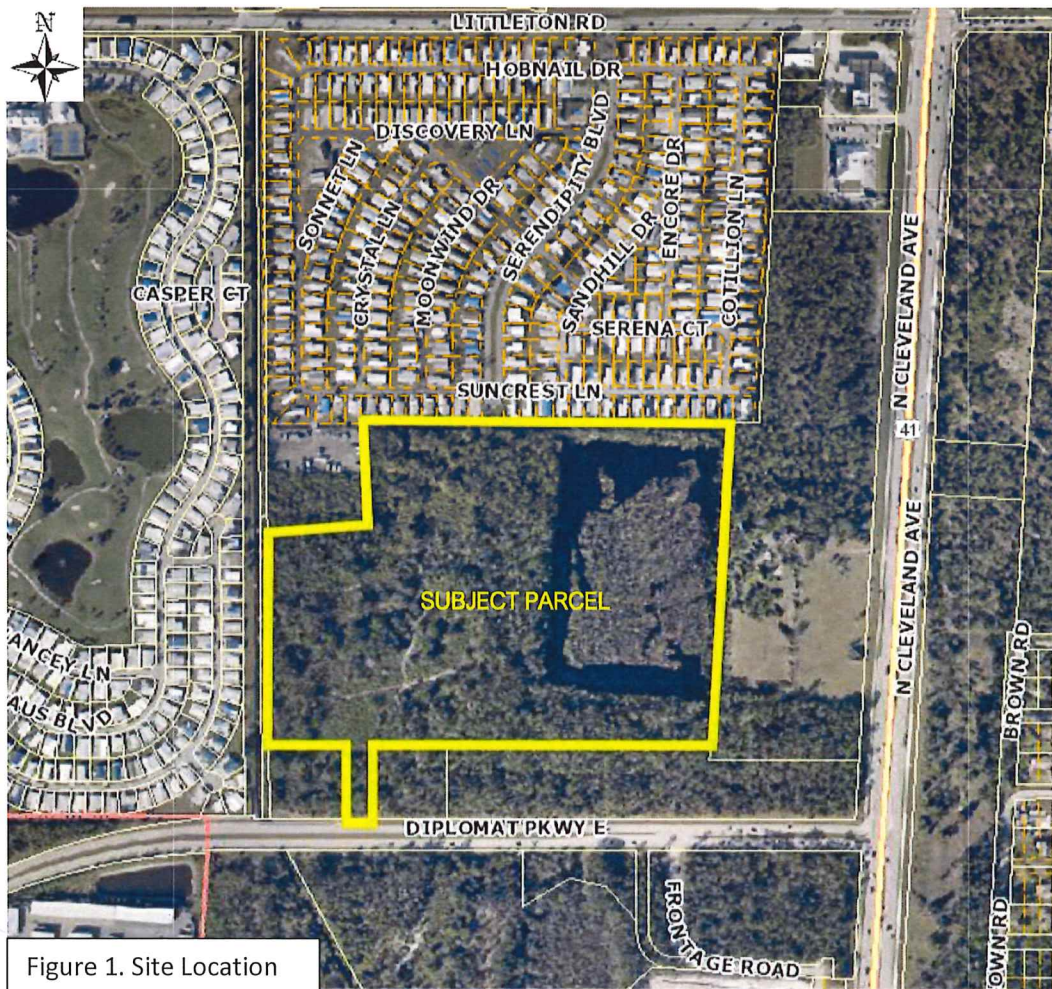


Figure 1. Site Location

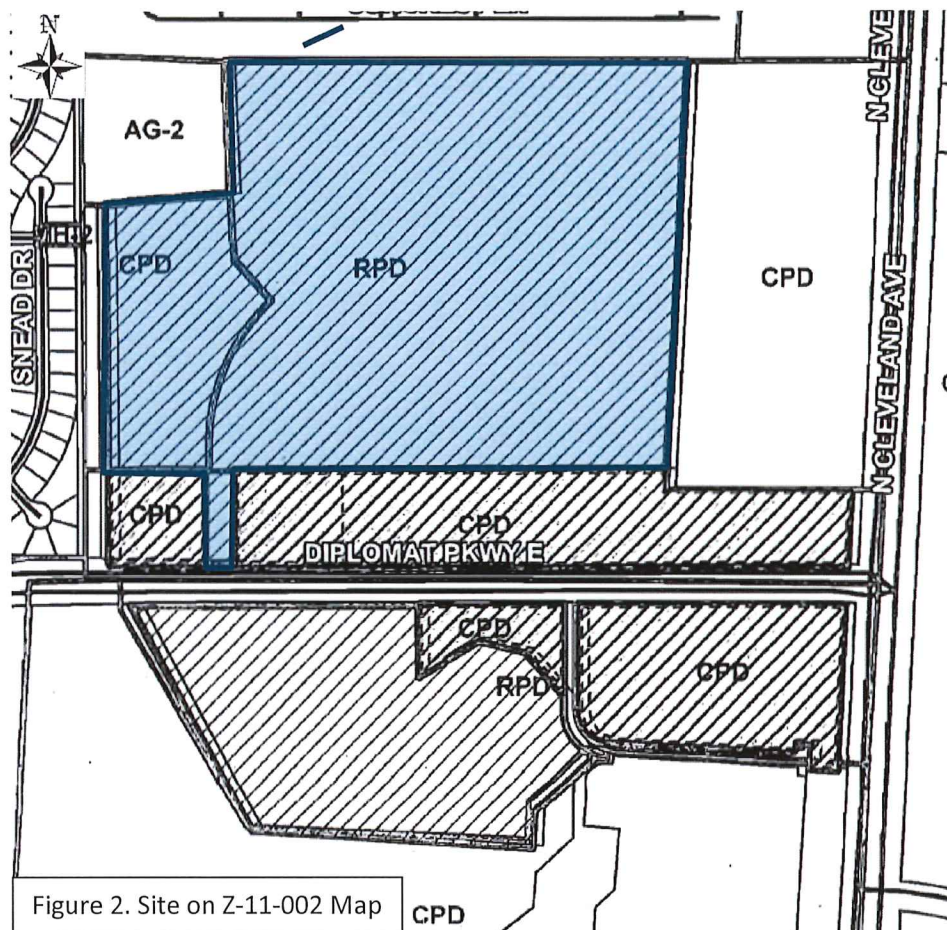
The subject property is a 35.18±-acre portion of STRAP number 34-43-24-00-00001.3030 which consists of the north RPD portion of the Diplomat Property Residential Planned Development (RPD)/Commercial Planned Development (CPD). The remainder of this STRAP number consists of Commercial Parcels 1 and 2 of the RPD/CPD. The property is within the Central Urban future land use category and the Mixed Use Overlay within the North Fort Myers Community Planning Area. The property is currently vacant with an existing borrow lake with active South Florida Water Management District (SFWMD) and Development Order (DO) permits for development as outlined below.

Background

The 65.13±-acre Diplomat Property RPD/CPD covers property north and south of Diplomat Parkway East. The property was originally rezoned from AG-2 to RPD/CPD December 21, 2006, by resolution number Z-06-004 which granted approval for a maximum of 457 dwelling units and 200,000 square feet of commercial of which 100,000 square feet could be retail and 120 hotel rooms. This approval allowed for the indigenous preservation requirements for the entire development to be located within the southern parcel and a single access point with secondary emergency access.

The original zoning approval was later amended administratively by ADD2007-00169 which amended the Master Concept Plan, revised the site development regulations for townhouses and added a deviation to allow curbside garbage pickup.

On March 21, 2011, zoning resolution Z-11-002 approved an amendment to the northern ±35.18-acre RPD to allow for a maximum of 400 assisted living facility beds, 138 standard dwelling units, a 5.43± acre north optional CPD with a maximum 50,000 square feet of commercial, a conversion table, and an amendment to the master concept plan. The following image shows the overall Diplomat Property RPD/CPD as attached to Z-11-002 with the subject property highlighted.



ADD2019-00085 was approved on April 16, 2019, to clarify condition 1 of Z-11-002 that the northerly 35.18 acres may be optionally developed with RPD uses consistent with the MCP approved by ADD2007-00169 or ALF/CCF with or without the 5.43-acre CPD parcel consistent with the MCP approved by Z-11-002.

Although not applicable to the property included in this application, the following amendments to the planned development have also been approved:

ADD2019-00181 was approved on October 31, 2019, for an Alternate MCP to reflect existing schedule of uses which allows single family/duplex/two-family townhomes and clarify maximum height of 35 feet for the southern (south of Diplomat Parkway) parcel.

ADD2020-00034 was approved on June 22, 2020, for an amendment to Commercial Parcels 3 and 4 to remove references to commercial site location standards, amend schedule of uses to allow multi-family and establish a conversion ratio for commercial intensity to residential density for a maximum of 116 dwelling units.

Development Order DOS2007-00255 and Concurrency CNC2007-00291 on the subject property were approved on June 17, 2008 for 252 multi-family dwelling units in 36 buildings and a 1,980 SF clubhouse w/swimming pool & spa that is currently still in effect on the subject property and valid through February 28, 2030. The subject property also has an active South Florida Water

Management District (SFWMD) permit on the site (36-05906-P). There is an existing active development order on the southern RPD (DOS2007-00267 valid through February 15, 2030) as well as an active SFWMD permit (36-06259-P). Both of the active development orders were approved under the ADD2007-00169 MCP which is proposed to remain along with the Alternate Diplomat South RPD MCP and the proposed Alternate North RPD MCP. Copies of the existing MCPs are included with this application and have been incorporated as pages 2 and 3 of 3 of the proposed MCP per staff's request.

In 2022, the following applications were filed by a previous applicant on the subject property, along with the 1.53± acre parcel that is a 25-foot wide strip of land along the western boundary within a drainage easement (STRAP No. 34-43-24-00-00001.306A). This adjacent strip is not included with the subject application. These applications were withdrawn upon submittal of this request:

- REZ2022-00021 – Conventional rezoning
- VAR2022-00021 - Variance
- ADD2022-00143 – Administrative Deviations

The previous applicant also filed a development order under case number DOS2022-00156 which will either be revised or withdrawn, and a new development order application filed for concurrent review. Upon approval of the new development order for the site, DOS2007-00255 will be withdrawn.

Land Development Code Analysis

The property qualifies for the amendment and the request meets the applicable required findings/review criteria set forth in Land Development Code section 34-145(d)(4)a.1. as follows:

(a) Complies with the Lee Plan

The proposed amendment to the RPD/CPD is consistent with the Lee Plan. The subject property is located in the Central Urban future land use category and within the Mixed Use Overlay where existing public facilities exist. The Lee Plan describes the Central Urban future land use designation as follows:

POLICY 1.1.3: The Central Urban future land use category can best be characterized as the "urban core" of the County. These areas are already the most heavily settled and have, or will have, the greatest range and highest levels of public services. Residential, commercial, public and quasi-public, and limited light industrial land uses will continue to predominate in the Central Urban future land use category. Future development in this category is encouraged to be mixed use, as described in Objective 11.1, where appropriate. The standard density range is from four dwelling units per acre (4 du/acre) to ten dwelling units per acre (10 du/acre), with a maximum total density of fifteen dwelling units per acre (15 du/acre). The maximum total density may be increased to twenty dwelling units per acre (20 du/acre) utilizing Greater Pine Island Transfer of Development Units.

The proposed amendment will facilitate infill development within the Central Urban future land use category, the second-most intense future land use category. Central Urban properties are the "urban core" of the county, with high levels of service to support intense development. Although conventional

rezonings are encouraged within the Mixed Use Overlay to promote continued redevelopment, the nature and history of the subject property requires continuation of the planned development zoning. The proposed amendment will allow the applicant to develop a multi-family neighborhood on a previously permitted site providing multi-family housing options near a major intersection of two arterial roadways, Diplomat Parkway East, and North Cleveland Avenue (U.S. 41) where there are existing public services. The Central Urban future land category allows up to 10 standard density units per acre, up to 15 dwelling units per acre utilizing bonus density or up to 20 dwelling units per acre utilizing Greater Pine Island Transfer of Development Units (GPITDU). The subject property is 35.18± acres. The current property owner has agreed to allow residential density to be transferred to the subject property from Commercial Parcels 1 (1.48± acre) and 2 (1.47± acre) with no impact to the allowable commercial on these parcels, consistent with the Mixed Use Overlay. Maximum density potential that could be requested on the total combined 38.13± acres is 381 standard dwelling units or total maximum of 763 if included 191 bonus density units and 191 GPITDUs. The applicant is requesting:

- 360± dwelling units standard density

The existing zoning allows 238 dwelling units (or 138 dwelling units and 400 assisted living facility units) and 50,000 SF of commercial on the subject property. The applicant is requesting approval for a multi-family neighborhood consisting of 360 dwelling units in an area where increased densities are encouraged. The requested height increase from 50 feet to 60 feet is appropriate in this area and is consistent with the height approved for the development to the east. Pursuant to Lee County Land Development Code (LDC) Section 34-2175(b)(1), the Central Urban future land use category allows a height up to 135 feet. The proposed amendment is consistent with Policy 1.1.3.

POLICY 1.6.5: The Planning Districts Map and Acreage Allocation Table (Map 1-B and Table 1(b)) depict the proposed distribution, extent, and location of generalized land uses through the Plan's horizon. Acreage totals are provided for land in each Planning District in unincorporated Lee County. No development orders or extensions to development orders will be issued or approved by Lee County that would allow the acreage totals for residential, commercial or industrial uses contained in Table 1(b) to be exceeded..

Table 1(b) indicates that the North Fort Myers planning district has 2,225 acres allocated for residential development within the Central Urban future land use category. The subject property has existing approvals for residential development within the North Fort Myers planning community. The proposed amendment is consistent with Policy 1.6.5.

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, and prevent development patterns where large tracts of land are by-passed in favor of development more distant from services and existing communities.

POLICY 2.1.1: Most residential, commercial, industrial, and public development is expected to occur within the designated future urban areas on the Future Land Use Map through the assignment of very low densities to the non-urban categories.

The proposed amendment is located within a designated Future Urban Area and has been approved for development since 2006 and promotes contiguous and compact growth patterns. The site's inclusion in the Mixed Use Overlay further demonstrates that it is appropriate for infill development with existing residential development along the north and west and commercial and/or multi-family development approved to the south and east. Infrastructure is available to support the proposed amendment. The proposed amendment is consistent with Objective 2.1 and Policy 2.1.1.

OBJECTIVE 2.2: DEVELOPMENT TIMING. Direct new growth to those portions of the future urban areas where adequate public facilities exist or are assured and where compact and contiguous development patterns can be created. Development orders and permits (as defined in §163.3164, Fla. Stat.) will be granted only when consistent with the provisions of §163.3202(2)(g) and § 163.3180, Fla. Stat. and the concurrency requirements in the LDC.

POLICY 2.2.1: Rezoning and DRI proposals will be evaluated as to the availability and proximity of the road network; central sewer and water 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.

North: Adjacent to the north is Serendipity Mobile Home Park and storage area on one commonly owned parcel within the Central Urban future land use category zoned Mobile Home Residential District (MH-2).

West: Adjacent to the west is a 25-foot drainage ditch parcel then Six Lakes Country Club Mobile Home Park with individual mobile home lots separated by 58± feet of their common elements within the Central Urban future land use category zoned Mobile Home Residential District (MH-2).

South: Adjacent to the south are vacant Commercial Parcels 1, 2 and 3 of the same Diplomat Property zoning as the subject property zoned CPD within the Central Urban future land use category and within the Mixed Use Overlay. These parcels, along with Commercial Parcel 4 south of Diplomat, allow for up to 200,000 SF of commercial development. The ownership is fractured as Commercial Parcels 3 and 4 of the RPD/CPD are no longer under common ownership with the subject property. Commercial Parcels 3 and 4 also have the option to convert commercial to up to 116 multi-family residential. Residential density is proposed to be transferred from Commercial Parcels 1 and 2 to the subject property with no impact to the commercial development allowed. The Diplomat Property south RPD across Diplomat Parkway is approved for 105 dwelling units with an additional 21 dwelling units for moderate income households. There is an active development order for the development of 44 multiple-family dwelling units and the indigenous preserve for the entire RPD/CPD.

East: Adjacent to the east is the MIVO North Fort Myers RPD which is within the Central Urban future land use category and within the Mixed Use Overlay. Zoning resolution Z-23-003 approved a rezoning from C-1A and CPD to RPD to allow for up to 285 multiple-family dwelling units (including

95 bonus density units) with a maximum height of 60 feet. The development order for development of the site is under review under case number DOS2022-00141.

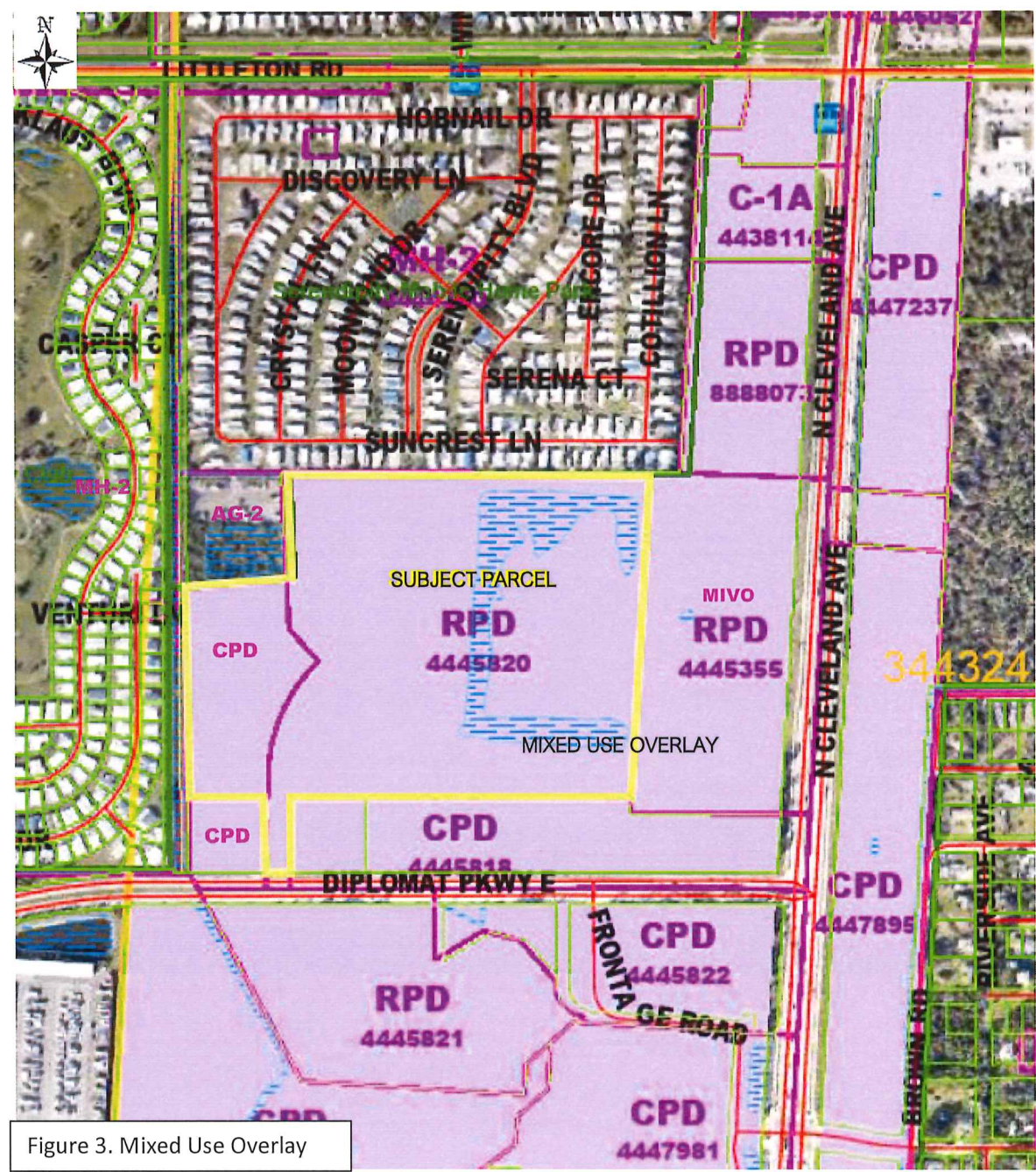


Figure 3. Mixed Use Overlay

The proposed amendment is to allow for infill development promoting a compact and contiguous development pattern as evidenced by the property's inclusion within the Mixed Use Overlay and existing development approvals. The existing Diplomat Property RPD/CPD zoning included approval of deviation 6.a. from requiring 2 access points by allowing the main access onto Diplomat Parkway East and the emergency access easement at the southeast corner of the property to serve as the

second access. This previously approved access configuration is proposed to remain. The main access to Diplomat Parkway East, a 4-lane, divided City maintained arterial, aligns with the proposed access to the RPD/CPD on the south side of Diplomat Parkway East and the emergency access aligns with the existing frontage road on the south side of Diplomat Parkway East. The site is located within the Lee County Utilities Water service area and Florida Governmental Utility Authority Wastewater service area. There are existing water and sewer facilities adjacent to the site and letters of availability are included with the application demonstrating that sufficient capacity is available to serve the site. An analysis of the excessive availability and proximity of public facilities and services is below:

Facility Type	Name	Distance from site
Fire	North Fort Myers Fire Station 2	2.6± miles
Fire	North Fort Myers Fires Station 1	4.3± miles
EMS	Lee County EMS Medic 31	3± miles
EMS	Lee County EMS Medic 7	2.7± miles
Sheriff	Lee County Sheriffs Office, North District	2.7± miles
School	Dr. Carrie D. Robinson Littleton Elementary School	1.7± miles
School	Diplomat Elementary School	3± miles
School	Diplomat Middle School	3.3± miles
School	North Fort Myers High School	3.4± miles
Park	Judd Community Park	2.3± miles
Park	North Fort Myers Recreation Center	2.9± miles
Park	Mary Moody Park	3.3± miles
Park	Kurt Donaldson Community Park	3.4± miles
Park	North Fort Myers Community Pool	3.5± miles
Transit	Lee Tran Route 595	0 feet
Transit	Lee Tran Transfer Station/ Routes 590 & 140	0.5± mile
Bikeways	Existing Bike lanes on Diplomat Pkwy	0 feet

Shopping/Employment	Merchants Crossing	0.6± mile
Shopping/Employment	Walmart Shopping Center	1± mile

There are two fire stations, two EMS stations and a Sheriff substation within close proximity to the site. There are several schools and parks near the property. Lee Tran Route 595 runs along the project's frontage with a Lee Tran transfer station located approximately ½ mile south of the site at Merchants Crossing that connects to Routes 590 and 140. Merchants Crossing and the nearby Walmart Shopping Center provide shopping and employment opportunities. There are existing bike lanes on Diplomat Parkway East. Development of the site with multi-family residential or a mixture of commercial, assisted living facility and multi-family residential were previously found compatible with surrounding land uses and the proposed amendment remains compatible with surrounding land uses. The proposed amendment is consistent with Objective 2.2 and Policy 2.2.1.

STANDARD 4.1.1: WATER.

- 1. Any new residential development that exceeds 2.5 dwelling units per gross acre, and any new single commercial or industrial development in excess of 30,000 square feet of gross leasable (floor) area per parcel, must connect to a public water system (or a "community" water system as that is defined by Chapter 62-550, F.A.C.).*
- 2. If the proposed development lies within the boundaries of a water utility's certificated or franchised service area, or Lee County Utilities' future potable water service area (see Map 6), then the development must be connected to that utility.*
- 3. The developer must provide proof that the prior commitments of the water utility, plus the projected need of the developer, do not exceed the supply and facility capacity of the utility.*

The site is located within the Lee County Utilities Water service area. There are existing water facilities located nearby at US 41 and a letter of availability is included with the application. The development will connect to Lee County Utilities for potable water service. The project is consistent with Standard 4.1.1.

STANDARD 4.1.2: SEWER.

- 1. Any new residential development that exceeds 2.5 dwelling units per gross acre, and any new single commercial or industrial development that generates more than 5,000 gallons of sewage per day, must connect to a sanitary sewer system.*
- 2. If the proposed development exceeds the thresholds listed above and lies within the boundaries of a sewer utility's certificated or franchised service area, or Lee County Utilities' future sanitary sewer service area (see Map 7), and that utility has sufficient capacity to provide minimum service to the development, then the development must connect to that sewer utility if there is existing infrastructure adequate to accept the effluents of the development within 1/4 mile from any part of the development.*

3. If there is not sufficient capacity nor adequate infrastructure within 1/4 mile of the development, the developer must provide proof in the form of a clearly stated rejection of service.

The site is located within the Florida Governmental Utility Authority Wastewater service area. There are existing sewer facilities located nearby at US 41 and a letter of availability is included with the application. The development will connect to Florida Governmental Utility Authority for sanitary sewer service. The project is consistent with Standard 4.1.2.

STANDARD 4.1.4: ENVIRONMENTAL FACTORS.

1. In any case where there exists or there is the probability of environmentally sensitive areas (as identified by Lee County, the Corps of Engineers, Department of Environmental Protection, South Florida Water Management District (SFWMD), or other applicable regulatory agency), the developer/applicant must prepare an environmental assessment that examines the existing conditions, addresses existing or anticipated environmental problems, and proposes means and mechanisms to protect, conserve, or preserve the environmental and natural resources.

2. Ensure that land uses and structures are well integrated, properly oriented, and functionally related to the topographic and natural features of the site.

3. Ensure development minimizes the need for expansion and construction of street and utility improvements.

The only sensitive land on the parcel is an existing mapped FEMA floodway located on the western portion of the site. The MCP keeps development outside of the FEMA floodway and no fill will be placed within the floodway. Condition 23 will continue to require preservation of native vegetation within the floodway. The existing zoning includes deviation 3 from LDC Section 10-415(b)(1)a which requires that large developments with indigenous vegetation communities provide 50 percent of their open space percentage requirement through on-site preservation of existing native vegetation communities to permit 0.45 acres of right of way to be vacated, enhanced and preserved to count toward the preservation requirement and allowed the preservation area for the entire RPD/CPD to be located within the portion of the development south of Diplomat Parkway. The existing approved indigenous preserve provides for 12.33 acres of indigenous preserve utilizing credits and includes a gopher tortoise preserve if required and accounts for 7.04 acres of indigenous preserve for the subject property. Given the site is now within the Mixed Use Overlay, its open space requirement is reduced from the previous 40 percent to 20 percent. The 35.18 acre parcel now requires a total of 7.04 acres of open space of which 50% or only 3.52 acres is required to be indigenous. As noted on the open space notes on the proposed Alternate Diplomat North RPD MCP, 0.55 acres of indigenous open space is provided on site within the FEMA floodway. Only the portion of the floodway with FLUCCS code 411 as identified on the submitted FLUCCS map are included. This area meets the minimum 0.5 acre/average 50-foot width allowing for 110% credit for a total of 0.61± acre/credit provided on site. This leaves a total of 2.91 acres remaining required indigenous. The indigenous open space provided on the south RPD for the residential north per existing DOS2007-00267 is 7.03 acres. The applicant proposes to provide 2.92 acre/credit phased portion of the upland indigenous

preserve on the south RPD parcel to be provided before certification of completion of DO for the north RPD. Utilizing 135% credit for minimum 1 acre/75' width (125%) plus an additional 10% for being adjacent to the offsite preserve to the west for a total of 135% credit, this equates to a minimum of 2.16 acres for the 2.92 AC/CR. The remainder of the southern preserve will be provided upon development of the southern parcel. The subject application results in an increase in overall indigenous open space provided, although the Mixed Use Overlay reduces the amount required. An excerpt from DOS2007-00267 plans demonstrating the approved overall preserve is included with the application for reference. A letter of authorization from the property owner to the south is provided demonstrating permission for the applicant to provide the phased portion of the south preserve. The project is consistent with Standard 4.1.4.

GOAL 5: RESIDENTIAL LAND USES. To accommodate the projected population of Lee County in the year 2045 in appropriate locations, guided by the Future Land Use Map, and in attractive and safe neighborhoods with a variety of price ranges and housing types.

OBJECTIVE 5.1: All development approvals for residential, commercial, and industrial land uses must be consistent with the following policies, the general standards under Goal 4, and other provisions of this plan.

POLICY 5.1.1: Residential developments requiring rezoning and meeting Development of County Impact (DCI) thresholds must be developed as planned developments except if located within the Mixed Use Overlay.

POLICY 5.1.2: Prohibit residential development where physical constraints or hazards exist, or require the density and design to be adjusted accordingly. Such constraints or hazards include but are not limited to flood, storm, or hurricane hazards; unstable soil or geologic conditions; environmental limitations; aircraft noise; or other characteristics that may endanger the residential community

POLICY 5.1.3: During the rezoning process, direct high-density residential developments to locations that are near employment and shopping centers; are close to parks and schools; and are accessible to mass transit and bicycle facilities.

The proposed development will not meet DCI thresholds and is located within the Mixed Use Overlay but the nature and history of the project approvals make it more appropriate to amend the existing planned development in lieu of a conventional rezoning request for the project. No physical constraints or hazards exist on site as demonstrated by the previous approvals for development on the site. Portions of the western property line are within a FEMA floodway. The density and site design have been adjusted from the existing approvals to avoid this area and no fill will be placed in the floodway. The property is within a FEMA flood zone. This will be mitigated by placing fill such that the finished floor elevation is one foot above the FEMA base flood elevation. As evidenced by the above summary of existing public facilities and the project's location within the Mixed Use Overlay, it is near employment and shopping centers, is close to parks and schools and is accessible to mass transit and bicycle facilities demonstrating the appropriateness for residential development of the site. The requested amendment remains consistent with Policies 5.1.1, 5.1.2 and 5.1.3.

POLICY 5.1.5: Protect existing and future residential areas from any encroachment of uses that are potentially destructive to the character and integrity of the residential environment. Requests for conventional rezonings will be denied in the event that the buffers provided in the LDC, Chapter 10, are not adequate to address potentially incompatible uses in a satisfactory manner. If such uses are proposed in the form of a planned development or special exception and generally applicable development regulations are deemed to be inadequate, conditions will be attached to minimize or eliminate the potential impacts or, where no adequate conditions can be devised, the application will be denied altogether. The LDC will continue to require appropriate buffers for new developments.

The subject property abuts existing residential areas to the north and west and has existing approval for multi-family or a mixture of multi-family, assisted living facility and commercial development which has been found compatible with these adjacent uses. Adjacent to the north is the Serendipity Mobile Home Park on one commonly owned parcel within the Central Urban future land use category zoned Mobile Home Residential District (MH-2). Adjacent to the west is a drainage ditch then Six Lakes Country Club Mobile Home Park with individual mobile home lots within the Central Urban future land use category zoned Mobile Home Residential District (MH-2). The existing RPD zoning for the subject property provides enhanced Type "F" buffers (10 trees per 100 linear feet and double staggered hedge row) along both the north and west property lines. There is a 20± foot drainage ditch along the north property line within the subject property. The Mixed Use Overlay only requires a 10-foot wide buffer with Type "B" buffer plantings (5 trees/100 linear feet and a double staggered hedge row) abutting single-family residential. Serendipity Mobile Home Park is considered multi-family since the units are not located on individual lots. Although no buffer is required, the proposed MCP demonstrates that the 30-foot enhanced buffer will continue to be provided along the 20± foot drainage ditch along the north property line where onsite residential uses are proposed abutting Serendipity Mobile Home Park. Where the onsite lake abuts the adjacent Serendipity Mobile Home Park, a 10-foot wide buffer with Type "B" buffer plantings will be provided adjacent to the 20± foot drainage ditch, although no buffer is required. Adjacent to the west, Six Lakes Country Club's mobile home lot lines are separated by 58± feet of drainage and common elements within the Six Lakes Country Club development, then an adjacent 25' drainage ditch parcel. The lot lines are 83± feet from the subject property's west property line. The onsite FEMA floodway within the western portion of the subject property varies in width from 17± feet on the south to a maximum of 90± feet providing for additional separation between the proposed development and the existing mobile home lots. No buffer is required in this area and the existing indigenous vegetation within the floodway is required to be retained per Condition 23.a and will provide appropriate buffering. No buffers are required or provided to the existing storage area to the northwest, the commercial parcels to the south, or the multi-family to the east. The proposed amendment remains compatible with the surrounding uses and continues to protect the adjacent residential neighborhoods. The proposed amendment is consistent with Policy 5.1.5.

POLICY 5.1.6: Maintain development regulations that require high-density, multi-family, cluster, and mixed use developments to have open space, buffering, landscaping, and recreation areas appropriate to their density and design.

POLICY 5.1.7: Maintain development regulations that require that community facilities (such as park, recreational, and open space areas) in residential developments are functionally related to all dwelling units and easily accessible via pedestrian and bicycle pathways. These pathways must be interconnected with adjoining developments and public pathways whenever possible. Townhouses, condominiums, apartments, and other types of multi-family residential development must have directly accessible common open space.

The proposed MCP provides adequate open space, buffering, landscaping and recreation areas appropriate for the proposed density and design. The internal sidewalks provide access to walkways to directly accessible common open space areas along the internal lake to the east and the internal clubhouse and recreation area to the west. The requested amendment is consistent with Policies 5.1.6 and 5.1.7.

OBJECTIVE 11.2: MIXED USE OVERLAY. The County will maintain an Overlay in the future land use map series identifying locations appropriate for mixed use located in proximity to: public transit routes; education facilities; recreation opportunities; and, existing residential, shopping and employment centers. Mixed Use, Traditional Neighborhood, and Transit Oriented development patterns are encouraged and preferred within the Mixed Use Overlay.

POLICY 11.2.2: Development in the Mixed Use Overlay should accommodate connections to adjacent uses.

POLICY 11.2.4: Use of conventional zoning districts will be encouraged within the Mixed Use Overlay in order to promote continued redevelopment.

The subject property's inclusion in the Mixed Use Overlay demonstrates that it has been identified as an appropriate location for mixed use located in proximity to public transit, schools, recreation, existing residential, shopping and employment centers as demonstrated in the above public facilities analysis. The existing planned development provides commercial zoning on 8.78± acres to the south between the subject property and Diplomat Parkway East with an option for multi-family on commercial parcels 3 and 4. The proposed main access onto Diplomat Parkway East will continue to provide connection to the commercial parcels as well as the emergency only access. Connections to the north and west are not possible due to existing drainage ditches. The requested amendment is consistent with Objective 11.2 and Policies 11.2.2 and 11.2.4.

POLICY 11.2.5: Lee County will maintain land development regulations for properties within the Mixed Use Overlay that allow for urban forms of development and a variety of uses.

POLICY 11.2.6: Properties in a Mixed Use Overlay are encouraged to utilize bonus density. Projects utilizing Greater Pine Island TDUs are eligible for increased maximum densities and additional development incentives as set forth in this plan to encourage a compact and functional development pattern.

POLICY 11.2.7: Development, redevelopment, and infill development located within the Mixed Use Overlay may use the area of non-residential uses in their density calculations.

The Mixed Use Overlay allows for urban forms of development and a variety of uses. The amendment will allow development of the subject property at a more appropriate multi-family density while leaving the adjacent CPD zoned parcels to provide a variety of uses. The requested amendment will allow the subject property to utilize the Mixed Use Overlay land development regulations consistent with Policy 11.2.5. Although bonus density is not proposed at this time, Policies 11.2.5 through 11.2.7 demonstrate the appropriateness of increasing the density, increasing the height, and support the request for reduced building separation in new deviation 10. Increasing the density above the 8 dwelling units per acre currently allowed encourages a more compact and functional development pattern where existing public facilities exist. These Policies encourage bonus density which would allow up to 20 dwelling units per acre so the maximum standard density of 10 units per acre on the subject property is appropriate for the site. Additional density is also proposed to be included from the adjacent commercial parcels 1 and 2 with no impact on the allowable commercial use consistent with Policy 11.2.7. The requested amendment is consistent with these Policies.

GOAL 30: NORTH FORT MYERS COMMUNITY PLAN. Improve the livability and economic vitality in the North Fort Myers Community Plan area by: promoting compact, mixed use development in the form of town and neighborhood centers; attracting appropriate investment to revitalize older neighborhoods and commercial corridors; stabilizing and enhancing, existing neighborhoods; and preserving natural resources.

POLICY 30.1.3: Encourage a diversity of housing types in the North Fort Myers Community Plan area by supporting mixed use projects, with residential above or adjacent to retail and service uses, within the Mixed Use Overlay.

The requested amendment will facilitate the proposed infill development of the subject property which has been approved for development since 2006 yet has remained vacant. The request will add multi-family housing to the diversity of housing types in the area on a site that is adjacent to and interconnects with parcels zoned for retail and service uses. The amendment will accommodate investment to revitalize development in this area stabilizing and enhancing the existing neighborhoods while preserving natural resources such as the floodway and providing indigenous preservation. The requested amendment is consistent with Goal 30 and Policy 30.1.3.

POLICY 61.3.3: Keep floodways as unobstructed as possible.

A portion of the western property line is within a FEMA floodway. Although the existing development orders for the site reflect development in this area, the proposed amended MCP removes

development from the floodway and no fill is proposed and exotic vegetation will be removed from within the FEMA floodway. The proposed amendment is consistent with Policy 61.3.3.

GOAL 125: WATER QUALITY. To ensure that water quality is maintained or improved for the protection of the environment and people of Lee County.

POLICY 125.1.2: New development and additions to existing development must not degrade surface and ground water quality.

POLICY 125.1.3: The design, construction, and maintenance of artificial drainage systems must provide for retention or detention areas and vegetated swale systems that minimize nutrient loading and pollution of freshwater and estuarine systems.

While Goal 125 is not self-implementing, the applicant will comply with the fertilizer ordinance which protects surface and groundwater. The site is not near any wellfield protection zones. The drainage system within the development has existing SFWMD and DO approval which will be modified to reflect the updated development plan which reduces impervious area and increases open space. Stormwater will be treated by dry detention or wet detention before discharging. Pursuant to SFWMD Environmental Resource Permit Applicant's Handbook Volume II, Part IV-Stormwater Quality, 4.1.1, issuance of the ERP ensures that surface and ground water quality won't be adversely impacted. The request furthers Policies 125.1.2 and 125.1.3.

GOAL 135: MEETING HOUSING NEEDS. To provide decent, safe, and sanitary housing in suitable neighborhoods at affordable costs to meet the needs of the present and future residents of the County.

OBJECTIVE 135.1: HOUSING AVAILABILITY. To ensure the types, costs, and locations of housing are provided to meet the needs of the County's population by working with private and public housing providers.

POLICY 135.1.9: The County will ensure a mix of residential types and designs on a Countywide basis by providing for a wide variety of allowable housing densities and types through the planned development process and a sufficiently flexible Future Land Use Map.

Approval of the requested amendment will allow development of the site with townhouse or multi-family units at an appropriate density to facilitate development of the site adding the alternative housing options to the residential product mix in the area, consistent with the Central Urban future land use category and the Mixed Use Overlay. The requested amendment is consistent with Goal 135, Objective 135.1 and Policy 135.1.9.

b) Meets this Code and other applicable County regulations or qualifies for deviations:

The proposed amendment is within the Mixed Use Overlay and has had existing development approval since 2006. The project continues to qualify for the existing approved deviations and

demonstrates compliance with the proposed revised deviations and new deviations as outlined in the submitted Schedule of Deviations and Justifications. The requested amendment is consistent with the North Fort Myers Planning Community regulations contained in the LDC. Consistent with LDC Section 33-1532, the applicant is presenting the proposed amendment within the North Fort Myers Planning Community at a publicly advertised meeting. Prior to finding of sufficiency, the applicant will provide the required public informational meeting summary providing proof of advertising and a summary of any concerns or issues raised at the meeting; and a proposal for how the applicant will respond to any issues that are raised.

The site does not abut any existing large lot residential subdivisions so LDC Sections 33-1541 through 33-1545 are not applicable. Diplomat Parkway is not a designated commercial corridor or town center so the remaining community regulations do not apply to the subject property.

c) Is compatible with existing and planned uses in the surrounding area:

The subject property has existing approvals for development of multi-family or a mixture of multi-family, assisted living facility and commercial uses which were found compatible with existing and planned uses in the surrounding area.

The subject property abuts existing residential areas to the north and west and has existing approvals for multi-family or a mixture of multi-family, assisted living facility and commercial uses which were found compatible with existing and planned uses in the surrounding area. The requested amendment will remain compatible. The subject property and all surrounding properties are within the Central Urban future land use category. The subject property and properties to the east and south are also within the Mixed Use Overlay. Adjacent to the north is the Serendipity Mobile Home Park on one commonly owned parcel zoned Mobile Home Residential District (MH-2). Adjacent to the west is a drainage ditch then Six Lakes Country Club Mobile Home Park with individual mobile home lots zoned Mobile Home Residential District (MH-2). The existing RPD zoning for the subject property provides enhanced Type "F" buffers (10 trees per 100 linear feet and double staggered hedge row) along both the north and west property lines. There is a 20± foot drainage ditch along the north property line within the subject property. The Mixed Use Overlay only requires a 10-foot wide buffer with Type "B" buffer plantings (5 trees/100 linear feet and a double staggered hedge row) abutting single-family residential. Serendipity Mobile Home Park is considered multi-family since the units are not located on individual lots. Although no buffer is required, the proposed MCP demonstrates that the 30-foot enhanced buffer will continue to be provided along the 20± foot drainage ditch along the north property line where onsite residential uses are proposed abutting Serendipity Mobile Home Park. Where the onsite lake abuts the adjacent Serendipity Mobile Home Park, a 10-foot wide buffer with Type "B" buffer plantings will be provided adjacent to the 20± foot drainage ditch, although no buffer is required. Adjacent to the west, Six Lakes Country Club's mobile home lot lines are separated by 58± feet of drainage and common elements within the Six Lakes Country Club development, then an adjacent 25' drainage ditch parcel. The lot lines are 83± feet from the subject property's west property line. The onsite FEMA floodway within the western portion of the subject property varies in width from 17± feet on the south to a maximum of 90± feet providing for additional separation between the proposed development and the existing mobile home lots. No buffer is required in this area and the existing indigenous vegetation within the floodway is required to be retained per Condition 23.a and will provide appropriate buffering. No buffers are required or provided to the

existing storage area to the northwest, the commercial parcels to the south, or the multi-family to the east. The proposed amendment remains compatible with the surrounding uses.

d) Will provide access sufficient to support the proposed development intensity;

Access will be provided to the site from Diplomat Parkway East, a 4-lane, divided City of Cape Coral maintained arterial roadway. The 2006 Diplomat Property RPD/CPD zoning included approval of deviation 6.a. from requiring 2 access points by allowing the main access onto Diplomat Parkway East and the emergency access easement at the southeast corner of the property to serve as the second access. The previously approved access configuration is proposed to remain which serves the subject property and the adjacent commercial parcels along Diplomat Parkway. The main access to Diplomat Parkway East aligns with the proposed access to the RPD/CPD on the south side of Diplomat Parkway East and the emergency access aligns with the existing frontage road on the south side of Diplomat Parkway East. The access configuration has existing development approvals and continues to provide access sufficient to support the proposed development intensity. The TIS submitted with this application demonstrates that the requested amendment results in a reduction in trips from that which is currently approved on the site, which further demonstrates that the provided access is sufficient.

e) The expected impacts on transportation facilities will be addressed by existing County regulations and conditions of approval;

The subject property has existing approvals for development of multi-family or a mixture of multi-family, assisted living facility and commercial uses. The site has had development order approval since 2008. The TIS submitted with this application demonstrates that the requested amendment results in a reduction in trips from that which is currently approved on the site. The TIS also concludes that the amendment will not have a detrimental impact on the surrounding roadway system. The Level of Service analysis indicates U.S. 41 will operate above the minimum adopted Level of Service in 2027 with and without the proposed development and no roadway capacity improvements are warranted as a result of the request. There is sufficient roadway capacity projected to accommodate the request and mitigation will be provided by the payment of road impact fees. Diplomat Parkway E is now a City maintained roadway, so the applicant proposes a minor revision to condition 11 which requires a proportionate share of costs of the intersection improvements at the time a traffic control device is warranted at the intersection of U.S. 41 and Diplomat since it is no longer a County maintained roadway. The revised language states this will be provided if requested by the appropriate authority of Florida Department of Transportation or City of Cape Coral. The remainder of conditions related to access and transportation are proposed to remain. Any potential impacts on transportation facilities can and will be addressed adequately through these existing conditions of approval and Lee County regulations at the time of local development order approval.

f) Will not adversely affect environmentally critical or sensitive areas and natural resources; and

The proposed amendment will not adversely affect environmentally critical or sensitive areas and natural resources. The site has been approved for development since 2006. The only sensitive land on the parcel is an existing mapped FEMA floodway located on the western portion of the site. The MCP keeps development outside of the FEMA floodway and no fill will be placed within the floodway. Condition 23 will continue to require preservation of native vegetation within the floodway. The existing zoning includes deviation 3 from LDC Section 10-415(b)(1)a which requires that large developments with indigenous vegetation communities provide 50 percent of their open space percentage requirement through on-site preservation of existing native vegetation communities to permit 0.45 acres of right of way to be vacated, enhanced and preserved to count toward the preservation requirement and allowed the preservation area for the entire RPD/CPD to be located within the portion of the development south of Diplomat Parkway. The existing approved indigenous preserve provides for 12.33 acres of indigenous preserve utilizing credits and includes a gopher tortoise preserve if required and accounts for 7.04 acres of indigenous preserve for the subject property. Given the site is now within the Mixed Use Overlay, its open space requirement is reduced from the previous 40 percent to 20 percent. The 35.18 acre parcel now requires a total of 7.04 acres of open space of which 50% or only 3.52 acres is required to be indigenous. As noted on the open space notes on the proposed Alternate Diplomat North RPD MCP, 0.55 acres of indigenous open space is provided on site within the FEMA floodway. Only the portion of the floodway with FLUCCS code 411 as identified on the submitted FLUCCS map are included. This area meets the minimum 0.5 acre/average 50-foot width allowing for 110% credit for a total of 0.61± acre/credit provided on site. This leaves a total of 2.91 acres remaining required indigenous. The indigenous open space provided on the south RPD for the residential north per existing DOS2007-00267 is 7.03 acres. The applicant proposes to provide 2.92 acre/credit phased portion of the upland indigenous preserve on the south RPD parcel to be provided before certification of completion of DO for the north RPD. Utilizing 135% credit for minimum 1 acre/75' width (125%) plus an additional 10% for being adjacent to the offsite preserve to the west for a total of 135% credit, this equates to a minimum of 2.16 acres for the 2.92 AC/CR. The remainder of the southern preserve will be provided upon development of the southern parcel. The subject application results in an increase in overall indigenous open space provided, although the Mixed Use Overlay reduces the amount required. An excerpt from DOS2007-00267 plans demonstrating the approved overall preserve is included with the application for reference. A letter of authorization from the property owner to the south is provided demonstrating permission for the applicant to provide the phased portion of the south preserve.

g) Will be served by urban services, defined in the Lee Plan, if located in a Future Urban area category.

The property is located within the Central Urban future land use category which is a Future Urban area and is located within the Mixed Use Overlay where sufficient public facilities exist. Existing levels of urban services as defined in the Lee Plan are available and adequate to service the proposed amendment. Details of the existing urban services are discussed in detail on pages 7 through 9 under consistency discussion on Policy 2.2.1. The site is located within the Lee County Utilities Water service area and Florida Governmental Utility Authority Wastewater service area. There are existing water and sewer facilities adjacent to the site and letters of availability are included with the application demonstrating that sufficient capacity is available to serve the site. There are two fire stations, two EMS stations and a Sheriff substation within close proximity to the site. There are

several schools and parks near the property. Lee Tran Route 595 runs along the project's frontage with a Lee Tran transfer station located approximately ½ mile south of the site at Merchants Crossing that connects to Routes 590 and 140. Merchants Crossing and the nearby Walmart Shopping Center provide shopping and employment opportunities. There are existing bike lanes on Diplomat Parkway East.

The proposed amendment complies with the findings provided in the Land Development Code Section 34-145(d)(4)a.2 as follows:

a) The proposed use or mix of uses is appropriate at the proposed location;

The site has already had zoning and development order approval for multi-family since 2008 demonstrating appropriateness of the use at this infill location. The proposed amendment increases the density and height which is appropriate in the Mixed Use Overlay while also increasing open space and indigenous preservation where reductions are allowed.

b) The recommended conditions provide sufficient safeguards to the public interest and are reasonably related to the impacts on the public's interest expected from the proposed development.

The proposed revised conditions of approval provided with this amendment will continue to provide sufficient safeguards to the public interest and are reasonably related to the impacts on the public's interest expected from the proposed development.

c) If the application includes deviations pursuant to section 34-373(a)(9), that each requested deviation:

- 1)Enhances the achievement of the objectives of the planned development; and***
- 2)Preserves and promotes the general intent of this Code to protect the public health, safety, and welfare.***

The project continues to qualify for the existing approved deviations and demonstrates compliance with the proposed revised deviations and new deviations as outlined in the submitted Schedule of Deviations and Justifications. All existing and proposed deviations enhance the achievement of the objectives of the planned development and protect the public health, safety and welfare.

In conclusion, the proposed amendment is in compliance with the Lee Plan, the Land Development Code and other applicable codes and regulations; is compatible with existing or planned uses in the surrounding area; provides sufficient access to support the proposed development; the expected impact on transportation facilities will be addressed by existing County regulations; will not adversely affect environmentally critical or sensitive areas and natural resources; and will be served by urban services. The use is appropriate for the location as demonstrated by existing approvals; the proposed revised conditions continue to provide sufficient safeguards to the public interest and are reasonably related to the expected impacts and the existing and proposed deviations enhance the achievement of the objectives of the planned development and protect the public health, safety and welfare. For these reasons, the applicant respectfully submits that the amendment should be approved.

Attachments:

- Existing South DO approval showing overall indigenous preserve titled: Pages from Diplomat South-DO Approved Plans-DOS2007-00267
- Proposed Revisions to Schedule of Uses, PDR and Conditions



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TRAFFIC ENGINEERING
TRANSPORTATION PLANNING
SIGNAL SYSTEMS/DESIGN

TRAFFIC IMPACT STATEMENT

FOR

DIPLOMAT NORTH REZONING DCI2023-00050

(PROJECT NO. F2311.04)

PREPARED BY:

**TR Transportation Consultants, Inc.
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REVISED:

March 5, 2024

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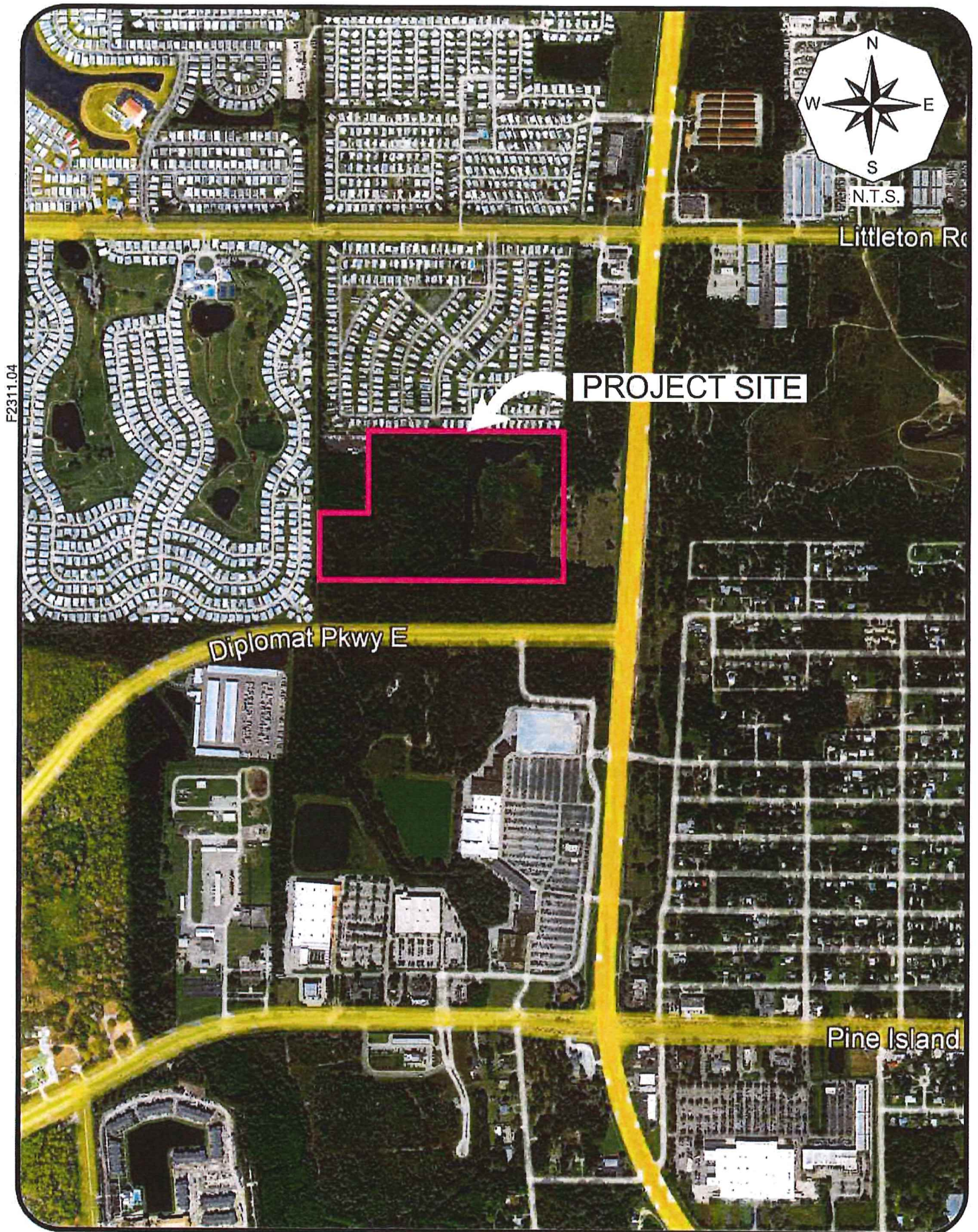
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I. INTRODUCTION

TR Transportation Consultants, Inc. has conducted a traffic impact statement to fulfill requirements set forth by the Lee County Department of Community Development for projects seeking rezoning approval. This application is to amend the north parcel of the overall RPD/CPD west of its intersection with U.S. 41 in the North Fort Myers area of Lee County, Florida. The approximate location of the subject site is illustrated on **Figure 1**.

The overall RPD/CPD site is currently governed by zoning resolution Z-11-002 along with several Administrative Amendments that govern both the North and South parcels. The overall site is approved for 200,000 square feet of commercial uses, up to 238 multi-family dwelling units (138 multi-family units & 400 ALF units), with the option of an additional 50,000 square feet of commercial uses on the North parcel (that may be Medical Office or Professional Office pursuant to Table B on the Master Concept Plan approved as part of Z-11-002). The zoning amendment would increase the multi-family unit count on the North parcel to permit 360 dwelling units within the Mixed-Use Overlay and remove the 50,000 square feet of commercial office use option on the North Parcel. Access to the subject site will continue to be provided to Diplomat Parkway via two full site access locations. The remaining retail uses on the commercial tracts (Parcels 1 through 4) and the residential parcel as part of the South Parcel are not being modified as part of this Amendment.

This report examines the impact of the development on the surrounding roadways and intersections. Trip generation and assignments to the site access drive will be completed and analysis conducted to determine the impacts of the development on the surrounding streets and intersections.



II. EXISTING CONDITIONS

The subject site is currently vacant. To the south and east of the subject site is vacant land currently zoned for commercial uses. To the north and west of the subject site are existing residential developments.

Diplomat Parkway is an east/west four-lane divided arterial roadway in the vicinity of the subject site. Diplomat Parkway currently operates under two-way stop control at its intersection with U.S. 41. Diplomat Parkway has a posted speed limit of 45 mph and is under the jurisdiction of the City of Cape Coral.

U.S. 41 is a four lane north/south divided arterial roadway just to the east of the subject site. U.S. 41 has a posted speed limit of 55 mph and is under the jurisdiction of the Florida Department of Transportation.

III. PROPOSED DEVELOPMENT

Upon approval of the amendment, the North parcel could be developed with up to 360 multi-family dwelling units. **Table 1** summarizes the land uses utilized for trip generation purposes for the subject development.

Table 1
Land Uses
Diplomat House

Land Use	Size
Multi-Family Dwelling Units	360 dwelling units

Access to the subject site will be provided to Diplomat Parkway via a full site access location.

IV. TRIP GENERATION

The trip generation for the proposed development was determined by referencing the Institute of Transportation Engineer's (ITE) report, titled *Trip Generation*, 11th Edition. Since the number of floors isn't identified in the zoning, only the building height (up to 50 feet), Land Use Code 220 (Multi-Family Housing Low Rise) was utilized for the trip generation purposes of the proposed development. The equations for this land use are contained in the Appendix of this report for reference. **Table 2** outlines the anticipated weekday A.M. and P.M. peak hour trip generation of the Diplomat North site as currently proposed. The daily trip generation is also indicated in the table.

Table 2
Trip Generation
Diplomat House

Land Use	Weekday A.M. Peak Hour			Weekday P.M. Peak Hour			Daily (2-way)
	In	Out	Total	In	Out	Total	
Multi-Family Housing (360 dwelling units)	32	102	134	110	65	175	2,383

Table 3 illustrates the trip generation of the approved uses of the project based on Z-11-002, which includes 238 multi-family dwelling units and the option of the 50,000 square feet of commercial office uses. Since Medical Office use generates more trips than General Office, that use was utilized for trip generation purposes (Land Use Code 720 Medical-Dental Office).

Table 3
Trip Generation
Diplomat House – As Approved Under Z-11-002

Land Use	Weekday A.M. Peak Hour			Weekday P.M. Peak Hour			Daily (2-way)
	In	Out	Total	In	Out	Total	
Multi-Family Housing (238 dwelling units)	23	74	97	77	46	123	1,601
Commercial (50,000 Sq. Ft.)	102	27	129	60	140	200	2,040
Total Trips	125	101	226	137	186	323	3,641

ITE LUC 220 used for Multi-Family & ITE LUC 720 (Medical Office was used for the Commercial Floor Area)

As can be seen when comparing the trips from Table 3 to the trips in Table 2, the resulting zoning Amendment will have a decrease in the trip generation impact of the North site on the adjacent roadway network.

During the Sufficiency review, Lee County staff desired that the entire RPD/CPD be reviewed in terms of trip generation and analysis even though there are no changes being proposed to the remainder of the uses and to the South Parcel. **Table 4** illustrates the trip generation of the remainder of the RPD/CPD based on the remaining uses that could be developed based on the intensity that will remain. The commercial parcels (Parcels 1 through 3 along the north side of Diplomat Parkway, consisting of approximately 10.26 acres, and Parcel 4 along the south side of Diplomat Parkway, consisting of approximately 7.22 acres) can be developed with up to 200,000 square feet of commercial retail uses and the residential tract on the south side of Diplomat Parkway can be developed with up to 126 residential dwelling units (either single family, multi-family, two-family attached or townhomes). For analysis purposes, the retail uses were split between the North Parcel and South Parcel based on the acreage (17.48 acres total) on each side and the percentage applied to the total amount of retail area. Therefore, for the North Parcel, 10.26 acres is approximately 59% of the total acreage ($10.26/17.48$), so 59% of 200,000 square feet would be approximately 118,000 square feet of retail uses assigned to the North Parcel. And the balance, or 82,000 square feet, was assigned to the South Parcel. The 126 residential dwelling units were all assumed to be Single Family dwelling units since this generates the highest number of vehicle trips compared to the other dwelling types.

Table 4 illustrates the weekday A.M. and P.M. peak hour trip generation of the entire RPD/CPD based on these assumptions. The amount of “pass-by” trips was deducted for the retail trips for both the North Parcel and the South Parcel. Based on the Lee County maximum permitted reduction in “pass-by” trip reduction, a 30% reduction was applied to the retail uses to account for the “pass-by” trips. The Net New trips is then reflected at

the bottom of Table 4. These trips were then used to conduct the Level of Service and intersection analysis.

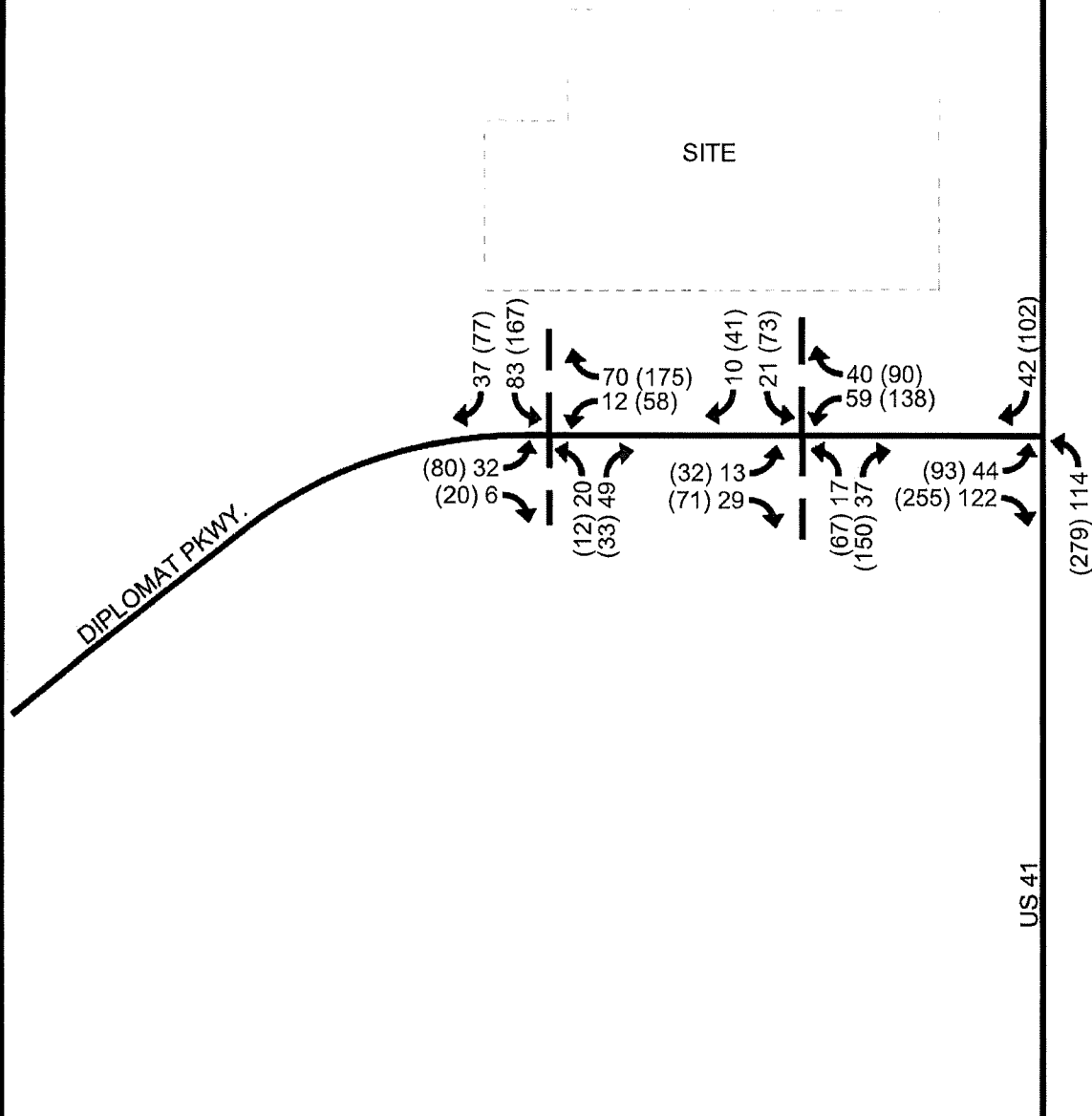
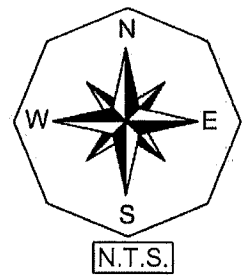
Table 4
Trip Generation
Diplomat North & South – As Proposed

Land Use	Weekday A.M. Peak Hour			Weekday P.M. Peak Hour			Daily (2-way)
	In	Out	Total	In	Out	Total	
Multi-Family Housing (360 dwelling units)	23	74	97	77	46	123	1,601
Single-Family Housing (126 dwelling units)	23	69	92	78	45	123	1,248
Commercial - North (118,000 Sq. Ft.)	127	77	204	300	312	612	7,967
Commercial - South (82,000 Sq. Ft.)	88	54	142	209	217	426	5,537
Less Pass-by Commercial North	-31	-31	-62	-92	-92	-184	-2,390
Less Pass-by Commercial South	-21	-21	-42	-64	-64	-128	-1,661
Total Net New Trips	209	222	431	508	464	972	12,302

ITE LUC 8 21 used for Commercial Uses (No Supermarket)

V. TRIP DISTRIBUTION

The project trips as a result of the proposed rezoning request shown in Table 4 were then assigned to the surrounding roadway system. The net new trips anticipated to be added to the surrounding roadway network were assigned based upon the routes drivers are anticipated to utilize to approach the subject site. **Figure A-1**, included in the Appendix of this report, illustrates the percent project traffic distribution and assignment of the net new project trips. **Figure A-2**, included in the Appendix of this report, illustrates the percent project traffic distribution and assignment of pass-by trips for the retail located on the North Parcel and **Figure A-3** illustrates the percent project traffic distribution and assignment of pass-by trips for the retail located on the South Parcel. **Figure 2** illustrates the resulting assignment of all project related trips (net new + pass-by).



LEGEND

- ← 000 WEEKDAY AM PEAK HOUR SITE TRAFFIC
- ← (000) WEEKDAY PM PEAK HOUR SITE TRAFFIC
- ← 20% → PERCENT TRIP DISTRIBUTION

In order to determine which roadway segments surrounding the site may be significantly impacted as outlined in the Lee County Traffic Impact Statement Guidelines, **Table 1A**, in the Appendix, was created. This table indicates which roadway links will accommodate greater than 10% of the Peak Hour Level of Service “C” volumes. The Level of Service threshold volumes were obtained from the *FDOT Generalized Peak Hour Directional Service Volume* tables for Florida’s Urbanized areas (Table 7) from the Quality/Level of Service Handbook (January 2020). Based on Table 1A, none of the roadway links in the vicinity of the subject site are anticipated to be significantly impacted by the proposed development.

VI. FUTURE TRAFFIC CONDITIONS

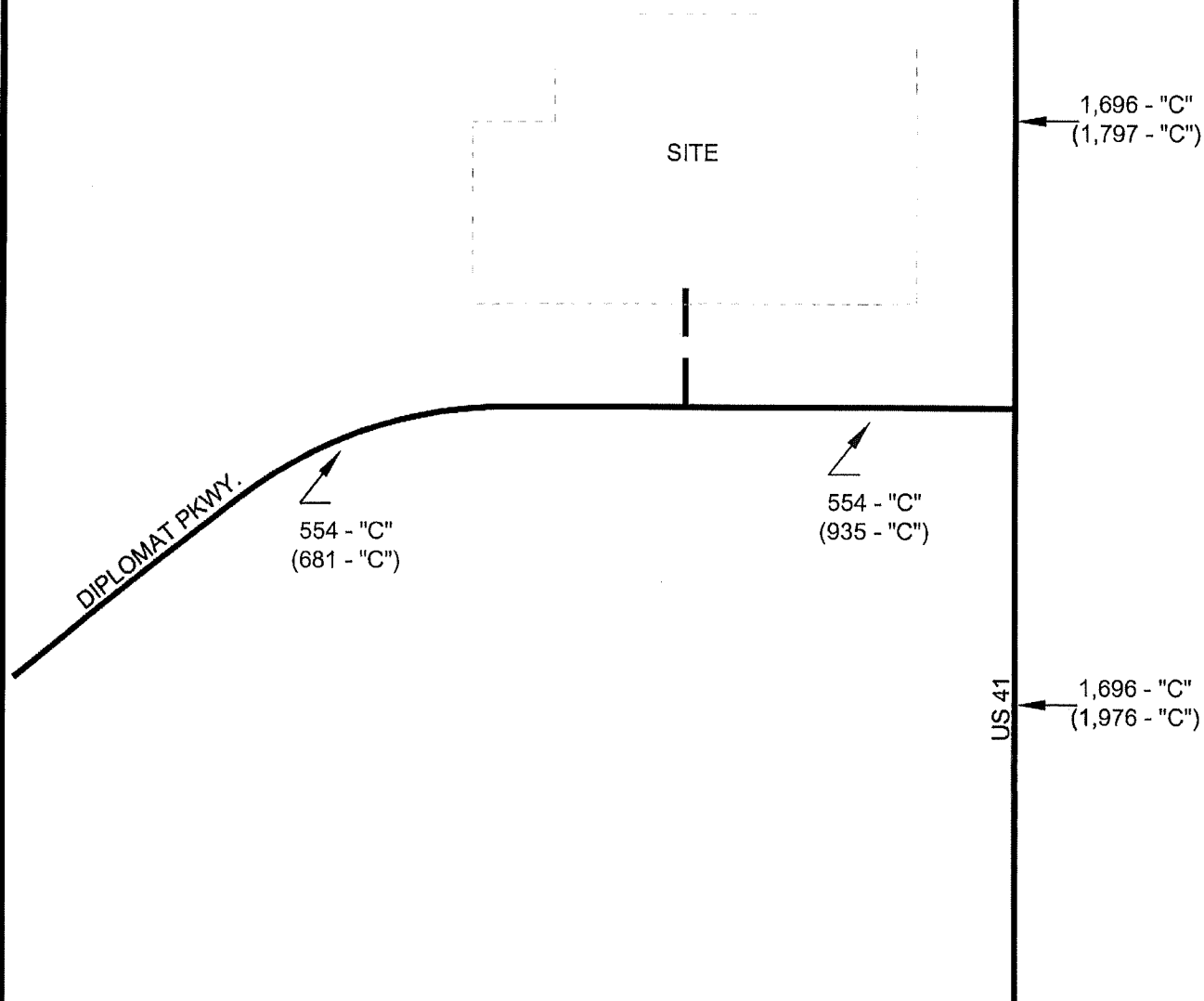
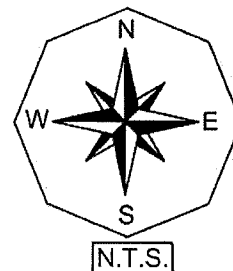
A horizon year analysis of 2027 was selected as the analysis year to evaluate the future impacts this project will have on the surrounding roadway network. Based on this horizon year, a growth rate was applied to the existing traffic conditions for all roadway links in the study area. A Level of Service Analysis was conducted on the nearest roadway segment accessed by the proposed development. The Level of Service was not analyzed on Diplomat Parkway as Lee County does not currently measure Level of Service on this roadway segment as it is a City of Cape Coral roadway. The growth rates were obtained through comparisons of annual traffic data obtained from the *FDOT Traffic Information Online* resource. Based on the project distribution illustrated on Table 1A, the link data was analyzed for the year 2027 without the development and year 2027 with the development.

Table 2A in the Appendix of the report indicates the methodology utilized to obtain the year 2027 build-out traffic volumes as well as the growth rate utilized for each roadway segment. The base year traffic volumes were obtained from the 2021 *Lee County Public Facilities Level of Service and Concurrency Report*.

Figure 3 indicates the year 2027 peak hour – peak direction traffic volumes and Level of Service for the various roadway links within the study area. Noted on Figure 3 is the peak hour – peak direction volume and Level of Service of each link should no development occur on the subject site and the peak hour – peak direction volume and Level of Service for the weekday P.M. peak hour with the development traffic added to the roadways. This figure is derived from Table 2A contained in the Appendix.

VII. PROJECTED LEVEL OF SERVICE AND IMPROVEMENTS

Adverse impacts are defined as a degradation of the Level of Service beyond the adopted Level of Service Thresholds for those links as indicated in Table 1A. In comparing the links' functional classification and calculated 2027 traffic volumes to the Service Volume Tables, it was determined U.S. 41 will operate above the minimum adopted Level of Service in 2027 both with and without the proposed development. The Level of Service of Diplomat Parkway was also illustrated in this report even though this roadway is not maintained by Lee County. Diplomat Parkway is shown to operate at a Level of Service "C" both with and without the Development traffic. Therefore, roadway capacity improvements will not be warranted as a result of the additional traffic to be generated by the proposed rezoning request.



LEGEND

XXX - "X" 2027 PEAK SEASON PEAK HOUR PEAK
DIRECTION EXISTING TRAFFIC AND
LEVEL OF SERVICE DESIGNATION

(XXX - "X") 2027 PEAK SEASON PEAK HOUR PEAK
DIRECTION EXISTING PLUS PEAK
DIRECTION PROJECT TRAFFIC AND
LEVEL OF SERVICE DESIGNATION

VIII INTERSECTION ANALYSIS

Intersection analysis was performed at the intersections that are located adjacent to this project and the site access drive intersections that will serve this project. Consistent with the guidelines outlined in *Administrative Code 13-17 (Traffic Study Guidelines for Planned Development Rezoning)*. This includes the intersection of Diplomat Parkway and U.S. 41 and the two site access drives along U.S. 41.

TR Transportation conducted weekday peak hour turning movement counts at the intersection Diplomat Parkway and U.S. 41 on February 20, 2024. These peak hour turning movement counts were factored by a Peak Season Adjustment Factor based on the FDOT *Peak Season Factor Report* from the FDOT *Traffic Information Online* documentation, which is provided in the Appendix of this report for reference. The traffic data was then increased by a growth factor to the year 2027 based on historical traffic count data contained in the FDOT *Traffic Information Online* resource to obtain the projected 2027 Background Traffic Conditions. The volumes utilized for the intersection analysis can be found in the Appendix of this report in the *Development of Future Year Background Turning Movement Volumes* spreadsheets.

The intersection analysis was conducted for the intersection of Diplomat Parkway and U.S.41 based on the projected 2027 Background traffic conditions (Pre-Development) and the 2027 conditions with the project traffic added to the intersection (as illustrated on Figure 2). **Figure 2** illustrates the resulting assignment of all the project related trips (net new + pass-by). A summary of the intersection analysis is contained in the Appendix of this report for reference. Analysis of the site access drive intersections was also conducted and is contained in the Appendix for reference. Each access drive is anticipated to be a full movement access drive on Diplomat Parkway.

Turn lane improvements at the site access drive intersections will be evaluated at the time the project seeks a Local Development Order and site access permitting from the City of Cape Coral at time of site development approval.

IX. CONCLUSION

The proposed zoning amendment of the Diplomat RPD/CPD project located along both the north and south side of Diplomat Parkway west of its intersection with U.S. 41 in the North Fort Myers area of Lee County, Florida will not have a detrimental impact on the surrounding roadway system. The proposed rezoning request is only to amend the North Parcel to decrease the intensity of the uses from 238 multi-family dwelling units (138 multi-family units & 400 ALF units) and an option of 50,000 square feet of commercial office uses to only 360 multi-family residential dwelling units and eliminate the commercial office uses. The Level of Service analysis conducted as part of this report indicates U.S. 41 and Diplomat Parkway will operate above the minimum adopted Level of Service in 2027 both with and without the proposed development. Therefore, roadway capacity improvements will not be warranted as a result of the additional traffic to be generated by the proposed rezoning request. The zoning amendment as proposed is consistent with the goals and objectives of the Lee County Comprehensive Plan in that there is sufficient roadway capacity projected to accommodate the anticipated development and the mitigation of the project will be the payment of road impact fees.

Turn lane improvements at the site access drive intersections will be evaluated at the time the project seeks a Local Development Order approval.

APPENDIX

TABLE 1A , 2A & 3A

**TABLE 1A
LEVEL OF SERVICE THRESHOLDS
DIPLOMAT HOUSE REZONING**

TOTAL AM PEAK HOUR PROJECT TRAFFIC =	431 VPH	IN=	209	OUT=	222
TOTAL PM PEAK HOUR PROJECT TRAFFIC =	972 VPH	IN=	508	OUT=	464

<u>ROADWAY</u>	<u>ROADWAY SEGMENT</u>	<u># LANES</u>	<u>ROADWAY DESIGNATION</u>								
				LOS A	LOS B	LOS C	LOS D	LOS E	PERCENT	PROJECT	PROJECT
				<u>VOLUME</u>	<u>VOLUME</u>	<u>VOLUME</u>	<u>VOLUME</u>	<u>VOLUME</u>	<u>TRAFFIC</u>	<u>TRAFFIC</u>	<u>LOS C</u>
U.S. 41	N. of Diplomat Pkwy.	4LD	Arterial	0	0	1,910	2,000	2,000	20%	102	5.3%
	S. of Diplomat Pkwy.	4LD	Arterial	0	0	1,910	2,000	2,000	55%	279	14.6%
Diplomat Pkwy	W. of US 41	4LD	Arterial	0	250	1,840	1,960	1,960	75%	381	20.7%
	W. of Site	4LD	Arterial	0	250	1,840	1,960	1,960	25%	127	6.9%

- Denotes the LOS Standard for each roadway segment

* Level of Service Thresholds for Diplomat Pkwy taken from the Generalized Peak Hour Directional Service Volume tables for Urbanized Areas (dated April 2016)

* Level of Service Thresholds for US 41 taken from FDOT Q/LOS Manual Table 7 Generalized LOS Table

**TABLE 2A
LEE COUNTY TRAFFIC COUNTS AND CALCULATIONS
DIPLOMAT HOUSE REZONING**

TOTAL PROJECT TRAFFIC AM =	431	VPH	IN =	209	OUT=	222
TOTAL PROJECT TRAFFIC PM =	972	VPH	IN=	508	OUT=	464

				2021	2027						2027			2027		
				PK HR	PK HR	PK SEASON	PERCENT				BCKGRND			BCKGRND		
ROADWAY	ROADWAY SEGMENT	COUNT	ANNUAL	PK SEASON	PEAK DIRECTION	V/C	PROJECT	AM PROJ	PM PROJ	+ AM PROJ	V/C	+ PM PROJ	V/C			
		STA #	RATE	PEAK DIR. ²	VOLUME	LOS	Ratio	TRAFFIC	TRAFFIC	TRAFFIC	VOLUME	LOS	Ratio	VOLUME	LOS	Ratio
U.S. 41	N. of Diplomat Pkwy.	125029	3.72%	1,362	1,696	C	0.85	20%	44	102	1,740	C	0.87	1,797	C	0.90
	S. of Diplomat Pkwy.	125029	3.73%	1,362	1,697	C	0.85	55%	122	279	1,819	C	0.91	1,976	D	0.99
Diplomat Pkwy	W. of US 41	0010	3.12%	505	554	C	0.30	75%	167	381	720	C	0.39	935	C	0.51
	W. of Site	0009	3.12%	505	554	C	0.30	25%	56	127	609	C	0.33	681	C	0.37

1 Annual Growth Rates were calculated based on historical traffic data obtained from FDOT Traffic Data Online and shown in Table 3A

2 Current peak hour peak season peak direction traffic volumes for US. 41 was obtained from the 2022 Lee County Public Facilities Level of Service and Concurrency Report

Current peak hour peak season peak direction traffic volume for Diplomat Pkwy was obtain from the turning movement count conducted at the intersection of US 41/Diplomat Pkwy (2024 Volume)

**TABLE 5A
ANNUAL GROWTH RATE CALCULATIONS
BASED UPON HISTORICAL AADT DATA**

<u>ROADWAY</u>	<u>SEGMENT</u>	CURRENT <u>ID#</u>	2013 <u>AADT</u> <u>VOLUME</u>	2020 <u>AADT</u> <u>VOLUME</u>	YRS OF <u>GROWTH</u>	ANNUAL GROWTH <u>RATE</u>	ACTUAL GROWTH <u>RATE</u>
US 41	S. of Diplomat	125029	23,500	31,500	7	4.27%	4.27%
Diplomat	W. of US 41	120117	8,600	11,000	7	3.58%	3.58%

* Traffic volumes were obtained from the 2023 City of Bonita Springs Traffic Count Report.

** For I-75 the historical traffic volumes were obtained from FDOT Florida Traffic Online resource.

*** In instances where the historical data indicates a reduction in traffic or insufficient data was available to calculate

a growth rate due to construction, a minimum annual growth rate of 2.0% was assumed.

SAMPLE GROWTH RATE CALCULATION

$$\text{Annual Growth Rate (AGR)} = \frac{2020 \text{ AADT}}{\text{BASE AADT}}^{\wedge(1/\text{Yrs of Growth})} - 1$$

$$\text{AGR (E. Terry St)} = \frac{31,500}{23,500}^{\wedge(1/7)} - 1$$

$$\text{AGR (E. Terry St)} = 4.27\%$$

**LEE COUNTY GENERALIZED
PEAK HOUR DIRECTIONAL
SERVICE VOLUME TABLES**

c:\input5

Uninterrupted Flow Highway						
Level of Service						
Lane	Divided	A	B	C	D	E
1	Undivided	130	420	850	1,210	1,640
2	Divided	1,060	1,810	2,560	3,240	3,590
3	Divided	1,600	2,720	3,840	4,860	5,380

Arterials						
Class I (40 mph or higher posted speed limit)						
Level of Service						
Lane	Divided	A	B	C	D	E
1	Undivided	*	140	800	860	860
2	Divided	*	250	1,840	1,960	1,960
3	Divided	*	400	2,840	2,940	2,940
4	Divided	*	540	3,830	3,940	3,940

Class II (35 mph or slower posted speed limit)						
Level of Service						
Lane	Divided	A	B	C	D	E
1	Undivided	*	*	330	710	780
2	Divided	*	*	710	1,590	1,660
3	Divided	*	*	1,150	2,450	2,500
4	Divided	*	*	1,580	3,310	3,340

Controlled Access Facilities						
Level of Service						
Lane	Divided	A	B	C	D	E
1	Undivided	*	160	880	940	940
2	Divided	*	270	1,970	2,100	2,100
3	Divided	*	430	3,050	3,180	3,180

Collectors						
Level of Service						
Lane	Divided	A	B	C	D	E
1	Undivided	*	*	310	660	740
1	Divided	*	*	330	700	780
2	Undivided	*	*	730	1,440	1,520
2	Divided	*	*	770	1,510	1,600

Note: the service volumes for I-75 (freeway), bicycle mode, pedestrian mode, and bus mode should be from FDOT's most current version of LOS Handbook.

**FDOT GENERALIZED PEAK HOUR
DIRECTIONAL VOLUMES
TABLE 7**

TABLE 7

Generalized **Peak Hour Directional** Volumes for Florida's

Urbanized Areas

January 2020

INTERRUPTED FLOW FACILITIES						UNINTERRUPTED FLOW FACILITIES					
STATE SIGNALIZED ARTERIALS						FREEWAYS					
Class I (40 mph or higher posted speed limit)						Core Urbanized					
Lanes	Median	B	C	D	E	Lanes	B	C	D	E	
1	Undivided	*	830	880	**	2	2,230	3,100	3,740	4,080	
2	Divided	*	1,910	2,000	**	3	3,280	4,570	5,620	6,130	
3	Divided	*	2,940	3,020	**	4	4,310	6,030	7,490	8,170	
4	Divided	*	3,970	4,040	**	5	5,390	7,430	9,370	10,220	
						6	6,380	8,990	11,510	12,760	
Class II (35 mph or slower posted speed limit)						Urbanized					
Lanes	Median	B	C	D	E	Lanes	B	C	D	E	
1	Undivided	*	370	750	800	2	2,270	3,100	3,890	4,230	
2	Divided	*	730	1,630	1,700	3	3,410	4,650	5,780	6,340	
3	Divided	*	1,170	2,520	2,560	4	4,550	6,200	7,680	8,460	
4	Divided	*	1,610	3,390	3,420	5	5,690	7,760	9,520	10,570	
Non-State Signalized Roadway Adjustments						Freeway Adjustments					
(Alter corresponding state volumes by the indicated percent.)						Auxiliary Lane + 1,000					
Non-State Signalized Roadways - 10%						Ramp Metering + 5%					
Median & Turn Lane Adjustments						UNINTERRUPTED FLOW HIGHWAYS					
Lanes	Median	Exclusive Left Lanes	Exclusive Right Lanes	Adjustment Factors		Lanes	Median	B	C	D	E
1	Divided	Yes	No	+5%		1	Undivided	580	890	1,200	1,610
1	Undivided	No	No	-20%		2	Divided	1,800	2,600	3,280	3,730
Multi	Undivided	Yes	No	-5%		3	Divided	2,700	3,900	4,920	5,600
Multi	Undivided	No	No	-25%							
-	-	-	Yes	+ 5%							
One-Way Facility Adjustment						Uninterrupted Flow Highway Adjustments					
Multiply the corresponding directional volumes in this table by 1.2						Lanes	Median	Exclusive left lanes	Adjustment factors		
						1	Divided	Yes	+5%		
						Multi	Undivided	Yes	-5%		
						Multi	Undivided	No	-25%		
BICYCLE MODE²						¹ Values shown are presented as peak hour directional volumes for levels of service and are for the automobile/truck modes unless specifically stated. This table does not constitute a standard and should be used only for general planning applications. The computer models from which this table is derived should be used for more specific planning applications. The table and deriving computer models should not be used for corridor or intersection design, where more refined techniques exist. Calculations are based on planning applications of the HCM and the Transit Capacity and Quality of Service Manual.					
(Multiply vehicle volumes shown below by number of directional roadway lanes to determine two-way maximum service volumes.)						² Level of service for the bicycle and pedestrian modes in this table is based on number of vehicles, not number of bicyclists or pedestrians using the facility.					
Paved						³ Buses per hour shown are only for the peak hour in the single direction of the higher traffic flow.					
Shoulder/Bicycle						* Cannot be achieved using table input value defaults.					
Lane Coverage	B	C	D	E		** Not applicable for that level of service letter grade. For the automobile mode, volumes greater than level of service D become F because intersection capacities have been reached. For the bicycle mode, the level of service letter grade (including F) is not achievable because there is no maximum vehicle volume threshold using table input value defaults.					
0-49%	*	150	390	1,000		Source:					
50-84%	110	340	1,000	>1,000		Florida Department of Transportation					
85-100%	470	1,000	>1,000	**		Systems Implementation Office					
						https://www.fdot.gov/planning/systems/					
PEDESTRIAN MODE²											
(Multiply vehicle volumes shown below by number of directional roadway lanes to determine two-way maximum service volumes.)											
Sidewalk Coverage	B	C	D	E							
0-49%	*	*	140	480							
50-84%	*	80	440	800							
85-100%	200	540	880	>1,000							
BUS MODE (Scheduled Fixed Route)³											
(Buses in peak hour in peak direction)											
Sidewalk Coverage	B	C	D	E							
0-84%	> 5	≥ 4	≥ 3	≥ 2							
85-100%	> 4	≥ 3	≥ 2	≥ 1							

**TRAFFIC DATA FROM THE LEE
COUNTY PUBLIC FACILITIES LEVEL
OF SERVICE AND CONCURRENCY
REPORT**

Table 21 b): Link-Level Service Volumes and LOS Table

Table 21 b) 6 of 7

LEE COUNTY ROAD LINK VOLUMES (County- and State-Maintained Roadways)															
Link No.	NAME	ROADWAY LINK		F. Class	ROAD TYPE	PERFORMANCE STANDARD		2021 100TH HIGHEST HOUR			FUTURE FORECAST (2026)			Notes	
		FROM	TO			LOS	DIRECTIONAL CAPACITY	LOS	VOL	V/C	LOS	VOL	V/C		
24300	SR 31 (ARCADIA RD)	SR 78	COUNTY LINE	State	2LN	C	820	C	655	0.80	B	889	0.40	Future Capacity 2210 (for V/C as well)	
24400	STALEY RD	TICE	ORANGE RIVER BLVD	Maj. Col	2LN	E	860	C	197	0.23	C	207	0.24		*
24500	STRINGFELLOW RD	1ST AVE	BERKSHIRE RD	M. Art	2LN	E	1,060	B	315	0.30	C	445	0.42		Constrained
24600	STRINGFELLOW RD	BERKSHIRE RD	PINE ISLAND RD	M. Art	2LN	E	1,060	B	315	0.30	C	448	0.42		Constrained
24700	STRINGFELLOW RD	PINE ISLAND RD	PINELAND RD	M. Art	2LN	E	1,060	D	730	0.69	E	931	0.78	Constrained	
24800	STRINGFELLOW RD	PINELAND RD	MAIN ST	M. Art	2LN	E	1,060	D	730	0.69	E	927	0.78		
24900	SUMMERLIN RD	MCGREGOR BLVD	KELLY COVE RD	Controlled xs	4LD	E	1,980	A	1,243	0.63	A	1,305	0.66	Unincorporated Lee county	
25000	SUMMERLIN RD	KELLY COVE RD	SAN CARLOS BLVD	Controlled xs	4LD	E	1,980	A	1,243	0.63	A	1,306	0.66	Unincorporated Lee county	
25100	SUMMERLIN RD	SAN CARLOS BLVD	PINE RIDGE RD	Controlled xs	6LD	E	3,000	A	1,928	0.64	A	2,158	0.72	Unincorporated Lee county	
25200	SUMMERLIN RD	PINE RIDGE RD	BASS RD	Controlled xs	6LD	E	3,000	A	1,928	0.64	A	2,026	0.68	Unincorporated Lee county	
25300	SUMMERLIN RD	BASS RD	GLADIOLUS DR	Controlled xs	6LD	E	3,000	A	1,928	0.64	A	2,026	0.68	Unincorporated Lee county	
25400	SUMMERLIN RD	GLADIOLUS DR	CYPRESS LAKE DR	Controlled xs	4LD	E	1,900	C	1,530	0.81	C	1,631	0.86	Unincorporated Lee county	
25500	SUMMERLIN RD	CYPRESS LAKE DR	COLLEGE PKWY	Controlled xs	6LD	E	2,880	B	1,808	0.63	B	1,900	0.66	Unincorporated Lee county	
25600	SUMMERLIN RD	COLLEGE PKWY	PARK MEADOW DR	Controlled xs	6LD	E	2,880	B	1,802	0.63	B	1,894	0.66	Unincorporated Lee county	
25700	SUMMERLIN RD	PARK MEADOW DR	BOY SCOUT	Controlled xs	6LD	E	2,880	B	1,802	0.63	B	1,894	0.66	Unincorporated Lee county	
25800	SUMMERLIN RD	BOY SCOUT	MATHEWS DR	P. Art	4LD	E	1,820	D	1,135	0.62	D	1,193	0.66		
25900	SUMMERLIN RD	MATHEWS DR	COLONIAL BLVD	P. Art	4LD	E	1,820	D	1,135	0.62	D	1,193	0.66		
26000	SUNRISE BLVD	BELL BLVD	COLUMBUS BLVD	Min. Col	2LN	E	860	C	42	0.05	C	53	0.06	Old Count	
26100	SUNSHINE BLVD	SR 82	23RD ST SW	P. Art	2LN	E	1,010	C	395	0.39	C	416	0.41	*	
26150	SUNSHINE BLVD	23RD ST SW	LEE BLVD	P. Art	2LN	E	1,010	C	395	0.39	C	416	0.41	*	
26200	SUNSHINE BLVD	LEE BLVD	W 12TH ST	P. Art	2LN	E	1,010	D	551	0.64	D	684	0.58	*	
26300	SUNSHINE BLVD	W 12TH ST	W 75TH ST	Maj. Col	2LN	E	860	D	502	0.70	D	633	0.74		
26500	THREE OAKS PKWY	COCONUT RD	ESTERO PKWY	P. Art	4LD	E	1,940	B	1,560	0.80	B	1,743	0.90		
26600	THREE OAKS PKWY	ESTERO PKWY	SAN CARLOS BLVD	P. Art	4LD	E	1,940	B	707	0.56	B	816	0.42		
26700	THREE OAKS PKWY	SAN CARLOS BLVD	ALICO RD	P. Art	4LD	E	1,940	B	707	0.56	B	743	0.38		
26800	TICE ST	SR 80	ORTIZ AVE	Maj. Col	2LN	E	860	C	199	0.23	C	209	0.24		
26900	TICE ST	ORTIZ AVE	STALEY RD	Maj. Col	2LN	E	860	C	207	0.24	C	248	0.28	Elementry U.	
27000	TREELINE AVE	TERMINAL ACCESS RD	DANIELS PKWY	Controlled xs	4LD	E	1,980	A	1,050	0.53	A	1,288	0.65	Harley Davidson	
27050	TREELINE AVE	DANIELS PKWY	AMBERWOOD RD	P. Art	4LD	E	1,980	A	782	0.39	A	822	0.42		
27070	TREELINE AVE	AMBERWOOD RD	COLONIAL BLVD	P. Art	4LD	E	1,980	A	782	0.39	A	822	0.42		
30500	US 41 (CLEVELAND AVE)	DANIELS PKWY	COLLEGE PKWY	State	6LD	D	3,171	C	2,588	0.82	C	2,904	0.92	SR 739 6 in DES & ROW Progrmd	
30600	US 41 (CLEVELAND AVE)	COLLEGE PKWY	SOUTH RD	State	6LD	D	3,171	C	2,588	0.82	C	2,904	0.92	SR 739 6 in DES & ROW Progrmd	
30700	US 41 (CLEVELAND AVE)	SOUTH RD	BOY SCOUT RD	State	6LD	D	3,171	C	2,588	0.82	C	2,904	0.92	SR 739 6 in DES & ROW Progrmd	
30800	US 41 (CLEVELAND AVE)	BOY SCOUT RD	NORTH AIRPORT RD	State	6LD	D	3,171	C	2,588	0.82	C	2,904	0.92	SR 739 6 in DES & ROW Progrmd	
30810	US 41 (CLEVELAND AVE)	NORTH AIRPORT RD	COLONIAL BLVD	State	6LD	D	3,171	C	2,418	0.76	C	2,704	0.85		
30900	US 41 (CLEVELAND AVE)	CITY LIMITS	N. KEY DR	State	4LD	D	2,100	C	1,996	0.95	F	2,240	1.07		
31000	US 41 (CLEVELAND AVE)	N. KEY DR	HANCOCK B. PKWY	State	4LD	D	2,100	C	1,996	0.95	F	2,240	1.07		
31100	US 41 (CLEVELAND AVE)	HANCOCK B. PKWY	PONDELLA RD	State	4LD	D	2,100	C	1,996	0.95	F	2,240	1.07		
31200	US 41 (CLEVELAND AVE)	PONDELLA RD	SR 78	State	4LD	D	2,100	C	1,362	0.65	C	1,523	0.73		
31300	US 41 (CLEVELAND AVE)	SR 78	LITTLETON RD	State	4LD	D	2,100	C	1,362	0.65	C	1,523	0.73		
31400	US 41 (N TAMiami TR)	LITTLETON RD	BUS 41	State	4LD	D	2,100	C	1,087	0.52	C	1,263	0.60		
31500	US 41 (N TAMiami TR)	BUS 41	DEL PRADO BLVD	State	4LD	D	2,100	C	1,087	0.52	C	1,263	0.60		
31600	US 41 (N TAMiami TR)	DEL PRADO BLVD	CHARLOTTE CO. LINE	State	4LD	D	2,100	C	1,577	0.75	C	1,885	0.90		
29800	US 41 (S TAMiami TR)	OLD 41	CORKSCREW RD	State	6LD	D	3,171	C	2,342	0.74	C	2,616	0.82		
29900	US 41 (S TAMiami TR)	CORKSCREW RD	SANIBEL BLVD	State	6LD	D	3,171	C	2,294	0.72	C	2,767	0.87		
30000	US 41 (S TAMiami TR)	SANIBEL BLVD	ALICO RD	State	6LD	D	3,171	C	2,576	0.81	C	3,011	0.95		
30100	US 41 (S TAMiami TR)	ALICO RD	ISLAND PARK RD	State	6LD	D	3,171	C	2,576	0.81	C	3,011	0.95		
30200	US 41 (S TAMiami TR)	ISLAND PARK RD	BRAECLEIFF RD	State	6LD	D	3,171	C	3,002	0.95	F	3,356	1.06		

County-Maintained Collector Roadway - Unincorporated Lee County

State-Maintained Arterial Roadway - Unincorporated Lee County

County-Maintained Collector Roadway - Incorporated Lee County

County Maintained Controlled Access Arterial Facility

County-Maintained Arterial Roadway - Unincorporated Lee County

County Maintained Expressway

County-Maintained Arterial Roadway - Incorporated Lee County

**TRAFFIC DATA FROM THE
FDOT FLORIDA TRAFFIC ONLINE**

FLORIDA DEPARTMENT OF TRANSPORTATION
TRANSPORTATION STATISTICS OFFICE
2022 HISTORICAL AADT REPORT

COUNTY: 12 - LEE

SITE: 5029 - SR 45/US 41, N OF DIPLOMAT PKWY E LC419

YEAR	AADT	DIRECTION 1	DIRECTION 2	*K FACTOR	D FACTOR	T FACTOR
----	-----	-----	-----	-----	-----	-----
2022	26000 F	N 12500	S 13500	9.00	53.70	6.20
2021	26000 C	N 12500	S 13500	9.00	53.10	6.20
2020	31500 C	N 15500	S 16000	9.00	52.80	4.10
2019	30000 C	N 14500	S 15500	9.00	53.30	4.70
2018	29500 C	N 14500	S 15000	9.00	53.30	4.30
2017	24000 C	N 12000	S 12000	9.00	53.20	4.90
2016	29500 C	N 14500	S 15000	9.00	56.20	4.10
2015	28500 C	N 14000	S 14500	9.00	54.50	3.90
2014	27000 C	N 13500	S 13500	9.00	54.60	3.70
2013	23500 C	N 11500	S 12000	9.00	59.70	5.30
2012	23500 C	N 11500	S 12000	9.00	54.30	4.30
2011	27500 C	N 13000	S 14500	9.00	55.00	4.00
2010	28500 C	N 13500	S 15000	10.32	57.60	4.50
2009	26000 C	N 12500	S 13500	10.24	54.47	5.20
2008	27000 C	N 13000	S 14000	10.37	58.94	3.90
2007	28500 C	N 13000	S 15500	10.16	54.76	5.30

AADT FLAGS: C = COMPUTED; E = MANUAL ESTIMATE; F = FIRST YEAR ESTIMATE

S = SECOND YEAR ESTIMATE; T = THIRD YEAR ESTIMATE; R = FOURTH YEAR ESTIMATE

V = FIFTH YEAR ESTIMATE; 6 = SIXTH YEAR ESTIMATE; X = UNKNOWN

*K FACTOR: STARTING WITH YEAR 2011 IS STANDARDK, PRIOR YEARS ARE K30 VALUES

FLORIDA DEPARTMENT OF TRANSPORTATION
TRANSPORTATION STATISTICS OFFICE
2022 HISTORICAL AADT REPORT

COUNTY: 12 - LEE

SITE: 0117 - DIPLOMA PKWY E, E OF NE 24TH AVE (HPMS ID: 120005640725)

YEAR	AADT	DIRECTION 1	DIRECTION 2	*K FACTOR	D FACTOR	T FACTOR
----	-----	-----	-----	-----	-----	-----
2022	11000 X	0	0	9.00	53.90	10.50
2021	10500 X	0	0	9.00	53.50	5.20
2020	9800 E	0	0	9.00		5.20
2019	9800 E	E 0	W 0	9.00		5.20
2018	9600 C	E 4900	W 4700	9.00	53.30	4.10
2017	9600 S	E 4700	W 4900	9.00	51.40	3.70
2016	9200 F	E 4500	W 4700	9.00	68.20	3.70
2015	8600 C	E 4200	W 4400	9.00	55.50	3.70

AADT FLAGS: C = COMPUTED; E = MANUAL ESTIMATE; F = FIRST YEAR ESTIMATE
S = SECOND YEAR ESTIMATE; T = THIRD YEAR ESTIMATE; R = FOURTH YEAR ESTIMATE
V = FIFTH YEAR ESTIMATE; 6 = SIXTH YEAR ESTIMATE; X = UNKNOWN
*K FACTOR: STARTING WITH YEAR 2011 IS STANDARDK, PRIOR YEARS ARE K30 VALUES

FDOT PEAK SEASON ADJUSTMENT FACTOR

2022 PEAK SEASON FACTOR CATEGORY REPORT - REPORT TYPE: ALL
 CATEGORY: 1243 NORTH FORT MYERS

WEEK	DATES	SF	MOCF: 0.90 PSCF
1	01/01/2022 - 01/01/2022	1.00	1.11
2	01/02/2022 - 01/08/2022	0.98	1.09
3	01/09/2022 - 01/15/2022	0.96	1.07
* 4	01/16/2022 - 01/22/2022	0.94	1.04
* 5	01/23/2022 - 01/29/2022	0.92	1.02
* 6	01/30/2022 - 02/05/2022	0.91	1.01
* 7	02/06/2022 - 02/12/2022	0.89	0.99
* 8	02/13/2022 - 02/19/2022	0.87	0.97
* 9	02/20/2022 - 02/26/2022	0.87	0.97
*10	02/27/2022 - 03/05/2022	0.87	0.97
*11	03/06/2022 - 03/12/2022	0.87	0.97
*12	03/13/2022 - 03/19/2022	0.87	0.97
*13	03/20/2022 - 03/26/2022	0.89	0.99
*14	03/27/2022 - 04/02/2022	0.91	1.01
*15	04/03/2022 - 04/09/2022	0.92	1.02
*16	04/10/2022 - 04/16/2022	0.94	1.04
17	04/17/2022 - 04/23/2022	0.96	1.07
18	04/24/2022 - 04/30/2022	0.99	1.10
19	05/01/2022 - 05/07/2022	1.01	1.12
20	05/08/2022 - 05/14/2022	1.04	1.16
21	05/15/2022 - 05/21/2022	1.06	1.18
22	05/22/2022 - 05/28/2022	1.08	1.20
23	05/29/2022 - 06/04/2022	1.09	1.21
24	06/05/2022 - 06/11/2022	1.11	1.23
25	06/12/2022 - 06/18/2022	1.12	1.24
26	06/19/2022 - 06/25/2022	1.12	1.24
27	06/26/2022 - 07/02/2022	1.12	1.24
28	07/03/2022 - 07/09/2022	1.11	1.23
29	07/10/2022 - 07/16/2022	1.11	1.23
30	07/17/2022 - 07/23/2022	1.10	1.22
31	07/24/2022 - 07/30/2022	1.09	1.21
32	07/31/2022 - 08/06/2022	1.08	1.20
33	08/07/2022 - 08/13/2022	1.07	1.19
34	08/14/2022 - 08/20/2022	1.06	1.18
35	08/21/2022 - 08/27/2022	1.07	1.19
36	08/28/2022 - 09/03/2022	1.09	1.21
37	09/04/2022 - 09/10/2022	1.10	1.22
38	09/11/2022 - 09/17/2022	1.11	1.23
39	09/18/2022 - 09/24/2022	1.09	1.21
40	09/25/2022 - 10/01/2022	1.08	1.20
41	10/02/2022 - 10/08/2022	1.06	1.18
42	10/09/2022 - 10/15/2022	1.04	1.16
43	10/16/2022 - 10/22/2022	1.03	1.14
44	10/23/2022 - 10/29/2022	1.01	1.12
45	10/30/2022 - 11/05/2022	1.00	1.11
46	11/06/2022 - 11/12/2022	0.98	1.09
47	11/13/2022 - 11/19/2022	0.97	1.08
48	11/20/2022 - 11/26/2022	0.98	1.09
49	11/27/2022 - 12/03/2022	0.99	1.10
50	12/04/2022 - 12/10/2022	0.99	1.10
51	12/11/2022 - 12/17/2022	1.00	1.11
52	12/18/2022 - 12/24/2022	0.98	1.09
53	12/25/2022 - 12/31/2022	0.96	1.07

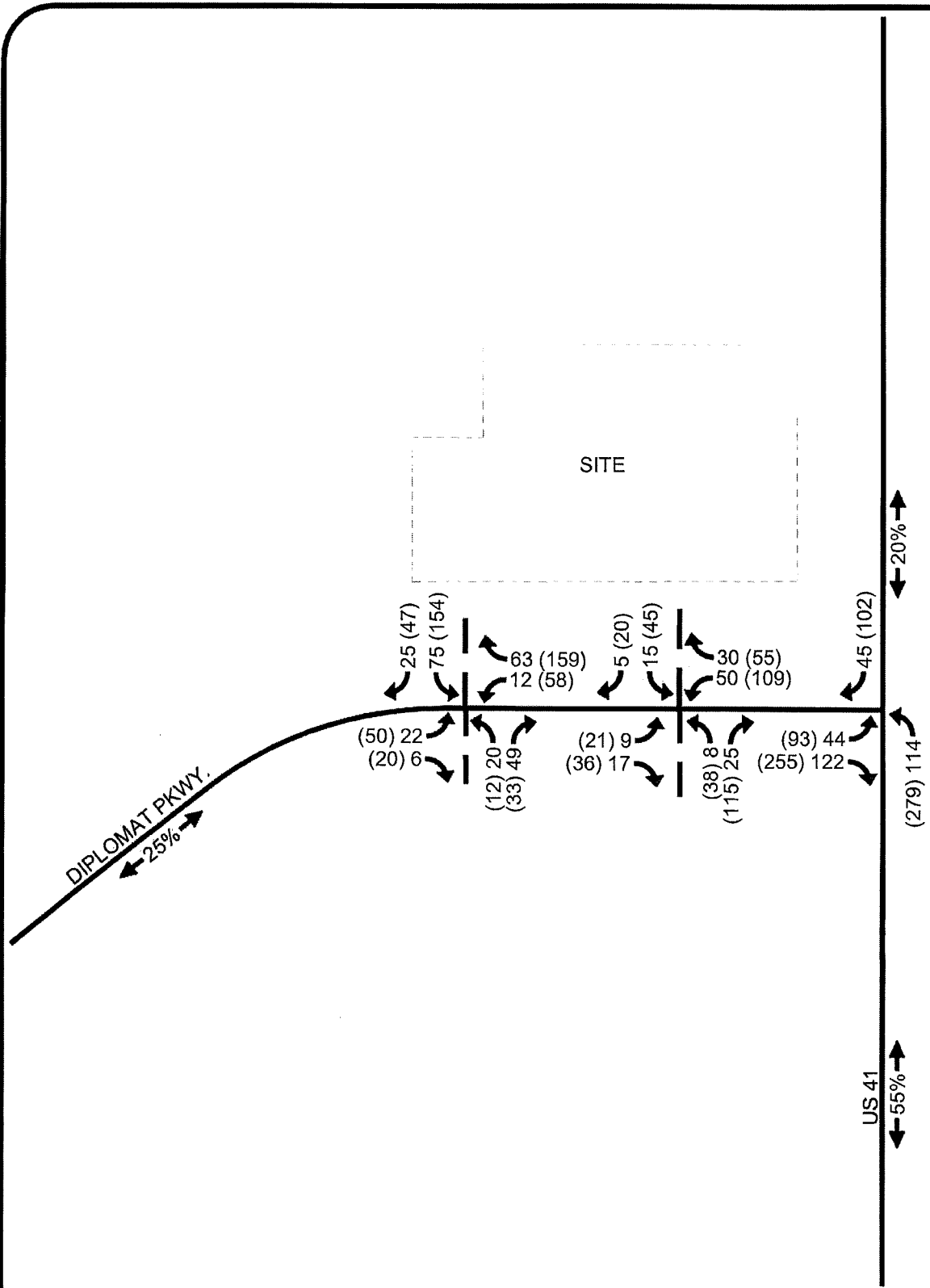
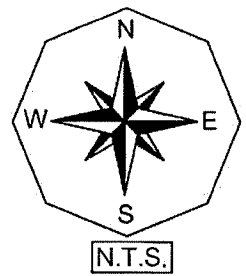
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830UPD

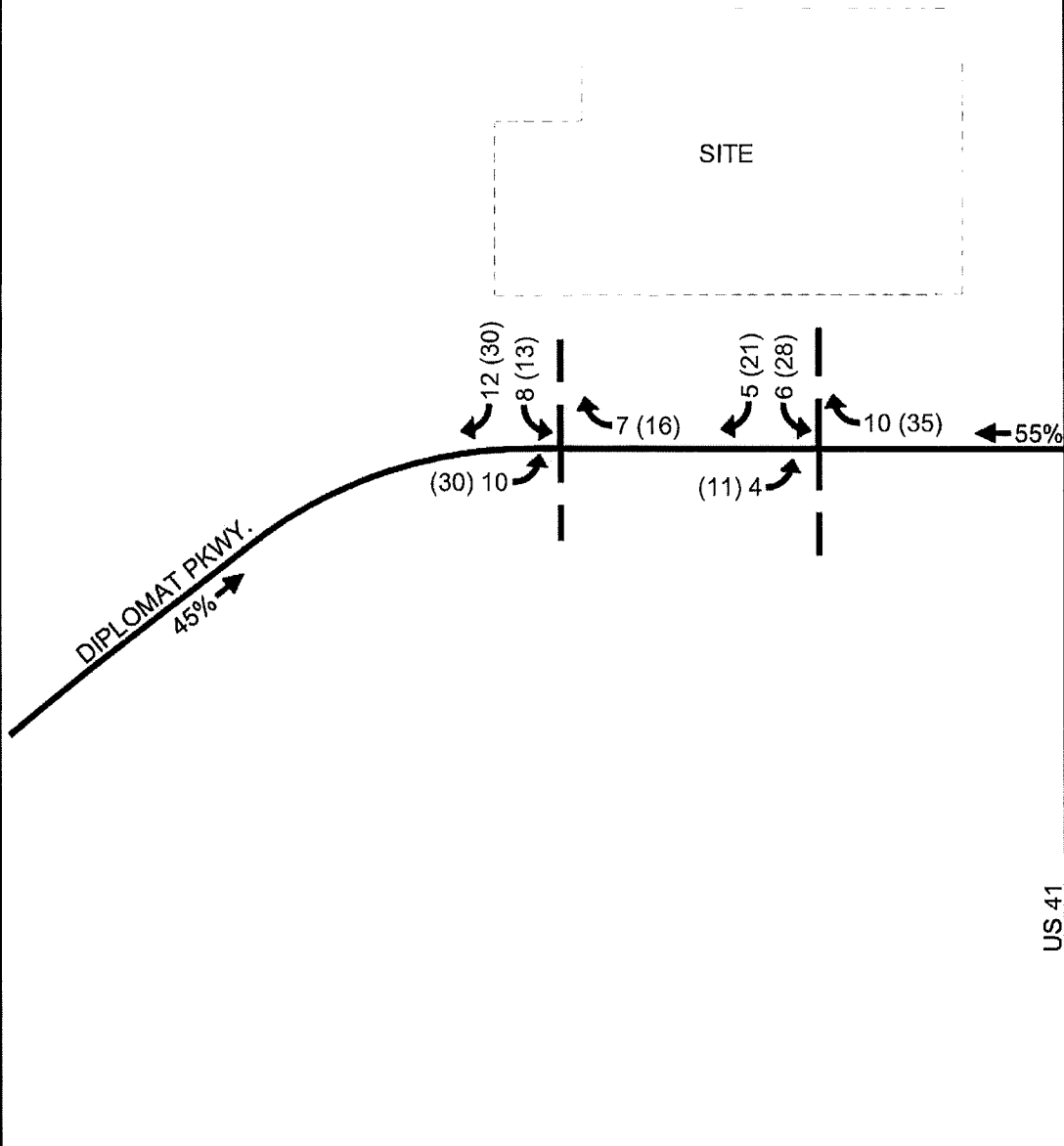
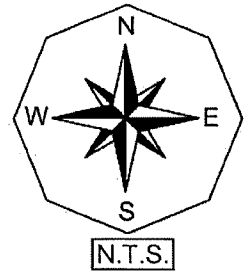
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**SITE TRAFFIC ASSIGNMENT
SUPPLEMENTAL GRAPHICS
FIGURES A-1, A-2 & A-3**



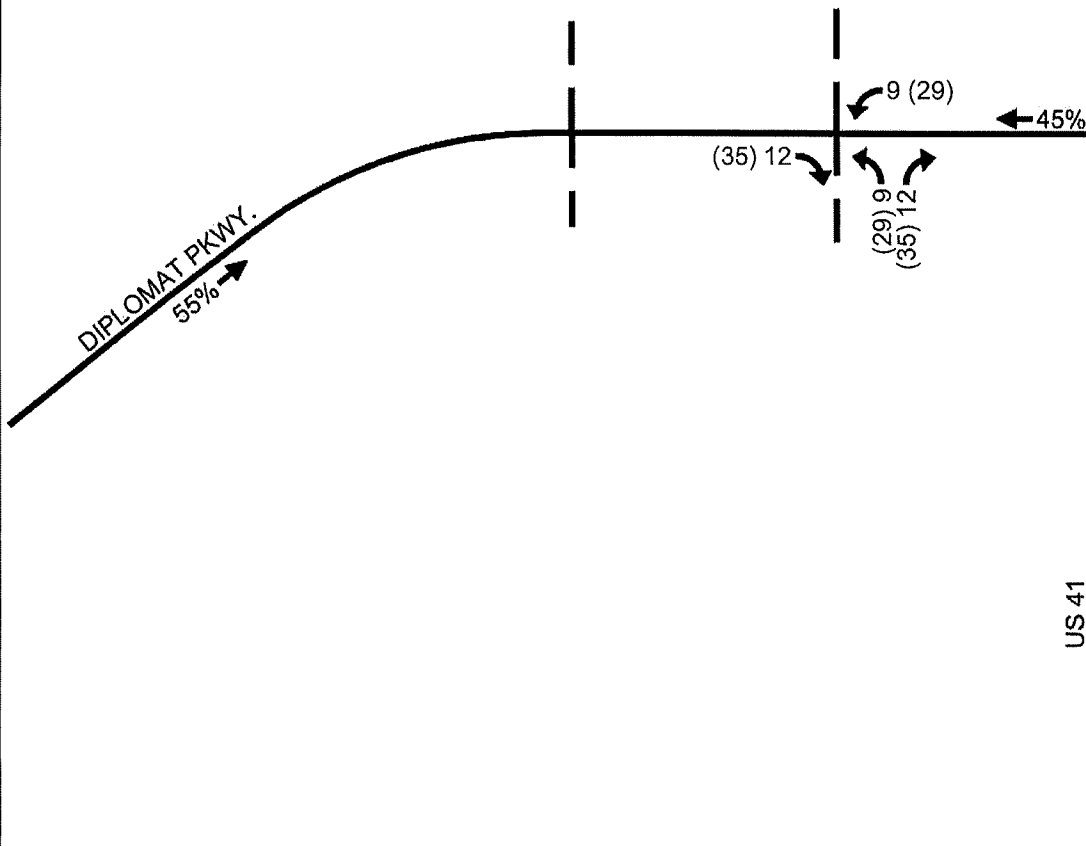
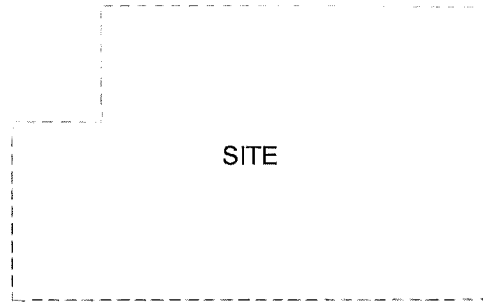
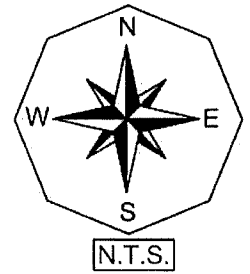
LEGEND

- ← 000 WEEKDAY AM PEAK HOUR SITE TRAFFIC
- ← (000) WEEKDAY PM PEAK HOUR SITE TRAFFIC
- ← 20% → PERCENT TRIP DISTRIBUTION



LEGEND

- ← 000 WEEKDAY AM PEAK HOUR SITE TRAFFIC
- ← (000) WEEKDAY PM PEAK HOUR SITE TRAFFIC
- ← 20% PERCENT TRIP DISTRIBUTION



LEGEND

- ← 000 WEEKDAY AM PEAK HOUR SITE TRAFFIC
- ← (000) WEEKDAY PM PEAK HOUR SITE TRAFFIC
- ← 20% PERCENT TRIP DISTRIBUTION

TURNING MOVEMENT COUNT
U.S. 41 @ DIPLOMAT PARKWAY

**US 41 @ Diplomat Pkwy
Fort Myers FL
Tuesday, February 20, 2024**

Time	Southbound US 41						Westbound 0						Northbound US 41						Eastbound Diplomat Pkwy						VEHICLE TOTAL
	U Turns	Left Turns	Straight Through	Right Turns	Crosswalk Crossings	Vehicle Approach Total	U Turns	Left Turns	Straight Through	Right Turns	Crosswalk Crossings	Vehicle Approach Total	U Turns	Left Turns	Straight Through	Right Turns	Crosswalk Crossings	Vehicle Approach Total	U Turns	Left Turns	Straight Through	Right Turns	Crosswalk Crossings	Vehicle Approach Total	
7:00 AM	1	0	289	24	0	324	0	0	0	0	0	0	1	48	195	0	0	244	1	28	0	97	0	126	694
7:15 AM	0	0	319	27	0	346	0	0	0	0	0	0	1	62	182	0	0	245	0	26	0	68	0	94	685
7:30 AM	0	0	284	48	0	332	0	0	0	0	0	0	0	57	192	0	0	249	0	22	0	84	0	106	687
7:45 AM	0	0	303	48	0	349	0	0	0	0	0	0	0	67	211	0	0	278	0	24	0	77	2	101	728
Hourly Total	1	0	1205	145	0	1351	0	0	0	0	0	0	2	234	780	0	0	1016	1	100	0	326	2	427	2794
8:00 AM	0	0	233	39	0	272	0	0	0	0	0	0	0	58	160	0	0	216	0	7	0	89	0	96	584
8:15 AM	0	0	312	35	0	347	0	0	0	0	0	0	0	40	189	0	0	209	0	15	0	83	0	98	654
8:30 AM	0	0	307	26	0	333	0	0	0	0	0	0	0	34	187	0	0	221	0	14	0	75	0	89	643
8:45 AM	0	0	278	31	0	309	0	0	0	0	0	0	2	38	202	0	0	242	0	11	0	64	1	75	626
Hourly Total	0	0	1130	131	0	1261	0	0	0	0	0	0	2	168	718	0	0	888	0	47	0	311	1	358	2507
TOTAL	1	0	2335	276	0	2612	0	0	0	0	0	0	4	402	1498	0	0	1904	1	147	0	637	3	785	5301
Cars	1	0	2275	267	0	2543	0	0	0	0	0	0	4	385	1434	0	0	1823	1	142	0	624	1	767	5133
Heavy Vehicles	0	0	60	9	0	69	0	0	0	0	0	0	0	17	64	0	0	81	0	5	0	13	2	18	168
Heavy Vehicle %	0.00%	0.00%	2.57%	3.26%	0.00%	2.64%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	4.23%	4.27%	0.00%	0.00%	4.25%	0.00%	3.40%	0.00%	2.04%	66.67%	2.29%	3.17%

