



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

Paula P. Ford

Paula P. Ford
Commission Clerk
1/11/08
Date

Petition to Intervene

on DCA 07-DEC. 290

January 8, 2008

Ms Paula Ford
Florida Building Commission
2555 Shumard Oak Blvd.
Tallahassee, FL 32399-2100

Petitioner: Hammock Landing/West Melbourne, LLC
CBL Center, Suite 500
2020 Hamilton Place Blvd.
Chattanooga, TN 37421-6000

Representative: Artech Design Group, Inc.
David Hudson
1410 Cowart St.
Chattanooga, Tn 37408
Phone: 423-265-4313
Fax: 423-265-5413
E-Mail: davidh@artechdgn.com

RE: Hammock Landing Shopping Center
205 Palm Bay Road
West Melbourne, FL 32904

Dear Ms Ford and Commission,

We understand that the City of West Melbourne is filing a petition for Declaratory Statement seeking an interpretation by the Florida Building Commission of The Florida Building Code 2004, Section 507.2, unlimited area buildings. Our client, Hammock Landing/West Melbourne, LLC is seeking to intervene in this declaratory statement proceeding.

Hammock Landing/West Melbourne, LLC is constructing a 458,043 square foot shopping center, known as Hammock Landing, in West Melbourne. This shopping center contains two tenants, Anchor A and Anchor B each connected to other tenants within the building in which they are located. Anchors A and B will own their own premises within these buildings. The remainder of the buildings will be owned by the developer or their assigns. This separate ownership creates a property line between two ownership entities (please see Exhibit A-Site Plan).

20

All buildings are Group M occupancy, Type IIB construction. All buildings will be one story and be provided with an automatic sprinkler system throughout in accordance with Section 903.3.1.1. The shopping center will be surrounded and adjoined by public ways or yards not less than 60 feet in width except in three locations where the space is reduced to not less than 40 feet in accordance with Section 507.4.

g:\project\2003\03-118\docs\laldh It petetionto intervene doc

The City of West Melbourne interprets the insertion of a property line within a building as the creation of separate buildings and will not permit a Type IIB construction of unlimited area in accordance with Section 507.2. By their interpretation, the "buildings" on either side of the property line are not "surrounded and adjoined by public ways or yards not less than 60 feet" as required by Section 507.2 since they would be directly against each other.

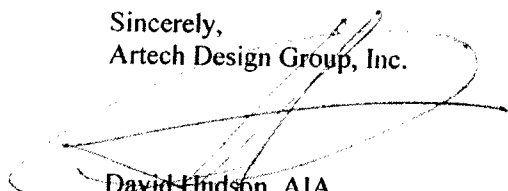
It is the developer's view that the mere presence of a property line within a building does not create two buildings. Chapter 2 of The Florida Building Code defines Building as "Any structure used or intended for supporting or sheltering any use or occupancy". The Code's definition of "Building" makes no reference to property lines. We find nothing in the Code that would support the interpretation that a platted lot line creates separate buildings, nor that a single building cannot traverse separate lots.

Considering the intent of the Code and practical aspects of this scenario, the presence of a property line has no effect upon the health, safety or welfare of the public. The reality is that these building's function and safety is exactly the same regardless of a legal boundary on paper. To help ensure that each property owner would not make building changes or additions that would adversely affect the building, the property owners are willing to enter into agreements that would maintain the connection of structures between the properties and would restrict and protect the clear area around the building.

The Building Commission has previously ruled in favor of the developer of a similar project with these same conditions. A copy of that Declaratory Statement (Ref. Case #DCA06-DEC-218) is attached.

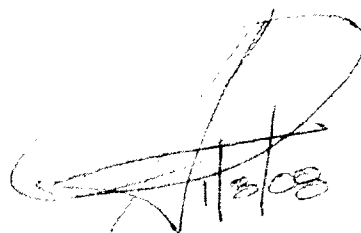
For the reasons stated above, we respectfully request the Florida Building Commission issue a Declaratory Statement determining that Section 507.2 of the Florida Building Code apply to those buildings of Hammock Landing Shopping Center containing Anchor's A and B.

Sincerely,
Artech Design Group, Inc.



