

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

WHEREAS, an application was filed by the property owner, Worthington Communities at Arlington, Inc. to rezone a 277.62± acre parcel from Agricultural (AG-2) to Residential Planned Development (RPD), in reference to Livingston Oaks, fka Arlington Golf Club.

WHEREAS, a public hearing was advertised and held on October 27, 1999 before the Lee County Zoning Hearing Examiner, who gave full consideration to the evidence in the record for Case #98-07-267.03Z 01.01; and

WHEREAS, a second public hearing was advertised and held on December 6, 1999 before the Lee County Board of Commissioners, who gave full and complete consideration to the recommendations of the staff, the Hearing Examiner, the documents on record and the testimony of all interested persons.

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

SECTION A. REQUEST:

The applicants filed a request to rezone a 277.62± acre parcel from AG-2 to RPD, to allow a mixture of single-family and multiple family residential uses with a maximum of 800 dwelling units with a maximum building height of 60 feet. The property is located in the Urban Community and Wetlands Land Use Category and 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. The development and use of the subject property will be in substantial compliance with the approved two-page Master Concept Plan (MCP) entitled "Master Concept Plan for Livingston Oaks for Worthington Communities, Inc.", dated 10/26/99, as prepared by Community Engineering Services, Inc., except as modified by the conditions herein. This development must comply with all of the requirements of the LDC at the time of local development order approval, except as may be granted by deviations approved as part of this planned development. If changes to the MCP are subsequently pursued, appropriate approvals will be necessary.
2. A maximum of 800 residential dwelling units are allowed within this planned development. A maximum of 15,000 square feet of gross floor area is allowed within the planned

development for the identified commercial land uses in Condition 3.

3. Schedule of Uses:

- a. The requested Schedule of Uses on the approved MCP is hereby replaced and the following is considered the approved Schedule of Uses within this RPD:

ADMINISTRATIVE OFFICES

CLUBS: Private (LDC § 34-2111)

DWELLING UNITS:

Single-family

Multiple-family building

ENTRANCE GATES AND GATEHOUSE (LDC § 34-1741 et seq.)

ESSENTIAL SERVICES

ESSENTIAL SERVICE FACILITIES [LDC § 34-622(c)(13)]: Group I (LDC §§ 34-1611 et seq., 34-1741 et seq., and 34-2141 et seq.)

EXCAVATION: Water retention (LDC § 34-1651)

MODELS:

Model home (LDC § 34-1951 et seq.)

Model unit (LDC § 34-1951 et seq.)

RECREATIONAL FACILITIES:

Personal

Private, On-Site

RESIDENTIAL ACCESSORY USES [LDC § 34-622(c)(42)] (LDC § 34-1171 et seq.)

SIGNS, in accordance with Chapter 30

TEMPORARY USES (LDC § 34-3041 et seq.)

- b. The following uses are considered commercial uses within the approved Residential Planned Development, in accordance with LDC §34-934 Note (4) and §34-937 and may only be permitted within the identified 4.09-acre Club House tract depicted on the approved MCP:

CONSUMPTION ON PREMISES (LDC § 34-1261 et seq.) (total of four) All COP uses must comply with a 300-foot minimum setback from the nearest residential use.

RESTAURANTS [LDC § 34-622(c)(43)]: Groups I, II, and III

SPECIALTY RETAIL SHOPS [LDC § 34-622(c)(47)]: Group I

4. The development standards on the approved MCP are replaced by the following property development regulations:

a. Residential:

1. Single Family

Lot Size:

7,200 square feet

Lot Width:	58 feet
Lot Depth:	120 feet
Street Setback:	20 feet
Side Setback:	7.5 feet
Rear Setback:	15 feet (principal structure) 10 feet (accessory structure)
Water Body Setback:	25 feet
Maximum Building Height:	35 feet
Minimum Separation between Structures:	15 feet

2. Multiple Family:

Lot Size:	0.5 acre
Lot Width:	100 feet
Lot Depth:	125 feet
Street Setback:	20 feet *
Side Setback:	15 feet *
Rear Setback:	20 feet * (principal structure) 10 feet * (accessory structure)

*[Any building exceeding 35 feet in height must also maintain additional setback as regulated by LDC § 34-2174.]

