LEE COUNTY
SOUTHWEST FLORIDA

DIVISION OF PLANNING

STAFF REPORT & FINDINGS FOR ADMINISTRATIVE APPROVAL OF DENSITY INCREASE

THIS ADD (ADD2008-00135) IS SUPERSEDED BY ADD2010-00024 DATED 3-29-10

A REQUEST TO USE THE TRANSFER OF DEVELOPMENT RIGHTS PROCESS

IN ACCORDANCE WITH THE LEE COUNTY LAND DEVELOPMENT CODE CHAPTER 2, ARTICLE IV TRANSFER OF DEVELOPMENT RIGHTS

FOR A DEVELOPMENT KNOWN AS:

STONEGATE
ADD2008-00135

February 9, 2009

Date of Application:	**September 19, 2008.**
Applicant/Agent:	**Taylor Morrison of Florida, Inc./Barraco and Associates, Inc.**
Subject Property:	**9840 & 9700 Gladiolus Drive.**
STRAP:	**33-45-24-00-00001.0000 and 33-45-24-01-00000.00A0**
Previous TDR Sellers:	**St. Jude Harbors, Inc. & Fred L. & Jean Board C/o Mark A. Ebelini, Esq. Humphrey & Knott, P.A.**
Previous TDR Purchasers:	**Ascott Village II, LLC**
Previously Approved Number of TDR's:	**132**
Revised Number of TDRs Requested:	**88**

THIS ADD (ADD2008-00135) IS SUPERSEDED BY ADD2010-00024 DATED 3-29-10

SUMMARY ADMINISTRATIVE APPROVAL DECISION:

The request for administrative approval of density increase to utilize 88 transfer of development rights units for the project known as Stonegate is hereby approved. The staff analysis of the request, the basis of the decision, and the conditions associated with the approval are discussed below.

PLANNING STAFF ANALYSIS:

APPLICATION SUMMARY

Taylor Morrison of Florida, Inc., represented by Barraco and Associates, Inc., has submitted a request to consolidate two previously approved residential projects (FKA Stone Gate Landings & Villages of Ascot II) into a new residential project participating in Lee County's Transfer of Development Rights Program. The project, known as Stonegate, is located in Section 33, Township 45 South, Range 24 East. The property is generally located in the northeast quadrant of the intersection of A & W Bulb Road and Gladiolus Drive. The property is located in the Urban Community and Wetlands future land use categories, and contains approximately 46.67 acres. According to the submitted information, the site contains 44.48 upland acres and 2.19 acres of Wetlands. The Wetlands are included in the project's preserve area. Attachment 1provides the property as depicted on the Lee Plan's Future Land Use Map.

The applicant is requesting administrative approval to use transfer of development rights, as outlined in Sec. 2-148 and 2-149 of the County's Land Development Code. Utilizing Sec. 2-149 (b) (2)

Administrative approval of density increase, the applicant is seeking to increase the density above the Lee Plan standard density range within conventionally zoned parcels. The subject property is zoned RM-8 and RM-2. The proposed multifamily residential project is consistent with these 2 zoning designations.

The applicant proposes a total of 368 dwelling units for the development, 280 standard density dwelling units and 88 TDR units. The resultant density is 7.88 dwelling units per gross acre, or 8.27 dwelling units per upland acre. Either density figure is less than the maximum bonus density of 10 dwelling units per acre allowed under the Urban Community land use category.

Staff has worked closely with the applicant's consultants to achieve a site plan that is mutually acceptable. The site plan incorporates the on-site wetland area and adjacent indigenous uplands into a preserve area. The site plan also proposes substantial restoration and littoral enhancement areas around the proposed lakes. This site plan, date stamped received November 21, 2008, is included in this report as Attachment 3.

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PRIOR APPROVALS & TDR RIGHTS

As noted above, the subject parcel was previously approved as two separate multiple family developments known respectively as Stone Gate Landings and Villages of Ascot II. Both projects were previously approved with Bonus Density utilizing the Administrative approval of density increase Transfer of Development Rights methodology under Chapter 2 of the Lee County Land Development Code (LDC). These Bonus Density approvals and additional development approvals, such as development order approvals are discussed below.

The original Stone Gate Landings Bonus Density request was approved on November 17, 1998. This approval was for a project that proposed a total of 300 dwelling units for the development, 236 standard density dwelling units and 64 bonus density units on approximately 38 acres. The density was calculated at that time to be 7.58 dwelling units per acre, less than the maximum bonus density of 10 dwelling units per acre allowed under the Urban Community category. The request was for multi-family dwelling units.

The original Villages of Ascot II Bonus Density request was approved on June 24, 2005. This approval was for a project that proposed a total of 172 dwelling units, 104 standard density dwelling units and 68 bonus density units on approximately 16.93 acres. The density was calculated at that time to be 9.91 dwelling units per acre, less than the maximum bonus density of 10 dwelling units per acre allowed under the Urban Community category. The property at the time of this approval contained 80 existing dwelling units known as the "Villages of Ascot."

The two project were approved to utilize a total of 132 TDR units. In fact, the previous developers purchased their respective TDR units (see Attachment #6). Ascott Village II, LLC purchased 68 TDR units and Stone Gate Landings, LLC purchased 64 TDR units both from St. Jude Harbors, Inc.

Both projects utilized abutting right-of-way in the density calculations. This is no longer permitted, and the current calculations do not include any abutting right-of-way. The current requested approval is to utilize 88 TDR units in an ongoing multi family development. The applicant is currently working with staff from the County Attorney's Office to create new TDR deeds to be recorded in conjunction with the development order authorizing the use of the TDR units. The applicant will retain the rights to 44 TDR units that will not be utilized in the development of the proposed project. These units can be sold to be utilized in other projects consistent with the Land Development code.

Both properties have lengthy history of development order approvals such as the following 83-04-020-00D, 83-12-002-00D, 86-02-011.00D, 88-04-006.00D, DOS2004-00143, DOS2005-00033, DOS2005-00120, DOS2006-00234, LDO2007-00230. The earlier approvals were for projects that were never developed. For example, 86-02-011.00D was a development order application for a 376 multifamily dwelling unit project. This DO was denied. Another example of this was development order application 88-04-006.00D. This DO request was for 120 single family lots. This DO has expired. The site has previously been cleared and the development of a multi family project has been started. Internal access roads as well as the initial buildings have been built.

