

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

WHEREAS, an application was filed by the property owner, Advance Solutions, LLC, to rezone 39.91± acres from Agriculture (AG-2) to Residential Planned Development (RPD), in reference to River Pointe; and,

WHEREAS, a public hearing was advertised and held on March 2, 2005, before the Lee County Zoning Hearing Examiner, who gave full consideration to the evidence in the record for Case #DCI2004-00020; and

WHEREAS, a second public hearing was advertised and held on May 16, 2005, before the Lee County Board of Commissioners, who gave full and complete consideration to the recommendations of the staff, the Hearing Examiner, the documents on record and the testimony of all interested persons.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS:

SECTION A. REQUEST

The applicant filed a request to rezone 39.91± acres from AG-2 to RPD to allow 140 single-family residential dwelling units and an amenity center, all not to exceed 35 feet/two stories. The property is located in the Suburban Future Land Use Category and is legally described in attached Exhibit A. The request is APPROVED, SUBJECT TO the conditions specified in Section B below.

SECTION B. CONDITIONS:

All references to uses are as defined or listed in the Lee County Land Development Code (LDC).

1. The development of this project must be consistent with the one page Master Concept Plan entitled "RIVER POINTE," stamped received by the permit counter on JUL 12 2005, except as modified by the conditions below. This development must comply with all requirements of the Lee County LDC at time of local Development Order approval, except as may be granted by deviation as part of this planned development. If changes to the Master Concept Plan are subsequently pursued, appropriate approvals will be necessary.

2. The following limits apply to the project and uses:

a. Schedule of Uses

ACCESSORY USES AND STRUCTURES
ADMINISTRATIVE OFFICES

AGRICULTURAL USES (See Condition II.A.6., below)
BOATS: Limited to boat ramp, dock and fishing pier (See Conditions 4.b.
and 5., below)
CLUBS, Private
DWELLING UNITS, single-family
ENTRANCE GATES AND GATEHOUSE
ESSENTIAL SERVICES
ESSENTIAL SERVICE FACILITIES, Group I
EXCAVATION, Water retention
FENCES, WALLS
FOOD AND BEVERAGE SERVICE, LIMITED
HOME OCCUPATION
MODELS, all are limited to the area designated as "model homes" on the Master
Concept Plan and must be in compliance with LDC Section 34-1951 et seq.
Display center
Model home
Model display group
PARKING LOT, Accessory
REAL ESTATE SALES OFFICE, in compliance with LDC Section 34-951 et seq.
and located in the area designated on the master concept plan as "model
homes"
RECREATIONAL FACILITIES:
Personal
Private On-Site
RESIDENTIAL ACCESSORY USES
SIGNS, in accordance with chapter 30
TEMPORARY SALES CENTER , must be located in the area designated on the
Master Concept Plan as "model homes". Once the first model home has
received a Certificate of Occupancy, the temporary sales center will be
removed from the subject property.
TEMPORARY USES

b. Site Development Regulations

PROPERTY DEVELOPMENT REGULATIONS											
LAND USE	Minimum Lot			Max. Cover- age (%)	Minimum Setbacks (ft)				Max. Building Separation (ft)	Max Bldg Ht. (ft.)	Storie s
	Area (sq. ft.)	Width (ft)	Dpth. (ft)		Road (2)	Side (3)	Rear (4)	Wtr.			
RESIDENTIAL											
Single-Family Detached	9,100	70	130	45	20/ 15 ⁽¹⁾	5	10	25	10	35	2
Pools, Decks, Screen Enclosures	N/A	N/A	N/A	N/A	20/ 15 ⁽¹⁾	5	5	20	N/A	N/A	N/A
RECREATIONAL FACILITIES											
Amenity Center (Private On-site/ clubhouse)	10,000	100	100	45	15	10	20	150	10	35	2

Footnotes:

- (1) Lesser setback for units with side entry garages
- (2) Setbacks from external roadways is variable according to the functional classification of the street or road (Section 34-2191 et seq.)
- (3) A 5-foot side setback for single-family detached residences is permitted as long as one builder constructs the homes in the subdivision and certifies prior to Certificate of Occupancy that the grading plan has been accomplished in accordance with the approved Development Order issued for the project. If more than one builder constructs homes within the subdivision, this certification must be made by a licensed Professional Engineer (P.E.) prior to the issuance of a Certificate of Occupancy.
- (4) In compliance with Condition 10 hereinbelow.

