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FLORIDA NON-PROFIT CORPORATION

TOWN CENTER HOMEOWNERS' ASSOCIATION, INC.

Certificate of Status	0
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**ARTICLES OF INCORPORATION
OF
TOWN CENTER HOMEOWNERS' ASSOCIATION, INC.
(A Corporation Not for Profit)**

In accordance with the provisions of the laws of the State of Florida for the formation of Corporations Not For Profit, the undersigned, hereby forms a corporation not for profit for the purpose and with the powers hereinafter mentioned. To that end the undersigned, by these Articles of Incorporation, set forth the following:

ARTICLE I - NAME

The name of this Corporation shall be TOWN CENTER HOMEOWNERS' ASSOCIATION, INC. For convenience, the corporation shall be herein referred to as the "Association", whose present address until changed is: 25 E. 17th Street, St. Cloud, Florida 34769.

ARTICLE II - PURPOSE

The purposes for which this Association is organized are not pecuniary gain or profit to the members thereof. The specific objects and purposes for which it is formed are:

Section 1. Those objects and purposes authorized by the Declaration of Covenants and Restrictions for TOWN CENTER recorded (or to be recorded) in the Public Records of Osceola County, Florida, as hereafter amended or supplemented from time to time (herein the "Declaration").

Section 2. To be the "Association" for the operation of planned residential community known as TOWN CENTER, and as such Association to operate and administer said community and carry out the functions and duties of said Association as set forth in the Declaration.

Section 3. To preserve the values in TOWN CENTER and to maintain the common properties thereof for the benefit of the owners who become members of the Association.

Section 4. To promote the health, safety and welfare of the residents within TOWN CENTER, together with any additions thereto as may hereafter be brought within the jurisdiction of this Association.

Section 5. The Association is not organized for profit and no part of the net earnings, if any, shall inure to the benefit of any member or individual person, firm or corporation.

Section 6. All definitions set forth in the Declaration are incorporated herein by this reference.

CLERK OF STATE
TALLAHASSEE, FLORIDA

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ARTICLE III - POWERS

In furtherance of its purposes, the Association shall have the following powers, which, unless indicated otherwise by the Declaration or Bylaws, may be exercised by the Board of Directors of this Association.

Section 1. The Association shall have all of the common law and statutory powers of a corporation not for profit and all powers which may be granted to the Association or exercised by it under other applicable laws of the State of Florida, all of which are not in conflict with the terms of the Articles, the Bylaws, or the Declaration. The Association shall have all the powers set forth in Florida Statutes, Section 617.0302, as may be amended. The Association shall also have all the powers necessary to implement the purposes of the Association as set forth in the Declaration and to provide for the general health and welfare of its membership. The Association shall have the power to further designate one (1) or more committees which, to the extent provided in the resolution designating said committee, shall have the powers of the Board of Directors in the management, affairs and business of the Association. The committee or committees shall have such name or names as may be determined from time to time by the Board of Directors, and said committee(s) shall keep regular Minutes of their proceedings and report the same to the Board of Directors, as required. The foregoing powers shall be exercised by the Board of Directors or its contractor or employees, subject only to approval by Living Unit Owners when such is specifically required; and the undertakings and contracts authorized by the First Board of Directors shall be binding upon the Association in the same manner as though such undertakings and contracts had been authorized by the First Board of Directors duly elected by the membership.

Section 2. The Association shall have the power to contract for the management of the Association and to delegate to the party with whom such contract has been entered into (which may be an affiliate of the Developer) the powers and duties of the Association, except those which require specific approval of the Board of Directors or members. The Association shall also have the power to employ a manager, an independent contractor, or such other employees as they deem necessary, and to prescribe their duties, and to employ personnel to perform services required for proper administration of the Association.

Section 3. The Association shall have all of the powers and privileges and perform all of the duties and obligations of the Association as set further in the Declaration and as the same may be amended and extended from time to time as herein provided. The Association shall also have the powers to make and establish reasonable rules and regulations governing the Lots and Common Areas in accordance with the terms as may be defined in the Declaration. The Association shall have the power to adopt, amend, and enforce, from time to time, rules and regulations governing the use of the Lots and the Common Areas and all facilities at any time situated thereon, and the personal conduct of the members or their guests thereon, and to establish penalties for the infraction thereof. Any rule and/or regulation so adopted shall apply until rescinded or modified as if originally set forth at length in the Declaration. The South Florida Water Management District Permit No. 49-01374-P is attached to these Articles as Exhibit "A". The surface water management permits and conditions are made apart of and shall be attached as an exhibit to the rules and regulations. The registered agent of the Association shall maintain copies of the surface water management permits and

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conditions and of all future or further permitting actions of the South Florida Water Management District for the benefit of the Association.

Section 4. The Association shall have the power to fix, levy, collect and enforce payment by any lawful means, all charges or assessments pursuant to the terms of the Declaration. The Association shall further have the power to levy assessments against each Unit for the purpose of maintaining the Common Areas and facilities or as otherwise provided in the Declaration, all in compliance with the provisions of the Declaration, and with the restrictions on the plats or portions of the Property from time to time recorded by Developer, and to pay all expenses in connection therewith and all office and other expenses incident to the conduct of the business of the Association, including all licenses, taxes or governmental charges to be levied or imposed against the property of the Association. The Association is responsible for assessing and collecting fees for the operation, maintenance and, if necessary, replacement of the surface water management system. Fees shall be assessed and collected through annual or special assessments.

Section 5. The Association shall have the power to acquire (by gift, purchase or otherwise), own, hold, improve, build upon, operate, maintain, convey, sell, mortgage, lease, transfer, dedicate for public use or otherwise dispose of real or personal property in connection with the affairs of the Association. The Association shall have the power to mortgage any or all of Common Areas and facilities for the purposes of improvement or repair pursuant to approval of two-thirds (2/3) of the votes of the Owners who are voting in person or by proxy at a regular meeting of the Association or at a meeting duly called for such special purpose.

Section 6. The Association shall have the power to borrow money for any purpose as may be limited in the Association Bylaws.

Section 7. The Association shall have the power to dedicate, sell or transfer all or any part of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument has been signed by two-thirds (2/3) of each class of members, agreeing to such dedication, sale or transfer. The Association shall also have the power to convey any or all of said Common Areas to the State, County, or public agency pursuant to a lawful taking of eminent domain.

Section 8. The Association shall have the power to participate in mergers and consolidations with other nonprofit corporations organized for the same purposes, or annex additional property and common area, provided that any such merger, consolidation or annexation shall have the assent of two-thirds (2/3) of each class of members.

Section 9. The Association shall have the power and responsibility to manage, control, operate, maintain, repair, replace and improve Common property, including, without limitation, the surface water management system (SWMS) permitted in the South Florida Water Management District, permit no. 49-01374-P including all lakes, retention areas, culverts, and related appurtenances, and facilities and property subsequently acquired by the Association or any property owned by another, for which the Association by rule, regulation, covenant, or contract has a right or duty to provide such services. The South Florida Water Management District shall have the right to take enforcement action, including a civil action for an injunction and penalties, against the

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Association to compel it to correct any outstanding problems with the surface water management system facilities under the responsibility or control of the Association.

Section 10. The Association shall have the power to enforce covenants, conditions, restrictions, rules or regulations affecting any property to the extent that the Association may be authorized to do so under the Declaration, the Articles or Bylaws. The Association shall have the power to suspend the voting rights and the right of an Owner to use the Common Areas, for any period during which any assessment levied against his or her Living Unit remains unpaid for more than thirty (30) days after notice, and for a period not to exceed sixty (60) days for any infraction of the rules and regulations. Suspension of common-area-use rights shall not impair the right of an Owner or tenant of a parcel to have vehicular and pedestrian ingress to and egress from the parcel, including, but not limited to, the right to park.

Section 11. The Association shall have the power to engage in activities which will actively enforce and promote the common interest of all owners of Lots with TOWN CENTER.

Section 12. The Association shall have the power to enter into, make, perform or enforce contracts of every kind and description, and to do all other acts necessary, appropriate or with any other association, corporation or any other entity or agency, public or private. The Association shall also have the powers reasonably necessary to implement and effectuate the purposes of the Association.

Section 13. The Association shall have the power to adopt, alter or amend or repeal the Bylaws as may be necessary or desirable for the proper management of the affairs of the Association, provided, however, that such Bylaws may not be inconsistent with or contrary to any provisions of the Covenants.

Section 14. The Association shall have the power to sue and be sued.

Section 15. The foregoing enumeration of powers shall not limit or restrict in any manner the exercise of other and further rights and powers which may now or hereafter be allowed or permitted by law; and the powers specified in each of the Sections of this Article III are independent powers, not to be restricted by reference to or inference from the terms of any other paragraph or provision of this Article III.

