

MEMORANDUM
FROM THE
DEPARTMENT OF COMMUNITY DEVELOPMENT
ZONING SECTION

DATE: April 27, 2022

TO: Ms. Amanda Rivera

Deputy Hearing Examiner

FROM: Dirk Danley, Jr, AICP

Planner, Senior

SUBJECT: Brightwater RPD f/k/a Stoneybrook North – DCI2021-00012
48-Hour Letter Staff Response

Dear Ms. Rivera:

On April 25, 2022, the applicant provided a 48-hour letter in response to the staff report to address a number of outstanding items. As a response to this letter, staff makes the following comments regarding the proposed changes made by the applicant.

1. Staff has provided an updated staff report document (body only) to:
 - a. Clarify that Tract M provides easement for water looping and potential to connect to sewer or take the existing Waste Water Treatment Plan off-line, and that Tract A provides additional open space separation to Colonial Acres.
 - b. Correct references to LDC Section 10-416(d)(2)(d), which was previously referenced as LDC Section 10-415(d)(2)(d).
2. Regarding the legal description provided in the staff report, staff agrees to the inclusion of the legal description for the entire Planned Development.
3. The applicant has provided an amended Master Concept Plan (MCP), which provides the following changes:
 - a. Create Tract J-1 to provide separation from the existing single-family residences and proposed townhouse uses
 - b. Inclusion of a second page of the MCP which is an Open Space Exhibit.
4. Staff has included an amended conditions document, written in Strikethrough and underline, based off of the clean conditions document provided in the Staff report. Additionally, staff has provided a finalized clean version of this conditions document. While staff agrees with most of the proposed changes to the conditions document, staff does not concur with the following:
 - a. Condition 20 – Staff recommends keeping the language prepared by staff and not proposed by the application. Coordination between the applicant, Lee County DOT, and Florida DOT is required, and amending the language provides additional ambiguity over the coordination required to improve the

intersection at Pritchett Parkway and Bayshore Road.

- b. Condition 34.d. - While staff does not wholly disagree with the proposed change to the condition, staff and the applicant have coordinated to provide additional clarification to this condition with the following language:
 - i. *The Brightwater Country Club parking lot (limited to Tract K) is required to provide a minimum of 180 parking spaces and a maximum 400 parking spaces (including golf carts) of which a minimum of 33% shall be resident only spaces (including golf carts). Parking limited to Brightwater RPD residents only will be clearly marked and signed; and*
- c. Condition 38 – staff does not agree that DOS2016-00083 approved a sidewalk in the preserve area, but rather a pedestrian path. Staff notes that this was not the intent with the original zoning approval, but does find that sidewalks may be placed in preserve areas. Condition 38 asserts that the approved development order plans must be amended to depict the existing sidewalk.

After further coordination, staff expects an updated Master Concept Plan from the applicant to remove references with Deviation 19, since both staff and the applicant agree to its withdrawal. Staff is also working to prepare an interpretation for the proposed use that will be provided at the hearing.

Exhibits:

Updated Staff Report

Updated Conditions Document – strikethrough

Updated Conditions Document – clean

Lee County, Florida
DEPARTMENT OF COMMUNITY DEVELOPMENT
ZONING SECTION
STAFF REPORT

CASE NUMBER: DCI2021-00012

CASE NAME: BRIGHTWATER RPD F/K/A STONEYBROOK NORTH

TYPE OF CASE: MAJOR PLANNED DEVELOPMENT AMENDMENT

HEARING EXAMINER DATE: APRIL 28, 2022

SUFFICIENCY DATE: FEBRUARY 25, 2022

REQUEST:

An application has been submitted by Stacy Hewitt, AICP, of Banks Engineering, on behalf of North Brook Holdings, LLC, to amend the existing 741.22-acre Brightwater Residential Planned Development (RPD) f/k/a Stoneybrook North to 1) reconfigure tracts; 2) relocate dwelling units to the interior; 3) add 'Dwelling Unit, Townhouse' to the approved schedule of uses; 4) add Brightwater Country Club and allow limited non-resident access to the Crystal Lagoon amenity; 5) add 225 dwelling units [increase maximum dwelling units from 1,275 to 1,500]; 6) convert ±590 single-family dwelling units to senior adult housing; 7) incorporate voluntary enhancements; and 8) allow fill material to be moved within the site across Pritchett Parkway. This amendment also includes three new deviation requests.

The subject property is located on both sides of Pritchett Parkway, north of the I-75 and Bayshore Road interchange, Bayshore Planning Community, Lee County, FL. (District #5). The legal description for this property can be found in Attachment E.

SUMMARY:

Staff recommends **APPROVAL** of the applicant's request, with the Conditions found in Attachment C. The applicant requested three additional deviations; staff recommends approval of two and withdrawal of the third deviation.

HISTORY OF PARCEL:

The subject property is approximately 741.22 acres in size and was originally rezoned to Residential Planned Development (RPD) under Resolution Number Z-02-070 (Attachment H), which approved 1,275 single-family and two-family attached dwelling units with accessory uses. This planned development has been amended by the following zoning actions:

- ADD2013-00083, which approved an updated Master Concept Plan, and added additional access points onto Pritchett Parkway (Attachment I);

- ADD2014-00074, which was approved to create the Stoneybrook North Community Development District (Attachment J). This was approved as an agenda item with the Board of County Commissioners;
- ADD2015-00134, which approved an amended Master Concept Plan to reconfigure development tracts, lakes, roadways, open spaces, and amend the schedule of uses (Attachment K); and
- ADD2020-00046 which approved an amended Master Concept Plan and schedule of uses, and updated conditions of the original approval documents, regarding environmental preservation, gopher tortoise preserves, and buffer requirements (Attachment L).

Construction of the Brightwater RPD has commenced since the approval of the zoning on this property, with single family homes constructed on the eastern portion of Pritchett Parkway. Additionally, land is in the process of being cleared on the western portion of Pritchett Parkway.

CHARACTER OF THE AREA:

The subject property is located north of the intersection of Bayshore Road and Interstate 75, and is principally accessed by Pritchett Parkway, a County-maintained Major Collector Road. Pritchett Parkway meanders from the southeast corner to the northwest corner of the development, bifurcating the development into eastern and western portions. Residential development is planned for both sides of Pritchett Parkway. The subject property is located in the General Interchange, Sub-outlying Suburban, and Wetlands Future Land Use categories, and is located in the Bayshore Community Plan Area. Surrounding development is characterized by predominantly low density residential uses and agricultural land.

The following are the zoning districts and existing land uses that surround the subject property:

North:

Properties to the north are zoned Agricultural (AG-2) and are located in the Open Lands and Density Reduction/Groundwater Resource future land use categories. Development to the north, is comprised of large lot residential development and agricultural uses.

East:

Properties to the east are separated by Popash Creek are zoned Agricultural (AG-2), Single-Family Residential (RS-1), and Recreational Vehicle Park District (RV-3). These areas are developed with a mix of residential uses, and are in the Sub-outlying Suburban future land use category.

South:

Property to the south is generally separated by Pritchett Parkway and Interstate 75, and is zoned Commercial Planned Development, as approved under Resolution Z-10-032 (Attachment M). This property is in the General Interchange and Suburban future land use categories. This property is currently undeveloped

West:

Properties to the west are zoned Agricultural (AG-2 and AG-3) and are located in the Sub-Outlying Suburban future land use category. These properties are largely developed with large lot single family homes and agricultural uses. Staff notes that the development shares its western border with Hunters Glen, which is a residential subdivision on larger lots ranging from half acre to full acre lots.

ANALYSIS

The applicant has provided a request statement that describes the proposed changes and expected results of these changes to the planned development (Attachment D). This request intends to amend the existing Brightwater Residential Planned Development (RPD) f/k/a Stoneybrook North to make the following changes:

1. Reconfigure Tracts;
 - Revise configuration of Tracts I, J and K
 - Label the Recreation Facility area west of Pritchett Parkway as Tract B1 and allow optional conversion to R-1A (± 10 -30 units) while clarifying the schedule of uses include the potential indoor and outdoor consumption on premises for the Recreation Facility use;
 - Tract F: Revise the southern portion from "R-1" to "R-1A" to allow optional two-family attached units and relabel this area to Tract F1. This change does not alter the restriction requiring minimum 7,500 SF single-family detached units within 500' of north boundary;
2. Transfer ± 45 units to internal Tracts F1, J and B1 from Tract O and Tracts E and N adjacent to Popash and Bayshore Creeks;
3. Add "Dwelling unit, Townhouse" to the schedule of uses for Tract J (maximum 150 units/35- foot height);
4. For Tract K, amend the schedule of uses which allows "Club, Private" to "Brightwater Country Club" to allow limited non-resident access, subject to conditions proposed by the applicant;
5. Increase the maximum number of dwelling units from 1,275 to 1,500 (an increase of 225 dwelling units, including 48 dwelling units from property located in the General Interchange future land use category, and 177 additional dwelling units, offset by change to adult senior housing);
6. Convert ± 590 Single-family units to adult senior housing for Tracts A, B, B1, C & D to reduce traffic equivalent to ± 440 homes and offsets additional units subject to a condition requiring the unit mix at time of development order not to exceed the maximum trips approved as part of this zoning request.
7. Propose a condition regarding the transporting of fill material across Pritchett Parkway at an intersection to other portions of the project; and
8. Incorporate the following voluntary enhancements/opportunities to benefit adjacent communities:
 - Tract E1 (± 9.73 acres on Bayshore Creek): removal of ± 35 dwelling units from the perimeter of the project and transfer internal to the site (Tracts F, J or B1) and limit uses to: Drainage; Excavation, water retention; Fences/Walls; Park, Group I limited to nature

preserve or passive or active recreation; Parks. Group I; Recreation Facilities, Private on-site, Streets and street rights of way; and Utility rights-of-way. This area is immediately across Pritchett Parkway from the Hunter's Glen subdivision. If the residential development is eliminated, there is an opportunity to let existing vegetation remain and/or to create a wider shelf and remove spoil along Bayshore Creek, providing additional capacity to Bayshore Creek.

- Oakmont Subdivision: Remove residential development from Tract N (± 10.37 acres east of Popash Creek) which abuts the north property boundary of the Oakmont Subdivision. Removal of ± 10 dwelling units from the perimeter to transfer to internal Tracts F, J, or B1 and limit uses to: Drainage; Excavation, water retention; Fences/Walls; Park, Group I Park, Group I; Recreation Facilities, Private on-site, Streets and street rights of way; and Utility rights-of-way. The area not developed as residential may remain in its natural wooded state.
- Tract O (± 14.43 acres around existing Lake L1) Transfer residential density to internal Tracts F, J or B1 and limit uses to: Drainage; Excavation, water retention; Fences/Walls; Park, Group I limited to limited to nature preserve or passive or active recreation; Park, private; Recreation Facilities, Private on-site, Streets and street rights of way; and Utility rights-of-way.
- Tract D will provide opportunity for enhanced fire safety for Hunter's Glen by including the following condition (36.d): Prior to construction certification of the westernmost lots abutting the Hunter's Glen subdivision property line, developer will provide:
 - An easement to allow potential for Hunter's Glen's construction (at their option) of a turnaround for emergency, solid waste, and resident vehicles for Hunter's Glen subdivision. Developer has the right (but not the obligation) to construct this improvement.
 - An easement and stubbed water mains to allow potential for Hunter's Glen's construction (at their option) of fire hydrants as enhancement to Hunter's Glen subdivision fire protection. Developer has the right (but not the obligation) to construct this improvement
- Colonial Acres – Leetana Road: Provide additional separation between proposed lots and the western perimeter boundary abutting single-family lots on Leetana Road (Colonial Acres) by including the following condition (36.e): Development Order application and approval for Tract A must demonstrate increased open space separation to lots (varying $\pm 35'$ – $\pm 82'$ setback between lot lines and perimeter) along western perimeter boundary as shown on the Master Concept Plan.
- Popash Creek and Seminole Campground: Provide opportunities for enhanced water quality for Popash Creek and increased fire protection for Seminole Campground by providing the following condition (36.f): Tract M – Prior to construction certification of easternmost lots in Tract M , developer will provide a utility easement for Seminole Campground to allow (at their option):
 - Connection to central sewer to take the Seminole Campground WWTP off-line;

- ii. Opportunity for water main looping for increased fire protection; and
- iii. Developer has the right (but not the obligation) to construct this improvement.