3. This development is limited to a maximum of density of three dwelling units per acre.

4. Environmental Conditions

- a. Prior to local development order approval, the development order must indicate a total of 1.60 acres of indigenous preservation, in substantial compliance with the master concept plan.

- b. Approval of this zoning request does not guarantee the approval of dock or pier construction, number of slips, or boat ramp facilities. Prior to approval of any dock, pier, or boat ramp construction, a Dock and Shoreline Permit must be obtained from the Division of Environmental Sciences.
5. A marina is not a permitted use. The boat ramp, dock and fishing pier are limited to use by residents and guests of the development.
6. AGRICULTURAL USES: Existing bona fide agricultural uses on this site are allowed only in strict compliance with the following:
 - a. Bona fide agricultural uses that are in existence at the time this Resolution is approved and as shown on Exhibit D attached hereto may continue until approval of a local development order for the area of the project containing those uses.
 - b. Additional clearing or grading of existing agricultural areas is prohibited. This prohibition is not intended to preclude County approved requests for the removal of invasive exotic vegetation.
 - c. The property owner must terminate the agricultural tax exemption for any portion of the property that receives a local development order. The agricultural use must cease by December 31st of the calendar year in which the local development order is issued. The exemption termination must be filed with the Property Appraiser's Office by December 31st of the calendar year in which the local development order is issued. A copy of the exemption termination must be provided to the Office of the County Attorney.
7. Blasting is not permitted as part of this project.
8. Prior to local development order approval, the development order must demonstrate that all the lakes are accessible from an internal road, through a 20-foot-wide easement for maintenance vehicles.
9. The proposed southerly emergency access, as shown on the Master Concept Plan, will be used as the primary construction access.
10. BUFFERS:
 - a. Should the developer choose not to proceed with the optional wall along the south and east property lines, then, at a minimum, a Type "B" buffer must be provided. If the developer chooses to proceed with the optional wall, then, at a minimum, a Type "C" buffer must be provided. The berm and wall in combination must be in substantial compliance with the x-section as shown on the Master Concept Plan.
 - b. A minimum 15-foot-wide buffer will be provided along the residential areas on the west, south, and east boundaries where the buffers provided in this condition will be located. Maintenance of the buffer areas and/or wall will be provided for in the

recorded Homeowner Association Documents requiring such maintenance. Lot lines will not extend into buffer areas.

- c. The "Type C" buffer will be constructed on the west and north sides of the amenity parcel. In addition, the 6-foot-high wall/buffer will be provided as indicated on the Master Concept Plan for the northwest portion of the site to screen the abutting single-family residence to the north. Also, the 6-foot-high wall/buffer will be provided along the west property line for a distance of at least 200 feet south from the amenity parcel to screen the abutting single-family residence to the west.
11. Construction activities are limited to the hours of 7:00 am through 6:00 pm, Mondays through Fridays, and from 9:00 am until 5:00 pm on Saturdays; NO construction will be allowed on nationally recognized holidays. However, once a dwelling unit under construction is completely enclosed, internal activities to the dwelling unit, such as interior painting, installation of appliances, flooring, and similar activities, may be allowed without regard to the above time limitations.
12. The access from the project to Bigelow Road must be in substantial compliance with the Master Concept Plan attached hereto as **Exhibit C**.
13. The access to Barcelona Drive will be used only for emergency vehicles and for vehicle egress from the development.
14. The "tot lot" identified within the amenity area on the existing master concept plan will be shifted to the east as far as possible, while still accommodating the "tot lot", the parking area, the pool, and the clubhouse.
15. The applicant shall construct an 8-foot wall along the Wise/project property line adjacent to the project amenity area, rather than a 6-foot high wall as provided for in condition 10.c. of the Hearing Examiner's Report.
16. The amenity center building shall be limited to a one-story building.
17. The amenity building shall be set back a minimum 30' from the Wise/project property line.
18. Approval of this zoning request does not address mitigation of the project's vehicular or pedestrian traffic impacts. Additional conditions consistent with the Lee County LDC may be required to obtain a local development order.
19. Approval of this rezoning does not guarantee local development order approval. Future development order approvals must satisfy the requirements of the Lee Plan Planning Communities Map and Acreage Allocation Table, Map 16 and Table 1(b).