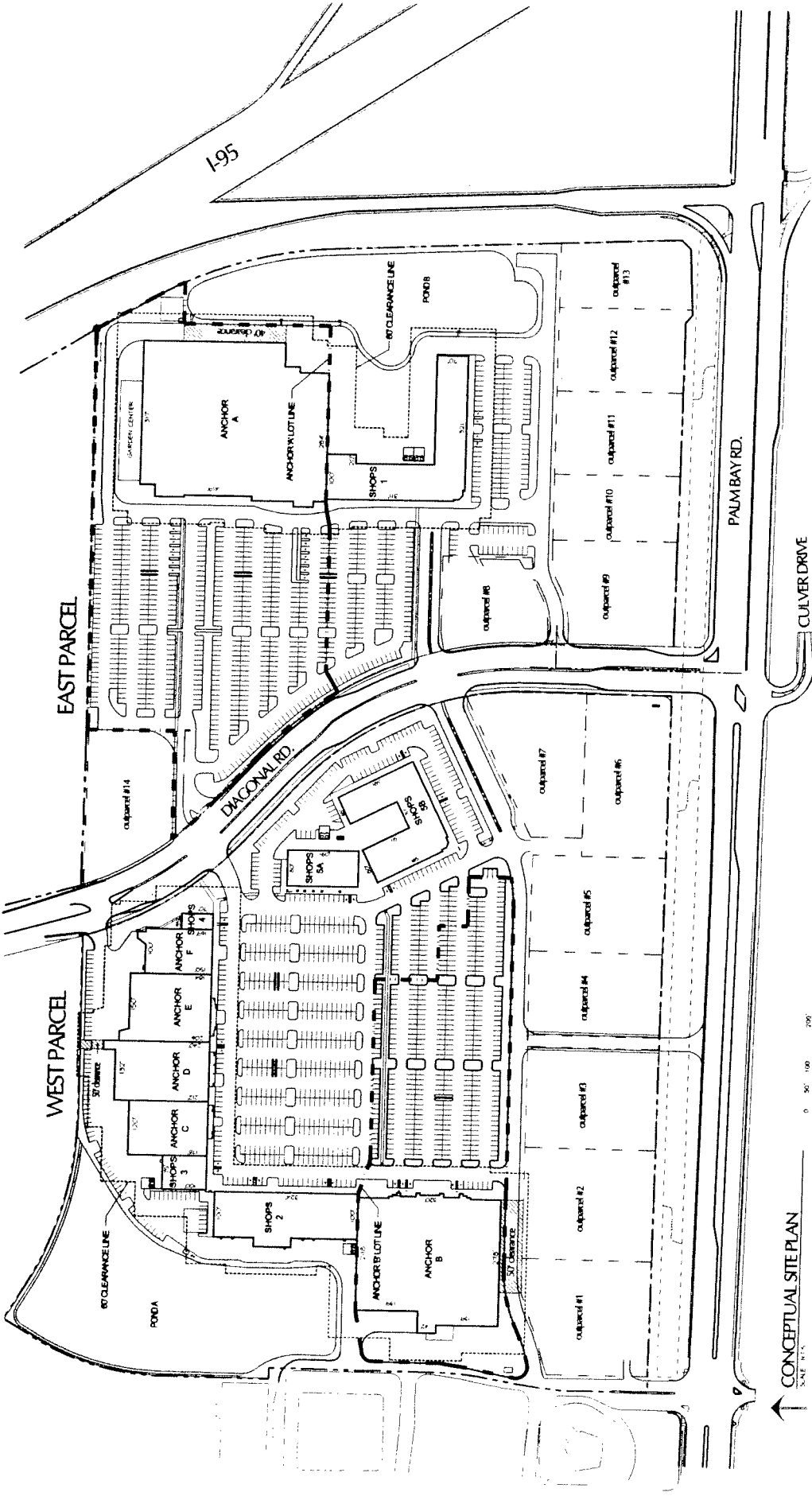
David Hudson, AIA
Registered Architect AR0011985

cc: Bob Elliot



ARCHITECTURE & INTERIORS

g:\1project\2003\03-118\docs\laldh It petitionto intervene.doc



CONCEPTUAL SITE PLAN
SCALE: 1/8" = 1'-0"

A JOINT VENTURE DEVELOPMENT OF:

CBL
CBL & ASSOCIATED PROPERTIES, INC.
100 WEST 17TH STREET, SUITE 1200
NEW YORK, NY 10011
TEL: 212 850 1000
FAX: 212 850 1001

THE BENCHMARK GROUP
800 MAPLE ROAD
AMHERST, NEW YORK 14208-1072
TEL: 716 833 1400

BLOC	BUDGET
WEST PARCEL	
ANCHOR B	86,791 \$
ANCHOR C	77,340 \$
ANCHOR D	26,000 \$
ANCHOR E	15,000 \$
ANCHOR F	7,500 \$
SHOPS 1-6	7,500 \$
SHOPS 7-10	45,110 \$
SHOPS 11-13	
SHOPS 14-16	
SHOPS 17-19	
SHOPS 20-22	
SHOPS 23-25	
SHOPS 26-28	
SHOPS 29-31	
SHOPS 32-34	
SHOPS 35-37	
SHOPS 38-40	
SHOPS 41-43	
SHOPS 44-46	
SHOPS 47-49	
SHOPS 50-52	
SHOPS 53-55	
SHOPS 56-58	
SHOPS 59-61	
SHOPS 62-64	
SHOPS 65-67	
SHOPS 68-70	
SHOPS 71-73	
SHOPS 74-76	
SHOPS 77-79	
SHOPS 80-82	
SHOPS 83-85	
SHOPS 86-88	
SHOPS 89-91	
SHOPS 92-94	
SHOPS 95-97	
SHOPS 98-100	
TOTAL	266,164 \$ EXCL. GST

BUDG.	BUDGET
EAST PARCEL	
ANCHOR A	148,998 \$
SHOPS 1	42,861 \$
SHOPS 2	
SHOPS 3	
SHOPS 4	
SHOPS 5	
SHOPS 6	
SHOPS 7	
SHOPS 8	
SHOPS 9	
SHOPS 10	
SHOPS 11	
SHOPS 12	
SHOPS 13	
TOTAL	191,859 \$

HAWMOCKLANDING
PALM BAY ROAD AND 195
WEST MELBOURNE, FL

DATE: 04/18/2007

EXHIBIT A

AMERICAN PLANNING ASSOCIATION
1100 N. 17TH AVENUE, SUITE 100
DENVER, CO 80202

STATE OF FLORIDA
BUILDING COMMISSION

In the Matter of

City of Cape Coral, Department
Of Community Development,

Petitioner,

and

Case #: DCA06-DEC-218

NAP Pondella LLC,

Intervenor.

DECLARATORY STATEMENT

The foregoing proceeding came before the Florida Building Commission (the Commission) by a Petition from Paul B. Dickson, CBO, on behalf of the City of Cape Coral, Department of Community Development (Petitioner), which was received on September 6, 2006, and the Petition to Intervene filed by NAP Pondella LLC (Intervenor), filed on September 27, 2006. Based on the statements in the Petitions and the material subsequently submitted, it is hereby ORDERED:

Finding of Fact

1. The Petitioner's petition is filed pursuant to section 120.565, Florida Statutes, and must conform to the requirements of Rule 28-105.002, Florida Administrative Code.
2. Petitioner is an authority having jurisdiction to enforce the Florida Building Code within the municipal boundaries of the City of Cape Coral, Florida.
3. Intervenor is a developer who is proposing to develop a Super Target retail store as an element of the Coral Walk Shopping Plaza within the municipal boundaries of

Case #: DCA06-DEC-218

the City of Cape Coral, Florida. The property on which the Super Target is situated is owned by an entity independent of the owner of the property on which the remainder of the shopping plaza is located. The retail store is 173,778 square feet. All elements of the plaza are M occupancy, Type IIB construction provided with an automatic fire sprinkler system and the plaza, as a whole, is surrounded by an open, public way or yard of not less than sixty feet in width.

