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March 26, 2002

Honorable R. B. Shore  
Clerk of the Circuit Court and Comptroller  
Manatee County  
Post Office Box 1000  
Bradenton, Florida 34206

Attention: Diane E. Vollmer

Dear Mr. Shore:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your letters dated March 21, 2002 and certified copies of Manatee County Ordinance Nos. Z-89-46(C)(R6) and 02-19, which were filed in this office on March 22, 2002.

As requested, the original date stamped copies are being returned for your records.

Sincerely,

A handwritten signature in black ink that reads "Liz Cloud".

Liz Cloud, Chief  
Bureau of Administrative Code

LC/mp

Enclosure

**BUREAU OF ADMINISTRATIVE CODE**

The Collins Building • 107 West Gaines Street • Tallahassee, Florida 32399-0250 • (850) 245-6270  
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ORDINANCE 02-19

DRI #19 UNIVERSITY COMMONS

GRANTING AMENDMENTS TO ORDINANCE 00-52

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, ADOPTING AN AMENDED DEVELOPMENT ORDER PURSUANT TO SECTION 380.06, FLORIDA STATUTES, FOR UNIVERSITY COMMONS, A DEVELOPMENT OF REGIONAL IMPACT, DRI #19, ALSO KNOWN AS TBRPC DRI #190; PROVIDING FOR DEVELOPMENT RIGHTS, CONDITIONS AND OBLIGATIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on December 28, 1988, University Commons, L.P. filed an Application for Development Approval\* of a Development of Regional Impact ("DRI") with the Manatee County ("County") Board of County Commissioners pursuant to the provisions of Section 380.06, Florida Statutes, and additional information submittals by the Developer\* dated May 23, 1989; August 21, 1989; December 29, 1989; July 19, 1990; and December 19, 1990; and

WHEREAS, the Application for Development Approval\* proposed construction of a MULTI-USE PROJECT on approximately two hundred and eighty-six acres, located in southern Manatee County, hereinafter referred to as "University Commons DRI" or the "Development\*"; and

WHEREAS, the described project lies within the unincorporated area of Manatee County; and

WHEREAS, on June 3, 1992, the Board of County Commissioners of Manatee County adopted Ordinance 92-31, (the "Development Order"), approving, with conditions, the University Commons Development of Regional Impact; and

WHEREAS, the Department of Community Affairs appealed Ordinance 92-31 within the statutory time frame allowed; and

WHEREAS, the University Commons, L.P. entered into a settlement agreement with the Department of Community Affairs (DCA) to resolve their concerns; and

WHEREAS, on January 4, 1994, the Board of County Commissioners of Manatee County adopted an amended Development Order (Ordinance 93-54) for the University Commons DRI, adopting language to settle administrative action between the Department of Community Affairs, and University Commons; and

WHEREAS, on August 3, 1999 the Board of County Commissioners of Manatee County adopted an amended Development Order (Ordinance 99-38) for the University Commons DRI, to extend the buildout dates for this DRI; and

WHEREAS, on April 25, 2000 the Board of County Commissioners of Manatee County adopted an amended Development Order (Ordinance 00-27) for the University Commons DRI, to simultaneously increase and decrease certain land use totals, revise and change conditions of approval to reflect the new mix of land uses, amend Map H to add an access point to Tuttle

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MANATEE COUNTY  
TALLAHASSEE, FLORIDA

Avenue, replace the required transportation improvements entirely, and modify a number of definitions and conditions of approval; and

**WHEREAS**, on December 19<sup>th</sup>, 2000 the Board of County Commissioners of Manatee County adopted an amended Development Order (Ordinance 00-52) for the University Commons DRI, to increase commercial development and eliminate the hotel use, to amend Map H to add an access point to University Parkway, and amend the Development Order to be internally consistent with the changes proposed by the applicant; and

**WHEREAS**, on September 25, 2001 University Commons Land Development LLC, filed a Notice of Proposed Change (NOPC) to the Development Order for University Commons; and

**WHEREAS**, the NOPC proposed a simultaneous increase in commercial development and elimination of the office use, added an access point to Tuttle Avenue and University Parkway, eliminated an access point connecting the Walmart Shopping Center (±30 acre commercial parcel) to the single-family semi-detached parcel, amended the Development Order to be internally consistent with the changes proposed by the applicant, and amend Map H to reflect all changes; and

**WHEREAS**, the above described changes, cumulatively with all previous changes, do not constitute a Substantial Deviation to the Development Order for University Commons, pursuant to Subsection 380.06(19), Florida Statutes; and

**WHEREAS**, the Board of County Commissioners as the governing body of the local government having jurisdiction pursuant to Section 380.06, Florida Statutes, has the statutory authority to consider and approve the NOPC for an amendment to an approved Development of Regional Impact; and

**WHEREAS**, the public notice requirements of Manatee County and Chapter 380, Florida Statutes, have been satisfied; and

**WHEREAS**, the Planning Commission of Manatee County has reviewed the NOPC and has filed a recommendation on this NOPC with the Board of County Commissioners; and

**WHEREAS**, the Board of County Commissioners has received and considered the comments of the Tampa Bay Regional Planning Council ("TBRPC") and DCA; and

**WHEREAS**, the Board of County Commissioners of Manatee County on February 26, 2002 and March 12, 2002 held a duly a noticed public hearing on the NOPC to amend and replace Ordinance 00-52 and has solicited, received, and considered all testimony, reports, comments, evidence, and recommendations from interested citizens, County agencies, the applicant, and the review and report of the Manatee County Planning Department.

**BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA:**

## SECTION 1. FINDINGS OF FACT

The Board of County Commissioners, after considering the testimony, evidence, documentation, application for amendment of the Development Order, the recommendation and findings of the Planning Commission, and all other matters presented to the Board at the public hearing hereby makes the following findings of fact:

- A. All "WHEREAS" clauses preceding Section 1 of this Ordinance are adopted as findings of fact.
- B. The Developer\* has received County approvals for and has commenced development in the development, consistent with Ordinance 92-31, as amended by Ordinances 93-54, 99-38, 00-27, and 00-52.
- C. An application has been submitted to Manatee County and is being processed concurrently with this NOPC to approve a revised Zoning Ordinance and General Development Plan to reflect the changes proposed in this NOPC.
- D. The Board of County Commissioners has received and considered the report of the Planning Commission concerning the Development\* as it relates to the real property described in Section 8 of this Development Order and in the Application for the NOPC, in addition to the application for amendment of the Zoning Ordinance. The report was rendered on February 14, 2002 following public hearing.
- E. The Board of County Commissioners held a public hearing on February 26, 2002 and March 12, 2002 regarding the NOPC and proposed Zoning Ordinance Amendment and General Development Plan, in accordance with the requirements of Manatee County Ordinance No. 90-01, as amended (The Manatee County Land Development Code), and Ordinance No. 89-01, as amended (The 2020 Manatee County Comprehensive Plan) and has further considered the testimony, comments, and information received at the Public Hearings.
- F. The proposed changes to the DRI are found to be consistent with the requirements of The 2020 Manatee County Comprehensive Plan, provided the Development\* proceeds in accordance with the Development Conditions specified in Section 5 and the Developer\* Commitments specified in Section 6 of this Development Order.
- G. The "Developer\*" submitted to the County a NOPC which is incorporated herein by reference.
- H. The real property which is the subject of this Development Order is legally described in Section 8 of this Development Order.
- I. The proposed Development\* is not located in an Area of Critical State Concern, as designated pursuant to Section 380.05, Florida Statutes.
- J. The authorized agent for the Developer\* is Mr. Caleb Grimes of Grimes, Goebel, Grimes, Hawkins, Gladfelter, and Galvano, and his address is 1023 Manatee Avenue West,

Bradenton, FL 34205.

- K. The owners of the property, and the Developer\*, are Cambridge 950 Corporation, Health Care REIT, Inc., University Walk, L.L.C., Centex Homes, Inc., and University Commons Land Development LLC.
- L. A comprehensive review of the impact generated by the Development\* has been conducted by the appropriate departments of the County, the Planning Commission, the Board of County Commissioners, TBRPC, and the Department of Community Affairs (DCA).

## SECTION 2. CONCLUSIONS OF LAW

- A. Based upon the previous findings of fact and the following Conditions of Development Approval\*, the Board of County Commissioners of Manatee County concluded that:
  - 1. The Development\* is consistent with the local land development regulations and is consistent with the State Comprehensive Plan, the TBRPC's Future of the Region, (A Strategic Regional Policy Plan), and The 2020 Manatee County Comprehensive Plan.
- B. That these proceedings have been duly conducted pursuant to applicable law and regulations, and based upon the record in these proceedings, the Developer\* is authorized to conduct development as described herein, subject to the conditions, restrictions, and limitations set forth below.
- C. That the review by the County, the Planning Commission, TBRPC, and other participating agencies and interested citizens reveals that the impacts of the Development\* are adequately addressed pursuant to the requirements of Chapter 380, Florida Statutes, within the terms and conditions of this Development Order, the ADA\*, and the NOPC. To the extent that the ADA\* is inconsistent with the terms and conditions of this Development Order, the terms and conditions of this Development Order shall prevail.
- D. This Ordinance replaces Ordinance 00-52 in its entirety and adequately addresses the impacts of the development, pursuant to the requirements of Chapter 380, Florida Statutes.
- E. Pursuant to Subsections 380.06(19)(e)5.c and 380.06(19)(e)3, Florida Statutes, the changes proposed pursuant to the NOPC submitted on September 25, 2001 and additional information submitted on December 13, 2001 and approved pursuant to Ordinance 02-19, do not constitute a Substantial Deviation requiring further Development of Regional Impact review.

