

SEMINOLE COUNTY GOVERNMENT
AGENDA MEMORANDUM

SUBJECT: LOMA VISTA PUD; Minor Revision to a Developers Commitment Agreement for property located on the west side of SR 426 (Aloma Avenue) and east of the Greeneway, between Dean Road and Mitchell Hammock Road; Steve Joos, Applicant.

DEPARTMENT: Planning & Development **DIVISION:** Planning

AUTHORIZED BY: Donald S. Fisher **CONTACT:** Cathleen Consoli **EXT.** 7377

Agenda Date: 10/28/03 Regular Consent Work Session Briefing
Public Hearing – 1:30 Public Hearing – 7:00

MOTION/RECOMMENDATION:

1. **APPROVE** the Minor Revision to a Developers Commitment Agreement for the Loma Vista PUD located on the west side of SR 426 (Aloma Avenue) and east of the Greeneway, between Dean Road and Mitchell Hammock Road; Steve Joos, applicant, based on staff findings or;
2. **DENY** the Minor Revision to a Developers Commitment Agreement for the Loma Vista PUD located on the west side of SR 426 (Aloma Avenue) and east of the Greeneway, between Dean Road and Mitchell Hammock Road; Steve Joos, applicant; or
3. **CONTINUE** the request to a date and time certain.

District 1 – Maloy

Cathleen Consoli - Senior Planner

BACKGROUND:

The Developers Commitment Agreement (DCA) for the Loma Vista PUD was first approved on August 10, 1999. Several revisions have been made to this document since its original adoption. The most recent DCA required a 15 foot fire break and a 6 foot masonry wall adjacent to the west property line. The footers for the wall were constructed on the property line, not three feet from the back of curb as approved administratively and shown on the revised Final Master Plan. Construction of the wall on the subject property was stopped by the County as a violation of the executed agreements. The applicant appeared before the Code Enforcement Board (CEB) on October 24, 2002.

On that date, the CEB found the developer of the Loma Vista

Reviewed by: SPC
Co Atty: _____
DFS: _____
OTHER: MW
DCM: _____
CM: KL
File No. RPDP02

apartment complex in violation of the executed DCA, by failing to construct a buffer wall, fire break and fire hydrant. The decision of the Board was to give the applicant two options: either to build the wall per the requirements of the Agreement or submit a revision to the DCA and Final Master Plan for an alternate location of the wall. The applicant was given thirty days to comply by acquiring a building permit and an additional thirty days to complete construction of the wall. The applicant chose to submit a revised DCA and Final Master Plan.

On December 10, 2002, the Board of County Commissioners approved a land use amendment, rezoning, and the revision to the Developer's Commitment Agreement for the Loma Vista PUD. This revised DCA was not executed by the property owners and therefore no building permits were issued.

Daniel and Cathy Clark, the property owners to the west of the project and abutting the proposed wall location sued the County and the developer for violations of the approved DCA. The Clarks and CED Construction, Inc. reached an agreement through a Stipulation for Settlement (see attached document) regarding the Loma Vista PUD project. The provision of this stipulation is that CED amend the DCA to reflect:

1. Construction of an eight foot high concrete masonry wall with a five foot wooden section ; on the existing footers; and
2. Construction of a fire main and fire hydrant.

The revised DCA reflects the conditions of the settlement agreement between the applicant and the neighboring property owners. It includes the following revisions:

- Provide an 8 foot concrete masonry wall on the existing footers along the west property line
- Locate a fire hydrant and associated water main at the southwest corner of the property (see attached site plan).

Other revisions reflect the change in property owners and completed commitments.

The revised DCA meets the intent of the Stipulation for Settlement and resolves the inconsistency between the DCA, Final Master Plan and existing footers located on the site.

STAFF RECOMMENDATION:

Staff recommends approval of the revised DCA for the Loma Vista PUD for it is consistent with Vision 2020, the Land Development Code and the Development Order for the project.

