

HEARING EXAMINER DECISION

PETITION NO. PDI-PL20170003446 – TBC Tree Farm 1, LLC and TBC Tree Farm 2, LLC request an insubstantial change to Ordinance Number 07-54, as amended, the Tree Farm MPUD, to reduce the minimum building setback and minimum landscape buffer to zero for the western PUD boundary adjacent to the Addie's Corner MPUD if both properties are developed with a unified development plan, and to reduce the minimum floor area for multi-family units from 1,000 to 750 square feet, for the PUD property consisting of 58.84± acres, located on the northwest corner of the intersection of Immokalee Road and Collier Boulevard in Section 22, Township 48 South, Range 26 East, Collier County, Florida.

DATE OF HEARING: June 28, 2018

STAFF RECOMMENDATION: Approval.

FINDINGS:

Based on the applicant's written petition, testimony at the hearing of the applicant and the public, and the recommendation of staff, the Hearing Examiner finds that the criteria set forth in Sections 10.02.13 E.1 and 10.02.13 E.2 of the Land Development Code has been met and the petition should be approved.

ANALYSIS:

A Neighborhood Informational Meeting (NIM) was held in May 2018 for this insubstantial change. Two members of the public attended the NIM. Questions were asked and responded to by the applicant, no objections were noted and staff has received no objections to this petition.

Approximately 12-15 members of the public were in attendance for this hearing. Several members of the public participated and requested clarification on various aspects of the application. No objections were noted.

This application includes:

1. a reduction in minimum residential unit square footage from 1000 square feet to 750 square feet,
2. an ability to eliminate the property line buffer when a unified plan of development is processed,
3. allowing a zero setback between properties under a unified plan, and
4. minor changes and inclusions to update the Planned Unit Development (PUD) language.

The adjoining PUD, Addie's Corner (aka: Addison Place) is being developed with multi-story residential units. The intent of this application is to allow the Addie's Corner development to expand into a portion of the Tree Farm PUD. The square footage reduction in the Tree Farm PUD is consistent with the minimum square footage standard being used in Addie's Corner and

because of the common development, the buffer between the unified portions of the two adjoining PUD's would not be required.

No other changes to the development standards are impacted by this change.

DECISION:

The Hearing Examiner hereby approves Petition Number PDI-PL20170003446, filed by D. Wayne Arnold, AICP, of Q. Grady Minor & Associates, and Richard D. Yovanovich, Esq., of Coleman, Yovanovich & Koester, P.A., representing TBC Tree Farm 1, LLC, and TBC Tree Farm 2, LLC, with respect to the property as described in the Tree Farm MPUD, Ordinance No. 07-54, for the following insubstantial changes:

- to reduce the minimum building setback and minimum landscape buffer to zero for the western PUD boundary adjacent to the Addie's Corner MPUD, if both properties are developed with a unified development plan; and
- to reduce the minimum floor area for multi-family units from 1,000 to 750 square feet.

Said changes are fully described in the Tree Farm MPUD amendment attached as Exhibit "A", and are subject to the condition(s) set forth below.

ATTACHMENTS: Exhibit A – MPUD Amendment
Exhibit B – Common Boundary Exhibit

LEGAL DESCRIPTION: See Ordinance No. 07-54, the Tree Farm MPUD.

CONDITIONS:

1. All other applicable state or federal permits must be obtained before commencement of the development.
2. A unified plan of development will be used when the common property boundary setback and buffers are requested to be removed.
3. The common property boundary setback and buffer changes are limited to the area along the common property line between Addie's Corner and the Tree Farm PUDs, as shown on Exhibit "B".

DISCLAIMER:

Pursuant to Section 125.022(5) F.S., issuance of a development permit by a county does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the county for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law.

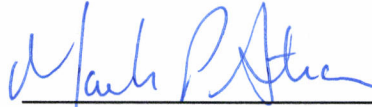
APPEALS:

This decision becomes effective on the date it is rendered. Pursuant to Ordinance 2013-25, as amended, a Hearing Examiner Decision may be appealed to the Board of County Commissioners or the Board of Zoning Appeals, as appropriate. Appeals must be filed within 30 days of the date the Hearing Examiner Decision is rendered.

