



STATE OF FLORIDA

DEPARTMENT OF COMMUNITY AFFAIRS

"Dedicated to making Florida a better place to call home"

CHARLIE CRIST
Governor

THOMAS G. PELHAM
Secretary

August 12, 2009

Philip D. Woods, P.E.
Director of Development
The Deltona Corporation
744 Marion Oaks Pass
Ocala, Florida 34473

Re: Binding Letter of Interpretation of Modification to Vested Rights Status for
Marion Oaks – Unit 1, Tract A-T Area
Application Number BLIM-05-2007-017
Final Order Number: DCA09-BL-258

Dear Mr. Woods:

The Department of Community Affairs (Department) has evaluated your Application for a Modification of the Binding Letter of Vested Rights issued for the Marion Oaks development located in Marion County, Florida. Based on the information contained in the Application and the supplemental information received during the review process, the Department enters the following Findings of Fact, Conclusions of Law, and Order.

FINDINGS OF FACT

1. The Applicant is Philip D. Woods, P.E., the authorized representative for the Deltona Corporation. The Deltona Corporation owns Marion Oaks, Unit 1. On July 25, 1986, the Department issued VRS-586-041 determining that Marion Oaks Units 1 through 10 were vested from development of regional impact (DRI) review pursuant to subsection 380.06(20), Florida Statutes (F.S.). The Applicant proposes to modify Tracts A-T, G, and H of Marion Oaks, Unit 1, in order to realign a roadway.

2. Marion Oaks Unit 1 is situated in Sections 10, 11, 14, 15 & 22, Township 17 South, Range 21 East, Marion County, Florida. It is located just west of I-75, and the northern boundary of the property is adjacent to County Road 484.

2555 SHUMARD OAK BOULEVARD ♦ TALLAHASSEE, FL 32399-2100
850-488-8466 (p) ♦ 850-921-0781 (f) ♦ Website: www.dca.state.fl.us

♦ COMMUNITY PLANNING 850-488-2356 (p) 850-488-3309 (f) ♦ FLORIDA COMMUNITIES TRUST 850-922-2207 (p) 850-921-1747 (f) ♦
♦ HOUSING AND COMMUNITY DEVELOPMENT 850-488-7956 (p) 850-922-5623 (f) ♦

The Proposed Modifications

3. The portions of Unit 1 at issue consist of a vacant commercial parcel designated as Tract A-T, which is approximately 32.09 acres in size. Also at issue are the adjacent buffers which are designated as Tracts G and H, adjacent to the north of Tract A-T. Tracts G and H, which are approximately 2.81 and 2.78 acres in size, respectively, are buffers between Tract A-T and CR 484. On the existing plat, S.W. 30th Terrace Street bisects Tracts G and H to provide access to CR 484. The plat also shows an internal access road known as Citrus Drive that runs parallel to Tracts G and H. A copy of the existing plat is attached as Exhibit A.

The Applicant proposes to modify the development plan to improve the traffic pattern for a shopping center development. Specifically, the street referred to as Citrus Drive will be vacated. The street referred to as S.W. 30th Terrace will be vacated as well. In lieu of this road or right of way, a portion of Tract A-T will extend through Tracts G and H to create the new entrance point. The entrance will be located directly across the street and centered on S.W. 29th Avenue (Lawrence Boulevard). The revised Tract G will be extended to the entrance, and the revised Tract H will be shortened to the entrance. A copy of the proposed plat is attached as Exhibit B.

The proposed modifications are as follows:

Tract	Existing (acres)	Proposed (acres)	Change (acres)	Change (%)
Tract G	2.81	3.05	+0.24	+8.5%
Tract H	2.78	2.71	-0.07	-2.5%
Tract A-T	32.09	35.09	+3.00	+9.3%
Right of Way	3.17	0	-3.17	-100%
Total	40.85	40.85	0	

Analysis under subsection 380.06(4)(e), F.S.

