Joint Exhibit 21

CITY OF NORTH PORT ADMINISTRATIVE APPEAL

IN RE: Appeal of MAS-23-160 by Heron Creek Community Association, Inc.

_____/

HERON CREEK ASSOCIATES, LTD AMENDED RESPONSE TO APPEAL OF MAS-23-160 BY HERON CREEK COMMUNITY ASSOCIATION. INC.

Heron Creek Associates, Ltd. (the "Developer") files this Response in support of the City of North Port Development Order, MAS-23-160, a Major Site and Development Plan for a 150-unit residential condominium development on Parcel K in Heron Creek as follows:

Heron Creek Associates, Ltd. (the "Developer"), supports the City of North Port Development Order, MAS-23-160, a Major Site and Development Plan for a 150-unit residential condominium development on Parcel K in Heron Creek. The Developer opposes the appeal thereof by Heron Creek Community Association, Inc. (the "Association").

The Developer owns Parcel K and is the applicant for the site plan approval that is the subject of the challenges. Accordingly, the Developer stands to be adversely impacted by any change to the Development Order MAS-23-160.

As background, since 1997, the Developer has been in the process of developing the Heron Creek Community as part of a multi-phase project, pursuant to the Heron Creek DRI Development Order, which has been amended multiple times, the most recent embodiment of which is Ordinance 2013-16. The Heron Creek Community has served to boost the growth of the City of North Port and support its expanding economy and presence in southwest Florida.

The Developer hereby provides this written response, to be supplemented by oral argument at the hearing on the appeal, to the grounds raised by the Association's appeal and requests that each ground be denied:

Count 1 – Staff properly exercised their jurisdiction to approve MAS-23-160

The Association erroneously argues that the staff of the City's Development Services Department lacks jurisdiction to approve a Major Site and Development Plan such as MAS-23-160 because the provisions of the ULDC confer such jurisdiction only to the City Commission and the Planning and Zoning Advisory Board (PZAB). The Association is incorrect.

Sec. 33-8., entitled "Procedure for securing major site and development plan approval," makes it clear that it is staff that approves the major site and development plans.

Subsection (D) of Sec. 33-8, provides (emphasis added):

D. *Review of application.* Upon a determination that the plans submitted are complete, the application shall be logged into the City's database and placed on the staff review schedule.

(1) The City staff shall review the plans within a timely manner of receipt of the application. Depending on the size of the proposed development, a longer period of review time may be required by the City staff but shall not exceed sixty (60) days.

(2) Upon receipt of all comments by the City staff, a master list of the comments shall be transmitted to the applicant.

(a) The decision of each City staff may be: Meets Requirements, Meets Requirements with Conditions, No Objection, Does Not Meet Requirements, Continuance.

(b) If the applicant receives a finding of "Does not meet requirements," the applicant shall resubmit the petition with all required changes to bring the project into conformance with the Unified Land Development Code, Urban Design Standards Pattern Book, any other City Code which applies, and any State, County, or Federal regulations.

(3) Upon resolution of all outstanding issues and a unanimous decision of "Meets Requirements," "Meets Requirements with Conditions," or "No Objection" by the City staff, the applicant shall submit all required copies of the final plans showing all required corrections within ten (10) days of the City staff's final findings sent to the applicant.

(4) Upon receipt of the final corrected plans, the plans shall be stamped approved and a development order shall be issued to the applicant.

(a) A development order is required to secure a development permit.

Accordingly, City staff have jurisdiction to approve major site and development plans, and thus City staff properly exercised their jurisdiction to approve MAS-23-160.

Count 2 – No Violation as to Density

The Development Order MAS-23-160 properly approves Parcel K for 150 units. The Association's argument in opposition fails and ignores the history of the Heron Creek development and the City's authorization of the same, which supports the approved density level. In short,

Appellant mistakenly ties density to a parcel by parcel basis rather than a calculation of overall density as called for by both the original zoning for the property as well as the subsequent DRI approval.

In 1997, even prior to the 2000 DRI approval, 807 acres of Heron Creek (Phase 1) were rezoned to the PCD district by Ordinance No. 97-2. Attached to that ordinance was a copy of the rezoning request in which it is stated: "*Consistent with the Future Land Use Map designation of Low Density Residential, the residential component for Phase 1 will not exceed an* ***overall*** *density of greater than 4.0 du/acre.*" ("Phase 1" consisted of the increment of development that could legally take place pursuant to a preliminary development agreement prior to the approval of the DRI.) The DRI approval later adopted the same methodology.

The PCD and DRI approvals authorize both single family and multifamily units. DRI Map H specifies where residential uses can be located, and without differentiating single family and multifamily units. Instead, the DRI simply reflects "residential use" as being appropriate in areas designated on the Future Land Use Map (FLUM) as Activity Center and in areas designated as Low Density.

Moreover, the ULDC itself provides that: *"Unless specifically noted in the context of its use, density means* ***dwelling units per gross acre***"; and a PCD is "*A* ***large-scale development*** *whose essential features are* ***definable boundary****; a consistent,* ***uniformed character****;* ***overall control*** *during the development process by a single development entity...*" Thus, Heron Creek's density must be calculated based on the gross acreage of lands designated for Low Density within the PCD and DRI boundaries.

It was based on the foregoing reasoning that staff supported, and the Commission approved, multifamily use on Parcel K in 2009, since the overall density of Heron Creek's un-platted acres within the Low Density areas, when viewed as a whole, would remain significantly below the 4.0 du/acre threshold.

As a practical matter, this methodology is the only reasonable interpretation of the DRI approval. The DRI originally approved 1,067 multifamily units (which Heron Creek later voluntarily reduced). Development of that number of units would not have been feasible if their placement were to be confined solely to the Activity Center—some of them would have necessarily spilled over to areas that the FLUM designated as "Low Density".

More recently, the City sought a legal opinion from outside counsel Jennifer Cowan of Bryant Miller Olive on the issue of whether, under the current development order, multifamily units can be developed on Parcel K of Heron Creek, which has a land use designation of Low Density Residential, or whether the Developer will need to seek a comprehensive plan amendment changing the land use designation.

In response, on January 3, 2024, Attorney Cowan provided a detailed legal analysis and concludes that the developer is authorized to build multifamily development on Parcel K. *See attached Memorandum.* The City noted that Attorney Cowan's analysis differs from an earlier 2022 response based on significant changes in the information available for the legal review. This

new information includes: (1) the Planning Division's new detailed analysis, supporting methodology, and calculation of the number of residential units; and (2) substantial background documentation for the DRI and prior comprehensive plan amendments. The new methodology complies with the comprehensive plan calculating the density based on 4 units per gross acre of the unplatted residential lands (±381 acres), rather than the Parcel K site (±15 acres).

Ms. Cowan's legal opinion of January 3, 2024 makes the following points:

- Comprehensive Plan Policy 1.1. states that: "*Low Density Residential - These lands are designated for residential areas of low density (for currently platted single family lots: maximum density of 4.3 residential units per gross acre,* ***4.0 residential units per gross acre for unplatted areas).***"
- Accordingly, Ms. Cowan notes that the "unplatted" areas consist of 381 acres, which would support 1,524 units. Parcel K will add 150 units, which when added to the *existing* 372 single family homes, will allow still another 1,002 units in the Low Density area without the 4.0 du/acre threshold being exceeded.
- Even if the calculation were based on "net" acreage (even though the ULDC says, "density means dwelling units per *gross* acre"), the result would be the same. Eight separate tracts (A, B, C, D, E, F, G and K) are within the Low Density area, and they total 138.37 acres in the aggregate, exclusive of roadways, walkways, etc. that support them. Those tracts would accommodate 553.48 units without exceeding the 4.0 du/acre threshold.

Accordingly, Parcel K is properly approved for 150 residential units. The number of residential units including those proposed for the multifamily development on Parcel K does not exceed the maximum established in the DRI.

Count 3 – No Violation of Comprehensive Plan Policies as to Flood Zones

Appellant further argues that Parcel K contains some areas of FEMA Flood Zone AE, whereas Comp Plan Policy 9.26 calls for the City to "discourage densification and intensification of land uses" within Flood Zone AE. However, Policy 9.26 must be read together with its companion, Policy 9.25.

Policy 9.25 prohibits "**unmitigated** development in 100-year floodplains..., that would adversely affect the function of the floodplains or that would degrade the water quality of water bodies associated with said floodplains..." The testimony below was that any impacts to floodplains had been *mitigated.*

While Parcel K contains some areas of FEMA Flood Zone AE, based on a plain reading and application of both Policy 9.25 and Policy 9.26, there is no violation of the Comprehensive Plan.

Count 4 – No Violation of Comprehensive Plan Policies as to Compatibility

Appellant interprets Policies 1.2.4 and 1.2.6 as requiring an analysis of compatibility when increased density is proposed. However, Appellant is again mistaken and appears to be citing the wrong policies. The cited policies deal not with compatibility, but with sidewalks and the safe school program. Appellant correctly cites Policy 9.27 but that merely calls for "potential incompatibilities between land uses due to the density,... of use proposed" to "be mitigated through site and architectural design techniques..."

Here, the higher density residential on Parcel K is not inherently incompatible with single family residential use, especially when separated by a boulevard. This is particularly true given the site and architectural design techniques intended to be constructed here: a boulevard and the golf course with fairways and dense vegetation separate the multifamily residential units from the single family residential units. *See the attached Site Plan.* No multifamily units abut single family units.

Further, the DRI permits different uses and the City's Comprehensive Plan promotes different housing types. To argue then that the different uses are per se incompatible would fly in the face of the very mixed use goal of the DRI itself.

Count 5 – Sufficient Multifamily Units Exist in the DRI and Proper Categorization of ALF

The Association challenges the Developer's ability to develop additional multifamily units based on an argument that assisted living facilities should be considered residential (and thus reduce the number of residential units available to Heron Creek for Parcel K). Again, Appellant is mistaken.

First, the City already determined that "The Assisted Living Facility is categorized under general office," as memorialized in Nicole Galehouse's March 17, 2020 correspondence to the Developer. *See attached email.* The Association's challenge to this determination is meritless.

Second, pursuant to the land use conversion matrix in the DRI Order, the Developer nonetheless still has a sufficient number of remaining multifamily units to develop the 150 multifamily units on Parcel K. This is because the Developer is able, pursuant to its rights and entitlements under the DRI Order and the conversion matrix therein, to convert some of its other categories of land uses (medical/professional, office general, or retail shopping center) to residential multifamily.

Count 6 – Covenants and Restrictions of Condominiums Not Required to be Recorded

The Association incorrectly contends that the ULDC "submission requirement[s]" apply to the proposed condominium development on Parcel K and therefore a Condominium plat is required. Again, Appellant is mistaken on this point.

Section 33-9-A (22) does not specifically mention declarations of condominiums and therefore the Developer is not required to submit covenants and restrictions to the City for review and to record the same prior to the issuance of MAS-23-160.

As a practical matter, condominium plats are an expensive and time consuming process. It would make little sense to require a developer to obtain a plat recording ***before*** obtaining the development approval for the very condominium it is recording.

Count 7 – Compliance with Traffic Impact Study

Appellant argues that the lack of a traffic study is grounds for reversing the City's decisions. Again, this argument is misdirected. There is no requirement for the Traffic Impact Statement to include analysis of the adjacent roadways as that was already taken into account with the overall Traffic Analysis for the DRI. The submitted study was only required to verify the number of proposed trips and analyze whether turn lanes into the project were required. All other offsite turn lanes or road improvements were already addressed with the DRI.

Developer's consultant Matt Morris, P.E. did submit a Traffic Impact Statement for Parcel K. The City accepted this Study in granting its review. While not signed and sealed at the time of the hearing, it has been or is the process of being signed and sealed with no changes.

Count 8 – Compliance with Water and Sewer Impact Requirements

Appellant contends that, in using the land use conversion matrix to convert 102,380 sf of Retail Shopping Center to 430 Multi-Family units. Developer failed to address the provision in that matrix requiring that "no additional impact will occur to other public facilities (such as water and sewer)." Specifically, Appellant argues that the provision is not aimed at *capacity* of the *system*, but rather whether the conversion results in "additional impact". Once more, the Association's challenge fails.

As an initial matter, the issue of impacts was addressed. In the letter by Developer representative Ron York on January 25, 2023 the Developer acknowledged that the DRI grants no guarantee of entitlement to water and sewer service going forward; so, applying the matrix to convert uses has no effect on utility service.

More specifically, Section 78-30 of the ULDC specifies how equivalent residential connections (ERCs) are to be calculated for residential uses. It says that a multifamily unit translates to one ERC. However, the determination of ERCs for non-residential uses, such as a

Retail Shopping Center, is more complicated. For *water* service, it is determined by multiplying the number of fixture units by 20, then dividing that numerator by 170; and for *wastewater* service, it is determined by multiplying the number of fixture units by 20, then dividing that numerator by 155. Therefore, if the question is whether the conversion from retail to residential imposes additional impact, we must look at it in the context of the original DRI when 1,970 residential units (903 single family and 1,067 multifamily) were approved, far more than the mere 1,653 units (903 single family and 750 multifamily) achieved as a result of the January 25, 2023 conversion. Thus, the Developer is in compliance.

Count 9 – The Developer Rightfully and Properly Shifted Land Uses Pursuant to the Land Use Conversion Matrix in the DRI Order

The Appellant points to the provision in the land use conversion matrix that says that the "conversion [may] not increase the allotted number of units…" so as to "exceed the substantial deviation criteria of subsection 380.06(19)(b)." From there, the Appellant argues the proposed use triggers substantial deviation review. Again, Appellant is mistaken.

As a preliminary matter, Attorney Cowan's October 15, 2021 Memorandum succinctly addresses the Developer's entitlement and ability to shift land uses pursuant to the conversion matrix in the DRI. *See attached.* The Memorandum further provides the legal authority for interpreting development orders and legal analysis supporting her conclusion that "the Development Order is clear and unambiguous as to the . . . ability of the Developer to modify the Land Use Table by transferring land uses amongst phases of the development without further amendment of the Development Order and subject to the conditions of transfer or conversion therein." The Developer adopts and incorporates Ms. Cowan's Memorandum in full.

The Developer's shifting of land uses is in compliance with the "conditions of transfer or conversion" in the DRI, including the "substantial deviation criteria of subjection 380.06(19)(b), F.S." This requirement is found in Section 3.01(d) of Ordinance 2011-33.

Critically, Section 380.06(19)(b), Florida Statutes (2011), was repealed in 2018.

However, even if the statute were to somehow survive its repeal, the Developer is nonetheless in compliance with the substantial deviation criteria therein from 2011. The repealed statutory provision defined a "substantial deviation" as one that involves an increase in residential units by more than 50 percent or 55 units.

The legislative intent of the North Port City Commission in cross referencing subsection 380.06(19)(b) was to ensure that deployment of the conversion matrix would operate within the bounds of then-existing DRI law and not unwittingly trigger a substantial deviation, thus inviting further regional and state review. With the statute's repeal, that concern has evaporated. Moreover, even if Section 380.06(19)(b) were still in effect, the threshold for determining a substantial deviation should be the 1,970 units approved in the year 2000. Accordingly, the 2023 conversions resulted in a decrease, not an increase, in residential units.

CONCLUSION

Based on the above, the Developer requests that the Association's appeal of MAS-23-160 be denied in full.

The Developer requests notice of the hearings in this matter.

For **Heron Creek Associates, Ltd.**

BENTLEY GOODRICH KISON, P.A.

12/6/24

MORGAN R. BENTLEY, ESQ.
Florida Bar No. 0962287
CAROLEEN B. BREJ, ESQ.
Florida Bar No. 0093188
783 S. Orange Avenue, 3rd Floor
Sarasota, Florida 34236
Telephone: (941) 556-9030
Primary Email: mbentley@bgk.law
Secondary Email: cbrej@bgk.law
Secondary Email: eserve@bgk.law

Bryant
Miller
Olive

Attorneys at Law
One Tampa City Center
Suite 2700
Tampa, FL 33602
Tel 813.273.6677
Fax 813.223.2705
www.bmolaw.com

January 3, 2024

VIA PDF EMAIL

Amber L. Slayton, Esq., City Attorney
City of North Port
4970 City Hall Boulevard
North Port, Florida 34286
aslayton@cityofnorthport.com

Re: Heron Creek Comprehensive Plan – Parcel K

Dear Amber:

You have requested that we provide the City of North Port ("City") with a written opinion on whether, under the current development order, multifamily units can be developed on Parcel K of Heron Creek, which has a land use designation of Low Density Residential, or whether the Developer will need to seek a comprehensive plan amendment changing the land use designation. This letter will address only the issue regarding whether a comprehensive plan amendment is needed as it relates to the land use designation of Parcel K and will not discuss zoning or other land development related matters.

I. Background

In responding to your request, we have reviewed the following materials provided by the City:

- Memorandum from the Development Services Department to Amber Slayton regarding Heron Creek Residential Entitlements Under the

Development of Regional Impact and Neighbor Meeting Requirements, dated October 2, 2023;

- Interoffice Memorandum From Margaret Roberts to A. Jerome Fletcher II, regarding Analyze Parcel K Issue – Heron Creek, dated January 20, 2022
- Letter from Noah Fossick to Matt Morris regarding requirements for Heron Creek Parcel K dated May 30, 2023;
- Order on Defendants/Counterclaim Plaintiffs' Amended Motion for Partial Final Summary Judgment on Counter-Claim and Cross-Claim, in Heron Creek Associates, Ltd. V. Steve Dsupin, et al (Case No. 2020 CA 4364 NC)
- Ordinances 2000-13 with Map H, 2005-28, 2006-46, 2011-33 with Map H, 2013-16;
- Marsh Creek Questionnaire Checklist for DRI ADA Submission
- Multiple correspondence from Department of Community Affairs in 1996, 1997, 2001
- BMO's Letter regarding Heron Creek Land use and Conversion Table dated October 15, 2021;
- Comprehensive Plan 1988-1998, adopted March 15, 1989
- Comprehensive Plan, adopted November 10, 1997, amended July 1999, and amended May 28, 2002 (this was provided as one document without detailed information of the revisions in 1999 and 2002).
- Comprehensive Plan, adopted June 27, 2017
- Applicant's Calculations
- Staff's Calculations

A. Comprehensive Plans

In the Comprehensive Plan 1988-1998, the City identifies in its Future Land Use Plan, Guiding Growth Management Strategy, that it anticipates the majority of growth in the City will occur contiguous to the present developed area. This area is anticipated to have low, medium, and high-density residential growth areas and that within this urban infill area, public services and facilities can be economically and efficiently extended to meet the needs of the projected population. The Comprehensive Plan 1988-1998 shows Heron Creek in two future land use categories, with Parcel K being in the Low Density Residential (Undeveloped) land use category. Policy 1.2 of the Future Land Use Element provides that Low Density Residential is a maximum of 4 residential units per gross acre, medium density residential is 4.1-10 residential units per gross acre, and high density residential is 10.1 to 15 residential units per gross acre. The Comprehensive Plan 1988-1998 only speaks of residential units but does not specify whether the residential units

must be single-family or multifamily or both in the same development. At the time Heron Creek applied for its development approval, the Comprehensive Plan 1998-1998 was in effect.