**US 41 @ Diplomat Pkwy
Fort Myers FL
Tuesday, February 20, 2024
AM Peak Hour**

Time	Southbound						Westbound						Northbound						Eastbound						VEHICLE TOTAL
	U Turns	Left Turns	Straight Through	Right Turns	Crosswalk Crossings	Vehicle Approach Total	U Turns	Left Turns	Straight Through	Right Turns	Crosswalk Crossings	Vehicle Approach Total	U Turns	Left Turns	Straight Through	Right Turns	Crosswalk Crossings	Vehicle Approach Total	U Turns	Left Turns	Straight Through	Right Turns	Crosswalk Crossings	Vehicle Approach Total	
7:00 AM	1	0	289	24	0	324	0	0	0	0	0	0	1	48	195	0	0	244	1	28	0	97	0	126	694
7:15 AM	0	0	319	27	0	346	0	0	0	0	0	0	1	62	182	0	0	245	0	26	0	68	0	94	685
7:30 AM	0	0	284	48	0	332	0	0	0	0	0	0	0	57	192	0	0	249	0	22	0	84	0	106	687
7:45 AM	0	0	303	48	0	349	0	0	0	0	0	0	0	67	211	0	0	278	0	24	0	77	2	101	728
Peak Hour Total	1	0	1205	145	0	1351	0	0	0	0	0	0	2	234	780	0	0	1016	1	100	0	326	2	427	2794
PHF	0.250	0.000	0.944	0.755	0.000	0.968	0.000	0.000	0.000	0.000	0.000	0.000	0.500	0.873	0.924	0.000	0.000	0.914	0.250	0.893	0.000	0.840	0.250	0.847	0.959

**US 41 @ Diplomat Pkwy
Fort Myers FL
Tuesday, February 20, 2024**

Time	Southbound US 41						Westbound 0						Northbound US 41						Eastbound Diplomat Pkwy						VEHICLE TOTAL
	U Turns	Left Turns	Straight Through	Right Turns	Crosswalk Crossings	Vehicle Approach Total	U Turns	Left Turns	Straight Through	Right Turns	Crosswalk Crossings	Vehicle Approach Total	U Turns	Left Turns	Straight Through	Right Turns	Crosswalk Crossings	Vehicle Approach Total	U Turns	Left Turns	Straight Through	Right Turns	Crosswalk Crossings	Vehicle Approach Total	
4:00 PM	0	0	257	46	0	303	0	0	0	0	0	0	0	91	339	0	0	430	0	26	0	76	0	102	835
4:15 PM	0	0	271	31	0	302	0	0	0	0	0	0	0	86	304	0	0	392	0	20	0	72	0	92	786
4:30 PM	0	0	263	25	0	288	0	0	0	0	0	0	0	92	306	0	0	398	0	20	0	81	0	101	787
4:45 PM	0	0	274	34	0	308	0	0	0	0	0	0	0	98	294	0	0	392	0	9	0	65	0	74	774
Hourly Total	0	0	1065	136	0	1201	0	0	0	0	0	0	0	369	1243	0	0	1612	0	75	0	294	0	369	3182
5:00 PM	0	0	234	30	0	264	0	0	0	0	0	0	0	108	331	0	0	439	0	12	0	71	1	83	786
5:15 PM	0	0	265	27	0	292	0	0	0	0	0	0	0	99	293	0	0	392	0	4	0	58	1	62	746
5:30 PM	0	0	250	39	0	289	0	0	0	0	0	0	0	110	293	0	0	403	0	11	0	64	1	75	767
5:45 PM	0	0	260	22	0	282	0	0	0	0	0	0	0	108	287	0	0	395	0	9	0	57	1	66	743
Hourly Total	0	0	1009	118	0	1127	0	0	0	0	0	0	0	425	1204	0	0	1629	0	36	0	250	4	286	3042
TOTAL	0	0	2074	254	0	2328	0	0	0	0	0	0	0	794	2447	0	0	3241	0	111	0	544	4	655	6224
Cars	0	0	2038	252	0	2290	0	0	0	0	0	0	0	784	2428	0	0	3210	0	107	0	534	2	641	6141
Heavy Vehicles	0	0	36	2	0	38	0	0	0	0	0	0	0	10	21	0	0	31	0	4	0	10	2	14	83
Heavy Vehicle %	0.00%	0.00%	1.74%	0.78%	0.00%	1.63%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	1.26%	0.86%	0.00%	0.00%	0.96%	0.00%	3.60%	0.00%	1.84%	50.00%	2.14%	1.33%

**US 41 @ Diplomat Pkwy
Fort Myers FL
Tuesday, February 20, 2024
PM Peak Hour**

Time	Southbound						Westbound						Northbound						Eastbound						VEHICLE TOTAL
	U Turns	Left Turns	Straight Through	Right Turns	Crosswalk Crossings	Vehicle Approach Total	U Turns	Left Turns	Straight Through	Right Turns	Crosswalk Crossings	Vehicle Approach Total	U Turns	Left Turns	Straight Through	Right Turns	Crosswalk Crossings	Vehicle Approach Total	U Turns	Left Turns	Straight Through	Right Turns	Crosswalk Crossings	Vehicle Approach Total	
4:00 PM	0	0	257	46	0	303	0	0	0	0	0	0	0	91	339	0	0	430	0	26	0	76	0	102	835
4:15 PM	0	0	271	31	0	302	0	0	0	0	0	0	0	86	304	0	0	392	0	20	0	72	0	92	786
4:30 PM	0	0	263	25	0	288	0	0	0	0	0	0	0	92	306	0	0	398	0	20	0	81	0	101	787
4:45 PM	0	0	274	34	0	308	0	0	0	0	0	0	0	98	294	0	0	392	0	9	0	65	0	74	774
Peak Hour Total	0	0	1065	136	0	1201	0	0	0	0	0	0	0	369	1243	0	0	1612	0	75	0	294	0	369	3182
PHF	0.000	0.000	0.972	0.739	0.000	0.975	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.941	0.917	0.000	0.000	0.937	0.000	0.721	0.000	0.907	0.000	0.904	0.953

**DEVELOPMENT OF FUTURE YEAR
BACKGROUND TURNING VOLUMES**

Development of Future Year Background Turning Volumes

Intersection
Count Date
Build-Out Year

US 41 @ Diplomat Pkwy
February 20, 2024
2027

	AM Peak Hour													
	NBL	NBT	NBR	SBL	SBT	SBR	EBLU	EBL	EBT	EBR	WBLU	WBL	WBT	WBR
RAW Turning Movement Counts	236	780			1,205	145	1	100		326				
Peak Season Correction Factor	0.97	0.97			0.97	0.97	0.97	0.97		0.97				
Current Peak Season Volumes	229	757			1,169	141	1	97		316				
Growth Rate	4.27%	4.27%			4.27%	4.27%	3.58%	3.58%		3.58%				
Years to Build-out	3	3			3	3	3	3		3				
2027 Background Turning Volumes	260	858			1,325	160	1	108		351				
Project Turning Volumes	114					45		44		122				
2027 Background + Project	374	858			1,325	205	1	152		473				
	PM Peak Hour													
	NBL	NBT	NBR	SBL	SBT	SBR	EBLU	EBL	EBT	EBR	WBLU	WBL	WBT	WBR
RAW Turning Movement Counts	369	1,243			1,065	136	0	75		294				
Peak Season Correction Factor	0.97	0.97			0.97	0.97	0.97	0.97		0.97				
Current Peak Season Volumes	358	1,206			1,033	132	0	73		285				
Growth Rate	4.27%	4.27%			4.27%	4.27%	3.58%	3.58%		3.58%				
Years to Build-out	3	3			3	3	3	3		3				
2027 Background Turning Volumes	406	1,367			1,171	150	0	81		317				
Project Turning Volumes	279					102		93		255				
2027 Background + Project	685	1,367			1,171	252	0	174		572				

**INTERSECTION ANALYSIS
HIGHWAY CAPACITY SOFTWARE
SUMMARY SHEETS**

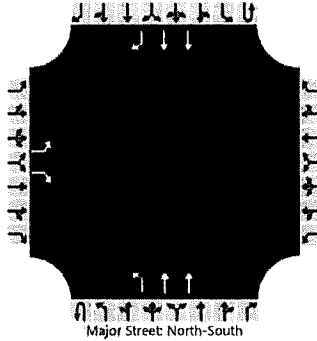
U.S. 41 @ DIPLOMAT PARKWAY

**2027 AM PEAK HOUR ANALYSIS
WITH OUT PROJECT**

HCS Two-Way Stop-Control Report

General Information		Site Information	
Analyst	tbt	Intersection	US 41/Diplomat Pkwy
Agency/Co.	q	Jurisdiction	FDOT/City of Cape Coral
Date Performed	3/4/2024	East/West Street	Diplomat Pkwy
Analysis Year	2027	North/South Street	US 41
Time Analyzed	AM Peak Hour w/o Project	Peak Hour Factor	0.95
Intersection Orientation	North-South	Analysis Time Period (hrs)	0.25
Project Description	Diplomat House		

Lanes



Vehicle Volumes and Adjustments

Approach	Eastbound				Westbound				Northbound				Southbound			
Movement	U	L	T	R	U	L	T	R	U	L	T	R	U	L	T	R
Priority		10	11	12		7	8	9	1U	1	2	3	4U	4	5	6
Number of Lanes		1	0	1		0	0	0	0	1	2	0	0	0	2	1
Configuration		L		R						L	T				T	R
Volume (veh/h)		108		351					0	260	858				1325	160
Percent Heavy Vehicles (%)		3		3					3	3						
Proportion Time Blocked																
Percent Grade (%)	0															
Right Turn Channelized	No												No			
Median Type Storage	Left Only								2							

Critical and Follow-up Headways

Base Critical Headway (sec)		7.5		6.9						4.1						
Critical Headway (sec)		6.86		6.96						4.16						
Base Follow-Up Headway (sec)		3.5		3.3						2.2						
Follow-Up Headway (sec)		3.53		3.33						2.23						

Delay, Queue Length, and Level of Service

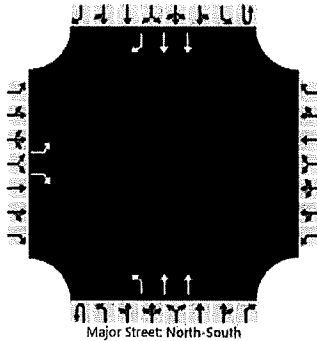
Flow Rate, v (veh/h)		114		369						274						
Capacity, c (veh/h)		125		381						414						
v/c Ratio		0.91		0.97						0.66						
95% Queue Length, Q ₉₅ (veh)		5.9		11.1						4.6						
95% Queue Length, Q ₉₅ (ft)		151.0		284.2						117.8						
Control Delay (s/veh)		123.8		72.2						29.1						
Level of Service (LOS)		F		F						D						
Approach Delay (s/veh)	84.4								6.8							
Approach LOS	F								A							

**2027 PM PEAK HOUR ANALYSIS
WITHOUT PROJECT**

HCS Two-Way Stop-Control Report

General Information		Site Information	
Analyst	tbt	Intersection	US 41/Diplomat Pkwy
Agency/Co.	q	Jurisdiction	FDOT/City of Cape Coral
Date Performed	3/4/2024	East/West Street	Diplomat Pkwy
Analysis Year	2027	North/South Street	US 41
Time Analyzed	PM Peak Hour W/O Project	Peak Hour Factor	0.95
Intersection Orientation	North-South	Analysis Time Period (hrs)	0.25
Project Description	Diplomat House		

Lanes



Vehicle Volumes and Adjustments

Approach	Eastbound				Westbound				Northbound				Southbound			
Movement	U	L	T	R	U	L	T	R	U	L	T	R	U	L	T	R
Priority		10	11	12		7	8	9	1U	1	2	3	4U	4	5	6
Number of Lanes		1	0	1		0	0	0	0	1	2	0	0	0	2	1
Configuration		L		R						L	T				T	R
Volume (veh/h)		81		371					0	406	1367				1171	150
Percent Heavy Vehicles (%)		3		3					3	3						
Proportion Time Blocked																
Percent Grade (%)	0															
Right Turn Channelized	No												No			
Median Type Storage	Left Only								2							

Critical and Follow-up Headways

Base Critical Headway (sec)		7.5		6.9						4.1						
Critical Headway (sec)		6.86		6.96						4.16						
Base Follow-Up Headway (sec)		3.5		3.3						2.2						
Follow-Up Headway (sec)		3.53		3.33						2.23						

Delay, Queue Length, and Level of Service

Flow Rate, v (veh/h)		85		391						427						
Capacity, c (veh/h)		40		431						483						
v/c Ratio		2.13		0.91						0.89						
95% Queue Length, Q ₉₅ (veh)		9.1		9.8						9.7						
95% Queue Length, Q ₉₅ (ft)		233.0		250.9						248.3						
Control Delay (s/veh)		736.2		54.4						46.9						
Level of Service (LOS)		F		F						E						
Approach Delay (s/veh)	176.6								10.7							
Approach LOS	F								B							

US 41 @ DIPLOMAT PARKWAY

**2027 AM PEAK HOUR ANALYSIS
WITH PROJECT**

HCS Two-Way Stop-Control Report

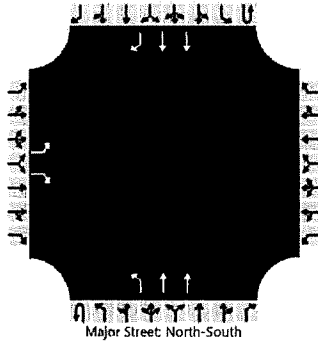
General Information

Analyst	tbt
Agency/Co.	q
Date Performed	3/4/2024
Analysis Year	2027
Time Analyzed	AM Peak Hour With Project
Intersection Orientation	North-South
Project Description	Diplomat House

Site Information

Intersection	US 41/Diplomat Pkwy
Jurisdiction	FDOT/City of Cape Coral
East/West Street	Diplomat Pkwy
North/South Street	US 41
Peak Hour Factor	0.95
Analysis Time Period (hrs)	0.25

Lanes



Vehicle Volumes and Adjustments

Approach	Eastbound				Westbound				Northbound				Southbound			
Movement	U	L	T	R	U	L	T	R	U	L	T	R	U	L	T	R
Priority		10	11	12		7	8	9	1U	1	2	3	4U	4	5	6
Number of Lanes		1	0	1		0	0	0	0	1	2	0	0	0	2	1
Configuration		L		R						L	T				T	R
Volume (veh/h)		152		743					0	374	858				1325	205
Percent Heavy Vehicles (%)		3		3					3	3						
Proportion Time Blocked																
Percent Grade (%)	0															
Right Turn Channelized	No												No			
Median Type Storage	Left Only								2							

Critical and Follow-up Headways

Base Critical Headway (sec)		7.5		6.9						4.1						
Critical Headway (sec)		6.86		6.96						4.16						
Base Follow-Up Headway (sec)		3.5		3.3						2.2						
Follow-Up Headway (sec)		3.53		3.33						2.23						

Delay, Queue Length, and Level of Service

Flow Rate, v (veh/h)		160		782						394						
Capacity, c (veh/h)		3		381						397						
v/c Ratio		53.62		2.05						0.99						
95% Queue Length, Q ₉₅ (veh)		22.3		55.4						12.0						
95% Queue Length, Q ₉₅ (ft)		570.9		1418.2						307.2						
Control Delay (s/veh)		26059.8		506.0						76.0						
Level of Service (LOS)		F		F						F						
Approach Delay (s/veh)	4845.9								23.1							
Approach LOS	F								C							

**2027 PM PEAK HOUR ANALYSIS
WITH PROJECT**

HCS Two-Way Stop-Control Report

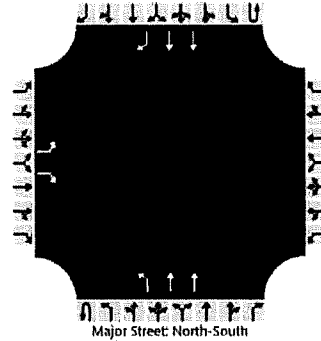
General Information

Analyst	tbt
Agency/Co.	q
Date Performed	3/4/2024
Analysis Year	2027
Time Analyzed	PM Peak Hour With Project
Intersection Orientation	North-South
Project Description	Diplomat House

Site Information

Intersection	US 41/Diplomat Pkwy
Jurisdiction	FDOT/City of Cape Coral
East/West Street	Diplomat Pkwy
North/South Street	US 41
Peak Hour Factor	0.95
Analysis Time Period (hrs)	0.25

Lanes



Vehicle Volumes and Adjustments

Approach	Eastbound				Westbound				Northbound				Southbound			
Movement	U	L	T	R	U	L	T	R	U	L	T	R	U	L	T	R
Priority		10	11	12		7	8	9	1U	1	2	3	4U	4	5	6
Number of Lanes		1	0	1		0	0	0	0	1	2	0	0	0	2	1
Configuration		L		R						L	T				T	R
Volume (veh/h)		174		572					0	685	1367				1171	252
Percent Heavy Vehicles (%)		3		3					3	3						
Proportion Time Blocked																
Percent Grade (%)	0															
Right Turn Channelized	No												No			
Median Type Storage	Left Only								2							

Critical and Follow-up Headways

Base Critical Headway (sec)		7.5		6.9						4.1						
Critical Headway (sec)		6.86		6.96						4.16						
Base Follow-Up Headway (sec)		3.5		3.3						2.2						
Follow-Up Headway (sec)		3.53		3.33						2.23						

Delay, Queue Length, and Level of Service

Flow Rate, v (veh/h)		183		602						721						
Capacity, c (veh/h)		0		431						439						
v/c Ratio				1.40						1.64						
95% Queue Length, Q ₉₅ (veh)				29.2						41.8						
95% Queue Length, Q ₉₅ (ft)				747.5						1070.1						
Control Delay (s/veh)				217.9						322.2						
Level of Service (LOS)				F						F						
Approach Delay (s/veh)									107.6							
Approach LOS									F							

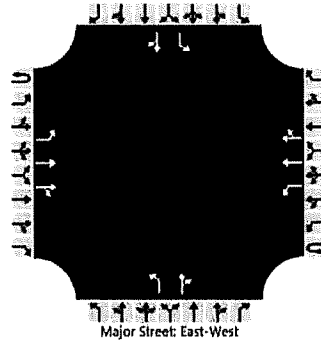
**DIPLOMAT PARKWAY @ EAST SITE
ACCESS**

2027 AM PEAK HOUR ANALYSIS

HCS Two-Way Stop-Control Report

General Information		Site Information	
Analyst	tbt	Intersection	Diplomat Pkwy/East Site Access
Agency/Co.	TR Transportataion Cons.	Jurisdiction	City of Cape Coral
Date Performed	3/4/2024	East/West Street	Diplomat Pkwy
Analysis Year	2027	North/South Street	E. Site Access
Time Analyzed	AM Peak Hour	Peak Hour Factor	0.95
Intersection Orientation	East-West	Analysis Time Period (hrs)	0.25
Project Description	Diplomat House		

Lanes



Vehicle Volumes and Adjustments

Approach	Eastbound				Westbound				Northbound				Southbound			
Movement	U	L	T	R	U	L	T	R	U	L	T	R	U	L	T	R
Priority	1U	1	2	3	4U	4	5	6		7	8	9		10	11	12
Number of Lanes	0	1	2	0	0	1	2	0		1	1	0		1	1	0
Configuration		L	T	TR		L	T	TR		L		TR		L		TR
Volume (veh/h)	0	13	567	29	0	59	480	40		17	0	37		21	0	10
Percent Heavy Vehicles (%)	1	1			1	1				1	1	1		1	1	1
Proportion Time Blocked																
Percent Grade (%)									0				0			
Right Turn Channelized																
Median Type Storage	Left + Thru								2							

Critical and Follow-up Headways

Base Critical Headway (sec)		4.1				4.1				7.5	6.5	6.9		7.5	6.5	6.9
Critical Headway (sec)		4.12				4.12				7.52	6.52	6.92		7.52	6.52	6.92
Base Follow-Up Headway (sec)		2.2				2.2				3.5	4.0	3.3		3.5	4.0	3.3
Follow-Up Headway (sec)		2.21				2.21				3.51	4.01	3.31		3.51	4.01	3.31

Delay, Queue Length, and Level of Service

Flow Rate, v (veh/h)		14				62				18		39		22		11
Capacity, c (veh/h)		1025				957				351		685		339		727
v/c Ratio		0.01				0.06				0.05		0.06		0.07		0.01
95% Queue Length, Q ₉₅ (veh)		0.0				0.2				0.2		0.2		0.2		0.0
95% Queue Length, Q ₉₅ (ft)		0.0				5.0				5.0		5.0		5.0		0.0
Control Delay (s/veh)		8.6				9.0				15.8		10.6		16.4		10.0
Level of Service (LOS)		A				A				C		B		C		B
Approach Delay (s/veh)	0.2				0.9				12.2				14.3			
Approach LOS	A				A				B				B			

2027 PM PEAK HOUR ANALYSIS

HCS Two-Way Stop-Control Report

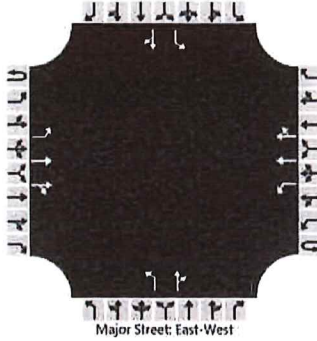
General Information

Analyst	tbt
Agency/Co.	TR Transportataion Cons.
Date Performed	3/4/2024
Analysis Year	2027
Time Analyzed	PM Peak Hour
Intersection Orientation	East-West
Project Description	Diplomat House

Site Information

Intersection	Diplomat Pkwy/East Site Access
Jurisdiction	City of Cape Coral
East/West Street	Diplomat Pkwy
North/South Street	E. Site Access
Peak Hour Factor	0.95
Analysis Time Period (hrs)	0.25

Lanes



Vehicle Volumes and Adjustments

Approach	Eastbound				Westbound				Northbound				Southbound			
Movement	U	L	T	R	U	L	T	R	U	L	T	R	U	L	T	R
Priority	1U	1	2	3	4U	4	5	6		7	8	9		10	11	12
Number of Lanes	0	1	2	0	0	1	2	0		1	1	0		1	1	0
Configuration		L	T	TR		L	T	TR		L		TR		L		TR
Volume (veh/h)	0	32	523	71	0	138	709	90		67	0	150		73	0	41
Percent Heavy Vehicles (%)	1	1			1	1				1	1	1		1	1	1
Proportion Time Blocked																
Percent Grade (%)									0				0			
Right Turn Channelized																
Median Type Storage	Left + Thru								2							

Critical and Follow-up Headways

Base Critical Headway (sec)		4.1				4.1				7.5	6.5	6.9		7.5	6.5	6.9
Critical Headway (sec)		4.12				4.12				7.52	6.52	6.92		7.52	6.52	6.92
Base Follow-Up Headway (sec)		2.2				2.2				3.5	4.0	3.3		3.5	4.0	3.3
Follow-Up Headway (sec)		2.21				2.21				3.51	4.01	3.31		3.51	4.01	3.31

Delay, Queue Length, and Level of Service

Flow Rate, v (veh/h)		34				145				71		158		77		43
Capacity, c (veh/h)		797				959				227		686		165		584
v/c Ratio		0.04				0.15				0.31		0.23		0.46		0.07
95% Queue Length, Q ₉₅ (veh)		0.1				0.5				1.3		0.9		2.2		0.2
95% Queue Length, Q ₉₅ (ft)		2.5				12.6				32.8		22.7		55.4		5.0
Control Delay (s/veh)		9.7				9.4				27.8		11.8		44.4		11.7
Level of Service (LOS)		A				A				D		B		E		B
Approach Delay (s/veh)	0.5				1.4				16.8				32.6			
Approach LOS	A				A				C				D			

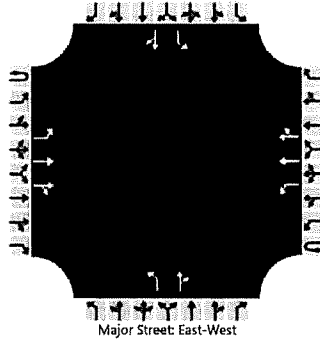
**DIPLOMAT PARKWAY @ WEST SITE
ACCESS**

2027 AM PEAK HOUR ANALYSIS

HCS Two-Way Stop-Control Report

General Information		Site Information	
Analyst	tbt	Intersection	Diplomat Pkwy/West Site Access
Agency/Co.	TR Transportataion Cons.	Jurisdiction	City of Cape Coral
Date Performed	3/4/2024	East/West Street	Diplomat Pkwy
Analysis Year	2027	North/South Street	W. Site Access
Time Analyzed	AM Peak Hour	Peak Hour Factor	0.95
Intersection Orientation	East-West	Analysis Time Period (hrs)	0.25
Project Description	Diplomat House		

Lanes



Vehicle Volumes and Adjustments

Approach	Eastbound				Westbound				Northbound				Southbound			
Movement	U	L	T	R	U	L	T	R	U	L	T	R	U	L	T	R
Priority	1U	1	2	3	4U	4	5	6		7	8	9		10	11	12
Number of Lanes	0	1	2	0	0	1	2	0		1	1	0		1	1	0
Configuration		L	T	TR		L	T	TR		L		TR		L		TR
Volume (veh/h)	0	32	477	6	0	12	425	70		20	0	49		83	0	37
Percent Heavy Vehicles (%)	1	1			1	1				1	1	1		1	1	1
Proportion Time Blocked																
Percent Grade (%)									0				0			
Right Turn Channelized																
Median Type Storage	Left + Thru								1							

Critical and Follow-up Headways

Base Critical Headway (sec)		4.1				4.1				7.5	6.5	6.9		7.5	6.5	6.9
Critical Headway (sec)		4.12				4.12				7.52	6.52	6.92		7.52	6.52	6.92
Base Follow-Up Headway (sec)		2.2				2.2				3.5	4.0	3.3		3.5	4.0	3.3
Follow-Up Headway (sec)		2.21				2.21				3.51	4.01	3.31		3.51	4.01	3.31

Delay, Queue Length, and Level of Service

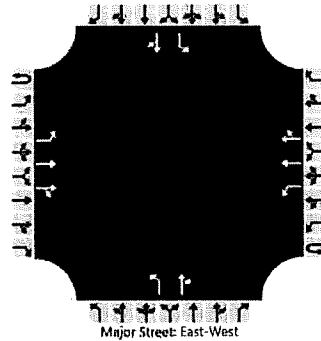
Flow Rate, v (veh/h)		34				13				21		52		87		39
Capacity, c (veh/h)		1048				1060				341		748		356		741
v/c Ratio		0.03				0.01				0.06		0.07		0.25		0.05
95% Queue Length, Q ₉₅ (veh)		0.1				0.0				0.2		0.2		0.9		0.2
95% Queue Length, Q ₉₅ (ft)		2.5				0.0				5.0		5.0		22.7		5.0
Control Delay (s/veh)		8.5				8.4				16.2		10.2		18.4		10.1
Level of Service (LOS)		A				A				C		B		C		B
Approach Delay (s/veh)	0.5				0.2				11.9				15.8			
Approach LOS	A				A				B				C			

2027 PM PEAK HOUR ANALYSIS

HCS Two-Way Stop-Control Report

General Information		Site Information	
Analyst	tbt	Intersection	Diplomat Pkwy/West Site Access
Agency/Co.	TR Transportataion Cons.	Jurisdiction	City of Cape Coral
Date Performed	3/4/2024	East/West Street	Diplomat Pkwy
Analysis Year	2027	North/South Street	W. Site Access
Time Analyzed	PM Peak Hour	Peak Hour Factor	0.95
Intersection Orientation	East-West	Analysis Time Period (hrs)	0.25
Project Description	Diplomat House		

Lanes



Vehicle Volumes and Adjustments

Approach	Eastbound				Westbound				Northbound				Southbound			
Movement	U	L	T	R	U	L	T	R	U	L	T	R	U	L	T	R
Priority	1U	1	2	3	4U	4	5	6		7	8	9		10	11	12
Number of Lanes	0	1	2	0	0	1	2	0		1	1	0		1	1	0
Configuration		L	T	TR		L	T	TR		L		TR		L		TR
Volume (veh/h)	0	80	426	20	0	58	584	175		12	0	33		167	0	77
Percent Heavy Vehicles (%)	1	1			1	1				1	1	1		1	1	1
Proportion Time Blocked																
Percent Grade (%)									0				0			
Right Turn Channelized																
Median Type Storage	Left + Thru								1							

Critical and Follow-up Headways

Base Critical Headway (sec)		4.1				4.1				7.5	6.5	6.9		7.5	6.5	6.9
Critical Headway (sec)		4.12				4.12				7.52	6.52	6.92		7.52	6.52	6.92
Base Follow-Up Headway (sec)		2.2				2.2				3.5	4.0	3.3		3.5	4.0	3.3
Follow-Up Headway (sec)		2.21				2.21				3.51	4.01	3.31		3.51	4.01	3.31

Delay, Queue Length, and Level of Service

Flow Rate, v (veh/h)		84				61				13		35		176		81
Capacity, c (veh/h)		826				1096				216		770		217		603
v/c Ratio		0.10				0.06				0.06		0.05		0.81		0.13
95% Queue Length, Q ₉₅ (veh)		0.3				0.2				0.2		0.1		6.0		0.5
95% Queue Length, Q ₉₅ (ft)		7.6				5.0				5.0		2.5		151.2		12.6
Control Delay (s/veh)		9.9				8.5				22.7		9.9		67.8		11.9
Level of Service (LOS)		A				A				C		A		F		B
Approach Delay (s/veh)	1.5				0.6				13.3				50.2			
Approach LOS	A				A				B				F			

TRIP GENERATION EQUATIONS

Single-Family Detached Housing (210)

Vehicle Trip Ends vs: Dwelling Units
On a: Weekday

Setting/Location: General Urban/Suburban

Number of Studies: 174

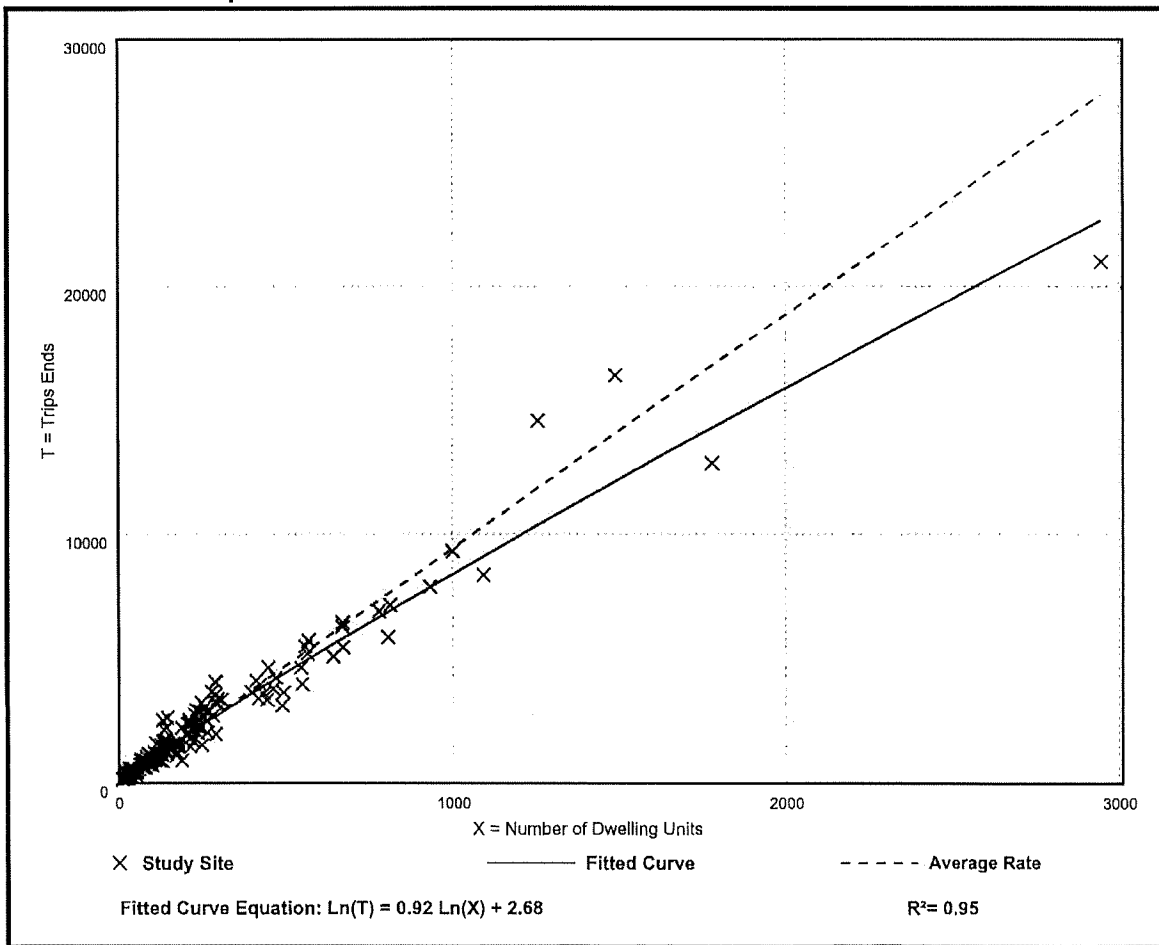
Avg. Num. of Dwelling Units: 246

Directional Distribution: 50% entering, 50% exiting

Vehicle Trip Generation per Dwelling Unit

Average Rate	Range of Rates	Standard Deviation
9.43	4.45 - 22.61	2.13

Data Plot and Equation



Single-Family Detached Housing (210)

Vehicle Trip Ends vs: Dwelling Units

On a: Weekday,

Peak Hour of Adjacent Street Traffic,

One Hour Between 7 and 9 a.m.

Setting/Location: General Urban/Suburban

Number of Studies: 192

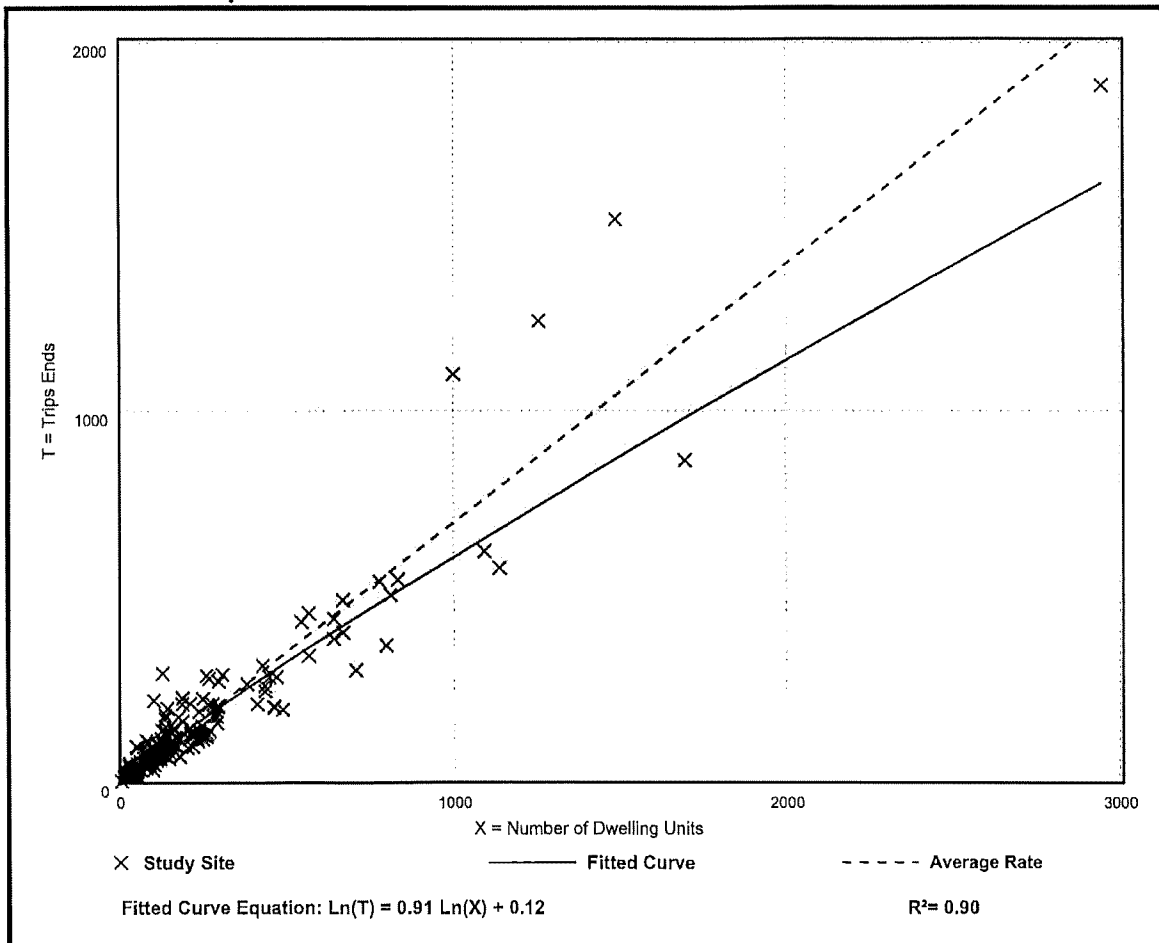
Avg. Num. of Dwelling Units: 226

Directional Distribution: 26% entering, 74% exiting

Vehicle Trip Generation per Dwelling Unit

Average Rate	Range of Rates	Standard Deviation
0.70	0.27 - 2.27	0.24

Data Plot and Equation



Single-Family Detached Housing (210)

Vehicle Trip Ends vs: Dwelling Units

On a: Weekday,

Peak Hour of Adjacent Street Traffic,

One Hour Between 4 and 6 p.m.

Setting/Location: General Urban/Suburban

Number of Studies: 208

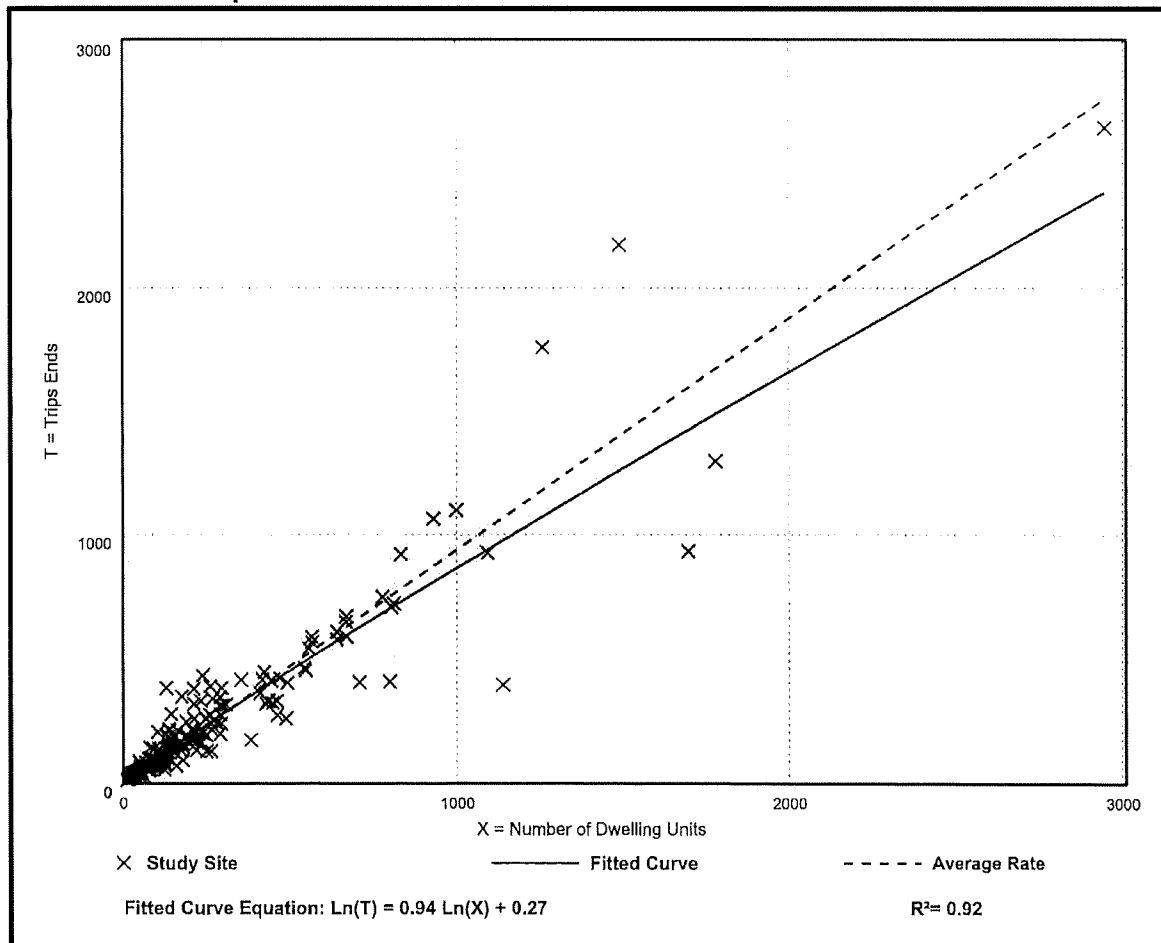
Avg. Num. of Dwelling Units: 248

Directional Distribution: 63% entering, 37% exiting

Vehicle Trip Generation per Dwelling Unit

Average Rate	Range of Rates	Standard Deviation
0.94	0.35 - 2.98	0.31

Data Plot and Equation



Multifamily Housing (Low-Rise) Not Close to Rail Transit (220)

Vehicle Trip Ends vs: Dwelling Units

On a: Weekday

Setting/Location: General Urban/Suburban

Number of Studies: 22

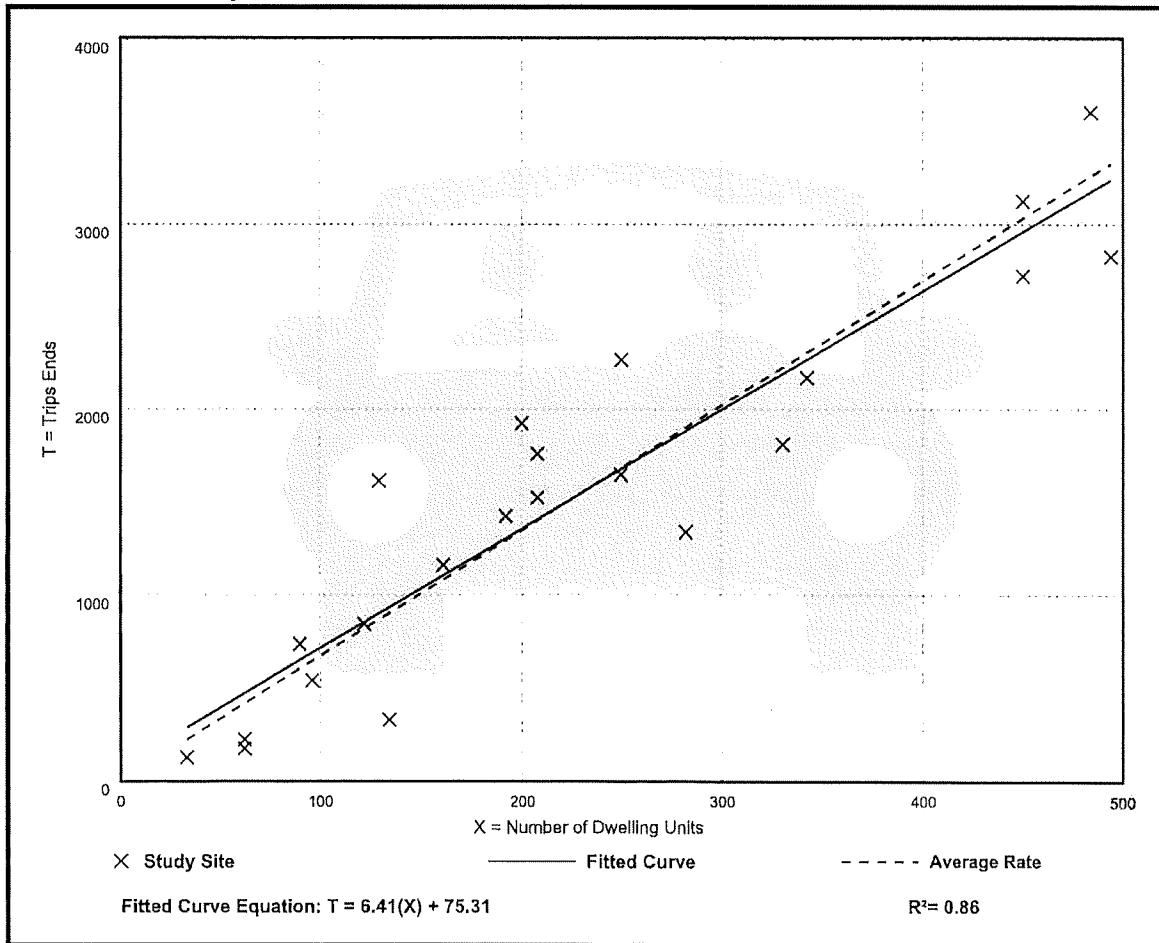
Avg. Num. of Dwelling Units: 229

Directional Distribution: 50% entering, 50% exiting

Vehicle Trip Generation per Dwelling Unit

Average Rate	Range of Rates	Standard Deviation
6.74	2.46 - 12.50	1.79

Data Plot and Equation



Multifamily Housing (Low-Rise) Not Close to Rail Transit (220)

Vehicle Trip Ends vs: Dwelling Units

On a: Weekday,

Peak Hour of Adjacent Street Traffic,

One Hour Between 7 and 9 a.m.

Setting/Location: General Urban/Suburban

Number of Studies: 49

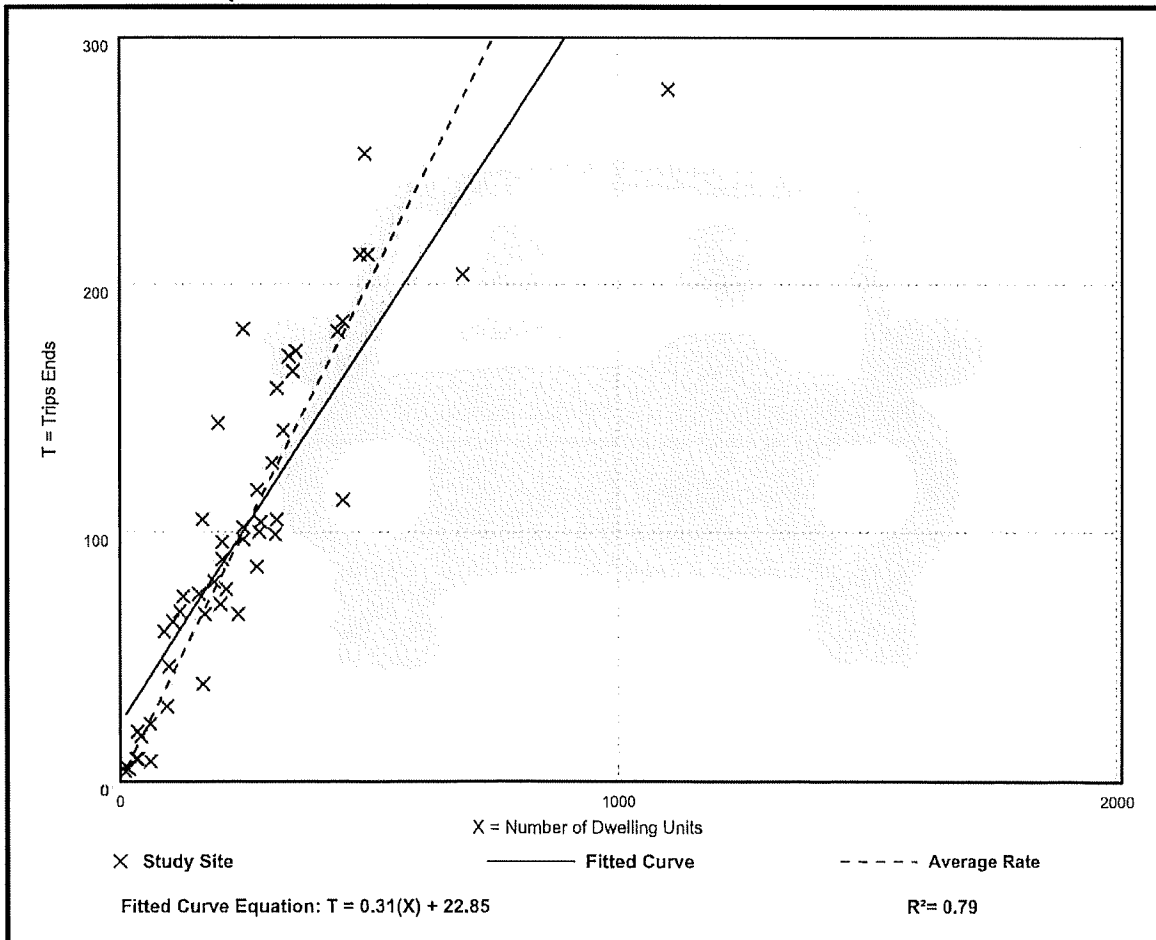
Avg. Num. of Dwelling Units: 249

Directional Distribution: 24% entering, 76% exiting

Vehicle Trip Generation per Dwelling Unit

Average Rate	Range of Rates	Standard Deviation
0.40	0.13 - 0.73	0.12

Data Plot and Equation



Multifamily Housing (Low-Rise) Not Close to Rail Transit (220)

Vehicle Trip Ends vs: Dwelling Units

On a: Weekday,

Peak Hour of Adjacent Street Traffic,

One Hour Between 4 and 6 p.m.

Setting/Location: General Urban/Suburban

Number of Studies: 59

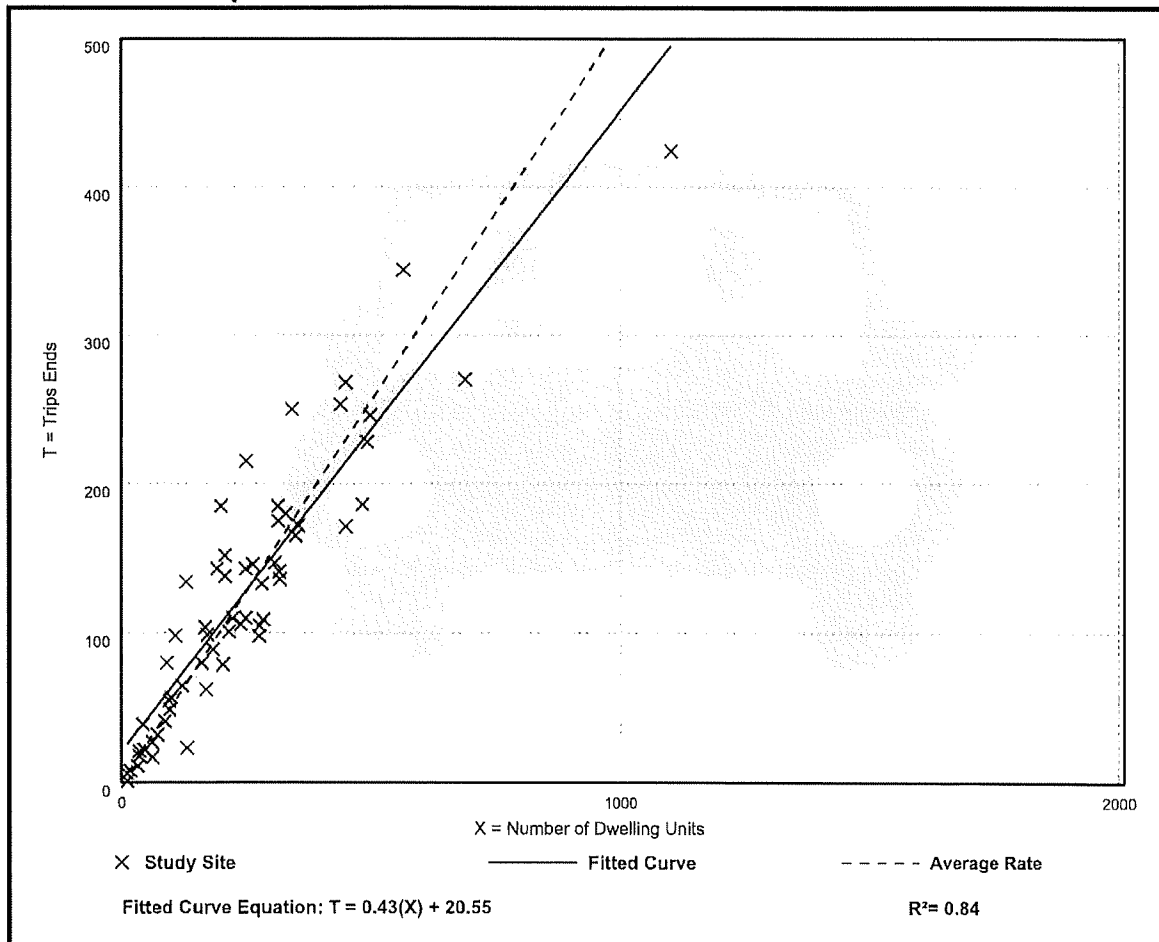
Avg. Num. of Dwelling Units: 241

Directional Distribution: 63% entering, 37% exiting

Vehicle Trip Generation per Dwelling Unit

Average Rate	Range of Rates	Standard Deviation
0.51	0.08 - 1.04	0.15

Data Plot and Equation



Medical-Dental Office Building - Stand-Alone (720)

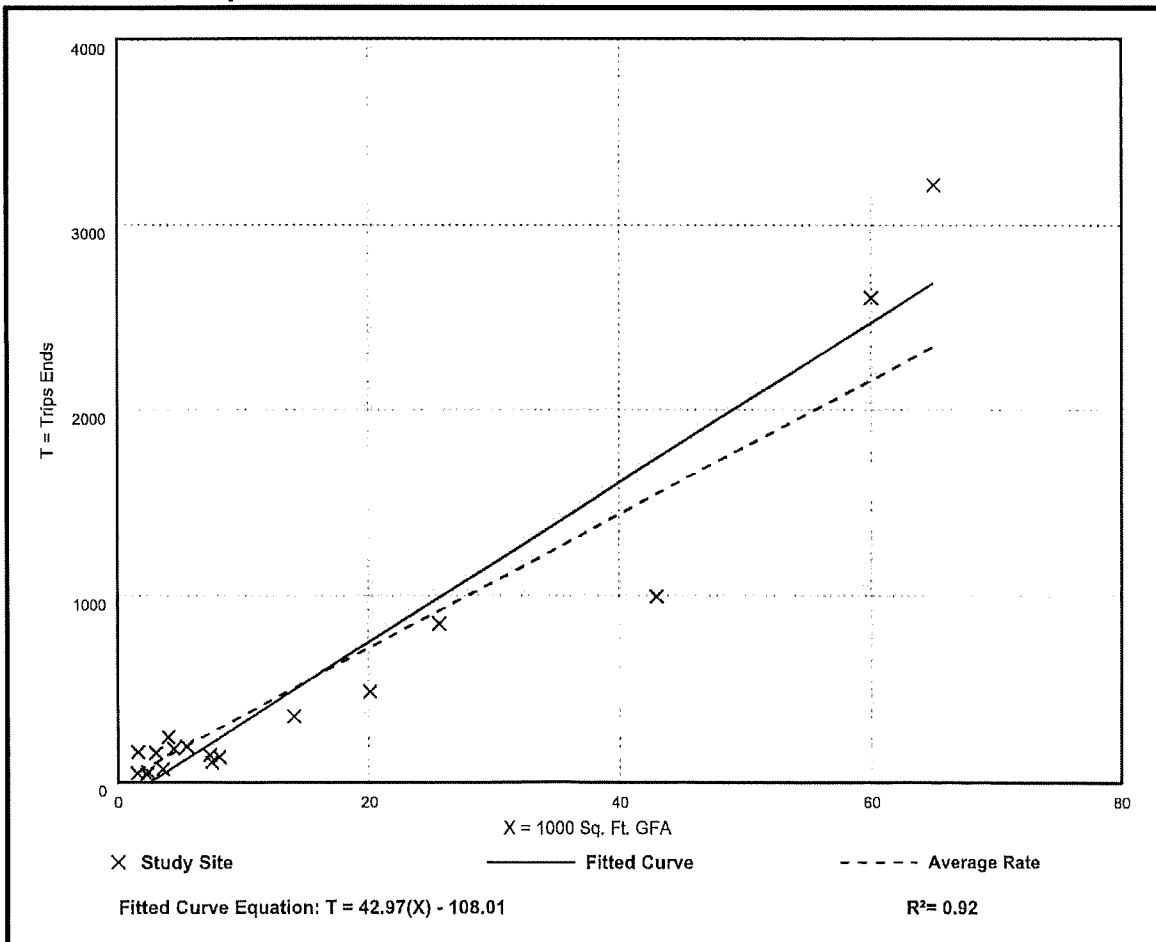
Vehicle Trip Ends vs: 1000 Sq. Ft. GFA
On a: Weekday

Setting/Location: General Urban/Suburban
Number of Studies: 18
Avg. 1000 Sq. Ft. GFA: 15
Directional Distribution: 50% entering, 50% exiting

Vehicle Trip Generation per 1000 Sq. Ft. GFA

Average Rate	Range of Rates	Standard Deviation
36.00	14.52 - 100.75	13.38

Data Plot and Equation



Medical-Dental Office Building - Stand-Alone (720)

Vehicle Trip Ends vs: 1000 Sq. Ft. GFA

On a: Weekday,

Peak Hour of Adjacent Street Traffic,
One Hour Between 7 and 9 a.m.

Setting/Location: General Urban/Suburban

Number of Studies: 24

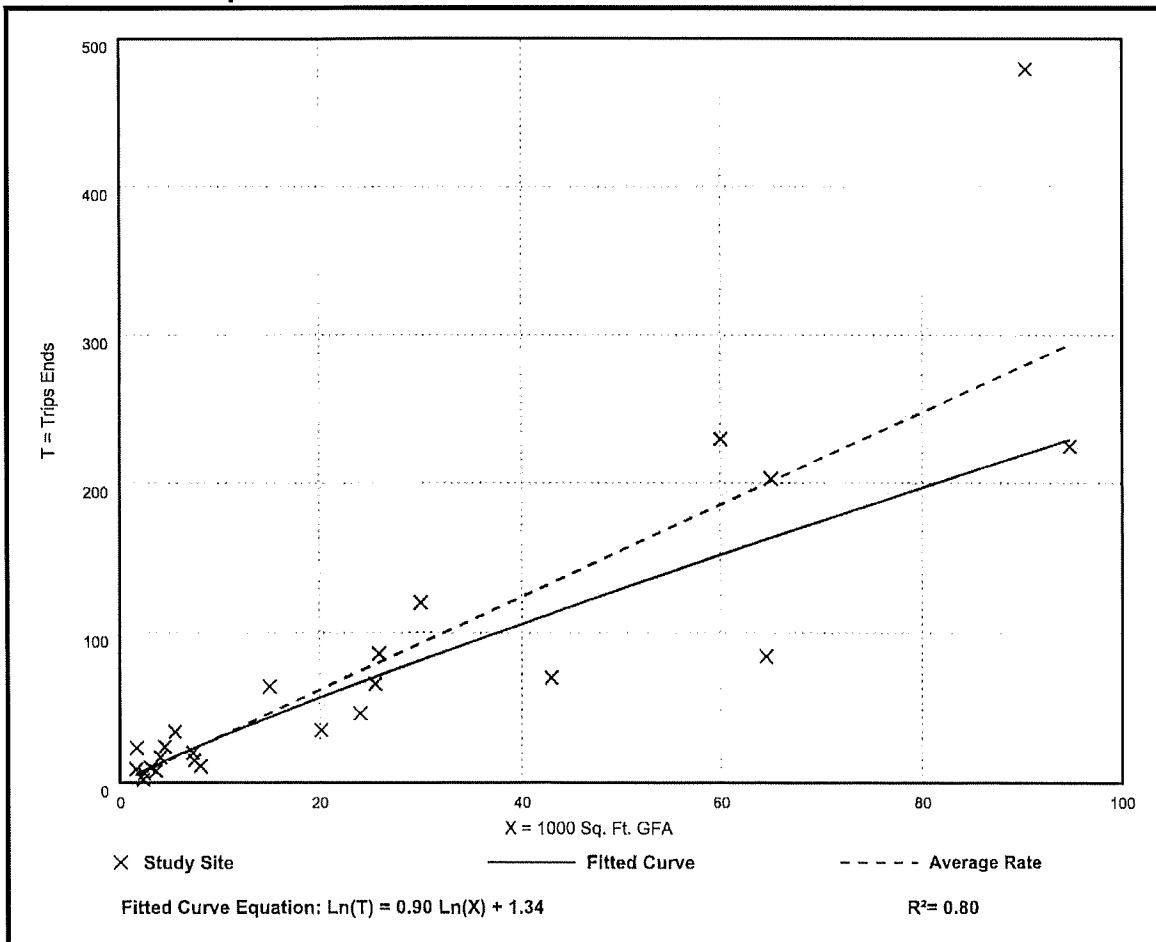
Avg. 1000 Sq. Ft. GFA: 25

Directional Distribution: 79% entering, 21% exiting

Vehicle Trip Generation per 1000 Sq. Ft. GFA

Average Rate	Range of Rates	Standard Deviation
3.10	0.87 - 14.30	1.49

Data Plot and Equation



Medical-Dental Office Building - Stand-Alone (720)

Vehicle Trip Ends vs: 1000 Sq. Ft. GFA

On a: Weekday,

Peak Hour of Adjacent Street Traffic,

One Hour Between 4 and 6 p.m.

Setting/Location: General Urban/Suburban

Number of Studies: 30

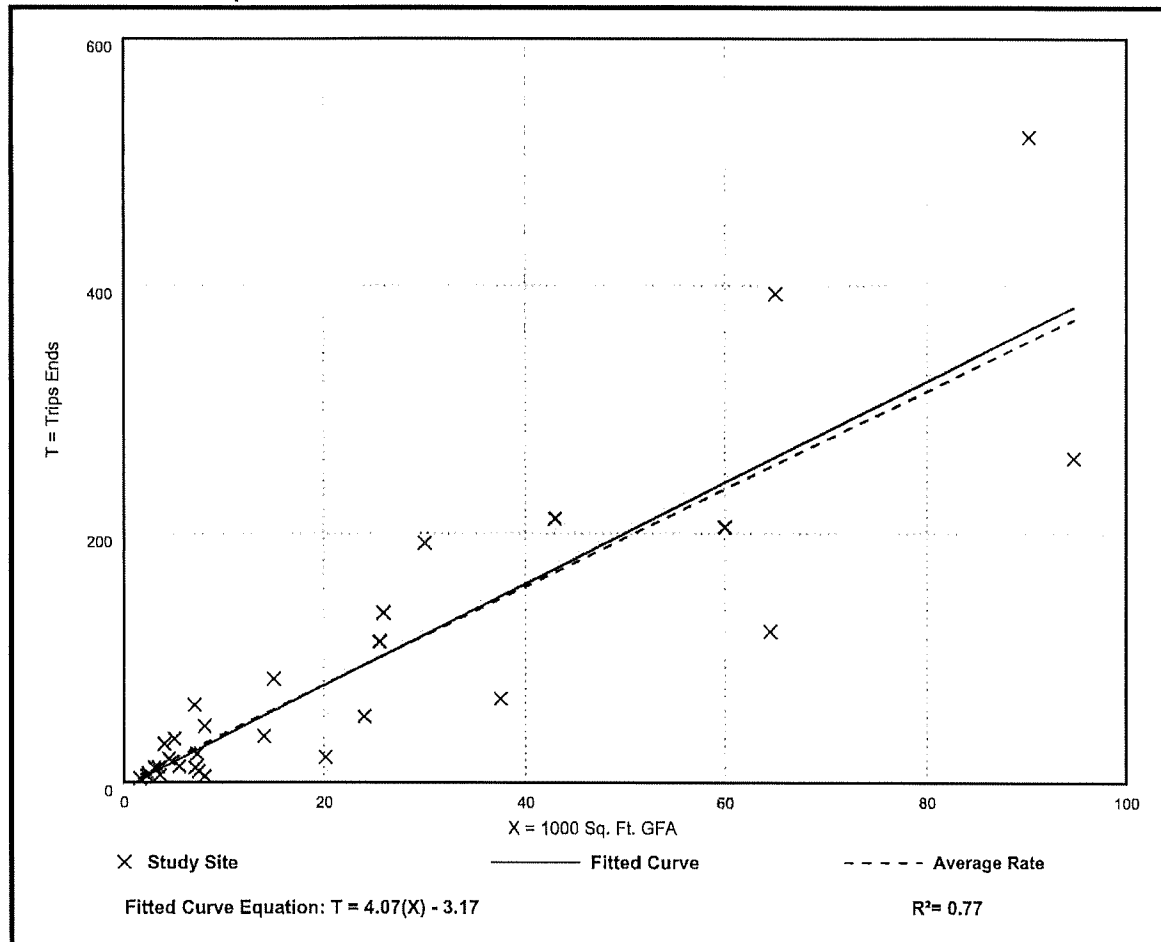
Avg. 1000 Sq. Ft. GFA: 23

Directional Distribution: 30% entering, 70% exiting

Vehicle Trip Generation per 1000 Sq. Ft. GFA

Average Rate	Range of Rates	Standard Deviation
3.93	0.62 - 8.86	1.86

Data Plot and Equation





DEPARTMENT OF TRANSPORTATION

Memo

To: Dirk Danley Jr., Planner, Principal

From: Md Rakibul Alam, Principal Transportation Planner

Date: May 25, 2024

Subject: Diplomat North RPD Amendment (DCI2023-00050) Transportation-Related Analysis

Proposed Development

This application requests to amend 35.18± acres of the Diplomat North RPD/CPD from the Z-11-002/ADD2019-00085 approvals to replace 238 dwelling units (or 138 dwelling units and 400 assisted living facility units) and 50,000 SF of commercial with a maximum height of 50 feet; to allow 360 multi-family dwelling units with amenities with a maximum height of 60 feet within the Mixed-Use Overlay.

Site Location

The property under consideration is situated west of its intersection with U.S. 41 in the North Fort Myers area of Lee County, Florida.

Site Access

Access to the subject site will be provided to Diplomat Parkway (arterial maintained by the City of Cape Coral) via two full-site access locations.

Trip Generation Review

The trip generation for the proposed development was determined by referencing the Institute of Transportation Engineer's (ITE) Trip Generation 11th Edition Report. Table 1 outlines the proposed project's trip generation for weekday AM and PM peak hours and daily traffic volumes.

Table 1: Trip Generation

Land Use	Weekday A.M Peak Hour			Weekday P.M Peak Hour			Daily (2-Way)
	In	Out	Total	In	Out	Total	
Multifamily (360 Units)	23	74	97	77	46	123	1,601
Single Family (126 Units)	23	69	92	78	45	123	1,248
Commercial - North (118,000 sq. ft.)	127	77	204	300	312	612	7,967
Commercial - North (82,000)	88	54	142	209	217	426	5,537
Less Pass-By: Commercial - North	-31	-31	-62	-92	-92	-184	-2,390
Less Pass-By: Commercial – South	-21	-21	-42	-64	-64	-128	-1,661
Total Net New Trips	209	222	431	508	464	972	12,302

Roadway Section Traffic Operation Level of Service Analysis

New trips related to the subject case were distributed across the surrounding road network to assess their impact on the Level of Service (LOS) in arterial/collector road sections most affected by the proposed development. According to Administrative Code AC-13-17 Traffic Study Guidelines for Planned Development Rezoning, a "significant impact" signifies a 10% or more reduction in LOS "C" service volumes at build-out.

The proposed development was assumed to be completed by 2027 (build-out year). Therefore, the roadway links impacted by the proposed development were analyzed for the 2027 projected traffic conditions without the proposed development and with the proposed development (Table 2).

Table 2: Arterial/Collector Roadway Section(s) Adjacent to Site Expected to be Impacted by the Proposed Development

Roadway	Location	Level of Service	
		Future (2027)	Future (2027) + Project
US 41	N. Diplomat Pkwy	C	C
	S. Diplomat Pkwy	C	D
Diplomat Pkwy	W. of US 41	C	C
	W. of Site	C	C

During the local development order review, proposed projects will be reviewed to determine the required site-related traffic improvements to the nearby roadway(s).

Roadway Intersection Traffic Operation Level of Service Analysis

New trip assignments were made to the surrounding road network to evaluate Level of Service (LOS) impacts as necessary at site entrances, intersections within the vicinity of site entrances, and intersections anticipated to be most affected by the proposed development. Following Administrative Code AC-13-17 Traffic Study Guidelines for Planned Development Rezoning, a "significant impact" is characterized by a 10% or greater increase in the total peak-hour intersection volume (sum of all four approaches) upon project completion. Table 3 describes the site accesses and intersections that are expected to be impacted by the proposed zoning along with their corresponding pre- and post-project built-out level of service.

Table 3: Roadway Intersection(s) Immediately Adjacent to Subject Site Expected to be Impacted by Proposed Development

Intersection	Traffic Control	Peak Hour	Level of Service	
			Future (2027)	Future (2027) + Project
US 41 & Diplomat Pkwy	Stop-Controlled	AM	F	F
		PM	F	F
Diplomat Pkwy & East Site Access	Stop-Controlled	AM	-	B
		PM	-	D
Diplomat Pkwy & West Site Access	Stop-Controlled	AM	-	C
		PM	-	F

At the time of the local development order review, the proposed project will be further reviewed to determine what, if any, site-related traffic improvements to the nearby roadway network are required.

Conclusion

The proposed project is not anticipated to adversely affect the surrounding roadway system. However, It must be noted that site access at Diplomat Parkway is subject to the City of Cape Coral's approval.

ATTACHMENT J

RESOLUTION NUMBER Z-11-002

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

WHEREAS, an application was filed by the property owner, Athyrio Development Associates, LLC, to amend the northerly 35.2± acres Residential Planned Development (RPD) portion of the Diplomat Property Residential Planned Development/Commercial Planned Development (RPD/CPD); and,

WHEREAS, a public hearing was advertised and held on January 6, 2011, with the record held open until January 14, 2011, for written submissions, before the Lee County Zoning Hearing Examiner, who gave full consideration to the evidence in the record for Case DCI2010-00015; and

WHEREAS, a second public hearing was advertised and held on March 21, 2011, before the Lee County Board of Commissioners, who gave full and complete consideration to the recommendations of the staff, the Hearing Examiner, the documents on record and the testimony of all interested persons.

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

SECTION A. REQUEST

The applicant filed a request to amend the 35.2± acres RPD portion of the Diplomat Property RPD/CPD to permit a maximum of 400 assisted living facility beds, 138 standard dwelling units, a maximum of 50,000 square feet of medical office space, and to make other changes to the master concept plan (MCP) including reconfiguration of a lake, changes to the buffer to the west, and additional details including the placement commercial and residential buildings. Maximum building height requested is 50 feet. No development blasting is requested. Any development will connect to public potable water and public sanitary sewer service. The property is located in the Central Urban Future Land Use Category and is legally described in attached Exhibit A. The request is APPROVED, SUBJECT TO the conditions and deviations specified in Sections B and C below.

SECTION B. CONDITIONS:

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

1. Development must be substantially consistent with the 1-page Master Concept Plan (MCP) entitled "DIPLOMAT PROPERTY RPD/CPD (NORTH PARCEL)," dated 09-22-10, last revised 4-22-11 and date-stamped "Received APR 27 2011 Community Development" AND the 1-page MCP entitled "Master Concept Plan, DIPLOMAT PARCEL, Lee County, Florida," dated 08-27-2007, last revised 01-23-2008 and date-stamped "Received JAN 30 2008 Permit Counter," except as modified by the conditions below.

NOTE: The portion of the project on the north side of Diplomat Parkway includes Commercial Development Parcels 1, 2 and 3 (West 3 and East 3). It also includes a 29.75 acres that may be developed either as an RPD, or and ALF/CCF, with or without a commercial component on the westerly portion of that site identified as the 5.43 acre North CPD Parcel.

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

Maximum Number of Dwelling Units (North RPD Parcel): 138 dwelling units plus a maximum of 400 beds for assisted living facilities/continuing care facilities. Dwelling units may be converted per Table "B" of the approved MCP.

Maximum Number of Dwelling Units (South RPD parcel): 105 dwelling units. An additional 21 units may be constructed if they are marketed at a price point that is affordable to moderate income households at the time of building permit application. Further, the additional 21 units may only be sold to buyers who qualify as a moderate income household at time of purchase. Moderate income household means 120 percent of the yearly median income based on yearly income levels developed for the SHIP Program by the Housing Section of the Lee County Division of Planning.

Eight (8.0) dwelling units per acre maximum, for the 13.19 acres of RPD (South of Diplomat Parkway). An additional 1.6 units per acre may be constructed subject to the affordability requirements above.

Maximum Commercial Floor Area (North CPD Parcel): 50,000 square feet of medical office. Medical office may be converted per Table "B" of the approved MCP.

Maximum Total Commercial Floor Area (CPD Parcels 1, 2, 3 and 4): 200,000 square feet of commercial uses. A maximum of 100,000 s/f of which may be retail.

Retail development is limited to Parcel 4 (which meets Commercial Site Location standards). Retail development is not permitted on Commercial Parcels 1, 2 or 3 (which do not meet Site Location standards).

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

a. **SCHEDULE OF USES**

RPD- South of Diplomat Parkway

Accessory Uses and Structures
Administrative Office
Clubs, Private - as shown on the approved MCP.
Community Garden
Dwelling Units, single-family, duplex, two-family attached, multiple-family and townhomes - 105 (up to 126 pursuant to Condition 1)
Entrance Gates and Gatehouse
Essential Services
Essential Service Facilities, Group I only
Excavation, Water Retention - not to include the removal of excavated material from the site. No blasting.
Fences and Walls.
Home Occupation, No outside help.
Home Care Facility.
Model Home, Model Display Center, Model Unit - ALSO SEE MODEL HOME/REAL ESTATE SALES CONDITIONS.
Parking Lot, Accessory.
Real Estate Sales - limited to sales of lots, homes or units within the development. Model home and club locations only. ALSO SEE MODEL HOME/REAL ESTATE SALES CONDITIONS.
Recreational Facilities - Private, On-site only. LIMITED TO THOSE SHOWN ON THE APPROVED MCP.
Residential Accessory Uses
Signs, in compliance with LDC Chapter 30
Temporary Uses, Temporary Real Estate Sales Office

CPD - Parcels 1, 2, 3 & 4 - North and South of Diplomat Parkway

Administrative Office
Animals: Clinic, Kennel, Control Center (including Humane Society) -
indoors, no outdoor runs.
Automatic Teller Machine
Auto Parts Store - No installation service.
Auto Repair and Service, Group I only
Bait and Tackle Shop
Banks and Financial Establishments, Groups I and II
Boat Part Stores
Building Material Sales (indoor only, no outdoor display)
Business Services, Groups I and II (no impound yards or
armored car services)
Cleaning and Maintenance Services
Clothing Stores, General
Communication facilities, wireless (in accordance with LDC Chapter 34,
Division 11) A wireless communication facility may be
administratively approved, provided it is co-located
on a building and the height of the tower does
not exceed 50 feet from existing grade
Community Garden (**Note:** *This use may not be utilized until such time as
the LDC is amended to permit this use in a CPD.*)
Consumption on Premises - Indoors. In conjunction with Group III
restaurants only. Outdoor Consumption on Premises
will require special exception approval (public hearing)
Contractors and Builders, Groups I and II (but not Group III)
Cultural Facilities
Day Care, Adult, Child
Department Store
Drive-through facility for any permitted use. No fast food drive-through.
Drugstore, Pharmacy (limited to 1 on Parcel 3 or 4)
Entrance Gate and Gatehouse
Emergency Operations Center
EMS, Fire or Sheriff's Station
Essential Services
Essential Service Facilities, Group I only
Excavation, Water Retention - not to include the removal of excavated
material from the site. No blasting.
Fences and Walls.
Flea Market, Indoor Only
Food and Beverage Services, Limited
Food Stores, Groups I and II
Funeral Home or Mortuary, with or without cremation

Gasoline Dispensing System, Special
Hardware Store
Health Care Facility, Groups I, II and III (but not Group IV).
Hobby, Toy and Game Store
Hotel/Motel - Limited to 120 rooms maximum.
Household and Office Furnishings - (indoor only, no outdoor display)
Insurance Companies
Lawn and Garden Supply Stores - (indoor only, no outdoor display)
Library
Medical Office
Nonstore Retailer
Paint, Glass and Wallpaper - (indoor only, no outdoor display)
Parking Lot, Accessory, Commercial, Garage, Public Parking, Temporary
Personal Services, Groups I, II, III and IV. Excluding Laundromats,
Laundry Agents, Massage Establishments, Massage
Parlors, Steam or Turkish Baths, Dating Services,
Escort Services, Palm Readers, Fortune Tellers,
Card Readers, Tattoo Parlors.
Pet Services, Pet Shops - Indoor only, no outdoor display.
No outdoor runs.
Place of Worship
Plant Nursery
Post Office
Printing and Publishing
Processing and Warehousing
Real Estate Sales Office
Religious Facilities
Rental or Leasing Establishments, Group II only (and excluding tools
and equipment primarily for home use). Indoor only.
No outdoor display.
Repair Shop, Groups I, II and III
Research and Development Laboratories, Groups I, II, III and IV
Restaurants, Groups I, II, III and IV
Restaurant, Fast Food, No stand-alone or drive-through - within
a multiple-occupancy building only.
Schools, Commercial and Non-Commercial
Signs in Accordance with LDC Chapter 30
Social Services Group I only
Specialty Retail, Groups I, II, III and IV
Storage, Indoor Only
Studios
Supermarkets

Temporary Uses

Used Merchandise, Groups I and II, Indoor only. No outdoor display.

Variety Store

RPD - North of Diplomat Parkway

Accessory Uses and Structures

Administrative Office

Assisted Living Facilities - (pursuant to Condition 1)

Clubs, Private - as shown on the approved MCP (Recreation Areas)

Community Garden

Continuing Care Facilities

Dwelling Units, single-family, duplex, two-family attached,
multifamily, townhomes - (pursuant to Condition 1)

Entrance Gates and Gatehouse

Essential Services

Essential Service Facilities, Group I only

Excavation, Water Retention - not to include the removal of
excavated material from the site. No blasting.

Fences and Walls.

Home Occupation, No outside help

Home Care Facility

Model Home, Model Display Center, Model Unit - ALSO SEE MODEL
HOME/REAL ESTATE SALES CONDITIONS.

Parking Lot, Accessory.

Real Estate Sales - limited to sales of lots, homes or units within
the development. Model home and club locations only.

ALSO SEE MODEL HOME/REAL ESTATE SALES
CONDITIONS.

Recreational Facilities - Private, On-site only. LIMITED TO
THOSE SHOWN ON THE APPROVED MCP.

Religious Facilities

Residential Accessory Uses

Signs, in compliance with LDC Chapter 30

Temporary Uses, Temporary Real Estate Sales Office

CPD - 5.43-Acre Parcel north of Diplomat Parkway

Administrative Office

Animals: Clinic, Kennel, Control Center (including Humane Society) -
indoors, no outdoor runs

Automatic Teller Machine

Banks and Financial Establishments, Groups I and II

Business Services, Groups I and II (no impound yards or armored car services)

Cleaning and Maintenance Services

Communication facilities, wireless (in accordance with LDC Chapter 34, Division 11) A wireless communication facility may be administratively approved, provided it is co-located on a building and the height of the tower does not exceed 50 feet from existing grade.

Community Garden (**Note:** *This use may not be utilized until such time as the LDC is amended to permit this use in a CPD.*)

Cultural Facilities

Entrance Gate and Gatehouse

Emergency Operations Center

EMS, Fire or Sheriff's Station

Essential Services

Essential Service Facilities, Group I only

Excavation, Water Retention - not to include the removal of excavated material from the site. No blasting.

Fences and Walls.

Health Care Facility, Groups I, II and III (no Group IV)

Insurance Companies

Medical Office

Parking Lot, Accessory

Personal Services, Groups I and II

Pharmacy - accessory to medical office use only

Real Estate Sales Office

Religious Facilities

Research and Development Laboratories, Groups I, II, III and IV

Schools, Commercial and Non-Commercial

Signs in Accordance with LDC Chapter 30

Social Services Group I only

Temporary Uses

b. SITE DEVELOPMENT REGULATIONS

RPD - South of Diplomat Parkway

SINGLE-FAMILY:

Minimum Lot Areas and Dimensions

Lot Size:	7,500 square feet
Lot Width:	75 feet
Lot Depth:	100 feet

Minimum Setbacks

Street	25 feet (public)/20 feet (private)
Side	5 feet
Rear	30 feet on all lots containing enhanced buffer 20 feet on all other lots

Water body 25 feet

All Accessory Uses: Per the LDC.

Setbacks from Preserves (All structures): 25 feet, per the LDC.

Minimum Perimeter Setbacks: 25 feet
30 feet on all lots containing
an enhanced buffer

Minimum Building Separation: 10 feet.

Maximum Building Height: 35 feet/ 3 stories

Maximum Lot Coverage: 45 percent

DUPLEX, TWO-FAMILY ATTACHED, TOWNHOUSE:

Minimum Lot Areas and Dimensions

Lot Size:	7,500 square feet
Lot Width:	75 feet (37.5 per unit)
Lot Depth:	100 feet

Minimum Setbacks

Street	25 feet (public)/20 feet (private)
Side	5 feet (zero feet for common wall unit)
Rear	30 feet on all lots containing enhanced buffer 20 feet on all other lots

Water body 25 feet

All Accessory Uses: Per the LDC.

Setbacks from Preserves (All structures): 25 feet, per the LDC.

Minimum Perimeter Setbacks: 25 feet
30 feet on all lots containing
an enhanced buffer

Minimum Building Separation: 10 feet.
Maximum Building Height: 3 5 feet/ 2 stories
Maximum Lot Coverage: 45 percent.

MULTIPLE-FAMILY:

Minimum Lot Areas and Dimensions

Lot Size: 10,000 square feet
Lot Width: 100 feet
Lot Depth: 100 feet

Minimum Setbacks

Street 25 feet (public)/20 feet (private)
Side 10 feet
Rear 30 feet on all lots containing enhanced buffer
20 feet

Water body 25 feet

All Accessory Uses: Per the LDC.
Setbacks from Preserves (All structures): 25 feet, per the LDC.

Minimum Perimeter Setbacks: 25 feet
30 feet on all lots containing
an enhanced buffer

Minimum Building Separation: 20 feet.

Maximum Building Height: 35 feet/ 2 stories
Maximum Lot Coverage: 45 percent.

RECREATIONAL AREA/FACILITIES:

Minimum Lot Areas and Dimensions

Lot Size: 9,000 square feet
Lot Width: 50 feet
Lot Depth: 120 feet

Minimum Setbacks - Also see Deviation 5

Street	25 feet (public)/20 feet (private)
Side	10 feet
Rear	20 feet

Water body	25 feet
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All Accessory Uses: Per the LDC.

Setbacks from Preserves (All structures): 25 feet, per the LDC.

Minimum Perimeter Setbacks: 25 feet

Minimum Building Separation: 10 feet

Maximum Building Height: 35 feet/ 2 stories

Maximum Lot Coverage: 45 percent

CPD - PARCELS 1, 2, 3 & 4:

Minimum Lot Areas and Dimensions

Lot Size:	10,000 square feet
Lot Width:	100 feet
Lot Depth:	100 feet

Minimum Setbacks

Street	25 feet (public)/20 feet (private)
Side	10 feet
Rear	20 feet

Water body	25 feet
------------	---------

All Accessory Uses: Per the LDC.

Setbacks from Preserves (All structures): 25 feet, per the LDC.

Minimum Perimeter Setbacks: 25 feet

Minimum Building Separation: 20 feet, but buildings exceeding 35 feet in height must maintain additional building separation as regulated by LDC §34-2174(a).

Maximum Building Height: 50 feet/ 3 stories
35 feet/2 stories - adjacent to west boundary

Maximum Lot Coverage: 60 percent

RPD - NORTH OF DIPLOMAT PARKWAY:

ASSISTED LIVING:

Minimum Lot Areas and Dimensions

Lot Size: 10,000 square feet
Lot Width: 100 feet
Lot Depth: 100 feet

Minimum Setbacks

Street 25 feet (public)/20 feet (private)
Side 10 feet
Rear 30 feet on all lots containing enhanced buffer
20 feet on all other lots

Water body 25 feet

All Accessory Uses: Per the LDC.

Setbacks from Preserves (All structures): 25 feet, per the LDC.

Minimum Perimeter Setbacks: 25 feet
30 feet on all lots containing
and enhanced buffer

Minimum Building Separation: ½ building height, but not less than 15 feet

Maximum Building Height: 45 feet
Maximum Lot Coverage: 45 percent

SINGLE-FAMILY:

Minimum Lot Areas and Dimensions

Lot Size: 7,200 square feet
Lot Width: 60 feet
Lot Depth: 100 feet

Minimum Setbacks

Street 25 feet (public)/20 feet (private)
Side 5 feet
Rear 30 feet on all lots containing enhanced buffer
20 feet on all other lots

Water body 25 feet

All Accessory Uses: Per the LDC.

Setbacks from Preserves (All structures): 25 feet, per the LDC.

Minimum Perimeter Setbacks: 25 feet
30 feet on all lots containing
an enhanced buffer

Minimum Building Separation: 10 feet

Maximum Building Height: 35 feet
Maximum Lot Coverage: 45 percent

DUPLEX:

Minimum Lot Areas and Dimensions

Lot Size: 7,000 square feet
Lot Width: 70 feet
Lot Depth: 100 feet

Minimum Setbacks

Street 25 feet (public)
20 feet (private)
Side 5 feet

Rear 30 feet on all lots containing enhanced buffer
20 feet on all other lots

Water body 25 feet

All Accessory Uses: Per the LDC.

Setbacks from Preserves (All structures): 25 feet, per the LDC.

Minimum Perimeter Setbacks: 25 feet
30 feet on all lots containing
an enhanced buffer

Minimum Building Separation: 10 feet.

Maximum Building Height: 35 feet
Maximum Lot Coverage: 45 percent

TOWNHOME:

Minimum Lot Areas and Dimensions

Lot Size: 1,600 square feet
Lot Width: 16 feet
Lot Depth: 100 feet

Minimum Setbacks

Street 25 feet (public)
20 feet (private)
Side 10 feet
0 feet (for a common wall)
Rear 30 feet on all lots containing enhanced buffer
20 feet on all other lots

Water body 25 feet

All Accessory Uses: Per the LDC.

Setbacks from Preserves (All structures): 25 feet, per the LDC.

Minimum Perimeter Setbacks: 25 feet
30 feet on all lots containing
an enhanced buffer

Minimum Building Separation: 20 feet
Maximum Building Height: 35 feet
Maximum Lot Coverage: 55 percent

MULTIPLE-FAMILY:

Minimum Lot Areas and Dimensions

Lot Size: 10,000 square feet
Lot Width: 100 feet
Lot Depth: 100 feet

Minimum Setbacks

Street 25 feet (public)
20 feet (private)
Side 10 feet
Rear 30 feet on all lots containing enhanced buffer
20 feet on all other lots

Water body 25 feet

All Accessory Uses: Per the LDC.

Setbacks from Preserves (All structures): 25 feet, per the LDC

Minimum Perimeter Setbacks: 25 feet

Minimum Building Separation: ½ building height, but not less than 15 feet

Maximum Building Height: 50 feet
Maximum Lot Coverage: 45 percent

RECREATION AREA/CLUBHOUSE:

Minimum Lot Areas and Dimensions

Lot Size: 9,000 square feet
Lot Width: 100 feet
Lot Depth: 100 feet

Minimum Setbacks

Street	25 feet (public) 20 feet (private)
Side	10 feet
Rear	20 feet

Water body	25 feet
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All Accessory Uses: Per the LDC.

Setbacks from Preserves (All structures): 25 feet, per the LDC.

Minimum Perimeter Setbacks: 25 feet
30 feet on all lots containing
an enhanced buffer

Minimum Building Separation: 10 feet

Maximum Building Height: 35 feet
Maximum Lot Coverage: 45 percent

CPD - 5.43-acre North CPD Parcel:

Minimum Lot Areas and Dimensions

Lot Size:	10,000 square feet
Lot Width:	100 feet
Lot Depth:	100 feet

Minimum Setbacks

Street	25 feet (public) 20 feet (private)
Side	10 feet
Rear	20 feet 20 feet on all other lots

Water body	25 feet
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All Accessory Uses: Per the LDC

Setbacks from Preserves (All structures): 25 feet, per the LDC

Minimum Perimeter Setbacks: 25 feet

Minimum Building Separation: ½ building height not less than 15 feet

Building Height: 35 feet

Maximum Lot Coverage: 60 percent

3. **CONCURRENCY**

Approval of this rezoning does not constitute a finding that the proposed project meets the concurrency requirements set forth in LDC Chapter 2 and the Lee Plan. The developer is required to demonstrate compliance with all concurrency requirements prior to issuance of a local development order.

4. **MODEL HOME AND REAL ESTATE SALES**

Model units and homes (and real estate sales) are permitted in compliance with the following conditions:

- a. Each model must be a unique example. Multiple examples of the same unit are not permitted.
- b. All model sites must be designated on the development order plans.
- c. Prior to model home construction, the lots upon which model homes will be constructed must be shown on a preliminary plat (not the final). The preliminary plat must be filed concurrently with the local development order application. The model homes must comply with the setbacks set forth in the property development regulations for this project.
- d. Dry models are prohibited.
- e. The number of model homes or model units will be limited to no more than 10 within the development at one time.
- f. Any model homes or units must be developed within the areas identified as "models" on the approved MCP.
- g. Real estate sales within the RPD are limited to the sale of lots or units within the development only. Real Estate sales are a permitted use within the CPD.

- h. Real estate sales within the RPD are limited to within model homes or clubhouse only.
- i. Hours of operation for both models and real estate sales (within the RPD) are limited to Monday through Sunday 8:00 a.m. to 8:00 p.m.
- j. Model homes and real estate sales within the RPD will be valid for a period of up to five years from the date of issuance of a certificate of occupancy of a model home per LDC §34-1954(d)(1).

5. **NO AGRICULTURAL USES APPROVED**

No agricultural uses are permitted on site.

6. **BLASTING**

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

7. **NATIVE VEGETATION REQUIRED IN THE ENTIRE RPD AND CPD**

All required buffers must utilize 100 percent all native vegetation.

8. **ADDITIONAL BUILDING SEPARATION REQUIRED**

Buildings exceeding 35 feet in height must maintain additional building separation as regulated by LDC §34-2174(a).

9. **TRAFFIC**

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

10. **LEE PLAN**

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

11. INTERSECTION IMPROVEMENTS

The developer must contribute its proportionate share of the costs of intersection improvements at the time a traffic control device is warranted at the intersection of US 41 and Diplomat Road.

12. WIRELESS COMMUNICATION FACILITIES

- a. Freestanding wireless communication facilities (towers, including stealth type) are not permitted. Approval of freestanding wireless communication facilities will require an amendment to the planned development (public hearing).
- b. Wireless Communication Facilities (including wall-mounted and roof-mounted antennas) may be approved in accordance with LDC §34-1441, *et. seq.* (Commercial parcels only).

13. ACCESSORY USES

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

14. OPEN SPACE

Prior to local development order approval, the landscape plans must demonstrate that each commercial parcel is providing a minimum of 30 percent open space, and a minimum of 40 percent common open space is provided within the residential tract.

15. ENVIRONMENTAL

Prior to local development order approval, if the Florida Fish and Wildlife Conservation Commission (FWC) allows the relocation of tortoises within on-site indigenous preserves:

- a. The developer must submit a detailed indigenous preservation management plan for the Lee County Division of Environmental Sciences (DES) Staff review and approval that includes methods of maintaining the western 3.0 acres of the preserve as gopher tortoise habitat; and

- b. The landscape plans must include a permanent gopher tortoise fence along Diplomat Parkway where the three-acre gopher tortoise preserve abuts this roadway and a double staggered native hedge (minimum three-gallon container size; 24-inch height at planting; maintained at a minimum 36-inch height) planted on the roadside of the fence; and
- c. The landscape plans must delineate a double staggered native hedge (minimum three-gallon container size; 24-inch height at planting; maintained at a minimum 36-inch height) planted along the interface of the indigenous preserve with the residential tract.
- d. Prior to issuance of a Vegetation Removal Permit, all invasive exotic vegetation and manmade debris must be hand removed from the indigenous preserve.

16. COMMERCIAL PARCELS NORTH OF DIPLOMAT PARKWAY

Commercial buildings located within Parcels 1, 2 and the westernmost 2.3 acres of Parcel 3 are limited to a maximum of 10,000 square feet per building, and must not exceed two stories/35 feet in height. The building locations must alternate (be staggered) between the front and rear of the commercial parcels to provide a more campus-like setting. A parking plan must be devised to keep the amount of parking spaces along Diplomat Parkway to an absolute minimum. These parking areas and commercial buildings must be buffered, from Diplomat Parkway, by, at a minimum, a two-foot high berm with 10 trees and a staggered 36-inch high hedge per 100 linear feet. Applicant is strongly encouraged to utilize the commercial site locational criteria established for the Estero community.

The commercial buildings on Commercial Parcels 1, 2, and 3 must be of the same or similar architectural design and coloring as the residential buildings, to identify them as a unified project. All project identification signs (commercial and residential) must also be of the same or similar architectural design and coloring.

18. SOLID WASTE/RECYCLING

Prior to local development order approval for vertical development, the Developer must provide facilities in compliance with LDC §10-261 and Lee County Solid Waste Ordinance #08-10 for the pick up/disposal of solid waste and recyclables. The minimum area required for and specific locations of these facilities will be reviewed at the time of local development order application (Also see Deviation 7).

19. **PRIOR ZONING**

The terms and conditions of the original Zoning Resolution No. Z-06-004 and Administrative Amendment ADD2007-00169 are superceded by this zoning action and are rendered null and void by this approval. The terms and conditions herein apply to the entire planned development previously covered by Zoning Resolution No. Z-06-004.

20. **INDIGENOUS PRESERVATION/HERITAGE TREES (NORTH CPD PARCEL AND NORTH RPD PARCEL)**

- a. Prior to local development order approval, a tree survey must be submitted depicting the location, diameter at breast height, and species of all heritage trees within the development area.
- b. Prior to local development order approval, landscape plans must depict heritage trees, located within the development footprint, that are determined to be of good health as per a certified arborist. Those trees must be incorporated into the internal open space (i.e., perimeter planting, enlarged landscape areas, etc), or must be replaced with a 20-foot like species to a suitable open space area where final site design constraints (i.e., fill requirements, entrance roads, etc) do not allow preservation.

21. **PROTECTED SPECIES**

- a. Prior to development order approval, the Applicant must first seek approval for on-site preservation of the gopher tortoises through avoidance or relocation before pursuing off-site relocation options. All communication with FWC verifying on-site avoidance or relocation attempts were made must be provided to DES Staff.
- b. A copy of the appropriate gopher tortoise relocation permit issued by the FWC must be submitted to the DES Staff prior to excavation and moving of any gopher tortoises. The Applicant must first seek approval for an on-site relocation before pursuing off-site relocation options. Any gopher tortoises and commensal species found during burrow excavation must be moved to preserves containing suitable gopher tortoise habitat as approved by the FWC and DES Staff.

22. **OPEN SPACE (NORTH CPD PARCEL AND NORTH RPD PARCEL)**

Prior to local development order approval, the development order plans must delineate a minimum of 1.63 acres of open space for the CPD and 11.9 acres of open space for the RPD.

23. **BUFFERS (NORTH CPD PARCEL AND NORTH RPD PARCEL)**

- a. Prior to local development order approval, the development plans must demonstrate the preservation of native vegetation within the flood way. This vegetation may be utilized to meet the required type "F" buffer plantings. Upon removal of exotics from this area if it is found that the existing vegetation does not satisfy the buffer planting requirements, additional plants must be provided. These plants must be designed to mimic the natural area through the use of similar species and random planting throughout the area.
- b. An enhanced type "F" buffer must be provided as shown on the MCP. This buffer must be 30 feet in width and include 10 native canopy trees per 100 linear feet, and a double hedge row planted at 48" in height at time of planting.

24. **NATIVE PLANTINGS REQUIRED (NORTH CPD PARCEL AND NORTH RPD PARCEL)**

All required buffer plantings, general trees, and internal canopy trees must be 100 percent native species.

SECTION C. DEVIATIONS:

(Deviations 1 through 7 were previously approved and remain applicable to the RPD/CPD and are recited below. Deviation 8 is new.)

1. **Intersection Separation** - Deviation 1 (previously contained in Resolution Z-06-004 and ADD2007-00169) seeks relief from the LDC §10-285(a) requirement to provide a minimum access connection separation of 660 feet on an arterial road to permit an access separation of 364 feet between the project's proposed main access and the proposed exit-only access for the residential portion of the southern parcel. This deviation is APPROVED.

2. **One dead-end street permitted** - Deviation 2 (previously contained in Resolution Z-06-004 and ADD2007-00169) seeks relief from the LDC §10-296(k)(1) requirement that dead-end streets be closed at one end by a circular turn-around, to allow one dead-end street as shown on the approved MCP on the southern RPD. This deviation is APPROVED.
3. **Calculation for Open Space** - Deviation 3 (previously contained in Resolution Z-06-004 and ADD2007-00169) seeks relief from the LDC §10-415(b)(1)(a) requirement that large developments with indigenous vegetation communities to provide 50 percent of their open space percentage requirements through on-site preservation of existing native vegetative communities, to permit 0.45 acres of right of way to be vacated, enhanced and preserved to count toward the preservation requirement. This deviation is APPROVED, SUBJECT TO the following condition:

Prior to local development order approval for Commercial Parcel 4, the existing roadway easement depicted within the indigenous preserve must be vacated.

This deviation applies to the southern RPD and CPD.

4. **Installation of storm water management system** - Deviation 4 (previously contained in Resolution Z-06-004 and ADD2007-00169) seeks relief from the LDC §10-415(b)(1)a. requirement that large developments with existing indigenous native vegetation communities provide 50 percent of their open space requirement through on-site preservation of indigenous native vegetation, to allow portions of the preservation area to be disturbed and restored in order to install a storm water management system. This deviation is APPROVED, SUBJECT TO the following conditions:
 - a. Prior to local development order, the development order plans must delineate the general location of the surface water management outfall through the indigenous preserve to the canal. The outfall must be designed as an open system that can be planted with native vegetation.
 - b. Prior to issuance of a Vegetation Removal Permit, the location of the surface water management outfall through the indigenous preserve must be field staked to avoid impacting any large native trees or gopher tortoise burrows for the Division of Environmental Sciences Staff review and approval.

This deviation applies to the southern RPD and CPD.

5. **Separation from residential uses** - Deviation 5 (previously contained in Resolution Z-06-004 and ADD2007-00169) seeks relief from the LDC §34-2474(b)(6) requirement that recreation halls and ancillary facilities and private clubs be located at least 40 feet from any residential dwelling unit, to allow a 20-foot minimum separation for any recreation building from a residential dwelling unit. This deviation is APPROVED, SUBJECT TO the following condition:

Development of a recreational facility and clubhouse must be generally consistent with the location shown on the approved MCP.

This deviation applies to the recreation area shown on the RPD to the north.

- 6a. **Single ingress into the development** - Deviation 6a (previously contained in Resolution Z-06-004 and ADD2007-00169) seeks relief from the LDC §10-291(3) requirement (when practical) that residential developments of more than five acres in size provide two or more means of ingress into the development, to allow the residential portion to the north of Diplomat Parkway to be constructed with a single ingress/egress connection onto Diplomat Parkway. This deviation is APPROVED, SUBJECT TO the following conditions:

- a. Access to the residential component north of Diplomat Parkway must be generally consistent with the approved MCP; and
- b. The approved MCP and local development order must depict a minimum 70-foot-wide divided entrance on the north side of Diplomat Parkway that includes a median with two lanes on both sides of the median for ingress and egress; and
- c. Prior to issuance of a development order, the developer must provide written documentation from the North Fort Myers Fire District indicating that these access points are acceptable and provide adequate access for emergency vehicles. The development order must also include the plans for the secondary/emergency access required in the following paragraph.
- d. Prior to build-out of the north residential development, Applicant must install a secondary/emergency access from the residential tract to commercial Parcel 3, as shown on the MCP. Any emergency access gate must comply with all applicable

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

- 6b. Deviation 6b (previously contained in Resolution Z-06-004) seeks relief from the LDC §10-291(3) requirement (when practical) that residential developments of more than five acres in size provide two or more means of ingress into the development, to allow the residential portion to the south of Diplomat Parkway to be constructed with a single ingress/egress connection onto Diplomat Parkway. This deviation is APPROVED, SUBJECT TO the following conditions.
- a) Access to the residential component south of Diplomat Parkway must be generally consistent with the approved MCP; and
 - b) Any emergency access gate must comply with all applicable regulations with respect to required equipment for an emergency override mechanism at the time of installation. Additionally, if an emergency necessitates the breaking of an entrance gate, the cost of repairing the gate and the emergency vehicle (if applicable) will be the responsibility of the owner or the operator of the gate; and
 - c) Prior to issuance of a development order, the developer must provide written documentation from the North Fort Myers Fire District indicating that these access points are acceptable and provide adequate access for emergency vehicles.
7. **Curbside garbage collection for townhouse units** - Deviation 7 (previously contained in ADD2007-000169) seeks relief from the LDC §10-261 requirement that all new multiple-family residential developments to provide sufficient space for the placement of garbage containers or receptacles, to allow for curbside garbage pick up at the proposed townhouse units that are planned within the project. This deviation is APPROVED.

8. **Certain internal buffers not required** - Deviation 8 seeks relief from the LDC §10-416(d)(3) requirement that a Type C/F buffer between the proposed RPD/CPD uses internal to the development, to allow no buffer between the RPD/CPD uses where the commercial uses are separated from the residential uses within the project by a private road. This deviation is APPROVED.

SECTION D. EXHIBITS:

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

- Exhibit A: Legal description of the property
- Exhibit B: Zoning Map (with the subject parcel indicated)
- Exhibit C: The Master Concept Plan

SECTION E. FINDINGS AND CONCLUSIONS:

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

- c. the recommended conditions are reasonably related to the impacts on the public interest created by or expected from the proposed development.
4. Urban services, as defined in the Lee Plan, are, or will be, available and adequate to serve the proposed land use.
5. The approved deviations, as conditioned, enhance achievement of the planned development objectives, and preserve and promote the general intent of LDC Chapter 34, to protect the public health, safety and welfare.

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

John E. Manning	Aye
Brian Bigelow	Aye
Ray Judah	Aye
Tammara Hall	Aye
Frank Mann	Aye

DULY PASSED AND ADOPTED this 21st day of March, 2011.

ATTEST:
CHARLIE GREEN, CLERK

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: Marcia Wilson
Deputy Clerk

BY: Frank Mann
Frank Mann, Chair



Approved as to form by:

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

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mw
2011 MAY -9 PM 2: 00

Banks Engineering

Professional Engineers, Planners & Land Surveyors

2515 Northbrooke Plaza Drive - Suite 200

Naples, Florida 34119

(239) 597-2061

Fax (239) 597-3082

RECEIVED
APR 27 2011

DESCRIPTION

OF A

PARCEL OF LAND

LYING IN

SECTION 34, TOWNSHIP 43 SOUTH, RANGE 24 EAST, **COMMUNITY DEVELOPMENT**

LEE COUNTY, FLORIDA

(CPD ZONING DESCRIPTION)

A TRACT OR PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, LYING IN SECTION 34, TOWNSHIP 43 SOUTH, RANGE 24 EAST AND BEING FURTHER BOUNDED AND DESCRIBED AS FOLLOWS:

NORTH CPD ZONNING PARCEL

COMMENCING AT THE INTERSECTION OF THE WESTERLY RIGHT-OF-WAY LINE OF U.S. 41 (STATE ROAD 45) (200 FEET WIDE) AND THE SOUTHERLY RIGHT-OF-WAY LINE OF LITTLETON ROAD (50 FEET WIDE); THENCE 94.14 FEET ALONG SAID WESTERLY RIGHT-OF-WAY LINE AND ALONG THE ARC OF A CURVE CONCAVE TO THE SOUTHEAST HAVING A RADIUS OF 5829.58 FEET AND SUBTENDED BY A CHORD HAVING A LENGTH OF 94.14 FEET AND BEARING S.03°47'10"W. TO A POINT OF TANGENCY; THENCE S.03°25'50"W. ALONG SAID WESTERLY RIGHT-OF-WAY LINE FOR 2338.37 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE S.03°25'50"W. ALONG SAID WESTERLY RIGHT-OF-WAY LINE FOR 199.95 FEET TO POINT "A" AND TO AN INTERSECTION WITH THE NORTHERLY RIGHT-OF-WAY LINE OF DIPLOMAT PARKWAY (100 FEET WIDE); THENCE N.86°35'21"W. ALONG SAID NORTHERLY RIGHT-OF-WAY LINE FOR 12.52 FEET TO THE BEGINNING OF A CURVE TO THE LEFT HAVING A RADIUS OF 2150.00 FEET; THENCE WESTERLY ALONG SAID CURVE AND ALONG SAID NORTHERLY RIGHT-OF-WAY LINE THROUGH A CENTRAL ANGLE OF 3°32'51" FOR 133.12 FEET; THENCE S.89°51'48"W. ALONG SAID NORTHERLY RIGHT-OF-WAY LINE FOR 1484.79 FEET TO POINT "B"; THENCE N.00°08'12"W. FOR 250.00 FEET; THENCE N.89°51'48"E. FOR 1145.24 FEET; THENCE S.03°25'50"W. FOR 53.49 FEET; THENCE S.89°54'50"E. FOR 500.85 FEET TO THE POINT OF BEGINNING.

PARCEL CONTAINS 8.78 ACRES, MORE OR LESS.

TOGETHER WITH: ADDITIONAL NORTH CPD ZONNING PARCEL

COMMENCING AT SAID POINT "B"; THENCE S.89°51'48"W. ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE OF DIPLOMAT PARKWAY (100 FEET WIDE) FOR 80.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE S.89°51'48"W. ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE FOR 253.42 FEET; THENCE N.28°32'51"W. FOR 6.70 FEET; THENCE N.00°20'36"W. FOR 244.12 FEET; THENCE N.89°51'48"E. FOR 257.48 FEET; THENCE S.00°08'12"E. FOR 250.00 FEET TO THE POINT OF BEGINNING.

PARCEL CONTAINS 1.48 ACRES, MORE OR LESS.

TOGETHER WITH: SOUTH CPD ZONNING PARCEL

COMMENCING AT SAID POINT "A"; THENCE S.03°25'50"W. ALONG SAID WESTERLY RIGHT-OF-WAY LINE OF U.S. 41 (STATE ROAD 45) (200 FEET WIDE) FOR 100.00 FEET TO THE POINT OF BEGINNING;

SHEET 1 OF 3

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Fort Myers Office
10511 Six Mile Cypress Pkwy, Suite #101
Fort Myers, Florida 33966
(239) 939-5490
Fax (239) 939-2523

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

EXHIBIT "A"
(Page 1 of 6)

DCI 2010-00015

THENCE CONTINUE S.03°25'50"W. ALONG SAID WESTERLY RIGHT-OF-WAY LINE FOR 429.00 FEET TO THE NORTHEAST CORNER OF A PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 2113 AT PAGE 1590 OF SAID PUBLIC RECORDS, ALSO BEING THE NORTHEAST CORNER OF MERCHANTS CROSSING, A SUBDIVISION RECORDED IN PLAT BOOK 52 AT PAGES 37 THROUGH 47 OF SAID PUBLIC RECORDS; THENCE N.86°34'10"W. ALONG THE NORTH LINE OF SAID PARCEL AND SAID SUBDIVISION FOR 72.00 FEET TO THE SOUTHEAST CORNER OF A PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 2833 AT PAGE 4156 OF SAID PUBLIC RECORDS; THENCE N.03°25'50"E. ALONG THE EASTERLY LINE OF SAID PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 2833 AT PAGE 4156 FOR 65.00 FEET; THENCE N.86°33'36"W. ALONG THE NORTHERLY LINE OF SAID PARCEL FOR 39.68 FEET; THENCE S.03°26'24"W. ALONG THE WESTERLY LINE OF SAID PARCEL FOR 8.00 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT HAVING A RADIUS OF 17.00 FEET; THENCE SOUTHWESTERLY ALONG SAID PARCEL AND SAID CURVE THROUGH A CENTRAL ANGLE OF 90°00'01" FOR 26.70 FEET; THENCE N.86°33'36"W. ALONG THE NORTHERLY LINE OF SAID PARCEL FOR 487.82 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT HAVING A RADIUS OF 80.00 FEET; THENCE NORTHWESTERLY ALONG SAID PARCEL AND SAID CURVE THROUGH A CENTRAL ANGLE OF 86°25'24" FOR 120.67 FEET; THENCE N.00°08'12"W. ALONG THE EASTERLY LINE OF SAID PARCEL FOR 274.66 FEET TO POINT "C" AND TO AN INTERSECTION WITH THE SOUTHERLY RIGHT-OF-WAY LINE OF DIPLOMAT PARKWAY (100 FEET WIDE) AS DESCRIBED IN OFFICIAL RECORDS BOOK 2833 AT PAGE 4156 OF SAID PUBLIC RECORDS; THENCE N.89°51'48"E. ALONG SAID SOUTHERLY RIGHT-OF-WAY FOR 575.20 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT HAVING A RADIUS OF 2050.00 FEET; THENCE EASTERLY ALONG SAID RIGHT-OF-WAY AND SAID CURVE THROUGH A CENTRAL ANGLE OF 3°32'51" FOR 126.93 FEET; THENCE S.86°35'21"E. ALONG SAID RIGHT-OF-WAY FOR 12.49 FEET TO THE POINT OF BEGINNING.

PARCEL CONTAINS 6.00 ACRES, MORE OR LESS.

TOGETHER WITH: ADDITIONAL SOUTH CPD ZONNING PARCEL

COMMENCING AT SAID POINT "C"; THENCE S.89°51'48"W. ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE OF DIPLOMAT PARKWAY (100 FEET WIDE) FOR 40.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE S.89°51'48"W. ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE FOR 383.07 FEET; THENCE S.00°08'12"E. FOR 186.04 FEET; THENCE N.59°04'35"E. FOR 185.65 FEET; THENCE S.76°11'27"E. FOR 125.61 FEET; THENCE S.41°41'10"E. FOR 153.30 FEET TO AN INTERSECTION WITH THE WESTERLY LINE OF THE AFORESAID PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 2833 AT PAGE 4156 OF SAID PUBLIC RECORDS; THENCE N.00°08'12"W. ALONG THE WESTERLY LINE FOR 236.02 FEET TO THE POINT OF BEGINNING.

PARCEL CONTAINS 1.22 ACRES.

NET AREA AS DESCRIBED CONTAINS 17.48 ACRES, MORE OR LESS.

COMMUNITY DEVELOPMENT

BEARINGS ARE BASED ON THE WESTERLY RIGHT-OF-WAY OF U.S. 41 (STATE ROAD 45) AS BEARING S.03°25'50"W.

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

DESCRIPTION PREPARED NOVEMBER 2, 2006.

Richard M. Ritz
RICHARD M. RITZ
REGISTERED LAND SURVEYOR
FLORIDA CERTIFICATION NO. 4000

Applicant's Legal Checked
by 11/08/06 csl

EXHIBIT "A"
(Page 2 of 6)

DCI 2010-00015

SKETCH TO ACCOMPANY DESCRIPTION



COORDINATE TABLE

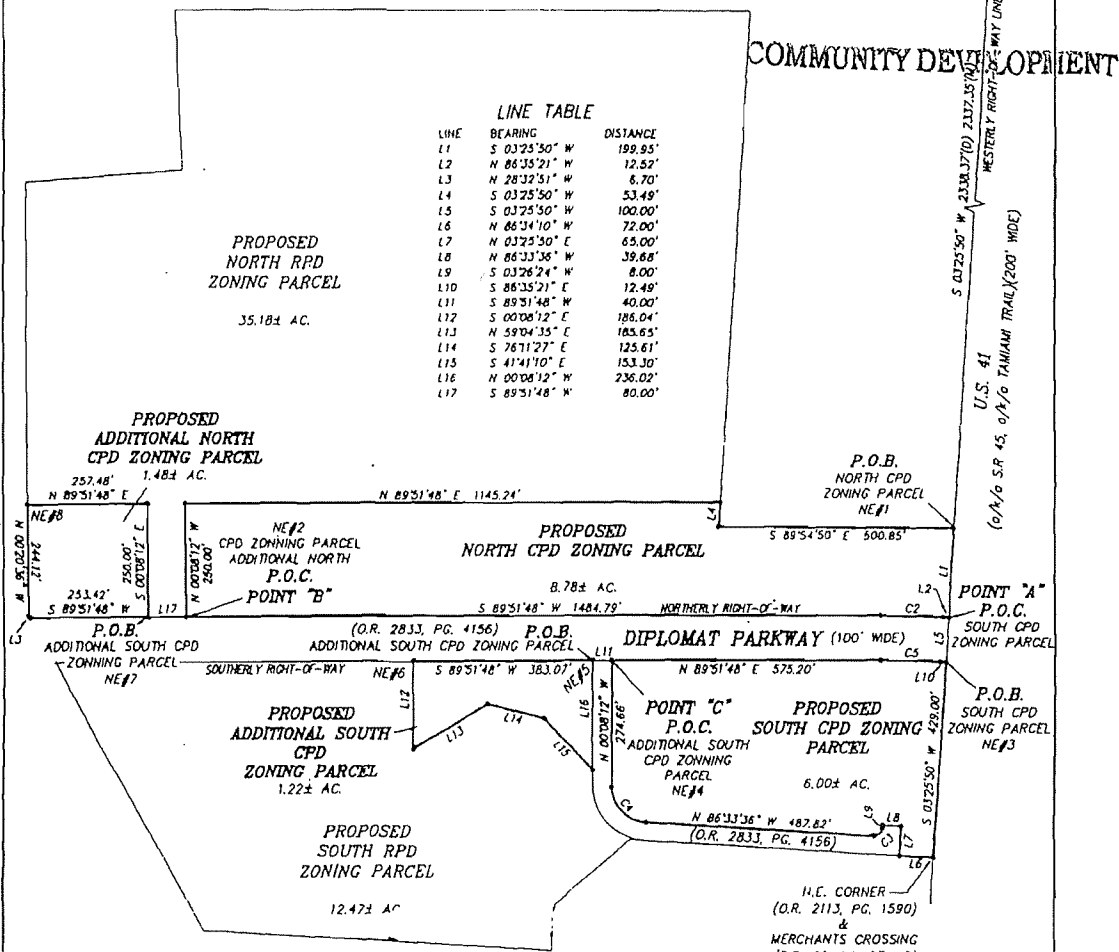
POINT	NORTHING	EASTING
NE#1	890227.83	886334.48
NE#2	890329.35	886682.19
NE#3	886228.53	888116.53
NE#4	886231.52	887802.01
NE#5	886231.43	887562.01
NE#6	886230.51	887178.84
NE#7	886329.16	886812.19
NE#8	886328.55	886354.11

CURVE TABLE

CURVE	RADIUS	DELTA	ARC	CHORD	CHORD BEARING
C1	5829.58'	00°55'31"	94.14'	94.14'(D)	S 03°47'10" W(D)
				94.23'(M)	S 03°50'44" W(M)
C2	2150.00'	03°32'51"	133.12'	133.10'	S 88°21'42" E
C3	17.00'	90°00'01"	26.70'	24.04'	S 48°26'24" W
C4	80.00'	88°28'24"	120.87'	109.55'	N 43°20'34" W
C5	2050.00'	03°32'51"	126.93'	126.91'	S 88°21'42" E

LINE TABLE

LINE	BEARING	DISTANCE
L1	S 03°25'50" W	199.95'
L2	N 86°35'21" W	12.52'
L3	N 28°32'51" W	6.70'
L4	S 03°25'50" W	53.49'
L5	S 03°25'50" W	100.00'
L6	N 86°34'10" W	72.00'
L7	N 03°25'50" E	65.00'
L8	N 86°33'36" W	39.68'
L9	S 03°26'24" W	8.00'
L10	S 86°35'21" E	12.49'
L11	S 89°51'48" W	40.00'
L12	S 00°08'12" E	186.04'
L13	N 59°04'35" E	185.65'
L14	S 76°12'27" E	125.61'
L15	S 41°41'10" E	153.30'
L16	N 00°08'12" W	236.02'
L17	S 89°51'48" W	80.00'



NOTES:

1. SEE ACCOMPANYING SHEETS FOR COMPLETE METES AND BOUNDS DESCRIPTION.
2. STATE PLANE COORDINATES (FLORIDA ZONE WEST) SHOWN HEREON ARE BASED ON NAD83, AND ARE FOR GIS PURPOSES ONLY.
3. BEARINGS ARE BASED ON THE WESTERLY RIGHT-OF-WAY OF U.S. 41 AS S 03°25'50" W.

LEGEND:

- P.O.C. INDICATES POINT OF COMMENCEMENT
- P.O.B. INDICATES POINT OF BEGINNING
- O.R. INDICATES OFFICIAL RECORDS BOOK OF LEE COUNTY
- P.G. INDICATES PAGE NUMBER
- P.B. INDICATES PLAT BOOK
- C1 INDICATES CURVE 1 OF THE CURVE TABLE
- L1 INDICATES LINE 1 OF THE LINE TABLE
- NE#1 INDICATES COORDINATE #1 OF THE COORDINATE TABLE

THIS IS NOT A SURVEY

sketch

RICHARD M. RITZ
REGISTERED LAND SURVEYOR
FLORIDA CERTIFICATION NO. 4000

THIS SKETCH IS NOT VALID UNLESS IT BEARS THE SIGNATURE AND ORIGINAL AMSEID SEAL OF A FLORIDA PROFESSIONAL SURVEYOR AND MAPPER.
—PREPARED NOVEMBER 2, 2008.

