

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

WHEREAS, an application was filed by the property owner, Frank L. Reynolds, to rezone a 16.62± acre parcel from Community Commercial (CC) to Residential Planned Development (RPD) in reference to Summerlin Place; and

WHEREAS, a public hearing was advertised and held on May 3, 2006, before the Lee County Zoning Hearing Examiner, Diana M. Parker, who gave full consideration to the evidence in the record for Case #DCI2005-00020; and

WHEREAS, a second public hearing was advertised and held on August 21, 2006, before the Lee County Board of Commissioners, who gave full and complete consideration to the recommendations of the staff, the Hearing Examiner, the documents on record and the testimony of all interested persons.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS:

SECTION A. REQUEST

The applicant filed a request to rezone a 16.62± acre parcel from CC to RPD, to allow a maximum of 106 townhouse units, with a clubhouse. Maximum height is to be 35 feet (two stories). No blasting is proposed on-site. The property is located in the Central Urban Land Use Category and is legally described in attached Exhibit A. The request is APPROVED, SUBJECT TO the conditions and deviations specified in Sections B and C below.

SECTION B. CONDITIONS:

All references to uses are as defined or listed in the Lee County Land Development Code (LDC).

1. The development of this project must be consistent with the 1-page Master Concept Plan entitled "SUMMERLIN PLACE," dated October 19, 2005, date stamped "Received by Community Development on November 16, 2006," attached hereto as Exhibit C, except as modified by the conditions below. This development must comply with all requirements of the Lee County LDC at time of local development

order approval, except as may be granted by deviation as part of this planned development. If changes to the Master Concept Plan are subsequently pursued, appropriate approvals will be necessary.

This development is limited to a maximum of 106 multiple-family townhouse residential dwelling units, with an amenity building not to exceed 1,000 square feet.

2. The following limits apply to the project and uses:

a. Schedule of Uses

ADMINISTRATIVE OFFICES

ACCESSORY USES AND STRUCTURES

DWELLING UNIT: Town Homes

ENTRANCE GATE AND GATEHOUSE

ESSENTIAL SERVICES

ESSENTIAL SERVICE FACILITIES, Group I

EXCAVATION: Water Retention

FENCES, WALLS

HOME OCCUPATION, excluding outside help

MODELS: Model Unit, limited to the area designated as "model units" on the Master Concept Plan with hours of operation from 8:00 a.m. through 6:00 p.m. and must be in compliance with LDC §34-1951 *et seq.*

PARKING LOT, Accessory

RECREATIONAL FACILITIES, Private on-site

SIGNS, in compliance with Chapter 30 of the LDC

TEMPORARY USES

TEMPORARY CONSTRUCTION TRAILER, must be located in the area designated on the master concept plan as "Amenity Site Area". Once the last unit has received Certificate of Occupancy, the temporary construction trailer will be removed from the subject property.

TEMPORARY SALES CENTER, must be located in the area designated on the master concept plan as "Amenity Site Area". Once the first model home has received Certificate of Occupancy, the temporary sales center will be removed from the subject property.

b. Site Development Regulations

PROPERTY DEVELOPMENT REGULATIONS											
LAND USE	Minimum Lot			Max. Coverage (%)	Minimum Setbacks (ft) ⁽²⁾				Min. Bldg. Separation (ft)	Max. Bldg. Ht. (ft.)	Stories
	Area (sq. ft.)	Width (ft)	Depth (ft)		Road Internal	Side	Rear	Wtr.			
RESIDENTIAL											
Townhomes	1,700 per unit	20 per unit	100	70	20	0 ⁽¹⁾	0	20	20	35	2
RECREATIONAL FACILITIES											
Amenity Site	2,400	40	60	N/A	20	10	0	0	20	35	2

Footnotes:

- (1) The zero-foot setback is for the internal side of each unit, whereas the exterior unit must maintain 20 feet between structures.
- (2) A 20-foot perimeter setback must be maintained

3. Environmental Conditions:

a. GOPHER TORTOISE MANAGEMENT PLAN:

Prior to local development order approval:

- i. The pine flatwoods and disturbed lands within the property must be surveyed for the presence of gopher tortoises and gopher tortoise burrows; and
- ii. A gopher tortoise management plan must be submitted that includes details of how the gopher tortoise preserve will be protected during site clearing, if the gopher tortoise preserve needs any enhancement such as exotic removal and installation of foraging plants for the tortoises, and how the gopher tortoise preserve will be maintained in perpetuity as gopher tortoise habitat.

b. OPEN SPACE:

Prior to local development order approval, 40 percent common open space must be delineated on the development order plans.