IN THE CIRCUIT COURT OF THE EIGHTEENTH JUDICIAL CIRCUIT
IN AND FOR SEMINOLE COUNTY, FLORIDA

DANIEL R. CLARK and CATHY
A. CLARK, his Wife,

CASE NO.: 02-CA-2163-16-G

Plaintiffs,

vs.

COUNTY OF SEMINOLE and
CED CONSTRUCTION, INC., a
Florida corporation,

Defendants.

STIPULATION FOR SETTLEMENT

Plaintiffs, DANIEL R. CLARK and CATHY A. CLARK (the "Clarks"), and Defendant, CED CONSTRUCTION, INC. ("CED"), stipulate and agree in full and complete settlement of this matter as follows:

1. CED agrees to pay to Plaintiff the sum of . . . as more specifically forth herein.
2. CED agrees to construct an eight foot (8') high concrete masonry wall along the western boundary of the Loma Vista Apartment Complex upon the existing footers. The concrete masonry wall shall be eight feet (8') high, and shall have a five foot (5') wooden section in a location to be determined by Plaintiff. CED further agrees to cause to be constructed a water main and fire hydrant at the southwest corner of the Loma Vista Apartment project as required by Seminole County.
3. Plaintiff agrees to grant to Defendant a Temporary Construction Easement along Plaintiff's property for purposes of constructing the concrete masonry wall upon the joint property line.
4. CED agrees to apply, at the earliest possible opportunity, to Seminole County for all

*Done
ur*

approvals necessary for construction of the eight foot high concrete masonry wall, including any amendments to the Development Order for the Loma Vista Apartment project, should such an amendment be required. CED further agrees to apply for a Building Permit within fourteen (14) days of receipt of approval of construction of the concrete masonry wall, and shall cause the wall, along with the fire hydrant, to be constructed within thirty (30) days of receipt of Building Permit.

5. CED shall obtain and provide to Plaintiff a Performance Bond in the amount of the Contract for construction of the improvements contemplated herein naming Plaintiff as a dual-obligee securing CED's performance of the obligations of this Stipulation.

6. This agreement is expressly conditioned upon Seminole County, including Seminole Code Enforcement Board, agreeing to the provisions of this Stipulation, and agreeing to modify the Development Order for the Loma Vista Apartment project to reflect the construction of the concrete masonry wall, fire hydrant and associated water main.

7. Upon approval of the provisions of this Stipulation by Seminole County, including but not limited to the Seminole County Code Enforcement Board; Seminole County agreeing to modify the Development Order consistent with the provisions herein, if required, and Seminole County agreeing that no additional work shall be required along the western boundary of the Loma Vista Apartment project, CED shall cause the settlement proceeds to be paid to the Plaintiff, with the check delivered to Jerry H. Jeffery, P.A., and delivered to 1900 Howell branch Road, Suite 5, Winter Park, Florida 32792.

8. Plaintiff's counsel shall hold the settlement proceeds in trust until such time that Plaintiff has executed a Joint Stipulation of Dismissal with prejudice against all Defendants in this action, including Seminole County. In addition, Plaintiff, as a condition precedent to release of the settlement proceeds, shall execute a broad form general release releasing all parties, including the owner, contractor, any subcontractors, engineering consultants, their officers, agents, successors, or assigns from any claims, causes, causes of actions, rights, demands or suits arising out of the events

which are the subject of this action.


9. In addition to the covenants contained herein, CED shall prepare and record an Easement in favor of Plaintiff and its successors ("Grantees"), granting to the Grantees an Easement over and along the wall for purposes of deleting the five foot (5') wooden section, and completing the construction of the wall with concrete masonry units at Grantee's expense.

DATED this 21st day of January, 2003.



Daniel R. Clark

CED CONSTRUCTION, INC.

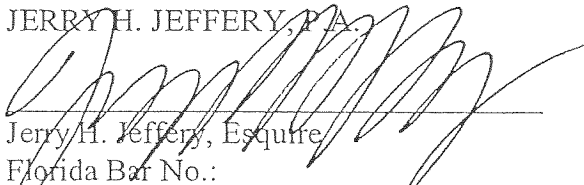
By: 

Print Name: W. Scott Culp
Its: EXECUTIVE VICE PRESIDENT




Cathy A. Clark

JERRY H. JEFFERY, P.A.



