

**WYNDRUSH
MASTER PLANNED UNIT DEVELOPMENT
CONDITIONS OF APPROVAL
REZONING PETITION NO. 6826**

Master Development Plans

1. Development shall be in accordance with the application, plans, and information submitted on September 16, 2008, unless otherwise stipulated or modified herein.

Open Space/Buffering

2. Wetlands (conservation/preservation areas) shall be as defined by the Pasco County Comprehensive Plan, Chapter 3, Conservation Element, Wetlands, Policy 1.3.1, and shown on all preliminary plans/preliminary site plans and construction plans/construction site plans. Lot lines shall not encroach into the wetlands and wetland buffers. Jurisdictional boundaries shall be delineated in accordance with the responsible regulatory agency. These boundaries may be adjusted following appropriate permit approval and shall be shown on each preliminary plan/preliminary site plan. Removal, encroachment, alteration, or development within wetlands shall be in accordance with the Pasco County Comprehensive Plan, Chapter 3, Conservation Element, Wetlands, Policy Nos. 1.3.6, 1.3.8, and 1.3.11; however, no removal, encroachment, alteration, or development shall be permitted within any wetland used to obtain a Comprehensive Plan or Land Development Code density credit. All permits for encroachments, alterations, or development within Category I wetlands shall be obtained and submitted to Pasco County prior to construction plan/construction site plan approval.
3. There shall be a buffer around all Category I wetlands of 25 feet, not inclusive of any lots. Wetland buffers around Category II and Category III wetlands shall be required in accordance with the Southwest Florida Water Management District or other regulatory agencies and shall not be inclusive of any lots. The proposed upland buffer area shall be shown on the construction plans/construction site plans. The final upland buffer area, as required by the Southwest Florida Water Management District or other regulatory agencies, shall be designated on the plat as "Wetland Conservation Areas." Permissible uses of the Wetland Conservation Areas shall be those uses allowed by Southwest Florida Water Management District or other regulatory agencies.
4. All wetlands and wetland buffers shall be platted within tracts and designated on the plat as "Wetland Conservation Areas." All preserved wetlands and wetland buffers shall be platted outside lots. No activity requiring the issuance of a Building Permit shall be allowed within five feet of the wetlands' buffer line. Concurrent with platting, all wetlands shall be deeded to the mandatory homeowners' association/Community Development District/merchants' association. The homeowners' association/merchants' association documents shall provide that the homeowners' association/merchants' association shall be responsible for the payment of taxes, if any, on the Wetland Conservation Areas.
5. The developer has submitted an environmental/habitat study which has been reviewed on November 4, 2008, by County staff and the following conditions shall apply:
 - a. Prior to any clearing or grubbing associated with the preliminary plan/preliminary site plan approval of any unit or phase, the developer shall submit a copy of any required permit issued by the Florida Fish and Wildlife Conservation Commission to the Development Review Division for the gopher tortoises.
6. Prior to construction plan/construction site plan approval, the developer shall submit to the Development Review Division a copy of the Environmental Resource Permit Application as submitted to the Southwest Florida Water Management District. Prior to the issuance of the Site Development Permit, the developer shall submit to the Development Review Division a copy of the Environmental Resource Permit.
7. The developer has submitted an Archaeological/Historical Survey, which was reviewed and found acceptable by Pasco County on September 30, 2008. Although no archaeological sites eligible for the National Register of Historic Places were found, the following statement shall be placed on all future site plans:

"If, during construction activities, any evidence of historic resources including, but not limited to, aboriginal or historic pottery, prehistoric stone tools, bone or shell tools, historic trash pits, or historic building foundations are discovered, work shall come to an immediate stop, and Pasco

County and the Florida Division of Historical Resources shall be notified within two working days."

