

**Lee County Board of County Commissioners  
Agenda Item Summary**

Blue Sheet No. 20031073

**1. REQUESTED MOTION:**

**ACTION REQUESTED:** Deny appeal of an administrative interpretation of the Lee Plan under the single-family residence provision filed by Matthew Uhle on behalf of Suzanne Meyer.

**WHY ACTION IS NECESSARY:** To take action concerning an appeal of a denial for a favorable administrative determination of the Lee Plan under the single-family residence provision.

**WHAT ACTION ACCOMPLISHES:** The Board will uphold the determination that the property owner is entitled to construct one single-family residence on the subject parcel after sufficient access to the property is established in accordance with applicable County regulations.

**2. DEPARTMENTAL CATEGORY:**  
COMMISSION DISTRICT #

*AP # 2*

**3. MEETING DATE:**

*10-14-2003*

**4. AGENDA:**

- CONSENT
- ADMINISTRATIVE
- APPEALS
- PUBLIC
- WALK ON
- TIME REQUIRED:

**5. REQUIREMENT/PURPOSE:**  
(Specify)

- STATUTE
- ORDINANCE
- ADMIN. CODE
- OTHER Lee Plan  
Ch. XIII

**6. REQUESTOR OF INFORMATION:**

- A. COMMISSIONER
- B. DEPARTMENT County Attorney
- C. DIVISION Land Use
- BY: *Dawn E. Perry-Lehnert*  
Dawn E. Perry-Lehnert  
Assistant County Attorney

**7. BACKGROUND:**

Matthew Uhle, as attorney for Suzanne Meyers, has filed an appeal of MUD2003-00065 pertaining to property located at 7343 Hibiscus Avenue, Bokeelia. The appeal seeks relief from the County Attorney's denial of a favorable administrative interpretation under the Lee Plan single-family residence provisions. In August 2003, the Office of the County Attorney concluded that the subject property will be entitled to construct one single-family residence once sufficient access is provided to the subject property.

(Continued on Page 2)

**8. MANAGEMENT RECOMMENDATIONS:**

**9. RECOMMENDED APPROVAL:**

A Department Director	B Purchasing or Contracts	C Human Resources	D Other	E County Attorney	F Budget Services				G County Manager
N/A	N/A	N/A	N/A	<i>[Signature]</i>	<i>9/11/03</i>	<i>9/11/03</i>	<i>9/11/03</i>	<i>9/11/03</i>	<i>9-11-03</i>

**10. COMMISSION ACTION:**

- APPROVED
- DENIED
- DEFERRED FOR TWO WEEKS TO 10-14-03
- OTHER

ON 09-30-03

CO. ATTY.  
FORWARDED  
TO CO. ADMIN.  
*9/10/03 10:00*

RECEIVED BY  
COUNTY ADMIN: *[Signature]*  
*9/10*  
11:15 am  
COUNTY ADMIN  
FORWARDED TO: *[Signature]*  
*9/10 3:00*

The subject parcel was created prior to the adoption of the Lee Plan and zoning regulations. It is comprised of two lots (7,900 sq. ft) created in December 1952 by the SunDiet Village Plat. At the time the Plat was recorded, the County did not have regulations in place requiring the Developer to construct or bond roads and other infrastructure improvements prior to the sale of residential lots. These regulations came into effect subsequent to the enactment of FS Chapter 177 in 1971.

Because SunDiet Village was recorded prior to the enactment of FS Chapter 177, the Developer was not required to construct the roads or post security for their construction as contemplated by Lee Plan XIII.b.B(3)(b).

In order to qualify for a favorable determination under the Lee Plan provisions, the parcel must: (1) encompass at least 7,500 square feet; and (2) front on a road constructed of compacted materials with adequate drainage. This parcel does not front on a road meeting the minimum Lee Plan standard. Therefore, a conditional determination was issued allowing construction of a single-family residence once the road fronting the parcel was brought up to the minimum standard.

As a basis for appeal, Mr. Uhle asserts that the property owner does not have the legal or financial ability to make the necessary improvements to bring the parcel access up to the minimum standard. Review of the recorded plat indicates the property owner does hold sufficient legal right to use the road fronting the subject parcel for access. This right includes the right to construct or improve the road surface to provide sufficient access. Whether the property owner has the funds to improve the road is not relevant to the determination before the Board. No compensable taking of the property occurs due to the property owner's financial inability to exercise the right to construct the single-family home as conditioned by the single-family determination.

The procedures for administrative interpretation govern the Board's consideration of the requested appeal. These guidelines are set forth in Chapter XIII of the Lee Plan and require the Board to consider only the information submitted in the administrative interpretation process. The Board must determine whether the County Attorney's Office has properly applied the criteria set forth in the plan to the facts presented in the application. No additional evidence may be considered by the Board.

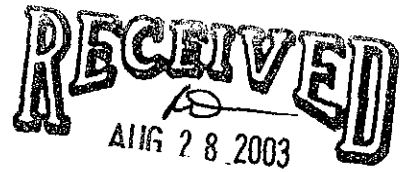
The applicant has not demonstrated a factual basis for relief on the grounds of equitable estoppel. A single-family residence can be constructed on the parcel once the road fronting the property and providing access has been brought up to the appropriate standard.

The administrative interpretation being appealed correctly provides a favorable single-family residence determination with the condition that sufficient access be provided prior to issuance of a building permit for the dwelling. This determination is consistent with others issued by the County Attorney's office for similarly situated parcels.

Attachments:

1. Notice of Appeal
2. Administrative Interpretation of Single Family Residence Provisions of the Lee Plan MUD 2003-00065
3. Application
4. Staff Report
5. Lee Plan Chapter XIII.b.B

NOTICE OF APPEAL



**PERMIT COUNTER**

SUZANNE MEYER, by and through her undersigned attorney, hereby appeals the Administrative Designee's denial of the requested Minimum Use Determination in Case MUD2003-00065 for the following reasons:

1. The opinion indicates that, "The sole basis for this denial is the lack of sufficient access to the subject parcel." There is no dispute that all of the other standards for an approval of the MUD have been met.

2. Section (3) of the Single-family Residence Provision reads, in its entirety, as follows:

(3) Access and Drainage: In addition to meeting the requirements set forth above:

(a) the road that the lot or parcel fronts on must have been constructed and the lot must be served by drainage swales or equivalent drainage measures. The road must have, at a minimum, a graded surface of shell, marl, gravel base rock, or other compacted fill material, suitable for year-round use; OR

(b) the lot or parcel must be located within a subdivision which was approved under Chapter 177, Florida Statutes, as long as the subdivision improvements have been made or security for their completion has been posted by the subdivider.

If the lot or parcel cannot meet the requirement of access and drainage, this requirement will not apply to the extent that it may result in an unconstitutional taking of land without the process.

3. According to the MUD, Sundiet Village was platted in Plat Book 9, Page 55, in 1952. Chapter 177 of the Florida Statutes contains the State's technical requirements for plats. Subsections (a) and (b) of Section (3) clearly provide two different alternative methods of satisfying the access and drainage criteria. While the approval of the plat in

1952 predates Chapter 177, an approval of the MUD would be consistent with the apparent intent of Subsection (b).

4. A review of aerial photographs of Sundiet Village indicates that at least two other homes rely on Hibiscus Avenue for access. The lot in question has no reasonable use, given its size and location, except for a single family residence. The Applicant does not have the legal or financial ability to make improvements to the road and to the drainage system outside the boundaries of her property. The denial of the MUD, therefore, would result in an unconstitutional taking of the property without due process in violation of the final paragraph of Section (3).

DATED this 29<sup>th</sup> day of August, 2003.

