

RESOLUTION NUMBER Z-05-012

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

WHEREAS, Druid Assets LLC, c/o Daniel S. Howe, Manager filed an application on behalf of the property owners, Samuel, John and Michael Johnson to rezone a 4.16+/- acre parcel from Commercial (C-2), to Highway Commercial (CH), and Single-Family Residential (RS-1) to Commercial Planned Development (CPD) in reference to CVS at Villas Plaza; and

WHEREAS, a public hearing was advertised and held on February 2, 2005, before the Lee County Zoning Hearing Examiner, who gave full consideration to the evidence in the record for Case #DCI2004-00047; and

WHEREAS, a second public hearing was advertised and held on March 21, 2005, 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 a 4.16+/- acre parcel from C-2, CH, and RS-1 to CPD, to allow uses to include, but not limited to, Drug Store, Flea Market, Car Wash, and a Fast-Food Restaurant. The property is located in the Intensive Development 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. The development of this project must be consistent with the 1-page Master Concept Plan entitled "CVS at The Villas Plaza," stamped received by the Permit Counter on MAR 23 2005, except as modified by the conditions below. This development must comply with all requirements of the Lee County LDC at time of local development order Approval, except as may be granted by deviation as part of this planned development. If changes to the Master Concept Plan are subsequently pursued, appropriate approvals will be necessary.

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

a. Schedule of Uses

Phase 1

ADMINISTRATIVE OFFICES
 ANIMALS, clinic (No Outdoor Runs)
 ATM (automatic teller machine)
 AUTO PARTS STORE, no installation service, with installation service
 AUTO REPAIR AND SERVICE (34-622(c)), Groups I and II
 BAIT AND TACKLE SHOP
 BANKS AND FINANCIAL ESTABLISHMENTS (34-622(c)),
 Groups I and II
 BOATS, boat parts store
 BROADCAST STUDIO, commercial radio and television
 BUSINESS SERVICES (34-622(c)), Group I
 CLEANING AND MAINTENANCE SERVICES (34-622(c))
 CLOTHING STORES, general (34-622(c))
 CLUBS, commercial, fraternal, membership organization
 CONVENIENCE FOOD AND BEVERAGE STORE (No Fuel Pumps)
 CULTURAL FACILITIES (34-622(c))
 DAY CARE CENTER, ADULT, CHILD
 DEPARTMENT STORE
 DRIVE-THROUGH FACILITY FOR ANY PERMITTED USE
 DRUGSTORE PHARMACY
 ESSENTIAL SERVICES
 ESSENTIAL SERVICE FACILITIES (34-622(c)(13)), Group I
 EXCAVATION, water retention
 FOOD STORES (34-622(c)), Groups I and II
 HARDWARE STORE
 HEALTH CARE FACILITY (34-622(c)), Group III
 HOBBY, TOY, GAME SHOPS (34-622(c))
 HOUSEHOLD AND OFFICE FURNISHINGS (34-622(c))
 Groups I and II
 INSURANCE COMPANIES (34-622(c))
 LAUNDRY OR DRY CLEANING (34-622(c)) Groups I and II
 LIBRARY
 MEDICAL OFFICE
 PACKAGE STORE (Accessory only to the Drugstore/Pharmacy)
 PAINT, GLASS AND WALLPAPER
 PARKING LOT, accessory
 PERSONAL SERVICES (34-622(c)) Groups I, II and III
 PET SERVICES
 PET SHOP
 PLACE OF WORSHIP
 POST OFFICE
 PRINTING AND PUBLISHING (34-622(c))

RECREATION, FACILITIES, commercial (34-622(c), Group I
 RENTAL OR LEASING ESTABLISHMENTS (34-622(c)
 Groups I and II
 REPAIR SHOPS (34-622(c)) Groups I and II
 RESTAURANT, FAST FOOD (Requires special exception approval)
 RESTAURANTS (34-622(c)) Groups I, II and III
 SIGNS IN ACCORDANCE WITH CHAPTER 30
 SPECIALTY RETAIL SHOP (34-622(c)), Groups I, II and III
 STORAGE, indoor only
 STUDIOS (34-622(c))
 VARIETY STORE

Phase 2

As permitted in the Commercial (C-2) zoning district.
 See Condition 7.

b. Site Development Regulations

	Overall	Phase I	Phase II
Min. Lot Width	100 feet	100 feet	100 feet
Min. Lot Depth	100 feet	100 feet	100 feet
Min. Lot Area	20,000 sf	20,000 sf	20,000 sf
Max. Lot Coverage	50 percent	40 percent	75 percent
Min. Open Space	15 percent	20 percent	10 percent
Max. Building Height	35 feet	35 feet	35 feet
Max. Commercial Square-footage	41,300 sf.	13,100 sf.	28,200 sf. (Existing Only)

Setbacks

Street:
 Crystal: 25 Feet
 U.S.41: 25 Feet
 Austin: 16 Feet (Phase 2 Existing Only)
 25-Feet (New Construction)
 Sunrise: 25 Feet
 Rear: 15 Feet
 Side: 10 Feet

- Prior to local development order approval, a minimum of 0.63 acres of open space must be delineated on the landscape plans.

