

**DeSANTIS PROPORTIONATE SHARE TRAFFIC MITIGATION AGREEMENT AND  
FIRST AMENDMENT TO SETTLEMENT AGREEMENT**

THIS AGREEMENT is entered into by and between Peter A. DeSantis Jr. Revocable Trust (“OWNER”) and Leon County, Florida (“COUNTY”), a political subdivision of the State of Florida, subject to all other governmental approvals and solely at the risk of the Owner/Designated Agent.

**WITNESSETH**

WHEREAS, the OWNER owns approximately 27.4 acres of land (“PROPERTY”) located between Bannerman Road and Kinhega Drive, approximately 500 feet northwest of Thomasville Road (see map included as Exhibit #A); and the OWNER is seeking Site and Development Plan approval for the property identified by Tax Parcel Identification Numbers 14-22-20-018-0000, 14-22-20-005-0000, 14-15-20-628-0000, and 14-15-20-601-0000 , located in Leon County, Florida, more particularly described in Exhibit “B” to this Agreement which is attached hereto and made part hereof ; and

WHEREAS, A Settlement Agreement was approved by the Leon County Board of County Commissioners on February 12, 2002 between. the COUNTY and H.G. Laird and Margaret L. Hirt, James K Godfrey and Kristen H. Godfrey, Karen S. Hanson as trustee of the Arlene L. Carter Revocable Trust, and the Bradfordville Hunt Club (“SETTLEMENT AGREEMENT”) (Settlement Agreement) pertaining to the development of the Property; and

WHEREAS, the OWNER has acquired the property from Laird, et al, and thereby acquired those rights established in the Settlement Agreement; and

WHEREAS, OWNER and Leon County wish to amend the terms of the Settlement Agreement as contained herein; and

WHEREAS, the Settlement Agreement states that the County will be responsible for the construction of the extension of Beech Ridge Trail; however, in order mitigate the development impacts, Owner has agreed to construct this extension; and

WHEREAS, it is the intent of Leon County and the OWNER that any terms contained in this DeSantis Proportionate Share Traffic Mitigation Agreement and First Amendment to Settlement Agreement that may be contrary to the terms of the Settlement Agreement shall supersede those contrary terms in the Settlement Agreement; and

WHEREAS, as a consideration in exchange for the development intensity conferred in the settlement agreement, Laird, et al, agreed to dedicate a right-of-way to the County, between Kinhega Drive to Bannerman Road.

WHEREAS, the settlement agreement does not address transportation concurrency and DeSantis seeks to pursue development of this site and will need to address the issue of transportation concurrency capacity to do so successfully. In response, DeSantis has proposed to offer infrastructure improvements via the format of a Proportionate Share Traffic Mitigation Agreement, fashioned pursuant to the Leon County Concurrency Management Policies and Procedures Manual, revised November, 2006.

WHEREAS, Leon County has the power and duty to exercise general supervision of the administration and enforcement of the Leon County Code of Laws pertaining to the Tallahassee-Leon County 2010 Comprehensive Plan, Land Development Regulations, Concurrency Management Ordinance, and the Leon County Concurrency Policies and Procedures Manual; and

WHEREAS, Leon County is authorized to enter into this Agreement pursuant to the Leon County Concurrency Policies and Procedures Manual.

NOW, THEREFORE in consideration of the mutual promises and premises set forth herein, the parties agree as follows:

1. The Project will not exceed 75,000 square feet of commercial retail use, in accordance with the Settlement Agreement approved by the Board on February 12, 2002, between the COUNTY and H.G. Laird and Margaret L. Hirt, James K Godfrey and Kristen H. Godfrey, Karen S. Hanson as trustee of the Arlene L. Carter Revocable Trust, and the Bradfordville Hunt Club ("SETTLEMENT AGREEMENT").
2. Based on calculations derived from ITE Trip Generation, 7th edition, and the ITE Trip Generation Handbook, 2<sup>nd</sup> edition, both by Institute of Traffic Engineers, professionally-accepted standard references for estimating projected traffic generation, the net number of new vehicular trips that would be created by a commercial retail development of 75,000 square feet on the PROPERTY would be 226 PM peak hour trips, as shown in Exhibit "C."
3. The development of the PROPERTY will significantly impact the westbound segment of Bannerman Road between Thomasville Road and Tekesta Drive, Segment 13561 as identified in the County's Concurrency Management System (CMS), and Segments 43550 and 43580 of the County's CMS, more specifically, the westbound segment of Kinhega Drive between Thomasville Road and Deer Lake Road.
4. These segments are located inside of the proposed project's Comprehensive Traffic Analysis Network, are operating below the adopted Level of Service (LOS) in the Leon County Concurrency Management System, and are capacity-constrained roadways, as defined by the Leon County Concurrency Management Policies and Procedures Manual, adopted on November 14, 2006, as shown in Exhibit "D."
5. In response to the projected adverse impacts upon these segments, and as required in the SETTLEMENT AGREEMENT, OWNER agrees to dedicate sufficient right-of-way to accommodate the extension of Beech Ridge Trail, a public street, from Kinhega Drive to Bannerman Road and also sufficient property for the construction, operation and maintenance facilities for stormwater treatment. The width of right-of-way to be dedicated shall be no less than sixty (60) feet. The length of the right-of-way to be dedicated shall be determined by provision of the connections to Bannerman Road and to Kinhega Road required in the SETTLEMENT AGREEMENT.
6. The OWNER commits to fully fund and construct the segment of Beech Ridge Trail, within the area of dedicated right-of-way, in accordance with the start and end points identified in the Settlement Agreement approved by the Board on February 12, 2002. This amount is in lieu of funding the pro-rata share of construction of the above described improvements identified in the Concurrency Review process in order to construct the Project. Funding and

construction shall include all design, permitting, testing, construction management or other costs associated with a completed project. The Design process shall include submittal of design documents to Leon County Public Works for review, comment or approval at the customary development points of design, 30%, 60%, 90% and 100% of design completion. Leon County shall be afforded adequate time for this review, including not less than 90 days for review of final plans for final approval.

7. The Design process shall include the opportunity, prior to acceptance of roadway and stormwater facilities construction by Leon County Public Works, for review of permit documents to ensure that any conditions thereto appertaining as may be applied by other agencies are consistent with the regulations, guidelines, and standards applied by Leon County Public Works.
8. The OWNER agrees to waive those provisions under Section 2, Grant of Right of Way, enumerated on pages 5 and 6 of the SETTLEMENT AGREEMENT that would otherwise require the COUNTY to bear the cost of designing, permitting, conducting evaluations and investigations in support of, and the construction of the segment of Beech Ridge Trail within the dedicated right-of-way.
9. The OWNER agrees to waive those provisions under Section 5, Cost of Surveying, Design, Permitting and Construction, enumerated on page 7 of the SETTLEMENT AGREEMENT that would otherwise require the COUNTY to bear the proportionate costs of surveying, engineering, designing, permitting, and constructing the stormwater management facility, to be constructed on the PROPERTY, based on the proportionate share of stormwater volume coming from this public street.
10. The segment of Beech Ridge Trail within the dedicated right-of-way shall be designed and constructed as a minor collector street, consistent with the parameters established by and in coordination with Leon County Department of Public Works, and shall include the following design elements: two eleven-foot wide travel lanes; curb and gutter along each side of the street; four-foot wide bicycle travel lanes along each side of the street; sidewalks of no less than five feet of width to be provided along each side of the street; conveyances for stormwater; a stormwater detention or retention facility, with adequate access thereto; and, a traffic signal at the intersection of Beech Ridge Trail and Bannerman Road, including associated support structures, signal box, pedestrian crossing signals, and wiring.

