

**PALM BEACH COUNTY
PLANNING, ZONING AND BUILDING DEPARTMENT
ZONING DIVISION**



Application No.: EAC-2010-02807
Control No.: 2006-00550
Applicant: Boynton Beach Associates XXIII LLLP
Owners: Boynton Beach Associates Xxiii Llp
South Fla Water Mgmt Dist
William Gayler
Agent: G.L. Homes - Gladys DiGirolamo
Telephone No.: (954) 753-1730
Project Manager: Douglas Robinson, Site Planner I

Location: Development parcel is located south of Boynton Beach Blvd east of and adjacent to Acme dairy Road and west of and adjacent to the Florida Turnpike. **(Trails at Canyon)**

TITLE: an Expedited Application Consideration **REQUEST:** to modify a condition of approval (Engineering)

APPLICATION SUMMARY: Proposed is an Expedited Application Consideration for a Development Order Amendment for the Acme East Planned Unit Development (AGR-PUD). The 579.41-acre parcel was originally approved by the Board of County Commissioners (BCC) on June 28, 2007 by Resolution R-2007-1042 to allow a rezoning from Agricultural Reserve Residential (AGR) Zoning District to the Agricultural Reserve Residential Planned Unit Development (AGR-PUD) Zoning District with 579 dwelling units which includes a 201.95-acre development area and 377.44-acres of agricultural preserve. The most recent approvals were on February 4, 2009 a corrective Resolution (R-2009-0012) approved by the BCC to include the missing conditions from the previous Resolution. And lastly, on July 23, 2009 BCC approved Resolution (R-2009-1226) correcting a legal description associated with one of the preserve parcels within the AGR-PUD.

The applicant is requesting to delete Engineering Conditions 1.b and 1.c which require off site improvements associated with Boynton Beach Boulevard, Atlantic Avenue and State Road 7 intersections. The applicant is also requesting to extend the current build out date from December 31, 2013 to December 31, 2018. There are no other changes being requested. Access to the site will remain from Acme Dairy Road.

ISSUES SUMMARY:

o Project History

Acme East AGR-PUD was originally approved by Resolution (R2007-1041) on June 28, 2007 for 579 residential family dwelling units. In addition Resolution (R2007-1042) was also approved allowing a waiver of Article 3.E.1.C.2 relative to the restriction of cul-de-sacs within a community, more specifically to allow more than 25% of the local streets to terminate in a cul-de-sac or dead-end. On October 23, 2008 the BCC approved application DOA/EAC2008-00803 by Resolution (R2008-1961) to delete the requirement to plat preserve parcels associated with an AGR-PUD. Subsequently on February 4, 2009 a corrective Resolution (R2009-0012) was approved by BCC to include the missing conditions from the previous Resolution. And lastly, on July 23, 2009 BCC approved Resolution

(R2009-1226) correcting a legal description associated with one of the preserve parcels within the AGR-PUD.

o Consistency with Comprehensive Plan

The Planning Division has determined the request for a Development Order Amendment to delete Engineering Conditions of approval is consistent with the site's Agricultural Reserve FLU designation. The development is located within the Agricultural Reserve tier. See Planning Division comments for additional information.

o Compatibility with Surrounding Land Uses

NORTH:

FLU Designation: Agricultural Reserve (AGR)
Zoning District: Agricultural Reserve District (AGR)
Supporting: Farming (Control No N/A)

SOUTH:

FLU Designation: Agricultural Reserve (AGR)
Zoning District: Agricultural Reserve Planned Unit Development (AGR-PUD)
Supporting: Tree Farm (Control No 02-069, Canyon Lakes/Fogg Property South PUD)

EAST:

FLU Designation: Low Residential (LR-3)
Zoning District: Residential Planned Unit Development District (PUD)
Supporting: Residential (Control No 2005-0008 Mini-Assemblage across the turnpike)

WEST:

FLU Designation: Agricultural Reserve (AGR)
Zoning District: Agricultural Reserve Planned Unit Development (AGR-PUD)
Supporting: Residential (Control No 02-069, Canyon Lakes/Fogg Property South PUD)

The adjacent properties to the west across Acme Dairy Road support previously approved AGR-PUDs, Canyon Lakes (Resolution #'s R-03-0943, R-03-0944 and R-03-0565). The LWDD L-25 Canal provides a natural boundary along the northern property line. A 50-foot AGR Buffer along with the Florida's Turnpike borders the subject property on the east. To the south is a 50% reduced AGR Buffer (25 feet) and the LWDD L-27 Canal. The subject property is completely surrounded by AGR-PUD and AGR properties. Subject to the conditions of approval as recommended in Exhibit "C", staff anticipates no adverse impacts to the surrounding properties from the request.

o Modification of Conditions

Applicant's Request:

REQUEST: The applicant is requesting a Development Order Amendment to modify Engineering Condition 1.a to extend the build out date from December 31, 2013 to December 31, 2018. Also requested is to delete Engineering conditions of approval 1b and 1c.

Amendment of Engineering Condition 1.a as follows:

No Building Permits for the site may be issued after ~~December 31, 2014~~ December 31, 2018. A time extension for this condition may be approved by the County Engineer based upon an approved Traffic Study which complies with Mandatory Traffic Performance Standards in place at the time of the request. This extension request shall be made pursuant to the requirements of Article 2, Section E of the Unified Land Development Code.

Deletion of Engineering Conditions 1.b and 1.c:

Engineering Condition of Approval 1b states: Building Permits for more than 342 single family dwelling units shall not be issued until the contract has been awarded for the construction of

intersection improvements at SR 7 and West Atlantic Avenue which will provide for an additional east approach right turn lane.

Engineering Condition of Approval 1c states: Building Permits for more than 499 single family dwelling units shall not be issued until the contract has been awarded for the construction of intersection improvements at Boynton Beach Boulevard and Lyons Road which will provide for additional west approach through lane and a separate north approach right turn lane.

Staff's Response:

SUPPORT: The County Engineer approved this request to extend the current build out date. The current and future roadway capacity justifies the request to eliminate the requirements to construct intersection improvements at both Atlantic Avenue and State Road 7 and Boynton Beach Boulevard and Lyons Road. The remaining uses in the Acme East AGR PUD will be unaffected by this request. Therefore staff is in support of the request.

- o Traffic

See Staff Review and Analysis for comment from the Engineering Division.

- o Landscape/Buffering

No changes are proposed to any landscaping conditions of approval.

- o Development Order Amendment – Changed Circumstances

According to the updated Traffic Report relating to the current and future roadway conditions and capacities submitted with this application, the previous requirements to construct intersection improvements at both Atlantic Avenue and State Road 7 and Boynton Beach Boulevard and Lyons Road are no longer necessary or warranted as justified. These same capacities also justify the current build out date extension. The remaining uses in the Acme East AGR PUD will be unaffected by this request. Staff has evaluated the applicant's justification and responses for each standard listed under Article 2.B.2.B and have determined that there are no impacts or incompatibilities created by this request.

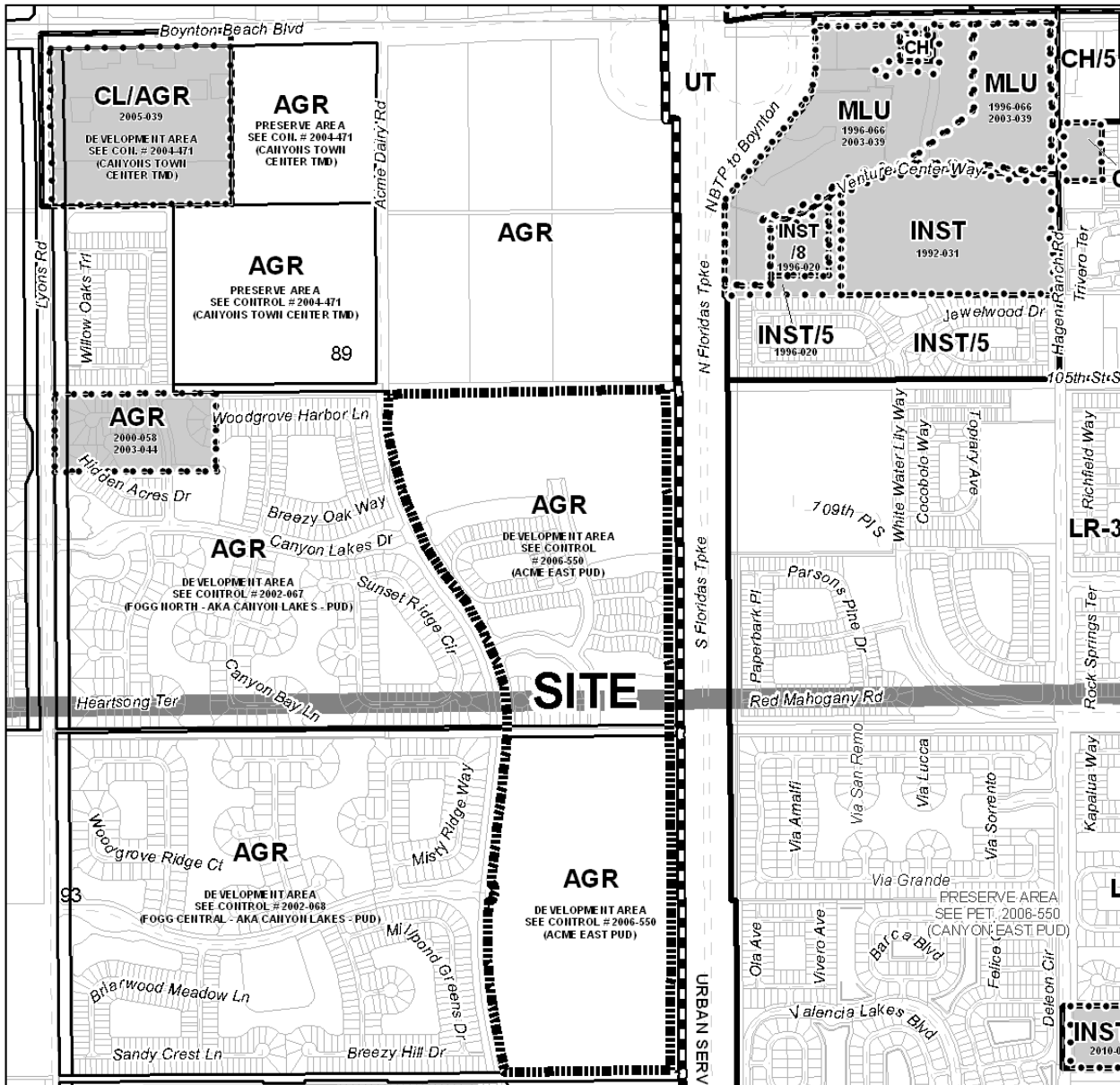
TABULAR DATA

	EXISTING	PROPOSED
Property Control Number(s)	00-41-45-25-00-000-1030 00-41-45-11-00-000-1010 00-41-45-14-00-000-3010 00-41-45-25-00-000-1010 00-42-43-27-05-059-0021 00-42-43-27-05-054-0660	Same
Land Use Designation:	Agricultural Reserve (AGR)	Same
Zoning District:	Agricultural Reserve District (AGR) Agricultural Reserve Planned Unit Development (AGR-PUD) Preservation/Conservation District (PC)	Same
Tier:	AG Reserve	Same
Use:	Single-Family	Same
Acreage:	579.41 acres	Same
Dwelling Units:	579 units	Same
Density:	1 du/ac for AGR-PUD	Same
Access:	Acme Dairy Road	Same

RECOMMENDATION: Staff recommends approval of the request subject to 30 Conditions of Approval as indicated in Exhibit C.

MOTION: To adopt a Resolution approving a Development Order Amendment to delete conditions of approval (Engineering 1.b and 1.c) and extend the current build out date from December 31, 2013 to December 31, 2018 subject to the Conditions of Approval as indicated in Exhibit C.