4. No development blasting is permitted as part of this project unless approved at a subsequent public hearing as an amendment to the planned development.
5. Agriculture is not a permitted use within this Planned Development.
6. The development order for the project will be issued in two phases. Phase 1 will consist of the clearing those portions of the site which may be cleared, and the construction of the infrastructure (water, sewer, lake excavation, roads, drainage) along with Buildings 1 through 7 and 11 through 16, as shown on the Master Concept Plan. Phase 2 will consist of the construction of Buildings 8, 9 and 10, as depicted on the Master Concept Plan. No building permit may be issued for Buildings 8, 9 or 10 (Phase 2), until the existing water and sewer easements underlying those buildings have been either relocated or extinguished.
7. Entrance gates or gatehouses will be permitted on the spine road (Summerlin Woods Drive) connecting Lakewood Boulevard to Summerlin Woods, a gated residential community located immediately south of the proposed development, only if consistent with an agreement, or written consent, with the Summerlin Woods Property Owners Association. Such agreement or written consent must be recorded in the Lee County Public Records, prior to the issuance of the gate or gatehouse permits.
8. With the exception of guest parking and pool/amenity area parking, all accessory uses must be located on the same tract, lot, parcel or outparcel where the principal use is located. Accessory uses must be incidental and subordinate to the principal use of the tract, lot, parcel or outparcel.
9. Buildings exceeding 35 feet in height must maintain additional building separation as regulated by LDC §34-2174(a).
10. Approval of this rezoning request does not address mitigation of the project's vehicular or pedestrian traffic impacts. Additional conditions consistent with the Lee County LDC may be required to obtain a local development order.
11. Approval of this rezoning does not guarantee local development order approval. Future development order approvals must satisfy the requirements of the Lee Plan Planning Communities Map and Acreage Allocation Table, Map 16 and Table 1(b), be reviewed for, and found consistent with, the retail commercial standards for site area, including range of gross floor area, location, tenant mix and general function, as well as all other Lee Plan provisions.

SECTION C. DEVIATIONS:

1. Deviation (1) seeks relief from the LDC §10-239(d)(1)a.3. requirement that no excavation be allowed within 50 feet of any private property line under separate ownership, to allow for a setback of no less than 25 feet. This deviation is APPROVED, SUBJECT TO the following conditions:
 - a. The proposed fence must be constructed to a minimum height of six feet for that portion of the subject property, as shown on the Master Concept Plan and vegetative plantings be maintained between the fence and Alterra (Sterling House Assisted Living Facility); AND
 - b. Prior to local development order approval, the landscape plans must depict a minimum 5-foot-wide plantable area on the west side of the fence proposed between the existing Assisted Living Facility and the proposed project lake. This buffer area must be planted with five Sabal palms (minimum 10-foot clear trunk) and a continuous native shrub hedge (minimum 3-gallon container size and 24-inch height at planting; maintained at a minimum 36-inch height); AND
 - c. At the time of local development order approval, the developer must demonstrate the provisions for the protection of wayward vehicles.

2. Deviation (2) seeks relief from the LDC §10-416(d)(4) requirement which determines the various buffer types, to allow modification to the Type "A" buffer, in allowing wall and buffer plantings Type "B" to be distributed within a 5-foot-wide buffer between the right-of-way and adjacent Assisted Living Facility (ALF). This deviation is APPROVED, SUBJECT TO the following condition:

Prior to local development order approval, the landscape plans must depict a minimum 5-foot-wide plantable area on the north side of the wall proposed between the existing Assisted Living Facility and the proposed project roadway. This buffer area must be planted with five Sabal palms (minimum 10-foot clear trunk) and a continuous native shrub hedge (minimum 3-gallon container size and 24-inch height at planting, and maintained at a minimum 36-inch height).

3. Deviation (3) seeks relief from the LDC §10-714(a) requirement to provide a minimum 100-foot radius at the transition from cul-de-sac pavement to the regular approaching pavement width, to allow up to a minimum 30-foot radius. This deviation is APPROVED, SUBJECT TO the condition that at the time of local development order approval, the developer must provide written approval from the local Fire District and solid waste provider that they approve the design for their use.