ARTICLE IV – MEMBERS

The qualifications of members, the matter of their admission to membership, the termination of such membership and voting by members shall be as follows:

Section 1. Every owner of a Lot which is subject by covenant of record to assessment by the Association shall be a Member of the Association. There shall be one person, with respect to each Lot, who shall be entitled to vote at any meeting of the Members and such person shall be known (and is hereinafter referred to) as a "Voting Member", provided, however, the Owner(s) of multiple Lots shall be entitled to one vote for each Lot owned. If a Lot is owned by more than one person, the owners of said Lot shall designate one of them as the Voting Member, or in the case of a corporate Lot Owner, an officer or an employee thereof shall be the Voting Member. Designation of

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the Voting Member shall be made, as provided by and subject to, the provisions and restrictions set forth in the Bylaws of the Association. Membership shall be appurtenant to and may not be separated from ownership of a Lot. Transfer of Lot ownership either voluntarily or by operation of law, shall terminate membership in the Association, and said membership shall thereupon be vested in the transferee.

Section 2. Membership shall be established by the acquisition of fee simple title to a Lot whether by conveyance, devise, judicial decree, or otherwise, and the membership of any party shall be automatically terminated upon his being divested of his fee ownership in any Lot, except that nothing herein contained shall be construed as terminating the membership of any party who may own two or more Lots or who may own a fee simple interest in two or more Lots so long as such parties shall retain title to at least one Lot.

Section 3. The interest of a member in the funds and assets of the Association cannot be assigned, hypothecated or transferred in any manner except as an appurtenance to his Lot. The funds and assets of the Association shall belong solely to the Association, subject to the limitation that the same be expended, held or used for the benefit of the membership and for the purposes authorized herein, in the Declaration and in the Bylaws which may be hereafter adapted.

Section 4. The Association shall have two classes of voting membership:

1. Class A. Class A members shall be all owners as defined in Sections 1 and 2 with the exception of the Developer as defined in the Declaration, herein referred to as the "Developer" (as long as the Class B membership shall exist and thereafter, the Developer shall be a Class A member to the extent it would otherwise qualify). Class A Members shall be entitled to one (1) vote for each Lot in which they hold the interest required for membership by Section 1. When more than one person holds such interest or interests in any Lot, all such persons shall be Members, and the vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any such Lot.

2. Class B. The Class B Member shall be the Developer. The Class B Member shall be entitled to five (5) votes for each platted Lot owned by Developer; provided that the Class B membership shall cease and terminate upon the happening of either of the following events, whichever occurs earlier:

(a) when the total votes outstanding in Class A membership equal the total votes outstanding in Class B membership; or

on December 31, 2007; or

at any time prior to that date at the election of the Developer.

Section 5. The Bylaws of the Association shall provide for an annual meeting of members, and may make provisions for regular and special meetings of members other than the annual meeting. A quorum for the transaction of business at any meeting of the members shall exist if 33-1/3% of the total number of members in good standing shall be present or represented at the meeting.

ARTICLE V – CORPORATE EXISTENCE

The term for which this Association is to exist shall be perpetual.

ARTICLE VI – PRINCIPAL OFFICE AND RESIDENT AGENT

The principal office of the Association shall be located at 25 E. 17th Street, St. Cloud, Florida 34769, but the Association may maintain offices and transact business in such other places within or without the State of Florida as may from time to time be designated by the Board of Directors. In compliance with Section 617.023, Florida Statutes, Dollie Boyd of D & F Management is designated Resident Agent of the Association upon whom services of process may be served at 3383 W. Vine Street, Kissimmee, Florida 34741, as the office to be maintained for that purpose, provided that such Registered Agent and office may be changed from time to time as the Board of Directors of the Association may determine.

ARTICLE VII – OFFICERS

Section 1. The officers of the Association shall be a President, a Vice President, a Secretary and a Treasurer, and such other officers as the Board of Directors may from time to time elect.

Section 2. The officers of the Association, in accordance with any applicable provision of the Bylaws, shall be elected by the Board of Directors for terms of one (1) year and thereafter until qualified successors are duly elected and have taken office. The Bylaws may provide for the method of voting in the election of officers, for the removal from office of officers, for filling vacancies and for the duties of the officers. If the office of President shall become vacant for any reason, or if the President shall be unable or unavailable to act, the Vice President shall automatically succeed to the office or perform its duties or exercise its powers. If any office other than that of the President shall become vacant for any reason, the Board of Directors may elect or appoint an individual to fill such vacancy. The President and Vice President shall be elected from among the membership of the Board of Directors, but no other officer need be a Director. The same person may hold two offices, the duties of which are not incompatible; provided, however, that the offices of President and Vice President shall not be held by the same person nor shall the offices of President and Secretary or Assistant Secretary be held by the same person.

ARTICLE VIII - FIRST OFFICERS

The names of the first officers of the Association, who shall hold office until the first annual meeting of Directors and thereafter until successors are duly elected and have taken office, shall be as follows:

President	C.N. Gross, Jr.
Vice President	C.N. Gross, III
Secretary	Richard A. Martin
Treasurer	Richard A. Martin

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ARTICLE IX – BOARD OF DIRECTORS

Section 1. The property, business and affairs of the Association shall be managed by a Board of Directors. The initial Board of Directors shall consist of not less than three (3) persons, but as many persons as the Board of Directors shall from time to time determine. A majority of the directors in office shall constitute a quorum for the transaction of business. The Bylaws shall provide for meetings of directors, including an annual meeting.

Section 2. The initial Board of Directors of the Association shall hold office until such time as the Developer no longer holds the majority of the votes to be cast by the Members of the Association.

Section 3. Except for the initial Board of Directors, directors shall be elected by the Members of the Association at the annual meeting of the membership as provided by the Bylaws of the Association, and the Bylaws may provide for the method of voting in the election of directors and for the removal from office of directors. All directors shall be members of the Association residing in Town Center or shall be authorized representatives, officers, or employees of corporate members of the Association, or designees of the Developer.

Section 4. Except for the first Board of Directors, Members elected to the Board of Directors shall hold office for the terms set forth in the Bylaws.

Section 5. If a director elected by the general membership shall for any reason cease to be a director, the remaining directors so elected may elect a successor to fill the vacancy for the balance of the unexpired term.

ARTICLE X – BYLAWS

The Bylaws of the Association consistent with these Articles of incorporation shall be adopted by the first Board of Directors, and may be altered, amended or rescinded in the manner provided for in the Bylaws.

ARTICLE XI – TAX EXEMPTION

No part of the net earnings of the Association shall inure to the benefit of or be distributable to its Directors, trustees, officers or other private persons, except that the Association shall be authorized and empowered to pay reasonable compensation for services rendered and to make payment and distributions in furtherance of the purposes and powers set forth in Articles II and III hereof. If determined by the Board of Directors, the Association shall qualify as a corporation exempt from Federal income tax under Section 528 of the Internal Revenue Code of 1954 or the corresponding provision to any future Internal Revenue law.

ARTICLE XII – INDEMNIFICATION

Section 1. The Association shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or contemplated action, suit or proceeding, whether civil, criminal, administrative or investigative by reason of the fact

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that he or she is or was a director, employee, officer or agent of the Association, against expenses (including attorneys' fees and appellate attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him or her in connection with such action, suit or proceeding, unless (a) it is determined by a court of competent jurisdiction, after all available appeals have been exhausted or not pursued by the proposed indemnitee, that he or she did not act in good faith or in a manner he or she reasonably believed to be in or not opposed to the best interest of the Association, and, with respect to any criminal action or proceeding, that he or she has reasonable cause to believe his or her conduct was unlawful, and (b) such court further specifically determines that indemnification should be denied. The termination of any action, suit or proceeding by a judgment, order settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he or she reasonably believed to be in or not opposed to the best interest of the Association, and with respect to any criminal action or proceeding that he or she had reasonable cause to believe that his or her conduct was unlawful.

Section 2. To the extent that a director, officer, employee or agent of the Association has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in Section 1 above or in defense of any claim, issue or matter therein, he or she shall be indemnified against expenses (including attorneys' fees and appellate attorneys' fees) actually and reasonably incurred by him or her in connection therewith.

Section 3. Expenses incurred in defending a civil or criminal action, suit or proceeding shall be paid by the Association in advance of the final disposition of such action, suit or proceeding through all available appeals upon receipt of an undertaking by or on behalf of the director, officer, employee or agent to repay such amount unless it shall ultimately be determined that he or she is entitled to be indemnified by the Association as authorized in this Article.

Section 4. The indemnification provided by this Article shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under any bylaw, agreement, vote of members or otherwise and shall continue as to a person who has ceased to be director, officer, employee or agent and shall inure to the benefit of the heirs, executors and administrators of such person.

Section 5. The Association shall have the power to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the Association, or is or was serving at the request of the Association as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against any liability asserted against him or her and incurred by him or her in any such capacity, or arising out of his or her status as such, whether or not the Association would have the power to indemnify him or her against such liability under the provisions of this Article.

Section 6. The provisions of this Article XII may not be amended.