Planned Development Amendment:

Section 34-612 of the Lee County Land Development Code describes the intent of the utilization of the Planned Development zoning district. The purpose of this district is to further implement the goals, objectives, and policies of the Lee Plan, while providing some degree of flexibility in the planning and design of proposed developments.

Section 34-380(a) of the Lee County Land Development Code states that amendments to the Master Concept Plan or its attendant documentation may be requested at any time during the useful life of the Planned Development.

Master Concept Plan:

The applicant has provided an amended Master Concept Plan (MCP) which depicts the changes to the existing planned development proposed by the applicant. The MCP shows development tracts, buffers and open space areas, access points, lakes, deviation locations, and tracts from which development density will be transferred to other internal development tracts (Attachment Z).

Development Density

The applicant has provided a density calculation to demonstrate how density is calculated for the development (Attachment N):

Future Land Use Category	Acreage	Maximum Standard Density	Dwelling Units
Sub-Outlying Suburban	674.27 acres	2 units per acre	1348.5 Dwelling Units
Preserved Freshwater Wetlands	63.5 acres	2 units per acre	127 Dwelling Units
General Interchange	3.45 acres	14 units per acre	48.3 Dwelling Units
Total Maximum Standard Density			1524 Total Dwelling Units

The applicant seeks 24 units less than the maximum allowable standard density. Conditions are proposed by the applicant to limit certain development areas to adult senior housing. This request does not propose alternate density for these units, but these conditions are a mechanism to reduce the number of vehicular trips generated by the development.

Proposed Brightwater Country Club and Crystal Lagoon

In the request statement, the applicant describes the intent of Brightwater Country Club, as a privately-owned and operated facility with a fully gated recreational water amenity (called Crystal Lagoon), to serve the residents and guests of the RPD. Residential memberships in the Brightwater Country Club will be included in every purchase of a home in the Brightwater RPD. In addition, the applicant proposes non-resident access to the Brightwater Country Club, limited to reservations made online through a portal website.

Lee County Land Development Code (LDC) Section 34-620 states that the "...Director is authorized to determine that uses that are not specifically listed in the use activity groups or in any use regulation table are permitted by right or by special exception in a particular zoning district based upon the placement of similar uses in the various districts." LDC Section 34-933 also states "Uses that are not specifically listed in section 34-934 may also be permitted if, in the opinion of the Director, they are substantially similar to a listed permitted use." The applicant opines that the proposed use does not clearly fit into a single use definition, but rather is similar to a number of defined uses. Similar uses in the Land Development Code include: Club, Country, Recreation facilities, Private off-site, and Recreational Facilities, Commercial, Group III. LDC Section 34-2 define these terms as follows:

Club, country means a building and associated recreational facilities constructed in conjunction with a golf course (but not including the golf course itself), open only to members and their guests for a membership fee. Occasionally such facilities may be leased to outsiders for banquets, weddings, etc.

Recreation facilities, private on-site means recreation equipment or facilities such as residential multi-slip docking facilities; community horse stables, arenas, riding paths, paddocks or similar facilities; swimming pools, tennis, shuffleboard, handball or racquetball courts; or swings, slides, and other playground equipment that is owned, leased or operated by a homeowners', co-op, or condominium association and located in the development or neighborhood controlled by the association.

Recreation facilities, commercial means recreation equipment or facilities not classified as a park (34-622(c)(32)), or as personal, private-on-site, or private-off-site facility, but instead operated as a business and open to the public for a fee. See section 34-622(c)(38).

Because the use does not fit wholly within any of the specific uses above, the applicant introduces the following definition for the Brightwater Country Club to be applied to the proposed use:

Brightwater Country Club means a building and associated recreational facilities constructed in conjunction with the Brightwater Crystal Lagoon, open to members and their guests for a membership fee, and also includes daily non-resident reservations based on available parking capacity at the time of online reservation. Occasionally such facilities may be leased to outsiders for banquets, weddings, etc.

The applicant notes that the primary difference between the LDC's definition of Club, Country and the definition for Brightwater Country Club is that the primary recreation facility referenced in the definition will be a lagoon, not a golf course. Functionally, the Brightwater Country Club will operate similarly to a golf course based country club in all other respects, including reservation based access for members of the public that are not residents to the Brightwater RPD.

Development Pattern Considerations:

The applicant provided a brief history in the request statement on how the Lee Plan has changed since the original rezoning of the Stoneybrook North RPD back in 2004. At the time of approval, the property was located in the Outlying Suburban, Wetlands, and Interchange future land use categories. The Outlying Suburban future land use category allowed for a maximum of two dwelling unit per acre. The Outlying Suburban future land use category has since been amended to allow up to three units per acre. During this time, the subject property was re-designated to sub-outlying suburban to retain the previous allowable density for the RPD. Additionally, the portion of the development previously designated as Interchange future land use category has since been re-designated as General Interchange future land use category, which allows a maximum standard density of 14 units per acre, where density was not previously considered. At the time of this planned development amendment, the future land use category designations for the subject property are Sub-Outlying Suburban, Wetlands, and General Interchange.

Policy 1.1.11 describes the Sub-Outlying Suburban future land use category as low density residential with less infrastructure that what is needed to suit higher density development. Portions of the development that are located in this future land use category are requested to meet the density maximum of two units per acre. Approximately 91 percent of the development is located within this category. Staff finds this Planned Development Amendment consistent with Policy 1.1.11.

Policy 1.3.2 describes the General Interchange areas as those areas intended to primarily serve the traveling public such as hotels, restaurants, and gift shops. Due to the location of the General Interchange areas, a mix of commercial, industrial, and residential dwelling units are allowable in this category. The maximum standard density for properties designated as General Interchange 14 dwelling units per acre. The area in the development designated as General Interchange is approximately 3.45 acres, and generates approximately 48 dwelling units. As proposed, many of these units will be transferred internally to the development. No commercial or industrial uses are contemplated on this portion of the property. Staff finds the proposed amendment consistent with Policy 1.3.2.

Portions of the development are located in the Wetlands Future Land Use category as defined in Objective 1.5 of the Lee Plan. The applicant notes that there are approximately 63.5 acres of the freshwater wetlands that are proposed to be preserved as part of this planned development in order to relocate developable density from the wetland areas to upland areas. The previous zoning proposed approximately 5 acres of wetland impacts, but these impacts are no longer proposed for this development. Staff finds the proposed amendment consistent with Objective 1.5 and Goal 124.

Objectives 2.1 and 2.2 encourage new growth in future urban areas where adequate facilities exist or are assured and where compact and contiguous development patterns can be created. Policy 2.2.1 encourages clustered mixed use development within Lee County where sufficient infrastructure exists. This Planned Development is already entitled to a mix of uses that would be consistent with these Objectives and Policy. The applicant has provided sufficient documentation to demonstrate that the available infrastructure would support the development intensity that is proposed. This is evidenced by the letters of utility availability and the Traffic Impact Statement (Attachments V and O). Staff finds this Planned Development Amendment consistent with Objective 2.1, Objective 2.2, and Policy 2.2.1.

Policy 5.1.2 prohibits residential development where natural physical constraints or hazards exist, including hurricane and flood hazards, soil or geologic conditions, environmental limitations, or aircraft noise. The subject property is not within the coastal high hazard area, or in an airport noise zone. Flood zones for this property include AE-EL20, AE-EL22, X, and X (Shaded). Portions of the development adjacent to Bayshore and Popash Creeks are located in a FEMA floodway. Development as proposed does not include residential uses within these floodways. Staff finds that the proposed development is consistent with Policy 5.1.2.

Policy 5.1.5 of the Lee Plan intends to protect the existing and future residential areas from any encroachment of uses that are potentially destructive to the character and integrity of residential development. The previous zoning approvals deemed the existing project to not be destructive to the character and integrity to the existing residential uses. Staff notes that the proposed changes to the development do necessitate readdressing this policy to ensure that the request is still consistent with this policy. Two principal changes to the development include the addition of 225 dwelling units and the approval of the Brightwater Country Club, which proposes use of these amenities by non-residents. Although the residential density proposed is a higher density than what currently surrounds this development, the applicant has moved densities to the interior of the development while providing additional environmental enhancements at the perimeter of the development to lessen the visual impact to surrounding property owners. Additionally, in an effort to reduce the impact to the transportation system, the applicant proposes to deed restrict 590 dwelling units to be senior adult housing, which generates less trips than a standard dwelling unit. Staff notes that the residential development with the least separation from the subject property is the Hunters Glen subdivision. While no buffer is required, the original zoning approval under Resolution Z-02-070 includes a required buffer of 10 trees per hundred linear feet and a double staggered hedge row. The applicant intends to adhere to this condition. The Brightwater Country Club is proposed to operate as a reservation based amenity to reduce the influx of non-residents present at the Country Club. Staff finds this request consistent with Policy 5.1.5.

Policy 5.1.10 states that when land is divided into two or more land use categories, that the allowable density is the sum of the allowable densities for each land use category for each portion of land. The subject property is in the Sub-Outlying Suburban, General Interchange, and the Wetlands Future Land Use Categories, and based on the density analysis provided above, staff finds the proposed amendment consistent with Policy 5.1.10.

Goal 18 of the Lee Plan establishes the Objectives and Policies related to the Bayshore Community Plan. The intent of the Goal is to protect the existing rural, residential, agricultural, and equestrian-oriented character of the community by maintaining lower residential densities and minimal commercial activities.

Objective 18.1 states that the County will enforce land development regulations that ensure separation of urban and rural land uses through the implementation of open space, buffers, and setback requirements that protect environmental areas. Additionally, the objective requires planned developments to locate lower density residential uses to the perimeter of the development and higher density development in the interior of the development. Resolution Z-02-070 was conditioned to provide for the separation of rural uses and this residential development intended by this Objective. The applicant proposes a clustered residential development which focuses residential uses to the interior of the property. Staff notes the instance where residential development abuts other residential development is along the western boundary line the property shares with Hunters Glen. Hunters Glen is similarly in the Sub-Outlying Suburban future land use category, with residential development ranging from half acre to full acre lots. Resolution Z-02-070 included a condition requiring enhanced buffering along the western boundary to provide enhanced separation from the Hunters Glen subdivision. The proposed development does provide enhanced open space, buffers, and protects environmental areas. Staff finds this amendment consistent with Objective 18.1.

Objective 18.3 discourages new central sewage service north of Bayshore Road in future non-urban land use categories. The objective notes that central water is encouraged for enhanced fire protection where economically feasible. The subject property is not located in a future non-urban area, but rather a future suburban area. The applicant was required to extend water and sewer from Bayshore Road along Pritchett Parkway, and several enhanced fire protection measures are proposed for the development staff finds this amendment consistent with Objective 18.3.

Goal 60 intends to reduce the hazards to life, health, and property created by flooding due to rainfall in a manner that preserves environmental and natural resources. This includes the incorporation or restoration of natural surface water flow ways into the surface water management system. The original zoning approval required improvements to Popash Creek and Bayshore Creek which improved drainage and removed obstacles to flow for surrounding development. The proposed amendment further incorporates natural systems by no longer impacting existing wetlands in the development, so that all 63.5 acres of freshwater wetlands are being preserved. Staff finds this amendment consistent with Goal 60.

Policy 115.1.2 requires new development and additions of existing development to not degrade surface and ground water quality. With the exception of additional preserved wetlands within the development, no new changes are proposed to the surface and ground water system as part of this amendment. Future development of the property will require an Environmental Resource Permit from the South Florida Water Management District. Staff finds this planned development amendment request consistent with Policy 115.1.2.

Goal 124 establishes Objectives and Policies for development in wetlands that works with existing state and federal permitting processes, while protecting the fragile ecological characteristics of wetland systems. Objective 124.1 aims to protect and conserve wetlands by limiting uses in wetland areas to low density residential uses, low impact recreational uses, and conservation areas. The applicant's proposed MCP aims to protect and preserve wetlands and designate these areas as open space and preserve areas while configuring development around the existing wetland. During the Development Order process, the applicant will be required to demonstrate compliance with the criteria in state and federal permitting procedures, while demonstrating compliance with the criteria found in Chapters 10, 14 and 34 of the LDC for open space and wetland areas. Staff finds the proposed rezoning consistent with Goal 124, Objective 124.1.

