

MEMORANDUM
FROM
THE DEPARTMENT OF COMMUNITY DEVELOPMENT

TO: Ms. Donna Marie Collins
Chief Hearing Examiner

DATE: October 28, 2025

FROM: Adam Mendez
Principal Planner, Zoning Section

RE: 48 Hour Notice
Singletary CPD (DCI2024-00043)

CASE NO: DCI2024-00037

Madame Hearing Examiner,

Staff respectfully submit the following exhibits in advance of the scheduled hearing:

- **Affidavit of Publication.** Notice of Public Hearing.
- **Revised Development Regulations, Conditions and Deviations.** Following publication of the staff report, staff and the applicant conferred regarding revisions to the proposed conditions of approval. The revisions include:
 - Condition #1, Update MCP references (MCP Option 1 eliminated due to Order of Taking).
 - Condition #3, Clarify minimum open space requirement.
 - Deviations 3A and 3B, revise conditions of approval to reflect a single MCP and to clarify language.

Respectfully Submitted,
Adam Mendez
Principal Planner, Zoning Section

Exhibits:

1. *Affidavit of Publication*
2. *Revised Development Regulations, Conditions and Deviations. (**Strike-Through and Underline**)*
3. *Revised Development Regulations, Conditions and Deviations. (**Clean Copy**)*



PO Box 631244 Cincinnati, OH 45263-1244

AFFIDAVIT OF PUBLICATION

Janet Miller
 Lcbc-Dept Of Comm Development-D
 1500 MONROE ST
 Fort Myers FL 33901

STATE OF WISCONSIN, COUNTY OF BROWN

Before the undersigned authority personally appeared, who on oath says that he or she is the Legal Advertising Representative of the News-Press, a daily newspaper published at Fort Myers in Lee County, Florida; that the attached copy of advertisement, being a Legal Ad in the matter of Public Notices, was published on the publicly accessible website of Lee County, Florida, or in a newspaper by print in the issues of, on:

FNP Fort Myers News-Press 10/16/2025
 FNP news-press.com 10/16/2025

Affiant further says that the website or newspaper complies with all legal requirements for publication in chapter 50, Florida Statutes.

Subscribed and sworn to before me, by the legal clerk, who is personally known to me, on 10/16/2025


 Legal Clerk

 Notary, State of WI, County of Brown

My commission expires 8-21-26

Publication Cost: \$241.98

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1

THIS IS NOT AN INVOICE!*Please do not use this form for payment remittance.***NOTICE OF PUBLIC HEARING**

The Hearing Examiner of Lee County will hold public hearings on Thursday, October 30, 2025, in the Hearing Examiner Meeting Room, 1500 Monroe St., Ft. Myers, FL. An interested individual may appear in person, through counsel, or an authorized agent and provide testimony, legal argument or other evidence at the hearing. If you do not appear before the Hearing Examiner or otherwise become a participant for that case in which you wish to testify, the law does not permit you to address the Board of County Commissioners. Any document that a participant of record intends to submit to the BoCC during the Board Zoning Hearing must be submitted as an exhibit as part of the record in the hearing before the Hearing Examiner. If the document is not submitted and is not relevant new evidence that was not known or could not have been reasonably discovered by the participant at the time of the hearing before the Hearing Examiner, then the document may not be submitted to the Board. After the Hearing Examiner has made a written recommendation, the case will be scheduled for a public hearing before the Board of County Commissioners who will review the recommendation and make a final decision. Copies of staff report(s) are available two weeks prior to the hearing. The file can be reviewed at the Zoning Section, 1500 Monroe St., Fort Myers, FL. Call (239) 533-8585 for additional information.