ARTICLE XIII – DISSOLUTION

The Association may be dissolved, other than incident to a merger or

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consolidation, with the assent given in writing and signed by not less than two-thirds (2/3) of each class of members. Upon dissolution of the Association, other than incident to a merger or consolidation, the assets of the Association shall be dedicated to an appropriate public agency to be used for purposes similar to those for which this Association was created. In the event that such dedication is refused acceptance, such assets shall be granted, conveyed and assigned to any nonprofit corporation, association, trust or other organization to be devoted to such similar purposes. This procedure shall be subject to court approval on dissolution pursuant to the provisions of Florida Statute 617.05. In the event the Association is dissolved, the surface water management system, the property consisting of the surface water management system, and the water management portions of the Common Areas shall be conveyed to an appropriate agency of the local government determined to be acceptable to the South Florida Water Management District. If the local government declines to accept the conveyance, then the surface water management system's property containing the surface water management system and the water management portions of the Common Areas shall be dedicated to a similar non-profit corporation.

ARTICLE XIV - AMENDMENTS

Section 1. Prior to the time of recordation of the Declaration, these Articles of Incorporation may be amended by an instrument, in writing, signed by all of the Subscribers to these Articles of Incorporation, or their successors, stating the Article number and the manner of its amendment and filed in the office of the Secretary of State of the State of Florida with a certified copy of each such amendment attached to these Articles of Incorporation upon its recordation with the Declaration.

Section 2. After the filing of the Declaration these Articles of Incorporation may be amended in the following manner:

1. Notice of the subject matter of the proposed amendment shall be included in the notice of any meeting at which such proposed amendment is considered.
2. Resolution approving a proposed amendment may be proposed by either the Board of Directors or by the membership of the Association, and after being so proposed it must be submitted to the membership for approval and thereupon receive such approval. Such approval must be by affirmative vote of at least seventy-five percent (75%) of the entire membership.
3. Any amendment to these Articles of Incorporation which would affect the surface water management system or water management portions of Common Areas shall be submitted to the South Florida Water Management District for review and approval prior to finalization of the amendment. The South Florida Water Management District shall determine if the proposed amendment will require a modification of any surface water management permit. If a permit modification is necessary, the modification must be approved by the South Florida Water Management District prior to the amendment of the Articles of Incorporation.

Section 3. In case of any conflict between these Articles of Incorporation and the Bylaws, these Articles shall control; and in case of any conflict between these Articles of Incorporation and the Covenants, the Covenants shall control.

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ARTICLE XV - ADDITIONAL APPROVALS

As long as there is a Class B membership, the following actions will require the prior approval of the Federal Housing Administration or the Veterans' Administration, to with:

Annexation of additional properties;
Mergers and consolidations;
Mortgaging of Common Area;
Dedication of Common Area; and
Dissolution and amendment of these Articles.

ARTICLE XVI - SUBSCRIBERS

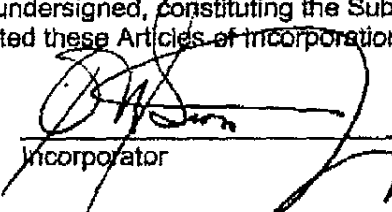
The names and street addresses of the Subscribers to these Articles of incorporation are as follows:

<u>NAME</u>	<u>ADDRESS</u>
C.N. Gross, Jr.	25 E. 17 th Street St. Cloud, FL 34769

ARTICLE XVII - SEVERABILITY

Invalidation of any one of these Articles or Sections of Articles by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

IN WITNESS WHEREOF, for the purpose of forming this nonprofit corporation under the laws of the State of Florida, the undersigned, constituting the Subscriber and incorporator of this Association, has executed these Articles of Incorporation this 7th day of December, 2004.


Incorporator

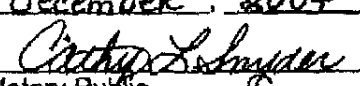
(SEAL)

State of Florida
County of Osceola

I hereby certify that on this day, before me, a notary public duly authorized in the County and State aforesaid to take acknowledgments and administer oaths, personally appeared C.N. Gross, Jr., to be well known to be the person described as Incorporator in and who executed the foregoing Articles of Incorporation, and he/she acknowledged before me that he/she executed same for the purposes and intents therein expressed.

In witness whereof, I have hereto set my hand and affixed my official seal, in the County and State aforesaid, this 7th day of December, 2004.




Notary Public

Cathi L. Snyder

Printed Name

My Commission Expires: 8/5/07

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ACCEPTANCE BY RESIDENT AGENT

Having been named to accept service of process for the above stated nonprofit corporation, at the place designated in Article VI of these Articles of Incorporation, the undersigned hereby agreed to act in this capacity, and further agreed to comply with the provisions of all statutes relative to the proper and complete discharge of his/her duties.

Dated this 7th day of December, 2004.


Registered Agent Dottie Boyd



**SOUTH FLORIDA WATER MANAGEMENT DISTRICT
ENVIRONMENTAL RESOURCE
STANDARD GENERAL PERMIT NO. 49-01374-P
DATE ISSUED: April 20, 2004**

Form #0941
08/95

**PERMITTEE: AZTEC PROPERTIES & DEVELOPMENT
COMPANY -
2900 17TH STREET SUITE 1
ST CLOUD, FL 34769-0595**

PROJECT DESCRIPTION: Construction and operation of a surface water management system to serve a 5.96 acre residential project known as Town Center Villas.

PROJECT LOCATION: OSCEOLA COUNTY, SEC 3 TWP 26S RGE 30E

PERMIT DURATION: See Special Condition No. 1. See attached Rule 40E-4.321, Florida Administrative Code.

This is to notify you of the District's agency action concerning Notice of Intent for Permit Application No. 031217-10, dated December 17, 2003. This action is taken pursuant to Rule 40E-1.803 and Chapter 40E-40, Florida Administrative Code (F.A.C.).

Based on the information provided, District rules have been adhered to and an Environmental Resource General Permit is in effect for this project subject to:

1. Not receiving a filed request for a Chapter 120, Florida Statutes, administrative hearing.
2. the attached 19 General Conditions (See Pages : 2 - 4 of 6).
3. the attached 15 Special Conditions (See Pages : 5 - 8 of 8) and
4. the attached 6 Exhibit(s).

Should you object to these conditions, please refer to the attached "Notice of Rights" which addresses the procedures to be followed if you desire a public hearing or other review of the proposed agency action. Please contact this office if you have any questions concerning this matter. If we do not hear from you in accordance with the "Notice of Rights," we will assume that you concur with the District's action.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a "Notice of Rights" has been mailed to the Permittee (and the persons listed in the attached distribution list) no later than 5:00 p.m. on this 20th day of April, 2004, in accordance with Section 120.60(3), Florida Statutes.

BY:
Thomas P. Genovese
Service Center Director
Orlando Service Center

Certified mail number 7003 2260 0005 8162 3490

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RECEIVED	
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HANSON, WALTER & ASSOCIATES, INC.	
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ENVIRONMENTAL RESOURCE PERMIT

CHAPTER 40E-4 (10/95)

40E-4.321 Duration of Permits

(1) Unless revoked or otherwise modified the duration of an environmental resource permit issued under this chapter or Chapter 40E-40, F.A.C. is as follows:

(a) For a conceptual approval, two years from the date of issuance or the date specified as a condition of the permit, unless within that period an application for an individual or standard general permit is filed for any portion of the project. If an application for an environmental resource permit is filed, then the conceptual approval remains valid until final action is taken on the environmental resource permit application. If the application is granted, then the conceptual approval is valid for an additional two years from the date of issuance of the permit. Conceptual approvals which have no individual or standard general environmental resource permit applications filed for a period of two years shall expire automatically at the end of the two year period.

(b) For a conceptual approval filed concurrently with a development of regional impact (DRI) application for development approval (ADA) and a local government comprehensive plan amendment, the duration of the conceptual approval shall be two years from whichever one of the following occurs at the latest date:

1. the effective date of the local government's comprehensive plan amendment.
2. the effective date of the local government development order.
3. the date on which the District issues the conceptual approval, or
4. the latest date of the resolution of any Chapter 120.57, F.A.C., administrative proceeding or other legal appeals.

(c) For an individual or standard general environmental resource permit, five years from the date of issuance or such amount of time as made a condition of the permit.

(d) For a noticed general permit issued pursuant to Chapter 40E-400, F.A.C., five years from the date the notice of intent to use the permit is provided to the District.

(2)(a) Unless prescribed by special permit condition, permits expire automatically according to the timeframes indicated in this rule. If application for extension is made in writing pursuant to subsection (3), the permit shall remain in full force and effect until:

1. the Governing Board takes action on an application for extension of an individual permit, or
2. staff takes action on an application for extension of a standard general permit.

(b) Installation of the project outfall structure shall not constitute a vesting of the permit.

(3) The permit extension shall be issued provided that a permittee files a written request with the District showing good cause prior to the expiration of the permit. For the purpose of this rule, good cause shall mean a set of extenuating circumstances outside of the control of the permittee. Requests for extensions, which shall include documentation of the extenuating circumstances and how they have delayed this project, will not be accepted more than 180 days prior to the expiration date.

(4) Substantial modifications to Conceptual Approvals will extend the duration of the Conceptual Approval for two years from the date of issuance of the modification. For the purposes of this section, the term "substantial modification" shall mean a modification which is reasonably expected to lead to substantially different water resource or environmental impacts which require a detailed review.

