

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

**Date Critical  
Blue Sheet #20061353**

**1. ACTION REQUESTED/PURPOSE:** Deny six requested appeals of administrative determination of the Lee Plan under the Single Family Determination provisions, as filed by Attorney Beverly Grady (Roetzel & Andress Law Firm) on behalf of property owner Compass Rose Venture, LLC, and SG Investments, Inc.

**2. WHAT ACTION ACCOMPLISHES:** Upholds the determination by the Administrative Designee that the property owner is not entitled to favorable Administrative Interpretations under the provision set forth in Chapter XIII of the Lee Plan to construct a single-family residence on each of the six properties that are the subject of this appeal.

**3. MANAGEMENT RECOMMENDATION:**

**4. Departmental Category:** 12 County Attorney  
COMMISSION DISTRICT #1

**AP #1**

**5. Meeting Date:**  
Tuesday, Oct. 31, 2006 @ 9:30 a.m.

**6. Agenda:**

**7. Requirement/Purpose: (specify)**

**8. Request Initiated:**

<input type="checkbox"/> Consent	<input type="checkbox"/> Statute
<input type="checkbox"/> Administrative	<input type="checkbox"/> Ordinance
<input checked="" type="checkbox"/> Appeals	<input type="checkbox"/> Admin. Code
<input type="checkbox"/> Public	<input checked="" type="checkbox"/> Other
<input type="checkbox"/> Walk-On	Lee Plan Chapter XIII

**Commissioner** \_\_\_\_\_  
**Department** County Attorney  
**Division** Land Use  
**By:** *John J. Fredyma*  
 John J. Fredyma  
 Assistant County Attorney

**9. Background:** Attorney Beverly Grady has filed six appeals on behalf of property owner Compass Rose Venture, LLC, and SG Investments, Inc. An appeal has been filed for each of six lots that are approximately 0.0976 acres (4,250 sq. ft.) in size and all located on San Carlos Island, in the Industrial Future Land Use Category. The properties are as follows:

<u>Case Number</u>	<u>Platted Lot Number (Plat Book 8, Page 81)</u>	<u>Street Address</u>	<u>STRAP Number</u>	<u>Zoning District</u>
MUD2004-00198	Lot 2	1180 Main Street	19-46-24-05-00000.0010	RM-2
MUD2004-00200	Lot 3	1180 #3 Main Street	19-46-25-05-00000.0030	RM-2
MUD2004-00201	Lot 4	1180 #3 Main Street	19-46-25-05-00000.0040	RM-2
MUD2004-00202	Lot 5	1180 #5 Main Street	19-46-25-05-00000.0050	RM-2
MUD2004-00203	Lot 6	1180 #5 Main Street	19-46-25-05-00000.0050	RM-2
MUD2004-00204	Lot 7	1180 #7 Main Street	19-46-25-05-00000.0070	AG-2

(Continued on next page.)

S:\LUNJF\JFSingle Family Determinations\Blue Sheet - Compass Rose Venture, LLC - denial.wpd

**10. Review for Scheduling:**

Department Director	Purchasing or Contracts	Human Resources	Other	County Attorney	Budget Services				County Manager/P.W. Director
				<i>[Signature]</i>	Analyst <i>[Signature]</i> 10/11/06	Risk <i>[Signature]</i> 10/11/06	Grants <i>[Signature]</i> 10/12/06	Mgr. <i>[Signature]</i> 10/12/06	<i>[Signature]</i>

**11. Commission Action:**

- Approved
- Deferred
- Denied
- Other

CO. ATTY.  
FORWARDED  
TO CO. ADMIN.  
10/11/06 3PM

RECEIVED BY  
COUNTY ADMIN:  
10/11/06 4:15 PM  
COUNTY ADMIN  
FORWARDED TO: *[Signature]*  
10/12/06  
11:30 AM

On May 9, 2006, an Administrative Interpretation of the Single Family Residence Provisions of the Lee Plan was issued denying a single family determination for each of six lots (Case Nos. MUD2004-00098, -0200,-0201,-0202, -0203 and -0204). The six lots are all located on the south side of Main Street, east of San Carlos Boulevard, on San Carlos Island.

The record shows that each lot was created as a separate parcel in 1946, by virtue of a plat recorded in the Public Records of Lee County in Plat Book 8, Page 81. However, all six lots have subsequently been conveyed together in the same deed since at least 1975. The current owner acquired the lots in a single deed in 2005.

All six lots are located in the Industrial Future Land Use Category, and the properties are surrounded by Industrial Future Land Use Category. (See the color copy of Future Land Use categories at his location - attached as an exhibit.) Five of the lots are zoned RM-2, and the sixth lot (1180 #7 Main Street) is zoned AG-2.

Lee Plan Policy 1.1.7 describes the Industrial Future Land Use category and states: “. . . ***the Industrial Development area is to be reserved mainly for industrial activities per se . . .***” and “***Residential uses, other than bona fide caretaker residences are not permitted in this category except to the extent provided in Chapter XIII of the Plan.***” (*Emphasis added.*)

Lee Plan Chapter XIII, Section b.B.4.a.(4) provides: “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 shall be determined by reference to all of the applicable facts and circumstances***, including, but not limited to the adequacy of 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.” (*Emphasis added.*)

With the above-highlighted text in mind, the subject parcels (individually or collectively) are suitable for numerous industrial-type or related uses. A review of the Use Regulations for Industrial District in the Lee County Land Development Code (Table 34-903) discloses a number of possible uses, including, but not limited to businesses such as: Business Services, Manufacturing (small-scale), Personal Services, Repair Services, Rental or Leasing Establishments, even Vehicle and Equipment Dealers (Groups III, IV & V); just to mention a few.

The proximity of the subject properties to the nearby commercial and recreational fishing industry also opens the door to many possible industrial or business uses, as well as helping to maintain the availability of land for industrial uses to supplement the industrial and marine businesses and industry already present in this area. Commercial and charter fishing offices, marine contracting offices (for docks, seawalls and boatlifts), electronics sales and repair, and marine supplies sales and equipment repair are just a few of the possible uses that could utilize any one or all of the subject properties.

Additionally, the Lee Plan - as highlighted above - tells us the ownership of the contiguous abutting lots by this property owner should not be ignored. These lots can easily be combined to increase the number of possible industrial uses. These six lots were all acquired at the same time and in the same conveyance. A review of the County's Public Records disclose a history of these lots having remained together as a single conveyance since at least 1975. The property owner also holds title to abutting Lot 1 on the referenced 1946 plat, although that lot was not requested to be included in this appeal. However, even without Lot 1, the six lots submitted for consideration are suitable for many reasonable non-residential uses.

In reviewing an appeal, the Lee Plan provides that the Board will consider only information submitted in the administrative interpretation process and will review only whether the County Attorney's Office, as the Administrative Designee, has properly applied the facts presented and the standards set forth in the Lee Plan for such administrative interpretations. ***No additional evidence may be considered by the Board.*** (Emphasis added)

The applicant seeks to argue that the standards set forth in Lee Plan Chapter XIII, Sections b.B.1., 2. and 3. would require the Board to reverse the decision of the Administrative Designee and allow one single family home to be constructed on each of the six lots. Unfortunately, such a decision would ignore the fourth element of Section b.B.4.a.(4) of the Lee Plan (set forth above).

Based upon the above, the County Attorney's Office is of the opinion that the single family interpretation (denial), as issued, meets the criteria, standards and intent of the Lee Plan minimum use determination provisions. Consequently, the appeal should be denied and the decision of the Administrative Designee should be upheld. A single family residence should not be allowed to be constructed on the subject property.

Attachments:

1. Applicant's Appeal of Administrative Interpretation to the Lee County Board of County Commissioners  
Including copies of: Administrative Interpretation of Single Family Determination of the Lee Plan  
Includes cover sheet for the six (6) appeals filed together- MUD2005-00198, & -00200 thru 00204 )
2. County Attorney's Administrative Interpretation of the Single-Family  
Residence Provisions of the Lee Plan dated May 9, 2006,  
Including copies of: Determination of the Application of the Minimum Use Provision  
(original staff determination) and  
Application for Administrative Action - Minimum Use Determination
3. Boundary Survey - Plat showing Lots 2 - 7
4. Aerial of neighborhood - Showing Lots 2 -7
5. Lee County Property Appraiser Map (G.I.S.), Lots 2 - 7 highlighted
6. Future Land Use Map
7. Lee Plan Chapter XIII, Section b.
8. Draft Decision on Appeal



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May 22, 2006

Mr. John J. Fredyma, Esq.  
Assistant County Attorney  
Lee County Attorney's Office  
2115 Second Street  
Fort Myers, Florida 33901

2006 MAY 24 PM 4:11  
RECEIVED BY  
LEE CO. ATTORNEY

Re: Notice of Appeal of Administrative Interpretation of the Single-family Residents Provision of the Lee Plan for MUD2004-00198.

Dear Mr. Fredyma:

Please be advised that this law firm represents SG Investments, Inc. (Steve Gibboney) and Compass Rose Venture, LLC and hereby appeal your recent administrative interpretation regarding the single-family residence provision of the Lee Plan denying MUD2004-00198 (Lot 2). You have not properly applied the facts presented to the standards set forth in the Lee Plan for such administrative interpretations.

Grounds for Appeal

In your administrative interpretation, you stated that the applicant has demonstrated compliance with Lee Plan, Chapter XIII, Sections b.B.4.a(1) and (2) (Lee Plan Single-Family Residence Provision). However, you have indicated that the applicant has failed to demonstrate compliance with Sections b.B.4.a(3) regarding road access, and Section b.B.4.a(4) regarding Industrial Developments. Additionally, you have voluntarily consolidated the applicant's lot with five (5) other platted lots in the K.L. Swank's Subdivision, contrary to the applicant's right that each of the six identified lots be considered separately under the single-family residence provision.

1. Section b.B.4.a(3): Road Access

As required by Lee County to resolve the only issue in this MUD, the applicant applied for and obtained a Type 12 Limited Review Development Order to upgrade the existing gravel road on Ostego Drive with pavement and drainage improvements. Such improvements consist of paving the road, adding an 8" water main and stormwater drainage facilities to serve seven dwelling units. See Exhibit A (LDO2005-00302).

**Lee County approved MUD2004-00196 FOR Lot 1 of Swank's Subdivision finding that all criteria were met for single family residential approval.**



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Re: Notice of Appeal of Administrative Interpretation of the Single-family Residents Provision of the Lee Plan for MUD2004-00200.

Dear Mr. Fredyma:

Please be advised that this law firm represents SG Investments, Inc. (Steve Gibboney) and Compass Rose Venture, LLC and hereby appeal your recent administrative interpretation regarding the single-family residence provision of the Lee Plan denying MUD2004-00200 (Lot 3). You have not properly applied the facts presented to the standards set forth in the Lee Plan for such administrative interpretations.

Grounds for Appeal

In your administrative interpretation, you stated that the applicant has demonstrated compliance with Lee Plan, Chapter XIII, Sections b.B.4.a(1) and (2) (Lee Plan Single-Family Residence Provision). However, you have indicated that the applicant has failed to demonstrate compliance with Sections b.B.4.a(3) regarding road access, and Section b.B.4.a(4) regarding Industrial Developments. Additionally, you have voluntarily consolidated the applicant's lot with five (5) other platted lots in the K.L. Swank's Subdivision, contrary to the applicant's right that each of the six identified lots be considered separately under the single-family residence provision.

1. Section b.B.4.a(3): Road Access

As required by Lee County to resolve the only issue in this MUD, the applicant applied for and obtained a Type 12 Limited Review Development Order to upgrade the existing gravel road on Ostego Drive with pavement and drainage improvements. Such improvements consist of paving the road, adding an 8" water main and stormwater drainage facilities to serve seven dwelling units. See Exhibit A (LDO2005-00302).

**Lee County approved MUD2004-00196 FOR Lot 1 of Swank's Subdivision finding that all criteria were met for single family residential approval.**



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May 22, 2006

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Re: Notice of Appeal of Administrative Interpretation of the Single-family Residents Provision of the Lee Plan for MUD2004-00201.

Dear Mr. Fredyma:

Please be advised that this law firm represents SG Investments, Inc. (Steve Gibboney) and Compass Rose Venture, LLC and hereby appeal your recent administrative interpretation regarding the single-family residence provision of the Lee Plan denying MUD2004-00201 (Lot 4). You have not properly applied the facts presented to the standards set forth in the Lee Plan for such administrative interpretations.

Grounds for Appeal

In your administrative interpretation, you stated that the applicant has demonstrated compliance with Lee Plan, Chapter XIII, Sections b.B.4.a(1) and (2) (Lee Plan Single-Family Residence Provision). However, you have indicated that the applicant has failed to demonstrate compliance with Sections b.B.4.a(3) regarding road access, and Section b.B.4.a(4) regarding Industrial Developments. Additionally, you have voluntarily consolidated the applicant's lot with five (5) other platted lots in the K.L. Swank's Subdivision, contrary to the applicant's right that each of the six identified lots be considered separately under the single-family residence provision.

1. Section b.B.4.a(3): Road Access

As required by Lee County to resolve the only issue in this MUD, the applicant applied for and obtained a Type 12 Limited Review Development Order to upgrade the existing gravel road on Ostego Drive with pavement and drainage improvements. Such improvements consist of paving the road, adding an 8" water main and stormwater drainage facilities to serve seven dwelling units. See Exhibit A (LDO2005-00302).

**Lee County approved MUD2004-00196 FOR Lot 1 of Swank's Subdivision finding that all criteria were met for single family residential approval.**



A LEGAL PROFESSIONAL ASSOCIATION

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Re: Notice of Appeal of Administrative Interpretation of the Single-family Residents Provision of the Lee Plan for MUD2004-00202.

Dear Mr. Fredyma:

Please be advised that this law firm represents SG Investments, Inc. (Steve Gibboney) and Compass Rose Venture, LLC and hereby appeal your recent administrative interpretation regarding the single-family residence provision of the Lee Plan denying MUD2004-00202 (Lot 5). You have not properly applied the facts presented to the standards set forth in the Lee Plan for such administrative interpretations.

Grounds for Appeal

In your administrative interpretation, you stated that the applicant has demonstrated compliance with Lee Plan, Chapter XIII, Sections b.B.4.a(1) and (2) (Lee Plan Single-Family Residence Provision). However, you have indicated that the applicant has failed to demonstrate compliance with Sections b.B.4.a(3) regarding road access, and Section b.B.4.a(4) regarding Industrial Developments. Additionally, you have voluntarily consolidated the applicant's lot with five (5) other platted lots in the K.L. Swank's Subdivision, contrary to the applicant's right that each of the six identified lots be considered separately under the single-family residence provision.

1. Section b.B.4.a(3): Road Access

As required by Lee County to resolve the only issue in this MUD, the applicant applied for and obtained a Type 12 Limited Review Development Order to upgrade the existing gravel road on Ostego Drive with pavement and drainage improvements. Such improvements consist of paving the road, adding an 8" water main and stormwater drainage facilities to serve seven dwelling units. See Exhibit A (LDO2005-00302).

**Lee County approved MUD2004-00196 FOR Lot 1 of Swank's Subdivision finding that all criteria were met for single family residential approval.**



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Re: Notice of Appeal of Administrative Interpretation of the Single-family Residents Provision of the Lee Plan for MUD2004-00203.

Dear Mr. Fredyma:

Please be advised that this law firm represents SG Investments, Inc. (Steve Gibboney) and Compass Rose Venture, LLC and hereby appeal your recent administrative interpretation regarding the single-family residence provision of the Lee Plan denying MUD2004-00203 (Lot 6). You have not properly applied the facts presented to the standards set forth in the Lee Plan for such administrative interpretations.

Grounds for Appeal

In your administrative interpretation, you stated that the applicant has demonstrated compliance with Lee Plan, Chapter XIII, Sections b.B.4.a(1) and (2) (Lee Plan Single-Family Residence Provision). However, you have indicated that the applicant has failed to demonstrate compliance with Sections b.B.4.a(3) regarding road access, and Section b.B.4.a(4) regarding Industrial Developments. Additionally, you have voluntarily consolidated the applicant's lot with five (5) other platted lots in the K.L. Swank's Subdivision, contrary to the applicant's right that each of the six identified lots be considered separately under the single-family residence provision.

1. Section b.B.4.a(3): Road Access

As required by Lee County to resolve the only issue in this MUD, the applicant applied for and obtained a Type 12 Limited Review Development Order to upgrade the existing gravel road on Ostego Drive with pavement and drainage improvements. Such improvements consist of paving the road, adding an 8" water main and stormwater drainage facilities to serve seven dwelling units. See Exhibit A (LDO2005-00302).

