

ADMINISTRATIVE AMENDMENT (PD) ADD2006-00166

ADMINISTRATIVE AMENDMENT
LEE COUNTY, FLORIDA

WHEREAS, Mr. Mike Lane filed an application for administrative approval to a Residential Planned Development (RPD) on a project known as Magnolia Landing at Herons Glen to **amend the Schedule of Uses to add two-family attached dwelling units to the approved Schedule of Uses and correct the Schedule of Uses to be consistent with the Land Development Code** for the property located at 20200 North Tamiami Trail, described more particularly as:

LEGAL DESCRIPTION: In Section 03, Township 43 South, Range 24 East, Lee County, Florida:

See attached Exhibit A

WHEREAS, the property was originally rezoned in case number 88-3-18 DRI (with subsequent amendments in case numbers 88-3-18-DRI(a), 88-3-18-DRI(b), 88-3-18-DRI(c), 88-3-18-DRI(d), 88-3-18-DRI(e), 95-01-207.13A 03.01, 95-01-207.13A 04.01, 99-08-261.14A, DRI964596 & DRI964597, ADD2002-00005, ADD2002-00088, ADD2003-00096, ADD2004-00018, ADD2004-00217, ADD2005-00209, and ADD2006-0080); and

WHEREAS, the subject property is located in the Outlying Suburban Future Land Use Category as designated by the Lee Plan; and

WHEREAS, the Lee County Land Development Code provides for certain administrative changes to planned development master concept plans and planned unit development final development plans; and

WHEREAS, the applicant seeks to include two-family attached dwelling units as a permitted use within this development, and

WHEREAS, in the course of reviewing this amendment it was found that it would be appropriate to completely revise the Schedule of Uses to be consistent with the language of the Land Development Code; and

WHEREAS, the subject application and plans have been reviewed by the Lee County Department of Community Development in accordance with applicable regulations for compliance with all terms of the administrative approval procedures; and

WHEREAS, the inclusion of two-family attached dwelling units will not increase the number of vehicle trips generated by this development, and

WHEREAS, it is found that the proposed amendment does not increase density or intensity within the development; does not decrease buffers or open space required by the LDC; does not underutilize public resources or infrastructure; does not reduce total open space, buffering, landscaping or preservation areas; and does not otherwise adversely impact on surrounding land uses.

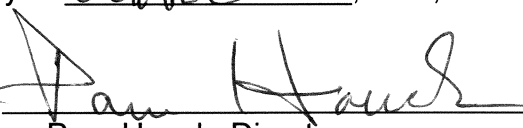
NOW, THEREFORE, IT IS HEREBY DETERMINED that the application for administrative approval for an amendment to the Residential Planned Development to **amend the Schedule of Uses to add two-family attached dwelling units to the approved Schedule of Uses and correct the Schedule of Uses to be consistent with the Land Development Code is APPROVED**, subject to the following condition:

1. The only changes approved as part of this administrative amendment are to add the use of "DWELLING UNIT: Two-Family attached" to the approved Schedule of Uses, revise the approved Schedule of Uses to be consistent with the Land Development Code (Attachment A), amend the approved Property Development Regulations to adopt development regulations for this new use (Attachment B), and attach the new Property Development Regulations to the adopted Master Concept Plan. No other changes have been authorized as part of this amendment and development must remain in compliance with Resolution Z-89-076. The terms and conditions of the original zoning resolution (as amended) remains in full force and effect.

The Development must be in compliance with the approved Master Concept Plan, as amended in the above actions. The only changes authorized to the approved Master Concept Plan by this action is to attach the approved Property Development Regulations, as amended by this action. The reduced copy of the approved Master Concept Plan with this change is attached.

