

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

WHEREAS, University Highland Limited Partnership filed an application on behalf of the property owner, Nassant & Company, LLC, in reference to Timberland and Tiburon MPD Amendment; and,

WHEREAS, a public hearing before the Lee County Zoning Hearing Examiner was advertised and held on September 15, 2010, and September 23, 2010. At the conclusion of the hearing, the Hearing Examiner left the record open and requested Staff and the Applicant to submit written submissions to his Office on or before September 21, 2010; and,

WHEREAS, the Hearing Examiner gave full consideration to the evidence in the record for Case #s DRI2010-00001 and DCI2010-00005 and recommended Approval of the Request; and,

WHEREAS, a second public hearing was advertised and held on October 18, 2010, before the Lee County Board of Commissioners; and,

WHEREAS, the Lee County Board of Commissioners gave full and complete consideration to the recommendations of the staff, the Hearing Examiner, the documents on record and the testimony of all interested persons.

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

SECTION A. REQUEST

The applicant filed a request as follows:

DRI2010-00001: Application for Notice of Proposed Change (NOPC) for Timberland& Tiburon Development of Regional Impact (DRI) (DRI# 7-8384-46) to reduce the number of residential units from 2,335 to 2,279; add the uses of Assisted Living, Continuing Care, Independent Living units or other similar units in a mix of unit types; increase retail commercial space from 818,000 to 910,000 square feet (approximately 810, 000 square feet currently existing); add 150,000 square feet of commercial office space (50,000 square feet of which may be medical); revise various conditions of the DRI Development Order (DRI DO) which have been complied with; change from annual to biennial reporting; and extend expiration date from November 15, 2010, to December 30, 2018.

DCI2010-00005: Amend MPD zoning to reduce the number of residential units from 2,335 to 2,279; add the uses of Assisted Living, Continuing Care, Independent Living Units or other similar units in a mix of unit types; increase retail commercial space from 818,000 to 910,000 square feet (approximately 810,000 square

feet currently existing); and add 150,000 square feet of commercial office space (50,000 square feet of which may be medical).

The property is located in the Suburban and Wetlands Future Land Use Categories and is legally described in attached Exhibit A.

The request is APPROVED, SUBJECT TO the conditions and deviations specified in Sections B and C below.

SECTION B. CONDITIONS:

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

1. Zoning Conditions:

The following zoning conditions replace those in existence for the parcel identified as University Highlands (originally approved in Zoning Resolution Z-97-010, and amended by Resolutions Z-97-072, Z-98-020). The University Highlands parcel is shown on the approved Master Concept Plan (MCP) attached hereto as Exhibit C. Zoning Resolution Z-97-010, as amended by Resolutions Z-97-072 and Z-98-020, remain in full force and effect for all portions of the MPD not subject to this resolution. The DO, as amended, will be in full force and effect for all properties subject to the DRI DO. The development of the University Highlands tract must be in accordance with the following conditions and with the Timberland & Tiburon Development of Regional Impact Development Order. Master Concept Plan/Development Parameters:

2. Master Concept Plan/Development Parameters:

Development of this project must be consistent with the two-sheet (MCP) entitled "T&T MPD Amendment (Area 1 & 2) ULP Property," stamped received "Lee County Hearing Examiner, Sep 21 2010 PM 4:21," attached as Exhibit C, and "University Highland Limited Partnership Image Book," dated September 7, 2010, attached as Exhibit E, except as modified by the conditions below.

Development must comply with all requirements of the LDC at time of local development order approval, except as may be granted by deviation as part of this planned development. If changes to the MCP are subsequently pursued, appropriate approvals will be necessary.

The maximum approved development intensity within the University Highland portion of the Mixed Use Planned Development and the associated DRI Development is 1,300 dwelling units, which can include Assisted Living units and Continuing Care Facility units, and Social Services Group IV subject to the density equivalency under LDC §34-1494, and limited to a maximum of 200 units with cooking facilities or maximum 800 without cooking facilities within the entire ULP property as depicted on the MCP; up to 555 single family units, 800 duplex units, 800 two-family units, 1,300 townhouse units, and 555 zero-lot line units subject to a conversion formula in Condition 18 below; and Dormitory and Fraternity House, maximum of 1,300 units with cooking facilities and a maximum of 5,200 units without cooking facilities; allowed in a manner consistent with LDC § 34-2.

150,000 square feet of office use, of which up to 50,000 square feet can be medical office.

99,384 square feet of retail use.

200 hotel units.

3. Submittal Requirements:

As part of the submittal for a local development order for the subject property, the developer is required to submit the information set forth below for review and approval as part of the local development order application. The information submitted must address the following:

The purpose of the review is to ensure that the development of Timberland and Tiburon, UHLP Property, is in compliance with the approved Zoning Resolution (as may be amended) and the DRI DO, while at the same time allowing some flexibility in response to changing development practices.

The following information must be provided with the application for a local development order:

- a. a cumulative land development summary table, including:
 - (1) The approved development intensity.
 - (2) The development intensity granted as part of previous development order approval(s).
 - (3) The proposed development intensity sought as part of the local development order application under review.
 - (4) The remaining development intensity.
- b. The location and dimensions of external access points that are included within the local development order application.
- c. The location and dimensions of internal roadways included in the local development order application.
- d. The location and dimensions of buildings/structures, setbacks, and building heights included in the local development order application.
- e. The boundary of the development tract(s) that is the subject of the application.
- f. The identification of the adjacent zoning outside of the Timberland and Tiburon DRI.
- g. The identification of the required buffers, public spaces, and landscape.
- h. The identification of the required open space, including an ongoing tabulation of the required open space.
- i. The identification of any required civic spaces.

- j. Detailed drawings identifying the use and application of any deviations.
- k. The location of proposed on-street and off-street parking included in the local development order application.

Additional information may be requested consistent with the zoning resolution and the DRI DO in order to render a determination of compliance with the Zoning Resolution and DRI DO.

4. Uses and Site Development Regulations:

a. Schedule of Uses

AREA #1

Accessory uses and Structures

- Administrative Offices
- Assisted Living Facility - Maximum of 200 units with cooking facilities or maximum 800 without cooking facilities
- Clubs, Private & Fraternal
 - Communication Facility, wireless (facilities will be located on buildings or as an accessory use to a permitted use)
- Community Residential Home
- Consumption on Premises (limited solely to the uses of Clubs and Food and Beverage Service, limited outdoor seating is not permitted without further review)
- Continuing Care Facility (per LDC § 34-2 and §34-494 (See Condition 2)
- Dormitory Dwelling Unit All Unit types except Mobile Home (maximum of 1,300 total units in Areas #1 and #2)
 - Maximum single family 555 units
 - Maximum duplex 800 units
 - Maximum two-family 800 units
 - Maximum townhouse 1,300 units
 - Maximum multi-family 1,300 units
 - Maximum zero lot line 555 units
- Entrance Gate or Gatehouse (subject to Condition 6)
- Essential service facilities (34-622(c)(13)): Group I
- Excavation, Water Retention
- Food and Beverage Service, limited
- Fraternity House
- Health care facilities (34-622(c)(20)): Groups I, II, III
- Home Care Facility
- Model Unit
- Parks (34-622(c)(32)): Group I and II
- Parking Lot, Accessory
- Recreational Facilities: Private/Personal
- Residential Accessory Uses
- Signs, in accordance with Chapter 30 and 33 of the LDC
- Social services (34-622(c)(46)): Group IV

AREA #2

Accessory uses and Structures

Assisted Living Facility - Maximum of 200 units with cooking facilities or maximum 800 units without cooking facilities (See Condition 2)

Building Materials Sales (limited to 50,000 square feet total)

Business services (34-622(c)(5)): Group II, limited to automobile claim adjusters, repossessing services, messenger services, packaging services, parcel and express services Chemicals and allied products, manufacturing (limited to 284) (limited to 10,000 square feet for any one use)

Clubs, Private & Fraternal

Communication Facility, wireless (Freestanding wireless communication facilities [tower, including stealth type] are prohibited. However, other wireless communication facilities may be approved in accordance with LDC § 34-1441, *et. seq.*)

Consumption on Premises Permitted in Group III restaurant and Hotel (outdoor seating may be permitted through the administrative amendment process)

Continuing Care Facility (per LDC § 34-2 and §34-1494) - Maximum of 200 units with cooking facilities or maximum 800 units without cooking facilities

Cultural Facilities

Dormitory

Dwelling Unit

All Unit types except Mobile Home (maximum of 1,300 total units in Areas #1 and #2)

Maximum single family 555 units

Maximum duplex 800 units

Maximum two-family 800 units

Maximum townhouse 1,300 units

Maximum multi-family 1,300 units

Maximum zero lot line 555 units

Food and Beverage Service, limited

Fraternity House

Health care facilities (34-622(c)(20)): Groups I, II, III, & IV

Hotel/Motel (limited solely to the Mixed Use [MU] areas)

Insurance Companies

Laundry or dry cleaning (34-622(c)(24)): Group II (limited to dry cleaning and linen supply)

Model Display Center, Home, Unit

Nightclub, Bar or Cocktail Lounge (No freestanding Nightclub, or Bar and Cocktail Lounge)

(The use is an ancillary use permitted in conjunction with a Group III restaurant or Hotel)

Parks (34-622(c)(32)): Group I and II

Printing and Publishing (limited to printing and publishing utilizing computer and other technology, no printing presses or other heavy equipment may be used in the printing process.)

Real Estate Sales Office

Recreational Facilities: Private/Personal

Research and development laboratories (34-622(c)(41)): Groups II and IV

Social services (34-622(c)(46)): Group IV
 Transportation services (34-622(c)(53)): Group I
 Warehouse: mini-warehouse

All uses permitted by right in the CC and CS-1 district (see LDC § 34-843), except the following: Aircraft Landing Facility; Bait and Tackle Shop; Bus Station; Commercial Use of Beachfront; Contractors and Builders, all Groups; Excavation, Oil and Gas; Flea Market, Indoor; Forestry Tower Funeral Homes or Mortuary; Government Maintenance Facility; Mass Transit Depot; Storage, Open.

Uses allowed by Special Exception in the CC and CS-1 districts may be permitted through the Special Exception process as contained in LDC Chapter 34.

b. Property Development Regulations:

The Property Development Regulations Table on the MCP is consistent with the following:

Minimum Lot Area and Dimensions for Areas #1 & #2:

All uses except Residential:

Area: 10,000 square feet
 Width: 100 feet
 Depth: 100 feet

Residential use only:

Minimum Lot Area and Dimensions:

Area: 2,800 square feet
 Width: 35 feet for single family, zero lot line, duplex and townhouse
 100 feet for multi-family
 Depth: 100 feet

Minimum Setbacks (Areas #1 and #2):

Street (Private ROW, for Bldg Heights 0'-65')	20'
Street (Private ROW, for Bldg Heights 65'-95')	20' + (0.5' horizontal for every 1.0' Vertical over 65' Bldg Height)
Street (Public ROW, for Bldg Heights 0'-65')	25'
Street (Public ROW, for Bldg Heights 65'-95')	25' + (0.5' horizontal for every 1.0' Vertical over 65' Bldg Height)
Side Setback (Area #1): (minimum principal structure separation of 10') for single family, zero lot line, duplex, townhouse	5'/0'
Side Setback (Area #1) for multi-family	10'
Side Setback (Area #2): 15' Rear Setback (Area #1): for single family, zero lot line, duplex, townhouse	10'
Rear Setback (Area #1); for multi-family	20'

Rear Setback (Area #2):		25'
Water Body (Areas #1 and #2): (with Structural Treatment)		25'/0'
Maximum Lot Coverage:	Area #1	55%
	Area #2	40%

Overall University Highlands MPD:

Maximum building heights are limited within the development as follows:

- All Commercial use parcels on the - 45 feet
- Mixed Use parcel fronting on Ben Hill Griffin Pkwy (NE MU parcel at corner of Ben Hill Griffin and Estero Parkway) — 65 feet (*see Notes 1 and 2 below)
- Mixed Use parcel fronting on Ben Hill Griffin Parkway (MU parcel between Everblades Parkway) — 95 feet (*see Notes 1 and 2 below)
- All other Mixed Use Parcels - 95 feet
[Mixed Used parcels are designated MU on the MCP, and Residential Areas are designed R on the MCP.]
- All Residential parcels - 65 feet

*Notes:

1. Buildings with a height of 45 feet shall have a minimum setback from Ben Hill Griffin Parkway ROW of 25 feet.
2. For each additional one foot of building height above 45 feet, the portions of the building above 45 feet shall be set back an additional six feet horizontally from the Ben Hill Griffin Parkway ROW for each additional one foot of building height above 45 feet.

Maximum building height is also limited by Condition 22 and Ordinance 07-26.

Accessory Use and Structure setbacks must comply with LDC §§ 34-1171 *et seq.* and § 34-2194.

Minimum building separation within this development for all buildings. The building separation shall be as per LDC.

5. Development along Ben Hill Griffin Parkway: Development of property adjacent to Ben Hill Griffin Parkway will be allowed to have one two-way drive aisle with parking stalls on both sides (i.e., one double-loaded drive aisle) (Exhibit D). All remaining parking areas must be to the side or the rear of the buildings as viewed from Ben Hill Griffin Parkway.
6. Native Buffers: All required buffers must utilize 100 percent native vegetation.
7. Environmental Conditions:
 - a. Vegetation Removal Permit:
 - (1) Prior to issuance of a vegetation removal permit, a copy of the appropriate gopher tortoise relocation permit issued by the Florida Fish and Wildlife

Conservation Commission (FWC) must be submitted to the Division of Environmental Sciences staff. Any gopher tortoises and commensal species found during burrow excavation must be moved to preserves containing suitable gopher tortoise habitat as approved by FWC and Lee County Division of Environmental Sciences staff.

- (2) Prior to issuance of a vegetation removal permit for any phase of development on the Timberland and Tiburon DRI site, the developer must submit a management plan, consistent with the ERP and the ACOE permit, which protects the Eastern Indigo snake from injuries associated with construction activities. This plan will be reviewed by the Division of Environmental Sciences.
- (3) Prior to issuance of the first vegetation removal permit, the developer must submit a copy of the approved ACOE permit including any applicable US Fish and Wildlife Service (FWS) Biological Opinion (BO) or listed species concurrency documentation to the Division of Environmental Sciences staff.

b. Protected Species Management Plan:

Prior to local development order approval, the developer must submit a protected species management plan meeting the requirements of LDC §10-474. This management plan must outline protection measures for the following species: gopher tortoise, wading birds, wood stork, and American alligator. An educational plan for large mammals incorporates educational brochures to increase awareness of safety and construction precautions regarding large mammals, design of bear proof dumpsters, and any other State and Federal permit requirements must be provided. Additional management plans may be required pursuant to condition II.J.3. of the DRI DO.

c. Army Corps of Engineers and South Florida Water Management District:

The original developer applied for and obtained a permit (Permit #199302371) from the U.S. Army Corps of Engineers (ACOE) to fill specified jurisdictional wetlands on this site (See DRI - DO Exhibit C). That permit incorporated the terms of a June 19, 1996 agreement between the developer and Lee County. The agreement required the developer to pay, as off-site mitigation, Environmental Assessments of \$1,700.00 per developed acre (up to \$1,200,000.00 in total) as a condition of local development order approval. This agreement is attached as (DRI - DO Exhibit D) to the DO.

Between 1997 and 2001, the County collected \$830,727 in Environment Assessments in accordance with the agreement. In June of 2005, \$634,202.01 of Environmental Assessments were used to purchase lands within the target area designated in the 1996 agreement (Site 93, Imperial Marsh Preserve). Approximately \$196,525 of funds collected remain for restoration, preservation, and management of the portion of the preserve purchased with the Environmental Assessments in accordance with the Agreement. If ACOE finds mitigation required under the 1996 agreement is not sufficient, then the developer will be responsible to provide for the mitigation required by the ACOE.

