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RESOLUTION NUMBER Z-00-015

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

WHEREAS, an application was filed by the property owner, Long Bay Partners, LLC, to rezone a 430 acre parcel from Agricultural (AG-2), Residential (RM-2), and Commercial (CC), to Residential/Commercial Planned Development (RPD/CPD), in reference to Parcels B & F; and

WHEREAS, a public hearing was advertised and held on March 10, 2000, before the Lee County Zoning Hearing Examiner, who gave full consideration to the evidence in the record for Case #DCI962025 f/k/a 99-01-161.03Z 01.01; and

WHEREAS, a second public hearing was advertised and held on May 15, 2000, 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 applicant filed a request to rezone a 430 acre parcel from AG-2, RM-2 and CC to RPD/CPD, to allow a mix of housing types to include 240 to 286 single family units, zero to 50 zero-lot-line units, zero to 100 duplex/two-family units, zero to 100 townhouse units, and 50 to 120 multiple family units not to exceed a maximum of 441 dwelling units, with golf course and club house, not to exceed 45 feet in height. Also planned is a maximum of 50,000 square feet of retail uses, 50,000 square feet of office uses, and a 300-unit hotel/motel not to exceed 45± feet in height. The property is located in the Rural, 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 of this project must be consistent with the two-page Master Concept Plan (MCP) - Sheet 1 of 2 entitled "Master Concept Plan," stamped received by the Zoning Counter on February 22, 2000, and Sheet 2 of 2 entitled "Uses and Deviations," stamped received by the Zoning Counter on October 20, 1999, except as modified by the conditions below. This development must comply with all requirements of the Lee County LDC at time

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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.

2. The following limits apply to the project and uses:

a. Schedule of Uses

**RPD - URBAN RESIDENTIAL (Parcel R-1)**

**ACCESSORY USES AND STRUCTURES**

ACCESSORY APARTMENTS, must be calculated within the total allowable dwelling units

AGRICULTURAL USES (see Condition B.14., below, for limitations)

**DWELLING UNITS:**

Single Family

Duplex and Two-Family Attached

Townhouse/Coach

Zero-Lot-Line

Multiple-Family (four-plex, six-plex and eight-plex)

**ENTRANCE GATES AND GATEHOUSES**

ESSENTIAL SERVICES, Group I

EXCAVATION - Water Retention

FENCES, WALLS

GOLF COURSE & ACCESSORY FACILITIES

GOLF DRIVING RANGE AND TRAINING FACILITY, limited to one, in conjunction with the clubhouse

HELISTOP

HOME OCCUPATION

MODEL HOME, UNIT & DISPLAY CENTER

**RECREATIONAL FACILITIES:**

Personal

Private, on-site

**RESIDENTIAL ACCESSORY USES**

SIGNS, in accordance with Chapter 30

STORAGE OPEN, limited to parking of boats, trailers, recreational vehicles and similar vehicles and only for residents of the development and only when contained in a defined area and enclosed by an 8-foot-high fence (completely opaque), wall or vegetative screen (75 percent opacity).

**TEMPORARY USES**

TEMPORARY CONSTRUCTION TRAILER (maximum of six years)

TEMPORARY SALES CENTER (maximum of six years)

**RPD - RURAL RESIDENTIAL (Parcels R-2 through R-5)**

ACCESSORY USES AND STRUCTURES

ACCESSORY APARTMENTS, must be calculated within the total allowable dwelling units

AGRICULTURAL USES (see Condition 14 for limitations)

DWELLING UNITS:

Single-Family

Duplex and Two-Family Attached

Townhouse/Coach

Zero-Lot-Line

Multiple-Family (four-plex and six-plex)

ENTRANCE GATES AND GATEHOUSES

ESSENTIAL SERVICES, Group I

EXCAVATION - Water Retention

FENCES, WALLS

GOLF COURSE & ACCESSORY USES

GOLF DRIVING RANGE AND TRAINING FACILITY, limited to one, in conjunction with the clubhouse

HELISTOP

HOME OCCUPATION

MODEL HOME, UNIT & DISPLAY CENTER

RECREATIONAL FACILITIES:

Personal

Private, on-site

RESIDENTIAL ACCESSORY USES

SIGNS, in accordance with Chapter 30

STORAGE OPEN, limited to parking of boats, trailers, recreational vehicles and similar vehicles and only for residents of the development and only when contained in a defined area and enclosed by an 8-foot-high fence (completely opaque), wall or vegetative screen (minimum opacity 75 percent)

TEMPORARY USES

TEMPORARY CONSTRUCTION TRAILER (maximum of six years)

TEMPORARY SALES CENTER (maximum of six years)

**RPD - CLUBHOUSE SITE <sup>1</sup>**

ATM (Automatic Teller Machine)

CLUBS, Private and Country

CONSUMPTION ON PREMISES, limited to two: one in conjunction with a restaurant and one in conjunction with the golf course areas

FOOD & BEVERAGE SERVICES, Limited

FOOD STORES, Group I

GOLF COURSE AND ACCESSORY USES  
GOLF DRIVING RANGE AND TRAINING FACILITY  
PARKING LOT, Ancillary  
REAL ESTATE SALES OFFICE, limited only to sales associated with this project.  
RENTAL OR LEASING ESTABLISHMENTS, Group I  
RESTAURANTS, Groups I and II, only within the main clubhouse building  
SPECIALTY RETAIL SHOPS, Groups I and II

<sup>1</sup>All commercial uses are limited by Note #3, Sheet 1 of 2, of the MCP.

**RPD - GOLF MAINTENANCE AREA**

GOLF COURSE AND ACCESSORY USES  
STORAGE OPEN, limited to parking of boats, trailers, recreational vehicles and similar vehicles and only for residents of the development and only when contained in a defined area and enclosed by an 8-foot-high fence (completely opaque), wall or vegetative screen (minimum opacity of 75 percent)

**RPD - PARK AREA <sup>2</sup>**

BOAT RAMP AND DOCKAGE  
CANOE LAUNCH  
CONSUMPTION ON PREMISES, limited to one restaurant with outdoor seating  
CLUBS, Private and Country  
Excavation, Water Retention  
FOOD & BEVERAGE SERVICES, Limited  
FISHING PIERS  
OPEN SPACE  
RECREATIONAL FACILITIES, Personal and Private (on-site)  
RESTAURANTS, Groups I and II

<sup>2</sup>All commercial uses are limited by Note #3, Sheet 1 of 2, of the MCP.

**RPD - PRESERVED WETLANDS**

Entrance gates <sup>3</sup>

Fishing, limited to sport or recreational fishing only

Forest management activities, limited to removal of intrusive exotic species or diseased or dead trees, and pest control <sup>3</sup>

Hiking and nature study, permitted clearing, i.e., pedestrian boardwalks <sup>3</sup>



Outdoor education, in keeping with the intent of the district

Recreation activities, outdoor only, to include passive recreation and that active recreation requiring little or no facilities, capital investment or alteration of the natural landscape <sup>3</sup>

Wildlife management, as wildlife or game preserves <sup>3</sup>

<sup>3</sup>Subject to Division of Planning/Environmental Sciences review and approval prior to local development order approval.

**CPD - COMMERCIAL RETAIL AND OFFICE USES (Parcels 1 & 2)**

ACCESSORY USES AND STRUCTURES  
ADMINISTRATIVE OFFICES  
ASSISTED LIVING FACILITY  
ATM (Automatic Teller Machine)  
AUTO PARTS STORE, with or without installation service  
AUTOMOBILE SERVICE STATION  
BAR OR COCKTAIL LOUNGE  
BANKS AND FINANCIAL ESTABLISHMENTS, Groups I and II  
BOAT PARTS STORE  
BUSINESS SERVICES, Group I  
CARETAKER'S RESIDENCE  
CLOTHING STORES, general  
CLUBS: Commercial, Fraternal, Membership, Private  
CONVENIENCE FOOD AND BEVERAGE STORE  
CONSUMPTION ON PREMISES  
CULTURAL FACILITIES  
DAY CARE CENTER, adult, child  
DRIVE-THROUGH FACILITY for any permitted use  
DRUGSTORE, PHARMACY  
ENTRANCE GATES AND GATEHOUSE  
ESSENTIAL SERVICES  
ESSENTIAL SERVICE FACILITIES, Group I  
EXCAVATION, Water retention  
FOOD AND BEVERAGE SERVICES, Limited  
FOOD STORES, Group I  
FENCES AND WALLS  
GIFT AND SOUVENIR SHOP  
HARDWARE STORE  
HEALTH CARE FACILITY, Groups I and II  
HELISTOP  
HOBBY, TOY, GAME SHOPS

HOTEL/MOTEL  
 HOUSEHOLD AND OFFICE FURNISHINGS, Groups I and II  
 INSURANCE COMPANIES  
 LAUNDRY OR DRY CLEANING, Group I  
 LIBRARY  
 MEDICAL OFFICE  
 MODEL DISPLAY CENTER  
 PACKAGE STORE  
 PAINT, GLASS AND WALLPAPER  
 PARKING LOT: Accessory and commercial  
 PERSONAL SERVICES, Groups I and II, Excluding Turkish Baths  
 PET SERVICES  
 PET SHOP  
 PHARMACY  
 RECREATIONAL FACILITIES, Private Off-Site  
 RENTAL OR LEASING ESTABLISHMENTS, Groups I and II  
 REPAIR SHOPS, Groups I and II  
 RESEARCH AND DEVELOPMENT LABORATORIES, Groups II and IV  
 RESTAURANT, fast food  
 RESTAURANTS, Groups I, II, III, and IV  
 RETAIL AND WHOLESALE SALES, when clearly incidental to a permitted principal  
     use on the same premises  
 SCHOOLS, COMMERCIAL  
 SCHOOLS, NONCOMMERCIAL  
 SELF-SERVICE FUEL PUMPS  
 SIGNS, in accordance with Chapter 30  
 SPECIALTY RETAIL SHOP, Groups I, II, and III  
 TEMPORARY USES  
 USED MERCHANDISE STORES, Groups I and II  
 VARIETY STORE

b. Site Development Regulations

The property development regulations are limited to those listed in the Property Development Regulations table, shown on Sheet 1 of 2, of the approved MCP, except as may be modified herein.

The following uses are restricted to the heights shown:

Retail - one story  
 Office and Assisted Living Facility - two stories  
 Hotel - three stories  
 Creek Park - one story/35 feet

3. The RPD is limited to a maximum total of 441 residential dwelling units with the following distribution:
  - a. Parcel R-1 may be permitted 155 dwelling units in addition to any unused units transferred from Parcels R-2 through R-5; and
  - b. A maximum of 286 dwelling units are permitted within residential Parcels R-2, R-3, R-4, and R-5.
4. The Residential Planned Development (RPD) dwelling unit mix, not to exceed a total of 441 dwelling units, is distributed as follows:
  - a. Single-family dwelling units 240 to 286 units
  - b. Zero-lot-line dwelling units zero to 50 units
  - c. Duplex/two-family attached units zero to 100 units
  - d. Townhouse/coach dwelling units zero to 100 units
  - e. Multiple-family dwelling units 50 to 120 units

The actual distribution of the unit mix may be adjusted by the developer, so long as the developer demonstrates during development order review that no new significant and adverse impacts in trip rates (in excess of the TIS submitted for this rezoning) would result from such adjustments.

