COLLIER COUNTY
Collier County Hearing Examiner

AGENDA

Growth Management Department
Conference Rooms 609/610
2800 Horseshoe Drive North
Naples, FL 34104

March 24, 2022

9: 00 AM

Andrew W. J. Dickman, Esq., AICP
Hearing Examiner

Note: Individual speakers will be limited to 5 minutes unless otherwise waived by the Hearing Examiner. Persons Wishing to have written or graphic materials included in the hearing report packets must have that material submitted to County staff at Thomas.Clarke@CollierCountyFL.gov 10 days prior to the Hearing. All materials used during presentation at the hearing will become a permanent part of the record.

Any person who decides to appeal a decision of the Hearing Examiner will need a record of the proceedings pertaining thereto, and therefore may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. Decisions of the Hearing Examiner are final unless appealed to the Board of County Commissioners.

Hearing Procedures will provide for presentation by the Applicant, presentation by staff, public comment and applicant rebuttal. The Hearing Examiner will render a decision within 30 days. Persons wishing to receive a copy of the decision by mail may supply County staff with their name, address, and a stamped, self-addressed envelope for that purpose. Persons wishing to receive an electronic copy of the decision may supply their email address.

1. Pledge of Allegiance

2. Review of Agenda

3. Advertised Public Hearing

A. Petition No. CU-PL20210001683 - Request for modification to amend conditions of approval to a Conditional Use Resolution 2000-300 for a private club to modify conditions number 4 and 5. Condition 4 would modify the total number of people allowed and condition 5 would modify the hours of operation for the site. The subject property is in the Residential Tourist (RT) Zoning District, and a private club is a conditional use per Section 2.03.02.E.1.c.5 of the Collier County Land Development Code (LDC). Subject property is .99 ± acres located at 9467 Gulf Shore Drive in Section 32, Township 48 South, Range 25 East, Collier County, Florida. [Coordinator: Gabriela Castro, Principal Planner] Commission District 2

B. Petition No. FL - PL20210001966 - Mod Wash Comparable Use Determination - A request for a comparable use determination that a new automated carwash is comparable, compatible, and consistent with the list of permitted uses in section 4.4.A of the Artesa Pointe Planned Unit Development, Ord. No. 03-46, as amended. The proposed development is on a vacant ±1.01-acre parcel, folio no. 81076000095, at the southeast quadrant of the intersection of Collier Boulevard and Pasedo Drive, approximately one-half mile south of Tamiami Trail East, in Section 3, Township 51 South, Range 26 East, Collier County, Florida. [Coordinator: Eric Ortman, Principal Planner] Commissioner District 1

4. Other Business

5. Public Comments

6. Adjourn

COLLIER COUNTY
Collier County Hearing Examiner

Item Number: 3.A
Item Summary: Petition No. CU-PL20210001683 - Request for modification to amend conditions of approval to a Conditional Use Resolution 2000-300 for a private club to modify conditions number 4 and 5. Condition 4 would modify the total number of people allowed and condition 5 would modify the hours of operation for the site. The subject property is in the Residential Tourist (RT) Zoning District, and a private club is a conditional use per Section 2.03.02.E.1.c.5 of the Collier County Land Development Code (LDC). Subject property is .99 ± acres located at 9467 Gulf Shore Drive in Section 32, Township 48 South, Range 25 East, Collier County, Florida. [Coordinator: Gabriela Castro, Principal Planner] Commission District 2

Meeting Date: 03/24/2022

Prepared by:
Title: Principal Planner – Zoning
Name: Gabriela Castro
03/01/2022 3:13 PM

Submitted by:
Title: – Zoning
Name: Mike Bosi
03/01/2022 3:13 PM

Approved By:

Review:

Growth Management Operations & Regulatory Management	Kenneth Kovensky	Review Item	Completed	
Hearing Examiner (GMD Approvers)	Diane Lynch	Review Item	Completed	03/17/2022 3:08 PM
Zoning	Ray Bellows	Review Item	Completed	03/17/2022 3:54 PM
Zoning	Mike Bosi	Review Item	Completed	03/17/2022 4:22 PM
Hearing Examiner	Andrew Dickman	Meeting Pending	03/24/2022 9:00 AM	

STAFF REPORT

TO: COLLIER COUNTY HEARING EXAMINER

FROM: ZONING DIVISION – ZONING SERVICES SECTION
GROWTH MANAGEMENT DEPARTMENT

HEARING DATE: MARCH 24. 2022

SUBJECT: CU-PL20210001683; TWIN EAGLES BEACH AND BAY CLUB

PROPERTY OWNER/AGENT:

Owner:
Vanderbilt Beach, LLC
3400 E. Lafayette
Detroit, MI 48207

Applicant:
Karen Bishop
PMS Inc. Of Naples
3125 54th Terrace SW
Naples, Fl 34116

REQUESTED ACTION:

To have the Collier County Hearing Examiner (HEX) consider an application to modify conditions of approval numbers 4 and 5 of Resolution No. 2000-300 to increase the total number of people allowed on site and expand the allowed hours of operation. The subject property is in the Residential Tourist (RT) Zoning District, and has a conditional use as a private club per Section 2.03.02.E.1.c.5 of the Collier County Land Development Code.

GEOGRAPHIC LOCATION:

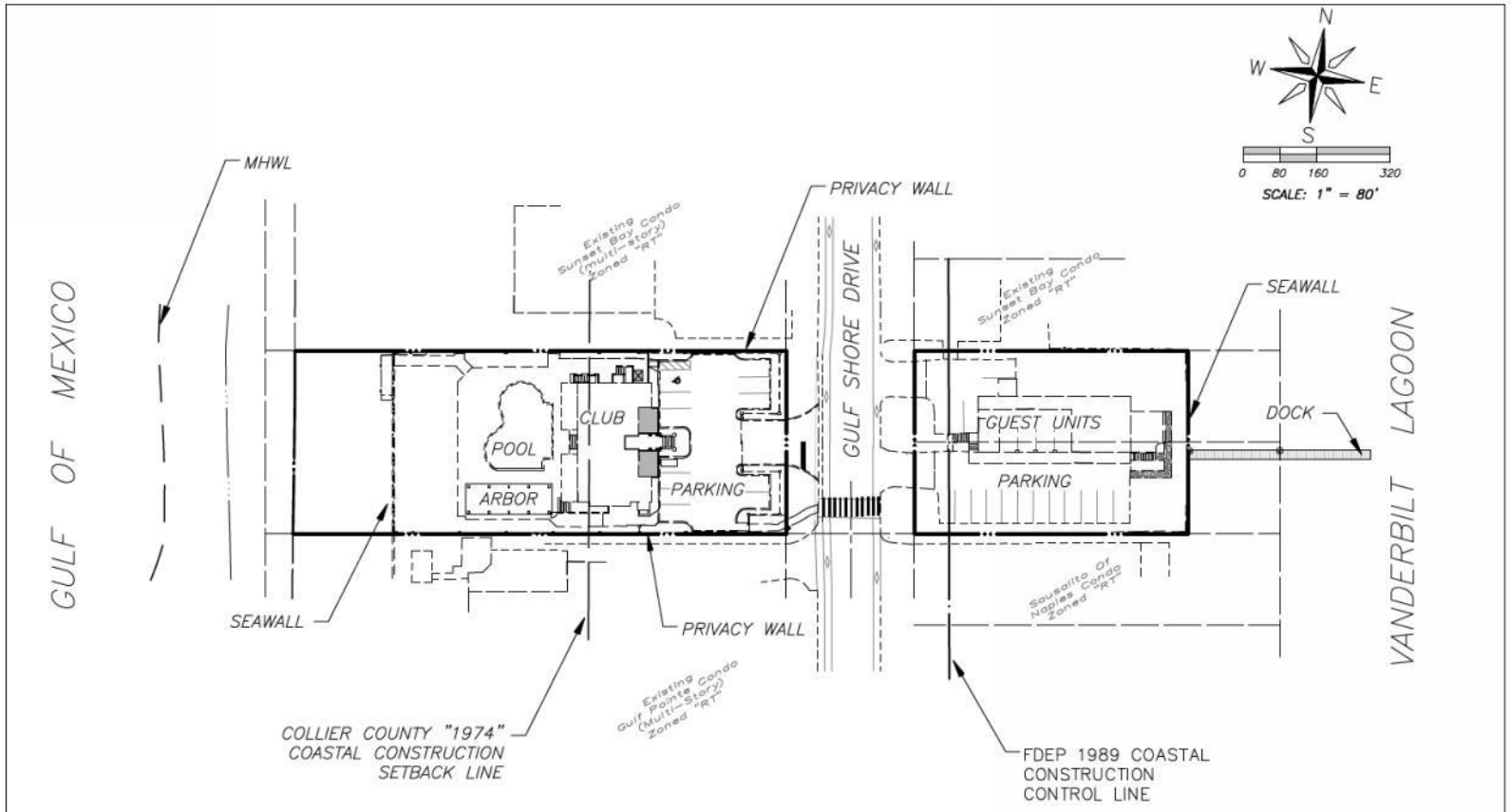
The subject property is .99 +/- acres and is located on both the east and west sides of Gulf shore Drive, approximately a quarter-mile north of Vanderbilt Beach Road in Section 32, Township 48 South, Range 25 East, Collier County, Florida. *(See location map on page 2)*

Attachment: Twin Eagles Beach Staff Report Draft (21296 : PL20210001683 Twin Eagles Beach Conditional Use)

Location Map

Zoning Map

Petition Number: PL20210001683



Zoning:
CU Resolution 2000-300
BDE Resolution 2011-03
HEX No. 2015-20
VA-PL20150000189
AVA - PL20160000648

No Preservation Required

Landscape Buffers:

	E	W	N	S	Notes
	Type / Width				
West Parcel	D/*	n/a	B/*	B/*	*Width varies (existing)
East Parcel	n/a	D/*	B/*	B/*	*Width varies (existing)

Rev 2: 01/22
Rev 1: 11/21

PROJECT NO: 2108
ACAD NO: 2108-sp00
DRAWN BY: JW

Ωmega Consulting Group
5620 Sonnen Court
Fort Myers, FL 33919
C. A. #28291
Project Management / Civil Engineering Solutions

PREPARED FOR: Vanderbilt Beach, LLC

PAGE TITLE: TWIN EAGLES BEACH AND BAY CLUB
CONCEPTUAL MASTER PLAN

SCALE: AS NOTED
DATE: AUG 21

Exhibit C

PURPOSE/DESCRIPTION OF PROJECT:

The original resolution for a private club was approved in Conditional Use Resolution 98-234 and the building was developed along with Site Development Plan 98-119. A new conditional use was issued for the site, in 2000, because the first conditional use limited the membership to only Twin Eagles Golf and Country Club Development members and ownership was changing. The revised conditional use allowed membership to be available to others. The new Conditional Use was amended and approved in Resolution 2000-300. Copy of Resolution 1998-234 is found in *Attachment C* and Resolution 200-300 is found in *Attachment D.*

Since then, the applicant has made some minor changes to the site including adding a boat dock on the lagoon side. An updated Master plan has been provided to show any improvements that have been made since the Resolution in 2000. *(Please see page 3 of this document)*

The petitioner seeks a modification to amend the conditions of approval numbers 4 and 5 of the existing resolution, and environmental staff requested the addition of condition number 16, as listed below:

4. The maximum number of people which may be ~~on~~ in the ~~premises~~ building at any one time shall be limited to 112 persons.

5. The facilities shall be open only between the hours of 8:00 a.m. and ~~sunset~~ remain open until the later of (a) 30 minutes after sunset, or (b) 9:00 p.m. (10:00 p.m. during special events). The snack bar must close at that time and use of the pool and other facilities must cease. All users must depart the facility within 30 minutes after ~~sunset~~ the allotted closing time. The petitioner shall be responsible for strictly enforcing the hours. The only exceptions authorized are as follows:

(a) Overnight guests and/or resident managers in the living units may use those units.
(b) There can be as many as six special events each year in which the facility may be open until 10:00 p.m. The maximum number of people which may be ~~on~~ in the ~~premises~~ building at any one time shall be limited to 112 persons Two (2) weeks prior to each event, notice shall be delivered to the property managers or other owner representatives of the adjacent properties of the date of each special event.

16. Lighting, windows, and doors must comply with Land Development Code 3.04.02 B regarding sea turtle protection, specifically visible light and window transmittance values of 45% or less.

For the entire list of conditions please see *Attachment A: List of Conditions*.

The petitioner is requesting these changes because some of the neighbors from the north property are members of the private club and keeping a total count for the number on-premises is difficult, and the changes to the hours of operation will let the private club operate with less variability regarding closing time.

Attachment: Twin Eagles Beach Staff Report Draft (21296 : PL20210001683 Twin Eagles Beach Conditional Use)

SURROUNDING LAND USE AND ZONING:

This section of the staff report identifies the land uses and zoning classifications for properties surrounding the boundaries of the subject property, which is developed and within a Residential Tourist (RT) Zoning District within the Vanderbilt Beach Residential Tourist Overlay Zoning District (VBRTO)

North: Developed land with a multifamily residential development with a zoning designation of Residential Tourist (RT) District with the Vanderbilt Beach Residential Tourist Overlay Zoning District (VBRTO)

East: Vanderbilt Lagoon

South: Developed land with a timeshare/ hotel with a zoning designation of Residential Tourist (RT) District with the Vanderbilt Beach Residential Tourist Overlay Zoning District (VBRTO)

West: Gulf of Mexico

Attachment: Twin Eagles Beach Staff Report Draft (21296 : PL20210001683 Twin Eagles Beach Conditional Use)

GROWTH MANAGEMENT PLAN (GMP) CONSISTENCY:

Comprehensive Planning staff has reviewed this request and offered the following comments:

Future Land Use Element (FLUE): The subject site is designated in the FLUE as Mixed-Use District in the Urban Residential Subdistrict. The proposed use is consistent with the Future Land Use Element of the Growth Management Plan.

Transportation Element: The Transportation Services Division has reviewed this petition and has determined based on the Conditional Use (CU) request and the TIS waiver provided the proposed changes will have no net increase or decrease in the number of trips generated by this development. Based on the revised CU and TIS Waiver, the subject petition can be found consistent with Policy 5.1 of the Transportation Element of the Growth Management Plan because there are no additional traffic impacts resulting from the proposed changes.

Transportation Review: Transportation Planning staff has reviewed the petition request and is recommending approval.

Conservation and Coastal Management Element (CCME): Environmental review staff has found this project to be consistent with the Conservation & Coastal Management Element (CCME). The project site is .99 acres and consists of Twin Eagles Beach and Bay Club.

Environmental Review: Environmental Services staff has reviewed the conditional use petition to address environmental concerns. The property has been historically developed and maintained in accordance with Site Development Plan (SDP 98-119). No minimum preservation is required, and no sensitive habitat will be impacted by the proposed petition. The proximity of the property adjacent to the Gulf of Mexico will require future changes to any seaward lighting/windows to meet sea turtle protection standards per LDC 3.04.02.B (Attachment A Condition 16). Environmental Services staff recommends **approval** of the proposed petition.

Landscape Review: The existing, previously approved perimeter landscape buffers are noted on the Master Plan.

STAFF ANALYSIS:

Conditional Use approval must be based on evaluation and findings outlined in LDC Section 10.08.00.D that: 1) approval of the Conditional Use will not adversely affect the public interest and will not adversely affect other property of uses in the same district of neighborhood; and 2) all specific requirements for the individual Conditional Use will be met; and 3) satisfactory provisions have been made concerning the following matters, where applicable:

1. **Section 2.03.03.E.1.c.5 of the LDC permits conditional uses in the Residential Tourist (RT) Zoning District.**

   The requested use for a private club is allowed as a conditional use in the Residential Tourist (RT) Zoning District and well as Section 2.03.07.L.5.c.v in the Vanderbilt Beach Residential

Attachment: Twin Eagles Beach Staff Report Draft (21296 : PL20210001683 Twin Eagles Beach Conditional Use)

Tourist Overlay Zoning District subject to the standards and procedures established in LDC section 10.08.00 - Conditional Use Procedures.

2. **Consistency with the Land Development Code (LDC) and the Growth Management Plan (GMP).**

   This request is consistent with the GMP and, with the conditions proposed by staff, this project will comply with the applicable provisions of the LDC.

3. **Ingress and egress to the property and proposed structures thereon, with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe.**

   Ingress and egress to the subject property will be limited to the access points on Gulf Shore Drive as shown on the master site plan. The site has limited parking and has no plans to expand the parking. Members of the club use a shuttle service from the Dunes that leaves on the hour from the Dunes and leaves the club on the half-hour or walk to the site. The schedule will not change with the proposed changes to the conditions. Since this site has been developed pedestrian connection between both sides of Gulf Shore Drive has already been established. No TIS was provided for this request.

4. **The affect the Conditional Use would have on neighboring properties in relation to noise, glare, economic or odor effects.**

   The facility has taken steps to ensure that the additional hours of operations they are requesting will minimize any negative effects on the adjacent neighbors. On the site today exists a concrete perimeter wall as well as landscape buffer to the north and south property lines, these will help reduce any noise and glare to the neighboring structures. In regards to odor, the kitchen facilities are located indoors. There should be no negative economic impacts on neighboring properties.

5. **Compatibility with adjacent properties and other property in the district.**

   The private club has been in existence for over 20 years and the modifications do not change the use of the private club. The private club is compatible with the hotel /timeshare to the south and the multistory condominium to the north

   Based on the above findings, the revised conditions are recommended for approval.

ENVIRONMENTAL ADVISORY COUNCIL (EAC) RECOMMENDATION:

This project does not require Environmental Advisory Council (EAC) review, as this project did not meet the EAC scope of land development project reviews as identified in Section 2-1193 of the Collier County Codes of Laws and Ordinances.

Attachment: Twin Eagles Beach Staff Report Draft (21296 : PL20210001683 Twin Eagles Beach Conditional Use)

NEIGHBORHOOD INFORMATION MEETING (NIM):

The NIM was held on November 29, 2021, at the DoubleTree Hotel Conference Room, 12200 Tamiami Trail North, Naples, Florida. There were four attendees, all in-person and none via zoom. Only one question was asked regarding the hotel rooms on the bayside of the property, no commitments were made. For further information, please see *Attachment F: Backup Materials.*

RECOMMENDATION:

Staff recommends that the Collier County Hearing Examiner approve CU-PL20210001683, to amend conditions 4 and 5 of Resolution No. 2000-300, subject to the new list of conditions provided in Attachment A-*List of Conditions*.

Attachments:

A. List of Conditions
B. Master Site Plan
C. Resolution 1998-234
D. Resolution 200-300
E. Sign Posting
F. Backup Material

Attachment: Twin Eagles Beach Staff Report Draft (21296 : PL20210001683 Twin Eagles Beach Conditional Use)

EXHIBIT D

Subject to the following Conditions:

1. The Planning Services Department Director may approve minor changes in the location, sighting, or height of buildings, structures, and improvements authorized by the Conditional Use. Expansion of the uses identified and approved within this conditional use application, or major changes to the site plan submitted as part of this application, shall require the submittal of a new conditional use application, and shall comply with all applicable County ordinances in effect at the time of submittal, including Division 3.3, Site Development Plan Review, of the Collier County Land Development Code (Ordinance No. 91-102).

2. This approval authorizes only construction of the facilities shown on the Master Plan. The facilities shall be constructed in substantial conformance to the Master Plan with only minor deviations to accommodate the construction process.

3. The Petitioner intends, and will, operate this facility in a reasonable manner so that it will not have an unreasonable adverse impact on adjacent residential properties.

4. The maximum number of people which may be ~~on~~ in the ~~premises~~ building at any one time shall be limited to 112 persons.

5. The facilities shall be open only between the hours of 8:00 a.m. and ~~sunset~~ remain open until the later of (a) 30 minutes after sunset, or (b) 9:00 p.m. (10:00 p.m. during special events). The snack bar must close at that time and use of the pool and other facilities must cease. All users must depart the facility within 30 minutes after ~~sunset~~ the allotted closing time. The petitioner shall be responsible for strictly enforcing the hours. The only exceptions authorized are as follows:

   (a) Overnight guests and/or resident managers in the living units may use those units.
   (b) There can be as many as six special events each year in which the facility may be open until 10:00 p.m. The maximum number of people which may be ~~on~~ in the ~~premises~~ building at any one time shall be limited to 112 persons Two (2) weeks prior to each event, notice shall be delivered to the property managers or other owner representatives of the adjacent properties of the date of each special event.

6. The facility will have on-site management during all hours that it is open and such management will also remain on site after closing to ensure that those actions that need to be taken at the end of each operating day to be in conformance with these stipulations are, in fact, done. In addition, the Petitioner will provide to the condominium manager of the adjoining condominiums the name and phone number of a responsible person within the Petitioner's organization who can respond to problems or emergencies at the site during nonoperating hours.

7. Food service will be limited to a sandwich/grill type operating. Cooking facilities will have proper odor scrubbing exhaust equipment. This will not apply to barbecue-type cookers that may be used at the special events described above.

8. Trash and garbage receptacles will be enclosed and will be removed from the beach-side facilities at the close of each operating day.

9. The roofs of any buildings on the site, and the pool deck, will be of a non-glare material in a muted color.

10. Lighting shall be designed so as to eliminate spill over on to adjacent properties. Light poles shall be no more than 15 feet in height and shall be of a material and color compatible with the design of the facility.

Attachment: A List of Conditions (21296 : PL20210001683 Twin Eagles Beach Conditional Use)

EXHIBIT D

11. Parking areas will be utilized only by authorized users of the facility, and (on the beachside) will have devices to prevent ingress and egress to the parking area during non-operating hours.

12. Beach chairs, umbrellas, cabanas, and similar devices supplied by the club shall only be used on the beach in front of the club, defined as the beach area within the area enclosed by the property lines of the club, extended to the edge of the water.

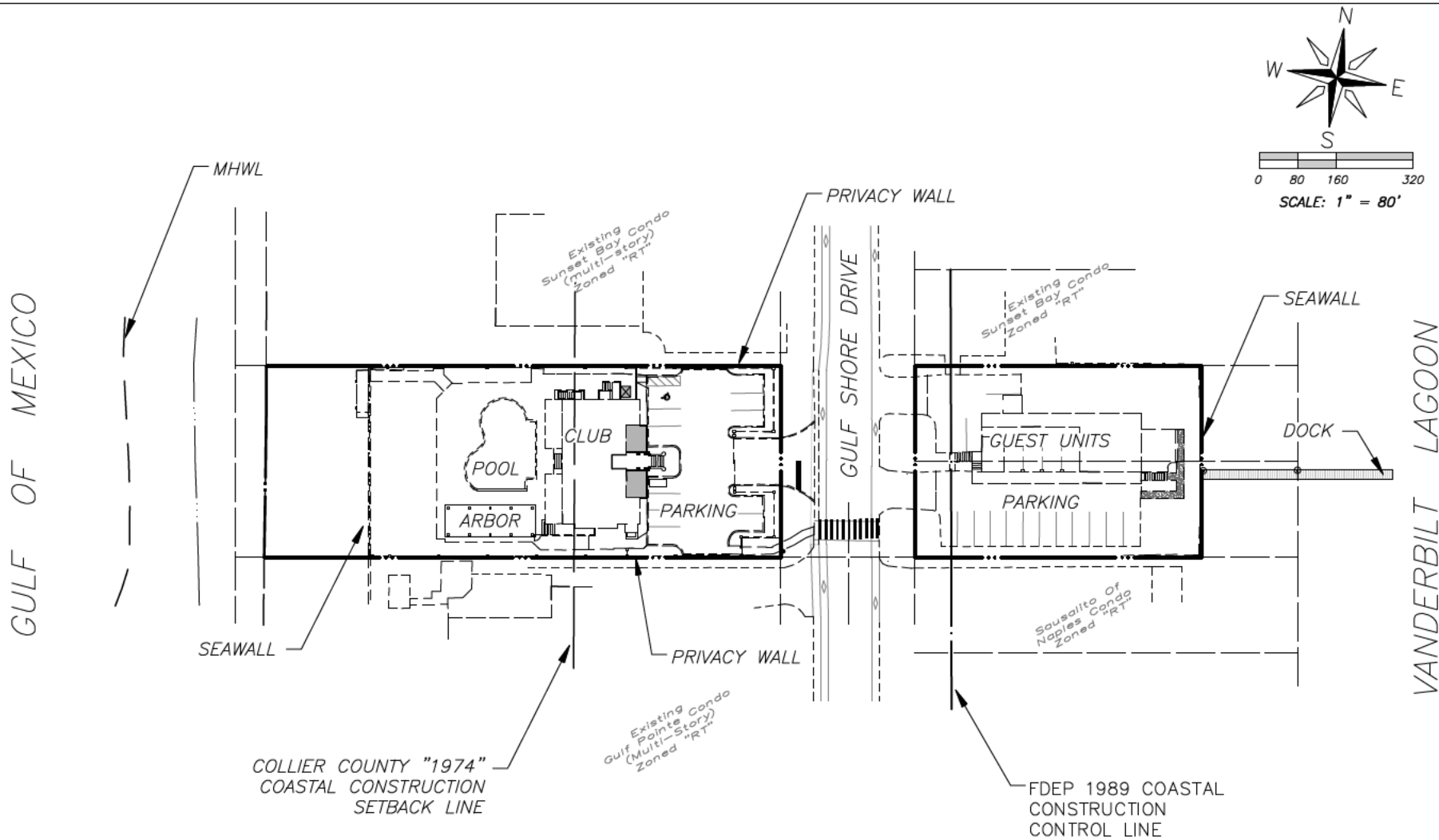
13. There shall be no personal watercraft or personal sailboats (Hobie Cats and the like) allowed on the beach side.

14. Docks in connection with access via the Vanderbilt lagoon may not be used for the berthing or mooring of boats in excess of forty-eight (48) hours.

15. The site shall be developed in accordance with the Site Development Plan, SOP 98-119, approved September 16, 1998. Any amendments to the site plan other than minor changes as defined in stipulation #I of Exhibit D of this Resolution, shall require a new Conditional Use approval.

16. Lighting, windows, and doors must comply with Land Development Code 3.04.02 B regarding sea turtle protection, specifically visible light and window transmittance values of 45% or less.

Attachment: A List of Conditions (21296 : PL20210001683 Twin Eagles Beach Conditional Use)



Zoning:
CU Resolution 2000-300
BDE Resolution 2011-03
HEX No. 2015-20
VA-PL20150000189
AVA - PL20160000648

No Preservation Required

Landscape Buffers:

	E	W	N	S	Notes
	Type / Width				
West Parcel	D/*	n/a	B/*	B/*	*Width varies (existing)
East Parcel	n/a	D/*	B/*	B/*	*Width varies (existing)

Rev 2: 01/22
Rev 1: 11/21

PROJECT NO: 2108
ACAD NO: 2108-sp00
DRAWN BY: JW

Ωmega Consulting Group
Project Management / Civil Engineering Solutions
5620 Sonnen Court
Fort Myers, FL 33919
C. A. #28291

PREPARED FOR:
Vanderbilt Beach, LLC

PAGE TITLE:
TWIN EAGLES BEACH AND BAY CLUB
CONCEPTUAL MASTER PLAN

SCALE: AS NOTED
DATE: AUG 21

Exhibit C

Attachment: B Master Site Plan (21296 : PL20210001683 Twin Eagles Beach Conditional Use)

13A1

RESOLUTION 98- 234

A RESOLUTION PROVIDING FOR THE ESTABLISHMENT OF PRIVATE CLUB CONDITIONAL USE "5" IN THE "RT" ZONING DISTRICT PURSUANT TO SECTION 2.2.8.3 OF THE COLLIER COUNTY LAND DEVELOPMENT CODE FOR PROPERTY LOCATED IN SECTION 32, TOWNSHIP 48 SOUTH, RANGE 25 EAST, COLLIER COUNTY, FLORIDA.

WHEREAS, the Legislature of the State of Florida in Chapter 67-1246, Laws of Florida, and Chapter 125, Florida Statutes, has conferred on Collier County the power to establish, coordinate and enforce zoning and such business regulations as are necessary for the protection of the public; and

WHEREAS, the County pursuant thereto has adopted a Land Development Code (Ordinance No. 91-102) which includes a Comprehensive Zoning Ordinance establishing regulations for the zoning of particular geographic divisions of the County, among which is the granting of Conditional Uses; and

WHEREAS, the Collier County Planning Commission, being the duly appointed and constituted planning board for the area hereby affected, has held a public hearing after notice as in said regulations made and provided, and has considered the advisability of Conditional Use "5" of Section 2.2.8.3 in an "RT" zone for a private club on the property hereinafter described, and has found as a matter of fact (Exhibit "A") that satisfactory provision and arrangement have been made concerning all applicable matters required by said regulations and in accordance with Subsection 2.7.4.4 of the Land Development Code for the Collier County Planning Commission; and

WHEREAS, all interested parties have been given opportunity to be heard by this Board in a public meeting assembled and the Board having considered all matters presented.

NOW, THEREFORE BE IT RESOLVED, BY THE BOARD OF ZONING APPEALS of Collier County, Florida that:

Attachment: C Resolution 1998-234 (21296 : PL20210001683 Twin Eagles Beach Conditional Use)

The petition filed by Christopher O. Wright, P.E. of RWA, Inc., representing Twin Eagles Development Company, LTD with respect to the property hereinafter described as:

Exhibit "B" which is attached hereto and incorporated by reference herein

be and the same is hereby approved for Conditional Use "5" of Section 2.2.8.3 of the "PT" zoning district for a private club in accordance with the Conceptual Master Plan (Exhibit "C") and subject to the following conditions:

1. The Planning & Technical Services Manager may approve minor changes in the location, siting, or height of buildings, structures, and improvements authorized by the conditional use. Expansion of the uses identified and approved within this conditional use application, or major changes to the site plan submitted as part of this application, shall require the submittal of a new conditional use application, and shall comply with all applicable County ordinances in effect at the time of submittal, including Division 3.3, Site Development Plan Review and Approval, of the Collier County Land Development Code (Ordinance No. 91-102).

2. This approval authorizes only construction of the facilities shown on the Master Plan.

   The facilities shall be constructed in substantial conformance to the Master Plan with only minor deviations to accommodate the construction process.

3. The facilities shall operate only as an amenity to the Twin Eagles Golf and Country Club Development, for use only by members and guests of the development/country club.

4. Petitioner intends, and will, operate this facility in a reasonable manner so that it will not have an unreasonable adverse impact on adjacent residential properties.

5. The facilities shall be open only between 8:00 AM and sunset. The snack bar must close at that time and use of the pool and other facilities must cease. All users must depart the facility within 30 minutes after sunset. Petitioner shall be responsible for strictly enforcing these hours. The only exceptions authorized are as follows:

   a) Overnight guests and/or resident manager in the living units may use those units.

   b) There can be as many as six events each year in which the facility may be open until 10:00PM. The maximum number of people which may be on the premises at any one time shall be limited to 112 persons. Two (2) weeks prior to each event notice shall be delivered to the property managers or other owner representatives of the adjacent properties of the date of each event.

Attachment: C Resolution 1998-234 (21296 : PL20210001683 Twin Eagles Beach Conditional Use)

6. The facility will have on-site management during all hours that it is open and such management will also remain on-site after closing to ensure that those actions that need to be taken at the end of each operating day to be in conformance with these stipulations are, in fact, done. In addition, the Petitioner will provide to the condominium manager of the adjoining condominiums the name and phone number of a responsible person within Petitioner's organization who can respond to problems or emergencies at the site during non-operating hours.

7. Food service will be limited to a sandwich/grill type operation. Cooking facilities will have proper odor scrubbing exhaust equipment. This will not apply to barbecue-type cookers that may be used at the special events described above.

8. Trash and garbage receptacles will be enclosed and will be removed from the beach-side facilities at the close of each operating day.

9. The roofs of any buildings on the site, and the pool deck, will be of a non-glare material in a muted color.

10. Lighting shall be designed so as to eliminate spill over on to adjacent properties. Light poles shall be no more than 15 feet in height and shall be of a material and color compatible with the design of the facility.

11. Parking areas will be utilized only by authorized users of the facility, and (on the beach-side) will have devices to prevent ingress and egress to the parking area during non-operating hours.

12. Beach chairs, umbrellas, cabanas, and similar devices supplied by the club shall only be used on the beach in front of the club, defined as the beach area within the area enclosed by the property lines of the club, extended to the edge of the water.

13. There shall be no personal watercraft or personal sailboats (Hobie Cats and the like) allowed on the beach side.

14. Docks in connection with access via the Vanderbilt Lagoon may not be used for the berthing or mooring of boats in excess of forty-eight (48) hours.

BE IT FURTHER RESOLVED that this Resolution be recorded in the minutes of this Board.

Attachment: C Resolution 1998-234 (21296 : PL20210001683 Twin Eagles Beach Conditional Use)

This Resolution adopted after motion, second and majority vote.

Done this 23rd day of June, 1998.

BOARD OF ZONING APPEALS
COLLIER COUNTY, FLORIDA

BY: Barbara B. Berry
BARBARA B. BERRY, Chairman

Attest as to Chairman's signature only.

ATTEST:
DWIGHT E. BROCK, Clerk

By: Erica Hoffman, D.C.

Approved as to Form and Legal Sufficiency:

Marjorie M. Student
Marjorie M. Student
Assistant County Attorney

[illegible] RESOLUTION

Attachment: C Resolution 1998-234 (21296 : PL20210001683 Twin Eagles Beach Conditional Use)

FINDING OF FACT
BY
COLLIER COUNTY PLANNING COMMISSION
FOR
A CONDITIONAL USE PETITION
FOR

CU-98-7

The following facts are found:

1. Section 2.2.8.3.5 of the Land Development Code authorized the conditional use.

2. Granting the conditional use will not adversely affect the public interest and will not adversely affect other property or uses in the same district or neighborhood because of:

   A. Consistency with the Land Development Code and Growth Management Plan:
   Yes ✓ No ____

   B. Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe:
   Adequate ingress & egress
   Yes ✓ No ____

   C. Affects neighboring properties in relation to noise, glare, economic or odor effects:
   ✓ No affect or ____ Affect mitigated by ____
   ____ Affect cannot be mitigated

   D. Compatibility with adjacent properties and other property in the district:
   Compatible use within district
   Yes ✓ No ____

Based on the above findings, this conditional use should, with stipulations, (copy attached) (should not) be recommended for approval Shown.

DATE: 6-4-98

MEMBER: [signature]

f/CU-98-7 FINDING OF FACT MEMBER/

Exhibit "A"

Attachment: C Resolution 1998-234 (21296 : PL20210001683 Twin Eagles Beach Conditional Use)

FINDING OF FACT
BY
COLLIER COUNTY PLANNING COMMISSION
FOR
A CONDITIONAL USE PETITION
FOR

CU-98-7

The following facts are found:

1. Section 2.2.8.3.5 of the Land Development Code authorized the conditional use.

2. Granting the conditional use will not adversely affect the public interest and will not adversely affect other property or uses in the same district or neighborhood because of:

   A. Consistency with the Land Development Code and Growth Management Plan:
   Yes ✓ No _____

   B. Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe:
   Adequate ingress & egress
   Yes ✓ No _____

   C. Affects neighboring properties in relation to noise, glare, economic or odor effects:
   ✓ No affect or _____ Affect mitigated by _____
   _____ Affect cannot be mitigated

   D. Compatibility with adjacent properties and other property in the district:
   Compatible use within district
   Yes ✓ No _____

Based on the above findings, this conditional use should, with stipulations, (copy attached) ~~(should not)~~ be recommended for approval _____.

DATE: June 4 98 MEMBER: Michael Fiala

f/CU-98-7 FINDING OF FACT MEMBER/

Exhibit "A"

Attachment: C Resolution 1998-234 (21296 : PL20210001683 Twin Eagles Beach Conditional Use)

FINDING OF FACT
BY
COLLIER COUNTY PLANNING COMMISSION
FOR
A CONDITIONAL USE PETITION
FOR

CU-98-7

The following facts are found:

1. Section 2.2.8.3.5 of the Land Development Code authorized the conditional use.

2. Granting the conditional use will not adversely affect the public interest and will not adversely affect other property or uses in the same district or neighborhood because of:

   A. Consistency with the Land Development Code and Growth Management Plan:
   Yes X No _____

   B. Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe:
   Adequate ingress & egress
   Yes X No _____

   C. Affects neighboring properties in relation to noise, glare, economic or odor effects:
   _____ No affect or _____ Affect mitigated by STIPULATIONS IN REPORT
   _____ Affect cannot be mitigated

   D. Compatibility with adjacent properties and other property in the district:
   Compatible use within district
   Yes X No _____

Based on the above findings, this conditional use should, with stipulations, (copy attached) (~~should not~~) be recommended for approval _____.

DATE: 6-4-98 MEMBER: [signature]

f/CU-98-7 FINDING OF FACT MEMBER/

Exhibit "A"

Attachment: C Resolution 1998-234 (21296 : PL20210001683 Twin Eagles Beach Conditional Use)

FINDING OF FACT
BY
COLLIER COUNTY PLANNING COMMISSION
FOR
A CONDITIONAL USE PETITION
FOR

CU-98-7

The following facts are found:

1. Section 2.2.8.3.5 of the Land Development Code authorized the conditional use.

2. Granting the conditional use will not adversely affect the public interest and will not adversely affect other property or uses in the same district or neighborhood because of:

   A. Consistency with the Land Development Code and Growth Management Plan:
   Yes ✓ No _____

   B. Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe:
   Adequate ingress & egress
   Yes ✓ No _____

   C. Affects neighboring properties in relation to noise, glare, economic or odor effects:
   ✓ No affect or _____ Affect mitigated by _____
   _____ Affect cannot be mitigated

   D. Compatibility with adjacent properties and other property in the district:
   Compatible use within district
   Yes ✓ No _____

Based on the above findings, this conditional use should, with stipulations, (copy attached) (should not) be recommended for approval _____.

DATE: 6-4-98 MEMBER: Karen Whelan

f/CU-98-7 FINDING OF FACT MEMBER/

Exhibit "A"

Attachment: C Resolution 1998-234 (21296 : PL20210001683 Twin Eagles Beach Conditional Use)

FINDING OF FACT
BY
COLLIER COUNTY PLANNING COMMISSION
FOR
A CONDITIONAL USE PETITION
FOR

CU-98-7

The following facts are found:

1. Section 2.2.8.3.5 of the Land Development Code authorized the conditional use.

2. Granting the conditional use will not adversely affect the public interest and will not adversely affect other property or uses in the same district or neighborhood because of:

   A. Consistency with the Land Development Code and Growth Management Plan:
   Yes ✓ No _____

   B. Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe:
   Adequate ingress & egress
   Yes ✓ No _____

   C. Affects neighboring properties in relation to noise, glare, economic or odor effects:
   ✓ No affect or _____ Affect mitigated by _____
   _____ Affect cannot be mitigated

   D. Compatibility with adjacent properties and other property in the district:
   Compatible use within district
   Yes ✓ No _____

Based on the above findings, this conditional use should, with stipulations, (copy attached) (should) not be recommended for approval _____.

DATE: 6/1/98 MEMBER: [signature]

f/CU-98-7 FINDING OF FACT MEMBER/

Exhibit "A"

Attachment: C Resolution 1998-234 (21296 : PL20210001683 Twin Eagles Beach Conditional Use)

FINDING OF FACT
BY
COLLIER COUNTY PLANNING COMMISSION
FOR
A CONDITIONAL USE PETITION
FOR

CU-98-7

The following facts are found:

1. Section 2.2.8.3.5 of the Land Development Code authorized the conditional use.

2. Granting the conditional use will not adversely affect the public interest and will not adversely affect other property or uses in the same district or neighborhood because of:

A. Consistency with the Land Development Code and Growth Management Plan:
Yes ✓ No _____

B. Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe:
Adequate ingress & egress
Yes ✓ No _____

C. Affects neighboring properties in relation to noise, glare, economic or odor effects:
✓ No affect or _____ Affect mitigated by _____
_____ Affect cannot be mitigated

D. Compatibility with adjacent properties and other property in the district:
Compatible use within district
Yes ✓ No _____

Based on the above findings, this conditional use should, with stipulations, (copy attached) (~~should not~~) be recommended for approval _____.

DATE: 6/4/98 CHAIRMAN: Michael A. Estes

f/CU-98-7 FINDING OF FACT CHAIRMAN/

Exhibit "A"

Attachment: C Resolution 1998-234 (21296 : PL20210001683 Twin Eagles Beach Conditional Use)

A TRACT OR PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF COLLIER, LYING IN SECTION 32, TOWNSHIP 48 SOUTH, RANGE 25 EAST, BEING LOT 13, BLOCK A, THE NORTH ONE HALF OF LOT 11, BLOCK B AND THE SOUTH ONE HALF OF LOT 12, BLOCK B, CONNER'S VANDERBILT BEACH SUBDIVISION, PLAT BOOK 3, PAGES 8 AND 9, COLLIER COUNTY PUBLIC RECORDS, AND BEING FURTHER BOUNDED AND DESCRIBED AS FOLLOWS:

COMMENCING AT A RAILROAD SPIKE MARKING THE INTERSECTION OF THE CENTERLINE OF GULF SHORE DRIVE (70.00 FEET WIDE) AND THE NORTH RIGHT OF WAY LINE OF COUNTY ROAD NO. S-862 (VANDERBILT BEACH ROAD – 100.00 FEET WIDE), AS SHOWN ON SAID RECORD PLAT OF CONNER'S VANDERBILT BEACH SUBDIVISION, SAID INTERSECTION LYING N.80°09'15"W. AT 36.78 FEET FROM THE SOUTHWEST CORNER OF LOT 1, SAID BLOCK B, CONNER'S VANDERBILT BEACH SUBDIVISION; THENCE N.08°03'05"W. ALONG SAID CENTERLINE OF GULF SHORE DRIVE, FOR 1315.32 FEET; THENCE N.81°56'55"E., FOR 35.00 FEET TO THE POINT OF BEGINNING OF THE EAST PARCEL (SAID NORTH ONE HALF OF LOT 11, BLOCK B AND THE SOUTH ONE HALF OF LOT 12, BLOCK B); THENCE CONTINUE N.81°56'55"E., FOR 200.00 FEET; THENCE N.08°03'05"W., ALONG THE EAST LINE OF SAID BLOCK B, FOR 100.00 FEET; THENCE S.81°56'55"W., FOR 200.00 FEET; THENCE S.08°03'05"E. ALONG THE EAST RIGHT OF WAY LINE OF SAID GULF SHORE DRIVE, FOR 100.00 FEET TO THE POINT OF BEGINNING OF SAID EAST PARCEL.

ALSO

COMMENCING AT SAID POINT OF BEGINNING OF THE EAST PARCEL; THENCE S.81°56'55"W. ACROSS SAID GULF SHORE DRIVE, FOR 70.00 FEET THE POINT OF BEGINNING OF THE WEST PARCEL (SAID LOT 13, BLOCK A); THENCE N.08°03'05"W. ALONG THE WEST RIGHT OF WAY LINE OF SAID GULF SHORE DRIVE, FOR 100.00 FEET; THENCE S.81°56'55"W. ALONG THE NORTH LINE OF SAID LOT 13, BLOCK A, FOR 334.7 FEET TO THE MEAN HIGH WATER LINE OF THE GULF OF MEXICO; THENCE SOUTHERLY ALONG SAID MEAN HIGH WATER LINE FOR 100.2 FEET, MORE OR LESS TO AN INTERSECTION WITH THE SOUTH LINE OF SAID LOT 13, BEARING S.81°56'55"W. FROM THE POINT OF BEGINNING; THENCE N.81°56'55"E. ALONG SAID SOUTH LINE, FOR 329.2 FEET, MORE OR LESS, TO THE POINT OF BEGINNING OF THE WEST PARCEL

PARCELS COMBINED CONTAIN 53195 SQUARE FEET OR 1.22 ACRES, MORE OR LESS.

EAST PARCEL (OVERALL) CONTAINS 20000 SQUARE FEET OR 0.46 ACRE, MORE OR LESS.

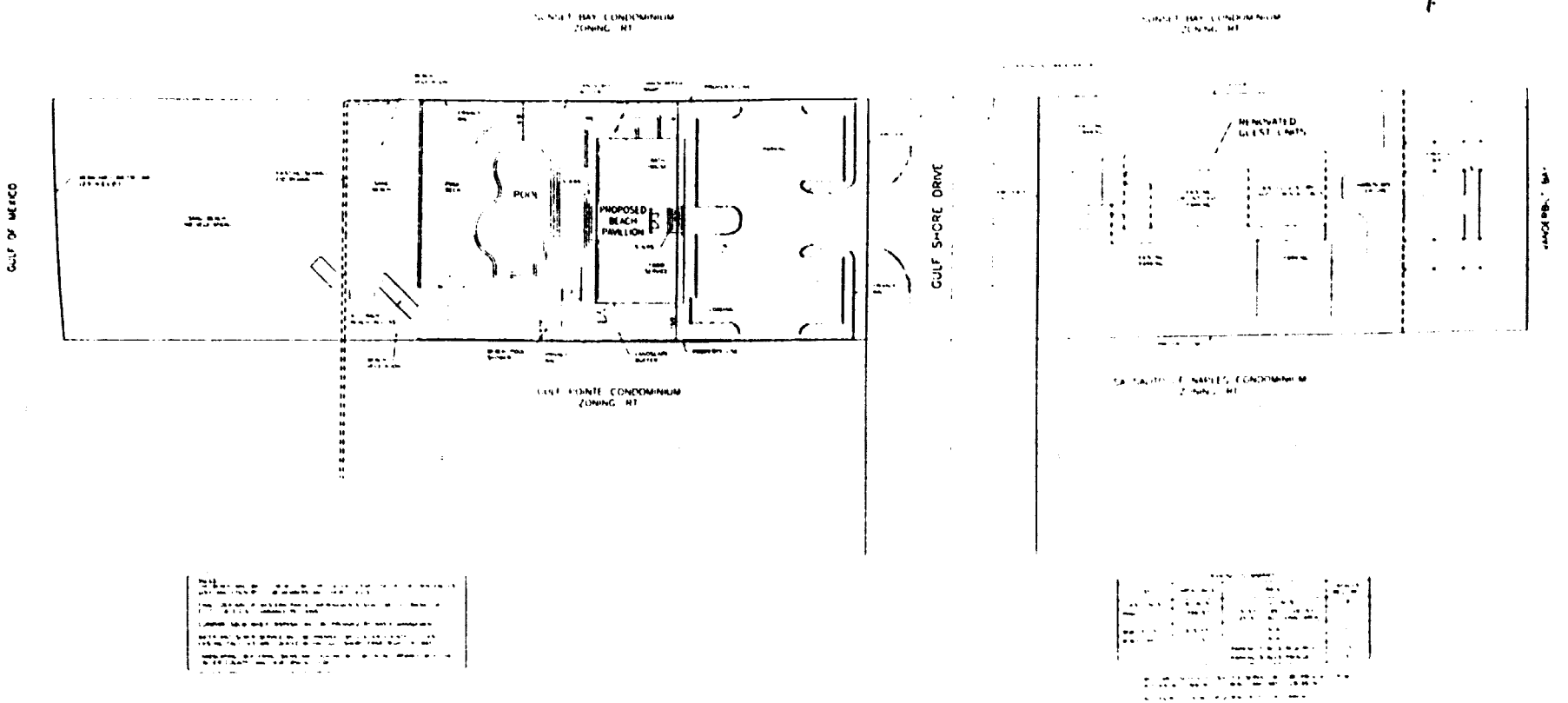
EAST PARCEL (LESS BAYOU) CONTAINS 14937 SQUARE FEET OR 0.34 ACRE, MORE OR LESS.

WEST PARCEL CONTAINS 33196 SQUARE FEET OR 0.76 ACRE, MORE OR LESS.

Exhibit "B"

Attachment: C Resolution 1998-234 (21296 : PL20210001683 Twin Eagles Beach Conditional Use)

EXHIBIT "E"



RWA INC.

TWIN EAGLES DEVELOPMENT COMPANY, LTD

CONCEPTUAL SITE PLAN

TWIN EAGLES
BEACH & BAY CLUB

13A1

Attachment: C Resolution 1998-234 (21296 : PL20210001683 Twin Eagles Beach Conditional Use)

13A6

RESOLUTION 2000- 300

A RESOLUTION PROVIDING FOR THE ESTABLISHMENT OF A PRIVATE CLUB CONDITIONAL USE "5" IN THE "RT" ZONING DISTRICT PURSUANT TO SECTION 2.2.8.3 OF THE COLLIER COUNTY LAND DEVELOPMENT CODE FOR PROPERTY LOCATED IN SECTION 32, TOWNSHIP 48 SOUTH, RANGE 25 EAST, COLLIER COUNTY, FLORIDA.

WHEREAS, the Legislature of the State of Florida in Chapter 67-1246, Laws of Florida, and Chapter 125, Florida Statutes, has conferred on Collier County the power to establish, coordinate and enforce zoning and such business regulations as are necessary for the protection of the public; and

WHEREAS, the County pursuant thereto has adopted a Land Development Code (Ordinance No. 91-102) which includes a Comprehensive Zoning Ordinance establishing regulations for the zoning of particular geographic divisions of the County, among which is the granting of Conditional Uses; and

WHEREAS, the Collier County Planning Commission, being the duly appointed and constituted planning board for the area hereby affected, has held a public hearing after notice as in said regulations made and provided, and has considered the advisability of Conditional Use "5" of Section 2.2.8.3 in an "RT" Zone for a private club on the property hereinafter described, and has found as a matter of fact (Exhibit "A") that satisfactory provision and arrangement have been made concerning all applicable matters required by said regulations and in accordance with Subsection 2.7.4.4 of the Land Development Code for the Collier County Planning Commission; and

WHEREAS, all interested parties have been given opportunity to be heard by this Board in a public meeting assembled and the Board having considered all matters presented.

NOW, THEREFORE BE IT RESOLVED, BY THE BOARD OF ZONING APPEALS of Collier County, Florida that:

The petition filed by Richard C. Grant of Grant, Fridkin, Pearson, Athan & Crown, P.A., representing Signature Communities, Inc., with respect to the property hereinafter described as:

Exhibit "B" which is attached hereto and incorporated by reference herein

be and the same is hereby approved for Conditional Use "5" of Section 2.2.8.3 of the "RT" Zoning District for a private club in accordance with the Conceptual Master Plan (Exhibit "C") and subject to the following conditions:

Exhibit "D" which is attached hereto and incorporated by reference herein.

Attachment: D Resolution 2000-300 (21296 : PL20210001683 Twin Eagles Beach Conditional Use)

13 A6

BE IT FURTHER RESOLVED that this Resolution be recorded in the minutes of this Board.

This Resolution adopted after motion, second and majority vote.

Done this 12th day of September, 2000.

BOARD OF ZONING APPEALS
COLLIER COUNTY, ~~FLORIDA~~

BY: Timothy J. Constantine
TIMOTHY J. CONSTANTINE, CHAIRMAN

Attest as to Chairman's signature only.

ATTEST:
DWIGHT E. BROCK, Clerk

By: Ellie Hoffman D.C.

Approved as to Form and
Legal Sufficiency:

Marjorie M. Student
Marjorie M. Student,
Assistant County Attoney

g/admin/CU-2000-10/ RESOLUTION/SM/im

Attachment: D Resolution 2000-300 (21296 : PL20210001683 Twin Eagles Beach Conditional Use)

13 A6

FINDING OF FACT
BY
COLLIER COUNTY PLANNING COMMISSION
FOR
A CONDITIONAL USE PETITION
FOR

CU-2000-10

The following facts are found:

1. Section 2.2.8.3.5 of the Land Development Code authorized the conditional use.

2. Granting the conditional use will not adversely affect the public interest and will not adversely affect other property or uses in the same district or neighborhood because of:

   A. Consistency with the Land Development Code and Growth Management Plan:
   Yes ✓ No _____

   B. Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe:
   Adequate ingress & egress
   Yes ✓ No _____

   C. Affects neighboring properties in relation to noise, glare, economic or odor effects:
   ✓ No affect or _____ Affect mitigated by _____
   _____ Affect cannot be mitigated

   D. Compatibility with adjacent properties and other property in the district:
   Compatible use within district
   Yes ✓ No _____

Based on the above findings, this conditional use ~~should~~, with stipulations, (copy attached) (~~should not~~) be recommended for approval OK.

DATE: Aug 17, 2000

CHAIRMAN
MEMBER: [signature]

g/admin/CU-2000-10/FINDING OF FACT MEMBER/SM/im

Attachment: D Resolution 2000-300 (21296 : PL20210001683 Twin Eagles Beach Conditional Use)

13 A6

Exhibit B CU-2000-10

LEGAL DESCRIPTION

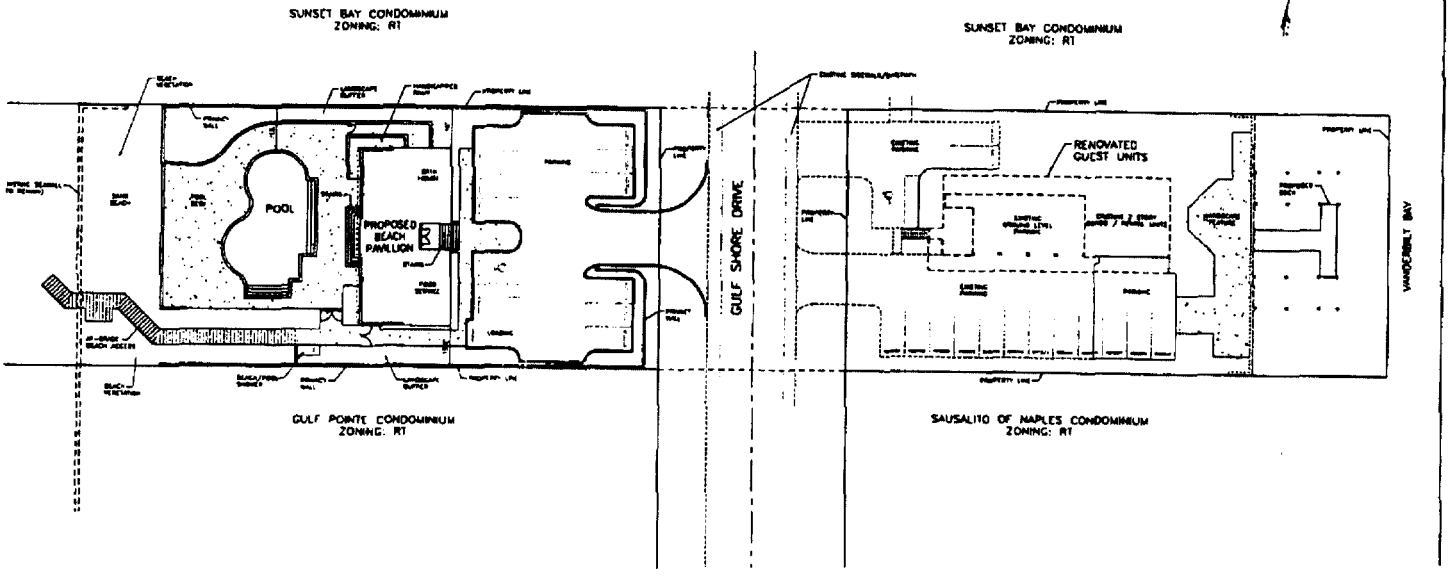
A parcel of land located on the Gulf of Mexico and on Vanderbilt Lagoon containing approximately 1.1 acres of land consisting of all that real property that comprised the former VANDERBILT VACATION VILLAS, a condominium, according to the Declaration of Condominium recorded in Official Records Book 985, at Page 794, of the public records of Collier County, Florida, as amended.

f:\data\wd_real\signatur\twineagles\conditionaluse-legal.doc

Attachment: D Resolution 2000-300 (21296 : PL20210001683 Twin Eagles Beach Conditional Use)

EXHIBIT "C"

13 A6



Attachment: D Resolution 2000-300 (21296 : PL20210001683 Twin Eagles Beach Conditional Use)

13 A6

Subject to the following Conditions:

1. The Planning Services Department Director may approve minor changes in the location, sighting, or height of buildings, structures, and improvements authorized by the Conditional Use. Expansion of the uses identified and approved within this conditional use application, or major changes to the site plan submitted as part of this application, shall require the submittal of a new conditional use application, and shall comply with all applicable County ordinances in effect at the time of submittal, including Division 3.3, Site Development Plan Review, of the Collier County Land Development Code (Ordinance No. 91-102).

2. This approval authorizes only construction of the facilities shown on the Master Plan. The facilities shall be constructed in substantial conformance to the Master Plan with only minor deviations to accommodate the construction process.

3. The Petitioner intends, and will, operate this facility in a reasonable manner so that it will not have an unreasonable adverse impact on adjacent residential properties.

4. The maximum number of people which may be on the premises at any one time shall be limited to 112 persons.

5. The facilities shall be open only between the hours of 8:00 a.m. and sunset. The snack bar must close at that time and use of the pool and other facilities must cease. All users must depart the facility within 30 minutes after sunset. The petitioner shall be responsible for strictly enforcing the hours. The only exceptions authorized are as follows:

   (a) Overnight guests and/or resident managers in the living units may use those units.
   (b) There can be as many as six events each year in which the facility may be open until 10:00 p.m. The maximum number of people which may be on the premises at any one time shall be limited to 112 persons. Two (2) weeks prior to each event, notice shall be delivered to the property managers or other owner representatives of the adjacent properties of the date of each event.

6. The facility will have on-site management during all hours that it is open and such management will also remain on site after closing to ensure that those actions that need to be taken at the end of each operating day to be in conformance with these stipulations are, in fact, done. In addition, the Petitioner will provide to the condominium manager of the adjoining condominiums the name and phone number of a responsible person within the Petitioner's organization who can respond to problems or emergencies at the site during non-operating hours.

Attachment: D Resolution 2000-300 (21296 : PL20210001683 Twin Eagles Beach Conditional Use)

7. Food service will be limited to a sandwich/grill type operating. Cooking facilities will have proper odor scrubbing exhaust equipment. This will not apply to barbecue-type cookers that may be used at the special events described above.

8. Trash and garbage receptacles will be enclosed and will be removed from the beach-side facilities at the close of each operating day.

9. The roofs of any buildings on the site, and the pool deck, will be of a non-glare material in a muted color.

10. Lighting shall be designed so as to eliminate spill over on to adjacent properties. Light poles shall be no more than 15 feet in height and shall be of a material and color compatible with the design of the facility.

11. Parking areas will be utilized only by authorized users of the facility, and (on the beach-side) will have devices to prevent ingress and egress to the parking area during non-operating hours.

12. Beach chairs, umbrellas, cabanas, and similar devices supplied by the club shall only be used on the beach in front of the club, defined as the beach area within the area enclosed by the property lines of the club, extended to the edge of the water.

13. There shall be no personal watercraft or personal sailboats (Hobie Cats and the like) allowed on the beach side.

14. Docks in connection with access via the Vanderbilt lagoon may not be used for the berthing or mooring of boats in excess of forty-eight (48) hours.

15. The site shall be developed in accordance with the Site Development Plan, SDP 98-119, approved September 16, 1998. Any amendments to the site plan other than minor changes as defined in stipulation #1 of Exhibit D of this Resolution, shall require a new Conditional Use approval.

Attachment: D Resolution 2000-300 (21296 : PL20210001683 Twin Eagles Beach Conditional Use)

CastroGabriela

From: CastroGabriela
Sent: Tuesday, March 01, 2022 2:35 PM
To: CastroGabriela
Subject: PL20210001683 Twin Eagles Beach Club Sign Posting
Attachments: sign posting 4.pdf; sign posting 3.pdf; sign posting 2.pdf; Sign posting 1.pdf

Signs were posted on Tuesday, March 1st around 11:30 am.

Respectfully,

Gabriela Castro, AICP
Principal Planner

Collier County

Zoning Division
Exceeding Expectations, Every Day!

NOTE: Email Address Has Changed

2800 North Horseshoe Drive, Naples Florida 34104
Phone: 239-252-4211

How are we doing? Please CLICK HERE to fill out a Customer Survey.
We appreciate your Feedback!

Under Florida Law, e-mail addresses are public records. If you do not want your e-mail address released in response to a public records request, do not send electronic mail to this entity. Instead, contact this office by telephone or in writing.

Attachment: E Sign posting (21296 : PL20210001683 Twin Eagles Beach Club Conditional Use)

Attachment: E Sign posting (21296 : PL20210001683 Twin Eagles Beach Conditional Use)

PUBLIC HEARING
FOR
Conditional Use
Petition No. PL20210001683
HEX: March 24, 2022 - 9:00 a.m.
Growth Management Building
2800 N. Horseshoe Dr., Naples, FL 34104
Gabriela Castro, Senior Planner: 239-252-4211
DATE
CONTACT

Attachment: E Sign posting (21296 : PL20210001683 Twin Eagles Beach Conditional Use)

PUBLIC HEARING
FOR
Conditional Use
Petition No. PL20210001683
DATE
CONTACT

CPC PACKAGE CHECKLIST FOR APPLICANTS/AGENTS (FOR PUDS)

Return this form with printed materials

Please check each item as a method for tracking that all required data is included in the printed packets of information for the Collier County Planning Commission Board Members.

DO NOT INCLUDE A COPY OF THE FINAL PUD ORDINANCE. COUNTY ATTORNEY INCLUDES THIS IN THE ORDINANCE. DO NOT PROVIDE DUPLICATES OF ANY DOCUMENTS ONLY THE LATEST, ACCEPTED/APPROVED COPY OF THE BELOW DOCUMENTATION.

Backup provided by Applicant:

Include a one pdf file for all documents in the same order as the packets are put together. They must be in the same order.

- _X_ Application
  - _X_ Narrative of rezone request
  - _X_ Property Information
  - _X_ Property Ownership and general description of site
- _X_ Disclosure of Interest
- _X_ Affidavit of Unified Control
- _X_ Affidavit of Representation
- _X_ NIM Information (Sign in sheet, notes, minutes and/or summary)
- N/A Traffic Impact Study (TIS)
- N/A Environmental Data
- N/A Historical/Archeological Survey or Waiver
- N/A Utility Letter
- N/A Deviation Justifications
- N/A Boundary Survey
- N/A PUD Ordinance (the *last submitted Ordinance with strikethrough – color preferred)
- _X_ Other documents, as needed, on a case-by-case basis such as relevant prior Ordinances, Conditional Uses, historical documents, any "private or legal" agreements affecting the PUD etc.
- _X_ 3 thumbnail drives of audio and/or video of Neighborhood Information Meeting

I understand that by submitting the above materials, it is the agent/applicant's responsibility to ensure all materials are in the same order for all copies of backup materials to provide to the CCPC and the CD must contain the documents in one pdf file (not multiple files) in the same order as the printed materials. It is the agent's responsibility to ensure no documentation is left out.

_____ 2/23/22

Signature of Agent Representative — Date

Karen Bishop

Printed Name of Signing Agent Representative

Attachment: F Backup Material (21296 : PL20210001683 Twin Eagles Beach Conditional Use)

COLLIER COUNTY GOVERNMENT
GROWTH MANAGEMENT DEPARTMENT
www.colliergov.net

2800 NORTH HORSESHOE DRIVE
NAPLES, FLORIDA 34104
(239) 252-2400 FAX: (239) 252-6358

APPLICATION FOR PUBLIC HEARING FOR: CONDITIONAL USE

LDC Section 10.08.00 & Code of Laws section 2-83 – 2-90
Chapter 3 C.1 of the Administrative Code

PETITION NO (PL)
PROJECT NAME
DATE PROCESSED

To be completed by staff

☐ **A CONDITIONAL USE TO BE HEARD BY THE PLANNING COMMISSION AND BOARD OF ZONING APPEALS**

■ **A MINOR CONDITIONAL USE TO BE HEARD BY THE OFFICE OF THE HEARING EXAMINER**

APPLICANT CONTACT INFORMATION

Name of Property Owner(s): Vanderbilt Beach, L.L.C.