Water Body Setback:	25 feet
---------------------	---------

Maximum Building Height:	60 feet EXCEPT within Tracts 1, 7, 9, and 12 as shown on the approved Master Concept Plan, in which case the maximum building height cannot exceed 35 feet for any building within 275 feet of the perimeter property line, excluding the east property line abutting I-75.
--------------------------	---

Minimum Separation between Structures:	15 feet for structures 35 feet or less in height. For structures exceeding 35 feet, the required separation is half the sum of the height for both buildings.
---	---

b. Club House and Ancillary Uses:

Street Setback:	20 feet
Side Setback:	20 feet
Rear Setback:	20 feet (principal structure) 10 feet (accessory structure)
Water Body Setback:	25 feet
Maximum Building Height:	35 feet
Minimum Separation between Structures:	10 feet

5. Approval of this zoning request does not address mitigation of the project's vehicular or pedestrian traffic impacts. Additional conditions consistent with the Lee County LDC may be required to obtain a local development order.
6. Approval of this rezoning does not guarantee local development order approval. Future development order approvals must satisfy the requirements of the Lee Plan Planning Communities Map and Acreage Allocations Table, Map 16 and Table 1(b).
7. The following conditions are to help mitigate potential hurricane damage and/or loss of life, as well as to ensure compliance with Lee Plan objectives:
 - a. The Applicant must initiate the establishment of a homeowners' or residents' association. The organization must provide an educational program on an annual basis, in conjunction with the staff of Emergency Management, which will provide literature, brochures and speakers for Hurricane Awareness/Preparedness Seminars, describing the risks of natural hazards. The intent of this recommendation is to provide a mechanism to educate residents concerning the actions they should take to mitigate the dangers inherent in these hazards.
 - b. The Applicant must formulate an emergency hurricane notification and evacuation plan for the development, which is subject to review and approval by the Lee County Office of Emergency Management.
 - c. The Applicant must cooperate with the Division of Public Safety/Emergency Management in determining and participating in a means to lessen their adverse impacts on the County's hurricane preparedness process and public safety. These means could include the provision of equipment, monies-in-lieu of equipment, or such other goods, materials or actions deemed appropriate by Public Safety/Emergency Management that results in the provision of additional shelters, or improvement of roads for use as additional evacuation routes.
8. Prior to local development order approval, an updated protected species survey per LDC § 10-473 must be provided. The purpose of the survey is to document current gopher tortoise burrow locations. The survey report must also document any southern bald eagle

activity observed on the site.

9. Prior to the issuance of a vegetation removal permit, gopher tortoise relocation must be conducted per the "Management Plan for Listed Species" dated October 1998. Gopher tortoises and commensal species must be relocated to the 1.94-acre gopher tortoise preserve. Invasive exotics per LDC § 10-420(f) and any discarded trash/debris must be removed from the preserve prior to the relocation of gopher tortoises.
10. If the final access management plan for the proposed Livingston Road/Imperial Street has not been finalized before final action by the Board of County Commissioners on this zoning request, then the Applicant will be allowed to adjust the exact location of the access point as part of an Administrative Amendment of this planned development.

SECTION C. DEVIATIONS:

1. Deviation (1) has been deleted.
2. Deviation (2) has been deleted.
3. Deviation (3) seeks relief from the LDC §10-329(e)(a).3 requirement to provide a 50-foot water body setback from private property under separate ownership, to allow a 25-foot setback. This deviation is hereby APPROVED.
4. Deviation (4) has been deleted.
5. Deviation (5) seeks relief from the LDC §10-329(e)(4) requirement that excavation banks be sloped to allow up to 40 percent of the banks to utilize vertical bulkheads. This deviation is hereby APPROVED, WITH THE CONDITION that the number of littoral plants required for the excavation lakes must be based on the entire shoreline including the bulkhead portions; lake bottom slopes at the toe of any bulkhead may be no greater than 4:1; and adequate elements for the protection of wayward vehicles must be provided when adjacent to any roadway, parking lot or driveway aisle.
6. Deviation (6) - WITHDRAWN AT HEARING.
7. Deviation (7) has been deleted.
8. Deviation (8) has been deleted.
9. Deviation (9) has been deleted.
10. Deviation (10) - WITHDRAWN AT HEARING.
11. Deviation (11) has been deleted.
12. Deviation (12) has been deleted.

