


I Item # I

SEMINOLE COUNTY GOVERNMENT
LAND PLANNING AGENCY/PLANNING & ZONING COMMISSION
AGENDA MEMORANDUM

Fant, applicant

DEPARTMENT: Plannina & Development **DIVISION:**

AUTHORIZED BY: Matt West  **CONTACT:**

Plan~ .. / ~
: Kent ft... Cichon EXT. 7126

Agenda Date <u>02/19/03</u> Regular <input type="checkbox"/> Consent <input type="checkbox"/> Work Session <input type="checkbox"/> Briefing <input type="checkbox"/> Public Hearing – 7:00 <input checked="" type="checkbox"/>
--

MOTION/RECOMMENDATION:

1. Recommend transmittal of a comprehensive plan amendment from Suburban Estates to Planned Development and rezoning from A-1 (Agriculture) to PUD (Planned Unit Development) for 25.05 acres located on the west side of Banana lake Road, approximately 3,400 feet south of CR 46A, per the attached development order, but do not recommend adoption until the applicant has demonstrated the existence of sufficient ROW to improve the length of Banana lake Road to County standards, James H. Fant, applicant; or
2. Recommend adoption of a comprehensive plan amendment from Suburban Estates to Planned Development and rezoning from A-1 (Agriculture) to PUD (Planned Unit Development) for 25.05 acres located on the west side of Banana lake Road, approximately 3,400 feet south of CR 46A, per the attached development order, James H. Fant, applicant; or
3. Recommend denial of a comprehensive plan amendment from Suburban Estates to Planned Development and rezoning from A-1 (Agriculture) to PUD (Planned Unit Development) for 25.05 acres located on the west side of Banana lake Road, approximately 3400 feet south of CR 46A, James H. Fant, applicant; or
4. Continue until a date certain.

District 5, Commissioner McLain

Kent A. Cichon, Financial Manager

BACKGROUND:

This item was continued from the March 26, 2002, Board of County Commissioners meeting at the request of the property owner's representative. The applicant requested continuance of this item until

Reviewed by:
Co Atty: _____
DFS: _____
Other: _____
DCM: _____
CM: _____

File No. Z2001-044

the Spring 2003 Large Scale Land Use Amendment Cycle in order to resolve a number of development issues.

This item was subsequently continued from the January 8, 2003, Planning Agency/Planning & Zoning Commission meeting at the request of the applicant's representative. The applicant requested continuance of this item until the February 19, 2003, land Planning Agency/Planning & Zoning Commission meeting in order for the applicant to demonstrate his plan and intent to modify Banana lake Road to county standards or to seek access south through Heathrow International Business Center. Consequently, if there exists adequate right-of-way, the applicant has generally demonstrated to staff his plan and intent to modify Banana lake Road to county standards. Staff will review all final detailed improvements to the road at the final engineering stage of the approval process.

The existence of sufficient ROW to improve the length of Banana lake Road to County standards has not been demonstrated to date, specifically the segment of road that is adjacent to the deep depression to the west of Banana lake Road.

The applicant is requesting to amend the future land use designation from Suburban Estates to Planned Development and to rezone 25.05 acres from A-1 (Agriculture) to PUD (Planned Unit Development), proposing 43 dwelling units at a net density of 5.7 units per acre for property located on the west side of Banana lake Road approximately 3400' south of CR 46A.

In 1998, to the south of the subject property, the Board of County Commissioners approved a large scale land use amendment from Suburban Estates to Planned Development, and associated rezoning from A-1 to PUD for Colonial Realty Limited Partnership. When completed, the project will consist of 252 apartment units in two-story buildings on 28.5 acres. The plan amendment was found in compliance by the Department of Community Affairs (DCA), but Mr. Edwards, the property owner, subsequently initiated administrative proceedings which resulted in a compliance agreement between Colonial Realty, Mr. Edwards, the DCA, and the County. (Please see Exhibits A and B, attached) The Agreement restricted the development rights on a 200 foot strip of land between the Edwards' and Colonial Realty's properties.

Additionally, the proposed development is located on the southernmost end of Banana Lake Road, which is a substandard right-of-way. If approved, the developer shall be required to improve the length of Banana Lake Road to County standards.

STAFF RECOMMENDATION:

Planning staff recommends transmittal of this request with staff findings subject to the attached Development Order, but does not recommend adoption until the applicant has demonstrated the existence of sufficient ROW to improve the length of Banana Lake Road to County standards.

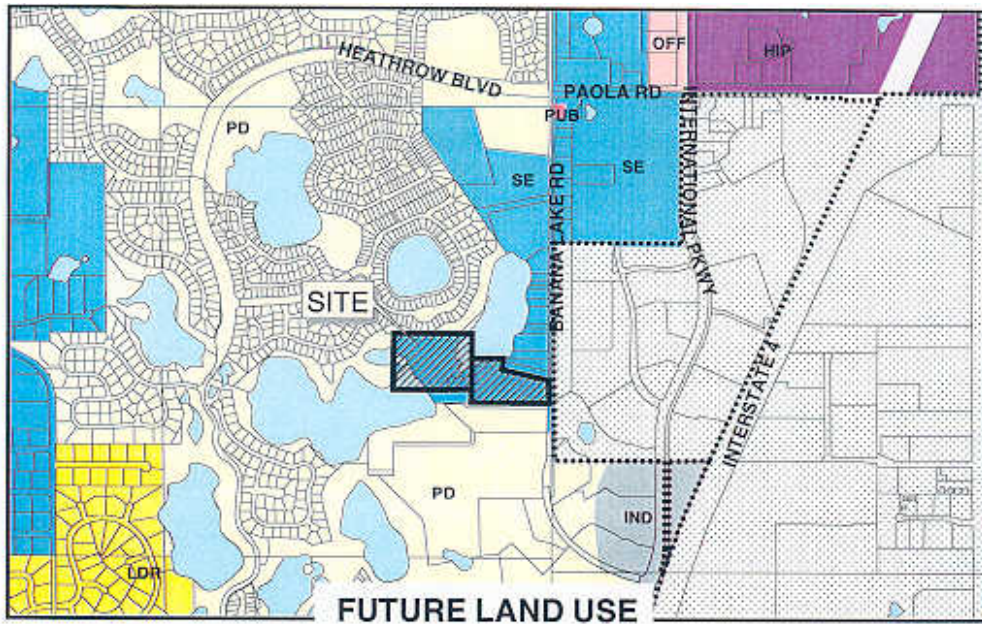
PREVIOUS LPA/P&Z RECOMMENDATION:

At their February 6, 2002, public hearing, the land Planning Agency/Planning & Zoning Commission unanimously recommended denial of the proposed large scale land use

amendment from Suburban Estates to Planned Development and associated rezoning from A-1 (Agriculture) to PUD (Planned Unit Development). The proposal, at the time of denial, was a development of townhomes consisting of 82 dwelling units at a net density of approximately 9.9 units per acre. This proposal has subsequently been revised to a development of single family homes consisting of 43 dwelling units at a net density of 5.7 units per acre.

PREVIOUS BOARD OF COUNTY COMMISSIONERS ACTION:

At the March 26, 2002, public hearing, the BCC unanimously voted to continue the proposed land use amendment and rezoning until the Fall 2002 Large Scale Land Use Amendment Cycle.



Site
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Applicant: James H. Fant

Physical STR: 01-20-29-300-0040, 0050 & 0080-0000 Gross Acres: +/- 25.05 BCC District: 5 Existing Use: Vacant

Special Notes:

FLU Zoning

Amend!

Rezone#

02S.FLU04

Z2001-044

From

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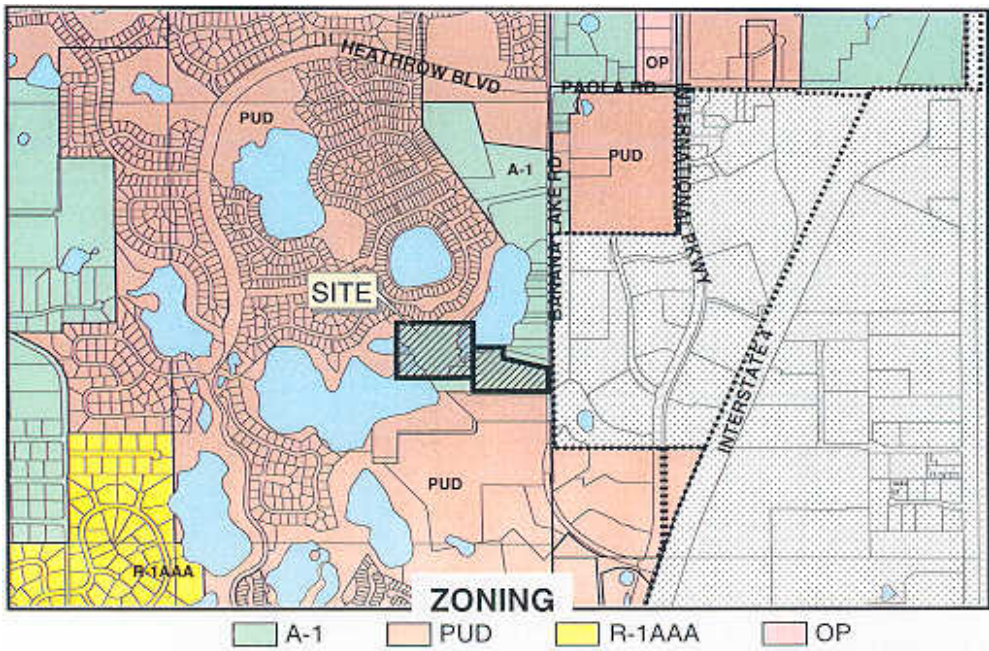
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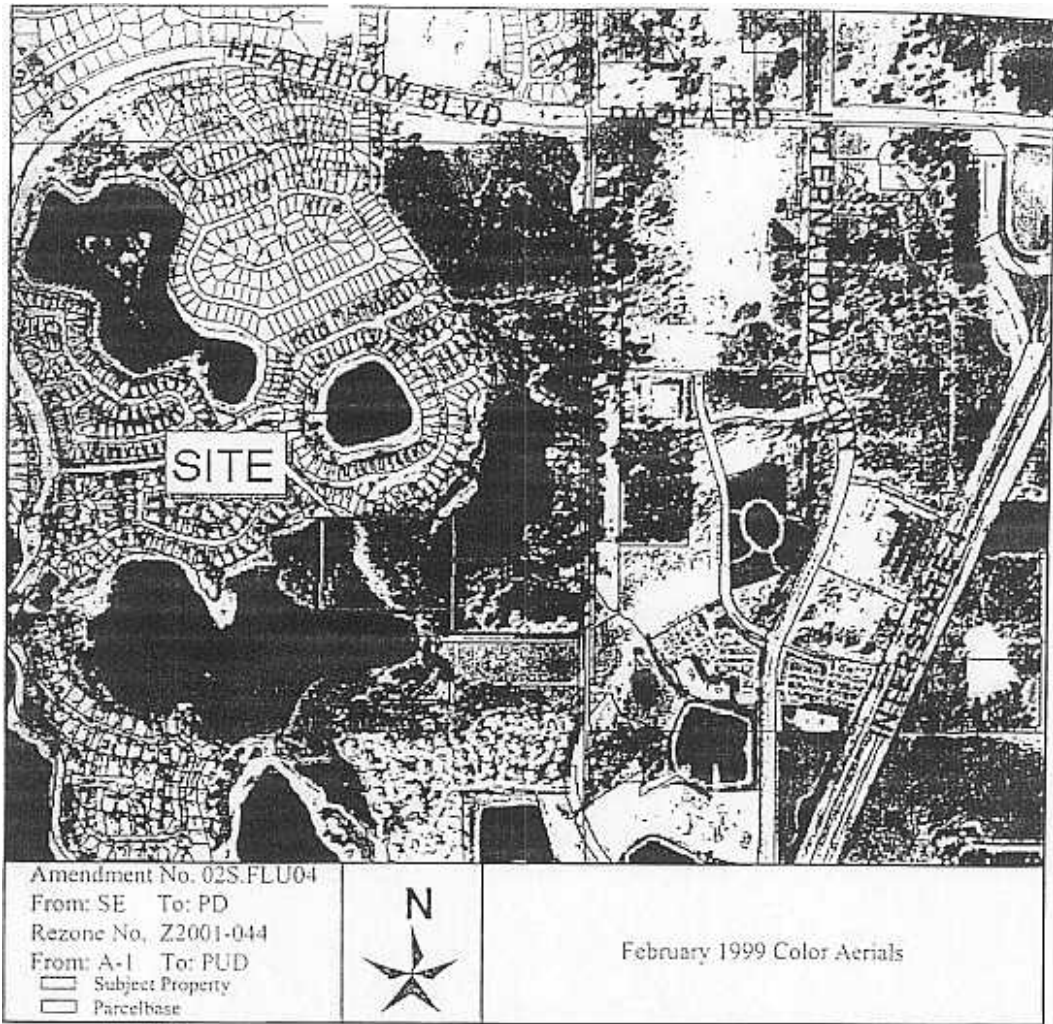
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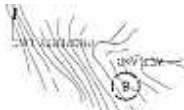
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EXECUTIVE SUMMARY