Goal 135 of the Lee Plan addresses the necessity to meet housing needs as Lee County grows in population. Policy 135.1.9 states that the county will ensure a mix of residential housing types on a county wide basis through the planned development process. The request increases the total number of dwelling units to 1,500 (an increase in 225), which still is under the maximum allowable density for this development. The applicant also seeks additional dwelling unit types (townhouse and senior housing), to allow for a mix of residential development. This request is consistent with Goal 135 and 135.1.9.

Environmental Considerations:

Environmental staff provided a memorandum regarding the proposed amendment to the Planned Development (Attachment Q). Staff notes that the changes do not affect the previously approved indigenous or general open space and that previous conditions of approval will still apply to the development.

Staff conducted a site inspection on March 18, 2022 to inspect indigenous preserve areas, natural waterway areas and surrounding uses. Staff encountered a concrete path at grade along Popash Creek within established indigenous preservation areas and within the 50-foot natural waterway buffer. In order to comply with the requirements of the Land Development Code Section 10-415(d)(2)(d), environmental staff recommends the following condition of approval:

The developer must demonstrate on the development order plans that the constructed sidewalk within the natural waterway buffer and indigenous open space abutting Popash Creek complies with LDC Sections 10-415(d)(2)(d) and 10-416(d)(11)(b).

Natural Resources Considerations:

Natural Resources provided a memorandum regarding the proposed amendment to the Planned Development (Attachment R). Staff notes that the proposed stormwater management system incorporates onsite wetlands and dry detention prior to ultimately discharging water into Popash and Bayshore Creeks. Staff notes that DOS2018-00034-A01 included a Water Quality Monitoring Program. In order to ensure consistency with the Lee Plan Goals, Objectives and Policies regarding water quality, staff recommends the following condition for approval:

Prior to local development approval, the developer must maintain compliance with the Water Quality Monitoring Program submitted with DOS2018-00034-A01.

Transportation Considerations:

The applicant has provided a traffic impact statement for the proposed development and provided analysis on the surrounding transportation system (Attachment O). Infrastructure planning staff has provided analysis of the applicant's traffic impact statement (Attachment P). Staff concludes that Bayshore Road, east of Pritchett Parkway will operate at a Level of Service "D" without the project, and a Level of Service "F" with the project, and Mellow Drive west of Slater Road will operate at a Level of Service "F" with and without the project. Staff recommends the following conditions for consideration of approval as part of this planned development amendment:

"The development is allowed a maximum calculated development density/intensity with respect to new trip generation utilizing the following development scenario:

- 910 detached single-family dwelling units,*
- 590 detached senior adult dwelling units, and*
- a lagoon amenity (see additional conditions below)."*

"All parking spaces for users of the lagoon amenity will be clearly delineated. Parking outside of the delineated spaces is not permitted. A maximum parking rate of 0.07 non-golf cart parking spaces per permitted unit is allowed for non-Brightwater RPD residents. Parking limited to Brightwater RPD residents only will be clearly marked and signed."

"Any development that includes adult senior housing must retain a declaration of covenants and restrictions that limits such use to adult senior housing."

Staff also recognizes significant impact to the intersection of Pritchett Parkway and Bayshore Road. The Florida Department of Transportation provided correspondence regarding the need to address this intersections design (Attachment T). FDOT staff states that the necessary improvements to that intersection will be required to be addressed during the access permit review in order to determine what specific improvements will need to be made to accommodate the trips proposed by the development. Staff recommends amending the Condition 20 of Resolution Z-02-070, as amended, in the following manner:

The developer must provide intersection improvements to the intersection of Bayshore Road and Pritchett Parkway. At a minimum, the developer will construct a southbound turn lane as a site related improvement, and not eligible for road impact fee credits. In cooperation with the Florida Department of Transportation and the County, the developer may realign Pritchett Parkway to address future operational problems caused by project traffic. The developer must coordinate with the Lee County Department of Transportation and the Florida Department of Transportation in order to find an acceptable improvements to the intersection that meet the standards of the Florida Administrative Code (FAC) 14-97.

Bicycle and Pedestrian Facilities:

The subject property fronts Pritchett Parkway, which is not designated as a future bike/pedestrian way on the Lee Plan Map 3-D until westward of the subject property. At the time of development order approval, the applicant must comply with the bicycle and pedestrian facilities requirements of LDC Chapter 10.

Urban Services:

The subject property is serviced by a Fire and EMS Station that is approximately 0.9 miles southeast, and sheriff's station 7.2 miles west of the property. The proposed development will have access to Lee County Utilities for water and FGUA/SSG for wastewater (Attachment V). The request remains consistent with Lee Plan Standards 4.1.1 and 4.1.2.

Deviation Requests:

The applicant has provided an updated schedule of deviations, including three requested deviations as part of this amendment (Attachment G). Deviations 1 through 18 were previously approved and deviation 19 through 21 are proposed by the applicant in this amendment request. Staff provides the following analysis of deviations 19 through 21 based on the applicants analysis:

1. Deviation 19 seeks relief from LDC Section 10-418(1), which requires shorelines to be sinuous rather than straight, to allow existing or permitted lakes to remain as designed.

Development Service Staff provided comment on this deviation request (Attachment U). Lee Plan Policy 61.3.12 states "the design of shorelines of retention and detention areas and other excavations must be sinuous rather than straight". Any deviation from the Code required sinuous shoreline would be inconsistent with this Lee Plan Policy. The lakes noted as part of this request were previously approved as part of Development Order approvals. Staff recommends WITHDRAWAL of this deviation, based on the fact that the lakes noted in the deviation request were previously found to be sinuous in nature during previous Development Order Approval.

2. Deviation 20 seeks relief from LDC Section 10-296(k)(1), which requires dead-end streets to provide a circular turnaround, to allow a dead-end street to be designed without a circular turnaround in Tract E as shown on MCP.

Staff notes that this deviation is only requested in Tract E1 for a dead end roadway that is less than 100 feet in length and does not provide access to additional developable area (Attachment U). Staff recommends APPROVAL of this deviation with the following condition:

- a. At the time of development order submittal, the applicant must provide a letter of no objection to the dead-end roadway in Tract E from the fire department having jurisdiction.

3. Deviation 21 seeks relief from LDC Section 34-1264 to allow outdoor consumption on premises to be located ±466' feet from a dwelling unit under separate ownership.

LDC Section 34-1264(b)(1) states that no establishment for the sale or service of alcoholic beverages for consumption on the premises may be located within 500 feet of a dwelling unit under separate ownership, except when approved as part of a planned development. As conditioned, Resolution Z-02-070, as amended, allowed for Consumption on Premises in accordance with LDC Section 34-1264. The proposed Master Concept Plan does note the location of COP areas, which do encroach into the 500 foot separation requirement for the consumption of alcoholic beverages from residential uses. Staff notes that the separation request is less than a 10 percent reduction from the separation requirement. Staff recommends approval of this deviation, subject to the following conditions:

- a. This deviation is only applicable to consumption on premises in conjunction with the Brightwater Country Club use in the COP area delineated on the Master Concept Plan.
- b. Live music or amplified sound is prohibited in the exterior portions of Consumption on Premises area after 10PM.

CONCLUSION:

Based on the analysis provided above, staff offers the following review of the decision-making criteria for the planned development rezoning request. Staff finds that the proposed request:

- a) Complies with the Lee Plan;

Based on the analysis above, staff finds that the request is consistent with the Lee Plan. The proposed use and density is compatible with existing and proposed uses, and meets or exceeds the objectives and policies above.

- b) Meets this Code and other applicable County regulations or qualifies for deviations;

The applicant seeks three deviations in addition to those previously approved, including deviations for dead end streets, reduction in separation of consumption on premises and residential uses, and a deviation to allow non-sinusoidal lakes. Staff recommends approval of the two deviations regarding the allowance of dead end streets and consumption on premises, but has made the determination that the deviation to allow non-sinusoidal lakes is not necessary, and therefore recommend withdrawal of this deviation.

- c) Is compatible with existing and planned uses in the surrounding area;

The mix of uses surrounding the subject property includes residential uses and agricultural land. The proposed uses are consistent with surrounding existing and planned uses.

- d) Will provide access sufficient to support the proposed development intensity;

Access is proposed on Pritchett Parkway which then connects to Bayshore Road to the south and Rich Road to the north. Staff finds that there is sufficient access to the proposed development, subject to the recommended conditions of approval.

- e) The expected impacts on transportation facilities will be addressed by existing County regulations and conditions of approval;

Staff has reviewed the transportation impacts of the development, and has concluded that significant improvements to Bayshore Road and Pritchett Parkway will be required to address impacts to the transportation system. The developer will need to coordinate with FDOT and Lee County DOT to address intersection improvements at Pritchett Parkway and Bayshore Road.

- f) Will not adversely affect environmentally critical or sensitive areas and natural resources; and

Staff has reviewed the potential environmental impacts and has determined that the requirements of the Land Development Code and Lee Plan, as well as recommended conditions of approval, sufficiently protect existing environmentally critical areas.

- g) Will be served by urban services, defined in the Lee Plan, if located in a Future Urban area category.

Additionally,

- a) The proposed use or mix of uses is appropriate at the proposed location;

The proposed residential use is similar to what was previously approved and sufficient landscaping and open space areas to protect residential uses surrounding the subject property. The Brightwater Country Club and Crystal Lagoon amenities, as conditioned, are appropriate accessory uses to the residential uses.

- b) The recommended conditions provide sufficient safeguards to the public interest and are reasonably related to the impacts on the public's interest expected from the proposed development; and

Staff finds the proposed conditions appropriate for approval and as conditioned the public's interests are sufficiently addressed.

- c) That each requested deviation enhances the achievement of the objectives of the planned development; and Preserves and promotes the general intent of this Code to protect the public health, safety and welfare:

There are three additional requested deviations and with the exception of the deviation regarding approval of non-sinuuous lakes, staff recommends approval of all other deviations.

Staff, therefore, recommends approval of the amendment to this Residential Planned Development (RPD) as conditioned in Attachment C.

ATTACHMENTS:

- A. Expert Witness Information
- B. Maps: Surrounding Zoning, Future Land Use and Aerial Photograph
- C. Recommended Conditions and Deviations
 - 1) Conditions in Strikethrough and Underline
 - 2) Conditions Clean Format
 - 3) Property Development Regulations
- D. Request Statement
- E. Legal Description
- F. Proposed Schedule of Uses
- G. Applicant Proposed Amendments to Conditions and Deviations
- H. Resolution Z-02-070
- I. ADD2013-00083
- J. ADD2014-00074
- K. ADD2015-00134
- L. ADD2020-00046
- M. Resolution Z-10-032
- N. Density Analysis
- O. Traffic Impact Statement
- P. Infrastructure Planning Memorandum
- Q. Environmental Memorandum
- R. Natural Resources Memorandum
- S. Lee County Department of Transportation Memorandum
- T. Florida Department of Transportation Memorandum
- U. Development Services Memorandum
- V. Letters of Utility Availability
- W. Waivers of Submittal Requirements
- X. Deviation Exhibit
- Y. Agricultural Exhibit/Littoral Planting Exhibit
- Z. Master Concept Plan

Attachment C – Conditions

Section A. - Conditions

1. The development of this project must be consistent with the one-page Master Concept Plan (MCP) entitled "Master Concept Plan Brightwater RPD F/K/A, Stoneybrook North," prepared by Banks Engineering, Inc., dated August 26, 2021, except as modified by the conditions below. This development must comply with all requirements of the Lee County LDC at the time of local development order, except as may be granted by deviation as part of this planned development. If changes to the MCP are subsequently pursued, appropriate approvals will be necessary.

This project is limited to a total of 1,500 dwelling units, but is further limited to the ~~The development is allowed a~~ maximum calculated development density/intensity with respect to new trip generation utilizing the following development scenario based on Institute of Transportation Engineers (ITE) report in effect at time of development order:

- a. 910 detached single-family dwelling units, or a combination of detached single-family, townhouse, or two-family attached, with the trip generation equivalent to 910 single-family dwelling units;
 - b. 590 detached or two-family attached senior adult dwelling units, and
 - c. Brightwater Country Club (See Condition 34)
2. The following limits apply to the project and uses:
 - a. Schedule of Uses

NOTE: Dwelling units are limited to a maximum of 1,500 units (including existing 258 units within North Brook Phase One).

- R-1 – Single-Family Residence;
- R-1A – Single-Family Residence or Two-Family Attached; and
- TH – Townhouse, Single-Family Residence, or Two-Family Attached.