4. Deviation (4) seeks relief from the LDC §34-2020(1)(c)3 requirement that where vehicles will back directly onto an internal roadway or accessway, a driveway must be designed so that the length of the driveway, as measured from the garage structure or the end of the stacked parking space farthest from the street or accessway, as applicable, will be a minimum of 22 feet to the edge of a private street right-of-way or easement line or 27 feet to the edge of pavement of an accessway, to allow vehicles to back directly onto an internal roadway or accessway designed so that the length of the driveway, as measured from the garage structure or the end of the stacked parking space farthest from the street or accessway, as applicable, be a minimum of 20 feet to the edge of a private street right-of-way or easement line or 27 feet to the edge of pavement of an accessway. This deviation is APPROVED.
5. Deviation (5) seeks relief from the LDC §34-2194(b) requirement to provide buildings and structures to not be placed closer than 25 feet to a canal or to a bay or other water body or distance required by provisions of Chapter 6, Article IV, pertaining to flood hazard reduction, whichever is greater, to allow buildings to be located at a minimum of 20 feet from the edge of the lake. This deviation is APPROVED, SUBJECT TO the condition that no buildings, principal or accessory, will be located closer than 20 feet from the lake control elevation.
6. Deviation (6) seeks relief from the LDC §34-2194(c)(2) requirement to provide accessory structures with roofs intended to be impervious to weather and which are not structurally built as part of the principal structure may be permitted up to 10 feet to an artificial body of water; to allow recreational amenity area to be located up to zero feet to the edge of the lake. This deviation is APPROVED, SUBJECT TO the condition that the zero-foot setback is limited to the amenity site area, as shown on the Master Concept Plan.
7. Deviation (7) seeks relief from the LDC §10-329(d)(4) requirement to design shorelines of retention and detention areas to be sinuous, rather than straight, and the banks of excavation permitted under this section to be sloped at a ratio not greater than four horizontal to one vertical (4:1) from the top of the excavation to a water depth of four feet below the dry season water table and that the slopes must not be greater than two horizontal to one vertical (2:1) thereafter, to allow the design of shorelines of retention areas to be straight, then followed by a slope at a ratio not greater than 4:1 from the top of the excavation to a water depth of four feet below the dry season water table and, following that, the slope be 2:1. This deviation is APPROVED, SUBJECT TO the condition that if bulkheads are incorporated into the final design of the lake shoreline interface with the amenity center, then the development order plans must meet the requirements of LDC §10-418(3).
8. Deviation (8) seeks relief from the LDC §10-415(b)(1) requirement that large developments with existing indigenous native vegetation communities provide 50

percent of their open space percentage requirement through onsite preservation of existing native communities, to allow less than the 50 percent for onsite preservation of existing native vegetation communities, and that the remaining will be comprised of proposed replanting of native vegetation at delineated areas on-site, either existing or recreated, which will total 50 percent, or more, of the open space percentage requirement. This deviation is APPROVED, SUBJECT TO the following conditions.

- a. Prior to local development order approval, the development order plans must delineate a minimum of 3.3 acres of indigenous preservation (2.0 acres) and restoration (1.3 acres), and a minimum 20-foot-wide littoral planting shelf along the north end of the north lake abutting the upland restoration area. A detailed indigenous management plan must be submitted for the Division of Environmental Sciences Staff's review and approval.
 - b. The indigenous management plan must include a detailed restoration planting plan for 1.3 acres including the disturbed lands and exotic hardwood wetland east of South Lake Drive and abutting the mangrove forest to be preserved, and the pine flatwoods north of the proposed lake just west of South Lake Drive, and an enlarged littoral shelf planting plan for the lake west of South Lake Drive. The restoration plan must include 142 native trees such as laurel oak, live oak, and slash pine (minimum 10-foot height, 2-inch caliper at 1-foot above grade, with a 4-foot spread) and cabbage palm (minimum 10-foot clear trunk), and 6,000 (minimum 1-gallon container size) understory vegetation, such as wax myrtle, saw palmetto, leather fern and spartina grass. The restoration plan must address mulching and watering of restoration plantings. The restoration plantings must be installed in a random manner mimicking a natural system. The littoral planting plan must provide details of native wetland plants with a 50 percent coverage of the 20-foot-wide littoral shelf at the north end of the north lake at time of planting.
 - c. The native plantings must be installed in the restoration areas and enlarged littoral shelf following the removal of existing exotic species, and prior to issuance of a Certificate of Compliance for the infrastructure development order.
9. Deviation (9) seeks relief from the LDC §34-2011(c)(2) requirement to obtain Director approval for parking to back out into rights-of-way in residential developments subject to the requirement that be for amenities to the development, such as parks and recreational facilities, and not for dwelling units or commercial uses, to allow parking to back out into rights-of-way in residential developments for dwelling units. This deviation is APPROVED, SUBJECT TO the condition that at the time of local development order approval, the developer must demonstrate that

