

Summary of Hearing Examiner Recommendation

AMAVIDA RPD

By Quadrum Lakes Park LLC

Request: Rezone the Oasis Cove RPD/CPD to RPD (Amavida) to remove 100,000 square feet of commercial uses and to allow up to 325 residential dwelling units, or an equivalent number of Assisted Living Facility, Continuing Care Facility, or Independent Living Units.

The request will permit an additional 135 dwelling units over the existing 190 dwelling unit equivalents currently on the property.

Location: 7778 Gladiolus Drive & 7661-7794 Calistoble Loop

Iona/McGregor Planning Community

District 2

Size: 32.54 acres

Recommendation: Approve

Deviations: 10

Hearing Examiner Remarks:

The request seeks to rezone property to accommodate expansion of the Amavida senior care facility. The planned expansion continues existing development patterns on Gladiolus Drive and is compatible with surrounding development. The request poses no impacts to environmentally sensitive land or natural resources and will generate less traffic than existing approved development parameters.

The Hearing Examiner made changes to formatting and wording of proposed conditions. Only conditions recommended for removal have been expressly identified. Other changes not specifically called out in strike through underline format, are highly recommended to improve clarity of final resolution. A clean copy of the Hearing Examiner's recommended conditions follow in Exhibit C.

Detailed recommendation follows

DCI2019-00019
Aerial

Legend

 Subject Parcel



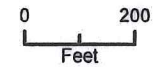
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Feet



DCI2019-00019 Future Land Use

Legend

-  Subject Parcel
-  Central Urban
-  Suburban
-  Public Facilities
-  Conservation Lands
- Upland
-  Wetlands



OFFICE OF THE HEARING EXAMINER, LEE COUNTY, FLORIDA

HEARING EXAMINER RECOMMENDATION

REZONING: DCI2019-00019

Regarding: AMAVIDA RPD

Location: 7778 Gladiolus Drive & 7661-7794 Calistoble Loop
South Fort Myers Planning Community
(District 2)

Hearing Date: February 5, 2020

I. **Request:**

Rezone The Oasis Cove RPD/CPD to RPD (Amavida) to remove 100,000 square feet of commercial uses and to allow up to a total of 325 residential dwelling units, or an equivalent number of Assisted Living Facility, Continuing Care Facility, or Independent Living Units.

The request authorizes 135 dwelling units *in addition to* the 190 dwelling unit equivalents currently developed on the property.

The property legal description is set forth in Exhibit A.

II. **Hearing Examiner Recommendation:**

Approval, subject to conditions and deviations set forth in Exhibit B.

III. **Discussion:**

The Hearing Examiner serves in an advisory capacity to the Board of County Commissioners (Board) on applications to rezone property.¹ In furtherance of this duty, the Hearing Examiner accepted testimony and evidence on the application to rezone the Oasis Cove RPD/CPD² to the Amavida Residential Planned Development.

In preparing a recommendation for the Board, Hearing Examiner must apply the Lee County Comprehensive Plan (Lee Plan), the Land Development Code (LDC)

¹ LDC 34-145(d)(4) a.

² The property is currently zoned Residential Planned Development (RPD) and Commercial Planned Development (CPD).

and other County regulations to the facts adduced at the hearing. There must be substantial competent evidence in the record to support the recommendation to the Board.

Discussion supporting the Hearing Examiner's recommendation of approval follows below.

Synopsis of the Request

Applicant seeks to rezone 32.54 acres from RPD/CPD to RPD. The property is located on the north side of Gladiolus Drive, ½ mile east of Summerlin Road.

The existing Oasis Cove RPD/CPD is approved for 190 multi-family dwelling units and 100,000 sq. feet of commercial development.³ The request replaces approved commercial square footage with 135 dwelling units. The additional residential units may be developed as assisted living (ALF), continuing care (CCF), and independent living (ILU) units utilizing LDC conversion formulas.

The resulting Amavida RPD will consist of a maximum of 325 dwelling units or equivalent ALF, CCF, or ILU units.

Zoning History

The site was originally re-zoned from Agriculture (AG-2) to RPD for a multi-family residential project in 2004, but remained vacant and undeveloped for several years.⁴ In 2010, the Board approved a request to rezone the property from RPD to the Oasis Cove RPD/CPD.⁵ Several administrative amendments followed in 2016, 2017, and 2018.⁶

³ Of the 100,000 sq. feet of approved commercial sq. footage, 25,000 sq. feet may consist of retail commercial uses. The dwelling units may be developed as 190 multi-family dwellings or any combination of assisted living, continuing care, or independent living units, not to exceed a maximum 190 standard dwelling units on 21.75 acres of the RPD portion of the project. The project is partially developed with a mix of assisted living, continuing care, or independent living units. The CPD portion of the Oasis Cove Master Concept Plan (MCP) is vacant.

⁴ Z-04-043 approved the Gladiolus RPD on August 30, 2004. The zoning resolution approved 275 multi-family dwelling units with a maximum building height of 45 feet. The RPD zoning approval was followed by an administrative amendment authorizing a change in building type and to allow single story detached garages.

⁵ Z-10-009 approved by the Board on June 7, 2010. The Oasis Cove RPD/CPD resolution authorized development of assisted living, continuing care and independent living units at the density equivalent of 190 multi-family dwellings. In addition, the resolution approved 100,000 square feet of office and retail commercial use. Retail commercial uses were capped at 25,000 square feet.

⁶ ADD 2016-000111(a) (amending condition regarding indigenous restoration/creation areas and adding seven deviations from LDC standards regarding perimeter setbacks, building separation, water body setbacks, excavation setbacks, lake maintenance easements), ADD 2016-00139 (water main loop deviation), ADD 2017-00094 (sign deviations), and ADD 2018-00094 (planting size along western buffer).

The existing RPD/CPD is developed with a senior care facility consisting of 300 independent living units and 160 assisted living units with amenities.⁷ Commercial tracts within the project are vacant.

The proposed rezoning of the property to RPD allows for expansion of the existing senior care facility on vacant tracts.

Character of the Area/Compatibility with surrounding development

The property is mainly in the Central Urban future land use category in the South Fort Myers planning community.⁸ The South Fort Myers planning community is located in the center of Lee County and serves as a core area for professional services and other commercial activity.⁹ Most of the surrounding properties are mostly designated Central Urban on the County's Future Land Use Map.¹⁰

The property fronts on Gladiolus Drive and shares its north boundary with Lakes Regional Park. Gladiolus Drive is a six lane divided arterial roadway developing with an array of residential and commercial uses. The site's east and west property lines abut undeveloped property zoned for agriculture.¹¹

Urban services, facilities and infrastructure including public water, sewer, law enforcement and fire stations are in place to serve the project.

Expanding the Amavida senior care facility to encompass the entire site continues existing development patterns and is compatible with surrounding development.

Traffic

Replacing commercial square footage with residential units represents a reduction in intensity from a traffic generation standpoint.¹² Site related improvements constructed to support the formerly anticipated commercial intensity will accommodate traffic generated by the proposed expansion of the senior living facility. The requested zoning will have no detrimental impact on the surrounding road network.¹³

⁷ The independent dwelling and assisted living units are the density equivalent of 190 dwelling units (8.7 units per acre on 21.75 acres of the project). See Administrative Interpretation ADD 2012-0007.

⁸ Lee Plan Policies 1.1.3, 1.5.1. (A small portion of the site is designated Wetlands); Map 16 (Lee County Planning Communities).

⁹ South Fort Myers has higher intensity land use categories and contains the county's major hospitals, a baseball spring training facility, and state college.

¹⁰ Lee Plan Map 1.

¹¹ Lee County owns the abutting vacant property to the east.

¹² Staff Report Attachment Q: Traffic Impact Statement for Amavida RPD dated August 16, 2019 prepared by TR Transportation Consultants, Inc.

¹³ Staff Report Attachment R: Memo dated December 18, 2019 from Lili Wu to Dirk Danley.

Environmental

The request poses no impacts to environmentally sensitive land or natural resources. The proposed MCP maintains previously established marsh wetland and pine-mesic oak upland area preserves on the site.¹⁴ Open space depicted on the proposed MCP complies with code requirements.¹⁵

Urban Services

Urban services are the services, facilities, capital improvements, and infrastructure necessary to support development at urban levels of density and intensity.¹⁶ The Lee Plan requires an evaluation of the availability of urban services during the rezoning process.¹⁷

There is a range of urban services and infrastructure available to serve the property.¹⁸ These include a library,¹⁹ parks,²⁰ fire stations,²¹ EMS,²² law enforcement,²³ and water and sewer service.²⁴ Shopping, medical and employment centers are within convenient traveling distances as well. The property fronts on a six lane divided arterial roadway with bike lanes and sidewalks.²⁵ It is anticipated surrounding roadways will operate at acceptable levels of service at project completion.²⁶ There is no public transportation service in the immediate vicinity.²⁷

Conditions

The County must administer the zoning process so that proposed land uses acceptably minimize adverse impacts to adjacent property.²⁸ Conditions must

¹⁴ The proposed Amavida MCP continues to preserve approximately 0.1 acres of marsh wetland and over an acre of pine-mesic oak uplands. These preserve area received a certificate of compliance under development order DOS 2016-00049. Lee Plan Objective 77.3 and Standard 4.1.4.

¹⁵ Lee Plan Goal 77 and Objective 77.1.

¹⁶ Lee Plan Glossary; Urban services include: public water and sewer, paved streets, public transit, parks and recreation facilities, urban levels of police, fire and emergency services, urban surface water management, schools, employment, industrial and commercial centers, institutional, public, or administrative facilities, community facilities such as senior citizen centers, libraries and community centers.

¹⁷ Lee Plan Policy 2.2.1.

¹⁸ Lee Plan Policy 2.2.1; Staff Report Attachment D.

¹⁹ Lakes Regional Library.

²⁰ Lakes Regional Park, Wa-Ke Hatchee Recreation Center.

²¹ South Trail Fire & Rescue District Station 61, approximately four miles from the site.

²² Lee County EMS Medic 8, 1.6 miles from the site.

²³ Lee County Sheriff Office, 1.6 miles from the site.

²⁴ Lee Plan Maps 6, 7; Lee County Utilities.

²⁵ Gladiolus Drive is a six-lane County maintained arterial roadway. Lee County Administrative Code 11-1.

²⁶ Staff Report Attachment Q: Traffic Impact Statement for Amavida RPD dated August 16, 2019 prepared by TR Transportation Consultants, Inc.

²⁷ Closest transit stop is approximately a mile from the site at the intersection of Gladiolus Drive and Winkler Road. Staff Report Attachment D.

²⁸ Lee Plan Objective 7.1 and Policies 7.1.1, 7.1.8.

plausibly relate to the impacts anticipated from proposed development *and* be pertinent to the mitigation of those impacts on the public health, safety and welfare.²⁹

Staff recommends modifications to conditions previously imposed on the Oasis Cove RPD/CPD. Staff recommends removal of references to commercial square footage and inclusion of revised dwelling unit limits consistent with the RPD zoning request.

Hearing Examiner recommends removing conditions that restate the LDC and other applicable laws. The Hearing Examiner revised proposed conditions to enhance clarity.³⁰

Deviations

A “deviation” is a departure from the land development regulations.³¹ Applicant must demonstrate a requested deviation will enhance the objectives of the planned development and not cause a detriment to public interests.³²

The Hearing Examiner's standard of review for deviations requires a finding that the deviation:

1. Enhances the objectives of the planned development; and
2. Preserves and promotes the intent of the LDC to protect the public health, safety and welfare.³³

The governing Oasis Cove RPD/CPD resolution approves 12 deviations from the LDC. Applicant's request to rezone the project to RPD maintains the layout of the existing Oasis Cove MCP. Replacing commercial square footage with residential dwellings renders two previously approved deviations no longer necessary. The proposed Amavida RPD retains the remaining 10 deviations. Applicant requested no additional deviations.