8. The developer shall create a mandatory homeowners'/property owners'/condominium owners'/merchants' association in the form of a nonprofit corporation registered with the Secretary of State, State of Florida, or, if approved by the Board of County Commissioners, a Community Development District shall encompass the entire boundaries of the MPUD Master Planned Unit Development except for any real property to be conveyed to the County or the District School Board of Pasco County. The developer shall convey in fee simple to the association or the Community Development District, for ownership and maintenance, all open space, drainage areas, common areas, landscape areas, wetland areas, buffer areas, preservation/conservation areas, and other special purpose areas unless the said area(s) is/are required to be dedicated to another governmental entity. Recreation areas and neighborhood parks shall be conveyed to the association as well, but only to the Community Development District if such special power pursuant to Section 190.012(2), Florida Statutes, is consented to by the County. All such conveyances shall be for a value that does not exceed the fair market value of the land. Prior to platting the first unit or phase, homeowners'/property owners'/condominium owners'/merchants' association or Community Development District documents, including Articles of Incorporation with proof of being filed with the Secretary of State, State of Florida, restrictive covenants, and all exhibits, shall be submitted to the Engineering Services Department for review along with copies of instruments to be used to convey in fee simple the above-mentioned areas to the said association or the Community Development District. Impact fee credits for improvements or dedications shall go to the association or the Community Development District which funded such improvements as applicable.

Ordinances

9. In addition to the MPUD Master Planned Unit Development conditions of approval, the developer shall comply with all Pasco County ordinances, including all impact fee ordinances.
10. In the event ordinances/resolutions are subsequently adopted by the Board of County Commissioners including, but not limited to, solid waste, public safety, or wildlife ordinances, the owner/developer shall be required to comply with such ordinances/resolutions.
11. School-concurrency requirements as may be adopted by the County in the future are not waived nor satisfied by this rezoning approval. The owner/developer shall be required to comply with all provisions of a subsequently adopted School-Concurrency Program and the requirements to provide for school capacity as mandated.

Transportation/Circulation

Access Management

12. The developer shall provide a secondary functional access and emergency access to each increment in accordance with the Land Development Code as amended. The emergency access may be barricaded in a manner found acceptable by the Development Review Division and the Emergency Services Department.
13. Prior to construction plan/construction site plan approval of any project accessing a State roadway, the owner/developer shall furnish to the Development Review Division a Letter of Intent indicating approval and/or an approved Driveway Permit from the Florida Department of Transportation. Prior to the issuance of the first Certificate of Occupancy, the owner/developer shall provide a letter from the Florida Department of Transportation stating that the improvements within the State right-of-way have been inspected and completed to their satisfaction.
14. At each preliminary plan/preliminary site plan approval, the Development Review Committee may also require further intersection improvements along the internal road intersections and Point Cypress Boulevard.
15. Access to any commercial out-parcels shall be provided from internal drives or parking areas.
16. Any gates located within gated communities shall be setback sufficiently in order to provide vehicular stacking for a minimum of three vehicles, unless a greater distance is determined to be required at the time of each preliminary plan or preliminary site plan review. All entrances accessed by key or electronically coded systems shall be equipped with a system approved by the Emergency Services Director to allow fire or other emergency vehicles immediate access to the development. Upon replacement of any existing gated system, the replacement shall be equipped with a system acceptable to Pasco County. In addition, the access lane widths and clearance between fixed structures shall be a minimum of 15 feet in width.

Dedication of Right-of-Way

17. Public roadways shall be required unless otherwise approved by the Development Review Committee through an alternative standards request prior to the first preliminary plan/preliminary site plan approval.
18. In the case of private streets, dedication and maintenance shall be the responsibility of an appropriate entity other than Pasco County.
19. Vehicular-access rights along the rear of all double-frontage lots that abut roads within or adjoining the project shall be dedicated to Pasco County concurrent with final record platting for each phase of any increment or where no plat is required prior to final site plan approval.

