



MIROMAR OUTLET HOTEL CPD
Amendment to Development of Regional Impact & Commercial Planned Development
Zoning Staff Report
For Village Council 1st and 2nd Reading

PROJECT NAME:	MIROMAR OUTLET HOTEL CPD
CASE TYPE:	DRI AMENDMENT & PLANNED DEVELOPMENT AMENDMENT
CASE NUMBER:	DRI2018-E001 & DCI2018-E001
PLANNING & ZONING BOARD DATE:	September 18, 2018
COUNCIL 1ST READING:	October 17, 2018
COUNCIL 2ND READING	October 24, 2018

REQUEST AND STAFF RECOMMENDATION

The applicant is requesting amendments to the Development of Regional Impact (DRI) and Commercial Planned Development Zoning to construct a hotel with 135 rooms (5 stories) on 2.3 acres in the 75 acre commercial project (Miromar Outlet) which is part of the larger Timberland and Tiburon DRI (921.2 acres) located along I-75 and Corkscrew Road.

1. DRI Amendment (NOPC)/Eleventh Codified Development Order:

The applicant is requesting to amend the DRI approval by adding 135 hotel units as well as updating the DRI Development Order to recognize the incorporation of the Village of Estero, the renaming of Koreshan Boulevard, and changes in State Statutes.

2. Zoning Amendment:

The applicant is requesting to amend the Miromar Outlet Commercial Planned Development by adding 135 hotel units with Consumption on Premises of Alcoholic Beverages and a pool/amenity area on a 2.3 acre site, with a maximum building height of 75 feet and Deviations.

Staff Recommendation:

Staff recommends approval of the requested amendments to the DRI and the proposed zoning amendment with conditions. Staff has identified several necessary modifications to the proposed zoning Master Concept Plan, Deviations and Pattern Book that must be revised prior

to the Council's second reading. The Planning and Zoning Board reviewed the request on September 18, 2018 and recommended approval of the amendments to the DRI and Planned Development.

APPLICATION SUMMARY

Applicant

Robert B. Roop, Executive Vice President, CFO, Miromar Outlet Parking West, LC

Authorized Agent

Daniel DeLisi, AICP, DeLisi, Inc.

Additional Agent

Neale Montgomery, Pavese Law Firm

Location

The subject property is located in the northwest corner of the Miromar Outlets shopping center adjacent to a large surface water management lake and bounded by Miromar Outlet Drive on two sides and located near I-75. The STRAP numbers are 26-46-25-E3-270M7.0000 and 26-46-25-E3-2700L.0010.

REQUEST

Amendment to DRI:

1. Add 135 hotel rooms to the DRI for a total of 335 hotel rooms.
2. Update the DRI Development Order to recognize the incorporation of the Village of Estero, the renaming of Koreshan Boulevard, and changes in State Statutes.
3. Revision to transportation language in the DRI.

Amendment to Commercial Planned Development Zoning:

1. Add 135 hotel rooms with Consumption on Premises of Alcoholic Beverages (4COP) to the Miromar Outlet Commercial Planned Development on a 2.3 acre parcel;
2. Applicant requests four new deviations.

LAND USE CATEGORY

Suburban – 2.0 acres

General Interchange – .3 acres

Proposed Transitional Mixed Use – 2.3 acres

PUBLIC INFORMATION MEETING

A public information meeting for this application was held at the February 20, 2018 Planning and Zoning Board. The applicant's representative provided an overview of the proposed project which included the location and the conceptual site plan. Planning Board members asked several questions about such things as parking, the pattern book, nearby development, status of the mall development, and whether a hotel is feasible from a market standpoint for the site. The applicant addressed these questions. No members of the public were present.

NOTICE OF PROPOSED CHANGE (NOPC) – DRI AMENDMENT

The applicant has concurrently submitted an amendment to the approved Timberland and Tiburon DRI. The application includes the following summary of the request:

The proposed change is simply to allow for the redevelopment of a surface parking area with a hotel use. The surface parking area is located on the northwest corner of Outlet Mall property, adjacent to both the Mall and the Germain Arena property. The Outlet Mall has well in excess of the required number of parking spaces. A hotel is a permitted use in the DRI. A hotel is no longer a DRI threshold use.

Staff notes that 200 hotel rooms are approved in the University Highlands portion of the DRI. The zoning amendment seeks to add 135 hotel rooms to the Miromar Outlet Mall portion of the DRI. Besides the addition of 135 hotel rooms, the applicant has requested several modifications to the DRI Development Order (DO), which if approved, would become the eleventh amendment to the DRI DO. References in the DO are proposed to be modified from Lee County to the Village of Estero. References to biennial monitoring are proposed to be deleted as the project is nearing build out. References to “Koreshan Blvd.” are proposed to be corrected to “Estero Parkway.” The Village Land Use Counsel has provided a memorandum specific to the Timberland and Tiburon DRI amendment (see Attachment D).

PROJECT HISTORY

The subject property and the entire Miromar Outlet Mall is part of the Timberland and Tiburon Development of Regional Impact (DRI), which was originally approved by Lee County in 1985 (Z-85-072 & Z-85-072/1). The project received a time extension on March 12th, 1990 (Z-90-003). The project also received two one-year extensions for the commencement of development from the Lee County Board of County Commissioners (BoCC) on April 17, 1991 and April 15, 1992 (Resolutions 91-04-32 and 92-04-26). On July 21, 1993, the BoCC approved a phasing plan for the proposed DRI (Z-93-059). On March 4th 1996 the subject property was rezoned to the Commercial Planned Development zoning district (Z-95-094) from AG-2. An amendment to the planned development and the fourth amendment to the DRI DO added 790,000 square feet of commercial space composed of a regional shopping mall (Z-96-072) on January 6, 1997.

The application provides the following discussion concerning project history:

In 1985 the outlet mall area was entitled as part of the DRI approval, but determined to be premature and not zoned. The Third development order amendment in 1996 determined that the shopping center was no longer premature in light of the imminent construction of Florida Gulf University (FGCU) and Treeline Boulevard (Ben Hill Griffin Parkway).

PROJECT DESCRIPTION

The applicant is requesting an amendment to the Commercial Planned Development. The property was rezoned by Lee County in 1997 and developed with a shopping center and parking lot. The site is located in the northwest portion of the Outlet Mall in the parking lot adjacent to Miromar Outlet Drive and I-75. The applicant is proposing to redevelop the site with a 135 room hotel and a pool. The applicant is also proposing a joint use agreement with the mall to use 91 parking spaces on the mall property for hotel parking.

MASTER CONCEPT PLAN

The applicant has provided a Master Concept Plan (MCP) for the 2.3 acre site. The MCP depicts an onsite parking lot, an adjacent shared parking lot, and the proposed hotel and pool. The MCP depicts five access points along Miromar Outlet Drive. Staff notes that these access points currently exist with the developed parking lot. The site plan depicts the hotel and pool in the northern portion of the site with parking on the southern portion of the site. The MCP also depicts an off site existing parking lot on the outlet property that is proposed to provide parking for the proposed hotel through a joint-use agreement.

The MCP needs to be modified to address several issues. The MCP includes a list of requested Deviations. This list needs to be modified (renumbered) to recognize the previously approved Deviations as well as those requested in association with the proposed hotel. The MCP was voluntarily amended to remove 6 back out parking spaces but the label (Hotel = 110 spaces) was not corrected to reflect this reduction. The MCP depicts 104 parking spaces not 110 spaces. The Legend of the MCP also needs to be corrected as it still contains the 6 back out spaces that were removed (States "Proposed Asphalt Parking 29 Spaces Total" when the area referenced actually contains 23 spaces total).

The MCP also lacks pedestrian connectivity within the off site parking lot. Staff is proposing a condition to include with any approval to assure pedestrian connections from the hotel to the off site parking. The off site parking lot also needs several pedestrian access improvements such as a central sidewalk as well as sidewalks on either end as well as crosswalks at the parking lot aisles.

LDC Section 10-256(d) requires sidewalks along privately maintained local streets, such as Miromar Outlet Drive. The Pattern Book does not include a sidewalk on the portion of Miromar Outlet Drive immediately south of the project, north of the off site parking lot. No deviation has been sought by the applicant. The MCP and the Pattern Book should be revised to provide the required pedestrian sidewalk or seek an appropriate deviation.

The MCP also depicts a dumpster enclosure accessed from Miromar Outlet Drive. This location would force the staging and backing up of vehicles (while accessing the dumpster enclosure) in the local road. This could create safety issues. Planning & Zoning Board did not object to the location of the dumpster as they believed the road in question had little traffic.

CONSUMPTION ON PREMISES OF ALCHOLIC BEVERAGES

Just prior to the Planning & Zoning Board public hearing the applicant notified staff that they would like to add consumption on premises (COP) for the hotel including outdoor consumption on premises. Subsequent to the Planning & Zoning Board public hearing, the applicant has modified the plan to indicate the locations of the proposed consumption on premises outdoor areas. The proposed outdoor COP areas include a 1,000 square foot covered outdoor patio and a 4,000 square foot pool deck area. The applicant is also seeking COP within the hotel "including but not limited to the guestrooms, lounge, lobby, restaurants, meeting rooms, and public spaces associated with the hotel". The applicant is requesting a 4 COP license from the Florida Division of Alcoholic Beverages and Tobacco. The applicant has submitted 7 proposed conditions to address COP on the property:

- A. *Consumption on Premises is a permitted accessory use within the hotel including but not limited to the guestrooms, lounge, lobby, restaurants, meeting rooms, and public spaces associated with the hotel.*
- B. *The hotel will have outdoor seating with consumption on premises. The total square footage for outdoor consumption on premises at the hotel is limited to not more than 5,000 square feet for parcel M-7. A permanent bar is permitted within the designated outdoor seating or pool area.*
- C. *Prior to receiving a zoning sign-off for obtaining an alcoholic beverage license for the outdoor seating area for parcel M-7, the Applicant must provide the total square footage previously approved for consumption on premises and demonstrate that approval of the square footage does not exceed the square footage amount permitted under Condition B*
- D. *The sale and service of alcoholic beverages in the outdoor seating area is limited to the hours of 7:00 a.m. to 2:00 a.m. daily.*
- E. *Outdoor consumption on premises areas must be clearly marked with a physical barrier to prevent alcoholic beverages from being removed from the designated area.*
- F. *Live entertainment, in conjunction with consumption on premises is limited to indoors areas and designated outdoor seating areas between the hours of 7:00 a.m. and 2:00 a.m. daily. No entertainment in the designated outdoor seating area may be audible beyond the perimeter of the hotel.*
- G. *Music may be piped into the outdoor consumption on premises areas, provided the volume does not exceed normal conversational level.*

SURROUNDING ZONING AND LAND USE

North – A stormwater lake and Germain Arena which is included in the University Highlands portion of the DRI zoned Mixed Use Planned Development.

East – A stormwater lake and Miromar Outlets zoned Commercial Planned Development.

South – Miromar Outlet Drive, then Miromar Outlets and parking zoned Commercial Planned Development.

West – Miromar Outlet Drive, then I-75, then vacant property owned by the Lee County School District zoned AG-2.

STAFF ANALYSIS

The staff analysis section of this report includes information on various issues, such as environmental issues, transportation impacts, stormwater management, pattern book, height, compatibility, and Comprehensive Plan considerations (including Estero-specific goals and policies).

Staff has provided a summary of the project's advantages and disadvantages below. Following this section is more information on each of the issues.

Summary of Advantages and Disadvantages

Advantages:

- The proposed project will include a new use, a hotel, in a transitional mixed use area in the Village.
- The site is currently developed as a parking lot and is almost all impervious.
- The project will provide a use that complements the adjacent Germain Arena and Miromar Outlets projects.
- The site has no environmental issues.
- The site is set back considerable distances from the nearest residential uses (approximately 775 feet from the Courtyards of Estero and 1,100 feet from the Springs)

Disadvantages:

- The project will add over 1,000 vehicle trips per day (dispersed to Corkscrew Road and Ben Hill Griffin Parkway).
- Level of service issues have been identified for segments of Corkscrew Road. The proposed hotel does not significantly impact either segment.
- The Pattern Book does not provide all of the required detail.

Pattern Book

The applicant submitted a Pattern Book, dated August 24, 2018, which is required by the Land Development Code, Chapter 33. The Pattern Book depicts project goals and vicinity map a walkability radius map, proposed master concept plan, a landscape exhibit, an open space and parking exhibit that includes both the outlet and hotel properties, pictures of the property and surrounding views, a sign exhibit, pedestrian accessibility design goals and connectivity map, "Partial Elevations", and information concerning the buffer along I-75.

Staff review indicates that the Pattern Book does not include all of the necessary information. A few items are listed below:

- Pedestrian connectivity with the offsite parking lot could be increased and all required sidewalks should be depicted or appropriate deviations sought.
- The Pattern Book does not include elevations for all sides of the proposed hotel and is preliminary as no end user has been selected.
- The Pattern Book provides limited details concerning the proposed "Public Outdoor Seating Space".
- The Pattern Book provides no details concerning the "Covered Outdoor Patio" area.
- A Pattern Book should depict the buffers and landscaping plans. The landscaping plan could be modified to provide more landscaping such as trees within the dry treatment area and along Miromar Outlet Drive in the southeast corner of the project.
- The sign illustration is not a monument sign and needs to be revised or a deviation may be necessary.

Environmental Issues

Staff believes there are no environmental issues with the subject site. Staff has performed an inspection on the property. The following are the findings:

- The property has been cleared, filled, and developed as a parking lot.

- There are no wetlands on the site.
- There are no native vegetative communities or critical habitat that could support listed species.
- There are no imperiled (listed) species on the site and no potential since there is no critical habitat.
- There are no floodways designated on the site.
- The site falls within the Special Flood Hazard Area (AE-EL 19) and therefore will need to adhere to the criteria in LDC Sections 6-401, which applies to development in a flood hazard area and 10-253, regarding soil conditions in a flood hazard area.

This is a developed site. Most of the site is maintained as a parking lot while the rest is maintained in a mowed state but there are native trees on the site principally in the tree islands in the parking lot and along Miromar Outlet Drive.

Flood Issues

As mentioned above, the site falls within the Special Flood Hazard Area (AE-EL 19). Staff recommends that a condition be included in any zoning amendment approval confirming that the finished first floor must meet base flood elevation (AE-EL 19) plus one foot of free board as required by the Florida Building Code (or 20 feet NGVD).

Stormwater Management

The applicant has provided a Stormwater Management Narrative concerning the proposed hotel. This narrative provides the following:

Miromar Factory Outlet is located within Base 3 of the Timberland and Tiburon (T&T) Master Surface Water Management Permit. T&T received a permit to construct and operate Basin 1 and a conceptual approval for Basin 3 from the South Water Management District (SFWMD) under Environmental Resource Permit (ERP) # 36-01871-S and Application # 901109-7. This permit established the borrow pit lake as the outfall location for the Miromar Factory Outlet property. The borrow pit lake, located north of the Miromar property, discharges offsite through a control structure located in the southwest corner of the lake into the I-75 roadside swale. The runoff ultimately discharges into the Estero River further downstream after traveling through culverts under I-75 and roadside swales.

The narrative also discusses the functioning of the existing system after the rainfall events of 2017:

The existing water management system for the Miromar Outlet Shopping Center has functioned as expected during heavy rainfall events, including the un-named storm that occurred in August of 2017 and Hurricane Irma which occurred in September 2017. These two (2) storm events caused minor flooding in the lowest lying parking lot areas where drainage inlets are located. As previously mentioned the lowest parking lot elevation is 17.02' -NAVD (18.20 -NGVD), which is 0.28-feet above the Minimum Road Elevation. Therefore, these low parking lot areas would retain water when a storm event in excess of the 25-year event occurs.

