

RESOLUTION NO. 2006 - 023

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF SOUTHWEST RANCHES, FLORIDA APPROVING A CONSERVATION EASEMENT TO BE PLACED ON A PORTION OF THE FRONTIER TRAILS, ROLLING OAKS, SOUTHWEST MEADOWS, AND CALUSA CORNERS PARK PROPERTIES IN FURTHERANCE OF THE GRANT REQUIREMENTS; APPROVING THE FORM OF THE CONSERVATION EASEMENTS; AUTHORIZING THE MAYOR, TOWN ADMINISTRATOR, AND TOWN ATTORNEY TO EXECUTE THE CONSERVATION EASEMENTS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town has received grants to purchase Frontier Trails, Rolling Oaks, Southwest Meadows, and Calusa Corners park properties; and

WHEREAS, as a condition of these grants to Town must dedicate a portion of each property to create a naturally restored area; and

WHEREAS, the grants further provide that these dedicated areas must be established through a conservation easement, to protect these areas as a natural habitat into perpetuity; and

WHEREAS, the establishment of a conservation easement is required before any permits can be issued on the properties; and

WHEREAS, the Town is desirous of satisfying this grant condition.

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Southwest Ranches, Florida:

Section 1. The above referenced recitals are true and correct and are incorporated herein by reference.

Section 2. The Town Council hereby approves the establishment of conservation easements on the Frontier Trails, Rolling Oaks, Southwest Meadows, and Calusa Corners park properties, as generally delineated in Exhibit "A", which has been attached hereto and has been incorporated herein by reference. The Town will construct and maintain the Frontier Trails, Rolling Oaks, Southwest Meadows, and Calusa Corners park properties, as required by

the conservation easements and the environmental resources permit into perpetuity.

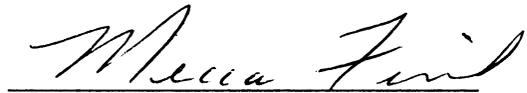
Section 3. The Town Council hereby approves the location of the conservation easements, as shown on the maps attached hereto as Exhibit "B".

Section 4. The Town Council hereby authorizes the Mayor, Town Administrator and Town Attorney to enter into the conservation easements in substantially the same form as that attached hereto as Exhibit "A" and to make such modifications, additions and/or deletions which they deem necessary and proper to effectuate the intent of this Resolution. Once a conservation easement has been effectuated, it shall remain as a covenant running with the land into perpetuity.

Section 5. That this Resolution shall become effective immediately upon its adoption and that each conservation easement shall be executed upon the Town's receipt of the expected grant funding.

PASSED AND ADOPTED by the Town Council of the Town of Southwest Ranches, Florida, this 20th day of December 2005, on a motion by Council Member Aster Knight and seconded by Council member Don Maines.

| | | | |
|---------|----------|------------|----------|
| Fink | <u>Y</u> | Ayes | <u>5</u> |
| Knight | <u>Y</u> | Nays | <u>0</u> |
| Blanton | <u>Y</u> | Absent | <u>0</u> |
| Maines | <u>Y</u> | Abstaining | <u>0</u> |
| Nelson | <u>Y</u> | | |



Mecca Fink, Mayor

ATTEST:


Susan A. Owens, Town Clerk

Approved as to Form and Correctness:

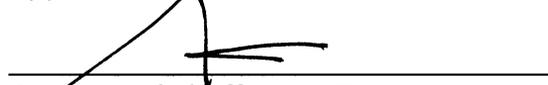

Gary A. Poliakoff, J.D., Town Attorney
946597_1.DOC

Exhibit "A" .

**JOINT DEED OF FLOWAGE, STORAGE, DRAINAGE, AND
CONSERVATION
EASEMENT AND AGREEMENT**

THIS DEED OF FLOWAGE, STORAGE, DRAINAGE, AND
CONSERVATION EASEMENT AND AGREEMENT ("Conservation
Easement") is given this _____ day of _____, 20 _____ by

_____ (address) _____

_____, ("Grantor") to the South Florida Water Management District, whose post office is 3301 Gun Club Road, West Palm Beach, Florida 33406, and Broward County, a political subdivision of the state of Florida, whose post office is 115 South Andrews Avenue, Suite 423, Fort Lauderdale, Florida 33301 and South Broward Drainage District, whose Post office is 6591 Southwest 160 Avenue, Davie, Fl 33331, their successors and assigns (collectively referred to as "Grantees"). This is a flowage, storage, drainage and conservation easement.