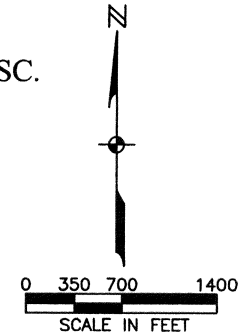
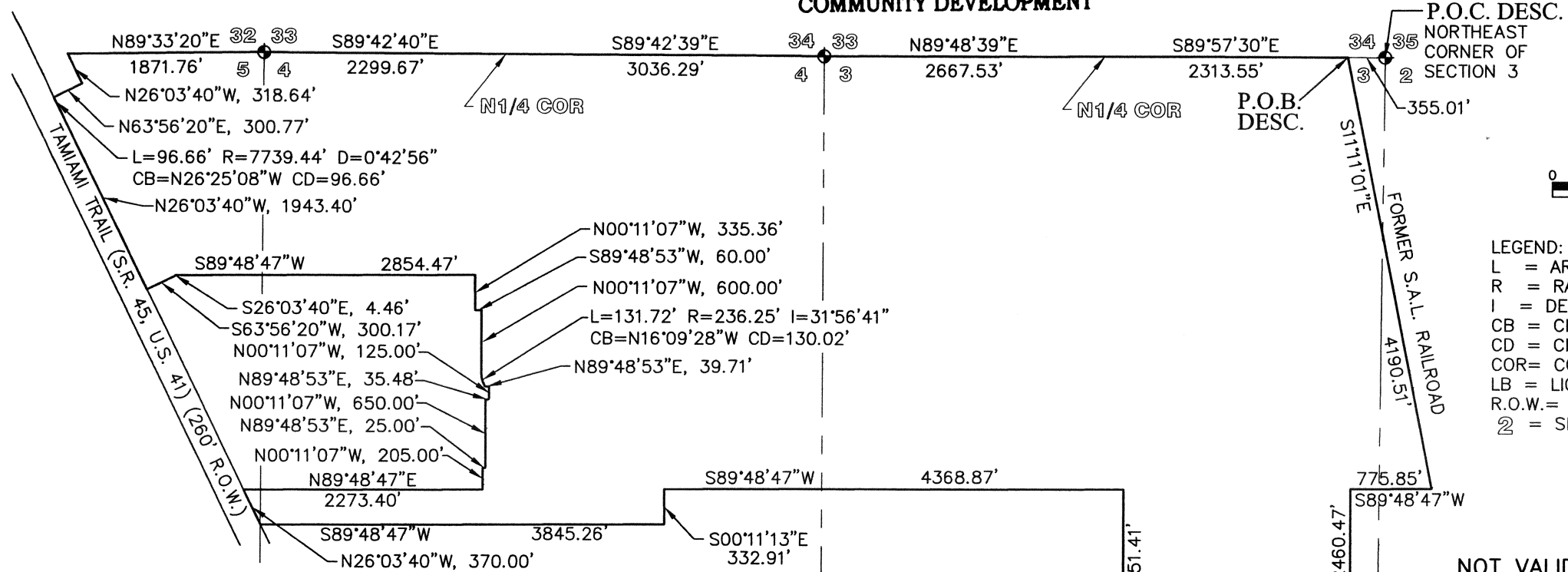
DULY SIGNED this 4th day of October, A.D., 2006.

BY:


Pam Houck, Director
Division of Zoning
Department of Community Development

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COMMUNITY DEVELOPMENT



LEGEND:
L = ARC LENGTH
R = RADIUS
I = DELTA ANGLE
CB = CHORD BEARING
CD = CHORD DISTANCE
COR = CORNER
LB = LICENSED BUSINESS
R.O.W. = RIGHT-OF-WAY
2 = SECTION

NOTES:

1. BEARINGS SHOWN HEREON ARE BASED ON THE EAST BOUNDARY LINE OF TRACT "A", HERONS GLEN UNIT SEVEN, AS RECORDED IN PLAT BOOK 67, AT PAGE 11, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, HAVING A BEARING OF NORTH 14°10'42".
2. THIS SKETCH DOES NOT MAKE ANY REPRESENTATION AS TO ZONING OR DEVELOPMENT RESTRICTIONS ON THE SUBJECT PARCEL.
3. POC= POINT OF COMMENCEMENT.
4. POB= POINT OF BEGINNING.
5. DESC.= DESCRIPTION
6. PARCEL CONTAINS 50,133,377 SQUARE FEET (1150.904 ACRES) MORE OR LESS.
7. DESCRIPTION ATTACHED, SEE SHEET 2 OF 2.

NOT VALID WITHOUT
SHEET 2 OF 2.