In addition, the narrative discusses the proposed project:

The proposed project includes the re-development of a portion of the existing parking lot into a hotel with associated amenities on 2.10 acres. At this time the proposed re-development is not anticipated to result in an increase in impervious surface area. The change of use from a parking lot to a hotel will require a permit modification with the South Florida Water Management District to ensure the project remains compliant with the existing Surface Water Management Parameters and the allowable offsite discharge rate for the site.

The narrative also discusses proposed elevations:

The proposed project is located within FEMA Flood Zone AE, which has a base flood elevation (BFE) of 19.0'-NAVD (20.18'-NGVD). Based on the new Florida Building Code the required Minimum Finished Floor Elevation of the hotel will be 20.0'-NAVD (21.18'-NGVD). This elevation is 1.43' above the 100-Year Peak Stage elevation. Additionally, the Minimum Road Elevation for the hotel will be 17.02'-NAVD (18.20'-NGVD) which is 0.28-feet higher than the 25-Year Peak Stage.

During the review of the request, staff noted to the applicant that stormwater flowed through the site and questioned how this was going to be accommodated in the future. The applicant modified the narrative to address this issue:

All existing drainage infrastructure located in the existing parking lot in conflict with the final site plan will be removed to accommodate the hotel and Associated site improvements. Please note that the two (2) drainage inlets serving the frontage road to the west of the hotel development will be re-routed through the hotel site with ultimate discharge into the master surface water management system. The exact route for this drainage will be determined at the time of Development Order and permitted through both the SFWMD and the Village of Estero.

There are no negative impacts anticipated to the surface water management system as a result of the proposed re-development of the parking lot area into a hotel.

The Village engineer has reviewed the applicant's stormwater analysis and does not have additional comments or concerns. Staff recommends that a condition be included in any approval for the hotel that requires that the Development Order approval address the frontage road drainage into the surface water management system.

Transportation Issues

The proposed 135-unit hotel development will generate approximately 1,097 vehicle trips per day according to the applicant's traffic analysis. The project has access to both Ben Hill Griffin Parkway and Corkscrew Road. Peak hour trips would be 62 in the morning and 75 in the evening peak hour. Some of these trips would remain internal to the Miramar Outlets development.

The applicant's Traffic Study provides the following overview:

The T&T DRI is almost built out. Grandezza, the Grande Oak Shops and Germain Arena are built out. Miramar Outlets has some parcels remaining and University Highland has three parcels remaining.

Since the DRI is almost built out, it is very likely that the DRI will not build to its maximum approved and entitled parameters and will not generate the amount of trips approved in the DRI Development Order. This could then leave some unbuilt development parameters that could potentially be: either transferred to Miromar Outlets, such as some of the hotel rooms (if the approved hotel rooms have not been built); or converted to hotel rooms, if all of the approved retail and office square footage has not been built. Under these two scenarios, there would be no increase in the number of DRI approved trips with the proposed 135 hotel rooms at Miromar Outlets.

The study provides two scenarios for accommodating the proposed hotel. The first is to transfer hotel units from the University Highlands portion of the DRI. University Highlands has 200 hotel rooms approved. The study provides this:

Under this scenario, up to 135 hotel rooms of the DRI approved 200 rooms could potentially be transferred within the DRI to Miromar Outlets. There would be no change to the DRI's approved net new external peak hour trips under this scenario.

The second identified scenario converts approved square footage to hotel rooms:

Under this scenario, unused land uses within the DRI could potentially be converted to hotel rooms. There would be no increase in net new external peak hour trips for the DRI under this scenario.

The applicant has proposed including a condition in the DRI Development Order:

Condition XXX. Hotel Development

Any hotel built within the Timberland & Tiburon DRI may develop through utilizing unbuilt hotel units within the DRI and/or through the conversion of non-residential square footage to hotel rooms based on the following conversion rates, which are reflective of no increase in the approved net new external peak hour trips for the overall Timberland & Tiburon DRI.

<i>100 sq. ft. retail shopping center</i>	<i>=</i>	<i>1.50 hotel rooms</i>
<i>100 sq. ft. outlet mall retail</i>	<i>=</i>	<i>0.64 hotel rooms</i>
<i>100 sq. ft. general office</i>	<i>=</i>	<i>0.50 hotel rooms</i>
<i>100 sq. ft. medical office</i>	<i>=</i>	<i>1.50 hotel rooms</i>

Corkscrew Road is a two-lane arterial road, currently shown in Lee County's 2017 Concurrency Report operating at an acceptable level of service east of Ben Hill Griffin Parkway. This segment of the road is expected to fail (Level of Service F) by 2021. Lee County is conducting a study to evaluate the road to widen Corkscrew Road and to identify the cost and funding methods, including proportionate shares from several county-approved projects located further east on Corkscrew Road. The study is not complete, but has recognized that 4-laning is needed east of Ben Hill Griffin. The proposed hotel does not significantly impact this segment of Corkscrew Road.

There is another Level of Service issue at Corkscrew Road and the Interstate-75 interchange. Interim improvements have been funded by the Florida Department of Transportation (FDOT) that should be completed by 2019/2020 to improve the level of service to acceptable levels.

There is Lee Tran bus service available in the area, specifically to the Miromar Outlets.

Utilities

The property is located in the Lee County Utilities franchise service areas for both potable water and wastewater services. Potable water and sanitary sewer lines are in operation adjacent to the property. The applicant obtained a Potable Water and Wastewater Service Availability letter from Lee County Utilities dated December 14, 2017. This letter provides that Lee County Utilities presently has sufficient capacity to provide potable water and sanitary sewer service. The applicant will need an updated service availability letter from Lee County Utilities in conjunction with any development order site plan approval, indicating sufficient capacity for the project.

Fire

Estero Fire Rescue has reviewed the request and provided that “An Auto Turn study will be required to ensure adequate access for fire apparatus”. The applicant must contact the district for truck dimensions and complete the study prior to the issuance of the Development Order. Staff recommends that a condition be included with any approval of the zoning amendment that requires that this study be provided as part of the Development Order.

Parking

The applicant has provided an analysis that demonstrates there is sufficient parking to accommodate the outlet mall uses as well as the hotel use. LDC Section 34-2020 contains the amount of required parking spaces by land uses in two tables, one for residential uses (Table 34-2020(a)), and one for non-residential uses (Table 34-2020(b)). All uses are required to provide off-street parking based on single-use development requirement unless the use is located in a development that qualifies as a multiple-use development. Table 34-2020(b) provides that hotels and motels must provide 1.2 spaces per rental unit. For the 135 room proposed hotel this equates to 162 parking spaces.

The MCP depicts 104 parking spaces provided on site and 91 parking spaces provided through a Joint-Use Agreement located on the adjacent Outlet property. Staff recommends that a condition be included to require the Joint-Use Agreement be provided as part of the Development Order.

The MCP prior to the Planning & Zoning Board depicted 6 parking spaces that backed out into Miromar Outlet Drive. This not consistent with the requirements of the LDC. For example, LDC Section 34-2013(a) provides that “Parking lots must be designed to permit vehicles exiting the parking lot to enter the street right-of-way or easement in a forward motion. The applicant voluntarily withdrew these 6 back out parking spaces at the Planning and Zoning Board Public Hearing, however, the MCP must be revised to correct this.

Height

Section 33-229 of the Land Development Code limits height of buildings outside of the Highway Interchange Areas to a maximum of three stories or 45 feet, whichever is less. This section of the code also provides that “Elements that enhance visibility, create focal points or amenities, such as turrets, sculpture, clock tower and corner accentuating rooflines, may exceed the maximum height limitations with an approved variance or deviation.” The Miromar Outlets project was previously approved by Lee County in Resolution Z-95-094 for a maximum height of 45 feet with no more than three habitable floors.

The applicant has requested a height up to 75 feet and 5 stories for the hotel. No line of sight drawings have been provided to determine if this will impact the residences in adjacent projects, but the nearest residences (on the east side of I-75) are approximately 1,000 feet away across the joint stormwater management lake. Given the large distance separation, Staff does not have an issue with the requested height.

The hotel building is located in the Suburban land use category. The Interchange category covers the southern parking aisle and parking row adjacent to Miromar Outlet Drive. The Transitional Comprehensive Plan does allow the extension of the Interchange land use category at the discretion of Village Council. This plan language is included in Policy 6.1.2 and is reproduced below:

Any contiguous property under one ownership may, at the discretion of the Board of County Commissioners, be developed as part of the interstate interchange, except in the Mixed Use Interchange district, provided the property under contiguous ownership to be developed as part of the interstate interchange does not extend beyond three-quarters of a mile from the interchange centerpoint. Applications seeking interstate uses outside of the interstate highway interchange area will be evaluated by the Board considering the following factors: percentage of the property within the interstate interchange; compatibility with existing adjacent land uses; and, compatibility with surrounding Future Land Use Categories. This is intended to promote planned developments under unified ownership and control, and to insure proper spacing of access points.

The hotel property does not extend beyond three-quarter of a mile from the interchange centerpoint, being within about 1,750 feet from the centerpoint. Staff notes that 13% of the hotel site is within the interstate interchange category. Staff believes the requested use is compatible with existing adjacent land uses, and is compatible with the surrounding Suburban and Urban Community Future Land Use Categories. Staff recommends that Council make a finding that the hotel can be developed under the interchange category which will allow the additional height.

Comprehensive Plan Considerations

The project is located in the Suburban (2.0 acres) and General Interchange (0.3 acres) categories of the Comprehensive Plan. A description of these categories is below:

Suburban

Policy 1.1.5: The Suburban areas are or will be predominately residential areas that are either on the fringe of the Central Urban or Urban Community areas or in areas where it is appropriate to protect existing or emerging residential neighborhoods. These areas provide housing near the more urban areas but do not provide the full mix of land uses typical of urban areas. The

standard residential densities are the same as the Urban Community category. Higher densities, commercial development greater than neighborhood centers, and industrial land uses are not permitted. Bonus densities are not allowed. (Amended by Ordinance No.94-30)

Policy 1.3.2: *The General Interchange areas are intended primarily for land uses that serve the traveling public: service stations, hotel, motel, restaurants, and gift shops. But because of their location, market attractions, and desire for flexibility, these interchange uses permit a broad range of land uses that include tourist commercial, general commercial and light industrial/commercial. (Amended by Ordinance 94-30, 99-18)*

The proposed hotel is allowable in either land use category. The proposal's compatibility with adjacent uses is discussed below. The applicant notes that the proposed hotel would be the only hotel on the east side of I-75 at Corkscrew Road.

The subject site is designated Transitional Mixed Use in the Village's new comprehensive plan. The plan is not currently in effect and the proposal is proceeding under the Transitional Comprehensive Plan.

Compatibility

The proposed hotel will be developed between Germain Arena and the Miromar Outlet Mall. The property is bounded by Miromar Outlet Drive and a large stormwater lake. The nearest residential use on the east side of I-75, The Springs, multifamily units north of Miromar Outlets, is located approximately 1,100 feet across the stormwater lake. The nearest residential use on the west side of I-75, the Courtyards of Estero, multifamily units at the interchange, is about 775 feet away across I-75.

The application provides this discussion:

The redevelopment of the parking lot is an appropriate area due to its proximity to its nexus with surrounding development and proximity to the interstate, FGCU, and Southwest Florida International Airport. The hotel use is a more efficient use of the property than the current surface parking lot. The hotel will be able to provide a direct benefit to the mall by having a customer base located on site, providing restaurants and shopping opportunities within walking distance of the hotel units. The hotel can also provide a direct benefit to Germain Arena during times where they host regional events.

The applicant provides that the hotel will complement the outlet mall:

The existing (sic) of a hotel on the subject property will reduce dependence on the automobile by providing a customer base for the outlet mall on the mall property. Hotel patrons will be able to eat at the mall's restaurants and shop within the mall. Locating the mall on a property that is currently used for mall parking promotes pedestrian movement between two complimentary uses.

Staff finds that the proposed hotel use is compatible with the adjacent commercial uses. The proposed use should provide synergy with the nearby Arena as well as the outlet mall.

Comprehensive Plan Policies

Policies from the Comprehensive Plan that are relevant to this project are cited below.

OBJECTIVE 19.1: CHARACTER & LAND USE. *Promote community character through the implementation of planning and development practices that create a visually attractive community, an enhanced quality of life, and foster a unique sense of place. (Added by Ordinance No. 14-16)*

POLICY 19.1.1: *Support the unique character and quality of life within the Estero community by managing growth and development and by maintaining and executing Lee Plan policies, Land Development Code (LDC) regulations, and other planning tools that:*

- a. Implement and maintain commercial development standards for architecture, landscaping, buffering, signage, lighting designs and visual appearance of developments, transportation facilities, and other community amenities;*
- b. Promote the use of low impact design, sustainable energy, water, and other environmental features;*
- c. Establish higher density, mixed-use development within areas targeted on the Mixed-Use Overlay;*
- d. Encourage the redevelopment and infill of underutilized commercial and residential lands; and*
- e. Increase public participation in the land development approval process to ensure future development efforts support the Estero community plan and adopted Lee Plan policies and LDC standards. (Added by Ordinance No. 14-16)*

POLICY 19.1.3: *Encourage new developments that achieve the Estero community’s vision and planning goal and policies and are consistent with mixed-use design, architectural, location, connectivity and public access standards by establishing and implementing development incentives within the Lee Plan and Land Development Code that:*

- a. Promote urban integrated forms of development in targeted areas identified on the Mixed-Use Overlay;*
- b. Promote targeted industries in appropriate areas of Estero—e.g.: healthcare, arts and culture, technology, and research and development facilities;*
- c. Promote the use of green design, sustainable energy, water, and other environmental features;*
- d. Expedite development projects particularly in targeted incentive zones where the community has adopted mixed-use plans and LDC standards;*
- e. Enable infill of underutilized commercial and residential lands; and*
- f. Encourage residential developments to use the bonus density established through the Lee Plan Urban land use categories. (Added by Ordinance No. 14-16)*

The subject site is an infill site that is mainly used for overflow parking for the outlet mall and Germain Arena. The proposed hotel will compliment the adjacent arena and outlet mall uses. The location of the hotel will serve patrons of both facilities that desire a nearby lodging facility. The proposed hotel will have to be reviewed and approved by the Design Review Board to obtain a Development Order.

OBJECTIVE 19.2: MIXED-USE CENTERS AND ECONOMIC AREAS. *Promote Estero’s quality of life and diverse local economy by fostering the development of mixed-use centers and targeted economic areas, as a preference over the development of strip commercial centers. The aim of the mixed-use centers is to provide Estero with central gathering places for Estero’s residents, business people, and visitors. The aim of the economic areas is to provide the community a diverse employment and economic base while meeting the commercial, professional, and service needs of the people who live, work, and play within the community. (Added by Ordinance No. 14-16)*

POLICY 19.2.1: *Where feasible, provide for the development of walkable mixed-use town centers and economic areas featuring diverse housing options; government offices and public facilities; medical facilities; employment centers; public gathering places, parks, outdoor plazas, and other*

public spaces; greenway trails and pathways; and public access to the community's natural resources through Lee Plan policies and LDC regulations that support Estero's distinct community character and the following community priorities:

- a. Support the development of a central town center to unify the community;
- b. Improve the connectivity between Estero's residential neighborhoods, economic areas, civic uses, and park and recreational facilities;
- c. Diversify the community's economic base and employment opportunities;
- d. Encourage the development of targeted industry clusters—particularly health industries, professional services and businesses, and technology, research, and development;
- e. Expand multi-modal transportation options through improved pedestrian access, bikeways, transit service, and rail opportunities;
- f. Improve access to the community's blueways—particularly the Estero river—, greenway trails, other open spaces;
- g. Promote the community's cultural and historic resources; public spaces, parks, and recreational facilities; and other community amenities;
- h. Commercial and mixed-use developments will maintain a unified and consistent aesthetic/visual quality in landscaping, architecture, lighting, and signage; and
- i. Promote and incentivize private investment within mixed-use centers and economic areas. (Added by Ordinance No. 14-16)

The request, if approved, adds a use that is not currently occurring in this quadrant of the interstate interchange. The hotel will provide lodging, an additional use in the mixed use Miromar Outlet property. The proposal furthers connectivity to Germain Arena by adding pedestrian sidewalks along Miromar Outlet Drive. Additional pedestrian connectivity between the proposed hotel and the additional parking area on the mall property should be provided. The proposal includes a public gathering space, a seating area, located on the east site of the hotel property. This seating area overlooks the lake located to the north.