(5) Substantial modifications to individual or standard general environmental resource permits issued pursuant to a permit application extend the duration of the permit for three years from the date of issuance of the modification. Individual or standard general environmental resource permit modifications do not extend the duration of a conceptual approval.

(6) Permit modifications issued pursuant to subsection 40E-4.331(2)(b), F.A.C. (letter modifications) do not extend the duration of a permit.

(7) Failure to complete construction or alteration of the surface water management system and obtain operation phase approval from the District within the permit duration shall require a new permit authorization in order to continue construction unless a permit extension is granted.

Application No. 031217-10
Page 2 of 6**GENERAL CONDITIONS**

1. All activities authorized by this permit shall be implemented as set forth in the plans, specifications and performance criteria as approved by this permit. Any deviation from the permitted activity and the conditions for undertaking that activity shall constitute a violation of this permit and Part IV, Chapter 373, F.S.
2. This permit or a copy thereof, complete with all conditions, attachments, exhibits, and modifications shall be kept at the work site of the permitted activity. The complete permit shall be available for review at the work site upon request by District staff. The permittee shall require the contractor to review the complete permit prior to commencement of the activity authorized by this permit.
3. Activities approved by this permit shall be conducted in a manner which does not cause violations of State water quality standards. The permittee shall implement best management practices for erosion and pollution control to prevent violation of State water quality standards. Temporary erosion control shall be implemented prior to and during construction, and permanent control measures shall be completed within 7 days of any construction activity. Turbidity barriers shall be installed and maintained at all locations where the possibility of transferring suspended solids into the receiving waterbody exists due to the permitted work. Turbidity barriers shall remain in place at all locations until construction is completed and soils are stabilized and vegetation has been established. All practices shall be in accordance with the guidelines and specifications described in Chapter 6 of the Florida Land Development Manual; A Guide to Sound Land and Water Management (Department of Environmental Regulation, 1988), incorporated by reference in Rule 40E-4.091, F.A.C. unless a project-specific erosion and sediment control plan is approved as part of the permit. Thereafter the permittee shall be responsible for the removal of the barriers. The permittee shall correct any erosion or shoaling that causes adverse impacts to the water resources.
4. The permittee shall notify the District of the anticipated construction start date within 30 days of the date that this permit is issued. At least 48 hours prior to commencement of activity authorized by this permit, the permittee shall submit to the District an Environmental Resource Permit Construction Commencement Notice Form Number 0960 indicating the actual start date and the expected construction completion date.
5. When the duration of construction will exceed one year, the permittee shall submit construction status reports to the District on an annual basis utilizing an annual status report form. Status report forms shall be submitted the following June of each year.
6. Within 30 days after completion of construction of the permitted activity, the permittee shall submit a written statement of completion and certification by a registered professional engineer or other appropriate individual as authorized by law, utilizing the supplied Environmental Resource Permit Construction Completion/Certification Form Number 0881. The statement of completion and certification shall be based on onsite observation of construction or review of as-built drawings for the purpose of determining if the work was completed in compliance with permitted plans and specifications. This submittal shall serve to notify the District that the system is ready for inspection. Additionally, if deviation from the approved drawings is discovered during the certification process, the certification must be accompanied by a copy of the approved permit drawings with deviations noted. Both the original and revised specifications must be clearly shown. The plans must be clearly labeled as "As-built" or "Record" drawing. All surveyed dimensions and elevations shall be certified by a registered surveyor.
7. The operation phase of this permit shall not become effective until the permittee has complied with the requirements of condition (6) above, and submitted a request for conversion of Environmental Resource Permit from Construction Phase to Operation Phase, Form No. 0920; the District determines the system to be in compliance with the permitted plans and specifications; and the entity approved by the District in accordance with Sections 9.0 and 10.0 of the Basis of Review for Environmental Resource Permit Applications within the South Florida Water Management District, accepts responsibility for operation and maintenance of the system. The permit shall not be transferred to such approved operation and maintenance entity until the operation phase of the permit becomes effective. Following inspection and approval of the permitted system by the District, the permittee shall initiate transfer of the permit to the

GENERAL CONDITIONS

approved responsible operating entity if different from the permittee. Until the permit is transferred pursuant to Section 40E-1.6107, F.A.C., the permittee shall be liable for compliance with the terms of the permit.

8. Each phase or independent portion of the permitted system must be completed in accordance with the permitted plans and permit conditions prior to the initiation of the permitted use of site infrastructure located within the area served by that portion or phase of the system. Each phase or independent portion of the system must be completed in accordance with the permitted plans and permit conditions prior to transfer of responsibility for operation and maintenance of the phase or portion of the system to a local government or other responsible entity.
9. For those systems that will be operated or maintained by an entity that will require an easement or deed restriction in order to enable that entity to operate or maintain the system in conformance with this permit, such easement or deed restriction must be recorded in the public records and submitted to the District along with any other final operation and maintenance documents required by Sections 9.0 and 10.0 of the Basis of Review for Environmental Resource Permit applications within the South Florida Water Management District, prior to lot or units sales or prior to the completion of the system, whichever comes first. Other documents concerning the establishment and authority of the operating entity must be filed with the Secretary of State, county or municipal entities. Final operation and maintenance documents must be received by the District when maintenance and operation of the system is accepted by the local government entity. Failure to submit the appropriate final documents will result in the permittee remaining liable for carrying out maintenance and operation of the permitted system and any other permit conditions.
10. Should any other regulatory agency require changes to the permitted system, the permittee shall notify the District in writing of the changes prior to implementation so that a determination can be made whether a permit modification is required.
11. This permit does not eliminate the necessity to obtain any required federal, state, local and special district authorizations prior to the start of any activity approved by this permit. This permit does not convey to the permittee or create in the permittee any property right, or any interest in real property, nor does it authorize any entrance upon or activities on property which is not owned or controlled by the permittee, or convey any rights or privileges other than those specified in the permit and Chapter 40E-4 or Chapter 40E-40, F.A.C..
12. The permittee is hereby advised that Section 253.77, F.S. states that a person may not commence any excavation, construction, or other activity involving the use of sovereign or other lands of the State, the title to which is vested in the Board of Trustees of the Internal Improvement Trust Fund without obtaining the required lease, license, easement, or other form of consent authorizing the proposed use. Therefore, the permittee is responsible for obtaining any necessary authorizations from the Board of Trustees prior to commencing activity on sovereignty lands or other state-owned lands.
13. The permittee must obtain a Water Use permit prior to construction dewatering, unless the work qualifies for a general permit pursuant to Subsection 40E-20.302(3), F.A.C., also known as the "No Notice" Rule.
14. The permittee shall hold and save the District harmless from any and all damages, claims, or liabilities which may arise by reason of the construction, alteration, operation, maintenance, removal, abandonment or use of any system authorized by the permit.
15. Any delineation of the extent of a wetland or other surface water submitted as part of the permit application, including plans or other supporting documentation, shall not be considered binding, unless a specific condition of this permit or a formal determination under Section 373.421(2), F.S., provides otherwise.
16. The permittee shall notify the District in writing within 30 days of any sale, conveyance, or other transfer of ownership or control of a permitted system or the real property on which the permitted system is located. All transfers of ownership or transfers of a permit are subject to the requirements of Rules 40E-1.6105 and

GENERAL CONDITIONS

40E-1.6107, F.A.C.. The permittee transferring the permit shall remain liable for corrective actions that may be required as a result of any violations prior to the sale, conveyance or other transfer of the system.

17. Upon reasonable notice to the permittee, District authorized staff with proper identification shall have permission to enter, inspect, sample and test the system to insure conformity with the plans and specifications approved by the permit.
18. If historical or archaeological artifacts are discovered at any time on the project site, the permittee shall immediately notify the appropriate District service center.
19. The permittee shall immediately notify the District in writing of any previously submitted information that is later discovered to be inaccurate.

SPECIAL CONDITIONS

The construction phase of this permit shall expire on April 20, 2009.

Operation of the surface water management system shall be the responsibility of TOWN CENTER HOMEOWNERS ASSOCIATION INC. Within one year of permit issuance or concurrent with the engineering certification of construction completion, whichever comes first, the permittee shall submit a copy of the recorded deed restrictions (or declaration of condominium, if applicable), a copy of the filed articles of incorporation, and a copy of the certificate of incorporation for the association.

Discharge Facilities:

Structure: 1

1-24" W X 6" H RECTANGULAR NOTCH weir with crest at elev. 70.08' NGVD.
1-3" dia. CIRCULAR ORIFICE with invert at elev. 69' NGVD.
240 LF of 23" wide X 14" high ELLIPTICAL REINFORCED CONCRETE culvert.
1-24" W X 37" L drop inlet with crest at elev. 71.5' NGVD.

Receiving body : Existing road system
Control elev : 69 feet NGVD.

The permittee shall be responsible for the correction of any erosion, shoaling or water quality problems that result from the construction or operation of the surface water management system.

Measures shall be taken during construction to insure that sedimentation and/or turbidity violations do not occur in the receiving water.

The District reserves the right to require that additional water quality treatment methods be incorporated into the drainage system if such measures are shown to be necessary.