PALM BEACH COUNTY PLANNING DIVISION SITE LOCATION AND LAND USE

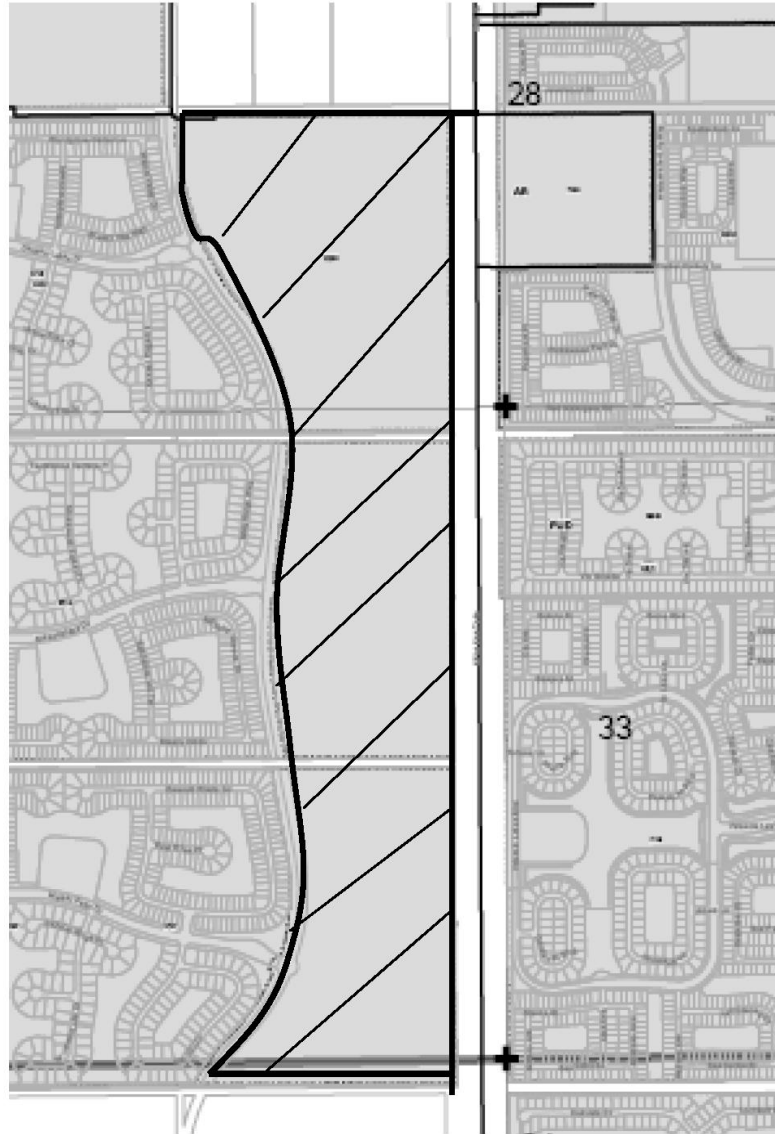


Application Number: EAC-2010-2807
 Control Number: 2006-550
 Land Use Atlas Page: 89 / 93
 Date: 01/24/2011



Figure 1 Land Use Atlas Map

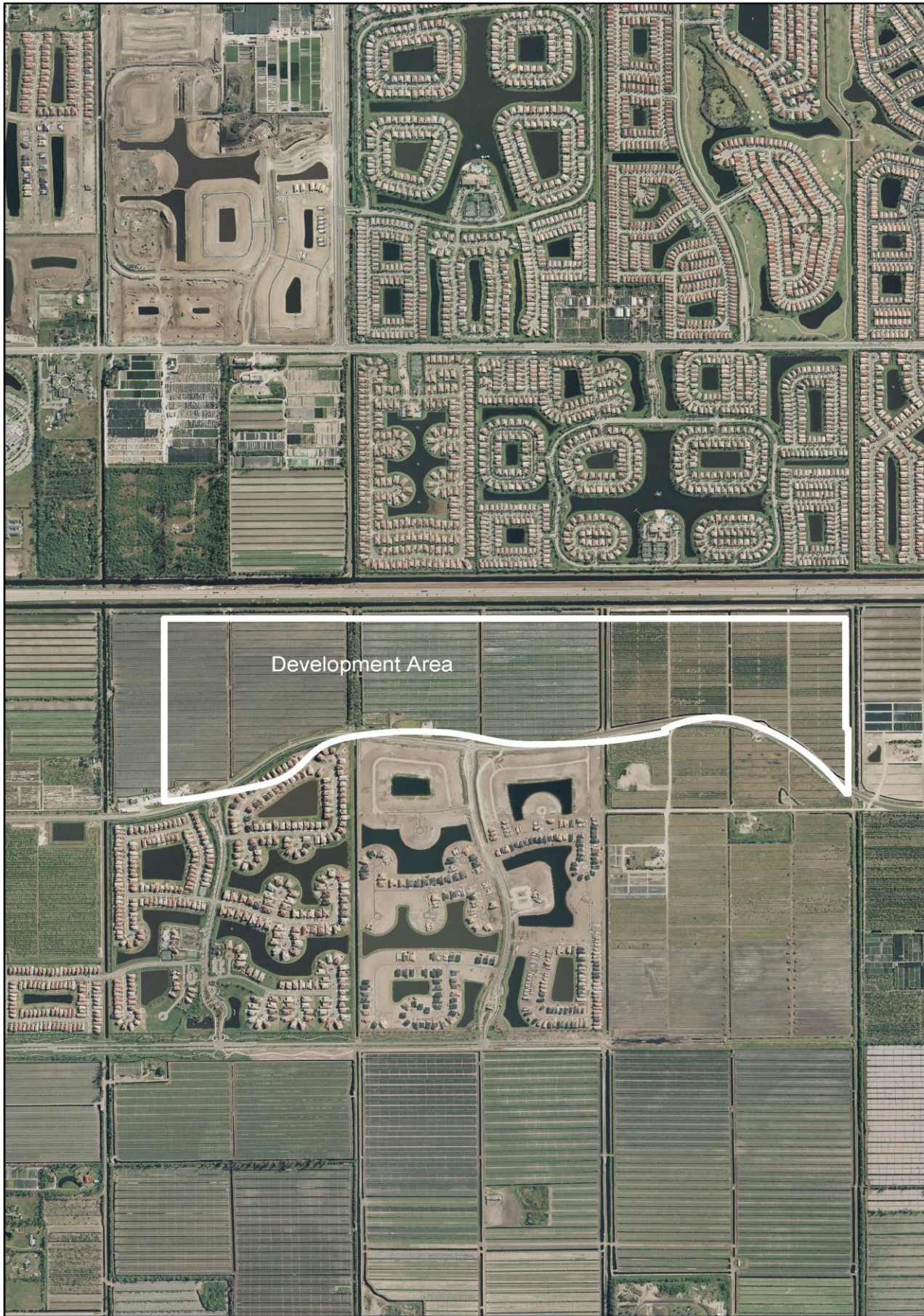
PALM BEACH COUNTY ZONING QUAD/VICINITY SKETCH



Application No /EAC2010-2807
Zoning Quad 50

↑
NORTH

Figure 2 Zoning Quad Map



Development Area

ZONING APPLICATION

PROJECT NAME
Trails at Canyon

Planning, Zoning
and Building
Department - GIS
2300 N. Jog Road
West Palm Beach, FL 33411

02/2011 © Haines Associates Inc.

Figure 3 Aerial

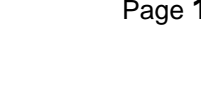
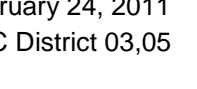
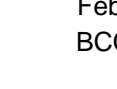
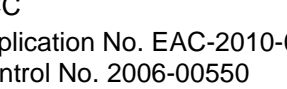
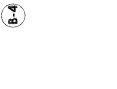
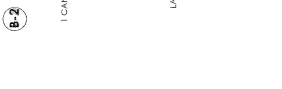
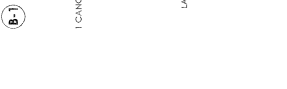
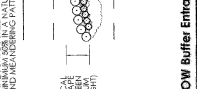
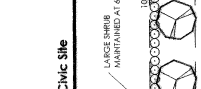
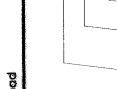
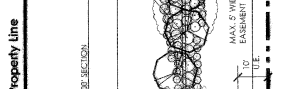
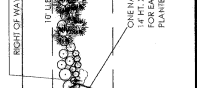
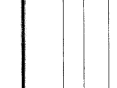
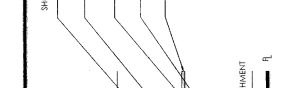
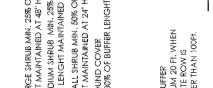
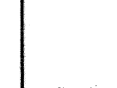
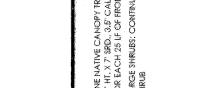
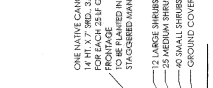
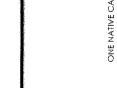
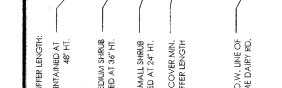
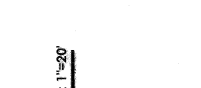
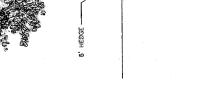
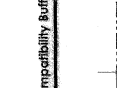
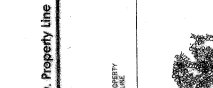
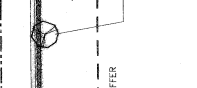
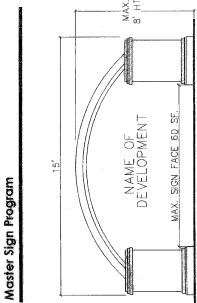
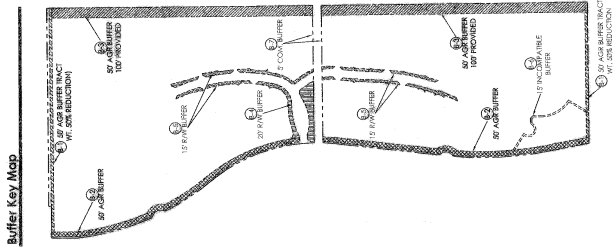


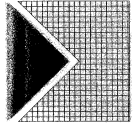
Figure 7 Approved Final Regulating Plan Exhibit 2 dated 9/12/2007 page 1

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Acme East AGR PUD Regulating Plan (AEP)

PROFESSIONAL SEAL
 STATE REGISTRATION NO. 06-550
 EXPIRES 9-12-07
 REGISTERED PROFESSIONAL ENGINEER
 STATE OF FLORIDA

FINAL PLAN
 APPROVED AT
 9:12:07
 [Signature]



**MILLER
LAND
CONSULTANTS, INC.**
490 W. Barton Beach Blvd.
Barton Beach, FL 33435
(561) 736-6938

Project: Acme East AGR PUD
Bartlett Beach Assoc. XXII
1620 Sawgrass Cor. Park
Sunrise, FL 33323

Project Consultants:

SURVEYOR

2081 Vero Parkway
West Palm Beach, FL 33411
561-897-7071

CIVIL & TRAFFIC ENGINEER

Simmons and White
West Palm Beach, FL 33411
561-478-7848

Project Title:

Acme East AGR PUD

Formerly Known as Canyon East
Regulating Plan
Palm Beach County, Florida

Drawn By:

Regulating Plan

Drawn: July 18, 2007

Revised:

Submittal 8-27-07

Sheet Number:

MP-3 of 6

Sheet Number:

MP-3 of 6

Sheet Number:

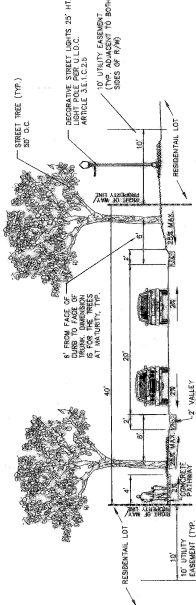
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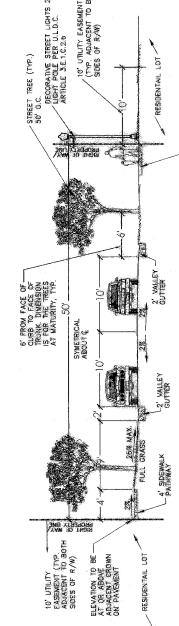
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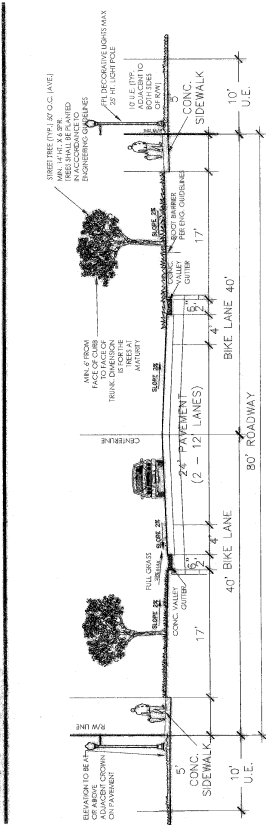
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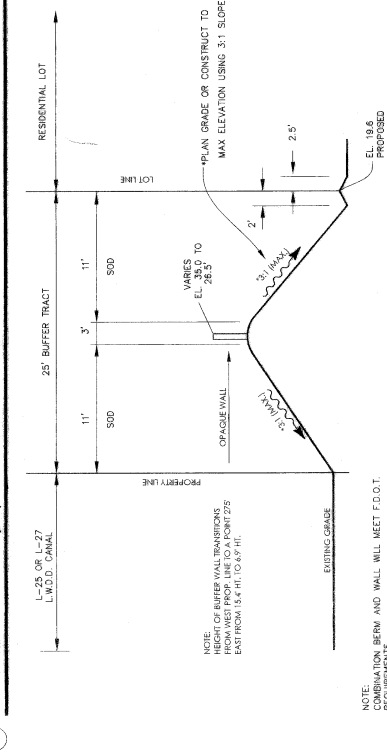


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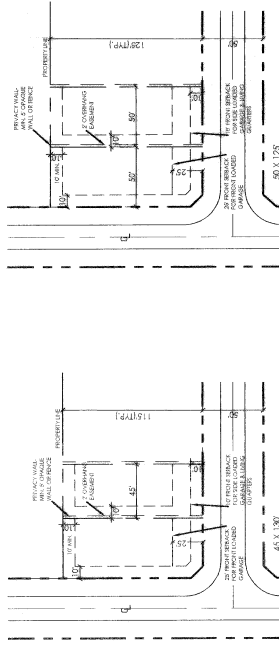


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100' AGR Buffer Detail East Property Line - Noise Abatement Wall 7 Berm



TYPICAL LOT DETAILS

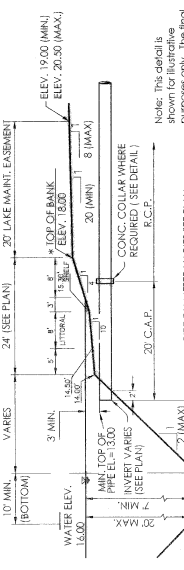


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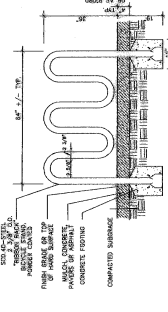
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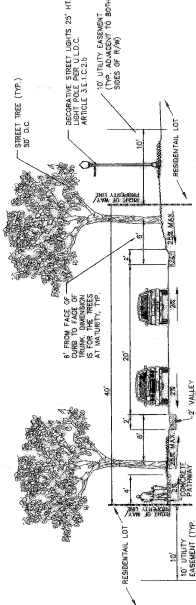


