

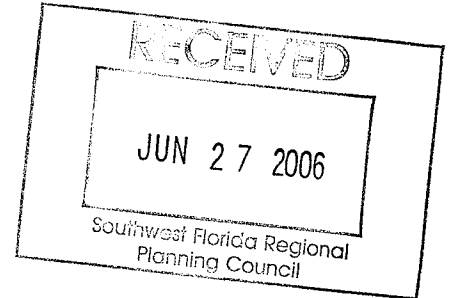
**BARBARA T. SCOTT
CLERK OF THE CIRCUIT COURT**



COMMISSION MINUTES

June 26, 2006


Mr. David Y. Burr
Executive Director
Southwest Florida Regional Planning Council
1926 Victoria Avenue
Fort Myers, FL 33901



We are forwarding a certified copy of Resolution #2006-093 as required within the Resolution per item 9, on page 6. This Resolution was approved by the Board of Charlotte County Commissioners on Tuesday, June 20, 2006.

If you have any questions, please contact me directly at (941) 7434-1539.

Sincerely,
BARBARA T. SCOTT
CLERK OF THE CIRCUIT COURT

By: 
Anne L. Pfahler
Deputy Clerk

Enclosure (1)
BTS/alp

RESOLUTION
2006 -093

A RESOLUTION AMENDING RESOLUTION 92-62, AS AMENDED BY RESOLUTION 93-66, AS AMENDED BY RESOLUTION 2004-071, APPROVING THE DEVELOPMENT ORDER FOR HARBORVIEW, A DEVELOPMENT OF REGIONAL IMPACT; PROVIDING FOR AMENDMENT OF HARBORVIEW DRI BOUNDARIES TO INCORPORATE 106 ACRES± OF ADJOINING LAND AS ADDITIONAL LANDS; PROVIDING FOR CONVERSION OF COMMERCIAL AND OFFICE/MEDICAL USES TO RESIDENTIAL UNITS; PROVIDING MAINTENANCE OF EXISTING ZONING ENTITLEMENT OF 160 MULTI-FAMILY RESIDENTIAL UNITS ON ADDITIONAL LANDS; CORRECTING A SCRIVENOR'S ERROR IN RESOLUTION 93-66, AS AMENDED BY RESOLUTION 2004-071, WITH ADDITION OF FOUR (4) MULTI-FAMILY RESIDENTIAL UNITS ON UPDATED MAP H, MASTER DEVELOPMENT PLAN; PROVIDING FOR EXPANSION OF SALTWATER MARSH PRESERVE AND APPROPRIATE UPLAND BUFFER; PROVIDING SPECIFIC DEADLINE FOR DEDICATION OF SALTWATER MARSH PRESERVE TO STATE OF FLORIDA; FINDING THAT THIS AMENDMENT DOES NOT CONSTITUTE A SUBSTANTIAL DEVIATION; AND PROVIDING AN EFFECTIVE DATE.

CERTIFIED TRUE COPY
OF THE ORIGINAL
BARBARA T. SCOTT
CLERK OF THE CIRCUIT COURT
CHARLOTTE COUNTY, FLORIDA
BY: *[Signature]*
DEPUTY CLERK

RECITALS

WHEREAS, on March 17, 1992, pursuant to Section 380.06 Florida Statutes, the Board of County Commissioners of Charlotte County, Florida ("Board") approved and adopted Resolution 92-62, constituting the Harborview Development of Regional Impact ("DRI") Development Order; and

WHEREAS, on May 8, 1992, the State of Florida Department of Community Affairs ("DCA") filed an appeal of the Development Order reflected in Resolution 92-62; and

WHEREAS, the Board considered the reports and recommendations of the Southwest Florida Regional Planning Council, Charlotte County staff, the Planning and Zoning Board, and the Department of Community Affairs, and in order to reconcile the appeal, certain changes were made to Resolution 92-62 and pursuant to a Settlement Agreement, the Board adopted Resolution 93-66 on May 11, 1993 ("Development Order"); and

WHEREAS, the Board adopted Resolution 2004-071 on April 13, 2004, further amending Resolution 92-62, as amended by Resolution 93-66, to extend buildout dates for the Development Order and provide reanalysis of Florida scrub jay and traffic impacts; and

WHEREAS, Map H, Master Development Plan adopted as part of Resolution 93-66, as amended, showed four (4) residential units less than the Phasing Plan contained in the DRI Development Order, as amended which is identified as a Scrivener's Error herein; and

WHEREAS, lands, consisting of 106 acres± and surrounded by the Harborview DRI, Peace River and I-75 were not included in the original Development Order ("Additional Lands" herein); and