4. Prior to local development order approval, the landscape plans must be in substantial compliance with the Site Enhancement Plan attached as Exhibit E, sheets L-1 through L-5. The plant species may be revised to avoid conflict with over head power lines or signage. The plant locations may be revised to avoid planting within public utility easements.
5. The 10-foot-wide FPL easement (recorded in O.R. Book 1321, Page 654), as shown on the Master Concept Plan will be relocated prior to issuance of a building permit for vertical construction.
6. This development must comply with all of the requirements of the LDC at the time of local development order approval, except as may be granted by deviations approved as part of this planned development.
7. The existing center shall continue to have all of the uses permitted in the C-2 district as long as the existing configuration of the buildings remains as is. If there is any expansion of the square footage of the existing center, or if there is any voluntary building demolition and replacement, then the owner shall submit for an amendment to the CPD zoning for an evaluation of the new site design and uses. This condition is not intended to restrict build back policies as outlined in Section 13 of the Lee County Comprehensive Plan.
8. Construction on Phase 1 must be constructed using a partial brick facade, similar to the illustration attached hereto as **Exhibit D**.
9. Phase 1 of the Master Concept Plan must comply with § 34-381(2)c of the Lee County LDC regarding duration of rights. Phase 2 of the Master Concept Plan must comply with § 34-381(2)d of the Lee County LDC regarding duration of rights.
10. The northern U.S. 41 access is subject to review and approval by Florida Department of Transportation (FDOT). FDOT may require a shift in location of the access point from the location reflected on the Master Concept Plan. The shift is acceptable to Lee County, provided the Applicant retains the quantity of open space (Condition 3 above), the landscaping identified on the landscape plan (Condition 4 above), and the required number of parking spaces.
11. 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 Allocations Table, Map 16 and Table 1(b).

SECTION C. DEVIATIONS:

1. Deviation (1) seeks relief from LDC § 10-415(a), which requires that commercial developments provide 20 percent (small projects) and 30 percent (large projects) open space, to allow 15 percent for the overall Villas Plaza site, which includes 20 percent open space within the proposed Phase I site and 10 percent open space within the existing Phase II site. This deviation is APPROVED.

2. Deviation (2) seeks relief from LDC §10-416(d)(3) and (4), which requires commercial developments to provide Type “D” buffers along roadways, to allow:
- (a) a 4-foot-wide buffer along Crystal Drive containing five trees and a hedge planted in double staggered rows to be maintained so as to form a 36-inch-high continuous visual screen within one year after time of planting;
 - (b) No buffer along U.S. 41 within Phase II;
 - (c) No buffer along Sunrise Boulevard within Phase II, except that shown on the Master Concept Plan and Site Enhancement Plan; and
 - (d) No buffer along Austin Street within Phase II, except that shown on the Master Concept Plan and Site Enhancement Plan.

This deviation is APPROVED.

3. Deviation (3) seeks relief from LDC §10-416(d)(3) and (4), which requires commercial developments to provide Type “A” buffers between adjoining commercial development, to allow:
- (a) A 3-foot-wide buffer between Phase I and the west side of the Fire Station parcel;
 - (b) No buffer between the existing parking lot within Phase I and the south side of the Fire Station parcel; and
 - (c) No buffer between the proposed Phase I parcel and the existing Phase II parcel within Villas Plaza.

This deviation is APPROVED.

4. Deviation (4) seeks relief from LDC 10-416(b), which requires commercial components of planned developments to provide building perimeter plantings equal to 10 percent of the proposed building gross ground level floor area, to allow no perimeter plantings for the existing buildings within Phase II of Villas Plaza. This deviation is APPROVED.
5. Deviation (5) seeks relief from LDC §10-416(a)(4), which requires the provision of one general tree per each 3,500 square feet of commercial development area, and that no more than 50 percent of the required trees may be located in the area between the rear lot line and a line created by extending the rear wall of the principal structure to the side lot line and the street right-of-way line, to allow:
- (a) No additional general trees to be required within the existing Phase II parcel within Villas Plaza; and
 - (b) Sixty-seven percent (67%) of the required general trees to be located in the area

between the rear lot line and a line created by extending the rear wall of the principal structure to the side lot line and the street right-of-way line.

This deviation is APPROVED.

6. Deviation (6) seeks relief from LDC §10-416(c)(2), which requires all parking areas to be internally landscaped with one tree for every 250 square feet of required internal planting area and that no parking space be more than 100 feet from a tree planted in a permeable island, to allow no additional landscaping within the existing Phase II development area. This deviation is APPROVED.
7. Deviation (7) seeks relief from LDC §10-610(a), which requires parking to be developed throughout the site utilizing the same degree of angle, to allow the combination of 90 degree two-way parking and 60 degree two-way parking south of Building 3 within Phase II of Villas Plaza. This deviation is APPROVED.
8. Deviation (8) seeks relief from LDC §10-620, which requires the use of Architectural Design Standards and Guidelines for commercial buildings, to allow no additional architectural requirements for the existing Phase II of Villas Plaza. This deviation is APPROVED.
9. Deviation (9) seeks relief from LDC §10-285(a)-Table 1, which requires a 660-foot connection separation for arterial roads, to allow:
 - (a) Sixty-four (64) lineal feet +/- between the Crystal Drive Entrance #1 and the Fire Station to the east;
 - (b) WITHDRAWN AT PUBLIC HEARING.

This deviation is APPROVED.

10. Deviation (10) seeks relief from LDC §10-285(a)-Table 1, which requires a 125-foot connection separation for local roads, to allow:
 - (a) One hundred thirty-five (135) lineal feet +/- between the Sunrise Boulevard Entrance #4 and the centerline of the intersection of U.S. 41 and Sunrise Boulevard; and
 - (b) Forty-five (45) lineal feet +/- between Austin Street #5 and the centerline of the intersection of Sunrise Boulevard and Austin Street.

This deviation is APPROVED.