10. Pursuant to subsection 380.06(4)(e), F.S., in determining whether a proposed substantial change to a development of regional impact concerning which rights had previously vested pursuant to subsection 380.06(20), F.S. would divest such rights, the state land planning agency shall review the proposed change within the context of:

- (a) Criteria specified in subsection 380.06(19)(b), F.S.;
- (b) Its conformance with any adopted state comprehensive plan and any rules of the state land planning agency;
- (c) All rights and obligations arising out of the vested status of such development;

- (d) Permit conditions or requirements imposed by the Department of Environmental Protection or any water management district created by section 373.069, F.S. or any of their successor agencies or by any appropriate federal regulatory agency; and
- (e) Any regional impacts arising from the proposed change.

11. In determining whether the proposed changes to the vested plan of development would be substantial, the Department applied the following criteria under subsection 380.06(19)(b), F.S.:

- (a) 380.06(19)(b)(8): An increase in commercial development by 55,000 square feet of gross floor area or of parking spaces provided for customers for 330 cars or a 10-percent increase of either of these, whichever is greater, and;
- (b) 380.06(19)(b)(11): A decrease in the area set aside for open space of 5 percent or 20 acres, whichever is less.

12. In applying the criteria of subsection 380.06(19)(b)(8), F.S., to the proposed changes to the vested plan, the Department finds that the proposed modifications will result in an increase in commercial area by 3.0 acres on tract A-T. Although the vested development plan does not specify a Floor Area Ratio (FAR) for commercial, the County assumes a FAR of 0.70 for commercial areas pursuant to its Comprehensive Plan Policy 1.24, Commercial Future Land Use Category. Accordingly, the changes to tract A-T will result in an increase of 91,476 square feet of commercial area. This amount is a 9.3 percent increase in commercial development area, which is less than the ten percent threshold under section 380.06(19)(b)(8), F.S.

13. In applying the criteria of subsection 380.06(19)(b)(11), F.S., to the proposed changes to the vested plan, the Department finds that the proposed modifications will result in an increase of 0.17 acres of open space, which will not decrease the area set aside for open space pursuant to section 380.06(19)(b)(11), F.S., cited above.

14. Pursuant to subsection 380.06(4)(e)(2), F.S., which requires the Department to review the proposed change in the context of the State Comprehensive Plan, the Department viewed and applied the goals and policies of the State Comprehensive Plan as a whole to the proposed modified plan. When reasonably applied, the Department finds that the proposed modifications are consistent with the goals and policies of the State Comprehensive Plan.

CONCLUSIONS OF LAW

1. Pursuant to Findings of Fact numbers 10 through 14, the proposed modifications do not constitute a substantial change to the vested development plan. Therefore, pursuant to subsection 380.06(4)(e), F.S., the proposed modifications to the vested plan of development do

not divest any rights the developer has acquired under subsection 380.06(20), F.S. The modified plan of vested development for Marion Oaks, Unit 1, Tracts A-T, G, and H are described above in Finding of Fact numbers 1 through 3 and depicted on Exhibit B.

ORDER

1. The proposed modifications to the vested plan will not divest the applicant's right to develop. If those changes as described in your Application for this binding letter are approved by the local government and are incorporated into a new development order, they will constitute the vested plan of development and must be followed by you or your successor(s). If any further changes are proposed for this project, they should be submitted by the applicant, or any successor, to this agency so that these changes may be reviewed cumulatively with the modified plan. Should any of the representations made by the applicant be substantially changed, further binding letter review may be required.

2. This binding letter has been issued pursuant to the procedural requirements of subsection 120.57(2), F.S., and constitutes final agency action. A notice of rights is attached to this binding letter and is incorporated herein by reference.

3. This binding letter determination does not obviate the applicant's need to comply with all other applicable federal, state, or local permitting procedures.

Any questions regarding this determination may be directed to Chris A. Wiglesworth, Planner, at (850) 922-1826.

Sincerely,



Mike McDaniel, Chief
Office of Comprehensive Planning

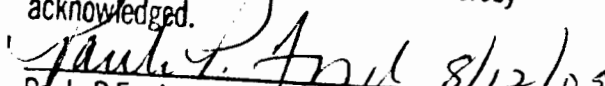
MM/caw

Attachments: Exhibit A (existing plat) and Exhibit B (modified plat)

cc: Christopher D. Rison, AICP, Senior Planner, Marion County
Jason J. Garcia, Principal Planner, Withlacoochee Regional Planning Council

FILING AND ACKNOWLEDGEMENT

FILED, on this date, with the designated Agency Clerk, receipt of which is hereby acknowledged.