When Heron Creek's Development Order was approved, the Comprehensive Plan adopted Nov. 1997, amended July 1999, and amended May 28, 2002 ("1997 Comprehensive Plan") was in effect. In the 1997 Comprehensive Plan, the City no longer identifies the Urban Infill Area on its Future Land Use Map. Instead, the Heron Creek property is divided into two primary land use categories on the Future Land Use Map: Activity Center (Town Center), which provides for governmental, low, medium and high densities, offices, commercial and medical facilities; and Low Density Residential. Heron Creek's Parcel K remains located in the Low Density Residential land use category. Pursuant to Policy 1.1 of the Future Land Use element, Low Density Residential are lands are designated for residential areas of low density, with a maximum of 4 residential units per gross acre for unplatted areas (for currently platted single-family lot maximum density of 4.3 residential units per gross area) . The 1997 Comprehensive Plan specifies single-family in currently platted lots with a maximum density of 4.3 units per gross acre but does not specify the type of residential units when setting the gross acre density for unplatted land.

In the current Comprehensive Plan Adopted June 27, 2017 (the "2017 Comprehensive Plan"), Heron Creek is still divided into two primary land use categories on the Future Land Use Map: Activity Center and Low Density Residential, with a small area designated for Recreation/Open Space. Figure 1 provides the density and intensity of the Activity Center at Heron Creek. In Policy 1.1 of the Future Land Use Element, Low Density Residential remain the same as in the Comprehensive Plan; Low Density Residential are lands with a maximum of 4 residential units per gross acre for unplatted areas. Again, the 2017 Comprehensive Plan does not specify whether the residential units for unplatted land must be single-family or multifamily or both in the same development.

From the time of application through current day, Parcel K has continued to be designated as Low Density Residential on the Future Land Use Map for the Comprehensive Plan 1988-1998, 1997 Comprehensive Plan, and the 2017 Comprehensive Plan. Each of these plans has provided that Low Density Residential are lands with a maximum of 4 residential units per gross acre for unplatted areas and did not specify whether the residential units in unplatted lands must be single-family or multifamily or both in the same development. Due to these consistencies, the Comprehensive Plan 1988-

1998, 1997 Comprehensive Plan, and the 2017 Comprehensive Plan will be referred to as the "Comprehensive Plan" and my analysis is applicable to each.

B. Ordinance 2000-13

On November 7, 1996, Marsh Creek applied for development approval in accordance with Section 380.06, Fla. Stat. for a development of regional impact ("DRI") to be known as Marsh Creek DRI, which is now known as Heron Creek. Heron Creek was a master planned community to be developed on an 831.38 acre unplatted parcel of land.

On September 11, 2000, the City Commission ("Commission") adopted Ordinance 2000-13 as the development order for Heron Creek, a development of regional impact. In that ordinance, the Commission found that, subject to the conditions found in the ordinance, the application for development approval (proposing 1,970 residential units (903 single-family and 1,067 multifamily units), as well as retail, office, recreation, golf, tennis, conservation, and roadways throughout the development) was consistent with the Comprehensive Plan and did not appear to conflict with other local land development regulations. Map H, which was part of the application for development approval and served as the preliminary master site plan, provides a site data table showing the total number of residential multifamily and single-family units and shows designated parcels identifying the acreage and use. For parcels that are designated as residential, there is not a specific designation of multifamily or single-family.

C. Subsequent Ordinances

From 2000-2013, this development order was amended several times and, ultimately the number of approved multifamily residential units was reduced from 1,067 to 300 units. Further, in Ordinance 2011-33, the Commission approved an updated Map H with existing and proposed development (removing the specification of parcel acreage), however, Map H continued to provide a site data table showing the total number of residential multifamily and single-family units and showing designated residential parcels without specifying the type of residential units that would be placed on the parcels. Ordinance 2011-33 also addressed affordable housing stipulations, revised the current stipulations relating to the proposed pathway along the Myakkahatchee Creek, and approved a land use conversion matrix that would allow the developer to convert approved uses from one to another without increase in external impacts. Specifically, the developer had explained that, the intent of the conversion matrix was

not to eliminate any intended land uses from development, but rather to allow for the reallocation of the quantities that are approved based on changes in the market demand due to changing market conditions. The conversion matrix provided that single-family residential, multifamily residential, retail, offices and medical offices could each be converted to the other through the local development order process without exceeding thresholds that would trigger a substantial deviation to the DRI. Use of the conversion matrix was subject to several conditions including that the transfer or conversion could not further alter Map H and did not increase the allotted number of units on any particular parcel to a level above what is permitted in the DRI or the City's Land Development Code and did not exceed the substantial deviation criteria of subsection 380.06(19)(b), Fla. Stat. In each ordinance from 2000 to the last one in 2013 approving the Heron Creek development, the Commission found the proposed development to be consistent with the Comprehensive Plan.

D. Current Development

Under the Comprehensive Plan and by both City staff and the Applicant's calculations, it appears that Heron Creek has 381 unplatted gross acres located in the Low Density Residential land use category. Pursuant to the maximum allowable residential units per gross acre for unplatted areas under the City's Comprehensive Plan, the 381 acres of Heron Creek located in the Low Density Residential land use category could have as many as 1,524 residential units (4 times the total 381 unplatted gross acres = 1,524 residential units). Currently, the City and Applicant state that the 381 unplatted acres of Heron Creek currently contains only the residential development of 372 single-family homes.

II. Interpreting Comprehensive Plans and Development Orders

A comprehensive plan provides the principles, guidelines, standards, and strategies for the orderly and balanced future economic, social, physical, environmental, and fiscal development of the area that reflects community commitments,§163.3177, Fla. Stat. This plan is used to guide future decisions in a consistent manner, §163.3177, Fla. Stat. Specifically, after a comprehensive plan has been adopted all actions taken in regard to development orders shall be consistent with such plan as adopted. §163.3194(1)(a), Fla. Stat. Further, any development order shall be considered consistent with the comprehensive plan if the land uses, densities or intensities, and other aspects of development permitted by such order are compatible with and further the objectives,

policies, land uses, and densities or intensities in the comprehensive plan and if it meets all other criteria enumerated by the local government. S. 163.3194(3)(a), Fla. Stat.

A development order shall be interpreted using the fundamental principles applicable to statutes and ordinances. *Trafalgar Woods Homeowners Assn., Inc. v. City of Cape Coral*, 248 So. 3d 282, 284 (Fla. 2d DCA 2018). Hence, where the language of a development order is plain and unambiguous, there is no room for construction or interpretation, and the effect of the development order must be determined according to the literal meaning of the language therein. *Killearn Properties, Inc. v. Dept. of Community Affairs*, 623 So. 2d 771, 775 (Fla. 1st DCA 1993); *Rinker Materials Corp. v. City of N. Miami*, 286 So. 2d 552, 553–54 (Fla. 1973).

Moreover, once a DRI has been approved, the right to develop pursuant to the terms of the DRI vests. *Bay Point Club, Inc. v. Bay Cnty.*, 890 So. 2d 256, 258 (Fla. 1st DCA. 2004). Vesting means development rights obtained through a previously approved DRI are not lost by subsequent changes in the law. *Id.*

III. Legal Analysis

The Comprehensive Plan shows that 381 unplatted gross acres of Heron Creek are located in the Low Density Residential land use category. Pursuant to the maximum allowable residential units per gross acre for unplatted areas under the City's Comprehensive Plan, the 381 unplatted acres of Heron Creek located in the Low Density Residential land use category could have as many as 1,524 residential units. Currently, the City and Applicant state that the 381 unplatted gross acres currently contains only the residential development of 372 single-family homes and the Developer has proposed developing 150 multifamily residential units on Parcel K. If those 150 multifamily units were developed on Parcel K, the total number of residential units on the 381 unplatted acres would be 372 single-family units and 150 multifamily units, totaling 522 residential dwelling units, which is significantly less that the maximum (1,524 residential units) allowed under the City's Comprehensive Plan.

Furthermore, even if the analysis was conducted on net acres designated as residential under the DRI, Heron Creek would be below the maximum allowable residential units in the Low Density Residential land use category. Heron Creek has eight tracts (A, B, C, D, E, F, G, and K) identified as residential that are located within the Low Density Residential land use category on the Future Land Use Map. Those eight tracts of land total 138.37 net unplatted acres and seven of the eight tracts of land are developed;

Only Parcel K remains undeveloped. If the maximum allowable residential units were calculated on a net residential acre for unplatted areas, the eight residential tracts located in the Low Density Residential land use category could have as many as 553.48 residential units (4 times the total 138.37 acres = 553.48 units). Currently, the City and Applicant state that the 138.37 unplatted acres contains only the residential development of 372 single-family homes. The Developer has proposed developing 150 multifamily units on Parcel K and if those multifamily units were developed, the total number of residential units on the 138.37 unplatted net residential acres would be 372 single-family units and 150 multifamily units, totaling 522 dwelling units, which is less that the maximum (553 residential units) allowed under the City's Comprehensive Plan.

In the adoption of the Development Order (from the initial to the current ordinance), the Commission has continually found that the Development Order is consistent with the Comprehensive Plan and that it does not appear to be in conflict with other local land development regulations. The Development Order is clear and unambiguous as to the total number of residential units that was approved for Heron Creek. The Development Order is clear and unambiguous that residential development is to occur on Parcels A, B, C, D, E, F, G, H, I, and K. The Development Order at Map H does not specify whether the development of Parcel K is limited to single-family or multifamily dwelling units – only that it must be residential.

It is clear from the plain language of the Comprehensive Plan and Development Order that multifamily residential development can be developed on Parcel K without seeking a comprehensive plan amendment so long as Heron Creek does not exceed the maximum of 4 units per unplatted gross acre for the residential areas in the Low Density Residential land use category of the Future Land Use Map.

II. Conclusion

It is our opinion, that multifamily development can occur on Parcel K under the Comprehensive Plan so long as it does not exceed the maximum of 4 units per gross unplatted gross acre for the residential areas in the Low Density Residential land use category on the Future Land Use Map, and it complies with the Development Order and any requirements of the City's zoning and land development regulations.

Should you need anything further on this matter, please feel free to contact us. Thank you for providing us the opportunity to assist the City in this matter.

Sincerely,

Jennifer R. Cowan, B.C.S.
BRYANT MILLER OLIVE, P.A.

GENERAL CONSTRUCTION NOTES

1. ALL ELEVATIONS REFER TO THE NATIONAL GEODETIC VERTICAL DATUM, 1929
2. LOCATIONS, ELEVATIONS, & DIMENSIONS OF EXISTING UTILITIES, STRUCTURES, & OTHER FEATURES ARE SHOWN ACCORDING TO THE BEST INFORMATION AVAILABLE AT THE TIME OF PREPARATION OF THESE PLANS. THE CONTRACTOR SHALL VERIFY THE LOCATIONS, ELEVATIONS, & DIMENSIONS OF ALL EXISTING UTILITIES, STRUCTURES & OTHER FEATURES AFFECTING THIS WORK PRIOR TO CONSTRUCTION, & NOTIFY ENGINEER OF DISCREPANCIES.
3. THE CONTRACTOR SHALL EXERCISE EXTREME CAUTION IN AREAS OF BURIED UTILITIES, & SHALL PROVIDE AT LEAST 48 HOURS NOTICE TO THE VARIOUS UTILITY COMPANIES, IN ORDER TO PERMIT MARKING THE LOCATIONS OF EXISTING UNDERGROUND UTILITIES, IN ADVANCE OF CONSTRUCTION, BY CALLING "SUNSHINE" AT 1-800-432-4770. THE CONTRACTOR IS RESPONSIBLE FOR CONTACTING ALL UTILITIES NOT INCLUDED IN THE "SUNSHINE" PROGRAM.
4. THE CONTRACTOR IS RESPONSIBLE FOR REPAIRING ANY DAMAGE TO EXISTING FACILITIES, ABOVE OR BELOW GROUND THAT MAY OCCUR AS A RESULT OF THE WORK PERFORMED BY THE CONTRACTOR.
5. ALL UNDERGROUND UTILITIES MUST BE IN PLACE & TESTED OR INSPECTED PRIOR TO PAVEMENT & STRUCTURE CONSTRUCTION.
6. IT IS THE CONTRACTOR'S RESPONSIBILITY TO BECOME FAMILIAR WITH THE PERMIT & INSPECTION REQUIREMENTS OF THE VARIOUS GOVERNMENTAL AGENCIES THE CONTRACTOR SHALL OBTAIN ALL NECESSARY PERMITS PRIOR TO CONSTRUCTION, & SCHEDULE INSPECTIONS ACCORDING TO AGENCY REQUIREMENTS & CODES.
7. ALL SPECIFICATIONS & DOCUMENTS REFERENCED BY THE PLANS & PERMITS SHALL BE OF LATEST REVISIONS &/OR LATEST EDITION.
8. ALL WORK BY CONTRACTOR/SUBCONTRACTOR SHALL COMPLY WITH THE REGULATIONS & ORDINANCES OF THE VARIOUS GOVERNMENTAL AGENCIES HAVING JURISDICTION OVER THE WORK.
9. THE CONTRACTOR SHALL SUBMIT FOR APPROVAL TO THE OWNER'S ENGINEER, SHOP DRAWINGS ON ALL PROPOSED PRECAST & MANUFACTURED STRUCTURES. FAILURE TO OBTAIN APPROVAL BEFORE INSTALLATION MAY RESULT IN REMOVAL & REPLACEMENT AT THE CONTRACTOR'S EXPENSE. ALL SHOP DRAWINGS ARE TO BE REVIEWED & APPROVED BY CONTRACTOR SIGNATURE PRIOR TO SUBMITTAL TO THE OWNER'S ENGINEER.
10. THE CONTRACTOR SHALL NOTIFY THE ENGINEER & APPROPRIATE AGENCIES, & PROVIDE THEM WITH ALL REQUIRED SHOP DRAWINGS, THE CONTRACTOR'S NAME, STARTING DATE, PROJECTED SCHEDULE, & OTHER INFORMATION AS REQUIRED, AT LEAST TWO (2) WORKING DAYS PRIOR TO CONSTRUCTION. ANY WORK PERFORMED PRIOR TO NOTIFYING THE ENGINEER, OR WITHOUT AGENCY INSPECTOR PRESENT, MAY BE DEEMED NON-COMPLIANT & WILL BE SUBJECT TO REMOVAL & REPLACEMENT AT THE CONTRACTOR'S EXPENSE.
11. BACKFILL MATERIAL SHALL BE COMPACTED AROUND PIPES IN 6" LAYERS UP TO A LEVEL OF AT LEAST ONE FOOT ABOVE THE TOP & BELOW BOTTOM OF THE PIPE. IN AREAS TO BE PAVED, BACKFILL SHALL BE COMPACTED TO 100% MAXIMUM DENSITY AS DETERMINED BY AASHTO T-99.
12. SITE WORK CONCRETE SHALL HAVE A COMPRESSIVE STRENGTH OF AT LEAST 4,000 P.S.I. IN 28 DAYS, UNLESS OTHERWISE NOTED.
13. CONCRETE REINFORCING SHALL CONFORM TO ASTM A615 GRADE 60 OR BETTER, UNLESS OTHERWISE INDICATED ON STRUCTURE PLANS.
14. ALL PRIVATE & PUBLIC PROPERTY AFFECTED BY THIS WORK SHALL BE RESTORED TO A CONDITION EQUAL TO OR BETTER THAN EXISTING CONDITIONS. ADDITIONAL COSTS SHALL BE COORDINATED BETWEEN CONTRACTOR & VENDER.
15. CHAPTER 77-153 OF THE FLORIDA STATUTES REQUIRES THAT AN EXCAVATOR NOTIFY ALL GAS UTILITIES A MINIMUM OF TWO (2) WORKING DAYS PRIOR TO EXCAVATING. THESE PLANS SHOW ONLY THE APPROXIMATE LOCATION OF GAS MAINS. AN ON-SITE INSPECTION BY THE RESPECTIVE GAS COMPANY SHALL BE CALLED FOR BY THE CONTRACTOR TWO (2) WORKING DAYS BEFORE ENTERING A CONSTRUCTION AREA.
16. THE SOILS ENGINEER IS TO SUPPLY THE ENGINEER WITH A PHOTOCOPY OF ALL COMPACTION TESTS & ASPHALT RESULTS. THE SOILS ENGINEER IS TO CERTIFY TO THE ENGINEER OF RECORD IN WRITING, THAT ALL TESTING REQUIREMENTS REQUIRED BY THE OWNER, LOCAL REGULATORY AGENCY, & THE FLORIDA DEPARTMENT OF TRANSPORTATION (FDOT), FOR THE IMPROVEMENTS AS REQUIRED BY THE ENGINEERING CONSTRUCTION DRAWINGS & PERMITS HAVE BEEN SATISFIED.
17. THE CONTRACTOR IS RESPONSIBLE FOR COORDINATING APPLICABLE TESTING WITH THE SOILS ENGINEER. TESTS WILL BE REQUIRED PURSUANT WITH THE TESTING REQUIREMENTS AS SHOWN ON THE CONSTRUCTION DRAWINGS. UPON COMPLETION OF THE WORK, THE SOILS ENGINEER IS TO SUBMIT CERTIFICATIONS TO THE OWNER'S ENGINEER STATING THAT ALL REQUIREMENTS HAVE BEEN MET.
18. THE CONTRACTOR IS TO REVIEW THE DESIGN SOIL REPORTS & BORINGS PRIOR TO BIDDING THE PROJECT & PRIOR TO COMMENCING CONSTRUCTION.
19. THE CONTRACTOR SHALL MAINTAIN A COPY OF THE APPROVED PLANS & PERMITS AT THE CONSTRUCTION SITE AT ALL TIMES.
20. THESE DRAWINGS DO NOT INCLUDE NECESSARY COMPONENTS FOR INSTRUCTION OF THE CONTRACTOR REGARDING CONSTRUCTION SAFETY. THE CONTRACTOR IS SOLELY RESPONSIBLE FOR MEANS & METHODS FOR CONSTRUCTION SITE SAFETY.
21. CONSTRUCTION AND MATERIALS SHALL BE IN ACCORDANCE WITH LOCAL STANDARDS AND SPECIFICATIONS. PLANS ARE IN ACCORDANCE WITH LOCAL "MINIMUM DRAWING AND SUBMITTAL REQUIREMENTS FOR POTABLE WATER, WASTEWATER, AND RECLAIMED WATER PROJECTS". STATE PLANE COORDINATES (FEET) WILL BE SUPPLIED FOR THE RECORD DRAWINGS.

GENERAL SAFETY NOTES

1. DURING THE CONSTRUCTION &/OR MAINTENANCE OF THIS PROJECT, ALL SAFETY REGULATIONS ARE TO BE ENFORCED BY THE CONTRACTOR. THE CONTRACTOR OR HIS REPRESENTATIVE SHALL BE RESPONSIBLE FOR THE CONTROL & SAFETY OF THE TRAVELING PUBLIC & THE SAFETY OF HIS PERSONNEL.
2. THE MINIMUM STANDARDS AS SET FORTH IN THE CURRENT EDITION OF THE STATE OF FLORIDA, MANUAL ON TRAFFIC CONTROL & SAFE PRACTICES FOR STREET & HIGHWAY CONSTRUCTION, MAINTENANCE & UTILITY OPERATIONS SHALL BE FOLLOWED IN THE DESIGN APPLICATION, INSTALLATION, MAINTENANCE, & REMOVAL OF ALL TRAFFIC CONTROL DEVICES, WARNING DEVICES, & BARRIERS NECESSARY TO PROTECT THE PUBLIC & WORKMEN FROM HAZARDS WITHIN THE PROJECT LIMITS.
3. ALL TRAFFIC CONTROL MARKINGS & DEVICES SHALL CONFORM TO THE PROVISIONS SET FORTH IN THE MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES PREPARED BY THE U.S. DEPARTMENT OF TRANSPORTATION FEDERAL HIGHWAY ADMINISTRATION.
4. LABOR SAFETY REGULATIONS SHALL CONFORM TO THE PROVISIONS SET FORTH BY OSHA IN THE FEDERAL REGISTER & THE FLORIDA DEPARTMENT OF TRANSPORTATION REGULATIONS.
5. IT SHALL BE THE SOLE RESPONSIBILITY OF THE CONTRACTOR TO COMPLY & ENFORCE ALL APPLICABLE SAFETY REGULATIONS. THE ABOVE INFORMATION HAS BEEN PROVIDED FOR THE CONTRACTOR'S INFORMATION ONLY & DOES NOT IMPLY THAT THE OWNER OR ENGINEER WILL INSPECT &/OR ENFORCE SAFETY REGULATIONS.