WITNESSETH

WHEREAS, the grantor is the owner of certain lands Situated in Broward County, Florida, and more specifically described in Exhibit A, attached hereto and incorporated herein by reference and referred to herein as the "Property"; and

WHEREAS, the Grantor desires to construct (name of project) _____ "Project") on the property, which Project is subject to regulatory jurisdiction of the South Florida Water Management District ("District") and the Broward County Department of Planning and Environmental Protection ("DPEP") and SBDD; and

WHEREAS, DPEP License No. _____ ("DPEP License") as may be modified or reissued, and District Permit No. _____ ("District Permit") as may be modified, and SBDD Permit No. _____ as may be Modified, authorizes certain activities that may impact wetlands or may require the preservation of wetlands on the Project Site; and

WHEREAS, the Grantor has developed and proposed as part of the license and permit conditions a conservation tract and buffers as described in Exhibit B attached hereto and incorporated by reference, involving creation, restoration, enhancement and/or preservation of the wetland and/or upland systems ("Conservation Area"); and

WHEREAS, the Grantor, in consideration of the consent granted by the DPEP License and District Permit and Drainage Permit, is agreeable to granting and securing to the Grantees a perpetual Conservation Easement as defined in Section 704.06, Florida Statutes (2003), as amended, over the Conservation Area.

NOW, THEREFORE, in consideration of the issuance of the DPEP License and District Permit and Drainage Permit, to construct and operate the permitted activity, Grantor hereby grants, creates, and establishes a perpetual Conservation Easement for the Grantees upon the Conservation Area which shall run with the property as described in Exhibits A and B, and be binding upon the Grantor, its heirs, successors or assigns (hereinafter "Grantor"), and shall remain in full force and effect forever.

The scope, nature, and character of this Conservation Easement shall be as follows:

1. It is the Purpose of the Conservation Easement to retain land and/or water of the Conservation Area in their natural, vegetative, hydrologic, scenic, open, agricultural or wooded condition and to retain such areas suitable habitat for fish, plants or wildlife. It is the purpose and intent of this Conservation Easement to assure that the Conservation Area will be retained and maintained forever predominantly in the vegetative and hydrologic condition as specified in the DPEP License and District Permit. The Conservation Area shall be maintained forever by the Grantor, its Heirs, Successors, or Assigns, in the enhanced, restored, preserved and/or created conditions required by the DPEP License and District Permit. To carry out this purpose, the following rights are conveyed to Grantees by this easement:
 - (a) To enter upon the Conservation Area (Exhibit B) in a reasonable manner and at reasonable times with any necessary equipment or vehicles to ensure compliance and to enforce the rights herein granted, and to cross such portions of the property (Exhibit A) as reasonably necessary to exercise such rights.
 - (b) To enjoin any activity on or use of the conservation Area that is inconsistent with this Conservation Easement and to enforce the restoration of such areas or features of the Conservation Area that may be damaged by any inconsistent activity and/or use. Grantees shall be entitled to recover the cost of restoring the land

to the natural vegetative, hydrologic, scenic, open, agricultural or wooded condition existing at the time of execution of this Conservation Easement or to the vegetative and hydrologic condition required by the aforementioned DPEP License and District Permit, whichever enhancement is the most environmentally desirable to Grantees. These remedies are in addition to any other remedy, fine or penalty which may be applicable under the most recent versions of chapter 27, Broward County Code of Ordinances, Chapter 40E-4, F.A.C., et. Seq., Chapter 373, Florida Statutes, or otherwise which may be available by law.

2. Except for the restoration, creation, enhancement, maintenance, and monitoring activities, and other activities and improvements related to the Conservation Area that are permitted or required by the DPEP License and the District Permit, the following activities are prohibited in or on the Conservation Area, to with:
 - (a) Construction or placing of buildings, roads, signs, billboards or other advertising, utilities, or other structures on or above the ground:
 - (b) Dumping or placing of soil or other substance or materials as landfill, or dumping or placing of trash, waste, or unsightly or offensive materials:
 - (c) Removal or destruction of trees, shrubs, or other vegetation, except for the removal of nuisance and exotic vegetation as approved by DPEP and District:
 - (d) Excavation, dredging, or removal of loam, peat, gravel, soil, rock, or other material substance in such a manner as to affect the surface:
 - (e) Surface use except for the purpose that permit the land or water area to remain in its vegetative and hydrologic condition as specified in the DPEP License and District Permit:
 - (f) Activities Detrimental to drainage, flood control, water conservation, erosion control, soil conservation, or fish and wildlife habitat preservation; including but not limited to ditching, diking, and fencing:

- (g) Acts or uses detrimental to said aforementioned retention and maintenance of land or water areas: and
 - (h) Acts or uses detrimental to the preservation of any features or aspects of the Conservation Area having historical, archeological or cultural significance.
3. Grantor reserves all rights as owner of the Conservation Area, including the right to engage in uses of the Conservation Area that are not prohibited herein and which are not inconsistent with the intent and purpose of this Conservation Easement.
 4. No right of access by the general public to any portion of the Conservation Area is conveyed by this Conservation Easement.
 5. Grantees shall not be responsible for any costs or liabilities related to the operation, upkeep, and maintenance of the Conservation Area and Grantor does hereby indemnify and hold harmless the Grantees from the same.
 6. Grantor shall pay any and all real property taxes and assessments levied by competent authority on the Conservation Area.
 7. The terms and conditions of this Conservation Easement may be enforced by the Grantees by injunctive relief and other available remedies. In any action in which the Grantees prevail, the Grantees shall be entitled to recover the cost of restoring the Conservation Area to the natural vegetative, hydrologic, scenic, open, agricultural or wooded condition existing at the time of execution of this Conservation Easement or to the vegetative and hydrologic condition required by the aforementioned DPEP License and District Permit. Venue for said actions shall be exclusively in the Seventeenth Judicial Circuit, in and for Broward County, Florida. These remedies are in addition to any other remedy, fine or penalty which may be applicable under the most recent versions of Chapter 27 of the Broward County Code of Ordinances, Chapter 40E-4, F.A.C., et. Seq., Chapter 373, Florida Statutes, or as otherwise provided by law.
 8. Enforcement of the terms and provisions of the Conservation Easement shall be at the reasonable discretion of Grantees, and any forbearance on behalf of Grantees to exercise their rights hereunder in the event of any breach hereof by Grantor, shall not be deemed or construed to be a waiver of Grantees' rights hereunder.

9. Grantees will hold this Conservation Easement exclusively for conservation purposes. Grantees will not assign their rights and obligations under this Conservation Easement except to another organization qualified to hold such interest under the applicable state laws.
10. Grantor agrees to restore the Conservation Area to the vegetative and hydrologic condition required by the aforementioned DPEP License and District Permit if any third party exercises any easement right or property interest or conducts any other activity on the property that causes damage, degradation or negative impacts to the Conservation Area.
11. Grantor's obligation to retain and maintain the Conservation Area Forever predominantly in the vegetative and hydrologic condition as herein specified shall run with property described in Exhibits A and B, and shall be binding upon the Grantor, its heirs, successors or assigns and shall inure to the benefit of the Grantees, and their successors and assigns as more particularly set forth herein. The intent of this Conservation Easement is that the responsibilities and liabilities associated with the Conservation Easement shall run with the property described in Exhibits A and B, and be binding upon the fee simple title of the property as required hereunder.
12. If any provision of this Conservation Easement or the application thereof to any person or circumstances is found to be invalid, the remainder of the provisions of this Conservation Easement shall not be affected thereby, as long as the purpose of the Conservation Easement is preserved.
13. All notices, consents, approvals or other communications hereunder shall be in writing and shall be deemed properly given if sent by United States certified mail, return receipt requested, addressed to the appropriate party or successor-in-interest.
14. The terms, conditions, restrictions and purpose of the Conservation Easement shall be inserted by the Grantor in any subsequent deed or other legal instrument by which Grantor divests itself of any interest in the property described in Exhibit A and B. Any future holder of the Grantors interest in the property described in Exhibit A or B shall be notified in writing by Grantor of this Conservation Easement.

15. This Conservation Easement may be amended, altered, released or revoked only by written agreement between the parties hereto or their heirs, assigns, and successors-in-interest, which shall be filed in the public records of Broward County.

TO HAVE AND TO HOLD unto Grantees, their successors and assigns forever. This Conservation Easement shall be recorded in the Public Records of Broward County and the covenants, terms, conditions, restrictions and purpose imposed with this Conservation Easement shall not only be binding upon Grantor, but also its agents, heirs, successors and assigns, and shall continue as a servitude running in perpetuity with the property described in Exhibit A and B.