In accordance with the Americans with Disabilities Act, Lee County will not discriminate against qualified individuals with disabilities in its services, programs, or activities. To request an auxiliary aid or service for effective communication or a reasonable modification to participate, contact the ADA Coordinator, Dr. Ranice Monroe, (239) 533-8782, ADARRequests@leegov.com or Florida Relay Service 711. Accommodation will be provided at no cost to the requestor. Requests should be made at least five business days in advance. The following case(s) will be heard: DCI2024-00043. Single-story CPD. 9:00 am. Rezone 16.81± acres from Agricultural (AG-2) to Commercial Planned Development (CPD). Located at 18200 SR 31, Northeast Lee County Planning Community, Lee County, FL. Owner: Richard Stephen Singletary and Heidi Lynn Singletary
 10/16/2025 11735904

NICOLE JACOBS
 Notary Public
 State of Wisconsin

Exhibit 2

RECOMMENDED CONDITIONS AND DEVIATIONS

CONDITIONS

All references to uses are as defined or listed in the Lee County Land Development Code (LDC).

1. Master Concept Plan and Development Parameters

- a. Master Concept Plan. Development of the subject property must be substantially consistent with the ~~two-page Master Concept Plan Option #1 or the two-page Master Concept Plan Option #2~~, last revised 10/X/2025 and attached hereto as Attachments D ~~and E~~.
- b. Development Parameters. Development intensity is limited to a maximum of 110,000 square feet of commercial floor area and 100,000 square feet of self-storage floor area. The maximum building height is 45 feet, subject to Condition #11.
- c. Compliance with Lee Plan and LDC. Development must comply with all the requirements of the LDC at the time of local development order approval, except as may be granted by deviation as part of this planned development. Subsequent amendments to the Master Concept Plan or its auxiliary documentation attached thereto are subject to the planned development amendment process established by the Land Development Code.

2. Schedule of Uses and Property Development Regulations

a. Schedule of Uses

Accessory Uses and Structures
Administrative Offices
Agricultural Uses consistent with Condition 8
Animals:
 Clinic or Kennel
Control Center (including Humane Society)
ATM (Automatic Teller Machine)
Auto Parts Store
Automobile Repair and Service, All Groups
Automobile Service Station
Bait and Tackle Shop
Banks and Financial Establishments: Groups I and II
Bar or Cocktail Lounge
Boats:
 Boat Parts Store

- Boat Rental
- Boat Repair and Service Boat Sales
- Boat Storage, Dry
- Broadcast Studio, Commercial Radio, and Television
- Building Material Sales
- Business Services: Groups I and II
- Caretaker's residence
- Car Wash
- Cleaning and Maintenance Services
- Clothing Stores, General
- Clubs:
 - Commercial
 - Fraternal, Membership Organization
 - Private
- Communication Facilities, Wireless
- Consumption on Premises
- Contractors and Builders, All Groups
- Convenience Food and Beverage Store
- Cultural Facilities
- Day Care Center, Child, Adult
- Department Store
- Drive-Through Facility for any Permitted Use
- Drugstore, Pharmacy
- Dwelling unit:
 - Single-family (existing-only)
- EMS, Fire or Sheriff's Station
- Entrance Gates and Gatehouse
- Essential Services
- Essential Service Facilities, Group I
- Excavation:
 - Water Retention
- Farm Equipment, Sales, Storage, Rental or Service
- Feed or Fertilizer, Mixing and Sales
- Fences, Walls
- Flea Market: Open & Indoor
- Food Stores, Groups I, II
- Funeral Home and Mortuary (Without Crematory)
- Gift and Souvenir Shop
- Hardware Store
- Health Care Facilities, Group III only
- Hobby, Toy, and Game Shops
- Hospice
- Household and Office Furnishings, All Groups
- Insurance Companies
- Laundry or Dry Cleaning, Group I
- Lawn and Garden Supply Stores