5. Limitations on the commercial planned development (CPD) portion of the project, Parcels C-1 and C-2, will be as follows:
  - a. Commercial uses will be limited to a maximum of 100,000 square feet distributed as follows:
    - i. The combined total of office uses must not exceed 50,000 square feet on Parcels C-1 and C-2. The office uses may include subordinate commercial retail uses, which must be contained totally within the building housing the principal use. The retail use may not occupy more than 10 percent of the total floor area of the principal use and public access to the commercial retail uses must not be evident from any external public street; and
    - ii. The combined total of commercial retail uses must not exceed 50,000 square feet on Parcels C-1 and C-2; and
    - iii. The area developed for commercial retail uses, which must meet site location criteria of the Lee Plan, must be within 330 feet of the adjoining rights-of-way of the intersecting roads. Each commercial parcel dedicated to such retail uses cannot exceed two acres in area.

- iv. Parking and water management for the retail uses may extend beyond 330 feet from the adjoining rights-of-way of U.S. 41 and the entrance roadway to this development, provided the retail uses are developed and owned by the same entity. Any outparcel(s) under separate ownership must provide for its required parking and surface water management facilities on the outparcel site(s).
  - b. Hotel/Motel: Limited to one, with a maximum of 150 units, and not to exceed a maximum height of 45 feet/3 stories. Subordinate commercial retail uses are permitted and must be totally contained within the building housing the principal use. The subordinate commercial retail use may not occupy more than 10 percent of the total floor area of the principal use and public access to the commercial retail use must not be evident from any external public street; and
  - c. Assisted Living Facility (ALF): The maximum number of units for any assisted living facility will be determined by the acreage in the Urban Community land use category allotted for that use. Acreage allocated for calculating the number of ALF units may not be used for any other use.
6. The following conditions address environmental issues:
- a. The gopher tortoise management plan included in Section 8.0 of the "B & F Protected Species Survey" report, dated April 1998, revised April 1999, and revised September 1999, prepared by Johnson Engineering, Inc., is hereby approved with the following conditions:
    - i. The gopher tortoise preserve area depicted on the MCP must be delineated on the local development order plans; and
    - ii. Prior to issuance of a Certificate of Compliance for the abutting road:
      - (1) A minimum 24-inch-diameter culvert will be provided under the roadway south of the gopher tortoise preserve to facilitate safe movement of wildlife past the entrance road and into open space areas to the south; and
      - (2) Permanent gopher tortoise fencing will be installed adjacent to the culvert on both sides of the roadway to encourage use of the underpass; and
    - iii. Only valley or type "E" gutters may be used for the roadway, except for entranceways or where required for safety purposes. In those instances type "F" gutters may be used; and

- iv. To help shield development from the southern preserve and to facilitate wildlife utilization, a minimum 25-foot-wide undisturbed buffer will be provided along the southern border of the property to the eastern edge of the slough preserve. The buffer area will remain undisturbed except for exotic plant removal and native indigenous plantings. A minimum of 50 percent of any landscaping done in this buffer will be native vegetation. This area will also serve as a relocation area for some of the gopher tortoises and potentially located commensal species.
  - v. Any gopher tortoise and/or commensal species found during burrow excavation must be moved to areas containing starter burrows or existing abandoned burrows in the gopher tortoise preserve, transition zone or buffer area along the south property line, or other appropriate on-site habitat.
  - vi. The golf course will be designed to promote wildlife utilization within the development. Existing indigenous plant communities will be preserved in corridor fashion throughout the course to the extent possible. Landscaping within the course and other open space areas will be planned to encourage wildlife foraging, such as pines and oaks for squirrels, native grasses and cocoplum for gopher tortoises, and clustered littoral plantings for wading birds and aquatic life. This condition will not be interpreted to impair good golf course design.
- b. An educational package regarding the eastern indigo snake must be distributed to all clearing and site work contractors. If an eastern indigo snake is encountered, construction activity must cease and a biologist contacted to move the snake out of harm's way to an approved gopher tortoise preserve area on-site.
  - c. If a boat launch or docking facility is constructed, manatee signs indicating the possible presence of manatees must be installed. Prior to local development order approval, the manatee sign(s) design and location(s) must be submitted for Division of Planning/Environmental Sciences Staff review and approval for any development order proposing a boat launch/ramp or docking facility.
  - d. Any installed fencing, except the permanent gopher tortoise fencing, will be designed to allow movement of wildlife.

7. Open Space Preserve Areas:

- a. Forty percent or 172 acres of open space must be provided for the overall site. Each individual tract must provide a minimum of 10 percent open space. Prior to local development order approval, the development order plan must include a table to demonstrate the 172 acres of required open space is being provided on the overall site.

- b. The Applicant is permitted mitigation and enhancements in the preserve areas subject to the following conditions:
    - i. Approximately 107 acres of Wetlands/Open Space including the 3.0±-acre Gopher Tortoise Preserve as shown on the MCP must be preserved; and
    - ii. Prior to local development order approval, any mitigation/restoration plan within these preserve areas must be submitted to Division of Planning/Environmental Sciences Staff for review and coordination; and
    - iii. Prior to any mechanical removal of invasive exotic vegetation within preserve areas with less than 75 percent exotic vegetation, an exotic removal plan must be submitted to the Division of Planning/Environmental Sciences Staff for review and approval.
  - c. Prior to approval of the first Certificate of Compliance on the first local development order, that portion of the public road (viewers road) located on the subject property, as defined in CCMB 10 Page 563, west of the westerly boundary of the water storage plant, must be vacated and removed to reestablish water flows within Mullock Creek.
  - d. Existing vegetation, especially old growth native trees and associated understory vegetation, will be preserved to the maximum extent possible south of the entrance road along both sides of the eastern arm of Mullock Creek. This condition will not be interpreted to reduce the number of residential lots and development pods in this area.
8. Conditions for the Park Area:
- a. All lighting along the creek must be arranged and directed away from adjacent properties.
  - b. A club, country or private, is limited to a total of 2,500 square feet and must have a minimum setback, as defined below:
    - i. A minimum of 225-foot building-to-building separation must be provided between any park structure and the two existing residential homes north of the proposed park.
    - ii. At least a 25-foot setback from the mean high water line must be maintained for the clubhouse. That setback must be increased to 50 feet for any active outdoor recreational uses (tennis, pool, play areas), or outdoor dining area in the clubhouse area.

- iii. A vegetative buffer, 25 feet in width and 75 percent opaque when viewed at right angles, consisting of existing or augmented native vegetation, must be provided along Mullock Creek. This opacity must be achieved within two years of installation. The vegetative buffer must shield the country club, restaurant, and outdoor seating areas from the existing residential dwelling units on the north side of Mullock Creek. The size, type and location of the vegetative buffer will be reviewed at the time of local development order approval.
  - c. The restaurant is limited to a total of 2,500 square feet plus an additional 300 square feet for outdoor seating. The restaurant must be set back a minimum of 25 feet from the mean high water line of Mullock Creek. The outdoor seating area must be set back a minimum of 50 feet from the mean high water line.
  - d. The restaurant and club, country or private, must not exceed a maximum height of 35 feet, and will only have one habitable floor.
  - e. The restaurant, club, country or private, must only be for the use of the residents and their guests.
  - f. Outdoor entertainment in conjunction with the restaurant is prohibited.
  - g. Serving alcoholic beverages in conjunction with outdoor seating at the restaurant or clubhouse is limited to the hours of 7:00 a.m. to 9:00 p.m.
  - h. Special occasions, events, or parties, may include outdoor entertainment, and are permitted within the Park Area only in association with club, country and private, activities. All outdoor entertainment must cease at 9:00 p.m.
  - i. The parking area for the restaurant, club, country and private, and boat ramp must be landscaped for the purpose of screening headlights from the Creek. Existing native vegetation may be used in whole or in part to meet this requirement.
- 9. An on-site preconstruction meeting must be held with Division of Planning/Environmental Sciences Staff prior to the issuance of a vegetation removal permit for any phase of development to confirm preservation areas, gopher tortoise relocation areas, and barricading requirements prior to the initiation of site clearing. Fencing must comply with the requirements set out in Condition 6.
  - 10. To the extent possible, cabbage palms (*Sabal palmetto*) with an 8-foot or greater (height) clear trunk must be preserved in place or relocated to open space or landscape areas within the development area.
  - 11. The following conditions are to help mitigate potential hurricane damage and/or loss of life,

as well as to ensure compliance with comprehensive plan objectives.

a. Prior to approval of a local development order the developer must:

- i. Establish a homeowners' association 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; and
- ii. Formulate an emergency hurricane notification and evaluation plan for the development, which will be subject to review and approval by the Lee County Office of Emergency Management (OEM).
- iii. Until such time as the County has instituted a county-wide hurricane impact mitigation policy, the Developer must cooperate with the Division of Public Safety/Emergency Management in determining and participating in a means to lessen those impacts on the County's hurricane preparedness process and public safety. These "means" could include the provision of equipment, monies in lieu of equipment, individual shelter areas (i.e., safe rooms in residences), or such other goods, materials or actions deemed appropriate by Emergency Management that results in the provision of additional shelters, or improvement of roads for use as additional evacuation routes. If the means required by Emergency Management is unacceptable to the Developer, then the Developer will have a right to appeal the Emergency Management decision to the Board of County Commissioners.

12. The clubhouse site is limited to a maximum of 30,000 square feet, to include up to 2,000 square feet of ancillary commercial uses.

13. Aquatic Preserve, Outstanding Florida Water and Development, including Golf Course Development Buffers:

- a. All development, including the golf course, must be set back a minimum of 100 feet (on average) from any saltwater wetlands or tidal flats. There will be no point where this setback is less than 75 feet in width. This setback is intended to apply to the western edge of the property [as depicted on the Setback and Transition Zone exhibit; Applicant's Exhibit 8], and will not apply to passive recreation areas such as the park or boat/canoe launching areas [see Deviation (6)].

Prior to issuance of the development order, the Applicant must demonstrate through



the use of a HEC 2 model, to the satisfaction of County Staff, that adequate flood plain protection has been provided for along Mullock Creek within the proposed development.

- b. An additional 100-foot-wide "Transitional Zone" will be provided landward of the 100-foot to 75-foot saltwater wetland/flats setback described in a., above. Additionally, a 50-foot-wide transitional zone will be provided along the southern property line, as depicted on Applicant's Exhibit 8 attached as Exhibit E. Permitted in this "Transitional Zone" will be native landscaping, water management activities, passive recreational uses and golf courses. The "Transitional Zone" and buffer required in Condition 6 is intended to provide for separation between residential uses and preserve areas, and allow for an upland open space area adjacent to the preserves. Additionally, management for wildlife within this zone will be encouraged (including bird boxes and retention of dead trees and snags).
- c. The water management system for the golf course must be designed so untreated run-off is directed away from the saltwater wetland/tidal flats system and the creeks. Any treated run-off to be discharged into the saltwater wetland/tidal flat system or the creeks must utilize spreader swales with multiple outfalls.
- d. The Developer must design the golf course and conduct maintenance in a manner that is sensitive to the water and nutrient needs of the preserved native vegetation in and abutting the golf course. Irrigation systems must be designed to avoid overspray and run-off into areas with preserved native vegetation. Fertilizers, herbicides or pesticides used must be applied in a manner that does not damage the preserved native vegetation (e.g., do not apply on windy days; biodegradable products only). This condition is meant to maintain the natural condition of the preserved plant communities; it will not be interpreted in a manner to jeopardize the health and viability of the fairways and greens.
- e. To reduce the sources of pollutants, especially nutrients and pesticides associated with the golf course, the golf course manager must implement a chemicals management plan that includes an integrated pest management (IPM) program and a nutrient management program such that nutrients and pesticides are used only when absolutely necessary. The program must address prevention, diagnosis, and limited treatment with pesticides, when necessary, rather than blanket treatment with broad spectrum pesticides as insurance against all pest species. The application of pesticides will involve only the purposeful and minimal application of pesticides, aimed only at identified targeted species. The regular widespread application of broad spectrum pesticides is prohibited. The IPM program must minimize the use of pesticides and must include the use of the U.S. Department of Agriculture - Natural Resources Conservation Service (USDA-NRCS) Soil Pesticide Interaction Rating guide to select pesticides for use that have a minimum potential for leaching or loss from runoff. Only EPA-approved chemicals may be used.