POLICY 19.2.4: *Ensure that future commercial and mixed-use developments meet the community's planning priorities by requiring that all new commercial development which requires rezoning within Estero must be rezoned to a Commercial (CPD), Mixed Use (MPD), or Compact Communities Planned Development (CCPD). (Added by Ordinance No. 14-16)*

Adding the hotel use, a new commercial development, requires an amendment to the already approved Commercial Planned Development (CPD). The proposal, if approved, results in an additional use adjacent to the outlet mall property furthering the establishment of a mixed use center.

POLICY 19.4.1: *Establish land development code standards that ensure the development of a well-connected transportation system that includes pedestrian pathways, bikeways, transit, and roadways. These standards should:*

- a. Require, where feasible, interconnects with adjacent uses;
- b. To the extent feasible, minimize access points onto primary road corridors by providing multiple access to adjacent properties;
- c. Link neighborhoods, commercial and mixed-use centers, public facilities, and parks; and
- d. Enable multi-modal transportation access (pedestrian, bike, vehicular, and transit) within and between the different neighborhoods, economic and employment centers, civic uses, and public space, park, and recreational facilities within the Estero Community.

POLICY 19.4.3: *All public and private rights-of-way within future mixed-use centers and the Old Estero area, as defined in the Land Development Code, are encouraged to be designed to*

include pedestrian ways, cross walks and traffic calming measures including, where appropriate, on-street parking, raised crosswalks, narrow lane widths or other similar mechanisms. (Added by Ordinance No. 14-16)

This project is proposing a commercial use, a hotel, in an area developed with regional commercial uses such as the Miromar Outlets and Germain Arena. The project is proposing to interconnect to these adjacent commercial uses by adding sidewalks and pedestrian crossings of Miromar Outlet Drive.

OBJECTIVE 2.2: DEVELOPMENT TIMING. *Direct new growth to those portions of the Future Urban Areas where adequate public facilities exist or are assured and where compact and contiguous development patterns can be created. Development orders and permits (as defined in F.S. 163.3164(7)) will be granted only when consistent with the provisions of Sections 163.3202(2)(g) and 163.3180, Florida Statutes and the county's Concurrency Management Ordinance. (Amended by Ordinance No. 94-30, 00-22)*

POLICY 2.2.1: *Rezoning and development-of-regional-impact proposals will be evaluated as to the availability and proximity of the road network; central sewer and water lines; community facilities and services such as schools, EMS, fire and police protection, and other public facilities; compatibility with surrounding land uses; and any other relevant facts affecting the public health, safety, and welfare. (Amended by Ordinance No. 94-30, 00-22)*

This project is in a future urban area (Suburban & General Interchange). Sewer and potable water lines are in the vicinity of the project and the applicant has provided an availability letter from Lee County Utilities. The project is accessed from Miromar Outlet Drive that has access to Ben Hill Griffith Parkway and Corkscrew Road. Staff does not believe that the proposed hotel will have a significant effect on Corkscrew Road.

Deviations

The applicant is proposing 4 new deviations with this request. The applicant is also requesting to utilize 2 previously approved deviations, Deviation 6 and Deviation 7. The previously approved Deviations are discussed below followed by a discussion of the new proposed deviations.

Previously Approved Deviations

The prior zoning approval had seven approved deviations and 1 deviation withdrawn. These previously approved deviations are discussed below.

Deviation (1) requested relief from LDC Section 10-413(b) which requires 30 percent open space for large projects to allow 16.5 percent open space. Deviation (2) requested relief from LDC Section 10-413(c)1 to allow 18 percent of the open space area to be preserved with existing indigenous vegetation. Deviation (3) requested relief from LDC Section 30-153(2)a to permit a sign package including three permanent on-site identification signs, 25 feet in height, with a copy area per sign not to exceed 196 square feet and located a minimum of 20 feet from the road right-of-way; one permanent on-site identification sign, 75 feet in height, with a copy area not to exceed 484 square feet and located a minimum of 15 feet from the road right-of-way.

Deviation (4) approved the access connections on Treeline Boulevard now known as Ben Hill Griffin Parkway. Deviation (5) requested relief from LDC Section 10-415(b)(1) which requires a 10-foot-wide landscape strip between the project's internal right-of-way and parking lot to allow no landscape strip between the project's internal right-of-way and parking lot provided that the project maintains a 40-foot-wide landscape strip containing five trees and 12 shrubs per 100 linear feet abutting Corkscrew Road and I-75 right-of-way.

Deviation (6) requested relief from LDC Section 10-415(c)(2)a which requires one tree for every 250 square feet of internal planting area and that no parking space may be more than 100 feet from a tree planted in a permeable island, peninsula or median of 10-foot minimum width to permit the developer to install one tree for every 250 square feet on internal planting areas with no parking space more than 200 feet from a tree versus the code required 100 feet.

Deviation (7) requested relief from LDC Section 10-415(c)(2)d which requires that no more than an average of 10 parking spaces may occur in an uninterrupted row, to allow no more than 20 spaces occurring in an uninterrupted row. Deviation (8) was withdrawn at hearing. Subsequent to the Planning & Zoning Board public hearing, the applicant has added Deviations (6) and Deviation (7) to the Master Concept Plan indicating the use of these previously approved Deviations with the development of the proposed hotel.

Deviations Requested In Conjunction With The Proposed Hotel

In addition to previously approved Deviations 6 and 7, the applicant is requesting 4 new deviations associated with the proposed hotel. These deviations are discussed below. Staff notes that the deviations have been included on the Master Concept Plan, but need to be renumbered so that there is no confusion with the previously approved deviations.

- *Deviation (9): Seeks relief from LDC Section 10-285 which requires a minimum connection separation on local roads of 125 feet, to allow for connection separation distances as depicted on the master concept plan.*

The applicant provides the following justification:

The master concept plan depicts the existing Miromar Outlet Drive parking lot and the parking lot aisle, platted as Miromar Outlet Drive. Even though the parking accessway is platted it has always been considered a parking isle, not a local road. Therefore, the parking lot has been constructed similar to other parking lots with multiple parking aisles with an approximately 60-foot separation at the end of each row of parking. To the extent that the Village now interprets the parking aisle as a local road, the deviation is necessary to ensure that the parking lot in its current configuration can remain. The development of the hotel parcel will not change the south portion of the parking lot for the subject parcel, or the currently existing parking aisles from the lot. The parking lot aisle was named as part of the effort to notify the public of the appropriate exit for the mall as Miromar Outlet Drive is mentioned on the Corkscrew Road Exit sign on I-75. The Estero community supported this alternative to improved signage on-site. The continued recognition of Miromar Outlet Drive as a parking lot aisle enhances the planned development and does not create any public health safety and welfare concerns.

The area at the south end of the hotel will be maintained to provide clear line of sight and a stop condition so that cars exiting the parking lot can easily see oncoming cars within the parking access way, Miromar Outlet Drive.

Staff notes that this condition does not exist everywhere along Miromar Outlet Drive but predominantly occurs along the I-75 frontage. With the addition of pedestrian crosswalks and stop conditions along Miromar Outlet Drive south of the project, and the stated intent to reuse the parking lot more or less as is, staff recommends approval of this deviation.

- *Deviation (10): Seeks relief from LDC Section 10-416(d)(3) and LDC Section 33-351 which require a type D buffer separating commercial development from a right of way and a type A buffer between adjacent commercial lots to allow for no buffer requirement separating the proposed hotel from Miromar Outlet Drive and the Outlet Mall parking lot. The existing vegetation on the southside of the hotel parcel where the existing parking lot is not being reconfigured, will remain to the greatest extent possible.*

The applicant provides the following justification:

The hotel property is being proposed to be developed as a use integrated with the rest of the Outlet Mall. The benefit of the hotel at this location is its visibility to and integration with the mall itself. The hotel will be designed with pedestrian connections to allow for easy access for hotel guests to the restaurants and retail shops at the mall. A buffer requirement runs counter to the goal of integration of uses. In this case, the goal is not to separate adjacent uses but to provide strong visual connections so that the uses can be integrated. The deviation would require that the existing street trees on the southern edge of the hotel parcel, where the parking lot is not being reconfigured, remain to provide vegetation and landscape areas.

Staff notes that LDC Section 10-416(d)(3) requires a Type “D” buffer along Miromar Outlet Drive. An “A” buffer is only required adjacent to another commercial use, such as the mall back-out parking located east of the subject property. Staff recommends approval of this request provided that the applicant plant 6 bald cypress trees in the dry treatment area depicted on the MCP and retains the existing trees along Miromar Outlet Drive.

- *Deviation (11) Seeks relief from the LDC Section 34-625(d)(4) which requires light poles not to exceed 25 feet to allow for the light poles at 30 feet within the Planned Development.*

The applicant provides the following justification:

The subject property has been developed as a parking lot for the adjacent Outlet Mall to the south. With the development of the hotel use, much of the existing parking lot will remain in the current configuration, including with the existing lights in the parking area. The existing lights were constructed prior to the adoption of LDC 34-625 and stand at 30 feet in heights. They are considered a legal non-conforming use. This deviation will allow the light poles in the existing parking lot to remain and continue to be maintained, consistent with the rest of the lights throughout the outlet mall parking area.

The subject property is bound by an outlet mall, a sports arena, I-75 and a large lake. The additional 5 feet from 25 feet to 30 feet is unnoticeable by any adjacent residential use and would have no impact on adjacent properties. The taller height allows fewer lights to be constructed because the light projected downward covers a larger area. Changing the lighting and the number of poles within the parking area will cause a reconfiguration of a parking lot that could otherwise remain as constructed. Allowing the poles to remain also provides consistency throughout the entire outlet mall area.

Staff agrees that approving the Deviation would create consistency with the existing lighting standards. This is a small portion of the overall development. Staff recommends that this deviation be approved.

- *Deviation (12) Seeks relief from LDC Section 33-229 which requires that buildings outside of highway interchange areas be limited to a maximum height of 45' feet, to allow for a maximum height of 75 feet for the hotel at the Outlet Mall.*

The applicant provides the following justification:

The subject property is within both the General Interchange land use category and the Suburban land use category. The property is part of an overall development that is a highway interchange use. In accordance with the Interim Village Plan, the interchange area could be extended across the property consistent with the proposed unified plan of development and a deviation would not be necessary.

The subject property is well isolated from surrounding uses minimizing any impacts of the increased height. The closest residential use is over 1,100 feet to the east of the hotel site. To the north is the Germain Arena, to the south is the Outlet Mall and to the west is I-75. Due to the location of the property and the surrounding uses there are no negative impacts to the proposal.

Additional height will enhance the Master Concept plan by allowing a smaller building footprint with an increased amount of pedestrian activity and integration of the hotel with the Outlet Mall.

Staff is also aware of the applicant's concern about the pending effectiveness of the Village's new comprehensive plan that replaces the interstate interchange land use category with a new category, Transitional Mixed Use. For clarity that the proposed hotel is permitted a 75 foot height, staff recommends approval of this deviation, limited to the proposed hotel.

FINDINGS AND CONCLUSIONS

The Council will need findings of fact to support its recommendation.

After balancing the advantages and disadvantages of this project and its impacts, based upon an analysis of the application and the standards for approval in the Land Development Code, staff has proposed the following Findings of Fact for review:

1. The applicant has provided sufficient justification for the zoning amendment by demonstrating compliance with the Comprehensive Plan, the Land Development Code, and other applicable codes.
2. The application is generally compatible with existing or planned uses in the surrounding area. The proposed use is set back a considerable distance to adjacent commercial uses.
3. The Council finds that General Interchange land use category is extended over the subject property to allow heights over 45 feet. The hotel is limited to 75 feet in height.
4. Approval of the request will not place an undue burden upon existing transportation or planned infrastructure facilities because there are interim improvements underway at the I-75 interchange and the 4 laning of Corkscrew Road east of Ben Hill Griffin Parkway is funded in the Lee County CIP. This project will not significantly impact the interchange or Corkscrew Road east of Ben Hill Griffin Parkway.
5. Urban services will be available and adequate to serve the proposed use.
6. The request will not adversely affect environmentally critical areas and natural resources.
7. The proposed use, with the proposed conditions, is appropriate at the subject location.
8. The recommended conditions provide sufficient safeguards to the public interest and are reasonably related to impacts on the public's interest created by or expected from the proposed development.
9. The deviations recommended for approval:
 - a. Enhance the planned development; and
 - b. Preserve and promote the general intent of the LDC to protect the public, health, safety and welfare.

ATTACHMENTS

- A. Zoning Map
- B. Future Land Use Map
- C. Village Land Use Counsel Memorandum
- D. Zoning Resolution Z-95-094
- E. Draft Planning & Zoning Board Minutes, September 18, 2018
- F. Public Information Meeting Minutes
- G. Applicant's information