RECORD OF PROCEEDINGS AND EXHIBITS: SEE CLERK OF COURT, MINUTES AND RECORDS DEPARTMENT. DECISIONS OF THE HEARING EXAMINER FOR VARIANCES, CONDITIONAL USES, AND BOAT DOCK EXTENSIONS SHALL BE NOTED ON THE ZONING MAP FOR INFORMATIONAL PURPOSES.


7-5-18

Date



Mark Strain, Hearing Examiner

Approved as to form and legality:



Scott A. Stone
Assistant County Attorney

SECTION 22;
THENCE LEAVING THE SAID EAST-WEST QUARTER (1/4) LINE N. 00°45'01" W., A
DISTANCE OF 1334.03 FEET;
THENCE N. 89°56'17" E., A DISTANCE OF 653.36 FEET TO THE POINT OF
BEGINNING OF THE PARCEL DESCRIBED HEREIN.
CONTAINING 2,563,283.4 SQUARE FEET OR 58.84 ACRES MORE OR LESS.
SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD.

1.3 PROPERTY OWNERSHIP

The subject property is owned by:

~~Thomas S. Monaghan (Tree Farm Land Trust)~~ TBC Tree Farm 2, LLC (Folio: 00187400000,
and 00187400002, and 00188040005)
TBC Tree Farm 1, LLC (Folio: 00188040005)

Collier County (Folio: 00190041403, 7.42 ac property conveyed fee simple to Collier County
– OR4413 PG 3834)

1.4 DEVELOPER

The Tree Farm property is intended to be developed by the Tree Farm Land Trust or assignee. All reference to the “developer” as may be contained in this MPUD Document shall mean the Tree Farm Land Trust, unless, and until the subject property described and depicted in this MPUD Document is conveyed, or assigned. It is the responsibility of the Tree Farm Land Trust to notify Collier County, in writing, of the land conveyance, or assignment of the subject property described and depicted in this MPUD Document within six months from the actual conveyance, or assignment.

1.5 PHYSICAL DESCRIPTION

The development property is located in Section 22, Township 48 South, Range 26 East, Collier County. It consists of ±58.84 acres located in the northwest corner of the intersection of Immokalee Road (CR 846) and Collier Boulevard (C.R. 951). The property was previously used as a tree nursery. Improvements on the property consist of a small maintenance shed and the property is generally without topographic relief, with the average elevation at approximately 13 feet above mean sea level.

The water management system will consist of approximately ±6.4 acres of water management areas that will receive runoff from structures and parking areas. Run-off is collected by catch basins and culvert systems for conveyance to the project’s internal lake system. The project outfall will be at the project’s eastern boundary. Discharge will be into the Cocohatchee Canal that runs along Immokalee Road. Allowable discharge rates will be in accordance with applicable County ordinances.

The water management system will be permitted by the South Florida Water Management District (SFWMD) through the Environmental Resource Permit (ERP) process. All rules and regulations of SFWMD will be imposed upon this project including, but not limited to: storm attenuation with a peak discharge rate per Collier County and SFWMD Rules,

TABLE III
DEVELOPMENT STANDARDS FOR COMMERCIAL DISTRICT

	PRINCIPAL USES	ACCESSORY USES
MINIMUM LOT AREA	10,000 sq. ft.	N/A
AVERAGE LOT WIDTH	100 ft.	N/A
MINIMUM YARDS (External)		
From Immokalee Road Canal ROW	25 ft.	SPS
From Future Extension of Collier Blvd.	25 ft.	SPS
From Western Project Boundary*****	25 ft.	15 ft.
MINIMUM YARDS (Internal)		
Internal Drives/ROW	15 ft.	10 ft.
Rear	10 ft.	10 ft.
Side	10 ft.	10 ft.
Lakes	25 ft.	20 ft.*
Preserves	25 ft.	10 ft.
MIN. DISTANCE BETWEEN STRUCTURES	10 ft. or 1/2 the sum of building heights**	10 ft.
MAXIMUM HEIGHT	ZONED	ACTUAL
Retail Buildings (with or without residential uses)	50 ft.	62 ft.
Office Buildings (with or without residential uses)	65 ft.	77 ft.
MINIMUM FLOOR AREA	1,000 sq. ft.***	N/A
MAX. GROSS LEASABLE COMMERCIAL AREA	120,000 sq. ft. ****	N/A