The developer's Corps Permit (#199302371) expired before the proposed development was completed and the total, anticipated Environmental Assessments were not paid. No further Environmental Assessments will be provided by the developer of Areas #1 and #2 in accordance with the June 19, 1996 Agreement due to the expiration of permit #199302371. Lee County used the proceeds from this Environmental Assessment to acquire lands within the areas identified in (DRI-DO Exhibit D) of the June 19, 1996 agreement. The portion of the Imperial Marsh Preserve purchased with the Environmental Assessments will be managed by Lee County in an environmentally responsible manner and in accordance with procedures adopted by the County. The County must coordinate their management efforts with the South Florida Water Management District and other Lee County programs so that the total area acquired is managed to preserve and enhance its wildlife habitat and environmental value.

The developer of Areas #1 and #2 has applied for a new ACOE Permit that will require different off-site mitigation. All future development on the subject property must be consistent with the developer's, of Area #1 and #2, new ACOE permit, all necessary permits from Florida Department of Environmental Protection (DEP), the South Florida Water Management District (SFWMD), and other applicable State and Federal agencies.

- d. Open Space: Prior to local development order approval, development Area #2 must demonstrate an overall minimum 30 percent open space with each outparcel containing a minimum of 10 percent open space.

Prior to local development order approval, an open space tracking table must be provided demonstrating 51.5 acres of total open space for development Areas #1 and #2.

A total of 305.8 acres of overall open space for the entire Timberland and Tiburon DRI must be provided consistent with Map H.

- e. Indigenous Preservation: Prior to issuance of the first local development order, the applicant must provide either proof of purchase for the wetland mitigation credits from a permitted mitigation bank located no greater than one-mile distance from the Lee County boundaries, or alternative wetland mitigation approved by the ACOE provided from lands located within Lee County.

Panther Habitat units will be generated from the permitted wetland mitigation (bank or otherwise) located no greater than one-mile distance from the Lee County boundaries. Unmet Panther Habitat units required will be purchased from a FWS-approved panther conservation site located within the Panther Consultation Area as defined by FWS.

- f. Buffers:
 - (1) Prior to the first local development order approval for any portion of the property that is encompassed by the local development order application, development plans must depict a minimum 25-foot wide enhanced buffer along the east property line adjacent to Ben Hill Griffin Pkwy. The buffer must consist of a minimum eight trees per 100 linear feet of which a

minimum four native canopy trees must be provided with palms (counted at a 1:1 ratio) utilized for the balance of the buffer tree requirement; 66 native shrubs per 100 linear feet installed at three-gallon container size, 24-inch height to be maintained at a minimum 36-inch height; and 33 native groundcovers per 100 linear feet installed at one-gallon container size, 12-inch height. The buffer plants may be clustered to create view windows. The enhanced buffering required by this condition is in lieu of the buffers required by LDC §33-435 and §34-1353 for automotive service stations, convenience food and beverage stores, fast food restaurants, and car washes.

- (2) Prior to the first local development order approval for any portion of the property that is encompassed by the local development order application, development plans must depict a minimum 40-foot wide enhanced buffer along the west property line adjacent to I-75. Note this buffer may be placed within the drainage lake easement area provided the applicant complies with condition 7(f)(5). The buffer must consist of a minimum of 10 trees per 100 linear feet; 66 native shrubs per 100 linear feet installed at seven-gallon container size, 48-inch height, to be maintained at a minimum 60-inch height; and 33 native ground covers per 100 linear feet installed at one-gallon container size, 12-inch height. The buffer plants may be clustered to create view windows and must be planted on the exterior (right-of-way) side of the berm, if proposed.
- (3) Prior to local development order approval, the development order plans must demonstrate the use of 100 percent native vegetation for all required landscaping on site.
- (4) Prior to local development order approval, the development order plans must demonstrate the use of landscaping material for the buffers within the University Window Overlay consistent with the plant palette attached as Exhibit F to the agreement as recorded in OR2934 PG3441 of the Lee County Clerk of Courts. OR2934 PG3441 is attached hereto and made a part hereof (Exhibit F).
- (5) Prior to the first local development order approval for any portion of the property that incorporates the drainage lake area along I-75, a copy of a recorded easement agreement for the drainage lake along I-75 must be provided to Environmental Sciences Staff. The language of the agreement must allow for the placement of landscaping and littoral plantings within the easement. The littoral plantings within the easement must be designed to meet LDC §10-418 requirements while not reducing the storage attenuation for the pond in the agreement. The applicant is responsible for the long term maintenance and replacement of the landscaping should the landscaping be impacted due to work within the easement.
- (6) Internal Buffers: The application for local development order approval must identify all of the internal buffers consistent with the portion of the property encompassed by the local development order application.
- (7) Estero Parkway Buffer: See deviation 16.

8. Entrance Gate and Gatehouse: No Entrance Gate(s) and Gatehouse(s) are permitted to be built on "Existing Internal Roads" and "Proposed Internal Roads" as depicted on Sheet 002 of 002 of the MCP. In addition, all entrance gates and gatehouses must comply with the requirements of LDC §34-1748.
9. Sidewalks: Sidewalks will be provided as required by the MCP and the LDC throughout the development to provide access to all development parcels within the project (including between Everglades Parkway and Areas #1 and #2 north of the Parkway and arena). Sidewalks must be provided for on the plans under review as part of any local development order application. The sidewalks ultimately must be connected to existing facilities on Ben Hill Griffin Parkway and Estero Parkway.
10. Utilities: The development must connect to potable water and sanitary sewage utilities as part of the vertical development of this planned development.
11. Architectural: Architectural designs must be submitted with each development order that includes vertical development. The application must demonstrate compliance with Chapter 33 of the LDC and the Image Book.
12. Vehicular/Pedestrian Impacts: Approval of this zoning request does not address mitigation of the project's vehicular or pedestrian traffic impacts. Additional conditions consistent with the LDC may be required to obtain a local development order.
13. Lee County Comprehensive Plan Consistency: Approval of this zoning request does not guarantee local development order approval. Future development order approvals must satisfy the requirements of the Lee County Comprehensive Plan Planning Communities Map and Acreage Allocation Table, Map 16, and Table 1(b), be reviewed for, and found consistent with, the retail commercial standards for site area, including range of gross floor area, location, tenant mix and general function, as well as all other Lee County Comprehensive Plan provisions.
14. Concurrency: Approval of this rezoning does not constitute a finding that the proposed project meets the concurrency requirements set forth in LDC Chapter 2 and the Lee County Comprehensive Plan. The developer is required to demonstrate compliance with all concurrency requirements prior to issuance of a local development order.
15. Solid Waste Management: As part of any local development order approval for vertical development, the development order plans must include facilities in compliance with the LDC §10-261 and Solid Waste Ordinance # 08-10 for the pick-up/disposal of solid waste and recyclables. The minimum area required for, and specific locations of, these facilities will be reviewed at the time of local development order application.
16. Federal Emergency Management Agency/Letter of Map Revision FEMA/LOMR: The applicant has submitted for a Letter of Map Revision (LOMR). Development in the portion of the property subject to the LOMR must comply with applicable FEMA maps and regulations at the time of local development order.
17. Protection of Telecommunication Facilities: Development within this planned development must comply with all requirements of Lee County Ordinance 07-26 (as may be amended

from time to time). At the time of local development order, the applicant must demonstrate compliance with this Ordinance.

18. Residential Conversion Formula: A combination of the approved residential types (Single-family, Two-family, Townhouse, Multi-family, Single-Family Detached, and Zero lot line) will be allowed based on conversion rates of 2.3 multi-family/townhouse units per single-family/zero lot line unit and 1.6 multi-family/townhouse units per duplex/two-family unit.

SECTION C. DEVIATIONS:

Previously Approved Deviations:

1. Water Retention: Deviation (2) sought relief from the LDC §10-329(d)(1) requirements to provide that excavations for water retention must be located a minimum of 50 feet from a private property line under separate ownership or 50 feet from the right-of-way line of a collector or arterial street (unless granted an administrative deviation to reduce to a minimum of 25 feet). As indicated on the MCP, this deviation is requested to be applied to the existing lake adjacent to Germain Arena and the two proposed lakes adjacent to the Estero Parkway Right-of-Way. This deviation is APPROVED.
2. Parking Spaces: Deviation (5) sought relief from the LDC §34-2016(2)a.2 requirement to provide that parking spaces not abutting a curb, fence, wall or other structure, must be provided with a parking wheel stop; to remove the requirement for wheel stops within Area #1 and Area #2. This deviation is APPROVED.
3. Intersection Connection Separation: Deviation (11) seeks relief from the LCD §10-285, Table 1, requirement to provide an intersection connection separation of 660 feet on arterial streets; to allow a distance of 498 feet on Ben Hill Griffin Parkway. This deviation is APPROVED.
4. Building Height: Deviation (12) seeks relief from the LDC § 33-229 requirement to provide that building height in the Estero community outside the Interstate Highway Interchange Areas to three stories or 45 feet; to allow for a maximum building height of 65 feet in Area #1 and 95 feet in Area #2. This deviation is APPROVED, SUBJECT TO the requirements of Condition 4(b).
5. Water Bodies/Park Areas: Deviation (13) seeks relief from the LDC §33-117 requirement to provide that bodies of water, including wet and dry detention areas, exceeding 20,000 square feet in cumulative area and located adjacent to a public right-of-way are considered park area and an attractor for pedestrian activity. These areas must incorporate into the overall design of the project at least two of the following items:
 - a. A five-foot wide walkway with trees an average of 50 feet on center; shaded benches a minimum of six feet in length located on average every 150 feet; or,
 - b. A public access pier with covered structure and seating; or,
 - c. An intermittent shaded plaza/courtyard, a minimum of 200 square feet in area with benches and/or picnic tables adjacent to the water body; and/or

- d. A permanent fountain structure.

The lakes adjacent to Estero Parkway will have proximity to sidewalks constructed within the rights-of-way adjacent to the lakes and each of the lakes will contain a permanent fountain structure. The combination of the sidewalks within the rights-of-way adjacent to the lakes and the fountains will be considered as satisfaction of the requirements of LDC §33-117. This deviation is APPROVED.

6. Indigenous Vegetation: Deviation (14) seeks relief from the LDC §10-415(b) requirement - Indigenous Native Vegetation and Trees; to allow for the indigenous preservation requirements within Area #1 and Area #2 to be provided off-site in accordance with the provisions of LDC §10415(b)(5) and Condition 7(e). This deviation is APPROVED, SUBJECT to the requirements of Condition 7(e).
7. Landscaping: Deviation (15) seeks relief from the LDC § 33-435 - Landscaping for Automobile Service Stations and Convenience Food and Beverage Stores, and LDC §34-1353 - Convenience Food and Beverage Stores, Automotive Service Stations, Fast Food Restaurants and Car Washes; to allow for the enhanced buffer proposed along Ben Hill Griffin Parkway to be substituted for the specific requirements in LDC §33-435 and §34-1353. This deviation is APPROVED, SUBJECT to the requirements of Condition 7(f)(1).
8. Landscape Standards: Deviation (16) seeks relief from the LDC § 33-351 requirement to provide for modified landscape standards along the northern property boundary with Estero Parkway. Pursuant to discussions with County Staff, the applicant has agreed to provide a 20-foot wide Type "D" landscape buffer along the northern property line from the 0.3 acres preserve area eastward to Ben Hill Griffin Parkway. West of the 0.3 acre preserve area, Estero Parkway is an elevated roadway with a retaining wall for the crossing of Estero Parkway over 1-75. The landscape buffer west of the 0.3 acre preserve area will have a width of 15 feet and the applicant requests that buffer landscaping required be eight sabal palms per 100 linear feet with staggered heights of 16 to 20 feet at the time of planting and no shrubs. This deviation is APPROVED, SUBJECT TO the conditions set forth herein.

SECTION D. EXHIBITS AND STRAP NUMBER:

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

- Exhibit A: Legal description of the property
Exhibit B: Zoning Map (with the subject parcel indicated)
Exhibit C: The Master Concept Plan
Exhibit D: Parking Exhibit
Exhibit E: Image Book, dated September 7, 2010
Exhibit F: University Window Overlay Plant Palette
Exhibit G: Ninth Amendment to the T&T DRI Development Order

The applicant has indicated that the STRAP number for the subject property is:

26-46-25-00-00001.1020

SECTION E FINDINGS AND CONCLUSIONS:

1. The applicant has proven entitlement to the rezoning by demonstrating compliance with the Lee Plan, the LDC, and other applicable codes and regulations.
2. The MPD rezoning, as conditioned:
 - a. meets or exceeds all performance and locational standards set forth for the potential uses allowed by the request; and,
 - b. is consistent with the densities, intensities and general uses set forth in the Lee Plan; and,
 - c. is compatible with existing or planned uses in the surrounding area; and,
 - d. will not place an undue burden upon existing transportation or planned infrastructure facilities and will be served by streets with the capacity to carry traffic generated by the development; and,
 - e. will not adversely affect environmentally critical areas or natural resources.
3. The rezoning, as conditioned, satisfies the following criteria:
 - a. the proposed use or mix of uses is appropriate at the subject location; and
 - b. the recommended conditions to the concept plan and other applicable regulations provide sufficient safeguard to the public interest; and
 - c. the recommended conditions are reasonably related to the impacts on the public interest created by or expected from the proposed development.
4. Urban services, as defined in the Lee Plan, are, or will be, available and adequate to serve the proposed land use.
5. The approved deviations, as conditioned, enhance achievement of the planned development objectives, and preserve and promote the general intent of LDC Chapter 34, to protect the public health, safety and welfare.
6. No development of an area set aside for preservation or special protection of endangered plant or animals is sought in this application.
7. That the requests, as conditioned, do not create new or additional unreviewed regional impacts and do not constitute a Substantial Deviation under Section 380.06(19), Fla. Stat.

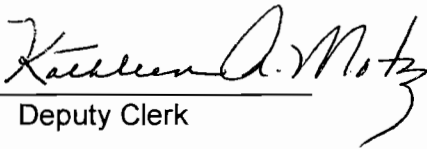
Commissioner Judah made a motion to adopt the foregoing resolution, seconded by Commissioner Manning. The vote was as follows:

John E. Manning	Aye
Brian Bigelow	Aye
Ray Judah	Aye
Tammara Hall	Aye
Frank Mann	Aye

DULY PASSED AND ADOPTED this 18th day of October 2010.