Tracts A, B, F1, J1 & M

Administrative Offices
Agriculture – SUBJECT TO Condition 24
Accessory uses and structures
Dwelling Unit
 Single-family Residence
 Two-family attached

[NOTE: Tracts A & B (along with B-1, C & D) are limited to adult senior housing (±590 units - See Condition 33)]

Entrance Gate and Gatehouse

Essential Services
Essential Services Facilities, Group I
Excavation, water retention
Fences, walls
Home occupation
Model Home, Model Unit and Model Display Group
Recreation Facilities, Personal
~~Recreation Facilities~~, Private on-site
Parking lot, accessory
Residential Accessory Uses
Signs
Temporary uses

Tract B-1

Administrative Offices
Agriculture – SUBJECT TO Condition 24
Accessory uses and structures
Club, Private
 Consumption on premises (LDC Section 34-1261 et seq.) Indoor and
 Outdoor (See Deviation 21)
 Food and beverage service, limited
 Health Club and Spa
 Parking lot, accessory
 Rental or leasing establishment, Group I – limited to bicycles, tennis
 rackets and other small equipment for use by members of the
 private club
 Specialty Retail Shop, Group I
Dwelling Unit
 [NOTE: Tract B-1 (along with Tracts A, B, C & D) is limited to adult senior
 housing (±590 units - See Condition 33)]
 Single-family Residence
 Two-family attached
Entrance Gate and Gatehouse
Essential Services Essential Services Facilities, Group I
Excavation, water retention
Fences, walls
Home occupation
Model Home, Model Unit and Model Display Group
Recreation Facilities, Personal ~~Recreation Facilities~~, Private on-site
Parking lot, accessory
Residential Accessory Uses
Signs
Temporary uses

Tracts C, D, E, F, F1, G, H & I

Administrative Offices

Agriculture – SUBJECT TO Condition 24

Accessory uses and structures

Dwelling Unit

Single-family Residence

[NOTE 1: Tracts C & D (along with A, B & B1) are limited to adult senior housing (±590 units - See Condition 33)]

Entrance Gate and Gatehouse

Essential Services

Essential Services Facilities, Group I

Excavation, water retention

Fences, walls

Home occupation

Model Home, Model Unit and Model Display Group

Recreation Facilities, Personal, Private on-site

Parking lot, accessory

Residential Accessory Uses

Signs

Temporary uses

Tract J

Administrative Offices

Agriculture – SUBJECT TO Condition 24

Accessory uses and structures

Dwelling Unit Conventional

Single-family Residence

Two-family attached

Townhouse (~~Maximum 150~~)

Entrance Gate and Gatehouse, in compliance with §34-1748

Essential Services Essential Services Facilities, Group I

Excavation, water retention Fences, walls

Home occupation

Model Home, Model Unit and Model Display Group

Recreation Facilities, Personal ~~Recreation Facilities~~, Private on-site

Parking lot, accessory

Residential Accessory Uses

Signs in compliance with LDC Chapter 30 except as approved by deviation

Temporary uses (§34-3041)

Tract K

Administrative Offices

Agriculture – SUBJECT TO Condition 24

Accessory uses and structures

Brightwater Country Club (See condition 34)

Consumption on premises (LDC Section 34-1261 et seq.) Indoor and Outdoor (See Deviation 21)
Food and beverage service, limited
Health Club and Spa
Parking lot, accessory
Rental or leasing establishment, Group I – limited to bicycles, tennis rackets and other small equipment for use at the Brightwater Country Club
Specialty Retail Shop, Group I
Communication Tower – limited to one on the north side of Tract K and limited to a maximum of 35 feet in height
Entrance Gate and Gatehouse
Essential Services
Essential Services Facilities, Group I
Excavation, water retention
Fences, walls
Real Estate Sales Office (Temporary sales office limited to Tract K and limited to the sale of lots or units within the development only)
Recreation Facilities, Personal, Private on-site
Parking lot, accessory
Residential Accessory Uses
Signs
Temporary uses

Tracts E1, N and O

Drainage Excavation, water retention
Fences/Walls
Park, Group I, limited to nature preserve or passive or active recreation (~~7~~No active recreation on Tract N-only)
Signs (limited to existing billboard located on the southwest side of Tract O, Lake L1)
Recreation Facilities, Personal, Private on-site, limited to nature preserve or passive recreation

Parcels L-1 through L-34 (Lake Parcels)

Excavation, water retention

b. Site Development Regulations

See attachment C-3

3. DELETED

4. The Tract K recreational area must include at a minimum, one multi-purpose field, a playground, and picnic area, or recreational water feature. Facilities for the safe passage

of pedestrians and cyclists from one side of Pritchett Parkway to the other as determined by the Director of Development Services at the time of local development order submittal must be provided.

5. No residential lots may be located within 250 feet of the existing High Point sewage treatment plant property lines until the sewage treatment plant is no longer in operation. If the High Point sewage treatment plant is still in operation when the plat is approved for any lots located on Tract G and H, the Applicant must include a 30-foot-wide Type F buffer around the perimeter of the High Point sewage treatment plant property lines, excluding the easement that provides access to the plant.
6. Common area open space must be designed to incorporate as many of the native heritage trees and Sabal palms as possible. Prior to local development order approval, the preserved trees and any relocated palms must be delineated on the plans. Preserved trees and relocated Sabal palms will receive protected tree credits per §10-420(j).
7. A detailed protected species management plan for gopher tortoises, Big Cypress fox squirrels, and wading birds must be submitted with the initial development order for any portion of this project. The gopher tortoise management plan must include either a permanent fence or a continuous hedge of native shrubs where the gopher tortoise preserve abuts the road and park to protect the tortoises from the vehicular traffic and active recreation area.

A pedestrian/bicycle trail, with a maximum four-foot width, is permissible within the gopher tortoise preserve located east of Tract M and south of the LCEC easement. The trail must be designed to avoid impacting gopher tortoise burrows and large native trees. Two (2) access points to the trail may be incorporated into the fence, provided the openings are designed to minimize the potential for tortoises to disperse from the preserve. Details of the trail and fence must be included in the development order plans.

8. Prior to any local development order approval, an open space table must be included that details the residential unit type with lot size per tract, required open space, provided open space, required indigenous preservation and provided indigenous preservation. The project must preserve at a minimum the approximately 100.1 acres of conservation area. If more than 500 acres of the project is developed with residential tracts (including roads and lakes) requiring open space, then the development order must delineate the additional required indigenous preservation for Lee County Development Services Section staff review and approval.
9. The use of cypress mulch is prohibited in the preserve areas
10. The maximum width of all boardwalks within the preserve areas may not exceed the minimum lot width requirements set forth by the Americans with Disabilities Act.
11. All boardwalks within the preserve areas must be designed to avoid mature native trees and protected species burrows, nests, or dens. The final layout of the boardwalks must be

field verified by the Lee County Development Services Section staff prior to construction. Minor adjustments to minimized impacts to native vegetation may be required.

12. The construction of gazebos or viewing platforms within conservation areas is limited to no more than two (2) structures, each having a footprint not larger than 200 square feet.
13. Prior to site work for any recreational use that requires the removal of vegetation within a conservation area, a development order showing impacts to the conservation area must be submitted for review and approval of Development Services and other applicable County staff.
14. Prior to local development order approval, the development order plans must include littoral planting areas in substantial compliance with the LDC, ~~with the littoral planting exhibit entitled Northbrook Littoral Planting Exhibit, attached hereto as Attachment X.~~

~~All lake littoral zones must be constructed as depicted in Cross Section B-B. Littoral planting quantities must be consistent with the exhibit entitled Littoral Planting Exhibit, North Brook, attached hereto as Attachment X.~~ The planting area along the northern ditch expansion must also provide native wetland plants installed three feet on-center.

15. The Communication Tower as denoted on the Master Concept Plan must be of a monopole design and limited to 35 feet in height. The tower and its associated maintenance buildings must be designed to minimize impacts to birds.
16. Lake 1 is existing and does not require additional plantings. Any changes to Lake 1 in Tract O will require the following within the limits of the shoreline proposed to be revised: Lake littoral plantings within Tract O must be calculated at one littoral plant per linear foot of lake shoreline. One 10-foot-tall tree or two (2) three-gallon shrubs may be substituted for 10 herbaceous plants. Trees and shrubs may be used to count toward up to 50 percent of the required lake littoral planting requirements. A minimum of two (2) native wetland tree species and four (4) native herbaceous plant species must be installed in the Lake 1 (contained within Tract O).
17. The placement of any required vegetation within a utility, power, or drainage easement must be clearly delineated on an Alternate Landscape Betterment Plan as per §10-419 and submitted with the local development order. The placement of vegetation within any easement must be approved by Lee County Development Services staff and any other affected Division (Utilities, Zoning, etc.). If the easement is to an entity other than Lee County, then written approval of the location of vegetation from any affected easement holder must be submitted to Lee County Development Services staff as part of the development order. Approval from all affected parties must be obtained prior to approval of the local development order.
18. Lake Bulkheads are limited to roads and the clubhouse area. Bulkheads are not permitted along residential boundaries and are subject to the following conditions

- a. Prior to a local development order approval, the plans must show the location of the bulkheads to confirm that no more than 20 percent of each lake shoreline consists of bulkhead or rip-rap. Lakes where bulkheads are proposed must be designed to provide one linear foot of compensatory littoral zone with an 8:1 slope for each linear feet of bulkhead. For lakes that utilize bulkheads, littoral plants must be calculated at two (2) plants per linear foot of shoreline clustered within the 8:1 slope portion of the lake.
 - b. The development order must include a typical cross-section detail of a bulkhead and rip-rap areas on the paving, grading and landscape plan.
19. ~~Transportation Concurrency for this project will be measured pursuant to the Lee Plan and the LDC standards in place at the time of the development order. This must include evaluating Bayshore Road from Nalle Road to I-75 for transportation concurrency. Prior to development order approval, the developer must demonstrate that the Level of Service (LOS) will not fall below the adopted level of service on the identified links. In Determining that level of Service, only road improvements with committed funding, as provided in FAC 9J-2.045, may be considered.~~
20. The developer must provide intersection improvements to the intersection of Bayshore Road and Pritchett Parkway. The developer must coordinate with Lee County Department of Transportation and Florida Department of Transportation in order to find an acceptable improvements to the intersection that meet the standards of the Florida Administrative Code (FAC) 14-97.
21. The developer must construct an eight-foot-wide bicycle path or two (2) five-foot-wide sidewalks along Pritchett Parkway from Bayshore Road to Rich Road. Whether the portions of the bicycle/pedestrian improvements constructed 1) between Bayshore Road and the southernmost site entrance, and 2) between Rich Road and the northernmost site entrance, will be eligible for road impact fee credits will be determined through negotiations between the Staff and the Applicant when there is sufficient information to make such a determination.
22. Deleted.
23. Deleted.
24. Agricultural Uses:

Agriculture is not approved as a permanent use in the Schedule of Uses for this property. All agricultural uses must cease upon approval of the requested rezoning, EXCEPT as follows:

 - a) Existing bona fide agricultural uses, as shown in attached Attachment Y, may continue until approval of a local development order for the area of the project containing those uses.
 - b) Additional clearing of trees or other vegetation in agricultural areas is prohibited. Existing areas of bona fide agricultural use may be maintained, i.e. mowed, but not

cleared or expanded. This prohibition is not intended to preclude County approved requests for the removal of invasive exotic vegetation.

- c) The property owner must terminate the agricultural tax exemption for any portion of the property that receives a local development order. The agricultural use must cease by December 31st of the calendar year in which the local development order is issued. The exemption termination must be filed with the Property Appraiser's Office by December 31st of the calendar year in which the local development order is issued. A copy of the exemption termination must be provided title of the Office of the County Attorney.