Suburban Estates to Planned Development and Rezoning from A-1 (Agriculture) to PUD (Planned Unit Development)	Amendment 02S.FLU04 & Z2001-044
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REQUEST

APPLICANT	James H. Fant
PLAN AMENDMENT	Suburban Estates to Planned Development
REZONING	A-1 (Agriculture) to PUD (Planned Unit Development)
APPROXIMATE GROSS ACRES	25.05 acres (including wetlands) 10.07 acres - developable
LOCATION	West side of Banana Lake Road, approximately 3400' south of CR 46A
SPECIAL ISSUES	In 1998, to the south of the subject property, the Board approved a large scale land use amendment from Suburban Estates to Planned Development and associated rezoning from A-1 to PUD for Colonial Realty Limited Partnership. The plan amendment was found in compliance by the Department of Community Affairs (DCA), but Mr. Edwards, property owner, subsequently initiated administrative proceedings which resulted in a compliance agreement between the Colonial Realty, Mr. Edwards, the DCA, and the County. (Please see Exhibits A and B, attached) The Agreement restricted the development rights on a 200 foot strip of land between the Edwards' and Colonial Realty's properties. The developers of the Colonial Grand apartments deeded a portion of the 200 foot buffer to Mr. Edwards who agreed not to seek a rezoning or land use amendment on the strip deeded to him for a period of five (5) years from the effective date of the settlement agreement.
BOARD DISTRICT	#5 – Commissioner McLain

**Suburban Estates to Planned
Development**

**Amendment
02S.FLU04
& Z2001-044**

RECOMMENDATIONS AND ACTIONS

<p>STAFF RECOMMENDATION February 19, 2003</p>	<p><u>PLAN AMENDMENT:</u> Recommend transmittal of Planned Development land use with staff findings subject to the attached Development Order, but does not recommend adoption until the applicant has demonstrated the existence of sufficient ROW to improve the length of Banana Lake Road to County standards, that Planned Development land use, as proposed, would be:</p> <ol style="list-style-type: none"> 1. Consistent with Plan policies related to the Planned Development land use designation; and 2. Consistent with adjacent Planned Development and Suburban Estates land uses; and 3. Consistent with development within the Heathrow International Business Center PUD to the east; and 4. Consistent with Plan policies related to roadway access; and 5. Consistent with Plan policies identified at this time.
<p>STAFF RECOMMENDATION February 19, 2003</p>	<p><u>REZONE:</u> Based on the above analysis and findings, staff recommends transmittal of the proposed PUD zoning with staff findings subject to the attached Development Order, but does not recommend adoption until the applicant has demonstrated the existence of sufficient ROW to improve the length of Banana Lake Road to County standards:</p> <ol style="list-style-type: none"> 1. The request, with attached Development Order, would be compatible with surrounding development; and 2. The request, with the attached Development Order, would be consistent with the Seminole County Land Development Code regarding PUD zoning.

STAFF ANALYSIS

SITE DESCRIPTION

Location	Future Land Use*	Zoning*	Existing Use
Site	Suburban Estates	A-1	Single family residential
North	Suburban Estates	A-1	Single family residential
South	Planned Development	PUD	Multi-family residential
East	City of Lake Mary	PUD	Heathrow International Business Center (HIBC)
West	Planned Development	PUD	Single family residential

* See enclosed future land use and zoning maps for more details.

COMPREHENSIVE PLAN CONSISTENCY

- 2) **PLAN PROGRAMS** - Plan policies address the continuance, expansion and initiation of new government service and facility programs, including, but not limited to, capital facility construction. Each application for a land use designation amendment will include a description and evaluation of any Plan programs (such as the affect on the timing/financing of these programs) that will be affected by the amendment if approved.

Summary of Program Impacts: The proposed amendment does not alter the options or long-range strategies for facility improvements or capacity additions included in the Support Documentation to the Vision 2020 Plan. The amendment request would not be in conflict with the Metroplan Orlando Plan or the Florida Department of Transportation's 5-Year Plan (Transportation Policy 14.1).

- a) **Traffic Circulation - Consistency with Future Land Use Element:** *In terms of all development proposals, the County shall impose a linkage between the Future Land Use Element and the Transportation Element and all land development activities shall be consistent with the adopted Future Land Use Element (Transportation Policy 2.1).*

Access to the subject property is via Banana Lake Road, a local road. There may be inadequate pavement width and right-of-way for Banana Lake. If approved, the developer shall be required to improve the length of Banana Lake Road to County standards. If there is at least fifty (50) feet of right-of-way (which remains to be demonstrated), the applicant has generally demonstrated to staff his plan and intent to modify Banana Lake Road to

has generally demonstrated to staff his plan and intent to modify Banana Lake Road to county standards is possible. Staff will review all final detailed improvements to the road at the final engineering stage of the approval process.

b) **Water and Sewer Service – Adopted Potable Water and Sanitary Sewer Service**

Area Maps: *Figure 11.1 and Figure 14.1 are the water and sewer service area maps for Seminole County.*

The subject properties are within the Seminole County Utilities water and sewer service area.

c) **Public Safety – Adopted Level of Service:** *The County shall maintain adopted levels of service for fire protection and rescue...as an average response time of five minutes (Public Safety Policy 12.2.2).*

The property is served by the Seminole County EMS/Fire Rescue. Response time to the site is less than 5 minutes, which meets the County's average response time standard of 5 minutes.

3) **REGULATIONS** - The policies of the Plan also contain general regulatory guidelines and requirements for managing growth and protecting the environment. These guidelines will be used to evaluate the overall consistency of the land use amendment with the Vision 20/20 Plan, but are not applied in detail at this stage.

a) **Preliminary Development Orders: Capacity Determination:** *For preliminary development orders and for final development orders under which no development activity impacting public facilities may ensue, the capacity of Category I and Category III public facilities shall be determined as follows...No rights to obtain final development orders under which development activity impacting public facilities may ensue, or to obtain development permits, nor any other rights to develop the subject property shall be deemed to have been granted or implied by the County's approval of the development order without a determination having previously been made that the capacity of public facilities will be available in accordance with law (Implementation Policy 1.2.3).*

A review of the availability of public facilities to serve these properties indicates that there would be adequate facilities to serve this area, and that the proposed Plan amendment would create no adverse impacts to public facilities. If approved, the developer shall improve the length of Banana Lake Road from County Road 46A to the project entrance to County standards.

In addition, the Banana Lake Road is planned for extension of reclaimed water main by the County which would be available in the future for connection to this site. The developer shall construct a reuse line to serve this development and commit to connecting to the County's system when it becomes available and pay any applicable fees.

b) **Flood Plain and Wetlands Areas - Flood Plain Protection and Wetlands Protection:**

The County shall implement the Conservation land use designation through the regulation of development consistent with the Flood Prone (FP-1) and Wetlands (W-1) Overlay Zoning classifications...(Policy FLU 1.2 and 1.3).

Approximately 15 acres are considered to be either wetlands and/or flood prone. A mitigation plan approved by the County and/or State shall be required at the time of Final PUD Master Plan approval for any proposed on-site wetland impacts. An undisturbed buffer averaging 25 feet and not less than 15 feet will be required landward of the on-site wetland limits.

c) **Protection of Endangered and Threatened Wildlife:** *The County shall continue to require, as part of the Development Review Process, proposed development to coordinate those processes with all appropriate agencies and comply with the US Fish and Wildlife Service and the Florida Fish and Wildlife Conservation Commission Rules as well as other applicable Federal and State Laws regarding protection of endangered and threatened wildlife prior to development approval (Conservation Policy 3.13).*

A survey of threatened, endangered and species of special concern prior to final PUD master plan approval is required.

4) **DEVELOPMENT POLICIES** - Additional criteria and standards are also included in the Plan that describe when, where and how development is to occur. Plan development policies will be used to evaluate the appropriateness of the use, intensity, location, and timing of the proposed amendment.

a) **Compatibility:** When the County's Future Land Use Map (FLUM) was developed in 1987, land use compatibility issues were evaluated and ultimately defined through a community meeting/hearing process that involved substantial public comment and input. When amendments are proposed to the FLUM, however, staff makes an initial evaluation of compatibility, prior to public input and comment, based upon a set of professional standards that include, but are not limited to criteria such as: (a) long standing community development patterns; (b) previous policy direction from the Board of County Commissioners; (c) other planning principles articulated in the Vision 2020 Plan (e.g., appropriate transitioning of land uses, protection of neighborhoods, protection of the environment, protection of private property rights, no creation of new strip commercial developments through plan amendments, etc.).

Based upon an initial evaluation of compatibility, Planned Development land use, as proposed, would be consistent with Plan policies identified at this time and therefore is consistent with the Seminole County Comprehensive Plan.

Applicable Plan policies include, but are not limited to, the following:

- 1) **Transitional Land Uses:** *The County shall evaluate plan amendments to insure that transitional land uses are provided as a buffer between residential and non-residential uses, between varying intensities of residential uses, and in managing the redevelopment of areas no longer appropriate as viable residential areas. "Exhibit FLU 2: Appropriate Transitional Land Uses" is to be used in determining appropriate transitional uses. (Policy FLU 2.5)*

Transition of land use and associated compatibility issues will be addressed through the use of the Planned Development land use designation and PUD. Staff believes that the prepared PUD plan provides for creative site design and appropriate standards for buffering, setbacks, lighting and building height, and that the request meets the intent of the Planned Development definition and PUD zoning classification.

Staff's primary concern is access to the site. The sole access to the site is via Banana Lake Road, a substandard local road. The applicant has not demonstrated the ability to improve the road to County standards. The 1998 approval of multi-family to the south was based in part on the applicant's ability to access the site through the existing apartments within the Heathrow International Business Center to the south. Staff indicated at that time that the orientation of the project towards a developed, higher-intensity PUD was a mitigating factor in the placement of high density uses at that location.

Other applicable Plan policies include, but are not limited to:

- Policy DES 1.9: Tree Canopy and Natural Vegetation
- Policy DES 2.8: Visual Quality of Streets and Highways
- Policy DES 30.3: Preserve and Protect Neighborhoods
- Policy FLU 1.1: Conservation Land Use
- Policy FLU 1.2: Floodplain Protections
- Policy FLU 1.3: Wetlands Protection
- Policy FLU 1.4: Conservation Easements
- Policy FLU 2.11: Determination of Compatibility in the Planned Unit Development and Planned Commercial Development Zoning Classifications
- Potable Water Policy 11.4.5: Extension of Service to New Development
- Sanitary Sewer Policy 14.4.4: Extension of Service to New Development
- Policy TRA 10.3: Review of Development Applications



STAFF RECOMMENDATION

FILE #

Z2001-044 02s.FLUO4

DEVELOPMENT ORDER #01-23000005

SEMINOLE COUNTY DEVELOPMENT
ORDER

On June 6, 2003, Seminole County issued this Development Order relating to and

touching and concerning the following described property:

Legal description attached as Exhibit A.

(The aforescribed legal description has been provided to Seminole County by the owner of the aforescribed property.)

Property Owners:

Project Name:

FINDINGS OF FACT

FRED C. AND CARMEN S. EDWARDS
748 BANANA LAKE RD LAKE MARY, FL 32746

BANANA LAKE LAND USE AMEND. LARGE / REZONE

Requested Development Approval:

Rezoning from A-1 (Agriculture) zoning classification to Planned Unit Development (PUD) zoning classification

The Development Approval sought is consistent with the Seminole County Comprehensive Plan and will be developed consistent with and in compliance to applicable land development regulations and all other applicable regulations and ordinances.

The owner of the property has expressly agreed to be bound by and subject to the development conditions and commitments stated below and has covenanted and agreed to have such conditions and commitments run with, follow and perpetually burden the aforescribed property.

Prepared by: KENT CICHON

1101 East First Street Sanford, Florida 32771

FILE #

Z2001-044 02s.FLUO4

DEVELOPMENT ORDER #01-23000005

NOW, THEREFORE, IT IS ORDERED AND AGREED THAT:

(1) The aforementioned application for development approval is **GRANTED**.

(2) All development shall fully comply with all of the codes and ordinances in effect in

Seminole County at the time of issuance of permits including all impact fee ordinances.

(3) This development is subject to the Settlement Agreement (DOAH CASE NO.: 99-

0133GM) entered into by and between the State of Florida, Department of Community

Affairs; Seminole County, Florida; Colonial Properties Trust, as general partner of Colonial

Realty Properties Limited Partnership; and Fred Edwards, Jr.