4. The Petitioner has identified the Super Target retail store as a separate building distinct from the rest of the Coral Walk Shopping Plaza based on the conclusion that the platted lot lines divide the plaza into multiple buildings. The Intervenor has identified the Coral Walk Shopping Plaza as a single building of which the Super Target retail store occupies a portion.

5. The site plan submitted by the Petitioner and the Intervenor indicate that the shopping plaza under a common roof. The Intervenor has obtained approval for the development, including discrete ownership of portions of the plaza, from the local planning and zoning authorities subject to conditions that have been recorded in the official records of Lee County, Florida.

6. The Petitioner and Intervenor inquire about the area limitations and open space requirements of the Florida Building Code, Building Volume (2004, as amended 11/05) and, specifically, whether the unlimited building area exception contained in Section 507.2 of the code applies to the plaza and/or the retail store, or whether, based on the method of measuring fire separation distance contained in Section 702 precludes application of the unlimited area exception, the area being limited by application of Table 503.

Case #: DCA06-DEC-218

Conclusions of Law

1. The Florida Building Commission has the specific statutory authority to interpret the provisions of the Florida Building Code by entering a declaratory statement.

2. Intervenor has demonstrated that the declaratory statement sought by the Petitioner will substantially affect its interests and the Petitioner has not objected to intervention. The Commission, therefore, grants the Petition to Intervene.

3. Section 553.73(2), Florida Statutes (2006), states that the "[t]echnical provisions to be contained within the Florida Building Code are restricted to requirements related to the types of materials used and construction methods and standards employed in order to meet criteria specified in the Florida Building Code." Additional direction is provided by Section 553.73(11), Florida Statutes (2006), which states:

[t]he Florida Building Code does not apply to, and no code enforcement action shall be brought with respect to, zoning requirements, land use requirements, and owner specifications or programmatic requirements which do not pertain to and govern the design, construction, erection, alteration, modification, repair, or demolition of public or private buildings, structures, or facilities or to programmatic requirements that do not pertain to enforcement of the Florida Building Code.

4. Section 202, Florida Building Code, Building Volume (2004 as amended 11/05), provides the following definitions:

Building. Any structure used or intended for supporting or sheltering any use or occupancy.

Building Line. The line established by law, beyond which a building shall not extend, except as specifically provided by law.

Case #: DCA06-DEC-218

5. Section 507.2, Florida Building Code, Building Volume (2004 as amended 11/05), states:

The area of a one-story, Group B, F, M or S building or a one-story Group A-4 building of other than Type V construction shall not be limited when the building is provided with an automatic sprinkler system throughout in accordance with Section 903.3.1.1, and is surrounded and adjoined by public ways or yards not less than 60 feet (18 288 mm) in width.

6. The Coral Walk Shopping Center is a single building pursuant to the foregoing provisions of the Florida Building Code. The appropriate authority having jurisdiction has authorized the building lines as provided by law; specifically the development order tendered by the Intervenor and recorded in the official records of the County. The Petitioner has not presented any evidence to the contrary, and the Code contains no support for the proposition that a property line designates a boundary between one building and another. As a matter of law, the scope of the Florida Building Code authorizes protection of neighboring properties by definition of construction methods and techniques, but does not authorize the code to restrict ownership of real property or prescribe development regulations outside of the specific scope identified by Chapter 553, Florida Statutes.

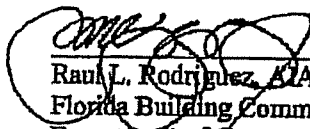
7. The Coral Walk Shopping Center and the Super Target retail store have demonstrated compliance with the provisions of Section 507.2, Florida Building Code, Building Volume (2004 as amended 05), and, therefore, the area limitations of Table 503 do not apply to the project.

Petitioner and all other interested parties are hereby advised of their right to seek judicial review of this Order in accordance with Section 120.68(2)(a), Florida Statutes, and with Fla. R. App. 9.030(b)(1)(C) and 9.110(a). To initiate an appeal, a Notice of Ap-

Case #: DCA06-DEC-218

peal must be filed with Paula P. Ford, Clerk of the Commission, Sadowski Building, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, and with the appropriate District Court of Appeal no later than thirty (30) days after this Order is filed with the Clerk of the Commission. A Notice of Appeal filed with the District Court of Appeal shall be accompanied by the filing fee specified by section 35.22(3), Florida Statutes.

DONE AND ORDERED this 13th of December, 2006, in City of Coral Gables, County of Miami Dade,, State of Florida.



Raul L. Rodriguez, AIA, Chair
Florida Building Commission
Department of Community Affairs
Sadowski Building
2555 Shumard Oak Boulevard
Tallahassee, Florida 32399-2100

MAYOR
Hal J. Rose

DEPUTY MAYOR
John D'Amico

COUNCIL MEMBERS
Stephany Eley
Michael J. Hazlett
Andrew Jones
Bill Mettrick
Christopher Paluszek

CITY MANAGER
David W. Reynal

CITY CLERK
Nancy Ciummo

INTERIM CITY ATTORNEY
Terri Jones

www.westmelbourne.org
email: info@westmelbourne.org

CITY HALL 2285 MINTON ROAD
WEST MELBOURNE, FL 32904-4928

Phone: (321) 727-7700
Fax: (321) 768-2390



Amendment to Petition for Declaratory Statement DCA 07-DEC-290

January 11, 2008

Ms. Paula Ford
Florida Building Commission
2555 Shumard Oak Blvd.
Tallahassee, FL 32399-2100

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

for *Paula P. Ford* / 1/11/08
Paula P. Ford / Date
Commission Clerk

Petitioner: City of West Melbourne Building Department
George H. Coleman, CBO
2285 Minton Road
West Melbourne, FL 32904

Re: DCA07-DEC-290
Hammock Landing Shopping Center
205 Palm Bay Road
West Melbourne, FL 32904

