

Summary of Hearing Examiner Recommendation

**LEE COUNTY HOMES (BUCKINGHAM 345)  
RPD**

(by Morris-Depew Associates, Inc.)

Request: Amend the Buckingham 345 Residential Planned Development (RPD) to add 325 units (1,015 dwelling units total) and modify the MCP, Schedule of Uses, Property Development Regulations, & Deviations.

The request is premised on adoption of a companion comprehensive plan amendment changing the property's Future Land Use designation.<sup>1</sup>

Location: Approximately 1¼ mile south of the Buckingham Road and Palm Beach Boulevard/S.R. 80 intersection

Fort Myers Shores Planning Community

District 5

Size: 345± acres

Recommendation: Approve, with conditions<sup>2</sup>

Deviations: 7 (1 existing, 6 proposed)

Public Concerns: No Members of the Public Spoke at Hearing

**Hearing Examiner Remarks:**

Applicant seeks to increase density in an approved RPD. The request represents infill development surrounded by residential communities with similar density.

The request is consistent with the Lee Plan and compatible with the surrounding area.<sup>3</sup>

*Detailed recommendation follows*

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<sup>1</sup> CPA2020-00002 amending Future Land Use Map 1 and Table 1(b).

<sup>2</sup> Contingent on Board adoption of CPA2020-00002.

<sup>3</sup> *Id.*



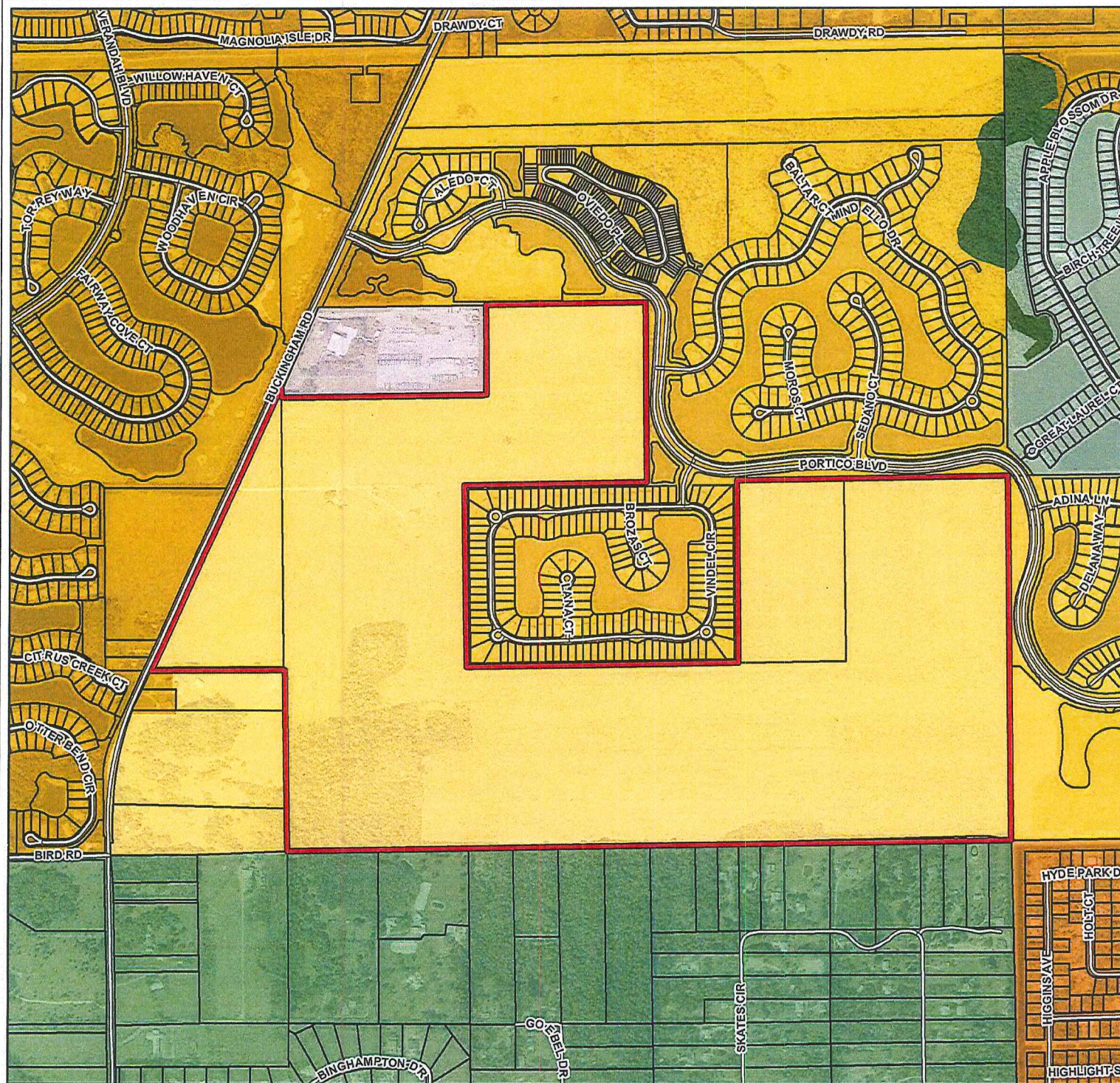
# DCI2020-00010 Future Land Use

## Legend

-  Subject Parcel
-  Urban Community
-  Suburban
-  Outlying Suburban
-  Sub-Outlying Suburban
-  Public Facilities
-  Rural
-  Rural Community Preserve
-  Wetlands



0 640  
Feet





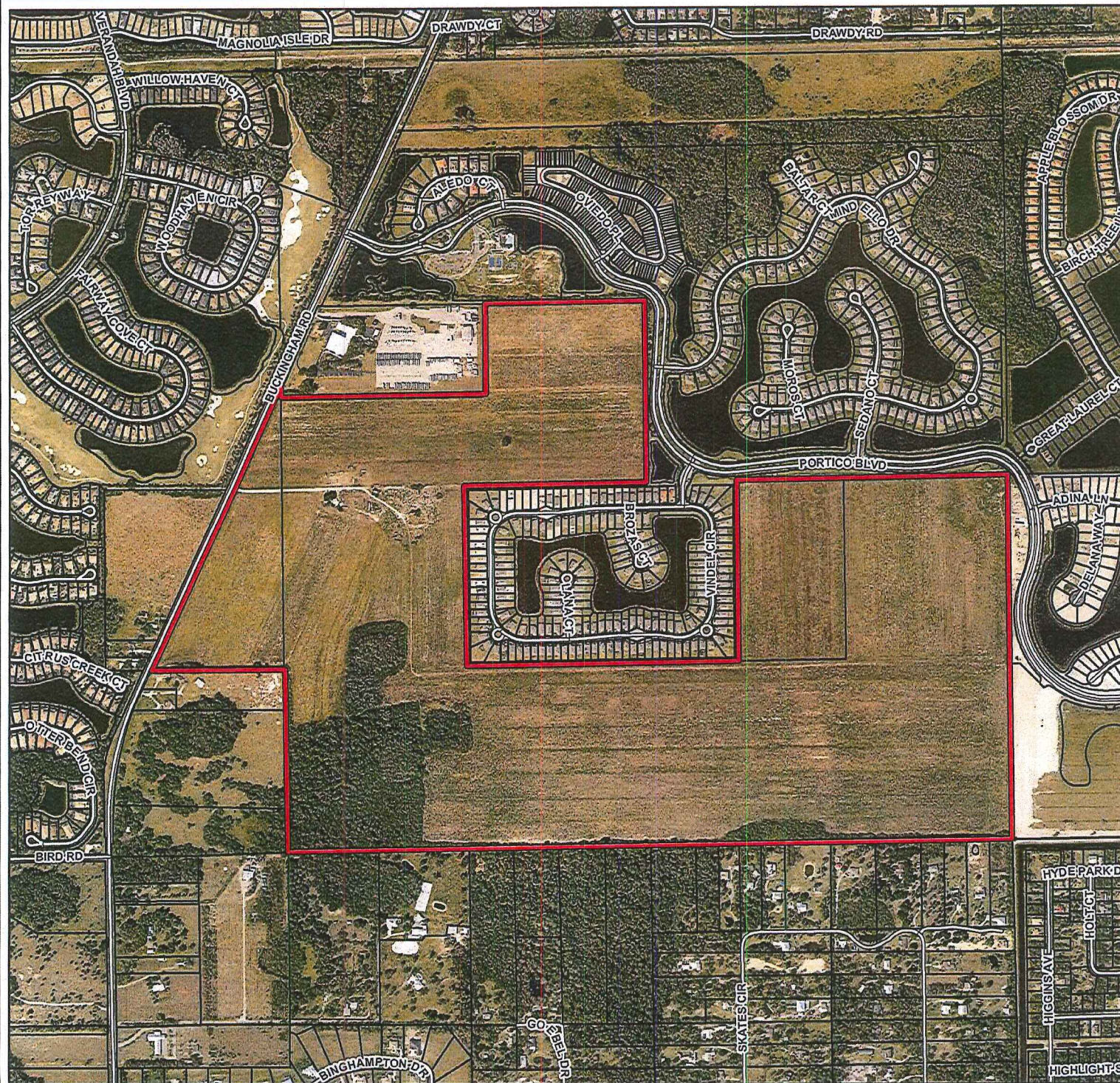
DCI2020-00010  
Aerial

Legend

 Subject Parcel



0 640  
Feet





OFFICE OF THE HEARING EXAMINER, LEE COUNTY, FLORIDA

HEARING EXAMINER RECOMMENDATION

**REZONING:** DCI2020-00010

**Regarding:** LEE COUNTY HOMES (BUCKINGHAM 345) RPD

**Location:** Approximately 1¼ mile south of the Buckingham Road and Palm Beach Boulevard/S.R. 80 intersection

**Hearing Date:** February 11, 2021

**I. Request:**

Amend the Buckingham 345 Residential Planned Development (RPD) to add 325 units (1,015 dwelling units total) and modify the Master Concept Plan (MCP), Schedule of Uses, Property Development Regulations, and Deviations.

The request is premised on adoption of a companion comprehensive plan amendment to the Future Land Use Map and Lee Plan Table 1(b).<sup>4</sup>

The property's legal description is set forth in Exhibit A.

**II. Hearing Examiner Recommendation:**

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

**III. Discussion:**

The Hearing Examiner serves in an advisory capacity to the Board of County Commissioners (Board) on applications to rezone property.<sup>5</sup> In satisfaction of this duty, the Hearing Examiner accepted testimony and evidence on the application to amend an existing RPD.

In preparing a recommendation to the Board, the Hearing Examiner must consider the Lee County Comprehensive Plan (Lee Plan), the Land Development Code (LDC), and other applicable County regulations to the facts presented in a rezoning request.<sup>6</sup> Specifically, the Hearing Examiner must find that the request is compatible with surrounding uses and complies with Lee Plan and LDC requirements relating to such items as transportation facilities, natural resources,

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<sup>4</sup> CPA2020-00002.

<sup>5</sup> LDC 34-145(d)(1)(a) & (2)(a).

<sup>6</sup> LDC 34-145(d)(3).



and urban services.<sup>7</sup> The Hearing Examiner may take judicial notice of previous Board decisions in the context of reviewing zoning requests and preparing recommendations to the Board. The Hearing Examiner's recommendation must be based on competent and substantial evidence.<sup>8</sup>

Discussion supporting the recommendation of approval of the proposed RPD amendment follows below.

### **Synopsis of Request**

The request adds 325 dwelling units to an approved RPD in the Caloosahatchee Shores Planning Community. The 345± acre property is located approximately 1¼ mile south of the Buckingham Road and Palm Beach Boulevard/S.R. 80 intersection.

Current zoning permits 690 dwelling units, or two units per acre.<sup>9</sup> Applicant is concurrently pursuing a Lee Plan amendment to change the property's future land use designation.<sup>10</sup> If approved, the new designation would permit three units per acre.<sup>11</sup> Since the density increase does not comply with the current land use classification, the zoning request is subject to Board adoption of the companion Lee Plan amendment.<sup>12</sup>

The request proposes 1,015 dwelling units with an amenity tract, lakes, and an indigenous preserve area.<sup>13</sup> A 13± acre parcel near the project entrance remains reserved for a potential public school site.<sup>14</sup> The project contemplates a broad range of amenities to serve residents and guests.<sup>15</sup>

The site plan reflects a gated community with one point of entry on Buckingham Road.<sup>16</sup> A second access is limited to resident egress and emergency vehicles.<sup>17</sup>

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<sup>7</sup> LDC 34-145(d)(4).