11. Upon final completion of the roadway and stormwater facilities construction, and acceptance of that construction by Leon County Public Works, OWNER shall dedicate or convey the ownership of the right-of-way, stormwater facilities and any access to stormwater facilities to Leon County. The dedication of the right-of-way and construction of the public street within the right-of-way qualify as "Significant Benefits" under the provisions of Section 6.2.5.3.b. of the Leon County Concurrency Management Policies and Procedures Manual, adopted on November 14, 2006.
12. The OWNER acknowledges that extension of the Beech Ridge Trail right-of-way from Bannerman Road to Kinhega Dr. is dependent upon acquisition of right-of-way over property presently owned by others, located north of and adjacent to the PROPERTY. The OWNER further acknowledges that the COUNTY shall have up to 12 months from the date of approval of the road design plan and permitting documents to acquire the right-of-way presently owned by others.
13. Upon execution of the road design plan and permitting documents, the COUNTY shall proceed in good faith and with all due deliberateness to acquire the right-of-way presently owned by others. Thereafter, the OWNER agrees to construct that segment of Beech Ridge Trail within the right-of-way located north of and adjacent to the PROPERTY.
14. The parties agree that the commitments for the dedication of the right-of-way by the OWNER set forth in this agreement and for the construction of Beech Ridge Trail and final inspection and acceptance of that roadway, in its entirety, shall be pre-requisites for the issuance of any certificate of occupancy for any building constructed on the PROPERTY.
15. The parties agree that despite the COUNTY'S commitment to proceed in good faith and with all due deliberateness to acquire the right-of-way presently owned by others, externalities and complications may arise that could delay or preclude this acquisition. In recognition of these facts, the parties agree that, if after a period of twelve (12) months from the date of approval the road design plan and permitting documents, the COUNTY has failed to acquire the right-of-way presently owned by others, the OWNER may negotiate for acquisition of this right-of-way, for the purpose of its dedication to the public. Further, the OWNER agrees that the COUNTY shall not be held liable should, despite its actions in good faith, the COUNTY be unable to timely acquire the right-of-way presently owned by others.

16. Should acquisition of the right-of-way presently owned by others not be accomplished within 36 months of months from the date of the execution of this agreement, this agreement shall become null and void; except that and unless both parties agree to an extension. If warranted, such extension shall be affirmed by both parties and recorded in the register of the Clerk of the Courts.
17. As condition of any development order pursuant to the SETTLEMENT AGREEMENT or this Agreement, the OWNER shall provide a surety device for the construction of Beech Ridge Trail and associated improvements as specified in this Agreement which have not been constructed. The surety device shall:
  - (a) Be acceptable to and approved by the county engineer and the county attorney; and,
  - (b) Cover 110 percent of the cost of any uncompleted road, storm water management conveyance improvements, or other required infrastructure as estimated by the engineer of record and approved by the county engineer; and,
  - (c) Be conditioned upon completion of construction of dedicated roads and storm water management conveyances as shown on the approved construction plans within 12 months, or as extended by the county engineer; and,
  - (d) Include anticipated costs of additional right-of-way from third party.
  - (e) Be payable solely to and for the indemnification of Leon County.
18. As condition of any development order pursuant to the SETTLEMENT AGREEMENT or this Agreement, the OWNER shall provide a surety device, payable solely to and for the indemnification of Leon County, in the amount of ten percent of the total cost of all required improvements as approved in the site and development plan to cover defects in materials and/or workmanship for two years.
19. OWNER agrees that all development on the Property will not create more than 226 net new automobile trips in the PM peak hour.

20. OWNER also agrees to coordinate with StarMetro to locate a transit stop and shelter on the PROPERTY or within the adjacent right-of-way.
21. The Agreement issued for this project shall remain in full force and effect for a term of five (5) years from the effective date of the final development agreement between the County and the OWNER.
22. The obligation of this agreement shall remain in full force and effect in the event the property which is the subject of the agreement, or any portion thereof, is sold or is annexed into the City of Tallahassee.
23. If reasonable adjustments in the Agreement are required to complete the project in a satisfactory manner, this Agreement may be amended if agreed to in advance by the OWNER or successor and Leon County.
24. This agreement shall be effective upon the date all parties hereto have executed the same. Within fourteen (14) days of approval of this Agreement, the COUNTY shall record it in the Public Records of Leon County.
25. The rights and obligations of this Agreement shall be binding upon and shall inure to the benefit of the parties to the agreement and their lawful heirs, successors, and assigns.
26. If any word, phrase, clause, section, or portion of this Agreement shall be held invalid by a court of competent jurisdiction, such portion or word shall be deemed a separate and independent provision and such holding shall not affect the validity of the remaining portions of this Agreement.
27. In the event of a breach of this Agreement by a party, the other may sue to enforce this Agreement and the prevailing party shall be entitled to payment of attorney's fees and costs by the non-prevailing party.