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ZONING AND SURROUNDING LAND USES

Attachment 2 shows the subject property's location and the surrounding zoning. The subject property is zoned RM-8 and RM-2. The surrounding zoning is as follows: to the north, RPD (Casa Del Mar Subdivision); to the south, vacant AG-2 zoned parcel, vacant CC zoned parcel, and an approved CUP; to the west vacant AG-2 zoned parcel; to the east RM-2 (the existing Villages of Ascot Subdivision), AG-2 and CF-1 (Lakes Regional Library).

The single family Casa Del Mar development is located to the north of the subject property. A 80' Iona Drainage District Canal separates the subject parcel from the Casa Del Mar development. The Property Appraiser's records, and a review of the approved development order, indicate that the density of the Casa Del Mar development is 4.98 dwelling units per acre. There are two single family homes, zoned AG-2, on the east side of A & W Bulb Road north of the Stonegate Landings' property.

To the east on Gladiolus Drive is a 4.5 acre AG-2 zoned property that has been developed with a church, the 13.65 acre Lakes Regional Library site, and then the Parker Lakes development. Parker Lakes has an approved density of 8.13 dwelling units per acre. A small commercial component, Parker Plaza, is situated at the northeast quadrant of the intersection of Bass Road and Gladiolus Drive.

TRANSPORTATION/TRAFFIC ISSUES

The project will have two access points, one onto A & W Bulb Road and the other onto Gladiolus Drive. The County has adopted an Administrative Code, AC-11-1, that provides the functional classification of roadways in Lee County. A & W Bulb Road is functionally classified by the Code as a Major Collector. Gladiolus Drive is classified as an Arterial.

Substantial improvements to these facilities are under construction. A & W Bulb Road is being resurfaced along with intersection improvements at Gladiolus Drive. Gladiolus Drive is being improved from 2 lanes to 4 lanes in front of the proposed project. Bass Road is also being improved from 2 lanes to 4 lanes to connect to the existing 4 lane section of Bass Road. As part of these improvements, a traffic signal will be installed at A & W Bulb Road and Gladiolus Drive.

Concerning access the TIS, in part, provides the following discussion:

> *The access onto A & W Bulb Road will allow all movements. Access onto Gladiolus Drive will be a shared access with the adjacent Ascot development and aligned with Gladiolus Preserve Circle...This will be a full movement intersection with anticipated signalization in the future. The existing Ascot units currently have access via Lenox Gardens Lane (approximately 340 feet east of Gladiolus Preserve Circle).*

The applicant has submitted a Traffic Impact Statement (TIS) included as Attachment 4. The TIS was submitted in conjunction with the Development Order request, and included the potential TDR units in the analysis. According to the TIS, the 368 units and the existing Villages of Ascot will generate 2,405 daily trips. The AM peak hour volume will be 184 trips while the PM peak hour volume will be 218 trips.

The TIS includes a "Intersection Capacity Analysis." This analysis indicates that the southbound and northbound left turning movements at the intersection of Gladiolus Dr/Gladiolus Preserve/Project Entrance will operate LOS "F" in the future condition (year 2010) and also shows the intersection will operate LOS "B" if the intersection is signalized.

The applicant has provided a "Signalization Construction Agreement" from the property owner, Taylor Woodrow Homes, Southwest Florida Division, LLC. This agreement acknowledges that signalization may be required at the intersection of Gladiolus Drive and Gladiolus Preserve Circle/Sea Crest Boulevard and that Taylor Woodrow Homes will be responsible for funding a proportional share of the costs required to design, permit and construct the required improvement.

The Lee County Department of Transportation (LCDOT) has reviewed the project and offered comments and a condition to address the level of service issue. LCDOT provides that there are alternatives to signalizing the referenced intersection:

> Before a traffic signal is assumed to be the only option, other viable options are required to be weighed. One option is to make the median a directional opening on both sides so no one gets a left-out to Gladiolus, leaving a left-in, right-in and right-out. If we provide a left turn lane, as planned, for the westbound U-Turn at A & W Bulb Road, which gets them to a signal at Gladiolus. Next year, we are going to take a preliminary look at the signal versus no signal impacts on the adjacent signalized intersections.

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To address this issue staff recommends including the following condition be included in the bonus density approval as well as in the development order approval:

> *When traffic volumes or right angle crash frequency are determined by Lee County to be approaching traffic signal warrants, the Developer, successor and assigns of the subject property must conduct the necessary traffic studies and microscopic traffic analyses of the intersection of the development's main access with Gladiolus Drive and Preserve Boulevard, as directed by Lee County Department of Transportation (LCDOT), to determine the traffic control alternatives and the needed improvements for the intersection. The impacts on level of service, delay, queuing, and speed to include adjacent traffic signal operations at A & W Bulb Road and Gladiolus Drive, as well as Bass Road and Gladiolus Drive at a minimum. Site-specific improvements may include, but not limited to, installation of a full 4-Way traffic signal or a Half-signal and/or other traffic control modifications as determined by LCDOT to be in the best interest of public safety and welfare. The Developer or successor will fund all costs for the required improvements to mitigate the impact of development traffic including but not limited to median modifications, turn lane storage, pavement marking, and all traffic signing. If LCDOT approves a traffic signal installation, the Developer shall fund all traffic study and analysis costs, all planning, all design, all engineering, and must fund all, or a share of, the construction, construction management and inspections as follows:*
>
> *1.) For a 4-Way Traffic Signal - The property owners on the south side of Gladiolus Drive that utilize Preserve Boulevard and who are determined by LCDOT to benefit from the signalization will be coordinated with and contracted with to fund a proportionate share of the construction, construction management and inspection costs based upon the sum of left turn entering traffic, plus left turn-out exiting traffic peak hour volumes compared to total projected peak hour left turn entering and left turn exiting volumes from the subject property. The Developer or successor of the subject property may elect to fund all the signalization and improvement costs if the traffic volumes in and out of Preserve Boulevard do not represent a significant share of the warranting traffic or this leg of the intersection does not contribute to meeting signal warrants.*
>
> *2.) For a Half-signal - The Developer will fund all the costs of implementation if access to Preserve Boulevard is restricted and a Half-signal or a hybrid design is required by LCDOT.*

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Lee County Development Services Division has provided an analysis of the effects of this project on traffic on Gladiolus and A & W Bulb:

> *At build out the above referenced project will contain a maximum of 368 multi-family dwelling units. The Development Services Division analyzed the Traffic Impact Statement submitted with the development order application (DOS2006-00234) for the project. Based on that analysis, A & W Bulb Rd. is currently operating at Level of Service (LOS) "C", and Gladiolus Dr. is operating at LOS "B". At project build out it is estimated that both roadways will continue to operate at this level of service.*

Planning staff concludes that approval of the TDR request will not cause a level of service issue. Planning staff also notes that the site plan stamped received November 21, 2008 provides the relocated access for the existing Villages of Ascott residents.