* No structure may be located closer than 20 feet to the top of bank of a lake (allowing for the required minimum 20 foot wide lake maintenance easement).

** Whichever is greater.

*** Per principal structure, kiosk vendor, concessions, and temporary or mobile sales structures shall be permitted to have a minimum floor area of twenty-five (25) square feet and shall be subject to the accessory structure standards set forth in the LDC.

**** Total allowable commercial square footage is 120,000 square feet; however no more than 100,000 may be retail or office and the balance, above 100,000 square feet, if developed, shall be office.

***** In the event the property is developed as a unified development with the Addie's Corner PUD, a zero foot setback shall be allowed along the common property PUD boundary and no landscape buffer shall be required.

TABLE IV
RESIDENTIAL DEVELOPMENT STANDARDS

DEVELOPMENT STANDARDS	SINGLE-FAMILY DETACHED	SINGLE-FAMILY ATTACHED & TOWNHOUSE	TWO FAMILY, PATIO ^{1,2} & ZERO LOT LINE	MULTI FAMILY ⁵
PRINCIPAL STRUCTURES				
MINIMUM LOT AREA	2,250 S.F. PER UNIT	2,250 S.F. PER UNIT	2,250 S.F. PER UNIT	10,000 S.F.
MINIMUM FLOOR AREA	1,000 S.F.	1,000 S.F.	1,000 S.F.	1,000 <u>750</u> S.F./D.U.
MIN FRONT YARD ^{3,4}	15 FEET	15 FEET	15 FEET	15 FEET
MIN SIDE YARD	5 FEET	0 FEET or 5 FEET	0 FEET or 5 FEET	10 FEET
MIN REAR YARD	7.5 FEET	7.5 FEET	7.5 FEET	20 FEET
MIN PRESERVE SETBACK	25 FEET	25 FEET	25 FEET	25 FEET
MIN. DIST. BETWEEN STRUCTURES	10 FEET	10 FEET	10 FEET	20 FEET or ½ ZONED BH, WHICHEVER IS GREATER
MAX. ZONED HEIGHT	2 STORIES NTE 42 FEET	2 STORIES NTE 42 FEET	2 STORIES NTE 42 FEET	3 STORIES NTE 50 FEET
ACTUAL HEIGHT	54 FEET	54 FEET	54 FEET	62 FEET
ACCESSORY STRUCTURES				
FRONT	10 FEET	10 FEET	10 FEET	10 FEET
SIDE	5 FEET	5 FEET	5 FEET	5 FEET
REAR	5 FEET	5 FEET	5 FEET	5 FEET
PRESERVE SETBACK	10 FEET	10 FEET	10 FEET	10 FEET
MAX. BLDG. HT. NOT TO EXCEED	SPS	SPS	SPS	3 STORIES NTE 42 FEET

S.P.S.: Same as Principal Structures. NTE: Not To Exceed
BH: Building Height

General Notes:

Front yards shall be measured as follows: If the parcel is served by a public or private right-of-way, setback is measured from the adjacent right-of-way line.

If the parcel is served by a private road, setback is measured from the back of curb (if curbed) or edge of pavement (if not curbed).

Setback from lake easements for all accessory uses and structures may be zero feet (0').

No structure, other than those permitted within the LDC to be located within a required landscape buffer tract or easement, shall encroach into a required landscape buffer tract or easement.