Paula P. Ford
Agency Clerk

Date

8/12/09

NOTICE OF RIGHTS

The applicant has the opportunity for a formal administrative proceeding regarding this binding letter pursuant to Sections 120.569 & 120.57(1), F.S. If you dispute any issue of material fact stated in the binding letter, then you may file a petition requesting a formal administrative hearing before an administrative law judge of the Division of Administrative Hearings pursuant to Sections 120.569 & 120.57(1), F.S., and Chapter 28-106, Parts I and II, F.A.C. At a formal administrative hearing, you may be represented by counsel or other qualified representative, and you will have the opportunity to present evidence and argument on all the issues involved, to conduct cross-examination and submit rebuttal evidence, to submit proposed findings of fact and orders, and to file exceptions to any recommended order.

If you desire a formal administrative hearing, you must file with the agency clerk of the Department of Community Affairs a written pleading entitled "petition for administrative proceedings" within 30 days of receipt of this notice. A petition is filed when it is received by the Agency Clerk in the Department's Office of General Counsel, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100.

The petition must meet the filing requirements in Rule 28-106.104(2), F.A.C., and must be submitted in accordance with Rule 28-106.201(2), F.A.C. The petition must include the signature of someone authorized to act on your behalf. A petition must specifically request an administrative proceeding, it must admit or deny each material fact contained in the binding letter, and it must state any defenses upon which you rely. You waive the right to an administrative proceeding if you do not file a petition with the agency clerk within the time frames described above.

You may also decide that no formal administrative proceeding is required for this binding letter. If you do not request a formal administrative proceeding, this binding letter constitutes final agency action and is subject to judicial review as set forth below. Any party to this binding letter has the right to seek judicial review of the binding letter pursuant to Section 120.68, F.S., and Florida Rules of Appellate Procedure 9.030(b)(1)(c) and 9.110.

To initiate an appeal of this binding letter, a notice of appeal must be filed with the Department's Agency Clerk, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, and with the appropriate district court of appeal within 30 days of the day this binding letter is filed with the agency clerk. The notice of appeal filed with the district court of appeal must be accompanied by the filing fee specified in Section 35.22(3), F.S., and must be substantially in the form prescribed by Florida Rule of Appellate Procedure 9.900(a).

You waive your right to judicial review if the notice of appeal is not timely filed with the agency clerk and the appropriate district court of appeal.

Mediation under Section 120.573, F.S., is available with respect to the issues resolved by this binding letter. A request for mediation must include the information required by Rule 28-106.402, F.A.C. Choosing mediation does not affect the right to an administrative hearing.

MARION OAKS UNIT ONE

A SUBDIVISION IN SECTIONS 10,11,14,15, & 22-TWP.17S-RGE.21E.
MARION COUNTY, FLORIDA
SHEET 1 OF 18 SHEETS

DEDI
KNOV
owne
OAKS
and
Area
an et
wide
the l
follo
easel
outsi

IN W
to b
to b

BY ..