25. Deleted.

26. Development along Popash and Bayshore Creeks:

General Conditions:

- a) Prior to issuance of a Development Order (or any early work, clearing, filling permits), the applicant must submit the following information for review and approval by the Division of Lee County Natural Resources:
 - 1) The HEC-RAS model was based upon the absence of development within 50 feet from the top of creek bank. No development is proposed within 50 feet from top of creek bank with the exception of an at-grade walking path. If any development is later proposed within 50 feet of the top of creek bank, then the developer must provide an updated HEX-RAS model pursuant to the same modeling parameters established during the rezoning process for Popash and Bayshore Creeks demonstrating that the development will not induce any rise to the existing flood elevations, nor any increases in velocities, nor any transfer in overbank flows for the 10-, 25-, and 100-year storms
 - 2) The location and extent of the existing and proposed cross sections from the HEC-RAS model on the Development Order Plans, as well as the defined existing top of bank/elevation, overbank elevations, roadway elevations, and bridge dimensions and elevations. Sufficient details or sections showing continuity and capacity of flows in the overbank must be clearly demonstrated.
 - 3) All plans and documents related to the above must include the statement: "This is to certify that I am a duly qualified engineer licensed to practice in the State of Florida. It is to further Certify that these design plans, drawings, and associated technical calculations and/or data demonstrate that no adverse effects to the existing flood elevations will occur as a result of this development."
 - 4) The above information must be submitted to the South Florida Water Management District (SFWMD) for review, consideration, and inclusion in their permit files.
 - 5) The developer or its assigns must dedicate a drainage/maintenance easement to Lee County for Popash and Bayshore Creeks for all portion(s) of the channel and its overbanks included in the HEC-RAS modeling and that lie within the property limits. The easement may be part of any conservation easement dedicated to Lee County and the South Florida Water Management District (SFWMD), but must be consistent with the maintenance activities anticipated and outlined herein. The easement must also give the county the right, but not the obligation for maintenance and provide for maintenance access along the creeks. As a part of

the easement, the developer agrees to a monthly to include initial and ongoing maintenance for these creeks that must include removal of all exotics including, but not limited to, grape vines (above three feet in height above ground) and roasary pea, any deposited debris, fencing, fallen trees, or eroded vegetation. The basic ground cover within the easement areas is to remain in its current grassed condition. The relocation of onsite Sabal palms from other parts of the property onto the easement area is permissible, but must not be collocated closer than a ten (10) foot spacing. No saw palmetto or shrubbery of any type is to be planted within the easement area. The easement must be reviewed and approved by the County Attorney and Division of Natural Resources during the platting process. The same drainage/maintenance easement language must be contained within the Community Development District (CDD) or Homeowners Association (HOA) documents.

- 6) All modifications and exotic vegetation removal outlined herein for Popash and Bayshore Creeks must be completed before the issuance of the first Development Order.
- 7) The east-west ditch proposed along the northerly boundary of the development must have no interconnection between Popash and Bayshore Creeks.

Popash Creek:

- b) Prior to the issuance of the Development Order (or any early work, clearing, filling permits) containing the bridge crossing, the developer must provide complete construction plans for the bridge for review and approval by the Division of Lee County Natural Resources in accordance with the following:
 - 1) The bridge crossing of Popash Creek must be a pole-supported structure.
 - 2) No more than two (2) rows of pilings (or supports) are permitted in the overbank and none may be closer than 10 feet to the existing top of bank. Each row must be perpendicular to the direction of the flood flows and each must have a maximum dimension of twenty-four (24) inches.
 - 3) The low chord of the bridge must be at or above the 100-year floodwater surface elevation and the abutments for the bridge may not be closer than 50 feet to the existing top of bank. Additionally, the low chord must be at least two (2) feet above the highest overbank elevation within the 50-foot offset areas (total of 100 feet $\pm$).
 - 4) No berming, filling, planting, or other above ground construction/amenities are permitted within 50 feet of the existing top of banks for Popash creek, unless permitted elsewhere in these conditions by the Lee County Division of Natural Resources.

Bayshore Creek:

- c) All modifications and exotic vegetation removal outlined below for Bayshore Creek must be completed before the issuance of the first Certification of Completion for the first Development Order.
 - 1) The spoil is to be removed down to an elevation of 18.0 feet NGVD and then sloped in conjunction with the perimeter berm along Bayshore Creek for that portion upstream of Pritchett Parkway and within the 50-foot offset from the existing top of bank.

- 2) No berming, filling, planting, or other above ground construction/amenities are permitted within 50 feet of the existing top of bank for Bayshore Creek, unless permitted elsewhere in these conditions by Lee County Natural Resources.
27. In light of the potential for the existing High Point Wastewater Treatment Plant (WWTP) to continue operation, the developer must disclose the existence, location and operation of the sewage treatment plant to any purchasers of property immediately adjacent to a line 250 feet from the perimeter boundary of the WWTP site (excluding that portion of the site containing the access road into the WWTP site). Any and all agreements for the sale of property immediately adjacent to the 250-foot dimension must include the following disclosure statement. This disclosure statement must appear in bold face and conspicuous type that is larger than the type in the remaining text of the contract:

"Lot owners immediately adjacent to the line, 250 feet from the perimeter boundary of the WWTP site within the Brightwater RPD F/K/A Stoneybrook North (f/k/a Heritage Creek) Planned Development, must acknowledge the presence of the High Point Wastewater Treatment Plant."
28. The maintenance of Popash and Bayshore Creeks within the property limits, which is required in Condition 26, will be assured by the provision of a surety for the annual cost of maintenance. Evidence of the surety must be provided to the County prior to the issuance of a Certificate of Compliance for the first development order for the drainage infrastructure for the project.
29. In an effort to cooperate in achieving the reduction of the regional flooding problem, the applicant must provide a drainage easement to Lee County for the drainage ditch along the north boundary of the property. This easement is for the purpose of allowing the existing ditch to accept the quantity of stormwater that is approved pursuant to a South Florida Water Management District permit addressing the regional flooding problem.
30. Except as otherwise noted on the MCP, perimeter buffers around the outside perimeter of the property will require 10 trees per 100 linear feet and a double staggered hedge. The hedge will be installed at 36 inches high and maintained at 60 inches high for areas annotated with Buffer Note 1 or installed at 48 inches high and a minimum of 20 feet from the property line for areas annotated with Buffer Note 2 except as modified by Deviation 18.
31. Lighting
 - a. Outdoor ballfield lights for any baseball field located on Tract K are prohibited.
 - b. Outdoor recreational lighting for any amenities located on Tract K or B-1 (with the exception of ballfields where lighting is prohibited) and Tract B-1 must be on timers. Lighting impacts will be measured at the boundary of Tracts K and B-1, and not at the boundary of any adjacent lakes or preserve areas.
32. Approval of this rezoning does not guarantee local development order approval. Future development order approvals must satisfy the requirements of the Lee Plan Planning Communities Map and Acreage Allocations Table, Map 16 and Table 1(b).

33. Declaration of covenants and restrictions must be provided as an amendment to the Phase 2 development order to reflect 590 dwelling units limited to adult senior housing within Tracts A, B, B1, C & D. Any amendment to this condition or relevant documentation must be considered through additional zoning approvals.
34. Brightwater Country Club consists of the building(s) and associated recreational facilities constructed in conjunction with the Brightwater Crystal Lagoon, open to members and their guests for a membership fee, and also includes daily non-resident reservation based system. Resident memberships in the Brightwater Country Club will be included in every purchase of a Brightwater home.
- a. Access to Brightwater Crystal Lagoon must be fully gated;
 - b. Non-resident access to the Brightwater Country Club amenities and recreational facilities requires a reservation on a reservation portal website. Daily reservations to non-residents will be limited based upon parking availability in the parking lot adjacent to the Brightwater Country Club which will be monitored and controlled by Staff of the Brightwater Country Club;
 - c. Signage is required on Pritchett Parkway to notify the public that no parking is permitted on Pritchett Parkway;
 - d. The Brightwater Country Club (limited to Tract K) parking lot is required to provide a minimum of 180 parking spaces and a maximum of 400 parking spaces (including golf carts) of which a minimum of 33% shall be resident only spaces (including golf carts). ~~All parking spaces for users of the Crystal Lagoon amenity will be clearly delineated. Parking outside of the delineated spaces is not permitted. A maximum parking rate of 0.07 non-golf cart parking spaces per permitted unit is allowed for non-Brightwater RPD residents.~~ Parking limited to Brightwater RPD residents only will be clearly marked and signed; and
 - e. Golf cart parking areas shall be available for exclusive use of Brightwater homeowners.
35. At the time of Development Order Approval, the applicant must comply with the requirements of LDC Section 10-329. In addition, access points for fill to be transported across Pritchett Parkway will be limited to a single location on both sides of Pritchett Parkway at any given time. Erosion control measures for Pritchett Parkway and the crossing area will be detailed in the Development Order process for staff review and approval.
36. Voluntary enhancements
- a. Residential uses are removed from and transferred internal to site Tract E1 (±9.73 acres)
 - b. Residential uses are removed from and transferred internal to site Tract N (±10.37 acres).
 - c. No residential uses and density transferred internal to site Tract O (±14.43).
 - d. Tract D- Prior to construction certification of the westernmost lots abutting the Hunter's Glen subdivision property line, developer will provide:

- i. An easement to allow potential for Hunter's Glen's construction (at their option) of a turnaround for emergency, solid waste, and resident vehicles for Hunter's Glen subdivision. Developer has the right (but not the obligation) to construct this improvement.
 - ii. An easement and stubbed water mains to allow potential for Hunter's Glen's construction (at their option) of fire hydrants as enhancement to Hunter's Glen subdivision fire protection. Developer has the right (but not the obligation) to construct this improvement.
 - e. Development Order application and approval for Tract A must demonstrate increased open space separation to lots (varying $\pm 35'$ – $\pm 82'$ setback between lot lines and perimeter) along western perimeter boundary as shown on the Master Concept Plan.
 - f. Tract M – Prior to construction certification of easternmost lots in Tract M, developer will provide a utility easement for Seminole Campground to allow (at their option):
 - i. Connection to central sewer to take the Seminole Campground WWTP off-line; and
 - ii. Opportunity for water main looping for increased fire protection. Developer has the right (but not the obligation) to construct this improvement.
37. Each development order must reference the "Brightwater Site-Wide Construction Water Quality Monitoring Program" on file with case number DOS2018-00034-A01 which may be amended from time to time as needed to address current circumstances without requiring a zoning amendment.
38. The developer must amend previous relevant development order approvals to demonstrate on the development order plans that the constructed sidewalk within the natural waterway buffer and indigenous open space abutting Popash Creek. Development order plans must demonstrate compliance with LDC Sections 10-~~416~~415(d)(2)(d) and 10-416(d)(11)(b).

Section B. – Deviations

- 1. Deviation (1) – Withdrawn
- 2. Deviation (2) – Withdrawn
- 3. Deviation (3) seeks relief from §10-418(2)d, which requires the installation of native wetland herbaceous plants at a calculation of 25 percent of the total linear feet of shoreline multiplied by the 20-foot-wide planted littoral shelf and divided by four to obtain two-foot-on-center spacing, and where trees and shrubs can be substituted for up to 25 percent of the total number of herbaceous plants required; to allow the required plantings to include up to 50 percent trees in the Tract O lake (Lake L1). This deviation is APPROVED, SUBJECT TO Condition 16.
- 4. Deviation (4) – Withdrawn
- 5. Deviation (5) – Withdrawn

