

**Lee County Board of County Commissioners  
Agenda Item Summary**

Blue Sheet No. 20041208

**1. REQUESTED MOTION:**

**ACTION REQUESTED:** Adopt and enact an ordinance known as the Moody River Estates Community Development District Ordinance.

**WHY ACTION IS NECESSARY:** An ordinance adopted by the BOCC is the exclusive means to establish a Uniform Community Development District (UCDD) of less than 1,000 acres in size.

**WHAT ACTION ACCOMPLISHES:** Creates an independent special district that provides an alternative method to manage and finance basic services for community development.

**2. DEPARTMENTAL CATEGORY:**  
COMMISSION DISTRICT # 4

9:30

**3. MEETING DATE:**

11-09-2004

**4. AGENDA:**

CONSENT

ADMINISTRATIVE

APPEALS

PUBLIC

WALK ON

TIME REQUIRED:

**5. REQUIREMENT/PURPOSE:**  
(Specify)

STATUTE Chapter 190, F.S.

ORDINANCE

ADMIN. CODE

OTHER

**6. REQUESTOR OF INFORMATION:**

A. COMMISSIONER

B. DEPARTMENT County Attorney's Office

C. DIVISION  
BY: Dawn E. Perry-Lehnert

Assistant County Attorney

**7. BACKGROUND:**

Colonial Homes, Inc., has petitioned the Lee County Board of County Commissioners to adopt an ordinance establishing a Uniform Community Development District (UCDD) in accordance with the Uniform Community Development District Act of Florida, Chapter 190, Florida Statutes ("Act"). Section 190.005(2) sets forth the "exclusive and uniform method for the establishment of a Community Development District of less than 1,000 acres in size." This establishment "shall be pursuant to an ordinance adopted by the County Commission having jurisdiction over the majority of the land in the area in which the district is to be located . . ."

A community development district is a local unit of special purpose government created in accordance with the Act and limited to the performance of those specialized functions authorized by the Act for the delivery of urban community development services. The Act provides an alternative streamlined method for financing the construction, maintenance and operation of major infrastructures necessary for community (continued on second page)

**8. MANAGEMENT RECOMMENDATIONS:**

**9. RECOMMENDED APPROVAL:**

| A<br>Department<br>Director | B<br>Purchasing<br>or<br>Contracts | C<br>Human<br>Resources | D<br>Other | E<br>County<br>Attorney | F<br>Budget Services |         |         |         | G<br>County Manager |
|-----------------------------|------------------------------------|-------------------------|------------|-------------------------|----------------------|---------|---------|---------|---------------------|
| N/A                         | N/A                                | N/A                     | N/A        |                         | OA                   | IOM     | RISK    | GC      |                     |
|                             |                                    |                         |            |                         | 9/16/04              | 9/16/04 | 9/16/04 | 9/16/04 | 9/16/04             |

**10. COMMISSION ACTION:**

- APPROVED
- DENIED
- DEFERRED
- OTHER

9/15/04  
9:30 AM  
9/16/04

RECEIVED BY  
COUNTY ADMIN: [Signature]  
9/15/04  
4:30 PM  
COUNTY ADMIN  
FORWARDED TO:  
9/16/04  
4:30 PW

**Subject:** Adopt and enact an ordinance known as the Moody River Estates Community Development District Ordinance.

development. Once a community development district has been established, it serves as an infrastructure management tool that ultimately relieves existing county taxpayers of the financial burden of providing urban services to the landowners in the district.

The proposed Moody River Estates CDD is located on approximately 307.99 acres of land located in North Fort Myers. The land area is bounded on the north by Hidden Acres Subdivision, on the west by single-family residential area, on the south by Button Wood Harbor Subdivision and east by Moody Road and Skyline Woods Subdivision. The property is located in Sections 9, 10 and 15, Township 44 South, Range 24 East. The Moody River Estates District will be granted the power to finance, fund, plan, establish, acquire, construct or re-construct, enlarge or extend, equip, operate and maintain systems and facilities for the following basic infrastructure: water management; water supplies; sewer and wastewater management; bridges or culvert; district roads; and other projects within and outside the district boundary for which a Development Order may be issued. Additional powers for recreation and security systems may be requested sometime in the future.

The creation of the Moody River Estates District is not a development order within the meaning of Chapter 380, F.S. All county planning, environmental and land development laws, regulations and ordinances will apply to the development of land within the proposed Moody River Estates District, and the District can take no action that is inconsistent with those regulations.

In accordance with Section 190.005(1)(f), F.S., the proposed ordinance:

1. Establishes the external boundaries of the district.
2. Names the five persons designated to be the initial members of the Board of Supervisors. These members are as follows:
  - a. Tony Persichilli
  - b. John Mirable
  - c. Scott Clark
  - d. Cleve Mortiz
  - e. Manny Hermina
3. Names the district. (Moody River Estates Community Development District)

The petition and ordinance were reviewed by EROC and approved to go forward.

Attachments:

1. Proposed ordinance establishing the Moody River Estates Community Development District.
2. Planning Staff Analysis dated August 18, 2004.
3. Moody River Estates Petition, Exhibits, Attachments and Amendment.
4. FAIS

ORDINANCE NO. \_\_\_\_

AN ORDINANCE ESTABLISHING THE MOODY RIVER ESTATES COMMUNITY DEVELOPMENT DISTRICT; PROVIDING A DISTRICT NAME; SETTING FORTH THE AUTHORITY FOR ADOPTING THE ORDINANCE; ESTABLISHING THE EXTERNAL BOUNDARIES OF THE DISTRICT; DESIGNATING THE INITIAL MEMBERS OF THE BOARD OF SUPERVISORS; ESTABLISHING THE GOVERNING DISTRICT CHARTER AS FLORIDA STATUTES CHAPTER 190; PROVIDING FOR NOTICE TO SUBSEQUENT PURCHASERS; PROVIDING FOR CONFLICT, SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, Colonial Homes, Inc., has petitioned the Board of County Commissioners to establish MOODY RIVER ESTATES COMMUNITY DEVELOPMENT DISTRICT; and

WHEREAS, the Board of County Commissioners, after proper published notice, conducted a local public information-gathering ordinance hearing as required by law and finds as follows:

1. The petition is complete in that it meets the requirements of Section 190.005(1)(a), Florida Statutes; and all statements contained within the petition are true and correct.

2. The Executive Regulatory Oversight Committee has reviewed and approved the petition for establishment of the proposed district.

3. The costs to the County and government agencies from establishment of the district are nominal. There is no adverse impact on competition or employment from district establishment. The persons affected by establishment are the future landowners, present landowners, Lee County and its taxpayers, and the State of Florida. There is a net economic benefit flowing to these persons from district establishment as the entity to manage and finance the statutory services identified. The impact of district establishment and function on competition and the employment market is marginal and generally positive, as is the impact on small business. None of the reasonable public or private alternatives, including an assessment of less costly and less intrusive methods and of probable costs and benefits of not adopting the rule, is as economically viable as establishing the district. Methodology is set forth in the economic impact statement on file. The statement of estimated regulatory costs submitted with this petition to support establishment of the district is adequate.

4. Establishment of the proposed district, whose charter must be in accordance with the general law set forth in Section 190.006 - 190.041, Florida Statutes, is not inconsistent with the local Comprehensive Plan of Lee County or the State Comprehensive Plan.

5. The area of land within the proposed district is of sufficient size, is sufficiently compact and is sufficiently contiguous to be developed as one functional interrelated community.

6. The district is the best alternative available for delivering community development services and facilities to the area that will be served by the district.

7. The community development services and facilities of the district will be compatible with the capacity and uses of existing local and regional community development services and facilities.

8. The area that will be served by the district is amenable to separate special district government.

9. The proposed district, once established, may petition the Board of County Commissioners for consent to exercise one or more of the powers granted by charter in Section 190.012(2), Florida Statutes.

10. Upon the effective date of this Ordinance, the proposed Moody River Estates Community Development District will be duly and legally authorized to exist and exercise all of its general and special powers as limited by law; and has the right to seek consent from Lee County for the grant of authority to exercise special powers in accordance with F.S. 190.012(2), without question as to the district's continued right, authority and power to exercise its limited powers as established by this ordinance.

11. All notice requirements of law were met and complete notice was timely given.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA:

**SECTION ONE: DISTRICT NAME**

The community development district herein established will be known as Moody River Estates Community Development District.

## **SECTION TWO: AUTHORITY FOR ORDINANCE**

This Ordinance is adopted pursuant to Section 190.005(2), Florida Statutes, and other applicable provisions of law governing county ordinances.

## **SECTION THREE: ESTABLISHMENT OF COMMUNITY DEVELOPMENT DISTRICT**

Moody River Estates Community Development District is hereby established within the boundaries of the real property described in Exhibit "A" attached hereto and incorporated by reference.

## **SECTION FOUR: DESIGNATION OF INITIAL BOARD MEMBERS**

The following five persons are designated to be the initial members of the Board of Supervisors:

1. Tony Persichilli Colonial Homes  
12601 West Lines Drive, Unit #7  
Fort Myers, FL 33913
2. John Mirable Colonial Homes  
12601 West Lines Drive, Unit #7  
Fort Myers, FL 33913
3. Scott Clark Colonial Homes  
12601 West Lines Drive, Unit #7  
Fort Myers, FL 33913
4. Cleve Mortiz Colonial Homes  
12601 West Lines Drive, Unit #7  
Fort Myers, FL 33913
5. Manny Hermina Colonial Homes  
12601 West Lines Drive, Unit #7  
Fort Myers, FL 33913

## **SECTION FIVE: STATUTORY PROVISIONS GOVERNING DISTRICT**

Moody River Estates Community Development District will be governed by the provisions of Chapter 190, Florida Statutes.

**SECTION SIX: NOTICE TO SUBSEQUENT PURCHASERS**

Any and all agreements for the sale of property within the boundaries of the Moody River Estates Community Development District must include the disclosure statement required in FS §190.048 for the initial sale of the property. This requirement applies to the initial seller of a parcel as well as all subsequent sellers, successors and assigns, for the life of the Moody River Estates Community Development District.

**SECTION SEVEN: CONFLICT AND SEVERABILITY**

In the event this Ordinance conflicts with any other Lee County ordinance or other applicable law, the more restrictive will apply. If any phase or portion of this Ordinance is held invalid or unconstitutional by any court of competent jurisdiction, such portion will be deemed a separate, distinct and independent provision and such holding will not affect the validity of the remaining portion.

**SECTION EIGHT: EFFECTIVE DATE**

This Ordinance becomes effective upon filing with the Florida Secretary of State.

THE FOREGOING ORDINANCE was offered by Commissioner \_\_\_\_\_, who moved its adoption. The motion was seconded by Commissioner \_\_\_\_\_ and, being put to a vote, the vote was as follows:

|                   |       |
|-------------------|-------|
| JOHN E. ALBION    | _____ |
| ROBERT JANES      | _____ |
| DOUGLAS ST. CERNY | _____ |
| RAY JUDAH         | _____ |
| ANDREW W. COY     | _____ |

DULY PASSED AND ADOPTED THIS \_\_\_\_\_ day of \_\_\_\_\_, 2004

ATTEST:  
CHARLIE GREEN, CLERK

BOARD OF COUNTY COMMISSIONERS  
OF LEE COUNTY, FLORIDA

By: \_\_\_\_\_  
Deputy Clerk

By: \_\_\_\_\_  
Chairman

APPROVED AS TO FORM:

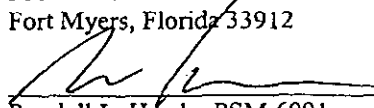
By: \_\_\_\_\_  
Dawn E. Perry-Lehnert  
Office of County Attorney

**MOODY RIVER ESTATES COMMUNITY DEVELOPMENT DISTRICT  
SECTIONS 9, 10, 15, TOWNSHIP 44 SOUTH, RANGE 24 EAST, LEE COUNTY,  
FLORIDA**

DESCRIPTION: A parcel of land lying in Sections 9, 10, 15, of Township 44 South, Range 24 East, Lee County, Florida, and being more particularly described as follows:

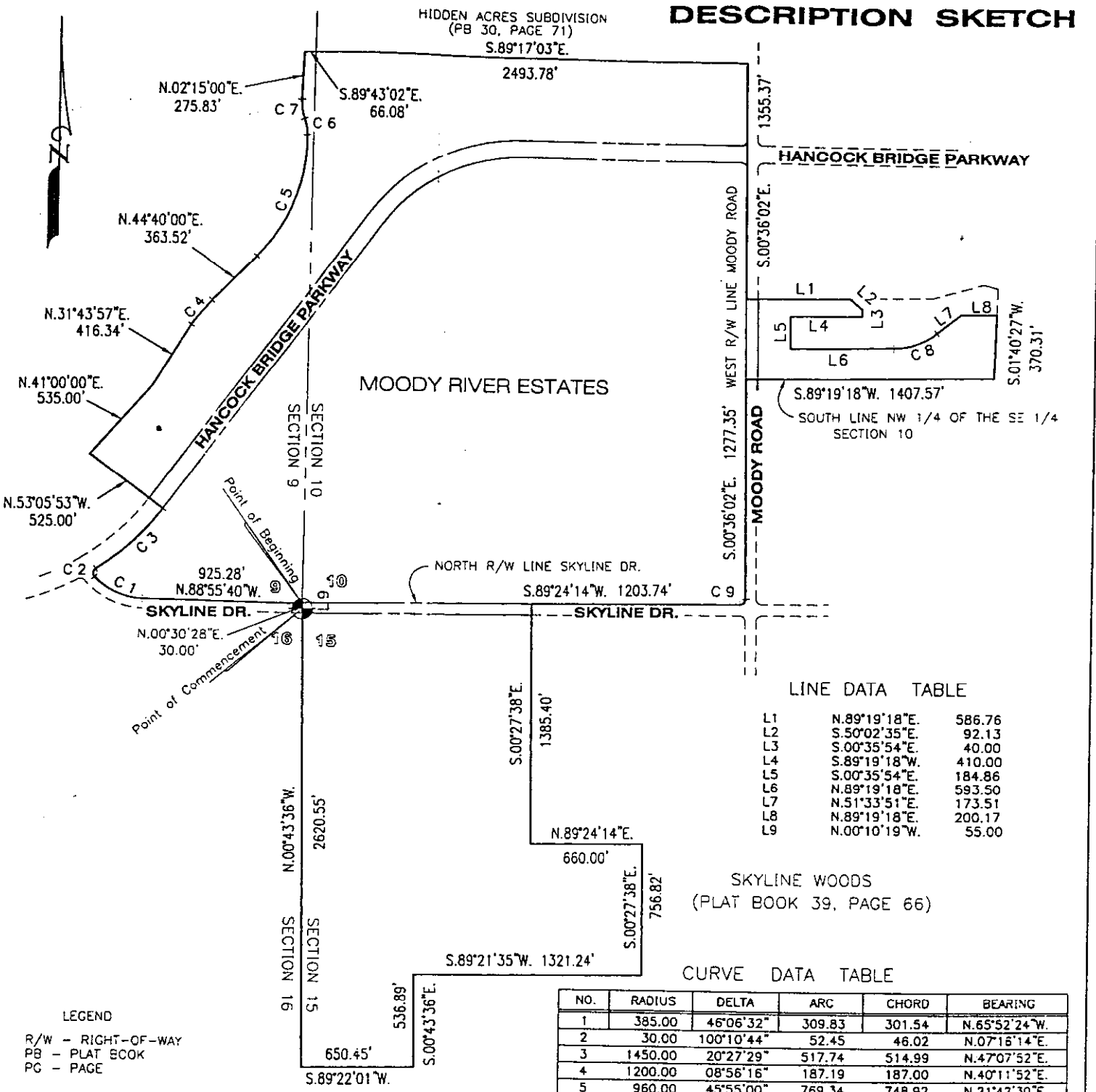
COMMENCING at the Southeast corner of Section 9, Township 44 South, Range 24 East, thence run N.00°30'28" E., 30.00 feet to the POINT OF BEGINNING said point being on the North Right-of-Way line of Skyline Drive; thence along said North right-of-way line N.88°55'40"W., 925.28 feet to a point of curvature; thence Northwesterly, 309.83 feet along the arc of a curve to the right having a radius of 385.00 feet and a central angle of 46°06'32" (chord bearing N.65°52'24"W., 301.54 feet) to a point of compound curvature; thence Northerly, 52.45 feet along the arc of a curve to the right having a radius of 30.00 feet and a central angle of 100°10'44" (chord bearing N.07°16'14"E., 46.02 feet) to a point of reverse curvature; thence Northeasterly, 517.74 feet along the arc of a curve to the left having a radius of 1450.00 feet and a central angle of 20°27'29" (chord bearing N.47°07'52"E., 514.99 feet); thence N.53°05'53"W., 525.00 feet; thence N.41°00'00"E., 535.00 feet; thence N.31°43'57"E., 416.34 feet to a point on a curve; thence Northeasterly, 187.19 feet along the arc of a curve to the right having a radius of 1200.00 feet and a central angle of 08°56'16" (chord bearing N.40°11'52"E., 187.00 feet) to a point of tangency; thence N.44°40'00"E., 363.52 feet to a point of curvature; thence Northerly, 769.34 feet along the arc of a curve to the left having a radius of 960.00 feet and a central angle of 45°55'00" (chord bearing N.21°42'30"E., 748.92 feet) to a point of compound curvature; thence Northerly, 96.87 feet along the arc of a curve to the left having a radius of 300.00 feet and a central angle of 18°30'00" (chord bearing N.10°30'00"W., 96.45 feet) to a point of reverse curvature; thence Northerly, 115.19 feet along the arc of a curve to the right having a radius of 300.00 feet and a central angle of 22°00'00" (chord bearing N.08°45'00"W., 114.49 feet) to a point of tangency; thence N.02°15'00"E., 275.83; thence S.89°43'02"E., 66.08 feet; thence along the South boundary of Hidden Acres according to the plat thereof as recorded in Plat Book 30, Page 71 of the Public Records of Lee County, Florida, S.89°17'03"E., 2493.78 feet to a point on the West right-of-way line of Moody Road; thence along said West right-of-way line S.00°36'02"E., 1355.37 feet; thence N.89°19'18"E., 586.76 feet; thence S.50°02'35"E., 92.13 feet; thence S.00°35'54"E., 40.00 feet; thence S.89°19'18"W., 410.00 feet; thence S.00°35'54"E., 184.86 feet; thence N.89°19'18"E., 593.50 feet to a point of curvature; thence Easterly, 263.60 feet along the arc of a curve to the left having a radius of 400.00 feet and a central angle of 37°45'27" (chord bearing N.70°26'34"E., 258.85 feet) to a point of tangency; thence N.51°33'51"E., 173.51 feet; thence N.89°19'18"E., 200.17 feet; thence S.01°40'27"W., 370.31 feet to a point on the South line of the Northwest one-quarter of the Southeast one-quarter of said Section 10; thence along said South line S.89°19'18"W., 1407.57 feet to a point of intersection with the West right-of-way line of said Moody Road; thence along said West right-of-way line S.00°36'02"E., 1277.35 feet to a point of curvature; thence Southwesterly, 47.13 feet along the arc of a curve to the right having a radius of 30.00 feet and a central angle of 90°00'16" (chord bearing S.44°24'06"W., 42.43 feet) to a point of tangency; thence along the North right-of-way line of said Skyline Drive S.89°24'14"W., 1203.74 feet; thence S.00°27'38"E., 1385.40 feet; thence N.89°24'14"E., 660.00 feet to a point on the West line of Skyline Woods according to the plat thereof as recorded in Plat Book 39, Page 66 of the Public Records of Lee County, Florida; thence along said West line S.00°27'38"E., 756.82 feet to a point on the North line of Buttonwood Harbor according to the plat thereof as recorded in Plat Book 44, Page 86 of the Public Records of Lee County, Florida; thence along the boundary of Buttonwood Harbor for the following three (3) courses: 1) S.89°21'35"W., 1321.24 feet; 2) S.00°43'36"E., 536.89 feet; 3) S.89°22'01"W., 650.45 feet to a point on the East boundary of said Section 15; thence along said East boundary N.00°43'36"W., 2620.55 feet to the POINT OF BEGINNING.

Prepared By:  
Heidt & Associates Inc  
3800 Colonial Blvd #200  
Fort Myers, Florida 33912

  
Randall L. Hendra PSM 6091  
Florida Professional Surveyor and Mapper



# DESCRIPTION SKETCH



LINE DATA TABLE

|    |                |        |
|----|----------------|--------|
| L1 | N.89°19'18\"E. | 586.76 |
| L2 | S.50°02'35\"E. | 92.13  |
| L3 | S.00°35'54\"E. | 40.00  |
| L4 | S.89°19'18\"W. | 410.00 |
| L5 | S.00°35'54\"E. | 184.86 |
| L6 | N.89°19'18\"E. | 593.50 |
| L7 | N.51°33'51\"E. | 173.51 |
| L8 | N.89°19'18\"E. | 200.17 |
| L9 | N.00°10'19\"W. | 55.00  |

SKYLINE WOODS  
(PLAT BOOK 39, PAGE 66)

CURVE DATA TABLE

| NO. | RADIUS  | DELTA       | ARC    | CHORD  | BEARING        |
|-----|---------|-------------|--------|--------|----------------|
| 1   | 385.00  | 46°06'32\"  | 309.83 | 301.54 | N.65°52'24\"W. |
| 2   | 30.00   | 100°10'44\" | 52.45  | 46.02  | N.07°16'14\"E. |
| 3   | 1450.00 | 20°27'29\"  | 517.74 | 514.99 | N.47°07'52\"E. |
| 4   | 1200.00 | 08°56'16\"  | 187.19 | 187.00 | N.40°11'52\"E. |
| 5   | 960.00  | 45°55'00\"  | 769.34 | 748.92 | N.21°42'30\"E. |
| 6   | 300.00  | 18°30'00\"  | 96.87  | 96.45  | N.10°30'00\"W. |
| 7   | 300.00  | 22°00'00\"  | 115.19 | 114.49 | N.08°45'00\"W. |
| 8   | 400.00  | 37°45'27\"  | 263.60 | 258.85 | N.70°26'34\"E. |
| 9   | 30.00   | 90°00'16\"  | 47.13  | 42.43  | S.44°24'06\"W. |

(NOT A SURVEY)

*[Signature]*  
RANDALL L. HENDRA PSM # 6091

LEGEND  
R/W - RIGHT-OF-WAY  
PB - PLAT BOOK  
PC - PAGE

- NOTES:  
1. BEARINGS ARE BASED ON THE EAST BOUNDARY OF THE SOUTHWEST 1/4 OF SECTION 9 AS BEING N.00°30'28\"E.  
2. See Sheet 1 of 2 for Legal Description.

CERTIFICATE OF AUTHORIZATION NO. LB 148  
PREPARED BY: **HEIDT & ASSOCIATES, Inc.**  
Tampa • Fort Myers

CIVIL ENGINEERING  
PLANNING  
SURVEYING  
ENVIRONMENTAL PERMITTING  
LANDSCAPE ARCHITECTURE

Fort Myers Office  
3800 Colonial Blvd, Suite 200  
Fort Myers, Florida 33912  
Phone: 239-482-7275  
FAX: 239-482-2103

SKETCH OF LEGAL DESCRIPTION FOR  
MOODY RIVER ESTATES COMMUNITY DEVELOPMENT DISTRICT  
SECTION 9,10,15,16, TOWNSHIP 44 SOUTH, RANGE 24 EAST

Prepared For: **COLONIAL HOMES INC.**

Exhibit A  
Page 2 of 4

|               |       |                   |
|---------------|-------|-------------------|
| Dwn. RH       | Ck. - | DWG: COD_LEGAL    |
| Date: 2-17-04 |       | Order No.: COL-MR |

SECTION 9,10,15,16 TOWNSHIP 44 S RANGE 24 E  
LEE COUNTY, FLORIDA

**MOODY RIVER ESTATES COMMUNITY DEVELOPMENT DISTRICT  
LESS AND EXCEPT ROAD PARCELS  
LEE COUNTY, FLORIDA**

**ROAD RIGHT-OF-WAY LESS AND EXCEPT PARCEL # 1 (Skyline Drive)**

DESCRIPTION: A parcel of land lying in Sections 9, 10, and 15, of Township 44 South, Range 25 East, Lee County, Florida, and being more particularly described as follows:

COMMENCING at the Southeast corner of Section 9, Township 44 South, Range 25 East, thence run N.00°30'28" E., 35.00 feet to the POINT OF BEGINNING; thence along the North boundary of Skyline Drive N.89°24'14"E., 1321.00 feet; thence S.00°27'38"E., 65.00 feet to a point on the South right-of-way line of Skyline Drive; thence along said South right-of-way line for the following three (3) courses: 1) S.89°24'13"W., 670.88 feet; 2) N.00°47'51"W., 5.00 feet; 3) S.89°24'13"W., 650.44 feet; thence N.00°07'16"W., 60.00 feet to the POINT OF BEGINNING.

Containing 1.897 acres, more or less.

**ROAD RIGHT-OF-WAY LESS AND EXCEPT PARCEL # 2 (Hancock Bridge Parkway)**

DESCRIPTION: A parcel of land lying in Sections 9, and 10, of Township 44 South, Range 25 East, Lee County, Florida, and being more particularly described as follows:

COMMENCING at the Southeast corner of Section 9, Township 44 South, Range 25 East, thence run N.00°30'28" E., 30.00 feet to a point on the North Right-of-Way line of Skyline Drive; thence along said North right-of-way line N.88°55'40"W., 925.28 feet to a point of curvature; thence Northwesterly, 309.83 feet along the arc of a curve to the right having a radius of 385.00 feet and a central angle of 46°06'32" (chord bearing N.65°52'24"W., 301.54 feet) to a point of compound curvature; thence Northerly, 52.45 feet along the arc of a curve to the right having a radius of 30.00 feet and a central angle of 100°10'44" (chord bearing N.07°16'14"E., 46.02 feet) to a point of reverse curvature; thence Northeasterly, 517.74 feet along the arc of a curve to the left having a radius of 1450.00 feet and a central angle of 20°27'29" (chord bearing N.47°07'52"E., 514.99 feet) to the Point of Beginning; thence N.53°05'53"W., 100.00 feet to a point on the Northwest right-of-way line of Hancock Bridge Parkway; thence along said Northwest right-of-way line N.36°54'06"E., 2078.08 feet to a point of curvature; thence Northeasterly, 1031.35 feet along the arc of a curve to the right having a radius of 1100.00 feet and a central angle of 53°43'12" (chord bearing N.63°45'42"E., 993.99 feet) to a point of tangency; thence S.89°22'42"E., 1253.94 feet to a point of curvature; thence Northeasterly, 47.76 feet along the arc of a curve to the left having a radius of 30.00 feet and a central angle of 91°13'20" (chord bearing N.45°00'38"E., 42.88 feet); thence S.00°36'02"E., 160.04 feet to a point of cusp; thence along the Southerly right-of-way line of said Hancock Bridge Parkway, Northwesterly, 46.48 feet along the arc of a curve to the left having a radius of 30.00 feet and a central angle of 88°46'40" (chord bearing N.44°59'22"W., 41.97 feet) to a point of tangency; thence N.89°22'42"W., 1257.36 feet to a point of curvature; thence Southwesterly, 937.59 feet along the arc of a curve to the left having a radius of 1000.00 feet and a central angle of 53°43'12" (chord bearing S.63°45'42"W., 903.62 feet) to a point of tangency; thence S.36°54'06"W., 2078.08 feet to the POINT OF BEGINNING.

Containing 9.991 acres, more or less.

**ROAD RIGHT-OF-WAY LESS AND EXCEPT PARCEL # 3 (Moody Road)**

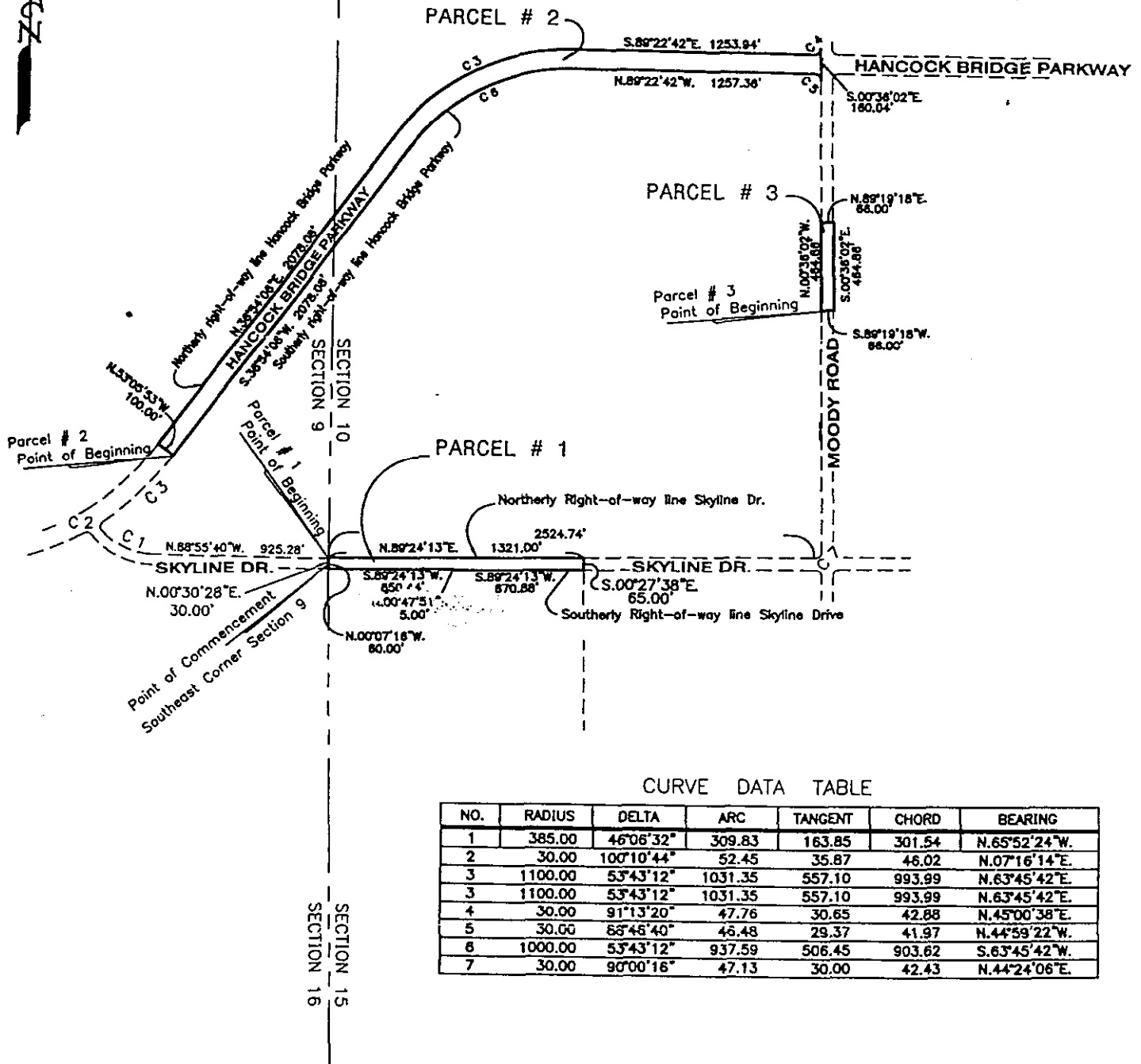
DESCRIPTION: A parcel of land lying in Section 10, of Township 44 South, Range 25 East, Lee County, Florida, and being more particularly described as follows:

COMMENCING at the Southeast corner of Section 9, Township 44 South, Range 25 East, thence run N.00°30'28"E., 35.00 feet; thence N.89°24'14"E., 2524.74 feet to a point of curvature; thence Northeasterly, 47.13 feet along the arc of a curve to the left having a radius of 30.00 feet and a central angle of 90°00'16" (chord bearing N.44°24'06"E., 42.43 feet) to a point of tangency; thence N.00°36'02"W., 1277.35 feet to the POINT OF BEGINNING; thence N.00°36'02"W., 464.86 feet; thence N.89°19'18"E., 66.00 feet; thence S.00°36'02"E., 464.86 feet; thence S.89°19'18"W., 66.00 feet to the POINT OF BEGINNING.