SECTION C. EXHIBITS AND STRAP NUMBER:

The following exhibits are attached to this resolution and incorporated by reference:

- Exhibit A: Legal description of the property
- Exhibit B: Zoning Map (with the subject parcel indicated)
- Exhibit C: The Master Concept Plan
- Exhibit D: Agricultural Uses Affidavit and Sketch

The applicant has indicated that the STRAP number for the subject property is:
21-43-26-00-00026.0010

SECTION D. FINDINGS AND CONCLUSIONS:

1. The applicant has proven entitlement to the rezoning by demonstrating compliance with the Lee Plan, the LDC, and any other applicable code or regulation.
2. The rezoning, as approved:
 - a. meets or exceeds all performance and locational standards set forth for the potential uses allowed by the request; and
 - b. is consistent with the densities, intensities and general uses set forth in the Lee Plan; and
 - c. is compatible with existing or planned uses in the surrounding area; and
 - d. will not place an undue burden upon existing transportation or planned infrastructure facilities and will be served by streets with the capacity to carry traffic generated by the development; and
 - e. will not adversely affect environmentally critical areas or natural resources.
 - f. protects the rural character of the surrounding area.
3. The rezoning satisfies the following criteria:
 - a. the proposed use or mix of uses is appropriate at the subject location; and
 - b. the recommended conditions to the concept plan and other applicable regulations provide sufficient safeguard to the public interest; and
 - c. the recommended conditions are reasonably related to the impacts on the public interest created by or expected from the proposed development.
4. Urban services, as defined in the Lee Plan, are, or will be, available and adequate to serve the proposed land use.

5. The approved deviations, as conditioned, enhance achievement of the planned development objectives, and preserve and promote the general intent of LDC Chapter 34, to protect the public health, safety and welfare.

The foregoing resolution was adopted by the Lee County Board of Commissioners upon the motion of Commissioner Judah, seconded by Commissioner Janes and, upon being put to a vote, the result was as follows:

Robert P. Janes	Aye
Douglas R. St. Cerny	Aye
Ray Judah	Aye
Tammy Hall	Nay
John E. Albion	Nay

DULY PASSED AND ADOPTED this 16th day of May 2005.

ATTEST:
CHARLIE GREEN, CLERK

BY: Michelle S. Cooper
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: [Signature]
Chairman

Approved as to form by:

[Signature]
County Attorney's Office



RECEIVED
MINUTES OFFICE
mjc
2005 JUL 25 PM 3:01

Applicant's Legal Checked

DESCRIPTION

by [Signature] June 18, 2004

A tract or parcel of land lying in Section 21, Township 43 South, Range 26 East, Lee County, Florida, said tract or parcel being more particularly described as follows:

From the **Point of Commencement** at the Northeast corner of the Southwest Quarter (SW1/4) of the Southwest Quarter (SW1/4) of said Section 21 run S00°59'30"E along the East line of said fraction of Section 21 for 25.00 feet to an intersection with the South Right-of-Way line (50 foot wide) of a County Road recorded in Deed Book 304, Page 512, Lee County Records, and the **Point of Beginning**;