Name of Applicant if different than owner: _____

Address: 3400 E. Lafayette **City:** Detroit **State:** MI **ZIP:** 48207

Telephone: 313-567-7000 **Cell:** _____ **Fax:** 313-567-3912

E-Mail Address: _____

Name of Agent(s): Karen Bishop

Firm: PMS Inc. of Naples

Address: 3125 54th Terrace SW **City:** Naples **State:** FL **ZIP:** 34116

Telephone: _____ **Cell:** (239) 825-7230 **Fax:** _____

E-Mail Address: karenbishop@pmsnaples.com

BE AWARE THAT COLLIER COUNTY HAS LOBBYIST REGULATIONS. GUIDE YOURSELF ACCORDINGLY AND ENSURE THAT YOU ARE IN COMPLIANCE WITH THESE REGULATIONS.

Attachment: F Backup Material (21296 : PL20210001683 Twin Eagles Beach Conditional Use)

COLLIER COUNTY GOVERNMENT
GROWTH MANAGEMENT DEPARTMENT
www.colliergov.net

2800 NORTH HORSESHOE DRIVE
NAPLES, FLORIDA 34104
(239) 252-2400 FAX: (239) 252-6358

ASSOCIATIONS

Required: List all registered Home Owner Association(s) that could be affected by this petition. Provide additional sheets if necessary. Information can be found on the Board of County Commissioner's website at http://www.colliergov.net/Index.aspx?page=774.

Name of Homeowner Association: Sunset Bay Condominium
Mailing Address: 9486 Gulf Shore Drive **City:** Naples **State:** Fl **ZIP:** 34108

Name of Homeowner Association: Gulf Pointe Condominium
Mailing Address: 9439 Gulf Shore Drive **City:** Naples **State:** Fl **ZIP:** 34108

Name of Homeowner Association: Winterhaven on the Gulf LLC
Mailing Address: 9400 Gulf Shore Drive **City:** Naples **State:** Fl **ZIP:** 34108

Name of Homeowner Association: _____
Mailing Address: _____ **City:** _____ **State:** _____ **ZIP:** _____

Name of Homeowner Association: _____
Mailing Address: _____ **City:** _____ **State:** _____ **ZIP:** _____

PROPERTY INFORMATION

On separate page, provide a detailed legal description of the property covered by the application:

- If the request involves changes to more than one zoning district, the applicant shall include separate legal description for property involved in each district;
- The applicant shall submit 4 copies of a recent survey (completed within the last six months, maximum 1" to 400' scale), if required to do so at the pre-application meeting; and
- The applicant is responsible for supplying the correct legal description. If questions arise concerning the legal description, an engineer's certification or sealed survey may be required.

Property I.D. Number: 27480360000 **Plat Book:** 3 **Page #:** 8 & 9
Section/Township/Range: 32 / 48 / 25
Subdivision: Conner's Vanderbilt Beach Estates Unit 1 **Lot:** XI, XII XIII **Block:** A & B
Metes & Bounds Description: see attached
Size of Property: _____ft. X _____ ft. = _____ **Total Sq. Ft. Acres:** 0.99
Address/ General Location of Subject Property:
9467 Gulf Shore Drive Naples, Fl 34108

Attachment: F Backup Material (21296 : PL20210001683 Twin Eagles Beach Conditional Use)

COLLIER COUNTY GOVERNMENT
GROWTH MANAGEMENT DEPARTMENT
www.colliergov.net

2800 NORTH HORSESHOE DRIVE
NAPLES, FLORIDA 34104
(239) 252-2400 FAX: (239) 252-6358

ADJACENT ZONING AND LAND USE

	Zoning	Land Use
N	RT-VBRTO	Sunset Bay Condominium
S	RT-VBRTO	Gulf Pointe Condominium
E	Public Waterway	Vanderbilt Lagoon
W	Public Waters	Gulf of Mexico

If the owner of the subject property owns contiguous property please provide a detailed legal description of the entire contiguous property: (If space is inadequate, attach on a separate page)

Section/Township/Range: _____/_____/_____

Lot: _____ Block: _____ Subdivision: _____

Plat Book: _____ Page #: _____ Property I.D. Number: _____

Metes & Bounds Description: _____

CONDITIONAL USE REQUEST DETAIL

Type of Conditional Use:
This application is requesting a conditional use as allowed, pursuant to LDC section 2.03.00, of the RT-VBRTO **zoning district** for Private Club & Suites **(type of use)**.

Present Use of the Property: Private Club & Suites

Attachment: F Backup Material (21296 : PL20210001683 Twin Eagles Beach Conditional Use)

COLLIER COUNTY GOVERNMENT
GROWTH MANAGEMENT DEPARTMENT
www.colliergov.net

2800 NORTH HORSESHOE DRIVE
NAPLES, FLORIDA 34104
(239) 252-2400 FAX: (239) 252-6358

EVALUATION CRITERIA

Pursuant to LDC section 10.08.00 and Chapter 3 C.1 of the Administrative Code, staff's recommendation to the reviewing body shall be based upon a finding that the granting of the conditional use will not adversely affect the public interest and that the specific requirements governing the individual conditional use, if any, have been met. Further, satisfactory provision and arrangement have been made concerning the following matters, where applicable.

On a separate page, provide a narrative statement describing a request for a conditional use and a detailed response to the criteria listed below. Specify how and why the request is consistent with each of the criteria.

a. Describe how the project is consistent with the Collier County Land Development Code and Growth Management Plan. Include information on how the request is consistent with the applicable section or portions of the Future Land Use Element.
b. Describe the existing or planned means of ingress and egress to the property and proposed structure thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe.
c. Describe the effect the conditional use will have on neighboring properties in relation to noise, glare, economic impact, and odor.
d. Describe the site's and the proposed use's compatibility with adjacent properties and other properties in the district.
e. Please provide any additional information which you may feel is relevant to this request.

Deed Restrictions: The County is legally precluded from enforcing deed restrictions; however, many communities have adopted such restrictions. You may wish to contact the civic or property owners association in the area for which this use is being requested in order to ascertain whether or not the request is affected by existing deed restrictions.

Previous land use petitions on the subject property: To your knowledge, has a public hearing been held on this property within the last year? If so, what was the nature of that hearing?

N/A

Official Interpretations or Zoning Verifications: To your knowledge, has there been an official interpretation or zoning verification rendered on this property within the last year?

☒ No ☐ Yes (If yes please provide copies.)

Attachment: F Backup Material (21296 : PL20210001683 Twin Eagles Beach Conditional Use)

Evaluation Criteria

Twin Eagles Beach and Bay Club

Describe how the project is consistent with the Collier County Land Development Code and Growth Management Plan. Include information on how the request is consistent with the applicable section or portions of the Future Land Use Element.

Response: ***This request for modification to an existing Conditional Use (2000-10 / Resolution 2000-300) within the Vanderbilt Beach Residential Tourist Overlay Zoning District (VBRTO). The existing Conditional Use was approved September 12, 2000, granting the use of a Private Club under the then zoning of Residential Tourist (RT). The Collier County Planning Commission concluded thru the "Finding of Fact" that the petition was deemed consistent with the provisions of the Land Development Code and the Growth Management Plan.***
The subsequent 2002 zoning overlay change to Vanderbilt Beach Residential Tourist Overlay Zoning District (VBRTO) did not affect the Private Club as an allowable use. The LDC states "The purpose and intent of this district is to encourage development and redevelopment of the Vanderbilt Beach area to be sensitive to the scale, compatibility and sense of place that exists in the Vanderbilt Beach area. This district is intended to: establish development standards which will protect view corridors, light and air movements between the Gulf of Mexico and the Vanderbilt Lagoon and prevent the creation of a canyon-like effect on each side of the narrow Gulfshore Drive." The club is a single-story structure adjacent to a two story over parking on the south and six stories over parking to the north. Therefore, presuming compliance and/or consistency with purpose and intent of Section 2.03.07.L. of the LDC, the requested Conditional Uses would be deemed to be consistent with the Collier County Land Development Code and Growth Management Plan.

Describe the existing or planned means of ingress and egress to the property and proposed structure thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe.

Response: ***This is a developed site. The ingress and egress already exist from Gulf Shore Boulevard. The site provides safe and convenient automotive and pedestrian access. Most of the members are transported to and from the club via a shuttle limiting vehicle trips. Since the guest suites are located on east side of the road, the driveways are aligned and there is a pedestrian crosswalk.***

Describe the effect the conditional use will have on neighboring properties in relation to noise, glare, economic impact, and odor.

Response: This request seeks to change the existing sliding closing time (30 minutes after sunset) to be a year-round consistent time of 9:00 p.m. Our facility has been able to successfully integrate building modifications and operations to minimize any negative effect on the adjacent residential. There is a concrete perimeter wall as well as a maintained landscape buffer adjacent to the residential zoned properties to the north and south. The kitchen facilities are located indoors to minimize any odors. In terms of economic impacts, approval of this CU will not have a negative impact on neighboring properties.

Attachment: F Backup Material (21296 : PL20210001683 Twin Eagles Beach Conditional Use)

Describe the site's and the proposed use's compatibility with adjacent properties and other properties in the district.

Response: As previously indicated, the specific Conditional Use modification requested does not change the approved private club use. The project consists of a pool, deck & beach area, restrooms and grill services to serve the patrons.

Please provide any additional information which you may feel is relevant to this request

Response: We have operated this facility for almost 2 decades and take pride in our commitment as a good neighbor. We have an ongoing relationship with our direct neighbors and have addressed any issue that has been brought to our attention by them in a timely and satisfactory manner.

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Attachment: F Backup Material (21296 : PL20210001683 Twin Eagles Beach Conditional Use)

COLLIER COUNTY GOVERNMENT
GROWTH MANAGEMENT DEPARTMENT
www.colliergov.net

2800 NORTH HORSESHOE DRIVE
NAPLES, FLORIDA 34104
(239) 252-2400 FAX: (239) 252-6358

STATEMENT OF UTILITY PROVISIONS FOR CONDITIONAL USE REQUEST

APPLICANT INFORMATION

Name of Applicant(s): _____

Address: _____ **City:** _____ **State:** _____ **ZIP:** _____

Telephone: _____ **Cell:** _____ **Fax:** _____

E-Mail Address: _____

Address of Subject Property (If available): _____

City: _____ **State:** _____ **ZIP:** _____

LEGAL DESCRIPTION

Section/Township/Range: _____/_____/_____

Lot: _____ **Block:** _____ **Subdivision:** _____

Plat Book: _____ **Page #:** _____ **Property I.D. Number:** _____

Metes & Bounds Description: _____

TYPE OF SEWAGE DISPOSAL TO BE PROVIDED

Check applicable system:

a. County Utility System ☐
b. City Utility System ☐
c. Franchised Utility System ☐ Provide Name: _____
d. Package Treatment Plant ☐ (GPD Capacity): _____
e. Septic System ☐

TYPE OF WATER SERVICE TO BE PROVIDED

a. County Utility System ☐
b. City Utility System ☐
c. Franchised Utility System ☐ PROVIDE NAME_____
d. Private System (Well) ☐

Total Population to be served: _____

Peak and Average Daily Demands:

A. Water-Peak: _____ Average Daily: _____
B. Sewer-Peak: _____ Average Daily: _____

Attachment: F Backup Material (21296 : PL20210001683 Twin Eagles Beach Conditional Use)

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If proposing to be connected to Collier County Regional Water System, please provide the date service is expected to be required: _____

Narrative statement: Provide a brief and concise narrative statement and schematic drawing of sewage treatment process to be used as well as a specific statement regarding the method of affluent and sludge disposal. If percolation ponds are to be used, then percolation data and soil involved shall be provided from tests prepared and certified by a professional engineer.

_____

_____

_____

_____

County Utility Dedication Statement: If the project is located within the service boundaries of Collier County's utility service system, a notarized statement shall be provided agreeing to dedicate the water distribution and sewage collection facilities within the project area to the Collier County Utilities. This shall occur upon completion of the construction of these facilities in accordance with all applicable County ordinances in effect at that time. This statement shall also include an agreement that the applicable system development charges and connection fees will be paid to the County Utilities Division prior to the issuance of building permits by the County. If applicable, the statement shall contain an agreement to dedicate the appropriate utility easements for serving the water and sewer systems.

_____

_____

_____

_____

Statement of Availability Capacity from other Providers: *Unless waived or otherwise provided for at the pre-application meeting, if the project is to receive sewer or potable water services from any provider other than the County, a statement from that provider indicating adequate capacity to serve the project shall be provided.*

Attachment: F Backup Material (21296 : PL20210001683 Twin Eagles Beach Conditional Use)

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RECORDING OF DEVELOPER COMMITMENTS

Within 30 days of adoption of the Ordinance, the owner or developer at their expense shall record in the Public Records of Collier County a Memorandum of Understanding of Developer Commitments or Notice of Developer Commitments that contains the legal description of the property that is the subject of the land use petition and contains each and every commitment of the owner or developer specified in the Ordinance. The Memorandum or Notice shall be in form acceptable to the County and shall comply with the recording requirements of F.S. §695. A recorded copy of the Memorandum or Notice shall be provided to the assigned Principal Planner, Zoning Services Department, within 15 days of recording of said Memorandum or Notice.

Chapter 8 of the Administrative Code requires that the applicant must remove their public hearing advertising sign(s) after final action is taken by the Board of County Commissioners. Based on the Board's final action on this item, please remove all public hearing advertising sign(s) immediately.

Attachment: F Backup Material (21296 : PL20210001683 Twin Eagles Beach Conditional Use)

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Pre-Application Meeting and Final Submittal Requirement Checklist for:

☐ A Conditional Use to be heard by the Planning Commission and Board of Zoning Appeals
■ A Minor Conditional Use to be heard by the Office of the Hearing Examiner
Chapter 3 C.1. of the Administrative Code

The following Submittal Requirement Checklist is to be utilized during the Pre-Application Meeting, and at time of application submittal. At time of submittal, the checklist is to be completed and submitted with the application packet. Please provide the submittal items in the exact order listed below, with cover sheets attached to each section. **Incomplete submittals will not be accepted.**

Requirements for Review	# Of Copies	Required	Not Required
Completed Application (download current form from County website)	1	☒	☐
Cover letter briefly explaining the project	1	☑	☐
Pre-Application Notes	1	☑	☐
Affidavit of Authorization, signed and notarized	1	☒	☐
Completed Addressing Checklist	1	☒	☐
Property Ownership Disclosure Form	1	☒	☐
Warranty Deed(s)	1	☑	☐
Boundary Survey	1	☐	☑
Conceptual Site Plan 24" X 36" plus (one 8 ½ X 11 copy)	☐	☑	☐
Plans showing proposed location for utilities, if required N/A	☐	☐	☑
Plans for screening and buffering the use with reference as to type, dimensions, and character, if required N/A	☐	☐	☑
Plans showing the proposed landscaping and provisions for trees protected by County regulations, if required N/A	☐	☐	☑
Plans showing the proposed signs and lighting, including type, dimensions, and character, if required N/A	☐	☐	☑
Architectural Rendering of Proposed Structure(s), if applicable N/A	1	☐	☑
Current aerial photographs (available from Property Appraiser) with project boundary ~~and, if vegetated, FLUCFCS Codes with legend included on aerial.~~	1	☑	☐
Statement of utility provisions (with all required attachments & sketches) N/A	1	☐	☑
Environmental Data Requirements, pursuant to LDC section 3.08.00 N/A	1	☐	☑
Environmental Data Requirements collated into a single Environmental Impact Statement (EIS) at time of public hearings. Coordinate with project planner at time of public hearing. N/A	☐	☐	☑
Listed Species Survey; less than 12 months old. Include copies of previous surveys.	1	☐	☑
Traffic Impact Study (TIS) or waiver N/A	1	☐	☑
Historical and Archeological Survey, or waiver N/A	1	☐	☑
Electronic copy of all documents and plans * Please advise: The Office of the Hearing Examiner requires all materials to be submitted electronically in PDF format.	1	☑	☐
* If located in the Bayshore/Gateway Triangle Redevelopment Area, include an additional set of each submittal requirement			

Attachment: F Backup Material (21296 : PL20210001683 Twin Eagles Beach Conditional Use)

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ADDITIONAL REQUIREMENTS FOR THE PUBLIC HEARING PROCESS:

- Following the completion of the review process by County review staff, the applicant shall submit all materials electronically to the designated project manager.
- Please contact the project manager to confirm the number of additional copies required.

Planners: Indicate if the petition needs to be routed to the following additional reviewers:

☐	Bayshore/Gateway Triangle Redevelopment: Executive Director	☒	Emergency Management: Dan Summers; and/or EMS: Artie Bay
☐	Conservancy of SWFL: Nichole Johnson	■	GMD Graphics
☐	City of Naples: Robin Singer, Planning Director	■	Utilities Engineering: Eric Fey (?) *
☐	Parks and Recreation: Barry Williams	☐	Immokalee Water/Sewer District:
■	Other: Fire	☐	School District (Residential Components): Amy Lockheart

Communication Towers:

☐	Mosquito Control	☐	Collier County Airport Authority
☐	Naples Airport Authority		

Commercial Mining:

☐	Impact Fees

* This application does not propose any changes to the the existing utilities or service.

Attachment: F Backup Material (21296 : PL20210001683 Twin Eagles Beach Conditional Use)

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FEE REQUIREMENTS

All checks payable to: Board of County Commissioners

- [X] **Pre-Application Meeting:** $500.00 (to be credited towards the application fee if the application is filed within 9 months of pre-application meeting)
- [X] **Conditional Use Application Fee:** $4,000.00
  - When filed with Rezone Petition: $1,500.00
  - Additional fee for 5th and subsequent reviews: 20% of original fee
- [X] **Comprehensive Planning Consistency Review:** $300.00
- [ ] **Environmental Data Requirements-EIS Packet (submittal determined at pre-application meeting):** $2,500.00
- [ ] **Listed or Protected Species survey review fee (when an EIS is not required):** $1,000.00
- [ ] **Transportation Fee, if required:**
  - Methodology Review Fee: $500.00
  - Minor Study Review Fee: $750.00
  - Major Study Review Fee: $1,500.00
- [X] **Estimated Legal Advertising Fee for the Hearing Examiner or CCPC:** $1,125.00
- [ ] **Estimated Legal Advertising Fee for the BZA, if required:** $500.00

Fire Code Plans Review Fees are collected at the time of application submission and those fees are set forth by the Authority having jurisdiction. The Land Development Code requires Neighborhood Notification mailers for Applications headed to hearing, and this fee is collected prior to hearing.

As the authorized agent/applicant for this petition, I attest that all of the information indicated on this checklist is included in this submittal package. I understand that failure to include all necessary submittal information may result in the delay of processing this petition.

All checks payable to: Board of County Commissioners.

The completed application, all required submittal materials, and fees shall be submitted to:

Growth Management Department
ATTN: Business Center
2800 North Horseshoe Drive
Naples, FL 34104

Agent/Owner Signature

9-10-21
Date

Karen Bishop
Agent/Owner Name (please print)

Attachment: F Backup Material (21296 : PL20210001683 Twin Eagles Beach Conditional Use)

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Public Participation Requirements

LDC Section 10.03.06 B. or C.
Chapter 8 of the Administrative Code

Notice for Minor Conditional Use Petitions

Neighborhood Information Meeting (NIM) Requirements: Applicant must conduct a NIM at least 15 days prior to the Hearing Examiner's receipt of the staff report and application materials in accordance with the applicable sections of the Administrative Code. The NIM shall be advertised and a mailed written notice shall be given to the property owners in the notification area at least 15 days prior to the NIM meeting.

Mailed Notice: Written notice shall be sent to property owners in the notification area at least 15 days before the advertised Hearing Examiner hearing.

Newspaper Advertisements: The legal advertisement shall be published at least 15 days before the advertised Hearing Examiner hearing in a newspaper of general circulation. The advertisement shall include at a minimum:

- Date, time, and location of the hearing;
- Description of the proposed land uses; and
- 2 in. x 3 in. map of the project location.

Sign: A sign shall be posted at least 15 days before the advertised Hearing Examiner hearing date.

Public Hearing for Minor Conditional Use Petitions

Hearing Examiner: The Hearing Examiner shall hold at least 1 advertised public hearing. See Chapter 9 of the Administrative Code for the Office of the Hearing Examiner procedures.

Notice for Conditional Use Petitions

Neighborhood Information Meeting (NIM) Requirements: Applicant must conduct a NIM at least 15 days prior to the advertised public hearing. The NIM shall be advertised and a mailed written notice shall be given to the property owners in the notification area at least 15 days prior to the NIM meeting.

Attachment: F Backup Material (21296 : PL20210001683 Twin Eagles Beach Conditional Use)

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Mailed Notice: Written notice shall be sent to property owners in the notification area at least 15 days before the advertised public hearing.

Newspaper Advertisements: The legal advertisement shall be published at least 15 days before the advertised public hearing in a newspaper of general circulation. The advertisement shall include at a minimum:

- Date, time, and location of the hearing;
- Description of the proposed land uses; and
- 2 in. x 3 in. map of the project location.

Sign: A sign shall be posted at least 15 days before the advertised public hearing date.

Public Hearing for Conditional Use Petitions

Environmental Advisory Committee (EAC): The EAC shall hold at least 1 advertised public hearing, if required.

Collier County Planning Commission (CCPC): The CCPC shall hold at least 1 public hearing.

Board of Zoning Appeals (BZA): The BZA shall hold at least 1 advertised public hearing.

Attachment: F Backup Material (21296 : PL20210001683 Twin Eagles Beach Conditional Use)

PMS Inc. of Naples

Land Development Consultant

Project Narrative

Revision to the existing Conditional Use Resolution 2000-300 for the Twin Eagles Beach and Bay Club

This property was initially permitted in the late nineteen sixties and has been modified several times to the current use of a private club and guest suites which were permitted in 2000. The review of historical aerials and photographs from the nineteen fifties depicts the original vegetation west of gulf shore drive consisted mostly of sabal and coconut palms which during the subsequent development were removed. The bay side of the property was created in the late nineteen forties, early nineteen fifties from the spoil created when the developer of Conner's Vanderbilt Beach Estates dredged the Vanderbilt Lagoon. East of the seawall the vegetation consists of native coastal plants, and the created a vegetated dune west of the seawall.

The current request is to modify the Conditional Use 2000-10 / Resolution 2000-300 for our Private Club. We are proposing to modify two elements of the existing approved conditions.

1) Clarify the maximum number of people which may be in the building at any one time is limited to 112.

2) Revise the closing hours to remain open until the later of (a) 30 minutes after sunset, or (b) 9:00 p.m. (10:00 p.m. during special events).

Attachment: F Backup Material (21296 : PL20210001683 Twin Eagles Beach Conditional Use)

3125 54th Terrace SW, Naples, FL 34116 / (239) 825-7230 / Fax (239) 234-6096 /Email: karenbishop@pmsnaples.com

THIS INSTRUMENT WAS PREPARED BY:
Richard C. Grant, Esquire
Grant, Fridkin, Pearson, Athan & Crown, P.A.
5551 Ridgewood Drive, Suite 501
Naples, Florida 34108
941/514-1000

2707587 OR: 2737 PG: 2670
RECORDED in OFFICIAL RECORDS of COLLIER COUNTY, FL
10/31/2000 at 08:28AM DWIGHT B. BROCK, CLERK
COMS 4000000.0
REC FEE 15.0

Retn:
GRANT FRIDKIN ET AL
5551 RIDGEWOOD DR #501
NAPLES FL 34108

NOT CERTIFIED COPY

FOR OFFICIAL USE ONLY

WARRANTY DEED

THIS INDENTURE, made this 17th day of OCTOBER 2000, by and between **V.V.V. Holding Company, Inc., a Florida corporation, as debtor in possession** (the "Grantor"), and **Vanderbilt Beach, L.L.C., a Florida limited liability company** (the "Grantee") whose mailing address is 5551 Ridgewood Drive, Suite 203, Naples, Florida 34108.

WITNESSETH: That the said Grantor, for and in consideration of the sum of TEN DOLLARS ($10.00) and other valuable consideration to Grantor in hand paid by Grantee, the receipt whereof is hereby acknowledged, hereby grants, bargains, and sells to the said Grantee, Grantee's heirs, successors and assigns forever, the following described land, situate and being in the County of Collier, State of Florida, to wit:

See Schedule "A" attached hereto and made a part hereof.

Property ID Number: 27480360000

SUBJECT TO conditions, limitations, restrictions, reservations and easements of record and taxes for the year 2000 and subsequent years.

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

This conveyance has been made pursuant to authority of the U.S. Bankruptcy Court of the Middle District of Florida by virtue of orders entered in case number 99-14705-901.

IN WITNESS WHEREOF, the said Grantor has caused these presents to be executed as provided by law, on this, the day and year first above written.

This is a conveyance from a debtor in possession pursuant to a confirmed plan of reorganization under Chapter 11 of the Bankruptcy Code. As such under Section 1146 C of the Bankruptcy Code and Rule 12B-4.014 (16) of the Florida Administrative Code the transaction is exempt from documentary stamps.

Attachment: F Backup Material (21296 : PL20210001683 Twin Eagles Beach Conditional Use)

Signed, Sealed and Delivered
in the presence of:

V.V.V. Holding Company, Inc.,
a Florida corporation, as debtor in possession

By: _____
Steven Berman, Esq., as Initial Plan Agent pursuant to Order supplementing Order dated August 15, 2000, etc. entered August 25, 2000 by the U.S. Bankruptcy Court for the Middle District of Florida Case No. 99-14705-9P1

_____
Witness #1
RICHARD C. GRANT
Printed Name of Witness #1

Laura Szanto
Witness #2
F. LAURA SZANTO
Printed Name of Witness #2

[Corporate Seal]

STATE OF FLORIDA)
COUNTY OF COLLIER)

I HEREBY CERTIFY that the foregoing instrument was acknowledged before me on this 17th day of OCT., 2000, by STEVEN M. BERMAN, ESQ., as Initial Plan Agent for V.V.V. Holding Company, Inc., a Florida corporation, on behalf of such corporation, who is personally known to me (yes) (no) OR who produced FL DRIVERS LICENSE as identification.

(Seal)

Laura Szanto
Notary Public - State of FLORIDA
F. LAURA SZANTO
Typed, stamped, or Printed Name of Notary
My Commission Expires:

NOTARY PUBLIC
FLA...
NOTARY PUBLIC ...
COMM...

F:\DATA\WD_REAL\SIGNATUR\TWINEAGLES\SELLERS CLOSING DOC'S.DOC

Attachment: F Backup Material (21296 : PL20210001683 Twin Eagles Beach Conditional Use)

Schedule "A".

A strip or Parcel of land along Vanderbilt Lagoon, in Section 32, Township 48 South, Range 25 East, which is more particularly desc follows:

From the quarter section corner on the East line of Section 33 in said Township and Range, run Southerly along the East line of said Sec 68.5 feet; Thence run Northwesterly at an angle of 79°30' North to West with said Section line for 7,234.5 feet, along the centerline of th of-way for a County road described in and conveyed by deed recorded in Deed Book 15 at Page 122; Thence deflect 72°06'10" right Northwesterly along the Westerly side of a 70 foot wide road right-of-way for 1356.59 feet; Thence N 81°35'30" E 70.00 feet to the East said road right-of-way and the PLACE OF BEGINNING:

Thence along said East right-of-way, N 8°24'30" W 100.00 feet; Thence N 81°35'30" E 149.39 feet to the face of a concrete bulkhead approximate mean high water line (1.5 N.G.V.D. contour line) as observed at January 21, 1983; Thence Southerly along the face concrete bulkhead and the approximate mean high water line (1.5 N.G.V.D. contour line) as observed at January 21, 1983 100.00 feet t bearing N 81°35'30" E from the PLACE OF BEGINNING; Thence S 81°35'30" W 149.48 feet to the Place of Beginning.

Bearings are based on those shown or the plat of Unit No.1 Conner's Vanderbilt Beach Estates as recorded in Plat Book 3, Pages 8 and Public Records of Collier County, Florida.

The above described Parcel is a portion of the North half of Lot XI and the South half of Lot XII, Block B, Unit No.1 Conner's Va Beach Estates of a Parcel marked "not included in this plat" as recorded in Plat Book 3, Pages 8 and 9 of the Public Records of Collier Florida.

A strip or Parcel of and on the shore of the Gulf of Mexico, in Section 32, Township 48 South, Range 25 East, which is more parti described as follows:

From the quarter section corner on the East line of Section 33 in said Township and Range, run Southerly along the East line of said Sect 68.5 feet; Thence run Northwesterly at an angle of 79°30' North to West with said section line for 7,234.5 feet, along the centerline of th of-way for a County road described in and conveyed by deed recorded in Deed Book 15 at Page 121; Thence deflect 72°06'10" right Northwesterly along the Westerly side of a 70 foot wide road right-of-way for 1356.59 feet and the PLACE OF BEGINNING:

Thence continuing along the Westerly side of said road right-of-way, N 8°24'30" W 100.00 feet; Thence S 81°35'30" W 281 feet more to the approximate mean high water line (1.5 N.G.V.D. contour line) as observed at January 21, 1983; Thence Southerly along the appro mean high water line (1.5 N.G.V.D. contour line) as observed January 21, 1983, 100 feet more or less to a line bearing S 81°35'30" W fr Place of Beginning; Thence N 81°35'30" E 278 feet more or less to the Place of Beginning.

Bearings are based on those shown on the Plat of Unit No.1, Conner's Vanderbilt Beach Estates as recorded in flat Book 3, Pages 8 and Public Records of Collier County, Florida.

The above described Parcel is a portion of Lot XIII, Block A, Unit No.1, Conner's Vanderbilt Beach Estates of a Parcel marked "not incl this plat" as recorded in Plat Book 3, Pages 8 and 9 of the Public Records of Collier County, Florida.

End of Schedule "A".

Attachment: F Backup Material (21296 : PL20210001683 Twin Eagles Beach Conditional Use)

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(239) 252-2400 FAX: (239) 252-6358

PROPERTY OWNERSHIP DISCLOSURE FORM

This is a required form with all land use petitions, except for Appeals and Zoning Verification Letters.

Should any changes of ownership or changes in contracts for purchase occur subsequent to the date of application, but prior to the date of the final public hearing, it is the responsibility of the applicant, or agent on his behalf, to submit a supplemental disclosure of interest form.

Please complete the following, use additional sheets if necessary.

a. If the property is owned fee simple by an INDIVIDUAL, tenancy by the entirety, tenancy in common, or joint tenancy, list all parties with an ownership interest as well as the percentage of such interest:

Name and Address	% of Ownership

b. If the property is owned by a CORPORATION, list the officers and stockholders and the percentage of stock owned by each:

Name and Address	% of Ownership

c. If the property is in the name of a TRUSTEE, list the beneficiaries of the trust with the percentage of interest:

Name and Address	% of Ownership

Attachment: F Backup Material (21296 : PL20210001683 Twin Eagles Beach Conditional Use)

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d. If the property is in the name of a GENERAL or LIMITED PARTNERSHIP, list the name of the general and/or limited partners:

Name and Address	% of Ownership
Vanderbilt Beach, L.L.C. (=)	
Trident Holdings LLC	49.5%
Trident-Kinsale, L.L.C.	50.5%
Anthony Soave, as Trustee of the Anthony Soave Trust U/A/D January 14, 1987, as amended & reinstated	*

* Anthony Soave is the sole beneficiary of the trust and the only human person with ownership interest in this application.

e. If there is a CONTRACT FOR PURCHASE, with an individual or individuals, a Corporation, Trustee, or a Partnership, list the names of the contract purchasers below, including the officers, stockholders, beneficiaries, or partners:

Name and Address	% of Ownership

Date of Contract: _____

f. If any contingency clause or contract terms involve additional parties, list all individuals or officers, if a corporation, partnership, or trust:

Name and Address

g. Date subject property acquired _____

☐ **Leased: Term of lease _____ years /months**

If, Petitioner has option to buy, indicate the following:

Attachment: F Backup Material (21296 : PL20210001683 Twin Eagles Beach Conditional Use)

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Date of option: _____

Date option terminates: _____, or

Anticipated closing date: _____

AFFIRM PROPERTY OWNERSHIP INFORMATION

Any petition required to have Property Ownership Disclosure, will not be accepted without this form. Requirements for petition types are located on the associated application form. Any change in ownership whether individually or with a Trustee, Company or other interest-holding party, must be disclosed to Collier County immediately if such change occurs prior to the petition's final public hearing.

As the authorized agent/applicant for this petition, I attest that all of the information indicated on this checklist is included in this submittal package. I understand that failure to include all necessary submittal information may result in the delay of processing this petition.

The completed application, all required submittal materials, and fees shall be submitted to:
Growth Management Department
ATTN: Business Center
2800 North Horseshoe Drive
Naples, FL 34104

_____ _____ 9-10-21

Agent/Owner Signature Date

Karen Bishop
_____

Agent/Owner Name (please print)

Attachment: F Backup Material (21296 : PL20210001683 Twin Eagles Beach Conditional Use)

AFFIDAVIT OF AUTHORIZATION

FOR PETITION NUMBERS(S) 20210001683

I, Yale Levin (print name), as A (title, if applicable) of Van (company, If applicable), swear or affirm under oath, that I am the (choose one) owner [✔] applicant [ ] contract purchaser [ ] and that:

1. I have full authority to secure the approval(s) requested and to impose covenants and restrictions on the referenced property as a result of any action approved by the County in accordance with this application and the Land Development Code;
2. All answers to the questions in this application and any sketches, data or other supplementary matter attached hereto and made a part of this application are honest and true;
3. I have authorized the staff of Collier County to enter upon the property during normal working hours for the purpose of investigating and evaluating the request made through this application; and that
4. The property will be transferred, conveyed, sold or subdivided subject to the conditions and restrictions imposed by the approved action.
5. We/I authorize Karen Bishop of PMS Inc of Naples to act as our/my representative in any matters regarding this petition including 1 through 2 above.

Notes:

- *If the applicant is a corporation, then it is usually executed by the corp. pres. or v. pres.*
- *If the applicant is a Limited Liability Company (L.L.C.) or Limited Company (L.C.), then the documents should typically be signed by the Company's "Managing Member."*
- *If the applicant is a partnership, then typically a partner can sign on behalf of the partnership.*
- *If the applicant is a limited partnership, then the general partner must sign and be identified as the "general partner" of the named partnership.*
- *If the applicant is a trust, then they must include the trustee's name and the words "as trustee".*
- *In each instance, first determine the applicant's status, e.g., individual, corporate, trust, partnership, and then use the appropriate format for that ownership.*

Under penalties of perjury, I declare that I have read the foregoing Affidavit of Authorization and that the facts stated in it are true.

Yale Levin
Signature YALE LEVIN

3/1/21
Date

STATE OF FLORIDA
COUNTY OF COLLIER

The foregoing instrument was acknowleged before me by means of [x] physical presence or [ ] online notarization this 1ST day of MARCH, 20 21, by (printed name of owner or qualifier) YALE LEVIN.

Such person(s) Notary Public must check applicable box:

[x] Are personally known to me

[ ] Has produced a current drivers license _____

[ ] Has produced _____ as identification.

Notary Signature: Gina Marie Litton

GINA MARIE LITTON
MY COMMISSION # HH 090180
EXPIRES: July 7, 2023
Bonded Thru Notary Public Underwriters

CP\08-COA-00115\155
REV 3/4/2020

Attachment: F Backup Material (21296 : PL20210001683 Twin Eagles Beach Conditional Use)

VANDERBILT BEACH, L.L.C.
MEMBER CONSENT RESOLUTIONS

THE UNDERSIGNED, Trident-Kinsale L.L.C., being the Managing Member of Vanderbilt Beach, L.L.C., a Florida limited liability company (the "Company"), does hereby consent to the adoption of the following resolutions:

RESOLVED, that the Company shall, and is authorized and directed to, execute, deliver, and perform any and all of its obligations, relating to, or in connection with, that certain Application For Public Hearing For: Conditional Use, dated September 10, 2021, together with the accompanying Property Owner Disclosure Form, designated Petition No. 20210001683 (collectively, the "Application"), filed with Collier County, Florida, together with any other documents, agreements, instruments, confirmations, statements, certificates and instructions, or the like, relating to, or deemed necessary or desirable in connection with, the Application, each in such form and containing such terms, conditions and provisions as Yale Levin, Richard T. Brockhaus, or Christopher O. Corden (each, an "Authorized Signatory") deems necessary or desirable in his judgment, such necessity or desirability to be conclusively evidenced by the execution and delivery thereof by or on behalf of the Authorized Signatory

FURTHER RESOLVED, that the foregoing Resolutions are in conformity with the Articles of the Company. The authority given hereunder shall be deemed, to the extent necessary in order to carry these Resolutions into effect, retroactive. In that event, acts performed prior to the adoption of these Resolutions but which are necessary or convenient for the carrying of these Resolutions into effect, are hereby ratified, adopted, and affirmed. The authority conferred by these Resolutions shall continue in full force and effect until actual written notice of revocation of these Resolutions shall have been received by the appropriate party.

IN WITNESS WHEREOF, these Resolutions have been duly adopted effective March 1, 2021.

TRIDENT-KINSALE L.L.C.,
a Michigan limited liability company

By: Trident Holdings L.L.C.,
a Michigan limited liability company
Its: Sole Member

By: Trident Properties, Inc.,
a Michigan corporation
Its: Manager

By: _____
Christopher O. Corden
Its: Secretary

Attachment: F Backup Material (21296 : PL20210001683 Twin Eagles Beach Conditional Use)

Neighborhood Meeting Summary
Twin Eagles Beach and Bay Club Conditional Use
(PL-20210001683)
November 29, 2021, 5:30 PM
DoubleTree Hotel Conference Room
12200 Tamiami Trail North, Naples, FL 34110

Attendees: 4

On Behalf of the Applicant:
Karen Bishop, PMS Inc., of Naples

Collier County Staff:
Gabriella Castro, AICP, Principal Planner

Approximately 4 members of the public attended. There were no attendees via Zoom.

Ms. Bishop provided an overview of the project and the request. Following the presentation there was one question from the members of the public in attendance regarding the rental of the existing hotel rooms on the property. Ms. Bishop explained that the rooms are only rented to members of the Twin Eagles Beach and Bay Club.

The meeting ended at approximately 5:35 PM.

Attachment: F Backup Material (21296 : PL20210001683 Twin Eagles Beach Conditional Use)

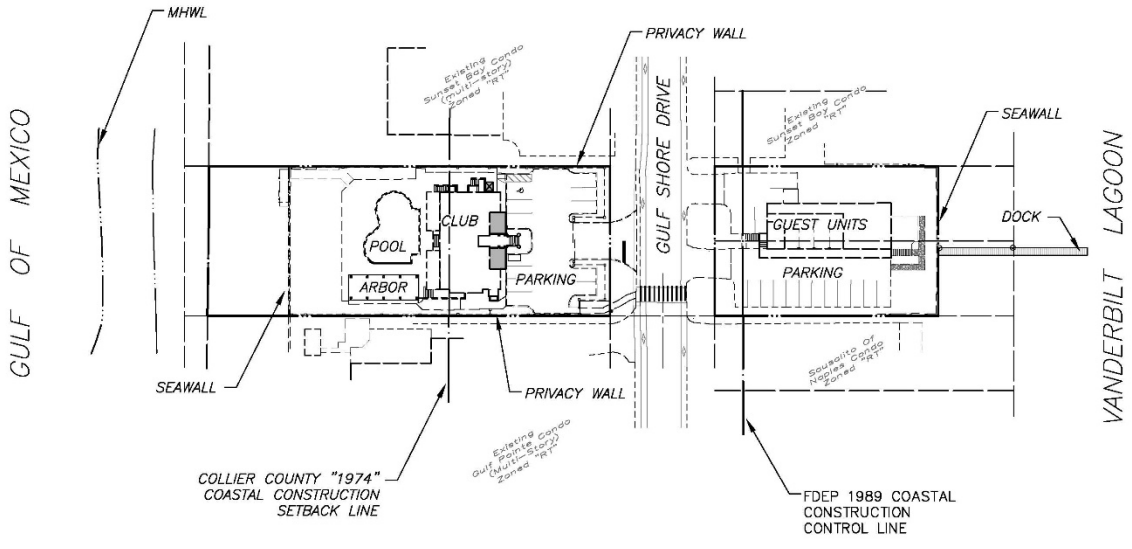
Application: Twin Eagles Beach and Bay Club is requesting to modify the conditions of the existing Conditional Use Resolution 2000-300 (PL- PL20210001683)

This 1+/- acre property is located at 9467 & 9468 Gulf Shore Drive. It is a 1+/- acre property located on both the east and west sides of Gulf Shore Drive, approximately ¼ mile north of Vanderbilt Beach Road.

This request is proposing to modify two elements of the existing approved conditions as an amendment to the existing Conditional Use 2000-10 / Resolution 2000-300, approved for a Private Club.

1) Revise the maximum number of people which may be on the premises at any one time shall comply with the applicable Fire Code.

2) Revise the closing hours to the later of (a) 30 minutes after sunset, or (b) 9:00 p.m. (10:00 p.m. during special events).



Attachment: F Backup Material (21296 : PL20210001683 Twin Eagles Beach Conditional Use)

NEIGHBORHOOD INFORMATION MEETING
TWIN EAGLES BEACH AND BAY CLUB CONDITIONAL USE
(PL-20210001683)
MONDAY, NOVEMBER 29, 2021 AT 5:30PM
PLEASE PRINT CLEARLY

Please be advised

The information on this sheet is to contact you regarding this project and future public meetings. Under Florida law, e-mail addresses, phone numbers and certain home addresses are public records once received by a government agency. If you do not want your e-mail address, phone number or home address released if the County receives a public records request, you can refrain from including such information on this sheet. You have the option of checking with the County staff on your own to obtain updates on the project as well as checking the County Web site for additional information.

Name	Address	City, State Zip	E-Mail Address
MICHAEL FONE	9615 GULF SHORE DRIVE #102	NAPLES 34108	michaelfone30@yahoo.com
SCOTT HOUGHTON	9486 GULF SHORE #204	NAPLES	SCOTT@AIRVIEW.ORG
Gabriela Castro	Collier County Staff	Naples	County

Attachment: F Backup Material (21296 : PL20210001683 Twin Eagles Beach Conditional Use)

NEIGHBORHOOD INFORMATION MEETING
TWIN EAGLES BEACH AND BAY CLUB CONDITIONAL USE
(PL-20210001683)
MONDAY, NOVEMBER 29, 2021 AT 5:30PM
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Name	Address	City, State Zip	E-Mail Address
KARIN MARTIN	9415 GULFSHORE DR.	34108	martinp379@aol.com
ROSS MARTIN	9415 GULFSHORE DR	34108	

Attachment: F Backup Material (21296 : PL20210001683 Twin Eagles Beach Conditional Use)

Timestamp
11/9/2021 12:54:26

Final Publication Date
11/10/2021

Ad Number
GCI0767309

Publication
Daily News

Market
Naples

Delivery Method
Both

Number of Affidavits Needed
1

Customer Email
karenbishop@pmsnaples.com

Customer Name
Vanderbilt Beach Llc

Customer Phone Number
(239) 825-7230

Customer Address
13966 Old Coast RD
Naples, FL 34110-8602

Account Number (If Known)
AP-647327

Name
Karen Bishop

Street
13966 Old Coast RD

City
Naples

State
FL

ZIP Code
34110-8602

Your Name
Nicolle Lackey

Email Address
nlackey@localiq.com

Attachment: F Backup Material (21296 : PL20210001683 Twin Eagles Beach Conditional Use)

Naples Daily News
PART OF THE USA TODAY NETWORK
Published Daily
Naples, FL 34110

VANDERBILT BEACH LLC
13966 OLD COAST RD
NAPLES, FL 34110
ATTN KAREN BISHOP

Affidavit of Publication
STATE OF WISCONSIN
COUNTY OF BROWN

Before the undersigned they serve as the authority, personally appeared who on oath says that they serve as **legal clerk** of the Naples Daily News, a daily newspaper published at Naples, in Collier County, Florida; distributed in Collier and Lee counties of Florida; that the attached copy of the advertising was published in said newspaper on dates listed. Affiant further says that the said Naples Daily News is a newspaper published at Naples, in said Collier County, Florida, and that the said newspaper has heretofore been continuously published in said Collier County, Florida; distributed in Collier and Lee counties of Florida, each day and has been entered as second class mail matter at the post office in Naples, in said Collier County, Florida , for a period of one year next preceding the first publication of the attached copy of advertisement and affiant further says that he has neither paid nor promised any person, or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

11/10/2021

Subscribed and sworn to before on November 10th, 2021

Notary, State of WI, County of Brown

My commission expires: 1-7-25

KATHLEEN ALLEN
Notary Public
State of Wisconsin

PUBLICATION COST: $1,040.25
AD NO: GCI0767309
CUSTOMER NO: 647327
PO#: PUBLIC NOTICE
AD SIZE: DISPLAY AD W/ MAP 3X10.32

Attachment: F Backup Material (21296 : PL20210001683 Twin Eagles Beach Conditional Use)

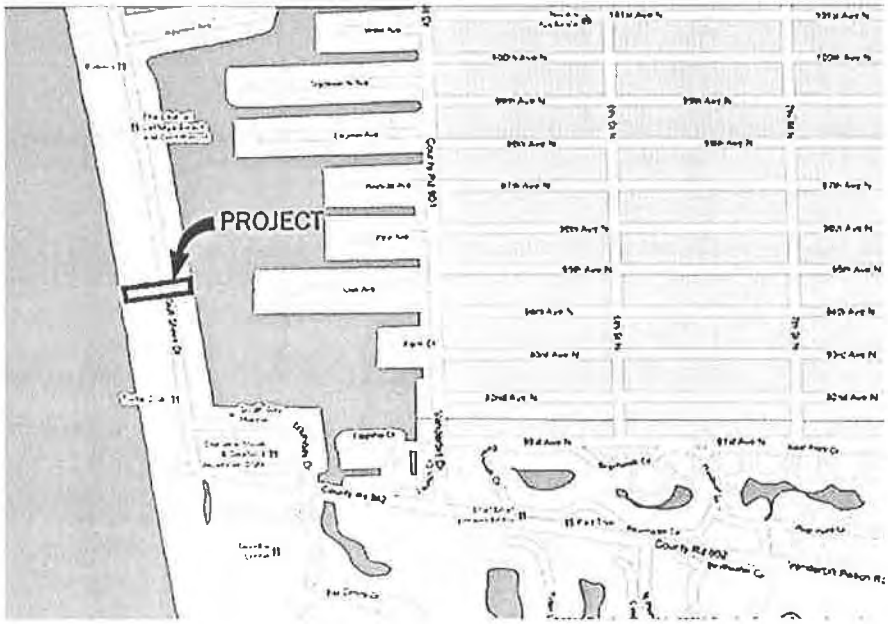
The public is invited to attend a neighborhood information meeting held by Karen Bishop, President, PMS Inc. of Naples, on behalf of Vanderbilt Beach LLC owners of a Private Club located at 9468 Gulf Shore Boulevard, at the following time and location:

Monday, November 29, 2021 at 5:30 p.m.
DoubleTree Suites by Hilton / Meeting Room
12200 Tamiami Trail North, Naples, FL 34110

This application has been made to Collier County Growth Management and requests an amendment to the existing Conditional Use 2000-10 / Resolution 2000-300 for a Private Club. We are proposing to modify two elements of the existing approved conditions (PL20210001683).

1) Revise the maximum number of people which may be on the premises at any one time shall comply with the applicable Fire Code. 2) Revise the closing hours to remain open until the later of (a) 30 minutes after sunset, or (b) 9:00 p.m. (10:00 p.m. during special events).

This 1+/- acre property is in Section 32, Township 48 South, Range 25 East, Collier County, Florida, on both the east and west sides of Gulf Shore Boulevard, approximately ¼ mile north of Vanderbilt Beach Road.



We will be adhering to social distancing protocols during the meeting. If you would rather not or are unable to attend the meeting and would like to participate via Zoom or view a video of the meeting, please email us at karenbishop@pmsnaples.com and we will send you a link. You may also email any comments or questions to karenbishop@pmsnaples.com. Please reference **Twin Eagles Beach and Bay Club Amendment** in subject line.

Karen Bishop
PMS Inc. of Naples, karenbishop@pmsnaples.com
Phone: 239-825-7230

ND-GCI0767309-01

Attachment: F Backup Material (21296 : PL20210001683 Twin Eagles Beach Conditional Use)

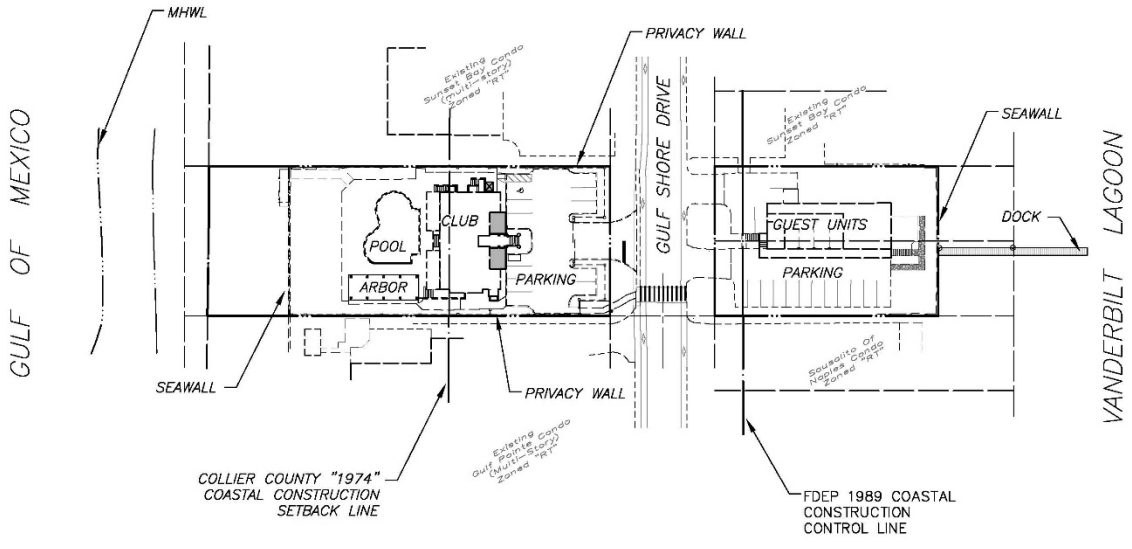
Application: Twin Eagles Beach and Bay Club is requesting to modify the conditions of the existing Conditional Use Resolution 2000-300 (PL- PL20210001683)

This 1+/- acre property is located at 9467 & 9468 Gulf Shore Drive. It is a 1+/- acre property located on both the east and west sides of Gulf Shore Drive, approximately ¼ mile north of Vanderbilt Beach Road.

This request is proposing to modify two elements of the existing approved conditions as an amendment to the existing Conditional Use 2000-10 / Resolution 2000-300, approved for a Private Club.

1) Revise the maximum number of people which may be on the premises at any one time shall comply with the applicable Fire Code.

2) Revise the closing hours to the later of (a) 30 minutes after sunset, or (b) 9:00 p.m. (10:00 p.m. during special events).



Attachment: F Backup Material (21296 : PL20210001683 Twin Eagles Beach Conditional Use)

Collier County

Payment Receipt

Your payment has been accepted

Confirmation #	202607930
Payment Type	CityView Paymen
Account #	172991
Reference Number	PL2021000168
Status	ACCEPTE
Payment Date	Oct 29, 2021 – 4:18:05 PM
Payment Method	American Express **********600
Payment Amount	$85.0
Service Fee	$2.4
Total Amount Charged	$87.4

Receipt for address mailing labels from County for NIM

Attachment: F Backup Material (21296 : PL20210001683 Twin Eagles Beach Conditional Use)

Attachment: F Backup Material (21296 : PL20210001683 Twin Eagles Beach Conditional Use)

The UPS Store #1117
4001 SANTA BARBARA BLVD
NAPLES, FL 34104-8808
239-455-7778

Terminal....: POS1117A
Employee....: 186327
Cashier's Name Moises

Date.: 11/12/2021
Time.: 02:49 PM

ITEM NAME	QTY	PRICE	TOTAL
Air Mail Stamps			$171.60
Tax	195 @	$0.88	$0.00
Air Mail Stamps			$21.30
Tax	10 @	$2.13	$0.00

Subtotal	$192.90
Shipping/Other Charges	$0.00
Total tax	$0.00
Total	$192.90
Cards	$192.90

Items Designated NR are NOT eligible for Returns, Refunds or Exchanges.

US Postal Rates Are Subject to Surcharge.

1211112117A002406

View The UPS Store, Inc.'s privacy notice at https://www.theupsstore.com/privacy-policy

AmEx ***********6009 882007
11/12/2021 02:49 PM
TID 75568383
Purchase
AMERICAN EXPRESS XXXXXXXXXX6009
ENTRY METHOD CHIP
CVM SIGN
Invoice 0010001707
Clerk 18632
Response APPROVED
Auth Code 882007
EMV DETAILS
MODE CHIP
AID A0000000025010801
TVR 0000008000
IAD 064C0103A0A002
TSI E800
ARC Z3
Amount USD $192.90
BISHOP/KAREN

*** CUSTOMER COPY ***

Postage receipt for 205 notices for Florida Ordinance

13 A6

RESOLUTION 2000- 300

A RESOLUTION PROVIDING FOR THE ESTABLISHMENT OF A PRIVATE CLUB CONDITIONAL USE "5" IN THE "RT" ZONING DISTRICT PURSUANT TO SECTION 2.2.8.3 OF THE COLLIER COUNTY LAND DEVELOPMENT CODE FOR PROPERTY LOCATED IN SECTION 32, TOWNSHIP 48 SOUTH, RANGE 25 EAST, COLLIER COUNTY, FLORIDA.

WHEREAS, the Legislature of the State of Florida in Chapter 67-1246, Laws of Florida, and Chapter 125, Florida Statutes, has conferred on Collier County the power to establish, coordinate and enforce zoning and such business regulations as are necessary for the protection of the public; and

WHEREAS, the County pursuant thereto has adopted a Land Development Code (Ordinance No. 91-102) which includes a Comprehensive Zoning Ordinance establishing regulations for the zoning of particular geographic divisions of the County, among which is the granting of Conditional Uses; and

WHEREAS, the Collier County Planning Commission, being the duly appointed and constituted planning board for the area hereby affected, has held a public hearing after notice as in said regulations made and provided, and has considered the advisability of Conditional Use "5" of Section 2.2.8.3 in an "RT" Zone for a private club on the property hereinafter described, and has found as a matter of fact (Exhibit "A") that satisfactory provision and arrangement have been made concerning all applicable matters required by said regulations and in accordance with Subsection 2.7.4.4 of the Land Development Code for the Collier County Planning Commission; and

WHEREAS, all interested parties have been given opportunity to be heard by this Board in a public meeting assembled and the Board having considered all matters presented.

NOW, THEREFORE BE IT RESOLVED, BY THE BOARD OF ZONING APPEALS of Collier County, Florida that:

The petition filed by Richard C. Grant of Grant, Fridkin, Pearson, Athan & Crown, P.A., representing Signature Communities, Inc., with respect to the property hereinafter described as:

Exhibit "B" which is attached hereto and incorporated by reference herein

be and the same is hereby approved for Conditional Use "5" of Section 2.2.8.3 of the "RT" Zoning District for a private club in accordance with the Conceptual Master Plan (Exhibit "C") and subject to the following conditions:

Exhibit "D" which is attached hereto and incorporated by reference herein.

Attachment: F Backup Material (21296 : PL20210001683 Twin Eagles Beach Conditional Use)

13 A6

BE IT FURTHER RESOLVED that this Resolution be recorded in the minutes of this Board.

This Resolution adopted after motion, second and majority vote.

Done this 12th day of September, 2000.

BOARD OF ZONING APPEALS
COLLIER COUNTY, FLORIDA

BY: Timothy J. Constantine
TIMOTHY J. CONSTANTINE, CHAIRMAN

Attest as to Chairman's signature only.

ATTEST:
DWIGHT E. BROCK, Clerk

By: Collier Hoffman D.C.

Approved as to Form and
Legal Sufficiency:

Marjorie M. Student
Marjorie M. Student,
Assistant County Attorney

g/admin/CU-2000-10/ RESOLUTION/SM/im

Attachment: F Backup Material (21296 : PL20210001683 Twin Eagles Beach Conditional Use)

13 A6

FINDING OF FACT
BY
COLLIER COUNTY PLANNING COMMISSION
FOR
A CONDITIONAL USE PETITION
FOR

CU-2000-10

The following facts are found:

1. Section 2.2.8.3.5 of the Land Development Code authorized the conditional use.

2. Granting the conditional use will not adversely affect the public interest and will not adversely affect other property or uses in the same district or neighborhood because of:

   A. Consistency with the Land Development Code and Growth Management Plan:
   Yes ✓ No ____

   B. Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe:
   Adequate ingress & egress
   Yes ✓ No ____

   C. Affects neighboring properties in relation to noise, glare, economic or odor effects:
   ✓ No affect or ____ Affect mitigated by ____
   ____ Affect cannot be mitigated

   D. Compatibility with adjacent properties and other property in the district:
   Compatible use within district
   Yes ✓ No ____

Based on the above findings, this conditional use should, with stipulations, (copy attached) (~~should not~~) be recommended for approval OK.

DATE: Aug 17, 2000

CHAIRMAN
MEMBER:

g/admin/CU-2000-10/FINDING OF FACT MEMBER/SM/im

Attachment: F Backup Material (21296 : PL20210001683 Twin Eagles Beach Conditional Use)

13 A6

Exhibit B CU-2000-10

LEGAL DESCRIPTION

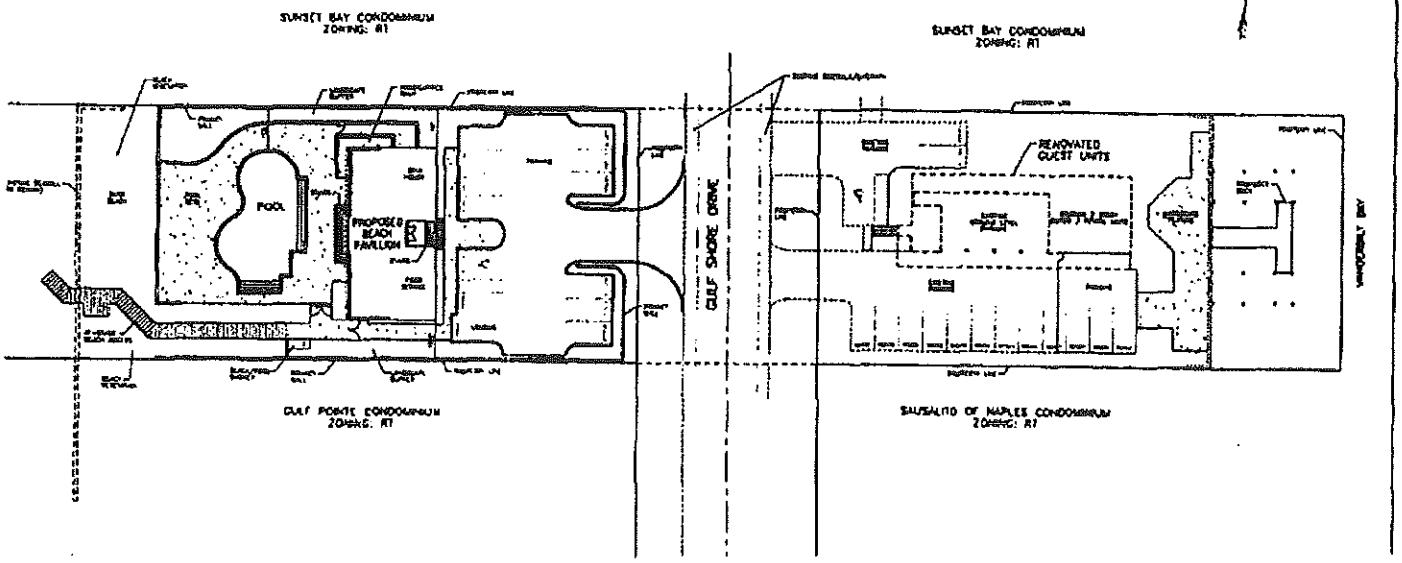
A parcel of land located on the Gulf of Mexico and on Vanderbilt Lagoon containing approximately 1.1 acres of land consisting of all that real property that comprised the former VANDERBILT VACATION VILLAS, a condominium, according to the Declaration of Condominium recorded in Official Records Book 985, at Page 794, of the public records of Collier County, Florida, as amended.

f:\data\wd_real\signature\twleagles\conditionaluse-legal.doc

Attachment: F Backup Material (21296 : PL20210001683 Twin Eagles Beach Conditional Use)

EXHIBIT "C"

13 A6



Attachment: F Backup Material (21296 : PL20210001683 Twin Eagles Beach Conditional Use)

13 A6

Subject to the following Conditions:

1. The Planning Services Department Director may approve minor changes in the location, sighting, or height of buildings, structures, and improvements authorized by the Conditional Use. Expansion of the uses identified and approved within this conditional use application, or major changes to the site plan submitted as part of this application, shall require the submittal of a new conditional use application, and shall comply with all applicable County ordinances in effect at the time of submittal, including Division 3.3, Site Development Plan Review, of the Collier County Land Development Code (Ordinance No. 91-102).

2. This approval authorizes only construction of the facilities shown on the Master Plan. The facilities shall be constructed in substantial conformance to the Master Plan with only minor deviations to accommodate the construction process.

3. The Petitioner intends, and will, operate this facility in a reasonable manner so that it will not have an unreasonable adverse impact on adjacent residential properties.

4. The maximum number of people which may be on the premises at any one time shall be limited to 112 persons.

5. The facilities shall be open only between the hours of 8:00 a.m. and sunset. The snack bar must close at that time and use of the pool and other facilities must cease. All users must depart the facility within 30 minutes after sunset. The petitioner shall be responsible for strictly enforcing the hours. The only exceptions authorized are as follows:

   (a) Overnight guests and/or resident managers in the living units may use those units.
   (b) There can be as many as six events each year in which the facility may be open until 10:00 p.m. The maximum number of people which may be on the premises at any one time shall be limited to 112 persons. Two (2) weeks prior to each event, notice shall be delivered to the property managers or other owner representatives of the adjacent properties of the date of each event.

6. The facility will have on-site management during all hours that it is open and such management will also remain on site after closing to ensure that those actions that need to be taken at the end of each operating day to be in conformance with these stipulations are, in fact, done. In addition, the Petitioner will provide to the condominium manager of the adjoining condominiums the name and phone number of a responsible person within the Petitioner's organization who can respond to problems or emergencies at the site during non-operating hours.

Attachment: F Backup Material (21296 : PL20210001683 Twin Eagles Beach Conditional Use)

13 A6

7. Food service will be limited to a sandwich/grill type operating. Cooking facilities will have proper odor scrubbing exhaust equipment. This will not apply to barbecue-type cookers that may be used at the special events described above.

8. Trash and garbage receptacles will be enclosed and will be removed from the beach-side facilities at the close of each operating day.

9. The roofs of any buildings on the site, and the pool deck, will be of a non-glare material in a muted color.

10. Lighting shall be designed so as to eliminate spill over on to adjacent properties. Light poles shall be no more than 15 feet in height and shall be of a material and color compatible with the design of the facility.