(4) The conditions upon this development approval and the commitments made as to this

development approval, all of which have been accepted by and agreed to by the owner of

the property are as follows:

a. The developer shall be required to improve the length of Banana lake Road to County standards.

b. The Banana lake Road is planned for extension of reclaimed water main by the County which would be available in the future for connection to this site. The developer shall construct a reuse line to serve this development and commit to connecting to the County's system when it becomes available and pay any applicable fees.

c. The maximum number of dwelling units shall not exceed 43 units.

d. The net density shall not exceed 5.7 du/ac.

e. Require the following minimum building setbacks for each home:

20' front

20' rear

5' side yard

20' side street (corner lots)

f. Require the following minimum setbacks for accessory structures up to and including 200 square feet:

5' rear

5' side yard

20' side street (corner lots)

g. Require the following minimum setbacks for accessory structures in excess 200 square feet:

20' rear

5' side yard

20' side street (corner lots)

- h. Require all accessory structures in front yard to be beyond front building line of the dwelling unit.
- i. Minimum lot sizes and widths shall be 5,000 square feet, minimum 50' width at building line. Corner lots shall be 15% larger and 15% wider.
- j. Maximum building height shall be 35'.
- k. Minimum pool and pool screen setbacks shall be 5' rear and 5' side.
- l. 5' wide sidewalks shall be constructed on both sides of all roadways constructed within this development.
- m. Open space and recreational amenities shall be determined during the review of the Final Master Plan.

(5) This Development Order touches and concerns the aforescribed property and the conditions, commitments and provisions of this Development Order shall perpetually burden, run with and follow the said property and be a servitude upon and binding upon said property unless released in whole or part by action of Seminole County by virtue of a document of equal dignity herewith. The owner of the said property has expressly covenanted and agreed to this provision and all other terms and provisions of this Development Order.

(6) The terms and provisions of this Order are not severable and in the event any portion of this Order shall be found to be invalid or illegal then the entire order shall be null and

void

Done and Ordered on the date first written above.

ATTEST:

MARYANNE MORSE

Clerk to the Board of County Commissioners of Seminole County, Florida

BOARD OF COUNTY COMMISSIONERS SEMINOLE COUNTY, FLORIDA

By:

DARYL G. Mc LAIN, Chairman

FILE #

Z2001-044 02s.FLUO4

DEVELOPMENT ORDER #01.23000005

OWNER'S CONSENT AND COVENANT

COMES NOW, the owner, Fred C. Edwards Jr., on behalf of himself and his heirs,

successors, assigns or transferees of any nature whatsoever and consents to, agrees with and

covenants to perform and fully abide by the provisions, terms, conditions and commitments set

forth in this Development Order.

Witness

Print Name

~LWF0004

Witness

Print Name

FRED C. EDWARDS JR

STATE OF FLORIDA

COUNTY OF SEMINOLE

I **HEREBY CERTIFY** that on this day, before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared FRED C. EDWARDS JR., and is personally known to me or who has produced as identification and who acknowledged and

executed the foregoing instrument.

day of

WITNESS my hand and official seal in the County and State last aforesaid this
,2003.

Notary Public, in and for the County and State Aforementioned

My **Commission Expires:**

FILE #

Z2001-044 02s.FLUO4

DEVELOPMENT ORDER #01-23000005

OWNER'S CONSENT AND COVENANT

COMES NOW, the owner, Carmen S. Edwards, on behalf of herself and her heirs,

successors, assigns or transferees of any nature whatsoever and consents to, agrees with and

covenants to perform and fully abide by the provisions, terms, conditions and commitments set

forth in this Development Order.

Witness

Print Name

Witness

Print Name

CARMEN S. EDWARDS

STATE OF FLORIDA

COUNTY OF SEMINOLE

I **HEREBY CERTIFY** that on this day, before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared CARMEN S. EDWARDS, and is personally known to me or who has produced --as identification and who acknowledged and

executed the foregoing instrument.

WITNESS my hand and official seal in the County and State last aforesaid this day of , 2003.

Notary Public, in and for the County and State Aforementioned

My **Commission Expires:**

EXHIBIT A

LEGAL DESCRIPTION

COMMENCE at the Northeast corner of Government on lot 2, Section 1, Township 20 South, Range 29 East, said corner being a point on the Center line of Banana lake Road as shown on the Plat at Banana lake Road as recorded in Plat Book 4 Page 72 of the public records of Seminole County, Florida; thence run North 890 38' 43" West along the North line of said Government lot 2 a distance of 25.00 feet to a point lying on the Westerly right-of-way line of Banana lake Road; thence continue North 89038' 43" West, 867.49 feet to the POINT OF BEGINNING of this description; thence continue North 890 38' 43" West a distance of 892.49 feet; thence South 00042' 36" West a distance of 817.00 feet; thence South 890 38' 40" East a distance of 1766.79 feet to a point on the aforementioned Westerly right-of-way line of Banana lake Road; thence run North 000 13' 57" East along said right-of- way line 277.00 feet; thence departing said right-of-way line, run North 760 33' 03" West, 524.00 feet; thence North 000 13' 57" East, 130.20 feet; thence North 890 38' 43" West, 358.87 feet; thence run North 00031' 44" East, 291.00 feet to the POINT OF BEGINNING.
Containing 25.05 acres more or less.

('

EXHIBITA

r



STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

FRED C. EDWARDS, JR.,



Petitioner,

vs.

DOAH CASE NO.: 99-0133GM

DEPARTMENT OF COMMUNITY AFFAIRS AND SEMINOLE COUNTY,

Respondents,

and

COLONIAL PROPERTIES, INC.,

Intervenor

SETTLEMENT AGREEMENT

This Settlement Agreement is entered into by and between the State of Florida,

Department of Community Affairs (hereinafter "DCA"); Seminole County, Florida (hereinafter

"Seminole County"); Colonial Properties Trust, as general partner of Colonial Realty Properties

Limited Partnership (hereinafter "Colonial"); and Fred C. Edwards, Jr. (hereinafter

"Edwards"), the parties being all of the parties to the above-styled proceeding, as a complete

and final settlement of all claims raised in the above-styled proceedings.

WHEREAS, DCA is the state land planning agency and has the authority to administer

and enforce the Local Government Comprehensive Planning and Land Development Regulation

Act, Chapter 163, Part II, Florida Statutes; and

*

WHEREAS, Seminole County on or about October 13, 1998 approved the request of

Colonial to amend the Seminole County Comprehensive Plan by adopting Ordinance No. 98-46

approving Seminole County Comprehensive Plan Amendment 98S. FLU 5, which re-designated

the future land use of that certain property therein described as Suburban categories to PD; and

OR 196490;3

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concurrently approved the rezoning of the said property from Agriculture to **PUD**, allowing

development of multi-family apartments in accordance with the **PUD** plan, subject to various conditions; and

WHEREAS, on or about December 9, 1998 DCA issued a Notice of Intent to find Seminole County Comprehensive Plan Amendment 98S.FLU5 "in compliance" with Sections 163.3177, 163.3178, 163.3180, 163.3191, 187.201, Florida Statutes, the applicable strategic regional plan and Chapter 91-5, Florida Administrative Code; and

WHEREAS, Edwards, as an affected person pursuant to Section 163.3184, Florida Statutes, has initiated the above-styled formal administrative proceeding challenging Seminole County Comprehensive Plan Amendment 98S.FLU5; and

WHEREAS, Colonial has intervened in the above-styled proceeding; and

--WHEREAS, the parties wish to avoid the expense and delay of lengthy litigation and future appellate proceedings, and to resolve this proceeding under the terms set forth herein, and it is in their respective mutual best interests to do so;

NOW, THEREFORE, in consideration of the mutual covenants and undertakings herein below set forth, and in consideration of the benefits to accrue to each of the parties, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1.

Effective Date. This Settlement Agreement shall not become effective until approved by the Board of County Commissioners of Seminole County at a duly noticed public ~~meeting, and executed by each of the parties hereto. The effective date shall be the date of~~ signing by the last party signing.

2.

Dismissal of Administrative Proceeding. Upon this Settlement Agreement

becoming effective, the parties shall file a stipulated notice of dismissal with prejudice in the

ORI964'XJ.)

Page 2 of 16

above-styled proceeding in the fonn--ttached hereto as Exhibit A, with each party to bear its

own attorneys fees and costs,

3.

Abatement. The parties acknowledge that they have had their respective counsel

join in a Notice of Pending Settlement and Request for Stay of Proceedings, a copy of which is

attached hereto as Exhibit **B**, in order to allow sufficient time for the preparation and

implementation of this Settlement Agreement.

4.

Final Order ADDfoyn£ Plan Amendment. Upon filing of the Stipulated Notice of

Dismissal, Seminole County Comprehensive Plan Amendment 98S.FLU5 shall stand approved

and DCA shall issue a final order determining it to be in compliance in accordance with Section

163.3184, Florida Statutes.

5

Enhancement of Buffer Conditions. The parties acknowledge that **the PUD**

---: zoning-of the property which is the subject of Seminole County Comprehensive Plan

Amendment 98S.FLU5 was approved by Seminole County with various conditions, among

which were the establishment of a 200-foot wide buffer area along the northern boundary of the

said property, with the said buffer to be comprised as follows:

a.

A 15-foot wide area along the northern boundary to be pICI.!...:d with a

double row of off-set trees;

b.

A 6-foot wall on a 2-foot berm, or a 5-foot wall on a 3-foot berm, to be

located at least fifteen (15) feet from the northern boundary:

c.

A double row of,

item (Q);

five (5) trees to be planted.

Each of the wall described in 1;

d.

No structures or parking lots shall be located in the 200-foot buffer, except

the southern one hundred fifty (150) feet of the said buffer may be utilized for

storage.

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...control and retention factors.

Page 3 of 16

The parties agree that the said conditions shall be enhanced to provide for the 200-foot wide

buffer to be comprised as follows:

i.

ii.

iii.

IV.

A 6-foot wall on a 2-foot berm, or a 5-foot wall on a 3-foot berm,

to be located at least sixty-one (61) feet from the northern

boundary of the PUD, except the wall may be located fifteen (15)

feet from the northern boundary as depicted on the sketch attached hereto as Exhibit "C" ; and in the one hundred year flood plain area adjacent to Island Lake in lieu of the wall an 8-foot tall vinyl-coated chain link fence may be installed to the normal high water elevation of Island Lake;

A row of off-set trees to be planted within the area fifteen (15) feet north of the above-described wall;

A row of off-set trees to be planted south of the above-described wall;

No structures or parking lots to be located in the 200-foot buffer, except stormwater control and retention facilities may be located in that portion of the buffer area located south of the above-described wall.

Colonial, or its successor developer, shall bear the cost and perform the work appropriate to establish each element of the said buffer. Edwards 51

, bear the cost and perform the work of maintaining and irrigating trees planted on the Exhibit "C" Property (as hereinbelow described) upon the Exhibit "C" Property being conveyed to them.

The parties acknowledge and agree that the above-stated enhancements of the buffer conditions do not affect the intent or character of the development proposed by Colonial,

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It is **therefore do not** constitute a **major or substantial**

change in the approved PUD. The enhanced conditions shall be effective upon approval of this Settlement Agreement by the Seminole County Board of County Commissioner and shall be completed as provided in the Development Order to be issued by Seminole County. The parties agree that this Settlement Agreement shall be attached to and incorporated by reference in the Development Order issued by Seminole County authorizing Colonial's proposed development, which shall include as conditions for development that Colonial, or its successor developer, comply with and perform all obligations established by this Settlement Agreement. The Development Order shall further provide that no modifications of the Development Order may alter or amend the foregoing enhanced buffer conditions without a formal major amendment to the PUD being duly processed and approved after hearing upon notice to all affected persons, including but not limited to Edwards, his heirs, successors and assigns.

6.

Conveyance of Property to Edwards. Colonial represents to Edwards that it owns the property which is the subject of Seminole County Comprehensive Plan Amendment 98S.FLU5, except for that certain property owned by Duke University (hereinafter referred to as "the Duke Property"). The legal description of the property which is the subject of Seminole County Comprehensive Plan Amendment 98S.FLU5 is as follows:

Begin at point 896.8 feet East and 164 feet North of the Northeast corner of the South V2 of Section 1, Township 20 South, Range 29 East, thence run East 895.5 feet to the East line of said section, thence along said line 344.4 feet, thence West 1236.1 feet to the Northeast corner of Lot 8 of Island Lake Park as recorded in Plat Book 9, Page 89 of the Public Records of Seminole County, Florida; thence South 45 degrees, along the Northeasterly, ... of Lot 8, Island Lake Park 522.41 feet to the point of beginning.

and

Lot 8, ISLAND LAKE PARK, according to the Plat thereof as recorded in Plat Book 9, Page 89 of the Public Records of Seminole County, Florida.

and

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Lots 1 through 7, ISLAND LAKE PARK, according to the plat thereof as recorded in Plat Book 8, Page 89 of the Public Records of Seminole County, Florida.