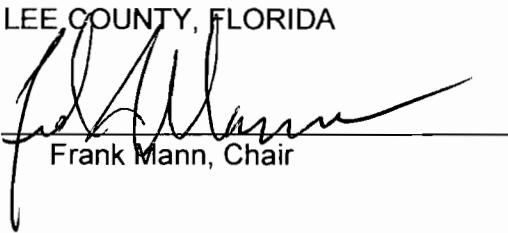
ATTEST:
CHARLIE GREEN, CLERK

BY:

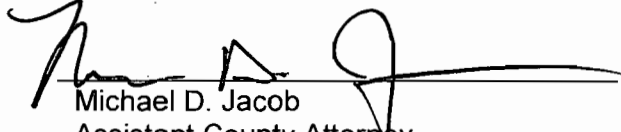

Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY:


Frank Mann, Chair

Approved as to form by:


Michael D. Jacob
Assistant County Attorney
County Attorney's Office



RECEIVED
MINUTES OFFICE
2010 DEC - 7 PM 1:37



EXHIBIT A
Legal Description,
Property located in Lee County,
Florida

A parcel of land located in Sections 25 and 26, Township 46 South, Range 25 East, Lee County, Florida, being more particularly described as follows:
(University Highland Parcel less and excepting Parcel 103A and Parcel 106)

Commence at the Northeast corner of Section 26, Township 46 South, Range 25 East, Lee County, Florida;
Thence run North 89° 44'39" West, along the North line of the Northeast quarter of said Section 26 for a distance of 651.54 feet to a point on the Westerly right of way line of Ben Hill Griffin Parkway, a 150.00 foot right of way as the same is recorded in O.R. Book 2745, page 1550 through 1554 of the Public Records of Lee County, Florida.
Thence along said right of way South 00° 14'58" West 75.00 feet to the Point of Beginning;

Thence continue along said right of way South 00°14'58" West 885.54 feet;
Thence continue along said right of way 1,073.77 feet along the arc of a non-tangential circular curve concave east having a radius of 1,985.00 feet through a central angle of 30°59'37" and being subtended by a chord which bears South 15°14'50" East 1,060.72 feet;
Thence continue along said right of way South 30°44'39" East 954.33 feet;
Thence continue along said right of way 768.64 feet along the arc of a circular curve concave west having a radius of 1,835.00 feet through a central angle of 24°00'00" and being subtended by a chord which bears South 18°44'39" East 763.04 feet;
Thence continue along said right of way South 06°44'39" East 109.71 feet;
Thence leaving said right of way South 70°33'22" West 2,206.62 feet;
Thence North 62°14'40" West 47.93 feet;
Thence North 24°07'56" West 85.91 feet;
Thence North 13°20'01" West 110.09 feet;
Thence North 20°09'25" West 97.07 feet;
Thence North 18°09'29" West 106.45 feet;
Thence North 10°45'16" West 65.81 feet;
Thence North 00°34'45" West 113.28 feet;
Thence North 31°30'22" East 4.37 feet;
Thence North 69°15'14" East 221.19 feet;
Thence 108.06 feet along the arc of a non-tangential circular curve concave northwest having a radius of 80.00 feet through a central angle of 77°23'31" and being subtended by a chord which bears North 30°33'30" East 100.03 feet;
Thence North 16°01'19" East 116.07 feet;
Thence North 41°14'47" East 75.68 feet;
Thence North 58°07'13" East 50.38 feet;
Thence North 58°27'44" East 124.90 feet;
Thence North 69°15'14" East 112.24 feet;
Thence North 70°28'40" East 30.06 feet;
Thence North 18°17'53" West 787.91 feet;
Thence South 71°42'07" West 1,109.14 feet to the easterly line of parcel 103A as recorded in instrument #2009000063112, public records of Lee County, Florida.

APPROVED
LEGAL *BJ*
5/12/10

DCI 2010-00005

Corporate Office 3200 Bailey Lane Suite 200 Naples, Florida 34105

800.649.4336 239.649.4040 F 239.643.5716

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Thence along said easterly line for the following five (5) described courses;

- 1) 82.88 feet along the arc of a non-tangential circular curve concave east having a radius of 35,918.50 feet through a central angle of 00°07'56" and being subtended by a chord which bears North 16°38'50" West 82.88 feet;
- 2) 369.14 feet along the arc of a non-tangential circular curve concave west having a radius of 15,081.49 feet through a central angle of 01°24'09" and being subtended by a chord which bears North 16°52'41" West 369.13 feet;
- 3) South 70°32'57" West 8.23 feet;
- 4) 828.89 feet along the arc of a non-tangential circular curve concave west having a radius of 15,071.50 feet through a central angle of 03°09'04" and being subtended by a chord which bears North 19°09'21" West 828.79 feet;
- 5) 743.11 feet along the arc of a non-tangential circular curve concave east having a radius of 35,896.14 feet through a central angle of 01°11'10" and being subtended by a chord which bears North 20°05'33" West 743.09 feet to a point of the east right of way of Interstate I-75 (State Road 93).

Thence along said east right of way North 18°17'53" West 727.20 feet to a point on the south line of parcel 106 as recorded in instrument #2006000069199, public records of Lee County, Florida;

Thence along the southerly line of said parcel 106 for the following four (4) described courses;

- 1) 765.90 feet along the arc of a non-tangential circular curve concave north having a radius of 3,506.50 feet through a central angle of 12°30'53" and being subtended by a chord which bears North 83°37'38" East 764.38 feet;
- 2) North 77°22'12" East 321.73 feet;
- 3) 512.73 feet along the arc of a non-tangential circular curve concave south having a radius of 5,375.00 feet through a central angle of 05°27'56" and being subtended by a chord which bears North 80°06'06" East 512.54 feet;
- 4) South 89°44'39" East 1,234.40 feet to the west right of way line of said Ben Hill Griffin Parkway and the POINT OF BEGINNING.

Containing 208.41 acres, more or less.

Bearings are based on the North line of the Northeast ¼ of Section 26, Township 46 South, Range 25 East, Lee County, Florida, being North 89°44'39" West.

Certificate of authorization #LB-43.

WilsonMiller, Inc.
Registered Engineers and Land Surveyors

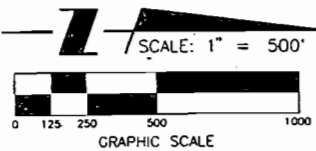
By: Michael H. Maxwell Date 04/06/2010
Michael H. Maxwell, Professional Surveyor and Mapper #LS4650

Ref: 2K-315A

Not valid unless embossed with the Professional's seal.

APPROVED
LEGAL

DCI 2010-00005



SOUTHWEST ¼ OF SECTION 26,
TOWNSHIP 46 SOUTH, RANGE 25 EAST

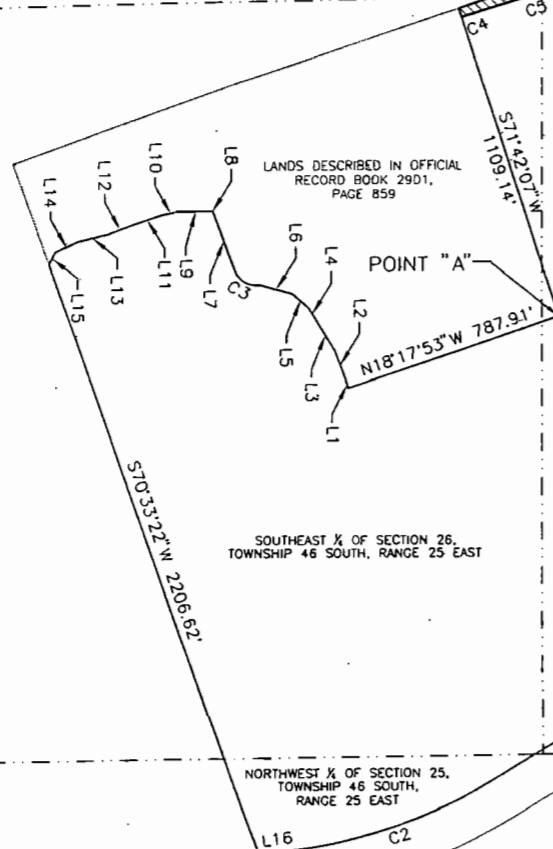
INTERSTATE I-75 (STATE ROAD 93)
PER FLORIDA DEPARTMENT OF TRANSPORTATION RIGHT-OF-WAY MAP
FOR STATE ROAD 93(I-75), LEE COUNTY, SECTION 12075-2402

NORTHWEST ¼ OF SECTION 26,
TOWNSHIP 46 SOUTH, RANGE 25 EAST

NORTH ¼ CORNER OF SECTION 26,
TOWNSHIP 46 SOUTH, RANGE 25 EAST

PARCEL 103A
(NOT INCLUDED)

PARCEL 106
(NOT INCLUDED)



LANDS DESCRIBED IN OFFICIAL
RECORD BOOK 29D1,
PAGE 859

SOUTHEAST ¼ OF SECTION 26,
TOWNSHIP 46 SOUTH, RANGE 25 EAST

NORTHWEST ¼ OF SECTION 25,
TOWNSHIP 46 SOUTH,
RANGE 25 EAST

CURVE TABLE						
CURVE	LENGTH	RADIUS	DELTA	TANGENT	CHORD BEARING	CHORD
C1	1073.77'	1985.00'	30°59'37"	550.37	S15°14'50"E	1060.72'
C2	768.64'	1835.00'	24°00'00"	390.04	S18°44'39"E	763.04'
C3	108.06'	80.00'	77°23'31"	64.08	N30°33'30"E	100.03'
C4	82.88'	35918.50'	0°07'56"	41.44	N16°38'50"W	82.88'
C5	369.14'	15081.49'	1°24'09"	184.58	N16°52'41"W	369.13'
C6	828.89'	15071.50'	3°09'04"	414.55	N19°09'21"W	828.79'
C7	743.11'	35896.14'	1°11'10"	371.57	N20°05'33"W	743.09'
C8	765.90'	3506.50'	12°30'53"	384.48	N83°37'38"E	764.38'
C9	512.73'	5375.00'	5°27'56"	256.56	N80°08'06"E	512.54'

LINE TABLE		
LINE	LENGTH	BEARING
L1	30.06	N70°28'40"E
L2	112.24	N69°15'14"E
L3	124.90	N58°27'44"E
L4	50.38	N58°07'13"E
L5	75.68	N41°14'47"E
L6	116.07	N16°01'19"E
L7	221.19	N69°15'14"E
L8	4.37	N31°30'22"E
L9	113.28	N00°34'45"W
L10	65.81	N10°45'16"W
L11	106.45	N18°09'29"W
L12	97.07	N20°09'25"W
L13	110.09	N13°20'01"W
L14	85.91	N24°07'56"W
L15	47.93	N62°14'40"W
L16	109.71	S06°44'39"E
L17	321.73	S77°22'16"W
L18	343.03	N18°18'02"W
L19	885.92	S89°45'10"E
L20	2034.77	S89°44'35"E
L21	8.23	S70°32'57"W

PARCEL DESCRIBED
208.41 ACRES +/-

NORTHEAST ¼ OF SECTION 26,
TOWNSHIP 46 SOUTH, RANGE 25 EAST

BEN HILL GRIFFIN PARKWAY 150' RIGHT OF WAY
PER D.R. BOOK 2745, PAGE 1550

SECTION 26
SECTION 25

P.O.C.
NORTHEAST CORNER OF
SECTION 26, TOWNSHIP 46
SOUTH, RANGE 25 EAST

APPROVED
LEGAL
Michael H. Maxwell
5/12/10

SURVEYOR'S REPORT/NOTES

1. BEARINGS ARE BASED ON THE NORTH LINE OF THE NORTHEAST ¼ OF SECTION 26, TOWNSHIP 46 SOUTH, RANGE 25 EAST, BEING NORTH 89°44'39" WEST PER STATE PLANE COORDINATE SYSTEM FLORIDA WEST ZONE.
2. ALL DIMENSIONS ARE IN FEET AND DECIMALS THEREOF, UNLESS OTHERWISE NOTED.
3. THIS SKETCH MAY HAVE BEEN REDUCED.
4. NOT VALID WITHOUT ACCOMPANYING DESCRIPTION, REFERENCE WILSONMILLER DOCUMENT #217795.
5. DESCREPIENCIES WITH THE PARENT PARCEL LEGAL AND PARCEL 106 LEGAL (INSTRUMENT #2006000069199 & PARCEL 103A LEGAL (INSTRUMENT #2009000063112), PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

N89°44'35"W 651.52' TO PARCEL 106 POINT OF BEGINNING.
N89°44'39"W 651.54' TO PARENT PARCEL POINT OF BEGINNING.
BOTH LEGAL DESCRIPTIONS CALL FOR THE SAME LINE AND THE SAME RIGHT-OF-WAY.

C8 EXTENDED CURVE TO INTERSECT WITH EAST RIGHT OF WAY OF I-75, AND MATCH PARENT PARCEL.
DEED: ARC LENGTH = 765.62, CHORD = 764.10
DELTA = 12°30'36", CHORD BEARING = S83°37'34"W

C4- EXTENDED CURVE TO MATCH SOUTH LINE OF PARENT PARCEL
DEED: ARC LENGTH = 83.83

STATE PLANE COORDINATES FLA WEST ZONE 83/90

P.O.B. = N=769016.7509 E=729902.5154

POINT "A" = N=766526.0880 E=729036.8988

LEGEND

- POB = POINT OF BEGINNING
- POC = POINT OF COMMENCEMENT
- INDICATES PARCEL 103A and 106 RIGHT OF WAY TAKES

PREPARED FOR: UNIVERSITY HIGHLAND LIMITED PARTNERSHIP
FOR THE BENEFIT OF: UNIVERSITY HIGHLAND LIMITED PARTNERSHIP
CERTIFICATE OF AUTHORIZATION #LB-43
NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

WILSONMILLER, INC.
REGISTERED ENGINEERS AND LAND SURVEYORS
3200 BAILEY LANE, SUITE 200, (239) 263-6408
NAPLES, FLORIDA 34105

APPROVED
LEGAL
Michael H. Maxwell
MICHAEL H. MAXWELL, PROFESSIONAL SURVEYOR AND MAPPER LSA#650
DATE: 04-09-10
NOT A SURVEY

CLIENT: UNIVERSITY HIGHLAND LIMITED PARTNERS

WilsonMiller
Planners • Engineers • Ecologists • Surveyors • Landscape Architects • Transportation Consultants
WilsonMiller, Inc.