**Lee County approved MUD2004-00196 FOR Lot 1 of Swank's Subdivision finding that all criteria were met for single family residential approval.**





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Re: Notice of Appeal of Administrative Interpretation of the Single-family Residents Provision of the Lee Plan for MUD2004-00204.

Dear Mr. Fredyma:

Please be advised that this law firm represents SG Investments, Inc. (Steve Gibboney) and Compass Rose Venture, LLC and hereby appeal your recent administrative interpretation regarding the single-family residence provision of the Lee Plan denying MUD2004-00204 (Lot 7). You have not properly applied the facts presented to the standards set forth in the Lee Plan for such administrative interpretations.

Grounds for Appeal

In your administrative interpretation, you stated that the applicant has demonstrated compliance with Lee Plan, Chapter XIII, Sections b.B.4.a(1) and (2) (Lee Plan Single-Family Residence Provision). However, you have indicated that the applicant has failed to demonstrate compliance with Sections b.B.4.a(3) regarding road access, and Section b.B.4.a(4) regarding Industrial Developments. Additionally, you have voluntarily consolidated the applicant's lot with five (5) other platted lots in the K.L. Swank's Subdivision, contrary to the applicant's right that each of the six identified lots be considered separately under the single-family residence provision.

1. Section b.B.4.a(3): Road Access

As required by Lee County to resolve the only issue in this MUD, the applicant applied for and obtained a Type 12 Limited Review Development Order to upgrade the existing gravel road on Ostego Drive with pavement and drainage improvements. Such improvements consist of paving the road, adding an 8" water main and stormwater drainage facilities to serve seven dwelling units. See Exhibit A (LDO2005-00302).

**Lee County approved MUD2004-00196 FOR Lot 1 of Swank's Subdivision finding that all criteria were met for single family residential approval.**

At the direction of Lee County the applicant has expended significant time and funds to obtain this limited development order approval, and will expend even more funds in actually improving the road and installing a new water line. The fees expended to date are approximately \$16,230, which includes filing fees for the limited development order, engineers contract for services, and additional engineering services. It is projected that the applicant will expend \$19,500 for expenses related to the water line. Therefore, the applicant will or has expended \$35,780.00, which does not include construction of the road. The applicant applied for LDO2005-00302 in June of 2005 and received approval in February of 2006. The applicant spent eight (8) months of time and money seeking this development order based on correspondence with the Lee County Community Development Department, which indicated that MUD2004-00198 would be approved upon the completion of LDO2005-00302. See Exhibit B (E-mail correspondence with Lee County Planner, Peter C. Blackwell that asks the County Attorney's Office to approve the MUD contingent upon road access) and Exhibit C (Timeline). Further, evidence that the County assured approval of a single-family home on each of the applicant's platted lots, and that the applicant relied on such assurance is the LDO2005-00302 approval which states, "[a]pproved for construction of 360±L/F of two lane local street to serve seven homes, with an 8" water main and stormwater drainage facilities." (See Exhibit A). The applicant has relied in good faith on the Lee County Community Development Department's representations regarding approval of MUD2004-00198 subject to road access. Denial of MUD2004-00198 would be unjust considering that the applicant has relied on such representation and has expended significant time and money in pursuit of obtaining approval of LDO2005-00302. The applicant is ready, willing and able to construct the improvements pursuant to LDO2005-00302.

Moreover, a denial of a single-family residence for the subject lot based solely on the fact that the road has yet to be improved would constitute an unconstitutional taking of the property. The Lee Plan provides a concession to applicants such as this owner who cannot at the time of application for minimum use determination meet the requirements for access and drainage. Section b.B.4.a(3) states that the requirement for road access and drainage does not apply to the extent that it will result in a taking of the property. See Lee Plan Ch. XIII at Section b.B.4.a(3).

2. Section b.B.4.a.(4): Industrial Development

You have determined that Lot 2 located within K.L. Swank's Subdivision is suitable for a non-residential use. Lee Plan, Chapter XIII, Section b.B.a(4) provides that:

[A] residential use must be the only reasonable use of the lot or parcel. The existence of a reasonable commercial or industrial use shall be determined by reference to all of the applicable facts and circumstances, including, but not limited to the nature of the surrounding uses, 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 be provided to serve a commercial or industrial use at the location in question." See Lee Plan, Chapter XIII, Section b.B.a(4).

a. Nature of surrounding uses

You have indicated in your administrative determination that the surrounding uses are both commercial and industrial. However, your description of the surrounding uses does not accurately reflect what exists surrounding the subject lot. Across the street (Ostego Drive) to the east of the subject lot is San Carlos Island Maritime Park, which is zoned Community Facilities Planned Development (CFPD) district and Industrial Planned Development (IPD) with a Public Facilities land use. This park includes a nature camp and recreational area. The entrance to the Ostego Foundation and Marine Institute states "Kids First". Immediately adjacent to them Maritime Park (to the east) and also north and northeast of the park is residential single family homes. [Note that the park was approved for a nature trail along the entire east boundary, a passive recreation area on the north boundary line, and an auditorium all of which are in the keeping with the ambiance of San Carlos Island]. The subject lot as well as Lots 3, 4, 5, 6, and 7 of K.L. Swank's Subdivision serve as the transition point from more industrial/commercial type uses to residential uses.

The commercial and industrial uses in the surrounding area exist on much larger and thus more suitable lots for this type of development than the 4250 square feet contained within the subject lot. Nearby lots that are of similar size and character to the subject lot are residential.

Moreover, a single-family residence has already been approved pursuant to MUD2004-00196. See Exhibit D (MUD2004-00196). MUD2004-00196 is Lot 1 of K.L. Swank's Subdivision. This lot is located in the same subdivision as the subject Lot 2 and has the same future land use classification of Industrial Development. Additionally, the zoning of Lot 1 is RM-2 as is the zoning of Lot 2. Lot 1 (MUD2004-00196) was found to be *consistent* with the minimum use provision of the Lee Plan. Across Main Street is an existing single family home located on Lot 13 of Swank's Subdivision.

b. Adequacy of the lot size

Your administrative determination failed to look at the adequacy of the lot size for nonresidential development. Based on the size of Lot 2, **residential use of the lot is the only reasonable use of the lot or parcel.** The subject lot is 4250 square feet (50 feet x 85 feet). The property development regulations for industrial districts require a minimum lot size of two (2) acres (200 feet x 200 feet) where the lot is not located within an industrial subdivision. See LDC, Sec. 34-844. Additionally, the industrial districts property development regulations require side yard setbacks of twenty (20) feet, rear yard setbacks of fifteen (15) feet, and street setbacks of twenty-five (25) feet. LDC, Sec. 34-904 and Sec. 34-2192. Therefore, there will only be a 10 foot wide by 45 foot deep development envelope. This development envelope is insufficient for any industrial use

as has been recognized by the Lee County Division of Community Development by approval of MUD2004-00196.

A minimum lot size of between 7500 and 20000 square feet is required for nonresidential development within a commercially zoned district. See LDC, Sec. 34-844. A commercially zoned lot requires a side setback of ten (10) to twenty (20) feet, and a rear yard setback of twenty (20) to twenty-five (25) feet. A street setback of twenty-five (25) feet is also required. See LDC, Sec. 34-904 and 34-2192. Therefore, a 4250 square foot platted lot that is 50 feet by 85 feet, would be insufficient for development with nonresidential commercial based on the Lee County Land Development Code's property development regulations for nonresidential commercial. Residential use is the only reasonable use for the subject 4250 square foot lot in the K.L. Swank's Subdivision.

c. Adequate infrastructure for Commercial or Industrial development

As mentioned above, the applicant has been approved for a limited development order to improve the road and drainage for residential development. The existing infrastructure and planned infrastructure are not suitable for commercial or industrial development. Moreover, it is unreasonable to request that an applicant expend even more funds to upgrade the infrastructure to that suitable for commercial or industrial development where the subject lot is only 4250 square feet and truly only suitable for a single-family residential home.

d. Rezoning

As mentioned above, the applicant's lot is zoned residential RM-2. In order to place a nonresidential use such as commercial or industrial on the subject lot, the applicant would have to rezone the lot which meets none of the standards for industrial or commercial. The County has acknowledged that the subject lot is appropriate for a residential zoning. (See Exhibit E-Zoning Resolution Z-76-59 which rezones the subject property from GU to RU-3).

3. Consolidation of applicant's parcels

Applicant objects to and appeals the involuntary consolidation of the subject lot with five (5) other platted lots. A minimum use determination application was submitted for each of Lots 2, 3, 4, 5, 6, and 7. Chapter XIII of the Lee Plan does not require the consolidation of platted lots to obtain a minimum use determination. Chapter XIII has long been interpreted to grant *each platted lot one single family home provided that the lot* (1) was created and recorded in the official Plat Books of Lee County prior to December 21, 1984, (2) has a minimum of 4000 square feet and (3) has adequate access and drainage. (See Exhibit F: MUD2004-00264 through MUD2004-00281 where contiguous lots owned by Seahorse Community, Inc. were approved for a single-family residence on each lot subject to obtaining road access. These parcels were

approximately the same size as the subject applicant's lots). As noted in the minimum use determination applications, *each* of Lots 2, 3, 4, 5, 6, and 7 were created in 1946 pursuant to recordation of the K.L. Swank's Subdivision plat in the Public Records of Lee County (Plat Book 8, Page 81). As noted above and in the minimum use determination applications, the subject Lot 2 is 4250 square feet. In addition, the subject lot will be provided with sufficient access and drainage pursuant to LDO2005-00302. **Therefore, each lot is entitled to a single family home.**

It is noted that Lee Plan, Chapter XIII, Section b.B.4.b(3) states:

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 reapportionment 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 reapportionment and as long as the density will not increase. (italics and bold added for emphasis). See Lee Plan, Chapter XIII, Section b.B.4.b(3).

Therefore, it is the property owner (applicant) who retains the right to consolidate his/her lots, and not the County. In this instance, the applicant **does not** wish to reapportion the property as evidenced by the submittal of a separate minimum use determination application for each platted lot. Moreover, the Lee Plan encourages reapportionment (**by the property owner**) to meet the property development regulations standards **for the zoning district in which the property is located**. The applicant's platted lots are located in the **RM-2 zoning district** where the minimum lot size required is 6500 square feet (The County Attorney's Office has indicated that Lot 7 is zoned AG-2; however, Z-76-59 (Exhibit E) rezoned Lots 1 through 7 of K.L. Swank's Subdivision to RU-3 which is RM-2 as converted). Nothing in the Lee Plan gives the County the authority to reapportion the applicant's lots so that a commercial or industrial use may be placed on the property where each lot is entitled to a single-family residence pursuant to the standards for administrative interpretation (Lee Plan, Chapter XIII).

Moreover, the combined parcel (Lots 2 through 7 of K.L. Swank's Subdivision) has an impossible shape for industrial purposes due to the constricted depth. Parcels outside of an industrial subdivision are required to have a minimum of two acres and the minimum of 200 feet footage and 200 feet depth because they have to provide for on-site drainage and open space and sufficient land for on-site industrial structure. Each parcel has always been residential; approved by the County for residential; and developed as residential. None of the subject lots have been in an industrial subdivision.

The building envelope of the "consolidated parcel created by the County Attorney's Office" is 45 feet (85 feet less street and rear setback) x 260 feet (300 feet less two side setbacks) resulting in a peculiar shaped building envelope of 11,700 square feet. This is a mere fraction of the minimum Lee County requirements for industrial development which would

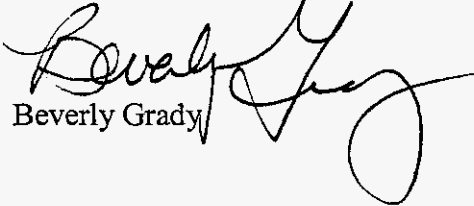
John Fredyma  
May 22, 2006  
Page 6

be 160 feet (200 feet less street and rear setback) x 160 feet (200 feet less two side setbacks) or a 26,600 square foot building envelope on a square shaped parcel. Attached is the subdivision plat illustrating the remaining peculiar and unusable building envelope when the setbacks are applied (Exhibit G). Please note that the "combined parcel" is immediately adjacent to an approved MUD for single family and existing single family across Main Street.

Please schedule the appeal of these single-family residence determinations before the Board of County Commissioners at a suitable time. Additionally, please distribute copies of this Notice of Appeal to each Commissioner prior to the appeal hearing. If you have any questions or concerns, please do not hesitate to contact me.

Very truly yours,

ROETZEL & ANDRESS, LPA



Beverly Grady

BG/KJH

Attached:

Exhibit A	LDO2005-00302
Exhibit B	County/Applicant E-mail
Exhibit C	Timeline of obtaining LDO
Exhibit D	MUD2004-00196
Exhibit E	Z-76-59
Exhibit F	MUD2004-00264 through MUD2004-00281
Exhibit G	K.L. Swank's Subdivision Plat



**LEE COUNTY**  
SOUTHWEST FLORIDA

EXHIBIT A

BOARD OF COUNTY COMMISSIONERS

Writer's Direct Dial Number: \_\_\_\_\_

Bob James  
District One

Douglas R. St. Cerny  
District Two

Ray Judah  
District Three

Tammy Hall  
District Four

John E. Albion  
District Five

Donald D. Stivell  
County Manager

David M. Owan  
County Attorney

Diana M. Parker  
County Hearing  
Examiner

February 8, 2006

ASHLEY MASS  
DDA ENGINEERS - PLANNERS, INC.  
2037 WEST FIRST STREET  
FORT MYERS, FL 33901

RE: MAIN STREET  
LDO2005-00302 - TYPE 12 Limited Review (insignificant impacts)  
LP1 App1 (paperwork LDO resub)

Dear ASHLEY MASS:

Your application for a Land Development Code TYPE 12 Limited Review (insignificant impacts) Resubmittal has been approved for a Development Order with stipulation(s) for an Improvement to land with insignificant impact for the following:

Approved for construction of 360 +/- L.F. of two lane local street to serve seven homes, with an 8" water main and stormwater drainage facilities.  
[CNC2006-00040]

Approval is subject to the following stipulation(s) and/or comment(s):

**LE Environmental Sciences Short Checklist**

1) The reviewer may be contacted for additional information regarding this project.

Please contact Jason Lamey at (239) 479-8522 or via j.lamey@leegov.com with any questions that you may have.

2) Miscellaneous Items:

Prior to any site work, a Vegetation Removal Permit must be obtained from the Division of Environmental Sciences (239-479-8389).

This approval does not relieve the development from the responsibility to obtain all necessary Federal, State and local permits.

DDA ENGINEERS - PLANNERS, INC.

Page 2

MAIN STREET  
LDO2005-00302  
February 8, 2006

If you have any questions concerning this matter, please contact this office.