Medical Office
Non-store Retailers, All Groups
Package Store
Paint, Glass, and Wallpaper
Parking Lot:
 Accessory
 Commercial
 Temporary
Personal Services, Groups I-IV
Pet Services
Pet Shop
Pharmacy
Place of Worship
Plant Nursery
Post Office
Printing and Publishing
Real Estate Sales Office
Recreational Facilities, Commercial Groups I, III, IV
Religious Facilities
Rental or Leasing Establishment, Groups I-IV
Repair Shops, Groups I-V
Research and Development Laboratories, Groups I, II, & IV
Restaurant, Fast Food
Restaurants, Groups I-IV
Retail and Wholesale Sales, when clearly incidental and subordinate to a permitted principal use on the same premises
Schools:
 Commercial
 Noncommercial
Signs
Specialty Retail Shops, Groups I-IV
Storage, Indoor
Storage, Open
Studios
Temporary Uses
Theater, Indoor or Outdoor (Drive-In)
Used Merchandise Stores, Groups I, II
Variety Store
Vehicle and Equipment Dealers, Groups I-V
Warehouse:
 Hybrid
 Mini Warehouse
 Public
Wholesale Establishments, Groups I, III

b. Site Development Regulations

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

Minimum Setbacks, Maximum Building Height and Lot Coverage

Arterial Street:	50 feet
Private Street	15 feet
Side:	10 feet
Rear:	25 feet
Waterbody	25 feet
Maximum building height:	45 feet (see Condition 11)
Lot coverage:	50 percent

3. Open Space and Indigenous Preservation

Development order plans must depict open space areas substantially consistent with those depicted on the approved Master Concept Plans. Open space and indigenous preservation areas must meet or exceed the following minimums:

- ~~a. MCP Option 1 (Existing Conditions):~~
 - ~~i. Total open space: 6.93 acres~~
 - ~~ii. Indigenous preservation (within open space): minimum 2.87 acres~~

- ~~b. MCP Option 2 (With FDOT ROW Taking):~~
 - a. Total open space: ~~5.42 acres~~ 4.43 acres (33.6%)

- b. Indigenous preservation (within open space): minimum 2.87 acres

4. Water Quality Monitoring

Prior to local development order approval, the developer must submit the attached Water Quality Monitoring Plan (Attachment K) with the following modifications:

- a. Surface water quality monitoring locations must be finalized and identified in the Water Quality Monitoring Plan. Surface water quality monitoring sites must be located at each proposed outfall.
- b. Annual monitoring reports must include a comparison of State surface water quality standards, plots of parameters, and recommendations. After five years of meeting or exceeding state water quality monitoring standards, the developer may amend water quality monitoring and reporting after written request, review, and approval by the Division of Natural Resources. Results must be reported as an Electric Data Deliverable (EDD), in a format approved by the Division of Natural Resources.

5. Conservation Easement

The property owner must record a conservation easement over indigenous and restoration preserve areas prior to approval of the first development order. Conservation easements must be dedicated to a maintenance entity and provide third party enforcement rights to Lee County or another public agency acceptable to Lee County.

6. Utility Connections

Development must connect to public utilities for water and wastewater services.

7. State and Federal Permits

- a. Generally. County development permits do not create rights to obtain permits from state or federal agencies and do not create liability on the part of the County if applicant fails to obtain requisite approvals or fulfill obligations imposed by state/federal agencies or if applicant undertakes actions resulting in a violation of state or federal law. Applicant must obtain applicable state/federal permits prior to commencing construction.
- b. State Wetland Permits. Developer may not commence construction on development impacting wetlands until issuance of required state permits. Development activity must comply with state wetland permits and applicable local development permits.

If the State does not approve wetland impacts or if State wetland permits are not consistent with proposed wetland impacts reflected in County development permits, then Developer must amend County development permit approvals to be consistent with state wetland permits and applicable Lee Plan and LDC regulations regarding development within wetlands.

8. Agricultural Use

Staff Note: Applicant must provide *Existing Agricultural Use Affidavit* meeting requirements of LDC 34-202(a)(12) with 48-Hour Response Letter.

Existing bona fide agricultural uses may continue in compliance with the following:

- a. Bona fide agricultural uses in existence at the time the zoning application was filed, and depicted on **Attachment V** may continue until the county approves the first local development order for the project area 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., moved, but not cleared or expanded. This prohibition does not preclude county approved requests for the removal of invasive exotic vegetation.