TITLE: SKETCH AND DESCRIPTION
A PORTION OF SECTIONS 25 & 26,
TOWNSHIP 46 SOUTH, RANGE 25 EAST,
LEE COUNTY, FLORIDA

ACTIVITY	INITIALS	EMP. NO.	DATE
DRAWN BY:	WAG	831	02/02/10
CHECKED BY:	MHM	204	02/02/10
COMPUTED BY:			

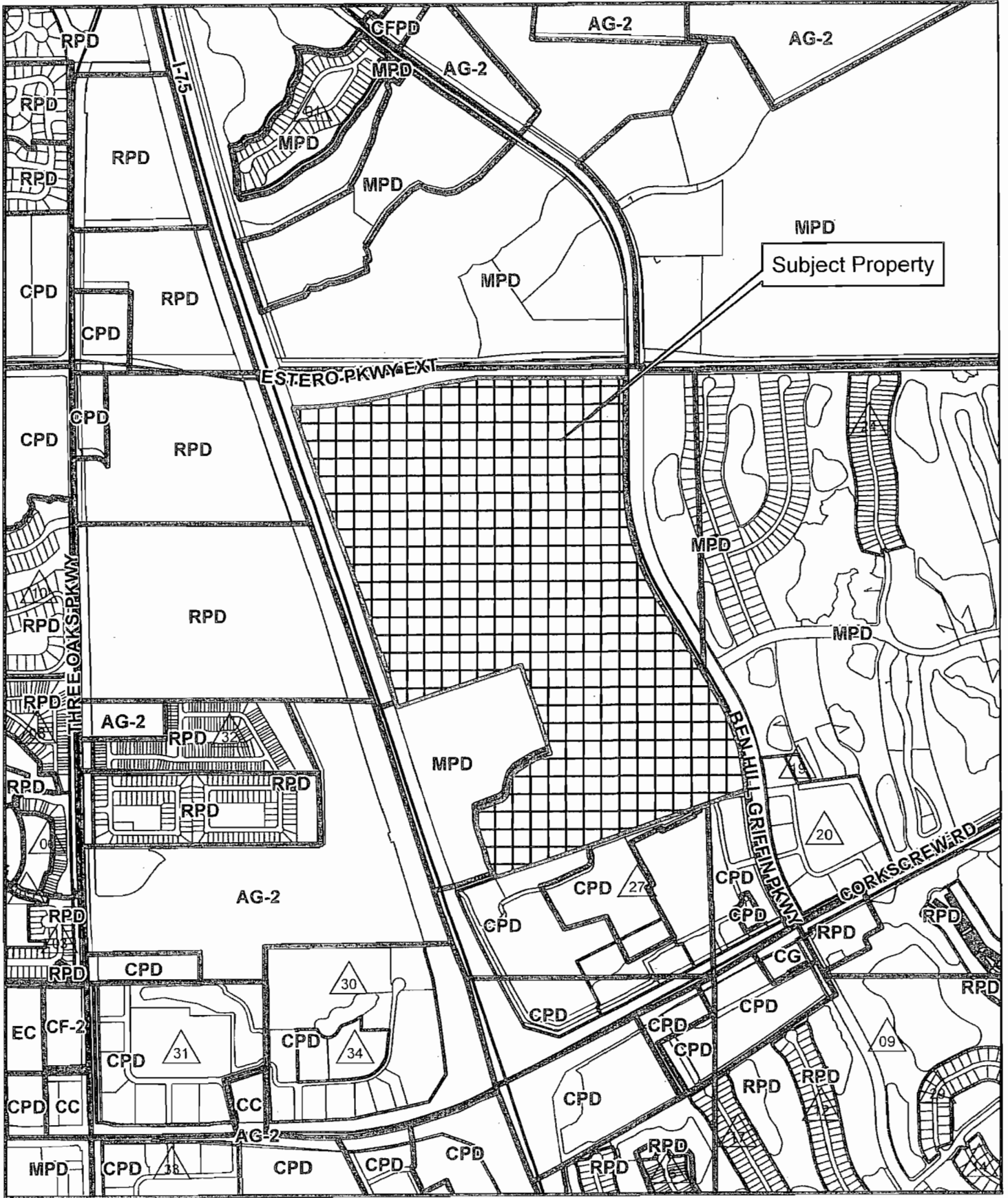
DATE: FEB. 2010	HORIZONTAL SCALE: 1" = 500'	VERTICAL SCALE:	SEC: 26	TWP: 46	RGE: 25	FIELD BOOK:	FIELD BOOK PAGE:
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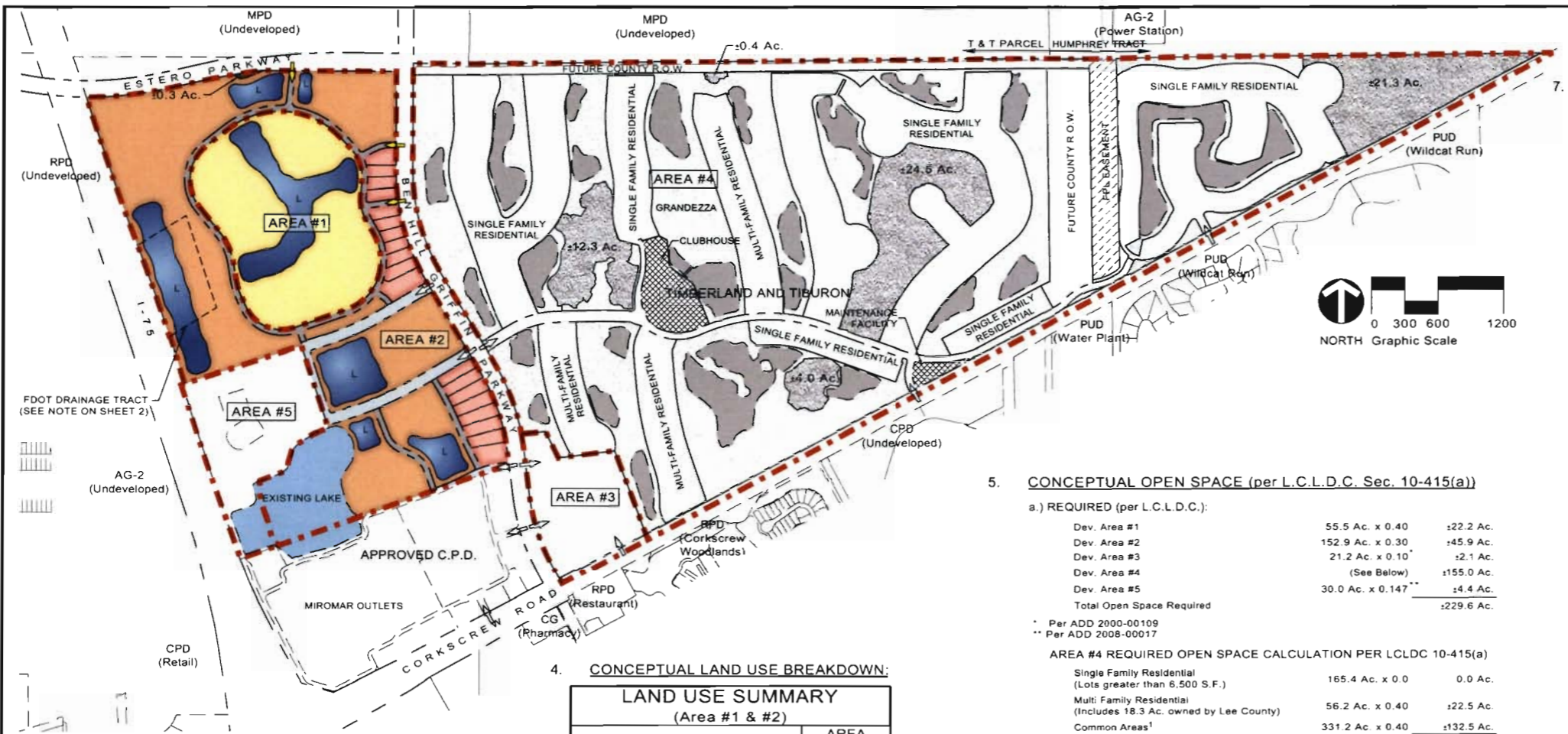
TASK: 22400	PROJECT NO.: 03247-003-001	SHEET NUMBER: 1 OF 1	DRAWING NUMBER: 2K-315A
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Apr 09, 2010 - 08:51:16 KRIMES\X:\SUR\03247\2K-315-A-SK-DESC.dwg

3200 Bailey Lane, Suite 200 • Naples, Florida 34105-8507 • Phone 239-649-4040 • Fax 239-263-6484 • Web Site www.wilsonmiller.com

Zoning Map





PROJECT SUMMARY

1. DEVELOPMENT AREA	
a. Area #1	:55.5 Ac.
b. Area #2	:152.9 Ac.
c. Area #3	:21.2 Ac.
d. Area #4	:552.8 Ac.
e. Area #5	:30.0 Ac.
f. Total Areas #1 - #5	:812.4 Ac.
2. REQUEST: Amend MPD for Area #1 and #2	
3. PARCEL SIZE	
a. ORIGINAL D.R.I. D.O. PLUS Humphrey Tract Parcel	:794.5 Ac. :126.7 Ac.
ENTIRE PARCEL REGULATED BY D.R.I. D.O.	:921.2 Ac.
b. LESS Corkscrew Rd. R.O.W. Dedication	:4.7 Ac.
LESS Ben Hill Griffin Pkwy R.O.W. Dedication	:17.4 Ac.
LESS Approved CPD Parcel	:75.0 Ac.
c. TOTAL REMAINING PARCEL (Previous Approval)	:824.1 Ac.
d. LESS Estero Pkwy and I-75 R.O.W. Taking	:11.7 Ac.
e. TOTAL REMAINING PARCEL	:812.4 Ac.

4. CONCEPTUAL LAND USE BREAKDOWN:

LAND USE SUMMARY (Area #1 & #2)	
USE	AREA (ACRES)
MU MIXED USE	83.8:
C COMMERCIAL	15.7:
R RESIDENTIAL	43.8:
PROPOSED INTERNAL ROADWAYS	10.5:
EXISTING INTERNAL ROADWAYS	7.5:
WETLAND PRESERVE	0.3:
SURFACE WATER MANAGEMENT LAKES	32.9:
EXISTING SURFACE WATER MANAGEMENT LAKES	13.9:
TOTAL	208.4:

Development Area #3: (110,000 S.F. Commercial Retail)	
Development Tracts	:21.2 Ac.
Total Development Area #3	:21.2 Ac.
Development Area #4: (490 S.F. Units / 610 MF Unit)	
Proposed Internal Road R.O.W.	:25.5 Ac.
Development Tracts	:221.6 Ac.
Proposed Lakes	:77.77 Ac.
Proposed Upland / Wetland Preservation Enhancement Areas	:54.7 Ac.
Proposed Golf Course / Open Space	:150.8 Ac.
FPL Easement	:11.3 Ac.
Future Road R.O.W. Reservation:	
Proposed Corkscrew Rd R.O.W. Reservation	:8.3 Ac.
Proposed 50 ft. Drainage Easement	:2.5 Ac.
Total Development Area #4	:552.8 Ac.
Development Area #5:	
Sports Complex Tract	:30.0 Ac.
Total Development Area #5	:30.0 Ac.

5. CONCEPTUAL OPEN SPACE (per L.C.L.D.C. Sec. 10-415(a))

a.) REQUIRED (per L.C.L.D.C.):		
Dev. Area #1	55.5 Ac. x 0.40	:22.2 Ac.
Dev. Area #2	152.9 Ac. x 0.30	:45.9 Ac.
Dev. Area #3	21.2 Ac. x 0.10	:2.1 Ac.
Dev. Area #4	(See Below)	:155.0 Ac.
Dev. Area #5	30.0 Ac. x 0.147	:4.4 Ac.
Total Open Space Required		:229.6 Ac.
* Per ADD 2000-00109		
** Per ADD 2008-00017		

AREA #4 REQUIRED OPEN SPACE CALCULATION PER LCLDC 10-415(a)

Single Family Residential (Lots greater than 6,500 S.F.)	165.4 Ac. x 0.0	0.0 Ac.
Multi-Family Residential (Includes 18.3 Ac. owned by Lee County)	56.2 Ac. x 0.40	:22.5 Ac.
Common Areas ¹	33.1 Ac. x 0.40	:132.5 Ac.
Total Open Space Required		:155.0 Ac.

Note 1: The common areas consist of the golf course, preserve areas, golf course clubhouse, golf course maintenance facility, FPL easement, surface water management lakes, and internal core road rights-of-way. In accordance with DOS 991010800 and DOS 2002-00188, the required open space for the common areas within development area #4 has been calculated at 40%.

b.) PROVIDED (per L.C.L.D.C.):		
Development Area #1 (55.5 Ac. @ 10% min) & Area #2 (152.9 Ac. @ 30%) (Areas #1 & #2 are combined for the purpose of calculation of open space provided)		:51.5 Ac.
Development Area #3		:2.9 Ac.
Development Area #4 (per DOS 991010800 and DOS 2002-00188) (SEE BELOW)		:247.0 Ac.
Development Area #5 (@ 14.7%)		:4.4 Ac.
Total Open Space Provided		:305.8 Ac.

Development Area #4 Open Space Provided (per DOS 991010800 and DOS 2002-00188)		
Golf Course/Open Space		:133.7 Ac.
Conservation Easement		:62.9 Ac.
FPL Easement		:11.7 Ac.
Lakes**		:38.7 Ac.
Total Development Area #4		:247.0 Ac.

Notes:
* Area #2 outparcels may contain a minimum of 10% open space given that the combination of Areas #1 & #2 provide the total 51.5 acres of open space for Area #1 and #2.
** Lake area counted toward required open space equals 25% of the total required open space for Area #4

6. INDIGENOUS OPEN SPACE

a.) REQUIRED (per L.C.L.D.C. Sec. 10-415(b)(1)(a))		
Indigenous Open Space Required = 229.6 Ac. X 50% = 114.8 Ac.		
b.) PROVIDED (per L.C.L.D.C. Sec. 10-415(b)(3))		
Development Area #2	:0.3 Ac.	
Development Area #3	:0.5 Ac. (Per DOS 2000-00231)	
Development Area #4	:63.0 Ac. (Per DOS 9910108000) :21.3 Ac. (Per DOS 2002-00188)	
Total Indigenous Open Space Provided on-site	:65.1 Ac.	

Note: Due to a lack of suitable indigenous native vegetation on-site, the remaining required indigenous open space is proposed to be provided in off-site areas. Reference deviation #14 for additional information.

SCHEDULE OF DEVIATIONS

a. Previously Approved Deviations

- Deviation # 2 seeks relief from LDC Section 10-326(d)(1) which provides that excavations for water retention must be located a minimum of 50' from a private property line under separate ownership or 50 feet from the right-of-way line of a collector or arterial street (unless granted an administrative deviation to reduce to a minimum of 25 feet). As indicated on the MCP, this deviation is requested to be applied to the existing lake adjacent to Germain Arena and the two proposed lakes adjacent to the Estero Parkway Right-of-Way.
- Deviation # 5 requests relief from the LDC Section 34-2016(2)a 2 requirement that parking spaces not abutting a curb, fence wall or other structure must be provided with a parking wheel stop, to remove the requirement for wheel stops from parking spaces within Areas #1 and #2.

b. Approved Deviations Under Resolution No. 7-10-031

- Deviation # 11 seeks relief from LDC Section 10-285, Table 1, which requires an Intersection connection separation of 660' on arterial streets, to allow a distance of 498 feet on Ben Hill Griffin Parkway.
- Deviation # 12 seeks relief from LDC Section 33-229 which limits the building height in the Estero community outside the Interstate Highway Interchange Areas to three stories or 45 feet, to allow for a maximum building height of 65 feet in Area #1 and 95 feet in Area #2.
- Deviation # 13 seeks relief from LDC Section 33-117 which requires that bodies of water, including wet and dry detention areas, exceeding 20,000 square feet in cumulative area and located adjacent to a public right-of-way are considered park area and an attractor for pedestrian activity. These areas must incorporate into the overall design of the project at least two of the following items:
 - (1) A five-foot wide walkway with trees an average of 50 feet on center; shaded benches a minimum of six feet in length located on average every 150 feet; or
 - (2) A public access pier with covered structure and seating; or
 - (3) An intermittent shaded plaza/courtyard, a minimum of 200 square feet in area with benches and/or picnic tables adjacent to the water body; and/or
 - (4) A permanent fountain structure
 The lakes adjacent to Estero Parkway will have proximity to sidewalks constructed within the rights-of-way adjacent to the lakes and each of the lakes will contain a permanent fountain structure. The combination of the sidewalks within the rights-of-way adjacent to the lakes and the fountains will be considered as satisfaction of the requirements of LDC Section 33-117.
- Deviation # 14 seeks relief from LDC Section 10-415(b) - Indigenous Native Vegetation and Trees to allow for the indigenous preservation requirements within Area #1 and Area #2 to be provided off-site in accordance with the provisions of LDC Section 10-415(b)(5).
- Deviation # 15 seeks relief from LDC Section 33-435 - Landscaping for Automobile Service Stations and Convenience Food and Beverage Stores and LDC Section 34-1353 - Convenience food and beverage stores, automotive service stations, fast food restaurants, and car washes to allow for the enhanced buffer proposed along Ben Hill Griffin Parkway to be substituted for the specific requirements in LDC Sections 33-435 and 34-1353.
- Deviation # 16 requests relief from Section 33-351 of the Lee County LDC to provide for modified landscape standards along a portion of the northern property boundary with Estero Parkway. In accordance with LCLDC Section 33-351, a 20 foot wide Type "D" landscape buffer will be provided along the northern property line from the 0.3 acre preserve area eastward to Ben Hill Griffin Parkway. This deviation requests relief from LCLDC Section 33-351 for the portion of the northern property boundary from the 0.3 acre preserve area west to the I-75 right-of-way. This deviation allows for a 15 foot wide buffer with eight sabal palms per 100 linear feet with staggered heights of 16 to 20 feet at the time of planting and no shrubs to be substituted for the 20 foot wide Type "D" buffer required per LCLDC Section 33-351.