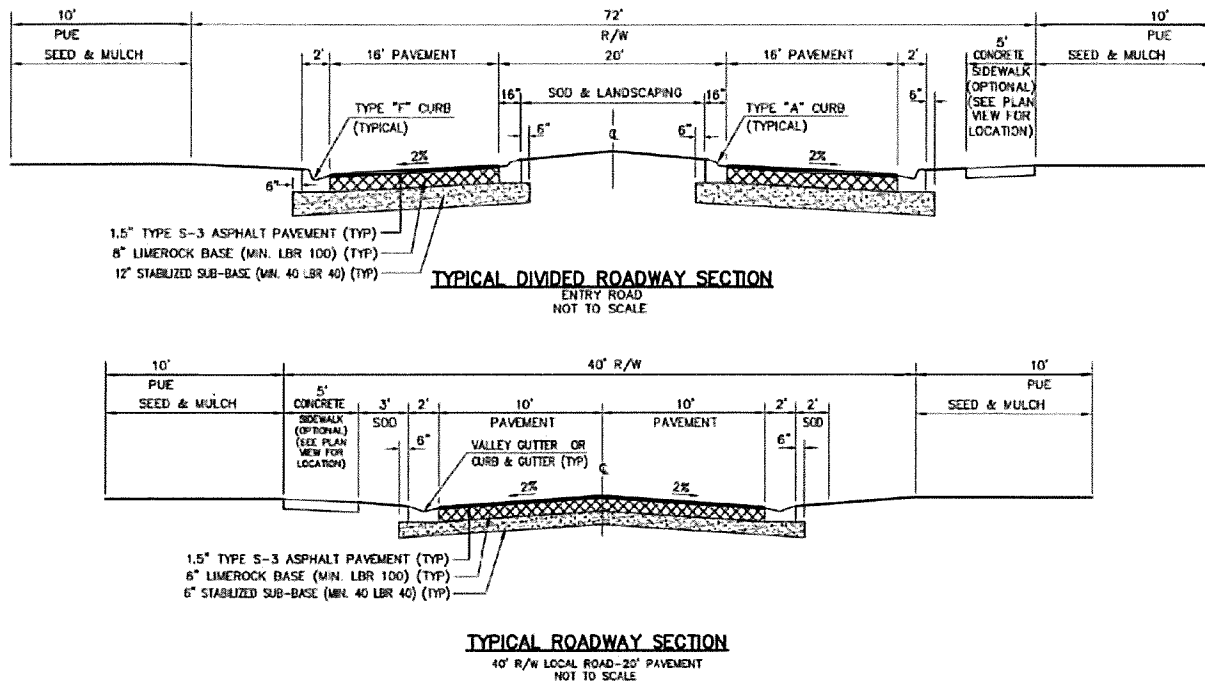
6. Deviation (6) – Withdrawn
7. Deviation (7) seeks relief from §10-329(d)(4), which requires excavations to be sloped at a ratio not greater than six (6) horizontal to one (1) vertical from the top of bank to a water depth of two feet below the dry season water table and a ratio of two (2) horizontal to one (1) vertical thereafter; to allow 40 percent of the lake bank slopes within the development to utilize vertical bulkheads or rip rap. This deviation is APPROVED, SUBJECT TO Condition 18
8. Deviation (8) – Withdrawn
9. Deviation (9) – Withdrawn
10. Deviation (10) – Withdrawn
11. Deviation (11) – Withdrawn
12. Deviation (12) seeks relief from §34-1954(a)(1) which requires administrative approval of locations for model homes in new developments; to allow model homes by right in the locations within the development as shown on the MCP. This deviation is APPROVED.
13. Deviation (13) seeks relief from §34-1954(f) which requires parking for model homes or model units to be located on the same premises and in compliance with the type of dwelling unit being displayed; to permit the development of accessory parking for model homes as low turnover and therefore permit development of these lots with alternative surfaces. This deviation is APPROVED, SUBJECT TO the following conditions:
 - a. The entrance apron into each parking lot would be paved.
 - b. The handicapped parking space(s) in each lot would be paved
 - c. The Applicant will keep the portion of the street in front of each model free from gravel or shell that may be tracked out of the model home parking area(s) by departing vehicles.
14. Deviation (14) seeks relief from §30-153(2)(a)(iv) which limits the text of additional subdivision or residential development identification signs to the subdivision or project name; to allow the additional signs for this project to include the notation "A [Developer's Name] Community," in addition to the name of the development. This deviation is APPROVED, SUBJECT TO the following condition:
 - a. The proposed project sign must be in substantial compliance with the rendering submitted in conjunction with the justification for Deviations 14 and 15, which was stamped "Received Apr 07 2003 Community Development" and attached as Attachment X.
15. Deviation (15) seeks relief from §30-152(2)(d) which limits the size of project entrance signs and which limits the size and number of additional project signs to allow all of the

permitted square footage for the number of permitted signs to be combined into the main project entrance sign and a deviation from §30- 94(h) which restricts double faced signs with opposing faces to an interior angle of less than 30 degrees; to allow the [Community Name] project sign to have two sign faces of approximately 130 square feet in size and be located on a curvilinear wall. This deviation is APPROVED, SUBJECT TO the following condition:

- a. The proposed project sign must be in substantial compliance with the rendering submitted in conjunction with the justification for Deviations 14 and 15 which was stamped "Received Apr 07 2003 Community Development" and attached as Attachment X.

16. Deviation (16) – Withdrawn

17. Deviation 17 seeks relief from LDC Section 10-296(e)(2)h.5.ii. and iii., which require Residential Suburban Local Streets to have a 5-foot planting strip and 5-foot pedestrian facility on both sides of the road, to allow internal roadways to be designed and constructed in accordance with the following cross sections approved by DOS2015-00083, as amended:



This deviation is APPROVED, SUBJECT TO the following condition:

- a. The developer must provide a pedestrian way along one side of all streets internal to the development and must extend each pedestrian way from intersection to intersection.

18. Deviation 18 seeks relief from LDC Section 10-416(d)(9), which requires a 50-foot-wide vegetated natural waterway buffer containing six native canopy trees and 50 native shrubs

per 100 linear feet, which may be met through credits from the existing native vegetation within the waterway buffer area at a 1:1 credit ratio, to allow existing vegetation to remain to meet the buffer requirements and to allow areas to remain in their natural state if no vegetation exists with no planting plan required. This deviation is APPROVED, SUBJECT TO the following condition:

- a. The areas at the northwestern corner of the property within the required natural waterway buffer depicted on the Master Concept Plan with annotations referencing Buffer Note 1 and Buffer Note 2 may not be planted.

19. Deviation 19 seeks relief from LDC Section 10-418(1), which requires shorelines to be sinuous rather than straight, to allow existing or permitted lakes to remain as designed.

Staff recommends **withdrawal** of this deviation, based on the fact that the lakes noted in the deviation request were previously found to be sinuous in nature during previous Development Order Approval.

20. Deviation 20 seeks relief from LDC Section 10-296(k)(1), which requires deadend streets to provide a circular turnaround, to allow a dead-end street in Tract E as shown on MCP.

Staff recommends **approval** of this deviation with the following conditions:

- a. At the time of development order submittal, the applicant must provide a letter of no objection to the dead-end roadway in Tract E from the fire department having jurisdiction.

21. Deviation 21 seeks relief from LDC Section 34-1264 to allow outdoor consumption on premises to be located $\pm 466'$ feet from a dwelling unit under separate ownership.

Staff recommends **approval** of this deviation, subject to the following conditions:

- a. This deviation is only applicable to consumption on premises in conjunction with the Brightwater Country Club use in the COP area delineated on the Master Concept Plan.
- b. Live music or amplified sound is prohibited in the exterior portions of Consumption on Premises area after 10PM.

Attachment C – Conditions

Section A. - Conditions

1. The development of this project must be consistent with the one-page Master Concept Plan (MCP) entitled “Master Concept Plan Brightwater RPD F/K/A, Stoneybrook North,” prepared by Banks Engineering, Inc., dated August 26, 2021, except as modified by the conditions below. This development must comply with all requirements of the Lee County LDC at the time of local development order, except as may be granted by deviation as part of this planned development. If changes to the MCP are subsequently pursued, appropriate approvals will be necessary.

This project is limited to a total of 1,500 dwelling units, but is further limited to the maximum calculated development density/intensity with respect to new trip generation utilizing the following development scenario based on Institute of Transportation Engineers (ITE) report in effect at time of development order:

- a. 910 detached single-family dwelling units, or a combination of detached single-family, townhouse, or two-family attached, with the trip generation equivalent to 910 single-family dwelling units;
 - b. 590 detached or two-family attached senior adult dwelling units, and
 - c. Brightwater Country Club (See Condition 34)
2. The following limits apply to the project and uses:

- a. Schedule of Uses

NOTE: Dwelling units are limited to a maximum of 1,500 units (including existing 258 units within North Brook Phase One).

- R-1 – Single-Family Residence;
- R-1A – Single-Family Residence or Two-Family Attached; and
- TH – Townhouse, Single-Family Residence, or Two-Family Attached.

Tracts A, B, F1, J1 & M

Administrative Offices
Agriculture – SUBJECT TO Condition 24
Accessory uses and structures
Dwelling Unit
 Single-family Residence
 Two-family attached

[NOTE: Tracts A & B (along with B-1, C & D) are limited to adult senior housing (±590 units - See Condition 33)]

Entrance Gate and Gatehouse
Essential Services

Essential Services Facilities, Group I
Excavation, water retention
Fences, walls
Home occupation
Model Home, Model Unit and Model Display Group
Recreation Facilities, Personal, Private on-site
Parking lot, accessory
Residential Accessory Uses
Signs
Temporary uses

Tract B-1

Administrative Offices
Agriculture – SUBJECT TO Condition 24
Accessory uses and structures
Club, Private
 Consumption on premises (LDC Section 34-1261 et seq.) Indoor and
 Outdoor (See Deviation 21)
 Food and beverage service, limited
 Health Club and Spa
 Parking lot, accessory
 Rental or leasing establishment, Group I – limited to bicycles, tennis
 rackets and other small equipment for use by members of the
 private club
 Specialty Retail Shop, Group I
Dwelling Unit
 [NOTE: Tract B-1 (along with Tracts A, B, C & D) is limited to adult senior
 housing (±590 units - See Condition 33)]
 Single-family Residence
 Two-family attached
Entrance Gate and Gatehouse
Essential Services Essential Services Facilities, Group I
Excavation, water retention
Fences, walls
Home occupation
Model Home, Model Unit and Model Display Group
Recreation Facilities, Personal, Private on-site
Parking lot, accessory
Residential Accessory Uses
Signs
Temporary uses

Tracts C, D, E, F, F1, G, H & I

Administrative Offices
Agriculture – SUBJECT TO Condition 24

Accessory uses and structures

Dwelling Unit

Single-family Residence

[NOTE 1: Tracts C & D (along with A, B & B1) are limited to adult senior housing (±590 units - See Condition 33)]

Entrance Gate and Gatehouse

Essential Services

Essential Services Facilities, Group I

Excavation, water retention

Fences, walls

Home occupation

Model Home, Model Unit and Model Display Group

Recreation Facilities, Personal, Private on-site

Parking lot, accessory

Residential Accessory Uses

Signs

Temporary uses

Tract J

Administrative Offices

Agriculture – SUBJECT TO Condition 24

Accessory uses and structures

Dwelling Unit Conventional

Single-family Residence

Two-family attached

Townhouse

Entrance Gate and Gatehouse, in compliance with §34-1748

Essential Services Essential Services Facilities, Group I

Excavation, water retention Fences, walls

Home occupation

Model Home, Model Unit and Model Display Group

Recreation Facilities, Personal, Private on-site

Parking lot, accessory

Residential Accessory Uses

Signs in compliance with LDC Chapter 30 except as approved by deviation

Temporary uses (§34-3041)

Tract K

Administrative Offices

Agriculture – SUBJECT TO Condition 24

Accessory uses and structures

Brightwater Country Club (See condition 34)

Consumption on premises (LDC Section 34-1261 et seq.) Indoor and Outdoor (See Deviation 21)

Food and beverage service, limited

Health Club and Spa
Parking lot, accessory
Rental or leasing establishment, Group I – limited to bicycles, tennis rackets and other small equipment for use at the Brightwater Country Club
Specialty Retail Shop, Group I
Communication Tower – limited to one on the north side of Tract K and limited to a maximum of 35 feet in height
Entrance Gate and Gatehouse
Essential Services
Essential Services Facilities, Group I
Excavation, water retention
Fences, walls
Real Estate Sales Office (Temporary sales office limited to Tract K and limited to the sale of lots or units within the development only)
Recreation Facilities, Personal, Private on-site
Parking lot, accessory
Residential Accessory Uses
Signs
Temporary uses

Tracts E1, N and O

Drainage Excavation, water retention
Fences/Walls
Park, Group I, limited to nature preserve or passive or active recreation (No active recreation on Tract N)
Signs (limited to existing billboard located on the southwest side of Tract O, Lake L1)
Recreation Facilities, Personal, Private on-site, limited to nature preserve or passive recreation

Parcels L-1 through L-34 (Lake Parcels)

Excavation, water retention

b. Site Development Regulations

See attachment C-3

3. DELETED

4. The Tract K recreational area must include at a minimum, one multi-purpose field, a playground, and picnic area, or recreational water feature. Facilities for the safe passage of pedestrians and cyclists from one side of Pritchett Parkway to the other as determined by the Director of Development Services at the time of local development order submittal must be provided.