PREPARED BY:

Banks Engineering

ENGINEERING, SURVEYING & LAND PLANNING

2018 NORTHERNBLVD PLAZA DRIVE - SUITE 200

NAPLES, FLORIDA 34119

(888) 887-8061

FLORIDA SURVEYING BUSINESS CERTIFICATION NO. 8090

SHEET 3 OF 3

Banks Engineering

Professional Engineers, Planners & Land Surveyors

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Naples, Florida 34119

(239) 597-2061

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APR 27 2011

DESCRIPTION

OF A

PARCEL OF LAND

LYING IN

SECTION 34, TOWNSHIP 43 SOUTH, RANGE 24 EAST

LEE COUNTY, FLORIDA

(RPD ZONING DESCRIPTION)

COMMUNITY DEVELOPMENT

A TRACT OR PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, LYING IN SECTION 34, TOWNSHIP 43 SOUTH, RANGE 24 EAST AND BEING FURTHER BOUNDED AND DESCRIBED AS FOLLOWS:

NORTH RPD PARCEL:

COMMENCING AT THE INTERSECTION OF THE WESTERLY RIGHT-OF-WAY LINE OF U.S. 41 (STATE ROAD 45) (200 FEET WIDE) AND THE SOUTHERLY RIGHT-OF-WAY LINE OF LITTLETON ROAD (50 FEET WIDE) THENCE 94.14 FEET ALONG SAID WESTERLY RIGHT-OF-WAY LINE AND ALONG THE ARC OF A CURVE CONCAVE TO THE SOUTHEAST HAVING A RADIUS OF 5829.58 FEET AND SUBTENDED BY A CHORD HAVING A LENGTH OF 94.14 FEET AND BEARING S.03°47'10"W. TO A POINT OF TANGENCY; THENCE S.03°25'50"W. ALONG SAID WESTERLY RIGHT-OF-WAY LINE FOR 2338.37 FEET; THENCE N.89°54'50"W. FOR 500.85 FEET; THENCE N.03°25'50"E. FOR 53.49 FEET TO THE POINT OF BEGINNING; THENCE S.89°51'48"W. FOR 1145.24 FEET; THENCE S.00°08'12"E. FOR 250.00 FEET TO AN INTERSECTION WITH THE NORTHERLY RIGHT-OF-WAY LINE OF DIPLOMAT PARKWAY (100 FEET WIDE) AS DESCRIBED IN OFFICIAL RECORDS BOOK 2833 AT PAGE 4156 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE S.89°51'48"W. ALONG SAID NORTHERLY RIGHT-OF-WAY LINE FOR 80.00 FEET; THENCE N.00°08'12"W. FOR 250.00 FEET; THENCE S.89°51'48"W. FOR 257.48 FEET; THENCE N.00°20'36"W. FOR 703.76 FEET; THENCE N.85°23'00"E. FOR 335.22 FEET; THENCE N.02°25'15"W. FOR 346.19 FEET; THENCE S.89°54'50"E. FOR 1231.65 FEET; THENCE S.03°25'50"W. FOR 1073.15 FEET TO THE POINT OF BEGINNING.

PARCEL CONTAINS 35.18 ACRES, MORE OR LESS.

AND;

SOUTH RPD PARCEL:

COMMENCING AT THE INTERSECTION OF THE WESTERLY RIGHT-OF-WAY OF U.S. 41 (STATE ROAD 45) (200 FEET WIDE) AND THE SOUTHERLY RIGHT-OF-WAY OF LITTLETON ROAD (50 FEET WIDE) THENCE 94.14 FEET ALONG THE WESTERLY RIGHT-OF-WAY AND ALONG THE ARC OF A CURVE CONCAVE TO THE SOUTHEAST HAVING A RADIUS OF 5829.58 FEET AND SUBTENDED BY A CHORD HAVING A LENGTH OF 94.14 FEET AND BEARING S.03°47'10"W. TO A POINT OF TANGENCY; THENCE S.03°25'50"W. ALONG SAID WESTERLY RIGHT-OF-WAY LINE FOR 2338.37 FEET TO THE SOUTHEASTERLY CORNER OF A PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 1972 AT PAGE 335 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE CONTINUE S.03°25'50"W. ALONG SAID WESTERLY RIGHT-OF-WAY LINE FOR 728.95 FEET TO THE NORTHEAST CORNER OF A PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 2113 AT PAGE 1590 OF SAID PUBLIC RECORDS, ALSO BEING THE NORTHEAST CORNER OF MERCHANTS CROSSING, A SUBDIVISION RECORDED IN PLAT BOOK 52 AT PAGES 37 THROUGH 47 OF SAID PUBLIC RECORDS; THENCE N.86°34'10"W. ALONG THE NORTH LINE OF SAID PARCEL AND SAID SUBDIVISION FOR 616.50 FEET TO THE POINT OF

SHEET 1 OF 3

S:\Jobs\20xx\2028\SURVEY\Descriptions\Zoning\2028 ZONING RPD REV DESC.doc

Fort Myers Office

10511 Six Mile Cypress Pkwy, Suite #101

Fort Myers, Florida 33966

(239) 939-5490

Fax (239) 939-2523

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

EXHIBIT "A"

(Page 4 of 6)

RECEIVED
APR 27 2011

BEGINNING; THENCE CONTINUE N.86°34'10"W. ALONG SAID NORTHERLY LINE FOR 33.50 FEET TO THE NORTHWEST CORNER OF SAID PARCEL; THENCE S.48°25'48"W. ALONG THE WESTERLY LINE OF SAID PARCEL AND SAID SUBDIVISION FOR 212.13 FEET; THENCE S.03°25'50"W. ALONG THE WESTERLY LINE OF SAID PARCEL AND SAID SUBDIVISION FOR 100.00 FEET TO THE SOUTHWESTERLY CORNER OF SAID PARCEL AND TO THE SOUTH LINE OF A PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 2389 AT PAGE 1936 OF SAID PUBLIC RECORDS; THENCE N.86°34'10"W. ALONG THE SOUTH LINE OF SAID PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 2389 AT PAGE 1936 AND THE NORTHERLY LINE OF SAID SUBDIVISION FOR 747.11 FEET TO AN INTERSECTION WITH THE NORTHEASTERLY LINE OF A DRAINAGE EASEMENT (50 FEET WIDE) DESCRIBED IN DEED BOOK 237 AT PAGES 564 AND 565 OF SAID PUBLIC RECORDS; THENCE N.28°32'51"W. ALONG THE NORTHEASTERLY LINE OF SAID DRAINAGE EASEMENT FOR 666.39 FEET TO AN INTERSECTION WITH THE SOUTHERLY RIGHT-OF-WAY LINE OF DIPLOMAT PARKWAY (100 FEET WIDE) AS DESCRIBED IN OFFICIAL RECORDS BOOK 2833 AT PAGE 4156 OF SAID PUBLIC RECORDS; THENCE N.89°51'48"E. ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE FOR 765.84 FEET; THENCE S.00°08'12"E. FOR 186.04 FEET; THENCE N.59°04'35"E. FOR 185.65 FEET; THENCE S.76°11'27"E. FOR 125.61 FEET; THENCE S.41°41'10"E. FOR 153.30 FEET TO AN INTERSECTION WITH THE WESTERLY LINE OF A PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 2833 AT PAGE 4156 OF SAID PUBLIC RECORDS; THENCE S.00°08'12"E. ALONG THE WESTERLY LINE OF SAID PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 2833 AT PAGE 4156 FOR 38.64 FEET TO THE BEGINNING OF A CURVE TO THE LEFT HAVING A RADIUS OF 120.00 FEET; THENCE SOUTHEASTERLY ALONG SAID WESTERLY LINE AND SAID CURVE THROUGH A CENTRAL ANGLE OF 86°25'24" FOR 181.00 FEET TO THE POINT OF BEGINNING.

PARCEL CONTAINS 12.47 ACRES, MORE OR LESS.

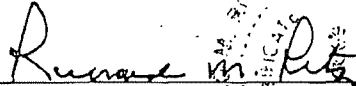
DCI 2010-00015

NET ACREAGE IS 47.65 ACRES, MORE OR LESS.

BEARINGS ARE BASED ON THE WESTERLY RIGHT-OF-WAY OF U.S. 41 (STATE ROAD 45) AS BEARING S.03°25'50"W.

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

DESCRIPTION PREPARED NOVEMBER 2, 2006.


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

Applicant's Legal Checked
by CST 11/6/06



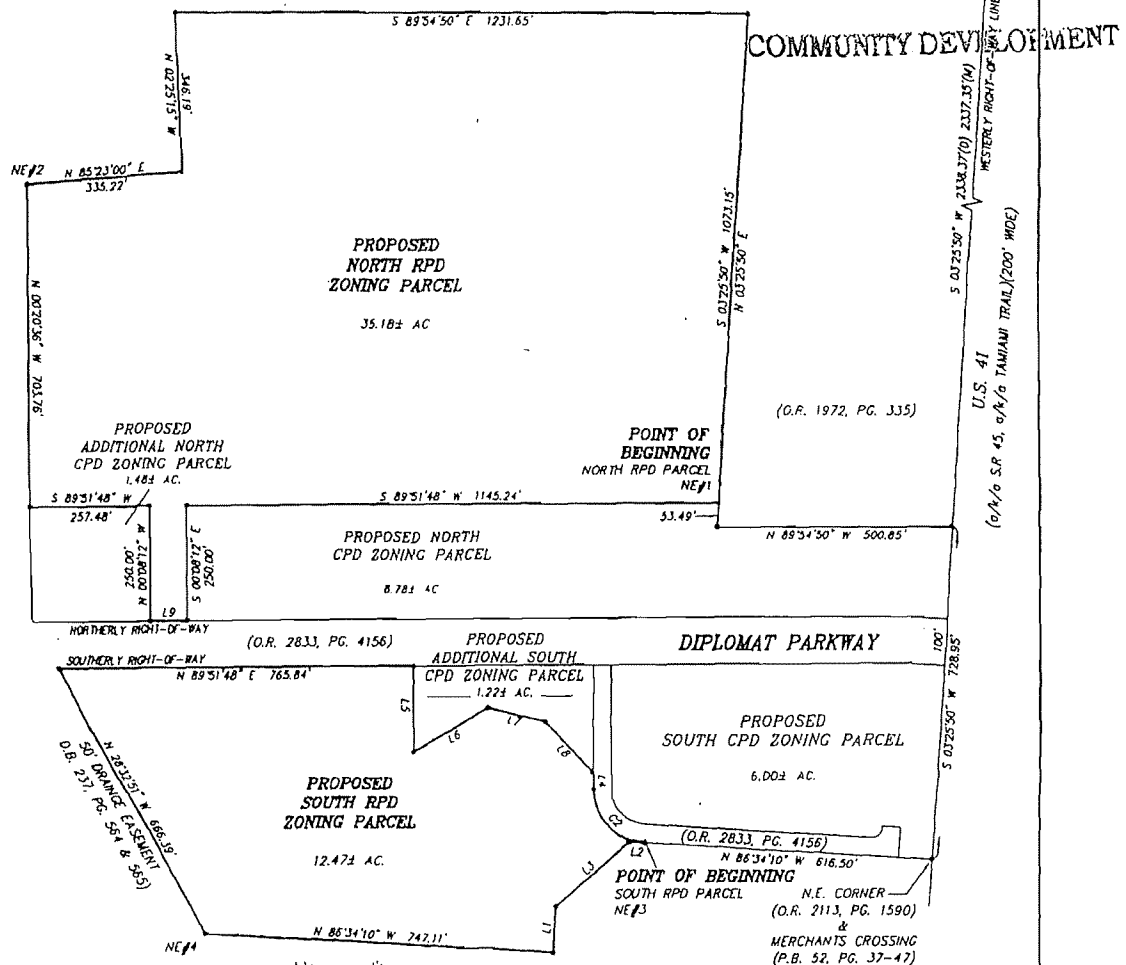
OF A
PARCEL OF LAND
LYING IN
SECTION 34, TOWNSHIP 43 SOUTH, RANGE 24 EAST
LEE COUNTY, FLORIDA

LINE TABLE		
LINE	BEARING	DISTANCE
L1	S 03°25'30" W	100.00'
L2	N 86°34'10" W	33.50'
L3	S 48°25'48" W	212.13'
L4	S 00°08'12" E	38.64'
L5	S 00°08'12" E	186.04'
L6	N 59°04'35" E	185.65'
L7	S 76°11'27" E	125.61'
L8	S 41°41'10" E	153.30'
L9	S 89°51'48" W	80.00'

CURVE TABLE					
CURVE	RADIUS	DELTA	ARC	CHORD	CHORD BEARING
C1	5829.58'	00°35'31"	94.14'	94.14'(0)	S 03°47'10" W(0)
				94.23'(M)	S 03°50'44" W(M)
C2	120.00'	86°23'24"	181.00'	184.33'	N 43°20'34" W

POINT	NORTHING	EASTING
NE#1	856502.08	68783
NE#2	857282.30	68634
NE#3	855837.18	68767
NE#4	855643.31	68673

APR 27 2011



NOTES:

- NOTES:
1. SET ACCOMPANYING SHEETS FOR COMPLETE NOTES AND BOUNDS DESCRIPTION.
 2. STATE PLANE COORDINATES (FLORIDA ZONE WEST) SHOWN HEREON ARE BASED ON NAD83 AND ARE FOR GIS PURPOSES ONLY.
 3. BEARINGS ARE BASED ON THE WESTERLY RIGHT-OF-WAY OF U.S. 41 AS 5.0325°30'W.

LEGEND:

- LEGEND:
- | | |
|------|---|
| D.R. | INDICATES OFFICIAL RECORDS BOOK OF LEE COUNTY |
| P.G. | INDICATES PAGE NUMBER |
| C1 | INDICATES CURVE 1 OF THE CURVE TABLE |
| L1 | INDICATES LINE 1 OF THE LINE TABLE |
| M#1 | INDICATES COORDINATE #1 OF THE COORDINATE TABLE |
| P.B. | INDICATES PLAT BOOK |
| D.B. | INDICATES DEED BOOK |
| (D) | INDICATES DEED |
| (M) | INDICATES MEASURED |

THIS IS NOT A SURVEY

RICHARD W. RITZ
REGISTERED LAND SURVEYOR
FLORIDA CERTIFICATION NO. 4509

- THIS SKETCH IS NOT VALID UNLESS IT BEARS THE SIGNATURE AND ORIGINAL RAISED SEAL OF A FLORIDA PROFESSIONAL SURVEYOR AND MAPPER

—PREPARED NOVEMBER 2, 2008.

PREPARED BY:

Banks Engineering

ENGINEERING, SURVEYING & LAND PLANNING

2318 NORTHBROOK PLAZA DRIVE - SUITE 200
NORTHBROOK, ILLINOIS 60062

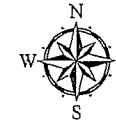
(23W) 597-2081

FLORIDA SURVEYING BUSINESS CERTIFICATION NO. 8890

SHEET 3 OF 3

Zoning Map

DCI2010-00015



Mapped: 4/29/11

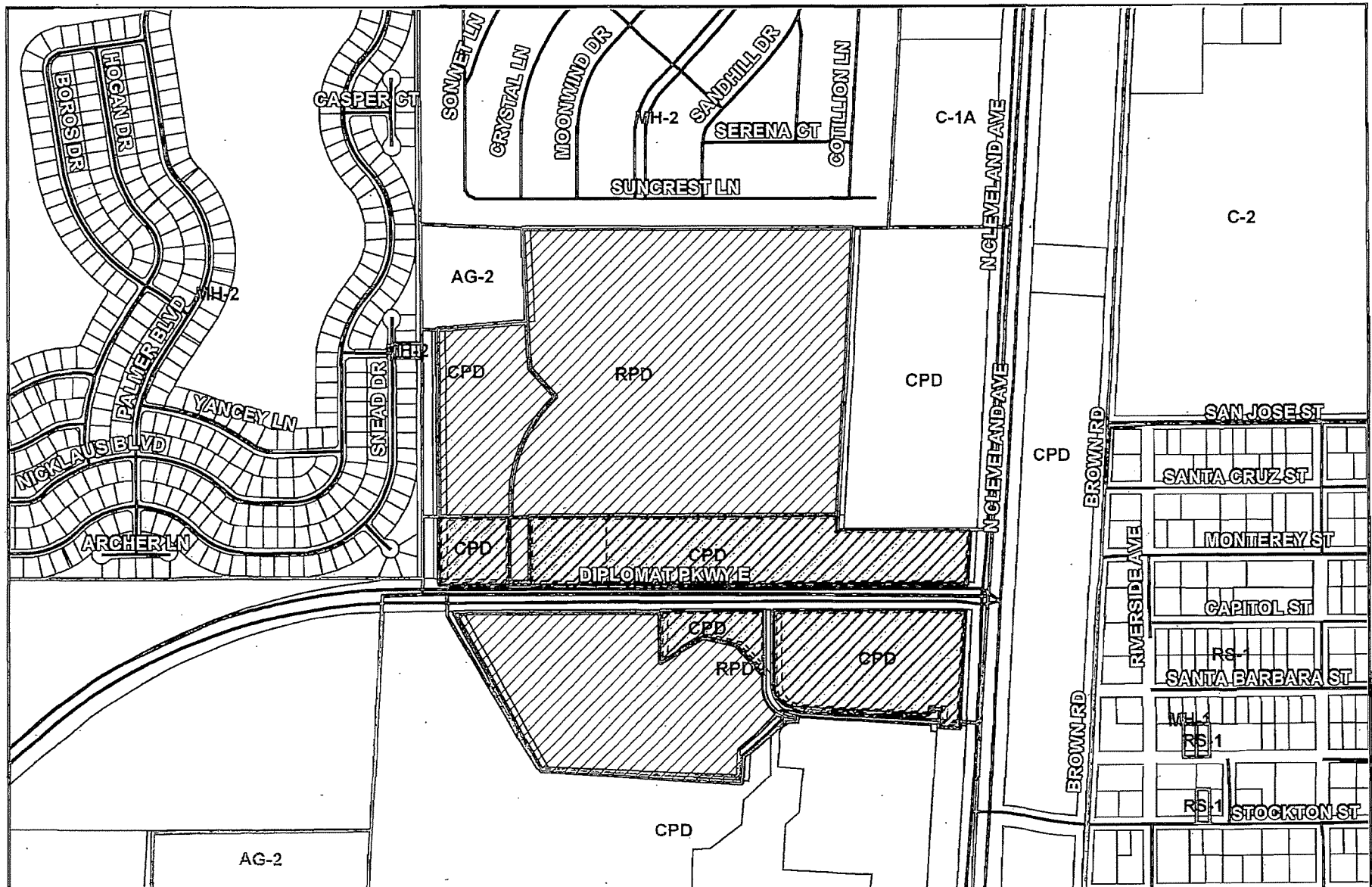


EXHIBIT "B"



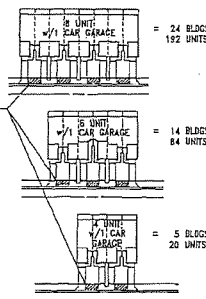
 = RESIDENTIAL, INDIGENOUS
 = COMMERCIAL, INDIGENOUS
 = DEVIATION
 PLEASE REFER TO SCHEDULE OF DEVIATIONS AND JUSTIFICATIONS

OPEN SPACE CALCULATIONS (NOT FOR COMMERCIAL/USE CATEGORY OPEN SPACE FOR RESIDENTIAL)				
TRACT	AREA	PERCENTAGE REQUIRED	OPEN SPACE REQUIRED	PERCENTAGE PROVIDED
COMMERCIAL 1	1.67 AC	8.33 AC 15%	0.22 AC/2	0.22 AC/2
COMMERCIAL 2	1.67 AC	8.33 AC 15%	0.22 AC/2	0.22 AC/2
COMMERCIAL 3	7.31 AC	1.19 AC 15%	1.19 AC/2	1.19 AC/2
COMMERCIAL 4	7.22 AC	1.04 AC 15%	1.04 AC/2	1.04 AC/2
MULTIFAMILY NORTH	33.33 AC	7.29 AC 15%	7.29 AC/2	7.29 AC/2
MULTIFAMILY SOUTH	13.11 AC	2.61 AC 15%	2.61 AC/2	2.61 AC/2
TOTALS	66.94 AC	13.76 AC	13.76 AC/2	13.76 AC/2

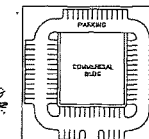
TRACT	12.25 AC	12.25 AC	12.50 AC (4)	12.50 AC (4)
10. MINIMUM OPEN SPACE AREA IS PROVIDED ON SOUTHERN PORTION OF DEVELOPMENT (12.50 ACRES TOTAL PROVIDED) AND IS TO PROVIDE TOTAL REQUIRED MINIMUM OPEN SPACE FOR ALL TRACTS.				
11. OPEN (NON-IMPERVIOUS) OPEN SPACE SHALL BE PROVIDED ON THE RESPECTIVE TRACT AND SHALL BE DOWNSIZED TO THE MINIMUM REQUIRED OPEN SPACE FOR EACH TRACT.				

2)POTENTIAL NOTES:
 *150K CREDIT FOR MINIMUM 3 ACRES AND 100' WIDTH PER LDC SECTION 10-4150(X)(2).
 *125K CREDIT FOR MINIMUM 1 ACRE AND 75' WIDTH PER LDC SECTION 10-4150(X)(2). AND ADDITIONAL 10K CREDIT FOR PRESERVATION ADJACENT TO ROADWAY PER LDC SECTION 10-4150(X)(2).
 *10K CREDIT FOR CONNECTION TO OFFSITE ENVIRONMENTAL CONTAMINATION OR PRESERVE AREAS PER LDC SECTION 10-4150(X)(2).

TYPICAL RESIDENTIAL BUILDING LEGEND:


$$= 295 \text{ UNIT}$$

ADD 2007-00169



RECEIVED
JAN 30 2008
FRONT COVER

ALL DEVIATIONS REQUESTED AND APPROVED
WITH Z-08-004 REMAIN IN EFFECT.

PROPOSED ADDITIONAL DEVIATIONS:

△ A DEVIATION FROM LDC 10-261 WHICH
REQUIRES MULTI-FAMILY PROJECTS TO PROVIDE
SUFFICIENT CURB SPACE FOR GARBAGE
CONTAINERS (DUMPSTERS) TO ALLOW CURB
SIDE PICK UP FOR THE UNITS.

POSSIBLE LOCATION OF FUTURE
EXIT CONNECTION THROUGH COMMERCIAL

REGGIONI

U.S. 41

AG-2
CENTRAL URDA
VACANT

ADD 2007-00169

APPROVED
Amendment to
Master Concept Plan
Case # ADD2007-00169
Date 2/1/2008

Blank Engineering

MASTER CONCEPT PLAN
DIPOLMAT PARCEL

DATE	PROJECT	SAVED	EDISON	BAILEY (CROOK)	BOUL	SHEET	OF	FILE NO. (S-T-P)
------	---------	-------	--------	----------------	------	-------	----	------------------

DATE _____

ADMINISTRATIVE AMENDMENT (PD) ADD2019-00085

ADMINISTRATIVE AMENDMENT
LEE COUNTY, FLORIDA

WHEREAS, Habitat Diplomat North, LLC filed an application for an administrative amendment to a Residential Planned Development and Commercial Planned Development on a project known as Diplomat North to clarify Condition 1 of Resolution Z-11-002 that the northerly 35.2 acres may be optionally developed with RPD uses or ALF/CCF with or without the 5.43-acre CPD Parcel on property located North of Diplomat Parkway East, North Fort Myers Planning Community; and

WHEREAS, the applicant has indicated that the property's current STRAP number is 34-43-24-00-00001.3030 (see Exhibit "A"); and

WHEREAS, the subject property is located in the Central Urban Future Land Use Category and Mixed Use Overlay as designated by the Lee County Comprehensive Plan (Lee Plan); and

WHEREAS, the property was originally rezoned by Resolution Z-06-004 (with subsequent amendments in case number ADD2007-00169 and Resolution Z-11-002); and

WHEREAS, Zoning Resolution Z-06-004 approved a rezoning of the subject property from Agricultural (AG-2) to Residential Planned Development (RPD) and Commercial Planned Development (CPD) to allow a maximum of 468 dwelling units, 200,000 square feet of commercial floor area and 120 hotel rooms on property north and south of Diplomat Parkway East (see Exhibit "E"); and

WHEREAS, ADD2007-00169 approved amendments to the Master Concept Plan (MCP) and property development regulations pertaining to lot areas and dimensions for townhouse dwelling unit types with one deviation from required on-site space for the placement of garbage and recycling containers or receptacles (see Exhibit "D") and

WHEREAS, Zoning Resolution Z-11-002 approved an amendment to Resolution Z-06-005 (as amended by ADD2007-00169) to permit an optional Assisted Living Facility (ALF)/Continuing Care Facility (CCF) and standard dwelling units with up to 50,000 square feet of medical office for the northerly 35.2 acre RPD portion of the project (north of Diplomat Parkway East (see Exhibit "C"); and

WHEREAS, Condition 1 of Resolution Z-11-002 notes "the portion of the project on the north side of Diplomat parkway includes Commercial Development parcels 1, 2 and 3 (West 3 and East 3). It also includes 29.75 acres that may be developed either as an RPD or ALF/CCF, with or without a commercial component on the westerly portion of the site identified as the 5.43-acre North CPD Parcel"; and

WHEREAS, Condition 1 also states development must be substantially consistent with the 1-page Master Concept Plan entitled “Diplomat Property RPD/CPD (North Parcel)” AND the 1-page Master Concept Plan (MCP) entitled “Master Concept Plan, Diplomat Parcel, Lee County, Florida”; and

WHEREAS, the 5.43-acre North CPD Parcel is identified on the amendment area inset map depicted on the Master Concept Plan entitled “Diplomat Property RPD/CPD (North Parcel)”; and

WHEREAS, both Master Concept Plans depict the 35.2± acres of land north of Diplomat Parkway East with alternate development scenarios as follows:

- ALF/CCF, Medical Office and Standard Residential Units (Z-11-002); or
- ALF/CCF and Medical Office (Z-11-002 Alternate ALF/CCF Inset); or
- Solely Standard Residential Units (ADD2007-00169); and

WHEREAS, Condition 1 of Z-11-002 as written is unclear that the intent is to allow the northerly 35.2 acres be optionally developed with RPD uses or ALF/CCF with or without commercial; and

WHEREAS, the applicant wishes to proceed with development under the Master Concept Plan approved by ADD2007-00169 (see Attachment “D”) entitled “Diplomat Parcel, Lee County, Florida”, without a commercial component on the westerly portion of the site identified as the 5.43-acre North CPD Parcel, which results in an overall decrease in development intensity on the subject property; and

WHEREAS, the requested amendment would be limited to clarify Condition 1 of Resolution Z-11-002; and

WHEREAS, the Lee County Land Development Code provides for certain administrative changes to planned development master concept plans and planned unit development final development plans; and

WHEREAS, the subject application and plans have been reviewed by the Lee County Department of Community Development in accordance with applicable regulations for compliance with all terms of the administrative approval procedures; and

WHEREAS, it is found that the proposed amendment does not increase density or intensity within the development; does not decrease buffers or open space required by the LDC; does not underutilize public resources or infrastructure; does not reduce total open space, buffering, landscaping or preservation areas; and does not otherwise adversely impact on surrounding land uses.

NOW, THEREFORE, IT IS HEREBY DETERMINED that the application for administrative approval for an amendment to Residential Planned Development and Commercial Planned Development is **APPROVED**.

Approval is subject to the following conditions:

1. This approval is limited to clarify Condition 1 of Z-11-002 that the northerly 35.2 acres may be optionally developed with RPD uses or ALF/CCF with or without the 5.43-acre CPD Parcel and is hereby amended in strikethrough and underline as follows:

Development must be substantially consistent with the 1-page Master Concept Plan (MCP) entitled "DIPLOMAT PROPERTY RPD/CPD (NORTH PARCEL)," dated 09-22-10, last revised 4-22-11 and date-stamped "Received APR 27 2011 Community Development" AND OR the 1-page MCP entitled "Master Concept Plan, DIPLOMAT PARCEL, Lee County, Florida," dated 08-27-2007, last revised 01-23-2008 and date-stamped "Received JAN 30 2008 Permit Counter," except as modified by the conditions below.

NOTE: The portion of the project on the north side of Diplomat Parkway includes Commercial Development Parcels 1, 2 and 3 (West 3 and East 3). It also includes a ~~29.75 acres~~ 35.2 acre site that may be developed either as an ~~RPD with RPD uses~~, or and and/or ALF/CCF, with or without a commercial component on the westerly portion of that site identified as the 5.43-acre North CPD Parcel.

2. The terms and conditions of the original zoning resolutions remain in full force and effect, except as amended herein.
3. If it is determined that inaccurate or misleading information was provided to the County or if this decision does not comply with the LDC when rendered, then, at any time, the Zoning Manager may issue a modified decision that complies with the Code or revoke the decision. If the approval is revoked, the applicant may acquire the necessary approvals by filing an application for public hearing in accordance with Chapter 34.

Duly passed, adopted, and electronically signed on 8/16/2019 by

Audra Ennis, Zoning Manager
Lee County Community Development

Exhibits

- Exhibit A: Legal Description
- Exhibit B: Applicant's Narrative
- Exhibit C: Resolution Z-11-002
- Exhibit D: Administrative Amendment ADD2007-00169
- Exhibit E: Resolution Z-06-004

EXHIBIT A

CASE NUMBER: ADD2019-00085

STRAP NUMBER

34-43-24-00-00001.3030

REVIEWED
ADD2019-00085
Daniel Munt, Planner
Lee County DCD
6/18/2019

Exhibit B



Professional Engineers, Planners & Land Surveyors



Diplomat North Property RPD/CPD
Minor Administrative Amendment to Planned Development
Narrative of Request

Request Summary

The applicant is requesting a minor administrative amendment to the approved Diplomat Property Residential Planned Development (RPD)/Commercial Planned Development (CPD) to codify and clarify condition 1 that the north 5.43-acre optional CPD allows residential development including single-family, duplex, two-family attached, multifamily and townhomes.

The applicant has verified this interpretation with the Zoning Manager and believes that the language is clear and is requesting clarification to avoid any confusion in the future.

Background and Approval History

The subject property is located on the north side of Diplomat Parkway East, just west of its intersection with N. Cleveland Ave/U.S. 41. The site is located in the Central Urban future land use category and within the Mixed Use Overlay within the North Fort Myers planning community.

The property is a ±38-acre portion of the ±65-acre Diplomat Property RPD/CPD which received zoning approval via Zoning Resolution Z-06-004. The project was approved for a maximum of 457 dwelling units and 200,000 square feet of commercial of which 100,000 square feet could be retail.

The original zoning approval was later amended administratively by ADD2007-00169 which amended the Master Concept Plan, revised the site development regulations for townhouses and added a deviation to allow curbside garbage pickup.

On March 21, 2011, an amendment to the northern ±35.2-acre RPD was approved for a maximum of 400 assisted living facility beds, 138 standard dwelling units, a maximum 50,000 square feet of medical office space including a conversion table and an amendment to the master concept plan.

Condition 1 on page 2 of Z-11-002 states the following which the applicant submits makes it clear that residential is permitted on the north 5.43-acre optional CPD area:

- Development must be substantially consistent with the new master concept plan AND the master concept plan previously approved by ADD2007-00169

• SERVING THE STATE OF FLORIDA •

- The following text is in bold text within the resolution “NOTE: The portion of the project on the north side of Diplomat Parkway includes Commercial Development Parcels 1, 2 and 3 (West 3 and East 3). It also includes a 29.75 acres that may be developed either as an RPD, or and ALF/CCF, with or without a commercial component on the westerly portion of that site identified as the 5.43 acre North CPD parcel.”

Z-11-002, states that it is an amendment to the RPD/CPD and does not state anywhere that it is a rezoning a portion of the RPD to CPD. The legal descriptions attached to the resolution are the same RPD/CPD approved with the 2006 resolution and do not include a description for the north 5.43 acre CPD parcel. The 5.43 acre CPD is only depicted on the alternate MCP approved for the ALF/CCF.

ZVL2018-10080 was issued on December 21, 2018 stating that residential dwelling units were not allowed within the 5.43-acre CPD.

The ZVL determination would make the existing development order for residential development on the northern RPD (DOS2007-00255) for the property that is valid until 2023 inconsistent with the zoning since residential is not currently shown in the schedule of uses for the 5.43-acre north CPD. This was clearly not the intent of the rezoning which would be to add alternate entitlements to the property not remove existing entitlements. The alternate development plan approved by the 2011 zoning resolution never received development order approval. Residential development on the 5.43-acres would be less intense than 50,000 square feet of medical office.

A meeting was held on February 27, 2019 with Zoning staff, Zoning Manager and County Attorney’s office to discuss the existing development order approval and that no paperwork to revoke the existing development order was provided during the zoning amendment. The currently approved residential development order furthers the fact that residential development is still allowed on the entire North RPD zoning area, including the 5.43-acre optional CPD.

An email was received from the Zoning Manager on March 7, 2019 that “Staff is in agreement that the 5.43 CPD area may be used for residential development as noted in Condition 1 of Z-11-002.”

LDC Consistency/Minimal Modification

LDC Section 34-377(a)(5) in part provides that applications for administrative approval will be processed as administrative amendments in accordance with Section 34-380. This section also states that administrative amendments may be granted by the Director upon a finding that public health, safety, and welfare will not be adversely affected by the request. LDC Section 34-380(a) provides that amendments to an approved master concept plan or its attendant documentation may be requested at any time during the development of or useful life of a planned development. LDC Section 34-380(b) provides that the Director may approve any change to the development that does not increase height, density or intensity (i.e., number of dwelling units or quantity of commercial or industrial floor area) except as permitted in chapter 2. This section of the code further specifies that “the Director may not approve a change that will: (1) Result in the substantial underutilization of public resources and public infrastructure committed to the support of the development; (2) Result in a reduction of total open space provided on the master concept plan

by more than ten percent or that would decrease the amount of indigenous native vegetation or open space required by the Code; (3) Decrease preservation areas. Changes to buffer or landscaping areas are permitted but must provide equivalent or better (by comparison with the approved Master concept plan) landscape or buffering; or (4) Adversely impact surrounding land uses.”

Conclusions

The request is consistent with the administrative amendment requirements contained in LDC Section 34-380(b). No changes are proposed to the existing intensity approved for the development. The request is simply to codify and clarify condition 1 that the north 5.43-acre CPD allows residential development including single-family, duplex, two-family attached, multifamily and townhomes. The proposed amendment does not increase the height, density or intensity within the development; does not underutilize public resources or infrastructure, does not reduce open space, does not decrease preservation areas or buffers; and does not adversely impact surrounding land uses. The requested amendment is a minimal necessary modification to the already approved planned development to allow the project to proceed with development. The proposed modifications do not change the fact that the project is consistent with the Lee Plan and the LDC.

Exhibit C

RESOLUTION NUMBER Z-11-002

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

WHEREAS, an application was filed by the property owner, Athyrio Development Associates, LLC, to amend the northerly 35.2± acres Residential Planned Development (RPD) portion of the Diplomat Property Residential Planned Development/Commercial Planned Development (RPD/CPD); and,

WHEREAS, a public hearing was advertised and held on January 6, 2011, with the record held open until January 14, 2011, for written submissions, before the Lee County Zoning Hearing Examiner, who gave full consideration to the evidence in the record for Case DCI2010-00015; and

WHEREAS, a second public hearing was advertised and held on March 21, 2011, before the Lee County Board of Commissioners, who gave full and complete consideration to the recommendations of the staff, the Hearing Examiner, the documents on record and the testimony of all interested persons.

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

SECTION A. REQUEST

The applicant filed a request to amend the 35.2± acres RPD portion of the Diplomat Property RPD/CPD to permit a maximum of 400 assisted living facility beds, 138 standard dwelling units, a maximum of 50,000 square feet of medical office space, and to make other changes to the master concept plan (MCP) including reconfiguration of a lake, changes to the buffer to the west, and additional details including the placement commercial and residential buildings. Maximum building height requested is 50 feet. No development blasting is requested. Any development will connect to public potable water and public sanitary sewer service. The property is located in the Central Urban Future Land Use Category and is legally described in attached Exhibit A. The request is APPROVED, SUBJECT TO the conditions and deviations specified in Sections B and C below.

SECTION B. CONDITIONS:

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

03-21-11 Z

1. Development must be substantially consistent with the 1-page Master Concept Plan (MCP) entitled "DIPLOMAT PROPERTY RPD/CPD (NORTH PARCEL)," dated 09-22-10, last revised 4-22-11 and date-stamped "Received APR 27 2011 Community Development" AND the 1-page MCP entitled "Master Concept Plan, DIPLOMAT PARCEL, Lee County, Florida," dated 08-27-2007, last revised 01-23-2008 and date-stamped "Received JAN 30 2008 Permit Counter," except as modified by the conditions below.

NOTE: The portion of the project on the north side of Diplomat Parkway includes Commercial Development Parcels 1, 2 and 3 (West 3 and East 3). It also includes a 29.75 acres that may be developed either as an RPD, or and ALF/CCF, with or without a commercial component on the westerly portion of that site identified as the 5.43 acre North CPD Parcel.

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

Maximum Number of Dwelling Units (North RPD Parcel): 138 dwelling units plus a maximum of 400 beds for assisted living facilities/continuing care facilities. Dwelling units may be converted per Table "B" of the approved MCP.

Maximum Number of Dwelling Units (South RPD parcel): 105 dwelling units. An additional 21 units may be constructed if they are marketed at a price point that is affordable to moderate income households at the time of building permit application. Further, the additional 21 units may only be sold to buyers who qualify as a moderate income household at time of purchase. Moderate income household means 120 percent of the yearly median income based on yearly income levels developed for the SHIP Program by the Housing Section of the Lee County Division of Planning.

Eight (8.0) dwelling units per acre maximum, for the 13.19 acres of RPD (South of Diplomat Parkway). An additional 1.6 units per acre may be constructed subject to the affordability requirements above.

Maximum Commercial Floor Area (North CPD Parcel): 50,000 square feet of medical office. Medical office may be converted per Table "B" of the approved MCP.

Maximum Total Commercial Floor Area (CPD Parcels 1, 2, 3 and 4): 200,000 square feet of commercial uses. A maximum of 100,000 s/f of which may be retail.

Retail development is limited to Parcel 4 (which meets Commercial Site Location standards). Retail development is not permitted on Commercial Parcels 1, 2 or 3 (which do not meet Site Location standards).

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

a. **SCHEDULE OF USES**

RPD- South of Diplomat Parkway

- Accessory Uses and Structures
- Administrative Office
- Clubs, Private - as shown on the approved MCP.
- Community Garden
- Dwelling Units, single-family, duplex, two-family attached, multiple-family and townhomes - 105 (up to 126 pursuant to Condition 1)
- Entrance Gates and Gatehouse
- Essential Services
- Essential Service Facilities, Group I only
- Excavation, Water Retention - not to include the removal of excavated material from the site. No blasting.
- Fences and Walls.
- Home Occupation, No outside help.
- Home Care Facility.
- Model Home, Model Display Center, Model Unit - ALSO SEE MODEL HOME/REAL ESTATE SALES CONDITIONS.
- Parking Lot, Accessory.
- Real Estate Sales - limited to sales of lots, homes or units within the development. Model home and club locations only. ALSO SEE MODEL HOME/REAL ESTATE SALES CONDITIONS.
- Recreational Facilities - Private, On-site only. LIMITED TO THOSE SHOWN ON THE APPROVED MCP.
- Residential Accessory Uses
- Signs, in compliance with LDC Chapter 30
- Temporary Uses, Temporary Real Estate Sales Office

CPD - Parcels 1, 2, 3 & 4 - North and South of Diplomat Parkway

Administrative Office

Animals: Clinic, Kennel, Control Center (including Humane Society) -
indoors, no outdoor runs.

Automatic Teller Machine

Auto Parts Store - No installation service.

Auto Repair and Service, Group I only

Bait and Tackle Shop

Banks and Financial Establishments, Groups I and II

Boat Part Stores

Building Material Sales (indoor only, no outdoor display)

Business Services, Groups I and II (no impound yards or
armored car services)

Cleaning and Maintenance Services

Clothing Stores, General

Communication facilities, wireless (in accordance with LDC Chapter 34,
Division 11) A wireless communication facility may be
administratively approved, provided it is co-located
on a building and the height of the tower does
not exceed 50 feet from existing grade

Community Garden (**Note:** *This use may not be utilized until such time as
the LDC is amended to permit this use in a CPD.*)

Consumption on Premises - Indoors. In conjunction with Group III
restaurants only. Outdoor Consumption on Premises
will require special exception approval (public hearing)

Contractors and Builders, Groups I and II (but not Group III)

Cultural Facilities

Day Care, Adult, Child

Department Store

Drive-through facility for any permitted use. No fast food drive-through.

Drugstore, Pharmacy (limited to 1 on Parcel 3 or 4)

Entrance Gate and Gatehouse

Emergency Operations Center

EMS, Fire or Sheriff's Station

Essential Services

Essential Service Facilities, Group I only

Excavation, Water Retention - not to include the removal of excavated
material from the site. No blasting.

Fences and Walls.

Flea Market, Indoor Only

Food and Beverage Services, Limited

Food Stores, Groups I and II

Funeral Home or Mortuary, with or without cremation

Gasoline Dispensing System, Special
Hardware Store
Health Care Facility, Groups I, II and III (but not Group IV).
Hobby, Toy and Game Store
Hotel/Motel - Limited to 120 rooms maximum.
Household and Office Furnishings - (indoor only, no outdoor display)
Insurance Companies
Lawn and Garden Supply Stores - (indoor only, no outdoor display)
Library
Medical Office
Nonstore Retailer
Paint, Glass and Wallpaper - (indoor only, no outdoor display)
Parking Lot, Accessory, Commercial, Garage, Public Parking, Temporary
Personal Services, Groups I, II, III and IV. Excluding Laundromats,
Laundry Agents, Massage Establishments, Massage
Parlors, Steam or Turkish Baths, Dating Services,
Escort Services, Palm Readers, Fortune Tellers,
Card Readers, Tattoo Parlors.
Pet Services, Pet Shops - Indoor only, no outdoor display.
No outdoor runs.
Place of Worship
Plant Nursery
Post Office
Printing and Publishing
Processing and Warehousing
Real Estate Sales Office
Religious Facilities
Rental or Leasing Establishments, Group II only (and excluding tools
and equipment primarily for home use). Indoor only.
No outdoor display.
Repair Shop, Groups I, II and III
Research and Development Laboratories, Groups I, II, III and IV
Restaurants, Groups I, II, III and IV
Restaurant, Fast Food, No stand-alone or drive-through - within
a multiple-occupancy building only.
Schools, Commercial and Non-Commercial
Signs in Accordance with LDC Chapter 30
Social Services Group I only
Specialty Retail, Groups I, II, III and IV
Storage, Indoor Only
Studios
Supermarkets

Temporary Uses

Used Merchandise, Groups I and II, Indoor only. No outdoor display.

Variety Store

RPD - North of Diplomat Parkway

Accessory Uses and Structures

Administrative Office

Assisted Living Facilities - (pursuant to Condition 1)

Clubs, Private - as shown on the approved MCP (Recreation Areas)

Community Garden

Continuing Care Facilities

Dwelling Units, single-family, duplex, two-family attached,
multifamily, townhomes - (pursuant to Condition 1)

Entrance Gates and Gatehouse

Essential Services

Essential Service Facilities, Group I only

Excavation, Water Retention - not to include the removal of
excavated material from the site. No blasting.

Fences and Walls.

Home Occupation, No outside help

Home Care Facility

Model Home, Model Display Center, Model Unit - ALSO SEE MODEL
HOME/REAL ESTATE SALES CONDITIONS.

Parking Lot, Accessory.

Real Estate Sales - limited to sales of lots, homes or units within
the development. Model home and club locations only.

ALSO SEE MODEL HOME/REAL ESTATE SALES
CONDITIONS.

Recreational Facilities - Private, On-site only. LIMITED TO
THOSE SHOWN ON THE APPROVED MCP.

Religious Facilities

Residential Accessory Uses

Signs, in compliance with LDC Chapter 30

Temporary Uses, Temporary Real Estate Sales Office

CPD - 5.43-Acre Parcel north of Diplomat Parkway

Administrative Office

Animals: Clinic, Kennel, Control Center (including Humane Society) -
indoors, no outdoor runs

Automatic Teller Machine

Banks and Financial Establishments, Groups I and II

- Business Services, Groups I and II (no impound yards or armored car services)
- Cleaning and Maintenance Services
- Communication facilities, wireless (in accordance with LDC Chapter 34, Division 11) A wireless communication facility may be administratively approved, provided it is co-located on a building and the height of the tower does not exceed 50 feet from existing grade.
- Community Garden (**Note:** *This use may not be utilized until such time as the LDC is amended to permit this use in a CPD.*)
- Cultural Facilities
- Entrance Gate and Gatehouse
- Emergency Operations Center
- EMS, Fire or Sheriff's Station
- Essential Services
- Essential Service Facilities, Group I only
- Excavation, Water Retention - not to include the removal of excavated material from the site. No blasting.
- Fences and Walls.
- Health Care Facility, Groups I, II and III (no Group IV)
- Insurance Companies
- Medical Office
- Parking Lot, Accessory
- Personal Services, Groups I and II
- Pharmacy - accessory to medical office use only
- Real Estate Sales Office
- Religious Facilities
- Research and Development Laboratories, Groups I, II, III and IV
- Schools, Commercial and Non-Commercial
- Signs in Accordance with LDC Chapter 30
- Social Services Group I only
- Temporary Uses

b. **SITE DEVELOPMENT REGULATIONS**

RPD - South of Diplomat Parkway

SINGLE-FAMILY:

Minimum Lot Areas and Dimensions

Lot Size:	7,500 square feet
Lot Width:	75 feet
Lot Depth:	100 feet

Minimum Setbacks

Street	25 feet (public)/20 feet (private)
Side	5 feet
Rear	30 feet on all lots containing enhanced buffer 20 feet on all other lots

Water body 25 feet

All Accessory Uses: Per the LDC.

Setbacks from Preserves (All structures): 25 feet, per the LDC.

Minimum Perimeter Setbacks: 25 feet
30 feet on all lots containing
an enhanced buffer

Minimum Building Separation: 10 feet.

Maximum Building Height: 35 feet/ 3 stories
Maximum Lot Coverage: 45 percent

DUPLEX, TWO-FAMILY ATTACHED, TOWNHOUSE:

Minimum Lot Areas and Dimensions

Lot Size: 7,500 square feet
Lot Width: 75 feet (37.5 per unit)
Lot Depth: 100 feet

Minimum Setbacks

Street	25 feet (public)/20 feet (private)
Side	5 feet (zero feet for common wall unit)
Rear	30 feet on all lots containing enhanced buffer 20 feet on all other lots

Water body 25 feet

All Accessory Uses: Per the LDC.

Setbacks from Preserves (All structures): 25 feet, per the LDC.

Minimum Perimeter Setbacks: 25 feet
30 feet on all lots containing
an enhanced buffer

Minimum Building Separation: 10 feet.
Maximum Building Height: 3 5 feet/ 2 stories
Maximum Lot Coverage: 45 percent.

MULTIPLE-FAMILY:

Minimum Lot Areas and Dimensions

Lot Size: 10,000 square feet
Lot Width: 100 feet
Lot Depth: 100 feet

Minimum Setbacks

Street 25 feet (public)/20 feet (private)
Side 10 feet
Rear 30 feet on all lots containing enhanced buffer
20 feet

Water body 25 feet

All Accessory Uses: Per the LDC.
Setbacks from Preserves (All structures): 25 feet, per the LDC.

Minimum Perimeter Setbacks: 25 feet
30 feet on all lots containing
an enhanced buffer

Minimum Building Separation: 20 feet.

Maximum Building Height: 35 feet/ 2 stories
Maximum Lot Coverage: 45 percent.

RECREATIONAL AREA/FACILITIES:

Minimum Lot Areas and Dimensions

Lot Size: 9,000 square feet
Lot Width: 50 feet
Lot Depth: 120 feet

Minimum Setbacks - Also see Deviation 5

Street	25 feet (public)/20 feet (private)
Side	10 feet
Rear	20 feet
Water body	25 feet
All Accessory Uses:	Per the LDC.

Setbacks from Preserves (All structures): 25 feet, per the LDC.

Minimum Perimeter Setbacks: 25 feet

Minimum Building Separation: 10 feet

Maximum Building Height:	35 feet/ 2 stories
Maximum Lot Coverage:	45 percent

CPD - PARCELS 1, 2, 3 & 4:

Minimum Lot Areas and Dimensions

Lot Size:	10,000 square feet
Lot Width:	100 feet
Lot Depth:	100 feet

Minimum Setbacks

Street	25 feet (public)/20 feet (private)
Side	10 feet
Rear	20 feet
Water body	25 feet
All Accessory Uses:	Per the LDC.

Setbacks from Preserves (All structures): 25 feet, per the LDC.

- Minimum Perimeter Setbacks: 25 feet
- Minimum Building Separation: 20 feet, but buildings exceeding 35 feet in height must maintain additional building separation as regulated by LDC §34-2174(a).
- Maximum Building Height: 50 feet/ 3 stories
35 feet/2 stories - adjacent to west boundary
- Maximum Lot Coverage: 60 percent

RPD - NORTH OF DIPLOMAT PARKWAY:

ASSISTED LIVING:

Minimum Lot Areas and Dimensions

- Lot Size: 10,000 square feet
- Lot Width: 100 feet
- Lot Depth: 100 feet

Minimum Setbacks

- Street 25 feet (public)/20 feet (private)
- Side 10 feet
- Rear 30 feet on all lots containing enhanced buffer
20 feet on all other lots

Water body 25 feet

All Accessory Uses: Per the LDC.

Setbacks from Preserves (All structures): 25 feet, per the LDC.

- Minimum Perimeter Setbacks: 25 feet
30 feet on all lots containing enhanced buffer
- Minimum Building Separation: ½ building height, but not less than 15 feet
- Maximum Building Height: 45 feet
- Maximum Lot Coverage: 45 percent

SINGLE-FAMILY:

Minimum Lot Areas and Dimensions

Lot Size: 7,200 square feet
Lot Width: 60 feet
Lot Depth: 100 feet

Minimum Setbacks

Street 25 feet (public)/20 feet (private)
Side 5 feet
Rear 30 feet on all lots containing enhanced buffer
20 feet on all other lots

Water body 25 feet

All Accessory Uses: Per the LDC.

Setbacks from Preserves (All structures): 25 feet, per the LDC.

Minimum Perimeter Setbacks: 25 feet
30 feet on all lots containing
an enhanced buffer

Minimum Building Separation: 10 feet

Maximum Building Height: 35 feet
Maximum Lot Coverage: 45 percent

DUPLEX:

Minimum Lot Areas and Dimensions

Lot Size: 7,000 square feet
Lot Width: 70 feet
Lot Depth: 100 feet

Minimum Setbacks

Street 25 feet (public)
20 feet (private)
Side 5 feet

Rear 30 feet on all lots containing enhanced buffer
 20 feet on all other lots

Water body 25 feet

All Accessory Uses: Per the LDC.

Setbacks from Preserves (All structures): 25 feet, per the LDC.

Minimum Perimeter Setbacks: 25 feet
 30 feet on all lots containing
 an enhanced buffer

Minimum Building Separation: 10 feet.

Maximum Building Height: 35 feet
Maximum Lot Coverage: 45 percent

TOWNHOME:

Minimum Lot Areas and Dimensions

Lot Size: 1,600 square feet
Lot Width: 16 feet
Lot Depth: 100 feet

Minimum Setbacks

Street 25 feet (public)
 20 feet (private)
Side 10 feet
 0 feet (for a common wall)
Rear 30 feet on all lots containing enhanced buffer
 20 feet on all other lots

Water body 25 feet

All Accessory Uses: Per the LDC.

Setbacks from Preserves (All structures): 25 feet, per the LDC.

Minimum Perimeter Setbacks: 25 feet
 30 feet on all lots containing
 an enhanced buffer

Minimum Building Separation: 20 feet
Maximum Building Height: 35 feet
Maximum Lot Coverage: 55 percent

MULTIPLE-FAMILY:

Minimum Lot Areas and Dimensions

Lot Size: 10,000 square feet
Lot Width: 100 feet
Lot Depth: 100 feet

Minimum Setbacks

Street 25 feet (public)
20 feet (private)
Side 10 feet
Rear 30 feet on all lots containing enhanced buffer
20 feet on all other lots

Water body 25 feet

All Accessory Uses: Per the LDC.

Setbacks from Preserves (All structures): 25 feet, per the LDC

Minimum Perimeter Setbacks: 25 feet

Minimum Building Separation: ½ building height, but not less than 15 feet

Maximum Building Height: 50 feet
Maximum Lot Coverage: 45 percent

RECREATION AREA/CLUBHOUSE:

Minimum Lot Areas and Dimensions

Lot Size: 9,000 square feet
Lot Width: 100 feet
Lot Depth: 100 feet

Minimum Setbacks

Street	25 feet (public) 20 feet (private)
Side	10 feet
Rear	20 feet

Water body	25 feet
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All Accessory Uses: Per the LDC.

Setbacks from Preserves (All structures): 25 feet, per the LDC.

Minimum Perimeter Setbacks: 25 feet
30 feet on all lots containing
an enhanced buffer

Minimum Building Separation: 10 feet

Maximum Building Height: 35 feet
Maximum Lot Coverage: 45 percent

CPD - 5.43-acre North CPD Parcel:

Minimum Lot Areas and Dimensions

Lot Size: 10,000 square feet
Lot Width: 100 feet
Lot Depth: 100 feet

Minimum Setbacks

Street	25 feet (public)
	20 feet (private)
Side	10 feet
Rear	20 feet
	20 feet on all other lots

Water body 25 feet

All Accessory Uses: Per the LDC

Setbacks from Preserves (All structures): 25 feet, per the LDC

Minimum Perimeter Setbacks: 25 feet

Minimum Building Separation: ½ building height not less than 15 feet

Building Height: 35 feet

Maximum Lot Coverage: 60 percent

3. **CONCURRENCY**

Approval of this rezoning does not constitute a finding that the proposed project meets the concurrency requirements set forth in LDC Chapter 2 and the Lee Plan. The developer is required to demonstrate compliance with all concurrency requirements prior to issuance of a local development order.

4. **MODEL HOME AND REAL ESTATE SALES**

Model units and homes (and real estate sales) are permitted in compliance with the following conditions:

- a. Each model must be a unique example. Multiple examples of the same unit are not permitted.
- b. All model sites must be designated on the development order plans.
- c. Prior to model home construction, the lots upon which model homes will be constructed must be shown on a preliminary plat (not the final). The preliminary plat must be filed concurrently with the local development order application. The model homes must comply with the setbacks set forth in the property development regulations for this project.
- d. Dry models are prohibited.
- e. The number of model homes or model units will be limited to no more than 10 within the development at one time.
- f. Any model homes or units must be developed within the areas identified as "models" on the approved MCP.
- g. Real estate sales within the RPD are limited to the sale of lots or units within the development only. Real Estate sales are a permitted use within the CPD.

- h. Real estate sales within the RPD are limited to within model homes or clubhouse only.
- i. Hours of operation for both models and real estate sales (within the RPD) are limited to Monday through Sunday 8:00 a.m. to 8:00 p.m.
- j. Model homes and real estate sales within the RPD will be valid for a period of up to five years from the date of issuance of a certificate of occupancy of a model home per LDC §34-1954(d)(1).

5. **NO AGRICULTURAL USES APPROVED**

No agricultural uses are permitted on site.

6. **BLASTING**

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

7. **NATIVE VEGETATION REQUIRED IN THE ENTIRE RPD AND CPD**

All required buffers must utilize 100 percent all native vegetation.

8. **ADDITIONAL BUILDING SEPARATION REQUIRED**

Buildings exceeding 35 feet in height must maintain additional building separation as regulated by LDC §34-2174(a).

9. **TRAFFIC**

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

10. **LEE PLAN**

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

11. **INTERSECTION IMPROVEMENTS**

The developer must contribute its proportionate share of the costs of intersection improvements at the time a traffic control device is warranted at the intersection of US 41 and Diplomat Road.

12. **WIRELESS COMMUNICATION FACILITIES**

- a. Freestanding wireless communication facilities (towers, including stealth type) are not permitted. Approval of freestanding wireless communication facilities will require an amendment to the planned development (public hearing).
- b. Wireless Communication Facilities (including wall-mounted and roof-mounted antennas) may be approved in accordance with LDC §34-1441, *et. seq.* (Commercial parcels only).

13. **ACCESSORY USES**

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

14. **OPEN SPACE**

Prior to local development order approval, the landscape plans must demonstrate that each commercial parcel is providing a minimum of 30 percent open space, and a minimum of 40 percent common open space is provided within the residential tract.

15. **ENVIRONMENTAL**

Prior to local development order approval, if the Florida Fish and Wildlife Conservation Commission (FWC) allows the relocation of tortoises within on-site indigenous preserves:

- a. The developer must submit a detailed indigenous preservation management plan for the Lee County Division of Environmental Sciences (DES) Staff review and approval that includes methods of maintaining the western 3.0 acres of the preserve as gopher tortoise habitat; and

- b. The landscape plans must include a permanent gopher tortoise fence along Diplomat Parkway where the three-acre gopher tortoise preserve abuts this roadway and a double staggered native hedge (minimum three-gallon container size; 24-inch height at planting; maintained at a minimum 36-inch height) planted on the roadside of the fence; and
- c. The landscape plans must delineate a double staggered native hedge (minimum three-gallon container size; 24-inch height at planting; maintained at a minimum 36-inch height) planted along the interface of the indigenous preserve with the residential tract.
- d. Prior to issuance of a Vegetation Removal Permit, all invasive exotic vegetation and manmade debris must be hand removed from the indigenous preserve.

16. **COMMERCIAL PARCELS NORTH OF DIPLOMAT PARKWAY**

Commercial buildings located within Parcels 1, 2 and the westernmost 2.3 acres of Parcel 3 are limited to a maximum of 10,000 square feet per building, and must not exceed two stories/35 feet in height. The building locations must alternate (be staggered) between the front and rear of the commercial parcels to provide a more campus-like setting. A parking plan must be devised to keep the amount of parking spaces along Diplomat Parkway to an absolute minimum. These parking areas and commercial buildings must be buffered, from Diplomat Parkway, by, at a minimum, a two-foot high berm with 10 trees and a staggered 36-inch high hedge per 100 linear feet. Applicant is strongly encouraged to utilize the commercial site locational criteria established for the Estero community.

The commercial buildings on Commercial Parcels 1, 2, and 3 must be of the same or similar architectural design and coloring as the residential buildings, to identify them as a unified project. All project identification signs (commercial and residential) must also be of the same or similar architectural design and coloring.

18. **SOLID WASTE/RECYCLING**

Prior to local development order approval for vertical development, the Developer must provide facilities in compliance with LDC §10-261 and Lee County Solid Waste Ordinance #08-10 for the pick up/disposal of solid waste and recyclables. The minimum area required for and specific locations of these facilities will be reviewed at the time of local development order application (Also see Deviation 7).

19. **PRIOR ZONING**

The terms and conditions of the original Zoning Resolution No. Z-06-004 and Administrative Amendment ADD2007-00169 are superceded by this zoning action and are rendered null and void by this approval. The terms and conditions herein apply to the entire planned development previously covered by Zoning Resolution No. Z-06-004.

20. **INDIGENOUS PRESERVATION/HERITAGE TREES (NORTH CPD PARCEL AND NORTH RPD PARCEL)**

- a. Prior to local development order approval, a tree survey must be submitted depicting the location, diameter at breast height, and species of all heritage trees within the development area.
- b. Prior to local development order approval, landscape plans must depict heritage trees, located within the development footprint, that are determined to be of good health as per a certified arborist. Those trees must be incorporated into the internal open space (i.e., perimeter planting, enlarged landscape areas, etc), or must be replaced with a 20-foot like species to a suitable open space area where final site design constraints (i.e., fill requirements, entrance roads, etc) do not allow preservation.

21. **PROTECTED SPECIES**

- a. Prior to development order approval, the Applicant must first seek approval for on-site preservation of the gopher tortoises through avoidance or relocation before pursuing off-site relocation options. All communication with FWC verifying on-site avoidance or relocation attempts were made must be provided to DES Staff.
- b. A copy of the appropriate gopher tortoise relocation permit issued by the FWC must be submitted to the DES Staff prior to excavation and moving of any gopher tortoises. The Applicant must first seek approval for an on-site relocation before pursuing off-site relocation options. Any gopher tortoises and commensal species found during burrow excavation must be moved to preserves containing suitable gopher tortoise habitat as approved by the FWC and DES Staff.

22. **OPEN SPACE (NORTH CPD PARCEL AND NORTH RPD PARCEL)**

Prior to local development order approval, the development order plans must delineate a minimum of 1.63 acres of open space for the CPD and 11.9 acres of open space for the RPD.

23. **BUFFERS (NORTH CPD PARCEL AND NORTH RPD PARCEL)**

- a. Prior to local development order approval, the development plans must demonstrate the preservation of native vegetation within the flood way. This vegetation may be utilized to meet the required type "F" buffer plantings. Upon removal of exotics from this area if it is found that the existing vegetation does not satisfy the buffer planting requirements, additional plants must be provided. These plants must be designed to mimic the natural area through the use of similar species and random planting throughout the area.
- b. An enhanced type "F" buffer must be provided as shown on the MCP. This buffer must be 30 feet in width and include 10 native canopy trees per 100 linear feet, and a double hedge row planted at 48" in height at time of planting.

24. **NATIVE PLANTINGS REQUIRED (NORTH CPD PARCEL AND NORTH RPD PARCEL)**

All required buffer plantings, general trees, and internal canopy trees must be 100 percent native species.

SECTION C. DEVIATIONS:

(Deviations 1 through 7 were previously approved and remain applicable to the RPD/CPD and are recited below. Deviation 8 is new.)

- 1. **Intersection Separation** - Deviation 1 (previously contained in Resolution Z-06-004 and ADD2007-00169) seeks relief from the LDC §10-285(a) requirement to provide a minimum access connection separation of 660 feet on an arterial road to permit an access separation of 364 feet between the project's proposed main access and the proposed exit-only access for the residential portion of the southern parcel. This deviation is **APPROVED**.

- 2. **One dead-end street permitted** - Deviation 2 (previously contained in Resolution Z-06-004 and ADD2007-00169) seeks relief from the LDC §10-296(k)(1) requirement that dead-end streets be closed at one end by a circular turn-around, to allow one dead-end street as shown on the approved MCP on the southern RPD. This deviation is APPROVED.

- 3. **Calculation for Open Space** - Deviation 3 (previously contained in Resolution Z-06-004 and ADD2007-00169) seeks relief from the LDC §10-415(b)(1)(a) requirement that large developments with indigenous vegetation communities to provide 50 percent of their open space percentage requirements through on-site preservation of existing native vegetative communities, to permit 0.45 acres of right of way to be vacated, enhanced and preserved to count toward the preservation requirement. This deviation is APPROVED, SUBJECT TO the following condition:

Prior to local development order approval for Commercial Parcel 4, the existing roadway easement depicted within the indigenous preserve must be vacated.

This deviation applies to the southern RPD and CPD.

- 4. **Installation of storm water management system** - Deviation 4 (previously contained in Resolution Z-06-004 and ADD2007-00169) seeks relief from the LDC §10-415(b)(1)a. requirement that large developments with existing indigenous native vegetation communities provide 50 percent of their open space requirement through on-site preservation of indigenous native vegetation, to allow portions of the preservation area to be disturbed and restored in order to install a storm water management system. This deviation is APPROVED, SUBJECT TO the following conditions:
 - a. Prior to local development order, the development order plans must delineate the general location of the surface water management outfall through the indigenous preserve to the canal. The outfall must be designed as an open system that can be planted with native vegetation.

 - b. Prior to issuance of a Vegetation Removal Permit, the location of the surface water management outfall through the indigenous preserve must be field staked to avoid impacting any large native trees or gopher tortoise burrows for the Division of Environmental Sciences Staff review and approval.

This deviation applies to the southern RPD and CPD.

5. **Separation from residential uses** - Deviation 5 (previously contained in Resolution Z-06-004 and ADD2007-00169) seeks relief from the LDC §34-2474(b)(6) requirement that recreation halls and ancillary facilities and private clubs be located at least 40 feet from any residential dwelling unit, to allow a 20-foot minimum separation for any recreation building from a residential dwelling unit. This deviation is APPROVED, SUBJECT TO the following condition:

Development of a recreational facility and clubhouse must be generally consistent with the location shown on the approved MCP.

This deviation applies to the recreation area shown on the RPD to the north.

- 6a. **Single ingress into the development** - Deviation 6a (previously contained in Resolution Z-06-004 and ADD2007-00169) seeks relief from the LDC §10-291(3) requirement (when practical) that residential developments of more than five acres in size provide two or more means of ingress into the development, to allow the residential portion to the north of Diplomat Parkway to be constructed with a single ingress/egress connection onto Diplomat Parkway. This deviation is APPROVED, SUBJECT TO the following conditions:

- a. Access to the residential component north of Diplomat Parkway must be generally consistent with the approved MCP; and
- b. The approved MCP and local development order must depict a minimum 70-foot-wide divided entrance on the north side of Diplomat Parkway that includes a median with two lanes on both sides of the median for ingress and egress; and
- c. Prior to issuance of a development order, the developer must provide written documentation from the North Fort Myers Fire District indicating that these access points are acceptable and provide adequate access for emergency vehicles. The development order must also include the plans for the secondary/emergency access required in the following paragraph.
- d. Prior to build-out of the north residential development, Applicant must install a secondary/emergency access from the residential tract to commercial Parcel 3, as shown on the MCP. Any emergency access gate must comply with all applicable

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

- 6b. Deviation 6b (previously contained in Resolution Z-06-004) seeks relief from the LDC §10-291(3) requirement (when practical) that residential developments of more than five acres in size provide two or more means of ingress into the development, to allow the residential portion to the south of Diplomat Parkway to be constructed with a single ingress/egress connection onto Diplomat Parkway. This deviation is APPROVED, SUBJECT TO the following conditions.
- a) Access to the residential component south of Diplomat Parkway must be generally consistent with the approved MCP; and
 - b) Any emergency access gate must comply with all applicable regulations with respect to required equipment for an emergency override mechanism at the time of installation. Additionally, if an emergency necessitates the breaking of an entrance gate, the cost of repairing the gate and the emergency vehicle (if applicable) will be the responsibility of the owner or the operator of the gate; and
 - c) Prior to issuance of a development order, the developer must provide written documentation from the North Fort Myers Fire District indicating that these access points are acceptable and provide adequate access for emergency vehicles.
7. **Curbside garbage collection for townhouse units** - Deviation 7 (previously contained in ADD2007-000169) seeks relief from the LDC §10-261 requirement that all new multiple-family residential developments to provide sufficient space for the placement of garbage containers or receptacles, to allow for curbside garbage pick up at the proposed townhouse units that are planned within the project. This deviation is APPROVED.

8. **Certain internal buffers not required** - Deviation 8 seeks relief from the LDC §10-416(d)(3) requirement that a Type C/F buffer between the proposed RPD/CPD uses internal to the development, to allow no buffer between the RPD/CPD uses where the commercial uses are separated from the residential uses within the project by a private road. This deviation is APPROVED.

SECTION D. EXHIBITS:

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

- Exhibit A: Legal description of the property
- Exhibit B: Zoning Map (with the subject parcel indicated)
- Exhibit C: The Master Concept Plan

SECTION E. FINDINGS AND CONCLUSIONS:

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

- c. the recommended conditions are reasonably related to the impacts on the public interest created by or expected from the proposed development.
- 4. Urban services, as defined in the Lee Plan, are, or will be, available and adequate to serve the proposed land use.
- 5. The approved deviations, as conditioned, enhance achievement of the planned development objectives, and preserve and promote the general intent of LDC Chapter 34, to protect the public health, safety and welfare.

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

John E. Manning	Aye
Brian Bigelow	Aye
Ray Judah	Aye
Tammara Hall	Aye
Frank Mann	Aye

DULY PASSED AND ADOPTED this 21st day of March, 2011.

ATTEST:
CHARLIE GREEN, CLERK

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: Marcia Wilson
Deputy Clerk

BY: Frank Mann
Frank Mann, Chair



Approved as to form by:

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

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DCI 2010-00015

Banks Engineering

Professional Engineers, Planners & Land Surveyors
2515 Northbrooke Plaza Drive - Suite 200
Naples, Florida 34119
(239) 597-2061
Fax (239) 597-3082

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APR 27 2011

DESCRIPTION
OF A
PARCEL OF LAND
LYING IN
SECTION 34, TOWNSHIP 43 SOUTH, RANGE 24 EAST
LEE COUNTY, FLORIDA
(CPD ZONING DESCRIPTION)

A TRACT OR PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, LYING IN SECTION 34, TOWNSHIP 43 SOUTH, RANGE 24 EAST AND BEING FURTHER BOUNDED AND DESCRIBED AS FOLLOWS:

NORTH CPD ZONNING PARCEL

COMMENCING AT THE INTERSECTION OF THE WESTERLY RIGHT-OF-WAY LINE OF U.S. 41 (STATE ROAD 45) (200 FEET WIDE) AND THE SOUTHERLY RIGHT-OF-WAY LINE OF LITTLETON ROAD (50 FEET WIDE); THENCE 94.14 FEET ALONG SAID WESTERLY RIGHT-OF-WAY LINE AND ALONG THE ARC OF A CURVE CONCAVE TO THE SOUTHEAST HAVING A RADIUS OF 5829.58 FEET AND SUBTENDED BY A CHORD HAVING A LENGTH OF 94.14 FEET AND BEARING S.03°47'10"W. TO A POINT OF TANGENCY; THENCE S.03°25'50"W. ALONG SAID WESTERLY RIGHT-OF-WAY LINE FOR 2338.37 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE S.03°25'50"W. ALONG SAID WESTERLY RIGHT-OF-WAY LINE FOR 199.95 FEET TO POINT "A" AND TO AN INTERSECTION WITH THE NORTHERLY RIGHT-OF-WAY LINE OF DIPLOMAT PARKWAY (100 FEET WIDE); THENCE N.86°35'21"W. ALONG SAID NORTHERLY RIGHT-OF-WAY LINE FOR 12.52 FEET TO THE BEGINNING OF A CURVE TO THE LEFT HAVING A RADIUS OF 2150.00 FEET; THENCE WESTERLY ALONG SAID CURVE AND ALONG SAID NORTHERLY RIGHT-OF-WAY LINE THROUGH A CENTRAL ANGLE OF 3°32'51" FOR 133.12 FEET; THENCE S.89°51'48"W. ALONG SAID NORTHERLY RIGHT-OF-WAY LINE FOR 1484.79 FEET TO POINT "B"; THENCE N.00°08'12"W. FOR 250.00 FEET; THENCE N.89°51'48"E. FOR 1145.24 FEET; THENCE S.03°25'50"W. FOR 53.49 FEET; THENCE S.89°54'50"E. FOR 500.85 FEET TO THE POINT OF BEGINNING.

PARCEL CONTAINS 8.78 ACRES, MORE OR LESS.

TOGETHER WITH: ADDITIONAL NORTH CPD ZONNING PARCEL

COMMENCING AT SAID POINT "B"; THENCE S.89°51'48"W. ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE OF DIPLOMAT PARKWAY (100 FEET WIDE) FOR 80.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE S.89°51'48"W. ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE FOR 253.42 FEET; THENCE N.28°32'51"W. FOR 6.70 FEET; THENCE N.00°20'36"W. FOR 244.12 FEET; THENCE N.89°51'48"E. FOR 257.48 FEET; THENCE S.00°08'12"E. FOR 250.00 FEET TO THE POINT OF BEGINNING.

PARCEL CONTAINS 1.48 ACRES, MORE OR LESS.

TOGETHER WITH: SOUTH CPD ZONNING PARCEL

COMMENCING AT SAID POINT "A"; THENCE S.03°25'50"W. ALONG SAID WESTERLY RIGHT-OF-WAY LINE OF U.S. 41 (STATE ROAD 45) (200 FEET WIDE) FOR 100.00 FEET TO THE POINT OF BEGINNING;

SHEET 1 OF 3

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Fort Myers Office
10511 Six Mile Cypress Pkwy, Suite #101
Fort Myers, Florida 33966
(239) 939-5490
Fax (239) 939-2523

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 Syzy, Florida 34269
(941) 625-1165
Fax (941) 625-1149

DCI 2010-00015

THENCE CONTINUE S.03°25'50"W. ALONG SAID WESTERLY RIGHT-OF-WAY LINE FOR 429.00 FEET TO THE NORTHEAST CORNER OF A PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 2113 AT PAGE 1590 OF SAID PUBLIC RECORDS, ALSO BEING THE NORTHEAST CORNER OF MERCHANTS CROSSING, A SUBDIVISION RECORDED IN PLAT BOOK 52 AT PAGES 37 THROUGH 47 OF SAID PUBLIC RECORDS; THENCE N.86°34'10"W. ALONG THE NORTH LINE OF SAID PARCEL AND SAID SUBDIVISION FOR 72.00 FEET TO THE SOUTHEAST CORNER OF A PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 2833 AT PAGE 4156 OF SAID PUBLIC RECORDS; THENCE N.03°25'50"E. ALONG THE EASTERLY LINE OF SAID PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 2833 AT PAGE 4156 FOR 65.00 FEET; THENCE N.86°33'36"W. ALONG THE NORTHERLY LINE OF SAID PARCEL FOR 39.68 FEET; THENCE S.03°26'24"W. ALONG THE WESTERLY LINE OF SAID PARCEL FOR 8.00 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT HAVING A RADIUS OF 17.00 FEET; THENCE SOUTHWESTERLY ALONG SAID PARCEL AND SAID CURVE THROUGH A CENTRAL ANGLE OF 90°00'01" FOR 26.70 FEET; THENCE N.86°33'36"W. ALONG THE NORTHERLY LINE OF SAID PARCEL FOR 487.82 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT HAVING A RADIUS OF 80.00 FEET; THENCE NORTHWESTERLY ALONG SAID PARCEL AND SAID CURVE THROUGH A CENTRAL ANGLE OF 86°25'24" FOR 120.67 FEET; THENCE N.00°08'12"W. ALONG THE EASTERLY LINE OF SAID PARCEL FOR 274.66 FEET TO POINT "C" AND TO AN INTERSECTION WITH THE SOUTHERLY RIGHT-OF-WAY LINE OF DIPLOMAT PARKWAY (100 FEET WIDE) AS DESCRIBED IN OFFICIAL RECORDS BOOK 2833 AT PAGE 4156 OF SAID PUBLIC RECORDS; THENCE N.89°51'48"E. ALONG SAID SOUTHERLY RIGHT-OF-WAY FOR 575.20 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT HAVING A RADIUS OF 2050.00 FEET; THENCE EASTERLY ALONG SAID RIGHT-OF-WAY AND SAID CURVE THROUGH A CENTRAL ANGLE OF 3°32'51" FOR 126.93 FEET; THENCE S.86°35'21"E. ALONG SAID RIGHT-OF-WAY FOR 12.49 FEET TO THE POINT OF BEGINNING.

PARCEL CONTAINS 6.00 ACRES, MORE OR LESS.

TOGETHER WITH: ADDITIONAL SOUTH CPD ZONING PARCEL COMMENCING AT SAID POINT "C"; THENCE S.89°51'48"W. ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE OF DIPLOMAT PARKWAY (100 FEET WIDE) FOR 40.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE S.89°51'48"W. ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE FOR 383.07 FEET; THENCE S.00°08'12"E. FOR 186.04 FEET; THENCE N.59°04'35"E. FOR 185.65 FEET; THENCE S.76°11'27"E. FOR 125.61 FEET; THENCE S.41°41'10"E. FOR 153.30 FEET TO AN INTERSECTION WITH THE WESTERLY LINE OF THE AFORESAID PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 2833 AT PAGE 4156 OF SAID PUBLIC RECORDS; THENCE N.00°08'12"W. ALONG THE WESTERLY LINE FOR 236.02 FEET TO THE POINT OF BEGINNING.

PARCEL CONTAINS 1.22 ACRES.

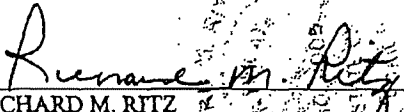
NET AREA AS DESCRIBED CONTAINS 17.48 ACRES, MORE OR LESS.

COMMUNITY DEVELOPMENT

BEARINGS ARE BASED ON THE WESTERLY RIGHT-OF-WAY OF U.S. 41 (STATE ROAD 45) AS BEARING S.03°25'50"W.

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

DESCRIPTION PREPARED NOVEMBER 2, 2006.


RICHARD M. RITZ
REGISTERED LAND SURVEYOR
FLORIDA CERTIFICATION NO. 4000

Applicant's Legal Checked
by 11/08/06 csl

EXHIBIT "A"
(Page 2 of 6)



DCI 2010-00015

Banks Engineering

Professional Engineers, Planners & Land Surveyors
2515 Northbrooke Plaza Drive-Suite 200
Naples, Florida 34119
(239) 597-2061
Fax (239) 597-3082

RECEIVED
APR 27 2011

DESCRIPTION
OF A
PARCEL OF LAND
LYING IN
SECTION 34, TOWNSHIP 43 SOUTH, RANGE 24 EAST
LEE COUNTY, FLORIDA
(RPD ZONING DESCRIPTION)

COMMUNITY DEVELOPMENT

A TRACT OR PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, LYING IN SECTION 34, TOWNSHIP 43 SOUTH, RANGE 24 EAST AND BEING FURTHER BOUNDED AND DESCRIBED AS FOLLOWS:

NORTH RPD PARCEL:
COMMENCING AT THE INTERSECTION OF THE WESTERLY RIGHT-OF-WAY LINE OF U.S. 41 (STATE ROAD 45) (200 FEET WIDE) AND THE SOUTHERLY RIGHT-OF-WAY LINE OF LITTLETON ROAD (50 FEET WIDE) THENCE 94.14 FEET ALONG SAID WESTERLY RIGHT-OF-WAY LINE AND ALONG THE ARC OF A CURVE CONCAVE TO THE SOUTHEAST HAVING A RADIUS OF 5829.58 FEET AND SUBTENDED BY A CHORD HAVING A LENGTH OF 94.14 FEET AND BEARING S.03°47'10"W. TO A POINT OF TANGENCY; THENCE S.03°25'50"W. ALONG SAID WESTERLY RIGHT-OF-WAY LINE FOR 2338.37 FEET; THENCE N.89°54'50"W. FOR 500.85 FEET; THENCE N.03°25'50"E. FOR 53.49 FEET TO THE POINT OF BEGINNING; THENCE S.89°51'48"W. FOR 1145.24 FEET; THENCE S.00°08'12"E. FOR 250.00 FEET TO AN INTERSECTION WITH THE NORTHERLY RIGHT-OF-WAY LINE OF DIPLOMAT PARKWAY (100 FEET WIDE) AS DESCRIBED IN OFFICIAL RECORDS BOOK 2833 AT PAGE 4156 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE S.89°51'48"W. ALONG SAID NORTHERLY RIGHT-OF-WAY LINE FOR 80.00 FEET; THENCE N.00°08'12"W. FOR 250.00 FEET; THENCE S.89°51'48"W. FOR 257.48 FEET; THENCE N.00°20'36"W. FOR 703.76 FEET; THENCE N.85°23'00"E. FOR 335.22 FEET; THENCE N.02°25'15"W. FOR 346.19 FEET; THENCE S.89°54'50"E. FOR 1231.65 FEET; THENCE S.03°25'50"W. FOR 1073.15 FEET TO THE POINT OF BEGINNING.

PARCEL CONTAINS 35.18 ACRES, MORE OR LESS.

AND;
SOUTH RPD PARCEL:
COMMENCING AT THE INTERSECTION OF THE WESTERLY RIGHT-OF-WAY OF U.S. 41 (STATE ROAD 45) (200 FEET WIDE) AND THE SOUTHERLY RIGHT-OF-WAY OF LITTLETON ROAD (50 FEET WIDE) THENCE 94.14 FEET ALONG THE WESTERLY RIGHT-OF-WAY AND ALONG THE ARC OF A CURVE CONCAVE TO THE SOUTHEAST HAVING A RADIUS OF 5829.58 FEET AND SUBTENDED BY A CHORD HAVING A LENGTH OF 94.14 FEET AND BEARING S.03°47'10"W. TO A POINT OF TANGENCY; THENCE S.03°25'50"W. ALONG SAID WESTERLY RIGHT-OF-WAY LINE FOR 2338.37 FEET TO THE SOUTHEASTERLY CORNER OF A PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 1972 AT PAGE 335 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE CONTINUE S.03°25'50"W. ALONG SAID WESTERLY RIGHT-OF-WAY LINE FOR 728.95 FEET TO THE NORTHEAST CORNER OF A PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 2113 AT PAGE 1590 OF SAID PUBLIC RECORDS, ALSO BEING THE NORTHEAST CORNER OF MERCHANTS CROSSING, A SUBDIVISION RECORDED IN PLAT BOOK 52 AT PAGES 37 THROUGH 47 OF SAID PUBLIC RECORDS; THENCE N.86°34'10"W. ALONG THE NORTH LINE OF SAID PARCEL AND SAID SUBDIVISION FOR 616.50 FEET TO THE POINT OF

SHEET 1 OF 3

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Fort Myers Office
10511 Six Mile Cypress Pkwy, Suite #101
Fort Myers, Florida 33966
(239) 939-5490
Fax (239) 939-2523

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

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APR 27 2011

BEGINNING; THENCE CONTINUE N.86°34'10"W. ALONG SAID NORTHERLY LINE FOR 33.50 FEET TO THE NORTHWEST CORNER OF SAID PARCEL; THENCE S.48°25'48"W. ALONG THE WESTERLY LINE OF SAID PARCEL AND SAID SUBDIVISION FOR 212.13 FEET; THENCE S.03°25'50"W. ALONG THE WESTERLY LINE OF SAID PARCEL AND SAID SUBDIVISION FOR 100.00 FEET TO THE SOUTHWESTERLY CORNER OF SAID PARCEL AND TO THE SOUTH LINE OF A PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 2389 AT PAGE 1936 OF SAID PUBLIC RECORDS; THENCE N.86°34'10"W. ALONG THE SOUTH LINE OF SAID PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 2389 AT PAGE 1936 AND THE NORTHERLY LINE OF SAID SUBDIVISION FOR 747.11 FEET TO AN INTERSECTION WITH THE NORTHEASTERLY LINE OF A DRAINAGE EASEMENT (50 FEET WIDE) DESCRIBED IN DEED BOOK 237 AT PAGES 564 AND 565 OF SAID PUBLIC RECORDS; THENCE N.28°32'51"W. ALONG THE NORTHEASTERLY LINE OF SAID DRAINAGE EASEMENT FOR 666.39 FEET TO AN INTERSECTION WITH THE SOUTHERLY RIGHT-OF-WAY LINE OF DIPLOMAT PARKWAY (100 FEET WIDE) AS DESCRIBED IN OFFICIAL RECORDS BOOK 2833 AT PAGE 4156 OF SAID PUBLIC RECORDS; THENCE N.89°51'48"E. ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE FOR 765.84 FEET; THENCE S.00°08'12"E. FOR 186.04 FEET; THENCE N.59°04'35"E. FOR 185.65 FEET; THENCE S.76°11'27"E. FOR 125.61 FEET; THENCE S.41°41'10"E. FOR 153.30 FEET TO AN INTERSECTION WITH THE WESTERLY LINE OF A PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 2833 AT PAGE 4156 OF SAID PUBLIC RECORDS; THENCE S.00°08'12"E. ALONG THE WESTERLY LINE OF SAID PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 2833 AT PAGE 4156 FOR 38.64 FEET TO THE BEGINNING OF A CURVE TO THE LEFT HAVING A RADIUS OF 120.00 FEET; THENCE SOUTHEASTERLY ALONG SAID WESTERLY LINE AND SAID CURVE THROUGH A CENTRAL ANGLE OF 86°25'24" FOR 181.00 FEET TO THE POINT OF BEGINNING.

PARCEL CONTAINS 12.47 ACRES, MORE OR LESS.

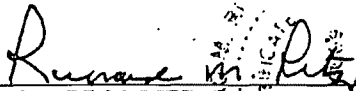
DCI 2010-00015

NET ACREAGE IS 47.65 ACRES, MORE OR LESS.

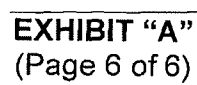
BEARINGS ARE BASED ON THE WESTERLY RIGHT-OF-WAY OF U.S. 41 (STATE ROAD 45) AS BEARING S.03°25'50"W.

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

DESCRIPTION PREPARED NOVEMBER 2, 2006.


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

Applicant's Legal Checked
by CST 11/6/06



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Zoning Map

DCI2010-00015



Mapped: 4/29/11

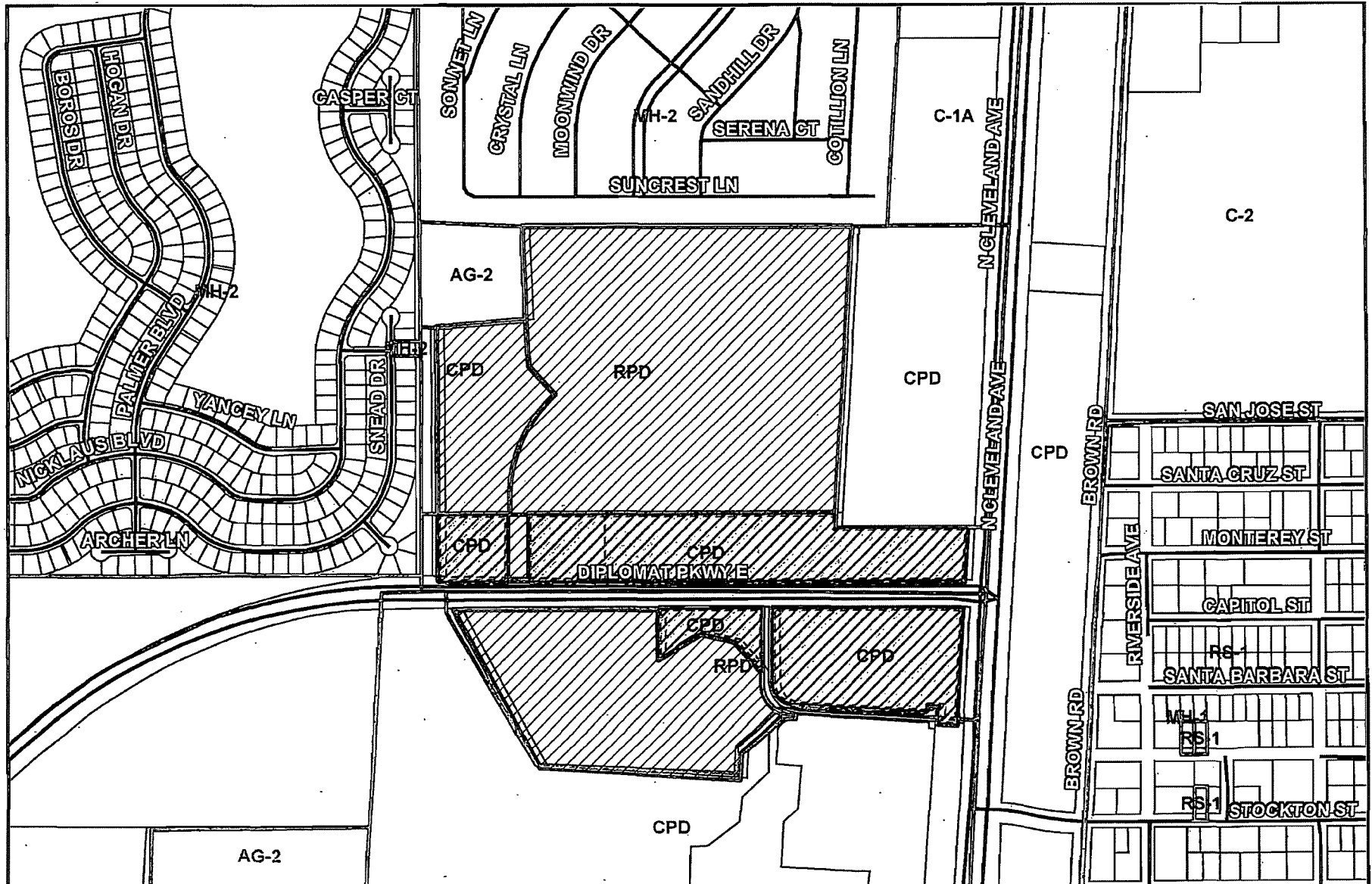
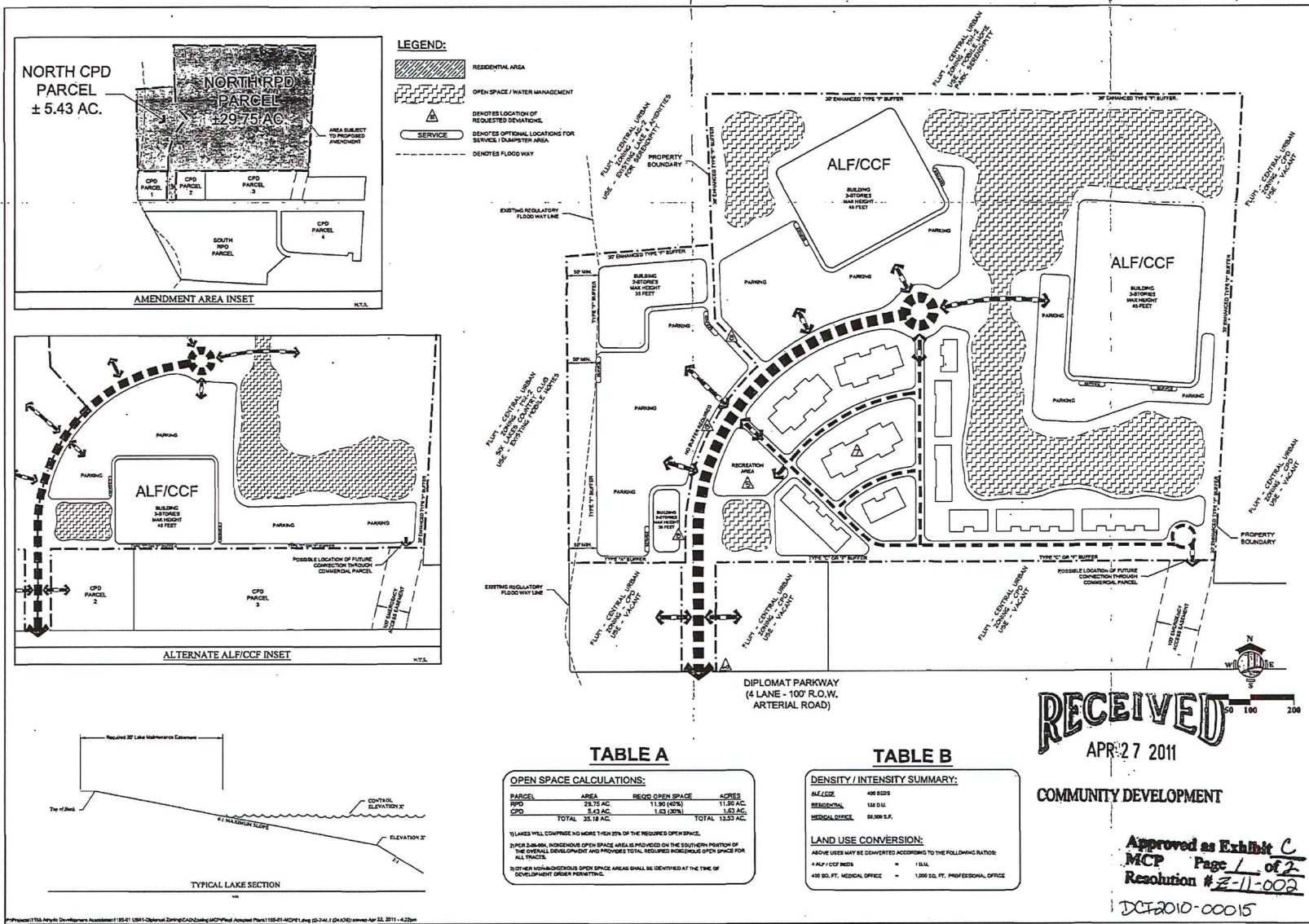


EXHIBIT "B"



ensite
THE FIRST STEP TO A BETTER SITE
FOR THE FUTURE OF YOUR PROJECT
P.O. Box 1662
Fort Myers, FL 33902

Athyrio Development
Associates, LLC
P.O. Box 1662
Fort Myers, FL 33902

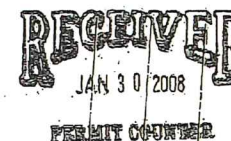
DIPLOMAT PROPERTY RPD / CPD
(NORTH PARCEL)
Project Line 3

NO.	REVISIONS	DATE
1	Initial plan for the property preliminary information about the site	4/26/11
2	Revised plan for the property preliminary information about the site	5/10/11
3	Revised plan for the property preliminary information about the site	5/10/11
4	Revised plan for the property preliminary information about the site	5/10/11
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99	Revised plan for the property preliminary information about the site	5/10/11
100	Revised plan for the property preliminary information about the site	5/10/11

DATE: 05-25-11
PROJECT NO.: 1155-01
FILE NO.: 1155-01-MCP-1.dwg
SCALE: AS SHOWN

MASTER CONCEPT
PLAN
D-7-M.1

1 of 1



-  = RESIDENTIAL NOTICIOUS
 = COMMERCIAL, INDUSTRIOUS
 = DEVIATION
PLEASE REFER TO SCHEDULE OF DEVIATIONS
AND JUSTIFICATIONS

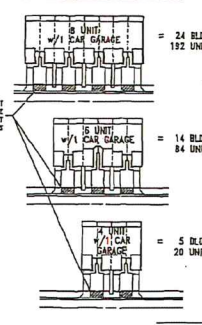
OPEN SPACE CALCULATIONS (SAFE FOR COMMERCIAL/RES DEVELOPMENT OPEN SPACE FOR RECREATION)				
TRACT	AREA	MINIMUM REQUIRED	OTHER OPEN SPACE REQUIRED	ACCOMMODATION
COMMERCIAL 1	1.47 AC	8.32 AC (56%)	0.53 AC (36%)	8.92 AC (60%)
COMMERCIAL 2	1.47 AC	8.32 AC (56%)	0.77 AC (52%)	8.32 AC (56%)
COMMERCIAL 3	2.31 AC	1.59 AC (69%)	1.18 AC (51%)	1.18 AC (51%)
COMMERCIAL 4	2.22 AC	1.68 AC (75%)	1.08 AC (49%)	1.11 AC (50%)
RECREATIONAL NORTH	25.59 AC	7.06 AC (28%)	2.54 AC (10%)	7.06 AC (28%)
RECREATIONAL SOUTH	15.11 AC	2.84 AC (19%)	2.44 AC (16%)	2.84 AC (19%)
TOTAL AC	66.86 AC	35.76 AC (53%)	10.94 AC (16%)	

1) NON-CONGREGOUS OPEN SPACE AREA IS PROVIDED ON SOUTHERN PORTION OF DEVELOPMENT (12.33 ACRES TOTAL PROVIDED) AND IS TO PROVIDE TOTAL REQUIRED ACCRUGOUS OPEN SPACE PER ALL TRACTS. 12.33 ACRES

2) CONGREGOUS (NON-ACCUGOUS) OPEN SPACE SHALL BE PROVIDED ON THE RESPECTIVE TRACT AND SHALL BE DEDICATED AT THE TIME OF DEVELOPMENT UNDER PERMITTING.

2. ADDITIONAL NOTES:
- *150X CREDIT FOR MINIMUM 3 ACRES AND 100' WIDTH PER LDC SECTION 10-415(x)(2).
 - **125X CREDIT FOR MINIMUM 1 ACRE AND 75' WIDTH PER LDC SECTION 10-415(x)(2), AND ADDITIONAL 10X CREDIT FOR PRESERVATION ADJACENT TO ROADWAY PER LDC SECTION 10-415(x)(2).
 - ***10X CREDIT FOR CONNECTION TO OFFSITE ENVIRONMENTAL CONSERVATION OR PRESERVE AREAS PER LDC SECTION 10-415(x)(2).

TYPICAL RESIDENTIAL BUILDING LEGEND

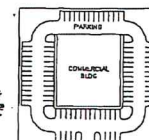


296 UNIT

ADD 2007-00169

APPROVED

Amendment to
Master Concept Plan
to Case # ADD2007-00169
Date 2/1/2008



DEVELOPMENT, INC.

N.B.D.

DATE	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	100
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[illegible]

Shankar Engineering
Professional Engineers, Planners & Land Surveyors
FORT MYERS • NAPLES • SARASOTA

1	1
2	2

MASTER CONCEPT PLAN
DIPOLMAT PARCELS
LEE COUNTY, FLORIDA

.

Exhibit D

ADMINISTRATIVE AMENDMENT (PD) ADD2007-00169

ADMINISTRATIVE AMENDMENT
LEE COUNTY, FLORIDA

WHEREAS, Athyrio Development Associates, LLC, filed an application for administrative approval to a Residential Planned Development/Commercial Planned Development (RPD/CPD) on a project known as Diplomat Parcel for reconfiguration of the master concept plan; provide for minimum lot areas and dimensions for townhouses; and approval of a deviations to the Land Development Code on property located at 15501 North Cleveland Avenue , described more particularly as:

LEGAL DESCRIPTION: In Section 34, Township 43 South, Range 24 East, Lee County, Florida:

See Legal Description and Sketch attached hereto as "Exhibit A".

WHEREAS, the property was originally rezoned in case number DCI2005-00055 (Z-06-004); and

WHEREAS, the subject property is located in the Central Urban Future Land Use Category as designated by the Lee Plan; and

WHEREAS, the Lee County Land Development Code provides for certain administrative changes to planned development master concept plans; and

WHEREAS, the Diplomat RPD/CPD was approved with a maximum of 457 dwelling units pursuant to condition #1; and

WHEREAS, the Diplomat RPD/CPD was approved with a maximum of 200,000 square feet of commercial floor area; and

WHEREAS, the approved master concept plan contemplated filling in an existing lake; and

WHEREAS, the applicant has reconfigured the master concept plan providing for more detail of the residential uses, and utilization of the existing lake; and

WHEREAS, the Diplomat RPD/CPD provided land development regulations for townhouses per Condition 2; and

WHEREAS, the applicant proposes a revised set of land development regulations for their specific townhouse products; and

WHEREAS, these revised land development regulations are substantively the same and acceptable to staff; and

WHEREAS, the applicant requests a deviation from LDC Sec. 10-261(a) which requires all new multifamily residential developments to provide sufficient space for the placement of garbage containers or receptacles, to allow for curb side garbage pick up at the proposed townhouse units that are planned within the project; and

WHEREAS, this request was reviewed and approved by the Department of Solid Waste and the Department of Public Works; and

WHEREAS; the deviation request enhances the planned development and preserves and promotes the general intent of the LDC to protect the public health, safety and welfare; and

WHEREAS, the subject application and plans have been reviewed by the Lee County Department of Community Development in accordance with applicable regulations for compliance with all terms of the administrative approval procedures; and

WHEREAS, it is found that the proposed amendment does not increase density or intensity within the development; does not decrease buffers or open space required by the LDC; does not underutilize public resources or infrastructure; does not reduce total open space, buffering, landscaping or preservation areas; and does not otherwise adversely impact on surrounding land uses.

NOW, THEREFORE, IT IS HEREBY DETERMINED that the application for administrative approval for an amendment to the Diplomat Residential Planned Development/Commercial Planned Development (RPD/CPD) for reconfiguration of the master concept plan; provide for minimum lot areas and dimensions for townhouses; and approval of a deviation to the Land Development Code is **APPROVED**.

Approval is subject to the following conditions:

- 1. **The Development must be in compliance with the amended Master Concept Plan, dated JAN 30, 2007, Master Concept Plan for ADD2007-00169 is hereby APPROVED and adopted. A reduced copy is attached hereto.**
- 2. **Condition 2 a. of Zoning Resolution #Z-06-004 is revised with the following Site Development Regulations for Townhouses.**

Minimum Lot Areas and Dimensions

Lot Size ~~7,500~~ 1,600 square feet
Lot Width ~~75~~ 16 feet
Lot Depth 100 feet

Minimum Setbacks

Street 25 feet (public)/20 feet (private)
Side 5 10 feet (Zero feet for common wall unit)

Rear 30 feet - All lots containing enhanced buffer. See Condition 13.
 20 feet - all other lots
Water Body 25 feet

All Accessory Uses: Per the LDC

Setbacks from Preserves (All Structures) 25 feet per the LDC.

Minimum Perimeter Setbacks: 25 feet (30 feet - All lots containing enhanced buffer. See Condition 13.)

Minimum Building Separation ~~40~~ 20 feet

Maximum Building Height: 35 feet/2 stories

Maximum Lot Coverage: ~~45~~ 65%

- 3. Deviation 7 seeks relief from LDC Sec. 10-261(a) which requires all new multifamily residential developments to provide sufficient space for the placement of garbage containers or receptacles, to allow for curb side garbage pick up at the proposed townhouse units that are planned within the project. This Deviation is APPROVED.

- 4. The terms and conditions of the original zoning resolutions remain in full force and effect, except as amended herein.

DULY SIGNED this 1st day of February, A.D., 2008.

BY: Pam Houck
Pam Houck, Director
Division of Zoning
Department of Community Development

EXHIBIT A

Banks Engineering

Professional Engineers, Planners & Land Surveyors
2515 Northbrooke Plaza Drive-Suite 200
Naples, Florida 34119
(239) 597-2061
Fax (239) 597-3082

RECEIVED
SEP 25 2007
COMMUNITY DEVELOPMENT

DESCRIPTION
OF A
PARCEL OF LAND
LYING IN
SECTION 34, TOWNSHIP 43 SOUTH, RANGE 24 EAST
LEE COUNTY, FLORIDA
(RPD ZONING DESCRIPTION)

A TRACT OR PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, LYING IN SECTION 34, TOWNSHIP 43 SOUTH, RANGE 24 EAST AND BEING FURTHER BOUNDED AND DESCRIBED AS FOLLOWS:

NORTH RPD PARCEL:

COMMENCING AT THE INTERSECTION OF THE WESTERLY RIGHT-OF-WAY LINE OF U.S. 41 (STATE ROAD 45) (200 FEET WIDE) AND THE SOUTHERLY RIGHT-OF-WAY LINE OF LITTLETON ROAD (50 FEET WIDE) THENCE 94.14 FEET ALONG SAID WESTERLY RIGHT-OF-WAY LINE AND ALONG THE ARC OF A CURVE CONCAVE TO THE SOUTHEAST HAVING A RADIUS OF 5829.58 FEET AND SUBTENDED BY A CHORD HAVING A LENGTH OF 94.14 FEET AND BEARING S.03°47'10"W. TO A POINT OF TANGENCY; THENCE S.03°25'50"W. ALONG SAID WESTERLY RIGHT-OF-WAY LINE FOR 2338.37 FEET; THENCE N.89°54'50"W. FOR 500.85 FEET; THENCE N.03°25'50"E. FOR 53.49 FEET TO THE **POINT OF BEGINNING**; THENCE S.89°51'48"W. FOR 1145.24 FEET; THENCE S.00°08'12"E. FOR 250.00 FEET TO AN INTERSECTION WITH THE NORTHERLY RIGHT-OF-WAY LINE OF DIPLOMAT PARKWAY (100 FEET WIDE) AS DESCRIBED IN OFFICIAL RECORDS BOOK 2833 AT PAGE 4156 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE S.89°51'48"W. ALONG SAID NORTHERLY RIGHT-OF-WAY LINE FOR 80.00 FEET; THENCE N.00°08'12"W. FOR 250.00 FEET; THENCE S.89°51'48"W. FOR 257.48 FEET; THENCE N.00°20'36"W. FOR 703.76 FEET; THENCE N.85°23'00"E. FOR 335.22 FEET; THENCE N.02°25'15"W. FOR 346.19 FEET; THENCE S.89°54'50"E. FOR 1231.65 FEET; THENCE S.03°25'50"W. FOR 1073.15 FEET TO THE **POINT OF BEGINNING**.

PARCEL CONTAINS 35.18 ACRES, MORE OR LESS.

AND;

SOUTH RPD PARCEL:

COMMENCING AT THE INTERSECTION OF THE WESTERLY RIGHT-OF-WAY OF U.S. 41 (STATE ROAD 45) (200 FEET WIDE) AND THE SOUTHERLY RIGHT-OF-WAY OF LITTLETON ROAD (50 FEET WIDE) THENCE 94.14 FEET ALONG THE WESTERLY RIGHT-OF-WAY AND ALONG THE ARC OF A CURVE CONCAVE TO THE SOUTHEAST HAVING A RADIUS OF 5829.58 FEET AND SUBTENDED BY A CHORD HAVING A LENGTH OF 94.14 FEET AND BEARING S.03°47'10"W. TO A POINT OF TANGENCY; THENCE S.03°25'50"W. ALONG SAID WESTERLY RIGHT-OF-WAY LINE FOR 2338.37 FEET TO THE SOUTHEASTERLY CORNER OF A PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 1972 AT PAGE 335 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE CONTINUE S.03°25'50"W. ALONG SAID WESTERLY RIGHT-OF-WAY LINE FOR 728.95 FEET TO THE NORTHEAST CORNER OF A PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 2113 AT PAGE 1590 OF SAID PUBLIC RECORDS, ALSO BEING THE NORTHEAST CORNER OF MERCHANTS CROSSING, A SUBDIVISION RECORDED IN PLAT BOOK 52 AT PAGES 37 THROUGH 47 OF SAID PUBLIC RECORDS; THENCE N.86°34'10"W. ALONG THE NORTH LINE OF SAID PARCEL AND SAID SUBDIVISION FOR 616.50 FEET TO THE **POINT OF**

SHEET 1 OF 3

C:\Documents and Settings\Erin Ritz\Local Settings\Temporary Internet Files\OLK3\2028_ZONING_RPD_REV_DESC.doc

Fort Myers Office
10511 Six Mile Cypress Pkwy, Suite #101
Fort Myers, Florida 33966
(239) 939-5490
Fax (239) 939-2523

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

BEGINNING; THENCE CONTINUE N.86°34'10"W. ALONG SAID NORTHERLY LINE FOR 33.50 FEET TO THE NORTHWEST CORNER OF SAID PARCEL; THENCE S.48°25'48"W. ALONG THE WESTERLY LINE OF SAID PARCEL AND SAID SUBDIVISION FOR 212.13 FEET; THENCE S.03°25'50"W. ALONG THE WESTERLY LINE OF SAID PARCEL AND SAID SUBDIVISION FOR 100.00 FEET TO THE SOUTHWESTERLY CORNER OF SAID PARCEL AND TO THE SOUTH LINE OF A PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 2389 AT PAGE 1936 OF SAID PUBLIC RECORDS; THENCE N.86°34'10"W. ALONG THE SOUTH LINE OF SAID PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 2389 AT PAGE 1936 AND THE NORTHERLY LINE OF SAID SUBDIVISION FOR 747.11 FEET TO AN INTERSECTION WITH THE NORTHEASTERLY LINE OF A DRAINAGE EASEMENT (50 FEET WIDE) DESCRIBED IN DEED BOOK 237 AT PAGES 564 AND 565 OF SAID PUBLIC RECORDS; THENCE N.28°32'51"W. ALONG THE NORTHEASTERLY LINE OF SAID DRAINAGE EASEMENT FOR 666.39 FEET TO AN INTERSECTION WITH THE SOUTHERLY RIGHT-OF-WAY LINE OF DIPLOMAT PARKWAY (100 FEET WIDE) AS DESCRIBED IN OFFICIAL RECORDS BOOK 2833 AT PAGE 4156 OF SAID PUBLIC RECORDS; THENCE N.89°51'48"E. ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE FOR 765.84 FEET; THENCE S.00°08'12"E. FOR 186.04 FEET; THENCE N.59°04'35"E. FOR 185.65 FEET; THENCE S.76°11'27"E. FOR 125.61 FEET; THENCE S.41°41'10"E. FOR 153.30 FEET TO AN INTERSECTION WITH THE WESTERLY LINE OF A PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 2833 AT PAGE 4156 OF SAID PUBLIC RECORDS; THENCE S.00°08'12"E. ALONG THE WESTERLY LINE OF SAID PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 2833 AT PAGE 4156 FOR 38.64 FEET TO THE BEGINNING OF A CURVE TO THE LEFT HAVING A RADIUS OF 120.00 FEET; THENCE SOUTHEASTERLY ALONG SAID WESTERLY LINE AND SAID CURVE THROUGH A CENTRAL ANGLE OF 86°25'24" FOR 181.00 FEET TO THE POINT OF BEGINNING.

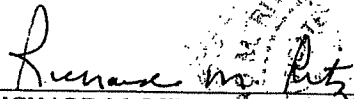
PARCEL CONTAINS 12.47 ACRES, MORE OR LESS.

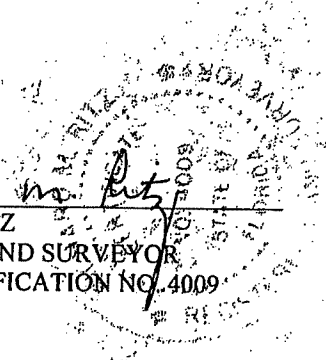
NET ACREAGE IS 47.65 ACRES, MORE OR LESS.

BEARINGS ARE BASED ON THE WESTERLY RIGHT-OF-WAY OF U.S. 41 (STATE ROAD 45) AS BEARING S.03°25'50"W.

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

DESCRIPTION PREPARED NOVEMBER 2, 2006.


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



Applicant's Legal Checked
by 8 9/25/07



1"=300'

LINE TABLE

LINE	BEARING	DISTANCE
L1	S 03°25'50" W	100.00'
L2	N 86°34'10" W	33.50'
L3	S 48°25'48" W	212.13'
L4	S 00°08'12" E	38.64'
L5	S 00°08'12" E	186.04'
L6	N 59°04'35" E	185.65'
L7	S 76°11'27" E	125.61'
L8	S 41°41'10" E	153.30'
L9	S 89°51'48" W	80.00'

CURVE TABLE

CURVE	RADIUS	DELTA	ARC	CHORD	CHORD BEARING
C1	5829.58'	00°55'31"	94.14'	94.14'(D)	S 03°47'10" W(D)
C2	120.00'	86°25'24"	181.00'	94.23'(M)	S 03°50'44" W(M)

COORDINATE TABLE

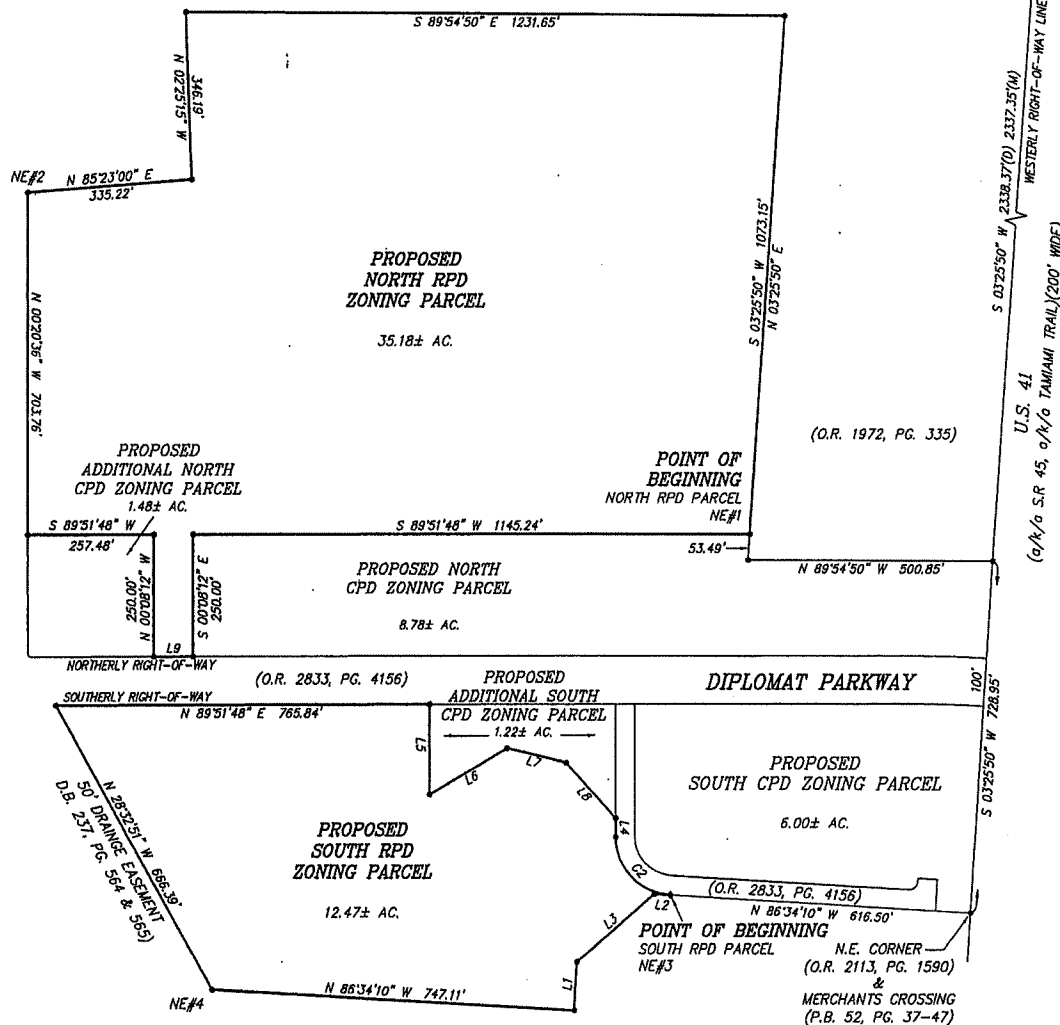
POINT	NORTHING	EASTING
NE#1	856582.08	687836.83
NE#2	857282.30	686348.89
NE#3	855837.18	687675.48
NE#4	855643.31	686731.56

SKETCH TO ACCOMPANY DESCRIPTION

OF A
PARCEL OF LAND
LYING IN
SECTION 34, TOWNSHIP 43 SOUTH, RANGE 24 EAST
LEE COUNTY, FLORIDA

LITTLETON ROAD (50' WIDE)

SOUTHERLY RIGHT-OF-WAY LINE

POINT OF
COMMENCEMENT

NOTES:

1. SEE ACCOMPANYING SHEETS FOR COMPLETE METES AND BOUNDS DESCRIPTION.
2. STATE PLANE COORDINATES (FLORIDA ZONE WEST) SHOWN HEREON ARE BASED ON NAD83, AND ARE FOR GIS PURPOSES ONLY.
3. BEARINGS ARE BASED ON THE WESTERLY RIGHT-OF-WAY OF U.S. 41 AS S.03°25'50"W.

LEGEND:

- O.R. INDICATES OFFICIAL RECORDS BOOK OF LEE COUNTY
- P.G. INDICATES PAGE NUMBER
- C1 INDICATES CURVE 1 OF THE CURVE TABLE
- L1 INDICATES LINE 1 OF THE LINE TABLE
- NE#1 INDICATES COORDINATE #1 OF THE COORDINATE TABLE
- P.B. INDICATES PLAT BOOK
- D.B. INDICATES DEED BOOK
- (D) INDICATES DEED
- (M) INDICATES MEASURED

Applicant's Legal Checked
by *[Signature]* 9/25/07

THIS IS NOT A SURVEY

RICHARD M. RITZ
REGISTERED LAND SURVEYOR
FLORIDA CERTIFICATION NO. 9008

THIS SKETCH IS NOT VALID UNLESS IT BEARS THE
SIGNATURE AND ORIGINAL RAISED SEAL OF A FLORIDA
PROFESSIONAL SURVEYOR AND MAPPER.

PREPARED NOVEMBER 12, 2006

PREPARED BY

Banks Engineering

ENGINEERING, SURVEYING & LAND PLANNING

2515 NORTHBROOK PLAZA DRIVE - SUITE 200

HAWES, FLORIDA 34119

(239) 597-2061

FLORIDA SURVEYING BUSINESS CERTIFICATION NO. 8690

Banks Engineering

Professional Engineers, Planners & Land Surveyors
2515 Northbrooke Plaza Drive - Suite 200
Naples, Florida 34119
(239) 597-2061
Fax (239) 597-3082

DESCRIPTION
OF A
PARCEL OF LAND
LYING IN
SECTION 34, TOWNSHIP 43 SOUTH, RANGE 24 EAST
LEE COUNTY, FLORIDA
(CPD ZONING DESCRIPTION)

A TRACT OR PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, LYING IN SECTION 34, TOWNSHIP 43 SOUTH, RANGE 24 EAST AND BEING FURTHER BOUNDED AND DESCRIBED AS FOLLOWS:

NORTH CPD ZONNING PARCEL

COMMENCING AT THE INTERSECTION OF THE WESTERLY RIGHT-OF-WAY LINE OF U.S. 41 (STATE ROAD 45) (200 FEET WIDE) AND THE SOUTHERLY RIGHT-OF-WAY LINE OF LITTLETON ROAD (50 FEET WIDE); THENCE 94.14 FEET ALONG SAID WESTERLY RIGHT-OF-WAY LINE AND ALONG THE ARC OF A CURVE CONCAVE TO THE SOUTHEAST HAVING A RADIUS OF 5829.58 FEET AND SUBTENDED BY A CHORD HAVING A LENGTH OF 94.14 FEET AND BEARING S.03°47'10"W. TO A POINT OF TANGENCY; THENCE S.03°25'50"W. ALONG SAID WESTERLY RIGHT-OF-WAY LINE FOR 2338.37 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE S.03°25'50"W. ALONG SAID WESTERLY RIGHT-OF-WAY LINE FOR 199.95 FEET TO POINT "A" AND TO AN INTERSECTION WITH THE NORTHERLY RIGHT-OF-WAY LINE OF DIPLOMAT PARKWAY (100 FEET WIDE); THENCE N.86°35'21"W. ALONG SAID NORTHERLY RIGHT-OF-WAY LINE FOR 12.52 FEET TO THE BEGINNING OF A CURVE TO THE LEFT HAVING A RADIUS OF 2150.00 FEET; THENCE WESTERLY ALONG SAID CURVE AND ALONG SAID NORTHERLY RIGHT-OF-WAY LINE THROUGH A CENTRAL ANGLE OF 3°32'51" FOR 133.12 FEET; THENCE S.89°51'48"W. ALONG SAID NORTHERLY RIGHT-OF-WAY LINE FOR 1484.79 FEET TO POINT "B"; THENCE N.00°08'12"W. FOR 250.00 FEET; THENCE N.89°51'48"E. FOR 1145.24 FEET; THENCE S.03°25'50"W. FOR 53.49 FEET; THENCE S.89°54'50"E. FOR 500.85 FEET TO THE POINT OF BEGINNING.

PARCEL CONTAINS 8.78 ACRES, MORE OR LESS.

TOGETHER WITH: ADDITIONAL NORTH CPD ZONNING PARCEL

COMMENCING AT SAID POINT "B" ; THENCE S.89°51'48"W. ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE OF DIPLOMAT PARKWAY (100 FEET WIDE) FOR 80.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE S.89°51'48"W. ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE FOR 253.42 FEET; THENCE N.28°32'51"W. FOR 6.70 FEET; THENCE N.00°20'36"W. FOR 244.12 FEET; THENCE N.89°51'48"E. FOR 257.48 FEET; THENCE S.00°08'12"E. FOR 250.00 FEET TO THE POINT OF BEGINNING.