Sincerely,

DEPARTMENT OF COMMUNITY DEVELOPMENT  
Development Services Division



Peter J. Eckenrode  
Development Services Director

PJE/BGR

attachments: Four (4) plan sets



**SITE DEVELOPMENT PLANS  
FOR  
GIBBONEY MAIN STREET  
FORT MYERS BEACH, FLORIDA**

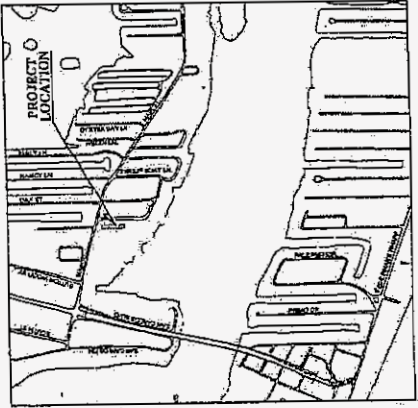
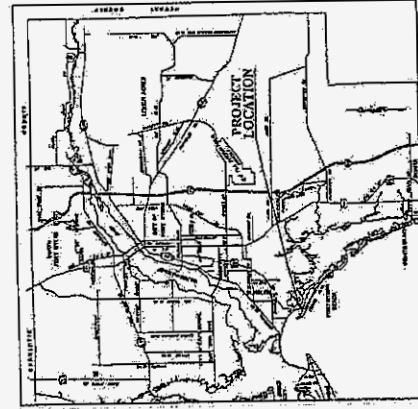
**SECTION 19, TOWNSHIP 46 SOUTH, RANGE 24 EAST  
LEE COUNTY, FLORIDA**

**INDEX OF DRAWINGS**

DESCRIPTION	FILE NAME
1 COVER SHEET AND LOCATION MAP	(01) COVER SHEET
2 ZONING	(02) ZONING MAP.DWG
3 PAVING CONDITIONS & AERIAL PHOTO	(03) PAVING.DWG

**CONSULTANT CONTACT**

CONTRACT: 0148 BUDSHEA GURIGOUS; PROJECT MANAGER  
 DDA ENGINEERS - PLANNERS, INC.  
 PHONE: (813) 337-2235  
 FAX:



**ZONING**  
R12

**STRAP NUMBERS**

14-46-24-08-000000019  
 14-46-24-08-000000020  
 14-46-24-08-000000021  
 14-46-24-08-000000022

**OWNER / DEVELOPER:**

CLEMEN, COASTSIDE ROSE VENTURE, LLC  
 ADDRESS: 3708 NORTH OCEAN BLVD, SUITE 400  
 FORT LAUDERDALE, FL 33304  
 PHONE: (954) 883-3443  
 FAX: (954) 883-3443

**PLAN STATUS**

PERMITTING  
 NOT FOR CONSTRUCTION

**DDA ENGINEERS - PLANNERS, INC.**

2037 West First Street, Fort Myers, Florida 33901  
 Ph. 239-637-3330, Fax 239-337-7235  
 E-mail: ddaplanning@earthlink.net



JUNE, 2005  
 DDA JOB NO. 050017  
 The City of Fort Myers, Florida, FL 33901

State of Florida  
 Professional Engineer



**ENGINEERS, INC.**

10001 Biscayne Blvd., Suite 1000  
Miami, Florida 33138  
Tel: (305) 757-1234  
Fax: (305) 757-1234

**PROJECT DESCRIPTION:**  
Roadway Improvement  
Main Street, Gibonry Street

**LOCATED AT:**  
Main Street, Gibonry Street  
P.O. Box 1234  
Miami, Florida 33101

**OWNER / CLIENT:**  
Compass Rose  
Venture, LLC  
300 N. Ocean Blvd.  
Suite 400  
Fort Lauderdale, FL 33304

**PROJECT MANAGER:**  
R.D. (305) 555-1234  
FAX (305) 555-1234  
CONTACT PROJECT MGR.

**DATE:**  
10/20/2023



**LEGAL DECLARATION:**  
I, the undersigned, being a duly licensed Professional Engineer in the State of Florida, do hereby certify that I am the author of the design and content of this plan and that I am a duly licensed Professional Engineer in the State of Florida.

**REVISIONS:**

NO.	DESCRIPTION	DATE

**JOB# 050017**

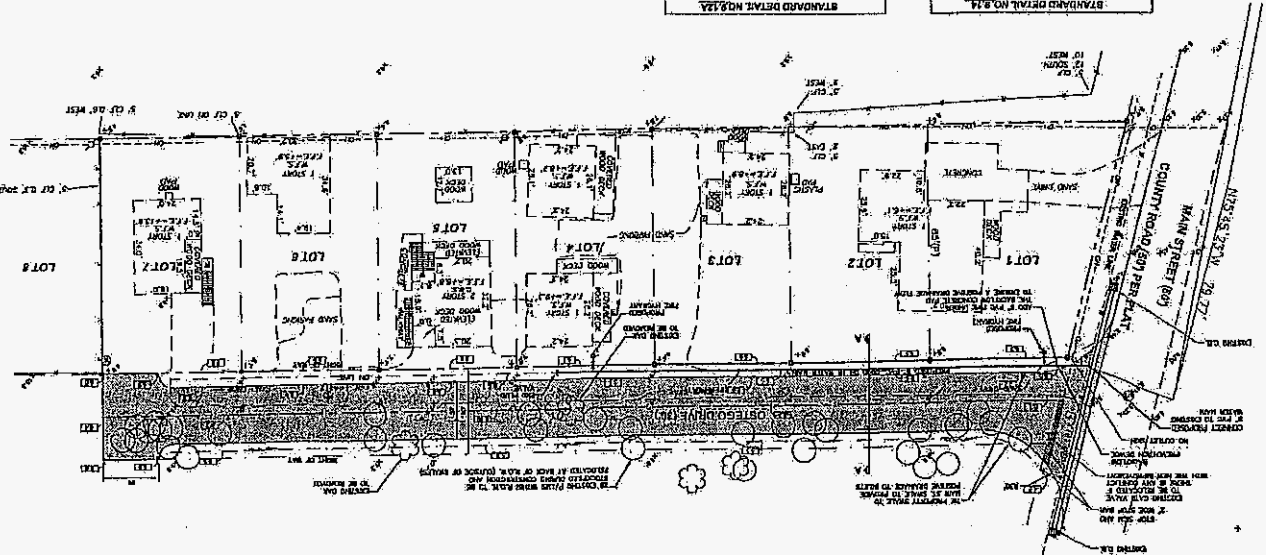
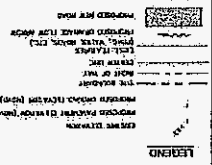
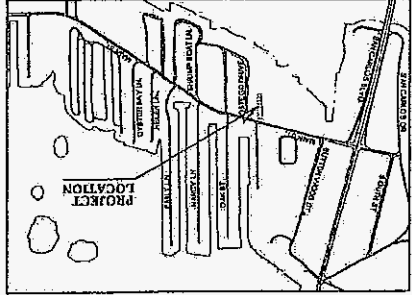
**DATE:**  
10/20/2023

**PROJECT NO.:**  
12345

**PROJECT NAME:**  
Roadway Improvement

**SHEET NO. 2 OF 3**

**PLAN STATES:**  
THIS PLAN IS TO BE USED IN CONNECTION WITH THE OTHER PLANS AND SPECIFICATIONS FOR THIS PROJECT.



- GENERAL NOTES:**
1. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS FROM THE APPROPRIATE AGENCIES.
  2. THE CONTRACTOR SHALL MAINTAIN ACCESS TO ALL ADJACENT PROPERTIES AT ALL TIMES.
  3. THE CONTRACTOR SHALL BE RESPONSIBLE FOR PROTECTING ALL EXISTING UTILITIES AND STRUCTURES.
  4. THE CONTRACTOR SHALL MAINTAIN ADEQUATE TRAFFIC CONTROL THROUGHOUT THE PROJECT.
  5. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION AND RESTORATION OF ALL ENVIRONMENTAL FEATURES.
  6. THE CONTRACTOR SHALL MAINTAIN RECORD DRAWINGS OF ALL WORK DONE.
  7. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION AND RESTORATION OF ALL EXISTING PAVEMENT AND CURBS.
  8. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION AND RESTORATION OF ALL EXISTING SIDEWALKS AND STAIRS.
  9. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION AND RESTORATION OF ALL EXISTING STORM DRAINAGE SYSTEMS.
  10. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION AND RESTORATION OF ALL EXISTING UTILITIES.

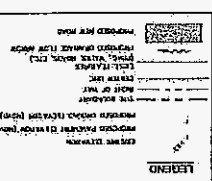
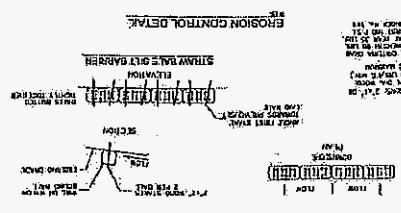
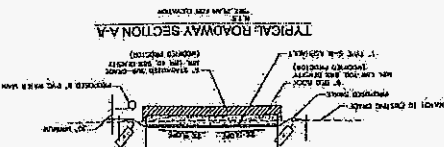
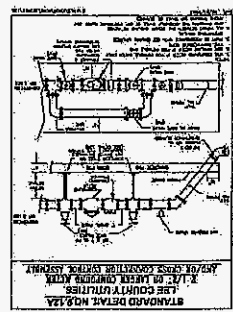
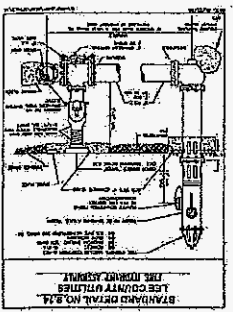




EXHIBIT B

**Grady, Beverly**

---

**From:** Grady, Beverly  
**Sent:** Tuesday, October 04, 2005 8:49 AM  
**To:** 'Peter Blackwell'  
**Subject:** RE: Ostego Drive MUDs

Thanks

---

**From:** Peter Blackwell [mailto:BLACKWPC@leegov.com]  
**Sent:** Tuesday, October 04, 2005 8:46 AM  
**To:** Grady, Beverly  
**Cc:** Nettie Richardson; Pam Houck; Louise, Catherine  
**Subject:** RE: Ostego Drive MUDs

Excellent! I look forward to the completion of this project. If you would let me know when your LDO is complete, I will be able to issue the MUDs.

Until then,

Peter C. Blackwell  
Planner, Division of Planning  
[Blackwpc@leegov.com](mailto:Blackwpc@leegov.com)  
(239) 479-8312  
FAX (239) 479-8319

>>> "Grady, Beverly" <BGrady@ralaw.com> 10/04/05 08:43AM >>>  
Peter,

I just forwarded an email from our engineer Steve Hurley to you but I see that my assumption that your email address was the letter of your first name and then last name was wrong. Steve Hurley said that the only outstanding item for the LDO was a fire issue that has been resolved and his office will be submitting a resubmittal for the LDO. So we will be looking for issuance of the LDO which will permit you to issue the MUD's.

Thanks  
Beverly

---

**From:** Peter Blackwell [mailto:BLACKWPC@leegov.com]  
**Sent:** Monday, October 03, 2005 1:02 PM  
**To:** Grady, Beverly  
**Cc:** Nettie Richardson; Pam Houck  
**Subject:** RE: Ostego Drive MUDs

Ms. Grady,

I am writing once again you in order to settle the issue of pending MUD cases on Osetgo Drive on San Carlos Island. All of the following cases are not able to be approved due to the

unacceptable road conditions of Ostego Drive:

MUD2004-198  
MUD2004-200  
MUD2004-201  
MUD2004-202  
MUD2004-203  
MUD2004-204

I realize that you have filed an application for a permit to address the road issues (LDO2005-00302), but this has been denied. Are you planning to bring this roadway into conformance with the Lee Plan any time in the near future? If not, I will have to recommend for denial.

Feel free to contact me if you have any questions.

Sincerely,

Peter C. Blackwell  
Planner, Division of Planning  
[Blackwpc@leegov.com](mailto:Blackwpc@leegov.com)  
(239) 479-8312  
FAX (239) 479-8319

**Haynie, K'Shana**

---

**From:** Blackwell, Peter C. [BLACKWPC@leegov.com]  
**Sent:** Tuesday, May 23, 2006 2:24 PM  
**To:** Haynie, K'Shana  
**Subject:** FW: Upcoming (old) MUDs

Ms Haynie,

This is the probably the best email for you. It traces the events leading up to the cases being sent to the County Attorneys.

Peter Blackwell

-----Original Message-----

**From:** "EX:/o=Lee County Organization/ou=Exchange Admin Group/cn=Recipients/cn=FREDYMJJ92897044"@LEEDOM1.API  
**Sent:** Monday, February 20, 2006 3:45 PM  
**To:** Blackwell, Peter C.  
**Subject:** RE: Upcoming (old) MUDs

Thanks, I think.

John J. Fredyma  
Assistant County Attorney  
Lee County Attorney's Office  
P.O. Box 398  
Fort Myers, Florida 33902  
(2115 Second Street - 33901)  
Tel. 239/335-2236  
Fax 239/335-2606  
E-mail: fredymjj@leegov.com [Note: There is no "a" in the e-mail spelling of Fredyma.]

-----Original Message-----

**From:** Blackwell, Peter C.  
**Sent:** Monday, February 20, 2006 3:29 PM  
**To:** Fredyma, John J.  
**Cc:** Richardson, Nettie M.  
**Subject:** RE: Upcoming (old) MUDs

John,

Excellent. I shall write these up as recommendatins of denial as I always do in this situation and you should start seeing them soon, hopefully tomorrow.

Thanks a lot.

Peter C. Blackwell  
Planner, Division of Planning  
Blackwpc@leegov.com

(239) 479-8312  
FAX (239) 479-8319

>>> Fredyma, John J. 02/20/06 03:26PM >>>  
Peter,

I checked with Tim and he said "okay." Go ahead and process the MUD's as you've described.

Thanks.

John

John J. Fredyma  
Assistant County Attorney  
Lee County Attorney's Office  
P.O. Box 398  
Fort Myers, Florida 33902  
(2115 Second Street - 33901)  
Tel. 239/335-2236  
Fax 239/335-2606  
E-mail: fredymjj@leegov.com [Note: There is no "a" in the e-mail spelling of Fredyma.]

---

From: Peter Blackwell [mailto:BLACKWPC@leegov.com]  
Sent: Monday, February 20, 2006 10:33 AM  
To: Fredyma, John J.  
Cc: Richardson, Nettie M.  
Subject: Upcoming (old) MUDs

Mr. Fredyma,

I have a number of MUD cases sitting on my desk that are currently not approvable due to insufficient road access. The reason that they have not been sent to your office in the past is that in these cases, the various applicants have also applied for limited development orders to bring the roads up to an

5/24/2006

acceptable quality. However, in these cases, the development orders seemed to have bogged down and I have a bunch of cases going nowhere.

Since you have recently completed some old cases with approvals contingent upon road access, I was wondering if it would be possible to do the same with these cases. It would provide closure on the MUDs while also keeping the burden of compliance back upon the applicant.

Please let me know if this is acceptable to you.

Sincerely,

Peter C. Blackwell  
Planner, Division of Planning  
Blackwpc@leegov.com  
(239) 479-8312  
FAX (239) 479-8319



**Haynie, K'Shana**

---

**From:** Louise, Catherine  
**Sent:** Thursday, May 11, 2006 9:45 AM  
**To:** 'Fredyma, John J.'  
**Cc:** Haynie, K'Shana  
**Subject:** RE: Ostego Drive Improvements/MUDs

**337-0970 FAX - Thank you.**

---

**From:** Fredyma, John J. [mailto:FREDYMJJ@leegov.com]  
**Sent:** Thursday, May 11, 2006 9:38 AM  
**To:** Louise, Catherine; Blackwell, Peter C.  
**Cc:** Haynie, K'Shana  
**Subject:** RE: Ostego Drive Improvements/MUDs

Please give me a fax number and I will fax over a copy of the determination.

The Single Family Residence Determination was a denial for all six cases. Under the terms of the Lee Plan, it is not appropriate for the residential uses in the Industrial Future Land Use Category.

John

John J. Fredyma

Assistant County Attorney

Lee County Attorney's Office

P.O. Box 398

Fort Myers, Florida 33902

(2115 Second Street - 33901)

Tel. 239/335-2236

Fax 239/335-2606

E-mail: [fredymjj@leegov.com](mailto:fredymjj@leegov.com) [Note: There is no "a" in the e-mail spelling of Fredyma.]

**From:** Catherine Louise [mailto:CLouise@ralaw.com]  
**Sent:** Thursday, May 11, 2006 9:32 AM  
**To:** Fredyma, John J.; Blackwell, Peter C.  
**Cc:** K'Shana Haynie  
**Subject:** RE: Ostego Drive Improvements/MUDs

**Any progress on these determinations?  
Tomorrow is my last day, so after that please correspond with Ms. Haynie.  
Thank you.**

---

**From:** Peter Blackwell [mailto:BLACKWPC@leegov.com]  
**Sent:** Monday, April 24, 2006 2:13 PM  
**To:** Louise, Catherine  
**Cc:** John Fredyma  
**Subject:** Re: Ostego Drive Improvements/MUDs

Ms. Louise,

Your MUD cases are currently under review by John Fredyma of the County Attorneys Office. I have asked him to review the cases with the intent to an approval contingent upon sufficient road access. This would allow the MUDs to be issued without having to wait on the LDO to be finished.

Feel free to contact me if you have any questions.

Sincerely,

Peter C. Blackwell  
Planner, Division of Planning  
[Blackwpc@leegov.com](mailto:Blackwpc@leegov.com)  
(239) 479-8312  
FAX (239) 479-8319

>>> "Louise, Catherine" <CLouise@ralaw.com> 04/21/06 05:06PM >>>

**Pete, the LDO was issued on Feb 8, 2006, for the improvements to Ostego Drive/Main Street. Can we expect approval of the MUDs anytime soon?**

**MUD2004-00198, 200, 201, 202, 203, 204?**

**Thank you.**

Catherine Louise, CP  
Certified Paralegal  
ROETZEL & ANDRESS, LPA

EXHIBIT C

DETERMINATION OF  
THE APPLICATION OF THE  
MINIMUM USE PROVISION

CASE # MUD2004-00196

DATE RECEIVED BY ZONING DIVISION: 12/7/04

STRAP NUMBER: 19-46-24-05-00000.0010

APPLICANT: S G Investments c/o Bev Grady

OWNER: Sun Storms of Florida, Inc.