Atte

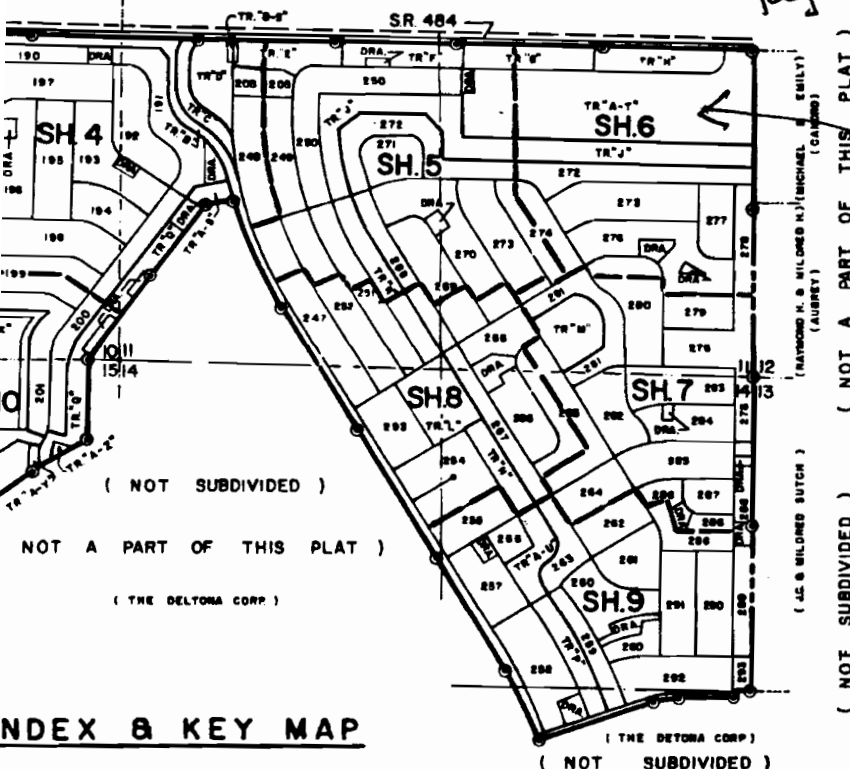
STA
THI
duly
appi
Sec
busi
des
the
duly
and

IN

My

SU

and
with
req
Fla



TRACT 'A-T'

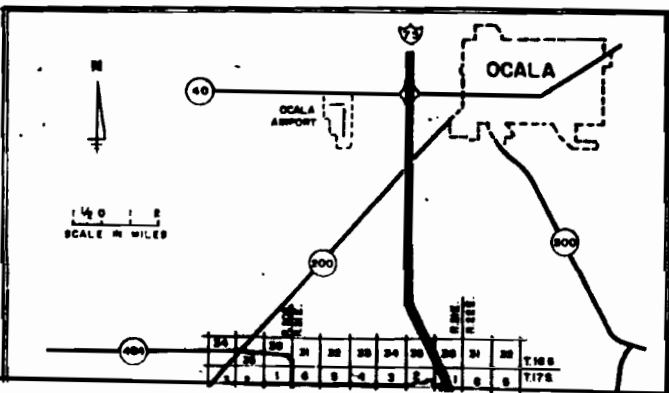
DESCRIPTION

SITUATED in Sections 10, 11, 14, 15 & 22, Township 17 South, Range 21 East, Marion County, Florida and being more particularly described as follows:

BEGIN at the Northwest Corner of said Section 15; thence N 00° 17' 01" E 2616.54 feet along the West line of said Section 10; thence S 88° 51' 37" E 5319.04 feet along the Southerly right-of-way line of STATE ROAD 484 to the East line of said Section 10, Southeast corner of said Section 10 bearing S 00° 05' 57" W and distant 2568.95 feet; thence continue S 88° 51' 37" E 5337.54 feet along aforementioned right-of-way line of STATE ROAD 484; thence S 89° 52' 37" E 0.40 feet still along aforementioned right-of-way line; thence S 00° 10' 24" W 2611.85 ft. along the East line of said Section 11, thence S 00° 24' 21" W 2622.94 feet along the East line of said Section 14; thence N 89° 38' 51" W 125.00 feet; thence S 00° 24' 21" W 185.00 feet; thence N 89° 38' 51" W 520.99 feet to a point of curvature of a circular curve to the left having a radius of 420.00 feet; thence Southwesterly along said curve through a central angle of 19° 17' 39" for 141.43 feet to a point of tangency; thence S 77° 03' 30" W 1066.44 feet to a point of intersection with a circular curve being concave to the Southwest and having a radius of 2925.00 feet, said point of intersection bearing N 71° 38' 45" E from the center of said curve; thence Northwesterly along said curve through a central angle of 13° 01' 15" for 664.73 feet to a point of tangency; thence N 31° 22' 30" W 3116.60 feet to the North line of said Section 14, Northwest corner of said Section 14 bearing N 88° 36' 49" W and distant 1618.93 feet; thence continue N 31° 22' 30" W 483.40 feet to a point of curvature of a circular curve to the right having a radius of 3075.00 feet; thence Northwesterly along said curve through a central angle of 19° 06' 00" 1025.08 feet; thence S 77° 43' 30" W 298.06 feet, radial to the last described curve; thence S 38° 05' 12" W 1127.60 feet to the East line of said Section 10, Southeast corner of said Section 10 bearing S 00° 05' 57" W and distant 369.88 feet; thence continue S 38° 05' 12" W 464.60 feet to the South line of said Section 10, Southeast corner of said Section 10 bearing S 89° 09' 30" E and distant 285.98 feet; thence continue S 38° 05' 12" W 60.01 feet; thence due SOUTH 689.96 feet; thence S 56° 37' 30" W 600.67 feet to a point of curvature of a circular curve to the left having a radius of 3995.00 feet; thence Southwesterly along the arc of said curve through a central angle of 35° 15' 10" 2485.03 feet to a point of tangency; thence S 23° 22' 20" W 1602.89 feet to a point of intersection with a circular curve being concave to the Southwest and having a radius of 1775.00 feet, said point of intersection bearing N 19° 57' 39" E from the center of said curve; thence Southeasterly along said curve through a central angle of 03° 24' 41" for 105.68 feet to a point of tangency; thence S 66° 37' 40" E 129.38 feet; thence S 23° 22' 20" W 30.00 feet; thence S 66° 37' 40" E 305.37 feet; thence

INDEX & KEY MAP

SCALE: 1" = 1000'
TR. - Indicates Tract
DRA. - Indicates Drainage Retention Area



IS PLAT)

PLAT BOOK 0
AND PAGE 5

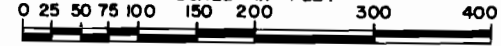
X 444000

MARION OAKS UNIT ONE

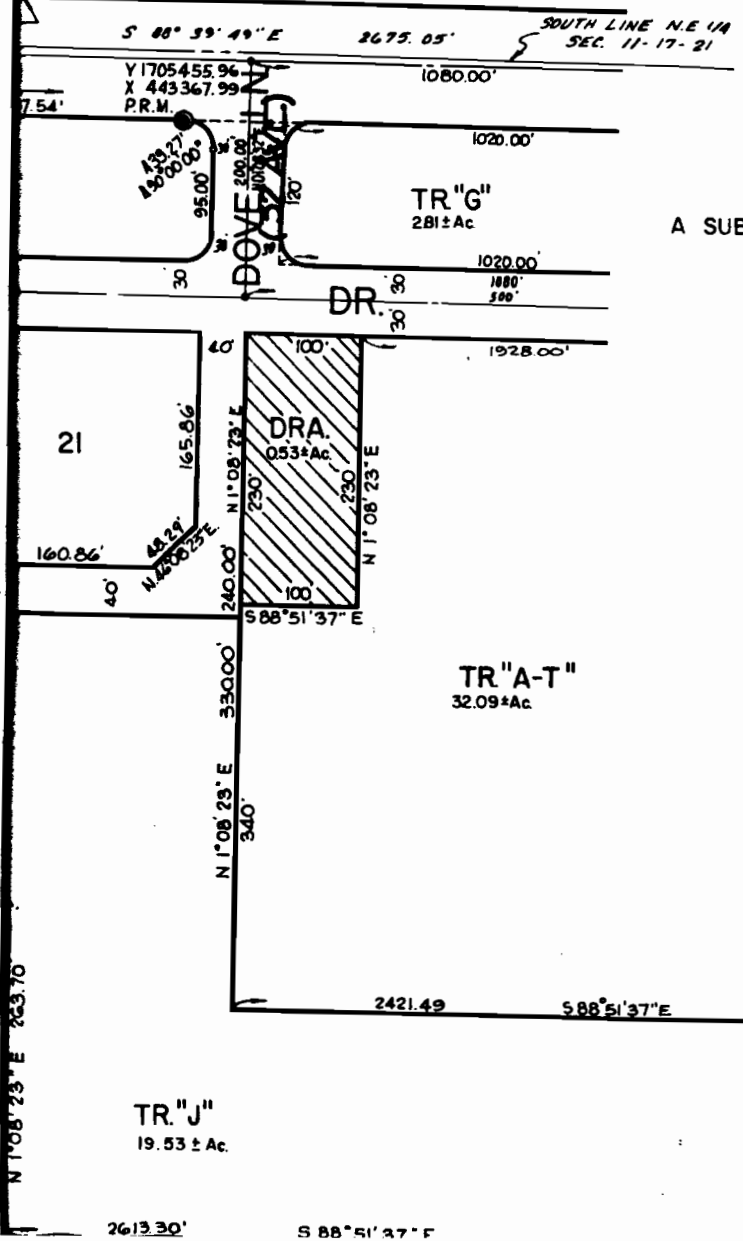
A SUBDIVISION IN SECTIONS 10, 11, 14, 15, & 22 - TWP. 17S. - RGE. 21E.
MARION COUNTY, FLORIDA