there is no interference with vehicle visibility requirements of §34-3131 of the LDC at traffic access points.

SECTION D. EXHIBITS AND STRAP NUMBER:

The following exhibits are attached to this resolution and incorporated by reference:

- Exhibit A: Legal description of the property
- Exhibit B: Zoning Map (with the subject parcel indicated)
- Exhibit C: The Master Concept Plan

The applicant has indicated that the STRAP number for the subject property is: 27-45-24-00-00004.0000.

SECTION E. FINDINGS AND CONCLUSIONS:

1. The applicant has proven entitlement to the rezoning by demonstrating compliance with the Lee Plan, the LDC, and any other applicable code or regulation.
2. The rezoning, as approved:
 - a. meets or exceeds all performance and locational standards set forth for the potential uses allowed by the request; and,
 - b. is consistent with the densities, intensities and general uses set forth in the Lee Plan; and,
 - c. is compatible with existing or planned uses in the surrounding area; and,
 - d. will not place an undue burden upon existing transportation or planned infrastructure facilities and will be served by streets with the capacity to carry traffic generated by the development; and,
 - e. will not adversely affect environmentally critical areas or natural resources.
3. The rezoning satisfies the following criteria:
 - a. the proposed use or mix of uses is appropriate at the subject location; and
 - b. the recommended conditions to the concept plan and other applicable regulations provide sufficient safeguard to the public interest; and
 - c. the recommended conditions are reasonably related to the impacts on the public interest created by or expected from the proposed development.

4. Urban services, as defined in the Lee Plan, are, or will be, available and adequate to serve the proposed land use.
5. The approved deviations, as conditioned, enhance achievement of the planned development objectives, and preserve and promote the general intent of LDC Chapter 34, to protect the public health, safety and welfare.

Commissioner Judah made a motion to adopt the foregoing resolution, seconded by Commissioner St. Cerny. The vote was as follows:

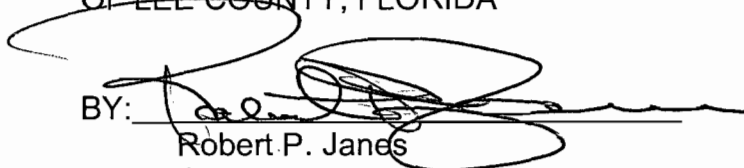
Robert P. Janes	Aye
Douglas R. St. Cerny	Aye
Ray Judah	Aye
Tammara Hall	Aye
John E. Albion	Aye

DULY PASSED AND ADOPTED this 21st day of August 2006.

ATTEST:
CHARLIE GREEN, CLERK

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: 
Deputy Clerk

BY: 
Robert P. Janes
Chair

Approved as to form by:

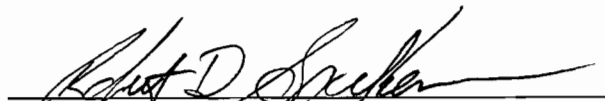

Robert D. Spickerman
County Attorney's Office



EXHIBIT PH-3.C.1

LEGAL DESCRIPTION: A parcel of land lying in the Southeast one-quarter of Section 27, Township 45 South, Range 24 East, Lee County, Florida and being more particularly described as follows:

COMMENCING at the Southeast corner of said Section 27, thence run N.88°54'09"W. 960.00 feet along the South boundary of the Southeast one-quarter of said Section 27; thence N.00°17'36"W. 1011.08 feet to the POINT OF BEGINNING; thence continue N.00°17'36"W., 868.59 feet to a point on the Southerly boundary of Lakewood Drive as described in Official Records Book 1739, Page 768 of the Public Records of Lee County, Florida; thence along said Southerly boundary S.89°29'58"E., 257.90 feet to a point on the West boundary of lands described in Official Records Book 2824, Page 3538 of the Public Records of Lee County, Florida; thence along the West, South and East boundary of said lands for the following four (4) courses 1) S.00°17'36"E., 340.00 feet; 2) S.89°29'58"E., 260.00 feet; 3) N.38°40'32"E., 146.27 feet; 4) N.00°17'36"W., 225.00 feet to a point on the aforesaid South boundary of Lakewood Drive; thence along said South boundary S.89°29'58"E., 349.91 feet to a point on the West right-of-way line of Summerlin Road (State Road 869); thence along said West right-of-way line for the following 2 courses 1) S.00°17'36"E., 807.58 feet to a point of curvature; 2) Southerly, 70.99 feet along the arc of a curve to the right having a radius of 2216.42 feet and a central angle of 01°50'07" (chord bearing S.00°37'27"W., 70.99 feet); thence N.88°54'09"W., 958.86 feet to the POINT OF BEGINNING.

Containing 16.62 acres, more or less.


SURVEYOR'S NOTES

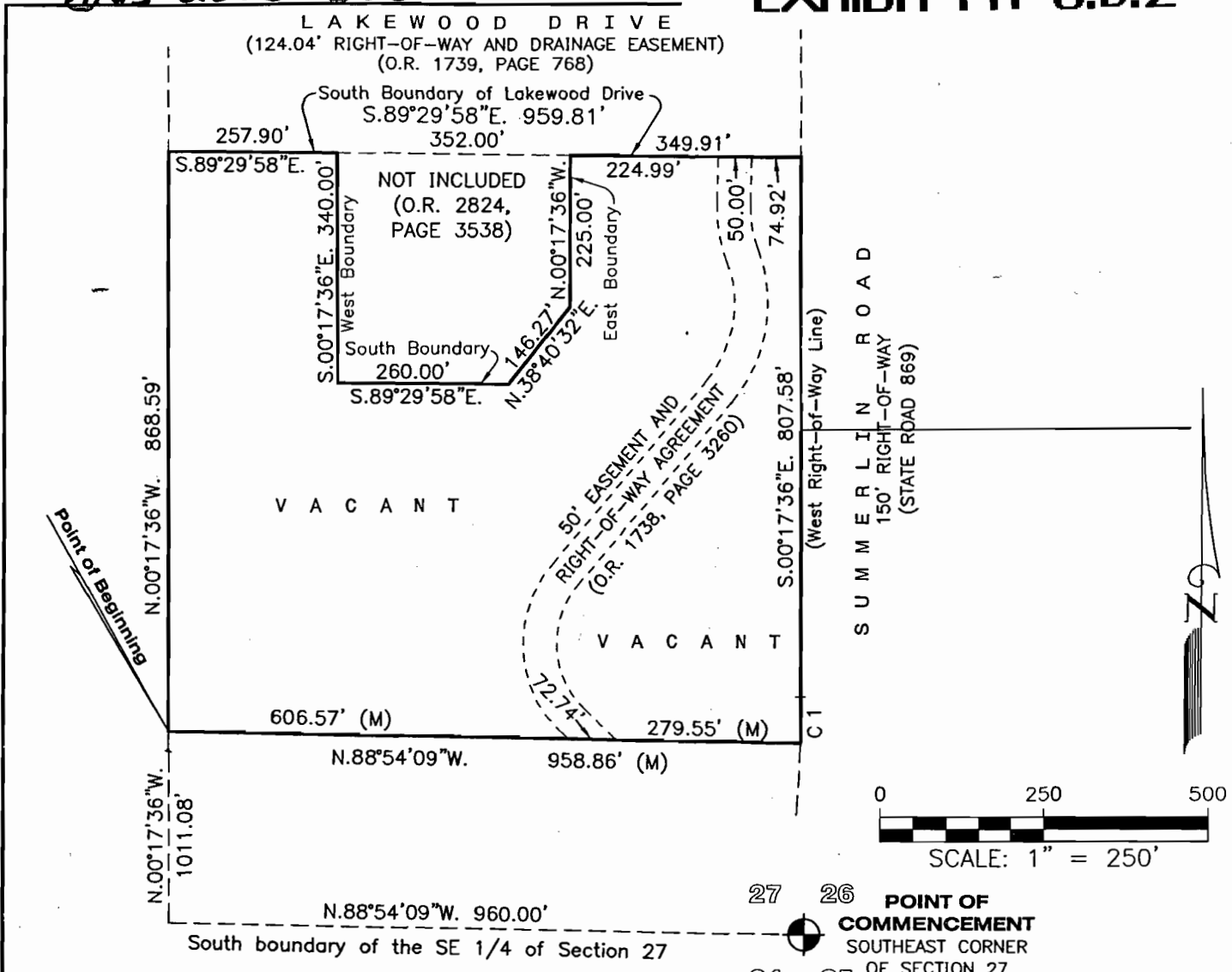
1. BEARINGS ARE BASED ON THE SOUTH BOUNDARY OF THE SOUTHEAST 1/4, SECTION 27, TOWNSHIP 45 SOUTH, RANGE 24 EAST HAVING A BEARING OF N.88°54'09"W.
2. SUBJECT TO, EASEMENTS, RESERVATIONS AND RESTRICTIONS OF RECORD.
3. RECORDING REFERENCES ARE TO THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, UNLESS OTHERWISE NOTED.
4. SEE SHEET 2 OF 2 FOR SKETCH OF LEGAL DESCRIPTION.