Dear Ms. Ford and Commission,

We have in our office, under review, a copy of the conceptual site plan for the Hammock Landing Shopping Center (please see exhibit A- site plan) submitted by Artech Design Group, Inc., the representative for the developer, Hammock Landing/West Melbourne, LLC. This shopping center contains two anchor tenants, Anchor A and Anchor B, each connected to another tenant space building on separately owned lots. Anchor A and Anchor B will own their own premises, whereby the remainder of the tenant buildings attached (on adjoining lots) will be owned by the developer or their assigns. The developer's representative, Artech Design Group, Inc., contends that each privately owned anchor with their adjoining and attached, developer owned, tenant building to be

one unlimited area building under section 507 of the FBC. Our interpretation is that now a "Party Wall" has been created at the property line as shown in "Exhibit A - site plan" and requires a 4 hour fire resistant rated separation at the adjoining lot line as specified in chapter 5, section 503.2 of the 2004 FBC (please see Exhibit B). Thereby eliminating the ability to have an unlimited area building with a 60 foot clearance on all sides of the building as required by 507 FBC.

Considering the requirements of the FBC are the minimum to protect the health, safety, and welfare of the public, the 4-hour rating of the separation common to the property line appears to be a basic safety requirement.

The Florida Building Code is based on the International Building Code. I have requested an interpretation of these sections of the FBC as they are shown in the IBC. The ICC staff plans examiners agree with my interpretations of the code. (See Exhibit "C")

We respectfully request the Florida Building Commission to issue a Declaratory Statement determining that section 503.2 of the 2004 Florida Building Code does apply to the "party wall" established at the property line connection of both Anchor A and B to the separately owned tenant building. And that unlimited area is not appropriate as the structure does not meet the requirements of 507 FBC.

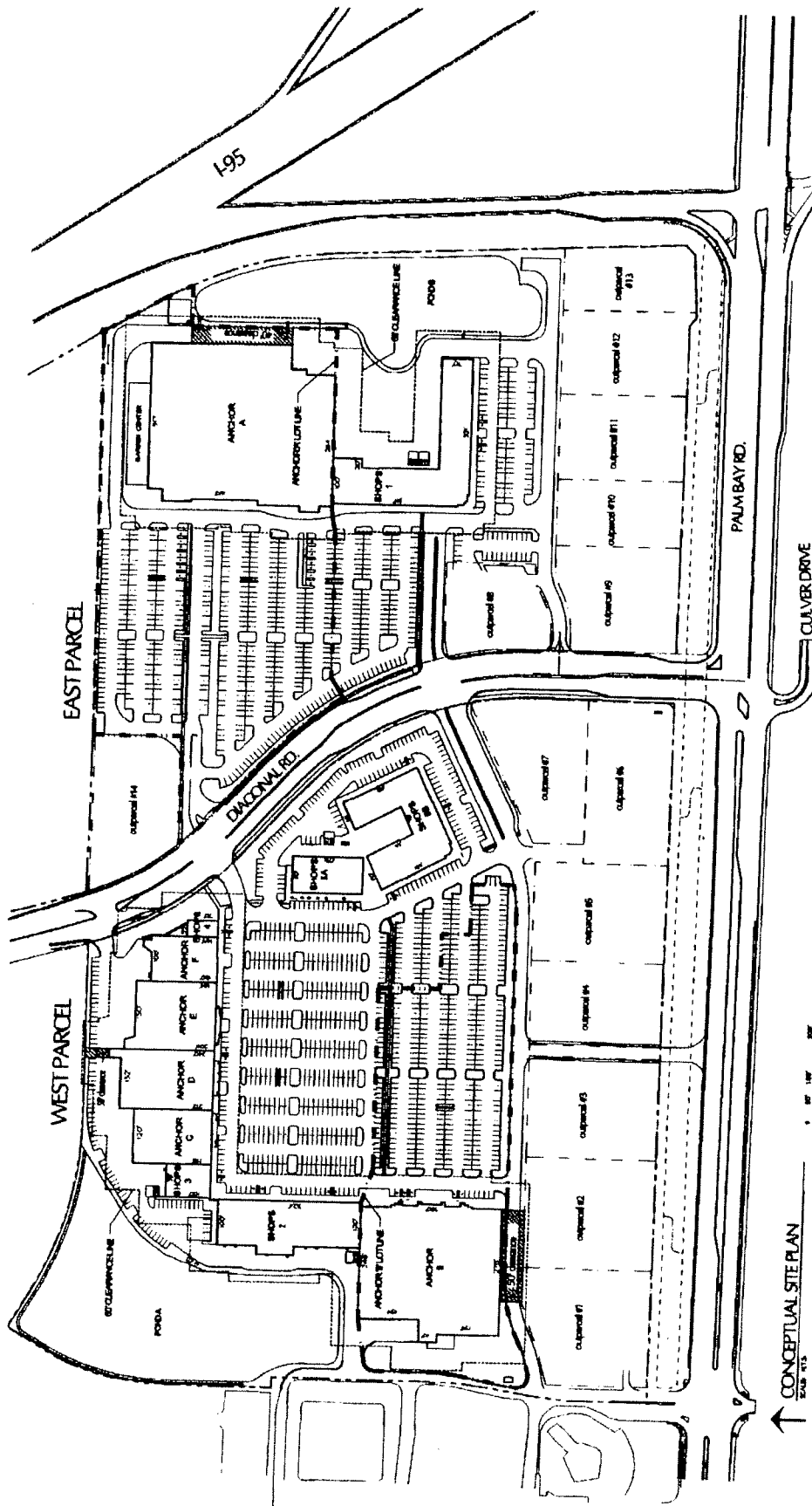
Sincerely,



George Coleman
Building Official
City of West Melbourne

GC/cr

" EXHIBIT - A "



CONCEPTUAL SITE PLAN
SUB 172

A JOINT VENTURE DEVELOPMENT OF

CBL
CBL & ARCHITECTURAL ENGINEERS, INC.
11100 W. 111th Street, Suite 100, Overland Park, KS 66211
TEL: 913.881.1111 FAX: 913.881.1112