EXISTING AND PLANNED INFRASTRUCTURE

As noted above, the subject property is accessed via Gladiolus Drive and A & W Bulb Road. At planned buildout of the project, both of these facilities will operate at an acceptable level of service.

The subject site has access to potable water as the Lee County Property Appraiser's geographic information system reports that a 16" water line is within 50 feet of the subject parcel. The subject site also has access to sanitary sewer service, as GIS indicates sanitary sewer lines within 50 feet of the property. Lee County Utilities have sufficient capacity at its water and wastewater treatment facilities and infrastructue in the area to serve the project. Staff notes that the Lee Plan, in Standards 11.1 and 11.2, requires any new residential development that exceeds 2.5 dwelling units per gross acre, which this project does exceed, to connect to a public water system (or a community water system as that is defined by Chapter 17-22, F.A.C.) and to a sanitary sewer system.

The subject parcel is located in the Iona McGregor Fire Protection & Rescue Service District. The District has offered no objection to the proposal. EMS staff have offered no objection to the proposal.

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OPEN SPACE & ENVIRONMENTAL ISSUES

The Division of Environmental Sciences (ES) staff have reviewed the request and offered the following comments (see Attachment #5):

PROJECT SITE:

The project site is a 46.67 acre parcel located on the northeast corner of A & W Bulb Road and Gladiolus Drive. The parcel is zoned RM-8 and RM-2 with a future land use category of Urban Community. The site was partially developed, with bonus density, in 2005 under development order number DOS2005-00033. This development only contained 36.78 acres of land. Prior to the original development order (DOS2005-00033) process for this site the applicant applied for and was granted a deviation (ADD980918902A) from the required indigenous open space to allow 26% (3.83 acres) verse the code minimum 50% (7.36 acres). During the development process the applicant purchased additional lands to the west (approximately 10.11 acres) and subsequently submitted a new development order (DOS2006-00234) which included these additional lands. The property was cleared per the original development order and indigenous deviation (DOS2005-00033 & ADD980918902A). With the additional land and land clearing the applicant is unable to meet the required 9.33 acres of indigenous open space on the site per the new project area (46.67 acres). Therefore, the applicant is requesting a deviation from LDC 10-415(b) to reduce the required indigenous preservation area from 50% (9.33 acres) of the required open space to allow preservation of 43.6% (8.14 acres) of the required open space. The site

currently contains three buildings and associated infrastructure. Indigenous plant communities are found on site as designated under the original DOS2005-00033.

OPEN SPACE:

Lee Plan Goal 77: *requires new development to provide adequate open space for improved aesthetic appearance, visual relief, environmental quality, preservation of existing native trees and plant communities, and the planting of required vegetation.*

LDC section 10-415(a) requires a large multi family development to provide a minimum 40% open space, of which 50% of that open space must be indigenous plant. The required open space for this project is 18.67 acres (46.67x 0.4) and the indigenous open space is 9.33 acres (18.67x 0.5). Prior to the original development order (DOS2005-00033) process for this site the applicant applied for and was granted a deviation (ADD980918902A) from the required indigenous open space to allow 20% (3.83 acres) verse the code minimum 50% (7.36 acres). This deviation applied to the original 36.78 acre project area. Subsequently, the applicant purchased 10.11 acres of land from the adjacent Ascot development to the west. Thus the applicant has requested a new development order (DOS2006-00234) and a deviation (ADD2009-00135) to transfer bonus density rights from the land purchased from Ascot development. In addition, having cleared the property per the original development order and indigenous deviation (DOS2005-00033 & ADD980918902A) the applicant is now unable to meet the required 9.33 acres of indigenous open space on the site per the new project area (46.67 acres).

Therefore, the applicant is requesting a deviation from LDC 10-415(b) to reduce the required indigenous preservation area from 50% (9.33 acres) of the required open space to allow preservation of 43.6% (8.14 acres) of the required open space. The site currently contains 5.42 acres of indigenous preserve on site, with an additional 0.96 acres of credits for an upland preserve greater than 1 acre and adjacent to a roadway. In addition the applicant purchased one mitigation credit from the Little Pine Island Mitigation Bank as required per ADD980918902A. Per the LDC 10-415(b)(5)(e) offsite mitigation credits may be utilized at a 3:1 ratio towards the required indigenous preserve resulting in 0.33 acres counting towards the required indigenous. Also, the applicant is proposing to provide indigenous restoration. Per LDC 10-415(b)(5)(a) onsite restoration may be utilized to meet the indigenous preservation requirement at a 2:1 ratio. The restoration plan proposes 2.85 acres of indigenous restoration (see attached ES Staff Exhibit 1) resulting in 1.43 acres counting towards the required indigenous. In total this results in 8.14 acres with credits of indigenous preserve meeting LDC code requirements.

Planning staff concludes that the proposed project has an acceptable open space plan and the use of the requested use of TDR units is appropriate given the on-site preservation and proposed restoration areas as provided on the site plan stamped received November 21, 2008. The use of the TDR units should be conditioned on the implementation of this plan to assure the appropriate preservation and restoration occurs in conjunction with the development of the project.