- f. The golf course manager must coordinate the application of pesticides with the irrigation practices (i.e., the timing and application rates of irrigation water) to reduce run-off and the leaching of any applied pesticides and nutrients.
- g. The utilization of a golf course manager licensed by the State to use restricted pesticides and experienced in the principles of IPM is required. The golf course manager is responsible for ensuring that the golf course fertilizers are selected and applied to minimize fertilizer run-off into the surface water and the leaching of those same fertilizers into the groundwater.
- h. Stormwater run-off must be pre-treated through an acceptable recreated natural system, dry retention or water treatment system, prior to discharging the run-off into existing wetland and aquatic systems.
- i. As part of the surface water management plan all water flow must be directed towards the interior of the project for treatment prior to being discharged through the proposed outfalls.
- j. The golf course must comply with the "Best Management Practices for Golf Course Maintenance Departments," prepared by the Florida Department of Environmental Protection, May 1995, as amended.
- k. Prior to the issuance of a development order, a pre-development groundwater and surface water analysis must be conducted and submitted to the County. This analysis is intended to establish baseline data for groundwater and surface water monitoring for the project area.

This baseline study must include the following:

- i. Three Surface Water Monitoring Sites:
  - Mullock Creek Upgradient
  - Mullock Creek Downgradient
  - Outfall location - Mangrove fringe
- ii. One Groundwater Monitoring Site:
  - A 2-inch by 10-foot well located in upland area
- iii. Quarterly samples taken to quantify the following:
  - Specific conductance
  - Turbidity
  - Kjeldahl nitrogen

Total nitrogen  
Ortho phosphorous  
Total phosphorous  
BOD  
TSS  
Copper  
Zinc  
Lead  
DO  
PH  
EPA Method 619 (pesticides)

- I. Annual surface water and groundwater monitoring must continue in perpetuity at the project outfalls. The monitoring requirements will utilize the parameters established for the baseline study. This surface and groundwater monitoring is to be conducted, at a minimum, on a quarterly basis by a qualified third party. This monitoring data must be submitted to the County within 45 days from sampling collection as soon as it is available. A summary report of this monitoring effort must be provided annually to Lee County Division of Natural Resources for their review.

If surface and/or groundwater monitoring shows degradation of water quality the County will notify the property owner that a plan, to correct the identified problem(s), must be submitted. The property owner must submit a plan of action within 30 days after receipt of written notice from the County. The plan must identify actions that will correct the problem(s) within the shortest possible time frame. This plan will be reviewed and must be found to be acceptable by the County. If the plan is not submitted as required, or is found to be unacceptable by the County, the County will require that all activities on the property cease until a plan is submitted and approved. The approved plan must be implemented by the property owner. If the County determines that the approved plan is not being implemented properly, the County can require that all activities on the property cease until the property owner comes back into compliance.

14. Bona fide agricultural uses that are now in existence may continue until the first development order approval is granted. However, no development activity of any kind may occur on the property, including clearing of vegetation or cutting of trees, unless such activity is reviewed and approved in accordance with all applicable Lee County regulations as if no agricultural use existed on the property. The purpose of this condition is to eliminate any exemption or other special considerations or procedures that might otherwise be available under Lee County regulations by virtue of the existing agricultural uses on the property.
15. Access to U.S. 41 is under the jurisdiction of the State, and Florida Department of Transportation (FDOT) approval will be required prior to local development order approval.

16. The Developer must provide reasonable access through the development to the property owners of the Gulf Environmental Services, Inc. water storage reservoir and pumping station or, in the alternative, until an alternate access is agreed to by the Developer and Gulf Environmental Services, Inc.
17. 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.
18. 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).

SECTION C. DEVIATIONS:

1. Deviation (1) seeks relief from the LDC §10-291(3) requirement that any residential development of more than five acres or any commercial or industrial development of more than 10 acres must provide, where practical, two or more means of ingress or egress for the development, to allow one entrance as depicted on the MCP. This deviation is APPROVED, PROVIDED the entrance road is designed and constructed to provide access at all times for emergency vehicles. The design may be some type of emergency access, a multi-lane median-divided entrance road, etc., and will be subject to review and approval by Development Services Division at the time of local development order approval. If a multi-lane, median-divided entrance road is proposed at the time of local development order approval, the multi-lane, median-divided entrance road must extend from U.S. 41 to the entrance gate serving Residential Areas R-1 through R-5.
2. Deviation (2) seeks relief from the LDC §10-296, Table 4(7)(c)2 requirement to provide minimum specifications for street wearing surfaces to allow decorative pavers on private, internal roads within the development. This deviation is APPROVED, SUBJECT TO the following conditions:
  - a. The alternative street cross-section will be structurally equivalent to the standard flexible pavement cross-section specified by the LDC; and
  - b. The alternate street wearing surface will only be installed on privately maintained streets.
3. Deviation (3) seeks relief from the LDC §10-329(e)(1)a. requirement to provide a 25-foot setback for water retention lakes along roadways, to allow setbacks from rights-of-way for excavations to be measured from the edge of pavement or back of curb to edge of water control elevation and, where adequate elements for protection of wayward vehicles are provided, allow a zero-foot setback from back of curb to the edge of water control elevation.

This deviation is APPROVED, SUBJECT TO the Developer providing elements for the protection of wayward vehicles such as guardrails, bollards, berms, swales, non-mountable curbs, etc., approved by the Director of Development Services prior to local development order approval.

4. Deviation (5) seeks relief from the LDC §10-329(e)(4) requirement that the banks of all excavations permitted under this section must be sloped at a ratio not greater than four horizontal to one vertical (4:1) from the top of the excavation to a water depth of four feet below the dry season water table, to allow the project to conform to South Florida Water Management District (SFWMD) permits. The intent of this deviation is to allow a maximum of 30 percent of the lake banks to incorporate bulkheads. This deviation is APPROVED, SUBJECT TO the following conditions:
  - a. The vertical bulkheads may not exceed 30 percent of the lake shorelines.
  - b. Adequate lake maintenance access easements will be maintained.
  - c. The lake bank will be sloped at a maximum slope of 4:1 from the bulkhead, starting at the dry season water table elevation.
5. Deviation (6) seeks relief from the LDC §10-416(d)9, requirement to provide a 25-foot-wide vegetative buffer landward from the mean high water line of all non-seawalled natural waterways, to allow a zero foot setback in the Park parcel for canoe and boat launch, boat ramp, temporary mooring slips, gazebos and fishing piers. This deviation is APPROVED, SUBJECT TO the following conditions:
  - a. One boat launch or ramp, which:
    - i. is limited in width to allow the launching of one boat at a time; and
    - ii. must be designed to include a swale, exfiltration trench, or other engineering device to prevent bilge water and untreated run-off from flowing down the boat ramp and into Mullock Creek; and
    - iii. is limited to one dock access walkway that is no wider than the minimum width required by the American with Disabilities Act (ADA); and
    - iv. has no more than two temporary mooring slips.
  - b. One fishing pier or gazebo limited to 300 square feet within the natural waterway buffer; and
  - c. All dock and shoreline structures must be designed to have the least impact to existing native vegetation; and

- d. All dock and shoreline structures must meet the requirements of LDC Chapter 26.
6. Deviation (7) seeks relief from the LDC §10-421(a)(5) requirement that prohibits the planting of required trees or shrubs within any utility, power, or street easement or right-of-way, to allow planted buffers in these easements. This deviation is APPROVED, SUBJECT TO the condition that, if the plants ever have to be removed, the Developer must replace these plants with like size, species and numbers at no expense to Lee County.
  7. Deviation (9) seeks relief from the LDC §10-355 requirement to provide a minimum 10-foot-wide utility easement on both sides of all new local roads or accessways in the proposed development, to allow the public utility easement to be provided on one side only. This deviation is APPROVED only for those areas where development is limited to one side of the street and the easement is located adjacent to and on the same side of the street as the development.
  8. Deviation (10) seeks relief from the LDC §34-2474(b)(6) requirement that recreation halls and ancillary facilities and private clubs be located at least 40 feet from any residential dwelling, to allow a minimum setback of 20 feet. This deviation is APPROVED.
  9. Deviation (11) seeks relief from the LDC §34-2194(c)(3)(b) requirement that non-roofed accessory structures or facilities that are not enclosed, except by fence, or which are enclosed on at least three sides with open mesh screening from a height of 3.5 feet above grade to the top of the enclosure, be no closer than 10 feet from a non-seawalled artificial body of water, to allow docks, decks and walkways to extend up to an artificial lake's edge, so long as fencing or railing is provided adjacent to pedestrian areas. This deviation is APPROVED, SUBJECT TO the condition that the Developer also provide the required lake maintenance easement.
  10. Deviation (12) seeks relief from the LDC §34-2015(2)d. requirement to provide all parking lot spaces with sufficient maneuvering room to allow an exiting vehicle to leave the parking lot in a forward motion, to allow vehicles exiting parking for recreational amenities to back onto private roads. This deviation is APPROVED, SUBJECT TO the following conditions:
    - a. Adequate speed control devices, subject to Development Services approval, must be approved in conjunction with local development order approval; and
    - b. This deviation will only apply to parking located within the Creekfront Park (Park Area), or at the common amenity areas. Parking lot spaces associated with residential developments within the project may be administratively approved for similar relief.
  11. Deviation (13) seeks relief from the LDC §34-2015(1) requirement to provide all required parking spaces on the same premises and within the same or similar type zoning district as the use they serve, to allow joint use of parking lots within the identified commercial

parcels. This deviation is APPROVED, SUBJECT TO Condition 5 AND the following conditions:

- a. Joint parking may be permitted between office and retail parking spaces located within each CPD parcel (Parcels C-1 and C-2); and
- b. Joint parking lots must be within 300 feet of each use they serve/provide parking for; and
- c. Joint parking will not be permitted between the two CPD parcels; each parcel must accommodate the parking needs for the uses located thereon; and
- d. No part of a parking lot used, designed or intended to satisfy required parking for any use may be used to offset the parking requirements for another use unless the peak parking demands of the uses clearly occur at different times.

#### 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  
Exhibit D: Uses and Deviations  
Exhibit E: Transitional Zone Exhibit (Applicant's Hearing Examiner Exhibit 8)

#### 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; 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 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.

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

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

DULY PASSED AND ADOPTED this 15th day of May, 2000.