Design/Construction Specifications

20. Prior to preliminary plan/preliminary site plan submittal, the developer shall supply evidence that it has coordinated with the developer(s) and engineer(s)/surveyor(s) of the adjoining parcels to the east to identify and provide the location of the required interconnecting roadway. The following information shall be shown on all preliminary plans/preliminary site plans and construction plans/construction site plans that include or abut the interconnecting roadway: location (by State plane coordinates), centerline, right-of-way width, cross section, elevation of centerline, grade, and centerline geometry (tangent bearing/curve geometry) to provide a seamless continuation of this road at property lines.
21. Alternative roadway-design standards may be considered and approved by the Development Review Committee at the time of each preliminary plan/preliminary site plan approval.
22. The developer has submitted a traffic study which was reviewed by the staff of the County. Prior to approval of the first record plat, or where platting is not required, prior to the issuance of the first Building Permit, the developer shall construct or bond the following site-access improvements:
 - a. The applicant shall extend the eastbound, left-turn lane on S.R. 54 at the site-access connection from 340 feet to a total distance of 400 feet, including a 50-foot taper.
 - b. The applicant shall extend the westbound, right-turn lane on S.R. 54 at the site-access connection from 205 feet to a total distance of 375 feet, including a 50-foot taper.

Off-Site Improvements

- c. The applicant shall mitigate project impacts on S.R. 54 through the payment of a proportionate-share amount of \$288,744.00, which shall be applied toward the construction of the Zephyrhills Bypass. This amount shall be subject to impact fee credits, in accordance with the Pasco County Land Development Code.
 - d. The applicant shall mitigate project impacts at the S.R. 54/Eiland Boulevard intersection through the payment of a proportionate-share amount of \$1,744.00 (based upon calculation of the extension of the northbound, left-turn lane by an additional 220 feet), which shall be applied toward the construction of the Zephyrhills Bypass.
23. The developer shall obtain cross access to the east to Eiland Boulevard prior to submission of the first preliminary plan.
24. In lieu of the above-mentioned off-site improvements, the developer/applicant shall pay a proportionate share in the amount of \$288,744.00 for the improvements specified in Condition No. 22 within 90 days of the date of the rezoning approval by the Board of County Commissioners. This amount is based upon 2008 dollars. If the required payment is not received within the 90-day time frame, then payment shall be received prior to any construction plan/construction site plan approval. The required proportionate-share contribution shall be indexed by the latest adopted Impact Fee Ordinance should payment not be received within the 90-day time frame.

If the required proportionate-share payment is made, the developer/applicant may be entitled to impact fee credits against the proportionate-share payment in accordance with the Impact Fee Ordinance as amended.

If applicable, the County commits to add the above-mentioned equal-mitigation improvements in the next update to the Capital Improvement Plan/Capital Improvement Element, subject to the Florida Department of Community Affairs approval of the County's Long-Term Concurrency Management System.