From said **Point of Beginning** continue to run S00°59'30"E along the West line of Block 93, Unit 6, Fort Myers Shores as recorded in Plat Book 17, Page 75, Lee County Records for 1,209.89 feet; thence run S44°03'01"W for 119.94 feet; thence run S89°07'51"W for 27.37 feet to an intersection with the Northwest Right-of-Way line of Barcelona Avenue (60 foot wide) as recorded in said plat; Thence continue to run S89°07'51"W along the North line of Block 92, Unit 6, Fort Myers Shores as recorded in Plat Book 17, Page 76 for 1,207.06 feet to the Northwest corner of said plat and the Southwest corner of said Section 21; thence run N01°00'11"W along the West line of Said Section 21 for 1,319.52 feet to the Northwest corner of the Southwest Quarter (SW1/4) of the Southwest Quarter (SW1/4) of said Section 21 and the Southwest corner of Government Lot 4; thence run N01°01'10"W along the west line of said Lot 4 for 125.2 ± feet to the Southeast top of bank of the Caloosahatchee River; thence run N54°19'11"E for 91.2 ± feet along top of bank to a point; from said point at top of bank thence run S01°00'36"E for 177.3 ± feet to an intersection with the North line of the Southwest Quarter (SW1/4) of the Southwest Quarter (SW1/4) of said Section 21; thence run N89°07'04"E along said North line for 830.56 feet; thence run S00°59'30"E for 25.00 feet to an intersection with said South Right-of-Way line of a County Road as recorded in Deed Book 304, Page 512; thence run N89°07'04"E along said South Right-of-Way lane for 414.00 feet to the **Point of Beginning**.

Containing 1,738,604 square feet or 39.913 acres, more or less.

Bearings here in above mentioned are State Plane for the Florida West Zone (NAD 1983/99 adjustment) and are based on the North line of said Southwest quarter (SW1/4) of the Southwest Quarter (SW 1/4) of Section 21 to bear N89°07'04"E.

DCI2004-00020

John Robert Avery III 5-21-04
John Robert Avery III (For The Firm)
Professional Surveyor and Mapper
Florida Certificate No. 5298

21937s02.desc.doc

RECEIVED

JUN 08 2004

Post Office Drawer 2800 • Fort Myers, FL 33902
Phone (239) 461-3170 • Fax (239) 461-3169

COMMUNITY DEVELOPMENT

**RIVER
 POINTE**

A PLANNED AND
 LOCATED
 BY ADVANCE SOLUTIONS, INC.
 IN ACCORDANCE WITH
 THE FLORIDA
 PLANNED AND LOCATED
 ACT, CHAPTER 163,
 F.S.



BOUNDARY
 SURVEY

DESCRIPTION
 This is a boundary survey for the River Pointe community, located in the City of Miami, Dade County, Florida. The survey shows the boundaries of the lots and the location of the Barcelona Avenue right-of-way. The survey was conducted on June 18, 2004, and the results are shown on this plan. The survey was performed in accordance with the Florida Surveying Act, Chapter 163, F.S., and the Florida Board of Professional Engineers, Board of Surveying, Rules and Regulations, Chapter 163, F.S.