Lake side slopes shall be no steeper than 4:1 (horizontal:vertical) to a depth of two feet below the control elevation. Side slopes shall be nurtured or planted from 2 feet below to 1 foot above control elevation to insure vegetative growth, unless shown on the plans.

Facilities other than those stated herein shall not be constructed without an approved modification of this permit.

A stable, permanent and accessible elevation reference shall be established on or within one hundred (100) feet of all permitted discharge structures no later than the submission of the certification report. The location of the elevation reference must be noted on or with the certification report.

The permittee shall provide routine maintenance of all of the components of the surface water management system in order to remove all trapped sediments/debris. All materials shall be properly disposed of as required by law. Failure to properly maintain the system may result in adverse flooding conditions.

This permit is issued based on the applicant's submitted information which reasonably demonstrates that adverse water resource related impacts will not be caused by the completed permit activity. Should any adverse impacts caused by the completed surface water management system occur, the District will require the permittee to provide appropriate mitigation to the District or other impacted party. The District requires the permittee to modify the surface water management system, if necessary, to eliminate the cause of the adverse impacts.

Minimum building floor elevation: BASIN: Town Center Villas - 72.00 feet NGVD.

Minimum parking lot elevation: Basin: Town Center Villas - 71.05 feet NGVD.

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SPECIAL CONDITIONS

14. The permittee must obtain a Water Use permit prior to construction dewatering, unless the work qualifies for a general permit pursuant to Subsection 40E-20.302(3), F.A.C., also known as the "No Notice" Rule.
15. Silt fencing shall be installed at the limits of construction to protect all of the preserve areas from silt and sediment deposition during the construction of the project. A floating turbidity barrier shall be installed during the construction of the final discharge structure into the adjacent canal/water body. The silt fencing and the turbidity barrier shall be installed in accordance with "Florida Land Development Manual" Chapter 6 "Stormwater and Erosion and Sediment Control Best Management Practices for Developing Areas". The sediment controls shall be installed prior to the commencement of any clearing or construction and the installation must be inspected by the District's Environmental Resource Compliance staff. The silt fencing and turbidity barriers shall remain in place and be maintained in good functional condition until all adjacent construction activities have been completed and all fill slopes have been stabilized. Upon completion of the project and the stabilization of the fill, the permittee shall contact the District's Environmental Resource Compliance staff to inspect the site and approve the removal of the silt fencing and turbidity barriers.

NOTICE OF RIGHTS

120.569(1), Fla. Stat. (1999), requires that "each notice shall inform the recipient of any administrative hearing or review that is available under this section, s. 120.57, or s. 120.68; shall indicate the procedure which must be followed to obtain the hearing or judicial review, and shall state the time limits which apply." Please note that this Notice of Rights is not intended to provide legal advice. Not all the legal proceedings detailed below may be an applicable or appropriate remedy. You may wish to consult an attorney regarding your legal rights.

1. Administrative Proceedings

1. A person whose substantial interests are affected by the South Florida Water Management District's (SFWMD) action has the right to request an administrative hearing on that action. The affected person may request a formal or an informal hearing, as set forth below. A person's entry into administrative proceedings is governed by Rules 28-106.111 and 40E-1.511, Fla. Admin. Code, published as an exception to the Uniform Rules of Procedure as Rule 40E-0.109, as set forth below. Petitions are deemed filed upon receipt of the original petition by the SFWMD Clerk.

a. Formal Administrative Hearing: If a person's substantial interest(s) of material fact is in dispute, the affected person may request a formal hearing on a SFWMD decision which may or may not determine their substantial interests. A petition for hearing pursuant to Sections 120.569 and 120.57(1), Fla. Stat., or for mediation pursuant to Section 120.573, Fla. Stat., within 21 days, except as provided in subsections c. and d. below, of either written notice through mail or posting or publication of notice that the District has or intends to take final agency action, must substantially comply with the requirements of Rule 28-106.201(2), Fla. Admin. Code, a copy of which is attached to this Notice of Rights.

b. Informal Administrative Hearing: If there is a dispute of material fact in dispute, the affected person may request an informal hearing on a SFWMD decision which may or may not determine their substantial interests. A petition for hearing pursuant to Sections 120.569 and 120.57(2), Fla. Stat., or for mediation pursuant to Section 120.573, Fla. Stat., within 21 days, except as provided in subsections c. and d. below, of either written notice through mail or posting or publication of notice that the District has or intends to take final agency action, must substantially comply with the requirements of Rule 28-106.201(2), Fla. Admin. Code, a copy of which is attached to this Notice of Rights.

Administrative Complaint and Order

If a person objects to a SFWMD Administrative Order, pursuant to Section 373.119, Fla. Stat., a person named in the Administrative Order may file a petition for a hearing no later than the date such order is served. The petition must substantially comply with the requirements of subsections a. or b. above.

d. State Lands Environmental Resource

Permit: Pursuant to Section 373.427, Fla. Stat., and Rule 40E-1.511(3), Fla. Admin. Code (also published as an exception to the Uniform Rules of Procedure as Rule 40E-0.109(2)(c)), a petition objecting to the SFWMD's agency action regarding consolidated applications for Environmental Resource Permits and Use of Sovereign Submerged Lands (SLERPs), must be filed within 14 days of the notice of consolidated intent to grant or deny the SLERP. Petitions must substantially comply with the requirements of either subsection a. or b. above.

e. Emergency Authorization and Order

A person whose substantial interests are affected by a SFWMD Emergency Authorization and Order, has a right to file a petition under Sections 120.569, 120.57(1), and 120.57(2), Fla. Stat., as provided in subsections a. and b. above. However, the person, or the agent of the person responsible for causing or contributing to the emergency conditions shall take whatever action necessary to cause immediate compliance with the terms of the Emergency Authorization and Order.

f. Order for Emergency Action

A person whose substantial interests are affected by a SFWMD Order for Emergency Action has a right to file a petition pursuant to Rules 28-107.005 and 40E-1.511, Fla. Admin. Code, copies of which are attached to this Notice of Rights, and Section 373.119(3), Fla. Stat., for a hearing on the Order. Any subsequent agency action or proposed agency action to initiate a formal revocation proceeding shall be separately noticed pursuant to section g. below.

g. Permit Suspension, Revocation, Annulment, and Withdrawal

If the SFWMD issues an administrative complaint to suspend, revoke, annul, or withdraw a permit, the permittee may request a hearing to be conducted in accordance with Sections 120.569 and 120.57, Fla. Stat., within 21 days of either written notice through mail or posting or publication of notice that the SFWMD has or intends to take final agency action. Petitions must substantially comply with the requirements of Rule 28-107.004(3), Fla. Admin. Code, a copy of which is attached to this Notice of Rights.

2. Because the administrative hearing process is designed to formulate final agency action, the filing of a petition means that the SFWMD's final action may be different from the position taken by it previously. Persons whose substantial interests may be affected by

any such final decision of the SFWMD shall have, pursuant to Rule 40E-1.511(2), Fla. Admin. Code (also published as an exception to the Uniform Rules of Procedure as Rule 40E-0.109(2)(c)), an additional 21 days from the date of receipt of notice of said decision to request an administrative hearing. However, the scope of the administrative hearing shall be limited to the substantial deviation.

3. Pursuant to Rule 40E-1.511(4), Fla. Admin. Code, substantially affected persons entitled to a hearing pursuant to Section 120.57(1), Fla. Stat., may waive their right to such a hearing and request an informal hearing before the Governing Board pursuant to Section 120.57(2), Fla. Stat., which may be granted at the option of the Governing Board.

4. Pursuant to Rule 28-106.111(3), Fla. Admin. Code, persons may file with the SFWMD a request for extension of time for filing a petition. The SFWMD, for good cause shown, may grant the extension. The request for extension must contain a certificate that the petitioner has consulted with all other parties, if any, concerning the extension and that the SFWMD and all other parties agree to the extension.

CIRCUIT COURT

5. Pursuant to Section 373.617, Fla. Stat., any substantially affected person who claims that final agency action of the SFWMD relating to permit decisions constitutes an unconstitutional taking of property without just compensation may seek judicial review of the action in circuit court by filing a civil action in the circuit court in the judicial circuit in which the affected property is located within 90 days of the rendering of the SFWMD's final agency action.

6. Pursuant to Section 403.412, Fla. Stat., any citizen of Florida may bring an action for injunctive relief against the SFWMD to compel the SFWMD to enforce the laws of Chapter 373, Fla. Stat., and Title 40E, Fla. Admin. Code. The complaining party must file with the SFWMD clerk a verified complaint setting forth the facts upon which a complaint is based and the manner in which the complaining party is affected. If the SFWMD does not take appropriate action on the complaint within 30 days of receipt, the complaining party may then file a civil suit for injunctive relief in the 15th Judicial Circuit in and for Palm Beach County or circuit court in the county where the site of action allegedly occurred.

7. Pursuant to Section 373.433, Fla. Stat., any citizen of Florida may file suit in circuit court to force the abatement of any stormwater management system, dam, impoundment, reservoir, appurtenant work or structures that violate the provisions of Chapter 373, Fla. Stat.