25. Should a change/reduction in the proportionate-share payment be requested in the future, a revised traffic analysis shall be required in order to assess traffic impacts of the MPUD Master Planned Unit Development.
26. Prior to or concurrent with the approval of the first construction plan/construction site plan, if applicable, the developer shall obtain Right-of-Way Use Permits for the construction of the improvements identified above.
27. Prior to final plat approval for residential, or where platting is not required, prior to the issuance of any Building Permits occurring after December 31, 2012, the developer shall submit an updated traffic study utilizing a methodology approved by Pasco County. The Development Review Committee may impose additional conditions based upon the traffic study as approved by Pasco County.
28. The traffic study submitted by the applicant assumes the following land uses: 112,000 square feet of retail and a 3,700-square-foot sit-down restaurant. Any development of land use(s) that generate(s) greater traffic impacts than those assumed shall require an updated traffic study utilizing a methodology approved by Pasco County. In addition, where a traffic study assumes retirement, age restricted, 55 and older, or 62 and older housing, prior to approval of each plat, or where platting is not required, prior to approval of each construction plan, the developer shall provide to the County Attorney's office executed and recorded covenants or deed restrictions that restrict the said plat or construction plan to housing for persons 55 and older or 62 and older, as applicable. The said covenants, if satisfactory to the County Attorney's office, may also be used to satisfy the first tier of the School Impact Fee Waiver and Transportation Impact Fee reduction process. If the applicant or development fails to timely provide the required covenants or deed restrictions, or fail to comply with such covenants or deed restrictions, the applicant or development shall be required, in addition to any County remedies set forth in the County-approved covenants/deed restrictions, to submit an updated traffic study without any reduction in trip generation based on retirement, age restricted, 55 and older, or 62 and older housing; and additional approvals within the development shall be held in abeyance until the County approves the updated traffic study and determines the appropriate transportation mitigation. The Development Review Committee, Board of County Commissioners, or County Administrator or his designee, may impose additional conditions on the applicant or development based on the updated County approved traffic study.
29. The developer shall comply with the County and Pasco County Public Transportation requirements to accommodate mass transit service to and within the project. A detailed description of the overall transit-accommodations plan shall include, but is not limited to, a proposed ingress and egress route for buses and bus stops proposed to service the project including, but not limited to, benches, shelters, lighting, pedestrian walkways, landscaping, and placement as required by the County or Pasco County Public Transportation. The developer shall submit the detailed description of the overall transit-accommodations plan to the Zoning/Code Compliance Department for review and the Development Review Committee's approval prior to or concurrent with the preliminary plan/preliminary site plan submittal of the first unit or phase within the development. Approval of the detailed description of the overall transit-accommodations plan is subject to Pasco County Public Transportation review and approval in accordance with the Pasco County Public Transportation *Transit Infrastructure Guidelines* (June 2005), as may be amended from time to time, or any subsequent ordinance adopted by Pasco County. The developer shall include and show on any preliminary plan/preliminary site plan submittal the Development Review Committee approved transit-accommodation facilities, which shall be constructed with the infrastructure improvements of each affected preliminary plan/preliminary site plan unless an alternative phasing of transit-accommodation-facilities construction is approved with the overall transit-accommodations plan. The applicant/developer and its successors shall not refuse the Pasco County Public Transportation, or any other transit authority, or any of its users/patrons access to such facilities.
30. The developer may submit an overall pedestrian/bike path plan to the Zoning/Code Compliance Department for the Development Review Committee approval prior to approval of the first preliminary plan/preliminary site plan, which provides a path circulation in accordance with the Pasco County Land Development Code as amended or an alternative method acceptable to the Development Review Committee and in compliance with the handicapped provisions of Chapter 336.045, Florida Statutes, or other applicable law. In the absence of an approved pedestrian/bike path plan, compliance with the Land Development Code is required.

Utilities: Drainage, Water Service, Wastewater Disposal

31. The developer shall submit a Stormwater Management Plan and Report for each development phase or increment in accordance with the Pasco County Land Development Code as amended. The plans shall be approved prior to or simultaneous with application for construction plan review for the development phase/increment in question. No design for an individual increment/phase or portion of an

increment/phase shall be dependent upon the ultimate construction of future increments/phases, unless an interim design for drainage is approved by the Development Review Division.

32. Finished floor elevations for all habitable structures shall be at or above the 100-year floodplain elevation. All preliminary plan/preliminary site plan submittals shall provide 100-year flood elevation data.
33. A Master Utility Plan for the entire development shall be submitted to the Utilities Services Branch for review and approval prior to submittal of the first construction plan/construction site plan. This utility plan shall minimally show the following:
 - a. Trunk sewer lines and lift stations.
 - b. Main potable water lines and nonpotable water lines, if applicable.
 - c. Sewage treatment facility locations, including discussion of the proposed method of treatment and the feasibility of a nonpotable water system for irrigation.
 - d. Method of lighting all nonlocal roads shall be submitted at the time of record plat submittal for each unit or phase.
 - e. Master utility plans shall be presented in a written format in conformance with the Master Utility Plan guidelines implemented by the Utilities Services Branch. Prior to the first construction plan/construction site plan approval, the developer and the County shall enter into a Utilities Service Agreement.
34. The developer shall construct all water and wastewater facilities within the development to current Pasco County standards. A complete set of instructions may be obtained from the Utilities Services Branch.
35. In consideration of Pasco County's agreement to provide potable water and/or reclaimed water to the subject property, the developer/owner and its successors and assigns, agree to the following:
 - a. In the event of production failure or shortfall by Tampa Bay Water, as set forth in Section 3.19 of the Interlocal Agreement creating Tampa Bay Water, the developer/owner shall transfer to Pasco County any and all Water Use Permits or water-use rights the developer/owner may have to use or consume surface or ground water within Pasco County.
 - b. Prior to the developer/owner selling water, Water Use Permits, or water-use rights, the developer/owner shall notify Pasco County, and Pasco County shall have a right of first refusal to purchase such water, Water Use Permits, or water-use rights.