THIS IS NOT A SURVEY

Mal G. Wentzel
MARK G. WENTZEL (FOR THE FIRM LB-642)
PROFESSIONAL SURVEYOR AND MAPPER
FLORIDA CERTIFICATE NO. 5227
DATE SIGNED: 9/8/06
NOT VALID WITHOUT THE SIGNATURE AND THE
ORIGINAL RAISED SEAL OF A FLORIDA LICENSED
SURVEYOR AND MAPPER.

HERONS GLEN BOUNDARY

JOHNSON
ENGINEERING

2158 JOHNSON STREET
P.O. BOX 1550
FORT MYERS, FLORIDA 33902-1550
PHONE (239) 334-0046
FAX (239) 334-3661
E.B. #642 & L.B. #642

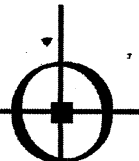
SKETCH TO ACCOMPANY DESCRIPTION

DATE	PROJECT NO.	FILE NO.	SCALE	SHEET
10-28-05	20033923	2-43-24	1"=1400'	1 OF 2

S:\033923\sketches\HERONS-GLEN-BOUNDARY-SKETCH.dwg (BX14) kic Sep 08, 2006 - 2:03pm

EXHIBIT A

ADD 2006-00166



October 28, 2005

SHEET: 2 OF 2

LEGAL DESCRIPTION BOUNDARY OF HERONS GLEN

A TRACT OF LAND LYING IN SECTIONS 2, 3, 4, 5 & 10 TOWNSHIP 43 SOUTH, RANGE 24 EAST, LEE COUNTY, FLORIDA

A tract or parcel of land lying in Sections 2, 3, 4, 5 & 10, Township 43 South, Range 24 East, Lee County, Florida, being more particularly described as follows:

Commencing at a Northeast corner of aforementioned Section 3; thence North 89°57'30" West, for a distance of 355.01 feet to the Westerly Right-of-Way line of the former S.A.L. Railroad, also being the POINT OF BEGINNING. From said POINT OF BEGINNING run South 11°11'01" East, along said Right-of-Way, for a distance of 4,190.51 feet; thence departing said Right-of-Way, run South 89°48'47" West, for a distance of 775.85 feet; thence South 00°02'36" West, to the North Right-of-Way line of Nalle Grade Road, for a distance of 2,460.47 feet; thence North 89°56'45" West, along said Right-of-Way, for a distance of 2,153.08 feet; thence North 00°02'36" East, departing said Right-of-Way, for a distance of 2,451.41 feet; thence South 89°48'47" West, for a distance of 4,368.87 feet; thence South 00°11'13" East, for a distance of 332.91 feet; thence South 89°48'47" West, to the Northeasterly Right-of-Way line of Tamiami Trail (S.R. 45, U.S. 41) for a distance of 3,845.26 feet; thence North 26°03'40" West, along said Right-of-Way, for a distance of 370.00 feet; thence North 89°48'47" East, departing said Right-of-Way, for a distance of 2,273.40 feet; thence North 00°11'07" West, for a distance of 205.00 feet; thence North 89°48'53" East, for a distance of 25.00 feet; thence North 00°11'07" West, for a distance of 650.00 feet; thence North 89°48'53" East, for a distance of 35.48 feet; thence North 00°11'07" West, for a distance of 125.00 feet; thence South 89°48'53" West, for a distance of 39.71 feet to the point of intersection with a non-tangent curve; thence run northerly along an arc of a curve to the right of radius 236.25 feet (delta 31°56'41") (chord bearing North 16°09'28" West) (chord 130.02 feet) for a distance of 131.72 feet; thence North 00°11'07" West, for a distance of 600.00 feet; thence South 89°48'53" West, for a distance of 60.00 feet; thence North 00°11'07" West, for a distance of 335.36 feet; thence South 89°48'47" West, for a distance of 2,854.47 feet; thence South 26°03'40" East, for a distance of 4.46 feet; thence South 63°56'20" West, to the Northeasterly Right-of-Way line of said Tamiami Trail (S.R. 45, U.S. 41) for a distance of 300.17 feet; thence North 26°03'40" West, along said Northeasterly Right-of-Way line for a distance of 1,943.40 feet to a point of curvature; thence run northwesterly along an arc of a curve to the left of radius 7,739.44 feet (delta 00°42'56") (chord bearing North 26°25'08" West) (chord 96.66 feet) for a distance of 96.66 feet; thence North 63°56'20" East, departing said Right-of-Way, for a distance of 300.77 feet; thence North 26°03'40" West, to a point on the North line of the North One-Quarter of said Section 5, for a distance of 318.64 feet; thence North 89°33'20" East, along said North line to the Northeast corner of said Section 5, for a distance of 1,871.76 feet; thence South 89°42'40" East, along the North line of aforementioned Section 4, to the North One-Quarter of said Section 4, for a distance of 2,299.67 feet; thence South 89°42'39" East, along said North line of Section 4, to the Northeast corner of said Section 4, for a distance of 3,036.29 feet; thence North 89°48'39" East, along the North line of said Section 3, to the North One-Quarter of said Section 3, for a distance of 2,667.53 feet; thence South 89°57'30" East, to a point on the westerly line of said former S.A.L. Railroad, for a distance of 2,313.55 feet, said point being the POINT OF BEGINNING.