Footnotes

- 1) *A patio home is a detached or semi-detached single-family unit from ground to roof wherein each dwelling unit lot is enclosed by a wall located at the lot line, thus creating a private yard between the house and the wall.*
- 2) *Setback may be either zero feet (0') on one side and five feet (5') on the other side in order to provide a minimum separation between principal structures of ten feet (10'). At the time of application for subdivision plat approval for each tract, a lot layout depicting minimum yard setbacks and building footprint shall be submitted.*
- 3) *Front loading garages shall have a minimum front yard setback of twenty-three feet (23'), as measured from the back of sidewalk. Side loaded garages may be located less than twenty-three feet (23') feet from the back of sidewalk provided that the driveway design allows for parking of vehicles so as not to interfere with or block the sidewalk. These provisions apply to a garage whether attached to the principal structure or detached.*
- 4) *For corner lots, only one (1) front yard setback shall be required. The yard that does not contain the driveway shall provide a 10' setback.*
- 5) *In the event the property is developed as a unified development with the Addie's Corner PUD, a zero foot setback shall be allowed along the common property PUD boundary and no landscape buffer shall be required.*

Services Staff for review and approval prior to site plan/construction plan approval. Where protected species are observed on site, a Habitat Management Plan for those protected species, or their habitats shall be submitted to Environmental Services Staff for review and approval prior to site plan/construction plan approval.

6.6 AFFORDABLE-WORKFORCE HOUSING:

- A. The applicant shall provide 15% of the total units built in the project in the affordable housing price range or workforce housing, i.e., for those who earn up to 150% of the median income as calculated annually using the Collier County median income figure for a family of four as determined by the United States Housing and Urban Development Department (HUD). The applicant will use the most current median income figure as defined above at the time of sale to determine if that unit falls into the 150% median income or below. Currently, that would allow a sales price of up to \$321,000. The applicant will provide verification of the sales prices to Collier County's Housing and Human Services Department. The form of verification shall be determined between the applicant and the Collier County Housing and Human Services Division.