Conclusion

The Hearing Examiner agrees with staff's recommendation to approve the requested Amavida RPD, subject to conditions and deviations. The request is consistent with the Lee Plan and satisfies the County's adopted criteria for rezoning property.

²⁹ LDC 34-932(b).

³⁰ LDC 34-932.

³¹ LDC 34-2.

³² LDC 34-373(a)(9).

³³ LDC 34-377(a)(4).

IV. Findings and Conclusions:

The Hearing Examiner makes the following findings and conclusions based on testimony and evidence in the record:

A. As conditioned herein, the proposed Amavida RPD:

1. Complies with the Lee Plan. See Lee Plan Vision Statement Paragraph 15, Lee Plan Goals 4, 5, Objectives 1.5, 2.2, 73.3, and Policies 1.1.3, 2.1.4, 5.1.1, 5.1.7, 73.3.1; Lee Plan Maps 1, 6, 7, 16.

2. Complies with the LDC and other County regulations. See LDC 34-341, 34-411, 34-413, 34-491, 34-612(2), 34-934, 34-1411, 34-1414, 34-1494.

3. Is compatible with existing and planned uses in the area. See Lee Plan Objectives 2.1, 2.2, Policies 1.1.3, 1.5.1, 2.1.1, 2.1.4, 2.2.1, 5.1.3, 5.1.6; LDC 34-411(c), (i), and (j).

4. Will provide access sufficient to support the proposed intensity of development and the expected impacts on transportation facilities will be addressed by County regulations and conditions of approval. See Lee Plan Policy 39.1.1, 39.2.1; LDC 34-411(d).

5. Will not adversely affect environmentally critical areas and natural resources. See Lee Plan Goal 77, Objectives 4.1, 77.1, 77.3, Policies 59.1.3, 61.3.3, 77.3.5, Standard 4.1.4; and LDC 34-411(g)(h), 34-414.

6. Will be served by urban services. See Lee Plan Glossary, Maps 6, 7; Objectives 2.1, 2.2, 4.1; Policies 1.1.3, 2.2.1, and Standards 4.1.1 and 4.1.2; LDC 34-411(d).

B. The Master Concept Plan reflects sufficient access to support the intensity of development. In addition, County regulations and conditions of approval will address expected impacts to transportation facilities. See Lee Plan Goal 5, Objective 39.1, Policy 39.1.1; LDC 34-411(d), 34-415(c).

C. The proposed mix of uses is appropriate at the location. See Lee Plan Objectives 2.1, 2.2, Policies 1.1.3, 2.1.1, 5.1.3, 5.1.5, 5.1.6.

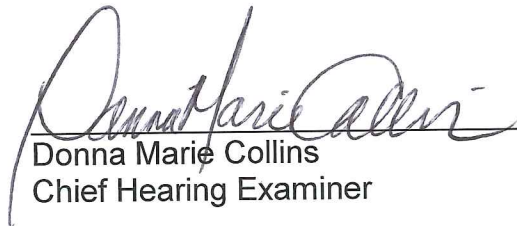
D. The recommended conditions sufficiently protect the public interest and reasonably relate to impacts expected from the development.

E. As conditioned herein, the deviations:

1. Enhance the objectives of the planned development; and

2. Promote the intent of the LDC to protect the public health, safety and welfare. See, 34-377(b)(4).

Date of Recommendation: February 17, 2020.



Donna Marie Collins
Chief Hearing Examiner

Lee County Hearing Examiner Office
1500 Monroe Street, Suite 218
Post Office Box 398
Fort Myers, FL 33902-0398

Exhibits to Hearing Examiner's Recommendation

- Exhibit A Legal Description and Vicinity Map
- Exhibit B Recommended Conditions and Deviations
- Exhibit C Recommended Conditions and Deviations (Clean Version)
- Exhibit D Exhibits Presented at Hearing
- Exhibit E Hearing Participants
- Exhibit F Information

Exhibit A

LEGAL DESCRIPTION AND VICINITY MAP

EXHIBIT A

Banks Engineering

Professional Engineers, Planners & Land Surveyors
FORT MYERS ♦ NAPLES ♦ SARASOTA ♦ PORT CHARLOTTE

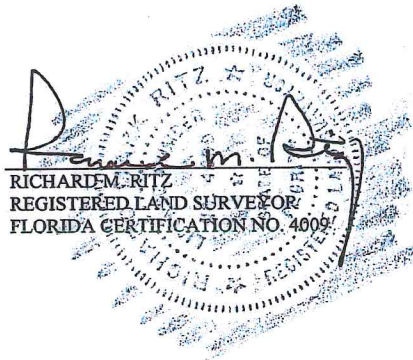
DESCRIPTION
OF A
PARCEL OF LAND
LYING IN
SECTION 35, TOWNSHIP 45 SOUTH, RANGE 24 EAST
LEE COUNTY, FLORIDA

A PARCEL OR TRACT OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, LYING IN SECTION 35, TOWNSHIP 45 SOUTH, RANGE 24 EAST AND BEING FURTHER BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF THE NORTHWEST QUARTER OF SAID SECTION 35; THENCE S.88°56'00"W. ALONG THE NORTH LINE OF SAID FRACTION FOR 1322.88 FEET TO THE NORTHWEST CORNER OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION; THENCE S.01°04'20"E. ALONG THE WEST LINE OF SAID FRACTION FOR 1151.81 FEET TO THE NORTHERLY RIGHT-OF-WAY LINE OF GLADIOLUS DRIVE (COUNTY ROAD 865 - 199.02 FEET WIDE); THENCE N.89°37'57"E. ALONG SAID NORTHERLY RIGHT-OF-WAY LINE FOR 680.01 FEET TO AN INTERSECTION WITH A CURVE TO THE LEFT HAVING A RADIUS OF 1312.39 FEET AND TO WHICH POINT A RADIAL LINE BEARS S.04°33'41"E.; THENCE EASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 9°06'31" FOR 208.64 FEET TO AN INTERSECTION WITH A CURVE HAVING A RADIUS OF 1307.39 FEET AND TO WHICH POINT A RADIAL LINE BEARS S.14°36'39"E.; THENCE EASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 13°48'42" FOR 315.16 FEET; THENCE N. 56°06'08"W. FOR 3.06 FEET; THENCE N.29°10'50"W. FOR 60.46 FEET; THENCE N.28°15'16"W. FOR 30.66 FEET; THENCE N.18°42'13"E. FOR 35.83 FEET; THENCE N.14°50'17"W. FOR 59.82 FEET; THENCE N.09°03'50"E. FOR 46.83 FEET; THENCE N.18°49'48"E. FOR 39.67 FEET; THENCE N.18°12'50"E. FOR 49.13 FEET; THENCE N.37°41'02"E. FOR 20.60 FEET; THENCE N.45°28'41"E. FOR 45.15 FEET; THENCE N.25°14'18"E. FOR 40.31 FEET; THENCE N.09°24'39"E. FOR 38.83 FEET; THENCE N.10°52'34"W. FOR 27.03 FEET; THENCE N.35°51'19"E. FOR 28.90 FEET; THENCE N.70°39'04"E. FOR 29.95 FEET; THENCE S.57°54'34"E. FOR 24.44 FEET; THENCE S.77°09'08"E. FOR 20.52 FEET TO THE EAST LINE OF SAID FRACTION; THENCE N.01°10'59"W. ALONG SAID EAST LINE FOR 554.86 FEET TO THE POINT OF BEGINNING.

BEARINGS ARE BASED ON THE EAST LINE OF THE NORTHWEST QUARTER OF SECTION 35 AS BEARING N.01°10'59"W.

PARCEL CONTAINS 32.54 ACRES, MORE OR LESS.



Applicant's Legal Checked
by DM 10/25/19

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RECEIVED
AUG 21 2019

COMMUNITY DEVELOPMENT

619 99 41 02 100

SKETCH OF DESCRIPTION

OF A
PARCEL OF LAND
LYING IN
SECTION 35, TOWNSHIP 45 SOUTH, RANGE 24 EAST
LEE COUNTY, FLORIDA

DESCRIPTION
A PARCEL OR TRACT OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, LYING IN SECTION 35, TOWNSHIP 45 SOUTH, RANGE 24 EAST AND BEING FURTHER BOUNDED AND DESCRIBED AS FOLLOWS:

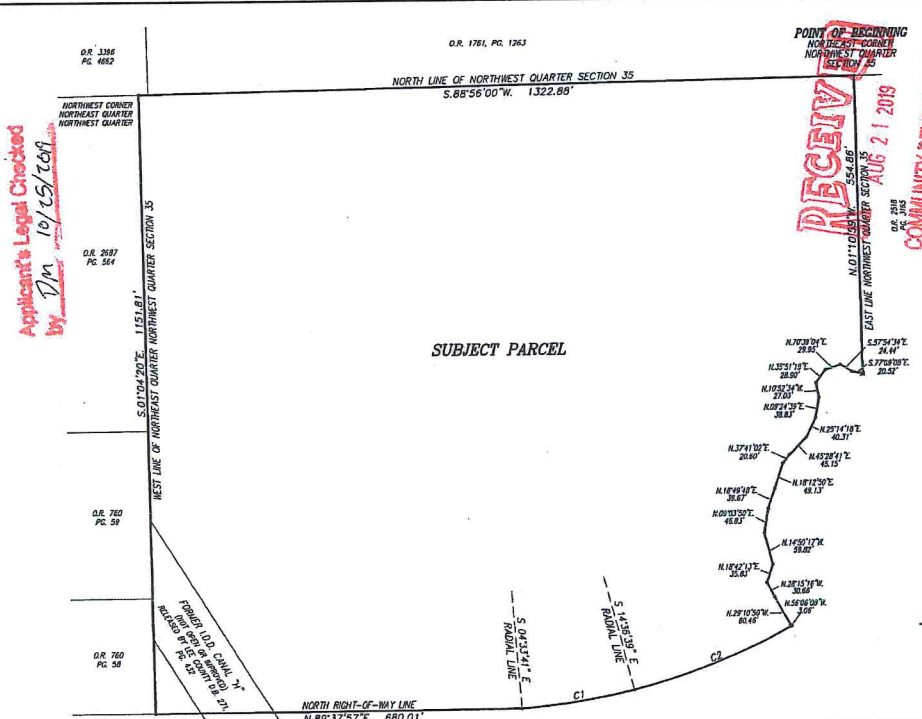
BEGINNING AT THE NORTHEAST CORNER OF THE NORTHWEST QUARTER OF SAID SECTION 35; THENCE S.85°50'00"W. ALONG THE NORTH LINE OF SAID FRACTION FOR 1322.88 FEET TO THE NORTHEAST CORNER OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION; THENCE S.01°04'20"E. ALONG THE WEST LINE OF SAID FRACTION FOR 1151.81 FEET TO THE NORTHERLY RIGHT-OF-WAY LINE OF GLADIOLUS DRIVE (COUNTY ROAD 865 - 198.02 FEET WIDE); THENCE N.85°37'57"E. ALONG SAID NORTHERLY RIGHT-OF-WAY LINE FOR 680.01 FEET TO AN INTERSECTION WITH A CURVE TO THE LEFT HAVING A RADIUS OF 1312.39 FEET AND TO WHICH POINT A RADIAL LINE BEARS S.04°33'41"E; THENCE EASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 90°53'31" FOR 208.64 FEET TO AN INTERSECTION WITH A CURVE HAVING A RADIUS OF 1307.39 FEET AND TO WHICH POINT A RADIAL LINE BEARS S.14°38'39"E; THENCE EASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 13°48'42" FOR 315.16 FEET; THENCE N.50°09'08"W. FOR 31.06 FEET; THENCE N.29°10'50"W. FOR 60.46 FEET; THENCE N.2°15'16"W. FOR 30.66 FEET; THENCE N.18°42'13"E. FOR 35.83 FEET; THENCE N.14°50'17"W. FOR 58.82 FEET; THENCE N.09°03'50"E. FOR 46.83 FEET; THENCE N.18°49'48"E. FOR 38.67 FEET; THENCE N.18°12'50"E. FOR 49.13 FEET; THENCE N.37°41'02"E. FOR 20.80 FEET; THENCE N.45°28'44"E. FOR 45.15 FEET; THENCE N.25°41'18"E. FOR 40.31 FEET; THENCE N.00°24'39"E. FOR 38.83 FEET; THENCE N.10°52'34"W. FOR 27.03 FEET; THENCE N.35°51'19"E. FOR 28.90 FEET; THENCE N.70°39'04"E. FOR 29.55 FEET; THENCE S.57°34'34"E. FOR 24.44 FEET; THENCE S.77°09'08"E. FOR 20.52 FEET TO THE EAST LINE OF SAID FRACTION; THENCE N.01°10'59"W. ALONG SAID EAST LINE FOR 554.86 FEET TO THE POINT OF BEGINNING.