KNOTT, CONSOER, EBELINI,  
HART & SWETT, P.A.  
Attorneys for Appellant  
1625 Hendry Street, Suite 301  
Fort Myers, FL 33901  
(239) 334-2722



Matthew D. Uhle  
Florida Bar No. 373982

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AUG 28 2003

**PERMIT COUNTER**

2

**MUD 2003-00065**

**ADMINISTRATIVE INTERPRETATION OF  
THE SINGLE FAMILY RESIDENCE PROVISIONS OF  
THE LEE PLAN**

CASE NO.: MUD2003-00065

DATE OF APPLICATION: June 27, 2003

APPLICANT: SUZANNE MEYER  
11841 Island Avenue  
Matlacha, FL 33993

OWNER: SUZANNE MEYER, Trustee of the Suzanne L. Meyer  
Revocable Living Trust UAD 8-6-01  
11801 Island Avenue  
Cape Coral, FL 33993

AGENT: DEBBIE BROWN  
S&D Brown Construction  
P.O. Box 2443  
St. James City, FL 33956

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PROPERTY IN QUESTION: 7343 Hibiscus Avenue, Bokerella, Florida more particularly described as Lots 426 and 427, according to the Plat of SunDiet Village, as recorded in Plat Book 9, Page 55, Public Records of Lee County, Florida.

STRAP NO.: 06-44-22-03-00000.4260

FINDINGS OF FACT: The documentation provided with the application shows that the current owner acquired the parcel in November 2002, via a Warranty Deed recorded in the Public Records of Lee County in Official Records (OR) Book 3785, Page 334. For the purpose of calculating density, the parcel comprises approximately .18 acres (7,900 square feet) of land and is zoned RSA. The parcel is located in the Outlying Suburban Future Land Use Category, which requires a minimum of 14,520 square feet per dwelling unit. For this reason, the owner must obtain a favorable administrative interpretation of the single family residence provisions of the Lee Plan to construct a dwelling on the property. The property is comprised of two separate lots created in December 1952.

**MUD 2003-00065**

by virtue of a Plat recorded in the Public Records of Lee County in Plat Book 9, Page 55.

The parcel, as combined, is more than 7,500 square feet, and complied with the governing zoning requirements when created as a lot prior to the regulation of zoning in Lee County on June 27, 1982 and the Lee Plan's effective date of December 21, 1984.

The Lee Plan requires that the parcel front on a road with a graded surface of shell, marl, gravel base rock, or other compacted fill material, suitable for year-round use. The parcel must also be served by drainage swales or equivalent drainage measures. The parcel fronts on Hibiscus Avenue, a road that appears to have been constructed of compacted materials some time ago. Hibiscus Avenue is a private road that has fallen into disrepair and no longer meets Lee Plan XIII.b.B(3) standards for access.

**DETERMINATION:**

This parcel does not currently meet the requirements set forth in Lee Plan Chapter XIII for a favorable administrative interpretation of the single-family residence provisions.

The property is within SunDiet Village, a subdivision platted in 1952. The subdivision roads are private. It appears many of these roads were originally constructed of compacted materials. Access to the subject parcel is via Hibiscus Avenue, which appears to be a road of compacted materials that has not been adequately maintained. Due to the apparent lack of maintenance, the road no longer meets the requirements for access set forth in Lee Plan XIII.b.B(3). Therefore, the request for a favorable single-family determination is denied.

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**PERMIT COUNTER**

The sole basis for this denial is the lack of sufficient access to the subject parcel. If Hibiscus Avenue is repaired and maintained in a manner that provides sufficient access to the subject parcel, then the owner will be entitled to construct one single-family residence on the property. Sufficient access must, at minimum, be a properly compacted surface with adequate drainage. The Director of Development Services will determine whether the access, as repaired and maintained, is sufficient.

**THIS DETERMINATION IS NOT A PERMIT TO BUILD A SINGLE FAMILY RESIDENCE OR TO CONSTRUCT ANY IMPROVEMENTS TO LAND, INCLUDING A ROAD.**

MUD 2003-00065

Applications for building permits or development orders must comply with all applicable County, State, and Federal regulations as those regulations exist at the time each application is submitted.

APPEAL PROCEDURE:

"An administrative interpretation may be appealed to the Board of County Commissioners by filing a written request within fifteen (15) days after the administrative interpretation has been made. In reviewing such an appeal, the Board will consider only information submitted in the administrative interpretation process and will review only whether the designated individual has properly applied, to the facts presented, the standards set forth in the Plan for such administrative interpretations. No additional evidence will be considered by the Board. The Board of County Commissioners will conduct such appellate review at a public hearing."

Based upon this quoted language, if you disagree with this administrative interpretation, you have the right to an appeal to the Board of County Commissioners. In order to exercise this right of appeal, a written Notice of Appeal must be delivered to the County Attorney's Office, at 2115 Second Street, Fort Myers, Florida, no later than 15 days from the date of this Administrative Interpretation, stating the reasons for your disagreement.

Dated this 14<sup>th</sup> day of August, 2003.

LEE COUNTY ATTORNEY'S OFFICE  
AS ADMINISTRATIVE DESIGNEE

BY: *Dawn E. Perry-Lehnert*  
Dawn E. Perry-Lehnert  
Assistant County Attorney

DPL/pr

- cc: Timothy Jones, Chief Assistant County Attorney
- Donald D. Stilwell, County Manager
- Paul O'Connor, Director, Planning Division
- Peter Blackwell, Planning Division
- Julle Dalton, Property Appraiser's Office
- Debbie Carpenter, DCD
- Tidemark

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AUG 28 2003  
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LETTER OF AUTHORIZATION

TO LEE COUNTY COMMUNITY DEVELOPMENT

The undersigned do hereby swear or affirm that they are the fee simple title holders and owners of record of property commonly known as 06-44-22-03-00000.4260 (Strap # \_\_\_\_\_) and legally described in exhibit A attached hereto.

The property described herein is the subject of an application for zoning or development. We hereby designate Knott, Consoer, Ebelini, Hart & Swett, P.A. as the legal representative of the property and as such, this individual is authorized to legally bind all owners of the property in the course of seeking the necessary approvals to develop. This authority includes but is not limited to the hiring and authorizing of agents to assist in the preparation of applications, plans, surveys, and studies necessary to obtain zoning and development approval on the site. This representative will remain the only entity to authorize development activity on the property until such time as a new or amended authorization is delivered to Lee County.

Suzanne L Meyer  
(Signature) Owner\*  
Suzanne L Meyer  
Printed Name

STATE OF FLORIDA  
COUNTY OF LEE

Sworn to (or affirmed) and subscribed before me this 29 day of August, 2003, by Suzanne L Meyer who is personally known to me or who has produced Drivers License as identification.

Susan E Doddato  
Notary Public

(SEAL)  Susan E. Doddato  
Commission # CC 941538  
Expires June 4, 2004  
Bonded Thru  
Atlantic Bonding Co., Inc.

 Susan E. Doddato  
Commission # CC 941538  
(Name typed, printed or stamped) Expires June 4, 2004  
Bonded Thru  
Atlantic Bonding Co., Inc.

\*If more than one owner then all owners must sign. See explanation on back.

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MUD 2003-00065



**ADMINISTRATIVE INTERPRETATION OF  
THE SINGLE FAMILY RESIDENCE PROVISIONS OF  
THE LEE PLAN**

CASE NO.: MUD2003-00065

DATE OF  
APPLICATION: June 27, 2003

APPLICANT: SUZANNE MEYER  
11841 Island Avenue  
Matlacha, FL 33993

OWNER: SUZANNE MEYER, Trustee of the Suzanne L. Meyer  
Revocable Living Trust UAD 8-6-01  
11891 Island Avenue  
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AGENT: DEBBIE BROWN  
S&D Brown Construction  
P.O. Box 2443  
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FACT: The documentation provided with the application shows that the current  
owner acquired the parcel in November 2002, via a Warranty Deed  
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parcel comprises approximately .18 acres (7,900 square feet) of land  
and is zoned RSA. The parcel is located in the Outlying Suburban  
Future Land Use Category, which requires a minimum of 14,520  
square feet per dwelling unit. For this reason, the owner must obtain  
a favorable administrative interpretation of the single family residence  
provisions of the Lee Plan to construct a dwelling on the property. The  
property is comprised of two separate lots created in December 1952,

by virtue of a Plat recorded in the Public Records of Lee County in Plat Book 9, Page 55.