- c. Upon approval of a local development order for vertical development and prior to the issuance of a vegetation removal permit, the property owner must provide written proof, subject to approval by the County Attorney's Office, of the following:
 - i. Termination of all agricultural use on portions of the property included in the development order approval for vertical development and prior to the vegetation removal permit approval. Proof must include a sworn affidavit from the person or entity holding title to the subject property that specifically provides:
 - (1) The date the agricultural uses ceased;
 - (2) The legal description of the property subject to the development order approval for vertical development;
 - (3) An affirmative statement that the owner acknowledges and agrees that all agricultural uses are illegal and prohibited on the property and that the owner covenants with Lee County that they will not allow any such uses on the property unless and until the property is rezoned to permit such uses; and
 - (4) A statement that the affidavit constitutes a covenant between the owner and Lee County that is binding on the owner and their assignees and successors in interest.

The covenant must be properly recorded in the public records of Lee County at the owner's expense.
 - ii. Termination of the agricultural tax exemption for any portion of the property included in the development order approval for vertical development and prior to the vegetation removal permit. Proof of termination must include a copy of the request to terminate the tax exemption that was provided to the Property Appraiser.

9. North Olga Design Standards

Development Orders and building permits must comply with LDC Chapter 33, Article X, Division 2 Design Standards in the North Olga Planning Community. Departures from landscaping, signage and architectural regulations in this Article may only be approved through a public hearing amendment.

10. Coastal High Hazard Area

Prior to issuance of a local development order, the developer must provide calculations that quantify the flood storage volume provided by wetlands within the Coastal High Hazard Area and demonstrate equal compensatory flood storage volume within the proposed development on the engineer plans.

11. Tract "D" Building Height

- a. The maximum building height on Tract “D” shall not exceed 35 feet within 50 feet of the southern boundary of the Master Concept Plan (MCP).
- b. Beyond this 50-foot setback area, building height may increase up to a maximum of 45 feet, provided the building incorporates a tiered or stepped height transition to maintain compliance with the 50-foot setback area.
- c. This height limitation and associated transition requirement shall become null and void if, at the time of Development Order approval, the residential uses on the property immediately south of the ingress/drainage easement abutting Tract “D” have been discontinued and the property has been rezoned to ~~a-permit~~ nonresidential ~~uses~~district.

DEVIATIONS

2. Deviation #1. Seeks relief from LDC §10-329(d)(1)a.3., which requires a minimum setback of 50 feet between new excavation and any private property line under separate ownership, to allow a minimum excavation setback of 30 feet.

This deviation is **APPROVED**, subject to consistency with the MCP.

3. Deviation #2. Seeks relief from LDC §10-291(3), which requires commercial development of more than 10 acres to provide more than one point of ingress or egress for the development, to allow a single point of ingress/egress onto State Road 31.

This deviation is **APPROVED**.

4. Deviation #3A. Seeks relief from LDC §10-416(d), which requires a Type C or F buffer type where proposed commercial abuts a single-family use, to allow a 15-foot-wide Type D buffer along the southern property boundary.
5. Deviation #3B. Seeks relief from LDC §10-416(d)(6), which requires a landscape buffer consisting of either an eight-foot-high solid wall or a wall with a berm installed 25 feet from the shared property line with five trees and 18 shrubs per 100 linear feet, or a 30-foot-wide Type F buffer with the hedge set back a minimum of 20 feet, to allow to allow a 15-foot-wide Type D buffer along the southern property boundary.