<sup>8</sup> Lee Co. Admin. Code 2-6, 3.3(A)(2); LDC 34-83(a)(4)(a)(1)(a).

<sup>9</sup> Z-05-074; Lee Plan Policy 1.1.11.

<sup>10</sup> CPA2020-00002.

<sup>11</sup> Lee Plan Policy 1.1.6.

<sup>12</sup> LDC 34-491.

<sup>13</sup> See Applicant's Ex. 2 (Revised MCP). Proposed density yields 2.95 units per acre.

<sup>14</sup> See *Id.*; Condition 12; Applicant's Ex. 1 (slide 23). Ms. Ekblad testified recent conversations with Lee County Public Schools staff indicated no immediate plans for school placement on the site. LDC 34-1492. Testimony of Tina Ekblad (Trans. pg. 23).

<sup>15</sup> See Condition 2(a) Schedule of Uses & Condition 11, Tract RA. Commercial uses are limited to the RA Tract and are restricted to use by residents and guests. Gated access will ensure commercial uses are not open to the public. Although Conditions speak to "commercial" uses, proposed uses are solely for internal access by residents and therefore remain in compliance with Lee Plan Objective 21.2. Testimony of Heather Urwiller (Trans. pg. 32).

<sup>16</sup> See Applicant's Ex. 2 (Revised MCP).

<sup>17</sup> See Deviation 5.



Applicant's desired development plan requires new deviations and minor condition modifications. Staff recommended approval, finding the proposed RPD amendment satisfied LDC review criteria.<sup>18</sup>

### **Zoning Review Criteria**

Before recommending approval for rezoning to the Board, the Hearing Examiner must find the request:

- A. Complies with the Lee Plan;
- B. Meets the LDC and other applicable County regulations or qualifies for deviations;
- C. Is compatible with existing and planned uses in the surrounding area;
- D. Will provide access sufficient to support the proposed development intensity;
- E. The expected impacts on transportation facilities will be addressed by existing County regulations and conditions of approval;
- F. Will not adversely affect environmentally critical or sensitive areas and natural resources; and
- G. Will be served by urban services, defined in the Lee Plan, if located in a Future Urban area category.<sup>19</sup>

If the request involves planned development zoning, such as amending a RPD, the Hearing Examiner must also find:

- H. The proposed use or mix of uses is appropriate at the proposed location;
- I. 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
- J. Each requested deviation (1) enhances the achievement of the objectives of the planned development, and (2) preserves and promotes the general intent of the LDC to protect the public health, safety, and welfare.<sup>20</sup>

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<sup>18</sup> Staff did not initially support proposed deviation 5. Applicant modified Deviation 5 prior to hearing. See Applicant's Ex. A (48 Hour Letter dated February 8, 2021). Staff supports the revised Deviation 5.

<sup>19</sup> LDC 34-145(d)(4)(a)(1).

<sup>20</sup> LDC 34-145(d)(4)(a)(2).



### **Zoning History and Character of the Area**

The Board first zoned 325± acres to RPD in 2000.<sup>21</sup> The resolution approved 640 dwelling units and a clubhouse with amenities. In 2005, Applicant added 20 acres and increased density to 690 units.<sup>22</sup> One administrative approval followed.<sup>23</sup>

The property is located east of Buckingham Road, south of Palm Beach Boulevard/S.R. 80. Commercial uses are concentrated along Palm Beach Boulevard/S.R. 80. Residential developments dominate Buckingham Road south of the intersection.<sup>24</sup> The Portico RPD abuts to the north and east, with a portion protruding into the center of the project.<sup>25</sup> The Verandah sits to the west across Buckingham Road. Scattered residential development is found south of the site.

Urban services are in place to serve higher density development at this location.<sup>26</sup>

### **Lee Plan Consistency and Compatibility**

All planned developments must be consistent with the Lee Plan.<sup>27</sup> Requests for rezoning must be compatible with existing or planned uses in the surrounding area.<sup>28</sup> Planned development parcels must be located to minimize negative effects of proposed uses on neighboring properties.<sup>29</sup>

The Lee Plan Future Land Use Map classifies the site as Sub-Outlying Suburban.<sup>30</sup> Applicant is concurrently pursuing a map amendment to re-designate the property to Outlying Suburban.<sup>31</sup>

Outlying Suburban areas are generally rural in nature, containing low-density development with some infrastructure to support higher density.<sup>32</sup> The standard density range is one to three units per acre.<sup>33</sup> This is a slight increase over the

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<sup>21</sup> Z-00-029.

<sup>22</sup> Z-05-074.

<sup>23</sup> ADD2007-00018. Recommended conditions and deviations represent a codification of prior development approvals.

<sup>24</sup> Hemingway Pointe and Portico (2.75 upa) sit to the north with River Hall to the east (1.36 upa). Property north of the project hosts a Lee County School District facility. West of Buckingham Road is the Verandah RPD (1.23 upa). See Staff Report (pg. 1-2, Attachment N).

<sup>25</sup> Applicant's Ex. 1 (slide 7).

<sup>26</sup> Applicant's Ex. 1 (slide 8).

<sup>27</sup> LDC 34-411(a).

<sup>28</sup> LDC 34-145(d)(4)(a).

<sup>29</sup> LDC 34-411(c) and (i).

<sup>30</sup> Lee Plan Map 1.

<sup>31</sup> Applicant's Ex. 1 (slide 14); Lee Plan Policy 21.1.3. The Board transmitted the map amendment on January 20, 2021.

<sup>32</sup> Lee Plan Policy 1.1.6.

<sup>33</sup> *Id.*



current Sub-Outlying Suburban designation.<sup>34</sup> Applicant proposes a density of 2.95 units per acre, consistent with the Outlying Suburban category.<sup>35</sup>

The site lies within the Caloosahatchee Shores Planning Community, an area identified as having a more rural character.<sup>36</sup> The request to retain RPD zoning complies with the planning community's directives.<sup>37</sup> Increasing residential uses at this location continues established development patterns.<sup>38</sup>

The Board previously found the Buckingham 345 RPD compatible with the surrounding area and in compliance with the Lee Plan.<sup>39</sup> Applicant proposes no changes to alter this finding. Indeed, increasing density within the RPD promotes a compact growth patterns and contains urban sprawl.<sup>40</sup>

The request is compatible with existing and planned uses in the surrounding area.<sup>41</sup>

### **Transportation/Traffic**

Planned developments must have access to roads with sufficient capacity to support proposed intensity.<sup>42</sup> Existing regulations or conditions of approval must address expected impacts on transportation facilities.<sup>43</sup>

The project has direct access to Buckingham Road.<sup>44</sup> The access drive remains unchanged since original Board approval.<sup>45</sup> Applicant proposes a second access to serve as egress for residents and ingress/egress for emergency services.<sup>46</sup>

Buckingham Road is a two lane arterial roadway intersecting Palm Beach Boulevard to the north and Orange River Boulevard to the south.<sup>47</sup> The Long-Range Transportation Plan identifies this segment of Buckingham Road for future widening.<sup>48</sup>

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<sup>34</sup> Lee Plan Policy 1.1.11.

<sup>35</sup> Accordingly, the zoning amendment cannot be approved unless the Board adopts the companion map amendment.

<sup>36</sup> Lee Plan Map 16; Lee Plan Vision Statement Paragraph 4; Lee Plan Goal 21.

<sup>37</sup> Lee Plan Policy 21.1.3.

<sup>38</sup> Lee Plan Objectives 2.1, 2.2, Policies 2.2.1, 2.2.2; Applicant's Ex. 1 (slide 11).

<sup>39</sup> Z-05-074.

<sup>40</sup> Lee Plan Objective 2.1, 2.2; Applicant's Ex. 1 (slide 12).

<sup>41</sup> LDC 34-145(d)(4)(a)(1)(c); Staff Report (pg. 2-4); Applicant's Ex. 1.

<sup>42</sup> LDC 34-145(d)(4)(a)(1)(d); 34-411(d)(1).

<sup>43</sup> LDC 34-145(d)(4)(a)(1)(e); 34-411(d)(2).

<sup>44</sup> See Applicant's Ex. 2 & 4; Staff Report (Attachment G).

<sup>45</sup> Z-05-074.

<sup>46</sup> Applicant's Ex. 2.

<sup>47</sup> Palm Beach Boulevard is an arterial road maintained by the State. Orange River Boulevard is a county-maintained collector road. See Staff Report (Attachment G).

<sup>48</sup> Applicant's Ex. 1 (slide 33); Testimony of Ted Treesh (Trans. pg. 40). Mr. Treesh testified this roadway segment is classified as a Tier Three project for widening to four lanes. He explained this means funding is not yet allocated to the project but is targeted for future expansion as funding becomes available.

Applicant's traffic engineer evaluated transportation impacts of *greater density than the request proposes*.<sup>49</sup> The Traffic Impact Statement concluded that project traffic will not alter levels of service on affected roadways.<sup>50</sup>

Applicant provided adequate evidence to demonstrate the request provides sufficient access to support proposed development.<sup>51</sup> Site-related impacts will be evaluated during development order review.<sup>52</sup>

### **Environmental and Natural Resources**

Planned development design should reflect creative use of open space.<sup>53</sup> Developers must make an effort to protect and preserve natural site features.<sup>54</sup>

The proposed development meets LDC open space requirements.<sup>55</sup> The Master Concept Plan ("MCP") reflects adequate buffers from adjacent properties to minimize off-site impacts.<sup>56</sup> The MCP also denotes a substantial indigenous preserve in the southeast corner.<sup>57</sup>

Applicant observed certain listed species on site.<sup>58</sup> Accordingly, Applicant must provide species management plans at the development order stage.

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<sup>49</sup> Testimony of Ted Treesh (Trans. pg. 38-42); Applicant's Ex. 1 (slide 32); Applicant's Ex. 3-4. In evaluating transportation impacts, planners examine projected traffic conditions at build-out taking into consideration a combination of historical growth rates for the area and approved development. Mr. Treesh indicated his evaluation considered 1,035 units rather than the 1,015 units requested.

<sup>50</sup> Applicant's Ex. 4; Testimony of Ted Treesh (pg. 37-42). There is some disagreement between Applicant and staff as to whether levels of service on affected roadway segments are negatively impacted with or without project traffic. The crux of disagreement is whether projected traffic from unconstructed projects in proximity should be included in Applicant's analysis. Direct access improvements include site driveways and roads, median cuts made necessary by those driveways and roads, right-turn left-turn and deceleration/acceleration lanes serving those driveways and roads, traffic control measures for those driveways and roads, and roads/intersection improvements whose primary purpose at the time of construction is to provide access to the development. See, Lee Plan Glossary and LDC 2-264.

<sup>51</sup> LDC 34-145(d)(4)(a)(1)(d); Applicant's Ex. 1 (slides 32-34), Ex. 3-4; Staff Report (pg. 2).

<sup>52</sup> Site related improvements include capital improvements and right-of-way dedications for "direct access" improvements to the project. Direct access improvements include site driveways and roads, median cuts made necessary by driveways and roads, right-turn left-turn and deceleration/acceleration lanes serving driveways and roads, traffic control measures, and roads/intersection improvements whose primary purpose at the time of construction is to provide access to the development. See, Lee Plan Glossary and LDC 2-264; Lee Plan Objective 39.1, Policy 39.1.1.. LDC 2-66 *et. seq.*

<sup>53</sup> LDC 34-411(h).

<sup>54</sup> LDC 34-411(g).

<sup>55</sup> Lee Plan Goal 77, Objective 77.2; See Applicant's Ex. 1 (slide 27); Staff Report (Attachment F).

<sup>56</sup> See Applicant's Ex. 2; Staff Report (Attachment F). The project provides Code-compliant buffers. An enhanced buffer along Buckingham Road is consistent with neighboring properties to maintain the aesthetic of the corridor. Applicant's Ex. 1 (slide 28-30).

<sup>57</sup> See Staff Report (Attachment F); Condition 4; Applicant's Ex. 2. Roughly 15% of the site is indigenous preserve. Applicant obtained a jurisdictional wetland determination from the South Florida Water Management District on Sept. 3, 2020. Testimony of Lauran Edinger (Trans. pg. 15-20); Applicant's Ex. 1 (slide 16).

<sup>58</sup> See Staff Report (Attachment F); Condition 7.