Applicant's Legal Checked

Containing 50,133,377 square feet or 1,150.904 acres, more or less.

by AM 11 SEPT 06

Bearings shown are State Plane Coordinate for the West Zone of Florida (NAD 83/90 Adjustment) and are based on the East Boundary Line of Tract "A" of Herons Glen Unit Seven, as recorded in Plat Book 67, at Page 11, of the Public Records of Lee County, Florida, having a bearing of North 14° 10' 42" West.

ADD 2006-00166

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COMMUNITY DEVELOPMENT

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SCHEDULE OF USES

September 19, 2006

Residential "R"

Administrative Offices

~~Dwelling units (maximum of 2,700 only): limited to 1,620 detached conventional single family homes, 540 zero lot line homes and 540 townhouse units~~

Dwelling units

Single Family

Two Family Attached

Zero Lot Line

Townhouse

Model Homes, Model Units and Model Display Center, limited to the residential uses within Herons Glen RPD

Speculative Home

Residential Accessory Uses, including but not limited to:

Private Garages, Carports and Parking Areas

Private Swimming Pools and Enclosures

Private Tennis Courts

Entrance Gates and Gatehouse

Essential Services

Essential Service Facilities, Groups I and II

Excavations, water retention (as further limited by other conditions)

Fences, Walls

Home Occupation (in compliance with LDC §34-1771 *et seq.*)

Real Estate Sales Center limited to the residential use within Herons Glen

Signs (in conformance with LDC Ch.3 30)

Temporary Construction Trailer

Residential Open Space "RO" (Open Space, Golf Course, and Buffers)

Recreation Facilities, Private On-site and Private Off-site such as: Basketball Courts,

Biking, Hiking, Fishing Piers, Picnic Areas and Nature Trails

Clubs, Country

Golf Courses, including practice areas/ranges and a Pro Shop – must be located within the Club House)

Commercial Uses -- limited to those uses permitted by right or by Special Exception in the CN-1 and CN-2 plus the following (as permitted by Resolution Z-88-069, Z-92-060, PD-96-018):

Essential Services

Essential Service Facilities, Groups I and II

Entrance Gates and Gatehouses

Excavation, Water Retention

Fences and Walls

Outdoor seating for the Consumption on Premises, in compliance with LDC §34-1261 *et seq.*

Golf Course Maintenance Facility

Personal Services, Group II

Health Clubs

Massage Establishments (as further limited by other conditions)

Real Estate Sales Center limited to unit within Herons Glen RPD

Recreation Facilities, Private On-site and Private Off-site such as: Basketball Courts, Biking, Hiking, Fishing Piers, Picnic Areas and Nature Trails

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PERMIT COUNTER

ADD 2006-00166

ATTACHMENT A

Signs (in compliance with LDC Chi. 30)

Storage, Outdoor (as further limited by other conditions)

Temporary Uses, limited to construction trailers (subject to compliance with LDC Chi. 34)

Conservation "CO"