The parcel, as combined, is more than 7,500 square feet, and complied with the governing zoning requirements when created as a lot prior to the regulation of zoning in Lee County on June 27, 1962 and the Lee Plan's effective date of December 21, 1984.

The Lee Plan requires that the parcel front on a road with a graded surface of shell, marl, gravel base rock, or other compacted fill material, suitable for year-round use. The parcel must also be served by drainage swales or equivalent drainage measures. The parcel fronts on Hibiscus Avenue, a road that appears to have been constructed of compacted materials some time ago. Hibiscus Avenue is a private road that has fallen into disrepair and no longer meets Lee Plan XIII.b.B(3) standards for access.

#### DETERMINATION:

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The property is within SunDiet Village, a subdivision platted in 1952. The subdivision roads are private. It appears many of these roads were originally constructed of compacted materials. Access to the subject parcel is via Hibiscus Avenue, which appears to be a road of compacted materials that has not been adequately maintained. Due to the apparent lack of maintenance, the road no longer meets the requirements for access set forth in Lee Plan XIII.b.B(3). Therefore, the request for a favorable single-family determination is denied.

The sole basis for this denial is the lack of sufficient access to the subject parcel. If Hibiscus Avenue is repaired and maintained in a manner that provides sufficient access to the subject parcel, then the owner will be entitled to construct one single-family residence on the property. Sufficient access must, at minimum, be a properly compacted surface with adequate drainage. The Director of Development Services will determine whether the access, as repaired and maintained, is sufficient.

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**APPEAL PROCEDURE:**

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Dated this 14<sup>th</sup> day of August, 2003.

LEE COUNTY ATTORNEY'S OFFICE  
AS ADMINISTRATIVE DESIGNEE

BY:   
Dawn E. Perry-Lehnert  
Assistant County Attorney

DPL/pr

cc: Timothy Jones, Chief Assistant County Attorney  
Donald D. Stilwell, County Manager  
Paul O'Connor, Director, Planning Division  
Peter Blackwell, Planning Division  
Julie Dalton, Property Appraiser's Office  
Debbie Carpenter, DCD  
Tidemark

KES 2003-04921



LEE COUNTY

# APPLICATION FOR ADMINISTRATIVE ACTION

## APPLICATION FOR:

- Administrative Variance (Sup A)
- Consumption On Premises Per. (Sup C)
- Ordinance Interpretation (Sup E)
- Relief for Easement Encroachment (Sup G)
- Admin. Deviation from Chapter 10 (Sup I)
- Dock & Shoreline structures (Sup. K)
- Final Plan Approval per Resolution: # \_\_\_\_\_
- Commercial Lot Split (Sup B)
- Mini. Use Determination (Sup D)
- Relief for Desig. Hist. Res. (Sup F)
- Adm. Amend. PUD or PD (Sup H)
- Placement of Modal Home/Unit or Model Display Center (Sup. J)
- Redevelopment District (Sup L)

Applicant's Name: Suzanne Meyer Phone #: 283-0578

Project Name: single family residence

STRAP Number: 06-44-22-03-00000-4260

Application Form:  Computer Generated\*  County Printed

\* By signing this application, the applicant affirms that the form has not been altered.

\*\*\*\*\*

**STAFF USE ONLY**

Commission District: 1 - Jones Land Use Classification: outlying sub.

Current Zoning: RSA Lee Plan Density Range: \_\_\_\_\_

Case Number: MUD 2003-00065 Fee: \_\_\_\_\_

Date of Application: 6/27/03 Date Fee Paid: \_\_\_\_\_

Intake by: Cathy Receipt Number: \_\_\_\_\_

\* Supplements "A" through "H" & "J through L" & Final Plan Approval only \*\*Supplement "I" only

\*\*\*\*\*

LEE COUNTY  
 COMMUNITY DEVELOPMENT  
 P.O. BOX 398 (1500 MONROE STREET)  
 FORT MYERS, FLORIDA 33902  
 PHONE (941) 479-8585

**RECEIVED**  
 JUN 27 2003

ZONING COUNTER

MUD 2003-00065

PART I - GENERAL INFORMATION

1. APPLICANT'S NAME: Suzanne Meyer  
 Mailing Address:  
 Street: 11841 ISLAND AVE  
 City: MATLACHA State: FL Zip: 33993  
 Phone Number: Area Code: 239 Number: 282-0578 Ext. \_\_\_\_\_  
 Fax Number: Area Code: \_\_\_\_\_ Number: \_\_\_\_\_  
 E-mail address: \_\_\_\_\_

2. Relationship of applicant to property:

Owner \_\_\_\_\_ Trustee  
 Option holder \_\_\_\_\_ Contract Purchaser  
 Lessee \_\_\_\_\_ Other (indicate) \_\_\_\_\_

If applicant is NOT the owner, submit a Notarized Authorization Form from the owner to the applicant.

3. AGENT'S NAME(S): (Use additional sheets if necessary): S: D Brown Construction  
DEBBIE BROWN

Mailing Address:  
 Street: PO BOX 243  
 City: ST. JAMES City State: FL Zip: 33956  
 Contact Person: DEBBIE BROWN  
 Phone Number: Area Code: 239 Number: 283-5771 Ext: \_\_\_\_\_  
 Fax Number: Area Code: 239 Number: 283-5771  
 E-mail address: \_\_\_\_\_

4. TYPE OF REQUEST (please check one)

- Administrative Variance (requires supplement A)
- Commercial Lot Split (requires supplement B)
- Consumption On Premises (requires supplement C)
- Minimum Use Determination (requires supplement D)
- Ordinance Interpretation (requires supplement E)
- Relief for Designated Historic Resources (requires supplement F)
- Easement Encroachment (requires supplement G)
- Administrative Amendment to a PUD or Planned Development (requires supplement H)
- Administrative Deviation from Chapter 10 of the LDC (requires supplement I)
- Placement of Model Home/Unit or Model Display Center (requires supplement J)
- Dock & Shoreline Structure (requires supplement K)
- Redevelopment District (requires supplement L)
- Final Plan Approval (no supplement)

5. NATURE OF REQUEST (please print): OWNERS REQUESTS GRANTING  
MINIMUM USE DETERMINATION SO SHE CAN HAVE  
A SINGLE FAMILY RESIDENCE CONSTRUCTED

PART II - PROPERTY INFORMATION

Is this request specific to a particular tract of land? NO  YES. If the answer is yes, please complete the following:

1. Is this action being requested as a result of a violation notice?  NO  YES.

a. If yes, date of notice: \_\_\_\_\_

b. Specific nature of violation: \_\_\_\_\_

2. Relationship of applicant to property:  Owner  Other (please indicate): \_\_\_\_\_

3. Name of owner of property: SUZANNE MEYER SAME

Mailing Address: Street: 1184E ISLAND AVE

City: MATACHA State: FL Zip: 33993

Phone Number: Area Code: 239 Number: 283-0578 Ext.: \_\_\_\_\_

Fax Number: Area Code: \_\_\_\_\_ Number: \_\_\_\_\_

4. Legal Description: is property description clearly shown within a platted subdivision recorded in the official Plat Books of Lee County?

NO. Attach a legible copy of the legal description and certified sketch of description as set out in chapter 61G 17-6.006, Florida Administrative Code.

YES. Property is identified as:  
Subdivision Name: SUNDIET VILLAGE  
Plat Book 9 Page 55 Unit \_\_\_\_\_ Block \_\_\_\_\_ Lot 426:427

5. STRAP NUMBER: 06-44-22-03-00000.4260

6. Property Dimensions:

Area: 7900 square feet or \_\_\_\_\_ acres.

Width along roadway: 100 feet.

Depth: 79 feet.