(hereinafter referred to as "the Development Property"). Colonial further represents to Edwards

that it has entered into a contract to purchase the Duke Property and that the said contract

obligates Colonial to purchase the Duke Property subject to various conditions, among which is

the condition that Colonial obtain development approvals and permits authorizing Colonial's

proposed development. The legal description of the Duke Property is as follows:

Begin at point 896.8 feet East and 164 feet North of the Northeast corner of the South 1/2 of Section 1, Township 20 South, Range 29 East, thence run East 895.5 feet to the East line of said Section, thence along said line 344.4 feet, thence West 1236.1 feet to the Northeast corner of Lot 8 of Island Lake Park as recorded in Plat Book 9, Page 89 of the Public Records of Seminole County, Florida; thence South 45°E. along the Northeasterly line of Lot 8, Island Lake Park 522.41 feet to the point of beginning.

Colonial, on behalf of itself, its affiliated companies, successors and assigns, hereby agrees to

sell to Edwards, and Edwards hereby agrees to buy that certain portion of the Development

Property, described as follows:

A PARCEL OF LAND LOCATED IN THE NORTH 1/2 OF THE SOUTHWEST 1/4 OF SECTION 1, TOWNSHIP 20 SOUTH, RANGE 29 EAST, SEMINOLE COUNTY, FLORIDA, BEING DESCRIBED AS FOLLOWS:

BEGIN AT THE NORTH EAST CORNER OF LOT 8, ISLAND LAKE PARK, AS SHOWN IN PLAT BOOK 9, PAGE 89, OF THE PUBLIC RECORDS OF SEMINOLE COUNTY, FLORIDA. THENCE RUN S89°S2'48"E, A DISTANCE OF 1239.44 FEET TO THE CENTERLINE OF THE EXISTING 60 FOOT WIDE BANANA LAKE ROAD RIGHT -OF-WAY (TO BE VACATED); THENCE S00°21'30"E, ALONG THE CENTERLINE OF SAID BANANA LAKE ROAD RIGHT -OF-WAY 60.00 FEET; THENCE DEPARTING SAID CENTERLINE, RUN N89°51'48"W, A DISTANCE OF 955.00 FEET; THENCE N44°52'48"W, A DISTANCE OF 63.64 FEET; THENCE N89°S2'43"W, A DISTANCE OF 244.35 FEET TO THE EASTERLY LINE OF THE FOREMENTIONED LOT 8 OF ISLAND LAKE PARK; THENCE N44°34'00" W, ALONG

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(SAID EASTERLY LOT LINE, A DISTANCE OF 21.10 FEET, TO THE POINT OF BEGINNING.

CONTAINING 1.434 ACRES MORE OR LESS

(referenced to herein as "the Exhibit "c" Property") or such portion of the Exhibit "C"

Property as to which Colonial, its affiliated companies, successors and assigns, possess title

currently or at any time in the future, including all of Colonial's rights, title, after acquired

title, and interest in, on, and to all improvements, fixtures, easements, rights-of-way, licenses, privileges, tenements, reversions and appurtenances belonging or appertaining to the 60- foot Property, on the terms and conditions set forth below. In the event Colonial, its successors, assigns or an affiliated company, does not purchase the Duke Property, whether pursuant to the existing contract or an amended, modified, extended or substituted contract, Colonial's

obligation under this Paragraph (6) shall be limited to selling to Edwards that portion of the Exhibit "C" Property which Colonial does own or hereafter acquires, with the obligation to convey to Edwards any remaining portion of the Exhibit "C" Property remaining a development condition under the Development Order to be entered by Seminole County. In the event Colonial's contract to acquire the Duke Property is terminated, and in the future Colonial, or an affiliated company or a person in privity with Colonial, nonetheless acquires the Duke Property, or any portions thereof, by a different contract or by other means, the obligations of this

Settlement Agreement shall continue in effect and any portion of the Exhibit "C" Property not previously conveyed to Edwards shall be promptly conveyed by Colonial, its successors, assigns, or affiliates, to Edwards on the terms hereinbelow set forth. The terms and conditions

for the sale and purchase of the Exhibit "C" Property, or any portion thereof in the event the

ownership is of less than all of the Exhibit "C" Property, shall be as follows:

a.

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The purchase price shall be \$1 .00, payable at Closing.

Page 7 of 16

b. Within thirty (30) days of Colonial acquiring the Duke Property, or any portion thereof, Colonial, and such other owners of any portion of the Exhibit "C" Property as may then be, shall convey to Edwards fee simple title to the Exhibit "C" Property, or such portion thereof as is owned by Colonial, or such other owners as may then be, by general warranty deed(s) subject only to: (A) real estate taxes and special assessments for the year of Closing, (B) the PUD conditions applicable to the Exhibit "C" Property as set forth above in this Settlement Agreement, and (C) the easement for ingress and egress to the Edwards' home located at 748 Banana Lake Road, Lake Mary, Florida. No representation or title warranties are made or will be made with respect to the beds or bottoms of lakes, rivers or other bodies of water located on, contiguous to or within the Exhibit "C" Property. The date for delivery of said general warranty deed to Edwards shall be the Closing Date.

c. There shall be no mechanics' liens, construction liens, claims of lien or other claims against the property conveyed except governmental assessments, and all bills for all work done or materials supplied to the

property conveyed will have been paid as of delivery of the general warranty deed(s) to Edwards. This representation will be true at Closing and shall survive Closing. Colonial agrees to indemnify and hold Edwards harmless from any Wlfecorded liens, claims of lien or other claims against the Exhibit "C" Property occurring or arising for work or servic,;,s performed prior to the Closing Date. At closing there shall be delivered to Edwards, and/or a Title Company issuing a Commitment, au affidavit in form sufficient to allow a Title Company to insure the gap at the time of Closing. In addition, the grantor(s) of the deed(s) shall cause to be eliminated from the title insurance policy the printed exceptions for Wlfecorded mechanics' liens, parties in possession, Wlfecorded easements, and survey exceptions (if a survey is obtained by Edwards), and taxes or special assessments not shown as existing liens by the public records, other than those for the year of Closing 'vhich are not yet due and p:lvable.

d. From and after the effective date of this Settlement Agreement, Colonial shall not, without obtaining Edwards' prior written consent in each instance, create, incur, consent to or pennit to exist, any easement, restriction, right-of- way, reservation, mortgage, lien, pledge, encumbrance, lease, license, occupancy agreement or other legal or equitable interest, which encumbers the Exhibit "C" Property or any portion thereof, other than the PUD conditions applicable to the Exhibit" C II property as set forth above in this Settlement Agreement.

e. In the event Edwards obtains an owner's marketable title insurance policy or obtains a survey of the Exhibit" C" Property, same shall be at his own expense.

f. Edwards shall pay for documentary stamps on the warranty deed and Colonial shall pay for recording curative in:truments. Edwards shall brlr the costs of title searches and updates, and the Title Policy if one is obtained. ::J\ards shall pay for the ~vey. if one is obtained, t) i ~ost of recording the warranty deed, and for any title endorsements required by Edwards. Edwards

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shall pay the cost of preparing closing documents and any closing fees in connection therewith. Each party shall pay its own respective attorneys fees.

g. Real and personal property taxes for the year of Closing, installments on public improvement liens, special assessments, municipal services taxing unit charges, rents, and insurance premiums, if any, and other proratable items pertaining to the Exhibit "C" Property shall be prorated as of the Closing Date. Colonial's prorata share of such taxes, assessments and MSTU charges as determined by the Seminole County Property Appraiser, the Seminole County Tax Collector and/or other applicable governmental authority shall be paid at Closing to the Seminole County Tax Collector's office. Delivery of such tax payment to the Seminole County Tax Collector's office shall be the responsibility of Edwards and shall occur immediately after Closing. Edwards shall incur the proratable expenses for the Closing Date. All real estate special assessments, personal property taxes and ad valorem taxes for prior years shall be paid by Colonial. For proration purposes, it will be assumed real estate and personal property taxes are paid upon the tax due date. If the real property ad valorem taxes, personal property taxes, general assessments and MSTU charges applicable to the Exhibit "C" Property are not available at Closing, then they shall be estimated upon the most recent information available. If the foregoing are estimated, Colonial agrees to pay any unpaid amounts once the bill for same is ll.:ceived. Colonial shall rec(i\,t": any refund that may be due from Seminole County for overpayment. Edwards shall have no obligations for any assessments relative to infrastructure improvements benefiting the PUD, either before or after Closing.

h. No default in regard to the purchase and sale of the Exhibit I"C" Property shall be claimed or charged by Edwards or Colonial against the other until notice of thereof has been given to the defaulting party in writing, and such default remains uncu. ~rJ for a period often (10) d,qys after the defaulting's party's receipt of such notice. Notwithstanding the foregoing, the Closing Date shall, t be changed, delayed, postponed or extended by any requirement for notice of default, if such default consists of failure to appear at Closing. In the event Edwards defaults on his obligation to purchase the Exhibit "C" Property and the conditions precedent to Edwards' obligation to purchase same have been fulfilled in the time(s) required herein, and provided Colonial is not in default, then Colonial's sole remedies shall be, upon giving written notice to Edward:, as hereinabove provided, to l' -cover damages, specific performance or obtain Illjunctive relief, but Coloru". 1il.IY not rescind or termir .this Settlement Agreement unless Colonial affirmatively acts to bring about the repeal or cance}.lation of Seminole County Comprehensive Plan An)endment 98S.FLU5, so as to re-establish the Suburban Estates land use designation for the Development Property. In the event Colonial refuses or is unable to comply with and perform in accordance with the provisions of this Settlement Agreement for the purchase and sale of the Exhibit" C" 1 >roperty, and provided Ed \w ~rds is not in default, Edwards III Y elect to seek enforcement of the development conditions in the Developmen :. :lcr. seek specific perf 01 lInce, obtain injunctive rei ;,;f or recover damages, but may not rescind or terminate this Settlement Agreement.

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i. Colonial hereby represents and warrants to Edwards that it has full power, right, and authority, and is duly authorized to enter into this Settlement Agreement, and perform each and all of the matters and acts herein provided in connection therewith, and to execute and deliver all documents provided hereunder in connection with such sale and purchase; and that the purchase and sale of the Exhibit "C" Property in accordance with the terms and obligations hereof, does not contravene any provisions of law, trust, indenture, or agreement binding upon Colonial, and that when executed, the instruments required hereunder shall constitute valid and binding obligations of Colonial in accordance with their terms. Colonial agrees to provide Edwards with copies of all environmental inspection reports currently in its possession, custody or

control relating to the Exhibit "C" Property, or which came into its possession, custody or control prior to the conveyance of title to Edwards.

j. -The provisions of all subsections of this Paragraph 6 of this Settlement Agreement concerning purchase and sale of the Exhibit "C" Property, including the representations and warranties set forth therein, are intended to survive the Closing, shall so survive, and shall not be merged into the warranty deed.

k. Any notices which may be permitted or required hereunder shall be in writing and shall be deemed to be duly given as of the date and time the same are personally delivered, transmitted electronically (i.e., facsimile transmission) or within three (3) days after depositing with United States postal service, postage prepaid by registered or certified mail, return receipt requested, or within one (1) day after depositing with Federal Express or other overnight delivery service, from which a receipt may be obtained, and addressed as follows:

i

To Colonial:

With copy to:

To Edwards:

OR196490;3

Colonial Properties Trust c/o Charles A. McGehee 1 :...:cutive Vice President Suite 750
2101 6th Avenue, North
Birmingham, Alabama 35202

Kenneth W. Wright, Esquire
Sllutts & Bowen, **LLP**
20 North Orange Avenue Suite 1000
Orlando, Florida 32801-4626 Telephone: (407) 423-3200 Facsimile: (407) 425-8316

Fred C. Edwards, Jr.
748 Banana Lake Road Jacksonville, Florida 32217

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I

7.

With copy to: -

Michael P. McMahon, Esquire
Akennan, Senterfitt & Eidson, P.A. Post Office Box 231
Orlando, Florida 32802-0231 Telephone: (407) 843-7860 Facsimile: (407) 843-6610

Edwards and Colonial may from time to time notify the other of changes with respect to where and to whom notices should be sent.

Future Plan Amendment/Rezoning. Colonial agrees with Edwards that if in the

future Edwards desires to have the Exhibit "C" Property rezoned and/or have the Seminole County Comprehensive Plan land use designation of the Exhibit "C" Property amended to authorize a residential zoning or land use, that Colonial, its successors and assigns, will consent thereto and shall not object thereto. The parties acknowledge and stipulate that neither Seminole County nor DCA make any agreement or commitment in regard to any possible future re-

designated use of the Exhibit "C" Property under the Seminole County

Comprehensive Plan, nor in regard to any possible future rezoning of the Exhibit "C" Property.