LEON COUNTY, FLORIDA

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

Ed DePuy, Chairman  
Leon County Board of County Commissioners

Witness: \_\_\_\_\_  
Print Name: \_\_\_\_\_

Witness: \_\_\_\_\_  
Print Name: \_\_\_\_\_

STATE OF FLORIDA  
COUNTY OF LEON

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_,  
20\_\_\_\_, by \_\_\_\_\_, who is personally known to me and who did not  
take an oath.

\_\_\_\_\_  
Signature of Notary

\_\_\_\_\_  
Print, Type or Stamp Name of Notary

\_\_\_\_\_  
Title or Rank

NAME OF OWNER

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

Designated Agent for:

\_\_\_\_\_  
Property Owner(s)

Dated: \_\_\_\_\_

ATTESTED BY:

\_\_\_\_\_

(CORPORATE SEAL)

**STATE OF FLORIDA  
COUNTY OF LEON**

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_,  
20 \_\_\_\_, by \_\_\_\_\_, who is personally known to me and who did not  
take an oath.

\_\_\_\_\_  
Signature of Notary

\_\_\_\_\_  
Print, Type or Stamp Name of Notary

\_\_\_\_\_  
Title or Rank

**List of Exhibits**

- Exhibit A: Map of PROPERTY
- Exhibit B: Legal Descriptions of PROPERTY
- Exhibit C: ITE Traffic Generation Analysis
- Exhibit D: List of Street Segments Located Within the Comprehensive Traffic Analysis Network

# DeSantis Parcels

Requested By: AAB  
Project Desc: DeSantis Parcels

DATE: 4/6/2007

NAME: christopherw

Legend	
De Santis Parcels	
Buildings	
MAP_DATE	
1/1996	
2/2001	
2/2005	
2/2006	
---	Road Edge
—	Major Roads
▭	Leon County Boundary
▭	Parcels