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LEE PLAN CONSISTENCY

FLUM DESIGNATION

The proposed density with the Density Bonus units, 7.88 DU/AC (368 dwelling units on 46.67 acres), is permissible in the Urban Community land use category in which the proposed development is located. The maximum permittable total density (with Bonus Density) in the Urban Community land use category is 10 dwelling units per gross acre. The submitted parcel survey indicates that the subject site is 46.67 acres.

Lee Plan Objective 1.1 describes the County's future urban areas as areas intended to "provide for a full range of urban activities." Under Objective 1.1, the Urban Community future land use category is described in Lee Plan Policy 1.1.4 which is reproduced below:

> ***POLICY 1.1.4:*** *The Urban Community areas are areas outside of Fort Myers and Cape Coral that are characterized by a mixture of relatively intense commercial and residential uses. Included among them, for example, are parts of Lehigh Acres, San Carlos Park, Fort Myers Beach, South Fort Myers, Bonita Springs, Pine Island, and Gasparilla Island. Although the Urban Communities have a distinctly urban character, they should be developed at slightly lower densities. As the vacant portions of these communities are urbanized, they will need to maintain their existing bases of urban services and expand and strengthen them accordingly. As in the Central Urban area, predominant land uses in the Urban Communities will be residential, commercial, public and quasi-public, and limited light industry (see Policy 7.1.6). Standard density ranges from one dwelling unit per acre (1 du/acre) to six dwelling units per acre (6 du/acre), with a maximum of ten dwelling units per acre (10 du/acre).*

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As this policy states, these areas have "a distinctly urban character." The proposed density is consistent with this land use category. The project, if built according to the current plan, would result in a density that is somewhat higher than the surrounding residential densities but lower than previously approved as two separate projects.

The request is consistent with Objective 2.2, in that the existing or proposed water, sewer, transportation, fire, and EMS facilities can adequately serve the additional requested 132 dwelling units. Objective 2.2 provides the following:

> ***OBJECTIVE 2.2: DEVELOPMENT TIMING.*** *Direct new growth to those portions of the Future Urban Areas where adequate public facilities exist or are assured and where compact and contiguous development patterns can be created. Development orders and permits (as defined in F.S. 163.3164(7)) shall be granted only when consistent with the provisions of Sections 163.3202(2)(g) and 163.3180, Florida Statutes and the county's Concurrency Management Ordinance.*

The request is also consistent with Standard 11.1 and Standard 11.2, in that the units will connect to a public water and sewer system.

Lee Plan Policy 5.1.5 seeks to protect existing and future residential areas from any encroachment of uses that are potentially destructive to the residential environment. This policy is reproduced below:

> ***POLICY 5.1.5:*** *Protect existing and future residential areas from any encroachment of uses that are potentially destructive to the character and integrity of the residential environment. If such uses are proposed in the form of a planned development and generally applicable development regulations are deemed to be inadequate, conditions shall be attached to minimize or eliminate the potential impacts or, where no adequate conditions can be devised, the application shall be denied altogether. Requests for conventional rezonings shall be denied in the event that the buffers provided in Chapter 10 of the Land Development Code are not adequate to address potentially incompatible uses in a satisfactory manner. The Land Development Code shall continue to require appropriate buffers for new developments.*

Staff notes that the subject site is already zoned to accommodate multi family residential uses and has previously been approved with additional dwelling units than is now being sought.

The subject of this request, however, is the addition of 88 TDR units. The addition of these 88 units does not represent an encroachment of a use that is "potentially destructive to the character and integrity of the residential environment." Residential uses are located north and east of the subject site. Multi family structures located in the Villages of Ascot subdivision are located immediately adjacent to the subject site. Staff believes the request at hand is consistent with Policy 5.1.5, in that the additional 88 units do not, unto themselves, represent an encroachment of an incompatible use into surrounding residential parcels.

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HURRICANE EVACUATION AND SHELTERING ISSUES

The subject site is located in the Tropical Storm Surge zone, Category 1 Storm Surge zone, and the Category 2 Storm Surge zone. The location of this project relative to the hurricane storm surge zones (as established in the 1991 "Hurricane Storm Tide Atlas for Lee County" prepared by The Southwest Florida Regional Planning Council) was an issue of some discussion in the original bonus density approval. The issue of placement of the units is no longer a concern due to the reduction in density that the proposal represents as well as the facts on the ground. The site has been prepared for development and development of multi family buildings has commenced on the western portion of the site. The TDR units will be utilized in buildings located outside of the Category 1 Storm Surge zone.

Lee County Emergency Management staff reviewed the two previous projects and found that they will have no significant impact on Emergency Management. The original Stone Gate Landings approval occurred prior to the Land Development Code requiring shelter space impact mitigation. The applicant at that time agree to pay $3,370.40 as a fee-in-lieu for mitigation of shelter impacts. That approval included a condition addressing this payment. The Land Development Code now requires this mitigation and provides several methods that a developer can utilize, so staff will not carry this former condition forward with this approval.

A Homeowner's or Resident's Association must be established, and will be responsible for providing continuing information to residents concerning hurricane evacuation and shelters, pursuant to Lee Plan Policy 110.1.3. Consistent with Policy 110.1.4, the project will be required to formulate an emergency hurricane preparedness plan, and this plan is subject to the approval of the Lee County Division of Public Safety.

LEE PLAN PLANNING COMMUNITIES MAP AND TABLE 1(b)

The proposed development is consistent with the provisions of Lee Plan Table 1(b). The subject property is located within the "South Fort Myers" planning community. Table 1(b) allocates a total of 860 acres for residential use in the Urban Community land use category portion of the South Fort Myers planning community. Recent Planning Division research indicates that 784 acres have been developed with residential uses in the Urban Community portion of this planning community. The research indicates that an additional 77 acres of residential use can be developed in the Urban Community portion of the planning community before the year 2030. The applicant is requesting residential development on approximately 44.5 acres.

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DISCUSSION:

Planning staff believes that the requested use and density (7.88 DU/AC) are compatible with the surrounding existing developments, previous approvals within the on going development, and the future land use designation of the property.

Planning staff believes that approval of this request would represent an efficient use of existing and planned infrastructure. The request for increased density is consistent with Goal 2, Growth Management, which promotes the coordination of development with the provision of infrastructure. The request is consistent with Policy 2.1.1 and Policy 2.1.2. These policies further advance the urban service concept by promoting the constructive use of lands within the Future Urban Areas for residential, commercial, industrial, and public development. The Lee Plan establishes that urban services and facilities are to be programmed in the Future Urban Areas.