Approved as Exhibit C
MCP Page 1 of 2
Resolution #270-031

OCI 2010-00005

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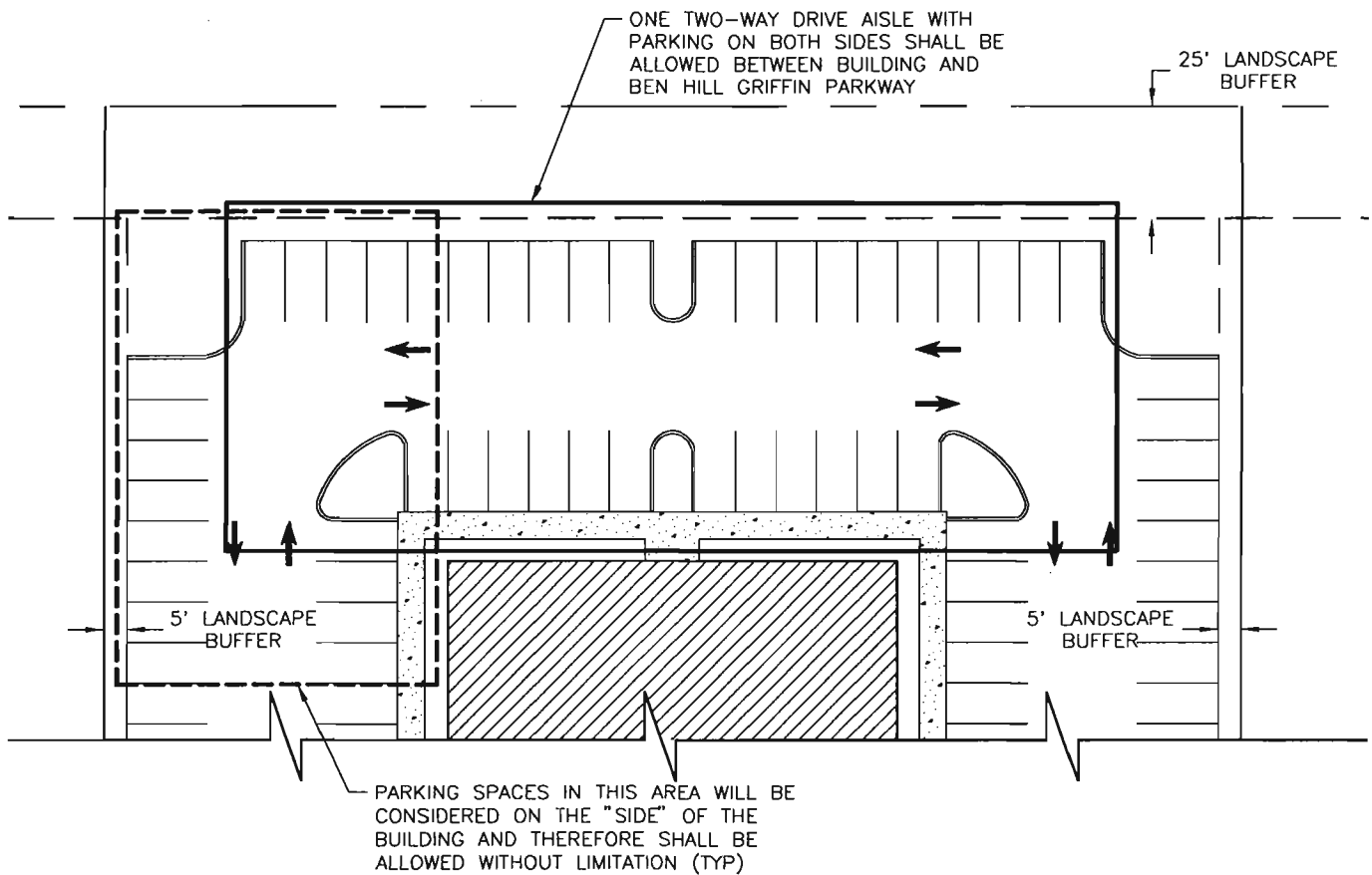
COMMUNITY DEVELOPMENT

DRI 2010-00001

NOV NUMBER	EP-03247-001X02
SHEET NUMBER	001 of 002
UNIVERSITY HIGHLAND LIMITED PARTNERSHIP T & T MPD AMENDMENT - (AREA #1 & #2) UHLP PROPERTY	
<p>Wilson Miller New Directions in Planning, Design & Engineering, Since 1956. 2000 Lakeside Lane, Suite 200, Naples, FL 34109-1477 www.wilsonmiller.com</p>	
DATE PREPARED	J.C.E. 11/025
DATE REVIEWED	J.M.L. 11/322
DATE APPROVED	J.M.L. 11/322
DATE PREPARED	J.M.L. 11/322
DATE REVIEWED	J.M.L. 11/322
DATE APPROVED	J.M.L. 11/322
DATE PREPARED	J.M.L. 11/322
DATE REVIEWED	J.M.L. 11/322
DATE APPROVED	J.M.L. 11/322

EXHIBIT D

BEN HILL GRIFFIN PARKWAY R.O.W.



PARKING EXHIBIT FOR PARCELS ADJACENT TO BEN HILL GRIFFIN PARKWAY

N.T.S.

WilsonMiller, Inc. 2009 Saved: 9/9/2010 3:41:55 PM JUGHTEL | Plotter: 9/10/2010 9:18:15 AM JUGHTEL | X:\PLA\03247\001-DR1-Exhibit\Active\Exhibits\03247-001X02-MCP\Rev08\EP-03247-001X02-3.dwg\layout

SCALE: N.T.S.	<p>WilsonMiller New Directions In Planning, Design & Engineering. Since 1956. 3200 Bailey Lane, Suite 200 Naples, FL 34105-8507 800.643.4336 • 239.649.4040 • F 239.643.5716 • www.WilsonMiller.com WilsonMiller, Inc. • Certificate of Authorization #43 • FL Lic. # LC-C000170</p>	TITLE: PARKING EXHIBIT FOR PARCELS ADJACENT TO BHG PKWY	PROJECT NO.: 03247-0103-001
LEAD TECH: J.M.L./1322		PROJ: T & T MPD AMENDMENT - (AREA #1 & #2)	INDEX NO.: EP-03247-001X03
SEC-TWP-RGE: 26-46-25	CLIENT: UNIVERSITY HIGHLAND LIMITED PARTNERSHIP	DATE: SEPT. 2010	SHEET NO.: 003

EXHIBIT E

UNIVERSITY HIGHLAND LIMITED PARTNERSHIP
IMAGE BOOK

September 7, 2010



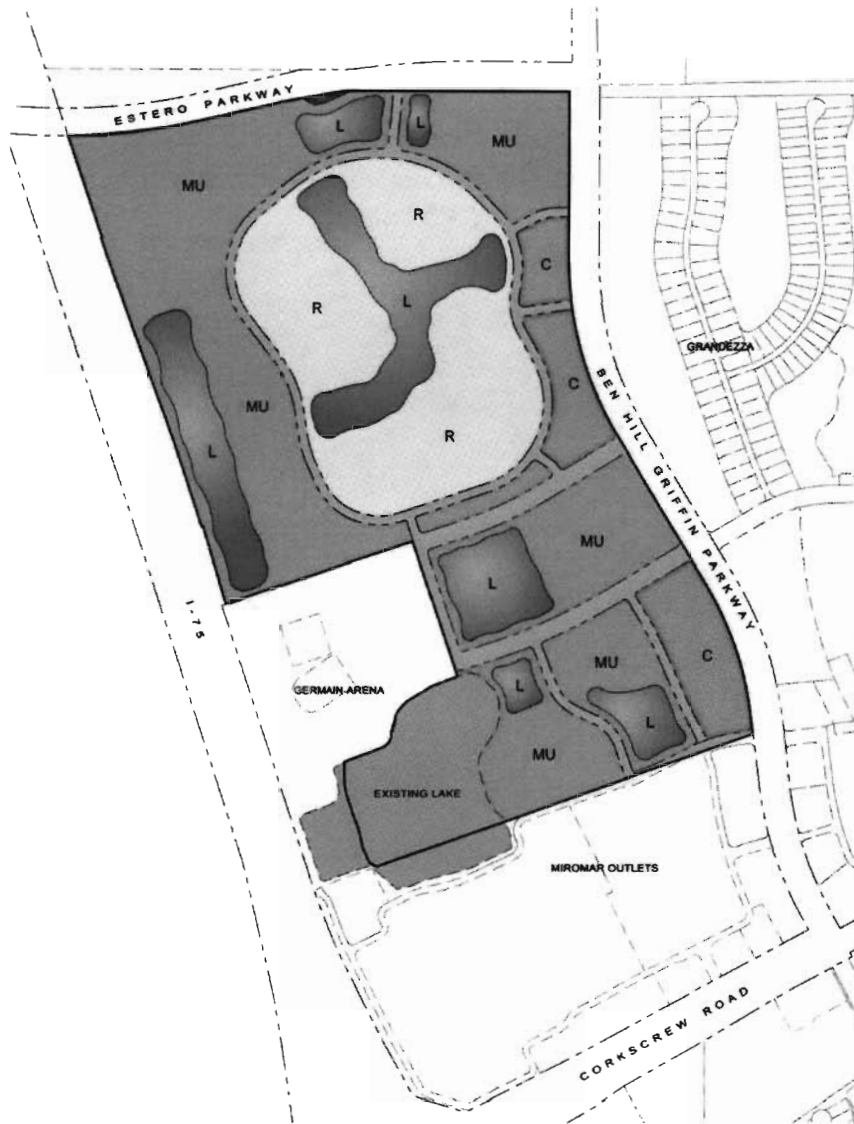


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INTRODUCTION

The purpose of this Image Book is to set examples of architectural theming and treatment of general site elements (entries, buffers, water management, signage, lighting etc.) for the University Highland Limited Partnership (UHLP) property, which is the remaining fully entitled parcel (208.4 acres) located within the existing approved Timberland and Tiburon DRI. The images are meant to be in keeping with Lee County Land Development Code (LDC) requirements and in maintaining and promoting the current Estero community vision of a vibrant planned village in which there is a creative and unified mix of uses.

We look to provide a unified architectural approach in design, among a diversity of uses, based on current local standards while encouraging creativity with details that provide a complimentary yet unique development within the community.

Mediterranean Revival is the preferred choice of architectural styles for the UHLP village. This style reflects the architectural influences of the Mediterranean coast including Italian, Byzantine, Moorish, and French. Facades are generally characterized by stuccoed wall surfaces, low-pitched terra cotta and tile roofs with varying heights, arches, scrolled or tile-capped parapet walls, and articulated door surrounds. Balconies and window grilles are common, and are generally fabricated out of iron or wood. Colors of building exteriors are intended as natural earth tone based and/or light pastels. Styles will be subject to review by the County and Estero Design Review Committee. Setback requirements will be determined by Lee County LDC and the approved MPD.

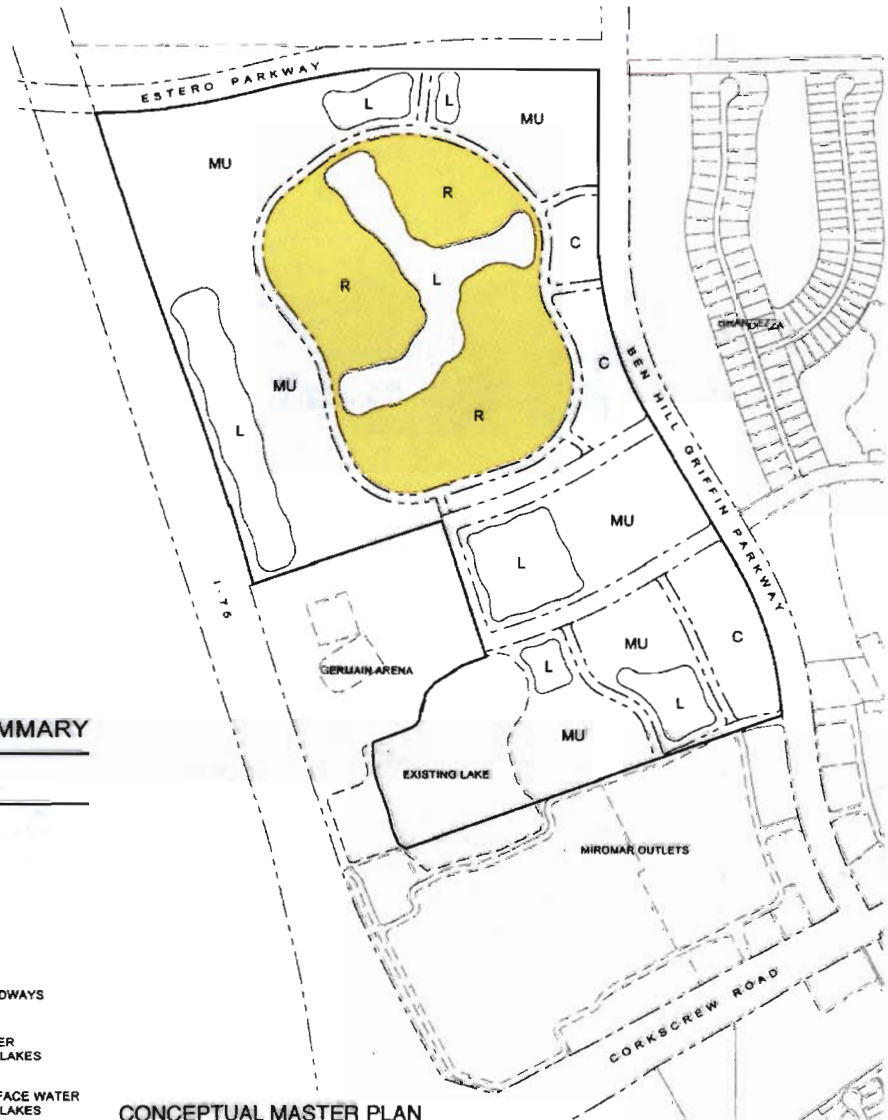
The images within this book indicate design intent. More detail will be provided at the time of Lee County Development Order.



LAND USE SUMMARY

USE	
MU	MIXED USE
C	COMMERCIAL
R	RESIDENTIAL
	INTERNAL ROADWAYS
L	SURFACE WATER MANAGEMENT LAKES
	EXISTING SURFACE WATER MANAGEMENT LAKES

CONCEPTUAL MASTER PLAN



RESIDENTIAL

A variety of residential densities are intended within the village which will offer a range of experiences from higher densities within the mixed use parcels to a less dense product within the residential parcels as shown on the Conceptual Master Plan. Buffering with landscape per Lee County LDC requirements (Section 33-351) will provide separation between uses. Safe and efficient connectivity with adjacent parcels surrounding the village and local community are promoted through sufficient pathways, alternative paving treatments and street trees thereby enhancing traffic calming.

Architectural design of residential buildings includes addition of elements such as hip and gable roofs with appropriate roofing material, cantilevered balconies, ornamental trim and decorative shutters. Detail and articulation of elements will be applied to all facades of the building. Multi-family buildings will vary in height and depth along the façade while highlighting entry points. Colors are based on warm, earth tone shades or light pastels complementary with a unified architectural style.