11. Parking areas will be utilized only by authorized users of the facility, and (on the beach-side) will have devices to prevent ingress and egress to the parking area during non-operating hours.

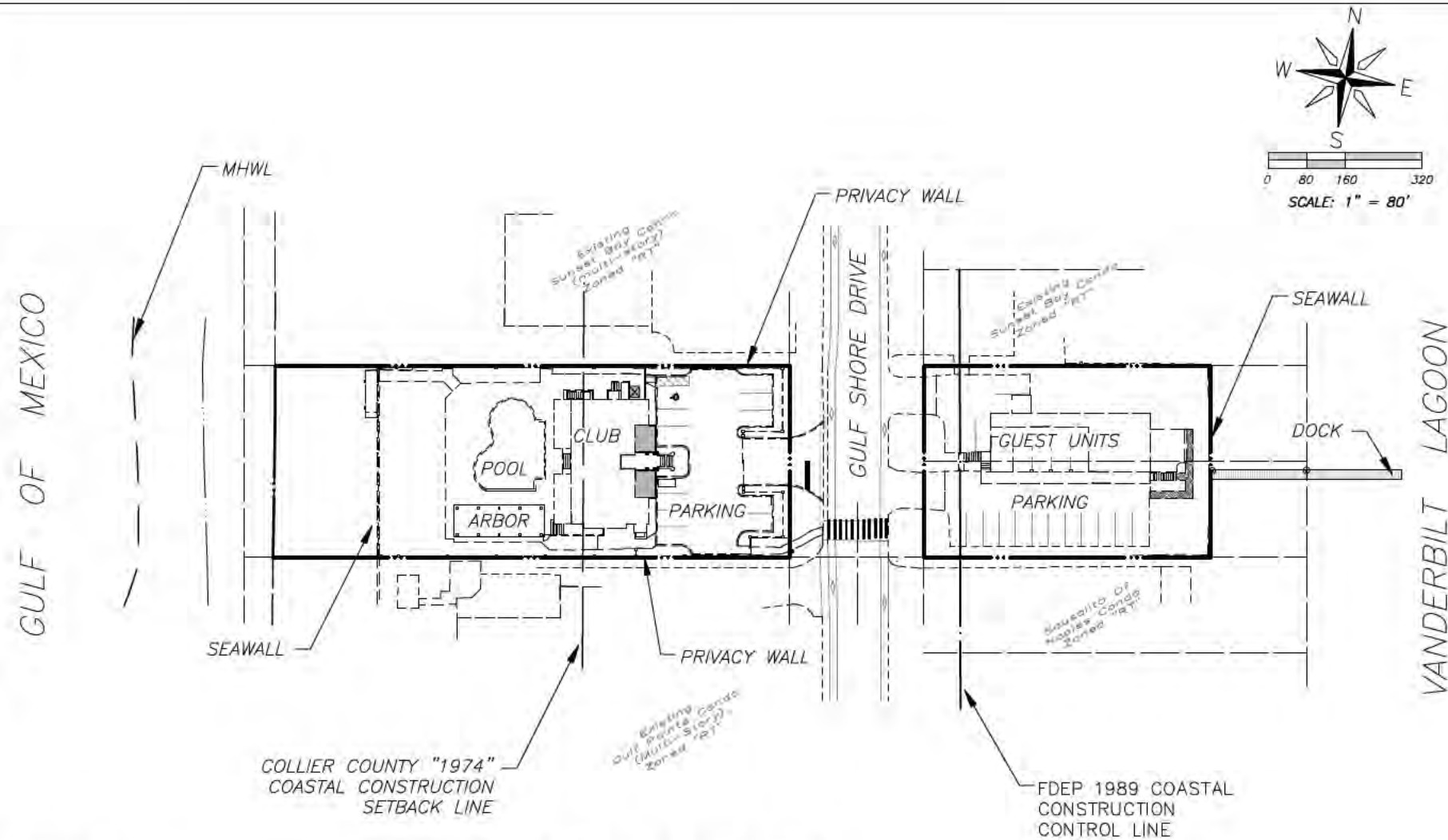
12. Beach chairs, umbrellas, cabanas, and similar devices supplied by the club shall only be used on the beach in front of the club, defined as the beach area within the area enclosed by the property lines of the club, extended to the edge of the water.

13. There shall be no personal watercraft or personal sailboats (Hobie Cats and the like) allowed on the beach side.

14. Docks in connection with access via the Vanderbilt lagoon may not be used for the berthing or mooring of boats in excess of forty-eight (48) hours.

15. The site shall be developed in accordance with the Site Development Plan, SDP 98-119, approved September 16, 1998. Any amendments to the site plan other than minor changes as defined in stipulation #1 of Exhibit D of this Resolution, shall require a new Conditional Use approval.

Attachment: F Backup Material (21296 : PL20210001683 Twin Eagles Beach Conditional Use)



Zoning:
CU Resolution 2000-300
BDE Resolution 2011-03
HEX No. 2015-20
VA-PL20150000189
AVA - PL20160000648

No Preservation Required

Landscape Buffers:

	E	W	N	S	Notes
	Type / Width				
West Parcel	D/*	n/a	B/*	B/*	*Width varies (existing)
East Parcel	n/a	D/*	B/*	B/*	*Width varies (existing)

Rev 2: 01/22
Rev 1: 11/21

PROJECT NO: 2108
ACAD NO: 2108–sp00
DRAWN BY: JW

Ωmega Consulting Group
5620 Sonnen Court
Fort Myers, FL 33919
C. A. #28291
Project Management / Civil Engineering Solutions

PREPARED FOR:
Vanderbilt Beach, LLC

PAGE TITLE:
TWIN EAGLES BEACH AND BAY CLUB
CONCEPTUAL MASTER PLAN

SCALE: AS NOTED
DATE: AUG 21

Exhibit C

Attachment: F Backup Material (21296 : PL20210001683 Twin Eagles Beach Conditional Use)

EXHIBIT D

Subject to the following Conditions:

1. The Planning Services Department Director may approve minor changes in the location, sighting, or height of buildings, structures, and improvements authorized by the Conditional Use. Expansion of the uses identified and approved within this conditional use application, or major changes to the site plan submitted as part of this application, shall require the submittal of a new conditional use application, and shall comply with all applicable County ordinances in effect at the time of submittal, including Division 3.3, Site Development Plan Review, of the Collier County Land Development Code (Ordinance No. 91-102).

2. This approval authorizes only construction of the facilities shown on the Master Plan. The facilities shall be constructed in substantial conformance to the Master Plan with only minor deviations to accommodate the construction process.

3. The Petitioner intends, and will, operate this facility in a reasonable manner so that it will not have an unreasonable adverse impact on adjacent residential properties.

4. The maximum number of people which may be ~~on~~ in the ~~premises~~ building at any one time shall be limited to 112 persons.

5. The facilities shall be open only between the hours of 8:00 a.m. and ~~sunset~~ remain open until the later of (a) 30 minutes after sunset, or (b) 9:00 p.m. (10:00 p.m. during special events). The snack bar must close at that time and use of the pool and other facilities must cease. All users must depart the facility within 30 minutes after ~~sunset~~ the allotted closing time. The petitioner shall be responsible for strictly enforcing the hours. The only exceptions authorized are as follows:

   (a) Overnight guests and/or resident managers in the living units may use those units.
   (b) There can be as many as six special events each year in which the facility may be open until 10:00 p.m. The maximum number of people which may be ~~on~~ in the ~~premises~~ building at any one time shall be limited to 112 persons Two (2) weeks prior to each event, notice shall be delivered to the property managers or other owner representatives of the adjacent properties of the date of each special event.

6. The facility will have on-site management during all hours that it is open and such management will also remain on site after closing to ensure that those actions that need to be taken at the end of each operating day to be in conformance with these stipulations are, in fact, done. In addition, the Petitioner will provide to the condominium manager of the adjoining condominiums the name and phone number of a responsible person within the Petitioner's organization who can respond to problems or emergencies at the site during nonoperating hours.

7. Food service will be limited to a sandwich/grill type operating. Cooking facilities will have proper odor scrubbing exhaust equipment. This will not apply to barbecue-type cookers that may be used at the special events described above.

8. Trash and garbage receptacles will be enclosed and will be removed from the beach-side facilities at the close of each operating day.

9. The roofs of any buildings on the site, and the pool deck, will be of a non-glare material in a muted color.

10. Lighting shall be designed so as to eliminate spill over on to adjacent properties. Light poles shall be no more than 15 feet in height and shall be of a material and color compatible with the design of the facility.

Attachment: F Backup Material (21296 : PL20210001683 Twin Eagles Beach Conditional Use)

EXHIBIT D

11. Parking areas will be utilized only by authorized users of the facility, and (on the beachside) will have devices to prevent ingress and egress to the parking area during non-operating hours.

12. Beach chairs, umbrellas, cabanas, and similar devices supplied by the club shall only be used on the beach in front of the club, defined as the beach area within the area enclosed by the property lines of the club, extended to the edge of the water.

13. There shall be no personal watercraft or personal sailboats (Hobie Cats and the like) allowed on the beach side.

14. Docks in connection with access via the Vanderbilt lagoon may not be used for the berthing or mooring of boats in excess of forty-eight (48) hours.

15. The site shall be developed in accordance with the Site Development Plan, SOP 98-119, approved September 16, 1998. Any amendments to the site plan other than minor changes as defined in stipulation #I of Exhibit D of this Resolution, shall require a new Conditional Use approval.

16. Lighting, windows, and doors must comply with Land Development Code 3.04.02 B regarding sea turtle protection, specifically visible light and window transmittance values of 45% or less.

Attachment: F Backup Material (21296 : PL20210001683 Twin Eagles Beach Conditional Use)

COLLIER COUNTY
Collier County Hearing Examiner

Item Number: 3.B
Item Summary: Petition No. FL - PL20210001966 - Mod Wash Comparable Use Determination - A request for a comparable use determination that a new automated carwash is comparable, compatible, and consistent with the list of permitted uses in section 4.4.A of the Artesa Pointe Planned Unit Development, Ord. No. 03-46, as amended. The proposed development is on a vacant ±1.01-acre parcel, folio no. 81076000095, at the southeast quadrant of the intersection of Collier Boulevard and Pasedo Drive, approximately one-half mile south of Tamiami Trail East, in Section 3, Township 51 South, Range 26 East, Collier County, Florida. [Coordinator: Eric Ortman, Principal Planner] Commissioner District 1

Meeting Date: 03/24/2022

Prepared by:
Title: Principal Planner – Zoning
Name: Eric Ortman
03/02/2022 11:21 AM

Submitted by:
Title: – Zoning
Name: Mike Bosi
03/02/2022 11:21 AM

Approved By:

Review:

Growth Management Operations & Regulatory Management	Kenneth Kovensky	Review Item	Completed	
Hearing Examiner (GMD Approvers)	Diane Lynch	Review Item	Completed	03/17/2022 3:09 PM
Zoning	Ray Bellows	Review Item	Completed	03/17/2022 3:47 PM
Zoning	Mike Bosi	Review Item	Completed	03/17/2022 4:02 PM
Hearing Examiner	Andrew Dickman	Meeting Pending	03/24/2022 9:00 AM	

STAFF REPORT

TO: COLLIER COUNTY HEARING EXAMINER

FROM: ZONING DIVISION – ZONING SERVICES SECTION
GROWTH MANAGEMENT DEPARTMENT

HEARING DATE: MARCH 24, 2022

SUBJECT: NAPLES FLORIDA MOD CARWASH, COMPARABLE USE DETERMINATION (CUD), CUD-PL20210001966

PROPERTY OWNER/AGENT:

Applicant/Owner:

Rook at Naples, LLC
ModWash, LLC
736 Cherry Street
Chattanooga, TN. 37402

Agent:

Kendrick Gallander, AICP
RWA, Inc.
6610 Willow Park Dr., Suite 200
Naples, FL. 34109

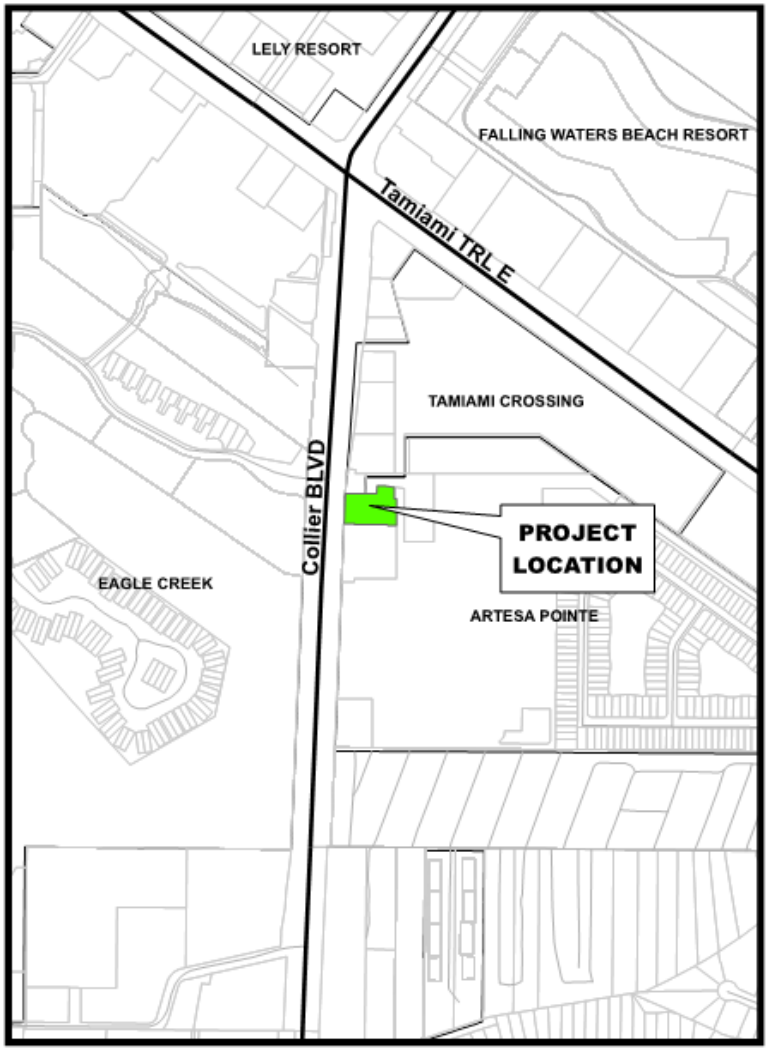
REQUESTED ACTION:

Request for a determination that the proposed use of a new automated car wash (SIC 7542) is comparable in nature to the list of permitted uses in Section 4.4 (Commercial tract) of the Artesa Point Planned Unit Development (PUD) adopted by Ordinance Number 03-46, as amended (Attachment A). The subject property is ±1.01 acres located on the east side of Collier Boulevard approximately one-quarter mile south of Tamiami Trail East (US 41) in Section 3, Township 51 South, Range 26 East, Collier County, Florida.

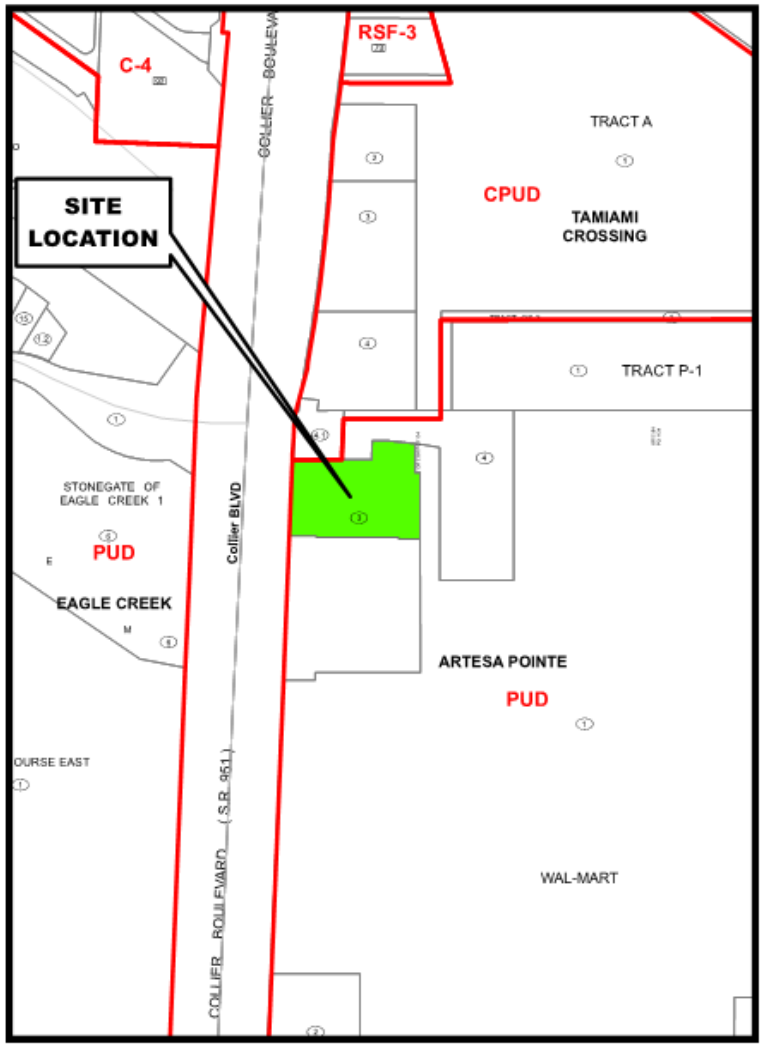
GEOGRAPHIC LOCATION:

The subject property is a ±1.01-acre undeveloped parcel (#81076000095) without an official street address and located in the southeast quadrant of the intersection of Collier Boulevard and Pasedo Drive approximately one-quarter mile south the intersection of Collier Boulevard and Tamiami Trail East (US 41) in Section 3, Township 51 South, Range 26 East, Collier County, Florida (See location map on page 2.).

Attachment: Staff Report - FL Mod Wash CUD (21517 : PL20210001966 FL Mod Wash Comparable Use Determination)



Location Map



Zoning Map

Petition Number: PL20210001966

SURROUNDING LAND USE AND ZONING:

This section of the staff report identifies the land uses and zoning classifications for properties surrounding the boundaries of the subject parcel which is undeveloped and within a Commercial Tract of the Artesa Point PUD:

North: Developed Tamiami Crossing CPUD; and one undeveloped parcel (±7.29 acres) zoned agricultural to the southeast of the Tamiami Crossing CPUD.
East: Developed Artesa Point PUD (commercial and residential).
South: Developed Artesa Point PUD (commercial and residential); developed Henderson Creek Mobile Home Park.
West: Collier Blvd. and Eagle Creek PUD (residential PUD with golf course and amenities).

Collier County GIS

Attachment: Staff Report - FL Mod Wash CUD (21517 : PL20210001966 FL Mod Wash Comparable Use Determination)

PURPOSE AND DESCRIPTION OF PROJECT:

The petitioner desires to construct a new automated car wash on the subject parcel which is currently going through Site Development Plan (SDP) process (PL20210001098). The undeveloped ±1.01-acre site is Outparcel #1 in the commercial section of the Artesa Point PUD which includes a WalMart Superstore. The PUD is governed by Ord. 03-46, as amended, which limits commercial development in the PUD to 325,000 square feet of gross leasable space. As of September 29, 2021, approximately 78,400 square feet of developable commercial space remain.

The building for the proposed car wash is currently estimated at 4,165 square feet with stacking for 15 vehicles per LDC requirements. The maximum vehicle height that can accommodated in the car wash is seven feet two inches (7' 2"). There are also 16 vehicles spaces where customers may vacuum their vehicles. Employee parking is achieved through a nonexclusive reciprocal easement which includes parking in common areas of the PUD which includes more than 1,000 spaces. The carwash will be open from 8:00 a.m. to 8:00 p.m., opening after the WalMart and Murphy's gas station in the PUD and closing before both businesses.

STAFF ANALYSIS:

The subject parcel has a Future Land Use Designation of Urban Coastal Fringe, Henderson Creek Mixed-Use Subdistrict in the Future Land Use Element (see FLUE p. 40) (Attachment B). While the intent of the Henderson Creek Mixed-Use Subdistrict is, "primarily to provide for a mixture of regional commercial uses and residential development", specific requirement "j" states that all out-parcels (which includes the subject parcel) are limited to nonregional commercial uses. A car wash is generally considered to be a local or non-regional use.

The FLUE's Henderson Creek Mixed-Use Subdistrict states that the "maximum intensity of commercial uses are those allowed in the C-4, General Commercial District". Carwashes (SIC 7542) are a permitted use in C-4 Districts. The subject parcel also abuts Mixed-Use Activity Center Subdistrict #18 of the FLUE. Allowable land uses in Mixed-Use Activity Centers include the full array of commercial uses.

Section 4.4 of Ord. 03-46, as amended, states that the commercial district of the Artesa PUD is "designed to implement the provisions of the Henderson Creek Mixed-Use Subdistrict". Section 4.4 of Ord. 03-46 permits, as a non-regional use, general merchandise stores including auto tire and lubricating (SIC 5311-5399) and food stores with accessory gas pumps and car wash (SIC 5411-5400, excluding grocery stores and supermarkets). Ord 03-46 permits automatic car washes and fuel pumps in conjunction with a convenience store as an accessory use in the commercial district. Two of these uses include a car wash in addition to other activities making them more intense from a development perspective than a stand-alone car wash. The third use, auto tire and lubricating may be more intense than a carwash with respect to noise (removing/replacing tires with impact drills) and oil and lubrication odors which may have a greater negative impact than the odors from soaps.

The addition of a carwash would add a service not currently provided which would be comparable with other permitted uses such as the aforementioned and garden supply stores (SIC 5261), eating places (SIC 5812), and miscellaneous retail stores.

Per LDC §10.02.06.K, a Comparable Use Determination (CUD) process is to be used to determine whether a specified use is comparable in nature with the list of permitted uses and the purpose and intent statement of the specified zoning district, overlay, or PUD. After staff evaluation of the criteria (listed below) of LDC §10.02.06.K .06.K.2 the results are presented at a public hearing for the purposes of approval, approval with conditions, or denial.

Attachment: Staff Report - FL Mod Wash CUD (21517 : PL20210001966 FL Mod Wash Comparable Use Determination)

LDC §10.02.06.K Criteria listed in bold with staff analysis in regular font.

A. The proposed use possesses similar characteristics to other permitted uses in the zoning district, overlay, or PUD, included but not limited to the following:

i. Operating Hours:

The applicant is willing to commit to operating hours from 8:00 a.m. to 8:00 p.m. The existing supercenter store is open between 6:00 a.m. and 11:00 p.m.; the gas station/convenience store is open from 5:30 a.m. to 10:30 p.m. Both stores are open 5 hours more per day or 35 hours per week than the proposed car wash. The car wash is less intensive yet compatible with other uses in the PUD based on hours of operation.

ii. Traffic Volume Generated/Attracted:

The Institute of Transportation Engineers (ITE) Trip Generation Manual 10th Edition lists the weekday PM peak hour number of trips for an automated car wash (ITE #948) at 78 total trips. Similarly, the number of trips for a free-standing discount superstore (ITE #813) is 703 net trips after subtracting pass-by trips per County Traffic Impact Statement (TIS) guidelines; and the number of net trips for a convenience market with gasoline pumps (ITE 853) is 111). These numbers indicate that the proposed car wash will generate significantly fewer trips per hour. Based on the ITE manual, the carwash is expected to generate 89 percent less trips than the superstore, and 30 percent less than the convenience market.

iii. Type of vehicles associated with the use:

The types of vehicles that will use the car wash are the same type as will visit either the superstore or gas station/convenience store. In addition, large semi-trucks, box trucks and other vehicles greater than seven feet two inches (7' 2") will not be able to use the carwash due to ceiling height of the building. Too, there will be a greater number of semi-trucks and tank trucks delivering to both the superstore and convenience market.

iv. Number and type of required parking spaces:

The subject parcel is included in a "Declaration of Easements with Covenants and Restrictions Affecting Land" (Attachment C) which has a nonexclusive reciprocal easement over, through and around the common areas that includes sharing the more than 1,000 parking spaces.

LDC §4.05.04.G requires one parking space per employee of the largest shift for an automatic car wash. There will be four employees working on the largest shift. The four required spaces are not explicitly shown of the site plan; however, the Declaration is referenced to explain why these spaces are not shown.

v. Business practices and activities:

The proposed car wash is intended to serve the surrounding residential population as do the existing superstore, convenience story with gasoline pumps and other permitted uses in the PUD. The car wash will add an additional service to those already in existence. The hours of operation will allow residents and visitors to have their cars washed at a time convenient to them while not exceeding the hours of other uses currently in the PUD.

B. **The effect of the proposed use would have on neighboring properties in relation to the noise, glare, or odor effects shall be no greater than that of other permitted uses in the zoning district, overlay, or PUD**.

Given that there will consistently be more cars visiting the superstore than the carwash, glare created by cars waiting in line to be washed will be significantly less than the superstore. Odors

Attachment: Staff Report - FL Mod Wash CUD (21517 : PL20210001966 FL Mod Wash Comparable Use Determination)

that may be created by the carwash will be limited to soap/cleaning related smells. Odors that may be created by the convenience store/gas station will be related to oil and gasoline. In general, people find soap/cleaning odors more pleasant than oil and gasoline odors.

Seibein Acoustic conducted a sound analysis (Attachment D) for another, similar Mod Wash facility which included an area map overlaid with a noise contour map. One conclusion of the study is that the carwash facility examined would meet the requirements of noise ordinances in many suburban counties where the threshold tends to be 60-65 decibels.

For the proposed carwash facility, there are approximately a dozen homes within 500 feet of the proposed car wash with no home being closer than approximately 330 feet. While admittedly a rough approximation, applying the noise contour map to the proposed project area shows the decibel level 330 feet from the carwash being less than 60 decibels. These homes also sit outside of the PUD, on the opposite side of Collier Blvd., a busy six-lane road that generates significant noise from traffic. The carwash is also located in the vicinity of a Murphy's gas station/convenience store and WalMart superstore. Staff believes that the noise generated by the carwash will not exceed that of the other surrounding uses and roads. The applicant has committed to mitigating noise associated with the carwash operations that are determined to exceed 80 decibels.

C. The proposed use is consistent with the GMP, meaning the applicable future land use designation does not specifically prohibit the proposed use; and, where the future land use designation contains a specific list of allowable uses, the proposed use is not omitted.

The proposed use is permitted in the Henderson Creek Mixed-Use Subdistrict of the FLUE which states that, "the maximum intensity of commercial uses are those allowed in the C-4, General Commercial, Zoning District". Car washes are classified under SIC 7542 which is a permitted use in C-4 Districts subject to the requirements of LDC §5.05.11 when, and if, the carwash abuts a residential district.

D. The proposed use shall be compatible and consistent with the other permitted uses in the zoning district, overlay, or PUD.

The proposed use is on the east side of Collier Blvd., south of Tamiami Trail; and as stated above, compatible and consistent with other permitted uses in commercial tract of the PUD. Within the PUD, the closest residential dwelling is approximately 900 feet from the carwash with the superstore acting as a sound buffer for much of the residential section of the PUD.

E. Any additional relevant information as may be required by the County Manager or designee.

Not required.

PUBLIC NOTIC:

A newspaper advertisement for the Hearing Examiner public meeting is the only notice required per Administrative Code (Chapter 3L), and LDC §10.03.06.O in accordance with F.S. §125.66. The newsparper advertisement posted in the Naples Daily News on May 4, 2022.

Per LDC and Administrative Code a Neighborhood Information Meeting (NIM), posting of a sign on the subject property, and a mailing to surrounding property owners is not required.

Attachment: Staff Report - FL Mod Wash CUD (21517 : PL20210001966 FL Mod Wash Comparable Use Determination)

STAFF RECOMMENDATION:

Staff recommends that the Collier County Hearing Examiner determine that the use of an automated car wash (SIC 7542) is comparable and compatible with the list of permitted non-regional commercial uses contained in Section 4.4 of the Artesa Point PUD with the conditions outlined in Attachment E.

Attachments:

A. Ordinance 03-46

B. FLUE Excerpt – Henderson Creek Mixed

C. Declaration of Easements with Covenants and Restrictions Affecting Land"

D. Seibein Acoustic Computer Model Study for a proposed Mod Wash facility.

E. Conditions of Approval

F. Application and Backup Documents

Attachment: Staff Report - FL Mod Wash CUD (21517 : PL20210001966 FL Mod Wash Comparable Use Determination)

OCT 2003
RECEIVED

ORDINANCE NO. 03 - 46

AN ORDINANCE AMENDING ORDINANCE NUMBER 91–102, THE COLLIER COUNTY LAND DEVELOPMENT CODE WHICH INCLUDES THE COMPREHENSIVE ZONING REGULATIONS FOR THE UNINCORPORATED AREA OF COLLIER COUNTY, FLORIDA BY AMENDING THE OFFICIAL ZONING ATLAS MAP NUMBERED 1603S AND BY CHANGING THE ZONING CLASSIFICATION OF THE HEREIN DESCRIBED REAL PROPERTY FROM "RSF-3" AND "PUD" TO "PUD" PLANNED UNIT DEVELOPMENT KNOWN AS ARTESA POINTE PUD FOR PROPERTY LOCATED ON THE EAST SIDE OF COLLIER BOULEVARD (CR-951) AND THE SOUTH SIDE OF U.S. 41 (TAMIAMI TRAIL) EAST, IN SECTION 03, TOWNSHIP 51 SOUTH, RANGE 26 EAST, COLLIER COUNTY, FLORIDA, CONSISTING OF 82± ACRES; PROVIDING FOR THE REPEAL OF ORDINANCE NUMBER 02-15, THE HENDERSON CREEK PUD; AND BY PROVIDING AN EFFECTIVE DATE.

WHEREAS, Wayne Arnold, AICP, of Q. Grady Minor and Associates, representing Gateway Shoppes II, LLC, petitioned the Board of County Commissioners to change the zoning classification of the herein described real property.

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Collier County, Florida, that:

SECTION ONE:

The zoning classification of the herein described real property located in Section 3, Township 51 South, Range 26 East, Collier County, Florida, is changed from "RSF-3" and "PUD" to "PUD" Planned Unit Development in accordance with the Artesa Pointe PUD Document, attached hereto as Exhibit "A", which is incorporated by reference herein and by reference made part hereof.. The Official Zoning Atlas Map numbered 1603S, as described in Ordinance Number 91–102, and the Collier County Land Development Code, is hereby amended accordingly.

SECTION TWO:

Ordinance Number 02-15, known as the Henderson Creek PUD, adopted on March 26, 2002, by the Board of County Commissioners of Collier County, is hereby repealed in its entirety.

SECTION THREE:

This Ordinance shall become effective upon filing with the Department of State.

Attachment: Attachment A - Ordinance 2003-46 (21517 : PL20210001966 FL Mod Wash Comparable Use Determination)

PASSED AND DULY ADOPTED by the Board of County Commissioners of Collier County, Florida, this 23rd day of September, 2003.

BOARD OF COUNTY COMMISSIONERS
COLLIER COUNTY, FLORIDA

BY: _____
TOM HENNING , CHAIRMAN
9-23-03

ATTEST:
BY: Patricia L Morgan, DC
DWIGHT E. BROCK, CLERK
Attest as to Chairman's signature only.
Approved as to Form
and Legal Sufficiency

Marjorie M. Student
Marjorie M. Student
Assistant County Attorney

UDZ-2003-AR-3860/RB/lo

This ordinance filed with the Secretary of State's Office the 24th day of Sept, 2003 and acknowledgement of that filing received this 2nd day of October, 2003
By Patricia L Morgan, DC
Deputy Clerk

Attachment: Attachment A - Ordinance 2003-46 (21517 : PL20210001966 FL Mod Wash Comparable Use Determination)

Artesa Pointe

A

PLANNED UNIT DEVELOPMENT

82± Acres Located in Section 3,
Township 51 South, Range 26 East,
Collier County, Florida

PREPARED FOR:

Gateway Shoppes II, LLC

PREPARED BY:

D. Wayne Arnold, AICP
Q. Grady Minor & Associates
3800 Via Del Rey
Bonita Springs, Florida 34134

And

Richard D. Yovanovich
Goodlette, Coleman & Johnson
4001 Tamiami Trail North, Suite 300
Naples, Fl 34103

EXHIBIT "A"

Attachment: Attachment A - Ordinance 2003-46 (21517 : PL20210001966 FL Mod Wash Comparable Use Determination)

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EXHIBIT B	BERM/WALL CROSS-SECTION	

Attachment: Attachment A - Ordinance 2003-46 (21517 : PL20210001966 FL Mod Wash Comparable Use Determination)

STATEMENT OF COMPLIANCE

The purpose of this Section is to express the intent of Gateway Shoppes, LLC, hereinafter referred to as the Developer, to create a Planned Unit Development (PUD) on 82± acres of land located in Section 3, Township 51 South, Range 26 East, Collier County, Florida. The name of this Planned Unit Development shall be Artesa Pointe. The development of Artesa Pointe will be in compliance with the planning goals and objectives of Collier County as set forth in the Growth Management Plan (GMP). The development will be consistent with the growth policies and land development regulations adopted pursuant to of the Growth Management Plan, Future Land Use Element (FLUE) and other applicable regulations for the following reasons:

1. The subject property is located in the Henderson Creek Mixed-Use Subdistrict as identified on the Future Land Use Map. The Subdistrict provides for a maximum of 360 residential dwellings and 325,000 square feet of commercial development. A minimum of 200 dwelling units shall be developed as affordable housing units.

2. The proposed residential density of the Artesa Pointe PUD is 5.96 dwelling units per acre based on approximately 47 acres of non-commercial area, and approximately 8.5 dwelling units/acre based on 33± acres of residential uses, and is consistent with the maximum density permitted by the FLUE Density Rating System and is therefore consistent with FLUE, Policy 5.1. The entire property qualifies for a base density of three (3) units per acre. Through the affordable housing density bonus provisions of the GMP, eight (8) dwelling units per acre may be added to the base density.

Base density	4 dwelling units/acre
Traffic congestion area	-1 dwelling unit/acre
Affordable housing density bonus	5.5 dwelling units/acre
Total eligible density	8.5 dwelling units/acre (280 units)
Maximum permitted density	11 dwelling units/acre
Requested density	5.96 dwelling units/acre = 280 units

The maximum amount of permitted commercial space shall be 325,000 square feet of gross leasable area.

3. Improvements are planned to be in compliance with the applicable land development regulations as set forth in Objective 3 of the FLUE.

4. The development of the Artesa Pointe PUD will result in an efficient and economical extension of community facilities and services as required in Policy 3.1. of the FLUE.

5. The Artesa Pointe PUD is a master planned mixed-use community and is planned to encourage ingenuity, innovation and imagination as set forth in the Land Development Code (LDC), Planned Unit Development District.

Attachment: Attachment A - Ordinance 2003-46 (21517 : PL20210001966 FL Mod Wash Comparable Use Determination)

6. The Artesa Pointe PUD is planned to incorporate natural systems for water management in accordance with their natural functions and capabilities as may be required by Objective 1.5 of the Drainage Sub-Element of the Public Facilities Element of the GMP.

7. All final local development orders for this project are subject to the Collier County Adequate Public Facilities Ordinance, Division 3.15 of the LDC.

8. The Artesa Pointe PUD is consistent with the Henderson Creek Mixed Use Subdistrict of the FLUE.

Attachment: Attachment A - Ordinance 2003-46 (21517 : PL20210001966 FL Mod Wash Comparable Use Determination)

SHORT TITLE

This Ordinance shall be known and cited as the "ARTESA POINTE PLANNED UNIT DEVELOPMENT ORDINANCE".

Attachment: Attachment A - Ordinance 2003-46 (21517 : PL20210001966 FL Mod Wash Comparable Use Determination)

SECTION I

LEGAL DESCRIPTION, PROPERTY OWNERSHIP, AND GENERAL DESCRIPTION

1.1 PURPOSE

The purpose of this Section is to set forth the legal description and ownership of the Artesa Pointe PUD, and to describe the existing conditions of the property proposed to be developed.

1.2 LEGAL DESCRIPTION

A parcel of land located in Section 3, Township 51 South, Range 26 East, Collier County, Florida being more particularly described as follows:

Commence at the East quarter corner of Section 3, Township 51 South, Range 26 East, Collier County, Florida; thence run south 00°41'50" west, along the east line of the southeast quarter of said Section 3, for a distance of 1,361.72 feet to a point on the southerly right-of-way line of U.S. 41 (State Road 90) (200 foot right-of-way); thence run north 54°20'16" west, along said southerly right-of-way line, for a distance of 966.32 feet to a point on the westerly line of a 100 foot wide drainage easement a recorded in Official Records Book 76 at Pages 127 through 129, of the Public Records of Collier County, Florida; the same being the **point of beginning**; thence run South 20°16'12" west, along said westerly line, for a distance of 203.10 feet to the beginning of a tangential circular curve concave northwesterly; thence run southwesterly along said westerly line and the arc of said curve to the right, having a radius of 2,799.93 feet; through a central angle of 09°43'48"; subtended by a chord of 474.91 feet at a bearing of south 25°08'06" west, for an arc length of 475.48 feet to the end of said curve; the same being a point on the north line of the south half of the south half of said Section 3; thence run north 89°26'59" west, along said north line for, a distance of 2,833.22 feet to a point on the easterly right-of-way line of Isle of Capri Road (State Road 951) (right-of-way varies); thence run north 02°28'03" east, along said easterly line, for a distance of 1,284.83 feet; thence, leaving said right-of-way line, run the following four (4) courses along the lines of the property described in Official Records Book 2529 at Pages 1377 and 1378 north 90°00'00" east for a distance of 100.09 feet; thence run north 02°28'03" east for a distance of 136.68 feet; thence run north 04°09'46" east for a distance of 163.91 feet; thence run south 89°55'57" east for a distance of 867.08 feet to a point that is a distance of 400.00 feet southerly of and parallel with the aforementioned southerly right-of-way line of U.S. 41 (State Road 90) (200 foot right-of-way); thence run south 54°20'16" east for a distance of 1,654.49 feet; thence run north 35°39'44" east for a distance of 400.00 feet to a point on the said southerly right-of-way line of U.S. 41; thence run south 54°20'16" east, along said line, for a distance of 600.00 feet to the **point of beginning**, containing 81.886 acres, more or less.

Attachment: Attachment A - Ordinance 2003-46 (21517 : PL20210001966 FL Mod Wash Comparable Use Determination)

Together with a non-exclusive ingress/egress easement over Parcel "A-1" as it is described in Agreement for Non-exclusive Ingress/egress Easement recorded in Official Records Book 2529, Page 1389, of the Public Records of Collier County, Florida

1.3 GENERAL DESCRIPTION OF PROPERTY

A. The project site is located in Section 3, Township 51 South, Range 26 East. The site is generally bordered on the west by S.R. 951 and the Eagle Creek PUD District; on the north by undeveloped C-4 and A zoned property; on the east by Henderson Creek; and on the south by the Holiday Manor Mobile Home Park, zoned MH.

B. The zoning classification of the subject property at the time of PUD application is RSF-3 and PUD.

C. Elevations within the site are approximately 3.5 feet to 4.5 feet above MSL. Per FEMA Firm Map Panel No. 120067 605 E and 615 E, dated August 3, 1992, the Artesa Pointe PUD is located within AE 7 of the FEMA flood insurance rate map.

D. Approximately 33% of the site is abandoned agricultural field. The remainder is naturally forested with pine flatwoods and pine-cypress-cabbage palm.

E. The soil types on the site generally include 02 – Holopaw fine sand, limestone substratum, 10 – Oldsmar fine sand, limestone substratum, 11 – Hallendale fine sand, 14 – Pineda fine sand, limestone substratum, 20 – Ft. Drum and Malabar, high fine sands, 27 – Holopaw fine sand, and 32 – Urban land as defined by the NRCS.

F. The project site is located within the Collier County Water Management District Henderson Creek Watershed.

1.4 PERMITTED VARIATIONS OF DWELLING UNIT TYPES.

A maximum of 280 dwelling units are permitted within the Artesa Pointe PUD. This maximum may include a mix of single-family, two-family, duplex, zero lot line, patio, townhome and multi-family dwelling unit types.

1.5 DENSITY

A. The acreage of the residential and open space portions of the PUD are approximately 47± acres and the number of dwelling units authorized to be built pursuant to this PUD is a maximum of 280 units through use of the affordable housing density bonus as set forth in the Density Rating System of the FLUE of the GMP. The gross project density, shall be a maximum of 5.96 units per acre.

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B. At all times, all property included within the Artesa Pointe PUD as residential or open space shall be included in determining project density, including lands to be reserved for road right-of-way as part of the PUD rezoning process.

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SECTION II

PROJECT DEVELOPMENT

2.1 PURPOSE

The purpose of this Section is to generally describe the plan of development for the Artesa Pointe PUD, and to identify relationships to applicable County ordinances, policies, and procedures.

2.2 GENERAL DESCRIPTION OF PROJECT PLAN AND PROPOSED LAND USES

A. The Artesa Pointe PUD will be developed as a mixed-use community which may feature a full array of commercial uses, residential dwelling types, and a recreation center, providing for activities such as community gatherings, recreational amenities, and personal services, central to community residents.

B. The Conceptual Master Plan is illustrated graphically as Exhibit "A". A Land Use Summary indicating approximate land use acreages is shown on the plan. The Master Plan is conceptual, and the location, size, and configuration of the individual recreational area, water management features, and development tracts shall be determined at the time of final site development plan and/or preliminary subdivision plat approval with minor adjustments at the time of final plat approval, in accordance with Subsection 3.2.7.2 and more particular Section 3.3 of the LDC.

C. The Artesa Pointe PUD is compatible with and complementary to existing and future surrounding land uses as required in Policy 5.4 of the FLUE and the Henderson Creek Mixed Use Subdistrict of the FLUE.

2.3 COMPLIANCE WITH COUNTY ORDINANCES

A. Regulations for development of the Artesa Pointe PUD shall be in accordance with the contents of this PUD Ordinance and applicable sections of the LDC (to the extent they are not inconsistent with this PUD Ordinance) and the Growth Management Plan which are in effect at the time of issuance of any development orders to which said regulations relate which authorize the construction of improvements, such as but not limited to, final subdivision plat, final site development plan, excavation permit and preliminary work authorization. Where this PUD Ordinance does not provide developmental standards, then the provisions of the specific section of the LDC that is otherwise applicable shall apply. Where specific standards are specified in this PUD, these standards shall prevail over those in the LDC.

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B. Unless otherwise defined herein, or as necessarily implied by context, the definitions of all terms shall be the same as the definitions set forth in the LDC in effect at the time of development order application.

C. Development permitted by the approval of this PUD shall be subject to the Adequate Public Facilities Ordinance, Division 3.15 of the LDC.

D. Unless modified, waived or excepted by this PUD, or by subsequent request, the provisions of all other sections of the LDC remain in effect with respect to the development of the land which comprises this PUD.

E. All conditions imposed herein or as represented on the Artesa Pointe Master Plan are part of the regulations which govern the manner in which the land may be developed.

F. The Subdivisions Division of the LDC (Article 3, Division 3.2) shall apply to the Artesa Pointe PUD, except where an exemption or substitution is set forth herein or otherwise granted pursuant to the Land Development Code, Section 3.2.4.

G. The Site Development Plans Division of the LDC (Article 3, Division 3.3) shall apply to the Artesa Pointe PUD, except where an exemption is set forth herein or otherwise granted pursuant to the Land Development Code, Section 3.3.4.

H. Recognizing that the plans for development of tracts have not been designated with a specific dwelling unit type, the type of dwelling unit which characterizes the initial development of any platted tract shall be carried out throughout the development of that entire tract.

2.4 ROADWAYS

Roadways within the Artesa Pointe PUD may be privately owned and maintained. Standards for roads shall be in compliance with the applicable provisions of the LDC regulating subdivisions, unless otherwise modified, waived or excepted by this PUD or approved during preliminary subdivision plat approval. The Developer reserves the right to request substitutions to Code design standards in accordance with Subsection 3.2.7.2 of the LDC. The Developer retains the right to establish gates, guardhouses, and other access controls as may be deemed appropriate by the Developer on all internal and privately owned and maintained project roadways. The primary access road, loop road connecting U.S. 41 with S.R. 951, shall not be gated, and shall remain open to the public.

2.5 LAKE SETBACK AND EXCAVATION

The lake setback requirements described in Subsection 3.5.7.1 of the LDC may be reduced with the administrative approval of the Collier County Planning Services Director. All

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lakes greater than two (2) acres may be excavated to the maximum commercial excavation depths set forth in Subsection 3.5.7.3.1. and subject to permit approval of the South Florida Water Management District. Removal of fill and rock from the Artesa Pointe PUD shall be administratively permitted to an amount up to 10 percent per lake (20,000 cubic yards maximum), unless a commercial excavation permit is issued.

2.6 USE OF RIGHTS-OF-WAY

Utilization of lands within all project rights-of-way for landscaping, decorative entranceways, and signage shall be allowed subject to review and administrative approval by the Collier County Engineering Director for engineering and safety considerations during the development review process and prior to any installations.

2.7 CHANGES AND AMENDMENTS TO PUD DOCUMENT OR PUD MASTER PLAN

Changes and amendments may be made to this PUD Ordinance, PUD Master Plan as provided in Subsection 2.7.3.5 of the LDC. Minor changes and refinements as described herein may be made by the Developer in connection with any type of development or permit application required by the LDC.

2.8 COMMON AREA MAINTENANCE

Common area maintenance shall be provided by a property owners' association. The Developer shall create a property owners' association or associations, whose functions shall include provision for the perpetual maintenance of common facilities and open spaces. The property owners' association, shall be responsible for the operation, maintenance, and management of the surface water and stormwater management systems and reserves serving the Artesa Pointe, in accordance with the provisions of Collier County Ordinance 90-48 and Resolution 90-292, together with any applicable permits from the South Florida Water Management District.

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2.9 LANDSCAPE BUFFERS, BERMS, FENCES AND WALLS

Landscape buffers, berms, fences and walls are generally permitted as a principal use throughout the Artesa Pointe PUD. Landscape buffers shall be provided consistent with the minimum criteria for mixed-use activity centers, and as required by the Henderson Creek Mixed-use Subdistrict. The following standards shall apply:

A. Landscape berms shall have the following maximum side slopes:

1. Grassed berms 4:1
2. Ground covered berms
   Perimeter 3:1
   Internal to project 3:1
3. Structural walled berms - vertical

B. Fence or wall maximum height: Six feet (6'), as measured from the finished floor elevation of the nearest residential structure within the development. If the fence or wall is constructed on a landscaped berm, the wall shall not exceed six feet (6') in height from the top of berm elevation, except as noted in Section 2.9.G of this PUD Document. All fences shall be subject to the design standards of Section 2.6.11 of the LDC.

C. Landscape buffers, berms, fences and walls may be constructed along the perimeter of the Artesa Pointe PUD boundary with County Staff approval at the time of preliminary subdivision plat, site development plan, or site improvement plan approval.

D. Fences and walls which are an integral part of security and access control structures, such as gatehouses and control gates, shall be subject to the height limitations for principal residential structures.

E. Pedestrian sidewalks and/or bike paths may be allowed in landscape buffers. Where such structures or features are located in the required landscape buffer, the landscape buffer shall be increased in width equal to the encroachment in that location.

F. Landscape berms located within the Artesa Pointe PUD boundary and contiguous to a property line and/or right-of-way line may be constructed such that the toe of slope is set back a minimum 5 feet from the property line and/or right-of-way line. The berm and wall identified in Section 2.9.G of this PUD shall be designed in compliance with Exhibit "B" of the PUD.

G. Concurrent with development of each tract, a minimum 6 foot high precast concrete (or similar material) wall shall be constructed within the buffer along the southern property boundary adjacent the residential tract and an 8 foot high precast concrete

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wall (or similar material) shall be constructed within the buffer, adjacent the commercial tract(s). The walls must be constructed on a minimum 3 foot high berm). Within the Preserve Area, a chain link (or similar material) fence shall be constructed parallel to the southern property line.

2.10 FILL STORAGE

Fill storage is generally permitted as a principal use throughout the Artesa Pointe PUD. Fill material generated from other properties owned or leased by the Developer may be transported and stockpiled within areas which have been disturbed/farmed. Prior to stockpiling in these locations, the Developer shall receive approval by the County Community Development and Environmental Services Administrator. The following standards shall apply:

A. Stockpile maximum side slope 2:1, if protected by a six foot (6') high fence; otherwise, a 4:1 side slope shall be required.

B. Stockpile maximum height: Twenty feet (20)'. No stockpile shall remain for a period longer than one year.

C. Soil erosion control shall be provided in accordance with LDC, Division 3.7.

2.11 DESIGN GUIDELINES AND STANDARDS

The Collier County Planned Unit Development District is intended to encourage ingenuity, innovation and imagination in the planning, design and development or redevelopment of relatively large tracts of land under unified ownership or control, as set forth in the LDC, Section 2.2.20.1. Both commercial and residential development shall be designed in compatible architectural styles and the project shall contain similar landscaping, buffers, and signage.

2.12 PRELIMINARY SUBDIVISION PLAT PHASING

Submission, review, and approval of preliminary subdivision plats for the project may be accomplished in phases to correspond with the planned development of the property.

2.13 GENERAL PERMITTED USES

Certain uses shall be considered general permitted uses throughout the Artesa Pointe PUD except in the Preserve/Open Space Area. General permitted uses are those uses which generally serve the Developer and residents of the Artesa Pointe PUD and are typically part of the common infrastructure or are considered community facilities.

A. General Permitted Uses:

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1. Essential services as set forth under LDC, Subsection 2.6.9.1.

2. Water management facilities and related structures.

3. Lakes including lakes with bulkheads or other architectural or structural bank treatments.

4. Guardhouses, gatehouses, and access control structures.

5. Community and neighborhood parks, recreational facilities.

6. Temporary construction, sales, and administrative offices for the Developer and Developer's authorized contractors and consultants, including necessary access ways, parking areas and related uses.

7. Landscape features including, but not limited to, landscape buffers, berms, fences and walls subject to the standards set forth in Section 2.9 of this PUD.

8. Fill storage subject to the standards set forth in Section 2.10 of this PUD.

B. Development Standards:

Unless otherwise set forth in this Document, or as noted in Table 1, the following development standards shall apply to structures:

1. Setback from back of curb or edge of pavement of any road - Twelve feet (12') except for guardhouses, gatehouses, and access control structures which shall have no required setback.

2. Setback from PUD boundary: See Table 1, Development Standards and Subsection 4.5.A.4 of this PUD.

3. Minimum distance between unrelated structures - Ten feet (10').

4. Maximum height of structures - See Table 1, Development Standards and Section 4.5.C of this PUD.

5. Minimum floor area - None required.

6. Minimum lot or parcel area - None required.

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7. Standards for parking, landscaping, signs and other land uses where such standards are not specified herein are to be in accordance with the appropriate sections of the LDC in effect at the time of site development plan approval.

2.14 OPEN SPACE REQUIREMENTS

The Collier County LDC requires that mixed-use projects maintain open space at a minimum of 30% of the project area. The PUD Master Plan identifies preserves, lakes, recreation tracts and buffers as open spaces. These areas, in conjunction with open space areas included within the Residential District, will satisfy the 30% open space requirement of Section 2.6.32 of the LDC for mixed-use developments.

2.15 NATIVE VEGETATION RETENTION REQUIREMENTS

Pursuant to Policy 6.4.6 of the Conservation and Coastal Management Element of the Growth Management Plan, a minimum of 25% of the viable naturally functioning native vegetation on site shall be retained, which is 13.755 acres.

2.16 SIGNAGE

All signs will be in accordance with Division 2.5 of the LDC in effect at time of their permitting, unless otherwise specified herein within the Artesa Pointe PUD.

A. Exception from Subsection 2.5.5.1.6 On-Premises Signs within Residential District.

In addition to other permitted residential signs in Section 2.5 of the LDC, one pole or monument directory sign which identifies the name of the commercial component of the PUD and individual tenant(s) within the commercial component as well as the residential development may be located at the project entrance on U.S. 41 East. The sign shall not exceed a maximum of 150 square feet in sign copy area and shall not exceed 15 feet in height. The minimum setback from U.S. 41 shall be 15 feet.

2.17 SIDEWALKS/BIKEPATHS

A. Pursuant to LDC Subsection 3.2.8.3.17 and Section 2.9 of the Artesa Pointe PUD, sidewalks/bikepaths shall be permitted as follows:

1. An internal pedestrian walkway system is permitted within drainage easements.

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2. Sidewalks may be located outside platted rights-of-way, when located within a separate sidewalk easement.

3. Sidewalks may be located within landscape buffers and/or easements; however, the landscape buffer shall be increased in width by an amount equal to the encroachment, at the point of encroachment.

2.18 SUBSTITUTIONS TO SUBDIVISION DESIGN STANDARDS

A. The Developer reserves the right to request substitutions to subdivision improvement and utility design standards in accordance with Subsection 3.2.7.2 of the LDC.

B. The proposed primary entry road shall be designed and constructed in accordance with Section 3.2.8 of the LDC. Other roadways within Artesa Pointe shall be designed and constructed in accordance with Section 3.2.8 of the LDC with the following substitutions:

C. Streets and access improvements

1. LDC Subsection 3.2.8.4.16.5, Street Right-of-Way Width

   Street right-of-way width: The minimum right-of-way width to be utilized for local streets and cul-de-sacs shall be forty (40) feet. Two-way drive aisles serving multi-family tracts or commercial tracts shall be a minimum of twenty-four (24) feet. Minimum right-of-way width for the loop road shall be sixty (60) feet.

2. LDC Subsection 3.2.8.4.16.6, Dead-end Streets

   Cul-de-sacs may exceed a length of one thousand (1,000) feet.

3. LDC Subsection 3.2.8.4.16.8, Intersection Radii

   Intersection radii: Street intersections shall be provided with a minimum of a twenty (20) foot radius (face of curb) for all internal project streets and a thirty-five (35) foot radius for intersections at project entrances.

4. LDC Subsection 3.2.8.4.16.10, Reverse Curves

   Reverse Curves: Tangents shall not be required between reverse curves on any project streets.

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5. LDC Subsection 3.2.8.3.17, Sidewalks, bike lanes and bike paths

A sidewalk six (6) feet in width or an eight (8) foot wide multimodal pathway shall be provided on one side of the loop road connecting U.S. 41 and S.R. 951.

6. LDC Subsection 3.2.8.3.17, Sidewalks, bike lanes and bike, Yes

A sidewalk five (5) feet in width shall be provided on one side only of local streets.

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SECTION III

RESIDENTIAL
"R"

3.1 PURPOSE

The purpose of this Section is to identify permitted uses and development standards for areas within the Artesa Pointe PUD designated on the Master Plan as "R", Residential.

3.2 MAXIMUM DWELLING UNITS

A maximum of two hundred and eighty (280) residential dwellings may be constructed within the areas designated "R" on the Conceptual Master Plan. A minimum of two hundred (200) dwelling units shall qualify as affordable housing under Collier County guidelines for affordable housing, and subject to the approved companion Collier County Affordable Housing Density Bonus Agreement.

3.3 GENERAL DESCRIPTION

Areas designated as "R," Residential on the Master Plan are designed to accommodate a full range of residential dwelling types and general permitted uses as described by Section 2.13 of this PUD Document, a full range of recreational facilities, essential services, and customary accessory uses.

The approximate acreage of the area designated for residential development is indicated on the PUD Master Plan. This acreage is based on conceptual designs and is approximate. Actual acreages of all development tracts will be provided at the time of site development plan or preliminary subdivision plat approvals in accordance with Division 3.3, and Division 3.2, respectively, of the LDC. Residential tracts are designed to accommodate internal roadways, open spaces, and other similar uses found in residential areas.

3.4 PERMITTED USES AND STRUCTURES

All residential dwellings shall be offered as for-sale product. No building or structure, or part thereof, shall be erected, altered or used, or land used, in whole or part, for other than the following:

A. Principal Uses:

1. Single family attached, and townhomes (no building structure for single family attached or townhomes shall contain more than 4 dwelling units).

2. Single family and zero lot line dwellings.

3. Two-family and duplex dwellings.

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4. Multi-family dwellings including coach homes and garden apartments (no building structure shall contain more than 4 dwelling units).

5. Model homes and model home centers (subject to Section 2.6.33 of the LDC) Offices for project administration, construction, sales and marketing.

6. Recreational facilities such as parks, playgrounds, and pedestrian/bikeways

B. Accessory Uses and Structures:

1. Accessory uses and structures customarily associated with the principal uses permitted in this subdistrict, including swimming pools, spas and screen enclosures, recreational facilities designed to serve the development, and essential services.

2. Any other accessory use, which is comparable in nature with the foregoing list of uses, as determined by the Board of Zoning Appeals (BZA).

3.5 DEVELOPMENT STANDARDS

A. Table 1 sets forth the development standards for land uses within the Artesa Pointe PUD residential area.

B. Site development standards for single family, zero lot line, patio home, two-family, duplex, single family attached and town home uses apply to individual residential lot boundaries. Multi-family standards apply to parcel boundaries.

C. Standards for parking, landscaping, signs and other land uses where such standards are not specified herein, are to be in accordance with the LDC in effect at the time of site development plan approval. Unless otherwise indicated, required yard, height, and floor area standards apply to principal structures.

D. Development standards for uses not specifically set forth in Table I shall be in accordance with those standards of the zoning district which permits development that is most similar to the proposed use.

E. During the platting process, the Developer shall identify the specific housing type intended for each platted tract.

F. Single-family attached dwellings shall be permitted to have individual driveways on private roadways.

G. All residential development shall comply with the minimum landscape standards required in Section 2.4 of the LDC.

H. All dwelling units shall be required to have a minimum of a single-car garage.

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TABLE 1
DEVELOPMENT STANDARDS FOR "R" RESIDENTIAL AREA

DEVELOPMENT STANDARDS	SINGLE-FAMILY ATTACHED	ZERO LOT LINE PATIO\VILLA	MULTI-FAMILY\ BUILDINGS	CLUBHOUSE/ RECREATION BUILDINGS
PRINCIPAL STRUCTURES				
MINIMUM LOT AREA	2,250 S.F.	2,250 S.F.	1 ACRE	N/A
MINIMUM LOT WIDTH	25 FEET	40 FEET	150 FEET	N/A
MIN. FLOOR AREA	1,000 S.F.	1,000 S.F.	450 S.F.	N/A
FRONT YARD[10,11]	20 FEET	20 FEET	20 FEET	N/A
SIDE YARD	5 FEET[1, 7] 7.5 FEET[2, 7]	0 FEET or 5 FEET[3, 7]	15 FEET or ½ BH	N/A
REAR YARD	15 FEET	15 FEET	15 FEET	N/A
PRESERVE SETBACK[9]				
PRINCIPAL STRUCTURE	25 FEET	25 FEET	25 FEET	25 FEET
ACCESSORY STRUCTURE	10 FEET	10 FEET	10 FEET	10 FEET
MIN. DIST. BETWEEN STRUCTURES	10 FEET 15 FEET[2]	10 FEET	15 FEET[4]	N/A
MAX. BLDG. HT.	35 FEET[5,6]	35 FEET [5,6]	35 FEET[5]	N/A
ACCESSORY STRUCTURES				
FRONT	S.P.S.	S.P.S.	S.P.S.	20 FEET
SIDE	S.P.S.[7, 8]	S.P.S.[7, 8]	S.P.S.[7,8]	0, OR 5, OR 7.5 FEET[2,8]
REAR (ATTACHED)	5 FEET[8]	5 FEET[8]	10 FEET[8]	5 FEET[8]
(DETACHED)	5 FEET[8]	5 FEET[8]	20 FEET[8]	5 FEET[8]
PRESERVE SETBACK	10 FEET	10 FEET	10 FEET	10 FEET
MAX. BLDG. HT.	35 FEET [5,6]	35 FEET[5,6]	35 FEET[5,6]	35 FEET[5,6]

[1] Applicable to single story dwelling units.
[2] Applicable to two story dwelling units.
[3] Zero foot (0') minimum side yard setback on either or both sides, provided a minimum 10 foot separation between principal structures is maintained.
[4] 15 feet, or one half of the sum of the heights of adjacent buildings, measured from the exterior walls, whichever is greater.
[5] Building height shall be measured from the first finished floor elevation.
[6] Maximum height is 2 stories, not to exceed 35 feet, above the minimum finished floor elevation, except for attached screen enclosures, which may be the height of the principal structure.
[7] Where fee simple lots are created as single family attached housing units, no side yard shall be required between interior units of a unified principal structure, and the required side yard shall be measured from the exterior wall(s) of the principal structure.
[8] Where adjacent to a lake, 0 feet from the lake maintenance easement. No structures are permitted in the required, 20 foot lake maintenance easemen (See Appendix "A", Typical Cross Sections, and Exhibit A, PUD Master Plan).
[9] For purposes of this PUD, attached roofed screen enclosures or lanais shall be considered accessory structures.
[10] Building setback shall be measured from back of curb for private streets; however, a minimum of 23 feet from edge of sidewalk to the garage must be provided, or 23 feet from edge of pavement where no sidewalk is provided.
[11] For lots abutting the project's loop road and which have access from another private road, a minimum building setback of 15 feet from the loop road right-of-way shall be required. A landscape buffer or fence shall be required between the structure and the right-of-way.

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Note: The location of structures proposed adjacent to a lake may have no setback from the lake maintenance easement. No structures are permitted in the required, 20 foot lake maintenance easement, except as provided for in Section 2.5 of this PUD Document.

S.P.S.: Same as Principal Structures.
BH: Building Height.

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SECTION IV

COMMERCIAL
"C"

4.1 PURPOSE:

The purpose of this Section is to identify the permitted commercial land uses and related development standards for areas within the Artesa Pointe PUD designated "C", Commercial on the Conceptual Master Plan, Exhibit A.

4.2 MAXIMUM COMMERCIAL SQUARE FOOTAGE

A maximum of 325,000 square feet of gross leasable commercial space is permitted within the Artesa Pointe PUD. A maximum of four out-parcels are allowed, all of which shall abut Collier Boulevard. All out-parcels shall provide internal vehicular access. All out-parcels are limited to non-regional commercial uses. No out-parcel shall exceed five acres.

4.3 GENERAL DESCRIPTION

Areas designated as "C", Commercial on the Master Concept Plan, Exhibit "A", are designed to implement the provisions of the Henderson Creek Mixed Use Sub-district outlined in the FLUE of the Collier County Growth Management Plan. The focus of this Subdistrict is to provide regional commercial uses with limited neighborhood commercial uses.

For the purposes of this PUD, the term "regional commercial uses" is defined as:

Retail uses typically dominated by large anchors, including discount department stores, discount super stores, off-price stores, warehouse clubs, and home improvement centers. Regional retail uses typically utilize square footages ranging from 20,000 square feet to over 100,000 square feet.