The request is also consistent with the intent of Objective 2.2, Development Timing, which seeks to direct new growth to those portions of the Future Urban Areas where adequate public facilities exist or are assured and where compact and contiguous development patterns can be created.

PLANNING STAFF FINDINGS:

In accordance with Sec. 2-149(b)(2) of the Land Development Code, staff makes the following findings:

1. The request is in compliance with the Lee Plan.

2. The site, zoned RM-2 and RM-8, is zoned for the type of dwelling units proposed to be constructed

3. The proposed residential development will not substantially increase intensities of land use along its perimeter. The submitted site plan provides appropriate edge treatments including planned buffers, lakes, preserves, and restoration areas. The project is separated from residential uses to the north by a former IDD canal. Staff concludes that the addition of 88 TDR units will not substantially increase the intensity of the land along the project perimeter.

4. The subject site location, located at the intersection Gladiolus Drive and A & W Bulb Road, will not require project traffic to travel through areas with significantly lower densities before reaching the nearest collector or arterial road. A & W Bulb Road is functionally classified by the Code as a Major Collector. Gladiolus Drive is classified as an Arterial. The addition of 88 TDR units will not cause a level of service issue on these adjacent roadways.

5. The proposed TDR units are being located outside of the Category 1 Hurricane Vulnerability Zone. The units are proposed to be located in the Category 2 zone.

6. The proposed development is not in a location where existing and committed public facilities are so overwhelmed that a density increase would be contrary to the overall public interest.

The proposed development shall not decrease any required open space, buffering, landscaping and preservation areas or cause adverse impacts on surrounding land uses. In fact the project, as currently proposed, will provide more open space than previously approved deviations.

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Decision:

The request for administrative approval of density increase to utilize 88 transfer of development rights units for the project known as Stone Gate is hereby approved, subject to the following conditions.

Conditions:

1. The development of the subject site must be in substantial compliance with the site plan stamped received November 21, 2008. Before the issuance of construction or building permits, the developer must provide to the department a copy of the recorded deed of transfer required in accordance with section 2-147(a)(6) encompassing the TDR units intended to be used.

2. When traffic volumes or right angle crash frequency are determined by Lee County to be approaching traffic signal warrants, the Developer, successor and assigns of the subject property must conduct the necessary traffic studies and microscopic traffic analyses of the intersection of the development's main access with Gladiolus

Drive and Preserve Boulevard, as directed by Lee County Department of Transportation (LCDOT), to determine the traffic control alternatives and the needed improvements for the intersection. The impacts on level of service, delay, queuing, and speed to include adjacent traffic signal operations at A & W Bulb Road and Gladiolus Drive, as well as Bass Road and Gladiolus Drive at a minimum. Site-specific improvements may include, but not limited to, installation of a full 4-Way traffic signal or a Half-signal and/or other traffic control modifications as determined by LCDOT to be in the best interest of public safety and welfare. The Developer or successor will fund all costs for the required improvements to mitigate the impact of development traffic, including but not limited to median modifications, turn lane storage, pavement marking, and all traffic signing. If LCDOT approves a traffic signal installation, the Developer shall fund all traffic study and analysis costs, all planning, all design, all engineering, and must fund all, or a share of, the construction, construction management and inspections as follows:

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1.) For a 4-Way Traffic Signal - The property owners on the south side of Gladiolus Drive that utilize Preserve Boulevard and who are determined by LCDOT to benefit from the signalization will be coordinated with and contracted with to fund a proportionate share of the construction, construction management and inspection costs based upon the sum of left turn entering traffic, plus left turn-out exiting traffic peak hour volumes compared to total projected peak hour left turn entering and left turn exiting volumes from the subject property. The Developer or successor of the subject property may elect to fund all the signalization and improvement costs if the traffic volumes in and out of Preserve Boulevard do not represent a significant share of the warranting traffic or this leg of the intersection does not contribute to meeting signal warrants.

2.) For a Half-signal - The Developer will fund all the costs of implementation if access to Preserve Boulevard is restricted and a Half-signal or a hybrid design is required by LCDOT.

3. This approval is not a building permit or Development Order. It does not vest development rights other than an increase in density by a maximum of 88 TDR units.

4. The project must connect to a public water system or a "community" water system as that is defined by Rule 17-22, F.A.C.,

and must connect to a sanitary sewer system. No Development Order will be approved unless these services are provided to the site.

5. Maximum Height is restricted to 35 feet.

6. Prior to Local Development Order approval, provisions and locations for solid waste collection/disposal must be provided on the Development Order plans in compliance with the LDC and Lee County Ordinance No. 08-10. Proposed locations and method(s) of disposal are subject to review and approval by Lee County Solid Waste Division.

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Basis for Decision:

Lee County Land Development Code Section 2-147 provides that a property owner may request administrative approval to use development rights to increase the density of a proposed development in a conventional zoning district above the Lee Plan standard density range for the subject property. The staff findings indicate that the requested density is appropriate on the subject parcel. The staff analysis concludes that the requested density and use is compatible with surrounding existing uses. Section 2-147(b)(2) provides that the department director may administratively approve the use of development rights to increase the density of a proposed development in conventional zoning districts up to the maximum bonus density allowed by the Lee Plan for the subject property. This same section provides that the director's written approval may contain reasonable conditions to mitigate any adverse impacts that could otherwise be created by the density increase.

The TDR request being considered here was filed on September 19, 2008. The requested TDR units as well as the standard density units equates to 7.88 dwelling units per acre which is less than the maximum bonus density of 10 dwelling units per acre of the Urban Community future land use category.