11. Deviation (11) seeks relief from LDC §10-8(2), which prohibits parking from backing out onto local roads, to allow the exiting parking configuration on the east side of Phase II, Building 3. This deviation is APPROVED.
12. Deviation (12) seeks relief from LDC §34-1987(a), which requires one loading space for the

first 10,000 square feet of floor area, plus one space for each additional 20,000 square feet of floor area, to allow:

- (a) No loading bays for the existing Phase II Villas Plaza; and
- (b) One loading bay for the proposed Phase I site.

This deviation is APPROVED.

13. Deviation (13) seeks relief from LDC §34-2016(3), which requires 18-foot minimum aisle widths within paved parking lots, to allow between 12- and 14-foot minimum aisle widths within the paved parking lot located within the existing Phase II Villas Plaza site. This deviation is APPROVED.

SECTION D. EXHIBITS AND STRAP NUMBER:

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

- Exhibit A: Legal description of the property
- Exhibit B: Zoning Map (with the subject parcel identified with shading)
- Exhibit C: The Master Concept Plan
- Exhibit D: CVS Photo Showing Partial Brick Facade
- Exhibit E: Site Enhancement Plan

The applicant has indicated that the STRAP numbers for the subject property is:

13-45-24-01-00001.0010, 13-45-24-01-00001.001A, and 13-45-24-01-00007.0180

SECTION E. FINDINGS AND CONCLUSIONS:

- 1. The applicant has proven entitlement to the rezoning by demonstrating compliance with the Lee Plan, the LDC, and any other applicable code or regulation.
- 2. The rezoning, as approved:
 - a. meets or exceeds all performance and locational standards set forth for the potential uses allowed by the request; and,
 - b. is consistent with the densities, intensities and general uses set forth in the Lee Plan; and,
 - c. is compatible with existing or planned uses in the surrounding area; and,
 - d. will not place an undue burden upon existing transportation or planned infrastructure facilities and will be served by streets with the capacity to carry traffic generated by the development; and,

- e. will not adversely affect environmentally critical areas or natural resources.
- 3. The rezoning satisfies the following criteria:
 - a. the proposed use or mix of uses is appropriate at the subject location; and
 - b. the recommended conditions to the concept plan and other applicable regulations provide sufficient safeguard to the public interest; and
 - c. the recommended conditions are reasonably related to the impacts on the public interest created by or expected from the proposed development.
- 4. Urban services, as defined in the Lee Plan, are, or will be, available and adequate to serve the proposed land use.
- 5. The approved deviations, as conditioned, enhance achievement of the planned development objectives, and preserve and promote the general intent of LDC Chapter 34, to protect the public health, safety and welfare.

The foregoing resolution was adopted by the Lee County Board of Commissioners upon the motion of Commissioner Albion, seconded by Commissioner Hall and, upon being put to a vote, the result was as follows:

Robert P. Janes	Aye
Douglas R. St. Cerny	Aye
Ray Judah	Aye
Tammy Hall	Aye
John E. Albion	Aye

DULY PASSED AND ADOPTED this 21st day of March 2005.

ATTEST:
CHARLIE GREEN, CLERK

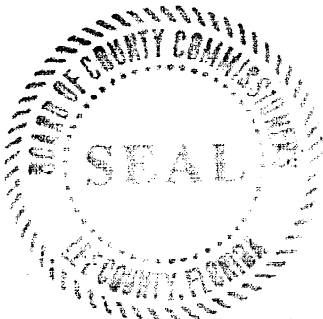
BY: Michelle L. Cooper
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: [Signature]
Chairman

Approved as to form by:

[Signature]
County Attorney's Office



CASE NO: DCI2004-00047

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Z-05-012
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SINCE 1946

May 10, 2004

DESCRIPTION
PART OF LOTS 1-19, BLOCK 1
& ALL OF LOTS 18-20, BLOCK 7
FORT MYERS VILLAS, UNIT NO. 1-A
(PB 10, PG 92, LEE COUNTY RECORDS)
SECTION 13, TOWNSHIP 45 SOUTH, RANGE 24 EAST
LEE COUNTY, FLORIDA

A tract or parcel of land located in part of Lots 1 through 19, Block 1 and all of Lots 18 through 20, Block 7, Fort Myers Villas, Unit No. 1-A, Plat Book 10, Page 92, Public Records of Lee County, Florida lying in Section 13, Township 45 South, Range 24 East, Lee County, Florida, which tract or parcel is described as follows:

From the intersection of the northeast corner of said Lot 1, Block 1, and the northwest corner of Lot 1 said Block 7 with the south right-of-way line of Crystal Drive run S 01° 12' 30" E along the west line of said Lot 1, Block 7 for 110.01 feet to an intersection with the north line of said Lot 20; thence run N 89° 40' 20" E along the north line of said Lots 20, 19 and 18 for 237.80 feet to the northeast corner of said Lot 18; thence run S 00° 19' 40" E along the east line of said Lot 18 for 110.00 feet to the southeast corner of said Lot 18 and an intersection with the north right-of-way line of Aldridge Avenue (50 feet wide); thence run the following courses along said north line: S 89° 40' 20" W for 154.88 feet to a point of curvature; southwesterly along an arc of a curve to the left of radius 80.00 feet (delta 90° 52' 50") (chord bearing S 44° 13' 55" W) (chord 114.00 feet) for 126.89 feet to a point of tangency and an intersection with the west right-of-way line of said Aldridge Avenue; thence run the following courses along said west line: S 01° 12' 30" E for 163.42 feet to a point of curvature; southwesterly along an arc of a curve to the right of radius 25.00 feet (delta 90° 52' 50") (chord bearing S 44° 13' 55" W) (chord 35.63 feet) for 39.65 feet to a point of tangency and an intersection with the north right-of-way line of Sunrise Boulevard (80 feet wide); thence run the following courses along said north line: S 89° 40' 20" W for 282.03 feet to an intersection with a non-tangent curve; westerly along an arc of a curve to the right of radius 25.00 feet (delta 15° 22' 42") (chord bearing N 82° 38' 17" W) (chord 6.69 feet) for 6.71 feet to an intersection with a non-tangent line and the east right-of-way line of US 41 (Tamiami Trail) (200 feet wide); thence run the following course along said east line: N 01° 12' 30" W for 488.05 feet to an intersection with a non-tangent curve; easterly along an arc of a curve to the right of radius 25.00 feet (delta 17° 08' 57") (chord bearing N 81° 06' 21" E) (chord 7.45 feet) for 7.48 feet to a point of tangency and an intersection with said south line of Crystal Drive; thence run N 89° 40' 20" E along said south line for 306.65 feet to the northeast corner of said Lot 1, Block 1 and the northwest corner of said Lot 1, Block 7 and the Point of Beginning.

Containing 181,223 square feet (4.16 acres), more or less.

Bearings hereinabove mentioned are based on the centerline of US 41 (Tamiami Trail) to bear N 01° 12' 30" W.

Applicant's Legal Checked

by [Signature] July 8, 2004.

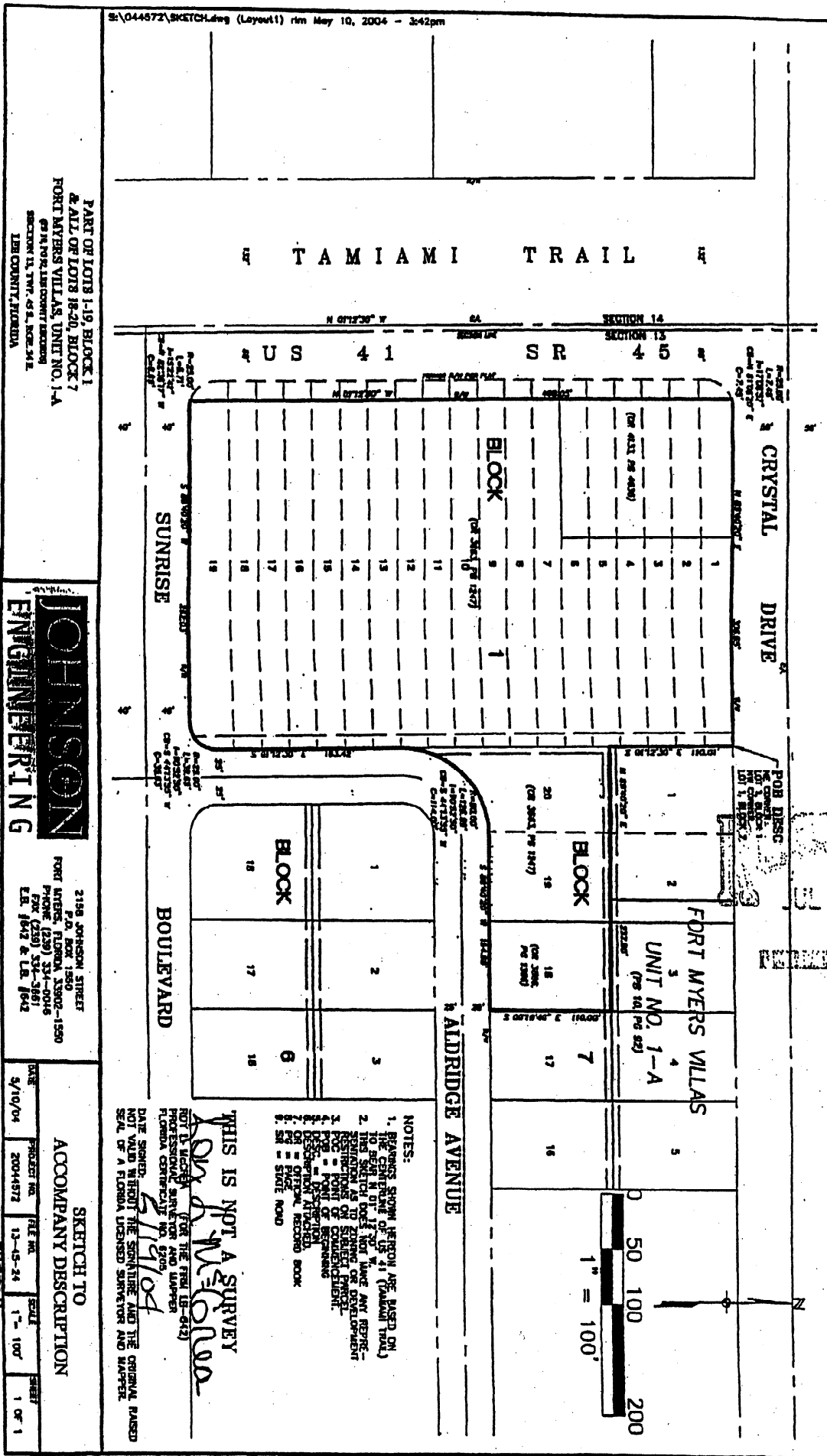
[Signature]
 Roy L. McCrea (for The Firm LB-642)
 Professional Land Surveyor
 Florida Certificate No. 6205