PARCEL CONTAINS 1.48 ACRES, MORE OR LESS.

TOGETHER WITH: SOUTH CPD ZONNING PARCEL

COMMENCING AT SAID POINT "A"; THENCE S.03°25'50"W. ALONG SAID WESTERLY RIGHT-OF-WAY LINE OF U.S. 41 (STATE ROAD 45) (200 FEET WIDE) FOR 100.00 FEET TO THE POINT OF BEGINNING;

SHEET 1 OF 3

C:\Documents and Settings\Erin Ritz\Local Settings\Temporary Internet Files\OLK3\2028 ZONING CPD REV DESC.doc		
Fort Myers Office	Sarasota Office	Port Charlotte Office
10511 Six Mile Cypress Pkwy, Suite #101	1144 Tallevast Road Suite #115	12653 SW CR 769 Suite B
Fort Myers, Florida 33966	Sarasota, Florida 34243	Lake Suzy, Florida 34269
(239) 939-5490	(941) 360-1618	(941) 625-1165
Fax (239) 939-2523	Fax (941) 360-6918	Fax (941) 625-1149

THENCE CONTINUE S.03°25'50"W. ALONG SAID WESTERLY RIGHT-OF-WAY LINE FOR 429.00 FEET TO THE NORTHEAST CORNER OF A PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 2113 AT PAGE 1590 OF SAID PUBLIC RECORDS, ALSO BEING THE NORTHEAST CORNER OF MERCHANTS CROSSING, A SUBDIVISION RECORDED IN PLAT BOOK 52 AT PAGES 37 THROUGH 47 OF SAID PUBLIC RECORDS; THENCE N.86°34'10"W. ALONG THE NORTH LINE OF SAID PARCEL AND SAID SUBDIVISION FOR 72.00 FEET TO THE SOUTHEAST CORNER OF A PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 2833 AT PAGE 4156 OF SAID PUBLIC RECORDS; THENCE N.03°25'50"E. ALONG THE EASTERLY LINE OF SAID PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 2833 AT PAGE 4156 FOR 65.00 FEET; THENCE N.86°33'36"W. ALONG THE NORTHERLY LINE OF SAID PARCEL FOR 39.68 FEET; THENCE S.03°26'24"W. ALONG THE WESTERLY LINE OF SAID PARCEL FOR 8.00 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT HAVING A RADIUS OF 17.00 FEET; THENCE SOUTHWESTERLY ALONG SAID PARCEL AND SAID CURVE THROUGH A CENTRAL ANGLE OF 90°00'01" FOR 26.70 FEET; THENCE N.86°33'36"W. ALONG THE NORTHERLY LINE OF SAID PARCEL FOR 487.82 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT HAVING A RADIUS OF 80.00 FEET; THENCE NORTHWESTERLY ALONG SAID PARCEL AND SAID CURVE THROUGH A CENTRAL ANGLE OF 86°25'24" FOR 120.67 FEET; THENCE N.00°08'12"W. ALONG THE EASTERLY LINE OF SAID PARCEL FOR 274.66 FEET TO POINT "C" AND TO AN INTERSECTION WITH THE SOUTHERLY RIGHT-OF-WAY LINE OF DIPLOMAT PARKWAY (100 FEET WIDE) AS DESCRIBED IN OFFICIAL RECORDS BOOK 2833 AT PAGE 4156 OF SAID PUBLIC RECORDS; THENCE N.89°51'48"E. ALONG SAID SOUTHERLY RIGHT-OF-WAY FOR 575.20 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT HAVING A RADIUS OF 2050.00 FEET; THENCE EASTERLY ALONG SAID RIGHT-OF-WAY AND SAID CURVE THROUGH A CENTRAL ANGLE OF 3°32'51" FOR 126.93 FEET; THENCE S.86°35'21"E. ALONG SAID RIGHT-OF-WAY FOR 12.49 FEET TO THE POINT OF BEGINNING.

PARCEL CONTAINS 6.00 ACRES, MORE OR LESS.

TOGETHER WITH: ADDITIONAL SOUTH CPD ZONING PARCEL
COMMENCING AT SAID POINT "C"; THENCE S.89°51'48"W. ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE OF DIPLOMAT PARKWAY (100 FEET WIDE) FOR 40.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE S.89°51'48"W. ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE FOR 383.07 FEET; THENCE S.00°08'12"E. FOR 186.04 FEET; THENCE N.59°04'35"E. FOR 185.65 FEET; THENCE S.76°11'27"E. FOR 125.61 FEET; THENCE S.41°41'10"E. FOR 153.30 FEET TO AN INTERSECTION WITH THE WESTERLY LINE OF THE AFORESAID PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 2833 AT PAGE 4156 OF SAID PUBLIC RECORDS; THENCE N.00°08'12"W. ALONG THE WESTERLY LINE FOR 236.02 FEET TO THE POINT OF BEGINNING.

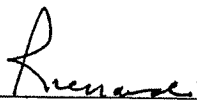
PARCEL CONTAINS 1.22 ACRES.

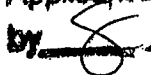
NET AREA AS DESCRIBED CONTAINS 17.48 ACRES, MORE OR LESS.

BEARINGS ARE BASED ON THE WESTERLY RIGHT-OF-WAY OF U.S. 41 (STATE ROAD 45) AS BEARING S.03°25'50"W.

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

DESCRIPTION PREPARED NOVEMBER 2, 2006.


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

Applicant's Legal Checked
by  9/25/07



1"=300'

COORDINATE TABLE

POINT	NORTHING	EASTING
NE#1	856527.93	688334.48
NE#2	856329.35	686692.19
NE#3	856228.53	688316.53
NE#4	856231.52	687602.01
NE#5	856231.43	687592.01
NE#6	856230.51	687178.94
NE#7	856329.16	686612.19
NE#8	856378.55	686354.11

CURVE TABLE

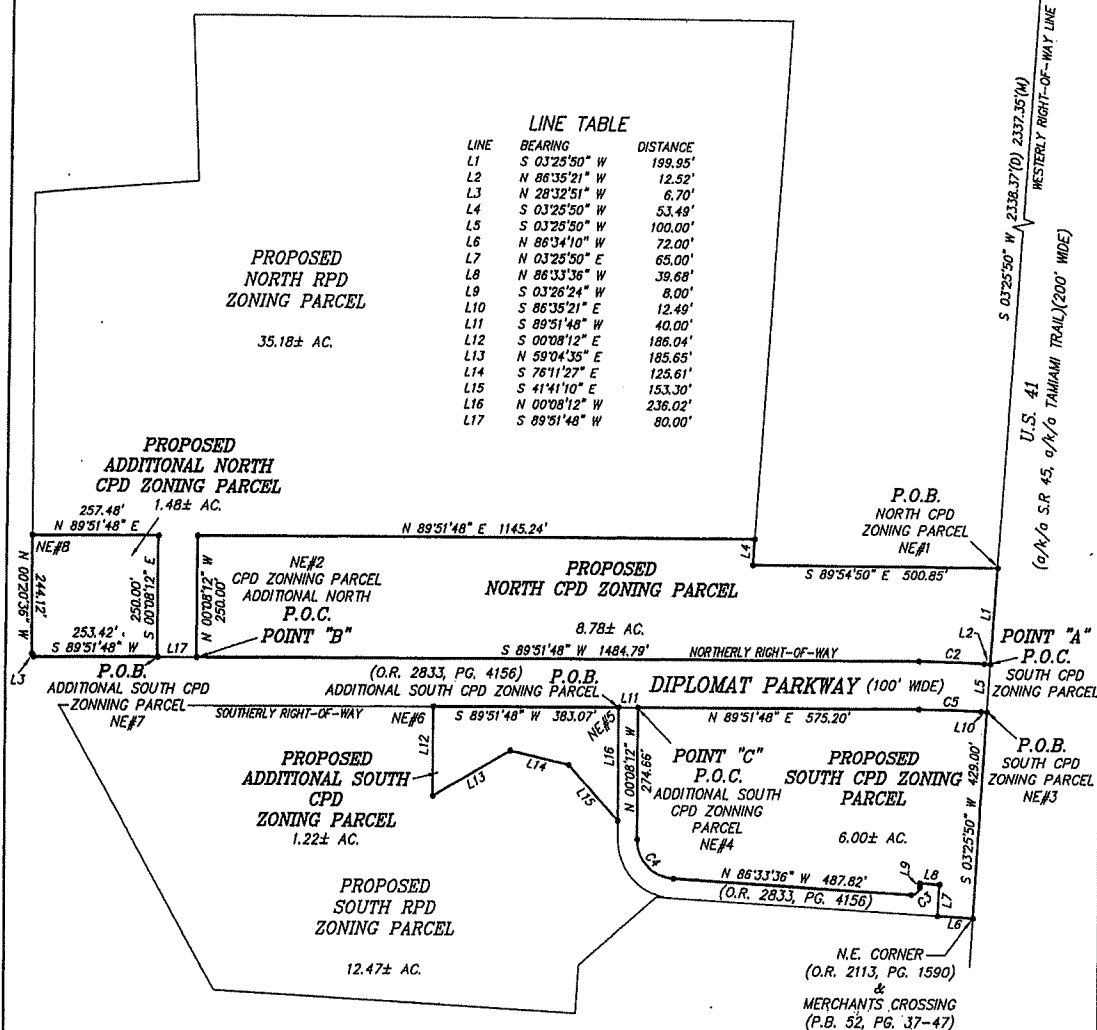
CURVE	RADIUS	DELTA	ARC	CHORD	CHORD BEARING
C1	5829.58'	00°55'31"	94.14'	94.14'(D)	S 03°47'10" W(D)
				94.23'(M)	S 03°50'44" W(M)
C2	2150.00'	03°32'51"	133.12'	133.10'	S 88°21'47" E
C3	17.00'	90°00'01"	26.70'	24.04'	S 48°26'24" W
C4	80.00'	86°25'24"	120.67'	109.55'	N 43°20'54" W
C5	2050.00'	03°32'51"	126.93'	126.91'	S 88°21'47" E

SKETCH TO ACCOMPANY DESCRIPTION

OF A
PARCEL OF LAND
LYING INSECTION 34, TOWNSHIP 43 SOUTH, RANGE 24 EAST
LEE COUNTY, FLORIDA

LITTLETON ROAD (50' WIDE)

SOUTHERLY RIGHT-OF-WAY LINE

POINT OF
COMMENCEMENT

NOTES:

1. SEE ACCOMPANYING SHEETS FOR COMPLETE METES AND BOUNDS DESCRIPTION.

2. STATE PLANE COORDINATES (FLORIDA ZONE WEST) SHOWN HEREON ARE BASED ON NAD83, AND ARE FOR GIS PURPOSES ONLY.

3. BEARINGS ARE BASED ON THE WESTERLY RIGHT-OF-WAY OF U.S. 41 AS S.03°25'50" W.

LEGEND:

- P.O.C. INDICATES POINT OF COMMENCEMENT
- P.O.B. INDICATES POINT OF BEGINNING
- O.R. INDICATES OFFICIAL RECORDS BOOK OF LEE COUNTY
- P.G. INDICATES PAGE NUMBER
- P.B. INDICATES PLAT BOOK
- C1 INDICATES CURVE 1 OF THE CURVE TABLE
- L1 INDICATES LINE 1 OF THE LINE TABLE
- NE#1 INDICATES COORDINATE #1 OF THE COORDINATE TABLE

THIS IS NOT A SURVEY

Richard M. Ritz
REGISTERED LAND SURVEYOR
FLORIDA CERTIFICATION NO. 4009

THIS SKETCH IS NOT VALID UNLESS IT BEARS THE
SIGNATURE AND ORIGINAL RAISED SEAL OF A FLORIDA
PROFESSIONAL SURVEYOR AND MAPPER

-PREPARED NOVEMBER 27, 2006

PREPARED BY:

Applicant's Legal Checked
by 8 9/25/07

Banks Engineering

ENGINEERING, SURVEYING & LAND PLANNING
2515 NORTHBROOK PLAZA DRIVE - SUITE 200
NAPLES, FLORIDA 34110
(239) 697-2041

FLORIDA SURVEYING BUSINESS CERTIFICATION NO. 6690

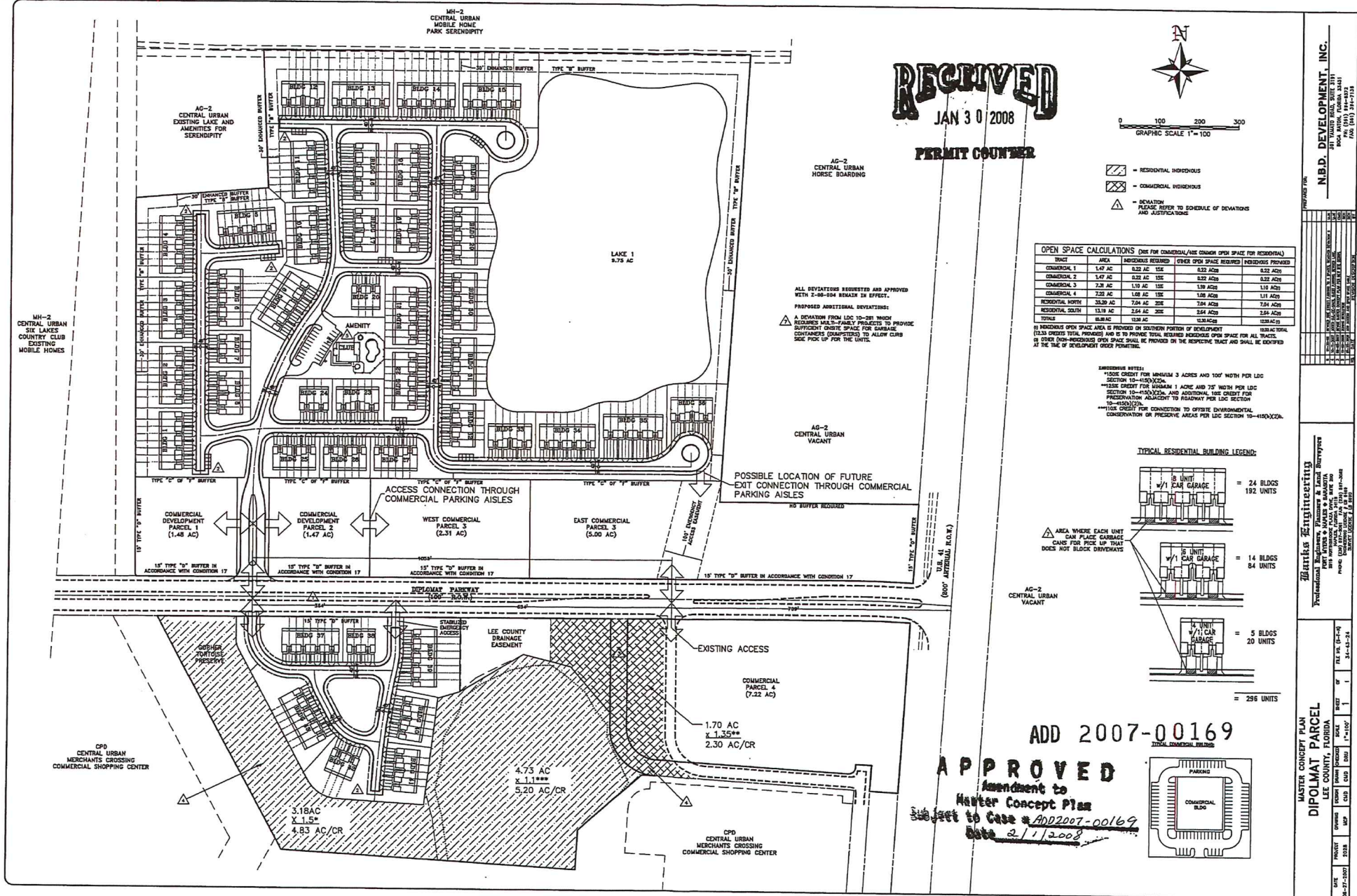


Exhibit E

RESOLUTION NUMBER Z-06-004

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

WHEREAS, Athyrio Development Associates, LLC, filed an application on behalf of the property owner, Richard K. Bennett, Successor Trustee of the North Trail Land Trust, to rezone 65± acres of land from the Agricultural (AG-2) zoning district to the Residential Planned Development/Commercial Planned Development (RPD/CPD) zoning district, in reference to Diplomat Property RPD/CPD; and,

WHEREAS, a public hearing was advertised and held on January 12, 2006, and January 13, 2006, before the Lee County Zoning Hearing Examiner Diana Parker, who gave full consideration to the evidence in the record for Case #DCI2005-00055; and,

WHEREAS, a second public hearing was advertised and held on April 3, 2006, before the Lee County Board of Commissioners, who gave full and complete consideration to the recommendations of the staff, the Hearing Examiner, the documents on record and the testimony of all interested persons.

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

SECTION A. REQUEST

The applicant filed a request to rezone 65 acres of land from AG-2 to RPD/CPD to allow a maximum of 468 dwelling units, 200,000 square feet of commercial floor area, and a maximum of 120 hotel rooms. Maximum proposed building height is three (3) stories/50 feet commercial and two (2) stories/ 35 feet residential. No development blasting is requested. The property is located in the Central Urban Land Use Category and is legally described in attached Exhibit A. The request is APPROVED, SUBJECT TO the conditions and deviations specified in Sections B and C below.

SECTION B. CONDITIONS:

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

1. Development must be consistent with the one-page Master Concept Plan entitled "CONCEPTUAL SITE PLAN: DIPLOMAT PARCEL," Sheet 1 of 1, date stamped "Received November 3, 2006," and prepared by Banks Engineering, Inc. (attached hereto as Exhibit C), except as modified by the conditions below.

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

Maximum Number of Dwelling Units (RPD): 381 dwelling units. An additional 76 units may be constructed if they are marketed at a price point that is affordable to moderate income households at the time of building permit application. Further, the additional 75 units may only be sold to buyers who qualify as a moderate income household at the time of purchase. Moderate income households means 120 percent of the yearly median income based on yearly income levels developed for the SHIP Program by the Housing Section of the Planning Division.

Eight (8.0) dwelling units per acre maximum, for the 47.65 acres of RPD. An additional 1.6 units per acre may be constructed subject to affordability requirements above.

Maximum Commercial Floor Area (CPD): 200,000 square feet of commercial uses. A maximum of 100,000 s/f of which may be retail.

Retail development is limited to Parcel 4 (which meets Commercial Site Location standards). Retail development is not permitted on Commercial Parcels 1, 2 or 3 (which do not meet Site Location standards).

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

a. **Schedule of Uses: RPD**

- Accessory Uses and Structures
- Administrative Office
- Clubs, Private - As shown on the approved MCP.
- Dwelling Units, single-family, duplex, two-family attached, multifamily, townhomes - 381 (up to 457 pursuant to Condition 1)
- Entrance Gates and Gatehouse
- Essential Services
- Essential Service Facilities, Group I
- Excavation, Water Retention - not to include the removal of excavated material from the site. No blasting.
- Fences and Walls.
- Home Occupation, No outside help.
- Home Care Facility
- Model Home, Model Display Center, Model Unit - ALSO SEE MODEL HOME/ REAL ESTATE SALES CONDITIONS.
- Parking Lot, Accessory
- Real Estate Sales - limited to sales of lots, homes or units within the development. Model home and club locations only. ALSO SEE MODEL HOME/ REAL ESTATE SALES CONDITIONS.
- Recreational Facilities - Private, On-site only. LIMITED TO THOSE SHOWN ON THE APPROVED MCP
- Residential Accessory Uses
- Signs, in compliance with LDC Chapter 30
- Temporary Uses, Temporary Real Estate Sales Office

Schedule of Uses: CPD

Administrative Office
Animals: Clinic, Kennel, Control Center (including Humane Society) - indoors,
no outdoor runs.
Automatic Teller Machine
Auto Parts Store - No installation service.
Auto Repair and Service, Group I
Bait and Tackle Shop
Banks and Financial Establishments, Group I and II
Boat Part Stores
Building Material Sales (indoor only, no outdoor display)
Business Services, Group I and II (no impound yards or armored car services)
Cleaning and Maintenance Services
Clothing Stores, General
Communication facilities, wireless (in accordance with LDC 34 Division 11)

A wireless communication facility may be administratively approved,
provided it is co-located on a building and the height of the tower
does not exceed 50 feet from existing grade.

Consumption on Premises - Indoors. In conjunction with Group III restaurants only.
Outdoor Consumption on Premises will require special exception approval
(public hearing).

Contractors and Builders, Group I and II (Not Group III)
Cultural Facilities
Day Care, Adult, Child
Department Store
Drive-through facility for any permitted use. No fast food drive-through.
Drugstore, Pharmacy (limited to 1 on Parcel 4 or 3)
Entrance Gate and Gatehouse
Emergency Operations Center
EMS, Fire or Sheriff's Station
Essential Services
Essential Service Facilities, Group I
Excavation, Water Retention - not to include the removal of excavated material
from the site. No blasting.
Fences and Walls.
Flea Market, Indoor Only
Food and Beverage Services, Limited
Food Stores, Group I and II
Funeral Home or Mortuary, with or without cremation
Gasoline Dispensing System, Special
Hardware Store
Health Care Facility, Group I, II, III (no Group IV).
Hobby, Toy and Game Store
Hotel/Motel - Limited to 120 rooms maximum.

Household and Office Furnishings - (indoor only, no outdoor display)
Insurance Companies
Lawn and Garden Supply Stores - (indoor only, no outdoor display)
Library
Medical Office
Nonstore Retailer
Paint, Glass and Wallpaper - (indoor only, no outdoor display)
Parking Lot, Accessory, Commercial, Garage, Public Parking, Temporary
Personal Services, Group I, II, III, IV. Excluding Laundromats, Laundry Agents,
 Massage Establishments, Massage Parlors, Steam or Turkish Baths, Dating
 Services, Escort Services, Palm Readers, Fortune Tellers, Card Readers,
 Tattoo Parlors.
Pet Services, Pet Shops - Indoor only, no outdoor display. No outdoor runs.
Place of Worship
Plant Nursery
Post Office
Printing and Publishing
Processing and Warehousing
Real Estate Sales Office
Religious Facilities
Rental or Leasing Establishments, Group II (excluding tools and equipment
 primarily for home use). Indoor only. No outdoor display.
Repair Shop, Group I, II, III
Research and Development Laboratories, Group I, II, III, IV.
Restaurants, Group I, II, III, IV.
Restaurant, Fast Food, No stand-alone or drive-through. Within a multi-occupancy
 building only.
Schools, Commercial and Non-Commercial
Signs in Accordance with Chapter 30
Social Services Group I
Specialty Retail, Group I, II, III, IV
Storage, Indoor Only
Studios
Supermarkets
Temporary Uses
Used Merchandise, Group I, II, Indoor only. No outdoor display.
Variety Store

b. **Site Development Regulations - RPD**

SINGLE-FAMILY

Minimum Lot Areas and Dimensions

Lot Size: 7,500 square feet
Lot Width: 75 feet
Lot Depth: 100 feet

Minimum Setbacks

Street 25 feet (public)/20 feet (private)
Side 5 feet
Rear 30 feet - all lots containing enhanced buffer. See Condition 13.
20 feet - all other lots
Water body 25 feet

All Accessory Uses: Per the LDC.
Setbacks from Preserves (All structures): 25 feet, per the LDC.
Minimum Perimeter Setbacks: 25 feet
30 feet - all lots containing enhanced buffer. See Condition 13.

Minimum Building Separation: 10 feet.

Building Height: 35 feet/ 2 stories

Maximum Lot Coverage: 45 percent

DUPLEX, TWO-FAMILY ATTACHED, TOWNHOUSE

Minimum Lot Areas and Dimensions

Lot Size: 7,500 square feet
Lot Width: 75 feet (37.5 per unit)
Lot Depth: 100 feet

Minimum Setbacks

Street 25 feet (public)/20 feet (private)
Side 5 feet (0 feet for common wall unit)
Rear 30 feet - all lots containing enhanced buffer. See Condition 13.
20 feet - all other lots
Water body 25 feet

All Accessory Uses: Per the LDC.
Setbacks from Preserves (All structures): 25 feet, per the LDC.
Minimum Perimeter Setbacks: 25 feet
30 feet - all lots containing enhanced buffer, See Condition 13.

Minimum Building Separation: 10 feet.

Building Height: 35 feet/ 2 stories

Maximum Lot Coverage: 45 percent

MULTI-FAMILY

Minimum Lot Areas and Dimensions

Lot Size: 10,000 square feet
Lot Width: 100 feet
Lot Depth: 100 feet

Minimum Setbacks

Street 25 feet (public)/20 feet (private)
Side 10 feet
Rear 30 feet - all lots containing enhanced buffer. See Condition 13.
20 feet - all other lots
Water body 25 feet

All Accessory Uses: Per the LDC.
Setbacks from Preserves (All structures): 25 feet, per the LDC.
Minimum Perimeter Setbacks: 25 feet
30 feet - all lots containing enhanced buffer. See Condition 13.

Minimum Building Separation: 20 feet.

Building Height: 35 feet/ 2 stories

Maximum Lot Coverage: 45 percent

RECREATIONAL AREA/FACILITIES

Minimum Lot Areas and Dimensions

Lot Size: 9,000 square feet
Lot Width: 50 feet
Lot Depth: 120 feet

Minimum Setbacks (Also see Deviation 5):
Street 25 feet (public)/20 feet (private)
Side 10 feet
Rear 20 feet
Water body 25 feet

All Accessory Uses: Per the LDC.
Setbacks from Preserves (All structures): 25 feet, per the LDC.
Minimum Perimeter Setbacks: 25 feet

Minimum Building Separation: 10 feet.

Building Height: 35 feet/ 2 stories

Maximum Lot Coverage: 45 percent

Site Development Regulations - CPD

Minimum Lot Areas and Dimensions

COMMERCIAL

Lot Size: 10,000 square feet
Lot Width: 100 feet
Lot Depth: 100 feet

Minimum Setbacks

Street 25 feet (public)/20 feet (private)
Side 10 feet
Rear 20 feet
Water body 25 feet

All Accessory Uses: Per the LDC.
Setbacks from Preserves (All structures): 25 feet, per the LDC.
Minimum Perimeter Setbacks: 25 feet

Minimum Building Separation: 20 feet.

Buildings exceeding 35 feet in height must maintain additional building separation as regulated by LDC §34-2174(a).

Building Height: 50 feet/ 3 stories
 35 feet/ 2 stories - adjacent to west boundary

Maximum Lot Coverage: 60 percent

3. Concurrency.

Approval of this rezoning does not constitute a finding that the proposed project meets the concurrency requirements set forth in LDC Chapter 2 and the Lee Plan. The developer is required to demonstrate compliance with all concurrency requirements prior to issuance of a local development order.

4. Model Home and Real Estate Sales.

Model units and homes (and real estate sales) are permitted in compliance with the following conditions:

- a. Each model must be a unique example. Multiple examples of the same unit are not permitted.
- b. All model sites must be designated on the development order plans.
- c. Prior to model home construction, the lots upon which model homes will be constructed must be shown on a preliminary plat (not the final). The preliminary plat must be filed concurrently with the local development order application. The model homes must comply with the setbacks set forth in the property development regulations for this project.
- d. Dry models are prohibited.
- e. The number of model homes or model units will be limited to no more than 10 within the development at one time.
- f. Any model homes or units must be developed within the areas identified as "models" on the approved MCP.
- g. Real Estate sales within the Residential Planned Development (RPD) are limited to the sale of lots or units within the development only. Real Estate sales are a permitted use within the Commercial Planned Development (CPD)
- h. Real Estate sales within the RPD are limited to within model homes or clubhouse only.
- i. Hours of operation for both models and real estate sales (within the RPD) are limited to Monday through Sunday 8:00 a.m. to 8:00 p.m.
- j. Model homes and real estate sales within the RPD will be valid for a period of up to 5 years from the date of issuance of a certificate of occupancy of a model home per LDC § 34-1954(d)(1).

5. Agricultural Uses. No agricultural uses are existing on site, and none are approved by virtue of this rezoning.

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

- 7. All required buffers must utilize 100 percent all native vegetation.
- 8. Buildings exceeding 35 feet in height must maintain additional building separation as regulated by LDC §34-2174(a).
- 9. Approval of this zoning request does not address mitigation of the project's vehicular or pedestrian traffic impacts. Additional conditions consistent with the Lee County LDC may be required to obtain a local development order.
- 10. Approval of this rezoning does not guarantee local development order approval. Future development order approvals must satisfy the requirements of the Lee Plan Planning Communities Map and Acreage Allocation Table, Map 16 and Table 1(b), be reviewed for, and found consistent with, the retail commercial standards for site area, including range of gross floor area, location, tenant mix and general function, as well as all other Lee Plan provisions.
- 11. The developer must contribute its proportionate share of the costs of intersection improvements at the time a traffic control device is warranted at the intersection of U.S. 41 and Diplomat Road.
- 12. Wireless Communication Facilities.
 - a. Freestanding wireless communication facilities (towers, including stealth type) are not permitted. Approval of freestanding wireless communication facilities will require an amendment to the planned development (public hearing).
 - b. Wireless Communication Facilities (including wall-mounted and roof-mounted antennas) may be approved in accordance with LDC Sec. 34-1441, et. seq. (Commercial parcels only).
- 13. Buffers. The 15-foot-wide Type B buffer to the west (adjacent to Six Lakes Country Club), to the east (adjacent to horse boarding), and to the north (adjacent to the existing Serendipity Mobile Home Park) must be enhanced to 30 feet, 10 trees per 100 linear feet, and canopy-type trees (no palms) with a minimum 4-inch caliper. The Type "B" buffer shown adjacent to the "Existing Lake and Amenities for Serendipity" also requires enhancement as described in this condition. See Condition 17 for enhanced buffer along north side of Diplomat Parkway where parking areas are adjacent to the Parkway.
- 14. Accessory Uses. Accessory uses must be located on the same tract, parcel or outparcel where a principal use is located. Accessory uses must be incidental and subordinate to the principal use of the tract, parcel or outparcel.
- 15. Open Space. Prior to local development order approval, the landscape plans must demonstrate that each commercial parcel is providing a minimum of 30 percent open space within the common area on the MCP, and a minimum of 40 percent common open space is provided within the residential tracts.
- 16. Environmental. Prior to local development order approval:

- a. The developer must submit a detailed indigenous preservation management plan for the Division of Environmental Sciences Staff review and approval that includes methods of maintaining the western 3.0 acres of the preserve as gopher tortoise habitat; and,
- b. The landscape plans must include a permanent gopher tortoise fence along Diplomat Parkway where the 3-acre gopher tortoise preserve abuts this roadway and a double staggered native hedge (minimum 3-gallon container size; 24-inch height at planting; maintained at a minimum 36-inch height) planted on the roadside of the fence; and,
- c. The landscape plans must delineate a double staggered native hedge (minimum 3-gallon container size; 24-inch height at planting; maintained at a minimum 36-inch height) planted along the interface of the indigenous preserve with the residential tract.

Prior to issuance of a Vegetation Removal Permit, all invasive exotic vegetation and manmade debris must be hand removed from the indigenous preserve.

17. Commercial Parcels North of Diplomat Parkway. Commercial buildings located within Commercial Parcels 1, 2 and the westernmost 2.3 acres of Parcel 3 are limited to a maximum of 10,000 square feet per building, and must not exceed 2 stories/35 feet in height. The building locations must alternate (be staggered) between the front and rear of the commercial parcels to provide a more campus-like setting. A parking plan must be devised to keep the amount of parking spaces along Diplomat Parkway at an absolute minimum. These parking areas and commercial buildings must be buffered, from Diplomat Parkway, by, at a minimum, a 2-foot-high berm with 10 trees and a staggered 36-inch- high hedge per 100 linear feet. Applicant is to be strongly encouraged to utilize the commercial building site locational criteria established for the Estero community.

The commercial buildings on Commercial Parcels 1, 2 and 3 must be of the same or similar architectural design and coloring as the residential buildings, to identify the them as a unified project. All project identification signs (commercial and residential) must also be of the same or similar architectural design and coloring.

SECTION C. DEVIATIONS:

- 1. Deviation (1) seeks relief from the LDC §10-285(a) requirement to provide a minimum access connection separation of 660 feet on an arterial road, to permit an access separation of 364 feet between the project's proposed main access and the proposed exit-only access for the residential portion of the southern parcel. This deviation is APPROVED.
- 2. Deviation (2) seeks relief from the LDC §10-296(k)(1) requirement that dead-end streets be closed at one end by a circular turn-around, to allow two dead-end streets as shown on the MCP. This deviation is APPROVED.
- 3. Deviation (3) seeks relief from the LDC §10-415(b)(1)(a) requirement that large developments with indigenous vegetation communities provide 50 percent of their open space percentage requirements through onsite preservation of existing native vegetative communities, to permit 0.45 acres of right-of-way to be vacated, enhanced, and preserved

to count toward the preservation requirement. This deviation is APPROVED, SUBJECT TO the following condition:

- a. Prior to local development order approval for Commercial Parcel 4, the existing roadway easement depicted within the indigenous preserve must be vacated.
4. Deviation (4) seeks relief from the LDC §10-415(b)(1)a. requirement that large developments with existing indigenous native vegetation communities provide 50 percent of their open space requirement through on-site preservation of indigenous native vegetation, to allow portions of the preservation area to be disturbed and restored in order to install a stormwater management system. This deviation is APPROVED, SUBJECT TO the following conditions:
- a. Prior to local development order, the development orders plans must delineate the general location of the surface water management outfall through the indigenous preserve to the canal. The outfall must be designed as an open system that can be planted with native vegetation.
 - b. Prior to issuance of a Vegetation Removal Permit, the location of the surface water management outfall through the indigenous preserve must be field staked, to avoid impacting any large native trees or gopher tortoise burrows, for the Division of Environmental Sciences' Staff review and approval.
5. Deviation (5) seeks relief from the LDC §34-2474(b)(6) requirement that recreation halls and ancillary facilities and private clubs be located at least 40 feet from any residential dwelling unit, to allow a 20-foot minimum separation for any recreation building from a residential dwelling unit. This deviation is APPROVED, SUBJECT TO the following condition:
- a. Development of a recreational facility and clubhouse must be generally consistent with the location and size as shown on the approved MCP.
6. a. Deviation (6.a.) seeks relief from the LDC §10-291(3) requirement (when practical) that residential developments of more than five acres in size provide two or more means of ingress into the development, to allow the residential portion to the north of Diplomat Parkway to be constructed with a single ingress/egress connection onto Diplomat Parkway. This deviation is APPROVED, SUBJECT TO the following conditions:
- 1) Access to the residential component north of Diplomat Parkway must be generally consistent with the approved MCP; and
 - 2) The approved MCP and local development order must depict a minimum 70-foot-wide divided entrance on the north side of Diplomat Parkway that includes a median with two lanes on both sides of the median for ingress and egress; and
 - 3) Prior to issuance of a development order, the developer must provide written documentation from the North Fort Myers Fire District indicating that these access points are acceptable and provide adequate access for emergency

vehicles. The development order must also include the plans for the secondary/emergency access required in the following paragraph.

- 4) Prior to build-out of the north residential development, applicant must install a secondary/emergency access from the residential tract to commercial Parcel 3, as shown on the MCP. Any emergency access gate must comply with all applicable regulations with respect to required equipment for an emergency override mechanism at the time of installation. Additionally, if an emergency necessitates the breaking of an entrance gate, the cost of repairing the gate and the emergency vehicle (if applicable) will be the responsibility of the owner or the operator of the gate;
- 6. b. Deviation (6.b.) seeks relief from the LDC §10-291(3) (when practical) that residential developments of more than five acres in size provide two or more means of ingress into the development, to allow the residential portion to the south of Diplomat Parkway to be constructed with a single ingress/egress connection onto Diplomat Parkway with an emergency access also onto Diplomat Parkway. This deviation is APPROVED, SUBJECT TO the following conditions:
 - 1) Access to the residential component South of Diplomat Parkway must be generally consistent with the approved MCP; and
 - 2) Any emergency access gate must comply with all applicable regulations with respect to required equipment for an emergency override mechanism at the time of installation. Additionally, if an emergency necessitates the breaking of an entrance gate, the cost of repairing the gate and the emergency vehicle (if applicable) will be the responsibility of the owner or the operator of the gate; and
 - 3) Prior to the issuance of a development order, the developer must provide written documentation from the North Fort Myers Fire District indicating that these access points are acceptable and provide adequate access for emergency vehicles.

SECTION D. EXHIBITS AND STRAP NUMBER:

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

- Exhibit A: Legal description
- Exhibit B: Zoning Map (subject parcel identified with shading)
- Exhibit C: Master Concept Plan -Diplomat Parcel, Stamped Received November 3, 2006

The applicant has indicated that the STRAP number for the subject property is:
34-43-24-00-00001.3030.

SECTION E. FINDINGS AND CONCLUSIONS:

- 1. The applicant has proven entitlement to the rezoning by demonstrating compliance with the Lee Plan, the LDC, and other applicable codes or regulations.

- 2. The RPD/CPD rezoning, as approved:
 - a. meets or exceeds the performance and locational standards set forth for the potential uses allowed by the request; and,
 - b. is consistent with the densities, intensities and general uses set forth in the Lee Plan; and,
 - c. is compatible with existing or planned uses in the surrounding area; and,
 - d. will not place an undue burden upon existing transportation or planned infrastructure facilities and will be served by streets with the capacity to carry traffic generated by the development; and,
 - e. will not adversely affect environmentally critical areas or natural resources.
- 3. The RPD/CPD rezoning satisfies the following criteria:
 - a. the proposed use or mix of uses is appropriate at the subject location; and
 - b. the recommended conditions to the concept plan and other applicable regulations provide sufficient safeguard to the public interest; and
 - c. the recommended conditions are reasonably related to the impacts on the public interest created by or expected from the proposed development.
- 4. No agricultural uses currently exist on the property.
- 5. Urban services, as defined in the Lee Plan, will be available and adequate to serve the proposed land use.
- 6. The approved deviations, as conditioned, enhance achievement of the planned development objectives, and preserve and promote the general intent of LDC Chapter 34, to protect the public health, safety and welfare.

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

Robert P. Janes	Aye
Douglas R. St. Cerny	Aye
Ray Judah	Aye
Tammara Hall	Aye
John E. Albion	Aye

DULY PASSED AND ADOPTED this 3rd day of April 2006.

ATTEST:
CHARLIE GREEN, CLERK

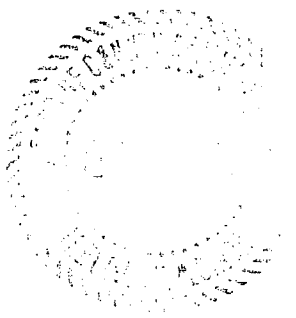
BY: *Susan R. Perce*
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: *Tammara Hall*
Tammara Hall, Chairwoman

Approved as to form by:

Donna Marie Collins
Donna Marie Collins
County Attorney's Office



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4p
2006 NOV 27 PM 3:20

Banks Engineering

Professional Engineers, Planners & Land Surveyors
2515 Northbrooke Plaza Drive - Suite 200
Naples, Florida 34119
(239) 597-2061
Fax (239) 597-3082

DESCRIPTION
OF A
PARCEL OF LAND
LYING IN
SECTION 34, TOWNSHIP 43 SOUTH, RANGE 24 EAST
LEE COUNTY, FLORIDA
(CPD ZONING DESCRIPTION)

A TRACT OR PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, LYING IN SECTION 34, TOWNSHIP 43 SOUTH, RANGE 24 EAST AND BEING FURTHER BOUNDED AND DESCRIBED AS FOLLOWS:

NORTH CPD ZONNING PARCEL

COMMENCING AT THE INTERSECTION OF THE WESTERLY RIGHT-OF-WAY LINE OF U.S. 41 (STATE ROAD 45) (200 FEET WIDE) AND THE SOUTHERLY RIGHT-OF-WAY LINE OF LITTLETON ROAD (50 FEET WIDE); THENCE 94.14 FEET ALONG SAID WESTERLY RIGHT-OF-WAY LINE AND ALONG THE ARC OF A CURVE CONCAVE TO THE SOUTHEAST HAVING A RADIUS OF 5829.58 FEET AND SUBTENDED BY A CHORD HAVING A LENGTH OF 94.14 FEET AND BEARING S.03°47'10"W. TO A POINT OF TANGENCY; THENCE S.03°25'50"W. ALONG SAID WESTERLY RIGHT-OF-WAY LINE FOR 2338.37 FEET TO THE **POINT OF BEGINNING**; THENCE CONTINUE S.03°25'50"W. ALONG SAID WESTERLY RIGHT-OF-WAY LINE FOR 199.95 FEET TO **POINT "A"** AND TO AN INTERSECTION WITH THE NORTHERLY RIGHT-OF-WAY LINE OF DIPLOMAT PARKWAY (100 FEET WIDE); THENCE N.86°35'21"W. ALONG SAID NORTHERLY RIGHT-OF-WAY LINE FOR 12.52 FEET TO THE BEGINNING OF A CURVE TO THE LEFT HAVING A RADIUS OF 2150.00 FEET; THENCE WESTERLY ALONG SAID CURVE AND ALONG SAID NORTHERLY RIGHT-OF-WAY LINE THROUGH A CENTRAL ANGLE OF 3°32'51" FOR 133.12 FEET; THENCE S.89°51'48"W. ALONG SAID NORTHERLY RIGHT-OF-WAY LINE FOR 1484.79 FEET TO **POINT "B"**; THENCE N.00°08'12"W. FOR 250.00 FEET; THENCE N.89°51'48"E. FOR 1145.24 FEET; THENCE S.03°25'50"W. FOR 53.49 FEET; THENCE S.89°54'50"E. FOR 500.85 FEET TO THE **POINT OF BEGINNING**.

PARCEL CONTAINS 8.78 ACRES, MORE OR LESS.

TOGETHER WITH: ADDITIONAL NORTH CPD ZONNING PARCEL

COMMENCING AT SAID **POINT "B"** ; THENCE S.89°51'48"W. ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE OF DIPLOMAT PARKWAY (100 FEET WIDE) FOR 80.00 FEET TO THE **POINT OF BEGINNING**; THENCE CONTINUE S.89°51'48"W. ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE FOR 253.42 FEET; THENCE N.28°32'51"W. FOR 6.70 FEET; THENCE N.00°20'36"W. FOR 244.12 FEET; THENCE N.89°51'48"E. FOR 257.48 FEET; THENCE S.00°08'12"E. FOR 250.00 FEET TO THE **POINT OF BEGINNING**.

PARCEL CONTAINS 1.48 ACRES, MORE OR LESS.

DCI 2005-00 055

TOGETHER WITH: SOUTH CPD ZONNING PARCEL

COMMENCING AT SAID **POINT "A"**; THENCE S.03°25'50"W. ALONG SAID WESTERLY RIGHT-OF-WAY LINE OF U.S. 41 (STATE ROAD 45) (200 FEET WIDE) FOR 100.00 FEET TO THE **POINT OF BEGINNING**;

SHEET 1 OF 3

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Fort Myers Office
10511 Six Mile Cypress Pkwy, Suite #101
Fort Myers, Florida 33966
(239) 939-5490
Fax (239) 939-2523

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

THENCE CONTINUE S.03°25'50"W. ALONG SAID WESTERLY RIGHT-OF-WAY LINE FOR 429.00 FEET TO THE NORTHEAST CORNER OF A PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 2113 AT PAGE 1590 OF SAID PUBLIC RECORDS, ALSO BEING THE NORTHEAST CORNER OF MERCHANTS CROSSING, A SUBDIVISION RECORDED IN PLAT BOOK 52 AT PAGES 37 THROUGH 47 OF SAID PUBLIC RECORDS; THENCE N.86°34'10"W. ALONG THE NORTH LINE OF SAID PARCEL AND SAID SUBDIVISION FOR 72.00 FEET TO THE SOUTHEAST CORNER OF A PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 2833 AT PAGE 4156 OF SAID PUBLIC RECORDS; THENCE N.03°25'50"E. ALONG THE EASTERLY LINE OF SAID PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 2833 AT PAGE 4156 FOR 65.00 FEET; THENCE N.86°33'36"W. ALONG THE NORTHERLY LINE OF SAID PARCEL FOR 39.68 FEET; THENCE S.03°26'24"W. ALONG THE WESTERLY LINE OF SAID PARCEL FOR 8.00 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT HAVING A RADIUS OF 17.00 FEET; THENCE SOUTHWESTERLY ALONG SAID PARCEL AND SAID CURVE THROUGH A CENTRAL ANGLE OF 90°00'01" FOR 26.70 FEET; THENCE N.86°33'36"W. ALONG THE NORTHERLY LINE OF SAID PARCEL FOR 487.82 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT HAVING A RADIUS OF 80.00 FEET; THENCE NORTHWESTERLY ALONG SAID PARCEL AND SAID CURVE THROUGH A CENTRAL ANGLE OF 86°25'24" FOR 120.67 FEET; THENCE N.00°08'12"W. ALONG THE EASTERLY LINE OF SAID PARCEL FOR 274.66 FEET TO POINT "C" AND TO AN INTERSECTION WITH THE SOUTHERLY RIGHT-OF-WAY LINE OF DIPLOMAT PARKWAY (100 FEET WIDE) AS DESCRIBED IN OFFICIAL RECORDS BOOK 2833 AT PAGE 4156 OF SAID PUBLIC RECORDS; THENCE N.89°51'48"E. ALONG SAID SOUTHERLY RIGHT-OF-WAY FOR 575.20 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT HAVING A RADIUS OF 2050.00 FEET; THENCE EASTERLY ALONG SAID RIGHT-OF-WAY AND SAID CURVE THROUGH A CENTRAL ANGLE OF 3°32'51" FOR 126.93 FEET; THENCE S.86°35'21"E. ALONG SAID RIGHT-OF-WAY FOR 12.49 FEET TO THE POINT OF BEGINNING.

PARCEL CONTAINS 6.00 ACRES, MORE OR LESS.

TOGETHER WITH: ADDITIONAL SOUTH CPD ZONNING PARCEL
COMMENCING AT SAID POINT "C"; THENCE S.89°51'48"W. ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE OF DIPLOMAT PARKWAY (100 FEET WIDE) FOR 40.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE S.89°51'48"W. ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE FOR 383.07 FEET; THENCE S.00°08'12"E. FOR 186.04 FEET; THENCE N.59°04'35"E. FOR 185.65 FEET; THENCE S.76°11'27"E. FOR 125.61 FEET; THENCE S.41°41'10"E. FOR 153.30 FEET TO AN INTERSECTION WITH THE WESTERLY LINE OF THE AFORESAID PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 2833 AT PAGE 4156 OF SAID PUBLIC RECORDS; THENCE N.00°08'12"W. ALONG THE WESTERLY LINE FOR 236.02 FEET TO THE POINT OF BEGINNING.

PARCEL CONTAINS 1.22 ACRES.

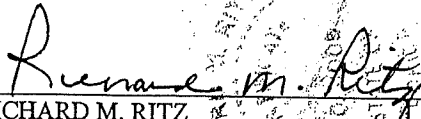
NET AREA AS DESCRIBED CONTAINS 17.48 ACRES, MORE OR LESS.

BEARINGS ARE BASED ON THE WESTERLY RIGHT-OF-WAY OF U.S. 41 (STATE ROAD 45) AS BEARING S.03°25'50"W.

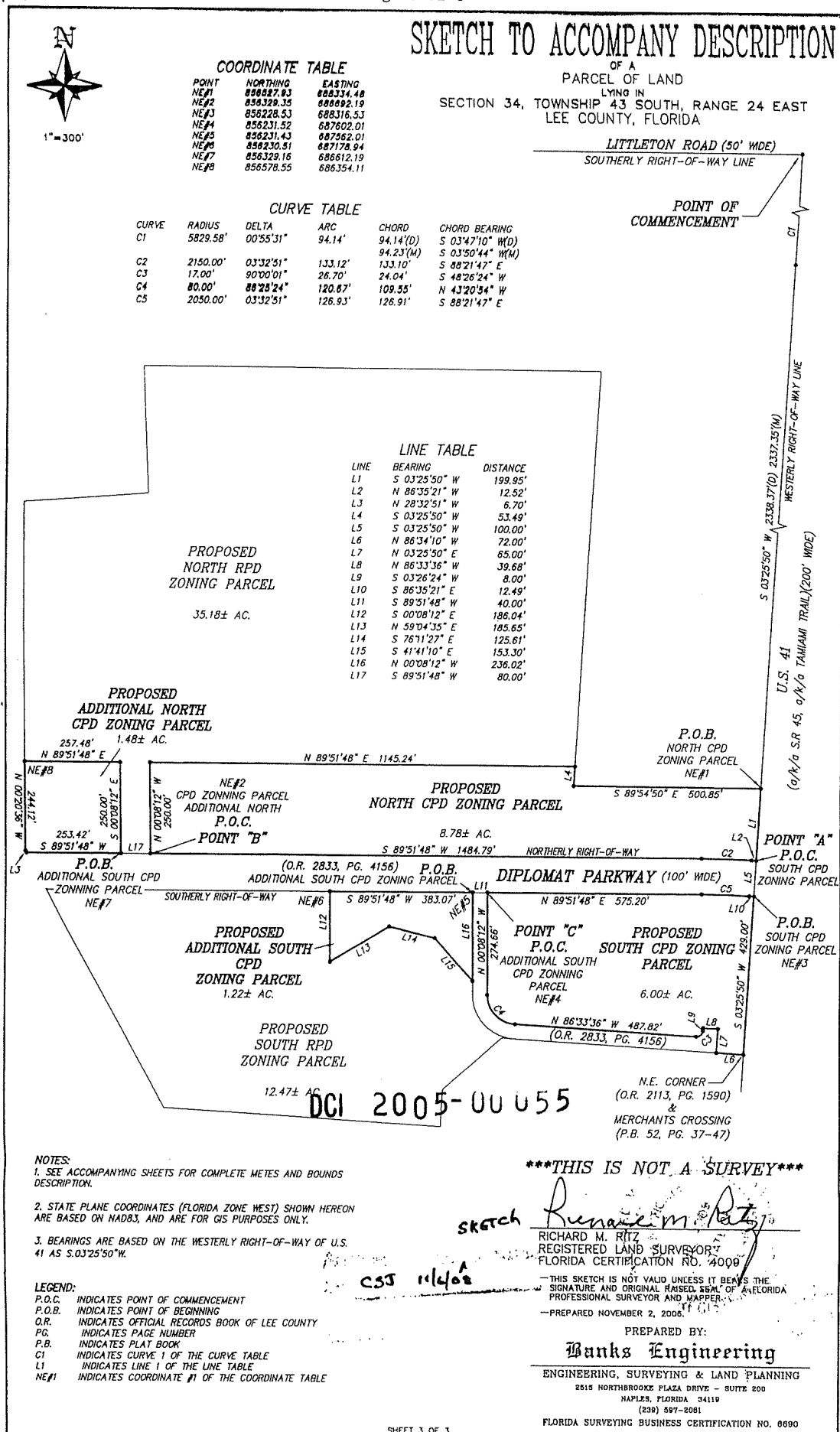
SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS AND RIGHTS-OF-WAY OF RECORD.

DESCRIPTION PREPARED NOVEMBER 2, 2006.

DCI 2005-00055


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

Applicant's Legal Checked
by 11/08/06 CSJ



Banks Engineering

Professional Engineers, Planners & Land Surveyors
2515 Northbrooke Plaza Drive-Suite 200
Naples, Florida 34119
(239) 597-2061
Fax (239) 597-3082

DESCRIPTION
OF A
PARCEL OF LAND
LYING IN
SECTION 34, TOWNSHIP 43 SOUTH, RANGE 24 EAST
LEE COUNTY, FLORIDA
(RPD ZONING DESCRIPTION)

A TRACT OR PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, LYING IN SECTION 34, TOWNSHIP 43 SOUTH, RANGE 24 EAST AND BEING FURTHER BOUNDED AND DESCRIBED AS FOLLOWS:

NORTH RPD PARCEL:

COMMENCING AT THE INTERSECTION OF THE WESTERLY RIGHT-OF-WAY LINE OF U.S. 41 (STATE ROAD 45) (200 FEET WIDE) AND THE SOUTHERLY RIGHT-OF-WAY LINE OF LITTLETON ROAD (50 FEET WIDE) THENCE 94.14 FEET ALONG SAID WESTERLY RIGHT-OF-WAY LINE AND ALONG THE ARC OF A CURVE CONCAVE TO THE SOUTHEAST HAVING A RADIUS OF 5829.58 FEET AND SUBTENDED BY A CHORD HAVING A LENGTH OF 94.14 FEET AND BEARING S.03°47'10"W. TO A POINT OF TANGENCY; THENCE S.03°25'50"W. ALONG SAID WESTERLY RIGHT-OF-WAY LINE FOR 2338.37 FEET; THENCE N.89°54'50"W. FOR 500.85 FEET; THENCE N.03°25'50"E. FOR 53.49 FEET TO THE **POINT OF BEGINNING**; THENCE S.89°51'48"W. FOR 1145.24 FEET; THENCE S.00°08'12"E. FOR 250.00 FEET TO AN INTERSECTION WITH THE NORTHERLY RIGHT-OF-WAY LINE OF DIPLOMAT PARKWAY (100 FEET WIDE) AS DESCRIBED IN OFFICIAL RECORDS BOOK 2833 AT PAGE 4156 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE S.89°51'48"W. ALONG SAID NORTHERLY RIGHT-OF-WAY LINE FOR 80.00 FEET; THENCE N.00°08'12"W. FOR 250.00 FEET; THENCE S.89°51'48"W. FOR 257.48 FEET; THENCE N.00°20'36"W. FOR 703.76 FEET; THENCE N.85°23'00"E. FOR 335.22 FEET; THENCE N.02°25'15"W. FOR 346.19 FEET; THENCE S.89°54'50"E. FOR 1231.65 FEET; THENCE S.03°25'50"W. FOR 1073.15 FEET TO THE **POINT OF BEGINNING**.

PARCEL CONTAINS 35.18 ACRES, MORE OR LESS.

AND;

SOUTH RPD PARCEL:

COMMENCING AT THE INTERSECTION OF THE WESTERLY RIGHT-OF-WAY OF U.S. 41 (STATE ROAD 45) (200 FEET WIDE) AND THE SOUTHERLY RIGHT-OF-WAY OF LITTLETON ROAD (50 FEET WIDE) THENCE 94.14 FEET ALONG THE WESTERLY RIGHT-OF-WAY AND ALONG THE ARC OF A CURVE CONCAVE TO THE SOUTHEAST HAVING A RADIUS OF 5829.58 FEET AND SUBTENDED BY A CHORD HAVING A LENGTH OF 94.14 FEET AND BEARING S.03°47'10"W. TO A POINT OF TANGENCY; THENCE S.03°25'50"W. ALONG SAID WESTERLY RIGHT-OF-WAY LINE FOR 2338.37 FEET TO THE SOUTHEASTERLY CORNER OF A PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 1972 AT PAGE 335 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE CONTINUE S.03°25'50"W. ALONG SAID WESTERLY RIGHT-OF-WAY LINE FOR 728.95 FEET TO THE NORTHEAST CORNER OF A PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 2113 AT PAGE 1590 OF SAID PUBLIC RECORDS, ALSO BEING THE NORTHEAST CORNER OF MERCHANTS CROSSING, A SUBDIVISION RECORDED IN PLAT BOOK 52 AT PAGES 37 THROUGH 47 OF SAID PUBLIC RECORDS; THENCE N.86°34'10"W. ALONG THE NORTH LINE OF SAID PARCEL AND SAID SUBDIVISION FOR 616.50 FEET TO THE **POINT OF**

SHEET 1 OF 3

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Fort Myers Office
10511 Six Mile Cypress Pkwy, Suite #101
Fort Myers, Florida 33966
(239) 939-5490
Fax (239) 939-2523

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

DCI 2005-00055

BEGINNING; THENCE CONTINUE N.86°34'10"W. ALONG SAID NORTHERLY LINE FOR 33.50 FEET TO THE NORTHWEST CORNER OF SAID PARCEL; THENCE S.48°25'48"W. ALONG THE WESTERLY LINE OF SAID PARCEL AND SAID SUBDIVISION FOR 212.13 FEET; THENCE S.03°25'50"W. ALONG THE WESTERLY LINE OF SAID PARCEL AND SAID SUBDIVISION FOR 100.00 FEET TO THE SOUTHWESTERLY CORNER OF SAID PARCEL AND TO THE SOUTH LINE OF A PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 2389 AT PAGE 1936 OF SAID PUBLIC RECORDS; THENCE N.86°34'10"W. ALONG THE SOUTH LINE OF SAID PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 2389 AT PAGE 1936 AND THE NORTHERLY LINE OF SAID SUBDIVISION FOR 747.11 FEET TO AN INTERSECTION WITH THE NORTHEASTERLY LINE OF A DRAINAGE EASEMENT (50 FEET WIDE) DESCRIBED IN DEED BOOK 237 AT PAGES 564 AND 565 OF SAID PUBLIC RECORDS; THENCE N.28°32'51"W. ALONG THE NORTHEASTERLY LINE OF SAID DRAINAGE EASEMENT FOR 666.39 FEET TO AN INTERSECTION WITH THE SOUTHERLY RIGHT-OF-WAY LINE OF DIPLOMAT PARKWAY (100 FEET WIDE) AS DESCRIBED IN OFFICIAL RECORDS BOOK 2833 AT PAGE 4156 OF SAID PUBLIC RECORDS; THENCE N.89°51'48"E. ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE FOR 765.84 FEET; THENCE S.00°08'12"E. FOR 186.04 FEET; THENCE N.59°04'35"E. FOR 185.65 FEET; THENCE S.76°11'27"E. FOR 125.61 FEET; THENCE S.41°41'10"E. FOR 153.30 FEET TO AN INTERSECTION WITH THE WESTERLY LINE OF A PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 2833 AT PAGE 4156 OF SAID PUBLIC RECORDS; THENCE S.00°08'12"E. ALONG THE WESTERLY LINE OF SAID PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 2833 AT PAGE 4156 FOR 38.64 FEET TO THE BEGINNING OF A CURVE TO THE LEFT HAVING A RADIUS OF 120.00 FEET; THENCE SOUTHEASTERLY ALONG SAID WESTERLY LINE AND SAID CURVE THROUGH A CENTRAL ANGLE OF 86°25'24" FOR 181.00 FEET TO THE **POINT OF BEGINNING**.

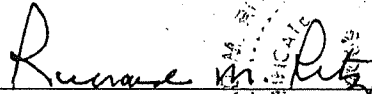
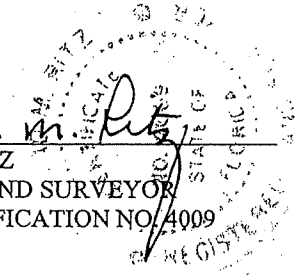
PARCEL CONTAINS 12.47 ACRES, MORE OR LESS.

NET ACREAGE IS 47.65 ACRES, MORE OR LESS.

BEARINGS ARE BASED ON THE WESTERLY RIGHT-OF-WAY OF U.S. 41 (STATE ROAD 45) AS BEARING S.03°25'50"W.

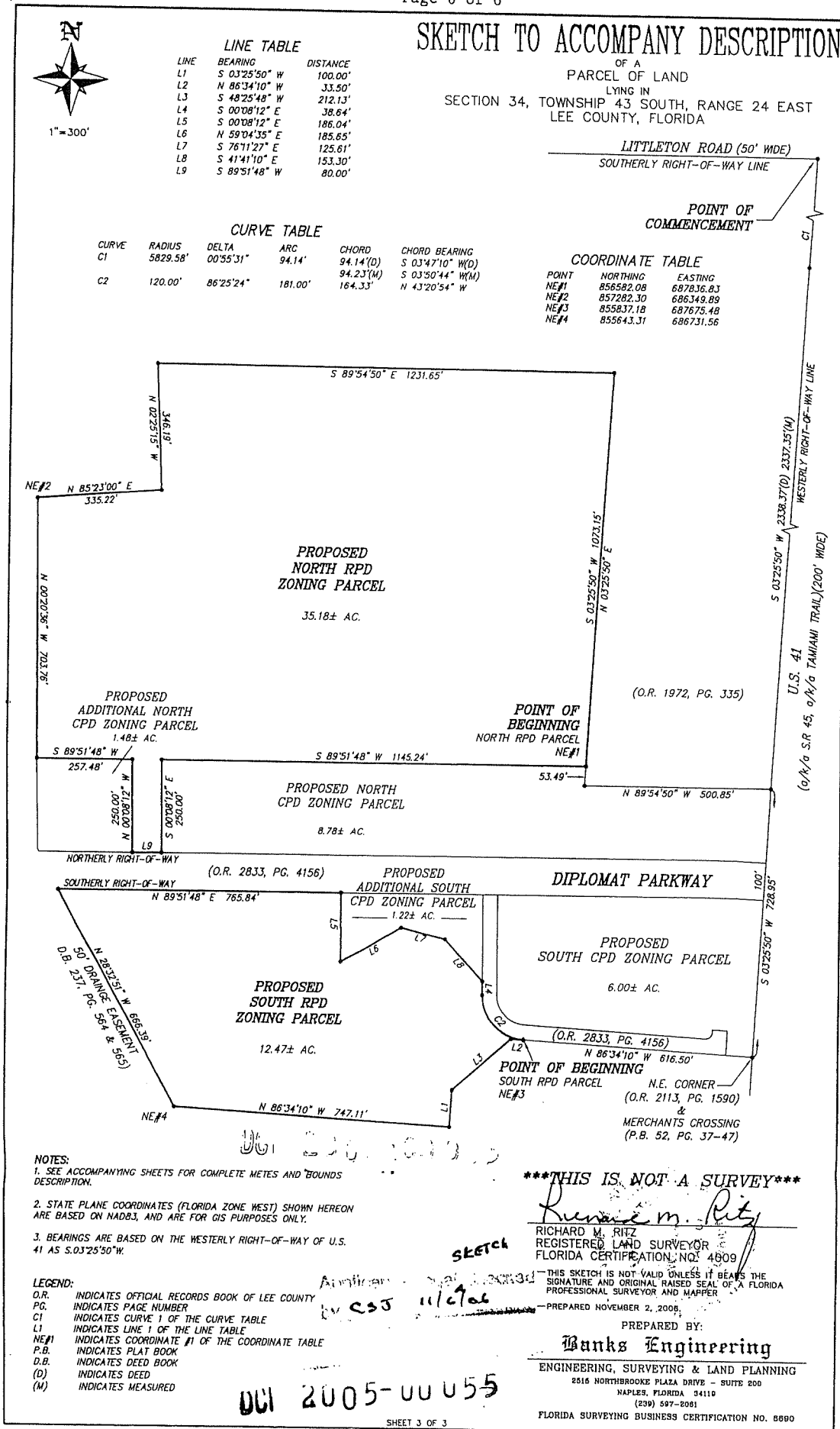
SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS AND RIGHTS-OF-WAY OF RECORD.

DESCRIPTION PREPARED NOVEMBER 2, 2006.


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


Applicant's Legal Checked
by CST 11/6/06

DCI 2005-00055



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PROPOSED ZONING MAP Attachment B

12/7/2005

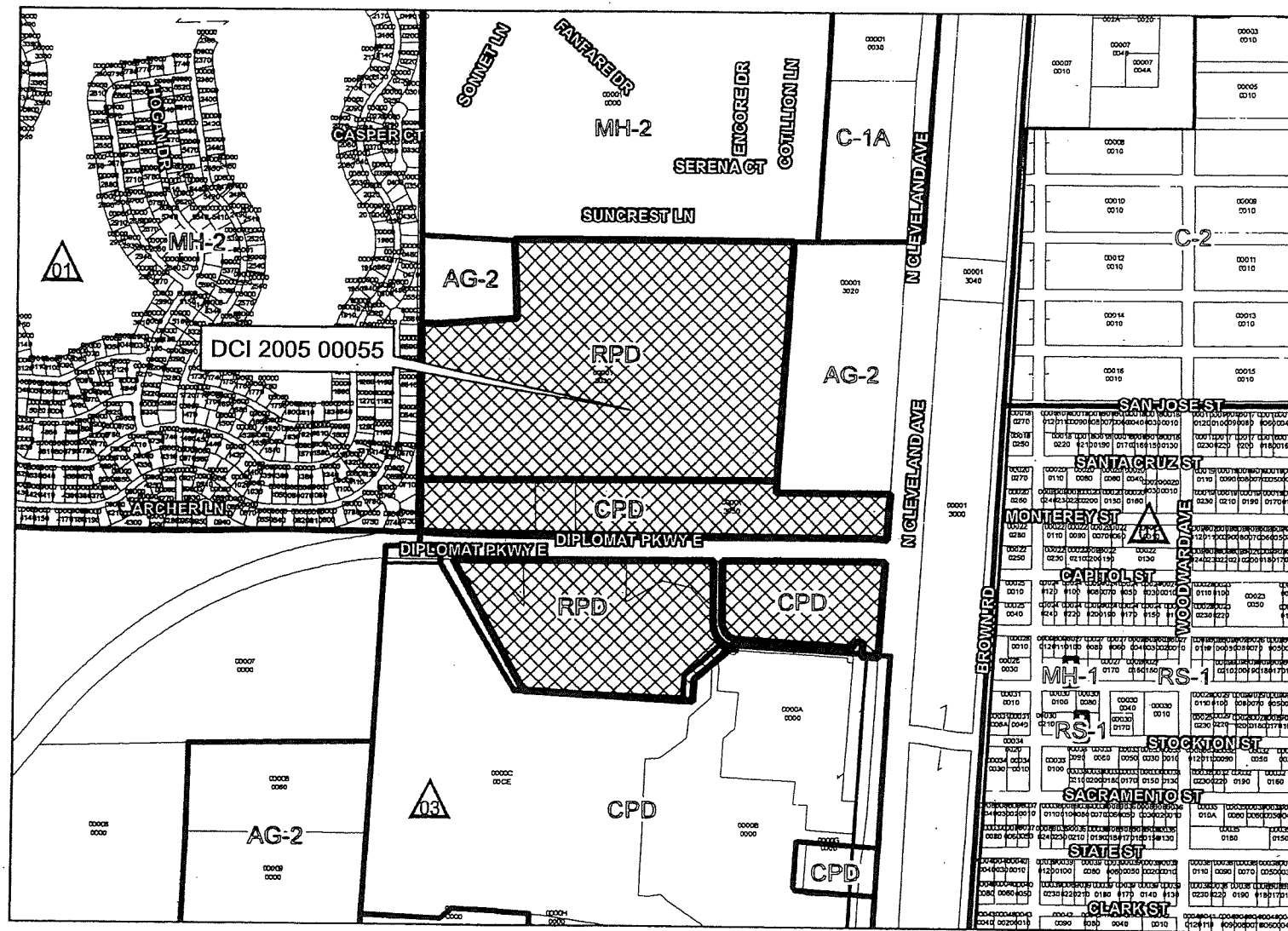
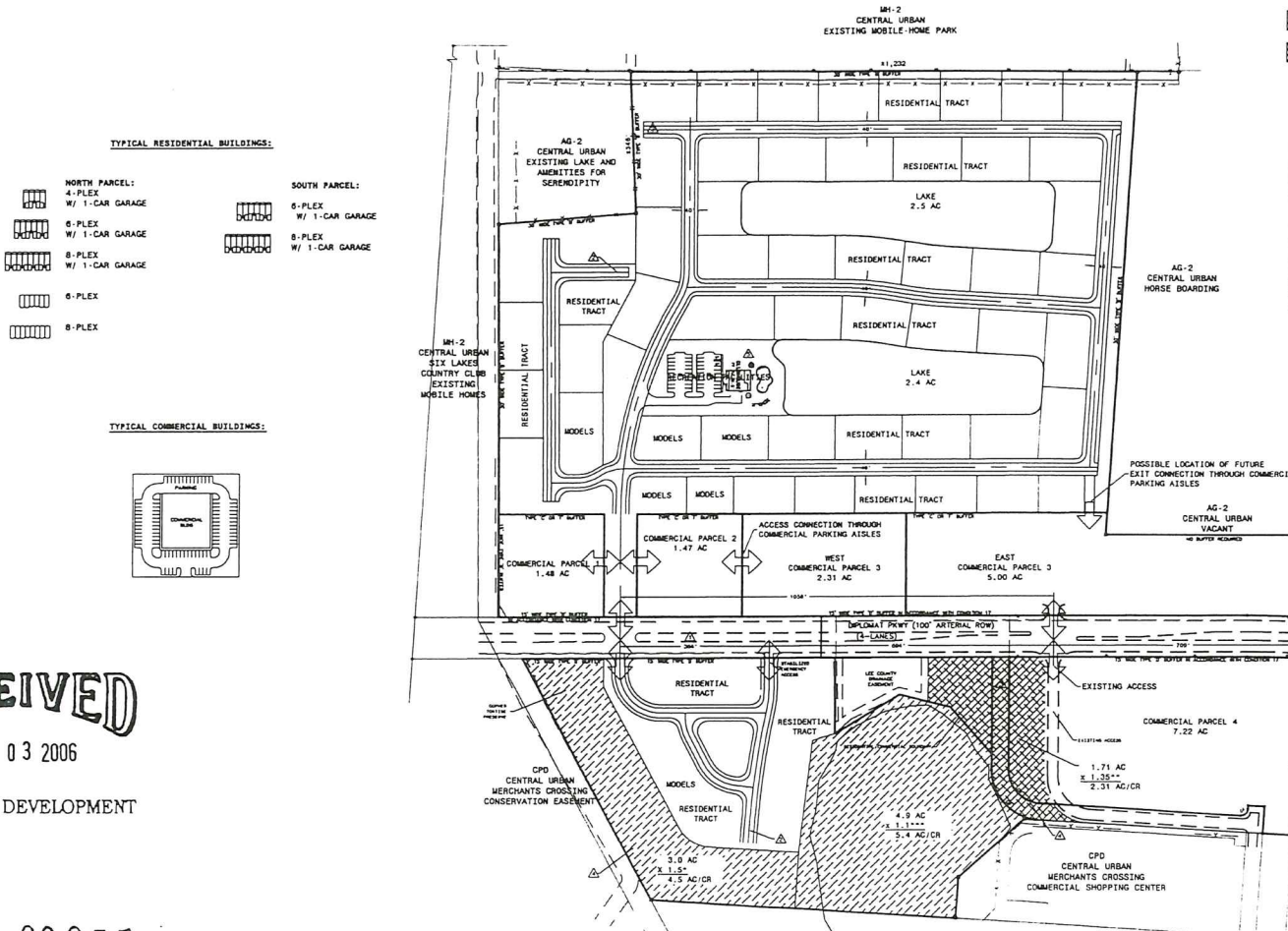


EXHIBIT "B"
Zoning Map

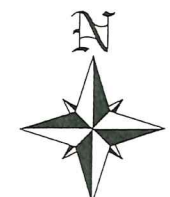


- RESIDENTIAL INDIGENOUS
- COMMERCIAL INDIGENOUS
- DEVIATION PLEASE REFER TO SCHEDULE OF DEVIATIONS AND JUSTIFICATIONS

OPEN SPACE CALCULATIONS (DOX FOR COMMERCIAL/DOX COMMON OPEN SPACE FOR RESIDENTIAL)				
TRACT	AREA	INDIGENOUS REQUIRED	OTHER OPEN SPACE REQUIRED	INDIGENOUS PROVIDED
COMMERCIAL 1	1.48 AC	0.22 AC	0.22 AC(2)	0.22 AC(2)
COMMERCIAL 2	1.47 AC	0.22 AC	0.22 AC(2)	0.22 AC(2)
COMMERCIAL 3	7.31 AC	1.10 AC	1.10 AC(2)	1.10 AC(2)
COMMERCIAL 4	7.22 AC	1.08 AC	1.08 AC(2)	1.08 AC(2)
COMMERCIAL TOTALS	17.48 AC	2.62 AC	2.62 AC(2)	2.62 AC(2)
RESIDENTIAL NORTH	35.15 AC	7.04 AC	7.04 AC(2)	7.04 AC(2)
RESIDENTIAL SOUTH	12.41 AC	2.49 AC	2.49 AC(2)	2.49 AC(2)
RESIDENTIAL TOTALS	47.56 AC	9.53 AC	9.53 AC(2)	9.53 AC(2)

(2) INDIGENOUS OPEN SPACE AREA IS PROVIDED ON SOUTHERN PORTION OF DEVELOPMENT (12.71 AC(2) TOTAL) AND IS TO PROVIDE TOTAL REQUIRED INDIGENOUS OPEN SPACE FOR ALL TRACTS.
(3) OTHER (NON-INDIGENOUS) OPEN SPACE SHALL BE PROVIDED ON THE RESPECTIVE TRACT AND SHALL BE IDENTIFIED AT THE TIME OF DEVELOPMENT UNDER PERMITTING.

INDIGENOUS NOTES:
**150% CREDIT FOR MINIMUM 3 ACRES AND 100' WIDTH PER LOC SECTION 10-415(b)(2)(3).
**125% CREDIT FOR MINIMUM 1 ACRE AND 75' WIDTH PER LOC SECTION 10-415(b)(2)(3). AND ADDITIONAL 10% CREDIT FOR PRESERVATION ADJACENT TO ROADWAY PER LOC SECTION 10-415(b)(2)(3).
***110% CREDIT FOR CONNECTION TO OFFSITE ENVIRONMENTAL CONSERVATION OR PRESERVE AREAS PER LOC SECTION 10-415(b)(2)(3).



0 300' 600'
GRAPHIC SCALE 1" = 300'

RECEIVED

NOV 03 2006

COMMUNITY DEVELOPMENT

DCI 2005-00055

PREPARED FOR: N.B.D. DEVELOPMENT, INC. 301 THAWAT ROAD, SUITE 3191 BOCA RATON, FLORIDA 33431 PH: (561) 994-8572 FAX: (561) 384-7136		Banks Engineering, Inc. Professional Engineers, Planners & Land Surveyors FORT MYERS ♦ NAPLES ♦ SARASOTA 6640 WILLOW PARK DRIVE, SUITE 8 NAPLES, FLORIDA 34108 PHONE: (239) 587-0861 FAX: (239) 587-3062 ENGINEERING LICENSE # 18 6866 SURVEY LICENSE # 18 6866		MASTER CONCEPT PLAN DIPLOMAT PARCEL LEE COUNTY, FLORIDA					
DATE	PROJECT	DRAWING	DESIGN	DRAWN	CHECKED	SCALE	SHEET	OF	FILE NO. (P-T-R)
FEB 2005	2028	021705	JCH	SOJ	JCH	1"=300'	1	1	34-43-24

ATTACHMENT L

ADMINISTRATIVE AMENDMENT (PD) ADD2019-00181

ADMINISTRATIVE AMENDMENT
LEE COUNTY, FLORIDA

WHEREAS, Lee County Housing Authority filed an application for an administrative amendment to a Residential Planned Development (RPD) and Commercial Planned Development (CPD) on a project known as Diplomat South RPD to adopt an alternate Master Concept Plan (MCP) to reflect the existing approved schedule of uses and to clarify a maximum building height of 35 feet on property located south of Diplomat Parkway East, North Fort Myers Planning Community; and

WHEREAS, the applicant has indicated that the property's current STRAP number is 34-43-24-00-00001.303A (see Exhibit "A"); and

WHEREAS, the subject property is located in the Central Urban Future Land Use Category and Mixed Use Overlay as designated by the Lee County Comprehensive Plan (Lee Plan); and

WHEREAS, the property was originally rezoned by Resolution Z-06-004 (with subsequent amendments in case number ADD2007-00169, Resolution Z-11-002, and ADD2019-00085); and

WHEREAS, Zoning Resolution Z-06-004 approved a rezoning of the subject property from Agricultural (AG-2) to Residential Planned Development (RPD) and Commercial Planned Development (CPD) to allow a maximum of 457 dwelling units, 200,000 square feet of commercial floor area and 120 hotel rooms on property north and south of Diplomat Parkway East (see Exhibit "G"); and

WHEREAS, ADD2007-00169 approved amendments to the Master Concept Plan (MCP) and property development regulations pertaining to lot areas and dimensions for townhouse dwelling unit types with one deviation from required on-site space for the placement of garbage and recycling containers or receptacles (see Exhibit "F") and

WHEREAS, Development Order DOS2007-00267, which expires on April, 27 2028, approved townhouse type dwelling units within the RPD south of Diplomat Parkway in accordance with ADD2007-00169; and

WHEREAS, the specificity in the amended master concept plan approved by ADD2007-00169 does not reflect all dwelling unit types approved in the existing schedule of uses for the RPD portion of the property south of Diplomat Parkway; and

WHEREAS, the applicant requests approval of an alternate MCP to permit the variety of dwelling unit types within this planned development approval at the option of the developer and maintain the existing access points and open space areas (see Exhibit "B"); and

WHEREAS, Zoning Resolution Z-11-002 approved an amendment to Resolution Z-06-005 (as amended by ADD2007-00169) to permit an optional Assisted Living Facility (ALF)/Continuing Care Facility (CCF) and standard dwelling units with up to 50,000 square feet of medical office for the northerly 35.2-acre RPD portion of the project (north of Diplomat Parkway East) (see Exhibit "D"); and

WHEREAS, ADD2019-00085 amended Condition 1 of Resolution Z-11-002 to clarify that the northerly 35.2 acres may be developed with RPD Uses or an ALF/CCF at the option of the developer with or without the 5.43-acre CPD Parcel North (see Exhibit "E"); and

WHEREAS, Resolution Z-11-002 and ADD2019-00085 did not affect the development parameters of the RPD south of Diplomat Parkway; and

WHEREAS, the site development regulations for the RPD south of Diplomat Parkway permit single family dwelling units to be a maximum of 35 feet in height and 3 stories while limiting duplex, two-family attached, townhouse and multi-family dwelling units to 2 stories within the same 35-foot maximum height limitation; and

WHEREAS, the applicant proposes to modify the site development regulations for the RPD south of Diplomat Parkway to maintain the maximum height for all residential uses to 35 feet without the restriction on number of stories (see Exhibit "C"); and

WHEREAS, the proposed alternate MCP and modified site development regulations for the RPD south of Diplomat Parkway will facilitate the development of affordable housing should funding be awarded while allowing the existing entitlements to remain if funding is not awarded (see Exhibit "C"); and

WHEREAS, the Lee County Land Development Code provides for certain administrative changes to planned development master concept plans and planned unit development final development plans; and

WHEREAS, the subject application and plans have been reviewed by the Lee County Department of Community Development in accordance with applicable regulations for compliance with all terms of the administrative approval procedures; and

WHEREAS, it is found that the proposed amendment does not increase density or intensity within the development; does not decrease buffers or open space required by the LDC; does not underutilize public resources or infrastructure; does not reduce total open space, buffering, landscaping or preservation areas; and does not otherwise adversely impact on surrounding land uses.

NOW, THEREFORE, IT IS HEREBY DETERMINED that the application for administrative approval for an amendment to the Residential Planned Development and Commercial Planned Development is **APPROVED**.

Approval is subject to the following conditions:

1. Condition 1 of ADD2019-00085 is hereby amended in strikethrough and underline as follows:

Development north of Diplomat Parkway East must be substantially consistent with the 1-page Master Concept Plan (MCP) entitled "DIPLOMAT PROPERTY RPD/CPD (NORTH PARCEL)," dated 09-22-10, last revised 4-22-11 and date-stamped "Received APR 27 2011 Community Development" OR the 1-page MCP entitled "Master Concept Plan, DIPLOMAT PARCEL, Lee County, Florida," dated 08-27-2007, last revised 01-23-2008 and date-stamped "Received JAN 30 2008 Permit Counter," Development south of Diplomat Parkway East must be substantially consistent with the 1-page MCP entitled "Master Concept Plan, DIPLOMAT PARCEL, Lee County, Florida," dated 08-27-2007, last revised 01-23-2008 and date-stamped "Received JAN 30 2008 Permit Counter," OR the 1-page MCP entitled "ALTERNATE DIPLOMAT SOUTH RPD MCP, DIPLOMAT PARCEL" dated 10-28-2019 except as modified by the conditions below.

2. Condition 2.b. of Z-11-002 is hereby amended in strikethrough and underline as follows

SITE DEVELOPMENT REGULATIONS

RPD – South of Diplomat Parkway

SINGLE-FAMILY:

Maximum Building Height: 35 feet/~~3 stories~~

DUPLEX, TWO-FAMILY ATTACHED, TOWNHOUSE:

Maximum Building Height: 35 feet/~~2 stories~~

MULTIPLE-FAMILY

Maximum Building Height: 35 feet/~~2 stories~~

3. The terms and conditions of Resolutions Z-11-002 and ADD2019-00085 remain in full force and effect, except as amended herein.
4. If it is determined that inaccurate or misleading information was provided to the County or if this decision does not comply with the LDC when rendered, then, at any time, the Zoning Manager may issue a modified decision that complies with the Code or revoke the decision. If the approval is revoked, the applicant may acquire the necessary approvals by filing an application for public hearing in accordance with Chapter 34.

Duly passed, adopted, and electronically signed on 10/31/2019

Audra Ennis, Zoning Manager
Lee County Community Development

Exhibits

Exhibit A: Legal Description

Exhibit B: Alternate Diplomat South RPD Master Concept Plan

Exhibit C: Applicant's Narrative

Exhibit D: Resolution Z-11-002

Exhibit E: Administrative Amendment ADD2019-00085

Exhibit F: Administrative Amendment ADD2007-00169

Exhibit G: Resolution Z-06-004

EXHIBIT A

CASE NUMBER: ADD2019 -00181

STRAP NUMBER

34-43-24-00-00001.303A

REVIEWED
ADD2019-00181
Daniel Munt, Planner
Lee County DCD
10/29/2019

 = RESIDENTIAL INDIGENOUS
 = COMMERCIAL INDIGENOUS
 = DEVIATION
 PLEASE REFER TO SCHEDULE OF DEVIATIONS
 AND JUSTIFICATIONS

The site plan illustrates the Lee County Drainage Easement area, bounded by Diplomat Parkway (100' R.O.W.) to the north. Key features include:

- Parcel 1 (Left):** Corner/Tortoise Preserve, 3.18 AC, $\times 1.15^*$, 4.83 AC/CR.
- Parcel 2 (Center):** Single-family/Duplex/Two-family Attached/Multiple-family/Townhomes, Maximum Height 35 Feet.
- Parcel 3 (Right):** Commercial Parcel 4 (7.22 AC), 1.70 AC, $\times 1.35^{**}$, 2.30 AC/CR.
- Parcel 4 (Bottom Center):** 4.73 AC, $\times 1.11^{***}$, 5.20 AC/CR.
- Parcel 5 (Bottom Right):** CPD Central Urban Merchants Crossing Commercial Shopping Center.

Other features include a 15' Type "D" Buffer, Stabilized Emergency Access, Existing Access, and a 54' dimension along the northern boundary.

[illegible]

Exhibit C



Professional Engineers, Planners & Land Surveyors



Diplomat South Property RPD
Minor Administrative Amendment to Planned Development
Narrative of Request

Request Summary

The applicant is requesting a minor administrative amendment to the approved Diplomat Property Residential Planned Development (RPD)/Commercial Planned Development (CPD) to update Condition 1 to include an Alternate Diplomat South RPD MCP which reflects the existing schedule of uses which allows single-family/duplex/two-family attached/multiple-family/townhomes and to clarify the maximum of height of 35 feet with no restriction to number of stories. This does not preclude the ability of the developer to build the 44 fee simple single-family attached townhome units as currently permitted under Lee County Development Oder DOS2007-00267.

Background and Approval History

The subject property is located on the north side of Diplomat Parkway East, just west of its intersection with N. Cleveland Ave/U.S. 41. The site is located in the Central Urban future land use category and within the Mixed Use Overlay within the North Fort Myers planning community.

The property is a ±38-acre portion of the ±65-acre Diplomat Property RPD/CPD which received zoning approval via Zoning Resolution Z-06-004. The project was approved for a maximum of 457 dwelling units and 200,000 square feet of commercial of which 100,000 square feet could be retail.

The original zoning approval was later amended administratively by ADD2007-00169 which amended the Master Concept Plan, revised the site development regulations for townhouses and added a deviation to allow curbside garbage pickup.

On March 21, 2011, an amendment to the northern ±35.2-acre RPD was approved for a maximum of 400 assisted living facility beds, 138 standard dwelling units, a maximum 50,000 square feet of medical office space including a conversion table and an amendment to the master concept plan.

On August 16, 2019, administrative amendment ADD2019-00085 was approved to clarify Condition 1 of Z-11-002 that the northerly 35.2 acres may be optionally developed with RPD uses or ALF/CCF with or without the 5.43-acre CPD Parcel and provided strikethrough and underline revisions to Condition 1.

• SERVING THE STATE OF FLORIDA •

The approved Master Concept Plan from ADD2007-00169 is specific to the approved development orders for Diplomat North (DOS2007-00255) and Diplomat South (DOS2007-00267) which are still valid development orders which the property owner wishes to keep these existing entitlements.

Lee County Housing Authority is a potential contract purchaser of the Diplomat South parcel and wishes to potentially construct multiple-family units on the property. In order to facilitate this, an Alternate South Diplomat RPD MCP is proposed which keeps the existing access points and open space areas, but further clarifies that the existing Condition 1 allows 8 dwelling units per acre with an additional 1.6 units per acre subject to affordability requirements and existing Condition 2.a. Schedule of Uses which allows: single-family, duplex, two-family attached, multiple-family, and townhomes. The proposed Alternate South Diplomat RPD MCP will allow development of any of these uses subject to the density limitation which will allow the Lee County Housing Authority proceed on this site should funding be achieved and the existing entitlements will remain if funding is not achieved.

The applicant proposes the following revision to Condition 1 of ADD2019-00085:

Development must be substantially consistent with the 1-page Master Concept Plan (MCP) entitled "DIPLOMAT PROPERTY RPD/CPD (NORTH PARCEL)," dated 09-22-10, last revised 4-22-11 and date -stamped "Received APR 27, 2011 Community Development" OR the 1-page MCP entitled "Master Concept Plan, DIPLOMAT PARCEL, Lee County, Florida," dated 08-27-2007, last revised 01-23-2008 and date-stamped "Received JAN 30 2008 Permit County," **OR the 1-page MCP entitled "ALTERNATE DIPLOMAT SOUTH RPD MCP, DIPLOMAT PARCEL" dated 10-28-2019** except as modified by the conditions below.

The applicant also proposes to clarify that the maximum height for all residential uses is 35 feet with no restriction on number of stories. Below are proposed revisions to Condition 2.b. of Z-11-009:

SITE DEVELOPMENT REGULATIONS

RPD – South of Diplomat Parkway

SINGLE-FAMILY:

Maximum Building Height: 35 feet/~~3 stories~~

DUPLEX, TWO-FAMILY ATTACHED, TOWNHOUSE:

Maximum Building Height: 35 feet/~~2 stories~~

MULTIPLE-FAMILY:

Maximum Building Height: 35 feet/~~2 stories~~

RECREATIONAL AREA/FACILITIES:

Maximum Building Height: 35 feet/~~2 stories~~

The site is within the Mixed Use Overlay and may utilize the development incentives provided in the LDC as part of development order for the property.

LDC Consistency/Minimal Modification

LDC Section 34-377(a)(5) in part provides that applications for administrative approval will be processed as administrative amendments in accordance with Section 34-380. This section also states that administrative amendments may be granted by the Director upon a finding that public health, safety, and welfare will not be adversely affected by the request. LDC Section 34-380(a) provides that amendments to an approved master concept plan or its attendant documentation may be requested at any time during the development of or useful life of a planned development. LDC Section 34-380(b) provides that the Director may approve any change to the development that does not increase height, density or intensity (i.e., number of dwelling units or quantity of commercial or industrial floor area) except as permitted in chapter 2. This section of the code further specifies that “the Director may not approve a change that will: (1) Result in the substantial underutilization of public resources and public infrastructure committed to the support of the development; (2) Result in a reduction of total open space provided on the master concept plan by more than ten percent or that would decrease the amount of indigenous native vegetation or open space required by the Code; (3) Decrease preservation areas. Changes to buffer or landscaping areas are permitted but must provide equivalent or better (by comparison with the approved Master concept plan) landscape or buffering; or (4) Adversely impact surrounding land uses.”

Conclusions

The request is consistent with the administrative amendment requirements contained in LDC Section 34-380(b). No changes are proposed to the existing intensity approved for the development. The request is simply to update Condition 1 to include an Alternate Diplomat South RPD MCP which reflects the existing schedule of uses which allows single-family/duplex/two-family attached/multiple-family/townhomes and to clarify the maximum of height of 35 feet with no restriction to number of stories. The proposed amendment does not increase the height, density or intensity within the development; does not underutilize public resources or infrastructure, does not reduce open space, does not decrease preservation areas or buffers; and does not adversely impact surrounding land uses. The requested amendment is a minimal necessary modification to the already approved planned development to allow the project to proceed with development. The proposed modifications do not change the fact that the project is consistent with the Lee Plan and the LDC.

Exhibit D

RESOLUTION NUMBER Z-11-002

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

WHEREAS, an application was filed by the property owner, Athyrio Development Associates, LLC, to amend the northerly 35.2± acres Residential Planned Development (RPD) portion of the Diplomat Property Residential Planned Development/Commercial Planned Development (RPD/CPD); and,

WHEREAS, a public hearing was advertised and held on January 6, 2011, with the record held open until January 14, 2011, for written submissions, before the Lee County Zoning Hearing Examiner, who gave full consideration to the evidence in the record for Case DCI2010-00015; and

WHEREAS, a second public hearing was advertised and held on March 21, 2011, before the Lee County Board of Commissioners, who gave full and complete consideration to the recommendations of the staff, the Hearing Examiner, the documents on record and the testimony of all interested persons.

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

SECTION A. REQUEST

The applicant filed a request to amend the 35.2± acres RPD portion of the Diplomat Property RPD/CPD to permit a maximum of 400 assisted living facility beds, 138 standard dwelling units, a maximum of 50,000 square feet of medical office space, and to make other changes to the master concept plan (MCP) including reconfiguration of a lake, changes to the buffer to the west, and additional details including the placement commercial and residential buildings. Maximum building height requested is 50 feet. No development blasting is requested. Any development will connect to public potable water and public sanitary sewer service. The property is located in the Central Urban Future Land Use Category and is legally described in attached Exhibit A. The request is APPROVED, SUBJECT TO the conditions and deviations specified in Sections B and C below.

SECTION B. CONDITIONS:

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

1. Development must be substantially consistent with the 1-page Master Concept Plan (MCP) entitled "DIPLOMAT PROPERTY RPD/CPD (NORTH PARCEL)," dated 09-22-10, last revised 4-22-11 and date-stamped "Received APR 27 2011 Community Development" AND the 1-page MCP entitled "Master Concept Plan, DIPLOMAT PARCEL, Lee County, Florida," dated 08-27-2007, last revised 01-23-2008 and date-stamped "Received JAN 30 2008 Permit Counter," except as modified by the conditions below.

NOTE: The portion of the project on the north side of Diplomat Parkway includes Commercial Development Parcels 1, 2 and 3 (West 3 and East 3). It also includes a 29.75 acres that may be developed either as an RPD, or and ALF/CCF, with or without a commercial component on the westerly portion of that site identified as the 5.43 acre North CPD Parcel.

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

Maximum Number of Dwelling Units (North RPD Parcel): 138 dwelling units plus a maximum of 400 beds for assisted living facilities/continuing care facilities. Dwelling units may be converted per Table "B" of the approved MCP.

Maximum Number of Dwelling Units (South RPD parcel): 105 dwelling units. An additional 21 units may be constructed if they are marketed at a price point that is affordable to moderate income households at the time of building permit application. Further, the additional 21 units may only be sold to buyers who qualify as a moderate income household at time of purchase. Moderate income household means 120 percent of the yearly median income based on yearly income levels developed for the SHIP Program by the Housing Section of the Lee County Division of Planning.

Eight (8.0) dwelling units per acre maximum, for the 13.19 acres of RPD (South of Diplomat Parkway). An additional 1.6 units per acre may be constructed subject to the affordability requirements above.

Maximum Commercial Floor Area (North CPD Parcel): 50,000 square feet of medical office. Medical office may be converted per Table "B" of the approved MCP.

Maximum Total Commercial Floor Area (CPD Parcels 1, 2, 3 and 4): 200,000 square feet of commercial uses. A maximum of 100,000 s/f of which may be retail.

Retail development is limited to Parcel 4 (which meets Commercial Site Location standards). Retail development is not permitted on Commercial Parcels 1, 2 or 3 (which do not meet Site Location standards).

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

a. **SCHEDULE OF USES**

RPD- South of Diplomat Parkway

- Accessory Uses and Structures
- Administrative Office
- Clubs, Private - as shown on the approved MCP.
- Community Garden
- Dwelling Units, single-family, duplex, two-family attached, multiple-family and townhomes - 105 (up to 126 pursuant to Condition 1)
- Entrance Gates and Gatehouse
- Essential Services
- Essential Service Facilities, Group I only
- Excavation, Water Retention - not to include the removal of excavated material from the site. No blasting.
- Fences and Walls.
- Home Occupation, No outside help.
- Home Care Facility.
- Model Home, Model Display Center, Model Unit - ALSO SEE MODEL HOME/REAL ESTATE SALES CONDITIONS.
- Parking Lot, Accessory.
- Real Estate Sales - limited to sales of lots, homes or units within the development. Model home and club locations only. ALSO SEE MODEL HOME/REAL ESTATE SALES CONDITIONS.
- Recreational Facilities - Private, On-site only. LIMITED TO THOSE SHOWN ON THE APPROVED MCP.
- Residential Accessory Uses
- Signs, in compliance with LDC Chapter 30
- Temporary Uses, Temporary Real Estate Sales Office

CPD - Parcels 1, 2, 3 & 4 - North and South of Diplomat Parkway

- Administrative Office
- Animals: Clinic, Kennel, Control Center (including Humane Society) - indoors, no outdoor runs.
- Automatic Teller Machine
- Auto Parts Store - No installation service.
- Auto Repair and Service, Group I only
- Bait and Tackle Shop
- Banks and Financial Establishments, Groups I and II
- Boat Part Stores
- Building Material Sales (indoor only, no outdoor display)
- Business Services, Groups I and II (no impound yards or armored car services)
- Cleaning and Maintenance Services
- Clothing Stores, General
- Communication facilities, wireless (in accordance with LDC Chapter 34, Division 11) A wireless communication facility may be administratively approved, provided it is co-located on a building and the height of the tower does not exceed 50 feet from existing grade
- Community Garden (**Note:** *This use may not be utilized until such time as the LDC is amended to permit this use in a CPD.*)
- Consumption on Premises - Indoors. In conjunction with Group III restaurants only. Outdoor Consumption on Premises will require special exception approval (public hearing)
- Contractors and Builders, Groups I and II (but not Group III)
- Cultural Facilities
- Day Care, Adult, Child
- Department Store
- Drive-through facility for any permitted use. No fast food drive-through.
- Drugstore, Pharmacy (limited to 1 on Parcel 3 or 4)
- Entrance Gate and Gatehouse
- Emergency Operations Center
- EMS, Fire or Sheriff's Station
- Essential Services
- Essential Service Facilities, Group I only
- Excavation, Water Retention - not to include the removal of excavated material from the site. No blasting.
- Fences and Walls.
- Flea Market, Indoor Only
- Food and Beverage Services, Limited
- Food Stores, Groups I and II
- Funeral Home or Mortuary, with or without cremation

Gasoline Dispensing System, Special
Hardware Store
Health Care Facility, Groups I, II and III (but not Group IV).
Hobby, Toy and Game Store
Hotel/Motel - Limited to 120 rooms maximum.
Household and Office Furnishings - (indoor only, no outdoor display)
Insurance Companies
Lawn and Garden Supply Stores - (indoor only, no outdoor display)
Library
Medical Office
Nonstore Retailer
Paint, Glass and Wallpaper - (indoor only, no outdoor display)
Parking Lot, Accessory, Commercial, Garage, Public Parking, Temporary
Personal Services, Groups I, II, III and IV. Excluding Laundromats,
Laundry Agents, Massage Establishments, Massage
Parlors, Steam or Turkish Baths, Dating Services,
Escort Services, Palm Readers, Fortune Tellers,
Card Readers, Tattoo Parlors.
Pet Services, Pet Shops - Indoor only, no outdoor display.
No outdoor runs.
Place of Worship
Plant Nursery
Post Office
Printing and Publishing
Processing and Warehousing
Real Estate Sales Office
Religious Facilities
Rental or Leasing Establishments, Group II only (and excluding tools
and equipment primarily for home use). Indoor only.
No outdoor display.
Repair Shop, Groups I, II and III
Research and Development Laboratories, Groups I, II, III and IV
Restaurants, Groups I, II, III and IV
Restaurant, Fast Food, No stand-alone or drive-through - within
a multiple-occupancy building only.
Schools, Commercial and Non-Commercial
Signs in Accordance with LDC Chapter 30
Social Services Group I only
Specialty Retail, Groups I, II, III and IV
Storage, Indoor Only
Studios
Supermarkets

Temporary Uses
Used Merchandise, Groups I and II, Indoor only. No outdoor display.
Variety Store

RPD - North of Diplomat Parkway

Accessory Uses and Structures
Administrative Office
Assisted Living Facilities - (pursuant to Condition 1)
Clubs, Private - as shown on the approved MCP (Recreation Areas)
Community Garden
Continuing Care Facilities
Dwelling Units, single-family, duplex, two-family attached,
multifamily, townhomes - (pursuant to Condition 1)
Entrance Gates and Gatehouse
Essential Services
Essential Service Facilities, Group I only
Excavation, Water Retention - not to include the removal of
excavated material from the site. No blasting.
Fences and Walls.
Home Occupation, No outside help
Home Care Facility
Model Home, Model Display Center, Model Unit - ALSO SEE MODEL
HOME/REAL ESTATE SALES CONDITIONS.
Parking Lot, Accessory.
Real Estate Sales - limited to sales of lots, homes or units within
the development. Model home and club locations only.
ALSO SEE MODEL HOME/REAL ESTATE SALES
CONDITIONS.
Recreational Facilities - Private, On-site only. LIMITED TO
THOSE SHOWN ON THE APPROVED MCP.
Religious Facilities
Residential Accessory Uses
Signs, in compliance with LDC Chapter 30
Temporary Uses, Temporary Real Estate Sales Office

CPD - 5.43-Acre Parcel north of Diplomat Parkway

Administrative Office
Animals: Clinic, Kennel, Control Center (including Humane Society) -
indoors, no outdoor runs
Automatic Teller Machine
Banks and Financial Establishments, Groups I and II

Business Services, Groups I and II (no impound yards or armored car services)

Cleaning and Maintenance Services

Communication facilities, wireless (in accordance with LDC Chapter 34, Division 11) A wireless communication facility may be administratively approved, provided it is co-located on a building and the height of the tower does not exceed 50 feet from existing grade.

Community Garden (**Note:** *This use may not be utilized until such time as the LDC is amended to permit this use in a CPD.*)

Cultural Facilities

Entrance Gate and Gatehouse

Emergency Operations Center

EMS, Fire or Sheriff's Station

Essential Services

Essential Service Facilities, Group I only

Excavation, Water Retention - not to include the removal of excavated material from the site. No blasting.

Fences and Walls.

Health Care Facility, Groups I, II and III (no Group IV)

Insurance Companies

Medical Office

Parking Lot, Accessory

Personal Services, Groups I and II

Pharmacy - accessory to medical office use only

Real Estate Sales Office

Religious Facilities

Research and Development Laboratories, Groups I, II, III and IV

Schools, Commercial and Non-Commercial

Signs in Accordance with LDC Chapter 30

Social Services Group I only

Temporary Uses

b. SITE DEVELOPMENT REGULATIONS

RPD - South of Diplomat Parkway

SINGLE-FAMILY:

Minimum Lot Areas and Dimensions

Lot Size:	7,500 square feet
Lot Width:	75 feet
Lot Depth:	100 feet

Minimum Setbacks

Street	25 feet (public)/20 feet (private)
Side	5 feet
Rear	30 feet on all lots containing enhanced buffer 20 feet on all other lots

Water body 25 feet

All Accessory Uses: Per the LDC.

Setbacks from Preserves (All structures): 25 feet, per the LDC.

Minimum Perimeter Setbacks: 25 feet
30 feet on all lots containing
an enhanced buffer

Minimum Building Separation: 10 feet.

Maximum Building Height: 35 feet/ 3 stories
Maximum Lot Coverage: 45 percent

DUPLEX, TWO-FAMILY ATTACHED, TOWNHOUSE:

Minimum Lot Areas and Dimensions

Lot Size:	7,500 square feet
Lot Width:	75 feet (37.5 per unit)
Lot Depth:	100 feet

Minimum Setbacks

Street	25 feet (public)/20 feet (private)
Side	5 feet (zero feet for common wall unit)
Rear	30 feet on all lots containing enhanced buffer 20 feet on all other lots

Water body 25 feet

All Accessory Uses: Per the LDC.

Setbacks from Preserves (All structures): 25 feet, per the LDC.

Minimum Perimeter Setbacks: 25 feet
30 feet on all lots containing
an enhanced buffer

Minimum Building Separation: 10 feet.
Maximum Building Height: 3 5 feet/ 2 stories
Maximum Lot Coverage: 45 percent.

MULTIPLE-FAMILY:

Minimum Lot Areas and Dimensions

Lot Size: 10,000 square feet
Lot Width: 100 feet
Lot Depth: 100 feet

Minimum Setbacks

Street 25 feet (public)/20 feet (private)
Side 10 feet
Rear 30 feet on all lots containing enhanced buffer
20 feet

Water body 25 feet

All Accessory Uses: Per the LDC.
Setbacks from Preserves (All structures): 25 feet, per the LDC.

Minimum Perimeter Setbacks: 25 feet
30 feet on all lots containing
an enhanced buffer

Minimum Building Separation: 20 feet.

Maximum Building Height: 35 feet/ 2 stories
Maximum Lot Coverage: 45 percent.

RECREATIONAL AREA/FACILITIES:

Minimum Lot Areas and Dimensions

Lot Size: 9,000 square feet
Lot Width: 50 feet
Lot Depth: 120 feet

Minimum Setbacks - Also see Deviation 5

Street	25 feet (public)/20 feet (private)
Side	10 feet
Rear	20 feet

Water body	25 feet
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All Accessory Uses: Per the LDC.

Setbacks from Preserves (All structures): 25 feet, per the LDC.

Minimum Perimeter Setbacks: 25 feet

Minimum Building Separation: 10 feet

Maximum Building Height: 35 feet/ 2 stories

Maximum Lot Coverage: 45 percent

CPD - PARCELS 1, 2, 3 & 4:

Minimum Lot Areas and Dimensions

Lot Size:	10,000 square feet
Lot Width:	100 feet
Lot Depth:	100 feet

Minimum Setbacks

Street	25 feet (public)/20 feet (private)
Side	10 feet
Rear	20 feet

Water body	25 feet
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All Accessory Uses: Per the LDC.

Setbacks from Preserves (All structures): 25 feet, per the LDC.

Minimum Perimeter Setbacks: 25 feet

Minimum Building Separation: 20 feet, but buildings exceeding 35 feet in height must maintain additional building separation as regulated by LDC §34-2174(a).

Maximum Building Height: 50 feet/ 3 stories
35 feet/2 stories - adjacent to west boundary

Maximum Lot Coverage: 60 percent

RPD - NORTH OF DIPLOMAT PARKWAY:

ASSISTED LIVING:

Minimum Lot Areas and Dimensions

Lot Size: 10,000 square feet
Lot Width: 100 feet
Lot Depth: 100 feet

Minimum Setbacks

Street 25 feet (public)/20 feet (private)
Side 10 feet
Rear 30 feet on all lots containing enhanced buffer
20 feet on all other lots

Water body 25 feet

All Accessory Uses: Per the LDC.

Setbacks from Preserves (All structures): 25 feet, per the LDC.

Minimum Perimeter Setbacks: 25 feet
30 feet on all lots containing
and enhanced buffer

Minimum Building Separation: ½ building height, but not less than 15 feet

Maximum Building Height: 45 feet
Maximum Lot Coverage: 45 percent

SINGLE-FAMILY:

Minimum Lot Areas and Dimensions

Lot Size: 7,200 square feet
Lot Width: 60 feet
Lot Depth: 100 feet

Minimum Setbacks

Street 25 feet (public)/20 feet (private)
Side 5 feet
Rear 30 feet on all lots containing enhanced buffer
20 feet on all other lots

Water body 25 feet

All Accessory Uses: Per the LDC.

Setbacks from Preserves (All structures): 25 feet, per the LDC.

Minimum Perimeter Setbacks: 25 feet
30 feet on all lots containing
an enhanced buffer

Minimum Building Separation: 10 feet

Maximum Building Height: 35 feet
Maximum Lot Coverage: 45 percent

DUPLEX:

Minimum Lot Areas and Dimensions

Lot Size: 7,000 square feet
Lot Width: 70 feet
Lot Depth: 100 feet

Minimum Setbacks

Street 25 feet (public)
20 feet (private)
Side 5 feet

Rear 30 feet on all lots containing enhanced buffer
20 feet on all other lots

Water body 25 feet

All Accessory Uses: Per the LDC.

Setbacks from Preserves (All structures): 25 feet, per the LDC.

Minimum Perimeter Setbacks: 25 feet
30 feet on all lots containing
an enhanced buffer

Minimum Building Separation: 10 feet.

Maximum Building Height: 35 feet
Maximum Lot Coverage: 45 percent

TOWNHOME:

Minimum Lot Areas and Dimensions

Lot Size: 1,600 square feet
Lot Width: 16 feet
Lot Depth: 100 feet

Minimum Setbacks

Street 25 feet (public)
20 feet (private)
Side 10 feet
0 feet (for a common wall)
Rear 30 feet on all lots containing enhanced buffer
20 feet on all other lots

Water body 25 feet

All Accessory Uses: Per the LDC.

Setbacks from Preserves (All structures): 25 feet, per the LDC.

Minimum Perimeter Setbacks: 25 feet
30 feet on all lots containing
an enhanced buffer

Minimum Building Separation: 20 feet
Maximum Building Height: 35 feet
Maximum Lot Coverage: 55 percent

MULTIPLE-FAMILY:

Minimum Lot Areas and Dimensions

Lot Size: 10,000 square feet
Lot Width: 100 feet
Lot Depth: 100 feet

Minimum Setbacks

Street 25 feet (public)
20 feet (private)
Side 10 feet
Rear 30 feet on all lots containing enhanced buffer
20 feet on all other lots

Water body 25 feet

All Accessory Uses: Per the LDC.

Setbacks from Preserves (All structures): 25 feet, per the LDC

Minimum Perimeter Setbacks: 25 feet

Minimum Building Separation: ½ building height, but not less than 15 feet

Maximum Building Height: 50 feet
Maximum Lot Coverage: 45 percent

RECREATION AREA/CLUBHOUSE:

Minimum Lot Areas and Dimensions

Lot Size: 9,000 square feet
Lot Width: 100 feet
Lot Depth: 100 feet

Minimum Setbacks

Street	25 feet (public) 20 feet (private)
Side	10 feet
Rear	20 feet

Water body 25 feet

All Accessory Uses: Per the LDC.

Setbacks from Preserves (All structures): 25 feet, per the LDC.

Minimum Perimeter Setbacks: 25 feet
30 feet on all lots containing
an enhanced buffer

Minimum Building Separation: 10 feet

Maximum Building Height: 35 feet
Maximum Lot Coverage: 45 percent

CPD - 5.43-acre North CPD Parcel:

Minimum Lot Areas and Dimensions

Lot Size:	10,000 square feet
Lot Width:	100 feet
Lot Depth:	100 feet

Minimum Setbacks

Street	25 feet (public) 20 feet (private)
Side	10 feet
Rear	20 feet 20 feet on all other lots

Water body 25 feet

All Accessory Uses: Per the LDC

Setbacks from Preserves (All structures): 25 feet, per the LDC

Minimum Perimeter Setbacks: 25 feet

Minimum Building Separation: ½ building height not less than 15 feet

Building Height: 35 feet

Maximum Lot Coverage: 60 percent

3. CONCURRENCY

Approval of this rezoning does not constitute a finding that the proposed project meets the concurrency requirements set forth in LDC Chapter 2 and the Lee Plan. The developer is required to demonstrate compliance with all concurrency requirements prior to issuance of a local development order.

4. MODEL HOME AND REAL ESTATE SALES

Model units and homes (and real estate sales) are permitted in compliance with the following conditions:

- a. Each model must be a unique example. Multiple examples of the same unit are not permitted.
- b. All model sites must be designated on the development order plans.
- c. Prior to model home construction, the lots upon which model homes will be constructed must be shown on a preliminary plat (not the final). The preliminary plat must be filed concurrently with the local development order application. The model homes must comply with the setbacks set forth in the property development regulations for this project.
- d. Dry models are prohibited.
- e. The number of model homes or model units will be limited to no more than 10 within the development at one time.
- f. Any model homes or units must be developed within the areas identified as "models" on the approved MCP.
- g. Real estate sales within the RPD are limited to the sale of lots or units within the development only. Real Estate sales are a permitted use within the CPD.

- h. Real estate sales within the RPD are limited to within model homes or clubhouse only.
- i. Hours of operation for both models and real estate sales (within the RPD) are limited to Monday through Sunday 8:00 a.m. to 8:00 p.m.
- j. Model homes and real estate sales within the RPD will be valid for a period of up to five years from the date of issuance of a certificate of occupancy of a model home per LDC §34-1954(d)(1).

5. **NO AGRICULTURAL USES APPROVED**

No agricultural uses are permitted on site.

6. **BLASTING**

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

7. **NATIVE VEGETATION REQUIRED IN THE ENTIRE RPD AND CPD**

All required buffers must utilize 100 percent all native vegetation.

8. **ADDITIONAL BUILDING SEPARATION REQUIRED**

Buildings exceeding 35 feet in height must maintain additional building separation as regulated by LDC §34-2174(a).

9. **TRAFFIC**

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

10. **LEE PLAN**

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

11. INTERSECTION IMPROVEMENTS

The developer must contribute its proportionate share of the costs of intersection improvements at the time a traffic control device is warranted at the intersection of US 41 and Diplomat Road.

12. WIRELESS COMMUNICATION FACILITIES

- a. Freestanding wireless communication facilities (towers, including stealth type) are not permitted. Approval of freestanding wireless communication facilities will require an amendment to the planned development (public hearing).
- b. Wireless Communication Facilities (including wall-mounted and roof-mounted antennas) may be approved in accordance with LDC §34-1441, *et. seq.* (Commercial parcels only).

13. ACCESSORY USES

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

14. OPEN SPACE

Prior to local development order approval, the landscape plans must demonstrate that each commercial parcel is providing a minimum of 30 percent open space, and a minimum of 40 percent common open space is provided within the residential tract.

15. ENVIRONMENTAL

Prior to local development order approval, if the Florida Fish and Wildlife Conservation Commission (FWC) allows the relocation of tortoises within on-site indigenous preserves:

- a. The developer must submit a detailed indigenous preservation management plan for the Lee County Division of Environmental Sciences (DES) Staff review and approval that includes methods of maintaining the western 3.0 acres of the preserve as gopher tortoise habitat; and

- b. The landscape plans must include a permanent gopher tortoise fence along Diplomat Parkway where the three-acre gopher tortoise preserve abuts this roadway and a double staggered native hedge (minimum three-gallon container size; 24-inch height at planting; maintained at a minimum 36-inch height) planted on the roadside of the fence; and
- c. The landscape plans must delineate a double staggered native hedge (minimum three-gallon container size; 24-inch height at planting; maintained at a minimum 36-inch height) planted along the interface of the indigenous preserve with the residential tract.
- d. Prior to issuance of a Vegetation Removal Permit, all invasive exotic vegetation and manmade debris must be hand removed from the indigenous preserve.

16. COMMERCIAL PARCELS NORTH OF DIPLOMAT PARKWAY

Commercial buildings located within Parcels 1, 2 and the westernmost 2.3 acres of Parcel 3 are limited to a maximum of 10,000 square feet per building, and must not exceed two stories/35 feet in height. The building locations must alternate (be staggered) between the front and rear of the commercial parcels to provide a more campus-like setting. A parking plan must be devised to keep the amount of parking spaces along Diplomat Parkway to an absolute minimum. These parking areas and commercial buildings must be buffered, from Diplomat Parkway, by, at a minimum, a two-foot high berm with 10 trees and a staggered 36-inch high hedge per 100 linear feet. Applicant is strongly encouraged to utilize the commercial site locational criteria established for the Estero community.

The commercial buildings on Commercial Parcels 1, 2, and 3 must be of the same or similar architectural design and coloring as the residential buildings, to identify them as a unified project. All project identification signs (commercial and residential) must also be of the same or similar architectural design and coloring.

18. SOLID WASTE/RECYCLING

Prior to local development order approval for vertical development, the Developer must provide facilities in compliance with LDC §10-261 and Lee County Solid Waste Ordinance #08-10 for the pick up/disposal of solid waste and recyclables. The minimum area required for and specific locations of these facilities will be reviewed at the time of local development order application (Also see Deviation 7).

19. **PRIOR ZONING**

The terms and conditions of the original Zoning Resolution No. Z-06-004 and Administrative Amendment ADD2007-00169 are superceded by this zoning action and are rendered null and void by this approval. The terms and conditions herein apply to the entire planned development previously covered by Zoning Resolution No. Z-06-004.

20. **INDIGENOUS PRESERVATION/HERITAGE TREES (NORTH CPD PARCEL AND NORTH RPD PARCEL)**

- a. Prior to local development order approval, a tree survey must be submitted depicting the location, diameter at breast height, and species of all heritage trees within the development area.
- b. Prior to local development order approval, landscape plans must depict heritage trees, located within the development footprint, that are determined to be of good health as per a certified arborist. Those trees must be incorporated into the internal open space (i.e., perimeter planting, enlarged landscape areas, etc), or must be replaced with a 20-foot like species to a suitable open space area where final site design constraints (i.e., fill requirements, entrance roads, etc) do not allow preservation.

21. **PROTECTED SPECIES**

- a. Prior to development order approval, the Applicant must first seek approval for on-site preservation of the gopher tortoises through avoidance or relocation before pursuing off-site relocation options. All communication with FWC verifying on-site avoidance or relocation attempts were made must be provided to DES Staff.
- b. A copy of the appropriate gopher tortoise relocation permit issued by the FWC must be submitted to the DES Staff prior to excavation and moving of any gopher tortoises. The Applicant must first seek approval for an on-site relocation before pursuing off-site relocation options. Any gopher tortoises and commensal species found during burrow excavation must be moved to preserves containing suitable gopher tortoise habitat as approved by the FWC and DES Staff.

22. OPEN SPACE (NORTH CPD PARCEL AND NORTH RPD PARCEL)

Prior to local development order approval, the development order plans must delineate a minimum of 1.63 acres of open space for the CPD and 11.9 acres of open space for the RPD.

23. BUFFERS (NORTH CPD PARCEL AND NORTH RPD PARCEL)

- a. Prior to local development order approval, the development plans must demonstrate the preservation of native vegetation within the flood way. This vegetation may be utilized to meet the required type "F" buffer plantings. Upon removal of exotics from this area if it is found that the existing vegetation does not satisfy the buffer planting requirements, additional plants must be provided. These plants must be designed to mimic the natural area through the use of similar species and random planting throughout the area.
- b. An enhanced type "F" buffer must be provided as shown on the MCP. This buffer must be 30 feet in width and include 10 native canopy trees per 100 linear feet, and a double hedge row planted at 48" in height at time of planting.

24. NATIVE PLANTINGS REQUIRED (NORTH CPD PARCEL AND NORTH RPD PARCEL)

All required buffer plantings, general trees, and internal canopy trees must be 100 percent native species.

SECTION C. DEVIATIONS:

(Deviations 1 through 7 were previously approved and remain applicable to the RPD/CPD and are recited below. Deviation 8 is new.)

1. **Intersection Separation** - Deviation 1 (previously contained in Resolution Z-06-004 and ADD2007-00169) seeks relief from the LDC §10-285(a) requirement to provide a minimum access connection separation of 660 feet on an arterial road to permit an access separation of 364 feet between the project's proposed main access and the proposed exit-only access for the residential portion of the southern parcel. This deviation is APPROVED.

2. **One dead-end street permitted** - Deviation 2 (previously contained in Resolution Z-06-004 and ADD2007-00169) seeks relief from the LDC §10-296(k)(1) requirement that dead-end streets be closed at one end by a circular turn-around, to allow one dead-end street as shown on the approved MCP on the southern RPD. This deviation is APPROVED.
3. **Calculation for Open Space** - Deviation 3 (previously contained in Resolution Z-06-004 and ADD2007-00169) seeks relief from the LDC §10-415(b)(1)(a) requirement that large developments with indigenous vegetation communities to provide 50 percent of their open space percentage requirements through on-site preservation of existing native vegetative communities, to permit 0.45 acres of right of way to be vacated, enhanced and preserved to count toward the preservation requirement. This deviation is APPROVED, SUBJECT TO the following condition:

Prior to local development order approval for Commercial Parcel 4, the existing roadway easement depicted within the indigenous preserve must be vacated.

This deviation applies to the southern RPD and CPD.

4. **Installation of storm water management system** - Deviation 4 (previously contained in Resolution Z-06-004 and ADD2007-00169) seeks relief from the LDC §10-415(b)(1)a. requirement that large developments with existing indigenous native vegetation communities provide 50 percent of their open space requirement through on-site preservation of indigenous native vegetation, to allow portions of the preservation area to be disturbed and restored in order to install a storm water management system. This deviation is APPROVED, SUBJECT TO the following conditions:
 - a. Prior to local development order, the development order plans must delineate the general location of the surface water management outfall through the indigenous preserve to the canal. The outfall must be designed as an open system that can be planted with native vegetation.
 - b. Prior to issuance of a Vegetation Removal Permit, the location of the surface water management outfall through the indigenous preserve must be field staked to avoid impacting any large native trees or gopher tortoise burrows for the Division of Environmental Sciences Staff review and approval.

This deviation applies to the southern RPD and CPD.

5. **Separation from residential uses** - Deviation 5 (previously contained in Resolution Z-06-004 and ADD2007-00169) seeks relief from the LDC §34-2474(b)(6) requirement that recreation halls and ancillary facilities and private clubs be located at least 40 feet from any residential dwelling unit, to allow a 20-foot minimum separation for any recreation building from a residential dwelling unit. This deviation is APPROVED, SUBJECT TO the following condition:

Development of a recreational facility and clubhouse must be generally consistent with the location shown on the approved MCP.

This deviation applies to the recreation area shown on the RPD to the north.