Jerry H. Jeffery, Esquire
Florida Bar No.: _____
1900 Howell Branch Rd., Ste. 5
Winter Park, FL 32792
Attorney for Plaintiffs

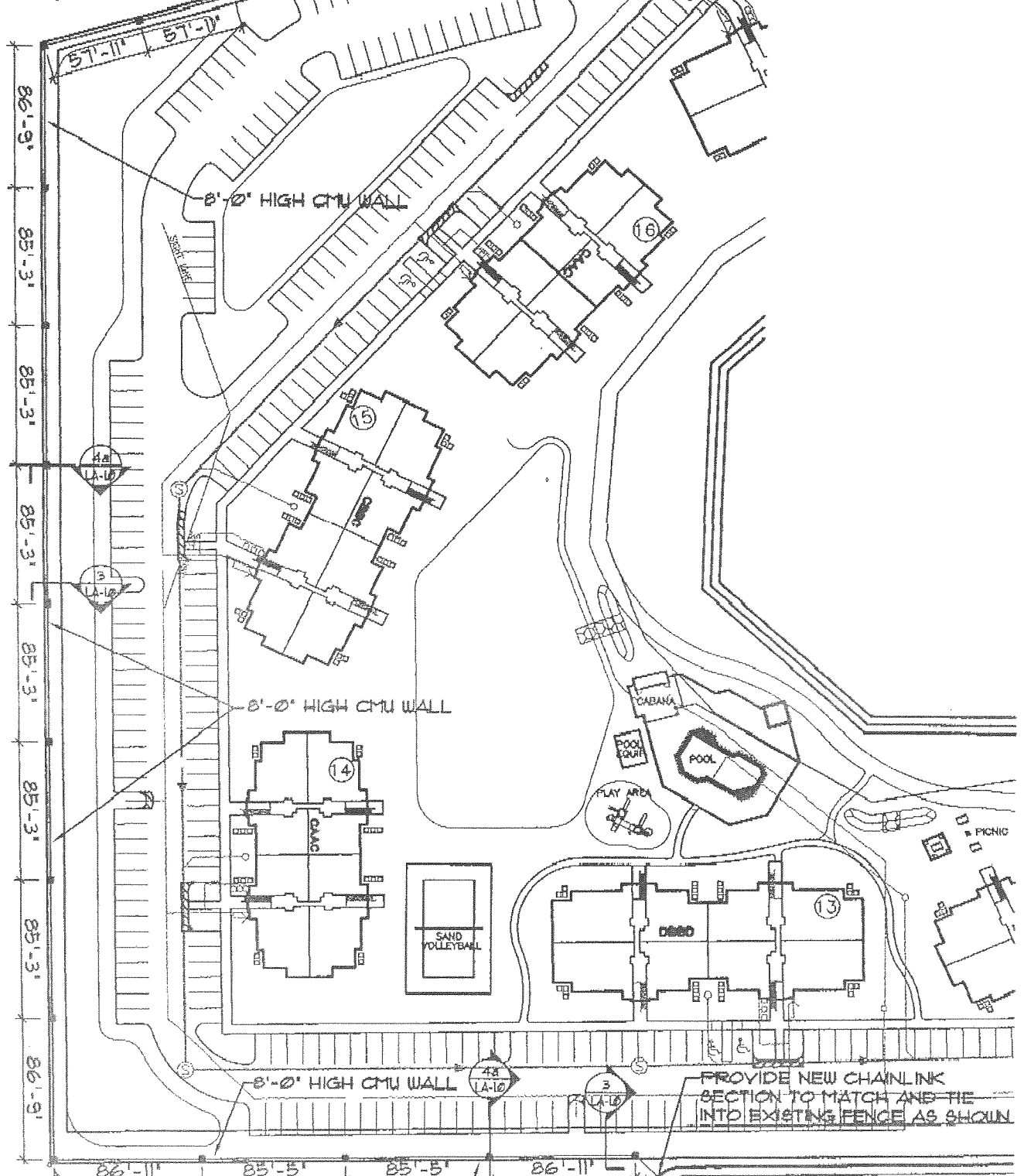
HOLLAND & KNIGHT, LLP

By: 