Interpretative Areas, Rain Shelters, Gazebos, Nature and Pedestrian trails (subject to further review and conditions by Lee County)

Water Management Facilities, Utility and/or Roadway Crossings (subject to further review and conditions by Lee County)

Signs (in compliance with LDC Chi. 30)



ADD 2006-00166

Property Development Regulations

September 2006

Residential Uses	Minimum Lot			Minimum						Max. Height	# Habitable Floors	Min. Bldg Separation (1)	Max. Lot Coverage (2)
	Area	Depth	Width (3)	Side (Inside/Outside)	Rear	Front/ Road	Water Body	Preserve	Golf Course				
Single Family	3,375	70	45	5	10**	20/*12	20	10	10**	35	2	10	70
Two-Family Attached	3,500	100	35	0/5****	10**	20/*12	20	10	10**	35	2	10	70
Zero Lot Line	2,800	80	35	0/5****	10**	20/12	20	10	10**	35	2	10	70
Townhouse***	1,760	80	22	-	10**	*12	20	10	10**	35	2	20	70
Accessory Structure	n/a	n/a	n/a	5	5	10	-	10	-	35	n/a	10	n/a
Pool Deck	n/a	n/a	n/a	5	5	10	-	10	5	n/a	n/a	n/a	n/a

* with side entry garage

** 5' for accessory structure (pool/lani)

*** Limited to no more than 6 units per building

**** "Inside" refers to side of unit attached to neighboring unit; "outside" refers to side of unit with exterior exposure.

Notes:

1. Any structures more than two stories in height will maintain a 20 foot minimum building separation.
2. Lot coverage means that portion of the lot area, expressed as a percentage, occupied by all roofed buildings or structures.
3. Setbacks for project walls are allowed within 1 foot of the right-of-way line.

ATTACHMENT B

ADD 2006-00166



Amendment to
Master Concept Plan
Subject to Case # ADD 20
Date 10/5/06

(1) Deviation from LDC Section 10-285 to eliminate the requirement to provide street stubs to adjacent properties for all adjacent properties, except for the entrance along US 41. This deviation was previously approved in the MHPD zoning of this property and was found by the Board of County Commissioners to be achieving the intent of this plan. Development will not adversely impacting the public health, safety, and welfare of the public.

(2) Deviation (2) requests that certain wetlands be permitted to be developed in accordance with the previous approval, and Condition 2 of Resolution 2-88-068. Deviation (2) was APPROVED since the approval to rezone this property to MHPD permitted up to 5 additional acres of Transition Zone encroachment. In order to allow for this encroachment under this application, approval of this request must include the other approved and note that this only leaves 2.08 acres that can be encroached upon.

(3) Deviation from LDC Section 10-328(e)(1)-(3) and that the setback for an excavation from a private property line be reduced from 50 feet to 35 feet for those locations as shown on the Master Concept Plan in order to create larger, more attractive lakes plus aquatic habitat as an element of the stormwater management system. Approval of this request would assist in achieving the intent of this planned development. The developer will provide an independent geologic and hold harmless the County prior to development order approval to cover any potential liability resulting from personal injury, property damage, or such liability resulting from this approval.

(4) Deviation from LDC Section 10-328(a)(3) and that the maximum permitted depth for excavations be permitted to extend to a depth of 25 feet or the confining layer, whichever would occur first, and:

A) That the waters of each lake excavated to a depth greater than 12 feet shall be circulated through pumping of water from the aquifer floor for irrigation, an aeration/deaeration system, or such other manner which will assure deaeration and oxygenation of the depths of these lakes.

If irrigation does not provide adequate deaeration, then the applicant shall install an aeration/deaeration system which is designed to circulate water vertically from top to bottom, be adequate for the volume and depth of the lake, and subject to the approval of the Lee County Division of Natural Resources Management prior to local development order approval for any phase of the development.

B) A lake management plan shall be submitted to and approved by the Lee County Division of Natural Resources Management prior to the local development order approval for any phase. This plan shall include the following:

- 1) Utilization of the in-site wetlands in conjunction with the excavated lakes and naturally vegetated buffer strips around all resource protection areas and transition zone areas to reduce pollutant and silt loads; and;
- 2) Emergent and submergent aquatic plantings throughout the littoral zone of all lakes; and
- 3) Annual monitoring reports to Division of Natural Resources Management regarding lake depth and slope, plantings, deaeration and water quality compliance.