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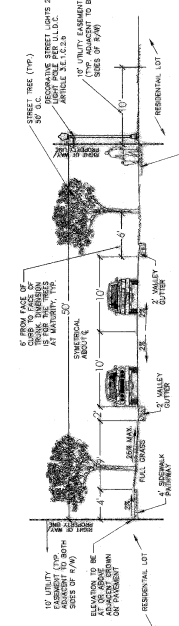
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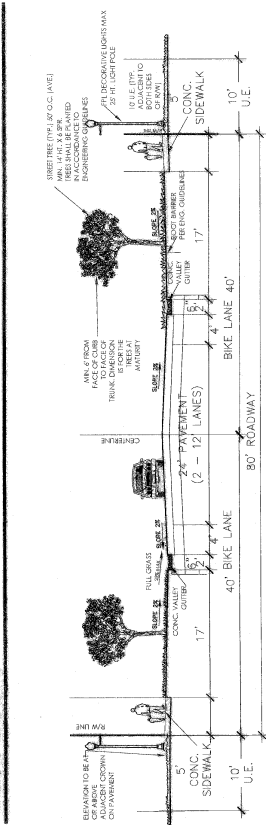
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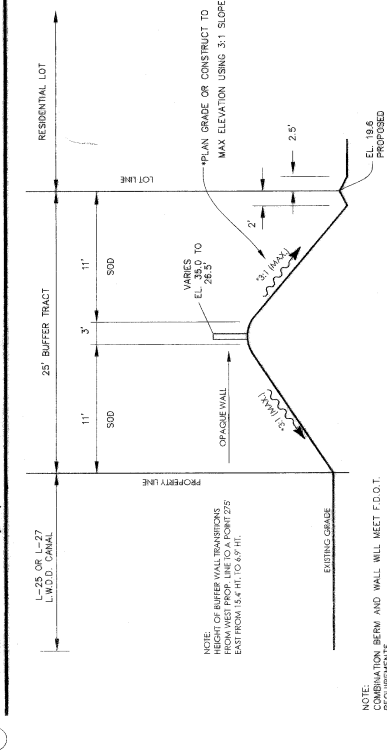


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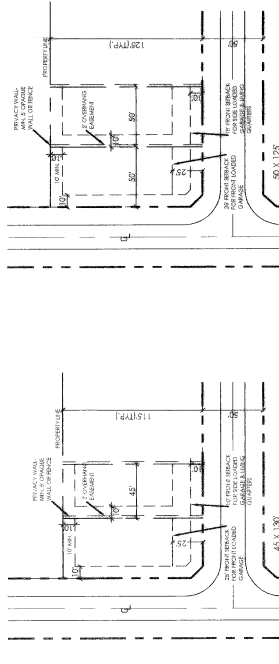


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100' AGR Buffer Detail East Property Line - Noise Abatement Wall 7 Berm



TYPICAL LOT DETAILS

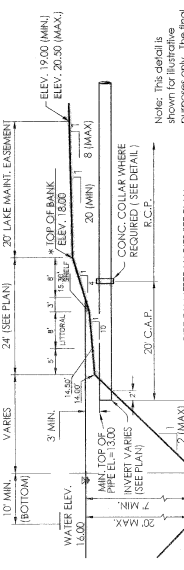


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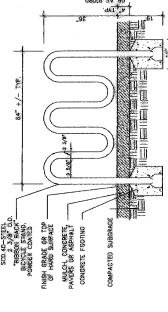
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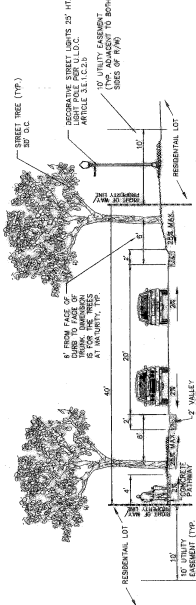


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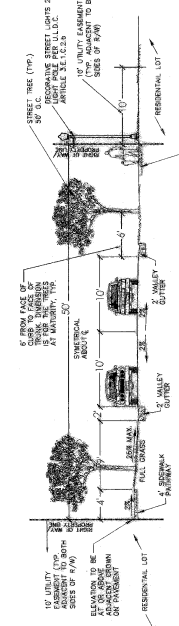
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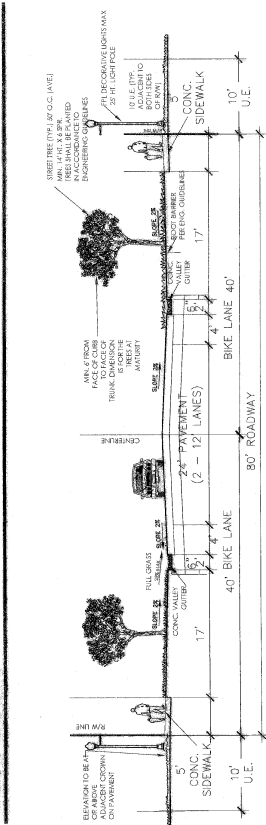
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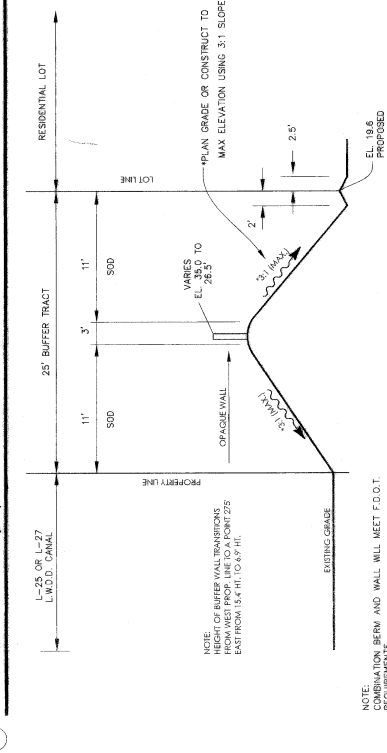


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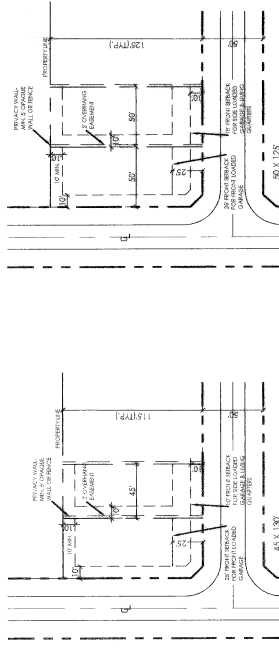


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100' AGR Buffer Detail East Property Line - Noise Abatement Wall 7 Berm



TYPICAL LOT DETAILS

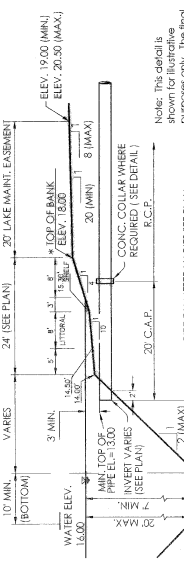


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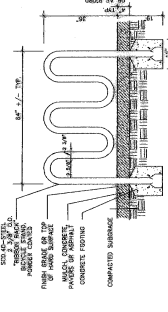
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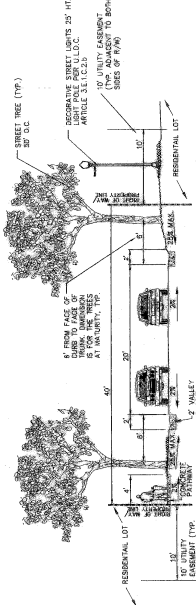


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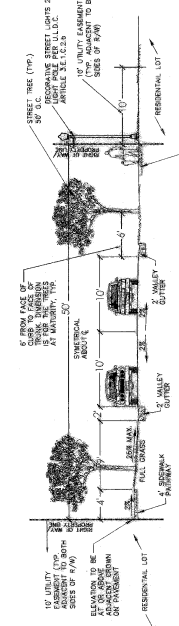
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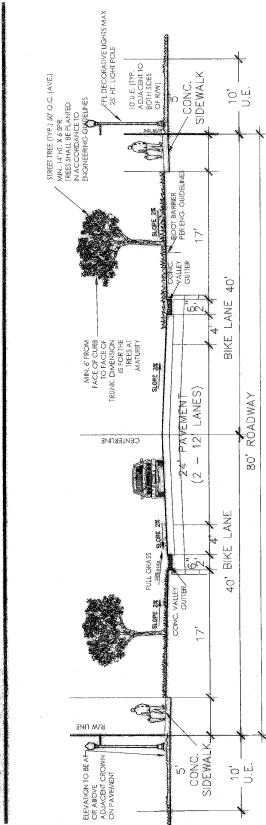
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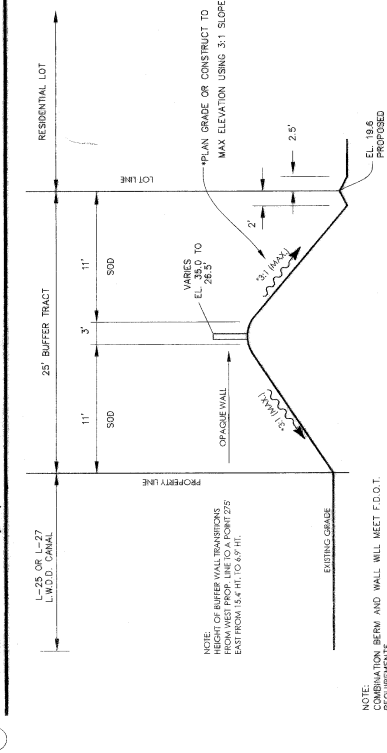


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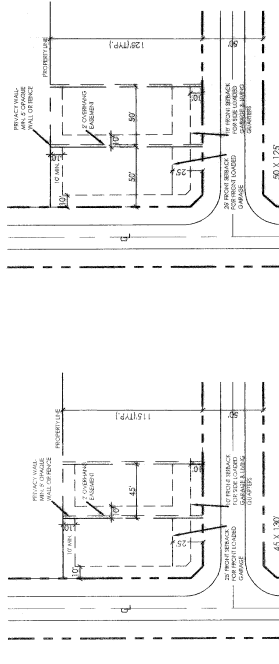


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100' AGR Buffer Detail East Property Line - Noise Abatement Wall 7 Berm



TYPICAL LOT DETAILS

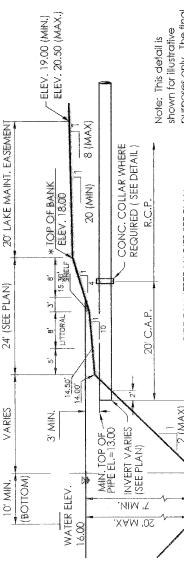


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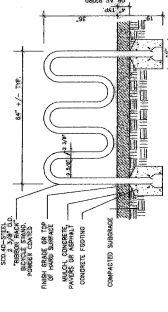
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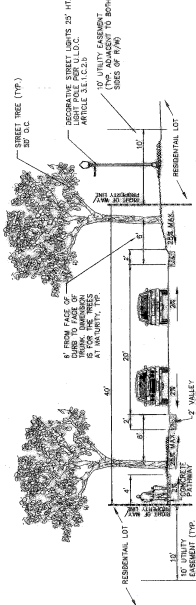


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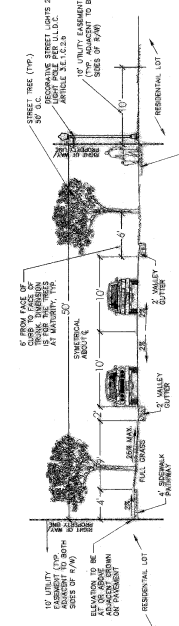
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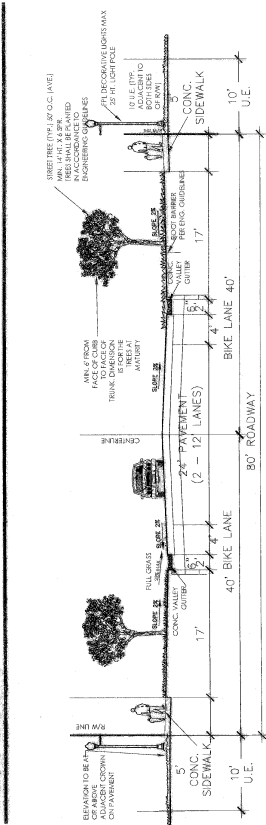
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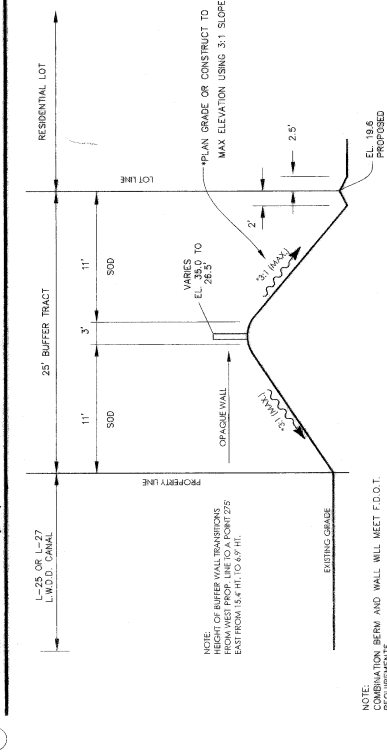