4.4 PERMITTED USES

A. Principal Uses (non-regional):

1. Accounting, auditing and bookkeeping services (8721)
2. Apparel and accessory stores (5611-5699)
3. Building materials, hardware, and garden supply (5231-5261)

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4. Business services (7311, 7313, 7322-7338, 7361, 7371, 7372, 7374-7376, 7379, 7384)
5. Depository institutions (6011-6099)
6. Eating places (5812)
7. Engineering, architectural and surveying (8711-8713)
8. Food stores (5411, excluding grocery stores and supermarkets – 5499, with accessory gasoline pumps and car wash)
9. General merchandise stores (5311-5399), including discount retail, and discount superstore with grocery, auto tire and lubricating, and pharmacy component.
10. Health services (8011-8049)
11. Home furniture, furnishing and equipment stores (5712-5736)
12. Insurance carriers, agents and brokers (6311-6399, 6411)
13. Libraries (8231)
14. Legal services (8111)
15. Management and public relations services (8741-8743)
16. Miscellaneous retail (5912, 5921, 5941-5961, 5992, 5995, and 5999 – excluding auction room, tombstone sales, and swimming pool sales.)
17. Non-depository credit institutions (6141-6163)
18. Real estate (6512, 6520-6552)
19. Stationery and office supplies, retail (5112)
20. Motion pictures (7832, 7841)

B. Principal Uses (regional):

1. Apparel and accessory stores (5611-5699)
2. Building materials, hardware, and garden supply (5231-5261)
3. General merchandise stores (5311-5399), including discount retail, and discount superstore with grocery, auto tire and lubricating, and pharmacy component.
4. Home furniture, furnishing and equipment stores (5712-5736)
5. Libraries (8231)
6. Miscellaneous retail (5912, 5921, 5941-5961, 5992, 5995, and 5999 – excluding auction room, tombstone sales, and swimming pool sales.)
7. Stationery and office supplies, retail (5112)
8. Motion pictures (7832, 7841)
9. Discount warehouse clubs, which includes stores where shoppers pay a membership fee in order to take advantage of discounted prices on a wide variety of items such as food, clothing, tires and appliances.
10. Home improvement superstore/center, which includes warehouse-type retail facilities specializing in the sale of home improvement merchandise, including lumber, tools, paint, lighting, wall paper and paneling, kitchen and bathroom fixtures, lawn equipment, and garden plants and accessories. No

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outdoor storage of building materials or on-site assembly of building components is permitted.

C. Accessory Uses:

1. Uses and structures that are customarily incidental and subordinate to the above permitted uses.

2. Automatic car washes and fuel pumps in conjunction with a convenience food store.

4.5 DEVELOPMENT STANDARDS

A. Yard Requirements

1.	Front:	Twenty-five feet (25')
2.	Side:	Fifteen feet (15')
3.	Rear:	Fifteen feet (15')
4.	From PUD Boundary:	Twenty-five feet (25')
5.	From Internal Roadway:	Ten feet (10')
6.	Preserve:	
	Principal:	Twenty-five feet (25')
	Accessory:	Ten feet (10)

B. Minimum Lot Size

1.	Minimum lot width:	One hundred feet (100')
2.	Minimum area:	Twenty thousand (20,000) square feet

C. Building Height

Buildings shall be limited to one-story, not to exceed a maximum of thirty-five (35') feet in height except that architectural entry features may exceed thirty-five (35') feet in height, mezzanines shall not constitute a second story. Building height shall be applied in accordance with the LDC.

D. Floor Area Requirements

At least one of the regional commercial uses (as set forth in this Subsection) shall contain a minimum of 100,000 square feet of gross leasable area. Non-regional commercial uses shall not exceed a total 32,500 square feet of gross leasable area, and the remaining regional commercial use (beyond the one required at minimum of 100,000 square feet) must occupy a minimum of 20,000 square feet of gross leasable floor area, as required by the Subdistrict. Those integral components of

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regional retail uses and discount super stores such as gasoline sales and auto service, grocery sales, pharmacies, and the like shall not be considered non-regional retail uses for purposes of the overall non-regional retail square footage limitation. For purposes of this PUD, gross leasable area shall include only that portion of a building under a roof and enclosed by walls.

Attachment: Attachment A - Ordinance 2003-46 (21517 : PL20210001966 FL Mod Wash Comparable Use Determination)

SECTION V

PRESERVE/OPEN SPACE AREA "P/O"

5.1 PURPOSE

The purpose of this Section is to identify permitted uses and development standards for the area within the Artesa Pointe PUD designated on the Master Plan as "PO", Preserve/Open Space.

5.2 GENERAL DESCRIPTION

Areas designated as "PO", Preserve/Open Space on the Master Plan are designed to accommodate conservation, passive recreation and water management uses and functions. The acreage of the Preserve/Open Space area is indicated on the Master Plan.

5.3 PERMITTED USES AND STRUCTURES

No building or structure, or part thereof, shall be erected, altered or used, or land or water used, in whole or in part, for other than the following:

A. Permitted Principal Uses and Structures

1. Boardwalks, nature trails and shelters.

2. Water management structures.

3. Any other conservation and related open space activity or use, which is comparable in nature with the foregoing list of uses, as determined by the Board of Zoning Appeals (BZA).

5.4 DEVELOPMENT STANDARDS

A. Maximum height of structures: Twenty-five (25) feet.

5.5 LANDSCAPE BUFFERS

A. Where Section 2.4 of the LDC requires landscape buffers, and Preserve/Open Space areas are shown, landscape buffers may consist of preserve vegetation, where it is demonstrated that the landscape feature meets or exceeds requirements of Section 2.4 of the LDC.

Attachment: Attachment A - Ordinance 2003-46 (21517 : PL20210001966 FL Mod Wash Comparable Use Determination)

SECTION VI

GENERAL DEVELOPMENT COMMITMENTS

6.1 PURPOSE

The purpose of this Section is to set forth the development commitments for the Artesa Pointe PUD.

6.2 PUD MASTER DEVELOPMENT PLAN

A. All facilities shall be constructed in accordance with final site development plans, final subdivision plats and all applicable state and local laws, codes and regulations in effect at the time of approval of the development order to which such regulations apply except where specifically noted.

B. The PUD Master Plan (Exhibit A) is an illustration of the conceptual development plan. Tracts and boundaries shown on the Plan are conceptual and shall not be considered final. Actual tract boundaries shall be determined at the time of preliminary subdivision plat or site development plan approval.

C. All necessary easements, dedications, or other instruments shall be granted to insure the continued operation and maintenance of all utilities.

6.3 ENGINEERING

A. Except as noted herein, all project development will occur consistent with Division 3.2 and 3.3 respectively, of the LDC.

6.4 UTILITIES

A. Water distribution, sewage collection and transmission systems shall be constructed throughout the project by the Developer. Potable water and sanitary sewer facilities constructed within platted rights-of-way or within dedicated County utility easements shall be conveyed to Collier County, pursuant to Collier County Ordinance 01-57, as may be amended, except as may be provided in Section 2.4 of this Document.

B. Upon completion of the utility facilities, they shall be tested to insure they meet Collier County utility construction requirements in effect at the time construction plans are approved.

Attachment: Attachment A - Ordinance 2003-46 (21517 : PL20210001966 FL Mod Wash Comparable Use Determination)

C. All customers connecting to the potable water and sanitary sewer system shall be customers of the County.

6.5 WATER MANAGEMENT

A. A SFWMD surface water management permit shall be obtained prior to commencement of site work.

B. An excavation permit will be required for the proposed lakes in accordance with Division 3.5 of the LDC. All lake dimensions will be approved at the time of excavation permit approval.

C. The Artesa Pointe PUD conceptual surface water management system is described in the Surface Water Management and Utilities Report, which has been included in the PUD rezone application materials.

D. All development within the PUD may share common surface water management facilities.

6.6 ENVIRONMENTAL

A. Buffers shall be provided around wetlands, extending at least 15 feet landward from the edge of wetland preserves and averaging 25 feet from the landward edge of wetland preserves. Where natural buffers are not possible, structural buffers shall be provided in accordance with State of Florida Environmental Resource Permit Rules and be subject to review and approval by Current Planning Section Staff.

B. An exotic vegetation removal, monitoring and maintenance plan for the site, with emphasis on the preserve/open space areas, shall be submitted to Environmental Services Department for review and approval prior to final site plan/construction plan approval.

C. All conservation areas shall be designated as conservation/preservation tracts or easements on all construction plans and shall be recorded on the plat with protective covenants per or similar to Section 704.06 of the Florida Statutes. Conservation easements shall be dedicated on the plat to the project homeowners' association, or like entity, for ownership and maintenance responsibility and to Collier County with no responsibility for maintenance.

Attachment: Attachment A - Ordinance 2003-46 (21517 : PL20210001966 FL Mod Wash Comparable Use Determination)

6-3

6.7 TRANSPORTATION

The development of this PUD will be subject to and governed by the following conditions:

A. All traffic control devices used must be in accordance with the Manual of Uniform Traffic Control Devices as adopted by the Florida Department of Transportation (FDOT), ~~as amended~~, and as required by Florida Statutes – Chapter 316, Uniform Traffic Control Law.

B. All traffic speed limit postings must be in accordance with the Speed Zoning Manual), as amended, and as adopted by the FDOT, and as required by Florida Statutes – Chapter 316, Uniform Traffic Control Law.

C. Arterial level street lighting shall be provided at all development points of ingress and egress. Said lighting shall be in place prior to the issuance of the first permanent certificate of occupancy.

D. External and internal improvements determined by Collier County Staff to be essential to the safe ingress and egress to the development shall not be considered for impact fee credits. All such improvements shall be in place prior to the issuance of the first certificate of occupancy.

E. Road Impact Fees shall be paid in accordance with Collier County Ordinance 01-13, as amended.

F. Any and all points of ingress and/or egress as shown on any and all plan submittal(s) are conceptual in nature and subject to change, as determined by Collier County Staff. The County reserves the right to modify or close any ingress and/or egress location(s) determined to have an adverse affect on the health, safety and welfare of the public. These include, but are not limited to, safety concerns, operational circulation issues, roadway capacity problems.

G. Any and all median opening locations must be in accordance with the Collier County Access Management Policy, as amended, and LDC, as amended. Median access and control will remain under the County's authority. The County reserves the right to modify or close any median opening(s) determined to have an adverse effect on the health, safety and welfare of the public. These include, but are not limited to, safety concerns, operational circulation issues, roadway capacity problems.

Attachment: Attachment A - Ordinance 2003-46 (21517 : PL20210001966 FL Mod Wash Comparable Use Determination)

H. Nothing in any development order will vest the right of access over and above a right in/right out condition. Neither will the existence, or lack of, a future median opening be the basis for any future cause of action for damages against the County by the Developer(s), its successor(s) in title, or assignee(s).

I. The development shall be designed to promote the safe travel of all users including pedestrians and bicyclists. Pedestrian and bicycle travel ways shall be separated from vehicular traffic in accordance with recognized standards and safe practices, as determined by Collier County Staff.

J. The Developer(s) shall be responsible for the cost of any and all traffic signal(s), at any and all development entrances(s), when determined warranted and approved by FDOT. When warranted, upon the completion of the installation, inspection, burn-in period, and final approval/acceptance of any and all traffic signal(s), said traffic signal(s) shall be turned over (for ownership) to Collier County, and will then be operated and maintained by Collier County Transportation Operations Department. Any negotiations relevant to "fair share" payment(s), or reimbursement(s), from any and all other neighboring developer(s)/property owner(s), that directly benefit from said traffic signal(s), will be determined based upon percentage of usage/impact.

K. The Developer(s) shall provide any and all site related transportation improvement(s) including, but not limited to, any and all necessary turn lane(s) improvement(s) at the development entrance(s) prior to the issuance of the first permanent certificate of occupancy. Said improvements are considered site related, and therefore, do not qualify for impact fee credits. When said turn lane improvement(s), whether left turn lane(s) and/or right turn lane(s), are determined to be necessary, right-of-way and/or compensating right-of-way, shall be provided in conjunction with said improvement(s), as determined by Collier County Staff.

L. All internal access(es), drive isle(s), sidewalk(s), not located within County right-of-way shall be privately maintained by an entity created by the Developer(s), its successor(s) in title, or assignee(s).

M. Joint/shared access(es) may be required by Collier County Staff, as a condition of site development plan approval.

N. Frontage, midpoint and/or backside interconnection(s) may be required by Collier County Staff, as a condition of site development plan approval.

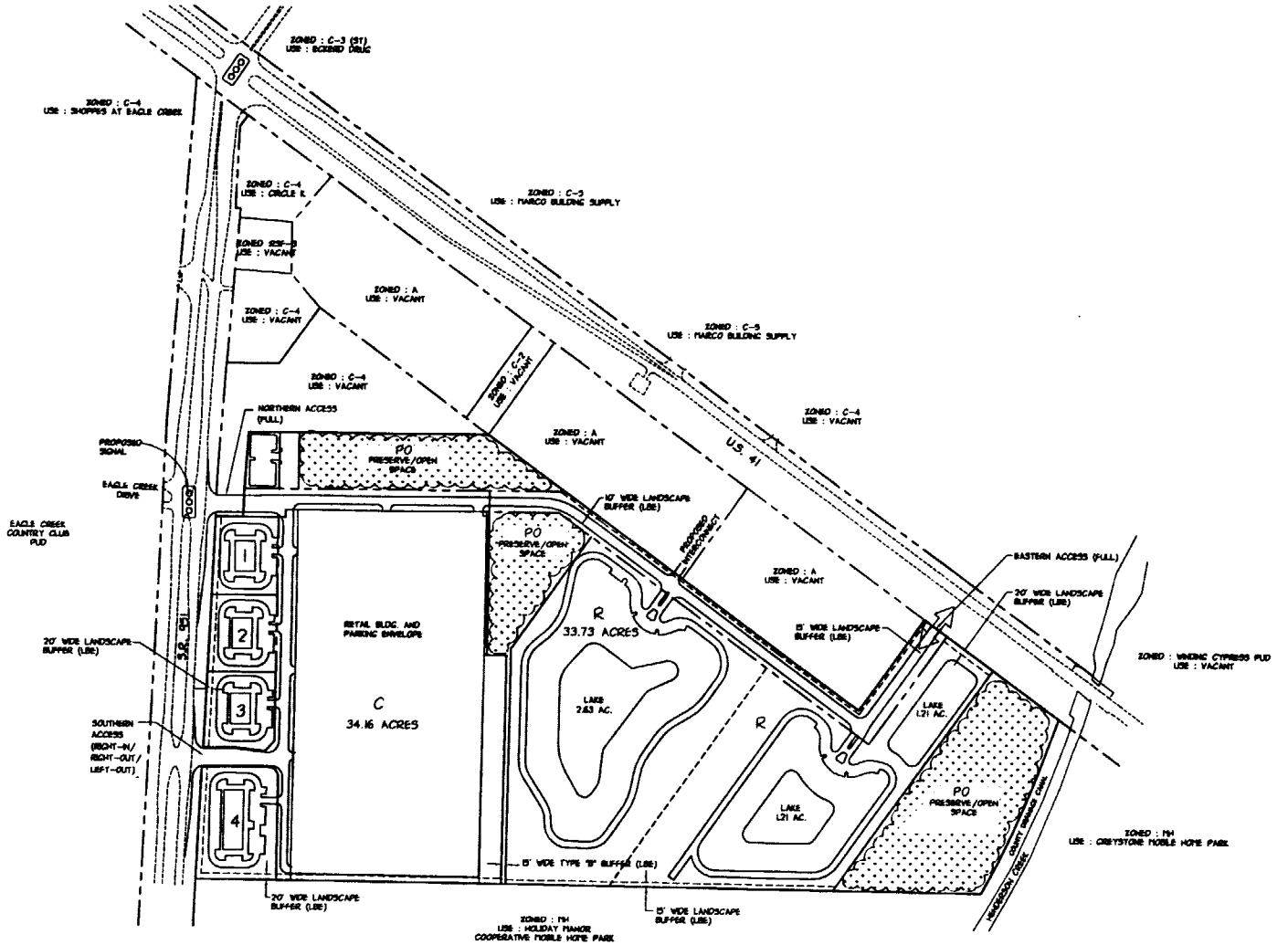
O. Arterial level street lighting shall be provided by the Developer at all project entrances prior to issuance of a certificate of occupancy.

Attachment: Attachment A - Ordinance 2003-46 (21517 : PL20210001966 FL Mod Wash Comparable Use Determination)

P. The primary access, loop road connecting U.S. 41 with S.R. 951, shall not be gated, and shall be open to the public. Provisions for future interconnections to properties north of the access road shall be made at the time of plat or site development plan approval.

Attachment: Attachment A - Ordinance 2003-46 (21517 : PL20210001966 FL Mod Wash Comparable Use Determination)

ARTESA POINTE PUD



SCALE: 1" = 200'

SITE SUMMARY

(R) RESIDENTIAL	33.73± ACRES
(C) COMMERCIAL	34.16± ACRES
PRIMARY RETAIL	21.29± ACRES
OUTLOT 1	1.49± ACRES
OUTLOT 2	1.52± ACRES
OUTLOT 3	1.57± ACRES
OUTLOT 4	2.59± ACRES
(PO) PRESERVE/OPEN SPACE	13.755 ACRES

NOTES

1) MASTER PLAN AND SITE SUMMARY ARE CONCETUAL IN NATURE AND RESIDENTIAL TRACTS AND LAKES ARE SUBJECT TO REFINEMENT DURING JURISDITIONAL AGENCY REVIEW AND APPROVAL, AND SITE DEVELOPMENT PLAN REVIEWS AND APPROVAL.
2) RESIDENTIAL TRACTS ALSO PERMITTING ASSISTED LIVING FACILITY, SUBJECT TO PROVISIONS IN SECTION 3.5 OF THE PUD.
3) LAKE AREAS ARE APPROXIMATE AND LOCATIONS ARE CONCEPTUAL. THEIR FINAL SIZE AND CONFIGURATION WILL BE DETERMINED AT THE TIME OF PLATTING OR SITE DEVELOPMENT PLAN APPROVAL.

LEGEND

OWNER/DEVELOPER

GATEWAY SHOPPES II, LLC
SCHRAGE DEVELOPMENT COMPANY
8900 KEYSTONE CROSSING,
SUITE 1200
INDIANAPOLIS, INDIANA 46240
(317) 819-1560 (PHONE)
(317) 819-1561 (FAX)

Revision	Date	Description	By
1	8/19/03	PER ENVIRONMENTAL COMMENTS	SJU

DESIGNED BY: CDS
DRAWN BY: SJU
APPROVED: DWA
JOB CODE: HCPUD
SCALE: 1" = 200'

Q. GRADY MINOR AND ASSOCIATES, P.A.
CIVIL ENGINEERS • LAND SURVEYORS • PLANNERS
3800 VIA DEL REY
BONITA SPRINGS, FLORIDA 34134
PHONE : (239) 947-1144 FAX : (239) 947-0370

ARTESA POINTE PUD

EXHIBIT "A"
CONCEPTUAL MASTER PLAN

DATE: | FILE NAME: | NUMBER 1

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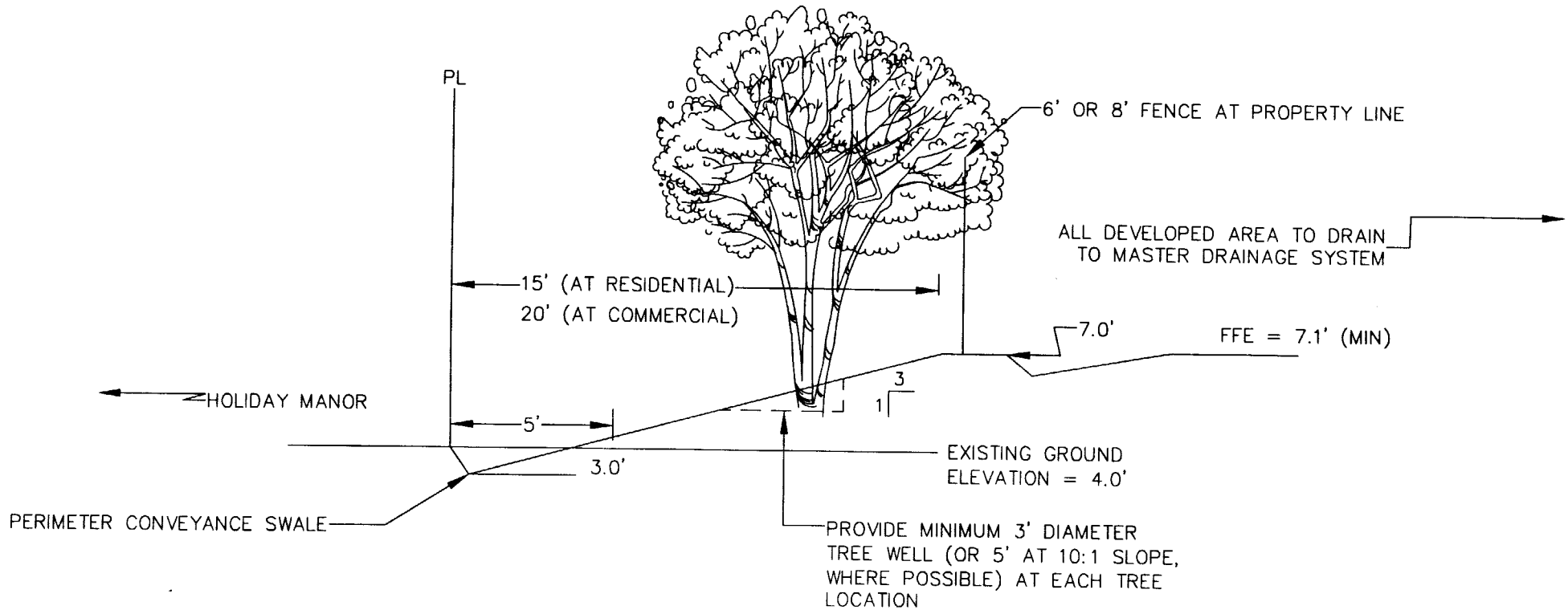
Attachment: Attachment A - Ordinance 2003-46 (21517 : PL20210001966 FL Mod Wash Comparable Use Determination)



LEGEND

OWNER/DEVELOPER

GATEWAY SHOPPES II, LLC
SCHRAGE DEVELOPMENT COMPANY
8900 KEYSTONE CROSSING,
SUITE 1200
INDIANAPOLIS, INDIANA 46240
(317) 819-1560 (PHONE)
(317) 819-1581 (FAX)

Revision	Date	Description	By

DESIGNED BY:	C.D.S.
DRAWN BY:	S.J.U.
APPROVED:	C.D.S.
JOB CODE:	HCPUDA
SCALE:	NONE

Q. GRADY MINOR AND ASSOCIATES, P.A.
CIVIL ENGINEERS • LAND SURVEYORS • PLANNERS
3800 VIA DEL REY
BONITA SPRINGS, FLORIDA 34134
PHONE : (239) 947-1144 FAX : (239) 947-0375

HENDERSON CREEK PUD

BERM/WALL CROSS-SECTION
EXHIBIT "B"

DATE:

3.B.b

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B.dwg, EXH B, 08/20/2003 01:46:38 PM

STATE OF FLORIDA)

COUNTY OF COLLIER)

I, DWIGHT E. BROCK, Clerk of Courts in and for the Twentieth Judicial Circuit, Collier County, Florida, do hereby certify that the foregoing is a true and correct copy of:

ORDINANCE 2003-46

Which was adopted by the Board of County Commissioners on the 23rd day of September, 2003, during Regular Session.

WITNESS my hand and the official seal of the Board of County Commissioners of Collier County, Florida, this 26th day of September, 2003.

DWIGHT E. BROCK
Clerk of Courts and Clerk
Ex-officio to Board of
County Commissioners

Patricia L Morgan, DC

By: Patricia L. Morgan
Deputy Clerk

Attachment: Attachment A - Ordinance 2003-46 (21517 : PL20210001966 FL Mod Wash Comparable Use Determination)

COLLIER COUNTY
GROWTH MANAGEMENT PLAN

FUTURE LAND USE ELEMENT

Prepared by
Collier County Planning and Zoning Department
Comprehensive Planning Section

Prepared for
COLLIER COUNTY BOARD OF COUNTY COMMISSIONERS
Adopted October, 1997

Attachment: Attachment B - FLUE Excerpt - Henderson Creek Mixed Use Subdistrict (21517 : PL20210001966 FL Mod Wash Comparable Use

(VI)(XV)(XXXVII)(XXXVIII)(LII)

9. Henderson Creek Mixed Use Subdistrict

The Henderson Creek Mixed Use Subdistrict consists of approximately 81 acres and is located east of Collier Boulevard (SR 951) and south of US 41 (Tamiami Trail, East). The intent of the Subdistrict is primarily to provide for a mixture of regional commercial uses and residential development; the regional commercial uses are intended to serve the South Naples and Royal Fakapalm Planning Communities, and the Marco Island area. Conversely, the primary intent of the Subdistrict is not to provide for community and neighborhood commercial uses. The focus of the residential component of the Subdistrict shall be the provision of affordable housing to support the commercial uses within the Subdistrict, as well as in the South Naples and Royal Fakapalm Planning Communities, and the Marco Island area. The entire Subdistrict shall be developed under a unified plan; this unified plan must be in the form of a Planned Unit Development.

For purposes of this Subdistrict, the term "regional commercial" is defined as: Retail uses typically dominated by large anchors, including discount department stores, off-price stores, warehouse clubs, and the like, some of which offer a large selection in a particular merchandise category. Regional retail uses also typically utilize square footages ranging from 20,000 to over 100,000 square feet. Regional commercial uses generally have a primary trade area of 5 to 10 radial miles, with a typical store separation of 5 radial miles for any individual regional commercial business.

Specific requirements and limitations for the Henderson Creek Mixed-Use Subdistrict as follows:

a. Access to the Subdistrict shall be provided from Collier Boulevard (SR 951) and US 41. A loop road that is open to the public shall connect these access points.

b. Vehicular and pedestrian interconnections shall be provided between the residential and commercial portions of the Subdistrict.

c. The unified plan of development within the Subdistrict shall include provisions for vehicular and pedestrian interconnection to properties to the north.

d. Commercial components of this Subdistrict shall front on Collier Boulevard.

e. Commercial uses are limited to a maximum of 40 acres and 325,000 square feet of gross leasable floor area.

f. The maximum intensity of commercial uses are those allowed in the C-4, General Commercial, Zoning District.

g. At least one regional commercial use is required to occupy a minimum of 100,000 square feet of gross leasable floor area. Each remaining regional commercial use must occupy a minimum of 20,000 square feet of gross leasable floor area.

h. Non-regional commercial uses prohibited in this Subdistrict include grocery stores, fitness centers, auto repair, auto sales, and personal service uses.

i. Non-regional commercial uses are limited to a maximum of 10% of the total allowed commercial square footage (32,500 square feet).

j. A maximum of four out-parcels are allowed, all of which must abut Collier Boulevard. All out-parcels shall provide internal vehicular access. All out-parcels are limited to nonregional commercial uses. No out-parcel shall exceed five acres.

k. Commercial development shall be restricted to one-story buildings with a maximum height of 35 feet.

(LII) = Plan Amendment by Ordinance No. 2018-59 on December 11, 2018

Attachment: Attachment B - FLUE Excerpt - Henderson Creek Mixed Use Subdistrict (21517 : PL20210001966 FL Mod Wash Comparable Use

l. Residential development shall be limited to a maximum of 360 dwelling units, subject to the Density Rating System. However, aminimum of 200 affordable housing units shall be provided.

m. Residential dwellings shall be limited to a maximum height of two habitable stories.

n. Both commercial and residential development shall be designed in a common architectural theme.

o. Prior to commencement of any development in the Subdistrict, a unified plan of development for the entire Subdistrict must be approved by the Board of Collier County Commissioners.

p. The type of landscape buffers within this Subdistrict shall be no less than that required in mixed-use activity centers.

Attachment: Attachment B - FLUE Excerpt - Henderson Creek Mixed Use Subdistrict (21517 : PL20210001966 FL Mod Wash Comparable Use

Retn:
CHRIS DEMETER
601 21ST ST #300
VERO BEACH FL 32960

4118285 OR: 4321 PG: 2746
RECORDED in the OFFICIAL RECORDS of COLLIER COUNTY, FL
01/17/2008 at 10:35AM DWIGHT E. BROCK, CLERK

REC FEE 129.00
COPIES 30.00
MISC 3.00

3.B.d

DECLARATION OF EASEMENTS WITH COVENANTS AND RESTRICTIONS AFFECTING LAND

THIS DECLARATION OF EASEMENTS WITH COVENANTS AND RESTRICTIONS AFFECTING LAND ("Declaration") is made as of the 9th day of January, 2008, by **WAL-MART STORES EAST, L.P.**, a Delaware limited liability company ("Wal-Mart"), of 2001 Southeast 10th Street, Bentonville, Arkansas 72716.

WITNESSETH:

WHEREAS, Wal-Mart is the owner of that certain parcel of land located in Collier County, Florida ("County") more particularly described on **Exhibit A** attached hereto and made a part hereof ("Land"); and

WHEREAS, the Land consists of Lots 1 through 4, inclusive ("Lots"), and Tract P-3 ("Tract"), all as shown on the proposed plat entitled "Wal-Mart at Artesia Pointe PUD", a copy of which is attached hereto and made a part hereof as **Exhibit B** ("Plat"); and

WHEREAS, Wal-Mart intends to develop Lot 1 with commercial improvements, and may later develop one or more of Lots 2 through 4, inclusive or sell any or all of Lots 2 through 4, inclusive, to others to develop same as outparcels (Lots 2 through 4, inclusive are hereinafter collectively referred to as the "Outparcels" and individually as an "Outparcel"); and

WHEREAS, Wal-Mart desires that the Land be developed pursuant to a general plan of improvement to form a commercial Shopping Center (sometimes hereinafter referred to as the "Shopping Center"), and further desires that the Land (excluding any parcels dedicated to the County pursuant to the recordation of the Plat) be subject to the easements and the covenants, conditions and restrictions hereinafter set forth;

NOW, THEREFORE, Wal-Mart does hereby bargain, create, place and declare upon the Land the following easements, covenants, conditions, restrictions and encumbrances as follows:

1. Building/Common Areas.

a. "Building Areas" as used herein shall mean those portions of the Lots developed by Wal-Mart or any subsequent purchaser of any of Lots 2 through 4, inclusive upon which buildings may be placed in accordance with Paragraph 4 hereof and the requirements of all applicable governmental authorities. Canopies may encroach from the Building Areas over the Common Areas provided the canopies do not interfere with the use of the Common Areas.

b. "Common Areas" shall be all of the Land less portions dedicated to the County pursuant to the Plat and less the Building Areas.

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Attachment: Attachment C - Declaration of Easements with Covenants and Restrictions Affecting Lan (21517 : PL20210001966 FL Mod Wash

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c. Conversion to Common Areas: Those portions of the Building Areas on the Land which are not from time to time used or cannot, under the terms of this Declaration (including Paragraph 6.a.(3)), be used for buildings, shall become part of the Common Area for the uses permitted hereunder and shall be improved, kept and maintained as provided herein.

2. Use. Buildings in the Shopping Center shall be used for commercial purposes of the type normally found in a retail shopping center including, without limitation, financial institutions, service shops, offices, and retail stores. No cafeteria, restaurant, theatre, bowling alley, billiard parlor, night club or other place of recreation or amusement, or any business serving alcoholic beverages shall occupy space within the Shopping Center without the prior written consent of Wal-Mart. All successors in title to any of the Outparcels recognize that said businesses may inconvenience Wal-Mart customers and adversely affect Wal-Mart business. Notwithstanding anything to the contrary contained herein it is expressly agreed that nothing contained in this Declaration shall be construed to contain a covenant, either express or implied, to either commence the operation of a business or thereafter continuously operate a business by Wal-Mart on Tract 1. Wal-Mart may, at Wal-Mart sole discretion and at any time during the term of this Declaration, cease the operation of its business on Tract 1; and all successors in title to any of the Outparcels hereby waive any legal action for damages or for equitable relief which might be available because of such cessation of business activity by Wal-Mart.

3. Competing Business. As long as Wal-Mart, or any affiliate of Wal-Mart, is the user of Tract 1, either as owner or lessee, no space in or portion of any of the Outparcels shall be leased or occupied by or conveyed to any other party for use as a grocery store, supermarket, pharmacy, membership warehouse club, discount department store or other discount store. In the event of a breach of this covenant, Wal-Mart shall have the right, in its sole discretion, to terminate any or all of the easements granted to the Owner of said Outparcel (but not the obligations imposed upon the Owner of said Outparcel) in this Declaration and to seek any and all remedies afforded by either law or equity.

4. Buildings.

a. Design and Construction. The Building Areas shall be designed so that the exterior elevation of each shall be architecturally and aesthetically compatible and so that building wall footings shall not encroach from one Outparcel onto another Outparcel except as provided for in Subsection d. below. The design and construction shall be of high quality. No building shall exceed thirty-five (35) feet in height above finished grade. No building shall have a metal exterior.

b. Location. No building shall be constructed on the Lots (as either immediate development or future expansion) except within the Building Areas and no subsequent improvements or alterations which substantially vary from those originally constructed may be made without the prior written consent of Wal-Mart.

Attachment: Attachment C - Declaration of Easements with Covenants and Restrictions Affecting Lan (21517 : PL20210001966 FL Mod Wash

c. Fire Protection. Any building constructed in the Shopping Center shall be constructed and operated in such a manner which will preserve the sprinklered rate on the other buildings in the Shopping Center.

d. Easements. In the event building wall footings encroach from one tract onto another, despite efforts to avoid that occurrence, the party onto whose tract the footings encroach shall cooperate in granting an encroachment permit or easement to the party whose building wall footings encroach.

e. Outparcel(s) Development. The Outparcel(s) shall be developed only under the following guidelines:

(1) The building constructed on the Outparcel(s) shall not exceed twenty-two (22) feet in height, as measured from the mean finished elevation of the parking area of the Shopping Center;

(2) Any buildings to be constructed on the Outparcel(s) shall not exceed five thousand (5,000) square feet in size.

(3) Any rooftop equipment shall be screened in a manner satisfactory to Wal-Mart;

(4) No rooftop sign shall be erected on the building constructed;

(5) No freestanding identification sign may be erected on the Outparcel(s) without approval of Wal-Mart, and in no event shall such freestanding identification sign exceed the height of the Shopping Center pylon sign or block the visibility of the Wal-Mart Store on Tract 1. Notwithstanding the foregoing, there may be erected entrance-exit signs to facilitate the free flow of traffic, which entrance-exit signs shall be of a monument type, not to exceed three (3) feet three (3) inches in height, the type and location of such signs to be approved by Wal-Mart and all applicable governmental authorities.

(6) No improvements shall be constructed, erected, expanded or altered on the Outparcel(s) until the plans for same (including site layout, exterior building materials and colors and parking) have been approved in writing by Wal-Mart. No building or structure of any kind shall be erected on the Outparcel(s) except upon Building Areas; provided, there may be constructed and maintained a canopy or canopies projecting from said Building Area; normal foundations and doors for ingress and egress may project from such building area; and signs may be erected upon said canopy or canopies, so long as said signs do not obstruct the signs of any other owner or tenant of the Shopping Center.

(7) In developing and using the Outparcel(s), the owner of the Outparcel(s) shall continuously provide and maintain a parking ratio on such Outparcel(s) equal to one of the following: (i) fifteen (15) spaces for every one thousand (1,000) square feet of building space for any restaurant or entertainment use in excess of five thousand (5,000) square

Attachment: Attachment C - Declaration of Easements with Covenants and Restrictions Affecting Lan (21517 : PL20210001966 FL Mod Wash

feet, (the same ratio shall be provided for a McDonald's Restaurant, notwithstanding a building footprint of less than five thousand (5,000) square feet); or (ii) ten (10) spaces for every one thousand (1,000) square feet of building space for any restaurant or entertainment use less than five thousand (5,000) square feet (subject to the exception above); or (iii) six (6) spaces per one thousand (1,000) square feet of building space for any other use. In addition, the owner shall cause landscaping areas to be added and maintained in conjunction with any building or other improvement constructed on the Outparcel(s).

(8) The Outparcel(s) shall be kept neat, orderly, planted in grass and trimmed until improved and constructed.

(9) Subject to the prior written consent of Wal-Mart, any building, structure or improvement on the Outparcel(s) shall be used for retail or commercial purposes only, however, no building, structure or improvement on the Outparcel(s) may be used as a theater, night club, bowling alley, health spa, cafeteria, billiard parlor or other place of recreation or amusement, or as a business serving or selling alcoholic beverages or as a discount department store or a variety, general or "dollar" store.

(10) The owner(s) of the Outparcel(s) shall maintain comprehensive public liability insurance, property damage and all-risk hazard insurance on the Outparcel(s) their buildings, appurtenances and other improvements located thereon. Such insurance shall (i) be carried with reputable companies licensed to do business in the state in which the Outparcel(s) are located; (ii) have liability limits of at least TWO MILLION DOLLARS ($2,000,000) for each occurrence, bodily injury and property damage combined; (iii) provide for full replacement value for the buildings and improvements covered thereunder and (iv) not be subject to change, cancellation or termination without at least thirty (30) days prior written notice to Wal-Mart. This provision shall not be applicable to Wal-Mart, but should be applicable to any successor of Wal-Mart (unless the successor is an affiliate of Wal-Mart).

(11) All facilities to be constructed upon or servicing any of the Outparcels for stormwater drainage shall be designed and constructed in accordance with South Florida Water Management District Standard General Permit No. 11-02296-P issued on August 11, 2004.

5. Common Areas.

a. Declaration of Easements. Wal-Mart hereby declares and grants, for itself and for the benefit of all successor owners of the Land, and for the benefit of the agents, customers, invitees, licensees, tenants and employees of Wal-Mart and all such owners (collectively "Grantee"), subject to any other limitations provided herein, a nonexclusive reciprocal easement over, through and around the Common Areas, for roadways, walkways, vehicular and pedestrian ingress and egress, parking of motor vehicles, loading and unloading of commercial and other vehicles, and the use of facilities installed for the comfort and convenience

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Attachment: Attachment C - Declaration of Easements with Covenants and Restrictions Affecting Lan (21517 : PL20210001966 FL Mod Wash

of customers, invitees, licensees, tenants and employees of all businesses and occupants of the buildings constructed on the Building Areas.

b. Limitations on Use.

(1) Customers. Each owner of any portion of the Land shall use reasonable efforts to ensure that customers and invitees shall not be permitted to park on the Common Areas except while shopping or transacting business on the Land.

(2) Employees. Each owner of any portion of the Land shall use reasonable efforts to ensure that employees shall not park on the Common Areas, except in areas designated by the parties as "employee parking areas," if any.

(3) General. Any activity within the Common Areas other than its primary purpose of the Common Areas, which is to provide for parking for the customers, invitees and employees of those businesses conducted with the Building Areas and for the servicing and supplying of such businesses, shall be permitted so long as such activity shall not unreasonably interfere with such primary purpose. Persons using the Common Areas in accordance with this Declaration shall not be charged any fee for such use.

c. Drainage Easement. Wal-Mart hereby declares and grants, for itself and for the benefit of all successor owners of the Land, a nonexclusive easement for the installation, maintenance and replacement of stormwater drainage facilities for the Land as necessary and appropriate for the orderly development and operation of the Shopping Center to be located upon the Land. Best efforts shall be made to cause the installation of such facilities prior to the paving of the Common Areas. No such facilities shall be installed in the Building Areas. It shall be the obligation of each owner of any portion of the Land to maintain, at its sole cost and expense, that portion of the stormwater drainage facilities located within the portion(s) of the Land owned by it.

6. Development, Maintenance, and Taxes.

a. Development.

(1) Arrangement. The arrangement of the Common Areas shall not be changed in a manner inconsistent with the provisions of this Declaration.

(2) "Parking Area" Ratio. There shall be independently maintained at all times on each Lot shown on **Exhibit B** parking area sufficient to accommodate not fewer than five (5) car spaces for each one thousand (1,000) square feet of Building Area on such Lot.

(3) Development Timing. Concurrent with any building being constructed within the Building Areas of any Lot shown on **Exhibit B** by the owner of said Lot (the "Developing Party"), the Common Areas of that Lot shall be developed at the expense of such Developing Party. In the event such construction by the Developing Party shall occur prior

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to the development of any other adjacent and contiguous Lot, the Developing Party shall have the right to grade, pave and use any portion of the Common Areas of the non-developing party's Lot for access and for construction of, but not limited to, drainage structures and utility lines as is necessary to provide essential services to the Developing Party's tract. The Developing Party shall present an itemized statement of expenses incurred in the construction of said improvements to and upon the non-developing party's Lot, and the non-developing party agrees to reimburse the Developing Party for such costs within thirty (30) days of receipt thereof.

b. Maintenance.

(1) Standards. Following completion of improvements on the Common Areas, the owners of the Lots shown on **Exhibit B** shall maintain the Common Areas in good condition and repair. The maintenance is to include, without limitation, the following:

a) Maintaining the surfaces in a level, smooth and evenly-covered condition with the type of surfacing material originally installed or such substitute as shall in all respects be equal in quality, use, and durability;

b) Removing all papers, ice and snow, mud and sand, debris, filth and refuse and thoroughly sweeping the area to the extent reasonably necessary to keep the area in a clean and orderly condition;

c) Placing, keeping in repair and replacing any necessary appropriate directional signs, markers and lines;

d) Operating, keeping in repair and replacing, where necessary, such artificial lighting facilities as shall be reasonably required;

e) Maintaining all perimeter and exterior building walls including but not limited to all retaining walls in a good condition and state of repair; and

f) Maintaining, mowing, weeding, trimming and watering all landscaped areas and making such replacements of shrubs and other landscaping as is necessary.

(2) Expenses. The respective owners shall pay the maintenance expense of their Lots.

(3) By Agent. Subject to the mutual agreement of the owners of the Lots shown on **Exhibit B**, a third party may be appointed as an agent to maintain the Common Areas in the manner as above outlined. Said third party may receive for such agency a fee that is mutually acceptable to all parties to cover supervision, management, accounting and similar fees, which sums are to be included in the general maintenance expense paid by the respective owners of the Common Areas.

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c. Taxes. Each of the owners of the Lots described on **Exhibit B** agrees to pay or cause to be paid, prior to delinquency, directly to the appropriate taxing authorities all real property taxes and assessments which are levied against that part of the Common Areas owned by it.

7. Signs. No sign shall be located on the Common Areas except signs advertising businesses conducted thereon.

8. Indemnification/Insurance.

a. Indemnification. Each owner of any portion of the Land hereby indemnifies and saves the other owner(s) harmless from any and all liability, damage, expense, causes of action, suits, claims, or judgments arising from personal injury, death, or property damage and occurring on or from its own tract, except if caused by the act or negligence of the other owner(s).

b. Insurance.

(1) Wal-Mart and all other owners of any portion of the Land, and their successors, shall procure and maintain in full force and effect throughout the term of this Declaration general public liability insurance and property damage insurance against claims for personal injury, death or property damage occurring upon, in or about its property, each owner's insurance to afford protection to the limit of not less than TWO MILLION DOLLARS ($2,000,000) for injury or death of a single person, and to the limit of not less than TWO MILLION DOLLARS ($2,000,000) for any one occurrence, and to the limit of not less than TWO MILLION DOLLARS ($2,000,000) for property damage. Each owner shall provide the other owner(s) with certificates of such insurance from time to time upon written request to evidence that such insurance is in force. Such insurance may be written by additional premises endorsement on any master policy of insurance carried by an owner which may cover other property in addition to the property covered by this Declaration. Such insurance shall provide that the same may not be canceled without ten (10) days prior written notice to the other owners.

(2) At all times during the term of this Declaration, each owner shall keep improvements on its property insured against loss or damage by fire and other perils and events as may be insured against under the broad form of Uniform Extended Coverage Clause in effect from time to time in the state in which the owners' respective properties are located, with such insurance to be for the full replacement value of the insured improvements.

(3) Policies of insurance provided for in this Paragraph 8 shall name Wal-Mart and each owner of any portion of the Land as insureds as their respective interests may appear, and each of them shall provide to the other certificates evidencing the fact that such insurance has been obtained.

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(4) Wal-Mart, for itself and its property insurer, hereby releases each owner of any portion of the Land, and each such owner, for itself and its property insurer, hereby releases Wal-Mart from and against any and all claims, demands, liabilities or obligations whatsoever for damage to each other's property or loss of rents or profits of either Wal-Mart or such owner resulting from or in any way connected with any fire or other casualty whether or not such fire or other casualty shall have been caused by the negligence or the contributory negligence of the party being released or by any agent, associate or employee of the party being released, this release being to the extent that such damage or loss is covered by the property insurance which the releasing party is obligated hereunder to carry, or, if the releasing party is not carrying that insurance, then to the extent such damage or loss would be covered if the releasing party were carrying that insurance.

(5) Notwithstanding anything to the contrary contained in this Paragraph 8, so long as the net worth of Wal-Mart shall exceed ONE HUNDRED MILLION DOLLARS ($100,000,000), and so long as Wal-Mart is owner or lessee of any portion of the Land, Wal-Mart shall have the right to retain the financial risk for any claim.

9. Eminent Domain.

a. Owner's Right To Award. Nothing herein shall be construed to give one owner of a portion of the Land any interest in any award or payment made to another owner of a portion of the Land in connection with any exercise of eminent domain or transfer in lieu thereof affecting said other owner's Lot or Tract or giving the public or any government any rights in said Lot or Tract. In the event of any exercise of eminent domain or transfer in lieu thereof of any part of the Common Areas, the award attributable to the land and improvements of such portion of the Common Areas shall be payable only to the owner thereof, and no claim thereon shall be made by the owners of any other portion of the Common Areas.

b. Collateral Claims. All other owners of the Common Areas may file collateral claims with the condemning authority for their losses which are separate and apart from the value of the land area and improvements taken from another owner.

c. Tenant's Claim. Nothing in this Paragraph 9 shall prevent a tenant from making a claim against an owner pursuant to the provisions of any lease between tenant and owner for all or a portion of any such award or payment.

d. Restoration of Common Areas. The owner of any portion of the Common Areas so condemned shall promptly repair and restore the remaining portion of the Common Areas within its respective Lot or Tract as nearly as practicable to the condition of the same immediately prior to such condemnation or transfer, to the extent that the proceeds of such award are sufficient to pay the cost of such restoration and repair and without contribution from any other owner.

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10. Rights And Obligations of Lenders. If by virtue of any right or obligation set forth herein a lien shall be placed upon the Lot or Tract of any owner of a portion of the Land, such lien shall expressly be subordinate and inferior to the lien of any first lienholder now or hereafter placed on such Lot or Tract. Except as set forth in the preceding sentence, however, any holder of a first lien on any portion of the Land, and any assignee or successor in interest of such first lienholder, shall be subject to the terms and conditions of this Declaration.

11. Expansion of Shopping Center. The parties agree that in the event the Shopping Center is expanded, all of the provisions of this Declaration shall apply to the expanded area and the parking space to building areas ratio in the expanded area shall not be less than that provided in Paragraph 6a(2).

12. Release from Liability. Any person acquiring fee or leasehold title to any portion of the Land, or any expansion of the Shopping Center pursuant to Paragraph 11 or any portion thereof, shall be bound by this Declaration only as to the Lot or Tract or portion of the Lot or Tract acquired by such person. In addition, such person shall be bound by this Declaration only during the period such person is the fee or leasehold owner of such Lot or Tract or portion of the Lot or Tract, except as to obligations, liabilities or responsibilities that accrue during said period. Although persons may be released under this paragraph, the easements, covenants and restrictions in this Declaration shall continue to be benefits to and servitudes upon said Lots or Tracts and shall run with the Land.

13. Breach. In the event of breach or threatened breach of this Declaration, only all record owners of Lots 2 through 4, inclusive (as shown on **Exhibit B**) as a group, or the record owner(s) of Tract 1 as a group, shall be entitled to institute proceedings for full and adequate relief from the consequences of said breach or threatened breach. The unsuccessful party in any action shall pay to the prevailing party a reasonable sum for attorney's fees, which shall be deemed to have accrued on the date such action was filed.

14. Rights of Successors. The easements, restrictions, benefits and obligations hereunder shall create benefits and servitudes running with the land. This Declaration shall bind and inure to the benefit of the owner(s) of all or any portion of the Land, their respective heirs, representatives, lessees, successors and assigns. The singular number includes the plural and the masculine gender includes the feminine and neuter.

15. Modification and Cancellation. This Declaration (including exhibits) may be modified or canceled only by the agreement of all owners of all or any portion of the Land.

16. Duration. Unless otherwise canceled or terminated, all of the easements granted in this Declaration shall continue in perpetuity and all other rights and obligations hereof shall automatically terminate and be of no further force and effect after ninety-nine (99) years from the date hereof.

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17. Headings. The headings herein are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope or intent of this document nor in any way affect the terms and provisions hereof.

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IN WITNESS WHEREOF, Wal-Mart has executed this Declaration the day and year first written above.

Signed, sealed and delivered
in the presence of:

Heather J. Billgren
Printed Name: Heather J. Billgren

Michele Butler
Printed Name: Michele Butler

Approved as to legal terms only
by [illegible]
WAL-MART LEGAL DEPT
Date: 1-3-08

WAL-MART:

WAL-MART STORES EAST, LP,
a Delaware limited partnership

By: WSE MANAGEMENT, LLC, a
Delaware limited liability company
and General Partner

By: [signature]
J. Chris Callaway 12/17/08
Regional Vice President of Design
& Real Estate

STATE OF ARKANSAS)
) SS:
COUNTY OF BENTON)

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, the foregoing instrument was acknowledged before me by J. Chris Callaway, Regional Vice President of Design & Real Estate of WSE MANAGEMENT, LLC, a Delaware limited liability company, as General Partner of WAL-MART STORES EAST, LP, a Delaware limited partnership, freely and voluntarily under authority duly vested in him by said limited liability company, and that the seal affixed thereto is the true seal of said limited liability company. He is personally known to me or has produced _____ as identification.

WITNESS my hand and official seal in the County and State last aforesaid this 9th day of January, 2008.

Karen D. Milligan
Notary Public

" NOTARY SEAL
Karen D. Milligan, Notary Public
Washington County, State of Arkansas
My Commission Expires 10/30/2008

Typed, printed or stamped name of Notary Public

My Commission Expires: 10-30-2008

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EXHIBIT A

Land

ALL OF TRACT C AND TRACT P-3, TRAIL RIDGE, A SUBDIVISION OF SECTION 3, TOWNSHIP 51 SOUTH, RANGE 26 EAST, AS RECORDED IN PLAT BOOK 44, PAGE 71, OF THE PUBLIC RECORDS OF COLLIER COUNTY, FLORIDA.

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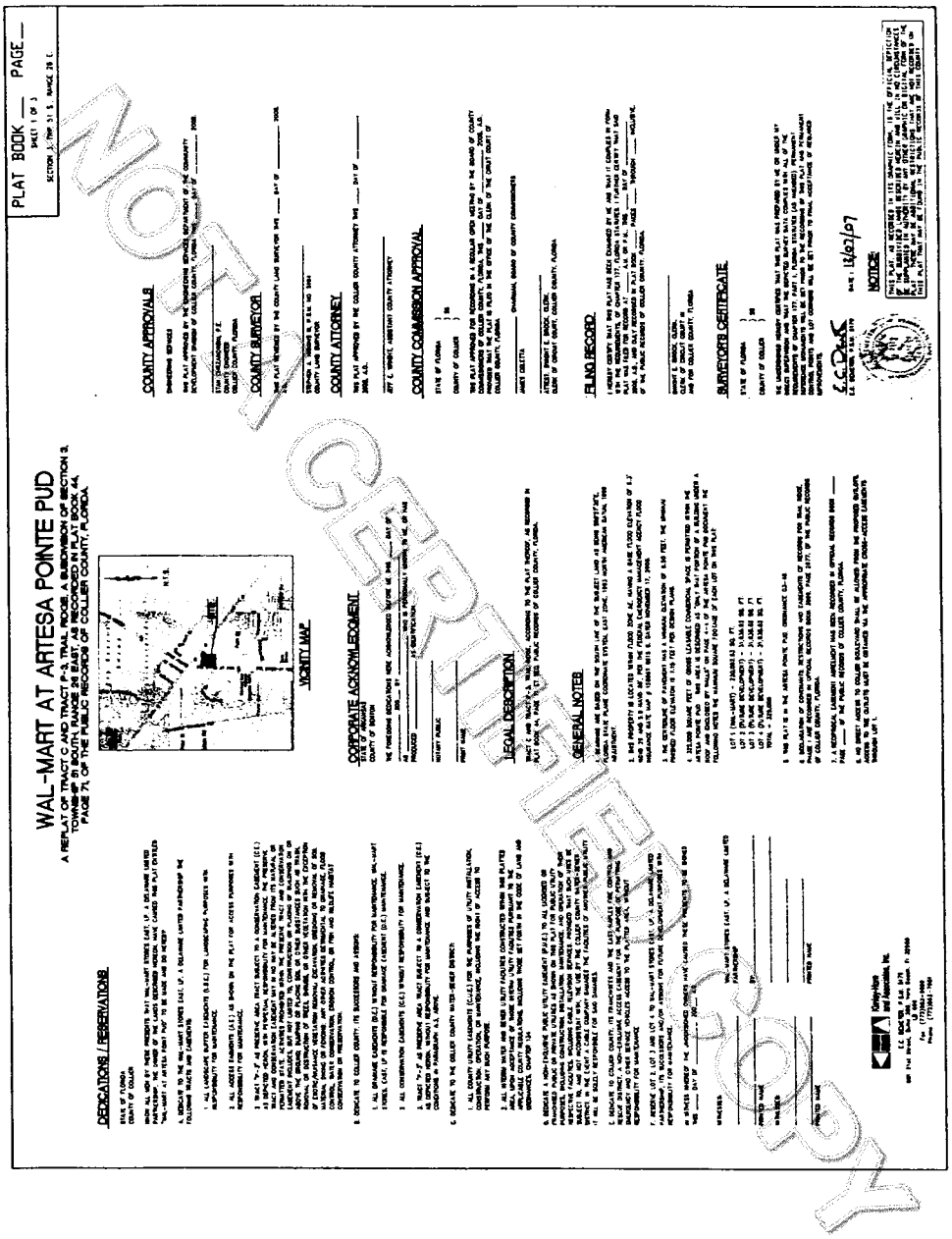
EXHIBIT B

Plat



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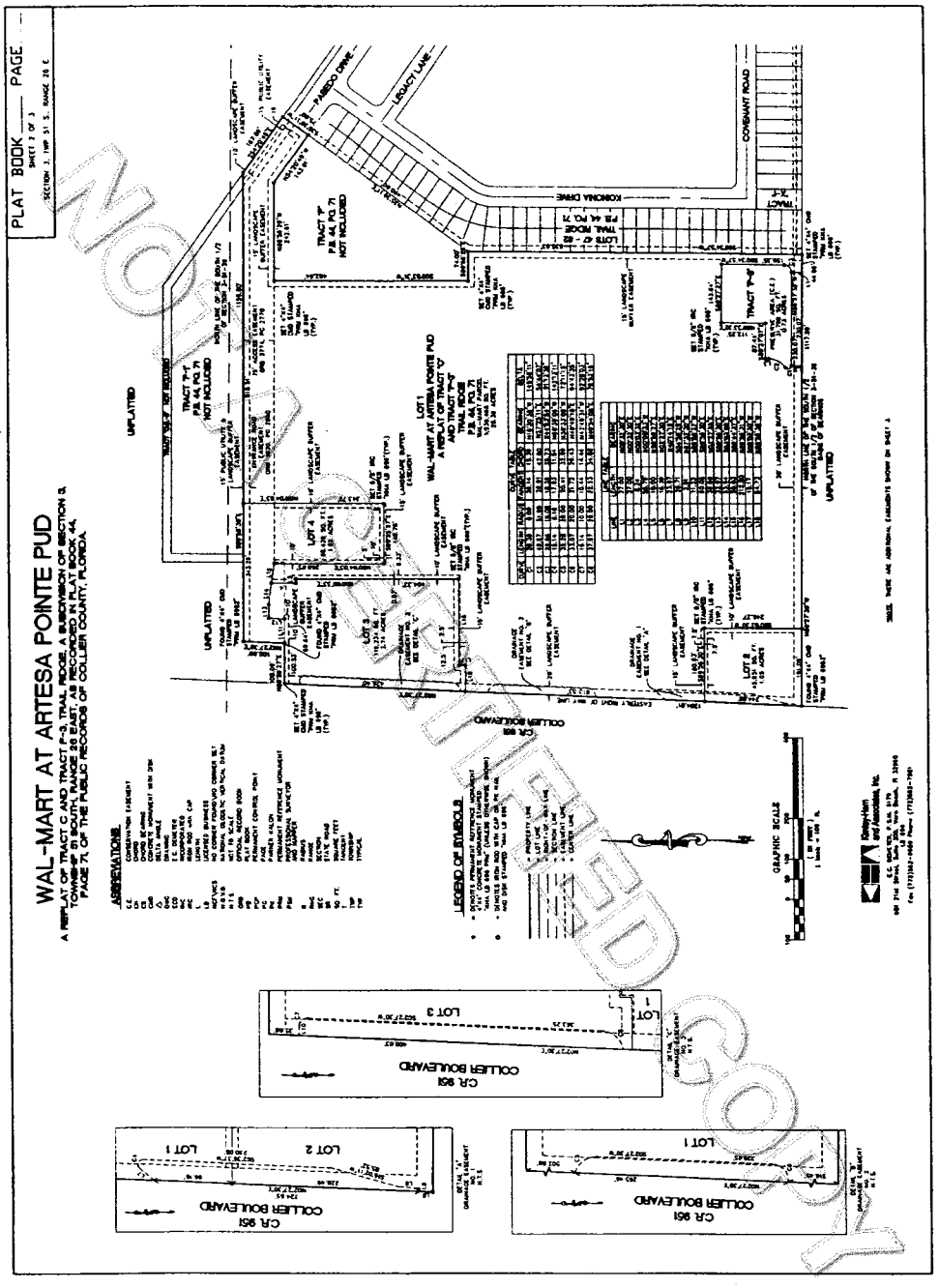
PLAT BOOK ____ PAGE ____
WAL-MART AT ARTESA POINTE PUD
A REPLAT OF TRACT C AND TRACT F ALTMAN ROOF, A SUBDIVISION OF SECTION 13, TOWNSHIP 49 SOUTH, RANGE 25 EAST, AS RECORDED IN PLAT BOOK 44, PAGE 71, OF THE PUBLIC RECORDS OF COLLIER COUNTY, FLORIDA.
ABBREVIATIONS
LEGEND OF SYMBOLS
GRAPHIC SCALE
COLLIER BOULEVARD
CR 951
LOT 1
LOT 2
LOT 3
LOT 4
LOT 5
LOT 6
LOT 7
LOT 8
LOT 9
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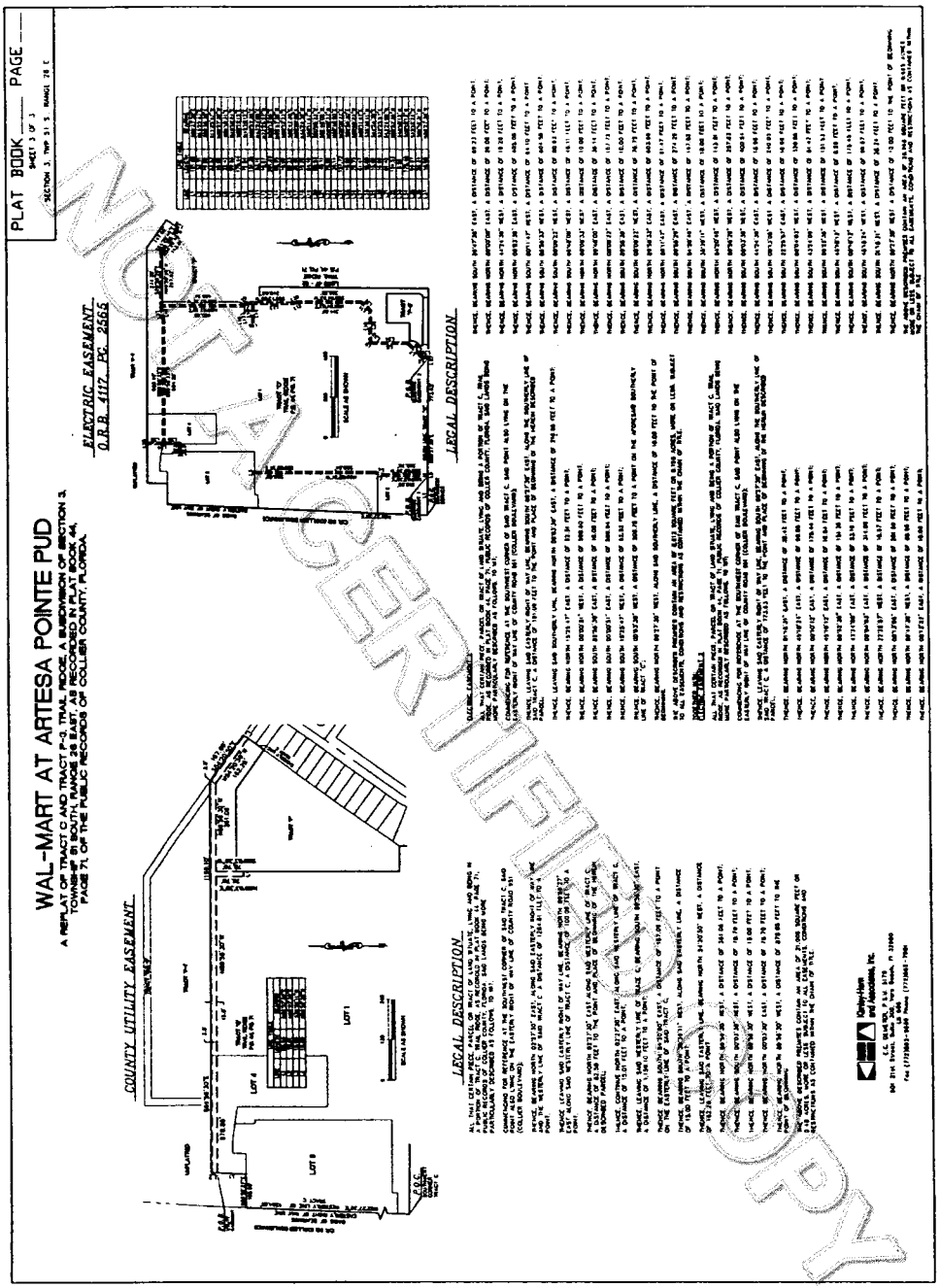

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SIEBEIN ACOUSTIC
ARCHITECTURAL | ENVIRONMENTAL

Siebein Associates, Inc.
Consultants in Architectural and Environmental Acoustics
625 NW 60th Street, Suite C Gainesville, Florida 32607
Telephone - (352) 331-5111 Facsimile: (352) 331-0009

July 8, 2021

Mr. Ryan Slattery
Sr Development Project Manager
736 Cherry Street
Chattanooga, TN 37402

Dear Ryan:

This letter summarizes a computer model study for the proposed Mod Wash facility in Warrensville Heights, Ohio. The purpose of the study was to determine if the equipment and car wash operations will meet the requirements of the Warrensville Heights, OH, Noise Control. The conclusion of the study is that sounds from the car wash operations are less than the sound levels required in the Warrensville, Ohio Noise Ordinance at all locations around the car wash property as designed.

CRITERIA

The Codified Ordinances of Warrenville Heights, OH, Chapter 511 *Noise Control*, state that "no person shall make, continue or cause to be made or continued any loud, disturbing or unnecessary noise or any noise which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others, within the limits of the City."

Section 511.02(i) of the ordinance, *Blowers and Similar Devices*, states that it is unlawful to have "in residential or noise sensitive areas, between the hours of 7:00 p.m. and 7:00 a.m., the operation of any noise-creating blower or power fan or any internal combustion engine, the operation of which causes noise due to the explosion of operating gases or fluids, provided that the noise is unreasonably loud and raucous and can be heard across the property line of the property from which it emanates and exceeds eighty decibels (80 dBA) for more than thirty (30) seconds."