13. Deviation (13) has been deleted.
14. Deviation (14) - WITHDRAWN AT HEARING.
15. Deviation (15) seeks relief from the LDC §34-2020(c) requirement that there be no stacking for parking for certain dwelling units types, to allow stacking in multiple family driveways when the first parking space is in an attached garage. This deviation is hereby APPROVED, SUBJECT TO the condition that the deviation is applicable only to multi-family structures with an individual garage and driveway, where it can be demonstrated at time of development order approval that adequate line-of-sight visibility is provided to ensure safe exit from driveway onto roadway.
16. Deviation (16) seeks relief from the LDC §10-413(b) and 10-413(c)(1) requirements to provide a minimum of 55.52 acres of indigenous open space, to allow a minimum of 51.4 acres of indigenous open space. This deviation is hereby APPROVED, SUBJECT TO the condition that prior to local development order approval a minimum of 51.50 acres of existing indigenous preservation must be provided as delineated on the Master Concept Plan dated 10/26/99, last revised 10/99.
17. Deviation (17) has been deleted.
18. Deviation (18) - WITHDRAWN AT HEARING.
19. Deviation (19) seeks relief from the LDC §10-259 requirement that no buildings or structures be placed in easements where placing a building or structure in an easement is contrary to the terms of the easement or interferes with the use of the easement, to allow building overhangs to extend a maximum of 1.5 feet into either a 15-foot or 20-foot closed drainage system easement throughout the project. This deviation is hereby APPROVED only in those circumstances where engineering analysis, provided by the Applicant at the time of development order and approved by Development Services Division, demonstrates that adequate maintenance of utilities, storm drainage facilities, etc., can be achieved.

SECTION D. EXHIBITS:

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

- Exhibit A: The legal description and STRAP number of the property.
- Exhibit B: Zoning Map (subject parcel identified with shading)
- Exhibit C: The Master Concept Plan

SECTION E. FINDINGS AND CONCLUSIONS:

1. The applicant has proven entitlement to the rezoning by demonstrating compliance with the Lee Plan, the LDC, and any other applicable code or regulation.

2. The rezoning, as approved:
 - a. meets or exceeds all performance and locational standards set forth for the potential uses allowed by the request;
 - b. is consistent with the densities, intensities and general uses set forth in the Lee Plan;
 - c. is compatible with existing or planned uses in the surrounding area;
 - 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 satisfies the following criteria:
 - a. the proposed use or mix of uses is appropriate at the subject location;
 - b. the recommended conditions to the concept plan and other applicable regulations provide sufficient safeguard to the public interest; and
 - c. the recommended conditions are reasonably related to the impacts on the public interest created by or expected from the proposed development.
4. Urban services, as defined in the Lee Plan, are, or will be, available and adequate to serve the proposed land use.
5. The approved deviations, as conditioned, enhance achievement of the planned development objectives, and preserve and promote the general intent of LDC Chapter 34, to protect the public health, safety and welfare.

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

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

DULY PASSED AND ADOPTED this 6th day of December, 1999.