Containing 0.704 acres, more or less.

# DESCRIPTION SKETCH

SCALE 1" = 800'



CURVE DATA TABLE

| NO. | RADIUS  | DELTA      | ARC     | TANGENT | CHORD  | BEARING       |
|-----|---------|------------|---------|---------|--------|---------------|
| 1   | 385.00  | 46°06'32"  | 309.83  | 163.85  | 301.54 | N.65°52'24"W. |
| 2   | 30.00   | 100°10'44" | 52.45   | 35.87   | 46.02  | N.07°16'14"E. |
| 3   | 1100.00 | 53°43'12"  | 1031.35 | 557.10  | 993.99 | N.63°45'42"E. |
| 3   | 1100.00 | 53°43'12"  | 1031.35 | 557.10  | 993.99 | N.63°45'42"E. |
| 4   | 30.00   | 91°13'20"  | 47.76   | 30.65   | 42.88  | N.45°00'38"E. |
| 5   | 30.00   | 88°46'40"  | 48.48   | 29.37   | 41.97  | N.44°59'22"W. |
| 6   | 1000.00 | 53°43'12"  | 937.59  | 506.45  | 903.62 | S.63°45'42"W. |
| 7   | 30.00   | 90°00'16"  | 47.13   | 30.00   | 42.43  | N.44°24'06"E. |

**NOTES:**

1. BEARINGS ARE BASED ON THE EAST BOUNDARY OF THE SOUTHWEST 1/4 OF SECTION 9 AS BEING N.00°30'28"E.
2. See Sheet 1 of 2 for Legal Description.

(NOT A SURVEY)

RANDALL L. HENDRA PSM # 6091

CERTIFICATE OF AUTHORIZATION NO. LB 148

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



CIVIL ENGINEERING  
PLANNING  
SURVEYING  
ENVIRONMENTAL PERMITTING  
LANDSCAPE ARCHITECTURE

Fort Myers Office  
3800 Colonial Blvd, Suite 200  
Fort Myers, Florida 33912  
Phone: 239-482-7275  
FAX: 239-482-2103

SKETCH OF LEGAL DESCRIPTION FOR  
MOODY RIVER ESTATES COMMUNITY DEVELOPMENT DISTRICT  
ROAD RIGHT-OF-WAY LESS AND EXCEPT PARCELS

Prepared For: COLONIAL HOMES INC.

Exhibit A  
Page 4 of 4

|  |                   |                |
|--|-------------------|----------------|
| Own. RH  | Ck. -             | DWG: COD_LEGAL |
| Date: 2-17-04  | Order No.: COL-MR |                |
| SECTION 9,10,15, TOWNSHIP 44 S RANGE 24 E<br>LEE COUNTY, FLORIDA |                   |                |

---

ANALYSIS OF  
THE MOODY RIVER ESTATES  
PETITION TO ESTABLISH A  
UNIFORM COMMUNITY  
DEVELOPMENT DISTRICT

*Prepared for*  
*BOARD OF COUNTY COMMISSIONERS*

*by*  
*LEE COUNTY DIVISION OF PLANNING*

*August 18, 2004*

---

*Table of Contents*

INTRODUCTION ..... 1  
BACKGROUND ..... 1  
THE PETITION ..... 3  
FACTORS TO BE CONSIDERED ..... 3  
STAFF ANALYSIS OF FACTORS ..... 4  
RECOMMENDATION ..... 6

## INTRODUCTION

Colonial Homes, Inc. has petitioned the Board of County Commissioners of Lee County, Florida to adopt an ordinance to establish a Uniform Community Development District (UCDD) and to designate the land area within which the UCDD may manage and finance basic infrastructure systems, facilities and services pursuant to the Uniform Community Development District Act of Florida, Chapter 190, Florida Statutes and Rule 42-1, Florida Administrative Code. The Uniform Community Development District Act was originally adopted in 1980. The act sets forth the procedure for the establishment of such a district, the district's powers and duties for public improvements and community facilities, and additional special powers that the district, after its establishment, may petition for.

If approved the district will be granted the power to finance, fund, plan, establish, acquire, construct or reconstruct, enlarge or extend, equip, operate, and maintain systems and facilities for the following basic infrastructure: water management; water supply, sewer, and waste water management; bridges or culverts; district roads; and other projects inside or outside the district boundary for which a Development Order is issued.

## BACKGROUND

Colonial Homes, Inc., hereafter called "Petitioner", is a corporation registered to do business in the State of Florida with its principal place of business located at 2000 Interstate Park Drive, Suite 400, Montgomery, Alabama, 36142 and whose Senior Vice President is Anthony Persichelli.

F.S. 190.005(2) sets forth the "exclusive and uniform method for the establishment of a community development district of less than 1,000 acres in size." This establishment "shall be pursuant to an ordinance adopted by the county commission having jurisdiction over the majority of the land in the area in which the district is to be located granting a petition for the establishment of a community development district."

The Petitioner proposes to establish a Uniform Community Development District on approximately three hundred and eight (308±) acres of land located in Lee County, Florida and lying within Sections 09, 10, and 15, Township 44 South, Range 24 East. The property is located to the North and South of Hancock Bridge Parkway between US 41 to the east and Orange Grove Boulevard to the west in North Fort Myers. A map showing the land area to be served by the District and a metes and bounds description of the external boundaries of the District is set forth in Exhibits 1 and 2 to the petition. The land area is bounded on the North, South, and West by single family subdivisions and on the East by a single family subdivision, condominium development, vacant land, and the Hancock Creek Elementary School. The property is divided by the following three roadways: Hancock Bridge Parkway (east/west), Skyline Drive (east/west), and Moody Road (north/south). The roadways are to be excluded from the District as described in Exhibit 2A to the petition.

Adopting the ordinance and granting the petition would authorize the district, through its board of supervisors, to manage and finance certain basic infrastructure for the benefit of the landowners in the community. This infrastructure, or basic systems, facilities and services, under Section 190.012(1), F.S., includes four basic types: water supply; sewers and wastewater management; water control and management (drainage); and, roads, bridges and streetlights, as well as "other projects" as specified under Section 190.012(1)(f), Florida Statutes.

In order to provide the basic systems, facilities and services, the district has certain management and financing powers. However, these powers may be exercised only if the district complies with certain strict and detailed procedural requirements. These include: ethics in government; disclosure; conflict of interest requirements; noticed meetings; government-in-the-sunshine conduct; accounting and reporting requirements to various local and state agencies; consultants competitive negotiations procedures; competitive bidding procedures; and others. In addition to complying with these many procedural requirements, the district still may not manage and finance any of these services and facilities without a showing that development of the properties complies with all legitimate policies, constraints, authorities, controls or conditions on the development of the land, whether local, regional, state or federal in nature, and whether in the form of policies, laws, rules, regulations or ordinances. The district itself is not considered "development." Rather, the district is an alternative mechanism to assure the County and the landowners of the particular land in question that basic systems, facilities and services will be managed and financed in an efficient and economical way.

In order to provide these services, the district is also given certain eminent domain powers, within the very tight constraints summarized above, as well as the authority to require service charges, fees or taxes for the various services rendered, ranging from installation of capital facilities to long-term maintenance and repair. Without the County's consent by resolution, the aforementioned eminent domain power is limited to the boundaries of the district. The district may also issue non-ad valorem special assessment bonds, revenue and other user bonds, and general obligation bonds. However, no general obligation bonds can be issued without a referendum and without a showing that it will not exceed 35 percent of the assessed valuation of the property within the district.

Accordingly, if the County adopts the ordinance and establishes the district, the Moody River Estates Community Development District will then be an infrastructure management tool. This pinpointed responsibility can benefit the landowners with timely, efficient, reliable and flexible services. It serves as a concurrency management tool for the County, the landowners, the developer and, ultimately, the residents. In addition, the district would be a financing tool providing financial incentives for long-range and high quality service benefits to initial and subsequent landowners without burdening Lee County and its taxpayers.

Finally, such a district may not outlive its practical utility and usefulness. If it ceases to function it will automatically be disbanded by state law. If at any time during its existence Lee County determines by a non-emergency ordinance that it can provide any one of the district services in a more economical manner, over the long term, at lower cost with higher quality, Lee County may then take that service away from the district and provide the service itself.

## ***THE PETITION***

The statutes require that a petition be filed containing the following information:

- a metes and bounds description of the external boundaries of the district and the impact of the proposed district on property within the external boundaries of the district which is excluded from the district;
- the consent of the property owners;
- the designation of the initial members of the board of supervisors;
- the proposed name of the district;
- a map of the proposed district showing current major trunk water mains and sewer interceptors and outfalls if in existence;
- the proposed timetable and estimated cost of constructing the proposed services;
- the designation of the future general distribution, location, and extent of public and private uses of land; and,
- a statement of estimated regulatory costs.

Such a petition was received from the Petitioner by Lee County on May 3, 2004. In order to assist the Commission and its staff in reviewing the petition, supplemental materials were requested and were furnished by the Petitioner. The Petition and supplemental materials have been incorporated into this analysis. Planning staff's review of the petition finds the submittal to be sufficient.

## ***FACTORS TO BE CONSIDERED***

In accordance with F.S. Chapter 190, Lee County is required to consider the following six factors in making a determination to grant or deny a petition for the establishment of a community development district:



1. Whether all statements contained within the petition have been found to be true and correct.
2. Whether the creation of the district is inconsistent with any applicable element or portion of the state comprehensive plan or of the effective local government comprehensive plan.
3. Whether the area of land within the proposed district is of sufficient size, is sufficiently compact, and is sufficiently contiguous to be developable as one functional interrelated community.
4. Whether the district is the best alternative available for delivering community development services and facilities to the area that will be served by the district.
5. Whether the community development services and facilities of the district will be incompatible with the capacity and uses of existing local and regional community development services and facilities.
6. Whether the area that will be served by the district is amenable to separate special-district government.

The obligation of the Board of County Commissioners is to consider the six factors using the information in the petition and its attachments, any other documents and information that have been filed, including the expert documents. The key decisions to be made by the Board in establishing a district is simply whether it is a reasonable thing to do in view of the six factors which the law requires Lee County to analyze.

It should be noted that these factors are not specific criteria nor are they legal permit requirements or standards. Neither are they the basis for rendering any kind of final order or judgement. In accordance with F.S. Section 190.004(3) the creation of a community development district is not a development order as defined in Chapter 380. All governmental planning, environmental, and land development laws, regulations, and ordinances apply to the development of the land within a community development district.

## **STAFF ANALYSIS OF FACTORS**

Planning staff has reviewed the petition and accompanied materials. Following is staff's determination of the petition's applicability to each of the six factors.

**Concerning Factor #1:** Staff concludes that all statements contained within the petition are true and correct. This determination applies to the petition and all of its Exhibits. Concerning petition Exhibit 10, staff agrees with the statement of estimated regulatory costs that there is

no adverse impact on small businesses. In fact there could be positive impacts due to the opportunity for small businesses to bid on work within the district. Staff also concurs with the methodology employed in the statement of estimated regulatory costs.

**Concerning Factor #2:** Staff concludes that the creation and establishment of the district is not inconsistent with any applicable element or portion of either the state comprehensive plan or the Lee County local government comprehensive plan, the Lee Plan. In fact, the establishment of the district is affirmatively consistent with Section 187.201(21)(b)(2) F.S., which encourages restructuring political jurisdiction with the goal of greater efficiency. It is also consistent with Policy 1.1.5 of the Lee Plan, the Suburban future land use category. The request is consistent with Objective 2.2, Development Timing, which directs "new growth to those portions of the Future Urban Areas where adequate public facilities exist or are assured and where compact and contiguous development patterns can be created."

**Concerning Factor #3:** Planning staff has determined that the area of the land within the proposed district is of sufficient size, is sufficiently compact, and sufficiently contiguous to be developable as one functional interrelated community on the site.

**Concerning Factor #4:** Planning staff has reviewed the three fundamental alternatives available for managing and financing those basic systems, facilities and services for the Moody River Estates development area. One alternative is for Lee County government to directly provide those services by creating a dependent district or, by directly managing the infrastructure but financing it through a Municipal Services Taxing Unit (MSTU) or Municipal Services Benefit Unit (MSBU). The other alternative is purely private, through a homeowners' association, or through a private company or utility established by the landowners. The third alternative, the Uniform Community Development District, coincides the public policy interests and duties of local government with the private marketing interests and duties of private landowners.

Planning staff has reviewed these three alternatives with regard to the site and concludes that the establishment of a Uniform Community Development District is one of the best alternatives available for delivering community development services and facilities to the area that will be served by the district. Staff has further concluded that establishment of the district is compatible with the function of existing units of local government or that any issues have been or may be adequately addressed by interlocal agreement.

**Concerning Factor #5:** Staff has reviewed the issue of the capacity and uses of any existing local and regional community development services and facilities. Currently the subject area is located within Lee County Utilities water and sewer service areas. The establishment of the District will not create a conflict with this utility because it is the intent of the District to construct and then turn over ownership to Lee County Utilities for operating and maintenance. Other services and facilities such as water management will be funded and maintained by the

district. There are no other Uniform Community Development District services or facilities being provided to the property.

Staff has determined that the community development services and facilities of the district will not be incompatible with the capacity and uses of the existing local and regional services and facilities which deal with community development.

**Concerning Factor #6:** Staff has reviewed the area in question and has determined that it is amenable to separate special district government.

## **ADDITIONAL ANALYSIS**

As in previous reviews, staff has a concern that future purchasers of property or dwelling units within the proposed UCDD are aware that the property they are purchasing will be subject to additional assessments for public services and facilities, beyond those taxes and assessments levied by local governments. Section 190.048, Florida Statutes, contains a provision that requires that a buyer of an "initial" parcel, or the buyer of an "initial" residential unit within a UCDD be notified that the property or dwelling unit being purchased is subject to special assessments from the district. Second and third buyers of property or dwelling units, however, would not be notified that the property is subject to these special assessments. Staff believes that all future purchasers of property within a UCDD should be made aware that they will be subject to additional district assessments. Staff therefore recommends that the disclosure statement provided in Section 190.048, Florida Statutes apply to all subsequent sales within the UCDD, and not just to the initial sale. Staff recommends the inclusion of the following language in the adopting ordinance of the proposed district:

Any and all agreements for the sale of property within the boundaries of the Moody River Estates Community Development District must include the disclosure statement required in Section 190.048, Florida Statutes, for the initial sale of the property. This requirement applies to the initial seller of the property as well as all subsequent sellers, successors and assigns for the life of the Moody River Estates Community Development District.