- 6a. **Single ingress into the development** - Deviation 6a (previously contained in Resolution Z-06-004 and ADD2007-00169) seeks relief from the LDC §10-291(3) requirement (when practical) that residential developments of more than five acres in size provide two or more means of ingress into the development, to allow the residential portion to the north of Diplomat Parkway to be constructed with a single ingress/egress connection onto Diplomat Parkway. This deviation is APPROVED, SUBJECT TO the following conditions:

- a. Access to the residential component north of Diplomat Parkway must be generally consistent with the approved MCP; and
- b. The approved MCP and local development order must depict a minimum 70-foot-wide divided entrance on the north side of Diplomat Parkway that includes a median with two lanes on both sides of the median for ingress and egress; and
- c. Prior to issuance of a development order, the developer must provide written documentation from the North Fort Myers Fire District indicating that these access points are acceptable and provide adequate access for emergency vehicles. The development order must also include the plans for the secondary/emergency access required in the following paragraph.
- d. Prior to build-out of the north residential development, Applicant must install a secondary/emergency access from the residential tract to commercial Parcel 3, as shown on the MCP. Any emergency access gate must comply with all applicable

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

- 6b. Deviation 6b (previously contained in Resolution Z-06-004) seeks relief from the LDC §10-291(3) requirement (when practical) that residential developments of more than five acres in size provide two or more means of ingress into the development, to allow the residential portion to the south of Diplomat Parkway to be constructed with a single ingress/egress connection onto Diplomat Parkway. This deviation is APPROVED, SUBJECT TO the following conditions.
- a) Access to the residential component south of Diplomat Parkway must be generally consistent with the approved MCP; and
 - b) Any emergency access gate must comply with all applicable regulations with respect to required equipment for an emergency override mechanism at the time of installation. Additionally, if an emergency necessitates the breaking of an entrance gate, the cost of repairing the gate and the emergency vehicle (if applicable) will be the responsibility of the owner or the operator of the gate; and
 - c) Prior to issuance of a development order, the developer must provide written documentation from the North Fort Myers Fire District indicating that these access points are acceptable and provide adequate access for emergency vehicles.
7. **Curbside garbage collection for townhouse units** - Deviation 7 (previously contained in ADD2007-000169) seeks relief from the LDC §10-261 requirement that all new multiple-family residential developments to provide sufficient space for the placement of garbage containers or receptacles, to allow for curbside garbage pick up at the proposed townhouse units that are planned within the project. This deviation is APPROVED.

8. **Certain internal buffers not required** - Deviation 8 seeks relief from the LDC §10-416(d)(3) requirement that a Type C/F buffer between the proposed RPD/CPD uses internal to the development, to allow no buffer between the RPD/CPD uses where the commercial uses are separated from the residential uses within the project by a private road. This deviation is APPROVED.

SECTION D. EXHIBITS:

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

- Exhibit A: Legal description of the property
- Exhibit B: Zoning Map (with the subject parcel indicated)
- Exhibit C: The Master Concept Plan

SECTION E. FINDINGS AND CONCLUSIONS:

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

- c. the recommended conditions are reasonably related to the impacts on the public interest created by or expected from the proposed development.
- 4. Urban services, as defined in the Lee Plan, are, or will be, available and adequate to serve the proposed land use.
- 5. The approved deviations, as conditioned, enhance achievement of the planned development objectives, and preserve and promote the general intent of LDC Chapter 34, to protect the public health, safety and welfare.

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

John E. Manning	Aye
Brian Bigelow	Aye
Ray Judah	Aye
Tammara Hall	Aye
Frank Mann	Aye

DULY PASSED AND ADOPTED this 21st day of March, 2011.

ATTEST:
CHARLIE GREEN, CLERK

BY: Marcia Wilson
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: Frank Mann
Frank Mann, Chair

Approved as to form by:

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



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MINUTES OFFICE
mw
2011 MAY -9 PM 2:00

DCI 2010-00015

Banks Engineering

Professional Engineers, Planners & Land Surveyors

2515 Northbrooke Plaza Drive - Suite 200

Naples, Florida 34119

(239) 597-2061

Fax (239) 597-3082

RECEIVED
APR 27 2011

DESCRIPTION

OF A

PARCEL OF LAND

LYING IN

SECTION 34, TOWNSHIP 43 SOUTH, RANGE 24 EAST, COMMUNITY DEVELOPMENT

LEE COUNTY, FLORIDA

(CPD ZONING DESCRIPTION)

A TRACT OR PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, LYING IN SECTION 34, TOWNSHIP 43 SOUTH, RANGE 24 EAST AND BEING FURTHER BOUNDED AND DESCRIBED AS FOLLOWS:

NORTH CPD ZONNING PARCEL

COMMENCING AT THE INTERSECTION OF THE WESTERLY RIGHT-OF-WAY LINE OF U.S. 41 (STATE ROAD 45) (200 FEET WIDE) AND THE SOUTHERLY RIGHT-OF-WAY LINE OF LITTLETON ROAD (50 FEET WIDE); THENCE 94.14 FEET ALONG SAID WESTERLY RIGHT-OF-WAY LINE AND ALONG THE ARC OF A CURVE CONCAVE TO THE SOUTHEAST HAVING A RADIUS OF 5829.58 FEET AND SUBTENDED BY A CHORD HAVING A LENGTH OF 94.14 FEET AND BEARING S.03°47'10"W. TO A POINT OF TANGENCY; THENCE S.03°25'50"W. ALONG SAID WESTERLY RIGHT-OF-WAY LINE FOR 2338.37 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE S.03°25'50"W. ALONG SAID WESTERLY RIGHT-OF-WAY LINE FOR 199.95 FEET TO POINT "A" AND TO AN INTERSECTION WITH THE NORTHERLY RIGHT-OF-WAY LINE OF DIPLOMAT PARKWAY (100 FEET WIDE); THENCE N.86°35'21"W. ALONG SAID NORTHERLY RIGHT-OF-WAY LINE FOR 12.52 FEET TO THE BEGINNING OF A CURVE TO THE LEFT HAVING A RADIUS OF 2150.00 FEET; THENCE WESTERLY ALONG SAID CURVE AND ALONG SAID NORTHERLY RIGHT-OF-WAY LINE THROUGH A CENTRAL ANGLE OF 3°32'51" FOR 133.12 FEET; THENCE S.89°51'48"W. ALONG SAID NORTHERLY RIGHT-OF-WAY LINE FOR 1484.79 FEET TO POINT "B"; THENCE N.00°08'12"W. FOR 250.00 FEET; THENCE N.89°51'48"E. FOR 1145.24 FEET; THENCE S.03°25'50"W. FOR 53.49 FEET; THENCE S.89°54'50"E. FOR 500.85 FEET TO THE POINT OF BEGINNING.

PARCEL CONTAINS 8.78 ACRES, MORE OR LESS.

TOGETHER WITH: ADDITIONAL NORTH CPD ZONNING PARCEL

COMMENCING AT SAID POINT "B"; THENCE S.89°51'48"W. ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE OF DIPLOMAT PARKWAY (100 FEET WIDE) FOR 80.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE S.89°51'48"W. ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE FOR 253.42 FEET; THENCE N.28°32'51"W. FOR 6.70 FEET; THENCE N.00°20'36"W. FOR 244.12 FEET; THENCE N.89°51'48"E. FOR 257.48 FEET; THENCE S.00°08'12"E. FOR 250.00 FEET TO THE POINT OF BEGINNING.

PARCEL CONTAINS 1.48 ACRES, MORE OR LESS.

TOGETHER WITH: SOUTH CPD ZONNING PARCEL

COMMENCING AT SAID POINT "A"; THENCE S.03°25'50"W. ALONG SAID WESTERLY RIGHT-OF-WAY LINE OF U.S. 41 (STATE ROAD 45) (200 FEET WIDE) FOR 100.00 FEET TO THE POINT OF BEGINNING;

SHEET 1 OF 3

S:\Jobs\20xx\2028\SURVEY\Descriptions\Zoning\2028 ZONING CPD REV DESC.doc

Fort Myers Office

10511 Six Mile Cypress Pkwy, Suite #101

Fort Myers, Florida 33966

(239) 939-5490

Fax (239) 939-2523

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

EXHIBIT "A"
(Page 1 of 6)

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THENCE CONTINUE S.03°25'50"W. ALONG SAID WESTERLY RIGHT-OF-WAY LINE FOR 429.00 FEET TO THE NORTHEAST CORNER OF A PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 2113 AT PAGE 1590 OF SAID PUBLIC RECORDS, ALSO BEING THE NORTHEAST CORNER OF MERCHANTS CROSSING, A SUBDIVISION RECORDED IN PLAT BOOK 52 AT PAGES 37 THROUGH 47 OF SAID PUBLIC RECORDS; THENCE N.86°34'10"W. ALONG THE NORTH LINE OF SAID PARCEL AND SAID SUBDIVISION FOR 72.00 FEET TO THE SOUTHEAST CORNER OF A PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 2833 AT PAGE 4156 OF SAID PUBLIC RECORDS; THENCE N.03°25'50"E. ALONG THE EASTERLY LINE OF SAID PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 2833 AT PAGE 4156 FOR 65.00 FEET; THENCE N.86°33'36"W. ALONG THE NORTHERLY LINE OF SAID PARCEL FOR 39.68 FEET; THENCE S.03°26'24"W. ALONG THE WESTERLY LINE OF SAID PARCEL FOR 8.00 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT HAVING A RADIUS OF 17.00 FEET; THENCE SOUTHWESTERLY ALONG SAID PARCEL AND SAID CURVE THROUGH A CENTRAL ANGLE OF 90°00'01" FOR 26.70 FEET; THENCE N.86°33'36"W. ALONG THE NORTHERLY LINE OF SAID PARCEL FOR 487.82 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT HAVING A RADIUS OF 80.00 FEET; THENCE NORTHWESTERLY ALONG SAID PARCEL AND SAID CURVE THROUGH A CENTRAL ANGLE OF 86°25'24" FOR 120.67 FEET; THENCE N.00°08'12"W. ALONG THE EASTERLY LINE OF SAID PARCEL FOR 274.66 FEET TO POINT "C" AND TO AN INTERSECTION WITH THE SOUTHERLY RIGHT-OF-WAY LINE OF DIPLOMAT PARKWAY (100 FEET WIDE) AS DESCRIBED IN OFFICIAL RECORDS BOOK 2833 AT PAGE 4156 OF SAID PUBLIC RECORDS; THENCE N.89°51'48"E. ALONG SAID SOUTHERLY RIGHT-OF-WAY FOR 575.20 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT HAVING A RADIUS OF 2050.00 FEET; THENCE EASTERLY ALONG SAID RIGHT-OF-WAY AND SAID CURVE THROUGH A CENTRAL ANGLE OF 3°32'51" FOR 126.93 FEET; THENCE S.86°35'21"E. ALONG SAID RIGHT-OF-WAY FOR 12.49 FEET TO THE POINT OF BEGINNING.

PARCEL CONTAINS 6.00 ACRES, MORE OR LESS.

TOGETHER WITH: ADDITIONAL SOUTH CPD ZONING PARCEL

COMMENCING AT SAID POINT "C"; THENCE S.89°51'48"W. ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE OF DIPLOMAT PARKWAY (100 FEET WIDE) FOR 40.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE S.89°51'48"W. ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE FOR 383.07 FEET; THENCE S.00°08'12"E. FOR 186.04 FEET; THENCE N.59°04'35"E. FOR 185.65 FEET; THENCE S.76°11'27"E. FOR 125.61 FEET; THENCE S.41°41'10"E. FOR 153.30 FEET TO AN INTERSECTION WITH THE WESTERLY LINE OF THE AFORESAID PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 2833 AT PAGE 4156 OF SAID PUBLIC RECORDS; THENCE N.00°08'12"W. ALONG THE WESTERLY LINE FOR 236.02 FEET TO THE POINT OF BEGINNING.

PARCEL CONTAINS 1.22 ACRES.

NET AREA AS DESCRIBED CONTAINS 17.48 ACRES, MORE OR LESS.

COMMUNITY DEVELOPMENT

BEARINGS ARE BASED ON THE WESTERLY RIGHT-OF-WAY OF U.S. 41 (STATE ROAD 45) AS BEARING S.03°25'50"W.

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

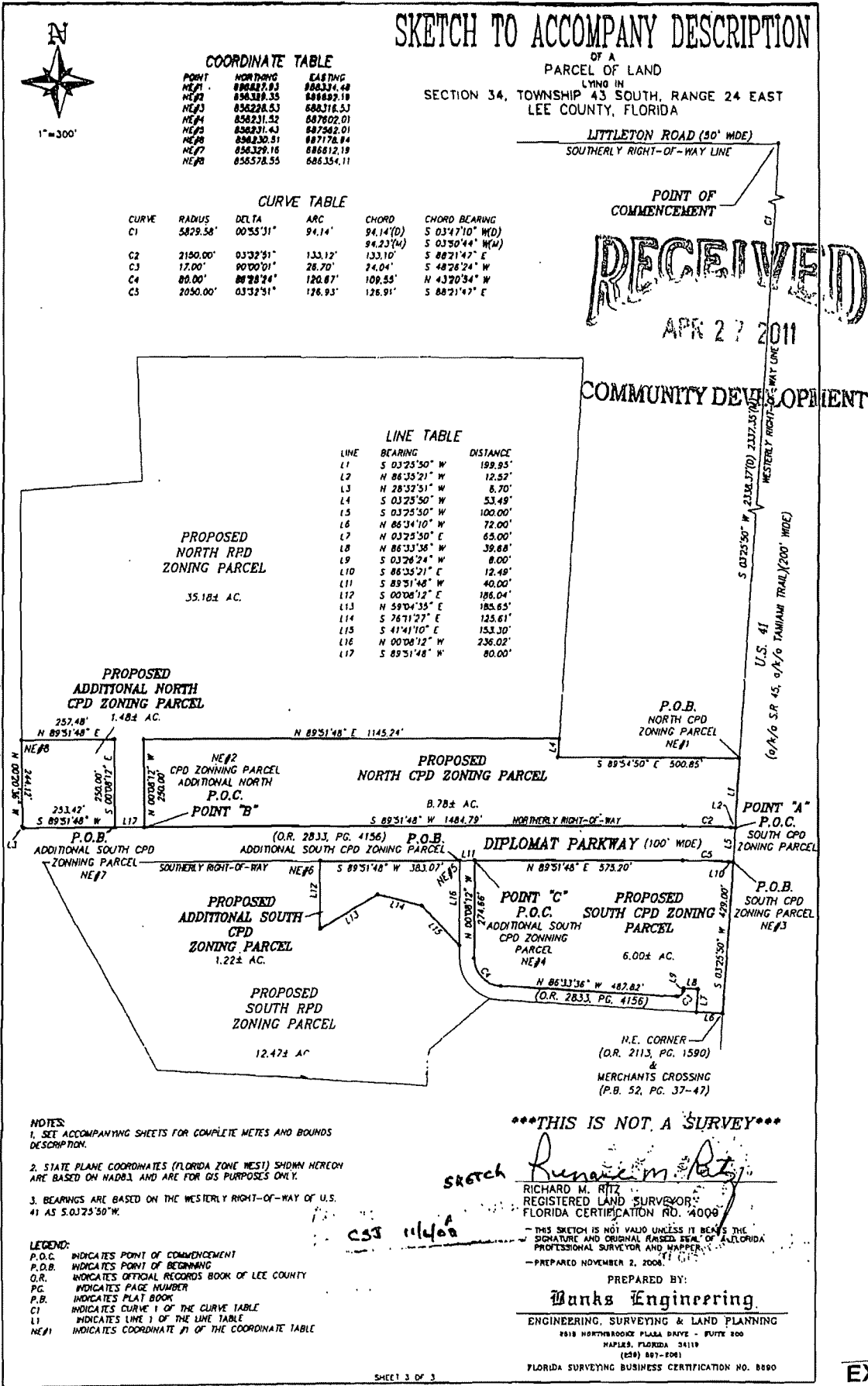
DESCRIPTION PREPARED NOVEMBER 2, 2006.

Richard M. Ritz
 RICHARD M. RITZ
 REGISTERED LAND SURVEYOR
 FLORIDA CERTIFICATION NO. 4000

Applicant's Legal Checked
 by 11/08/06 csl

EXHIBIT "A"
 (Page 2 of 6)

DCI 2010-00015



DCI 2010-00015

Banks Engineering

Professional Engineers, Planners & Land Surveyors
2515 Northbrooke Plaza Drive-Suite 200
Naples, Florida 34119
(239) 597-2061
Fax (239) 597-3082

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APR 27 2011

DESCRIPTION
OF A
PARCEL OF LAND
LYING IN

COMMUNITY DEVELOPMENT

SECTION 34, TOWNSHIP 43 SOUTH, RANGE 24 EAST
LEE COUNTY, FLORIDA
(RPD ZONING DESCRIPTION)

A TRACT OR PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, LYING IN SECTION 34, TOWNSHIP 43 SOUTH, RANGE 24 EAST AND BEING FURTHER BOUNDED AND DESCRIBED AS FOLLOWS:

NORTH RPD PARCEL:

COMMENCING AT THE INTERSECTION OF THE WESTERLY RIGHT-OF-WAY LINE OF U.S. 41 (STATE ROAD 45) (200 FEET WIDE) AND THE SOUTHERLY RIGHT-OF-WAY LINE OF LITTLETON ROAD (50 FEET WIDE) THENCE 94.14 FEET ALONG SAID WESTERLY RIGHT-OF-WAY LINE AND ALONG THE ARC OF A CURVE CONCAVE TO THE SOUTHEAST HAVING A RADIUS OF 5829.58 FEET AND SUBTENDED BY A CHORD HAVING A LENGTH OF 94.14 FEET AND BEARING S.03°47'10"W. TO A POINT OF TANGENCY; THENCE S.03°25'50"W. ALONG SAID WESTERLY RIGHT-OF-WAY LINE FOR 2338.37 FEET; THENCE N.89°54'50"W. FOR 500.85 FEET; THENCE N.03°25'50"E. FOR 53.49 FEET TO THE POINT OF BEGINNING; THENCE S.89°51'48"W. FOR 1145.24 FEET; THENCE S.00°08'12"E. FOR 250.00 FEET TO AN INTERSECTION WITH THE NORTHERLY RIGHT-OF-WAY LINE OF DIPLOMAT PARKWAY (100 FEET WIDE) AS DESCRIBED IN OFFICIAL RECORDS BOOK 2833 AT PAGE 4156 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE S.89°51'48"W. ALONG SAID NORTHERLY RIGHT-OF-WAY LINE FOR 80.00 FEET; THENCE N.00°08'12"W. FOR 250.00 FEET; THENCE S.89°51'48"W. FOR 257.48 FEET; THENCE N.00°20'36"W. FOR 703.76 FEET; THENCE N.85°23'00"E. FOR 335.22 FEET; THENCE N.02°25'15"W. FOR 346.19 FEET; THENCE S.89°54'50"E. FOR 1231.65 FEET; THENCE S.03°25'50"W. FOR 1073.15 FEET TO THE POINT OF BEGINNING.

PARCEL CONTAINS 35.18 ACRES, MORE OR LESS.

AND;

SOUTH RPD PARCEL:

COMMENCING AT THE INTERSECTION OF THE WESTERLY RIGHT-OF-WAY OF U.S. 41 (STATE ROAD 45) (200 FEET WIDE) AND THE SOUTHERLY RIGHT-OF-WAY OF LITTLETON ROAD (50 FEET WIDE) THENCE 94.14 FEET ALONG THE WESTERLY RIGHT-OF-WAY AND ALONG THE ARC OF A CURVE CONCAVE TO THE SOUTHEAST HAVING A RADIUS OF 5829.58 FEET AND SUBTENDED BY A CHORD HAVING A LENGTH OF 94.14 FEET AND BEARING S.03°47'10"W. TO A POINT OF TANGENCY; THENCE S.03°25'50"W. ALONG SAID WESTERLY RIGHT-OF-WAY LINE FOR 2338.37 FEET TO THE SOUTHEASTERLY CORNER OF A PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 1972 AT PAGE 335 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE CONTINUE S.03°25'50"W. ALONG SAID WESTERLY RIGHT-OF-WAY LINE FOR 728.95 FEET TO THE NORTHEAST CORNER OF A PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 2113 AT PAGE 1590 OF SAID PUBLIC RECORDS, ALSO BEING THE NORTHEAST CORNER OF MERCHANTS CROSSING, A SUBDIVISION RECORDED IN PLAT BOOK 52 AT PAGES 37 THROUGH 47 OF SAID PUBLIC RECORDS; THENCE N.86°34'10"W. ALONG THE NORTH LINE OF SAID PARCEL AND SAID SUBDIVISION FOR 616.50 FEET TO THE POINT OF

SHEET 1 OF 3

S:\Jobs\20xx\2028\SURVEY\Descriptions\Zoning\2028_ZONING_RPD_REV_DESC.doc

Fort Myers Office
10511 Six Mile Cypress Pkwy, Suite #101
Fort Myers, Florida 33966
(239) 939-5490
Fax (239) 939-2523

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

EXHIBIT "A"
(Page 4 of 6)

RECEIVED
APR 27 2011

BEGINNING; THENCE CONTINUE N.86°34'10"W. ALONG SAID NORTHERLY LINE FOR 33.50 FEET TO THE NORTHWEST CORNER OF SAID PARCEL; THENCE S.48°25'48"W. ALONG THE WESTERLY LINE OF SAID PARCEL AND SAID SUBDIVISION FOR 212.13 FEET; THENCE S.03°25'50"W. ALONG THE WESTERLY LINE OF SAID PARCEL AND SAID SUBDIVISION FOR 100.00 FEET TO THE SOUTHWESTERLY CORNER OF SAID PARCEL AND TO THE SOUTH LINE OF A PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 2389 AT PAGE 1936 OF SAID PUBLIC RECORDS; THENCE N.86°34'10"W. ALONG THE SOUTH LINE OF SAID PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 2389 AT PAGE 1936 AND THE NORTHERLY LINE OF SAID SUBDIVISION FOR 747.11 FEET TO AN INTERSECTION WITH THE NORTHEASTERLY LINE OF A DRAINAGE EASEMENT (50 FEET WIDE) DESCRIBED IN DEED BOOK 237 AT PAGES 564 AND 565 OF SAID PUBLIC RECORDS; THENCE N.28°32'51"W. ALONG THE NORTHEASTERLY LINE OF SAID DRAINAGE EASEMENT FOR 666.39 FEET TO AN INTERSECTION WITH THE SOUTHERLY RIGHT-OF-WAY LINE OF DIPLOMAT PARKWAY (100 FEET WIDE) AS DESCRIBED IN OFFICIAL RECORDS BOOK 2833 AT PAGE 4156 OF SAID PUBLIC RECORDS; THENCE N.89°51'48"E. ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE FOR 765.84 FEET; THENCE S.00°08'12"E. FOR 186.04 FEET; THENCE N.59°04'35"E. FOR 185.65 FEET; THENCE S.76°11'27"E. FOR 125.61 FEET; THENCE S.41°41'10"E. FOR 153.30 FEET TO AN INTERSECTION WITH THE WESTERLY LINE OF A PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 2833 AT PAGE 4156 OF SAID PUBLIC RECORDS; THENCE S.00°08'12"E. ALONG THE WESTERLY LINE OF SAID PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 2833 AT PAGE 4156 FOR 38.64 FEET TO THE BEGINNING OF A CURVE TO THE LEFT HAVING A RADIUS OF 120.00 FEET; THENCE SOUTHEASTERLY ALONG SAID WESTERLY LINE AND SAID CURVE THROUGH A CENTRAL ANGLE OF 86°25'24" FOR 181.00 FEET TO THE POINT OF BEGINNING.

PARCEL CONTAINS 12.47 ACRES, MORE OR LESS.

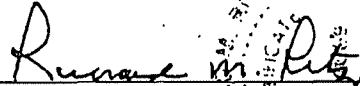
DCI 2010-00015

NET ACREAGE IS 47.65 ACRES, MORE OR LESS.

BEARINGS ARE BASED ON THE WESTERLY RIGHT-OF-WAY OF U.S. 41 (STATE ROAD 45) AS BEARING S.03°25'50"W.

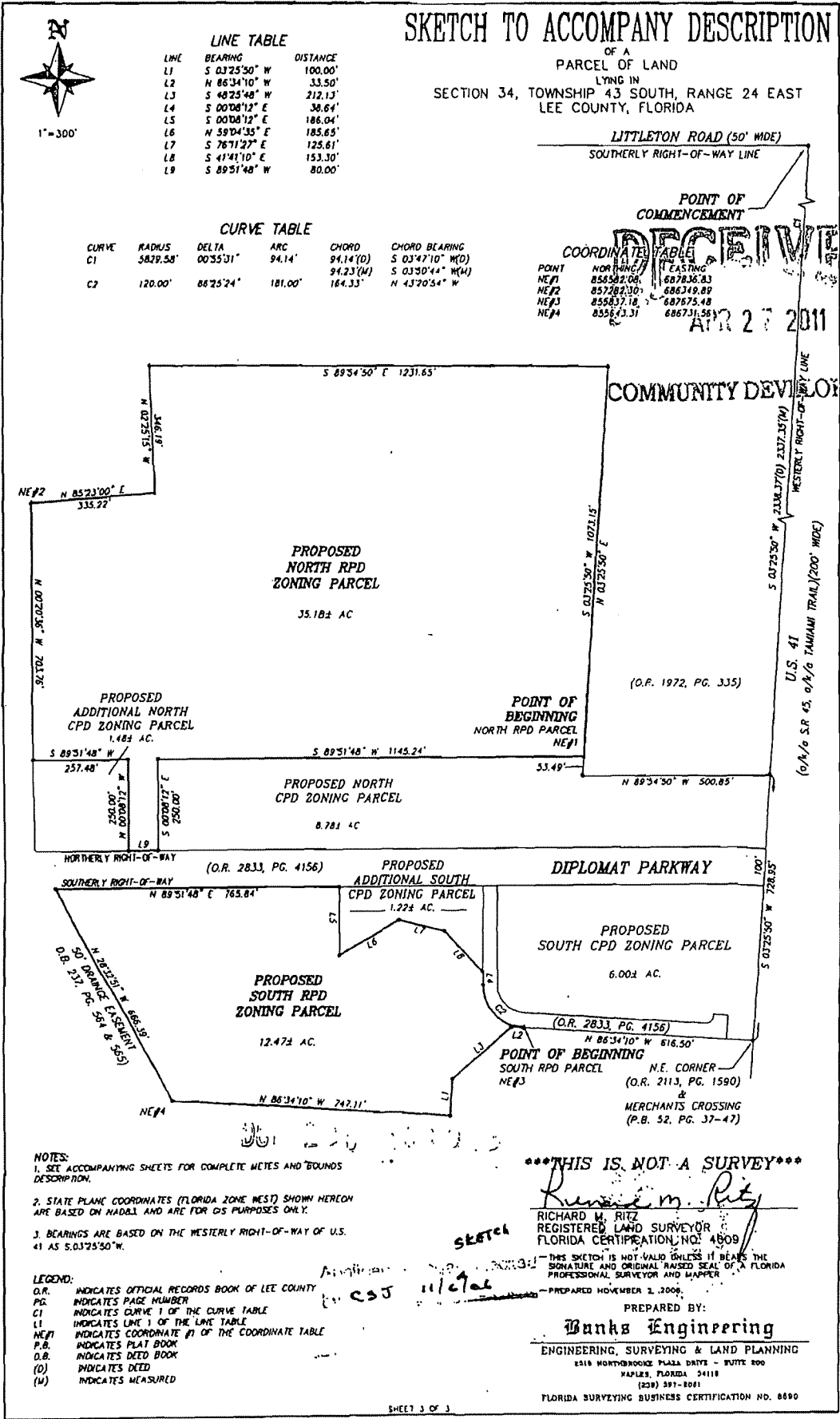
SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS AND RIGHTS-OF-WAY OF RECORD.

DESCRIPTION PREPARED NOVEMBER 2, 2006.


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

Applicant's Legal Checked
by CST 11/6/06

DCI 2010-00015



Zoning Map
DCI2010-00015



Mapped: 4/29/11

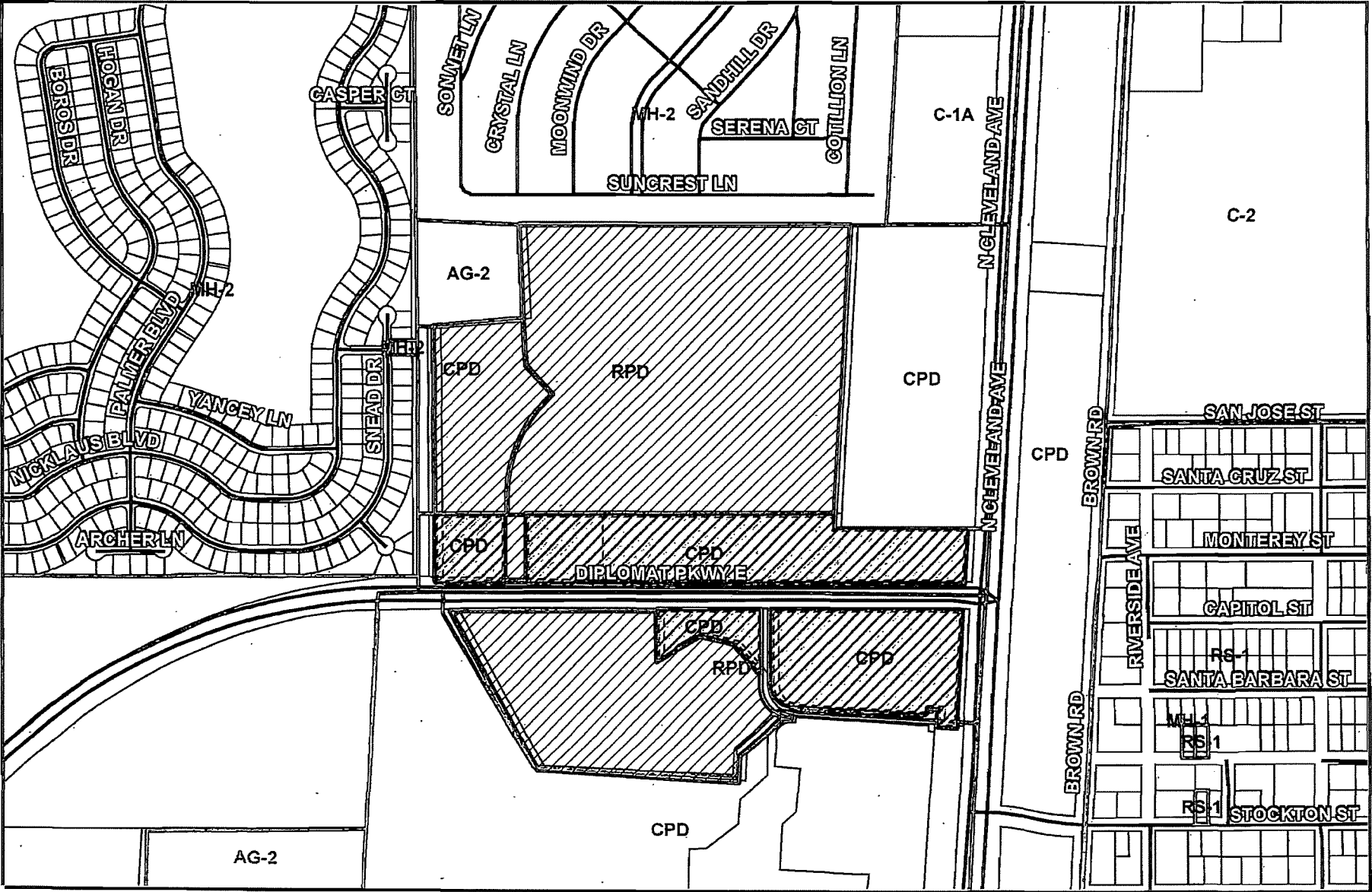
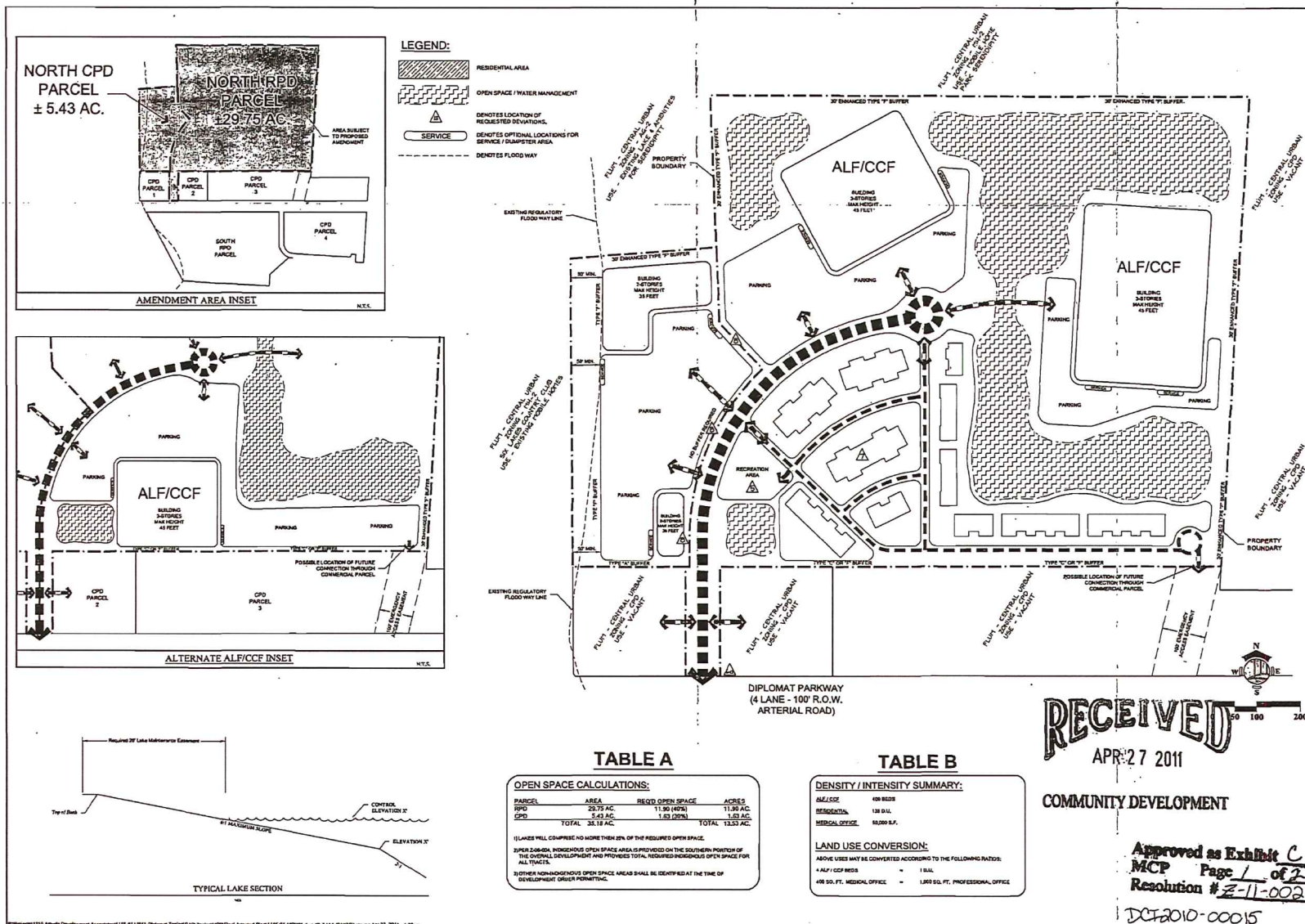
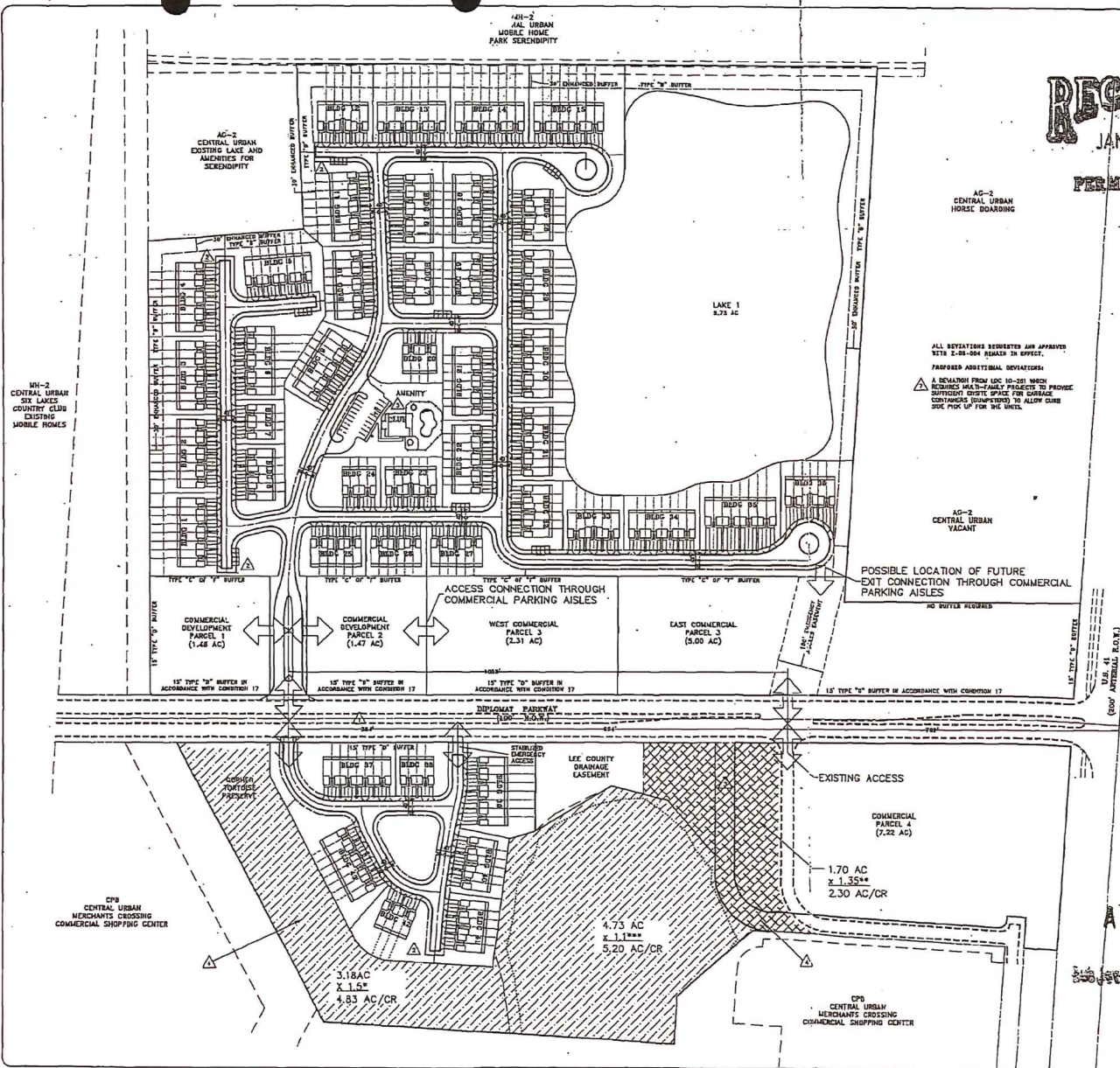
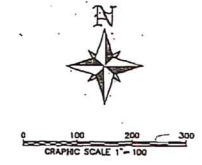


EXHIBIT "B"





RECEIVED
JAN 30 2008
PERMIT COUNTER



- INCIDENTAL INFRASTRUCTURE
- PERMANENT INFRASTRUCTURE
- DETAILING PLEASE REFER TO SCHEDULE OF DETAILING AND SPECIFICATIONS

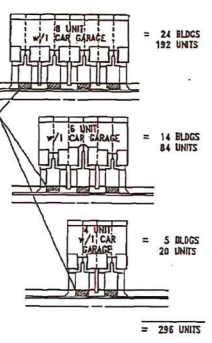
OPEN SPACE CALCULATIONS (BASED ON COMMERCIAL/RES DEVELOP OPEN SPACE FOR RESIDENTIAL)

TRACT	AREA	RESIDENTIAL REQUIRED	OTHER OPEN SPACE REQUIRED	RESIDENTIAL PROVIDED
COMMERCIAL 1	1.47 AC	6.32 AC	132	6.32 AC
COMMERCIAL 2	1.47 AC	6.32 AC	132	6.32 AC
COMMERCIAL 3	1.47 AC	6.32 AC	132	6.32 AC
COMMERCIAL 4	1.47 AC	6.32 AC	132	6.32 AC
RESIDENTIAL NORTH	25.28 AC	25.28 AC	25.28 AC	25.28 AC
RESIDENTIAL SOUTH	15.17 AC	15.17 AC	15.17 AC	15.17 AC
TOTAL	46.86 AC	125.88 AC	125.88 AC	125.88 AC

IN RESIDENTIAL OPEN SPACE AREA IS PROVIDED ON SOUTHERN PORTION OF DEVELOPMENT (EAST CHERRY TRAIL PARKWAY) AND IS TO BE MAINTAINED PERMANENTLY OPEN SPACE FOR ALL TRACTS. AS OTHER (NON-RESIDENTIAL) OPEN SPACE SHALL BE PROVIDED ON THE RESPECTIVE TRACT AND SHALL BE COMPLETED AS THE TRACT IS DEVELOPED UNDER PROVISIONS.

- 110% CREDIT FOR URBAN 3 ACRES AND 100' WIDE FOR LDC SECTION 10-4000000
- 112% CREDIT FOR URBAN 1 ACRE AND 75' WIDE FOR LDC SECTION 10-4000000, AND ADDITIONAL 10% CREDIT FOR PRESERVATION ADJACENT TO ROADWAY PER LDC SECTION 10-4000000
- 110% CREDIT FOR CONNECTION TO OFFICE ENVIRONMENT CONSERVATION OR PRESERVE AREAS FOR LDC SECTION 10-4000000

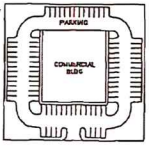
TYPICAL RESIDENTIAL BUILDING LEGEND:



WHERE EACH UNIT CAN PLACE GARAGE CHAIR FOR PICK UP TRUCK DOES NOT BLOCK DRIVEWAYS

ADD 2007-00169
HIGH DENSITY RESIDENTIAL

APPROVED
Amendment to
Master Concept Plan
Subject to Case #ADD2007-00169
Date 2/1/2008



N.B.D. DEVELOPMENT, INC.
1111 N. 11TH ST., SUITE 100
TALLAHASSEE, FL 32304
TEL: 904.241.1111
FAX: 904.241.1111
WWW.NBDDEV.COM

Barth Engineering
1111 N. 11TH ST., SUITE 100
TALLAHASSEE, FL 32304
TEL: 904.241.1111
FAX: 904.241.1111
WWW.BARTHENG.COM

**MASTER CONCEPT PLAN
DIPLOMAT PARCEL
1ST UNIT PLAN**

DATE	PROJECT	DESIGN	DATE	PROJECT	DESIGN	DATE	PROJECT	DESIGN
10-11-2007	2008	001	11-11-07	1	1	11-11-07	1	1

Exhibit E

ADMINISTRATIVE AMENDMENT (PD) ADD2019-00085

ADMINISTRATIVE AMENDMENT
LEE COUNTY, FLORIDA

WHEREAS, Habitat Diplomat North, LLC filed an application for an administrative amendment to a Residential Planned Development and Commercial Planned Development on a project known as Diplomat North to clarify Condition 1 of Resolution Z-11-002 that the northerly 35.2 acres may be optionally developed with RPD uses or ALF/CCF with or without the 5.43-acre CPD Parcel on property located North of Diplomat Parkway East, North Fort Myers Planning Community; and

WHEREAS, the applicant has indicated that the property's current STRAP number is 34-43-24-00-00001.3030 (see Exhibit "A"); and

WHEREAS, the subject property is located in the Central Urban Future Land Use Category and Mixed Use Overlay as designated by the Lee County Comprehensive Plan (Lee Plan); and

WHEREAS, the property was originally rezoned by Resolution Z-06-004 (with subsequent amendments in case number ADD2007-00169 and Resolution Z-11-002); and

WHEREAS, Zoning Resolution Z-06-004 approved a rezoning of the subject property from Agricultural (AG-2) to Residential Planned Development (RPD) and Commercial Planned Development (CPD) to allow a maximum of 468 dwelling units, 200,000 square feet of commercial floor area and 120 hotel rooms on property north and south of Diplomat Parkway East (see Exhibit "E"); and

WHEREAS, ADD2007-00169 approved amendments to the Master Concept Plan (MCP) and property development regulations pertaining to lot areas and dimensions for townhouse dwelling unit types with one deviation from required on-site space for the placement of garbage and recycling containers or receptacles (see Exhibit "D") and

WHEREAS, Zoning Resolution Z-11-002 approved an amendment to Resolution Z-06-005 (as amended by ADD2007-00169) to permit an optional Assisted Living Facility (ALF)/Continuing Care Facility (CCF) and standard dwelling units with up to 50,000 square feet of medical office for the northerly 35.2 acre RPD portion of the project (north of Diplomat Parkway East (see Exhibit "C"); and

WHEREAS, Condition 1 of Resolution Z-11-002 notes "the portion of the project on the north side of Diplomat parkway includes Commercial Development parcels 1, 2 and 3 (West 3 and East 3). It also includes 29.75 acres that may be developed either as an RPD or ALF/CCF, with or without a commercial component on the westerly portion of the site identified as the 5.43-acre North CPD Parcel"; and

WHEREAS, Condition 1 also states development must be substantially consistent with the 1-page Master Concept Plan entitled "Diplomat Property RPD/CPD (North Parcel)" AND the 1-page Master Concept Plan (MCP) entitled "Master Concept Plan, Diplomat Parcel, Lee County, Florida"; and

WHEREAS, the 5.43-acre North CPD Parcel is identified on the amendment area inset map depicted on the Master Concept Plan entitled "Diplomat Property RPD/CPD (North Parcel)"; and

WHEREAS, both Master Concept Plans depict the 35.2± acres of land north of Diplomat Parkway East with alternate development scenarios as follows:

- ALF/CCF, Medical Office and Standard Residential Units (Z-11-002); or
- ALF/CCF and Medical Office (Z-11-002 Alternate ALF/CCF Inset); or
- Solely Standard Residential Units (ADD2007-00169); and

WHEREAS, Condition 1 of Z-11-002 as written is unclear that the intent is to allow the northerly 35.2 acres be optionally developed with RPD uses or ALF/CCF with or without commercial; and

WHEREAS, the applicant wishes to proceed with development under the Master Concept Plan approved by ADD2007-00169 (see Attachment "D") entitled "Diplomat Parcel, Lee County, Florida", without a commercial component on the westerly portion of the site identified as the 5.43-acre North CPD Parcel, which results in an overall decrease in development intensity on the subject property; and

WHEREAS, the requested amendment would be limited to clarify Condition 1 of Resolution Z-11-002; and

WHEREAS, the Lee County Land Development Code provides for certain administrative changes to planned development master concept plans and planned unit development final development plans; and

WHEREAS, the subject application and plans have been reviewed by the Lee County Department of Community Development in accordance with applicable regulations for compliance with all terms of the administrative approval procedures; and

WHEREAS, it is found that the proposed amendment does not increase density or intensity within the development; does not decrease buffers or open space required by the LDC; does not underutilize public resources or infrastructure; does not reduce total open space, buffering, landscaping or preservation areas; and does not otherwise adversely impact on surrounding land uses.

NOW, THEREFORE, IT IS HEREBY DETERMINED that the application for administrative approval for an amendment to Residential Planned Development and Commercial Planned Development is **APPROVED**.

Approval is subject to the following conditions:

1. **This approval is limited to clarify Condition 1 of Z-11-002 that the northerly 35.2 acres may be optionally developed with RPD uses or ALF/CCF with or without the 5.43-acre CPD Parcel and is hereby amended in strikethrough and underline as follows:**

Development must be substantially consistent with the 1-page Master Concept Plan (MCP) entitled "DIPLOMAT PROPERTY RPD/CPD (NORTH PARCEL)," dated 09-22-10, last revised 4-22-11 and date-stamped "Received APR 27 2011 Community Development" ~~AND OR~~ the 1-page MCP entitled "Master Concept Plan, DIPLOMAT PARCEL, Lee County, Florida," dated 08-27-2007, last revised 01-23-2008 and date-stamped "Received JAN 30 2008 Permit Counter," except as modified by the conditions below.

NOTE: The portion of the project on the north side of Diplomat Parkway includes Commercial Development Parcels 1, 2 and 3 (West 3 and East 3). It also includes a ~~29.75 acres~~ 35.2 acre site that may be developed either as an ~~RPD~~ with RPD uses, ~~or and~~ and/or ALF/CCF, with or without a commercial component on the westerly portion of that site identified as the 5.43-acre North CPD Parcel.

2. **The terms and conditions of the original zoning resolutions remain in full force and effect, except as amended herein.**
3. **If it is determined that inaccurate or misleading information was provided to the County or if this decision does not comply with the LDC when rendered, then, at any time, the Zoning Manager may issue a modified decision that complies with the Code or revoke the decision. If the approval is revoked, the applicant may acquire the necessary approvals by filing an application for public hearing in accordance with Chapter 34.**

Duly passed, adopted, and electronically signed on 8/16/2019 by

Audra Ennis, Zoning Manager
Lee County Community Development

Exhibits

Exhibit A: Legal Description
Exhibit B: Applicant's Narrative
Exhibit C: Resolution Z-11-002
Exhibit D: Administrative Amendment ADD2007-00169
Exhibit E: Resolution Z-06-004

EXHIBIT A

CASE NUMBER: ADD2019-00085

STRAP NUMBER

34-43-24-00-00001.3030

REVIEWED
ADD2019-00085
Daniel Munt, Planner
Lee County DCD
6/18/2019

Exhibit B



Professional Engineers, Planners & Land Surveyors



Diplomat North Property RPD/CPD
Minor Administrative Amendment to Planned Development
Narrative of Request

Request Summary

The applicant is requesting a minor administrative amendment to the approved Diplomat Property Residential Planned Development (RPD)/Commercial Planned Development (CPD) to codify and clarify condition 1 that the north 5.43-acre optional CPD allows residential development including single-family, duplex, two-family attached, multifamily and townhomes.

The applicant has verified this interpretation with the Zoning Manager and believes that the language is clear and is requesting clarification to avoid any confusion in the future.

Background and Approval History

The subject property is located on the north side of Diplomat Parkway East, just west of its intersection with N. Cleveland Ave/U.S. 41. The site is located in the Central Urban future land use category and within the Mixed Use Overlay within the North Fort Myers planning community.

The property is a ±38-acre portion of the ±65-acre Diplomat Property RPD/CPD which received zoning approval via Zoning Resolution Z-06-004. The project was approved for a maximum of 457 dwelling units and 200,000 square feet of commercial of which 100,000 square feet could be retail.

The original zoning approval was later amended administratively by ADD2007-00169 which amended the Master Concept Plan, revised the site development regulations for townhouses and added a deviation to allow curbside garbage pickup.

On March 21, 2011, an amendment to the northern ±35.2-acre RPD was approved for a maximum of 400 assisted living facility beds, 138 standard dwelling units, a maximum 50,000 square feet of medical office space including a conversion table and an amendment to the master concept plan.

Condition 1 on page 2 of Z-11-002 states the following which the applicant submits makes it clear that residential is permitted on the north 5.43-acre optional CPD area:

- Development must be substantially consistent with the new master concept plan AND the master concept plan previously approved by ADD2007-00169

• SERVING THE STATE OF FLORIDA •

- The following text is in bold text within the resolution “NOTE: The portion of the project on the north side of Diplomat Parkway includes Commercial Development Parcels 1, 2 and 3 (West 3 and East 3). It also includes a 29.75 acres that may be developed either as an RPD, or and ALF/CCF, with or without a commercial component on the westerly portion of that site identified as the 5.43 acre North CPD parcel.”

Z-11-002, states that it is an amendment to the RPD/CPD and does not state anywhere that it is a rezoning a portion of the RPD to CPD. The legal descriptions attached to the resolution are the same RPD/CPD approved with the 2006 resolution and do not include a description for the north 5.43 acre CPD parcel. The 5.43 acre CPD is only depicted on the alternate MCP approved for the ALF/CCF.

ZVL2018-10080 was issued on December 21, 2018 stating that residential dwelling units were not allowed within the 5.43-acre CPD.

The ZVL determination would make the existing development order for residential development on the northern RPD (DOS2007-00255) for the property that is valid until 2023 inconsistent with the zoning since residential is not currently shown in the schedule of uses for the 5.43-acre north CPD. This was clearly not the intent of the rezoning which would be to add alternate entitlements to the property not remove existing entitlements. The alternate development plan approved by the 2011 zoning resolution never received development order approval. Residential development on the 5.43-acres would be less intense than 50,000 square feet of medical office.

A meeting was held on February 27, 2019 with Zoning staff, Zoning Manager and County Attorney's office to discuss the existing development order approval and that no paperwork to revoke the existing development order was provided during the zoning amendment. The currently approved residential development order furthers the fact that residential development is still allowed on the entire North RPD zoning area, including the 5.43-acre optional CPD.

An email was received from the Zoning Manager on March 7, 2019 that “Staff is in agreement that the 5.43 CPD area may be used for residential development as noted in Condition 1 of Z-11-002.”

LDC Consistency/Minimal Modification

LDC Section 34-377(a)(5) in part provides that applications for administrative approval will be processed as administrative amendments in accordance with Section 34-380. This section also states that administrative amendments may be granted by the Director upon a finding that public health, safety, and welfare will not be adversely affected by the request. LDC Section 34-380(a) provides that amendments to an approved master concept plan or its attendant documentation may be requested at any time during the development of or useful life of a planned development. LDC Section 34-380(b) provides that the Director may approve any change to the development that does not increase height, density or intensity (i.e., number of dwelling units or quantity of commercial or industrial floor area) except as permitted in chapter 2. This section of the code further specifies that “the Director may not approve a change that will: (1) Result in the substantial underutilization of public resources and public infrastructure committed to the support of the development; (2) Result in a reduction of total open space provided on the master concept plan

by more than ten percent or that would decrease the amount of indigenous native vegetation or open space required by the Code; (3) Decrease preservation areas. Changes to buffer or landscaping areas are permitted but must provide equivalent or better (by comparison with the approved Master concept plan) landscape or buffering; or (4) Adversely impact surrounding land uses.”

Conclusions

The request is consistent with the administrative amendment requirements contained in LDC Section 34-380(b). No changes are proposed to the existing intensity approved for the development. The request is simply to codify and clarify condition 1 that the north 5.43-acre CPD allows residential development including single-family, duplex, two-family attached, multifamily and townhomes. The proposed amendment does not increase the height, density or intensity within the development; does not underutilize public resources or infrastructure, does not reduce open space, does not decrease preservation areas or buffers; and does not adversely impact surrounding land uses. The requested amendment is a minimal necessary modification to the already approved planned development to allow the project to proceed with development. The proposed modifications do not change the fact that the project is consistent with the Lee Plan and the LDC.

Exhibit C

RESOLUTION NUMBER Z-11-002

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

WHEREAS, an application was filed by the property owner, Athyrio Development Associates, LLC, to amend the northerly 35.2± acres Residential Planned Development (RPD) portion of the Diplomat Property Residential Planned Development/Commercial Planned Development (RPD/CPD); and,

WHEREAS, a public hearing was advertised and held on January 6, 2011, with the record held open until January 14, 2011, for written submissions, before the Lee County Zoning Hearing Examiner, who gave full consideration to the evidence in the record for Case DCI2010-00015; and

WHEREAS, a second public hearing was advertised and held on March 21, 2011, before the Lee County Board of Commissioners, who gave full and complete consideration to the recommendations of the staff, the Hearing Examiner, the documents on record and the testimony of all interested persons.

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

SECTION A. REQUEST

The applicant filed a request to amend the 35.2± acres RPD portion of the Diplomat Property RPD/CPD to permit a maximum of 400 assisted living facility beds, 138 standard dwelling units, a maximum of 50,000 square feet of medical office space, and to make other changes to the master concept plan (MCP) including reconfiguration of a lake, changes to the buffer to the west, and additional details including the placement commercial and residential buildings. Maximum building height requested is 50 feet. No development blasting is requested. Any development will connect to public potable water and public sanitary sewer service. The property is located in the Central Urban Future Land Use Category and is legally described in attached Exhibit A. The request is APPROVED, SUBJECT TO the conditions and deviations specified in Sections B and C below.

SECTION B. CONDITIONS:

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

1. Development must be substantially consistent with the 1-page Master Concept Plan (MCP) entitled "DIPLOMAT PROPERTY RPD/CPD (NORTH PARCEL)," dated 09-22-10, last revised 4-22-11 and date-stamped "Received APR 27 2011 Community Development" AND the 1-page MCP entitled "Master Concept Plan, DIPLOMAT PARCEL, Lee County, Florida," dated 08-27-2007, last revised 01-23-2008 and date-stamped "Received JAN 30 2008 Permit Counter," except as modified by the conditions below.

NOTE: The portion of the project on the north side of Diplomat Parkway includes Commercial Development Parcels 1, 2 and 3 (West 3 and East 3). It also includes a 29.75 acres that may be developed either as an RPD, or and ALF/CCF, with or without a commercial component on the westerly portion of that site identified as the 5.43 acre North CPD Parcel.

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

Maximum Number of Dwelling Units (North RPD Parcel): 138 dwelling units plus a maximum of 400 beds for assisted living facilities/continuing care facilities. Dwelling units may be converted per Table "B" of the approved MCP.

Maximum Number of Dwelling Units (South RPD parcel): 105 dwelling units. An additional 21 units may be constructed if they are marketed at a price point that is affordable to moderate income households at the time of building permit application. Further, the additional 21 units may only be sold to buyers who qualify as a moderate income household at time of purchase. Moderate income household means 120 percent of the yearly median income based on yearly income levels developed for the SHIP Program by the Housing Section of the Lee County Division of Planning.

Eight (8.0) dwelling units per acre maximum, for the 13.19 acres of RPD (South of Diplomat Parkway). An additional 1.6 units per acre may be constructed subject to the affordability requirements above.

Maximum Commercial Floor Area (North CPD Parcel): 50,000 square feet of medical office. Medical office may be converted per Table "B" of the approved MCP.

Maximum Total Commercial Floor Area (CPD Parcels 1, 2, 3 and 4): 200,000 square feet of commercial uses. A maximum of 100,000 s/f of which may be retail.

Retail development is limited to Parcel 4 (which meets Commercial Site Location standards). Retail development is not permitted on Commercial Parcels 1, 2 or 3 (which do not meet Site Location standards).

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

- a. **SCHEDULE OF USES**

- RPD- South of Diplomat Parkway**

- Accessory Uses and Structures

- Administrative Office

- Clubs, Private - as shown on the approved MCP.

- Community Garden

- Dwelling Units, single-family, duplex, two-family attached, multiple-family and townhomes - 105 (up to 126 pursuant to Condition 1)

- Entrance Gates and Gatehouse

- Essential Services

- Essential Service Facilities, Group I only

- Excavation, Water Retention - not to include the removal of excavated material from the site. No blasting.

- Fences and Walls.

- Home Occupation, No outside help.

- Home Care Facility.

- Model Home, Model Display Center, Model Unit - ALSO
SEE MODEL HOME/REAL ESTATE SALES
CONDITIONS.

- Parking Lot, Accessory.

- Real Estate Sales - limited to sales of lots, homes or units within the development. Model home and club locations only. ALSO SEE MODEL HOME/REAL ESTATE SALES CONDITIONS.

- Recreational Facilities - Private, On-site only.
LIMITED TO THOSE SHOWN ON THE
APPROVED MCP.

- Residential Accessory Uses

- Signs, in compliance with LDC Chapter 30

- Temporary Uses, Temporary Real Estate Sales Office

CPD - Parcels 1, 2, 3 & 4 - North and South of Diplomat Parkway

Administrative Office

Animals: Clinic, Kennel, Control Center (including Humane Society) -
indoors, no outdoor runs.

Automatic Teller Machine

Auto Parts Store - No installation service.

Auto Repair and Service, Group I only

Bait and Tackle Shop

Banks and Financial Establishments, Groups I and II

Boat Part Stores

Building Material Sales (indoor only, no outdoor display)

Business Services, Groups I and II (no impound yards or
armored car services)

Cleaning and Maintenance Services

Clothing Stores, General

Communication facilities, wireless (in accordance with LDC Chapter 34,
Division 11) A wireless communication facility may be
administratively approved, provided it is co-located
on a building and the height of the tower does
not exceed 50 feet from existing grade

Community Garden (**Note:** *This use may not be utilized until such time as
the LDC is amended to permit this use in a CPD.*)

Consumption on Premises - Indoors. In conjunction with Group III
restaurants only. Outdoor Consumption on Premises
will require special exception approval (public hearing)

Contractors and Builders, Groups I and II (but not Group III)

Cultural Facilities

Day Care, Adult, Child

Department Store

Drive-through facility for any permitted use. No fast food drive-through.

Drugstore, Pharmacy (limited to 1 on Parcel 3 or 4)

Entrance Gate and Gatehouse

Emergency Operations Center

EMS, Fire or Sheriff's Station

Essential Services

Essential Service Facilities, Group I only

Excavation, Water Retention - not to include the removal of excavated
material from the site. No blasting.

Fences and Walls.

Flea Market, Indoor Only

Food and Beverage Services, Limited

Food Stores, Groups I and II

Funeral Home or Mortuary, with or without cremation

Gasoline Dispensing System, Special
Hardware Store
Health Care Facility, Groups I, II and III (but not Group IV).
Hobby, Toy and Game Store
Hotel/Motel - Limited to 120 rooms maximum.
Household and Office Furnishings - (indoor only, no outdoor display)
Insurance Companies
Lawn and Garden Supply Stores - (indoor only, no outdoor display)
Library
Medical Office
Nonstore Retailer
Paint, Glass and Wallpaper - (indoor only, no outdoor display)
Parking Lot, Accessory, Commercial, Garage, Public Parking, Temporary
Personal Services, Groups I, II, III and IV. Excluding Laundromats,
Laundry Agents, Massage Establishments, Massage
Parlors, Steam or Turkish Baths, Dating Services,
Escort Services, Palm Readers, Fortune Tellers,
Card Readers, Tattoo Parlors.
Pet Services, Pet Shops - Indoor only, no outdoor display.
No outdoor runs.
Place of Worship
Plant Nursery
Post Office
Printing and Publishing
Processing and Warehousing
Real Estate Sales Office
Religious Facilities
Rental or Leasing Establishments, Group II only (and excluding tools
and equipment primarily for home use). Indoor only.
No outdoor display.
Repair Shop, Groups I, II and III
Research and Development Laboratories, Groups I, II, III and IV
Restaurants, Groups I, II, III and IV
Restaurant, Fast Food, No stand-alone or drive-through - within
a multiple-occupancy building only.
Schools, Commercial and Non-Commercial
Signs in Accordance with LDC Chapter 30
Social Services Group I only
Specialty Retail, Groups I, II, III and IV
Storage, Indoor Only
Studios
Supermarkets

Temporary Uses
Used Merchandise, Groups I and II, Indoor only. No outdoor display.
Variety Store

RPD - North of Diplomat Parkway

Accessory Uses and Structures
Administrative Office
Assisted Living Facilities - (pursuant to Condition 1)
Clubs, Private - as shown on the approved MCP (Recreation Areas)
Community Garden
Continuing Care Facilities
Dwelling Units, single-family, duplex, two-family attached,
multifamily, townhomes - (pursuant to Condition 1)
Entrance Gates and Gatehouse
Essential Services
Essential Service Facilities, Group I only
Excavation, Water Retention - not to include the removal of
excavated material from the site. No blasting.
Fences and Walls.
Home Occupation, No outside help
Home Care Facility
Model Home, Model Display Center, Model Unit - ALSO SEE MODEL
HOME/REAL ESTATE SALES CONDITIONS.
Parking Lot, Accessory.
Real Estate Sales - limited to sales of lots, homes or units within
the development. Model home and club locations only.
ALSO SEE MODEL HOME/REAL ESTATE SALES
CONDITIONS.
Recreational Facilities - Private, On-site only. LIMITED TO
THOSE SHOWN ON THE APPROVED MCP.
Religious Facilities
Residential Accessory Uses
Signs, in compliance with LDC Chapter 30
Temporary Uses, Temporary Real Estate Sales Office

CPD - 5.43-Acre Parcel north of Diplomat Parkway

Administrative Office
Animals: Clinic, Kennel, Control Center (including Humane Society) -
indoors, no outdoor runs
Automatic Teller Machine
Banks and Financial Establishments, Groups I and II

Business Services, Groups I and II (no impound yards or armored car services)

Cleaning and Maintenance Services

Communication facilities, wireless (in accordance with LDC Chapter 34, Division 11) A wireless communication facility may be administratively approved, provided it is co-located on a building and the height of the tower does not exceed 50 feet from existing grade.

Community Garden (**Note:** *This use may not be utilized until such time as the LDC is amended to permit this use in a CPD.*)

Cultural Facilities

Entrance Gate and Gatehouse

Emergency Operations Center

EMS, Fire or Sheriff's Station

Essential Services

Essential Service Facilities, Group I only

Excavation, Water Retention - not to include the removal of excavated material from the site. No blasting.

Fences and Walls.

Health Care Facility, Groups I, II and III (no Group IV)

Insurance Companies

Medical Office

Parking Lot, Accessory

Personal Services, Groups I and II

Pharmacy - accessory to medical office use only

Real Estate Sales Office

Religious Facilities

Research and Development Laboratories, Groups I, II, III and IV

Schools, Commercial and Non-Commercial

Signs in Accordance with LDC Chapter 30

Social Services Group I only

Temporary Uses

b. SITE DEVELOPMENT REGULATIONS

RPD - South of Diplomat Parkway

SINGLE-FAMILY:

Minimum Lot Areas and Dimensions

Lot Size:	7,500 square feet
Lot Width:	75 feet
Lot Depth:	100 feet

Minimum Setbacks

Street	25 feet (public)/20 feet (private)
Side	5 feet
Rear	30 feet on all lots containing enhanced buffer 20 feet on all other lots

Water body 25 feet

All Accessory Uses: Per the LDC.

Setbacks from Preserves (All structures): 25 feet, per the LDC.

Minimum Perimeter Setbacks: 25 feet
30 feet on all lots containing
an enhanced buffer

Minimum Building Separation: 10 feet.

Maximum Building Height: 35 feet/ 3 stories
Maximum Lot Coverage: 45 percent

DUPLEX, TWO-FAMILY ATTACHED, TOWNHOUSE:

Minimum Lot Areas and Dimensions

Lot Size:	7,500 square feet
Lot Width:	75 feet (37.5 per unit)
Lot Depth:	100 feet

Minimum Setbacks

Street	25 feet (public)/20 feet (private)
Side	5 feet (zero feet for common wall unit)
Rear	30 feet on all lots containing enhanced buffer 20 feet on all other lots

Water body 25 feet

All Accessory Uses: Per the LDC.

Setbacks from Preserves (All structures): 25 feet, per the LDC.

Minimum Perimeter Setbacks: 25 feet
30 feet on all lots containing
an enhanced buffer

Minimum Building Separation: 10 feet.
Maximum Building Height: 3 5 feet/ 2 stories
Maximum Lot Coverage: 45 percent.

MULTIPLE-FAMILY:

Minimum Lot Areas and Dimensions

Lot Size: 10,000 square feet
Lot Width: 100 feet
Lot Depth: 100 feet

Minimum Setbacks

Street 25 feet (public)/20 feet (private)
Side 10 feet
Rear 30 feet on all lots containing enhanced buffer
20 feet

Water body 25 feet

All Accessory Uses: Per the LDC.
Setbacks from Preserves (All structures): 25 feet, per the LDC.

Minimum Perimeter Setbacks: 25 feet
30 feet on all lots containing
an enhanced buffer

Minimum Building Separation: 20 feet.

Maximum Building Height: 35 feet/ 2 stories
Maximum Lot Coverage: 45 percent.

RECREATIONAL AREA/FACILITIES:

Minimum Lot Areas and Dimensions

Lot Size: 9,000 square feet
Lot Width: 50 feet
Lot Depth: 120 feet

Minimum Setbacks - Also see Deviation 5

Street	25 feet (public)/20 feet (private)
Side	10 feet
Rear	20 feet

Water body	25 feet
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All Accessory Uses: Per the LDC.

Setbacks from Preserves (All structures): 25 feet, per the LDC.

Minimum Perimeter Setbacks: 25 feet

Minimum Building Separation: 10 feet

Maximum Building Height: 35 feet/ 2 stories

Maximum Lot Coverage: 45 percent

CPD - PARCELS 1, 2, 3 & 4:

Minimum Lot Areas and Dimensions

Lot Size:	10,000 square feet
Lot Width:	100 feet
Lot Depth:	100 feet

Minimum Setbacks

Street	25 feet (public)/20 feet (private)
Side	10 feet
Rear	20 feet

Water body	25 feet
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All Accessory Uses: Per the LDC.

Setbacks from Preserves (All structures): 25 feet, per the LDC.

Minimum Perimeter Setbacks: 25 feet

Minimum Building Separation: 20 feet, but buildings exceeding 35 feet in height must maintain additional building separation as regulated by LDC §34-2174(a).

Maximum Building Height: 50 feet/ 3 stories
35 feet/2 stories - adjacent to west boundary

Maximum Lot Coverage: 60 percent

RPD - NORTH OF DIPLOMAT PARKWAY:

ASSISTED LIVING:

Minimum Lot Areas and Dimensions

Lot Size: 10,000 square feet
Lot Width: 100 feet
Lot Depth: 100 feet

Minimum Setbacks

Street 25 feet (public)/20 feet (private)
Side 10 feet
Rear 30 feet on all lots containing enhanced buffer
20 feet on all other lots

Water body 25 feet

All Accessory Uses: Per the LDC.

Setbacks from Preserves (All structures): 25 feet, per the LDC.

Minimum Perimeter Setbacks: 25 feet
30 feet on all lots containing
and enhanced buffer

Minimum Building Separation: ½ building height, but not less than 15 feet

Maximum Building Height: 45 feet
Maximum Lot Coverage: 45 percent

SINGLE-FAMILY:

Minimum Lot Areas and Dimensions

Lot Size: 7,200 square feet
Lot Width: 60 feet
Lot Depth: 100 feet

Minimum Setbacks

Street 25 feet (public)/20 feet (private)
Side 5 feet
Rear 30 feet on all lots containing enhanced buffer
20 feet on all other lots

Water body 25 feet

All Accessory Uses: Per the LDC.

Setbacks from Preserves (All structures): 25 feet, per the LDC.

Minimum Perimeter Setbacks: 25 feet
30 feet on all lots containing
an enhanced buffer

Minimum Building Separation: 10 feet

Maximum Building Height: 35 feet
Maximum Lot Coverage: 45 percent

DUPLEX:

Minimum Lot Areas and Dimensions

Lot Size: 7,000 square feet
Lot Width: 70 feet
Lot Depth: 100 feet

Minimum Setbacks

Street 25 feet (public)
20 feet (private)
Side 5 feet

Rear 30 feet on all lots containing enhanced buffer
 20 feet on all other lots

Water body 25 feet

All Accessory Uses: Per the LDC.

Setbacks from Preserves (All structures): 25 feet, per the LDC.

Minimum Perimeter Setbacks: 25 feet
 30 feet on all lots containing
 an enhanced buffer

Minimum Building Separation: 10 feet.

Maximum Building Height: 35 feet
Maximum Lot Coverage: 45 percent

TOWNHOME:

Minimum Lot Areas and Dimensions

Lot Size: 1,600 square feet
Lot Width: 16 feet
Lot Depth: 100 feet

Minimum Setbacks

Street 25 feet (public)
 20 feet (private)
Side 10 feet
 0 feet (for a common wall)
Rear 30 feet on all lots containing enhanced buffer
 20 feet on all other lots

Water body 25 feet

All Accessory Uses: Per the LDC.

Setbacks from Preserves (All structures): 25 feet, per the LDC.

Minimum Perimeter Setbacks: 25 feet
 30 feet on all lots containing
 an enhanced buffer

Minimum Building Separation: 20. feet
Maximum Building Height: 35 feet
Maximum Lot Coverage: 55 percent

MULTIPLE-FAMILY:

Minimum Lot Areas and Dimensions

Lot Size: 10,000 square feet
Lot Width: 100 feet
Lot Depth: 100 feet

Minimum Setbacks

Street 25 feet (public)
20 feet (private)
Side 10 feet
Rear 30 feet on all lots containing enhanced buffer
20 feet on all other lots

Water body 25 feet

All Accessory Uses: Per the LDC.

Setbacks from Preserves (All structures): 25 feet, per the LDC

Minimum Perimeter Setbacks: 25 feet

Minimum Building Separation: ½ building height, but not less than 15 feet

Maximum Building Height: 50 feet
Maximum Lot Coverage: 45 percent

RECREATION AREA/CLUBHOUSE:

Minimum Lot Areas and Dimensions

Lot Size: 9,000 square feet
Lot Width: 100 feet
Lot Depth: 100 feet

Minimum Setbacks

Street	25 feet (public) 20 feet (private)
Side	10 feet
Rear	20 feet

Water body 25 feet

All Accessory Uses: Per the LDC.

Setbacks from Preserves (All structures): 25 feet, per the LDC.

Minimum Perimeter Setbacks: 25 feet
30 feet on all lots containing
an enhanced buffer

Minimum Building Separation: 10 feet

Maximum Building Height: 35 feet
Maximum Lot Coverage: 45 percent

CPD - 5.43-acre North CPD Parcel:

Minimum Lot Areas and Dimensions

Lot Size:	10,000 square feet
Lot Width:	100 feet
Lot Depth:	100 feet

Minimum Setbacks

Street	25 feet (public) 20 feet (private)
Side	10 feet
Rear	20 feet 20 feet on all other lots

Water body 25 feet

All Accessory Uses: Per the LDC

Setbacks from Preserves (All structures): 25 feet, per the LDC

Minimum Perimeter Setbacks: 25 feet

Minimum Building Separation: ½ building height not less than 15 feet

Building Height: 35 feet

Maximum Lot Coverage: 60 percent

3. **CONCURRENCY**

Approval of this rezoning does not constitute a finding that the proposed project meets the concurrency requirements set forth in LDC Chapter 2 and the Lee Plan. The developer is required to demonstrate compliance with all concurrency requirements prior to issuance of a local development order.

4. **MODEL HOME AND REAL ESTATE SALES**

Model units and homes (and real estate sales) are permitted in compliance with the following conditions:

- a. Each model must be a unique example. Multiple examples of the same unit are not permitted.
- b. All model sites must be designated on the development order plans.
- c. Prior to model home construction, the lots upon which model homes will be constructed must be shown on a preliminary plat (not the final). The preliminary plat must be filed concurrently with the local development order application. The model homes must comply with the setbacks set forth in the property development regulations for this project.
- d. Dry models are prohibited.
- e. The number of model homes or model units will be limited to no more than 10 within the development at one time.
- f. Any model homes or units must be developed within the areas identified as "models" on the approved MCP.
- g. Real estate sales within the RPD are limited to the sale of lots or units within the development only. Real Estate sales are a permitted use within the CPD.

- h. Real estate sales within the RPD are limited to within model homes or clubhouse only.
- i. Hours of operation for both models and real estate sales (within the RPD) are limited to Monday through Sunday 8:00 a.m. to 8:00 p.m.
- j. Model homes and real estate sales within the RPD will be valid for a period of up to five years from the date of issuance of a certificate of occupancy of a model home per LDC §34-1954(d)(1).

5. **NO AGRICULTURAL USES APPROVED**

No agricultural uses are permitted on site.

6. **BLASTING**

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

7. **NATIVE VEGETATION REQUIRED IN THE ENTIRE RPD AND CPD**

All required buffers must utilize 100 percent all native vegetation.

8. **ADDITIONAL BUILDING SEPARATION REQUIRED**

Buildings exceeding 35 feet in height must maintain additional building separation as regulated by LDC §34-2174(a).

9. **TRAFFIC**

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

10. **LEE PLAN**

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

11. INTERSECTION IMPROVEMENTS

The developer must contribute its proportionate share of the costs of intersection improvements at the time a traffic control device is warranted at the intersection of US 41 and Diplomat Road.

12. WIRELESS COMMUNICATION FACILITIES

- a. Freestanding wireless communication facilities (towers, including stealth type) are not permitted. Approval of freestanding wireless communication facilities will require an amendment to the planned development (public hearing).
- b. Wireless Communication Facilities (including wall-mounted and roof-mounted antennas) may be approved in accordance with LDC §34-1441, *et. seq.* (Commercial parcels only).

13. ACCESSORY USES

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

14. OPEN SPACE

Prior to local development order approval, the landscape plans must demonstrate that each commercial parcel is providing a minimum of 30 percent open space, and a minimum of 40 percent common open space is provided within the residential tract.

15. ENVIRONMENTAL

Prior to local development order approval, if the Florida Fish and Wildlife Conservation Commission (FWC) allows the relocation of tortoises within on-site indigenous preserves:

- a. The developer must submit a detailed indigenous preservation management plan for the Lee County Division of Environmental Sciences (DES) Staff review and approval that includes methods of maintaining the western 3.0 acres of the preserve as gopher tortoise habitat; and

- b. The landscape plans must include a permanent gopher tortoise fence along Diplomat Parkway where the three-acre gopher tortoise preserve abuts this roadway and a double staggered native hedge (minimum three-gallon container size; 24-inch height at planting; maintained at a minimum 36-inch height) planted on the roadside of the fence; and
- c. The landscape plans must delineate a double staggered native hedge (minimum three-gallon container size; 24-inch height at planting; maintained at a minimum 36-inch height) planted along the interface of the indigenous preserve with the residential tract.
- d. Prior to issuance of a Vegetation Removal Permit, all invasive exotic vegetation and manmade debris must be hand removed from the indigenous preserve.

16. COMMERCIAL PARCELS NORTH OF DIPLOMAT PARKWAY

Commercial buildings located within Parcels 1, 2 and the westernmost 2.3 acres of Parcel 3 are limited to a maximum of 10,000 square feet per building, and must not exceed two stories/35 feet in height. The building locations must alternate (be staggered) between the front and rear of the commercial parcels to provide a more campus-like setting. A parking plan must be devised to keep the amount of parking spaces along Diplomat Parkway to an absolute minimum. These parking areas and commercial buildings must be buffered, from Diplomat Parkway, by, at a minimum, a two-foot high berm with 10 trees and a staggered 36-inch high hedge per 100 linear feet. Applicant is strongly encouraged to utilize the commercial site locational criteria established for the Estero community.

The commercial buildings on Commercial Parcels 1, 2, and 3 must be of the same or similar architectural design and coloring as the residential buildings, to identify them as a unified project. All project identification signs (commercial and residential) must also be of the same or similar architectural design and coloring.

18. SOLID WASTE/RECYCLING

Prior to local development order approval for vertical development, the Developer must provide facilities in compliance with LDC §10-261 and Lee County Solid Waste Ordinance #08-10 for the pick up/disposal of solid waste and recyclables. The minimum area required for and specific locations of these facilities will be reviewed at the time of local development order application (Also see Deviation 7).

19. **PRIOR ZONING**

The terms and conditions of the original Zoning Resolution No. Z-06-004 and Administrative Amendment ADD2007-00169 are superceded by this zoning action and are rendered null and void by this approval. The terms and conditions herein apply to the entire planned development previously covered by Zoning Resolution No. Z-06-004.

20. **INDIGENOUS PRESERVATION/HERITAGE TREES (NORTH CPD PARCEL AND NORTH RPD PARCEL)**

- a. Prior to local development order approval, a tree survey must be submitted depicting the location, diameter at breast height, and species of all heritage trees within the development area.
- b. Prior to local development order approval, landscape plans must depict heritage trees, located within the development footprint, that are determined to be of good health as per a certified arborist. Those trees must be incorporated into the internal open space (i.e., perimeter planting, enlarged landscape areas, etc), or must be replaced with a 20-foot like species to a suitable open space area where final site design constraints (i.e., fill requirements, entrance roads, etc) do not allow preservation.

21. **PROTECTED SPECIES**

- a. Prior to development order approval, the Applicant must first seek approval for on-site preservation of the gopher tortoises through avoidance or relocation before pursuing off-site relocation options. All communication with FWC verifying on-site avoidance or relocation attempts were made must be provided to DES Staff.
- b. A copy of the appropriate gopher tortoise relocation permit issued by the FWC must be submitted to the DES Staff prior to excavation and moving of any gopher tortoises. The Applicant must first seek approval for an on-site relocation before pursuing off-site relocation options. Any gopher tortoises and commensal species found during burrow excavation must be moved to preserves containing suitable gopher tortoise habitat as approved by the FWC and DES Staff.

22. OPEN SPACE (NORTH CPD PARCEL AND NORTH RPD PARCEL)

Prior to local development order approval, the development order plans must delineate a minimum of 1.63 acres of open space for the CPD and 11.9 acres of open space for the RPD.

23. BUFFERS (NORTH CPD PARCEL AND NORTH RPD PARCEL)

- a. Prior to local development order approval, the development plans must demonstrate the preservation of native vegetation within the flood way. This vegetation may be utilized to meet the required type "F" buffer plantings. Upon removal of exotics from this area if it is found that the existing vegetation does not satisfy the buffer planting requirements, additional plants must be provided. These plants must be designed to mimic the natural area through the use of similar species and random planting throughout the area.
- b. An enhanced type "F" buffer must be provided as shown on the MCP. This buffer must be 30 feet in width and include 10 native canopy trees per 100 linear feet, and a double hedge row planted at 48" in height at time of planting.

24. NATIVE PLANTINGS REQUIRED (NORTH CPD PARCEL AND NORTH RPD PARCEL)

All required buffer plantings, general trees, and internal canopy trees must be 100 percent native species.

SECTION C. DEVIATIONS:

(Deviations 1 through 7 were previously approved and remain applicable to the RPD/CPD and are recited below. Deviation 8 is new.)

1. **Intersection Separation** - Deviation 1 (previously contained in Resolution Z-06-004 and ADD2007-00169) seeks relief from the LDC §10-285(a) requirement to provide a minimum access connection separation of 660 feet on an arterial road to permit an access separation of 364 feet between the project's proposed main access and the proposed exit-only access for the residential portion of the southern parcel. This deviation is **APPROVED**.

2. **One dead-end street permitted** - Deviation 2 (previously contained in Resolution Z-06-004 and ADD2007-00169) seeks relief from the LDC §10-296(k)(1) requirement that dead-end streets be closed at one end by a circular turn-around, to allow one dead-end street as shown on the approved MCP on the southern RPD. This deviation is APPROVED.
3. **Calculation for Open Space** - Deviation 3 (previously contained in Resolution Z-06-004 and ADD2007-00169) seeks relief from the LDC §10-415(b)(1)(a) requirement that large developments with indigenous vegetation communities to provide 50 percent of their open space percentage requirements through on-site preservation of existing native vegetative communities, to permit 0.45 acres of right of way to be vacated, enhanced and preserved to count toward the preservation requirement. This deviation is APPROVED, SUBJECT TO the following condition:

Prior to local development order approval for Commercial Parcel 4, the existing roadway easement depicted within the indigenous preserve must be vacated.

This deviation applies to the southern RPD and CPD.

4. **Installation of storm water management system** - Deviation 4 (previously contained in Resolution Z-06-004 and ADD2007-00169) seeks relief from the LDC §10-415(b)(1)a. requirement that large developments with existing indigenous native vegetation communities provide 50 percent of their open space requirement through on-site preservation of indigenous native vegetation, to allow portions of the preservation area to be disturbed and restored in order to install a storm water management system. This deviation is APPROVED, SUBJECT TO the following conditions:
 - a. Prior to local development order, the development order plans must delineate the general location of the surface water management outfall through the indigenous preserve to the canal. The outfall must be designed as an open system that can be planted with native vegetation.
 - b. Prior to issuance of a Vegetation Removal Permit, the location of the surface water management outfall through the indigenous preserve must be field staked to avoid impacting any large native trees or gopher tortoise burrows for the Division of Environmental Sciences Staff review and approval.

This deviation applies to the southern RPD and CPD.

5. **Separation from residential uses** - Deviation 5 (previously contained in Resolution Z-06-004 and ADD2007-00169) seeks relief from the LDC §34-2474(b)(6) requirement that recreation halls and ancillary facilities and private clubs be located at least 40 feet from any residential dwelling unit, to allow a 20-foot minimum separation for any recreation building from a residential dwelling unit. This deviation is APPROVED, SUBJECT TO the following condition:

Development of a recreational facility and clubhouse must be generally consistent with the location shown on the approved MCP.

This deviation applies to the recreation area shown on the RPD to the north.

- 6a. **Single ingress into the development** - Deviation 6a (previously contained in Resolution Z-06-004 and ADD2007-00169) seeks relief from the LDC §10-291(3) requirement (when practical) that residential developments of more than five acres in size provide two or more means of ingress into the development, to allow the residential portion to the north of Diplomat Parkway to be constructed with a single ingress/egress connection onto Diplomat Parkway. This deviation is APPROVED, SUBJECT TO the following conditions:

- a. Access to the residential component north of Diplomat Parkway must be generally consistent with the approved MCP; and
- b. The approved MCP and local development order must depict a minimum 70-foot-wide divided entrance on the north side of Diplomat Parkway that includes a median with two lanes on both sides of the median for ingress and egress; and
- c. Prior to issuance of a development order, the developer must provide written documentation from the North Fort Myers Fire District indicating that these access points are acceptable and provide adequate access for emergency vehicles. The development order must also include the plans for the secondary/emergency access required in the following paragraph.
- d. Prior to build-out of the north residential development, Applicant must install a secondary/emergency access from the residential tract to commercial Parcel 3, as shown on the MCP. Any emergency access gate must comply with all applicable

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

- 6b. Deviation 6b (previously contained in Resolution Z-06-004) seeks relief from the LDC §10-291(3) requirement (when practical) that residential developments of more than five acres in size provide two or more means of ingress into the development, to allow the residential portion to the south of Diplomat Parkway to be constructed with a single ingress/egress connection onto Diplomat Parkway. This deviation is APPROVED, SUBJECT TO the following conditions.
- a) Access to the residential component south of Diplomat Parkway must be generally consistent with the approved MCP; and
 - b) Any emergency access gate must comply with all applicable regulations with respect to required equipment for an emergency override mechanism at the time of installation. Additionally, if an emergency necessitates the breaking of an entrance gate, the cost of repairing the gate and the emergency vehicle (if applicable) will be the responsibility of the owner or the operator of the gate; and
 - c) Prior to issuance of a development order, the developer must provide written documentation from the North Fort Myers Fire District indicating that these access points are acceptable and provide adequate access for emergency vehicles.
7. **Curbside garbage collection for townhouse units** - Deviation 7 (previously contained in ADD2007-000169) seeks relief from the LDC §10-261 requirement that all new multiple-family residential developments to provide sufficient space for the placement of garbage containers or receptacles, to allow for curbside garbage pick up at the proposed townhouse units that are planned within the project. This deviation is APPROVED.

8. **Certain internal buffers not required** - Deviation 8 seeks relief from the LDC §10-416(d)(3) requirement that a Type C/F buffer between the proposed RPD/CPD uses internal to the development, to allow no buffer between the RPD/CPD uses where the commercial uses are separated from the residential uses within the project by a private road. This deviation is APPROVED.

SECTION D. EXHIBITS:

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

- Exhibit A: Legal description of the property
- Exhibit B: Zoning Map (with the subject parcel indicated)
- Exhibit C: The Master Concept Plan

SECTION E. FINDINGS AND CONCLUSIONS:

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

- c. the recommended conditions are reasonably related to the impacts on the public interest created by or expected from the proposed development.
- 4. Urban services, as defined in the Lee Plan, are, or will be, available and adequate to serve the proposed land use.
- 5. The approved deviations, as conditioned, enhance achievement of the planned development objectives, and preserve and promote the general intent of LDC Chapter 34, to protect the public health, safety and welfare.

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

John E. Manning	Aye
Brian Bigelow	Aye
Ray Judah	Aye
Tammara Hall	Aye
Frank Mann	Aye

DULY PASSED AND ADOPTED this 21st day of March, 2011.

ATTEST:
CHARLIE GREEN, CLERK

BY: Marcia Wilson
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: Frank Mann
Frank Mann, Chair

Approved as to form by:

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



RECEIVED
MINUTES OFFICE
mw
2011 MAY -9 PM 2:00

DCI 2010-00015

Banks Engineering

Professional Engineers, Planners & Land Surveyors

2515 Northbrooke Plaza Drive - Suite 200

Naples, Florida 34119

(239) 597-2061

Fax (239) 597-3082

RECEIVED
APR 27 2011

DESCRIPTION

OF A

PARCEL OF LAND

LYING IN

SECTION 34, TOWNSHIP 43 SOUTH, RANGE 24 EAST, **COMMUNITY DEVELOPMENT**

LEE COUNTY, FLORIDA

(CPD ZONING DESCRIPTION)

A TRACT OR PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, LYING IN SECTION 34, TOWNSHIP 43 SOUTH, RANGE 24 EAST AND BEING FURTHER BOUNDED AND DESCRIBED AS FOLLOWS:

NORTH CPD ZONING PARCEL

COMMENCING AT THE INTERSECTION OF THE WESTERLY RIGHT-OF-WAY LINE OF U.S. 41 (STATE ROAD 45) (200 FEET WIDE) AND THE SOUTHERLY RIGHT-OF-WAY LINE OF LITTLETON ROAD (50 FEET WIDE); THENCE 94.14 FEET ALONG SAID WESTERLY RIGHT-OF-WAY LINE AND ALONG THE ARC OF A CURVE CONCAVE TO THE SOUTHEAST HAVING A RADIUS OF 5829.58 FEET AND SUBTENDED BY A CHORD HAVING A LENGTH OF 94.14 FEET AND BEARING S.03°47'10"W. TO A POINT OF TANGENCY; THENCE S.03°25'50"W. ALONG SAID WESTERLY RIGHT-OF-WAY LINE FOR 2338.37 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE S.03°25'50"W. ALONG SAID WESTERLY RIGHT-OF-WAY LINE FOR 199.95 FEET TO POINT "A" AND TO AN INTERSECTION WITH THE NORTHERLY RIGHT-OF-WAY LINE OF DIPLOMAT PARKWAY (100 FEET WIDE); THENCE N.86°35'21"W. ALONG SAID NORTHERLY RIGHT-OF-WAY LINE FOR 12.52 FEET TO THE BEGINNING OF A CURVE TO THE LEFT HAVING A RADIUS OF 2150.00 FEET; THENCE WESTERLY ALONG SAID CURVE AND ALONG SAID NORTHERLY RIGHT-OF-WAY LINE THROUGH A CENTRAL ANGLE OF 3°32'51" FOR 133.12 FEET; THENCE S.89°51'48"W. ALONG SAID NORTHERLY RIGHT-OF-WAY LINE FOR 1484.79 FEET TO POINT "B"; THENCE N.00°08'12"W. FOR 250.00 FEET; THENCE N.89°51'48"E. FOR 1145.24 FEET; THENCE S.03°25'50"W. FOR 53.49 FEET; THENCE S.89°54'50"E. FOR 500.85 FEET TO THE POINT OF BEGINNING.

PARCEL CONTAINS 8.78 ACRES, MORE OR LESS.

TOGETHER WITH: ADDITIONAL NORTH CPD ZONING PARCEL

COMMENCING AT SAID POINT "B"; THENCE S.89°51'48"W. ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE OF DIPLOMAT PARKWAY (100 FEET WIDE) FOR 80.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE S.89°51'48"W. ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE FOR 253.42 FEET; THENCE N.28°32'51"W. FOR 6.70 FEET; THENCE N.00°20'36"W. FOR 244.12 FEET; THENCE N.89°51'48"E. FOR 257.48 FEET; THENCE S.00°08'12"E. FOR 250.00 FEET TO THE POINT OF BEGINNING.

PARCEL CONTAINS 1.48 ACRES, MORE OR LESS.

TOGETHER WITH: SOUTH CPD ZONING PARCEL

COMMENCING AT SAID POINT "A"; THENCE S.03°25'50"W. ALONG SAID WESTERLY RIGHT-OF-WAY LINE OF U.S. 41 (STATE ROAD 45) (200 FEET WIDE) FOR 100.00 FEET TO THE POINT OF BEGINNING;

SHEET 1 OF 3

S:\Jobs\20xx\2028\SURVEY\Descriptions\Zoning\2028_ZONING CPD_REV_DESC.doc

Fort Myers Office
10511 Six Mile Cypress Pkwy, Suite #101
Fort Myers, Florida 33966
(239) 939-5490
Fax (239) 939-2523

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

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(Page 1 of 6)

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THENCE CONTINUE S.03°25'50"W. ALONG SAID WESTERLY RIGHT-OF-WAY LINE FOR 429.00 FEET TO THE NORTHEAST CORNER OF A PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 2113 AT PAGE 1590 OF SAID PUBLIC RECORDS, ALSO BEING THE NORTHEAST CORNER OF MERCHANTS CROSSING, A SUBDIVISION RECORDED IN PLAT BOOK 52 AT PAGES 37 THROUGH 47 OF SAID PUBLIC RECORDS; THENCE N.86°34'10"W. ALONG THE NORTH LINE OF SAID PARCEL AND SAID SUBDIVISION FOR 72.00 FEET TO THE SOUTHEAST CORNER OF A PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 2833 AT PAGE 4156 OF SAID PUBLIC RECORDS; THENCE N.03°25'50"E. ALONG THE EASTERLY LINE OF SAID PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 2833 AT PAGE 4156 FOR 65.00 FEET; THENCE N.86°33'36"W. ALONG THE NORTHERLY LINE OF SAID PARCEL FOR 39.68 FEET; THENCE S.03°26'24"W. ALONG THE WESTERLY LINE OF SAID PARCEL FOR 8.00 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT HAVING A RADIUS OF 17.00 FEET; THENCE SOUTHWESTERLY ALONG SAID PARCEL AND SAID CURVE THROUGH A CENTRAL ANGLE OF 90°00'01" FOR 26.70 FEET; THENCE N.86°33'36"W. ALONG THE NORTHERLY LINE OF SAID PARCEL FOR 487.82 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT HAVING A RADIUS OF 80.00 FEET; THENCE NORTHWESTERLY ALONG SAID PARCEL AND SAID CURVE THROUGH A CENTRAL ANGLE OF 86°25'24" FOR 120.67 FEET; THENCE N.00°08'12"W. ALONG THE EASTERLY LINE OF SAID PARCEL FOR 274.66 FEET TO POINT "C" AND TO AN INTERSECTION WITH THE SOUTHERLY RIGHT-OF-WAY LINE OF DIPLOMAT PARKWAY (100 FEET WIDE) AS DESCRIBED IN OFFICIAL RECORDS BOOK 2833 AT PAGE 4156 OF SAID PUBLIC RECORDS; THENCE N.89°51'48"E. ALONG SAID SOUTHERLY RIGHT-OF-WAY FOR 575.20 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT HAVING A RADIUS OF 2050.00 FEET; THENCE EASTERLY ALONG SAID RIGHT-OF-WAY AND SAID CURVE THROUGH A CENTRAL ANGLE OF 3°32'51" FOR 126.93 FEET; THENCE S.86°35'21"E. ALONG SAID RIGHT-OF-WAY FOR 12.49 FEET TO THE POINT OF BEGINNING.

PARCEL CONTAINS 6.00 ACRES, MORE OR LESS.

TOGETHER WITH: ADDITIONAL SOUTH CPD ZONING PARCEL

COMMENCING AT SAID POINT "C"; THENCE S.89°51'48"W. ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE OF DIPLOMAT PARKWAY (100 FEET WIDE) FOR 40.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE S.89°51'48"W. ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE FOR 383.07 FEET; THENCE S.00°08'12"E. FOR 186.04 FEET; THENCE N.59°04'35"E. FOR 185.65 FEET; THENCE S.76°11'27"E. FOR 125.61 FEET; THENCE S.41°41'10"E. FOR 153.30 FEET TO AN INTERSECTION WITH THE WESTERLY LINE OF THE AFORESAID PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 2833 AT PAGE 4156 OF SAID PUBLIC RECORDS; THENCE N.00°08'12"W. ALONG THE WESTERLY LINE FOR 236.02 FEET TO THE POINT OF BEGINNING.

PARCEL CONTAINS 1.22 ACRES.

NET AREA AS DESCRIBED CONTAINS 17.48 ACRES, MORE OR LESS.

COMMUNITY DEVELOPMENT

BEARINGS ARE BASED ON THE WESTERLY RIGHT-OF-WAY OF U.S. 41 (STATE ROAD 45) AS BEARING S.03°25'50"W.

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

DESCRIPTION PREPARED NOVEMBER 2, 2006.

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

Applicant's Legal Checked
 by 11/08/06 csl

EXHIBIT "A"
 (Page 2 of 6)

DCI 2010-00015

Banks Engineering

Professional Engineers, Planners & Land Surveyors
 2515 Northbrooke Plaza Drive-Suite 200
 Naples, Florida 34119
 (239) 597-2061
 Fax (239) 597-3082

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 APR 27 2011

DESCRIPTION
 OF A
 PARCEL OF LAND
 LYING IN

COMMUNITY DEVELOPMENT

SECTION 34, TOWNSHIP 43 SOUTH, RANGE 24 EAST
 LEE COUNTY, FLORIDA
 (RPD ZONING DESCRIPTION)

A TRACT OR PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, LYING IN SECTION 34, TOWNSHIP 43 SOUTH, RANGE 24 EAST AND BEING FURTHER BOUNDED AND DESCRIBED AS FOLLOWS:

NORTH RPD PARCEL:

COMMENCING AT THE INTERSECTION OF THE WESTERLY RIGHT-OF-WAY LINE OF U.S. 41 (STATE ROAD 45) (200 FEET WIDE) AND THE SOUTHERLY RIGHT-OF-WAY LINE OF LITTLETON ROAD (50 FEET WIDE) THENCE 94.14 FEET ALONG SAID WESTERLY RIGHT-OF-WAY LINE AND ALONG THE ARC OF A CURVE CONCAVE TO THE SOUTHEAST HAVING A RADIUS OF 5829.58 FEET AND SUBTENDED BY A CHORD HAVING A LENGTH OF 94.14 FEET AND BEARING S.03°47'10"W. TO A POINT OF TANGENCY; THENCE S.03°25'50"W. ALONG SAID WESTERLY RIGHT-OF-WAY LINE FOR 2338.37 FEET; THENCE N.89°54'50"W. FOR 500.85 FEET; THENCE N.03°25'50"E. FOR 53.49 FEET TO THE POINT OF BEGINNING; THENCE S.89°51'48"W. FOR 1145.24 FEET; THENCE S.00°08'12"E. FOR 250.00 FEET TO AN INTERSECTION WITH THE NORTHERLY RIGHT-OF-WAY LINE OF DIPLOMAT PARKWAY (100 FEET WIDE) AS DESCRIBED IN OFFICIAL RECORDS BOOK 2833 AT PAGE 4156 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE S.89°51'48"W. ALONG SAID NORTHERLY RIGHT-OF-WAY LINE FOR 80.00 FEET; THENCE N.00°08'12"W. FOR 250.00 FEET; THENCE S.89°51'48"W. FOR 257.48 FEET; THENCE N.00°20'36"W. FOR 703.76 FEET; THENCE N.85°23'00"E. FOR 335.22 FEET; THENCE N.02°25'15"W. FOR 346.19 FEET; THENCE S.89°54'50"E. FOR 1231.65 FEET; THENCE S.03°25'50"W. FOR 1073.15 FEET TO THE POINT OF BEGINNING.

PARCEL CONTAINS 35.18 ACRES, MORE OR LESS.

AND;

SOUTH RPD PARCEL:

COMMENCING AT THE INTERSECTION OF THE WESTERLY RIGHT-OF-WAY OF U.S. 41 (STATE ROAD 45) (200 FEET WIDE) AND THE SOUTHERLY RIGHT-OF-WAY OF LITTLETON ROAD (50 FEET WIDE) THENCE 94.14 FEET ALONG THE WESTERLY RIGHT-OF-WAY AND ALONG THE ARC OF A CURVE CONCAVE TO THE SOUTHEAST HAVING A RADIUS OF 5829.58 FEET AND SUBTENDED BY A CHORD HAVING A LENGTH OF 94.14 FEET AND BEARING S.03°47'10"W. TO A POINT OF TANGENCY; THENCE S.03°25'50"W. ALONG SAID WESTERLY RIGHT-OF-WAY LINE FOR 2338.37 FEET TO THE SOUTHEASTERLY CORNER OF A PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 1972 AT PAGE 335 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE CONTINUE S.03°25'50"W. ALONG SAID WESTERLY RIGHT-OF-WAY LINE FOR 728.95 FEET TO THE NORTHEAST CORNER OF A PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 2113 AT PAGE 1590 OF SAID PUBLIC RECORDS, ALSO BEING THE NORTHEAST CORNER OF MERCHANTS CROSSING, A SUBDIVISION RECORDED IN PLAT BOOK 52 AT PAGES 37 THROUGH 47 OF SAID PUBLIC RECORDS; THENCE N.86°34'10"W. ALONG THE NORTH LINE OF SAID PARCEL AND SAID SUBDIVISION FOR 616.50 FEET TO THE POINT OF

SHEET 1 OF 3

S:\Jobs\20xx\2028\SURVEY\Descriptions\Zoning\2028_ZONING_RPD_REV_DESC.doc

Fort Myers Office
 10511 Six Mile Cypress Pkwy, Suite #101
 Fort Myers, Florida 33966
 (239) 939-5490
 Fax (239) 939-2523

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

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 (Page 4 of 6)

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APR 27 2011

BEGINNING; THENCE CONTINUE N.86°34'10"W. ALONG SAID NORTHERLY LINE FOR 33.50 FEET TO THE NORTHWEST CORNER OF SAID PARCEL; THENCE S.48°25'48"W. ALONG THE WESTERLY LINE OF SAID PARCEL AND SAID SUBDIVISION FOR 212.13 FEET; THENCE S.03°25'50"W. ALONG THE WESTERLY LINE OF SAID PARCEL AND SAID SUBDIVISION FOR 100.00 FEET TO THE SOUTHWESTERLY CORNER OF SAID PARCEL AND TO THE SOUTH LINE OF A PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 2389 AT PAGE 1936 OF SAID PUBLIC RECORDS; THENCE N.86°34'10"W. ALONG THE SOUTH LINE OF SAID PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 2389 AT PAGE 1936 AND THE NORTHERLY LINE OF SAID SUBDIVISION FOR 747.11 FEET TO AN INTERSECTION WITH THE NORTHEASTERLY LINE OF A DRAINAGE EASEMENT (50 FEET WIDE) DESCRIBED IN DEED BOOK 237 AT PAGES 564 AND 565 OF SAID PUBLIC RECORDS; THENCE N.28°32'51"W. ALONG THE NORTHEASTERLY LINE OF SAID DRAINAGE EASEMENT FOR 666.39 FEET TO AN INTERSECTION WITH THE SOUTHERLY RIGHT-OF-WAY LINE OF DIPLOMAT PARKWAY (100 FEET WIDE) AS DESCRIBED IN OFFICIAL RECORDS BOOK 2833 AT PAGE 4156 OF SAID PUBLIC RECORDS; THENCE N.89°51'48"E. ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE FOR 765.84 FEET; THENCE S.00°08'12"E. FOR 186.04 FEET; THENCE N.59°04'35"E. FOR 185.65 FEET; THENCE S.76°11'27"E. FOR 125.61 FEET; THENCE S.41°41'10"E. FOR 153.30 FEET TO AN INTERSECTION WITH THE WESTERLY LINE OF A PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 2833 AT PAGE 4156 OF SAID PUBLIC RECORDS; THENCE S.00°08'12"E. ALONG THE WESTERLY LINE OF SAID PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 2833 AT PAGE 4156 FOR 38.64 FEET TO THE BEGINNING OF A CURVE TO THE LEFT HAVING A RADIUS OF 120.00 FEET; THENCE SOUTHEASTERLY ALONG SAID WESTERLY LINE AND SAID CURVE THROUGH A CENTRAL ANGLE OF 86°25'24" FOR 181.00 FEET TO THE POINT OF BEGINNING.

PARCEL CONTAINS 12.47 ACRES, MORE OR LESS.

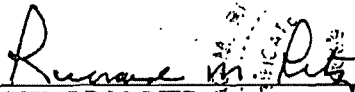
DCI 2010-00015

NET ACREAGE IS 47.65 ACRES, MORE OR LESS.

BEARINGS ARE BASED ON THE WESTERLY RIGHT-OF-WAY OF U.S. 41 (STATE ROAD 45) AS BEARING S.03°25'50"W.

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

DESCRIPTION PREPARED NOVEMBER 2, 2006.


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

Applicant's Legal Checked
by CST 11/6/06



Zoning Map
DCI2010-00015



Mapped:4/29/11

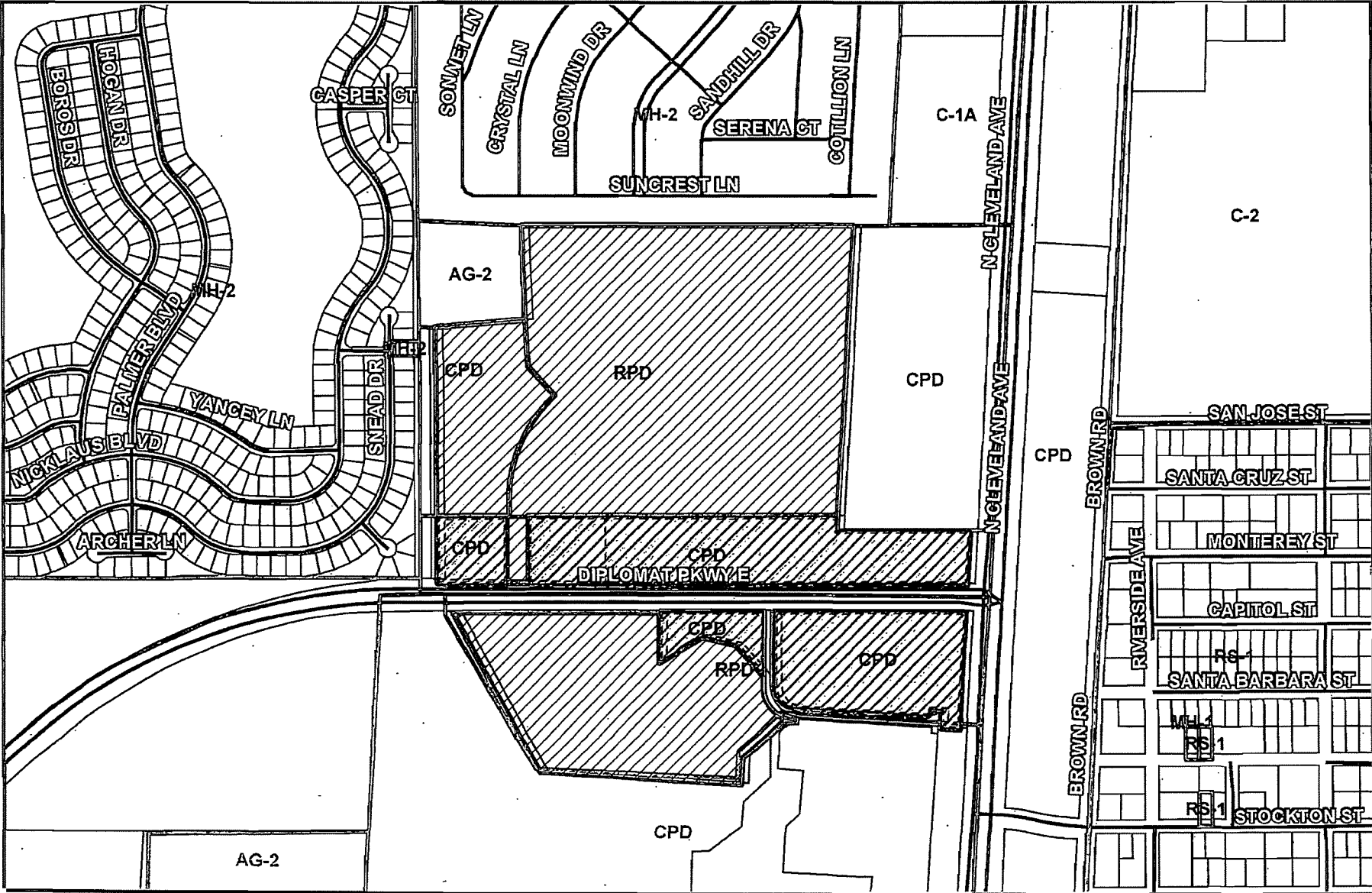
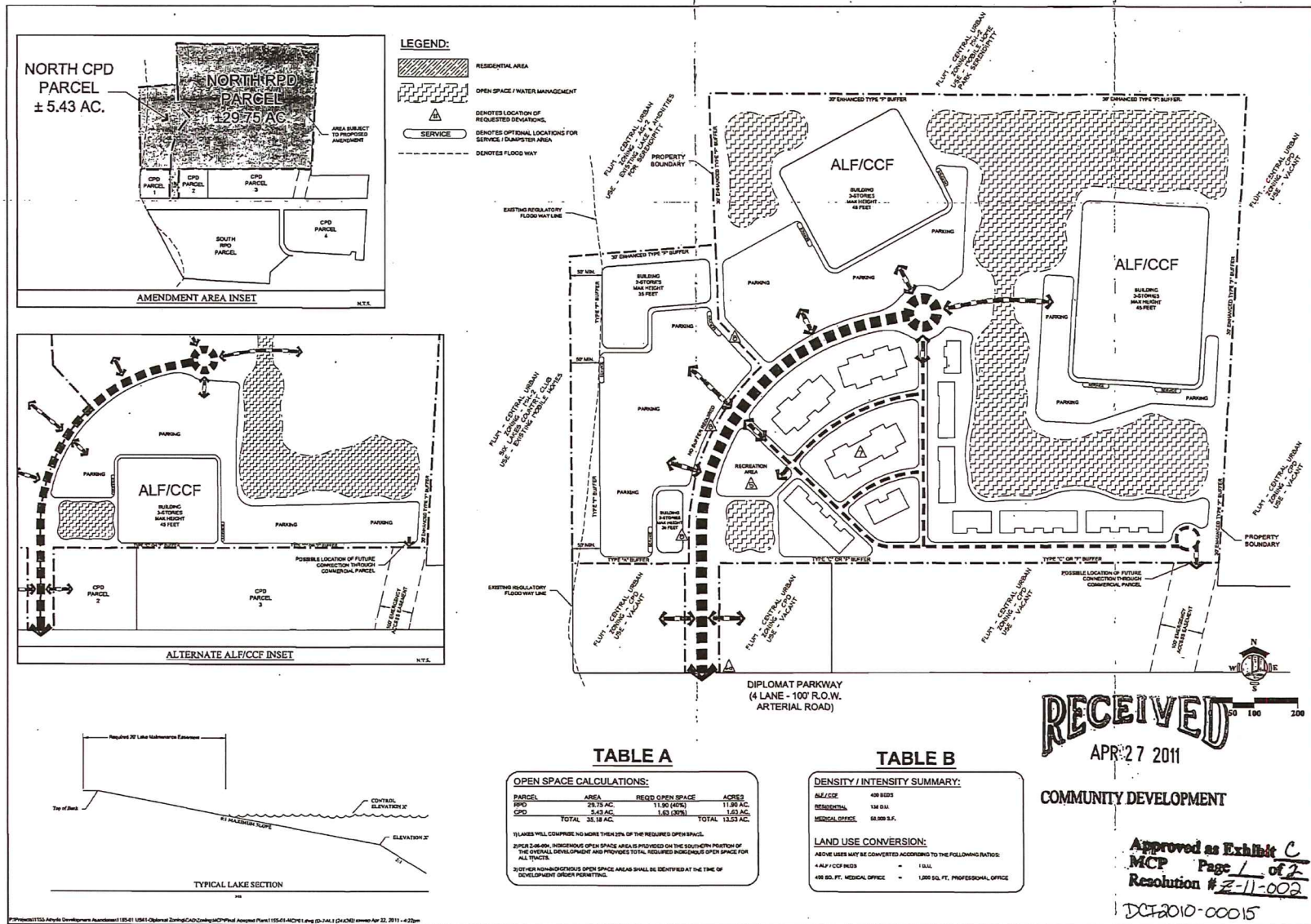


EXHIBIT "B"



Athylo Development Associates, LLC
P.O. Box 1662
Fort Myers, FL 33902

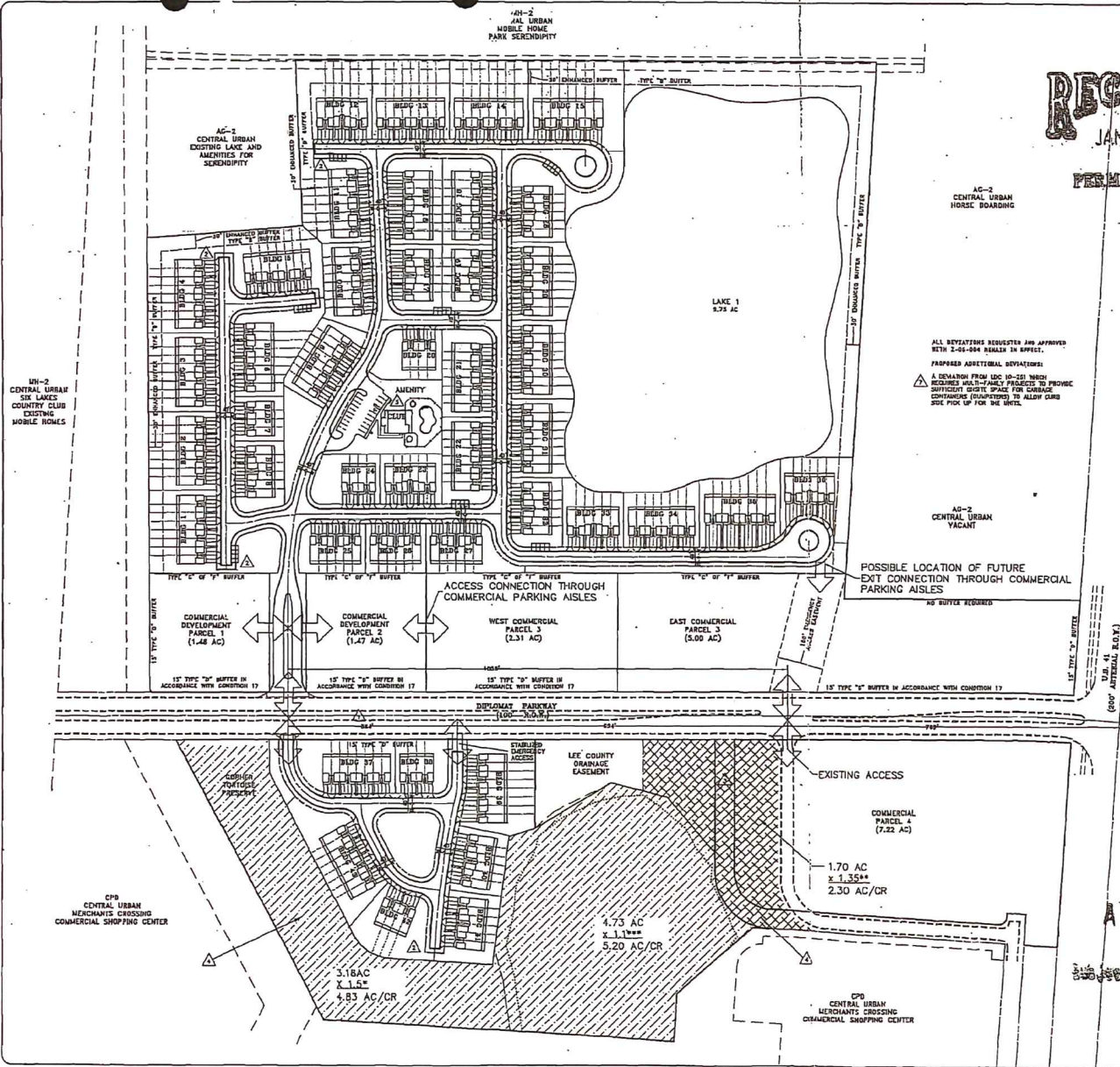
DIPLOMAT PROPERTY RPD / CPD
(NORTH PARCEL)
Project Line 3

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3	05-22-10	Revised per Lee County Engineering Department dated 05-22-10
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5	05-22-10	Revised per Lee County Engineering Department dated 05-22-10
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100	05-22-10	Revised per Lee County Engineering Department dated 05-22-10

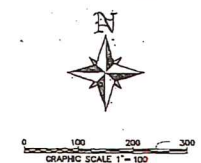
DATE: 05-22-10
PROJECT NO.: 1155-01
FILE NO.: 1155-01-MCP-1-000
SCALE: AS SHOWN

MASTER CONCEPT
PLAN
D-7-M.1

1 of 1



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JAN 30 2008
PERMIT CENTER

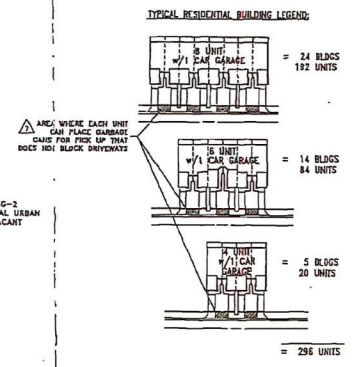


OPEN SPACE CALCULATIONS (AREA FOR COMMERCIAL/RESIDUAL OPEN SPACE FOR RESIDENTIAL)

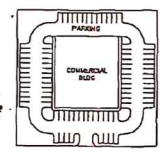
TRACT	AREA	MINIMUM REQUIRED	OTHER OPEN SPACE REQUIRED	MINIMUM PROVIDED
COMMERCIAL 1	1.47 AC	0.32 AC (22%)	0.32 AC	0.32 AC
COMMERCIAL 2	1.47 AC	0.32 AC (22%)	0.32 AC	0.32 AC
COMMERCIAL 3	2.31 AC	0.51 AC (22%)	0.51 AC	0.51 AC
COMMERCIAL 4	5.00 AC	1.10 AC (22%)	1.10 AC	1.10 AC
RESIDENTIAL NORTH	25.19 AC	7.41 AC (29%)	7.41 AC	7.41 AC
RESIDENTIAL SOUTH	13.19 AC	3.96 AC (30%)	3.96 AC	3.96 AC
TOTAL	49.02 AC	12.92 AC	12.92 AC	12.92 AC

RESIDENTIAL OPEN SPACE AREA IS PROVIDED IN SOUTHERN PORTION OF DEVELOPMENT (ALSO PROVIDE TOTAL PROVIDED) AND IS IN PROPORTION TO REQUIRED ADJACENT OPEN SPACE FOR ALL TRACTS. IN ORDER (MINIMUM) OPEN SPACE SHALL BE PROVIDED ON THE RESPECTIVE TRACT AND SHALL BE DEDICATED AS THE USE OF DEVELOPMENT UNDER FUTURE.