(5) Deviation (5) requests a reduction in the required setback for a water retention excavation from a street right-of-way as depicted on the Official Trafficways Map. A barrier will erected and any road damage incurred within the Nalle Grade Road right-of-way will be repaired by the Lee County Division of the Department of Transportation. A "Hold Harmless Agreement" releasing Lee County from liability will be provided.

(6) Deviation from LDC Section 10-285(a) allowing a reduction from the required intersection separation for the access point into US 41 from a required distance of 680 feet to 330 feet. This provides an additional access point into US 41 which reduces the impact on the other access into the project from US 41 and the future access point on Nalle Grade Road.

(7) Deviation (7) requests elimination of the requirement for access streets paralleling Nalle Grade Road.

(8) Deviation (8) requests the opportunity to remove excavated material from the man-made detention or retention bodies from the premises to the planned Nalle Grade Road construction project. Calculations will be provided at the time of local Development Order application that support that sufficient fill material is available on-site for the project and that a surplus exists that can be used on the proposed roadway.

The following deviation was approved as part of Administrative Deviation # 97-127-272.07A for Unit 1:

(9) Deviation from Section 10-296(k) which requires a minimum outside edge of pavement and minimum right-of-way dimensions for the cul-de-sac on Portofino Way of 45', 90', and 110' respectively to 25', 70', and 90' respectively.

The following deviations were approved for Units 7, 8, and 9 by Administrative Deviation # 99-08-250.02A:

(10) Deviation from LDC Section 10-296(v)(3) which requires a cul-de-sac transition to regular pavement to be a radius of 100' to allow a radius of 50' at the designated cul-de-sac on Unit 8.

(11) Deviation from LDC Section 10-328(e)(1)(a), to reduce lake excavation setback from designated local streets from the required 25 feet to allow a setback of 15 feet to the edge of a private local street right-of-way.

REVISIONS

MAGNOLIA LANDING
Lee County, Florida

2158 JOHNSON STREET
P.O. BOX 1550
FORT MYERS, FLORIDA 33902-1550
PHONE (239) 334-0046
FAX (239) 334-3661
E.B. #642 & L.B. #642

DATE	PROJECT NO.	FILE NO.	SCALE	SHEET
APRIL 2006	20055665	4-43-24	As Shown	4



① DEVIATION LOCATION INDEX

④ DEVIATION 4 APPLIES THROUGHOUT THE COMMUNITY

Property Development Regulations														
September 2006														
Residential Use	Minimum Lot			Minimum Side			Front: Total	Rear: Side	Perimeter	Curb/Corner	Max. Height	# Habitable Floors	Min. Utlg. Separation (1)	Max. Utlg. Separation (2)
	Area	Depth	Front (3)	Back (4)	Side (5)	Area								
Single Family	5,770	70	45	5	10**	5	30** (1)	20	10	10	30'	3	30'	30'
Two-Family Attached	5,770	70	45	5	10***	10**	30** (1)	20	10	10**	35'	3	30'	30'
Three-Family Attached	2,800	60	35	5	10***	20**	20'	10	10**	35'	2	30'	30'	30'
Four-Family***	1,500	40	32	5	10***	10**	10'	10	10**	35'	2	30'	30'	30'
Apartment/Condominium	n/a	n/a	n/a	5	5	5	10	10	10	10	35'	n/a	n/a	n/a
Off-Office	n/a	n/a	n/a	5	5	5	10	10	10	10	35'	n/a	n/a	n/a

* 5' for adjacent structure (back)

** Limited to no more than 1st floor, per building

*** "Islands" refers to side of note attached to neighboring note; "no islands" refers to side of note with no side exposure.

Notes:

1. Any structures more than two stories in height will maintain a 20-foot minimum building separation.

2. Lot coverage means that portion of lot lot area, approximately, occupied by all useful buildings on a structure.

3. Setback for project walls are always within 1 foot of the right-of-way line.

APP 2-2006

ADD 2006-00166