CLEARING & EROSION CONTROL NOTES

1. ALL CONSTRUCTION DEBRIS & OTHER WASTE MATERIAL SHALL BE DISPOSED OF OFF-SITE IN ACCORDANCE WITH APPLICABLE REGULATIONS. ONLY "GRADING BY HAND" IS PERMITTED WITHIN THE CANOPY LINE OF TREES THAT ARE TO REMAIN.
2. THE LOCATION OF ALL EXISTING UTILITIES SHOWN ON THE PLANS HAVE BEEN DETERMINED FROM THE BEST INFORMATION AVAILABLE & ARE GIVEN FOR THE CONVENIENCE OF THE CONTRACTOR. THE ENGINEER ASSUMES NO RESPONSIBILITY FOR ACCURACY. PRIOR TO THE START OF ANY CONSTRUCTION ACTIVITY, IT SHALL BE THE CONTRACTOR'S RESPONSIBILITY TO NOTIFY THE VARIOUS UTILITIES & TO MAKE THE NECESSARY ARRANGEMENTS FOR ANY RELOCATIONS OF THESE UTILITIES WITH THE OWNER OF THE UTILITY. THE CONTRACTOR SHALL EXERCISE CAUTION WHEN CROSSING ANY UNDERGROUND UTILITY, WHETHER SHOWN ON THE PLANS OR LOCATED BY THE UTILITY COMPANY. ALL UTILITIES WHICH INTERFACE WITH THE PROPOSED CONSTRUCTION SHALL BE RELOCATED BY THE RESPECTIVE UTILITY COMPANIES & THE CONTRACTOR SHALL COOPERATE WITH THE UTILITY COMPANIES DURING RELOCATION OPERATIONS. ANY DELAY OR INCONVENIENCE CAUSED TO THE CONTRACTOR BY THE VARIOUS UTILITIES SHALL BE INCIDENTAL TO THE CONTRACT & NO EXTRA COMPENSATION WILL BE ALLOWED.
3. THE CONTRACTOR WILL BE RESPONSIBLE FOR MAKING A VISUAL INSPECTION OF THE SITE & WILL BE RESPONSIBLE FOR THE DEMOLITION & REMOVAL OF ALL UNDERGROUND & ABOVE GROUND STRUCTURES THAT WILL NOT BE INCORPORATED WITH THE NEW FACILITIES. SHOULD ANY DISCREPANCIES EXIST WITH THE PLANS, THE CONTRACTOR SHALL BE RESPONSIBLE FOR CALLING THE OWNER & REQUESTING A CLARIFICATION OF THE PLANS PRIOR TO DEMOLITION.
4. DURING CONSTRUCTION, ALL STORM SEWER INLETS IN THE VICINITY OF THE PROJECT SHALL BE PROTECTED BY SEDIMENT TRAPS SUCH AS SECURED HAY BALES, SOD, STONE, ETC., WHICH SHALL BE MAINTAINED & MODIFIED AS REQUIRED BY CONSTRUCTION PROGRESS.
5. ALL EROSION & SILTATION CONTROL METHODS SHALL BE IMPLEMENTED PRIOR TO THE START OF CONSTRUCTION & MAINTAINED UNTIL CONSTRUCTION IS COMPLETE.
6. CONTRACTOR IS TO PROVIDE EROSION CONTROL/SEDIMENTATION BARRIER (HAY BALES OR SILTATION CURTAIN) TO PREVENT SILTATION OF ADJACENT PROPERTY, STREETS, STORM SEWERS, WATERWAYS, & EXISTING WETLANDS. IN ADDITION, THE CONTRACTOR SHALL PLACE A SOIL TRACKING PREVENTION DEVICE WHERE CONSTRUCTION RELATED TRAFFIC IS TO ENTER & EXIT THE SITE. IF IN THE OPINION OF THE ENGINEER &/OR LOCAL AUTHORITIES, EXCESSIVE QUANTITIES OF EARTH ARE TRANSPORTED OFF-SITE EITHER BY NATURAL DRAINAGE OR BY VEHICULAR TRAFFIC, THE CONTRACTOR IS TO REMOVE SAID EARTH TO THE SATISFACTION OF THE ENGINEER &/OR AUTHORITIES.
7. IF WIND EROSION BECOMES SIGNIFICANT DURING CONSTRUCTION THE CONTRACTOR SHALL STABILIZE THE AFFECTED AREA USING SPRINKLING, IRRIGATION, OR OTHER ACCEPTABLE METHODS.
8. THERE IS TO BE NO DISCHARGE (i.e. PUMPING, SHEET FLOW, SWALE, DITCH ETC.) INTO EXISTING LAKE SYSTEM, WETLAND, OR RIVER, WITHOUT THE USE OF SETTLING PONDS. A SETTLING POND PLAN MUST BE SUBMITTED & APPROVED BY THE ENGINEER OF RECORD & LOCAL REGULATORY AGENCY PRIOR TO CONSTRUCTION.
9. ALL DISTURBED AREAS WHICH ARE NOT TO BE SODDED ARE TO BE SEEDED & MULCHED TO FDOT STANDARDS & MAINTAINED UNTIL ACCEPTABLE TO THE REGULATORY AGENCY & ENGINEER OF RECORD. ANY WASHOUTS, REGRADING, RESEEDING, SODDING, & OTHER EROSION WORK REQUIRED WILL BE PERFORMED BY THE CONTRACTOR UNTIL THE SYSTEM IS ACCEPTED BY THE OWNER, REGULATORY AGENCY, & ENGINEER OF RECORD.
10. ALL SODDING, SEEDING & MULCHING SHALL INCLUDE WATERING & FERTILIZATION. THE CONTRACTOR SHALL BE RESPONSIBLE FOR MAINTAINING THESE AREAS UNTIL THE PROJECT IS COMPLETED & ACCEPTED BY THE OWNER.

PAVING, GRADING & DRAINAGE NOTES

1. THE CONTRACTOR SHALL BE RESPONSIBLE FOR PROTECTING EXCAVATIONS AGAINST COLLAPSE & WILL PROVIDE BRACING, SHEETING, OR SHORING, AS NECESSARY. TRENCHES SHALL BE KEPT DRY WHILE PIPE & APPURTENANCES ARE BEING PLACED. DEWATERING SHALL BE USED AS REQUIRED.
2. PRIOR TO CONSTRUCTING CONCRETE PAVEMENT, THE CONTRACTOR IS TO SUBMIT A PROPOSED JOINTING PATTERN TO THE OWNER'S ENGINEER FOR APPROVAL.
3. THE CONTRACTOR IS TO PROVIDE A 1/2" BITUMINOUS EXPANSION JOINT MATERIAL WITH SEALER, AT ABUTMENT OF CONCRETE & ANY STRUCTURE.
4. THE CONTRACTOR IS TO INSTALL EXTRA BASE MATERIAL WHEN THE DISTANCE BETWEEN THE PAVEMENT ELEVATION & THE TOP OF THE PIPE OR BELL IS LESS THAN TWELVE (12) INCHES. SEE "EXTRA BASE FOR CROSS CULVERTS UNDER FLEXIBLE PAVEMENT DETAIL.
5. ALL STORM DRAINAGE PIPE (DESIGNATED AS "SD" ON PLANS) SHALL BE REINFORCED CONCRETE CLASS IV (ASTM C- 76), CORRUGATED HDPE (ADS TYPE N-12), OR APPROVED EQUAL.
6. PVC STORM PIPE, 12" & SMALLER SHALL CONFORM TO AWWA C-900, CLASS 150 STANDARDS, UNLESS OTHERWISE NOTED.
7. PIPE LENGTHS SHOWN ARE APPROXIMATE & ARE MEASURED TO END OF PIPE.
8. ALL DRAINAGE STRUCTURE GRATES & COVERS WITHIN TRAFFIC AREAS SHALL BE TRAFFIC RATED FOR & CAPABLE OF WITHSTANDING H-20 LOADINGS.
9. MATERIALS & CONSTRUCTION METHODS FOR STREETS & STORM DRAINAGE CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE LOCAL REGULATORY AGENCY & THE FLORIDA DEPARTMENT OF TRANSPORTATION STANDARD SPECIFICATIONS FOR ROAD & BRIDGE CONSTRUCTION.
10. THE CONTRACTOR SHALL PROVIDE FIELD NOTES MARKED ON AN APPROVED SET OF CONSTRUCTION PLANS TO OWNER'S ENGINEER WITH SUFFICIENT LEGIBLE NOTES TO PREPARE RECORD DRAWINGS ACCORDING TO CITY OF NORTH PORT PUBLIC WORKS UTILITY STANDARDS MINIMUM RECORD DRAWING STANDARDS.
11. ROOF DRAIN PIPES SHALL BE PVC(SCH 40), OR CORRUGATED HDPE (ADS N-12, OR APPROVED EQUAL) AS INDICATED ON THE PLAN.

PAVING GRADING & DRAINAGE TESTING & INSPECTION REQUIREMENTS

1. THE STORM DRAINAGE PIPING SYSTEM SHALL BE SUBJECT TO A VISUAL INSPECTION BY THE OWNER'S ENGINEER PRIOR TO THE PLACEMENT OF BACKFILL. THE CONTRACTOR IS TO NOTIFY THE ENGINEER 48 HOURS IN ADVANCE TO SCHEDULE AN INSPECTION.
2. THE CONTRACTOR SHALL MAINTAIN THE STORM DRAINAGE SYSTEMS UNTIL FINAL ACCEPTANCE OF THE PROJECT.
3. THE CONTRACTOR IS RESPONSIBLE FOR COORDINATING ALL TESTING REQUIRED BY THE CONSTRUCTION PLANS WITH THE SOILS ENGINEER. UPON COMPLETION OF THE WORK, THE SOILS ENGINEER SHALL SUBMIT CERTIFICATIONS TO THE OWNER'S ENGINEER STATING THAT ALL REQUIREMENTS HAVE BEEN MET.

MAJOR SITE & DEVELOPMENT PLANS for

HERON CREEK - PARCEL K

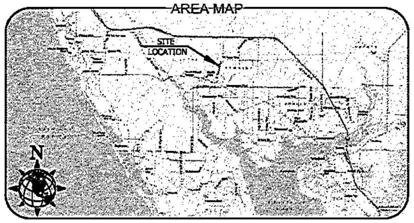
A MULTI-FAMILY RESIDENTIAL DEVELOPMENT

PART OF SECTION 28, TOWNSHIP 39S, RANGE 21E,
CITY OF NORTH PORT, FLORIDA

A DEVELOPMENT BY

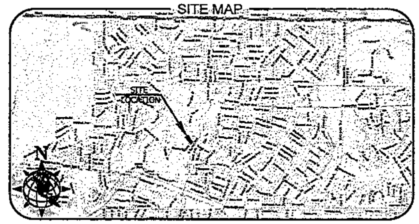
Heron Creek Associates, Ltd.
4524 Southeast 16th Place, Suite 3
Cape Coral, Florida 33904
239-542-1010

AREA MAP



SARASOTA COUNTY, FLORIDA

SITE MAP



SECTION 28, TOWNSHIP 39S, RANGE 21E,
CITY OF NORTH PORT, FLORIDA

INDEX OF SHEETS

SHEET	TITLE
1	COVER SHEET
2	AERIAL SITE MAP
3	BOUNDARY SURVEY
4	EXISTING CONDITIONS & DEMOLITION PLAN
5	MASTER SITE PLAN
6	GRADING & DRAINAGE PLAN
7	UTILITY PLAN
8-9	SITE, PAVING, & DRAINAGE DETAILS
10	UTILITY DETAILS - POTABLE WATER
11	UTILITY DETAILS - SANITARY SEWER
L1-L2	LANDSCAPE PLAN

PROJECT CONTACTS

ENGINEER:
MATTHEW J. MORRIS P.E.
MORRIS ENGINEERING & CONSULTING, LLC
2004 53RD AVENUE EAST
BRADENTON, FLORIDA 34203
941-228-4729
www.morrisengineering.net

SURVEYOR:
BEAN, WHITAKER, LUTZ & KAREH, INC.
13041 MCGREGOR BOULEVARD
FORT MYERS, FLORIDA 33919-5910
239-481-1331

OWNER:
HERON CREEK ASSOCIATES, LTD.
4524 SOUTHEAST 16TH PLACE, SUITE 3
CAPE CORAL, FLORIDA 33904
239-542-1010

PREPARED BY

MORRIS ENGINEERING AND CONSULTING, LLC
Civil Engineering and Land Development Consulting
2004 53rd Avenue East Bradenton, Florida 34203 C.A.28780 941-228-4729 www.morrisengineering.net

This item has been digitally signed and sealed by Matthew J. Morris, PE, on the date adjacent to the seal. Printed copies of this document are not considered signed and sealed and the signature must be verified on any electronic copies.

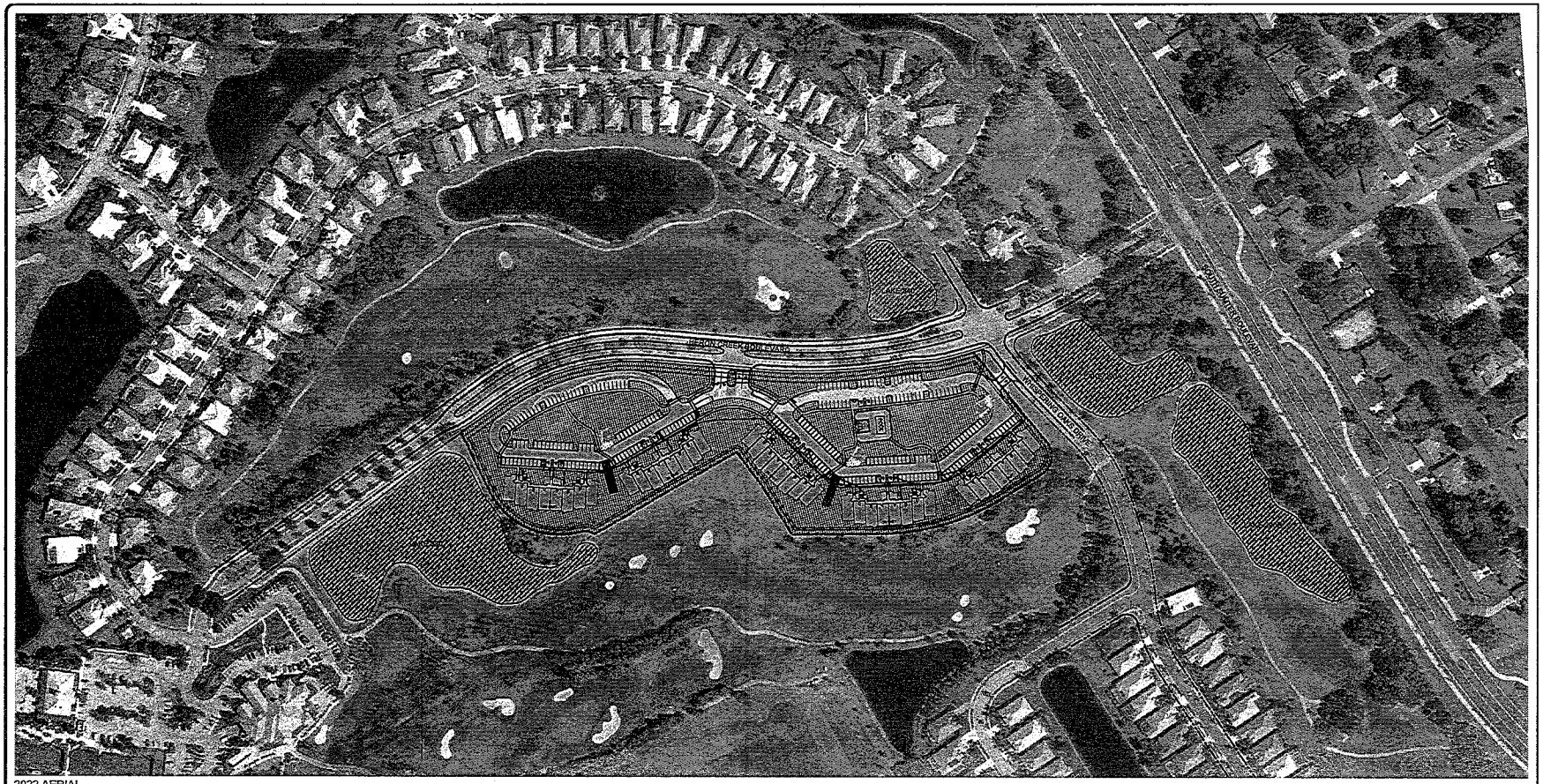
SWFWMD PERMIT NUMBER:
CITY OF NORTH PORT UTILITIES PROJECT NUMBER:

THIS IS TO CERTIFY THAT THE DESIGN OF THIS PROJECT, AS PREPARED UNDER MY PERSONAL DIRECTION AND CONTROL, COMPLIES WITH THE APPLICABLE PORTIONS OF THE LOCAL DEVELOPMENT REGULATIONS, AND APPLICABLE PORTIONS OF THE "MANUAL OF UNIFORM MINIMUM STANDARDS FOR DESIGN, CONSTRUCTION AND MAINTENANCE FOR STREETS AND HIGHWAYS" AS ADOPTED BY THE FLORIDA DEPARTMENT OF TRANSPORTATION PURSUANT TO SUBSECTIONS 335.075 (1) AND (4), FLORIDA STATUTES. UPON COMPLETION OF IMPROVEMENTS, ENGINEER OF RECORD SHALL CERTIFY CONSTRUCTION IS IN COMPLIANCE WITH PLANS AUTHORIZED FOR CONSTRUCTION AND WITH ALL DEVELOPMENT ORDERS.

