



CITY COUNCIL AGENDA FORM

REQUESTED COUNCIL MEETING DATE 2/26/08

**SUBJECT: DEVELOPMENT ORDER EXTENSION/COUNTRY INN & SUITES
5802 JOURNEY'S END DRIVE
CASE NO. 05-8000013**

DEPARTMENT: COMMUNITY DEVELOPMENT

RECOMMENDED MOTION:


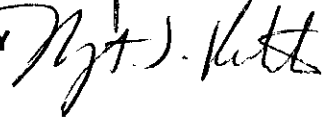

To approve the Development Order Extension for COUNTRY INN & SUITES, as recommended by the Planning Commission, and also to approve the extension of the Subdivision Improvement Agreement.

SUMMARY:

Planning Commission Action: 12/20/07

Recommend approval, 6-0 (one seat vacant) of the Development Order Extension for COUNTRY INN & SUITES. No modifications to the originally approved development order are proposed. Please note this development was also issued a Subdivision Improvement Agreement (SIA), which has also expired.

ATTACHMENTS: Ordinance Resolution Budget Resolution
 Other Support Documents/Contracts Available for Review in Manager's Office

DEPARTMENT HEAD		Wayne Clark Director of Community Development	Date <i>2/15/08</i>
CITY ATTORNEY		Approved as to Form and Legality	Date <i>2.15.08</i>
CITY MANAGER		Approved Agenda Item For:	<i>2/26/08</i>

COUNCIL ACTION: Approved as Recommended Disapproved
 Tabled Indefinitely Continued to Date Certain Approved with Modification

This Document Prepared By:

Please Return Recorded Document to:
Office of Records Clerk
1000 City Center Circle
Port Orange FL 32129

Plans Stamped "Approved for Construction"
on: _____, 200__.

Space Reserved for Recording per §695.26(e)(1) Florida Statutes (2002)

**CITY OF PORT ORANGE, FLORIDA
FIRST AMENDED
SUBDIVISION IMPROVEMENT AGREEMENT**

THIS AGREEMENT is made and entered into as of this _____ day of _____, 2008, by and between the **City of Port Orange, Florida**, a chartered municipal corporation, hereinafter referred to as "the City", 1000 City Center Circle, Port Orange FL 32129; and **JAI-AMBE, INC.**, mailing address: **3569 Grande Tuscan Way, New Smyrna Beach, FL, 32168**, hereinafter referred to as "the Developer".

WITNESSETH

WHEREAS, on the 15th day of November, 2006, the City and the Developer entered into a Subdivision Improvement Agreement and caused that document to be placed of record at Official Records Book 5959, pages 3238-3243, Public Records of Volusia County, Florida; and

WHEREAS, the parties desire to amend the agreement and to extend the period of time within which the construction of public improvements is to be completed; and

WHEREAS, the Developer warrants that it is the owner of the property ("the subject property") legally described on **Exhibit "A"** attached hereto and made a part hereof; and

WHEREAS, the Developer desires to subdivide the subject property and has submitted subdivision plans and a plat designated as **JOURNEY'S END SUBDIVISION** (formerly known as Peacock Way Subdivision); and

WHEREAS, upon approval of said plans and plat according to the requirements of the City's Land Development Code and the laws of Florida, the Mayor is authorized to execute this amended subdivision improvement agreement to assure the completion of improvements shown on

said plans.

NOW, THEREFORE, the parties hereto agree as follows:

1. The Developer warrants that it will complete the improvements reflected on the plans approved by the City Council as prepared by Mark S. Dowst, P.E., Florida Registration No.35503, of the firm, Mark S. Dowst & Associates, Inc. (name of engineer and registration state and number). These improvements shall be completed in accordance with Section 177.011, et. seq. Florida Statutes and the Port Orange Land Development Code and any other applicable regulations, ordinances or laws of the City. Failure to construct and complete such improvements in compliance with the terms of this agreement shall constitute grounds for the City to halt further development or construction under this agreement, and to withhold building permits, utility service, and certificates of occupancy for completed improvements on the subject property. In the event the subject property is undisturbed for 30 or more consecutive days, the City reserves the option to stabilize the site as necessary with seed and mulch and to place a lien of record against the subject property for the costs of such stabilization. The Developer warrants that the referenced plat comports with the requirements of Chapter 177, Florida Statutes (2002) regarding platting of land, and that the Developer will form or annex this property to an existing property owners' association (POA) for the purpose of collecting monies necessary to enforce the terms and provisions of covenants and restrictions approved for the referenced subdivision plat and as required by the Surface Stormwater Management No. 40-127-68585-1 issued by the St. Johns River Water Management District.
2. All improvements shall be completed within twelve (12) months from the date of this amended agreement as first set forth above.
3. Execution of this agreement shall allow the Developer the right to record the approved plat for the subject property upon compliance with the requirements of the Land Development Code and provision of a financial guarantee prepared and recorded in the public records of Volusia County in accordance with Section 255.05, Florida Statutes (2002), and as acceptable to the City, in an amount equal to one hundred ten percent (110%) of the cost estimate for the construction of the required improvements. If the required improvements are not completed as required under this agreement, the City shall be authorized to draw upon the financial guarantee funds to pay for the completion of said improvements, including reasonable administrative costs in the completion of the construction.