ATTEST:  
CHARLIE GREEN, CLERK

BOARD OF COUNTY COMMISSIONERS  
OF LEE COUNTY, FLORIDA

BY: *Charlie Green*  
Deputy Clerk

BY: *John E. Albion*  
Chairman

Approved as to form by:

*Ray Judah*  
County Attorney's Office

MINUTES OFFICE

*Putt F*  
FILED MAY 22 2000



LEGAL DESCRIPTION

EXHIBIT "A"  
DCI962025

CPD COMMERCIAL PARCEL NO. 1  
SECTION 17, TOWNSHIP 46 SOUTH, RANGE 25 EAST  
LEE COUNTY, FLORIDA

A tract or parcel of land lying in the Southwest Quarter (SW-1/4) of Section 17, Township 46 South, Range 25 East, Lee County, Florida, described as follows:

From the southwest corner of said Section 17 run N 00° 08' 28" W along the west line of the Southwest Quarter (SW-1/4) of said Section 17 for 1316.24 feet to the southwest corner of the Northwest Quarter (NW-1/4) of the Southwest Quarter (SW-1/4) of said Section 17; thence run N 88° 01' 00" E along the south line of said quarter-quarter section for 682.26 feet to the northeast corner of lands as described by deed recorded in OR Book 1906 at Page 2746 of the public records of Lee County, Florida and the Point of Beginning of the lands herein described.

From said Point of Beginning continue N 88° 01' 00" E along said south quarter-quarter section line for 550.16 feet to an intersection with the southwesterly line of U.S. 41 (State Road No. 45); thence run southeasterly along said southwesterly line and along a non-tangent curve to the left of radius 2,359.83 feet (chord bearing S 29° 54' 48" E) (chord 208.72 feet) (delta 05° 04' 09") for 208.78 feet; thence run S 56° 05' 42" W along a line 10.00 feet north of (as measured on a perpendicular) and parallel with the northerly line of a roadway and utility easement as described by deed recorded in Official Record Book 2917 at Page 4032 of said public records for 167.99 feet; thence run S 33° 54' 18" E for 10.00 feet to an intersection with said northerly line and an arc of a curve to the right of radius 187.00 feet (chord bearing S 72° 03' 21 " W) (chord 102.84) (delta 31° 55' 18") for 104.18 feet to a point of tangency; thence run S 88° 01' 00" W, continuing along said northerly line of lands described by deed recorded in Official Record Book 2917 at Page 4032 for 411.74 feet to an intersection with the southerly prolongation of the easterly line of aforementioned lands described in Official Record Book 1906 at Page 2746; thence run N 01° 59' 00" W along said line for 310.00 feet to the Point of Beginning.

Parcel contains 4.11 acres, more or less.

Bearings herein above mentioned are based on the west line of the Southwest Quarter (SW-1/4) of Section 17, Township 46 South, Range 25 East to bear N 00° 08'28" W.

EXHIBIT "A"  
DCI962025

CPD COMMERCIAL PARCEL NO. 2  
SECTION 17, TOWNSHIP 46 SOUTH, RANGE 25 EAST  
LEE COUNTY, FLORIDA

A tract or parcel of land lying in the Southwest Quarter (SW-1/4) of Section 17, Township 46 South, Range 25 East, Lee County, Florida, described as follows:

From the southwest corner of said Section 17 run N 87° 26' 22" E along the south line of the Southwest Quarter (SW- 1/4) of said Section 17 for 1328.70 feet; thence run N 00° 23' 13" W along the east line of the Southwest Quarter (SW-1/4) of the Southwest Quarter (SW-1/4) of said Section 17 for 364.32 feet to an intersection with the southerly line of lands as described by deed recorded in Official Record Book 1525 at Page 94 of the public records of Lee County, Florida; thence run N 53° 02' 16" E along said southerly line for 182.39 feet to the Point of Beginning.

From said Point of Beginning continue N 53° 02' 16" E along said southerly line to an intersection with the southwesterly line of U.S. 41 (State Road No. 45); thence run N 36° 58' 21" W along said southwesterly line for 371.00 feet; thence run S 53° 02' 16" W for 270.00 feet; thence run S 36° 58' 21" E for 371.00 feet to the Point of Beginning.

Parcel contains 2.30 acres, more or less.

Bearings hereinabove mentioned are based on the west line of the Southwest Quarter (SW-1/4) of Section 17, Township 46 South, Range 25 East to bear N 00° 08' 28" W.

EXHIBIT "A"  
DCI962025

RPD PARCEL IN  
SECTIONS 17 AND 18, TOWNSHIP 46 SOUTH, RANGE 25 EAST  
LEE COUNTY, FLORIDA

A tract or parcel of land lying in the Southwest Quarter (SW-1/4) of Section 17, and Section 18, south of Mullock Creek, Township 46 South, Range 25 East, Lee County, Florida, described as follows:

Beginning at the southeast corner of said Section 18 run S 88° 56' 41" W along the south line of the Southeast Quarter (SE¼) of said Section for 2651.86 feet to the southwest corner of the Southeast Quarter (SE-1/4) of said Section; thence run N 67° 39' 05" W along the south line of the Southwest Quarter (SW-1/4) of said Section 18 for 2911.71 feet to the southwest corner of said Section; thence run N 01° 05' 13" W along the west line of said Section for 2653.69 feet to the northwest corner of the Southwest Quarter (SW-1/4) of Section 18; thence run S 78° 39' 27" E along the north line of said Southwest Quarter (SW-1/4) for 1196 feet, more or less, to an intersection with the southerly waters of Mullock Creek; thence run northeasterly, easterly and southeasterly along said waters for 4285 feet, more or less, to an intersection with the east line of the West Half (W-1/2) of the Northeast Quarter (NE-1/4) of said Section 18; thence run S 01° 00' 37" E along said east line for 348 feet, more or less, to an intersection with the north line of said Southeast Quarter (SE¼) of said Section 18; thence run S 78° 41' 37" E along said north line for 1379.37 feet to the northeast corner of the Southeast Quarter (SE-1/4) of said Section 18; thence run S 00° 08' 28" E along the east line of said Southeast Quarter (SE-1/4) for 728 feet, more or less, to the centerline of Mullock Creek; thence run southeasterly along the meanders of the centerline of Mullock Creek for 822 feet, more or less, to an intersection with the north line of the Southwest Quarter (SW-1/4) of the Southwest Quarter (SW-1/4) of said Section 17; thence run N 88° 01' 00" E along said north line for 135 feet, more or less, to the northwest corner of lands described in Official Record Book 1906 at Page 2746 of the Public Records of Lee County, Florida; thence run S 01° 59' 00" E for 265.00 feet; thence run N 88° 01' 00" E along the south line of said lands for 225.00 feet; thence run S 01° 59' 00" E along the southerly projection of the east line of said lands for 45.00 feet to the northerly line of a roadway and utility easement as described by deed recorded in Official Record Book 2917 at Page 4032 of said Public Records; thence run N 88° 01' 00" E along said northerly line for 411.74 feet to a point of curvature; thence run northeasterly along an arc of said curve to the left of radius 187.00 feet (chord bearing N 72° 03' 21" E) (chord 102.84 feet) (delta 31° 55' 18") for 104.18 feet to a point of tangency; thence run N 33° 54' 18" W for 10.00 feet; thence run N 56° 05' 42" E along a line 10.00 feet north of (as measured on a perpendicular) and parallel with said northerly line of roadway and utility easement for 167.99 feet to an intersection with the southwesterly line of U.S. 41 (State Road No. 45); thence run southeasterly along said southwesterly line and along a non-tangent curve to the left of radius 2,359.83 feet (chord bearing S 34° 38' 45" E) (chord 180.99 feet) (delta 04° 23' 44") for 181.04 feet to a point of tangency; thence run S 36°

58' 21" E along said southwesterly right-of-way for 46.30 feet; thence run S 53° 02' 16" W, parallel with the southerly line of lands as described by deed recorded in Official Record Book 1525 at Page 94 of said Public Records, for 270.00 feet; thence run S 36° 58' 21" E parallel with said southwesterly line of U.S. 41 for 371.00 feet to an intersection with the aforementioned southerly line of said lands of Official Record Book 1525 at Page 94; thence run S 53° 02' 16" W along said southerly line for 182.39 feet to an intersection with the east line of the Southwest Quarter (SW-1/4) of the Southwest Quarter (SW-1/4) of said Section 17; thence run S 00° 23' 13" E along said east line for 364.32 feet to an intersection with the south line of said Section 17; thence run S 87° 26' 22" W along said south line for 1328.70 feet to the Point of Beginning.

**LESS** the waters of Mullock Creek in the Southwest Quarter (SW-1/4) of said Section 18.

**SUBJECT TO** roadway easement for County Road, lying 25 feet each side of the north line of the Southwest Quarter (SW-1/4) of the Southwest Quarter (SW-1/4) of said Section 17, as recorded in C.C.M.B. 10, page 563.

**ALSO SUBJECT TO** a Florida Power & Light Company transmission line easement as described by Deed recorded in Deed Book 227 at Page 428 and Deed Book 226 at Page 53 of the Public Records of Lee County, Florida.

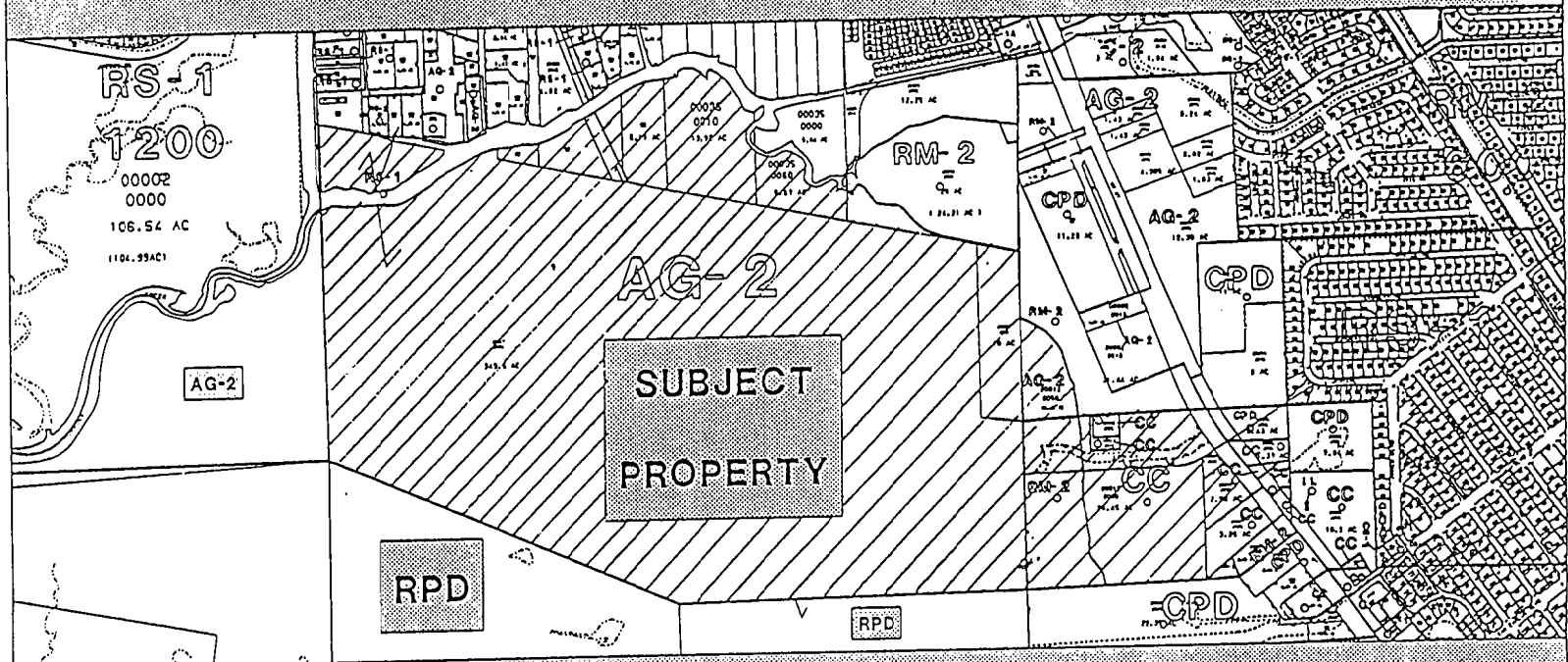
Parcel contains 426.22 acres, more or less.