ATTEST:
CHARLIE GREEN, CLERK

BY: Michelle B. Leimer
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: [Signature]
Chairman

Approved as to form by:

[Signature] 12/7/99
County Attorney's Office

FILED DEC 14 1999
nql

MINUTES OFFICE

EXHIBIT A

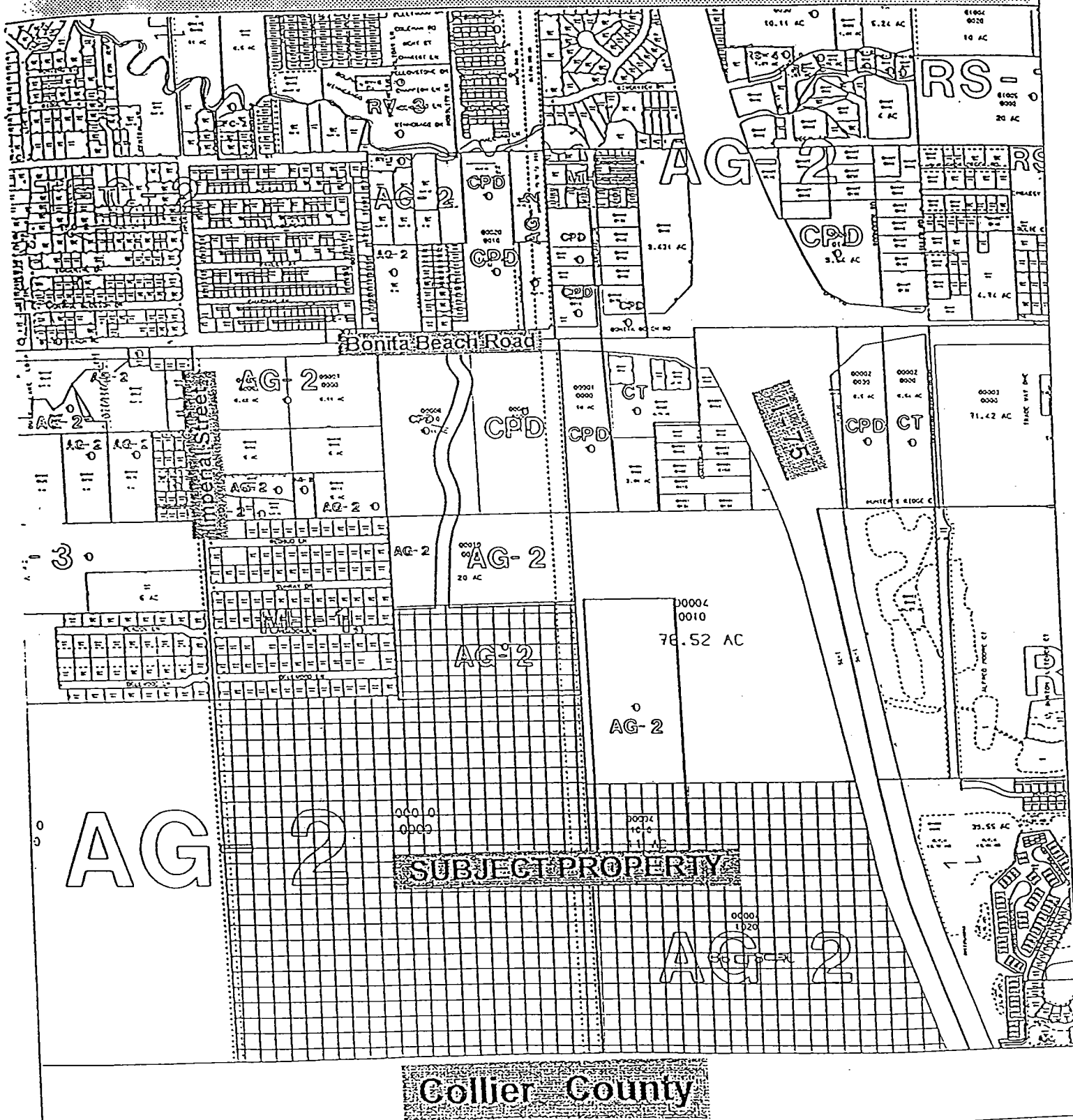
ARLINGTON GOLF CLUB

LEGAL DESCRIPTION

THE SOUTH 1/2 OF THE SOUTHEAST 1/4 OF THE NORTHEAST 1/4 AND THE SOUTHEAST 1/4 OF SECTION 1, TOWNSHIP 48 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA AND THAT PART OF THE SOUTH 1/2 OF THE SOUTH 1/2 AND THE SOUTH 1/2 OF THE NORTH 1/2 OF THE SOUTH 1/2 OF SECTION 6, TOWNSHIP 48 SOUTH, RANGE 26 EAST, LEE COUNTY, FLORIDA, LYING WEST OF INTERSTATE HIGHWAY 75