### **Urban Services**

Urban services are the facilities, capital improvements, and infrastructure necessary to support development.<sup>59</sup> The Lee Plan requires an evaluation of available urban services during the rezoning process.<sup>60</sup>

The request constitutes infill development. Accordingly, a host of urban services and infrastructure serve the property including roads, potable water, sanitary sewer, police, fire, and emergency medical services.<sup>61</sup>

### **Deviations**

“Deviations” are departures from LDC regulations.<sup>62</sup> The RPD has one previously approved deviation.<sup>63</sup> Applicant proposes six additional deviations. Staff supports requested deviations.<sup>64</sup>

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

1. Enhances achievement of the objectives of the planned development; and
2. Preserves and promotes the general intent of the LDC to protect the public health, safety, and welfare.<sup>65</sup>

Applying LDC standards of review for deviations to the testimony and evidence in the record, the Hearing Examiner concludes the requested deviations meet approval criteria.<sup>66</sup>

### **Conditions**

The county must administer the zoning process so proposed land uses acceptably minimize adverse impacts to adjacent property as specified in the development regulations. Conditions must plausibly relate to the impacts anticipated from

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<sup>59</sup> Lee Plan Glossary; Urban services include; public water and sewer, paved streets and roads, public transit, parks and recreation facilities, urban levels of police, fire and emergency services, urban surface water management, schools, employment, industrial, and commercial centers, institutional, public, or administrative facilities, community facilities such as senior citizens centers, libraries and community centers.

<sup>60</sup> Lee Plan Policy 2.2.1.

<sup>61</sup> Applicant's Ex. 1 (slide 8).

<sup>62</sup> LDC 34-2.

<sup>63</sup> Z-05-074, ADD2007-00018. These prior development approvals will be codified into one resolution setting forth all approved conditions and deviations.

<sup>64</sup> See Staff Report.

<sup>65</sup> LDC 34-145(d)(4).

<sup>66</sup> LDC 34-377(a)(4).

proposed development and must be pertinent to mitigation of those impacts on the public health, safety, and welfare.<sup>67</sup>

The RPD will be subject to several conditions of approval. The conditions relate to impacts anticipated from the project.<sup>68</sup> The Hearing Examiner recommends:

1. Revisions to conditions to improve clarity; and
2. Deletion of conditions that restate LDC standards and criteria applicable to the project pursuant to Condition 1.

### **Public**

Applicant held community meetings in the Caloosahatchee Shores Planning Community<sup>69</sup> and the Buckingham Planning Community.<sup>70</sup> Both meetings are mandated in the LDC and Lee Plan.<sup>71</sup>

One member of the public attended the hearing but did not speak.<sup>72</sup>

### **Conclusion**

The Hearing Examiner concurs with staff's analysis and recommendation the requested amendment to the Buckingham 345 RPD meets LDC approval criteria.

## **IV. Findings and Conclusions:**

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

- A. *As conditioned herein*, the proposed amendment to the Buckingham 345 RPD:
  1. Complies with the Lee Plan. See, Lee Plan Vision Statement Paragraph 4 (Caloosahatchee Shores Planning Community), Lee Plan Goals 2, 4, 5, 21, 39, 77, Objectives 2.2, 5.1, 21.3, and Policies 1.1.6, 20.1.6, 21.1.3, 135.9.7; Lee Plan Maps 1, 16.

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<sup>67</sup> LDC 34-932(b).

<sup>68</sup> LDC 34-83(b)(4)a.3.

<sup>69</sup> This meeting was held on July 6, 2020. See Staff Report Attachment J; Applicant's Ex. 1 (slide 47).

<sup>70</sup> The Lee Plan requires this community meeting because the project accesses Buckingham Road. The meeting was held on July 7, 2020. See Applicant's Ex. 1 (slide 48).

<sup>71</sup> LDC 33-1482; Lee Plan Goal 17, Policy 20.1.8.

<sup>72</sup> Staff recounted a resident's concern the hearing was not properly noticed. Staff indicated the hearing was properly noticed. Applicant provided evidence proper notice of the hearing was given. See Applicant's Ex. 5.



2. Complies with the LDC and other County regulations. See, LDC Chapters 10 and 34; 33-1480 *et. seq.*
  3. Is compatible with existing and planned uses in the area. See, Lee Plan Policies 1.1.6, 2.1.1, 2.1.2, 2.2.1, 5.1.5, 5.2.4, 135.1.9, 135.9.5; LDC 34-411(c), (i), and (j).
  4. Will not adversely affect environmentally critical areas and natural resources. See, Lee Plan Goals 77, Objectives 4.1, 77.1, LDC 34-411(h).
  5. Will be served by urban services. See, Lee Plan Glossary, Maps 6, 7, Goal 2; Objectives 2.1, 2.2, 4.1, 53.1, 56.1; Policies 2.2.1, 5.1.3, 135.9.7 and Standards 4.1.1 and 4.1.2; LDC 34-411(d).
- B. The Master Concept Plan reflects sufficient access to support the intensity of development. In addition, County regulations and conditions of approval will address expected impacts to transportation facilities. See, Lee Plan Goal 39, Objective 39.1; LDC 34-411(d).
- C. The proposed mix of uses is appropriate at the proposed location. See, Lee Plan Policies 1.1.6, 2.1.1, 5.1.3, 5.1.5, and 135.1.9.
- D. The recommended conditions are sufficient to protect the public interest and reasonably relate to the impacts expected from the development. See, Lee Plan Policies 5.1.5, 135.9.6; See *also*, LDC Chapters 10, 33, and 34.
- E. As conditioned herein, the deviations:
1. Enhance the objectives of the planned development; and
  2. Promote the intent of the LDC to protect the public health, safety, and welfare. See, 34-377(b)(4).

Date of Recommendation: March 4, 2021.



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Amanda L. Rivera  
Deputy Hearing Examiner

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

**Exhibits to Hearing Examiner's Recommendation**

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



**Exhibit A**

**LEGAL DESCRIPTION AND VICINITY MAP**

# EXHIBIT A

## LEGAL DESCRIPTION OF A PARCEL LYING IN SECTIONS 32 & 33, TOWNSHIP 43 SOUTH, RANGE 26 EAST, LEE COUNTY, FLORIDA

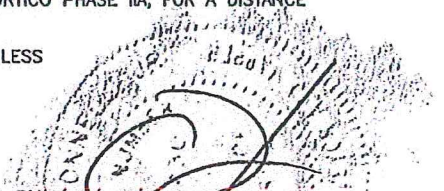
### LEGAL DESCRIPTION:

A PARCEL OF LAND LYING IN THE STATE OF FLORIDA, COUNTY OF LEE BEING A PORTION OF SECTIONS 32 AND 33, TOWNSHIP 43 SOUTH, RANGE 26 EAST, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE SOUTHEAST CORNER OF SECTION 33, TOWNSHIP 43 SOUTH, RANGE 26 EAST, LEE COUNTY, FLORIDA; THENCE RUN S.89°06'45"W. ALONG THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 33, FOR A DISTANCE OF 2647.49 FEET TO THE SOUTH QUARTER CORNER OF SAID SECTION 33; THENCE S.89°06'35"W. ALONG THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 33 FOR A DISTANCE OF 2647.39 FEET TO THE SOUTHWEST CORNER OF SAID SECTION 33; THENCE N.00°56'24"W. ALONG THE WEST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 33, FOR A DISTANCE OF 1329.88 FEET TO THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 33; THENCE S.89°35'38"W. ALONG THE SOUTH LINE OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 32, TOWNSHIP 43 SOUTH, RANGE 26 EAST, FOR A DISTANCE OF 977.91 FEET TO THE SOUTHEASTERLY RIGHT-OF-WAY LINE OF BUCKINGHAM ROAD, A 60' RIGHT-OF-WAY; THENCE N.24°23'07"E. ALONG THE SOUTHEASTERLY RIGHT-OF-WAY LINE OF BUCKINGHAM ROAD, FOR A DISTANCE OF 2286.44 FEET TO A POINT ON THE WEST LINE OF THE NORTHWEST QUARTER OF SAID SECTION 33; THENCE S.00°56'26"E. ALONG THE WEST LINE OF THE NORTHWEST QUARTER OF SAID SECTION 33, FOR A DISTANCE OF 81.43 FEET TO THE NORTHWEST CORNER OF THE SOUTH HALF OF THE SOUTH HALF OF THE NORTHWEST QUARTER OF SAID SECTION 33; THENCE N.89°04'22"E. ALONG THE NORTH LINE OF THE SOUTH HALF OF THE SOUTH HALF OF THE NORTHWEST QUARTER OF SAID SECTION 33, FOR A DISTANCE OF 1498.70 FEET TO THE SOUTHWEST CORNER OF THE EAST HALF OF THE WEST HALF OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 33; THENCE N.00°47'24"W. ALONG THE WEST LINE OF THE EAST HALF OF THE WEST HALF OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 33, FOR A DISTANCE OF 662.27 FEET TO A POINT ON THE PLATTED BOUNDARY LINE OF PORTICO PHASE I, RECORDED AS INSTRUMENT #2006000411756, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE N.89°09'28"E. ALONG SAID LINE, FOR A DISTANCE OF 1167.05 FEET; THENCE S.00°39'01"E. ALONG SAID PLATTED BOUNDARY OF PORTICO PHASE I, FOR A DISTANCE OF 1321.78 FEET TO THE CENTER OF SAID SECTION 33; THENCE S.88°59'10"W. ALONG SAID PLATTED BOUNDARY OF PORTICO PHASE I, FOR A DISTANCE OF 1334.18 FEET; THENCE S.00°56'52"E. ALONG SAID PLATTED BOUNDARY OF PORTICO PHASE I, FOR A DISTANCE OF 1331.03 FEET; THENCE N.89°02'54"E. ALONG SAID PLATTED BOUNDARY OF PORTICO PHASE I, FOR A DISTANCE OF 1988.34 FEET; THENCE N.00°41'08"W. ALONG SAID PLATTED BOUNDARY OF PORTICO PHASE I, FOR A DISTANCE OF 1333.38 FEET; THENCE N.88°59'10"E. ALONG SAID PLATTED BOUNDARY OF PORTICO PHASE I, FOR A DISTANCE OF 1980.58 FEET TO THE EAST QUARTER CORNER OF SAID SECTION 33 AND A NORTHWEST CORNER OF PORTICO PHASE IIA, RECORDED AS INSTRUMENT #2019000293574, OF SAID PUBLIC RECORDS; THENCE S.00°47'28"E. ALONG THE EAST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 33 AND THE WEST LINE OF SAID PORTICO PHASE IIA, FOR A DISTANCE OF 2670.74 FEET TO THE POINT OF BEGINNING.

PARCEL CONTAINS 15,018,447 SQUARE FEET, OR 344.78 ACRES, MORE OR LESS

**APPROVED**  
**DCI2020-00010**  
**Daniel Munt, Planner**  
**Lee County DCD**  
**10/20/2020**

BY:   
DENIS J. O'CONNELL, JR.  
PROFESSIONAL SURVEYOR AND MAPPER  
FLORIDA CERTIFICATE NO. LS# 5430

DATE SIGNED: 5/7/2020

NOT VALID WITHOUT THE SIGNATURE  
AND THE ORIGINAL RAISED SEAL OF A  
FLORIDA LICENSED SURVEYOR AND  
MAPPER.

**RECEIVED**  
**MAY 27 2020**

### NOTES:

1. BEARINGS ARE BASED ON THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 33, AS BEING S.89°06'45"W.
2. DISTANCES ARE IN FEET AND DECIMALS THEREOF.
3. PARCEL IS SUBJECT TO EASEMENTS, RESERVATIONS OR RESTRICTIONS AND RIGHT-OF-WAYS (RECORDED AND UNRECORDED, WRITTEN AND UNWRITTEN).
4. THE STATE PLANE COORDINATES SHOWN HEREON ARE IN FEET, FLORIDA WEST ZONE, NORTH AMERICAN DATUM OF 1983 (1990 ADJUSTMENT) BASED UPON CONTINUOUSLY OPERATING FLORIDA PERMANENT REFERENCE NETWORK (FPRN) STATIONS MAINTAINED BY THE FLORIDA DEPARTMENT OF TRANSPORTATION.

