

**ORIGINAL DOCUMENTS CHECKLIST & ROUTING SLIP
TO ACCOMPANY ALL ORIGINAL DOCUMENTS SENT TO
CLERK OF COURT'S OFFICE
COLLIER COUNTY HEARING EXAMINER**

Route to Addressee(s) (List in routing order)	Office	Initials	Date
Minutes and Records minutesandrecords@collierclerk.com	Clerk of Court's Office	HD	9/27/21

PRIMARY CONTACT INFORMATION

Normally the primary contact is the person who created/prepared the Document. Primary contact information is needed in the event there is a need for additional or missing information.

Name of Primary Contact	Andrew Dickman, Esq. Heather DeSanto, Paralegal	Phone Number 239-434-0840	Alternate Phone Number 239-302-2701
Hearing Examiner Meeting Date	8/26/21	Hearing Petition ID(s)	PDI-PL20210001014
Type of Document Attached	<input type="checkbox"/> Agenda <input type="checkbox"/> Back-up Documents <input checked="" type="checkbox"/> Decision <input type="checkbox"/> Transcript	Number of Original Documents Attached	1
PO number or account number if document is to be recorded	131-138350-649030		

INSTRUCTIONS & CHECKLIST

	Use the Check Box in the Yes column or mark "N/A" in the Not Applicable column, whichever is appropriate.	Yes	N/A
1.	Does the decision amend an Ordinance? If yes, Ordinance Number Amended is <u>18-27</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2.	Other than the Hearing Examiner, documents are to be emailed to: Diane.Lynch@colliercountyfl.gov ; Patricia.Mill@colliercountyfl.gov		
3.	Has the date for the Hearing Examiner's signature line been entered as the Final Decision date?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	Original document has been signed/initialed for legal sufficiency?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4.	The final decision is dated <u>9/24/21</u>		

HEARING EXAMINER DECISION

DATE OF HEARING.

August 26, 2021

PETITION.

PETITION NO. PUD PDI-PL20210001014, Fiddlers Creek PUD PDI - Request for an insubstantial change to the Marco Shores/Fiddler's Creek Planned Unit Development (PUD) to provide for a signage deviation from LDC Section 5.06.04 F.1. to allow for an additional on-premise pole sign to serve the Business/Commercial Tract on U.S. 41 near Sandpiper Drive. The subject PUD consisting of 3,932 acres is located east of Collier Boulevard (CR 951) and south of Tamiami Trail East (US 41) in Sections 11, 13, 14, 15, 22, 23, and 24, Township 51 South, Range 26 East and Sections 18, 19 and 29, Township 51 South, Range 27 East, in Collier County, Florida.

GENERAL PURPOSE FOR THE PETITION.

The purpose of this Insubstantial Change to a PUD (PDI) is to request a sign deviation from LDC Section 5.06.04 F.1. "On-premise signs," to allow for an additional on-premise pole sign to serve the Business/Commercial Tract on U.S. 41 near Sandpiper Drive.

STAFF RECOMMENDATION.

Approval with conditions.

FINDINGS.

1. The Hearing Examiner has jurisdiction over this Petitioner pursuant to Sec. 2-87 of the Collier County of Ordinances, Sec. 8.10.00 of the Land Development Code, and Chapter 9 of the County Administrative Code.
2. The public hearing for this Petition was properly noticed and conducted in accordance with all County and state requirements.
3. The public hearing was conducted electronically and in-person in accordance with Emergency/Executive Order 2020-04.
4. The Petitioner and/or Petitioner's representative executed the Hybrid Virtual Quasi-Judicial Public Hearing Waiver related to conducting the public hearing electronically and in-person.
5. The Petitioner and/or Petitioner's representative presented the Petition, followed by County staff and then public comment. There were no objections at the public hearing.