BEARINGS ARE BASED ON THE EAST LINE OF THE NORTHWEST QUARTER OF SECTION 35 AS BEARING N.01°10'59"W.
PARCEL CONTAINS 32.54 ACRES, MORE OR LESS.



PREPARED BY:
Banks Engineering

ENGINEERING, SURVEYING & LAND PLANNING
10511 SIX MILE CYPRESS PARKWAY - SUITE 101
FORT MYERS, FLORIDA 33908
(888) 859-5480
FLORIDA SURVEYING BUSINESS CERTIFICATION NO. 6680



Applicant's Legal Checked
by: DM 10/25/2019

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LEGEND
O.R. OFFICIAL RECORDS BOOK
P.C. PAGE
C1 CURVE DATA NUMBER

CURVE	RADIUS	DELTA	ARC	CHORD	CHORD BEARING
C1	1312.39'	09°06'31"	208.64'	208.42'	S 80°53'03" W
C2	1307.39'	13°48'42"	315.16'	314.40'	S 68°29'00" W
C3	1307.39'	07°21'30"	167.90'	167.79'	S 57°53'54" W

Banks Engineering

Professional Engineers, Planners & Land Surveyors
FORT MYERS ♦ NAPLES ♦ SARASOTA ♦ PORT CHARLOTTE

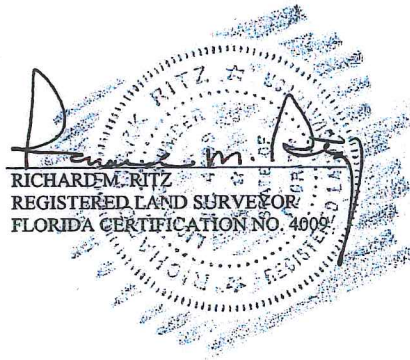
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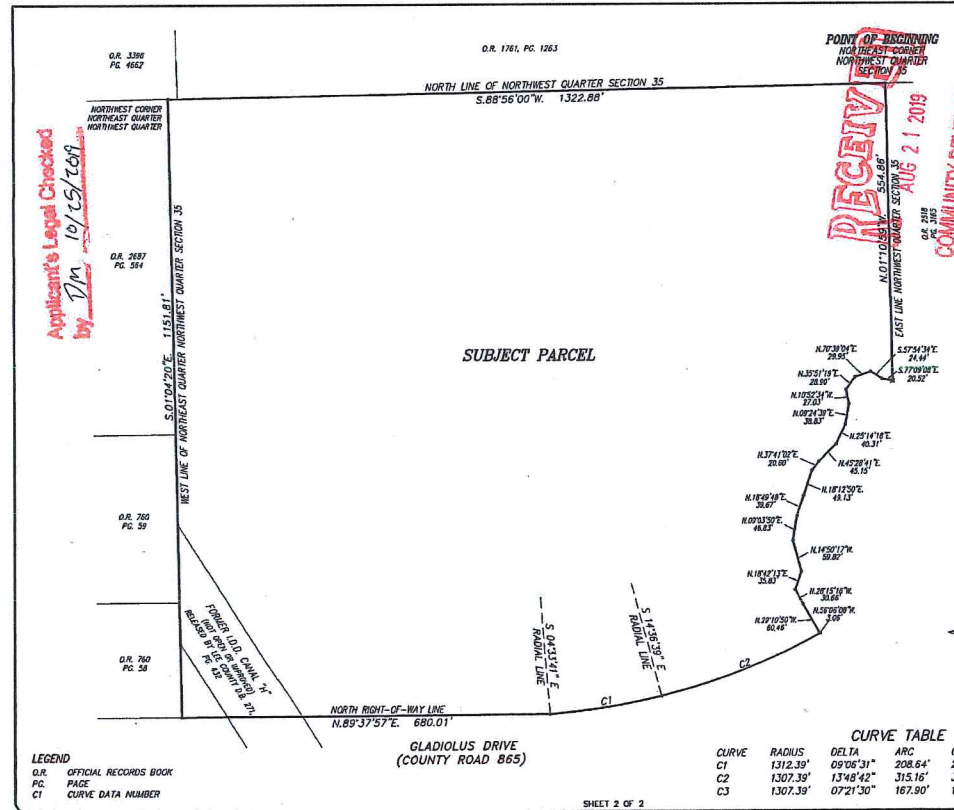
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by DM 10/25/19

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AUG 21 2019

COMMUNITY DEVELOPMENT

Applicant's Legal Checked
by *DM* 10/15/2019



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BEGINNING AT THE NORTHEAST CORNER OF THE NORTHWEST QUARTER OF SAID SECTION 35; THENCE S.88°56'00\"/>

BEARINGS ARE BASED ON THE EAST LINE OF THE NORTHWEST QUARTER OF SECTION 35 AS BEARING N.01°10'59\"/>

PARCEL CONTAINS 32.54 ACRES, MORE OR LESS

N
1\"/>

THIS IS NOT A SURVEY

RICHARD M. RITZ
REGISTERED LAND SURVEYOR
FLORIDA CERTIFICATION NO. 4009

THIS SKETCH IS NOT VALID UNLESS IT BEARS THE SIGNATURE AND QUALIFIED SEAL OF A FLORIDA PROFESSIONAL SURVEYOR AND MAPPER

PREPARED JANUARY 14, 2009 REVISED JUNE 29, 2016

PREPARED BY:

LEGEND
O.R. OFFICIAL RECORDS BOOK
P.C. PAGE
C.T. CURVE DATA NUMBER

GLADIOLUS DRIVE
(COUNTY ROAD 865)

CURVE TABLE

CURVE	RADIUS	DELTA	ARC	CHORD	CHORD BEARING
C1	1312.39'	09°05'31\"/>			

001 2019-66619

DCI2019-00019 Zoning

Legend

 Subject Parcel



0 200
Feet

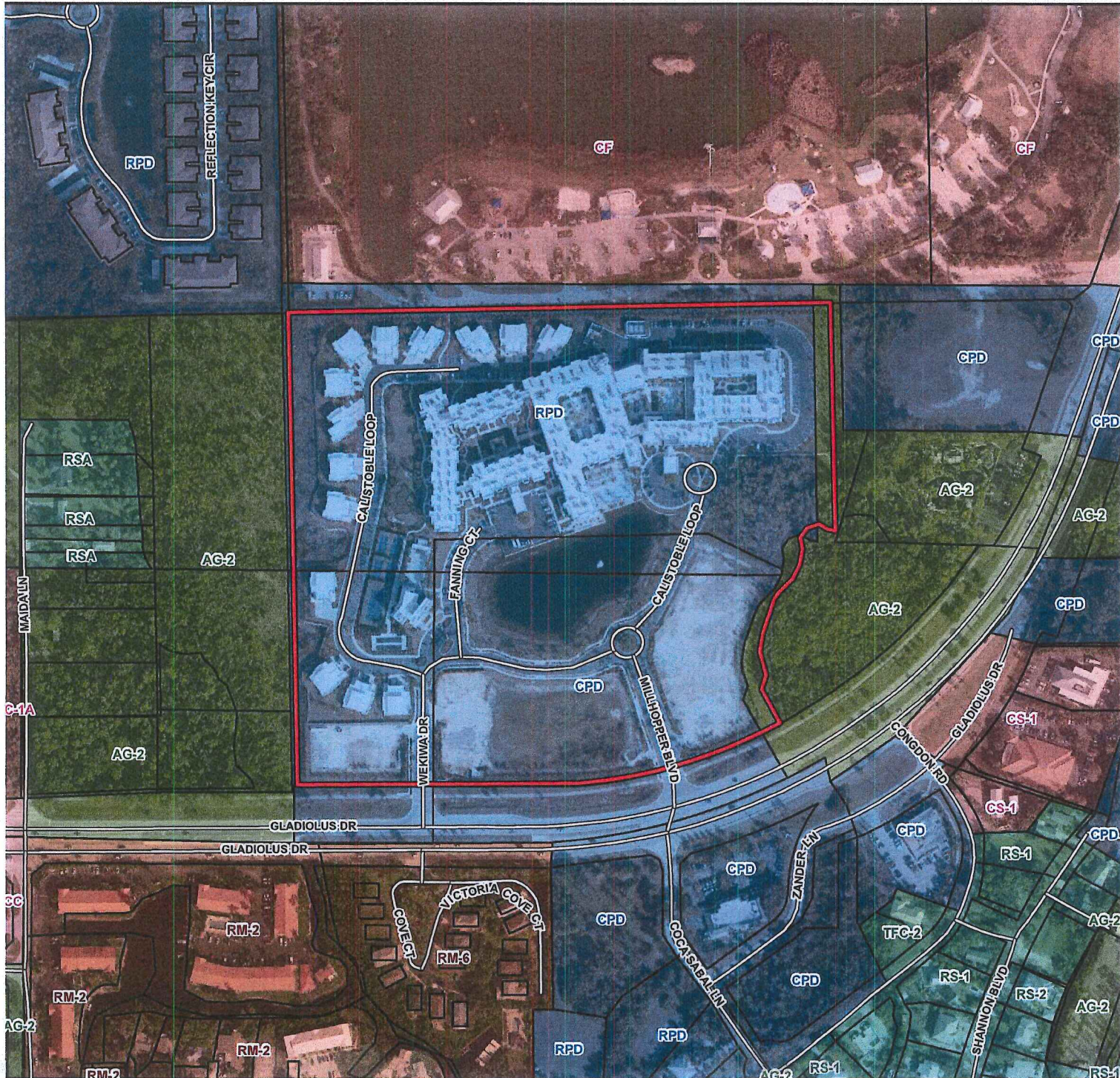


Exhibit B

RECOMMENDED CONDITIONS AND DEVIATIONS

Hearing Examiner Note: *The Hearing Examiner made changes to formatting and wording of proposed conditions. Only conditions recommended for removal have been expressly identified. Other changes not specifically called out in strike through underline format, are highly recommended to improve clarity of final resolution. A clean copy of the Hearing Examiner's recommended conditions follow in Exhibit C.*

CONDITIONS:

1. Development must be consistent with the one-page Master Concept Plan (MCP) entitled "AMAVIDA F/K/A Avida," date stamped "Received November 4, 2019," attached hereto as Exhibit B1, except as modified by the conditions below. Development must comply with the Lee County Land Development Code at time of local Development Order Approval, except where deviations have been granted in this resolution. Subsequent changes to the resolution or MCP may require further development approvals.