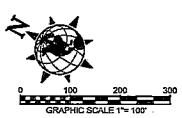
Matthew J Morris — Digitally signed by Matthew J Morris Date: 2024.03.27
MATTHEW J. MORRIS
FL LICENSE NO. 68434

REVISIONS

NO.	DATE	DESCRIPTION	BY
-	-	-	-



2022 AERIAL



PREPARED FOR:

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239-542-1010

MORRIS ENGINEERING AND CONSULTING, LLC
Civil Engineering and Land Development Consulting
3904 53rd Avenue East, Bradenton, Florida 34203 C.A.29790 941-228-4729 www.morrisengineering.net

NO.	DATE	REVISION DESCRIPTION	BY

MATTHEW J. MORRIS
FL LICENSE NO. 66434

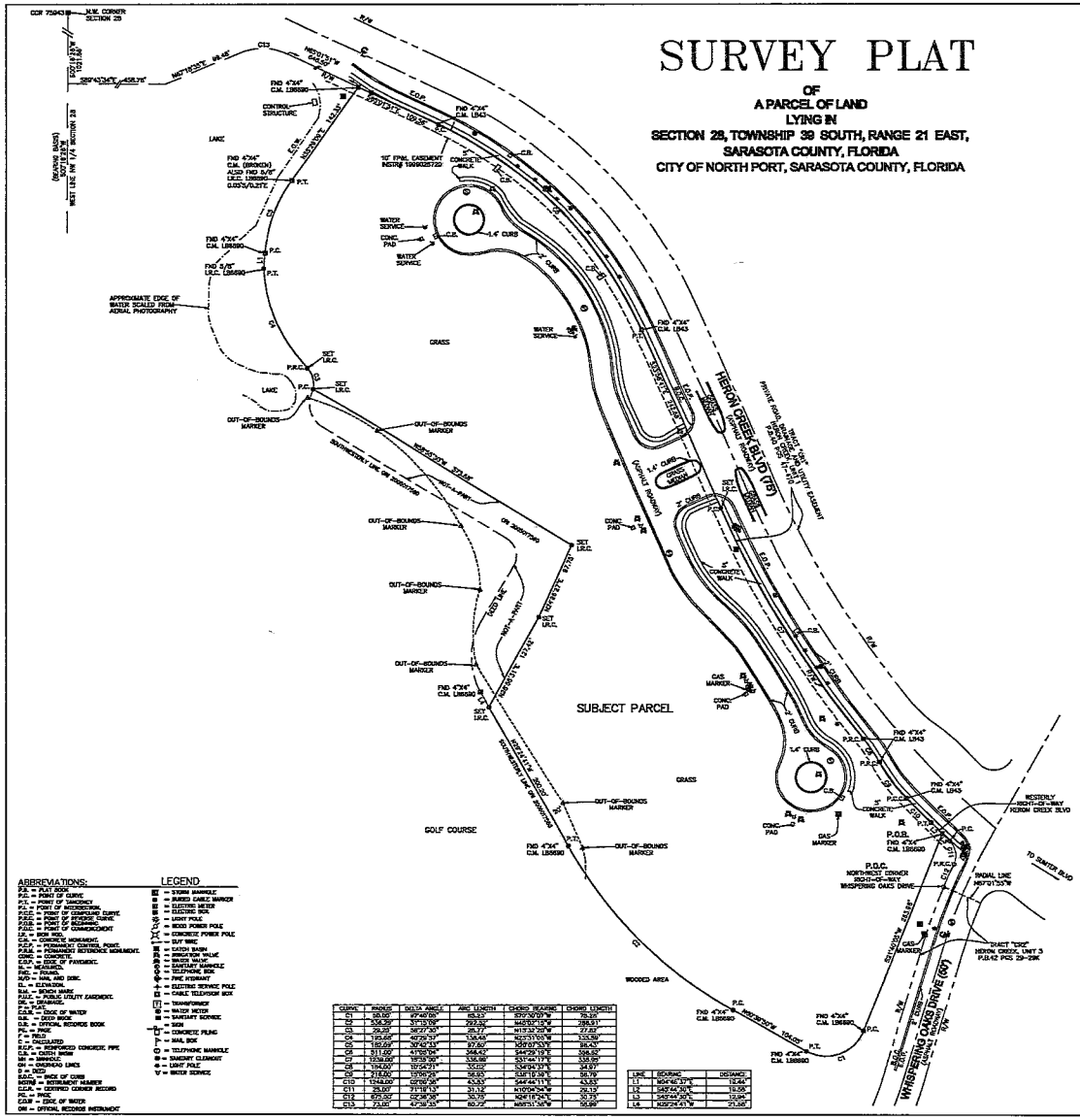
DATE 08/27/2023
PROJECT HCK
DRAWING MSP
DRAWN IS
CHECKED MJM

AERIAL SITE MAP
HERON CREEK - PARCEL K
NORTH PORT, FLORIDA

SCALE 1"=100'
SEC.-TSP.-RNG. 28-38S-21E
SHEET 2 OF 11

SURVEY PLAT

OF
A PARCEL OF LAND
LYING IN
SECTION 28, TOWNSHIP 39 SOUTH, RANGE 21 EAST,
SARASOTA COUNTY, FLORIDA
CITY OF NORTH PORT, SARASOTA COUNTY, FLORIDA



NOTES:
SURVEY BASED ON THE DESCRIPTION RECORDED IN INSTRUMENT NUMBER 2005017580 AND AS DESCRIBED HEREON.

BEARINGS BASED ON THE STATE PLANE COORDINATE SYSTEM (FL WEST ZONE-NORTH AMERICAN DATUM OF 83/90 ADJUSTMENT) WITH THE WEST LINE OF THE NORTHWEST ONE QUARTER (NW 1/4) OF SECTION 28, TOWNSHIP 39 SOUTH, RANGE 21 EAST, AS BEARING S03°18'28"E.

DIMENSIONS ARE IN FEET AND DECIMAL PARTS THEREOF.

PARCEL SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS AND RIGHTS- OF-WAY (RECORDED AND UNRECORDED, WRITTEN AND UNWRITTEN). A TITLE COMMITMENT WAS NOT PROVIDED AND A REVIEW OF TITLE EXCEPTIONS WAS NOT PERFORMED.

PARCEL LIES IN FLOOD ZONE B, WITH NO BASE FLOOD ELEVATION. THIS INFORMATION TAKEN FROM FLOOD INSURANCE RATE MAP 12027900108, EFFECTIVE DATE AND INDEX DATE 9-2-81.

THE F.E.M.A. FLOOD ZONE INFORMATION INDICATED HEREON IS BASED ON MAPS SUPPLIED BY THE FEDERAL GOVERNMENT. THIS FLOOD INFORMATION MUST BE VERIFIED WITH ALL PERMITTING REGULATORY ENTITIES PRIOR TO COMMENCING ANY WORK OR APPLICATION DEPENDENT ON SAID FLOOD INFORMATION.

IRON RODS "SET" ARE 5/8" X 18" REBAR WITH YELLOW CAP BEARING CORPORATION NO. LB4919.

UNDERGROUND IMPROVEMENTS, UTILITIES AND/OR FOUNDATIONS WERE NOT LOCATED UNLESS OTHERWISE NOTED.

WETLANDS, IF ANY, WERE NOT LOCATED. THIS SURVEY DOES NOT REFLECT ANY ENVIRONMENTAL MATTERS WHICH MAY AFFECT THIS SITE. TREES ARE NOT SHOWN.

THIS PLAT PREPARED AS A BOUNDARY SURVEY AND IS NOT INTENDED TO DELINEATE THE JURISDICTION OR JURISDICTIONAL AREAS OF ANY FEDERAL, STATE, REGIONAL OR LOCAL AGENCY, BOARD, COMMISSION OR OTHER ENTITY.

PARCEL CONTAINS 9.25 ACRES (402,880 SQUARE FEET), MORE OR LESS.

SURVEY MEETS OR EXCEEDS THE ACCURACY STANDARDS OF AN URBAN SURVEY (1:10,000).

SITE GEOGRAPHIC LOCATION LATITUDE 27°03'25.0" NORTH-LONGITUDE 82°13'01.2" WEST.

DATE OF LAST FIELD WORK: 11-28-12

LEGAL DESCRIPTION:
A PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF SARASOTA, CITY OF NORTH PORT, LYING IN SECTION 28, TOWNSHIP 39 SOUTH, RANGE 21 EAST, AND FURTHER DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF THE RIGHT-OF-WAY OF WHISPERING OAKS DRIVE AS SHOWN ON THE PLAT OF HERON CREEK, UNIT 3, AS RECORDED IN PLAT BOOK 42, PAGES 29 THROUGH 29K, PUBLIC RECORDS OF SARASOTA COUNTY, FLORIDA, AND POINT OF COMMENCEMENT ALSO BEING A POINT ON A CURVE CONCAVE TO THE EAST HAVING A RADIUS OF 6,000 FEET AND TO WHICH POINT A RADIAL LINE BEARS N89°41'58"W; THENCE CONTINUE NORTHEASTERLY ALONG SAID CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 02° 58'28" FOR 30.78 FEET TO THE BEGINNING OF A REVERSE CURVE TO THE LEFT HAVING A RADIUS OF 38.89 FEET; THENCE CONTINUE NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 71° 19'13" FOR 31.12 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF HERON CREEK BOULEVARD AS SHOWN ON THE PLAT OF HERON CREEK, UNIT 1, AS RECORDED IN PLAT BOOK 46, PAGES 47 THROUGH 47K, PUBLIC RECORDS OF SARASOTA COUNTY, FLORIDA; THENCE N45°44'20"W ALONG SAID WESTERLY RIGHT-OF-WAY LINE FOR 12.94 FEET TO THE POINT OF BEGINNING; THENCE S21°40'55"W, DEPARTING SAID RIGHT-OF-WAY LINE, FOR 352.98 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT HAVING A RADIUS OF 60.00 FEET; THENCE CONTINUE SOUTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 87° 40'08" FOR 88.58 FEET TO A POINT OF TANGENCY; THENCE N65°28'53"W FOR 104.88 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT HAVING A RADIUS OF 888.58 FEET; THENCE CONTINUE NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 21° 44'05" FOR 352.92 FEET TO A POINT OF TANGENCY; THENCE N39°24'47"W FOR 338.38 FEET; THENCE N55°05'51"E FOR 127.42 FEET; THENCE N64°39'22"E FOR 97.70 FEET; THENCE N69°40'49"W FOR 323.88 FEET TO A POINT ON A NON-TANGENTIAL CURVE CONCAVE TO THE WEST HAVING A RADIUS OF 38.89 FEET AND TO WHICH POINT A RADIAL LINE BEARS S77°18'36"E; THENCE CONTINUE NORTHWESTERLY ALONG SAID CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 93° 52'30" FOR 38.77 FEET TO THE BEGINNING OF A REVERSE CURVE TO THE RIGHT HAVING A RADIUS OF 138.88 FEET; THENCE CONTINUE NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 40° 55'52" FOR 138.48 FEET TO THE END OF SAID CURVE; THENCE N64°44'55"E, ALONG A NON-TANGENT LINE, FOR 19.44 FEET TO THE BEGINNING OF A TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 182.88 FEET; THENCE CONTINUE NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 30° 42'53" FOR 97.80 FEET; THENCE N65°28'53"E FOR 142.39 FEET TO A POINT ON THE APPROXIMATE WEST RIGHT-OF-WAY OF HERON CREEK BOULEVARD; THENCE S88°07'41"E ALONG SAID RIGHT-OF-WAY LINE FOR 108.83 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT HAVING A RADIUS OF 811.00 FEET; THENCE SOUTHEASTERLY ALONG SAID CURVE AND SAID RIGHT-OF-WAY LINE THROUGH A CENTRAL ANGLE OF 41° 40'04" FOR 295.42 FEET; THENCE S88°19'47"E ALONG SAID RIGHT-OF-WAY LINE FOR 242.88 FEET TO THE BEGINNING OF A CURVE TO THE LEFT HAVING A RADIUS OF 1230.00 FEET; THENCE CONTINUE SOUTHEASTERLY ALONG SAID CURVE AND SAID RIGHT-OF-WAY LINE THROUGH A CENTRAL ANGLE OF 15° 28'00" FOR 330.80 FEET TO THE BEGINNING OF A REVERSE CURVE TO THE RIGHT HAVING A RADIUS OF 104.88 FEET; THENCE CONTINUE SOUTHEASTERLY ALONG SAID CURVE AND SAID RIGHT-OF-WAY LINE THROUGH A CENTRAL ANGLE OF 10°04'21" FOR 36.88 FEET TO THE BEGINNING OF A REVERSE CURVE TO THE LEFT HAVING A RADIUS OF 238.00 FEET; THENCE CONTINUE SOUTHEASTERLY ALONG SAID CURVE AND SAID RIGHT-OF-WAY LINE THROUGH A CENTRAL ANGLE OF 18° 02'32" FOR 88.58 FEET TO THE BEGINNING OF A COMPOUND CURVE TO THE LEFT HAVING A RADIUS OF 1248.00 FEET; THENCE CONTINUE SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 2°02'28" FOR 43.83 FEET TO A POINT OF TANGENCY; THENCE S65°14'20"E ALONG SAID RIGHT-OF-WAY LINE FOR 19.58 FEET TO THE POINT OF BEGINNING.

*NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

BEAN, WHITAKER, LUTZ & KAREH, INC.

SCOTT C. WHITAKER, P.S.M., NO. LS4324
PROFESSIONAL SURVEYOR & MAPPER
STATE OF FLORIDA
- THIS CERTIFICATION IS ONLY FOR THE LANDS DESCRIBED HEREON.
- IT IS NOT A CERTIFICATION OF TITLE, ZONING, SETBACKS, OR FREEDOM OF ENCUMBRANCES.
- THIS SURVEY WAS PREPARED WITHOUT BENEFIT OF ABSTRACT OF TITLE AND ALL MATTERS OF TITLE SHOULD BE REFERRED TO AN ATTORNEY AT LAW.

ABBREVIATIONS:
P.B. = PLAT BOOK
P.C. = POINT OF CURVE
P.T. = POINT OF TANGENCY
P.I. = POINT OF INTERSECTION
P.C.C. = POINT OF COMPOUND CURVE
P.R.C. = POINT OF REVERSE CURVE
P.O.B. = POINT OF BEGINNING
P.O.C. = POINT OF COMMENCEMENT
I.R. = IRON ROD
C.B. = CONCRETE MONUMENT
P.C.P. = PERMANENT CONTROL POINT
P.R.M. = PERMANENT REFERENCE MONUMENT
CONC. = CONCRETE
E.O.P. = EDGE OF PAVEMENT
M. = MEASURED
PAC. = PLANE
N/D = NAIL AND DISC
EL. = ELEVATION
BM. = BENCH MARK
P.U.E. = PUBLIC UTILITY EASEMENT
DE. = DRAINAGE
P.L. = PLAT
C.O.W. = EDGE OF WATER
O.B. = DEED BOOK
O.R. = OFFICIAL RECORDS BOOK
PG. = PAGE
F = FIELD
C = CALCULATED
R.C.P. = REINFORCED CONCRETE PIPE
C.B. = CATCH BASIN
MH = MANHOLE
OH = OVERHEAD LINES
D = DEED
S.O.C. = INDEX OF CURB
INSTR# = INSTRUMENT NUMBER
C.C.R. = CERTIFIED CORNER RECORD
PC. = PAGE
E.O.W = EDGE OF WATER
OR = OFFICIAL RECORDS INSTRUMENT

LEGEND
- STORM MANHOLE
- BARRIER CABLE MARKER
- ELECTRIC METER
- ELECTRIC BOX
- LIGHT POLE
- WOOD POWER POLE
- CONCRETE POWER POLE
- GUY WIRE
- CATCH BASIN
- IRRIGATION VALVE
- WATER VALVE
- SANITARY MANHOLE
- TELEPHONE BOX
- FIRE HYDRANT
- ELECTRIC SERVICE POLE
- CABLE TELEVISION BOX
- TRANSFORMER
- WATER METER
- SANITARY SERVICE
- SIGN
- CONCRETE PILING
- MAIL BOX
- TELEPHONE MANHOLE
- SANITARY CLEANOUT
- LIGHT POLE
- WATER SERVICE

CURVE	RADIUS	DELTA ANGLE	ARC LENGTH	CHORD BEARING	CHORD LENGTH
C1	38.00	87°40'08"	65.23	S70°30'07"W	78.28
C2	536.29	31°13'09"	292.32	N45°03'13"W	288.51
C3	29.28	56°27'30"	28.77	N15°32'20"W	27.62
C4	193.66	40°29'37"	136.48	N23°31'05"W	133.59
C5	182.09	30°42'33"	97.60	N29°07'53"W	96.43
C6	511.00	47°09'04"	368.42	S44°29'19"E	358.62
C7	1238.00	19°33'00"	338.99	S31°44'17"E	338.00
C8	184.00	10°54'21"	35.02	S34°04'33"E	34.97
C9	218.00	12°06'28"	58.95	S38°10'38"E	58.79
C10	1248.00	02°00'36"	43.83	S44°44'11"E	43.83
C11	28.00	71°18'13"	31.12	N10°04'54"W	29.13
C12	675.00	02°36'38"	30.79	N24°18'24"E	30.79
C13	73.00	47°38'35"	60.72	N65°31'56"W	58.99

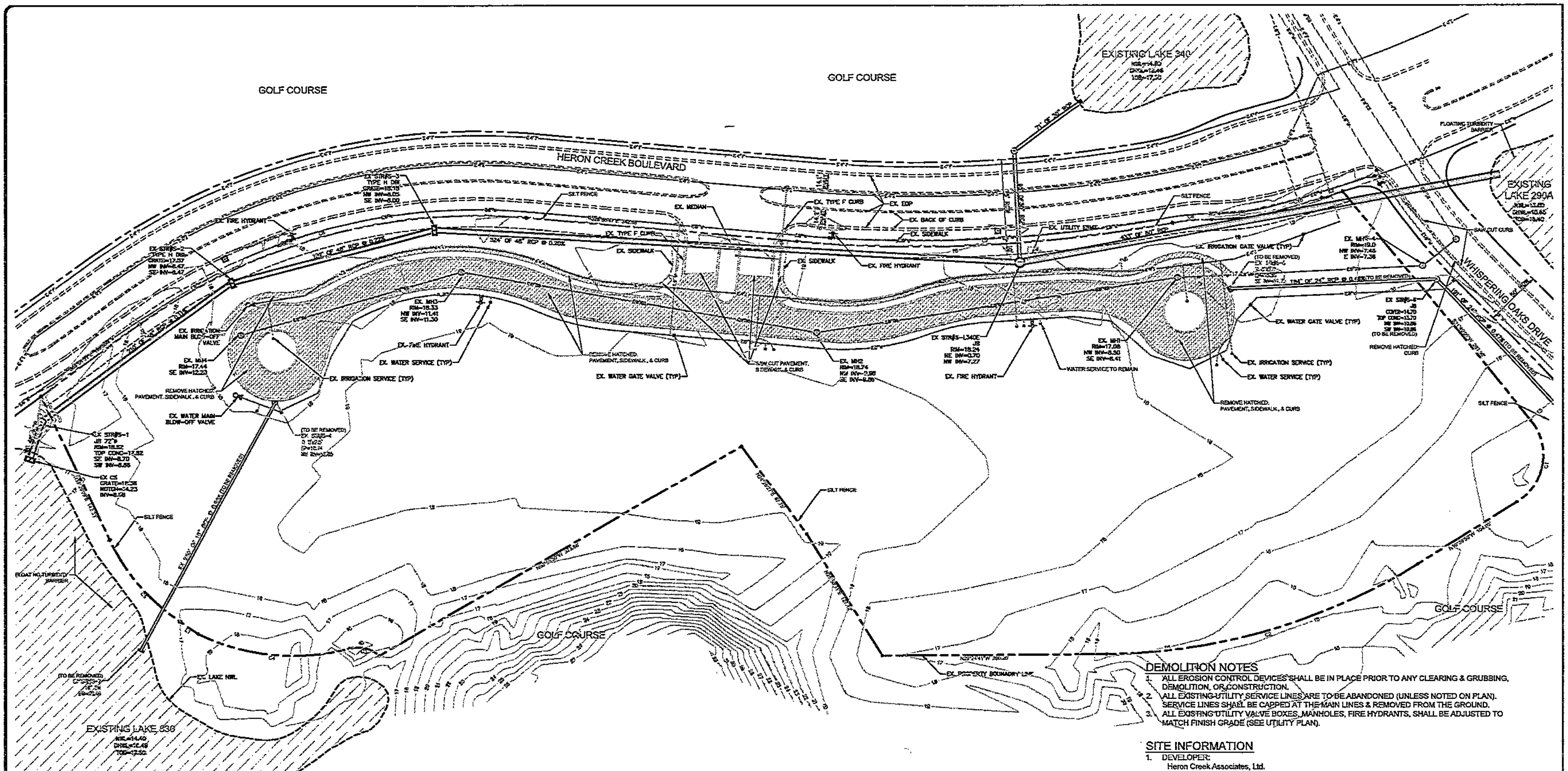
LINE	BEARING	DISTANCE
L1	N04°46'37"E	12.44'
L2	S45°44'20"E	19.58'
L3	S42°44'30"E	13.94'
L4	N22°24'41"W	21.58'

HERON CREEK-MODIFIED PARCEL K

Bean, Whitaker, Lutz & Kareh, Inc. (LB 4919)
CONSULTING ENGINEERS - SURVEYORS AND MAPPERS - PLANNERS
1801 BEARINGS BOULEVARD, FORT MYERS, FLORIDA 33916-9916 (239) 481-1331

SR4210B.DWG

DATE	PROJECT NO.	DRAWN BY	SCALE	SHEET	FILE NO. (3-1-R)
11-28-12	42108	S.PIERCE	1"= 60'	1 OF 1	28-39-21



DEMOLITION NOTES

1. ALL EROSION CONTROL DEVICES SHALL BE IN PLACE PRIOR TO ANY CLEARING & GRUBBING, DEMOLITION, OR CONSTRUCTION.
2. ALL EXISTING UTILITY SERVICE LINES ARE TO BE ABANDONED (UNLESS NOTED ON PLAN). SERVICE LINES SHALL BE CAPPED AT THE MAIN LINES & REMOVED FROM THE GROUND.
3. ALL EXISTING UTILITY VALVE BOXES, MANHOLES, FIRE HYDRANTS, SHALL BE ADJUSTED TO MATCH FINISH GRADE (SEE UTILITY PLAN).