SHEET 5 OF 18 SHEETS

SCALE IN FEET



SCALE 1" = 100'



Y 1705000.

SEE



(NOT

X 444000

SUBDIVIDED)

E

(NOT

A
(The Deltona Corp)

X 445000

PART -8

(NOT A PART OF THIS PLAT)

SR 484

SOUTH LINE N.E. 1/4 SEC 11-17-21/2
LIMIT OF PLAT

1080.00'

SR 484

S 88° 51' 37" E

10656.88'

PRM Y 1705432.29
Y 444557.75

S 88° 51' 37" E 5337.54

1098.00'

1020.00'
TR. "G"
2.81 ± Ac

(50 FEET)
120

AQUA (NOT TO SCALE)
200.00'

120
139.27'
130.00'

984.65'
TR. "H"
2.78 ± Ac

1020.00'

918.00'

30

500.00'

1000.00'

CITRUS

500.00'

5263.00'

30

30

(135 PL)

DR.

948.00'

S 88° 51' 37" E

1928.00'

TR. "A-T"
32.09 ± Ac

S 88° 51' 37" E

2421.45'

TR. "J"
200 ± Ac

Y 1705000.

Exhibit A

Page 3

OF

THIS

PLAT

X 446000

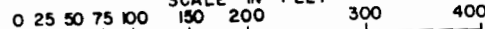
PLAT BOOK 0
AND PAGE 6

MARION OAKS UNIT ONE

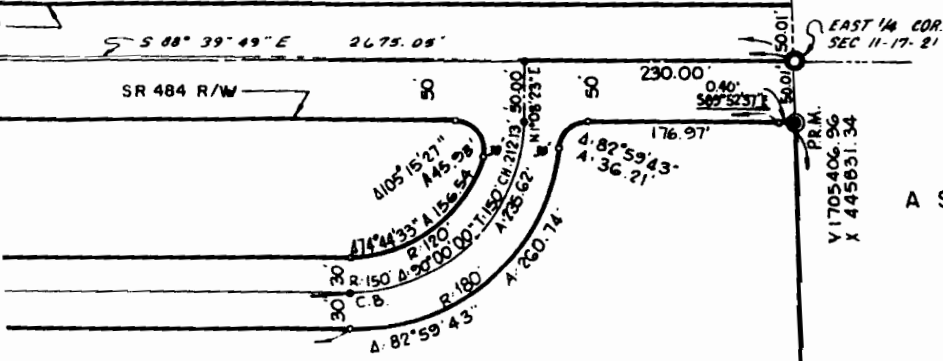
A SUBDIVISION IN SECTIONS 10,11,14,15,8,22-TWP.17S-RGE.21E.
MARION COUNTY, FLORIDA

SHEET 6 OF 18 SHEETS

SCALE IN FEET



SCALE 1" = 100'



EAST 1/4 COR.
SEC 11-17-21
P.M.
V 1705406.96
X 445631.34

Y 1705000

(Michael & Emily Cancrd)