4. Execution of this agreement shall also allow the Developer to initiate and continue the construction of improvements without providing a financial guarantee for completion, but the plat shall not be executed or recorded prior to the acceptance of improvements. However, should the improvements not be completed as required under this agreement, the City, after thirty (30) days written notice to the undersigned or any subsequent owner, successor in interest or assign, may install or have installed or completed said required improvements. Further, the City is hereby authorized to assess the cost of installing or completing said improvements against the subject property. Such improvement assessment shall constitute a lien thereon until paid, which lien shall be superior and paramount to the interest on such property of any owner, lessee, tenant, mortgagee or other person, except the lien of ad valorem taxes.
5. If construction begins under paragraph 4 above, but the Developer desires to record the plat, it shall provide a financial guarantee for completion as required in paragraph 3 above to cover the cost of all improvements with no credit for partially completed construction.
6. At the time that construction is determined to be complete by the City, and prior to City acceptance of public improvements for maintenance, the Developer shall provide the City with a maintenance bond in the amount equal to ten percent (10%) of the final construction cost for the correction of any failures or defects that become apparent within one (1) year of City acceptance.
7. The Developer shall indemnify and hold harmless the City, its officers, employees and agents, from and against all claims, damages, injuries, liability, losses and expenses, including reasonable attorneys' fees and costs, arising out of or resulting from the construction of improvements or performance of operations under this agreement.
8. This agreement shall be recorded in the Public Records of Volusia County, Florida. The provisions of this agreement shall constitute covenants running with the land applicable to all of the subject property described herein or any portion thereof. This agreement shall inure to the benefit of the parties hereto and the subject property, and shall be binding upon any person, firm, or corporation that may become a subsequent owner, successor in interest or assign, directly or indirectly, of the subject property or any portion thereof.
9. In the event of any claim, action, litigation or proceeding under this agreement, the prevailing party shall be entitled to an award of reasonable attorneys' fees and costs.

IN WITNESS WHEREOF, the parties hereto have executed this agreement, by and through the duly authorized representatives, on the above date.

WITNESSES:

CITY OF PORT ORANGE, FLORIDA
A Chartered Municipal Corporation

Name: _____

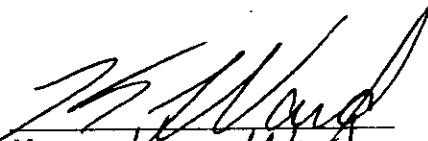
By: _____
Allen Green, Mayor

Name: _____
(Witnesses as to Both)

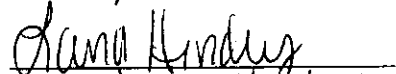
Attest: _____
Kenneth W. Parker, City Manager

WITNESSES:

JAI-AMBE, INC., a Florida corporation
"Developer"


Name: Kim Ward

By: 
Jayesh Patel, President


Name: Laura Hindery

[Notary Acknowledgments on following page.]

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this ____ day of _____, 2008 by Allen Green and Kenneth W. Parker, as Mayor and City Manager, respectively, of the City of Port Orange, Florida, a chartered municipal corporation, who acknowledge that they are duly authorized to execute the foregoing Amended Subdivision Improvement Agreement on behalf of the city. They are personally known to me.