## SECTION 3. DEVELOPMENT COMPONENTS

- A. The Development\*<sub>1</sub> consisting of the area and land uses by phase described in Columns A through F of Table 1, is specifically approved subject to the conditions found within the Development Order.

The entire project has been reviewed against the Manatee County Concurrency requirements and has been found to be in compliance, subject to the terms outlined within this Development Order.

**TABLE 1**  
**DEVELOPMENT\* LAND AREA AND USES**

<u>Column A</u>	<u>Column B</u>	<u>Column C</u>	<u>Column D</u>	<u>Column E</u>	<u>Column F</u>
<u>Land Use</u>	<u>Phase I 1992-(2003)<sup>4</sup></u>	<u>Phase II 1998-(2008)<sup>4</sup></u>	<u>Total Sq. Ft.</u>	<u>Total Units</u>	<u>Acres</u>
Residential Units Group Care Facility (Residential) <sup>1</sup>	400 <sup>3</sup> <sup>6</sup>	510 <sup>3</sup> 85 beds	—	910 85 beds	212.6 <sup>5</sup>
Skilled Nursing (Service)	120 beds	—	---	120 beds	9.2
COMMERCIAL <sup>2</sup> (Retail)	250,000 sq. ft.	185,000 * sq.ft. Gross leaseable area (225,000 sq. ft. area with canopies)	425,000 sq.ft. Gross leaseable (475,000 sq. ft. with canopies)		63.87
OFFICE (Office)		10,000 sq. ft*.	10,000 sq.ft.	---	1.93

<sup>1</sup> Titles in parentheses refer to land use designations as categorized by the State in Section 380.0651, Florida Statutes.

<sup>2</sup> Commercial acreage and square footage figures include the existing 250,000 square foot shopping center, which is located on 30± acres in the southeast corner of the Project\*. The Development shall comply with the Manatee County Land Development Code pertaining to minimum parking space requirements.

<sup>3</sup> Phase I residential consists of 150 single-family units, 150 single-family attached units, and 100 single-family semi-detached units. Phase II residential consists of 510 independent senior housing units.

<sup>4</sup> Buildout shall be September 14 of the date listed in Columns B & C of Table 1 above.

<sup>5</sup> Residential acreage includes acreage for Group Care Facility

<sup>6</sup> The approved number of single-family attached or semi-detached units may be increased by no more than 10 dwelling units, provided that there is a corresponding decrease of 10 single-family units. The number of single-family detached lots may be increased by no more than 5 lots, provided that there is a corresponding decrease of 5 single-family attached or semi-detached units, and provided that the Developer\* obtain an

amended CLOS to verify that there are adequate levels of service to accommodate this change. Any increase in density for the single family detached, duplex, or villa units shall not occur within 500 feet of the external boundaries of this DRI or within 200 feet of any part of the DRI which has been constructed or sold to an owner or owners different from the applicant requesting the change.

\* The maximum commercial space allowed shall be 185,000 square feet less any space approved for office use. A maximum of 10,000 square feet of the 185,000 square feet may be developed as office.

1. The Development\* by land use described in the Land Use Schedule set forth in Table 1 deviates from the Development\* by land use described in the ADA\* (prior to the Final Report of the TBRPC), however, as the analysis in Exhibit "A" demonstrates, the Development\* by land use described in the land use schedule of Table 1 is equivalent to, or of less impact than, the Development\* by land use described and addressed in the ADA\*.
2. Table 1 incorporates a prior Section 380.06(19)(e)2, Florida Statutes, 3 year extension and a twenty month and fifteen day tolling period resulting from an appeal of the original Development Order by DCA to Phases I and II of the Development\*. All other changes in phasing will be viewed cumulatively with this revision in phasing schedule.

#### SECTION 4. DEFINITIONS:

Note: An asterisk (\*) following a word or phrase in the text of this Development Order denotes that the word or phrase is defined in Section 4 of the Development Order.

- A. "Application for Development Approval" (or "ADA") shall mean University Commons' Development of Regional Impact Application for Development Approval (December 28, 1988), and additional information submittals by the Developer\* dated May 23, 1989, August 21, 1989, December 29, 1989, July 19, 1990, and December 19, 1990, and technical memoranda and supplemental information submitted on October 25, 1991, January 10, 1992, March 13, 1992, March 18, 1992, and April 27, 1992, the NOPC submitted on November 6, 1998, the NOPC submitted on August 24, 1999, the NOPC submitted on July 7, 2000, the NOPC submitted on September 25, 2001 and the revised Map H dated March 12, 2002.
- B. "Assisted Living" or "Group Care" shall mean a building which is occupied by residents and resident staff which provides one or more personal services. These personal services, in addition to housing and food service, may include assistance with bathing, dressing, housekeeping and adult supervision but may not include medical services.
- C. "Best Management Practices" (BMP\*) shall mean the method or combination of methods determined after problem assessment, examination of alternative practices, to be the most effective and practicable means of reducing or preventing nonpoint source pollution to levels compatible with water quality goals. These measures could include both structural (e.g., sediment/debris basins, wetland impoundment of agricultural runoff, etc.) and nonstructural (e.g., street vacuuming, deferred grazing systems, etc.) approaches to abatement of nonpoint source pollution, and would vary on a regional and local basis depending on the nature of the problems, climate, physical characteristics, land use, soil

types and conditions, and other factors.

- D. "Concurrent" shall mean that public facilities and services are available within a "reasonable time frame", as defined in the Manatee County Comprehensive Plan, to serve/mitigate the Development's\* impacts. A reasonable time frame for transportation facilities shall be roadways or roadway improvements that are scheduled for construction completion within the first two years of the Manatee County Comprehensive Plan Capital Improvements Element, roadways or roadway improvements that are scheduled for construction completion within the first year of the Sarasota County Comprehensive Plan Capital Improvements Element, or roadways or roadway improvements currently under construction or scheduled for construction completion within the first two years of FDOT's Adopted Five-Year Work Program. In addition, roadways or roadway improvements to be constructed pursuant to a local government development agreement shall be deemed to be within a reasonable time frame if the agreement is in compliance with the standards of Rule 9J-5.0055(2)(a)4., F.A.C. and the agreement guarantees that the necessary facilities will be in place when the impacts of the development occur.
- E. "Developer" shall mean Cambridge 950 Corporation, Health Care REIT, Inc., University Walk L.L.C., and Centex Homes, Inc., University Commons Land Development LLC, its heirs, assigns, designees, agents, and successors in interest as to the University Commons Development\* and all its stipulations.
- F. "Development" shall mean the land uses by area, square footage, density, phase, and type as described in this Development Order, to be constructed on the real property described in Section 8.
- G. "Development Approval" shall mean any approval for development granted through the Preliminary Site Plan\*, Preliminary Plat, Final Plat, and Final Site Plan process or construction drawing approval where site plans or subdivision plats are not required.
- H. "Funding Commitment", "Funding", "Funded", or "Fund" shall mean a commitment by the Developer or other private entity, to fund the Developer's required improvements in the form of a contract, bond, letter of credit, or other financial security deemed acceptable by Manatee County, or, for governmental entities, scheduled for construction completion in the first two years of the FDOT's adopted five-year work program or within the first two years of a local government's adopted capital improvement program.
- I. "Independent Senior Housing" shall mean housing for older persons as defined in Section 760.29(4) Florida Statutes.
- J. "Master Drainage Plan" shall mean a plan which shall show the proposed stormwater management components to be constructed for the entire project as follows:
1. existing topography;
  2. existing drainage features, both on site and off site, that will affect the drainage concept of the Development\*; existing and developed drainage basins, with their direction of outfall;



3. proposed stormwater management facilities, which shall include: detention lakes, connection of lakes, and the eventual outfall for these lakes;
  4. off site areas that historically drain through the property shall be addressed, as to the method that the applicant proposes to use to accommodate off site stormwater.
- K. "Preliminary Site Plan" (or "PSP") shall mean a Preliminary Master Site Plan or a Preliminary Site Plan for a Phase or Subphase as defined in The Manatee County Land Development Code, (Ordinance 90-01, as amended) for a Phase or Sub-Phase.
- L. "Post-Development Wetlands" shall mean any lands determined to be within jurisdictional limits defined by Chapter 62-301, Florida Administrative Code (F.A.C.) and implemented by the Florida Department of Environmental Protection ("FDEP"), or as defined within Chapter 40D-4, F.A.C., and implemented by the SWFWMD, including any wetland mitigation areas approved as part of development for this or any other project.
- M. "Responsible Entities" shall mean entities which will be responsible for construction of a given transportation facility, which entities may include the Developer or other private entity subject to a local government development agreement entered into pursuant to Chapter 163, Florida Statutes, or a governmental entity.
- N. "Transportation Impact Area" shall be defined as the roadway segments and intersections receiving transportation impacts where the traffic generated by the Development\* shown on a proposed PSP\* in combination with prior approvals of this project will be five percent (5%) (or whatever greater percentage may be employed from time to time by DCA, TBRPC, and the County) or more of the Level of Service "D" Peak Hour. This area is generally depicted on Revised Map J ("Exhibit B") which was based on data submitted with the Ordinance 00-27.
- O. "Vertical Development" shall mean and shall be deemed to include the construction of new residential units and nonresidential units or the reconstruction or addition to any such structure.
- P. "Warranted" shall mean a determination by the County Transportation Department, or other responsible County department, based on generally accepted transportation engineering practices that the adopted Level of Service cannot be maintained on a roadway segment or intersection without the construction of a transportation improvement required by this Development Order. All vehicle trips on the roadway segment or intersection shall be counted regardless of their source in making this determination, not merely the trips generated by the Development\*.