7. Property Street Address: 7343 Hibiscus Ave Bokeelia

8. General Location Of Property: Stringfellow Rd North, left onto  
WATERFRONT DRIVE, RIGHT ONTO ROBERT RD,  
ROBERT RD CURVES AND BECOMES CALOOSA DC.  
RT ONTO LYONS RD, RT ONTO HIBISCUS

*No existent  
data on 2002  
aerial  
drawing for  
another 15.77 load.*



# ADMINISTRATIVE ACTION REQUEST SUPPLEMENT D

## MINIMUM USE DETERMINATION

If the request is for a Minimum Use Determination please submit the "Application for Administrative Action" form and the following:

### 1. PROPERTY INFORMATION

- a. Number of parcels (lots) involved in the request: 1
- b. Size of parcels (please submit a site plan, plat, or survey indicating dimensions and area of each lot as well as the total area of all lots involved):  
TOTAL PARCEL 100 X 79
- c. Comprehensive Plan Land Use designation for the subject property:  
OUTLYING SUBURBAN
- d. Zoning: Indicate the zoning on the parcel(s) when the parcel(s) was created (split out into its present dimensions from a larger parcel): RSA

### 2. INTENDED USE

- a. Do you wish to construct one single family residence on each of the above parcels? NO.  
 YES

If the parcel on which you wish to construct one home is some combination of lots, indicate which lots will comprise the final single family parcel: \_\_\_\_\_

- b. Do you wish to reapportion lots?  NO  YES. If yes, on the site plan or map submitted for 2 above, please indicate the changes you wish to make in compliance with this provision.

### 3. ADDITIONAL DOCUMENTATION REQUIRED

- a. Copy of the recorded deed, agreement for deed, or other official documentation indicating the date you acquired the property and the date the deed was recorded in the Lee County Clerk's office.
- b. If the parcel(s) is not in a platted or unofficial recorded subdivision, please provide a copy of the recorded deed (or other official documentation) establishing the date the parcel(s) was created (i.e. split out from a larger parcel into its present dimensions).

PART III

AFFIDAVIT

I, SUZANNE MEYER, certify that I am the owner or authorized representative of the property described herein, and that all answers to the questions in this application and any sketches, data or other supplementary matter attached to and made a part of this application, are honest and true to the best of my knowledge and belief. I also authorize the staff of Lee County Community Development to enter upon the property during normal working hours for the purpose of investigating and evaluating the request made thru this application.

Suzanne Meyer  
Signature of owner or owner-authorized agent

\_\_\_\_\_  
Date

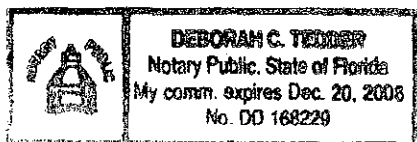
SUZANNE MEYER  
Typed or printed name

STATE OF FLORIDA )  
COUNTY OF LEE )

The foregoing instrument was certified and subscribed before me this 26<sup>th</sup> day of June, 2003 by Suzanne Meyer, who is personally known to me or who has produced Florida Drivers License as identification.

(SEAL)

Deborah C. Tedder  
Signature of notary public  
Deborah C. Tedder  
Printed name of notary public





### LETTER OF AUTHORIZATION

### TO LEE COUNTY COMMUNITY DEVELOPMENT

The undersigned do hereby swear or affirm that they are the fee simple title holders and owners of record of property commonly known as 7343 HIBISCUS AVE and legally described in exhibit A attached hereto. Lots 426 & 427 Sundiet Village

The property described herein is the subject of an application for zoning or development. We hereby designate DEBBIE BROWN as the legal representative of the property and as such, this individual is authorized to legally bind all owners of the property in the course of seeking the necessary approvals to develop. This authority includes but is not limited to the hiring and authorizing of agents to assist in the preparation of applications, plans, surveys, and studies necessary to obtain zoning and development approval on the site. This representative will remain the only entity to authorize development activity on the property until such time as a new or amended authorization is delivered to Lee County.

X Suzanne Meyer  
Owner\* (signature)  
SUZANNE MEYER  
Printed Name

\_\_\_\_\_  
Owner\* (signature)  
\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Owner\* (signature)  
\_\_\_\_\_  
Printed Name

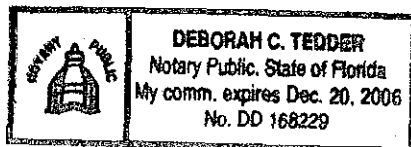
\_\_\_\_\_  
Owner\* (signature)  
\_\_\_\_\_  
Printed Name

STATE OF FLORIDA  
COUNTY OF LEE

Sworn to (or affirmed) and subscribed before me this 26<sup>th</sup> day of June, 2003, by

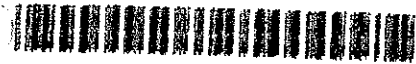
Suzanne Meyer who is personally known to me or who has produced  
Florida Drivers License as identification.

(SEAL)



Deborah C. Tedder  
Notary Public  
Deborah C. Tedder  
(Name typed, printed or stamped)

\*If more than one owner then all owners must sign. See explanation on back.



INSTR # 5637426  
 OR BK 03785 PG 0334  
 RECORDED 11/25/2002 02:14:42 PM  
 CHARLIE GREEN, CLERK OF COURT  
 LEE COUNTY  
 RECORDING FEE 10.50  
 DEED DOC 129.50  
 DEPUTY CLERK S Jensen

Prepared by and return to:  
 Timothy J. Bruehl  
 Waggoner & Bruehl, P.A.  
 5400 Pine Island Road, Suite D  
 Bokeelia, FL 33922

Will Call No.: 105

Parcel Identification No. 06-44-22-03-00000.4260

[Space Above This Line For Recording Data]

## Warranty Deed

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

**This Indenture** made this 18th day of November, 2002 between Michael H. Shevlin and Joan L. Shevlin, husband and wife, whose post office address is 1700 McGregor Reserve, Fort Myers, FL 33901 of the County of Lee, State of Florida, grantor\*, and Suzanne L. Meyer, Trustee of the Suzanne L. Meyer Revocable Living Trust UAD 08-06-01, whose post office address is 11891 Island Avenue, Cape Coral, FL 33993 of the County of Lee, State of Florida, grantee\*,

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

Lots 426 & 427, according to the Plat of SUNDIET VILLAGE, as recorded in Plat Book 9, Page 55, Public Records of Lee County, Florida.

The Grantee, as trustee, has the full power and authority to protect, conserve, sell, convey, lease, encumber, and to otherwise manage and dispose of said real property pursuant to F.S. 689.071.

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

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

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

Signed, sealed and delivered in our presence:


[Signature]  
Witness Name: TIMOTHY J. BRUEHL  
Elizabeth A. Russo  
Witness Name: Elizabeth A. Russo

[Signature] (Seal)  
Michael H. Shevlin  
[Signature] (Seal)  
Joan L. Shevlin

State of Florida  
County of Lee

The foregoing instrument was acknowledged before me this 18<sup>th</sup> day of November, 2002 by Michael H. Shevlin and Joan L. Shevlin, who  are personally known or  have produced a driver's license as identification.

[Notary Seal]

 Timothy John Bruehl  
Commission #DD157148  
Expires: Oct 10, 2006  
Bonded Thru  
Atlantic Bonding Co., Inc.

[Signature]  
Notary Public  
Printed Name: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

**PROPERTY DATA FOR PARCEL 06-44-22-03-00000.4260  
TAX YEAR 2002**

Parcel data is available for the following tax years:

[ 2001 | 2002 ]

[ [Next Lower Parcel Number](#) | [Next Higher Parcel Number](#) | [Display Tax Bills on this Parcel](#) ]

OWNERSHIP, LEGAL, SALES AND DISTRICT DATA ARE FROM THE CURRENT DATABASE.  
LAND, BUILDING, VALUE AND EXEMPTION DATA ARE FROM THE 2002 ROLL.