Zoning Map

DCI2018-E001

MPD

MPD

RPD

MPD

MPD

AG-2

CPD

CPD

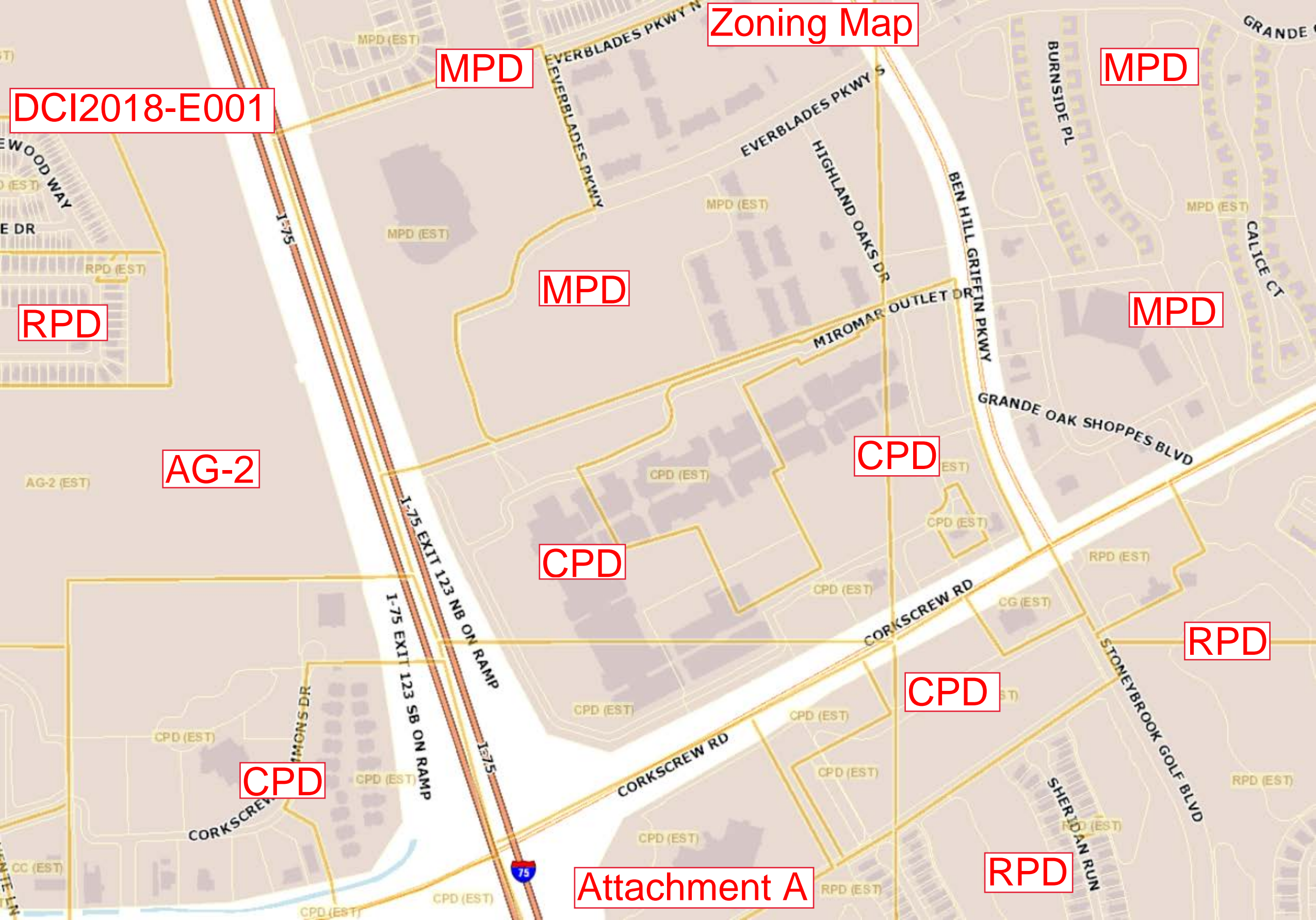
RPD

CPD

CPD

Attachment A

RPD

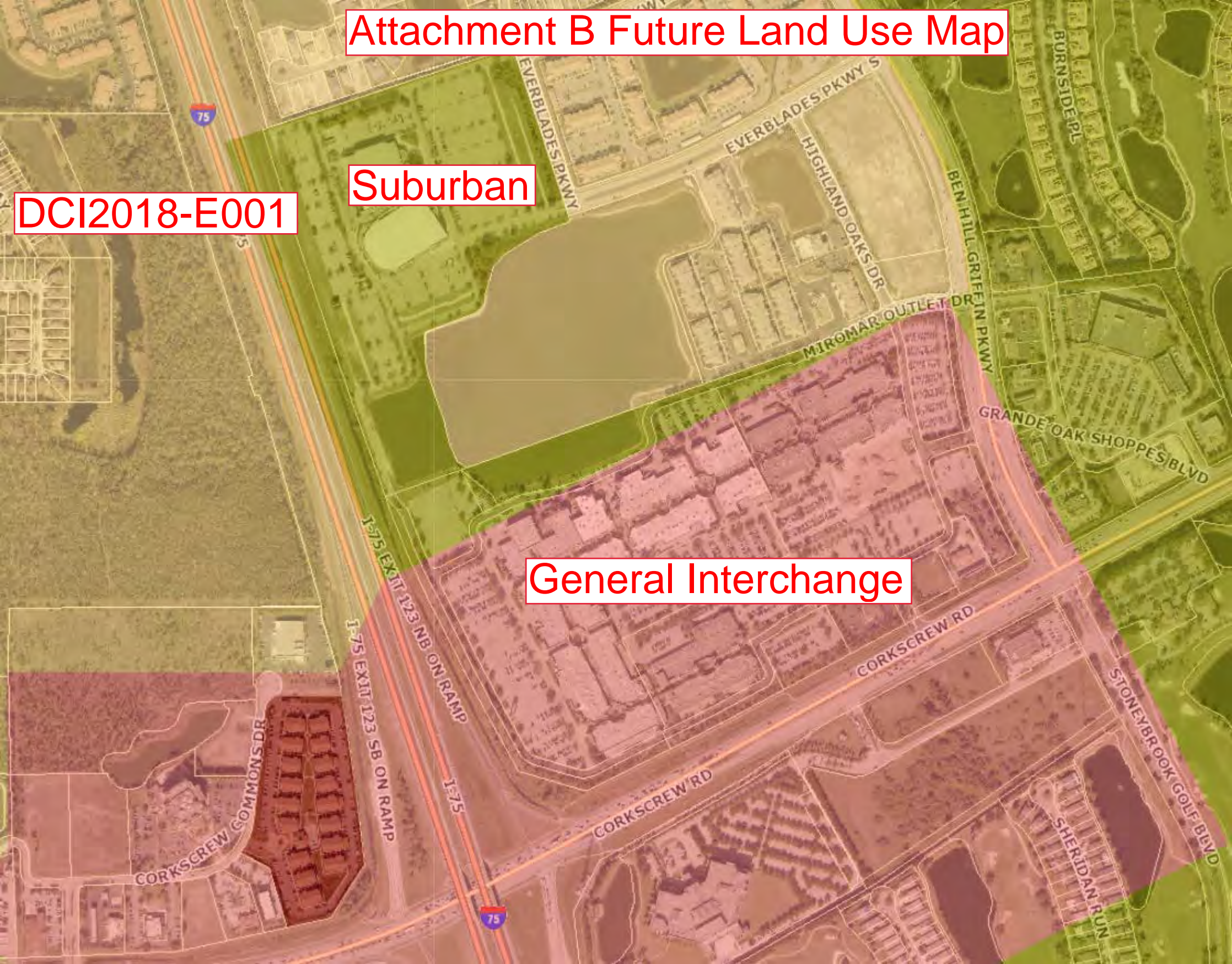


Attachment B Future Land Use Map

Suburban

DCI2018-E001

General Interchange



Lewis Stroud & Deutsch, P.L.

MEMORANDUM

TO: Village Council, Village of Estero

FROM: Nancy Stroud
Village Land Use Counsel

RE: Timberland Tiburon Development of Regional Impact Amendment – Miromar Hotel

DATE: September 10, 2018

Lee County in 1985 adopted the development order for the Timberland and Tiburon Development of Regional Impact (DRI), by Resolutions Z-85-072 & Z-85-072/1. The DRI is currently operating under a Tenth Amendment to the original DRI development order, which amendment was approved in 2011. The current application requests an amendment to the DRI to allow a 135 unit hotel to be built adjacent to and west of the Miromar Outlets, in addition to the 200 hotel units now allowed by the DRI. Concurrently, the developer is requesting an amendment to the Commercial Planned Development Order adopted in 1996 by Lee County as Resolution Z-95-094 to allow the additional 135 unit hotel at this location.

As explained in my memo of May 24, 2018, the Florida legislature in 2018 significantly amended the DRI statute to eliminate the state and regional review process throughout Florida. Instead, local governments are tasked with review and decision-making on any DRI amendments in accordance with local government standards and processes. In this case, the additional hotel units if approved by the Village will require an amendment to the DRI resolution (an Eleventh Amendment), by resolution, and an amendment to the Commercial Planned Development Order, by ordinance.

The additional hotel units are not vested under the existing DRI. They also are not permitted under the existing zoning, and thus the Village Council has the discretion to approve or not approve the additional units at this location should it determine that there is a legitimate public purpose to maintain the status quo at this location. Additionally, the proposed amendments must be consistent with the Village's transitional Comprehensive Plan.¹ Under the transitional Comprehensive Plan, the property is designated as Suburban (1.86 acres) and General Interchange (0.24 acres). Hotel units are allowed under both land use designations.

¹ Until the new Village Comprehensive Plan becomes effective, the transitional Comprehensive Plan applies.

RESOLUTION NUMBER Z-95-094

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

WHEREAS, Timberland, Ltd. and Tiburon, Ltd. filed an application for:

- a) an Amendment to the Development of Regional Impact Development Order;
- b) a Substantial Deviation Determination by the local government as defined in Section 380.06, Florida Statutes; and
- c) a rezoning of a portion of the DRI from AG-2 (Agricultural) to Commercial Planned Development (CPD); and
- d) a finding of "special case" as allowed in Standard 13.1.10 of the Lee Plan for the location of the CPD within one-half mile of the I-75 interchange; and

WHEREAS, the subject property is located at 10751, 10801, 11061, 11121 and 11631 Corkscrew Road, and is described more particularly as:

LEGAL DESCRIPTION: In Sections 25, 26 and 35, Township 46 South, Range 25 East, Lee County, Florida:

Begin at the Northeast corner of Section 25, Township 46 South, Range 25 East, Lee County, Florida, more particularly described as follows:
THENCE run S89°27'49"W along the North line of said Section 25 for 5,248.73 feet to the Northwest corner of said Section 25;
THENCE N89°43'14"W along the North line of the Northeast Quarter (NE¼) of the aforementioned Section 26 for 2,687.71 feet to the Northeast corner of the Northwest Quarter (NW¼) of said Section 26;
THENCE N89°45'55"W along the North line of the Northwest Quarter (NW¼) of said Section 26 for 885.98 feet to an intersection with the Easterly right-of-way line of I-75;
THENCE along said Easterly right-of-way for the following described eleven (11) courses:
S18°17'53"E for 3,919.40 feet;
THENCE S19°26'38"E for 899.24 feet;
THENCE S21°18'00"E for 205.99 feet;
THENCE S25°00'43"E for 205.99 feet;
THENCE S26°52'05"E for 486.08 feet;
THENCE S28°49'54"E for 348.60 feet;
THENCE S73°34'03"E for 304.06 feet;
Continued ...
THENCE N63°17'11"E for 648.76 feet;

THENCE S28°18'12"E for 40.00 feet;
THENCE N61°41'48"E for 973.25 feet;
THENCE S28°18'12"E for 10.00 feet to an intersection with the Northerly
right-of-way line of Corkscrew Road;
THENCE N61°48'34"E for 5,701.30 feet to an intersection with the East
line of the Northeast Quarter (NE¼) of the aforementioned Section 25;
THENCE N00°48'48"W along said East line for 2,402.89 feet to the
POINT OF BEGINNING.

Said parcel of land situate, lying and being in Lee County, Florida,
containing 794.45 acres, more or less.

WHEREAS, the applicant has indicated the property's current STRAP numbers are
25-46-25-00-00001.1020 and 35-46-25-00-00001.1010, a portion of 25-46-25-00-
00001.2010, 25-46-25-00-00001.1000 and 26-46-25-00-00001.1020; and

WHEREAS, Timberland, Ltd. & Tiburon, Ltd., the owners of the subject parcel,
authorized Humphrey & Knott, P.A. to act as agents to pursue this CPD zoning
application; and

WHEREAS, a public hearing was advertised and held on December 19, 1995 before
the Lee County Hearing Examiner who gave full consideration of the evidence available;
and

WHEREAS, a public hearing was advertised and held on March 4, 1996, before the
Lee County Board of County Commissioners who gave full and complete consideration to
the recommendations of staff, the Hearing Examiner, the documents on file with the
county, and the testimony of all interested persons.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY
COMMISSIONERS, that the Board **APPROVES** with conditions:

- a) an Amendment to the Development of Regional Impact Development Order;
- b) a Substantial Deviation Determination by the local government as defined in Section
380.06, Florida Statutes; and
- c) a rezoning of a portion of the DRI from AG-2 (Agricultural) to Commercial Planned
Development; and
- d) a finding of "special case" as allowed in Standard 13.1.10 of the Lee Plan for the
location of the CPD within one-half mile of the I-75 interchange; and

SECTION A. CONDITIONS:

The CPD rezoning and Master Concept Plan are subject to the following conditions:

1. The development of the CPD must be in accordance with the one-page Master Concept Plan entitled "Timberland & Tiburon Master Concept Plan (C.P.D.)" stamped received December 28, 1995, except as modified herein. The location of the internal accessways and lot configurations are general and may be changed at time of local development order review provided the development remains in compliance with the conditions set forth in Section A herein. Development must comply with all state and county regulations, including the Timberland & Tiburon DRI Development Order and Map H as amended.
2. The CPD may construct a maximum of 320,000 square feet of commercial uses as further limited by the conditions and deviations set forth in this resolution. Ultimately, the CPD may be permitted a maximum of 700,000 square feet of commercial uses upon approval of a Substantial Deviation review that addresses the cumulative impacts of the overall DRI.
3. No development, other than that approved in Condition 2 herein, may occur within the Timberland & Tiburon DRI until a substantial deviation analysis of the traffic impacts has been submitted to and approved by the Florida Department of Community Affairs, Southwest Florida Regional Planning Council and Lee County.
4. Prior to a Certificate of Compliance for Phase I of the regional mall (225,000 square feet), Treeline Boulevard must be constructed as a 4-laned road from Corkscrew Road to the north property line of the CPD, and Corkscrew Road must be 4-laned from I-75 to Treeline Boulevard.
5. In addition to Phase I (225,000 square feet) development, the developer may construct an additional 95,000 square feet of commercial uses when Treeline Boulevard is constructed as a two-lane arterial from the CPD's north property boundary line to the north property line of the DRI, and connected to form a continuous arterial between Corkscrew Road and Alico Road.
6. The following uses are permitted:

All uses permitted by right, Special Permit, and Special Exception within the CC district, **INCLUDING** the following additional uses:

Building Materials Sales
Business Services, Group II

but **EXCLUDING** the following:

Aircraft Landing Facilities, Private
Bait and Tackle Shop
Contractors and Builders, All Groups
Essential Service Facilities, Group II
Flea Market, Indoor
Funeral Homes or Mortuary
Non-Store Retailers, Group II
Research and Development Lab, Group II

7. The approved property development regulations are as follows:

BUILDING SETBACKS:

Front: (per Sec. 34-2192)	25 ft.
Side:	15 ft.
Rear:	25 ft.
Waterbody:	25 ft.

MINIMUM LOT DIMENSIONS:

Width:	100 ft.
Depth:	100 ft.
Area: (Corner)	20,000 sq. ft.
(Interior)	20,000 sq. ft.

MAXIMUM BUILDING HEIGHT: 45 feet, with no more
than three habitable floors

8. Prior to the issuance of a Lee County Tree Removal Permit for any phase of development on the Timberland and Tiburon DRI site, the Applicant/ Developer must submit a plan, approved by the U.S. Fish and Wildlife Service, which protects the Eastern Indigo snake from possible injuries associated with construction activities. This plan will be reviewed by the Lee County Division of Environmental Sciences.
9. The Corkscrew Road access point is limited to a right-in/right-out and left-in only. During the first phase of development, the developer must provide adequate signs, pavement markings, and restrictive median that safely channelizes and controls traffic flow.
10. If the Corkscrew Road access proves to be a safety hazard in the future, as determined by the County Engineer on the basis of an operational evaluation, the County reserves the right to close or further limit that access.
11. The local development order Traffic Impact Statement must include, at a minimum, a detailed analysis of the project's traffic impacts and a specific plan of proposed traffic mitigation.

12. Transportation mitigation must be provided in accordance with the DRI Development Order, as amended. In addition, site related pedestrian and vehicular traffic improvements may be required at the time of local development order approval, in accordance with the Land Development Code (LDC).
13. Until the Year 2010 (Roberts) Overlay has been repealed, commercial development within the Timberland and Tiburon DRI, which exceeds the 320,000 square feet (Phase I) approved in this CPD rezoning and the 90,000 square feet in the original DRI approval, will be subject to the land use acreage allocations set forth for subdistrict 17-906.

SECTION B. DEVIATIONS:

The Master Concept Plan deviates from several Lee County development standards. The proposed deviations are granted or denied as set forth below:

1. Deviation (1) requests relief from LDC Section 10-413(b), which requires 30 percent open space for large projects, to allow 16.5 percent open space. This deviation is **APPROVED** with the following **CONDITION**: A minimum of 16.5 percent open space must be provided on individual development areas. These areas are indicated as development areas "A," "B," "C," and "C-1" on the Master Concept Plan.
2. Deviation (2) requests relief from LDC Section 10-413(c)1., which requires at least 50 percent of the required open space area to be designed to preserve existing indigenous native vegetation, to allow 18 percent of the open space area to be preserved with existing indigenous native vegetation. This deviation is **APPROVED** with the following **CONDITION**:

All areas of proposed indigenous preservation must be field marked for inspection and approval by the Division of Environmental Sciences' Staff prior to submittal for a local development order. This process is intended to avoid delays which could occur if areas of proposed preservation do not meet LDC criteria. A minimum of 2.2± acres of indigenous vegetation preservation is required on the CPD property. If, after field staking, the designated native vegetation preserve areas are found to have less than the 2.2 acre projected total indigenous area, the regulatory amount will be reduced to reflect the final, field determined total area and the DRI developer will provide the corresponding additional amount of acreage meeting the requirements of LDC Section 10-413(c)(1) elsewhere within the Timberland & Tiburon DRI.