THE BENCHMARK GROUP
11100 W. 111th Street, Suite 100, Overland Park, KS 66211
TEL: 913.881.1111 FAX: 913.881.1112

BLDG.	PROCS.F.
WEST PARCEL	
ANCHOR A	86,793 SF
ANCHOR B	27,884 SF
ANCHOR C	28,000 SF
ANCHOR D	34,000 SF
ANCHOR E	24,000 SF
ANCHOR F	24,000 SF
OUTPARCEL #1	2,000 SF
OUTPARCEL #2	2,000 SF
OUTPARCEL #3	2,000 SF
OUTPARCEL #4	2,000 SF
OUTPARCEL #5	2,000 SF
OUTPARCEL #6	2,000 SF
OUTPARCEL #7	2,000 SF
OUTPARCEL #8	2,000 SF
OUTPARCEL #9	2,000 SF
OUTPARCEL #10	2,000 SF
OUTPARCEL #11	2,000 SF
OUTPARCEL #12	2,000 SF
OUTPARCEL #13	2,000 SF
TOTAL	261,145 SF EXCL. EPF

BLDG.	BUDGET
EAST PARCEL	
ANCHOR A	14,000 SF
ANCHOR B	14,000 SF
TOTAL	28,000 SF

PHAMMOCKLAND INC.
PALM BAY ROAD AND I-95
WEST MELBOURNE, FL

ARCHITECTURAL INTERIORS
11100 W. 111th Street, Suite 100, Overland Park, KS 66211
TEL: 913.881.1111 FAX: 913.881.1112

DATE: 12-20-07
DRAWN BY: [Signature]

EXHIBIT A

"EXHIBIT-B"

CHAPTER 5

GENERAL BUILDING HEIGHTS AND AREAS

SECTION 501
GENERAL

501.1 Scope. The provisions of this chapter control the height and area of structures hereafter erected and additions to existing structures.

501.2 Premises identification. Approved numbers or addresses shall be provided for new buildings in such a position as to be clearly visible and legible from the street or roadway fronting the property. Letters or numbers shall be a minimum 3 inches (76 mm) in height and stroke of minimum 0.5 inch (12.7 mm) of a contrasting color to the background itself.

SECTIONS 502
DEFINITIONS

502.1 Definitions. The following words and terms shall, for the purposes of this chapter and as used elsewhere in this code, have the meanings shown herein.

AREA, BUILDING. The area included within surrounding exterior walls (or exterior walls and fire walls) exclusive of vent shafts and courts. Areas of the building not provided with surrounding walls shall be included in the building area if such areas are included within the horizontal projection of the roof or floor above.

BASEMENT. That portion of a building that is partly or completely below grade plane (See "Story above grade plane" in Section 202). A basement shall be considered as a story above grade plane where the finished surface of the floor above the basement is:

1. More than 6 feet (1829 mm) above grade plane;
2. More than 6 feet (1829 mm) above the finished ground level for more than 50 percent of the total building perimeter; or
3. More than 12 feet (3658 mm) above the finished ground level at any point.

GRADE PLANE. A reference plane representing the average of finished ground level adjoining the building at exterior walls. Where the finished ground level slopes away from the exterior walls, the reference plane shall be established by the lowest points within the area between the building and the lot line or, where the lot line is more than 6 feet (1829 mm) from the building, between the building and a point 6 feet (1829 mm) from the building.

HEIGHT, BUILDING. The vertical distance from grade plane to the average height of the highest roof surface.

HEIGHT, STORY. The vertical distance from top to top of two successive finished floor surfaces; and, for the topmost story, from the top of the floor finish to the top of the ceiling joists or, where there is not a ceiling, to the top of the roof rafters.

INDUSTRIAL EQUIPMENT PLATFORM. An unoccupied, elevated platform in an industrial occupancy used exclusively for mechanical systems or industrial process equipment, including the associated elevated walkways, stairs and ladders necessary to access the platform (see Section 505.5).

MEZZANINE. An intermediate level or levels between the floor and ceiling of any story with an aggregate floor area of not more than one-third of the area of the room or space in which the level or levels are located (see Section 505).

STORY. That portion of a building included between the upper surface of a floor and the upper surface of the floor or roof next above (also see "Basement" and "Mezzanine").

SECTION 503
GENERAL HEIGHT AND AREA LIMITATIONS

503.1 General. The height and area for buildings of different construction types shall be governed by the intended use of the building and shall not exceed the limits in Table 503 except as modified hereafter. Each part of a building included within the exterior walls or the exterior walls and fire walls where provided shall be permitted to be a separate building.

503.1.1 Basements. A basement of a building shall not count as a story when applying Table 503 for allowable building height.

503.1.2 Group A and E basements. Group A and E basements used as classrooms or assembly rooms shall be counted as a story.

503.1.3 Buildings on same lot. Two or more buildings on the same lot shall be regulated as separate buildings or shall be considered as portions of one building if the height of each building and the aggregate area of buildings are within the limitations of Table 503 as modified by Sections 504 and 506. The provisions of this code applicable to the aggregate building shall be applicable to each building.

503.1.4 Type I construction. Buildings of Type I construction permitted to be of unlimited tabular heights and areas are not subject to the special requirements that allow unlimited area buildings in Section 507 or unlimited height in Section 504.3 or increased height and areas for other types of construction.

503.2 Party walls. Any wall located on a lot line between adjacent buildings, which is used or adapted for joint service between the two buildings, shall be constructed as a fire wall and shall provide a 4-hour fire-resistance rating in accordance with Section 705, without openings and shall create separate buildings.

"EXHIBIT C"



"Robert Herring"
<rherring@iccsafe.org>
10/18/2007 09:00 AM

To <GParrott@westmelbourne.org>
cc
bcc

Subject RE: WM - Hammock Landing - Anchor A and Shops 1

History: This message has been replied to and forwarded.