WHEREAS, the existing zoning districts on Additional Lands consisting of CH (Commercial, Highway), RMF-5 (5 units/acre) and ES (Environmentally Sensitive, 1 unit/10 acres) have a current entitlement of 160 multi-family residential units and commercial uses consistent with Charlotte County's Zoning Code; and

WHEREAS, Post Falls Management Associates, LLC, Will-Ridge Associates, LLC and Ronald Benderson 1995 Trust ("Applicants") have submitted a Notice of Proposed Change requesting the Board to consider amendments to the Development Order including the incorporation of Additional Lands, conversion of Commercial and Office/Medical uses to Residential units, and expansion of Saltwater Marsh preserve; and

WHEREAS, the Southwest Florida Regional Planning Council reviewed and considered the proposed amendment submitted by the Applicants and recommended acceptance of the proposed amendments to the Development Order finding that they do not appear to create a reasonable likelihood of additional regional impacts on regional resources or facilities; and

WHEREAS, the Charlotte County Planning and Zoning Board having reviewed and considered the proposed amendments and recommended approval, finds that the proposed amendments do not constitute a substantial deviation; and

WHEREAS, the Board has reviewed and considered the amendments requested by the Applicants, finds them consistent with the Charlotte County Comprehensive Plan and consistent with the previously approved Harborview DRI Development Order.

NOW THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Charlotte County, Florida:

1. Legal Description contained in Exhibit "A" of Resolution 93-66, as amended, is supplemented by a Legal Description for Additional Lands contained in Exhibit 1 herein such that the combined Legal Descriptions have a total acreage of 514.61± acres for the Harborview DRI.

2. Master Development Plan, Map H is updated to show adjustment in acreages and mix of uses as contained in Exhibit 2 herein such that the total land uses are provided below:

Single Family Residential	207 units
Multi-Family Residential	1,180 units
Office/Medical	414,270 s.f.
Commercial	870,928 s.f.

3. Land Use and Phasing Schedule contained in Resolution 93-66, as amended by Resolution 2004-071, are replaced by Exhibit 3 herein and involve the same land uses shown on Exhibit 2. The notes contained in Part 1 of Resolution 2004-071 remain the same.

4. The following conditions of Development Order are amended to read as follows (additions are shown as underlined, deletions are shown as ~~stricken through~~):

A. CONDITIONS

3. Wetlands

- a. The project site contains three wetland categories: the Bay Swamp, small isolated wetlands, and the Saltwater Marsh. These areas total approximately 84.14 ~~63.94~~ acres of natural wetlands, all of which shall be preserved through the prohibition of development in those areas except that the isolated wetlands may be impacted and/or removed provided that such impacts, together with mitigation which may include enhancement of the Saltwater Marsh and Bay Swamp, are approved by all state and federal agencies with permitting jurisdiction . Description of these wetlands are attached hereto, ~~designated as Exhibit "B" of Resolution 93-66 and application for this NOPC, and incorporated by reference herein.~~ The Saltwater Marsh shall be deeded to the Board of Trustees of the Internal Improvement Trust Fund within 45 days of the effective date of this Development Order. The Saltwater Marsh shall be conveyed in fee simple ownership to the Board of Trustees of the Internal Improvement Trust Fund for preservation as a park in perpetuity and consistent with the restrictions contained in Chapter 704.06, Florida Statutes, as may be amended. The State of

Florida shall become the successor in interest upon conveyance and shall be responsible for performing all required maintenance of the Saltwater Marsh in a natural state at no cost to the Applicant or any community development district (CDD), except for permitted structures which are the maintenance responsibility of the Applicant or CDD, as appropriate. The conveyance to the State of Florida shall occur on, or before, June 30, 2011. All accrued mitigation, transferred development entitlements, and any other credits granted either through agency action or interlocal agreement shall be retained by the Applicant. This conveyance to the State of Florida shall be duly recorded in the Official Records of Charlotte County, Florida.

5. Vegetation and Wildlife

- e. No wetland impacts shall occur from the proposed development except isolated wetlands may be impacted and mitigated as described under Wetlands Condition 3.

- f. Wetland enhancements shall occur through the Master Drainage Plan which shall direct pre-treated runoff to the preservation area and provide a level of inundation necessary to sustain wetland areas. Water control structures shall be constructed to maintain average wet season water table elevations. The Saltwater Marsh along the Peace River within the limits of the original DRI Map H boundary shall have a 100 foot wide naturally vegetated upland buffer between the Marsh and the proposed development. The Saltwater Marsh and associated buffers shall be further protected and enhanced consistent with a land management plan that shall be submitted to and approved by Charlotte County and other appropriate State and Federal agencies and the extent of the buffering requirements associated with the Saltwater Marsh will be determined at the time of substantial deviation. Additional wetland areas shall be created by the construction of littoral zones around man-made lakes.