Deviations #3A and 3B are **APPROVED**, subject to the following conditions:

- ~~1) — Along the southern property line, where the project aligns with the rear lot lines of existing single-family residences, development order plans must depict the required Type D enhancements as follows:~~
 - ~~i. — Maintain the required continuous hedge at a minimum height of 60 inches;~~

- ii. ~~Provide a six-foot high opaque fence or wall, set back 15 feet from the southern property line; and~~
- iii. ~~Extend the enhanced Type D buffer along 420 linear feet, including the southern boundary of the lake tract (140 linear feet) and the immediately contiguous 280 linear feet of Tract D on both MCPs.~~

1) Development order plans must depict enhancements to the Type "D" buffer along the southern boundary line of Tract "D" on the MCP as follows:

- i. Maintain the required continuous hedge with a minimum height of 60 inches at maturity.
- ii. Install a continuous, opaque fence or wall at least six (6) feet in height, set back a minimum of 15 feet from the southern boundary line of Tract "D" on the MCP.

4)2) Condition #1 of this deviation approval shall become null and void if, at the time of Development Order approval, the residential uses on the property immediately south of the ingress/drainage easement abutting Tract "D" have been discontinued and the property has been rezoned to ~~a-permit~~ nonresidential uses district.

Exhibit 3

RECOMMENDED CONDITIONS AND DEVIATIONS

CONDITIONS

All references to uses are as defined or listed in the Lee County Land Development Code (LDC).

1. Master Concept Plan and Development Parameters

- a. Master Concept Plan. Development of the subject property must be substantially consistent with the two-page Master Concept Plan, last revised 10/X/2025 and attached hereto as Attachments D.
- b. Development Parameters. Development intensity is limited to a maximum of 110,000 square feet of commercial floor area and 100,000 square feet of self-storage floor area. The maximum building height is 45 feet, subject to Condition #11.
- c. Compliance with Lee Plan and LDC. Development must comply with all the requirements of the LDC at the time of local development order approval, except as may be granted by deviation as part of this planned development. Subsequent amendments to the Master Concept Plan or its auxiliary documentation attached thereto are subject to the planned development amendment process established by the Land Development Code.

2. Schedule of Uses and Property Development Regulations

a. Schedule of Uses

Accessory Uses and Structures
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Bar or Cocktail Lounge
Boats:
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 Boat Rental

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- Boat Storage, Dry
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- Building Material Sales
- Business Services: Groups I and II
- Caretaker's residence
- Car Wash
- Cleaning and Maintenance Services
- Clothing Stores, General
- Clubs:
 - Commercial
 - Fraternal, Membership Organization
 - Private
- Communication Facilities, Wireless
- Consumption on Premises
- Contractors and Builders, All Groups
- Convenience Food and Beverage Store
- Cultural Facilities
- Day Care Center, Child, Adult
- Department Store
- Drive-Through Facility for any Permitted Use
- Drugstore, Pharmacy
- Dwelling unit:
 - Single-family (existing-only)
- EMS, Fire or Sheriff's Station
- Entrance Gates and Gatehouse
- Essential Services
- Essential Service Facilities, Group I
- Excavation:
 - Water Retention
- Farm Equipment, Sales, Storage, Rental or Service
- Feed or Fertilizer, Mixing and Sales
- Fences, Walls
- Flea Market: Open & Indoor
- Food Stores, Groups I, II
- Funeral Home and Mortuary (Without Crematory)
- Gift and Souvenir Shop
- Hardware Store
- Health Care Facilities, Group III only
- Hobby, Toy, and Game Shops
- Hospice
- Household and Office Furnishings, All Groups
- Insurance Companies
- Laundry or Dry Cleaning, Group I
- Lawn and Garden Supply Stores
- Medical Office