3. Deviation (3) requests relief from LDC Section 30-153(2)a., Identification Signs, to permit the following:

- a) Three permanent on-site identification signs, 25 feet in height, with a copy area per sign not to exceed 196 square feet and located a minimum of 20 feet from the road right-of-way. This deviation is **APPROVED**.
- b) One permanent on-site identification sign, 75 feet in height, with a copy area not to exceed 484 square feet and located a minimum of 15 feet from the road right-of-way. This deviation is **APPROVED** with the **CONDITION** that the sign is restricted to the display of the name of the outlet mail. This deviation is further conditioned on the deletion of all ground mounted identification signs on the individual out parcels along Corkscrew Road and Treeline Boulevard. (This condition is not intended to preclude the on-site identification signs described in a) above.)
- c) The placement of a permanent identification sign between an arterial and a frontage road, to allow the placement of the sign a minimum of 20 feet from the Corkscrew Road right-of-way (LDC Section 30-153(2)a.4). This deviation is **DENIED**.

The deviations requested in a) and b) above were approved by the Board in consideration of the unified sign package for the property that has the effect of reducing the maximum potential sign area for the property by approximately two-thirds. The unified sign package presented by the developers provides a quality, well planned "window" to the Florida Gulf Coast University.

4. Deviation (4) requests relief from LDC Section 10-285(a) Table 1 which requires a minimum connection spacing on arterial streets (Treeline Boulevard) of 660 feet to allow approximately 560 feet separation, is **APPROVED** with the following **CONDITION**:

The subject access on Treeline Boulevard located 660 feet from Corkscrew Road and 560 feet to the full access on Treeline Boulevard, will be restricted to right-in/right-out turning movements. This access must be designed to safely channelize and control traffic through adequate signage, a raised curb island, and pavement markings. The Division of Zoning and Development Services and the Department of Transportation may approve additional turning movements for the access point once Treeline Boulevard is constructed from Alico Road to Corkscrew Road, and a traffic analysis is reviewed and approved.

5. Deviation (5) requests relief from LDC Section 10-415(b)(1), which requires a 10-foot-wide landscape strip between the project's internal right-of-way and parking lot to allow no landscape strip. This deviation is **APPROVED** with the following **CONDITION**: A 40-foot-wide landscape strip containing five trees and 12 shrubs per 100 linear feet must be installed abutting the Corkscrew Road and I-75 right-of-way. These plantings must meet minimum LDC size requirements.

6. Deviation (6) requests relief from LDC Section 10-415(c)(2)a., which requires one tree for every 250 square feet of internal planting area and that no parking space may be more than 100 feet from a tree planted in a permeable island, peninsula or median of 10-foot minimum width. The developer instead seeks to install one tree for every 250 square feet on internal planting areas with no parking space more than 200 feet from a tree planted in a permeable island, peninsula or median of 20-foot minimum width. This deviation is **APPROVED** with the following **CONDITION**:

All parking area islands must meet a minimum size requirement of 360 square feet (20 feet by 18 feet). Canopy tree requirements will be calculated using one parking canopy tree planted for each 250 square feet of required internal planting area. A minimum of 75 percent of the parking canopy trees must be native species, and, when planted, have a minimum caliper measurement of 3 inches, when measured at three feet above ground.

7. Deviation (7) requests relief from LDC Section 10-415(c)(2)d., which requires that no more than an average of 10 parking spaces may occur in an uninterrupted row, to allow no more than 20 spaces occurring in an uninterrupted row. This deviation is **APPROVED** with the same **CONDITION** required for Deviation (6).
8. Deviation (8) requests relief from LDC Section 30-5(8), which prohibits banners. This deviation was **WITHDRAWN AT HEARING** as unnecessary because the Applicant's design is a flag, not a banner.

SECTION C. Master Concept Plan:

A one-page reduced copy of the Master Concept Plan is attached and incorporated into this resolution by reference.

SECTION D. FINDINGS AND CONCLUSIONS:

The following findings and conclusions were made in conjunction with the approval of the requested DRI Amendment and CPD rezoning:

1. The amendment to the DRI Development Order is consistent with the goals, objectives, and policies of the Lee Plan, and will not be injurious to the community, or adverse to regional or state interests.
2. The changes to the DRI Development Order do not meet or exceed the substantial deviation criteria set out in Section 380.06(19), Florida Statutes.
3. The predominant uses of the surrounding property make approval of the CPD, as conditioned, appropriate for the site.

4. As conditioned, the CPD rezoning and approved deviations:
 - a) will not have an adverse impact on the intent of the Land Development Code.
 - b) are consistent with the goals, objectives, policies and intent of the Lee Plan and with the densities, intensities, and general uses set forth in the Lee Plan.
 - c) meet or exceed all performance and locational standards set forth for the proposed uses.
 - d) will protect, conserve or preserve environmentally critical areas and natural resources on or abutting the subject property.
 - e) are compatible with existing or planned uses, and are not contrary to the public health, safety or welfare and will not cause damage, hazard, nuisance or other detriment to persons or property.
 - f) do not place an undue burden upon existing transportation facilities, or other facilities or services.
 - g) will comply with all applicable general zoning provisions and supplemental regulations pertaining to the uses set forth in the Land Development Code.
 - h) enhance the achievement of the objectives of the CPD rezoning, and promote and preserve the protection of the public health, safety or welfare.
5. Urban services, as defined in the Lee Plan, are or will be available and adequate to serve the proposed uses.
6. The conditions imposed on the CPD zoning and the approved deviations are reasonably related to the impacts on the public's interest expected from the proposed uses, and, in conjunction with other land development regulations, will protect the public's interest, health, safety and welfare.

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

John E. Manning	Absent
Douglas R. St. Cerny	Aye
Ray Judah	Aye
Andrew W. Coy	Absent
John E. Albion	Aye

DULY PASSED AND ADOPTED this 4th day of March, A.D., 1996.

ATTEST:
CHARLIE GREEN, CLERK

BY: *Lisa S. Pierce*
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: *[Signature]*
Chairman

Approved as to form by:

[Signature]
County Attorney's Office

FILED

MAR 13 1996

CLERK CIRCUIT COURT
BY _____ D.C.

THIRD DEVELOPMENT ORDER
AMENDMENT
FOR
TIMBERLAND AND TIBURON
A DEVELOPMENT OF REGIONAL IMPACT
STATE DRI #7-8384-46
COUNTY CASE #95-08-002-04Z

WHEREAS, ON AUGUST 1, 1995, TIMBERLAND AND TIBURON, LIMITED REQUESTED AN AMENDMENT TO THE TIMBERLAND AND TIBURON DEVELOPMENT OF REGIONAL IMPACT DEVELOPMENT ORDER ADOPTED BY THE LEE COUNTY BOARD OF COUNTY COMMISSIONERS ON NOVEMBER 15, 1985, AND AS AMENDED APRIL 21, 1986 AND JULY 21, 1993; AND

WHEREAS, the Applicant is requesting to amend the Development Order to allow the development of 700,000 square feet of retail commercial uses, and extension of the development commencement date by one year; and

WHEREAS, under Section 380.06(19), Florida Statutes, the proposed changes must be reviewed and evaluated to determine whether they constitute a substantial deviation from the terms of the existing Development Order; and

WHEREAS, the Board of County Commissioners has reviewed the proposed Amendment and finds the changes do not constitute a substantial deviation, if development proceeds as conditioned in this Development Order; and

WHEREAS, the proposed changes to the Timberland and Tiburon DRI Development Order described herein are consistent with the adopted Comprehensive Land Use Plan of Lee County and applicable local land development regulations; and

WHEREAS, the proposed changes to the Timberland and Tiburon DRI Development Order are consistent with the State Comprehensive Plan, the Southwest Florida Regional Plan, and the State Land Development Plan.

SECTION ONE

The legal description of the Timberland and Tiburon DRI is as follows:

LEGAL DESCRIPTION: In Sections 25, 26 and 35, Township 46 South, Range 25 East, Lee County, Florida:

Portions of Sections 25, 26 and 35, Township 46 South, Range 25 East, Lee County, Florida, more particularly described as follows:

Begin at the Northeast corner of Section 25, Township 46 South, Range 25 East, Lee County, Florida, more particularly described as follows:
THENCE run S89°27'49"W along the North line of said Section 25 for 5,248.73 feet to the Northwest corner of said Section 25;
THENCE N89°43'14"W along the North line of the Northeast Quarter (NE¼) of the aforementioned Section 26 for 2,687.71 feet to the Northeast corner of the Northwest Quarter (NW¼) of said Section 26;
THENCE N89°45'55"W along the North line of the Northwest Quarter (NW¼) of said Section 26 for 885.98 feet to an intersection with the Easterly right-of-way line of I-75;
THENCE along said Easterly right-of-way for the following described eleven (11) courses:
S18°17'53"E for 3,919.40 feet;
THENCE S19°26'38"E for 899.24 feet;
THENCE S21°18'00"E for 205.99 feet;
THENCE S25°00'43"E for 205.99 feet;
THENCE S26°52'05"E for 486.08 feet;
THENCE S28°49'54"E for 348.60 feet;
THENCE S73°34'03"E for 304.06 feet;
THENCE N63°17'11"E for 648.76 feet;
THENCE S28°18'12"E for 40.00 feet;
THENCE N61°41'48"E for 973.25 feet;
THENCE S28°18'12"E for 10.00 feet to an intersection with the Northerly right-of-way line of Corkscrew Road;
THENCE N61°48'34"E for 5,701.30 feet to an intersection with the East line of the Northeast Quarter (NE¼) of the aforementioned Section 25;
THENCE N00°48'48"W along said East line for 2,402.89 feet to the POINT OF BEGINNING.
Said parcel of land situate, lying and being in Lee County, Florida, containing 794.45 acres, more or less.

NOW, THEREFORE, LET IT BE RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA, the Amended Development Order for the Timberland and Tiburon DRI is further amended as follows with new language underlined and deletions struck through. All other portions of the original Development Order (as amended) will remain in full force and effect.

SECTION TWO

On Page 3 of the original Development Order, findings G. and H. are amended as follows:

~~G. The proposed development, deleting the Regional Shopping Center, is consistent with the adopted Lee County Comprehensive Plan, if subject to the conditions stated below. The Regional Shopping Center is not consistent with the adopted Lee County Comprehensive Plan, including but not limited to the following issues:~~

- ~~1. The Shopping Center constitutes premature and unanticipated development in an area that is not near the growth center of Lee County, and would be inconsistent with the following Comprehensive Plan Policy:~~

~~Policy III.B.3 Contiguous and compact growth patterns shall be promoted to contain sprawl, minimize energy costs, conserve land, water and natural resources, minimize the cost of services, and reverse development patterns where large tracts of land have been bypassed in favor of development more distant from services.~~

- ~~2. The Shopping Center is at an inappropriate location for such a facility; in particular, it is inconsistent with the following requirements for Regional Commercial Centers, found in Comprehensive Plan Standard III.C.5:~~

~~(a) Easily reached via a major arterial from and within a short distance of an interchange (from 1/2 to 1 mile);~~

~~(b) The site is not situated to provide an access system that is carefully designed to disperse traffic over the major thoroughfare system; and~~

~~(c) Public transit service is not available to this site.~~

~~H. In order for the Shopping Center site to be considered for approval, the following issues must be addressed:~~

- ~~1. A market analysis must be conducted that demonstrates a need for the facility proposed;~~
- ~~2. An adequate road network to serve the facility must be available, or scheduled and funded to coincide with project construction; and~~
- ~~3. A Comprehensive Plan amendment must be approved (or requested concurrently) to eliminate the requirements mentioned above for the location of Regional Commercial Centers.~~

~~Alternatively, other uses may be proposed for this site in place of the Shopping Center.~~

G. The 1985 Development Order for Timberland, Ltd., and Tiburon, Ltd., contained findings that a proposed regional shopping center was premature and unanticipated development and was inconsistent with the site location standards for regional commercial centers in the Lee Plan. The 1985 Development Order further stated that the shopping center could not be considered for approval until the following issues were addressed:

1. A market analysis to establish a need for the proposed shopping center; and
2. The availability of an adequate network to serve the facility (must be either in place or scheduled and funded to coincide with project construction); and
3. A Lee Plan Amendment to eliminate the inconsistency with the location standard for regional shopping centers.

The conditions described above have been adequately addressed. The proposed shopping center is no longer premature in light of the imminent construction of Florida Gulf University and Treeline Boulevard and the substantial development in the Bonita Springs Area. The demand for the facility is evidenced by the existence of a contract with a regional mall developer. An adequate road network is virtually guaranteed as a result of commitments made by the owner(s) of the property and the commitments made by the parties of the Corkscrew Road Special Assessment District, by Lee County and by the Board of Regents of the State of Florida. Finally, the site location standards for regional commercial centers have been substantially revised since the adoption of the 1985 development order, and Lee County has determined that the proposed regional mall is consistent with Standard 13.1.10 of the currently effective Lee Plan. A regional shopping center is, therefore, an appropriate use for a portion of the subject property. However, no more than 320,000 square feet of the 700,000 square foot regional shopping center may be constructed before a Substantial Deviation review of the entire DRI is completed.

SECTION THREE

On Page 7 of the original Development Order, Conditions C.2, C.3 and C.4 are hereby revised as follows:

2. The main entrance road to the Timberland and Tiburon development shall will serve as the southern terminus of a new, north-south, public arterial east of I-75 known as Treeline Boulevard. Prior to the issuance of building permits a Certificate of Compliance for Phase I of the -construction of Phase II of the Timberland and Tiburon development regional mall, the developer shall must dedicate 200 150 feet of right-of-way and shall must construct or cause to be constructed at least two lanes of a future a four-lane, divided arterial section of Treeline Boulevard from Corkscrew Road (at the west entrance to the Corkscrew Pines Development) to the north property line of the development through the first full median cut approximately 1,220 feet north of Corkscrew Road. No additional development beyond Phase I of the regional mall (225,000 square feet) is permitted until Treeline Boulevard is completed as a two-lane arterial to the north property line of the Timberland and Tiburon development and connected to form a continuous arterial between Corkscrew Road and Alico Road. The road shall must be four-laned by the Developer no later than from the northern boundary of the four-lane section described above to the northern property line of Timberland and Tiburon when required to maintain Level of Service "C" (on an annual average basis) on this the road. The location, alignment, design and construction schedule for this new arterial Treeline Boulevard and its intersection with Corkscrew Road shall will be approved by the County Engineer.

~~Since this arterial is necessary to provide direct access to the Timberland and Tiburon development and is thus "site-related", as this term is defined in the Roads Impact Fee Ordinance, the Developer shall not be eligible for credits against Roads Impact Fees for right-of-way dedication and construction costs associated with this arterial.~~

Lee County acknowledges that it is likely that only a two-lane road is necessary to provide direct access to Timberland and Tiburon and that the need for the four-lane section was created in part by the approval of Florida Gulf Coast University. In the event that the Developer (or its successor in interest) constructs or causes to be constructed, through the prepayment of impact fees or the contribution of other funds, Treeline Boulevard as a four-lane road, the Developer (or its successor in interest) may be eligible for road impact fee credits for all reasonable construction costs in excess of what is necessary to build a two-lane section from Corkscrew Road to the north property line, consistent with the provisions of the Roads Impact Fee Ordinance.