**OWNERSHIP**

- a) DATE WARRANTY DEED OR AGREEMENT FOR DEED RECORDED IN OWNER/PURCHASER NAME: September 1999
- b) PLACE RECORDED: OR Book 3212 Page 2606

**CREATION OF PARCEL**

- a) DATE PARCEL CREATED/RECORDED: March 1946
- b) PLACE RECORDED: Plat Book 8 Page 81
- 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

## EXHIBIT D

### TIMELINE

- 1946 Lee County Board of County Commissioner approved plat and Ostego Drive a public road , Plat Book 8, Page 81
- 1950's Single family dwelling units constructed on Lot 1 through 7
- 5/10/1976 Lee County Board of County Commissioner rezone subject lot to RU-3 for residential use.
- 1950's – current Dwelling unit occupied by family
- 12/2004 File application for MUD
- 1/2005 Approval of MUD2004-00196 for Lot 1
- 6/2005 Conference with Peter Eckenrode that improvement of Ostego Drive necessary to satisfy road access; direction to file LDO and then remaining 6 MUD's would be approved
- 6/2005 Dave Douglas & Associates file LDO 2005-0032 to improve access. Applicant expends \$16,230 to include County filing fees, engineering services, and installation of a new water line.
- 10/3/2005 Planning Department reviewer Pete Blackwell inquired as to the status of the LDO as the MUD cannot be approved "due to unacceptable road conditions".
- 12/4/2005 Response to Peter Blackwell that Dave Douglas & Associates stated only outstanding issue was resolving an issue with the Fire District.
- 10/4/2005 Lee County Planning Department response – **"Excellent! I look forward to completion of the project. If you would let me know when your LDO is complete, I will be able to issue the MUD's."**
- Oct/Nov/05 Property owner becomes ill and died
- 2/8/2006 Approval of LDO 2005-00302 by Lee County for "construction of two lane local street to serve seven homes, with an 8" water main and stormwater facilities.

# K. L. SWANK'S SUBDIVISION

STATE OF FLORIDA, COUNTY OF LEE  
 FILED FOR RECORD  
 THIS DAY OF  
 IN BOOK  
 AND RECORDED  
 PAGE 8, AND RECORDED  
 D. T. FARBER, CLERK OF CIRCUIT COURT  
 DISTRICT CLERK

110224

PFB 8, PGE. 81

EXHIBIT B

**DESCRIPTION**— Begin at the NW corner of Section 19, T. 46 South, Range 24 East, hence East 300 feet; thence South to the North shore of Ostego Bay; thence Northwesterly along said shore to point West of beginning; thence North to the East Boundary of Block 11 of SAN CARLOS-ON-THE-GULF as per plat thereof recorded in Flat Book 6 of the Public Records of Lee County, Florida; thence Northwesterly along the side of said Block 11 to a point North of beginning; thence South to the point of beginning; subject to the dedicated public road running Easterly & Westerly across said land, together with all riparian rights thereto belonging; said land being described as Tract 10 of Government Lot 4, Sec. 19, T. 46 S., R. 24 E. on an unrecorded Plat of San Carlos Corporation property, prepared by Harry H. Davison, Surveyor.

**CERTIFICATE OF OWNERSHIP**  
 This is to certify that the undersigned owners of the land hereon described and how caused said land to be subdivided into lots and streets as shown, and said streets are hereby dedicated to the Public forever;  
 Signed, sealed and delivered in the presence of us:  
Kenneth L. Swank  
Arthur Q. Swank  
Kathleen F. Swank

STATE OF FLORIDA, COUNTY OF LEE, S.S.

I do hereby certify that on this 20th day of March, A.D. 1946, before me, the undersigned authority, personally appeared KENNETH L. SWANK and ARTHUR SWANK his wife, to me well known as the persons making the foregoing dedication, and they severally acknowledged the execution thereof to be their free act and deed for the uses and purposes therein stated.  
 Witness my hand and official seal, date of observance  
Arthur Q. Swank  
 Commission expires Mar 19, 1947, notary public.

THIS PLAT accepted this --- day of 1946 in open meeting of the Board of County Commissioners, Lee County, Florida.  
 Approved: W. H. ... CHAIRMAN  
... CLERK

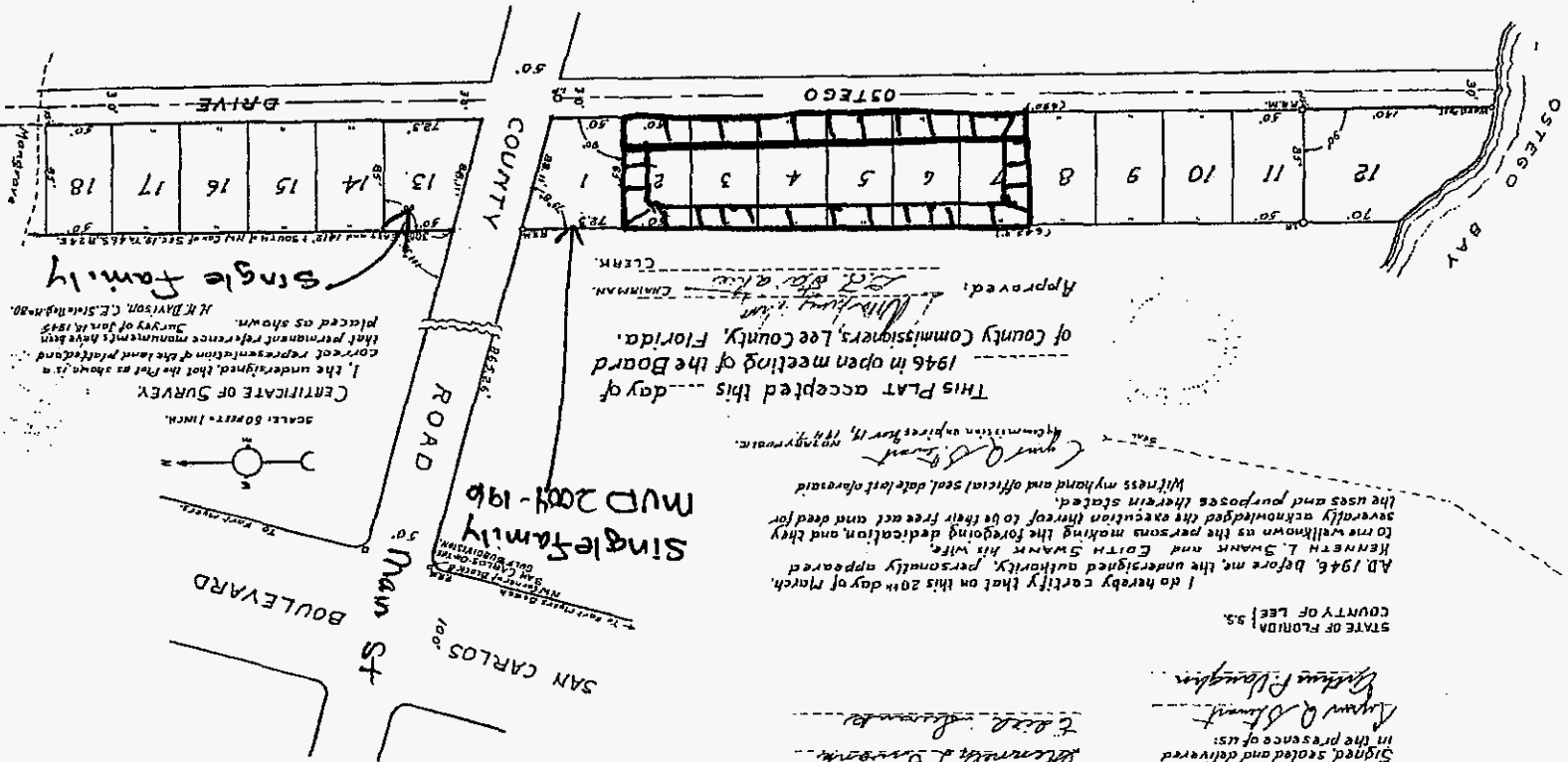


EXHIBIT F



PLAN of portion of St James City Lee County Florida as recorded in Plat Book N°1 page 26 and Blocks and Lots added thereto as additions thereof in place and in lieu of Revised Plat of St James City Lee County Florida, recorded in plat book 3 Page 31 & 32 which is hereby declared void and of no effect.  
 January 4, 1913  
*J. W. ...*  
 Scale 1" = 200'

Indicates Center of Section 2.

Petition to Vacate  
 Description: Vacation of part of plat St. James City  
 Date of Approval: 03/09/66  
 CCMB: 29 Page: 36

Petition to Vacate  
 Petition No: 92-18  
 Description: East 2000 of Meeting St. See CCMB  
 Date of Approval: 12/16/92  
 Resolution No: 92-12-108  
 CCMB: 1992R Page: 944  
 Recorder on: 01/14/83 OR Book: 2354  
 Page: 1398-1400

Petition to Vacate  
 Petition No: 98-08-277 02R  
 Description: Lots 1-24 & the 40ft St right of way  
 See CCMB  
 Date of Approval: 10/08/98  
 Resolution No: 98-10-24  
 CCMB: 1998R Page: 537  
 Recorder on: 12/28/98 OR Book: 2157 Page: 414-4157

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

CASE # MUD2005-00264

DATE RECEIVED BY ZONING DIVISION: 11/23/05

STRAP NUMBER: 02-46-22-05-00440.0240 (lots 24, 25, & 26)

APPLICANT: Seahorse Communities, Inc.

OWNER: Seahorse Communities, Inc.

**OWNERSHIP**

- a) DATE WARRANTY DEED OR AGREEMENT FOR DEED RECORDED IN OWNER/PURCHASER NAME: June 1998
- b) PLACE RECORDED: OR 2977 Book 3263

**CREATION OF PARCEL**

- a) DATE PARCEL CREATED/RECORDED: January 1913
- b) PLACE RECORDED: Plat Book 3 Page 35
  - 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
- b) CREATED PRIOR TO JUNE 27, 1962 AND HAS A MINIMUM OF 4,000 SQUARE FEET: YES  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
- 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

**LAND USE CATEGORY:** Suburban

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

**REAPPORTIONING LOTS:** YES  NO

**RECOMMENDATION:**

THE LOT IS CONSISTENT WITH THE MINIMUM USE PROVISION BASED ON THE FOLLOWING:

This lot was created by the combination of lots 24, 25, and 26, block 440, St. James City which was recorded in 1913 prior to the adoption of the Lee Plan or zoning regulations. The combined lot does not conform to the RS-1 zoning district but does exceed the 4,000 square foot minimum required by the Single Family Provision of the Lee Plan. The combined lot is accessed by Palm Avenue, a paved road with drainage swales. This lot, as combined, qualifies for one single family residence under the Single Family Provision of the Lee Plan.

BY: Pam Houck Dec. 5, 2005

Pam Houck, Director  
Division of Zoning  
Department of Community Development



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

**CASE #** MUD2005-00265

**DATE RECEIVED BY ZONING DIVISION:** 11/23/05

**STRAP NUMBER:** 02-46-22-05-00440.0240 (Lot 27)

**APPLICANT:** Seahorse Communities, Inc.

**OWNER:** Seahorse Communities, Inc.

**OWNERSHIP**

a) DATE WARRANTY DEED OR AGREEMENT FOR DEED RECORDED IN OWNER/PURCHASER NAME: June 1998

b) PLACE RECORDED: OR Book 2977 Page 3263

**CREATION OF PARCEL**

a) DATE PARCEL CREATED/RECORDED: January 1913

b) PLACE RECORDED: Plat Book 3 Page 35

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:** Suburban

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

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

**RECOMMENDATION:**

THE LOT IS CONSISTENT WITH THE MINIMUM USE PROVISION BASED ON THE FOLLOWING:

This lot was recorded in 1913 prior to the adoption of the Lee Plan or zoning regulations. The lot does not conform to the RS-1 zoning district but does exceed the 4,000 square foot minimum required by the Single Family Provision of the Lee Plan. The lot is accessed by Palm Avenue, a paved road with drainage swales. This lot qualifies for one single family residence under the Single Family Provision of the Lee Plan.

BY: Pam Houck Nov 30, 2005  
Pam Houck, Director  
Division of Zoning  
Department of Community Development

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

**CASE #** MUD2005-00266

**DATE RECEIVED BY ZONING DIVISION:** 11/23/05

**STRAP NUMBER:** 02-46-22-05-00-00440.0240 (Lot 28)

**APPLICANT:** Seahorse Communities, Inc.

**OWNER:** Seahorse Communities, Inc

**OWNERSHIP**

a) DATE WARRANTY DEED OR AGREEMENT FOR DEED RECORDED IN OWNER/PURCHASER NAME: June 1998

b) PLACE RECORDED: OR Book 2977 Page 3263

**CREATION OF PARCEL**

a) DATE PARCEL CREATED/RECORDED: January 1913

b) PLACE RECORDED: OR Book 3 Page 35

- 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:** Suburban

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

**REAPPORTIONING LOTS:** YES\_\_NO X

**RECOMMENDATION:**

THE LOT IS CONSISTENT WITH THE MINIMUM USE PROVISION BASED ON THE FOLLOWING:

This lot was recorded in 1913 prior to the adoption of the Lee Plan or zoning regulations. It does not conform to the RS-1 zoning regulations but does exceed the 4,000 square foot minimum required by the Single Family Provision of the Lee Plan. The lot is accessed by Palm Avenue, a paved road with drainage swales. This lot qualifies for one single family residence under the Single Family Provision of the Lee Plan.

BY: Pam Houck Nov 30, 2005

Pam Houck, Director  
Division of Zoning  
Department of Community Development

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

**CASE #** MUD2005-00267

**DATE RECEIVED BY ZONING DIVISION:** 11/23/05

**STRAP NUMBER:** 02-46-22-05-00440.0090 (Lot 18)

**APPLICANT:** Seahorse Communities, Inc.

**OWNER:** Seahorse Communities, Inc.

**OWNERSHIP**

- a) DATE WARRANTY DEED OR AGREEMENT FOR DEED RECORDED IN OWNER/PURCHASER NAME: February 2004
- b) PLACE RECORDED: OR Book 4203 Page 981

**CREATION OF PARCEL**

- a) DATE PARCEL CREATED/RECORDED: January 1913
- b) PLACE RECORDED: Plat Book 3 Page 35
  - 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
- b) CREATED PRIOR TO JUNE 27, 1962 AND HAS A MINIMUM OF 4,000 SQUARE FEET: YES  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
- 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

**LAND USE CATEGORY:** Suburban

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

**REAPPORTIONING LOTS:** YES  NO

**RECOMMENDATION:**

THE LOT IS CONSISTENT WITH THE MINIMUM USE PROVISION BASED ON THE FOLLOWING:

This lot was recorded in 1913 prior to the adoption of the Lee Plan or zoning regulations. It does not conform to the RS-1 zoning district but does exceed the 4,000 square foot minimum required by the Single Family Provision of the Lee Plan. The lot is accessed by Palm Avenue, a paved road with drainage swales. This lot qualifies for one single family residence under the Single Family Provision of the Lee Plan.

BY: Pam Houck Apr 30, 2005

Pam Houck, Director  
Division of Zoning  
Department of Community Development

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

**CASE #** MUD2005-00268

**DATE RECEIVED BY ZONING DIVISION:** 11/23/05

**STRAP NUMBER:** 02-46-22-05-00440.0090 (Lot 19)

**APPLICANT:** Seahorse Communities, Inc.

**OWNER:** Seahorse Communities, Inc.

**OWNERSHIP**

- a) DATE WARRANTY DEED OR AGREEMENT FOR DEED RECORDED IN OWNER/PURCHASER NAME: February 2004
- b) PLACE RECORDED: OR Book 4203 Page 981

**CREATION OF PARCEL**

- a) DATE PARCEL CREATED/RECORDED: January 1913
- b) PLACE RECORDED: Plat Book 3 Page 35
  - 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:** Suburban

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

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

**RECOMMENDATION:**

THE LOT IS CONSISTENT WITH THE MINIMUM USE PROVISION BASED ON THE FOLLOWING:

This lot was recorded in 1913 prior to the adoption of the Lee Plan or zoning regulations. It does not conform to the RS-1 zoning district but does exceed the 4,000 square foot minimum required by the Single Family Provision of the Lee Plan. The lot is accessed by Palm Avenue, a paved road with drainage swales. This lot qualifies for one single family residence under the Single Family Provision of the Lee Plan.