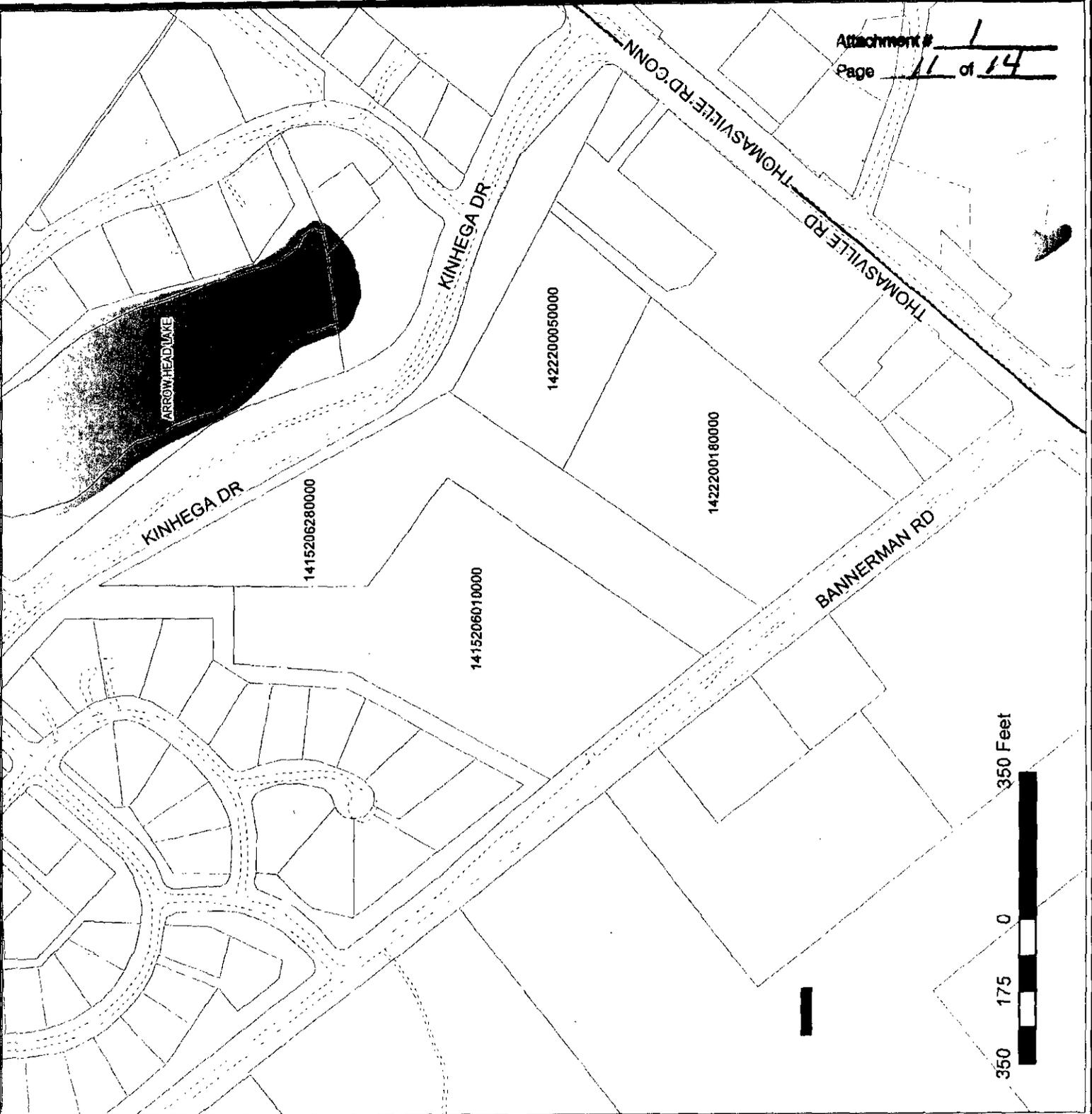
SCALE  
1 inch equals 315 feet

Leon County Growth and Expenditure Map, Section 10

Tallahassee, Leon County

NOTE: This project has been developed by the Leon County Planning Department. It is intended to provide information to the public and to the Leon County Board of Commissioners. It is not intended to be used for any other purpose. The information contained herein is for informational purposes only and does not constitute a guarantee, warranty, or representation of any kind. The information is provided "as is" and without any liability on the part of the Leon County Planning Department. The information is subject to change without notice. The information is provided for informational purposes only and does not constitute a guarantee, warranty, or representation of any kind. The information is provided "as is" and without any liability on the part of the Leon County Planning Department. The information is subject to change without notice.

1-4  
10



Ana Project No. 4504-001  
October 17, 2003

27.74 ACRE PARCEL  
BADFORDVILLE, FLORIDA

Commence at a concrete monument marking the Northeast corner of Section 22, Township 2 North, Range 1 East, Leon County, Florida, and run thence West along the section line a distance of 628.98 feet; thence North 14 degrees 30 minutes West 391.00 feet; thence South 37 degrees 07 minutes West 260.00 feet; thence North 52 degrees 53 minutes West 1381.40 feet to the East boundary of the West Half of the Southwest Quarter of the Southeast Quarter of Section 15, Township 2 North, Range 1 East, Leon County, Florida; thence North 00 degrees 28 minutes East along said East boundary a distance of 324.20 feet to the Northeast corner of the West Half of the Southwest Quarter of the Southeast Quarter of said Section 15, thence North 89 degrees 32 minutes West along the North boundary of the Southwest Quarter of the Southeast Quarter of said Section 15 a distance of 660.00 feet; thence South 00 degrees 28 minutes West along the West boundary of the Southeast Quarter of said Section 15 a distance of 660.00 feet to a 1" iron pipe on the boundary of Killearn Lakes, Unit No. 1, a subdivision as per map or plat thereof, recorded in Plat Book 6, Page 26 of the Public Records of Leon County, Florida for the POINT OF BEGINNING. From said POINT OF BEGINNING run South 28 degrees 14 minutes 45 seconds East along the boundary of said Killearn Lakes, Unit No. 1 and the bearing base for this survey a distance of 954.40 feet to a found 1" iron pipe; thence continue South 28 degrees 14 minutes 45 seconds East a distance of 58.48 feet; thence South 59 degrees 08 minutes 38 seconds East a distance of 466.17 feet to a 4"x 4" found concrete monument (#1254); thence South 40 degrees 38 minutes 07 seconds West a distance of 1094.92 feet to a 5/8" found iron rod on the Northeasterly right of way of Bannerman Road; thence North 37 degrees 24 minutes 45 seconds West along said right of way a distance of 1102.10 feet to a 5/8" set iron rod and cap (#3293); thence leaving said Bannerman Road right of way run North 29 degrees 08 minutes 30 seconds East a distance of 544.05 feet to a found 4"x 4" concrete monument (#1254); thence North 06 degrees 37 minutes 38 seconds East a distance of 279.84 feet to a found 4"x 4" concrete monument (#1254); thence South 88 degrees 54 minutes 49 seconds East a distance of 199.72 feet to a found 4"x 4" concrete monument (#1254); thence North 01 degrees 03 minutes 00 seconds East a distance of 337.58 feet to the POINT OF BEGINNING, containing 27.47 acres more or less.