8.

DCA/Seminole County Not Parties to Purchase/Sale. It is acknowledged and agreed that neither Seminole County nor DCA are obligated by the purchase and sale provisions of Paragraph 6 of this Settlement Agreement; and that, while each has knowledge of the transaction contemplated by Paragraph (6) and does not object thereto, neither Seminole County nor DCA shall have any liability for performance or non-performance of any of the purchase and sale provisions of Paragraph (6) by either Colonial or Edwards, their successors or assigns.

9.

Rezoning: Freeze. Edwards, on behalf of himself, his successors and assigns, hereby agrees, and commits to Seminole County that upon conveyance of the Exhibit "C"

Property or any portion thereof to Edwards or his successors or assigns, he shall not seek an

(In accordance with the Seminole County Comprehensive Plan:

OR 196490;3

Page 11 of 16

repositioning are designated;

for the

r

authorized land use of the Exhibit "A" Property nor seek a re-zoning of the Exhibit "C"

Property for a period of five (5) years from the effective date of this Settlement Agreement. In

the event the Exhibit "C" Property is not conveyed to Edwards, his successors and assigns, as

contemplated under Paragraph (6), above, Edwards shall not be limited in his rights by the

provisions

10.

hereof.

Exclusion From DR!. The parties acknowledge that Colonial intends to seek

inclusion of its proposed development of a multi-family apartment project in the Heathrow

International Business Center **DR!** ("HIBC"). It is hereby agreed that the Exhibit "C" Property

shall not be made a part of the **HIBC**, nor any other Development of Regional Impact, without

the express written consent and affirmative joinder of Edwards, which Edwards may withhold in

his absolute personal discretion. It is acknowledged that Edwards intends to refuse to consent to

the Exhibit "C" Property being joined into any DR!. The parties acknowledge that Seminole

County may include the Exhibit "C" Property in its calculations for density requirements for

purposes of the PUD and HIBC DR! approvals to the extent doing so does not limit Edwards,

his successors and assigns, from installing a public street on the Exhibit "C" Property in the

future.

11.

Waiver of Future ODD!. Edwards, on behalf of himself, his successors **and**

assigns, agrees that upon the effective date of this Settlement Agreement, unless this Settlement

Agreement is terminated in accordance with the terms hereof, he shall not take any action in

opposition to the proposed development project of Colonial, as long as same remains COI.

with the **PUD** conditions approved by Seminole County prior hereto, and as enhanced by the provisions of this Settlement Agreement, and shall not oppose the inclusion of Colonial's proposed development in the Heathrow **DRI**, excepting as to the Exhibit "C" Property.

Edwards agrees

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... cooperate with Colonial to the extent of communication: non-objection and

Page 12 of 16

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consent in writing to governmental agencies reviewing or permitting any aspect of Colonial's proposed development, and personally appearing at public hearings conducted in Seminole County, Florida on a date and at a time when Edwards is in Seminole County and not previously engaged, subject to there being no modification of the proposed development inconsistent with the PUD conditions approved by Seminole County on or about October 13, 1998, as enhanced by the provisions of this Settlement Agreement.

12.

No Establishment of Precedent. The parties enter into this Settlement Agreement in a spirit of cooperation for the purposes of resolving disputes which have arisen between them. The acceptance of proposals for purposes of this Settlement Agreement is part of a negotiated agreement affecting many factual and legal issues and is not an endorsement of, and does not establish precedent for, the use of these proposals in any other circumstances or by any other governmental body.

13.

Multiple Originals/Facsimiles/Counterparts. This Settlement Agreement may be

executed in any number of originals, all of which evidence one agreement, and only one of which need be produced for any purpose. This Settlement Agreement may be executed by facsimile transmission and in counterparts, all of which taken together shall constitute a single complete agreement.

14.

Cautions. The captions inserted in this Settlement Agreement are for the purpose of convenience only and shall not be utilized to construe or interpret any provision of this

Settlement Agreement; it.

15.

Successors and Assigns. The rights and obligations established by this Settlement Agreement shall be binding upon and shall accrue to the benefit of the successors, assigns and

heirs of the parties; hereto. It is agreed that Edward's may assign his right to receive the

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Page 13 of 16

conveyance of title to the Exhibit "C_" Property to Fred C. Edwards, Jr., as Trustee of the Fred C. Edwards, Jr. Living Trust.

IN WITNESS WHEREOF, the parties have caused this Settlement Agreement to be signed as of the dates indicated hereinbelow.

&h ~ f(.))1. ~ ~, .. <. ~

Witness (Signature)

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Witness (Print Name)



Witness

(Signature)

Al.e...~~.e(~ ft1c..f11Mhd

Witness (print Name)

FRED C. EDWARDS, JR.
Date: July 29, 1999

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Page 14 of 16

DEPARTMENT OF COMMUNITY AFF AIRS

By: C

Thomas Beck
Thomas

(1, Beck, Director

"Division of Community Planning

Date: --(11~~A:::;! :...~==l=r r?-

~~2Q.. \ "2. lllC~ d

-Witness (Signature)

.A ~f" ? ~C,fd

Witness (Print Name)

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Witness (Signature)

11t-f4 fi~1L 1/4t112 ~ -

Witness (Print Name)

SEMINOLE COUNTY, FL~RIDA

By:(1

Arthur Stanley

Chainnan
Board of County Commissioners

Approved by the Seminole County Board of County Commissioners on the 7.3 -day of
July, 1999.

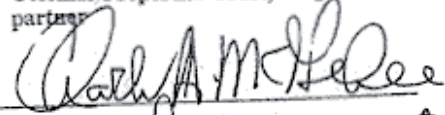
Attest: 
Clerk of the Board of County
Commissioners

/

or

**COLONIAL REALTY PROPERTIES
LIMITED PARTNERSHIP**

By: Colonial Properties Trust, its general
partner

By: 

Title: Executive Vice-President

OR196490;3

Page 15 of 16

STATE OF FLORIDA
COUNTY OF ~~~~~

The foregoing instrument was acknowledged and subscribed before me by *FRED C. EDWARDS, JR.* on this ~ day of ~, 1999, and who is personally known to me as "Frederick C. Edwards, Jr."

STATE OF Ala.
COUNTY OF Den



Notary

(Print, Type or Stamp Commissioned Name of Notary Public)

Michael P **McMahon**

#6-

* My Commission CC736745

;

Public, State of Florida

///

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M./- ~-: .f~regoing "gIStrum,e.nt was.acJfknowned and subscribed before me by~t Je6 A '-
--:, 11"l~.f""t.lt"t' , as E~P(IJJ-i J~ II, r, , of Colonial Pro~erties Trust, General Partner of
COLONIAL REALTY LIMITED PARTNERSHIP, on this ~- day of .,1999, and
who is personally known to me 91: ~'.rbg Bas ~feQY.ed..';;

=

(Print, Type or Stamp Commissioned Name of t-:cwry Y:lbl:c)

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EXHIBIT B

Shutts & Bowen/Colonial Grand
Suburban Estates to Planned Development

RECOMMENDATIONS

BOARD OF COUNTY COMMISSIONERS

SEPTEMBER 22,1998 BOARD OF COUNTY COMMISSIONERS

OCTOBER 13, 1998

The Board of County Commissioners voted to continue the plan- amendment and rezoning to their October 13, 1998, meeting.

Plan Amendment:: The Board of County Commissioners voted 4-1 to adopt Planned Development land use with staff findings.

Rezone: In a related action, the Board of County Commissioners voted to adopt PUD (Planned Unit Development) zoning on the site, subject to:

1

First tier of buildings along the lakefront and along the north buffer to be a maximum of two (2) stories. Buildings on the remainder of the site may be three (3) stories, with a maximum height of 35'.

2.

No parking areas to be located adjacent to the lake.

3.

Apartment buildings to be similar in scale and architecture as the existing buildings in Phase I.

4.

The applicant to maintain a 200' buffer along the north property line. There shall be no buildings or other structures, parking, or roadways within the buffer; however, stormwater retention ponds may be located within the south 150' of the buffer. Within the north 50' of the buffer, the applicant shall provide a 50-foot wide strip of vegetative plantings. The applicant shall construct a 6-foot high brick wall on a 2' high berm (or a 5-foot brick wall on a 3' high berm), to be located 15' from the north property line. Design of the brick wall shall be consistent with the design of the existing HIBC wall to the east, and the required wall shall connect to the existing HIBC wall. Plantings within the 50' strip south of the wall to be a minimum of two staggered rows of canopy trees at 25' intervals, with at least two tree species utilized. Plantings north of the wall to consist of two staggered rows of trees. Applicant to provide additional tree plantings throughout the buffer, with the exception of stormwater pond sites. Applicant to be responsible for maintenance of the wall and plantings.

6

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Shutts & Bowen/Colonial Grand ...;'71 Suburban Estates to Planned Development

RECOMMENDATIONS

BOARD OF COUNTY COMMISSIONERS

OCTOBER 13, 1998

5.

6.

7.

8.

9.

10.

There shall be no access to the First tier of buildings along the lakefront and along the north buffer to be a north via Banana lake Road.

Applicant to retain existing pine trees on the "peninsula" area to the greatest extent practical. Where necessary, supplemental plantings of canopy and understory trees will be required to "break up" the view of the complex from neighboring properties. Supplemental plantings to be determined during site plan review.

Applicant to preserve existing specimen trees to the greatest extent practical. Where necessary, replacement tree plantings in accordance with County arbor regulations will be required. Replacement tree requirements to be determined during site plan review.

Site lighting to be cut-off/shoebox type, with a maximum height of 20', including fixtures. Lighting to be located no closer than 50' to the north property line or lakefront, and footcandles at the north and west property lines may not exceed 0.5.

Applicant may provide boardwalks and other passive amenities along the lakefront. However, no personal watercraft or boats to be permitted.

Minimum buffer along the lake to be 50' in width, with an additional 20' building setback. Only minor recreational uses (boardwalks, picnic tables, and similar uses) are permitted within the buffer.

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Shutts & Bowen/Colonial Grand i Suburban Estates to Planned Development I

RECOMMENDATION
BOARD OF COUNTY COMMISSIONERS

OCTOBER 13, 1998

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13.

Applicant to investigate means to cooperatively improve and maintain Island Lake, including partnerships with HOAs within Heathrow or other applicable entities.

In Phase I (existing apartments), applicant to provide additional canopy tree plantings to enhance buffering along the lake. Plantings to consist of scattered fast-growing canopy trees of at least two (2) species. Majority of the plantings to be utilized at the three apartment buildings along the lake and closest to the satellite dish location.

In Phase I (existing apartments), applicant to provide additional buffering at the satellite dish location. Plantings on the side facing the lake to consist of a hedge and staggered row of understory trees. Alternatively, the satellite dish installation may be relocated interior to the site.

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12-9-2002 2: 22Pt

FRO-t

P- 1



DESIGN, INC.

&

Engineers, Environmental & Planning Consultants

December 19, 2002

12-20-02 AOB:29

Mr. Kent Cichon
Seminole County Planning and Development Department 1101 East First Street

Sanford, Florida 32771-1468
Tel No.: 407.665.7126
Fax No.: 407.665.7956

Banana Lake Large Scale Land Use Amendment and Rezoning
EED Job No.: 2002.033

Dear Mr. Cichon:

N

This letter is to request a thirty (30) day extension from the January 8, 2003 Planning & Zoning Board meeting to the February Planning & Zoning Board Meeting, for the above referenced project.

It is my understanding that Ken Wright and Don FIScher have discussed this extension and that the thirty (30) day extension can be granted and allow the project to be transmitted to Department of Community Affairs for review as part of the spring submittal. This delay will allow the time necessary to fully analyze Banana Lake Road and complete an agreement with your department concerning what improvements are required.

Your earliest review and response to this request is greatly appreciated.

Very truly YOURS,

ENGINEERING & ENVIRONMENTAL DESIGN, INC.



Larry T. Ray, P.E.

Jim Fant, (Fax No.: 407.425.6841) Ken Wright, (Fax No.: 407.425.8316)
Don Curotto, (Fax No.: 407.422.8262)
Richard E. Dunn, P .E.. EED

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940 N. Femcreek Ave! ue .Orlando, FL 32803. Tel No.: 407.650.0006 .Fox No.: 407.648.8338 .www.eed-inc.com
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ENGINEERING & ENVIRONMENTAL DESIGN, INC.