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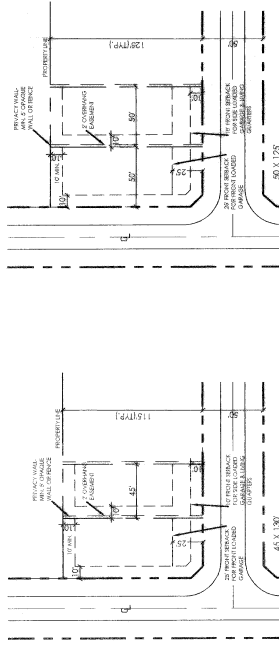


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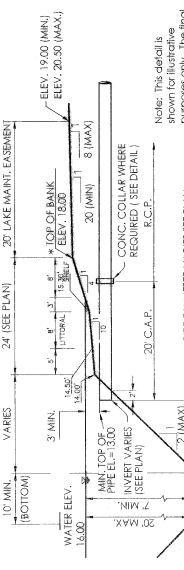


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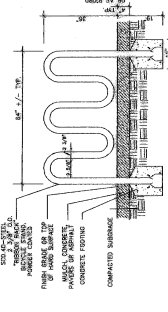
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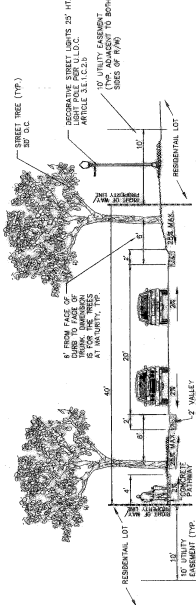


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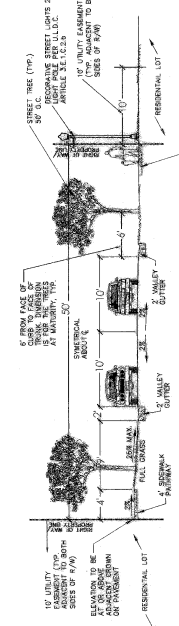
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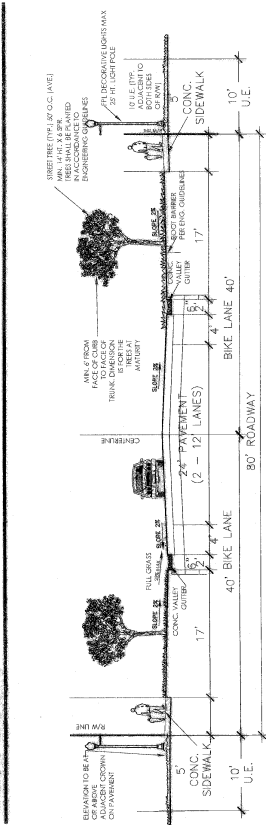
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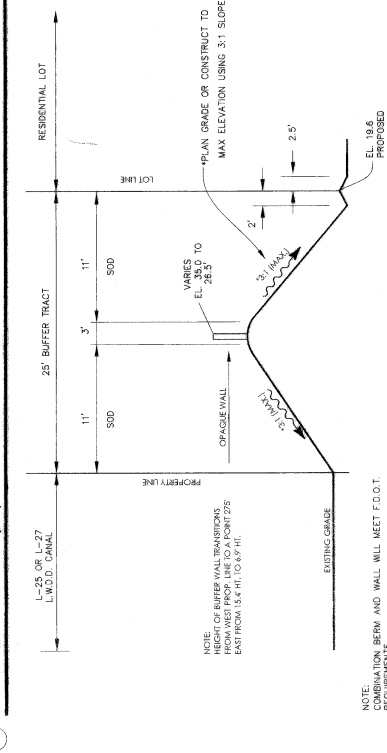


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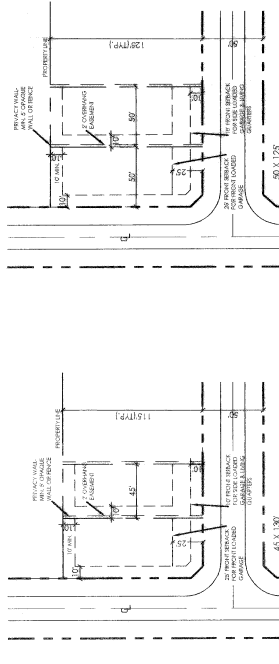


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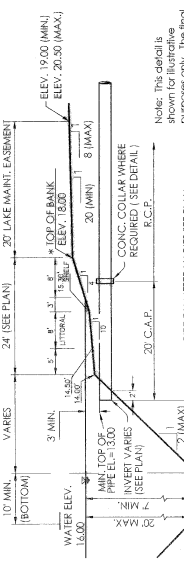


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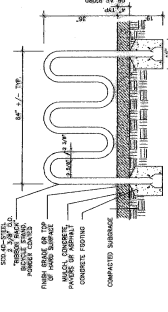
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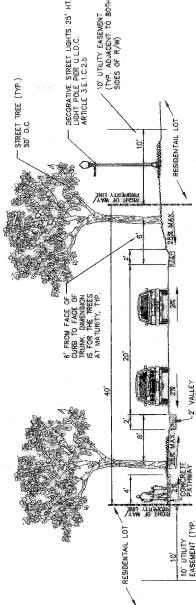


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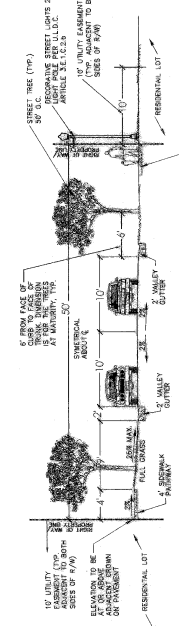
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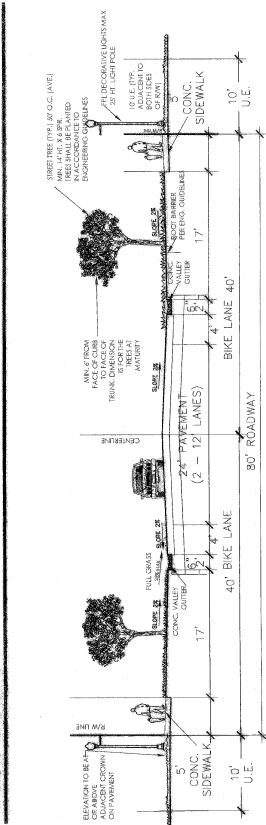
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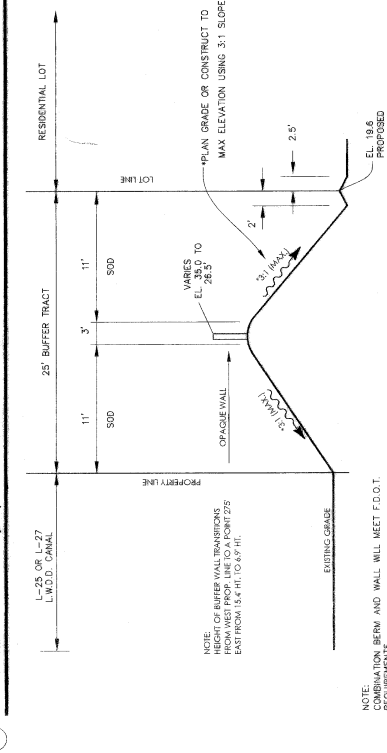


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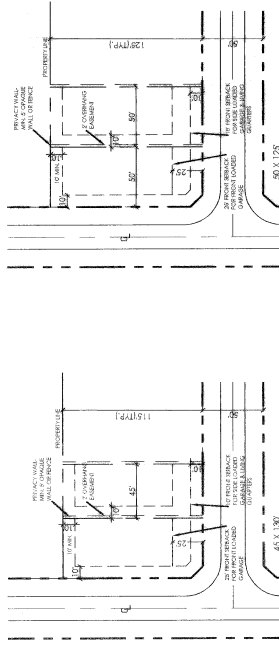


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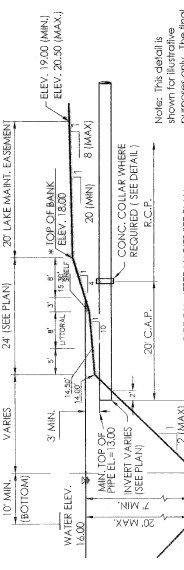


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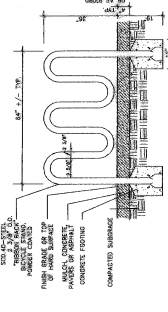
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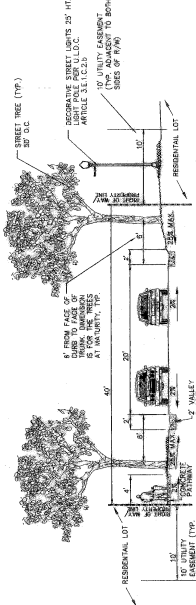


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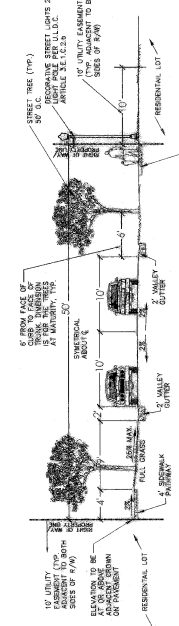
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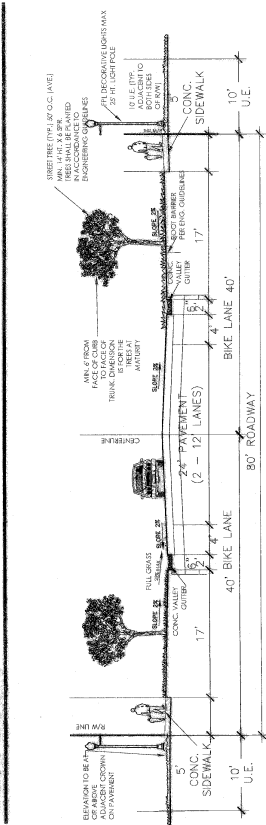
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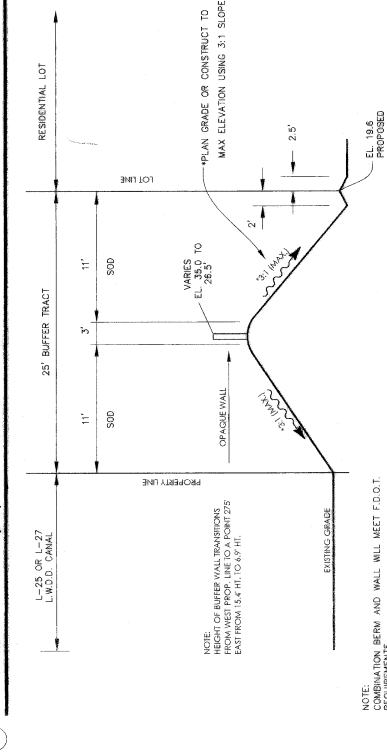


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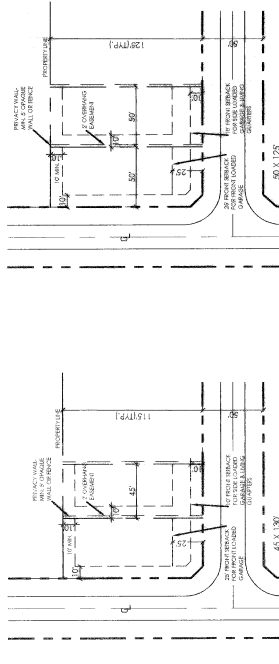


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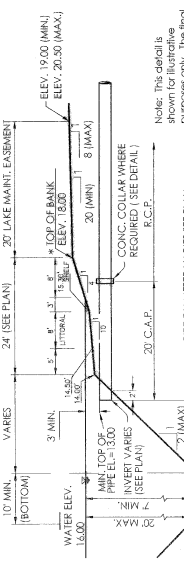


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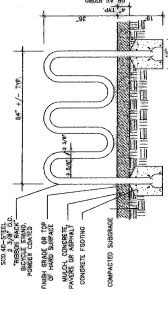
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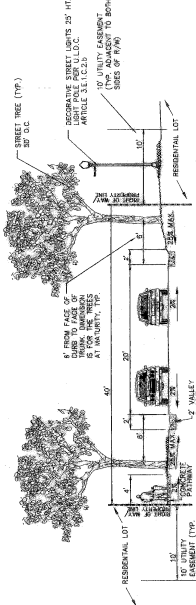