Grantor hereby covenants with said Grantees that Grantor is lawfully seized of said Conservation Area in fee simple; that the Conservation Area is free and clear of all encumbrances that are inconsistent with the terms of the Conservation Easement and all mortgages have been joined or subordinated; that Grantor has good right and lawful authority to convey this Conservation Easement; and that it hereby fully warrants and defends the title to this Conservation Easement hereby conveyed against the lawful claims of all persons whomsoever.

IN WITNESS WHEREOF, _____ has hereunto set its authorized hand this _____ day of _____, 20____.

OWNER-INDIVIDUAL

Signed, sealed and delivered in our presence as witnesses:

Name of Owner (Individual)

(Signature)
Print Name _____

(Signature)
Print Name _____
Print Address _____

(Signature)
Print Name _____

ACKNOWLEDGMENT-INDIVIDUAL

STATE OF FLORIDA)
) ss
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 20____, by _____ who is:
[] personally known to me, or
[] produced identification. Type of identification produced _____

NOTARY PUBLIC-STATE OF FLORIDA:

Signature of Notary Public-State of Florida

Print, type, or stamp Commissioned Name
My commission expires:
Affix Seal Below

IN WITNESS WHEREOF, _____ has hereunto set its authorized hand this _____ day of _____, 20_____.

OWNER-CORPORATION/PARTNERSHIP

Witnesses (if partnership)

(Signature)
Print Name _____

(Signature)
Print Name _____

Name of Owner (corporation/partnership)

By _____
(Signature)

Print Name _____

Title _____

Address _____

_____ day of _____, 20_____

ATTEST (if corporation)

(CORPORATE SEAL)

Corporate Secretary Signature

Print Name of Corporate Secretary _____

ACKNOWLEDGMENT-CORPORATION/PARTNERSHIP

STATE OF FLORIDA)
) ss
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 20_____, by _____ as _____ of _____, a _____

corporation/partnership, on behalf of the corporation/partnership. He or she is:

[] personally known to me, or

[] produced identification. Type of identification produced _____

NOTARY PUBLIC-STATE OF FLORIDA:

Signature of Notary Public-State of Florida

Print, type, or stamp Commissioned Name

My commission expires:

Affix Seal Below

Mortgage Subordination

By signing below mortgage holder agrees the lien of any mortgage on the real property described in Exhibit "A" and Exhibit "B" shall be subordinate to the subject conservation easement.

MORTGAGEE

Witnesses (if partnership)

(Signature)
Print Name _____

(Signature)
Print Name _____

Name of Mortgagee (corporation/partnership)

By _____
(Signature)

Print Name _____

Title _____

Address _____

____ day of _____, 20__

ATTEST (if corporation)

(CORPORATE SEAL)

Corporate Secretary Signature
Print Name of Corporate Secretary _____

ACKNOWLEDGMENT-CORPORATION/PARTNERSHIP

STATE OF FLORIDA)
) ss
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 20____, by _____ as _____ of _____, a _____ corporation/partnership, on behalf of the corporation/partnership. He or she is:
[] personally known to me, or
[] produced identification. Type of identification produced _____

NOTARY PUBLIC-STATE OF FLORIDA:

Signature of Notary Public-State of Florida

Print, type, or stamp Commissioned Name
My commission expires:
Affix Seal Below

ACCEPTANCE BY BROWARD COUNTY

The Broward County Board of County Commissioners hereby accepts this Conservation Easement for DPEP License No. _____.

ATTEST: BROWARD COUNTY, through its
BOARD OF COUNTY COMMISSIONERS

County Administrator and
Ex-Officio Clerk of the
Board of County Commissioners
Of Broward County, Florida

By _____
Mayor

_____ day of _____, 20____

Approved as to form by
Office of County Attorney
Broward County, Florida
EDWARD A. DION, County Attorney
Governmental Center, Suite 423
115 South Andrews Avenue
Fort Lauderdale, Florida 33301
Telephone: (954) 357-7600
Telecopier: (954) 357-6968