Owner of Record	Legal Description	Image of Structure
MEYER SUZANNE L TR FOR SUZANNE L MEYER TRUST 11891 ISLAND AV CAPE CORAL FL 33993	SUNDIET VILLAGE PB 9 PG 55 LOTS 426 + 427	(Not Presently Available)
<b>Site Address</b>		
7343 HIBISCUS AVE Bokeelia, FL 33922		

Taxing District	DOR Code
007 - MATLACHA-PINE ISLAND FIRE DISTRICT	00 - VACANT RESIDENTIAL


Property Values		Exemptions		Dimensions	
Just	6,800	Homestead	0	Measurement Units	FF
Assessed	6,800	Agricultural	0	Number of Units	100.00
Assessed SOH	6,800	Widow	0	Frontage	100
Taxable	6,800	Widower	0	Depth	79
Building	0	Disability	0	Bedrooms	
Land	6,800	Wholly	0	Bathrooms	
Building Extra Features	0	Energy	0	Total Sq. Ft.	
Land Extra Features	0	SOH Difference	0	Year Improved	0

Sales Transactions					
Sale Price	Date	OR Book / Page	Transaction Details		Vacant / Improved
			Type	Description	
18,500	11/18/2002	3785/334	06	Qualified (Fair Market Value / Arms Length / One STRAP #)	V
6,800	4/1/1996	2694/2252	02	Qualified (Multiple STRAP # / 06-09I)	V
10,000	11/1/1989	2112/1314	01	Disqualified (Doc Stamp .70 / SP less th \$100 /	V

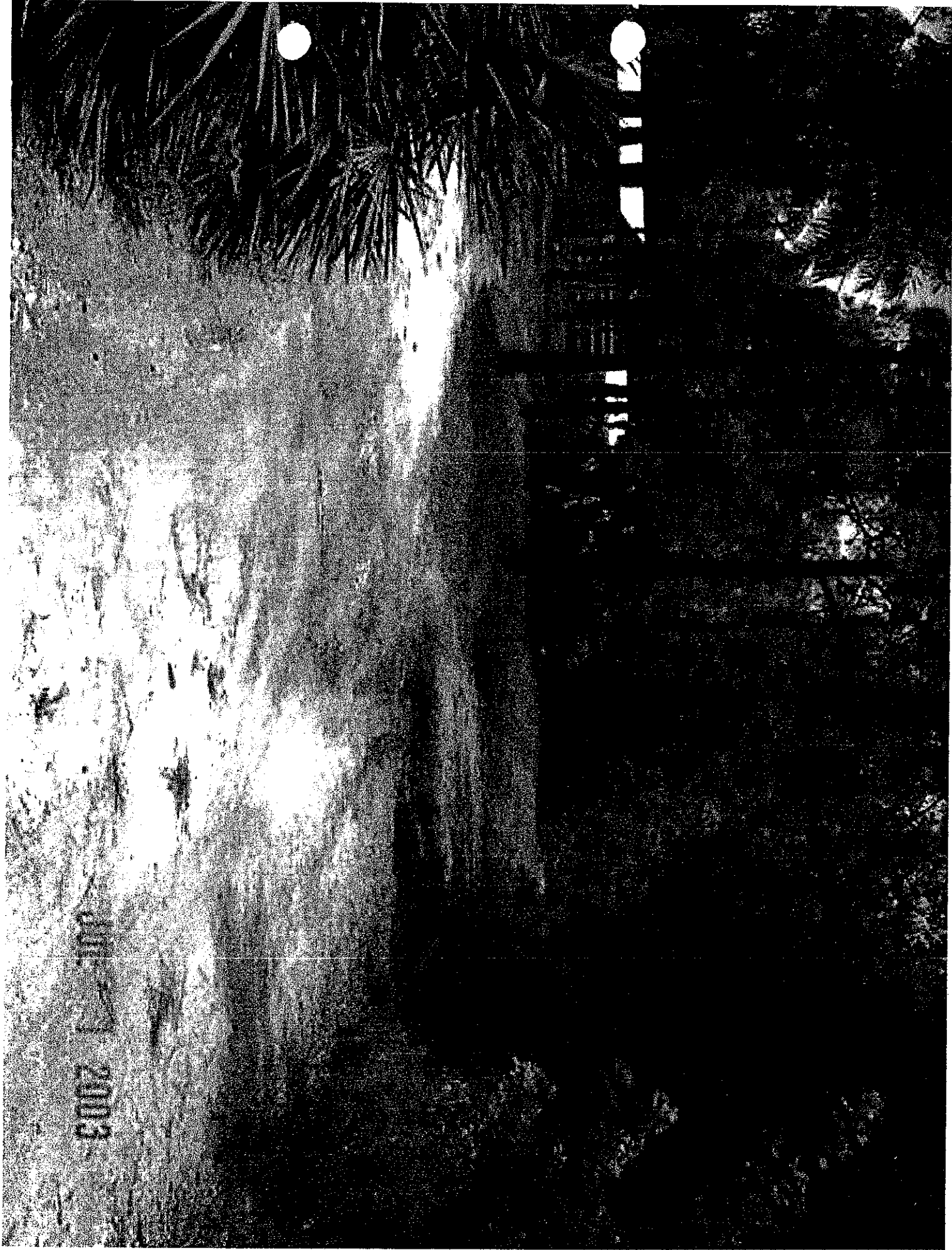
Other DisQ)					
Parcel Renumbering History					
Prior STRAP	Renumber Reason			Renumber Date	
06-44-22-03-00000.4240	Combined (With another parcel-Delete Occurs)			Unspecified	
Solid Waste (Garbage) Roll Data					
Solid Waste District	Roll Type	Category	Unit/Area	Tax Amount	
005 - Service Area 5 - Pine Island Area	-		0	0.00	
Land Tracts/Land Use					
Description	Use Code	Units			
Vacant Residential	0	100.00 Frontage Feet			
Storm Surge Category	Flood Insurance (FIRM)				
	Rate Code	Community	Panel	Version	Date
Category 2	A8:EL8	125124	0145	C	110492

LEFT CLICK & HOLD WHILE MOVING THE MOUSE WILL PAN THE AERIAL IN ALL DIRECTIONS  
 LEFT CLICK & HOLD + RIGHT CLICK & HOLD WHILE MOVING THE MOUSE FORWARD AND BACKWARD WILL  
 ZOOM THE AERIAL OUT AND IN.

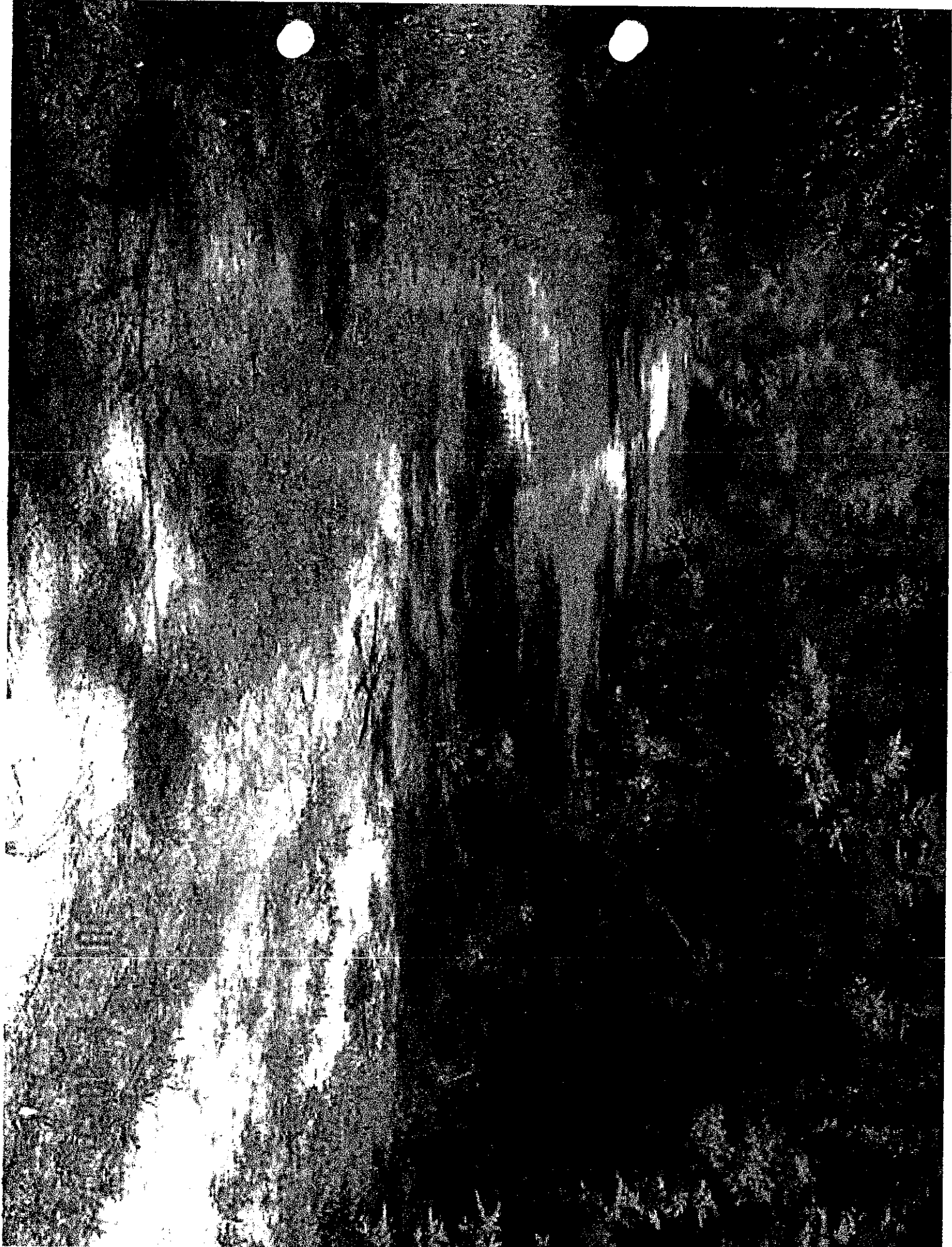
**AERIALS TAKEN ON OR ABOUT FEBRUARY 1998**