The applicant has indicated that the STRAP number for the subject property is: 06-48-26-00-00004.1010, 06-48-26-00-00004.1020 & 01-48-25-00-0010.0000

ZONING MAP



△△ DEVELOPMENTAL LINGUISTICS

[illegible][illegible]

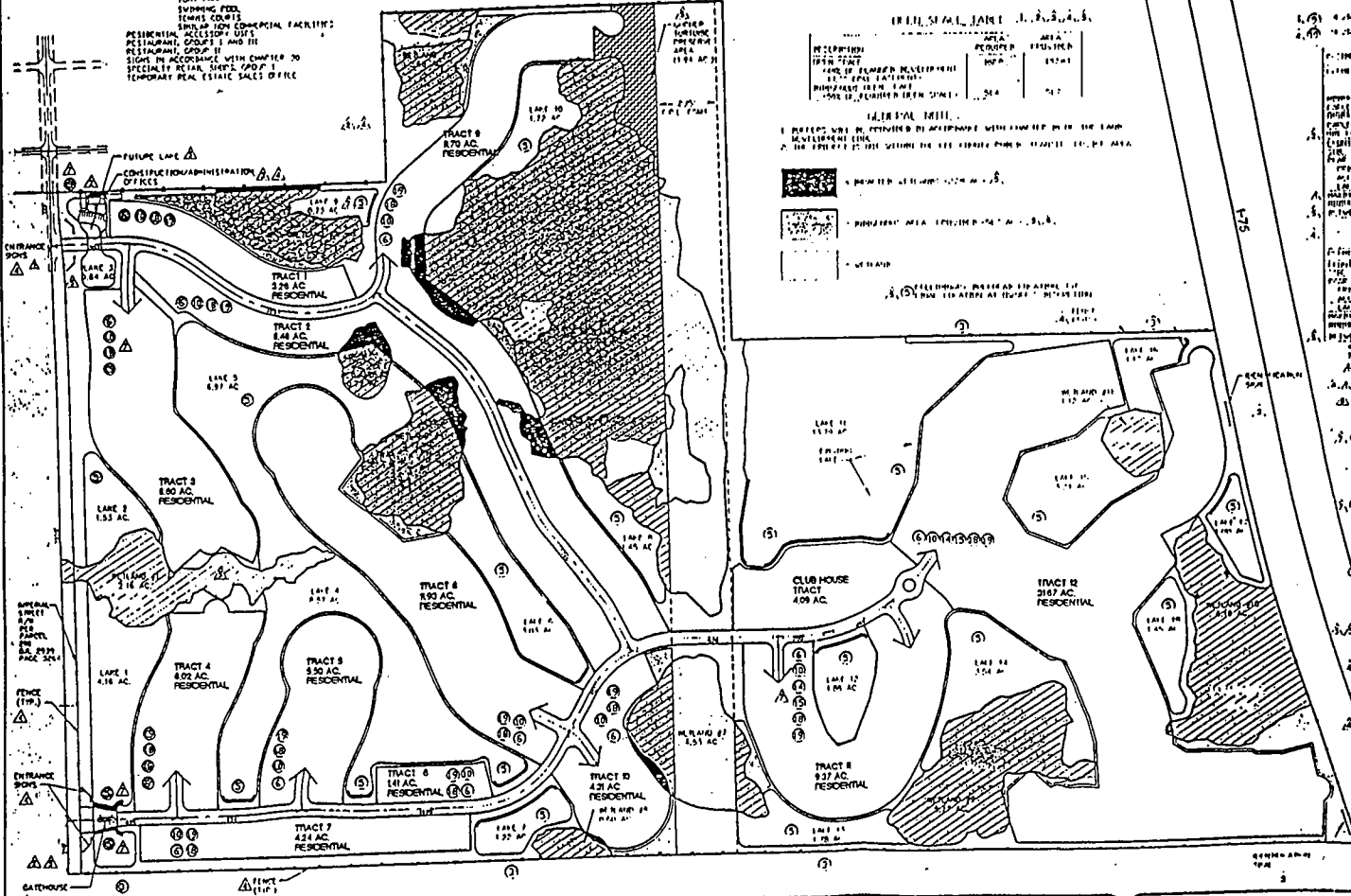
LAWYER U.S. TABLE 1, 2, 4, 5

[illegible]

THE UNIVERSITY OF ALABAMA

[Faint, illegible markings]

1. The first thing I noticed when I stepped out of the plane was the humidity. It was a relief after the dry air of the desert. The sun was shining brightly, and the birds were singing. I felt like I had entered a new world. The people were friendly, and the food was delicious. I was in good luck. I had found a new home.

[illegible][illegible]

Site Plan # 99-083 Page 1 of 2
Subject to conditions in Resolution 299083

~~Master Concept Pits~~

EXHIBIT C

[illegible]

(COMMUNITY) ENGINEERING SERVICES, INC.
Civil Engineering • Surveying • Project Management

1. What is the purpose of the study?
 2. What is the research question?
 3. What is the hypothesis?
 4. What is the significance of the study?

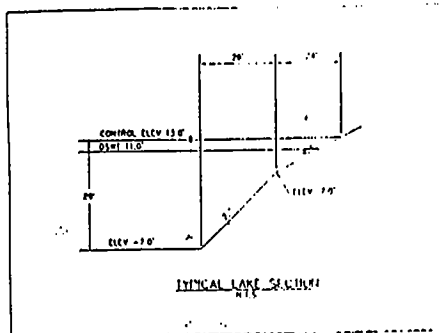
MASTER CONCEPT PLAN
OF
LIVINGSTON OAKS
POND

[illegible]