Noise ordinance criteria for suburban areas where commercial properties adjoin residential properties in communities that have noise ordinances often require that the sound level limit at the receiving property line be 65 dBA during daytime hours of 7:00 am to 7:00 pm, and 60 dBA during nighttime hours of 7:00 pm to 7:00 am.

COMPUTER MODEL STUDY

A three-dimensional computer model was constructed using AutoCAD software which included the site plan for the proposed car wash facility as received on June 11, 2021; and the land area with buildings that extends approximately 1/4 mile from the approximate center of the proposed site for the car wash facility.

The AutoCAD model was imported into Cadna-A software which is a state-of-the-art noise propagation modeling software. Cadna-A calculates noise contours from noise generating equipment in accordance with ISO 9613. The octave band sound pressure level data for the vacuum producers and the vacuuming area as measured at a similar carwash site located in Orlando, Florida, was used as the sound source data in the model. The sound pressure level data for variable drive blowers from Advantage Drying Systems by Aerodry Systems, as provided by the manufacturer, was used as the

Attachment: Attachment D - Seibein Acoustic Computer Model Sound Study (21517 : PL20210001966 FL Mod Wash Comparable Use

sound source in the model for the air driers near the exit side of the car wash. The computer sound propagation model was used to calculate the sound levels from the proposed carwash at the property line and at adjacent properties on all sides of the site.

Figure A1 shows the resulting sound contours for a model that included the major sources of sound from the operating car wash facility such as the main car wash equipment with the dryer operating, two vacuum producers operating and vacuuming activities at individual cars using a busy day scenario as stated by Mod Wash staff.

The sound sources include the following.

1. Car wash operating with variable drive blowers from Advantage Drying Systems by Aerodry Systems.
2. Two vacuum producers.
3. There are 18 vacuuming stalls available for use. At 50% utilization, every vacuum position is occupied because there are 2 vacuum positions per car. Therefore, the computer model includes a total of 9, or 50% of the total cars being vacuumed simultaneously.

The sound mitigating features include the following.

1. The car wash building oriented with the exit portal facing Richmond Road.
2. The vacuum pumps have been located far as possible from the property lines.
3. The vacuum stations are located as far as possible from residential and commercial receiving properties to use the distance as a "natural" form of sound attenuation.
4. There is a retention pond and a landscaped berm on the north side of the site that forms a natural acoustical buffer between the car wash and the adjacent property.
5. There are commercial/industrial properties to the west and south of the car wash.
6. Richmond Road forms a natural acoustical buffer between the car wash and properties to the east.

RESULTS

1. The computer model demonstrates that the combination of the sound mitigation strategies results in all sounds from car wash operations being less than 80 dBA at residential or noise sensitive areas, as required by the Codified Ordinances of Warrenville Heights, OH.

2. The sound levels at the property line between the proposed carwash and the nearest residential property to the north and the nearest residential property to the east are estimated to be less than 60 dBA.

3. This means that the proposed car wash facility complies with the requirements of the *Noise Control* chapter within the Codified Ordinances of Warrenville Heights, OH, requiring a maximum sound pressure level of 80 dBA for thirty-seconds at residential properties, as well as being less than with typical A-weighted daytime sound pressure level limits of 65 dBA and 60 dBA nighttime sound pressure level limits for Residential receiving properties that are used in many communities that have noise ordinances.

4. Figure 1, in Appendix A, shows an aerial image of the site and the surrounding neighborhood with the projected sound contours at a standing head-height in 5 dB increments. The sound source data included in the acoustical model are listed in Appendix B.

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CONCLUSIONS

1. The proposed car wash facility indicates a site design that is carefully planned from an acoustical point-of-view with strategically located equipment to use distance as a "natural" form of sound attenuation.

2. The computer model study indicates that the proposed car wash facility complies with the requirements of the noise ordinance and is also less than the 60 to 65 dBA sound level limits found in the noise ordinances of many suburban communities.

3. Please note that these results are based on the acoustical data provided by the manufacturer for the variable drive blowers from Advantage Drying Systems by Aerodry Systems; as well as the final equipment selection and installation made on site.

Please do not hesitate to contact us if you have any questions or if we can be of additional assistance in this regard.

Sincerely,
SIEBEIN ASSOCIATES, INC.

Marylin Roa AIA, ASA, INCE
Senior Consultant

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APPENDIX A
RESULTING NOISE CONTOURS

Attachment: Attachment D - Seibein Acoustic Computer Model Sound Study (21517 : PL20210001966 FL Mod Wash Comparable Use

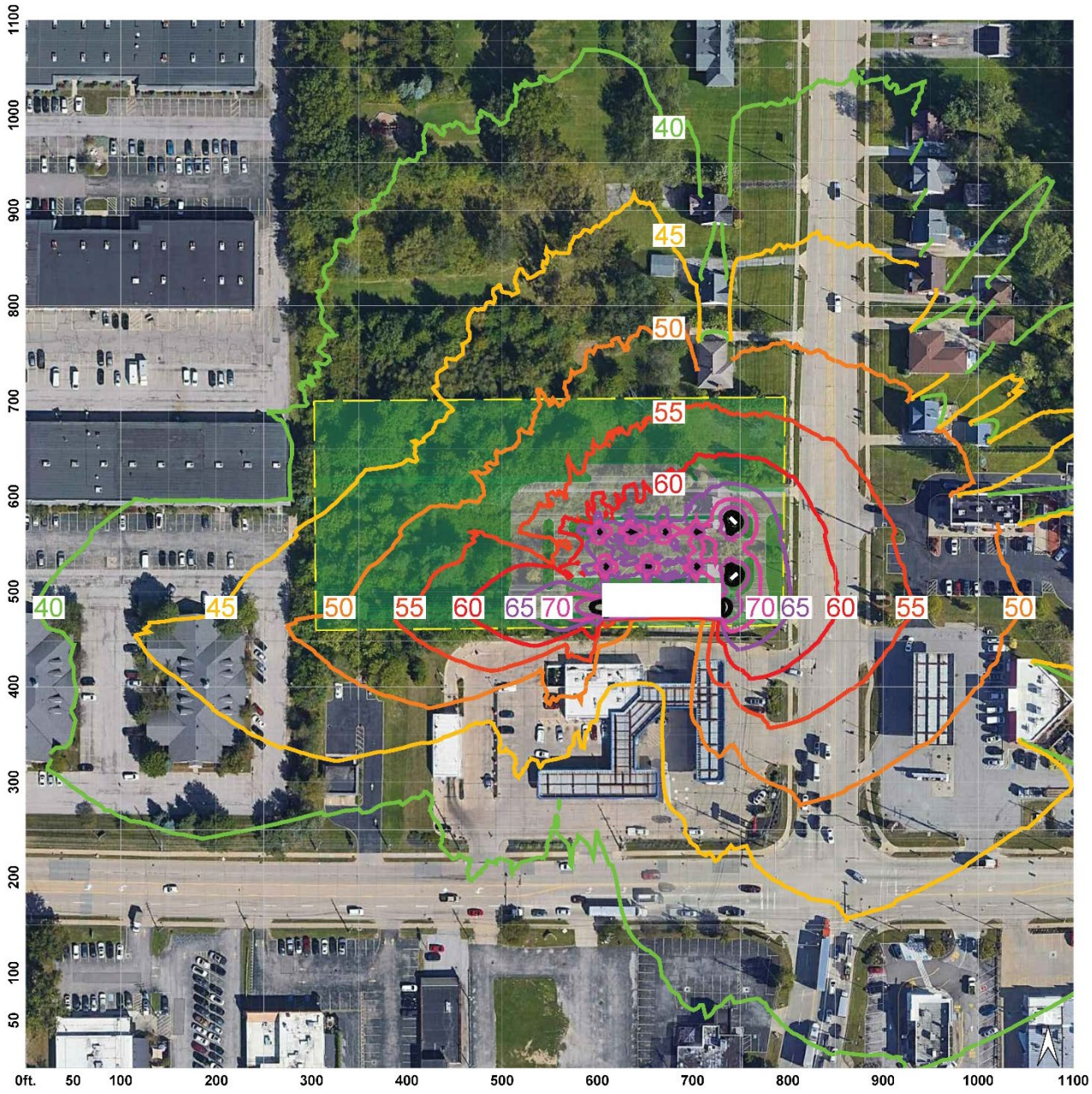

Figure 1. Aerial map showing noise contours for the proposed Mod Wash. Please note that the noise contours overlaid on the aerial image are calculated at the average height of a person standing, 5'- 6"

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APPENDIX B
SUMMARY OF SOUND SOURCE DATA USED IN THE COMPUTER MODEL STUDY

Attachment: Attachment D - Seibein Acoustic Computer Model Sound Study (21517 : PL20210001966 FL Mod Wash Comparable Use

SUMMARY OF MEASUREMENT TRIP TAKEN OF AN EXISTING CAR WASH FACILITY WITH SIMILAR EQUIPMENT TO THE PROPOSED MR. CLEAN CAR WASH TO USE AS SOUND DATA USED IN THE COMPUTER MODEL STUDY

A field visit was made of an existing car wash facility to taken short term sound level measurements of car wash equipment and activities similar to those at the Mod Wash facility which manufacturers' data were not available. Acoustical measurements of a 30 HP vacuum producer as well as vacuuming activities were taken on February 7, 2020, at Wash City Car Wash in Orlando, Florida.

A Larson Davis Model 831 Sound Level Meter was used as the basic instrumentation for the acoustical measurements. The meter meets ANSI Standard S1.4 requirements for Type 1 sound level meters. The Larson Davis was equipped with a PCB ½" diameter measurement microphone and preamplifier. The meter and microphone were calibrated with a Larson Davis CAL 200 calibrator prior to testing and tested to within + 0.1 dB of calibration after the measurements were complete. The meter and microphone were mounted on a tripod at approximately 5.5' above grade at each measurement location. A windscreen was attached to the microphone for all measurements. The data were stored on the internal memory system of the meters, and downloaded into the computers in our office for analysis.

The acoustical measurements for the 30 HP vacuum producer as well as vacuuming activities taken at the Wash City Carwash were used as the sound source data in the computer model for the proposed vacuum producer and vacuuming areas proposed at the Mod Wash facility.

Receiver 1 was located approximately 3 ft. from a 30 HP vacuum producer located within a walled enclosure. Receiver 2 was located approximately 7ft. from the vacuum stations which were operating during the time of the acoustical measurements. Figure B1 shows an aerial map with the approximate location of Receiver 1 and Receiver 2 at the Wash City Carwash in Orlando, Florida. A summary of the sound source data included in the computer model for the vacuum producer and vacuuming activities is listed in Table B1.

Table B1. Octave band sound pressure level data measured at the Wash City Car Wash in Orlando, Florida

Reference	Equipment	One-third Octave Band Frequency Sound Pressure Level in dB								
Figure B1 Receiver 1	**Vacuum Producer** (3ft. from pump)	**25.0**	**31.5**	**40.0**	**50.0**	**63.0**	**80.0**	**100**	**125**	**160**
		66.8	63.3	68.1	61.9	74.3	63.7	65.2	78.2	71.0
		200	**250**	**315**	**400**	**500**	**630**	**800**	**1000**	**1250**
		77.3	81.8	81.8	75.4	76.6	71.8	69.5	77.3	81.8
		1600	**2000**	**2500**	**3150**	**4000**	**5000**	**6300**	**8000**	**10000**
		69.7	70.9	70.3	67.7	65.8	63.7	62.0	63.7	60.1
Figure B1 Receiver 2	**Vacuuming** (7ft. from vacuuming inside vehicle)	**25.0**	**31.5**	**40.0**	**50.0**	**63.0**	**80.0**	**100**	**125**	**160**
		62.4	64.2	60.6	60.1	60.9	58.7	58.8	55.5	54.5
		200	**250**	**315**	**400**	**500**	**630**	**800**	**1000**	**1250**
		52.9	52.4	55.2	55.7	52.6	53.3	57.9	58.2	56.3
		1600	**2000**	**2500**	**3150**	**4000**	**5000**	**6300**	**8000**	**10000**
		59.4	60.2	62.3	62.7	61.3	60.5	59.9	59.5	58.8
Figure B1 Receiver 2	**Vacuum holder pulled from holster** (7ft. from vacuum pole)	**25.0**	**31.5**	**40.0**	**50.0**	**63.0**	**80.0**	**100**	**125**	**160**
		60.6	62.4	57.5	56.9	61.6	56.3	54.9	54.0	53.0
		200	**250**	**315**	**400**	**500**	**630**	**800**	**1000**	**1250**
		52.7	56.2	59.3	61.7	61.4	58.6	64.9	67.4	67.2
		1600	**2000**	**2500**	**3150**	**4000**	**5000**	**6300**	**8000**	**10000**
		73.2	75.6	79.2	78.9	75.9	73.7	75.0	75.0	75.1

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Figure B1. Aerial image showing measurement locations at Wash City Carwash in Orlando, Florida, for the source data included in the computer model.

Figure B2. Photographs of the vacuum producer and vacuum stations at Wash City Carwash in Orlando, Florida.

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SUMMARY OF THE VARIABLE DRIVE BLOWERS FROM ADVANTAGE DYRING SYSTEMS BY AERODRY FOR THE PROPOSED MOD WASH USED AS SOUND SOURCE DATA IN THE COMPUTER MODEL STUDY

The sound pressure level data for the Variable Drive dryer equipment provided by the manufacturer was used as the sound source data in the model for the air driers near the exit side of the car wash.

Table B2. One-third octave band sound pressure level provided for the proposed Variable Drive, 60 HZ, Configuration 38, Aerodry Systems Dryer Equipment

	One-third Octave Band Sound Pressure Level in dB								
	25.0	**31.5**	**40.0**	**50.0**	**63.0**	**80.0**	**100**	**125**	**160**
VARUABLE DRIVE AERODRY (3 ft from blower)	75	77	79	76	78	76	70	70	67
	200	**250**	**315**	**400**	**500**	**630**	**800**	**1000**	**1250**
	65	64	63	69	67	64	57	58	57
	1600	**2000**	**2500**	**3150**	**4000**	**5000**	**6300**	**8000**	**10000**
	65	58	57	57	55	52	51	49	47

Attachment: Attachment D - Seibein Acoustic Computer Model Sound Study (21517 : PL20210001966 FL Mod Wash Comparable Use

ATTACHMENT E – CONDITIONS OF APPROVAL
CUD-PL20210001966
Comparable Use Determination – Naples FL ModWash, LLC

1. Hours of operation will be limited to Monday through Sunday from 8:00 a.m. to 8:00 p.m.

2. The applicant shall commit to mitigating noise associated with the carwash operations that are determined to exceed 80 decibels 100 feet from the building.

Attachment: Attachment E - Condition of Approval (21517 : PL20210001966 FL Mod Wash Comparable Use Determination)

Collier County

COLLIER COUNTY GOVERNMENT
GROWTH MANAGEMENT DEPARTMENT
www.colliergov.net

2800 NORTH HORSESHOE DRIVE
NAPLES, FLORIDA 34104
(239) 252-2400 FAX: (239) 252-6358

Comparable Use Determination

LDC sections 2.03.00 A, 10.02.06 J & Code of Laws section 2-83 – 2-90
Chapter 3 G.6 of the Administrative Code

PROJECT NUMBER
PROJECT NAME
DATE PROCESSED

To be completed by staff

☑ **PUD Zoning District**
☐ **Standard Zoning District**

APPLICANT CONTACT INFORMATION

Name of Property Owner(s): ROOK AT NAPLES I LLC

Name of Applicant if different than owner: ModWash LLC.

Address: 736 Cherry Street **City:** Chattanooga **State:** TN **ZIP:** 37402

Telephone: _____ **Cell:** _____ **Fax:** _____

E-Mail Address: _____

Name of Agent(s): Kenrick Gallander, AICP

Firm: RWA, Inc.

Address: 6610 Willow Park Drive Suite 200 **City:** Naples **State:** FL **ZIP:** 34109

Telephone: _____ **Cell:** 850-803-5621 **Fax:** 239-597-0578

E-Mail Address: kgallander@consult-rwa.com

PROPERTY INFORMATION

Site Address: Vacant - No Official Address **Folio Number:** 81076000095

Property Owners Name: ROOK AT NAPLES I LLC

DETERMINATION REQUEST

The determination request and justification for the use must be done by a certified land use planner or a land use attorney. Provide the completed request on a separate attached sheet. Please be very specific and include the SIC Code, if known. The request should adhere to the following format:

"I request a determination from the Plannina Manager and approval from the Office of the Hearing Examiner, that the use of Automated Car Wash (SIC 7542) *is comparable and compatible with the permitted uses in the* Artesa Pointe *PUD or in the* _____ *Straight Zoning District."*

Revised 5/8/2018

Attachment: Attachment F - Application and Backup Documents (21517 : PL20210001966 FL Mod Wash Comparable Use Determination)

Collier County

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NAPLES, FLORIDA 34104
(239) 252-2400 FAX: (239) 252-6358

SUBMITTAL REQUIREMENTS CHECKLIST

See Chapter 3 G.6 of the Administrative Code for submittal requirements. The following items are to be submitted with the application packet. **Incomplete submittals will not be accepted.**

REQUIREMENTS FOR REVIEW	# OF COPIES	REQUIRED	NOT REQUIRED
Completed Application (download current form from County website)	1	☒	
Affidavit of Authorization	1	☒	
Completed Addressing Checklist	1	☒	
Determination request and the justification for the use	1	☒	
PUD Ordinance and Development Commitment information		✓	☐
Property Ownership Disclosure Form	1	☒	
Electronic Copies of all documents *Please be advised: The Office of the Hearing Examiner requires all materials to be submitted electronically in PDF format.		✓	☐

ADDITIONAL REQUIREMENTS FOR THE PUBLIC HEARING PROCESS:

- Following the completion of the review process by County review staff, the applicant shall submit all materials electronically to the designated project manager.
- Please contact the project manager to confirm the number of additional copies required.

FEE REQUIREMENTS:

☐ **Application:** $1,000.00; Additional Fees of $100 per hour will be charged as needed upon completion of review and research. Payment of Additional Fees will be required prior to the release of the verification.

☐ **Estimated Legal Advertising Fee for the Office of the Hearing Examiner:** $1,125.00

All checks payable to: Board of County Commissioners

The completed application, all required submittal materials, and the permit fee shall be submitted to:

Growth Management Department/Zoning Division
ATTN: Business Center
2800 North Horseshoe Drive
Naples, FL 34104

Kenrick Gallander Digitally signed by Kenrick Gallander Date: 2021.08.05 11:37:55 -04'00'

Applicant Signature

Date

Kenrick Gallander

Printed Name

Please be advised that the zoning letter is based upon the available records furnished by Collier County and what was visible and accessible at the time of inspection. This report is based on the Land Development Code that is in effect on the date the report was prepared. Code regulations could be subject to change. While every attempt has been made to ensure the accuracy or completeness, and each subscriber to or user of this report understands that this department disclaims any liability for any damages in connection with its use. In addition, this department assumes no responsibility for the cost of correcting any unreported conditions.

Revised 5/8/2018

Attachment: Attachment F - Application and Backup Documents (21517 : PL20210001966 FL Mod Wash Comparable Use Determination)

AFFIDAVIT OF AUTHORIZATION

FOR PETITION NUMBERS(S) PL20210001966

I, Emilia R. Akridge (print name), as Authorized Representative (title, if applicable) of Rook at Naples I, LLC (company, If applicable), swear or affirm under oath, that I am the (choose one) owner [✓] applicant [ ] contract purchaser [ ] and that:

1. I have full authority to secure the approval(s) requested and to impose covenants and restrictions on the referenced property as a result of any action approved by the County in accordance with this application and the Land Development Code;
2. All answers to the questions in this application and any sketches, data or other supplementary matter attached hereto and made a part of this application are honest and true;
3. I have authorized the staff of Collier County to enter upon the property during normal working hours for the purpose of investigating and evaluating the request made through this application; and that
4. The property will be transferred, conveyed, sold or subdivided subject to the conditions and restrictions imposed by the approved action.
5. We/I authorize ModWash, LLC to act as our/my representative in any matters regarding this petition including 1 through 2 above.

**Notes:*

- *If the applicant is a corporation, then it is usually executed by the corp. pres. or v. pres.*
- *If the applicant is a Limited Liability Company (L.L.C.) or Limited Company (L.C.), then the documents should typically be signed by the Company's "Managing Member."*
- *If the applicant is a partnership, then typically a partner can sign on behalf of the partnership.*
- *If the applicant is a limited partnership, then the general partner must sign and be identified as the "general partner" of the named partnership.*
- *If the applicant is a trust, then they must include the trustee's name and the words "as trustee".*
- *In each instance, first determine the applicant's status, e.g., individual, corporate, trust, partnership, and then use the appropriate format for that ownership.*

Under penalties of perjury, I declare that I have read the foregoing Affidavit of Authorization and that the facts stated in it are true.

Emilia R. Akridge
Signature

09/13/2021
Date

STATE OF ~~FLORIDA~~ GEORGIA
COUNTY OF ~~COLLIER~~ DEKALB

The foregoing instrument was acknowleged before me by means of [X] physical presence or [ ] online notarization this 13th day of September, 20 21, by (printed name of owner or qualifier) Emilia R. Akridge.

Such person(s) Notary Public must check applicable box:

[X] Are personally known to me

[ ] Has produced a current drivers license _____

[ ] Has produced _____ as identification.

Notary Signature: Stephanie Grant

Exp. 11-9-23

STEPHANIE GRANT NOTARY PUBLIC FORSYTH COUNTY, GEORGIA

Notary Seal

CP\08-COA-00115\155
REV 3/4/2020

Attachment: Attachment F - Application and Backup Documents (21517 : PL20210001966 FL Mod Wash Comparable Use Determination)

AFFIDAVIT OF AUTHORIZATION

FOR PETITION NUMBERS(S) PL20210001966

I, Benjamin Harper (print name), as Authorized Officer (title, if applicable) of ModWash, LLC (company, If applicable), swear or affirm under oath, that I am the (choose one) owner [ ] applicant [✔] contract purchaser [ ] and that:

1. I have full authority to secure the approval(s) requested and to impose covenants and restrictions on the referenced property as a result of any action approved by the County in accordance with this application and the Land Development Code;
2. All answers to the questions in this application and any sketches, data or other supplementary matter attached hereto and made a part of this application are honest and true;
3. I have authorized the staff of Collier County to enter upon the property during normal working hours for the purpose of investigating and evaluating the request made through this application; and that
4. The property will be transferred, conveyed, sold or subdivided subject to the conditions and restrictions imposed by the approved action.
5. We/I authorize RWA, Inc. to act as our/my representative in any matters regarding this petition including 1 through 2 above.

Notes:

- *If the applicant is a corporation, then it is usually executed by the corp. pres. or v. pres.*
- *If the applicant is a Limited Liability Company (L.L.C.) or Limited Company (L.C.), then the documents should typically be signed by the Company's "Managing Member."*
- *If the applicant is a partnership, then typically a partner can sign on behalf of the partnership.*
- *If the applicant is a limited partnership, then the general partner must sign and be identified as the "general partner" of the named partnership.*
- *If the applicant is a trust, then they must include the trustee's name and the words "as trustee".*
- *In each instance, first determine the applicant's status, e.g., individual, corporate, trust, partnership, and then use the appropriate format for that ownership.*

Under penalties of perjury, I declare that I have read the foregoing Affidavit of Authorization and that the facts stated in it are true.

Signature

9/8/21
Date

STATE OF FLORIDA
COUNTY OF COLLIER

The foregoing instrument was acknowleged before me by means of [X] physical presence or [ ] online notarization this 8th day of September, 2021, by (printed name of owner or qualifier) Benjamin P. Harper, Authorized Officer.

Such person(s) Notary Public must check applicable box:

[X] Are personally known to me

[ ] Has produced a current drivers license _____

[ ] Has produced _____ as identification.

Notary Signature: _____

TAYLOR W JONES
Notary Seal
STATE OF TENNESSEE
NOTARY PUBLIC
HAMILTON COUNTY
My Commission Expires 02-12-2022

CP\08-COA-00115\155
REV 3/4/2020

Attachment: Attachment F - Application and Backup Documents (21517 : PL20210001966 FL Mod Wash Comparable Use Determination)

Collier County
Growth Management Department

ADDRESSING CHECKLIST

Please complete the following and email to GMD_Addressing@colliercountyfl.gov or submit in person to the Addressing Section at the address listed below. This form must be signed by Addressing personnel *prior* to the pre-application meeting. **Please allow 3 business days for processing**.

Not all items will apply to every project. Items in **bold** are required. **FOLIO NUMBERS MUST BE PROVIDED**. Forms older than 6 months will require additional review and approval by the Addressing Section.

PETITION TYPE (Indicate type below. Complete a separate Addressing Checklist for each Petition type).

- ☐ BL (Blasting Permit)
- ☐ BD (Boat Dock Extension)
- ☐ Carnival/Circus Permit
- ☐ CU (Conditional Use Permit)
- ☐ EXP (Excavation Permit)
- ☐ FP (Final Plat)
- ☐ LLA (Lot Line Adjustment)
- ☐ PNC (Project Name Change)
- ☐ PPL (Plans & Plat Review)
- ☐ PSP (Preliminary Subdivision Plat)
- ☐ PUD Rezone
- ☐ RZ (Standard Rezone)
- ☐ SDP (Site Development Plan)
- ☐ SDPA (SDP Amendment)
- ☐ SDPI (Insubstantial Change to SDP)
- ☐ SIP (Site Improvement Plan)
- ☐ SIPI (Insubstantial Change to SIP)
- ☐ SNR (Street Name Change)
- ☐ SNC (Street Name Change – Unplatted)
- ☐ TDR (Transfer of Development Rights)
- ☐ VA (Variance)
- ☐ VRP (Vegetation Removal Permit)
- ☐ VRSFP (Vegetation Removal & Site Fill Permit)
- ☑ OTHER Comparable Use Determination

LEGAL DESCRIPTION of subject property or properties (copy of lengthy description may be attached)

See Attached

FOLIO (Property ID) Number(s) of above (attach to, or associate with, legal description if more than one)

81076000095

STREET ADDRESS or ADDRESSES (as applicable, if already assigned)

Vacant - No official address

- **LOCATION MAP** must be attached showing exact location of project/site in relation to nearest public road right-of-way
- SURVEY (copy – only needed for unplatted properties)

CURRENT PROJECT NAME (if applicable)

PROPOSED PROJECT NAME (if applicable)

Naples Florida ModWash

PROPOSED STREET NAMES (if applicable)

SITE DEVELOPMENT PLAN NUMBER (for existing projects/sites only)

SDP _____-_____ or AR or PL # _____

Operations & Regulatory Management Division ● 2800 North Horseshoe Drive ● Naples, FL 34104 ● 239-252-2400
www.colliercountyfl.gov

Attachment: Attachment F - Application and Backup Documents (21517 : PL20210001966 FL Mod Wash Comparable Use Determination)

Collier County
Growth Management Department

Project or development names proposed for, or already appearing in, condominium documents (if application, indicate whether proposed or existing)

Please Return Approved Checklist By: ☐ Email ☐ Personally picked up

Applicant Name: Ken Gallander

Phone: (239) 260-4293 **Email:** Kgallander@consult-rwa.com

Signature on Addressing Checklist does not constitute Project and/or Street Name approval and is subject to further review by the Operations Division.

FOR STAFF USE ONLY

Folio Number

Folio Number

Folio Number

Folio Number

Folio Number

Folio Number

Approved by: **Date:**

Updated by: **Date:**

IF OLDER THAN 6 MONTHS, FORM MUST BE UPDATED OR A NEW FORM SUBMITTED.

Attachment: Attachment F - Application and Backup Documents (21517 : PL20210001966 FL Mod Wash Comparable Use Determination)

Operations & Regulatory Management Division ● 2800 North Horseshoe Drive ● Naples, FL 34104 ● 239-252-2400
www.colliercountyfl.gov

Collier County Property Appraiser
Property Summary

Parcel No	81076000095	Site Address *Disclaimer		Site City	NAPLES	Site Zone *Note	34114

Name / Address	ROOK AT NAPLES I LLC
	4828 ASHFORD DUNWOODY RD # 400

City	ATLANTA	State	GA	Zip	30338

Map No.	Strap No.	Section	Township	Range	Acres *Estimated
6B03	705250 3.16B03	3	51	26	1.01

Legal	WAL-MART AT ARTESA POINTE PUD LOT 3 LESS THAT PART BEG AT SW COR LO 3, N2 27 30E 292.65FT, N89 59 27E 54.83FT, S 0 0 33E 3.3FT, N89 59 27E 166.45FT, S0 0 33E 3.7FT, N89 59 27E 43.67FT, S0 0 33E 270.54FT, N89 56 31W 212.8FT, S0 3 30W 15.17FT, N89 56 30W 64.73FT, POB

Millage Area	113	Millage Rates	*Calculations	
Sub./Condo	705250 - WAL-MART AT ARTESA POINTE PUD	School	Other	Total
Use Code	10 - VACANT COMMERCIAL	4.889	6.5293	11.4183

Latest Sales History

(Not all Sales are listed due to Confidentiality)

Date	Book-Page	Amount
09/18/14	5080-377	$ 1,200,000

2021 Certified Tax Roll

(Subject to Change)

	Land Value	$ 747,4
(+)	Improved Value	$
(=)	Market Value	$ 747,4
(=)	Assessed Value	$ 747,4
(=)	School Taxable Value	$ 747,4
(=)	Taxable Value	$ 747,4

If all Values shown above equal 0 this parcel was created after the Final Tax Roll

Attachment: Attachment F - Application and Backup Documents (21517 : PL20210001966 FL Mod Wash Comparable Use Determination)

MAP LEGEND

- Major Roads
- Street Names
- Parcels
- Aerials 2021 Rural [2FT]
- Collier County

Folio Number: 81076000095
Name: ROOK AT NAPLES I LLC
Street# & Name:
Build# / Unit#: / 3.1
Legal Description: WAL-MART AT ARTESA POINTE PUD LOT 3 LESS THAT PART BEG AT SW COR LOT 3, N2 27 30E 292.65FT, N89 59 27E 54.83FT, S 0 0 33E

2004. Collier County Property Appraiser. While the Collier County Property Appraiser is committed to providing the most accurate and up-to-date information, no warranties expressed or implied are provided for the data herein, its use, or its interpretation.

Attachment: Attachment F - Application and Backup Documents (21517 : PL20210001966 FL Mod Wash Comparable Use Determination)

Attachment: Attachment F - Application and Backup Documents (21517 : PL20210001966 FL Mod Wash Comparable Use Determination)

NAPLES FLORIDA MODWASH
COMPARABLE USE DETERMINATION
REQUEST AND JUSTIFICATION

Background

The subject property consists of 1.01± acres within the Artesa Pointe PUD that was established by Ordinance 03-46. The PUD is 82+/-acres and allows for a variety of residential and commercial uses as a master planned mixed-use community. The site is located at the intersection of Pasedo Drive and Collier Boulevard, in Section 3, Township 51 South, Range 26 East, Collier County, Florida –Parcel No. 81076000095. The parcel is vacant and there is currently no official address. The applicant is seeking to develop the subject property with a carwash.

The property is designated Urban Mixed-Use District, Henderson Creek Mixed Use Subdistrict. The intent of the Urban Mixed-Use District is to provide a variety of residential and non-residential land uses, as well as mixed use development such as Planned Unit Developments. Based on certain criteria, specific industrial and commercial uses are also permitted.

The Henderson Creek Mixed Use Subdistrict is intended to primarily allow for a mixture of regional commercial uses and residential development. The maximum intensity of commercial uses are those allowed in the C-4 – General Commercial zoning district, of which carwashes are an allowed use.

The Artesa Pointe PUD allows for a variety of commercial uses as provided under Section IV, Commercial "C.", which are as follows:

A. Principal Uses (non-regional):
   1. Accounting, auditing and bookkeeping services (8721)
   2. Apparel and accessory stores (5611-5699)
   3. Building materials, hardware, and garden supply (5231-5261)
   4. Business services (7311, 7313, 7322-7338, 7361, 7371, 7372, 7374-7376, 7379, 7384)
   5. Depository institutions (6011-6099)
   6. Eating places (5812)
   7. Engineering, architectural and surveying (8711-8713)
   8. Food stores (5411, excluding grocery stores and supermarkets - 5499, with accessory gasoline pumps and car wash)
   9. General merchandise stores (5311-5399), including discount retail, and discount superstore with grocery, auto tire and lubricating, and pharmacy

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www.consult-rwa.com

component.

10. Health services (8011-8049)
11. Home furniture, furnishing and equipment stores (5712-5736)
12. Insurance carriers, agents and brokers (6311-6399, 6411)
13. Libraries (8231)
14. Legal services (8111)
15. Management and public relations services (8741-8743)
16. Miscellaneous retail (5912, 5921, 5941-5961, 5992, 5995, and 5999 - excluding auction room, tombstone sales, and swimming pool sales.)
17. Non-depository credit institutions (6141-6163)
18. Real estate (6512, 6520-6552)
19. Stationery and office supplies, retail (5112)
20. Motion pictures (7832, 7841)

B. Principal Uses (regional):

1. Apparel and accessory stores (5611-5699)
2. Building materials, hardware, and garden supply (5231-5261)
3. General merchandise stores (5311-5399), including discount retail, and discount superstore with grocery, auto tire and lubricating, and pharmacy component.
4. Home furniture, furnishing and equipment stores (5712-5736)
5. Libraries (8231)
6. 6.Miscellaneous retail (5912, 5921, 5941-5961, 5992, 5995, and 5999 - excluding auction room, tombstone sales, and swimming pool sales.)
7. Stationery and office supplies, retail (5112)
8. Motion pictures (7832, 7841)
9. Discount warehouse clubs, which includes stores where shoppers pay a membership fee in order to take advantage of discounted prices on a wide variety of items such as food, clothing, tires and appliances.
10. Home improvement superstore/center, which includes warehouse-type retail facilities specializing in the sale of home improvement merchandise, including lumber, tools, paint, lighting, wallpaper and paneling, kitchen and bathroom fixtures, lawn equipment, and garden plants and accessories. No outdoor storage of building materials or on-site assembly of building components is permitted.

C. Accessory Uses:

1. Uses and structures that are customarily incidental and subordinate to the above permitted uses.
2. Automatic car washes and fuel pumps in conjunction with a convenience food store.

Attachment: Attachment F - Application and Backup Documents (21517 : PL20210001966 FL Mod Wash Comparable Use Determination)

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www.consult-rwa.com

Attachment: Attachment F - Application and Backup Documents (21517 : PL20210001966 FL Mod Wash Comparable Use Determination)

Request & Justification

The applicant requests a determination from the Planning Manager and approval from the Office of the Hearing Examiner, that the use of Carwashes (SIC 7542) is comparable and compatible with the existing and permitted uses in the Artesa Pointe PUD as previously outlined.

A carwash use is comparable to and no more intense than various permitted and accessory uses in the Artesa Pointe PUD. Specifically, it is less intense than the existing Walmart Superstore, a "Discount superstore" use, and comparable to a Murphy USA retail fuel station, a "Food stores with accessory gas pumps and car wash" provided within the Artesa Pointe PUD permitted commercial land uses outlined above. Additionally, a carwash use was envisioned within the Artesa Pointe PUD as it was included specifically as an accessory use within the PUD. However, at the time of PUD approval, modern-day stand-alone membership automated car washes were not as prevalent or did not exist. As such, the car wash use was relegated to an accessory use or secondary to other auto dependent uses, such as convenient food stores or gas stations.

The following narrative, pursuant to LDC Sec. 10.02.06. K.2, demonstrates that the proposed carwash use is comparable to and less intense than other permitted and existing uses within this PUD, such as discount superstores and food stores with gas pumps and car washes.

Criteria per LDC Sec. 10.02.06. K.2:

The following details the applicable factors and criteria pursuant to Land Development Code (LDC) 10.02.06.K. to determine whether a use is comparable in nature with the list of permitted uses, and the purpose and intent statement of the zoning district, overlay, or PUD.

a. The proposed use possesses similar characteristics to other permitted uses in the zoning district, overlay, or PUD, including but not limited to the following:

i. Operating hours;
ii. Traffic volume generated/attracted;
iii. Type of vehicles associated with the use;
iv. Number and type of required parking spaces; and
v. Business practices and activities.

a. i: Operating hours:

The proposed carwash will commit to operating hours between 8 am to 8 pm. The hours of operation for the existing Walmart Supercenter are from 6 am to 11 pm. Additionally, the existing retail fuel station on site (Murphy USA) operates from 5:30 am to 10:30 pm. The difference in operating hours of the proposed carwash as compared to these existing uses is significantly less and far less intensive.

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Attachment: Attachment F - Application and Backup Documents (21517 : PL20210001966 FL Mod Wash Comparable Use Determination)

a. ii: Traffic volume generated/attracted:

The proposed automated carwash use will generate significantly fewer trip when compared to the following permitted commercial uses under the Artesa Pointe PUD:

- General merchandise stores (5311-5399), including discount retail, and discount superstore with grocery, auto tire and lubricating, and pharmacy component.
- Food stores (5411, excluding grocery stores and supermarkets - 5499, with accessory gasoline pumps and car wash)

Table 1 below details the Weekday PM Peak Hour trip generation for an automated car wash use per the Traffic Impact Statement as requested by staff and attached with the application. Tables 2 and 3 are provided to show the Weekday PM Peak Hour trip generation for a stand-alone discount superstore (existing Walmart Supercenter) and Convenience Market with Gasoline Pumps ("Food stores with accessory gasoline pumps and car wash" per the Artesa Pointe PUD permitted commercial uses)

Table 1
Trip Generation* Weekday PM Peak Hour
Automatic Carwash (Proposed Principal Use)

		Weekday PM Peak Hour		
ITE Land Use	**Size**	**In**	**Out**	**Total**
948 Automated Car Wash	**3,816 SF & 1 Tunnel**	**39**	**39**	**78**

*ITE Trip Generation Manual 10th Edition

Table 2
Trip Generation*– Weekday PM Peak Hour
Free-Standing Discount Superstore Comparison with Proposed Automated Car Wash

		Weekday PM Peak Hour		
ITE Land Use	**Size**	**In**	**Out**	**Total**
ITE LUC 813 – Free-Standing Discount Superstore	**216,400 SF**	**459**	**478**	**937**
Less Pass-by Trips (25% Per County TIS Guidelines)	**216,400 SF**	**-117**	**-117**	**-234**
Net New Trips	**216,400 SF**	**342**	**361**	**703**

*ITE Trip Generation Manual 10th Edition

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www.consult-rwa.com

Table 3
Trip Generation*– Weekday PM Peak Hour
Convenience Market with Gasoline Pumps Comparison with Proposed Automated Car Wash

		Weekday PM Peak Hour		
ITE Land Use	**Size**	**In**	**Out**	**Total**
ITE LUC 853 – Convenience Market with Gasoline Pumps	**4,500 SF**	**111**	**111**	**222**
Less Pass-by Trips (50% Per County TIS Guidelines)	**4,500 SF**	**-55**	**-56**	**-111**
Net New Trips	**4,500 SF**	**56**	**55**	**111**

*ITE Trip Generation Manual 10th Edition

The tables above confirm that the weekday PM peak hour trips generated by the carwash, 78 total trips, are far less intensive and impactful to the surrounding road network than either an existing discount superstore at 703 total PM Peak Hour trips or convenience market with gas pumps at 111 total PM Peak Hour trips.

a. iii: Types of vehicles associated with the use:
The types of vehicles associated with the proposed carwash use are comparable and no different than those that would be associated with the existing permitted uses within the PUD, such as the discount superstore (Walmart Supercenter) or Food stores (5411, excluding grocery stores and supermarkets - 5499, with accessory gasoline pumps and car wash). Furthermore, no delivery trucks or large service vehicles such as those that service large discount superstores or food stores with gas pumps will be associated with the carwash use.

a. iv: Number and type of required parking spaces:
The existing Walmart Supercenter has a total of 1,024 parking spaces as compared to the proposed carwash, which is to have a total of 4 parking spaces. The proposed carwash is significantly less intensive regarding parking spaces required as compared to the Walmart Supercenter. Additionally, the types of parking spaces for the carwash will be in accordance with the Land Development Code and consistent with those provided for the existing Walmart Supercenter, Murphy USA, and other existing adjacent retail and service commercial uses within the Artesa Pointe PUD. It is also appropriate to state that the carwash use will not have designated loading docks or areas to service the more intensive nature of discount superstores or food stores.

Attachment: Attachment F - Application and Backup Documents (21517 : PL20210001966 FL Mod Wash Comparable Use Determination)

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a. v: Business practices and activities:

The business practices and activities are significantly less intense to the existing discount superstore (Walmart Supercenter) and comparable to food stores with accessory gasoline pumps and car wash permitted within the Artesa Pointe PUD. The proposed carwash, as previously detailed, will have operating hours comparable to or less than the discount superstore and food store with gas pumps and car wash. The number of employees is well below the discount superstore use and comparable to the food store with gas pumps and car wash. Additionally, the proposed carwash is a commercial retail/service use, like the discount supercenter and food store with gas pumps and car wash, that are focused on meeting the needs of the surrounding residential population.

b. The effect of the proposed use would have on neighboring properties in relation to the noise, glare, or odor effects shall be no greater than that of other permitted uses in the zoning district, overlay, or PUD.

Considering the permitted and existed uses within this PUD, such as the discount superstore (Walmart) and food stores with gas pumps and car wash, the proposed carwash operations are comparable and would not have a greater effect in relation to the noise, glare, or odor on neighboring commercial properties. The proposed carwash development will meet or exceed all applicable noise, glare or odor requirements in the LDC.

With regards to noise, the applicant has conducted a sound analysis associated with their automatic carwashes. The analysis concludes that the typical carwash operations produce a maximum of 65 decibels 100 feet from the building. As a comparison, 65 decibels is similar to normal conversation levels. Moreover, the decibel level for vehicle traffic along Collier Boulevard would be in the range of 80-90 decibels. Based on the required setbacks, buffer, and location of the building as provided on the attached site plan, the decibel levels at 100 feet or more will likely not exceed 65 decibels for any significant period of time. These levels are appropriate and compatible with all neighboring commercial properties and the adjacent roadway use. To help ensure noise from the carwash development is not a nuisance, the applicant will commit to mitigate noise associated with the carwash operations that are determined to exceed noise thresholds beyond 80 decibels.

c. The proposed use is consistent with the GMP, meaning the applicable future land use designation does not specifically prohibit the proposed use, and, where the future land use designation contains a specific list of allowable uses, the proposed use is not omitted.

As previously stated, the project site is within the Henderson Creek Mixed-Use Subdistrict FLUM designation. This FLUM designation was developed per the C-4 General Commercial zoning district and lists carwashes (SIC 7542) as a permitted use.

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d. The proposed use shall be compatible and consistent with the other permitted uses in the zoning district, overlay, or PUD.

To the north/northwest, south and east, the property is surrounded by high intensity auto-dependent retail and service commercial uses consisting of a Walmart Supercenter, Aldi supermarket, the Tamiami Crossing Shopping Center, and the Shoppes at Eagle Creek. To the west, the property fronts a major arterial roadway (Collier Boulevard) and setback significantly from residential uses within the Eagle Creek PUD across Collier Boulevard.

Surrounding Land Uses

	Future Land Use District/Subdistrict	Zoning District	Existing Uses
NORTH	Urban Mixed Use, Henderson Creek Mixed-Use Subdistrict	CPUD (Tamiami Crossing)	Retail and Service Commercial
SOUTH	Urban Mixed Use, Henderson Creek Mixed-Use Subdistrict	CPUD (Artesa Pointe)	Retail and Service Commercial
EAST	Urban Mixed Use, Henderson Creek Mixed-Use Subdistrict	CPUD (Artesa Pointe)	Retail and Service Commercial
WEST	Urban Coastal Fringe Subdistrict	PUD (Eagle Creek)	Public Right-of-Way & Residential

Based on the above details of surrounding land uses, the proposed carwash is compatible and consistent with the other permitted commercial uses in the Artesa Pointe PUD. Additionally, the proposed use demonstrates and ensures compatibility through the provided setbacks and buffers as required per the Artesa Pointe PUD and detailed on the site plan. The proposed carwash will provide the required 10-foot setback along with a 10-foot wide type A landscape buffer. Abutting the right-of-way, the proposed carwash will provide the required 25-foot setback with a 20-foot wide type D landscape buffer.

e. Any additional relevant information as may be required by County Manager or Designee.

In accordance with criteria "e" and based on staff's comments, a site plan has been included with the resubmittal to further illustrate the proposed carwash development by specifically indicating parking spaces, access points to adjacent roadways, vehicle stacking, setbacks, buffers, and building footprint. Additionally, and as stated previously, the applicant is committed to working within the requirements of the LDC to ensure the proposed carwash does not negatively impact the surrounding commercial uses by committing to mitigate noise associated with the carwash operations that are determined to exceed noise thresholds beyond 80 decibels.

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Conclusion

In conclusion, it is my professional opinion that the proposed carwash use is comparable and compatible to the existing and permitted uses identified in the Artesa Pointe PUD. Supporting evidence provided through the TIS, as well as an analysis of similar uses within the PUD broken down per LDC 10.02.06.K.2.(a) criteria, provide clear and concise support for approval of this determination request. The proposed use is less intensive than current existing uses (i.e., Walmart Superstore and Murphy USA) within the PUD and with current permitted uses allowed within the PUD. Finally, the proposed car wash is consistent with the GMP and would qualify under the permitted uses under the Henderson Creek Mixed-Use Subdistrict FLU designation.

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ORDINANCE NO. 03 - 46

AN ORDINANCE AMENDING ORDINANCE NUMBER 91-102, THE COLLIER COUNTY LAND DEVELOPMENT CODE WHICH INCLUDES THE COMPREHENSIVE ZONING REGULATIONS FOR THE UNINCORPORATED AREA OF COLLIER COUNTY, FLORIDA BY AMENDING THE OFFICIAL ZONING ATLAS MAP NUMBERED 1603S AND BY CHANGING THE ZONING CLASSIFICATION OF THE HEREIN DESCRIBED REAL PROPERTY FROM "RSF-3" AND "PUD" TO "PUD" PLANNED UNIT DEVELOPMENT KNOWN AS ARTESA POINTE PUD FOR PROPERTY LOCATED ON THE EAST SIDE OF COLLIER BOULEVARD (CR-951) AND THE SOUTH SIDE OF U.S. 41 (TAMIAMI TRAIL) EAST, IN SECTION 03, TOWNSHIP 51 SOUTH, RANGE 26 EAST, COLLIER COUNTY, FLORIDA, CONSISTING OF 82± ACRES; PROVIDING FOR THE REPEAL OF ORDINANCE NUMBER 02-15, THE HENDERSON CREEK PUD; AND BY PROVIDING AN EFFECTIVE DATE.

WHEREAS, Wayne Arnold, AICP, of Q. Grady Minor and Associates, representing Gateway Shoppes II, LLC, petitioned the Board of County Commissioners to change the zoning classification of the herein described real property.

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Collier County, Florida, that:

SECTION ONE:

The zoning classification of the herein described real property located in Section 3, Township 51 South, Range 26 East, Collier County, Florida, is changed from "RSF-3" and "PUD" to "PUD" Planned Unit Development in accordance with the Artesa Pointe PUD Document, attached hereto as Exhibit "A", which is incorporated by reference herein and by reference made part hereof.. The Official Zoning Atlas Map numbered 1603S, as described in Ordinance Number 91-102, and the Collier County Land Development Code, is hereby amended accordingly.

SECTION TWO:

Ordinance Number 02-15, known as the Henderson Creek PUD, adopted on March 26, 2002, by the Board of County Commissioners of Collier County, is hereby repealed in its entirety.

SECTION THREE:

This Ordinance shall become effective upon filing with the Department of State.

Attachment: Attachment F - Application and Backup Documents (21517 : PL20210001966 FL Mod Wash Comparable Use Determination)

PASSED AND DULY ADOPTED by the Board of County Commissioners of Collier County, Florida, this 23rd day of September, 2003.

BOARD OF COUNTY COMMISSIONERS
COLLIER COUNTY, FLORIDA

BY: _____
TOM HENNING, CHAIRMAN
9-23-03

ATTEST:
BY: Patricia L Morgan, DC
DWIGHT E. BROCK, CLERK
Attest as to Chairman's signature only.
Approved as to Form
and Legal Sufficiency

Marjorie M. Student
Assistant County Attorney

UDZ-2003-AR-3860/RB/lo

This ordinance filed with the Secretary of State's Office the 24th day of Sept, 2003 and acknowledgement of that filing received this 2nd day of October, 2003
By Patricia L Morgan, DC
Deputy Clerk

Attachment: Attachment F - Application and Backup Documents (21517 : PL20210001966 FL Mod Wash Comparable Use Determination)

Artesa Pointe

A

PLANNED UNIT DEVELOPMENT

82± Acres Located in Section 3,
Township 51 South, Range 26 East,
Collier County, Florida

PREPARED FOR:

Gateway Shoppes II, LLC

PREPARED BY:

D. Wayne Arnold, AICP
Q. Grady Minor & Associates
3800 Via Del Rey
Bonita Springs, Florida 34134

And

Richard D. Yovanovich
Goodlette, Coleman & Johnson
4001 Tamiami Trail North, Suite 300
Naples, Fl 34103

EXHIBIT "A"

Attachment: Attachment F - Application and Backup Documents (21517 : PL20210001966 FL Mod Wash Comparable Use Determination)

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Attachment: Attachment F - Application and Backup Documents (21517 : PL20210001966 FL Mod Wash Comparable Use Determination)

STATEMENT OF COMPLIANCE

The purpose of this Section is to express the intent of Gateway Shoppes, LLC, hereinafter referred to as the Developer, to create a Planned Unit Development (PUD) on 82± acres of land located in Section 3, Township 51 South, Range 26 East, Collier County, Florida. The name of this Planned Unit Development shall be Artesa Pointe. The development of Artesa Pointe will be in compliance with the planning goals and objectives of Collier County as set forth in the Growth Management Plan (GMP). The development will be consistent with the growth policies and land development regulations adopted pursuant to of the Growth Management Plan, Future Land Use Element (FLUE) and other applicable regulations for the following reasons:

1. The subject property is located in the Henderson Creek Mixed-Use Subdistrict as identified on the Future Land Use Map. The Subdistrict provides for a maximum of 360 residential dwellings and 325,000 square feet of commercial development. A minimum of 200 dwelling units shall be developed as affordable housing units.

2. The proposed residential density of the Artesa Pointe PUD is 5.96 dwelling units per acre based on approximately 47 acres of non-commercial area, and approximately 8.5 dwelling units/acre based on 33± acres of residential uses, and is consistent with the maximum density permitted by the FLUE Density Rating System and is therefore consistent with FLUE, Policy 5.1. The entire property qualifies for a base density of three (3) units per acre. Through the affordable housing density bonus provisions of the GMP, eight (8) dwelling units per acre may be added to the base density.

Base density	4 dwelling units/acre
Traffic congestion area	-1 dwelling unit/acre
Affordable housing density bonus	5.5 dwelling units/acre
Total eligible density	8.5 dwelling units/acre (280 units)
Maximum permitted density	11 dwelling units/acre
Requested density	5.96 dwelling units/acre = 280 units

The maximum amount of permitted commercial space shall be 325,000 square feet of gross leasable area.

3. Improvements are planned to be in compliance with the applicable land development regulations as set forth in Objective 3 of the FLUE.

4. The development of the Artesa Pointe PUD will result in an efficient and economical extension of community facilities and services as required in Policy 3.1. of the FLUE.

5. The Artesa Pointe PUD is a master planned mixed-use community and is planned to encourage ingenuity, innovation and imagination as set forth in the Land Development Code (LDC), Planned Unit Development District.

Attachment: Attachment F - Application and Backup Documents (21517 : PL20210001966 FL Mod Wash Comparable Use Determination)

6. The Artesa Pointe PUD is planned to incorporate natural systems for water management in accordance with their natural functions and capabilities as may be required by Objective 1.5 of the Drainage Sub-Element of the Public Facilities Element of the GMP.

7. All final local development orders for this project are subject to the Collier County Adequate Public Facilities Ordinance, Division 3.15 of the LDC.

8. The Artesa Pointe PUD is consistent with the Henderson Creek Mixed Use Subdistrict of the FLUE.

Attachment: Attachment F - Application and Backup Documents (21517 : PL20210001966 FL Mod Wash Comparable Use Determination)

v

SHORT TITLE

This Ordinance shall be known and cited as the "ARTESA POINTE PLANNED UNIT DEVELOPMENT ORDINANCE".

Attachment: Attachment F - Application and Backup Documents (21517 : PL20210001966 FL Mod Wash Comparable Use Determination)

SECTION I

LEGAL DESCRIPTION, PROPERTY OWNERSHIP, AND GENERAL DESCRIPTION

1.1 PURPOSE

The purpose of this Section is to set forth the legal description and ownership of the Artesa Pointe PUD, and to describe the existing conditions of the property proposed to be developed.

1.2 LEGAL DESCRIPTION

A parcel of land located in Section 3, Township 51 South, Range 26 East, Collier County, Florida being more particularly described as follows:

Commence at the East quarter corner of Section 3, Township 51 South, Range 26 East, Collier County, Florida; thence run south 00°41'50" west, along the east line of the southeast quarter of said Section 3, for a distance of 1,361.72 feet to a point on the southerly right-of-way line of U.S. 41 (State Road 90) (200 foot right-of-way); thence run north 54°20'16" west, along said southerly right-of-way line, for a distance of 966.32 feet to a point on the westerly line of a 100 foot wide drainage easement a recorded in Official Records Book 76 at Pages 127 through 129, of the Public Records of Collier County, Florida; the same being the **point of beginning**; thence run South 20°16'12" west, along said westerly line, for a distance of 203.10 feet to the beginning of a tangential circular curve concave northwesterly; thence run southwesterly along said westerly line and the arc of said curve to the right, having a radius of 2,799.93 feet; through a central angle of 09°43'48"; subtended by a chord of 474.91 feet at a bearing of south 25°08'06" west, for an arc length of 475.48 feet to the end of said curve; the same being a point on the north line of the south half of the south half of said Section 3; thence run north 89°26'59" west, along said north line for, a distance of 2,833.22 feet to a point on the easterly right-of-way line of Isle of Capri Road (State Road 951) (right-of-way varies); thence run north 02°28'03" east, along said easterly line, for a distance of 1,284.83 feet; thence, leaving said right-of-way line, run the following four (4) courses along the lines of the property described in Official Records Book 2529 at Pages 1377 and 1378 north 90°00'00" east for a distance of 100.09 feet; thence run north 02°28'03" east for a distance of 136.68 feet; thence run north 04°09'46" east for a distance of 163.91 feet; thence run south 89°55'57" east for a distance of 867.08 feet to a point that is a distance of 400.00 feet southerly of and parallel with the aforementioned southerly right-of-way line of U.S. 41 (State Road 90) (200 foot right-of-way); thence run south 54°20'16" east for a distance of 1,654.49 feet; thence run north 35°39'44" east for a distance of 400.00 feet to a point on the said southerly right-of-way line of U.S. 41; thence run south 54°20'16" east, along said line, for a distance of 600.00 feet to the **point of beginning**, containing 81.886 acres, more or less.

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Together with a non-exclusive ingress/egress easement over Parcel "A-1" as it is described in Agreement for Non-exclusive Ingress/egress Easement recorded in Official Records Book 2529, Page 1389, of the Public Records of Collier County, Florida

1.3 GENERAL DESCRIPTION OF PROPERTY

A. The project site is located in Section 3, Township 51 South, Range 26 East. The site is generally bordered on the west by S.R. 951 and the Eagle Creek PUD District; on the north by undeveloped C-4 and A zoned property; on the east by Henderson Creek; and on the south by the Holiday Manor Mobile Home Park, zoned MH.

B. The zoning classification of the subject property at the time of PUD application is RSF-3 and PUD.

C. Elevations within the site are approximately 3.5 feet to 4.5 feet above MSL. Per FEMA Firm Map Panel No. 120067 605 E and 615 E, dated August 3, 1992, the Artesa Pointe PUD is located within AE 7 of the FEMA flood insurance rate map.

D. Approximately 33% of the site is abandoned agricultural field. The remainder is naturally forested with pine flatwoods and pine-cypress-cabbage palm.

E. The soil types on the site generally include 02 – Holopaw fine sand, limestone substratum, 10 – Oldsmar fine sand, limestone substratum, 11 – Hallendale fine sand, 14 – Pineda fine sand, limestone substratum, 20 – Ft. Drum and Malabar, high fine sands, 27 – Holopaw fine sand, and 32 – Urban land as defined by the NRCS.

F. The project site is located within the Collier County Water Management District Henderson Creek Watershed.

1.4 PERMITTED VARIATIONS OF DWELLING UNIT TYPES.

A maximum of 280 dwelling units are permitted within the Artesa Pointe PUD. This maximum may include a mix of single-family, two-family, duplex, zero lot line, patio, townhome and multi-family dwelling unit types.

1.5 DENSITY

A. The acreage of the residential and open space portions of the PUD are approximately 47± acres and the number of dwelling units authorized to be built pursuant to this PUD is a maximum of 280 units through use of the affordable housing density bonus as set forth in the Density Rating System of the FLUE of the GMP. The gross project density, shall be a maximum of 5.96 units per acre.

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B. At all times, all property included within the Artesa Pointe PUD as residential or open space shall be included in determining project density, including lands to be reserved for road right-of-way as part of the PUD rezoning process.

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SECTION II

PROJECT DEVELOPMENT

2.1 PURPOSE

The purpose of this Section is to generally describe the plan of development for the Artesa Pointe PUD, and to identify relationships to applicable County ordinances, policies, and procedures.

2.2 GENERAL DESCRIPTION OF PROJECT PLAN AND PROPOSED LAND USES

A. The Artesa Pointe PUD will be developed as a mixed-use community which may feature a full array of commercial uses, residential dwelling types, and a recreation center, providing for activities such as community gatherings, recreational amenities, and personal services, central to community residents.

B. The Conceptual Master Plan is illustrated graphically as Exhibit "A". A Land Use Summary indicating approximate land use acreages is shown on the plan. The Master Plan is conceptual, and the location, size, and configuration of the individual recreational area, water management features, and development tracts shall be determined at the time of final site development plan and/or preliminary subdivision plat approval with minor adjustments at the time of final plat approval, in accordance with Subsection 3.2.7.2 and more particular Section 3.3 of the LDC.

C. The Artesa Pointe PUD is compatible with and complementary to existing and future surrounding land uses as required in Policy 5.4 of the FLUE and the Henderson Creek Mixed Use Subdistrict of the FLUE.

2.3 COMPLIANCE WITH COUNTY ORDINANCES

A. Regulations for development of the Artesa Pointe PUD shall be in accordance with the contents of this PUD Ordinance and applicable sections of the LDC (to the extent they are not inconsistent with this PUD Ordinance) and the Growth Management Plan which are in effect at the time of issuance of any development orders to which said regulations relate which authorize the construction of improvements, such as but not limited to, final subdivision plat, final site development plan, excavation permit and preliminary work authorization. Where this PUD Ordinance does not provide developmental standards, then the provisions of the specific section of the LDC that is otherwise applicable shall apply. Where specific standards are specified in this PUD, these standards shall prevail over those in the LDC.

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B. Unless otherwise defined herein, or as necessarily implied by context, the definitions of all terms shall be the same as the definitions set forth in the LDC in effect at the time of development order application.

C. Development permitted by the approval of this PUD shall be subject to the Adequate Public Facilities Ordinance, Division 3.15 of the LDC.

D. Unless modified, waived or excepted by this PUD, or by subsequent request, the provisions of all other sections of the LDC remain in effect with respect to the development of the land which comprises this PUD.

E. All conditions imposed herein or as represented on the Artesa Pointe Master Plan are part of the regulations which govern the manner in which the land may be developed.

F. The Subdivisions Division of the LDC (Article 3, Division 3.2) shall apply to the Artesa Pointe PUD, except where an exemption or substitution is set forth herein or otherwise granted pursuant to the Land Development Code, Section 3.2.4.

G. The Site Development Plans Division of the LDC (Article 3, Division 3.3) shall apply to the Artesa Pointe PUD, except where an exemption is set forth herein or otherwise granted pursuant to the Land Development Code, Section 3.3.4.

H. Recognizing that the plans for development of tracts have not been designated with a specific dwelling unit type, the type of dwelling unit which characterizes the initial development of any platted tract shall be carried out throughout the development of that entire tract.

2.4 ROADWAYS

Roadways within the Artesa Pointe PUD may be privately owned and maintained. Standards for roads shall be in compliance with the applicable provisions of the LDC regulating subdivisions, unless otherwise modified, waived or excepted by this PUD or approved during preliminary subdivision plat approval. The Developer reserves the right to request substitutions to Code design standards in accordance with Subsection 3.2.7.2 of the LDC. The Developer retains the right to establish gates, guardhouses, and other access controls as may be deemed appropriate by the Developer on all internal and privately owned and maintained project roadways. The primary access road, loop road connecting U.S. 41 with S.R. 951, shall not be gated, and shall remain open to the public.

2.5 LAKE SETBACK AND EXCAVATION

The lake setback requirements described in Subsection 3.5.7.1 of the LDC may be reduced with the administrative approval of the Collier County Planning Services Director. All

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lakes greater than two (2) acres may be excavated to the maximum commercial excavation depths set forth in Subsection 3.5.7.3.1. and subject to permit approval of the South Florida Water Management District. Removal of fill and rock from the Artesa Pointe PUD shall be administratively permitted to an amount up to 10 percent per lake (20,000 cubic yards maximum), unless a commercial excavation permit is issued.

2.6 USE OF RIGHTS-OF-WAY

Utilization of lands within all project rights-of-way for landscaping, decorative entranceways, and signage shall be allowed subject to review and administrative approval by the Collier County Engineering Director for engineering and safety considerations during the development review process and prior to any installations.

2.7 CHANGES AND AMENDMENTS TO PUD DOCUMENT OR PUD MASTER PLAN

Changes and amendments may be made to this PUD Ordinance, PUD Master Plan as provided in Subsection 2.7.3.5 of the LDC. Minor changes and refinements as described herein may be made by the Developer in connection with any type of development or permit application required by the LDC.

2.8 COMMON AREA MAINTENANCE

Common area maintenance shall be provided by a property owners' association. The Developer shall create a property owners' association or associations, whose functions shall include provision for the perpetual maintenance of common facilities and open spaces. The property owners' association, shall be responsible for the operation, maintenance, and management of the surface water and stormwater management systems and reserves serving the Artesa Pointe, in accordance with the provisions of Collier County Ordinance 90-48 and Resolution 90-292, together with any applicable permits from the South Florida Water Management District.

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2.9 LANDSCAPE BUFFERS, BERMS, FENCES AND WALLS

Landscape buffers, berms, fences and walls are generally permitted as a principal use throughout the Artesa Pointe PUD. Landscape buffers shall be provided consistent with the minimum criteria for mixed-use activity centers, and as required by the Henderson Creek Mixed-use Subdistrict. The following standards shall apply:

A. Landscape berms shall have the following maximum side slopes:

1. Grassed berms 4:1
2. Ground covered berms
   Perimeter 3:1
   Internal to project 3:1
3. Structural walled berms - vertical

B. Fence or wall maximum height: Six feet (6'), as measured from the finished floor elevation of the nearest residential structure within the development. If the fence or wall is constructed on a landscaped berm, the wall shall not exceed six feet (6') in height from the top of berm elevation, except as noted in Section 2.9.G of this PUD Document. All fences shall be subject to the design standards of Section 2.6.11 of the LDC.