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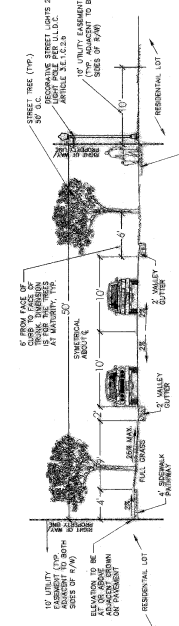
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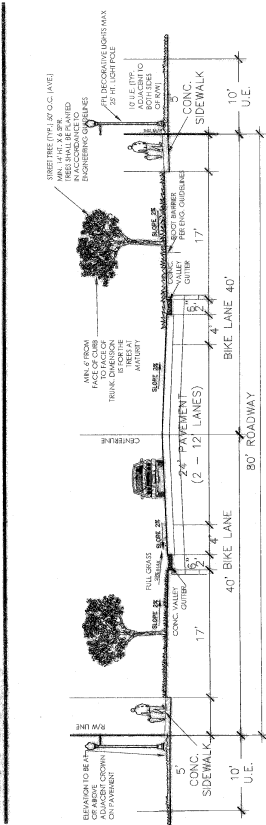
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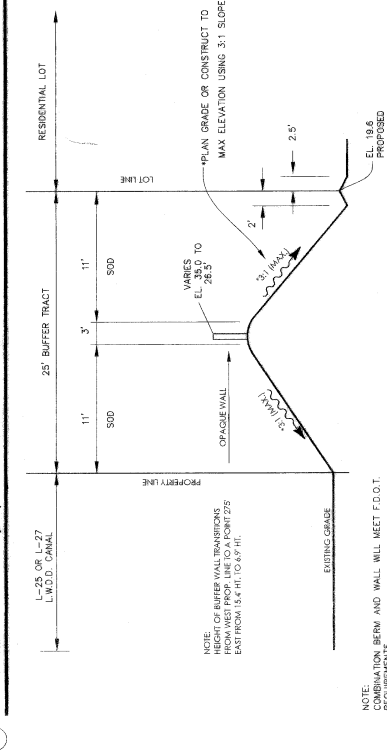


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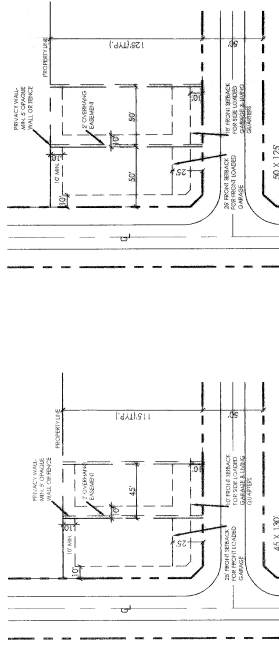


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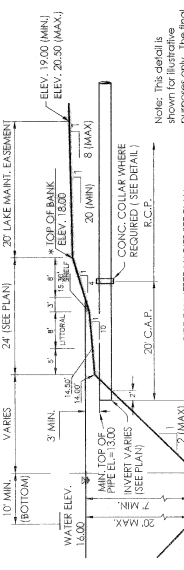


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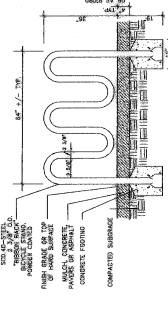
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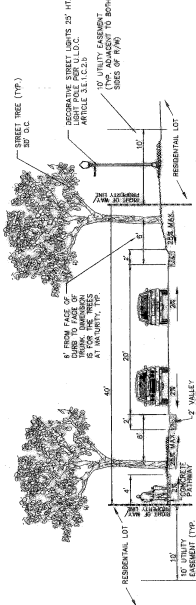


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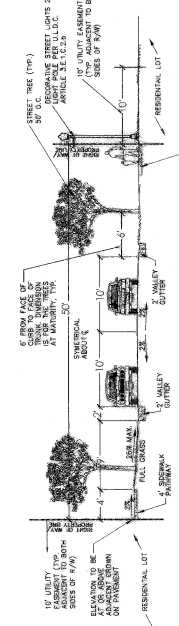
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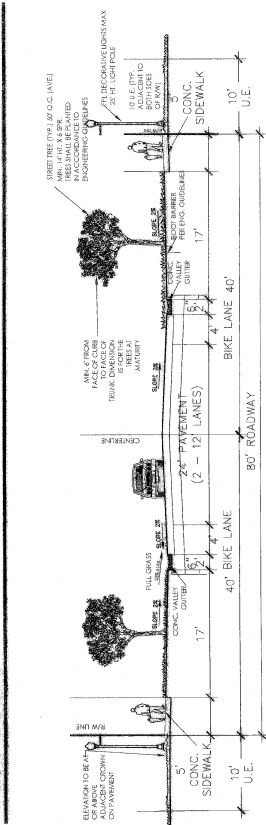
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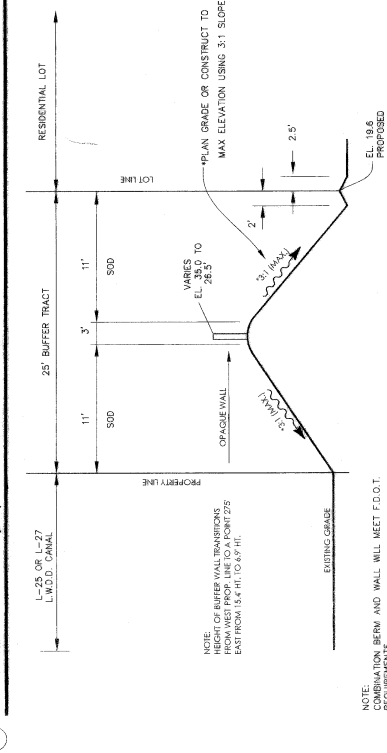


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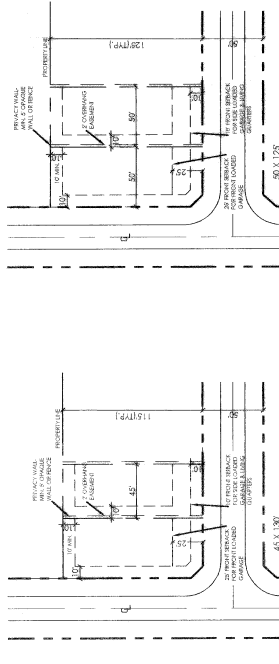


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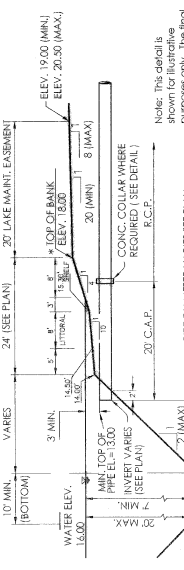


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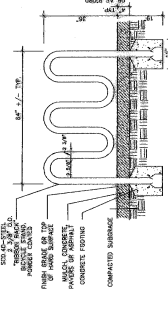
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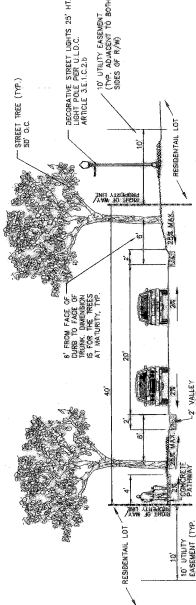


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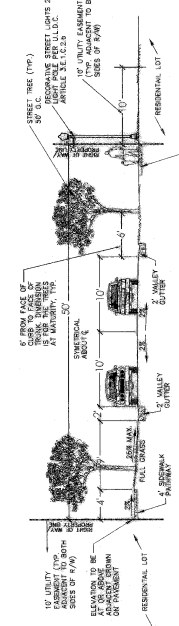
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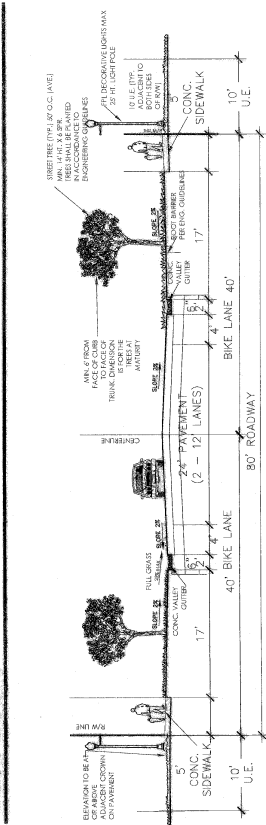
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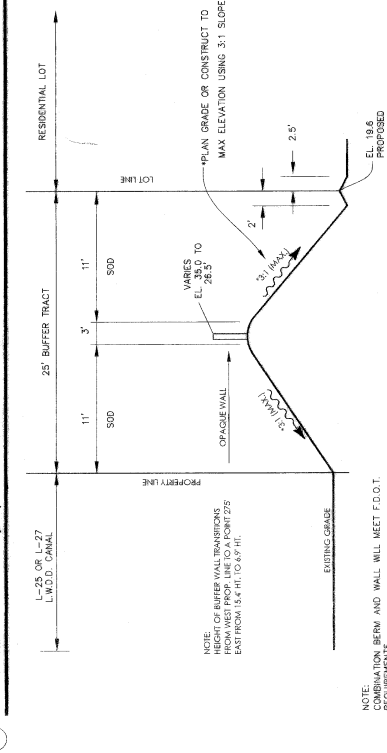


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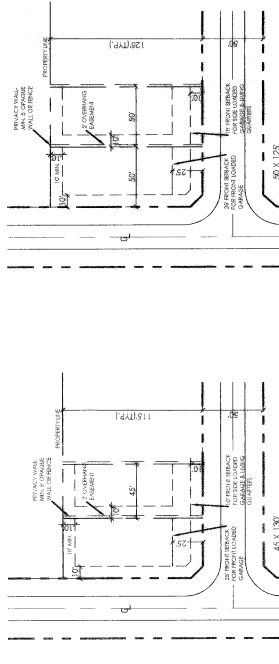


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STAFF REVIEW AND ANALYSIS

PLANNING DIVISION COMMENTS:

FUTURE LAND USE (FLU) PLAN DESIGNATION: Agricultural Reserve (AGR).

TIER: The subject site is in the Agricultural Reserve Tier.

FUTURE ANNEXATION AREAS: The subject site is not within the future annexation area of any municipality.

INTERGOVERNMENTAL COORDINATION: The subject site is not within 1 mile of any municipality.

CONSISTENCY WITH FUTURE LAND USE (FLU) PLAN DESIGNATION: The Planning Division has reviewed the request for an Expedited Application and Development Order Amendment (DOA) to extend the build-out date and delete Engineering Conditions of Approval and has found the request to be consistent with the site's FLU designation.

SPECIAL OVERLAY DISTRICT/NEIGHBORHOOD PLAN/PLANNING STUDY AREA: The request is located within the West Boynton Area Community Planning Area. No conflicts have been identified relating to the request.

FINDINGS: The request is consistent with the AGR land use designation of the Palm Beach County Comprehensive Plan.

ENGINEERING COMMENTS:

REQUIRED ENGINEERING RELATED PERMITS

This application to delete engineering conditions of approval related to Traffic Performance Standards (TPS). No changes to the onsite design are proposed at this time.

PALM BEACH COUNTY HEALTH DEPARTMENT:

No Staff Review Analysis

ENVIRONMENTAL RESOURCE MANAGEMENT COMMENTS:

VEGETATION PROTECTION: The site is under development.

WELLFIELD PROTECTION ZONE: The property is not located with a Wellfield Protection Zone.

IRRIGATION CONSERVATION CONCERNS AND SURFACE WATER: All new installations of automatic irrigation systems shall be equipped with a water sensing device that will automatically discontinue irrigation during periods of rainfall pursuant to the Water and Irrigation Conservation Ordinance No. 93 3. Any non stormwater discharge or the maintenance or use of a connection that results in a non stormwater discharge to the stormwater system is prohibited pursuant to Palm Beach County Stormwater Pollution Prevention Ordinance No. 93 15.

ENVIRONMENTAL IMPACTS: There are no significant environmental issues associated with this petition beyond compliance with ULDC requirements.

OTHER:

FIRE PROTECTION: The Palm Beach County Department of Fire Rescue will provide fire protection.

SCHOOL IMPACTS: No Staff Review Analysis

PARKS AND RECREATION: No Staff Review Analysis

CONCURRENCY: Concurrency is approved for 579 dwelling units, consisting of 58 single family residential and 521 zero lot line.

WATER/SEWER PROVIDER: Palm Beach County Water Utilities Department.

FINDING: The proposed Zoning Map Amendment complies with Article 2.F of the ULDC, Concurrency (Adequate Public Facility Standards).

FINDINGS:

Conditional Uses, Requested Uses and Development Order Amendments:

When considering a development order application for a conditional or requested use, or a development order amendment, the BCC and ZC shall consider standards 1 – 9 indicated below. A conditional or requested use or development order amendment which fails to meet any of these standards shall be deemed adverse to the public interest and shall not be approved. Staff has reviewed the request for compliance with the standards that are expressly established by Article 2.B.-2.B and provides the following assessment:

1. **Consistency with the Plan** – *The proposed use or amendment is consistent with the purposes, goals, objectives and policies of the Plan, including standards for building and structural intensities and densities, and intensities of use.*

The Planning Division has determined this request is consistent with the AGR land use designation of the Palm Beach County Comprehensive Plan.

2. **Consistency with the Code** - *The proposed use or amendment complies with all applicable standards and provisions of this Code for use, layout, function, and general development characteristics. The proposed use also complies with all applicable portions of Article 4.B, Supplementary Use Standards.*

The proposed deletion of an Engineering Condition and extend the current build out date complies with all applicable standards and provisions of this code for use, layout, function and general development characteristics. The proposed use also complies with all applicable portions of Article 4.B, Supplementary Use Standards and does not affect existing compliance of the project with the ULDC.

3. **Compatibility with Surrounding Uses** – *The proposed use or amendment is compatible and generally consistent with the uses and character of the land surrounding and in the vicinity of the land proposed for development.*

The requested amendment, as proposed and conditioned herein, is compatible as defined in the Code and is consistent with existing uses and zones surrounding the subject land.

4. **Design Minimizes Adverse Impact** – *The design of the proposed use minimizes adverse effects, including visual impact and intensity of the proposed use on adjacent lands.*

The request to delete engineering conditions of approval and extend the build out date has no effect on visual impact or intensity of use on adjacent lands and thus continues to have a design that minimizes adverse impact.