Development Parameters/Density

A maximum of 324 standard multi-family dwelling units, or any combination of equivalent Assisted Living Facility (ALF) units, Continuing Care Facility (CCF) units or Independent Living units (ILU), so long as project density does not exceed 324 standard dwelling units on 32.54± acres.

Codified Zoning Approval

This Zoning Resolution codifies and supersedes the following zoning approvals:

Z-04-043, Z-10-009,
ADD2006-00184, ADD2016-00011(a), ADD2016-00139,
ADD2017-00094 and ADD2018-00094.

(The referenced zoning approvals have no further force or effect.)

2. Schedule of Permitted Uses and Site Development Regulations

- a. **Schedule of Uses**

Residential Planned Development

Accessory Uses and Structures
Administrative Office
Assisted Living Facility, *subject to Condition 1*
ATM*
Banks and Financial Establishments, Group I *

Consumption on Premises, *subject to Condition 437* *
Continuing Care Facility, *subject to Condition 1*
Dwelling Unit - Townhouse, Multi-family, *subject to Condition 1*
Entrance Gates and Gatehouses
Essential Services
Essential Services Facilities, Group I
Excavation - Water Retention and Detention - not to include the
removal of excavated material from site, no blasting
Fences and Walls
Food and Beverage Service, limited *
Food Stores, Group I *
Health Care Facilities, Groups I and II only. *
Home Occupation
Independent Living Units, *subject to Condition 1*
Laundry or Dry Cleaning, Group I*
Medical Office *
Models: Model Unit, *subject to Condition 75*)
Non-store Retailers, Group II *
Parking Lot, Accessory, Temporary
Personal Services, Group I *
Pharmacy*
Recreation Facilities, Private, On Site. *
Residential Accessory Uses
Restaurants, Groups I and II *
Signs
Temporary uses - limited to construction trailers, real estate
sales offices.
* Commercial uses are limited to accessory to ALF, CCF, and
ILU uses only.

b. **Site Development Regulations**

ALF, CCF, ILU and accessory uses

Lot Size

Minimum Lot Area:	10,000 square feet
Minimum Lot Depth:	100 feet
Minimum Lot Width:	100 feet

Setbacks

Street (public)	25 feet
Street (private)	20 feet
Side	10 feet

Setbacks (cont'd)

Rear 20 feet
Waterbody 20 feet except where Deviation 5 is applicable

Lakes Park Setback (north boundary line)

Building: 75 feet (for maximum 45 feet bldg. height)
50 feet (for maximum 35 feet bldg. height)
40 feet (for maximum 25 feet bldg. height)

Accessory uses: LDC.

Minimum Building Separation:

Single Story Bldgs. 10 feet
All Other Bldgs. 20 feet

Maximum Lot Coverage: 60 percent

Maximum Height: 45 feet

Multi-Family, Clubhouse, Recreational Facility

Lot Size

Minimum Lot Area: 10,000 square feet
Minimum Lot Depth: 100 feet
Minimum Lot Width: 100 feet

Setbacks

Street (public) 25 feet
Street (private) 20 feet
Side 10 feet
Rear 20 feet
Waterbody 20 feet except where Deviation 5 is applicable

Lakes Park Setback (north boundary line)

Building: 75 feet (for maximum 45 feet bldg. height)
50 feet (for maximum 35 feet bldg. height)
40 feet (for maximum 25 feet bldg. height)

Common Parking Areas: 100 feet to Lakes Park
(One hundred foot limitation is not applicable when residential units are located between Lakes Park and common parking area)

Perimeter Setbacks: Minimum 30-foot building perimeter setback on east, west and south boundary.

Accessory use setbacks: LDC

Minimum Building Separation:

Single Story Bldgs. 10 feet

All Other Bldgs. 20 feet

Maximum Lot Coverage: 60 percent

Maximum Height: 45 feet

Townhouse Uses

Lot Size

Minimum Lot Area: 2,000 square feet

Minimum Lot Depth: 100 feet

Minimum Lot Width: 20 feet

Setbacks

Street (public) 25 feet

Street (private) 20 feet

Side 5/0 feet

Rear 15 feet

Waterbody 20 feet except where Deviation 5 applicable

Lakes Park Setback (north boundary line)

Building: 75 feet (for maximum 45 feet bldg. height)

50 feet (for maximum 35 feet bldg. height)

40 feet (for maximum 25 feet bldg. height)

Common Parking Areas: 100 feet from Lakes Park
(Not applicable when residential units are located between Lakes Park property and common parking area)

Perimeter Setbacks: Minimum 30-foot building perimeter setback on east, west and south boundary.

Accessory uses: LDC

Minimum Building Separation:

Single Story Bldgs.	10 feet
All Other Bldgs.	20 feet
<u>Maximum Lot Coverage</u>	60 percent
<u>Maximum Height</u>	45 feet

3. Vehicular/Pedestrian Impacts
Zoning approval does not address mitigation of vehicular or pedestrian traffic impacts. Additional conditions consistent with the LDC may be required to obtain a local development order.

4. ~~Lee Plan Consistency~~
~~Approval of this zoning request does not guarantee local development order approval. Future development order approvals must satisfy the requirements of the Lee Plan Planning Communities Map and Acreage Allocation Table, Map 16 and Table 1 (b), be reviewed for, and found consistent with Lee Plan provisions.~~

5. ~~Concurrency~~
~~Approval of this rezoning does not constitute a finding that the proposed project meets the concurrency requirements set forth in LDC Chapter 2 and the Lee Plan. The developer is required to demonstrate compliance with all concurrency requirements prior to issuance of a local development order.~~

Hearing Examiner Note: *Development is subject to the Lee Plan and LDC pursuant to Condition 1. Recommend deletion.*

6.4. Development Permits

Issuance of a county development permit does not establish a right to obtain permits from state or federal agencies. Further, it does not establish liability on the part of the County if the Developer: (a) does not obtain requisite approvals or fulfill obligations imposed by state or federal agencies or (b) undertakes actions that result in a violation of state or federal law.

7.5. Model Units/Real Estate Sales

- a. Model units are limited to a maximum of eight.
- b. Models cannot be of the same floor plan and each must be a different design.
- c. Real estate sales are limited to administrative offices within model units.
- d. Real estate sales will be limited to the sale of lots or units within the development.
- e. Hours of operation: Monday - Sunday 8:00 a.m. to 8:00 p.m.
- f. Dry models are prohibited.

8.6. Casino-style Games are prohibited.

9.7. Consumption on Premises

- a. Consumption on Premises is limited to indoor seating in conjunction with a Group II or III Restaurant with a 4-COP-SRX or 2-COP beverage license.
- b. The hours of operation for indoor consumption on premises is limited to between 11:00 a.m. to 11:00 p.m. daily.
- c. Sale, service, and consumption of alcoholic beverages are prohibited unless food and non-alcoholic beverage service is available on the same premises.
- d. Outdoor consumption on premises may be approved by a special exception or an amendment to the planned development. At public hearing, Applicant must provide details of outdoor seating areas serving outdoor consumption on premises (square footage,

number of seats, proposed hours, distance to Lakes Park, outdoor entertainment, etc.) consistent with the LDC.

40-8. Hurricane Shelter

Developer must provide an on-site hurricane shelter serving ALF, CCF, and ILU units to house residents during storm events. On-site shelters and required equipment and supplies for the facilities must comply with the following standards, as well as other LDC standards:

- a. Elevation to the anticipated storm surge from a land falling Category "5" storm.
- b. Construction to withstand winds of 200 miles per hour in accordance with the Florida Building Code.
- c. Construction with minimum exterior glass with all glazed openings provided with impact protection in accordance with the Florida Building Code.
- d. Equipped with emergency power and potable water supplies to last up to five days.
- e. Protected with adequate ventilation, sanitary facilities, and first aid medical equipment.

41-9. Hurricane Plan

- a. Developer, his successors or assigns, will provide an educational program on an annual basis, in conjunction with the staff of the Lee County Emergency Management Department (EMS), which provides literature, brochures, and speakers for Hurricane Awareness/Preparedness seminars describing the risks of natural hazards.
- b. Developer, his successors or assigns, will formulate an emergency hurricane notification and evacuation plan for the development subject to review and approval by EMS.
- c. Developer will coordinate with Lee County Division of Public Safety/EMS to lessen the project's adverse impacts on the County's hurricane preparedness process.
- d. Developer must comply with the Lee County Hurricane Shelter Ordinance.

42.10. FEMA Floodway Area

Fill within the FEMA floodway areas is prohibited. The fill (encroachment) includes, but not limited to, raising vegetative buffer zones, constructing perimeter berms, or structure/fill that will hinder flow within the FEMA floodway. If future changes in the plan involve a fill/encroachment to the floodway, the developer must obtain a Letter of Map Revision (LOMR) or No-Rise Certification from governing agencies.

43.11. Access to Lakes Park

The design and construction of the pedestrian access to Lakes Park is subject to approval by the Lee County Department of Public Works during the local development order review process. The developer is responsible for all costs associated with the design and construction of the access. The access must be gated and locked by the property owner daily from dusk to 7:00 a.m.

44.12. Open Space

Development order plans must delineate a minimum 13.02 acres of open space.

45.13. Indigenous Preservation

- a. Development order plans must depict preservation in substantial compliance with the following:
 - (1) a minimum 1.19 acres existing pine-mesic oak upland (minimum 1.6 acres with credits taken); and
 - (2) a minimum 0.10 acre existing marsh wetland; and
 - (3) a minimum 0.74 acre indigenous creation/restoration area to provide minimum 15-foot, average 25-foot-wide upland buffers to the on-site wetland preserves and off-site conservation lands.
- b. Landscape plans must depict the indigenous creation/restoration areas to be planted per the approved Indigenous Restoration Plan attached as Exhibit **B2**.
- c. Developer must submit an Indigenous Management Plan for the indigenous preservation and creation/restoration areas for Environmental Sciences staff review. The indigenous Management Plan must comply with the LDC and include a map showing the mechanical and hand removal areas to be cleared of exotics.

- d. Development order plans must depict a minimum 20-foot building and accessory structure setback to indigenous preservation and creation/restoration areas.

16.14. Protected Species

Development order applications must include American alligator and listed wading bird species management plans in compliance with the LDC. The management plans must include information for residents on the importance of the littoral areas and adjacent preserves for providing nesting and foraging habitat. Development order plans must depict the location and detail of signage notifying residents that alligators may be present and it is dangerous and illegal to feed or harass alligators.

17.15. Buffer Conditions

Development order Landscape Plans must depict buffers in substantial compliance with the approved MCP and Landscape Exhibit (Exhibit **B3**). In addition, Landscape Plans must reflect:

- a. One gallon, installed three-foot on center/ groundcover plantings along the interior side of the 30-foot wide Type F buffer; and,
- b. If parking areas are proposed adjacent to the northern property line, then each required 18-foot wide island abutting the 30-foot Type F buffer must be planted with one native canopy tree, minimum 10 feet in height and native grasses, one-gallon container size, installed two-foot on centers; and,
- c. Required Type F buffer vegetation to be measured from the final grade of the on-site adjacent parking lot or roadway if the buffer is abutting proposed parking area or roadway; and,
- d. Required Type F buffer trees installed in a configuration to provide a continuous visual canopy screen within one year after time of planting. If a continuous visual canopy screen is not obtained within one year after time of planting, then additional trees may be required; and,
- e. Required Type F buffer trees and palms must not be pruned to reduce height or canopy spread.