BY: Pam Houck Nov 30 2005  
Pam Houck, Director  
Division of Zoning  
Department of Community Development



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

**CASE #** MUD2005-00269

**DATE RECEIVED BY ZONING DIVISION:** 11/23/05

**STRAP NUMBER:** 02-46-22-05-00440.0090 (Lot 20)

**APPLICANT:** Seahorse Communities, Inc.

**OWNER:** Seahorse Communities, Inc

**OWNERSHIP**

- a) DATE WARRANTY DEED OR AGREEMENT FOR DEED RECORDED IN OWNER/PURCHASER NAME: February 2004
- b) PLACE RECORDED: OR Book 4203 Page 981

**CREATION OF PARCEL**

- a) DATE PARCEL CREATED/RECORDED: January 1913
- b) PLACE RECORDED: Plat Book 3 Page 35
  - 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
- b) CREATED PRIOR TO JUNE 27, 1962 AND HAS A MINIMUM OF 4,000 SQUARE FEET: YES  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
- 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

**LAND USE CATEGORY:** Suburban

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

**REAPPORTIONING LOTS:** YES  NO

**RECOMMENDATION:**

THE LOT IS CONSISTENT WITH THE MINIMUM USE PROVISION BASED ON THE FOLLOWING:

This lot was recorded in 1913 prior to the adoption of the Lee Plan and zoning regulations. It does not conform to the RS-1 zoning district but does exceed the 4,000 square foot minimum required by the Single Family Provision of the Lee Plan. The lot is accessed by Palm Avenue, a paved road with drainage swales. This lot qualifies for one single family residence under the Single Family Provision of the Lee Plan.

BY: Pam Houck 2005

Pam Houck, Director  
Division of Zoning  
Department of Community Development

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

**CASE #** MUD2005-00270

**DATE RECEIVED BY ZONING DIVISION:** 11/23/05

**STRAP NUMBER:** 02-46-22-05-00440.0090 (Lots 21 and 22)

**APPLICANT:** Seahorse Communities, Inc.

**OWNER:** Seahorse Communities, Inc.

**OWNERSHIP**

a) DATE WARRANTY DEED OR AGREEMENT FOR DEED RECORDED IN OWNER/PURCHASER NAME: February 2004

b) PLACE RECORDED: OR Book 4203 Page 981

**CREATION OF PARCEL**

a) DATE PARCEL CREATED/RECORDED: January 1913

b) PLACE RECORDED: Plat Book 3 Page 35

- 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:** Suburban


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

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

**RECOMMENDATION:**

THE LOT IS CONSISTENT WITH THE MINIMUM USE PROVISION BASED ON THE FOLLOWING:

This lot was created by the combination of lots 21 and 22, block 440, St. James City which was recorded in 1913 prior to the adoption of the Lee Plan or zoning regulations. The combined lot does not conform to the RS-1 zoning district but does exceed the 4,000 square foot minimum required by the Single Family Provision of the Lee Plan. The combined lot is accessed by Palm Avenue, a paved road with drainage swales. This lot, as combined, qualifies for one single family residence under the Single Family Provision of the Lee Plan.

BY:  2005  
Pam Houck, Director  
Division of Zoning  
Department of Community Development

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

**CASE #** MUD2005-00271

**DATE RECEIVED BY ZONING DIVISION:** 11/23/05

**STRAP NUMBER:** 02-46-22-05-00440.0090 (Lot 9)

**APPLICANT:** Seahorse Communities, Inc.

**OWNER:** Seahorse Communities, Inc.

**OWNERSHIP**

- a) DATE WARRANTY DEED OR AGREEMENT FOR DEED RECORDED IN OWNER/PURCHASER NAME: February 2004
- b) PLACE RECORDED: OR Book 4203 Page 981

**CREATION OF PARCEL**

- a) DATE PARCEL CREATED/RECORDED: January 1913
- b) PLACE RECORDED: Plat Book 3 Page 35
  - 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:** Suburban

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

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

**RECOMMENDATION:**

THE LOT IS CONSISTENT WITH THE MINIMUM USE PROVISION BASED ON THE FOLLOWING:

This lot was recorded in 1913 prior to the adoption of the Lee Plan or zoning regulations. The lot does not conform to the RS-1 zoning district but does exceed the 4,000 square foot minimum required by the Single Family Provision of the Lee Plan. The lot is accessed by Fifth Avenue, a paved road with drainage swales. This lot qualifies for one single family residence under the Single Family Provision of the Lee Plan.

BY: Pam Houck Nov 30, 2005  
Pam Houck, Director  
Division of Zoning  
Department of Community Development

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

CASE NO.: Minium Use Determination MUD2005-00272

DATE OF APPLICATION: 11/23/05

APPLICANT/  
OWNER: Seahorse Communities, Inc.  
Suite W  
3575 Bonita Beach Road  
Bonita Springs, Florida 34134

**RECEIVED**  
APR 17 2006

COMMUNITY DEVELOPMENT

AGENT: SRW Engineering, Inc.  
Suite 103  
8850 Terrene Court  
Bonita Springs, Florida 34135

PROPERTY IN QUESTION: 3245 Fifth Avenue, St. James City, more particularly described as:

Lot 10 in Block 440 of that certain subdivision known as St. James City, according to the map or plat thereof on file and recorded in the Office of the Clerk of the Circuit Court of Lee County, Florida, in Plat Book 3, Page 35.

STRAP NO.: 02-46-22-05-00440.0090 (Lot 10)

FINDINGS OF FACT:

The documentation provided with the application shows that the current owner acquired the parcel in September 2005, via a Warranty Deed recorded in the Public Records of Lee County in Instrument Number 2005000106931. For the purpose of calculating density, the parcel comprises approximately 0.1033 acres (4,500 sq. ft.) acres of land and is zoned RS-1. The parcel is located in the Suburban Future Land Use Category, which requires a minimum of 7,260 square feet per dwelling unit (maximum density is 6 dwelling units per acre). 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 was created as a separate parcel in January 1913, by virtue of a plat recorded in the Public Records of Lee County in Plat Book 3, Page 35.

The parcel is more than 4,000 square feet when created as a lot in 1913, prior to the regulation of zoning in Lee County on June 27, 1962.

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. This parcel fronts on Sappadillo Street, an unbuilt street extending in a north/south direction between Fourth and Fifth Avenue. This road is unimproved at the point where it fronts on the subject property. Based upon the documents and evidence provided by the applicant, the County has determined that Sappadillo Street at this location does not meet the Lee Plan Section XIII.b.B.4.a(3) standards for access.

#### DETERMINATION:

This parcel meets the requirements for a favorable administrative interpretation of the Single-family Residence provision, EXCEPT that Sappadillo Street at this location does not provide access or drainage in compliance with Lee Plan Section XII.b.B.4.a(3).

Accordingly, the owner is entitled to construct one single-family residence on the property, BUT ONLY AFTER compliance with the requirements to provide appropriate access and drainage, as determined by the Director of Development Services.

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

**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:

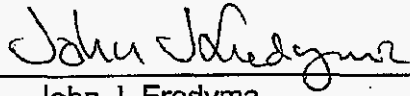
"An administrative interpretation may be appealed to the Board of County Commissioners by filing a written request within fifteen (15) days after the administrative interpretation has been made. In reviewing such an appeal, the Board will consider only information submitted in the administrative interpretation 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 Department of Community Development, 1500 Monroe Street, Fort Myers, Florida, along with the filing fee, no later than 15 days from the date of this Administrative Interpretation, stating the reasons for your disagreement.

Dated this 13<sup>th</sup> day of April, 2006.

LEE COUNTY ATTORNEY'S OFFICE  
AS ADMINISTRATIVE DESIGNEE

BY:   
John J. Fredyma  
Assistant County Attorney

JJF/mme

cc: Timothy Jones, Chief Assistant County Attorney  
Donald D. Stilwell, County Manager  
Paul O'Connor, Director, Planning Division  
Peter Blackwell, Planning Division  
Mary Gibbs, Director, DCD  
Pam Houck, Director, Zoning  
Julie Dalton, Property Appraiser's Office  
Janet Miller, DCD  
Tidemark

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

CASE NO.: Minium Use Determination MUD2005-00273

DATE OF APPLICATION: 11/23/05

APPLICANT/  
OWNER: Seahorse Communities, Inc.  
Suite W  
3575 Bonita Beach Road  
Bonita Springs, Florida 34134

**RECEIVED**  
APR 17 2006

COMMUNITY DEVELOPMENT

AGENT: SRW Engineering, Inc.  
Suite 103  
8850 Terrene Court  
Bonita Springs, Florida 34135

PROPERTY IN QUESTION: 3245 Fifth Avenue, St. James City, more particularly described as:

Lot 14 in Block 440 of that certain subdivision known as St. James City, according to the map or plat thereof on file and recorded in the Office of the Clerk of the Circuit Court of Lee County, Florida, in Plat Book 3, Page 35.

STRAP NO.: 02-46-22-05-00440.0090 (Lot 14)

FINDINGS OF FACT:

The documentation provided with the application shows that the current owner acquired the parcel in September 2005, via a Warranty Deed recorded in the Public Records of Lee County in Instrument Number 2005000106931. For the purpose of calculating density, the parcel comprises approximately 0.1033 acres (4,500 sq. ft.) acres of land and is zoned RS-1. The parcel is located in the Suburban Future Land Use Category, which requires a minimum of 7,260 square feet per dwelling unit (maximum density is 6 dwelling units per acre). 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 was created as a separate parcel in January 1913, by virtue of a plat recorded in the Public Records of Lee County in Plat Book 3, Page 35.

The parcel is more than 4,000 square feet when created as a lot in 1913, prior to the regulation of zoning in Lee County on June 27, 1962.

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. This parcel fronts on Sappadillo Street, an unbuild street extending in a north/south direction between Fourth and Fifth Avenue. This road is unimproved at the point where it fronts on the subject property. Based upon the documents and evidence provided by the applicant, the County has determined that Sappadillo Street at this location does not meet the Lee Plan Section XIII.b.B.4.a(3) standards for access.

#### DETERMINATION:

This parcel meets the requirements for a favorable administrative interpretation of the Single-family Residence provision, EXCEPT that Sappadillo Street at this location does not provide access or drainage in compliance with Lee Plan Section XII.b.B.4.a(3).

Accordingly, the owner is entitled to construct one single-family residence on the property, BUT ONLY AFTER compliance with the requirements to provide appropriate access and drainage, as determined by the Director of Development Services.

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

**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 Department of Community Development, 1500 Monroe Street, Fort Myers, Florida, along with the filing fee, no later than 15 days from the date of this Administrative Interpretation, stating the reasons for your disagreement.

Dated this 13<sup>th</sup> day of April, 2006.

LEE COUNTY ATTORNEY'S OFFICE  
AS ADMINISTRATIVE DESIGNEE

BY:   
\_\_\_\_\_  
John J. Fredyma  
Assistant County Attorney

JJF/mme

cc: Timothy Jones, Chief Assistant County Attorney  
Donald D. Stilwell, County Manager  
Paul O'Connor, Director, Planning Division  
Peter Blackwell, Planning Division  
Mary Gibbs, Director, DCD  
Pam Houck, Director, Zoning  
Julie Dalton, Property Appraiser's Office  
Janet Miller, DCD  
Tidemark

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

CASE NO.: Minium Use Determination MUD2005-00274

DATE OF APPLICATION: 11/23/05

APPLICANT/  
OWNER: Seahorse Communities, Inc.  
Suite W  
3575 Bonita Beach Road  
Bonita Springs, Florida 34134

**RECEIVED**  
APR 17 2006

COMMUNITY DEVELOPMENT

AGENT: SRW Engineering, Inc.  
Suite 103  
8850 Terrene Court  
Bonita Springs, Florida 34135

PROPERTY IN QUESTION: 3245 Fifth Avenue, St. James City, more particularly described as:

Lot 13 in Block 440 of that certain subdivision known as St. James City, according to the map or plat thereof on file and recorded in the Office of the Clerk of the Circuit Court of Lee County, Florida, in Plat Book 3, Page 35.

STRAP NO.: 02-46-22-05-00440.0090 (Lot 13)

FINDINGS OF FACT:

The documentation provided with the application shows that the current owner acquired the parcel in September 2005, via a Warranty Deed recorded in the Public Records of Lee County in Instrument Number 2005000106931. For the purpose of calculating density, the parcel comprises approximately 0.1033 acres (4,500 sq. ft.) acres of land and is zoned RS-1. The parcel is located in the Suburban Future Land Use Category, which requires a minimum of 7,260 square feet per dwelling unit (maximum density is 6 dwelling units per acre). 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 was created as a separate parcel in January 1913, by virtue of a plat recorded in the Public Records of Lee County in Plat Book 3, Page 35.

The parcel is more than 4,000 square feet when created as a lot in 1913, prior to the regulation of zoning in Lee County on June 27, 1962.

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. This parcel fronts on Sappadillo Street, an unbuilt street extending in a north/south direction between Fourth and Fifth Avenue. This road is unimproved at the point where it fronts on the subject property. Based upon the documents and evidence provided by the applicant, the County has determined that Sappadillo Street at this location does not meet the Lee Plan Section XIII.b.B.4.a(3) standards for access.

#### DETERMINATION:

This parcel meets the requirements for a favorable administrative interpretation of the Single-family Residence provision, EXCEPT that Sappadillo Street at this location does not provide access or drainage in compliance with Lee Plan Section XII.b.B.4.a(3).

Accordingly, the owner is entitled to construct one single-family residence on the property, BUT ONLY AFTER compliance with the requirements to provide appropriate access and drainage, as determined by the Director of Development Services.

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**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.**

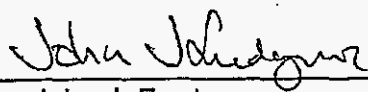
#### APPEAL PROCEDURE:

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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 Department of Community Development, 1500 Monroe Street, Fort Myers, Florida, along with the filing fee, no later than 15 days from the date of this Administrative Interpretation, stating the reasons for your disagreement.

Dated this 13<sup>th</sup> day of April, 2006.

LEE COUNTY ATTORNEY'S OFFICE  
AS ADMINISTRATIVE DESIGNEE

BY:   
John J. Fredyma  
Assistant County Attorney

JJF/mme

cc: Timothy Jones, Chief Assistant County Attorney  
Donald D. Stilwell, County Manager  
Paul O'Connor, Director, Planning Division  
Peter Blackwell, Planning Division  
Mary Gibbs, Director, DCD  
Pam Houck, Director, Zoning  
Julie Dalton, Property Appraiser's Office  
Janet Miller, DCD  
Tidemark

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

CASE NO.: Minium Use Determination MUD2005-00275

DATE OF APPLICATION: 11/23/05

APPLICANT/  
OWNER: Seahorse Communities, Inc.  
Suite W  
3575 Bonita Beach Road  
Bonita Springs, Florida 34134

**RECEIVED**  
APR 17 2006

COMMUNITY DEVELOPMENT

AGENT: SRW Engineering, Inc.  
Suite 103  
8850 Terrene Court  
Bonita Springs, Florida 34135

PROPERTY IN QUESTION: 3245 Fifth Avenue, St. James City, more particularly described as:

Lot 11 in Block 440 of that certain subdivision known as St. James City, according to the map or plat thereof on file and recorded in the Office of the Clerk of the Circuit Court of Lee County, Florida, in Plat Book 3, Page 35.

STRAP NO.: 02-46-22-05-00440.0110 (Lot 11)

FINDINGS OF FACT:

The documentation provided with the application shows that the current owner acquired the parcel in September 2005, via a Warranty Deed recorded in the Public Records of Lee County in Instrument Number 2005000106931. For the purpose of calculating density, the parcel comprises approximately 0.1033 acres (4,500 sq. ft.) acres of land and is zoned RS-1. The parcel is located in the Suburban Future Land Use Category, which requires a minimum of 7,260 square feet per dwelling unit (maximum density is 6 dwelling units per acre). 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 was created as a separate parcel in January 1913, by virtue of a plat recorded in the Public Records of Lee County in Plat Book 3, Page 35.



The parcel is more than 4,000 square feet when created as a lot in 1913, prior to the regulation of zoning in Lee County on June 27, 1962.

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. This parcel fronts on Sappadillo Street, an unbuilt street extending in a north/south direction between Fourth and Fifth Avenue. This road is unimproved at the point where it fronts on the subject property. Based upon the documents and evidence provided by the applicant, the County has determined that Sappadillo Street at this location does not meet the Lee Plan Section XIII.b.B.4.a(3) standards for access.

#### DETERMINATION:

This parcel meets the requirements for a favorable administrative interpretation of the Single-family Residence provision, EXCEPT that Sappadillo Street at this location does not provide access or drainage in compliance with Lee Plan Section XII.b.B.4.a(3).

Accordingly, the owner is entitled to construct one single-family residence on the property, BUT ONLY AFTER compliance with the requirements to provide appropriate access and drainage, as determined by the Director of Development Services.