Christopher J. Weiss, Esquire
Florida Bar No.: _____
200 So. Orange Avenue, Ste. 2600
Orlando, FL 32802
Attorney for Defendant, CED

NOTE: ALL PILASTER FOOTINGS
TO BE CONSTRUCTED ENTIRELY
WITHIN PROPERTY LINES (TYP)

BEGIN PERIMETER
WALL & PILASTERS



8'-0" HIGH CMU WALL

8'-0" HIGH CMU WALL

8'-0" HIGH CMU WALL

PROVIDE NEW CHAIN LINK
SECTION TO MATCH AND TIE
INTO EXISTING FENCE AS SHOWN

FIRE HYDRANT

NOTE: ALL PILASTER FOOTINGS
TO BE CONSTRUCTED ENTIRELY
WITHIN PROPERTY LINES (TYP)

PROPOSED CHAIN LINK
FENCE LOCATION
PENDING FDOT
APPROVAL

APPROXIMATE LOCATION
OF EXISTING CHAIN
LINK FENCE

RETENTION
POND

LOMA VISTA P.U.D.
FINAL MASTER PLAN
DEVELOPER'S COMMITMENT AGREEMENT

AMENDED OCTOBER 28, 2003

COMMITMENTS, CLASSIFICATIONS, AND DISTRICT DESCRIPTION
APPROVED BY THE SEMINOLE COUNTY BOARD OF COUNTY
COMMISSIONERS

I. LEGAL DESCRIPTION

THAT PORTION OF THE EAST 7/8 OF THE NORTH 2 OF THE NORTHEAST ¼ OF SECTION 31, TOWNSHIP 21 SOUTH, RANGE 31 EAST, SEMINOLE COUNTY, FLORIDA LYING WESTERLY OF STATE ROAD 426 AND SOUTHEASTERLY OF THE EXPRESSWAY BELTWAY; LESS THE RIGHT-OF-WAY FOR THE SEABOARD COASTLINE RAILROAD.

AND

THE WEST ½ OF THE SOUTHEAST ¼ OF THE SOUTHEAST ¼ OF SECTION 30, TOWNSHIP 21 SOUTH, RANGE 31 EAST, SEMINOLE COUNTY, FLORIDA LYING SOUTHERLY OF THE EASTERN BELTWAY AND NORTHERLY OF THE FLORIDA RAILS TO TRAILS.

CONTAINING 56.86 ACRES MORE OR LESS.

II. PROPERTY OWNERS

Clayton Investments, Ftd.
Clayton Investments II, Ltd.
Seminole Co. Loma Vista Partners, Ltd.

III. STATEMENT OF BASIC FACTS

A. Total Area:	56.86 Acres
B. Zoning:	Planned Unit Development
C. Density of Residential Tracts B, D, F, & L (as listed below):	20 dwelling units per acre or 480 dwelling units maximum

- D. The development approval sought is consistent with the Seminole County Comprehensive Plan and will be developed consistent with and in compliance to applicable land development regulations and all other applicable regulations and ordinances.
- E. The owners of the property have expressly agreed to be bound by and subject to the development conditions and commitments stated below and have covenanted and agreed to have such conditions and commitments run with, follow and perpetually burden the aforescribed property.
- F. The conditions upon this development approval and the commitments made as to this development approval, all of which have been accepted by and agreed to by the owners are as follows:

IV. TRACTING PLAN – LAND USE BREAKDOWN

<i>Tract</i>	<i>Name</i>	<i>Max. # of Dwelling Units</i>	<i>Gross Area</i>	<i>% of Site</i>
A	Multi-Family	382	23.33	41.03%
B	Commercial/Institutional/ Multi-Family	29	2.08	3.66%
C	Lift Station		0.09	0.16%
D	Commercial		5.10	8.97%
E	Retention/Open Space		5.92	10.41%
F	Commercial/Industrial/Multi-Family	95	5.53	9.73%
G	Jogging Trail		0.34	0.60%
I	Open Space/Drainage		0.34	0.60%
J	Access/Utility Easement		0.79	1.39%
K	Access/Utility Easement		1.63	2.87%
L	Commercial/Industrial Pond	69	4.17 7.54	7.33% 13.25%
TOTAL			56.86	100%