IMPERVIOUS AREAS:
*15% CREDIT FOR MINIMUM 3' ACRES AND 100' WIDTH PER LDC SECTION 10-115(2)(2)(a).
*15% CREDIT FOR MINIMUM 1' ACRES AND 15' WIDTH PER LDC SECTION 10-115(2)(2)(a), AND ADDITIONAL 15% CREDIT FOR PERMEABLE ADJACENT TO ROADWAY PER LDC SECTION 10-115(2)(2)(a).
*15% CREDIT FOR CONNECTION TO OFFSET ENVIRONMENTAL CONSERVATION OR PRESERVE AREAS PER LDC SECTION 10-115(2)(2)(a).



ADD 2007-00169
APPROVED
Amendment to
Master Concept Plan
Subject to Case # ADD2007-00169
Date 2/1/2008



NBD DEVELOPMENT, INC.
301 WARD BLVD, SUITE 301
BIRMINGHAM, AL 35201
TEL: (205) 944-1111
FAX: (205) 944-1114

Markus Engineering
Professional Engineer, Planner & Land Surveyor
10100 W. BAYVIEW BLVD., SUITE 100
BIRMINGHAM, AL 35241
PHONE: (205) 944-1111
FAX: (205) 944-1114

**MASTER CONCEPT PLAN
DIPOLMAT PARCEL
LEE COUNTY, FLORIDA**

DATE	PROJECT	REVISION	BY	CHK	APP	DATE
01-17-2007	3718	1	1	1	1	01-17-2007

Exhibit D

ADMINISTRATIVE AMENDMENT (PD) ADD2007-00169

ADMINISTRATIVE AMENDMENT LEE COUNTY, FLORIDA

WHEREAS, Athyrio Development Associates, LLC, filed an application for administrative approval to a Residential Planned Development/Commercial Planned Development (RPD/CPD) on a project known as Diplomat Parcel for reconfiguration of the master concept plan; provide for minimum lot areas and dimensions for townhouses; and approval of a deviations to the Land Development Code on property located at 15501 North Cleveland Avenue , described more particularly as:

LEGAL DESCRIPTION: In Section 34, Township 43 South, Range 24 East, Lee County, Florida:

See Legal Description and Sketch attached hereto as "Exhibit A".

WHEREAS, the property was originally rezoned in case number DCI2005-00055 (Z-06-004); and

WHEREAS, the subject property is located in the Central Urban Future Land Use Category as designated by the Lee Plan; and

WHEREAS, the Lee County Land Development Code provides for certain administrative changes to planned development master concept plans; and

WHEREAS, the Diplomat RPD/CPD was approved with a maximum of 457 dwelling units pursuant to condition #1; and

WHEREAS, the Diplomat RPD/CPD was approved with a maximum of 200,000 square feet of commercial floor area; and

WHEREAS, the approved master concept plan contemplated filling in an existing lake; and

WHEREAS, the applicant has reconfigured the master concept plan providing for more detail of the residential uses, and utilization of the existing lake; and

WHEREAS, the Diplomat RPD/CPD provided land development regulations for townhouses per Condition 2; and

WHEREAS, the applicant proposes a revised set of land development regulations for their specific townhouse products; and

WHEREAS, these revised land development regulations are substantively the same and acceptable to staff; and

WHEREAS, the applicant requests a deviation from LDC Sec. 10-261(a) which requires all new multifamily residential developments to provide sufficient space for the placement of garbage containers or receptacles, to allow for curb side garbage pick up at the proposed townhouse units that are planned within the project; and

WHEREAS, this request was reviewed and approved by the Department of Solid Waste and the Department of Public Works; and

WHEREAS; the deviation request enhances the planned development and preserves and promotes the general intent of the LDC to protect the public health, safety and welfare; and

WHEREAS, the subject application and plans have been reviewed by the Lee County Department of Community Development in accordance with applicable regulations for compliance with all terms of the administrative approval procedures; and

WHEREAS, it is found that the proposed amendment does not increase density or intensity within the development; does not decrease buffers or open space required by the LDC; does not underutilize public resources or infrastructure; does not reduce total open space, buffering, landscaping or preservation areas; and does not otherwise adversely impact on surrounding land uses.

NOW, THEREFORE, IT IS HEREBY DETERMINED that the application for administrative approval for an amendment to the Diplomat Residential Planned Development/Commercial Planned Development (RPD/CPD) for reconfiguration of the master concept plan; provide for minimum lot areas and dimensions for townhouses; and approval of a deviation to the Land Development Code is **APPROVED**.

Approval is subject to the following conditions:

1. **The Development must be in compliance with the amended Master Concept Plan, dated JAN 30, 2007, Master Concept Plan for ADD2007-00169 is hereby APPROVED and adopted. A reduced copy is attached hereto.**
2. **Condition 2 a. of Zoning Resolution #Z-06-004 is revised with the following Site Development Regulations for Townhouses.**

Minimum Lot Areas and Dimensions

Lot Size ~~7,500~~ 1,600 square feet
Lot Width ~~75~~ 16 feet
Lot Depth 100 feet

Minimum Setbacks

Street 25 feet (public)/20 feet (private)
Side 5 10 feet (Zero feet for common wall unit)

Rear 30 feet - All lots containing enhanced buffer. See Condition 13.
20 feet - all other lots
Water Body 25 feet

All Accessory Uses: Per the LDC

Setbacks from Preserves (All Structures) 25 feet per the LDC.

Minimum Perimeter Setbacks: 25 feet (30 feet - All lots containing enhanced buffer. See Condition 13.)

Minimum Building Separation ~~40~~ 20 feet

Maximum Building Height: 35 feet/2 stories

Maximum Lot Coverage: ~~45~~ 65%

3. Deviation 7 seeks relief from LDC Sec. 10-261(a) which requires all new multifamily residential developments to provide sufficient space for the placement of garbage containers or receptacles, to allow for curb side garbage pick up at the proposed townhouse units that are planned within the project. This Deviation is APPROVED.
4. The terms and conditions of the original zoning resolutions remain in full force and effect, except as amended herein.

DULY SIGNED this 1st day of February, A.D., 2008.

BY: _____

Pam Houck
Pam Houck, Director
Division of Zoning
Department of Community Development

EXHIBIT A

Banks Engineering

Professional Engineers, Planners & Land Surveyors
2515 Northbrooke Plaza Drive-Suite 200
Naples, Florida 34119
(239) 597-2061
Fax (239) 597-3082

RECEIVED
SEP 25 2007

COMMUNITY DEVELOPMENT

DESCRIPTION
OF A
PARCEL OF LAND
LYING IN
SECTION 34, TOWNSHIP 43 SOUTH, RANGE 24 EAST
LEE COUNTY, FLORIDA
(RPD ZONING DESCRIPTION)

A TRACT OR PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, LYING IN SECTION 34, TOWNSHIP 43 SOUTH, RANGE 24 EAST AND BEING FURTHER BOUNDED AND DESCRIBED AS FOLLOWS:

NORTH RPD PARCEL:

COMMENCING AT THE INTERSECTION OF THE WESTERLY RIGHT-OF-WAY LINE OF U.S. 41 (STATE ROAD 45) (200 FEET WIDE) AND THE SOUTHERLY RIGHT-OF-WAY LINE OF LITTLETON ROAD (50 FEET WIDE) THENCE 94.14 FEET ALONG SAID WESTERLY RIGHT-OF-WAY LINE AND ALONG THE ARC OF A CURVE CONCAVE TO THE SOUTHEAST HAVING A RADIUS OF 5829.58 FEET AND SUBTENDED BY A CHORD HAVING A LENGTH OF 94.14 FEET AND BEARING S.03°47'10"W. TO A POINT OF TANGENCY; THENCE S.03°25'50"W. ALONG SAID WESTERLY RIGHT-OF-WAY LINE FOR 2338.37 FEET; THENCE N.89°54'50"W. FOR 500.85 FEET; THENCE N.03°25'50"E. FOR 53.49 FEET TO THE POINT OF BEGINNING; THENCE S.89°51'48"W. FOR 1145.24 FEET; THENCE S.00°08'12"E. FOR 250.00 FEET TO AN INTERSECTION WITH THE NORTHERLY RIGHT-OF-WAY LINE OF DIPLOMAT PARKWAY (100 FEET WIDE) AS DESCRIBED IN OFFICIAL RECORDS BOOK 2833 AT PAGE 4156 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE S.89°51'48"W. ALONG SAID NORTHERLY RIGHT-OF-WAY LINE FOR 80.00 FEET; THENCE N.00°08'12"W. FOR 250.00 FEET; THENCE S.89°51'48"W. FOR 257.48 FEET; THENCE N.00°20'36"W. FOR 703.76 FEET; THENCE N.85°23'00"E. FOR 335.22 FEET; THENCE N.02°25'15"W. FOR 346.19 FEET; THENCE S.89°54'50"E. FOR 1231.65 FEET; THENCE S.03°25'50"W. FOR 1073.15 FEET TO THE POINT OF BEGINNING.

PARCEL CONTAINS 35.18 ACRES, MORE OR LESS.

AND;

SOUTH RPD PARCEL:

COMMENCING AT THE INTERSECTION OF THE WESTERLY RIGHT-OF-WAY OF U.S. 41 (STATE ROAD 45) (200 FEET WIDE) AND THE SOUTHERLY RIGHT-OF-WAY OF LITTLETON ROAD (50 FEET WIDE) THENCE 94.14 FEET ALONG THE WESTERLY RIGHT-OF-WAY AND ALONG THE ARC OF A CURVE CONCAVE TO THE SOUTHEAST HAVING A RADIUS OF 5829.58 FEET AND SUBTENDED BY A CHORD HAVING A LENGTH OF 94.14 FEET AND BEARING S.03°47'10"W. TO A POINT OF TANGENCY; THENCE S.03°25'50"W. ALONG SAID WESTERLY RIGHT-OF-WAY LINE FOR 2338.37 FEET TO THE SOUTHEASTERLY CORNER OF A PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 1972 AT PAGE 335 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE CONTINUE S.03°25'50"W. ALONG SAID WESTERLY RIGHT-OF-WAY LINE FOR 728.95 FEET TO THE NORTHEAST CORNER OF A PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 2113 AT PAGE 1590 OF SAID PUBLIC RECORDS, ALSO BEING THE NORTHEAST CORNER OF MERCHANTS CROSSING, A SUBDIVISION RECORDED IN PLAT BOOK 52 AT PAGES 37 THROUGH 47 OF SAID PUBLIC RECORDS; THENCE N.86°34'10"W. ALONG THE NORTH LINE OF SAID PARCEL AND SAID SUBDIVISION FOR 616.50 FEET TO THE POINT OF

SHEET 1 OF 3

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Fort Myers Office
10511 Six Mile Cypress Pkwy, Suite #101
Fort Myers, Florida 33966
(239) 939-5490
Fax (239) 939-2523

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

BEGINNING; THENCE CONTINUE N.86°34'10"W. ALONG SAID NORTHERLY LINE FOR 33.50 FEET TO THE NORTHWEST CORNER OF SAID PARCEL; THENCE S.48°25'48"W. ALONG THE WESTERLY LINE OF SAID PARCEL AND SAID SUBDIVISION FOR 212.13 FEET; THENCE S.03°25'50"W. ALONG THE WESTERLY LINE OF SAID PARCEL AND SAID SUBDIVISION FOR 100.00 FEET TO THE SOUTHWESTERLY CORNER OF SAID PARCEL AND TO THE SOUTH LINE OF A PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 2389 AT PAGE 1936 OF SAID PUBLIC RECORDS; THENCE N.86°34'10"W. ALONG THE SOUTH LINE OF SAID PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 2389 AT PAGE 1936 AND THE NORTHERLY LINE OF SAID SUBDIVISION FOR 747.11 FEET TO AN INTERSECTION WITH THE NORTHEASTERLY LINE OF A DRAINAGE EASEMENT (50 FEET WIDE) DESCRIBED IN DEED BOOK 237 AT PAGES 564 AND 565 OF SAID PUBLIC RECORDS; THENCE N.28°32'51"W. ALONG THE NORTHEASTERLY LINE OF SAID DRAINAGE EASEMENT FOR 666.39 FEET TO AN INTERSECTION WITH THE SOUTHERLY RIGHT-OF-WAY LINE OF DIPLOMAT PARKWAY (100 FEET WIDE) AS DESCRIBED IN OFFICIAL RECORDS BOOK 2833 AT PAGE 4156 OF SAID PUBLIC RECORDS; THENCE N.89°51'48"E. ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE FOR 765.84 FEET; THENCE S.00°08'12"E. FOR 186.04 FEET; THENCE N.59°04'35"E. FOR 185.65 FEET; THENCE S.76°11'27"E. FOR 125.61 FEET; THENCE S.41°41'10"E. FOR 153.30 FEET TO AN INTERSECTION WITH THE WESTERLY LINE OF A PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 2833 AT PAGE 4156 OF SAID PUBLIC RECORDS; THENCE S.00°08'12"E. ALONG THE WESTERLY LINE OF SAID PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 2833 AT PAGE 4156 FOR 38.64 FEET TO THE BEGINNING OF A CURVE TO THE LEFT HAVING A RADIUS OF 120.00 FEET; THENCE SOUTHEASTERLY ALONG SAID WESTERLY LINE AND SAID CURVE THROUGH A CENTRAL ANGLE OF 86°25'24" FOR 181.00 FEET TO THE POINT OF BEGINNING.

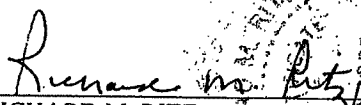
PARCEL CONTAINS 12.47 ACRES, MORE OR LESS.

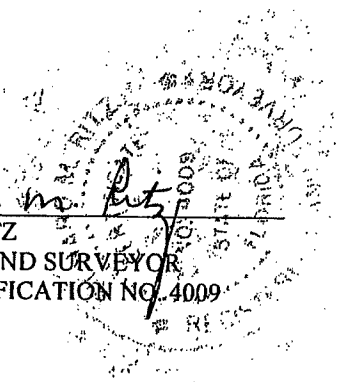
NET ACREAGE IS 47.65 ACRES, MORE OR LESS.

BEARINGS ARE BASED ON THE WESTERLY RIGHT-OF-WAY OF U.S. 41 (STATE ROAD 45) AS BEARING S.03°25'50"W.

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

DESCRIPTION PREPARED NOVEMBER 2, 2006.


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



Applicant's Legal Checked
by 8 9/25/07



LINE TABLE

LINE	BEARING	DISTANCE
L1	S 03°25'50" W	100.00'
L2	N 86°34'10" W	33.50'
L3	S 48°25'48" W	212.13'
L4	S 00°08'12" E	38.64'
L5	S 00°08'12" E	186.04'
L6	N 59°04'35" E	185.65'
L7	S 76°11'27" E	125.61'
L8	S 41°41'10" E	153.30'
L9	S 89°51'48" W	80.00'

CURVE TABLE

CURVE	RADIUS	DELTA	ARC	CHORD	CHORD BEARING
C1	5829.58'	00°55'31"	94.14'	94.14'(D)	S 03°47'10" W(D)
C2	120.00'	86°25'24"	181.00'	94.23'(M)	S 03°50'44" W(M)
				164.33'	N 43°20'54" W

OF A
PARCEL OF LAND

LYING IN
SECTION 34, TOWNSHIP 43 SOUTH, RANGE 24 EAST
LEE COUNTY, FLORIDA

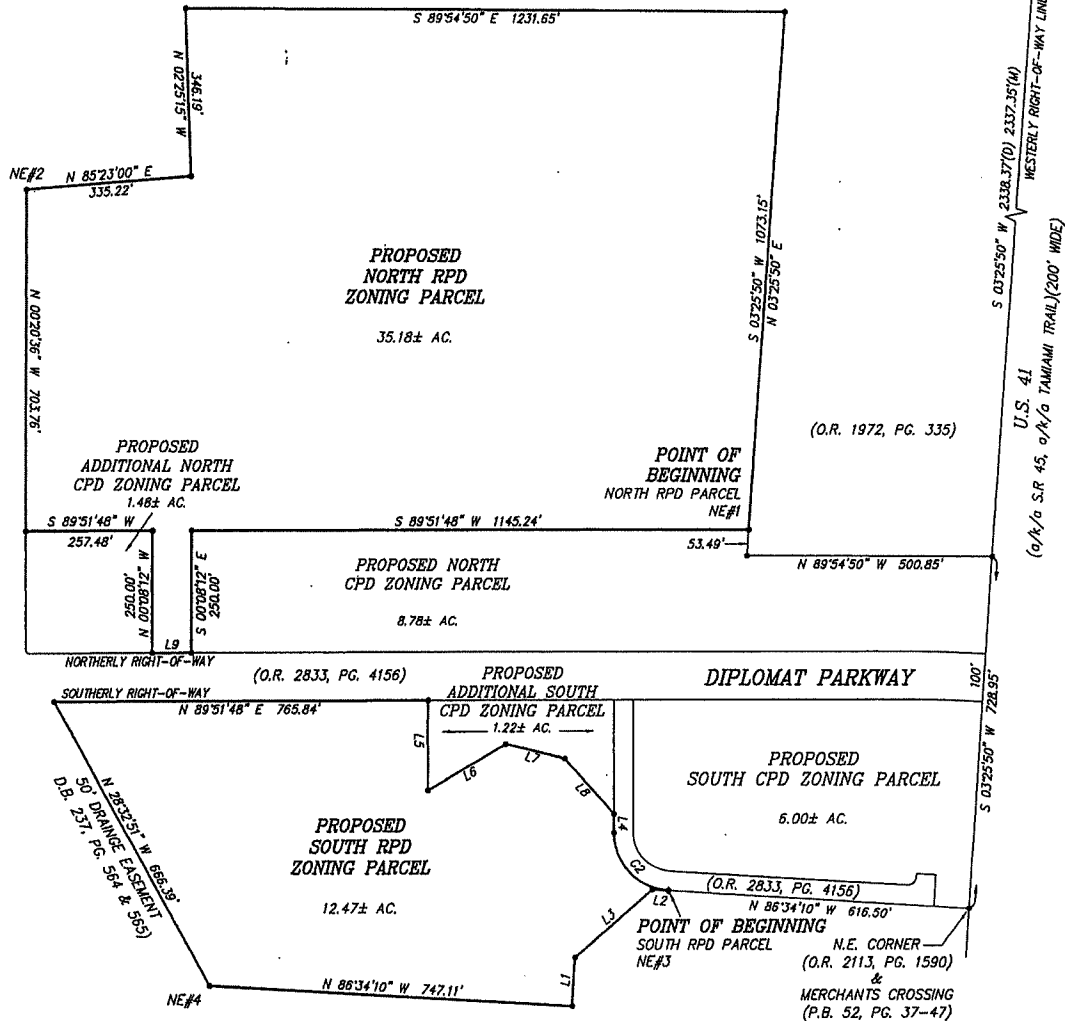
LITTLETON ROAD (50' WIDE)

SOUTHERLY RIGHT-OF-WAY LINE

POINT OF
COMMENCEMENT

COORDINATE TABLE

POINT	NORTHING	EASTING
NE#1	856582.08	687836.83
NE#2	857282.30	686349.89
NE#3	855837.18	687675.48
NE#4	855643.31	686731.56



NOTES:

1. SEE ACCOMPANYING SHEETS FOR COMPLETE METES AND BOUNDS DESCRIPTION.
2. STATE PLANE COORDINATES (FLORIDA ZONE WEST) SHOWN HEREON ARE BASED ON NAD83, AND ARE FOR GIS PURPOSES ONLY.
3. BEARINGS ARE BASED ON THE WESTERLY RIGHT-OF-WAY OF U.S. 41 AS S.03°25'50" W.

LEGEND:

- O.R. INDICATES OFFICIAL RECORDS BOOK OF LEE COUNTY
- P.G. INDICATES PAGE NUMBER
- C1 INDICATES CURVE 1 OF THE CURVE TABLE
- L1 INDICATES LINE 1 OF THE LINE TABLE
- NE#1 INDICATES COORDINATE #1 OF THE COORDINATE TABLE
- P.B. INDICATES PLAT BOOK
- D.B. INDICATES DEED BOOK
- (D) INDICATES DEED
- (M) INDICATES MEASURED

Applicant's Legal Checked

by 9125107

THIS IS NOT A SURVEY

RICHARD M. RITZ
REGISTERED LAND SURVEYOR
FLORIDA CERTIFICATION NO. 9008

— THIS SKETCH IS NOT VALID UNLESS IT BEARS THE
SIGNATURE AND ORIGINAL RAISED SEAL OF A FLORIDA
PROFESSIONAL SURVEYOR AND CHAPTER

— PREPARED: NOVEMBER 12, 2008

PREPARED BY:

Banks Engineering

ENGINEERING, SURVEYING & LAND PLANNING

2518 NORTHERBROOKS PLAZA DRIVE - SUITE 200

NAPLES, FLORIDA 34110

(239) 597-2061

FLORIDA SURVEYING BUSINESS CERTIFICATION NO. 6690

Banks Engineering

Professional Engineers, Planners & Land Surveyors
2515 Northbrooke Plaza Drive - Suite 200
Naples, Florida 34119
(239) 597-2061
Fax (239) 597-3082

DESCRIPTION
OF A
PARCEL OF LAND
LYING IN
SECTION 34, TOWNSHIP 43 SOUTH, RANGE 24 EAST
LEE COUNTY, FLORIDA
(CPD ZONING DESCRIPTION)

A TRACT OR PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, LYING IN SECTION 34, TOWNSHIP 43 SOUTH, RANGE 24 EAST AND BEING FURTHER BOUNDED AND DESCRIBED AS FOLLOWS:

NORTH CPD ZONING PARCEL

COMMENCING AT THE INTERSECTION OF THE WESTERLY RIGHT-OF-WAY LINE OF U.S. 41 (STATE ROAD 45) (200 FEET WIDE) AND THE SOUTHERLY RIGHT-OF-WAY LINE OF LITTLETON ROAD (50 FEET WIDE); THENCE 94.14 FEET ALONG SAID WESTERLY RIGHT-OF-WAY LINE AND ALONG THE ARC OF A CURVE CONCAVE TO THE SOUTHEAST HAVING A RADIUS OF 5829.58 FEET AND SUBTENDED BY A CHORD HAVING A LENGTH OF 94.14 FEET AND BEARING S.03°47'10"W. TO A POINT OF TANGENCY; THENCE S.03°25'50"W. ALONG SAID WESTERLY RIGHT-OF-WAY LINE FOR 2338.37 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE S.03°25'50"W. ALONG SAID WESTERLY RIGHT-OF-WAY LINE FOR 199.95 FEET TO POINT "A" AND TO AN INTERSECTION WITH THE NORTHERLY RIGHT-OF-WAY LINE OF DIPLOMAT PARKWAY (100 FEET WIDE); THENCE N.86°35'21"W. ALONG SAID NORTHERLY RIGHT-OF-WAY LINE FOR 12.52 FEET TO THE BEGINNING OF A CURVE TO THE LEFT HAVING A RADIUS OF 2150.00 FEET; THENCE WESTERLY ALONG SAID CURVE AND ALONG SAID NORTHERLY RIGHT-OF-WAY LINE THROUGH A CENTRAL ANGLE OF 3°32'51" FOR 133.12 FEET; THENCE S.89°51'48"W. ALONG SAID NORTHERLY RIGHT-OF-WAY LINE FOR 1484.79 FEET TO POINT "B"; THENCE N.00°08'12"W. FOR 250.00 FEET; THENCE N.89°51'48"E. FOR 1145.24 FEET; THENCE S.03°25'50"W. FOR 53.49 FEET; THENCE S.89°54'50"E. FOR 500.85 FEET TO THE POINT OF BEGINNING.

PARCEL CONTAINS 8.78 ACRES, MORE OR LESS.

TOGETHER WITH: ADDITIONAL NORTH CPD ZONING PARCEL

COMMENCING AT SAID POINT "B" ; THENCE S.89°51'48"W. ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE OF DIPLOMAT PARKWAY (100 FEET WIDE) FOR 80.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE S.89°51'48"W. ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE FOR 253.42 FEET; THENCE N.28°32'51"W. FOR 6.70 FEET; THENCE N.00°20'36"W. FOR 244.12 FEET; THENCE N.89°51'48"E. FOR 257.48 FEET; THENCE S.00°08'12"E. FOR 250.00 FEET TO THE POINT OF BEGINNING.

PARCEL CONTAINS 1.48 ACRES, MORE OR LESS.

TOGETHER WITH: SOUTH CPD ZONING PARCEL

COMMENCING AT SAID POINT "A"; THENCE S.03°25'50"W. ALONG SAID WESTERLY RIGHT-OF-WAY LINE OF U.S. 41 (STATE ROAD 45) (200 FEET WIDE) FOR 100.00 FEET TO THE POINT OF BEGINNING;

SHEET 1 OF 3

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Fort Myers Office
10511 Six Mile Cypress Pkwy, Suite #101
Fort Myers, Florida 33966
(239) 939-5490
Fax (239) 939-2523

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

THENCE CONTINUE S.03°25'50"W. ALONG SAID WESTERLY RIGHT-OF-WAY LINE FOR 429.00 FEET TO THE NORTHEAST CORNER OF A PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 2113 AT PAGE 1590 OF SAID PUBLIC RECORDS, ALSO BEING THE NORTHEAST CORNER OF MERCHANTS CROSSING, A SUBDIVISION RECORDED IN PLAT BOOK 52 AT PAGES 37 THROUGH 47 OF SAID PUBLIC RECORDS; THENCE N.86°34'10"W. ALONG THE NORTH LINE OF SAID PARCEL AND SAID SUBDIVISION FOR 72.00 FEET TO THE SOUTHEAST CORNER OF A PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 2833 AT PAGE 4156 OF SAID PUBLIC RECORDS; THENCE N.03°25'50"E. ALONG THE EASTERLY LINE OF SAID PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 2833 AT PAGE 4156 FOR 65.00 FEET; THENCE N.86°33'36"W. ALONG THE NORTHERLY LINE OF SAID PARCEL FOR 39.68 FEET; THENCE S.03°26'24"W. ALONG THE WESTERLY LINE OF SAID PARCEL FOR 8.00 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT HAVING A RADIUS OF 17.00 FEET; THENCE SOUTHWESTERLY ALONG SAID PARCEL AND SAID CURVE THROUGH A CENTRAL ANGLE OF 90°00'01" FOR 26.70 FEET; THENCE N.86°33'36"W. ALONG THE NORTHERLY LINE OF SAID PARCEL FOR 487.82 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT HAVING A RADIUS OF 80.00 FEET; THENCE NORTHWESTERLY ALONG SAID PARCEL AND SAID CURVE THROUGH A CENTRAL ANGLE OF 86°25'24" FOR 120.67 FEET; THENCE N.00°08'12"W. ALONG THE EASTERLY LINE OF SAID PARCEL FOR 274.66 FEET TO POINT "C" AND TO AN INTERSECTION WITH THE SOUTHERLY RIGHT-OF-WAY LINE OF DIPLOMAT PARKWAY (100 FEET WIDE) AS DESCRIBED IN OFFICIAL RECORDS BOOK 2833 AT PAGE 4156 OF SAID PUBLIC RECORDS; THENCE N.89°51'48"E. ALONG SAID SOUTHERLY RIGHT-OF-WAY FOR 575.20 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT HAVING A RADIUS OF 2050.00 FEET; THENCE EASTERLY ALONG SAID RIGHT-OF-WAY AND SAID CURVE THROUGH A CENTRAL ANGLE OF 3°32'51" FOR 126.93 FEET; THENCE S.86°35'21"E. ALONG SAID RIGHT-OF-WAY FOR 12.49 FEET TO THE POINT OF BEGINNING.

PARCEL CONTAINS 6.00 ACRES, MORE OR LESS.

TOGETHER WITH: ADDITIONAL SOUTH CPD ZONNING PARCEL

COMMENCING AT SAID POINT "C"; THENCE S.89°51'48"W. ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE OF DIPLOMAT PARKWAY (100 FEET WIDE) FOR 40.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE S.89°51'48"W. ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE FOR 383.07 FEET; THENCE S.00°08'12"E. FOR 186.04 FEET; THENCE N.59°04'35"E. FOR 185.65 FEET; THENCE S.76°11'27"E. FOR 125.61 FEET; THENCE S.41°41'10"E. FOR 153.30 FEET TO AN INTERSECTION WITH THE WESTERLY LINE OF THE AFORESAID PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 2833 AT PAGE 4156 OF SAID PUBLIC RECORDS; THENCE N.00°08'12"W. ALONG THE WESTERLY LINE FOR 236.02 FEET TO THE POINT OF BEGINNING.

PARCEL CONTAINS 1.22 ACRES.

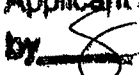
NET AREA AS DESCRIBED CONTAINS 17.48 ACRES, MORE OR LESS.

BEARINGS ARE BASED ON THE WESTERLY RIGHT-OF-WAY OF U.S. 41 (STATE ROAD 45) AS BEARING S.03°25'50"W.

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

DESCRIPTION PREPARED NOVEMBER 2, 2006.


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

Applicant's Legal Checked
 by  9/25/07



COORDINATE TABLE

POINT	NORTHING	EASTING
NE#1	856227.93	688334.48
NE#2	856329.35	686692.19
NE#3	856228.53	688316.53
NE#4	856231.52	687602.01
NE#5	856231.43	687562.01
NE#6	856230.51	687178.94
NE#7	856329.16	686612.19
NE#8	856578.55	686354.11

CURVE TABLE

CURVE	RADIUS	DELTA	ARC	CHORD	CHORD BEARING
C1	5829.58'	00°55'31"	94.14'	94.14'(D)	S 03°47'10" W (D)
				94.23'(M)	S 03°50'44" W (M)
C2	2150.00'	03°32'51"	133.12'	133.10'	S 88°21'47" E
C3	17.00'	90°00'01"	26.70'	24.04'	S 48°26'24" W
C4	80.00'	86°25'24"	120.67'	109.55'	N 43°20'54" W
C5	2050.00'	03°32'51"	126.93'	126.91'	S 88°21'47" E

LINE TABLE

LINE	BEARING	DISTANCE
L1	S 03°25'50" W	198.95'
L2	N 86°35'21" W	12.52'
L3	N 28°32'51" W	6.70'
L4	S 03°25'50" W	53.49'
L5	S 03°25'50" W	100.00'
L6	N 86°34'10" W	72.00'
L7	N 03°25'50" E	65.00'
L8	N 86°33'36" W	39.68'
L9	S 03°26'24" W	8.00'
L10	S 86°35'21" E	12.49'
L11	S 89°51'48" W	40.00'
L12	S 00°08'12" E	186.04'
L13	N 59°04'35" E	185.65'
L14	S 76°11'27" E	125.61'
L15	S 41°41'10" E	153.30'
L16	N 00°08'12" W	236.02'
L17	S 89°51'48" W	80.00'

SKETCH TO ACCOMPANY DESCRIPTION

OF A
PARCEL OF LAND
LYING IN
SECTION 34, TOWNSHIP 43 SOUTH, RANGE 24 EAST
LEE COUNTY, FLORIDA

LITTLETON ROAD (50' WIDE)

SOUTHERLY RIGHT-OF-WAY LINE

POINT OF
COMMENCEMENTPROPOSED
NORTH RPD
ZONING PARCEL

35.18± AC.

PROPOSED
ADDITIONAL NORTH
CPD ZONING PARCEL

1.48± AC.

PROPOSED
NORTH CPD ZONING PARCEL

8.78± AC.

S 89°51'48" W 1484.79'

NORTHERLY RIGHT-OF-WAY

(O.R. 2833, PG. 4156)

P.O.B. ADDITIONAL SOUTH CPD ZONING PARCEL

S 89°51'48" W 383.07'

NE#6

L12

L13

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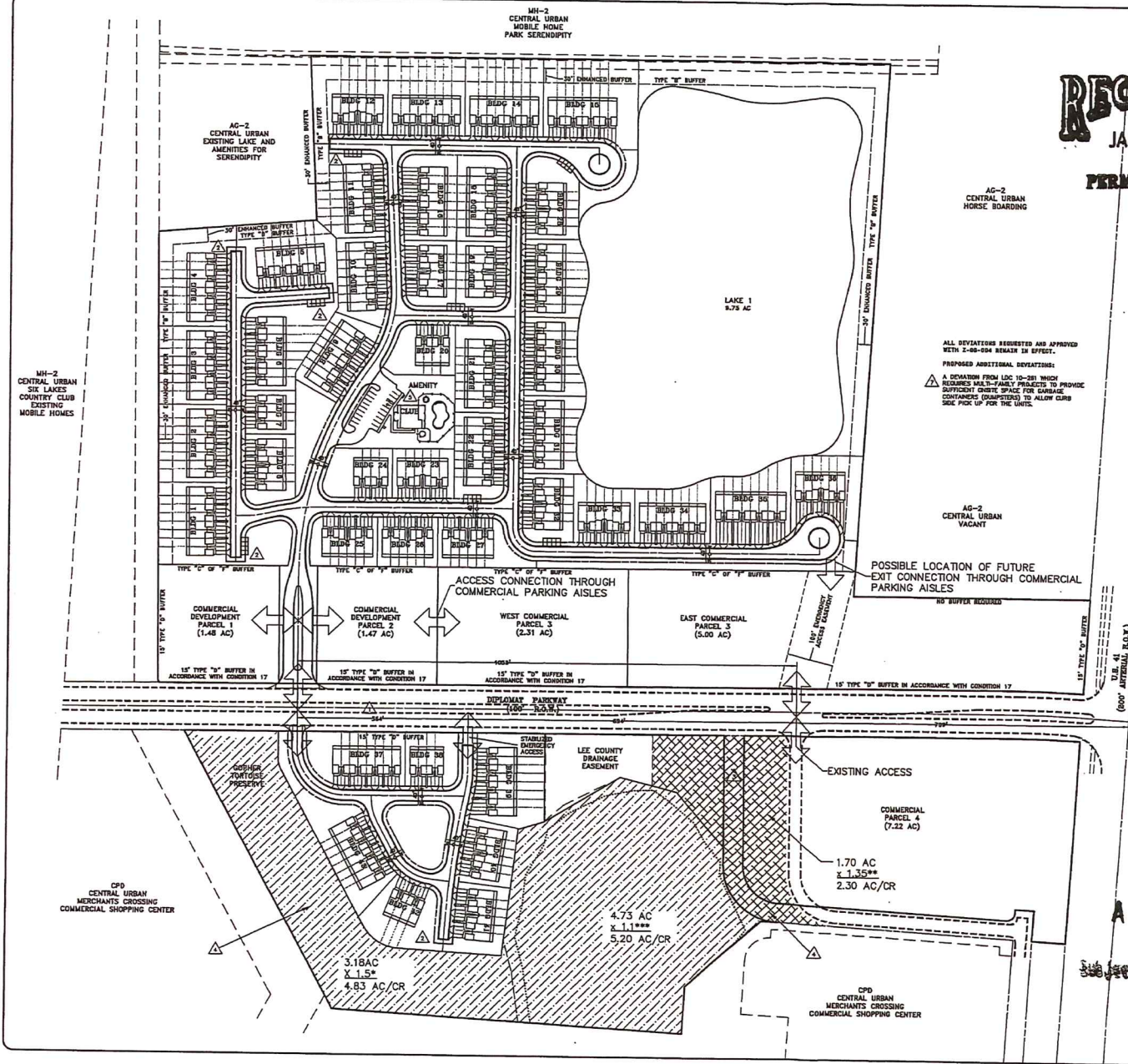
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RECEIVED
JAN 30 2008

PERMIT COUNTER



GRAPHIC SCALE 1"=100'

- RESIDENTIAL INDIVIDUALS
- COMMERCIAL INDIVIDUALS
- DEVIATION PLEASE REFER TO SCHEDULE OF DEVIATIONS AND AMENDMENTS

OPEN SPACE CALCULATIONS (SEE FOR COMMERCIAL/USE COMMON OPEN SPACE FOR RESIDENTIAL)					
TRACT	AREA	INDIVIDUALS REQUIRED	LOVED OPEN SPACE REQUIRED	INDIVIDUALS PROVIDED	
COMMERCIAL 1	1.47 AC	0.22 AC	156	0.22 AC	0.22 AC
COMMERCIAL 2	1.47 AC	0.22 AC	156	0.22 AC	0.22 AC
COMMERCIAL 3	7.28 AC	1.19 AC	156	1.19 AC	1.19 AC
COMMERCIAL 4	7.28 AC	1.19 AC	156	1.19 AC	1.19 AC
RESIDENTIAL NORTH	35.39 AC	7.29 AC	206	7.29 AC	7.29 AC
RESIDENTIAL SOUTH	12.18 AC	2.64 AC	206	2.64 AC	2.64 AC
TOTAL	66.09 AC	12.64 AC	630	12.64 AC	12.64 AC

ALL DEVIATIONS REQUESTED AND APPROVED WITH 2-48-004 REVISION 28 EFFECT.

PROPOSED ARBITRARIAL DEVIATIONS:

A DEVIATION FROM LOC 10-081 WHICH REQUIRES MULTI-FAMILY PROJECTS TO PROVIDE SUFFICIENT OPEN SPACE FOR GARAGE CONTAINERS (GARAGES) TO ALLOW CURB SIDE PICK UP FOR THE UNITS.

RESIDENTIAL OPEN SPACE AREA IS PROVIDED ON SECTION PORTION OF DEVELOPMENT (12.64 CREDITS TOTAL PROVIDED) AND IS TO PROVIDE TOTAL REQUIRED RESIDENTIAL OPEN SPACE FOR ALL TRACTS. IS OTHER (NON-RESIDENTIAL) OPEN SPACE SHALL BE PROVIDED ON THE RESPECTIVE TRACT AND SHALL BE CREDITED AT THE TIME OF DEVELOPMENT UNDER PRIORITIES.

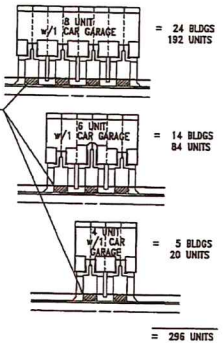
EXISTING NOTES:

*1500 CREDIT FOR MINIMUM 3 ACRES AND 100' WIDTH PER LOC SECTION 10-4100(2)(C).

*7500 CREDIT FOR MINIMUM 1 ACRE AND 75' WIDTH PER LOC SECTION 10-4100(2)(C) AND ADDITIONAL 1500 CREDIT FOR PROPORTION ADJACENT TO ROADWAY PER LOC SECTION 10-4100(2)(C).

*1500 CREDIT FOR CONNECTION TO OFFSITE ENVIRONMENTAL CONSERVATION OR PRESERVE AREAS PER LOC SECTION 10-4100(2)(C).

TYPICAL RESIDENTIAL BUILDING LEGEND:

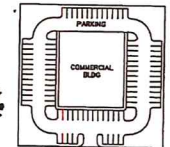


AREA WHERE EACH UNIT CAN PLACE GARAGE THAT DOES NOT BLOCK DRIVEWAYS

AG-2 CENTRAL URBAN VACANT

ADD 2007-00169

APPROVED
Amendment to
Master Concept Plan
Subject to Case # ADD2007-00169
Date 2/1/2008



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MASTER CONCEPT PLAN
DIPOLMAT PARCEL
LEE COUNTY, FLORIDA

DATE	PROJECT	SCALE	SHEET	OF
08-27-2007	2008	1"=100'	1	1

Exhibit E

RESOLUTION NUMBER Z-06-004

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

WHEREAS, Athyrio Development Associates, LLC, filed an application on behalf of the property owner, Richard K. Bennett, Successor Trustee of the North Trail Land Trust, to rezone 65± acres of land from the Agricultural (AG-2) zoning district to the Residential Planned Development/Commercial Planned Development (RPD/CPD) zoning district, in reference to Diplomat Property RPD/CPD; and,

WHEREAS, a public hearing was advertised and held on January 12, 2006, and January 13, 2006, before the Lee County Zoning Hearing Examiner Diana Parker, who gave full consideration to the evidence in the record for Case #DCI2005-00055; and,

WHEREAS, a second public hearing was advertised and held on April 3, 2006, before the Lee County Board of Commissioners, who gave full and complete consideration to the recommendations of the staff, the Hearing Examiner, the documents on record and the testimony of all interested persons.

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

SECTION A. REQUEST

The applicant filed a request to rezone 65 acres of land from AG-2 to RPD/CPD to allow a maximum of 468 dwelling units, 200,000 square feet of commercial floor area, and a maximum of 120 hotel rooms. Maximum proposed building height is three (3) stories/50 feet commercial and two (2) stories/ 35 feet residential. No development blasting is requested. The property is located in the Central Urban Land Use Category and is legally described in attached Exhibit A. The request is APPROVED, SUBJECT TO the conditions and deviations specified in Sections B and C below.

SECTION B. CONDITIONS:

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

1. Development must be consistent with the one-page Master Concept Plan entitled "CONCEPTUAL SITE PLAN: DIPLOMAT PARCEL," Sheet 1 of 1, date stamped "Received November 3, 2006," and prepared by Banks Engineering, Inc. (attached hereto as Exhibit C), except as modified by the conditions below.

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

Maximum Number of Dwelling Units (RPD): 381 dwelling units. An additional 76 units may be constructed if they are marketed at a price point that is affordable to moderate income households at the time of building permit application. Further, the additional 75 units may only be sold to buyers who qualify as a moderate income household at the time of purchase. Moderate income households means 120 percent of the yearly median income based on yearly income levels developed for the SHIP Program by the Housing Section of the Planning Division.

Eight (8.0) dwelling units per acre maximum, for the 47.65 acres of RPD. An additional 1.6 units per acre may be constructed subject to affordability requirements above.

Maximum Commercial Floor Area (CPD): 200,000 square feet of commercial uses. A maximum of 100,000 s/f of which may be retail.

Retail development is limited to Parcel 4 (which meets Commercial Site Location standards). Retail development is not permitted on Commercial Parcels 1, 2 or 3 (which do not meet Site Location standards).

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

a. **Schedule of Uses:** RPD

Accessory Uses and Structures

Administrative Office

Clubs, Private - As shown on the approved MCP.

Dwelling Units, single-family, duplex, two-family attached, multifamily,
townhomes - 381 (up to 457 pursuant to Condition 1)

Entrance Gates and Gatehouse

Essential Services

Essential Service Facilities, Group I

Excavation, Water Retention - not to include the removal of excavated material
from the site. No blasting.

Fences and Walls.

Home Occupation, No outside help.

Home Care Facility

Model Home, Model Display Center, Model Unit - ALSO SEE MODEL HOME/
REAL ESTATE SALES CONDITIONS.

Parking Lot, Accessory

Real Estate Sales - limited to sales of lots, homes or units within the development.
Model home and club locations only. ALSO SEE MODEL HOME/
REAL ESTATE SALES CONDITIONS.

Recreational Facilities - Private, On-site only. LIMITED TO THOSE SHOWN ON
THE APPROVED MCP

Residential Accessory Uses

Signs, in compliance with LDC Chapter 30

Temporary Uses, Temporary Real Estate Sales Office

Schedule of Uses: CPD

Administrative Office
Animals: Clinic, Kennel, Control Center (including Humane Society) - indoors,
no outdoor runs.
Automatic Teller Machine
Auto Parts Store - No installation service.
Auto Repair and Service, Group I
Bait and Tackle Shop
Banks and Financial Establishments, Group I and II
Boat Part Stores
Building Material Sales (indoor only, no outdoor display)
Business Services, Group I and II (no impound yards or armored car services)
Cleaning and Maintenance Services
Clothing Stores, General
Communication facilities, wireless (in accordance with LDC 34 Division 11)

A wireless communication facility may be administratively approved,
provided it is co-located on a building and the height of the tower
does not exceed 50 feet from existing grade.

Consumption on Premises - Indoors. In conjunction with Group III restaurants only.
Outdoor Consumption on Premises will require special exception approval
(public hearing).

Contractors and Builders, Group I and II (Not Group III)
Cultural Facilities
Day Care, Adult, Child
Department Store
Drive-through facility for any permitted use. No fast food drive-through.
Drugstore, Pharmacy (limited to 1 on Parcel 4 or 3)
Entrance Gate and Gatehouse
Emergency Operations Center
EMS, Fire or Sheriff's Station
Essential Services
Essential Service Facilities, Group I
Excavation, Water Retention - not to include the removal of excavated material
from the site. No blasting.
Fences and Walls.
Flea Market, Indoor Only
Food and Beverage Services, Limited
Food Stores, Group I and II
Funeral Home or Mortuary, with or without cremation
Gasoline Dispensing System, Special
Hardware Store
Health Care Facility, Group I, II, III (no Group IV).
Hobby, Toy and Game Store
Hotel/Motel - Limited to 120 rooms maximum.

Household and Office Furnishings - (indoor only, no outdoor display)
Insurance Companies
Lawn and Garden Supply Stores - (indoor only, no outdoor display)
Library
Medical Office
Nonstore Retailer
Paint, Glass and Wallpaper - (indoor only, no outdoor display)
Parking Lot, Accessory, Commercial, Garage, Public Parking, Temporary
Personal Services, Group I, II, III, IV. Excluding Laundromats, Laundry Agents,
 Massage Establishments, Massage Parlors, Steam or Turkish Baths, Dating
 Services, Escort Services, Palm Readers, Fortune Tellers, Card Readers,
 Tattoo Parlors.
Pet Services, Pet Shops - Indoor only, no outdoor display. No outdoor runs.
Place of Worship
Plant Nursery
Post Office
Printing and Publishing
Processing and Warehousing
Real Estate Sales Office
Religious Facilities
Rental or Leasing Establishments, Group II (excluding tools and equipment
 primarily for home use). Indoor only. No outdoor display.
Repair Shop, Group I, II, III
Research and Development Laboratories, Group I, II, III, IV.
Restaurants, Group I, II, III, IV.
Restaurant, Fast Food, No stand-alone or drive-through. Within a multi-occupancy
 building only.
Schools, Commercial and Non-Commercial
Signs in Accordance with Chapter 30
Social Services Group I
Specialty Retail, Group I, II, III, IV
Storage, Indoor Only
Studios
Supermarkets
Temporary Uses
Used Merchandise, Group I, II, Indoor only. No outdoor display.
Variety Store

b. Site Development Regulations - RPD

SINGLE-FAMILY

Minimum Lot Areas and Dimensions

Lot Size: 7,500 square feet
Lot Width: 75 feet
Lot Depth: 100 feet

Minimum Setbacks

Street 25 feet (public)/20 feet (private)
Side 5 feet
Rear 30 feet - all lots containing enhanced buffer. See Condition 13.
20 feet - all other lots
Water body 25 feet

All Accessory Uses: Per the LDC.
Setbacks from Preserves (All structures): 25 feet, per the LDC.
Minimum Perimeter Setbacks: 25 feet
30 feet - all lots containing enhanced buffer. See Condition 13.

Minimum Building Separation: 10 feet.

Building Height: 35 feet/ 2 stories

Maximum Lot Coverage: 45 percent

DUPLEX, TWO-FAMILY ATTACHED, TOWNHOUSE

Minimum Lot Areas and Dimensions

Lot Size: 7,500 square feet
Lot Width: 75 feet (37.5 per unit)
Lot Depth: 100 feet

Minimum Setbacks

Street 25 feet (public)/20 feet (private)
Side 5 feet (0 feet for common wall unit)
Rear 30 feet - all lots containing enhanced buffer. See Condition 13.
20 feet - all other lots
Water body 25 feet

All Accessory Uses: Per the LDC.

Setbacks from Preserves (All structures): 25 feet, per the LDC.

Minimum Perimeter Setbacks: 25 feet
30 feet - all lots containing enhanced buffer, See Condition 13.

Minimum Building Separation: 10 feet.

Building Height: 35 feet/ 2 stories

Maximum Lot Coverage: 45 percent

MULTI-FAMILY

Minimum Lot Areas and Dimensions

Lot Size: 10,000 square feet
Lot Width: 100 feet
Lot Depth: 100 feet

Minimum Setbacks

Street 25 feet (public)/20 feet (private)
Side 10 feet
Rear 30 feet - all lots containing enhanced buffer. See Condition 13.
20 feet - all other lots
Water body 25 feet

All Accessory Uses: Per the LDC.

Setbacks from Preserves (All structures): 25 feet, per the LDC.

Minimum Perimeter Setbacks: 25 feet
30 feet - all lots containing enhanced buffer. See Condition 13.

Minimum Building Separation: 20 feet.

Building Height: 35 feet/ 2 stories

Maximum Lot Coverage: 45 percent

RECREATIONAL AREA/FACILITIES

Minimum Lot Areas and Dimensions

Lot Size: 9,000 square feet
Lot Width: 50 feet
Lot Depth: 120 feet

Minimum Setbacks (Also see Deviation 5):

Street	25 feet (public)/20 feet (private)
Side	10 feet
Rear	20 feet
Water body	25 feet

All Accessory Uses: Per the LDC.

Setbacks from Preserves (All structures): 25 feet, per the LDC.

Minimum Perimeter Setbacks: 25 feet

Minimum Building Separation: 10 feet.

Building Height: 35 feet/ 2 stories

Maximum Lot Coverage: 45 percent

Site Development Regulations - CPD

Minimum Lot Areas and Dimensions

COMMERCIAL

Lot Size:	10,000 square feet
Lot Width:	100 feet
Lot Depth:	100 feet

Minimum Setbacks

Street	25 feet (public)/20 feet (private)
Side	10 feet
Rear	20 feet
Water body	25 feet

All Accessory Uses: Per the LDC.

Setbacks from Preserves (All structures): 25 feet, per the LDC.

Minimum Perimeter Setbacks: 25 feet

Minimum Building Separation: 20 feet.

Buildings exceeding 35 feet in height must maintain additional building separation as regulated by LDC §34-2174(a).

Building Height: 50 feet/ 3 stories
35 feet/ 2 stories - adjacent to west boundary

Maximum Lot Coverage: 60 percent

3. Concurrency.

Approval of this rezoning does not constitute a finding that the proposed project meets the concurrency requirements set forth in LDC Chapter 2 and the Lee Plan. The developer is required to demonstrate compliance with all concurrency requirements prior to issuance of a local development order.

4. Model Home and Real Estate Sales.

Model units and homes (and real estate sales) are permitted in compliance with the following conditions:

- a. Each model must be a unique example. Multiple examples of the same unit are not permitted.
- b. All model sites must be designated on the development order plans.
- c. Prior to model home construction, the lots upon which model homes will be constructed must be shown on a preliminary plat (not the final). The preliminary plat must be filed concurrently with the local development order application. The model homes must comply with the setbacks set forth in the property development regulations for this project.
- d. Dry models are prohibited.
- e. The number of model homes or model units will be limited to no more than 10 within the development at one time.
- f. Any model homes or units must be developed within the areas identified as "models" on the approved MCP.
- g. Real Estate sales within the Residential Planned Development (RPD) are limited to the sale of lots or units within the development only. Real Estate sales are a permitted use within the Commercial Planned Development (CPD)
- h. Real Estate sales within the RPD are limited to within model homes or clubhouse only.
- i. Hours of operation for both models and real estate sales (within the RPD) are limited to Monday through Sunday 8:00 a.m. to 8:00 p.m.
- j. Model homes and real estate sales within the RPD will be valid for a period of up to 5 years from the date of issuance of a certificate of occupancy of a model home per LDC § 34-1954(d)(1).

5. Agricultural Uses. No agricultural uses are existing on site, and none are approved by virtue of this rezoning.

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

7. All required buffers must utilize 100 percent all native vegetation.
8. Buildings exceeding 35 feet in height must maintain additional building separation as regulated by LDC §34-2174(a).
9. Approval of this zoning request does not address mitigation of the project's vehicular or pedestrian traffic impacts. Additional conditions consistent with the Lee County LDC may be required to obtain a local development order.
10. Approval of this rezoning does not guarantee local development order approval. Future development order approvals must satisfy the requirements of the Lee Plan Planning Communities Map and Acreage Allocation Table, Map 16 and Table 1(b), be reviewed for, and found consistent with, the retail commercial standards for site area, including range of gross floor area, location, tenant mix and general function, as well as all other Lee Plan provisions.
11. The developer must contribute its proportionate share of the costs of intersection improvements at the time a traffic control device is warranted at the intersection of U.S. 41 and Diplomat Road.
12. Wireless Communication Facilities.
 - a. Freestanding wireless communication facilities (towers, including stealth type) are not permitted. Approval of freestanding wireless communication facilities will require an amendment to the planned development (public hearing).
 - b. Wireless Communication Facilities (including wall-mounted and roof-mounted antennas) may be approved in accordance with LDC Sec. 34-1441, et. seq. (Commercial parcels only).
13. Buffers. The 15-foot-wide Type B buffer to the west (adjacent to Six Lakes Country Club), to the east (adjacent to horse boarding), and to the north (adjacent to the existing Serendipity Mobile Home Park) must be enhanced to 30 feet, 10 trees per 100 linear feet, and canopy-type trees (no palms) with a minimum 4-inch caliper. The Type "B" buffer shown adjacent to the "Existing Lake and Amenities for Serendipity" also requires enhancement as described in this condition. See Condition 17 for enhanced buffer along north side of Diplomat Parkway where parking areas are adjacent to the Parkway.
14. Accessory Uses. Accessory uses must be located on the same tract, parcel or outparcel where a principal use is located. Accessory uses must be incidental and subordinate to the principal use of the tract, parcel or outparcel.
15. Open Space. Prior to local development order approval, the landscape plans must demonstrate that each commercial parcel is providing a minimum of 30 percent open space within the common area on the MCP, and a minimum of 40 percent common open space is provided within the residential tracts.
16. Environmental. Prior to local development order approval:

- a. The developer must submit a detailed indigenous preservation management plan for the Division of Environmental Sciences Staff review and approval that includes methods of maintaining the western 3.0 acres of the preserve as gopher tortoise habitat; and,
- b. The landscape plans must include a permanent gopher tortoise fence along Diplomat Parkway where the 3-acre gopher tortoise preserve abuts this roadway and a double staggered native hedge (minimum 3-gallon container size; 24-inch height at planting; maintained at a minimum 36-inch height) planted on the roadside of the fence; and,
- c. The landscape plans must delineate a double staggered native hedge (minimum 3-gallon container size; 24-inch height at planting; maintained at a minimum 36-inch height) planted along the interface of the indigenous preserve with the residential tract.

Prior to issuance of a Vegetation Removal Permit, all invasive exotic vegetation and manmade debris must be hand removed from the indigenous preserve.

17. Commercial Parcels North of Diplomat Parkway. Commercial buildings located within Commercial Parcels 1, 2 and the westernmost 2.3 acres of Parcel 3 are limited to a maximum of 10,000 square feet per building, and must not exceed 2 stories/35 feet in height. The building locations must alternate (be staggered) between the front and rear of the commercial parcels to provide a more campus-like setting. A parking plan must be devised to keep the amount of parking spaces along Diplomat Parkway at an absolute minimum. These parking areas and commercial buildings must be buffered, from Diplomat Parkway, by, at a minimum, a 2-foot-high berm with 10 trees and a staggered 36-inch- high hedge per 100 linear feet. Applicant is to be strongly encouraged to utilize the commercial building site locational criteria established for the Estero community.

The commercial buildings on Commercial Parcels 1, 2 and 3 must be of the same or similar architectural design and coloring as the residential buildings, to identify the them as a unified project. All project identification signs (commercial and residential) must also be of the same or similar architectural design and coloring.

SECTION C. DEVIATIONS:

1. Deviation (1) seeks relief from the LDC §10-285(a) requirement to provide a minimum access connection separation of 660 feet on an arterial road, to permit an access separation of 364 feet between the project's proposed main access and the proposed exit-only access for the residential portion of the southern parcel. This deviation is APPROVED.
2. Deviation (2) seeks relief from the LDC §10-296(k)(1) requirement that dead-end streets be closed at one end by a circular turn-around, to allow two dead-end streets as shown on the MCP. This deviation is APPROVED.
3. Deviation (3) seeks relief from the LDC §10-415(b)(1)(a) requirement that large developments with indigenous vegetation communities provide 50 percent of their open space percentage requirements through onsite preservation of existing native vegetative communities, to permit 0.45 acres of right-of-way to be vacated, enhanced, and preserved

to count toward the preservation requirement. This deviation is APPROVED, SUBJECT TO the following condition:

- a. Prior to local development order approval for Commercial Parcel 4, the existing roadway easement depicted within the indigenous preserve must be vacated.
4. Deviation (4) seeks relief from the LDC §10-415(b)(1)a. requirement that large developments with existing indigenous native vegetation communities provide 50 percent of their open space requirement through on-site preservation of indigenous native vegetation, to allow portions of the preservation area to be disturbed and restored in order to install a stormwater management system. This deviation is APPROVED, SUBJECT TO the following conditions:
- a. Prior to local development order, the development orders plans must delineate the general location of the surface water management outfall through the indigenous preserve to the canal. The outfall must be designed as an open system that can be planted with native vegetation.
 - b. Prior to issuance of a Vegetation Removal Permit, the location of the surface water management outfall through the indigenous preserve must be field staked, to avoid impacting any large native trees or gopher tortoise burrows, for the Division of Environmental Sciences' Staff review and approval.
5. Deviation (5) seeks relief from the LDC §34-2474(b)(6) requirement that recreation halls and ancillary facilities and private clubs be located at least 40 feet from any residential dwelling unit, to allow a 20-foot minimum separation for any recreation building from a residential dwelling unit. This deviation is APPROVED, SUBJECT TO the following condition:
- a. Development of a recreational facility and clubhouse must be generally consistent with the location and size as shown on the approved MCP.
6. a. Deviation (6.a.) seeks relief from the LDC §10-291(3) requirement (when practical) that residential developments of more than five acres in size provide two or more means of ingress into the development, to allow the residential portion to the north of Diplomat Parkway to be constructed with a single ingress/egress connection onto Diplomat Parkway. This deviation is APPROVED, SUBJECT TO the following conditions:
- 1) Access to the residential component north of Diplomat Parkway must be generally consistent with the approved MCP; and
 - 2) The approved MCP and local development order must depict a minimum 70-foot-wide divided entrance on the north side of Diplomat Parkway that includes a median with two lanes on both sides of the median for ingress and egress; and
 - 3) Prior to issuance of a development order, the developer must provide written documentation from the North Fort Myers Fire District indicating that these access points are acceptable and provide adequate access for emergency

vehicles. The development order must also include the plans for the secondary/emergency access required in the following paragraph.

- 4) Prior to build-out of the north residential development, applicant must install a secondary/emergency access from the residential tract to commercial Parcel 3, as shown on the MCP. Any emergency access gate must comply with all applicable regulations with respect to required equipment for an emergency override mechanism at the time of installation. Additionally, if an emergency necessitates the breaking of an entrance gate, the cost of repairing the gate and the emergency vehicle (if applicable) will be the responsibility of the owner or the operator of the gate;
6. b. Deviation (6.b.) seeks relief from the LDC §10-291(3) (when practical) that residential developments of more than five acres in size provide two or more means of ingress into the development, to allow the residential portion to the south of Diplomat Parkway to be constructed with a single ingress/egress connection onto Diplomat Parkway with an emergency access also onto Diplomat Parkway. This deviation is APPROVED, SUBJECT TO the following conditions:
- 1) Access to the residential component South of Diplomat Parkway must be generally consistent with the approved MCP; and
 - 2) Any emergency access gate must comply with all applicable regulations with respect to required equipment for an emergency override mechanism at the time of installation. Additionally, if an emergency necessitates the breaking of an entrance gate, the cost of repairing the gate and the emergency vehicle (if applicable) will be the responsibility of the owner or the operator of the gate; and
 - 3) Prior to the issuance of a development order, the developer must provide written documentation from the North Fort Myers Fire District indicating that these access points are acceptable and provide adequate access for emergency vehicles.

SECTION D. EXHIBITS AND STRAP NUMBER:

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

- Exhibit A: Legal description
Exhibit B: Zoning Map (subject parcel identified with shading)
Exhibit C: Master Concept Plan -Diplomat Parcel, Stamped Received November 3, 2006

The applicant has indicated that the STRAP number for the subject property is:
34-43-24-00-00001.3030.

SECTION E. FINDINGS AND CONCLUSIONS:

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

2. The RPD/CPD rezoning, as approved:
 - a. meets or exceeds the performance and locational standards set forth for the potential uses allowed by the request; and,
 - b. is consistent with the densities, intensities and general uses set forth in the Lee Plan; and,
 - c. is compatible with existing or planned uses in the surrounding area; and,
 - d. will not place an undue burden upon existing transportation or planned infrastructure facilities and will be served by streets with the capacity to carry traffic generated by the development; and,
 - e. will not adversely affect environmentally critical areas or natural resources.
3. The RPD/CPD rezoning satisfies the following criteria:
 - a. the proposed use or mix of uses is appropriate at the subject location; and
 - b. the recommended conditions to the concept plan and other applicable regulations provide sufficient safeguard to the public interest; and
 - c. the recommended conditions are reasonably related to the impacts on the public interest created by or expected from the proposed development.
4. No agricultural uses currently exist on the property.
5. Urban services, as defined in the Lee Plan, will be available and adequate to serve the proposed land use.
6. The approved deviations, as conditioned, enhance achievement of the planned development objectives, and preserve and promote the general intent of LDC Chapter 34, to protect the public health, safety and welfare.

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

Robert P. Janes	Aye
Douglas R. St. Cerny	Aye
Ray Judah	Aye
Tammara Hall	Aye
John E. Albion	Aye

DULY PASSED AND ADOPTED this 3rd day of April 2006.

ATTEST:
CHARLIE GREEN, CLERK

BY: *Susan R. Perce*
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: *Tammara Hall*
Tammara Hall, Chairwoman

Approved as to form by:

Donna Marie Collins
Donna Marie Collins
County Attorney's Office



RECEIVED
2006 NOV 27 PM 3:20

Banks Engineering

Professional Engineers, Planners & Land Surveyors
2515 Northbrooke Plaza Drive - Suite 200
Naples, Florida 34119
(239) 597-2061
Fax (239) 597-3082

DESCRIPTION
OF A
PARCEL OF LAND
LYING IN
SECTION 34, TOWNSHIP 43 SOUTH, RANGE 24 EAST
LEE COUNTY, FLORIDA
(CPD ZONING DESCRIPTION)

A TRACT OR PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, LYING IN SECTION 34, TOWNSHIP 43 SOUTH, RANGE 24 EAST AND BEING FURTHER BOUNDED AND DESCRIBED AS FOLLOWS:

NORTH CPD ZONNING PARCEL

COMMENCING AT THE INTERSECTION OF THE WESTERLY RIGHT-OF-WAY LINE OF U.S. 41 (STATE ROAD 45) (200 FEET WIDE) AND THE SOUTHERLY RIGHT-OF-WAY LINE OF LITTLETON ROAD (50 FEET WIDE); THENCE 94.14 FEET ALONG SAID WESTERLY RIGHT-OF-WAY LINE AND ALONG THE ARC OF A CURVE CONCAVE TO THE SOUTHEAST HAVING A RADIUS OF 5829.58 FEET AND SUBTENDED BY A CHORD HAVING A LENGTH OF 94.14 FEET AND BEARING S.03°47'10"W. TO A POINT OF TANGENCY; THENCE S.03°25'50"W. ALONG SAID WESTERLY RIGHT-OF-WAY LINE FOR 2338.37 FEET TO THE **POINT OF BEGINNING**; THENCE CONTINUE S.03°25'50"W. ALONG SAID WESTERLY RIGHT-OF-WAY LINE FOR 199.95 FEET TO **POINT "A"** AND TO AN INTERSECTION WITH THE NORTHERLY RIGHT-OF-WAY LINE OF DIPLOMAT PARKWAY (100 FEET WIDE); THENCE N.86°35'21"W. ALONG SAID NORTHERLY RIGHT-OF-WAY LINE FOR 12.52 FEET TO THE BEGINNING OF A CURVE TO THE LEFT HAVING A RADIUS OF 2150.00 FEET; THENCE WESTERLY ALONG SAID CURVE AND ALONG SAID NORTHERLY RIGHT-OF-WAY LINE THROUGH A CENTRAL ANGLE OF 3°32'51" FOR 133.12 FEET; THENCE S.89°51'48"W. ALONG SAID NORTHERLY RIGHT-OF-WAY LINE FOR 1484.79 FEET TO **POINT "B"**; THENCE N.00°08'12"W. FOR 250.00 FEET; THENCE N.89°51'48"E. FOR 1145.24 FEET; THENCE S.03°25'50"W. FOR 53.49 FEET; THENCE S.89°54'50"E. FOR 500.85 FEET TO THE **POINT OF BEGINNING**.

PARCEL CONTAINS 8.78 ACRES, MORE OR LESS.

TOGETHER WITH: ADDITIONAL NORTH CPD ZONNING PARCEL

COMMENCING AT SAID POINT "B" ; THENCE S.89°51'48"W. ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE OF DIPLOMAT PARKWAY (100 FEET WIDE) FOR 80.00 FEET TO THE **POINT OF BEGINNING**; THENCE CONTINUE S.89°51'48"W. ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE FOR 253.42 FEET; THENCE N.28°32'51"W. FOR 6.70 FEET; THENCE N.00°20'36"W. FOR 244.12 FEET; THENCE N.89°51'48"E. FOR 257.48 FEET; THENCE S.00°08'12"E. FOR 250.00 FEET TO THE **POINT OF BEGINNING**.

PARCEL CONTAINS 1.48 ACRES, MORE OR LESS.

DCI 2005-00055

TOGETHER WITH: SOUTH CPD ZONNING PARCEL

COMMENCING AT SAID POINT "A"; THENCE S.03°25'50"W. ALONG SAID WESTERLY RIGHT-OF-WAY LINE OF U.S. 41 (STATE ROAD 45) (200 FEET WIDE) FOR 100.00 FEET TO THE **POINT OF BEGINNING**;

SHEET 1 OF 3

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Fort Myers Office
10511 Six Mile Cypress Pkwy, Suite #101
Fort Myers, Florida 33966
(239) 939-5490
Fax (239) 939-2523

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

THENCE CONTINUE S.03°25'50"W. ALONG SAID WESTERLY RIGHT-OF-WAY LINE FOR 429.00 FEET TO THE NORTHEAST CORNER OF A PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 2113 AT PAGE 1590 OF SAID PUBLIC RECORDS, ALSO BEING THE NORTHEAST CORNER OF MERCHANTS CROSSING, A SUBDIVISION RECORDED IN PLAT BOOK 52 AT PAGES 37 THROUGH 47 OF SAID PUBLIC RECORDS; THENCE N.86°34'10"W. ALONG THE NORTH LINE OF SAID PARCEL AND SAID SUBDIVISION FOR 72.00 FEET TO THE SOUTHEAST CORNER OF A PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 2833 AT PAGE 4156 OF SAID PUBLIC RECORDS; THENCE N.03°25'50"E. ALONG THE EASTERLY LINE OF SAID PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 2833 AT PAGE 4156 FOR 65.00 FEET; THENCE N.86°33'36"W. ALONG THE NORTHERLY LINE OF SAID PARCEL FOR 39.68 FEET; THENCE S.03°26'24"W. ALONG THE WESTERLY LINE OF SAID PARCEL FOR 8.00 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT HAVING A RADIUS OF 17.00 FEET; THENCE SOUTHWESTERLY ALONG SAID PARCEL AND SAID CURVE THROUGH A CENTRAL ANGLE OF 90°00'01" FOR 26.70 FEET; THENCE N.86°33'36"W. ALONG THE NORTHERLY LINE OF SAID PARCEL FOR 487.82 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT HAVING A RADIUS OF 80.00 FEET; THENCE NORTHWESTERLY ALONG SAID PARCEL AND SAID CURVE THROUGH A CENTRAL ANGLE OF 86°25'24" FOR 120.67 FEET; THENCE N.00°08'12"W. ALONG THE EASTERLY LINE OF SAID PARCEL FOR 274.66 FEET TO **POINT "C"** AND TO AN INTERSECTION WITH THE SOUTHERLY RIGHT-OF-WAY LINE OF DIPLOMAT PARKWAY (100 FEET WIDE) AS DESCRIBED IN OFFICIAL RECORDS BOOK 2833 AT PAGE 4156 OF SAID PUBLIC RECORDS; THENCE N.89°51'48"E. ALONG SAID SOUTHERLY RIGHT-OF-WAY FOR 575.20 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT HAVING A RADIUS OF 2050.00 FEET; THENCE EASTERLY ALONG SAID RIGHT-OF-WAY AND SAID CURVE THROUGH A CENTRAL ANGLE OF 3°32'51" FOR 126.93 FEET; THENCE S.86°35'21"E. ALONG SAID RIGHT-OF-WAY FOR 12.49 FEET TO THE **POINT OF BEGINNING**.

PARCEL CONTAINS 6.00 ACRES, MORE OR LESS.

TOGETHER WITH: ADDITIONAL SOUTH CPD ZONNING PARCEL

COMMENCING AT SAID POINT "C"; THENCE S.89°51'48"W. ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE OF DIPLOMAT PARKWAY (100 FEET WIDE) FOR 40.00 FEET TO THE **POINT OF BEGINNING**; THENCE CONTINUE S.89°51'48"W. ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE FOR 383.07 FEET; THENCE S.00°08'12"E. FOR 186.04 FEET; THENCE N.59°04'35"E. FOR 185.65 FEET; THENCE S.76°11'27"E. FOR 125.61 FEET; THENCE S.41°41'10"E. FOR 153.30 FEET TO AN INTERSECTION WITH THE WESTERLY LINE OF THE AFORESAID PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 2833 AT PAGE 4156 OF SAID PUBLIC RECORDS; THENCE N.00°08'12"W. ALONG THE WESTERLY LINE FOR 236.02 FEET TO THE **POINT OF BEGINNING**.

PARCEL CONTAINS 1.22 ACRES.

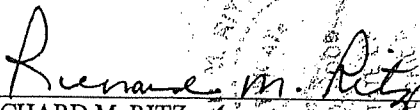
NET AREA AS DESCRIBED CONTAINS 17.48 ACRES, MORE OR LESS.

BEARINGS ARE BASED ON THE WESTERLY RIGHT-OF-WAY OF U.S. 41 (STATE ROAD 45) AS BEARING S.03°25'50"W.

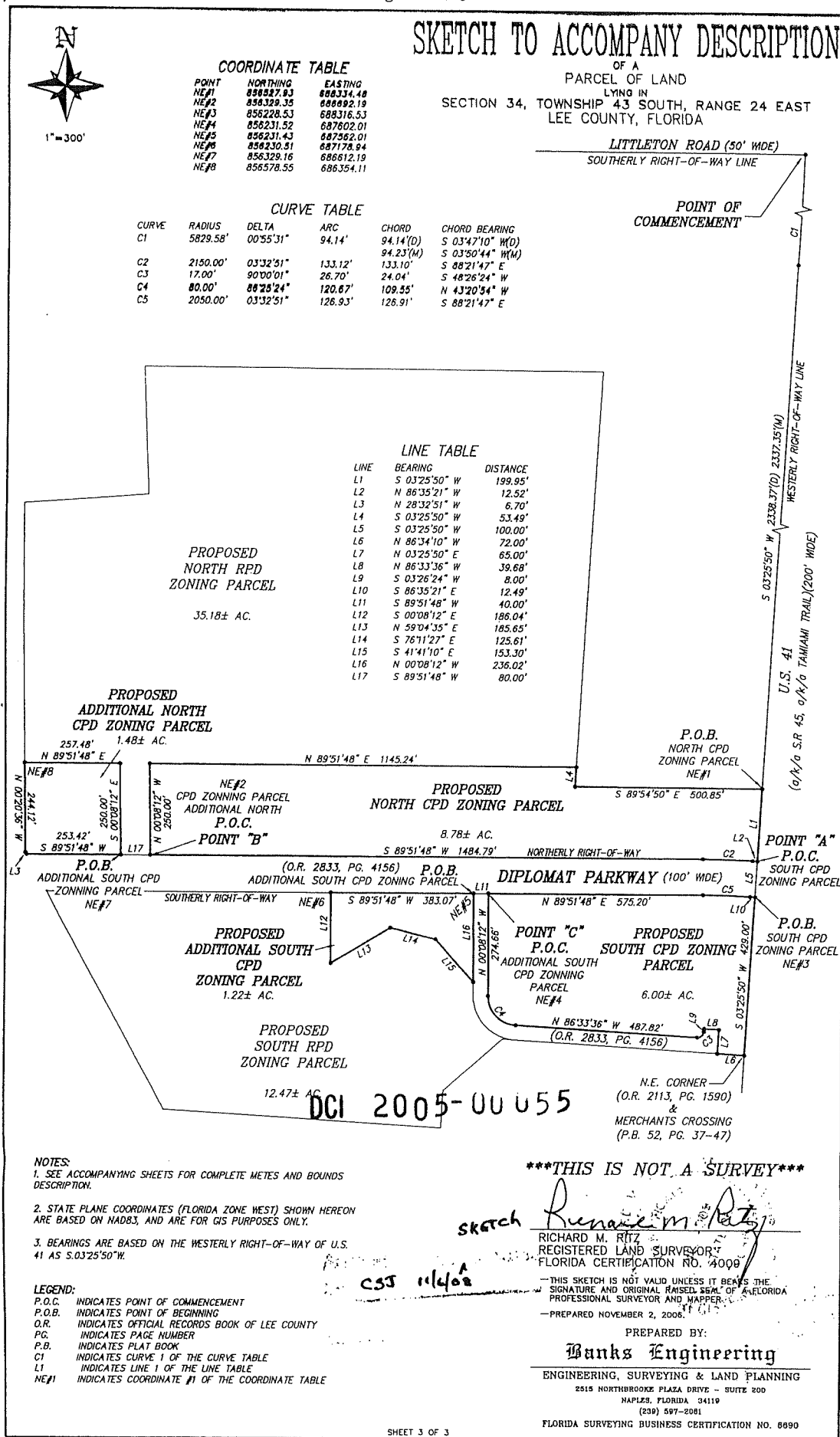
SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS AND RIGHTS-OF-WAY OF RECORD.

DESCRIPTION PREPARED NOVEMBER 2, 2006.

DCI 2005-00055


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

Applicant's Legal Checked
by 11/08/06 csl



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Banks Engineering

Professional Engineers, Planners & Land Surveyors
2515 Northbrooke Plaza Drive-Suite 200
Naples, Florida 34119
(239) 597-2061
Fax (239) 597-3082

DESCRIPTION
OF A
PARCEL OF LAND
LYING IN
SECTION 34, TOWNSHIP 43 SOUTH, RANGE 24 EAST
LEE COUNTY, FLORIDA
(RPD ZONING DESCRIPTION)

A TRACT OR PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, LYING IN SECTION 34, TOWNSHIP 43 SOUTH, RANGE 24 EAST AND BEING FURTHER BOUNDED AND DESCRIBED AS FOLLOWS:

NORTH RPD PARCEL:

COMMENCING AT THE INTERSECTION OF THE WESTERLY RIGHT-OF-WAY LINE OF U.S. 41 (STATE ROAD 45) (200 FEET WIDE) AND THE SOUTHERLY RIGHT-OF-WAY LINE OF LITTLETON ROAD (50 FEET WIDE) THENCE 94.14 FEET ALONG SAID WESTERLY RIGHT-OF-WAY LINE AND ALONG THE ARC OF A CURVE CONCAVE TO THE SOUTHEAST HAVING A RADIUS OF 5829.58 FEET AND SUBTENDED BY A CHORD HAVING A LENGTH OF 94.14 FEET AND BEARING S.03°47'10"W. TO A POINT OF TANGENCY; THENCE S.03°25'50"W. ALONG SAID WESTERLY RIGHT-OF-WAY LINE FOR 2338.37 FEET; THENCE N.89°54'50"W. FOR 500.85 FEET; THENCE N.03°25'50"E. FOR 53.49 FEET TO THE **POINT OF BEGINNING**; THENCE S.89°51'48"W. FOR 1145.24 FEET; THENCE S.00°08'12"E. FOR 250.00 FEET TO AN INTERSECTION WITH THE NORTHERLY RIGHT-OF-WAY LINE OF DIPLOMAT PARKWAY (100 FEET WIDE) AS DESCRIBED IN OFFICIAL RECORDS BOOK 2833 AT PAGE 4156 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE S.89°51'48"W. ALONG SAID NORTHERLY RIGHT-OF-WAY LINE FOR 80.00 FEET; THENCE N.00°08'12"W. FOR 250.00 FEET; THENCE S.89°51'48"W. FOR 257.48 FEET; THENCE N.00°20'36"W. FOR 703.76 FEET; THENCE N.85°23'00"E. FOR 335.22 FEET; THENCE N.02°25'15"W. FOR 346.19 FEET; THENCE S.89°54'50"E. FOR 1231.65 FEET; THENCE S.03°25'50"W. FOR 1073.15 FEET TO THE **POINT OF BEGINNING**.

PARCEL CONTAINS 35.18 ACRES, MORE OR LESS.

AND;

SOUTH RPD PARCEL:

COMMENCING AT THE INTERSECTION OF THE WESTERLY RIGHT-OF-WAY OF U.S. 41 (STATE ROAD 45) (200 FEET WIDE) AND THE SOUTHERLY RIGHT-OF-WAY OF LITTLETON ROAD (50 FEET WIDE) THENCE 94.14 FEET ALONG THE WESTERLY RIGHT-OF-WAY AND ALONG THE ARC OF A CURVE CONCAVE TO THE SOUTHEAST HAVING A RADIUS OF 5829.58 FEET AND SUBTENDED BY A CHORD HAVING A LENGTH OF 94.14 FEET AND BEARING S.03°47'10"W. TO A POINT OF TANGENCY; THENCE S.03°25'50"W. ALONG SAID WESTERLY RIGHT-OF-WAY LINE FOR 2338.37 FEET TO THE SOUTHEASTERLY CORNER OF A PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 1972 AT PAGE 335 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE CONTINUE S.03°25'50"W. ALONG SAID WESTERLY RIGHT-OF-WAY LINE FOR 728.95 FEET TO THE NORTHEAST CORNER OF A PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 2113 AT PAGE 1590 OF SAID PUBLIC RECORDS, ALSO BEING THE NORTHEAST CORNER OF MERCHANTS CROSSING, A SUBDIVISION RECORDED IN PLAT BOOK 52 AT PAGES 37 THROUGH 47 OF SAID PUBLIC RECORDS; THENCE N.86°34'10"W. ALONG THE NORTH LINE OF SAID PARCEL AND SAID SUBDIVISION FOR 616.50 FEET TO THE **POINT OF**

SHEET 1 OF 3

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Fort Myers Office
10511 Six Mile Cypress Pkwy, Suite #101
Fort Myers, Florida 33966
(239) 939-5490
Fax (239) 939-2523

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

DCI 2005-00055

BEGINNING; THENCE CONTINUE N.86°34'10"W. ALONG SAID NORTHERLY LINE FOR 33.50 FEET TO THE NORTHWEST CORNER OF SAID PARCEL; THENCE S.48°25'48"W. ALONG THE WESTERLY LINE OF SAID PARCEL AND SAID SUBDIVISION FOR 212.13 FEET; THENCE S.03°25'50"W. ALONG THE WESTERLY LINE OF SAID PARCEL AND SAID SUBDIVISION FOR 100.00 FEET TO THE SOUTHWESTERLY CORNER OF SAID PARCEL AND TO THE SOUTH LINE OF A PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 2389 AT PAGE 1936 OF SAID PUBLIC RECORDS; THENCE N.86°34'10"W. ALONG THE SOUTH LINE OF SAID PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 2389 AT PAGE 1936 AND THE NORTHERLY LINE OF SAID SUBDIVISION FOR 747.11 FEET TO AN INTERSECTION WITH THE NORTHEASTERLY LINE OF A DRAINAGE EASEMENT (50 FEET WIDE) DESCRIBED IN DEED BOOK 237 AT PAGES 564 AND 565 OF SAID PUBLIC RECORDS; THENCE N.28°32'51"W. ALONG THE NORTHEASTERLY LINE OF SAID DRAINAGE EASEMENT FOR 666.39 FEET TO AN INTERSECTION WITH THE SOUTHERLY RIGHT-OF-WAY LINE OF DIPLOMAT PARKWAY (100 FEET WIDE) AS DESCRIBED IN OFFICIAL RECORDS BOOK 2833 AT PAGE 4156 OF SAID PUBLIC RECORDS; THENCE N.89°51'48"E. ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE FOR 765.84 FEET; THENCE S.00°08'12"E. FOR 186.04 FEET; THENCE N.59°04'35"E. FOR 185.65 FEET; THENCE S.76°11'27"E. FOR 125.61 FEET; THENCE S.41°41'10"E. FOR 153.30 FEET TO AN INTERSECTION WITH THE WESTERLY LINE OF A PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 2833 AT PAGE 4156 OF SAID PUBLIC RECORDS; THENCE S.00°08'12"E. ALONG THE WESTERLY LINE OF SAID PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 2833 AT PAGE 4156 FOR 38.64 FEET TO THE BEGINNING OF A CURVE TO THE LEFT HAVING A RADIUS OF 120.00 FEET; THENCE SOUTHEASTERLY ALONG SAID WESTERLY LINE AND SAID CURVE THROUGH A CENTRAL ANGLE OF 86°25'24" FOR 181.00 FEET TO THE **POINT OF BEGINNING**.

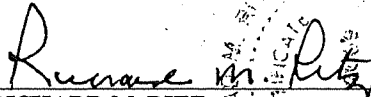
PARCEL CONTAINS 12.47 ACRES, MORE OR LESS.

NET ACREAGE IS 47.65 ACRES, MORE OR LESS.

BEARINGS ARE BASED ON THE WESTERLY RIGHT-OF-WAY OF U.S. 41 (STATE ROAD 45) AS BEARING S.03°25'50"W.

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

DESCRIPTION PREPARED NOVEMBER 2, 2006.


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

Applicant's Legal Checked
by CSJ 11/6/06

DCI 2005-00055

SKETCH TO ACCOMPANY DESCRIPTION

OF A
PARCEL OF LAND
LYING IN
SECTION 34, TOWNSHIP 43 SOUTH, RANGE 24 EAST
LEE COUNTY, FLORIDA

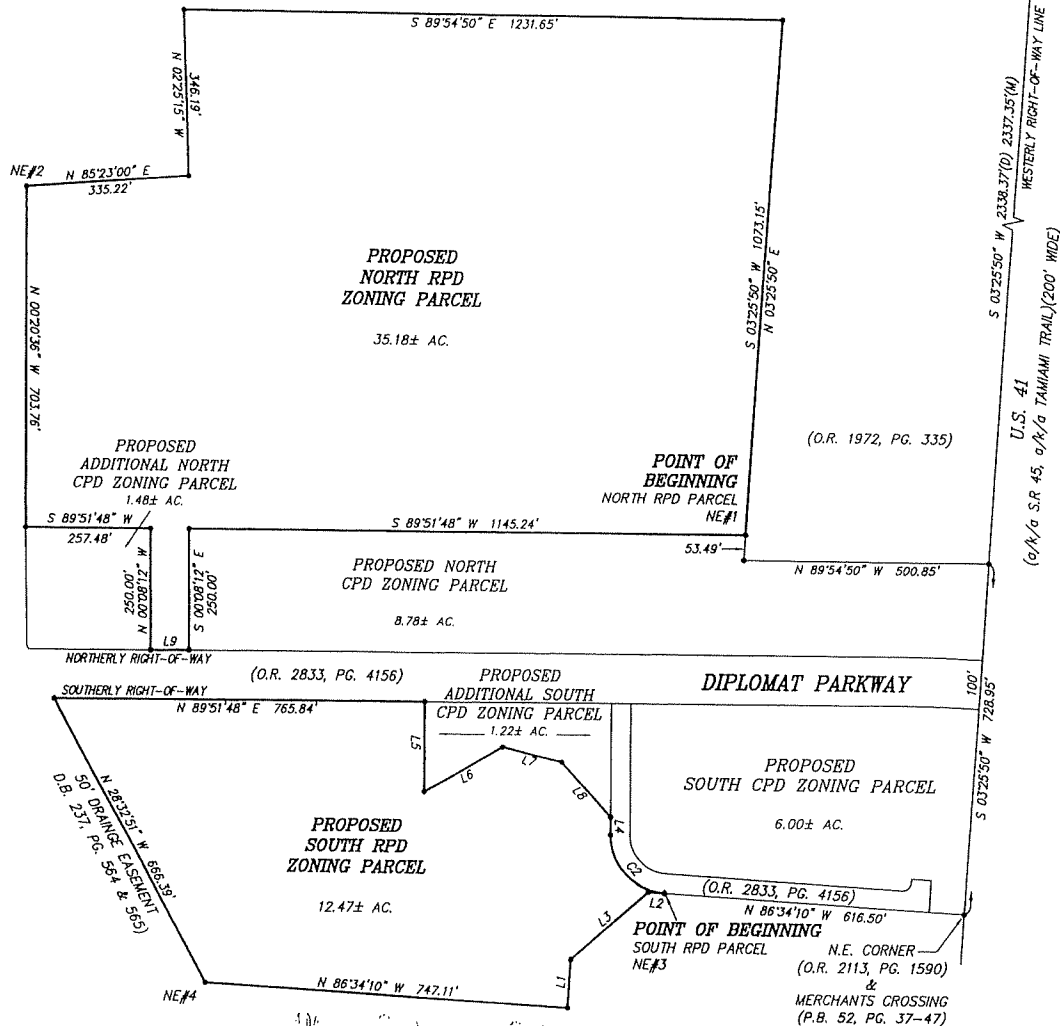


1"=300'

LINE TABLE		
LINE	BEARING	DISTANCE
L1	S 03°25'50" W	100.00'
L2	N 86°34'10" W	33.50'
L3	S 48°25'48" W	212.13'
L4	S 00°08'12" E	38.64'
L5	S 00°08'12" E	186.04'
L6	N 59°04'35" E	185.65'
L7	S 76°11'27" E	125.61'
L8	S 41°41'10" E	153.30'
L9	S 89°51'48" W	80.00'

CURVE TABLE					
CURVE	RADIUS	DELTA	ARC	CHORD	CHORD BEARING
C1	5829.58'	00°55'31"	94.14'	94.14'(D) 94.23'(M)	S 03°47'10" W(D) S 03°50'44" W(M)
C2	120.00'	86°25'24"	181.00'	164.33'	N 43°20'54" W

COORDINATE TABLE		
POINT	NORTHING	EASTING
NE#1	856582.08	687836.83
NE#2	857282.30	686349.89
NE#3	855837.18	687675.48
NE#4	855643.31	686731.56



NOTES:
1. SEE ACCOMPANYING SHEETS FOR COMPLETE METES AND BOUNDS DESCRIPTION.

2. STATE PLANE COORDINATES (FLORIDA ZONE WEST) SHOWN HEREON ARE BASED ON NAD83, AND ARE FOR GIS PURPOSES ONLY.

3. BEARINGS ARE BASED ON THE WESTERLY RIGHT-OF-WAY OF U.S.
41 AS S.03°25'50"W.

LEGEND:

O.R.	INDICATES OFFICIAL RECORDS BOOK OF LEE COUNTY
P.G.	INDICATES PAGE NUMBER
C1	INDICATES CURVE 1 OF THE CURVE TABLE
L1	INDICATES LINE 1 OF THE LINE TABLE
NE #1	INDICATES COORDINATE #1 OF THE COORDINATE TABLE
P.B.	INDICATES PLAT BOOK
D.B.	INDICATES DEED BOOK
(D)	INDICATES DEED
(M)	INDICATES MEASURED

THIS IS NOT A SURVEY

RICHARD M. RITZ
REGISTERED LAND SURVEYOR
FLORIDA CERTIFICATION NO. 4509

THIS SKETCH IS NOT VALID UNLESS IT BEARS THE
SIGNATURE AND ORIGINAL RAISED SEAL OF A FLORIDA
PROFESSIONAL SURVEYOR AND MAPPER

—PREPARED NOVEMBER 2, 2006.

PREPARED BY:

Banks Engineering

ENGINEERING, SURVEYING & LAND PLANNING

2515 NORTHBROOKE PLAZA DRIVE -

APLES, FLORIDA 3
(238) 587-2041

FLORIDA SURVEYING BUSINESS CERTIFICATION NO. 6690

SHEET 3 OF 3

\\S:\Jobs\20xx\2028\SURVEY\Descriptions\Zoning\2028_ZONING_RPD_REV_SK.dwg, 11/27/2006 4:25:50 PM, David Blehschmidt

PROPOSED ZONING MAP
Attachment B

12/7/2005

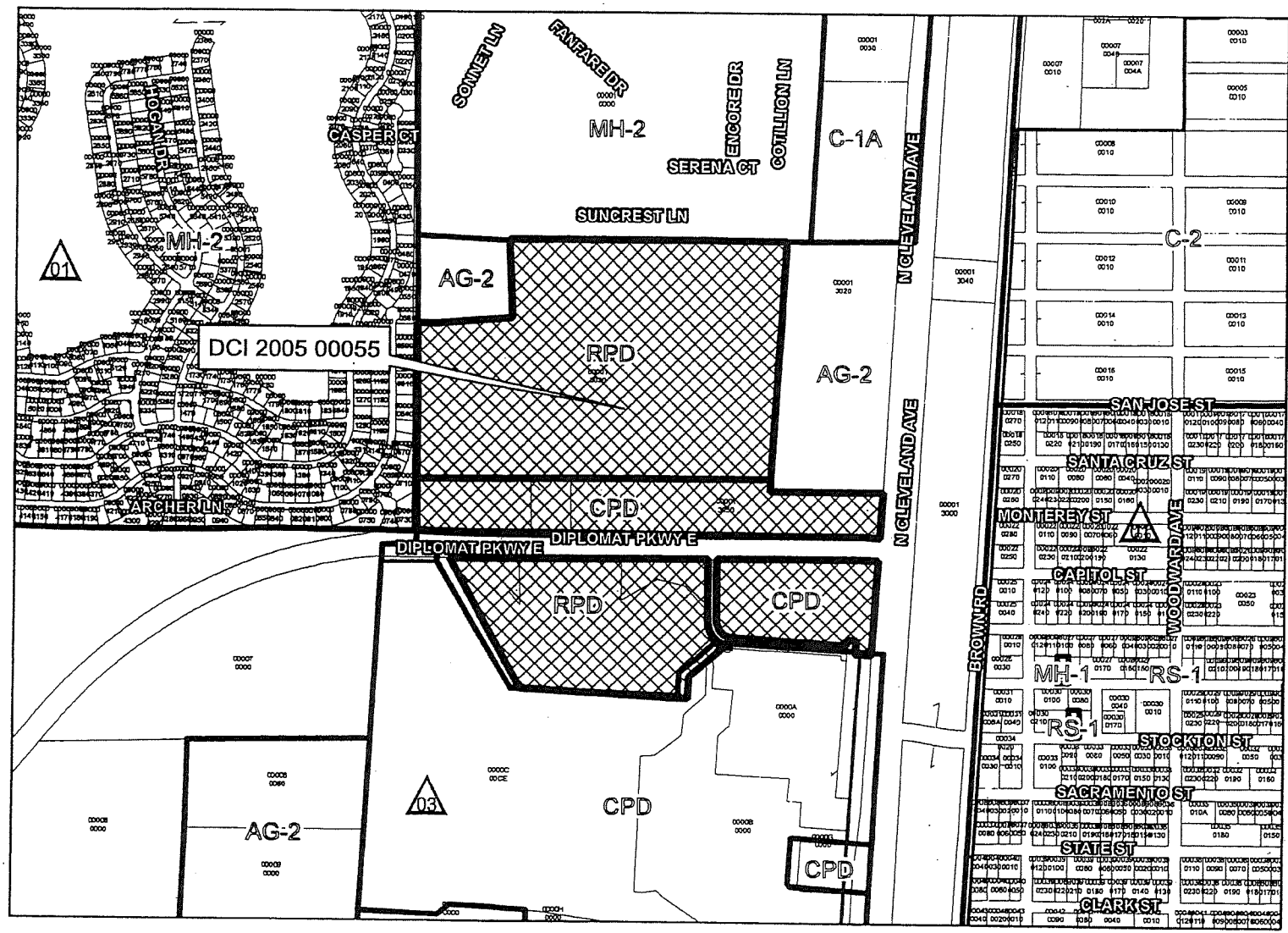
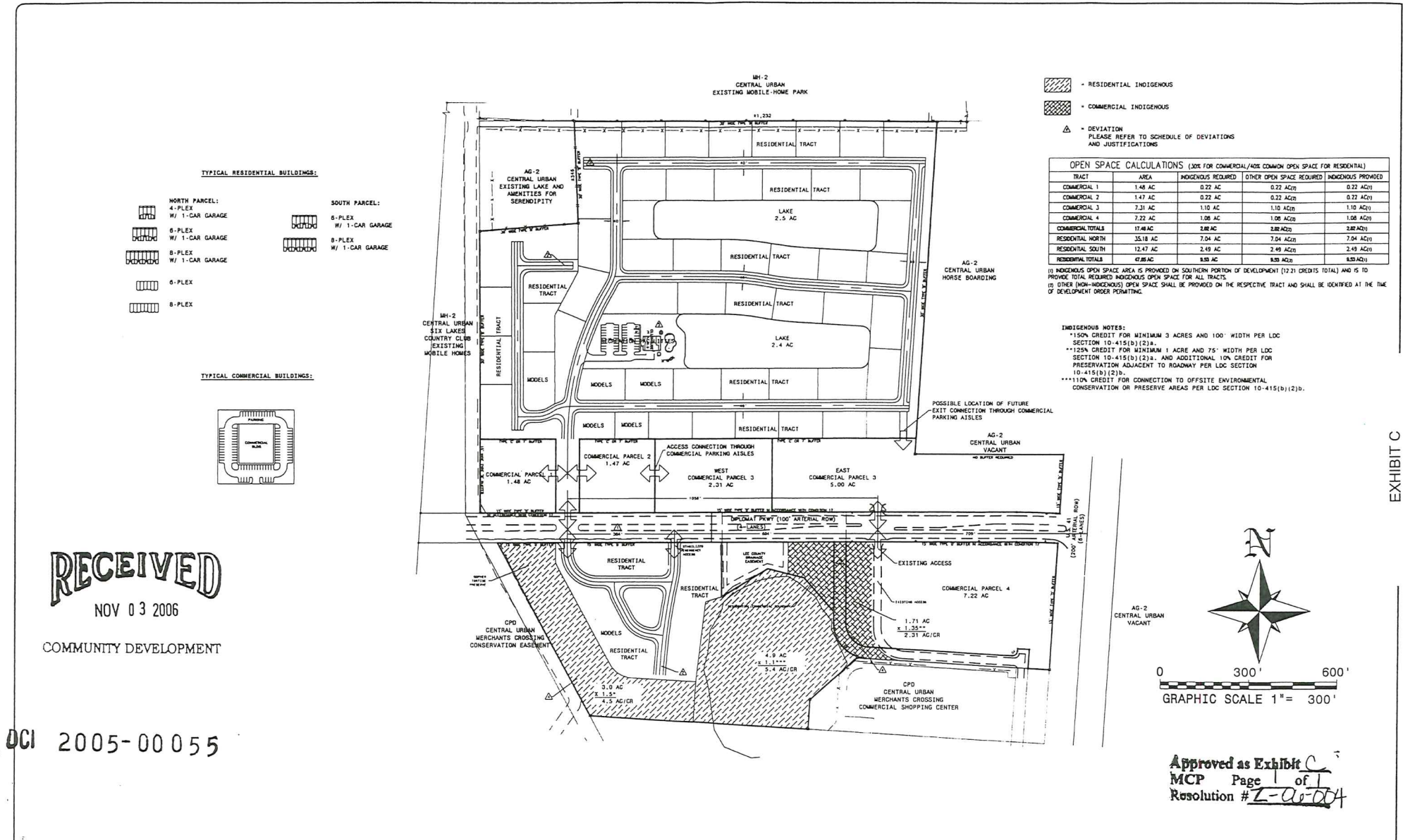


EXHIBIT "B"
Zoning Map



RECEIVED
NOV 03 2006
COMMUNITY DEVELOPMENT

DCI 2005-00055

Exhibit F

ADMINISTRATIVE AMENDMENT (PD) ADD2007-00169

**ADMINISTRATIVE AMENDMENT
LEE COUNTY, FLORIDA**

WHEREAS, Athyrio Development Associates, LLC, filed an application for administrative approval to a Residential Planned Development/Commercial Planned Development (RPD/CPD) on a project known as Diplomat Parcel for reconfiguration of the master concept plan; provide for minimum lot areas and dimensions for townhouses; and approval of a deviations to the Land Development Code on property located at 15501 North Cleveland Avenue , described more particularly as:

LEGAL DESCRIPTION: In Section 34, Township 43 South, Range 24 East, Lee County, Florida:

See Legal Description and Sketch attached hereto as "Exhibit A".

WHEREAS, the property was originally rezoned in case number DCI2005-00055 (Z-06-004); and

WHEREAS, the subject property is located in the Central Urban Future Land Use Category as designated by the Lee Plan; and

WHEREAS, the Lee County Land Development Code provides for certain administrative changes to planned development master concept plans; and

WHEREAS, the Diplomat RPD/CPD was approved with a maximum of 457 dwelling units pursuant to condition #1; and

WHEREAS, the Diplomat RPD/CPD was approved with a maximum of 200,000 square feet of commercial floor area; and

WHEREAS, the approved master concept plan contemplated filling in an existing lake; and

WHEREAS, the applicant has reconfigured the master concept plan providing for more detail of the residential uses, and utilization of the existing lake; and

WHEREAS, the Diplomat RPD/CPD provided land development regulations for townhouses per Condition 2; and

WHEREAS, the applicant proposes a revised set of land development regulations for their specific townhouse products; and

WHEREAS, these revised land development regulations are substantively the same and acceptable to staff; and

WHEREAS, the applicant requests a deviation from LDC Sec. 10-261(a) which requires all new multifamily residential developments to provide sufficient space for the placement of garbage containers or receptacles, to allow for curb side garbage pick up at the proposed townhouse units that are planned within the project; and

WHEREAS, this request was reviewed and approved by the Department of Solid Waste and the Department of Public Works; and

WHEREAS; the deviation request enhances the planned development and preserves and promotes the general intent of the LDC to protect the public health, safety and welfare; and

WHEREAS, the subject application and plans have been reviewed by the Lee County Department of Community Development in accordance with applicable regulations for compliance with all terms of the administrative approval procedures; and

WHEREAS, it is found that the proposed amendment does not increase density or intensity within the development; does not decrease buffers or open space required by the LDC; does not underutilize public resources or infrastructure; does not reduce total open space, buffering, landscaping or preservation areas; and does not otherwise adversely impact on surrounding land uses.

NOW, THEREFORE, IT IS HEREBY DETERMINED that the application for administrative approval for an amendment to the Diplomat Residential Planned Development/Commercial Planned Development (RPD/CPD) for reconfiguration of the master concept plan; provide for minimum lot areas and dimensions for townhouses; and approval of a deviation to the Land Development Code is **APPROVED**.

Approval is subject to the following conditions:

1. **The Development must be in compliance with the amended Master Concept Plan, dated JAN 30, 2007, Master Concept Plan for ADD2007-00169 is hereby APPROVED and adopted. A reduced copy is attached hereto.**
2. **Condition 2 a. of Zoning Resolution #Z-06-004 is revised with the following Site Development Regulations for Townhouses.**

Minimum Lot Areas and Dimensions

Lot Size ~~7,500~~ 1,600 square feet
Lot Width ~~75~~ 16 feet
Lot Depth 100 feet

Minimum Setbacks

Street 25 feet (public)/20 feet (private)
Side ~~5~~ 10 feet (Zero feet for common wall unit)

Rear 30 feet - All lots containing enhanced buffer. See Condition 13.
20 feet - all other lots
Water Body 25 feet

All Accessory Uses: Per the LDC

Setbacks from Preserves (All Structures) 25 feet per the LDC.

Minimum Perimeter Setbacks: 25 feet (30 feet - All lots containing enhanced buffer. See Condition 13.)

Minimum Building Separation ~~40~~ 20 feet

Maximum Building Height: 35 feet/2 stories

Maximum Lot Coverage: ~~45~~ 65%

3. Deviation 7 seeks relief from LDC Sec. 10-261(a) which requires all new multifamily residential developments to provide sufficient space for the placement of garbage containers or receptacles, to allow for curb side garbage pick up at the proposed townhouse units that are planned within the project. This Deviation is APPROVED.
4. The terms and conditions of the original zoning resolutions remain in full force and effect, except as amended herein.

DULY SIGNED this 1st day of February, A.D., 2008.

BY: _____

Pam Houck
Pam Houck, Director
Division of Zoning
Department of Community Development

EXHIBIT A

Banks Engineering

Professional Engineers, Planners & Land Surveyors
2515 Northbrooke Plaza Drive-Suite 200
Naples, Florida 34119
(239) 597-2061
Fax (239) 597-3082

RECEIVED
SEP 25 2007

COMMUNITY DEVELOPMENT

DESCRIPTION
OF A
PARCEL OF LAND
LYING IN
SECTION 34, TOWNSHIP 43 SOUTH, RANGE 24 EAST
LEE COUNTY, FLORIDA
(RPD ZONING DESCRIPTION)

A TRACT OR PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, LYING IN SECTION 34, TOWNSHIP 43 SOUTH, RANGE 24 EAST AND BEING FURTHER BOUNDED AND DESCRIBED AS FOLLOWS:

NORTH RPD PARCEL:

COMMENCING AT THE INTERSECTION OF THE WESTERLY RIGHT-OF-WAY LINE OF U.S. 41 (STATE ROAD 45) (200 FEET WIDE) AND THE SOUTHERLY RIGHT-OF-WAY LINE OF LITTLETON ROAD (50 FEET WIDE) THENCE 94.14 FEET ALONG SAID WESTERLY RIGHT-OF-WAY LINE AND ALONG THE ARC OF A CURVE CONCAVE TO THE SOUTHEAST HAVING A RADIUS OF 5829.58 FEET AND SUBTENDED BY A CHORD HAVING A LENGTH OF 94.14 FEET AND BEARING S.03°47'10"W. TO A POINT OF TANGENCY; THENCE S.03°25'50"W. ALONG SAID WESTERLY RIGHT-OF-WAY LINE FOR 2338.37 FEET; THENCE N.89°54'50"W. FOR 500.85 FEET; THENCE N.03°25'50"E. FOR 53.49 FEET TO THE POINT OF BEGINNING; THENCE S.89°51'48"W. FOR 1145.24 FEET; THENCE S.00°08'12"E. FOR 250.00 FEET TO AN INTERSECTION WITH THE NORTHERLY RIGHT-OF-WAY LINE OF DIPLOMAT PARKWAY (100 FEET WIDE) AS DESCRIBED IN OFFICIAL RECORDS BOOK 2833 AT PAGE 4156 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE S.89°51'48"W. ALONG SAID NORTHERLY RIGHT-OF-WAY LINE FOR 80.00 FEET; THENCE N.00°08'12"W. FOR 250.00 FEET; THENCE S.89°51'48"W. FOR 257.48 FEET; THENCE N.00°20'36"W. FOR 703.76 FEET; THENCE N.85°23'00"E. FOR 335.22 FEET; THENCE N.02°25'15"W. FOR 346.19 FEET; THENCE S.89°54'50"E. FOR 1231.65 FEET; THENCE S.03°25'50"W. FOR 1073.15 FEET TO THE POINT OF BEGINNING.

PARCEL CONTAINS 35.18 ACRES, MORE OR LESS.

AND;

SOUTH RPD PARCEL:

COMMENCING AT THE INTERSECTION OF THE WESTERLY RIGHT-OF-WAY OF U.S. 41 (STATE ROAD 45) (200 FEET WIDE) AND THE SOUTHERLY RIGHT-OF-WAY OF LITTLETON ROAD (50 FEET WIDE) THENCE 94.14 FEET ALONG THE WESTERLY RIGHT-OF-WAY AND ALONG THE ARC OF A CURVE CONCAVE TO THE SOUTHEAST HAVING A RADIUS OF 5829.58 FEET AND SUBTENDED BY A CHORD HAVING A LENGTH OF 94.14 FEET AND BEARING S.03°47'10"W. TO A POINT OF TANGENCY; THENCE S.03°25'50"W. ALONG SAID WESTERLY RIGHT-OF-WAY LINE FOR 2338.37 FEET TO THE SOUTHEASTERLY CORNER OF A PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 1972 AT PAGE 335 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE CONTINUE S.03°25'50"W. ALONG SAID WESTERLY RIGHT-OF-WAY LINE FOR 728.95 FEET TO THE NORTHEAST CORNER OF A PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 2113 AT PAGE 1590 OF SAID PUBLIC RECORDS, ALSO BEING THE NORTHEAST CORNER OF MERCHANTS CROSSING, A SUBDIVISION RECORDED IN PLAT BOOK 52 AT PAGES 37 THROUGH 47 OF SAID PUBLIC RECORDS; THENCE N.86°34'10"W. ALONG THE NORTH LINE OF SAID PARCEL AND SAID SUBDIVISION FOR 616.50 FEET TO THE POINT OF

SHEET 1 OF 3

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Fort Myers Office
10511 Six Mile Cypress Pkwy, Suite #101
Fort Myers, Florida 33966
(239) 939-5490
Fax (239) 939-2523

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

BEGINNING; THENCE CONTINUE N.86°34'10"W. ALONG SAID NORTHERLY LINE FOR 33.50 FEET TO THE NORTHWEST CORNER OF SAID PARCEL; THENCE S.48°25'48"W. ALONG THE WESTERLY LINE OF SAID PARCEL AND SAID SUBDIVISION FOR 212.13 FEET; THENCE S.03°25'50"W. ALONG THE WESTERLY LINE OF SAID PARCEL AND SAID SUBDIVISION FOR 100.00 FEET TO THE SOUTHWESTERLY CORNER OF SAID PARCEL AND TO THE SOUTH LINE OF A PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 2389 AT PAGE 1936 OF SAID PUBLIC RECORDS; THENCE N.86°34'10"W. ALONG THE SOUTH LINE OF SAID PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 2389 AT PAGE 1936 AND THE NORTHERLY LINE OF SAID SUBDIVISION FOR 747.11 FEET TO AN INTERSECTION WITH THE NORTHEASTERLY LINE OF A DRAINAGE EASEMENT (50 FEET WIDE) DESCRIBED IN DEED BOOK 237 AT PAGES 564 AND 565 OF SAID PUBLIC RECORDS; THENCE N.28°32'51"W. ALONG THE NORTHEASTERLY LINE OF SAID DRAINAGE EASEMENT FOR 666.39 FEET TO AN INTERSECTION WITH THE SOUTHERLY RIGHT-OF-WAY LINE OF DIPLOMAT PARKWAY (100 FEET WIDE) AS DESCRIBED IN OFFICIAL RECORDS BOOK 2833 AT PAGE 4156 OF SAID PUBLIC RECORDS; THENCE N.89°51'48"E. ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE FOR 765.84 FEET; THENCE S.00°08'12"E. FOR 186.04 FEET; THENCE N.59°04'35"E. FOR 185.65 FEET; THENCE S.76°11'27"E. FOR 125.61 FEET; THENCE S.41°41'10"E. FOR 153.30 FEET TO AN INTERSECTION WITH THE WESTERLY LINE OF A PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 2833 AT PAGE 4156 OF SAID PUBLIC RECORDS; THENCE S.00°08'12"E. ALONG THE WESTERLY LINE OF SAID PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 2833 AT PAGE 4156 FOR 38.64 FEET TO THE BEGINNING OF A CURVE TO THE LEFT HAVING A RADIUS OF 120.00 FEET; THENCE SOUTHEASTERLY ALONG SAID WESTERLY LINE AND SAID CURVE THROUGH A CENTRAL ANGLE OF 86°25'24" FOR 181.00 FEET TO THE POINT OF BEGINNING.

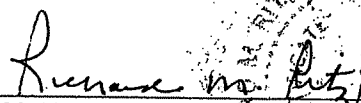
PARCEL CONTAINS 12.47 ACRES, MORE OR LESS.

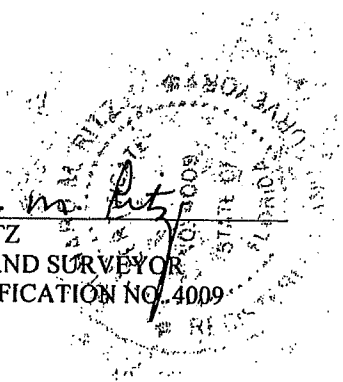
NET ACREAGE IS 47.65 ACRES, MORE OR LESS.

BEARINGS ARE BASED ON THE WESTERLY RIGHT-OF-WAY OF U.S. 41 (STATE ROAD 45) AS BEARING S.03°25'50"W.

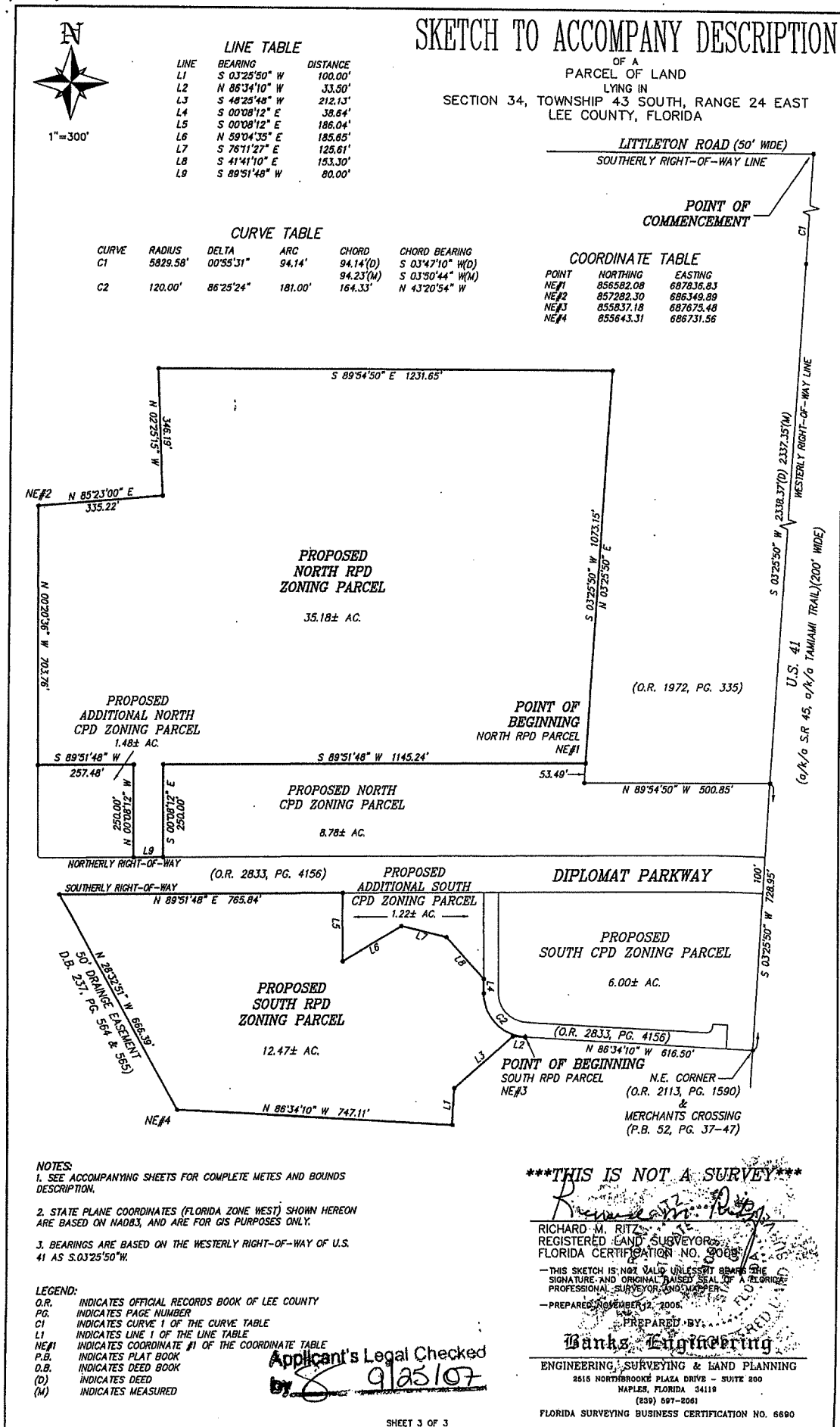
SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS AND RIGHTS-OF-WAY OF RECORD.

DESCRIPTION PREPARED NOVEMBER 2, 2006.


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



Applicant's Legal Checked
by 8 9/25/07



Banks Engineering

Professional Engineers, Planners & Land Surveyors
2515 Northbrooke Plaza Drive - Suite 200
Naples, Florida 34119
(239) 597-2061
Fax (239) 597-3082

DESCRIPTION
OF A
PARCEL OF LAND
LYING IN
SECTION 34, TOWNSHIP 43 SOUTH, RANGE 24 EAST
LEE COUNTY, FLORIDA
(CPD ZONING DESCRIPTION)

A TRACT OR PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, LYING IN SECTION 34, TOWNSHIP 43 SOUTH, RANGE 24 EAST AND BEING FURTHER BOUNDED AND DESCRIBED AS FOLLOWS:

NORTH CPD ZONING PARCEL

COMMENCING AT THE INTERSECTION OF THE WESTERLY RIGHT-OF-WAY LINE OF U.S. 41 (STATE ROAD 45) (200 FEET WIDE) AND THE SOUTHERLY RIGHT-OF-WAY LINE OF LITTLETON ROAD (50 FEET WIDE); THENCE 94.14 FEET ALONG SAID WESTERLY RIGHT-OF-WAY LINE AND ALONG THE ARC OF A CURVE CONCAVE TO THE SOUTHEAST HAVING A RADIUS OF 5829.58 FEET AND SUBTENDED BY A CHORD HAVING A LENGTH OF 94.14 FEET AND BEARING S.03°47'10"W. TO A POINT OF TANGENCY; THENCE S.03°25'50"W. ALONG SAID WESTERLY RIGHT-OF-WAY LINE FOR 2338.37 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE S.03°25'50"W. ALONG SAID WESTERLY RIGHT-OF-WAY LINE FOR 199.95 FEET TO POINT "A" AND TO AN INTERSECTION WITH THE NORTHERLY RIGHT-OF-WAY LINE OF DIPLOMAT PARKWAY (100 FEET WIDE); THENCE N.86°35'21"W. ALONG SAID NORTHERLY RIGHT-OF-WAY LINE FOR 12.52 FEET TO THE BEGINNING OF A CURVE AND ALONG SAID NORTHERLY RIGHT-OF-WAY LINE THROUGH A CENTRAL ANGLE OF 3°32'51" FOR 133.12 FEET; THENCE S.89°51'48"W. ALONG SAID NORTHERLY RIGHT-OF-WAY LINE FOR 1484.79 FEET TO POINT "B"; THENCE N.00°08'12"W. FOR 250.00 FEET; THENCE N.89°51'48"E. FOR 1145.24 FEET; THENCE S.03°25'50"W. FOR 53.49 FEET; THENCE S.89°54'50"E. FOR 500.85 FEET TO THE POINT OF BEGINNING.

PARCEL CONTAINS 8.78 ACRES, MORE OR LESS.

TOGETHER WITH: ADDITIONAL NORTH CPD ZONING PARCEL

COMMENCING AT SAID POINT "B" ; THENCE S.89°51'48"W. ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE OF DIPLOMAT PARKWAY (100 FEET WIDE) FOR 80.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE S.89°51'48"W. ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE FOR 253.42 FEET; THENCE N.28°32'51"W. FOR 6.70 FEET; THENCE N.00°20'36"W. FOR 244.12 FEET; THENCE N.89°51'48"E. FOR 257.48 FEET; THENCE S.00°08'12"E. FOR 250.00 FEET TO THE POINT OF BEGINNING.

PARCEL CONTAINS 1.48 ACRES, MORE OR LESS.

TOGETHER WITH: SOUTH CPD ZONING PARCEL

COMMENCING AT SAID POINT "A"; THENCE S.03°25'50"W. ALONG SAID WESTERLY RIGHT-OF-WAY LINE OF U.S. 41 (STATE ROAD 45) (200 FEET WIDE) FOR 100.00 FEET TO THE POINT OF BEGINNING;

SHEET 1 OF 3

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Fort Myers Office
10511 Six Mile Cypress Pkwy, Suite #101
Fort Myers, Florida 33966
(239) 939-5490
Fax (239) 939-2523

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

THENCE CONTINUE S.03°25'50"W. ALONG SAID WESTERLY RIGHT-OF-WAY LINE FOR 429.00 FEET TO THE NORTHEAST CORNER OF A PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 2113 AT PAGE 1590 OF SAID PUBLIC RECORDS, ALSO BEING THE NORTHEAST CORNER OF MERCHANTS CROSSING, A SUBDIVISION RECORDED IN PLAT BOOK 52 AT PAGES 37 THROUGH 47 OF SAID PUBLIC RECORDS; THENCE N.86°34'10"W. ALONG THE NORTH LINE OF SAID PARCEL AND SAID SUBDIVISION FOR 72.00 FEET TO THE SOUTHEAST CORNER OF A PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 2833 AT PAGE 4156 OF SAID PUBLIC RECORDS; THENCE N.03°25'50"E. ALONG THE EASTERLY LINE OF SAID PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 2833 AT PAGE 4156 FOR 65.00 FEET; THENCE N.86°33'36"W. ALONG THE NORTHERLY LINE OF SAID PARCEL FOR 39.68 FEET; THENCE S.03°26'24"W. ALONG THE WESTERLY LINE OF SAID PARCEL FOR 8.00 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT HAVING A RADIUS OF 17.00 FEET; THENCE SOUTHWESTERLY ALONG SAID PARCEL AND SAID CURVE THROUGH A CENTRAL ANGLE OF 90°00'01" FOR 26.70 FEET; THENCE N.86°33'36"W. ALONG THE NORTHERLY LINE OF SAID PARCEL FOR 487.82 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT HAVING A RADIUS OF 80.00 FEET; THENCE NORTHWESTERLY ALONG SAID PARCEL AND SAID CURVE THROUGH A CENTRAL ANGLE OF 86°25'24" FOR 120.67 FEET; THENCE N.00°08'12"W. ALONG THE EASTERLY LINE OF SAID PARCEL FOR 274.66 FEET TO POINT "C" AND TO AN INTERSECTION WITH THE SOUTHERLY RIGHT-OF-WAY LINE OF DIPLOMAT PARKWAY (100 FEET WIDE) AS DESCRIBED IN OFFICIAL RECORDS BOOK 2833 AT PAGE 4156 OF SAID PUBLIC RECORDS; THENCE N.89°51'48"E. ALONG SAID SOUTHERLY RIGHT-OF-WAY FOR 575.20 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT HAVING A RADIUS OF 2050.00 FEET; THENCE EASTERLY ALONG SAID RIGHT-OF-WAY AND SAID CURVE THROUGH A CENTRAL ANGLE OF 3°32'51" FOR 126.93 FEET; THENCE S.86°35'21"E. ALONG SAID RIGHT-OF-WAY FOR 12.49 FEET TO THE POINT OF BEGINNING.