DISTRICT COURT OF APPEAL

8. Pursuant to Section 120.58, Fla. Stat., a party who is adversely affected by final SFWMD action may seek judicial review of the SFWMD's final decision by filing a notice of appeal pursuant to Florida Rule of Appellate Procedure 9.110 in the Fourth District Court of Appeal or in the appellate district where a party resides and filing a second copy of the notice with the SFWMD Clerk within 30 days of rendering of the final SFWMD action.

LAND AND WATER ADJUDICATORY COMMISSION

9. A party to a "proceeding below" may seek review by the Land and Water Adjudicatory Commission (FLAWAC) of SFWMD's final agency action to determine if such action is consistent with the provisions and purposes of Chapter 373, Fla. Stat. Pursuant to Section 373.114, Fla. Stat., and Rules 42-2.013 and 42-2.0132, Fla. Admin. Code, a request for review of (a) an order or rule of the SFWMD must be filed with FLAWAC within 20 days after rendition of the order or adoption of the rule sought to be reviewed; (b) an order of the Department of Environmental Protection (DEP) requiring amendment or repeal of a SFWMD rule must be filed with FLAWAC within 30 days of rendition of the DEP's order, and (c) a SFWMD order entered pursuant to a formal administrative hearing under Section 120.57(1), Fla. Stat., must be filed no later than 20 days after rendition of the SFWMD's final order. Simultaneous with filing, a copy of the request for review must be served on the DEP Secretary, any person named in the SFWMD or DEP final order, and all parties to the proceeding below. A copy of Rule 42-2.013, Fla. Admin. Code is attached to this Notice of Rights.

PRIVATE PROPERTY RIGHTS PROTECTION ACT

10. A property owner who alleges a specific action of the SFWMD has inordinately burdened an existing use of the real property, or a vested right to a specific use of the real property, may file a claim in the circuit court where the real property is located within 1 year of the SFWMD action pursuant to the procedures set forth in Subsection 70.001(4)(a), Fla. Stat.

LAND USE AND ENVIRONMENTAL DISPUTE RESOLUTION

11. A property owner who alleges that a SFWMD development order (as that term is defined in Section 70.51(2)(a), Fla. Stat. to include permits) or SFWMD enforcement action is unreasonable, or unfairly burdens the use of the real property, may file a request for relief with the SFWMD within 30 days of receipt of the SFWMD's order or notice of agency action pursuant to the procedures set forth in Subsections 70.51(4) and (6), Fla. Stat.

MEDIATION

12. A person whose substantial interests are, or may be, affected by the SFWMD's action may choose mediation as an alternative remedy under Section 120.573, Fla. Stat. Pursuant to Rule 28-106.111(2), Fla. Admin. Code, the petition for mediation shall be filed within 21 days of either written notice through mail or posting or

publication of notice that the SFVMD has or intends to take final agency action. Choosing mediation will not affect the right to an administrative hearing if mediation does not result in settlement.

Pursuant to Rule 28-106.402, Fla. Admin. Code, the contents of the petition for mediation shall contain the following information:

- (1) the name, address, and telephone number of the person requesting mediation and that person's representative, if any;
- (2) a statement of the preliminary agency action;

(3) an explanation of how the person's substantial interests will be affected by the agency determination; and

(4) a statement of relief sought. Provided in Section 120.573, Fla. Stat. (1997), the agreement of all the parties to mediate will toll the limitations imposed by Sections 120.569 and 120.57, Fla. Stat., for requesting and holding an administrative hearing. Unless otherwise agreed by the parties, the mediation must be concluded within 60 days of the execution of the agreement. If mediation results in the settlement of the dispute, the SFVMD must enter a final order incorporating the agreement of the parties. Persons whose substantial interest will be affected by such a final agency decision have a right to petition for review within 21 days of receipt of the final order in accordance with the requirements of Sections 120.569 and 120.57, Fla. Stat., and SFVMD Rule 28-106.201(2), Fla. Admin. Code. If mediation terminates without settlement of the dispute, the SFVMD shall notify all parties in writing of the administrative hearing process under Sections 120.569 and 120.57, Fla. Stat., remain available for review of the dispute, and the notice will specify the time and place at which the petitioner may then will apply for challenging the agency action.

AND WAIVERS

A person who is subject to regulation under a SFVMD rule and believes the application of the rule will create a substantial hardship or will violate the fairness (as those terms are defined in Section 120.542(2), Fla. Stat.) and can demonstrate that the application of the underlying statute will be or has been by other means, may file a petition with the SFVMD requesting a variance from or waiver of the rule. Applying for a variance or waiver does not extend the time for filing a petition for an administrative hearing or exercising any other right that a person may have concerning the SFVMD's action. Pursuant to Rule 28-104.002(2), Fla. Admin. Code, the petition shall include the following information:

The caption shall read:

For (Variance) or (Waiver of) Rule (Citation)
The name, address, telephone number
and telephone number of the petitioner;

(c) The name, address telephone number and any facsimile number of the attorney or qualified representative of the petitioner, (if any);

(d) the applicable rule or portion of the rule;

(e) the citation to the statute the rule is implementing;

(f) the type of action requested;

(g) the specific facts that demonstrate a substantial hardship or violation of principals of fairness that would justify a waiver or variance for the petitioner;

(h) the reason why the variance or the waiver requested would serve the purposes of the underlying statute; and

(i) a statement of whether the variance or waiver is permanent or temporary. If the variance or waiver is temporary, the petition shall include the dates indicating the duration of the requested variance or waiver.

A person requesting an emergency variance from or waiver of a SFVMD rule must clearly so state in the caption of the petition. In addition to the requirements of Section 120.542(5), Fla. Stat. pursuant to Rule 28-104.004(2), Fla. Admin. Code, the petition must also include:

a) the specific facts that make the situation an emergency; and

b) the specific facts to show that the petitioner will suffer immediate adverse effect unless the variance or waiver is issued by the SFVMD more expeditiously than the applicable timeframes set forth in Section 120.542, Fla. Stat.

WAIVER OF RIGHTS

14. Failure to observe the relevant timeframes prescribed above will constitute a waiver of such right.

28-106.201 INITIATION OF PROCEEDINGS (INVOLVING DISPUTED ISSUES OF MATERIAL FACT)

(2) All petitions filed under these rules shall contain:

(a) The name and address of each agency affected and each agency's file or identification number, if known;

(b) The name, address, and telephone number of the petitioner, the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding, and an explanation of how the petitioner's substantial interests will be affected by the agency determination;

(c) A statement of when and how the petitioner received notice of the agency decision;

(d) A statement of all disputed issues of material fact. If there are none, the petition must so indicate;

(e) A concise statement of the ultimate facts alleged, as well as the rules and statutes which entitle the petitioner to relief; and

(f) A demand for relief.

28-106.301 INITIATION OF PROCEEDINGS
(NOT INVOLVING DISPUTED ISSUES OF MATERIAL FACT)

(2) All petitions filed under these rules shall contain:

(a) The name and address of each agency affected and each agency's file or identification number, if known;

(b) The name, address, and telephone number of the petitioner, the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding, and an explanation of how the petitioner's substantial interests will be affected by the agency determination;

(c) A statement of when and how the petitioner received notice of the agency decision;

(d) A concise statement of the ultimate facts alleged, as well as the rules and statutes which entitle the petitioner to relief; and

(e) A demand for relief.

28-107.004 SUSPENSION, REVOCATION, ANNULMENT, OR WITHDRAWAL

(3) Requests for hearing filed in accordance with this rule shall include:

(a) The name and address of the party making the request, for purposes of service;

(b) A statement that the party is requesting a hearing involving disputed issues of material fact, or a hearing not involving disputed issues of material fact; and

(c) A reference to the notice, order to show cause, administrative complaint, or other communication that the party has received from the agency.

42-2.013 REQUEST FOR REVIEW PURSUANT TO SECTION 373.114 OR 373.217

(1) In any proceeding arising under Chapter 373, F.S., review by the Florida Land and Water Adjudicatory Commission may be initiated by the Department or a party by filing a request for such review with the Secretary of the Commission and serving a copy on any person named in the rule or order, and on all parties to the proceeding which resulted in the order sought to be reviewed. A certificate of service showing completion of service as required by this subsection shall be a requirement for a determination of sufficiency under Rule 42-2.0132. Failure to file the request with the Commission within the time period provided in Rule 42-2.0132 shall result in dismissal of the request for review.

(2) The request for review shall identify the rule or order requested to be reviewed, the proceeding in which the rule or order was entered and the nature of the rule or order. A copy of the rule or order sought to be reviewed shall be attached. The request for review shall state with particularity:

(a) How the order or rule conflicts with the requirements, provisions and purposes of Chapter 373, F.S., or rules duly adopted thereunder;

(b) How the rule or order sought to be reviewed affects the interests of the party seeking review;

(c) The oral or written statement, sworn or unsworn, which was submitted to the agency concerning the matter to be reviewed and the date and location of the statement, if the individual or entity requesting the review has not participated in a proceeding previously instituted pursuant to Chapter 120, F.S., on the order for which review is sought;

(d) If review of an order is being sought, whether and how the activity authorized by the order would substantially affect natural resources of statewide or regional significance, or whether the order raises issues of policy, statutory interpretation, or rule interpretation that have regional or statewide significance from a standpoint of agency precedent, and all the factual bases in the record which the petitioner claims support such determination(s); and

(e) The action requested to be taken by the Commission as a result of the review, whether to rescind or modify the order, or remand the proceeding to the water management district for further action, or to require the water management district to initiate rulemaking to adopt, amend or repeal a rule.