5. **Design Minimizes Environmental Impact** – *The proposed use and design minimizes environmental impacts, including, but not limited to, water, air, storm water management, wildlife, vegetation, wetlands and the natural functioning of the environment.*

The request is the deletion of an Engineering Condition and to extend the current build out date. There are no significant environmental issues associated with this petition beyond compliance with ULDC requirements. The site is under development.

6. **Development Patterns** – *The proposed use or amendment will result in a logical, orderly and timely development pattern.*

This request is to delete an Engineering Condition and to extend the current build out date and thus will not have an impact on development patterns.

7. **Consistency with Neighborhood Plans** – *The proposed development or amendment is consistent with applicable neighborhood plans in accordance with BCC policy.*

The request is located within the West Boynton Area Community Planning Area and the request to delete an engineering condition of approval and extend the build out date proposed by this application has no effect to the development plan for Canyon Trails/Acme East and therefore continues to be consistent with the West Boynton Area Community Plan.

8. **Adequate Public Facilities** – *The extent to which the proposed use complies with Art. 2. F, Concurrency.*

Concurrency is approved for the development of 579 dwelling units. Therefore the proposed amendment complies with Article 2.F, CONCURRENCY.

9. **Changed Conditions or Circumstances** – *There are demonstrated changed conditions or circumstances that necessitate a modification.*

According to the updated Traffic Report relating to the current and future roadway conditions and capacities submitted with this application the previous requirements to construct intersection improvements at both Atlantic Avenue and State Road 7 and Boynton Beach Boulevard and Lyons Road are no longer necessary or warranted as justified. These same capacities also justify the current build out date extension. The remaining uses in the Acme East AGR PUD will be unaffected by this request. Staff has evaluated the applicant's justification and responses for each standard listed under Article 2.B.2.B and has determined that there are no impacts or incompatibilities created by this request.

CONDITIONS OF APPROVAL

EXHIBIT C

Expedited Application Consideration

ALL PETITIONS

1. Development of the site is limited to the site design approved by the Board of County Commissioners. The approved master plan is dated April 16, 2007. All modifications must be approved by the Board of County Commissioners unless the proposed changes are required to meet conditions of approval or are in accordance with the ULDC. (Previous Condition All Petitions¹ of Resolution R-2009-0012, Control No. 2006-550) (DRO: ZONING -Zoning)

ENGINEERING

1. In order to comply with the mandatory Traffic Performance Standards, the Property owner shall be restricted to the following phasing schedule:

a. Previous Condition E.1.a of Resolution R-2009-0012, Control No. 2006-550, which currently states:

No Building Permits for the site may be issued after December 31, 2011. A time extension for this condition may be approved by the County Engineer based upon an approved Traffic Study which complies with Mandatory Traffic Performance Standards in place at the time of the request. This extension request shall be made pursuant to the requirements of Article 2, Section E of the Unified Land Development Code. (DATE: MONITORING-Eng)

Is hereby amended to read:

No Building Permits for the site may be issued after December 31, 2018. A time extension for this condition may be approved by the County Engineer based upon an approved Traffic Study which complies with Mandatory Traffic Performance Standards in place at the time of the request. This extension request shall be made pursuant to the requirements of Article 2, Section E of the Unified Land Development Code. (DATE: MONITORING-Eng)

b. Previous Condition E.1.b of Resolution R-2009-0012, Control No. 2006-550, which currently states:

Building Permits for more than 342 single family dwelling units shall not be issued until the contract has been awarded for the construction of intersection improvements at SR 7 and West Atlantic Avenue which will provide for an additional east approach right turn lane (BLDG PERMIT: MONITORING-Eng)

Is hereby deleted. [Reason: Revised traffic study no longer requires these improvements.]

c. Previous Condition E.1.c of Resolution R-2009-0012, Control No. 2006-550, which currently states:

Building Permits for more than 499 single family dwelling units shall not be issued until the contract has been awarded for the construction of intersection improvements at Boynton Beach Boulevard and Lyons Road which will provide for: -additional west approach through lane, -separate north approach right turn lane (BLDG PERMIT: MONITORING-Eng)

Is hereby deleted. [Reason: Revised traffic study no longer requires these improvements.]

d. Building Permits for more than 533 single family dwelling units shall not be issued until the contract has been awarded for the construction of intersection improvements at Boynton Beach Boulevard and Hagen Ranch Road which will provide for: -additional north approach through lane, -additional south approach through lane (BLDG PERMIT: MONITORING-Eng) [Note: COMPLETED]

e. Acceptable surety required for the offsite road improvements in conditions E.1.b, E.1.c, and E.1.d above shall be posted with the Office of the Land Development Division on or before December 28, 2007. Surety in the amount of 110% shall be based upon a Certified Cost Estimate provided by the Property owner's Engineer. (Previous Condition E.1.e of Resolution R-2009-0012, Control No. 2006-550) (TPS -Maximum 6 month time extension) (DATE:MONITORING-Eng) [Note: COMPLETED]

2. The property owner shall construct a left turn lane north approach on Acme Dairy Road at the Project's Entrance Road. Construction shall be concurrent with the paving and drainage improvements for the site. Any and all costs associated with this construction shall be paid by the property owner. These costs shall include, but are not limited to, utility relocations and acquisition of any additional required right-of-way. The length of this required turn lane on Acme Dairy Road shall be 390 feet plus the appropriate paved tapers.

a. Permits required by Palm Beach County for this construction shall be obtained prior to the issuance of the first Building Permit. (Previous Condition E.2.a of Resolution R-2009-0012, Control No. 2006-550) (BLDG PERMIT: MONITORING - Eng) [Note: COMPLETED]

b. Construction for the improvements shall be completed prior to the issuance of the first Certificate of Occupancy. (Previous Condition E.2.b of Resolution R-2009-0012, Control No. 2006-550) (CO: MONITORING-Eng) [Note: COMPLETED]

3. Noise Mitigation

a. The required mitigation as outlined in the approved noise study such as sound walls and landscape buffers shall be shown on the master/site plans and Final Subdivision Plans for this site subject to the approval of the County Engineer and Zoning Division. (ONGOING: ENGINEERING-Eng)

b. Construction of the required sound walls and landscape buffers for a pod fronting the turnpike, shall be completed prior to the issuance of the first certificate of occupancy for any lot within the pod. This condition shall apply to Pods A, E and F only. The construction shall be as outlined in the Noise Analysis. The property owner shall provide Land Development a listing of the applicable PCN numbers for all affected lots within Pods A, E and F. (CO:MONITORING-Eng)

c. The property owner shall notify future home buyers by providing that all homeowners documents, sales contracts, as well as all sales brochures, Master Plans and related Site Plans contain a disclosure statement identifying: -that this site is adjacent to the Florida Turnpike, -that the proposed dwelling units are in an area subject to noise generated by traffic as a result of its location to the Florida Turnpike, and -that the Developer has installed noise abatement improvements determined by the Florida Turnpike Enterprise to be effective in keeping noise levels from the Florida Turnpike below the State noise abatement criteria in effect as of the date of issuance of this Development Order. All sales contracts and homeowner documents shall also include a statement that any additional noise mitigation measures requested in the future by the Residents will not be funded or constructed by Palm Beach County.

The property owner shall submit documentation of compliance with these disclosure criteria on an annual basis to the Monitoring Section of Planning, Zoning and the Building Department. The next report shall be submitted on or before June 15, 2008 and shall continue on an annual basis until all units within the development have been sold or the developer relinquishes control to the homeowner's association. (Previous Condition E.3 of Resolution R-2009-0012, Control No. 2006-550) (DATE: MONITORING-Eng)

4. The Property owner shall lengthen the existing right turn lane west approach on Boynton Beach Boulevard at Acme Dairy Road. This turn lane shall be lengthened to a minimum 280 feet in length

plus 50 foot paved taper. This construction shall be concurrent with the paving and drainage improvements for the site. Any and all costs associated with the construction shall be paid by the property owner. These costs shall include, but are not limited to, utility relocations and acquisition of any additional required right-of-way.

a. Permits required for this improvement shall be obtained from the Florida Department of Transportation prior to the issuance of the first Building Permit. (BLDG PERMIT: MONITORING-Eng)

b. Construction shall be completed prior to the issuance of the first Certificate of Occupancy. (Previous Condition E.4 of Resolution R-2009-0012, Control No. 2006-550) (CO: MONITORING-Eng) [Note: COMPLETED]

5. The Property Owner shall fund the cost of signal installation if warranted as determined by the County Engineer at Boynton Beach Boulevard and Acme Dairy Road. Signalization shall be a mast arm structure installation. The cost of signalization shall also include all design costs and any required utility relocation.

a. No Building Permits shall be issued until the developer provides acceptable surety in the form of a cash bond or escrow agreement to the Traffic Division in an amount as determined by the Director of the Traffic Division. (Previous Condition E.5.a of Resolution R-2009-0012, Control No. 2006-550) (BLDG PERMIT:MONITORING-Eng) [Note: COMPLETED]

b. In order to request release of the surety for the traffic signal at Boynton Beach Boulevard and Acme Dairy Road, the Property Owner shall provide written notice to the Traffic Division stating that the final certificate of occupancy has been issued for this development and requesting that a signal warrant study be conducted for this intersection. The Traffic Division shall have 24 months from receipt of this notice to either draw upon the monies to construct the traffic signal or release the monies. (Previous Condition E.5.b of Resolution R-2009-0012, Control No. 2006-550) (ONGOING: ENGINEERING-Eng) [Note: COMPLETED]

LANDSCAPE - GENERAL-STANDARDS

1. Prior to the issuance of the first certificate of occupancy, the property owner shall submit a Landscape Plan for the entire project to the Landscape Section for review and approval. The Plan shall be prepared in compliance with all the landscape conditions as contained herein. (Previous Landscape Condition 2 of Resolution R-2009-0012, Petition 2006-0012) (CO:LANDSCAPE-Zoning)

2. A minimum of fifty (50) percent of all trees to be planted in the landscape buffers shall meet the following minimum standards at installation:

a) tree height: Fourteen (14) feet; b) trunk diameter: three and one-half (3.5) inches measured at four and one-half

(4.5) feet above grade; c) canopy diameter: Seven (7) feet diameter shall be determined by the average canopy radius measured at three (3) points from the trunk to the outermost branch tip. Each radius shall measure a minimum of three and one-half (3.5) feet

in length; and, d) credit may be given for existing or relocated trees provided they meet ULDC requirements. (Previous Landscape Condition 2 of Resolution R-2009-0012, Petition 2009-0012) (DRO: LANDSCAPE-Zoning)

3. All palms required to be planted on the property by this approval, except on individual residential lots, shall meet the following minimum standards at installation:

a) palm heights: twelve (12) feet clear trunk; b) clusters: staggered heights twelve (12) to eighteen (18) feet; and, c) credit may be given for existing or relocated palms provided they meet current ULDC requirements. (Previous Landscape Condition 3 of Resolution R-2009-1200, Petition 2006-550) (DRO: LANDSCAPE-Zoning)

4. A group of three (3) or more palms may not supersede the requirement for a canopy tree in that location, unless specified herein. (Previous Landscape Condition 4 of Resolution R-2009-1200, Petition 2006-550) (DRO: LANDSCAPE-Zoning)

5. Field adjustment of plant material locations may be permitted to provide pedestrian sidewalks/bike paths and to accommodate transverse utility or drainage easements crossings and existing vegetation. (Previous Landscape Condition 5 of Resolution R-2009-1200, Petition 2006-550) (DRO: LANDSCAPE-Zoning)

LANDSCAPE - INTERIOR-LANDSCAPING-ALONG THE EAST AND WEST PROPERTY LINES

6. In addition to the proposed landscaping and buffering program and code requirements, landscaping along the east and west property lines shall be upgraded to include:

a) one (1) palm or pine for each for each thirty (30) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters. (Previous Landscape Condition 6 of Resolution R-2009-1200, Petition 2006-550) (DRO: LANDSCAPE-Zoning)

PLANNED DEVELOPMENT

1. Prior to recordation of the first plat, all property included in the legal description of the application shall be subject to a Declaration of Restrictions and Covenants acceptable to the County Attorney's office which shall include the following: a. formation of a single master" property owner's association, automatic voting membership in the master association by any party holding title to any portion of the subject property, and assessment of all members of the master association for the cost of maintaining all common areas. b. all recreation parcels shall be deed restricted to recreation for the use of the residents of the development. At the time of turnover of the POA/HOA, the recreation parcel shall be turned over to the association at no cost to the residents. c. the property shall not be subject to the Declaration of Restrictions in phases. Approval of the Declaration must be obtained from the County Attorney's office prior to the recordation of the first plat for any portion of the planned development. This Declaration shall be amended when additional units are added to the PUD. (Previous Planned Unit Development Condition 1 of Resolution R-2009-0012, Petition 2006-550) (PLAT: MONITORING-Cty Atty)

2. Prior to final approval by the Development Review Officer (DRO), the ite/regulating plans shall be revised to indicate upgraded recreation amenities within each of the neighborhood parks. These additional amenities shall:

be accessible from a minimum five (5) foot wide pathway composed of stamped concrete, paver blocks, or other improved surface; include a minimum of two (2) pedestrian benches;

include a minimum of one (1) trash receptacle adjacent to each pedestrian bench;

include a shade structure (eg. trellis, gazebo, pergola), tot lot, fitness station, rest station, or similar recreation amenity or other shade structure; and, details for all items indicated above shall be subject to review and approval by the Architectural Review Section. (Previous Planned Unit Development Condition 2 of Resolution R-2009-0012, Petition 2006-550) (DRO: ARCH REVIEW-Zoning)

3. Planned Unit Development Condition 3 of Resolution R-2009-0012, Petition 2006-550

For a clubhouse or similar common building exceeding 2,500 total square feet on the 5.52-acre recreation parcel, the facility shall be equipped with a generator that complies with the following requirements:

a) operates essential electrical systems, including AIC systems, for a minimum of thirty percent (30%) of the gross interior floor area of the building;

b) an aboveground fuel storage system, or an alternative fuel storage system that is acceptable to Palm Beach County, with a minimum capacity that is acceptable to the Building Division shall be located adjacent to the generator;

c) setback in accordance with the Property Development Regulations for a recreation pod in accordance with ULDC Table 3.E.2.D-16;

d) screened from view on all sides by an opaque barrier constructed of compatible materials, color and character as the building or equivalent landscaping;

e) subject to review and approval by the Building Division; f) deviation from these requirements and/or required building size shall be permitted if consistent with future ULDC regulations; and,
g) in the event future ULDC regulations/Board of County Commission direction does not require the provision of a generator for the clubhouse or similar common building for Planned Unit Developments, condition 3.a. through 3.f. above shall be null and void and shall no longer be applicable to this project. (BLDG PERMIT: MONITORING -Zoning)

is hereby deleted. [REASON: No longer applicable.]

