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Schedule of Deviations & Justifications University Village Phase I

Deviations Approved per Z-13-020

Deviation #2 from LDC Sec. 34-1954(d)(2), which restricts model townhomes and multi-family units to a time limitation, to allow model multi-family units through the build out of the project.

Deviation #6 from LDC Sec. 10-296(b), Table 3, which requires a right-of-way width of 35 feet for two-way closed drainage, rear lot drainage or inverted crown; to allow a right-of-way width to coincide with the back of curb for local private roads.

Deviation #7 from LDC Sec. 10-296(d), Table 4(7)c), which requires asphaltic concrete, to allow for cement concrete or decorative pavers within private local roadways within Miromar Lakes.

Deviation #13 from LDC Sec. 10-355, which requires a 10-foot public utility easement on both sides of a roadway, to allow the public utility easement on one side only provided the applicable utility companies agree to the elimination of the easement in writing.

Deviation #14 from LDC Sec. 10-415(a), which requires that open space be calculated as a percentage of development area; to allow open space based on the areas of development excluding that portion of the development consisting of the existing mining lakes, as approved by Resolution Z-99-029 with the following condition:

The entire acreage of the existing minimum lakes located east of Ben Hill Griffin Parkway is exempt from open space requirements. These lakes may not be used to satisfy open space requirements on the site. This deviation is APPROVED for the entire project.

Deviation #16 from LDC Sec. 10-415(b), which requires 50 percent of the required open space to incorporate existing indigenous vegetation; to allow all of the required indigenous vegetation to be provided in the conservation areas shown on the MCP and to permit all of the restored vegetation within the wetland slough to count toward the required indigenous vegetation requirement. This deviation was approved by Resolution Z-99-029 with the condition that existing indigenous preservation requirement be met within the Conservation Area shown on the MCP last revised August 16, 1999. This deviation is approved for the 534-acre addition to the project subject to the following condition:

In conjunction with an application for local development order approval, the developer must submit a detailed invasive exotic removal and replanting plan for the Division of Environmental Sciences' Staff review and approval. The developer must delineate on the

local development order plans a minimum of 111 acres of indigenous preservation and 47.7 acres of restoration consistent with the MCP.

Deviation #18 from LDC Sec. 10-418(a)(2)b, which requires a minimum number of native wetland herbaceous plants per linear foot of lake shoreline; to allow required plants in compliance with the Lake Management Plan and Lake Shoreline Planting Plan approved by Zoning Resolution No. Z-99-029, provided that herbaceous plant requirements per LDC Sec. 10-418 are calculated on the entire length of the lake shoreline, including bulkhead portions. The developer may substitute wetland trees and shrubs for up to 50 percent of the total number of herbaceous plants required, at a ratio of 1 tree or 2 shrubs for 10 herbaceous plants.

Deviation #20 from LDC Sec. 34-2194(c)(1)(a) revised and approved, but limited to 5,527 linear feet of lake frontage within the areas delineated on the MCP. In addition, a compensatory littoral zone must be provided as pocket marshes instead of a 5-foot-wide linear littoral shelf, per Sec. 10-418(3)(a). The compensatory pocket marsh area must be a minimum 0.50 acres of marsh planted with a minimum of our native wetland plants and providing a 50 percent coverage at time of planting (herbaceous plants must be a minimum 2-inch linear; shrubs and grasses must be a minimum 1-gallon container size; trees must be a minimum 3-gallon size). The compensatory pocket marsh area must be provided along the shoreline of Tract C-2. Additionally, the total amount of linear feet of lake frontage that utilizes the zero-foot setback, plus any rip-rap installed for shoreline erosion control cannot exceed 20 percent or 11,504 linear feet of shoreline.

Deviation #24 from LDC Sec. 10-416(d)(3), which requires commercial developments adjoining existing residential development to provide a buffer including a fence or wall between the uses; to allow commercial developments to provide alternative means of separation that may include no buffers, fencing or walls. This deviation is APPROVED to allow alternative means of separation, while protecting internal project compatibility in accordance with Lee Plan Policy 18.1.7. in the following areas:

- a. Between residential and non-residential uses internal to the C-1, C-2 and MU tracts, so as to create a "town center" design.
- b. Between the Miromar Lakes Sales Center and the abutting Miromar Lakes residential "R" tracts.
- c. Between the Miromar Lakes "C-1" areas and abutting "R" tracts.
- d. Between the "C-1", "C-S" and "MU" areas and the abutting "R-2" tracts south and east of FGCU to allow pedestrian access and encourage walkability.

Deviation #28 from the LDC §34-935(f)(3)(e), which is a requirement that limits building heights in the University Community future land use category to 45 feet above minimum flood elevation with no more than 3 habitable stories. This Deviation was approved for the following three areas depicted on the 1999 MCP; specifically:

- 1) The "R" residential area in the northerly portion of the project lying westerly of Ben Hill Griffin Parkway (BHGP).
- 2) The "R" residential areas associated with the "Beach Club", and

- 3) The "C2" area in the northerly portion of the project lying easterly of BHGP and south of Alico Road.