## **RECOMMENDATION**

Planning staff recommends that the Board of County Commissioners adopt and enact the Ordinance establishing the Moody River Estates Uniform Community Development District. In accordance with Section 190.005(1)(f), F.S., the Ordinance enacts the following:

1. It establishes the external boundaries of the district which are set forth in ordinance Attachment A;
2. It names the five persons designated to be the initial members of the board of supervisors who shall be:

Tony Persichilli  
John Mirable  
Scott Clark  
Cleve Mortiz  
Manny Hermina

3. It establishes the name of the district which shall be: The Moody River Estates Community Development District.
4. It establishes the inclusion of the disclosure statement of Section 190.048, F.S. to subsequent land purchase agreements within the boundaries of the district.

BOARD OF COUNTY COMMISSIONERS

LEE COUNTY, FLORIDA

RE: PROPOSED ORDINANCE PURSUANT TO  
SECTION 190.005 (2), FLORIDA STATUTES,  
TO ESTABLISH THE MOODY RIVER ESTATES  
COMMUNITY DEVELOPMENT DISTRICT

---

**PETITION FOR ESTABLISHMENT OF A  
COMMUNITY DEVELOPMENT DISTRICT**

COLONIAL HOMES, INC., (hereinafter "Petitioner") by and through its undersigned attorney, hereby petitions the BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA (hereinafter "Commission") to adopt an ordinance establishing and recognizing a Uniform Community Development District pursuant to the Uniform Community Development District Act of Florida, Section 190, Florida Statutes, (2003), as amended, and to designate the land area within which the District may manage and finance basic infrastructure, systems, facilities and services, as presented in its Charter; and designating the initial District Board of Supervisors. In support thereof, Petitioner submits:

1. Location and Size. The proposed District is located entirely within Lee County, Florida. Exhibit 1 depicts the general location of the project. The proposed district covers approximately 307.99 acres of land. The site is located in Sections 09, 10, and 15, Township 45 South, Range 24 East, on either side of Hancock Bridge Parkway. A metes and bounds description of the external boundaries of the District is set forth in Exhibit 2.
2. Excluded Parcels. A portion of Hancock Bridge Parkway bisects the property comprising the District, and will be excluded from the District. Right of ways for Skyline

Drive and Moody Road will also be excluded from the District. A separate description and sketch of the lands to be excluded is attached to this Petition as Exhibit 2A. The last known owner of the property to be excluded is Lee County, a political subdivision of the State of Florida whose address is P.O. Box 398, Fort Myers, FL 33902. The parcel to be excluded from the District is a portion of a public right-of-way owned and maintained by Lee County. The establishment of the District will have no impact on the excluded parcel.

3. Landowner Consent. At the time of filing this Petition, all of the land to be included in the District is owned by Colonial Homes, Inc. Petitioner has obtained written consent to establish the District in accordance with Section 190.005, F.S. Documentation of this consent is contained in Exhibit 3.

4. Initial Board Members. The five persons designated to serve as the initial members of the Board of Supervisors of the proposed District are as follows:

|                  |  |
|------------------|--|
| Tony Persichilli | Colonial Homes, 12601 West Links Drive, Unit #7<br>Ft. Myers, FL 33913 |
| John Mirable     | Colonial Homes, 12601 West Links Drive, Unit #7<br>Ft. Myers, FL 33913 |
| Scott Clark      | Colonial Homes, 12601 West Links Drive, Unit #7<br>Ft. Myers, FL 33913 |
| Cleve Mortiz     | Colonial Homes, 12601 West Links Drive, Unit #7<br>Ft. Myers, FL 33913 |
| Manny Hermina    | Colonial Homes, 12601 West Links Drive, Unit #7<br>Ft. Myers, FL 33913 |

All of the above-listed persons are residents of the State of Florida, and citizens of the United States of America.

5. Name. The proposed name of the District is the “MOODY RIVER ESTATES COMMUNITY DEVELOPMENT DISTRICT.”

6. Major Water and Wastewater Facilities. Exhibit 4 shows the major trunk water mains and wastewater interceptors within the currently undeveloped lands proposed to be included in within the District.

7. Future Land Uses. The future general distribution, location, and extent of the public and private land uses proposed for the District by future land use plan element of the County’s Future Land Use Plan is identified on Exhibit 5. Development is projected to occur over an estimated six-year period. The proposed land uses for the lands contained within the proposed District are consistent with the approved Lee County Future Land Use Plan.

Lee County (“County”) has adopted all mandatory elements of its Local Government Comprehensive Plan (“Lee Plan”) in accordance with requirements of chapter 163, Fla. Stat., (2003) and Lee County has completed its revised plan for minimum criterion review pursuant to *chapter 9J-5, Florida Administrative Code*, by adoption of County Ordinance 02-02 through 02-06, as amended. County Ordinances No. 89-02 and all amendments thereto, as enacted by County Ordinance, designate the legal description of the land to be serviced by the proposed District as Suburban and Conservation Lands.

A copy of the entire Lee Plan is on file with County Staff so that accordingly, only a copy of the most pertinent portions of the future Land Use Element is attached hereto as Exhibit 5A. Exhibit 5B is a copy of a letter from the Florida Department of Community Affairs reflecting that the Lee Plan is in compliance.

8. Proposed Timetable and Estimated costs for District Facilities and Services.

The proposed timetable and the related estimated costs of construction of the proposed District systems, facilities and services which are contemplated by Petitioners and which may be adopted by the District's Board of Supervisors, when established, and based upon available data, which are subject to change, is attached as Exhibit 6.

9. Statement of Estimated Regulatory Costs. Exhibit 7 is the statement of estimated regulatory costs ("SERC") prepared in accordance with the requirements of Section 120.541, Florida Statutes (2003). The SERC is based upon presently available data. The data and methodology used in preparing the SERC, accompany it.

10. Authorized Agent. The Petitioner, COLONIAL HOMES, INC., a Florida Corporation, is authorized to do business in Florida. The authorized agent for the Petitioner is:

Neale Montgomery, Esq.  
Pavese, Haverfield, Dalton, Harrison & Jensen, L.L.P.  
P.O. Drawer 1507  
Ft. Myers, FL 33902-1507

See Exhibit 8 – Authorization of Agent. Copies of all correspondence and official notices should go to the Authorized Agent.

11. This petition to establish the MOODY RIVER ESTATES COMMUNITY DEVELOPMENT DISTRICT should be granted for the following reasons:

A. Establishment of the District and all land used and services planned within the proposed District are not inconsistent with applicable elements or portions of the effective State Comprehensive Plan or the Lee County Comprehensive Plan.



B. The area of land within the proposed District is part of a planned community. The community is of a sufficient size and is sufficiently compact and contiguous to be developed as one functional and interrelated community.

C. The establishment of the District will prevent the general body of taxpayers in Lee County from bearing the burden for installation of the infrastructure and the maintenance of certain facilities with the development encompassed by the District. The District is the best alternative for delivering community development service and facilities to the proposed community without imposing an additional burden on the general population of the local general-purpose government. Establishment of the District in conjunction with a comprehensively planned community, as proposed, allows for a more efficient use of resources.

D. The community development services and facilities of the District will not be incompatible with the capacity and use of existing local and regional community development services and facilities. In addition, the establishment of the District will provide a perpetual entity capable of making reasonable provisions for the operation and maintenance of the District's services and facilities.

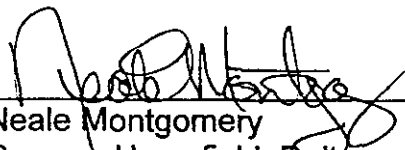
E. The area to be served by the proposed District is amenable to separate special-district government.

WHEREFORE, Petitioner respectfully requests the Board of County Commissioners of Lee County, Florida to:

1. Direct its staff to schedule a public hearing in accordance with the requirements of Section 190.005 (2) (b). Florida Statutes (2003);

2. Grant the petition and adopt an ordinance to establish the District pursuant to Chapter 190, Florida Statutes; grant the petition and adopt the ordinance to establish the proposed district; designate the land area to be served by the District; designate the name of the District; and finally provide that, with regard to any future specific consent by the county to exercise any other powers which may be authorized by general law, the legal existence and authority of the proposed District shall have already been decided by this ordinance.

RESPECTFULLY SUBMITTED this 30<sup>th</sup> day of April, 2004.

By:   
Neale Montgomery  
Pavese, Haverfield, Dalton,  
Harrison & Jensen, L.L.P.  
1833 Hendry Street  
P.O. Drawer 1507  
Fort Myers, FL 33902-1507  
Representatives for the Petitioner

**EXHIBIT "1"**  
**Sketch of Location of Land Area to be Serviced**

**EXHIBIT "2"**  
**Metes and Bounds Legal Description & Sketch**

**EXHIBIT "2A"**  
**Description of Parcels to Be Excluded**

**EXHIBIT "3"**  
**Documentation of Consent of 100% of Landowners  
To Establishment of District**

**EXHIBIT "4"**  
**Maps of locations of Water Mains, Sewer Interceptors and Outfalls**

**EXHIBIT "5"**  
**Future Land Use Map**

**EXHIBITS "5A/5B"**

- A Lee County Comprehensive Plan (portion)**
- B DCA Letter Certifying Compliance**

**EXHIBIT "6"**  
**Documentation of Proposed timetables for  
Construction of District Services and Estimated  
Cost of Constructing the Proposed Services**

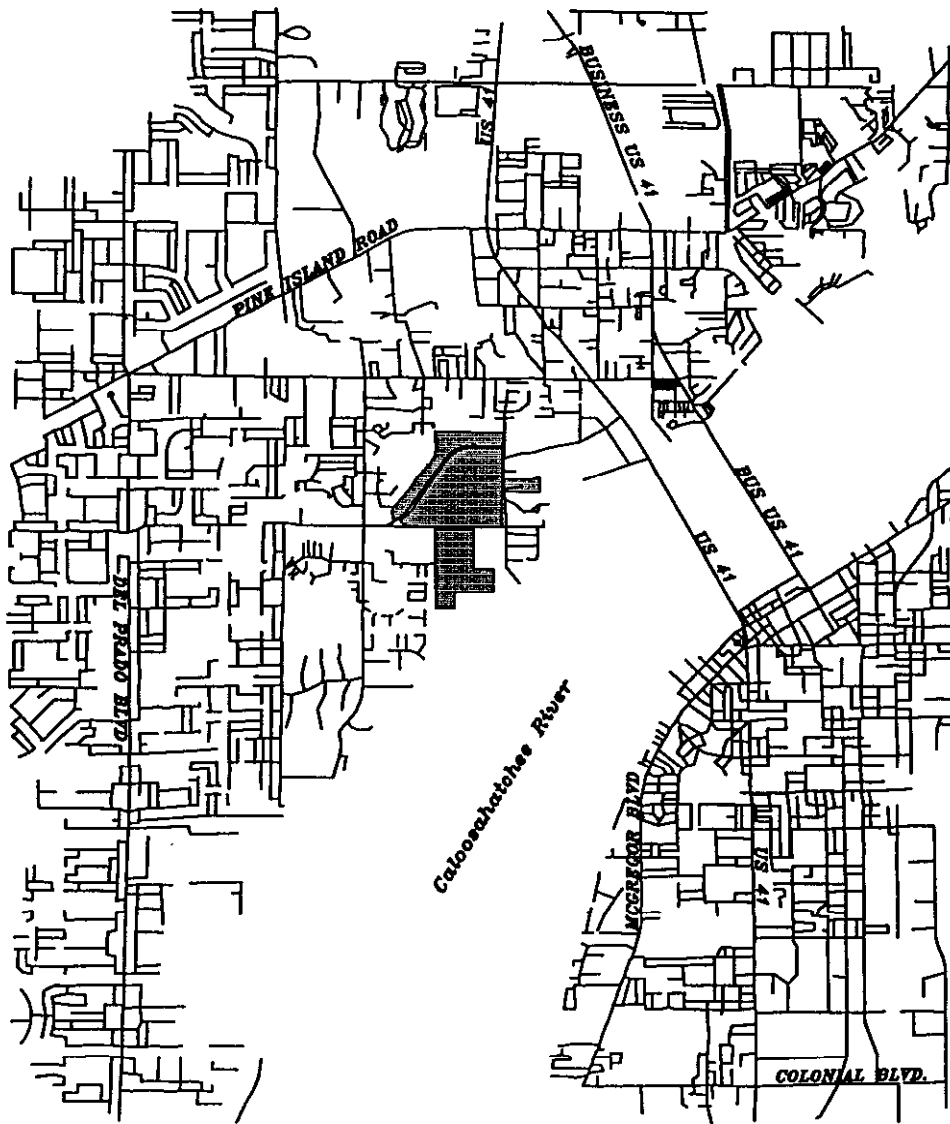
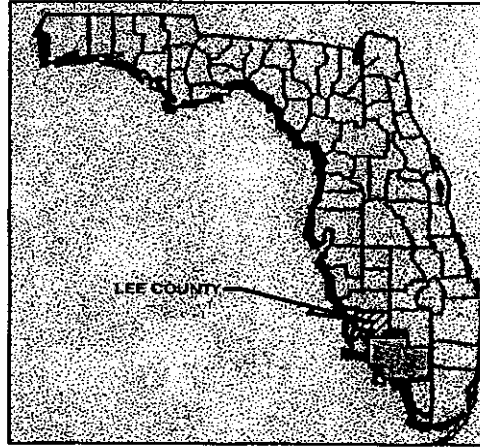
**EXHIBIT "7"**  
**Statement of Estimated Regulatory Costs**

**EXHIBIT "8"**  
**Authorization of Agent**

**MOODY RIVER ESTATES CDD**

PETITIONERS COMPOSITE EXHIBIT 1-A

**PROJECT LOCATION**



Engineering Business Certificate of Authorization No.: 148

PREPARED BY: **HEIDT & ASSOCIATES, Inc.**

Tampa ♦ Fort Myers



CIVIL ENGINEERING  
PLANNING  
SURVEYING  
ENVIRONMENTAL PERMITTING  
LANDSCAPE ARCHITECTURE

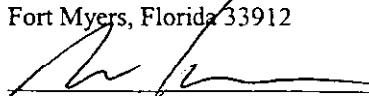
**Fort Myers Office**  
3800 COLONIAL BLVD., #200  
FORT MYERS, FLORIDA 33912  
PHONE: 239-482-7275  
FAX: 239-482-2103

**MOODY RIVER ESTATES COMMUNITY DEVELOPMENT DISTRICT  
SECTIONS 9, 10, 15, TOWNSHIP 44 SOUTH, RANGE 24 EAST, LEE COUNTY,  
FLORIDA**

DESCRIPTION: A parcel of land lying in Sections 9, 10, 15, of Township 44 South, Range 24 East, Lee County, Florida, and being more particularly described as follows:

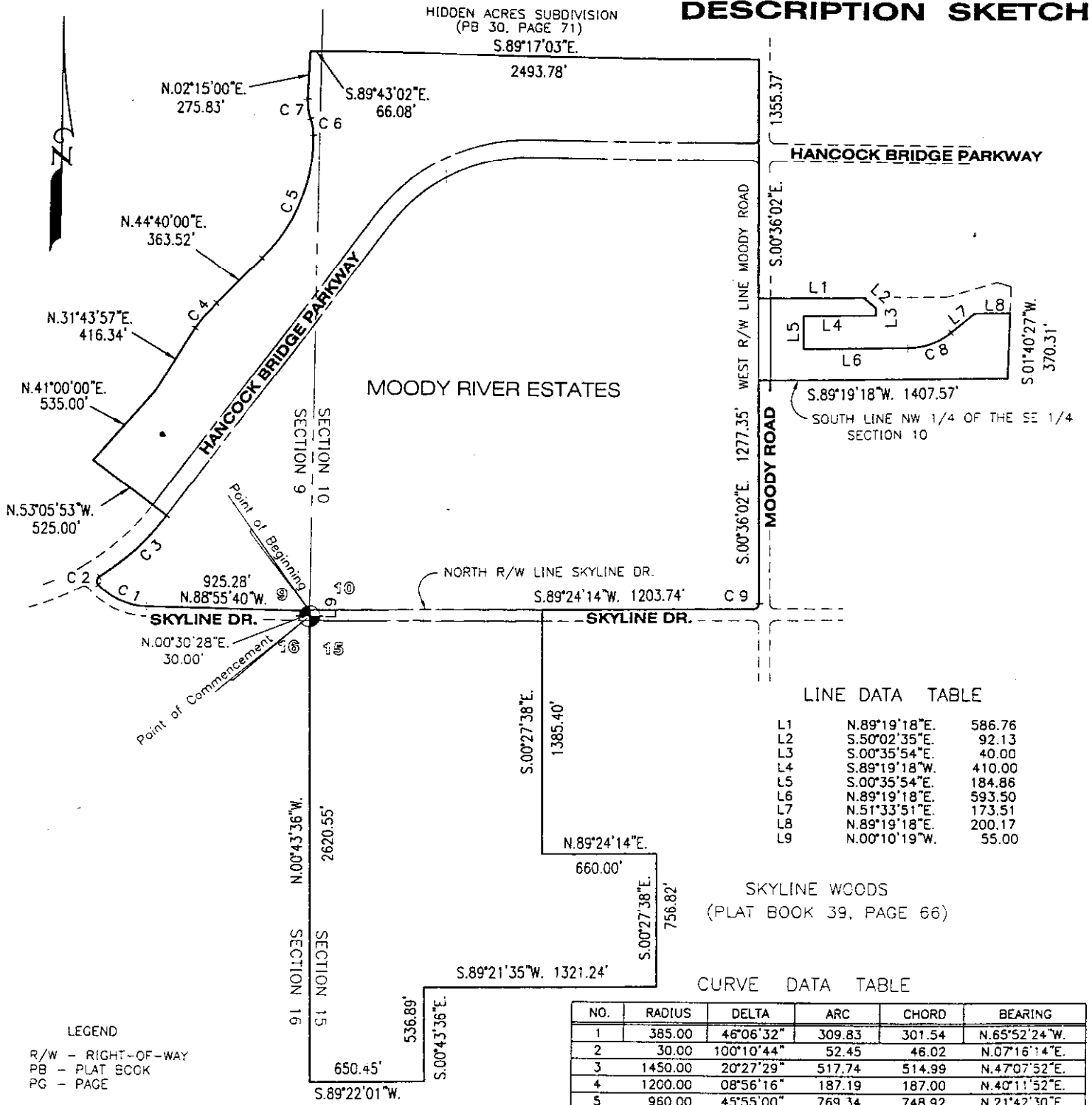
COMMENCING at the Southeast corner of Section 9, Township 44 South, Range 24 East, thence run N.00°30'28"E., 30.00 feet to the POINT OF BEGINNING said point being on the North Right-of-Way line of Skyline Drive; thence along said North right-of-way line N.88°55'40"W., 925.28 feet to a point of curvature; thence Northwesterly, 309.83 feet along the arc of a curve to the right having a radius of 385.00 feet and a central angle of 46°06'32" (chord bearing N.65°52'24"W., 301.54 feet) to a point of compound curvature; thence Northerly, 52.45 feet along the arc of a curve to the right having a radius of 30.00 feet and a central angle of 100°10'44" (chord bearing N.07°16'14"E., 46.02 feet) to a point of reverse curvature; thence Northeasterly, 517.74 feet along the arc of a curve to the left having a radius of 1450.00 feet and a central angle of 20°27'29" (chord bearing N.47°07'52"E., 514.99 feet); thence N.53°05'53"W., 525.00 feet; thence N.41°00'00"E., 535.00 feet; thence N.31°43'57"E., 416.34 feet to a point on a curve; thence Northeasterly, 187.19 feet along the arc of a curve to the right having a radius of 1200.00 feet and a central angle of 08°56'16" (chord bearing N.40°11'52"E., 187.00 feet) to a point of tangency; thence N.44°40'00"E., 363.52 feet to a point of curvature; thence Northerly, 769.34 feet along the arc of a curve to the left having a radius of 960.00 feet and a central angle of 45°55'00" (chord bearing N.21°42'30"E., 748.92 feet) to a point of compound curvature; thence Northerly, 96.87 feet along the arc of a curve to the left having a radius of 300.00 feet and a central angle of 18°30'00" (chord bearing N.10°30'00"W., 96.45 feet) to a point of reverse curvature; thence Northerly, 115.19 feet along the arc of a curve to the right having a radius of 300.00 feet and a central angle of 22°00'00" (chord bearing N.08°45'00"W., 114.49 feet) to a point of tangency; thence N.02°15'00"E., 275.83; thence S.89°43'02"E., 66.08 feet; thence along the South boundary of Hidden Acres according to the plat thereof as recorded in Plat Book 30, Page 71 of the Public Records of Lee County, Florida, S.89°17'03"E., 2493.78 feet to a point on the West right-of-way line of Moody Road; thence along said West right-of-way line S.00°36'02"E., 1355.37 feet; thence N.89°19'18"E., 586.76 feet; thence S.50°02'35"E., 92.13 feet; thence S.00°35'54"E., 40.00 feet; thence S.89°19'18"W., 410.00 feet; thence S.00°35'54"E., 184.86 feet; thence N.89°19'18"E., 593.50 feet to a point of curvature; thence Easterly, 263.60 feet along the arc of a curve to the left having a radius of 400.00 feet and a central angle of 37°45'27" (chord bearing N.70°26'34"E., 258.85 feet) to a point of tangency; thence N.51°33'51"E., 173.51 feet; thence N.89°19'18"E., 200.17 feet; thence S.01°40'27"W., 370.31 feet to a point on the South line of the Northwest one-quarter of the Southeast one-quarter of said Section 10; thence along said South line S.89°19'18"W., 1407.57 feet to a point of intersection with the West right-of-way line of said Moody Road; thence along said West right-of-way line S.00°36'02"E., 1277.35 feet to a point of curvature; thence Southwesterly, 47.13 feet along the arc of a curve to the right having a radius of 30.00 feet and a central angle of 90°00'16" (chord bearing S.44°24'06"W., 42.43 feet) to a point of tangency; thence along the North right-of-way line of said Skyline Drive S.89°24'14"W., 1203.74 feet; thence S.00°27'38"E., 1385.40 feet; thence N.89°24'14"E., 660.00 feet to a point on the West line of Skyline Woods according to the plat thereof as recorded in Plat Book 39, Page 66 of the Public Records of Lee County, Florida; thence along said West line S.00°27'38"E., 756.82 feet to a point on the North line of Buttonwood Harbor according to the plat thereof as recorded in Plat Book 44, Page 86 of the Public Records of Lee County, Florida; thence along the boundary of Buttonwood Harbor for the following three (3) courses: 1) S.89°21'35"W., 1321.24 feet; 2) S.00°43'36"E., 536.89 feet; 3) S.89°22'01"W., 650.45 feet to a point on the East boundary of said Section 15; thence along said East boundary N.00°43'36"W., 2620.55 feet to the POINT OF BEGINNING.

Prepared By:  
Heidt & Associates Inc  
3800 Colonial Blvd #200  
Fort Myers, Florida 33912

  
\_\_\_\_\_  
Randall L. Hendra PSM 6091  
Florida Professional Surveyor and Mapper

# DESCRIPTION SKETCH

HIDDEN ACRES SUBDIVISION  
(PB 30, PAGE 71)  
S.89°17'03"E.



LINE DATA TABLE

|    |               |        |
|----|---------------|--------|
| L1 | N.89°19'18"E. | 586.76 |
| L2 | S.50°02'35"E. | 92.13  |
| L3 | S.00°35'54"E. | 40.00  |
| L4 | S.89°19'18"W. | 410.00 |
| L5 | S.00°35'54"E. | 184.86 |
| L6 | N.89°19'18"E. | 593.50 |
| L7 | N.51°33'51"E. | 173.51 |
| L8 | N.89°19'18"E. | 200.17 |
| L9 | N.00°10'19"W. | 55.00  |

SKYLINE WOODS  
(PLAT BOOK 39, PAGE 66)

CURVE DATA TABLE

| NO. | RADIUS  | DELTA      | ARC    | CHORD  | BEARING       |
|-----|---------|------------|--------|--------|---------------|
| 1   | 385.00  | 46°06'32"  | 309.83 | 301.54 | N.65°52'24"W. |
| 2   | 30.00   | 100°10'44" | 52.45  | 46.02  | N.07°16'14"E. |
| 3   | 1450.00 | 20°27'29"  | 517.74 | 514.99 | N.47°07'52"E. |
| 4   | 1200.00 | 08°56'16"  | 187.19 | 187.00 | N.40°11'52"E. |
| 5   | 960.00  | 45°55'00"  | 769.34 | 748.92 | N.21°42'30"E. |
| 6   | 300.00  | 18°30'00"  | 96.87  | 96.45  | N.10°30'00"W. |
| 7   | 300.00  | 22°00'00"  | 115.19 | 114.49 | N.08°45'00"W. |
| 8   | 400.00  | 37°45'27"  | 263.60 | 258.85 | N.70°26'34"E. |
| 9   | 30.00   | 90°00'16"  | 47.13  | 42.43  | S.44°24'06"W. |

(NOT A SURVEY)

*[Signature]*  
RANDALL L. HENDRA PSM # 6091

**LEGEND**  
R/W - RIGHT-OF-WAY  
PB - PLAT BOOK  
PG - PAGE

- NOTES:**
- BEARINGS ARE BASED ON THE EAST BOUNDARY OF THE SOUTHWEST 1/4 OF SECTION 9 AS BEING N.00°30'28"E.
  - See Sheet 1 of 2 for Legal Description.

BUTTONWOOD HARBOUR  
(PLAT BOOK 44, PAGE 86)

CERTIFICATE OF AUTHORIZATION NO. LB 148

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

CIVIL ENGINEERING  
PLANNING  
SURVEYING  
ENVIRONMENTAL PERMITTING  
LANDSCAPE ARCHITECTURE

Fort Myers Office  
3800 Colonial Blvd, Suite 300  
Fort Myers, Florida 33912  
Phone: 239-482-7275  
FAX: 239-482-2103

SKETCH OF LEGAL DESCRIPTION FOR  
MOODY RIVER ESTATES COMMUNITY DEVELOPMENT DISTRICT  
SECTION 9,10,15,16, TOWNSHIP 44 SOUTH, RANGE 24 EAST

Prepared For: **COLONIAL HOMES INC.**

SHEET 2 OF 2

|  |                   |                |
|--|-------------------|----------------|
| Dwn. RH  | Ck. -             | DWG: COD_LEGAL |
| Date: 2-17-04  | Order No.: COL-MR |                |
| SECTION 9,10,15,16 TOWNSHIP 44 S RANGE 24 E<br>LEE COUNTY, FLORIDA |                   |                |

**MOODY RIVER ESTATES COMMUNITY DEVELOPMENT DISTRICT  
LESS AND EXCEPT ROAD PARCELS  
LEE COUNTY, FLORIDA**

**ROAD RIGHT-OF-WAY LESS AND EXCEPT PARCEL # 1 (Skyline Drive)**

DESCRIPTION: A parcel of land lying in Sections 9, 10, and 15, of Township 44 South, Range 25 East, Lee County, Florida, and being more particularly described as follows:

COMMENCING at the Southeast corner of Section 9, Township 44 South, Range 25 East, thence run N.00°30'28" E., 35.00 feet to the POINT OF BEGINNING; thence along the North boundary of Skyline Drive N.89°24'14"E., 1321.00 feet; thence S.00°27'38"E., 65.00 feet to a point on the South right-of-way line of Skyline Drive; thence along said South right-of-way line for the following three (3) courses: 1) S.89°24'13"W., 670.88 feet; 2) N.00°47'51"W., 5.00 feet; 3) S.89°24'13"W., 650.44 feet; thence N.00°07'16"W., 60.00 feet to the POINT OF BEGINNING.

Containing 1.897 acres, more or less.

**ROAD RIGHT-OF-WAY LESS AND EXCEPT PARCEL # 2 (Hancock Bridge Parkway)**

DESCRIPTION: A parcel of land lying in Sections 9, and 10, of Township 44 South, Range 25 East, Lee County, Florida, and being more particularly described as follows:

COMMENCING at the Southeast corner of Section 9, Township 44 South, Range 25 East, thence run N.00°30'28" E., 30.00 feet to a point on the North Right-of-Way line of Skyline Drive; thence along said North right-of-way line N.88°55'40"W., 925.28 feet to a point of curvature; thence Northwesterly, 309.83 feet along the arc of a curve to the right having a radius of 385.00 feet and a central angle of 46°06'32" (chord bearing N.65°52'24"W., 301.54 feet) to a point of compound curvature; thence Northerly, 52.45 feet along the arc of a curve to the right having a radius of 30.00 feet and a central angle of 100°10'44" (chord bearing N.07°16'14"E., 46.02 feet) to a point of reverse curvature; thence Northeasterly, 517.74 feet along the arc of a curve to the left having a radius of 1450.00 feet and a central angle of 20°27'29" (chord bearing N.47°07'52"E., 514.99 feet) to the Point of Beginning; thence N.53°05'53"W., 100.00 feet to a point on the Northwest right-of-way line of Hancock Bridge Parkway; thence along said Northwest right-of-way line N.36°54'06"E., 2078.08 feet to a point of curvature; thence Northeasterly, 1031.35 feet along the arc of a curve to the right having a radius of 1100.00 feet and a central angle of 53°43'12" (chord bearing N.63°45'42"E., 993.99 feet) to a point of tangency; thence S.89°22'42"E., 1253.94 feet to a point of curvature; thence Northeasterly, 47.76 feet along the arc of a curve to the left having a radius of 30.00 feet and a central angle of 91°13'20" (chord bearing N.45°00'38"E., 42.88 feet); thence S.00°36'02"E., 160.04 feet to a point of cusp; thence along the Southerly right-of-way line of said Hancock Bridge Parkway, Northwesterly, 46.48 feet along the arc of a curve to the left having a radius of 30.00 feet and a central angle of 88°46'40" (chord bearing N.44°59'22"W., 41.97 feet) to a point of tangency; thence N.89°22'42"W., 1257.36 feet to a point of curvature; thence Southwesterly, 937.59 feet along the arc of a curve to the left having a radius of 1000.00 feet and a central angle of 53°43'12" (chord bearing S.63°45'42"W., 903.62 feet) to a point of tangency; thence S.36°54'06"W., 2078.08 feet to the POINT OF BEGINNING.

Containing 9.991 acres, more or less.