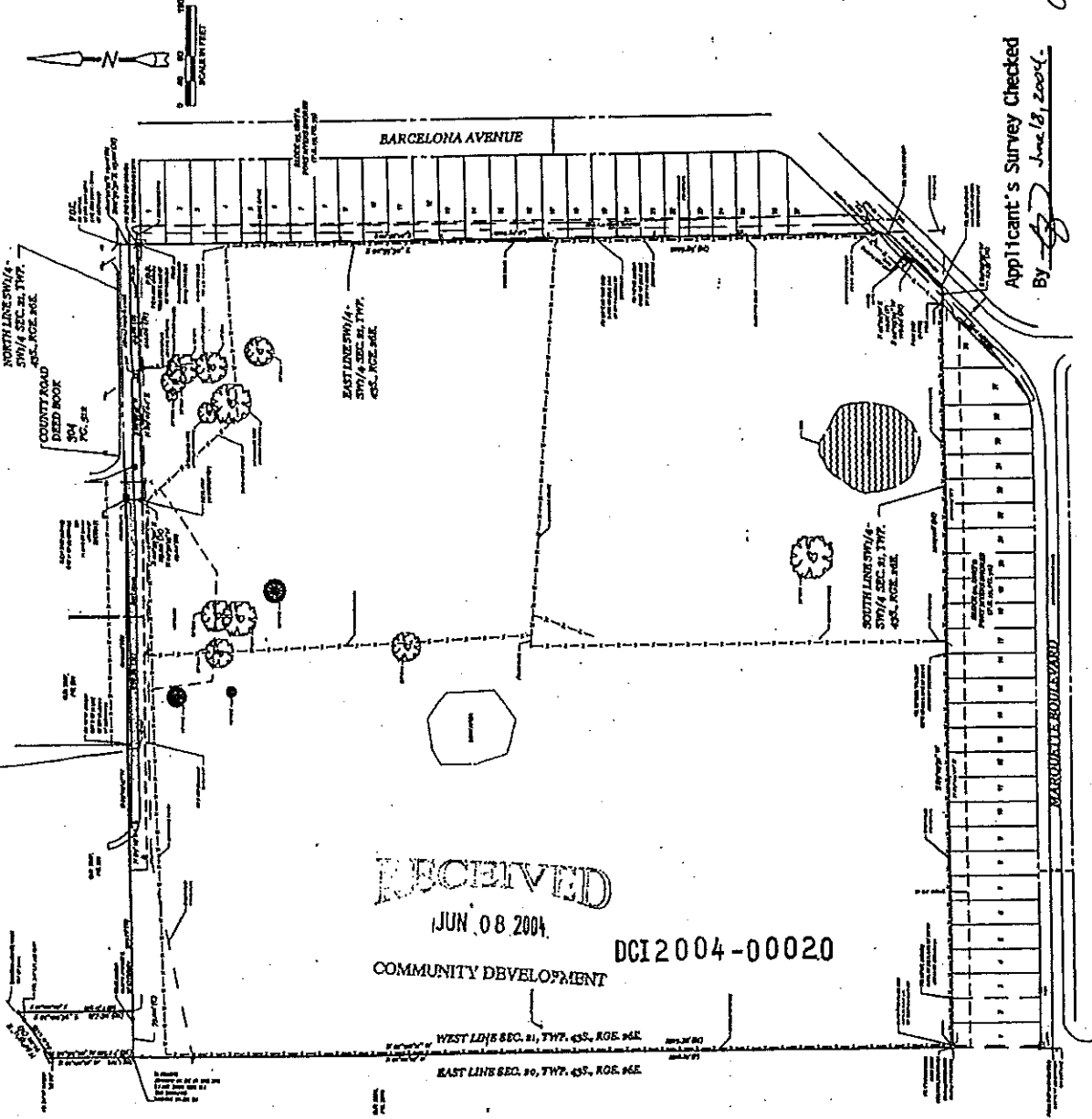
- NOTES:**
1. THIS SURVEY WAS CONDUCTED IN ACCORDANCE WITH THE FLORIDA SURVEYING ACT, CHAPTER 163, F.S., AND THE FLORIDA BOARD OF PROFESSIONAL ENGINEERS, BOARD OF SURVEYING, RULES AND REGULATIONS, CHAPTER 163, F.S.
 2. THE SURVEY WAS CONDUCTED ON JUNE 18, 2004, AND THE RESULTS ARE SHOWN ON THIS PLAN.
 3. THE SURVEY WAS PERFORMED IN ACCORDANCE WITH THE FLORIDA SURVEYING ACT, CHAPTER 163, F.S., AND THE FLORIDA BOARD OF PROFESSIONAL ENGINEERS, BOARD OF SURVEYING, RULES AND REGULATIONS, CHAPTER 163, F.S.
 4. THE SURVEY WAS CONDUCTED IN ACCORDANCE WITH THE FLORIDA SURVEYING ACT, CHAPTER 163, F.S., AND THE FLORIDA BOARD OF PROFESSIONAL ENGINEERS, BOARD OF SURVEYING, RULES AND REGULATIONS, CHAPTER 163, F.S.
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LEGEND:

1	Lot
2	Barcelona Avenue Right-of-Way
3	County Road 304
4	North Line SW 1/4
5	East Line SW 1/4
6	South Line SW 1/4
7	West Line SW 1/4
8	Other

The Survey was performed by the Surveyor of Advance Solutions, Inc., a Professional Engineering Firm, License No. 12548, in accordance with the Florida Surveying Act, Chapter 163, F.S., and the Florida Board of Professional Engineers, Board of Surveying, Rules and Regulations, Chapter 163, F.S.

John Robert Cassey, III
 Surveyor
 License No. 12548
 State of Florida
 5-21-04



Applicant's Survey Checked
 By *[Signature]* June 18, 2004

AFFIDAVIT


STATE OF FLORIDA
COUNTY OF LEE

BEFORE ME, the undersigned authority, on this 15th day of September, 2004, personally appeared W. Michael Kerver, as Vice President of Advance Solutions; LLC., who is personally know to me or who produced _____ as identification and who did take an oath, who deposes and says as follows:

1. That I am the owner or authorized representative of the following described property, to wit:
See attached Exhibit "A"
2. That the above described property has been zoned for bona fide agricultural purposes, to wit livestock grazing and pasturage, at the time of the Lee County Board of County Commissioners review and consideration of the rezoning of the property described on the attached Exhibit "A".
3. The agricultural use of the property is an existing bona fide agricultural use.
4. The agricultural use is being conducted on the 39.91 +/- acres. The entire property described on the attached Exhibit "A" is being used for the grazing of livestock. The grazing of livestock includes raising of sod from time to time.
5. The property owner intends to continue the agricultural uses on the property, when a Development Order is obtained, the owner will cease its agricultural operation on that portion of the property subject to a Development Order that includes a vegetation removal permit. The property owner may obtain a master development order on the entire property to enable the County and the South Florida Water Management District to review the entire plan of development for internal consistency; however no work can be initiated on site without a vegetation removal permit. Therefore, the cessation of agricultural activities will cease on that portion of the property subject to a development order and a vegetation removal permit.
6. Affiant further states that he is familiar with the nature of an oath; and with the penalties as provided by the laws of the State of aforesaid for falsely swearing to statements made in an instrument of this nature. Affiant further certifies that he has read, or has hear read to him, the full facts of this affidavit and understands its meaning and context.

FURTHER AFFIANT SAYETH NAUGHT.

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SEP. 27 2004




W. Michael Kerver, Vice President
Advance Solutions, LLC.

SWORN TO and subscribed before me on the date and year first above written.

PERMIT COUNTER

(NOTARY SEAL)