February 6, 2003

Engineers, Environmental & Planning Consultants

Mr. Mahmoud Najda, P.E.
Seminole County Government
1101 East First Street, 2nd Roor West Wing Sanford, Ronda 32771
Tel No.: 407.665.7341
Fax No.: 407.665.7956

RE:

Banana Lake Road Improvements / Banana Lake PO Seminole County Project #21-23000005
EEO Job No.: 2002.033

Dear Mr. Najda:

As requested, we have performed a preliminar~ pavement evaluation (See attached Yovaish Engineering Report) and roadway improvement report for Banana Lake Road from its intersection with SR 46A south to the southern limits of the Edwards Property. The intent is to upgrade this road to current Seminole County Standards, with the exception of the width of the roadway which will be widened to 22' in lieu of 24' wide county standard and that no stormwater collection system will be constructed.

The northern portion of the road from Station 11+00 to Station 27+86:!: will receive an overlayment of 1" type SIII asphaltic concrete. This portion of the roadway is approximately 22' wide and will not be widened any further (see Sketch 1).

The center portion of the roadway from Station 27+86:t to Station 30+87 in the vicinity of the old sinkhole will be completely removed and reconstructed unless further studies indicate this is not necessary. The roadway centerline radius in this area is 110'. Each lane of the roadway from PC to PT of this curve will be increased by 3' in accordance with County Standards. The width of these lanes will transition from 14' lanes to 11' lanes at the proceeding PC's or PT's of the adjacent curves (See Sketch 2).

The southern portion of the roadway from Station 30+87:!: to Station 47+31 will be widened from its existing 17 to 21' width to a constant 22' width. It is anticipated that all widening will occur on the eastern side of the existing road to avoid disturbing any of the trees along this portion of the road. This entire section of road will receive a minimum 1" thick overlayment with Type SIII asphaltic concrete and the crown of the road shifted to the center of the widened road (see Sketch 3).

940 N. Ferncreek Avenue • Orlando, FL 32803 • Tel No.: 407.650.0006 • Fax No.: 407.648.8338 • www.eed-inc.com

Mr. Mahmoud Nadja, P.E. Seminole County Government February 6, 2003
Page 2 of 2

Guardrail will be installed where required for safety reasons and as mentioned earlier no trees will be removed except where required for safety reasons.

The above mentioned stations for the various roadway improvements are approximate and will be adjusted based on the results of a complete geotechnical evaluation and when final engineering documents are prepared.

If you have any question, please let me know,

Very truly yours,

ENGINEERING & ENVIRONMENTAL DESIGN, INC.

~-P£::(~~~-
Richard E. Dunn, P.E.
Project Manager

cc.

Kent Cichon, (Fax No.: 407.665. 7956)
Jim Fant (Fax No.: 407.425.8276)
Ken Wright, Esq. (Fax No.: 407.425.8316)
Lany T. Ray, P .E., EED

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~ LIST OF A1TACHMENTS: B

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SKETCH 1: BANANA LAKE ~

-

ROAD STATION 11+00 TO ~

STATION 27+85.92 ~

SKETCH 2: BANANA LAKE ~ ROAD STATION 27+85.92 TO ~ STATION 30+87.94



ATTACHMENT 1: ~

ATTACHMENT 2:

ATTACHMENT 3:

ATTACHMENT 4:

ATTACHMENT 5:

SKETCH 3: BANANA LAKE ROAD STATION 27+85.92 TO STATION 47+31

ATTACHMENT 6:



YOY AISH ENGINEERING SCIENCES: EVALUATION OF THE EXISTING PAVEMENT SECTION

BANANA LAKE ROAD PLAN

**BANANA LAKE ROAD
CERTIFIED SURVEY**

**ATTACHMENT 1:
SKETCH 1: BANANA LAKE ROAD
STATION 11+00 TO STATION 27+85.92**



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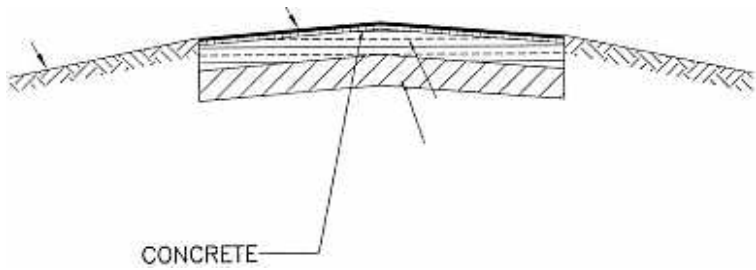
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STA. 11 +00 TO STA. 27+85.92

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ROAD

SKETCH 1

ATTACHMENT 2:

**SKETCH 2: BANANA LAKE ROAD
STATION 27+85.92 TO STATION 30+87.94**





BANANA LAKE ROAD

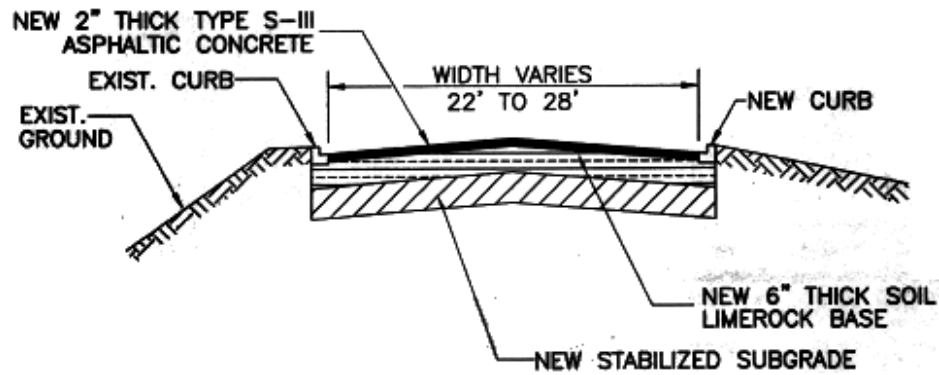
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ATTACHMENT 3:

SKETCH 3: BANANA LAKE ROAD

STATION 30+87.94 TO STATION 47+31

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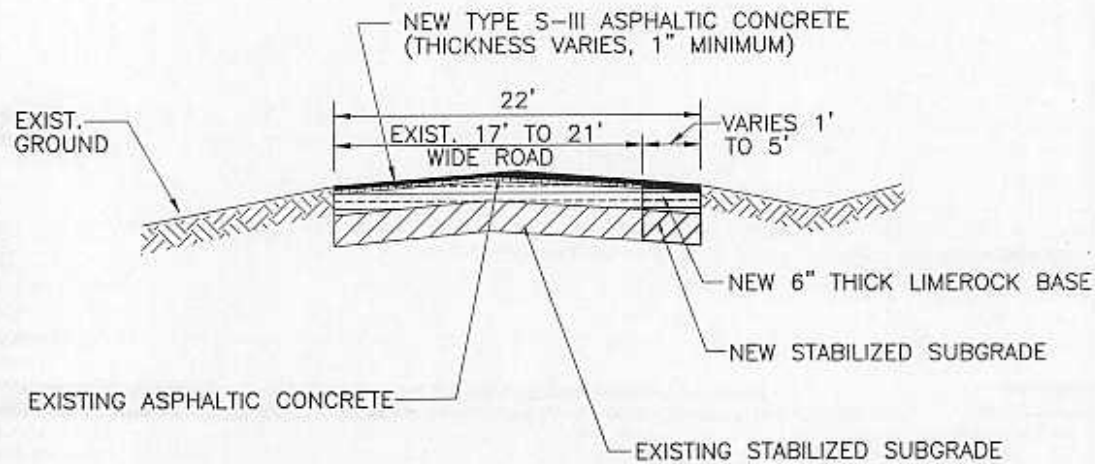
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BANANA LAKE ROAD

STA. 30+87.94 TO STA. 47+31

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- NOTE:
1. PAVEMENT TO BE WIDENED TO EAST.
 2. TREES WILL ONLY BE REMOVED TO ACCOMMODATE WIDENING.

North



ENGINEERING & ENVIRONMENTAL DESIGN, INC.
122 E. COLMAN DRIVE, SUITE 200
ORLANDO, FLORIDA 32801
OFF. (407) 850-0508
FAX (407) 848-6136
Engineers, Environmental and Planning Consultants

BANANA LAKE ROAD

SKETCH 3

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**! YOVAISH ENGINEERING SCIENCES: ~
~ EVALUATION OF THE EXISTING**

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~ PAVEMENT SECTION

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Brooksville Development Corporation 401 W. Colonial Drive, Suite 7 Orlando, Florida 32804

Attention:

Mr. Jim Fant

Consulting Engineers in the Earth Sciences, Geotology, Hydrogeology and Construction Materials Testing

January 27, 2003

Subject:

Evaluation of the Existing Pavement Section, Bahlana Lake Road, Seminole County, Florida (PN 02-EO414.04)

Dear Mr. Fant:

As requested, we have performed a pavement evaluation at the subject roadway. The purpose of our study was to provide a general evaluation as to the composition of the existing pavement sections. Recommendations, if required, for improving the existing pavement section to meet the pavement structural number (SN) provided by the Residential and Local Streets for Seminole County were to be provided. In addition, and as requested by the Seminole County staff, we performed a preliminary evaluation of the potential cause(s) of longitudinal pavement cracks noted along portions of the roadway alignment. The following report describes the field program and provides our evaluations.

1.0 PAVEMENT CONDITION SURVEY

Banana Lake Road is located approximately 3/4 mile west of Interstate 4 and extends approximately 4850 linear south from County Road 46A. The portion of the roadway under study is depicted on Figure 1 and the preliminary plans prepared by Engineering and Environmental Design, Inc. The southern portion of the roadway was reported to have been recently paved by the Seminole County roadway department.

A visual pavement condition survey was performed by representatives of Yovaish Engineering Sciences, Inc., on December 3, 2002. Based upon visual inspections, the paved roadway areas comprise asphaltic concrete with an open drainage system. The surface of the pavement is moderately smooth. In general, the pavement appears in a good condition. As an exception, longitudinal cracks were noted along portions of the roadway. Specifically, longitudinal cracks varying from approximately 1/4 to as much as 1/2 inch in width were noted from approximately

953 Sunshine Lane. Alcamonce Springs, PL 32714
Phone: 407-774-9383 Fax: 774-7438

*Banana Lake Road
PN 02-EO414.04 Pa-*

Station 13 +00 to Station 15 + 50 and approximately Station 27 +00 to Station 31 +00 (see the hatched areas depicted on Figure 1).

2.0 PAVEMENT AND SUB GRADE SOIL EVALUATION

Representatives of Yovaish Engineering Sciences, Inc. performed coring operations. The coring operations consisted of advancing a "diamond -tipped" 4-inch diameter core barrel through the existing asphaltic concrete and base course. Thereafter, our representatives explored the subgrade soils by performing auger borings to depths of 2.5 feet below the top of pavement. Core specimens of the pavement were obtained at a total of thirteen (13) locations. The core locations, selected by Yovaish Engineering Sciences, Inc., were performed at a spacing of approximately 500 feet on center. Additional core samples (5 locations) were collected as determined by the Seminole County Staff. The location of each core is depicted on the site Location Plan of Figure 1, attached.

In summary, the results of our investigation indicated that the existing pavement consisted of an asphaltic concrete wearing surface underlain by a Soil Cement base or Sand Asphalt Base. In addition, the asphaltic concrete appears to comprise as many as three (3) layers, indicating that the pavement has been resurfaced/overlay. The dates of the resurfacing(s) are not known. Based upon visual inspection, the asphaltic concrete consisted of FDOT Type S and Type III. In addition, composite samples of the subgrade soils encountered were subjected to Florida Bearing Value (FBV) testing. The measured FBV values varied from 90 to 205 psi. The specific data associated with the thickness of pavement layer(s) encountered are presented in Table 1, attached.

3.0 EVALUATIONS AND CONCLUSIONS

3.1 Pavement Section Evaluation

Our evaluation of the structural number (SN) provided by the Seminole County Local and Residential Streets is presented on Attachment A. Our evaluations for the structural numbers (SN) provided by the existing roadway sections are presented on Table 2, attached. Based upon the results of our analyses and with the exception of core location C-8, the structural number of the existing pavement section may be improved to meet the minimum county standard section by adding a 1 inch overlay of Type S-III asphaltic concrete. The location of core C-8 will require adding 2 inches of Type S-III asphaltic concrete.

*Banana Lake Road
PN 02-EO414.04*

3.2 Cracked AsDhaltic Wearing Surface

Longitudinal cracks varying from approximately 1/4 to as much as 1/2 inch in width were noted from approximately Station 13 +00 to Station 15 + 50 and approximately Station 27 +00 to Station 31 +00 (see the hatched areas depicted on Figure 1). Based upon review of the USGS Quadrangle Map and the roadway survey data provided to us, the affected portions of the roadway are located adjacent to natural low lying areas. The top of bank elevation of the low lying area near Station 13 + 00 is approximately + 59 feet, while the top of bank elevation of the low lying area near Station 27+00 is approximately +65 feet. Based upon our considerable past experience and knowledge of investigating such features within the region of this roadway, the natural low lying areas are the result of an ancient sinkhole(s). The cracks noted within the affected portions of the roadway are, in our preliminary opinion, the result of long term settlement of fill placed with the limits of the former low lying areas (which may contain compressible organic soils). It is instructive to note that the settlement and/or cracks do not appear to significantly affect the use of the roadway. Furthermore, the rate of long term settlement has decreased since the initial placement and will continue to decrease with time. In addition, the relatively steep embankment slope(s) noted near Station 27 +00 could have contributed to part of the settlement in that affected area.