PLANNING

1. The PUD shall be limited to a maximum of 579 dwelling units and shall meet 60/40 AGR-PUD requirements. Development rights associated with the preserve areas shall be retired at the time of approval of this application and all units shall be assigned to the development area. No approved, but unbuilt units may be transferred outside the development area. (Previous Condition Planning 1. of Resolution R-2009-012, Control No. 2006-550) (DRO/ONGOING: PLANNING - Planning)

2. Prior to recordation of a plat for the development area, should any lots be created to achieve the configuration of these Preservation parcels, the property owner shall provide documentation to the Planning Division and the County Attorney's Office that any lots created would not result in the creation of illegal lots of record and would at a minimum total: Chico, Preserve #1(18.14 acres); Jill, Preserve #2 (27.34 acres); Gaylor, Preserve #3 (65.45 acres); South Florida Water Management District, Preserve #4A (206.26 acres); South Florida Water Management District, Preserve #4B (55.25 acres); and Bolton, Preserve #5 (5.03 acres). (Previous Condition Planning 3. of Resolution R-2009-012, Control No. 2006-550) (PLAT: ENG/CTY ATTY - Planning) [NOTE: COMPLETE]

3. Prior to final site plan approval by the Development Review Officer (DRO), the property owner shall provide an "AGR/PUD Preserve and Development Parcel Location Map" as an addendum to the Master Plan. This addendum shall also indicate the location, access, acreage, and permitted uses within the preservation areas consistent with the Palm Beach County Comprehensive Plan and the Unified Land Development Code (ULDC). (Previous Condition Planning 4. of Resolution R-2009-012, Control No. 2006-550) (DRO: PLANNING - Planning) [NOTE: COMPLETE]

4. Prior to final approval by the Development Review Officer, submit a signed copy of the AGR Preserve Management Plans approved by ERM for each Agricultural Preserve parcel. (Previous Condition Planning 5. of Resolution R-2009-012, Control No. 2006-550) (DRO-PLANNING-Planning) [NOTE: COMPLETE]

5. Prior to final site plan approval by the Development Review Officer (DRO), the property owner shall add a Preservation Area/Proposed Uses" notes section on page 1 of the site plan and include the following:

a. The preservation areas approved as part of Application PDD/W-2006-1908 shall be restricted to preservation uses as follows, with the exception of areas designated as environmentally sensitive in the conservation easement:

PERMITTED USES

- 1) Crop production, pasture, or equestrian purposes or may be retained as fallow land;
- 2) Accessory structures such as barns and pump structures are permitted;
- 3) Regional water storage areas to serve as water management functions or to serve as a Water Preserve Area if designated by the South Florida Water Management District: to serve regional water management purposes as certified by either Lake Worth Drainage District or South Florida Water management District, or for water management purposes not directly related to the 60/40 AgR-PDD if approved by the Department of Environmental Resources Management and managed for environmental resource values;
- 4) Wetland or bona fide agricultural uses per the ULDC;
- 5) Other uses as permitted by the required conservation easements;
- 6) Other uses as may be permitted within the protected area of an AGR-PDD consistent with the Comprehensive Plan and the Unified Land Development Code,;

NOT PERMITTED

7) Agricultural support uses such as processing facilities, farmworker housing and the like shall not be accommodated in the protected or preservation area of the AGR-PUD; nor shall new residential uses, other than security/caretakers quarters and grooms quarters, be accommodated thereon.

8) No residential units or farm residences (whether existing or proposed) shall be allowed within the preserve area. (Previous Condition Planning 6. of Resolution R-2009-012, Control No. 2006-550) (DRO/ONGOING: PLANNING - Planning)

6. Should conservation easements not be recorded for the Preservation properties in a form acceptable to the County Attorney prior to June 28, 2010, then the approval of this Development Order (DO) shall be scheduled for review by the Board of County Commissioners with a recommendation by staff to revoke the Development Order. No administrative time extension for this condition shall be allowed. (Previous Condition Planning 8. of Resolution R-2009-012, Control No. 2006-550) (DATE: MONITORING-PLANNING/CTY ATTY - Planning) [NOTE: COMPLETE]

7. Should conservation easements not be recorded for the Preservation properties in a form acceptable to the County Attorney prior to June 28, 2010, then the approval of this Development Order (DO) shall be scheduled for review by the Board of County Commissioners with a recommendation by staff to revoke the Development Order. No administrative time extension for this condition shall be allowed. (Previous Condition Planning 8. of Resolution R-2009-012, Control No. 2006-550) (DATE: MONITORING-PLANNING/CTY ATTY - Planning) [NOTE: COMPLETE]

PROPERTY & REAL ESTATE MANAGEMENT

1. The property owner shall provide Palm Beach County Board of County Commissioners with a Statutory Warranty Deed on a net 4.04 acre public civic site (net usable area minus any buffers), in a location and form acceptable to Facilities, Development & Operations Department (FD&O) by June 1, 2012.

Property owner to plat and dedicate the civic site to Palm Beach County prior to conveying the deed, and shall have satisfied each of the following conditions prior to deed conveyance.

a) Title Property owner to provide a title policy insuring marketable title to Palm Beach County for the civic site and any easements that service the civic site as required by the County Attorney's office. All title exception documentation to be provided to County. Policy is subject to Property & Real Estate Management Department's (PREM) and County Attorney's approval. The title policy to be insured to Palm Beach County for a dollar value based on current market appraisal of the proposed civic site or the Contract purchase price on a per acre basis if the contract purchase was concluded within the previous 24 month period. If an appraisal is required it shall be obtained by the property owner. The property owner shall release the County from all Declarations of Covenants and Conditions of the P.U.D. or other restrictive covenants as they may apply to the civic site.

b) Concurrency Property owner to assign sufficient traffic trip capacity such that the traffic volume associated with a County facility shall be attached to the civic site and recorded on the concurrency reservation for the entire PUD. The Developer shall be provided with input as to the size of a structure (and proposed use) which the civic site would support and the corresponding amount of trips. If no County use is applied to the civic site, property owner shall assign sufficient traffic trip capacity equivalent to the number of units the civic would support if it were a residential pod.

c) Taxes All ad valorem real estate taxes and assessments for the year of acceptance shall be prorated to include the day of acceptance.

d) Site condition Civic site to be free and clear of all trash and debris at the time of acceptance of the Statutory Warranty Deed.

e) Retention and Drainage Property owner shall provide all retention, detention, and drainage required for any future development of the proposed civic site by the County. Property owner shall specifically address the following issues:

1) The discharge of surface water from the proposed civic site into the property owner's water retention basins.

2) As easement across property owner's property from the proposed civic site to the retention basins, if required.

f) On-Site Inspections By acceptance of these conditions property owner agrees to allow the County to perform any on site inspections and testing deemed appropriate to support the acquisition of the civic site.

- g) Vegetation Permit Property owner to perform a tree survey and obtain a vegetation clearing permit. If it is determined by PREM that clearing is not required at time of conveyance, the cost of such clearing shall be paid to the County.
- h) Buildable Grade Prepare civic site to buildable grade under the direction of the Facilities Development & Operations Department. Site shall be stabilized with 1) sod and watered or, 2) seeded, mulched and watered (until seed has established itself) to the satisfaction of Facilities Development and Operations.
- i) Right of Way Buffer Easement; Landscape/Buffer Easements; Gaps Property Owner shall dedicate by plat and deed to County, any tract of land which may lie between the civic site and the roadway by which the County will be provided legal access to the civic site(s).
- j) Water & Sewer Property owner to provide water and sewer stubbed out to the property line and other required utilities as determined by PREM. (Previous Civic Site Condition 1 of Resolution R-2009-0012, Petition 2006-550) (DATE:MONITORING-PREM)

2. The property owner shall provide the County with a survey certified to Palm Beach County of the proposed civic site by May 1, 2012 . Survey shall reflect the boundary and topographical areas of the site and the surveyor shall use the following criteria:

- a) The survey shall meet Minimum Technical Standards for a Boundary Survey as prescribed by F.A.C. 21 HH.6.
- b) If this parcel is a portion of Palm Beach Farms, sufficient data to make a mathematical overlay should be provided.
- c) The survey should include a location of any proposed water retention area that will border the civic site.

Survey is also subject to the County's approval of any proposed or existing easements within the proposed civic site and all title exceptions are to be shown on the survey. (DATE:MONITORING-PREM) (Previous Civic Site Condition 2 of Resolution R-2009-0012, Petition 2006-550)

3. The property owner shall provide PREM with an Environmental Assessment certified to Palm Beach County of the proposed civic site by May 1, 2012 . The minimum assessment which is required is commonly called a "Phase I Audit". The audit shall describe the environmental conditions of the property and identify the past and current land use.

The assessment will include but not be limited to the

following: a) Review of property abstracts for all historical ownership data for evidence of current and past land use of the proposed civic site.

b) Review of local, state, and federal regulatory agency's enforcement and permitting records for indication of prior groundwater or soil contamination. Also, a review of the neighboring property that borders the proposed civic site will be required. The review shall include, but not be limited to, Palm Beach County Environmental Resources Management Department Records, and Florida Department of Regulation Records.

The assessment shall reflect whether the civic site or any bordering property is on the following lists:

- 1) EPA's National Priorities list (NPL) 2) Comprehensive Environmental Response Compensation and Liability Act System List (CERCLA) 3) Hazardous Waste Data Management System List (HWDMS).

c) Review of current and historical aerial photographs of the proposed civic site. Provide a recent aerial showing site and surrounding properties.

d) The results of an on-site survey to describe site conditions and to identify potential area of contamination.

e) Review of Wellfield Protection Zone maps to determine if property is located in a Wellfield Zone.

f) If the Phase I audit indicates that a Phase II is necessary, then the property owner shall be required to provide that audit as well. (DATE:MONITORING-PREM) (Previous Civic Site Condition 3 of Resolution R-2009-0012 , Petition 2006-550)

4. The property owner has offered to provide the County with an offsite property which shall be used as a credit towards the required 4.04 onsite acres of this PUD. The offsite property conveyance shall be handled by either one of two separate agreements known as the proposed Acme East Agreement and the Exchange and Civic Site Dedication Agreement (approved under R-2004-0936), which agreements shall supersede all conditions set forth herein. However, should: (1) the Hyder Agreement not be finalized by either the County or the property owner, or (2) the property owner is not eligible to take the 4.04 acres credit pursuant to the Exchange and Civic Site Dedication

Agreement if there is no remaining credit available at the time such credit is requested, then all requirements of PREM conditions 1 through 4 contained herein shall remain in effect.

The property owner may exchange the required on-site dedication of land for cash of equal value or off-site land equal in acreage, however, this option shall be used only upon County approval when the County has established that the cash or offsite land enhances or supports a County property, facility or function in the general vicinity of the PUD. In addition, should the off-site land option be chosen, each PREM condition listed in numbers 1, 2 & 3 above will also apply, unless the off-site dedication is handled pursuant to the Acme East Agreement, in which case the obligations for the conveyance shall be those as specified in the agreement. If the land off-site is of less cash value than the on-site dedication the property owner shall contribute cash equal to the difference in values. Valuation of the on-site and off-site land shall be subject to the County appraisal process and be at the cost of the property owner. If off-site land or cash contribution is accepted by Palm Beach County, the property owner shall be deemed to have satisfied the intent of ULDC. (Previous PREM Condition 4 of Resolution R-2007-1041, Petition 2006-550) (ON-GOING:PREM-PREM)

SCHOOL BOARD

1. The property owner shall post a notice of annual boundary school assignments for students from this development. A sign 11" X 17" shall be posted in a clear and visible location in all sales offices and models with the following:

"NOTICE TO PARENTS OF SCHOOL AGE CHILDREN"

School age children may not be assigned to the public school closest to their residences. School Board policies regarding levels of service or other boundary policy decisions affect school boundaries. Please contact the Palm Beach County School District Boundary Office at (561) 434-8100 for the most current school assignment(s). (Previous Condition SCHOOL BOARD 1 of Resolution R-2009-0012, Control No. 2006-550) (ONGOING: SCHOOL BOARD)

2. Condition SCHOOL BOARD 2 of Resolution R-2009-0012, Control No. 2006-550, which currently states:

Prior to the issuance of the first Certificate of Occupancy (CO), the school bus shelter shall be constructed by the petitioner in a location and manner acceptable to the Palm Beach County School Board. Provisions for the bus shelter shall include, at a minimum, a covered area, continuous paved pedestrian and bicycle access from the subject property or use, to the shelter. Maintenance of the bus shelter(s) shall be the responsibility of the residential property owner. (CO: MONITORING School Board.)