PARCEL CONTAINS 6.00 ACRES, MORE OR LESS.

TOGETHER WITH: ADDITIONAL SOUTH CPD ZONNING PARCEL

COMMENCING AT SAID POINT "C"; THENCE S.89°51'48"W. ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE OF DIPLOMAT PARKWAY (100 FEET WIDE) FOR 40.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE S.89°51'48"W. ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE FOR 383.07 FEET; THENCE S.00°08'12"E. FOR 186.04 FEET; THENCE N.59°04'35"E. FOR 185.65 FEET; THENCE S.76°11'27"E. FOR 125.61 FEET; THENCE S.41°41'10"E. FOR 153.30 FEET TO AN INTERSECTION WITH THE WESTERLY LINE OF THE AFORESAID PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 2833 AT PAGE 4156 OF SAID PUBLIC RECORDS; THENCE N.00°08'12"W. ALONG THE WESTERLY LINE FOR 236.02 FEET TO THE POINT OF BEGINNING.

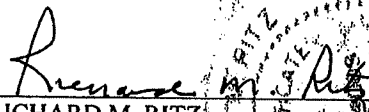
PARCEL CONTAINS 1.22 ACRES.

NET AREA AS DESCRIBED CONTAINS 17.48 ACRES, MORE OR LESS.

BEARINGS ARE BASED ON THE WESTERLY RIGHT-OF-WAY OF U.S. 41 (STATE ROAD 45) AS BEARING S.03°25'50"W.

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

DESCRIPTION PREPARED NOVEMBER 2, 2006.


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

Applicant's Legal Checked
 by  9/25/07

FLORIDA SURVEYING BUSINESS CERTIFICATION NO. 6680

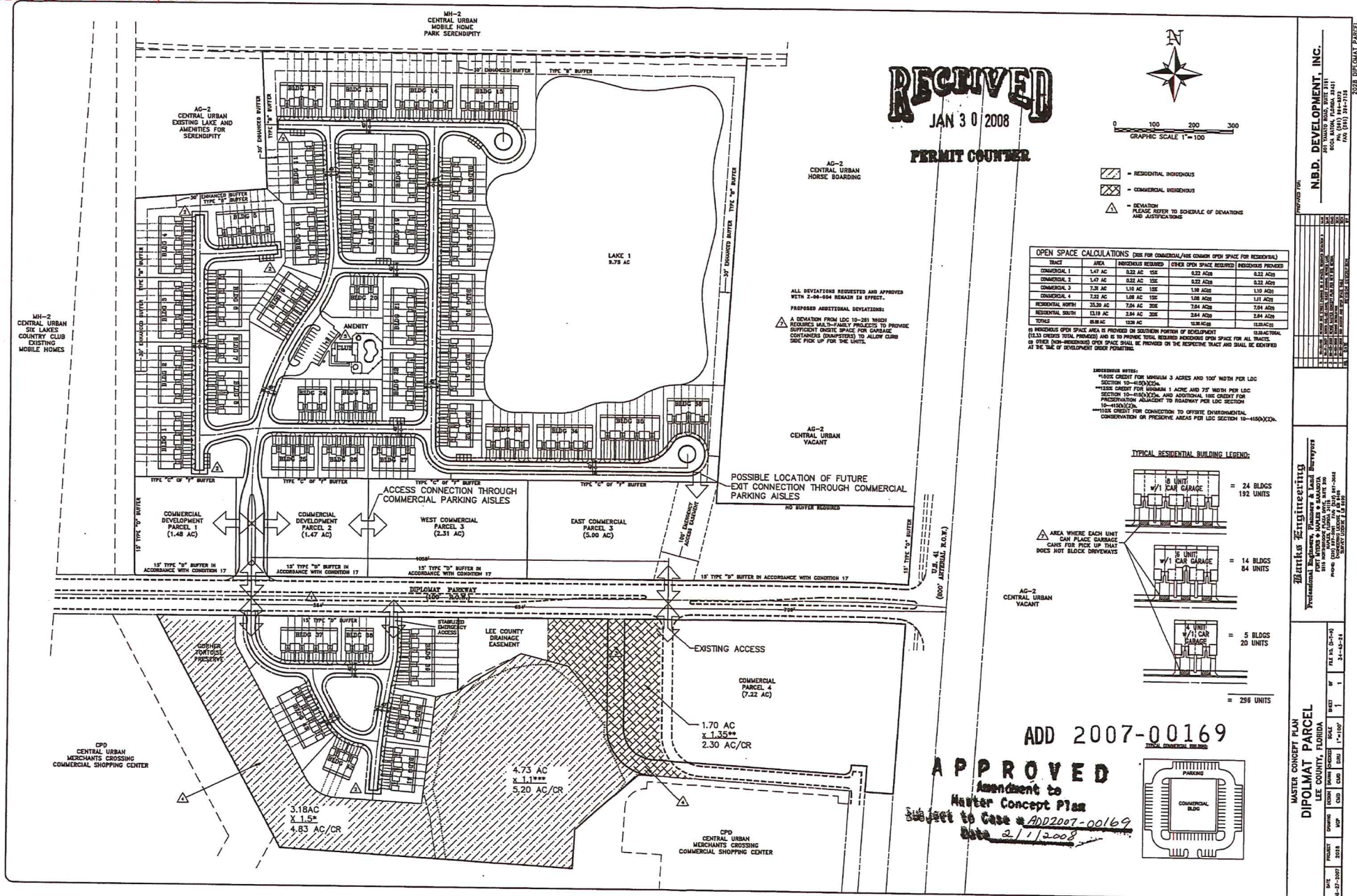


Exhibit G

RESOLUTION NUMBER Z-06-004

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

WHEREAS, Athyrio Development Associates, LLC, filed an application on behalf of the property owner, Richard K. Bennett, Successor Trustee of the North Trail Land Trust, to rezone 65± acres of land from the Agricultural (AG-2) zoning district to the Residential Planned Development/Commercial Planned Development (RPD/CPD) zoning district, in reference to Diplomat Property RPD/CPD; and,

WHEREAS, a public hearing was advertised and held on January 12, 2006, and January 13, 2006, before the Lee County Zoning Hearing Examiner Diana Parker, who gave full consideration to the evidence in the record for Case #DCI2005-00055; and,

WHEREAS, a second public hearing was advertised and held on April 3, 2006, before the Lee County Board of Commissioners, who gave full and complete consideration to the recommendations of the staff, the Hearing Examiner, the documents on record and the testimony of all interested persons.

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

SECTION A. REQUEST

The applicant filed a request to rezone 65 acres of land from AG-2 to RPD/CPD to allow a maximum of 468 dwelling units, 200,000 square feet of commercial floor area, and a maximum of 120 hotel rooms. Maximum proposed building height is three (3) stories/50 feet commercial and two (2) stories/ 35 feet residential. No development blasting is requested. The property is located in the Central Urban Land Use Category and is legally described in attached Exhibit A. The request is APPROVED, SUBJECT TO the conditions and deviations specified in Sections B and C below.

SECTION B. CONDITIONS:

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

1. Development must be consistent with the one-page Master Concept Plan entitled "CONCEPTUAL SITE PLAN: DIPLOMAT PARCEL," Sheet 1 of 1, date stamped "Received November 3, 2006," and prepared by Banks Engineering, Inc. (attached hereto as Exhibit C), except as modified by the conditions below.

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

Maximum Number of Dwelling Units (RPD): 381 dwelling units. An additional 76 units may be constructed if they are marketed at a price point that is affordable to moderate income households at the time of building permit application. Further, the additional 75 units may only be sold to buyers who qualify as a moderate income household at the time of purchase. Moderate income households means 120 percent of the yearly median income based on yearly income levels developed for the SHIP Program by the Housing Section of the Planning Division.

Eight (8.0) dwelling units per acre maximum, for the 47.65 acres of RPD. An additional 1.6 units per acre may be constructed subject to affordability requirements above.

Maximum Commercial Floor Area (CPD): 200,000 square feet of commercial uses. A maximum of 100,000 s/f of which may be retail.

Retail development is limited to Parcel 4 (which meets Commercial Site Location standards). Retail development is not permitted on Commercial Parcels 1, 2 or 3 (which do not meet Site Location standards).

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

a. **Schedule of Uses:** RPD

Accessory Uses and Structures

Administrative Office

Clubs, Private - As shown on the approved MCP.

Dwelling Units, single-family, duplex, two-family attached, multifamily,
townhomes - 381 (up to 457 pursuant to Condition 1)

Entrance Gates and Gatehouse

Essential Services

Essential Service Facilities, Group I

Excavation, Water Retention - not to include the removal of excavated material
from the site. No blasting.

Fences and Walls.

Home Occupation, No outside help.

Home Care Facility

Model Home, Model Display Center, Model Unit - ALSO SEE MODEL HOME/
REAL ESTATE SALES CONDITIONS.

Parking Lot, Accessory

Real Estate Sales - limited to sales of lots, homes or units within the development.
Model home and club locations only. ALSO SEE MODEL HOME/
REAL ESTATE SALES CONDITIONS.

Recreational Facilities - Private, On-site only. LIMITED TO THOSE SHOWN ON
THE APPROVED MCP

Residential Accessory Uses

Signs, in compliance with LDC Chapter 30

Temporary Uses, Temporary Real Estate Sales Office

Schedule of Uses: CPD

Administrative Office
Animals: Clinic, Kennel, Control Center (including Humane Society) - indoors,
no outdoor runs.
Automatic Teller Machine
Auto Parts Store - No installation service.
Auto Repair and Service, Group I
Bait and Tackle Shop
Banks and Financial Establishments, Group I and II
Boat Part Stores
Building Material Sales (indoor only, no outdoor display)
Business Services, Group I and II (no impound yards or armored car services)
Cleaning and Maintenance Services
Clothing Stores, General
Communication facilities, wireless (in accordance with LDC 34 Division 11)

A wireless communication facility may be administratively approved,
provided it is co-located on a building and the height of the tower
does not exceed 50 feet from existing grade.

Consumption on Premises - Indoors. In conjunction with Group III restaurants only.
Outdoor Consumption on Premises will require special exception approval
(public hearing).

Contractors and Builders, Group I and II (Not Group III)
Cultural Facilities
Day Care, Adult, Child
Department Store
Drive-through facility for any permitted use. No fast food drive-through.
Drugstore, Pharmacy (limited to 1 on Parcel 4 or 3)
Entrance Gate and Gatehouse
Emergency Operations Center
EMS, Fire or Sheriff's Station
Essential Services
Essential Service Facilities, Group I
Excavation, Water Retention - not to include the removal of excavated material
from the site. No blasting.
Fences and Walls.
Flea Market, Indoor Only
Food and Beverage Services, Limited
Food Stores, Group I and II
Funeral Home or Mortuary, with or without cremation
Gasoline Dispensing System, Special
Hardware Store
Health Care Facility, Group I, II, III (no Group IV).
Hobby, Toy and Game Store
Hotel/Motel - Limited to 120 rooms maximum.

Household and Office Furnishings - (indoor only, no outdoor display)
Insurance Companies
Lawn and Garden Supply Stores - (indoor only, no outdoor display)
Library
Medical Office
Nonstore Retailer
Paint, Glass and Wallpaper - (indoor only, no outdoor display)
Parking Lot, Accessory, Commercial, Garage, Public Parking, Temporary
Personal Services, Group I, II, III, IV. Excluding Laundromats, Laundry Agents,
 Massage Establishments, Massage Parlors, Steam or Turkish Baths, Dating
 Services, Escort Services, Palm Readers, Fortune Tellers, Card Readers,
 Tattoo Parlors.
Pet Services, Pet Shops - Indoor only, no outdoor display. No outdoor runs.
Place of Worship
Plant Nursery
Post Office
Printing and Publishing
Processing and Warehousing
Real Estate Sales Office
Religious Facilities
Rental or Leasing Establishments, Group II (excluding tools and equipment
 primarily for home use). Indoor only. No outdoor display.
Repair Shop, Group I, II, III
Research and Development Laboratories, Group I, II, III, IV.
Restaurants, Group I, II, III, IV.
Restaurant, Fast Food, No stand-alone or drive-through. Within a multi-occupancy
 building only.
Schools, Commercial and Non-Commercial
Signs in Accordance with Chapter 30
Social Services Group I
Specialty Retail, Group I, II, III, IV
Storage, Indoor Only
Studios
Supermarkets
Temporary Uses
Used Merchandise, Group I, II, Indoor only. No outdoor display.
Variety Store

b. **Site Development Regulations - RPD**

SINGLE-FAMILY

Minimum Lot Areas and Dimensions

Lot Size: 7,500 square feet
Lot Width: 75 feet
Lot Depth: 100 feet

Minimum Setbacks

Street 25 feet (public)/20 feet (private)
Side 5 feet
Rear 30 feet - all lots containing enhanced buffer. See Condition 13.
20 feet - all other lots
Water body 25 feet

All Accessory Uses: Per the LDC.
Setbacks from Preserves (All structures): 25 feet, per the LDC.
Minimum Perimeter Setbacks: 25 feet
30 feet - all lots containing enhanced buffer. See Condition 13.

Minimum Building Separation: 10 feet.

Building Height: 35 feet/ 2 stories

Maximum Lot Coverage: 45 percent

DUPLEX, TWO-FAMILY ATTACHED, TOWNHOUSE

Minimum Lot Areas and Dimensions

Lot Size: 7,500 square feet
Lot Width: 75 feet (37.5 per unit)
Lot Depth: 100 feet

Minimum Setbacks

Street 25 feet (public)/20 feet (private)
Side 5 feet (0 feet for common wall unit)
Rear 30 feet - all lots containing enhanced buffer. See Condition 13.
20 feet - all other lots
Water body 25 feet

All Accessory Uses: Per the LDC.

Setbacks from Preserves (All structures): 25 feet, per the LDC.

Minimum Perimeter Setbacks: 25 feet
30 feet - all lots containing enhanced buffer, See Condition 13.

Minimum Building Separation: 10 feet.

Building Height: 35 feet/ 2 stories

Maximum Lot Coverage: 45 percent

MULTI-FAMILY

Minimum Lot Areas and Dimensions

Lot Size: 10,000 square feet
Lot Width: 100 feet
Lot Depth: 100 feet

Minimum Setbacks

Street 25 feet (public)/20 feet (private)
Side 10 feet
Rear 30 feet - all lots containing enhanced buffer. See Condition 13.
20 feet - all other lots
Water body 25 feet

All Accessory Uses: Per the LDC.

Setbacks from Preserves (All structures): 25 feet, per the LDC.

Minimum Perimeter Setbacks: 25 feet
30 feet - all lots containing enhanced buffer. See Condition 13.

Minimum Building Separation: 20 feet.

Building Height: 35 feet/ 2 stories

Maximum Lot Coverage: 45 percent

RECREATIONAL AREA/FACILITIES

Minimum Lot Areas and Dimensions

Lot Size: 9,000 square feet
Lot Width: 50 feet
Lot Depth: 120 feet

Minimum Setbacks (Also see Deviation 5):

Street	25 feet (public)/20 feet (private)
Side	10 feet
Rear	20 feet
Water body	25 feet

All Accessory Uses: Per the LDC.

Setbacks from Preserves (All structures): 25 feet, per the LDC.

Minimum Perimeter Setbacks: 25 feet

Minimum Building Separation: 10 feet.

Building Height: 35 feet/ 2 stories

Maximum Lot Coverage: 45 percent

Site Development Regulations - CPD

Minimum Lot Areas and Dimensions

COMMERCIAL

Lot Size:	10,000 square feet
Lot Width:	100 feet
Lot Depth:	100 feet

Minimum Setbacks

Street	25 feet (public)/20 feet (private)
Side	10 feet
Rear	20 feet
Water body	25 feet

All Accessory Uses: Per the LDC.

Setbacks from Preserves (All structures): 25 feet, per the LDC.

Minimum Perimeter Setbacks: 25 feet

Minimum Building Separation: 20 feet.

Buildings exceeding 35 feet in height must maintain additional building separation as regulated by LDC §34-2174(a).

Building Height: 50 feet/ 3 stories
35 feet/ 2 stories - adjacent to west boundary

Maximum Lot Coverage: 60 percent

3. Concurrency.

Approval of this rezoning does not constitute a finding that the proposed project meets the concurrency requirements set forth in LDC Chapter 2 and the Lee Plan. The developer is required to demonstrate compliance with all concurrency requirements prior to issuance of a local development order.

4. Model Home and Real Estate Sales.

Model units and homes (and real estate sales) are permitted in compliance with the following conditions:

- a. Each model must be a unique example. Multiple examples of the same unit are not permitted.
 - b. All model sites must be designated on the development order plans.
 - c. Prior to model home construction, the lots upon which model homes will be constructed must be shown on a preliminary plat (not the final). The preliminary plat must be filed concurrently with the local development order application. The model homes must comply with the setbacks set forth in the property development regulations for this project.
 - d. Dry models are prohibited.
 - e. The number of model homes or model units will be limited to no more than 10 within the development at one time.
 - f. Any model homes or units must be developed within the areas identified as "models" on the approved MCP.
 - g. Real Estate sales within the Residential Planned Development (RPD) are limited to the sale of lots or units within the development only. Real Estate sales are a permitted use within the Commercial Planned Development (CPD)
 - h. Real Estate sales within the RPD are limited to within model homes or clubhouse only.
 - i. Hours of operation for both models and real estate sales (within the RPD) are limited to Monday through Sunday 8:00 a.m. to 8:00 p.m.
 - j. Model homes and real estate sales within the RPD will be valid for a period of ~~up to~~ 5 years from the date of issuance of a certificate of occupancy of a model home per LDC § 34-1954(d)(1).
5. Agricultural Uses. No agricultural uses are existing on site, and none are approved by virtue of this rezoning.
6. Blasting. No development blasting is permitted as part of this project unless approved at a subsequent public hearing as an amendment to the planned development.

7. All required buffers must utilize 100 percent all native vegetation.
8. Buildings exceeding 35 feet in height must maintain additional building separation as regulated by LDC §34-2174(a).
9. Approval of this zoning request does not address mitigation of the project's vehicular or pedestrian traffic impacts. Additional conditions consistent with the Lee County LDC may be required to obtain a local development order.
10. Approval of this rezoning does not guarantee local development order approval. Future development order approvals must satisfy the requirements of the Lee Plan Planning Communities Map and Acreage Allocation Table, Map 16 and Table 1(b), be reviewed for, and found consistent with, the retail commercial standards for site area, including range of gross floor area, location, tenant mix and general function, as well as all other Lee Plan provisions.
11. The developer must contribute its proportionate share of the costs of intersection improvements at the time a traffic control device is warranted at the intersection of U.S. 41 and Diplomat Road.
12. Wireless Communication Facilities.
 - a. Freestanding wireless communication facilities (towers, including stealth type) are not permitted. Approval of freestanding wireless communication facilities will require an amendment to the planned development (public hearing).
 - b. Wireless Communication Facilities (including wall-mounted and roof-mounted antennas) may be approved in accordance with LDC Sec. 34-1441, et. seq. (Commercial parcels only).
13. Buffers. The 15-foot-wide Type B buffer to the west (adjacent to Six Lakes Country Club), to the east (adjacent to horse boarding), and to the north (adjacent to the existing Serendipity Mobile Home Park) must be enhanced to 30 feet, 10 trees per 100 linear feet, and canopy-type trees (no palms) with a minimum 4-inch caliper. The Type "B" buffer shown adjacent to the "Existing Lake and Amenities for Serendipity" also requires enhancement as described in this condition. See Condition 17 for enhanced buffer along north side of Diplomat Parkway where parking areas are adjacent to the Parkway.
14. Accessory Uses. Accessory uses must be located on the same tract, parcel or outparcel where a principal use is located. Accessory uses must be incidental and subordinate to the principal use of the tract, parcel or outparcel.
15. Open Space. Prior to local development order approval, the landscape plans must demonstrate that each commercial parcel is providing a minimum of 30 percent open space within the common area on the MCP, and a minimum of 40 percent common open space is provided within the residential tracts.
16. Environmental. Prior to local development order approval:

- a. The developer must submit a detailed indigenous preservation management plan for the Division of Environmental Sciences Staff review and approval that includes methods of maintaining the western 3.0 acres of the preserve as gopher tortoise habitat; and,
- b. The landscape plans must include a permanent gopher tortoise fence along Diplomat Parkway where the 3-acre gopher tortoise preserve abuts this roadway and a double staggered native hedge (minimum 3-gallon container size; 24-inch height at planting; maintained at a minimum 36-inch height) planted on the roadside of the fence; and,
- c. The landscape plans must delineate a double staggered native hedge (minimum 3-gallon container size; 24-inch height at planting; maintained at a minimum 36-inch height) planted along the interface of the indigenous preserve with the residential tract.

Prior to issuance of a Vegetation Removal Permit, all invasive exotic vegetation and manmade debris must be hand removed from the indigenous preserve.

17. Commercial Parcels North of Diplomat Parkway. Commercial buildings located within Commercial Parcels 1, 2 and the westernmost 2.3 acres of Parcel 3 are limited to a maximum of 10,000 square feet per building, and must not exceed 2 stories/35 feet in height. The building locations must alternate (be staggered) between the front and rear of the commercial parcels to provide a more campus-like setting. A parking plan must be devised to keep the amount of parking spaces along Diplomat Parkway at an absolute minimum. These parking areas and commercial buildings must be buffered, from Diplomat Parkway, by, at a minimum, a 2-foot-high berm with 10 trees and a staggered 36-inch- high hedge per 100 linear feet. Applicant is to be strongly encouraged to utilize the commercial building site locational criteria established for the Estero community.

The commercial buildings on Commercial Parcels 1, 2 and 3 must be of the same or similar architectural design and coloring as the residential buildings, to identify the them as a unified project. All project identification signs (commercial and residential) must also be of the same or similar architectural design and coloring.

SECTION C. DEVIATIONS:

1. Deviation (1) seeks relief from the LDC §10-285(a) requirement to provide a minimum access connection separation of 660 feet on an arterial road, to permit an access separation of 364 feet between the project's proposed main access and the proposed exit-only access for the residential portion of the southern parcel. This deviation is APPROVED.
2. Deviation (2) seeks relief from the LDC §10-296(k)(1) requirement that dead-end streets be closed at one end by a circular turn-around, to allow two dead-end streets as shown on the MCP. This deviation is APPROVED.
3. Deviation (3) seeks relief from the LDC §10-415(b)(1)(a) requirement that large developments with indigenous vegetation communities provide 50 percent of their open space percentage requirements through onsite preservation of existing native vegetative communities, to permit 0.45 acres of right-of-way to be vacated, enhanced, and preserved

to count toward the preservation requirement. This deviation is APPROVED, SUBJECT TO the following condition:

- a. Prior to local development order approval for Commercial Parcel 4, the existing roadway easement depicted within the indigenous preserve must be vacated.
4. Deviation (4) seeks relief from the LDC §10-415(b)(1)a. requirement that large developments with existing indigenous native vegetation communities provide 50 percent of their open space requirement through on-site preservation of indigenous native vegetation, to allow portions of the preservation area to be disturbed and restored in order to install a stormwater management system. This deviation is APPROVED, SUBJECT TO the following conditions:
- a. Prior to local development order, the development orders plans must delineate the general location of the surface water management outfall through the indigenous preserve to the canal. The outfall must be designed as an open system that can be planted with native vegetation.
 - b. Prior to issuance of a Vegetation Removal Permit, the location of the surface water management outfall through the indigenous preserve must be field staked, to avoid impacting any large native trees or gopher tortoise burrows, for the Division of Environmental Sciences' Staff review and approval.
5. Deviation (5) seeks relief from the LDC §34-2474(b)(6) requirement that recreation halls and ancillary facilities and private clubs be located at least 40 feet from any residential dwelling unit, to allow a 20-foot minimum separation for any recreation building from a residential dwelling unit. This deviation is APPROVED, SUBJECT TO the following condition:
- a. Development of a recreational facility and clubhouse must be generally consistent with the location and size as shown on the approved MCP.
6. a. Deviation (6.a.) seeks relief from the LDC §10-291(3) requirement (when practical) that residential developments of more than five acres in size provide two or more means of ingress into the development, to allow the residential portion to the north of Diplomat Parkway to be constructed with a single ingress/egress connection onto Diplomat Parkway. This deviation is APPROVED, SUBJECT TO the following conditions:
- 1) Access to the residential component north of Diplomat Parkway must be generally consistent with the approved MCP; and
 - 2) The approved MCP and local development order must depict a minimum 70-foot-wide divided entrance on the north side of Diplomat Parkway that includes a median with two lanes on both sides of the median for ingress and egress; and
 - 3) Prior to issuance of a development order, the developer must provide written documentation from the North Fort Myers Fire District indicating that these access points are acceptable and provide adequate access for emergency

vehicles. The development order must also include the plans for the secondary/emergency access required in the following paragraph.

- 4) Prior to build-out of the north residential development, applicant must install a secondary/emergency access from the residential tract to commercial Parcel 3, as shown on the MCP. Any emergency access gate must comply with all applicable regulations with respect to required equipment for an emergency override mechanism at the time of installation. Additionally, if an emergency necessitates the breaking of an entrance gate, the cost of repairing the gate and the emergency vehicle (if applicable) will be the responsibility of the owner or the operator of the gate;
6. b. Deviation (6.b.) seeks relief from the LDC §10-291(3) (when practical) that residential developments of more than five acres in size provide two or more means of ingress into the development, to allow the residential portion to the south of Diplomat Parkway to be constructed with a single ingress/egress connection onto Diplomat Parkway with an emergency access also onto Diplomat Parkway. This deviation is APPROVED, SUBJECT TO the following conditions:
- 1) Access to the residential component South of Diplomat Parkway must be generally consistent with the approved MCP; and
 - 2) Any emergency access gate must comply with all applicable regulations with respect to required equipment for an emergency override mechanism at the time of installation. Additionally, if an emergency necessitates the breaking of an entrance gate, the cost of repairing the gate and the emergency vehicle (if applicable) will be the responsibility of the owner or the operator of the gate; and
 - 3) Prior to the issuance of a development order, the developer must provide written documentation from the North Fort Myers Fire District indicating that these access points are acceptable and provide adequate access for emergency vehicles.

SECTION D. EXHIBITS AND STRAP NUMBER:

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

- Exhibit A: Legal description
Exhibit B: Zoning Map (subject parcel identified with shading)
Exhibit C: Master Concept Plan -Diplomat Parcel, Stamped Received November 3, 2006

The applicant has indicated that the STRAP number for the subject property is:
34-43-24-00-00001.3030.

SECTION E. FINDINGS AND CONCLUSIONS:

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

2. The RPD/CPD rezoning, as approved:
 - a. meets or exceeds the performance and locational standards set forth for the potential uses allowed by the request; and,
 - b. is consistent with the densities, intensities and general uses set forth in the Lee Plan; and,
 - c. is compatible with existing or planned uses in the surrounding area; and,
 - d. will not place an undue burden upon existing transportation or planned infrastructure facilities and will be served by streets with the capacity to carry traffic generated by the development; and,
 - e. will not adversely affect environmentally critical areas or natural resources.
3. The RPD/CPD rezoning satisfies the following criteria:
 - a. the proposed use or mix of uses is appropriate at the subject location; and
 - b. the recommended conditions to the concept plan and other applicable regulations provide sufficient safeguard to the public interest; and
 - c. the recommended conditions are reasonably related to the impacts on the public interest created by or expected from the proposed development.
4. No agricultural uses currently exist on the property.
5. Urban services, as defined in the Lee Plan, will be available and adequate to serve the proposed land use.
6. The approved deviations, as conditioned, enhance achievement of the planned development objectives, and preserve and promote the general intent of LDC Chapter 34, to protect the public health, safety and welfare.

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

Robert P. Janes	Aye
Douglas R. St. Cerny	Aye
Ray Judah	Aye
Tammara Hall	Aye
John E. Albion	Aye

DULY PASSED AND ADOPTED this 3rd day of April 2006.

ATTEST:
CHARLIE GREEN, CLERK

BY: *Joan R. Perce*
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: *Tammara Hall*
Tammara Hall, Chairwoman

Approved as to form by:

Donna Marie Collins
Donna Marie Collins
County Attorney's Office



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Banks Engineering

Professional Engineers, Planners & Land Surveyors
2515 Northbrooke Plaza Drive - Suite 200
Naples, Florida 34119
(239) 597-2061
Fax (239) 597-3082

DESCRIPTION
OF A
PARCEL OF LAND
LYING IN
SECTION 34, TOWNSHIP 43 SOUTH, RANGE 24 EAST
LEE COUNTY, FLORIDA
(CPD ZONING DESCRIPTION)

A TRACT OR PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, LYING IN SECTION 34, TOWNSHIP 43 SOUTH, RANGE 24 EAST AND BEING FURTHER BOUNDED AND DESCRIBED AS FOLLOWS:

NORTH CPD ZONNING PARCEL

COMMENCING AT THE INTERSECTION OF THE WESTERLY RIGHT-OF-WAY LINE OF U.S. 41 (STATE ROAD 45) (200 FEET WIDE) AND THE SOUTHERLY RIGHT-OF-WAY LINE OF LITTLETON ROAD (50 FEET WIDE); THENCE 94.14 FEET ALONG SAID WESTERLY RIGHT-OF-WAY LINE AND ALONG THE ARC OF A CURVE CONCAVE TO THE SOUTHEAST HAVING A RADIUS OF 5829.58 FEET AND SUBTENDED BY A CHORD HAVING A LENGTH OF 94.14 FEET AND BEARING S.03°47'10"W. TO A POINT OF TANGENCY; THENCE S.03°25'50"W. ALONG SAID WESTERLY RIGHT-OF-WAY LINE FOR 2338.37 FEET TO THE **POINT OF BEGINNING**; THENCE CONTINUE S.03°25'50"W. ALONG SAID WESTERLY RIGHT-OF-WAY LINE FOR 199.95 FEET TO **POINT "A"** AND TO AN INTERSECTION WITH THE NORTHERLY RIGHT-OF-WAY LINE OF DIPLOMAT PARKWAY (100 FEET WIDE); THENCE N.86°35'21"W. ALONG SAID NORTHERLY RIGHT-OF-WAY LINE FOR 12.52 FEET TO THE BEGINNING OF A CURVE TO THE LEFT HAVING A RADIUS OF 2150.00 FEET; THENCE WESTERLY ALONG SAID CURVE AND ALONG SAID NORTHERLY RIGHT-OF-WAY LINE THROUGH A CENTRAL ANGLE OF 3°32'51" FOR 133.12 FEET; THENCE S.89°51'48"W. ALONG SAID NORTHERLY RIGHT-OF-WAY LINE FOR 1484.79 FEET TO **POINT "B"**; THENCE N.00°08'12"W. FOR 250.00 FEET; THENCE N.89°51'48"E. FOR 1145.24 FEET; THENCE S.03°25'50"W. FOR 53.49 FEET; THENCE S.89°54'50"E. FOR 500.85 FEET TO THE **POINT OF BEGINNING**.

PARCEL CONTAINS 8.78 ACRES, MORE OR LESS.

TOGETHER WITH: ADDITIONAL NORTH CPD ZONNING PARCEL

COMMENCING AT SAID **POINT "B"**; THENCE S.89°51'48"W. ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE OF DIPLOMAT PARKWAY (100 FEET WIDE) FOR 80.00 FEET TO THE **POINT OF BEGINNING**; THENCE CONTINUE S.89°51'48"W. ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE FOR 253.42 FEET; THENCE N.28°32'51"W. FOR 6.70 FEET; THENCE N.00°20'36"W. FOR 244.12 FEET; THENCE N.89°51'48"E. FOR 257.48 FEET; THENCE S.00°08'12"E. FOR 250.00 FEET TO THE **POINT OF BEGINNING**.

PARCEL CONTAINS 1.48 ACRES, MORE OR LESS.

DCI 2005-00055

TOGETHER WITH: SOUTH CPD ZONNING PARCEL

COMMENCING AT SAID **POINT "A"**; THENCE S.03°25'50"W. ALONG SAID WESTERLY RIGHT-OF-WAY LINE OF U.S. 41 (STATE ROAD 45) (200 FEET WIDE) FOR 100.00 FEET TO THE **POINT OF BEGINNING**;

SHEET 1 OF 3

S:\Jobs\20xx\2028\SURVEY\Descriptions\Zoning\2028 ZONING CPD REV DESC.doc

Fort Myers Office
10511 Six Mile Cypress Pkwy, Suite #101
Fort Myers, Florida 33966
(239) 939-5490
Fax (239) 939-2523

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

THENCE CONTINUE S.03°25'50"W. ALONG SAID WESTERLY RIGHT-OF-WAY LINE FOR 429.00 FEET TO THE NORTHEAST CORNER OF A PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 2113 AT PAGE 1590 OF SAID PUBLIC RECORDS, ALSO BEING THE NORTHEAST CORNER OF MERCHANTS CROSSING, A SUBDIVISION RECORDED IN PLAT BOOK 52 AT PAGES 37 THROUGH 47 OF SAID PUBLIC RECORDS; THENCE N.86°34'10"W. ALONG THE NORTH LINE OF SAID PARCEL AND SAID SUBDIVISION FOR 72.00 FEET TO THE SOUTHEAST CORNER OF A PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 2833 AT PAGE 4156 OF SAID PUBLIC RECORDS; THENCE N.03°25'50"E. ALONG THE EASTERLY LINE OF SAID PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 2833 AT PAGE 4156 FOR 65.00 FEET; THENCE N.86°33'36"W. ALONG THE NORTHERLY LINE OF SAID PARCEL FOR 39.68 FEET; THENCE S.03°26'24"W. ALONG THE WESTERLY LINE OF SAID PARCEL FOR 8.00 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT HAVING A RADIUS OF 17.00 FEET; THENCE SOUTHWESTERLY ALONG SAID PARCEL AND SAID CURVE THROUGH A CENTRAL ANGLE OF 90°00'01" FOR 26.70 FEET; THENCE N.86°33'36"W. ALONG THE NORTHERLY LINE OF SAID PARCEL FOR 487.82 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT HAVING A RADIUS OF 80.00 FEET; THENCE NORTHWESTERLY ALONG SAID PARCEL AND SAID CURVE THROUGH A CENTRAL ANGLE OF 86°25'24" FOR 120.67 FEET; THENCE N.00°08'12"W. ALONG THE EASTERLY LINE OF SAID PARCEL FOR 274.66 FEET TO **POINT "C"** AND TO AN INTERSECTION WITH THE SOUTHERLY RIGHT-OF-WAY LINE OF DIPLOMAT PARKWAY (100 FEET WIDE) AS DESCRIBED IN OFFICIAL RECORDS BOOK 2833 AT PAGE 4156 OF SAID PUBLIC RECORDS; THENCE N.89°51'48"E. ALONG SAID SOUTHERLY RIGHT-OF-WAY FOR 575.20 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT HAVING A RADIUS OF 2050.00 FEET; THENCE EASTERLY ALONG SAID RIGHT-OF-WAY AND SAID CURVE THROUGH A CENTRAL ANGLE OF 3°32'51" FOR 126.93 FEET; THENCE S.86°35'21"E. ALONG SAID RIGHT-OF-WAY FOR 12.49 FEET TO THE **POINT OF BEGINNING**.

PARCEL CONTAINS 6.00 ACRES, MORE OR LESS.

TOGETHER WITH: ADDITIONAL SOUTH CPD ZONNING PARCEL

COMMENCING AT SAID POINT "C"; THENCE S.89°51'48"W. ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE OF DIPLOMAT PARKWAY (100 FEET WIDE) FOR 40.00 FEET TO THE **POINT OF BEGINNING**; THENCE CONTINUE S.89°51'48"W. ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE FOR 383.07 FEET; THENCE S.00°08'12"E. FOR 186.04 FEET; THENCE N.59°04'35"E. FOR 185.65 FEET; THENCE S.76°11'27"E. FOR 125.61 FEET; THENCE S.41°41'10"E. FOR 153.30 FEET TO AN INTERSECTION WITH THE WESTERLY LINE OF THE AFORESAID PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 2833 AT PAGE 4156 OF SAID PUBLIC RECORDS; THENCE N.00°08'12"W. ALONG THE WESTERLY LINE FOR 236.02 FEET TO THE **POINT OF BEGINNING**.

PARCEL CONTAINS 1.22 ACRES.

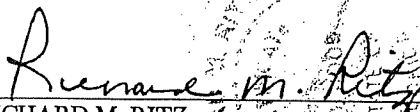
NET AREA AS DESCRIBED CONTAINS 17.48 ACRES, MORE OR LESS.

BEARINGS ARE BASED ON THE WESTERLY RIGHT-OF-WAY OF U.S. 41 (STATE ROAD 45) AS BEARING S.03°25'50"W.

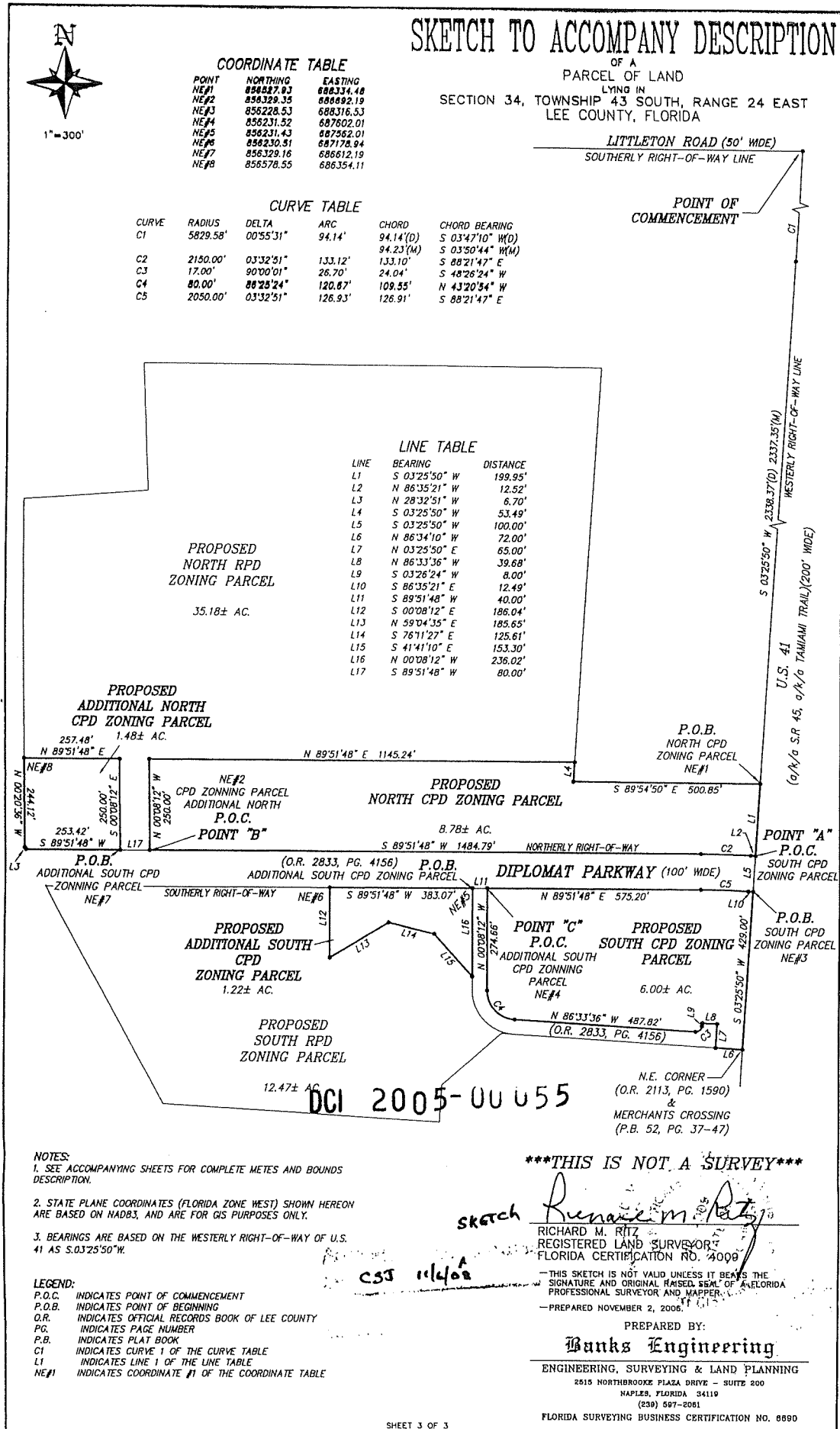
SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS AND RIGHTS-OF-WAY OF RECORD.

DESCRIPTION PREPARED NOVEMBER 2, 2006.

DCI 2005-00055


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

Applicant's Legal Checked
by 11/08/06 csl



NOTES:

- SEE ACCOMPANYING SHEETS FOR COMPLETE METES AND BOUNDS DESCRIPTION.
- STATE PLANE COORDINATES (FLORIDA ZONE WEST) SHOWN HEREON ARE BASED ON NAD83, AND ARE FOR GIS PURPOSES ONLY.
- BEARINGS ARE BASED ON THE WESTERLY RIGHT-OF-WAY OF U.S. 41 AS S.03°25'50" W.

LEGEND:

- P.O.C. INDICATES POINT OF COMMENCEMENT
P.O.B. INDICATES POINT OF BEGINNING
O.R. INDICATES OFFICIAL RECORDS BOOK OF LEE COUNTY
PG. INDICATES PAGE NUMBER
P.B. INDICATES PLAT BOOK
C1 INDICATES CURVE 1 OF THE CURVE TABLE
L1 INDICATES LINE 1 OF THE LINE TABLE
NE#1 INDICATES COORDINATE #1 OF THE COORDINATE TABLE

Banks Engineering

Professional Engineers, Planners & Land Surveyors
2515 Northbrooke Plaza Drive-Suite 200
Naples, Florida 34119
(239) 597-2061
Fax (239) 597-3082

DESCRIPTION
OF A
PARCEL OF LAND
LYING IN
SECTION 34, TOWNSHIP 43 SOUTH, RANGE 24 EAST
LEE COUNTY, FLORIDA
(RPD ZONING DESCRIPTION)

A TRACT OR PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, LYING IN SECTION 34, TOWNSHIP 43 SOUTH, RANGE 24 EAST AND BEING FURTHER BOUNDED AND DESCRIBED AS FOLLOWS:

NORTH RPD PARCEL:

COMMENCING AT THE INTERSECTION OF THE WESTERLY RIGHT-OF-WAY LINE OF U.S. 41 (STATE ROAD 45) (200 FEET WIDE) AND THE SOUTHERLY RIGHT-OF-WAY LINE OF LITTLETON ROAD (50 FEET WIDE) THENCE 94.14 FEET ALONG SAID WESTERLY RIGHT-OF-WAY LINE AND ALONG THE ARC OF A CURVE CONCAVE TO THE SOUTHEAST HAVING A RADIUS OF 5829.58 FEET AND SUBTENDED BY A CHORD HAVING A LENGTH OF 94.14 FEET AND BEARING S.03°47'10"W. TO A POINT OF TANGENCY; THENCE S.03°25'50"W. ALONG SAID WESTERLY RIGHT-OF-WAY LINE FOR 2338.37 FEET; THENCE N.89°54'50"W. FOR 500.85 FEET; THENCE N.03°25'50"E. FOR 53.49 FEET TO THE **POINT OF BEGINNING**; THENCE S.89°51'48"W. FOR 1145.24 FEET; THENCE S.00°08'12"E. FOR 250.00 FEET TO AN INTERSECTION WITH THE NORTHERLY RIGHT-OF-WAY LINE OF DIPLOMAT PARKWAY (100 FEET WIDE) AS DESCRIBED IN OFFICIAL RECORDS BOOK 2833 AT PAGE 4156 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE S.89°51'48"W. ALONG SAID NORTHERLY RIGHT-OF-WAY LINE FOR 80.00 FEET; THENCE N.00°08'12"W. FOR 250.00 FEET; THENCE S.89°51'48"W. FOR 257.48 FEET; THENCE N.00°20'36"W. FOR 703.76 FEET; THENCE N.85°23'00"E. FOR 335.22 FEET; THENCE N.02°25'15"W. FOR 346.19 FEET; THENCE S.89°54'50"E. FOR 1231.65 FEET; THENCE S.03°25'50"W. FOR 1073.15 FEET TO THE **POINT OF BEGINNING**.

PARCEL CONTAINS 35.18 ACRES, MORE OR LESS.

AND;

SOUTH RPD PARCEL:

COMMENCING AT THE INTERSECTION OF THE WESTERLY RIGHT-OF-WAY OF U.S. 41 (STATE ROAD 45) (200 FEET WIDE) AND THE SOUTHERLY RIGHT-OF-WAY OF LITTLETON ROAD (50 FEET WIDE) THENCE 94.14 FEET ALONG THE WESTERLY RIGHT-OF-WAY AND ALONG THE ARC OF A CURVE CONCAVE TO THE SOUTHEAST HAVING A RADIUS OF 5829.58 FEET AND SUBTENDED BY A CHORD HAVING A LENGTH OF 94.14 FEET AND BEARING S.03°47'10"W. TO A POINT OF TANGENCY; THENCE S.03°25'50"W. ALONG SAID WESTERLY RIGHT-OF-WAY LINE FOR 2338.37 FEET TO THE SOUTHEASTERLY CORNER OF A PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 1972 AT PAGE 335 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE CONTINUE S.03°25'50"W. ALONG SAID WESTERLY RIGHT-OF-WAY LINE FOR 728.95 FEET TO THE NORTHEAST CORNER OF A PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 2113 AT PAGE 1590 OF SAID PUBLIC RECORDS, ALSO BEING THE NORTHEAST CORNER OF MERCHANTS CROSSING, A SUBDIVISION RECORDED IN PLAT BOOK 52 AT PAGES 37 THROUGH 47 OF SAID PUBLIC RECORDS; THENCE N.86°34'10"W. ALONG THE NORTH LINE OF SAID PARCEL AND SAID SUBDIVISION FOR 616.50 FEET TO THE **POINT OF**

SHEET 1 OF 3

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Fort Myers Office
10511 Six Mile Cypress Pkwy, Suite #101
Fort Myers, Florida 33966
(239) 939-5490
Fax (239) 939-2523

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

DCI 2005-00055

BEGINNING; THENCE CONTINUE N.86°34'10"W. ALONG SAID NORTHERLY LINE FOR 33.50 FEET TO THE NORTHWEST CORNER OF SAID PARCEL; THENCE S.48°25'48"W. ALONG THE WESTERLY LINE OF SAID PARCEL AND SAID SUBDIVISION FOR 212.13 FEET; THENCE S.03°25'50"W. ALONG THE WESTERLY LINE OF SAID PARCEL AND SAID SUBDIVISION FOR 100.00 FEET TO THE SOUTHWESTERLY CORNER OF SAID PARCEL AND TO THE SOUTH LINE OF A PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 2389 AT PAGE 1936 OF SAID PUBLIC RECORDS; THENCE N.86°34'10"W. ALONG THE SOUTH LINE OF SAID PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 2389 AT PAGE 1936 AND THE NORTHERLY LINE OF SAID SUBDIVISION FOR 747.11 FEET TO AN INTERSECTION WITH THE NORTHEASTERLY LINE OF A DRAINAGE EASEMENT (50 FEET WIDE) DESCRIBED IN DEED BOOK 237 AT PAGES 564 AND 565 OF SAID PUBLIC RECORDS; THENCE N.28°32'51"W. ALONG THE NORTHEASTERLY LINE OF SAID DRAINAGE EASEMENT FOR 666.39 FEET TO AN INTERSECTION WITH THE SOUTHERLY RIGHT-OF-WAY LINE OF DIPLOMAT PARKWAY (100 FEET WIDE) AS DESCRIBED IN OFFICIAL RECORDS BOOK 2833 AT PAGE 4156 OF SAID PUBLIC RECORDS; THENCE N.89°51'48"E. ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE FOR 765.84 FEET; THENCE S.00°08'12"E. FOR 186.04 FEET; THENCE N.59°04'35"E. FOR 185.65 FEET; THENCE S.76°11'27"E. FOR 125.61 FEET; THENCE S.41°41'10"E. FOR 153.30 FEET TO AN INTERSECTION WITH THE WESTERLY LINE OF A PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 2833 AT PAGE 4156 OF SAID PUBLIC RECORDS; THENCE S.00°08'12"E. ALONG THE WESTERLY LINE OF SAID PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 2833 AT PAGE 4156 FOR 38.64 FEET TO THE BEGINNING OF A CURVE TO THE LEFT HAVING A RADIUS OF 120.00 FEET; THENCE SOUTHEASTERLY ALONG SAID WESTERLY LINE AND SAID CURVE THROUGH A CENTRAL ANGLE OF 86°25'24" FOR 181.00 FEET TO THE **POINT OF BEGINNING**.

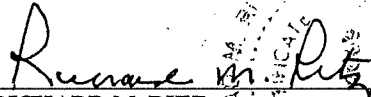
PARCEL CONTAINS 12.47 ACRES, MORE OR LESS.

NET ACREAGE IS 47.65 ACRES, MORE OR LESS.

BEARINGS ARE BASED ON THE WESTERLY RIGHT-OF-WAY OF U.S. 41 (STATE ROAD 45) AS BEARING S.03°25'50"W.

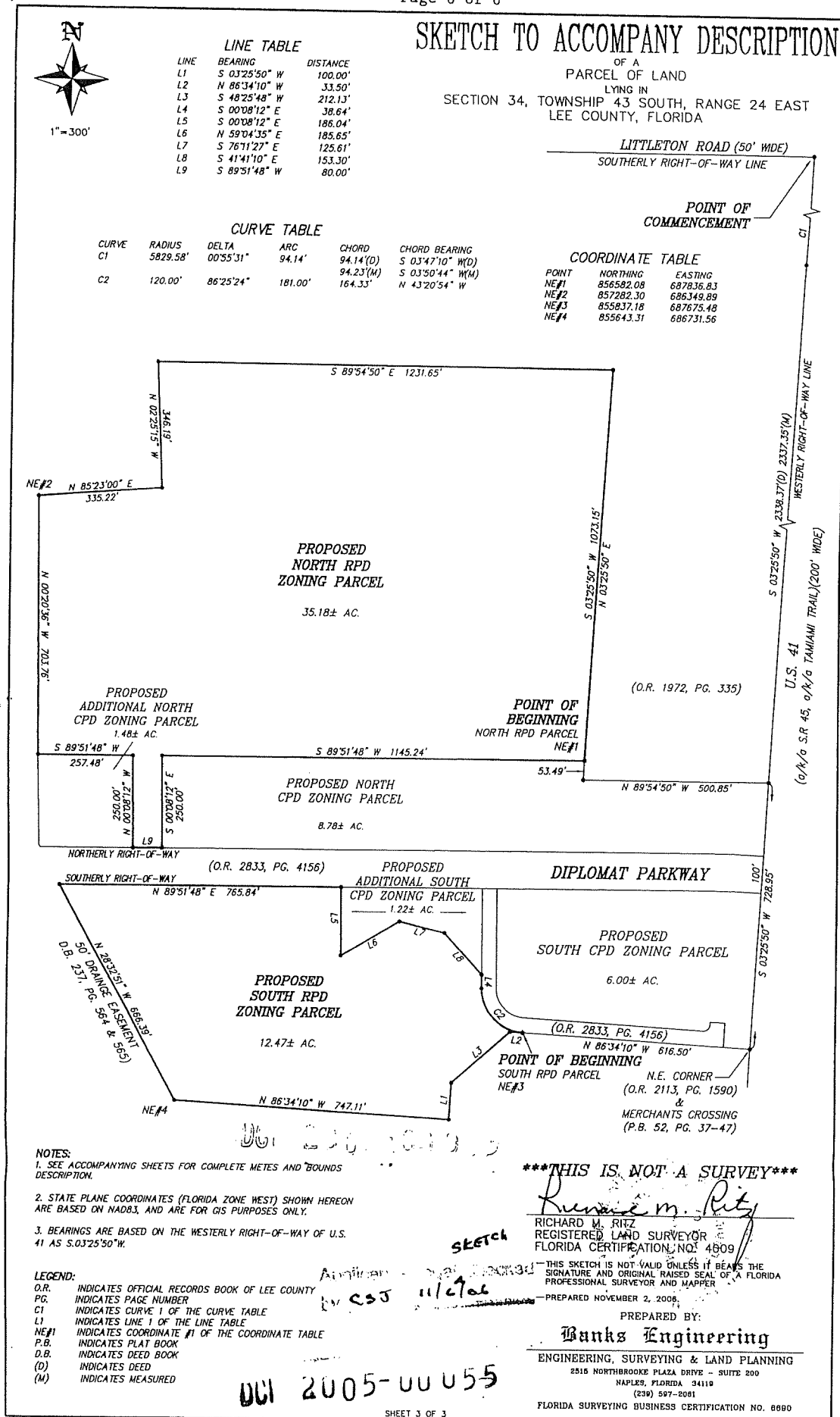
SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS AND RIGHTS-OF-WAY OF RECORD.

DESCRIPTION PREPARED NOVEMBER 2, 2006.


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

Applicant's Legal Checked
by CSJ 11/6/06

DCI 2005-00055



S:\Jobs\2020\2020SURVEY\Descriptions\Zoning\2028_ZONING_RPD_REV_SK.dwg, 11/2/2008 4:25:50 PM, David Blehschmidt

PROPOSED ZONING MAP

Attachment B

12/7/2005

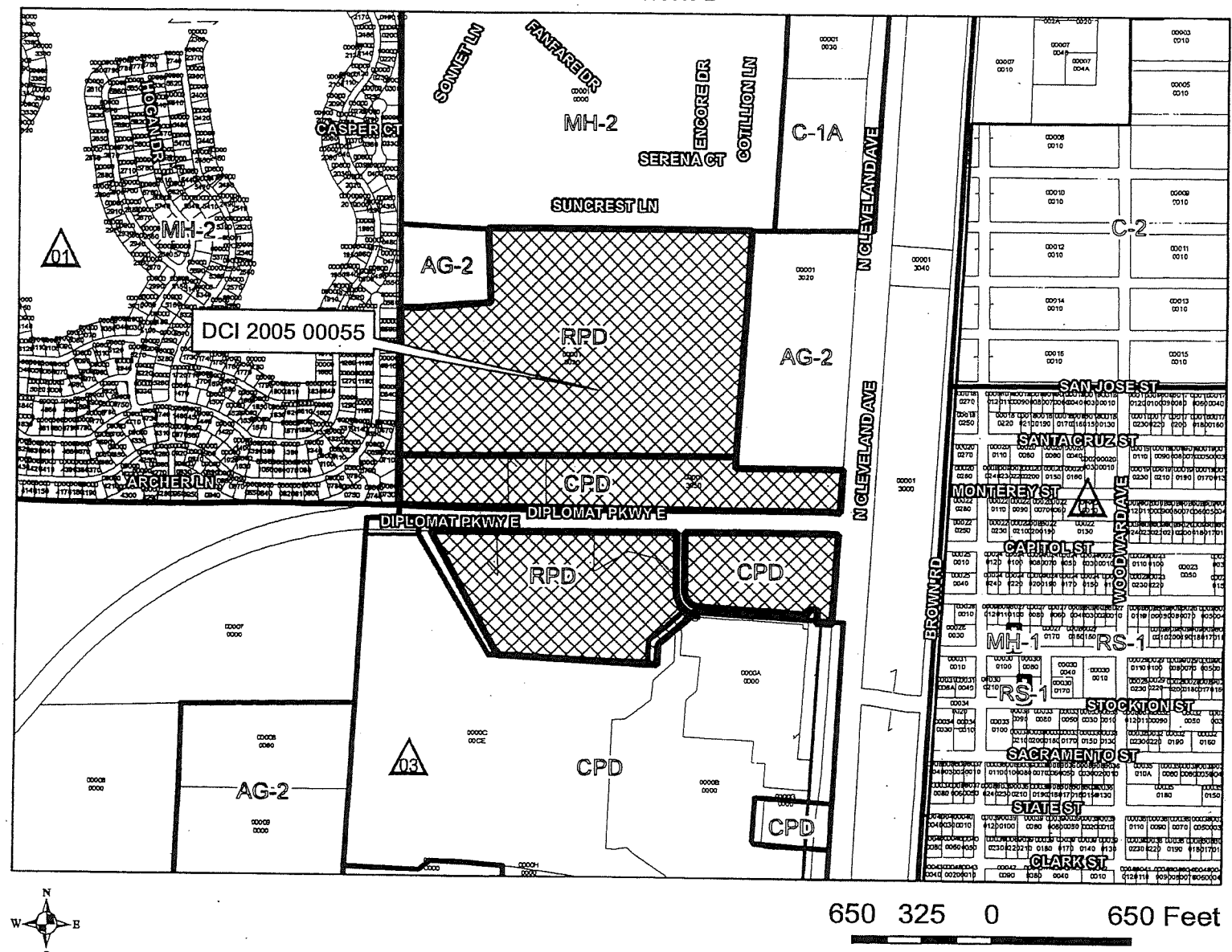


EXHIBIT "B"
Zoning Map

RECEIVED
NOV 03 2006
COMMUNITY DEVELOPMENT

DCI 2005-00055

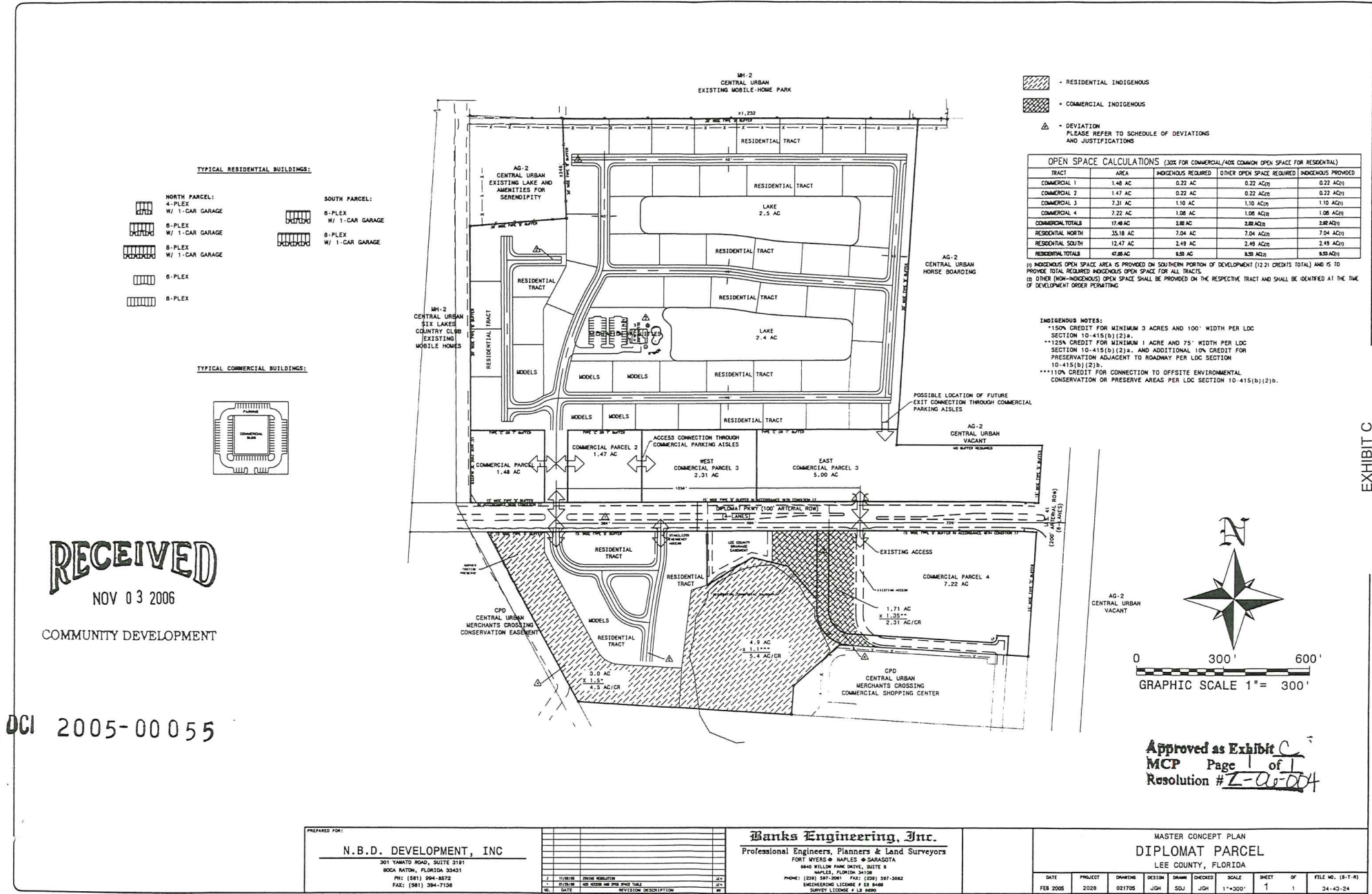


EXHIBIT C

ATTACHMENT M

ADMINISTRATIVE AMENDMENT (PD) ADD2020-00034

ADMINISTRATIVE AMENDMENT
LEE COUNTY, FLORIDA

WHEREAS, Waldrop Engineering, PA, on behalf of Tom Flood, Cooper Street Property, Inc., filed an application for an administrative amendment to Parcels 3 and 4 of the Diplomat Property Residential Planned Development/Commercial Planned Development (RPD/CPD) to remove references to commercial site location standards, amend the schedule of uses to permit multifamily residential dwellings on the subject parcels, and establish a conversion ratio for commercial intensity to residential density on property located at the intersection of North Cleveland Avenue/Diplomat Parkway East; and

WHEREAS, the applicant has indicated that the property's current STRAP number is 34-43-24-00-00001.3050 (see Exhibit "A"); and

WHEREAS, the subject property is zoned RPD/CPD and is located in the Central Urban Future Land Use Category as designated by the Lee Plan; and

WHEREAS, the subject property was originally rezoned by Resolution Z-06-004 and was subsequently amended by ADD2007-00169 and Resolution Z-11-002; and

WHEREAS, Resolution Z-11-002 limits retail commercial development to Parcel 4 of the RPD/CPD based upon Commercial Site Location Standards previously contained in Policy 6.1.2 of the Lee Plan (see Exhibit "B"); and

WHEREAS, the Commercial Site Location Standards established in the Lee Plan were eliminated as a result of the adoption of Ordinance 16-07; and

WHEREAS, the applicant has filed a request to amend Condition 1 of Resolution Z-11-002 to remove the limitation on retail commercial development to Parcel 4 only (see Exhibit "C"); and

WHEREAS, the requested amendment reflects the elimination of the Commercial Site Location Standards from the Lee Plan; and

WHEREAS, the subject property is located in the Mixed Use Overlay established by the Lee Plan; and

WHEREAS, Resolution Z-11-002 permits a maximum of 200,000 square feet of commercial floor area on Commercial Parcels 1 through 4 (see Exhibit "B"); and

WHEREAS, the applicant has filed a request to amend the approved schedule of uses for Parcels 3 and 4 to permit multifamily residential dwelling units and associated ancillary/accessory uses on these parcels (see Exhibit "C"); and

WHEREAS, the applicant proposes a maximum of 116 multifamily dwelling units on Parcels 3 and 4 (see Exhibit "C"); and

WHEREAS, the subject property is approximately 14.53 acres in area, and the proposed maximum number of dwelling units amounts to a density of eight (8) dwelling units per acre; and

WHEREAS, the applicant proposes a trip-generation-based conversion ratio of commercial square footage to residential dwellings to permit the development of residential dwellings without an increase in development intensity on the subject parcels; and

WHEREAS, the applicant has demonstrated that adequate potable water and sanitary sewer capacity exists to serve the proposed reallocation of commercial intensity to residential density (see Exhibit "D"); and

WHEREAS, the subject property is located in the North Fort Myers Community Plan area established by the Lee Plan; and

WHEREAS, LDC Section 33-1532 requires an applicant or agent applying for an administrative amendment to a planned development to conduct one publicly-advertised public information session within the North Fort Myers Community Plan area prior to approval of such a request; and

WHEREAS, the applicant was scheduled to conduct a public information session before the North Fort Myers Community Planning Panel on May 5, 2020; and

WHEREAS, the North Fort Myers Community Planning Panel meeting was canceled as a result of COVID-19-related social distancing measures; and

WHEREAS, the applicant solicited and received direction from County staff regarding the feasibility of conducting a publicly-advertised virtual public information session for the subject request; and

WHEREAS, the applicant conducted a virtual public information session on May 14, 2020 and has provided the required meeting summary document in accordance with LDC Section 33-1532(b) (see Exhibit "E"); and

WHEREAS, the Lee County Land Development Code provides for certain administrative changes to planned development master concept plans and planned unit development final development plans; and

WHEREAS, the subject application and plans have been reviewed by the Lee County Department of Community Development in accordance with applicable regulations for compliance with all terms of the administrative approval procedures; and

WHEREAS, it is found that the proposed amendment does not increase density or intensity within the development; does not decrease buffers or open space required by the LDC; does not underutilize public resources or infrastructure; does not reduce total open space, buffering, landscaping or preservation areas; and does not otherwise adversely impact on surrounding land uses; and

WHEREAS, it is also found that the proposed amendment will allow for internal capture of vehicular trips; will provide connections to adjacent uses; will allow for urban forms of development and a variety of uses; will not result in the substantial underutilization of public resources and public infrastructure committed to the support of the development; will not decrease the amount of indigenous native vegetation or preservation area below the amount required by Code; will not adversely impact surrounding land uses; and is consistent with applicable provisions of the Lee Plan and land development regulations in effect at the time of the amendment request.

NOW, THEREFORE, IT IS HEREBY DETERMINED that the application for an administrative amendment to Parcels 3 and 4 of the Diplomat Property Residential Planned Development/Commercial Planned Development (RPD/CPD) to remove references to commercial site location standards, amend the schedule of uses to permit multifamily residential dwellings on the subject parcels, and establish a conversion ratio for commercial intensity to residential density on property located at the intersection of North Cleveland Avenue/Diplomat Parkway East is hereby **APPROVED subject to the following conditions:**

- 1. Condition 1 of Resolution Z-11-002 is hereby amended as follows to establish a maximum residential density on CPD Parcels 3 and 4 and to remove references to obsolete Commercial Site Location Standards:**

Maximum Total Commercial Floor Area (CPD Parcels 1, 2, 3 and 4): 200,000 square feet of commercial uses. ~~A maximum of 100,000 s/f of which may be retail.~~

~~Retail development is limited to Parcel 4 (which meets Commercial Site Location standards). Retail development is not permitted on Commercial Parcels 1, 2 or 3 (which do not meet Site Location standards).~~

- 2. Condition 2.a of Resolution Z-11-002 is hereby amended as follows to add the following uses to the approved Schedule of Uses for CPD Parcels 3 and 4 (North and South of Diplomat Parkway):**

Dwelling units, multifamily (Limited to Parcels 3 and 4)

Model Home, Model Display Center, Model Unit (Limited to Parcels 3 and 4)

Real Estate Sales

Limited to rental/sales of units within multifamily development permitted on Parcels 3 and 4

Residential accessory uses (Limited to Parcels 3 and 4)

- 3. CPD Parcels 3 and 4 may convert unused commercial intensity to multifamily dwelling units in accordance with the following Land Use Conversion Matrix:**

	Multifamily Residential LUC 220 (0.56 Trips/DU)	Commercial Retail (Shopping Center) LUC 820 (3.81 Trips/1,000 sq. ft.)
Multifamily Residential LUC 220 (0.56 Trips/DU)	Same	147 sq ft./1 DU
Commercial Retail (Shopping Center) LUC 820 (3.81 Trips/1,000 sq. ft.)	6.80 DU/1,000 sq. ft.	Same

- 4. A maximum of 116 multifamily dwelling units (8 dwelling units per acre) may be constructed on CPD Parcels 3 and 4 in accordance with the Land Use Conversion Matrix in Condition 3.**
- 5. With any local development order application proposing multifamily residential development, the applicant must submit a report itemizing:**

- a. **The density (expressed in number of dwelling units) and, if applicable, the intensity (expressed in the square feet of floor area) of each use proposed by the local development order application.**
 - b. **The cumulative total density and intensity permitted on CPD Parcels 1, 2, 3, and 4 by prior local development order approvals.**
 - c. **The remaining density and intensity available for future development on CPD Parcels 1, 2, 3, and 4 for each individual classification in Condition 5(a).**
6. **The terms and conditions of the original zoning resolution and subsequent amendments thereto remain in full force and effect.**
7. **If it is determined that inaccurate or misleading information was provided to the County or if this decision does not comply with the LDC when rendered, then, at any time, the Zoning Manager may issue a modified decision that complies with the Code or revoke the decision. If the approval is revoked, the applicant may acquire the necessary approvals by filing an application for public hearing in accordance with Chapter 34.**

Duly passed, adopted, and electronically signed on 6/22/2020

Audra Ennis, Zoning Manager

List of Exhibits

Exhibit A: STRAP Number

Exhibit B: Resolution Z-11-002

Exhibit C: Request Narrative

Exhibit D: LCU/FGUA Correspondence

Exhibit E: Public Information Session Summary

EXHIBIT A

CASE NUMBER: ADD2020-00034

STRAP NUMBER

34-43-24-00-00001.3050

***REVIEWED
ADD2020-00034
Daniel Munt, Planner
Lee County DCD
4/7/2020***

EXHIBIT B

RESOLUTION NUMBER Z-11-002

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

WHEREAS, an application was filed by the property owner, Athyrio Development Associates, LLC, to amend the northerly 35.2± acres Residential Planned Development (RPD) portion of the Diplomat Property Residential Planned Development/Commercial Planned Development (RPD/CPD); and,

WHEREAS, a public hearing was advertised and held on January 6, 2011, with the record held open until January 14, 2011, for written submissions, before the Lee County Zoning Hearing Examiner, who gave full consideration to the evidence in the record for Case DCI2010-00015; and

WHEREAS, a second public hearing was advertised and held on March 21, 2011, before the Lee County Board of Commissioners, who gave full and complete consideration to the recommendations of the staff, the Hearing Examiner, the documents on record and the testimony of all interested persons.

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

SECTION A. REQUEST

The applicant filed a request to amend the 35.2± acres RPD portion of the Diplomat Property RPD/CPD to permit a maximum of 400 assisted living facility beds, 138 standard dwelling units, a maximum of 50,000 square feet of medical office space, and to make other changes to the master concept plan (MCP) including reconfiguration of a lake, changes to the buffer to the west, and additional details including the placement commercial and residential buildings. Maximum building height requested is 50 feet. No development blasting is requested. Any development will connect to public potable water and public sanitary sewer service. The property is located in the Central Urban Future Land Use Category and is legally described in attached Exhibit A. The request is APPROVED, SUBJECT TO the conditions and deviations specified in Sections B and C below.

SECTION B. CONDITIONS:

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

1. Development must be substantially consistent with the 1-page Master Concept Plan (MCP) entitled "DIPLOMAT PROPERTY RPD/CPD (NORTH PARCEL)," dated 09-22-10, last revised 4-22-11 and date-stamped "Received APR 27 2011 Community Development" AND the 1-page MCP entitled "Master Concept Plan, DIPLOMAT PARCEL, Lee County, Florida," dated 08-27-2007, last revised 01-23-2008 and date-stamped "Received JAN 30 2008 Permit Counter," except as modified by the conditions below.

NOTE: The portion of the project on the north side of Diplomat Parkway includes Commercial Development Parcels 1, 2 and 3 (West 3 and East 3). It also includes a 29.75 acres that may be developed either as an RPD, or and ALF/CCF, with or without a commercial component on the westerly portion of that site identified as the 5.43 acre North CPD Parcel.

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

Maximum Number of Dwelling Units (North RPD Parcel): 138 dwelling units plus a maximum of 400 beds for assisted living facilities/continuing care facilities. Dwelling units may be converted per Table "B" of the approved MCP.

Maximum Number of Dwelling Units (South RPD parcel): 105 dwelling units. An additional 21 units may be constructed if they are marketed at a price point that is affordable to moderate income households at the time of building permit application. Further, the additional 21 units may only be sold to buyers who qualify as a moderate income household at time of purchase. Moderate income household means 120 percent of the yearly median income based on yearly income levels developed for the SHIP Program by the Housing Section of the Lee County Division of Planning.

Eight (8.0) dwelling units per acre maximum, for the 13.19 acres of RPD (South of Diplomat Parkway). An additional 1.6 units per acre may be constructed subject to the affordability requirements above.

Maximum Commercial Floor Area (North CPD Parcel): 50,000 square feet of medical office. Medical office may be converted per Table "B" of the approved MCP.

Maximum Total Commercial Floor Area (CPD Parcels 1, 2, 3 and 4): 200,000 square feet of commercial uses. A maximum of 100,000 s/f of which may be retail.

Retail development is limited to Parcel 4 (which meets Commercial Site Location standards). Retail development is not permitted on Commercial Parcels 1, 2 or 3 (which do not meet Site Location standards).

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

a. **SCHEDULE OF USES**

RPD- South of Diplomat Parkway

Accessory Uses and Structures

Administrative Office

Clubs, Private - as shown on the approved MCP.

Community Garden

Dwelling Units, single-family, duplex, two-family attached, multiple-family and townhomes - 105 (up to 126 pursuant to Condition 1)

Entrance Gates and Gatehouse

Essential Services

Essential Service Facilities, Group I only

Excavation, Water Retention - not to include the removal of excavated material from the site. No blasting.

Fences and Walls.

Home Occupation, No outside help.

Home Care Facility.

Model Home, Model Display Center, Model Unit - ALSO
SEE MODEL HOME/REAL ESTATE SALES
CONDITIONS.

Parking Lot, Accessory.

Real Estate Sales - limited to sales of lots, homes or units within the development. Model home and club locations only. ALSO SEE MODEL HOME/REAL ESTATE SALES CONDITIONS.

Recreational Facilities - Private, On-site only.
LIMITED TO THOSE SHOWN ON THE
APPROVED MCP.

Residential Accessory Uses

Signs, in compliance with LDC Chapter 30

Temporary Uses, Temporary Real Estate Sales Office

CPD - Parcels 1, 2, 3 & 4 - North and South of Diplomat Parkway

Administrative Office

Animals: Clinic, Kennel, Control Center (including Humane Society) -
indoors, no outdoor runs.

Automatic Teller Machine

Auto Parts Store - No installation service.

Auto Repair and Service, Group I only

Bait and Tackle Shop

Banks and Financial Establishments, Groups I and II

Boat Part Stores

Building Material Sales (indoor only, no outdoor display)

Business Services, Groups I and II (no impound yards or
armored car services)

Cleaning and Maintenance Services

Clothing Stores, General

Communication facilities, wireless (in accordance with LDC Chapter 34,
Division 11) A wireless communication facility may be
administratively approved, provided it is co-located
on a building and the height of the tower does
not exceed 50 feet from existing grade

Community Garden (**Note:** *This use may not be utilized until such time as
the LDC is amended to permit this use in a CPD.*)

Consumption on Premises - Indoors. In conjunction with Group III
restaurants only. Outdoor Consumption on Premises
will require special exception approval (public hearing)

Contractors and Builders, Groups I and II (but not Group III)

Cultural Facilities

Day Care, Adult, Child

Department Store

Drive-through facility for any permitted use. No fast food drive-through.

Drugstore, Pharmacy (limited to 1 on Parcel 3 or 4)

Entrance Gate and Gatehouse

Emergency Operations Center

EMS, Fire or Sheriff's Station

Essential Services

Essential Service Facilities, Group I only

Excavation, Water Retention - not to include the removal of excavated
material from the site. No blasting.

Fences and Walls.

Flea Market, Indoor Only

Food and Beverage Services, Limited

Food Stores, Groups I and II

Funeral Home or Mortuary, with or without cremation

Gasoline Dispensing System, Special
Hardware Store
Health Care Facility, Groups I, II and III (but not Group IV).
Hobby, Toy and Game Store
Hotel/Motel - Limited to 120 rooms maximum.
Household and Office Furnishings - (indoor only, no outdoor display)
Insurance Companies
Lawn and Garden Supply Stores - (indoor only, no outdoor display)
Library
Medical Office
Nonstore Retailer
Paint, Glass and Wallpaper - (indoor only, no outdoor display)
Parking Lot, Accessory, Commercial, Garage, Public Parking, Temporary
Personal Services, Groups I, II, III and IV. Excluding Laundromats,
Laundry Agents, Massage Establishments, Massage
Parlors, Steam or Turkish Baths, Dating Services,
Escort Services, Palm Readers, Fortune Tellers,
Card Readers, Tattoo Parlors.
Pet Services, Pet Shops - Indoor only, no outdoor display.
No outdoor runs.
Place of Worship
Plant Nursery
Post Office
Printing and Publishing
Processing and Warehousing
Real Estate Sales Office
Religious Facilities
Rental or Leasing Establishments, Group II only (and excluding tools
and equipment primarily for home use). Indoor only.
No outdoor display.
Repair Shop, Groups I, II and III
Research and Development Laboratories, Groups I, II, III and IV
Restaurants, Groups I, II, III and IV
Restaurant, Fast Food, No stand-alone or drive-through - within
a multiple-occupancy building only.
Schools, Commercial and Non-Commercial
Signs in Accordance with LDC Chapter 30
Social Services Group I only
Specialty Retail, Groups I, II, III and IV
Storage, Indoor Only
Studios
Supermarkets

Temporary Uses
Used Merchandise, Groups I and II, Indoor only. No outdoor display.
Variety Store

RPD - North of Diplomat Parkway

Accessory Uses and Structures
Administrative Office
Assisted Living Facilities - (pursuant to Condition 1)
Clubs, Private - as shown on the approved MCP (Recreation Areas)
Community Garden
Continuing Care Facilities
Dwelling Units, single-family, duplex, two-family attached,
multifamily, townhomes - (pursuant to Condition 1)
Entrance Gates and Gatehouse
Essential Services
Essential Service Facilities, Group I only
Excavation, Water Retention - not to include the removal of
excavated material from the site. No blasting.
Fences and Walls.
Home Occupation, No outside help
Home Care Facility
Model Home, Model Display Center, Model Unit - ALSO SEE MODEL
HOME/REAL ESTATE SALES CONDITIONS.
Parking Lot, Accessory.
Real Estate Sales - limited to sales of lots, homes or units within
the development. Model home and club locations only.
ALSO SEE MODEL HOME/REAL ESTATE SALES
CONDITIONS.
Recreational Facilities - Private, On-site only. LIMITED TO
THOSE SHOWN ON THE APPROVED MCP.
Religious Facilities
Residential Accessory Uses
Signs, in compliance with LDC Chapter 30
Temporary Uses, Temporary Real Estate Sales Office

CPD - 5.43-Acre Parcel north of Diplomat Parkway

Administrative Office
Animals: Clinic, Kennel, Control Center (including Humane Society) -
indoors, no outdoor runs
Automatic Teller Machine
Banks and Financial Establishments, Groups I and II

Business Services, Groups I and II (no impound yards or armored car services)

Cleaning and Maintenance Services

Communication facilities, wireless (in accordance with LDC Chapter 34, Division 11) A wireless communication facility may be administratively approved, provided it is co-located on a building and the height of the tower does not exceed 50 feet from existing grade.

Community Garden (**Note:** *This use may not be utilized until such time as the LDC is amended to permit this use in a CPD.*)

Cultural Facilities

Entrance Gate and Gatehouse

Emergency Operations Center

EMS, Fire or Sheriff's Station

Essential Services

Essential Service Facilities, Group I only

Excavation, Water Retention - not to include the removal of excavated material from the site. No blasting.

Fences and Walls.

Health Care Facility, Groups I, II and III (no Group IV)

Insurance Companies

Medical Office

Parking Lot, Accessory

Personal Services, Groups I and II

Pharmacy - accessory to medical office use only

Real Estate Sales Office

Religious Facilities

Research and Development Laboratories, Groups I, II, III and IV

Schools, Commercial and Non-Commercial

Signs in Accordance with LDC Chapter 30

Social Services Group I only

Temporary Uses

b. SITE DEVELOPMENT REGULATIONS

RPD - South of Diplomat Parkway

SINGLE-FAMILY:

Minimum Lot Areas and Dimensions

Lot Size:	7,500 square feet
Lot Width:	75 feet
Lot Depth:	100 feet

Minimum Setbacks

Street	25 feet (public)/20 feet (private)
Side	5 feet
Rear	30 feet on all lots containing enhanced buffer 20 feet on all other lots

Water body 25 feet

All Accessory Uses: Per the LDC.

Setbacks from Preserves (All structures): 25 feet, per the LDC.

Minimum Perimeter Setbacks: 25 feet
30 feet on all lots containing
an enhanced buffer

Minimum Building Separation: 10 feet.

Maximum Building Height: 35 feet/ 3 stories
Maximum Lot Coverage: 45 percent

DUPLEX, TWO-FAMILY ATTACHED, TOWNHOUSE:

Minimum Lot Areas and Dimensions

Lot Size:	7,500 square feet
Lot Width:	75 feet (37.5 per unit)
Lot Depth:	100 feet

Minimum Setbacks

Street	25 feet (public)/20 feet (private)
Side	5 feet (zero feet for common wall unit)
Rear	30 feet on all lots containing enhanced buffer 20 feet on all other lots

Water body 25 feet

All Accessory Uses: Per the LDC.

Setbacks from Preserves (All structures): 25 feet, per the LDC.

Minimum Perimeter Setbacks: 25 feet
30 feet on all lots containing
an enhanced buffer

Minimum Building Separation: 10 feet.
Maximum Building Height: 3 5 feet/ 2 stories
Maximum Lot Coverage: 45 percent.

MULTIPLE-FAMILY:

Minimum Lot Areas and Dimensions

Lot Size: 10,000 square feet
Lot Width: 100 feet
Lot Depth: 100 feet

Minimum Setbacks

Street 25 feet (public)/20 feet (private)
Side 10 feet
Rear 30 feet on all lots containing enhanced buffer
20 feet

Water body 25 feet

All Accessory Uses: Per the LDC.
Setbacks from Preserves (All structures): 25 feet, per the LDC.

Minimum Perimeter Setbacks: 25 feet
30 feet on all lots containing
an enhanced buffer

Minimum Building Separation: 20 feet.

Maximum Building Height: 35 feet/ 2 stories
Maximum Lot Coverage: 45 percent.

RECREATIONAL AREA/FACILITIES:

Minimum Lot Areas and Dimensions

Lot Size: 9,000 square feet
Lot Width: 50 feet
Lot Depth: 120 feet

Minimum Setbacks - Also see Deviation 5

Street	25 feet (public)/20 feet (private)
Side	10 feet
Rear	20 feet

Water body	25 feet
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All Accessory Uses: Per the LDC.

Setbacks from Preserves (All structures): 25 feet, per the LDC.

Minimum Perimeter Setbacks: 25 feet

Minimum Building Separation: 10 feet

Maximum Building Height: 35 feet/ 2 stories

Maximum Lot Coverage: 45 percent

CPD - PARCELS 1, 2, 3 & 4:

Minimum Lot Areas and Dimensions

Lot Size:	10,000 square feet
Lot Width:	100 feet
Lot Depth:	100 feet

Minimum Setbacks

Street	25 feet (public)/20 feet (private)
Side	10 feet
Rear	20 feet

Water body	25 feet
------------	---------

All Accessory Uses: Per the LDC.

Setbacks from Preserves (All structures): 25 feet, per the LDC.

Minimum Perimeter Setbacks: 25 feet

Minimum Building Separation: 20 feet, but buildings exceeding 35 feet in height must maintain additional building separation as regulated by LDC §34-2174(a).

Maximum Building Height: 50 feet/ 3 stories
35 feet/2 stories - adjacent to west boundary

Maximum Lot Coverage: 60 percent

RPD - NORTH OF DIPLOMAT PARKWAY:

ASSISTED LIVING:

Minimum Lot Areas and Dimensions

Lot Size: 10,000 square feet
Lot Width: 100 feet
Lot Depth: 100 feet

Minimum Setbacks

Street 25 feet (public)/20 feet (private)
Side 10 feet
Rear 30 feet on all lots containing enhanced buffer
20 feet on all other lots

Water body 25 feet

All Accessory Uses: Per the LDC.

Setbacks from Preserves (All structures): 25 feet, per the LDC.

Minimum Perimeter Setbacks: 25 feet
30 feet on all lots containing and enhanced buffer

Minimum Building Separation: ½ building height, but not less than 15 feet

Maximum Building Height: 45 feet
Maximum Lot Coverage: 45 percent

SINGLE-FAMILY:

Minimum Lot Areas and Dimensions

Lot Size: 7,200 square feet
Lot Width: 60 feet
Lot Depth: 100 feet

Minimum Setbacks

Street 25 feet (public)/20 feet (private)
Side 5 feet
Rear 30 feet on all lots containing enhanced buffer
20 feet on all other lots

Water body 25 feet

All Accessory Uses: Per the LDC.

Setbacks from Preserves (All structures): 25 feet, per the LDC.

Minimum Perimeter Setbacks: 25 feet
30 feet on all lots containing
an enhanced buffer

Minimum Building Separation: 10 feet

Maximum Building Height: 35 feet
Maximum Lot Coverage: 45 percent

DUPLEX:

Minimum Lot Areas and Dimensions

Lot Size: 7,000 square feet
Lot Width: 70 feet
Lot Depth: 100 feet

Minimum Setbacks

Street 25 feet (public)
20 feet (private)
Side 5 feet

Rear 30 feet on all lots containing enhanced buffer
20 feet on all other lots

Water body 25 feet

All Accessory Uses: Per the LDC.

Setbacks from Preserves (All structures): 25 feet, per the LDC.

Minimum Perimeter Setbacks: 25 feet
30 feet on all lots containing
an enhanced buffer

Minimum Building Separation: 10 feet.

Maximum Building Height: 35 feet
Maximum Lot Coverage: 45 percent

TOWNHOME:

Minimum Lot Areas and Dimensions

Lot Size: 1,600 square feet
Lot Width: 16 feet
Lot Depth: 100 feet

Minimum Setbacks

Street 25 feet (public)
20 feet (private)
Side 10 feet
0 feet (for a common wall)
Rear 30 feet on all lots containing enhanced buffer
20 feet on all other lots

Water body 25 feet

All Accessory Uses: Per the LDC.

Setbacks from Preserves (All structures): 25 feet, per the LDC.

Minimum Perimeter Setbacks: 25 feet
30 feet on all lots containing
an enhanced buffer

Minimum Building Separation: 20 feet

Maximum Building Height: 35 feet

Maximum Lot Coverage: 55 percent

MULTIPLE-FAMILY:

Minimum Lot Areas and Dimensions

Lot Size: 10,000 square feet

Lot Width: 100 feet

Lot Depth: 100 feet

Minimum Setbacks

Street 25 feet (public)

20 feet (private)

Side 10 feet

Rear 30 feet on all lots containing enhanced buffer

20 feet on all other lots

Water body 25 feet

All Accessory Uses: Per the LDC.

Setbacks from Preserves (All structures): 25 feet, per the LDC

Minimum Perimeter Setbacks: 25 feet

Minimum Building Separation: $\frac{1}{2}$ building height, but not less than 15 feet

Maximum Building Height: 50 feet

Maximum Lot Coverage: 45 percent

RECREATION AREA/CLUBHOUSE:

Minimum Lot Areas and Dimensions

Lot Size: 9,000 square feet

Lot Width: 100 feet

Lot Depth: 100 feet

Minimum Setbacks

Street	25 feet (public) 20 feet (private)
Side	10 feet
Rear	20 feet

Water body 25 feet

All Accessory Uses: Per the LDC.

Setbacks from Preserves (All structures): 25 feet, per the LDC.

Minimum Perimeter Setbacks: 25 feet
30 feet on all lots containing
an enhanced buffer

Minimum Building Separation: 10 feet

Maximum Building Height: 35 feet
Maximum Lot Coverage: 45 percent

CPD - 5.43-acre North CPD Parcel:

Minimum Lot Areas and Dimensions

Lot Size:	10,000 square feet
Lot Width:	100 feet
Lot Depth:	100 feet

Minimum Setbacks

Street	25 feet (public) 20 feet (private)
Side	10 feet
Rear	20 feet 20 feet on all other lots

Water body 25 feet

All Accessory Uses: Per the LDC

Setbacks from Preserves (All structures): 25 feet, per the LDC

Minimum Perimeter Setbacks: 25 feet

Minimum Building Separation: ½ building height not less than 15 feet

Building Height: 35 feet

Maximum Lot Coverage: 60 percent

3. **CONCURRENCY**

Approval of this rezoning does not constitute a finding that the proposed project meets the concurrency requirements set forth in LDC Chapter 2 and the Lee Plan. The developer is required to demonstrate compliance with all concurrency requirements prior to issuance of a local development order.

4. **MODEL HOME AND REAL ESTATE SALES**

Model units and homes (and real estate sales) are permitted in compliance with the following conditions:

- a. Each model must be a unique example. Multiple examples of the same unit are not permitted.
- b. All model sites must be designated on the development order plans.
- c. Prior to model home construction, the lots upon which model homes will be constructed must be shown on a preliminary plat (not the final). The preliminary plat must be filed concurrently with the local development order application. The model homes must comply with the setbacks set forth in the property development regulations for this project.
- d. Dry models are prohibited.
- e. The number of model homes or model units will be limited to no more than 10 within the development at one time.
- f. Any model homes or units must be developed within the areas identified as "models" on the approved MCP.
- g. Real estate sales within the RPD are limited to the sale of lots or units within the development only. Real Estate sales are a permitted use within the CPD.

- h. Real estate sales within the RPD are limited to within model homes or clubhouse only.
- i. Hours of operation for both models and real estate sales (within the RPD) are limited to Monday through Sunday 8:00 a.m. to 8:00 p.m.
- j. Model homes and real estate sales within the RPD will be valid for a period of up to five years from the date of issuance of a certificate of occupancy of a model home per LDC §34-1954(d)(1).

5. NO AGRICULTURAL USES APPROVED

No agricultural uses are permitted on site.

6. BLASTING

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

7. NATIVE VEGETATION REQUIRED IN THE ENTIRE RPD AND CPD

All required buffers must utilize 100 percent all native vegetation.

8. ADDITIONAL BUILDING SEPARATION REQUIRED

Buildings exceeding 35 feet in height must maintain additional building separation as regulated by LDC §34-2174(a).

9. TRAFFIC

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

10. LEE PLAN

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

22. OPEN SPACE (NORTH CPD PARCEL AND NORTH RPD PARCEL)

Prior to local development order approval, the development order plans must delineate a minimum of 1.63 acres of open space for the CPD and 11.9 acres of open space for the RPD.

23. BUFFERS (NORTH CPD PARCEL AND NORTH RPD PARCEL)

- a. Prior to local development order approval, the development plans must demonstrate the preservation of native vegetation within the flood way. This vegetation may be utilized to meet the required type "F" buffer plantings. Upon removal of exotics from this area if it is found that the existing vegetation does not satisfy the buffer planting requirements, additional plants must be provided. These plants must be designed to mimic the natural area through the use of similar species and random planting throughout the area.
- b. An enhanced type "F" buffer must be provided as shown on the MCP. This buffer must be 30 feet in width and include 10 native canopy trees per 100 linear feet, and a double hedge row planted at 48" in height at time of planting.

24. NATIVE PLANTINGS REQUIRED (NORTH CPD PARCEL AND NORTH RPD PARCEL)

All required buffer plantings, general trees, and internal canopy trees must be 100 percent native species.

SECTION C. DEVIATIONS:

(Deviations 1 through 7 were previously approved and remain applicable to the RPD/CPD and are recited below. Deviation 8 is new.)

1. **Intersection Separation** - Deviation 1 (previously contained in Resolution Z-06-004 and ADD2007-00169) seeks relief from the LDC §10-285(a) requirement to provide a minimum access connection separation of 660 feet on an arterial road to permit an access separation of 364 feet between the project's proposed main access and the proposed exit-only access for the residential portion of the southern parcel. This deviation is APPROVED.

2. **One dead-end street permitted** - Deviation 2 (previously contained in Resolution Z-06-004 and ADD2007-00169) seeks relief from the LDC §10-296(k)(1) requirement that dead-end streets be closed at one end by a circular turn-around, to allow one dead-end street as shown on the approved MCP on the southern RPD. This deviation is APPROVED.
3. **Calculation for Open Space** - Deviation 3 (previously contained in Resolution Z-06-004 and ADD2007-00169) seeks relief from the LDC §10-415(b)(1)(a) requirement that large developments with indigenous vegetation communities to provide 50 percent of their open space percentage requirements through on-site preservation of existing native vegetative communities, to permit 0.45 acres of right of way to be vacated, enhanced and preserved to count toward the preservation requirement. This deviation is APPROVED, SUBJECT TO the following condition:

Prior to local development order approval for Commercial Parcel 4, the existing roadway easement depicted within the indigenous preserve must be vacated.

This deviation applies to the southern RPD and CPD.

4. **Installation of storm water management system** - Deviation 4 (previously contained in Resolution Z-06-004 and ADD2007-00169) seeks relief from the LDC §10-415(b)(1)a. requirement that large developments with existing indigenous native vegetation communities provide 50 percent of their open space requirement through on-site preservation of indigenous native vegetation, to allow portions of the preservation area to be disturbed and restored in order to install a storm water management system. This deviation is APPROVED, SUBJECT TO the following conditions:
 - a. Prior to local development order, the development order plans must delineate the general location of the surface water management outfall through the indigenous preserve to the canal. The outfall must be designed as an open system that can be planted with native vegetation.
 - b. Prior to issuance of a Vegetation Removal Permit, the location of the surface water management outfall through the indigenous preserve must be field staked to avoid impacting any large native trees or gopher tortoise burrows for the Division of Environmental Sciences Staff review and approval.

This deviation applies to the southern RPD and CPD.

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

- 6b. Deviation 6b (previously contained in Resolution Z-06-004) seeks relief from the LDC §10-291(3) requirement (when practical) that residential developments of more than five acres in size provide two or more means of ingress into the development, to allow the residential portion to the south of Diplomat Parkway to be constructed with a single ingress/egress connection onto Diplomat Parkway. This deviation is APPROVED, SUBJECT TO the following conditions.
- a) Access to the residential component south of Diplomat Parkway must be generally consistent with the approved MCP; and
 - b) Any emergency access gate must comply with all applicable regulations with respect to required equipment for an emergency override mechanism at the time of installation. Additionally, if an emergency necessitates the breaking of an entrance gate, the cost of repairing the gate and the emergency vehicle (if applicable) will be the responsibility of the owner or the operator of the gate; and
 - c) Prior to issuance of a development order, the developer must provide written documentation from the North Fort Myers Fire District indicating that these access points are acceptable and provide adequate access for emergency vehicles.
7. **Curbside garbage collection for townhouse units** - Deviation 7 (previously contained in ADD2007-000169) seeks relief from the LDC §10-261 requirement that all new multiple-family residential developments to provide sufficient space for the placement of garbage containers or receptacles, to allow for curbside garbage pick up at the proposed townhouse units that are planned within the project. This deviation is APPROVED.

8. **Certain internal buffers not required** - Deviation 8 seeks relief from the LDC §10-416(d)(3) requirement that a Type C/F buffer between the proposed RPD/CPD uses internal to the development, to allow no buffer between the RPD/CPD uses where the commercial uses are separated from the residential uses within the project by a private road. This deviation is APPROVED.

SECTION D. EXHIBITS:

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

- Exhibit A: Legal description of the property
- Exhibit B: Zoning Map (with the subject parcel indicated)
- Exhibit C: The Master Concept Plan

SECTION E. FINDINGS AND CONCLUSIONS:

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

5. **Separation from residential uses** - Deviation 5 (previously contained in Resolution Z-06-004 and ADD2007-00169) seeks relief from the LDC §34-2474(b)(6) requirement that recreation halls and ancillary facilities and private clubs be located at least 40 feet from any residential dwelling unit, to allow a 20-foot minimum separation for any recreation building from a residential dwelling unit. This deviation is APPROVED, SUBJECT TO the following condition:

Development of a recreational facility and clubhouse must be generally consistent with the location shown on the approved MCP.

This deviation applies to the recreation area shown on the RPD to the north.

- 6a. **Single ingress into the development** - Deviation 6a (previously contained in Resolution Z-06-004 and ADD2007-00169) seeks relief from the LDC §10-291(3) requirement (when practical) that residential developments of more than five acres in size provide two or more means of ingress into the development, to allow the residential portion to the north of Diplomat Parkway to be constructed with a single ingress/egress connection onto Diplomat Parkway. This deviation is APPROVED, SUBJECT TO the following conditions:

- a. Access to the residential component north of Diplomat Parkway must be generally consistent with the approved MCP; and
- b. The approved MCP and local development order must depict a minimum 70-foot-wide divided entrance on the north side of Diplomat Parkway that includes a median with two lanes on both sides of the median for ingress and egress; and
- c. Prior to issuance of a development order, the developer must provide written documentation from the North Fort Myers Fire District indicating that these access points are acceptable and provide adequate access for emergency vehicles. The development order must also include the plans for the secondary/emergency access required in the following paragraph.
- d. Prior to build-out of the north residential development, Applicant must install a secondary/emergency access from the residential tract to commercial Parcel 3, as shown on the MCP. Any emergency access gate must comply with all applicable

- c. the recommended conditions are reasonably related to the impacts on the public interest created by or expected from the proposed development.
- 4. Urban services, as defined in the Lee Plan, are, or will be, available and adequate to serve the proposed land use.
- 5. The approved deviations, as conditioned, enhance achievement of the planned development objectives, and preserve and promote the general intent of LDC Chapter 34, to protect the public health, safety and welfare.

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

John E. Manning	Aye
Brian Bigelow	Aye
Ray Judah	Aye
Tammara Hall	Aye
Frank Mann	Aye

DULY PASSED AND ADOPTED this 21st day of March, 2011.

ATTEST:
CHARLIE GREEN, CLERK

BY: Marcia Wilson
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: Frank Mann
Frank Mann, Chair

Approved as to form by:

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



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2011 MAY -9 PM 2:00

19. **PRIOR ZONING**

The terms and conditions of the original Zoning Resolution No. Z-06-004 and Administrative Amendment ADD2007-00169 are superceded by this zoning action and are rendered null and void by this approval. The terms and conditions herein apply to the entire planned development previously covered by Zoning Resolution No. Z-06-004.

20. **INDIGENOUS PRESERVATION/HERITAGE TREES (NORTH CPD PARCEL AND NORTH RPD PARCEL)**

- a. Prior to local development order approval, a tree survey must be submitted depicting the location, diameter at breast height, and species of all heritage trees within the development area.
- b. Prior to local development order approval, landscape plans must depict heritage trees, located within the development footprint, that are determined to be of good health as per a certified arborist. Those trees must be incorporated into the internal open space (i.e., perimeter planting, enlarged landscape areas, etc), or must be replaced with a 20-foot like species to a suitable open space area where final site design constraints (i.e., fill requirements, entrance roads, etc) do not allow preservation.

21. **PROTECTED SPECIES**

- a. Prior to development order approval, the Applicant must first seek approval for on-site preservation of the gopher tortoises through avoidance or relocation before pursuing off-site relocation options. All communication with FWC verifying on-site avoidance or relocation attempts were made must be provided to DES Staff.
- b. A copy of the appropriate gopher tortoise relocation permit issued by the FWC must be submitted to the DES Staff prior to excavation and moving of any gopher tortoises. The Applicant must first seek approval for an on-site relocation before pursuing off-site relocation options. Any gopher tortoises and commensal species found during burrow excavation must be moved to preserves containing suitable gopher tortoise habitat as approved by the FWC and DES Staff.

DCI 2010-00015

Banks Engineering

Professional Engineers, Planners & Land Surveyors

2515 Northbrooke Plaza Drive - Suite 200

Naples, Florida 34119

(239) 597-2061

Fax (239) 597-3082

RECEIVED
APR 27 2011

DESCRIPTION

OF A

PARCEL OF LAND

LYING IN

SECTION 34, TOWNSHIP 43 SOUTH, RANGE 24 EAST **COMMUNITY DEVELOPMENT**

LEE COUNTY, FLORIDA

(CPD ZONING DESCRIPTION)

A TRACT OR PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, LYING IN SECTION 34, TOWNSHIP 43 SOUTH, RANGE 24 EAST AND BEING FURTHER BOUNDED AND DESCRIBED AS FOLLOWS:

NORTH CPD ZONING PARCEL

COMMENCING AT THE INTERSECTION OF THE WESTERLY RIGHT-OF-WAY LINE OF U.S. 41 (STATE ROAD 45) (200 FEET WIDE) AND THE SOUTHERLY RIGHT-OF-WAY LINE OF LITTLETON ROAD (50 FEET WIDE); THENCE 94.14 FEET ALONG SAID WESTERLY RIGHT-OF-WAY LINE AND ALONG THE ARC OF A CURVE CONCAVE TO THE SOUTHEAST HAVING A RADIUS OF 5829.58 FEET AND SUBTENDED BY A CHORD HAVING A LENGTH OF 94.14 FEET AND BEARING S.03°47'10"W. TO A POINT OF TANGENCY; THENCE S.03°25'50"W. ALONG SAID WESTERLY RIGHT-OF-WAY LINE FOR 2338.37 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE S.03°25'50"W. ALONG SAID WESTERLY RIGHT-OF-WAY LINE FOR 199.95 FEET TO POINT "A" AND TO AN INTERSECTION WITH THE NORTHERLY RIGHT-OF-WAY LINE OF DIPLOMAT PARKWAY (100 FEET WIDE); THENCE N.86°35'21"W. ALONG SAID NORTHERLY RIGHT-OF-WAY LINE FOR 12.52 FEET TO THE BEGINNING OF A CURVE TO THE LEFT HAVING A RADIUS OF 2150.00 FEET; THENCE WESTERLY ALONG SAID CURVE AND ALONG SAID NORTHERLY RIGHT-OF-WAY LINE THROUGH A CENTRAL ANGLE OF 3°32'51" FOR 133.12 FEET; THENCE S.89°51'48"W. ALONG SAID NORTHERLY RIGHT-OF-WAY LINE FOR 1484.79 FEET TO POINT "B"; THENCE N.00°08'12"W. FOR 250.00 FEET; THENCE N.89°51'48"E. FOR 1145.24 FEET; THENCE S.03°25'50"W. FOR 53.49 FEET; THENCE S.89°54'50"E. FOR 500.85 FEET TO THE POINT OF BEGINNING.

PARCEL CONTAINS 8.78 ACRES, MORE OR LESS.

TOGETHER WITH: ADDITIONAL NORTH CPD ZONING PARCEL

COMMENCING AT SAID POINT "B" ; THENCE S.89°51'48"W. ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE OF DIPLOMAT PARKWAY (100 FEET WIDE) FOR 80.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE S.89°51'48"W. ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE FOR 253.42 FEET; THENCE N.28°32'51"W. FOR 6.70 FEET; THENCE N.00°20'36"W. FOR 244.12 FEET; THENCE N.89°51'48"E. FOR 257.48 FEET; THENCE S.00°08'12"E. FOR 250.00 FEET TO THE POINT OF BEGINNING.

PARCEL CONTAINS 1.48 ACRES, MORE OR LESS.

TOGETHER WITH: SOUTH CPD ZONING PARCEL

COMMENCING AT SAID POINT "A"; THENCE S.03°25'50"W. ALONG SAID WESTERLY RIGHT-OF-WAY LINE OF U.S. 41 (STATE ROAD 45) (200 FEET WIDE) FOR 100.00 FEET TO THE POINT OF BEGINNING;

SHEET 1 OF 3

S:\Jobs\20xx\2028\SURVEY\Descriptions\Zoning\2028 ZONING CPD REV DESC.doc

Fort Myers Office
10511 Six Mile Cypress Pkwy, Suite #101
Fort Myers, Florida 33966
(239) 939-5490
Fax (239) 939-2523

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

EXHIBIT "A"
(Page 1 of 6)

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THENCE CONTINUE S.03°25'50"W. ALONG SAID WESTERLY RIGHT-OF-WAY LINE FOR 429.00 FEET TO THE NORTHEAST CORNER OF A PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 2113 AT PAGE 1590 OF SAID PUBLIC RECORDS, ALSO BEING THE NORTHEAST CORNER OF MERCHANTS CROSSING, A SUBDIVISION RECORDED IN PLAT BOOK 52 AT PAGES 37 THROUGH 47 OF SAID PUBLIC RECORDS; THENCE N.86°34'10"W. ALONG THE NORTH LINE OF SAID PARCEL AND SAID SUBDIVISION FOR 72.00 FEET TO THE SOUTHEAST CORNER OF A PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 2833 AT PAGE 4156 OF SAID PUBLIC RECORDS; THENCE N.03°25'50"E. ALONG THE EASTERLY LINE OF SAID PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 2833 AT PAGE 4156 FOR 65.00 FEET; THENCE N.86°33'36"W. ALONG THE NORTHERLY LINE OF SAID PARCEL FOR 39.68 FEET; THENCE S.03°26'24"W. ALONG THE WESTERLY LINE OF SAID PARCEL FOR 8.00 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT HAVING A RADIUS OF 17.00 FEET; THENCE SOUTHWESTERLY ALONG SAID PARCEL AND SAID CURVE THROUGH A CENTRAL ANGLE OF 90°00'01" FOR 26.70 FEET; THENCE N.86°33'36"W. ALONG THE NORTHERLY LINE OF SAID PARCEL FOR 487.82 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT HAVING A RADIUS OF 80.00 FEET; THENCE NORTHWESTERLY ALONG SAID PARCEL AND SAID CURVE THROUGH A CENTRAL ANGLE OF 86°25'24" FOR 120.67 FEET; THENCE N.00°08'12"W. ALONG THE EASTERLY LINE OF SAID PARCEL FOR 274.66 FEET TO POINT "C" AND TO AN INTERSECTION WITH THE SOUTHERLY RIGHT-OF-WAY LINE OF DIPLOMAT PARKWAY (100 FEET WIDE) AS DESCRIBED IN OFFICIAL RECORDS BOOK 2833 AT PAGE 4156 OF SAID PUBLIC RECORDS; THENCE N.89°51'48"E. ALONG SAID SOUTHERLY RIGHT-OF-WAY FOR 575.20 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT HAVING A RADIUS OF 2050.00 FEET; THENCE EASTERLY ALONG SAID RIGHT-OF-WAY AND SAID CURVE THROUGH A CENTRAL ANGLE OF 3°32'51" FOR 126.93 FEET; THENCE S.86°35'21"E. ALONG SAID RIGHT-OF-WAY FOR 12.49 FEET TO THE POINT OF BEGINNING.

PARCEL CONTAINS 6.00 ACRES, MORE OR LESS.

TOGETHER WITH: ADDITIONAL SOUTH CPD ZONING PARCEL

COMMENCING AT SAID POINT "C"; THENCE S.89°51'48"W. ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE OF DIPLOMAT PARKWAY (100 FEET WIDE) FOR 40.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE S.89°51'48"W. ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE FOR 383.07 FEET; THENCE S.00°08'12"E. FOR 186.04 FEET; THENCE N.59°04'35"E. FOR 185.65 FEET; THENCE S.76°11'27"E. FOR 125.61 FEET; THENCE S.41°41'10"E. FOR 153.30 FEET TO AN INTERSECTION WITH THE WESTERLY LINE OF THE AFORESAID PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 2833 AT PAGE 4156 OF SAID PUBLIC RECORDS; THENCE N.00°08'12"W. ALONG THE WESTERLY LINE FOR 236.02 FEET TO THE POINT OF BEGINNING.

PARCEL CONTAINS 1.22 ACRES.

NET AREA AS DESCRIBED CONTAINS 17.48 ACRES, MORE OR LESS.

COMMUNITY DEVELOPMENT

BEARINGS ARE BASED ON THE WESTERLY RIGHT-OF-WAY OF U.S. 41 (STATE ROAD 45) AS BEARING S.03°25'50"W.

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

DESCRIPTION PREPARED NOVEMBER 2, 2006.

Richard M. Ritz
 RICHARD M. RITZ
 REGISTERED LAND SURVEYOR
 FLORIDA CERTIFICATION NO. 4006

Applicant's Legal Checked
 by 11/08/06 CS

EXHIBIT "A"
 (Page 2 of 6)

- b. The landscape plans must include a permanent gopher tortoise fence along Diplomat Parkway where the three-acre gopher tortoise preserve abuts this roadway and a double staggered native hedge (minimum three-gallon container size; 24-inch height at planting; maintained at a minimum 36-inch height) planted on the roadside of the fence; and
- c. The landscape plans must delineate a double staggered native hedge (minimum three-gallon container size; 24-inch height at planting; maintained at a minimum 36-inch height) planted along the interface of the indigenous preserve with the residential tract.
- d. Prior to issuance of a Vegetation Removal Permit, all invasive exotic vegetation and manmade debris must be hand removed from the indigenous preserve.

16. COMMERCIAL PARCELS NORTH OF DIPLOMAT PARKWAY

Commercial buildings located within Parcels 1, 2 and the westernmost 2.3 acres of Parcel 3 are limited to a maximum of 10,000 square feet per building, and must not exceed two stories/35 feet in height. The building locations must alternate (be staggered) between the front and rear of the commercial parcels to provide a more campus-like setting. A parking plan must be devised to keep the amount of parking spaces along Diplomat Parkway to an absolute minimum. These parking areas and commercial buildings must be buffered, from Diplomat Parkway, by, at a minimum, a two-foot high berm with 10 trees and a staggered 36-inch high hedge per 100 linear feet. Applicant is strongly encouraged to utilize the commercial site locational criteria established for the Estero community.

The commercial buildings on Commercial Parcels 1, 2, and 3 must be of the same or similar architectural design and coloring as the residential buildings, to identify them as a unified project. All project identification signs (commercial and residential) must also be of the same or similar architectural design and coloring.

18. SOLID WASTE/RECYCLING

Prior to local development order approval for vertical development, the Developer must provide facilities in compliance with LDC §10-261 and Lee County Solid Waste Ordinance #08-10 for the pick up/disposal of solid waste and recyclables. The minimum area required for and specific locations of these facilities will be reviewed at the time of local development order application (Also see Deviation 7).

OF A
PARCEL OF LAND

LITTLETON ROAD (30' WIDE)
NORTHERLY RIGHT-OF-WAY LINE



POINT	NORTHING	EASTING
NE#1	856827.83	858334.48
NE#2	856328.33	858662.18
NE#3	856228.53	858316.53
NE#4	856231.52	857802.01
NE#5	856231.63	857542.01
NE#6	856230.51	857172.84
NE#7	856329.16	856812.19
NE#8	856578.55	856354.11

CURVE TABLE				
CURVE C1	RADIUS 5879.58'	DELTA 90°55'31"	ARC 94.14'	CHORD BEARING 94.14 (D) 94.23 (M)
C2	2190.00'	03°32'51"	133.12'	133.10 (D) 133.10 (M)
C3	1700.00'	90°00'00"	26.70'	26.04' E
C4	80.00'	89°38'34"	120.87'	120.85' N
C5	2050.00'	03°32'51"	126.93'	126.93' E

LINE	BEARING	DISTANCE
11	S 03°25'30" W	199.83
12	N 86°35'21" W	12.52
13	N 28°32'51" W	6.74
14	S 03°25'30" W	53.49
15	S 03°25'30" W	100.00
16	N 86°34'10" W	72.00
17	N 03°25'30" E	65.00
18	N 86°33'36" W	39.68
19	S 03°26'24" W	8.00
20	S 86°35'21" E	12.49
21	S 89°51'48" W	40.00
22	S 00°00'12" E	186.04
23	N 59°04'35" E	185.63
24	S 76°17'27" E	125.61
25	S 41°41'10" E	153.30
26	N 00°00'12" W	236.02
27	S 89°51'48" W	80.00

35184 AC

48± AC.

B 28+ AC

NE/1

U.S. 41

0/K/O S.R 45, 0/K/O TANIAHI TRAIL (200' WIDE)
U.S. 41

POINT "A"
P.O.C.
SOUTH CPD

P.O.B.
SOUTH CPD
ZONING PARCEL

10

N.E. CORNER —
(O.R. 2113, PG. 1590)
&
MERCHANTS CROSSING
(P.B. 52, PG. 37-47)

NOTES:

1. SET ACCOMPANYING SHEETS FOR COMPLETE METES AND BOUNDS DESCRIPTION.
2. STATE PLANE COORDINATES (FLORIDA ZONE WEST) SHOWN HEREON ARE BASED ON NAD83 AND ARE FOR GIS PURPOSES ONLY.
3. BEARINGS ARE BASED ON THE WESTERLY RIGHT-OF-WAY OF U.S. 41 AS S.01°23'30"W.

LEGEND:

P.O.C.	INDICATES POINT OF COMMENCEMENT
P.D.B.	INDICATES POINT OF BEGINNING
O.R.	INDICATES OFFICIAL RECORDS BOOK OF LEE COUNTY
P.G.	INDICATES PAGE NUMBER
P.B.	INDICATES PLAT BOOK
C1	INDICATES CURVE 1 OF THE CURVE TABLE
L1	INDICATES LINE 1 OF THE LINE TABLE
W41	INDICATES COORDINATE #1 OF THE COORDINATE TABLE

THIS IS NOT A SURVEY

sketch *Renaissance*
RICHARD M. RITZ
REGISTERED LAND SURVEYOR
FLORIDA CERTIFICATION NO. 4009

- THIS SKETCH IS NOT VALID UNLESS IT BEARS THE
SIGNATURE AND ORIGINAL RAISED SEAL OF A FLORIDA
PROFESSIONAL SURVEYOR AND MAPPER.

- PREPARED NOVEMBER 2, 2008.

PREPARED BY:

Banks Engineering

ENGINEERING, SURVEYING & LAND PLANNING
2018 NORTHBROOKE PLAZA DRIVE - SUITE 200
MAPLES, FLORIDA 34119
(238) 897-2061

FLORIDA SURVEYING BUSINESS CERTIFICATION NO. 8890

SHEET 3 OF 3

EXHIBIT "A"
(Page 3 of 6)

\\lbs120nort2078\SURVEYDescriptions\Zoning\2028_ZONING_REV_SK.dwg, 11/2/2006 4:24:53 PM, David Bletschmidt

DCI 2010-00015

Banks Engineering

Professional Engineers, Planners & Land Surveyors
2515 Northbrooke Plaza Drive-Suite 200
Naples, Florida 34119
(239) 597-2061
Fax (239) 597-3082

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APR 27 2011

DESCRIPTION
OF A
PARCEL OF LAND
LYING IN
SECTION 34, TOWNSHIP 43 SOUTH, RANGE 24 EAST
LEE COUNTY, FLORIDA
(RPD ZONING DESCRIPTION)

COMMUNITY DEVELOPMENT

A TRACT OR PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, LYING IN SECTION 34, TOWNSHIP 43 SOUTH, RANGE 24 EAST AND BEING FURTHER BOUNDED AND DESCRIBED AS FOLLOWS:

NORTH RPD PARCEL:

COMMENCING AT THE INTERSECTION OF THE WESTERLY RIGHT-OF-WAY LINE OF U.S. 41 (STATE ROAD 45) (200 FEET WIDE) AND THE SOUTHERLY RIGHT-OF-WAY LINE OF LITTLETON ROAD (50 FEET WIDE) THENCE 94.14 FEET ALONG SAID WESTERLY RIGHT-OF-WAY LINE AND ALONG THE ARC OF A CURVE CONCAVE TO THE SOUTHEAST HAVING A RADIUS OF 5829.58 FEET AND SUBTENDED BY A CHORD HAVING A LENGTH OF 94.14 FEET AND BEARING S.03°47'10"W. TO A POINT OF TANGENCY; THENCE S.03°25'50"W. ALONG SAID WESTERLY RIGHT-OF-WAY LINE FOR 2338.37 FEET; THENCE N.89°54'50"W. FOR 500.85 FEET; THENCE N.03°25'50"E. FOR 53.49 FEET TO THE POINT OF BEGINNING; THENCE S.89°51'48"W. FOR 1145.24 FEET; THENCE S.00°08'12"E. FOR 250.00 FEET TO AN INTERSECTION WITH THE NORTHERLY RIGHT-OF-WAY LINE OF DIPLOMAT PARKWAY (100 FEET WIDE) AS DESCRIBED IN OFFICIAL RECORDS BOOK 2833 AT PAGE 4156 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE S.89°51'48"W. ALONG SAID NORTHERLY RIGHT-OF-WAY LINE FOR 80.00 FEET; THENCE N.00°08'12"W. FOR 250.00 FEET; THENCE S.89°51'48"W. FOR 257.48 FEET; THENCE N.00°20'36"W. FOR 703.76 FEET; THENCE N.85°23'00"E. FOR 335.22 FEET; THENCE N.02°25'15"W. FOR 346.19 FEET; THENCE S.89°54'50"E. FOR 1231.65 FEET; THENCE S.03°25'50"W. FOR 1073.15 FEET TO THE POINT OF BEGINNING.

PARCEL CONTAINS 35.18 ACRES, MORE OR LESS.

AND;

SOUTH RPD PARCEL:

COMMENCING AT THE INTERSECTION OF THE WESTERLY RIGHT-OF-WAY OF U.S. 41 (STATE ROAD 45) (200 FEET WIDE) AND THE SOUTHERLY RIGHT-OF-WAY OF LITTLETON ROAD (50 FEET WIDE) THENCE 94.14 FEET ALONG THE WESTERLY RIGHT-OF-WAY AND ALONG THE ARC OF A CURVE CONCAVE TO THE SOUTHEAST HAVING A RADIUS OF 5829.58 FEET AND SUBTENDED BY A CHORD HAVING A LENGTH OF 94.14 FEET AND BEARING S.03°47'10"W. TO A POINT OF TANGENCY; THENCE S.03°25'50"W. ALONG SAID WESTERLY RIGHT-OF-WAY LINE FOR 2338.37 FEET TO THE SOUTHEASTERLY CORNER OF A PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 1972 AT PAGE 335 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE CONTINUE S.03°25'50"W. ALONG SAID WESTERLY RIGHT-OF-WAY LINE FOR 728.95 FEET TO THE NORTHEAST CORNER OF A PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 2113 AT PAGE 1590 OF SAID PUBLIC RECORDS, ALSO BEING THE NORTHEAST CORNER OF MERCHANTS CROSSING, A SUBDIVISION RECORDED IN PLAT BOOK 52 AT PAGES 37 THROUGH 47 OF SAID PUBLIC RECORDS; THENCE N.86°34'10"W. ALONG THE NORTH LINE OF SAID PARCEL AND SAID SUBDIVISION FOR 616.50 FEET TO THE POINT OF

SHEET 1 OF 3

S:\Jobs\20xx\2028\SURVEY\Descriptions\Zoning\2028 ZONING RPD REV DESC.doc

Fort Myers Office
10511 Six Mile Cypress Pkwy, Suite #101
Fort Myers, Florida 33966
(239) 939-5490
Fax (239) 939-2523

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

EXHIBIT "A"
(Page 4 of 6)

11. INTERSECTION IMPROVEMENTS

The developer must contribute its proportionate share of the costs of intersection improvements at the time a traffic control device is warranted at the intersection of US 41 and Diplomat Road.