6. The Neighborhood Information Meeting (NIM) was held on July 20, 2021, at the South Regional Library, 8065 Lely Cultural Parkway, Naples, Florida. There were no attendees.
7. The County's Land Development Code Sections 10.02.13.E.1 and 10.02.13.E.2 lists the criteria for an insubstantial change to an approved PUD Ordinance. The Hearing Examiner having the authority of the Planning Commission may approve a request for an insubstantial change to an approved PUD ordinance upon review and evaluation of the criteria in the Collier County Land Development Code.¹

Section 10.02.13.E.1 Criteria:

1. Is there a proposed change in the boundary of the Planned Unit Development (PUD)?

The record from the public hearing reflects that there is no proposed change in the boundary of the PUD.

2. Is there a proposed increase in the total number of dwelling units or intensity of land use or height of buildings within the development?

The record from the public hearing reflects that there is no proposed increase in the number of dwelling units or intensity of land use, or height of buildings within the development.

3. Is there a proposed decrease in preservation, conservation, recreation, or open space areas within the development in excess of five (5) percent of the total acreage previously designated as such, or five (5) acres in area?

The record from the public hearing reflects that there is no proposed decrease in preservation, conservation, recreation, or open space areas within the development as designated on the approved Master Plan.

4. Is there a proposed increase in the size of areas used for non-residential uses, to include institutional, commercial, and industrial land uses (excluding preservation, conservation or open space), or a proposed relocation of nonresidential land uses?

The record from the public hearing reflects that he requests do not impact the size of non-residential areas or proposed to relocate such areas within the PUD boundary.

5. Is there a substantial increase in the impacts of the development which may include, but are not limited to increases in traffic generation; changes in traffic circulation; or impacts on other public facilities?

¹ The Hearing Examiner's findings are italicized.

The record from the public hearing reflects that there are no substantial impacts resulting from this amendment.

6. Will the change result in land use activities that generate a higher level of vehicular traffic based upon the Trip Generation Manual published by the Institute of Transportation Engineers?

The record from the public hearing reflects that the proposed amendment would not result in land use activities that generate higher levels of vehicular traffic based upon the Trip Generation Manual published by the Institute of Transportation Engineers.

7. Will the change result in a requirement for increased stormwater retention, or otherwise increase stormwater discharge?

The record from the public hearing reflects that the proposed changes will not impact or increase stormwater retention or increase stormwater discharge.

8. Will the proposed change bring about a relationship to an abutting land use that would be incompatible with an adjacent land use?

The record from the public hearing reflects that there will be no incompatible relationships with abutting land uses.

9. Are there any modifications to the PUD Master Plan or PUD document or amendment to a PUD ordinance which is inconsistent with the Future Land Use Element or other elements of the Growth Management Plan or which modification would increase the density or intensity of the permitted land uses?

The record from the public hearing reflects that the petition does not propose any increase in density or intensity of the permitted land uses and is consistent with the FLUE of the GMP.

10. The proposed change is to a PUD District designated as a Development of Regional Impact (DRI) and approved pursuant to Chapter 380.06, Florida Statutes, where such change requires a determination and public hearing by Collier County pursuant to Sec. 380.06 (19), F.S. Any change that meets the criterion of Sec. 380.06 (19)(e)2., F.S., and any changes to a DRI/PUD Master Plan that clearly do not create a substantial deviation shall be reviewed and approved by Collier County under Section 10.02.13 of the LDC.

The record from the public hearing reflects that due to the limited nature of this request, a determination and public hearing under F.S. 380.06(19) will not be required.

11. Are there any modifications to the PUD Master Plan or PUD document or amendment to a PUD ordinance which impact(s) any consideration deemed to be a substantial modification as described under Section(s) 10.02.13 E.?

The record from the public hearing reflects that the proposed change is not deemed to be substantial.

Section 10.02.13.E.2 Criteria:

1. Does this petition change the analysis of the findings and criteria used for the original application?

The record from the public hearing reflects that based on the analysis, the proposed change is not deemed to be substantial.

The petitioner is seeking one deviation for relief from LDC Section 5.06.04 F.1., “On-premise signs”, which allows single-occupancy or multiple-occupancy parcels, having frontage of 150 feet or more on a public street, or combined public street frontage of 220 linear feet or more for corner lots, shall be permitted one pole or ground sign. Additional pole or ground signs may be permitted provided that each sign is separated by a minimum of 1,000 feet as measured along the street frontage, and all setback requirements are met, to instead allow one additional commercial pole sign in addition to any other signage allowed by the LDC within the commercial tract located near the intersection of Sandpiper Drive and U.S. 41 on Tract B. This additional sign structure shall not exceed a height of 8’ and shall not have a sign copy area exceeding 60 square feet.