- Non-store Retailers, All Groups
- Package Store
- Paint, Glass, and Wallpaper
- Parking Lot:
 - Accessory
 - Commercial
 - Temporary
- Personal Services, Groups I-IV
- Pet Services
- Pet Shop
- Pharmacy
- Place of Worship
- Plant Nursery
- Post Office
- Printing and Publishing
- Real Estate Sales Office
- Recreational Facilities, Commercial Groups I, III, IV
- Religious Facilities
- Rental or Leasing Establishment, Groups I-IV
- Repair Shops, Groups I-V
- Research and Development Laboratories, Groups I, II, & IV
- Restaurant, Fast Food
- Restaurants, Groups I-IV
- Retail and Wholesale Sales, when clearly incidental and subordinate to a permitted principal use on the same premises
- Schools:
 - Commercial
 - Noncommercial
- Signs
- Specialty Retail Shops, Groups I-IV
- Storage, Indoor
- Storage, Open
- Studios
- Temporary Uses
- Theater, Indoor or Outdoor (Drive-In)
- Used Merchandise Stores, Groups I, II
- Variety Store
- Vehicle and Equipment Dealers, Groups I-V
- Warehouse:
 - Hybrid
 - Mini Warehouse
 - Public
- Wholesale Establishments, Groups I, III

b. Site Development Regulations

Minimum Lot Size: 10,000 square feet

Minimum Lot Width:	100 feet
Minimum Lot Depth:	100 feet

Minimum Setbacks, Maximum Building Height and Lot Coverage

Arterial Street:	50 feet
Private Street	15 feet
Side:	10 feet
Rear:	25 feet
Waterbody	25 feet
Maximum building height:	45 feet (see Condition 11)
Lot coverage:	50 percent

3. Open Space and Indigenous Preservation

Development order plans must depict open space areas substantially consistent with those depicted on the approved Master Concept Plans. Open space and indigenous preservation areas must meet or exceed the following minimums:

- a. Total open space: 4.43 acres (33.6%)
- b. Indigenous preservation (within open space): minimum 2.87 acres

4. Water Quality Monitoring

Prior to local development order approval, the developer must submit the attached Water Quality Monitoring Plan (Attachment K) with the following modifications:

- a. Surface water quality monitoring locations must be finalized and identified in the Water Quality Monitoring Plan. Surface water quality monitoring sites must be located at each proposed outfall.
- b. Annual monitoring reports must include a comparison of State surface water quality standards, plots of parameters, and recommendations. After five years of meeting or exceeding state water quality monitoring standards, the developer may amend water quality monitoring and reporting after written request, review, and approval by the Division of Natural Resources. Results must be reported as an Electric Data Deliverable (EDD), in a format approved by the Division of Natural Resources.

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The property owner must record a conservation easement over indigenous and restoration preserve areas prior to approval of the first development order. Conservation easements must be dedicated to a maintenance entity and provide

third party enforcement rights to Lee County or another public agency acceptable to Lee County.

6. Utility Connections

Development must connect to public utilities for water and wastewater services.

7. State and Federal Permits

- a. Generally. County development permits do not create rights to obtain permits from state or federal agencies and do not create liability on the part of the County if applicant fails to obtain requisite approvals or fulfill obligations imposed by state/federal agencies or if applicant undertakes actions resulting in a violation of state or federal law. Applicant must obtain applicable state/federal permits prior to commencing construction.
- b. State Wetland Permits. Developer may not commence construction on development impacting wetlands until issuance of required state permits. Development activity must comply with state wetland permits and applicable local development permits.

If the State does not approve wetland impacts or if State wetland permits are not consistent with proposed wetland impacts reflected in County development permits, then Developer must amend County development permit approvals to be consistent with state wetland permits and applicable Lee Plan and LDC regulations regarding development within wetlands.

8. Agricultural Use

Staff Note: Applicant must provide *Existing Agricultural Use Affidavit* meeting requirements of LDC 34-202(a)(12) with 48-Hour Response Letter.

Existing bona fide agricultural uses may continue in compliance with the following:

- a. Bona fide agricultural uses in existence at the time the zoning application was filed, and depicted on **Attachment V** may continue until the county approves the first local development order for the project area 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., moved, but not cleared or expanded. This prohibition does not preclude county approved requests for the removal of invasive exotic vegetation.