Glen,

The property line and firewall/ party wall you described between building "A" and shops "1" is required by International Building Code to be built as a party wall with no openings. The International Building Code requires for unlimited area buildings to have a minimum separation distance of 60' on all sides. The side of building "A" next to the proposed property line and firewall/ party wall would have a separation distance of zero and the building would no longer qualify as an unlimited area building.

This opinion is based on the information which you have provided. We have made no independent effort to verify the accuracy of this information nor have we conducted a review beyond the scope of your question. As this opinion is only advisory, the final decision is the responsibility of the designated authority charged with the administration and enforcement of this code.

Sincerely Yours,

Robert L. Herring, Jr.
C.E.A.P., C.B.O., M.C.P.

ICC Senior Technical Staff

From: GParrott@westmelbourne.org [mailto:GParrott@westmelbourne.org]
Sent: Tuesday, October 16, 2007 9:41 AM
To: Robert Herring
Subject: Fw: WM - Hammock Landing - Anchor A and Shops 1

Robert – Hope this gets to you OK. If you would look at the plan and let me know if you think it meets the requirements for an unlimited area building, I would appreciate it. There is no question in my mind, however some backing from ICC would be greatly appreciated.

Glen Parrott, Plans Examiner
City of West Melbourne
2285 Minton Rd.
West Melbourne, FL 32904
Phone: 321-727-7700, ext 130
Fax: 321-768-2390
www.westmelbourne.org

--- Forwarded by Glen Parrott/WMEL/JS on 10/16/2007 10:37 AM ---

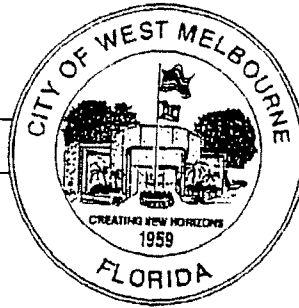
MAYOR
 Bob Willmarth
 DEPUTY MAYOR
 Hal J. Rose
 COUNCIL MEMBERS
 Duke Salberg
 Kim M. Burcham
 Karne Delaney
 Kathy Lane
 Virginia Blanchard

CITY MANAGER
 Mark K. Ryan
 CITY CLERK
 Markae Rupp, CMC
 CITY ATTORNEY
 Karl W. Bohne, Jr

CITY HALL 2285 MINTON ROAD
 WEST MELBOURNE, FL 32904-4928

<http://www.westmelbourne.org>
 email: info@westmelbourne.org

Phone: (321) 727-7
 Fax: (321) 768-2



FACSIMILE TRANSMISSION

Page 1 Of 6

Date 01-11-08

RECEIVER'S INFORMATION

Transmitting To: Mo Madani

Fax Number: (850) 414-8436

Verification Number: _____

SENDER'S INFORMATION

From: George Coleman
City of West Melbourne

Fax Number: (321) 768-2390

Verification Number: (321) 727-7700

If you do not receive all of the pages or if any of the pages did not transmit clearly, please call our verification number as soon as possible. Thank you.

Fax Operator: _____

Comments _____

Thank You!



Petition for Declaratory Statement

December 19, 2007

Ms Paula Ford
Florida Building Commission
2555 Shumard Oak Blvd.
Tallahassee, FL 32399-2100

Petitioner: Hammock Landing/West Melbourne, LLC
CBL Center, Suite 500
2020 Hamilton Place Blvd.
Chattanooga, TN 37421-6000

Representative: Artech Design Group, Inc.
David Hudson
1410 Cowart St.
Chattanooga, Tn 37408
Phone: 423-265-4313
Fax: 423-265-5413
E-Mail: davidh@artechdgn.com

DEH07-DEC-290
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FILED, on this date, with the designated
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acknowledged.
Paula P. Ford 12/21/07
Paula P. Ford
Commission Clerk

RE: Hammock Landing Shopping Center
205 Palm Bay Road
West Melbourne, FL 32904

Dear Ms Ford and Commission,

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Hammock Landing/West Melbourne, LLC is constructing a 458,043 square foot shopping center, known as Hammock Landing, in West Melbourne. This shopping center contains two tenants, Anchor A and Anchor B each connected to other tenants within the building in which they are located. Anchors A and B will own their own premises within these buildings. The remainder of the buildings will be owned by the developer or their assigns. This separate ownership creates a property line between two ownership entities (please see Exhibit A-Site Plan).

All buildings are Group M occupancy, Type IIB construction. All buildings will be one story and be provided with an automatic sprinkler system throughout in accordance with Section 903.3.1.1. The shopping center will be surrounded and adjoined by public ways or yards not less than 60 feet in width except in three locations where the space is reduced to not less than 40 feet in accordance with Section 507.4.

The City of West Melbourne interprets the insertion of a property line within a building as the creation of separate buildings and will not permit a Type IIB construction of unlimited area in accordance with Section 507.2. By their interpretation, the "buildings" on either side of the property line are not "surrounded and adjoined by public ways or yards not less than 60 feet" as required by Section 507.2 since they would be directly against each other.

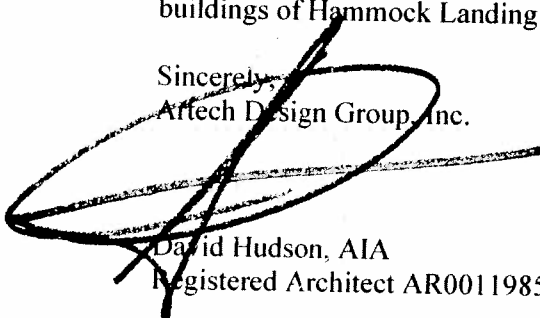
It is the developer's view that the mere presence of a property line within a building does not create two buildings. Chapter 2 of The Florida Building Code defines Building as "Any structure used or intended for supporting or sheltering any use or occupancy". The Code's definition of "Building" makes no reference to property lines. We find nothing in the Code that would support the interpretation that a platted lot line creates separate buildings, nor that a single building cannot traverse separate lots.

Considering the intent of the Code and practical aspects of this scenario, the presence of a property line has no effect upon the health, safety or welfare of the public. The reality is that these building's function and safety is exactly the same regardless of a legal boundary on paper. To help ensure that each property owner would not make building changes or additions that would adversely affect the building, the property owners are willing to enter into agreements that would maintain the connection of structures between the properties and would restrict and protect the clear area around the building.