Tampa Bay Water

Water Quality and Drainage

36. Development of the project shall not result in Levels of Service for off-site drainage structures below acceptable standards as established in the adopted Pasco County Comprehensive Plan and Land Development Code, as may be amended from time-to-time.
37. The project's stormwater-management system shall be designed, constructed, and maintained to meet or exceed Chapters 62-25 and 40D-4 or 40D-40, Florida Administrative Code, and Pasco County stormwater-management requirements, as may be amended from time-to-time. Treatment shall be provided by biological filtration wherever feasible. Best Management Practices for reducing adverse water quality impacts, as required by the regulations of Pasco County and other appropriate regulatory bodies, shall be implemented. In addition, the applicant/developer shall comply with the following design requirements:
 - a. All swales shall be fully vegetated and operational.
 - b. Dry stormwater retention/detention areas, including side slopes and bottoms, shall be vegetated as required.
 - c. The applicant/developer or other responsible entities shall ensure that the stormwater-management system is being properly maintained in keeping with its design and is providing the level of stormwater storage and treatment as established in the Environmental Resource Permit.

- d. Should the applicant/developer discover that any portion of the stormwater system is not being adequately maintained or that the system is not functioning properly, the applicant/developer shall, within seven days, report such fact to the County and shall promptly undertake any necessary repairs or modifications to the system. The developer's report(s) shall include any such problems and the necessary repairs or modifications to remedy them, as well as what repairs or modifications to the system have been undertaken since the previous report(s).
 - e. Landscape and irrigation shall be in conformance with the Land Development Code in effect at the time of preliminary plan/preliminary site plan approval.
38. The historic, average rainfall volume discharged from the site should be maintained postdevelopment. The applicant/developer shall propose stormwater design solutions which achieve this goal, such as use of swale systems and reducing treatment volume requirements to the extent the permitting agencies (Pasco County and Southwest Florida Water Management District) can allow.

Land Use

39. The commercial design standards and uses shall be in accordance with regulations for Section 526, C-2 General Commercial District, of the Pasco County Land Development Code.
- a. The above minimum setbacks are calculated based on minimum right-of-way widths in accordance with the Land Development Code. Any reduction of the minimum right-of-way width may require an MPUD Master Planned Unit Development amendment to increase minimum setbacks.
 - b. The maximum floor area shall not exceed 115,700 square feet of gross floor area, including out-parcels.
 - c. The maximum density or square footage set forth above is not a vested right and is subject to reduction based on, or as a result of, applicable Pasco County ordinances and resolutions.
 - d. Parcels may be developed out of numerical sequence and in multiples as long as the parcels being developed do not rely upon infrastructure construction of future parcels.
 - e. Any proposed increase in density/intensity that results in an overall increase greater than or equal to five percent cumulatively, or a change in overall design and/or content occurs, a substantial amendment shall be presumed. Additionally, should the proposed amendment result in an increase in density/intensity which necessitates a revised traffic study, then the request shall be presumed to be substantial.
 - f. Residential use may not be intensified within any one increment following approval of the plat or final site plan for the first unit in that increment without review and approval by the Board of County Commissioners.
 - g. Any overall increase to density/intensity or decrease in open space shall be calculated cumulatively from the last substantial amendment.