- Varying rooflines with changes in massing and details create facade articulation
- Sinuous lake edge with fountain and littoral shelves



- Warm earth tones with tile roof
- Accentuation of entry with architectural details



- Relief of building facade through wall offsets and landscape



- Parcel entry area highlighted with building tower, pedestrian arches, and landscape
- Sidewalk connectivity to roadway network



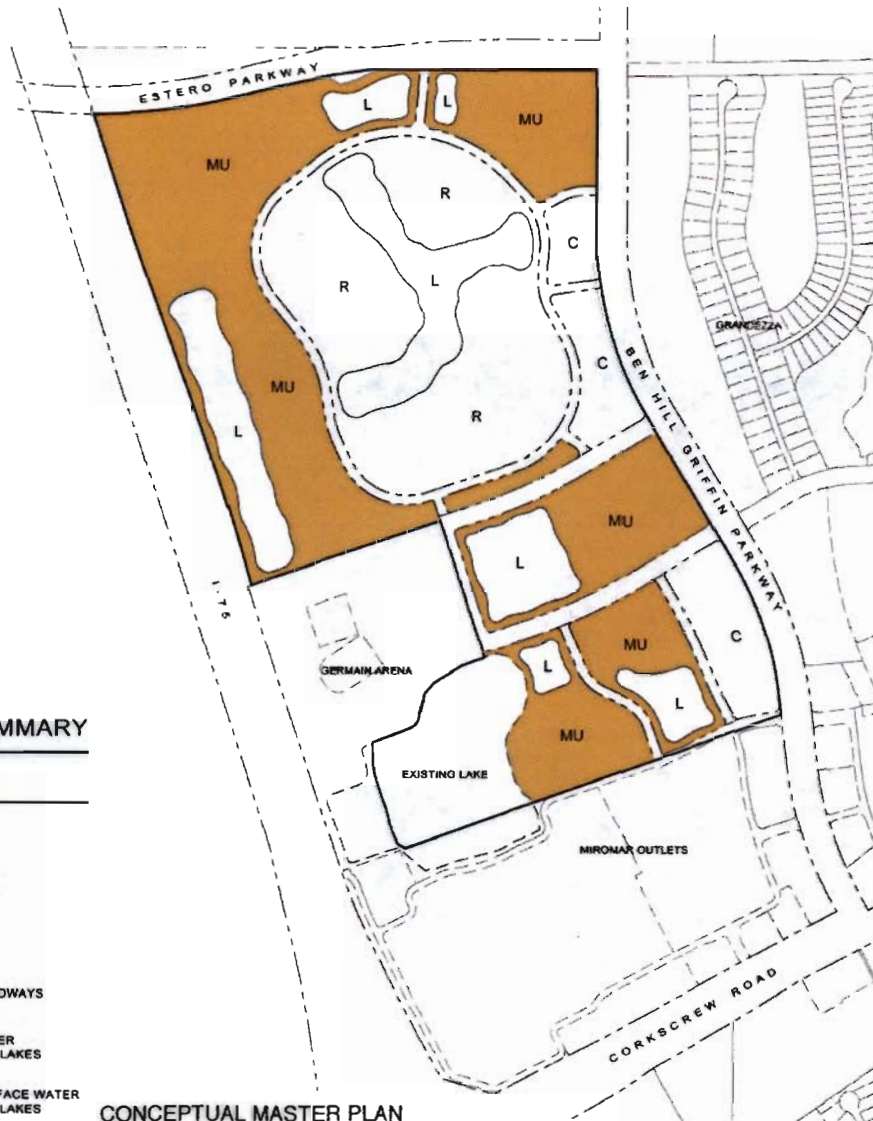
- Highlight major intersections with fountains, pedestrian scale elements, and special paving



- Articulation of detail moldings and ornamentation
- Varying rooflines and wall offsets create shading effects

Examples of elements within the Residential Land Use Category





LAND USE SUMMARY

USE	
MU	MIXED USE
C	COMMERCIAL
R	RESIDENTIAL
	INTERNAL ROADWAYS
L	SURFACE WATER MANAGEMENT LAKES
	EXISTING SURFACE WATER MANAGEMENT LAKES

CONCEPTUAL MASTER PLAN

MIXED USE

The mixed use parcels within the village offer opportunities for higher density residential in combination with retail and office components as well as potential for other uses including hotel, continuing care retirement community and hospital (with complementary support uses). While treatment of architectural elements may vary between these uses, general site attributes throughout will be complementary to adjacent parcels with transitions in massing and style.

Mixed use residential, retail, office and hotel components are intended to follow the overall desired unified architectural style of the village through enhancement of façade treatment with similar elements. Designs will be compliant with Lee County LDC Chapters 10 and 33 (Subdivision 2) and will achieve visual harmony through features such as varying rooflines with appropriate slopes and roof material (tile or standing seam metal depending on architectural style), cantilevered balconies, awnings and shutters, foundation base treatment, and arcades among others. Stretches of building façade will include relief and/ or features to provide visual diversity and assist in creating a pedestrian scale. This may be provided through the use of architectural elements including wall offsets, horizontal moldings, pilasters and ornamental features such as overhead or wall trellises and raised planters.

Pedestrian friendly atmospheres can be provided through shaded passage from parking areas, wide sidewalks with site furniture and open courtyards with fountains.





- Mercato in Naples
- Residential units over retail



- Coconut Point in Estero
- Residential building with overhead bridge linkage to retail
- Arched windows with column accents
- Roofline, wall, and base molding treatments



- Collection at Vanderbilt in Naples
- Entry highlighting, wall offsets, cantilevered balconies, and tower elements



- Embassy Suites in Estero
- Roofline molding and detail accents
- Facade wall offsets with varying colors complementary to architectural style



- Coconut Point in Estero
- Covered arcade with arched portals, articulation of facade with trellis and molding treatments
- Softening of facade and ground plane with landscape planting

Examples of elements within the Mixed Use Land Use Category





- Estero Medical Center
- Roofline and facade molding treatments, window shutters, and tile roof accents
- Parking area shading through landscape



- Collection at Vanderbilt in Naples
- High degree of facade articulation through variation of colors and patterns, horizontal moldings, window treatments



- Office building in Naples
- Highlight of building entry points
- Horizontal facade moldings



- Coconut Point in Estero
- Cantilevered balconies with railings
- Medallion accent
- Stucco walls with stone base at first level



- Coconut Point in Estero
- Shaded seating area with site furniture



- Mercato in Naples
- Green courtyard plaza with adequate informal seating and outdoor dining

Examples of elements within the Mixed Use Land Use Category



- Coconut Point in Estero
- Articulation of facade treatment with overhead trellis, columns, and metal railings
- Light fixtures complementary with architectural style



- Coconut Point in Estero
- Shaded outdoor dining with separation of uses through raised planters



- Coconut Point in Estero
- Covered arcade with site furniture and cohesive architectural details



- Collection at Vanderbilt in Naples
- Optional facade treatment with pergolas and flowering vine



- Coconut Point in Estero
- Wall offsets, base molding, and use of awnings

Examples of elements within the Mixed Use Land Use Category





COMMERCIAL

In order to achieve a unified architectural theme, all commercial outparcel building facades will be treated as primary facades with the same treatment of style as the overall village. Designs will be compliant with Lee County LDC Chapters 10 and 33 with features including varying rooflines with appropriate slopes, clearly defined entryways, awnings, ornamental trim, and wall treatments. Building colors are intended as warm, earth tone shades or light pastels based on architectural style.

While they may range in details, site elements associated with commercial parcels including signage, lighting and site furniture will be designed for coordination with the entire village to maintain a unified architectural theme. These will be compatible with an overall 'family' of elements through similar materials, letter fonts, etc.

Service yards and waste facilities will be fully screened through landscape and/ or hardscape elements. Pedestrian linkages will provide sidewalk access from surrounding streets and sidewalks to building entries along with adequate bicycle parking facilities.





- Accentuation of entry/drop-off area
- Varying rooflines with barrel tile



- Facade enhancement with awnings
- Complementary use of color



- Warm earth tone colors
- Window awnings
- Bicycle parking



- Roofline molding treatment
- Covered arcade access to entry



- Facade articulation through awnings and medallion



- Screening of service uses



- Enhancement of pedestrian experience through parking areas with alternative paving, overhead trellis, and landscape



- Promotion of streetscape activity through site furniture, outdoor dining, lighting, and landscape

Examples of elements within the Commercial Land Use Category

Image Book



LAND USE SUMMARY

USE

- MU MIXED USE
 - C COMMERCIAL
 - R RESIDENTIAL
 - INTERNAL ROADWAYS
 - L SURFACE WATER MANAGEMENT LAKES
 - EXISTING SURFACE WATER MANAGEMENT LAKES
 - CONCEPTUAL PEDESTRIAN SIDEWALK NETWORK
 - TYPE A BUFFER
 - TYPE A OR B BUFFER
 - TYPE D BUFFER
- TYPE A BUFFER**
- 5' MIN. WIDTH
 - MINIMUM 4 TREES PER 100 LF
- TYPE B BUFFER**
- 15' MIN. WIDTH
 - MINIMUM 5 TREES PER 100 LF
 - DOUBLE STAGGERED ROW HEDGE
- TYPE D BUFFER**
- 20' MIN. WIDTH
 - MINIMUM 5 TREES PER 100 LF
 - DOUBLE STAGGERED ROW HEDGE

NOTES:
 LANDSCAPE BUFFERS PER LEE COUNTY LDC (SECTION 33-351)
 REQUIREMENT OF TYPE A OR B BUFFERS WILL DEPEND ON FINAL PROPOSED USE WITHIN PROJECT PARCEL

CONCEPTUAL MASTER PLAN



GENERAL SITE AND ARCHITECTURAL ELEMENTS

General site elements include signage, lighting, site furniture, landscape, buffers and water management among others. A unified approach to the design of site elements between all parcels will accompany the architectural theming throughout. While specific details of signage, lighting and site furniture may vary, selections will be reviewed as a whole for compatibility with the overall unified architectural theme. Architectural elements include entries, railings, window treatments, awnings, and trellis work among others. As with site elements, variety in shape, color, and materials adds to vivacity in articulation, however should remain under a consistent theme throughout the village.

Signage includes main entry identification, wayfinding, vehicular regulatory and building identification. A hierarchy with a common theme will be created for main identification, wayfinding and regulatory signage. Building identification may vary to a greater degree to allow for individual expression, however all signage will follow specifications and requirements set in the Lee County LDC.

Lighting element designs will complement the setting of the surrounding architectural style and theme. Source of lamping for street and parking lot lighting will be consistent throughout the entire village, with Metal Halide or LED (Light Emitting Diodes) as the preferred sources. Light levels at main project entries, main intersections and parking areas will comply with all local codes. Pedestrian level lighting and landscape accent lighting is encouraged for aesthetics and safety. Dark sky criteria will be considered during design.

As with lighting, site furniture will also complement the setting of the surrounding architectural style and theme. Shaded areas for seating, planters, fountains and even public art are among the elements that add to comfort and aesthetics throughout.

Exterior and interior perimeter buffers will be designed to meet or exceed minimum County requirements while general landscape and water management areas will be reviewed for incorporation of best management practices where applicable. Per the University Window Overlay Agreement, recorded under OR2934, Page 3441, other than the landscaping obligation within the Ben Hill Griffin Parkway medians, the Lee County LDC will govern the approval of development activity within the Overlay.

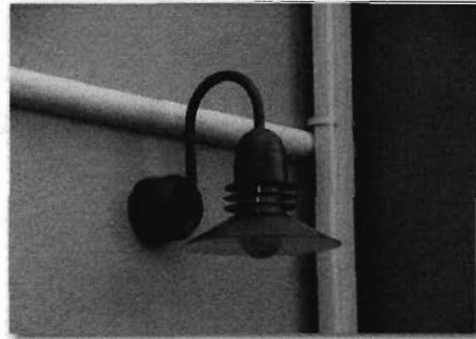


• Examples of entry, regulatory, wayfinding, and decorative signage

Examples of elements within the General Site and Architectural Elements Category

Image Book





• Examples of lighting fixture styles

Examples of elements within the General Site and Architectural Elements Category



• Examples of site furniture

Examples of elements within the General Site and Architectural Elements Category



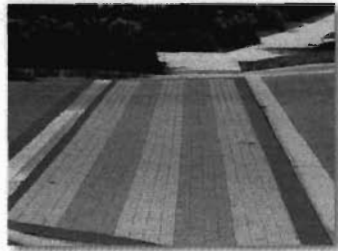


• Examples of decorative fountains



Examples of elements within the General Site and Architectural Elements Category





• Examples of pathway, sidewalk, and material alternatives



• Examples of landscape accent and buffers



Examples of elements within the General Site and Architectural Elements Category

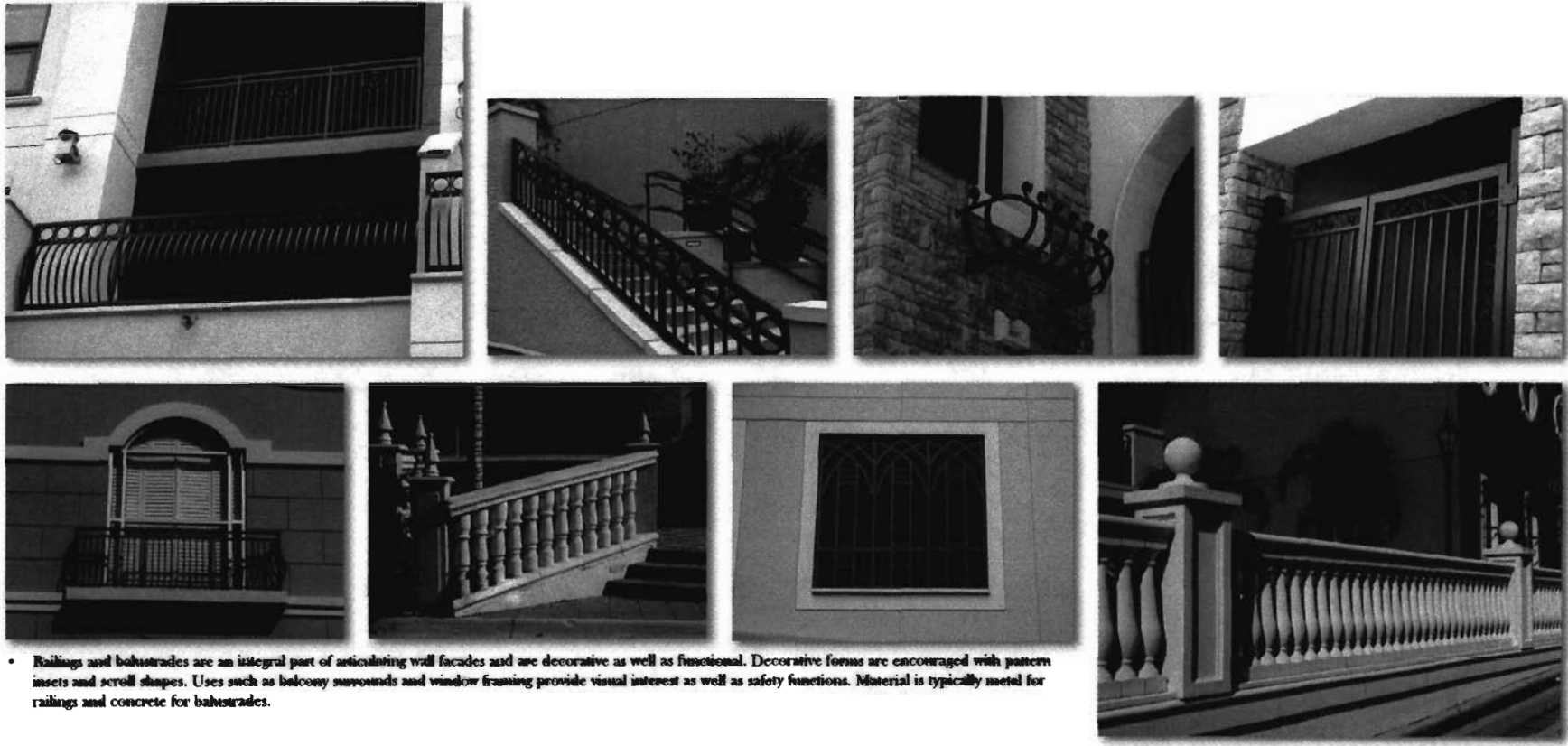
Image Book





- Entryways/portals highlight building entries and provide visual interest along the facades. This punctuation can take many forms including towers and archways, and typically are accented through the use of stone and/or stucco moldings.