3. ~~The Developer shall~~ must dedicate sufficient right-of-way along the south property line to provide 100 feet of right-of-way north of the centerline of Corkscrew Road for widening Corkscrew Road up to six lanes, and must construct or cause to be constructed a four-lane, divided arterial section of Corkscrew Road from I-75 to Treeline Boulevard prior to the issuance of a Certificate of Compliance for Phase I of the regional mall. ~~The Developer shall~~ must also provide at no cost to Lee County 75 feet right-of-way along the north property line for the construction of a new, east-west, public arterial. The timing of this dedication will be determined through the Substantial Deviation review. Both of these rights-of-way shall must be dedicated to Lee County prior to final plan approval for any phase or portion of any phase thereof. The Developer and its successors in interest will not be eligible for any roads impact fee credits for these dedications and improvements, but they will be entitled to credits against assessments for the Corkscrew Road Service (CRSA) pursuant to Lee County Resolution #94-07-12.

~~The Developer shall not be eligible for credits against Roads Impact Fees for these dedications. Lee County is targeting no public funds for the provision of infrastructure in this "Fringe Area" either as required directly by this development, or by other development which is induced by this approval to locate outside the designated "Urban Services Areas." These dedications are essential for the creation of a viable road network east of I-75 in the Corkscrew Road area.~~

4. ~~During each phase of development, the Developer shall~~ must make all intersection improvements, including signalization, turn lanes and deceleration lanes, deemed necessary by the County Engineer for the project's access points onto Corkscrew Road and other public roads. Approval of final plans for the affected phase shall will be granted only if these improvements are included in the construction of that phase. Intersections of entrances and roads from the Timberland and Tiburon development shall will be coordinated with those from properties on the opposite side of the road.

For development of the regional mall site, the project will be limited to the following: (1) one partial access point on Corkscrew Road between I-75 and Treeline Boulevard, limited to right-in/right-out/left-in movements, approximately 660 feet west of Treeline Boulevard; (2) a full access point on Treeline Boulevard approximately 1,220 feet

north of Corkscrew Road; and (3) a partial access point on Treeline Boulevard approximately 660 feet north of Corkscrew Road.

The developer ~~shall~~ is not be eligible for credits against the Roads Impact Fee for these intersection improvements because they are "site-related", as this term is defined in the Roads Impact Fee Ordinance.

SECTION FOUR

On Page 11 of the original Development Order, Condition C.8 is hereby revised and Section C.13 is hereby added, to read as follows:

8. In order to maintain efficient traffic operation in the I-75/Corkscrew Road interchange area, the north-south arterial referred to in Section C.2, which serves as the main entrance to the Timberland and Tiburon development, ~~shall will~~ intersect with Corkscrew Road at least one-half mile from the center of the I-75/Corkscrew Road interchange and ~~shall will~~ intersect with the west entrance of the Corkscrew Pines development. ~~No direct access to Corkscrew Road shall be allowed between the I-75 allowed between the I-75 interchange and the north-south arterial referred to in Section C.2, except as permitted by the Lee County Engineer. Limited access between I-75 and Treeline Boulevard to Corkscrew Road may be permitted in accordance with the approved Commercial Planned Development Master Concept Plan for the regional mall. This access may be a right-in/right-out, left-in only. However, if the limited access connection to Corkscrew Road proves to be a safety hazard in the future, as determined by the County Engineer on the basis of an operational evaluation, the County reserves the right to close or further limit that access.~~

13. The transportation section of this Development Order will be substantially replaced by new language relating to the creation and ongoing commitments of the Corkscrew Road Special Assessment District (CRSA) sometime in 1996. The conditions in this Development Order will remain in full force and effect until those amendments become effective. No additional development may occur until such time as the transportation section has been replaced pursuant to a Substantial Deviation analysis.

SECTION FIVE

On Pages 12 and 13 of the original Development Order, Conditions D.1 and D.2 are hereby revised as follows:

- ~~4. The proposed Regional Shopping Center shall be deleted from this Development Order.~~
- ~~2. Any other uses later proposed for the Regional Shopping Center site shall require an amendment to this Development Order and a determination as to substantial deviation from this Development Order, and shall be subject to further review and appropriate conditions.~~
1. The proposed regional shopping center is approved, subject to the conditions in this Development Order.

SECTION SIX

On Page 14 of the original Development Order, Conditions I.5 and I.6 are hereby added to read as follows:

5. The Developer or his successor must comply with the standards for open space and indigenous vegetation preservation in Section 10-413 of the Lee County Land Development Code on the DRI parcel as a whole, provided however, that individual parcels within the development may be permitted by Lee County to deviate from the requirements in Section 10-413.

The open space percentage and acreage requirements for the Timberland and Tiburon DRI are as follows:

MINIMUM OPEN SPACE REQUIREMENTS PER AREA:

<u>(PUD)</u>	<u>693.7 acres x 36.5% = 252.9 acres</u>
<u>(CG)</u>	<u>16.0 acres x 30.0% = 4.8 acres</u>
<u>(CT)</u>	<u>9.5 acres x 30.0% = 2.9 acres</u>
<u>(CPD)</u>	<u>75.0 acres x 16.5% = 12.4 acres</u>

INDIGENOUS OPEN SPACE REQUIREMENTS:

273.0 ac. x 50% = 136.50 indigenous acres required.

MINIMUM TOTAL OPEN SPACE REQUIREMENTS:

A minimum of 290.0 acres of open space are required within the DRI.

6. Prior to the issuance of a Lee County Tree Removal Permit for any phase of development on the Timberland and Tiburon DRI site, the Applicant/ Developer must submit a plan, approved by the U.S. Fish and Wildlife Service, which protects the Eastern Indigo snake from possible injuries associated with construction activities. This plan will be reviewed by the Lee County Division of Environmental Sciences.

SECTION SEVEN

On pages 16-17 of the original DRI Development Order, Paragraph 8 shall be revised as follows:

This Development Order ~~shall~~ will remain in effect until November 13, 2008, provided that this effective period may be extended by this Board upon a finding of excusable delay in any proposed development activity and that conditions have not changed sufficiently to warrant further consideration of the development. In the event the developer fails to commence significant physical development of that property identified in this Development Order by January 13, ~~1996~~ 1997, development approval ~~shall~~ will terminate and the development ~~shall~~ will be subject to further consideration. Significant physical development ~~shall~~ will include obtaining a Certificate of Completion on some substantial portion of the project (e.g., major roadway commitments, water management system or golf course). This Development Order ~~shall~~ will expire on November 13, 2008, unless an extension is approved. An extension may be granted by the Board of County Commission-

ers if the project has been developing substantially in conformance with the original plans and approval conditions; and if no substantial adverse impacts not known to the Southwest Florida Regional Planning Council or to Lee County at the time of their review and approval, have been identified.

SECTION EIGHT

Certified copies of this Development Order will be transmitted to the Southwest Florida Regional Planning Council, the Developer, and appropriate state agencies. This Development Order is rendered as of the date of that transmittal, but shall not be effective until the expiration of the statutory appeals period (45 days from rendition) or until the completion of any appellate proceedings, whichever time is greater. Upon this Development Order Amendment becoming effective, notice of its adoption shall be recorded by the Applicant as provided in Chapter 380, Florida Statutes

THE MOTION TO ADOPT the above Development Order Amendment was offered by Commissioner John E. Albion, and seconded by Commissioner Ray Judah and, upon poll of the members present, the vote was as follows:

John E. Manning	Absent
Douglas R. St. Cerny	Aye
Ray Judah	Aye
Andrew W. Coy	Absent
John E. Albion	Aye

DULY PASSED AND ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA, THIS 4TH DAY OF MARCH, A.D. 1996.

BOARD OF COUNTY COMMISSIONERS
LEE COUNTY, FLORIDA

BY: [Signature]
(Chairman)

ATTEST:

Charlie Green CLERK

BY: [Signature]
Deputy Clerk

APPROVED AS TO FORM

BY: [Signature]
County Attorney's Office

FILED

MAR 13 1996

CLERK CIRCUIT COURT
BY _____ D.C.

Charlie Green
Clerk Of Circuit Court
Lee County, Florida

STATE OF FLORIDA

COUNTY OF LEE

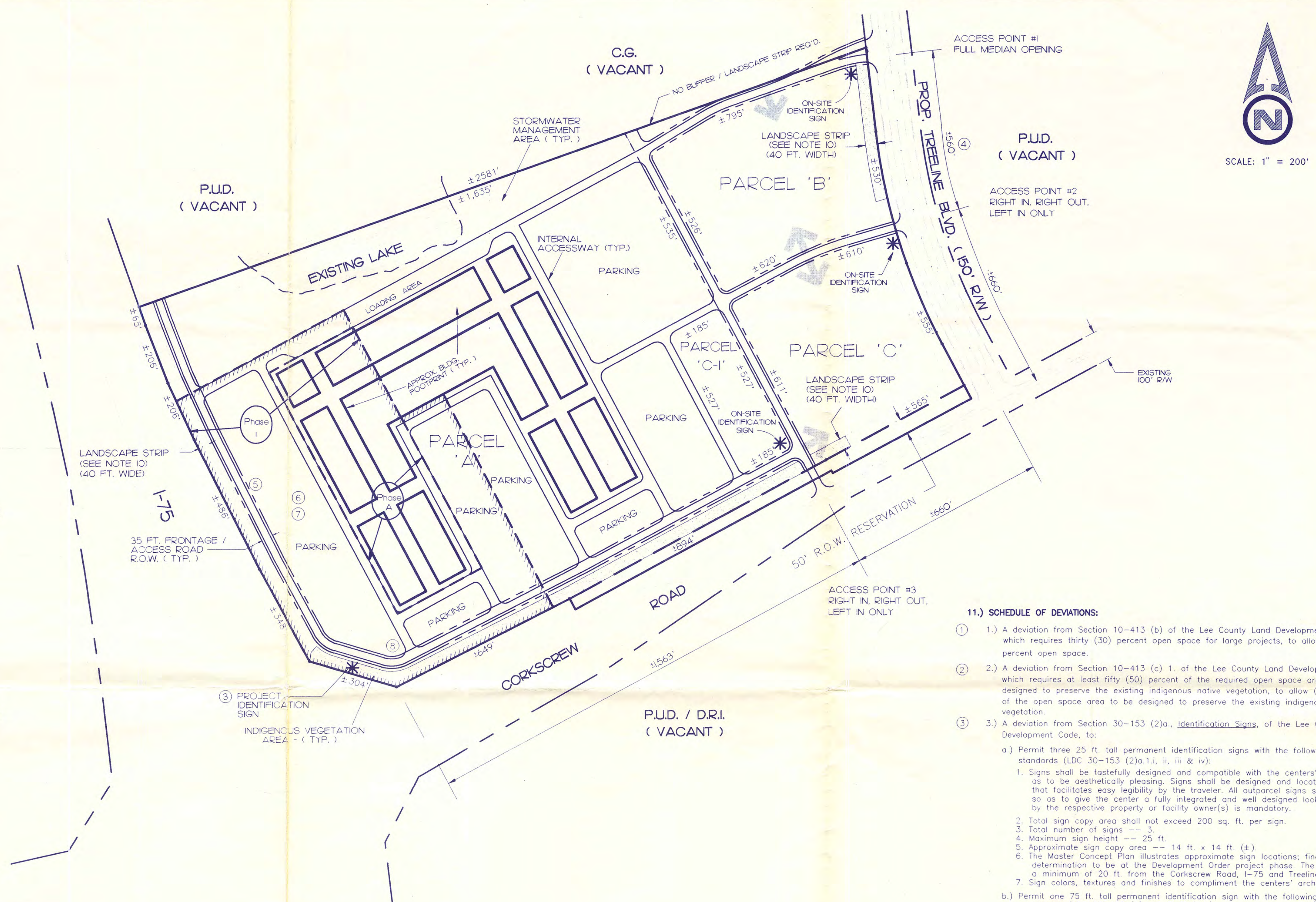
I Charlie Green, Clerk of Circuit Court, Lee County, Florida, and ex-Officio Clerk of the Board of County Commissioners, Lee County, Florida, do hereby Certify that the above and foregoing, is a true and correct copy of the Third Development Order Amendment for Timberland and Tiburon, adopted by the Board of Lee County Commissioners, at their meeting held on the 4th day of March, 1996.

Given under my hand and seal, at Fort Myers, Florida, this 13th day of March, 1996.

CHARLIE GREEN,
Clerk of Circuit Court
Lee County, Florida

By: *Isa S. Pierce*
Deputy Clerk

UN1990190044\H\REV\3\9044CPD3 12-27-95 1:27:45 pm EST



PROJECT SUMMARY:

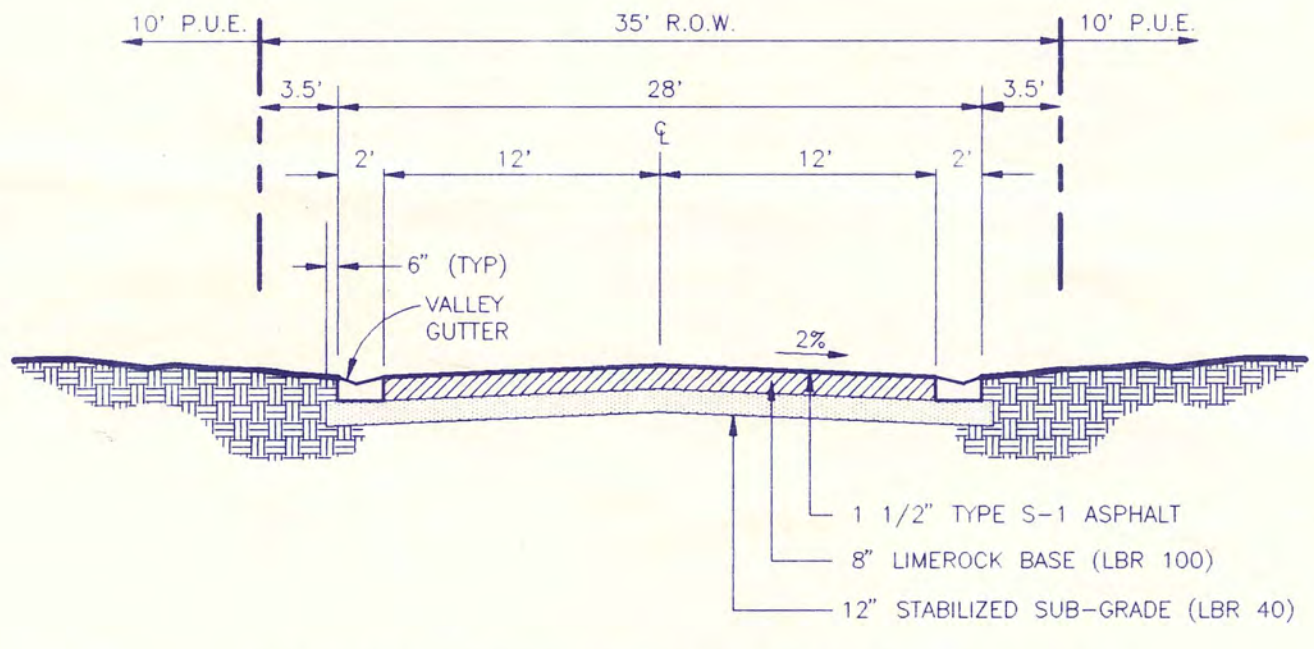
- 1.) PARCEL SIZE:**
 - a.) OVERALL PARCEL ± 76.5 Acres
 - b.) LESS Corkscrew Rd. R.O.W. Reservation ± 1.5 Acres
 - c.) TOTAL REMAINING PARCEL ± 75.0 Acres
- 2.) REQUEST:** A rezoning from AG-2 to C.P.D. with a maximum of 700,000 Sq. Ft. of Retail Commercial
- 3.) PERMITTED USES:** All uses and special permits / exceptions permitted within the CC District, for Parcels 'A', 'B', 'C' & 'C-1' EXCLUDING the following:

Aircraft Landing Facilities, Private Bait and Tackle Shop Contractors and Builders, All Groups and INCLUDING the following: Building materials sales Business services, Group II	Essential Service Facilities, Group II Flea Market, Indoor Funeral Homes or Mortuary Non-Store Retailers Group II Research and Development Lab Group II
--	---

- 4.) CONCEPTUAL LAND USE BREAKDOWN:**
 - a.) DEVELOPMENT AREAS: Parcel 'A' ± 40.0 Ac., Parcel 'B' ± 8.0 Ac., Parcel 'C' ± 6.9 Ac., Parcel 'C-1' ± 2.2 Ac.
 - b.) EXISTING LAKE: ± 2.3 Ac.
 - c.) PROJECT ACCESS RD. R/W: ± 5.3 Ac.
 - d.) OPEN SPACE, BUFFERS, DRAINAGE AREAS & INDIGENOUS AREAS: ± 10.3 Ac.
- 5.) CONCEPTUAL OPEN SPACE:**
 - a.) REQUIRED (per L.D.C.): 75.0 Ac. x 0.30 ± 22.5 Ac.
 - b.) REQUIRED: 75.0 Ac. x 0.165 (1) ± 12.4 Ac.
 - c.) PROVIDED:

Exist. Lake (± 25% of 11.3 Ac.)	± 2.3 Ac.
Open Space, Buffers, Drainage & Indigenous Areas	± 10.1 Ac.
TOTAL AREA PROVIDED:	± 12.4 Ac.
- 6.) INDIGENOUS OPEN SPACE:**
 - a.) REQUIRED (per L.D.C.): (75.0 Ac. x 0.30) x 0.5 ± 11.3 Ac.
 - b.) REQUIRED: 50% of req'd Open Space Area (75.0 Ac. x 0.165) x 0.18 (2) ± 2.2 Ac.
 - c.) PROVIDED: ± 2.2 Ac.