The definitions contained in Chapter 380, Florida Statutes, shall also apply to this Development Order.

#### **SECTION 5. DEVELOPMENT CONDITIONS:**

- A.(l) This Approval, limited to the Development\* and Development\* schedule listed in Table 1 in Section 3 of this Development Order, is approved subject to the conditions of this

Development Order and concurrency review for items listed in Section 5.A.(2).

- A.(2) Preliminary and Final Site Plan approvals shall be granted on the basis of demonstrated compliance with The Manatee County Comprehensive Plan and the Land Development Code, as amended, and the availability of level of service for, but not limited to, roadway capacity, mass transit, potable water, sanitary sewer, parks and recreation facilities, drainage, and solid waste service, necessary to serve the Development\*. Roadway capacity shall be analyzed on a cumulative basis for purposes of an impact analysis.
- A.(3) Phase I is approved until September 14, 2003. Phase II is approved until September 14, 2008.
- A.(4) The Developer\* has submitted a Preliminary Site Plan\* for portions of Phase I. All portions of Phase I must have Preliminary Site Plan\*, Final Site Plan, and Final Plat (or Building Permit if platting is not required) approval by September 14, 2003 and all portions of Phase II must have Preliminary Site Plan, Final Site Plan, and Final Plat (or Building Permit if platting is not required) approval by September 14, 2008.

**Transportation**

- B.(l) The Developer\*, at its option, shall select one of the following alternatives to mitigate the project's Phase I transportation impacts:
  - (a) Option 1

Phase I of the Development\* shall require Funding Commitments\* from Responsible Entities\* for the roadway and intersection improvements listed in Table 2. Without Funding Commitments\* for these improvements, construction permits for Vertical Development\* shall not be issued for Phase I. The Funding Commitments\* shall ensure that the roadway and intersection improvements needed are in place concurrent with the impacts of development. Signalization shall occur when Warranted\* if Warranted\* prior to buildout.

**TABLE 2**

**Phase I and II (2000) Required Intersection Improvements for University Commons**

Intersection Improvement Number	Inter-section	Traffic LOS Prior to Improvement	Development Traffic as a % of LOS "D" Peak Hour Capacity	Required Improvement
1.	Tallevast Road at Tuttle Avenue	F	7.4	Signalize when MUTCD Warranted* unless constructed by the County pursuant to the CIP (Funded).
2.	Intersection "F", Tuttle Avenue at North Project Access	N/A	N/A	Construct 1 left turn lane NB
3.	Intersection "B"/"E", Tuttle Avenue at Center			

	Project Drive (east & west)	N/A	N/A	Construct 1 left-turn lane_NB, SB, EB, & WB, 1 right-tun lane NB, SB & WB. Signalize when MUTCD Warranted*.Should pass through trips created by the opening of Broadway cause the signal to be Warranted*, the Developer* shall pay its proportionate share of the cost of a signal.
4.	Intersection "A"/"D", Tuttle Avenue at South Project Drive	N/A	N/A	Construct 1 right-turn lane SB, 1 directional left-turn lane SB & 1 right-turn lane NB, 1 right-turn lane EB with no left-turn allowable EB & 1 right-turn lane WB with no left-turn allowable WB.
5.	Interjection "H", Lockwood Ridge Road at Project Drive	N/A	N/A	Construct 1 left turn lane NB; & 1 left turn & 1 right turn lane EB. Signalize when MUTCD Warranted* if Warranted prior to buildout of residential units between Lockwood Ridge Road and Tuttle Avenue.
6.	Lockwood Ridge Road at University Parkway	F	7.7	Construct 2 <sup>nd</sup> left-turn lane NB, SB, EB, and WB. Construct 1 right-turn lane NB, SB, EB, and WB.
7.	Intersection "C", Tuttle Avenue at residential entry (east)	N/A	N/A	Construct 1 left-turn lane SB & 1 right -turn lane NB, & 1 right-turn lane WB.

The requirements of Option 1 are hereby satisfied by virtue of the following:

1. The County shall Fund\* the construction of and construct the improvement identified as intersection improvement #6 in Table 2, pursuant to the following funding mechanism:

The Developer\* has agreed to mitigate its proportionate share of intersection improvement #6 and assure the funding commitment for such improvement through the prepayment of projected impact fees for the transportation component of Phase I and the 150,000 square foot commercial development in Phase II. Manatee County shall utilize the Developer's\* prepayment to construct or obtain the construction of the identified intersection improvement. Payment in an amount equal to the total projected payment, less any payments actually made for constructed development and less costs of engineering for the intersection paid by the Developer\*, as set forth immediately below, shall be made within thirty days (30) days of notice by Manatee County to the Developer\* that such construction will begin within ninety (90) days.

Developer's\* payment shall be secured through the posting of performance

security, in a form reasonably acceptable to Manatee County, prior to issuance of permits for any further Vertical Development\*. At the request of Manatee County, the Developer\* will provide the engineering design for the improvement. The cost of the engineering design shall be a credit against impact fees due by the development and shall reduce the prepayment of the impact fees agreed to above, and shall reduce the amount of the bond. The provisions of this paragraph shall constitute a Development Agreement for purposes of demonstrating that a Responsible Entity\* is constructing the improvement.

2. Intersection Improvements # 1 (unless constructed by the County pursuant to the CIP), 2, 3, 4, 5, and 7 shall be Funded\* by the Developer\*, and the geometric improvements required by such Improvements shall be constructed by the Developer\*, prior to issuance of any Certificates of Occupancy for the land uses which will utilize these access drives (i.e., Residential, Personal Care, Service, Hotel, Commercial, and Office. The Funding\* and construction of these intersection improvements shall be listed as a condition in any CLOS issued for the land uses identified in this subparagraph.
3. The Developer\* may, if permitted by interlocal agreement between Manatee and Sarasota Counties and the Manatee County Comprehensive Plan, fund and construct a right-in/right-out driveway to provide direct access to University Parkway for the existing on site shopping center (i.e., Centre at University Parkway) **(Completed)**
4. By satisfying provisions B.(1)(a) of this Development Order, the Developer\* has also satisfied the concurrency requirements of Rule 9J-5.0055(2), F.A.C.

B.(1)(b) Option 2

In the event that commitments for transportation improvements are only adequate to permit approval of a portion (subphase) of the Development\*, the capacity and loading of transportation facilities in the University Commons DRI Transportation Impact Area\*, including, but not limited to, the regional roadways and intersections referenced in Option 1, shall be limiting factors in any subsequent approvals. The subphase of development that is approvable in the adopted Development Order shall be specifically identified as to land use and square footage. The Developer\* shall generate and provide the County, the Sarasota-Manatee Metropolitan Planning Organization ("MPO"), the Florida Department of Transportation ("FDOT") and the TBRPC, pursuant to the provisions of Section 380.06, Florida Statutes, with updated current traffic counts on the above listed roadways and projections of traffic volumes that will result from the completion of construction of the initially approved portion of Phase I plus that to be generated by the next portion for which the Developer\* is seeking approval. Each updated traffic analysis shall serve to verify the findings of the DRI traffic analysis (referenced in Option I) or shall indicate alternate transportation improvements or mechanisms which, when implemented, will maintain the roadways referenced in Option 1 at Level of Service D at peak hour (peak in rural areas). Both the traffic counts and the projection of traffic volume shall be prepared consistent with generally accepted traffic engineering practices. Prior to any specific approval beyond initial subphase approval, the County shall ensure in written findings of fact that the above

roadways (Table 2 above) are operating at or above Level of Service D at peak hours (peak in rural areas), and that the expected trips to be generated by such approval, in addition to the traffic to be generated by other approved DRIs and other approved development would not cause the roadways to operate below Level of Service D at peak hours (peak in rural areas). The Development Order shall be amended for each subphase to grant specific approval and to identify the roadway improvements associated with each subphase.