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

**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.**

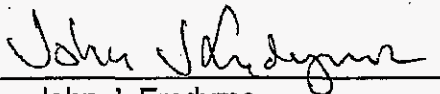
#### APPEAL PROCEDURE:

"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 Department of Community Development, 1500 Monroe Street, Fort Myers, Florida, along with the filing fee, no later than 15 days from the date of this Administrative Interpretation, stating the reasons for your disagreement.

Dated this 13<sup>th</sup> day of April, 2006.

LEE COUNTY ATTORNEY'S OFFICE  
AS ADMINISTRATIVE DESIGNEE

BY:   
John J. Fredyma  
Assistant County Attorney

JJF/mme

cc: Timothy Jones, Chief Assistant County Attorney  
Donald D. Stilwell, County Manager  
Paul O'Connor, Director, Planning Division  
Peter Blackwell, Planning Division  
Mary Gibbs, Director, DCD  
Pam Houck, Director, Zoning  
Julie Dalton, Property Appraiser's Office  
Janet Miller, DCD  
Tidemark

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

CASE NO.: Minium Use Determination MUD2005-00276

DATE OF APPLICATION: 11/23/05

APPLICANT/  
OWNER: Seahorse Communities, Inc.  
Suite W  
3575 Bonita Beach Road  
Bonita Springs, Florida 34134

**RECEIVED**  
APR 17 2006

COMMUNITY DEVELOPMENT

AGENT: SRW Engineering, Inc.  
Suite 103  
8850 Terrene Court  
Bonita Springs, Florida 34135

PROPERTY IN QUESTION: 3245 Fifth Avenue, St. James City, more particularly described as:

Lot 12 in Block 440 of that certain subdivision known as St. James City, according to the map or plat thereof on file and recorded in the Office of the Clerk of the Circuit Court of Lee County, Florida, in Plat Book 3, Page 35.

STRAP NO.: 02-46-22-05-00440.0110 (Lot 12)

FINDINGS OF FACT: The documentation provided with the application shows that the current owner acquired the parcel in September 2005, via a Warranty Deed recorded in the Public Records of Lee County in Instrument Number 2005000106931. For the purpose of calculating density, the parcel comprises approximately 0.1033 acres (4,500 sq. ft.) acres of land and is zoned RS-1. The parcel is located in the Suburban Future Land Use Category, which requires a minimum of 7,260 square feet per dwelling unit (maximum density is 6 dwelling units per acre). 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 was created as a separate parcel in January 1913, by virtue of a plat recorded in the Public Records of Lee County in Plat Book 3, Page 35.

The parcel is more than 4,000 square feet when created as a lot in 1913, prior to the regulation of zoning in Lee County on June 27, 1962.

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. This parcel fronts on Sappadillo Street, an unbuilt street extending in a north/south direction between Fourth and Fifth Avenue. This road is unimproved at the point where it fronts on the subject property. Based upon the documents and evidence provided by the applicant, the County has determined that Sappadillo Street at this location does not meet the Lee Plan Section XIII.b.B.4.a(3) standards for access.

#### DETERMINATION:

This parcel meets the requirements for a favorable administrative interpretation of the Single-family Residence provision, EXCEPT that Sappadillo Street at this location does not provide access or drainage in compliance with Lee Plan Section XII.b.B.4.a(3).

Accordingly, the owner is entitled to construct one single-family residence on the property, BUT ONLY AFTER compliance with the requirements to provide appropriate access and drainage, as determined by the Director of Development Services.

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

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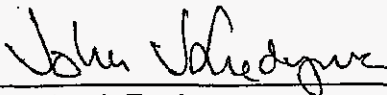
#### APPEAL PROCEDURE:

"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 Department of Community Development, 1500 Monroe Street, Fort Myers, Florida, along with the filing fee, no later than 15 days from the date of this Administrative Interpretation, stating the reasons for your disagreement.

Dated this 13<sup>th</sup> day of April, 2006.

LEE COUNTY ATTORNEY'S OFFICE  
AS ADMINISTRATIVE DESIGNEE

BY:   
John J. Fredyma  
Assistant County Attorney

JJF/mme

cc: Timothy Jones, Chief Assistant County Attorney  
Donald D. Stilwell, County Manager  
Paul O'Connor, Director, Planning Division  
Peter Blackwell, Planning Division  
Mary Gibbs, Director, DCD  
Pam Houck, Director, Zoning  
Julie Dalton, Property Appraiser's Office  
Janet Miller, DCD  
Tidemark

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

**CASE #** MUD2005-00277

**DATE RECEIVED BY ZONING DIVISION:** 11/23/05

**STRAP NUMBER:** 02-46-22-05-00440.0150 (Lot 15)

**APPLICANT:** Seahorse Communities, Inc.

**OWNER:** Seahorse Communities, Inc.

**OWNERSHIP**

a) DATE WARRANTY DEED OR AGREEMENT FOR DEED RECORDED IN OWNER/PURCHASER NAME: February 2004

b) PLACE RECORDED: OR Book 4203 Page 981

**CREATION OF PARCEL**

a) DATE PARCEL CREATED/RECORDED: January 1913

b) PLACE RECORDED: Plat Book 3 Page 35

- 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:** Suburban

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

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

**RECOMMENDATION:**

THE LOT IS CONSISTENT WITH THE MINIMUM USE PROVISION BASED ON THE FOLLOWING:

This lot was recorded in 1913 prior to the adoption of the Lee Plan or zoning regulations. The lot does not conform to the RS-1 zoning district but does exceed the 4,000 square foot minimum required by the Single Family Provision of the Lee Plan. The lot is accessed by Palm Avenue, a paved road with drainage swales. This lot qualifies for one single family residence under the Single Family Provision of the Lee Plan.

BY: Pam Houck Dec 5 2005  
Pam Houck, Director  
Division of Zoning  
Department of Community Development

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

**CASE #** MUD2005-00278

**DATE RECEIVED BY ZONING DIVISION:** 11/23/05

**STRAP NUMBER:** 02-46-22-05-00440.0150 (Lot 16)

**APPLICANT:** Seahorse Communities, Inc.

**OWNER:** Seahorse Communities, Inc.

**OWNERSHIP**

- a) DATE WARRANTY DEED OR AGREEMENT FOR DEED RECORDED IN OWNER/PURCHASER NAME: February 2004
- b) PLACE RECORDED: OR Book 4203 Page 981

**CREATION OF PARCEL**

- a) DATE PARCEL CREATED/RECORDED: January 1913
- b) PLACE RECORDED: Plat Book 3 Page 35
  - 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
- b) CREATED PRIOR TO JUNE 27, 1962 AND HAS A MINIMUM OF 4,000 SQUARE FEET: YES  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
- 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

**LAND USE CATEGORY:** Suburban

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

**REAPPORTIONING LOTS:** YES  NO

**RECOMMENDATION:**

THE LOT IS CONSISTENT WITH THE MINIMUM USE PROVISION BASED ON THE FOLLOWING:

This lot was recorded in 1913 prior to the adoption of the Lee Plan or zoning regulations. The lot does not conform to the RS-1 zoning district but does exceed the 4,000 square foot minimum required by the Single Family Provision of the Lee Plan. The lot is accessed by Palm Avenue, a paved road with drainage swales. This lot qualifies for one single family residence under the Single Family Provision of the Lee Plan.

BY: Pam Houck 2005  
Pam Houck, Director  
Division of Zoning  
Department of Community Development

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

CASE NO.: Minium Use Determination MUD2005-00279

DATE OF APPLICATION: 11/23/05

APPLICANT/  
OWNER: Seahorse Communities, Inc.  
Suite W  
3575 Bonita Beach Road  
Bonita Springs, Florida 34134

**RECEIVED**  
APR 17 2006

COMMUNITY DEVELOPMENT

AGENT: SRW Engineering, Inc.  
Suite 103  
8850 Terrene Court  
Bonita Springs, Florida 34135

PROPERTY IN QUESTION: 2441 Rose Avenue, St. James City, more particularly described as:

Lot 6 in Block 440 of that certain subdivision known as St. James City, according to the map or plat thereof on file and recorded in the Office of the Clerk of the Circuit Court of Lee County, Florida, in Plat Book 3, Page 35.

STRAP NO.: 02-46-22-05-00440.0060 (Lot 6)

FINDINGS OF FACT:

The documentation provided with the application shows that the current owner acquired the parcel in September 2005, via a Warranty Deed recorded in the Public Records of Lee County in Instrument Number 2005000106931. For the purpose of calculating density, the parcel comprises approximately 0.1033 acres (4,500 sq. ft.) acres of land and is zoned RS-1. The parcel is located in the Suburban Future Land Use Category, which requires a minimum of 7,260 square feet per dwelling unit (maximum density is 6 dwelling units per acre). 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 was created as a separate parcel in January 1913, by virtue of a plat recorded in the Public Records of Lee County in Plat Book 3, Page 35.

The parcel is more than 4,000 square feet when created as a lot in 1913, prior to the regulation of zoning in Lee County on June 27, 1962.

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. This parcel fronts on Sappadillo Street, an unbuilt street extending in a north/south direction between Fourth and Fifth Avenue. This road is unimproved at the point where it fronts on the subject property. Based upon the documents and evidence provided by the applicant, the County has determined that Sappadillo Street at this location does not meet the Lee Plan Section XIII.b.B.4.a(3) standards for access.

#### DETERMINATION:

This parcel meets the requirements for a favorable administrative interpretation of the Single-family Residence provision, EXCEPT that Sappadillo Street at this location does not provide access or drainage in compliance with Lee Plan Section XII.b.B.4.a(3).

Accordingly, the owner is entitled to construct one single-family residence on the property, BUT ONLY AFTER compliance with the requirements to provide appropriate access and drainage, as determined by the Director of Development Services.

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

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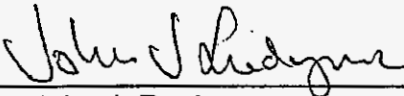
#### APPEAL PROCEDURE:

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Dated this 13<sup>th</sup> day of April, 2006.

LEE COUNTY ATTORNEY'S OFFICE  
AS ADMINISTRATIVE DESIGNEE

BY:   
\_\_\_\_\_  
John J. Fredyma  
Assistant County Attorney

JJF/mme

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  
Mary Gibbs, Director, DCD  
Pam Houck, Director, Zoning  
Janet Miller, DCD  
Tidemark

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

CASE NO.: Minium Use Determination MUD2005-00280

DATE OF APPLICATION: 11/23/05

APPLICANT/  
OWNER: Seahorse Communities, Inc.  
Suite W  
3575 Bonita Beach Road  
Bonita Springs, Florida 34134

**RECEIVED**  
APR 17 2006

COMMUNITY DEVELOPMENT

AGENT: SRW Engineering, Inc.  
Suite 103  
8850 Terrene Court  
Bonita Springs, Florida 34135

PROPERTY IN QUESTION: 2441 Rose Avenue, St. James City, more particularly described as:

Lot 7 in Block 440 of that certain subdivision known as St. James City, according to the map or plat thereof on file and recorded in the Office of the Clerk of the Circuit Court of Lee County, Florida, in Plat Book 3, Page 35.

STRAP NO.: 02-46-22-05-00440.0060 (Lot 7)

FINDINGS OF FACT:

The documentation provided with the application shows that the current owner acquired the parcel in September 2005, via a Warranty Deed recorded in the Public Records of Lee County in Instrument Number 2005000106931. For the purpose of calculating density, the parcel comprises approximately 0.1033 acres (4,500 sq. ft.) acres of land and is zoned RS-1. The parcel is located in the Suburban Future Land Use Category, which requires a minimum of 7,260 square feet per dwelling unit (maximum density is 6 dwelling units per acre). 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 was created as a separate parcel in January 1913, by virtue of a plat recorded in the Public Records of Lee County in Plat Book 3, Page 35.

The parcel is more than 4,000 square feet when created as a lot in 1913, prior to the regulation of zoning in Lee County on June 27, 1962.

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. This parcel fronts on Sappadillo Street, an unbuilt street extending in a north/south direction between Fourth and Fifth Avenue. This road is unimproved at the point where it fronts on the subject property. Based upon the documents and evidence provided by the applicant, the County has determined that Sappadillo Street at this location does not meet the Lee Plan Section XIII.b.B.4.a(3) standards for access.

#### DETERMINATION:

This parcel meets the requirements for a favorable administrative interpretation of the Single-family Residence provision, EXCEPT that Sappadillo Street at this location does not provide access or drainage in compliance with Lee Plan Section XII.b.B.4.a(3).

Accordingly, the owner is entitled to construct one single-family residence on the property, BUT ONLY AFTER compliance with the requirements to provide appropriate access and drainage, as determined by the Director of Development Services.

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

**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.**

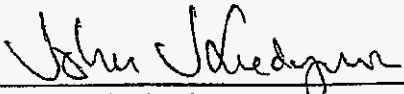
#### APPEAL PROCEDURE:

"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 Department of Community Development, 1500 Monroe Street, Fort Myers, Florida, along with the filing fee, no later than 15 days from the date of this Administrative Interpretation, stating the reasons for your disagreement.

Dated this 13<sup>th</sup> day of April, 2006.

LEE COUNTY ATTORNEY'S OFFICE  
AS ADMINISTRATIVE DESIGNEE

BY:   
John J. Fredyma  
Assistant County Attorney

JJF/mme

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  
Mary Gibbs, Director, DCD  
Pam Houck, Director, Zoning  
Janet Miller, DCD  
Tidemark

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

CASE # MUD2005-00281

DATE RECEIVED BY ZONING DIVISION: 11/23/05

STRAP NUMBER: 02-46-22-05-00440.0060 (Lot 8)

APPLICANT: Seahorse Communities, Inc.

OWNER: Seahorse Communities, Inc.

**OWNERSHIP**

- a) DATE WARRANTY DEED OR AGREEMENT FOR DEED RECORDED IN OWNER/PURCHASER NAME: February 2004
- b) PLACE RECORDED: OR Book 4203 Page 983

**CREATION OF PARCEL**

- a) DATE PARCEL CREATED/RECORDED: January 1913
- b) PLACE RECORDED: Plat Book 3 Page 35
  - 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
- b) CREATED PRIOR TO JUNE 27, 1962 AND HAS A MINIMUM OF 4,000 SQUARE FEET: YES  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
- 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

**LAND USE CATEGORY:** Suburban

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

**REAPPORTIONING LOTS:** YES  NO

**RECOMMENDATION:**

THE LOT IS CONSISTENT WITH THE MINIMUM USE PROVISION BASED ON THE FOLLOWING:

This lot was recorded in 1913 prior to the adoption of the Lee Plan or zoning regulations. It does not conform to the RS-1 zoning district but exceeds the 4,000 square foot minimum required by the Single Family Provision of the Lee Plan. The lot is accessed by Fourth Avenue, a paved street with drainage swales. This lot qualifies for one single family residence under the Single Family Provision of the Lee Plan.

BY: Pam Houck 2005  
 Pam Houck, Director  
 Division of Zoning  
 Department of Community Development



EXHIBIT G

RESOLUTION Z-76-59

The following resolution was offered by Commissioner Sweeney and seconded by Commissioner Goldtrap, and upon poll of the members present the vote was as follows:

George Goldtrap	AYE
James Sweeney	AYE
Richard Sayers	NAY
Bob Whan	AYE
Betty Bower	ABSENT

WHEREAS, Roger W. Watson has requested a Change in zoning from GU to RU-3

SUBJECT PROPERTY: Lots 1 through 7 of K. L. Swank's S/D as recorded in the Public Records of Lee County, Plat Book 8, Page 81; lying in Sec 19, Twp 46S, Rge 24E

WHEREAS, a public hearing of the Lee County Zoning Board was advertised and held, as requested by law, and after hearing all interested parties and considering adjacent areas, the Zoning Board recommended that the petition be approved for a change in zoning from GU to RU-3 with a maximum of 11 units on the property.

WHEREAS, this Board after reviewing the records and recommendations of the Zoning Board and having given an opportunity to all interested persons to be heard after being duly sworn according to law, and upon due and proper consideration having been given to this matter, this Board took action as hereinafter described.

NOW THEREFORE BE IT RESOLVED by the Board of County Commissioners, Lee County, Florida, that the decision of the Zoning Board recommending approval for a change in zoning from GU to RU-3 with a maximum of 11 units on the property be upheld.

PASSED AND ADOPTED THIS 10 DAY OF May, 1976

Heard April 26, 1976

76-3-9

Approved As  
To Form.

1

Special meeting of the Lee County Commissioners held on this date for the purpose of hearing the recommendations of the Zoning Board Meeting of April 26, 1976 on the cases advertised to be heard on this date, and to take action on any other matters that are deemed to be necessary.