**ROAD RIGHT-OF-WAY LESS AND EXCEPT PARCEL # 3 (Moody Road)**

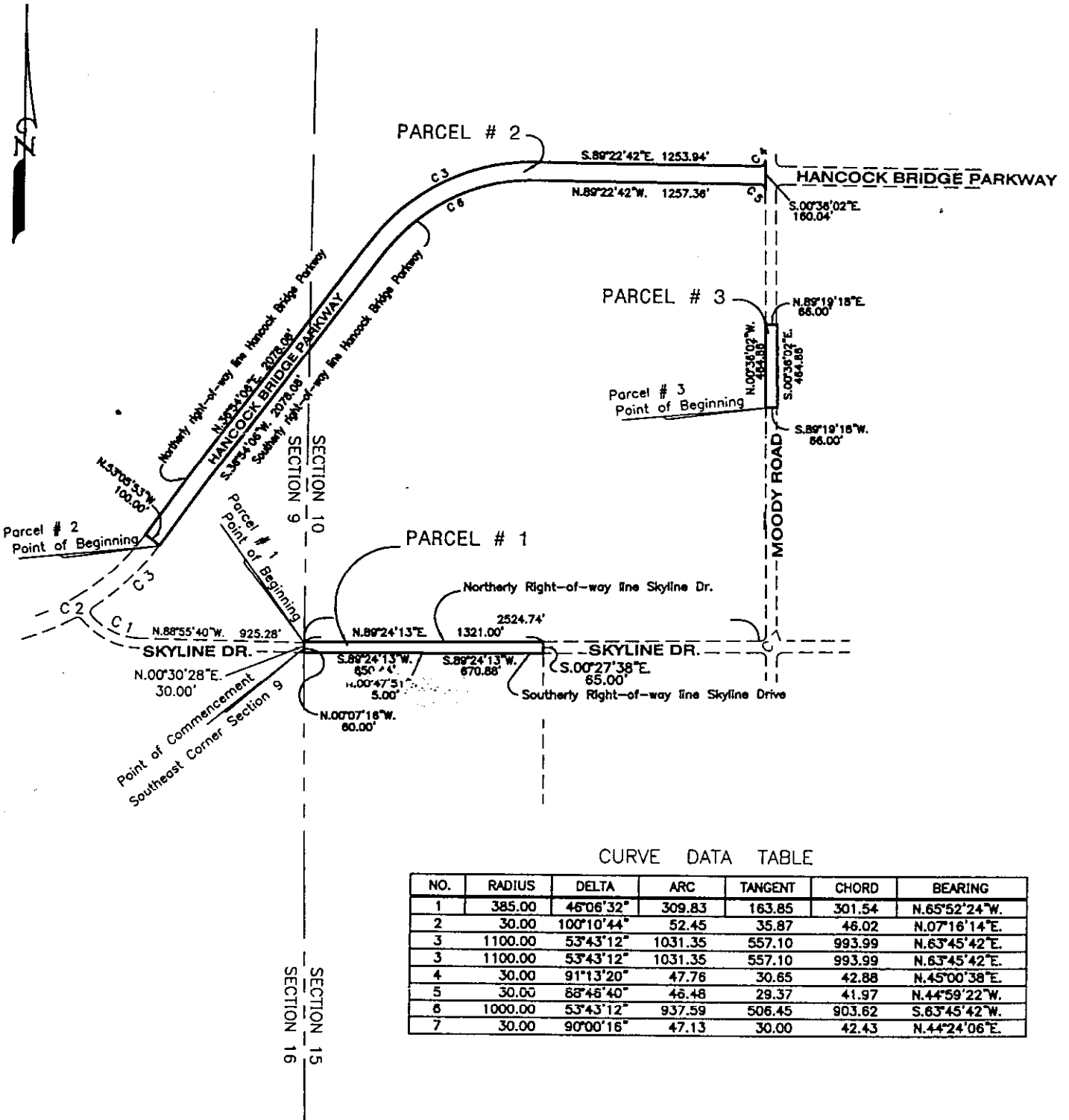
DESCRIPTION: A parcel of land lying in Section 10, of Township 44 South, Range 25 East, Lee County, Florida, and being more particularly described as follows:

COMMENCING at the Southeast corner of Section 9, Township 44 South, Range 25 East, thence run N.00°30'28"E., 35.00 feet; thence N.89°24'14"E., 2524.74 feet to a point of curvature; thence Northeasterly, 47.13 feet along the arc of a curve to the left having a radius of 30.00 feet and a central angle of 90°00'16" (chord bearing N.44°24'06"E., 42.43 feet) to a point of tangency; thence N.00°36'02"W., 1277.35 feet to the POINT OF BEGINNING; thence N.00°36'02"W., 464.86 feet; thence N.89°19'18"E., 66.00 feet; thence S.00°36'02"E., 464.86 feet; thence S.89°19'18"W., 66.00 feet to the POINT OF BEGINNING.

Containing 0.704 acres, more or less.

# DESCRIPTION SKETCH

SCALE 1" = 800'



CURVE DATA TABLE

| NO. | RADIUS  | DELTA      | ARC     | TANGENT | CHORD  | BEARING       |
|-----|---------|------------|---------|---------|--------|---------------|
| 1   | 385.00  | 46°06'32"  | 309.83  | 163.85  | 301.54 | N.65°52'24"W. |
| 2   | 30.00   | 100°10'44" | 52.45   | 35.87   | 46.02  | N.07°16'14"E. |
| 3   | 1100.00 | 53°43'12"  | 1031.35 | 557.10  | 993.99 | N.63°45'42"E. |
| 3   | 1100.00 | 53°43'12"  | 1031.35 | 557.10  | 993.99 | N.63°45'42"E. |
| 4   | 30.00   | 91°13'20"  | 47.76   | 30.65   | 42.88  | N.45°00'38"E. |
| 5   | 30.00   | 88°46'40"  | 46.48   | 29.37   | 41.97  | N.44°59'22"W. |
| 6   | 1000.00 | 53°43'12"  | 937.59  | 506.45  | 903.62 | S.63°45'42"W. |
| 7   | 30.00   | 90°00'16"  | 47.13   | 30.00   | 42.43  | N.44°24'06"E. |

NOTES:

- BEARINGS ARE BASED ON THE EAST BOUNDARY OF THE SOUTHWEST 1/4 OF SECTION 9 AS BEING N.00°30'28"E.
- See Sheet 1 of 2 for Legal Description.

(NOT A SURVEY)

RANDALL L. HENDRA PSM # 6091

CERTIFICATE OF AUTHORIZATION NO. LB 148

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



CIVIL ENGINEERING  
PLANNING  
SURVEYING  
ENVIRONMENTAL PERMITTING  
LANDSCAPE ARCHITECTURE

Fort Myers Office  
3800 Colonial Blvd, Suite 200  
Fort Myers, Florida 33912  
Phone: 239-482-7275  
FAX: 239-482-2103

SKETCH OF LEGAL DESCRIPTION FOR  
MOODY RIVER ESTATES COMMUNITY DEVELOPMENT DISTRICT  
ROAD RIGHT-OF-WAY LESS AND EXCEPT PARCELS

Prepared For: COLONIAL HOMES INC.

SHEET 2 OF 2

|  |                   |                |
|--|-------------------|----------------|
| Dwn. RH  | Ck. -             | DWG: CDD_LEGAL |
| Date: 2-17-04  | Order No.: COL-MR |                |
| SECTION 9,10,15, TOWNSHIP 44 S RANGE 24 E<br>LEE COUNTY, FLORIDA |                   |                |



EXHIBIT 3

**CONSENT AND JOINDER OF LANDOWNERS  
TO  
ESTABLISHMENT OF A COMMUNITY DEVELOPMENT DISTRICT**

The undersigned is the owner of certain lands more fully described in Exhibit 2 attached hereto and made a part hereof (AProperty@).

The undersigned understands and acknowledges that Colonial Homes, Inc. ("Petitioner") intends to submit an application to establish a Community Development District in accordance with the provisions of Chapter 190 of the Florida Statutes.

As an owner of lands which are intended to constitute the community Development District, the undersigned understands and acknowledges that pursuant to the provisions of Section 190.0005, Florida Statutes, the Petitioner is required to include the written consent to the establishment of the community Development District of one hundred percent (100%) of the owners of the lands to be included within the Community Development District.

The undersigned hereby consents to the establishment of a Community Development District which will include the Property within the lands to be part of the Community Development District and agrees to further execute any documentation necessary or convenient to evidence this Consent and Joinder during the application process for the establishment of the Community Development District.

The undersigned acknowledges that the consent will remain in full force and effect until the community Development District is established or three years from the date hereof, whichever shall occur first. The undersigned further agrees that it will provide to the next purchaser or successor in interest of all or any portion of the Property a copy of this Consent form.

The undersigned hereby represents and warrants that it has taken all actions and obtained all consents necessary to duly authorize the execution of this Consent and Joinder by the officer executing this instrument.

Executed this 20<sup>th</sup> day of April, 2004

Witnesses:

COLONIAL HOMES, INC.

Mickey Dunkle  
Witness Signature  
Mickey Dunkle  
Printed Name of Witness

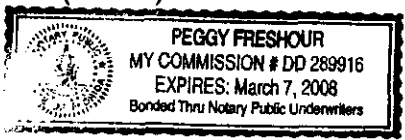
By: [Signature]  
Print Name: ANTHONY PERSICILLI  
Title: Senior Vice President

Laurie Sousa  
Witness Signature  
Laurie Sousa  
Printed Name of Witness

STATE OF FLORIDA )  
COUNTY OF LEE )

The foregoing instrument was acknowledged before me this 20<sup>th</sup> day of APRIL, 2004,  
by ANTHONY PERSICILLI, SENIOR VICE PRESIDENT (title) of  
Colonial Homes, Inc., on behalf of the corporation. He is personally known to me.

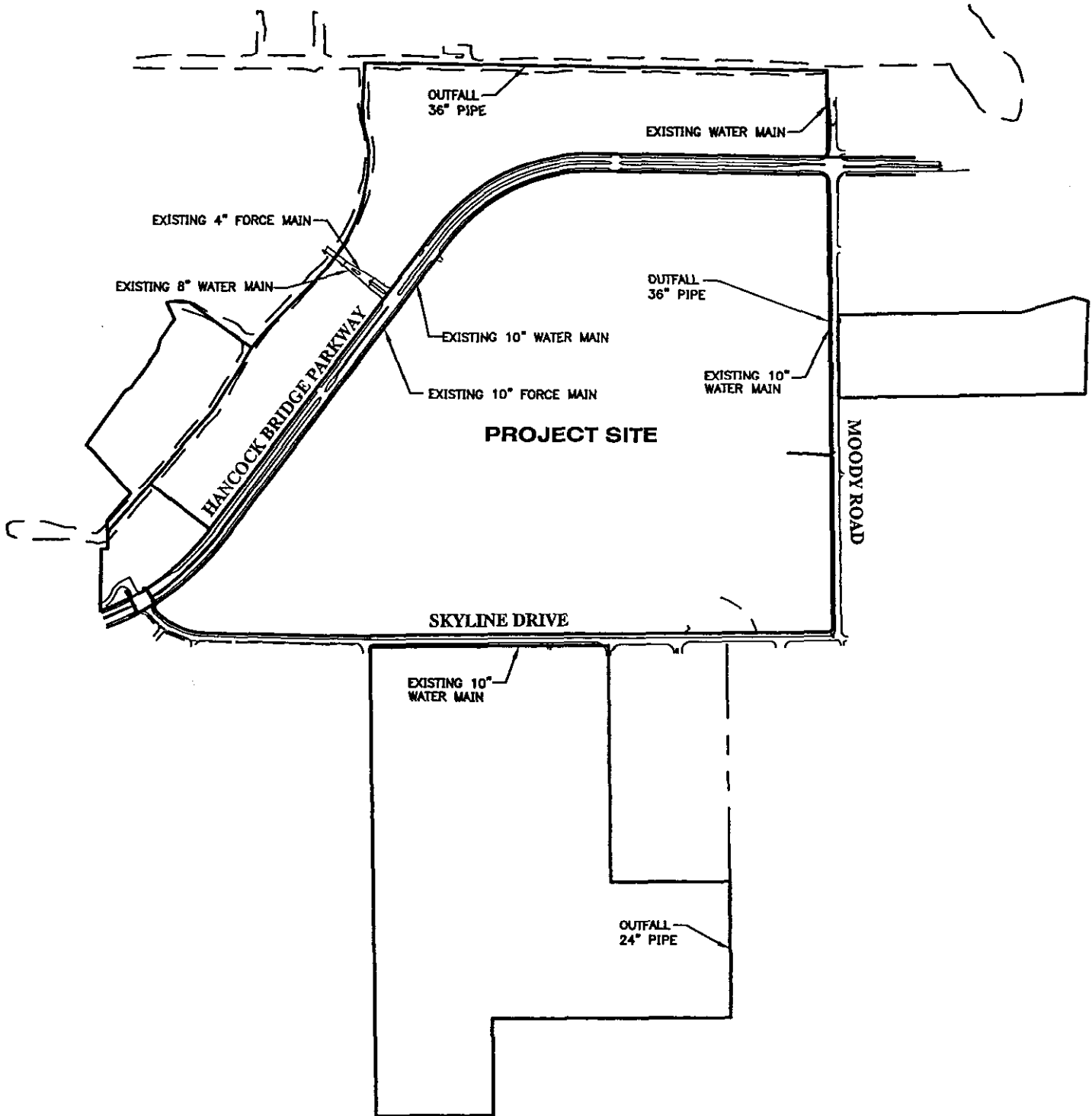
(SEAL)



Peggy Freshour  
Notary Public

Peggy Freshour  
Printed Name of Notary Public

**MOODY RIVER ESTATES CDD**  
PETITIONERS COMPOSITE EXHIBIT 4  
**LOCATION MAP OF WATER, SEWER, & OUTFALLS**



Engineering Business Certificate of Authorization No.: 148

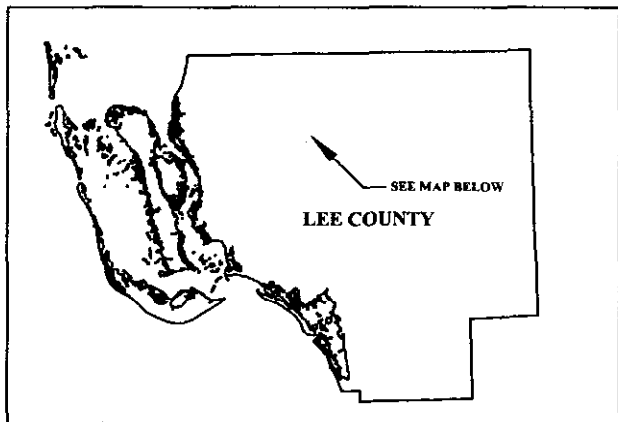
PREPARED BY: **HEIDT & ASSOCIATES, Inc.**  
Tampa ♦ Fort Myers