Assistant County Attorney

SOUTH FLORIDA WATER MANAGAGEMENT DISTRICT

Legal Form Approved _____

Print Name _____

Date _____

EXHIBIT 83

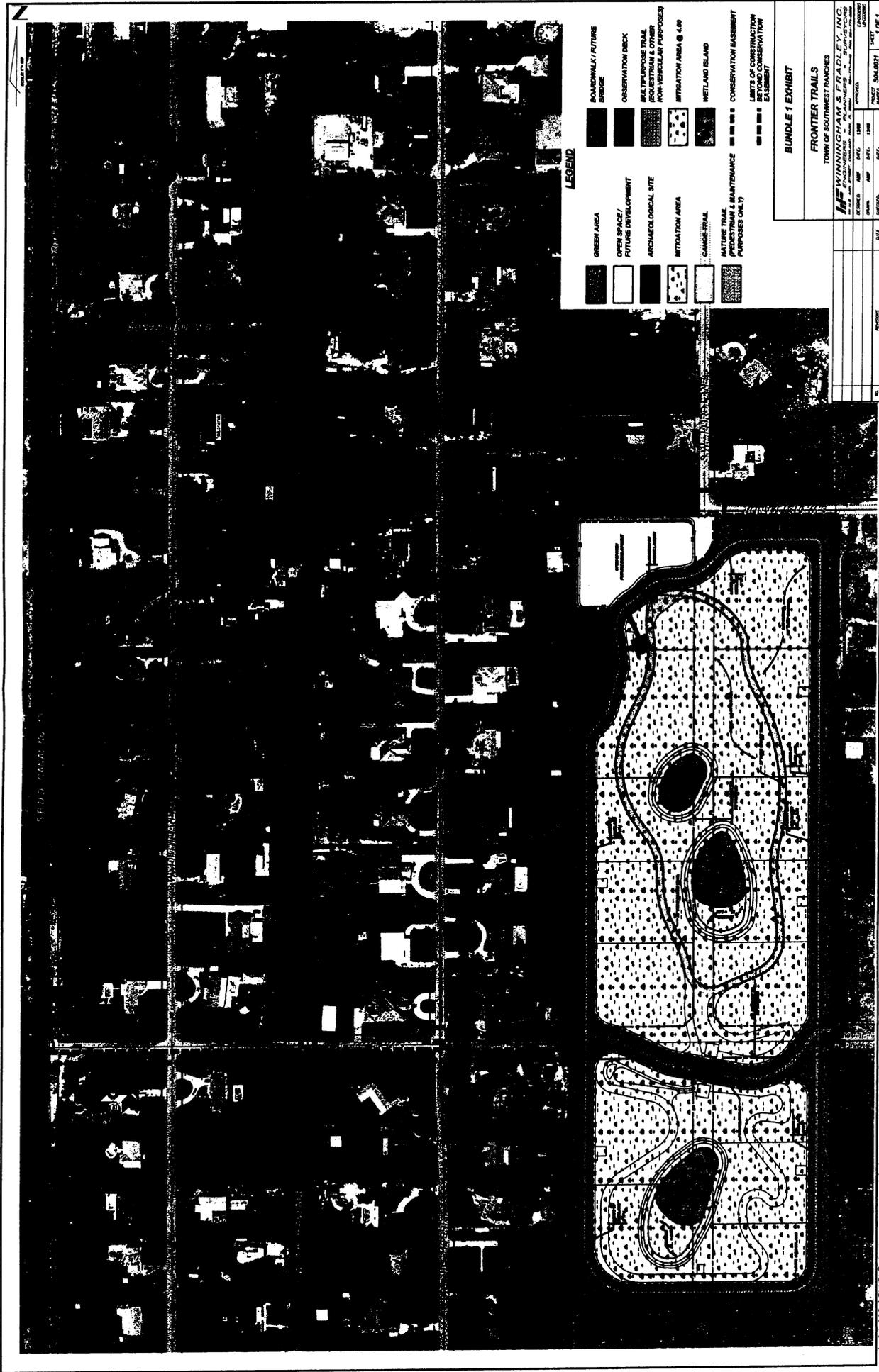
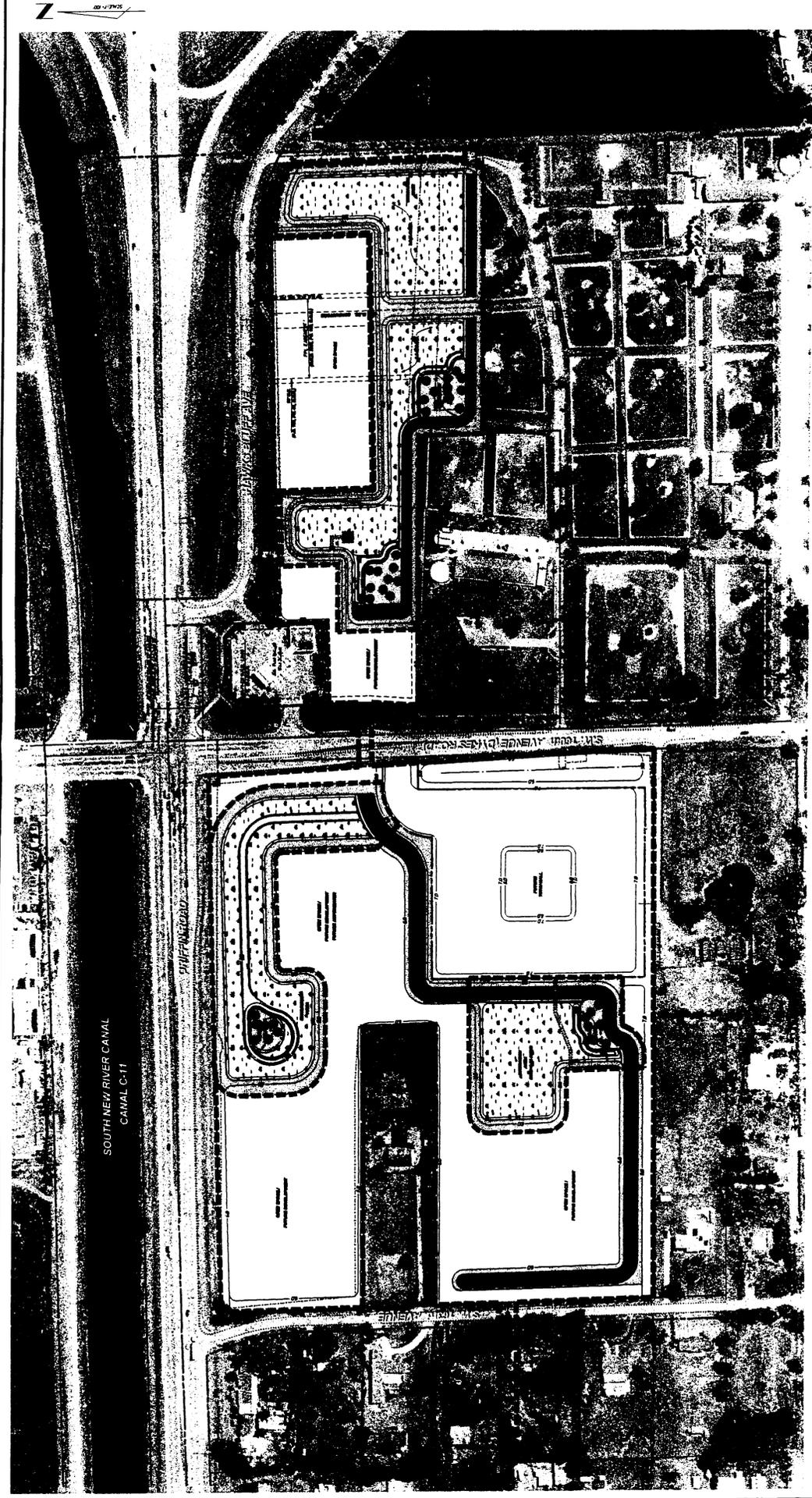


EXHIBIT B3



- LEGEND**
- GREEN AREA
 - OPEN SPACE / FUTURE DEVELOPMENT AREA
 - MITIGATION AREA
 - CANAL
 - MATURE FRUIT TREE MAINTENANCE PURPOSES (0.47)
 - BOARDWALK
 - OBSERVATION DECK
 - MITIGATION AREA @ 3.50
 - WETLAND ISLAND
 - 50% 5% CONSERVATION BASEMENT
 - LIMITS OF CONSTRUCTION BEYOND CONSERVATION BASEMENT

BUNDLE 1 EXHIBIT
SOUTHWEST MEADOWS/CALUSA
 TOWN OF SOUTHWEST FLORIDA
 PROJECT NO. 12/16/2005 3.58.27 PM
 SHEET NO. 0018/BUNDLE 1 EXHIBIT B3
 DATE: 12/16/2005 3:58:27 PM
 DRAWN BY: [Name]
 CHECKED BY: [Name]
 SCALE: AS SHOWN
 SHEET NO. 1 OF 1