Examples of elements within the General Site and Architectural Elements Category



- Railings and balustrades are an integral part of articulating wall facades and are decorative as well as functional. Decorative forms are encouraged with pattern insets and scroll shapes. Uses such as balcony surrounds and window framing provide visual interest as well as safety functions. Material is typically metal for railings and concrete for balustrades.

Examples of elements within the General Site and Architectural Elements Category



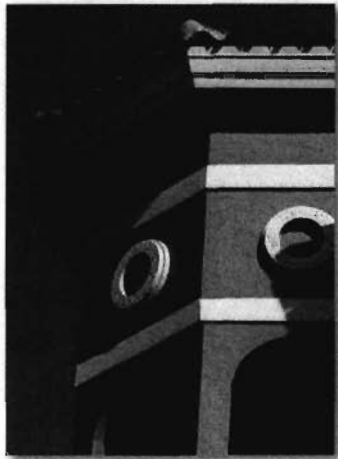
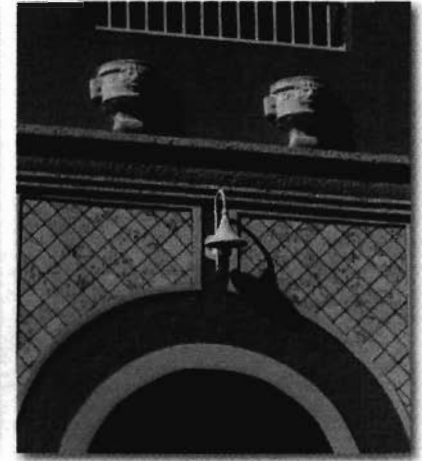


- Windows may take several shapes including square, round, and arched. Transoms and surrounding trim with complementary colors and materials further enhance the facade.



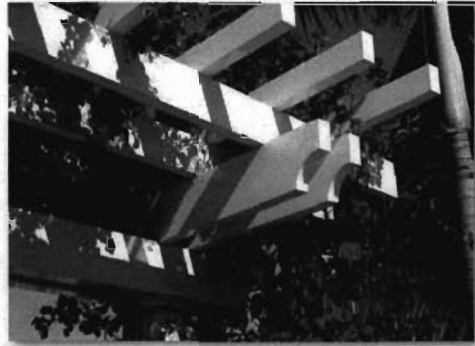
- Awnings provide protection from weather elements as well as complement building facade articulation. They should complement entry points and window forms through shape, color, and materials. Acceptable materials include canvas, metal, and wood.





- Ornamental architectural elements add visual interest and create focal points along the elevation of a building. These elements may be created with the use of tile, columns, molded forms, and railings among others, and should be unified consistently with the overall building detail.

Examples of elements within the General Site and Architectural Elements Category

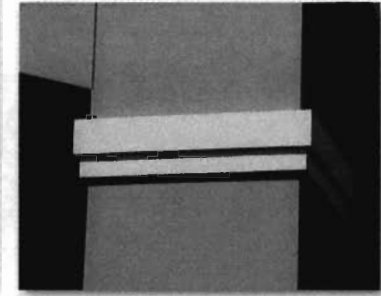


- Trelliswork may occur as an architectural enhancement along a building facade as well as a free-standing structure throughout the site. Trellises allow filtered protection from weather elements and can be softened with flowering vines. Typical materials are wood and metal over concrete columns.

Examples of elements within the General Site and Architectural Elements Category

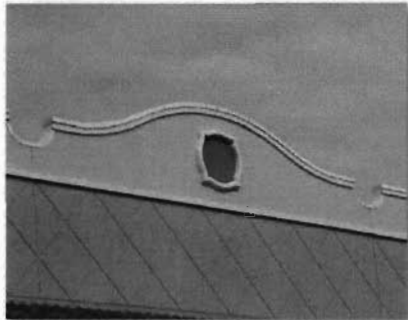
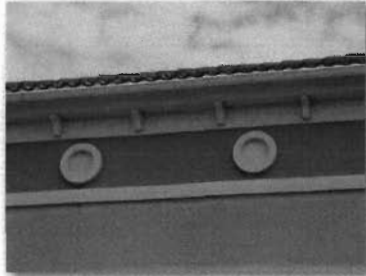
Image Book





- Wall treatments and trim help reduce the massing of building facades and bring levels of detail to pedestrian scale. Stone and molded trim with stucco finish are used to define wall and column bases, complement facade fenestration, allow for color changes, and unify related structures.

Examples of elements within the General Site and Architectural Elements Category



- Clay tile in warm earth tone colors is the preferred material for roofs to maintain consistency with the Mediterranean Revival style. Roof pitches are typically low and contain varying heights. Wall caps are finished with a parapet or cornice element.

Examples of elements within the General Site and Architectural Elements Category

Image Book



EXHIBIT F

University Window Overlay
 Plant Palette for Committed Landscaping
 Plant Palette - Street Trees

BOTANICAL NAME	COMMON NAME	NATIVE	COLD SENSITIVE	DROUGHT TOLERANCE	WETLAND USE
<i>Ilex cassine</i>	daboon holly	Y	N	M	✓
<i>Pinus elliottii</i> var. <i>densa</i> (planted in groupings)	S. Florida slash pine	Y	N	H	✓
<i>Quercus laurifolia</i>	laurel oak	Y	N	H	✓
<i>Quercus virginiana</i>	live oak	Y	N	H	✓
<i>Ulmus americana</i> var. <i>floridana</i>	Florida elm	Y	N	U	

Plant Palette - Palms

BOTANICAL NAME	COMMON NAME	NATIVE	COLD SENSITIVE	DROUGHT TOLERANCE	WETLAND USE
<i>Acoelorrhapae wrightii</i>	parrot palm	Y	N	M	
<i>Arecastrum romanzoffianum</i>	queen palm	N	N	M	
<i>Cycas revoluta</i>	sago palm	N	N	H	
<i>Phoenix roebelenii</i>	pigmy date palm	N	N	M	
<i>Roystonea</i> spp.	royal palm	Y	Y	M	
<i>Sabal palmetto</i>	sabal palm	Y	N	H	✓
<i>Washingtonia robusta</i>	Washington palm	N	N	M	

OR2934 P63456

Plant Palette - Other/Accent Trees

BOTANICAL NAME	COMMON NAME	NATIVE	COLD SENSITIVE	DROUGHT TOLERANCE	WETLAND USE
<i>Annona glabra</i>	pond apple	Y	Y	L	
<i>Acer rubrum</i>	red maple	Y	N	L	✓
<i>Bauhinia blakeana</i>	Hong Kong orchid	N	N	H	
<i>Bucida buceras</i>	black olive	N	Y	H	
<i>Bursera simaruba</i>	gumbo limbo	Y	Y	H	
<i>Clusia rosea</i>	pitch apple	Y	Y	H	
<i>Coccoloba diversifolia</i>	pigeon plum	Y	Y	H	
<i>Coccoloba uvifera</i>	seagrape	Y	Y	H	
<i>Conocarpus erectus</i>	green and silver buttonwood	Y	Y	H	
<i>Cordia sebestena</i>	geiger tree	Y	Y	H	
<i>Cornus foemina</i>	swamp dogwood	Y	N	U	✓
<i>Callistemon viminalis</i>	weeping bottlebrush	N	N	M	
<i>Fraxinus caroliniana</i>	pop ash	Y	N	U	✓
<i>Ilex cassine</i>	daboon holly	Y	N	M	✓
<i>Ilex opaca</i>	american holly	Y	N	H	
<i>Koeleruteria formosana</i>	golden rain tree	N	N	M	
<i>Lagerstroemia indica</i> 'Muskogee Red'	crape myrtle	N	N	H	
<i>Myrica cerifera</i>	wax myrtle	Y	N	H	✓
<i>Magnolia grandiflora</i>	southern magnolia	Y	N	H	✓
<i>Persea borbonia</i>	red bay	Y	N	H	
<i>Persea palustris</i>	swampbay	Y	N	H	
<i>Pinus elliotii</i> var. <i>densa</i>	S. Florida slash pine	Y	N	H	✓
<i>Quercus laurifolia</i>	laurel oak	Y	N	H	✓
<i>Quercus virginiana</i>	live oak	Y	N	H	✓
<i>Swietenia mahogani</i>	mahogany	Y	Y	H	
<i>Taxodium distichum</i>	bald cypress	Y	N	H	✓
<i>Tabebuia heterophylla</i>	pink tab	N	N	H	

DR2934 P63458

BOTANICAL NAME	COMMON NAME	NATIVE	COLD SENSITIVE	DROUGHT TOLERANCE	WETLAND USE
<i>Ulmus americana</i> var. <i>floridana</i>	Florida elm	Y	N	M	
<i>Magnolia virginiana</i>	sweet bay	Y	N	M	✓

Plant Palette - Shrubs

BOTANICAL NAME	COMMON NAME	NATIVE	COLD SENSITIVE	DROUGHT TOLERANCE	WETLAND USE
<i>Baccharis halimifolia</i>	groundsel tree	Y	N	H	
<i>Crinum amabile</i> 'Purple Leaf'	queen emma lily	N	Y	U	
<i>Conocarpus erectus</i>	silver buttonwood and green	Y	Y	H	
<i>Chrysobalanus icaco</i>	cocoplum	Y	Y	M	
<i>Callicarpa americana</i>	American beautyberry	Y	N	H	
<i>Carissa macrocarpa</i> 'Atlas'	dwarf carissa	N	N	M	
<i>Cephalanthus occidentalis</i>	buttonbush	Y	N	L	✓
<i>Cycas revoluta</i>	sago palm	N	N	U	
<i>Eugenia uniflora</i>	surinam cherry	Y	Y	H	
<i>Galphimia gracilis</i>	thryallis	N	N	M	
<i>Ilex cassine</i>	daboon holly	Y	N	M	✓
<i>Ilex glabra</i>	gallberry	Y	N	M	
<i>Ilex vomitoria</i> 'Schillings Dwarf'	dwarf yaupon holly	Y	N	H	
<i>Litoria coccinea</i>	itoria	N	Y	M	
<i>Leucophyllum frutescens</i>	Texas sage	N	N	H	
<i>Ligustrum japonicum</i>	ligustrum	N	N	H	
<i>Lyonia ferruginia</i>	rusty honia	Y	N	H	
<i>Moraea iridiodes</i>	African iris	N	Y	H	
<i>Myrica cerifera</i>	wax myrtle	Y	N	H	✓
<i>Myrsine guianensis</i>	rapanea	Y	Y	H	
<i>Raphiolepis indica</i>	indian hawthorn	N	N	H	

BOTANICAL NAME	COMMON NAME	NATIVE	COLD SENSITIVE	DROUGHT TOLERANCE	WETLAND USE
<i>Strelitzia nicolai</i>	white bird of paradise	N	Y	U	
<i>Strelitzia regina</i>	bird of paradise	N	Y	U	
<i>Serenoa repens</i>	saw palmetto	Y	N	H	
<i>Silver saw palmetto</i>	<i>serenoa repens</i> var. <i>cineria</i>	Y	N	N	
<i>Sabal minor</i>	palmetto	Y	N	H	
<i>Tripsacum dactyloides</i>	fakahatchee grass	Y	N	M	
<i>Tripsacum floridanum</i>	dwarf fakahatchee grass	Y	N	M	
<i>Viburnum obovatum</i>	walters viburnum	Y	N	M	

Plant Palette - Ground Cover

BOTANICAL NAME	COMMON NAME	NATIVE	COLD SENSITIVE	DROUGHT TOLERANCE	WETLAND USE
<i>Aristida stricta</i>	tbreeawn	Y	N	H	
<i>Asimina reticulata</i>	pawpaw	Y	N	H	
<i>Coreopsis leavenworthii</i>	tickseed	Y	N	M	
<i>Crinum cellulosum</i>	swamp lily	Y	N	M	
<i>Eleocharis cellulosa</i>	spikerush	Y	N	M	✓
<i>Evolvulus glomerata</i>	blue daze	N	N	M	
<i>Iris hexagona</i>	prairie iris	Y	N	L	
<i>Ilex vomitoria 'schillings dwarf'</i>	dwarf yaupoo holly	Y	N	M	
<i>Juncus effusus</i>	soft rush	Y	N	M	✓
<i>Juniperus chinensis 'parsonii'</i>	parsons juniper	N	N	H	
<i>Juniperus conferta 'Compacta'</i>	dwarf shore juniper	N	N	H	
<i>Jasminum volubile</i>	wax jasmine	N	N	M	
<i>Lantana depressa</i>	dwarf lantana	Y	N	H	
<i>Liriope muscari 'Evergreen Giant'</i>	liriope	N	N	H	

BOTANICAL NAME	COMMON NAME	NATIVE	COLD SENSITIVE	DROUGHT TOLERANCE	WETLAND USE
<i>Lantana ovatifolia</i> var. <i>reclinata</i>	dwarf lantana	Y	N	H	
<i>Nephrolepis biserrata</i>	giant sword fern	Y	Y	L	
<i>Panicum hemitomon</i>	maidenhair	Y	N	H	✓
<i>Pontederia cordata</i>	pickerel weed	Y	N	H	✓
<i>Scirpus</i> spp.	bull rush	Y	N	M	✓
<i>Spartina bakeri</i>	sand cordgrass	Y	N	H	✓
<i>Tripsacum dactyloides</i>	sakahatchee grass	Y	N	H	
<i>Tripsacum floridanum</i>	dwarf sakahatchee	Y	N	M	
<i>Zamia pumila</i>	coontie	Y	N	H	

Plant Palette - Sod

BOTANICAL NAME	COMMON NAME	NATIVE	COLD SENSITIVE	DROUGHT TOLERANCE	WETLAND USE
<i>Paspalum notatum</i>	bahia grass	N	N	H	
<i>Stenotaphrum secundatum</i>	St. Augustine grass	N	N	M	