12. WIRELESS COMMUNICATION FACILITIES

- a. Freestanding wireless communication facilities (towers, including stealth type) are not permitted. Approval of freestanding wireless communication facilities will require an amendment to the planned development (public hearing).
- b. Wireless Communication Facilities (including wall-mounted and roof-mounted antennas) may be approved in accordance with LDC §34-1441, *et. seq.* (Commercial parcels only).

13. ACCESSORY USES

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

14. OPEN SPACE

Prior to local development order approval, the landscape plans must demonstrate that each commercial parcel is providing a minimum of 30 percent open space, and a minimum of 40 percent common open space is provided within the residential tract.

15. ENVIRONMENTAL

Prior to local development order approval, if the Florida Fish and Wildlife Conservation Commission (FWC) allows the relocation of tortoises within on-site indigenous preserves:

- a. The developer must submit a detailed indigenous preservation management plan for the Lee County Division of Environmental Sciences (DES) Staff review and approval that includes methods of maintaining the western 3.0 acres of the preserve as gopher tortoise habitat; and

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BEGINNING; THENCE CONTINUE N.86°34'10"W. ALONG SAID NORTHERLY LINE FOR 33.50 FEET TO THE NORTHWEST CORNER OF SAID PARCEL; THENCE S.48°25'48"W. ALONG THE WESTERLY LINE OF SAID PARCEL AND SAID SUBDIVISION FOR 212.13 FEET; THENCE S.03°25'50"W. ALONG THE WESTERLY LINE OF SAID PARCEL AND SAID SUBDIVISION FOR 100.00 FEET TO THE SOUTHWESTERLY CORNER OF SAID PARCEL AND TO THE SOUTH LINE OF A PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 2389 AT PAGE 1936 OF SAID PUBLIC RECORDS; THENCE N.86°34'10"W. ALONG THE SOUTH LINE OF SAID PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 2389 AT PAGE 1936 AND THE NORTHERLY LINE OF SAID SUBDIVISION FOR 747.11 FEET TO AN INTERSECTION WITH THE NORTHEASTERLY LINE OF A DRAINAGE EASEMENT (50 FEET WIDE) DESCRIBED IN DEED BOOK 237 AT PAGES 564 AND 565 OF SAID PUBLIC RECORDS; THENCE N.28°32'51"W. ALONG THE NORTHEASTERLY LINE OF SAID DRAINAGE EASEMENT FOR 666.39 FEET TO AN INTERSECTION WITH THE SOUTHERLY RIGHT-OF-WAY LINE OF DIPLOMAT PARKWAY (100 FEET WIDE) AS DESCRIBED IN OFFICIAL RECORDS BOOK 2833 AT PAGE 4156 OF SAID PUBLIC RECORDS; THENCE N.89°51'48"E. ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE FOR 765.84 FEET; THENCE S.00°08'12"E. FOR 186.04 FEET; THENCE N.59°04'35"E. FOR 185.65 FEET; THENCE S.76°11'27"E. FOR 125.61 FEET; THENCE S.41°41'10"E. FOR 153.30 FEET TO AN INTERSECTION WITH THE WESTERLY LINE OF A PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 2833 AT PAGE 4156 OF SAID PUBLIC RECORDS; THENCE S.00°08'12"E. ALONG THE WESTERLY LINE OF SAID PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 2833 AT PAGE 4156 FOR 38.64 FEET TO THE BEGINNING OF A CURVE TO THE LEFT HAVING A RADIUS OF 120.00 FEET; THENCE SOUTHEASTERLY ALONG SAID WESTERLY LINE AND SAID CURVE THROUGH A CENTRAL ANGLE OF 86°25'24" FOR 181.00 FEET TO THE POINT OF BEGINNING.

PARCEL CONTAINS 12.47 ACRES, MORE OR LESS.

DCI 2010-00015

NET ACREAGE IS 47.65 ACRES, MORE OR LESS.

BEARINGS ARE BASED ON THE WESTERLY RIGHT-OF-WAY OF U.S. 41 (STATE ROAD 45) AS BEARING S.03°25'50"W.

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

DESCRIPTION PREPARED NOVEMBER 2, 2006.

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

Applicant's Legal Checked
by *CSB* 11/6/06



Zoning Map
DCI2010-00015



Mapped: 4/29/11

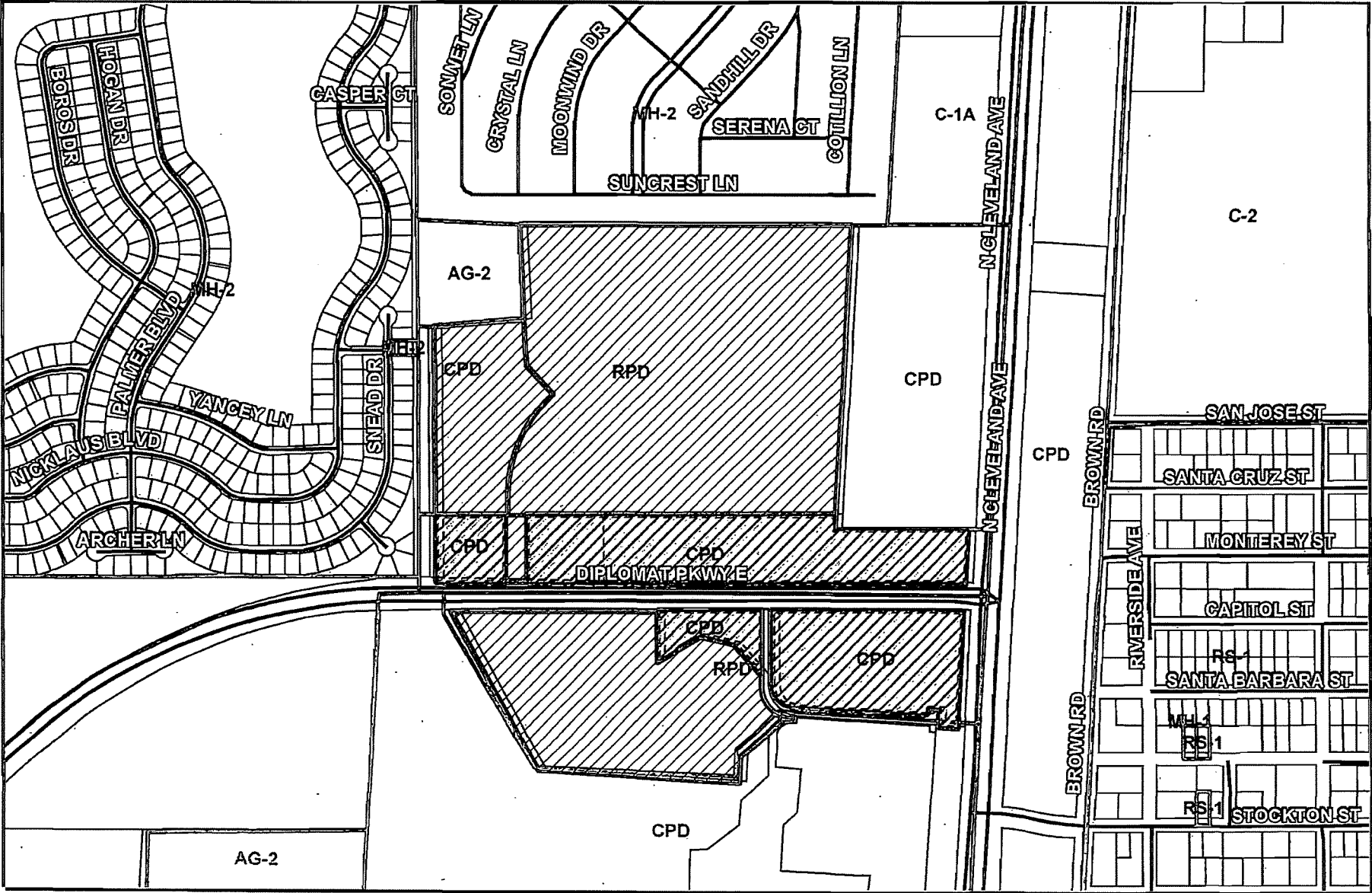
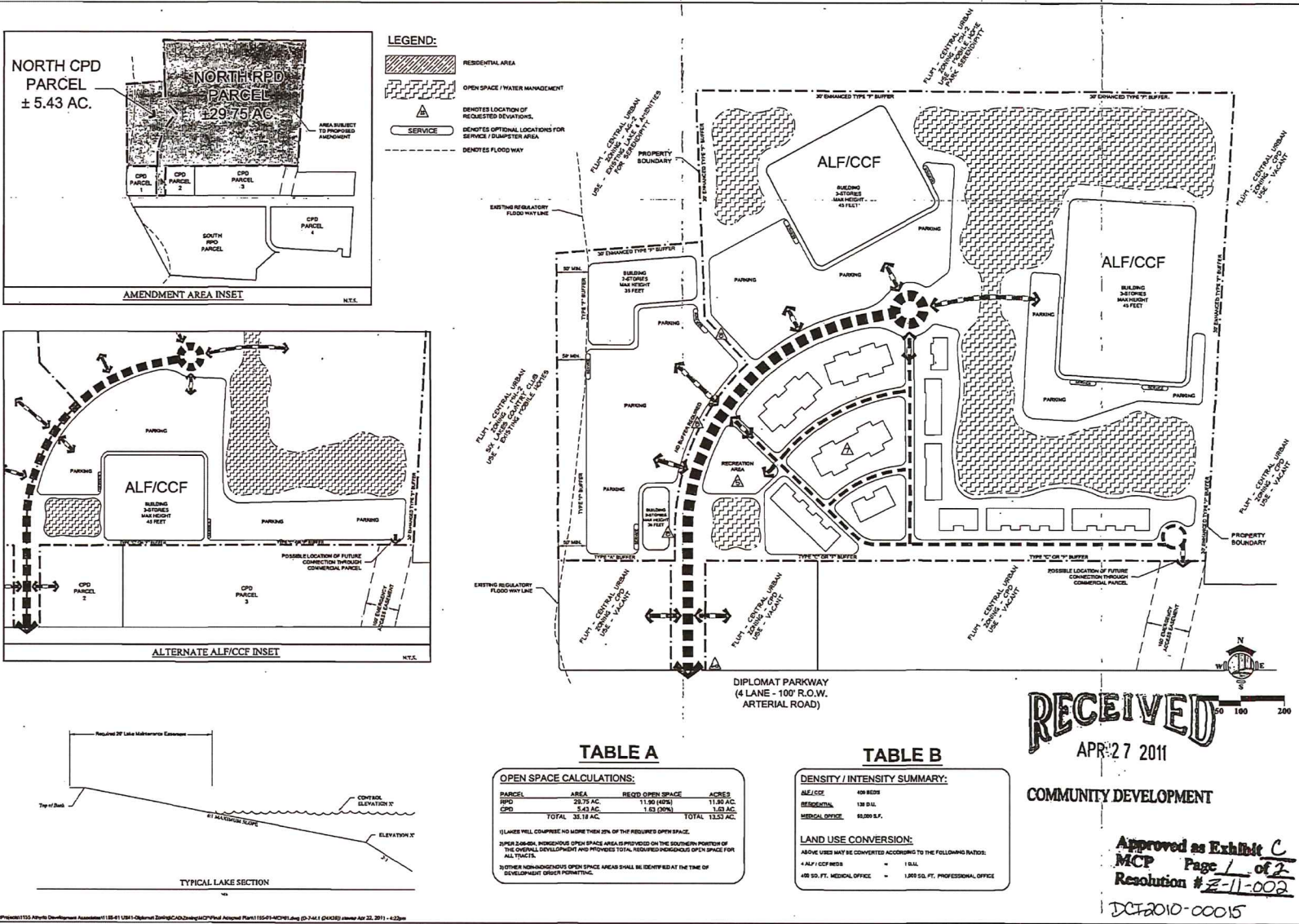


EXHIBIT "B"



ensite
ANALYST OF PLACES, ARTS, AND
ENVIRONMENTAL DESIGN
10000 W. US HWY 1, SUITE 100
FORT MYERS, FL 33902
TEL: 888-888-8888
WWW.ENSITE.COM

Athyrio Development
Associates, LLC
P.O. Box 1662
Fort Myers, FL 33902

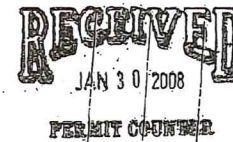
DIPLOMAT PROPERTY RPD / CPD
(NORTH PARCEL)
Project Line 3

REV.	DATE	DESCRIPTION
1	09-25-10	Initial Concept Plan
2	11-05-10	Revised Concept Plan
3	11-15-10	Revised Concept Plan
4	11-15-10	Revised Concept Plan
5	11-15-10	Revised Concept Plan
6	11-15-10	Revised Concept Plan
7	11-15-10	Revised Concept Plan
8	11-15-10	Revised Concept Plan
9	11-15-10	Revised Concept Plan
10	11-15-10	Revised Concept Plan

DATE: 09-25-10
PROJECT NO.: 1155-01
FILE NO.: 1155-01-MCP01.dwg
SCALE: AS SHOWN

MASTER CONCEPT
PLAN
D-7-M.1

1 of 1

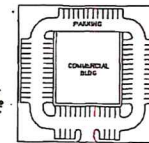


BY INDIGENOUS OPEN SPACE AREA IS PROVIDED ON SOUTHERN PORTION OF DEVELOPMENT (12.23 ACRES TOTAL PROVIDED) AND IS TO PROVIDE TOTAL REQUIRED INDIGENOUS OPEN SPACE FOR ALL TRACTS. ON OTHER (NON-INDIGENOUS) OPEN SPACE SHALL BE PROVIDED ON THE RESPECTIVE TRACT AND SHALL BE CONTINUED AT THE TIME OF DEVELOPMENT ORIGIN PURSUING.

TYPICAL RESIDENTIAL BUILDING LEGEND:



APPROVED
Amendment to
Master Concept Plan
Subject to Case # ADD2007-001
Date 2/1/2008



ඩිව්‍යාක්ෂ ඒන්ජිනීයරිං
Professional Engineers, Planners & Land Surveyors
PORT MEERS • JALUIS • SARASOTA
2511 WOODBROOK RD. #221, JALUIS, FL 34802

MASTER CONCEPT PLAN
DIPOLMAT PARCEL
LEE COUNTY, FLORIDA

LEE COUNTY, FLORIDA									
DATE	PROJECT	DRAWING	DESIGN	BY	CHECKED	SCALE	SHEET	OF	FILE NO. (S-T-4)
8-17-1977	2028	W/C	CAD	CAD	DNV	1"=100'	1	1	34-43-24

COOPER STREET PROPERTY

Administrative Amendment to the Diplomat Property RDP/CPD

REQUEST NARRATIVE

Cooper Street Property, Inc. ("Applicant") is requesting an administrative amendment to the Diplomat Property RDP/CPD to remove the language that requires commercial retail uses to meet site location standards on parcels 3 and 4 within the CPD portion of the planned development; to allow the addition of multi-family dwelling units to the schedule of uses for the same parcels; and add a conversion table for commercial to dwelling units.

The proposed modifications will bring the CPD portion of the Diplomat Property RPD/CPD into greater compliance with the current Lee County Land Development Code, which eliminated site location standards since approval of this zoning, and with the Mixed-Use Overlay and North Fort Myers Community Plan in accordance with LDC Section 33-1354.

Through this amendment, the Applicant is seeking approval of modifications to the Planned Development most recently amended per Zoning Resolution Z-11-002, as follows:

1. Strikethrough and underline changes on page 3 (of 26):
 - Maximum Total Commercial Floor Area (CPD Parcels 1, 2, 3 and 4): 200,000 square feet of commercial uses. ~~A maximum of 100,000 s/f of which may be retail.~~
 - ~~Retail development is limited to Parcel 4 (which meets Commercial Site Location standards).~~ Retail development is not permitted on Commercial Parcels 1, or 2 ~~or 3~~ (which do not meet Site Location standards).
- 2.a. Add the following to the Schedule of Uses for CPD Parcels 3 & 4 (only) on page 4:
 - Dwelling Units, multi-family
 - Model Home, Model Display Center, Model Unit
 - Real Estate Sales - limited to sales of lots, homes or units within the development. Model home and club locations only.
 - Residential Accessory Uses
- 2.b. Add a table for conversion of commercial square footage to multi-family density for CPD Parcels 3 and 4 on pages 10 and 11:

CPD Parcels 3 and 4 may convert unused commercial retail square footage to multi-family dwelling units in accordance with the Land Use Conversion Matrix Table below, but in no case shall the number of multi-family dwelling units exceed 8 dwelling units per acre, or 116 units.

	<u>Multi-Family Residential</u> <u>LUC 220</u> <u>(0.56 Trips/d.u.)</u>	<u>Commercial Retail</u> <u>(Shopping Center)</u> <u>LUC 820</u> <u>(3.81 Trips/1 ksf)</u>
<u>Multi-Family Residential</u> <u>LUC 220</u> <u>(0.56 Trips/d.u.)</u>	<u>Same</u>	<u>147 s.f./1 d.u.</u>
<u>Commercial Retail</u> <u>(Shopping Center)</u> <u>LUC 820</u> <u>(3.81 Trips/1 ksf)</u>	<u>6.80 d.u./1 ksf</u>	<u>Same</u>

BACKGROUND/EXISTING CONDITIONS

The Diplomat Property RPD/CPD ("Property") comprises 65+/-acres and is currently undeveloped. It is approved as a multi-tenant commercial and retail center, including commercial outparcels, and mixed product residential development including assisted living facilities. The site is located at the intersection of North Cleveland Avenue/Diplomat Parkway East arterial intersection in the North Fort Myers Planning Community.

The RPD/CPD is designated within the Central Urban future land use category. *The entire site is within the Mixed-Use Overlay and the North Fort Myers Planning Community.*

The portion of the CPD owned by the Applicant is 7.31 acres in the parcel on the northside of Diplomat Parkway known as CPD Parcel 3; and 7.22 acres in the parcel on the southside of Diplomat Parkway known as CPD Parcel 4 – a total of 14.53 acres.

REQUEST JUSTIFICATION

Master Concept Plan

The Master Concept Plan does not provide density for multi-family dwelling units for the CPD Parcels 3 and 4. The RPD portions of the Planned Development provide residential density to not exceed 8 units per acre. The applicant is proposing conversion of commercial intensity to multi-family residential density, not to exceed the base density permitted in other portions of the overall planned development, to allow for the potential of a mixed-use development. The Mixed Use Overlay provisions of the LDC allow the entire acreage of a mixed-use development to be utilized when calculating density, where the development demonstrates a bonafide mixed-use development program.

The Schedule of Uses for CPD Parcels 3 and 4, as amended, is also consistent with a mixed-use project where non-residential uses are limited to those commercial uses that are complimentary to and compatible with on-site dwellings, such as restaurants, retail and entertainment.

Mixed Use Overlay

The subject property is located within the Mixed Use Overlay as identified in Map 1 of the Lee Plan. Objective 11.2 establishes the purpose and intent of the Mixed-Use Overlay, including the availability of alternative property development regulations for development within it. *The proposed mixed-use development program is consistent with the intent for the Overlay including pedestrian connections internally and to adjacent uses; an urban form of development via redevelopment of surface parking to high density housing; integrated civic space to create a heightened sense of place; and appropriate use of available public infrastructure and services.*

North Fort Myers Community Plan

Pursuant to LDC Sec. 33-1534 regarding existing Planned Development zoning districts in the North Fort Myers Planning Community: "Existing approved master concept plans may be voluntarily brought into compliance with the North Fort Myers Plan (Lee Plan Goal 28) or any regulation contained in this article through the administrative amendment process."

The request is consistent with the stated vision for the North Fort Myers Community Plan, including the desire for mixed-use development patterns along key corridors outlined in the Lee Plan as follows:

POLICY 30.1.3: Encourage a diversity of housing types in the North Fort Myers Community Plan area by supporting mixed use projects, with residential above or adjacent to retail and service uses, within the Mixed Use Overlay

POLICY 30.1.4: Encourage development of affordable housing options on property with the following characteristics:

- Located within the Intensive Development, Central Urban, and Urban Community on the Future Land Use Map;
- Located where central water/sewer service is available; and
- Located within walking distance of mass transit, commercial and personal services, and parks and recreation facilities.

POLICY 30.2.4: The following areas are designated as Neighborhood Centers appropriate of moderate intensity, pedestrian-oriented, mixed use development:

- Littleton and North Cleveland Avenue;
- North Tamiami Trail and Del Prado Boulevard;
- North Tamiami Trail and Nalle Grade Road;
- Hancock Bridge Parkway and Orange Grove Boulevard;
- North Tamiami Trail and Pine Island/Bayshore Roads;
- Bayshore Road and Slater Road; and
- Bayshore Road and Hart Road

Development Pattern Considerations

The subject property is in the Central Urban Future Land Use as defined in Lee Plan Policy 1.2.2 which is characterized as the "urban core" of the county. Residential, commercial, public, quasi-

public, and light industrial uses are all permitted with in this Future Land Use. This amendment allows for a mix of residential and commercial uses that are consistent with the intent for this category. The proposed development is also consistent Objectives 2.1 and 2.2 relating to development location and timing where public infrastructure and services exist.

As previously stated, the subject property is in the North Fort Myers Planning Community. This community is described in the Lee Plan as an area of revitalization and is intended to promote a mix of uses. Additionally, the North Fort Myers Planning Community requires a public information meeting within the planning community for all Planned Developments (and amendments). The Applicant will conduct a public information meeting with the North Fort Myers Planning Community Panel in March of 2020. A follow-up meeting will be held prior to a finding of sufficiency on this amendment application.

Bicycle, Pedestrian & Transit Facilities

The subject property fronts Northeast Pine Island Road and North Cleveland Avenue which is designated as a future bike/pedestrian. The site has access to existing sidewalk infrastructure on N. Cleveland Avenue. The subject property is located within a ¼ mile radius of Lee Tran Route 595 and a covered bus shelter is at Merchant's Crossing abutting CPD Parcel 4.

Urban Services

The subject property is serviced by the Sheriff and EMS Station that is approximately 2.4 miles south, and fire station 2.1 miles south of the property. The proposed development will have access to the Lee County Utilities for both water and wastewater. The applicant is consistent with Lee Plan Standards 11.1 and 11.2. Other urban services are available to this proposed development including parks and schools to serve the new residential component.

CONCLUSION

In accordance with LDC §34-380, the above request does not propose an increase to height, density or intensity within the development via the Land Use Equivalency Matrix. Similarly, the amendment will not result in the substantial underutilization of public resources and infrastructure committed to the support of the development, will not reduce total open space, buffering, landscaping and preservation areas, and will not adversely impact surrounding land uses. *The amendment is consistent with the directive to administratively bring PDs in the North Fort Myers Community Plan into greater conformance with the Land Development Code, including specific regulations in Chapter 33.*

Based upon this application's compliance with all other conditions in Z-11-004, as amended, the Lee Plan, and administrative thresholds set forth in §34-380 and 33-1534, the Applicant respectfully requests staff approval of this request.

ATTACHMENT N

RESOLUTION NUMBER Z-23-003

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

WHEREAS, Kimley-Horn and Associates, Inc., filed an application on behalf of the property owner, Hallin Family, LLC, to rezone a 19.41± acre parcel from Commercial (C-1A) and Commercial Planned Development (CPD) to Residential Planned Development (RPD) in reference to MIVO North Fort Myers; and

WHEREAS, a public hearing before the Lee County Zoning Hearing Examiner, Amanda L. Rivera, was advertised and held on January 19, 2023; and

WHEREAS, the Hearing Examiner gave full consideration to the evidence in the record for Case #DCI2022-00027 and recommended approval of the Request; and

WHEREAS, a second public hearing was advertised and held on April 5, 2023 before the Lee County Board of Commissioners; and,

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

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

SECTION A. REQUEST

The applicant filed a request to rezone a 19.41± acre parcel from C-1A and CPD to RPD, to allow a maximum 285 units of which 95 are bonus density units, not to exceed 60 feet in height.

The property is located in the Central Urban Future Land Use Category and is legally described in attached Exhibit A. The request is APPROVED, SUBJECT TO the conditions and deviations specified in Sections B and C below.

SECTION B. CONDITIONS:

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

1. **Master Concept Plan (MCP) and Development Intensity**

- a. MCP. Development must be consistent with the two-page MCP entitled "MIVO Diplomat Center", prepared by Kimley-Horn and Associates, Inc., dated 01/2023, except as modified by the conditions below.
- b. LDC and Lee Plan. Development must comply with the LDC and Lee Plan at the time of local development order approval, except where deviations are granted herein. Subsequent amendments to this zoning resolution and MCP may be subject to further development approvals.

- c. Development Parameters. The RPD is limited to 285 dwelling units (of which 95 are bonus density units), residential accessory uses, and amenity center.

2. **Uses and Site Development.**

a. **Schedule of Uses**

Accessory uses, buildings, and structures

Dwelling unit:

Multi-family

Entrance gates and gatehouse

Essential services

Essential service facilities:

Group I

Excavation:

Water retention

Recreation facilities:

Personal

Private on-site

Signs

b. **Site Development Regulations**

Amenity Center

Minimum Setback:

Preserve: 20 feet from wetland and 30 feet from upland preserves.

Building and accessory structures: 15 feet

Multi-family

Minimum lot size: 10,000 square feet

Minimum lot width: 100 feet

Minimum lot depth: 100 feet

Minimum Setbacks:

Street: 25 feet

Side: 15 feet

Accessory Structure: 15 feet

Rear: 15 feet

Waterbody: 25 feet

Preserve: 30 feet

Maximum building height: 60 feet

Maximum lot coverage: 45 percent

3. **Open Space**

Development order plans must include the open space table depicting 2.73 acres of indigenous preserve area, 0.99 acres of wetlands, and a total open space area of 10.83 acres.

4. **Conservation Easement Recording**

Developer must record a conservation easement for created, restored, and preserved indigenous preserve areas prior to approval of the first development order. Developer must dedicate conservation easements to an appropriate maintenance entity and provide third party enforcement rights to Lee County or an agency acceptable to the County.

5. **Wetland Impacts**

Developer must adjust project density if necessary to conform to the formal jurisdictional wetland determination or the South Florida Water Management District Environmental Resource Permit.

6. **Turnaround**

Developer must submit an autoturn analysis during development order review demonstrating sufficient area to allow a three-point turning movement on the ingress side of the proposed entry gate for a single unit truck as specified in the ASASHTO Green Book current edition.

7. **Turnaround Signage and Striping**

Development order plans must include signage and pavement striping that reserves the area required to execute a three-point turning movement on the ingress side of the entrance gate.

8. **State and Federal Permits**

- a. Generally. County development permits do not create rights to obtain permits from state or federal agencies and do not create liability on the part of the County if applicant fails to obtain requisite approvals or fulfill obligations imposed by state/federal agencies or if applicant undertakes actions resulting in a violation of state or federal law. Applicant must obtain applicable state/federal permits prior to commencing development.
- b. State Wetland Permits. Developer may not commence construction on development impacting wetlands until issuance of required state permits. Development activity must comply with state wetland permits and applicable local development permits.

If the state does not approve wetland impacts or if state wetland permits are not consistent with proposed wetland impacts reflected in County development permits, then developer must amend County development permit approvals to be consistent with state wetland permits and applicable Lee Plan and LDC regulations regarding development within wetlands.

SECTION C. DEVIATIONS:

1. Deviation (1) is WITHDRAWN.
2. Entrance Gates and Gatehouses. Deviation (2) to seeks relief from the LDC §34-1748(5) which requires a paved turn-around with a turning radius sufficient to accommodate a U-turn for a single unit truck (SU) vehicle as specified in the AASHTO Green Book current edition, to be provided on the ingress side of the gate or gatehouse, to allow a three-point turning movement for a SU vehicle as specified in the AASHTO Green Book, current edition. This deviation is APPROVED, SUBJECT TO Conditions 6 and 7.

SECTION D. EXHIBITS:

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

- Exhibit A: Legal description of the property
Exhibit B: Zoning Map (with the subject parcel indicated)
Exhibit C: The Master Concept Plan

SECTION E. FINDINGS AND CONCLUSIONS:

Based upon its review, the Board of County Commissioners adopts the recommendation of the Hearing Examiner, including the following findings and conclusions:

1. The requested rezoning to RPD complies with the Lee Plan. Lee Plan Goals 2, 4, 5, 11, 30, 77, 135; Objectives 2.1, 2.2, 4.1, 5.1, 11.2, 30.2, 30.3, 77.1, 77.3, 126.2; Policies 1.1.3, 2.1.2, 2.2.1, 5.1.1, 5.1.2, 5.1.7, 11.2.2, 11.2.6, 30.2.3, 30.2.7, 30.3.1, 30.5.3, 135.1.9, 135.9.5, 135.9.6; Lee Plan Maps 1-A, 1-B, 1-C, 2-A.
2. As conditioned, the RPD:
 - a. Meets the LDC and other County regulations or qualifies for deviations. LDC §§ 33-1531 *et seq.*, 34-145(d), 34-341, 34-378, 34-411, 34-413, 34-491, 34-612(2), 34-932.
 - b. Is compatible with existing and planned uses. Lee Plan Objectives 2.1, 2.2, Policies 5.1.5, 135.9.5, 135.9.6; LDC § 34-411.
 - c. Provides access sufficient to support the proposed development intensity. Expected impacts to transportation facilities will be addressed by the conditions of approval and County regulations. Lee Plan Policies 39.1.1, 39.2.1; LDC §§ 2-261 *et seq.*, 10-287, 34-411(d).
 - d. Will not adversely affect environmentally critical/sensitive areas and natural resources. Lee Plan Goal 77; Objectives 77.1, 77.3, 126.2; Policies 61.3.1, 61.3.6, 61.3.11, 126.2.1, Standard 4.1.4; and LDC § 34-411(h).
 - e. Will be served by urban services adequate to serve the proposed land use. Lee Plan Glossary, Lee Plan Goals 2, 4, Objectives 2.1, 2.2, 4.1, and Standards 4.1.1 and 4.1.2; LDC § 34-411(d).

3. The proposed mix of uses is appropriate at the proposed location. Lee Plan Goals 2, 5; Policies 1.1.3, 2.1.1, 2.2.2, 5.1.2, 5.1.3, 5.1.5, 135.1.9.
4. The recommended conditions and applicable regulations provide sufficient safeguards to protect the public interest. Lee Plan Policies: 5.1.5, 5.1.6, 126.2.1 and 135.9.6; LDC § 34-411.
5. The recommended conditions are reasonably related to the impacts expected from the proposed development. Lee Plan Policies 5.1.5, 135.9.6; LDC § 34-932.
6. The requested deviation, as conditioned:
 - a. Enhances the objectives of the planned development.
 - b. Preserves and promotes protection of public health, safety, and welfare.

SECTION F. SCRIVENER'S ERRORS

The Board intends that this resolution can be renumbered or relettered and typographical errors that do not affect the intent and are consistent with the Board's action can be corrected with the authorization of the County Manager or his designee, without the need for a public hearing.

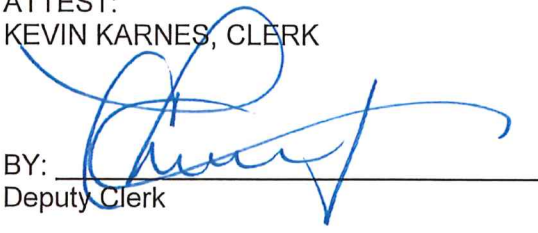
Commissioner Greenwell made a motion to adopt the foregoing resolution, seconded by Commissioner Sandelli. The vote was as follows:

Adopted by unanimous consent.

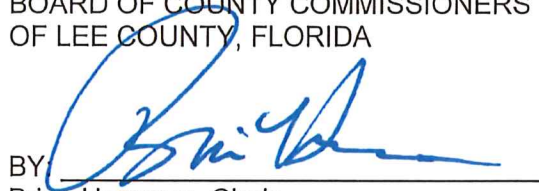
Kevin Ruane	Aye
Cecil L Pendergrass	Aye
Raymond Sandelli	Aye
Brian Hamman	Aye
Mike Greenwell	Aye

DULY PASSED AND ADOPTED this 5th day of April 2023.

ATTEST:
KEVIN KARNES, CLERK

BY: 
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: 
Brian Hamman, Chair

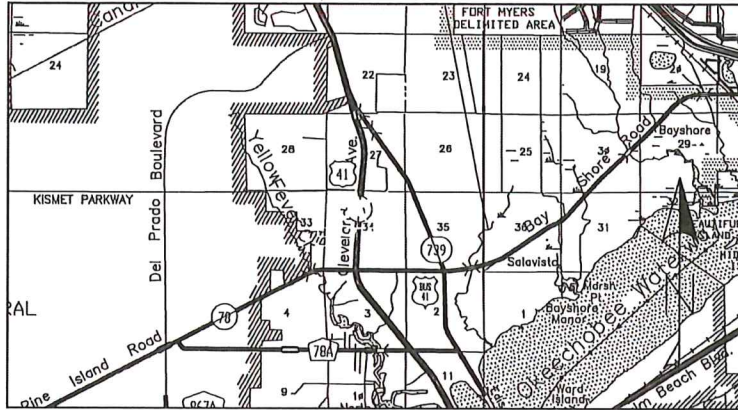


APPROVED AS TO FORM FOR THE
RELIANCE OF LEE COUNTY ONLY


David W. Halverson
Assistant County Attorney
County Attorney's Office

SKETCH & DESCRIPTION

OF A PARCEL
LYING WITHIN
SECTION 34, TOWNSHIP 43 SOUTH, RANGE 24 EAST
LEE COUNTY, FLORIDA



VICINITY MAP
(NOT TO SCALE)

DESCRIPTION:

The North one-half (N1/2) of a parcel of land lying in the Northwest Quarter of Section 34, Township 43 South, Range 24 East, Lee County, Florida, more particularly described as follows:

Commencing at a found concrete monument marking the intersection of the westerly right-of-way of U.S. 41 (State Road No. 45)(Tamiami Trail)(200 feet wide) and the Southerly right-of-way of Littleton Road (50 feet wide) thence 94.14 feet along said westerly right-of-way along the arc of a curve concave to the Southeast having a radius of 5829.58 feet and subtended by a chord having a length of 94.14 feet and bearing of South 03°47'10" West to a found Florida State Road Department Right-of-Way concrete monument and a point of tangency; thence South 03°25'50" West along said Westerly right-of-way for 505.63 feet to a set iron pin with cap stamped LB-734 and the Point of Beginning; thence continue South 03°25'50" West along said Westerly right-of-way for 1832.74 feet to a set iron pin; thence North 89°54'50" West for 500.85 feet to a set iron pin; thence North 03°25'50" East for 1126.64 feet to a set iron pin on the Southerly line of Serendipity South Mobile Home Park; thence South 89°54'50" East along said Southerly line for 100.53 feet to the Southeast corner of said Serendipity South Mobile Home Park referenced by a found concrete monument lying 0.18 feet North and 0.65 feet East of said described corner; thence North 03°25'50" East along the Easterly line of said Serendipity South Mobile Home Park for 706.10 feet to a set iron pin; thence South 89°54'50" East for 400.33 feet to the Point of Beginning.

Subject to a 20 foot drainage easement described as follows: Beginning at the hereinabove mentioned Southeast corner of Serendipity South Mobile Home Park; thence North 89°54'50" West along said Southerly line of Serendipity Mobile Home Park for 100.53 feet; thence South 03°25'50" West for 20.00 feet; thence South 89°54'50" East for 100.53 feet; thence North 03°25'50" East for 20.00 feet to the Point of Beginning.

NOTES:

1. THE CERTIFICATE OF AUTHORIZATION NUMBER OF T2UES, INC. IS LB-8336.
2. BEARINGS SHOWN ARE BASED ON THE WESTERLY RIGHT-OF-WAY OF U.S. 41, BEING S 03°25'50" W.
3. LEGAL DESCRIPTION AND SKETCH OR THE COPIES THEREOF ARE NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.
4. ADDITIONS AND DELETIONS TO SURVEY MAPS OR REPORTS BY OTHER THAN THE SIGNING PARTY OR PARTIES IS PROHIBITED WITHOUT WRITTEN CONSENT OF THE SIGNING PARTY OR PARTIES.
5. NOT VALID WITHOUT ALL SHEETS.



SCOTT R. URQUHART
PROFESSIONAL SURVEYOR AND MAPPER
FLORIDA CERTIFICATE NO. 6524
(FOR THE FIRM - LB 8336)
SIGNED THIS ____ DAY OF _____, 2022

Digitally signed by
Scott R. Urquhart,
P.S.M.
Date: 2022.04.19
10:35:51 -04'00'

REVIEWED
DCI2022-00027
Hunter Searson, GIS
Planner
Lee County Government
7/22/2022

SEE SHEET 2 OF 2 FOR SKETCH

KIMLEY HORN

FOR:

COUNTY:	LEE	DWG DATE:	4-18-2022
PROJECT NO.:	210906	DRAWN BY:	R.J.O.
DRAWING NO.:	210906 SKD	CHECKED BY:	S.L.U.
REVISION:		REV. DATE:	

SKETCH & DESCRIPTION
OF A PARCEL
LYING WITHIN
SECTION 34, TOWNSHIP 43 SOUTH, RANGE 24 EAST

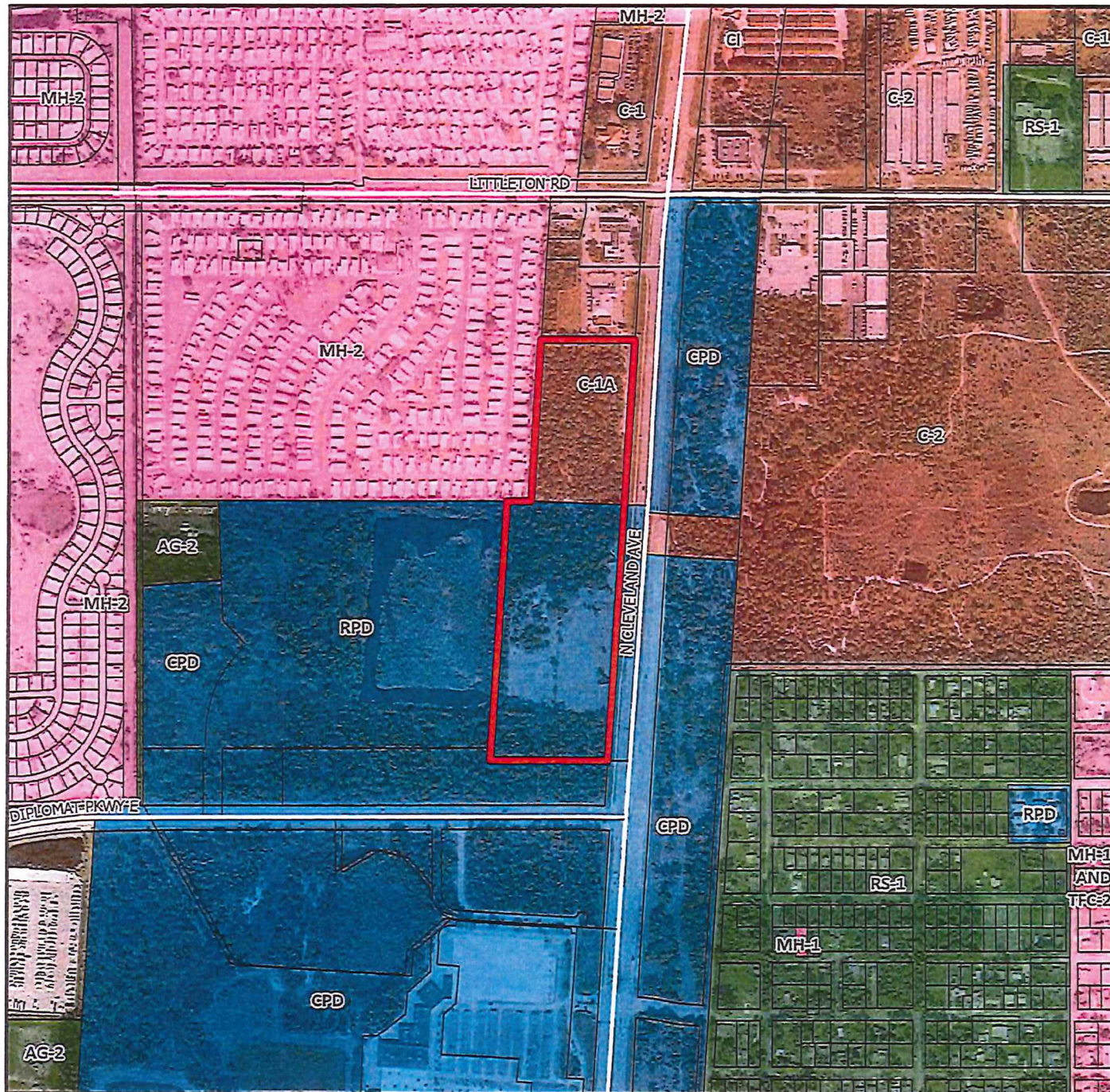


5670 Zip Drive
Fort Myers, FL 33905
Tel: 239.277.0722
Fax: 239.277.7179

1 OF 2

Exhibit "A"

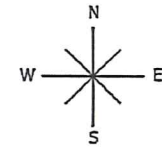




DCI2022-00027

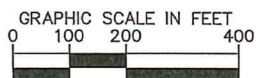
Zoning

 Subject Property



0 1,000
Feet





PROP. MIN. DUMPSTER ENCLOSURE (22'
OVERHEAD CLEARANCE, MIN. 12' WIDE,
AND 65' OF UNOBSTRUCTED COLLECTION
ACCESS PER LDC 10-261)
FINAL DUMPSTER ENCLOSURE SIZE WILL
BE PROVIDED DURING THE DEVELOPMENT
ORDER

OWNER: AVESTA
DEVELOPMENT LLC
ZONING: C1-A

15' BUILDING SETBACK
PER LDC 34-935

DELIVERY/SERVICE
AREA

PROP. CLUBHOUSE.

OWNER: AIOP SERENDIPITY,
LLC

ZONING: MH-2

10' TYPE B LANDSCAPE
BUFFER PER LDC 10-425

EXIST. LCEC BLANKET EASEMENT PER-
O.R. 960, PG. 205

EXIST. 20' DRAINAGE EASEMENT
O.R. 1153, PG. 1203

10' TYPE B LANDSCAPE BUFFER
PER LDC 10-425

PROP. MULTI-FAMILY
BUILDING (TYP.)

10' TYPE B LANDSCAPE
BUFFER PER LDC 10-425

PROPERTY

PROP. GARAGE
(TYP.)

OWNER: HABITAT DIPLOMAT
NORTH, LLC
ZONING: RPD

15' BUILDING SETBACK
PER LDC 34-935

PROP. GARAGE
(TYP.)

PROP. MULTI-FAMILY-BUILDING (TYP.)

OWNER: COOPER STREET
PROPERTY, INC
ZONING: CPD

PROPERTY LINE
15' BUILDING SETBACK
PER LDC 34-935

DRY
DETENTION
±0.50 AC

EX.
WETLAND

PARCEL A
±19.41 ACRES
±500' X ±1800'
MULTI-FAMILY

US 41 (SR 45)

OWNER: HALLIN
FAMILY, LLC
ZONING: CPD

OWNER: PARK 41
GARDENS, INC
ZONING: C1-A

OWNER: HALLIN
FAMILY, LLC
ZONING: CPD

LEGEND

- PROPERTY BOUNDARY

ROAD

LAKE

WETLAND

INDIGENOUS PRESERVE

- SETBACK LINE

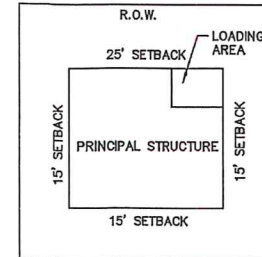
ACCESS POINTS

* HATCH PATTERNS ARE FOR ILLUSTRATIVE PURPOSES ONLY, ACTUAL HATCH PATTERNS ON DRAWING MAY VARY IN SCALE, ANGLE & COLOR.

Approved as Exhibit C
 BSCP Page 1 of 2
 Resolution # 7-23-003

LEE COUNTY
HEARING EXAMINER
2023 JAN 24 AM 8:19

SHEET NUMBER MCP-1	MIVO DIPLOMAT CENTER PREPARED FOR QUADRANT COMMUNITIES, LLC	MASTER CONCEPT PLAN	KHA PROJECT		LIMITED PROFESSIONAL	Kimley»Horn 31225 JORDAN ROAD, SUITE 200, #102 1400 N. JORDAN ROAD, SUITE 200, #102, N. 14TH PHOENIX, 85021-2711 FAX 602-998-1032 WWW.KIMLEY-HORN.COM CA 00000001
			DATE 01/2023	SUB SUBMITTAL #2		
			SCALE	AS SHOWN	HW: HUNTER 80312	
			DESIGNED BY			
			DRAWN BY			



1. SETBACKS, LOT COVERAGES, AND BUILDING HEIGHTS PER RESIDENTIAL PLANNED DEVELOPMENT AND MIXED-USE OVERLAY REGULATION TABLES

TYPICAL LOT INFORMATION NTS

OPEN SPACE TABLE			
	AREA (AC.)	OPEN SPACE REQUIRED (AC.)	OPEN SPACE PROVIDED (AC.)
PARCEL A***	-	-	5.12
DRY DETENTION	-	-	0.50
LAKE	-	-	1.49
WETLAND	-	-	0.99
INDIGENOUS VEGETATION**	-	1.94**	2.73
TOTAL PROPERTY	19.41	3.88*	10.83

*OPEN SPACE MEETS 20% REQUIREMENT PER LCD CH 10 IS FOR RESIDENTIAL USE. OPEN SPACE PROVIDED INCLUDES LANDSCAPE & A PORTION OF THE LAKE ALLOWED PER LDC 10-415

**INDIGENOUS VEGETATION PRESERVATION MEETS THE 50% OF THE TOTAL OPEN SPACE REQUIREMENT PER LDC 10-415

***PARCEL A INCLUDES ALL OTHER OPEN SPACE

Approved as Exhibit C
BACP Page 2 of 2
Resolution # 2-22-002

MIVO DIPLOMAT CENTER PREPARED FOR QUADRANT COMMUNITIES, LLC LEE COUNTY FLORIDA		MASTER PLAN CONCEPT PLAN DETAILS		Kimley»Horn 9 2023 PALM-CITY, FL 34901 1412 PHOENIX AVE. SUITE 200 PALM BEACH, FL 33480 PHONE: 561-837-8800 FAX: 561-837-1122 WWW.KIMLEY-HORN.COM	
SHEET NUMBER MCP-2		DATE 01/20/23		DESIGNED BY SIA EBRAHIM, PE DRAWN BY MHW 82332 CHECKED BY DATE	
REVISIONS		NO.		DATE	

ATTACHMENT O



FGUA Operations Office

FGUA
c/o Accenture
9400 Southpark Center Loop, Suite 400
Orlando, FL 32819
(877) 552-3482 Toll Free
(407) 629-6900 Tel

January 25, 2024

Samuel W. Marshall
Banks Engineering
10511 Six Mile Cypress Parkway
Fort Myers, FL 33966
smarshall@bankseng.com

RE: Wastewater and Reclaim Water Availability – LOA ID#: 24-029 NFMD

Parcel ID No.: 34-43-24-00-00001.3030

Diplomat Pkwy E., North Fort Myers FL 33903

Diplomat North

Dear Mr. Marshall:

The FGUA has received your Application for Service Availability, and upon review, it has been determined that wastewater disposal service is generally available to the address provided. The attached site map indicates the approximate size and location of the existing mains in the area. Please be advised that main extensions, connection to the reclaimed water system, and other system enhancements funded by the project sponsor may be required.

The application indicated that the proposed project consists of 360 multi-family residential units with an estimated wastewater disposal demand of 90,000 GPD. Currently, FGUA facilities are able to accommodate this demand. During the design process, if existing conditions warrant, a hydraulic analysis may need to be performed by the project engineer to evaluate the impacts the proposed project may have on the existing wastewater system.

This letter should not be construed as a commitment to serve, but only as a statement of the availability of service and is effective for twelve (12) months from the date of issue. The FGUA commitment to serve will be made once a Utility Infrastructure Conveyance and Service Agreement (CSA) is fully executed. To move this project forward, contact Development Services via email at devservices@fgua.com to receive a plan submittal package and schedule the pre-application meeting if required.

FGUA Board of Directors

PAM KEYES, P.E., Vice Chair, Lee County / KEN CHEEK, P.E., Citrus County / SHANE PARKER, P.E., Vice Chair, Hendry County / TAMARA RICHARDSON, P.E., Chair, Polk County / DAVID ALLEN, P.E., Pasco County / JODY KIRKMAN, P.E., Marion County / HEIDI PETITO, Flagler County

Sincerely,

FLORIDA GOVERNMENTAL UTILITY AUTHORITY

Douglas W. Black

Digitally signed by Douglas W Black
Date: 2024.02.27 10:41:32 -05'00'

Douglas W. Black, PSM, PLS
Property & Development Manager

CC: Mike Currier, South Region Area Manager

Encl.

1. Pre-Development Meeting Information
2. Utility Locates
3. Fee Statement/Receipt

FGUA Board of Directors

PAM KEYES, P.E., Vice Chair, Lee County / KEN CHEEK, P.E., Citrus County / SHANE PARKER, P.E., Vice Chair, Hendry County / TAMARA RICHARDSON, P.E., Chair, Polk County / DAVID ALLEN, P.E., Pasco County / JODY KIRKMAN, P.E., Marion County/ HEIDI PETITO, Flagler County



Development Services Division

Pre-Application Meeting Information

Purpose:

The pre-application meeting is designed to be an informative discussion, specifically geared toward assisting the applicant (owner/developer/engineer) understand the FGUA's policies and development process. The pre-application meeting may be required prior to the formal submission and review of any utility construction plans by the Development Division.

It is our goal to assist you through the FGUA development process as smoothly as possible, and for your development to be a success. This pre-application meeting, if required, will provide you with the details you need to make this a successful and stress-free process.

What to Expect:

If the meeting is required, you will be provided with a variety of both general and specific information regarding the FGUA's development process. This will include, but not be limited to staff contact information, plan review guidelines, current fees, conveyance, and closeout procedures.

Who Should Attend:

It is encouraged that a representative from the property owner, developer, and engineer, at a minimum, attend this meeting. Representatives of the FGUA's Development Division, including the Development Technician, Development Coordinator, Real Property Coordinator and utility system Area Manager will also be in attendance as required.

In an effort to accommodate the potential long-distance commute between the FGUA's Operations Office in Longwood, Florida and the FGUA system areas, these meetings will take place via Microsoft Teams.

Meeting Requests:

Please e-mail Development Services to request a meeting at devservices@fgua.com.

Please have your FGUA Letter of Availability (LOA) Number (included on the first page of your previously issued Letter of Availability) ready when you email to schedule this meeting.

You will also be required to provide a preliminary site utility plan for staff review before the meeting is scheduled.

FGUA Board of Directors

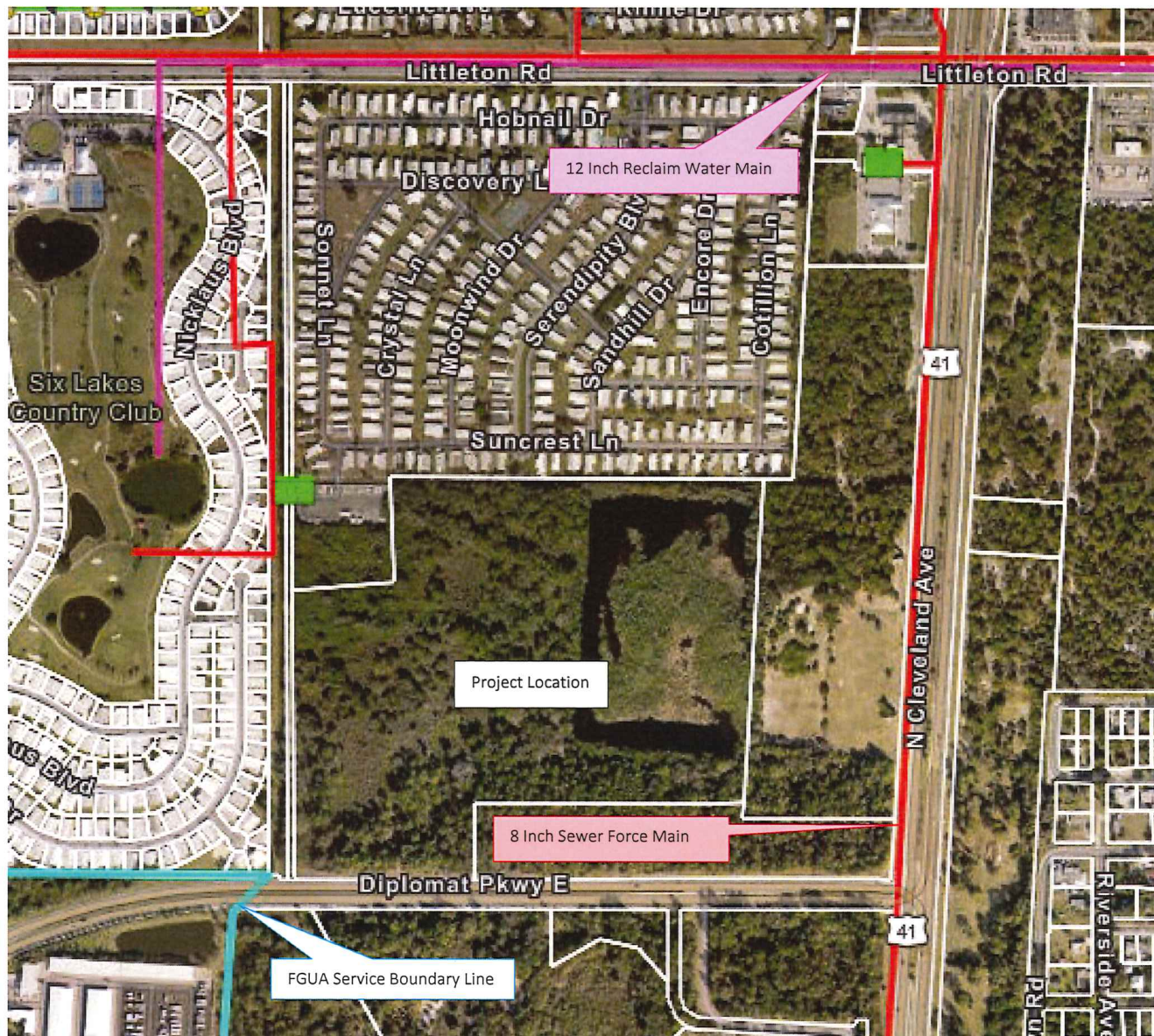
PAM KEYES, P.E., Vice Chair, Lee County / KEN CHEEK, P.E., Citrus County / SHANE PARKER, P.E., Vice Chair, Hendry County / TAMARA RICHARDSON, P.E., Chair, Polk County / DAVID ALLEN, P.E., Pasco County / JODY KIRKMAN, P.E., Marion County/ HEIDI PETITO, Flagler County

1/25/2024

Project Name: Diplomat North

STRAP/PID #: 34-43-24-00-00001.3030

Property Address: Diplomat Pkwy E., North Fort Myers FL 33903



ALL UTILITY LOCATIONS SHOWN HERE ARE APPROXIMATE. THE DEVELOPER IS SOLELY RESPONSIBLE FOR DETERMINING THE EXACT UTILITY LOCATIONS VIA POTHOLING OR OTHER ACCEPTABLE MEANS.



FGUA Fee Statement

Letter of Availability and/or Locate Request

Property Address or PID: 34-43-24-00-00001.3030

System: North Fort Myers

Development/Project Name: Diplomat North

Date: January 25, 2024

County: Lee

LOA ID: 24-029 NFMD

All fee amounts are based on the rates in effect as of the date of this statement and are subject to change.

Fees based on:

0 Letter of Utility Location Availability and Locate Map	\$	100.00
1 Utility Availability Map (Map Only)	\$	75.00
2 Letter of Utility Location Availability (Letter Only)	\$	25.00

FGUA	G/L Code	Fees	Total fees	Amount Paid	Balance Due
LOA Request	202098	\$ 100.00	\$ 100.00	\$ 100.00	\$ -
Fees Due:					\$ -

Payment History	Date	Check Date	Check #	Payer Name	Amount
0 Letter and Locate Map	1/25/2024	1/23/2024	36202	Banks Engineering	\$ 100.00
1 Map Only					
2 Letter Only					



BOARD OF COUNTY COMMISSIONERS

John E. Manning
District One

Cecil L Pendergrass
District Two

Larry Kiker
District Three

Brian Hamman
District Four

Frank Mann
District Five

Roger Desjarlais
County Manager

Richard Wm Wesch
County Attorney

Donna Marie Collins
*County Chief
Hearing Examiner*

April 1, 2022

Via E-Mail

Jennifer Sheppard
Banks Engineering
10511 Six Mile Cypress Parkway
Fort Myers, FL 33966

RE: **Potable Water Availability**
Diplomat North, Diplomat Parkway E. North Fort Myers, FL
STRAP # 34-43-24-00-00001.3030

Dear Ms. Sheppard:

The subject property is located within Lee County Utilities Future Service Area as depicted on Maps 6 of the Lee County Comprehensive Land Use Plan. Potable water lines are in operation adjacent to the property mentioned above. However, in order to provide service to the subject parcels, developer funded system enhancements such as line extensions may be required.

Your firm has indicated that this project will consist of 360 multi-family residential units with an estimated flow demand of approximately 90,000 gallons per day. Lee County Utilities presently has sufficient capacity to provide potable water service as estimated above.

Availability of potable water service is contingent upon final acceptance of the infrastructure to be constructed by the developer. Upon completion and final acceptance of this project, potable water service will be provided through our North Lee County Water Treatment Plant.

Prior to beginning design work on this project, please meet with LCU Staff to determine the best point of connection and discuss requirements for construction.

This letter should not be construed as a commitment to serve, but only as to the availability of service. Lee County Utilities will commit to serve only upon receipt of all appropriate connection fees, a signed request for service and/or an executed service agreement, and the approval of all State and local regulatory agencies.

Further, this letter of availability of potable water service is to be utilized for Financing only. Individual letters of availability will be required for the purpose of obtaining building permits.

Sincerely,

LEE COUNTY UTILITIES



Mary McCormic
Technician Senior
239-533-8532
UTILITIES ENGINEERING



REQUEST FOR SUBMITTAL REQUIREMENT WAIVER FOR UNINCORPORATED AREAS ONLY

Upon written request, the Director may modify the submittal requirements for Public Hearings, Development Orders, Limited Review Development Orders and other Administrative Action Applications where it can be clearly demonstrated that the submission will have no bearing on the review and processing of the application. The request and the Director's written response must accompany the application submitted and will become a part of the permanent file.

APPLICATION FOR WAIVER OF REQUIRED SUBMITTAL ITEMS (indicate the appropriate application type)

- ☐ Public Hearing - General Requirements (34-202)
- ☐ Public Hearing - Mining Excavation Planned Development (12-110)
- ☒ Public Hearing - Additional Requirements for:
 - ☐ Development of Regional Impact (34-202(b)(1))
 - ☐ Planned Developments (34-202(b)(2))
 - ☒ Planned Development Amendment (34-202(b)(2))
 - ☐ Rezoning other than Planned Developments (34-202(b)(3))
 - ☐ Special Exceptions (34-202(b)(5))
 - ☐ Variances (34-202(b)(6))
 - ☐ Limited Amendment to Existing Mine Zoning Approval [12-121(j)]
 - ☐ Private Recreational Facilities Planned Development (34-941(g))
- ☐ Development Order - Submittal Requirements (10-152)
 - ☐ Application Form and Contents (10-153)
 - ☐ Additional Required Submittals (10-154)
- ☐ Limited Review Development Order – Submittal Requirements (10-152)
 - ☐ Required Submittals (10-175)
- ☐ Administrative Action Application Requirements [34-203]
 State the Type of Administrative Application: _____

PLEASE PRINT OR TYPE:

STRAP Number: 35.18± ac portion of 34-43-24-00-00001.3030
 Name of Project: Diplomat House a/k/a Diplomat North RPD

Name of Agent: Stacy Ellis Hewitt, AICP, Banks Engineering
 Street Address: 10511 Six Mile Cypress Pkwy
 City, State, Zip: Fort Myers, FL 33966
 Phone Number: 239-770-2527/239-939-5490 Email Address: SHewitt@BanksEng.com

Name of Applicant*: Diplomat Fort Myers, LLC
 Street Address: 7200 Corporate Center Drive, Suite 316
 City, State, Zip: Miami, FL 33126
 Phone Number: c/o 239-770-2527/239-939-5490 Email Address: c/o SHewitt@BanksEng.com

***If applicant is not the owner, a letter of authorization from the owner must be submitted.**

**LEE COUNTY COMMUNITY DEVELOPMENT
P.O. BOX 398 (1500 MONROE STREET), FORT MYERS, FLORIDA 33902
PHONE (239) 533-8585**

A. SPECIFIC SECTION(S) AND REQUIREMENT(S) FOR WHICH A WAIVER IS SOUGHT:

	Section Number	Requirement
#1	34-202(a)(6)/34-373(a)(4)a	Boundary Survey
#2	34-202(a)(7)/	Title Certification
#3	34-373(a)(4)b.iv.	Topography
#4	34-373(a)(4)b.v.	Existing and Historic Flow-Ways Map
#5	34-373(b)(1)	Surface Water Management Plan
#6	34-373(a)(4)d	Historic/Archaeological
#7		
#8		
#9		

B. SCOPE OF PROJECT AND REASON(s) FOR REQUEST:

Please provide an explanation of the scope of the project and the reason(s) why you think the request for submittal waiver(s) should be approved. Use additional sheets if necessary and attach to this application form. (Please print or type)

We are preparing an application for a minor public hearing amendment to the North RPD portion (35.18± ac) of the Diplomat North RPD/CPD from the Z-11-002/ADD2019-00085 approval to replace 238 dwelling units (or 138 dwelling units and 400 assisted living facility units) and 50,000 SF of commercial with a maximum height of 50 feet; to allow 360 multi-family dwelling units with amenities with a maximum height of 60 feet within the Mixed Use Overlay. The subject property has extensive information on file with prior zoning cases as well as existing active South Florida Water Management District and Development Order permits (DOS2007-00255). The DO is valid through February 28, 2030. The legal description and sketch for the North RPD attached to the existing zoning resolution remains the same and a copy will be submitted with the application. The applicant proposes to submit a boundary survey and opinion of title (dated 10/5/2022) that covers the subject 35.18 ac and also includes the 1.53 ac-25' strip adjacent to the west that is not included in the subject application (STRAP No. 34-43-24-00-00001.306A). This parcel was previously included in the prior applications REZ2022-00021, VAR2022-00021 & ADD2022-00143 that will be withdrawn upon submittal. Please see attached email correspondence with staff requesting to submit these title and survey documents to avoid unnecessary survey and title costs. The applicant will address the comments provided in the attached email prior to the application being found sufficient. There have been no changes in ownership or encumbrances since the 10/5/2022 title. Since the applicant already has SFWMD and DO approvals with only minor amendments proposed to increase dwelling units and height, the topography, existing and historic flow-ways map and surface water management plan are not necessary given the extent of information that exists in existing county records. The site is not located within an archaeological sensitivity area. Given the existing approvals and extent of information available in existing county records, the applicant respectfully requests that the waiver be approved. Submittal of any of these documents would have no bearing on the review and processing of the application.

Under penalties of perjury, I declare that I have read the foregoing application and that the facts stated in it are true.



Signature of Applicant

12/7/23

Date

FOR STAFF USE ONLY

DIRECTOR'S DECISION:

☐

Request Denied

☒

Request Approved #1 - #6

☐

Request Approved Per Attached Comments

Electronically signed on 1/18/2024 by
Anthony R. Rodriguez, AICP, CPM, Zoning Manager
Lee County Department of Community Development

Director Signature

Date

From: [Rodriguez, Anthony](#)
To: [Stacy Hewitt](#)
Subject: RE: Diplomat North RPD/CPD Amendment (ADD2019-00085, ADD2022-00143, REZ2022-00021, DOS2022-00156)
Date: Monday, December 4, 2023 7:56:34 AM
Attachments: [image003.png](#)
[image004.png](#)
[image005.png](#)
[image006.png](#)
[image007.png](#)
[image008.png](#)
[image009.png](#)
[image010.png](#)

Hi, Stacy:

I didn't forget about our discussion! I had Rick Burris review the legal/survey/title opinion per our discussion. His comments are as follows:

1. The legal description works as it describes the entire project both north and south of Diplomat Parkway.
2. The boundary survey is only the RPD portion north of Diplomat and it does not correct the issues of the last sufficiency letter regarding in incorrect mapping of a drainage easement. It does not have state plane coordinates and the point of commencement they describe in the narrative portion of the description is the section corner and the point of beginning is 25 feet east of that on the east boundary of the drainage easement which is physically more than 25 feet from the verified section corner. They appear to have made all the other changes required.
3. The title Opinion appears to be good for the north of Diplomat property.

Hope this helps,

Anthony



Anthony R. Rodriguez, AICP, CPM | Zoning Manager

Department of Community Development

1500 Monroe Street, Fort Myers, FL 33901

office: (239) 533-8786

email: arodriguez4@leegov.com

web: www.leegov.com



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Please note: Florida has a very broad public records law. Most written communications to or from County Employees and officials regarding County business are public records available to the public and media upon request. Your email communication may be subject to public disclosure.

Under Florida law, email addresses are public records. If you do not want your email address released in response to a public records request, do not send electronic mail to this entity. Instead, contact this office by phone or in writing.

From: Stacy Hewitt <SHewitt@BanksEng.com>

Sent: Monday, November 6, 2023 3:58 PM

To: Rodriguez, Anthony <ARodriguez4@leegov.com>

Subject: Diplomat North RPD/CPD Amendment (ADD2019-00085, ADD2022-00143, REZ2022-00021, DOS2022-00156)

Caution: This email originated from an external source. Be cautious of attachments and links, and do not provide login information. Report suspicious activity to the Service Desk: servicedesk@leegov.com or 533-HELP.

Thanks so much for all of your time today!

Per our discussion, I am trying to reduce the amount of survey costs for Habitat if possible. I was contemplating submitting a waiver request to allow submitting the following attached documents, given the existing approved DO on the property and the work done for the applications last year.

- Existing 35.18 acre North RPD Legal & Sketch attached to existing zoning resolution.
- Title updated October 2022
- Boundary Survey (includes the 35.18 ac + the 1.53 ac-25' strip to west) – **this would be updated to reflect October 2022 title & state plane coordinates**

Please do not hesitate to contact me via cell or email if you have any questions or need anything.

Thanks again and please take care,

Stacy

Professional Engineers, Planners & Land Surveyors

SERVING SOUTHWEST FLORIDA FOR OVER 30 YEARS

www.banksengfla.com

Stacy Ellis Hewitt, AICP

Director of Planning

Cell: 239-770-2527

Email: shewitt@bankseng.com

Office : 239-939-5490

10511 Six Mile Cypress Parkway
Fort Myers, Florida 33966

DCI 2010-00015

Banks Engineering

Professional Engineers, Planners & Land Surveyors

2515 Northbrooke Plaza Drive - Suite 200

Naples, Florida 34119

(239) 597-2061

Fax (239) 597-3082

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DESCRIPTION

OF A

PARCEL OF LAND

LYING IN

SECTION 34, TOWNSHIP 43 SOUTH, RANGE 24 EAST, COMMUNITY DEVELOPMENT

LEE COUNTY, FLORIDA

(CPD ZONING DESCRIPTION)

A TRACT OR PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, LYING IN SECTION 34, TOWNSHIP 43 SOUTH, RANGE 24 EAST AND BEING FURTHER BOUNDED AND DESCRIBED AS FOLLOWS:

NORTH CPD ZONNING PARCEL

COMMENCING AT THE INTERSECTION OF THE WESTERLY RIGHT-OF-WAY LINE OF U.S. 41 (STATE ROAD 45) (200 FEET WIDE) AND THE SOUTHERLY RIGHT-OF-WAY LINE OF LITTLETON ROAD (50 FEET WIDE); THENCE 94.14 FEET ALONG SAID WESTERLY RIGHT-OF-WAY LINE AND ALONG THE ARC OF A CURVE CONCAVE TO THE SOUTHEAST HAVING A RADIUS OF 5829.58 FEET AND SUBTENDED BY A CHORD HAVING A LENGTH OF 94.14 FEET AND BEARING S.03°47'10"W. TO A POINT OF TANGENCY; THENCE S.03°25'50"W. ALONG SAID WESTERLY RIGHT-OF-WAY LINE FOR 2338.37 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE S.03°25'50"W. ALONG SAID WESTERLY RIGHT-OF-WAY LINE FOR 199.95 FEET TO POINT "A" AND TO AN INTERSECTION WITH THE NORTHERLY RIGHT-OF-WAY LINE OF DIPLOMAT PARKWAY (100 FEET WIDE); THENCE N.86°35'21"W. ALONG SAID NORTHERLY RIGHT-OF-WAY LINE FOR 12.52 FEET TO THE BEGINNING OF A CURVE TO THE LEFT HAVING A RADIUS OF 2150.00 FEET; THENCE WESTERLY ALONG SAID CURVE AND ALONG SAID NORTHERLY RIGHT-OF-WAY LINE THROUGH A CENTRAL ANGLE OF 3°32'51" FOR 133.12 FEET; THENCE S.89°51'48"W. ALONG SAID NORTHERLY RIGHT-OF-WAY LINE FOR 1484.79 FEET TO POINT "B"; THENCE N.00°08'12"W. FOR 250.00 FEET; THENCE N.89°51'48"E. FOR 1145.24 FEET; THENCE S.03°25'50"W. FOR 53.49 FEET; THENCE S.89°54'50"E. FOR 500.85 FEET TO THE POINT OF BEGINNING.

PARCEL CONTAINS 8.78 ACRES, MORE OR LESS.

TOGETHER WITH: ADDITIONAL NORTH CPD ZONNING PARCEL

COMMENCING AT SAID POINT "B" ; THENCE S.89°51'48"W. ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE OF DIPLOMAT PARKWAY (100 FEET WIDE) FOR 80.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE S.89°51'48"W. ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE FOR 253.42 FEET; THENCE N.28°32'51"W. FOR 6.70 FEET; THENCE N.00°20'36"W. FOR 244.12 FEET; THENCE N.89°51'48"E. FOR 257.48 FEET; THENCE S.00°08'12"E. FOR 250.00 FEET TO THE POINT OF BEGINNING.

PARCEL CONTAINS 1.48 ACRES, MORE OR LESS.

TOGETHER WITH: SOUTH CPD ZONNING PARCEL

COMMENCING AT SAID POINT "A"; THENCE S.03°25'50"W. ALONG SAID WESTERLY RIGHT-OF-WAY LINE OF U.S. 41 (STATE ROAD 45) (200 FEET WIDE) FOR 100.00 FEET TO THE POINT OF BEGINNING;

SHEET 1 OF 3

S:\Jobs\20xx\2028\SURVEY\Descriptions\Zoning\2028 ZONING CPD REV DESC.doc

Fort Myers Office
10511 Six Mile Cypress Pkwy, Suite #101
Fort Myers, Florida 33966
(239) 939-5490
Fax (239) 939-2523

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

EXHIBIT "A"
(Page 1 of 6)

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THENCE CONTINUE S.03°25'50"W. ALONG SAID WESTERLY RIGHT-OF-WAY LINE FOR 429.00 FEET TO THE NORTHEAST CORNER OF A PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 2113 AT PAGE 1590 OF SAID PUBLIC RECORDS, ALSO BEING THE NORTHEAST CORNER OF MERCHANTS CROSSING, A SUBDIVISION RECORDED IN PLAT BOOK 52 AT PAGES 37 THROUGH 47 OF SAID PUBLIC RECORDS; THENCE N.86°34'10"W. ALONG THE NORTH LINE OF SAID PARCEL AND SAID SUBDIVISION FOR 72.00 FEET TO THE SOUTHEAST CORNER OF A PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 2833 AT PAGE 4156 OF SAID PUBLIC RECORDS; THENCE N.03°25'50"E. ALONG THE EASTERLY LINE OF SAID PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 2833 AT PAGE 4156 FOR 65.00 FEET; THENCE N.86°33'36"W. ALONG THE NORTHERLY LINE OF SAID PARCEL FOR 39.68 FEET; THENCE S.03°26'24"W. ALONG THE WESTERLY LINE OF SAID PARCEL FOR 8.00 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT HAVING A RADIUS OF 17.00 FEET; THENCE SOUTHWESTERLY ALONG SAID PARCEL AND SAID CURVE THROUGH A CENTRAL ANGLE OF 90°00'01" FOR 26.70 FEET; THENCE N.86°33'36"W. ALONG THE NORTHERLY LINE OF SAID PARCEL FOR 487.82 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT HAVING A RADIUS OF 80.00 FEET; THENCE NORTHWESTERLY ALONG SAID PARCEL AND SAID CURVE THROUGH A CENTRAL ANGLE OF 86°25'24" FOR 120.67 FEET; THENCE N.00°08'12"W. ALONG THE EASTERLY LINE OF SAID PARCEL FOR 274.66 FEET TO POINT "C" AND TO AN INTERSECTION WITH THE SOUTHERLY RIGHT-OF-WAY LINE OF DIPLOMAT PARKWAY (100 FEET WIDE) AS DESCRIBED IN OFFICIAL RECORDS BOOK 2833 AT PAGE 4156 OF SAID PUBLIC RECORDS; THENCE N.89°51'48"E. ALONG SAID SOUTHERLY RIGHT-OF-WAY FOR 575.20 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT HAVING A RADIUS OF 2050.00 FEET; THENCE EASTERLY ALONG SAID RIGHT-OF-WAY AND SAID CURVE THROUGH A CENTRAL ANGLE OF 3°32'51" FOR 126.93 FEET; THENCE S.86°35'21"E. ALONG SAID RIGHT-OF-WAY FOR 12.49 FEET TO THE POINT OF BEGINNING.

PARCEL CONTAINS 6.00 ACRES, MORE OR LESS.

TOGETHER WITH: ADDITIONAL SOUTH CPD ZONING PARCEL

COMMENCING AT SAID POINT "C"; THENCE S.89°51'48"W. ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE OF DIPLOMAT PARKWAY (100 FEET WIDE) FOR 40.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE S.89°51'48"W. ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE FOR 383.07 FEET; THENCE S.00°08'12"E. FOR 186.04 FEET; THENCE N.59°04'35"E. FOR 185.65 FEET; THENCE S.76°11'27"E. FOR 125.61 FEET; THENCE S.41°41'10"E. FOR 153.30 FEET TO AN INTERSECTION WITH THE WESTERLY LINE OF THE AFORESAID PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 2833 AT PAGE 4156 OF SAID PUBLIC RECORDS; THENCE N.00°08'12"W. ALONG THE WESTERLY LINE FOR 236.02 FEET TO THE POINT OF BEGINNING.

PARCEL CONTAINS 1.22 ACRES.

NET AREA AS DESCRIBED CONTAINS 17.48 ACRES, MORE OR LESS.

COMMUNITY DEVELOPMENT

BEARINGS ARE BASED ON THE WESTERLY RIGHT-OF-WAY OF U.S. 41 (STATE ROAD 45) AS BEARING S.03°25'50"W.

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

DESCRIPTION PREPARED NOVEMBER 2, 2006.

Richard M. Ritz
 RICHARD M. RITZ
 REGISTERED LAND SURVEYOR
 FLORIDA CERTIFICATION NO. 4000

Applicant's Legal Checked
 by 11/08/06 csl

EXHIBIT "A"
 (Page 2 of 6)



DCI 2010-00015

Banks Engineering

Professional Engineers, Planners & Land Surveyors
2515 Northbrooke Plaza Drive-Suite 200
Naples, Florida 34119
(239) 597-2061
Fax (239) 597-3082

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DESCRIPTION
OF A
PARCEL OF LAND
LYING IN

COMMUNITY DEVELOPMENT

SECTION 34, TOWNSHIP 43 SOUTH, RANGE 24 EAST
LEE COUNTY, FLORIDA
(RPD ZONING DESCRIPTION)

A TRACT OR PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, LYING IN SECTION 34, TOWNSHIP 43 SOUTH, RANGE 24 EAST AND BEING FURTHER BOUNDED AND DESCRIBED AS FOLLOWS:

NORTH RPD PARCEL:

COMMENCING AT THE INTERSECTION OF THE WESTERLY RIGHT-OF-WAY LINE OF U.S. 41 (STATE ROAD 45) (200 FEET WIDE) AND THE SOUTHERLY RIGHT-OF-WAY LINE OF LITTLETON ROAD (50 FEET WIDE) THENCE 94.14 FEET ALONG SAID WESTERLY RIGHT-OF-WAY LINE AND ALONG THE ARC OF A CURVE CONCAVE TO THE SOUTHEAST HAVING A RADIUS OF 5829.58 FEET AND SUBTENDED BY A CHORD HAVING A LENGTH OF 94.14 FEET AND BEARING S.03°47'10"W. TO A POINT OF TANGENCY; THENCE S.03°25'50"W. ALONG SAID WESTERLY RIGHT-OF-WAY LINE FOR 2338.37 FEET; THENCE N.89°54'50"W. FOR 500.85 FEET; THENCE N.03°25'50"E. FOR 53.49 FEET TO THE POINT OF BEGINNING; THENCE S.89°51'48"W. FOR 1145.24 FEET; THENCE S.00°08'12"E. FOR 250.00 FEET TO AN INTERSECTION WITH THE NORTHERLY RIGHT-OF-WAY LINE OF DIPLOMAT PARKWAY (100 FEET WIDE) AS DESCRIBED IN OFFICIAL RECORDS BOOK 2833 AT PAGE 4156 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE S.89°51'48"W. ALONG SAID NORTHERLY RIGHT-OF-WAY LINE FOR 80.00 FEET; THENCE N.00°08'12"W. FOR 250.00 FEET; THENCE S.89°51'48"W. FOR 257.48 FEET; THENCE N.00°20'36"W. FOR 703.76 FEET; THENCE N.85°23'00"E. FOR 335.22 FEET; THENCE N.02°25'15"W. FOR 346.19 FEET; THENCE S.89°54'50"E. FOR 1231.65 FEET; THENCE S.03°25'50"W. FOR 1073.15 FEET TO THE POINT OF BEGINNING.

PARCEL CONTAINS 35.18 ACRES, MORE OR LESS.

AND;

SOUTH RPD PARCEL:

COMMENCING AT THE INTERSECTION OF THE WESTERLY RIGHT-OF-WAY OF U.S. 41 (STATE ROAD 45) (200 FEET WIDE) AND THE SOUTHERLY RIGHT-OF-WAY OF LITTLETON ROAD (50 FEET WIDE) THENCE 94.14 FEET ALONG THE WESTERLY RIGHT-OF-WAY AND ALONG THE ARC OF A CURVE CONCAVE TO THE SOUTHEAST HAVING A RADIUS OF 5829.58 FEET AND SUBTENDED BY A CHORD HAVING A LENGTH OF 94.14 FEET AND BEARING S.03°47'10"W. TO A POINT OF TANGENCY; THENCE S.03°25'50"W. ALONG SAID WESTERLY RIGHT-OF-WAY LINE FOR 2338.37 FEET TO THE SOUTHEASTERLY CORNER OF A PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 1972 AT PAGE 335 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE CONTINUE S.03°25'50"W. ALONG SAID WESTERLY RIGHT-OF-WAY LINE FOR 728.95 FEET TO THE NORTHEAST CORNER OF A PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 2113 AT PAGE 1590 OF SAID PUBLIC RECORDS, ALSO BEING THE NORTHEAST CORNER OF MERCHANTS CROSSING, A SUBDIVISION RECORDED IN PLAT BOOK 52 AT PAGES 37 THROUGH 47 OF SAID PUBLIC RECORDS; THENCE N.86°34'10"W. ALONG THE NORTH LINE OF SAID PARCEL AND SAID SUBDIVISION FOR 616.50 FEET TO THE POINT OF

SHEET 1 OF 3

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Fort Myers Office
10511 Six Mile Cypress Pkwy, Suite #101
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Fax (239) 939-2523

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

Fort Charlotte Office
12653 SW CR 769 Suite B
Lake Suzy, Florida 34269
(941) 625-1165
Fax (941) 625-1149

EXHIBIT "A"
(Page 4 of 6)

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BEGINNING; THENCE CONTINUE N.86°34'10"W. ALONG SAID NORTHERLY LINE FOR 33.50 FEET TO THE NORTHWEST CORNER OF SAID PARCEL; THENCE S.48°25'48"W. ALONG THE WESTERLY LINE OF SAID PARCEL AND SAID SUBDIVISION FOR 212.13 FEET; THENCE S.03°25'50"W. ALONG THE WESTERLY LINE OF SAID PARCEL AND SAID SUBDIVISION FOR 100.00 FEET TO THE SOUTHWESTERLY CORNER OF SAID PARCEL AND TO THE SOUTH LINE OF A PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 2389 AT PAGE 1936 OF SAID PUBLIC RECORDS; THENCE N.86°34'10"W. ALONG THE SOUTH LINE OF SAID PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 2389 AT PAGE 1936 AND THE NORTHERLY LINE OF SAID SUBDIVISION FOR 747.11 FEET TO AN INTERSECTION WITH THE NORTHEASTERLY LINE OF A DRAINAGE EASEMENT (50 FEET WIDE) DESCRIBED IN DEED BOOK 237 AT PAGES 564 AND 565 OF SAID PUBLIC RECORDS; THENCE N.28°32'51"W. ALONG THE NORTHEASTERLY LINE OF SAID DRAINAGE EASEMENT FOR 666.39 FEET TO AN INTERSECTION WITH THE SOUTHERLY RIGHT-OF-WAY LINE OF DIPLOMAT PARKWAY (100 FEET WIDE) AS DESCRIBED IN OFFICIAL RECORDS BOOK 2833 AT PAGE 4156 OF SAID PUBLIC RECORDS; THENCE N.89°51'48"E. ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE FOR 765.84 FEET; THENCE S.00°08'12"E. FOR 186.04 FEET; THENCE N.59°04'35"E. FOR 185.65 FEET; THENCE S.76°11'27"E. FOR 125.61 FEET; THENCE S.41°41'10"E. FOR 153.30 FEET TO AN INTERSECTION WITH THE WESTERLY LINE OF A PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 2833 AT PAGE 4156 OF SAID PUBLIC RECORDS; THENCE S.00°08'12"E. ALONG THE WESTERLY LINE OF SAID PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 2833 AT PAGE 4156 FOR 38.64 FEET TO THE BEGINNING OF A CURVE TO THE LEFT HAVING A RADIUS OF 120.00 FEET; THENCE SOUTHEASTERLY ALONG SAID WESTERLY LINE AND SAID CURVE THROUGH A CENTRAL ANGLE OF 86°25'24" FOR 181.00 FEET TO THE POINT OF BEGINNING.

PARCEL CONTAINS 12.47 ACRES, MORE OR LESS.

DCI 2010-00015

NET ACREAGE IS 47.65 ACRES, MORE OR LESS.

BEARINGS ARE BASED ON THE WESTERLY RIGHT-OF-WAY OF U.S. 41 (STATE ROAD 45) AS BEARING S.03°25'50"W.

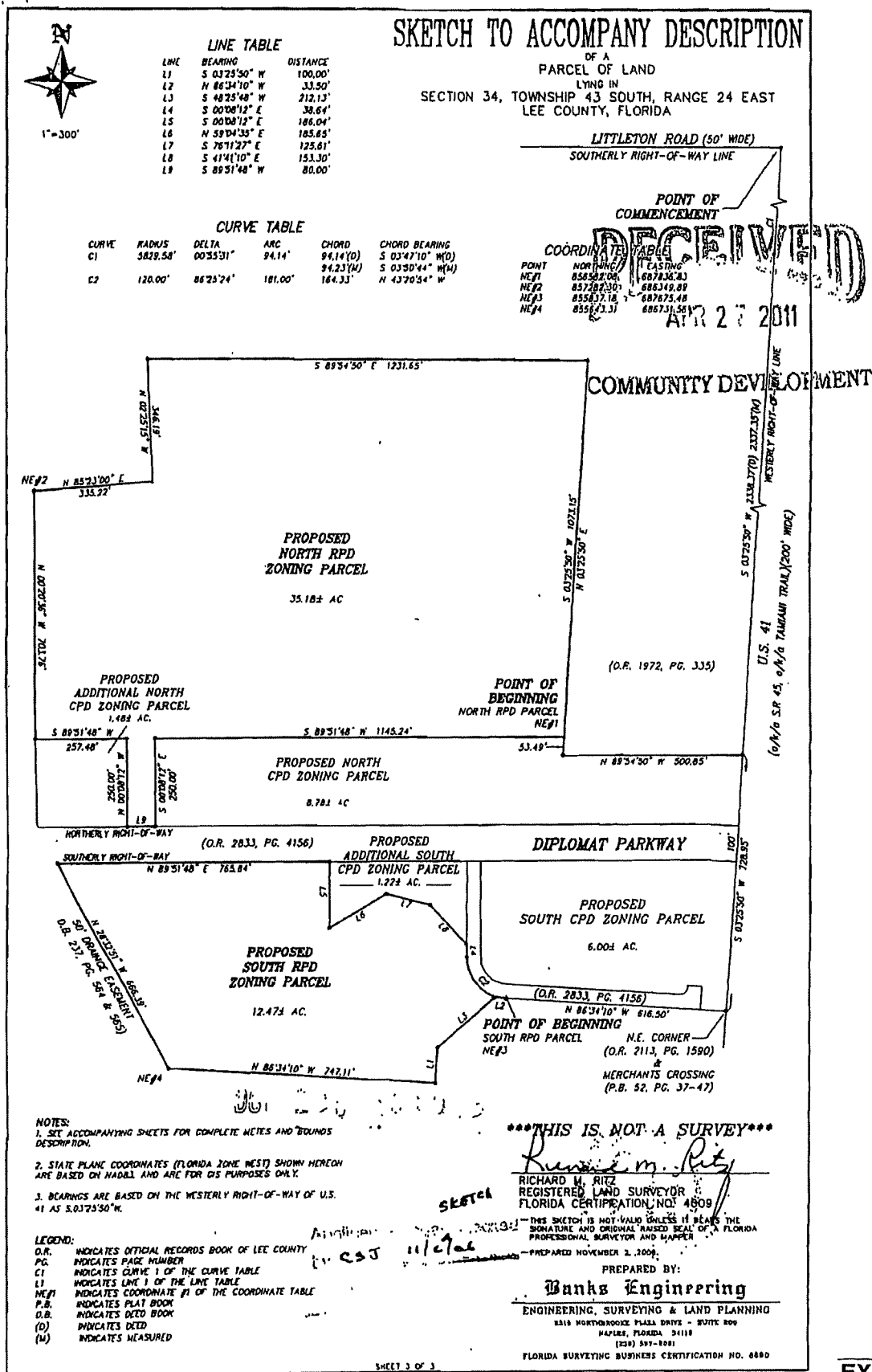
SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS AND RIGHTS-OF-WAY OF RECORD.

DESCRIPTION PREPARED NOVEMBER 2, 2006.

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

Applicant's Legal Checked
by CST 11/6/06

DCI 2010-00015



OPINION OF TITLE

This opinion is provided to:

To: LEE COUNTY BOARD OF COUNTY COMMISSIONERS

With the understanding that this opinion of title is furnished to and relied upon by the Lee County Board of County Commissioners ("County"), Florida, in connection with the site plan application for the real property hereinafter described, it is hereby certified that I have examined the ALTA Commitment for Title Insurance issued by First American Title Insurance Company, File No. NCS-1115774-PHX1, Revision No.: 02, having a Commitment Date of July 5, 2022 at 7:30 AM and last updated and revised on July 12, 2022 ("Title Evidence"), which covers all public records on file in Lee County, Florida through July 5, 2022 at 7:30 a.m., of the following described real property ("Property"):

See Exhibit "A" attached hereto and made a part hereof.

This Opinion of Title is provided to satisfy the requirements of Florida Statutes, Section 177.041, and Lee County Land Administrative Code AC-13-19.

Based solely on the foregoing Title Evidence and assuming the accuracy of the information contained therein, I am of the opinion that on the last mentioned date, the fee simple title to the Property was vested in:

Habitat Diplomat North, LLC, a Florida limited liability company, by virtue of Special Warranty Deed, recorded as Instrument No. 2019000014145 of the Public Records of Lee County, Florida.

Subject to the following liens, encumbrances, and other exceptions:

EXCEPTIONS AS TO PROPERTY

1. All taxes for the year in which this opinion is rendered, unless noted below that such taxes have been paid.
2. Rights of tenants and persons other than the above owners who are in possession.
3. Facts that would be disclosed upon accurate survey.
4. Any unrecorded labor, mechanics' or materialmen's liens.
5. Zoning and other restrictions imposed by governmental authority.
6. Easements or claims of easements not shown on the Public Records.
7. Any and all rights of the United States of America over artificially filled lands in what were formerly navigable waters, arising by reason of the United States of America's control over navigable waters in the interest of navigation and commerce, and any conditions contained in any permit authorizing the filling in of such areas.

8. Riparian rights together with title to any submerged land included within the Property.
9. Drainage Easement, granted from T. Lawrence Williams and Maude C. Williams his wife to State of Florida, recorded in Deed Book 237, Page 564; as affected by Public Purpose Quitclaim Deed recorded in Official Records Book 2084, Page 2319, all of the Public Records of Lee County, Florida.
10. Right-of-Way Easement, granted from Edward B. Rood, Trustee to Lee County Electric Co-Operative, Inc., its successors and assignees, recorded in Official Records Book 960, Page 205, of the Public Records of Lee County, Florida.
11. Easement for Drainage created by Warranty Deed recorded in Official Records Book 1135, Page 183; as affected by Corrective Deed recorded in Official Records Book 1153, Page 1203, all of the Public Records of Lee County, Florida.
12. The terms, provisions, and conditions contained in that certain Lee County Ordinance No. 86-14, By the Board of County Commissioners of Lee County, Florida, recorded in Official Records Book 2189, Page 3281, as affected by Lee County Ordinance No. 86-38, recorded in Official Records Book 2189, Page 3334, all of the Public Records of Lee County, Florida.
13. Terms and conditions of the Agreement between Serendipity Properties, Inc., a Florida corporation and Edward B. Rood, an individual recorded in Official Records Book 2316, Page 645, of the Public Records of Lee County, Florida.
14. Relocatable Access Easement, granted from Cooper Street Property, Inc., a Florida corporation to Athyrio Development Associates, LLC, a Florida limited liability company, recorded in Instrument No. 2006000428972, of the Public Records of Lee County, Florida.
15. The terms, provisions, and conditions contained in that certain South Florida Water Management District Environmental Resource Permit Notice, recorded in Instrument No. 2007000204604; as affected by South Florida Water Management District Environmental Resource Permit Notice recorded in Instrument No. 2008000082634; as affected by South Florida Water Management District Notice of Environmental Resource or Surface Water Management Permit recorded in Instrument No. 2011000200040, all of the Public Records of Lee County, Florida..
16. The terms, provisions, and conditions contained in that certain Notice of Development Order Approval, recorded in Instrument No. 2009000124737, of the Public Records of Lee County, Florida.

SPECIAL EXCEPTIONS

1. **RECORDED MORTGAGES:**

(a) Mortgage executed by Habitat Diplomat North, LLC, in favor of Florida Community Loan Fund, Inc., recorded January 18, 2019 in Instrument No. 2019000014146 of the Public Records of Lee County, Florida.

(b) Assignment of Rents and Leases from Habitat Diplomat North, LLC, to Florida Community Loan Fund, Inc. recorded January 18, 2019, in Instrument No. 2019000014147 of the Public Records of Lee County, Florida.

(c) UCC-1 Financing Statement naming Florida Community Loan Fund, Inc., as secured party and Habitat Diplomat North, LLC as debtor, recorded January 18, 2019, Instrument No. 2019000014148 of the Public Records of Lee County, Florida.

2. RECORDED CONSTRUCTION LIENS, CONTRACT LIENS AND JUDGMENTS

NONE

3. NOTICES OF COMMENCEMENT

NONE

I, the undersigned, further clarify that I am an attorney-at-law duly admitted to practice in the State of Florida, and am a member in good standing of the Florida Bar.

Respectfully submitted this 5th day of October, 2022.

By: Sandra E. Krumbein Sadov, Esq.

Sandra E. Krumbein Sadov, Esq.

Florida Bar No. 578894

200 E. Broward Blvd., Suite 2100

Fort Lauderdale, Florida 33301

(954) 847-3855

EXHIBIT "A"
LEGAL DESCRIPTION

The Land referred to herein below is situated in the County of Lee, State of Florida, and is described as follows:

(NORTH RESIDENTIAL)

A TRACT OR PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, LYING IN SECTION 34, TOWNSHIP 43 SOUTH, RANGE 24 EAST AND BEING FURTHER BOUNDED AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE WESTERLY RIGHT-OF-WAY OF U.S. 41 (STATE ROAD 45) (200 FEET WIDE) AND THE SOUTHERLY RIGHT-OF-WAY OF LITTLETON ROAD (50 FEET WIDE) THENCE 94.14 FEET ALONG THE WESTERLY RIGHT-OF-WAY AND ALONG THE ARC OF A CURVE CONCAVE TO THE SOUTHEAST HAVING A RADIUS OF 5829.58 FEET AND SUBTENDED BY A CHORD HAVING A LENGTH OF 94.14 FEET AND BEARING S.03°47'10"W. TO A POINT OF TANGENCY; THENCE S.03°25'50"W. ALONG SAID WESTERLY RIGHT-OF-WAY LINE FOR 2338.37 FEET TO THE SOUTHEASTERLY CORNER OF A PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 1972 AT PAGE 335 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE CONTINUE S.03°25'50"W. ALONG SAID WESTERLY RIGHT-OF-WAY LINE FOR 199.95 FEET TO AN INTERSECTION WITH THE NORTHERLY RIGHT-OF-WAY LINE OF DIPLOMAT PARKWAY (100 FEET WIDE) AS DESCRIBED IN OFFICIAL RECORDS BOOK 2833 AT PAGE 4156 OF SAID PUBLIC RECORDS; THENCE N86°35'21"W. ALONG SAID NORTHERLY RIGHT-OF-WAY LINE FOR 12.52 FEET TO THE BEGINNING OF A CURVE TO THE LEFT HAVING A RADIUS OF 2150.00 FEET; THENCE WESTERLY ALONG SAID RIGHT-OF-WAY LINE AND SAID CURVE THROUGH A CENTRAL ANGLE OF 3°32'51" FOR 133.12 FEET; THENCE S89°51'48"W. ALONG SAID RIGHT-OF-WAY LINE FOR 1484.79 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE S.89°51'48"W. ALONG SAID RIGHT-OF-WAY LINE FOR 80.00 FEET; THENCE N.00°08'12"W. FOR 250.00 FEET; THENCE S.89°51'48"W. FOR 257.48 FEET TO AN INTERSECTION WITH THE EASTERLY LINE OF A DRAINAGE EASEMENT (50 FEET WIDE) DESCRIBED IN DEED BOOK 237 AT PAGES 564 AND 565 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE N.00°20'36"W. ALONG SAID EASTERLY LINE FOR 703.76 FEET TO THE SOUTHERLY LINE OF SERENDIPITY SOUTH MOBILE HOME PARK (UNRECORDED); THENCE ALONG THE SOUTHERLY AND EASTERLY LINES OF SAID PARK FOR THE FOLLOWING THREE (3) DESCRIBED COURSES: N.85°23'00"E. FOR 335.22 FEET; THENCE N.02°25'15"W. FOR 346.19 FEET; THENCE S.89°54'50"E. FOR 1231.65 FEET TO THE WESTERLY LINE OF THE AFORESAID PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 1972 AT PAGE 335; THENCE S.03°25'50"W. ALONG THE WESTERLY LINE OF SAID PARCEL FOR 1073.15 FEET; THENCE S.89°51'48"W. FOR 1145.24 FEET; THENCE S.00°08'12"E. FOR 250.00 FEET TO THE POINT OF BEGINNING.

AND

(RELOCATABLE ACCESS EASEMENT)

TOGETHER WITH THE RELOCATABLE ACCESS EASEMENT RECORDED IN INSTRUMENT NUMBER 2006000428972, PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

AND

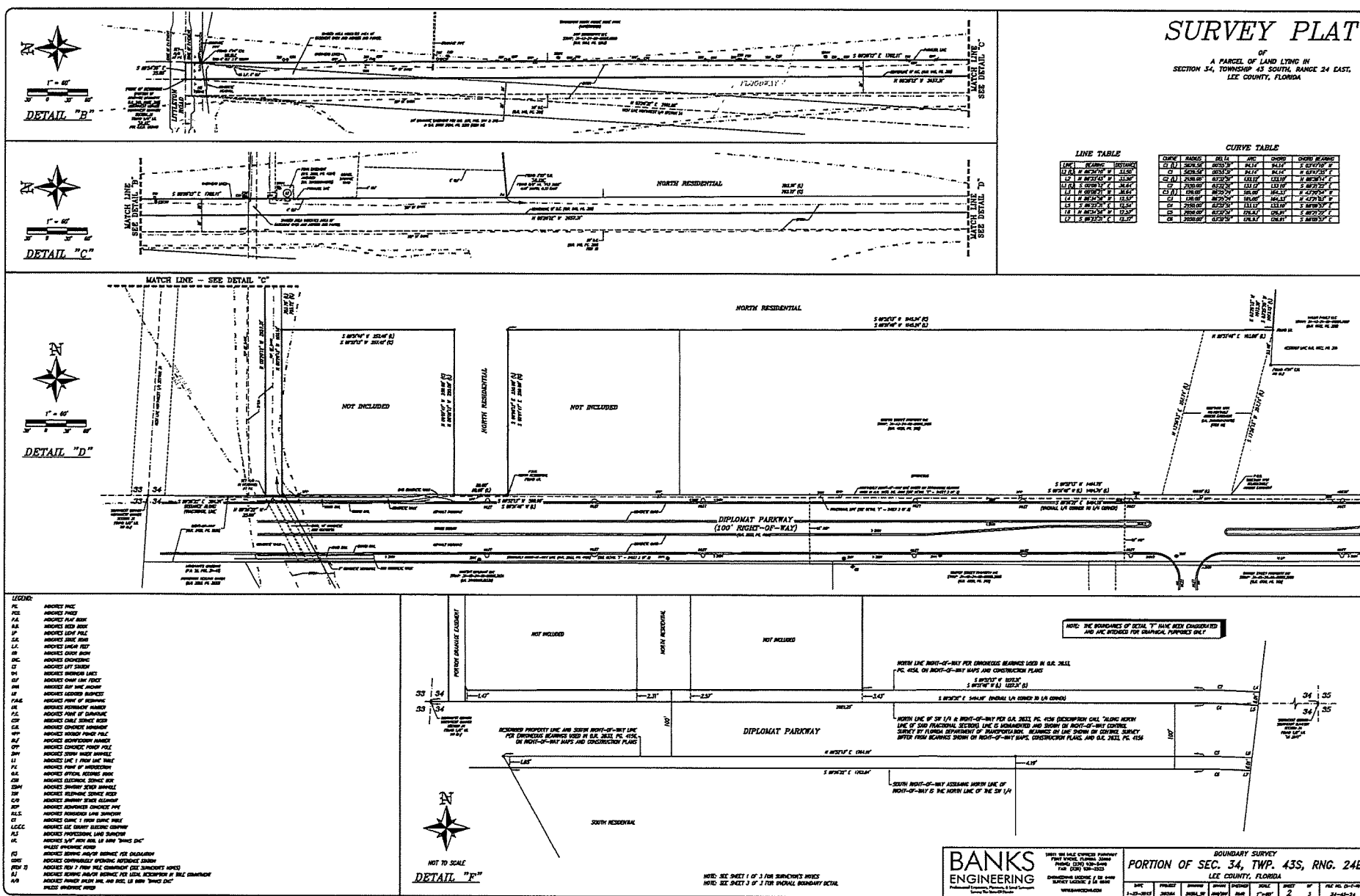
A TRACT OR PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, LYING IN THE NORTHWEST QUARTER OF SECTION 34, TOWNSHIP 43 SOUTH, RANGE 24 EAST, BEING FURTHER BOUND AND DESCRIBED AS FOLLOWS:

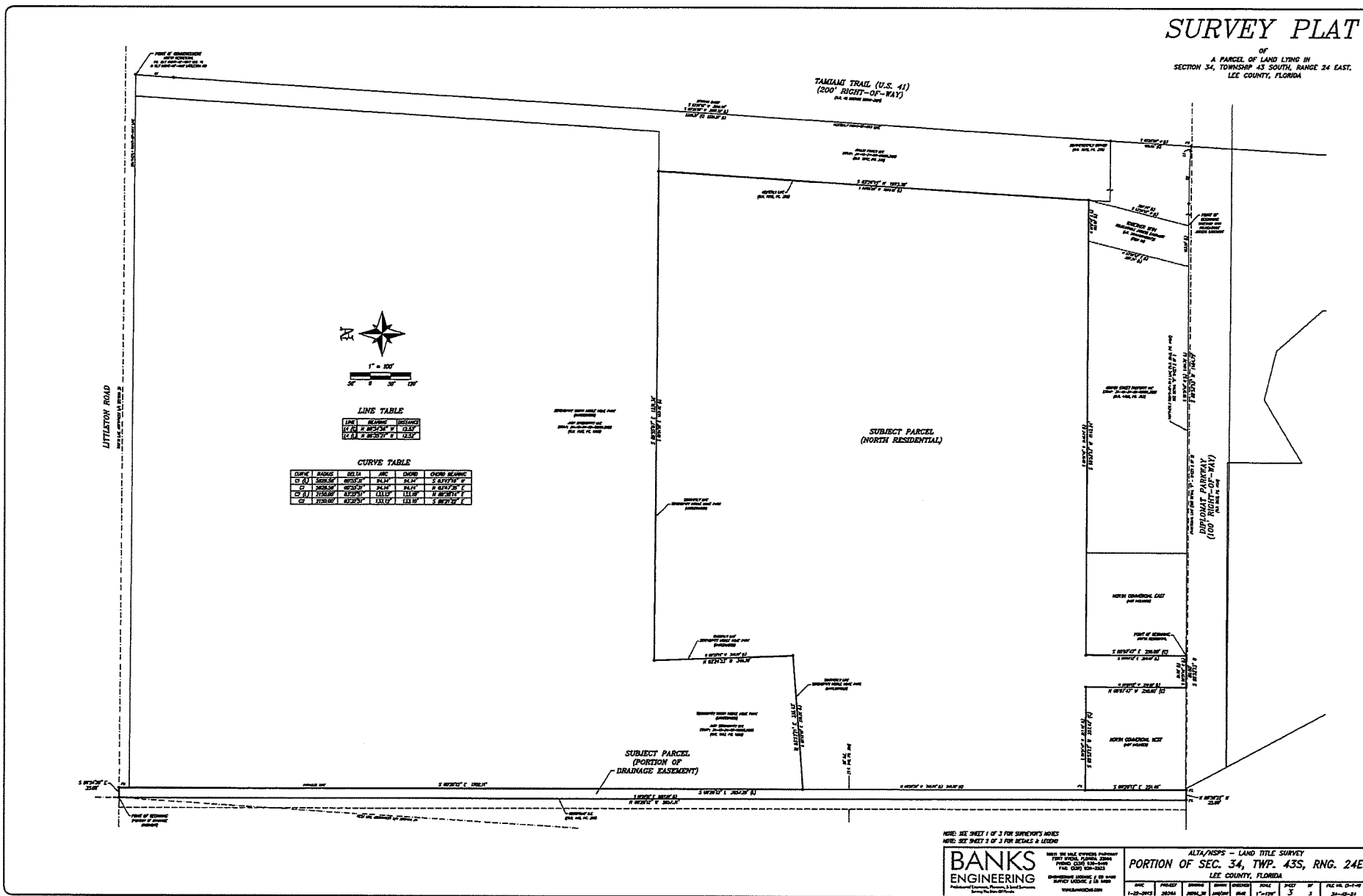
BEGINNING AT THE SECTION CORNER COMMON TO SECTIONS 27, 28, 33 AND 34; THENCE S.89°54'30"E. ALONG THE NORTH LINE OF SAID NORTHWEST QUARTER OF SECTION 34 FOR 25.00 FEET TO AN INTERSECTION WITH A LINE 25.00 FEET EAST OF AND PARALLEL WITH (AS

MEASURED ON A PERPENDICULAR) THE CENTERLINE OF A DRAINAGE EASEMENT AS DESCRIBED IN OFFICIAL RECORDS BOOK 945, PAGE 359 OF THE PUBLIC RECORDS OF SAID LEE COUNTY; THENCE S.00°20'12"E. ALONG SAID PARALLEL LINE FOR 2,657.29 FEET TO AN INTERSECTION WITH THE SOUTH LINE OF SAID FRACTION, SAID POINT ALSO BEING AN INTERSECTION WITH THE NORTH LINE OF LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 2422, PAGE 2521 OF THE PUBLIC RECORDS OF SAID LEE COUNTY; THENCE N.89°56'22"W. ALONG SAID SOUTH AND NORTH LINE FOR 25.00 FEET TO AN INTERSECTION WITH SAID CENTERLINE; THENCE N.00°20'12"W. ALONG SAID CENTERLINE FOR 2,657.31 FEET TO THE POINT OF BEGINNING.

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

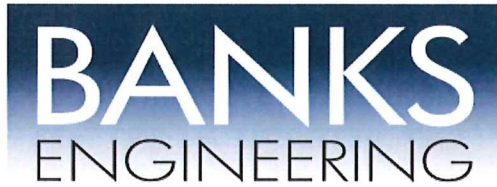
BEARINGS AND DISTANCES ARE BASED ON THE "STATE PLANE COORDINATE SYSTEM" FLORIDA ZONE WEST NAD 83 (CORS). WHEREIN THE WEST LINE OF THE NORTHWEST QUARTER OF SECTION 34, TOWNSHIP 43 SOUTH, RANGE 24 EAST BEARS N.03°26'32"E. THE SCALE FACTOR IS 0.999942288.





Comments – GEN2023-00477

Not a historically designated site and no archaeological sensitivity zone.



ATTACHMENT Q

Professional Engineers, Planners & Land Surveyors

Diplomat House f/k/a North Diplomat RPD PD Amendment & Development Order Summary of Public Information Session

A Public Information Session within the North Fort Myers Planning Community was held on March 27, 2024 at 5:30 p.m., consistent with the requirements of Lee Plan Policy 17.3.5 Land Development Code (LDC) Section 33-1532. The meeting was held at the North Fort Myers Recreation Center, Room 102A, 2000 North Recreation Park Way, North Fort Myers, FL 33903.

The applicant was prepared to present the amendment to the planned development as well as the pending development order submittal for the project, however there were no attendees. The meeting remained open for thirty (30) minutes in case any attendees were running late.

Since LDC Section 33-1532 does not specify advertising requirements, Lee Plan Policy 17.3.4 was utilized and a notice was advertised in the Fort Myers News Press a minimum of 10 days prior to the meeting describing the project and providing contact information for questions or comments. No phone calls or emails have been received.

Attached please find the following backup documentation:

- Public Notice – Tearsheet of meeting notice in The News Press
- No Sign-in sheet since no attendees

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FYI

Respectfully,



Simone Nayem
Project Manager

ELITE PERMITS OF NAPLES

NAPLES|2670 N HORSESHOE DR SUITE 205 NAPLES FL 34104|239-280-0570

SARASOTA|2831 RINGLING BLVD A103 SARASOTA FL 34237|941-225-8898

LEE|2150 EDISON AVE FORT MYERS FL 33901|239-282-9929

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Exhibit A



ATTACHMENT R

Professional Engineers, Planners & Land Surveyors

DESCRIPTION
OF
A TRACT OR PARCEL OF LAND
LYING IN
SECTION 34, TOWNSHIP 43 SOUTH, RANGE 24 EAST
LEE COUNTY, FLORIDA

A TRACT OR PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, LYING IN SECTION 34, TOWNSHIP 43 SOUTH, RANGE 24 EAST, BEING FURTHER BOUND AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE SECTION CORNER COMMON TO SECTIONS 27, 28, 33 AND 34, SAID POINT ALSO BEING THE POINT OF BEGINNING OF LANDS DESCRIBED IN OFFICIAL RECORD BOOK 945, PAGE 359 OF THE PUBLIC RECORDS OF SAID LEE COUNTY; THENCE S 89°54'30" E ALONG THE NORTH LINE OF THE NORTHWEST QUARTER OF SAID SECTION 34 FOR 25.00 FEET TO AN INTERSECTION WITH A LINE 25.00 FEET EAST OF AND PARALLEL WITH (AS MEASURED ON A PERPENDICULAR) THE CENTERLINE OF A SAID LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 945, PAGE 359; THENCE S 00°20'12" E ALONG SAID PARALLEL LINE FOR 1,702.11 FEET, PASSING THROUGH THE NORTHWEST CORNER OF LANDS DESCRIBED IN OFFICIAL RECORD BOOK 1153, PAGE 1203 AT 25.00 FEET, TO THE NORTHWEST CORNER OF LANDS DESCRIBED IN INSTRUMENT NUMBER 2019000014145, SAID POINT ALSO BEING THE **POINT OF BEGINNING** OF THE PARCEL HEREIN DESCRIBED; THENCE N 85°23'21" E ALONG THE NORTHERLY LINE OF SAID LANDS FOR 335.43 FEET; THENCE N 02°24'23" W ALONG SAID NORTHERLY LINE FOR 346.19 FEET; THENCE S 89°55'07" E ALONG SAID NORTHERLY LINE FOR 1,231.34 FEET TO THE NORTHEAST CORNER OF SAID LANDS; THENCE S 03°26'15" W ALONG THE EASTERLY LINE OF SAID LANDS FOR 1,073.38 FEET TO THE SOUTHEAST CORNER OF SAID LANDS; THENCE S 89°52'13" W ALONG THE SOUTHERLY LINE OF SAID LANDS FOR 887.76 FEET; THENCE S 00°07'47" E ALONG SAID SOUTHERLY LINE FOR 250.00 FEET TO AN INTERSECTION WITH THE NORTH LINE OF THE MAINTAINED RIGHT-OF-WAY OF DIPLOMAT PARKWAY, AS SHOWN IN THE MAINTENANCE AFFIDAVIT RECORDED IN INSTRUMENT NUMBER 2015000133169; THENCE S 89°52'13" W ALONG SAID MAINTAINED RIGHT-OF-WAY FOR 590.99 FEET TO AN INTERSECTION WITH THE EASTERLY LINE OF LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 2422, PAGE 2521; THENCE N 28°32'53" W ALONG SAID EASTERLY LINE FOR 6.36 FEET TO AN INTERSECTION WITH SAID PARALLEL LINE, SAID POINT ALSO BEING THE NORTHEASTERLY CORNER OF SAID LANDS; THENCE N 00°20'12" W ALONG SAID PARALLEL LINE FOR 948.13 FEET TO THE **POINT OF BEGINNING**.

PARCEL CONTAINS 38.13 ACRES, MORE OR LESS.

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

BEARINGS AND DISTANCES ARE BASED ON "THE STATE PLANE COORDINATE SYSTEM" FLORIDA ZONE WEST NAD 83 (CORS), WHEREIN THE NORTH LINE OF THE NORTHWEST QUARTER OF SECTION 34, TOWNSHIP 43 SOUTH, RANGE 24 EAST BEARS N 89°54'30" E.

DESCRIPTION PREPARED: 05-29-2024.


RICHARD M. RITZ
REGISTERED LAND SURVEYOR
FLORIDA CERTIFICATION NO. 4009
DATE SIGNED: 05-29-2024.

Digitally signed
by Richard M Ritz
Date: 2024.05.29
09:33:03 -04'00'

REVIEWED
DCI2023-00050
Sophia Ludlam, GIS Planner
Lee County
6/11/2024

SHEET 1 OF 2

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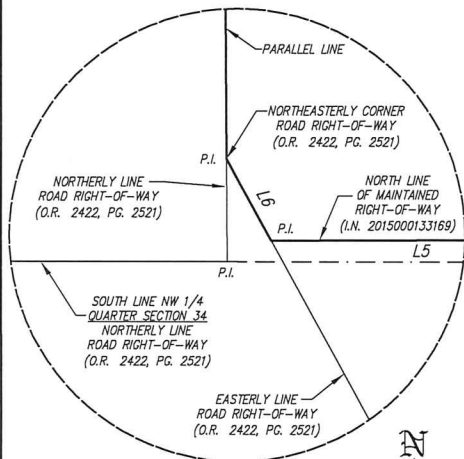
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1" = 400'



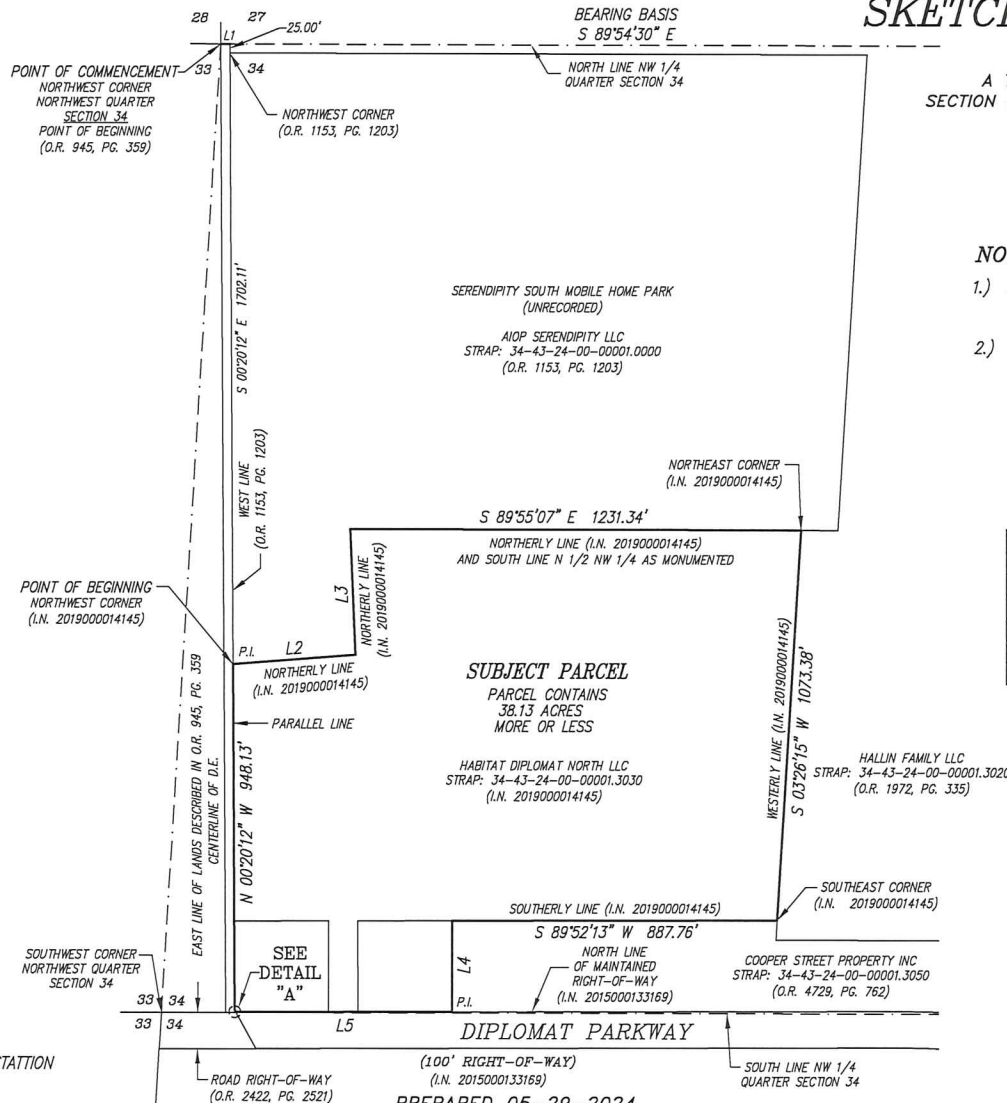
DETAIL "A"
1" = 10'



LEGEND:

PG. INDICATES PAGE
D.E. INDICATES DRAINAGE EASEMENT
I.N. INDICATES INSTRUMENT NUMBER
O.R. INDICATES OFFICIAL RECORD BOOK
CORS INDICATES CONTINUOUSLY OPERATING REFERENCE STATION

S:\JOBS\20XX\2028TW\SURVEYING\DESCRIPTIONS\2028TW-BNDY-LGL.DOC
S:\JOBS\20XX\2028TW\SURVEYING\DESCRIPTIONS\2028TW-BNDY-LGL.DWG



SKETCH OF DESCRIPTION OF

A TRACT OR PARCEL OF LAND LYING IN
SECTION 34, TOWNSHIP 43 SOUTH, RANGE 24 EAST,
LEE COUNTY, FLORIDA

REVIEWED
DCI2023-00050
Sophia Ludlam, GIS Planner
Lee County
6/11/2024

NOTES:

- SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS AND RIGHTS-OF-WAY OF RECORD.
- BEARINGS AND DISTANCES ARE BASED ON THE "STATE PLANE COORDINATE SYSTEM" FLORIDA ZONE WEST NAD 83 (CORS). WHEREIN THE NORTH LINE OF NW 1/4 OF SECTION 34, TOWNSHIP 43 SOUTH, RANGE 24 EAST BEARS S 89°54'30" E

LINE TABLE

LINE	BEARING	DISTANCE
L1	S 89°54'30" E	25.00'
L2	N 85°23'21" E	335.43'
L3	N 02°24'23" W	346.19'
L4	S 00°07'47" E	250.00'
L5	S 89°52'13" W	590.99'
L6	N 28°32'53" W	6.36'

SEE SHEET 1 OF 2 FOR COMPLETE
METES AND BOUNDS DESCRIPTION.

**THIS SKETCH OF DESCRIPTION
IS NOT A BOUNDARY SURVEY**

Richard M. Ritz
RICHARD M. RITZ
REGISTERED LAND SURVEYOR
FLORIDA CERTIFICATION NO. 4009
DATE SIGNED: 05-29-2024
THIS SKETCH OF DESCRIPTION IS NOT VALID
WITHOUT THE SIGNATURE AND SEAL OF A
FLORIDA LICENSED SURVEYOR AND MAPPER.

PREPARED 05-29-2024
SHEET 2 OF 2