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For the reasons stated above, we respectfully request the Florida Building Commission issue a Declaratory Statement determining that Section 507.2 of the Florida Building Code apply to those buildings of Hammock Landing Shopping Center containing Anchor's A and B.

Sincerely,
Artech Design Group, Inc.



David Hudson, AIA
Registered Architect AR0011985

cc: Bob Elliot

STATE OF FLORIDA
BUILDING COMMISSION

In the Matter of

City of Cape Coral, Department
Of Community Development,

Petitioner,

and

Case #: DCA06-DEC-218

NAP Pondella LLC,

Intervenor.

DECLARATORY STATEMENT

The foregoing proceeding came before the Florida Building Commission (the Commission) by a Petition from Paul B. Dickson, CBO, on behalf of the City of Cape Coral, Department of Community Development (Petitioner), which was received on September 6, 2006, and the Petition to Intervene filed by NAP Pondella LLC (Intervenor), filed on September 27, 2006. Based on the statements in the Petitions and the material subsequently submitted, it is hereby ORDERED:

Finding of Fact

1. The Petitioner's petition is filed pursuant to section 120.565, Florida Statutes, and must conform to the requirements of Rule 28-105.002, Florida Administrative Code.
2. Petitioner is an authority having jurisdiction to enforce the Florida Building Code within the municipal boundaries of the City of Cape Coral, Florida.
3. Intervenor is a developer who is proposing to develop a Super Target retail store as an element of the Coral Walk Shopping Plaza within the municipal boundaries of

Case #: DCA06-DEC-218

the City of Cape Coral, Florida. The property on which the Super Target is situated is owned by an entity independent of the owner of the property on which the remainder of the shopping plaza is located. The retail store is 173,778 square feet. All elements of the plaza are M occupancy, Type IIB construction provided with an automatic fire sprinkler system and the plaza, as a whole, is surrounded by an open, public way or yard of not less than sixty feet in width.

4. The Petitioner has identified the Super Target retail store as a separate building distinct from the rest of the Coral Walk Shopping Plaza based on the conclusion that the platted lot lines divide the plaza into multiple buildings. The Intervenor has identified the Coral Walk Shopping Plaza as a single building of which the Super Target retail store occupies a portion.

5. The site plan submitted by the Petitioner and the Intervenor indicate that the shopping plaza under a common roof. The Intervenor has obtained approval for the development, including discrete ownership of portions of the plaza, from the local planning and zoning authorities subject to conditions that have been recorded in the official records of Lee County, Florida.

6. The Petitioner and Intervenor inquire about the area limitations and open space requirements of the Florida Building Code, Building Volume (2004, as amended 11/05) and, specifically, whether the unlimited building area exception contained in Section 507.2 of the code applies to the plaza and/or the retail store, or whether, based on the method of measuring fire separation distance contained in Section 702 precludes application of the unlimited area exception, the area being limited by application of Table 503.

Case #: DCA06-DEC-218

Conclusions of Law

1. The Florida Building Commission has the specific statutory authority to interpret the provisions of the Florida Building Code by entering a declaratory statement.

2. Intervenor has demonstrated that the declaratory statement sought by the Petitioner will substantially affect its interests and the Petitioner has not objected to intervention. The Commission, therefore, grants the Petition to Intervene.

3. Section 553.73(2), Florida Statutes (2006), states that the "[t]echnical provisions to be contained within the Florida Building Code are restricted to requirements related to the types of materials used and construction methods and standards employed in order to meet criteria specified in the Florida Building Code." Additional direction is provided by Section 553.73(11), Florida Statutes (2006), which states:

[t]he Florida Building Code does not apply to, and no code enforcement action shall be brought with respect to, zoning requirements, land use requirements, and owner specifications or programmatic requirements which do not pertain to and govern the design, construction, erection, alteration, modification, repair, or demolition of public or private buildings, structures, or facilities or to programmatic requirements that do not pertain to enforcement of the Florida Building Code.

4. Section 202, Florida Building Code, Building Volume (2004 as amended 11/05), provides the following definitions:

Building. Any structure used or intended for supporting or sheltering any use or occupancy.

Building Line. The line established by law, beyond which a building shall not extend, except as specifically provided by law.

Case #: DCA06-DEC-218

5. Section 507.2, Florida Building Code, Building Volume (2004 as amended 11/05), states:

The area of a one-story, Group B, F, M or S building or a one-story Group A-4 building of other than Type V construction shall not be limited when the building is provided with an automatic sprinkler system throughout in accordance with Section 903.3.1.1 , and is surrounded and adjoined by public ways or yards not less than 60 feet (18 288 mm) in width.

6. The Coral Walk Shopping Center is a single building pursuant to the foregoing provisions of the Florida Building Code. The appropriate authority having jurisdiction has authorized the building lines as provided by law; specifically the development order tendered by the Intervenor and recorded in the official records of the County. The Petitioner has not presented any evidence to the contrary, and the Code contains no support for the proposition that a property line designates a boundary between one building and another. As a matter of law, the scope of the Florida Building Code authorizes protection of neighboring properties by definition of construction methods and techniques, but does not authorize the code to restrict ownership of real property or prescribe development regulations outside of the specific scope identified by Chapter 553, Florida Statutes.

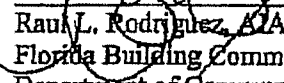
7. The Coral Walk Shopping Center and the Super Target retail store have demonstrated compliance with the provisions of Section 507.2, Florida Building Code, Building Volume (2004 as amended 05), and, therefore, the area limitations of Table 503 do not apply to the project.