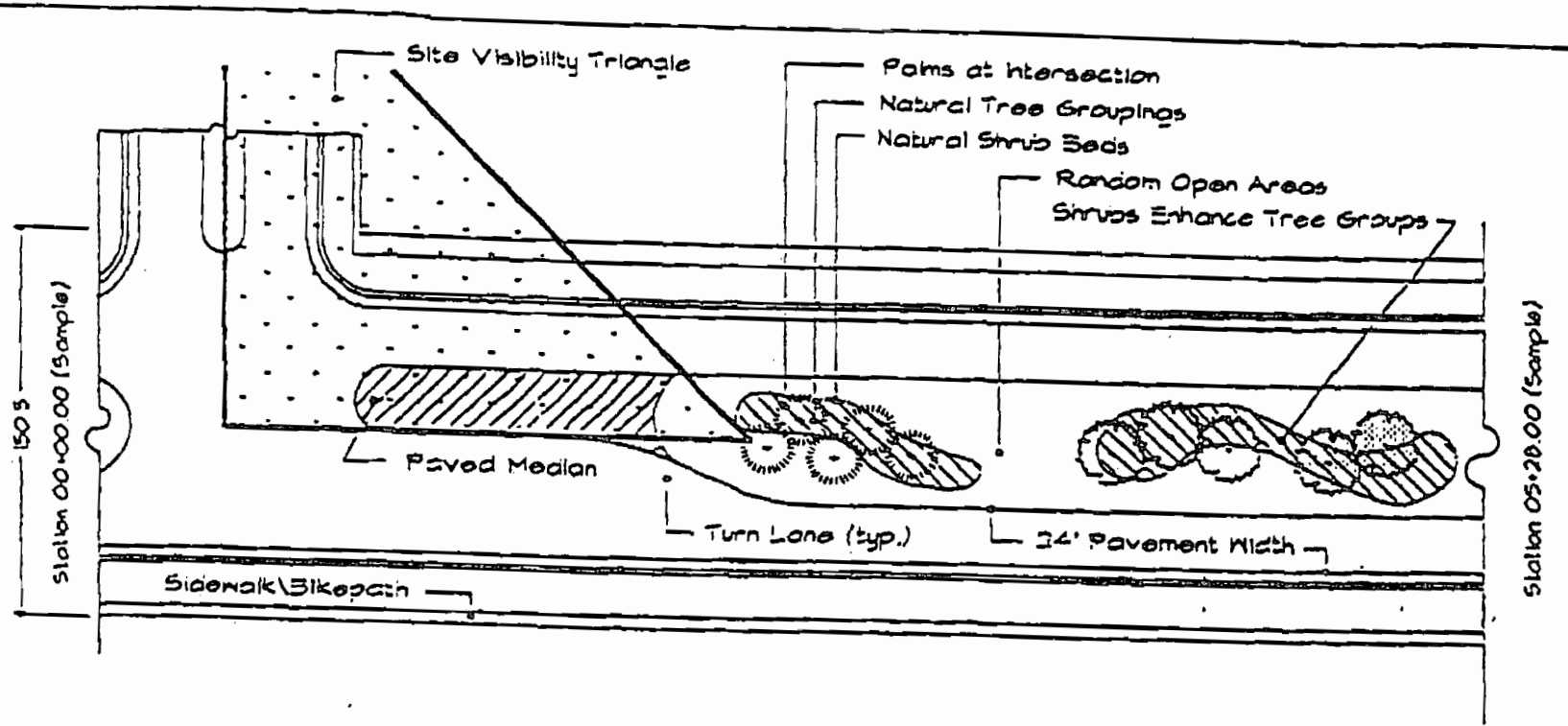
Plant Palette - Wetlands

BOTANICAL NAME	COMMON NAME
<i>Bacopa caroliniana</i>	lemon bacopa
<i>Bacopa monnieri</i>	water hyssop
<i>Canna flaccida</i>	canna lily
<i>Crinum americanum</i>	swamp lily
<i>Dichromena</i> spp.	white top sedge
<i>Hymenocallis latifolia</i>	spider lily
<i>Hymenocallis palmeri</i>	alligator lily
<i>Iris</i> spp.	blue flag
<i>Ludwigia</i> spp.	ludwigia
<i>Nelumbo lutea</i>	American lotus
<i>Nuphar luteum</i>	spatterdock

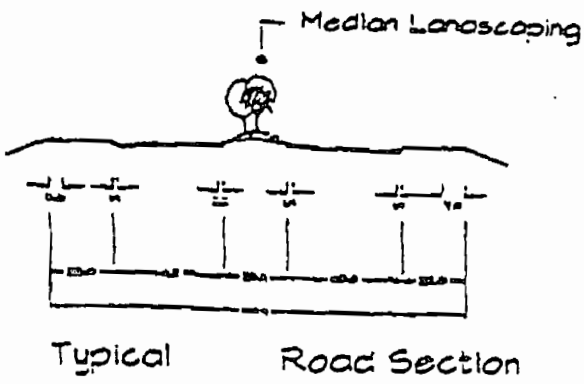
<i>Nymphaea odorata</i>	fragrant water lily
<i>Nymphoides aquatica</i>	banana lily
<i>Peltandra virginica</i>	arrow arum
<i>Sagittaria</i> spp.	arrowhead
<i>Saururus cernuus</i>	lizard's tail
<i>Thalia geniculata</i>	arrowroot
<i>Acrostichum</i> spp.	leather fern
<i>Amphicarpum muhlenbergianum</i>	blue maidencane
<i>Blechnum serrulatum</i>	swamp fern
<i>Cladium jamaicense</i>	sawgrass
<i>Cyperus</i> spp.	flat-sedge
<i>Osmunda regalis</i>	royal fern
<i>Panicum virgatum</i>	switch grass
<i>Rhynchospora</i> spp.	beak-rush
<i>Thelypteris palustris</i>	marsh fern
<i>Woodwardia</i> spp.	chain fern
<i>Hypericum</i> spp.	St. John's-wort
<i>Iva frutescens</i>	marsh elder
<i>Lyonia lucida</i>	shiny lyonia
<i>Viburnum obovatum</i>	black haw
<i>Carya aquatica</i>	water hickory
<i>Celtis laevigata</i>	hackberry
<i>Cornus foemina</i>	swamp dogwood
<i>Nyssa sylvatica</i>	tupelo, black gum
<i>Quercus nigra</i>	water oak




LEGEND:

H	Very Drought Tolerant	Y	Yes
M	Moderate Drought Tolerant	N	No
L	Low Drought Tolerant		
N	Native		
U	Undetermined		



DRN BY: M.A.H.
CHK BY:
Exhibit
Florida Land Planning
Not to Scale



- LEGEND:**
-  Live Oak (Min. of 30%)
 -  Street Tree (Min. of 50%)
 -  Palm or Accent Tree (Max. of 30%)

- LANDSCAPE REQUIREMENTS:**
1. Tree (3) Trees per 100 feet
 2. 75% of all trees must be native
 3. 30% must be Street Trees
 4. Thirty Shrubs per 100 feet
 5. Palms located at intersections
 6. Trees/shrubs may be clustered
 7. Max. 250' between plant clusters

Landscaping
Window Overlay
January 17, 1996

Exhibit G

CODIFIED DEVELOPMENT ORDER

FOR

TIMBERLAND AND TIBURON

A DEVELOPMENT OF REGIONAL IMPACT
(SEVENTH-NINTH AMENDMENT TO DRI DO)
#7-8384-46

LET IT BE KNOWN, THAT, IN ACCORDANCE WITH SECTION 380.06 OF THE FLORIDA STATUTES, THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA, HEARD, AT A PUBLIC HEARING CONVENED ON ~~SEPTEMBER 16, 2002~~ October 18, 2010, THE REQUEST TO AMEND THE DEVELOPMENT OF REGIONAL IMPACT DEVELOPMENT ORDER FOR TIMBERLAND AND TIBURON, A RESIDENTIAL/ COMMERCIAL DEVELOPMENT CONSISTING OF APPROXIMATELY 921.2 ACRES TO BE DEVELOPED IN ACCORDANCE WITH THE NOTIFICATION OF PROPOSED CHANGE APPLICATION FILED IN FEBRUARY 2010~~JULY 2004~~, BY GEORGE L. VARNADOE~~WILSON MILLER~~, AUTHORIZED AGENT OF UNIVERSITY HIGHLAND LIMITED PARTNERSHIP.

WHEREAS, the original Timberland & Tiburon DRI Development Order was approved on November 15, 1985; and

WHEREAS, the Timberland & Tiburon DRI Development Order was subsequently amended on: 1) April 21, 1986, which amended Transportation Condition C.10; 2) July 21, 1993, which extended the commencement, phasing and termination dates; 3) March 4, 1996, to allow the development of a regional shopping center and extend the commencement date; 4) January 6, 1997, to permit 790,000 square feet of commercial space, extend the phasing and termination dates, and to codify the DRI Development Order to include all previously adopted amendments; 5) November 17, 1997, to permit the development of a multiple use sports complex as an alternate use; 6) April 28, 1998 to reconfigure the internal road system; 7) September 16, 2002, to reflect the addition of approximately 126.7 acres of land to reduce the permitted residential dwelling units by 185 units, relocate the hotel use, and to eliminate 290 multi-family dwelling units in exchange for an additional 30,000 square feet of retail commercial uses; 8) August 21, 2007, to extend the build out date to 2013; and

WHEREAS, the developer has submitted an application for a seventh~~ninth~~ amendment to the Timberland and Tiburon DRI Development Order to adopt a new Master Development Plan, Map H (attached as Exhibit H), to reflect the addition of approximately 126.7 acres of land to reduce the permitted residential dwelling units by 185 units, relocate the hotel use, and to document the developer's election authorized in the Sixth

Amendment to this DRI Development Order to eliminate 290 multi-family dwelling units in exchange for an additional 30,000 square feet of retail commercial uses, as undertake a simultaneous increase and decrease in uses; there will be a reduction in residential dwelling units from 2,335 to 2,279, which can include Assisted Living, Continuing Care, and Independent Living units or other similar units in the mix of unit types, retain the 18 hole golf course, the 200 room hotel/conference center, increase the amount of retail from 818,000 square feet to 910,000 square feet (the retail includes the regional mall), clarifies the fact that the 7,950 seat sports complex option was selected and built, adds 150,000 square feet of office (of which 50,000 square feet can be medical office), extends the build out date, changes the annual reporting to biennial reporting, and updates some conditions; and

WHEREAS, the proposed changes are presumed to constitute a substantial deviation from the original development order approvals pursuant to Florida Statutes section 380.06(19)(e)5-c; and

WHEREAS, the Board of County Commissioners of Lee County have reviewed the proposed change and accompanying mitigation and have concluded that the proposed change *does not* constitute a substantial deviation from the original development order approvals; and

WHEREAS, the Board of County Commissioners of Lee County, Florida has considered the report and recommendations of the Southwest Florida Regional Planning Council, The Lee County Administrative Staff, the Lee County Hearing Examiner, and the documents and comments upon the record made before the Board in public hearing, and, after full consideration of that information, the Board of County Commissioners of Lee County, Florida hereby finds and determines that:

I. FINDINGS OF FACT AND CONCLUSIONS OF LAW

A. The developer proposeds to develop a mixed use project on approximately 921.2 acres in the northeast quadrant of I-75 and Corkscrew Road, including 2,335 2,279 residential dwelling units, which may include Assisted Living, Continuing Care, Independent Living units or other similar units in the mix of unit types, an 18 hole golf course, a 200-room hotel/conference center, and 818,000 910,000 square feet of retail commercial space, composed of a regional shopping mall, and specialty/convenience retail uses, a 7,950 seat sports complex, and 150,000 square feet of commercial office of which up to 50,000 square feet can be medical office. Specific land use information is provided on Exhibit A. The project is expected to build out in three phases: 2000, 2005, and 2010 one phase with a build out of December 30, 2018.

The legal description of the property is attached as Exhibits F and G.

B. The subject property is presently zoned MPD and CPD, pursuant to the authority of Chapter 125, Florida Statutes, Chapter 61-2405, Laws of Florida (Special Acts), and the Lee County Zoning Regulations of 1962 and 1978, and 1986 as well as the Lee County Land Development Code (LDC), as amended; and

C. The Application for Development Approval is consistent with the requirements of Section 380.06, Florida Statutes; and

D. The proposed development is not in an area designated as an Area of Critical State Concern pursuant to the provisions of Section 380.05, Florida Statutes; and

E. The development does not unreasonably interfere with the achievement of the objectives of an adopted State Land Development Plan applicable to the area; and

F. The proposed development has been was initially reviewed by the Southwest Florida Regional Planning Council and is was the subject of the report and recommendation adopted by that body and subsequently forwarded to Lee County pursuant to the provisions of Section 380.06, Florida Statutes, and the proposed development, as modified by this Development Order, is was consistent with this the report and recommendations of the Southwest Florida Regional Planning Council.

~~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 Coast University and Ben Hill Griffin Parkway 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 Policy 6.1.2 of the currently effective Lee Plan. A regional shopping center is, therefore, an appropriate use for a portion of the subject property.~~

II. ACTION ON THE REQUEST AND CONDITIONS OF APPROVAL

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA, in public meeting duly constituted and assembled that the proposed amendments to the Timberland and Tiburon DRI Development Order submitted by the University Highland Limited Partnership are APPROVED, subject to the following conditions, restrictions, and limitations:

A. DRAINAGE/WATER QUALITY

1. All commitments provided in the original ADA and the ADA submitted on July 10, 1996 with supplemental submittals, with respect to Question 19 (Drainage), are incorporated as conditions of approval, except where these commitments have been superseded by the 4th Amendment to the DRI DO (Substantial Deviation Application), conditions included in the Environmental Resource Permit No. 36-01871-S, as it may be amended. The commitments include, but are not limited to, the use of grassed conveyance swales (flow-ways), spreader discharge swales, wetland preserves, dry retention areas including unfilled portions of the golf course, shallow lake littoral zones, exfiltration systems, vacuum sweeping of commercial parking lots 1 or 2 times per week, and routing of offsite surface water flows from wetland areas through the development's water management system.

2. The developer must implement an on-going maintenance and monitoring program that regularly inspects, maintains and samples the storm water drainage system in accordance with the conditions set forth in the Environmental Resource Permit No. 36-01871-S as it may be amended, during development of Timberland and Tiburon. The legal entity which will carry out this program during the operational phase has been established; the documents creating such entity were approved in advance by the County Attorney's Office. The program was designed in consultation with the staffs of the South Florida Water Management District, and Lee County. Final Approval of the program rests with the SFWMD and the Basis of Review and Lee County under the LDC.

3. All irrigation water will be supplied through a centralized secondary system. No individual home wells will be permitted on the site. University Highlands irrigation water must be provided in accordance with SFWMD WUP #36-07362-W, Miromar will provide irrigation water in accordance with SFWMD WUP #36-03355-W, and

Grandeza will provide irrigation water in accordance with the water use permit (WUP) issued to Grandeza by the SFWMD. Prior to the issuance of the first local development order the applicant will meet with Lee County Utilities to review the availability and feasibility of obtaining reclaimed water. If reclaimed water is available in sufficient quantity and if the extension of reclaimed water lines is technically and financially feasible the applicant will utilize reclaimed water for irrigation purposes. Irrigation from the sandstone aquifer or any other artesian aquifer is prohibited.

4. No pesticides containing DDT will be applied to the golf course.

5. The developer must comply with all permits except as may be modified by conditions approved by the Southwest Florida Regional Planning Council and conditions as set forth herein.

B. ENERGY

The developer must incorporate, as a minimum, the following energy conservation features into all site plans and architectural programs, or insure that the following features are implemented through deed restrictions and/or covenants with successors in title. All applications for site plan approvals and building permits must be accompanied by a document detailing proposed compliance with these conditions. If deed restrictions or covenants are utilized to insure compliance, those documents must be approved by the County Attorney's Office prior to recording.

These features are:

1. A bicycle/pedestrian system connecting all land uses, to be placed along arterial and collector roads within the project, and also along Corkscrew Road. This system must be constructed in accordance with the Lee County standards, and must also include internal bikeways, sidewalks, and walking/jogging paths substantially as shown on Exhibit H from the A. D. A., the Master Development Plan.

2. Bicycle racks or storage facilities in recreational, commercial, and multi-family residential areas.

3. Bus stops, shelters, and other passenger and system accommodations for a transit system to serve the project area, in accordance with the specifications of the appropriate Lee County agencies.

4. Energy-efficient features in window design (e.g., tinting and exterior shading), and operable windows and ceiling fans in residential units.

5. Energy-efficient appliances and equipment.