- c. Upon approval of a local development order for vertical development and prior to the issuance of a vegetation removal permit, the property owner must provide written proof, subject to approval by the County Attorney's Office, of the following:
 - i. Termination of all agricultural use on portions of the property included in the development order approval for vertical development and prior to the vegetation removal permit approval. Proof must include a sworn affidavit from the person or entity holding title to the subject property that specifically provides:
 - (1) The date the agricultural uses ceased;
 - (2) The legal description of the property subject to the development order approval for vertical development;
 - (3) An affirmative statement that the owner acknowledges and agrees that all agricultural uses are illegal and prohibited on the property and that the owner covenants with Lee County that they will not allow any such uses on the property unless and until the property is rezoned to permit such uses; and
 - (4) A statement that the affidavit constitutes a covenant between the owner and Lee County that is binding on the owner and their assignees and successors in interest.

The covenant must be properly recorded in the public records of Lee County at the owner's expense.
 - ii. Termination of the agricultural tax exemption for any portion of the property included in the development order approval for vertical development and prior to the vegetation removal permit. Proof of termination must include a copy of the request to terminate the tax exemption that was provided to the Property Appraiser.

9. North Olga Design Standards

Development Orders and building permits must comply with LDC Chapter 33, Article X, Division 2 Design Standards in the North Olga Planning Community. Departures from landscaping, signage and architectural regulations in this Article may only be approved through a public hearing amendment.

10. Coastal High Hazard Area

Prior to issuance of a local development order, the developer must provide calculations that quantify the flood storage volume provided by wetlands within the Coastal High Hazard Area and demonstrate equal compensatory flood storage volume within the proposed development on the engineer plans.

11. Tract “D” Building Height

- a. The maximum building height on Tract “D” shall not exceed 35 feet within 50 feet of the southern boundary of the Master Concept Plan (MCP).
- b. Beyond this 50-foot setback area, building height may increase up to a maximum of 45 feet, provided the building incorporates a tiered or stepped height transition to maintain compliance with the 50-foot setback area.
- c. This height limitation and associated transition requirement shall become null and void if, at the time of Development Order approval, the residential uses on the property immediately south of the ingress/drainage easement abutting Tract “D” have been discontinued and the property has been rezoned to permit nonresidential uses.

DEVIATIONS

1. Deviation #1. Seeks relief from LDC §10-329(d)(1)a.3., which requires a minimum setback of 50 feet between new excavation and any private property line under separate ownership, to allow a minimum excavation setback of 30 feet.

This deviation is **APPROVED**, subject to consistency with the MCP.

2. Deviation #2. Seeks relief from LDC §10-291(3), which requires commercial development of more than 10 acres to provide more than one point of ingress or egress for the development, to allow a single point of ingress/egress onto State Road 31.

This deviation is **APPROVED**.

- 3A. Deviation #3A. Seeks relief from LDC §10-416(d), which requires a Type C or F buffer type where proposed commercial abuts a single-family use, to allow a 15-foot-wide Type D buffer along the southern property boundary.

- 3B. Deviation #3B. Seeks relief from LDC §10-416(d)(6), which requires a landscape buffer consisting of either an eight-foot-high solid wall or a wall with a berm installed 25 feet from the shared property line with five trees and 18 shrubs per 100 linear feet, or a 30-foot-wide Type F buffer with the hedge set back a minimum of 20 feet, to allow to allow a 15-foot-wide Type D buffer along the southern property boundary.

Deviations #3A and 3B are **APPROVED**, subject to the following conditions:

- 1) Development order plans must depict enhancements to the Type “D” buffer along the southern boundary line of Tract “D” on the MCP as follows:

- i. Maintain the required continuous hedge with a minimum height of 60 inches at maturity.
 - ii. Install a continuous, opaque fence or wall at least six (6) feet in height, set back a minimum of 15 feet from the southern boundary line of Tract "D" on the MCP.
- 2) Condition #1 of this deviation approval shall become null and void if, at the time of Development Order approval, the residential uses on the property immediately south of the ingress/drainage easement abutting Tract "D" have been discontinued and the property has been rezoned to permit nonresidential uses.