Appeal Procedure:

The procedure for an appeal from administrative action are outlined in Sec. 34-145(a) of the Land Development Code and reproduced below:

(1) Function. The hearing examiner will hear and decide appeals where it is alleged there is an error in any order, requirement, decision, interpretation, determination or action of any administrative official charged with the administration and enforcement of the

provisions of this land development code or any other ordinance which provides for similar review; provided, however, that:

a. No appeal to the hearing examiner may lie from any act by an administrative official pursuant to:

1. An order, resolution or directive of the Board of County Commissioners directing him to perform such act; or

2. Any ordinance or other regulation or provision in this code which provides a different appellate procedure.

b. The appeal to the hearing examiner must be in writing on forms provided by the hearing examiner, and must be duly filed with the hearing examiner within 30 calendar days, but not thereafter, after such act or decision by the administrative official. The appeal must specify the grounds for the appeal.

c. No appeal may be considered by the hearing examiner where it appears to be a circumvention of an established or required procedure. Specifically, in no case may an appeal be heard when the hearing examiner determines that the case should more appropriately be heard on a request for a variance.

d. Notices of hearings on appeals will be provided in accordance with the provisions of an applicable administrative code adopted by the Board of County Commissioners.

e. The hearing examiner will not consider appeals for challenges to a development order controlled by F.S. § 163.3215. In cases of challenges to development orders controlled by F.S. § 163.3215, no suit may be brought and no verified complaint, as explained in F.S. § 163.3215(4), may be filed or accepted for filing until the development order giving rise to the complaint has become final by virtue of its having been issued by the director, or by virtue of its having been ordered by the county hearing examiner on an appeal reversing the director's denial of the development permit or denial of a development order extension, or by the Board of

THIS ADD (ADD2008-00135) IS SUPERSEDED BY ADD2010-00024 DATED 3-29-10

County Commissioners in cases where the Board of County Commissioners has granted planned development zoning. Once a development order has been granted, the provisions of F.S. § 163.3215 will be the sole means of challenging the approval of a development order, as that term is defined in F.S. § 163.3164(6), when the approval of the development order is alleged to be inconsistent with the Lee Plan, in which case an action brought pursuant to F.S. § 163.3215 will be limited exclusively to the issue of comprehensive plan consistency.

f. Except as may be required by F.S. 163.3215, and then only pursuant to that statute, a third party will not have standing to appeal an administrative decision. Only the applicant or his agent will be permitted to appeal such administrative action as set forth in this section.

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ADMINISTRATIVE AUTHORIZATION

I concur with the facts, findings and decision of this report and authorize the use of the requested transfer of development rights in accordance with Sec. 2-146 and 2-147 of the Lee County Land Development Code.

Dated this 9th day of February, 2009.

LEE COUNTY DEPARTMENT OF COMMUNITY DEVELOPMENT
AS ADMINISTRATIVE DESIGNEE

BY: Mary Gibbs
Mary Gibbs
Director, Department of Community Development

cc: *Paul O'Connor, Director, Planning Division*
Donna Marie Collins, Assistant County Attorney
Peter Eckenrode, Development Services Division
Planning File

THIS ADD (ADD2008-00135) IS SUPERSEDED BY
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ATTACHMENT #1
FUTURE LAND USE MAP