Bearings herein above mentioned are Plane Coordinate for the Florida West Zone.

The applicant has indicated that the STRAP numbers for the subject property are:

17-46-25-00-00007.0030,	17-46-25-00-00007.0040,
17-46-25-00-00012.0000,	17-46-25-00-00012.0050,
18-46-25-00-00030.0000,	18-46-25-00-00033.0000,
18-46-25-00-00034.0010,	18-46-25-00-00035.0000,
18-46-25-00-00035.0010,	18-46-25-00-00037.0000, and
18-46-25-00-00040.0000	

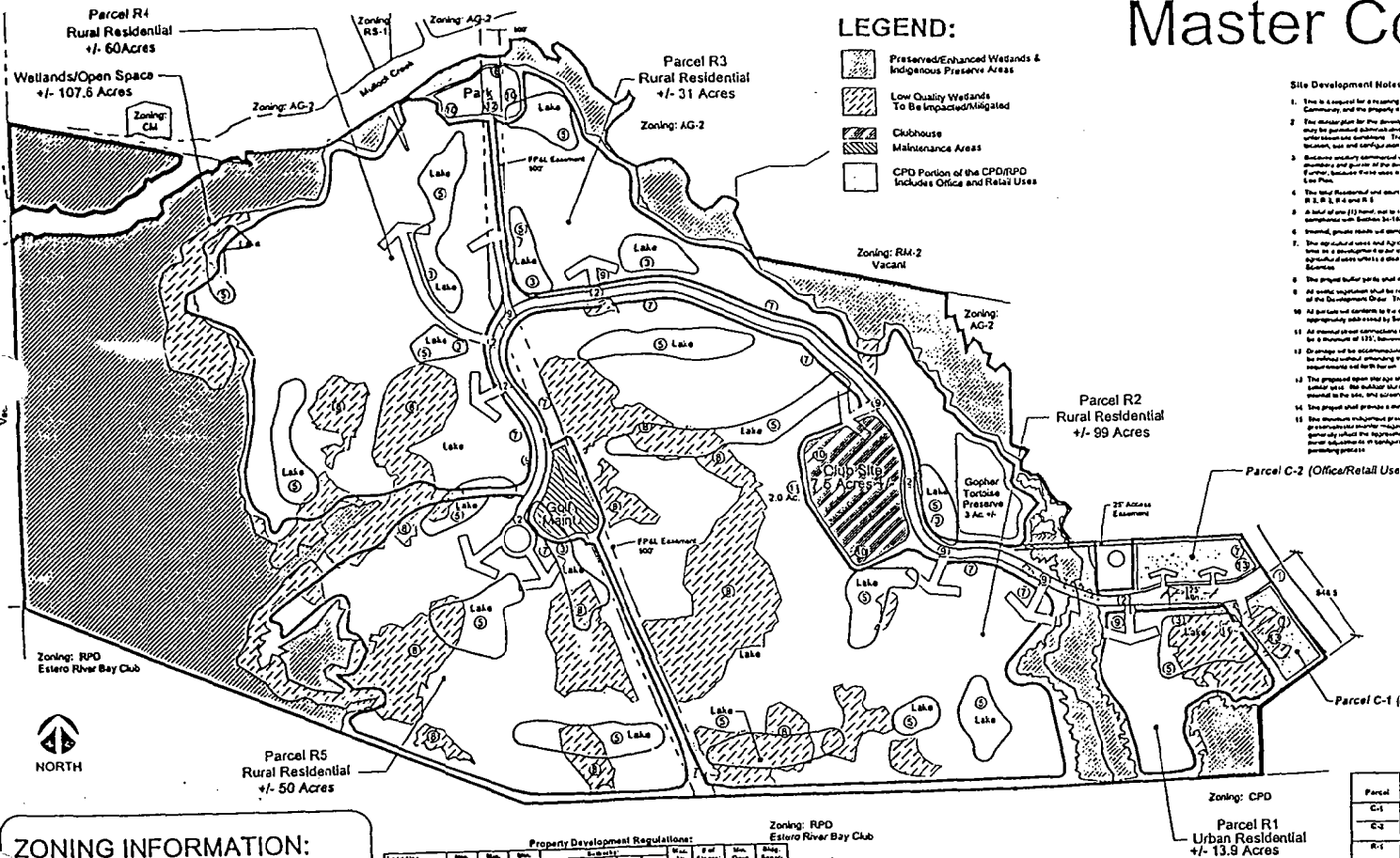
# ZONING



# MAP

# A

# Master Concept Plan



**ZONING INFORMATION:**

**TRAP Number Classification:**

18-46-25-00-00040.0000	Current Zoning:	AG-2
18-46-25-00-00039.0000	Current Zoning:	AG-2
18-46-25-00-00038.0000	Current Zoning:	AG-2
18-46-25-00-00033.0000	Current Zoning:	AG-2
18-46-25-00-00034.0010	Current Zoning:	AG-2
18-46-25-00-00035.0010	Current Zoning:	AG-2
18-46-25-00-00035.0000	Current Zoning:	AG-2
17-46-25-00-00012.0000	Current Zoning:	RM-2, CC
17-46-25-00-00012.0050	Current Zoning:	RM-2, CC
17-46-25-00-00007.0040	Current Zoning:	CC
17-46-25-00-00007.0030	Current Zoning:	CC

Property Development Regulations:		Max	Ref
1. Zoning	1.1. Zoning Ordinance	1.1.1	1.1.1
2. Building	2.1. Building Code	2.1.1	2.1.1
3. Fire	3.1. Fire Code	3.1.1	3.1.1
4. Health	4.1. Health Code	4.1.1	4.1.1
5. Environmental	5.1. Environmental Code	5.1.1	5.1.1
6. Other	6.1. Other Code	6.1.1	6.1.1

[illegible]

APPROVED

## Master Concept Plan

Site Plan # 00-015 Page 1 of 2

Subject to conditions in Resolution

Zoning Case # DCI 962025 fka

99-01-161.03  $\approx$  01.01

**Site Development Notes:**

- [illegible]

### Project Summary:

Project Size	41.30 Acres
Required Open Space	172.2 Acres
Mn. Required Indigenous Vegetation	84.1 Acres

Surrounding Zoning and Land Uses:

Zoning		Existing Land Use:
North:	Mudlock Creek/AG-2/R-1S-1	Vacant/Single Family Residential
South:	AG-1, RPD, CPD	Approved Estuary River Bay RPD, Wetlands
East:	AG-2/RM-2/OC	Mudlock Creek/Vacant/Approved Commercial/US 1
West:	AG-2	Vacant/Mudlock Creek

## Land Use and Development Program Summary

Parcel	Parcel Size	Permitted Uses	Development Program	
			Intensity	Notes
C-1	243 ± 137 ± 7 Acres ±	Office and Retail Uses	• Total Office uses shall not exceed 40,000 sq. ft. • Total Retail uses shall not exceed 50,000 sq. ft.	
C-2	219 ± 120 ± 6 Acres ±	Office Uses	• One (1) Hotel, not to exceed 150 rooms.	
R-1	832 ± 17 ± 11 Acre ±	Urban Residential	• None to be permitted • 155 Units ± only may be transferred from Parcel R2 -- R3	• Max. Density of 10 Dwellings/1 Acre • Units may be transferred to Parcels R2, R3, & 4.
R-2	1,500 ± 1,027 ± 59 Acres ±	Rural Residential		
R-3	300 ± 100 ± 31 Acres ±	Rural Residential	246 Units	Overall Maximum Density of 1 Dwellings/1 Acre. Units may be transferred to Parcel R1.
R-4	1,500 ± 1,007 ± 61 Acres ±	Rural Residential		
R-5	1,102 ± 1,302 ± 50 Acres ±	Rural Residential		
Club-Homes	502 ± 152 ± 7.5 Acres	Clubhomes Uses	• 30,000 SF ± to include up to 1,000 SF ancillary Retail	Retail uses must conform to Section 64.931 of the LDC.
Mixed Area	330 ± 500 ± 2.6 Acres	Maintenance Uses		Typical Golf Course Maintenance facilities.
Parks	202 ± 500 ± 3 Acres ±	Park Uses	See Permitted Uses	Any retail uses are transferred to the residential and parks and shall comply with Section 3.
FF&L Estimate		Far, Rural Residential & Maintenance Area Uses	See Permitted Uses	The Assessor's office must authorize any use located within an assessment.

<b>OWNER:</b> Bonita Bay Properties 3451 Bonita Bay Blvd. Bonita Springs, FL 34134		<b>PLANNER/LA:</b> Vannasca & Dwyer, LLP 8270 College Parkway, #205 Fort Myers, FL 33919		<b>EXHIBIT IV-C, IV-E-I, IV-G &amp; IV-H</b>		<b>NOTES:</b>	
		<b>PROJECT NO:</b> 80059		<b>CONTRACT #</b>		<b>SCALE:</b> 1" = 300'	
		<b>DRAWN</b>		<b>MOH</b>		<b>10/15/99</b>	
		<b>CHECKED</b>		<b>MOH</b>		<b>08/15/99</b>	
		<b>APPROVED</b>		<b>MOH</b>		<b>02/10/00</b>	
<b>PROJECT:</b> Parcel R&F Rezoning		<b>PROJECT LOCATION:</b> Lee County, Florida		<b>SHEET TITLE:</b> Master Concept Plan		<b>NO.</b>	
				<b>DATE:</b>		<b>BY</b>	
				<b>REVISIONS</b>		<b>DATE</b>	
				<b>1</b>		<b>02/18/00</b>	
				<b>MONTHLY COPIES PREPARED, OPEN SOURCE INDIC.</b>		<b>UPDATES LATER</b>	

## ISLAND PARK

**PARKRIDGE**  
**RS-1**

**COACHLIGHT  
MANOR  
MHP**

RECEIVED  
MAR 09 2000

## ZONING COUNTER

**ENCHANTED  
VILLAGE  
RPD**

**SAN CARLOS  
PARK**

**CPD**


**B & F RPD/CPD**

# ACE HARDWARE

**ESTERO RIVER  
BAY RPD**

**SHELTERING  
PINES  
MUD**






Exhibit E

 <b>YANASSE &amp; DAYLOR, LLP</b> 8750 College Parkway Suite 300 Fort Myers, FL 33919 Telephone: 813-636-1000 • Cell: 813-636-1001 • Facsimile: 813-636-1002 E-mail: <a href="mailto:info@yanday.com">info@yanday.com</a>	PREPARED FOR: <b>BONITA BAY PROPERTIES</b> <b>3451 BONITA BAY BLVD</b> <b>BONITA SPRINGS, FL 34134</b>	THE FOLLOWING INFORMATION IS BASED ON THE RECORDS OF THE FLORIDA DEPARTMENT OF REVENUE. IT IS NOT A GUARANTEE OF THE ACCURACY OF THE INFORMATION. THE INFORMATION IS PROVIDED FOR YOUR INFORMATION ONLY.	AREA ACRES FEET PERCHES	AREA ACRES FEET PERCHES	AREA ACRES FEET PERCHES
	PROPERTY ADDRESS: <b>SEC 18 TWP 46S R10 25E</b> <b>LEE COUNTY, FL</b>		AREA ACRES FEET PERCHES	AREA ACRES FEET PERCHES	AREA ACRES FEET PERCHES