- B.(2) The Developer\* shall construct on site roadways, bikeways, and pedestrian ways, as appropriate, singularly or in any combination to internally connect all on-site land uses. Failure to provide said internal connections shall require the submittal of a revised traffic analysis and submission of a Notice of Proposed Change to determine whether this change is a Substantial Deviation.
- B.(3) Beginning with the first annual report required by the Development Order (April 15th), an annual monitoring program consisting of peak hour traffic counts at the project entrances shall be instituted to verify that the projected number of external trips for the Development\* are not exceeded. Counts will continue on an annual basis through project build-out, and the information shall be supplied with each required Annual Report. If an Annual Report is not submitted within thirty (30) days of its due date, or if the Annual Report indicates that the total trips exceed projected counts for the Development\* by 15 percent or more, Manatee County shall conduct a Substantial Deviation determination pursuant to Subsection 380.06(19), Florida Statutes. This change will be presumed to be a Substantial Deviation. The results of the Substantial Deviation determination may also serve as a basis for the Developer\* or reviewing agencies to request Development Order amendments.
- If a variance greater than that identified above is determined to be a Substantial Deviation, the revised transportation analysis required pursuant to Subsection 380.06(19), Florida Statutes, will be based upon results of the monitoring program and agreements reached at another transportation methodology meeting to be held prior to the preparation of the new analysis.
- B.(4) Manatee County shall reserve the right to initiate procedures to identify and reserve right-of-way within the project site for future mass transit and roadway improvement needs, in accordance with legally mandated procedures and time frames. This condition may not be implemented if the area of the project has a valid Preliminary Site Plan or if not in accordance with applicable law.
- B.(5) The Developer\* shall dedicate 25' as County road right-of-way from their western property line to Tuttle Avenue at the northern property line of the entire western parcel within 90 days of this approval.
- B.(6) The Developer\* shall dedicate 84' as County road right-of-way for the future extension of Broadway Avenue, from their western property line to Tuttle Avenue at intersection E, as shown on the GDP. A cross access easement shall be provided from the 7.6 commercial site to Broadway Avenue.
- B.(7) The Developer\* shall dedicate any road right-of-way necessary for the pending improvements to Lockwood Ridge Road prior to the first Final Site Plan or Final Plat approval for any residential development lying between Tuttle Avenue and Lockwood Ridge Road. **(Completed)**

- B.(8) Developer\* shall reserve for the benefit of the Home Owners Association a 40' access easement from the single-family detached neighborhood at the centerline of Vintage Drive to Lockwood Ridge Road right-of-way. **(Completed)**
- B.(9) The Developer\* may, if permitted by interlocal agreement between Manatee and Sarasota Counties and the Manatee County Land Development Code fund and construct a right-in/right-out driveway to provide direct access to the commercial development at the northeast quadrant of the intersection of University Parkway and Tuttle Avenue. **(Completed)**
- B.(10) The Developer\* may, if permitted by Interlocal Agreement between Manatee and Sarasota Counties and the Manatee County Land Development Code fund and construct a right-in/right-out driveway to provide direct access to the commercial development at the northwest quadrant of the intersection of University Parkway and Tuttle Avenue. If the Interlocal Agreement is not amended by both Manatee and Sarasota Counties, and Section 741 of the Land Development Code is not amended by Manatee County to allow 2 or more access points on University Parkway between Shade and Tuttle Avenues prior to Preliminary Site Plan approval for any site west of Tuttle Avenue, then the right-in/right-out access on University Parkway west of Tuttle Avenue shall be relocated to the western boundary of the westernmost parcel of University Commons and depicted as such on all future site plan approvals.
- B.(11) The Developer may fund and construct a right-in/right-out (Access "Q", as identified on Map H) to provide access on Tuttle Avenue for the multi-family residential parcel.

#### **Lands and Soils**

- C.(1) The Developer\* shall test on-site soils for the presence of hazardous agricultural substances/waste, pursuant to Chapter 62-730, F.A.C., prior to the commencement of land development activities in the area(s) to be developed. Contaminated soils shall be removed and disposed of properly, and the agricultural exemptions in Chapter 62-730, F.A.C., shall not apply.
- C.(2) The soil conservation measures referenced on Pages 14-2 and 14-3 of the ADA\* shall be required.

#### **Wetlands**

- D.(1) Impacts to existing jurisdictional wetlands shall be minimized. All existing jurisdictional wetlands that are to remain on-site, after impacts are approved by appropriate agencies, and all wetlands created on-site to mitigate impacts to existing jurisdictional wetlands shall be treated as conservation areas.
- D.(2) The Developer\* shall mitigate all unavoidable impacts to jurisdictional wetlands in accordance with the requirements of the Manatee County Comprehensive Plan. The wetland mitigation area shall be in addition to any littoral planting required to meet SWFWMD surface water management requirements, but such mitigation area may be located adjacent to, or incorporated into, such littoral zones provided the total acreage is the sum of mitigated and required littoral acreage.

- D.(3) All mitigation areas and littoral shelves shall be monitored for species diversity, composition, recruitment and exotic species encroachment. Additional planting shall be accomplished as necessary to maintain an 85 percent survival/cover of herbaceous wetland communities at the end of three (3) years and an 85 percent survival/cover of forested wetland communities at the end of five (5) years. Wetland mitigation security shall be required in accordance with applicable County ordinances.
- D.(4) No development activities shall be permitted within regional, state, or federal jurisdictional wetlands unless such activities are consistent with the rules and permitted by the permitting agency or agencies with jurisdiction, and are in accordance with the goals, objectives, and policies of The Manatee County Comprehensive Plan.
- D.(5) A thirty foot (30') or fifty foot (50') buffer zone, as required by the Comprehensive Plan, shall be established adjacent to Post-Development Wetlands\*. All such wetland buffer areas shall be required to be dedicated to the County in a conservation easement, and shown on any Preliminary and Final Site Plans and subdivision plats containing land with wetland buffer areas. Each Development\* phase, or subphase shall include deed restrictions that prohibit development activity and removal of native vegetation within the buffer unless approved by the County and any permitting agency or agencies with jurisdiction.
- D.(6) In conformance with TBRPC Policy 4.3.14, Xeriscape principles as a means to encourage water use efficiency and conservation shall be encouraged through recommendations in the Declaration of Covenants and Restrictions.

#### **Vegetation and Wildlife**

- E.(1) In the event that any species listed in Rules 68A-27.003 through 68A-27.005, F.A.C., are observed frequenting the site for nesting, feeding, or breeding, proper measures shall be employed to ensure conservation of the species, in coordination with the Florida Fish and Wildlife Conservation Commission (FWCC), the Environmental Management Department ("EMD"), and the Department of Community Affairs. If listed species are discovered, a Wildlife Conservation Plan shall be prepared and contain at a minimum information on impacts to listed species and measures proposed to provide its conservation. In the event on-site habitat management is required pursuant to this condition, a Wildlife Habitat Management Plan shall be prepared and include, at a minimum, listed species population information, proposed site management methods, and boundary protection. If require pursuant to this condition, the Wildlife Habitat Management Plan shall be submitted to the FWCC, EMD, and DCA for review and approval.
- E.(2) Conservation areas as required by Condition D(1) shall be designated as such on the Development's\* Master Plan known as Map H attached as Exhibit "D".
- E.(3) The mixed hardwood/pine community habitat located on the north side of the University Commons site shall be preserved intact or mitigated in accordance with FWCC policies and approved by EMD. This area may be used for passive recreation.

### **Historical and Archaeological Sites**

- F.(1) Any historical or archaeological resources discovered during development shall be immediately reported to the Florida Department of State, Division of Historical Resources, ("Division of Historical Resources"), and treatment of such resources shall be determined by the Division of Historical Resources, in cooperation with TBRPC and Manatee County. Archaeological test excavations by a professional archaeologist shall be conducted on each such site to provide sufficient data to make a determination of significance prior to further disturbing activities in that area of the site. The final determination of significance shall be made by the Division of Historical Resources, in cooperation with TBRPC and the County. The appropriate treatment of such resources (potentially including excavation of the site in accordance with the guidelines established by the Division of Historical Resources) must be completed before resource-disturbing activities in that area of the site are allowed to continue.
- F.(2) A description of compliance with F.(1) above, shall be included in each Annual Report. A copy of the description of compliance shall be submitted to the Division of Historical Resources. Non-compliance with Condition F.(1) shall require a Substantial Deviation determination.