Notary Public, State of Florida at Large
*Printed, typed or stamped name, commission
and Expiration of commission term:*

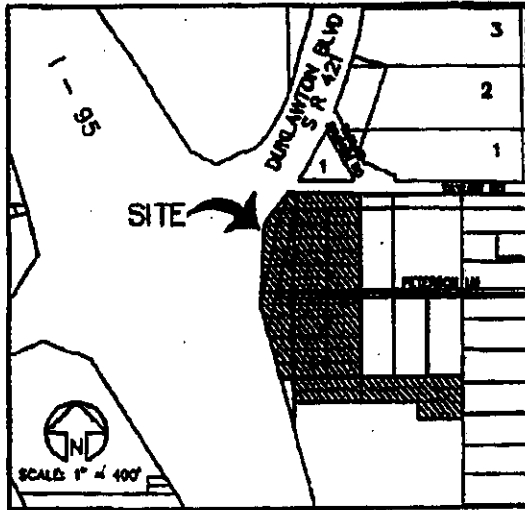
STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument, Amended Subdivision Improvement Agreement, was acknowledged before me this 12th day of FEB, 2008 by Jayesh Patel, as President of **JAI-AMBE, INC.**, Florida corporation, who further acknowledges that he is duly authorized to execute the foregoing instrument on behalf of the corporation. He is personally known to me, or has produced _____ as identification.

Stephanie Molohon
Notary Public, State of Florida at Large
*Printed, typed or stamped name, commission
and Expiration of commission term:*



VICINITY MAP



DESCRIPTION

A PORTION OF SECTIONS 17, 18, 19 AND 20, TOWNSHIP 16 SOUTH, RANGE 33 EAST, VOLUSIA COUNTY, FLORIDA, AND A PART OF LOT 1-A, GRAND FARMS, PLAT 2 AS RECORDED IN MAP BOOK 11, PAGE 89 OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:

FROM THE NORTHWEST CORNER OF SAID SECTION 20 AS THE POINT OF BEGINNING, RUN SOUTH 89 DEGREES 10 SECONDS WEST ALONG THE NORTH LINE OF SAID SECTION 20, A DISTANCE OF 33.67 FEET TO THE POINT OF BEGINNING AND A POINT ON THE WEST LINE OF SAMBORA ROAD, THENCE NORTH 11 DEGREES 27 MINUTES 44 SECONDS EAST ALONG SAID WEST LINE, A DISTANCE OF 61.30 FEET TO THE SOUTH RIGHT OF WAY LINE OF TAYLOR ROAD, THENCE NORTH 88 DEGREES 08 MINUTES 07 SECONDS EAST ALONG SAID SOUTH LINE, A DISTANCE OF 30.00 FEET, THENCE DEPARTING SAID SOUTH LINE, RUN SOUTH 80 DEGREES 28 MINUTES 04 SECONDS EAST PARALLEL WITH THE WEST LINE OF SAID SECTION 20, A DISTANCE OF 73.80 FEET TO THE SOUTH LINE OF THE NORTHWEST 1/4 OF THE NORTHWEST 1/4 OF THE NORTHWEST 1/4 OF SAID SECTION 20, THENCE NORTH 89 DEGREES 30 MINUTES 20 SECONDS EAST ALONG THE SOUTH LINE OF THE NORTHWEST 1/4 OF THE NORTHWEST 1/4 OF THE NORTHWEST 1/4 OF SAID SECTION 20, A DISTANCE OF 308.80 FEET TO THE NORTHWEST CORNER OF THE NORTHWEST 1/4 OF THE NORTHWEST 1/4 OF THE NORTHWEST 1/4 OF SAID SECTION 20, THENCE SOUTH 80 DEGREES 28 MINUTES 18 SECONDS EAST ALONG EAST LINE OF THE NORTHWEST 1/4 OF THE NORTHWEST 1/4 OF THE NORTHWEST 1/4 OF SAID SECTION 20, A DISTANCE OF 308.70 FEET, THENCE DEPARTING SAID EAST LINE, RUN SOUTH 80 DEGREES 28 MINUTES 41 SECONDS WEST, A DISTANCE OF 170.18 FEET, THENCE NORTH 80 DEGREES 28 MINUTES 53 SECONDS WEST, A DISTANCE OF 154.13 FEET, THENCE SOUTH 80 DEGREES 28 MINUTES 41 SECONDS WEST, A DISTANCE OF 214.87 FEET, THENCE NORTH 80 DEGREES 28 MINUTES 04 SECONDS WEST, A DISTANCE OF 3.18 FEET, THENCE SOUTH 80 DEGREES 28 MINUTES 07 SECONDS WEST, A DISTANCE OF 304.87 FEET TO THE EAST RIGHT OF WAY LINE OF INTERSTATE 95, (I.R. NO. 87), THENCE RUN ALONG SAID EAST RIGHT OF WAY LINE, THENCE FOLLOWING COURSES AND DISTANCES: NORTH 15 DEGREES 15 MINUTES 11 SECONDS WEST, A DISTANCE OF 174.82 FEET, THENCE NORTH 04 SECONDS 48 MINUTES 29 SECONDS EAST, A DISTANCE OF 312.11 FEET TO A POINT ON THE ARC OF A CURVE, BEGINNING NORTHWEST, HAVING A RADIUS OF 1118.67 FEET, A CENTRAL ANGLE OF 82 DEGREES 43 MINUTES 53 SECONDS, AND A CHORD BEARING AND DISTANCE OF NORTH 48 DEGREES 48 MINUTES 23 SECONDS EAST, 83.22 FEET, THENCE RUN NORTHEASTERLY ALONG THE ARC OF SAID CURVE, A DISTANCE OF 81.22 FEET TO THE NORTH LINE OF SAID SECTION 18, THENCE DEPARTING SAID EAST RIGHT OF WAY LINE, RUN NORTH 80 DEGREES 08 MINUTES 19 SECONDS EAST ALONG SAID NORTH LINE, A DISTANCE OF 43.77 FEET TO THE POINT OF BEGINNING.