SUBDIVIDED)

THIS PLAT)



Exhibit A

Page 4 (Part of Page 3)

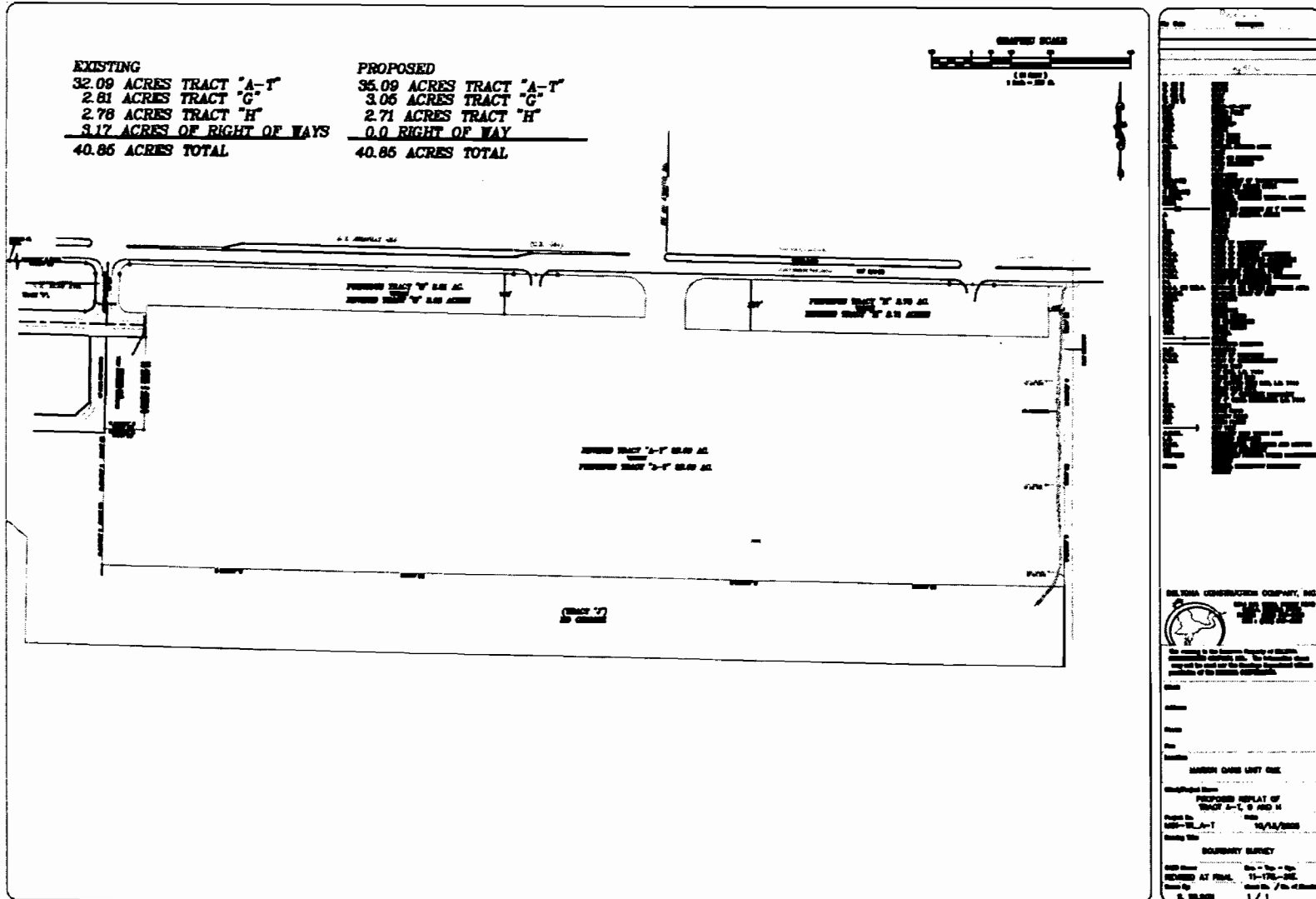


Exhibit B