The Petitioner explains that:

The proposed monument sign (pole sign) is located on the platted commercial tract and is approximately 1,100 feet from the directory sign located at the shopping plaza’s southern entrance. The monument sign is designed to provide identification to motorists on U.S. 41 of the presence of the shopping plaza and as an indicator that they can utilize Sandpiper Drive to access the plaza. This intersection is scheduled to be signalized soon after the Publix grocery store opens in the Summer of 2021. Signage at this location will alert motorists that they may access the plaza at the signalized intersection which is designed with dedicated turn lanes and the signal will have directional movement control for safer access from U.S. 41 which is a 4-lane divided highway. The proposed sign has been approved by the Fiddler’s Creek Design Review Committee. A rendering of the proposed sign is provided with this submittal and is identified as Sign Type 1. The sign is designed consistent with the other signage approved by the Design Review Committee and Collier County for the plaza. The sign will not be detrimental to the aesthetic appeal of the property and is not excessive in size. The 38.5+/- acre plaza will have two signs visible on U.S. 41 and one internal to the project on Sandpiper Drive at the project entrance.

The record from the public hearing reflects the finding that the deviation is in compliance with LDC Section 10.02.13.A.3, the petitioner has demonstrated that "the element may be waived without a detrimental effect on the health, safety, and welfare of the community" and LDC Section 10.02.13.B.5.h, and the petitioner has demonstrated that the deviation is "justified as meeting public purposes to a degree at least equivalent to the literal application of such regulations."

ANALYSIS.

Based on a review of the record including the Petition, application, exhibits, the County's staff report, and hearing comments and testimony from the Petitioner and/or the Petitioner's representative(s), County staff and any given by the public, the Hearing Examiner finds that there is enough competent, substantial evidence as applied to the criteria set forth in Sections 10.02.13.E.1 and 10.02.13.E.2 of the Land Development Code to approve Petition.

DECISION.

The Hearing Examiner hereby APPROVES Petition Number PDI-PL20210001014, filed by D. Wayne Arnold, AICP of Q. Grady Minor and Associates, PA. representing FC Oyster Harbour, LLC, with respect to the property in the Fiddler's Creek PUD Ordinance No. 18-27, as amended, and described as consisting of 3,932 acres, located east of Collier Boulevard (CR 951) and south of Tamiami Trail East (US 41) in Sections 11, 13, 14, 15, 22, 23, and 24, Township 51 South, Range 26 East and Sections 18, 19 and 29, Township 51 South, Range 27 East, Collier County, Florida, for the following:

- An insubstantial change to the Fiddler's Creek Planned Unit Development (PUD) to provide for a signage deviation from LDC Section 5.06.04 F.1. "On-premise signs," to allow for an additional on-premise pole sign to serve the Business/Commercial Tract on U.S. 41 near Sandpiper Drive.

Said changes are fully described in the Proposed PDI attached as Exhibit "A" and Sign Location and Conceptual Sign Exhibit attached as Exhibit "B" and are subject to the condition(s) set forth below.

ATTACHMENTS.

Exhibit A – Proposed PDI

Exhibit B – Sign Location and Conceptual Sign Exhibit

LEGAL DESCRIPTION.

See Ordinance No. 18-27, as amended, and described as consisting of 3,932 acres, located east of Collier Boulevard (CR 951) and south of Tamiami Trail East (US 41) in Sections 11, 13, 14, 15, 22, 23, and 24, Township 51 South, Range 26 East, and Sections 18, 19 and 29, Township 51 South, Range 27 East, Collier County, Florida

CONDITIONS.

All other applicable state or federal permits must be obtained before commencement of the development.

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. An appeal of this decision shall be done in accordance with applicable ordinances, codes and law.

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.