DCI 2005-00020

RECEIVED
 JUN 28 2005
 DESCRIPTION SKETCH
 (NOT A SURVEY)
Paul A. Dolcemasco 4/28/05
 PAUL A. DOLCEMASCO PSM# 3881

CERTIFICATE OF AUTHORIZATION NO. LB 148

<p>PREPARED BY: HEIDT & ASSOCIATES, Inc. Tampa ♦ Fort Myers</p>  <p>CIVIL ENGINEERING Fort Myers Office PLANNING 3800 Colonial Blvd, Suite 200 SURVEYING Fort Myers, Florida 33912 ENVIRONMENTAL PERMITTING Phone: 239-482-7275 LANDSCAPE ARCHITECTURE FAX: 239-482-2103</p>	<p>SUMMERLIN PLACE LEGAL DESCRIPTION</p>							
	<p>Prepared for: US HOME</p>							
	<p>SHEET 1 OF 2</p>	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="font-size: small;">Dwn. SRB-</td> <td style="font-size: small;">Ck. PAD</td> <td style="font-size: small;">DWG: SOL LETTER</td> </tr> <tr> <td colspan="3" style="font-size: small;">Date: 4/22/05</td> </tr> </table>	Dwn. SRB-	Ck. PAD	DWG: SOL LETTER	Date: 4/22/05		
Dwn. SRB-	Ck. PAD	DWG: SOL LETTER						
Date: 4/22/05								



CURVE DATA TABLE

NO.	RADIUS	DELTA	ARC	CHORD	BEARING
1	2216.42	01°50'07"	70.99	70.99	S.00°37'27"W.

SURVEYOR'S NOTES

1. BEARINGS ARE BASED ON THE SOUTH BOUNDARY OF THE SOUTHEAST 1/4, SECTION 27, TOWNSHIP 45 SOUTH, RANGE 24 EAST HAVING A BEARING OF N.88°54'09"W.
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4. SEE SHEET 1 OF 2 FOR LEGAL DESCRIPTION.

LEGEND
O.R. - OFFICIAL RECORDS BOOK

DCI 2005-00020
DESCRIPTION SKETCH
(NOT A SURVEY)
Paul A. Dolcemasco 4/28/05
PAUL A. DOLCEMASCO PLSM# 3881

CERTIFICATE OF AUTHORIZATION NO. LB 148

PREPARED BY: HEIDT & ASSOCIATES, Inc.
Tampa ♦ Fort Myers

CIVIL ENGINEERING
PLANNING
SURVEYING
ENVIRONMENTAL PERMITTING
LANDSCAPE ARCHITECTURE

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FAX: 239-482-2103

SUMMERLIN PLACE
SKETCH OF LEGAL DESCRIPTION

Prepared for: US HOME

SHEET 2 OF 2

Dwn. SRB	Ck. PAD	Dwn. SOL. BATTER
Date: 4/22/05		
SECTION 27, TOWNSHIP 45 S., RANGE 24 E. LEE COUNTY, FLORIDA		