CONTAINING 8.53 ACRES, MORE OR LESS.

EXHIBIT A



STAFF REPORT

CASE NO. 05-80000013

DEVELOPMENT ORDER EXTENSION/ COUNTRY INN & SUITES, SITE PLAN

Mark Dowst, Applicant/Engineer

5802 Journey's End Way

December 7, 2007

INTRODUCTION:

Mark Dowst, applicant, on behalf of Jay Patel, owner/developer, requests approval of a Development Order Extension for the Country Inn & Suites Site Plan. The subject property is located in the Journey's End commercial subdivision south of Taylor Road and east of I-95. (Exhibit "A") If approved, the owner intends to develop the property with a 4-story, 87-room hotel with associated site improvements.

BACKGROUND:

The original Development Order for the site plan was issued on December 14, 2006. However, a pre-construction meeting for the project was never held and the Development Order expires December 14, 2007. On November 15, 2007, staff received a request to extend the Development Order from the project engineer. The Development Order extension requires review by the Planning Commission and City Council since this is the same process by which the site plan was originally approved.

DISCUSSION:

Development Proposal Overview:

The developer proposes to construct a 50,370 square-foot hotel with associated site improvements on Lot 3 of the Journey's End PCD. The building will be 4 stories tall (12,650 square feet per floor) with 87 guest rooms and two 835 square foot conference rooms. The front entrance to the building will face I-95 and have a covered porch extending across the drive. Twenty 12' X 45' parking spaces are being provided for recreational vehicles and trailers along with 5 handicapped spaces and 186 regular spaces. Stormwater retention will be held at an off-site storage facility as per the MDA. A pool and covered patio will be located at the rear of the building.

Development Order Conditions

There were conditions put upon the original Development Order to allow approval of the site plan (Exhibit "B"). The first states that the Journey's End plat still needs to be recorded in order for the City to accept any subdivision improvements and issue a Certificate of Occupancy for the hotel. The vacation of Peterson Lane also must be recorded prior to the platting. The other outstanding comments refer to Chapter 11 of the Florida Building Code related to handicapped accessibility to the building.

Concurrency Review:

Concurrency issues were addressed in the review of the site plan. During staff's review of the Development Order Extension, it was determined there will be no new impacts caused by this development. Therefore, all concurrency issues were addressed and there is adequate capacity available to serve the proposed hotel.