- 11.) SCHEDULE OF DEVIATIONS:**
- 1.) A deviation from Section 10-413 (b) of the Lee County Land Development Code, which requires thirty (30) percent open space for large projects, to allow (16.5) percent open space.
 - 2.) A deviation from Section 10-413 (c) 1. of the Lee County Land Development Code, which requires at least fifty (50) percent of the required open space area to be designed to preserve the existing indigenous native vegetation, to allow (18) percent of the open space area to be designed to preserve the existing indigenous native vegetation.
 - 3.) A deviation from Section 30-153 (2)a., Identification Signs, of the Lee County Land Development Code, to:
 - Permit three 25 ft. tall permanent identification signs with the following standards (LDC 30-153 (2)a.1.i, ii, iii & iv):
 - Signs shall be tastefully designed and compatible with the centers' architecture so as to be aesthetically pleasing. Signs shall be designed and located in a manner that facilitates easy legibility by the traveler. All outparcel signs shall be coordinated so as to give the center a fully integrated and well designed look. Sign maintenance by the respective property or facility owner(s) is mandatory.
 - Total sign copy area shall not exceed 200 sq. ft. per sign.
 - Total number of signs -- 3.
 - Maximum sign height -- 25 ft.
 - Approximate sign copy area -- 14 ft. x 14 ft. (±).
 - The Master Concept Plan illustrates approximate sign locations; final sign location determination to be at the Development Order project phase. The signs will be placed a minimum of 20 ft. from the Corkscrew Road, I-75 and Treeline Blvd. right-of-way.
 - Sign colors, textures and finishes to compliment the centers' architecture.
 - Permit one 75 ft. tall permanent identification sign with the following standards (LDC 30-153 (2)a.1.i, ii, iii & iv):
 - The sign shall be tastefully designed and compatible with centers' architecture so as to be aesthetically pleasing. The sign shall be designed and located in a manner that facilitates easy legibility by the traveler. Sign maintenance by the respective property or facility owner(s) is mandatory.
 - Total sign copy area shall not exceed 500 sq. ft.
 - Total number of signs -- 1.
 - Maximum sign height -- 75 ft.
 - Approximate sign copy area -- 22 ft. x 22 ft. (±).
 - The Master Concept Plan illustrates the approximate sign location; final sign location determination to be at the Development Order project phase. The signs will be placed a minimum of 15 ft. from the I-75 right-of-way.
 - Sign colors, textures and finishes to compliment the centers' architecture.
 - 4.) A deviation from Section 10-285 (a) Table 1. of the Lee County Land Development Code, which requires a minimum intersection spacing on arterial streets of 660 feet, to approx. 560 feet.
 - 5.) A deviation from Section 10-415 (b) (1) of the Lee County Land Development Code which requires a ten (10) foot landscape strip between the projects internal right-of-way and parking lot to allow no landscape strip.
 - 6.) A deviation from Section 10-415 (c) (2) a. of the Lee County Development Code, which requires one (1) tree for every 250 square feet of internal planting area and no parking space may be more than 100 feet from a tree planted in a permeable island, peninsula or median of ten (10) foot minimum width, to allow one (1) tree for every 250 square feet on internal planting areas with no parking space more than 200 feet from a tree planted in a permeable island, peninsula or median of twenty (20) foot minimum width, minimum width.
 - 7.) A deviation from Section 10-415 (c) (2) d. of the Lee County Development Code, which requires that no more than an average of ten (10) parking spaces may occur in an uninterrupted row, to allow no more than twenty (20) spaces occurring in an uninterrupted row.



TYPICAL ACCESS ROAD CROSS SECTION

DETERMINATION NOTES:

- 1.) LOCATIONS OF LOADING AREAS, INTERNAL PARKING AND CIRCULATION, AND BUILDING FOOTPRINT AND OUTPARCEL CONFIGURATION ON THE MASTER CONCEPT PLAN ARE CONCEPTUAL ONLY. FINAL PLAN DETERMINATION SHALL BE MADE AND REVIEWED AT TIME OF APPLICATION FOR COUNTY DEVELOPMENT APPROVAL.
- 2.) FINAL LOCATION OF PROJECT SITE IDENTIFICATION SIGNS SHALL BE DETERMINED AT THE TIME OF COUNTY DEVELOPMENT ORDER APPLICATION. THE MCP MAY ALLOW ONE 25 FT. SITE IDENTIFICATION SIGN TO HAVE INTERSTATE HIGHWAY ORIENTATION, BASED UPON DEVIATION STANDARDS 3.a.6.

- 7.) PROJECT PHASING:**

Phase I: Parcel 'A'	225,000 Sq. Ft.	1996-1998
Phase II: Parcel 'A'	300,000 Sq. Ft.	1998-2000
Phase III: Parcel 'B', 'C', & 'C-1'	175,000 Sq. Ft.	2000-2002
- 8.) MAXIMUM BUILDING HEIGHT:** To be 45 ft. above minimum flood elevation, with no more than 3 habitable floors.
- 9.) PROPERTY DEVELOPMENT REGULATIONS:**

BUILDING SETBACKS:

Front: (per Sec. 34-2192)	25'
Side:	15'
Rear:	25'
Water body:	25'

MINIMUM LOT DIMENSIONS:

Width:	100'
Depth:	100'

Area: (Corner) 20,000 sq.ft.
(Interior) 20,000 sq.ft.

- 10.) SITE LANDSCAPE REQUIREMENTS:**

BUFFER / LANDSCAPE STRIP REQUIREMENTS:

A) for adjoining street (per Sec. 10-415(b)(1))

 - 1) Along Interstate 75: no less than 12 shrubs per 100 lin. ft.
 - 2) Along Corkscrew Road: no less than 12 shrubs per 100 lin. ft.
 - 3) Along Treeline Blvd.: no less than 12 shrubs per 100 lin. ft.

B) for adjoining property:

 - 1) Adjoining parcels are zoned P.U.D. & C.G., & are currently vacant, therefore no buffer / landscape strip is required.

INTERNAL LANDSCAPING REQUIREMENTS:

 - 1) At least one (1) tree / 250 sq.ft. of required internal landscaping area.
 - 2) Landscaped areas on the parking area perimeter or internal islands must equal or exceed a minimum of ten (10) percent of the total paved surface area.
 - 3) The minimum average dimension of any required internal landscaped area must be ten (10) feet.

GENERAL LANDSCAPING REQUIREMENTS:

 - 1) One (1) tree must be provided for each 3,500 sq.ft. of development area
 - 2) Seventy-five (75) percent of the total number of required trees used in buffers and landscaping must be indigenous native varieties, and fifty (50) percent of the total number of required shrubs used in buffers and landscaping must be indigenous native varieties.

APPROVED Master Concept Plan
 Site Plan # 25-094 Page 1 of 1
 Subject to conditions in Resolution 25-094 ZONING COUNTER
 Zoning Case #: 25-094-002-042
 RECEIVED DEC 28 1995
 PRINTED DEC 27 1995
 DRAWING IS CURRENT AS OF: 12/26/95

NUMBER	REVISIONS	DATE
1	ZONING AMENDMENTS	12/26/95
2	SIGNAGE DEVIATIONS	12/05/95
3	PROJECT PHASING	11/17/95
4	PER ZONING STAFF COMMENTS	09/29/95

TIMBERLAND & TIBURON

DESIGNED BY:	DATE:
DRAWN BY: W.S.C. / C.R.B.	DATE: 07/26/95
CHECKED BY: N.E.D.	DATE: 07/95
VERTICAL SCALE:	HORIZONTAL SCALE:
N / A	AS SHOWN



MASTER CONCEPT PLAN (C.P.D.)

REFERENCE NO. REV 2	DRAWING NO. 523-01
9044CPD2	
PROJECT NO. 90.44-H	SHEET NO. 1 OF 1

PROJECT # 25-08-002-042 PROJECT TYPE 16

This Final Action Agenda/Minutes is supplemented by electronic recordings of the meeting, which may be reviewed upon request to the Village Clerk. Village Design Review Board meetings from June 30, 2016 forward can be viewed online at <http://estero-fl.gov/council/watch-meetings-online/>. Staff reports, resolutions, ordinances, and other documents related to this meeting are available at <https://estero-fl.gov/agendas/> at the corresponding agenda date.

DRAFT

FINAL ACTION AGENDA/MINUTES

Planning and Zoning Board Meeting

**Village of Estero
9401 Corkscrew Palms Circle
Estero, FL 33928
September 18, 2018 4:00 p.m.**

1. **CALL TO ORDER:** 4:10 p.m.
2. **PLEDGE OF ALLEGIANCE:** Led by Chairman Wood.
3. **ROLL CALL:**
Chairman Scotty Wood and Board Members Dr. Tim Allen, Robert King, and James Tatoes. Absent: Board Members Anthony Gargano, Marlene Naratil, and John Yarbrough.

Also present: Village Land Use Counsel Nancy Stroud, Community Development Director Mary Gibbs and Principal Planner Matthew Noble.

4. **APPROVAL OF AGENDA:**

A motion to approve the agenda was made and duly passed.

5. **BUSINESS:**

(a) **Consent Agenda**

- (1) Approval of July 17, 2018 meeting minutes as amended.

A motion to approve the Consent Agenda was made and duly passed.

(b) Public Hearing

- (1) Miromar Outlet Hotel (DCI2018-E001) (DRI2017-E001) (District 5). 10801 Corkscrew Road, located in the northwest quadrant of the Miromar Outlet Mall on approximately 2.1 acres, south of Germain Arena, abutting I-75 and a lake. Amendment to the Development of Regional Impact and Commercial Planned Development Zoning to construct a hotel with 135 rooms (4 stories) on 2.1 acres in the 800±acre Miromar Outlet Planned Development. A Public Information Meeting was held on February 20, 2018. The Planning and Zoning Board will make a recommendation to the Council. Staff is recommending approval with conditions.

Chairman Wood provided information regarding Board business and quasi-judicial hearings. All audience members and staff providing testimony were sworn in by Land Use Counsel Stroud. Community Development Director Gibbs reported that there were no written comments from the public but there were e-mails from the applicant to the staff regarding issues that were being worked out. There were no ex parte communications or conflicts of interest noted.

Principal Planner Matthew Noble provided a brief overview of the proposed project.

Presentation/Information by: Michael B Elgin, Miromar Development Corp.; Dan DeLisi, AICP, Delisi Inc.; Kristina Johnson P.E., JR Evans Engineering; Mark Gillis, AICP, David Plummer and Assoc.

Mr. DeLisi provided his professional background and credentials. He explained the reasons for the amendment to the Development of Regional Impact and Commercial Planned Development Zoning.

Mr. Elgin provided his professional background and credentials. He presented an overview of the Miromar Outlet Hotel Master Concept Plan; parking; sidewalks and connectivity; designated public gathering space; open space; conceptual building design and view; corridor and sightlines.

Mr. Gillis provided his professional background and credentials. He presented the report on transportation and traffic impacts of the proposed project.

Ms. Johnson provided her professional background and credentials. She presented an overview of the storm water management system of the proposed project.

Mr. Elgin provided a closing statement along with noting that the proposed project was in compliance with the existing Comprehensive Plan and the adopted Village Plan. Extensive discussion was held regarding traffic and the proposed back-out parking.

Community Development Director Gibbs stated that staff would like clarification on the following items that would be conditioned: Consumption on Premises (COP) with hours of operation and location noted on the site plan; clarifying the buffers on the site plan; a deviation on one of the signs; and minor language changes. Mr. Noble noted that the following Conditions would need to be revised: Conditions 2 and 6 – revise to 5 stories;

Condition 12 – revise to add deviations to COP and the Pattern Book must be clarified prior to first reading of the ordinance; and add Condition 13 regarding language on the traffic conversion factor as presented by Mr. Gillis.

Board Questions or Comments: Questions were asked and comments were made about the “flag” hotel tenant, back-out parking, and internal signage. Mr. Elgin then stated that they withdrew the deviation for the back-out parking.

Public Comment: None.

Motion: Move to approve the DRI and Zoning Amendment with the following conditions, which may be further modified by staff prior to the Council meeting: 1) Master Concept Plan: The development of the 135 room hotel on Lot M-7 of the Miromar Factory Outlet must be substantially consistent with the site plan entitled Miromar Outlet Mall Hotel date stamped received ____; 2) Schedule of Uses & Property Development Regulations: Hotel/motel (maximum 135 rooms) Building Setbacks: Front: 25 ft., Side: 15 ft., Rear: 25 ft., Waterbody: 25 ft., Street: 25 ft., Minimum Lot Dimensions: Width: 100 ft., Depth 100 ft., Area: 20,000 sq. ft., Maximum Building Height: 75 feet, with no more than five (5) habitable floors; 3) Previous Approval: The previous approval (contained in Resolution Number Z-95-094) including conditions and deviations remains in effect except as modified by the conditions and deviations contained in this approval; 4) Re-plat: Prior to a development order for the hotel being issued, a replat of Lot M-7 and Tract L must be submitted, reviewed, and approved; 5) Pattern Book: The proposed development must be substantially in compliance with the Pattern Book date stamped received ____; 6) Architectural Features: The hotel is limited to a maximum building height of 75 feet and 5 stories. If Architectural features higher than 75 feet are desired, a deviation will have to be applied for and approved; 7) Finished First Floor Elevation: The finished first floor of the building must be 20.0 NAVD at a minimum; 8) Off-site Parking, Sidewalk Connections, & Easement: As part of the Development Order, the applicant must provide a joint-use parking agreement and sidewalk connections, including the provision of crosswalks across Miromar Outlet Drive, to the offsite parking lot on the south side of Miromar Outlet Drive to the hotel. Pedestrian sidewalks must be provided in the off-site (mall) parking lot. The off-site parking lot pedestrian sidewalks must connect to the pedestrian sidewalk system on the hotel property. Pedestrian sidewalks to be provided in the off-site parking lot include providing sidewalks on either side of the lot and a center sidewalk in the middle of the parking lot, all connecting to the sidewalk proposed on Miromar Outlet Drive. Crosswalks must be provided crossing all parking lot access aisles. These improvements must be made prior to a certificate of compliance being issued for the Development Order for the proposed hotel. As part of the Development Order, the applicant must provide a minimum of 162 parking spaces. The applicant must provide an easement for the off-site joint-use parking that permits hotel patrons access to these spaces. The easement must be recorded in the records of Lee County prior to the issuance of the Development Order; 9) Miromar Outlet Drive Drainage: The Development Order must address the drainage inlets serving Miromar

Outlet Drive and how stormwater is proposed to be re-routed through the hotel site with discharge into the surface water management system lake; 10) Estero Fire Rescue: An Auto Turn study is required to ensure adequate access for fire apparatus. The study must be included in the Development Order. The Auto Turn study must be completed prior to the issuance of the Development Order; 11) Consumption on Premises: As conditioned by staff; 12) Deviations on Consumption on Premises and Pattern Book must be clarified prior to first reading of the ordinance; and 13) Include language on the conversion factor on the traffic as presented by Mr. Gillis.