MEETING-

Chairman Whan called the meeting to order at 9:30 a.m. with the following Commissioners present:

- L. H. Bob Whan - Chairman
- James Sweeney
- George Goldtrap
- Richard Sayers

Commissioner Bowen was absent during the meeting due to illness.

The Invocation was given by Commissioner Goldtrap followed by the Pledge of Allegiance to the Flag.

Following is a copy of the Lee County Zoning Board Minutes of April 26, 1976:

MINUTES -

FOR PHOTO COPY OF MINUTES SEE PAGES 2-A thru 2-H

The request from Roger W. Watson, Case #76-3-9, for a change in zoning from GU to RU-3, on property located in Sec. 19, Twp. 46S, Rge. 24E, was recommended for approval by the Zoning Board with a maximum of 11 units on the property. Mrs. Roger Watson appeared in behalf of the petition; no one appeared in opposition. Commissioner Sweeney moved to adopt the following Resolution upholding the findings of the Zoning Board, seconded by Commissioner Goldtrap, called and carried. Commissioner Sayers voted No on the motion.

RESOL. RE:  
ZONING  
CHANGE

FOR PHOTO COPY OF RESOLUTION SEE PAGE 2-I

The request from James F. Griffin, Jr., Case #76-4-1, for a special permit for an airstrip in an QU zone on property located in Sec. 9, Twp. 44, Rge. 22, recommended for approval by the Zoning Board with the stipulation that the location of the airstrip be moved further south on the property, and with the further stipulation that the special permit be renewed annually. Mr. James F. Griffin, Jr., Vice-President of Tropical Nurseries of Florida, appeared in behalf of the request. Mr. Griffin presented plans to the Board and explained how the airstrip was going to be operated. Mr. Peterson appeared and stated that his only concern was the preservation of the road right-of-way, but other than that he had no objections. Commissioner Sayers moved to adopt the following Resolution upholding the findings of the Zoning Board, seconded by Commissioner Sweeney, called and carried.

RESOL. RE:  
ZONING  
SPECIAL  
PERMIT  
(AIRSTRIP)

FOR PHOTO COPY OF RESOLUTION SEE PAGE 2-J

The request from Victor J. and Hazel Joyce Kleiss and Victor C. and Kathleen A. Kleiss, Case #76-4-2, for a special permit for one mobile home in a GU zone on property located in Sec. 4, Twp. 43, Rge. 25, was recommended for denial by the Zoning Board. The four applicants appeared in behalf of the request; no one

RESOL. RE:  
SPECIAL  
PERMIT  
(MOBILE  
HOME)

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

CASE NOS.: Single-Family Residence Determinations  
MUD2004-00198;  
MUD2004-00200,  
MUD2004-00201,  
MUD2004-00202;  
MUD2004-00203 and  
MUD2004-00204

DATE OF  
APPLICATION: 12/07/04

APPLICANT/  
AGENTS: SG Investments, Inc.  
c/o Beverly Grady, Esq.  
Roetzel & Andress  
2320 First Street, Suite 1000  
Fort Myers, Florida 33901

OWNER: Compass Rose Venture, LLC  
Suite 460  
3706 N. Ocean Boulevard  
Fort Lauderdale, Florida 33308

PROPERTY IN  
QUESTION: 1180, 1180 #3, 1180 #5 and 1180 #7 Main Street, Fort Myers Beach,  
Florida (Sand Carlos Island), more particularly described as:

Lots 2, 3, 4, 5, 6 and 7 of that certain subdivision known  
as K.L. SWANK'S SUBDIVISION, according to the map  
or plat thereof on file and recorded in the Office of the  
Clerk of the Circuit Court of Lee County, Florida, in Plat  
Book 8, Page 81.

[Note: The applicant submitted separate requests for each of the six  
lots identified above; however, upon subsequent review it has been  
determined the use, history and configuration of the property require  
that the separate requests should be consolidated for review and the  
issuance of a single determination covering all of the lots.]

STRAP NOS.: 19-46-24-05-00000.0010 (Lot 2 - also includes Lot 1, not submitted)  
19-46-24-05-00000.0030 (Lots 3 and 4)  
19-46-24-05-00000.0050 (Lots 5 and 6)  
19-46-24-05-00000.0070 (Lot 7)

FINDINGS OF  
FACT:

The documentation provided with the application shows that the current owner acquired the parcels in January 2005, via a Warranty Deed recorded in the Public Records of Lee County in Official Records (O.R.) Book 04570, page 2778. Each lot comprises approximately 0.0976 acres (4,250 square feet) of land. Lots 2, 3, 4, 5 and 6 are currently zoned Multiple-Family (RM-2). Lot 7 is currently zoned Agricultural (AG-2). All of the lots are located in the Industrial Future Land Use Category. Lee Plan Policy 1.1.7, describing the Industrial Development Land Use Category, states:

"[t]he Industrial Development areas play an important role in strengthening the county's economic base and will become increasingly important as the county grows in size and urban complexity. To a great extent these are the areas to which Lee County must look for expanded job opportunities, investments and production opportunities, and a balanced and sufficient tax base. These areas have special locational requirements that are more stringent than those for residential areas, including transportation needs (e.g., air, rail, highway); industrial levels of water, sewer, fire protection, and other urban services; and locations that are convenient for employees to reach. Whereas the other Future Urban Areas will include a broad combination of residential, commercial, public, and limited industrial land uses, ***the Industrial Development area is to be reserved mainly for industrial activities per se***, as well as for selective land use mixtures such as the combined uses of industrial, manufacturing, research, properly buffered recreational uses (except where precluded by airport hazard zone regulations), and office complexes (if specifically related to adjoining industrial uses) that constitute a growing part of Florida's economic development sector. New natural resource extraction (mining) activities and fill dirt operations must be approved through the Industrial Planned Development rezoning process. Retail or wholesale of products manufactured or processed upon the premises may be allowed at a ratio of 1 square foot of commercial uses to

10 square feet of industrial use in association with a Planned Development. Ancillary minor retail commercial uses intended to support the surrounding industrial land uses may not exceed 30,000 square feet per development; and, at buildout, may not exceed more than ten percent (10%) of the total acreage of the lands designated as Industrial Development areas in each community outlined in Map 16. ***Residential uses, other than bona fide caretaker residences, are not permitted in this category except to the extent provided in Chapter XIII of the Plan.*** (Emphasis added.)

The properties were created as separate parcels in January 1946, by virtue of a plat recorded in the Public Records of Lee County in Plat Book 8, Page 81. Each parcel is more than 4,000 square feet when created in 1946, prior to the regulation of zoning in Lee County on June 27, 1962, and the Lee Plan's effective date of December 21, 1984 and prior to the implementation of Chapter XIII, Section b.B.a(4) in 1994, which states:

***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 shall be determined by reference to all of the applicable facts and circumstances, including, but not limited to 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." (Emphasis added.)

The Lee Plan requires that all parcels in the Industrial Development Future Land Use Category only be approved for a single family use under Chapter XIII, if it is the ***only reasonable use*** for the parcel. (Emphasis added.) The surrounding properties in this neighborhood are also in the Industrial Future Land Use Category and are all developed with uses that are either industrial or non-residential. A copy of the Future Land Use map for this area is attached.

More specifically, the property located to the west of the subject lots is 65,000 square feet in size and currently zoned Marine Commercial (CM) and Marine Industrial (IM). Other properties west of the subject lots zoned CM, IM and Light Industrial (IL), and include several commercial marinas. The property abutting the east side of the subject lots is zoned Industrial Planned Development (IPD) and includes marina facilities for commercial fishing fleet operations. A 120,000 square foot Community Facilities Planned Development (CFPD), owned by Lee County, is developed with governmental, institutional or social service-type facilities and located just to the east of the IPD on the east side of the subject lots. Five additional lots from the original 1946 subdivision are also located on the south side of Main Street and adjacent to the subject parcel and zoned as follows: Lots 8 and 9 are "strapped" together and zoned Agricultural (AG-2); Lots 10, 11 and 12 are "strapped" together, with Lot 10 zoned IL and Lots 11 and 12 being zoned IPD.

The existence of a reasonable 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 and whether adequate infrastructure exists or can reasonably be provided to serve an industrial use at the location in question. When the six lots are aggregated there is sufficient property here (in excess of one-half acre) for the property owner to enjoy a reasonable economic use in the Industrial Future Land Use Category. Consequently, the property owner is not entitled to a favorable determination of the Single Family Residence provision of the Lee Plan. As an aside, the property owner also holds title to abutting Lot 1 of the referenced 1946 plat, though that lot was not requested to be included in this determination. However, even without Lot 1, the six lots submitted for consideration are suitable for reasonable nonresidential use(s).

The property owner is not denied a reasonable, viable or economic use of the properties. The use history of the six lots would indicate the six otherwise separate, platted lots have been effectively used as a single site or development. This configuration is also supported by the title history of the six lots remaining together in each conveyance since at least 1975. Based upon the foregoing, it is not appropriate to apply the Single-Family Residence provisions set forth in Lee Plan Chapter XIII, Section b.B.4.a. in a manner that will allow the six parcels to each qualify for one single-family residence.

This determination is not arbitrary or capricious as it is based upon the regulations set forth in Chapter XIII of the Lee Plan.

DETERMINATION:

Although the applicant has demonstrated compliance with Sections b.B.4.a.(1) and (2), the applicant has failed to demonstrate compliance with Sections b.B.4.a.(3), regarding road access, and (4) which requires that a single-family residence must be the only reasonable use of the subject property.

The Lee Plan requires that each 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 parcels must also be served by drainage swales or equivalent drainage measures. All six lots front on Ostego Drive, an unimproved private road that does not meet the Lee Plan minimum standards for access for a Single-Family Residence Determination.

The subject properties, as well as the surrounding properties, are located in the Industrial Future Land Use Category, and the surrounding uses in this neighborhood are all either industrial or non-residential in nature, and there is no evidence that a residential use is the only reasonable use of the lots or parcels submitted for consideration. The Single Family Residence provision is not applicable in the Industrial Future Land Use Category when there has been no showing that a failure to allow such a use would deny all economic use of the property. Additionally, a residential use in the Industrial Future Land Use Category at this location would be both inconsistent with the existing surrounding land uses and detrimental to the health, safety and welfare of any resident seeking to establish a home in this location.

Consequently, none of the six lots qualify for a favorable administrative interpretation of the Single-family Residence provisions.

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

**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.**



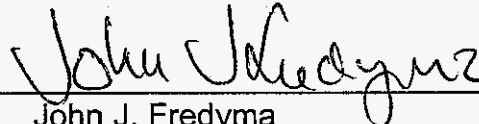
APPEAL PROCEDURE:

"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 Department of Community Development, 1500 Monroe Street, Fort Myers, Florida, along with the filing fee, no later than 15 days from the date of this Administrative Interpretation, stating the reasons for your disagreement.

Dated this 9<sup>th</sup> day of May, 2006.

LEE COUNTY ATTORNEY'S OFFICE  
AS ADMINISTRATIVE DESIGNEE

BY:   
John J. Fredyma  
Assistant County Attorney

JJF/mme  
Attachment (*Future Land Use map*)

cc: Timothy Jones, Chief Assistant County Attorney  
Donald D. Stilwell, County Manager  
Paul O'Connor, Director, Planning Division  
Mary Gibbs, Director, DCD  
Pam Houck, Director, Zoning  
Peter Blackwell, Planning Division  
Julie Dalton, Property Appraiser's Office  
Janet Miller, DCD  
Tidemark

Sent to Applicant/Agent via regular mail and Certified Mail #7002-0860-0000-5190-8882  
Sent to Owner via Certified Mail #7002-0860-0000-5190-8875

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

**CASE #** MUD2004-00198

**DATE RECEIVED BY ZONING DIVISION:** 12/7/04

**STRAP NUMBER:** 19-46-24-05-00000.0010 (Lot 2)

**APPLICANT:** S G Investments c/o Bev Grady

**OWNER:** Sun Storms of Florida, Inc.

**OWNERSHIP**

- a) DATE WARRANTY DEED OR AGREEMENT FOR DEED RECORDED IN OWNER/PURCHASER NAME: September 1999
- b) PLACE RECORDED: OR Book 3212 Page 2606

**CREATION OF PARCEL**

- a) DATE PARCEL CREATED/RECORDED: March 1946
- b) PLACE RECORDED: Plat Book 8 Page 81
- 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
- b) CREATED PRIOR TO JUNE 27, 1962 AND HAS A MINIMUM OF 4,000 SQUARE FEET: YES  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
- 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

**LAND USE CATEGORY:** Industrial Development

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

**REAPPORTIONING LOTS:** YES  NO

**RECOMMENDATION:**

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

Lot 2 of K. L. Swanks Subdivision was recorded in 1946 prior to the adoption of the Lee Plan and zoning regulations. It does not conform to the RM-2 zoning district but exceeds the 4,000 square foot minimum required by the Single Family Provision of the Lee Plan. The lot is accessed by Ostego Drive, a road that does not conform to the Single Family Provision of the Lee Plan. Due to the nonconforming road access, this lot does not qualify for one single family residence under the Single Family Provision of the Lee Plan. This determination refers only to Lot 2 of K. L. Swanks subdivision as recorded on Plat Book 8 Page 81, not to any other lots contained under the same STRAP number.



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DEC 07 2004

PERMIT COUNTER

# APPLICATION FOR ADMINISTRATIVE ACTION

APPLICATION FOR:

- Administrative Variance (attach Supplement A)
- Commercial Lot Split (attach Supplement B)
- Consumption On Premises (attach Supplement C)
- Minimum Use Determination (attach Supplement D)
- Ordinance Interpretation (attach Supplement E)
- Relief for Designation Historic Resources (attach Supplement F)
- Relief for Easement Encroachment (attach Supplement G)
- Administrative Amendment PUD or PD (attach Supplement H)
- Administrative Deviation from Chapter 10 (attach Supplement I)
- Placement of Model Home/Unit or Model Display Center (attach Supplement J)
- Dock & Shoreline Structures (attach Supplement K)
- Wireless Communication Facility (attach Supplement M and Shared Use Plan Agreement)
- Final Plan Approval per Resolution: # \_\_\_\_\_

Applicant's Name: S G Investments, Inc., c/o Beverly Grady Phone #: 337-3850

Project Name: Lot 2 of K.L. Swank's Subdivision

STRAP Number: 19-46-24-05-00000.0010

STAFF USE ONLY

MUD 2004 00198

Case Number: \_\_\_\_\_ Commission District: 3

Current Zoning: Rm-2 Fee Amount: \$19522

Land Use Classification: Indybid Devls. Intake by: Bas

Planning Community: Dona / Mc Gregor

LEE COUNTY  
 COMMUNITY DEVELOPMENT  
 P.O. BOX 398 (1500 MONROE STREET)  
 FORT MYERS, FLORIDA 33902  
 PHONE (239) 479-8585

PART I - GENERAL INFORMATION

1. APPLICANT'S NAME: S G Investments, Inc., c/o Beverly Grady  
Mailing Address: 2320 First Street  
Street: \_\_\_\_\_  
City: Fort Myers State: FL Zip: 33901  
Phone Number: Area Code: 239 Number: 337-3850 Ext. \_\_\_\_\_  
Fax Number: Area Code: 239 Number: 337-0970  
E-mail address: bgrady@ralaw.com

2. Relationship of applicant to property\*:

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

Applicant must submit an Affidavit that he is the authorized representative of the owner [see Part I (attached) and please complete the appropriate Affidavit form (A1 or A2) to the type of applicant].

3. AGENT'S NAME(S): (Use additional sheets if necessary): Beverly Grady

Mailing Address: 2320 First Street  
Street: \_\_\_\_\_  
City: Fort Myers State: FL Zip: 33901  
Contact Person: Beverly Grady  
Phone Number: Area Code: 239 Number: 337-3850 Ext.: \_\_\_\_\_  
Fax Number: Area Code: 239 Number: 337-0970  
E-mail address: bgrady@ralaw.com

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)
- \_\_\_\_ Wireless Communication Facility (requires supplement M and Shared Use Plan Agreement)
- \_\_\_\_ Final Plan Approval (no supplement)

5. NATURE OF REQUEST (please print): Minimum use determination of Lot 2

K.L. Swank's Subdivision  
\_\_\_\_\_  
\_\_\_\_\_

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. Name of owner of property: Sun Storms of Florida, Inc.

Mailing Address: Street: 13320 SE 2nd Street

City: Ft. Myers State: FL Zip: 33905

Phone Number: Area Code: 239 Number: 337-3850 Ext.: \_\_\_\_\_

Fax Number: Area Code: 239 Number: 337-0970

3. Legal Description: Is property one or more undivided platted lots within a subdivision recorded in the official Plat Books of Lee County?