RECOMMENDATION:

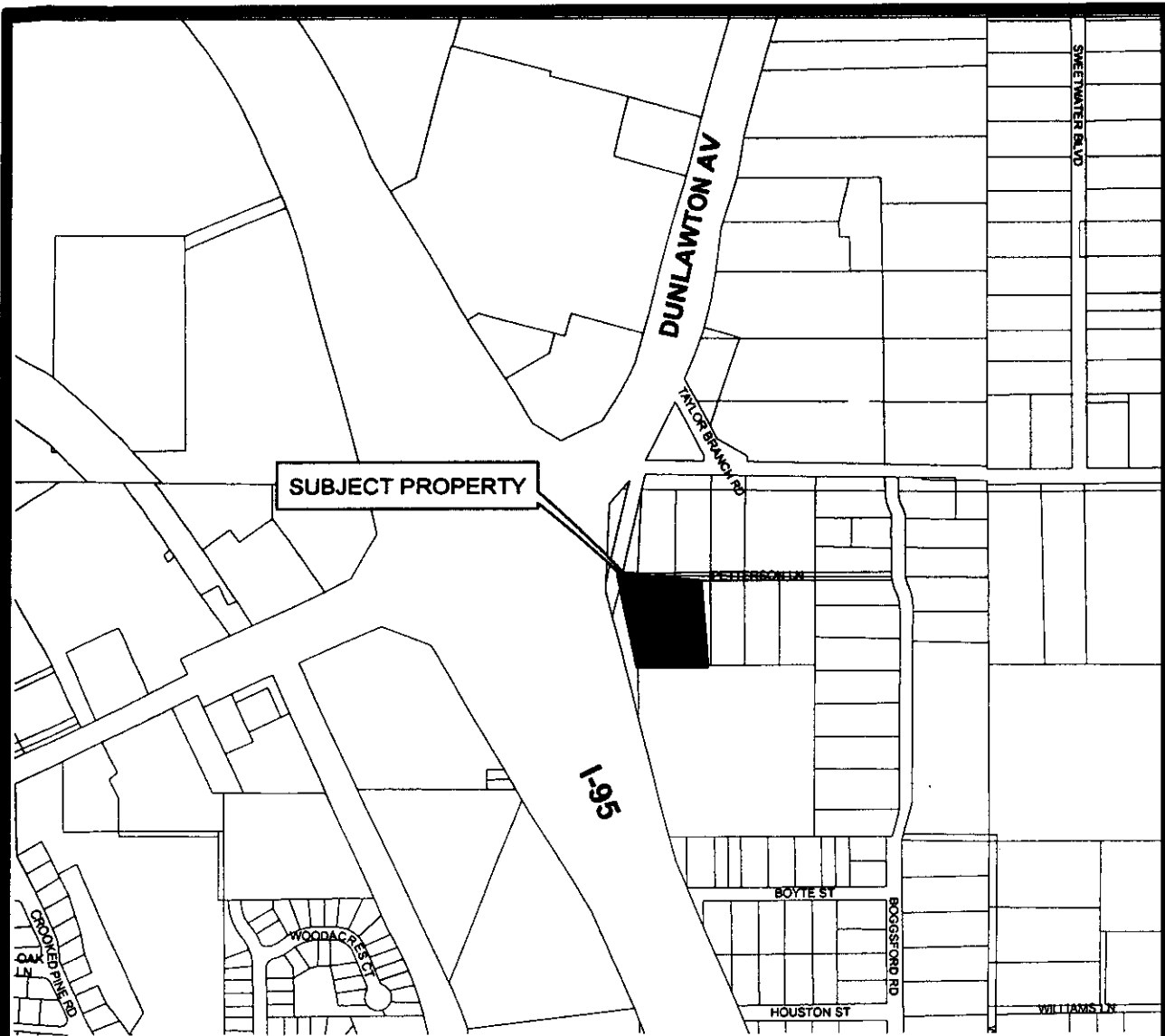
The proposed site plan is consistent with the requirements and regulations outlined in both the Comprehensive Plan and the Land Development Code. Therefore, staff recommends **approval** of the Development Order Extension for the for Country Inn and Suites site plan.

Prepared by: Gwen Perney, Planner
City of Port Orange Department of Community Development

(386) 506-5673
(386) 506-5600

PLANNING COMMISSION DATE:
CITY COUNCIL DATE:

December 20, 2007
January 22, 2007



Case No.: 05-8000013

Applicant: Mark S. Dowst, applicant
Jai-Ambe, Inc., owner

Location: PEACOCK WAY PCD

Requested Action:

Approval of the final site plan for the County Inn and Suites hotel. If approved the owner will construct a 4-story 87-room hotel with associated site improvements.