PROJECT=	De Santis Property																		
	INPUT Land Use/ITE #	INPUT Unit Type	INPUT # of Units	INPUT Gen Rate	INPUT % ENTER	INPUT % EXIT	INPUT Trips ENTER	INPUT Trips EXIT	INPUT IC Rate ENTER	INPUT IC Rate EXIT	INPUT PB Rate	INPUT PB Trips	INPUT PB Rate	INPUT PB Trips	INPUT PB Rate	INPUT PB Trips			
		Sq. Ft.	75	4.57	48%	52%	165	178	0%	0%	34%	117	117	226	109	118			
PROPOSED	Shopping Center (B20)						165	178	0	0	165	178	165	178	165	178			
SUM							165	178	0	0	165	178	165	178	165	178			
							OVERALL IC RATE=									0			

**Roadway Segments within the Comprehensive Traffic Analysis Network (CTAN) of the DeSantis Properties**

Roadway Segment Number	Road Name	From	To	Number of trips	Maximum number of trips allowed	Significant Effect?
13541	Bannerman	Tekesta	Bull Headley	14	235	
13540	Bannerman	Bull Headley	Tekesta	11	400	
13561	Bannerman	Beech Ridge	Tekesta	18	7	Yes
13560	Bannerman	Tekesta	Beech Ridge	16	575	
13560	Bannerman	Beech Ridge	Thomasville	88	-	
13561	Bannerman	Thomasville	Beech Ridge	61	-	
16830	Bradfordville	Thomasville	Pisgah Church	11	371	
16831	Bradfordville	Pisgah Church	Thomasville	25	866	
43580	Kinhega	Beech Ridge	Deer Lake	13	6	Yes
43581	Kinhega	Deer Lake	Beech Ridge	11	301	
43550	Kinhega	Thomasville	Beech Ridge	22	6	
43551	Kinhega	Beech Ridge	Thomasville	10	301	
81200	Thomasville	Foxcroft	Kerry Forest	39	148	
81201	Thomasville	Kerry Forest	Foxcroft	52	1363	
81300	Thomasville	Kerry Forest	Bannerman/Bradfordville	58	573	
81301	Thomasville	Bannerman/Bradfordville	Kerry Forest	62	764	
81330	Thomasville	Bannerman/Bradfordville	Kinhega	15	942	
81331	Thomasville	Kinhega	Bannerman/Bradfordville	9	1149	
81360	Thomasville	Kinhega	Iamonia Lake	7	1620	
81361	Thomasville	Iamonia Lake	Kinhega	7	1328	
82900	Velda Dairy	Kerry Forest	Bradfordville	4	114	
82901	Velda Dairy	Bradfordville	Kerry Forest	11	1036	
	Rhea Rd	Thomasville	Lawton Chiles	8	N/A	
	Lawton Chiles/ Rhea		Kinhega	8	N/A	

Sources: Leon County Concurrency Management System, Tallahassee/ Leon County QRS II Model