PERMIT TO SURVEY

20044572 Description 051004

DCI 2004-00047

EXHIBIT A
 (Page 1 of 3)



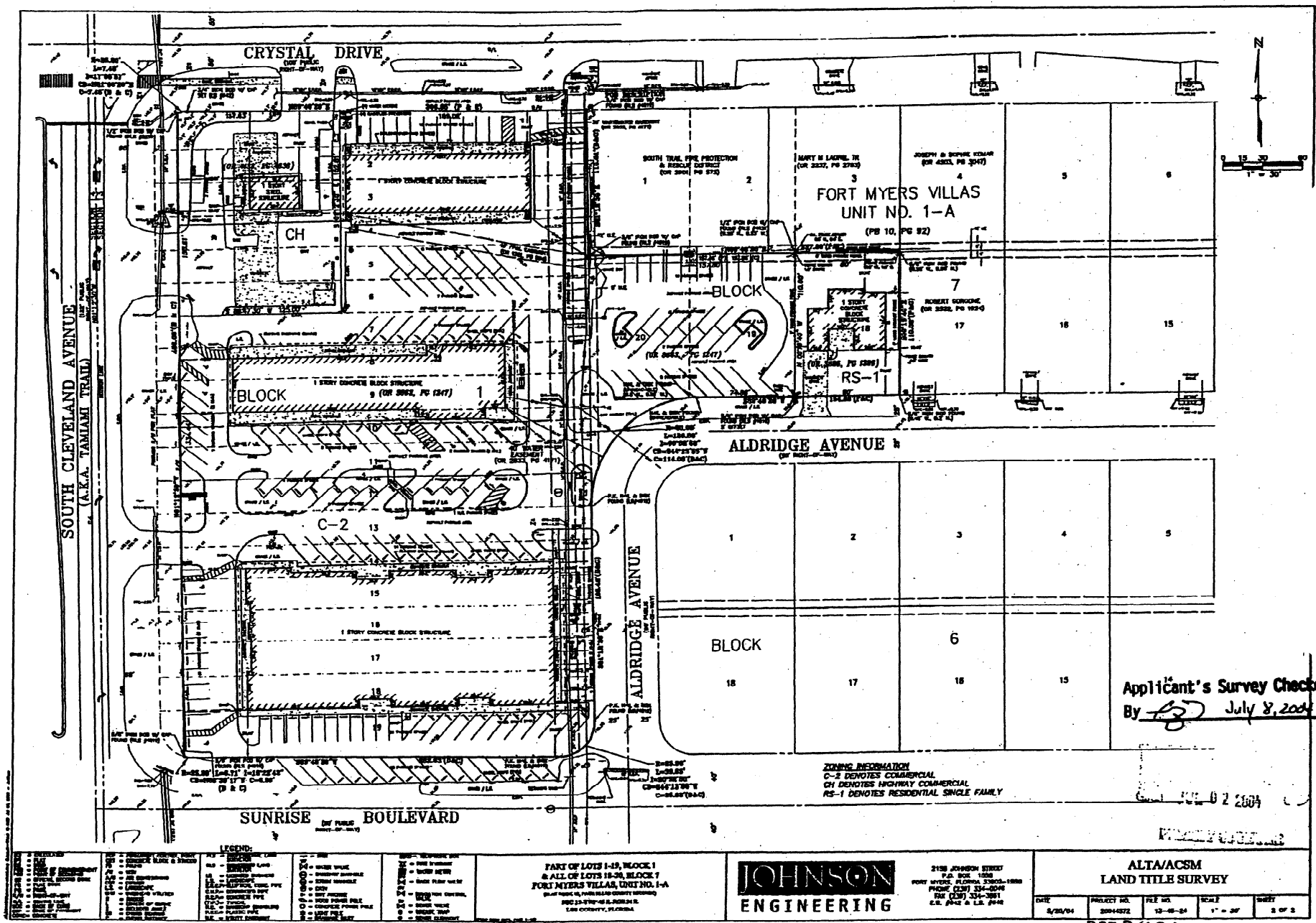
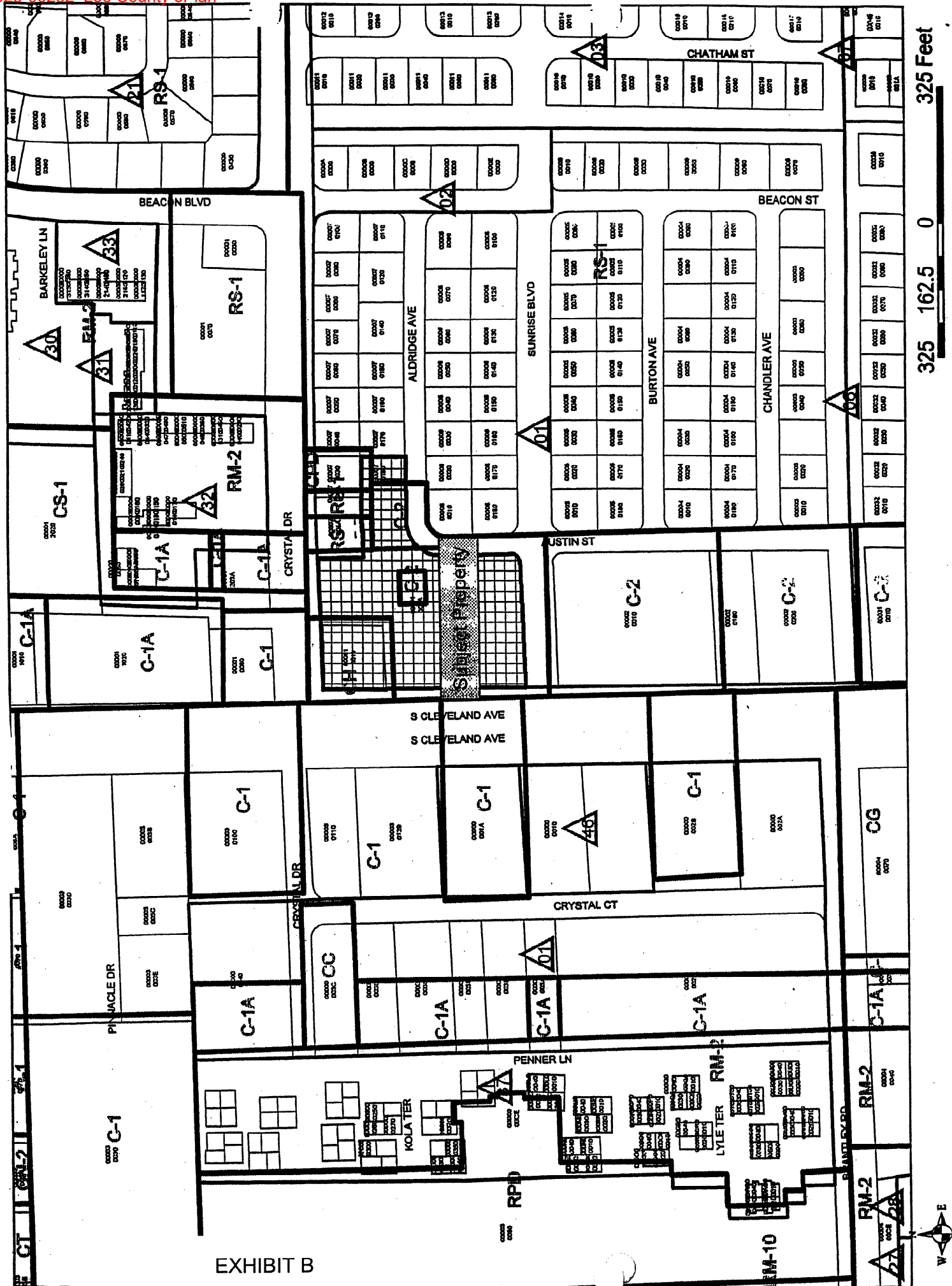
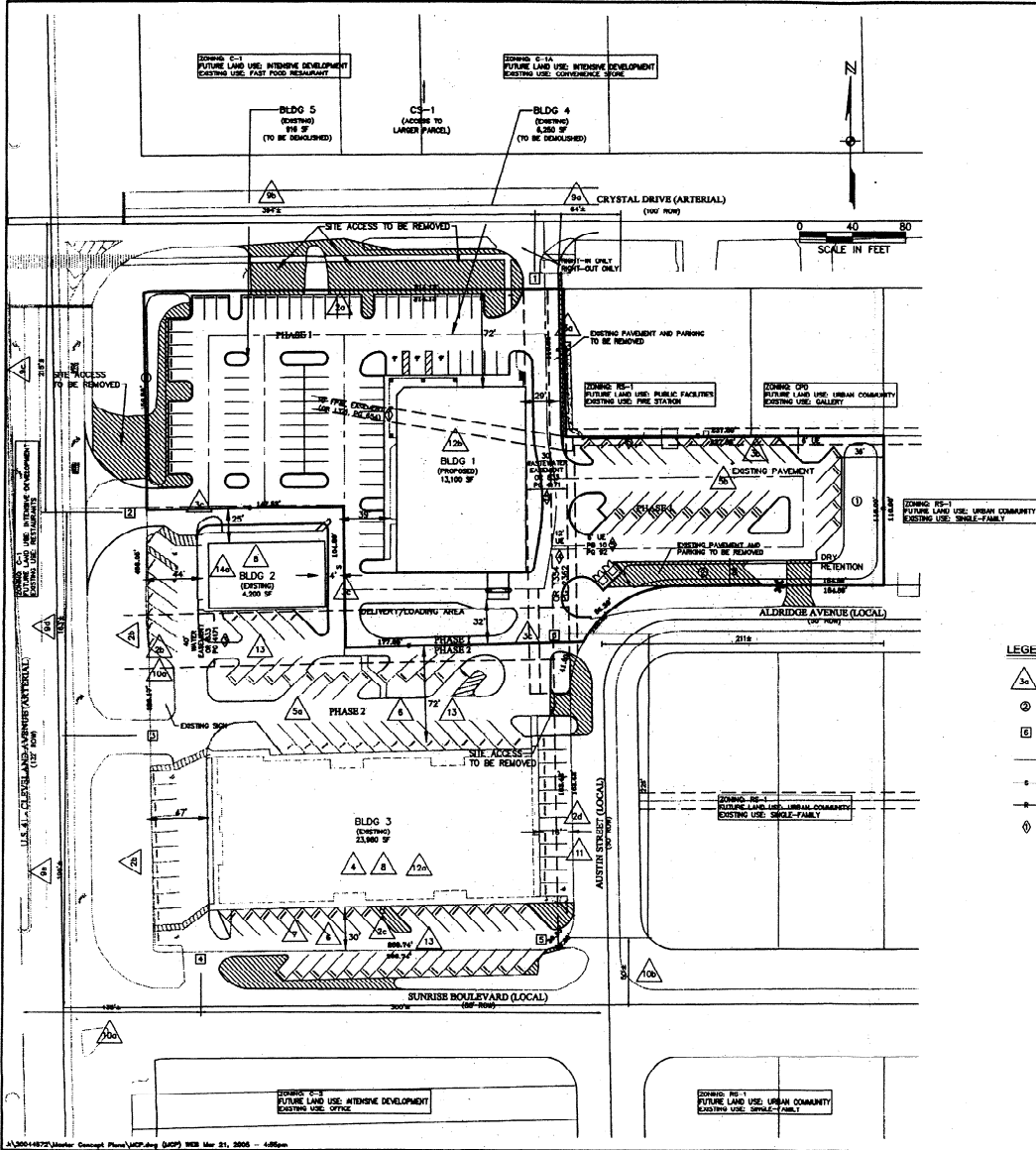