18-16. Lakes Park/Wildlife Protection

Development order plans must depict:

- a. Lighting of pedestrian and parking areas directed internally to the site. Parking lot areas must be illuminated with enough intensity to create secure areas consistent with the LDC; and
- b. Except as provided herein, parking lot lamps must be hooded or globed and must not exceed 20 feet in height. Parking lot lamps may not exceed 16 feet in height if located between residential buildings structures and north property line abutting Lakes Park, and if located between buildings and the east property line abutting the off-site County owned preserve; and
- c. Mercury vapor lamps/lights are prohibited.
- d. Prior to local development order approval, development plans for buildings must be reviewed by staff for the utilization of window and architectural treatments to reduce or break up window panel reflection in order to decrease the potential of bird strikes. Examples of acceptable window and architectural treatments may include the use of non-reflective tinting, ultraviolet reflective decals, exterior sun shades, smaller windows, window awnings or similar treatments. This condition is applicable to the window and door panels on the northern building facades facing Lakes Park and on the eastern building facades facing the offsite County owned preserve within Lots 7, 4 and 5.

19-17. Bird Strike Prevention

The bird strike prevention mechanism approved as part of the development order must be found sufficient by the Development Services staff prior to issuing a Certificate of Compliance for buildings facing Lakes Park and the County preserve to the east,

~~20. Building height will be measured from the minimum required flood elevation pursuant to Florida Building Code Section 1612.4~~

Hearing Examiner Note: *Recommend deletion of condition because it restates LDC and applicable law.*

21-18. Surface Water Quality Monitoring

Prior to Development Order approval, developer must work with Lee County Division of Natural Resources (DNR) to develop a surface water quality monitoring plan. The monitoring plan must comply with the LDC and establish overall goals and objectives, monitoring and reporting

frequencies, monitoring station locations, parameters to be monitored, sampling protocols and analysis procedure contingency plans and acceptable thresholds. The plan must include pre-development sampling and evaluation and quarterly monitoring once development commences. General parameters to be monitored will include pollutants, oil and grease, chemical oxygen demand, PH, biochemical oxygen demand, total suspended solids, total phosphorous, TKN, asbestos and nitrate. Developer will coordinate with the County to determine the parameters relevant to the project prior to finalizing the monitoring plan.

DEVIATIONS:

Hearing Examiner Note: *There are no additional deviations requested in connection with the request to rezone the site to RPD. Two previously granted deviations applicable solely to commercial development were withdrawn at hearing.*

1. Connection Separation. Deviation (1) seeks relief from the LDC §10-285(a), Table 1, requirement to provide a 660-foot connection separation on an arterial road; to allow 628 feet of separation on Gladiolus Drive.

This deviation was previously APPROVED.
2. Withdrawn.
3. Withdrawn.
4. Minimum Separation of Buildings. Deviation (4) seeks relief from LDC 34-935(e)(4) which requires a minimum building separation of one-half the sum of their heights or 20 feet whichever is greater; to allow a minimum separation of 10 feet for single-story structures and a minimum building separation of 20 feet for other buildings.

This deviation was previously APPROVED.
5. Waterbody Setbacks. Deviation (5) seeks relief from LDC 34-2194(b), which requires a minimum 25 foot setback to an artificial body of water to allow a minimum waterbody setback of 0 feet for buildings and access ways where bulkheads or other hardened shoreline structures are provided.

This deviation was previously APPROVED.

6. Excavations for Water Retention and Detention. Deviation (6) seeks relief from LDC 10-329(d)(1)a. which requires a minimum 25-foot setback for excavations to proposed right-of-way line or easement for a local road, to allow a minimum 0 foot setback for excavations to accessways along the northern portion of the lake.

This deviation was previously APPROVED.

7. Surface Water Management Systems. Deviation (7) seeks relief from LDC 10-418(3) which states that hardened shoreline structures may comprise up to 20 percent of an individual lake shoreline, to allow up to 40 percent of the lake shoreline to comprise of hardened shoreline structures.

This deviation was previously APPROVED.

8. Drainage Easements. Deviation (8) seeks relief from LDC 10-328(a) which states that a 20-foot wide easement for maintenance purposes must be provided, to allow a 20-foot wide easement LME in areas as shown on the Master Concept Plan and no LME where bulkhead and 0-foot setback are provided.

This deviation was previously APPROVED.

9. Signs. Deviation (9) seeks relief from LDC 30-153(2)a.1.ii which permits a maximum of two (2) identification signs if frontage along any one street exceeds 330 linear feet provided that the total combined sign area of both signs does not exceed 300 square feet, to permit a total of five (5) identification signs with a total combined area of 438 square feet along Gladiolus Drive.

This deviation was previously APPROVED, subject to the following conditions:

- i. The size, general location, and spacing of the requested signage must be in compliance with the exhibit entitled Signage monument Separation Plan - Deviation 9, dated May 26-2017, attached as Exhibit "B4"
 - ii. The right-of-way setback for the requested signage may not be less than five (5) feet as depicted on the exhibit entitled Signage Monument Location Exhibit, dated April 26, 2017, Attached as Exhibit "B5".
10. Signs. Deviation (10) seeks relief from LDC 30-153(2)a.4 which requires identifications signs to be set back a minimum of 15 feet from any right-of-way or easement, to permit the (5) proposed identification signs to be constructed within five (5) feet of the Gladiolus Drive right-of-way.

This deviation was previously APPROVED, subject to the following conditions:

- i. The size, general location, and spacing of the requested signage must be in compliance with the exhibit entitled Signage monument Separation Plan - Deviation 9, dated May 26-2017, attached as Exhibit "B4"
 - ii. The right-of-way setback for the requested signage may not be less than five (5) feet as depicted on the exhibit entitled Signage Monument Location Exhibit, dated April 26, 2017, Attached as Exhibit "B5".
11. Plant Materials Standards. Deviation (11) seeks relief from LDC 10-420 which requires trees to be installed at ten feet in height and shrubs to be installed at 48 inches in height to allow trees to be installed six feet in height and shrubs installed at 24 inches in height along the portions of the western buffer.

This deviation was previously APPROVED, subject to the following conditions:

- i. Prior to development order approval, the western buffer must illustrate 131 trees installed at a height of six feet, 761 shrubs installed at a height of 24 inches and 2,116 one gallon groundcovers. All plant material must be salt tolerant and native species.
 - ii. The development must be substantial compliance with Exhibit BH, dated May 23, 2018.
12. Water Main Installation. Deviation (12) from LDC 10-384(c)(2) for proposed 12 inch water main distribution system connecting to an existing 16 inch water main with an external looping exceeding 2,000 feet.

This deviation was previously APPROVED.

Exhibits to Conditions:

- B1 Master Concept Plan
- B2 Indigenous Restoration Plan
- B3 Landscape Exhibit
- B4 Signage Monument Separation Plan
- B5 Signage Monument Location Exhibit

Exhibit C

RECOMMENDED CONDITIONS AND DEVIATIONS
(Clean Version)

CONDITIONS:

1. Development must be consistent with the one-page Master Concept Plan (MCP) entitled "AMAVIDA F/K/A Avida," date stamped "Received November 4, 2019," attached hereto as Exhibit **B1**, except as modified by the conditions below. Development must comply with the Lee County Land Development Code at time of local Development Order Approval, except where deviations have been granted in this resolution. Subsequent changes to the resolution or MCP may require further development approvals.

Development Parameters/Density

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Codified Zoning Approval

This Zoning Resolution codifies and supersedes the following zoning approvals:

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2. Schedule of Permitted Uses and Site Development Regulations

a. **Schedule of Uses**

Residential Planned Development

Accessory Uses and Structures

Administrative Office

Assisted Living Facility, *subject to Condition 1*

ATM*

Banks and Financial Establishments, Group I *

Consumption on Premises, *subject to Condition 7 **

Continuing Care Facility, *subject to Condition 1*

Dwelling Unit - Townhouse, Multi-family, *subject to Condition 1*

Entrance Gates and Gatehouses

- Essential Services
- Essential Services Facilities, Group I
- Excavation - Water Retention and Detention - not to include the removal of excavated material from site, no blasting
- Fences and Walls
- Food and Beverage Service, limited *
- Food Stores, Group I *
- Health Care Facilities, Groups I and II only. *
- Home Occupation
- Independent Living Units, *subject to* Condition 1
- Laundry or Dry Cleaning, Group I*
- Medical Office *
- Models: Model Unit, *subject to* Condition 75)
- Non-store Retailers, Group II *
- Parking Lot, Accessory, Temporary
- Personal Services, Group I *
- Pharmacy*
- Recreation Facilities, Private, On Site. *
- Residential Accessory Uses
- Restaurants, Groups I and II *
- Signs
- Temporary uses - limited to construction trailers, real estate sales offices.
- * Commercial uses are limited to accessory to ALF, CCF, and ILU uses only.

b. Site Development Regulations

ALF, CCF, ILU and accessory uses

Lot Size

Minimum Lot Area:	10,000 square feet
Minimum Lot Depth:	100 feet
Minimum Lot Width:	100 feet

Setbacks

Street (public)	25 feet
Street (private)	20 feet
Side	10 feet
Rear	20 feet
Waterbody	20 feet except where Deviation 5 is applicable

Setbacks (cont'd)

Lakes Park Setback (north boundary line)

Building: 75 feet (for maximum 45 feet bldg. height)
50 feet (for maximum 35 feet bldg. height)
40 feet (for maximum 25 feet bldg. height)

Accessory uses: LDC.

Minimum Building Separation:

Single Story Bldgs. 10 feet
All Other Bldgs. 20 feet

Maximum Lot Coverage: 60 percent

Maximum Height: 45 feet

Multi-Family, Clubhouse, Recreational Facility

Lot Size

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Common Parking Areas: 100 feet to Lakes Park.

(One hundred foot limitation is not applicable when residential

units are located between Lakes Park and common parking area)

Perimeter Setbacks: Minimum 30-foot building perimeter setback on east, west and south boundary.

Accessory use setbacks: LDC

Minimum Building Separation:

Single Story Bldgs. 10 feet

All Other Bldgs. 20 feet

Maximum Lot Coverage: 60 percent

Maximum Height: 45 feet

Townhouse Uses

Lot Size

Minimum Lot Area: 2,000 square feet

Minimum Lot Depth: 100 feet

Minimum Lot Width: 20 feet

Setbacks

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(Not applicable when residential units are located between Lakes Park property and common parking area)

Perimeter Setbacks: Minimum 30-foot building perimeter setback on east, west and south boundary.

Accessory uses: LDC

Minimum Building Separation:

Single Story Bldgs.	10 feet
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<u>Maximum Height</u>	45 feet

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Zoning approval does not address mitigation of vehicular or pedestrian traffic impacts. Additional conditions consistent with the LDC may be required to obtain a local development order.

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- e. Hours of operation: Monday - Sunday 8:00 a.m. to 8:00 p.m.

- f. Dry models are prohibited.
6. Casino-style Games are prohibited.
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- a. Consumption on Premises is limited to indoor seating in conjunction with a Group II or III Restaurant with a 4-COP-SRX or 2-COP beverage license.
 - b. The hours of operation for indoor consumption on premises is limited to between 11:00 a.m. to 11:00 p.m. daily.
 - c. Sale, service, and consumption of alcoholic beverages are prohibited unless food and non-alcoholic beverage service is available on the same premises.
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Developer must provide an on-site hurricane shelter serving ALF, CCF, and ILU units to house residents during storm events. On-site shelters and required equipment and supplies for the facilities must comply with the following standards, as well as other LDC standards:
- a. Elevation to the anticipated storm surge from a land falling Category "5" storm.
 - b. Construction to withstand winds of 200 miles per hour in accordance with the Florida Building Code.
 - c. Construction with minimum exterior glass with all glazed openings provided with impact protection in accordance with the Florida Building Code.
 - d. Equipped with emergency power and potable water supplies to last up to five days.
 - e. Protected with adequate ventilation, sanitary facilities, and first aid medical equipment.