28-107.005 EMERGENCY ACTION

(1) If the agency finds that immediate serious danger to the public health, safety, or welfare requires emergency action, the agency shall summarily suspend, limit, or restrict a license.

(2) The 14-day notice requirement of Section 120.569(2)(b), F. S., does not apply and shall not be construed to prevent a hearing at the earliest time practicable upon request of an aggrieved party.

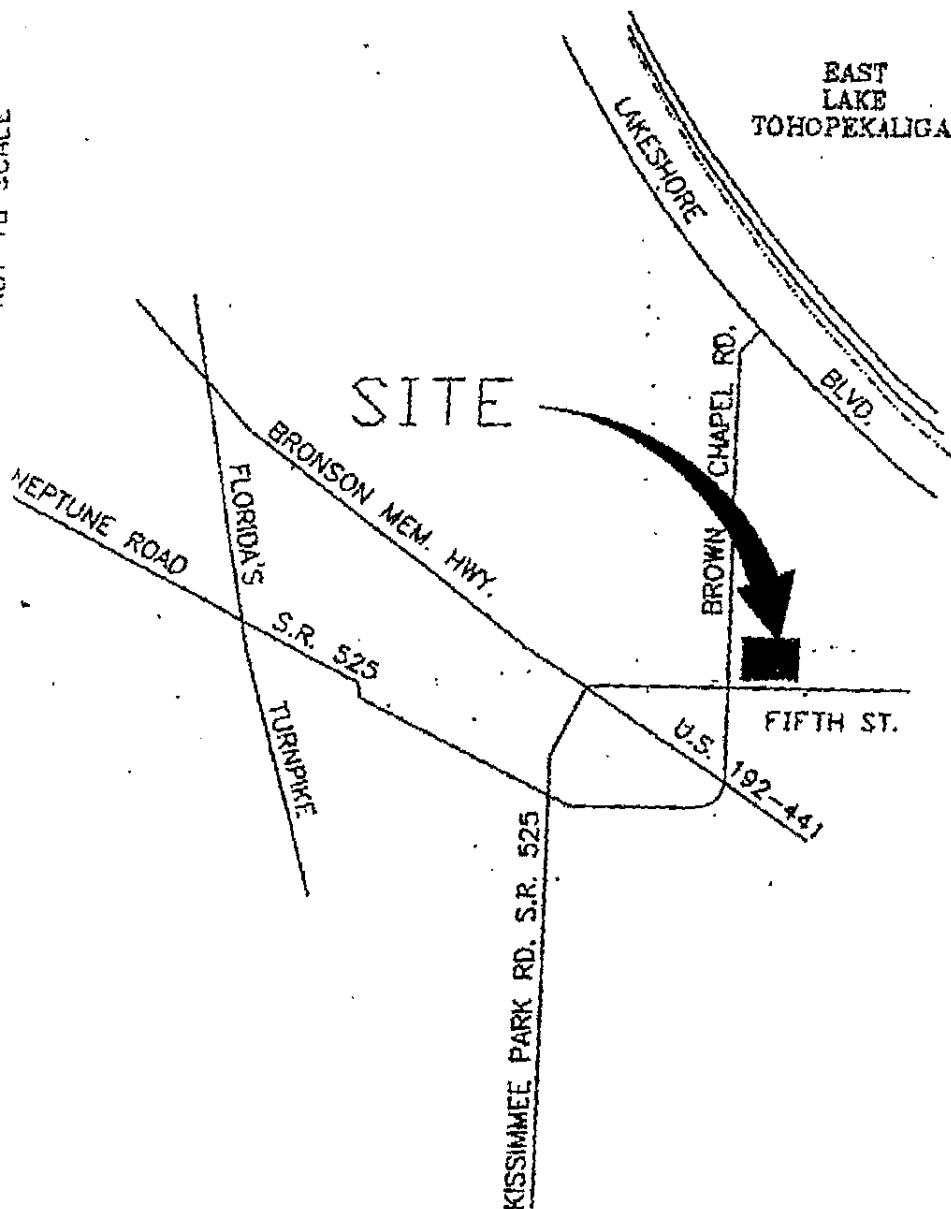
(3) Unless otherwise provided by law, within 20 days after emergency action taken pursuant to paragraph (1) of this rule, the agency shall initiate a formal suspension or revocation proceeding in compliance with Sections 120.569, 120.57, and 120.60, F.S.

40E-1.611 EMERGENCY ACTION

(1) An emergency exists when immediate action is necessary to protect public health, safety or welfare; the health of animals, fish or aquatic life; the works of the District; a public water supply, or recreational, commercial, industrial, agricultural or other reasonable uses of land and water resources.

(2) The Executive Director may employ the resources of the District to take whatever remedial action necessary to alleviate the emergency condition without the issuance of an emergency order, or in the event an emergency order has been issued, after the expiration of the requisite time for compliance with that order.

LOCATION MAP



DRAWN 3/4/05

647-2489

PLANNING

Associates, Inc.

HWA

PROJECT: VILLAS @ BRITTANY OAKS

APPLICANT: MR. NICK GROSS JR.

LOCATION: OSCEOLA COUNTY

EXHIBIT 1

Last Date For Agency Action: 28-APR-2004

GENERAL ENVIRONMENTAL RESOURCE PERMIT STAFF REPORT

Project Name: Town Center Villas

Permit No.: 49-01374-P

Application No.: 031217-10

Application Type: Environmental Resource (New General Permit)

Location: Osceola County, S3/T26S/R30E

Permittee: Aztec Properties & Development Company

Operating Entity: Town Center Homeowners Association Inc

Project Area: 5.96 acres

Project Land Use: Residential

Drainage Basin: LAKE TOHOPEKALIGA

Receiving Body: Existing road system

Class: CLASS III

Special Drainage District: NA

Conservation Easement To District: No

Sovereign Submerged Lands: No

PROJECT PURPOSE:

This application is a request for an Environmental Resource Permit to authorize construction and operation of a surface water management system to serve a 5.96 acre residential development known as Town Center Villas. Staff recommends approval with conditions.

PROJECT EVALUATION:**PROJECT SITE DESCRIPTION:**

The site is located at the north east corner of Brown Chapel Road and 5th Street in the City of St. Cloud.

There are no permitted surface water management facilities within the project area. The site contains undeveloped uplands. Landscape trees have been planted along the roadways in conjunction with previously permitted road improvements.

The subject project site is composed of two dense clusters of upland mixed hardwoods in the northwest corner and dense brush in the remaining two thirds of the site. Nuisance and exotic species invasion is evident throughout the site. There are no wetlands or other surface waters located within or affected by the proposed project.

PROPOSED PROJECT:

Construction proposed consists of the surface water management system serving the 5.96 acre town house project. The water management system consists of inlets and culverts directing runoff to the wet detention pond with dry legs to the east and west for conveyance. The pond drains to the existing road system and then to Lake Tohopekaliga via the C-31 canal.

The site contains 5.96 acres, however only 4.66 acres drain to the detention pond. The 1.3 acre balance is landscaped area with large trees planted in conjunction with previously permitted road improvements. The pond has been sized to provide water quality treatment from the total 5.96 acres owned.

LAND USE:

Instruction:

Object:

	This Phase	Total Project	
Impervious Coverage	1.97	1.97	acres
Grass	.91	.91	acres
Impervious	2.58	2.58	acres
Grass Mgmt Acreage	.50	.50	acres
Total:	5.96	5.96	

PEAK QUANTITY:

Peak Rate:

Shown in the table below, the proposed project discharge is within the allowable limit for other projects in the area.

Design Storm Frequency: 10 YEAR-3 DAY

Design Rainfall: 9.5 inches

	Allow Disch (cfs)	Method Of Determination	Peak Disch (cfs)	Peak Stage (ft, NGVD)
Winter Villas	4.9	Pre Vs Post	4.9	71.3

Finished Floors :

Building Storm Frequency : 100 YEAR-3 DAY.