# Master Concept Plan

**LEGEND:**

- |   |  |
|---|--|
|  | Preserved/Enhanced Wetlands & Indigenous Preserve Areas    |
|  | Low Quality Wetlands To Be Impacted/Mitigated              |
|  | Clubhouse  |
|  | Maintenance Areas  |
|  | CPD Portion of the CPD/RPD Includes Office and Retail Uses |

**Site Development Notes:**

1. This is a request for a rezoning from AG-2, RM-2, and CC to RPDI/CPD. The Land use category is Rural and Urban Community, and the property is currently vacant.
2. The master plan for this development is conceptual. Variation to land use designations and acreage within the project may be permitted administratively to accommodate vegetation, encroachments, utilities, market conditions, and other unforeseen site conditions. These variations shall not be considered an amendment to the master plan. The specific location, size and configuration of individual tracts shall be determined at the time of Development Order.
3. Because ancillary commercial uses associated with the clubhouse and park are provided for the use of residents, members and guests of the development, no ancillary commercial use may be advertised outside of the project. Further, because these uses are not oriented to the public, they shall not be required to comply with Policy 6.1.2 of the Lee Plan.
4. The total Residential unit count may not exceed 441 units. No more than 288 total units may be permitted on Parcels R-2, R-3, R-4 and R-5.
5. A total of one (1) hotel, not to exceed 150 units, shall be permitted on any commercial parcel, provided the hotel is in compliance with Section 34-1802 of the LFC.
6. Internal, private roads will comply with the Specifications provided in Section 10-296, Table 3.
7. The agricultural uses and Agricultural Exemption that currently exist on the property are permitted to remain until such time as a development order is granted for the subject property. No native vegetation may be removed for these agricultural uses unless a clearing request is reviewed and approved by the Division of Planning, Environmental Sciences.
8. The project buffer yards shall meet or exceed the requirements set forth in Section 10-416.
9. All exotic vegetation shall be removed from provided open space according to a removal schedule established as part of the Development Order. The site shall be maintained free of exotics in perpetuity.
10. All parcels will conform to the off street parking regulations in Section 34-2020 of the LOC, except when more appropriately addressed by Section 34-93.5 (5) of the LDC.
11. All internal street connections shall be spaced according to Section 10-285(a). Local road intersection spacing shall be a minimum of 125', however, private driveway on local streets may have an intersection separation of 60'.
12. Drainage will be accommodated through the use of swales and/or retention areas. The location of a lake or pond may be refined without amending the MCP based on detailed site engineering, and compliance with all setback requirements set forth herein.
13. The proposed open storage shall be permitted for the purpose of parking boats, trailers, recreational vehicles, or other similar uses. No outdoor storage for retail sale shall be permitted. The proposed open storage area shall be located internal to the site, and screened from direct view. This use may be located within the FPL easement.
14. The project shall provide a minimum of 172.2 acres of open space, with at least 10% open space per tract.
15. The minimum indigenous preserve area required for this project is 86.1 acres. Approximately 107 acres of indigenous preserve/restoration/or mitigation areas are reflected on the master concept plan. The final development order will be required to reflect the approximately 107 acres of indigenous preserve (including the popper tortoise area). However, minor adjustments in configuration and acreage of preserve areas may be permitted as a result of the detailed permitting process.

**Project Summary:**

Project Size	+/- 430.5 Acres
Required Open Space	172.2 Acres
Min. Required Indigenous Vegetation:	86.1 Acres

**Surrounding Zoning and Land Uses:**

**Zoning:**  
North: Mullock Creek/AG-2/RS-1  
South: AG-2, RPD, CPD  
East: AG-2/RM-2/CC  
West: AG-2

**Existing Land Use:**  
Vacant/Single Family Residential  
Approved Estero River Bay RPD, Walgreens  
Mullock Creek/Vacant/Approved  
Commercial/US 41  
Vacant/Mullock Creek

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### ZONING INFORMATION:

## STRAP Number Classification:

18-46-25-00-00040.0000	Current Zoning:	AG-2
18-46-25-00-00039.0000	Current Zoning:	AG-2
18-46-25-00-00030.0000	Current Zoning:	AG-2
18-46-25-00-00033.0000	Current Zoning:	AG-2
18-46-25-00-00034.0010	Current Zoning:	AG-2
18-46-25-00-00035.0010	Current Zoning:	AG-2
18-46-25-00-00035.0000	Current Zoning:	AG-2
17-46-25-00-00012.0000	Current Zoning:	RM-2, CC
17-46-25-00-00012.0050	Current Zoning:	RM-2, CC
17-46-25-00-00007.0040	Current Zoning:	CC
17-46-25-00-00007.0030	Current Zoning:	CC

### Property Development Regulations:

Land Use	Min. Lot Area:	Min. Lot Depth:	Min. Lot Width:	US 41, Public Road	Setbacks:				Max. Ht. (ft):	# of Floors:	Min. Open Space:	Bldg. Separation:
					Road (ft)	Side (ft)	Rear (ft)	Water (ft)				
[Rural/Residential]												
Single Family												
Estate Lot	10,000	100	80	N/A	20	10	20	25	45	3	10%	N/A
Small Lot	7,500	100	50	N/A	20	5	15	25	45	3	10%	N/A
Duplex	6,000	100	45	N/A	20	5	15	25	45	3	10%	N/A
Two Family Attached	7,500	100	50	N/A	20	0/5	15	25	45	3	10%	10
Zero Lot Line	4,500	100	45	N/A	20	0/10	15	20	45	3	10%	N/A
Multi-Family												
4-Plex, Condo/Townhouse	2,600	100	24	N/A	20	0/5	15	20	45	3	10%	20
[Urban/Residential]												
Single Family	Same as Rural Residential											
4, 6, 8-Plex	7,000	100	40	25	20	0/5	20	20	45	3	10%	25
Commercial (C-1 - C-2)												
Retail	10,000	100	100	25	20	15	20	25	35	2	10%	20
Office	10,000	100	100	25	20	10	5	20	45	3	10%	20
Amenities												
Golf Clubhouse	60,000	100	200	N/A	20	15	20	20	45	3	30%	20
Creek Park	15,000	N/A	100	N/A	20	7.5	20	20*	35	2	40%	20
Golf Maintenance	30,000	N/A	150	N/A	25	15	20	20	35	1	10%	20
Accessory Structures (Rural & Urban Residential)												
Pools, Decks, Screen Enclosures	N/A	N/A	N/A	N/A	20	5	5	20	N/A	N/A	N/A	N/A
Docks, Ramps, Fighting Piers	N/A	N/A	N/A	N/A	20	5	5	0*	N/A	N/A	N/A	N/A

Gazebos				
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\* Indicator potential reductions due to requested deviations

Zoning: RPD  
Estero River Bay Club

APPROVED

Master Concept Plan

Site Plan # 00-015 Page 1 Of 2

Subject to conditions in Resolution Z-00-015

Zoning Case # DCI962025 fka  
99-01-161.037 01.01

## Land Use and Development Program Summary

Parcel	Parcel Size	Permitted Use	Development Program	
			Intensity	Notes
C-1	260' x 520' 3 Acres +/-	Office and Retail Uses	286 Units	<ul style="list-style-type: none"> <li>Total Office use shall not exceed 50,000 sf.</li> <li>Total Retail use shall not exceed 45,000 sf.</li> <li>One (1) Hotel, not to exceed 150 rooms.</li> </ul>
C-2	270' x 720' 4.0 Acres +/-	Retail and Office Uses		
R-1	920' x 900' 12 +/- Acres	Urban Residential		
R-2	1,500' x 3,000' 99 Acres +/-	Rural Residential		
R-3	300' x 3,000' 24 Acres +/-	Rural Residential		
R-4	1,400' x 3,000' 60 Acres +/-	Rural Residential	286 Units	Overall Maximum Density of 1 DU/Ac. Units may be transferred to Parcel R-1.
R-5	1,900' x 1,800' 50 Acres +/-	Rural Residential		
Club-house	500' x 750' 7.5 Acres	Clubhouse Uses	30,000 SF – to include up to 2,000 SF ancillary Retail	Retail uses must conform to Section 34-937 of the LDC.
Maint. Area	350' x 500' 2.6 Acres	Maintenance Uses	N/A	Typical Golf Course Maintenance facilities.
Parks	300' x 600' 3 Acres +/-	Park Uses	See Permitted Uses	Any "retail" uses are intended for the residents and guests, and shall comply with Site Development Note 3.
FP&L Easement		Park, Rural Residential & Maintenance from Horse	See Permitted Uses	The easement holder must authorize any use located within an easement.

## Update Lakes

[illegible]

## NOTES:

EXHIBIT IV-C, IV-E-I,  
IV-G & IV-H

PLANNER/L.A.:  
Vanasse & Daylor, LLP  
8270 College Parkway, #

**OWNER:**  
Bonita Bay Properties  
3451 Bonita Bay Blvd.  
Bonita Springs, FL 34134

Sheet 1 of 2



Schedule of Deviations:

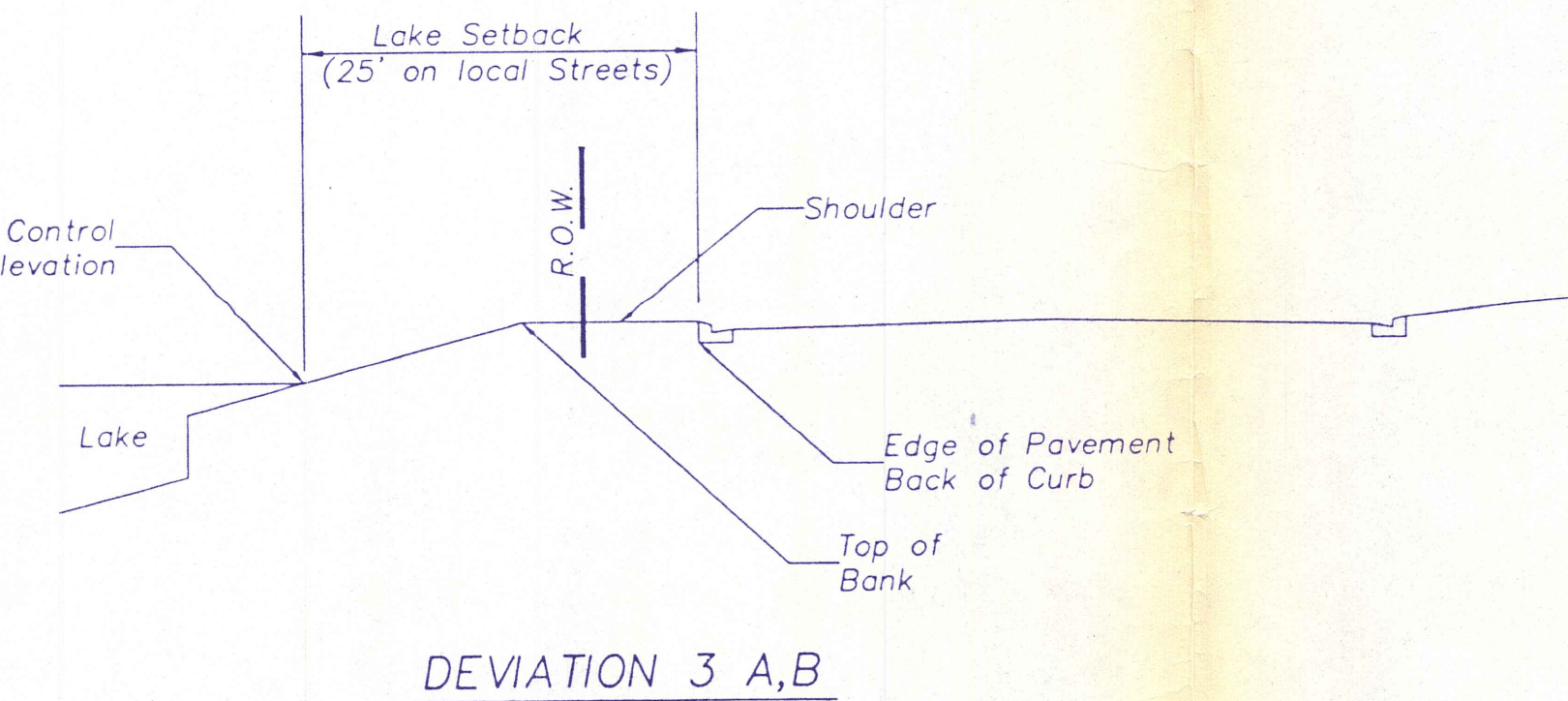
Exhibit IV-H:

1. Deviation from LDC Section 10-291(3) which requires, when possible, projects in excess of five acres provide two or more means of ingress or egress, to allow one entrance as depicted on the Master Concept Plan.
- Adequate Access is provided to US 41. Further, physical barriers prevent alternative access points on the remaining sides. Any site specific access issues will be addressed upon filing of the Development Order. No Exhibit is necessary.
2. Deviation from LDC Section 10-296 Table 4(7)(c) 2 which establishes minimum specifications for street wearing surfaces, to allow decorative pavers on private, internal roads within the development
- This deviation will allow for decorative pavers on the internal private roads. At the time of the development order, a detail of the proposed material and construction will be provided. No Exhibit is necessary at this time.
3. Deviation from LDC Section 10-329(e)(1)a, which requires a 25 foot setback for water retention lakes along local roadways to allow setbacks from rights of way as follows:
- a.) Setbacks for excavations will be measured from edge of pavement or back of curb to edge of water control elevation.
- b.) Where local private streets occur which meet the requirements of this document, a 25 foot lake setback, as measured from the back of curb to edge of water control elevation will be provided.
- c.) Where adequate elements for the protection of wayward vehicles are provided, a 0 foot setback from back of curb to edge of water control elevation will be provided.
- In areas where the retention lakes and local roads are constructed at the same time, it may be desirable to reduce the required setback to maximize views of the water and integrate the open space and vehicular network. This location of this deviation is highlighted on the attached Master Concept Plan. An Exhibit illustrating the intent is provided.
4. Withdrawn
5. Deviation from LDC Section 10-329(E)(4) which requires that excavation bank slopes be no greater than 4:1, to allow the project to conform to SFWMD permits. The intent of this deviation is to allow a maximum of 30% of the lake banks to incorporate bulkheads.
- This deviation will allow bulkheads to be incorporated into the lake edge for the purposes of enhancement of the golf course, incorporation of pedestrian ways, and other aesthetic features. Only 30% of the lake edge may be bulkheaded in order to allow for adequate maintenance. Because this deviation defers to the SFWMD permitting process, compliance will be demonstrated prior to issuance of the Development Order. No additional exhibit is necessary.
6. Deviation from LDC Section 10-416(d)9 which requires a 25 foot wide buffer along natural waterways, to allow canoe and boat launch, boat ramp, temporary mooring slips, gazebos and fishing piers to have a 0' setback.
- This deviation is intended to allow for recreational uses to provide access to the water without maintaining the required 25 foot setbacks. This deviation will only apply to the Park Parcel, and shall obtain all necessary permits from the appropriate agencies. A detail is provided below.
7. Deviation from LDC Section 10-421(a)(5) that requires that no portion of a buffer area that consists of trees and shrubs be located in any easement to allow planted buffers in easements.
- Because the project is a high-end residential development, enhanced landscaping is desired. Any required material that may be removed from the easement, will be replaced with plants of similar size and shape as the ones removed. An exhibit is provided.
8. Deviation from LDC Sections 10-253 and 14-1577 which require that properties exhibiting soils, hydrology and vegetation characteristics of saltwater or freshwater inundation be subject to additional regulations, to allow impacts and mitigation of wetlands as approved by the ACOE and SFWMD.
- As illustrated on the Master Concept Plan, there are areas of highly degraded areas of exotic species which, in some instances, exhibit soils or hydrology of inundation. The removal of these monocultures will result in a more environmentally stable community. Additionally, any impacts will be mitigated according to the applicable permits. Detailed mitigation plans will be submitted at the time of Local Development Order. No additional Exhibits are required.
9. Deviation from LDC Section 10-355 that requires a 10' public utility easement on both sides of a roadway to allow the public utility easement on one side only.
- This deviation will be utilized in areas where single loaded roads or cul-de-sacs make the additional easements unnecessary. An exhibit is provided.
10. Deviation from LDC Section 34-2474(b)(6) which requires that recreation centers and ancillary facilities be located at least 40 feet away from any residential dwelling units, to allow a minimum setback of 20 feet.
- It is anticipated that adequate buffering will be provided to integrate the recreational uses with adjacent residential uses. This is demonstrated on the Master Concept Plan by the proximity of residential uses to the Clubhouse Site. In the event that a pool or tennis court is located within 40', landscaping and creative design will be used to ensure compatibility between these uses. No additional Exhibit other than the Master Concept Plan is required.
11. Deviation from LDC Section 34-2194(c)(3)b which requires a 10 foot setback for non-roofed structures from non-seawalled artificial bodies of water. This deviation would eliminate the setback to allow structures to be placed at the water's edge.
- This deviation will allow docks, decks and walkways to extend up to the lake edge, provided that the water body is artificial and that fencing or railing will be provided adjacent to pedestrian areas. This deviation will most likely be utilized to permit outdoor dining over a lake, or to extend recreational areas, such as a pavilion or seating area up to the lakes edge. A detail demonstrating this request is provided in Detail C.
12. Deviation from LDC Section 34-2015(2)d which requires that parking lots be designed to allow vehicles exiting the parking lot to enter the street right of way or easement in a forward motion. This deviation will allow for parking for recreational amenities to back onto private roads.
- This is intended to provide design flexibility for parking located within the Park, or in conjunction with community recreational amenities (excluding the clubhouse). Where such parking is provided, signage and other speed control devices will be installed to maintain adequate sight distance and travel speed. The specific safety features shall be detailed during the Development Order Submittal. No additional exhibit is required.
13. Deviation from LDC Section 34-2015(1) which requires parking spaces to be provided on the same premises as the primary use, to allow joint use of parking lots within the identified commercial parcels.
- Joint parking may be permitted between office and retail parking spaces located within the CPD portion of the project. Shared parking must be located within 500 feet of each primary use, and may not be separated from the primary use by a right of way greater than 75 feet. No Exhibit is required.
14. Deviation from LDC Section 10-415(b) that requires 50% of the required open space must include existing indigenous native vegetation, to allow indigenous vegetation preservation in accordance with the Native Indigenous Open Space Narrative provided by Johnson Engineering. The exact location and size of preservation will be detailed during Development Order approval, but shall generally conform to the following.
- a. The preservation/enhancement of indigenous wetlands with less than 75% exotics – not less than 76.25 acres.
- b. Gopher Tortoise Preserve Area – 1.72 acres (x 1.25 for upland preserves) = 2.15 acres
- c. Oak and Palmetto upland adjacent to Mullock Creek – 4.81 (x 1.60 for upland preserves) = 7.70 acres
- The Native Indigenous Open Space Narrative and Wetland Survey, prepared by Johnson Engineering is attached. No additional exhibit is required at this time.

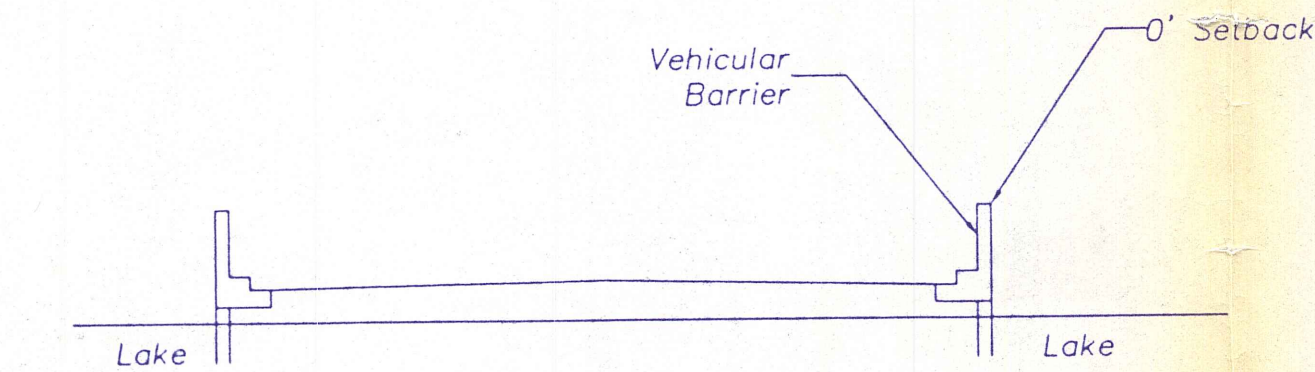
Deviations 1, 5, 6, 7, 8, 9, and 14 apply project wide. The exact locations of each deviation will be detailed prior to issuance of the Development Order.