### **Water Quality and Drainage**

- G.(1) Prior to the issuance of any further development permits for construction, the Master Drainage Plan\* for the Development\* shall be submitted to the FDEP, the Southwest Florida Water Management District (SWFWMD), and the TBRPC for review and to the County and the EMD for approval. The stormwater management systems shall be designed, constructed, and maintained to meet or exceed the requirements of Chapters 62-25, and 40D-4, F.A.C., to provide retention, or detention with filtration/assimilation treatment for the site during the 25 year, 24-hour design storm, and such that maximum post-development flows do not exceed pre-development flows for the same design storm. Future flows to the Pearce drain shall not be increased beyond the capacity (55 cfs) of the existing 48-inch pipe during a 25-year, 24 hour design storm, unless the Developer\* demonstrates that higher flows can be accommodated by the Pearce drainage system without causing flooding problems within the system. Stormwater management plans for any portion of the site planned to drain south to the Phillippi Creek Main BA watershed shall be provided to the Stormwater Division of the Sarasota County Transportation Department for comment prior to approval by the County.
- G.(2) Best Management Practices\* (BMP\*) for reducing water quality impacts, as recommended by the FDEP and the SWFWMD in accordance with adopted regulations of those agencies, shall be implemented and include a street cleaning program for parking and roadway areas within the Development\*.
- G.(3) Surface water and groundwater quality shall be assured through the implementation of a Surface/Groundwater Monitoring Program, with appropriate sampling frequencies, in compliance with both the federal Environmental Protection Agency ("EPA") and the FDEP's quality control standards. This program shall be instituted before groundbreaking takes place, in order to obtain baseline conditions, and continue through project build-out. The Surface/Groundwater Monitoring Program shall include the following as a minimum:



- (a) The purpose of the sampling program shall be to determine existing background water quality conditions and the effects of the proposed Development\* on water quality.
  - (b) Water quality samples and flow measurements will continue to be collected two times per year (one wet and one dry season) through four years past the date of construction of the last phase of the Development\*.
  - (c) Adequate water quality parameters and sampling shall be selected to assist in making an accurate determination of water quality conditions, change in water quality, and the possible sources of contamination if such contamination is discovered. The program shall provide procedures for clean-up, retrofitting, or other steps to resolve identified on-site problems if applicable state or federal water quality standards are exceeded.
  - (d) The proposed Surface/Groundwater Monitoring Program shall be submitted for approval to SWFWMD and, the County. Collected data shall be furnished to the County and SWFWMD as part of the Annual Report. Data shall be furnished immediately if problems are identified.
  - (e) If separate systems are developed for the parcels east and west of Tuttle Avenue, the Surface/Groundwater Monitoring Program may allow the monitoring to terminate at different times.
- G.(4) No discharges to groundwater shall be permitted on-site.
- G.(5) The Developer\*, or its designee, shall be responsible for maintaining the stormwater management system. The maintenance schedule for insuring proper water quality treatment shall be submitted to TBRPC, SWFWMD, and FDEP for review, and to EMD for approval, during the permitting process.
- G.(6) Stormwater management system design shall, to the maximum extent possible, incorporate and utilize isolated wetlands. Mitigative measures may be acceptable to replace removed wetlands.

#### **Hazardous Waste**

- H.(1) All University Commons tenants that generate hazardous waste should be required to utilize waste exchanges and other appropriate recycling methods to the extent possible and feasible. A report of such use shall be included in each Annual Report.
- H.(2) The Developer\*, in cooperation with the tenant businesses within the Development\* shall develop an ongoing survey which will locate and catalog those tenant businesses where hazardous substances and wastes are generated, stored, or handled, and keep a record of the disposition of those substances and wastes. The results of this survey shall be included in the Annual Report.
- H.(3) No on-site incineration of biohazardous waste shall be permitted unless approved by the County, EMD, and any state or federal agency or agencies with jurisdiction.

## Energy

- I.(1) Adequate electrical service is available to serve the Development\*. Electrical service will be provided by Florida Power & Light Corporation.
- I.(2) All tenants, businesses, residents, etc. of the Development\* shall be notified in writing upon occupancy that the following energy-related practices are encouraged:
- o use energy alternatives, such as solar energy, resource recovery, and waste heat recovery and cogeneration, where economically feasible;
  - o obtain energy audits provided by energy companies or other qualified agencies;
  - o install water heater timers and set water heaters at 130 degrees Fahrenheit or lower;
  - o use landscaping and building orientation to reduce heat gain, where feasible, for all University Commons construction;
  - o promote energy conservation by employees, buyers, suppliers, and the public, as appropriate;
  - o reduce levels of operation of all air conditioning, heating, and lighting systems during non-business hours, as appropriate;
  - o institute and utilize recycling programs;
  - o utilize energy efficient packaging or recyclable materials; and
  - o install total energy systems on large facilities when cost effective.

## Housing

- J.(1) The Developer\* has completed a Chapter 380, Florida Statutes, affordable housing analysis which demonstrated that any need for affordable housing generated by the Development\* is offset by the availability of affordable housing within the affordable housing study area of the Development\*. The Affordable Housing Study was reviewed and approved by the DCA.

## Economics

- K.(1) Excess infrastructure capacity constructed by the Developer\* to potentially serve Phase II of the Development\* shall be at the Developer's\* risk and shall not constitute a basis for vested development rights for Phase II.
- K.(2) The Development\* shall promote entrepreneurship and small and minority-owned business start-up, and encourage nondiscriminatory employment opportunities, pursuant to Chapter 187, Florida Statutes, and the FRCRPP. This condition shall apply only to non-residential portions of the project.

## Wastewater

- L.(1) The County has determined that there exists adequate wastewater capacity to accommodate the impact of the development totals contained in Table 1 for the remaining undeveloped portions of Phase I and Phase II of this project that do not have a Certificate of Occupancy as of February 25, 2002,
- L.(2) Wastewater service to each phase or subphase of the Development\* shall be provided by the County utilizing a Regional Wastewater Treatment Plant owned and operated by the County. In the event that wastewater treatment or disposal capacity is not available as needed to serve the Development\*, or a phase or subphase thereof, the Developer\*, prior to the commencement of said phase or subphase thereof, shall participate, in accordance with applicable County ordinances, in the treatment plant expansion and the ultimate disposal of wastewater generated by the Development\*, or a phase or subphase thereof. No septic system(s) shall be permitted within the Development\*.
- L.(3) Sewer lift stations shall be designed using the best engineering practices and submitted to the County for review and approval. Several means of backup shall be provided to ensure against equipment failure and discharge of wastewater to the environment. These back-up devices shall consist of the following:
- (a) Lift stations with 35 HP (or less) motors shall have an auxiliary generator receptacle on the panel box.
  - (b) Stations with greater than 35 HP motors shall include an on-site stationary generator set with remote transfer capability.
  - (c) Wet wells to contain sewage line surcharges/overflows.
  - (d) Emergency by-pass pumpouts for tank trucks.
  - (e) 100 percent redundancy in lift station pumping equipment.
- The Developer\*, at its option, may exceed these requirements.
- L.(4) The Developer\* shall, prior to the first Final Site Plan approval, prepare and submit to the County, a plan to monitor on-site sanitary sewer lines for leaks or ruptures of the sewer lines which are maintained by the Developer\*. The plan must be approved by the County, designate the entity(ies) to be responsible for the monitoring, and provide a time schedule which outlines the dates or frequency of monitoring. Faulty lines shall be replaced as quickly as possible. A report of inspections, results, and repairs shall be included in the Annual Report. This requirement shall not apply should the sanitary sewer lines be turned over to and accepted by Manatee County as part of the public sanitary sewer system.
- L.(5) The disposal of waste into the sewer system shall comply with the Manatee County Sewer Use Ordinance (Ordinance No. 98-28) (See Exhibit "E").
- L.(6) The Developer\* shall not utilize on-site wastewater treatment.
- L.(7) The Developer shall design and install an off-site 8-inch diameter force main beginning at the point of emergence from the University Commons property then running northward

along Tuttle Avenue to the intersection with Tallevast Road. The Developer shall pay the full cost of said installation.

The Developer shall also participate with Manatee County in the installation of a 10-inch diameter force main beginning at the intersection of Tuttle Avenue and Tallevast Road and extending westward along Tallevast Road to the intersection with Prospect Road. The total cost of Developer participation in this section of 10-inch force main shall be determined by either of the following:

- a. Should the Developer install the force main, Developer shall obtain alternate Contractor bids for installation of both 8-inch and 10-inch diameter force main pipe and required fittings requested by Developer. The Developer shall install and pay for installation of a 10-inch diameter force main. Manatee County shall reimburse Developer for all costs associated with upsizing of force main from 8-inch to 10-inch.

-OR-

- b. Should Manatee County install the force main, alternate Contractor bids for both 8-inch and 10-inch diameter force main pipe and required fittings shall be obtained by Manatee County through competitive bid as part of the Tallevast Road Improvement Project. Developer shall pay to Manatee County, based upon the above noted competitive bids, those costs associated with installation of an 8-inch diameter line.

The Developer shall further participate with Manatee County in the installation of a 10-inch diameter force main beginning at the intersection of Tallevast Road and Prospect Road on Prospect Road northward to Whitfield Avenue; then westward on Whitfield Avenue to and tying into an existing gravity sewer manhole at the intersection of Whitfield Avenue and 33<sup>rd</sup> Street East. The total cost of participation in this section of 10-inch force main shall be determined by either of the following:

- a. Should the Developer install the force main, Developer shall obtain alternate Contractor bids for installation of both 8-inch and 10-inch diameter force main pipe and required fittings requested by Developer. The Developer shall install and pay for installation of a 10-inch diameter force main. Manatee County shall reimburse Developer for all costs associated with upsizing of force main from 8-inch to 10-inch.