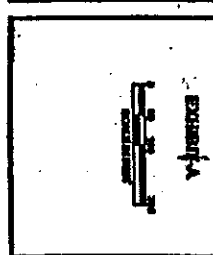
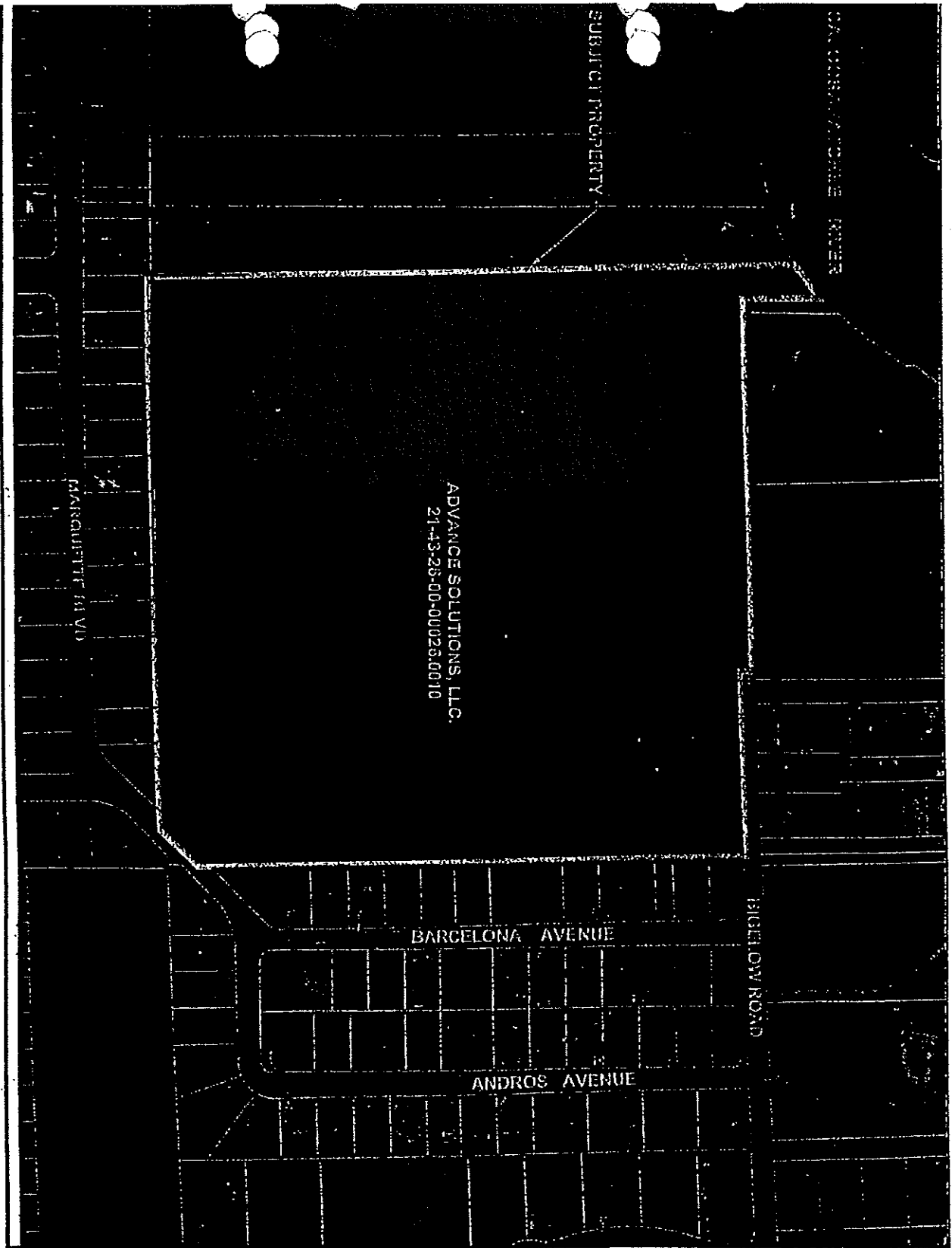




Signature of Notary Public
Angela Wright
(Print, type or stamp commissioned name of Notary Public)

Commission No. _____

DCI 2004 00020



AGRICULTURAL USE MAP
RIVER POINTE
LEE COUNTY, FLORIDA
DCI 2004 00020

NEGATIVE
 SEP 27 2024
 PERMIT COUNTER