C. Landscape buffers, berms, fences and walls may be constructed along the perimeter of the Artesa Pointe PUD boundary with County Staff approval at the time of preliminary subdivision plat, site development plan, or site improvement plan approval.

D. Fences and walls which are an integral part of security and access control structures, such as gatehouses and control gates, shall be subject to the height limitations for principal residential structures.

E. Pedestrian sidewalks and/or bike paths may be allowed in landscape buffers. Where such structures or features are located in the required landscape buffer, the landscape buffer shall be increased in width equal to the encroachment in that location.

F. Landscape berms located within the Artesa Pointe PUD boundary and contiguous to a property line and/or right-of-way line may be constructed such that the toe of slope is set back a minimum 5 feet from the property line and/or right-of-way line. The berm and wall identified in Section 2.9.G of this PUD shall be designed in compliance with Exhibit "B" of the PUD.

G. Concurrent with development of each tract, a minimum 6 foot high precast concrete (or similar material) wall shall be constructed within the buffer along the southern property boundary adjacent the residential tract and an 8 foot high precast concrete

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wall (or similar material) shall be constructed within the buffer, adjacent the commercial tract(s). The walls must be constructed on a minimum 3 foot high berm). Within the Preserve Area, a chain link (or similar material) fence shall be constructed parallel to the southern property line.

2.10 FILL STORAGE

Fill storage is generally permitted as a principal use throughout the Artesa Pointe PUD. Fill material generated from other properties owned or leased by the Developer may be transported and stockpiled within areas which have been disturbed/farmed. Prior to stockpiling in these locations, the Developer shall receive approval by the County Community Development and Environmental Services Administrator. The following standards shall apply:

A. Stockpile maximum side slope 2:1, if protected by a six foot (6') high fence; otherwise, a 4:1 side slope shall be required.

B. Stockpile maximum height: Twenty feet (20)'. No stockpile shall remain for a period longer than one year.

C. Soil erosion control shall be provided in accordance with LDC, Division 3.7.

2.11 DESIGN GUIDELINES AND STANDARDS

The Collier County Planned Unit Development District is intended to encourage ingenuity, innovation and imagination in the planning, design and development or redevelopment of relatively large tracts of land under unified ownership or control, as set forth in the LDC, Section 2.2.20.1. Both commercial and residential development shall be designed in compatible architectural styles and the project shall contain similar landscaping, buffers, and signage.

2.12 PRELIMINARY SUBDIVISION PLAT PHASING

Submission, review, and approval of preliminary subdivision plats for the project may be accomplished in phases to correspond with the planned development of the property.

2.13 GENERAL PERMITTED USES

Certain uses shall be considered general permitted uses throughout the Artesa Pointe PUD except in the Preserve/Open Space Area. General permitted uses are those uses which generally serve the Developer and residents of the Artesa Pointe PUD and are typically part of the common infrastructure or are considered community facilities.

A. General Permitted Uses:

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1. Essential services as set forth under LDC, Subsection 2.6.9.1.

2. Water management facilities and related structures.

3. Lakes including lakes with bulkheads or other architectural or structural bank treatments.

4. Guardhouses, gatehouses, and access control structures.

5. Community and neighborhood parks, recreational facilities.

6. Temporary construction, sales, and administrative offices for the Developer and Developer's authorized contractors and consultants, including necessary access ways, parking areas and related uses.

7. Landscape features including, but not limited to, landscape buffers, berms, fences and walls subject to the standards set forth in Section 2.9 of this PUD.

8. Fill storage subject to the standards set forth in Section 2.10 of this PUD.

B. Development Standards:

Unless otherwise set forth in this Document, or as noted in Table 1, the following development standards shall apply to structures:

1. Setback from back of curb or edge of pavement of any road - Twelve feet (12') except for guardhouses, gatehouses, and access control structures which shall have no required setback.

2. Setback from PUD boundary: See Table 1, Development Standards and Subsection 4.5.A.4 of this PUD.

3. Minimum distance between unrelated structures - Ten feet (10').

4. Maximum height of structures - See Table 1, Development Standards and Section 4.5.C of this PUD.

5. Minimum floor area - None required.

6. Minimum lot or parcel area - None required.

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7. Standards for parking, landscaping, signs and other land uses where such standards are not specified herein are to be in accordance with the appropriate sections of the LDC in effect at the time of site development plan approval.

2.14 OPEN SPACE REQUIREMENTS

The Collier County LDC requires that mixed-use projects maintain open space at a minimum of 30% of the project area. The PUD Master Plan identifies preserves, lakes, recreation tracts and buffers as open spaces. These areas, in conjunction with open space areas included within the Residential District, will satisfy the 30% open space requirement of Section 2.6.32 of the LDC for mixed-use developments.

2.15 NATIVE VEGETATION RETENTION REQUIREMENTS

Pursuant to Policy 6.4.6 of the Conservation and Coastal Management Element of the Growth Management Plan, a minimum of 25% of the viable naturally functioning native vegetation on site shall be retained, which is 13.755 acres.

2.16 SIGNAGE

All signs will be in accordance with Division 2.5 of the LDC in effect at time of their permitting, unless otherwise specified herein within the Artesa Pointe PUD.

A. Exception from Subsection 2.5.5.1.6 On-Premises Signs within Residential District.

In addition to other permitted residential signs in Section 2.5 of the LDC, one pole or monument directory sign which identifies the name of the commercial component of the PUD and individual tenant(s) within the commercial component as well as the residential development may be located at the project entrance on U.S. 41 East. The sign shall not exceed a maximum of 150 square feet in sign copy area and shall not exceed 15 feet in height. The minimum setback from U.S. 41 shall be 15 feet.

2.17 SIDEWALKS/BIKEPATHS

A. Pursuant to LDC Subsection 3.2.8.3.17 and Section 2.9 of the Artesa Pointe PUD, sidewalks/bikepaths shall be permitted as follows:

1. An internal pedestrian walkway system is permitted within drainage easements.

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2. Sidewalks may be located outside platted rights-of-way, when located within a separate sidewalk easement.

3. Sidewalks may be located within landscape buffers and/or easements; however, the landscape buffer shall be increased in width by an amount equal to the encroachment, at the point of encroachment.

2.18 SUBSTITUTIONS TO SUBDIVISION DESIGN STANDARDS

A. The Developer reserves the right to request substitutions to subdivision improvement and utility design standards in accordance with Subsection 3.2.7.2 of the LDC.

B. The proposed primary entry road shall be designed and constructed in accordance with Section 3.2.8 of the LDC. Other roadways within Artesa Pointe shall be designed and constructed in accordance with Section 3.2.8 of the LDC with the following substitutions:

C. Streets and access improvements

1. LDC Subsection 3.2.8.4.16.5, Street Right-of-Way Width

   Street right-of-way width: The minimum right-of-way width to be utilized for local streets and cul-de-sacs shall be forty (40) feet. Two-way drive aisles serving multi-family tracts or commercial tracts shall be a minimum of twenty-four (24) feet. Minimum right-of-way width for the loop road shall be sixty (60) feet.

2. LDC Subsection 3.2.8.4.16.6, Dead-end Streets

   Cul-de-sacs may exceed a length of one thousand (1,000) feet.

3. LDC Subsection 3.2.8.4.16.8, Intersection Radii

   Intersection radii: Street intersections shall be provided with a minimum of a twenty (20) foot radius (face of curb) for all internal project streets and a thirty-five (35) foot radius for intersections at project entrances.

4. LDC Subsection 3.2.8.4.16.10, Reverse Curves

   Reverse Curves: Tangents shall not be required between reverse curves on any project streets.

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5. LDC Subsection 3.2.8.3.17, Sidewalks, bike lanes and bike paths

A sidewalk six (6) feet in width or an eight (8) foot wide multimodal pathway shall be provided on one side of the loop road connecting U.S. 41 and S.R. 951.

6. LDC Subsection 3.2.8.3.17, Sidewalks, bike lanes and bike pa

A sidewalk five (5) feet in width shall be provided on one side only of local streets.

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SECTION III

RESIDENTIAL
"R"

3.1 PURPOSE

The purpose of this Section is to identify permitted uses and development standards for areas within the Artesa Pointe PUD designated on the Master Plan as "R", Residential.

3.2 MAXIMUM DWELLING UNITS

A maximum of two hundred and eighty (280) residential dwellings may be constructed within the areas designated "R" on the Conceptual Master Plan. A minimum of two hundred (200) dwelling units shall qualify as affordable housing under Collier County guidelines for affordable housing, and subject to the approved companion Collier County Affordable Housing Density Bonus Agreement.

3.3 GENERAL DESCRIPTION

Areas designated as "R," Residential on the Master Plan are designed to accommodate a full range of residential dwelling types and general permitted uses as described by Section 2.13 of this PUD Document, a full range of recreational facilities, essential services, and customary accessory uses.

The approximate acreage of the area designated for residential development is indicated on the PUD Master Plan. This acreage is based on conceptual designs and is approximate. Actual acreages of all development tracts will be provided at the time of site development plan or preliminary subdivision plat approvals in accordance with Division 3.3, and Division 3.2, respectively, of the LDC. Residential tracts are designed to accommodate internal roadways, open spaces, and other similar uses found in residential areas.

3.4 PERMITTED USES AND STRUCTURES

All residential dwellings shall be offered as for-sale product. No building or structure, or part thereof, shall be erected, altered or used, or land used, in whole or part, for other than the following:

A. Principal Uses:

1. Single family attached, and townhomes (no building structure for single family attached or townhomes shall contain more than 4 dwelling units).

2. Single family and zero lot line dwellings.

3. Two-family and duplex dwellings.

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4. Multi-family dwellings including coach homes and garden apartments (no building structure shall contain more than 4 dwelling units).

5. Model homes and model home centers (subject to Section 2.6.33 of the LDC) Offices for project administration, construction, sales and marketing.

6. Recreational facilities such as parks, playgrounds, and pedestrian/bikeways

B. Accessory Uses and Structures:

1. Accessory uses and structures customarily associated with the principal uses permitted in this subdistrict, including swimming pools, spas and screen enclosures, recreational facilities designed to serve the development, and essential services.

2. Any other accessory use, which is comparable in nature with the foregoing list of uses, as determined by the Board of Zoning Appeals (BZA).

3.5 DEVELOPMENT STANDARDS

A. Table 1 sets forth the development standards for land uses within the Artesa Pointe PUD residential area.

B. Site development standards for single family, zero lot line, patio home, two-family, duplex, single family attached and town home uses apply to individual residential lot boundaries. Multi-family standards apply to parcel boundaries.

C. Standards for parking, landscaping, signs and other land uses where such standards are not specified herein, are to be in accordance with the LDC in effect at the time of site development plan approval. Unless otherwise indicated, required yard, height, and floor area standards apply to principal structures.

D. Development standards for uses not specifically set forth in Table I shall be in accordance with those standards of the zoning district which permits development that is most similar to the proposed use.

E. During the platting process, the Developer shall identify the specific housing type intended for each platted tract.

F. Single-family attached dwellings shall be permitted to have individual driveways on private roadways.

G. All residential development shall comply with the minimum landscape standards required in Section 2.4 of the LDC.

H. All dwelling units shall be required to have a minimum of a single-car garage.

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TABLE 1
DEVELOPMENT STANDARDS FOR "R" RESIDENTIAL AREA

DEVELOPMENT STANDARDS	SINGLE-FAMILY ATTACHED	ZERO LOT LINE PATIO\VILLA	MULTI-FAMILY\ BUILDINGS	CLUBHOUSE/ RECREATION BUILDINGS
PRINCIPAL STRUCTURES				
MINIMUM LOT AREA	2,250 S.F.	2,250 S.F.	1 ACRE	N/A
MINIMUM LOT WIDTH	25 FEET	40 FEET	150 FEET	N/A
MIN. FLOOR AREA	1,000 S.F.	1,000 S.F.	450 S.F.	N/A
FRONT YARD[10,11]	20 FEET	20 FEET	20 FEET	N/A
SIDE YARD	5 FEET[1, 7] 7.5 FEET[2, 7]	0 FEET or 5 FEET[3, 7]	15 FEET or ½ BH	N/A
REAR YARD	15 FEET	15 FEET	15 FEET	N/A
PRESERVE SETBACK[9]				
PRINCIPAL STRUCTURE	25 FEET	25 FEET	25 FEET	25 FEET
ACCESSORY STRUCTURE	10 FEET	10 FEET	10 FEET	10 FEET
MIN. DIST. BETWEEN STRUCTURES	10 FEET 15 FEET[2]	10 FEET	15 FEET[4]	N/A
MAX. BLDG. HT.	35 FEET[5,6]	35 FEET[5,6]	35 FEET[5]	N/A
ACCESSORY STRUCTURES				
FRONT	S.P.S.	S.P.S.	S.P.S.	20 FEET
SIDE	S.P.S.[7, 8]	S.P.S.[7, 8]	S.P.S.[7,8]	0, OR 5, OR 7.5 FEET[2,8]
REAR (ATTACHED)	5 FEET[8]	5 FEET[8]	10 FEET[8]	5 FEET[8]
(DETACHED)	5 FEET[8]	5 FEET[8]	20 FEET[8]	5 FEET[8]
PRESERVE SETBACK	10 FEET	10 FEET	10 FEET	10 FEET
MAX. BLDG. HT.	35 FEET[5,6]	35 FEET[5,6]	35 FEET[5,6]	35 FEET[5,6]

[1] Applicable to single story dwelling units.
[2] Applicable to two story dwelling units.
[3] Zero foot (0') minimum side yard setback on either or both sides, provided a minimum 10 foot separation between principal structures is maintained.
[4] 15 feet, or one half of the sum of the heights of adjacent buildings, measured from the exterior walls, whichever is greater.
[5] Building height shall be measured from the first finished floor elevation.
[6] Maximum height is 2 stories, not to exceed 35 feet, above the minimum finished floor elevation, except for attached screen enclosures, which may be the height of the principal structure.
[7] Where fee simple lots are created as single family attached housing units, no side yard shall be required between interior units of a unified principal structure, and the required side yard shall be measured from the exterior wall(s) of the principal structure.
[8] Where adjacent to a lake, 0 feet from the lake maintenance easement. No structures are permitted in the required, 20 foot lake maintenance easement (See Appendix "A", Typical Cross Sections, and Exhibit A, PUD Master Plan).
[9] For purposes of this PUD, attached roofed screen enclosures or lanais shall be considered accessory structures.
[10] Building setback shall be measured from back of curb for private streets; however, a minimum of 23 feet from edge of sidewalk to the garage must be provided, or 23 feet from edge of pavement where no sidewalk is provided.
[11] For lots abutting the project's loop road and which have access from another private road, a minimum building setback of 15 feet from the loop road right-of-way shall be required. A landscape buffer or fence shall be required between the structure and the right-of-way.

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Note: The location of structures proposed adjacent to a lake may have no setback from the lake maintenance easement. No structures are permitted in the required, 20 foot lake maintenance easement, except as provided for in Section 2.5 of this PUD Document.

S.P.S.: Same as Principal Structures.
BH: Building Height.

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SECTION IV

COMMERCIAL
"C"

4.1 PURPOSE:

The purpose of this Section is to identify the permitted commercial land uses and related development standards for areas within the Artesa Pointe PUD designated "C", Commercial on the Conceptual Master Plan, Exhibit A.

4.2 MAXIMUM COMMERCIAL SQUARE FOOTAGE

A maximum of 325,000 square feet of gross leasable commercial space is permitted within the Artesa Pointe PUD. A maximum of four out-parcels are allowed, all of which shall abut Collier Boulevard. All out-parcels shall provide internal vehicular access. All out-parcels are limited to non-regional commercial uses. No out-parcel shall exceed five acres.

4.3 GENERAL DESCRIPTION

Areas designated as "C", Commercial on the Master Concept Plan, Exhibit "A", are designed to implement the provisions of the Henderson Creek Mixed Use Sub-district outlined in the FLUE of the Collier County Growth Management Plan. The focus of this Subdistrict is to provide regional commercial uses with limited neighborhood commercial uses.

For the purposes of this PUD, the term "regional commercial uses" is defined as:

Retail uses typically dominated by large anchors, including discount department stores, discount super stores, off-price stores, warehouse clubs, and home improvement centers. Regional retail uses typically utilize square footages ranging from 20,000 square feet to over 100,000 square feet.

4.4 PERMITTED USES

A. Principal Uses (non-regional):

1. Accounting, auditing and bookkeeping services (8721)
2. Apparel and accessory stores (5611-5699)
3. Building materials, hardware, and garden supply (5231-5261)

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4. Business services (7311, 7313, 7322-7338, 7361, 7371, 7372, 7374-7376, 7379, 7384)
5. Depository institutions (6011-6099)
6. Eating places (5812)
7. Engineering, architectural and surveying (8711-8713)
8. Food stores (5411, excluding grocery stores and supermarkets – 5499, with accessory gasoline pumps and car wash)
9. General merchandise stores (5311-5399), including discount retail, and discount superstore with grocery, auto tire and lubricating, and pharmacy component.
10. Health services (8011-8049)
11. Home furniture, furnishing and equipment stores (5712-5736)
12. Insurance carriers, agents and brokers (6311-6399, 6411)
13. Libraries (8231)
14. Legal services (8111)
15. Management and public relations services (8741-8743)
16. Miscellaneous retail (5912, 5921, 5941-5961, 5992, 5995, and 5999 – excluding auction room, tombstone sales, and swimming pool sales.)
17. Non-depository credit institutions (6141-6163)
18. Real estate (6512, 6520-6552)
19. Stationery and office supplies, retail (5112)
20. Motion pictures (7832, 7841)

B. Principal Uses (regional):

1. Apparel and accessory stores (5611-5699)
2. Building materials, hardware, and garden supply (5231-5261)
3. General merchandise stores (5311-5399), including discount retail, and discount superstore with grocery, auto tire and lubricating, and pharmacy component.
4. Home furniture, furnishing and equipment stores (5712-5736)
5. Libraries (8231)
6. Miscellaneous retail (5912, 5921, 5941-5961, 5992, 5995, and 5999 – excluding auction room, tombstone sales, and swimming pool sales.)
7. Stationery and office supplies, retail (5112)
8. Motion pictures (7832, 7841)
9. Discount warehouse clubs, which includes stores where shoppers pay a membership fee in order to take advantage of discounted prices on a wide variety of items such as food, clothing, tires and appliances.
10. Home improvement superstore/center, which includes warehouse-type retail facilities specializing in the sale of home improvement merchandise, including lumber, tools, paint, lighting, wall paper and paneling, kitchen and bathroom fixtures, lawn equipment, and garden plants and accessories. No

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outdoor storage of building materials or on-site assembly of building components is permitted.

C. Accessory Uses:

1. Uses and structures that are customarily incidental and subordinate to the above permitted uses.

2. Automatic car washes and fuel pumps in conjunction with a convenience food store.

4.5 DEVELOPMENT STANDARDS

A. Yard Requirements

1. Front:	Twenty-five feet (25')
2. Side:	Fifteen feet (15')
3. Rear:	Fifteen feet (15')
4. From PUD Boundary:	Twenty-five feet (25')
5. From Internal Roadway:	Ten feet (10')
6. Preserve:	
Principal:	Twenty-five feet (25')
Accessory:	Ten feet (10)

B. Minimum Lot Size

1.	Minimum lot width:	One hundred feet (100')
2.	Minimum area:	Twenty thousand (20,000) square feet

C. Building Height

Buildings shall be limited to one-story, not to exceed a maximum of thirty-five (35') feet in height except that architectural entry features may exceed thirty-five (35') feet in height, mezzanines shall not constitute a second story. Building height shall be applied in accordance with the LDC.

D. Floor Area Requirements

At least one of the regional commercial uses (as set forth in this Subsection) shall contain a minimum of 100,000 square feet of gross leasable area. Non-regional commercial uses shall not exceed a total 32,500 square feet of gross leasable area, and the remaining regional commercial use (beyond the one required at minimum of 100,000 square feet) must occupy a minimum of 20,000 square feet of gross leasable floor area, as required by the Subdistrict. Those integral components of

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regional retail uses and discount super stores such as gasoline sales and auto service, grocery sales, pharmacies, and the like shall not be considered non-regional retail uses for purposes of the overall non-regional retail square footage limitation. For purposes of this PUD, gross leasable area shall include only that portion of a building under a roof and enclosed by walls.

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SECTION V

PRESERVE/OPEN SPACE AREA "P/O"

5.1 PURPOSE

The purpose of this Section is to identify permitted uses and development standards for the area within the Artesa Pointe PUD designated on the Master Plan as "PO", Preserve/Open Space.

5.2 GENERAL DESCRIPTION

Areas designated as "PO", Preserve/Open Space on the Master Plan are designed to accommodate conservation, passive recreation and water management uses and functions. The acreage of the Preserve/Open Space area is indicated on the Master Plan.

5.3 PERMITTED USES AND STRUCTURES

No building or structure, or part thereof, shall be erected, altered or used, or land or water used, in whole or in part, for other than the following:

A. Permitted Principal Uses and Structures

1. Boardwalks, nature trails and shelters.

2. Water management structures.

3. Any other conservation and related open space activity or use, which is comparable in nature with the foregoing list of uses, as determined by the Board of Zoning Appeals (BZA).

5.4 DEVELOPMENT STANDARDS

A. Maximum height of structures: Twenty-five (25) feet.

5.5 LANDSCAPE BUFFERS

A. Where Section 2.4 of the LDC requires landscape buffers, and Preserve/Open Space areas are shown, landscape buffers may consist of preserve vegetation, where it is demonstrated that the landscape feature meets or exceeds requirements of Section 2.4 of the LDC.

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SECTION VI

GENERAL DEVELOPMENT COMMITMENTS

6.1 PURPOSE

The purpose of this Section is to set forth the development commitments for the Artesa Pointe PUD.

6.2 PUD MASTER DEVELOPMENT PLAN

A. All facilities shall be constructed in accordance with final site development plans, final subdivision plats and all applicable state and local laws, codes and regulations in effect at the time of approval of the development order to which such regulations apply except where specifically noted.

B. The PUD Master Plan (Exhibit A) is an illustration of the conceptual development plan. Tracts and boundaries shown on the Plan are conceptual and shall not be considered final. Actual tract boundaries shall be determined at the time of preliminary subdivision plat or site development plan approval.

C. All necessary easements, dedications, or other instruments shall be granted to insure the continued operation and maintenance of all utilities.

6.3 ENGINEERING

A. Except as noted herein, all project development will occur consistent with Division 3.2 and 3.3 respectively, of the LDC.

6.4 UTILITIES

A. Water distribution, sewage collection and transmission systems shall be constructed throughout the project by the Developer. Potable water and sanitary sewer facilities constructed within platted rights-of-way or within dedicated County utility easements shall be conveyed to Collier County, pursuant to Collier County Ordinance 01-57, as may be amended, except as may be provided in Section 2.4 of this Document.

B. Upon completion of the utility facilities, they shall be tested to insure they meet Collier County utility construction requirements in effect at the time construction plans are approved.

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C. All customers connecting to the potable water and sanitary sewer system shall be customers of the County.

6.5 WATER MANAGEMENT

A. A SFWMD surface water management permit shall be obtained prior to commencement of site work.

B. An excavation permit will be required for the proposed lakes in accordance with Division 3.5 of the LDC. All lake dimensions will be approved at the time of excavation permit approval.

C. The Artesa Pointe PUD conceptual surface water management system is described in the Surface Water Management and Utilities Report, which has been included in the PUD rezone application materials.

D. All development within the PUD may share common surface water management facilities.

6.6 ENVIRONMENTAL

A. Buffers shall be provided around wetlands, extending at least 15 feet landward from the edge of wetland preserves and averaging 25 feet from the landward edge of wetland preserves. Where natural buffers are not possible, structural buffers shall be provided in accordance with State of Florida Environmental Resource Permit Rules and be subject to review and approval by Current Planning Section Staff.

B. An exotic vegetation removal, monitoring and maintenance plan for the site, with emphasis on the preserve/open space areas, shall be submitted to Environmental Services Department for review and approval prior to final site plan/construction plan approval.

C. All conservation areas shall be designated as conservation/preservation tracts or easements on all construction plans and shall be recorded on the plat with protective covenants per or similar to Section 704.06 of the Florida Statutes. Conservation easements shall be dedicated on the plat to the project homeowners' association, or like entity, for ownership and maintenance responsibility and to Collier County with no responsibility for maintenance.

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6-3

6.7 TRANSPORTATION

The development of this PUD will be subject to and governed by the following conditions:

A. All traffic control devices used must be in accordance with the Manual of Uniform Traffic Control Devices as amended, and as adopted by the Florida Department of Transportation (FDOT), ~~as amended~~, and as required by Florida Statutes – Chapter 316, Uniform Traffic Control Law.

B. All traffic speed limit postings must be in accordance with the Speed Zoning Manual), as amended, and as adopted by the FDOT, and as required by Florida Statutes – Chapter 316, Uniform Traffic Control Law.

C. Arterial level street lighting shall be provided at all development points of ingress and egress. Said lighting shall be in place prior to the issuance of the first permanent certificate of occupancy.

D. External and internal improvements determined by Collier County Staff to be essential to the safe ingress and egress to the development shall not be considered for impact fee credits. All such improvements shall be in place prior to the issuance of the first certificate of occupancy.

E. Road Impact Fees shall be paid in accordance with Collier County Ordinance 01-13, as amended.

F. Any and all points of ingress and/or egress as shown on any and all plan submittal(s) are conceptual in nature and subject to change, as determined by Collier County Staff. The County reserves the right to modify or close any ingress and/or egress location(s) determined to have an adverse affect on the health, safety and welfare of the public. These include, but are not limited to, safety concerns, operational circulation issues, roadway capacity problems.

G. Any and all median opening locations must be in accordance with the Collier County Access Management Policy, as amended, and LDC, as amended. Median access and control will remain under the County's authority. The County reserves the right to modify or close any median opening(s) determined to have an adverse effect on the health, safety and welfare of the public. These include, but are not limited to, safety concerns, operational circulation issues, roadway capacity problems.

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H. Nothing in any development order will vest the right of access over and above a right in/right out condition. Neither will the existence, or lack of, a future median opening be the basis for any future cause of action for damages against the County by the Developer(s), its successor(s) in title, or assignee(s).

I. The development shall be designed to promote the safe travel of all users including pedestrians and bicyclists. Pedestrian and bicycle travel ways shall be separated from vehicular traffic in accordance with recognized standards and safe practices, as determined by Collier County Staff.

J. The Developer(s) shall be responsible for the cost of any and all traffic signal(s), at any and all development entrances(s), when determined warranted and approved by FDOT. When warranted, upon the completion of the installation, inspection, burn-in period, and final approval/acceptance of any and all traffic signal(s), said traffic signal(s) shall be turned over (for ownership) to Collier County, and will then be operated and maintained by Collier County Transportation Operations Department. Any negotiations relevant to "fair share" payment(s), or reimbursement(s), from any and all other neighboring developer(s)/property owner(s), that directly benefit from said traffic signal(s), will be determined based upon percentage of usage/impact.

K. The Developer(s) shall provide any and all site related transportation improvement(s) including, but not limited to, any and all necessary turn lane(s) improvement(s) at the development entrance(s) prior to the issuance of the first permanent certificate of occupancy. Said improvements are considered site related, and therefore, do not qualify for impact fee credits. When said turn lane improvement(s), whether left turn lane(s) and/or right turn lane(s), are determined to be necessary, right-of-way and/or compensating right-of-way, shall be provided in conjunction with said improvement(s), as determined by Collier County Staff.

L. All internal access(es), drive isle(s), sidewalk(s), not located within County right-of-way shall be privately maintained by an entity created by the Developer(s), its successor(s) in title, or assignee(s).

M. Joint/shared access(es) may be required by Collier County Staff, as a condition of site development plan approval.

N. Frontage, midpoint and/or backside interconnection(s) may be required by Collier County Staff, as a condition of site development plan approval.

O. Arterial level street lighting shall be provided by the Developer at all project entrances prior to issuance of a certificate of occupancy.

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P. The primary access, loop road connecting U.S. 41 with S.R. 951, shall not be gated, and shall be open to the public. Provisions for future interconnections to properties north of the access road shall be made at the time of plat or site development plan approval.

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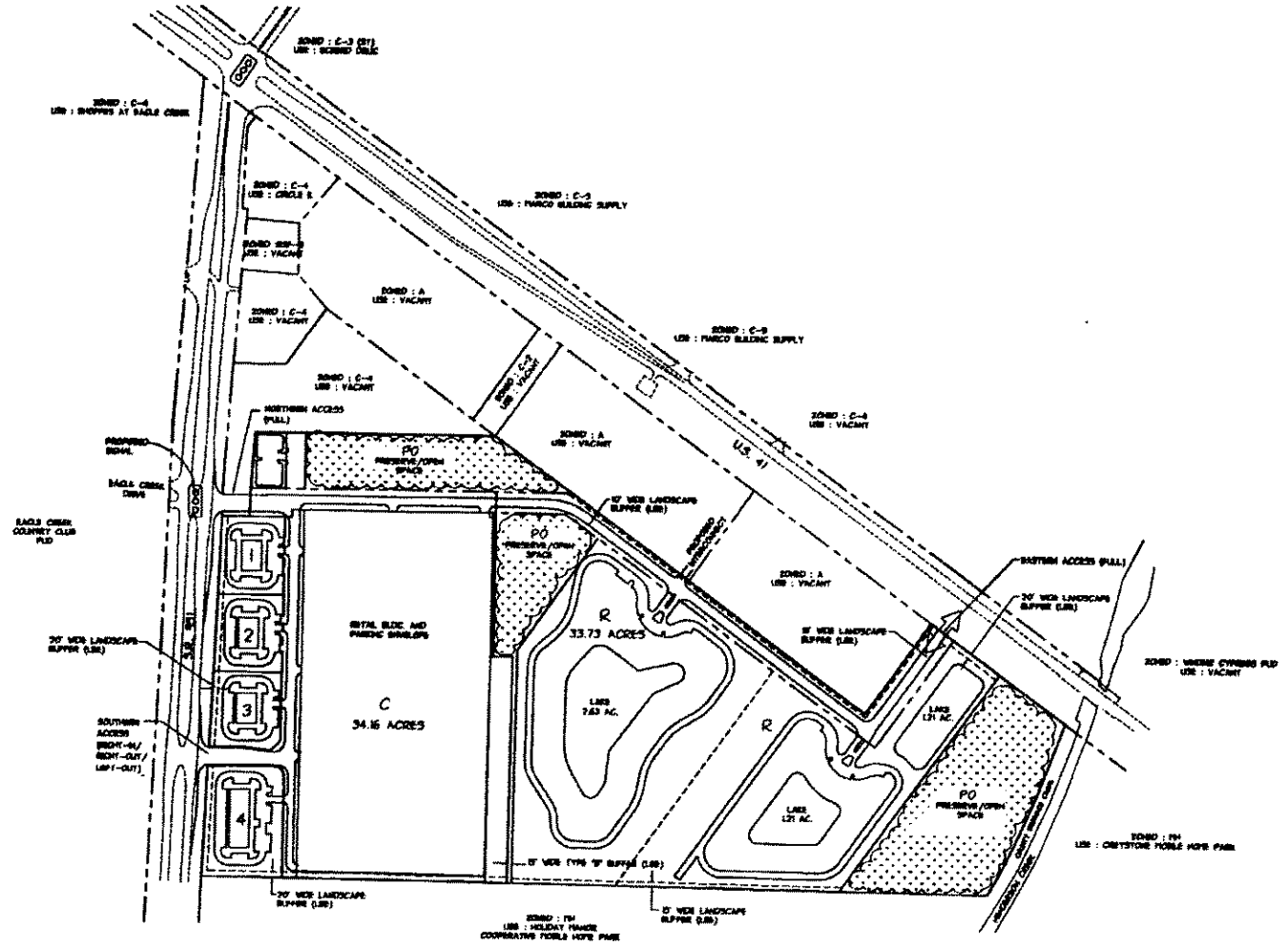
ARTESA POINTE PUD



SITE SUMMARY

(R) RESIDENTIAL	33.73± ACRES
(C) COMMERCIAL	34.16± ACRES
PRIMARY RETAIL	21.29± ACRES
OUTLOT 1	1.49± ACRES
OUTLOT 2	1.52± ACRES
OUTLOT 3	1.57± ACRES
OUTLOT 4	2.59± ACRES
(PO) PRESERVE/OPEN SPACE	13.755 ACRES

NOTES

1) MASTER PLAN AND SITE SUMMARY ARE CONCEPTUAL IN NATURE AND RESIDENTIAL TRACTS AND LAKES ARE SUBJECT TO REFINEMENT DURING JURISDICTIONAL AGENCY REVIEW AND APPROVAL, AND SITE DEVELOPMENT PLAN REVIEWS AND APPROVAL.
2) RESIDENTIAL TRACTS ALSO PERMITTING ASSISTED LIVING FACILITY, SUBJECT TO PROVISIONS IN SECTION 3.5 OF THE PUD.
3) LAKE AREAS ARE APPROXIMATE AND LOCATIONS ARE CONCEPTUAL, THEIR FINAL SIZE AND CONFIGURATION WILL BE DETERMINED AT THE TIME OF PLATTING OR SITE DEVELOPMENT PLAN APPROVAL.

LEGEND

OWNER/DEVELOPER
GATEWAY SHOPPES II, LLC
SCHRAGE DEVELOPMENT COMPANY
8900 KEYSTONE CROSSING,
SUITE 1200
INDIANAPOLIS, INDIANA 46240
(317) 815-1580 (PHONE)
(317) 815-1581 (FAX)

Revision	Date	Description	By
1	6/18/03	PER ENVIRONMENTAL COMMENTS	SJU

DESIGNED BY: CDS
DRAWN BY: SJU
APPROVED: DWA
JOB CODE: HCPUD
SCALE: 1" = 200'

Q. GRADY MINOR AND ASSOCIATES, P.A.
CIVIL ENGINEERS • LAND SURVEYORS • PLANNERS
3800 VIA DEL REY
BONITA SPRINGS, FLORIDA 34134
PHONE: (239) 947-1144 FAX: (239) 947-0375
CERTIFICATE OF AUTHORIZATION NO. 000000
CERTIFICATE OF AUTHORIZATION LB 000000

ARTESA POINTE PUD
EXHIBIT "A"
CONCEPTUAL MASTER PLAN

DATE: FEBRUARY 2003 | FILE NAME: HCPUDCMP1 | DRAWING NUMBER 1 OF

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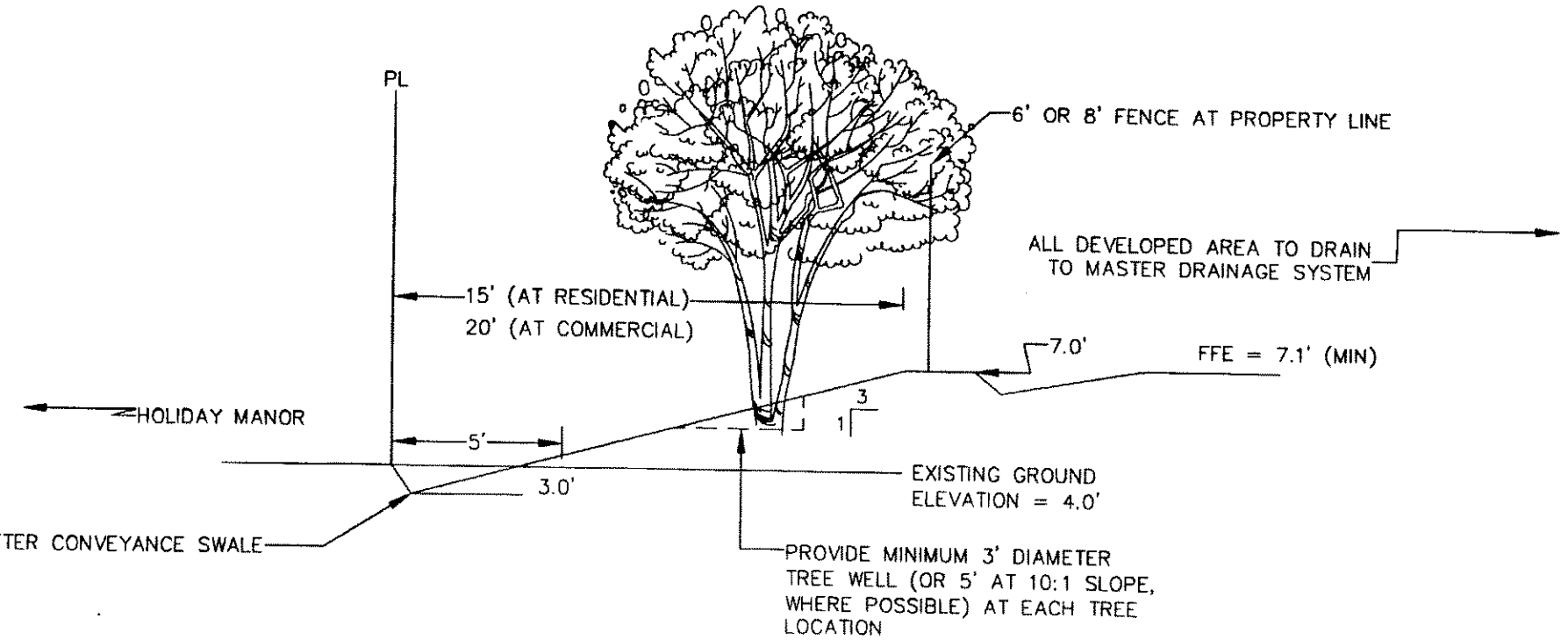
Attachment: Attachment F - Application and Backup Documents (21517 : PL20210001966 FL Mod Wash Comparable Use Determination)



LEGEND

OWNER/DEVELOPER

GATEWAY SHOPPES II, LLC
SCHRAGE DEVELOPMENT COMPANY
8900 KEYSTONE CROSSING,
SUITE 1200
INDIANAPOLIS, INDIANA 46240
(317) 819-1580 (PHONE)
(317) 819-1581 (FAX)

Revision	Date	Description	By

DESIGNED BY: C.D.S.
DRAWN BY: S.J.U.
APPROVED: C.D.S.
JOB CODE: HCPUDA
SCALE: NONE

Q. GRADY MINOR AND ASSOCIATES, P.A.
CIVIL ENGINEERS • LAND SURVEYORS • PLANNERS
3800 VIA DEL REY
BONITA SPRINGS, FLORIDA 34134
PHONE: (239) 947-1144 FAX: (239) 947-0870

HENDERSON CREEK PUD

BERM/WALL CROSS-SECTION
EXHIBIT "B"

DATE: AUGUST 2003
FILE NAME: EXH B
DRAWING NUMBER 1 of

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Attachment: Attachment F - Application and Backup Documents (21517 : PL20210001966 FL Mod Wash Comparable Use Determination)

STATE OF FLORIDA)

COUNTY OF COLLIER)

I, DWIGHT E. BROCK, Clerk of Courts in and for the Twentieth Judicial Circuit, Collier County, Florida, do hereby certify that the foregoing is a true and correct copy of:

ORDINANCE 2003-46

Which was adopted by the Board of County Commissioners on the 23rd day of September, 2003, during Regular Session.

WITNESS my hand and the official seal of the Board of County Commissioners of Collier County, Florida, this 26th day of September, 2003.

DWIGHT E. BROCK
Clerk of Courts and Clerk
Ex-officio to Board of
County Commissioners

Patricia L Morgan DC

By: Patricia L. Morgan
Deputy Clerk

Attachment: Attachment F - Application and Backup Documents (21517 : PL20210001966 FL Mod Wash Comparable Use Determination)

COLLIER COUNTY GOVERNMENT
GROWTH MANAGEMENT DEPARTMENT
www.colliergov.net

2800 NORTH HORSESHOE DRIVE
NAPLES, FLORIDA 34104
(239) 252-2400 FAX: (239) 252-6358

PROPERTY OWNERSHIP DISCLOSURE FORM

This is a required form with all land use petitions, except for Appeals and Zoning Verification Letters.

Should any changes of ownership or changes in contracts for purchase occur subsequent to the date of application, but prior to the date of the final public hearing, it is the responsibility of the applicant, or agent on his behalf, to submit a supplemental disclosure of interest form.

Please complete the following, use additional sheets if necessary.

a. If the property is owned fee simple by an INDIVIDUAL, tenancy by the entirety, tenancy in common, or joint tenancy, list all parties with an ownership interest as well as the percentage of such interest:

Name and Address	% of Ownership

LIMITED LIABILITY COMPANY

b. If the property is owned by a ~~CORPORATION~~, list the officers and stockholders and the percentage of stock owned by each:

Name and Address	% of Ownership
ROOK AT NAPLES I, LLC - Blair G. Schlossberg, MGR	48.21%
ROOK AT NAPLES I, LLC - Moshe Manoah, MGR	48.21%
*all others	3.58%

*None of the remaining beneficiaries of the LLC are Collier County employees or elected officials.

c. _____.

percentage of interest:

Name and Address	% of Ownership

Attachment: Attachment F - Application and Backup Documents (21517 : PL20210001966 FL Mod Wash Comparable Use Determination)

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(239) 252-2400 FAX: (239) 252-6358

d. If the property is in the name of a GENERAL or LIMITED PARTNERSHIP, list the name of the general and/or limited partners:

Name and Address	% of Ownership

e. If there is a CONTRACT FOR PURCHASE, with an individual or individuals, a Corporation, Trustee, or a Partnership, list the names of the contract purchasers below, including the officers, stockholders, beneficiaries, or partners:

Name and Address	% of Ownership
PLEASE SEE OTHER DISCLOSURE FORM	

Date of Contract: _____

f. If any contingency clause or contract terms involve additional parties, list all individuals or officers, if a corporation, partnership, or trust:

Name and Address

g. Date subject property acquired _____

☐ **Leased: Term of lease _____ years /months**

If, Petitioner has option to buy, indicate the following:

Attachment: Attachment F - Application and Backup Documents (21517 : PL20210001966 FL Mod Wash Comparable Use Determination)

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(239) 252-2400 FAX: (239) 252-6358

Date of option: _____

Date option terminates: _____, or

Anticipated closing date: _____

AFFIRM PROPERTY OWNERSHIP INFORMATION

Any petition required to have Property Ownership Disclosure, will not be accepted without this form. Requirements for petition types are located on the associated application form. Any change in ownership whether individually or with a Trustee, Company or other interest-holding party, must be disclosed to Collier County immediately if such change occurs prior to the petition's final public hearing.

As the authorized agent/applicant for this petition, I attest that all of the information indicated on this checklist is included in this submittal package. I understand that failure to include all necessary submittal information may result in the delay of processing this petition.

The completed application, all required submittal materials, and fees shall be submitted to:
Growth Management Department
ATTN: Business Center
2800 North Horseshoe Drive
Naples, FL 34104

By: _____
Agent/Owner Signature

12/13/21
Date

Blair G. Schlossberg
Agent/Owner Name (please print)

Attachment: Attachment F - Application and Backup Documents (21517 : PL20210001966 FL Mod Wash Comparable Use Determination)

Collier County

COLLIER COUNTY GOVERNMENT
GROWTH MANAGEMENT DEPARTMENT
www.colliergov.net

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NAPLES, FLORIDA 34104
(239) 252-2400 FAX: (239) 252-6358

PROPERTY OWNERSHIP DISCLOSURE FORM

This is a required form with all land use petitions, except for Appeals and Zoning Verification Letters.

Should any changes of ownership or changes in contracts for purchase occur subsequent to the date of application, but prior to the date of the final public hearing, it is the responsibility of the applicant, or agent on his behalf, to submit a supplemental disclosure of interest form.

Please complete the following, use additional sheets if necessary.

a. If the property is owned fee simple by an INDIVIDUAL, tenancy by the entirety, tenancy in common, or joint tenancy, list all parties with an ownership interest as well as the percentage of such interest:

Name and Address	% of Ownership

b. If the property is owned by a CORPORATION, list the officers and stockholders and the percentage of stock owned by each:

Name and Address	% of Ownership

c. If the property is in the name of a TRUSTEE, list the beneficiaries of the trust with the percentage of interest:

Name and Address	% of Ownership

Attachment: Attachment F - Application and Backup Documents (21517 : PL20210001966 FL Mod Wash Comparable Use Determination)

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NAPLES, FLORIDA 34104
(239) 252-2400 FAX: (239) 252-6358

d. If the property is in the name of a GENERAL or LIMITED PARTNERSHIP, list the name of the general and/or limited partners:

Name and Address	% of Ownership

e. If there is a CONTRACT FOR PURCHASE, with an individual or individuals, a Corporation, Trustee, or a Partnership, list the names of the contract purchasers below, including the officers, stockholders, beneficiaries, or partners:

Name and Address	% of Ownership
ModWash, LLC	(Purchaser)
Hutton Capital, LLC	100% of ModWash, LLC
Karen J. Hutton*	100%* of Hutton Capital, LLC
*100% Manager of Hutton Capital, LLC and Sole Trustee of estate planning trusts which hold 100% of the membership	
interests in Hutton Capital, LLC. None of the beneficiaries of the Trusts are Collier County employees or elected officials.	

Date of Contract: April 22, 2021

f. If any contingency clause or contract terms involve additional parties, list all individuals or officers, if a corporation, partnership, or trust:

Name and Address

g. Date subject property acquired _____

☐ **Leased: Term of lease _____ years /months**

If, Petitioner has option to buy, indicate the following:

Attachment: Attachment F - Application and Backup Documents (21517 : PL20210001966 FL Mod Wash Comparable Use Determination)

Collier County

COLLIER COUNTY GOVERNMENT
GROWTH MANAGEMENT DEPARTMENT
www.colliergov.net

2800 NORTH HORSESHOE DRIVE
NAPLES, FLORIDA 34104
(239) 252-2400 FAX: (239) 252-6358

Date of option: _____

Date option terminates: _____, or

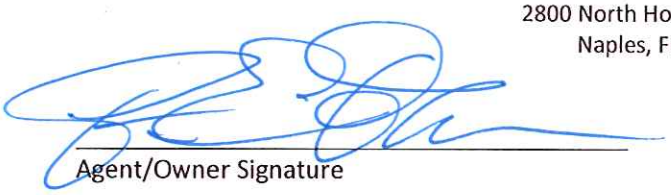
Anticipated closing date: _____

AFFIRM PROPERTY OWNERSHIP INFORMATION

Any petition required to have Property Ownership Disclosure, will not be accepted without this form. Requirements for petition types are located on the associated application form. Any change in ownership whether individually or with a Trustee, Company or other interest-holding party, must be disclosed to Collier County immediately if such change occurs prior to the petition's final public hearing.

As the authorized agent/applicant for this petition, I attest that all of the information indicated on this checklist is included in this submittal package. I understand that failure to include all necessary submittal information may result in the delay of processing this petition.

The completed application, all required submittal materials, and fees shall be submitted to:
Growth Management Department
ATTN: Business Center
2800 North Horseshoe Drive
Naples, FL 34104



Agent/Owner Signature

November 30, 2021
Date

Peter E. Johnson, Senior Counsel & Assistant Secretary
Agent/Owner Name (please print)

Attachment: Attachment F - Application and Backup Documents (21517 : PL20210001966 FL Mod Wash Comparable Use Determination)

August 5, 2021

Intake Department
Collier County Growth Management Department
2800 North Horseshoe Drive
Naples, FL 34104

Subject: **Naples Florida Mod Carwash – Comparable Use Determination – *Submittal #1***
PL20210001098 (SDP)

Intake Team:

Pursuant to the pre-application meeting held on May 5, 2021, RWA, Inc., is pleased to submit on behalf of our client, a Comparable Use Determination Application requesting a determination that a carwash use is comparable and compatible with the permitted uses in the Artesa Pointe PUD.

As part of this cover letter, please see the attached items included pursuant to the application Submittal Requirement checklist:

00. Cover Letter
01. Completed Application
02. Affidavit of Authorization
03. Determination Request and the justification for the use
04. PUD Ordinance and Development Commitment Information
05. Property Ownership Disclosure Form

We look forward to your review and are available to answer questions related to this application.

Sincerely,
RWA, Inc.

Kenrick Gallander, AICP
Director of Planning

Attachments: Application Submittal Requirements (listed above)

cc: Mr. Johnathan M Renfroe
RWA File: 210017.00.00

6610 Willow Park Drive Suite 200 Naples, FL 34109 | (239) 597-0575 | Fax (239) 597-0578
www.consult-rwa.com

Attachment: Attachment F - Application and Backup Documents (21517 : PL20210001966 FL Mod Wash Comparable Use Determination)

Attachment: Attachment F - Application and Backup Documents (21517 : PL20210001966 FL Mod Wash Comparable Use Determination)

September 30, 2021

Intake Department
Growth Management Division
2800 North Horseshoe Drive
Naples, FL 34104

Subject: Naples Florida Mod Wash (Comparable Use) – Submittal #2
PCUD-PL20210001966

Dear Intake Team:

Please accept this letter in response to your insufficiency letter dated September 9, 2021, for the above subject project. This letter outlines responses to each comment including any applicable stipulations/commitments. Please find the following list of information and materials that are being submitted electronically:

00. Response to Comments Letter
01. Site Plan
02. Revised Application
03. Sketch of Description – Signed and Sealed
04. Affidavit of Authorizations
05. Revised Determination of Request
06. Traffic Impact Statement (TIS)
07. Boundary Survey with Legal Description – Signed and Sealed
08. Revised Property Ownership Disclosure Form and Sunbiz supporting documents

In reply to your review comments, we offer the following responses in ***bold:***

Rejected Review: Zoning Review
Reviewed By: Timothy Finn
Email: Timothy.Finn@colliercountyfl.gov Phone #: (239) 252-4312

1. Provide a site plan that illustrates the exact location of the proposed car wash. Please provide the parcel number and address of this property location. Moreover, please revise the application, request and justification, and any other documents to be consistent with each other as to this exact location.

Response: A site plan has been provided depicting the exact location of the proposed carwash. Please see attached. The proper parcel number and address have been provided. Please see the revised application and supporting documents ensuring consistency with the property's exact location, address, and parcel ID number.

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www.consult-rwa.com

Attachment: Attachment F - Application and Backup Documents (21517 : PL20210001966 FL Mod Wash Comparable Use Determination)

2. In the application, the parcel number "81076000082" has a site address "6654 Collier Blvd. However, the property at 6650 Collier Blvd is owned by Wal Mart Stores East LP. Please resolve this discrepancy. Is this exact location for Parcel number 81076000082 or 81076000095? In discussion with County GIS, petition PL20210001066 had established a lot split at this location. Please verify that this lot split had created 81076000095. Please resolve these issues as staff will need the exact location of this proposed car wash to review for compatibility with other uses adjacent to this location.

Response: The exact parcel number is 81076000095 and address is 6650 Collier Blvd. Please see revised application reflecting the proper Parcel number and address. Also, please see attached signed and sealed Sketch of Description identifying Parcel number 81076000095 created via PL20210001066.

3. In the application, under Determination Request, please complete section as this was left blank.

Response: Please see revised application.

4. In the Application, Is this contract purchaser Hutton Real Estate Services, Inc. or ModWash, LLC?

Response: The contract purchaser is ModWash LLC.

5. Submit another Affidavit of Authorization, from the property owner to the contract purchaser. Please include the petition number, PL20210001966 and also add this number to the Affidavit of Authorization from the contract purchaser to the agent.

Response: Please see the attached Affidavit of Authorization from the property owner (Rook at Naples I, LLC) to the contract purchaser (ModWash, LLC.) Also, please see the revised Affidavit of Authorization to include the PL# for contract purchaser (ModWash, LLC) to agent (RWA, Inc.).

6. Request and Justification document:
Per LDC 10.02.06.K.2.(a through e) - Provide additional detail and any supportive documentation on each of these standards as the answers provided are vague. When answering these standards please identify uses within the Artesa Point PUD that are similar to the carwash use. What use in the Artesa Pointe PUD are you comparing the carwash to? Also clarify how the surrounding uses to the carwash location are compatible to the carwash use. For criterion K.2.b - Provide a commitment to mitigate noise (i.e., car wash machinery)

Furthermore, provide a site plan to show how each of these points work in relation to each other. On site plan illustrate, parking spaces, building footprint, vehicular ingress and egress existing points, location of existing roads, vehicle stacking, etc.

Response: Please see the revised Determination of Request providing additional details, clarification, and supporting documentation in support of the comparable use standards per LDC Sec. 10.02.06.K.2 (a through e), identified uses within the Artesa Pointe PUD that are comparable to the proposed carwash

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www.consult-rwa.com

service use, and additional supporting information as to the compatibility of the carwash with surrounding uses.

Also, please see the attached Site Plan adequately illustrating parking spaces, building footprint, vehicular ingress and egress existing points, location of existing roads, vehicle stacking, etc.

7. Provide operational characteristics of the carwash. Are you running vehicles through a machine? Or is this a hand carwash? Is there an area for parking? What are the hours of operation? How many vehicles would use the carwash daily? Will there be any stacking of vehicles, if so, please provide this on the site plan.

Response: Vehicles will be run through an automatic carwash machine and will then have the option to either exit the carwash to the south onto the existing cross access point or to the east onto the existing access road or park and vacuum their vehicles. 16 parking spaces will be provided in compliance with LDC 4.05.04 as indicated on the provided site plan.

The hours of operation will be from 8 am to 8 pm, 7 days a week. Based on service data provided by the applicant, it is anticipated that the carwash will service an average of 100 cars per day. Stacking of vehicles will be provided, consistent with LDC 4.05.04, and is also illustrated on the site plan.

8. Submit a TIS as Transportation staff will need to review this proposed carwash for any traffic impacts.

Response: Please see attached TIS.

9. Provide a response and any supportive documents to the concerns in the 9-8-21 letter by Craig D. Blume, P.A., sent by planner.

Response: Concerning the letter dated 9-8-21 by Mr. Craig D. Blume, P.A., he asserts that a carwash of the proposed size will generate significantly higher traffic than what was calculated under our initial submittal. Mr. Craig provides no supporting factual documentation to support this claim. In response and to more accurately reflect the traffic impact of the proposed carwash, we have provided a Traffic Impact Statement (TIS) consistent with the requirements under the Collier County LDC as part of this resubmittal. The TIS concludes there is sufficient capacity along the northbound portion of Collier Boulevard and that the southbound portion is projected to have insufficient capacity "without the addition of trips generated as a result of the proposed development" of which this development should not be responsible for. Additionally, the proposed carwash will "NOT" generate more than a "de minimus impact" to the deficient link along Collier Boulevard.

Mr. Blume further claims "it is our understanding that approval of the application would result in the neighboring businesses no longer complying with the applicable parking spaces." Based on the site plan provided with this resubmittal, we have clearly indicated that we are not utilizing any of the existing parking spaces along the south portion of our property for the required carwash parking. The required five (5) parking spaces for the carwash are properly labeled and consistent with the parking requirements under LDC Sec. 4.05.04.

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Attachment: Attachment F - Application and Backup Documents (21517 : PL20210001966 FL Mod Wash Comparable Use Determination)

Attachment: Attachment F - Application and Backup Documents (21517 : PL20210001966 FL Mod Wash Comparable Use Determination)

Rejected Review: Graphics - GIS Review
Reviewed By: Beth Yang
Email: beth.yang@colliercountyfl.gov Phone #: (239) 252-6208

1. Provide survey with written legal description

Application lists ROOK AT NAPLES I LLC as the property owner, however, provides WAL-MART STORES EAST LP's site address (6650 Collier Blvd, Naples, FL 34114) and wrong Folio Number (810776000082) in Property Information Section. Please list correct Folio Number and provide legal description of the subject property.

Response: Please see revised application depicting the proper folio number (81076000095). Please also see attached survey with written legal description.

Rejected Review: County Attorney Review
Reviewed By: Derek Perry
Email: Derek.Perry@colliercountyfl.gov Phone #: (239) 252-8066

1. Please provide an affidavit of authorization from property owner Rook at Naples I, LLC, executed by Blair Schlossberg or Moshe Manoah, as manager, or if executed by another person, please provide evidence of signing authority for that individual (e.g., secretary's certificate or corporate resolution).

Response: Please see attached Affidavit of Authorization for Rook at Naples I, LLC executed by authorized representative Emilia R. Arkridge who is listed as an authorized person on the SunBiz document.

2. Application lists HUTTON REAL ESTATE SERVICES, INC as the applicant. Please confirm this is the applicant; if so, please submit an affidavit of authorization with evidence of signing authority. Should the applicant be MODWASH, LLC, please update the application accordingly.

Response: The applicant is ModWash, LLC. Please see revised application.

3. Please list all human persons that stand to benefit financially from this application on the property ownership disclosure form. Please list all persons with equitable interest in the companies listed on the application (owner, applicant, and/or contract purchaser).

Response: Please see attached revised Property Ownership Disclosure Form and SunBiz Documents listing all beneficiaries.

GENERAL COMMENTS: [Timothy Finn]

1. Please be advised that pursuant to the LDC, a petition can be considered closed if there has been no activity on the petition for a period of six (6) months. In addition, a GMP Amendment application that is a companion item can likewise be considered closed. That six months period will be calculated from the date of this letter.

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www.consult-rwa.com

Response: Understood.

2. Additional comments or stipulations may be forthcoming once a sufficient petition has been submitted for review. This correspondence should not be construed as a position of support or non-support for any issues within the petition. Staff will analyze the petition and the recommendation will be contained in the staff report prepared for the Collier County Planning Commission (CCPC) or Hearing Examiner (HEX).

Response: Understood

3. Please ensure that all members of your team that may testify before the HEX or CCPC and the Board of County Commissioners (BCC) are registered as lobbyists with the County pursuant to the regulations regarding that issue.

Response: Understood.

4. When addressing review comments, please provide a cover letter outlining your response to each comment. Include a response to all comments.

Response: Understood.

5. Please put revised dates on all exhibits and in the title block of all Plans. The PUD document should include a footer that reflects the project name, petition number, date and page X of Y for the entire document. *Documents without this information will be rejected.*

Response: Understood.

6. A partial resubmittal cannot be accepted; please do not resubmit until you can respond to ALL review comments.

Response: Understood.

7. Pursuant to F.S. 125.022, exhibits and application materials are subject to review upon each resubmittal until deemed sufficient and complete. Should the project receive a third request for additional information, staff requests that the applicant provide written acknowledgement with the resubmittal to waive the regulation that restricts the County from requesting additional information. Projects that do not include such written acknowledgement and that fail to address any outstanding review items with the 4th submittal will be denied/recommended for denial.

Response: Understood.

8. Note the adopted fee schedule requires payment of additional fees for petition review upon the 5th and subsequent submittals; please contact the appropriate staff and resolve issues to avoid this fee.

Response: Understood.

9. If you would like to discuss the review comments, require clarification and/or wish to identify agree-to-disagree issues, a post-review meeting can be arranged including all rejecting reviewers. To

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Attachment: Attachment F - Application and Backup Documents (21517 : PL20210001966 FL Mod Wash Comparable Use Determination)

schedule a post-review meeting, please contact me, and Zoning Operations staff will proceed with scheduling.

Response: Understood.

We trust the enclosed information is sufficient for your review and approval. Should you have any questions or require additional information, please contact our office at (239) 597-0575.

Sincerely,
RWA, Inc.

Kenrick S. Gallander, AICP
Director of Planning

Attachments: Application Submittal Requirements (listed above)

cc: Mr. Jonathan Renfroe
RWA File: 210017.00.01

Attachment: Attachment F - Application and Backup Documents (21517 : PL20210001966 FL Mod Wash Comparable Use Determination)

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Attachment: Attachment F - Application and Backup Documents (21517 : PL20210001966 FL Mod Wash Comparable Use Determination)

January 26, 2022

Intake Department
Growth Management Division
2800 North Horseshoe Drive
Naples, FL 34104

Subject: Naples Florida Mod Wash (Comparable Use) – Submittal #3
PCUD-PL20210001966

Dear Intake Team:

Please accept this letter in response to your insufficiency letter dated October 28, 2021, for the above subject project. This letter outlines responses to each comment including any applicable stipulations/commitments. Please find the following list of information and materials that are being submitted electronically:

00. Response to Comments Letter
01. Revised Site Plan
02. Revised Application
03. Revised Determination Request
04. Declaration of Easement with Covenants and Restrictions Affecting Land (ECR)
05. Evidence of Signing Authority
06. Revised Ownership Disclosure Form

In reply to your review comments, we offer the following responses in ***bold:***

Rejected Review: Zoning Review
Reviewed By: Eric Ortman
Email: Eric.Ortman@colliercountyfl.gov Phone #: (239) 252-1032

1. Include address (it is not 6650) and parcel # on site plan. As parcel is currently vacant there may not be an official address. If not, use parcel number and indicate that there is no official address. Ensure correct address is included on all documents

   Response: Please see revised Site Plan depicting the parcel number and indicating there is no official address.

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www.consult-rwa.com

2. Correct address in application. It is not 6650. As parcel is currently vacant there may not be an official address. If not, use parcel number and indicate that there is no official address. Ensure correct address is included on all documents.

   Response: Please see revised application and Determination Request Statement depicting the parcel number and indicating there is no official address.

3. In the application, under Determination Request, delete "commercial" in the sentence, "… or in the _____ Straight Zoning" as the question is an either/or question and the CUD is being made compared to the Artesa Point PUD.

   Response: Please see revised application removing "commercial" from this section.

4. Please indicate on site plan the exact number and location of parking spaces. The 16 "vacuuming spaces" cannot be double counted as parking spaces.

   Response: There are four (4) employees on the largest shift for the proposed car wash. Thus, there are four (4) required and provided parking spaces based on the 1 space per employee on the largest shift requirement.

   The proposed car wash is to be located on a portion of Lot 3 of the Wal-Mart at Artesa Pointe PUD replat. A Declaration of Easement with Covenants and Restrictions Affecting Land (ECR) (see attached) was executed and recorded addressing Lots 1-4 of the Wal-Mart at Artesa Pointe PUD replat. Under this ECR, Section 5 "Common Areas", a nonexclusive reciprocal easement is provided that allows for "parking of motor vehicles" within the common area of Lots 1-4.

   The proposed car wash development, again located on a portion of Lot 3 of the Wal-Mart Artesa Pointe PUD replat, is utilizing the common area nonexclusive reciprocal easement for the required four (4) parking spaces. The site plan has been revised to note and identify this allowance to ensure the required four (4) parking spaces are provided for the car wash.

Rejected Review: County Attorney Review
Reviewed By: Derek Perry
Email: Derek.Perry@colliercountyfl.gov Phone #: (239) 252-8066

1. Please provide evidence of signing authority for Emilia Akridge as Vice President of Rook at Naples I (e.g., secretary's certificate or corporate resolution). Please note that under section 605.04074, Florida Statutes, only a manager of a manager-managed or a member of a member-managed company is authorized to sign on behalf of a Florida Limited Liability Company ("managing member").

   Response: Please see attached Evidence of Signing Authority appointing Emilia as Vice President.

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Attachment: Attachment F - Application and Backup Documents (21517 : PL20210001966 FL Mod Wash Comparable Use Determination)

2. Property Ownership Disclosure Form continues to list businesses and other legal entities instead of human beneficiaries. Please list all human persons that stand to benefit financially from this application on the property ownership disclosure form. Please list all persons with equitable interest in the companies listed on the application (owner, applicant, and/or contract purchaser). Please feel free to use additional sheets of paper to describe corporate structures or list principals of said entities. Please feel free to give me a call if you have any questions or need additional information: Derek D. Perry, (239) 252-8066.

   Response: Please see revised Ownership Disclosure From.

GENERAL COMMENTS: [Eric Ortman]

1. Please be advised that pursuant to the LDC, a petition can be considered closed if there has been no activity on the petition for a period of six (6) months. In addition, a GMP Amendment application that is a companion item can likewise be considered closed. That six months period will be calculated from the date of this letter.