-OR-

- b. Should either Manatee County or the Manatee County School Board, or a combination thereof, install the force main, alternate Contractor bids shall be obtained for 4-inch, 8-inch, and 10-inch diameter force main pipe, including required fittings requested by the Manatee County School Board as part of the Kinnan Elementary School construction project. The Developer shall reimburse Manatee County for the total cost that the County incurred to construct an 8-inch diameter force main on Prospect Road and Whitfield Avenue, or shall pay such reimbursement to Manatee County for that 8-inch diameter force main as is established in a separate participation agreement prepared prior to final site plan approval.

The total cost of participation in upsizing the force main along the above-described Prospect/Whitfield route to serve the entirety of the proposed University Commons Development shall be paid by said Developer to Manatee County prior to the recording of the first Final Plat in Phase One of this project (excluding the area of existing 120 bed nursing facility).

### Water

- M.(1) The County has determined that there exists adequate water capacity to accommodate the impact of the development totals contained in Table 1 for the remaining undeveloped portions of Phase I and Phase II of this project that do not have a Certificate of Occupancy as of February 25, 2002.
- M.(2) The Developer\* shall be responsible for the maintenance and operation or appropriate abandonment of any on-site wells. These wells shall be operated in accordance with the SWFWMD rules and regulations.
- M.(3) The water conservation fixtures and measures referenced in the ADA\* shall be required. Water saving devices shall be installed in accordance with the Florida Water Conservation Act, Section 553.14, Florida Statutes.
- M.(4) The Developer\* shall maintain all water lines and fire hydrants not dedicated to the County.
- M.(5) The Developer\* shall, to the extent nonpotable water is available, use only nonpotable water to meet nonpotable water demands. For purposes of this Development Order, "nonpotable" water is defined as water emanating from any source other than a public water utility. The Developer\* shall submit an acceptable plan to Manatee County and the TBRPC for the use of nonpotable water on-site. The plan shall be completed prior to the issuance of any further land development permits, and shall include an implementation timetable, as well as a determination of the availability and feasibility of using on-site wells, reclaimed wastewater, or stormwater retention ponds for irrigation purposes.
- M.(6) Adequate fire flow and water pressure to serve every building for which fire protection is required shall be maintained within the Development's\* water supply system. "Adequate" for this condition shall mean the most restrictive applicable regulations of the Manatee County Comprehensive Plan, or any other mandatory regulations of any federal, state, or local agency with jurisdiction over this Development\*.
- M.(7) The Developer\* shall comply with the rules and recommendations of the SWFWMD in regard to protection of the groundwater resources in the Eastern Tampa Bay Water Use Caution Area or its successor.
- M.(8) Prior to any submittals by the applicant to the Manatee County Development Review Committee, the applicant shall provide a conceptual master plan for water and fire protection for approval by the Planning Department (**Completed**). The water and fire protection conceptual master plan shall show the extent of the water lines that shall be provided to serve the Development\* including all source/discharge points. The water line shall be looped to provide an adequate source of water to the Development\*. Water lines and fire protection shall be specified on the plans as per the requirements of the Comprehensive Plan, and the Fire Marshall, and the Planning Department:

- (a) The land use and dwelling units per gross acre shall be provided as necessary for residential use.
- (b) Corresponding with the land uses, fire flow rates in gallons per minute shall be provided as specified by the Comprehensive Plan and the Fire Marshall.
- (c) At time of development, it shall be the applicant's responsibility to provide these minimum fireflow needs.

### **Solid Waste**

- N.(1) The County has determined that there exists adequate solid waste capacity to accommodate the impact of the development totals contained in Table 1 for the remaining undeveloped portions of Phase I and Phase II of this project that do not have a Certificate of Occupancy as of February 25, 2002.
- N.(2) The Developer shall utilize available recycling programs from the County.
- N.(3) It is strongly suggested that the applicant investigate the possibilities associated with the mulching of the trees and brush that will be removed as land clearing operations commence. The mulch could then be retained on site to meet the Developer's\* needs for landscaping and cover material during construction.

### **Education**

- O.(1) The Developer\* shall comply with an impact fee ordinance for education system improvements, if and when the Manatee County School Board adopts such an ordinance.

### **Recreation and Open Space**

- P.(1) All on site recreation and open space areas not dedicated to the County or any other agency or agencies shall be maintained by the Developer\*.
- P.(2) The Developer\* shall comply with The Manatee County Comprehensive Plan with respect to provisions concerning parks or park sites. Designated recreation and open space areas shall not be changed from such uses unless approved by the County, in accordance with the Comprehensive Plan and the Land Development Code.
- P.(3) The recreation and open space components of the Development\* shall be designated on the Preliminary and Final Site Plans in accordance with The Manatee County Land Development Code.

### **Police, Fire, and Health Care**

- Q.(1) Emergency medical services and fire protection will be provided by Manatee County or the Southern Manatee Fire and Rescue District. The Developer\* shall be responsible for contributing a pro-rata share of the cost of land acquisition, construction, and equipping of emergency service facilities for fire and emergency medical services or any combination thereof. The Developer\* may, with the concurrence of the County and fire district, satisfy this obligation in whole or in part by conveyance of land deemed suitable for the intended

use by the County and fire district or payment of impact fees, if applicable. An agreement as to pro-rata share, mutually acceptable to the County, fire district, and the Developer\*, shall be reached prior to the issuance of permits for Vertical Development\* for Phase I. The pro-rata share shall not exceed the total sum of impact fees anticipated from the Development\* and any pro-rata lump sum payment shall be creditable against the payment of impact fees in accordance with applicable law. **(Completed)**

- Q.(2) The Manatee County Sheriff's Office shall provide typical police protection to each phase or subphase of the Development\*. The Developer\* shall participate, in accordance with applicable County Ordinances, in any expansion of such services necessary to serve the Development\* or any phase or subphase thereof.
- Q.(3) The Development\* shall be designed and constructed to meet or exceed applicable provisions of the State Fire Code - Rule 4A-3.012., F.A.C.

#### **Air**

- R.(1) Commencement of Phase II of the Development\* is subject to the determination by the County, using then prevailing FDEP guidelines, that any significantly adverse air quality impacts caused by Phase II, or any sub-phase thereof, will be mitigated prior to Vertical Development\* of Phase II, or the development of any sub-phase thereof. In addition, the Phase II air quality impacts shall be subject to review pursuant to Section 380.06(6), Florida Statutes. Should it be determined at the time the Development Order is amended for specific approval of Phase II that any air quality mitigation will be required for the development of Phase II, or any sub-phase thereof, the Development Order shall be amended to incorporate such mitigation.**(Completed)**
- R.(2) The Developer\* shall implement the fugitive dust abatement procedures and air emissions control measures set forth on pages 13.1, 14.2, and 14.3 of the ADA\*.

#### **Floodplains/Disaster Preparedness**

- S.(1) In order to minimize potential property damage from flooding, all elevations for habitable structures shall be at or above the base flood elevation and in accordance with local, state, and federal requirements.

#### **General Conditions**

- T.(1) In the event that a Regional Activity Center is designated which would be applicable to the area in which the Development\* is located, then the provisions governing developments within Regional Activity Centers shall, at the option of the Developer\*, apply without the requirement for an amendment to this Development Order. Provided, however, that such designation shall not operate to reduce the requirements of this Development Order below applicable, adopted rules of the TBRPC and the DCA.
- T.(2) The Developer\*, its successors, assigns and/or transferees, shall submit annual DRI reports in accordance with Section 380.06(18), Florida Statutes, to Manatee County, TBRPC, the State Land Planning Agency and other agencies, as may be appropriate, on April 15th of each year until such time as all terms and conditions of this Development Order are satisfied. Six (6) copies of this report shall be submitted to the Director of the

Manatee County Planning Department or the Director's designee, who shall review the report for compliance with the terms and conditions of this Development Order and who may submit an appropriate report to the County Commission should the Planning Director decide further Orders and Conditions are necessary. The Developer\* shall be notified of any Board of County Commissioners hearing wherein such report is to be considered or reviewed; provided, however, that receipt and review of any such report by the Board of County Commissioners shall not be considered as a substitute, modification or change of any conditions, or any terms or conditions of this Development Order. The Annual Report shall contain the following:

- a. Any changes in the plan of development, or in the representation contained in the ADA\*, or in the phasing for the reporting year and for the next year;
  - b. A summary comparison of development activity proposed and actually conducted for the year;
  - c. Undeveloped tracts of land, other than individual single-family lots, that have been sold to a separate entity or developer;
  - d. Identification and intended use of lands purchased, leased or optioned by the Developer\* adjacent to the original DRI site since the Development Order was issued;
  - e. An assessment of the Developer's\* and the local government's compliance with the conditions of approval contained in the DRI Development Order and the commitments that are contained in the Application for Development Approval\* and which have been identified by the County, TBRPC, or the DCA and being significant;
  - f. Any known incremental DRI Applications for Development Approval\* or requests for a Substantial Deviation determination that were filed in the reporting year and to be filed during the next year;
  - g. An indication of a change, if any, in local government jurisdiction for any portion of the Development\* since the Development Order was issued;
  - h. A list of significant local, state, and federal permits which have been obtained or which are pending by agency, type of permit, permit number, and purpose of each;
  - i. A copy of any recorded Notice of the adoption of a Development Order for the subsequent modification of an adopted Development Order that was recorded by the Developer\* pursuant to Subsection 380.06(14)(d), Florida Statutes;
  - j. A statement that all persons have been sent copies of the Annual Report in conformance with Subsections 380.06(15) and (18), Florida Statutes;
  - k. Reports or information pursuant to conditions B.(3), F.(2), G.(3)(d.), H(1), and H.(2), of this Section 5.
- T.(3) The Manatee County Planning Director, or an authorized designee, shall be responsible for monitoring the Development\* and ensuring its compliance with this Development Order.