1 2003







**Knott, Consoer, Ebelini**  
**Hart & Swett, P.A.**  
ATTORNEYS - AT - LAW

George H. Knott \*+  
George L. Consoer, Jr. \*\*  
Mark A. Ebelini  
Thomas B. Hart  
H. Andrew Swett

\* Board Certified Civil Trial Lawyer  
\*\* Board Certified Real Estate Lawyer  
+ Board Certified Business Litigation Lawyer

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P.O. Box 2449  
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Telephone (239) 334-2722  
Telecopier (239) 334-1446

MRoeder@knott-law.com

Mathew D. Uhle  
Aaron A. Haak  
Derrick S. Eihausen

Director of  
Zoning and Land  
Use Planning  
Michael E. Roeder, AICP

**M E M O R A N D U M**

TO: Peter Blackwell and Dawn Lehnert  
FROM: Michael Roeder  
DATE: August 8, 2003  
RE: Sundiet Village Property

2003 AUG - 8 PM 4: 21  
RECEIVED BY  
LEE CO. ATTORNEY

I am attaching a plat book page with numbered sites that refer to the attached photos taken by Richard Krieg, the realtor involved in this case. I believe that Peter tried to access the site from Stringfellow via Hibiscus Avenue, and that particular road is in very poor condition. However, if you examine the pictures of the access via Caloosa Drive, you will see that the roads are actually in decent shape. Richard said that in most cases the driving surface is over 20 feet but in no place less than 18 feet. I believe this should have a bearing on the minimum use determination review, and if you care to talk to Richard Krieg directly, his number is 283-1028. Please feel free to call me if you have any questions.

MER/zw  
Enclosures

*Note: The parcel  
actually fronts on  
Hibiscus. It does not  
have frontage on Caloosa Drive.*













**DETERMINATION OF  
THE APPLICATION OF THE  
MINIMUM USE PROVISION**

CASE # MUD2003-00065

DATE RECEIVED BY ZONING DIVISION: 6/27/03

STRAP NUMBER: 06-44-22-03-00000.4260

APPLICANT: Suzanne Meyer

OWNER: Suzanne Meyer

**OWNERSHIP**

- a) DATE WARRANTY DEED OR AGREEMENT FOR DEED RECORDED IN OWNER/PURCHASER NAME: November 2002
- b) PLACE RECORDED: OR Book 3785 Page 334

**CREATION OF PARCEL**

- a) DATE PARCEL CREATED/RECORDED: December 1952
- b) PLACE RECORDED: Plat Book 9 Page 55
  - 1) LOT WAS CREATED/RECORDED IN PLAT BOOKS PRIOR TO December 21, 1984 AND HAS NOT BEEN ALTERED: YES X NO \_\_\_ N/A \_\_\_
  - 2) A LEGAL DESCRIPTION OF THE LOT WAS LAWFULLY RECORDED IN O.R. BOOKS PRIOR TO DECEMBER 21, 1984: YES \_\_\_ NO \_\_\_ N/A X
  - 3) LOT WAS LAWFULLY CREATED AFTER DECEMBER 21, 1984 AND IS IN COMPLIANCE WITH THE LEE PLAN: YES \_\_\_ NO \_\_\_ N/A X

**ZONING WHEN CREATED/RECORDED:** None

- a) COMPLIED WITH ZONING WHEN CREATED/RECORDED: YES \_\_ NO \_\_ N/A X
- b) CREATED PRIOR TO JUNE 27, 1962 AND HAS A MINIMUM OF 4,000 SQUARE FEET: YES X NO \_\_ N/A \_\_
- c) CREATED AFTER JUNE 27, 1962 AND PRIOR TO DECEMBER 21, 1984 AND HAS A WIDTH NOT LESS THAN 50 FEET AND HAS AN AREA NOT LESS THAN 5,000 SQUARE FEET AND RECORDED IN A PLAT BOOK: YES \_\_ NO \_\_ N/A X
- d) CREATED AFTER JUNE 27, 1962 AND PRIOR TO DECEMBER 21, 1984, HAS A MINIMUM OF 7,500 SQUARE FEET AND RECORDED IN O.R. BOOK: YES \_\_ NO \_\_ N/A X

**LAND USE CATEGORY:** Outlying Suburban

- a) LOT IS CONSISTENT WITH DENSITY REQUIREMENTS: YES \_\_ NO X

**REAPPORTIONING LOTS:** YES \_\_ NO X

**RECOMMENDATION:**

THE LOT IS NOT CONSISTENT WITH THE MINIMUM USE PROVISION BASED ON THE FOLLOWING:

The lot was recorded in 1952 prior to the adoption of the Lee Plan and zoning regulations. The lot conforms to the RSA zoning district and exceeds the 7,500 square foot minimum required by the Single Family Provision of the Lee Plan. The lot is shown in the plat book as being accessed by Hibiscus Avenue. A site inspection reveals that Hibiscus lane is not constructed from compacted surface materials or gravel, is not graded, and has no drainage measures of any kind. This does not meet the minimum road standard of the Single Family Provision. Therefore, this lot does not qualify for one single family residence under the Single Family Provision of the Lee Plan.