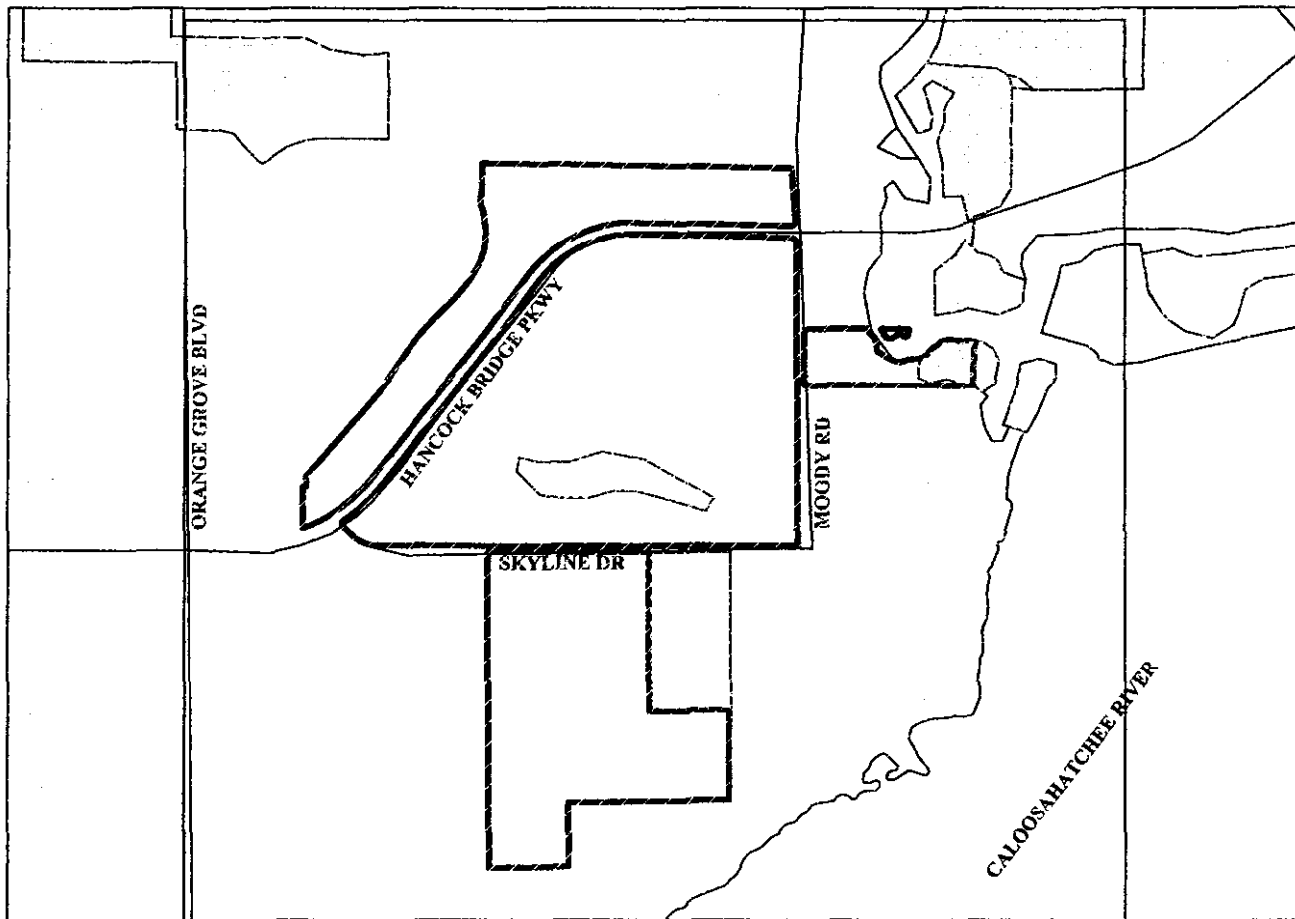
CIVIL ENGINEERING  
PLANNING  
SURVEYING  
ENVIRONMENTAL PERMITTING  
LANDSCAPE ARCHITECTURE

**Fort Myers Office**  
3800 COLONIAL BLVD., #200  
FORT MYERS, FLORIDA 33912  
PHONE: 239-482-7275  
FAX: 239-482-2103

**MOODY RIVER ESTATES**  
PETITIONERS EXHIBIT  
**FUTURE LAND USE MAP**  
**LEE COUNTY (FEBRUARY 2003)**  
**A PORTION OF ENTIRE MAP**



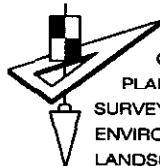
- INTENSIVE DEVELOPMENT
- SUBURBAN
- PUBLIC FACILITIES
- CONSERVATION
- CENTRAL SUBURBAN



P:\Moody Ranch\Master Plan\Engineering\DD-FutureLand\_EXHIBIT.dwg, 4/21/2004 10:54:56 AM, Acrobat Distiller.pc3

Engineering Business Certificate of Authorization No.: 148

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



CIVIL ENGINEERING  
PLANNING  
SURVEYING  
ENVIRONMENTAL PERMITTING  
LANDSCAPE ARCHITECTURE

**Fort Myers Office**  
3800 COLONIAL BLVD., #200  
FORT MYERS, FLORIDA 33912  
PHONE: 239-482-7275  
FAX: 239-482-2103

**POLICY 1.1.4:** The Urban Community areas are areas outside of Fort Myers and Cape Coral that are characterized by a mixture of relatively intense commercial and residential uses. Included among them, for example, are parts of Lehigh Acres, San Carlos Park, Fort Myers Beach, South Fort Myers, the city of Bonita Springs, Pine Island, and Gasparilla Island. Although the Urban Communities have a distinctly urban character, they should be developed at slightly lower densities. As the vacant portions of these communities are urbanized, they will need to maintain their existing bases of urban services and expand and strengthen them accordingly. As in the Central Urban area, predominant land uses in the Urban Communities will be residential, commercial, public and quasi-public, and limited light industry (see Policy 7.1.6). Standard density ranges from one dwelling unit per acre (1 du/acre) to six dwelling units per acre (6 du/acre), with a maximum of ten dwelling units per acre (10 du/acre). (Amended by Ordinance No. 94-30, 02-02)

**POLICY 1.1.5:** The Suburban areas are or will be predominantly residential areas that are either on the fringe of the Central Urban or Urban Community areas or in areas where it is appropriate to protect existing or emerging residential neighborhoods. These areas provide housing near the more urban areas but do not provide the full mix of land uses typical of urban areas. The standard residential densities are the same as the Urban Community category. Higher densities, commercial development greater than neighborhood centers, and industrial land uses are not permitted. Bonus densities are not allowed. (Amended by Ordinance No. 94-30)

**POLICY 1.1.6:** The Outlying Suburban areas are characterized by their peripheral location in relation to established urban areas. In general, these areas are rural in nature or contain existing low-density development. Some, but not all, of the requisite infrastructure needed for higher density development is generally planned or in place. It is intended that these areas will develop at lower residential densities than other Future Urban Areas. As in the Suburban areas, higher densities, commercial development greater than neighborhood centers, and industrial land uses are not permitted. The standard density range is from one dwelling unit per acre (1 du/acre) to three dwelling units per acre (3 du/acre). Bonus densities are not allowed. In the Outlying Suburban area in North Fort Myers east of I-75 and in the Buckingham area (see Goal 17), the maximum density permitted is two dwelling units per acre (2 du/acre). (Amended by Ordinance 91-19)

**POLICY 1.1.7:** The Industrial Development areas play an important role in strengthening the county's economic base and will become increasingly important as the county grows in size and urban complexity. To a great extent these are the areas to which Lee County must look for expanded job opportunities, investments and production opportunities, and a balanced and sufficient tax base. These areas have special locational requirements that are more stringent than those for residential areas, including transportation needs (e.g., air, rail, highway); industrial levels of water, sewer, fire protection, and other urban services; and locations that are convenient for employees to reach. Whereas the other Future Urban Areas will include a broad combination of residential, commercial, public, and limited industrial land uses, the Industrial Development area is to be reserved mainly for industrial activities per se, as well as for selective land use mixtures such as the combined uses of industrial, manufacturing, research, properly buffered recreational uses (except where precluded by airport hazard zone regulations), and office complexes (if specifically related to adjoining industrial uses) that constitute a growing part of Florida's economic development sector. New natural resource extraction (mining) activities and fill dirt operations must be approved through the Industrial Planned Development rezoning process. Retail or wholesale of products manufactured or processed upon the premises may be allowed at a ratio of 1 square foot of commercial uses to 10 square feet of industrial use in

based on the special studies (see for example, Goal 17). Maximum density is one dwelling unit per acre (1 du/acre). (Amended by Ordinance No. 91-19, 94-30)

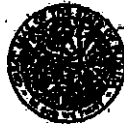
**POLICY 1.4.4:** Open Lands are upland areas that are located north of Rural and/or sparsely developed areas in Township 43 South. These areas are extremely remote from public services and are characterized by agricultural and low-density residential uses. Commercial and industrial uses are permitted in this category in accordance with the standards in the Rural category. The maximum density in this category is one dwelling unit per ten acres (1 du/10 acres); except that a maximum density of one dwelling unit per five acres (1 du/5 acres) is permitted if the planned development process is used to prevent adverse impacts on environmentally sensitive lands (as defined in Policy 77.1.1.4). (Added by Ordinance No. 94-30)

**POLICY 1.4.5:** The Density Reduction/Groundwater Resource (DR/GR) areas include upland areas that provide substantial recharge to aquifers most suitable for future wellfield development. These areas also are the most favorable locations for physical withdrawal of water from those aquifers. Only minimal public facilities exist or are programmed. Land uses in these areas must be compatible with maintaining surface and groundwater levels at their historic levels. Permitted land uses include agriculture, natural resource extraction and related facilities, conservation uses, publicly-owned gun range facilities, private recreation facilities, and residential uses at a maximum density of one dwelling unit per ten acres (1 du/10 acres). Individual residential parcels may contain up to two acres of Wetlands without losing the right to have a dwelling unit, provided that no alterations are made to those wetland areas.

Private Recreational Facilities may be permitted in accordance with the site locational requirements and design standards, as further defined in Goal 16. No Private recreational facilities may occur within the DR/GR land use category without a rezoning to an appropriate planned development zoning category, and compliance with the Private Recreation Facilities performance standards, contained in Goal 16 of the Lee Plan. (Amended by Ordinance No. 91-19, 94-30, 99-16, 02-02)

**POLICY 1.4.6:** The Conservation Lands include uplands and wetlands that are owned and used for long range conservation purposes. Upland and wetland conservation lands will be shown as separate categories on the FLUM. Upland conservation lands will be subject to the provisions of this policy. Wetland conservation lands will be subject to the provisions of both the Wetlands category described in Objective 1.5 and the Conservation Lands category described in this policy. The most stringent provisions of either category will apply to wetland conservation lands. Conservation lands will include all public lands required to be used for conservation purposes by some type of legal mechanism such as statutory requirements, funding and/or grant conditions, and mitigation preserve areas required for land development approvals. Conservation Lands may include such uses as wildlife preserves; wetland and upland mitigation areas and banks; natural resource based parks; ancillary uses for environmental research and education, historic and cultural preservation, and natural resource based parks (such as signage, parking facilities, caretaker quarters, interpretive kiosks, research centers, and quarters and other associated support services); and water conservation lands such as aquifer recharge areas, flowways, flood prone areas, and well fields. 2020 lands designated as conservation are also subject to more stringent use provisions of the 2020 Program or the 2020 ordinances. (Added by Ordinance No. 98-09, Amended by Ordinance No. 02-02)

**OBJECTIVE 1.5: WETLANDS.** Designate on the Future Land Use Map those lands that are identified as Wetlands in accordance with F.S. 373.019(17) through the use of the unified state



STATE OF FLORIDA

DEPARTMENT OF COMMUNITY AFFAIRS

Dedicated to making Florida a better place to call home

JEFF BUSH  
Governor

COLLEEN CASTILLE  
Secretary

February 11, 2004

The Honorable Ray Judah, Chairman  
Lee County Board of County Commission  
P. O. Box 398  
Fort Myers, Florida 33901

04 FEB 13 AM 11:55  
LEE COUNTY  
RECEIVED  
COMM. DEV/  
PUB. WRKS. CNTR.  
SECOND FLOOR

Dear Chairman Judah:

The Department of Community Affairs (Department) has completed its review of the Comprehensive Plan Amendment for Lee County (DCA No. 03D1) adopted by Ordinance No. 03-26, on December 15, 2003, and determined that it meets the requirements of Chapter 163, Part II, Florida Statutes (F.S.), for compliance, as defined in Subsection 163.3184(1)(b), F.S. The Department is issuing a Notice of Intent to find the plan amendment in compliance. The Notice of Intent has already been sent to the Fort Myers News Press for publication on February 14, 2004.

The Department's notice of intent to find a plan amendment in compliance shall be deemed to be a final order if no timely petition challenging the amendment is filed. Any affected person may file a petition with the agency within 21 days after the publication of the notice of intent pursuant to Section 163.3184(9), F.S. No development orders, or permits for a development, dependent on the amendment may be issued or commence before the plan amendment takes effect.

Please, be advised that Section 163.3184(8)(c)2, Florida Statutes, requires a local government that has an internet site to post a copy of the Department's Notice of Intent on the site within 5 days after receipt of the mailed copy of the agency's notice of intent. Please, also note that a copy of the adopted Lee County Comprehensive Plan Amendment, and the Notice of Intent must be available for public inspection Monday through Friday, except for legal holidays, during normal business hours, at the Lee County Planning Division, 1500 Monroe Street, 2<sup>nd</sup> Floor, Fort Myers, Florida 33901.

If an affected person challenges this in compliance determination, you will have the option of mediation pursuant to Subsection 163.3189(3)(a), F.S. If you choose to attempt to resolve this matter through mediation, you must file the request for mediation with the

2555 SHUMARD OAK BOULEVARD • TALLAHASSEE, FLORIDA 32399-2100  
Phone: (850) 488-8466/Suncom 278-8466 FAX: (850) 921-0781/Suncom 291-0781  
Internet address: <http://www.dca.state.fl.us>

CRITICAL STATE CONCERN FIELD OFFICE  
2796 Overseas Highway, Suite 212  
Marathon, FL 33650-2227  
(888) 289-2402

COMMUNITY PLANNING  
2555 Shumard Oak Boulevard  
Tallahassee, FL 32399-2100  
(850) 488-2356

EMERGENCY MANAGEMENT  
2555 Shumard Oak Boulevard  
Tallahassee, FL 32399-2100  
(850) 413-9969

HOUSING & COMMUNITY DEVELOPMENT  
2555 Shumard Oak Boulevard  
Tallahassee, FL 32399-2100  
(850) 488-7956

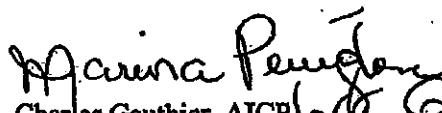
Exhibit 5B (continued)

The Honorable Ray Judah  
February 11, 2004  
Page Two

administrative law judge assigned by the Division of Administrative Hearings. The choice of mediation will not affect the right of any party to an administrative hearing.

If you have any questions, please contact Bernard Piawah, Principal Planner, at (850) 922-1810.

Sincerely,

  
Charles Gauthier, AICP  
Chief, Comprehensive Planning

CG/bp

Enclosure: Notice of Intent

cc: Mr. Paul O'Connor, Lee County Planning Director  
Mr. David Burr, Executive Director, Southwest Florida Regional Planning Council



**EXHIBIT 6**

**MOODY RIVER ESTATES COMMUNITY DEVELOPMENT DISTRICT**

**PROPOSED CONSTRUCTION TIMETABLE AND COSTS ESTIMATES**

| <b>Phase<br/>Construction Period</b>          | <b>Phase I<br/>2004-2006</b> | <b>Phase II<br/>2007-2009</b> | <b>Total<br/>Project</b> |
|---|------------------------------|-------------------------------|--------------------------|
| <b>Description</b>                            |                              |                               |                          |
| Roads   | \$1,407,600                  | \$938,400                     | \$2,346,000              |
| Stormwater Management                         | \$2,841,834                  | \$1,894,556                   | \$4,736,390              |
| Sanitary Sewer                                | \$1,729,547                  | \$1,153,032                   | \$2,882,579              |
| Water Distribution                            | \$2,798,640                  | \$1,865,760                   | \$4,664,400              |
| Parks and Recreation                          | \$4,519,500                  | \$3,013,000                   | \$7,532,500              |
| Landscaping, Streetlighting<br>and Irrigation | \$500,940                    | \$333,960                     | \$834,900                |
| Professional Fees                             | \$897,000                    | \$598,000                     | \$1,495,000              |
| <b>Phase Total</b>                            | <b>\$14,695,061</b>          | <b>\$9,796,708</b>            | <b>\$24,491,769</b>      |

## EXHIBIT "7"

### STATEMENT OF ESTIMATED REGULATORY COSTS

#### 1.0 Introduction

#### 1.1 Purpose and Scope

This Statement of Estimated Regulatory Costs ("SERC") supports the petition to establish the Moody River Estates Community Development District ("District"). The District is projected to contain a maximum of 900 residential units on a total of approximately 308 acres of land located within Lee County, Florida. The limitations on the scope of this SERC are explicitly set out in Section 190.002 (2) (d), F.S. (governing District formation or alteration) as follows:

"That the process of establishing such a district pursuant to uniform general law shall be fair and based only on factors material to managing and financing the service delivery function of the district, so that any matter concerning permitting or planning of the development is not material or relevant (emphasis added)."