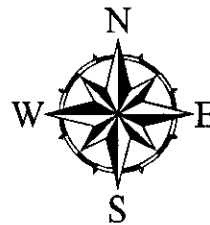


Exhibit "A"

LOCATION MAP

CITY OF PORT ORANGE

DEPARTMENT OF COMMUNITY DEVELOPMENT



DEVELOPMENT ORDER CONDITIONS
COUNTRY INN & SUITES
FINAL SITE PLAN
CASE NO. 05-8000013

1. The Development Team has acknowledged that approval of this site plan is to be conditioned upon the Council's approval of the final plat for this site and surrounding areas. The below items are reiterated here for purposes of the applicant's request for conditional approval, and the Development Team has acknowledged the need to address the comments below *and* the following issues. The Developer shall be required to obtain approval, execute, and record the plat with Volusia County creating Lot 3 prior to the City's acceptance of the subdivision improvements and prior to the issuance of the certificate of occupancy or completion of the Country Inn & Suites project.
2. Advisory Note A. Peterson Lane, shown within the conceptual site plan for adjacent development, remains a right-of-way of record and the vacation of the right of way will need to be formally recorded immediately prior to platting.
3. Advisory Note B. Developer's proposed site development shall encumber all of the 9.53 acres of property described and depicted on the boundary survey submitted and of the plat of Peacock Way. In the event that the Developer wishes to sell or transfer any part of the property so described, an application for review and approval of subdivision plat and plans shall be required.
4. Advisory Note C. All references to the plat must be to a recorded document or to a new proposed plat and plans submittal pursuant to the LDC. "Peacock Way Subdivision" does not qualify as a recorded plat and is not considered by the City as an active, proposed plat.
5. Please be advised that the Florida Accessibility Council agrees that the spaces are to be the closest to the accessible entrance, however they feel that they would accept being 2 spaces away. Therefore I will accept the placement of the spaces nearest the main entrance. However, the issue was brought up that there must be a minimum of one handicap space located near the other two accessible entrances to the building to comply with FBC 11-4.6.2 so two of the spaces shall be relocated to these locations. Additionally a passenger loading zone shall be located at the front entrance to comply with FBC 11-4.6.6 which I will copy below this comment for your convenience.

11-4.6.2 Location.

Accessible parking spaces serving a particular building ***shall be located on the shortest safely accessible route of travel from adjacent parking to an accessible entrance.*** In parking facilities that do not serve a particular building, accessible parking shall be located on the shortest accessible route of travel to an accessible pedestrian entrance of the parking facility. ***In buildings with multiple accessible entrances with adjacent parking, accessible parking spaces shall be dispersed and located closest to the accessible entrances.***

Each parking space must be no less than 12 feet (3658 mm) wide.

- (1) All spaces must be located on an accessible route no less than 44 inches (1118 mm) wide so that users will not be compelled to walk or wheel behind parked vehicles.

11-4.6.3 Parking spaces.

Parking access aisles must be no less than 5 feet (1524 mm) wide and must be part of an accessible route to the building or facility entrance. Two accessible spaces may share a common access aisle [see Figure 11-9(a)]. The access aisle shall be striped diagonally to designate it as a no-parking zone. ***Curb ramps must be located outside of the disabled parking spaces and access aisles.***

11-4.6.6 Passenger loading zones.

Passenger loading zones shall provide an access aisle at least 60 inches (1525 mm) wide and 20 feet (6096 mm) long adjacent and parallel to the vehicle pull-up space (see Figure 11-10). If there are curbs between the access aisle and the vehicle pull-up space, then a curb ramp complying with Section 11-4.7 shall be provided. Vehicle standing spaces and access aisles shall be level with surface slopes not exceeding 1:50 (2 percent) in all directions.

6. **Third request** - The concrete light pole on sheet E1.0B still does not have the design statement to comply with the min.120 m.p.h. wind loads. It has a generic statement to comply with the A.H.J which is not acceptable and must specify the applicable wind loads.
7. **Advisory:** This review does not include architectural drawings unless noted otherwise. Please be advised that the 2004 edition of the FBC will apply to permit applications submitted on or after October 1, 2005. Projects submitted for permit review between July 1st and September 30th may be designed under the 2001 FBC (with 2003 revisions) or the 2004 FBC.
8. **Advisory:** Site approval is not an authorization to do any work that requires a building permit. Building Division shall be contacted if there are any questions pertaining to permit requirements. (Comments are for information only.)
9. Final issuance of the certificate of occupancy permit for this project is contingent on the final acceptance of Peacock Way Subdivision improvements (as depicted on the original approved for construction plan dated March 21, 2001), recordation of the final plat, and the final approval and acceptance of the lift station by the City.