**COMMUNITY DEVELOPMENT**  
**BUCKINGHAM 345 ACRES, OVER ALL**

TITLE:

LEGAL DESCRIPTION



**METRON**  
SURVEYING & MAPPING, LLC

LAND SURVEYORS-PLANNERS

LB# 7071

10970 S. CLEVELAND AVE.  
SUITE #605  
FORT MYERS, FLORIDA 33907  
PHONE: (239) 275-8575  
FAX: (239) 275-8457

www.metronll.com

FILE NAME: 14879OVERALL.dwg	FIELD BOOK/PAGE: SEE FILE	PROJECT NO.: 14879	SHEET: 1 OF 2
EXHIBIT DATE: 5/06/2020	DRAWN BY: BUD	SCALE: 1" = 1000'	CHECKED BY: DJO
		FILE NO. (S-T-R): 33-43-26	

ATTACHMENT O

**DCI2020-00010**



0612020-00010



# COMMUNITY DEVELOPMENT

RECEIVED  
MAY 27 2020

- P.O.B.

SE CORNER SEC 33  
TWP 43S, RNG 26E  
N:855075.16  
E:750193.40

BUCKINGHAM 345 ACRES, OVER ALL

TITLE:	SKETCH OF DESCRIPTION
--------	-----------------------



LAND SURVEYORS • PLANNERS

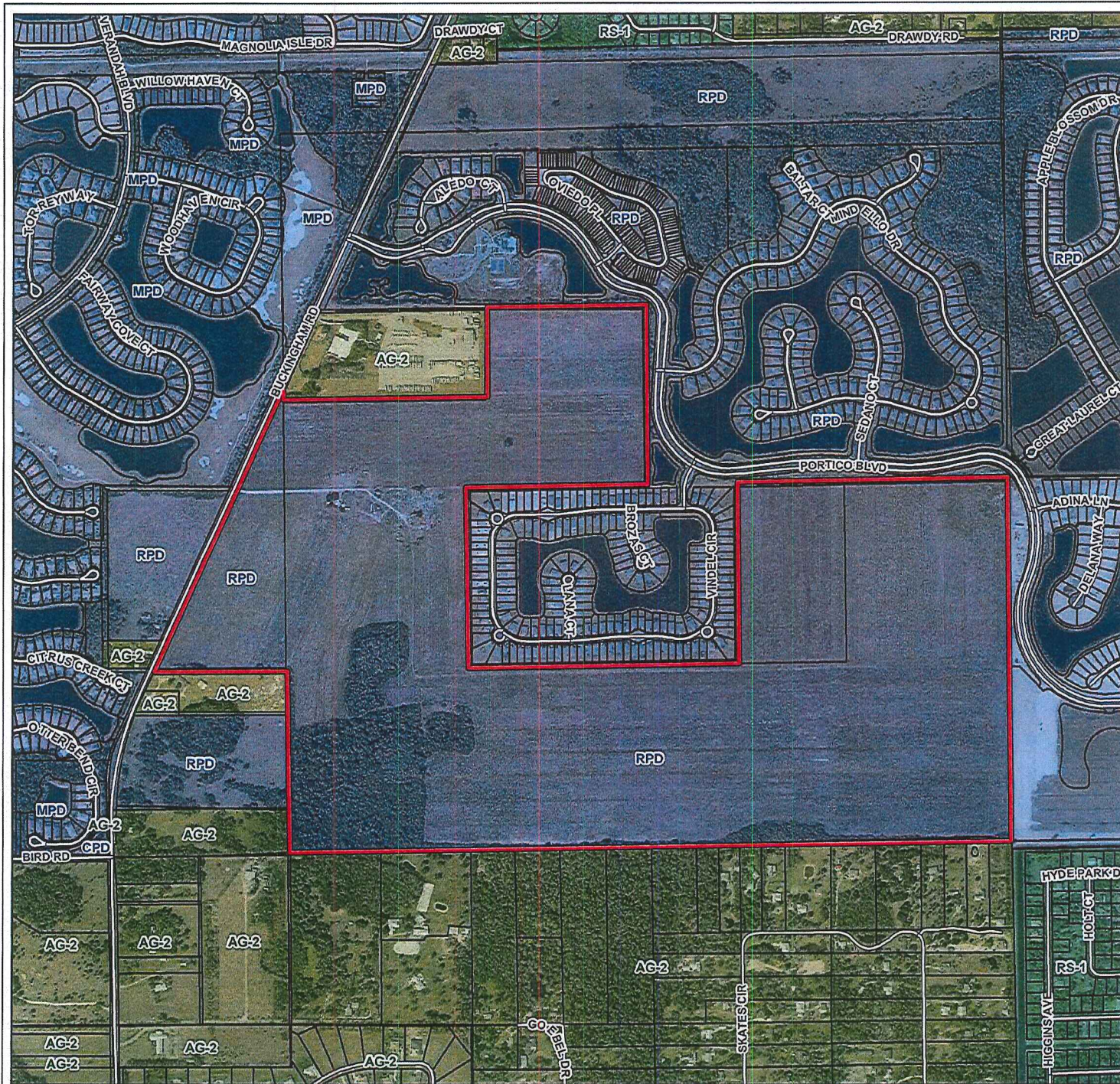
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PHONE: (239) 275-8575  
FAX: (239) 275-8457

[www.metronfl.com](http://www.metronfl.com)

FILE NAME: 14879OVERALL.dwg	FIELD BOOK/PAGE: SEE FILE	PROJECT NO.: 14879	SHEET: 2 OF 2
EXHIBIT DATE: 5/05/2020	DRAWN BY: BUD	SCALE: 1" = 100'	CHECKED BY: DJO
		FILE NO. (S-T-R) 33-43-26	





DCI2020-00010  
Zoning

ATTACHMENT B

Legend

 Subject Parcel



0 640  
Feet



## Exhibit B

### RECOMMENDED CONDITIONS AND DEVIATIONS

All references to uses are as defined in the Lee County Land Development Code (LDC). Conditions and deviations represent a codification of prior approvals from Resolution Z-05-074 and ADD2007-00018, hereby superseded by approval of this zoning action.

#### **CONDITIONS:**

1. **Master Concept Plan (MCP) and Development Parameters**
  - (a) MCP. Development must be substantially consistent with the five page MCP entitled "Lee County Homes Associates I, LLLP Residential Planned Development" stamped received February 4, 2021 (Exhibit B1), except as modified by the conditions below.
  - (b) LDC and Lee Plan. Development and uses must comply with the LDC and Lee County Comprehensive Plan (Lee Plan) at time of local development order approval, except where deviations are approved herein. Subsequent amendments to the MCP, conditions, or deviations herein may require further development approvals.
  - (c) Development Parameters. Project density is limited to a maximum of 1,015 dwelling units.
2. **Schedule of Uses and Property Development Regulations**
  - (a) **Schedule of Uses**
    - Residential R-1
    - Accessory Uses and Structures
    - Dwelling Units:
      - Single-family, minimum lot size 6,500 sq.ft.
    - Entrance Gate, Gatehouse
    - Essential Services
    - Essential Service Facilities: Group I
    - Excavation, Water Retention
    - Fences, Walls
    - Home Occupation
    - Model Home and Model Unit
    - Model Display Center
    - Parking Lot, Accessory



Real Estate Sales Office

Signs

Temporary Uses, limited to construction trailers at the time of development

Residential R-2

Accessory Uses and Structures

Dwelling Units:

Single-family, minimum lot size 4,500 sq.ft.

Zero Lot Line

Two Family Attached

Townhomes

Entrance Gate, Gatehouse

Essential Services

Essential Service Facilities: Group I

Excavation, Water Retention

Fences, Walls

Home Occupation, no outside help

Model Home and Model Unit

Model Display Center

Model Display Group

Parking Lot, Accessory

Real Estate Sales Office

Signs

Temporary Uses, limited to construction trailers at the time of development

Residential R-3

Accessory Uses and Structures

Dwelling Units:

Single-family, minimum lot size 13,600 sq.ft.

Entrance Gate, Gatehouse

Essential Services

Essential Service Facilities: Group I

Excavation, Water Retention

Fences, Walls

Home Occupation, no outside help

Model Home and Model Unit

Model Display Center

Parking Lot, Accessory

Real Estate Sales Office

Signs

Temporary Uses, limited to construction trailers at the time of development

Residential Amenity (RA)

Accessory Uses and Structures  
Administrative Offices  
Banks and Financial Establishments, Group I (Including ATMs)  
Communication Facility, Wireless (Antenna only, Towers prohibited)  
Consumption on Premises  
Club, Private  
Essential Services  
Essential Services Facilities, Group I  
Excavation, Water Retention  
Fences and Walls  
Food & Beverage Service, Limited  
Parking Lot, Accessory  
Personal Services, Group I  
Recreational Facilities, Private  
Real Estate Sales Office  
Restaurant, Groups I, II, and III  
Signs  
Specialty Retail Shops, Groups I and II  
Storage, Indoor  
Temporary uses

(b) Site Development Regulations

Attached as Exhibit B2.

3. ~~Vehicular/Pedestrian Impacts~~

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

4. ~~Plan Consistency~~

~~Zoning approval does not guarantee local development order approval. Future development order approvals must satisfy the requirements of the Lee Plan Planning Communities Map and Acreage Allocation Table, Map 16 and Table 1(b), be reviewed for, and found consistent with all other Lee Plan Provisions.~~

5. ~~Concurrency~~

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

**HEX NOTE:** Recommend deletion as restatements of LDC. Condition 1 requires LDC compliance.

~~6.3.~~ Development Permits

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

~~7.4.~~ Hurricane Preparedness

To mitigate future hurricane damage and loss of life, and to ensure compliance with Lee Plan objectives, Developer must:

- a. Establish a homeowners' or residents' association. The organization must provide an educational program with Emergency Management staff on an annual basis that describes risks of natural hazards through literature, brochures, and speakers for Hurricane Awareness/Preparedness Seminars. The intent is to educate residents of the actions necessary to mitigate dangers inherent in these hazards;
- b. Formulate an emergency hurricane notification and evacuation plan, subject to approval by the Lee County Office of Emergency Management; and
- c. Comply with LDC 2-481 *et seq.* hurricane preparedness and impact mitigation, if required.

~~8.5.~~ Model Homes, Model Units, Model Display Centers

Model units, model homes, model display centers, and real estate sales are subject to the following:

- a. Each model must be a unique example. Multiple examples of the same unit are prohibited.
- b. All Model Home Sites, Model Display Centers, or Model Groups must be designated on development order plans. Parking areas must be buffered with a single-row hedge and tree canopy.
- c. Prior to model home construction, model home lots must be shown on a preliminary plat. Developer must file the preliminary plat concurrently with the local development order application. Model homes must comply with setbacks set forth in Exhibit B2.
- d. Model homes or model units are limited to no more than 15 within the development at one time.



- e. Real estate sales are limited to the sale of lots or units within the development only.
- f. Real estate sales are limited to temporary real estate trailers, model units, model display centers, and the Recreational Amenity area (Tract RA).
- g. Hours of operation for models and real estate sales are limited to 8 a.m. to 8 p.m daily.
- h. Model homes and real estate sales will be valid for up to 5 years from the date of issuance of a certificate of occupancy of a model home.

9.6. Buffers

a. Southern Property Line

Development order plans must depict a 30 foot wide buffer along the southern property line (excluding indigenous preserve area) with the development order establishing lots adjacent to this property boundary. The 30 foot wide buffer must abide by the following:

- 1) Contain a berm with a wall or fence at least eight feet in height, except where it encroaches in the upland preserve as shown on the MCP;
- 2) Vegetation installed between the southern property line and the eight foot berm/wall or fence combination must contain ten oak trees (*Quercus virginiana*) per 100 linear feet and a double hedge row;
- 3) Trees must be 10 feet, two inch caliper, and four-foot spread;
- 4) Shrubs must be at least 36 inches in height at time of planting and create a visual screen; and
- 5) Existing indigenous native vegetation may be counted toward the vegetation requirements of this condition.

b. Buffer on Lands Abutting Buckingham Road

Development order plans must depict an enhanced 25 foot Type-D buffer along Buckingham Road that includes 10 trees per 100 linear feet (must include live oaks, no palms) between the eight foot berm/wall or fence and the Buckingham Road right-of-way.

c. Buffer Adjacent to Portico and Internal Right-of-Way

Development order plans must depict an enhanced 20 foot wide Type-C buffer where internal roads are less than 125 feet from an adjacent single

family subdivision. A berm with a wall at least eight feet in height may be constructed closer than 25 feet from the abutting property if the following plant material is proposed:

- 1) *Between the wall/berm and the property line* - Ten South Florida Slash Pine (*Pinus elliottii* var. *densa*) and 18 shrubs per 100 linear feet; and
- 2) *Between the wall/berm and the internal right-of-way* –
  - (i) Five shade trees per 100 linear feet;
  - (ii) Clusters of three South Florida Slash Pine (*Pinus elliottii* var. *densa*) between the shade trees; and
  - (iii) 18 shrubs per 100 linear feet.

d. All required buffers must utilize 100% native vegetation.