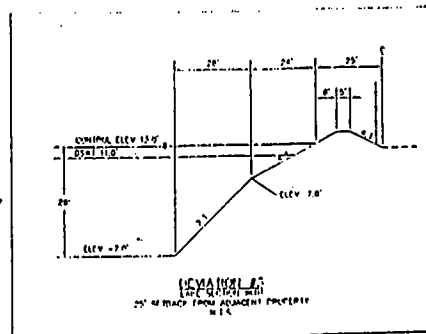
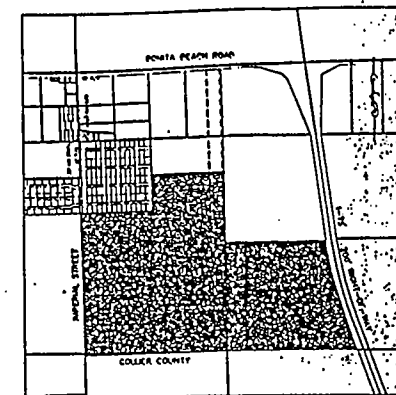
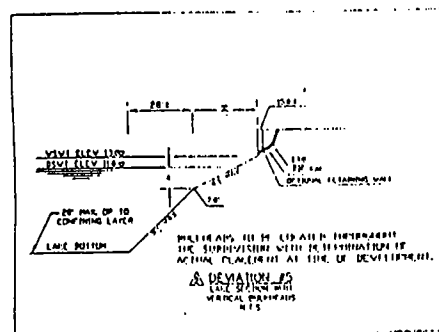
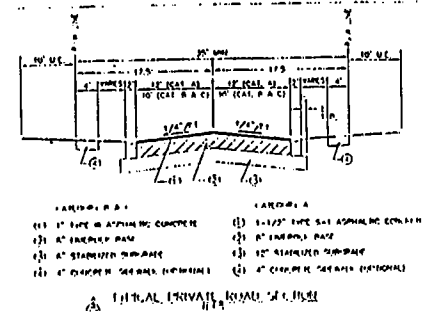
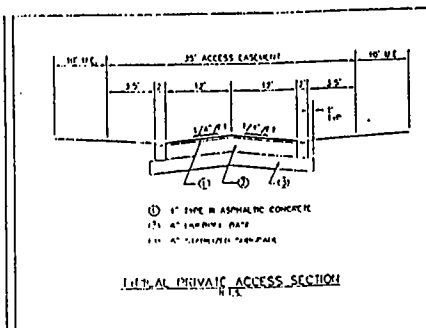
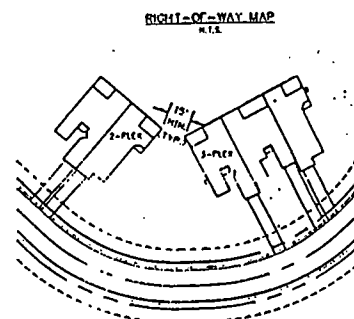
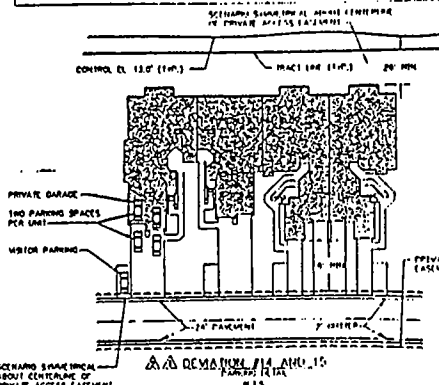
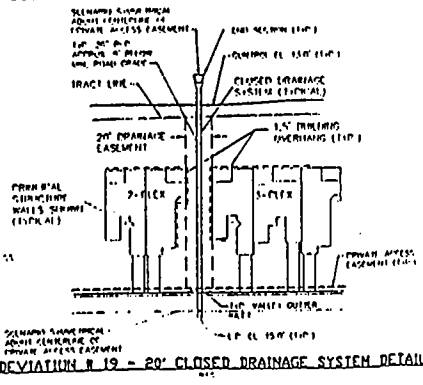
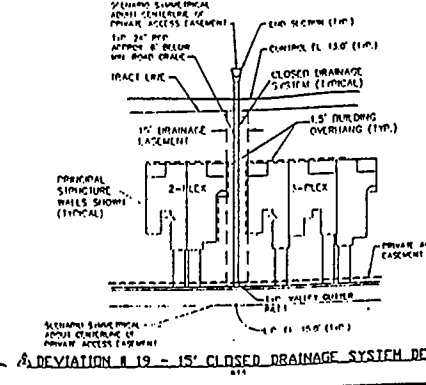
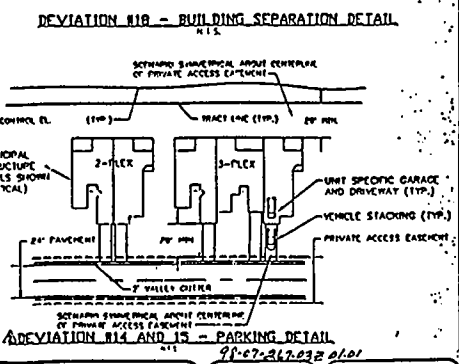
98-07-267-037 01.01

SHEET

10 -26- 92



APPROVED
Master Concept Plan
Site Plan # 99-083 Page 2 Of 2
Subject to conditions in Resolution 299-083
Zoning Case # 98-01-267.032.01.01



date	9/28/98
drawn	COY
file name	EDJ
job	ACC



COMMUNITY ENGINEERING SERVICES, INC.
Civil Engineering • Surveying • Project Management
9200 Santa Rosa Road, Suite 215
Punta Gorda, Florida 34235
Telephone (941) 495-1900 Fax (941) 495-7534

TYPICAL DETAILS
ON
LYNSTON OAKS
FOR
Van-Hangdon Communities, Inc.
17500 Van-Hangdon Road
Fort Myers, Florida 33908

SHEET	10-26-99
date	10-26-99