Design Rainfall : 14.9 inches

Basin	Peak Stage (ft, NGVD)	Proposed Min. Finished Floors (ft, NGVD)	FEMA Elevation (ft, NGVD)
Town Center Villas	71.93	72	N/A

Parking Lot Design :

Parking Lot Storm Frequency : 10 YEAR-1 DAY

Design Rainfall 7 inches

Basin	Peak Stage (ft, NGVD)	Proposed Min. Parking Elev. (ft, NGVD)
Town Center Villas	71.03	71.05

Control Elevation :

Basin	Area (Acres)	Ctrl Elev (ft, NGVD)	WSWT Ctrl Elev (ft, NGVD)	Method Of Determination
Town Center Villas	4.66	69	69.00	Wet Season Soil Borings

Receiving Body :

Basin	Str.#	Receiving Body
Town Center Villas	1	Existing road system

Discharge Structures: Note: The units for all the elevation values of structures are (ft, NGVD)**Culverts:**

Basin	Str#	Count	Type	Width	Height	Length	Dia.
Town Center Villas	1	1	Elliptical Reinforced Concrete	23"	14"	240'	

Inlets:

Basin	Str#	Count	Type	Width	Length	Dia.	Crest Elev.
Town Center Villas	1	1	Inlet	24"	37"		71.5

Weirs:

Basin	Str#	Count	Type	Width	Height	Length	Dia.	Elev.
Town Center Villas	1	1	Rectangular Notch	24"	6"			70.08 (crest)

Water Quality Structures: Note: The units for all the elevation values of structures are (ft, NGVD)**Bleeders:**

Basin	Str#	Count	Type	Width	Height	Length	Dia.	Invert Angle	Invert Elev.
Town Center Villas	1	1	Circular Orifice				3"		69

WATER QUALITY :

No adverse water quality impacts are anticipated as a result of the proposed project. Water quality treatment for 2.5 inches times the percentage of impervious coverage is provided in the wet detention

pond.

Basin	Treatment Method	Vol Req'd (ac-ft)	Vol Prov'd (ac-ft)
Town Center Villas	Treatment Wet Detention	.5 acres .5	.5

CERTIFICATION AND MAINTENANCE OF THE WATER MANAGEMENT SYSTEM:

It is suggested that the permittee retain the services of a Professional Engineer registered in the State of Florida for periodic observation of construction of the surface water management (SWM) system. This will facilitate the completion of construction completion certification Form #0881 which is required pursuant to Section 10 of the Basis of Review for Environmental Resource Permit Applications within the South Florida Water Management District, and Rule 40E-4361(2), Florida Administrative Code (F.A.C.).

Pursuant to Chapter 40E-4 F.A.C., this permit may not be converted from the construction phase to the operation phase until certification of the SWM system is submitted to and accepted by this District. Rule 40E-4.321(7) F.A.C. states that failure to complete construction of the SWM system and obtain operation phase approval from the District within the permit duration shall require a new permit authorization unless a permit extension is granted.

For SWM systems permitted with an operating entity who is different from the permittee, it should be noted that until the permit is transferred to the operating entity pursuant to Rule 40E-1.6107, F.A.C., the permittee is liable for compliance with the terms of this permit.

The permittee is advised that the efficiency of a SWM system will normally decrease over time unless the system is periodically maintained. A significant reduction in flow capacity can usually be attributed to partial blockages of the conveyance system. Once flow capacity is compromised, flooding of the project may result. Maintenance of the SWM system is required to protect the public health, safety and the natural resources of the state. Therefore, the permittee must have periodic inspections of the SWM system performed to ensure performance for flood protection and water quality purposes. If deficiencies are found, it is the responsibility of the permittee to correct these deficiencies in a timely manner.

RELATED CONCERNS:

Water Use Permit Status:

The applicant has indicated that public water supply will be used as a source for irrigation water for the project.

The applicant has indicated that dewatering is required for construction of this project. The engineer has indicated that the site qualifies for a No Notice construction dewatering permit. Dewatering will be conducted under those rules with no off-site discharge.

This permit does not release the permittee from obtaining all necessary Water Use authorization(s) prior to the commencement of activities which will require such authorization, including construction dewatering and irrigation, unless the work qualifies for a general permit issued pursuant to Section 40E-20 FAC.

Historical/Archaeological Resources:

No information has been received that indicates the presence of archaeological or historical resources or that the proposed activities could cause adverse impacts to archaeological or historical resources.

DCA/CZM Consistency Review:

The District has not received a finding of inconsistency from the Florida Department of Community Affairs or other commenting agencies regarding the provisions of the federal Coastal Zone Management Plan.

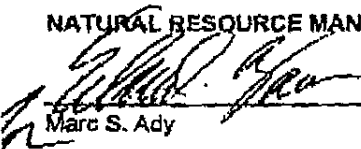
Enforcement:

There has been no enforcement activity associated with this application.

STAFF REVIEW:

DIVISION APPROVAL:

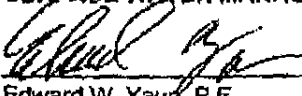
NATURAL RESOURCE MANAGEMENT:



Marc S. Ady

DATE: 4/19/04

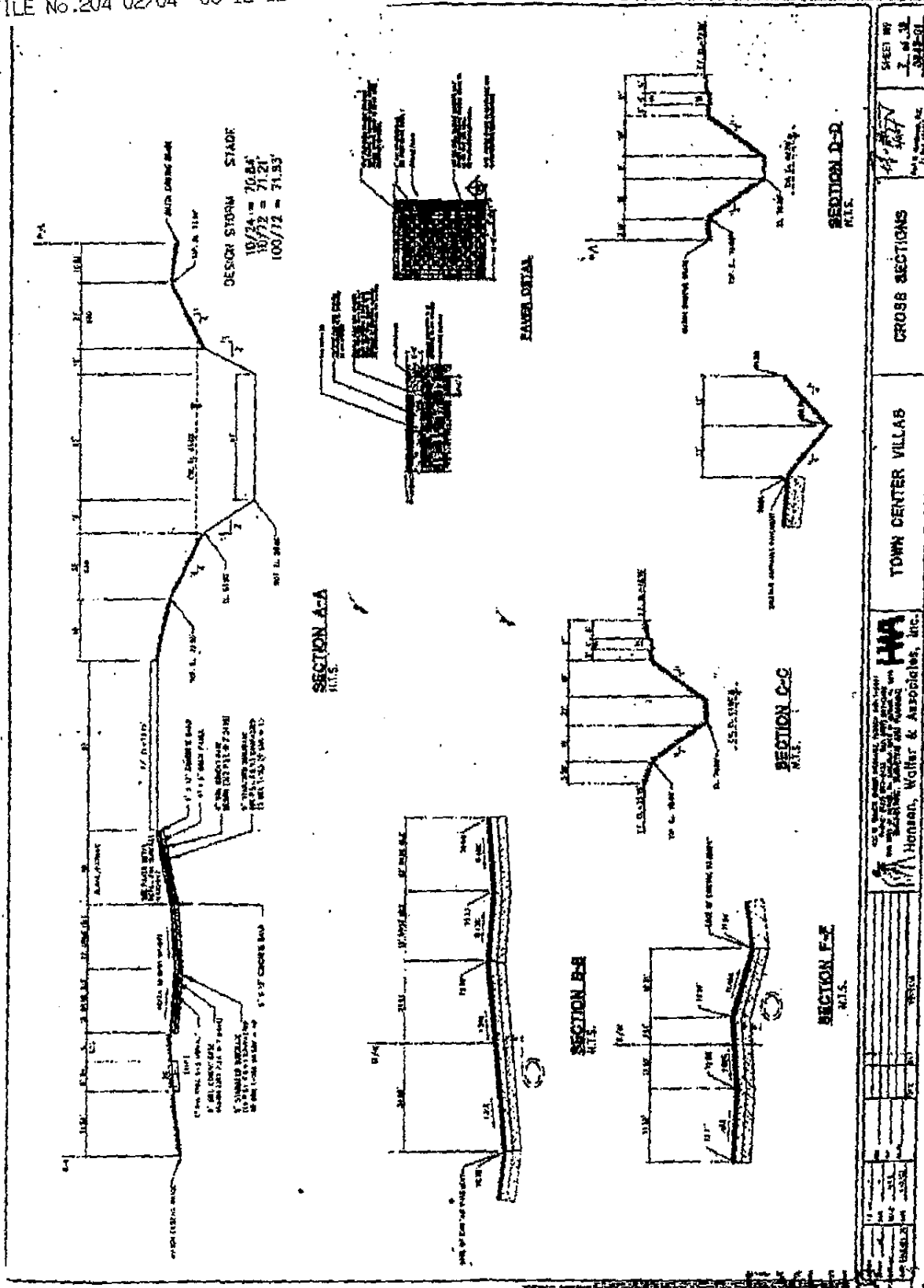
SURFACE WATER MANAGEMENT:



Edward W. Yaur, P.E.

DATE: 4/18/04





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OWN CENTER VILLAS

Application No: 031217-10

Permit No: 49-01374-P

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Marc S. Ady - 6850
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ERC Engineering - 6850
ERC Environmental - 6850
Permit File

EXTERNAL DISTRIBUTION

- X Permittee - Aztec Properties & Development Company
- X Applicant - Gross Investments LLC
- X Engr Consultant - Hanson Walter & Associates

GOVERNMENT AGENCIES

- X City Engineer, City of Saint Cloud
- X Div of Recreation and Park - District 6 - FDEP
- X Florida Fish & Wildlife Conservation Commission - Bureau of Protected Species Mgmt
- X Osceola County Engineer
- X US Army Corps of Engineers - Merritt Island Reg Office - CESAJ-RD-AM

OTHER INTERESTED PARTIES

- X Sierra Club - Central Florida Group P.O. Box 941692
- X Water Management Institute - Michael N. Vanatta

EXHIBIT 6