9. Hurricane Plan

- a. Developer, his successors or assigns, will provide an educational program on an annual basis, in conjunction with the staff of the Lee County Emergency Management Department (EMS), which provides literature, brochures, and speakers for Hurricane Awareness/Preparedness seminars describing the risks of natural hazards.
- b. Developer, his successors or assigns, will formulate an emergency hurricane notification and evacuation plan for the development subject to review and approval by EMS.
- c. Developer will coordinate with Lee County Division of Public Safety/EMS to lessen the project's adverse impacts on the County's hurricane preparedness process.
- d. Developer must comply with the Lee County Hurricane Shelter Ordinance.

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Fill within the FEMA floodway areas is prohibited. The fill (encroachment) includes, but not limited to, raising vegetative buffer zones, constructing perimeter berms, or structure/fill that will hinder flow within the FEMA floodway. If future changes in the plan involve a fill/encroachment to the floodway, the developer must obtain a Letter of Map Revision (LOMR) or No-Rise Certification from governing agencies.

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12. Open Space

Development order plans must delineate a minimum 13.02 acres of open space.

13. Indigenous Preservation

- a. Development order plans must depict preservation in substantial compliance with the following:
 - (1) a minimum 1.19 acres existing pine-mesic oak upland (minimum 1.6 acres with credits taken); and
 - (2) a minimum 0.10 acre existing marsh wetland; and
 - (3) a minimum 0.74 acre indigenous creation/restoration area to provide minimum 15-foot, average 25-foot-wide upland buffers to the on-site wetland preserves and off-site conservation lands.
- b. Landscape plans must depict the indigenous creation/restoration areas to be planted per the approved Indigenous Restoration Plan attached as Exhibit **B2**.
- c. Developer must submit an Indigenous Management Plan for the indigenous preservation and creation/restoration areas for Environmental Sciences staff review. The indigenous Management Plan must comply with the LDC and include a map showing the mechanical and hand removal areas to be cleared of exotics.
- d. Development order plans must depict a minimum 20-foot building and accessory structure setback to indigenous preservation and creation/restoration areas.

14. Protected Species

Development order applications must include American alligator and listed wading bird species management plans in compliance with the LDC. The management plans must include information for residents on the importance of the littoral areas and adjacent preserves for providing nesting and foraging habitat. Development order plans must depict the location and detail of signage notifying residents that alligators may be present and it is dangerous and illegal to feed or harass alligators.

15. Buffer Conditions

Development order Landscape Plans must depict buffers in substantial compliance with the approved MCP and Landscape Exhibit (Exhibit **B3**). In addition, Landscape Plans must reflect:

- a. One gallon, installed three-foot on center/ groundcover plantings along the interior side of the 30-foot wide Type F buffer; and,

- b. If parking areas are proposed adjacent to the northern property line, then each required 18-foot wide island abutting the 30-foot Type F buffer must be planted with one native canopy tree, minimum 10 feet in height and native grasses, one-gallon container size, installed two-foot on centers; and,
- c. Required Type F buffer vegetation to be measured from the final grade of the on-site adjacent parking lot or roadway if the buffer is abutting proposed parking area or roadway; and,
- d. Required Type F buffer trees installed in a configuration to provide a continuous visual canopy screen within one year after time of planting. If a continuous visual canopy screen is not obtained within one year after time of planting, then additional trees may be required; and,
- e. Required Type F buffer trees and palms must not be pruned to reduce height or canopy spread.

16. Lakes Park/Wildlife Protection

Development order plans must depict:

- a. Lighting of pedestrian and parking areas directed internally to the site. Parking lot areas must be illuminated with enough intensity to create secure areas consistent with the LDC; and
- b. Except as provided herein, parking lot lamps must be hooded or globed and must not exceed 20 feet in height. Parking lot lamps may not exceed 16 feet in height if located between residential buildings structures and north property line abutting Lakes Park, and if located between buildings and the east property line abutting the off-site County owned preserve; and
- c. Mercury vapor lamps/lights are prohibited.
- d. Prior to local development order approval, development plans for buildings must be reviewed by staff for the utilization of window and architectural treatments to reduce or break up window panel reflection in order to decrease the potential of bird strikes. Examples of acceptable window and architectural treatments may include the use of non-reflective tinting, ultraviolet reflective decals, exterior sun shades, smaller windows, window awnings or similar treatments. This condition is applicable to the window and door panels on the northern building facades facing Lakes Park

and on the eastern building facades facing the offsite County owned preserve within Lots 7, 4 and 5.

17. Bird Strike Prevention

The bird strike prevention mechanism approved as part of the development order must be found sufficient by the Development Services staff prior to issuing a Certificate of Compliance for buildings facing Lakes Park and the County preserve to the east,

18. Surface Water Quality Monitoring

Prior to Development Order approval, developer must work with Lee County Division of Natural Resources (DNR) to develop a surface water quality monitoring plan. The monitoring plan must comply with the LDC and establish overall goals and objectives, monitoring and reporting frequencies, monitoring station locations, parameters to be monitored, sampling protocols and analysis procedure contingency plans and acceptable thresholds. The plan must include pre-development sampling and evaluation and quarterly monitoring once development commences. General parameters to be monitored will include pollutants, oil and grease, chemical oxygen demand, PH, biochemical oxygen demand, total suspended solids, total phosphorous, TKN, asbestos and nitrate. Developer will coordinate with the County to determine the parameters relevant to the project prior to finalizing the monitoring plan.

DEVIATIONS:

1. Connection Separation. Deviation (1) seeks relief from the LDC §10-285(a), Table 1, requirement to provide a 660-foot connection separation on an arterial road; to allow 628 feet of separation on Gladiolus Drive.

This deviation was previously APPROVED.

2. Withdrawn.

3. Withdrawn.

4. Minimum Separation of Buildings. Deviation (4) seeks relief from LDC 34-935(e)(4) which requires a minimum building separation of one-half the sum of their heights or 20 feet whichever is greater; to allow a minimum separation of 10 feet for single-story structures and a minimum building separation of 20 feet for other buildings.

This deviation was previously APPROVED.

5. Waterbody Setbacks. Deviation (5) seeks relief from LDC 34-2194(b), which requires a minimum 25 foot setback to an artificial body of water to allow a

minimum waterbody setback of 0 feet for buildings and access ways where bulkheads or other hardened shoreline structures are provided.

This deviation was previously APPROVED.

6. Excavations for Water Retention and Detention. Deviation (6) seeks relief from LDC 10-329(d)(1)a. which requires a minimum 25-foot setback for excavations to proposed right-of-way line or easement for a local road, to allow a minimum 0 foot setback for excavations to accessways along the northern portion of the lake.

This deviation was previously APPROVED.

7. Surface Water Management Systems. Deviation (7) seeks relief from LDC 10-418(3) which states that hardened shoreline structures may comprise up to 20 percent of an individual lake shoreline, to allow up to 40 percent of the lake shoreline to comprise of hardened shoreline structures.

This deviation was previously APPROVED.

8. Drainage Easements. Deviation (8) seeks relief from LDC 10-328(a) which states that a 20-foot wide easement for maintenance purposes must be provided, to allow a 20-foot wide easement LME in areas as shown on the Master Concept Plan and no LME where bulkhead and 0-foot setback are provided.

This deviation was previously APPROVED.

9. Signs. Deviation (9) seeks relief from LDC 30-153(2)a.1.ii which permits a maximum of two (2) identification signs if frontage along any one street exceeds 330 linear feet provided that the total combined sign area of both signs does not exceed 300 square feet, to permit a total of five (5) identification signs with a total combined area of 438 square feet along Gladiolus Drive.

This deviation was previously APPROVED, subject to the following conditions:

- i. The size, general location, and spacing of the requested signage must be in compliance with the exhibit entitled Signage monument Separation Plan - Deviation 9, dated May 26-2017, attached as Exhibit "B4"
- ii. The right-of-way setback for the requested signage may not be less than five (5) feet as depicted on the exhibit entitled Signage Monument Location Exhibit, dated April 26, 2017, Attached as Exhibit "B5".

10. Signs. Deviation (10) seeks relief from LDC 30-153(2)a.4 which requires identification signs to be set back a minimum of 15 feet from any right-of-way or easement, to permit the (5) proposed identification signs to be constructed within five (5) feet of the Gladiolus Drive right-of-way.

This deviation was previously APPROVED, subject to the following conditions:

- i. The size, general location, and spacing of the requested signage must be in compliance with the exhibit entitled Signage monument Separation Plan - Deviation 9, dated May 26-2017, attached as Exhibit "B4"
- ii. The right-of-way setback for the requested signage may not be less than five (5) feet as depicted on the exhibit entitled Signage Monument Location Exhibit, dated April 26, 2017, Attached as Exhibit "B5".

11. Plant Materials Standards. Deviation (11) seeks relief from LDC 10-420 which requires trees to be installed at ten feet in height and shrubs to be installed at 48 inches in height to allow trees to be installed six feet in height and shrubs installed at 24 inches in height along the portions of the western buffer.

This deviation was previously APPROVED, subject to the following conditions:

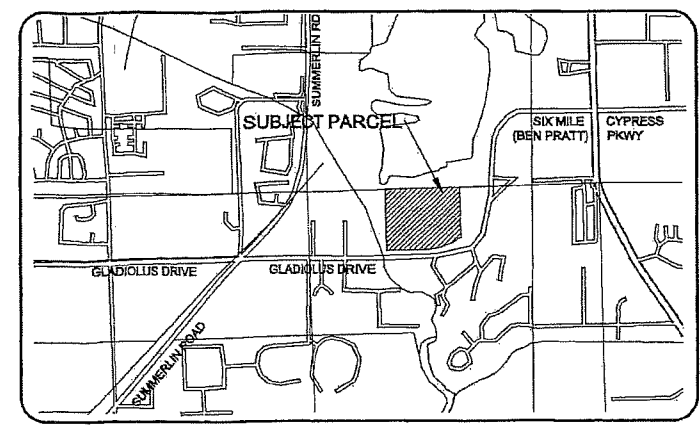
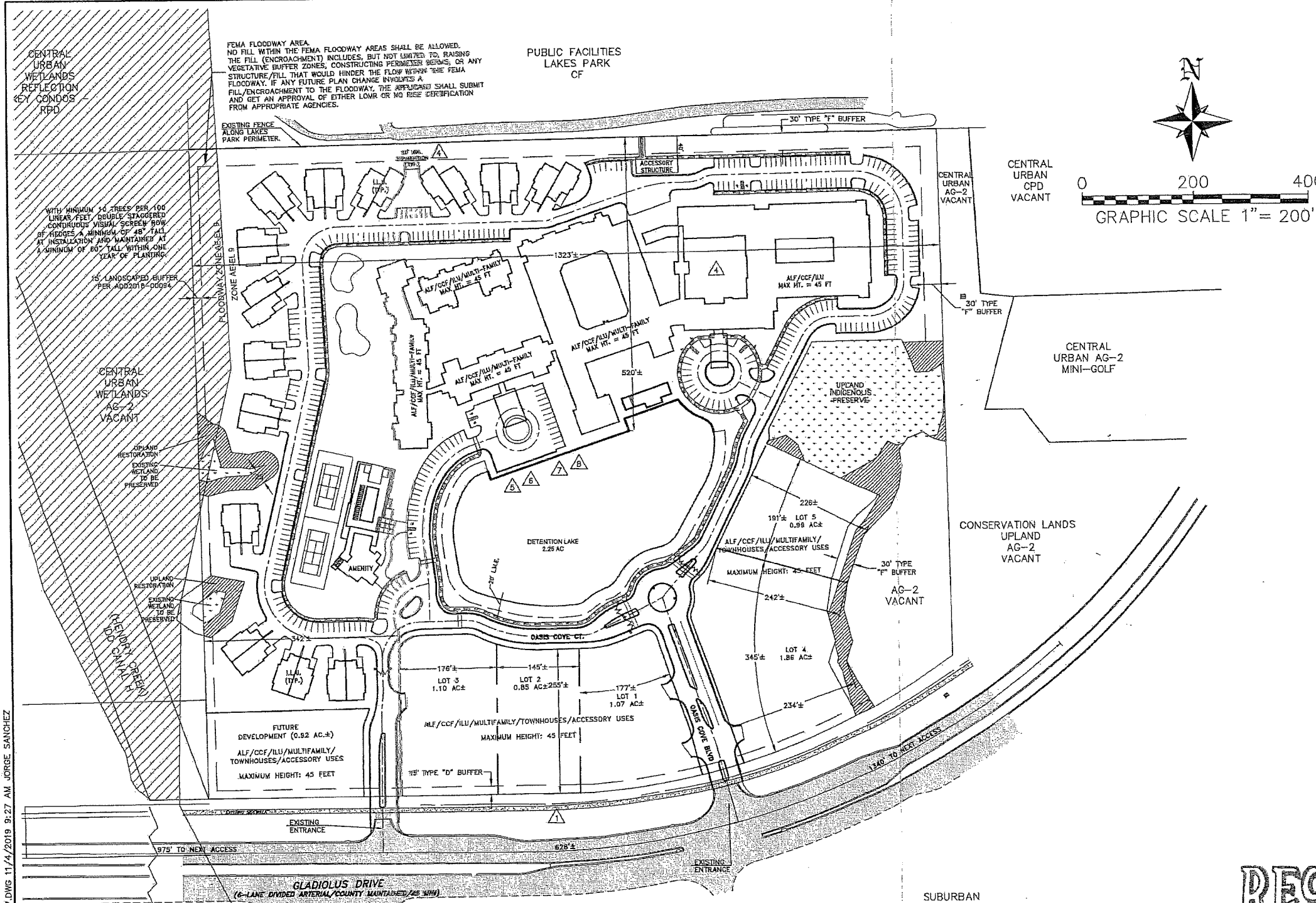
- i. Prior to development order approval, the western buffer must illustrate 131 trees installed at a height of six feet, 761 shrubs installed at a height of 24 inches and 2,116 one gallon groundcovers. All plant material must be salt tolerant and native species.
- ii. The development must be substantial compliance with Exhibit BH, dated May 23, 2018.

12. Water Main Installation. Deviation (12) from LDC 10-384(c)(2) for proposed 12 inch water main distribution system connecting to an existing 16 inch water main with an external looping exceeding 2,000 feet.

This deviation was previously APPROVED.

Exhibits to Conditions:

- B1 Master Concept Plan
- B2 Indigenous Restoration Plan
- B3 Landscape Exhibit
- B4 Signage Monument Separation Plan
- B5 Signage Monument Location Exhibit



SECTIONS 35, TOWNSHIP 45 SOUTH, RANGE 24 EAST
LEE COUNTY, FLORIDA
N.T.S.

NOTES:
 1. SIGNAGE PURSUANT TO ADD2017-00094 DEVIATIONS 9 AND 10.
 2. OPEN SPACE TABLE:

REQUIRED OPEN SPACE:
 RPD: 40% 32.54 @ 40% = 13.02 AC.
 TOTAL REQUIRED: 13.02 AC MINIMUM

REQUIRED INDIGENOUS: 1.57 AC. = (TOTAL INDIGENOUS PRESENT ON SITE)

PROVIDED OPEN SPACE:
 RAW INDIGENOUS VEGETATION:
 UPLAND: 1.19 ACRES
 WETLAND: 0.10 ACRE
 1.29 ACRES TOTAL RAW INDIGENOUS

UPLAND OPEN SPACE CREDITS:
 1.19 AC UPLAND AREA x 1.25 CREDIT FOR MORE THAN 1 AC [LDC 10.415(b)(3)a] + 10% CREDIT FOR COMBINING WITH OFFSITE PUBLIC PRESERVE [LDC 40-415 (b)(3)b.2.]
 (1.19 x 1.35) = 1.60 AC. TOTAL UPLAND WITH OPEN SPACE CREDITS
 WETLAND = 0.10 AC.
 TOTAL INDIGENOUS = 1.70 AC.

LAKE = 2.25 AC.
BUFFERS/LAKE MAINTENANCE EASEMENT/FEMA FLOODWAY = 2.06± AC.
RESTORATION AREAS = 0.74 AC.
ADDITIONAL OPEN SPACE = 6.27 AC.
TOTAL OPEN SPACE PROVIDED = MINIMUM 13.02 AC/CR

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RECEIVED
 NOV 04 2019

COMMUNITY DEVELOPMENT

DCI 2019-00019

PREPARED FOR:
QUADRAM LAKES PARK LLC
 407 LINCOLN RD STE 304
 MIAMI BEACH FL 33139

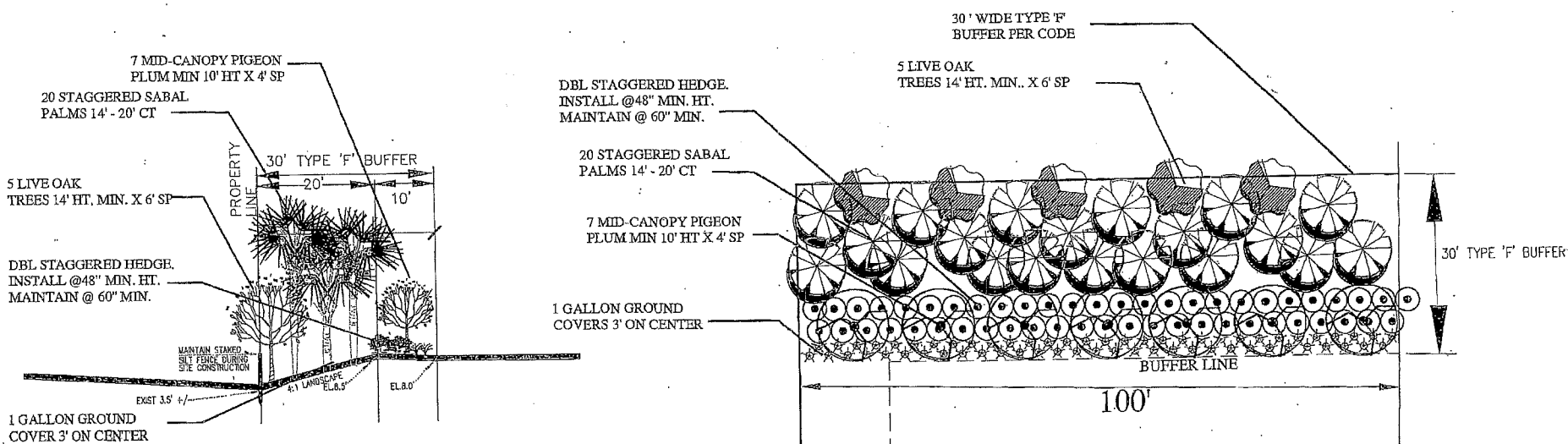
NO.	DATE	REVISION DESCRIPTION	BY
2	11/4/2019	UPDATE OPEN SPACE TABLE	SEH
1	10/17/2019	1ST SUFFICIENCY RESPONSE	SEH

BANKS ENGINEERING
 Professional Engineers, Planners, & Land Surveyors
 Serving The State Of Florida

10511 SIX MILE CYPRESS PARKWAY
 FORT MYERS, FLORIDA 33916
 PHONE: (239) 939-5490 FAX: (239) 939-2523
 ENGINEERING LICENSE # EB 6469
 SURVEY LICENSE # LB 8690
 WWW.BANKSENG.COM

MASTER CONCEPT PLAN AMAVIDA RPD, F.K.A. AVIDA LEE COUNTY, FLORIDA						
DATE	PROJECT	DRAWING	DESIGN	DRAWN	CHECKED	SCALE
7/26/2019	16200G	MCP	SEH	JLS	SEH	1"=200'
						SHEET 1

EXHIBIT B-1



SECTION 1 - ENHANCED 'F' BUFFER

ENHANCED 'F' BUFFER

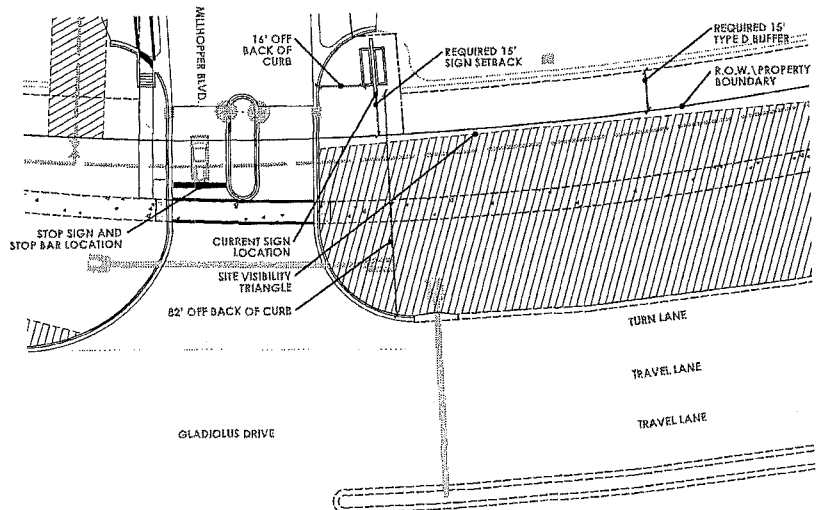
N.T.S.

- TYPICAL 100'**
 5 CANOPY TREES PER 100 L.F. - 14' MIN. HT X 6' SP.
 7 MID-CANOPY TREES PER 100 L.F. - 10' MIN HT X 4' SP
 20 SABAL PALMS PER 100 L.F. - 14' - 20' CT.
 50-10 GAL SHRUBS PER 100 L.F. - 48" MIN. AT PLANTING, MAINTAIN @ 60" MIN.
 67 1 GALLON GROUND COVERS 3' ON CENTER

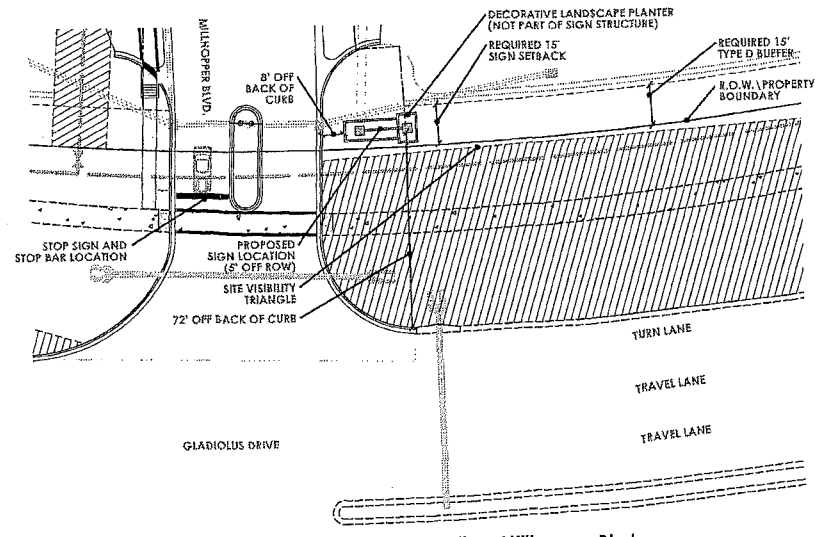
PAUL J. KLENS, R.L.A.
 REG. # LA-0001619
 MARCH 9, 2010

PAUL KLENS LANDSCAPE ARCHITECTURE HEREBY RESERVES ITS CREATIVE LAW COPYRIGHT. THE IDEAS, DESIGN AND PLANS CONTAINED HEREIN ARE NOT TO BE REPRODUCED OR USED WITHOUT THE EXPRESS WRITTEN CONSENT OF PAUL KLENS LANDSCAPE ARCHITECTURE.