14. Transportation

- a. The Applicant or any Community Development District (CDD) shall be fully responsible for site-related roadway and intersection improvements required within the Harborview Development of Regional Impact. The Applicant or any CDD shall be required to pay the full cost for any site-related intersection improvements (including but not limited to signalization, turn lanes and additional through lanes) found to be necessary by Charlotte County, SWFRPC, and FDCA for the project's access intersections onto Harborview Road and Rio DeJaniero. Any future lane additions will be designed and built to Florida Department of Transportation (hereinafter FDOT) standards. The access intersection onto Harborview Road shall be of limited design, prohibiting left turns out. At or before time of platting, the median opening shall be examined and may be proposed to be redesigned as a full median opening according to FDOT and Charlotte County specifications. Through the Notice of a Proposed Change process a full median intersection including left turns out may be allowed on Harborview Road from the project if a traffic analysis including but not limited to an intersection analysis at Rio DeJaniero and Harborview Road, a ramp and intersection analysis at Harborview Road and I-75, and a signal progression analysis on Harborview Road from Rio DeJaniero to I-75 were submitted and it was the conclusion of the FDOT, DCA, Charlotte County, and the SWFRPC that a full median could be approved and still meet the concurrency standards of the Charlotte County Comprehensive Plan, and the requirements of Chapter 380. Additional right/in, right/out access to and from the development is anticipated on Harborview Road. All roads within this development will be built and maintained to County specifications. ~~As part of a Notice of Proposed Change, the Applicant agrees to provide for the planning and design of a stub out, to be depicted as an amendment to the Master Development Plan. Said stub out is to be as an amendment to the Master Development Plan. Said stub out is to be built if and when access is approved and granted to neighboring property owners. This access provision is subject to~~

~~Section 17 "g" of this Development Order, and the road shall be aligned consistent with any proposed development plan of the adjacent property. Any stub-out to any adjacent property shall take into consideration all environmental and land use concerns on both the Harborview site and the adjacent property.~~

~~17. General Provisions~~

~~g. Prior to construction of access road to adjacent property, provide a revised traffic analysis as part of a NOPC process to make a Substantial Deviation Determination.~~

~~A revised traffic analysis based on a methodology agreed to by Charlotte County, SWFRPC, FDOT, and FDCA, which would include the adjacent property in question, would be required as part of the Substantial Deviation Determination.~~

5. The amendments incorporated herein do not constitute a substantial deviation to the conditions of the Harborview DRI Development Order, as amended.

6. All other terms and conditions of the Harborview DRI Development Order not affected by this resolution shall remain in full force and effect.

7. In the event any term(s) of any other resolution with respect to the Harborview DRI Development Order conflict with any term(s) of the within resolution, the terms of this resolution shall govern and supersede those conflicting terms.

8. This resolution shall become effective immediately upon its adoption.

9. The Clerk of Circuit Court is hereby directed to forward a certified copy of this resolution to the applicants, Ms. Valerie Hubbard, Director of Community Planning, Florida Department of Community Affairs, 255 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, and to Mr. David Burr, Executive Director, Southwest Florida Regional Planning Council, 1926 Victoria Avenue, Ft. Myers, Florida 33901.

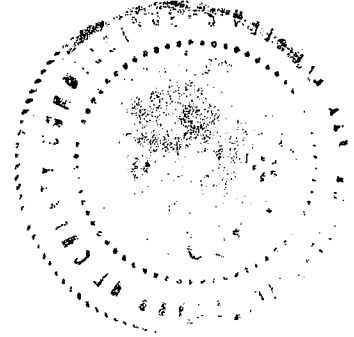
PASSED AND DULY ADOPTED this 20 day of June, 2006.