Deviation #30 from LDC Sec. 34-1263 (e) and 34-1264(b), which prohibits a package store or other establishment primarily engaged in the sale of alcoholic beverages for consumption, on or off the premises from locating within 500 feet of any dwelling unit, to allow a bar, cocktail lounge, or package store to locate within 500 feet of dwelling units on a C-1 Tract located south of Florida Gulf Coast University, east of Ben Hill Griffin Parkway and west of the conservation area depicted on the Master Concept Plan. This deviation was approved with the following conditions:

- a. Any establishment primarily engaged in the sale of alcoholic beverages for consumption, on or off the premises, must be located a minimum of 500 feet from the Florida Gulf Coast University property line (except as permitted by Deviation #3) and a minimum of 500 feet from Grandezza residential units. Distances will be measured as set forth in LDC Sec. 34-1264(b). This deviation does not apply to consumption on premises in conjunction with uses outlined in LDC Sec. 34-1264(b)(2).
- b. The MPD is limited to one (1) establishment primarily engaged in the sale of alcoholic beverages, specifically a bar, cocktail lounge, or package store. The establishment must be located as depicted on the Master Concept Plan, either within the C-1 tract located on the west side of Ben Hill Griffin Parkway as described in Deviation 3, OR within a C-1 tract located south of Florida Gulf Coast University, east of Ben Hill Griffin Parkway, and west of the conservation area, as described in Deviation 30.

Requested Deviations

1. Deviation from LDC Section 10-329(d)(4), which requires lake banks to be sloped at a 6:1 ratio from the top of bank to a water depth of two feet below the dry season water table; to allow for a minimum ratio of 4:1 where turf reinforcement mat is proposed, and a minimum ratio of 2:1 where bulkhead shoreline is proposed.

JUSTIFICATION: The proposed 4:1 lake bank slope is vested for this development, and will comply with previous approvals. Similarly, bulkhead shoreline has been permitted in previous phases of the development as proposed.

Staff has opined that the 4:1 slope will be permitted in non-residential developments and where site constraints exist, such as existing development footprints, conservation areas, etc. The proposed development is a compact, mixed-use village, and is not a single-family residential community. The development portions of the Miromar Lakes MPD/DRI have 4:1 lake bank slopes and is vested pursuant to existing MPD and DRI approvals. Therefore, continuation of the 4:1 lake bank slope within University Village is consistent with Staff's implementation of this deviation on other projects, and is integral to upholding the design established prior to the LDC amendment.

Additionally, the Applicant has deed restrictions and a lake management plan in place to ensure the proper function and maintenance of the lakes. As shown on the enclosed final plan, turf reinforcement mats and plantings are proposed to mitigate lake bank erosion.

Therefore, the requested deviation will not negatively impact public health, safety or welfare, and will uphold the intent of the LDC and the overall Miromar Lakes master plan.

2. Deviation from LDC Section 34-2021(D), which requires restaurant stacking lanes to accommodate ten (10) cars per service lane, to allow vehicle stacking for seven (7) cars.

JUSTIFICATION: This deviation will support the compact, mixed-use form of development within the proposed village, while allowing sufficient space for vehicle stacking based upon the intended end-users and parking lot layout. The reduced vehicle stacking is appropriate based upon the pedestrian orientation provided for in the site plan, and the proximity between residential and commercial uses, which facilitates multi-modal access between on-site uses.

3. Deviation from LDC Section 10-416(d)(3), which requires a Type “D” buffer where multi-family and commercial development abuts rights-of-way with 5 trees per 100 lineal feet and a hedgerow, to allow 5 trees per 100 lineal feet and no hedgerow where the proposed development abuts the future FGCU South Blvd.

JUSTIFICATION: This deviation will encourage walkability, multi-modal transportation access, and overall pedestrian connectivity within the village, while maintaining an attractive streetscape design. The absence of the hedgerow will allow for bicycle riders and pedestrians to easily access the sidewalk along the FGCU South Blvd. to the north of the project, thereby facilitating multi-modal access to the FGCU campus. The required trees will be provided in accordance with the LDC to provide for the intended shade and screening.

4. Deviation from LDC Section 10-418(3)(a), which limits the hardened shoreline structures to comprise of up to 20 percent of an individual lake shoreline, to allow for a hardened shoreline to comprise of 30 percent of an individual lake shoreline.

JUSTIFICATION: This deviation will allow for a hardened shoreline along those lake edges where pedestrian bridges will be implemented, and will further add to the unique design concept for the bridge crossing shown on the enclosed plan. The approval of this deviation will also further enhance mitigation efforts in regards to lake bank erosion and provide for an aesthetic enhancement to the project.

5. Deviation from LDC Sec. 34-2191(a), which requires a 25-foot right-of-way setback, to allow for a 15-foot setback on Ben Hill Griffin Parkway.

JUSTIFICATION: The reduced setback is for the outdoor seating areas along the commercial building frontage, as shown on the enclosed final plan. The reduced

setback is compliant with the front setback for commercial uses set forth in the MPD Development Regulations Table (Exhibit D of Resolution Z-13-020); however the Applicant is seeking this deviation in an abundance of caution. The deviation will not impact public health, safety or welfare via the implementation of structural columns and perimeter plantings around the outdoor seating areas. Additionally, the Type "D" right-of-way buffers will provide further separation and structural barrier between the roadway and seating area. The future expansion of Ben Hill Griffin Parkway will occur in the existing median; therefore, the setback from the back of curb/edge of pavement will not change if the roadway is widened. The approval of this deviation will also assist in achieving a street-oriented, mixed-use concept intended by the Applicant.