#### 1.2 Overview of the Moody River Estates Development and the District

The District will comprise a proposed land area of approximately 308 acres within the unincorporated Lee County, Florida. The District is designed to provide infrastructure, services, and facilities along with certain ongoing operations and maintenance to the Moody River Estates development (the "Development" or "Moody River Estates"). A Community Development District ("CDD"), is an independent unit of special purpose local government created and chartered by Chapter 190, Florida Statutes, to plan, finance, construct, operate and maintain community-wide infrastructure in large, planned community developments. It may be established on the proposed property by ordinance. CDD's provide a "solution to the state's planning, management and financing needs for delivery of capital infrastructure to service projected growth without overburdening other governments and their taxpayers." Section 190.002 (1) (a) F.S.

A CDD is not a substitute for the local, general purpose, government unit, i.e., the County in which the CDD lies. A CDD does not have the permitting, zoning or police powers possessed by general purpose governments. A community development district is an alternative means of financing, constructing, operating, and maintaining community infrastructure for planned developments, such as Moody River Estates. The scope of this SERC is limited to evaluating the consequences of approving the proposal to establish the District.

### **1.3 Requirements for Statement of Estimated Regulatory Costs**

Section 120.541 (2), F.S. (2003), defines the elements a statement of estimated regulatory costs must contain:

(a) A good faith estimate of the number of individuals and entities likely to be required to comply with the rule, together with a general description of the types of individuals likely to be affected by the rule.

(b) A good faith estimate of the cost to the agency, and to any other state and local government entities, of implementing and enforcing the proposed rule, and any anticipated effect on state and local revenues.

(c) A good faith estimate of the transactional costs likely to be incurred by individuals and entities, including local governmental entities, required to comply with the requirements of the rule. As used in this paragraph, "transactional costs" are direct costs that are readily ascertainable based upon standard business practices, and include filing fees, the cost of obtaining a license, the cost of equipment required to be installed or used or procedures required to be employed in complying with the rule, additional operating costs incurred, and the cost of monitoring and reporting.

(d) An analysis of the impact on small businesses as defined by Section 288.703, F.S., and an analysis of the impact on small counties and small cities as defined by Section 120.52 F.S. Lee County, Florida (the "County") is not defined as a small county for purposes of this requirement.

(e) Any additional information that the agency determines may be useful.

(f) In the statement or revised statement, whichever applies, a description of any good faith written proposal submitted under paragraph (1) (a) and either a statement adopting the alternative or a statement of the reasons for rejecting the alternative in favor of the proposed rule.

With regards to this Statement of Estimated Regulatory Costs, requirements referring to the rule will be modified to refer to a county establishing ordinance for to which the law requires the Statement of Estimated Regulatory Costs to be prepared.

**2.0 A good faith estimate of the number of individuals and entities likely to be required to comply with the rule, together with a general description of the types of individuals likely to be affected by the rule.**

Establishment of the District would provide roads, stormwater management, sanitary sewer, water distribution, parks and recreation, landscaping, street lighting and irrigation improvements to all of these residences through the District facilities. It is not anticipated that anyone outside the Development would be affected by the rule establishing the District, although the State of Florida and the County would be required to comply with reviewing reports as a consequence of the rule.

**3.0 Good faith estimate of the cost to state and local government entities, of implementing and enforcing the proposed rule, or in the case of Districts under 1,000 acres, an ordinance of the general purpose government establishing the District, and any anticipated effect on state and local revenues.**

**3.1 Costs to Governmental Agencies of Implementing and Enforcing Rule**

**State Government Entities**

There will be only modest costs to various State governmental entities to implement and enforce the proposed establishment of the District. The District, if established on the proposed property will encompass under 1,000 acres; therefore, the County is the establishing entity under 190.005 (1) F.S. The modest costs to various State entities to implement and enforce the ordinance relate strictly to the receipt and processing of various reports that the proposed District is required to file with the State and its various entities. The costs to those State agencies that will receive and process the District's reports are very small because the District is only one of many governmental units that are required to submit the various reports. Therefore, the marginal cost of processing one additional set of reports is inconsequential. Additionally, pursuant to section

189.412, F.S., the District must pay an annual fee to the State of Florida Department of Community Affairs, which offsets such costs.

### **Lee County, Florida**

The proposed land for the District is in the Lee County, Florida and consists of less than 1,000 acres. The County and its staff may process, analyze, conduct a public hearing, and vote upon the petition to establish the District. These activities will absorb some resources. The costs to review the record of the local hearing, the transcript of the hearing, and the ordinance adopted by the local general-purpose government will be offset by the filing fee required under 190.005 (1), F.S.

These costs to the County are modest for a number of reasons. First, according to Chapter 190, F.S., review of the petition to establish the District does not include analysis of any community developments within the boundaries of the District. Second, the petition itself provides much of the information needed for a staff review. Third, local governments already possess the staff needed to conduct the review without the need for new staff. Fourth, there is no capital required to review the petition. Fifth, the potential costs are offset by the required filing fee. Finally, general purpose local governments routinely process petitions for land uses and zoning changes that are far more complex than is the petition.

The annual costs to the County, because of the establishment of the District, are also very small. The District is an independent unit of local government. The only annual costs the County faces are the minimal costs of receiving and reviewing the various reports that the District is required to provide to the County.

### **3.2 Impact on State and Local Revenues**

Adoption of the proposed rule will have no negative impact on State and local revenues. The District is an independent unit of local government. It is designed to provide community facilities and services to serve the Moody River Estates development. It has its own sources of revenue. No State or local subsidies are required or expected.

In this regard it is important to note that any debt obligations incurred by the District to construct its infrastructure, or for any other reason, are not debts of the State of Florida, the County, or any other unit of local government. In accordance with State law, debts of the District are strictly its own responsibility.

**4.0 A good faith estimate of the transactional costs likely to be incurred by individuals and entities required to comply with the requirements of the ordinance.**

Table 1 provides an outline of the various facilities and services the District may provide. All of the infrastructure improvements will be funded by the District who will also own and operate/maintain some of them, with the remaining improvements owned and operated/maintained by either the County.

**Table 1. Moody River Estates Community Development District Proposed Facilities and Services**

| <b>FACILITY</b>   | <b>FUNDED BY</b> | <b>O&amp;M</b> | <b>OWNERSHIP</b> |
|---|------------------|----------------|------------------|
| ROADS   | CDD              | CDD            | CDD              |
| STORMWATER<br>MANAGEMENT  | CDD              | CDD            | CDD              |
| SANITARY SEWER  | CDD              | COUNTY         | COUNTY           |
| WATER DISTRIBUTION  | CDD              | COUNTY         | COUNTY           |
| PARKS AND RECREATION<br>LANDSCAPING, STREET<br>LIGHTING, IRRIGATION | CDD              | CDD            | CDD              |

The petitioner has estimated the design and development costs for providing the capital facilities as outlined in Table 1. The cost estimates are shown in Table 2 below. Total design and development costs for these facilities are estimated to be approximately \$24,491,769. The District may levy non-ad valorem special assessment (by a variety of names) and may issue revenue and other bonds to fund the management of these facilities. These bonds would be repaid through non-ad valorem special assessments (by a variety of names) levied on all properties in the District that receive special and peculiar benefit from the District’s capital improvement program as outlined in Table 2.

Prospective future landowners in the Development may be required to pay non-ad valorem special assessments levied by the District to provide for facilities or operations and maintenance and secure any debt incurred through bond issuance. In addition to the levy of non-ad valorem special assessments which may be used for debt service, the District may also levy a non-ad valorem assessment to fund the operations and maintenance of the District and its facilities and services. However, locating in the District by new residents is completely voluntary and levy of such assessments, as well as the prospect of such assessments, are noticed and disclosed fully. So, ultimately, all owners and

users of the affected property choose to accept the non-ad valorem assessments as a tradeoff for the services and facilities that the District will provide. In addition, state law requires all assessments levied by the District to be disclosed by the seller to all prospective purchasers of property within the District.

A Community Development District "CDD" provides the property owners with an alternative mechanism of providing public services; however, special assessments and other impositions levied by the District (and collected by law) represent the transactional costs incurred by landowners as a result of the establishment of the District. Such transactional costs should be considered in terms of costs likely to be incurred under alternative public and private mechanisms of service provision, such as other independent Special Districts, County or its Dependent Districts, county, or its Dependent Districts or county management but financing with municipal service benefit units and municipal service taxing units which are not Districts, or private entities, all of which can be grouped into three major categories: public district, public other, and private.

With regards to costs of public district mechanism of public services delivery to the developments within the proposed area, Dependent and other Independent Special Districts can be used to manage the provision of infrastructure and services, however, they are limited in the types of services they can provide, and likely it would be necessary to employ more than one district to provide all services needed by the development. Transaction costs resulting from the employment of more than one district would unlikely be higher than those resulting from a single entity such as a CDD.

Other public entities, such as municipalities and counties, also are capable of providing services, however, their costs in connection with the new services and infrastructure required by the new development, transaction costs, would be borne by all taxpayers, unduly burdening existing taxpayers and would also be inconsistent with the State's policy of "growth paying for growth".

Lastly, services and improvements could be provided by private entities. However, their interests are primarily short-term profits and there is no public accountability. The marginal benefits of tax-exempt financing utilizing CDDs would cause the CDD to utilize its lower transactional costs to enhance the quality of infrastructure and services.

In considering transactional costs of CDDs, it shall be noted that occupants of the lands to be included within the District will receive three major classes of benefits.

First, those residents in the District will receive a higher level of public services which in most instances will be sustained over longer periods of time than would otherwise be the case.

Second, a CDD is a mechanism for assuring that the community services will be completed concurrently with development of lands within the Development. This satisfies the revised growth management legislation, and it assures that growth pays for itself without undue burden on other consumers. Establishment of the District will ensure that these landowners pay for the provision of facilities, services and improvements to these lands.

**Table 2. Cost Estimate for District Facilities**

| <b>CATEGORY</b>                            | <b>COST</b>         |
|--|---------------------|
| ROADS                                      | \$2,346,000         |
| STORMWATER MANAGEMENT                      | \$4,736,390         |
| SANITARY SEWER                             | \$2,882,579         |
| WATER DISTRIBUTION                         | \$4,664,400         |
| PARKS AND RECREATION                       | \$7,532,500         |
| LANDSCAPING, STREETLIGHTING AND IRRIGATION | \$834,900           |
| PROFESSIONAL FEES                          | \$1,495,000         |
| <b>TOTAL</b>                               | <b>\$24,491,769</b> |

Third, a CDD is the sole form of local governance which is specifically established to provide District landowners with planning, construction, implementation and short and long-term maintenance of community infrastructure at sustained levels of service.

The cost impact on the ultimate landowners in the Development is not the total cost for the District to provide infrastructure services and facilities. Instead, it is the incremental costs above, if applicable, what the landowners would have paid to install infrastructure via an alternative financing mechanism. Given the low cost of capital for a CDD due to tax-exempt financing, landowners within the District can usually expect the marginal benefits of finance savings directed toward higher quality of infrastructure than landowners in similar developments not located within CDDs.



**5.0 An analysis of the impact on small businesses as defined by Section 288.703, F.S., and an analysis of the impact on small counties and small cities as defined by Section 120.52, F.S.**

There will be little impact on small businesses because of the establishment of the District. If anything, the impact may be positive. This is because the District must competitively bid all of its contracts and competitively negotiate all of its contracts with consultants. This affords small businesses the opportunity to bid on District work.

The County has an estimated population that is greater than 75,000 according to the United States Census Bureau. Therefore the County is not defined as a "small" county according to Section 120.52, F.S.

**6.0 Any additional useful information.**

The analysis provided above is based on a straightforward application of economic theory, especially as it relates to tracking the incidence of regulatory costs and benefits. Inputs were received from the Petitioner's Engineer and other professionals associated with the Petitioner.

Prepared by: Michael Symonakis  
Severn Trent Services, Inc.

04/08/2004

AUTHORIZATION TO REPRESENT

Please be advised that NEALE MONTGOMERY of PAVESE, HAVERFIELD, DALTON, HARRISON & JENSEN, LLP is hereby authorized to represent Colonial Homes Inc. in all aspects of the petition to Lee County for the establishment of the Moody Ranch Community Development District.

COLONIAL HOMES, INC.

By: SCOTT CLARK

Name: [Signature]

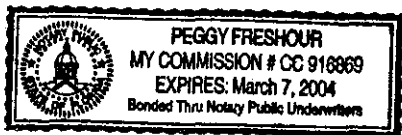
Title: Director of Land Acquisition

STATE OF FLORIDA

COUNTY OF LEE

The foregoing instrument was acknowledged before me this 17<sup>th</sup> day of November, 2003, by Scott Clark as Dir. of Land Acq. of Colonial Homes, Inc. on behalf of the Company, who is personally known to me or who has produced \_\_\_\_\_ as identification and who did (did not) take an oath.

(Notary Seal)



Signature of Notary Public

[Signature]  
(Print, type or stamp commissioned name of Notary Public)

Peggy Freshour

Commission No:

**LEE COUNTY, FLORIDA  
FINANCIAL & ADMINISTRATIVE IMPACT STATEMENT  
PROPOSED COUNTY ORDINANCE**

NAME OF ORDINANCE: Moody River Estates CDD

I. DESCRIPTION OF ORDINANCE

A. Statement of Purpose

**Establishment of the Moody River Estates Community Development District.**

B. Narrative Summary of Ordinance (Several Sentence Summary)

**Ordinance creates a new community development district, which is a special unit of local government. The primary purpose of the District is to provide infrastructure for the development.**

C. Principal Division(s) or Department(s) Affected (List)

**N/A**

**LEE COUNTY, FLORIDA  
FINANCIAL & ADMINISTRATIVE IMPACT STATEMENT  
PROPOSED COUNTY ORDINANCE:**

NAME OF ORDINANCE: Moody River Estates CDD

**II. FISCAL IMPACT ON COUNTY AGENCIES/COUNTY FUNDS.**

A. What is estimated Demand? (Develop Indicators) **N/A**

B. What is estimated Workload? (Develop Indicators) **N/A**

C. What are estimated costs?

|                | 1st Year \$'s   |            | 2nd Year \$'s   |            |
|----------------|-----------------|------------|-----------------|------------|
|                | <u>Existing</u> | <u>New</u> | <u>Existing</u> | <u>New</u> |
| Personnel      | <b>N/A</b>      |            | <b>N/A</b>      |            |
| Fringe         | <b>N/A</b>      |            | <b>N/A</b>      |            |
| Operating      | <b>N/A</b>      |            | <b>N/A</b>      |            |
| Capital Outlay | <b>N/A</b>      |            | <b>N/A</b>      |            |
| Total          | <b>N/A</b>      |            | <b>N/A</b>      |            |

D. List the anticipated revenues to cover costs identified in II, C, above. If a fee is to be charged, answer the following:

1. What is the basis (rationale) for the fee? **N/A**

2. Do the anticipated fees cover the full cost of operation? If not, what percentage of the costs are covered? **N/A**

E. Give a brief narrative analysis of the information contained in II. A through D, above.

**Minimal impact. Authorizes establishment of a Community Development District in response to petition to request. The District will be responsible for managing and financing basic infrastructure and service needs for the District.**