EXHIBIT A
(Page 3 of 3)

1/19/2005

EXHIBIT B





PROJECT INFORMATION	
SITE INFORMATION:	4.17 ACRES
SIZE OF PARCEL:	4.17 ACRES
USE PLAN:	INTENSIVE DEVELOPMENT 3.72 ACRES CENTRAL URBAN 0.45 ACRES
STRAP NUMBERS:	13-46-24-01-00001.0010 13-46-24-01-00001.001A 13-46-24-01-00001.001B
REQUEST:	C-2, CH AND RS-1 TO MINOR CPO 62,000 SF OF RETAIL AND OFFICE USES

OPEN SPACE TABLE	
EXISTING OPEN SPACE:	4.17 AC. 42 ACRES (10%)
OPEN SPACE REQUIRED:	
PHASE 1	2.18 X 20% = .43 ACRES
PHASE 2	1.98 X 20% = .39 ACRES
OPEN SPACE PROVIDED:	
PHASE 1	2.18 X 20% = .43 ACRES
PHASE 2	1.98 X 10% = .20 ACRES
EXTERNAL PAVEMENT REMOVED	.22 AC.

EXHIBIT 6-C: SITE AND SURROUNDING ZONING & LAND USES		
ZONING	DESCRIPTION	LAND USES
C-2	Commercial	Intensive Development
CH	Highway Commercial	Intensive Development
RS-1	Residential-Single Family	Urban

- LEGEND
- ▲ DEVIATION REFERENCE NUMBER
 - ⊙ BUFFER ZONE
 - ⓔ ENTRANCE NUMBER
 - PARCEL LINE
 - SIDE LOT LINES
 - REAR LOT LINES
 - ◇ EASEMENTS

APPROVED
Master Concept Plan
Site Plan - 02-012 Page 1 of 1
Subject to conditions in Resolution 2004-02
Case # DC12004-00001