\_\_\_\_\_ NO. Attach a legible copy of the metes and bounds property description and boundary survey (10 acres or more) or certified sketch of description (less than 10 acres) meeting the minimum technical standards set out in chapter 61G 17-6.006, Florida Administrative Code.

YES. Property is identified as:  
Subdivision Name: K.L. Swank's Subdivision  
Plat Book 8 Page 81 Unit n/a Block n/a Lot 2

4. STRAP NUMBER: 19-46-24-05-00000.0010

5. Property Dimensions:

Area: 4250 square feet or \_\_\_\_\_ acres.

Width along roadway: 50 feet.

Depth: 85 feet.

6. Property Street Address: 1180 Main Street, Fort Myers Beach, FL 33931

7. General Location Of Property: West on San Carlos Blvd., south on Main Street

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DEC 07 2004

PART I AFFIDAVIT A1

PERMIT COUNTER

AFFIDAVIT FOR ADMINISTRATIVE ACTION  
APPLICATION IS SIGNED BY AN INDIVIDUAL OWNER OR APPLICANT

I, Beverly Grady, swear or affirm under oath, that I am the owner or the authorized representative of the owner(s) of the property 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 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; and that
4. The property will not be transferred, conveyed, sold or subdivided unencumbered by the conditions and restrictions imposed by the approved action.

*Beverly Grady*  
Signature

Beverly Grady  
(Type or printed name)

STATE OF Florida

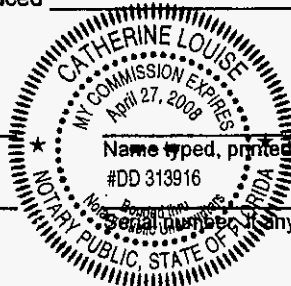
COUNTY OF Lee

MUD 2004 00198

The foregoing instrument was sworn to (or affirmed) and subscribed before me this November 23, 2004 (date) by Beverly Grady (name of person providing oath or affirmation), who is personally known to me or who has produced (type of identification) as identification.

*Catherine Louise*  
Signature of person taking oath or affirmation

\_\_\_\_\_  
Title or rank



\_\_\_\_\_  
Name typed, printed or stamped  
#DD 313916

LETTER OF AUTHORIZATION

TO LEE COUNTY COMMUNITY DEVELOPMENT

The undersigned do hereby swear or affirm that they are the fee simple titleholders and owners of record of property commonly known as 19-46-24-05-00000.0010; 19-46-24-05-00000.30; 19-46-24-05-00000.0050; and 19-46-24-05-00000.0070; and legally described in exhibit A attached hereto.

The property described herein is the subject of an application for zoning or development. I hereby designate BEVERLY GRADY on behalf of ROETZEL & ANDRESS, LPA, 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.

SG INVESTMENTS, INC.

BY: [Signature]  
(Signature)

Steve Gibboney, President  
Printed Name

RECEIVED  
DEC 07 2004

PERMIT COUNTER  
MUD 2004 00198

STATE OF FLORIDA  
COUNTY OF LEE

Sworn to (or affirmed) and subscribed before me this 23 day of November, 2004, by, Steve Gibboney of SG Investments, Inc. who is personally known to me or who has produced Driver's License as identification and who did (did not) take an oath.

(SEAL) Una M. Richardson  
Commission # DD122789  
Expires June 5, 2006  
Bonded Thru  
Atlantic Bonding Co., Inc.

[Signature]  
Signature of Notary Public  
UNA M. RICHARDSON  
(Name typed, printed or stamped)

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



LETTER OF AUTHORIZATION
TO LEE COUNTY COMMUNITY DEVELOPMENT

The undersigned do hereby swear or affirm that they are the fee simple titleholders and owners of record of property commonly known as 19-46-24-05-00000.0010; 19-46-24-05-00000.30; 19-46-24-05-00000.0050; and 19-46-24-05-00000.0070; and legally described as Lots 1, 2, 3, 4, 5, 6 and 7 on Plat Book 8 at Page 81.

The property described herein is the subject of an application for zoning or development. I hereby designate STEVE GIBBONEY OF SG INVESTMENTS, INC., 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 a minimum use determination for Lots 1, 2, 3, 4, 5, 6 and 7 on Plat Book 8 at Page 81 . 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 a zoning verification letter and a minimum use determination. 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 and shall be valid for 45 days from the date of execution.

SUNSTORMS OF FLORIDA, INC.

BY [Signature]
(Signature)

Wayne Watson, President

Printed Name

RECEIVED
DEC 07 2004

PERMIT COUNTER

STATE OF FLORIDA
COUNTY OF LEE

Sworn to (or affirmed) and subscribed before me this 01 day of Dec, 2004, by, Wayne Watson of Sunstorms of Florida, Inc. who is personally known to me or who has produced as identification and who did (did not) take an oath.



Jennifer Sprang
My Commission DD131680
Expires July 26, 2006

[Signature]
Signature of Notary Public

[Signature]
(Name typed, printed or stamped)

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

EXPLANATORY NOTES

ZDS0103 Rev.04
3/01/97 Y2K 1/03/2000

MUD 2004 00198

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DEC 07 2004



ADMINISTRATIVE ACTION REQUEST  
SUPPLEMENT D

PERMIT COUNTER

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: One
- 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): 50 x 85; see plat
- c. Comprehensive Plan Land Use designation for the subject property: Industrial Development
- 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): no zoning \*\*

2. INTENDED USE

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

**\*\* Please note: Lot 2 was originally created on April 18, 1946, pursuant to Plat.**

MUD 2004 00198

Return to: (enclose self-addressed stamped envelope)

QUIT CLAIM DEED

RAMCO FORM 8

Name: WAYNE WATSON  
Address: 13323 S.E. 2nd Street  
Fort Myers, FL 33905

INSTR # 4798472  
OR BK 03212 PG 2606

This Instrument Prepared by:  
Name: KIM LEVY, ESQ.  
Address: 2110 Cleveland Avenue  
Fort Myers, FL 33901

RECORDED 01/21/00 01:34 PM  
CHARLIE GREEN CLERK OF COURT  
LEE COUNTY  
RECORDING FEE 6.00  
DOC TAX PD (F.S. 201.02) 1,570.80  
DEPUTY CLERK B Sherwood

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DEC 07 2004

PERMIT COUNTER

62  
1570.80

SPACE ABOVE THIS LINE FOR PROCESSING DATA

SPACE ABOVE THIS LINE FOR RECORDING DATA

This Quit Claim Deed, Executed the 23 day of September, 1999, by  
THE SHORES OF FORT MYERS BEACH DEVELOPMENT CORP., INC., a FL corp.,  
first party, to SUN STORMS OF FLORIDA, INC., a Florida corporation,  
whose post office address is 13323 S.E. 2nd Street, Fort Myers, FL 33905,  
second party.

(Wherever used herein the terms "first party" and "second party" include all the parties to this instrument and the heirs, legal representatives, and assigns of individuals, and the successors and assigns of corporations, wherever the context so admits or requires.)

Witnesseth, That the first party, for and in consideration of the sum of \$ 10.00-----  
in hand paid by the said second party, the receipt whereof is hereby acknowledged, does hereby remise, release,  
and quit claim unto the second party forever, all the right, title, interest, claim and demand which the said first  
party has in and to the following described lot, piece or parcel of land, situate, lying and being in the County of  
LEE State of FLORIDA , to-wit:

Lots 1, 2, 3, 4, 5, 6 and 7, of that certain subdivision known as  
K. L. SWANK'S SUBDIVISION, according to the map or plat thereof,  
on file and recorded in the office of the Clerk of the Circuit  
Court of Lee County, Florida, in Plat Book 8, page 81.

To Have and to Hold The same together with all and singular the appurtenances thereunto belonging  
or in anywise appertaining, and all the estate, right, title, interest, lien, equity and claim whatsoever of the said  
first party, either in law or equity to the only proper use, benefit and behoof of the said second party forever.

In Witness Whereof, the said first party has signed and sealed these presents the day and year first  
above written.

Signed, sealed and delivered in the presence of:

THE SHORES OF FORT MYERS BEACH  
DEVELOPMENT CORP., INC.

Witness Signature (as to First Grantor)  
Wayne Watson

Grantor Signature  
Wayne Watson

Printed Name  
Wayne Watson

By: WAYNE WATSON, President

Witness Signature (as to First Grantor)  
Kim Levy

Printed Name  
13323 2nd St., S.E., Fort Myers,  
Post Office Address FL 33905

Printed Name  
Kim Levy

N/A

Witness Signature (as to Co-Grantor, if any)

Co-Grantor Signature, (if any)

Printed Name

Printed Name

Witness Signature (as to Co-Grantor, if any)

Post Office Address

Printed Name

STATE OF FLORIDA )

COUNTY OF LEE )

WAYNE WATSON, Pres., THE SHORES OF FORT MYERS BEACH DEVELOPMENT CORP.,

known to me to be the person described in and who executed the foregoing instrument, who acknowledged before me that he

executed the same, and an oath was not taken. (Check one:  Said person(s) is/are personally known to me  Said person(s) provided the following

type of identification: FDL # W325-89653-4820

Witness my hand and official seal in the County and State last aforesaid

this 23 day of September A.D. 1999

Sadie L. McKelvie

Notary Signature Sadie L. McKelvie

Printed Name

NOTARY RUBBER STAMP SEAL



SADIE L. MCKELVIE  
My Comm Exp. 7/14/2000  
Bonded By Service Ins  
No. CC558283

(1 Personally Known (1) Other I.D.

THIS INSTRUMENT IS PREPARED  
WITHOUT EXAMINATION OF RECORD  
OR OPINION OF TITLE.

THIS INSTRUMENT IS PREPARED  
WITHOUT EXAMINATION OF RECORD  
OR OPINION OF TITLE.

MUD 2004 00198

4/18/1946

110224

P/B 8, PGE. 81

STATE OF FLORIDA, COUNTY OF LEE  
 FILED FOR RECORD  
 THIS ... DAY OF ... 19...  
 RECORD IN ... BOOK ...  
 PAGE ... AND RECORD VERIFIED  
 D. T. FARABEE, CLERK CIRCUIT COURT  
 DEPUTY CLERK

# K. L. SWANK'S SUBDIVISION

**DESCRIPTION**— Begin at the NW corner of Section 19, Tp. 46 South, Range 24 East, thence East 300 feet; thence South to the North shore of Ostego Bay; thence East 100 feet to point of beginning of land herein conveyed; Thence South to the North Shore of Ostego Bay; thence Northwesterly along said shore to point West of beginning; thence North to the East Boundary of Block 11 of SAN CARLOS-ON-THE-GULF as per plat thereof recorded in Plat Book 6 at page 6 of the Public Records of Lee County, Florida; thence Northeastly along the side of said Block 11 to a point North of beginning; thence South to the point of beginning; subject to the dedicated public road running Easterly & Westerly across said land, together with all riparian rights thereto belonging; said land being described as Tract 10 of Government Lot 4, Sec. 19, T. 46 S., R. 24 E. on an unrecorded Plat of San Carlos Corporation property, prepared by Harry K. Davison, Surveyor.

### CERTIFICATE OF OWNERSHIP

THIS IS TO CERTIFY that the undersigned are owners of the land hereon described and have caused said land to be subdivided into Lots and Streets as shown, and said streets are hereby dedicated to the Public forever.

Signed, sealed and delivered in the presence of us:  
 Kenneth L. Swank  
 Edith Swank  
 Byron Q. Stewart  
 Arthur P. Vaughan

STATE OF FLORIDA,  
 COUNTY OF LEE } 53.

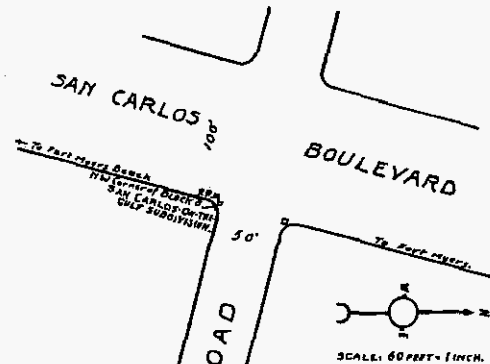
I do hereby certify that on this 20th day of March, A.D. 1946, before me, the undersigned authority, personally appeared KENNETH L. SWANK and EDITH SWANK, his wife, both well known as the persons making the foregoing dedication and they severally acknowledged the execution thereof to be their free act and deed for the uses and purposes therein stated.

Witness my hand and official seal, date last aforesaid

Byron Q. Stewart, NOTARY PUBLIC,  
 Commission expires Nov. 11, 1947.

This PLAT accepted this ... day of ... 1946 in open meeting of the Board of County Commissioners, Lee County, Florida.

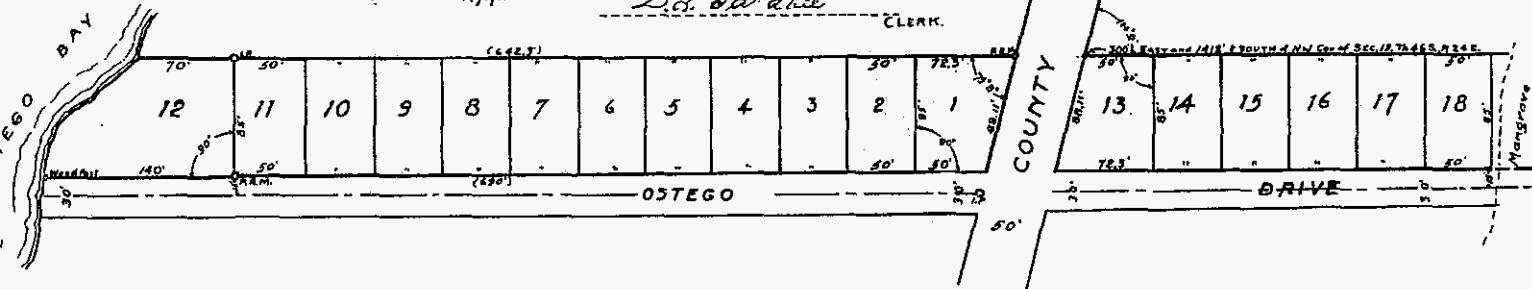
Approved: ... CHAIRMAN,  
 ... CLERK.



### CERTIFICATE OF SURVEY

I, the undersigned, that the Plat as shown is a correct representation of the land platted and that permanent reference monuments have been placed as shown.  
 H. K. Davison, C.E. State Reg. No. 80.

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 DEC 07 2004  
 PERMIT COUNTY



MUD 2004 00198

# LEE PLAN CHAPTER XIII

## **b. Administrative Interpretations of the Plan**

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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: combing 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.  
(Amended by Ordinance No. 00-22)

### **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.

(Amended by Ordinance No. 94-30, 00-22)

## **B. Standards for Administrative Interpretations**

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

1. Interpretations which would be confiscatory, arbitrary, capricious, unreasonable, or which would 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, Tradeport, 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 reappportion 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. (Amended by Ordinance No. 00-22)

**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)

BEFORE THE BOARD OF COUNTY COMMISSIONERS, LEE COUNTY, FLORIDA

IN RE: COMPASS ROSE VENTURE, LLC  
& SG INVESTMENTS, INC

CASE NOS.MUD2004-00198  
& 00200 - 00204

APPEALS OF ADMINISTRATIVE INTERPRETATIONS  
OF SINGLE FAMILY RESIDENCE

---

DECISIONS ON APPEALS

THESE APPEALS came before the Board of County Commissioners of Lee County acting in its capacity as the appellate reviewer of the Single Family Residence Interpretation of the Administrative Designee pursuant to Chapter XIII of the Lee County Comprehensive Land Use Plan; and

THE BOARD has considered the information submitted in the Administrative Interpretation process, as well as, the Administrative Interpretations of the Single Family Residence Provisions rendered by the Administrative Designee and the responses submitted by the petitioner; and

THE BOARD considered whether the Administrative Designee properly applied the standards for Administrative Interpretations to the facts presented in each case.

THE BOARD finds the subject parcel in each case that was attempted to be created as separate parcel does not comply with the Lee County Comprehensive Plan.

THE BOARD finds the Interpretations rendered by the Administrative Designee were appropriate and do not result in an unconstitutional taking of property. The Administrative Designee's decisions are hereby upheld and the appeals denied.

DONE AND ADOPTED this \_\_\_\_ day of October, 2006.

ATTEST:  
CHARLIE GREEN, CLERK

BOARD OF COUNTY COMMISSIONERS  
OF LEE COUNTY, FLORIDA

By: \_\_\_\_\_  
Deputy Clerk

By: \_\_\_\_\_  
Tammara Hall, Chairwoman

Approved as to form by the  
Lee County Attorney's Office

By: \_\_\_\_\_  
John J. Fredyma  
Assistant County Attorney