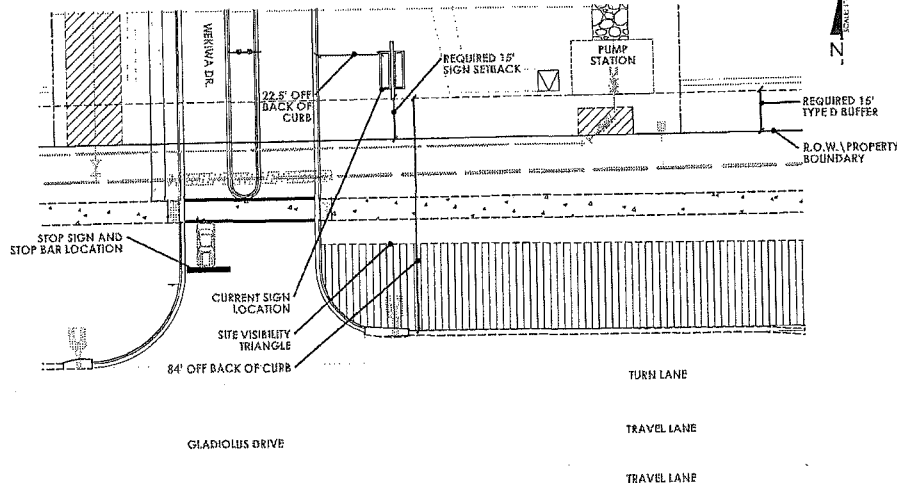
	727 GLENDALE AVE NAPLES, FLORIDA 34110 239 / 514-7209 239 / 694-8646 FAX	title: _____	title: _____	designer: PJK	acad #: _____	date: _____	sheet no: 1/1
	BANKS ENGINEERING 10511 Six Mile Cypress Pkwy Fort Myers, FL 33966 (239) 539-5490	project location: LEE COUNTY, FLORIDA	project manager: PAUL J. KLENS, RLA	checked - date / by: DATE	approved for: DISCUSSION	project #: 09012	scale: AS NOTED



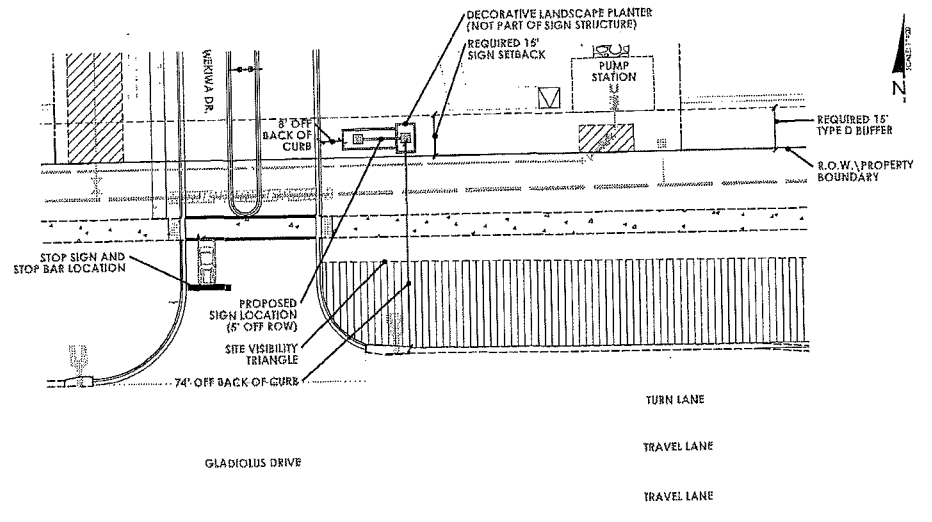
Development Order East Entry Sign Location: Millhopper Blvd.



Proposed Sign East Entry Location: Millhopper Blvd.



Development Order West Entry Sign Location: West Entry: Wekiwa Dr.

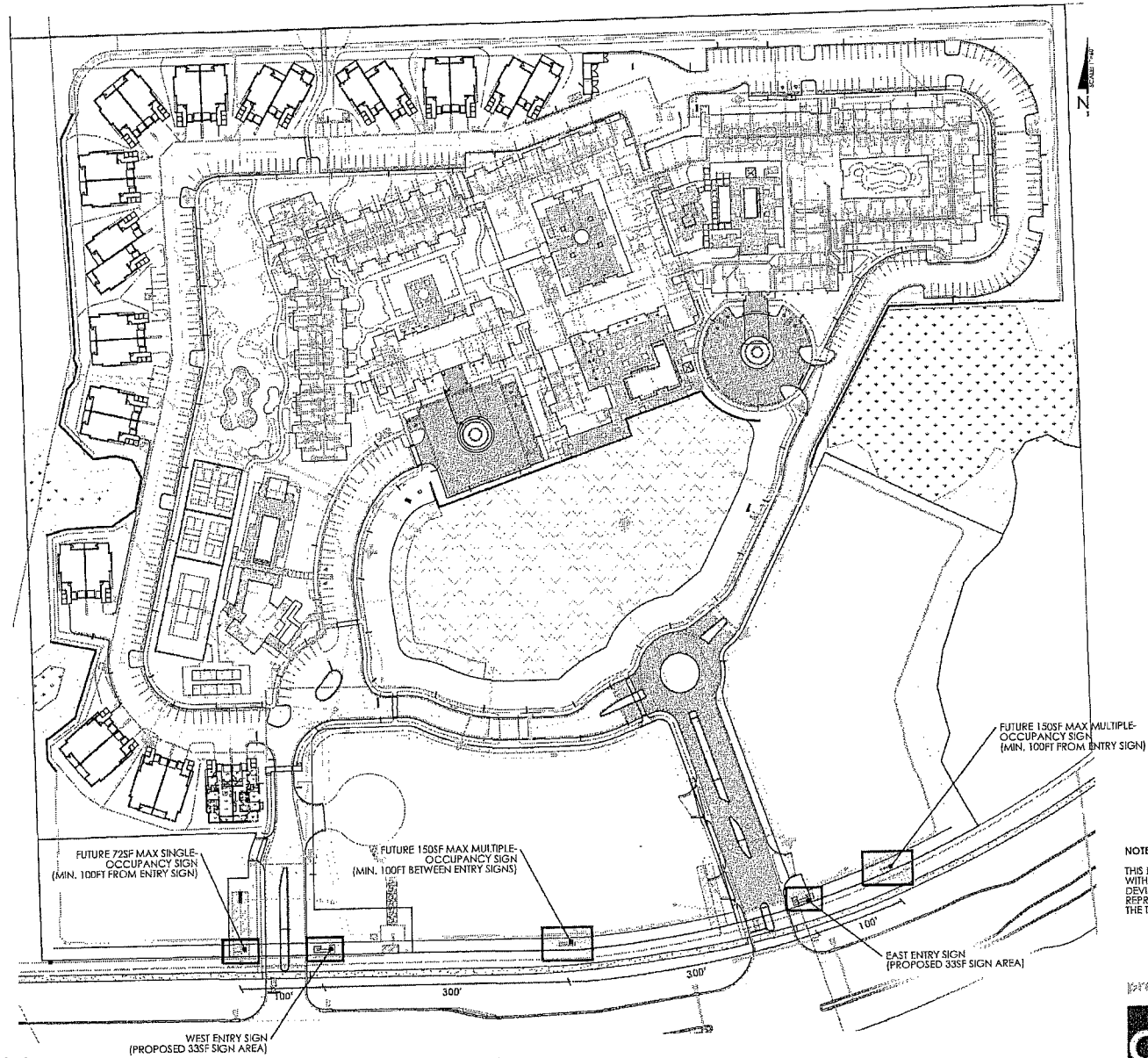


Proposed Sign West Entry Location: Wekiwa Dr.

prepared for:



April 26, 2017



NOTE:
 THIS EXHIBIT IS FOR SUBSTANTIATION OF COMPLIANCY WITH THE MINIMUM DIMENSIONS OUTLINED IN THIS DEVIATION 9 AND DOES NOT NECESSARILY REPRESENT THE EXACT LOCATION OR PLACEMENT OF THE THREE FUTURE SIGNS.

prepared for:



May 26, 2017

Exhibit D

EXHIBITS PRESENTED AT HEARING

STAFF EXHIBITS

- a. *48-Hour Notice*: Memorandum dated February 3, 2020 from Dirk Danley, Jr., Senior Planner, to Donna Marie Collins, Chief Hearing Examiner (multiple pages – 8.5"x11")
1. *DCD Staff Report with attachments*: Prepared by Dirk Danley, Jr., Senior Planner, dated January 21, 2020 (multiple pages – 8.5"x11" & 11"x14") [black & white, color]

APPLICANT EXHIBITS

- a. *48-Hour Notice*: Memorandum dated Monday, February 3, 2020 7:41 AM from Stacy Hewitt, Banks Engineering, to Donna Marie Collins, Chief Hearing Examiner, with copies to Dirk Danley, Jr., Elizabeth Workman, Marcus Evans, Brandon Dunn, Tina Boone, Lauren Schaefer, Michelle Ervin, Yury Bykau, Zsuzsanna Weigel, & Maria Perez, (multiple pages – 8.5"x11")
1. *PowerPoint Presentation*: Prepared for Amavida RPD, DCI2019-00019, for Lee County Hearing Examiner Hearing dated February 5, 2020 (multiple pages – 8.5"x11")[color]

Exhibit E

HEARING PARTICIPANTS

County Staff:

1. Dirk Danley, Jr.

Applicant Representatives:

1. Stacy Hewitt

Exhibit F
INFORMATION

UNAUTHORIZED COMMUNICATIONS:

The LDC prohibits communications with the Hearing Examiner or her staff on the substance of pending zoning actions. There are limited exceptions for written communications requested by the Hearing Examiner, or where the Hearing Examiner seeks advice from a disinterested expert.

HEARING BEFORE LEE COUNTY BOARD OF COUNTY COMMISSIONERS:

A. The Hearing Examiner will provide a copy of this recommendation to the Board of County Commissioners.

B. The Board will hold a final hearing to consider the Recommendation and record made before the Hearing Examiner. The Department of Community Development will notify hearing participants of the final hearing date. Only Parties and participants may address the Board at the final hearing. Presentation by participants are limited to the substance of testimony presented to the Hearing Examiner, testimony concerning the correctness of Findings of Fact or Conclusions of Law contained in the Recommendation, or allegations of relevant new evidence not known or that could not have been reasonably discovered by the speaker at the time of the Hearing Examiner hearing.

COPIES OF TESTIMONY AND TRANSCRIPTS:

A. Every hearing is recorded. Recordings are public records that become part of the case file maintained by the Department of Community Development. The case file and recordings are available for public examination Monday through Friday between 8:00 a.m. and 4:30 p.m.

B. A verbatim transcript may also be available for purchase from the court reporting service.