RECEIVED
MAR 21 2005
PERMIT CENTER
DCI 2004-00047

REVISIONS	

DRUID ASSETS, LLC

CVS @ THE VILLAS PLAZA
Lee County, Florida

JOHNSON
ENGINEERING

2158 JOHNSON STREET
P.O. BOX 1500
FORT MYERS, FLORIDA 33902-1500
PHONE (239) 334-0046
FAX (239) 334-3861

MASTER CONCEPT PLAN - EXHIBIT 6-J				
DATE	PROJECT NO.	FILE NO.	SCALE	SHEET
SEPT. 2004	20044572	13-45-24	1" = 40'	2

EXHIBIT C

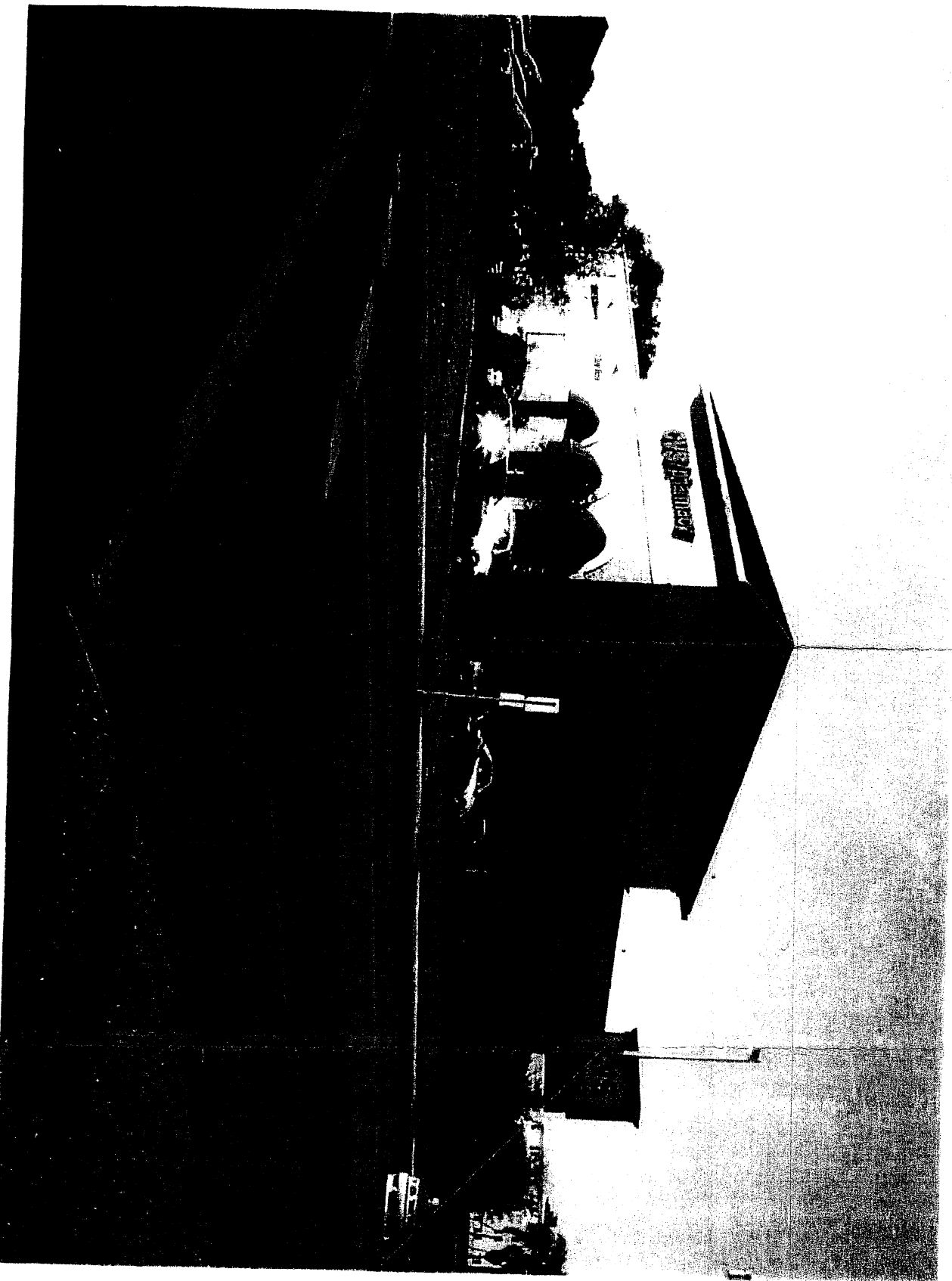


EXHIBIT D

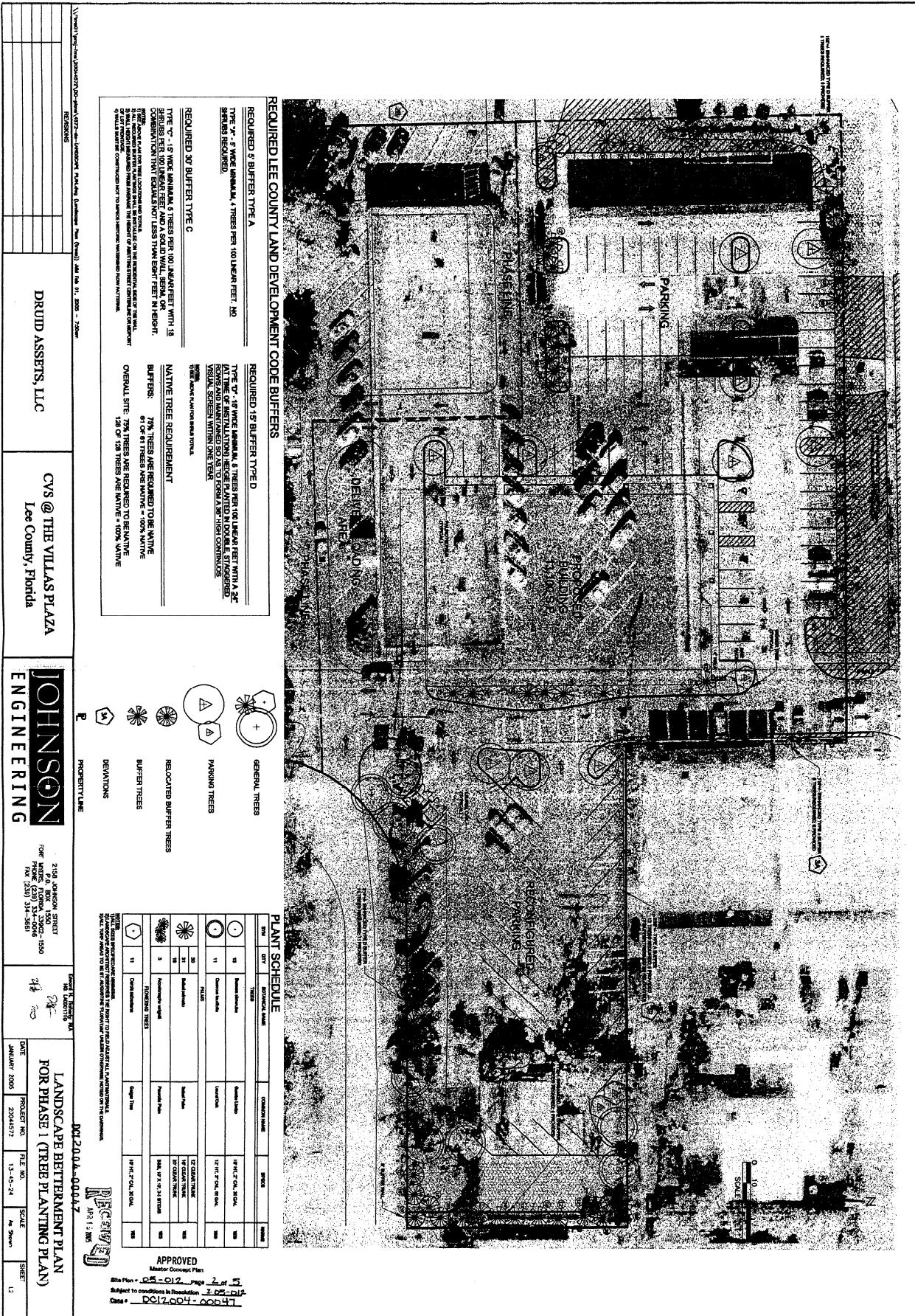


EXHIBIT E
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