The data necessary for monitoring the Development\* shall be generated by building permits, certificates of occupancy, the Annual Report, and on-site observations. The enforcement of the terms and conditions of this Development Order shall be through such means as are authorized by Chapter 380, Florida Statutes, and through the Manatee County Land Development Code.

- T.(4) The Developer\* has elected, pursuant to Section 380.06(5)(c), Florida Statutes, to be bound by the rules adopted pursuant to Chapters 403 and 373, Florida Statutes, in effect at the time that this Development Order is issued. Accordingly, to the extent the provisions of Section 380.06(5)(c), Florida Statutes, affect the determination as to which rules promulgated pursuant to these statutes are applicable to the Development\*, said election shall apply, notwithstanding any provision in this Development Order to the contrary.
- T.(5) In the event of a Development Order appeal or other legal challenge of this Development Order by the DCA, the Developer\* shall pay all costs and fees of County staff and attorneys the County\* is required to expend related to said appeal or legal challenge at the rate of the processing fee for the Development Order under the current Planning fee schedules. Payment of all billings by the Developer\* related to such fees and costs shall be paid within 45 days of the submittal of an invoice.

## **SECTION 6. DEVELOPER\* COMMITMENTS**

The following are Developer\* commitments set forth in the Application for Development Approval\* (ADA\*) and Sufficiency Responses dated May 23, 1989; August 21, 1989; December 29, 1989; July 19, 1990; and December 19, 1990 respectively which shall be honored by the Developer\*, except as they may be superseded by specific terms or conditions of the Development Order. These commitments in no way limit the commitments within the ADA\* that the Developer\* will be responsible for, to the extent the commitments remain consistent with the project as revised.

### **A. General Commitments**

The Development\* will be designed to incorporate open space, landscaped green space, and an extensive lake system. (ADA\*, Page 12.4)

The Developer\* shall provide for pedestrian and nonvehicular access ways within the project wherever possible. (SRI, Page 12-1)

### **B. Air Quality**

Cleared and disturbed areas will be grassed, mulched, or sprinkled as is appropriate as soon as possible after clearing. (ADA\*, Page 13.1)

The Developer\* shall be required to implement the fugitive dust abatement procedures and air emissions control measures indicated on pages 13 .1, 14 .2 and 14.3 of the ADA\*.

### **C. Land & Soils**

The soil conservation measures referenced on pages 14-1 and 14-3 of the ADA\*, at a minimum, shall be required.

Clearing, grubbing, and site grading will be carried out only on areas where construction is imminent, and only within the specified limits of construction. Clearing and grubbing depth will be kept to the minimum necessary as dictated by accepted standards of site preparation and finished grading specifications. (ADA\*, Page 14.2)

Wind erosion will be minimized by the wetting of drier soils during dry and windy periods, by minimizing construction time and by establishing vegetative cover on finished slopes as soon as possible after finished grading is complete. (ADA\*, Page 14.2)

Soil erosion from pond and canal slopes will be minimized by utilizing appropriate slopes, minimizing construction times, and by establishing vegetative cover on finished slopes as soon as possible. (ADA\*, Page 14.3)

Wetness limitations associated with soils will be overcome by local/area dewatering methods, where appropriate. (SRI, Page 12-1)

**D. Vegetation and Wildlife**

Best Management Practices\* (BMP\*), including the use of hay bales, silt fences, turbidity barriers, etc., will be utilized during construction to minimize any potential adverse effects to surface water. (ADA\*, Page 15.4)

Oil and grease skimmers constructed at the outfall water control structures will minimize discharges of oils, greases, and floating debris to downstream receiving waters. (SRI, Page 12-3)

Native wetland species will be used for revegetation of constructed littoral zones. (ADA\*, Page 22.1)

The wet detention ponds and wetland mitigation areas will be monitored to ensure that invasive plant species do not become established. (SRI, Page 12-2)

The stormwater management systems shall be designed, constructed, and maintained in accordance with Chapter 40D-4, F.A.C. Vegetated littoral shelves will encompass 35% of the minimum pond surface area to aid in nutrient and heavy metal uptake, as well as provide a natural appearance; and 3) bleed-down structures will be used to eliminate floatable debris and contaminants from the water before eventually discharging to the Pearce drainage canal. (ADA\*, Page 22.3)

Retention/detention lakes will be designed as a visual amenity to adjacent land uses. (SRI, Page 12-1)

**E. Public Facilities**

**1. Water Supply**

The Developer\* will provide water conserving plumbing fixtures where practical. (SRI, Page 12-4)

**2. Wastewater Management**

There will be no industrial/hazardous wastes from the proposed Development\* deposited into Manatee County wastewater facilities. (ADA\*, Page 21.1)

3. Solid Waste

No on-site solid waste disposal will be provided. (ADA\*, Page 24.1)

4. Drainage

Maintenance for completed development components will include keeping all drainage structures and areas in good repair and maintaining healthy vegetative groundcover. (SRI, Page 12-2)

## **SECTION 7. CREDITS AGAINST LOCAL IMPACT FEES AND EXACTIONS**

To the extent that the Developer\* or its successors, or assigns are required hereunder to contribute land for a public facility or construct, expand, or pay for land acquisition or construction or expansion of a public facility, or portion thereof, and the Developer\* is also subject by local ordinance to impact fees or exactions to meet the same needs, the Developer\* may apply for impact fee credit pursuant to Section 806 of the Manatee County Land Development Code; however, if the Florida Land and Water Adjudicatory Commission imposes any additional requirement, Manatee County shall not be required to grant a credit toward the local exaction or impact fee unless Manatee County determines that such required contribution, payment, or construction meets the same need that the local exaction or impact fee would address.

## **SECTION 8. LEGAL DESCRIPTION**

Development of University Commons shall be restricted to the 286 acres currently owned by Centex Homes, Inc., University Walk, L.L.C., Health Care REIT, Inc., Cambridge 950 Corporation, and University Commons Land Development LLC and described by the legal description included as Exhibit "F" attached to, and made a part of, this Development Order.

## **SECTION 9. DEADLINE FOR COMMENCEMENT OF DEVELOPMENT**

Physical development of the project has commenced. If any five year period shall expire without significant development activity on the site, the Board of County Commissioners may conduct a public hearing in accordance with the Land Development Code and may, at its option, based on testimony presented at that hearing, rescind or suspend or take other appropriate action on any and all approvals granted herein except where the failure to carry out development is attributable to factors beyond the control of the Developer\* (such as the unavailability of permits because of inadequate public facilities, or for any other similar reason). For the purpose of this provision, "significant development" shall be the actual construction of site improvements or buildings as part of an ongoing effort to prepare improved land or buildings for sale, lease, or use.

## **SECTION 10. RESTRICTIONS ON DOWN-ZONING**

Prior to September 14, 2003, the County may not down-zone or reduce the intensity or unit density permitted by this Development Order, unless the County can demonstrate that:

- A. Substantial changes in the conditions underlying the approval of the Development Order

have occurred; or

- B. The Order was based upon substantially inaccurate information provided by the Developer\*; or
- C. The change is clearly established by the County to be essential to the public health, safety, or welfare.

Any down-zoning or reduction in density or intensity shall be effected only through the usual and customary procedures required by statute and/or ordinance for change in local land development regulations.

For the purposes of this Development Order, the term "down-zone" shall refer only to changes in zoning, land use, or development regulations that decrease the development rights approved by this Development Order, and nothing in this paragraph shall be construed to prohibit legally enacted changes in zoning regulations which do not decrease the development rights granted to the Developer\* by this Development Order. The inclusion of this section is not to be construed as evidencing any present or foreseeable intent on the part of the County to down-zone or alter the density of the Development\*, but is included herein to comply with Paragraph 380.06(15) (c)3, Florida Statutes.