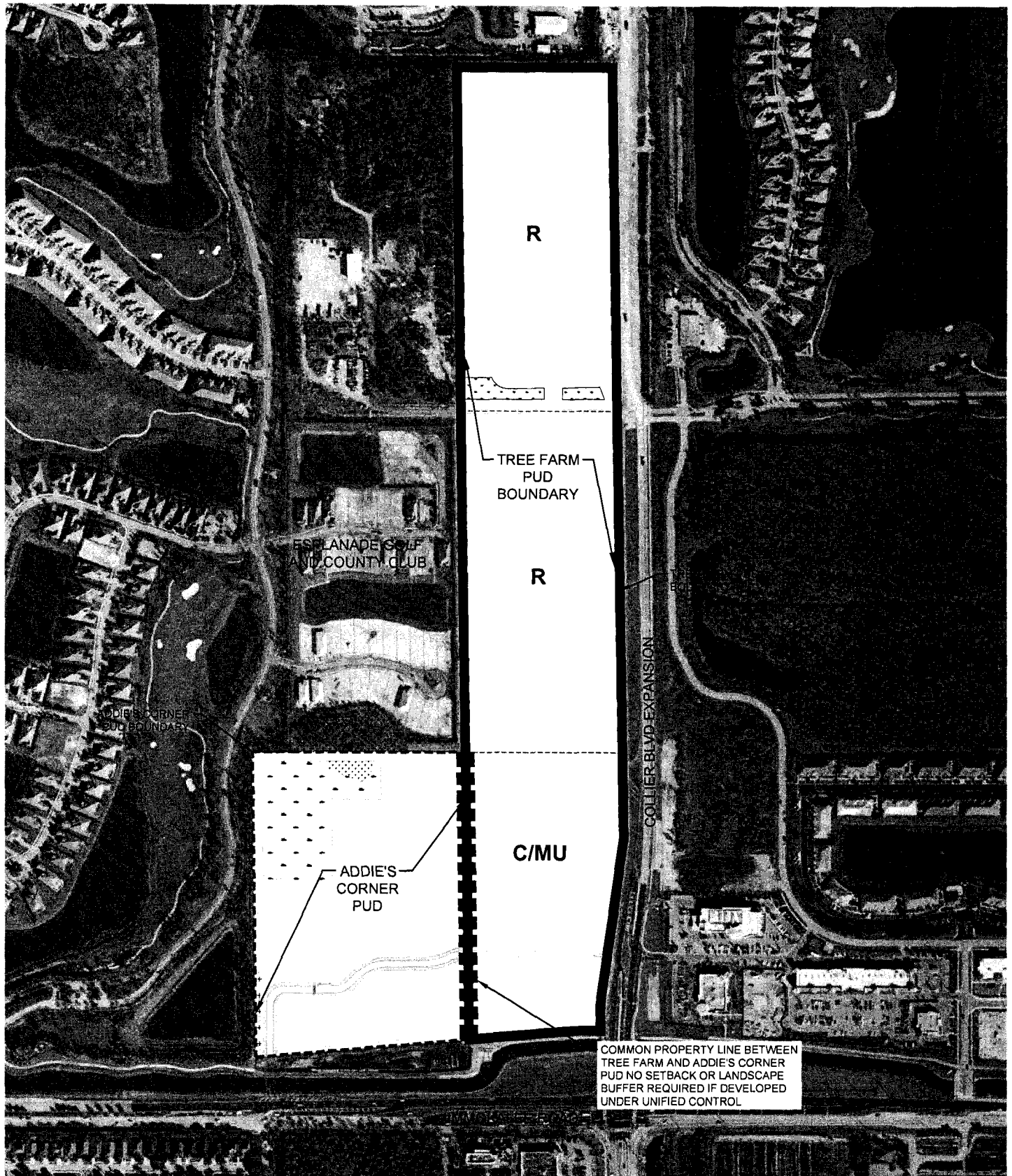
6.7 PUD MONITORING

One entity (hereinafter the Managing Entity) shall be responsible for PUD monitoring until close-out of the PUD, and this entity shall also be responsible for satisfying all PUD commitments until close-out of the PUD. At the time of this PUD approval, the Managing Entity is TBC Tree Farm 1, LLC, 14004 Roosevelt Boulevard, Suite 601, Clearwater, Florida 33762. Should the Managing Entity desire to transfer the monitoring and commitments to a successor entity, then it must provide a copy of a legally binding document that needs to be approved for legal sufficiency by the County Attorney. After such approval, the Managing Entity will be released of its obligations upon written approval of the transfer by County staff, and the successor entity shall become the Managing Entity. As Owner and Developer sell off tracts, the Managing Entity shall provide written notice to County that includes an acknowledgement of the commitments required by the PUD by the new owner and the new owner's agreement to comply with the Commitments through the Managing Entity, but the Managing Entity shall not be relieved of its responsibility under this Section. When the PUD is closed-out, then the Managing Entity is no longer responsible for the monitoring and fulfillment of PUD commitments.

6.8 MISCELLANEOUS

- A. Issuance of a development permit by a county does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the county for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. (Section 125.022, FS)
- B. All other applicable state or federal permits must be obtained before commencement of the development.

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PENINSULA ENGINEERING

CIVIL ENGINEERING - LANDSCAPE ARCHITECTURE
 ENVIRONMENTAL CONSULTING - LAND PLANNING
 SITE PLANNING - CONSTRUCTION MANAGEMENT
 OWNER REPRESENTATIVE
 2600 Golden Gate Parkway
 Naples, Florida 34105
 Phone: 239.403.6700 Fax: 239.261.1797
 Email: info@pen-eng.com Website: www.pen-eng.com
 Florida Certificate of Authorization #28275

PROJECT:

TREE FARM PUD

TITLE:

COMMON BOUNDARY EXHIBIT

OWNER/CLIENT/CONSULTANT:

TBC TREE FARM 1, LLC

SEC: 22 TWP: 48 RGE: 26

Designed by: ALEJANDRO AVILA

Drawn by: ALEJANDRO AVILA

Date: JUNE 2018

Drawing Scale: 1" = 500'

Project Number: P-BROK-001

File Number: P-BROK-001-001-X14

C-X14

Sheet Number: 01 of 01