SITE INFORMATION

1. DEVELOPER:
   Heron Creek Associates, Ltd.
   4524 Southeast 16th Place, Suite 3
   Cape Coral, Florida 33904
   239-542-1010
2. PARCEL ID: 0991-00-2050
3. PARCEL DATA: A PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF SARASOTA, CITY OF NORTH PORT, LYING IN SECTION 28, TOWNSHIP 39 SOUTH, RANGE 21 EAST, HERON CREEK UNIT 12, PARCEL K
4. PARCEL AREA: 9.25ac± OR 402,869sf±
5. EXISTING ZONING: PCD
6. EXISTING LAND USE: VACANT
7. FLOOD DATA: PARCEL LIES IN FLOOD ZONE B, WITH NO BASE FLOOD ELEVATION. THIS INFORMATION TAKEN FROM FLOOD INSURANCE RATE MAP 1202790010B, EFFECTIVE DATE AND INDEX DATE 9-2-81.
8. BEARINGS BASED ON THE STATE PLANE COORDINATE SYSTEM (FL WEST ZONE-NORTH AMERICAN DATUM OF 83/90 ADJUSTMENT) WITH THE WEST LINE OF THE NORTHWEST ONE QUARTER (NW 1/4) OF SECTION 28, TOWNSHIP 39 SOUTH, RANGE 21 EAST, AS BEARING S00°16'26"E.
9. SITE GEOGRAPHIC LOCATION LATITUDE 27°03'25.0" NORTH-LONGITUDE 82°13'01.2" WEST.
10. NO TREES WERE FOUND ON THIS SITE.
11. NO WETLANDS WERE FOUND ON THIS SITE.

BOUNDARY DATA

LINE	BEARING	DISTANCE
L1	N04°48'37"E	19.44'
L2	S45°44'30"E	19.58'
L3	S45°44'30"E	12.94'
L4	N29°24'41"W	21.86'

CURVE	RADIUS	DELTA ANGLE	ARC LENGTH	CHORD BEARING	CHORD LENGTH
C1	50.00'	87°40'05"	[illegible]	S70°30'07"W	[illegible]
C2	[illegible]	31°15'09"	292.32'	[illegible]	[illegible]
C3	29.20'	[illegible]	[illegible]	[illegible]	27.82'
C4	[illegible]	40°28'37"	138.46'	[illegible]	136.09'
C5	183.08'	30°48'43"	97.80'	N20°07'53"E	96.43'
C6	511.00'	41°00'04"	365.42'	S44°28'19"E	356.82'
C7	1236.00'	16°30'00"	336.39'	S31°43'17"E	335.95'
C8	184.00'	10°54'21"	35.02'	S24°04'37"E	34.97'
C9	216.00'	15°08'25"	56.90'	S28°10'38"E	56.79'
C10	1246.00'	02°00'56"	43.83'	S44°44'11"E	43.83'
C11	25.00'	71°19'13"	31.12'	N10°04'34"W	29.15'
C12	675.00'	02°36'36"	30.75'	N24°16'24"E	30.75'
C13	73.00'	47°39'35"	60.72'	N88°51'38"W	58.99'

GRAPHIC SCALE 1" = 40'

0 40 80 120

OWNER'S CERTIFICATION:

PREPARED FOR:

Heron Creek Associates, Ltd.
4524 Southeast 16th Place, Suite 3
Cape Coral, Florida 33904
239-542-1010

MORRIS ENGINEERING AND CONSULTING, LLC
Civil Engineering and Land Development Consulting
2005 51st Avenue East, Bradenton, Florida 34203 C.A.28780 941-228-4729 www.morrisengineering.net

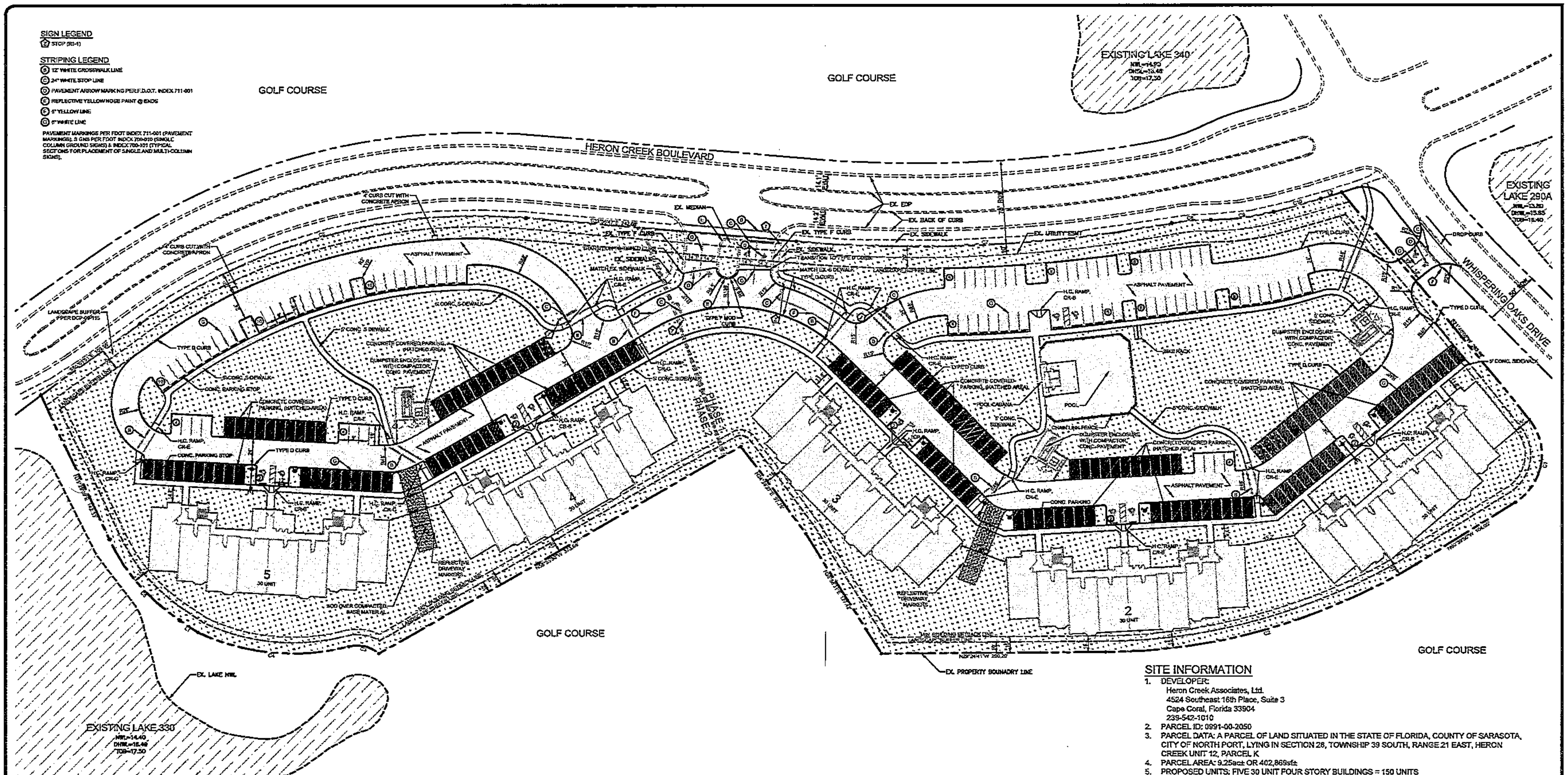
NO.	DATE	REVISION DESCRIPTION	BY
-	--/--/----		-

MATTHEW J. MORRIS
FL LICENSE NO. 69434

DATE 09/27/2023
PROJECT HCK
DRAWING EX
DRAWN IS
CHECKED MJM

EXISTING CONDITIONS & DEMOLITION PLAN
HERON CREEK - PARCEL K
NORTH PORT, FLORIDA

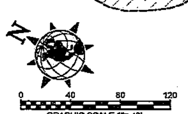
SCALE 1"=40'
SEC.-TSP.-RNG. 28-39S-21E
SHEET 4 OF 11



BOUNDARY DATA

LINE	BEARING	DISTANCE
L1	N04°45'37"E	19.44'
L2	S45°44'30"E	19.59'
L3	S46°44'30"E	12.94'
L4	N29°24'41"W	27.85'

CURVE	RADIUS	DELTA ANGLE	ARC LENGTH	CHORD BEARING	CHORD LENGTH
C1	50.00'	87°40'05"	86.23'	S70°30'07"W	75.28'
C2	534.29'	31°15'09"	282.52'	N45°02'15"W	289.91'
C3	29.20'	56°27'30"	28.77'	N10°32'20"W	27.62'
C4	195.86'	40°29'57"	138.46'	N05°31'05"W	135.59'
C5	182.08'	30°42'33"	97.60'	N65°07'53"E	96.43'
C6	511.00'	41°05'04"	366.42'	S44°28'19"E	358.67'
C7	1238.00'	15°35'00"	336.99'	S31°44'17"E	335.95'
C8	184.00'	10°54'21"	35.02'	S34°04'37"E	34.97'
C9	216.00'	15°06'26"	56.95'	S38°10'39"E	56.79'
C10	1246.00'	02°00'36"	43.83'	S44°44'11"E	43.83'
C11	25.00'	71°18'13"	31.12'	N10°04'54"W	29.15'
C12	675.00'	02°36'36"	30.76'	N84°16'24"E	30.75'
C13	73.00'	47°36'35"	60.72'	N65°51'38"W	58.99'



NOTES

1. EACH BUILDING WILL OBTAIN A SEPARATE BUILDING PERMIT & BE CONSIDERED AS A SEPARATE PHASE FOR C.O. PURPOSES.
2. THIS PROJECT WILL FILE A CONDOMINIUM PLAT WITH THE STATE OF FLORIDA.
3. ALL PAVEMENT MARKINGS AND STRIPING-EXCEPT FOR STANDARD PARKING STALL LINES, LOADING ZONES, AND FIRE LANES-SHALL BE THERMOPLASTIC IN COMPLIANCE WITH SECTION 711 OF THE FLORIDA DEPARTMENT OF TRANSPORTATION STANDARD SPECIFICATIONS FOR ROAD AND BRIDGE CONSTRUCTION, LATEST EDITION. STANDARD PARKING STALL LINES MAY USE PAINT IN COMPLIANCE WITH SECTION 710 OF THE FLORIDA DEPARTMENT OF TRANSPORTATION STANDARD SPECIFICATIONS FOR ROAD AND BRIDGE CONSTRUCTION, LATEST EDITION.
4. ALL DUMPSTERS SHALL BE ENCLOSED BY A MANSORY WALL BETWEEN SIX (6) AND EIGHT (8) FEET IN HEIGHT.

LAND USE TABLE		
ITEM	AREA (ac)	% OF TOTAL
PAVEMENT, SIDEWALK, CONCRETE	3.06	33%
BUILDINGS	1.58	17%
OPEN SPACE	4.61	50%
TOTAL SITE	9.25	100%

SITE INFORMATION

1. DEVELOPER:
   Heron Creek Associates, Ltd.
   4524 Southeast 16th Place, Suite 3
   Cape Coral, Florida 33904
   239-542-1010
2. PARCEL ID: 0991-00-2050
3. PARCEL DATA: A PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF SARASOTA, CITY OF NORTH PORT, LYING IN SECTION 28, TOWNSHIP 39 SOUTH, RANGE 21 EAST, HERON CREEK UNIT 12, PARCEL K
4. PARCEL AREA: 9.25ac± OR 402,869sf±
5. PROPOSED UNITS: FIVE 30 UNIT FOUR STORY BUILDINGS = 150 UNITS
6. PROPOSED DENSITY: 16.2 UNITS/ACRE
7. EXISTING ZONING: PCD
8. EXISTING LAND USE: VACANT
9. PROPOSED LAND USE: MULTI-FAMILY RESIDENTIAL
10. BUILDING SETBACKS: SEE DRAWING, THIS SHEET
11. LANDSCAPE BUFFERS: SEE DRAWING, THIS SHEET
12. REQUIRED PARKING: 1.5 SPACES PER UNIT PLUS 1 SPACE FOR EVERY 5 UNITS
    =150x1.5+150/5=255 SPACES
13. PROVIDED PARKING: 256 SPACES, INCLUDING 12 H.C. SPACES
14. FLOOD DATA: PARCEL LIES IN FLOOD ZONE B, WITH NO BASE FLOOD ELEVATION. THIS INFORMATION TAKEN FROM FLOOD INSURANCE RATE MAP 1202790010B, EFFECTIVE DATE AND INDEX DATE 9-2-81.
15. BEARINGS BASED ON THE STATE PLANE COORDINATE SYSTEM (FL WEST ZONE-NORTH AMERICAN DATUM OF 83/90 ADJUSTMENT) WITH THE WEST LINE OF THE NORTHWEST ONE QUARTER (NW 1/4) OF SECTION 28, TOWNSHIP 39 SOUTH, RANGE 21 EAST, AS BEARING S00°16'26"E.
16. SITE GEOGRAPHIC LOCATION LATITUDE 27°03'25.0" NORTH-LONGITUDE 82°13'01.2" WEST.
17. CONSTRUCTION SCHEDULE: 2023

PREPARED FOR:

Heron Creek Associates, Ltd.
4524 Southeast 16th Place, Suite 3
Cape Coral, Florida 33904
239-542-1010

MORRIS ENGINEERING AND CONSULTING, LLC
Civil Engineering and Land Development Consulting
2004 53rd Avenue East, Bradenton, Florida 34203 C.A. 28780 941-228-4729 www.morrisengineering.net

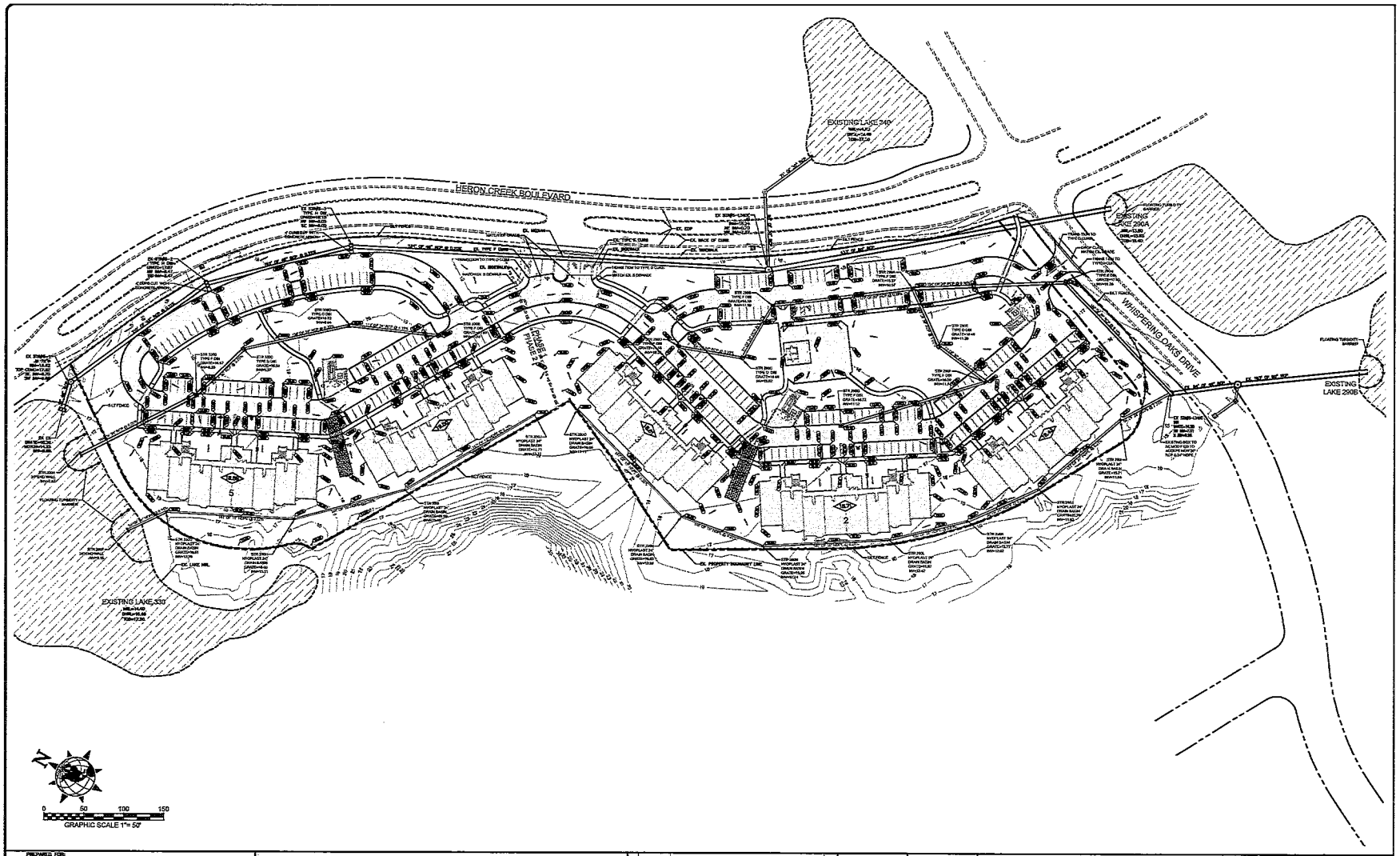
NO.	DATE	REVISION DESCRIPTION	BY
—	—/—/—		—