#### **SECTION 11. ORDER BINDING UPON DEVELOPER\***

This Order shall be binding upon the Developer\*, its successors, assigns, or successors in interest.

#### **SECTION 12. COMPLIANCE WITH CODES, ORDINANCES**

All development undertaken pursuant to this Development Order shall be in accordance with all applicable local codes and ordinances in effect at the time of permitting, and other laws, except as specifically authorized herein.

#### **SECTION 13. RENDITION**

The Planning Department is hereby directed to send certified copies of this Development Order within thirty (30) days of the Board of County Commissioners approval effective date of this Development Order to the Developer\*, the DCA, and the TBRPC.

#### **SECTION 14. NOTICE OF RECORDING**

The Developer\* shall record a notice of adoption of this Development Order as required pursuant to Chapter 380 Florida Statutes, and shall furnish the Planning Department with a copy of the recorded notice.

#### **SECTION 15. SEVERABILITY**

It is the intent of this Development Order to comply with the requirements of all applicable law and constitutional requirements. If any provision or portion of this Development Order is declared by any court of competent jurisdiction to be void, unconstitutional, or unenforceable, then such

provision or portion shall be deemed null and void, but all remaining provisions and portions of this Development Order shall remain in full force and effect.

**SECTION 16. EFFECTIVE DATE**

This Ordinance shall become effective upon filing of a certified copy with the Department of State; provided, however, that the filing of a notice of Appeal pursuant to Section 380.07, Florida Statutes shall suspend development authorization granted by this Development Order, until the resolution of said appeal. However, this is not intended to suspend development previously authorized pursuant to Ordinance 00-52 during the pendency of any appeal.

**SECTION 17. RECONCILE INTO ONE DOCUMENT**

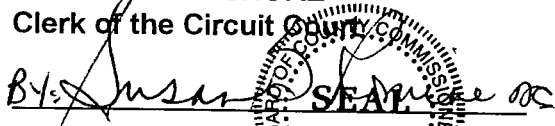
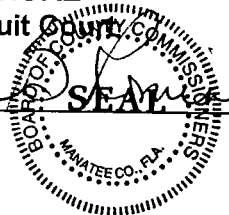
This Development Order represents a codification of the existing approval for the project integrating those changes proposed in this Substantial Deviation Determination and approved by the Board of County Commissioners into a single Development Order and is for administrative convenience and is not intended to provide a new point of entry for current conditions and requirements of this project that are not related to this Notice of Proposed Change.

ADOPTED AND APPROVED with a quorum present and voting the 12<sup>th</sup> day of March, 2002.


**BOARD OF COUNTY COMMISSIONERS  
OF MANATEE COUNTY, FLORIDA**

  
Chairman

ATTEST: R. B. SHORE  
Clerk of the Circuit Court

By:   




STATE OF FLORIDA, COUNTY OF MANATEE  
This is to certify that the foregoing is a true and correct copy of the documents on file in my office.  
Witness my hand and official seal this 12<sup>th</sup> day of March, 2002  
R. B. SHORE  
Clerk of Circuit Court  
By:  D.C.

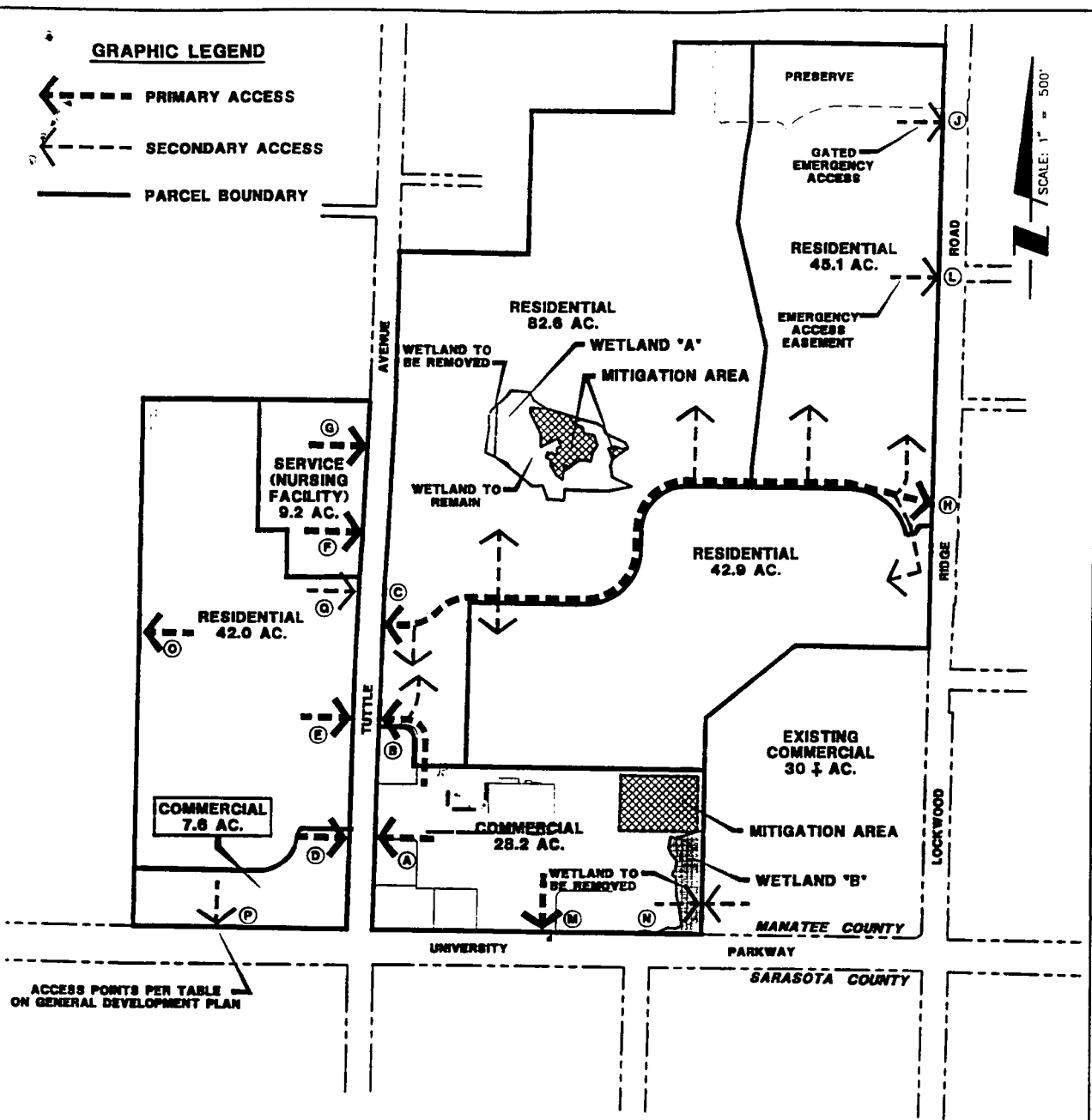
**EXHIBITS A, B, C, E, AND F**

ARE NOT ATTACHED BUT ARE ON FILE AT THE CLERK'S OFFICE AS ATTACHMENTS TO THE PREVIOUSLY APPROVED ORDINANCE 92-31, APPROVED ON JUNE 3, 1992, AND ORDINANCE 00-27 APPROVED ON APRIL 25, 2000.

**EXHIBIT D IS ATTACHED**

**GRAPHIC LEGEND**

- PRIMARY ACCESS
- SECONDARY ACCESS
- PARCEL BOUNDARY



ACCESS POINTS PER TABLE ON GENERAL DEVELOPMENT PLAN

EXHIBIT D

**WETLAND IMPACTS**

WETLAND	EXISTING AREA	IMPACTED AREA	MITIGATION AREA	MITIGATION RATIO	PROPOSED WETLAND AREA
"A"	3.41 Ac.	0.19 Ac.	1.27 Ac.	6.7:1	4.49 Ac.
"B"	1.42 Ac.	1.42 Ac.	2.13 Ac.	1.5:1	2.13 Ac.

**MAP H**

**MASTER DEVELOPMENT PLAN**

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PROJECT: UNIVERSITY COMMONS		MANATEE		DATE: MARCH 2002	
CLIENT: UNIVERSITY COMMONS LAND DEVELOPMENT, LLC		33 355 18E		REV NO:	
<p><b>WilsonMiller</b> Partners • Engineers • Ecologists • Surveyors • Landscape Architects • Transportation Consultants WilsonMiller, Inc. Naples • Fort Myers • Sarasota • Bradenton • Tampa 800 Professional Parkway East, Suite 100 • Sarasota, Florida 34240-8414 • Phone 941-807-8000 • Fax 941-807-8910 • Web-Site www.wilsonmiller.com</p>		PROJECT NO: S2754-401-000		SHEET NO: B2754-401-000004	
		DRAWN BY/APP'D: MJS/1052		SHEET NO: 1 of 1	
				MICHAEL A. KENNEDY, P.E. FLORIDA CERTIFICATE NO. 3812C	

3/28/02

Copy to B Tyler, BCC

Int Audit  
Municipal Code