5. No residential lots may be located within 250 feet of the existing High Point sewage treatment plant property lines until the sewage treatment plant is no longer in operation. If the High Point sewage treatment plant is still in operation when the plat is approved for any lots located on Tract G and H, the Applicant must include a 30-foot-wide Type F buffer around the perimeter of the High Point sewage treatment plant property lines, excluding the easement that provides access to the plant.
6. Common area open space must be designed to incorporate as many of the native heritage trees and Sabal palms as possible. Prior to local development order approval, the preserved trees and any relocated palms must be delineated on the plans. Preserved trees and relocated Sabal palms will receive protected tree credits per §10-420(j).
7. A detailed protected species management plan for gopher tortoises, Big Cypress fox squirrels, and wading birds must be submitted with the initial development order for any portion of this project. The gopher tortoise management plan must include either a permanent fence or a continuous hedge of native shrubs where the gopher tortoise preserve abuts the road and park to protect the tortoises from the vehicular traffic and active recreation area.

A pedestrian/bicycle trail, with a maximum four-foot width, is permissible within the gopher tortoise preserve located east of Tract M and south of the LCEC easement. The trail must be designed to avoid impacting gopher tortoise burrows and large native trees. Two (2) access points to the trail may be incorporated into the fence, provided the openings are designed to minimize the potential for tortoises to disperse from the preserve. Details of the trail and fence must be included in the development order plans.

8. Prior to any local development order approval, an open space table must be included that details the residential unit type with lot size per tract, required open space, provided open space, required indigenous preservation and provided indigenous preservation. The project must preserve at a minimum the approximately 100.1 acres of conservation area. If more than 500 acres of the project is developed with residential tracts (including roads and lakes) requiring open space, then the development order must delineate the additional required indigenous preservation for Lee County Development Services Section staff review and approval.
9. The use of cypress mulch is prohibited in the preserve areas
10. The maximum width of all boardwalks within the preserve areas may not exceed the minimum lot width requirements set forth by the Americans with Disabilities Act.
11. All boardwalks within the preserve areas must be designed to avoid mature native trees and protected species burrows, nests, or dens. The final layout of the boardwalks must be field verified by the Lee County Development Services Section staff prior to construction. Minor adjustments to minimized impacts to native vegetation may be required.

12. The construction of gazebos or viewing platforms within conservation areas is limited to no more than two (2) structures, each having a footprint not larger than 200 square feet.
13. Prior to site work for any recreational use that requires the removal of vegetation within a conservation area, a development order showing impacts to the conservation area must be submitted for review and approval of Development Services and other applicable County staff.
14. Prior to local development order approval, the development order plans must include littoral planting areas in substantial compliance with the LDC..

The planting area along the northern ditch expansion must also provide native wetland plants installed three feet on-center.

15. The Communication Tower as denoted on the Master Concept Plan must be of a monopole design and limited to 35 feet in height. The tower and its associated maintenance buildings must be designed to minimize impacts to birds.
16. Lake 1 is existing and does not require additional plantings. Any changes to Lake 1 in Tract O will require the following within the limits of the shoreline proposed to be revised: Lake littoral plantings within Tract O must be calculated at one littoral plant per linear foot of lake shoreline. One 10-foot-tall tree or two (2) three-gallon shrubs may be substituted for 10 herbaceous plants. Trees and shrubs may be used to count toward up to 50 percent of the required lake littoral planting requirements. A minimum of two (2) native wetland tree species and four (4) native herbaceous plant species must be installed in the Lake 1 (contained within Tract O).
17. The placement of any required vegetation within a utility, power, or drainage easement must be clearly delineated on an Alternate Landscape Betterment Plan as per §10-419 and submitted with the local development order. The placement of vegetation within any easement must be approved by Lee County Development Services staff and any other affected Division (Utilities, Zoning, etc.). If the easement is to an entity other than Lee County, then written approval of the location of vegetation from any affected easement holder must be submitted to Lee County Development Services staff as part of the development order. Approval from all affected parties must be obtained prior to approval of the local development order.
18. Lake Bulkheads are limited to roads and the clubhouse area. Bulkheads are not permitted along residential boundaries and are subject to the following conditions
 - a. Prior to a local development order approval, the plans must show the location of the bulkheads to confirm that no more than 20 percent of each lake shoreline consists of bulkhead or rip-rap. Lakes where bulkheads are proposed must be designed to provide one linear foot of compensatory littoral zone with an 8:1 slope for each linear foot of bulkhead. For lakes that utilize bulkheads, littoral plants must be calculated at two (2) plants per linear foot of shoreline clustered within the 8:1 slope portion of the lake.

- b. The development order must include a typical cross-section detail of a bulkhead and rip-rap areas on the paving, grading and landscape plan.

19. .

20. The developer must provide intersection improvements to the intersection of Bayshore Road and Pritchett Parkway. The developer must coordinate with Lee County Department of Transportation and Florida Department of Transportation in order to find an acceptable improvements to the intersection that meet the standards of the Florida Administrative Code (FAC) 14-97.

21. The developer must construct an eight-foot-wide bicycle path or two (2) five-foot-wide sidewalks along Pritchett Parkway from Bayshore Road to Rich Road. Whether the portions of the bicycle/pedestrian improvements constructed 1) between Bayshore Road and the southernmost site entrance, and 2) between Rich Road and the northernmost site entrance, will be eligible for road impact fee credits will be determined through negotiations between the Staff and the Applicant when there is sufficient information to make such a determination.

22. Deleted.

23. Deleted.

24. Agricultural Uses:

Agriculture is not approved as a permanent use in the Schedule of Uses for this property. All agricultural uses must cease upon approval of the requested rezoning, EXCEPT as follows:

- a) Existing bona fide agricultural uses, as shown in attached Attachment Y, may continue until approval of a local development order for the area of the project containing those uses.
- b) Additional clearing of trees or other vegetation in agricultural areas is prohibited. Existing areas of bona fide agricultural use may be maintained, i.e. mowed, but not cleared or expanded. This prohibition is not intended to preclude County approved requests for the removal of invasive exotic vegetation.
- c) The property owner must terminate the agricultural tax exemption for any portion of the property that receives a local development order. The agricultural use must cease by December 31st of the calendar year in which the local development order is issued. The exemption termination must be filed with the Property Appraiser's Office by December 31st of the calendar year in which the local development order is issued. A copy of the exemption termination must be provided title of the Office of the County Attorney.

25. Deleted.

26. Development along Popash and Bayshore Creeks:

General Conditions:

- a) Prior to issuance of a Development Order (or any early work, clearing, filling permits), the applicant must submit the following information for review and approval by the Division of Lee County Natural Resources:
 - 1) The HEC-RAS model was based upon the absence of development within 50 feet from the top of creek bank. No development is proposed within 50 feet from top of creek bank with the exception of an at-grade walking path. If any development is later proposed within 50 feet of the top of creek bank, then the developer must provide an updated HEX-RAS model pursuant to the same modeling parameters established during the rezoning process for Popash and Bayshore Creeks demonstrating that the development will not induce any rise to the existing flood elevations, nor any increases in velocities, nor any transfer in overbank flows for the 10-, 25-, and 100-year storms
 - 2) The location and extent of the existing and proposed cross sections from the HEC-RAS model on the Development Order Plans, as well as the defined existing top of bank/elevation, overbank elevations, roadway elevations, and bridge dimensions and elevations. Sufficient details or sections showing continuity and capacity of flows in the overbank must be clearly demonstrated.
 - 3) All plans and documents related to the above must include the statement: "This is to certify that I am a duly qualified engineer licensed to practice in the State of Florida. It is to further Certify that these design plans, drawings, and associated technical calculations and/or data demonstrate that no adverse effects to the existing flood elevations will occur as a result of this development."
 - 4) The above information must be submitted to the South Florida Water Management District (SFWMD) for review, consideration, and inclusion in their permit files.
 - 5) The developer or its assigns must dedicate a drainage/maintenance easement to Lee County for Popash and Bayshore Creeks for all portion(s) of the channel and its overbanks included in the HEC-RAS modeling and that lie within the property limits. The easement may be part of any conservation easement dedicated to Lee County and the South Florida Water Management District (SFWMD), but must be consistent with the maintenance activities anticipated and outlined herein. The easement must also give the county the right, but not the obligation for maintenance and provide for maintenance access along the creeks. As a part of the easement, the developer agrees to a monthly to include initial and ongoing maintenance for these creeks that must include removal of all exotics including, but not limited to, grape vines (above three feet in height above ground) and roasary pea, any deposited debris, fencing, fallen trees, or eroded vegetation. The basic ground cover within the easement areas is to remain in its current grassed condition. The relocation of onsite Sabal palms from other parts of the property onto the easement area is permissible, but must not be collocated closer than a ten (10) foot spacing. No saw palmetto or shrubbery of any type is to be planted within the easement area. The easement must be reviewed and approved by the County Attorney and Division of Natural Resources during the platting process. The same drainage/maintenance easement language must be contained within the Community Development District (CDD) or Homeowners Association (HOA) documents.

- 6) All modifications and exotic vegetation removal outlined herein for Popash and Bayshore Creeks must be completed before the issuance of the first Development Order.
- 7) The east-west ditch proposed along the northerly boundary of the development must have no interconnection between Popash and Bayshore Creeks.

Popash Creek:

- b) Prior to the issuance of the Development Order (or any early work, clearing, filling permits) containing the bridge crossing, the developer must provide complete construction plans for the bridge for review and approval by the Division of Lee County Natural Resources in accordance with the following:
 - 1) The bridge crossing of Popash Creek must be a pole-supported structure.
 - 2) No more than two (2) rows of pilings (or supports) are permitted in the overbank and none may be closer than 10 feet to the existing top of bank. Each row must be perpendicular to the direction of the flood flows and each must have a maximum dimension of twenty-four (24) inches.
 - 3) The low chord of the bridge must be at or above the 100-year floodwater surface elevation and the abutments for the bridge may not be closer than 50 feet to the existing top of bank. Additionally, the low chord must be at least two (2) feet above the highest overbank elevation within the 50-foot offset areas (total of 100 feet $\pm$).
 - 4) No berming, filling, planting, or other above ground construction/amenities are permitted within 50 feet of the existing top of banks for Popash creek, unless permitted elsewhere in these conditions by the Lee County Division of Natural Resources.

Bayshore Creek:

- c) All modifications and exotic vegetation removal outlined below for Bayshore Creek must be completed before the issuance of the first Certification of Completion for the first Development Order.
 - 1) The spoil is to be removed down to an elevation of 18.0 feet NGVD and then sloped in conjunction with the perimeter berm along Bayshore Creek for that portion upstream of Pritchett Parkway and within the 50-foot offset from the existing top of bank.
 - 2) No berming, filling, planting, or other above ground construction/amenities are permitted within 50 feet of the existing top of bank for Bayshore Creek, unless permitted elsewhere in these conditions by Lee County Natural Resources.
27. In light of the potential for the existing High Point Wastewater Treatment Plant (WWTP) to continue operation, the developer must disclose the existence, location and operation of the sewage treatment plant to any purchasers of property immediately adjacent to a line 250 feet from the perimeter boundary of the WWTP site (excluding that portion of the site containing the access road into the WWTP site). Any and all agreements for the sale of property immediately adjacent to the 250-foot dimension must include the following disclosure statement. This disclosure statement must appear in bold face and conspicuous type that is larger than the type in the remaining text of the contract:

"Lot owners immediately adjacent to the line, 250 feet from the perimeter boundary of the WWTP site within the Brightwater RPD F/K/A Stoneybrook North (f/k/a Heritage Creek) Planned Development, must acknowledge the presence of the High Point Wastewater Treatment Plant."