Procedures

- h. Unless required elsewhere within the conditions of approval, all conveyances shall occur at record plat or construction plan approval where a record plat is not required or within 90 days of the County's request, whichever occurs first. All conveyances shall include access easements, be in a form acceptable to the Real Estate Division, and be free and clear of all liens and encumbrances, including exemption from all covenants and deed restrictions.
- i. If the preliminary plans and/or preliminary site plans for the entire MPUD Master Planned Unit Development are not approved within six years of the original rezoning approval or from the last approved substantial modification, the conditions of approval shall expire for those portions of the MPUD Master Planned Unit Development that do not have (unexpired) preliminary plan or preliminary site plan approval. If the MPUD Master Planned Unit Development expires, a new MPUD Master Planned Unit Development must be applied for and approved by the Board of County Commissioners, and the conditions of approval shall be in accordance with the Comprehensive Plan and Land Development Code in effect at that time.
- j. Unless otherwise approved by the Emergency Services Director, the development shall be included into a Pasco County Municipal Fire Service Taxing Unit to provide fire protection. The developer shall submit a petition for inclusion into the Pasco County Municipal Fire Service Taxing Unit at the time of record plat submission, or when no plat is required, prior to the

issuance of the first Building Permit. In no case shall a Building Permit be issued until the Emergency Services Director has received such a petition.

- k. A preliminary plan/preliminary site plan must be approved for an entire increment (bubble) prior to any phased construction plan/construction site plan approval. The maximum density and intensity of each increment shall not exceed the limits shown on the approved MPUD Master Planned Unit Development Plan. A preliminary site plan must also be approved for each multifamily (nonfee simple), recreational vehicle, or commercial increment in its entirety prior to any phased construction site plan approval.
- l. Preliminary plan/preliminary site plan submittals shall include a detailed breakdown of the individual plan approvals, including the plan name and increment or phase designation as it relates to the Master Development Plan, acreage of the site, total number of units, or gross floor area ratio of commercial space which have received preliminary plan/preliminary site plan approval, construction plan/construction site plan approval, and/or record plat approval.
- m. Development shall occur in accordance with the Pasco County Land Development Code, Section 402, Concurrency Management System.
- n. Rezoning of this property with conditions of approval does not constitute a final development order, nor does it relieve any developer of responsibilities under the State of Florida Zoning Legislation as implemented by the Florida Department of Community Affairs and Pasco County.
- o. In addition to complying with the above conditions, no further plan approvals will be granted until such time as the acknowledgment portion of the Board of County Commissioners approved document is completed (including notarization) and received by the Zoning/Code Compliance Department after the Board of County Commissioners action.
- p. All conditions of this MPUD Master Planned Unit Development approval are material to the Board of County Commissioners approval. Accordingly, the conditions are not severable. In the event any section, subsection, sentence, clause, or provision of these conditions or the rezoning resolution is challenged and declared illegal, invalid, or in violation of any statutory or constitutional requirement by a body with jurisdiction to make such determination, the remainder of the conditions and MPUD Master Planned Unit Development approval shall be suspended until such time that the Board of County Commissioners modifies the MPUD Master Planned Unit Development conditions of approval to address the illegal or invalid provision. However, such determination shall not affect the validity of 1) MPUD Master Planned Unit Development entitlements that have received plat, Building Permit, or Certificate of Occupancy approval; or 2) any MPUD Master Planned Unit Development mitigation committed to or performed as of the date the determination is made, unless such approvals or mitigation are specifically declared to be illegal, invalid, or unenforceable. Requests for Board of County Commissioners-approved modifications to the MPUD Master Planned Unit Development or the MPUD Master Planned Unit Development conditions of approval shall not be considered challenges and decisions by the Board of County Commissioners regarding any modification or the like shall not have the effect of suspending the conditions and the MPUD Master Planned Unit Development approval under any circumstances.

OWNER'S/DEVELOPER'S ACKNOWLEDGMENT:

The owner/developer acknowledges that it has read, understood, and accepted the above-listed conditions of approval. **Do not sign until you receive a copy of this petition with the Board of County Commissioners results.**

(Date)

PALMCREST HOMES OF TAMPA BAY-III, LLC

I hereby certify on this _____ day of _____, _____, A.D., before me personally appeared the owner/developer, to me known to be the person described in and who executed the foregoing document and severally acknowledged the execution thereof to be its free act and deed for the uses and purposes therein expressed.

Witness my hand and seal at _____,
County, Florida, the day and year aforesaid.

My commission expires:

(Date)

Notary Public, State of _____ at Large