Is hereby amended to read:

Prior to the issuance of the first Certificate of Occupancy (CO), the school bus shelter shall be constructed by the property owner in a location and manner acceptable to the Palm Beach County School Board. Provisions for the bus shelter shall include, at a minimum, a covered area, continuous paved pedestrian and bicycle access from the subject property or use, to the shelter. Maintenance of the bus shelter(s) shall be the responsibility of the residential property owner. (CO: MONITORING School Board.)

UTILITIES

1. If any relocations/modifications to the County's existing facilities are required that are a direct or indirect result of the development, the developer/property owner shall pay for the complete design and construction costs associated with these relocations/modifications. (Previous Utilities Condition 1 of Resolutions R-2007-1041 and R-2009-0012, Control 2006-550) (ONGOING: PBCWUD-PBCWUD)

COMPLIANCE

1. In granting this approval, the Board of County Commissioners relied upon the oral and written representations of the property owner/applicant both on the record and as part of the application process. Deviations from or violation of these representations shall cause the approval to be

presented to the Board of County Commissioners for review under the compliance condition of this approval. (ONGOING: MONITORING - Zoning)

2. Failure to comply with any of the conditions of approval for the subject property at any time may result in:

- a. The issuance of a stop work order; the issuance of a cease and desist order; the denial or revocation of a building permit; the denial or revocation of a Certificate of Occupancy (CO); the denial of any other permit, license or approval to any developer, owner, lessee, or user of the subject property; the revocation of any other permit, license or approval from any developer, owner, lessee, or user of the subject property; revocation of any concurrency; and/or
- b. The revocation of the Official Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or any other zoning approval; and/or
- c. A requirement of the development to conform with the standards of the Unified Land Development Code (ULDC) at the time of the finding of non-compliance, or the addition or modification of conditions reasonably related to the failure to comply with existing conditions; and/or
- d. Referral to code enforcement; and/or
- e. Imposition of entitlement density or intensity.

Staff may be directed by the Executive Director of PZ&B or the Code Enforcement Special Master to schedule a Status Report before the body which approved the Official Zoning Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or other zoning approval, in accordance with the provisions of Section 2.E of the ULDC, in response to any flagrant violation and/or continued violation of any condition of approval. (ONGOING: MONITORING - Zoning)

DISCLOSURE OF OWNERSHIP INTERESTS - PROPERTY

TO: PALM BEACH COUNTY PLANNING, ZONING AND BUILDING EXECUTIVE DIRECTOR, OR HIS OR HER OFFICIALLY DESIGNATED REPRESENTATIVE

STATE OF FLORIDA
COUNTY OF PALM BEACH

BEFORE ME, the undersigned authority, this day personally appeared N. Maria Menendez, hereinafter referred to as "Affiant," as the Vice President of Boynton Beach XXIII Corporation, a Florida corporation, the general partner of Boynton Beach Associates XXIII, LLLP, a Florida limited liability limited partnership, who being by me first duly sworn, under oath, deposes and states as follows:

1. Affiant is the Vice President of Boynton Beach XXIII Corporation, a Florida corporation, the general partner of Boynton Beach Associates XXIII, LLLP, a Florida limited liability limited partnership, which partnership holds the fee simple ownership interest in the real property legally described on the attached Exhibit "A" (the "Property"). The Property is the subject of an application for Comprehensive Plan amendment or Development Order approval with Palm Beach County submitted by Boynton Beach Associates XXIII, LLLP, a Florida limited liability limited partnership.

2. Affiant's address is 1600 Sawgrass Corporate Parkway, Suite 230, Sunrise, Florida 33323.

3. Attached hereto as Exhibit "B" is a complete listing of the names and addresses of every person or entity having a five percent or greater interest in the Property. Disclosure does not apply to an individual's or entity's interest in any entity registered with the Federal Securities Exchange Commission or registered pursuant to Chapter 517, Florida Statutes, whose interest is for sale to the general public.

4. Affiant acknowledges that this Affidavit is given to comply with Palm Beach County policy, and will be relied upon by Palm Beach County in its review of application for Comprehensive Plan amendment or Development Order approval affecting the Property. Affiant further acknowledges that he or she is authorized to execute this Disclosure of Ownership Interests on behalf of any and all individuals or entities holding a five percent or greater interest in the Property.

5. Affiant further acknowledges that he or she shall by affidavit amend this disclosure to reflect any changes to ownership interests in the Property that may occur before the date of final public hearing on the application for Comprehensive Plan amendment or Development Order approval.

6. Affiant further states that Affiant is familiar with the nature of an oath and with the penalties provided by the laws of the State of Florida for falsely swearing to statements under oath.

7. Under penalty of perjury, Affiant declares that Affiant has examined this Affidavit and to the best of Affiant's knowledge and belief it is true, correct, and complete.

FURTHER AFFIANT SAYETH NAUGHT.

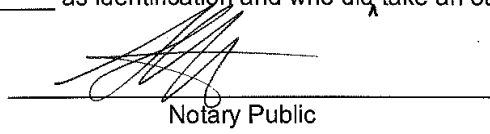


N. Maria Menendez, as the Vice President of Boynton Beach XXIII Corporation, a Florida corporation, the general partner of Boynton Beach Associates XXIII, LLLP, a Florida limited liability limited partnership

The foregoing instrument was acknowledged before me this 15th day of November, 2010, by N. Maria Menendez, as the Vice President of Boynton Beach XXIII Corporation, a Florida corporation, the general partner of Boynton Beach Associates XXIII, LLLP, a Florida limited liability limited partnership, [] who is personally known to me or [] who has produced as identification and who did take an oath.



Steven Marc Helfman
COMMISSION # DD981458
EXPIRES: MAY 30, 2014
WWW.AARONNOTARY.COM


Notary Public

(Print Notary Name)

NOTARY PUBLIC
State of Florida at Large
My Commission Expires: _____

EXHIBIT "A"

Legal Description of the Property

FOGG V DEVELOPMENT

LEGAL DESCRIPTION:
(Acme East Development Parcel)

A PORTION OF TRACTS 66 THROUGH 72, 89 THROUGH 95, 98 THROUGH 103, 123 THROUGH 127 AND A PORTION OF A ROAD, DYKE AND DITCH RESERVATION, 30.00 FEET IN WIDTH, ALL LYING WITHIN BLOCK 54, PALM BEACH FARMS COMPANY PLAT NO. 3, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, PAGES 45 THROUGH 54, OF THE PUBLIC RECORDS, PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE SOUTHEAST CORNER OF SAID TRACT 127; THENCE SOUTH 89°36'36" WEST, ALONG THE SOUTH LINE OF SAID TRACTS 123 THROUGH 127, A DISTANCE OF 1,369.68 FEET TO A POINT OF INTERSECTION WITH A NON-TANGENT CURVE, CONCAVE WESTERLY, HAVING A RADIUS OF 1,653.00 FEET, THE RADIUS POINT OF SAID CURVE BEARS SOUTH 89°04'45" WEST; THENCE NORTHERLY, ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 38°52'24", A DISTANCE OF 1,121.51 FEET TO A POINT OF REVERSE CURVATURE WITH A CURVE, CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 2,484.00 FEET; THENCE NORTHWESTERLY, ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 11°57'33", A DISTANCE OF 518.48 FEET TO A POINT OF REVERSE CURVATURE WITH A CURVE, CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 32.00 FEET; THENCE NORTHERLY, ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 50°59'24", A DISTANCE OF 28.48 FEET TO A POINT OF REVERSE CURVATURE WITH A CURVE, CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 80.00 FEET; THENCE NORTHWESTERLY, ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 98°01'41", A DISTANCE OF 136.87 FEET TO A POINT OF REVERSE CURVATURE WITH A CURVE, CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 32.00 FEET; THENCE NORTHWESTERLY, ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 50°59'24", A DISTANCE OF 28.48 FEET TO A POINT OF REVERSE CURVATURE WITH A CURVE, CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 2484.00 FEET; THENCE NORTHWESTERLY, ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 17°11'32", A DISTANCE OF 745.35 FEET TO A POINT OF INTERSECTION WITH A NON-TANGENT LINE; THENCE NORTH 00°23'24" WEST, A DISTANCE OF 260.63 FEET; THENCE NORTH 89°36'22" EAST, ALONG A LINE 72.00 FEET SOUTH OF AND PARALLEL WITH THE SOUTH LINE OF SAID TRACT 72, A DISTANCE OF 315.00 FEET; THENCE NORTH 00°23'24" WEST, ALONG THE EAST LINE OF SAID TRACT 72, A DISTANCE OF 25.80 FEET; THENCE NORTH 89°36'22" EAST, ALONG A LINE 46.20 FEET SOUTH OF AND PARALLEL WITH THE SOUTH LINE OF SAID TRACTS 66 THROUGH 71, A DISTANCE OF 1,980.00 FEET; THENCE SOUTH 00°23'24" EAST ALONG THE EAST LINE OF SAID TRACTS 66, 95, 98 AND 127, A DISTANCE OF 2,624.76 FEET TO THE POINT OF BEGINNING.

TOGETHER WITH:

A PORTION OF TRACTS 2 THROUGH 6, 27 THROUGH 31, 34 THROUGH 38, 59 THROUGH 63 AND A PORTION OF A ROAD, DYKE AND DITCH RESERVATION, 30.00 FEET IN WIDTH, ALL LYING WITHIN BLOCK 59, PALM BEACH FARMS COMPANY PLAT NO. 3, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, PAGES 45 THROUGH 54, OF THE PUBLIC RECORDS, PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHEAST CORNER OF SAID TRACT 2; THENCE SOUTH 00°26'28" EAST ALONG THE EAST LINE OF SAID TRACTS 2, A DISTANCE OF 35.64 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 00°26'28" EAST, ALONG THE EAST LINE OF SAID TRACTS 2, 31, 34 AND 63, A DISTANCE OF 2,635.42 FEET; THENCE SOUTH 89°36'33" WEST, ALONG THE SOUTH LINE OF SAID TRACTS 59 THROUGH 63, A DISTANCE OF 1,409.23 FEET; THENCE NORTH 10°41'03" WEST, A DISTANCE OF 409.40 FEET TO THE POINT OF CURVATURE OF A CURVE, CONCAVE EASTERLY, HAVING A RADIUS OF 3,460.00 FEET; THENCE NORTHERLY, ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 15°25'19", A DISTANCE OF 931.31 FEET TO A POINT OF REVERSE CURVATURE WITH A CURVE, CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 32.00 FEET; THENCE NORTHEASTERLY, ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 50°42'29", A DISTANCE OF 28.32 FEET TO A POINT OF REVERSE CURVATURE WITH A CURVE, CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 80.00 FEET; THENCE NORTHWESTERLY, ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 98°59'39", A DISTANCE OF 138.22 FEET TO A POINT OF REVERSE CURVATURE WITH A CURVE, CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 32.00 FEET; THENCE NORTHERLY, ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 50°01'59", A DISTANCE OF 27.94 FEET TO A POINT OF TANGENCY; THENCE NORTH 06°29'05" EAST, A DISTANCE OF 1,014.58 FEET TO THE POINT OF CURVATURE OF A CURVE, CONCAVE WESTERLY, HAVING A RADIUS OF 1,653.00 FEET; THENCE NORTHERLY, ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 04°26'10", A DISTANCE OF 127.99 FEET TO A POINT OF INTERSECTION WITH A NON-TANGENT LINE; THENCE NORTH 89°36'36" EAST, ALONG A LINE 35.64 FEET SOUTH OF AND PARALLEL WITH THE NORTH LINE OF SAID TRACTS 2 THROUGH 6, A DISTANCE OF 1,371.16 FEET TO THE POINT OF BEGINNING.

CONTAINING A TOTAL OF 201.941 ACRES, MORE OR LESS.

EXHIBIT "B"**DISCLOSURE OF OWNERSHIP INTERESTS IN PROPERTY**

Affiant must identify all entities and individuals owning five percent or more ownership interest in the Property. Affiant must identify individual owners. For example, if Affiant is an officer of a corporation or partnership that is wholly or partially owned by another entity, such as a corporation, Affiant must identify the other entity, its address, and the individual owners of the other entity. Disclosure does not apply to an individual's or entity's interest in any entity registered with the Federal Securities Exchange Commission or registered pursuant to Chapter 517, Florida Statutes, whose interest is for sale to the general public.

1. Itzhak Ezratti, having an address of 1600 Sawgrass Corporate Parkway, Suite 230, Sunrise, Florida 33323.
2. Maya Ezratti-Rosenblum, individually and/or through trusts for her interests, having an address of 1600 Sawgrass Corporate Parkway, Suite 230, Sunrise, Florida 33323.
3. Misha Ezratti, individually and/or through trusts for his interests, having an address of 1600 Sawgrass Corporate Parkway, Suite 230, Sunrise, Florida 33323.
4. Maxie Ezratti, individually and/or through trusts for her interests, having an address of 1600 Sawgrass Corporate Parkway, Suite 230, Sunrise, Florida 33323.
5. AmFin Financial Corporation (f/k/a AmTrust Financial Corporation) having an address of 25700 Science Park Drive, Landmark Center, Suite 365, Beachwood, Ohio 44122, a debtor under Bankruptcy Case No. 09-21323 pending in the United States Bankruptcy Court for the Northern District of Ohio, through its wholly owned subsidiary, Amtrust Real Estate Investments, Inc.

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