28. The maintenance of Popash and Bayshore Creeks within the property limits, which is required in Condition 26, will be assured by the provision of a surety for the annual cost of maintenance. Evidence of the surety must be provided to the County prior to the issuance of a Certificate of Compliance for the first development order for the drainage infrastructure for the project.
29. In an effort to cooperate in achieving the reduction of the regional flooding problem, the applicant must provide a drainage easement to Lee County for the drainage ditch along the north boundary of the property. This easement is for the purpose of allowing the existing ditch to accept the quantity of stormwater that is approved pursuant to a South Florida Water Management District permit addressing the regional flooding problem.
30. Except as otherwise noted on the MCP, perimeter buffers around the outside perimeter of the property will require 10 trees per 100 linear feet and a double staggered hedge. The hedge will be installed at 36 inches high and maintained at 60 inches high for areas annotated with Buffer Note 1 or installed at 48 inches high and a minimum of 20 feet from the property line for areas annotated with Buffer Note 2 except as modified by Deviation 18.
31. Lighting
 - a. Outdoor ballfield lights for any baseball field located on Tract K are prohibited.
 - b. Outdoor recreational lighting for any amenities located on Tract K or B-1 (with the exception of ballfields where lighting is prohibited) and Tract B-1 must be on timers. Lighting impacts will be measured at the boundary of Tracts K and B-1, and not at the boundary of any adjacent lakes or preserve areas.
32. Approval of this rezoning does not guarantee local development order approval. Future development order approvals must satisfy the requirements of the Lee Plan Planning Communities Map and Acreage Allocations Table, Map 16 and Table 1(b).
33. Declaration of covenants and restrictions must be provided as an amendment to the Phase 2 development order to reflect 590 dwelling units limited to adult senior housing within Tracts A, B, B1, C & D. Any amendment to this condition or relevant documentation must be considered through additional zoning approvals.
34. Brightwater Country Club consists of the building(s) and associated recreational facilities constructed in conjunction with the Brightwater Crystal Lagoon, open to members and their guests for a membership fee, and also includes daily non-resident reservation based system. Resident memberships in the Brightwater Country Club will be included in every purchase of a Brightwater home.
 - a. Access to Brightwater Crystal Lagoon must be fully gated;

- b. Non-resident access to the Brightwater Country Club amenities and recreational facilities requires a reservation on a reservation portal website. Daily reservations to non-residents will be limited based upon parking availability in the parking lot adjacent to the Brightwater Country Club which will be monitored and controlled by Staff of the Brightwater Country Club;
- c. Signage is required on Pritchett Parkway to notify the public that no parking is permitted on Pritchett Parkway;
- d. The Brightwater Country Club (limited to Tract K) parking lot is required to provide a minimum of 180 parking spaces and a maximum of 400 parking spaces (including golf carts) of which a minimum of 33% shall be resident only spaces (including golf carts). Parking limited to Brightwater RPD residents only will be clearly marked and signed; and
- e. Golf cart parking areas shall be available for exclusive use of Brightwater homeowners.

35. At the time of Development Order Approval, the applicant must comply with the requirements of LDC Section 10-329. In addition, access points for fill to be transported across Pritchett Parkway will be limited to a single location on both sides of Pritchett Parkway at any given time. Erosion control measures for Pritchett Parkway and the crossing area will be detailed in the Development Order process for staff review and approval.

36. Voluntary enhancements

- a. Residential uses are removed from and transferred internal to site Tract E1 (± 9.73 acres)
- b. Residential uses are removed from and transferred internal to site Tract N (± 10.37 acres).
- c. No residential uses and density transferred internal to site Tract O (± 14.43).
- d. Tract D- Prior to construction certification of the westernmost lots abutting the Hunter's Glen subdivision property line, developer will provide:
 - i. An easement to allow potential for Hunter's Glen's construction (at their option) of a turnaround for emergency, solid waste, and resident vehicles for Hunter's Glen subdivision. Developer has the right (but not the obligation) to construct this improvement.
 - ii. An easement and stubbed water mains to allow potential for Hunter's Glen's construction (at their option) of fire hydrants as enhancement to Hunter's Glen subdivision fire protection. Developer has the right (but not the obligation) to construct this improvement.
- e. Development Order application and approval for Tract A must demonstrate increased open space separation to lots (varying $\pm 35'$ – $\pm 82'$ setback between lot lines and perimeter) along western perimeter boundary as shown on the Master Concept Plan.
- f. Tract M – Prior to construction certification of easternmost lots in Tract M, developer will provide a utility easement for Seminole Campground to allow (at their option):
 - i. Connection to central sewer to take the Seminole Campground WWTP off-line; and

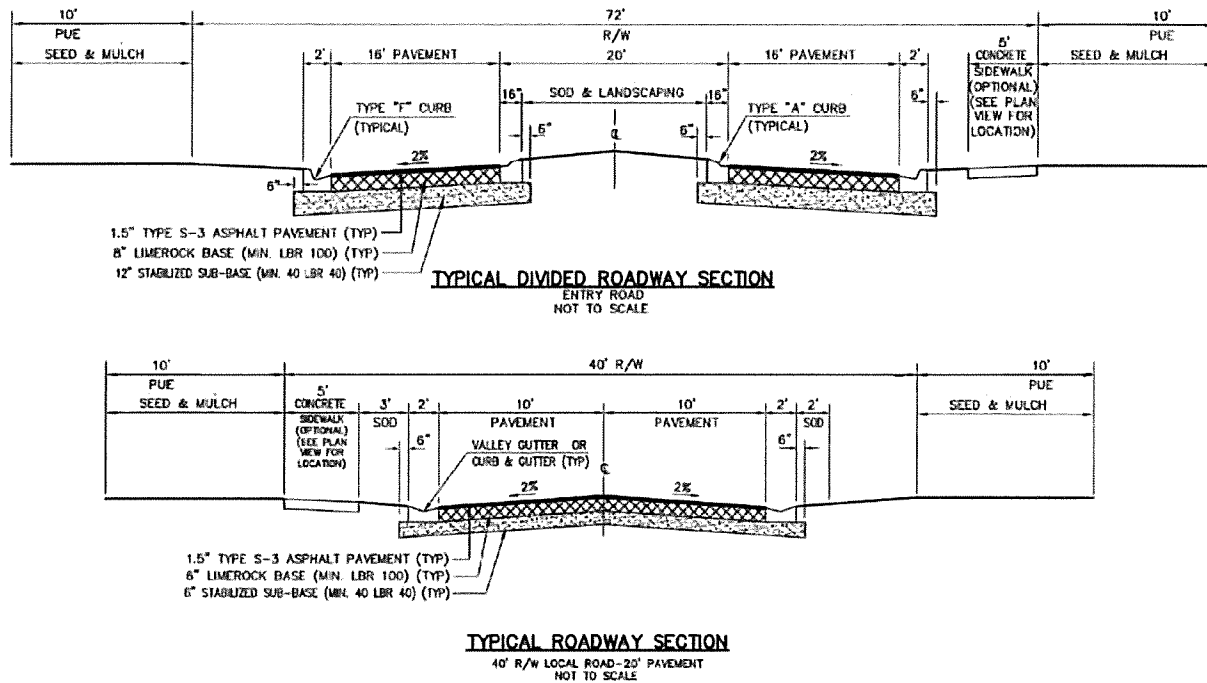
- ii. Opportunity for water main looping for increased fire protection. Developer has the right (but not the obligation) to construct this improvement.
37. Each development order must reference the "Brightwater Site-Wide Construction Water Quality Monitoring Program" on file with case number DOS2018-00034-A01 which may be amended from time to time as needed to address current circumstances without requiring a zoning amendment.
38. The developer must amend previous relevant development order approvals to demonstrate on the development order plans that the constructed sidewalk within the natural waterway buffer and indigenous open space abutting Popash Creek. Development order plans must demonstrate compliance with LDC Sections 10-415(d)(2)(d) and 10-416(d)(11)(b).

Section B. – Deviations

1. Deviation (1) – Withdrawn
2. Deviation (2) – Withdrawn
3. Deviation (3) seeks relief from §10-418(2)d, which requires the installation of native wetland herbaceous plants at a calculation of 25 percent of the total linear feet of shoreline multiplied by the 20-foot-wide planted littoral shelf and divided by four to obtain two-foot-on-center spacing, and where trees and shrubs can be substituted for up to 25 percent of the total number of herbaceous plants required; to allow the required plantings to include up to 50 percent trees in the Tract O lake (Lake L1). This deviation is APPROVED, SUBJECT TO Condition 16.
4. Deviation (4) – Withdrawn
5. Deviation (5) – Withdrawn
6. Deviation (6) – Withdrawn
7. Deviation (7) seeks relief from §10-329(d)(4), which requires excavations to be sloped at a ratio not greater than six (6) horizontal to one (1) vertical from the top of bank to a water depth of two feet below the dry season water table and a ratio of two (2) horizontal to one (1) vertical thereafter; to allow 40 percent of the lake bank slopes within the development to utilize vertical bulkheads or rip rap. This deviation is APPROVED, SUBJECT TO Condition 18
8. Deviation (8) – Withdrawn
9. Deviation (9) – Withdrawn
10. Deviation (10) – Withdrawn
11. Deviation (11) – Withdrawn

12. Deviation (12) seeks relief from §34-1954(a)(1) which requires administrative approval of locations for model homes in new developments; to allow model homes by right in the locations within the development as shown on the MCP. This deviation is APPROVED.
13. Deviation (13) seeks relief from §34-1954(f) which requires parking for model homes or model units to be located on the same premises and in compliance with the type of dwelling unit being displayed; to permit the development of accessory parking for model homes as low turnover and therefore permit development of these lots with alternative surfaces. This deviation is APPROVED, SUBJECT TO the following conditions:
- a. The entrance apron into each parking lot would be paved.
 - b. The handicapped parking space(s) in each lot would be paved
 - c. The Applicant will keep the portion of the street in front of each model free from gravel or shell that may be tracked out of the model home parking area(s) by departing vehicles.
14. Deviation (14) seeks relief from §30-153(2)(a)(iv) which limits the text of additional subdivision or residential development identification signs to the subdivision or project name; to allow the additional signs for this project to include the notation "A [Developer's Name] Community," in addition to the name of the development. This deviation is APPROVED, SUBJECT TO the following condition:
- a. The proposed project sign must be in substantial compliance with the rendering submitted in conjunction with the justification for Deviations 14 and 15, which was stamped "Received Apr 07 2003 Community Development" and attached as Attachment X.
15. Deviation (15) seeks relief from §30-152(2)(d) which limits the size of project entrance signs and which limits the size and number of additional project signs to allow all of the permitted square footage for the number of permitted signs to be combined into the main project entrance sign and a deviation from §30- 94(h) which restricts double faced signs with opposing faces to an interior angle of less than 30 degrees; to allow the [Community Name] project sign to have two sign faces of approximately 130 square feet in size and be located on a curvilinear wall. This deviation is APPROVED, SUBJECT TO the following condition:
- a. The proposed project sign must be in substantial compliance with the rendering submitted in conjunction with the justification for Deviations 14 and 15 which was stamped "Received Apr 07 2003 Community Development" and attached as Attachment X.
16. Deviation (16) – Withdrawn
17. Deviation 17 seeks relief from LDC Section 10-296(e)(2)h.5.ii. and iii., which require Residential Suburban Local Streets to have a 5-foot planting strip and 5-foot pedestrian facility on both sides of the road, to allow internal roadways to be designed and

constructed in accordance with the following cross sections approved by DOS2015-00083, as amended:



This deviation is APPROVED, SUBJECT TO the following condition:

- a. The developer must provide a pedestrian way along one side of all streets internal to the development and must extend each pedestrian way from intersection to intersection.
18. Deviation 18 seeks relief from LDC Section 10-416(d)(9), which requires a 50-foot-wide vegetated natural waterway buffer containing six native canopy trees and 50 native shrubs per 100 linear feet, which may be met through credits from the existing native vegetation within the waterway buffer area at a 1:1 credit ratio, to allow existing vegetation to remain to meet the buffer requirements and to allow areas to remain in their natural state if no vegetation exists with no planting plan required. This deviation is APPROVED, SUBJECT TO the following condition:
- a. The areas at the northwestern corner of the property within the required natural waterway buffer depicted on the Master Concept Plan with annotations referencing Buffer Note 1 and Buffer Note 2 may not be planted.
19. Deviation 19 seeks relief from LDC Section 10-418(1), which requires shorelines to be sinuous rather than straight, to allow existing or permitted lakes to remain as designed.

Staff recommends **withdrawal** of this deviation, based on the fact that the lakes noted in the deviation request were previously found to be sinuous in nature during previous Development Order Approval.

20. Deviation 20 seeks relief from LDC Section 10-296(k)(1), which requires deadend streets to provide a circular turnaround, to allow a dead-end street in Tract E as shown on MCP.

Staff recommends **approval** of this deviation with the following conditions:

- a. At the time of development order submittal, the applicant must provide a letter of no objection to the dead-end roadway in Tract E from the fire department having jurisdiction.

21. Deviation 21 seeks relief from LDC Section 34-1264 to allow outdoor consumption on premises to be located $\pm 466'$ feet from a dwelling unit under separate ownership.

Staff recommends **approval** of this deviation, subject to the following conditions:

- a. This deviation is only applicable to consumption on premises in conjunction with the Brightwater Country Club use in the COP area delineated on the Master Concept Plan.
- b. Live music or amplified sound is prohibited in the exterior portions of Consumption on Premises area after 10PM.