September 24, 2021 _____
Date



Andrew Dickman, Esq., AICP
Hearing Examiner

EXHIBIT “A”

SECTION XI
DEVELOPMENT STANDARDS

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11.22 SIGNS IN FIDDLER'S CREEK

All signs in Fiddler's Creek shall be in accordance with Division 2.5 of Collier County's Land Development Code, as the same may be in effect at the time of Site Development Plan approval, with the following exceptions:

A. Permanent Community Signage

1. Project Identification Signs - Two ground, wall, or gate project identification signs may be located at each entrance to the development, subject to the following requirements:
 - (a) Such signs shall only contain the name of the development and any symbol or icon identifying the development, and shall not contain any promotional or sales information.
 - (b) ~~Protect~~Project identification signs shall not exceed sixty (60) square feet excluding mounting surfaces or structures. Where signage is affixed or an integral part of a wall or fence, *the* face of the sign may protrude above the upper edge of the wall or fence, but remain subject to height restrictions.
 - (c) No project identification signs shall exceed the height often feet (10') above the finished ground level of the sign site.
2. Boundary Monument Signage - Project monument signs may be located at or near each boundary of the project on S.R. 951 and U.S. 41, provided that no such sign shall exceed twelve (12) square feet, excluding mounting surfaces or structures, and further providing that all other requirements of Section 11.22.A.1, are met.
3. Tract Identification Signs - Each tract containing a different use may have at each entrance or in other approved location an identification sign not more than eight feet (8') in height and thirty-two (32) square feet in area, provided the requirements of Section 11.22A.1, not in conflict herewith are met.
4. Directional Signs - At each intersection in the development, four (4) square foot directional identification signs are permitted for each separate use being identified for directional purposes. One sign may incorporate all uses being identified, shall maintain a common architectural theme, such sign shall not exceed six feet (6') in height and twenty (20) square feet in area, and shall meet the requirements of Section 11.22A.1, not in conflict herewith.

Words underlined are additions; words ~~struck through~~ are deletions

5. DEVIATION: Fiddler's Creek Plaza Signage.

(a) Relief from LDC Section 5.06.04 F.1., "On-premise signs", which allows single-occupancy or multiple-occupancy parcels, having frontage of 150 feet or more on a public street, or combined public street frontage of 220 linear feet or more for corner lots, shall be permitted one pole or ground sign. Additional pole or ground signs may be permitted provided that each sign is separated by a minimum of 1,000 feet as measured along the street frontage, and all setback requirements are met, to instead allow one additional commercial pole sign in addition to any other signage allowed by the LDC within the commercial tract located near the intersection of Sandpiper Drive and U.S. 41 on Tract B. This additional sign structure shall not exceed a height of 8' and shall not have a sign copy area exceeding 60 square feet.

B. Temporary or Promotional Signage; These signs are to direct prospective purchasers and identify the various projects being developed.

1. One development announcement sign may be erected on each project street frontage for each tract or parcel, identifying the proposed project or project under construction, subject to the following requirements:
 - (a) There shall be no more than two (2) signs per tract, parcel or project.
 - (b) Such signs shall not exceed sixty (60) square feet in area, excluding mounting surfaces or structures. Where such signage is attached or affixed to a wall or fence, the face of the sign may protrude above the upper edge of the wall or fence, but remain subject to height restrictions.
 - (c) No development announcement signs shall exceed ten feet (10') above the finished grade of the sign site.
2. Residential Lot Signs - Individual residential lots may be identified by a sign not to exceed two (2) square feet or protrude more than three feet (3') above the finished grade of the lot, provided such sign shall only contain the following information: lot number, name of owner or builder, and telephone number for contact, and shall comply with the requirements of Section 11.22.B.1.) not in conflict herewith.
3. Residential Construction Lot Signs - During the construction phase on any residential lot, a temporary sign identifying the owner, builder, lot number, and phrase such as "the new home of ____" may be erected, subject to the following requirements:
 - (a) Such signs shall not exceed six (6) square feet in area or protrude more than four feet (4') above the finished grade.
 - (b) Such signs shall meet the requirements of Section 11.22B.1.) not in conflict herewith.