40.7. Protected Species

The development order must provide a Species Management Plan explaining how the cardinal airplant (*Tillandsia fasciculata*) and wild pine airplant (*Tillandsia utriculata*) will be protected during development and exotic removal.

41.8. Agricultural Uses

Existing bona fide agricultural uses in the form of cattle pasture and the raising of hay may continue on the property subject to the following:

- a. Termination of Agricultural Use. Agricultural uses must terminate on project areas receiving development order approval for vertical development and prior to county issuance of a vegetation removal permit. Development order approvals for plats, infrastructure improvements, landscaping, surface water management, or other non-vertical development do not trigger termination.
- b. Additional Clearing Prohibited. Clearing of native trees or other native vegetation, including understory, in agricultural areas is prohibited. Existing areas of bona fide agricultural use that include existing grass pasture(s) may be mowed, but may not be cleared or expanded. This prohibition does not preclude County approved requests for removal of invasive exotic vegetation.
- c. Proof of Termination. Upon approval of a local development order for vertical development and prior to issuance of a vegetation removal permit, the property owner must provide written proof of the following, subject to approval by the County Attorney's Office:
  - 1) Affidavit. Sworn affidavit from the property owner confirming:

- a. Date agricultural uses ceased;
  - b. Legal description of the property subject to the development order approved for vertical development;
  - c. An affirmative statement acknowledging and agreeing agricultural uses are illegal and prohibited on the property, and that the owner covenants with the County they will not allow agricultural uses to resume until the property is rezoned to permit agriculture; and
  - d. The affidavit constitutes a covenant between the property owner and the County binding on the owner and its successors. The covenant must be properly recorded in the public records of the County at the owner's expense.
- 2) Termination of Tax Exemption. Termination of the agricultural tax exemption for portions of the property subject to development order for vertical development. Proof of termination must include a copy of the request to terminate the tax exemption submitted to the Lee County Property Appraiser.

**HEX NOTE:** Recommend language modifications for clarity.

12.9. Right-of-Way Dedication

Developer voluntarily reserves a 20 foot wide strip along Buckingham Road for county right-of-way purposes. Developer may dedicate the strip by recording an instrument (i.e. deed or plat) that grants or dedicates to the County an exclusive easement for right-of-way purposes. Developer will be eligible for 100% road impact fee credits for land dedicated for Buckingham Road. If Developer grants the easement via a plat, the dedication must be clear and unambiguous. Use of the label "Future Right-of-way" is not acceptable. The dedicated area may not be used for required development buffering or any other non-county right-of-way improvements. Developer must complete dedication prior to issuance of the first building permit allowing vertical construction within the project.

13.10. Access to Buckingham Road

- a. The MCP and local development order must depict a minimum 70-foot-wide divided entrance on Buckingham Road that includes a 14-foot wide median with two 11-foot wide lanes on both sides of the median for ingress and egress.
- b. Local development orders must include a second access point on Buckingham Road. This access will be an egress point for residents only and an ingress/egress for emergency vehicles. At least 25 feet of separation is required between the gate and the Buckingham Road right-of-way. Access for emergency services to be provided by a Knox Box.



- c. Developer must provide written documentation from the Fort Myers Shores Fire District indicating the access points are acceptable and provide adequate access for emergency vehicles.

14.11. Commercial Uses and Consumption on Premises

- a. Commercial uses are limited to a maximum of 7,500 square feet of floor area for the entire development.
- b. Commercial uses are for residents and guests only, not open to the general public.
- c. Hours of operation for consumption on premises are limited to 7:00 a.m. to midnight, daily.

15.12. Public School Use

- a. If the School Site Reserved Area is conveyed to the Lee County School District, this zoning approval may be amended administratively to remove the 13-acre parcel from the MCP. The deletion of the school site from the MCP will not affect the right to develop 1,015 single-family dwelling units on the remaining portion of land covered by the MCP.
- b. If not conveyed, the School Site Reserved Area may be developed with single-family and accessory uses consistent with the Property Development Regulations for R-1, R-2, or R-3 and the enhanced buffer along Buckingham Road, with an Administrative Amendment.
- c. Density for the RPD remains limited to 1,015 dwelling units even if the School Site Reserved Area is utilized for residential development.

16.13. Natural Resources Conditions

Development order plans must include:

- a. A map depicting locations of free-flowing wells. Wells that are not part of an irrigation system or designated groundwater monitoring network must be permanently plugged and abandoned consistent with Lee County Code of Ordinances 32-99.
- b. A Water Quality Monitoring Plan approved by the Lee County Division of Natural Resources. The Plan must establish:
  - 1) Overall goals and objectives of the Plan;
  - 2) An outfall monitoring schedule during "wet" season of June through October for Field Temperature, Total Kjeldahl Nitrogen, Total Nitrogen, Chlorophyll A, Nitrite, Nitrate, Phosphorus, Turbidity, and Stage;

- 3) A baseline monitoring event prior to construction commencement;
- 4) Provision of water quality monitoring data to the Division of Natural Resources annually for at least 5 years, including a comparison of State water quality standards, plots of parameters, and recommendations. Developer may amend water quality monitoring and reporting requirements by written request if State water quality standards are met or exceeded for five consecutive years. The Division of Natural Resources must approve Developer's written request. Results must be reported as an Electric Data Deliverable (EDD) in a format the Division of Natural Resources approves; and
- 5) A contingency plan if an exceedance of State Water Quality Standards is discovered, including notification to impacted residents and applicable authorities.

**DEVIATIONS:**

1. Deviation (1) seeks relief from the LDC 10-416(d)(6) requirement to provide a combination berm and solid wall eight feet in height not less than 25 feet from the abutting property with landscaping between the wall and abutting property of a Type "C" buffer (five trees and 18 shrubs per 100 linear feet), *to allow* landscaping and a three foot high berm/five foot high wall combination located closer to the abutting property.

*HEX Recommendation:* Approval, subject to Condition 6.

2. Deviation (2) seeks relief from the LDC 10-415(b)(1)(a) requirement that developments provide 50 percent open space through onsite preservation of existing native vegetation communities, *to allow* 17.3 acres of existing native vegetation communities to be maintained onsite.

*HEX Recommendation:* Approval, *subject to* the following condition:

The development order must depict 105.06 acres open space comprised of 83.35 acres general open space and 21.71 acres indigenous open space that includes 150% upland credits for upland indigenous area #1.

3. Deviation (3) seeks relief from the LDC 10-296(e)(2)(h)(5) Table 15 Suburban Local Streets requirement that residential land uses have 10 foot travel lane, 5 foot planting strip, and 5 foot pedestrian facility on both sides of the roadway, *to allow* a roadway cross-section with 10-12 foot travel lane, no planting strip, and a 5 foot pedestrian facility on one side of the primary road and village road.

*HEX Recommendation: Approval.*

4. Deviation (4) seeks relief from the LDC Section 10-296(e)(2)(h)(5) Table 15 Suburban Local Streets requirement that residential land uses have 10 foot travel lane, 5 foot planting strip, and 5 foot pedestrian facility on both sides of the roadway, *to allow* a roadway cross-section with 10-12 foot travel lane, a 5 foot planting strip, and a 5 foot pedestrian facility on one side of the primary road at the community entry.

*HEX Recommendation: Approval, subject to Condition 10.*

5. Deviation (5) seeks relief from the LDC 10-285 requirement of 660 feet of access connection separation within a future Suburban future land use category on a principal arterial, *to allow* 738± feet from the primary access to the proposed second egress and 503± feet from the proposed egress to the existing access to the north.

*HEX Recommendation: Approval.*

6. Deviation (6) seeks relief from the LDC 10-296(k)(1) requirement that all dead end streets be closed at one end by a circular turnaround, *to allow* the road to terminate at a residential driveway.

*HEX Recommendation: Approval, subject to the following condition:*

Dead-end portion of the roads shall serve a maximum of two residential lots.

7. Deviation (7) seeks relief from the LDC 10-418(1) requirement that shorelines be sinuous, *to allow* some of the stormwater management ponds to be more rectangular than sinuous.

*HEX Recommendation: Approval, subject to the following condition:*

Development order plans must include a detailed plan of planted littoral shelves for non-sinuous lakes depicting littoral plants installed in a serpentine or undulating design to simulate a sinuous shoreline.



Exhibits to Conditions:

B1 Master Concept Plan

B2 Site Development Regulations

## Exhibit C

### RECOMMENDED CONDITIONS AND DEVIATIONS (Clean Version)

#### CONDITIONS:

1. **Master Concept Plan (MCP) and Development Parameters**

- (a) MCP. Development must be substantially consistent with the five page MCP entitled “Lee County Homes Associates I, LLLP Residential Planned Development” stamped received February 4, 2021 (Exhibit B1), except as modified by the conditions below.
- (b) LDC and Lee Plan. Development and uses must comply with the LDC and Lee County Comprehensive Plan (Lee Plan) at time of local development order approval, except where deviations are approved herein. Subsequent amendments to the MCP, conditions, or deviations herein may require further development approvals.
- (c) Development Parameters. Project density is limited to a maximum of 1,015 dwelling units.

2. **Schedule of Uses and Property Development Regulations**

(a) **Schedule of Uses**

Residential R-1

Accessory Uses and Structures

Dwelling Units:

Single-family, minimum lot size 6,500 sq.ft.

Entrance Gate, Gatehouse

Essential Services

Essential Service Facilities: Group I

Excavation, Water Retention

Fences, Walls

Home Occupation

Model Home and Model Unit

Model Display Center

Parking Lot, Accessory

Real Estate Sales Office

Signs

Temporary Uses, limited to construction trailers at the time of development

Residential R-2

Accessory Uses and Structures

Dwelling Units:

Single-family, minimum lot size 4,500 sq.ft.

Zero Lot Line

Two Family Attached

Townhomes

Entrance Gate, Gatehouse

Essential Services

Essential Service Facilities: Group I

Excavation, Water Retention

Fences, Walls

Home Occupation, no outside help

Model Home and Model Unit

Model Display Center

Model Display Group

Parking Lot, Accessory

Real Estate Sales Office

Signs

Temporary Uses, limited to construction trailers at the time of development

Residential R-3

Accessory Uses and Structures

Dwelling Units:

Single-family, minimum lot size 13,600 sq.ft.

Entrance Gate, Gatehouse

Essential Services

Essential Service Facilities: Group I

Excavation, Water Retention

Fences, Walls

Home Occupation, no outside help

Model Home and Model Unit

Model Display Center

Parking Lot, Accessory

Real Estate Sales Office

Signs

Temporary Uses, limited to construction trailers at the time of development

Residential Amenity (RA)

Accessory Uses and Structures  
Administrative Offices  
Banks and Financial Establishments, Group I (Including ATMs)  
Communication Facility, Wireless (Antenna only, Towers prohibited)  
Consumption on Premises  
Club, Private  
Essential Services  
Essential Services Facilities, Group I  
Excavation, Water Retention  
Fences and Walls  
Food & Beverage Service, Limited  
Parking Lot, Accessory  
Personal Services, Group I  
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Restaurant, Groups I, II, and III  
Signs  
Specialty Retail Shops, Groups I and II  
Storage, Indoor  
Temporary uses

(b) Site Development Regulations

Attached as Exhibit B2.

3. Development Permits

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4. Hurricane Preparedness

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- b. Formulate an emergency hurricane notification and evacuation plan, subject to approval by the Lee County Office of Emergency Management; and
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Model units, model homes, model display centers, and real estate sales are subject to the following:
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  - d. Model homes or model units are limited to no more than 15 within the development at one time.
  - e. Real estate sales are limited to the sale of lots or units within the development only.
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  - g. Hours of operation for models and real estate sales are limited to 8 a.m. to 8 p.m daily.
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6. Buffers
- a. Southern Property Line  
Development order plans must depict a 30 foot wide buffer along the southern property line (excluding indigenous preserve area) with the development order establishing lots adjacent to this property boundary. The 30 foot wide buffer must abide by the following:

- 1) Contain a berm with a wall or fence at least eight feet in height, except where it encroaches in the upland preserve as shown on the MCP;
- 2) Vegetation installed between the southern property line and the eight foot berm/wall or fence combination must contain ten oak trees (*Quercus virginiana*) per 100 linear feet and a double hedge row;
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c. Buffer Adjacent to Portico and Internal Right-of-Way

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  - (i) Five shade trees per 100 linear feet;
  - (ii) Clusters of three South Florida Slash Pine (*Pinus elliottii* var. *densa*) between the shade trees; and
  - (iii) 18 shrubs per 100 linear feet.

d. All required buffers must utilize 100% native vegetation.