Schedule of Uses

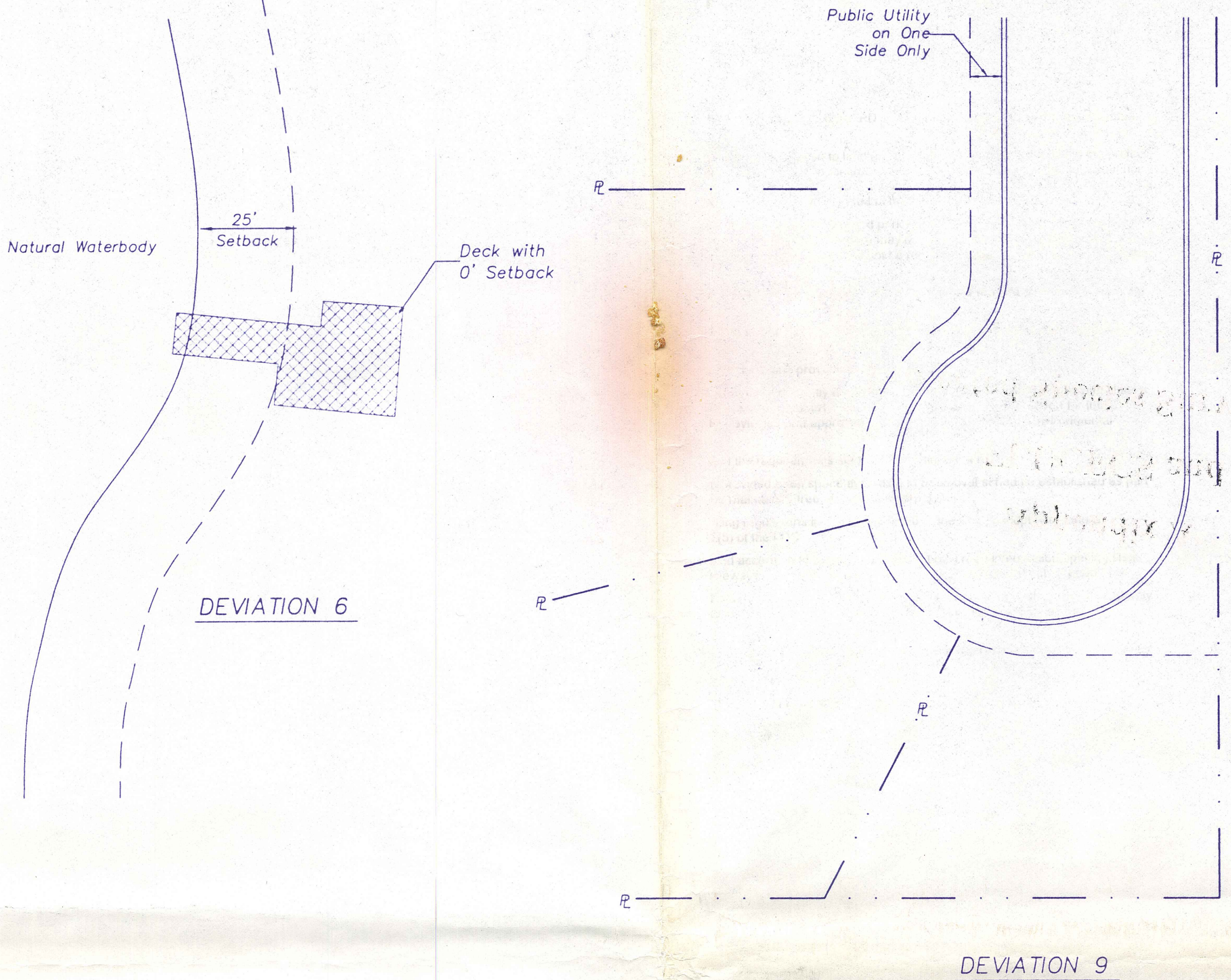
- Retail Uses:**  
**Parcels C-2, C-3 and C-4**  
Auto parts store  
Automobile service station  
Bar or cocktail lounge  
Boats, boat parts store  
Clothing stores, general  
Convenience food & beverage store  
Consumption on Premises  
Drive-through facility for any permitted use  
Drugstore, pharmacy  
Food & beverage service, limited  
Food stores, group I  
Gift & souvenir shop  
Hardware store  
Hobby, toy & game shops  
Household & office furnishings, Groups I & II  
Laundry or dry cleaning, group I  
Nightclubs  
Package store  
Paint, glass & wallpaper  
Pet shop  
Pharmacy  
Rental or leasing estab., grps I & II  
Repair shops, groups I & II  
Restaurant, fast food  
Restaurants, groups I-IV  
Self-service fuel pumps  
Signs, as per Chapter 30  
Specialty retail shops, groups I-III  
Used merchandise, groups I-III  
Variety store  
• Plus all uses permitted in "Office Parcels"
- Park Uses:**  
Boat ramps and dockage  
Canoe Launch  
Clubs, Country and Private  
Consumption on Premises (only in conjunction with approved use)  
Excavation, water retention  
Food & Beverage Service, Limited  
Fishing Piers  
Open Space  
Recreational Facilities, Personal, Private (on-site)  
Restaurants, Groups I & II  
• Any "Commercial Uses" are limited by Note 3.
- Preserved Wetlands:**  
All uses permitted in Section 34-983 (except single family uses)  
• All uses must conform to environmental permits.
- Office Uses:**  
**Parcels C1 – C5**  
Accessory uses and structures  
Administrative offices  
Assisted living facility  
ATM (automatic teller machine)  
Bank and financial establishments, groups I & II  
Business services, group I  
Caretaker's residence  
Clubs, commercial  
Clubs, fraternal, membership organization  
Clubs, private  
Cultural facilities  
Day care center, child, adult  
Entrance gates & gatehouse  
Essential services  
Essential service facilities, group I  
Excavation, water retention  
Fences, walls  
Health care facilities, groups I & II  
Heliport or helistop  
Hotel/motel  
Insurance companies  
Library  
Medical office  
Models, display center  
Parking lot, accessory  
Parking lot, commercial  
Personal services, groups I-II (excluding Turkish baths)  
Pet services  
Real estate sales office  
Recreation facilities, group V  
Recreation facilities, private – off-site  
Research & development laboratories, groups II & IV  
Retail & wholesale sales, when clearly incidental & subordinate to a permitted principal use on the same premises  
Schools, commercial  
Schools, noncommercial  
Signs, as per Chapter 30  
Temporary uses
- Urban Residential:**  
Dwelling Unit:  
Multi-family (6-plex, 8-plex)  
• Plus all Uses Permitted in Rural Residential
- Rural Residential:**  
Accessory Uses and Structures  
Accessory Apartment – (Must be calculated within the allowable units)  
Agricultural Uses (See Notes)  
Dwelling Unit:  
Single Family  
Duplex and Two Family  
Townhouse/Coach  
Zero Lot Line  
4-plex  
Entrance Gates and Gatehouses  
Essential Services, Group I  
Excavation – Water Retention  
Fences, Walls  
Golf Course & Accessory Facilities  
Golf Driving Range and Training Facility (limited to one, in conjunction with Clubhouse)  
Helistop  
Home Occupation  
Model Home, Unit & Display Center  
Recreational Facilities, Personal, Private (on-site)  
Residential Accessory Uses  
Signs (as per Chapter 30)  
Storage, Open (limited to parking of boats, trailers, RV's and similar vehicles when contained in a defined, screened location)  
Temporary Uses  
Temporary Construction Trailer  
Temporary Sales Center
- Clubhouse**  
ATM  
Clubs (Private)  
Consumption on Premises  
Food & Beverage Service, Limited  
Food Stores, Group I  
Golf Course and Accessory Uses  
Golf Driving Range/Training Facility  
Parking Lot, Ancillary  
Real Estate Sales Office  
Rental or Leasing Estb., Group 1  
Restaurants, Groups I & II  
Specialty Retail Shops, Grps I & II  
• All Commercial Uses are limited by Note 3.
- Maintenance Area:**  
Golf Course and Accessory Uses  
Maintenance Areas  
Storage, Open (limited to parking of boats, trailers, RV's and similar vehicles when contained in a defined, screened location)



DEVIATION 3 A,B

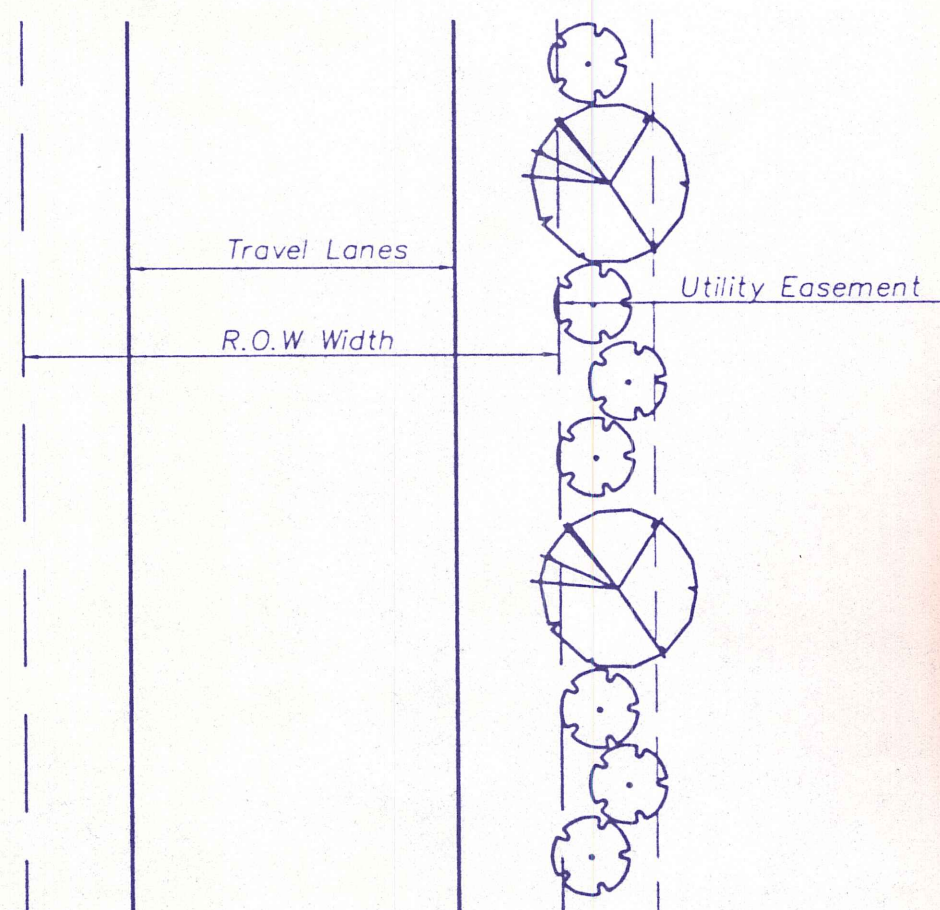


DEVIATION 3 C

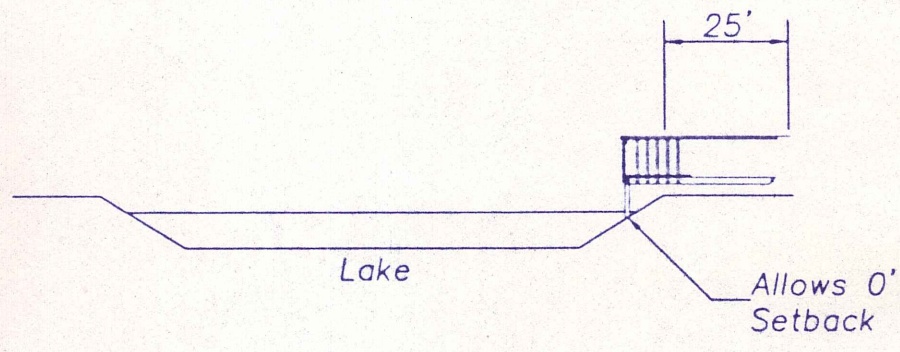


DEVIATION 6

DEVIATION 9



DEVIATION 7



DEVIATION 11

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Master Concept Plan

Site Plan # 00-05 Page 3 of 2

Subject to conditions in Resolution 2-00-015

Zoning Case # DCI 96-2025 fka

44-01-161.032 01.21

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Sheet 2 of 2		OWNER: Bonita Bay Properties 3451 Bonita Bay Blvd. Bonita Springs, FL 34134		PLANNER/LA.: Vannase & Daylor, LLP 8270 College Parkway, #205 Fort Myers, FL 33919		EXHIBIT IV-C, IV-E-I, IV-G & IV-H PROJECT NO: 80059 CONTRACT #		NOTES:				
								SCALE: Not to Scale				
								DRAWN		MAH	10/1/99	
								CHECKD		MAH	10/1/99	
								APPRVD				
								APPRVD				
								SHEET TITLE:				
								Uses and Deviations				
								PROJECT:				
								Parcel B&F Rezoning				
								PROJECT LOCATION:				
								Lee County, Florida				
								NO.		DATE:	BY	REVISIONS