MATTHEW J. MORRIS
FL LICENSE NO. 55434

DATE 06/27/2023
PROJECT HCK
DRAWING MSP
DRAWN [illegible]
CHECKED MJM

MASTER SITE PLAN
HERON CREEK - PARCEL K
NORTH PORT, FLORIDA

SCALE 1"=40'
SEC.-TSP.-RNG. 28-39S-21E
SHEET 5 OF 11



PREPARED FOR:
Heron Creek Associates, Ltd.
4534 Southeast 16th Place, Suite 3
Cape Coral, Florida 33904
(239)542-0700

MORRIS ENGINEERING AND CONSULTING, LLC
Civil Engineering and Land Development Consulting
3964 53rd Avenue East, Bradenton, Florida 34203 C.A.29760 941-228-4729 www.morrisengineering.net

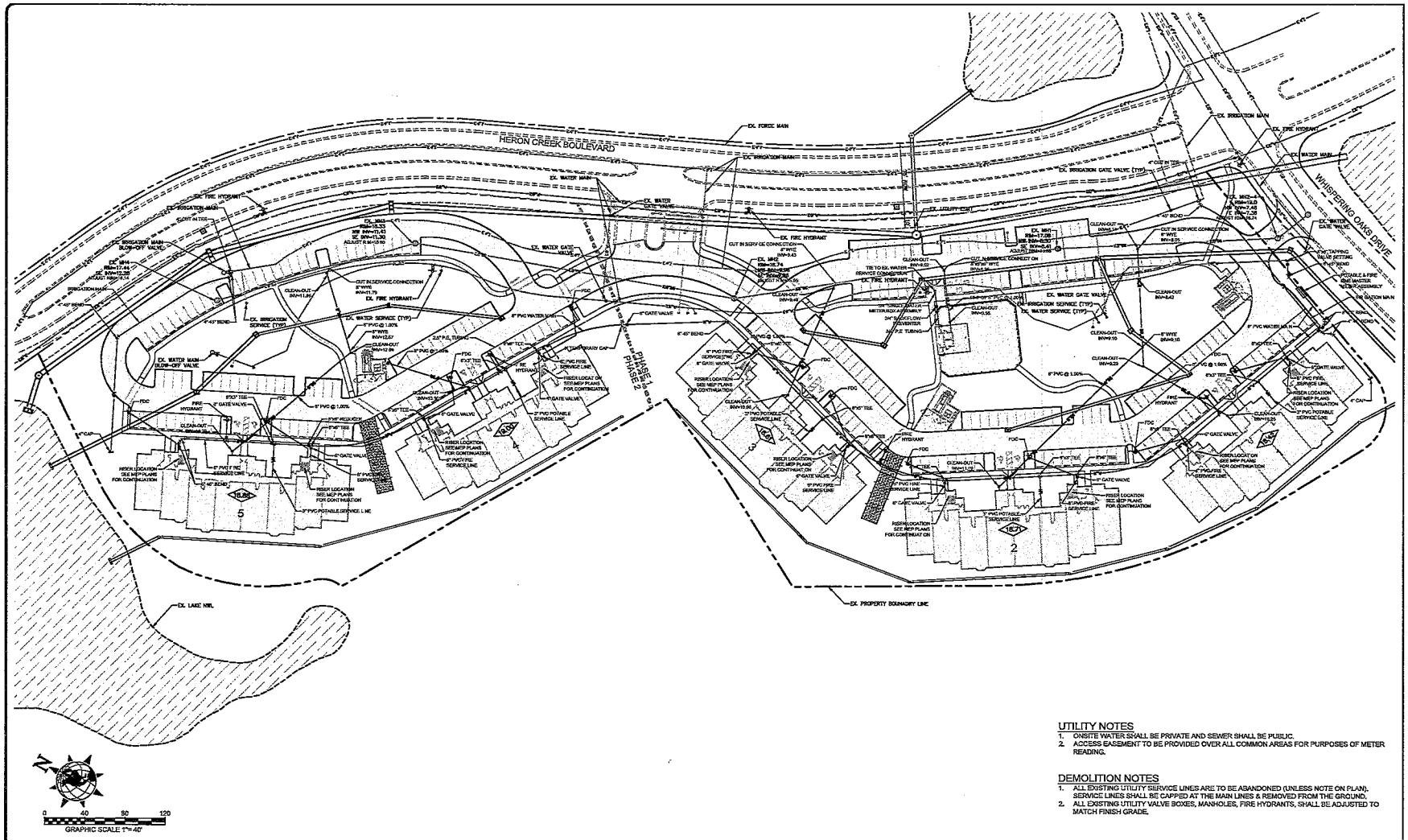
NO. | DATE | REVISION DESCRIPTION | BY

MATTHEW J. MORRIS, P.E. LICENSE NO. 80434

DATE: 08/22/2023
PROJECT NO.:
DRAWING NO.:
DRAWN: TS
CHECKED: MJM

GRADING & DRAINAGE PLAN
HERON CREEK - PARCEL K
NORTH PORT, FLORIDA

SCALE: 1"=50'
SEC.-TWP.-RNG.: 34-39-20
SHEET 6 OF 11



UTILITY NOTES

1. ONSITE WATER SHALL BE PRIVATE AND SEWER SHALL BE PUBLIC.
2. ACCESS EASEMENT TO BE PROVIDED OVER ALL COMMON AREAS FOR PURPOSES OF METER READING.

DEMOLITION NOTES

1. ALL EXISTING UTILITY SERVICE LINES ARE TO BE ABANDONED (UNLESS NOTE ON PLAN). SERVICE LINES SHALL BE CAPPED AT THE MAIN LINES & REMOVED FROM THE GROUND.
2. ALL EXISTING UTILITY VALVE BOXES, MANHOLES, FIRE HYDRANTS, SHALL BE ADJUSTED TO MATCH FINISH GRADE.

PREPARED FOR:

Heron Creek Associates, Ltd.
4524 Southwest 16th Place, Suite 3
Cape Coral, Florida 33904
239-542-1010

MORRIS ENGINEERING AND CONSULTING, LLC
Civil Engineering and Land Development Consulting
2004 51st Avenue East, Bradenton, Florida 34203 C.A.29780 941-228-4729 www.morrisengineering.net

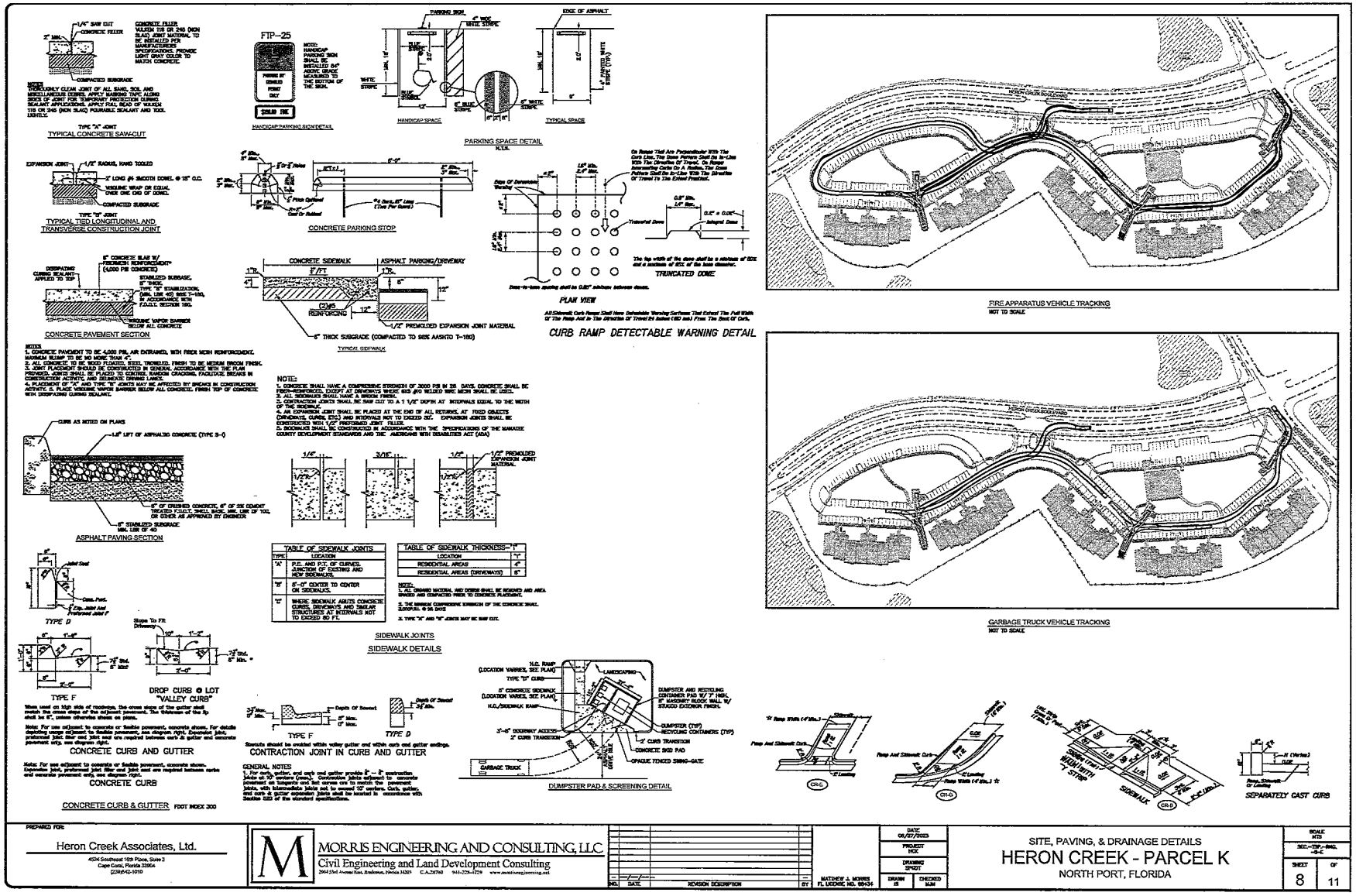
NO.	DATE	REVISION DESCRIPTION	BY

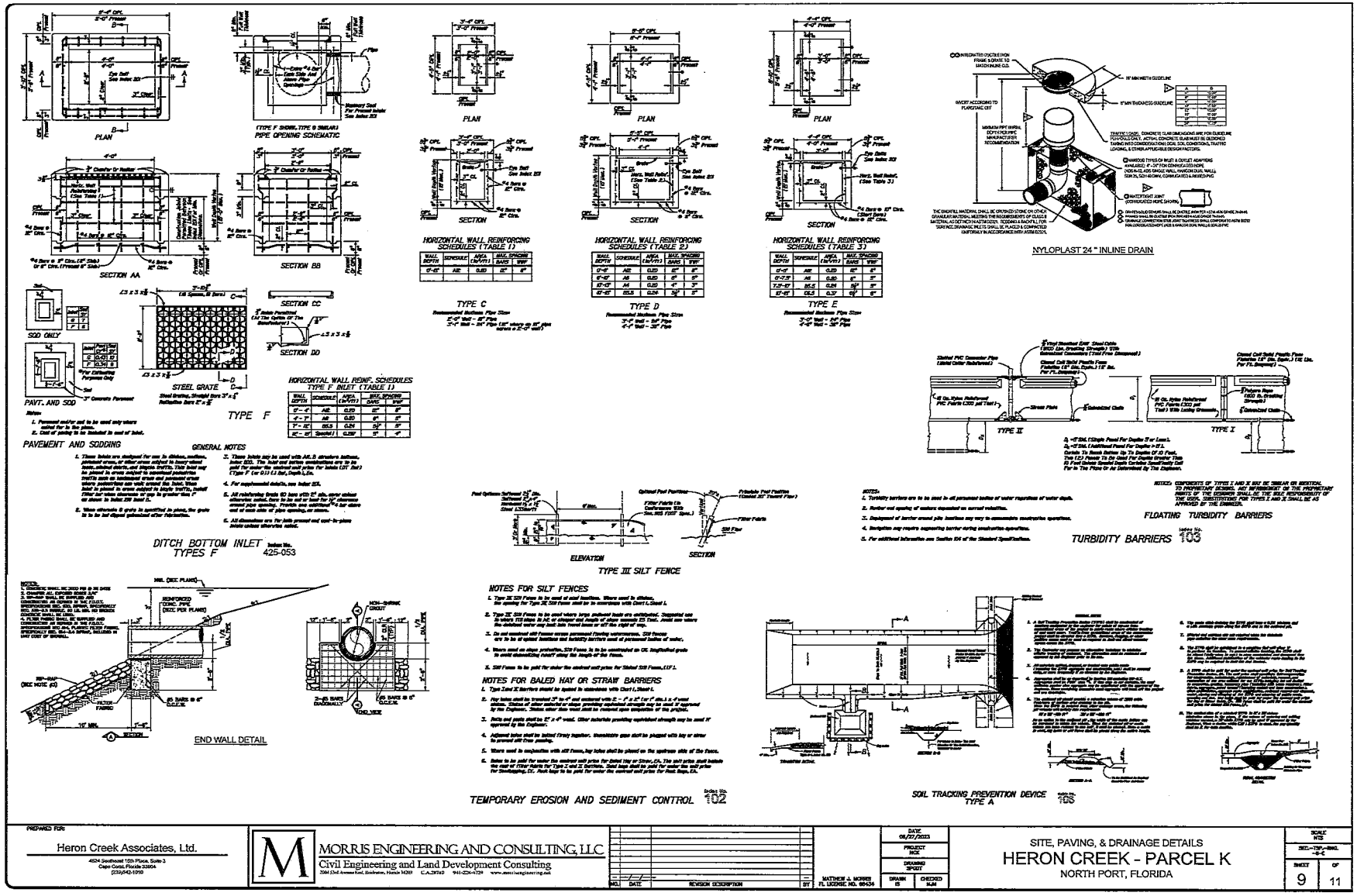
MATTHEW J. MORRIS
FL LICENSE NO. 88434

DATE 06/27/2023
PROJECT HCK
DRAWING UT
DRAWN IS
CHECKED MJM

UTILITY PLAN
HERON CREEK - PARCEL K
NORTH PORT, FLORIDA

SCALE 1"=40'
SEC.-TSP.-RNG. 28-389-21E
SHEET 7 OF 11


TYPICAL CONCRETE SAW-CUT
TYPICAL TIED LONGITUDINAL AND TRANSVERSE CONSTRUCTION JOINT
CONCRETE PAVEMENT SECTION
ASPHALT PAVING SECTION
CONCRETE CURB AND GUTTER
CONCRETE CURB
CONCRETE CURB & GUTTER FDOT INDEX 300
HANDICAP PARKING SIGN DETAIL
PARKING SPACE DETAIL
CONCRETE PARKING STOP
TYPICAL SIDEWALK
CURB RAMP DETECTABLE WARNING DETAIL
PLAN VIEW
TRUNCATED DOME
SIDEWALK JOINTS
SIDEWALK DETAILS
CONTRACTION JOINT IN CURB AND GUTTER
DUMPSTER PAD & SCREENING DETAIL
FIRE APPARATUS VEHICLE TRACKING
NOT TO SCALE
GARBAGE TRUCK VEHICLE TRACKING
NOT TO SCALE
SEPARATELY CAST CURB
PREPARED FOR:
Heron Creek Associates, Ltd.
MORRIS ENGINEERING AND CONSULTING, LLC
Civil Engineering and Land Development Consulting
SITE, PAVING, & DRAINAGE DETAILS
HERON CREEK - PARCEL K
NORTH PORT, FLORIDA
SHEET 8 OF 11



PREPARED FOR:

Heron Creek Associates, Ltd.

4524 Southeast 10th Place, Suite 3
Cape Coral, Florida 33904
(239)542-1910

MORRIS ENGINEERING AND CONSULTING, LLC
Civil Engineering and Land Development Consulting

NO.	DATE	REVISION DESCRIPTION	BY

MATTHEW J. MORRIS
FL LICENSE NO. 66434

DATE 08/27/2023
PROJECT HCK
DRAWING SPOUT
DRAWN IS
CHECKED MJM

SITE, PAVING, & DRAINAGE DETAILS
HERON CREEK - PARCEL K
NORTH PORT, FLORIDA

SCALE NTS
SEC.-TSP.-RNG. -8-E
SHEET 9 OF 11

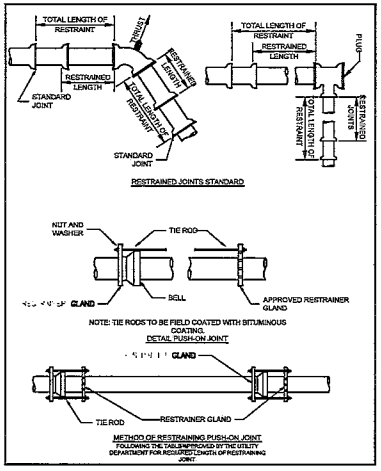


TABLE 1
HORIZONTAL BENDS AND ELBOWS
LENGTH OF RESTRAINED JOINT PIPE (FEET)

NOMINAL PIPE DIAMETER	90° BENDS	45° BENDS	22 1/2° BENDS	11 1/4° BENDS
4	16	6	3	2
6	20	9	4	2
8	26	11	6	3
10	32	13	7	4
12	36	16	8	4
16	47	20	10	5
20	57	24	12	6
24	68	28	13	7
30	73	32	16	9
36	91	38	19	9

TABLE 2
TEES AND WYES

NOMINAL PIPE DIAMETER OF BRANCH PIPE (INCHES)	RESTRAINED LENGTH ALONG BRANCH PIPE (FEET)
4	11
6	21
8	32
10	48
12	65
16	97
20	132
24	166
30	196
36	253

TABLE 3
REDUCERS

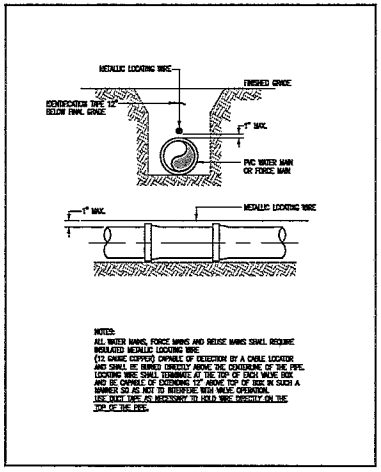
NOMINAL PIPE DIAMETER		RESTRAINED LENGTH ALONG PIPE (FEET)
LARGE END (INCHES)	SMALL END (INCHES)	
6	4	33
8	6	32
10	4	91
10	6	91
10	8	34
12	4	103
12	6	89
12	8	63
12	10	35
16	12	65
20	16	66
24	20	64
30	24	54
36	30	95

TABLE 4
DEAD ENDS AND VALVES

NOMINAL PIPE DIAMETER (INCHES)	RESTRAINED LENGTH ALONG PIPE (FEET)
4	45
6	63
8	83
10	160
12	116
16	183
20	197
24	220
30	287
36	313

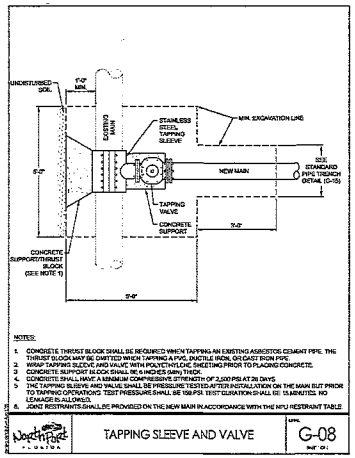
NOTES: (ALL TABLES)
1. ALL FITTINGS SHALL HAVE RESTRAINED JOINTS UNLESS OTHERWISE NOTED.
2. ALL PIPE SHALL BE RESTRAINED IN ACCORDANCE WITH THESE TABLES OR PER THE PLANS, WHICHEVER IS GREATER.
3. WHERE TWO OR MORE FITTINGS ARE TOGETHER, RESTRAIN JOINTS IN ACCORDANCE WITH FITTING WHICH YIELDS GREATEST LENGTH OF RESTRAINED PIPE.
4. RESTRAINT TABLES APPLY TO TEST PRESSURE OF 150 PSI OR LESS.
5. FOR PIPE ENCASED IN POLYETHYLENE, INCREASE THE GIVEN VALUES BY A FACTOR OF 1.5.
6. LENGTH OF RESTRAINED PIPE INDICATED IN TABLES 1 & 4 SHALL BE THE LENGTH OF PIPE ON EACH SIDE OF VALVE OR FITTING.
7. LENGTH OF RESTRAINED PIPE INDICATED IN TABLE 2 SHALL BE THE LENGTH OF PIPE ALONG BRANCH OF PIPE. PIPE ON BOTH SIDES OF BRANCH SHALL HAVE A MINIMUM LAYING LENGTH OF 18 FEET.
8. LENGTH OF RESTRAINED PIPE INDICATED IN TABLE 3 SHALL BE THE LENGTH OF PIPE ON LARGE END.