7. Protected Species

The development order must provide a Species Management Plan explaining how the cardinal airplant (*Tillandsia fasciculata*) and wild pine airplant (*Tillandsia utriculata*) will be protected during development and exotic removal.

8. Agricultural Uses

Existing bona fide agricultural uses in the form of cattle pasture and the raising of hay may continue on the property subject to the following:

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- b. Additional Clearing Prohibited. Clearing of native trees or other native vegetation, including understory, in agricultural areas is prohibited. Existing areas of bona fide agricultural use that include existing grass pasture(s) may be mowed, but may not be cleared or expanded. This prohibition does not preclude County approved requests for removal of invasive exotic vegetation.
- c. Proof of Termination. Upon approval of a local development order for vertical development and prior to issuance of a vegetation removal permit, the property owner must provide written proof of the following, subject to approval by the County Attorney's Office:
  - 1) Affidavit. Sworn affidavit from the property owner confirming:
    - a. Date agricultural uses ceased;
    - b. Legal description of the property subject to the development order approved for vertical development;
    - c. An affirmative statement acknowledging and agreeing agricultural uses are illegal and prohibited on the property, and that the owner covenants with the County they will not allow agricultural uses to resume until the property is rezoned to permit agriculture; and
    - d. The affidavit constitutes a covenant between the property owner and the County binding on the owner and its successors. The covenant must be properly recorded in the public records of the County at the owner's expense.
  - 2) Termination of Tax Exemption. Termination of the agricultural tax exemption for portions of the property subject to development order for vertical development. Proof of termination must include a copy of the request to terminate the tax exemption submitted to the Lee County Property Appraiser.

9. Right-of-Way Dedication

Developer voluntarily reserves a 20 foot wide strip along Buckingham Road for county right-of-way purposes. Developer may dedicate the strip by recording an instrument (i.e. deed or plat) that grants or dedicates to the County an exclusive easement for right-of-way purposes. Developer will be eligible for 100% road impact fee credits for land dedicated for Buckingham Road. If Developer grants the easement via a plat, the dedication must be clear and unambiguous. Use of the label "Future Right-of-way" is not acceptable. The dedicated area may not be used for required development buffering or any other non-county right-of-way improvements. Developer must complete dedication prior to issuance of the first building permit allowing vertical construction within the project.

10. Access to Buckingham Road

- a. The MCP and local development order must depict a minimum 70-foot-wide divided entrance on Buckingham Road that includes a 14-foot wide median with two 11-foot wide lanes on both sides of the median for ingress and egress.
- b. Local development orders must include a second access point on Buckingham Road. This access will be an egress point for residents only and an ingress/egress for emergency vehicles. At least 25 feet of separation is required between the gate and the Buckingham Road right-of-way. Access for emergency services to be provided by a Knox Box.
- c. Developer must provide written documentation from the Fort Myers Shores Fire District indicating the access points are acceptable and provide adequate access for emergency vehicles.

11. Commercial Uses and Consumption on Premises

- a. Commercial uses are limited to a maximum of 7,500 square feet of floor area for the entire development.
- b. Commercial uses are for residents and guests only, not open to the general public.
- c. Hours of operation for consumption on premises are limited to 7:00 a.m. to midnight, daily.

12. Public School Use

- a. If the School Site Reserved Area is conveyed to the Lee County School District, this zoning approval may be amended administratively to remove the 13-acre parcel from the MCP. The deletion of the school site from the MCP will not affect the right to develop 1,015 single-family dwelling units on the remaining portion of land covered by the MCP.



- b. If not conveyed, the School Site Reserved Area may be developed with single-family and accessory uses consistent with the Property Development Regulations for R-1, R-2, or R-3 and the enhanced buffer along Buckingham Road, with an Administrative Amendment.
- c. Density for the RPD remains limited to 1,015 dwelling units even if the School Site Reserved Area is utilized for residential development.

13. Natural Resources Conditions

Development order plans must include:

- a. A map depicting locations of free-flowing wells. Wells that are not part of an irrigation system or designated groundwater monitoring network must be permanently plugged and abandoned consistent with Lee County Code of Ordinances 32-99.
- b. A Water Quality Monitoring Plan approved by the Lee County Division of Natural Resources. The Plan must establish:
  - 1) Overall goals and objectives of the Plan;
  - 2) An outfall monitoring schedule during “wet” season of June through October for Field Temperature, Total Kjeldahl Nitrogen, Total Nitrogen, Chlorophyll A, Nitrite, Nitrate, Phosphorus, Turbidity, and Stage;
  - 3) A baseline monitoring event prior to construction commencement;
  - 4) Provision of water quality monitoring data to the Division of Natural Resources annually for at least 5 years, including a comparison of State water quality standards, plots of parameters, and recommendations. Developer may amend water quality monitoring and reporting requirements by written request if State water quality standards are met or exceeded for five consecutive years. The Division of Natural Resources must approve Developer’s written request. Results must be reported as an Electric Data Deliverable (EDD) in a format the Division of Natural Resources approves; and
  - 5) A contingency plan if an exceedance of State Water Quality Standards is discovered, including notification to impacted residents and applicable authorities.

**DEVIATIONS:**

1. Deviation (1) seeks relief from the LDC 10-416(d)(6) requirement to provide a combination berm and solid wall eight feet in height not less than 25 feet from the abutting property with landscaping between the wall and abutting property of a Type "C" buffer (five trees and 18 shrubs per 100 linear feet), *to allow* landscaping and a three foot high berm/five foot high wall combination located closer to the abutting property.

*HEX Recommendation:* Approval, subject to Condition 6.

2. Deviation (2) seeks relief from the LDC 10-415(b)(1)(a) requirement that developments provide 50 percent open space through onsite preservation of existing native vegetation communities, *to allow* 17.3 acres of existing native vegetation communities to be maintained onsite.

*HEX Recommendation:* Approval, *subject to* the following condition:

The development order must depict 105.06 acres open space comprised of 83.35 acres general open space and 21.71 acres indigenous open space that includes 150% upland credits for upland indigenous area #1.

3. Deviation (3) seeks relief from the LDC 10-296(e)(2)(h)(5) Table 15 Suburban Local Streets requirement that residential land uses have 10 foot travel lane, 5 foot planting strip, and 5 foot pedestrian facility on both sides of the roadway, *to allow* a roadway cross-section with 10-12 foot travel lane, no planting strip, and a 5 foot pedestrian facility on one side of the primary road and village road.

*HEX Recommendation:* Approval.

4. Deviation (4) seeks relief from the LDC Section 10-296(e)(2)(h)(5) Table 15 Suburban Local Streets requirement that residential land uses have 10 foot travel lane, 5 foot planting strip, and 5 foot pedestrian facility on both sides of the roadway, *to allow* a roadway cross-section with 10-12 foot travel lane, a 5 foot planting strip, and a 5 foot pedestrian facility on one side of the primary road at the community entry.

*HEX Recommendation:* Approval, *subject to* Condition 10.

5. Deviation (5) seeks relief from the LDC 10-285 requirement of 660 feet of access connection separation within a future Suburban future land use category on a principal arterial, *to allow* 738± feet from the primary access to the proposed second egress and 503± feet from the proposed egress to the existing access to the north.

*HEX Recommendation:* Approval.

6. Deviation (6) seeks relief from the LDC 10-296(k)(1) requirement that all dead end streets be closed at one end by a circular turnaround, *to allow* the road to terminate at a residential driveway.

*HEX Recommendation:* Approval, *subject to* the following condition:

Dead-end portion of the roads shall serve a maximum of two residential lots.

7. Deviation (7) seeks relief from the LDC 10-418(1) requirement that shorelines be sinuous, *to allow* some of the stormwater management ponds to be more rectangular than sinuous.

*HEX Recommendation:* Approval, *subject to* the following condition:

Development order plans must include a detailed plan of planted littoral shelves for non-sinuous lakes depicting littoral plants installed in a serpentine or undulating design to simulate a sinuous shoreline.

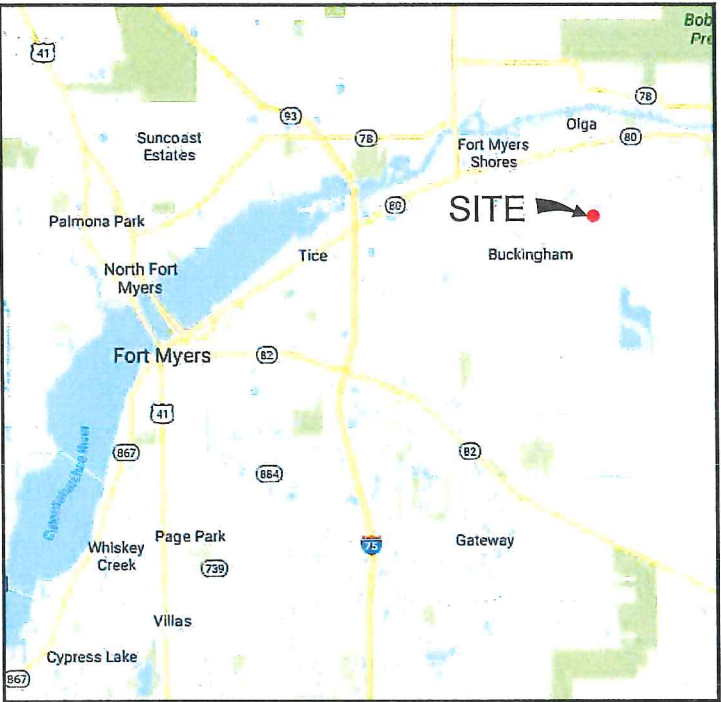
Exhibits to Conditions:

B1 Master Concept Plan

B2 Site Development Regulations

MASTER CONCEPT PLAN FOR  
LEE COUNTY HOMES ASSOCIATES I, LLLP  
LEE COUNTY, FLORIDA

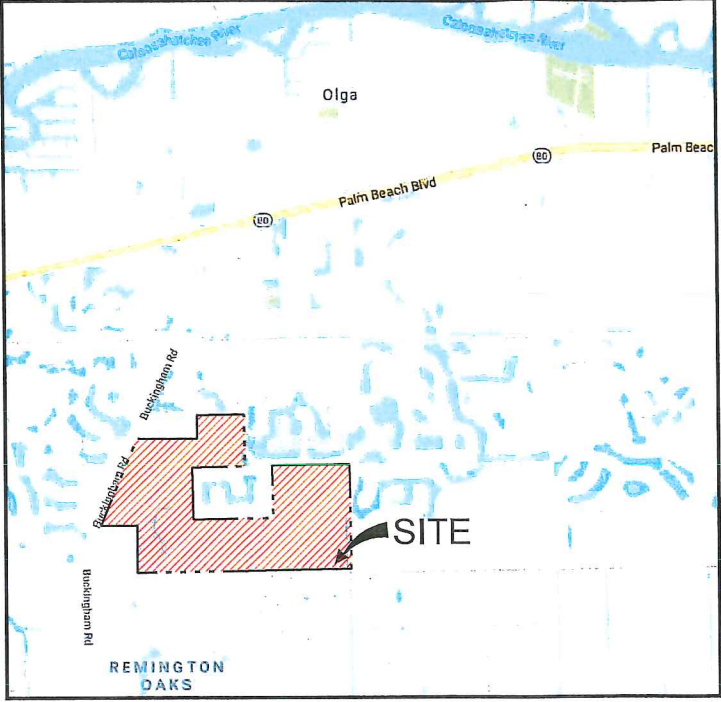
SECTION 33, TOWNSHIP 43, RANGE 26E  
LEE COUNTY, FLORIDA



SITE VICINITY MAP

N.T.S.

BID	CONSTRUCTION	LEE COUNTY	SPVMD	LCUD/DH/DEP	SHEET INDEX	
					DESCRIPTION	SHEET
					GENERAL	
					COVER SHEET	COVER
					PLANNING	
					MASTER CONCEPT PLAN	C-101
					OPEN SPACE PLAN	C-102
					NOTES AND TYPICAL SECTIONS	C-501
					LOT TYPICALS	C-502



SITE LOCATION MAP

N.T.S.