Petitioner and all other interested parties are hereby advised of their right to seek judicial review of this Order in accordance with Section 120.68(2)(a), Florida Statutes, and with Fla. R. App. 9.030(b)(1)(C) and 9.110(a). To initiate an appeal, a Notice of Ap-

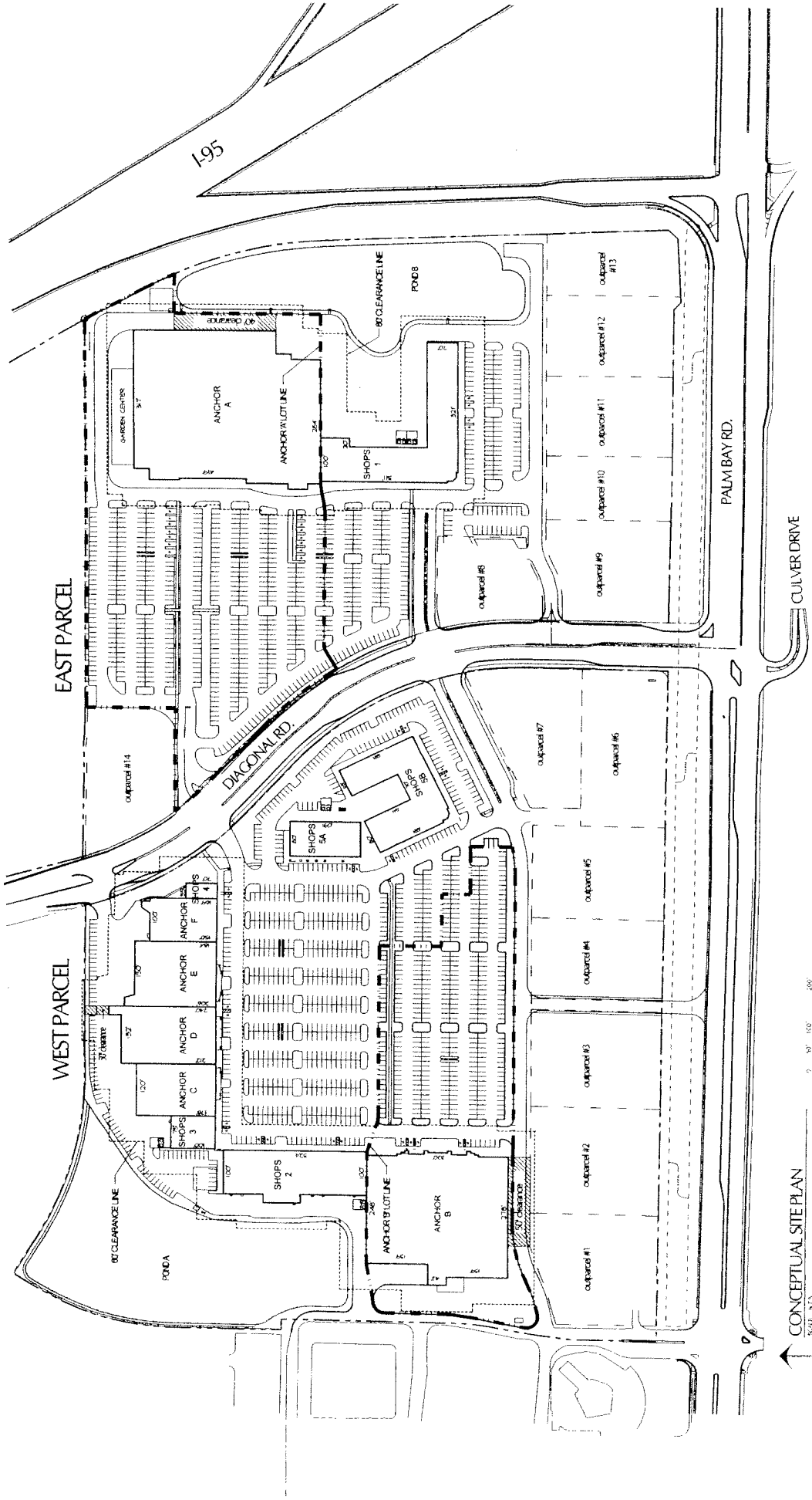
Case #: DCA06-DEC-218

peal must be filed with Paula P. Ford, Clerk of the Commission, Sadowski Building, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, and with the appropriate District Court of Appeal no later than thirty (30) days after this Order is filed with the Clerk of the Commission. A Notice of Appeal filed with the District Court of Appeal shall be accompanied by the filing fee specified by section 35.22(3), Florida Statutes.

DONE AND ORDERED this 13th of DECEMBER, 2006, in City of Coral Gables, County of Miami Dade,, State of Florida.



Raul L. Rodriguez, AIA, Chair
Florida Building Commission
Department of Community Affairs
Sadowski Building
2555 Shumard Oak Boulevard
Tallahassee, Florida 32399-2100



HAMMOCK LANDING
 PALM BAY ROAD AND I-95
 WEST MELBOURNE, FL

PROJECT NUMBER: 19-0001
 DATE: 08/18/13
 EXHIBIT A

BLDG	BLDG	BLDG SF
WEST PARCEL	ANCHOR A	148,998 SF
WEST PARCEL	SHOPS 1	42,981 SF
TOTAL		191,979 SF
EAST PARCEL	ANCHOR B	86,791 SF
EAST PARCEL	ANCHOR C	7,381 SF
EAST PARCEL	ANCHOR D	28,000 SF
EAST PARCEL	ANCHOR E	15,000 SF
EAST PARCEL	ANCHOR F	7,500 SF
EAST PARCEL	SHOPS 2	34,000 SF
EAST PARCEL	SHOPS 3	34,000 SF
EAST PARCEL	SHOPS 4	34,000 SF
EAST PARCEL	SHOPS 5	34,000 SF
TOTAL		246,194 SF (EXCL. E.P.)

A JOINT VENTURE DEVELOPMENT OF:

CBL
 CBL & ASSOCIATES PROPERTIES, INC.
 625 W. PALM BEACH ROAD
 PALM BEACH, FL 33480
 PHONE: 561-833-1000

BENCHMARK
 BENCHMARK GROUP, L.P.
 625 W. PALM BEACH ROAD
 PALM BEACH, FL 33480
 PHONE: 561-833-1000

CONCEPTUAL SITE PLAN
 SCALE: N.T.S.