	RESTRAINT TABLE	G-02



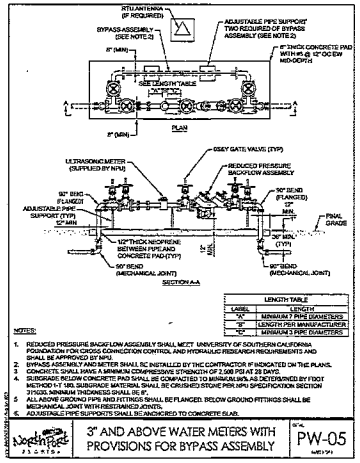
NOTES:
ALL WATER MAINS, FORCE MAINS AND RECLAIM MAINS SHALL REQUIRE INSULATED METALLIC LOCATING WIRE (12 GAUGE COPPER) CAPABLE OF DETECTION BY A CABLE LOCATOR AND SHALL BE RUNNED DIRECTLY ABOVE THE CENTERLINE OF THE PIPE. LOCATING WIRE SHALL TERMINATE AT THE TOP OF EACH VALVE BOX AND BE CAPABLE OF EXTENDING 12" ABOVE TOP OF BOX IN SUCH A MANNER SO AS NOT TO INTERFERE WITH VALVE OPERATION. USE DUCT TAPE AS NECESSARY TO HOLD WIRE DIRECTLY ON THE TOP OF THE PIPE.

	TYPICAL VALVE AND CONCRETE COLLAR	G-03



NOTES:
1. CONCRETE THRUST BLOCK SHALL BE REQUIRED WHEN TAPPING AN EXISTING ASBESTOS CEMENT PIPE. THE THRUST BLOCK MAY BE OMITTED WHEN TAPPING A PVC, DUCTILE IRON, OR CAST IRON PIPE.
2. WRAP TAPPING SLEEVE AND VALVE WITH POLYETHYLENE SHEETING PRIOR TO PLACING CONCRETE.
3. CONCRETE SUPPORT BLOCK SHALL BE 6 INCHES (MIN) THICK.
4. CONCRETE SHALL HAVE A MINIMUM COMPRESSIVE STRENGTH OF 3,000 PSI AT 28 DAYS.
5. THE TAPPING SLEEVE AND VALVE SHALL BE PRESSURE TESTED AFTER INSTALLATION ON THE MAIN BUT PRIOR TO TAPPING OPERATIONS. TEST PRESSURE SHALL BE 150 PSI. TEST DURATION SHALL BE 15 MINUTES. NO LEAKAGE IS ALLOWED.
6. JOINT RESTRAINTS SHALL BE PROVIDED ON THE NEW MAIN IN ACCORDANCE WITH THE NPU RESTRAINT TABLE

	TAPPING SLEEVE AND VALVE	G-08

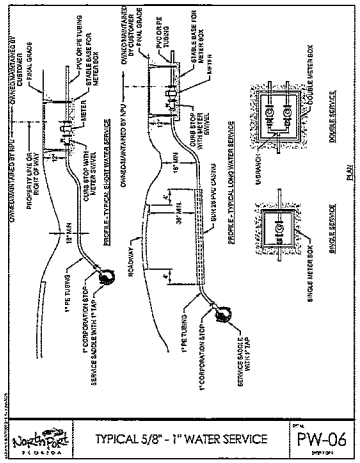


LENGTH TABLE

LABEL	LENGTH
"X"	MINIMUM 7 PIPE DIAMETERS
"S"	LENGTH PER MANUFACTURER
"W"	MINIMUM 3 PIPE DIAMETERS

NOTES:
1. REDUCED PRESSURE BACKFLOW ASSEMBLY SHALL MEET UNIVERSITY OF SOUTHERN CALIFORNIA FOUNDATION FOR CROSS CONNECTION CONTROL AND HYDRAULIC RESEARCH REQUIREMENTS AND SHALL BE APPROVED BY NPU.
2. BYPASS ASSEMBLY AND METER SHALL BE INSTALLED BY THE CONTRACTOR IF INDICATED ON THE PLANS.
3. CONCRETE SHALL HAVE A MINIMUM COMPRESSIVE STRENGTH OF 3,000 PSI AT 28 DAYS.
4. SUBGRADE BELOW CONCRETE PAD SHALL BE COMPACTED TO MINIMUM 98% AS DETERMINED BY FDOT METHOD 1-T 180. SUBGRADE MATERIAL SHALL BE CRUSHED STONE PER NPU SPECIFICATION SECTION 315030. MINIMUM THICKNESS SHALL BE 8".
5. ALL ABOVE GROUND PIPE AND FITTINGS SHALL BE FLANGED. BELOW GROUND FITTINGS SHALL BE MECHANICAL JOINT WITH RESTRAINED JOINTS.
6. ADJUSTABLE PIPE SUPPORTS SHALL BE ANCHORED TO CONCRETE SLAB.

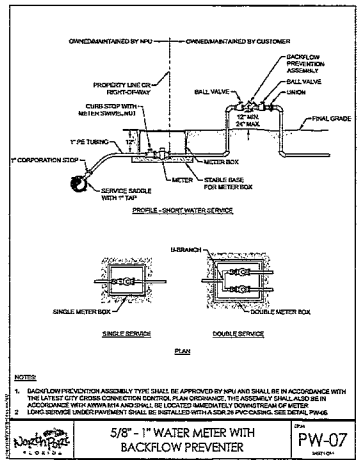
	3" AND ABOVE WATER METERS WITH PROVISIONS FOR BYPASS ASSEMBLY	PW-05



NOTES:
1. WHERE THE OPERATING NUT IS GREATER THAN 48 INCHES BELOW THE TOP OF THE VALVE BOX, AN EXTENSION STEM AND ALIGNMENT RINGS SHALL BE PROVIDED TO BRING THE OPERATING NUT TO BETWEEN 6 AND 30 INCHES BELOW THE TOP OF THE VALVE BOX.

	TYPICAL VALVE AND CONCRETE COLLAR	G-03

	TYPICAL 5/8" - 1" WATER SERVICE	PW-06



NOTES:
1. BACKFLOW PREVENTION ASSEMBLY TYPE SHALL BE APPROVED BY NPU AND SHALL BE IN ACCORDANCE WITH THE LATEST CITY CROSS CONNECTION CONTROL PLAN ORDINANCE. THE ASSEMBLY SHALL ALSO BE IN ACCORDANCE WITH AWWA 6014 AND SHALL BE LOCATED IMMEDIATELY DOWNSTREAM OF METER
2. LONG SERVICE UNDER PAVEMENT SHALL BE INSTALLED WITH A SDR 26 PVC CASING. SEE DETAIL PW-05

	5/8" - 1" WATER METER WITH BACKFLOW PREVENTER	PW-07

PREPARED FOR:
Heron Creek Associates, Ltd.
4524 Southeast 10th Place, Suite 3
Cape Coral, Florida 33904
239-542-1010

MORRIS ENGINEERING AND CONSULTING, LLC
Civil Engineering and Land Development Consulting
2001 53rd Avenue East, Bradenton, Florida 34203 C.A. 29269 941-228-6329 www.morrisengineering.net

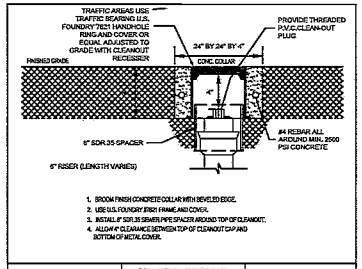
NO.	DATE	REVISION DESCRIPTION	BY

MATTHEW J. MORRIS FL LICENSE NO. 69434

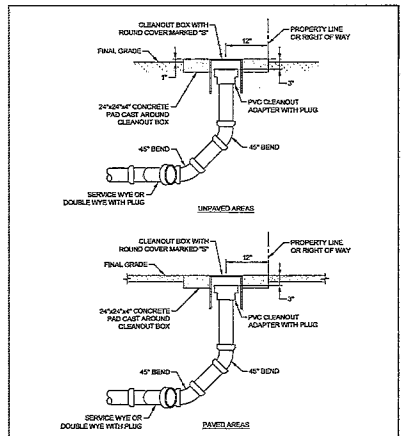
DATE 09/07/2023
PROJECT HCK
DRAWING U7207W
DRAWN JS
CHECKED MJM

UTILITY DETAILS - POTABLE WATER
HERON CREEK - PARCEL K
NORTH PORT, FLORIDA

SCALE —
SEC.-TSP.-RNG. 28-39S-22E
SHEET 10 OF 11

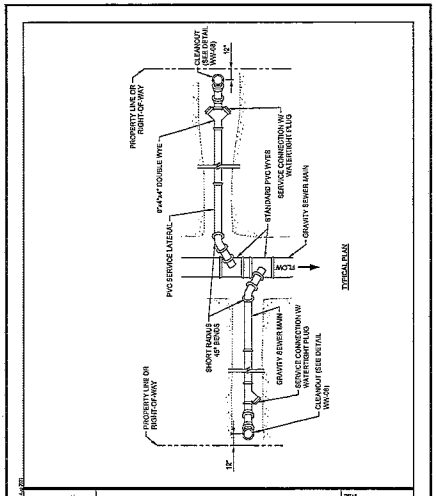


TRAFFIC BEARING SANITARY SEWER CLEAN OUT

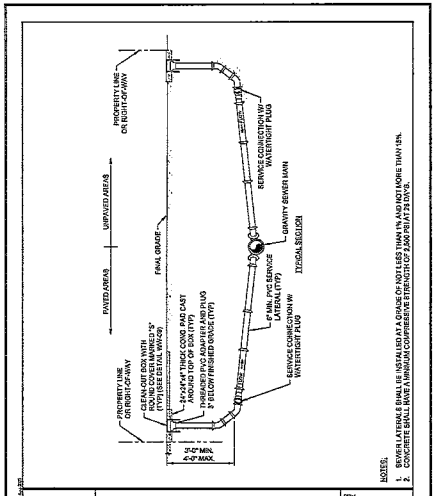


NOTES:
1. CONCRETE SHALL HAVE A MINIMUM COMPRESSIVE STRENGTH OF 2,500 PSI AT 28 DAYS.

TYPICAL SEWER SERVICE CLEANOUT — WW-09



TYPICAL RESIDENTIAL SEWER SERVICE WITH CLEANOUT — WW-06



NOTES:
1. SEWER LATERALS SHALL BE INSTALLED AT A GRADE OF NOT LESS THAN 1% AND NOT MORE THAN 15%.
2. CONCRETE SHALL HAVE A MINIMUM COMPRESSIVE STRENGTH OF 2,500 PSI AT 28 DAYS.

TYPICAL RESIDENTIAL SEWER SERVICE WITH CLEANOUT — WW-06

PREPARED FOR:
Heron Creek Associates, Ltd.
4524 Southwest 16th Place, Suite 3
Cape Coral, Florida 33904
239-542-1010

MORRIS ENGINEERING AND CONSULTING, LLC
Civil Engineering and Land Development Consulting
2004 53rd Avenue East, Bradenton, Florida 34203 C.A.-28780 941-228-4729 www.morrisengineering.net

NO.	DATE	REVISION DESCRIPTION	BY

MATTHEW J. MORRIS
FL LICENSE NO. 66434

DATE 08/27/2013
PROJECT HCK
DRAWING UTILITIES
DRAWN IS
CHECKED MJM

UTILITY DETAILS - SANITARY SEWER
HERON CREEK - PARCEL K
NORTH PORT, FLORIDA

SCALE -
SEC.-TSP.-RNG. 29-385-21E
SHEET 11 OF 11

Traffic Impact Statement
Heron Creek Unit 12 (Parcel K) – Heron Creek Boulevard

Based on the Institute of Transportation Engineers Trip Generation, 11th Edition, 2008.

Proposed Land Use: LUC 230 residential Condominium/Townhouse (150 Units)

- Average Vehicle Trip Ends on a weekday vs. dwelling units
  150 Units *6.74 Trips/Unit = 1011 2-Way Trip Ends
  entering = 50% = 506
  exiting = 50% = 505

- Average Vehicle Trip Ends on a weekday, a.m. peak hour of generator vs. dwelling units

entering = 17	Right turn = 48% = 8	Left turn = 52% = 9
exiting = 54	Right turn = 52% = 28	Left turn = 48% = 26

- Average Vehicle Trip Ends on a weekday, p.m. peak hour of generator vs. dwelling units

entering = 53	Right turn = 48% = 25	Left turn = 52% = 28
exiting = 32	Right turn = 52% = 17	Left turn = 48% = 15

Traffic Mitigation Plan:

- Heron Creek Boulevard is classified as a private local roadway with a posted speed limit of 15 m.p.h. Traffic is controlled through stop signs and stop bars. Off-site impacts have been addressed through the Traffic portion of the Heron Creek D.R.I. Development Order.

- **Acceleration lane:**
  Only required on high speed facilities which are posted 40 m.p.h. or more and which have a significant traffic volume. Since this is a low speed facility and a low traffic volume, an acceleration lane is not required.

- **Deceleration and left turn lane (local street):**
  1) The posted speed is less than 30 m.p.h. (15 m.p.h)
  2) There are less than 60 left turning vehicles from the two lane local street during a.m. or p.m. peak hour, there are less than 500 opposing through traffic during a.m. or p.m. peak hour.
  3) The available sight distance for a left turning vehicle or approaching vehicle is not less than the value 125' for the posted speed limit.
  4) Access control is not an applicable warrant in this case.
  5) Traffic control: The intersecting street or access point driveway is not controlled by a traffic signal (stop signs and stop bars are used).

  Therefore, a deceleration and left turn lane is not required.

- **Separate left turn lane (local street):**
  1) The posted speed limit is less than 30 m.p.h. (15 m.p.h.)
  2) There are less than 90 left turning vehicles from the intersection street or access point driveway during either a.m. or p.m. peak hour
  3) Available sight distance is not an applicable warrant in this case.
  4) Access control is not an applicable warrant in this case.
  5) There is not an intersecting street or access point driveway controlled by a traffic signal (stop signs and stop bars used).

  Therefore, a separate left turn lane is not required.

- **Deceleration and right turn lane (local street):**
  1) The posted speed limit is less than 30 m.p.h. (15 m.p.h.)
  2) The number of right turning movements from the local street is less than 60 during either the a.m. or p.m. peak hour.
  3) If the available sight distance for a right turning vehicle to be seen by through traffic traveling in the same direction is not less than 125'.
  4) Access control is not an applicable warrant in this case.
  5) There is no intersecting street or access point driveway controlled by a traffic signal (stop signs and stop bars used).

  Therefore, a deceleration and right turn lane is not required.

- **Separate right turn lane (local street):**
  1) The posted speed limit is less than 30 m.p.h. (15 m.p.h.)
  2) The number of right turning vehicles from the access point driveway is less than 120 during either the a.m. or p.m. peak hour
  3) Available sight distance is not an applicable warrant in this case.
  4) Access control is not an applicable warrant in this case.
  5) Traffic control
     i) Intersecting street or access point driveway is not controlled by a traffic signal.
     ii) An acceleration lane is not provided on the local street and the right turn movement is controlled by a yield or stop sign.

  Therefore, a separate right turn lane is not required.

With regard to the left-turn lane, there is even less of an impact (15 additional north-bound left-turns), therefore we would propose that the current left turn lane is sufficient.

I certify that this Traffic Impact statement for Heron Creek Unit 12 (Parcel K) was prepared by me, or under my direct supervision.

Matthew J. Morris, P.E.
FL PE No. 68434

From: Nicole Galehouse
Sent: Tuesday, March 17, 2020 4:55 PM
To: Ronald York <ron@nationallandgroup.net>; Jim Bevillard <jim@nationallandgroup.net>
Cc: Everett Farrell <efarrell@cityofnorthport.com>; Frank Miles <fmiles@cityofnorthport.com>; Jason Yarborough <jyarborough@cityofnorthport.com>; Peter Lear (plear@cityofnorthport.com) <plear@cityofnorthport.com>
Subject: Heron Creek Meeting Recap

Ron & Jim,

Thank you for coming in to meet with us today. I think it was great for us to sit down and go over what your plans are so we're all on the same page moving forward. I wanted to provide a brief recap of the meeting for follow-up purposes.

- The Assisted Living Facility is categorized under general office. You will provide us with an updated land use matrix for the project file to account for the adjustment in land uses. As I mentioned, I would encourage close communication with our engineering team to ensure that any changes in use do not exceed the original permitted number of trips for the DRI. I have attached both of their cards for your convenience.
- Planning will look for the original approvals related to Parcel K and determine a clear path to move forward with development of that project.
- In order to evaluate a potential reduction in number of holes on the course, Planning will run the fiscal impact model for 100 acres of golf course, multi-family, and single-family to see what the different impact is for each type.
- Planning will be submitting a legal request in relation to the uses on Map H for the SW quadrant of the project, with our attorney coordinating with yours for history. We will determine if the change can be identified as a scrivener's error or if it needs to be included in a DO change if multi-family is desired on that site.
- Planning is working with Building, Finance, and IT to run a report on total transportation impact fees paid within the development. Once you receive this, you will provide us with the 2016-2018 annual monitoring report.
- We discussed the scrub jay issue, and made you aware that Commission has directed enforcement of the original provisions. In our conversation, you indicated that the City was supposed to be a partner in the management of the habitat, and are going to look through your files for this documentation. You are also going to look into the boundaries further and potentially get the data that we can overlay on property lines or other GIS features.