PROJECT:

LEE COUNTY HOMES ASSOCIATES I, LLLP

LOCATION:

BUCKINGHAM ROAD  
LEE COUNTY, FLORIDA

CLIENT:

LEE COUNTY HOMES ASSOCIATES I, LLLP

CONSULTANT:

**MORRIS DEPEW**  
ENGINEERS • PLANNERS • SURVEYORS  
LANDSCAPE ARCHITECTS  
FL CA #10, 6532 / FL CERT NO. LB6891 / LC26000330

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Tallahassee  
113 South Monroe Street  
1st Floor  
Tallahassee, Florida 32301  
Toll free: 855-337-7341

Destin  
5527 Highway 98  
Unit 201  
Santa Rosa Beach, Florida 32459  
Toll free: 855-337-7341

PREPARED BY:

REVISIONS	DATE

PROJECT MANAGER: TME

DRAWING BY: MML

JURISDICTION: LEE COUNTY

DATE: 02/04/2021

SHEET TITLE:

COVER SHEET

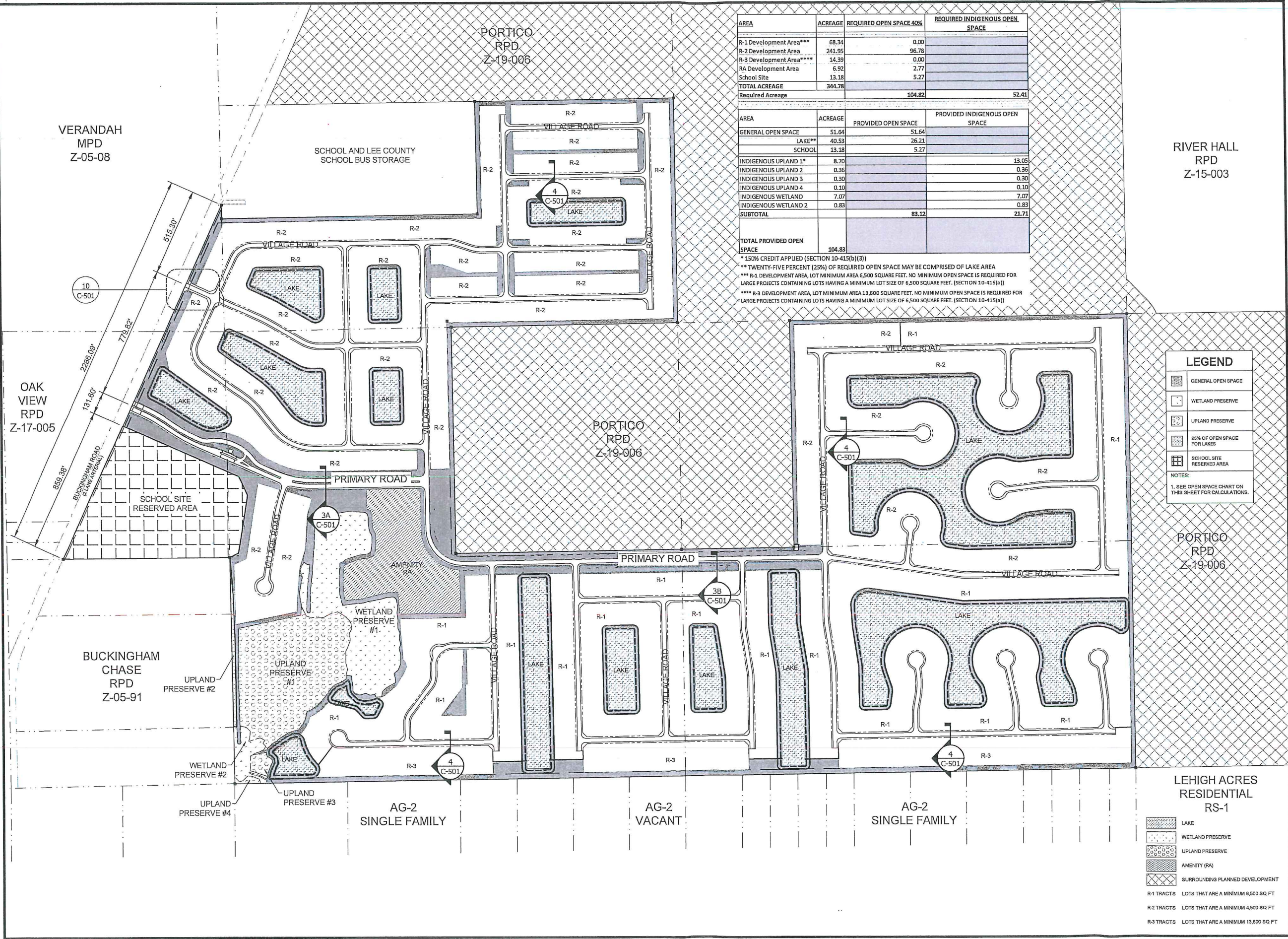
SHEET NUMBER: COVER

JOB/FILE NUMBER: 19079-01









AREA	ACREAGE	REQUIRED OPEN SPACE 40%	REQUIRED INDIGENOUS OPEN SPACE
R-1 Development Area***	68.34	0.00	
R-2 Development Area	241.95	96.78	
R-3 Development Area****	14.39	0.00	
RA Development Area	6.92	2.77	
School Site	13.18	5.27	
TOTAL ACREAGE	344.78		
Required Acreage		104.82	52.41

AREA	ACREAGE	PROVIDED OPEN SPACE	PROVIDED INDIGENOUS OPEN SPACE
GENERAL OPEN SPACE	51.64	51.64	
LAKE**	40.53	26.21	
SCHOOL	13.18	5.27	
INDIGENOUS UPLAND 1*	8.70		13.05
INDIGENOUS UPLAND 2	0.36		0.36
INDIGENOUS UPLAND 3	0.30		0.30
INDIGENOUS UPLAND 4	0.10		0.10
INDIGENOUS WETLAND	7.07		7.07
INDIGENOUS WETLAND 2	0.83		0.83
SUBTOTAL		83.12	21.71
TOTAL PROVIDED OPEN SPACE	104.83		

\* 150% CREDIT APPLIED (SECTION 10-415(b)(3))  
\*\* TWENTY-FIVE PERCENT (25%) OF REQUIRED OPEN SPACE MAY BE COMPRISED OF LAKE AREA  
\*\*\* R-1 DEVELOPMENT AREA, LOT MINIMUM AREA 6,500 SQUARE FEET. NO MINIMUM OPEN SPACE IS REQUIRED FOR LARGE PROJECTS CONTAINING LOTS HAVING A MINIMUM LOT SIZE OF 6,500 SQUARE FEET. (SECTION 10-415(a))  
\*\*\*\* R-3 DEVELOPMENT AREA, LOT MINIMUM AREA 13,600 SQUARE FEET. NO MINIMUM OPEN SPACE IS REQUIRED FOR LARGE PROJECTS CONTAINING LOTS HAVING A MINIMUM LOT SIZE OF 6,500 SQUARE FEET. (SECTION 10-415(a))

**LEGEND**

- GENERAL OPEN SPACE
- WETLAND PRESERVE
- UPLAND PRESERVE
- 25% OF OPEN SPACE FOR LAKES
- SCHOOL SITE RESERVED AREA

NOTES:  
1. SEE OPEN SPACE CHART ON THIS SHEET FOR CALCULATIONS.

**LEHIGH ACRES RESIDENTIAL RS-1**

- LAKE
- WETLAND PRESERVE
- UPLAND PRESERVE
- AMENITY (RA)
- SURROUNDING PLANNED DEVELOPMENT

R-1 TRACTS LOTS THAT ARE A MINIMUM 8,500 SQ FT  
R-2 TRACTS LOTS THAT ARE A MINIMUM 4,500 SQ FT  
R-3 TRACTS LOTS THAT ARE A MINIMUM 13,600 SQ FT

PROJECT: LEE COUNTY HOMES ASSOCIATES I, LLLP

LOCATION: BUCKINGHAM ROAD LEE COUNTY, FLORIDA

CLIENT: LEE COUNTY HOMES ASSOCIATES I, LLLP

CONSULTANT: MORRIS DEPEW  
ENGINEERS • PLANNERS • SURVEYORS  
LANDSCAPE ARCHITECTS  
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Toll free: 866-337-7341

Destin  
5507 Highway 90  
Unit 101  
Santa Rosa Beach, Florida 32459  
Toll free: 866-337-7341

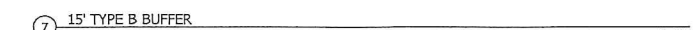
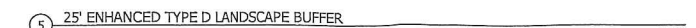
REVISIONS DATE

PROJECT MANAGER: TME  
DRAWING BY: MML  
JURISDICTION: LEE COUNTY  
DATE: 2/4/2021  
SHEET TITLE: OPEN SPACE PLAN  
SHEET NUMBER: C-102

SCALE 1"=250'

JOB/FILE NUMBER: 19079-01

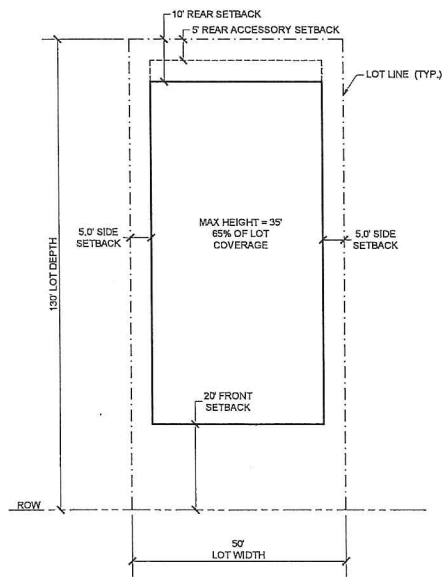




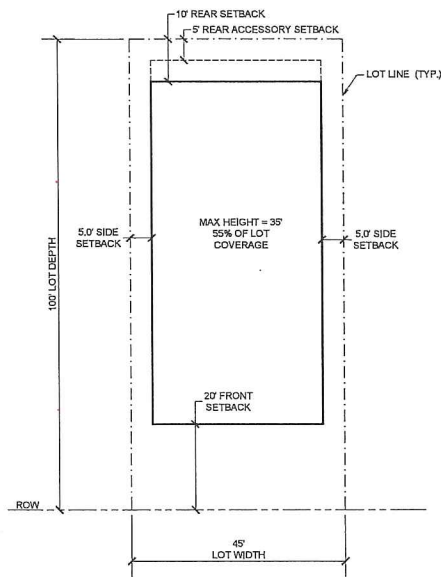
<b>Tallahassee</b>	<b>Destin</b>
113 South Monroe Street	5597 Highway 90
1st Floor	Unit 201
Tallahassee, Florida 32301	Santa Rosa Beach, Florida 32459
Toll free: 866-337-7341	Toll free: 866-337-7341

JOB/FILE NUMBER: 19079-01

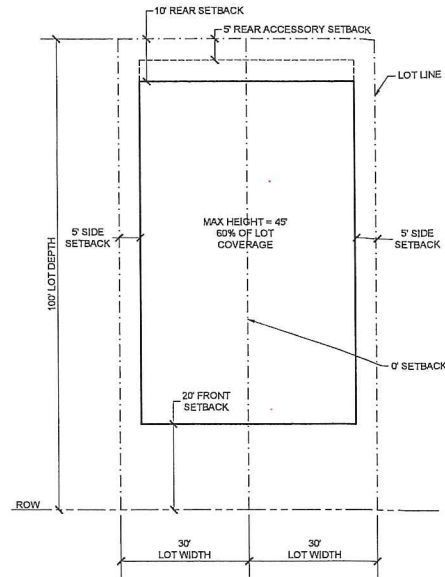




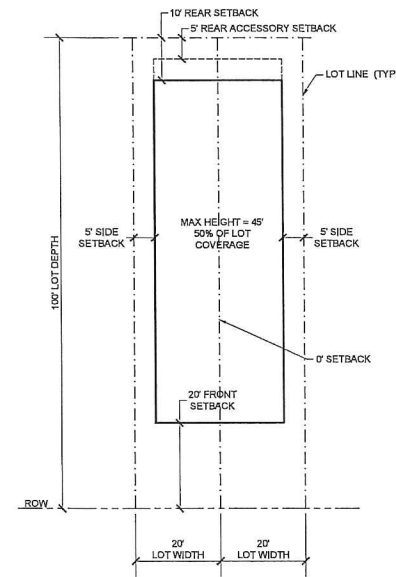
1 TYPICAL R-1 SINGLE FAMILY LOT  
NOTE: 15' FRONT SETBACK FOR SIDE LOAD GARAGE.