# Spatial District Query Report

STRAP Number: 06-44-22-03-00000.4260

District Name	District Value(s)	Pct of Parcel in District ( If fractional )	Notes
Airport Noise Zone		NOT FOUND	
Airspace Notification	Notification Height 100' - 125' AMSL Facility Multiple	59.75%	
	Notification Height 75' - 100' AMSL Facility Multiple	40.25%	
Census Tract	Tract ID 701		
Coastal Building Zone		NOT FOUND	
Coastal High Hazard Area		NOT FOUND	
Fire District	Fire District Pine Island- Matlacha Taxing Authority (null)		
Flood Insurance Zone	Flood Zone A8-EL8		
Flood Insurance Panel	Community 125124 Panel 0145 Version C Date 110492		
Flood Insurance Coastal Barrier		NOT FOUND	
Lighting District		NOT FOUND	
Planning Community	ID 16 Plan Community Pine Island		
Planning Land Use 2010	Landuse Outlying Suburban		
Sanibel/County Agreement		NOT FOUND	
School Board District	District 1 School Board Robert Chilmonik Member		
School Choice Zone	Choice Zones West Zone		
Solid Waste District	District Area Area 5		
Storm Surge	Category 2		
Traffic Analysis Zone	TAZ 710		
Archaeological Sensitivity	Sensitivity Level 2	74.89%	
	Sensitivity Level 1	24.01%	
Sea Turtle Lighting Zone		NOT FOUND	
Watersheds	Shed ID North Pine Island		
FLUCCS1995	Code 111 Landuse Fixed Single Family Units		
Vegetation Permit Required	Vegetation Permit Pine Island		1
Soil	Map Symbol 28 Soil Name IMMOKALEE SAND	99.6%	
	Map Symbol 11 Soil Name MYAKKA FINE SAND	0.4%	2
Panther Habitat		NOT FOUND	
Eagle Nesting Site buffer		NOT FOUND	
Commissioner District	District 1		

Unincorporated Lee County Zoning	Commissioner Zoning Designation	Robert Janes RSA
Development Orders		NOT FOUND
Fort Myers Beach Interim Zoning		NOT FOUND

**[ Modify ] Report Settings**

Note	Details
1	Vegetation Removal Permit REQUIRED, Contact Environmental Sciences (239) 479-8585.
2	Small percentages can result from slight variations in the way lines are drawn or imported into our system. Such values may not accurately reflect an overlap with the subject parcel.

**Our goal is to provide the most accurate data available, however no warranties, expressed or implied, are provided with this data, its use, or interpretation.**

**All information subject to change without notice.  
Copyright © 2003 Lee County Property Appraiser.  
All rights reserved.**

LEE COUNTY PROPERTY APPRAISER

PROPERTY DATA FOR PARCEL 06-44-22-03-00000.4260  
TAX YEAR 2003 (PRELIMINARY)

Parcel data is available for the following tax years:  
[ [2001](#) | [2002](#) | [2003 \(Preliminary\)](#) ]

[ [Next Lower Parcel Number](#) | [Next Higher Parcel Number](#) | [Display Tax Bills on this Parcel](#) ]

OWNERSHIP, LEGAL, SALES AND DISTRICT DATA ARE FROM THE CURRENT DATABASE.  
LAND, BUILDING, VALUE AND EXEMPTION DATA ARE FROM THE 2003 PRELIMINARY ROLL.

Owner of Record		Legal Description		Image of Structure	
MEYER SUZANNE L TR FOR SUZANNE L MEYER TRUST 11891 ISLAND AV CAPE CORAL FL 33993		SUNDIET VILLAGE PB 9 PG 55 LOTS 426 + 427		(Not Presently Available)	
Site Address					
7343 HIBISCUS AVE Bokeelia, FL 33922					
Taxing District		DOR Code			
007 - MATLACHA-PINE ISLAND FIRE DISTRICT		00 - VACANT RESIDENTIAL			
Property Values		Exemptions		Dimensions	
Just	15,200	Homestead	0	Measurement Units	FF
Assessed	15,200	Agricultural	0	Number of Units	100.00
Assessed SOH	15,200	Widow	0	Frontage	100
Taxable	15,200	Widower	0	Depth	79
Building	0	Disability	0	Bedrooms	
Land	15,200	Wholly	0	Bathrooms	
Building Extra Features	0	Energy	0	Total Sq. Ft.	-
Land Extra Features	0	SOH Difference	0	Year Improved	0
Sales Transactions					
Sale Price	Date	OR Book / Page	Transaction Details		Vacant / Improved
			Type	Description	
18,500	11/18/2002	3785/334	06	Qualified (Fair Market Value / Arms Length / One STRAP #)	V
6,800	4/1/1996	2694/2252	02	Qualified (Multiple STRAP # / 06-09I)	V
10,000	11/1/1989	2112/1314	01	Disqualified (Doc Stamp .70 / SP less th \$100 /	V

Other DisQ)					
Parcel Renumbering History					
Prior STRAP	Renumber Reason			Renumber Date	
06-44-22-03-00000.4240	Combined (With another parcel-Delete Occurs)			Unspecified	
Solid Waste (Garbage) Roll Data					
Solid Waste District	Roll Type	Category	Unit/Area	Tax Amount	
005 - Service Area 5 - Pine Island Area	-		0	0.00	
Land Tracts/Land Use					
Description	Use Code	Units			
Vacant Residential	0	100.00 Frontage Feet			
Storm Surge Category	Flood Insurance (FIRM)				
	Rate Code	Community	Panel	Version	Date
Category 2	A8:EL8	125124	0145	C	110492

TRIM (*proposed* tax) Notices are available for the following tax years:

[ [1997](#) | [1998](#) | [1999](#) | [2000](#) | [2001](#) | [2002](#) ]

[ [Show Building Details](#) ]

[ [Show Aerial View](#) ]

[ [Next Lower Parcel Number](#) | [Next Higher Parcel Number](#) ]

[ [New Query](#) | [Parcel Queries Page](#) | [Lee PA Home](#) ]

This site is best viewed with [Microsoft Internet Explorer 5.5+](#) or [Netscape Navigator 6.0+](#).

Page was last modified on Tuesday, July 01, 2003 10:08:07 AM.

## **b. ADMINISTRATIVE INTERPRETATIONS OF THE PLAN**

Persons or entities whose interests are directly affected by the Lee Plan have the right to an administrative interpretation of the plan as it affects their specific interest. Such an interpretation, under the procedures and standards set forth below, will remain in effect and thereafter be binding upon the county only as to the legally described property and any plan of development upon which the interpretation was based. If the plan of development is proposed to be, or is changed, through any action of any owner or developer of the property, then the administrative interpretation is no longer binding on the county. Actions that will render a previous interpretation no longer binding include any of the following: significant changes in parcel or platted lot(s) configuration; changes to land uses; decreases in the amount of open space or preserved land; increases in density or intensity of use; increases in the size or acreage of the property; or any other change that makes the plan of development less consistent with the current Lee Plan. (Note: combining lands consistent with XIII.b.B.4.b.(4) is allowed.) A determination of whether or not a plan of development has been, or would be changed sufficiently to render the previous interpretation no longer binding on the county will be made on a case by case basis by the Administrative Designee using the above-described criteria.

Administrative interpretations are intended to expedite and reduce disputes over interpretations of the Lee Plan, resolve certain map or boundary disputes, avoid unnecessary litigation, ensure consistency in plan interpretation, and provide predictability in interpreting the plan. All such administrative interpretations, once rendered, are subject to challenge under the provisions of Section 163.3215, Florida Statutes.

Anyone seeking an administrative interpretation must submit an application with requested information and will have the burden of demonstrating compliance with the standards set forth below.

### **A. SUBJECT MATTER OF ADMINISTRATIVE INTERPRETATIONS.**

Administrative interpretations will be provided only as to the matters set forth below. In no event will administrative interpretations hereunder involve questions of the consistency of development or land use regulations with the Lee Plan. Administrative interpretations will be limited to:

1. County Attorney's Office:

- a. Whether the single-family residence provision as hereinafter defined applies and the applicant desires a written opinion for future use, or a concurrent building permit application has not been approved under 2.a. below.

2. County Administrator (or his designee):

- a. Whether the single-family residence provision as hereinafter defined applies and the applicant is also applying for a building permit. If said permit application is not approved, a separate application for the single-family residence provision may be submitted to the County Attorney's Office for final review and, if applicable, written denial.
- b. Whether an area has been (or should have been) designated Wetlands on the basis of a clear factual error. A field check will be made prior to the issuance of such an interpretation.

- c. Clarification of land use map boundaries as to a specific parcel of property.

## **B. STANDARDS FOR ADMINISTRATIVE INTERPRETATIONS.**

Administrative interpretations of the Lee Plan will be determined under the following standards:

1. deny all economically viable use of property will be avoided;
2. Interpretations should be consistent with background data, other policies, and objectives of the plan as a whole;
3. Interpretations should, to the extent practical, be consistent with comparable prior interpretations;
4. Single-Family Residence Provision:
  - a. Applicability

Notwithstanding any other provision of this plan, any entity owning property or entering or participating in a contract for purchase agreement of property, which property is not in compliance with the density requirements of the Lee Plan, will be allowed to construct one single-family residence on said property PROVIDED THAT:

(1) Date Created:

- (a) the lot or parcel must have been created and recorded in the official Plat Books of Lee County prior to the effective date of the Lee Plan (December 21, 1984), and the configuration of said lot has not been altered; OR
- (b) a legal description of the lot or parcel was lawfully recorded in the Official Record books of the Clerk of Circuit Court prior to December 21, 1984; OR
- (c) the lot was lawfully created after December 21, 1984, and the lot area was created in compliance with the Lee Plan as it existed at that time.