   Response: Understood.

2. Additional comments or stipulations may be forthcoming once a sufficient petition has been submitted for review. This correspondence should not be construed as a position of support or non-support for any issues within the petition. Staff will analyze the petition and the recommendation will be contained in the staff report prepared for the Collier County Planning Commission (CCPC) or Hearing Examiner (HEX).

   Response: Understood.

3. Please ensure that all members of your team that may testify before the HEX or CCPC and the Board of County Commissioners (BCC) are registered as lobbyists with the County pursuant to the regulations regarding that issue.

   Response: Understood.

4. When addressing review comments, please provide a cover letter outlining your response to each comment. Include a response to all comments.

   Response: Understood.

5. Please put revised dates on all exhibits and in the title block of all Plans. The PUD document should include a footer that reflects the project name, petition number, date and page X of Y for the entire document. Documents without this information will be rejected.

   Response: Understood.

6610 Willow Park Drive Suite 200 Naples, FL 34109 | (239) 597-0575 | Fax (239) 597-0578
www.consult-rwa.com

Attachment: Attachment F - Application and Backup Documents (21517 : PL20210001966 FL Mod Wash Comparable Use Determination)

6. A partial resubmittal cannot be accepted; please do not resubmit until you can respond to ALL review comments.

   Response: Understood.

7. Pursuant to F.S. 125.022, exhibits and application materials are subject to review upon each resubmittal until deemed sufficient and complete. Should the project receive a third request for additional information, staff requests that the applicant provide written acknowledgement with the resubmittal to waive the regulation that restricts the County from requesting additional information. Projects that do not include such written acknowledgement and that fail to address any outstanding review items with the 4th submittal will be denied/recommended for denial.

   Response: Understood.

8. Note the adopted fee schedule requires payment of additional fees for petition review upon the 5th and subsequent submittals; please contact the appropriate staff and resolve issues to avoid this fee.

   Response: Understood.

9. If you would like to discuss the review comments, require clarification and/or wish to identify agree-to-disagree issues, a post-review meeting can be arranged including all rejecting reviewers. To schedule a post-review meeting, please contact me, and Zoning Operations staff will proceed with scheduling.

   Response: Understood.

We trust the enclosed information is sufficient for your review and approval. Should you have any questions or require additional information, please contact our office at (239) 597-0575.

Sincerely,
RWA, Inc.

Kenrick S. Gallander, AICP
Director of Planning

Attachments: Application Submittal Requirements (listed above)

cc: Mr. Jonathan Renfroe
RWA File: 210017.00.01

6610 Willow Park Drive Suite 200 Naples, FL 34109 | (239) 597-0575 | Fax (239) 597-0578
www.consult-rwa.com

Attachment: Attachment F - Application and Backup Documents (21517 : PL20210001966 FL Mod Wash Comparable Use Determination)

Craig D. Blume, P.A.
Attorneys at Law
750 Eleventh Street South
Naples, Florida 34102
NaplesLawOffice@Gmail.com

Telephone:
239-417-4848

Facsimile:
239-417-4848

September 8, 2021

Via E-Mail
Timothy Finn, Principal Planner
Collier County Zoning Services
Timothy.finn@colliercountyfl.gov

Re: **Planning Project Application #PL20210001966**

Dear Mr. Finn:

This firm represents clients who would like to voice concerns over a recent comparable use determination application—with application number as listed above—that is under your review for the property located at 6650 Collier Blvd., Naples, Florida 34113.

After looking at the application, it has come to our attention that there are several potential issues and violations that could result from approval. The primary concern is that the traffic analysis as it appears in the application is inaccurate, as we have reason to believe that a carwash of the proposed size will produce significantly higher traffic. Specifically, car washes in the area generate in excess of sixty-five (65) cars per hour, as opposed to the thirty-two (32) cars per hour number indicated in this application. It is our position that there would be similar trip generation between this automatic carwash and a fast food restaurant, contrary to the unsupported predictions provided in the application traffic analysis.

Additionally, there is apprehension regarding the reduced number of parking spaces at the neighboring structure. It is our understanding that approval of the application would result in the neighboring businesses no longer complying with the applicable parking mandates.

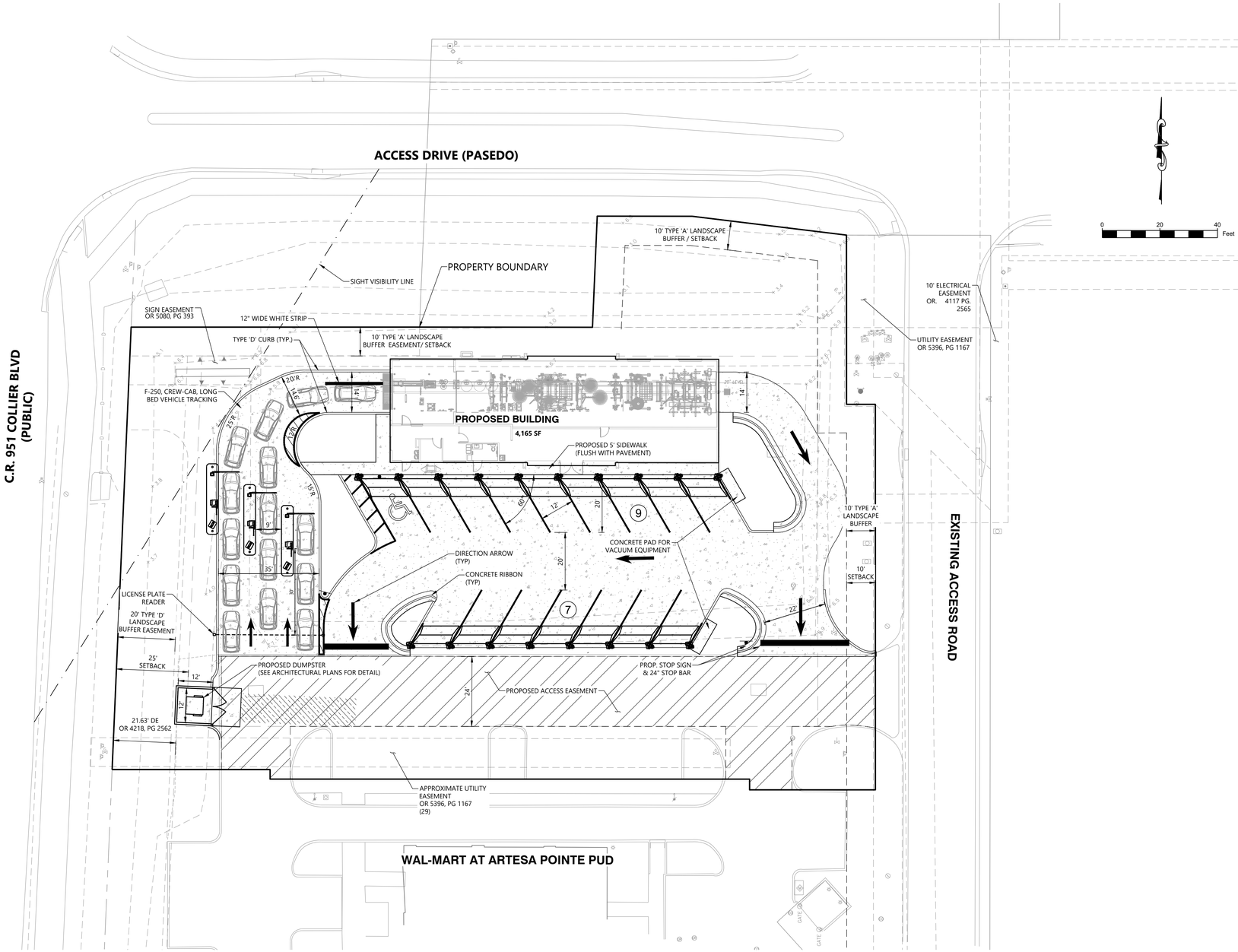
Overall, the above listed concerns, in combination with the density of carwashes in the surrounding area already, lead us to believe that approval of the comparable use determination application would not be in the best interest of the community.

Please direct any correspondence to this firm at the above listed contact.

CRAIG D. BLUME, P.A.

Nicholas Long, Esq.
For the Firm

Attachment: Attachment F - Application and Backup Documents (21517 : PL20210001966 FL Mod Wash Comparable Use Determination)



PARCEL NO. 81076000095 - VACANT PARCEL, NO OFFICIAL ADDRESS

PARKING & VEHICLE STACKING SUMMARY TABLE

USE	INTENSITY	RATIO	REQUIRED
AUTO WASHING	4 EMPLOYEES	1/EMPLOYEE	4
TOTAL PARKING SPACES REQUIRED:			4
TOTAL PARKING SPACES PROVIDED: (INCLUDES 1 HANDICAP)			4*
TOTAL VEHICLE STACKING 5 SPACES/AUTO CAR WASH LANE			
STACKING REQUIRED FOR 3 AUTO CAR WASH LANES			15
STACKING PROVIDED FOR 3 AUTO CAR WASH LANES			15

* PARKING SPACES PROVIDED ARE LOCATED WITHIN THE COMMON AREAS OF LOTS 1-4 OF THE WAL-MART AT ARTESA POINTE PUD REPLAT. PER DECLARATION 4118285 OR: 4321 PG: 2746

LEGEND

PROPOSED	DESCRIPTION
	PROPOSED INGRESS/EGRESS ACCESS EASEMENT
	PROPOSED TREE

RWA ENGINEERING
12800 University Drive, Suite 175
Fort Myers, Florida 33907
(239) 597-0575 FAX: (239) 597-0578
www.consult-rwa.com
Florida Certificates of Authorization
EB 7663 LB6952

CLIENT: MODWASH, LLC

TITLE: SITE PLAN

PROJECT: NAPLES, FLORIDA MODWASH

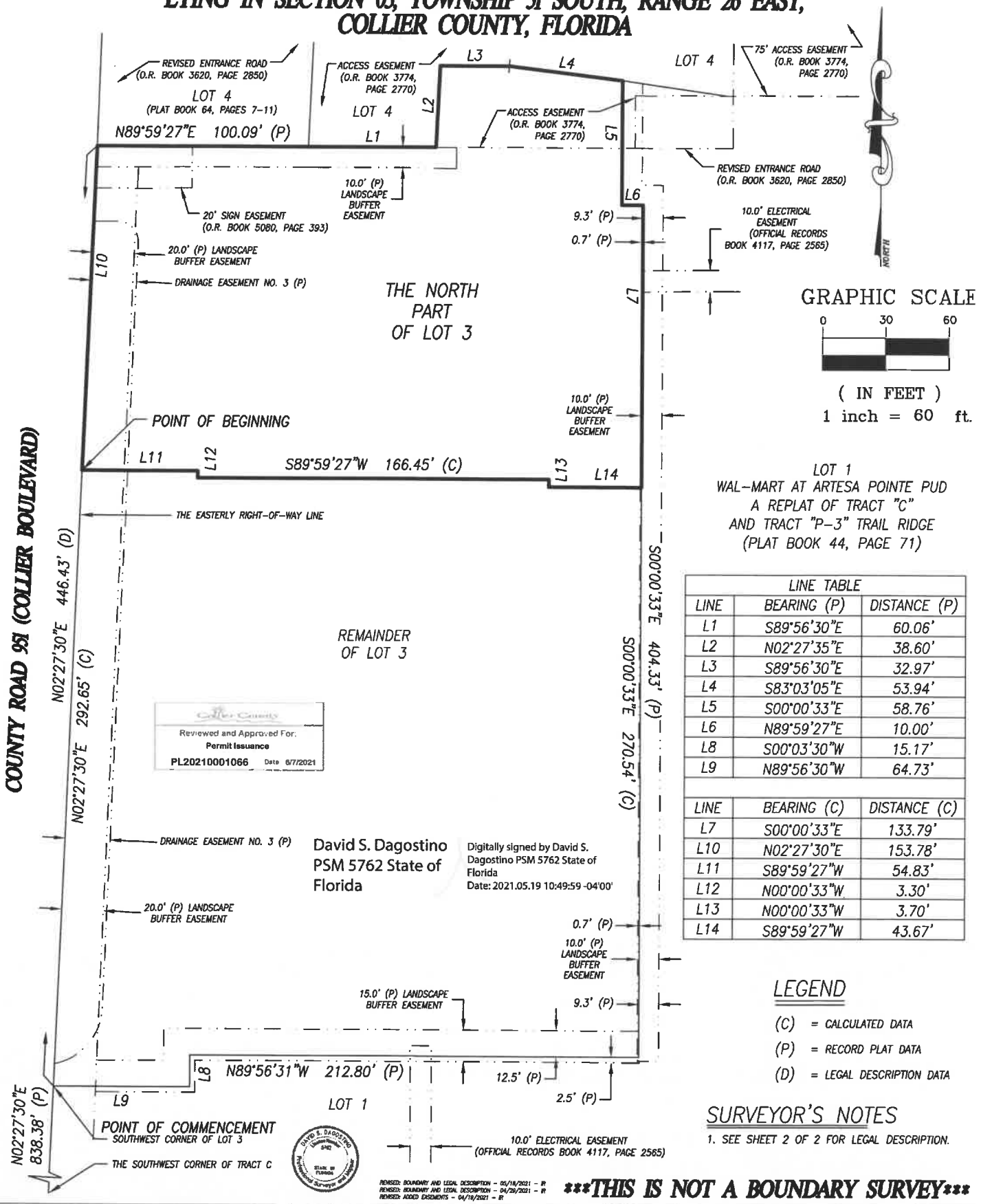
PROJECT NO.: 210017.00.00

FILE NAME: Modwash Site Plan Rev11

February 8, 2022 11:18 AM K:\2021\210017.00.01 Naples Florida Modwash - Site Development Plan (SDP)\0002 Final Site Planning\Modwash Site Plan Rev11.dwg

Attachment: Attachment F - Application and Backup Documents (21517 : PL20210001966 FL Mod Wash Comparable Use Determination)

SKETCH OF DESCRIPTION
OF THE NORTH PART OF LOT 3, WAL-MART AT ARTESA POINTE PUD, LYING IN SECTION 03, TOWNSHIP 51 SOUTH, RANGE 26 EAST, COLLIER COUNTY, FLORIDA



LINE TABLE		
LINE	BEARING (P)	DISTANCE (P)
L1	S89°56'30"E	60.06'
L2	N02°27'35"E	38.60'
L3	S89°56'30"E	32.97'
L4	S83°03'05"E	53.94'
L5	S00°00'33"E	58.76'
L6	N89°59'27"E	10.00'
L8	S00°03'30"W	15.17'
L9	N89°56'30"W	64.73'

LINE	BEARING (C)	DISTANCE (C)
L7	S00°00'33"E	133.79'
L10	N02°27'30"E	153.78'
L11	S89°59'27"W	54.83'
L12	N00°00'33"W	3.30'
L13	N00°00'33"W	3.70'
L14	S89°59'27"W	43.67'

LEGEND

(C) = CALCULATED DATA
(P) = RECORD PLAT DATA
(D) = LEGAL DESCRIPTION DATA

SURVEYOR'S NOTES

1. SEE SHEET 2 OF 2 FOR LEGAL DESCRIPTION.

REVISED: BOUNDARY AND LEGAL DESCRIPTION - 05/18/2021 - IR
REVISED: BOUNDARY AND LEGAL DESCRIPTION - 04/29/2021 - IR
REVISED: ADDED EASEMENTS - 04/19/2021 - IR

THIS IS NOT A BOUNDARY SURVEY

THIS MAP PREPARED BY: CERTIFICATE OF AUTHORIZATION NO. LB 8005 NOT VALID WITHOUT THE SIGNATURE AND SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER	DAVID S. DAGOSTINO, PSM Professional Surveyor & Mapper Fla. License No. 5762	COMPUTER FILE: 18196 SOUTH; DRAWING SCALE: 1"=60'; SURVEY DATE: 03/31/2021; REVISED BY:; SIGNATURE DATE: 04/01/2021; REVISION DATE:	DAGOSTINO GEOSPATIAL, INC. Professional Surveying & Mapping 1096 Bonita Beach Road SE Bonita Springs FL 34135 Phone: (239) 252-6085 Website: www.dwsurveys.com	DRAWN BY: IR; CHECKED BY: DSD; FIELD BOOK: N/A	CERTIFIED TO:	JOB NO.: 18-196; SHEET NO.: 1 OF 2

Attachment: Attachment F - Application and Backup Documents (21517 : PL20210001966 FL Mod Wash Comparable Use Determination)

SKETCH OF DESCRIPTION
OF THE NORTH PARCEL OF LOT 3, WAL-MART AT ARTESA POINTE PUD, LYING IN SECTION 03, TOWNSHIP 51 SOUTH, RANGE 26 EAST, COLLIER COUNTY, FLORIDA

LEGAL DESCRIPTION

THE NORTH PART OF LOT 3 LYING WITHIN LOT 3, "WAL-MART AT ARTESA POINTE PUD, A REPLAT OF TRACT C AND TRACT P-3, TRAIL RIDGE, A SUBDIVISION OF SECTION 3, TOWNSHIP 51 SOUTH, RANGE 26 EAST, AS RECORDED IN PLAT BOOK 44, PAGE 71, OF THE PUBLIC RECORDS OF COLLIER COUNTY, FLORIDA", ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 49, PAGES 14-16, PUBLIC RECORDS OF COLLIER COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID LOT 3, SAID POINT LYING ON THE EASTERLY RIGHT-OF-WAY OF COUNTY ROAD 951 (COLLIER BOULEVARD); RUN NORTH 02°27'30" EAST, A DISTANCE OF 292.65 FEET TO THE POINT OF BEGINNING;

THENCE CONTINUE NORTH 02°27'30" EAST, A DISTANCE OF 153.78 FEET; THENCE NORTH 89°59'27" EAST, A DISTANCE OF 100.09 FEET; THENCE SOUTH 89°56'30" EAST, A DISTANCE OF 60.06 FEET; THENCE NORTH 02°27'35" EAST, A DISTANCE OF 38.60 FEET; THENCE SOUTH 89°56'30" EAST, A DISTANCE OF 32.97 FEET; THENCE SOUTH 83°03'05" EAST, A DISTANCE OF 53.94 FEET; THENCE SOUTH 00°00'33" EAST, A DISTANCE OF 58.76 FEET; THENCE NORTH 89°59'27" EAST, A DISTANCE OF 10.00 FEET; THENCE SOUTH 00°00'33" EAST, A DISTANCE OF 133.79 FEET; THENCE SOUTH 89°59'27" WEST, A DISTANCE OF 43.67 FEET; THENCE NORTH 00°00'33" WEST, A DISTANCE OF 3.70 FEET; THENCE SOUTH 89°59'27" WEST, A DISTANCE OF 166.45 FEET; THENCE NORTH 00°00'33" WEST, A DISTANCE OF 3.30 FEET; THENCE SOUTH 89°59'27" WEST, A DISTANCE OF 54.83 FEET; TO THE POINT OF BEGINNING.

SAID PARCEL CONTAINING 1.009 ACRES, OR 43,965 SQ. FT., MORE OR LESS.

SURVEYOR'S NOTES

1. 1. BEARINGS SHOWN HEREON ARE BASED UPON THE EASTERLY BOUNDARY OF LOT 3 HAVING A BEARING OF SOUTH 00°00'33" EAST, AS SHOWN ON THE PLAT OF RECORD.

2. SEE SHEET 1 OF 2 FOR SKETCH OF DESCRIPTION.

THIS IS NOT A BOUNDARY SURVEY

REVISED: BOUNDARY AND LEGAL DESCRIPTION - 05/18/2021 - IR
REVISED: BOUNDARY AND LEGAL DESCRIPTION - 04/29/2021 - IR

THIS MAP PREPARED BY:	DAVID S. DAGOSTINO, PSM	COMPUTER FILE: 18196 SOUTH	DRAWING SCALE: 1"=60'	DAGOSTINO GEOSPATIAL, INC. Professional Surveying & Mapping .0981 Bonita Beach Road SE Bonita Springs, FL 34135 Phone: (239) 352-6085 Website: www.dwsurveys.com	CERTIFIED TO:
CERTIFICATE OF AUTHORIZATION NO. LB 6888 NOT VALID WITHOUT THE SIGNATURE AND SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER	Professional Surveyor & Mapper Fla. License No.5782	SURVEY DATE: 03/31/2021	REVISED BY:	DRAWN BY: IR	JOB NO.: 18-196
		SIGNATURE DATE: 04/01/2021	REVISION DATE:	CHECKED BY: DSD	SHEET NO.: 2 OF 2
				FIELD BOOK: N/A	

Attachment: Attachment F - Application and Backup Documents (21517 : PL20210001966 FL Mod Wash Comparable Use Determination)

TR TRANSPORTATION CONSULTANTS, INC

2726 OAK RIDGE COURT, SUITE 503
FORT MYERS, FL 33901-9356
OFFICE 239.278.3090
FAX 239.278.1906

TRAFFIC ENGINEERING
TRANSPORTATION PLANNING
SIGNAL SYSTEMS/DESIGN

TRAFFIC IMPACT STATEMENT

FOR

NAPLES FLORIDA MOD CAR WASH

(MINOR SCALE STUDY REVIEW – $750)
(METHODOLOGY REVIEW FEE - $500)

PROJECT NO. F2107.05

PREPARED BY:
TR Transportation Consultants, Inc.
Certificate of Authorization Number: 27003
2726 Oak Ridge Court, Suite 503
Fort Myers, Florida 33901-9356
(239) 278-3090

August 30, 2021

Attachment: Attachment F - Application and Backup Documents (21517 : PL20210001966 FL Mod Wash Comparable Use Determination)

TRANSPORTATION CONSULTANTS, INC

CONTENTS

I. INTRODUCTION

II. EXISTING CONDITIONS

III. PROPOSED DEVELOPMENT

IV. TRIP GENERATION & DISTRIBUTION

V. PROJECTED CONCURRENCY

VI. TURN LANE ANALYSIS

VII. CONCLUSION

Attachment: Attachment F - Application and Backup Documents (21517 : PL20210001966 FL Mod Wash Comparable Use Determination)

TR TRANSPORTATION CONSULTANTS, INC

I. INTRODUCTION

TR Transportation Consultants, Inc. has conducted a traffic impact statement for the site development plan approval application for the proposed car wash facility. The subject site is located at 6650 Collier Boulevard in Collier County, Florida. This report has been completed in compliance with the guidelines established by the Collier County Transportation Planning Division for developments seeking SDP approval. The approximate location of the subject site is illustrated on **Figure 1**.

The proposed Site Development Plan (SDP) application will permit a development of an approximate 3,816 square foot car wash facility consisting of one (1) car wash tunnel. Access to the subject site will be provided to via a shared connection with an adjacent retail building to the south.

Methodology meeting notes were exchanged with Collier County Staff via e-mail in order to discuss the proposed development. The initial meeting checklist and the latest methodology notes are included in the Appendix of this document for reference. This report examines the impact of the development on the surrounding roadways. Trip generation and assignments to the site access driveways will be also completed.

II. EXISTING CONDITIONS

The subject site is currently vacant. The site is bordered by Collier Boulevard to the west, retail uses to the south, and by the internal shopping center roadways to the north and east.

Attachment: Attachment F - Application and Backup Documents (21517 : PL20210001966 FL Mod Wash Comparable Use Determination)

F21107.05

Attachment: Attachment F - Application and Backup Documents (21517 : PL20210001966 FL Mod Wash Comparable Use Determination)

TR TRANSPORTATION CONSULTANTS, INC

PROJECT LOCATION MAP
NAPLES FLORIDA MOD CAR WASH

TRANSPORTATION CONSULTANTS, INC

Collier Boulevard is a six-lane divided arterial roadway within the vicinity of the subject site. The Level of Service Standard on Collier Boulevard between US 41 and Wal-Mart Driveway is LOS "E", or 2,500 vehicles (Link ID #36.1). The Level of Service Standard for Collier Boulevard between Wal-Mart Driveway and Manatee Road is LOS "D", or 2,000 vehicles. Collier Boulevard has a posted speed limit of 45 mph and is under the jurisdiction of the Collier County Department of Transportation.

III. PROPOSED DEVELOPMENT

The proposed Site Development Plan (SDP) application will allow the subject site to be developed with an approximate 3,816 square foot car wash with a single car wash tunnel. **Table 1** summarizes the land use being analyzed for the trip generation of the subject site.

Table 1
Proposed Development
Naples Florida Mod Car Wash

Land Use	Size
Car Wash	3,816 Sq. Ft. & 1 Tunnel

Access to the subject site will be provided to via a shared connection with an adjacent retail building to the south.

IV. TRIP GENERATION & DISTRIBUTION

The trip generation for the proposed development was determined by referencing the Institute of Transportation Engineer's (ITE) report, titled ***Trip Generation Manual***, 10th Edition. A trip generation comparison was conducted for the subject site based on the number of car wash tunnels and floor area using Land Use Code 948 (Automated Car Wash). The trip comparison is shown as part of the attached methodology meeting notes for reference. Based upon the results of the trip generation comparison, utilizing the

Attachment: Attachment F - Application and Backup Documents (21517 : PL20210001966 FL Mod Wash Comparable Use Determination)

TRANSPORTATION CONSULTANTS, INC

number of car wash tunnels as the independent variable to estimate the trip generation potential of the subject site yields the most conservative results. **Table 2** outlines the anticipated weekday A.M. and P.M. peak hour and daily trip generation of the facility as currently proposed.

Table 1
Trip Generation – Based on No. of Tunnels
Naples Florida Mod Car Wash

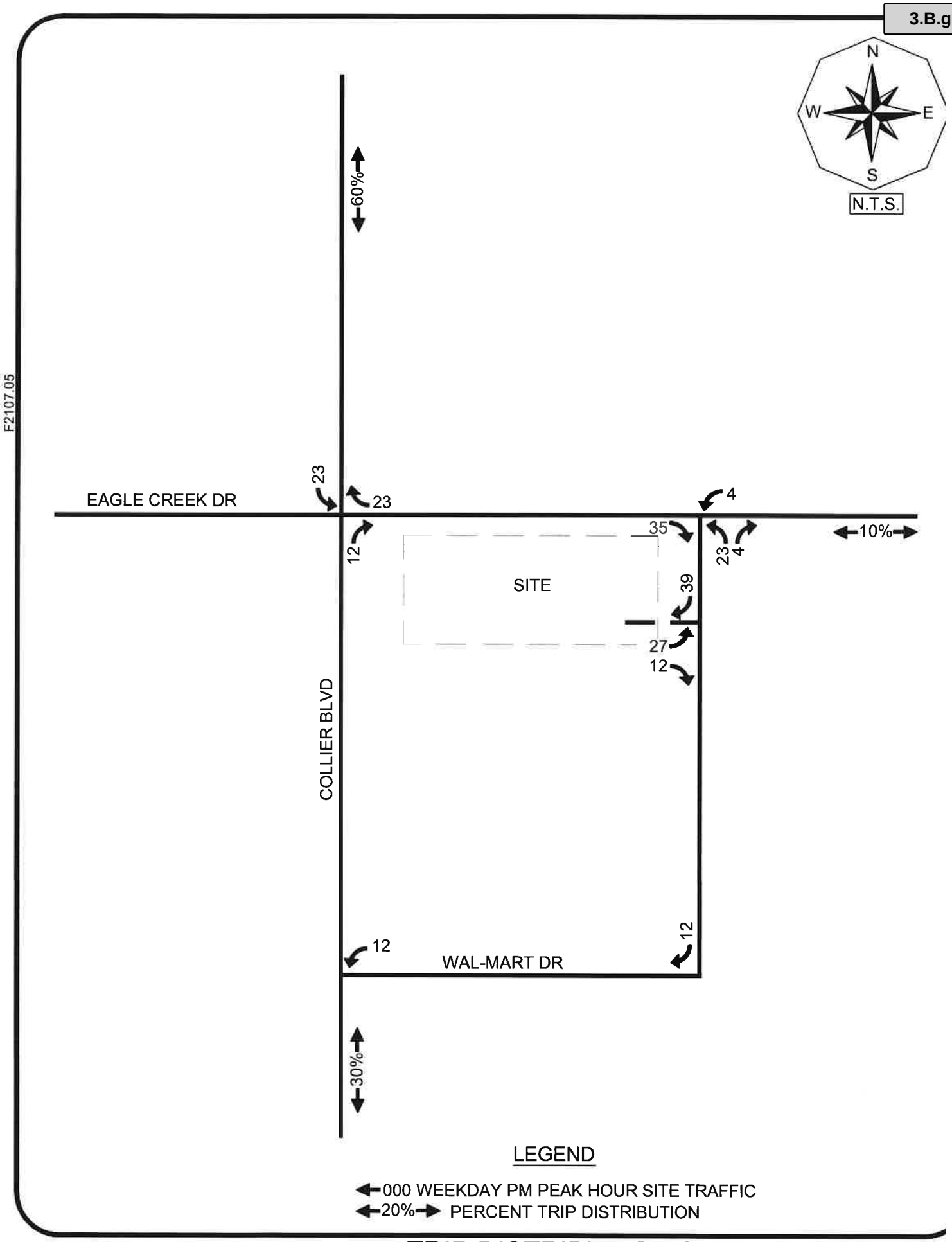
Land Use	Weekday A.M. Peak Hour			Weekday P.M. Peak Hour			Daily (2-way)
	In	Out	Total	In	Out	Total	
Automated Car Wash (1 Tunnel)	N/A	N/A	N/A	39	39	78	N/A

The trips the proposed development is anticipated to generate were assigned to the site access drives and the surrounding roadway network. The project traffic distribution was determined in the methodology with staff and is illustrated on **Figure 2**. Figure 2 also illustrates the assignment of the project trips to the proposed site access drives and surrounding intersections.

V. PROJECTED CONCURRENCY

In order to determine which roadway segments surrounding the site will be significantly impacted, **Table 1A**, contained in the Appendix, was created. This table indicates which roadway links will accommodate an amount of project traffic greater than the 2%-2%-3% Significance Test. The new trips generated as a result of the proposed SDP application were compared with the Capacity for Peak Hour – Peak Direction traffic conditions as defined by the 2020 ***Collier County Annual Update Inventory Report*** (AUIR). Based on the information contained within Table 1A, no roadways are projected to be significantly impacted as a result of the development traffic being added to the roadway network.

Attachment: Attachment F - Application and Backup Documents (21517 : PL20210001966 FL Mod Wash Comparable Use Determination)



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TRANSPORTATION CONSULTANTS, INC

TRIP DISTRIBUTION & SITE TRAFFIC ASSIGNMENT NAPLES FLORIDA MOD CAR WASH

Attachment: Attachment F - Application and Backup Documents (21517 : PL20210001966 FL Mod Wash Comparable Use Determination)

TRANSPORTATION CONSULTANTS, INC

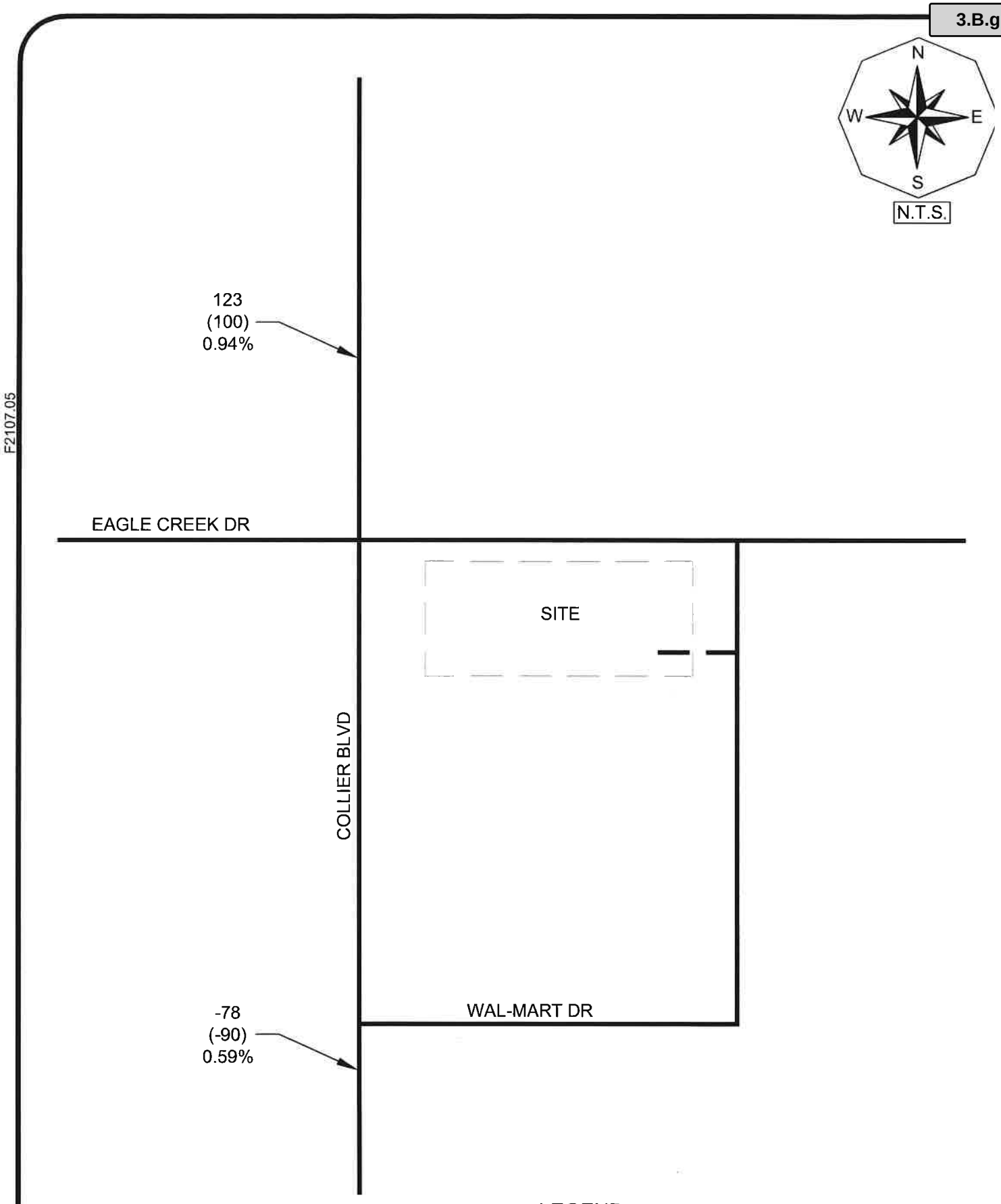
In addition to the significant impact criteria, **Table 2A** includes the concurrency analysis on the Collier County Roadway network. The current remaining capacity and Level of Service Standard for each roadway segment analyzed was obtained from the 2020 ***Collier County Annual Inventory Update Report*** (AUIR). A three-year planning analysis was also conducted. In order to estimate the projected 2023 background traffic volumes, the existing 2020 peak hour peak direction traffic volumes from the 2020 AUIR were adjusted by the appropriate growth rate. These projected volumes were then compared with the 2020 existing plus trip bank volumes from the 2020 AUIR. The more conservative of the two volumes was then utilized as the 2023 background traffic volume.

The concurrency analysis was performed by subtracting the project traffic volumes that will result with the SDP application from the 2023 background remaining capacity in order to determine whether or not sufficient capacity will be available after the addition of the new traffic associated with the SDP approval. Based on the information contained within Table 2A, there will be sufficient capacity on Collier Boulevard to the north of the site. Collier Boulevard to the south of the site is projected to have insufficient capacity without the addition of the trips generated as a result of the proposed development. Therefore, this segment of Collier Boulevard is considered as a pre-development deficiency that this project should not be responsible for. It is also important to note that the proposed development will **NOT** generate more than a de minimus impact (1% of the adopted service volume) to this existing deficient roadway link on Collier Boulevard (Link #36.2). **Figure 3** was created to indicate the results of the concurrency analysis on the adjacent roadway network.

VI. TURN LANE ANALYSIS

Project traffic will access the site via privately maintained internal roadways serving the overall shopping center. Therefore, no turn lane improvements will be warranted.

Attachment: Attachment F - Application and Backup Documents (21517 : PL20210001966 FL Mod Wash Comparable Use Determination)



F2107.05

LEGEND

000 2023 CURRENT REMAINING CAPACITY
(000) 2023 REMAINING CAPACITY W/ PM PROJECT TRAFFIC
0.0% PROJECT IMPACT PERCENTAGE

TR TRANSPORTATION CONSULTANTS, INC

2023 REMAINING CAPACITY ON SIGNIFICANTLY IMPACTED LINKS NAPLES FLORIDA MOD CAR WASH

Attachment: Attachment F - Application and Backup Documents (21517 : PL20210001966 FL Mod Wash Comparable Use Determination)

TRANSPORTATION CONSULTANTS, INC

VII. CONCLUSION

The proposed car wash development is located at 6650 Collier Boulevard in Collier County, Florida. The surrounding roadway network was analyzed based on the 2020 ***Collier County Annual Update Inventory Report*** (AUIR) and future 2023 build-out traffic conditions. The results of the analysis indicate that there will be sufficient capacity on Collier Boulevard to the north of the site. Collier Boulevard to the south of the site is projected to have insufficient capacity without the addition of the trips generated as a result of the proposed development. Therefore, this segment of Collier Boulevard is considered as a pre-development deficiency that this project should not be responsible for. It is also important to note that the proposed development will **NOT** generate more than a de minimus impact (1% of the adopted service volume) to this existing deficient roadway link on Collier Boulevard (Link #36.2).

Project traffic will access the site via privately maintained internal roadways serving the overall shopping center. Therefore, no turn lane improvements will be warranted.

Attachment: Attachment F - Application and Backup Documents (21517 : PL20210001966 FL Mod Wash Comparable Use Determination)

APPENDIX

Attachment: Attachment F - Application and Backup Documents (21517 : PL20210001966 FL Mod Wash Comparable Use Determination)

METHODOLOGY MEETING NOTES

Attachment: Attachment F - Application and Backup Documents (21517 : PL20210001966 FL Mod Wash Comparable Use Determination)

APPENDIX A

INITIAL MEETING CHECKLIST

Suggestion: Use this Appendix as a worksheet to ensure that no important elements are overlooked. Cross out the items that do not apply.

Date: via e-mail Time: N/A

Location: via e-mail

People Attending:
Name, Organization, and Telephone Numbers

1) Yury Bykau, TR Transportation Consultants, Inc., (239) 278-3090
2) Cecilia Varga, Collier County Transportation, (239) 252-2613
3) _____
4) _____
5) _____

Study Preparer:
Preparer's Name and Title: Yury Bykau, Transportation Consultant
Organization: TR Transportation Consultants, Inc.
Address & Telephone Number: (239) 278-3090
2726 Oak Ridge Court, Suite 503
Fort Myers, FL 33901

Reviewer(s):
Reviewer's Name & Title: Cecilia Varga, Site Plan Reviewer, Transportation
Collier County Transportation Planning Department

Reviewer's Name & Title: _____
Organization & Telephone Number: (239) 252-2613

Applicant:
Applicant's Name:
Address:
Telephone Number:

Proposed Development:
Name: Naples Florida Mod Car Wash - SDP
Location: 6650 Collier Boulevard
Land Use Type: Automated Car Wash
ITE Code #: LUC 948 – Automated Car Wash
Proposed number of development units: 1 Tunnel and 3,816 Square Feet
Other: n/a

Attachment: Attachment F - Application and Backup Documents (21517 : PL20210001966 FL Mod Wash Comparable Use Determination)

Description: The applicant is proposing to develop a car wash with a single tunnel and approximately 3,816 square feet of floor area.
Existing:
Comprehensive plan recommendation: N/A
Requested:
Findings of the Preliminary Study:
Project is anticipated to generate less than 100 additional new trips. See the attached trip generation comparison based on floor area and number of tunnels. For the traffic study purposes LUC 948 (Automated Car Wash) will be used.

Study Type:

Small Scale TIS ☐ Minor TIS ☒

Major TIS ☐

Study Area:
Boundaries: Collier Boulevard between US 41 and Wal-mart Driveway (Link #36.1) and Collier Boulevard between Wal-mart Drive and Manatee Road (Link #36.2) based upon the Collier County 2%-2%-3% Significant Impact Criteria.

Additional intersections to be analyzed: None

Horizon Year(s): 2023
Analysis Time Period(s): P.M. Peak Hour

Future Off-Site Developments: None

Source of Trip Generation Rates: ITE Trip Generation 10th Edition

Reductions in Trip Generation Rates:
None:
Pass-by trips: None
Internal trips (PUD): No discounts taken
Transmit use: n/a
Other: n/a

Horizon Year Roadway Network Improvements:
None

Methodology & Assumptions:
Non-site traffic estimates: 2020 AUIR
Site-trip generation: ITE Trip Generation 10th Edition LUC 948
Trip distribution method: By Hand. 60% to/from the north of Eagle Creek Drive on Collier Boulevard and 30% to/from the south of Eagle Creek Drive on Collier Boulevard. Remaining 10% to/from the east of the site.
Traffic assignment method: By Hand
Traffic growth rate: From comparisons of the 2009 & 2020 AUIR's

Attachment: Attachment F - Application and Backup Documents (21517 : PL20210001966 FL Mod Wash Comparable Use Determination)

Special Features: (from preliminary study or prior experience)
Accidents locations: n/a
Sight distance: n/a/
Queuing: n/a
Access location & configuration: Via shared connection with adjacent retail building to the south.
Traffic control: n/a
Signal system location & progression needs: n/a
On-site parking needs: n/a
Data Sources: ITE Trip Generation Report, 10th Edition
Base maps: n/a
Prior study reports: n/a
Access policy and jurisdiction: n/a
Review process: n/a
Requirements: n/a
Miscellaneous:
n/a

==========

SIGNATURES

_____
Study Preparer

_____
Reviewers

_____
Applicant

Attachment: Attachment F - Application and Backup Documents (21517 : PL20210001966 FL Mod Wash Comparable Use Determination)

ITE TRIP GENERATION REPORT, 10th EDITION
LUC 948 (AUTOMATED CAR WASH)

Table 1
Trip Generation – Based on No. of Tunnels
Naples Florida Mod Car Wash

Land Use	Weekday A.M. Peak Hour			Weekday P.M. Peak Hour			Daily (2-way)
	In	Out	Total	In	Out	Total	
Automated Car Wash (1 Tunnel)	N/A	N/A	N/A	39	39	78	N/A

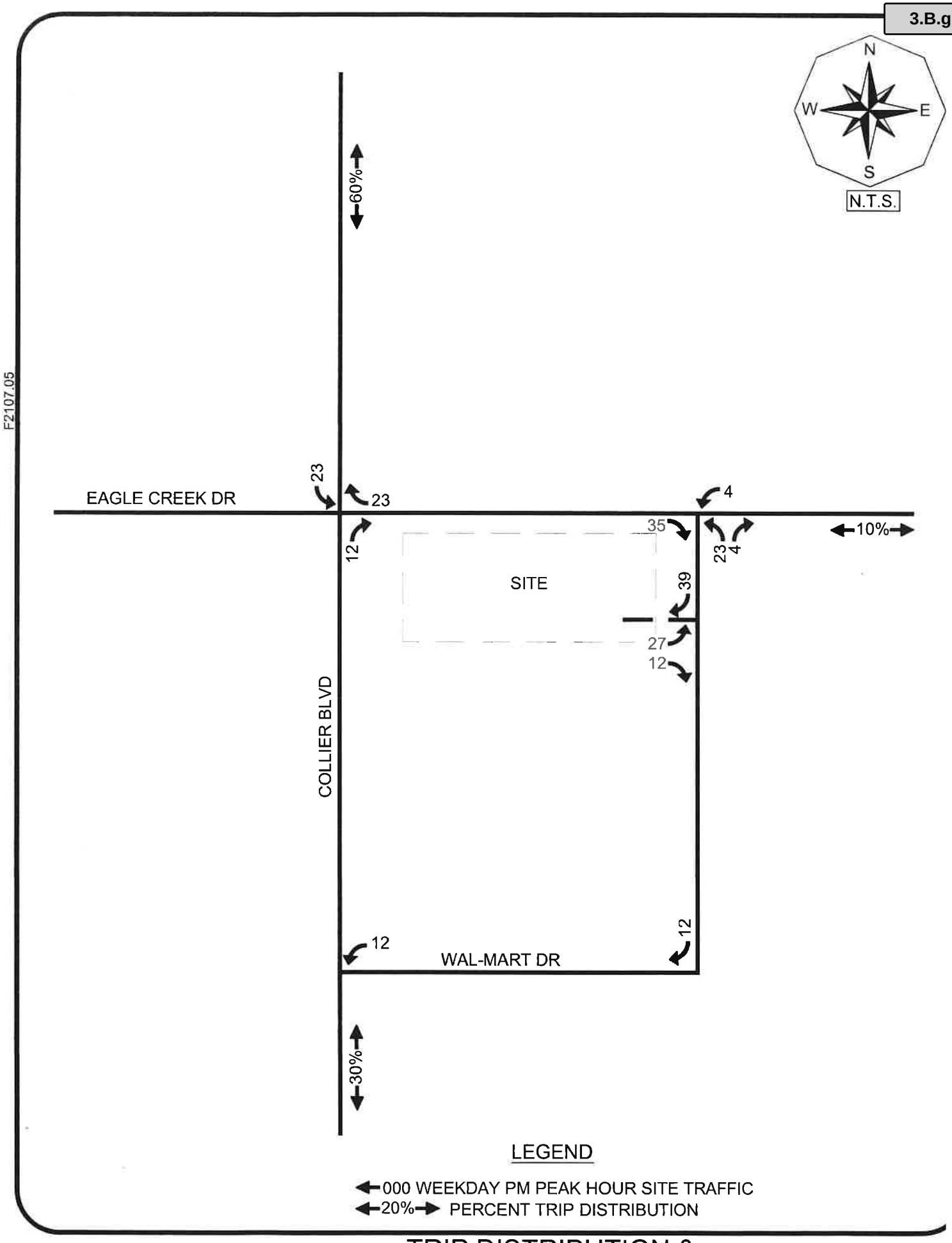
*LUC 948 was utilized for the trip generation.

Table 2
Trip Generation – Based on Floor Area
Naples Florida Mod Car Wash

Land Use	Weekday A.M. Peak Hour			Weekday P.M. Peak Hour			Daily (2-way)
	In	Out	Total	In	Out	Total	
Automated Car Wash (3,816 Square Feet)	N/A	N/A	N/A	27	27	54	N/A

*LUC 948 was utilized for the trip generation.

Attachment: Attachment F - Application and Backup Documents (21517 : PL20210001966 FL Mod Wash Comparable Use Determination)



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TRANSPORTATION CONSULTANTS, INC

TRIP DISTRIBUTION & SITE TRAFFIC ASSIGNMENT NAPLES FLORIDA MOD CAR WASH

Attachment: Attachment F - Application and Backup Documents (21517 : PL20210001966 FL Mod Wash Comparable Use Determination)

Attachment: Attachment F - Application and Backup Documents (21517 : PL20210001966 FL Mod Wash Comparable Use Determination)

TABLE 1A, TABLE 2A,
& GROWTH RATE CALCULATIONS

TABLE 1A
SIGNIFICANT IMPACT CALCULATIONS
NAPLES FLORIDA MOD CAR WASH

TOTAL PM PEAK HOUR PROJECT TRAFFIC = 78 VPH IN= 39 OUT= 39

ROADWAY	SEGMENT	SEGMENT NUMBER PER 2-2-3	SEGMENT ID #	ROADWAY CLASS	LOS STD	PERCENT PROJECT TRAFFIC DISTRIBUTION INBOUND	PERCENT PROJECT TRAFFIC DISTRIBUTION OUTBOUND	INBOUND TRAFFIC DIRECTION	PM PROJECT TRAFFIC NORTH/SOUTH VOLUME	PM PROJECT TRAFFIC NORTH/SOUTH % LOS STD	PM PROJECT TRAFFIC NORTH/SOUTH VOLUME	PM PROJECT TRAFFIC NORTH/SOUTH % LOS STD	SIGNIFICANT IMPACT?
Collier Biulevard	N of Site	2	36.1	6LD	2,500	60%	60%	SOUTH	23	0.94%	23	0.94%	NO
	S. of Site	2	36.2	4LD	2,000	30%	30%	NORTH	12	0.59%	12	0.59%	NO

Note: Remaining 10% of project traffic was assigned to/from the east of the site.

Attachment: Attachment F - Application and Backup Documents (21517 : PL20210001966 FL Mod Wash Comparable Use Determination)

TABLE 2A
CONCURRENCY ANALYSIS
NAPLES FLORIDA MOD CAR WASH

TOTAL PM PEAK HOUR PROJECT TRAFFIC = 78 VPH IN= 39 OUT= 39

ROADWAY	SEGMENT	SEGMENT ID #	AUIR LOS STD	ROADWAY PK DIR	PROJ TRIPS IN PK DIR OF ROADWAY AM	PM	AUIR 2020 TRAFFIC VOLUME	AUIR 2020 TRIP BANK	AUIR 2020 TOTAL VOLUME	CURRENT REMAINING CAPACITY	ANNUAL GROWTH RATE[1]	2023 FUTURE BCKGRND TRAFFIC	2023 PROJECTED REMAINING CAPACITY	CAPACITY - AFTER PROJECT PM	WILL THERE BE SUFFICIENT CAPACITY AVAILABLE?
Pine Ridge Rd.	N of Site	36.1	2,500	NORTH	0	23	2,150	201	2,351	149	3.40%	2,377	123	100	YES
	S. of Site	36.2	2,000	NORTH	0	12	1,920	158	2,078	-78	2.00%	2,078	-78	-90	NO

[1] For roadways with negative or low growth rates, an annual growth rate of 2.0% was assumed.

Attachment: Attachment F - Application and Backup Documents (21517 : PL20210001966 FL Mod Wash Comparable Use Determination)

TABLE 3A
ANNUAL GROWTH RATE CALCULATIONS
BASED UPON HISTORICAL AUIR DATA

ROADWAY	SEGMENT	CURRENT ID#	2009 AUIR VOLUME	2020 AUIR VOLUME	YRS OF GROWTH	ANNUAL GROWTH RATE	ACTUAL GROWTH RATE
Collier Boulevard	US 41 to Wal-Mart Driveway	36.1	1,489	2,150	11	3.40%	3.40%
Collier Boulevard	Wal-Mart Driveway to Manatee Road	36.2	1,560	1,920	11	2.00%	1.91%

* All traffic volumes were obtained from the 2009 & 2020 Annual Update Inventory Reports (AUIR)

** 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

$$\text{Annual Growth Rate (AGR)} = \left(\frac{\text{2020 AUIR}}{\text{2009 AUIR}}\right)^{\wedge(1/\text{Yrs of Growth})} - 1$$

$$\text{AGR (Collier Blvd)} = \left(\frac{2{,}150}{1{,}489}\right)^{\wedge(1/11)} - 1$$

AGR (Collier Blvd) = 3.40%

Attachment: Attachment F - Application and Backup Documents (21517 : PL20210001966 FL Mod Wash Comparable Use Determination)

AUIR DATA

Attachment: Attachment F - Application and Backup Documents (21517 : PL20210001966 FL Mod Wash Comparable Use Determination)

Attachment "F"
Collier County 2020 Annual Update and Inventory Report (AUIR) Based on Adopted LOS, Trip Bank and Traffic Counts

ID#	Road#	Link	From	To	Exist Road	Cnt. Sta.	Min Std *	Peak Dir	Peak Hour * Peak Dir Service Volume	2019 Peak Hour Peak Dir Volume	2020 Peak Hour Peak Dir Volume	2019 2020 Net Change In Volume	2019 2020 Percent Change In Volume	Total Trip Bank	2020 Counts + Trip Bank Volume	2020 Counts + Trip Bank Remaining Capacity	2020 Counts + Trip Bank V/C	2020 w/TB LOS	Traffic Counts Year Expected Deficient	Trip Bank Year Expected Deficient
1.0	CR31	Airport Road	Immokalee Road	Vanderbilt Beach Road	4D	554	D	N	2,200	1190	1690	500	42.02%	39	1729	471	78.6%	C		
2.1	CR31	Airport Road	Vanderbilt Beach Road	Orange Blossom Drive	6D	599	E	N	3,000	2290	2330	40	1.75%	43	2373	627	79.1%	D		
2.2	CR31	Airport Road	Orange Blossom Drive	Pine Ridge Road	6D	503	E	N	3,000	2010	2230	220	10.95%	52	2282	718	76.1%	D		
3.0	CR31	Airport Road	Pine Ridge Road	Golden Gate Parkway	6D	502	E	N	3,000	2240	2230	(10)	-0.45%	14	2244	756	74.8%	C		
4.0	CR31	Airport Road	Golden Gate Parkway	Radio Road	6D	533	E	N	2,800	2190	2200	10	0.46%	0	2200	600	78.6%	D		
5.0	CR31	Airport Road	Radio Road	Davis Boulevard	6D	553	E	N	2,800	2010	2170	160	7.96%	0	2170	630	77.5%	D		
6.0	CR31	Airport Road	Davis Boulevard	US 41 (Tamiami Trail)	6D	552	E	S	2,700	1600	1650	50	3.13%	65	1715	985	63.5%	C		
7.0		Bayshore Drive	US 41 (Tamiami Trail)	Thomasson Drive	4D	521	D	S	1,800	640	660	20	3.13%	104	764	1036	42.4%	B		
8.0	CR 865	Bonita Beach Road	West of Vanderbilt Drive	Hickory Boulevard	4D	653	D	E	1,900	1050	1080	30	2.86%	0	1080	820	56.8%	C		
9.0		Carson Road	Lake Trafford Road	Immokalee Drive	2U	610	D	N	600	300	290	(10)	-3.33%	5	295	305	49.2%	B		
10.0		County Barn Road	Davis Boulevard	Rattlesnake Hammock Road	2U	519	D	S	900	380	480	100	26.32%	108	588	312	65.3%	C		
11.0	CR29	CR 29	US 41 (Tamiami Trail)	Everglades City	2U	582A	D	S	1,000	160	160	0	0.00%	0	160	840	16.0%	B		
12.0	SR84	Davis Boulevard	US 41 (Tamiami Trail)	Airport Road	6D	558	E	E	2,700	1420	1440	20	1.41%	30	1470	1230	54.4%	C		
13.0	SR84	Davis Boulevard	Airport Road	Lakewood Boulevard	4D	559	D	E	2,000	1330	1440	110	8.27%	2	1442	558	72.1%	C		
14.0	SR84	Davis Boulevard	Lakewood Boulevard	County Barn Road	4D	658	D	E	2,000	1550	1500	(50)	-3.23%	61	1561	439	78.1%	C		
15.0	SR84	Davis Boulevard	County Barn Road	Santa Barbara Boulevard	4D	538	D	E	2,200	1410	1420	10	0.71%	139	1559	641	70.9%	C		
16.1	SR84	Davis Boulevard	Santa Barbara Boulevard	Radio Road	6D	560	E	E	3,300	740	810	70	9.46%	158	968	2332	29.3%	B		
16.2	SR84	Davis Boulevard	Radio Road	Collier Boulevard	6D	601	E	W	3,300	1190	1290	100	8.40%	325	1615	1685	48.9%	B		
17.0	CR876	Golden Gate Boulevard	Collier Boulevard	Wilson Boulevard	4D	531	D	E	2,300	1730	1910	180	10.40%	0	1910	390	83.0%	D		2030
18.0	CR886	Golden Gate Parkway	US 41 (Tamiami Trail)	Goodlette-Frank Road	6D	530	E	E	2,700	1230	1560	330	26.83%	13	1573	1127	58.3%	C		
19.0	CR886	Golden Gate Parkway	Goodlette-Frank Road	Airport Road	6D	507	E	E	3,550	2860	2990	130	4.55%	1	2991	559	84.3%	D		2029
20.1	CR886	Golden Gate Parkway	Airport Road	Livingston Road	6D	508	E	E	3,550	2680	2950	270	10.07%	17	2967	583	83.6%	D		2027
20.2	CR886	Golden Gate Parkway	Livingston Road	I-75	6D	691	E	E	3,550	3020	3350	330	10.93%	0	3350	200	94.4%	D	2023	2023
21.0	CR886	Golden Gate Parkway	I-75	Santa Barbara Boulevard	6D	509	E	E	3,300	2400	2240	(160)	-6.67%	14	2254	1046	68.3%	C		
22.0	CR886	Golden Gate Parkway	Santa Barbara Boulevard	Collier Boulevard	4D	605	D *	E	1,980	1670	1730	60	3.59%	60	1790	190	90.4%	D		2026
23.0	CR851	Goodlette-Frank Road	Immokalee Road	Vanderbilt Beach Road	2U	594	D	N	1,000	820	910	90	10.98%	0	910	90	91.0%	D	2025	2025
24.1	CR851	Goodlette-Frank Road	Vanderbilt Beach Road	Orange Blossom Drive	4D	595	E	N	2,400	1380	1490	110	7.97%	73	1563	837	65.1%	C		
24.2	CR851	Goodlette-Frank Road	Orange Blossom Drive	Pine Ridge Road	6D	581	E	N	2,400	1560	1650	90	5.77%	8	1658	742	69.1%	C		
25.0	CR851	Goodlette-Frank Road	Pine Ridge Road	Golden Gate Parkway	6D	505	E	N	3,000	1960	1970	10	0.51%	16	1986	1014	66.2%	C		
26.0	CR851	Goodlette-Frank Road	Golden Gate Parkway	US 41 (Tamiami Trail)	6D	504	E	S	2,700	1960	2680	720	36.73%	0	2680	20	99.3%	E	2021	2021
27.0		Green Boulevard	Santa Barbara Boulevard	Collier Boulevard	2U	642	D	E	900	710	750	40	5.63%	10	760	140	84.4%	D		2029
29.0		Gulfshore Drive	111th Avenue	Vanderbilt Beach Road	2U	583a	D	N	800	300	310	10	3.33%	0	310	490	38.8%	B		
30.1	CR951	Collier Boulevard	Immokalee Road	Vanderbilt Beach Road	6D	655	E	N	3,000	1850	1880	30	1.62%	517	2397	603	79.9%	D		2030
30.2	CR951	Collier Boulevard	Vanderbilt Beach Road	Golden Gate Boulevard	6D	584	E	S	3,000	1260	1360	100	7.94%	93	1453	1547	48.4%	B		
31.1	CR951	Collier Boulevard	Golden Gate Boulevard	Pine Ridge Road	6D	536	D	N	3,000	1850	1990	140	7.57%	85	2075	925	69.2%	C		
31.2	CR951	Collier Boulevard	Pine Ridge Road	Green Boulevard	6D	536	D	N	3,000	1850	1990	140	7.57%	112	2102	898	70.1%	C		
32.1	CR951	Collier Boulevard	Green Boulevard	Golden Gate Pwky	4D	525	D	N	2,300	1360	1730	370	27.21%	49	1779	521	77.3%	C		
32.2	CR951	Collier Boulevard	Golden Gate Pwky	Golden Gate Main Canal	4D	607	D	N	2,300	1360	1860	500	36.76%	241	2101	199	91.3%	D		2025
32.3	CR951	Collier Boulevard	Golden Gate Main Canal	I-75	8D	607	E	N	3,600	1360	1860	500	36.76%	318	2178	1422	60.5%	C		
33.0	SR951	Collier Boulevard	I-75	Davis Boulevard	8D	573	E	N	3,600	3020	3560	540	17.88%	313	3873	(273)	107.6%	F	2021	Existing
34.0	CR951	Collier Boulevard	Davis Boulevard	Rattlesnake Hammock Road	6D	602	E	N	3,000	1940	2130	190	9.79%	441	2571	429	85.7%	D		2030
35.0	CR951	Collier Boulevard	Rattlesnake Hammock Road	US 41 (Tamiami Trail)	6D	603	E	N	3,200	2000	2060	60	3.00%	337	2397	803	74.9%	C		
36.1	SR951	Collier Boulevard	US 41 (Tamiami Trail)	Wal-Mart Driveway	6D	557	E	N	2,500	1540	2150	610	39.61%	201	2351	149	94.0%	D		2024
36.2	SR951	Collier Boulevard	Wal-Mart Driveway	Manatee Road	4D	557	D	N	2,000	1540	1920	380	24.68%	158	2078	(78)	103.9%	E	2023	Existing
37.0	SR951	Collier Boulevard	Manatee Road	Mainsail Drive	4D	627	D	N	2,200	1680	1690	10	0.60%	211	1901	299	86.4%	D		2029
38.0	SR951	Collier Boulevard	Mainsail Drive	Marco Island Bridge	4D	627	D	N	2,200	1680	1690	10	0.60%	33	1723	477	78.3%	C		
39.0	CR846	111th Avenue N.	Gulfshore Drive	Vanderbilt Drive	2U	585	D	E	700	312	290	(22)	-7.05%	0	290	410	41.4%	B		
40.0	CR846	111th Avenue N.	Vanderbilt Drive	US 41 (Tamiami Trail)	2U	613	D	E	900	448	560	112	25.00%	0	560	340	62.2%	C		
41.1	CR846	Immokalee Road	US 41 (Tamiami Trail)	Goodlette-Frank Road	6D	566	E	E	3,100	2110	2220	110	5.21%	3	2223	877	71.7%	C		
41.2	CR846	Immokalee Road	Goodlette-Frank Road	Airport Road	6D	625	E	E	3,100	2650	2760	110	4.15%	9	2769	331	89.3%	D	2024	2024
42.1	CR846	Immokalee Road	Airport Road	Livingston Road	6D	567	E	E	3,100	2780	2360	(420)	-15.11%	11	2371	729	76.5%	D		
42.2	CR846	Immokalee Road	Livingston Road	I-75	6D/8D	679	E	E	3,500	2550	3020	470	18.43%	30	3050	450	87.1%	D		2028
43.1	CR846	Immokalee Road	I-75	Logan Boulevard	6D/8D	701	E	E	3,500	2360	2620	260	11.02%	490	3110	390	88.9%	D		2025
43.2	CR846	Immokalee Road	Logan Boulevard	Collier Boulevard	6D	656	E	E	3,200	1930	2030	100	5.18%	735	2765	435	86.4%	D		2027
44.0	CR846	Immokalee Road	Collier Boulevard	Wilson Boulevard	6D	674	E	E	3,300	2050	2480	430	20.98%	725	3205	95	97.1%	E		2021
45.0	CR846	Immokalee Road	Wilson Boulevard	Oil Well Road	6D	675	E	E	3,300	2460	2310	(150)	-6.10%	465	2775	525	84.1%	D		2028
46.0	CR846	Immokalee Road	Oil Well Road	SR 29	2U	672	D	E	900	460	480	20	4.35%	178	658	242	73.1%	C		
47.0		Lake Trafford Road	Carson Rd	SR 29	2U	609	D	E	800	460	500	40	8.70%	53	553	247	69.1%	C		
48.0		Logan Boulevard	Vanderbilt Beach Road	Pine Ridge Road	2U	587	D	N	1,000	640	620	(20)	-3.13%	87	707	293	70.7%	C		
49.0		Logan Boulevard	Pine Ridge Road	Green Boulevard	4D	588	D	S	1,900	1500	1530	30	2.00%	50	1580	320	83.2%	D		2029
50.0		Logan Boulevard	Immokalee Road	Vanderbilt Beach Road	2U	644	D	N	1,000	600	670	70	11.67%	34	704	296	70.4%	C		

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TRIP GENERATION EQUATIONS

Attachment: Attachment F - Application and Backup Documents (21517 : PL20210001966 FL Mod Wash Comparable Use Determination)

Automated Car Wash
(948)