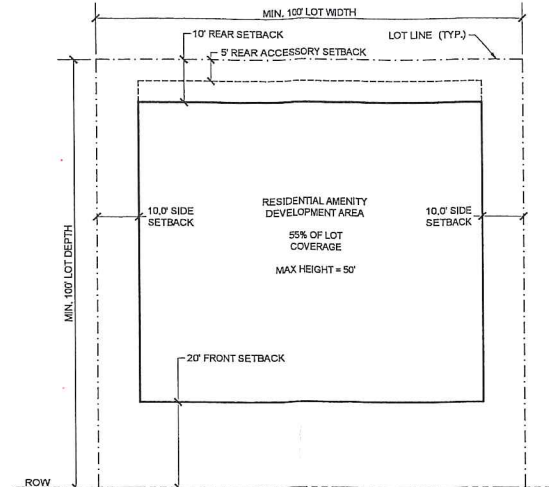
2 TYPICAL R-2 SINGLE FAMILY LOT  
NOTE: 15' FRONT SETBACK FOR SIDE LOAD GARAGE.



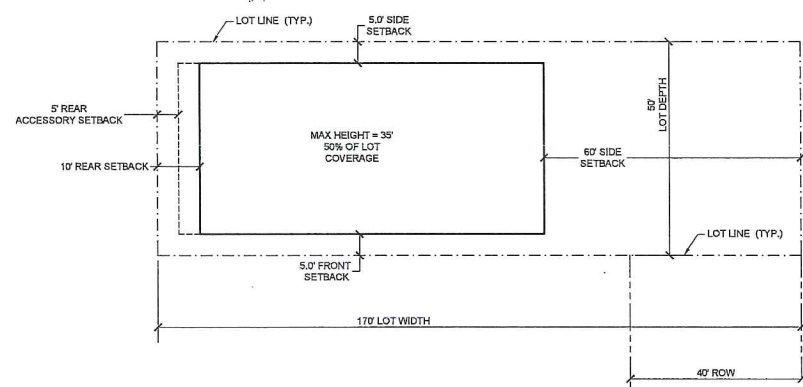
3 TYPICAL TWO FAMILY ATTACHED LOT(S)



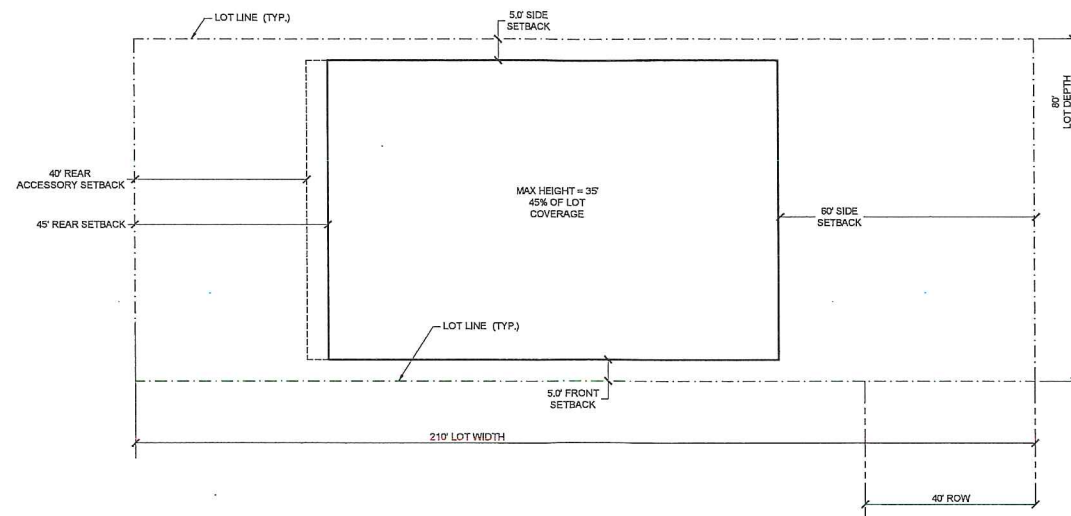
4 TYPICAL TOWNHOME LOT(S)



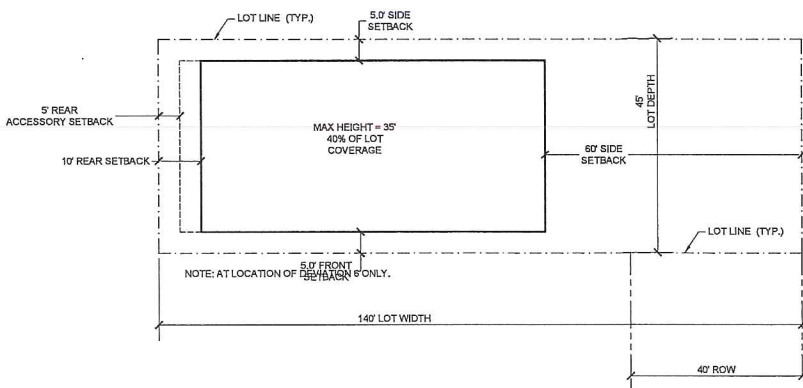
5 TYPICAL AMENITY LOT



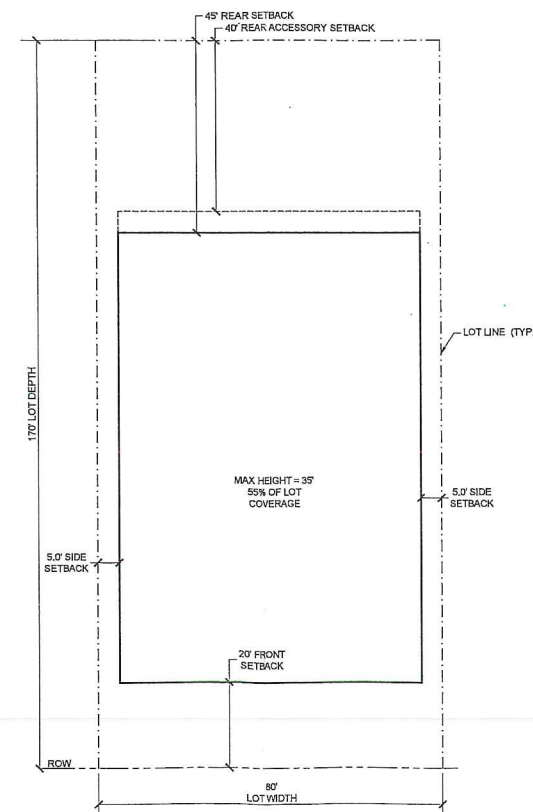
6 TYPICAL R-1 SINGLE FAMILY LOT AT DEAD END R.O.W.



8 TYPICAL R-3 SINGLE FAMILY LOT AT DEAD END R.O.W.



7 TYPICAL R-2 SINGLE FAMILY LOT AT DEAD END R.O.W.  
NOTE: AT LOCATION OF DEVIATION ONLY.



9 TYPICAL R-3 SINGLE FAMILY LOT  
NOTE: 15' FRONT SETBACK FOR SIDE LOAD GARAGE.

PROJECT:

LEE COUNTY  
HOMES  
ASSOCIATES I,  
LLLP

LOCATION:

BUCKINGHAM ROAD  
LEE COUNTY, FLORIDA

CLIENT:

LEE COUNTY HOMES  
ASSOCIATES I, LLLP

CONSULTANT:



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REVISIONS DATE

PROJECT MANAGER: TME  
DRAWING BY: MML  
JURISDICTION: LEE COUNTY  
DATE: 2/4/2021

TITLE:

LOT TYPICALS

SHEET NUMBER: C-502

JOB/FILE NUMBER: 19079-01

A COPYRIGHT MORRIS DEPEW ASSOCIATES, INC. 2021. ALL RIGHTS RESERVED 2/4/2021. 0118079 - 01 homes - Buckingham spa & rd amendment (Plan) 18079-01 C-502 NOTES DEVIATIONS AND TYPICAL SECTIONS.dwg

**Lee County Homes Associates I, LLLP**  
 Residential Planned Development  
 Property Development Regulations  
 November 16, 2020

Land Uses	Min Lot Area (SF)	Min Lot Width (FT)	Min Lot Depth (FT)	Min Street Setback <sup>2</sup> (FT)	Min Side Setback (FT)	Min Rear Lot Setback <sup>3</sup> (FT)	Min Accessory Structure Side Setback (FT)	Min Accessory Structure Rear Setback (FT)	Building Separation (FT)	Max Building Height (FT)	Max Lot Coverage (%)
<b>R-1</b>											
Single-Family	6,500	50	130	20	5	10	5	5	10	35	65
Single-Family <sup>4</sup>	8,500	170	50	5	5 & 60	10	5	5	10	35	50
<b>R-2</b>											
Single-Family	4,500	45	100	20	5	10	5	5	10	35	55
Single-Family <sup>4</sup>	7,000	140	50	5	5 & 60	10	5	5	10	35	40
Zero-lot Line <sup>1</sup>	4,500	45	100	20	0 or 5	10	5	5	10 <sup>1</sup>	35	55
Two-Family Attached	3,000	30	100	20	0 or 5	10	5	5	10	45	60
Townhouse	2,000	20	100	20	0 or 5	10	5	5	10	45	50
<b>R-3</b>											
Single Family	13,600	80	170	20	5	45	5	40	10	35	55
Single-Family <sup>4</sup>	16,800	80	210	60	5	45	5	40	10	35	45
<b>Non-Residential</b>											
Clubhouse/Amenity Sites	10,000	100	100	20	10	10	10	5	10	50	55

Note 1: A minimum 10 foot building separation for zero lot line structures must be maintained.

Note 2: For Corner Lots, the secondary street setback is reduced to 5 feet to function as a side yard.

Note 3: Where lots abut a waterbody, setback is measured from the rear lot line.

Note 4: Lot dimensions and setbacks only apply to a residential lot intersecting with a dead end ROW consistent with the location of Deviation 6.

EXHIBIT B2

## Exhibit D

### EXHIBITS PRESENTED AT HEARING

#### STAFF EXHIBITS

1. *DCD Staff Report with attachments:* Prepared by Chahram Badamtchian, Senior Planner, date stamped received January 28, 2021 (multiple pages – 8.5"x11" & 11"x14") [black & white, color]

#### APPLICANT EXHIBITS

- a. *48-Hour Notice:* Email from Steve Hartsell, Esq., to Hearing Examiner, Chahram Badamtchian, Elizabeth Workman, Marcus Evans, Brandon Dunn, & John Fredyma, Esq., with copies to Tina Ekblad, Heather Urwiller, Kevin Ratterree, John Asher, Ted Treesh, & Bill Morris, dated Monday, February 8, 2021 4:41 PM (multiple pages – 8.5"x11")
1. *PowerPoint Presentation:* Prepared for Lee County Homes Planned Development Amendment, DCI2020-00010, dated February 11, 2021 (multiple pages - 8.5"x11")[color]
2. *Revised Master Concept Plan:* Prepared by Morris Depew, for Lee County Homes Associates I, LLP, dated 02/04/2021 (5 pages – 11"x17")
3. *Projected 2028 Level of Service Analysis, Table 2A:* Prepared for Buckingham 345 (1 page – 8.5"x11")
4. *Traffic Impact Statement:* Prepared by TR Transportation Consultants, Inc., for Buckingham 345, dated April 9, 2020 (multiple pages – 8.5"x11")
5. *Affidavit:* The News-Press Notice of Public Hearing for zoning case DCI2020-00010, Lee County Homes (Buckingham 345) RPD (3 pages – 8.5"x11")

**Exhibit E**

**HEARING PARTICIPANTS**

County Staff:

1. Chahram Badamtchian

Applicant Representatives:

1. Tina Ekblad
2. Lauren Edinger
3. Steve Hartsell, Esq.
4. Ted Treesh
5. Heather Urwiller

Public Participants:

None



**Exhibit F**  
**INFORMATION**

**UNAUTHORIZED COMMUNICATIONS:**

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

**HEARING BEFORE LEE COUNTY BOARD OF COUNTY COMMISSIONERS:**

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

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

**COPIES OF TESTIMONY AND TRANSCRIPTS:**

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

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