Motion by: Board Member Allen
Seconded by: Board Member King

Action: Approved the DRI and Zoning Amendment with the following conditions, which may be further modified by staff prior to the Council meeting:

- 1) Master Concept Plan: The development of the 135 room hotel on Lot M-7 of the Miromar Factory Outlet must be substantially consistent with the site plan entitled Miromar Outlet Mall Hotel date stamped received _____;
- 2) Schedule of Uses & Property Development Regulations: Hotel/motel (maximum 135 rooms) Building Setbacks: Front: 25 ft., Side: 15 ft., Rear: 25 ft., Waterbody: 25 ft., Street: 25 ft., Minimum Lot Dimensions: Width: 100 ft., Depth 100 ft., Area: 20,000 sq. ft., Maximum Building Height: 75 feet, with no more than five (5) habitable floors; 3) Previous Approval: The previous approval (contained in Resolution Number Z-95-094) including conditions and deviations remains in effect except as modified by the conditions and deviations contained in this approval; 4). Re-plat: Prior to a development order for the hotel being issued, a replat of Lot M-7 and Tract L must be submitted, reviewed, and approved; 5) Pattern Book: The proposed development must be substantially in compliance with the Pattern Book date stamped received _____; 6) Architectural Features: The hotel is limited to a maximum building height of 75 feet and 5 stories. If Architectural features higher than 75 feet are desired, a deviation will have to be applied for and approved; 7) Finished First Floor Elevation: The finished first floor of the building must be 20.0 NAVD at a minimum; 8) Off-site Parking, Sidewalk Connections, & Easement: As part of the Development Order, the applicant must provide a joint-use parking agreement and sidewalk connections, including the provision of crosswalks across Miromar Outlet Drive, to the offsite parking lot on the south side of Miromar Outlet Drive to the hotel. Pedestrian sidewalks must be provided in the off-site (mall) parking lot. The off-site parking lot pedestrian sidewalks must connect to the pedestrian sidewalk system on the hotel property. Pedestrian sidewalks to be provided in the off-site parking lot include providing sidewalks on either side of the lot and a center sidewalk in the middle of the parking lot, all connecting to the sidewalk proposed on Miromar Outlet Drive. Crosswalks must be provided crossing all parking lot access aisles. These improvements must be made prior to a certificate of compliance being issued for the Development Order for the proposed hotel. As part of the Development Order, the applicant must provide a minimum of 162 parking spaces. The applicant must provide an easement for the off-site joint-use parking that permits hotel patrons access to these

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Vote:

Aye: Unanimous (Board Members Gargano, Naratil, and Yarbrough absent)

Nay:

Abstentions:

6. PUBLIC INPUT: None.

7. BOARD COMMUNICATIONS:

Next Board Meeting October 16, 2018

A motion to adjourn was made and duly passed.

8. ADJOURNMENT: 6:05 p.m.

Kathy Hall, MMC
Village Clerk

(mr/kh)

Attachment F

FEBRUARY 20, 2018 PLANNING AND ZONING BOARD MEETING EXCERPT

FINAL ACTION AGENDA/MINUTES

Planning and Zoning Board Meeting

**Village of Estero
9401 Corkscrew Palms Circle
Estero, FL 33928
February 20, 2018 5:30 p.m.**

5.c.(2) Miramar Outlet Hotel (DRI2017-E001) (District 5) 10801 Corkscrew Road, located in the northwest quadrant of the Miramar Outlet Mall on approximately 2.1 acres, south of Germain Arena, abutting I-75 and the lake. Amend the Miramar CPD to add a hotel as a permitted use in the parking lot area.

Presentation/Information by: Dan DeLisi, AICP, Delisi Inc.,

Mr. DeLisi provided an overview of the proposed project which included the location and the conceptual site plan.

Board Questions or Comments: Questions were raised regarding the location of future parking spots; location of hotel; traffic; and signage.

Public Comment: None

**DISCLOSURE OF INTEREST
AFFIDAVIT**

BEFORE ME this day appeared Robert B. Roop, Executive Vice President of Miromar Development Corporation, who, being first duly sworn and deposed says:

1. That I am the record owner, or a legal representative of the record owner, of the property that is located at Miromar Outlet Parking West, LLC adjacent to Miromar Outlets and is the subject of an Application for zoning action (hereinafter the "Property").

2. That I am familiar with the legal ownership of the Property and have full knowledge of the names of all individuals that have an ownership interest in the Property or a legal entity owning an interest in the Property.

3. That, unless otherwise specified in paragraph 6 below, no Village of Estero Employee, Council Member, or Hearing Examiner has an Ownership Interest in the Property or any legal entity (Corporation, Company, Partnership, Limited Partnership, Trust, etc.) that has an Ownership Interest in the Property or that has contracted to purchase the Property.

4. That the disclosure identified herein does not include any beneficial Ownership Interest that an Village of Estero Employee, Council Member or Hearing Examiner may have in any entity registered with the Federal Securities Exchange Commission or registered pursuant to Chapter 517, whose interest is for sale to the general public.

5. That, if the Ownership Interest in the Property changes and results in this affidavit no longer being accurate, the undersigned will file a supplemental Affidavit that identifies the name of any Village of Estero Employee, Council Member, or Hearing Examiner that subsequently acquires an interest in the Property.

6. Disclosure of Interest held by a Village of Estero Employee, Council Member or Hearing Examiner:

Name and Address	Percentage of Ownership
N/A	

Under penalty of perjury, I declare that I have read the foregoing and the facts alleged are true to the best of my knowledge and belief.

Miromar Outlet Parking West, LLC
By: Miromar Development Corporation
Its: Sole Member



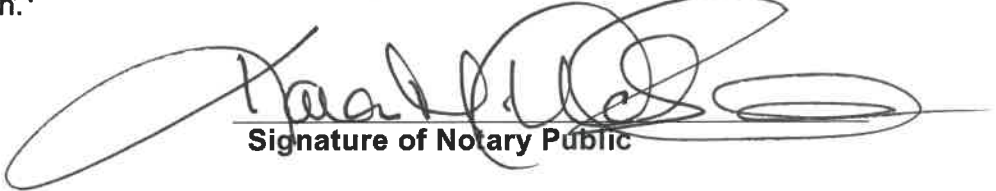
Robert B. Roop, Executive Vice President

*****NOTE: NOTARY PUBLIC IS NOT REQUIRED FOR ADMINISTRATIVE APPROVALS*****
ALL OTHER APPLICATION TYPES MUST BE NOTARIZED

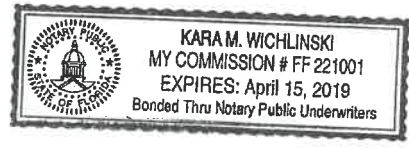
STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was sworn to (or affirmed) and subscribed before me on December 6, 2017 (date) by Robert B. Roop, Executive Vice President of Miromar Development Corporation (name of person providing oath or affirmation), who is personally known to me, ~~or who has produced~~ _____ (type of identification) as identification.

STAMP/SEAL



Signature of Notary Public



AFFIDAVIT OF AUTHORIZATION

APPLICATION IS SIGNED BY INDIVIDUAL OWNER, APPLICANT, CORPORATION, LIMITED LIABILITY COMPANY (L.L.C.), LIMITED COMPANY (L.C.), PARTNERSHIP, LIMITED PARTNERSHIP, OR TRUSTEE

I, Robert B. Roop, as Executive Vice President of Miromar Development Corporation, the sole member of Miromar Outlet Parking West, LLC, the owner of the property, swear or affirm under oath, that I am the owner or the authorized representative of the owner(s) of the property and that:

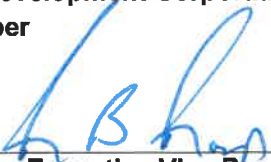
1. I have full authority to secure the approval(s) requested and to impose covenants and restrictions on the referenced property as a result of any action approved by the Village of Estero in accordance with this application and the Village of Estero Land Development Code;
2. All answers to the questions in this application and any sketches, data or other supplementary matter attached hereto and made a part of this application are honest and true;
3. I have authorized the staff of the Village of Estero Community Development Department to enter upon the property during normal working hours for the purpose of investigating and evaluating the request made thru this application; and that
4. The property will not be transferred, conveyed, sold or subdivided unencumbered by the conditions and restrictions imposed by the approved action.

***Notes:**

- If the applicant is a corporation, then it is usually executed by the corp. pres. or v. pres.
- If the applicant is a Limited Liability Company (L.L.C.) or Limited Company (L.C.), then the documents should typically be signed by the Company's "Managing Member."
- If the applicant is a partnership, then typically a partner can sign on behalf of the partnership.
- If the applicant is a limited partnership, then the general partner must sign and be identified as the "general partner" of the named partnership.
- If the applicant is a trustee, then they must include their title of "trustee."
- In each instance, first determine the applicant's status, e.g., individual, corporate, trust, partnership, estate, etc., and then use the appropriate format for that ownership.

Under penalties of perjury, I declare that I have read the foregoing Affidavit of Authorization and that the facts stated in it are true.

**Miromar Outlet Parking West, LLC
By: Miromar Development Corporation
Its: Sole Member**



Robert B. Roop, Executive Vice President

December 6, 2017
Date

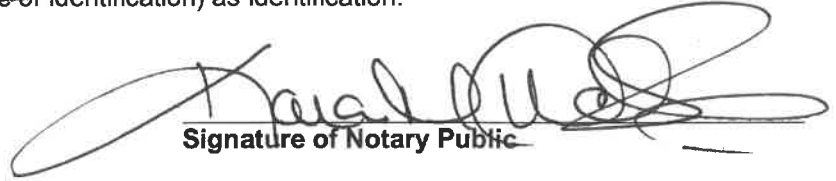
[Notary on following page.]

*****NOTE: NOTARY PUBLIC IS NOT REQUIRED FOR ADMINISTRATIVE APPROVALS*****
ALL OTHER APPLICATION TYPES MUST BE NOTARIZED

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was sworn to (or affirmed) and subscribed before me on December 6, 2017 (date) by Robert B. Roop, Executive Vice President of Miromar Development Corporation (name of person providing oath or affirmation), who is personally known to me ~~or who has produced~~ _____ (type of identification) as identification.

STAMP/SEAL


Signature of Notary Public



Miromar Outlet Hotel Stormwater Management Narrative

Existing System:

Miromar Factory Outlet is located within Base 3 of the Timberland and Tiburon (T&T) Master Surface Water Management Permit. T&T received a permit to construct and operate Basin 1 and a conceptual approval for Basin 3 from the South Florida Water Management District (SFWMD) under Environmental Resource Permit (ERP) # 36-01871-S and Application # 901109-7. This permit established the borrow pit lake as the outfall location for the Miromar Factory Outlet property. The borrow pit lake, located north of the Miromar property, discharges offsite through a control structure located in the southwest corner of the lake and into the I-75 roadside swale. The Runoff ultimately discharges into the Estero River further downstream after traveling through culverts under I-75 and roadside swales. Please reference Exhibit A at the end of this narrative, which details the outfall path.

Existing Stage Elevations:

The Miromar Factory Outlet’s Water Management System received a permit to construct and operate from SFWMD under Environmental Resource Permit (ERP) # 36-01871-S and Application # 960103-9. This permit established the stage elevations for the entire 75.4-acre shopping center however the site plan was later revised under Application # 981001-10 which resulted in modified stages the 5-year, 25-year, and 100-year storms. The stages established under Application # 981001-10 are summarized in the table below:

Surface Water Management Parameters		
	Permitted Stages per SFWMD Application # 981001-10	
	ft-NGVD	ft-NAVD
Control Elevation	16.2	15.02
5-Year Peak Stage	17.58	16.40
10-Year Peak Stage	N/A	N/A
25-Year Peak Stage	17.48	16.30
100-Year Peak Stage	19.40	18.22
Minimum Road Elevation	18.20	17.02
Minimum Finished Floor Elevation	19.75	18.57

Although the Miromar Factory Outlet’s SFWMD permit was for the entire 75.4-acres, the shopping center was constructed in various phases. Therefore, there were subsequent modifications to the original permit obtained under Applications # 001010-9, 051005-6, 070410-28, 100323-22, and 171031-9. These subsequent modifications did not change the Surface Water Management Parameters they only reflected minor changes to the mall layout and parking.

Research of these subsequent modifications indicates that the minimum road and parking lot elevations were built at or above the minimum road elevation of 17.02'-NAVD (18.20'-NGVD).

Functioning of the Existing System:

The existing water management system for the Miromar Outlet Shopping Center has functioned as expected during heavy rainfall events, including the un-named storm that occurred in August of 2017 and Hurricane Irma which occurred in September 2017. These two (2) storm events caused minor flooding in the lowest lying parking lot areas where drainage inlets are located. As previously mentioned the lowest parking lot elevation is 17.02'-NAVD (18.20'-NGVD), which is 0.28-feet above the Minimum Road Elevation. Therefore, these low parking lot areas would retain water when a storm event in excess of the 25-year event occurs.

Proposed Project:

The proposed project includes the re-development of a portion of the existing parking lot into a hotel with associated amenities on 2.10 acres. At this time the proposed re-development is not anticipated to result in an increase in impervious surface area. The change of use from a parking lot to a hotel will require a permit modification with the South Florida Water Management District to ensure the project remains compliant with the existing Surface Water Management Parameters and the allowable offsite discharge rate for the site.

Proposed Elevations:

The proposed project is located within FEMA Flood Zone AE, which has a base flood elevation (BFE) of 19.0'-NAVD (20.18'-NGVD). Based on the new Florida Building Code the required Minimum Finished Floor Elevation of the hotel will be 20.0'-NAVD (21.18'-NGVD). This elevation is 1.43' above the 100-Year Peak Stage elevation. Additionally, the Minimum Road Elevation for the hotel will be 17.02'-NAVD (18.20'-NGVD) which is 0.28-feet higher than the 25-Year Peak Stage.

Proposed Water Quality:

The proposed redevelopment of this site will include a permit modification through the South Florida Water Management District (SFWMD) to ensure compliance with the water quality requirements. The method for providing water quality will be determined at the time of SFWMD permitting.

Accommodation of the Existing Drainage Infrastructure:

All existing drainage infrastructure located in the existing parking lot in conflict with the final site plan will be removed to accommodate the hotel and associated site improvements. Please note that the two (2) drainage inlets serving the frontage road to the west of the hotel development will be re-routed through the hotel site with ultimate discharge into the master surface water management system. The exact route for this drainage will be determined at the time of Development Order and permitted through both the SFWMD and the Village of Estero.

There are no negative impacts anticipated to the surface water management system as a result of the proposed re-development of the parking lot area into a hotel.

EXHIBIT A: OUTFALL PATH