In order to allow for more uniform future settlement that may occur and help minimize future cracking of the pavement overlay, it is our opinion that geofabric may be placed within the roadway subgrade below the affected pavement areas. In addition, portions of the relatively steep embankment slopes may be flattened and/or reinforced with geogrid. A conceptual cross-section of the placement of the geogrid and/or geofabric below the affected portions of the roadway area presented on Plate 1, attached. In addition, we recommend that if the roadway must be widened near the affected areas, the additional pavement should be constructed on the east side of the roadway. Once the west edge of the proposed improvements to the roadway and roadway shoulder have been determined and deep test borings are performed, more specific recommendations for geogrid and/or geofabric placement may be provided.

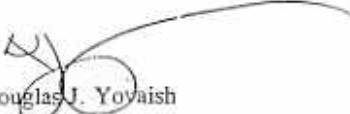
*Banana Lake Road
PN 02-EO414.04*

4.0 CLOSURE

It has been a pleasure performing our engineering services for you and we trust that the information provided herein satisfies your immediate needs. If you have questions regarding the contents of this report, or if we can be of any further assistance, please do not hesitate to contact our office.

Sincerely,

Yovaish Engineering Sciences, Inc.


Douglas J. Yovaish
President

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I.P.E.

Florida Registration No.52247

DJY flaw

Enclosures:

Figure 1 Tables 1 and 2 Attaclunent A Plate 1

Table 1. Summary of Pavement Layer(s) Encountered.

Core Location

C-1

C-2

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C-4

C-5

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**Asphaltic
Concrete Type!
Layer Thickness
(inches)**

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rS)/1-1/8

(111)/3/4

(5)/5/8

(111)/5/8

~LWF0004

(111)/1-1/8

(111)/7/8

(111)/3/8

(5)/2-1/8

(S)/2-1/4

(5)/2

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(5)/1-1/8

**Asphaltic
Concrete Type/ Layer
Thickness (inches)**

(111)/1-3/8

;S)/5/8

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(5)/5/8

(111)/1 -1/8

(111)/1-1/4

(111)/5/8

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(5)/1-3/8

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**Asphaltic
Concrete Type/ Layer
Thickness (inches)**

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(111)3/4

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(111)3/4

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.Base Type/Thickness
(inches)

1.)

(SAB)2-1/2

(SAB)4-1/4

{SAB)5-3/8

(SAB)4

(SAB)3-1/2

(SAB)3

(SAB)4-3/4

[SAB)4-1/4

(LR)7

{LR)5

(LR)7

(LR)4

;LR)6

Comments

:ore cracked

asphaltic surface not typical of
general roadway sections

Notes:

-
- S= FOOT Type S Asphaltic Concrete
- 111= FOOT Type III Asphaltic Concrete SAB = Sand Asphalt Base
- LR= Limerock

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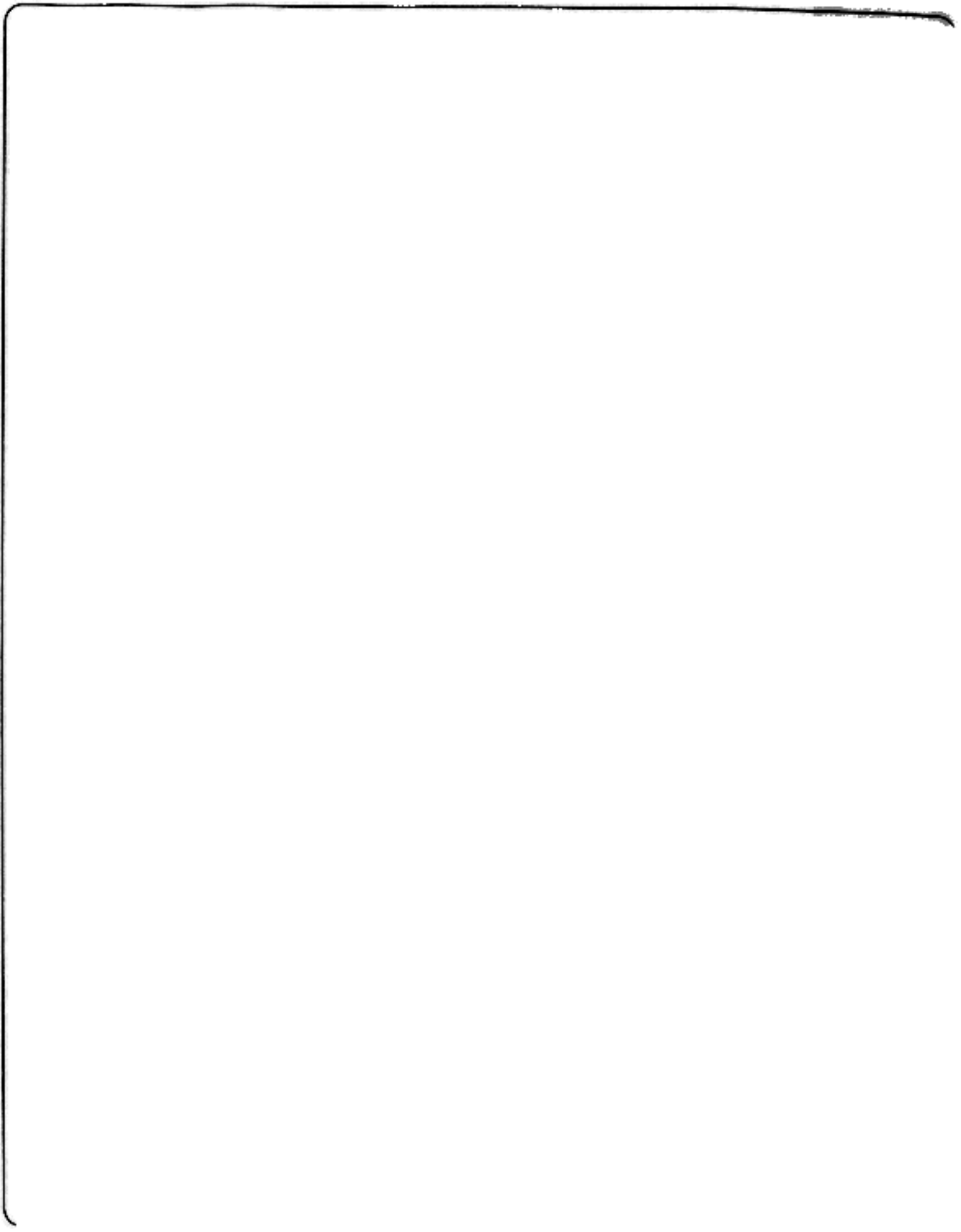
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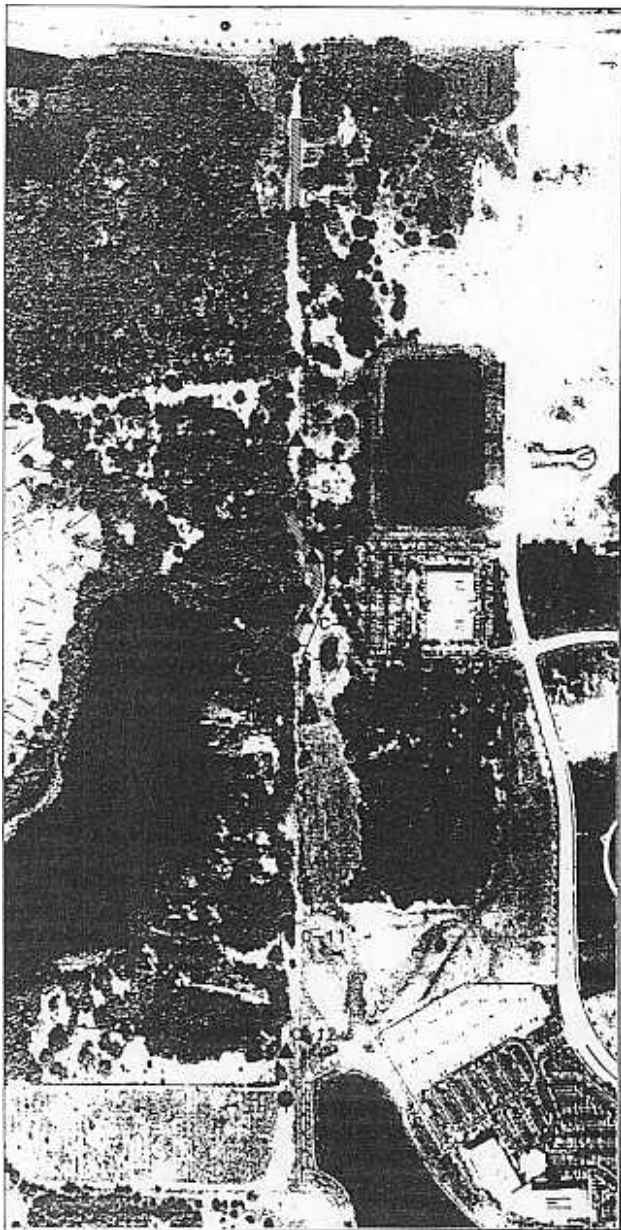
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Consulting Engineers In the Earth Sciences, Ceotechnology, Hydrogeology and Construction ~oterlols Testing

LOCATION

- PAVEMENT CORE LOCATION (DETERMINED BY YOVAISH ENGINEERING SCIENCES, INC.)

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PLAN

PAVEMENT CORE LOCATION (DETERMINED BY SEMINOLE COUNTY STArr)



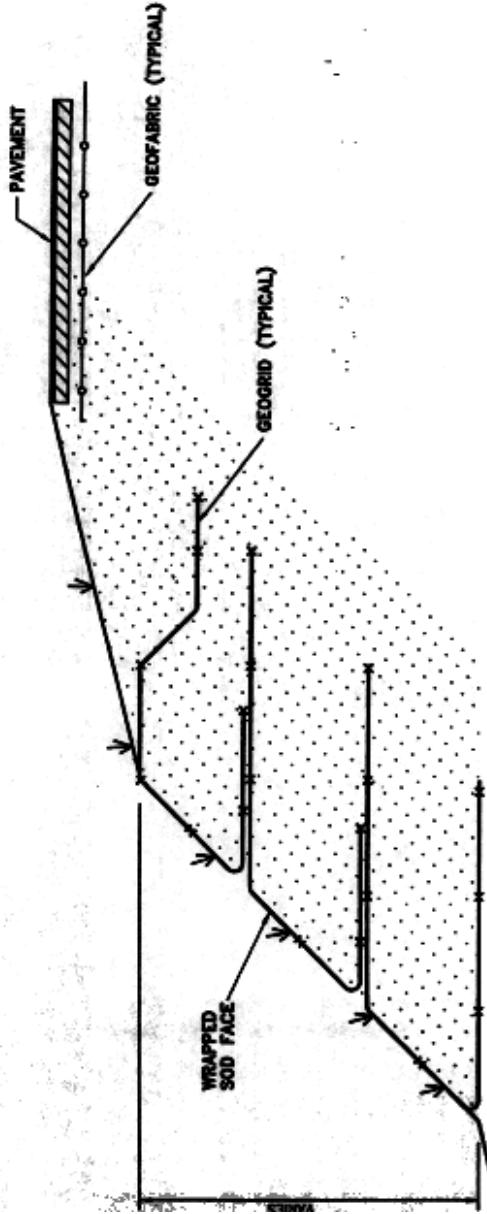
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HATCHING DEPICTS APPROXIMATE LOCATION OF REPORTED LONGITUDINAL CRACKS IN PAVEMENT SURFACE

EVALUATION FOR EXISTING PAVEMENT
BANANA
LAKE ROAD

JOB NO. :
02-00414.04

FIGURE:
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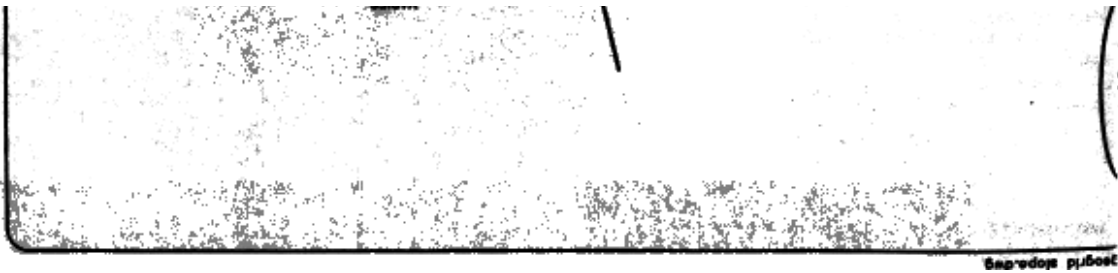