BOARD OF COUNTY COMMISSIONERS
OF CHARLOTTE COUNTY, FLORIDA

By: Thomas G. Moore
Thomas G. Moore, Chairman

Attest:
Barbara T. Scott, Clerk of the
Circuit Court and Ex-officio Clerk to
the Board of County Commissioners

By: Deil Marley
Deputy Clerk



APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

By: Janette S. Knowlton
Janette S. Knowlton, County Attorney

RB
LR2006-281

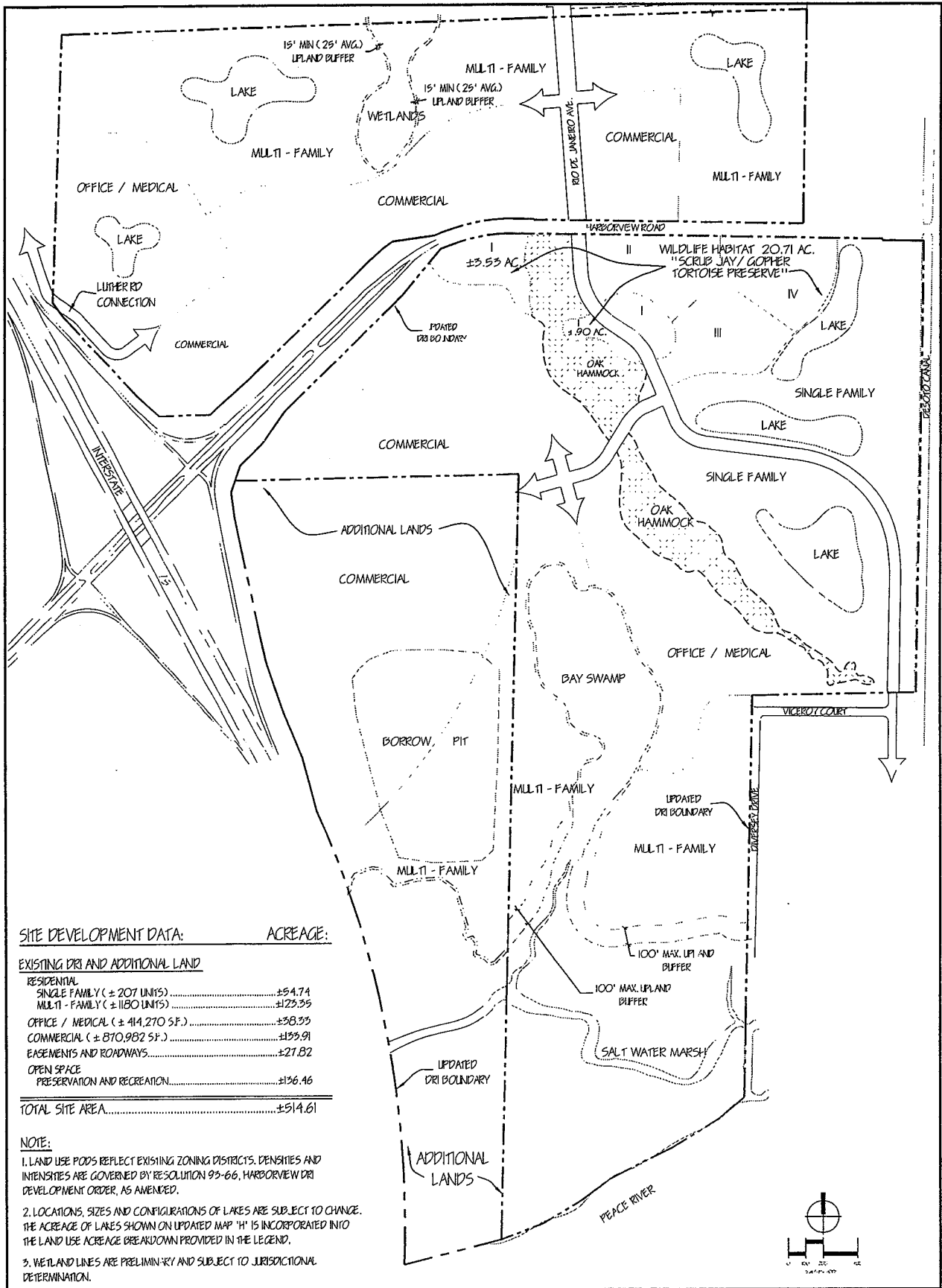
EXHIBIT 1
LEGAL DESCRIPTION OF ADDITIONAL HARBORVIEW DRI LANDS*

A PARCEL OF LAND LYING AND BEING IN SECTIONS 21 & 28, TOWNSHIP 40 SOUTH, RANGE 23 EAST, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THAT PORTION LYING EAST OF INTERSTATE 75 (STATE ROAD 93), OF THE FOLLOWING DESCRIBED PARCEL:

BEGINNING AT THE NORTHWEST CORNER OF GOVERNMENT LOT 4, OF SECTION 21, TOWNSHIP 40 SOUTH, RANGE 23 EAST, RUN NORTH 85°52'13" EAST, 2731.06 FEET TO THE CENTER QUARTER OF SAID SECTION 21; THENCE SOUTH 01°25'01" EAST ALONG THE EAST LINE OF GOVERNMENT LOT 3, 4420.27 FEET; THENCE SOUTH 73°00'00" WEST, 980 FEET; THENCE SOUTH 88°35'00" WEST 537.94 FEET; THENCE NORTH 30°55'00" WEST, 270 FEET; THENCE NORTH 45°45'00" EAST, 510 FEET; THENCE NORTH 23°40'00" EAST, 217.8 FEET; THENCE NORTH 30°13'00" WEST, 227.5 FEET, MORE OR LESS, TO THE SOUTHERLY SHORE OF THE WEST ½ OF THE FRACTIONAL SECTION 28, TOWNSHIP 40 SOUTH, RANGE 23 EAST; THENCE WESTERLY ALONG THE SOUTHERLY SHORE TO A POINT ON THE WEST LINE OF SAID FRACTIONAL SECTION 28; THENCE NORTH 00°55'30" WEST, ALONG SAID WEST LINE, EXTENDED, 3266 FEET, MORE OR LESS, TO THE POINT OF BEGINNING. LESS THAT PORTION OF THE ABOVE DESCRIBED PROPERTY LYING WITHIN THE RIGHT OF WAY OF INTERSTATE 75 (STATE ROAD 93).

*The legal description shown above is only for the Additional Lands. The complete legal description for the expanded Harborview DRI includes the above together with that described in Exhibit "A" of Resolution 93-66.



SITE DEVELOPMENT DATA: ACREAGE:

EXISTING DRI AND ADDITIONAL LAND

RESIDENTIAL	
SINGLE FAMILY (± 207 UNITS)	±54.74
MULTI-FAMILY (± 1180 UNITS)	±123.35
OFFICE / MEDICAL (± 414,270 SF.)	±38.33
COMMERCIAL (± 870,982 SF.)	±133.91
EASEMENTS AND ROADWAYS	±27.82
OPEN SPACE PRESERVATION AND RECREATION	±136.46

TOTAL SITE AREA.....±514.61

NOTE:

1. LAND USE PODS REFLECT EXISTING ZONING DISTRICTS, DENSITIES AND INTENSITIES ARE GOVERNED BY RESOLUTION 93-66, HARBORVIEW DRI DEVELOPMENT ORDER, AS AMENDED.
2. LOCATIONS, SIZES AND CONFIGURATIONS OF LAKES ARE SUBJECT TO CHANGE. THE ACREAGE OF LAKES SHOWN ON UPDATED MAP "H" IS INCORPORATED INTO THE LAND USE ACREAGE BREAKDOWN PROVIDED IN THE LEGEND.
3. WETLAND LINES ARE PRELIMINARY AND SUBJECT TO JURISDICTIONAL DETERMINATION.

HARBORVIEW
A DEVELOPMENT OF REGIONAL IMPACT

APPLICANTS REPRESENTATIVE:
BENDERSON DEVELOPMENT CO, LLC
8441 COOPER CREEK BLVD.
UNIVERSITY PARK, FL 34201
(841) 359-8303

ENGINEER:
CPH ENGINEERS, INC.
3277A FRUITVILLE ROAD
SARASOTA, FLORIDA 34237
(841) 365-4771

UPDATED MASTER DEVELOPMENT PLAN

DATE: 01-08 SCALE: 1"=400'

MAP

H

DATE: 01-08 SCALE: 1"=400'

EXHIBIT 3

**HARBORVIEW DRI
UPDATED LAND USE AND PHASING SCHEDULE**

- 207 Single-family Residential Units
- 1,180 Multi-family Residential Units (increased by 160 units from zoning entitlements and 4 units from correction of scrivener's error)
- 414,270 square feet of Office/Medical uses (decreased by 54,000 square feet)
- 870,982 square feet of Commercial uses (decreased by 65,558 square feet)
- Salt Marsh preserve increased by 20.2 acres within the ES zoning district and 9.52 acres in the RMF-5 zoning district

<u>Land Use</u>	<u>2003-2008 Phase One</u>	<u>2006-2010 Phase Two</u>	<u>2008-2011 Phase Three</u>
Commercial (Retail)	232,043 GSF	348,393 GSF	290,546 GSF
Office/Medical	110,510 GSF	165,490 GSF	138,270 GSF
Residential (SF)	71 Units	69 Units	67 Units
Residential (MF)	314 Units	473 Units	393 Units