As we discussed, the DRI with current extensions expires on September 28, 2021. The intention is to continue the DRI through to buildout. In order to achieve that, you will be preparing an NOPC (or other amendment if staff determines a different process applies) for submittal to the City in early 2021 unless any additional state of emergencies apply to extend the project further.

Please let me know if there is anything I missed. I will be reaching out to you on these items in the coming weeks. I look forward to working with you on the continued development and buildout of the DRI.

Nicole Galehouse, AICP
Planning Division Manager

Neighborhood Development Services Department
Planning Division
4970 City Hall Blvd.
North Port, FL 34286
O 941.429.7098
M 941.228.8879

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Bryant
Miller
Olive

Attorneys at Law
One Tampa City Center
Suite 2700
Tampa, FL 33602
Tel 813.273.6677
Fax 813.223.2705
www.bmolaw.com

October 15, 2021

VIA PDF EMAIL

Amber L. Slayton, Esq., City Attorney
City of North Port
4970 City Hall Boulevard
North Port, Florida 34286
aslayton@cityofnorthport.com

Re: Heron Creek Land Use and Conversion Tables

Dear Amber:

You have requested that we provide the City of North Port ("City") with a written opinion on whether the Land Use Table contained in section 3.0 of Ordinance 2011-033 may be modified by the Developer to allow the transfer of land use entitlements from one phase to another phase.

I. Background

In responding to your request, we have reviewed the following materials provided by the City:

- Ordinances 2000-13, 2005-28, 2006-46, 2011-33, 2013-16;
- Resolution 01-R-5;
- Various emails and applications provided by the City;
- Biennial Status Report for Heron Creek (November 1, 2018 – October 31, 2020;
- September 7, 2021 letter from Dan Lobeck with attachments;

- September 20, 2021 letter from Morgan Bentley with documents referenced therein; and
- September 30, 2021 letter from Dan Lobeck with attachments;

A. Ordinance 2011 -33

On September 11, 2000, the City Commission ("Commission") adopted Ordinance 2000-13 as the development order for Heron Creek, a development of regional impact ("DRI"). Throughout time, this development order has been amended several times. On March 10, 2010, the developer requested to update Map H with existing and proposed development, address affordable house stipulations, revise the current stipulations relating to the proposed pathway along the Myakkahatchee Creek, and propose a land use conversion matrix that would allow the developer to convert approved uses from one area to another without increase in external impacts. Specifically, in the Notice of Proposed Change ("NOPC") that the developer revised in August of 2011, the developer explains that, due to changing market conditions in commercial development, the developer proposed a conversion matrix that would provide the developer flexibility in meeting the needs of the City and demands of the real estate market. The conversion matrix also demonstrates how residential, retail, offices and medical offices can be converted through the local development order process without exceeding thresholds that would trigger a substantial deviation to the DRI. The applicant proposed no change to the development intensity or the buildout or phasing dates of the project. On January 9, 2012, the Commission adopted Ordinance 2011-33 as the development order for Heron Creek ("Development Order").

The Development Order specifically provides the following:

> 3.01 The amended ADA for Heron Creek DRI is hereby approved for the following land uses and phases, and land use conversion matrix subject to the conditions contained herein consistent with the revised Map H (attachment 3 of the DO), and is subject to the other provisions of the Development Order (including Attachment 4 of DO):

Land Use	Phase I (97-2001)	Phase II (02-2006)	Phase III (07-2011)	Phase IV (12-2017)
Residential Single Family	275 DU	377 DU	251 DU	

(LUC 210)				
Residential Multifamily (LUC 220)	125 DU		175 DU	
Golf Course (LUC 430)	18 holes	9 holes		
Tennis Club (LUC 492)		5 Courts		
Medical/Professional (LUC 720)			43,000 GLA	
Office General (LUC 710)			40,000 GLA	
Retail Shopping Center (LUC 820)	90,000 GLA	30,000 GLA	488,000 GLA	137,500 GLA

The Land Use Table, as specified above, may be modified by the Developer without further amendment to this Development Order, subject to the following:

a) This transfer or conversion may occur subject to the following conversion table: *(The conversion table showing conversion from and to each land use in the land use table is omitted from this letter due to space constraints but can be found in section 3.01 of the Development Order).*

b) The transfer or conversion may occur provided that: 1) the external trips approved for the DRI remain the same and 2) no additional impact will occur to other public facilities (such as sewer and water). Further, no alteration to the Map H may occur as a result of the conversion.

c) Forty-Five (45) day notice of any conversion must be provided to the City, the Department of Economic Opportunity, Division of Community Planning and Development, and the Southwest Florida Regional Planning Council. In addition, the amount of the conversion must be reported as part of the subsequent monitoring report and petition to develop. When a petition to develop which includes a transfer or conversion of land use is submitted to the City, proof that no adverse impact is being caused by the transfer or conversion or any combination thereof must be provided.

> d) The transfer of conversion does not increase the allotted number of units on any particular parcel to a level above what is permitted in the DRI or the City of North Port Land Development Code and does not exceed the substantial deviation criteria of subsection 380.06(19)(b), F.S.

Regarding the conversion matrix, the Development Order included the Sufficiency Comments from the Developer that explained how the proposed conversion matrix was established to ensure there would be no impact to the regional transportation system when converting units. The City had expressed concern that the proposed conversion matrix could permit a greater number of housing units than was allowed within any zoning district and the Developer agreed with proposed restrictive language to alleviate the City's concern. Additionally, the Developer attached a Technical Memorandum from Tindale, Oliver, and Associates, which established the methods and background information for the conversion table estimates. Specifically, the conversion rates were determined by comparing the previously approved Phases 1-3 development program and corresponding external trip generation, to a proposed development program. The proposed development program would provide for additional retail entitlements concurrent with a decrease in or "trade-off" of other entitled uses (i.e. office and residential). As approved, the entitlements of the Heron Creek DRI were estimated to generate approximately 2,804 net external trips during the PM peak hour. The conditions of the Development Order limit development based on external trips, with improvements conditioned at various trip milestones. The analysis determined that an updated development mix, incorporating additional retail entitlements, would not result in additional net external trip generation from the DRI and provided the following example to demonstrate:

> An additional 245 ksf of retail is estimated to increase net external trip generation by 513 vehicles per hour or 2.095 vehicles per hour/per ksf. The multi-family decrease of 767 dwelling units is estimated to decrease net external trip generation by the site by 372 vph, or .486 vehicles per dwelling unit. Therefore 2.095/.486 = 4.31 multi-family dwelling units trade-off for 100 square feet for retail.

As explained in the Technical Memorandum, the intent of the change to the Development Order was not to eliminate any intended land uses from development, but rather to allow for the reallocation of the quantities that are approved based on changes in the market demand

The Development Order recognizes some of the land use entitlements have been developed (i.e. a grocery store) and improvements made (i.e. bus shelters and roads) while other land use entitlements from earlier, expired phases remain undeveloped (i.e. the Development Order recognizes that building permits for Phase II have not been issued and requires payment of application fees before their issuance even though the phase has expired)[1]. The City is responsible for enforcement of the Development Order and the Development Order remains in effect until December 31, 2017, which is also the build out date. The Development Order further provides that the DRI shall not be subject to down-zoning, unity density reduction, or intensity reduction prior to December 31, 2017, unless the City of North Port can demonstrate that substantial changes in the conditions underlying the approval of the Development Order have occurred or that the Development Order was based on substantially inaccurate information provided by the developer, or the change is essential to the public health, safety, or welfare. Pursuant to information from City Staff and based on declarations of the state of emergency, the City subsequently extended the Development Order Phase IV and buildout date to March 9, 2024.

B. Ordinance 2013 -16

On October 14, 2013, the Commission enacted Ordinance 2013-16, which amended Section 4.10 of Ordinance 2011-33. This amendment provided for an additional local condition, where prior to any certificate of occupancy for any development beyond 286,000 gross square feet of development within the 84-acre parcel located at the southeast quadrant of Price and Sumter, the developer must construct an eight-foot-wide sidewalk including a pedestrian bridge over the Blueridge Waterway, if determined necessary by the City. At the time Ordinance 2011-33 was enacted, the developer had only received approval for the development of a 3,890 gross square feet McDonald's on the 84-acre parcel.

C. Subsequent Correspondence

On February 22, 2021, the City's Interim City Manager, sent a letter to the Developer regarding failure to comply with conditions of approval for Heron Creak DRI. Attached to that letter, the City listed 10 conditions where action was required. Two of the conditions were: 1) a biennial report was delinquent and 2) while the land use phasing

[1] Those fees were subsequently paid and building permits obtained nine months after the Development Order was approved.

chart with conversion matrix "is not out of date; ... staff would just like to take this opportunity to note that the applicant has utilized this condition to transfer the undeveloped land uses into Phase IV."

Subsequently, the Developer filed its biennial status report for Heron Creek for the period of November 1, 2018 to October 31, 2020 ("Biennial Report"). The Biennial Report identified that the extension of the buildout date was granted during reporting period and minor changes to phasing dates and development allocation have been made as shown below.

Land Use	Phase I (97-2001)		Phase II (02-2006)		Phase III (07-2011)		Phase IV (12-2021)	
	Proposed	Actual	Proposed	Actual	Proposed	Actual	Proposed	Actual*
Residential Single Family (LUC 210)	~~275 DU~~ 376 DU	376 DU	~~377 DU~~ 457 DU	457 DU	~~251 DU~~		70 DU	
Residential Multifamily (LUC 220)	~~125 DU~~				~~175 DU~~		300 DU	133 DU
Golf Course (LUC 430)	18 holes	18 holes	9 holes	9 holes				
Tennis Club (LUC 492)			5 Courts	5 Courts				
Medical/Professional (LUC 720)					~~43,000 GLA~~		43,000 GLA	20,070 GLA
Office General (LUC 710)					~~40,000 GLA~~		40,000 GLA	
Retail Shopping Center (LUC 820)	~~90,000 GLA~~ 68,075 GFA	68,075 GFA	~~30,000 GLA~~ 34,240 GFA	34,240 GFA	~~488,000 GLA~~ 3,890 GFA	3,890 GFA	~~137,500 GLA~~ 639,295 GLA	102,374 GLA

*Staff provided the actual development in Phase IV to be 197 DU MF; 31,452 GLA medical; and 90,744 GLA retail.

Pursuant to Ordinance 2011-33, the total land use approved is 903 Single Family Residential units, 300 Multi-family unit, 27 Holes of Golf, 5 Tennis Courts, 43,000 SF of Medical/Professional, 40,000 SF of General Office and 745,500 SF of Retail Shopping

Center. Pursuant to the Biennial Report, the total land use constructed is 833 Single Family Residential units, 133 Multi-family units (48 independent living units and 169 ½ Continuing Care units), 27 Holes of Golf, 5 Tennis Courts, 20,070 SF of Medical/Professional, 0 SF Office General, and 206,579 SF of Retail Shopping Center.

The Developer submitted an application for development under Phase IV and the application caused the City to ask whether the Land Use Table contained in section 3.0 of Ordinance 2011-033 may be modified by the Developer to allow the transfer of land use entitlements from one phase to another phase. It's worth noting that neither "transfer" nor "conversion" are defined terms in the City's Code, or the applicable Ordinances described above.

II. Interpreting Development Orders

A development order shall be interpreted using the fundamental principles applicable to statutes and ordinances. *Trafalgar Woods Homeowners Assn., Inc. v. City of Cape Coral*, 248 So. 3d 282, 284 (Fla. 2d DCA 2018). Hence, where the language of a development order is plain and unambiguous, there is no room for construction or interpretation, and the effect of the development order must be determined according to the literal meaning of the language therein. *Killearn Properties, Inc. v. Dept. of Community Affairs*, 623 So. 2d 771, 775 (Fla. 1st DCA 1993); *Rinker Materials Corp. v. City of N. Miami*, 286 So. 2d 552, 553–54 (Fla. 1973). When a code does not define a term, Courts have turned to the dictionary meaning to find the plain and ordinary meaning of undefined terms. *Town of Longboat Key v. Islandside Prop. Owners Coal., LLC*, 95 So. 3d 1037, 1041 (Fla. 2d DCA 2012). However, Courts will not give an ordinance a literal interpretation that would produce an unreasonable or ridiculous conclusion. *License Acquisitions, LLC v. Debary Real Est. Holdings, LLC*, 155 So. 3d 1137 (Fla. 2014); *State v. Brogden*, 84 Fla. 520, 524, 94 So. 653, 654 (1922) ("While it is desirable that ordinances should be free from doubt, the court should strive so to construe them as to give reasonable effect to the object aimed at. Scrutiny unreasonably rigid will not be resorted to in considering the meaning of ordinances.")

In cases of ambiguity or doubt the meaning of the development order, courts are required to give effect to every word, phrase, sentence, and part of the ordinance, if possible, and words in an ordinance should not be construed as mere surplusage. *State v. Knighton*, 235 So. 3d 312 (Fla. 2018). Related provisions must be read together to achieve a consistent whole, and where possible, courts must give full effect to all ordinance provisions and construe related ordinance provisions in harmony with one another. *Id.*

Further, Courts generally may not insert words into municipal ordinances in order to express intentions which do not appear and must give to an ordinance the plain and ordinary meaning of the words employed by the City Commission. *Rinker Materials Corp. v. City of N. Miami*, 286 So. 2d 552, 553–54 (Fla. 1973). Courts are required to resolve doubts in the interpretation of an ordinance in a manner that will render the ordinance valid. *Lee Cty. v. Lippi*, 693 So. 2d 686, 689 (Fla. 2d DCA. 1997). The development order must be determined by that which preceded it and that which it was intended to execute. *MCZ/Centrum Flamingo II, LLC v. City of Miami Beach*, 08-22419-CIV, 2009 WL 10700922, at *17 (S.D. Fla. Aug. 12, 2009). If a development order cannot be interpreted from the language in the order itself, the entire record may be examined and considered for the purpose of interpreting the development order and determining its operation and effect. *Id.* Furthermore, deference is owed to a city commission's interpretation of its own rules and regulations "so long as its interpretation is based on a permissible construction." *Am. C.L. Union of Fla., Inc. v. Miami-Dade Cty. Sch. Bd.*, 557 F.3d 1177, 1228 (11th Cir. 2009). The city's interpretation of its own regulation is not only based on a permissible construction, but it may also be the only reasonable interpretation of that regulation. *Id.* Intent of the city commission in enacting a zoning ordinance is to be determined primarily from the language of ordinance itself and not from conjecture aliunde. *Rinker Materials Corp. v. City of N. Miami*, 286 So. 2d 552 (Fla. 1973). Since zoning regulations are in derogation of private rights of ownership, words used in a zoning ordinance should be given their broadest meaning when there is no definition or clear intent to the contrary and the ordinance should be interpreted in favor of the property owner. *Id.*

III. Legal Analysis

The Development Order is clear and unambiguous as to the total amount of land use that was approved for the site, the phases that were planned, and the ability of the Developer to modify the Development Order without further amendment of the Development Order, subject to the conditions of transfer or conversion. The Development Order was adopted in 2012, when the development was already in Phase IV. At that time, according to the Land Use Table, the Development Order approved 137,500 SF of retail. This is also when the conversion matrix was first included in the Development Order. The conversion matrix allows for each of the undeveloped land uses to be converted to one of the other uses. (Note: At that time, the Golf Course and Tennis Club land uses were completed and were not included in the conversion matrix). The Development Order also specifies that the Land Use Table may be modified by the Developer without amendment to the Development Order so long as the 4 conditions of transfer or conversion are followed. The Development Order specifically says, "transfer

or conversion." This indicates that these terms have different meanings as related to the Development Order. It also is commonly understood that "conversion" and "transfer" are distinct terms. Several dictionaries define the words as follows:

- Transfer – to cause to pass from one to another, Merriam-Wester, https://www.merriam-webster.com/dictionary/transfers; to move from one place to another; to move something/somebody from one place to another, Oxford Learner's Dictionaries, https://www.oxfordlearnersdictionaries.com/us/definition/english/transfer_1?q=transfer
- Conversion - the act of converting: the process of being converted; to change from one form or function to another, Merriam-Wester, https://www.merriam-webster.com/dictionary/converison; the act or process of changing something from one form, use or system to another, Oxford Learner's Dictionaries, https://www.oxfordlearnersdictionaries.com/us/definition/english/conversion?q=Conversion

Hence, the Development Order provides that the Developer may modify the Land Use Table by either: 1) converting land uses, meaning changing from one land use to another; or 2) transferring land uses, meaning moving land uses from one phase to another, in the Land Use Table. Any such modification, again, is subject to the four conditions of transfer or conversion. Therefore, it is clear from the plain, unambiguous commonly understood language of the Development Order taken in whole, that the Developer is permitted to transfer land uses amongst the phases so long as the four conditions of transfer or conversion are met.

Moreover, both the City, through enforcing its Development Order, and the Developer through its actions, have continually interpretated the Development Order to mean that the Developer could transfer land uses in the Land Use Table from one phase to another so long as the four conditions of transfer or conversion were met. This is demonstrated in numerous ways. First, the City approved 197 DU of multi-family, 31,452 GLA of medical and 90,744 GLA of retail for construction after the Development Order was entered into in 2012. This necessarily required a recognition that the Developer could transfer land uses from one phase to another. The Developer continues to apply for development of more retail and to reinstate approval of 180 multi-family units.

Additionally, more than a year after the Development Order was adopted, the City enacted Ordinance 2013-16. In Ordinance 2013-16, the City provided that development beyond 286,000 SF in the 84-acre parcel would trigger the requirement that the developer construct a pedestrian bridge. Without the ability to transfer undeveloped land uses into Phase IV, the developer would never have been able to develop more than 286,000 SF on the 84-acre parcel. If the developer could not have transferred land uses amongst phases and therefore could never have exceeded 286,000 SF on that parcel, then Ordinance 2013-16 would have been meaningless. Also, in the February 2021 correspondence, the City confirmed the Land Use Table was not out of date and noted that the Developer had utilized the transfer/conversion condition to transfer all undeveloped land uses into Phase IV. In the Biennial Report, the Developer provided an updated Land Use Table that shows the transfer of undeveloped land uses into Phase IV.

If the City had intended that the Development Order result in the Developer losing its entitlements to the undeveloped land uses in the phases of the Land Use Table, upon the expiration date of those phases, then the City would have drafted the Development Order accordingly. It also would not have specified that the DRI was not subject to unit density or intensity reduction prior to the build out date. Furthermore, the City would not have included a provision in the Development Order requiring payment of fees prior to the issuance of any building permits for Phase II because that phase would have already expired. Additionally, the City would have created a conversion table showing that only the undeveloped retail shopping center land use could be converted to the other uses because it was the only land use shown in the Phase IV.

It is clear from the plain language of the Development Order and consistent with actions of the Developer and the City in its enforcement of the Development Order and adoption of the amendment to the Development Order, that both the Developer and City have understood from 2012 to the present that the Development Order allows for the movement of land uses from one phase to another, so long as the four conditions of transfer or conversion are met.

II. Conclusion

It is our opinion, that the Development Order is clear and unambiguous as to the allowable development in Phase IV and the ability of the Developer to modify the Land Use Table by transferring land uses amongst the phases of the development without further amendment of the Development Order and subject to the conditions of transfer or conversion therein.

Should you need anything further on this matter, please feel free to contact us. Thank you for providing us the opportunity to assist the City in this matter.

Sincerely,

Jennifer R. Cowan, B.C.S.
BRYANT MILLER OLIVE, P.A.