(2) Minimum Lot Requirements: In addition to meeting the requirements set forth above, the lot or parcel must:

- (a) have a minimum of 4,000 square feet in area if it was created prior to June 27, 1962; OR
- (b) have a width of not less than 50 feet and an area of not less than 5,000 square feet if part of a subdivision recorded in the official Plat Books of Lee County after June 27, 1962, and prior to December 21, 1984; OR
- (c) have a minimum of 7,500 square feet in area if it was created on or after June 27, 1962, and prior to December 21, 1984, if not part of a subdivision recorded in the official Plat Books of Lee County; OR



- (d) have been in conformance with the zoning regulations in effect at the time the lot or parcel was recorded if it was created after December 21, 1984; OR
  - (e) have been approved as part of a Planned Unit Development or Planned Development.
- (3) Access and Drainage: In addition to meeting the requirements set forth above:
- (a) the road that the lot or parcel fronts on must have been constructed and the lot must be served by drainage swales or equivalent drainage measures. The road must have, at a minimum, a graded surface of shell, marl, gravel base rock, or other compacted fill material, suitable for year-round use; OR
  - (b) the lot or parcel must be located within a subdivision which was approved under Chapter 177, Florida Statutes, as long as the subdivision improvements have been made or security for their completion has been posted by the subdivider.

If the lot or parcel cannot meet the requirement of access and drainage, this requirement will not apply to the extent that it may result in an unconstitutional taking of land without due process.

- (4) Interchange, Airport Commerce, and Industrial Development land use categories: In addition to the requirements set forth above, a residential use must be the only reasonable use of the lot or parcel. The existence of a reasonable commercial or industrial use will be determined by reference to all of the applicable facts and circumstances, including, but not limited to, the nature of the surrounding uses, the adequacy of the lot size (pursuant to Chapter 34 of the Land Development Code) for commercial or industrial uses, and whether adequate infrastructure exists or can reasonably be provided to serve a commercial or industrial use at the location in question.

b. Construction Regulations

Subsequent to a property owner establishing the right to build a single-family residence on a lot through the procedures set forth in this plan, the following policies will prevail:

- (1) The residential structure must be in compliance with all applicable health, safety, and welfare regulations, as those regulations exist at the time the application for construction of the residence is submitted.
- (2) Lots or parcels which qualify for the right to construct a residence and which contain wetlands will be subject to special provisions of the Wetlands Protection Ordinance.
- (3) If two or more contiguous lots or parcels have each qualified for the right to build a single-family residence, the property owner is permitted and encouraged to reapportion properties if the result of the reappointment is a lot or lots which come closer to meeting the property development regulation standards for the zoning district in which it is located and as long as no property becomes non-conforming or increases in its non-conformity as a result of the reappointment and as long as the density will not increase.

- (4) If a lot or parcel has qualified for the right to construct a single-family residence, nothing herein will be interpreted as prohibiting the combining of said lot or parcel with other contiguous property provided the density will not increase.
- (5) If two or more contiguous properties have each qualified for the right to construct a single-family residence and if the lots or parcels are located in a zoning district which permits duplex or two-family dwellings, the property owner(s) may combine the lots to build a single duplex or two-family building in lieu of constructing two single-family residences.

c. Transferability

This right will run with the land and be available to any subsequent owner if the property which qualifies for the single-family provision is transferred in its entirety.

**C. PROCEDURE FOR ADMINISTRATIVE INTERPRETATIONS.**

The following procedures will apply in obtaining administrative interpretations:

1. Except as provided in 3. below, anyone seeking an administrative interpretation of the plan will submit an application, on an appropriate form provided by the county, with all requested information to the Zoning and Development Review Division (single-family residence provision) or the Planning Division (all other applications), or to their successor agencies.
2. The person authorized by Section A.1. or 2. above will review such information and issue an administrative interpretation in writing within sixty (60) days after submittal of the application and all requested information to the appropriate division. The interpretation will contain findings and reasons for the interpretation rendered.
3. If the request for a single-family residence provision or Wetlands determination is in conjunction with an application for a building permit, development order, or planned development rezoning, a separate application will not be required. The interpretation will be noted on the building permit, development order, or planned development rezoning approval, or will be contained in the reasons for denial where applicable.
4. An administrative interpretation may be appealed to the Board of County Commissioners by filing a written request within fifteen (15) days after the administrative interpretation has been made. In reviewing such an appeal, the Board will consider only information submitted in the administrative interpretation process and will review only whether the designated individual has properly applied to the facts presented and the standards set forth in the plan for such administrative interpretation. No additional evidence will be considered by the Board. The Board of County Commissioners will conduct such appellate review at a public meeting.
5. The Board of County Commissioners will consider the appeal at a hearing to be held within thirty (30) days after the date of the written request for appeal. A decision overruling the written interpretation will be in writing and will be rendered by the Board within thirty (30) days after the date of the hearing. Alternatively, the Board may adopt the administrative interpretation being appealed.

6. Where appropriate and necessary all administrative interpretations rendered by the designated persons (or upon appeal, approved by the Board of County Commissioners) will be incorporated into the Plan during the next amendment cycle. (Amended by Ordinance No. 94-30, 00-22)

### **c. LEGISLATIVE INTERPRETATIONS OF THE PLAN**

In order to apply the plan consistently and fairly, it will be necessary from time to time to interpret provisions in the plan in a manner which insures that the legislative intent of the Board of County Commissioners which adopted the plan be understood and applied by subsequent boards, county employees, private property owners, and all other persons whose rights or work are affected by the plan. When the plan is interpreted, it should be done in accordance with generally accepted rules of statutory construction, based upon sound legal advice, and compiled in writing in a document which should be a companion to the plan itself. These goals will be accomplished by the procedures which are set forth below:

#### **A. COMPREHENSIVE PLAN ANNOTATIONS COMMITTEE.**

The Director of Community Development, the Planning Director, and the County Attorney will together be empowered to sit as the Comprehensive Plan Annotations Committee. In each instance, these persons may designate one or more subordinates to serve in their place, but only one vote may be cast by or on behalf of each of the aforementioned officials. The purpose of the committee is to make written recommendations to the Local Planning Agency in response to requests for interpretations of specific provisions in the plan. If the committee cannot recommend an interpretation unanimously, then both a majority and minority recommendation will be made to the Local Planning Agency. Similarly, if the committee cannot reach a majority position with respect to an interpretation, then each official will submit a separate recommendation to the Local Planning Agency. In accomplishing its work, the committee will operate as follows:

##### **1. Organization**

The committee will meet regularly at such times and places as it may choose. Its meetings will be either private or open to the public, or a combination thereof, as the committee chooses. The committee will have total discretion in this matter. No public notices of its meetings will be required. It may invite to its meetings such persons as it believes will best assist it in its work. It is intended that the committee will function in an informal workshop atmosphere, with emphasis to be placed on the timely production of concise, written recommendations to the Local Planning Agency in response to requests for interpretations of specific provisions in the plan. The County Attorney will be responsible for reducing the recommendations of the committee in writing, unless he is in the minority, in which case the Planning Director will be responsible for reducing the majority recommendation to writing. In every case, the Planning Director will be responsible for delivering the recommendations to the Local Planning Agency on a timely basis as part of the published agenda of the Local Planning Agency.

##### **2. Requests for Interpretations**

Requests for interpretations will be placed before the Comprehensive Plan Annotations Committee by any one of its three members in response to a question raised by the Board of County Commissioners, collectively or by any one commissioner, by any member of the county