CONCEPTUAL CROSS-SECTION

GEOGRID REINFORCED EARTHEN SLOPE AND/OR GEOFABRIC REINFORCED SUBGRADE
PRELIMINARY ESTIMATED LOCATIONS: STATION 13+00 TO STATION 15+50 AND STATION 27+00 TO 31+00

EVALUATION FOR EXISTING PAVEMENT			
BANANA LAKE ROAD			
SEMINOLE COUNTY, FLORIDA			
DRAWN : CJC	SCALE : NOTED	JOB NO. : 02-00414.04	PLATE: 1
APPROVED : DJY	DATE : 01/23/03		

Construction Practices by the Force



-ATTACHMENT A

Pavement Structural Numbers (SN)

Provided by Seminole County for Residential and Local Streets Banana Lake Road Study

Seminole County, Florida

(PN 02-EO414.04)

The pavement section for the Residential and Local Streets for Seminole County may comprises: 1-1/2 inches of Type S asphaltic concrete; 6 inches limerock base; and 10 inches of stabilized subgrade (Stabilized to minimum FBV equal to 75 psi). The resulting structural number (SN) provided by the pavement section may be determined as shown below:

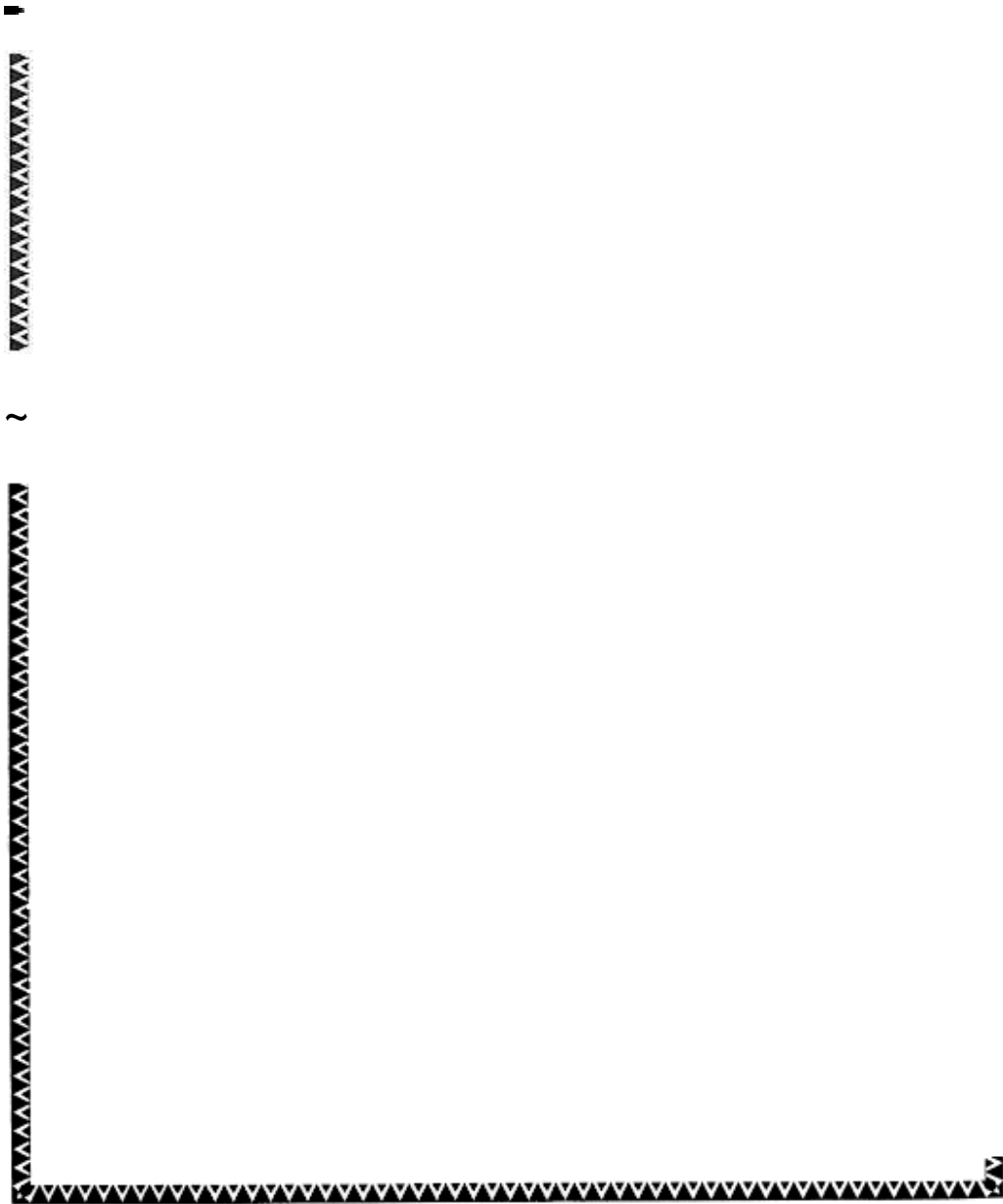
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**1-1/2 inches Asphaltic Concrete 10 inches stabilized subgrade
6 inches soil cement**

1-1/2 x 0.432 = 10 x 0.051 = 6 x 0.152 = SN =

**0.648
0.510 0.912**

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BANANA LAKE ROAD PLAN

AITACHMENT 5:



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ATTACHMENT 6: I

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BANANA LAKE ROAD CERTIFIED SURVEY



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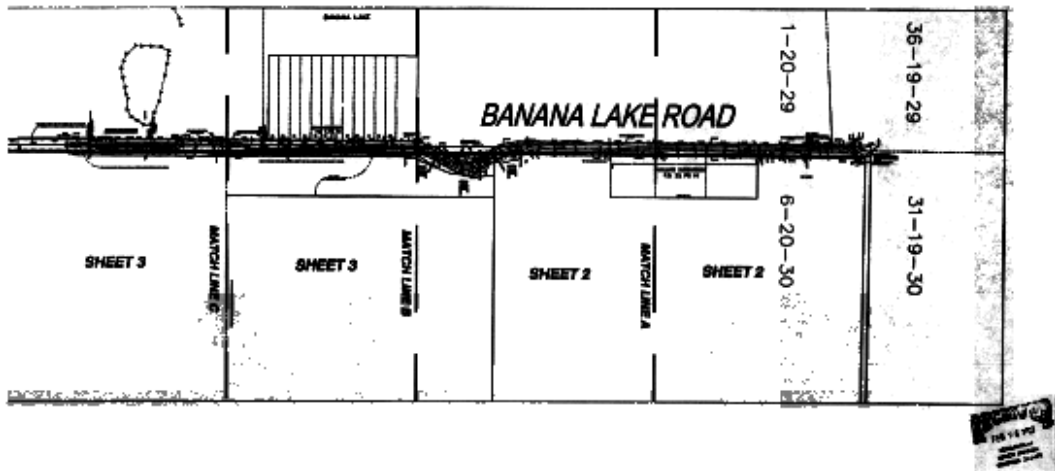


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PROJECT: [illegible]
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SPECIFIC PURPOSE TOPOGRAPHIC SURVEY

*THIS IS NOT A BOUNDARY SURVEY
KEY SHEET - LOCATION MAP*

BANANA LAKE ROAD



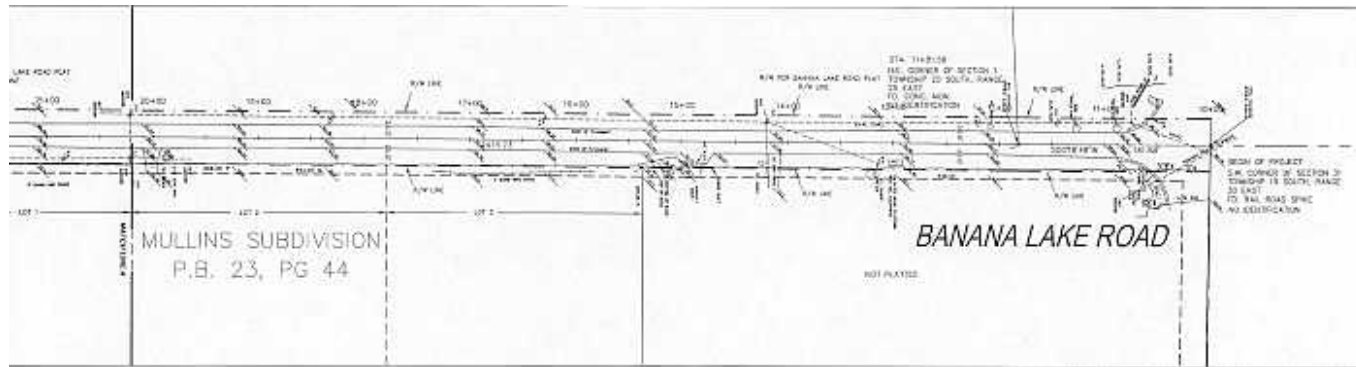
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SHEET 1 OF 3

SPECIFIC PURPOSE TOPOGRAPHIC SURVEY

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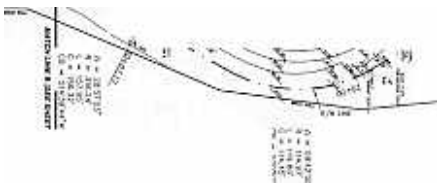
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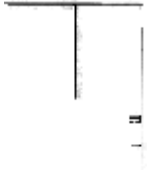
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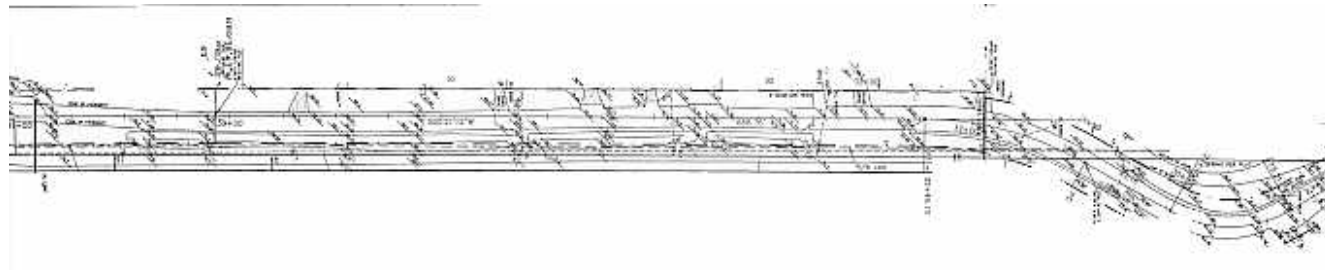
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**SPECIFIC PURPOSE TOPOGRAPHIC SURVEY**

*THIS IS NOT A BOUNDARY SURVEY*

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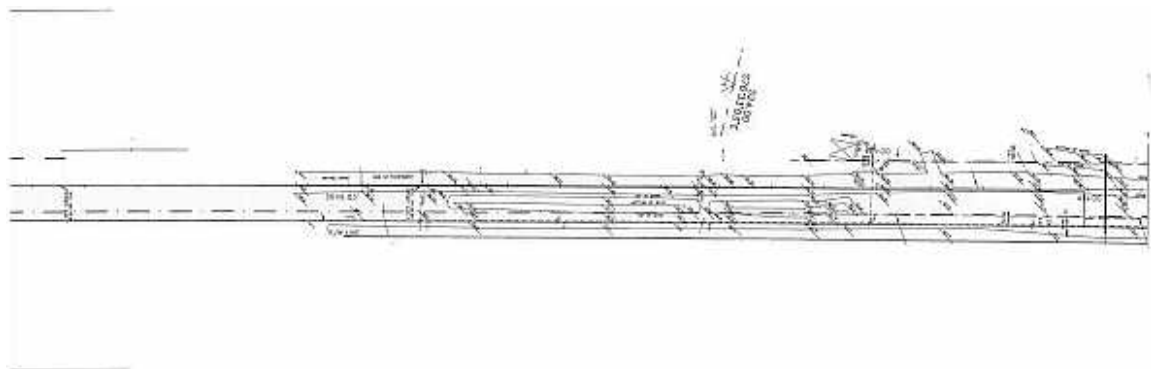
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**BANANA LAKE ROAD**

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**PROJECT SITE LOCATION**

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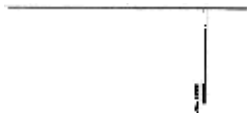
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PLANNING & ENGINEERING  
SOUTH CAROLINA  
COLUMBIA, SC

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