ADD2008-00135

Stonegate Transfer of Development Rights

THIS ADD (ADD2008-00135) IS SUPERSEDED BY ADD2010-00024 DATED 3-29-10

Attachment 1: Future Land Use Map

A & W BULB RD

Subject Property

BASS RD

GLADIOLUS DR

0 100 200 300 400 500 600 Feet

N W E S

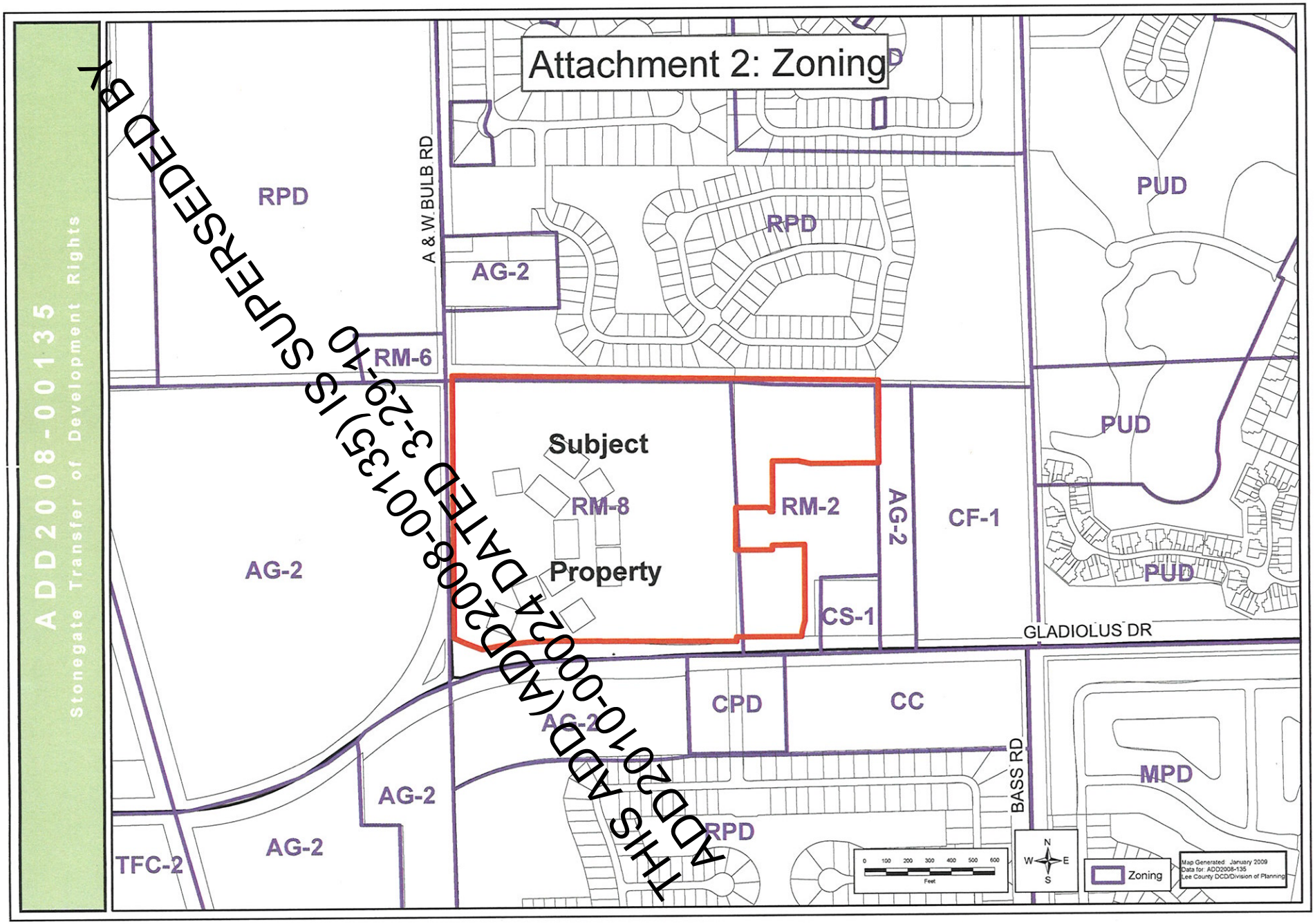
Future Land Use

- Urban Community
- Public Facilities
- Conservation Lands - Upland
- Wetlands
- Conservation Lands - Wetland

Map Generated January 2009
Data for: ADD2008-135
Lee County DCD/Division of Planning

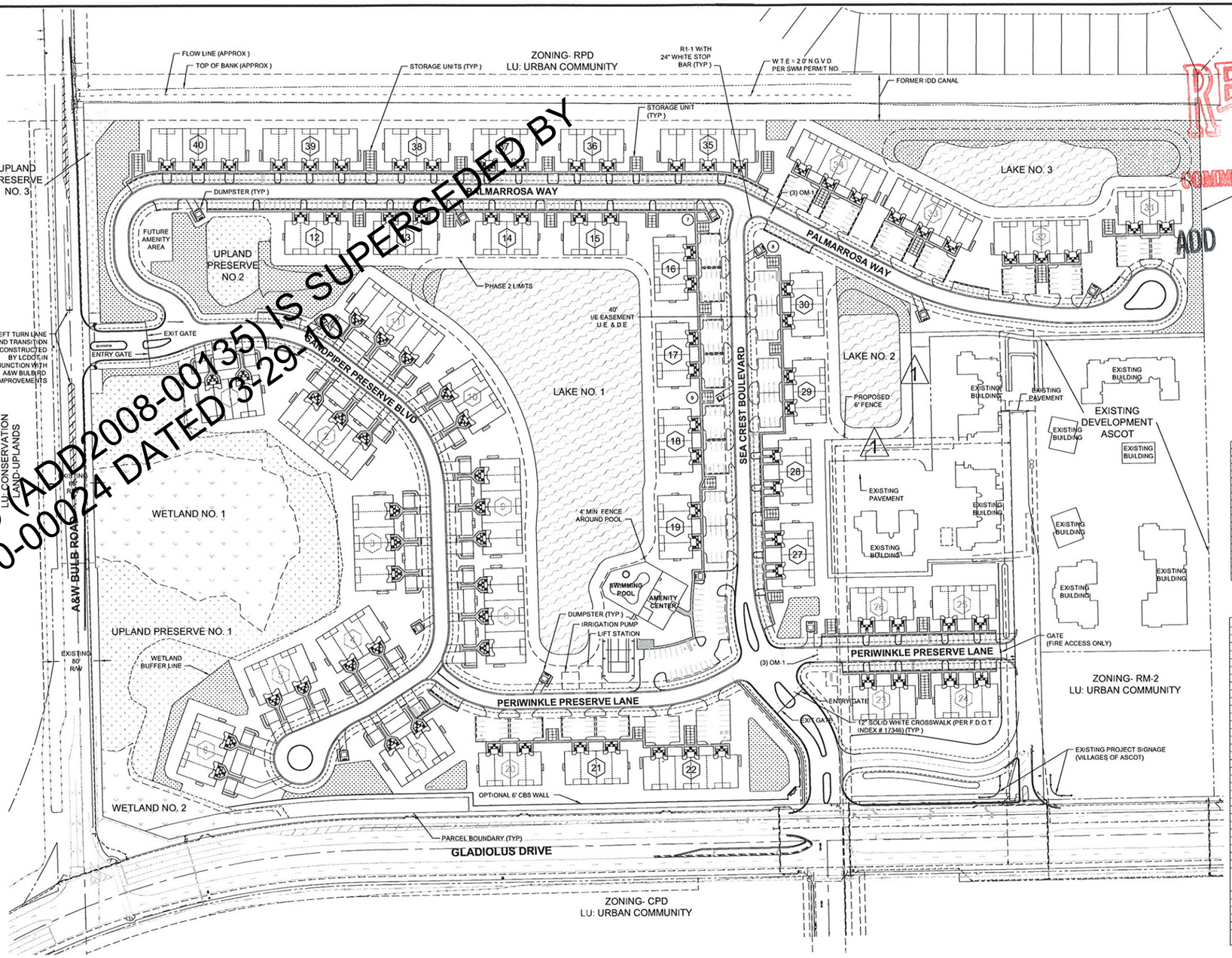
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ATTACHMENT #2
SURROUNDING ZONING


ADD2008-00135
Stonegate Transfer of Development Rights
Attachment 2: Zoning
THIS ADD (ADD2008-00135) IS SUPERSEDED BY ADD2010-00024 DATED 3-29-10
RPD
A & W BULB RD
AG-2
RM-6
RPD
PUD
Subject
Property
RM-8
RM-2
AG-2
CF-1
PUD
AG-2
CS-1
PUD
GLADIOLUS DR
CPD
CC
AG-2
BASS RD
MPD
AG-2
AG-2
RPD
TFC-2
0 100 200 300 400 500 600
Feet
N
W E
S
Zoning
Map Generated: January 2009
Data for: ADD2008-135
Lee County DCD/Division of Planning