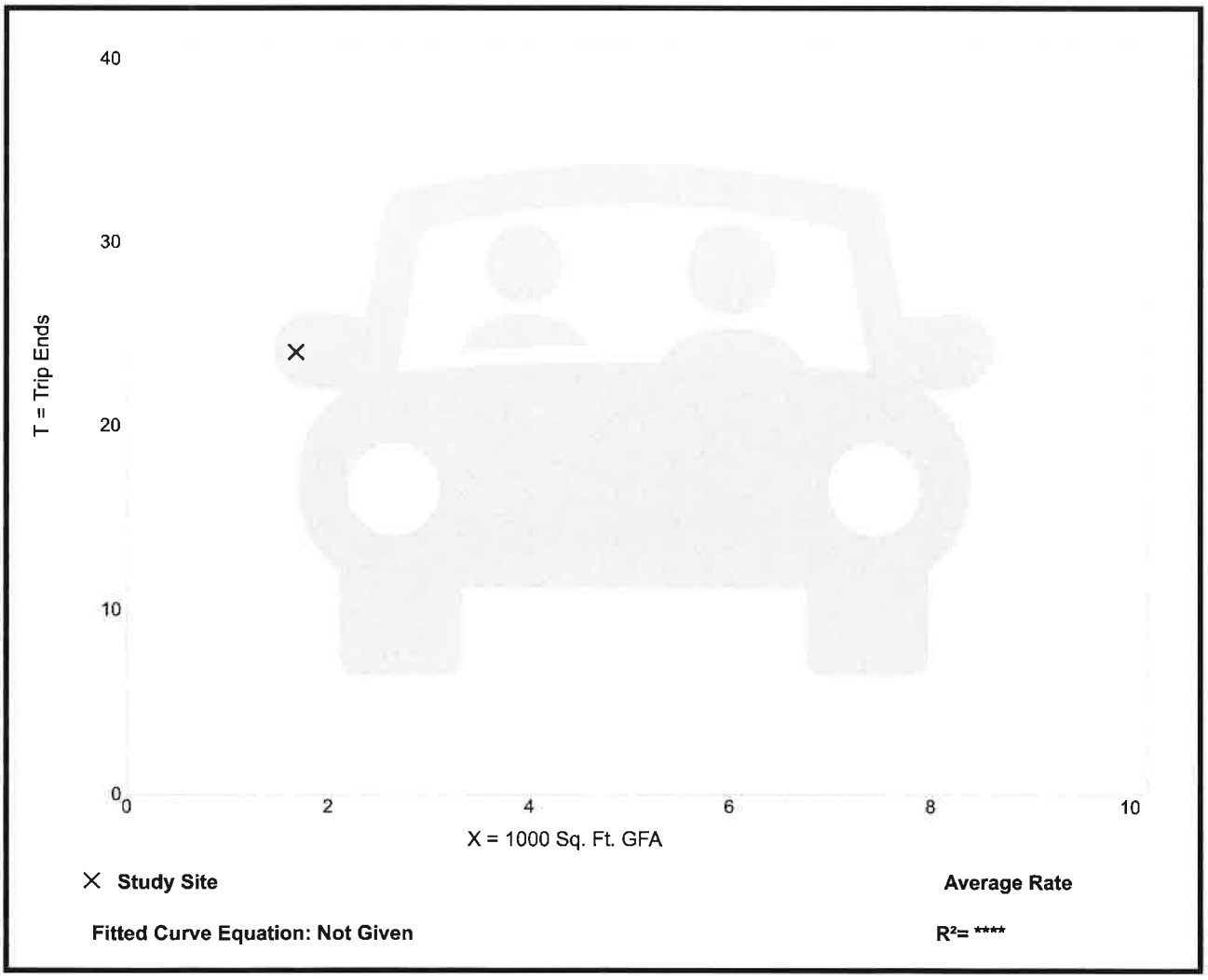
Vehicle Trip Ends vs: **1000 Sq. Ft. GFA**
On a: **Weekday,**
Peak Hour of Adjacent Street Traffic,
One Hour Between 4 and 6 p.m.
Setting/Location: **General Urban/Suburban**
Number of Studies: 1
Avg. 1000 Sq. Ft. GFA: 2
Directional Distribution: 50% entering, 50% exiting

Vehicle Trip Generation per 1000 Sq. Ft. GFA

Average Rate	Range of Rates	Standard Deviation
14.20	14.20 - 14.20	*

Data Plot and Equation

Caution – Small Sample Size



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Automated Car Wash
(948)

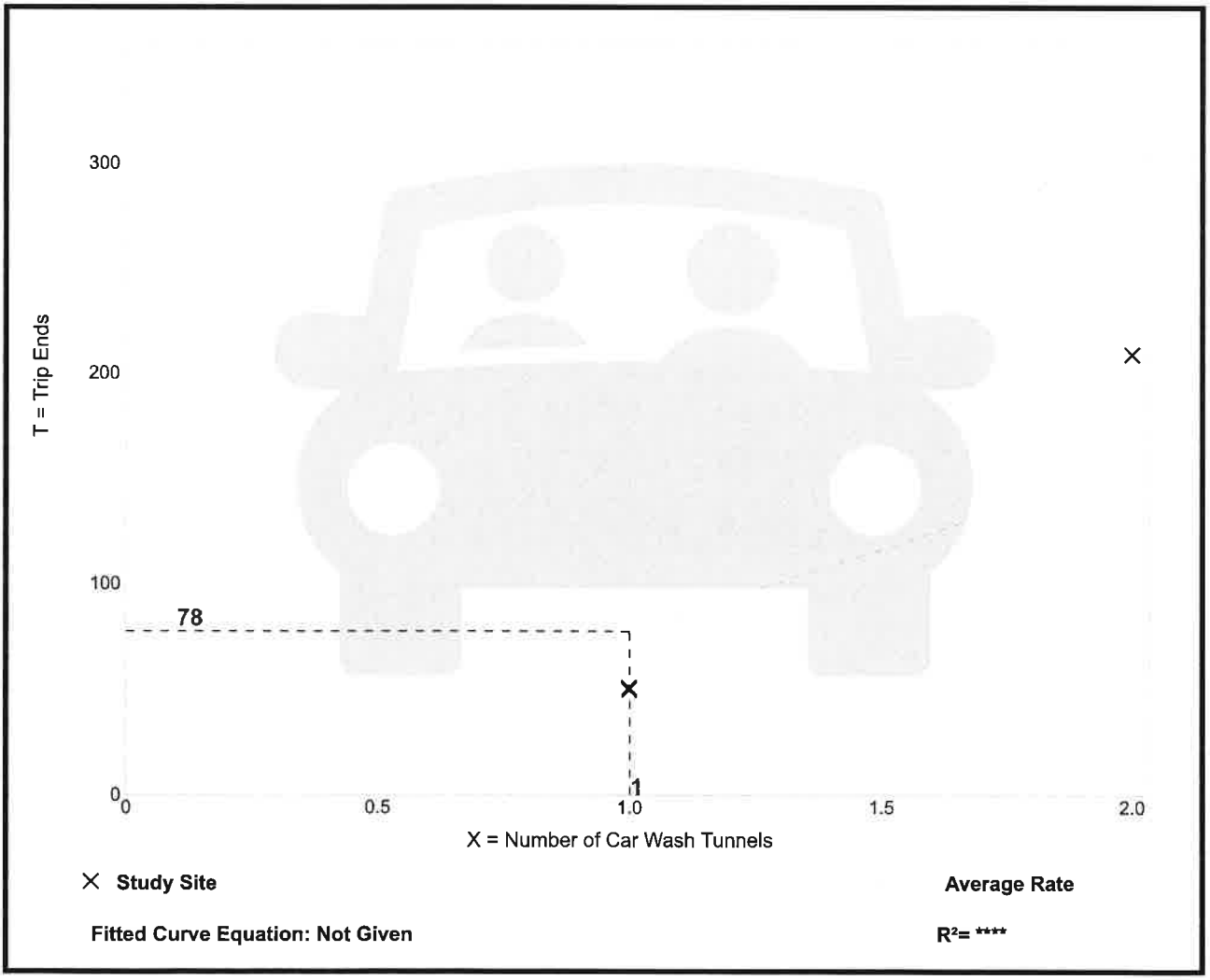
Vehicle Trip Ends vs: **Car Wash Tunnels**
On a: **Weekday,**
Peak Hour of Adjacent Street Traffic,
One Hour Between 4 and 6 p.m.
Setting/Location: **General Urban/Suburban**
Number of Studies: 3
Avg. Num. of Car Wash Tunnels: 1
Directional Distribution: 50% entering, 50% exiting

Vehicle Trip Generation per Car Wash Tunnel

Average Rate	Range of Rates	Standard Deviation
77.50	50.00 - 104.50	33.07

Data Plot and Equation

Caution – Small Sample Size



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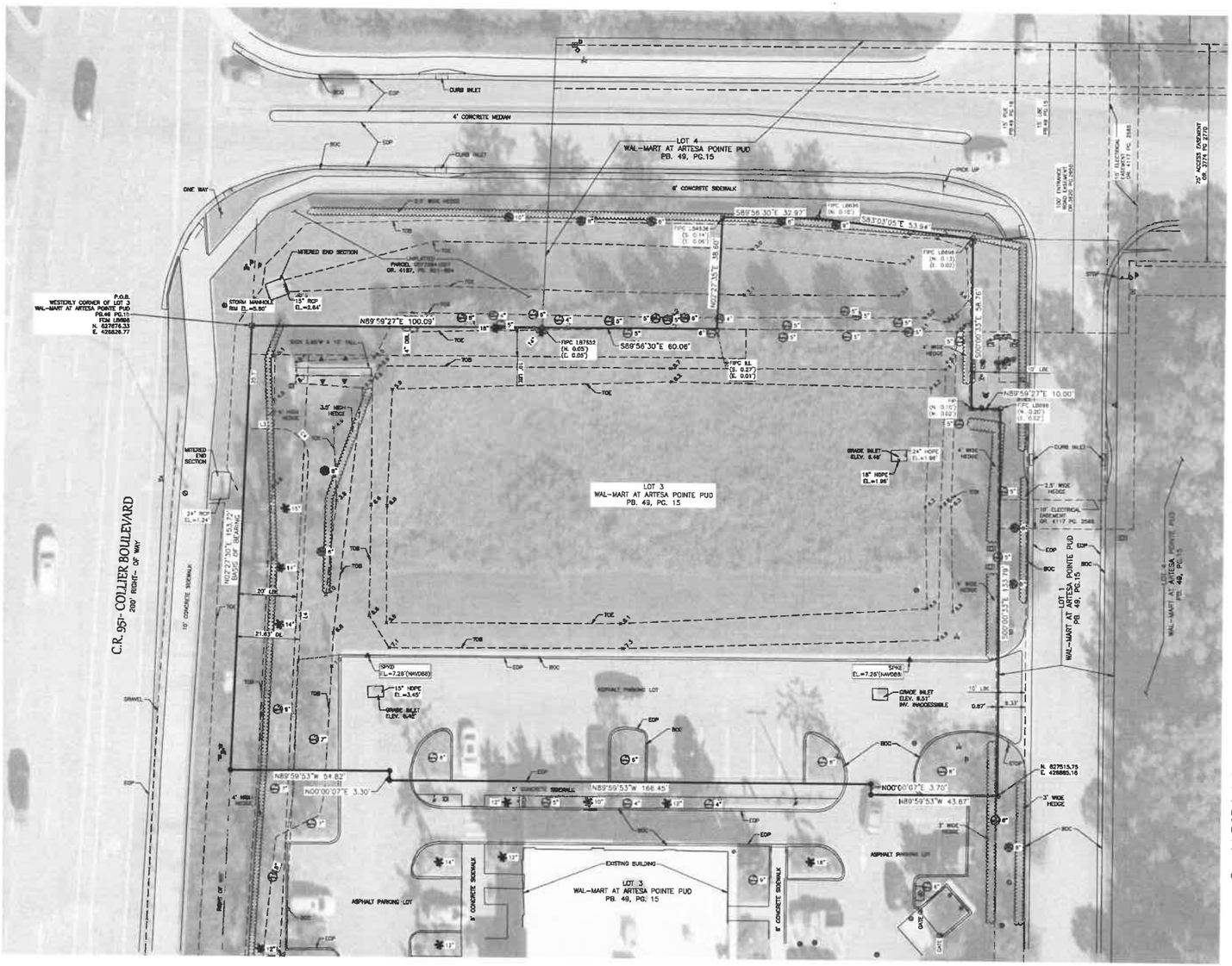
BOUNDARY SURVEY
NAPLES FLORIDA MODWASH
SECTION 3, TOWNSHIP 51 SOUTH, RANGE 26 EAST
COLLIER COUNTY, FLORIDA

LINE TABLE		
LINE	BEARING	LENGTH
L3	N89°59'27"E	11.23'
L4	S02°27'30"W	107.60'

CURVE TABLE					
CURVE	LENGTH	RADIUS	DELTA	CHORD BEARING	CHORD
C4	16.14'	10.00'	92°28'31"	S43°46'17"E	14.44'



ABBREVIATIONS & LEGEND:

AE = ACCESS EASEMENT	SIGN AS NOTED
AL = ARC LENGTH	= PILING
BOC = BACK OF CURB	= BOLLARD
CB = CHORD BEARING	= COMMUNICATION MARKER
CH = CHORD LENGTH	= COMMUNICATION MANHOLE
CCR = CERTIFIED CORNER RECORD	= COMMUNICATION BOX
(D) = DEED BEARING OR DISTANCE	= GAS MARKER
DE = DRAINAGE EASEMENT	= GAS VALVE
EOP = EDGE OF PAVEMENT	= IRRIGATION VALVE
FCM = FOUND CONCRETE MONUMENT, AS NOTED	= MAILBOX
FEMA = FEDERAL EMERGENCY MANAGEMENT AGENCY	= POWER MARKER
FIPC = FOUND CAPPED IRON PIN, AS NOTED	= POWER SPLICE BOX
FIRM = FLOOD INSURANCE RATE MAP	= POWER CONCRETE LIGHT POLE
FIP = FOUND PIN, AS NOTED	= POWER MANHOLE
FPND = FOUND PK & DISK, AS NOTED	= POWER GROUND LIGHT
FPL = FLORIDA POWER & LIGHT CO.	= SANITARY SEWER CLEAN OUT
INST. = INSTRUMENT NUMBER	= SANITARY SEWER MANHOLE
EL. = ELEVATION	= GREASE TRAP
LBE = LANDSCAPE BUFFER EASEMENT	= WATER METER
OR = OFFICIAL RECORDS BOOK	= WATER VALVE
PG = PAGE	= WATER BLOW-OFF
PK = PARKER KALON NAIL	= WATER BACKFLOW PREVENTER
POB = POINT OF BEGINNING	= FIRE HYDRANT
POC = POINT OF COMMENCEMENT	= FOUND IRON PIN AND CAP
PUE = PUBLIC UTILITY EASEMENT	= SET IRON PIN AND CAP
R = RADIUS	= SET PK NAIL AND DISK
(R) = RECORD BEARING OR DISTANCE	= OAK TREE
SIPC = SET IRON PIN, LB6952	= PALM TREE
SPK'D = SET PK WITH DISC, LB 6952	= UNKNOWN TREE
TOB = TOP OF BANK	
TOE = TOE OF BANK	
UE = UTILITY EASEMENT	
YD = YARD DRAIN	
Δ = DELTA/CENTRAL ANGLE	

NOTE: ALL IRON PINS, FOUND OR SET, ARE 5/8" DIAMETER UNLESS NOTED OTHERWISE.

NOTES:

1. THIS PLAT OF SURVEY WAS PREPARED AS A BOUNDARY SURVEY.
2. THIS SURVEY REPRESENTS THE EXISTING CONDITIONS AS OF THE DATE OF LAST FIELDWORK: 05/04/21.
3. BEARINGS ARE BASED ON THE STATE PLANE COORDINATE SYSTEM, FLORIDA WEST ZONE, NORTH AMERICAN DATUM OF 1983 (NAD83, 2011 ADJUSTMENT) WHERE THE WEST BOUNDARY LINE OF LOT 3 WAL-MART AT ARTESA POINTE PUD PLAT AS RECORDED IN PLAT BOOK 49 PAGES 14-16, IN THE COLLIER COUNTY, FLORIDA OFFICAL LAND RECORDS. SECTION 3, TOWNSHIP 51 SOUTH, RANGE 28 EAST, COLLIER COUNTY, FLORIDA, BEARS N02°27'30"E.
4. ELEVATIONS SHOWN HEREON ARE BASED ON THE NORTH AMERICAN VERTICAL DATUM (NAVD 88)
5. THIS SURVEY DOES NOT MAKE ANY REPRESENTATION AS TO THE ZONING REGULATIONS AND OR DEVELOPMENT RESTRICTIONS ON THE SUBJECT PARCEL.
6. DIMENSIONS ARE IN FEET AND DECIMAL PARTS THEREOF. UNLESS A DIRECT COMPARISON IS MADE, MEASURED BEARINGS AND DISTANCES ARE IDENTICAL WITH PLAT OR RECORD VALUES.
7. SURVEYED PARCEL IS IN FLOOD ZONE "AE" (7') AS PER THE F.E.M.A. WEB SITE DATA FOR F.I.R.M. MAP NUMBER 12021C 0612 H. EFFECTIVE DATE: MAY 16, 2012 (MAP PANEL NOT PRINTED).
8. THIS SURVEY IS NOT INTENDED TO DELINEATE OR DEFINE ANY WETLANDS, ENVIRONMENTALLY SENSITIVE AREAS, WILDLIFE HABITATS OR JURISDICTIONAL LINES OF ANY FEDERAL, STATE, REGIONAL OR LOCAL AGENCY, BOARD, COMMISSION OR OTHER ENTITY. NO ENVIRONMENTAL ASSESSMENT OR AUDIT WAS PERFORMED ON THE SURVEYED PARCEL BY THIS FIRM.
9. SURVEYED PARCEL CONTAINS 43,962 SQUARE FEET OR 1.01 ACRES, MORE OR LESS.
10. AERIAL IMAGERY AND THE ADJOINING OR ABUTTING PARCEL INFORMATION AS DEPICTED HEREON WAS TAKEN FROM COLLIER COUNTY PROPERTY APPRAISERS GEOGRAPHIC INFORMATION SYSTEM WEB SITE, AS DOWNLOADED ON 12/22/2020.
11. THIS SURVEY IS FOR THE EXCLUSIVE USE OF THE PARTY(IES) LISTED IN THE CERTIFICATION DEPICTED HEREON AND IS NOT TRANSFERABLE. ANY ADDITIONS OR DELETIONS TO THIS SURVEY BY OTHER THAN THE SIGNING PARTY IS PROHIBITED WITHOUT THE WRITTEN CONSENT OF THE SIGNING PARTY AND WILL INVALIDATE THIS SURVEY.
12. ONLY THOSE IMPROVEMENTS, AS DEPICTED AND DIMENSIONALLY REFERENCED HEREON, HAVE BEEN FIELD LOCATED. SUBSURFACE AND AERIAL IMPROVEMENTS, IF ANY, HAVE NOT BEEN LOCATED.
13. UNLESS SPECIFICALLY NOTED OTHERWISE, ALL OFFICIAL RECORDS, INSTRUMENTS AND OR PLATS, AS REFERENCED HEREON, ARE PER THE PUBLIC RECORDS OF COLLIER COUNTY, FLORIDA.

LEGAL DESCRIPTION:

A TRACT OR PARCEL OF LAND LYING IN SECTION 3, TOWNSHIP 51 SOUTH, RANGE 26 EAST, COLLIER COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A FOUND 4"X4" CONCRETE MONUMENT LANDING ON THE EASTERLY RIGHT-OF-WAY OF COLLIER BOULEVARD (AKA C.R. 951) 200 FEET WIDE, AND THE WESTERLY CORNER OF LOT 3, WAL-MART AT ARTESA POINTE PUD, PLAT BOOK 49, PAGES 14 THROUGH 16, AS RECORDED IN THE PUBLIC RECORDS OF COLLIER COUNTY, FLORIDA;

THENCE ALONG THE NORTHERLY LINE OF SAID LOT 3, N.89°59'27"E., FOR 100.09 FEET;

THENCE CONTINUE ALONG SAID NORTHERLY LINE, S.89°56'30"E., FOR 60.06 FEET;

THENCE N.02°27'35"E., ALONG THE EASTERLY LINE OF LOT 4 OF SAID WAL-MART AT ARESTA POINTE PUD PLAT FOR 38.60 FEET TO A POINT ON THE NORTH LINE OF THE AFOREMENTIONED LOT 3;

THENCE ALONG SAID NORTH LINE, S.89°56'30"E., FOR 32.97 FEET;

THENCE CONTINUE ALONG SAID NORTH LINE, S.83°03'05"E., FOR 53.94 FEET TO A POINT ON THE EAST LINE OF SAID LOT 3 AND THE WEST LINE OF LOT 1 OF THE AFORESAID PLAT;

THENCE ALONG SAID WEST LINE OF LOT 1, S.00°00'33"W., FOR 58.76 FEET;

THENCE N.89°59'27"E., FOR 10.00 FEET;

THENCE ALONG THE WEST LINE OF SAID LOT 1 AND THE EAST LINE OF SAID LOT 3, S.00°00'33"E., FOR 133.79 FEET;

THENCE N.89°59'53"W., FOR 43.67 FEET;

THENCE N.00°00'07"E., FOR 3.70 FEET;

THENCE N.89°59'53"W., FOR 166.45 FEET;

THENCE N.00°00'07"E., FOR 3.30 FEET;

THENCE N.89°59'53"W., FOR 54.82 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY OF COLLIER BOULEVARD (AKA C.R. 951) 200 FEET WIDE, AND THE WESTERLY LINE OF LOT 3, WAL-MART AT ARESTA POINTE PUD, AS RECORDED IN SAID PUBLIC RECORDS;

THENCE ALONG SAID EASTERLY RIGHT-OF-WAY, N.02°27'30"E., FOR 153.72 FEET TO THE POINT OF BEGINNING OF THE PARCEL DESCRIBED HEREIN;

CONTAINING 43,962 SQUARE FEET OR 1.01 ACRES, MORE OR LESS.

MICHAEL A. WARD CERTIFICATE 5301 STATE OF FLORIDA REGISTERED LAND SURVEYOR

Digitally signed by Michael A. Ward
DN: cn=Michael A. Ward, o=State of Florida, ou=LS 5301, email=maw@consult-rwa.com, c=US
Date: 2021.05.13 10:47:34 -04'00'

5/13/2021

MICHAEL A. WARD — DATE
PROFESSIONAL SURVEYOR AND MAPPER
FLORIDA CERTIFICATE NO. LS 5301
THE SEAL APPEARING ON THIS DOCUMENT WAS AUTHORIZED BY MICHAEL A. WARD, PLS.

REV #	REVISION	DRAWN:	CHECKED:	DATE

	NAME	DATE
FIELD:	CL	05/04/21
DRAWN:	CMM	05/11/21
CHECKED:	NJM	05/11/21

RWA ENGINEERING

6610 Willow Park Drive, Suite 200
Naples, Florida 34109
Phone: (239) 597-0575
FAX: (239) 597-0578
LB No.: 6952

DATE: 05/11/21
HORIZ. SCALE: 30
VERT. SCALE: NA
SEC: 3 TWP: 51 RGE: 26

CLIENT: HUTTON REAL ESTATES SERVICES, INC.

TITLE: BOUNDARY SURVEY

PROJECT: NAPLES FLORIDA MODWASH

CROSS REFERENCE: 564-47

PROJECT NO.: 210017.00.00

SHEET NUMBER: 1 OF 1

FILE NO.:

May 13, 2021 10:21 AM K:\2021\21001700.00 Naples Florida Modwash\0004 Boundary Survey\Current Files\0004 BS.dwg

Attachment: Attachment F - Application and Backup Documents (21517 : PL20210001966 FL Mod Wash Comparable Use Determination)

Retn:
CHRIS DEMETER
601 21ST ST #300
VERO BEACH FL 32960

4118285 OR: 4321 PG: 2746
RECORDED in the OFFICIAL RECORDS of COLLIER COUNTY, FL
01/17/2008 at 10:35AM DWIGHT E. BROCK, CLERK

REC FEE 129.00
COPIES 30.00
MISC 3.00

L12-13

DECLARATION OF EASEMENTS WITH COVENANTS AND RESTRICTIONS AFFECTING LAND

THIS DECLARATION OF EASEMENTS WITH COVENANTS AND RESTRICTIONS AFFECTING LAND ("Declaration") is made as of the 9th day of January, 2008, by **WAL-MART STORES EAST, L.P.**, a Delaware limited liability company ("Wal-Mart"), of 2001 Southeast 10th Street, Bentonville, Arkansas 72716.

WITNESSETH:

WHEREAS, Wal-Mart is the owner of that certain parcel of land located in Collier County, Florida ("County") more particularly described on **Exhibit A** attached hereto and made a part hereof ("Land"); and

WHEREAS, the Land consists of Lots 1 through 4, inclusive ("Lots"), and Tract P-3 ("Tract"), all as shown on the proposed plat entitled "Wal-Mart at Artesia Pointe PUD", a copy of which is attached hereto and made a part hereof as **Exhibit B** ("Plat"); and

WHEREAS, Wal-Mart intends to develop Lot 1 with commercial improvements, and may later develop one or more of Lots 2 through 4, inclusive or sell any or all of Lots 2 through 4, inclusive, to others to develop same as outparcels (Lots 2 through 4, inclusive are hereinafter collectively referred to as the "Outparcels" and individually as an "Outparcel"); and

WHEREAS, Wal-Mart desires that the Land be developed pursuant to a general plan of improvement to form a commercial Shopping Center (sometimes hereinafter referred to as the "Shopping Center"), and further desires that the Land (excluding any parcels dedicated to the County pursuant to the recordation of the Plat) be subject to the easements and the covenants, conditions and restrictions hereinafter set forth;

NOW, THEREFORE, Wal-Mart does hereby bargain, create, place and declare upon the Land the following easements, covenants, conditions, restrictions and encumbrances as follows:

1. Building/Common Areas.

a. "Building Areas" as used herein shall mean those portions of the Lots developed by Wal-Mart or any subsequent purchaser of any of Lots 2 through 4, inclusive upon which buildings may be placed in accordance with Paragraph 4 hereof and the requirements of all applicable governmental authorities. Canopies may encroach from the Building Areas over the Common Areas provided the canopies do not interfere with the use of the Common Areas.

b. "Common Areas" shall be all of the Land less portions dedicated to the County pursuant to the Plat and less the Building Areas.

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c. Conversion to Common Areas: Those portions of the Building Areas on the Land which are not from time to time used or cannot, under the terms of this Declaration (including Paragraph 6.a.(3)), be used for buildings, shall become part of the Common Area for the uses permitted hereunder and shall be improved, kept and maintained as provided herein.

2. Use. Buildings in the Shopping Center shall be used for commercial purposes of the type normally found in a retail shopping center including, without limitation, financial institutions, service shops, offices, and retail stores. No cafeteria, restaurant, theatre, bowling alley, billiard parlor, night club or other place of recreation or amusement, or any business serving alcoholic beverages shall occupy space within the Shopping Center without the prior written consent of Wal-Mart. All successors in title to any of the Outparcels recognize that said businesses may inconvenience Wal-Mart customers and adversely affect Wal-Mart business. Notwithstanding anything to the contrary contained herein it is expressly agreed that nothing contained in this Declaration shall be construed to contain a covenant, either express or implied, to either commence the operation of a business or thereafter continuously operate a business by Wal-Mart on Tract 1. Wal-Mart may, at Wal-Mart sole discretion and at any time during the term of this Declaration, cease the operation of its business on Tract 1; and all successors in title to any of the Outparcels hereby waive any legal action for damages or for equitable relief which might be available because of such cessation of business activity by Wal-Mart.

3. Competing Business. As long as Wal-Mart, or any affiliate of Wal-Mart, is the user of Tract 1, either as owner or lessee, no space in or portion of any of the Outparcels shall be leased or occupied by or conveyed to any other party for use as a grocery store, supermarket, pharmacy, membership warehouse club, discount department store or other discount store. In the event of a breach of this covenant, Wal-Mart shall have the right, in its sole discretion, to terminate any or all of the easements granted to the Owner of said Outparcel (but not the obligations imposed upon the Owner of said Outparcel) in this Declaration and to seek any and all remedies afforded by either law or equity.

4. Buildings.

a. Design and Construction. The Building Areas shall be designed so that the exterior elevation of each shall be architecturally and aesthetically compatible and so that building wall footings shall not encroach from one Outparcel onto another Outparcel except as provided for in Subsection d. below. The design and construction shall be of high quality. No building shall exceed thirty-five (35) feet in height above finished grade. No building shall have a metal exterior.

b. Location. No building shall be constructed on the Lots (as either immediate development or future expansion) except within the Building Areas and no subsequent improvements or alterations which substantially vary from those originally constructed may be made without the prior written consent of Wal-Mart.

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c. Fire Protection. Any building constructed in the Shopping Center shall be constructed and operated in such a manner which will preserve the sprinklered rate on the other buildings in the Shopping Center.

d. Easements. In the event building wall footings encroach from one tract onto another, despite efforts to avoid that occurrence, the party onto whose tract the footings encroach shall cooperate in granting an encroachment permit or easement to the party whose building wall footings encroach.

e. Outparcel(s) Development. The Outparcel(s) shall be developed only under the following guidelines:

(1) The building constructed on the Outparcel(s) shall not exceed twenty-two (22) feet in height, as measured from the mean finished elevation of the parking area of the Shopping Center;

(2) Any buildings to be constructed on the Outparcel(s) shall not exceed five thousand (5,000) square feet in size.

(3) Any rooftop equipment shall be screened in a manner satisfactory to Wal-Mart;

(4) No rooftop sign shall be erected on the building constructed;

(5) No freestanding identification sign may be erected on the Outparcel(s) without approval of Wal-Mart, and in no event shall such freestanding identification sign exceed the height of the Shopping Center pylon sign or block the visibility of the Wal-Mart Store on Tract 1. Notwithstanding the foregoing, there may be erected entrance-exit signs to facilitate the free flow of traffic, which entrance-exit signs shall be of a monument type, not to exceed three (3) feet three (3) inches in height, the type and location of such signs to be approved by Wal-Mart and all applicable governmental authorities.

(6) No improvements shall be constructed, erected, expanded or altered on the Outparcel(s) until the plans for same (including site layout, exterior building materials and colors and parking) have been approved in writing by Wal-Mart. No building or structure of any kind shall be erected on the Outparcel(s) except upon Building Areas; provided, there may be constructed and maintained a canopy or canopies projecting from said Building Area; normal foundations and doors for ingress and egress may project from such building area; and signs may be erected upon said canopy or canopies, so long as said signs do not obstruct the signs of any other owner or tenant of the Shopping Center.

(7) In developing and using the Outparcel(s), the owner of the Outparcel(s) shall continuously provide and maintain a parking ratio on such Outparcel(s) equal to one of the following: (i) fifteen (15) spaces for every one thousand (1,000) square feet of building space for any restaurant or entertainment use in excess of five thousand (5,000) square

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feet, (the same ratio shall be provided for a McDonald's Restaurant, notwithstanding a building footprint of less than five thousand (5,000) square feet); or (ii) ten (10) spaces for every one thousand (1,000) square feet of building space for any restaurant or entertainment use less than five thousand (5,000) square feet (subject to the exception above); or (iii) six (6) spaces per one thousand (1,000) square feet of building space for any other use. In addition, the owner shall cause landscaping areas to be added and maintained in conjunction with any building or other improvement constructed on the Outparcel(s).

(8) The Outparcel(s) shall be kept neat, orderly, planted in grass and trimmed until improved and constructed.

(9) Subject to the prior written consent of Wal-Mart, any building, structure or improvement on the Outparcel(s) shall be used for retail or commercial purposes only, however, no building, structure or improvement on the Outparcel(s) may be used as a theater, night club, bowling alley, health spa, cafeteria, billiard parlor or other place of recreation or amusement, or as a business serving or selling alcoholic beverages or as a discount department store or a variety, general or "dollar" store.

(10) The owner(s) of the Outparcel(s) shall maintain comprehensive public liability insurance, property damage and all-risk hazard insurance on the Outparcel(s) their buildings, appurtenances and other improvements located thereon. Such insurance shall (i) be carried with reputable companies licensed to do business in the state in which the Outparcel(s) are located; (ii) have liability limits of at least TWO MILLION DOLLARS ($2,000,000) for each occurrence, bodily injury and property damage combined; (iii) provide for full replacement value for the buildings and improvements covered thereunder and (iv) not be subject to change, cancellation or termination without at least thirty (30) days prior written notice to Wal-Mart. This provision shall not be applicable to Wal-Mart, but should be applicable to any successor of Wal-Mart (unless the successor is an affiliate of Wal-Mart).

(11) All facilities to be constructed upon or servicing any of the Outparcels for stormwater drainage shall be designed and constructed in accordance with South Florida Water Management District Standard General Permit No. 11-02296-P issued on August 11, 2004.

5. Common Areas.

a. Declaration of Easements. Wal-Mart hereby declares and grants, for itself and for the benefit of all successor owners of the Land, and for the benefit of the agents, customers, invitees, licensees, tenants and employees of Wal-Mart and all such owners (collectively "Grantee"), subject to any other limitations provided herein, a nonexclusive reciprocal easement over, through and around the Common Areas, for roadways, walkways, vehicular and pedestrian ingress and egress, parking of motor vehicles, loading and unloading of commercial and other vehicles, and the use of facilities installed for the comfort and convenience

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of customers, invitees, licensees, tenants and employees of all businesses and occupants of the buildings constructed on the Building Areas.

b. Limitations on Use.

(1) Customers. Each owner of any portion of the Land shall use reasonable efforts to ensure that customers and invitees shall not be permitted to park on the Common Areas except while shopping or transacting business on the Land.

(2) Employees. Each owner of any portion of the Land shall use reasonable efforts to ensure that employees shall not park on the Common Areas, except in areas designated by the parties as "employee parking areas," if any.

(3) General. Any activity within the Common Areas other than its primary purpose of the Common Areas, which is to provide for parking for the customers, invitees and employees of those businesses conducted with the Building Areas and for the servicing and supplying of such businesses, shall be permitted so long as such activity shall not unreasonably interfere with such primary purpose. Persons using the Common Areas in accordance with this Declaration shall not be charged any fee for such use.

c. Drainage Easement. Wal-Mart hereby declares and grants, for itself and for the benefit of all successor owners of the Land, a nonexclusive easement for the installation, maintenance and replacement of stormwater drainage facilities for the Land as necessary and appropriate for the orderly development and operation of the Shopping Center to be located upon the Land. Best efforts shall be made to cause the installation of such facilities prior to the paving of the Common Areas. No such facilities shall be installed in the Building Areas. It shall be the obligation of each owner of any portion of the Land to maintain, at its sole cost and expense, that portion of the stormwater drainage facilities located within the portion(s) of the Land owned by it.

6. Development, Maintenance, and Taxes.

a. Development.

(1) Arrangement. The arrangement of the Common Areas shall not be changed in a manner inconsistent with the provisions of this Declaration.

(2) "Parking Area" Ratio. There shall be independently maintained at all times on each Lot shown on **Exhibit B** parking area sufficient to accommodate not fewer than five (5) car spaces for each one thousand (1,000) square feet of Building Area on such Lot.

(3) Development Timing. Concurrent with any building being constructed within the Building Areas of any Lot shown on **Exhibit B** by the owner of said Lot (the "Developing Party"), the Common Areas of that Lot shall be developed at the expense of such Developing Party. In the event such construction by the Developing Party shall occur prior

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to the development of any other adjacent and contiguous Lot, the Developing Party shall have the right to grade, pave and use any portion of the Common Areas of the non-developing party's Lot for access and for construction of, but not limited to, drainage structures and utility lines as is necessary to provide essential services to the Developing Party's tract. The Developing Party shall present an itemized statement of expenses incurred in the construction of said improvements to and upon the non-developing party's Lot, and the non-developing party agrees to reimburse the Developing Party for such costs within thirty (30) days of receipt thereof.

b. Maintenance.

(1) Standards. Following completion of improvements on the Common Areas, the owners of the Lots shown on **Exhibit B** shall maintain the Common Areas in good condition and repair. The maintenance is to include, without limitation, the following:

a) Maintaining the surfaces in a level, smooth and evenly-covered condition with the type of surfacing material originally installed or such substitute as shall in all respects be equal in quality, use, and durability;

b) Removing all papers, ice and snow, mud and sand, debris, filth and refuse and thoroughly sweeping the area to the extent reasonably necessary to keep the area in a clean and orderly condition;

c) Placing, keeping in repair and replacing any necessary appropriate directional signs, markers and lines;

d) Operating, keeping in repair and replacing, where necessary, such artificial lighting facilities as shall be reasonably required;

e) Maintaining all perimeter and exterior building walls including but not limited to all retaining walls in a good condition and state of repair; and

f) Maintaining, mowing, weeding, trimming and watering all landscaped areas and making such replacements of shrubs and other landscaping as is necessary.

(2) Expenses. The respective owners shall pay the maintenance expense of their Lots.

(3) By Agent. Subject to the mutual agreement of the owners of the Lots shown on **Exhibit B**, a third party may be appointed as an agent to maintain the Common Areas in the manner as above outlined. Said third party may receive for such agency a fee that is mutually acceptable to all parties to cover supervision, management, accounting and similar fees, which sums are to be included in the general maintenance expense paid by the respective owners of the Common Areas.

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c. Taxes. Each of the owners of the Lots described on **Exhibit B** agrees to pay or cause to be paid, prior to delinquency, directly to the appropriate taxing authorities all real property taxes and assessments which are levied against that part of the Common Areas owned by it.

7. Signs. No sign shall be located on the Common Areas except signs advertising businesses conducted thereon.

8. Indemnification/Insurance.

a. Indemnification. Each owner of any portion of the Land hereby indemnifies and saves the other owner(s) harmless from any and all liability, damage, expense, causes of action, suits, claims, or judgments arising from personal injury, death, or property damage and occurring on or from its own tract, except if caused by the act or negligence of the other owner(s).

b. Insurance.

(1) Wal-Mart and all other owners of any portion of the Land, and their successors, shall procure and maintain in full force and effect throughout the term of this Declaration general public liability insurance and property damage insurance against claims for personal injury, death or property damage occurring upon, in or about its property, each owner's insurance to afford protection to the limit of not less than TWO MILLION DOLLARS ($2,000,000) for injury or death of a single person, and to the limit of not less than TWO MILLION DOLLARS ($2,000,000) for any one occurrence, and to the limit of not less than TWO MILLION DOLLARS ($2,000,000) for property damage. Each owner shall provide the other owner(s) with certificates of such insurance from time to time upon written request to evidence that such insurance is in force. Such insurance may be written by additional premises endorsement on any master policy of insurance carried by an owner which may cover other property in addition to the property covered by this Declaration. Such insurance shall provide that the same may not be canceled without ten (10) days prior written notice to the other owners.

(2) At all times during the term of this Declaration, each owner shall keep improvements on its property insured against loss or damage by fire and other perils and events as may be insured against under the broad form of Uniform Extended Coverage Clause in effect from time to time in the state in which the owners' respective properties are located, with such insurance to be for the full replacement value of the insured improvements.

(3) Policies of insurance provided for in this Paragraph 8 shall name Wal-Mart and each owner of any portion of the Land as insureds as their respective interests may appear, and each of them shall provide to the other certificates evidencing the fact that such insurance has been obtained.

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(4) Wal-Mart, for itself and its property insurer, hereby releases each owner of any portion of the Land, and each such owner, for itself and its property insurer, hereby releases Wal-Mart from and against any and all claims, demands, liabilities or obligations whatsoever for damage to each other's property or loss of rents or profits of either Wal-Mart or such owner resulting from or in any way connected with any fire or other casualty whether or not such fire or other casualty shall have been caused by the negligence or the contributory negligence of the party being released or by any agent, associate or employee of the party being released, this release being to the extent that such damage or loss is covered by the property insurance which the releasing party is obligated hereunder to carry, or, if the releasing party is not carrying that insurance, then to the extent such damage or loss would be covered if the releasing party were carrying that insurance.

(5) Notwithstanding anything to the contrary contained in this Paragraph 8, so long as the net worth of Wal-Mart shall exceed ONE HUNDRED MILLION DOLLARS ($100,000,000), and so long as Wal-Mart is owner or lessee of any portion of the Land, Wal-Mart shall have the right to retain the financial risk for any claim.

9. Eminent Domain.

a. Owner's Right To Award. Nothing herein shall be construed to give one owner of a portion of the Land any interest in any award or payment made to another owner of a portion of the Land in connection with any exercise of eminent domain or transfer in lieu thereof affecting said other owner's Lot or Tract or giving the public or any government any rights in said Lot or Tract. In the event of any exercise of eminent domain or transfer in lieu thereof of any part of the Common Areas, the award attributable to the land and improvements of such portion of the Common Areas shall be payable only to the owner thereof, and no claim thereon shall be made by the owners of any other portion of the Common Areas.

b. Collateral Claims. All other owners of the Common Areas may file collateral claims with the condemning authority for their losses which are separate and apart from the value of the land area and improvements taken from another owner.

c. Tenant's Claim. Nothing in this Paragraph 9 shall prevent a tenant from making a claim against an owner pursuant to the provisions of any lease between tenant and owner for all or a portion of any such award or payment.

d. Restoration of Common Areas. The owner of any portion of the Common Areas so condemned shall promptly repair and restore the remaining portion of the Common Areas within its respective Lot or Tract as nearly as practicable to the condition of the same immediately prior to such condemnation or transfer, to the extent that the proceeds of such award are sufficient to pay the cost of such restoration and repair and without contribution from any other owner.

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10. Rights And Obligations of Lenders. If by virtue of any right or obligation set forth herein a lien shall be placed upon the Lot or Tract of any owner of a portion of the Land, such lien shall expressly be subordinate and inferior to the lien of any first lienholder now or hereafter placed on such Lot or Tract. Except as set forth in the preceding sentence, however, any holder of a first lien on any portion of the Land, and any assignee or successor in interest of such first lienholder, shall be subject to the terms and conditions of this Declaration.

11. Expansion of Shopping Center. The parties agree that in the event the Shopping Center is expanded, all of the provisions of this Declaration shall apply to the expanded area and the parking space to building areas ratio in the expanded area shall not be less than that provided in Paragraph 6a(2).

12. Release from Liability. Any person acquiring fee or leasehold title to any portion of the Land, or any expansion of the Shopping Center pursuant to Paragraph 11 or any portion thereof, shall be bound by this Declaration only as to the Lot or Tract or portion of the Lot or Tract acquired by such person. In addition, such person shall be bound by this Declaration only during the period such person is the fee or leasehold owner of such Lot or Tract or portion of the Lot or Tract, except as to obligations, liabilities or responsibilities that accrue during said period. Although persons may be released under this paragraph, the easements, covenants and restrictions in this Declaration shall continue to be benefits to and servitudes upon said Lots or Tracts and shall run with the Land.

13. Breach. In the event of breach or threatened breach of this Declaration, only all record owners of Lots 2 through 4, inclusive (as shown on **Exhibit B**) as a group, or the record owner(s) of Tract 1 as a group, shall be entitled to institute proceedings for full and adequate relief from the consequences of said breach or threatened breach. The unsuccessful party in any action shall pay to the prevailing party a reasonable sum for attorney's fees, which shall be deemed to have accrued on the date such action was filed.

14. Rights of Successors. The easements, restrictions, benefits and obligations hereunder shall create benefits and servitudes running with the land. This Declaration shall bind and inure to the benefit of the owner(s) of all or any portion of the Land, their respective heirs, representatives, lessees, successors and assigns. The singular number includes the plural and the masculine gender includes the feminine and neuter.

15. Modification and Cancellation. This Declaration (including exhibits) may be modified or canceled only by the agreement of all owners of all or any portion of the Land.

16. Duration. Unless otherwise canceled or terminated, all of the easements granted in this Declaration shall continue in perpetuity and all other rights and obligations hereof shall automatically terminate and be of no further force and effect after ninety-nine (99) years from the date hereof.

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17. Headings. The headings herein are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope or intent of this document nor in any way affect the terms and provisions hereof.

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IN WITNESS WHEREOF, Wal-Mart has executed this Declaration the day and year first written above.

Signed, sealed and delivered
in the presence of:

Heather J. Billgren
Printed Name: Heather J. Billgren

Michele Butler
Printed Name: Michele Butler

Approved as to legal terms only
by
WAL-MART LEGAL DEPT
Date: 1-3-08

WAL-MART:

WAL-MART STORES EAST, LP,
a Delaware limited partnership

By: WSE MANAGEMENT, LLC, a
Delaware limited liability company
and General Partner

By: _____
J. Chris Callaway 12/17/08
Regional Vice President of Design
& Real Estate

STATE OF ARKANSAS)
) SS:
COUNTY OF BENTON)

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, the foregoing instrument was acknowledged before me by J. Chris Callaway, Regional Vice President of Design & Real Estate of WSE MANAGEMENT, LLC, a Delaware limited liability company, as General Partner of WAL-MART STORES EAST, LP, a Delaware limited partnership, freely and voluntarily under authority duly vested in him by said limited liability company, and that the seal affixed thereto is the true seal of said limited liability company. He is personally known to me or has produced _____ as identification.

WITNESS my hand and official seal in the County and State last aforesaid this 9th day of January, 2008.

Karen D. Milligan
Notary Public

" NOTARY SEAL
Karen D. Milligan, Notary Public
Washington County, State of Arkansas
My Commission Expires 10/30/2008

Typed, printed or stamped name of Notary Public

My Commission Expires: 10-30-2008

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EXHIBIT A

Land

ALL OF TRACT C AND TRACT P-3, TRAIL RIDGE, A SUBDIVISION OF SECTION 3, TOWNSHIP 51 SOUTH, RANGE 26 EAST, AS RECORDED IN PLAT BOOK 44, PAGE 71, OF THE PUBLIC RECORDS OF COLLIER COUNTY, FLORIDA.

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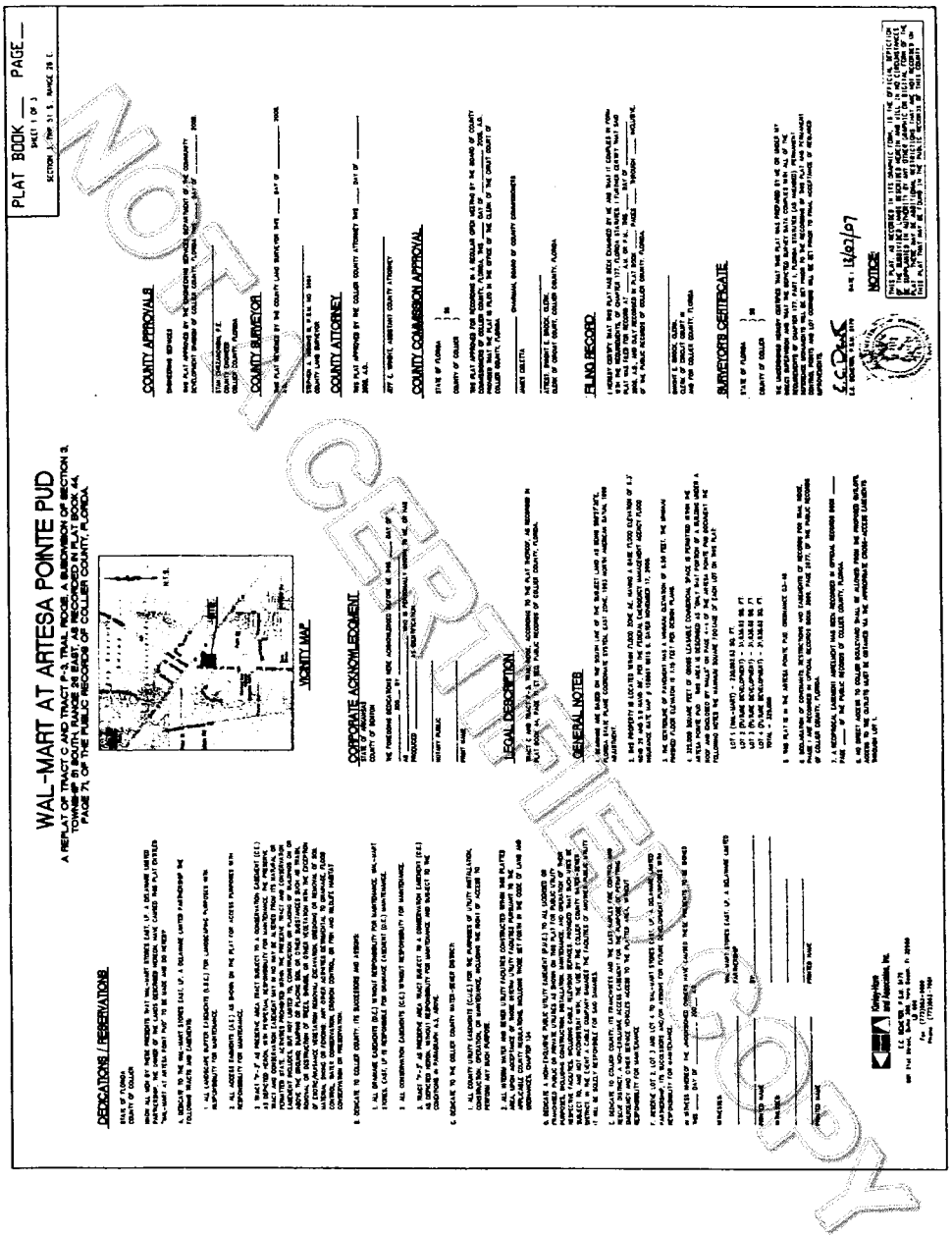
Attachment: Attachment F - Application and Backup Documents (21517 : PL20210001966 FL Mod Wash Comparable Use Determination)

EXHIBIT B

Plat



WAL-MART AT ARTESA POINTE PUD

A REPLAT OF TRACT C AND TRACT F-A, TRAIL RIDGE, A SUBDIVISION OF SECTION 9, TOWNSHIP 51 SOUTH, RANGE 26 EAST, AS RECORDED IN PLAT BOOK 44, PAGE 76, OF THE PUBLIC RECORDS OF COLLIER COUNTY, FLORIDA

PLAT BOOK ___ PAGE ___

SHEET 1 OF 3

SECTION 9, TOWN 51 S., RANGE 26 E.

DEDICATIONS / RESERVATIONS

STATE OF FLORIDA
COUNTY OF COLLIER

VICINITY MAP

COUNTY APPROVALS

COUNTY SURVEYOR

COUNTY ATTORNEY

CORPORATE ACKNOWLEDGEMENT

STATE OF FLORIDA
COUNTY OF COLLIER

LEGAL DESCRIPTION

GENERAL NOTES

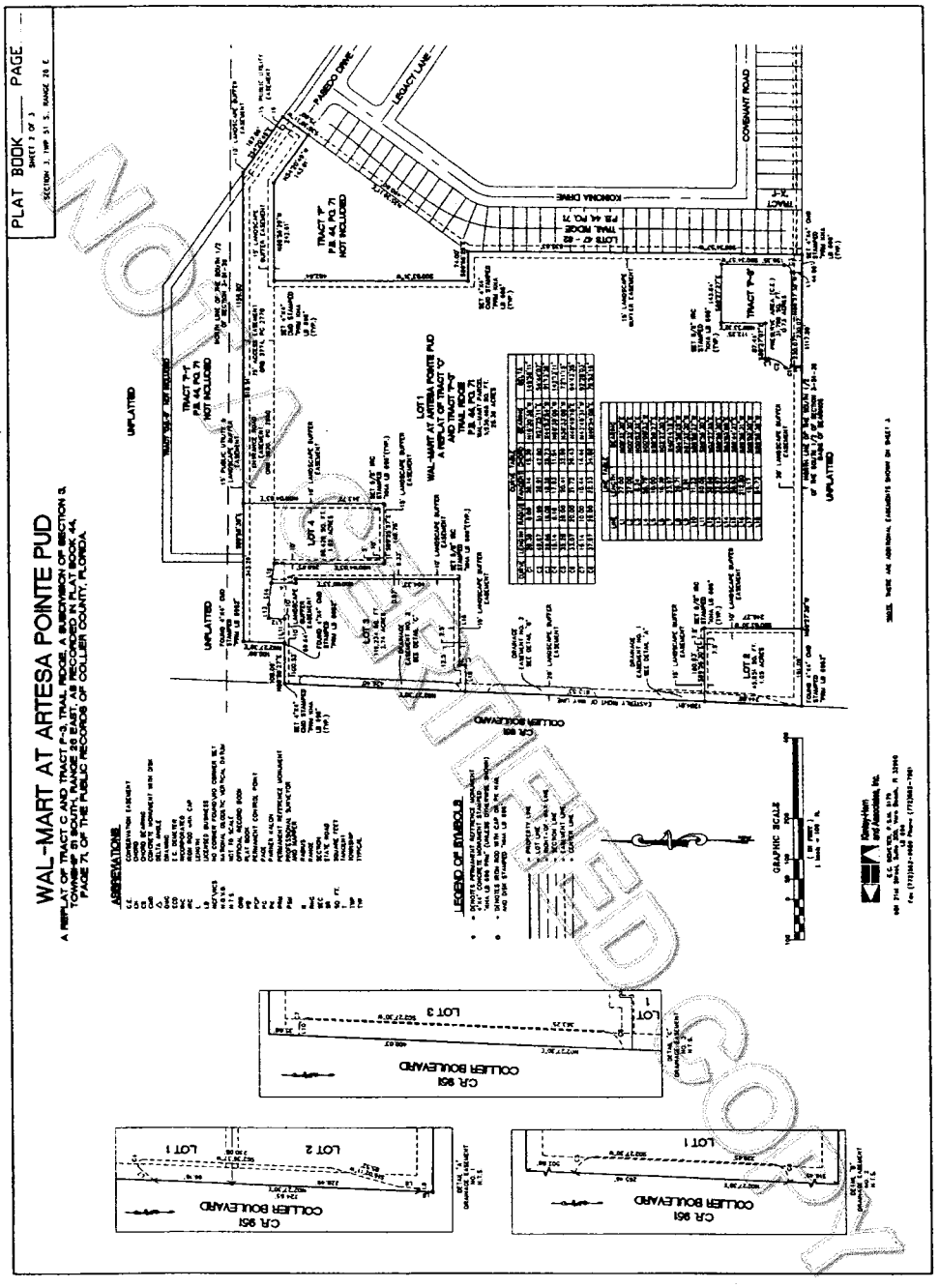
FILING RECORD

SURVEYOR'S CERTIFICATE

NOTICE

NOT CERTIFIED COPY

Attachment: Attachment F - Application and Backup Documents (21517 : PL20210001966 FL Mod Wash Comparable Use Determination)


PLAT BOOK ____ PAGE ____
WAL-MART AT ARTESA POINTE PUD
A REPLAT OF TRACT C AND TRACT F ALTMAN WOOD, A SUBDIVISION OF SECTION 9, TOWNSHIP 51 SOUTH, RANGE 26 EAST, AS RECORDED IN PLAT BOOK 44, PAGE 71, OF THE PUBLIC RECORDS OF COLLIER COUNTY, FLORIDA.
ABBREVIATIONS
LEGEND OF SYMBOLS
GRAPHIC SCALE
COLLIER BOULEVARD
CR 951
LOT 1
LOT 2
LOT 3
LOT 4
LOT 5
LOT 6
LOT 7
LOT 8
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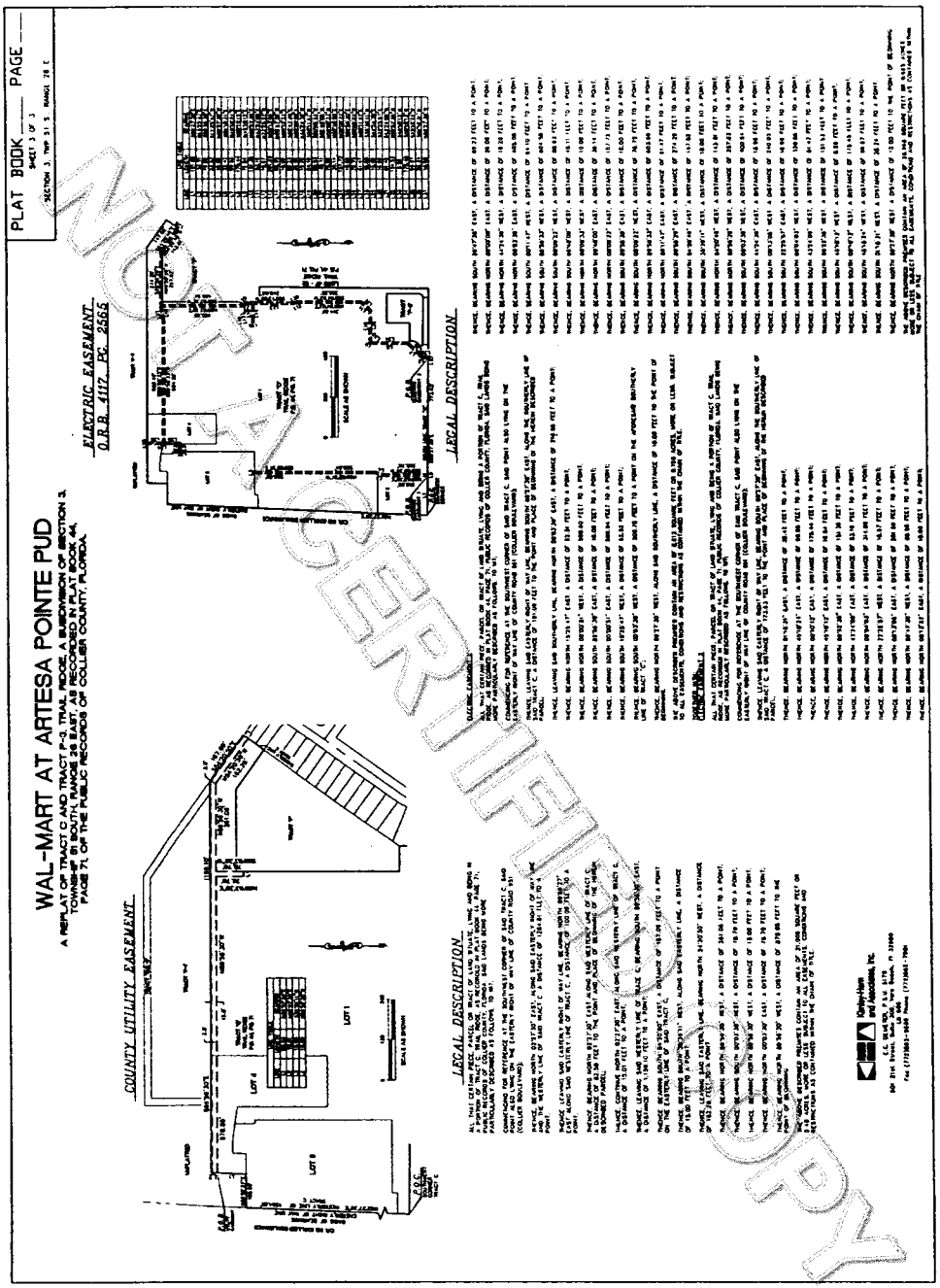

NOT A CERTIFIED COPY

Attachment: Attachment F - Application and Backup Documents (21517 : PL20210001966 FL Mod Wash Comparable Use Determination)

CONSENT ACTION OF
ROOK AT NAPLES I, LLC
TAKEN BY UNANIMOUS WRITTEN CONSENT OF ALL MANAGERS
IN LIEU OF MEETING

Effective the 1st day of September 2015, the undersigned, being all of the Managers of Rook at Naples I, LLC, a Florida limited liability company (the "Company") pursuant to the Company's Operating Agreement and pursuant to the Florida Limited Liability Act, do hereby (i) consent to the adoption of the following resolutions, which action shall have the same force and effect as if adopted by unanimous affirmative vote at a special meeting of the Company, (ii) waive all requirements of notice, and (iii) direct that this consent be filed with the minutes of the proceedings of the Company:

WHEREAS, the Company desires to commence the development and construction of that certain property identified as being LOT 3, "Wal-Mart at Artesa Pointe PUD", and being more particularly described in Exhibit "A" attached hereto and made a part hereof (the "Property");

WHEREAS, Blair G. Schlossberg and Moshe Manoah are the Managers of the Company;

WHEREAS, the Company has retained the services of EMK Consultants of Florida, Inc. to complete the civil and engineering plans and to obtain and secure all required subdivision, construction, and plan approval permits pursuant to that certain Proposal of Site Engineering Services dated March 16, 2015 between the Company and EMK; and

WHEREAS, the Company has retained the design-build services of KTM Builders LLC pursuant to that certain Standard Form of Agreement between Owner and Design-Builder dated August 17, 2015.

WHEREAS, the Managers have determined that the best interests of the Company will be served by the appointment of an Officer (the "Officer") for the purpose of executing documents necessary for the Company's subdivision, development, permitting and construction of the Property.

NOW, THEREFORE, BE IT RESOLVED, that Emilia Pearson is hereby each elected as a Vice President of the Company for the purpose of completing certain acts on behalf of the Company related to the subdivision, development, permitting and construction of the Property;

FURTHER RESOLVED, notwithstanding any restrictions contained in the Operating Agreement of the Company, that Emilia Pearson, in her capacity as Vice President, may execute any and all documents on behalf of the Company, including but not limited to, permit applications, affidavits, contracts, contract amendments, and any other documents necessary to effectuate the Company's subdivision, development, permitting and construction of the Property;

FURTHER RESOLVED, that any actions of the Members, Managers, Jesse O. Kaba and Emilia Pearson, which would have been authorized by these preambles and resolutions except that such acts were taken prior to the adoption of such preambles and resolutions, including, without limitation, the negotiation, documentation, and execution of the aforementioned Proposal of Site Engineering Services and Standard Form Agreement between Owner and Design-Builder, are hereby ratified, confirmed, approved and adopted as the actions of the Company; and

FURTHER RESOLVED, this action may be executed in any number of counterparts, each of which shall be deemed to be an original, of which together shall constitute one in the same instrument.

(SIGNATURE PAGE FOLLOWS)

Attachment: Attachment F - Application and Backup Documents (21517 : PL20210001966 FL Mod Wash Comparable Use Determination)

(SIGNATURE PAGE TO CONSENT ACTION OF ROOK AT NAPLES I, LLC TAKEN BY UNANIMOUS WRITTEN CONSENT OF ALL MANAGERS IN LIEU OF MEETING)

IN WITNESS WHEREOF, the undersigned have executed this Consent as of the day(s) set forth below.

MANAGERS:

Blair G. Schlossberg

Date: 09/01/2015, 2015

Moshe Manoah

Date: 09/01/2015, 2015

Attachment: Attachment F - Application and Backup Documents (21517 : PL20210001966 FL Mod Wash Comparable Use Determination)

EXHIBIT "A"

LEGAL DESCRIPTION

Being LOT 3, "WAL-MART AT ARTESA POINTE PUD, a replat of Tract C and Tract P-3, TRAIL RIDGE, a subdivision of Section 3, Township 51 South, Range 26 East, as recorded in Plat Book 44, Page 71, of the Public Records of Collier County, Florida", according to the Plat thereof recorded in Plat Book 49, Pages 14-16, as affected by that certain Affidavit Confirming Error in a Recorded Plat recorded in Official Records Book 4631, Page 1977, all of the Public Records of Collier County, Florida.

Attachment: Attachment F - Application and Backup Documents (21517 : PL20210001966 FL Mod Wash Comparable Use Determination)