EXHIBIT “B”

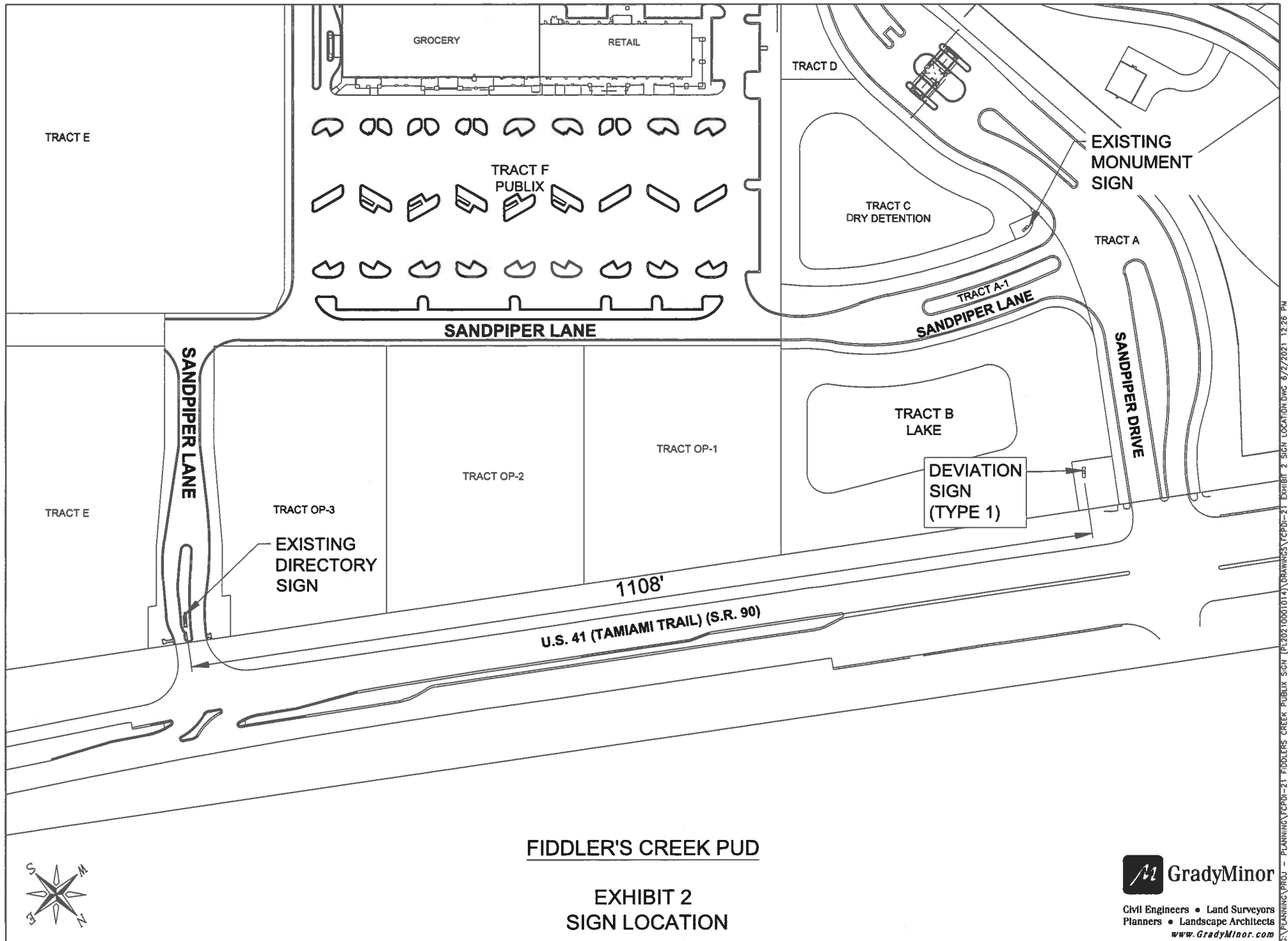


EXHIBIT "B"

Exhibit 3
Conceptual Sign Exhibit