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ADD2010-00024 DATED 3-29-10

ATTACHMENT #3
SITE PLAN



THIS ADD (ADD2008-00135) IS SUPERSEDED BY ADD2010-00024 DATED 3-29-10

RECEIVED
NOV 21 2008
COMMUNITY DEVELOPMENT

ADD 2008 00135

N
W E
S
0 50 100 200
SCALE IN FEET

LEGEND

- WETLAND
- UPLAND PRESERVE
- LAKE
- RESTORATION AREAS

SITE DENSITY CALCULATIONS			
1. PRELIMINARY STANDARD UNITS	MAXIMUM STANDARD	DENSITY	UNITS
A. TOTAL UPLAND ACRES	44.48 AC.	X 6=	266.88
B. TOTAL FRESHWATER WETLAND ACRES	2.19 AC.	X 6=	13.14
C. PRELIMINARY TOTAL STANDARD UNITS			280
2. MAXIMUM PERMITTED UNITS	MAXIMUM PERMITTED		UNITS
A. TOTAL UPLAND ACRES	46.67 AC.	X 8=	373
3. TOTAL ALLOWED STANDARD UNITS			280
4. BONUS UNITS			
A. LOW MODERATE HOUSING DENSITY			0
B. TDR UNITS			132
C. SUB TOTAL			132
5. TOTAL PERMITTED UNITS			412
6. TOTAL PROPOSED UNITS			368

STONEGATE - INDIGENOUS PRESERVATION SUMMARY		
PROJECT AREA =	46.67	ACRES
OPEN SPACE REQUIRED =	40%	ACRES
TOTAL INDIGENOUS PRESERVATION PROVIDED =	8.14	ACRES
TOTAL INDIGENOUS PRESERVATION PROVIDED (%) =	43.5%	OF PROJECT AREA
WETLAND #1 =	1.76	ACRES
WETLAND #2 =	0.43	ACRES
UPLAND PRESERVE #1 =	2.74	ACRES
UPLAND PRESERVE #2 =	0.17	ACRES
UPLAND PRESERVE #3 =	0.32	ACRES
WETLAND/PRESERVE SUBTOTAL =	5.42	ACRES
RESTORATION AREA #1 =	0.32	ACRES
RESTORATION AREA #2 =	0.58	ACRES
RESTORATION AREA #3 =	0.04	ACRES
RESTORATION AREA #4 =	0.20	ACRES
RESTORATION AREA #5 =	0.14	ACRES
RESTORATION AREA #6 =	0.05	ACRES
RESTORATION AREA #7 =	0.15	ACRES
RESTORATION AREA #8 =	0.07	ACRES
RESTORATION AREA #9 (LAKE LITTORAL SHELF) =	0.09	ACRES
RESTORATION AREA #10 =	0.09	ACRES
RESTORATION AREA #11 (LAKE LITTORAL SHELF) =	0.07	ACRES
RESTORATION AREA #12 =	0.79	ACRES
RESTORATION AREA #13 (LAKE LITTORAL SHELF) =	0.08	ACRES
RESTORATION AREA #14 (LAKE LITTORAL SHELF) =	0.18	ACRES
RESTORATION AREA SUBTOTAL =	2.85	ACRES
MITIGATION BANK (LITTLE PINE ISLAND) =	1.00	ACRES
WETLAND/PRESERVE AREAS	5.42	ACRES
UPLAND PRESERVE #1	0.69	ACRES*
	0.27	ACRES**
RESTORATION AREA (2 to 1 RATIO)	1.43	ACRES
OFFSITE MITIGATION BANK (3 to 1 RATIO)	0.33	ACRES
TOTAL INDIGENOUS PROVIDED =	8.14	ACRES

* 125% CREDIT FOR CONTIGUOUS > 1 ACRE & 75 FEET IN WIDTH
** ADDITIONAL 10% CREDIT FOR PRESERVATION ADJACENT TO ROADWAY

1 - 20' LAKE SETBACK

REFUSE AND SOLID WASTE DISPOSAL CALCULATIONS:
TOTAL SITE REQUIRED DISPOSAL AREA = 216+8(368-25) = 2,960 SF
TOTAL SITE PROVIDED DISPOSAL AREA = [(263)(12)] = 3,156 SF

SITE DEVELOPMENT CRITERIA RM-8 ZONING:	
MAXIMUM HEIGHT	35'
WATER BODY SETBACK	25'
REAR SETBACK	20'
FRONT / SIDE SETBACK TO ACCESS EASEMENT/RIGHT OF WAY	20'
MIN. DRIVEWAY LENGTH (FRONT ENTRY GARAGE) TO BACK OF CURB / VALLEY GUTTER	25'
BUILDING SEPARATION	20'

ATTACHMENT 3

Barraco and Associates, Inc.
CIVIL ENGINEERING - LAND SURVEYING
LAND PLANNING - LANDSCAPE DESIGN
www.barraco.net
2271 McGREGOR BOULEVARD
POST OFFICE DRAWER 2800
FORT MYERS, FLORIDA 33902-2800
PHONE (239) 461-3170
FAX (239) 461-3169
FLORIDA CERTIFICATES OF AUTHORIZATION
ENGINEERING 7995 - SURVEYING LB-6940

PREPARED FOR

taylor morrison
Homes inspired by You
TAYLOR MORRISON OF FLORIDA, INC.
4415 METRO PARKWAY
FORT MYERS, FLORIDA 33916
PHONE (239) 444-2900
FAX (239) 444-2980
WWW.TAYLORMORRISON.COM
CB-C1250134

PROJECT DESCRIPTION

STONEGATE

PART OF SECTION 33
TOWNSHIP 45 SOUTH
RANGE 24 EAST
LEE COUNTY
FORT MYERS, FLORIDA

PROJECT ENGINEER

ENGINEER OF RECORD
STEPHANIE CALDWELL, P.E.
FOR THE FIRM
2271 McGREGOR BOULEVARD
FORT MYERS, FLORIDA 33901
FLORIDA P.E. NO. 56103
STEPHANIEC@BARRACO.NET

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FILE NAME	22052AZ01.DWG
LAYOUT	LAYOUT1
LOCATION	J:\22052\DWG\ZONING\
PLOT DATE	FRI 11-21-2008 - 10:36 AM
PLOT BY	BILLY ROARK
DESIGN BY	WILL LOUBRIEL

CROSS REFERENCED DRAWINGS

BASEPLAN = 22052A00.DWG

PLAN REVISIONS

PLAN STATUS

APPROVAL SUBMITTALS PLANS
NOT FOR CONSTRUCTION

ZONING SITE PLAN

PROJECT / FILE NO.	SHEET NUMBER
22052	1