V. OPEN SPACE CALCULATIONS

Open space shall be provided at an overall rate of 25%, or a minimum of 14.12 acres throughout the entire PUD. A lake will serve as the major open space element for the PUD, designed to serve both this project and the Seminole County Trail. Remaining open space (as listed below) is achieved through active recreation, passive recreation and other green

space in the PUD, subject to approval by the Planning Manager during final site plan approval.

Total Land Area: 56.86 acres, less 0.4 acres SR 426 R/W = 56.46 gross acreage

Required Open Space: 25% = 56.46 acres x 0.25 = 14.12 acres open space

The Open Space/Lake Tract "E" shall be encumbered as a permanent easement. Maintenance of the Open Space/Lake Tract shall be funded equitably by all property owners within the PUD. Other Open Space within each tract shall be owned and maintained by the individual property owners.

Open Space Provided:

Pond – Shoreline landscaped w/5' trees @ 75' on center, lake perimeter with jogging path, four (4) benches along jogging path and access easement from the Seminole County Trail to the lakeshore and lake jogging path..... 7.54 acres

Tract "G" – Trail connector, paved from the Seminole County Trail to SR 426 to provide neighborhood access to the Trail..... 0.34 acres

Tract "I" – Shoreline landscaped w/5' trees @ 75' on center & one (1) bench for a Trail rest stop 0.34 acres

Tract "E" - Shoreline landscaped w/5' trees @ 75' on center & one (1) bench for a Trail rest stop 5.92 acres

Tract "A" – Active/Passive Recreation facilities required for multi-family uses within this Tract include: one (1) swimming pool, one (1) clubhouse, (1) tot lot, one (1) swing set, one (1) slide, one (1) grassed sports field, one (1) basketball goal and a landscaped berm along SR 426 1.9 acres

Tract "F" – Active/Passive Recreation facilities required for multi-family uses within this Tract include: a fire break buffer yard, two (2) grassed sports fields, one (1) swing set, one (1) slide and one (1) basketball goal 1.4 acres

Tract "L" – Active/Passive Recreation facilities required for multi-family uses within this Tract include: a fire break buffer yard, two (2) grassed sports fields, one (1) swing set, one (1) slide and one (1) basketball goal 1.0 acres

VI. BUILDING SETBACKS

COMMERCIAL USE:

Front	25'
Side External (PUD North & West perimeter)	5'
Side Internal (PUD internal lot line).....	0'
Rear.....	10'
Adjacent to A-1 zoned property at the Western perimeter of the PUD	75'
Adjacent to Aloma Bend MFR on South	per Sec 30.1232 LDC
Adjacent to internal MFR (PUD internal lot line)	25'
Maximum Building Height	35'

INDUSTRIAL USE:

Front	35'
Side External (PUD North & West perimeter)	20'
Side Internal (PUD internal lot line).....	5'
Adjacent to Aloma Bend MFR on south	per Sec 30.1232 LDC
Rear.....	20'
Maximum Building Height	35'

INSTITUTIONAL USE:

Front	25'
Side.....	10'
Rear.....	20'
Adjacent to A-1 zoned property at the Western perimeter of the PUD	75'
Adjacent to Aloma Bend MFR on south	per Sec 30.1232 LDC
Maximum Building Height	35'

MULTI-FAMILY USE:

Front	25'
Side.....	10'
Rear.....	20'
Adjacent to A-1 zoned property at the Western perimeter of the PUD	75'
Adjacent to Aloma Bend MFR on south	20'
Maximum Building Height	35'

VII. PERMITTED USES

COMMERCIAL TRACTS (B, D, F, & L):

All permitted and conditional uses allowed in C-1 zoning classification, plus hotels, motels, minor auto/truck repair, personal self-storage, vehicle oil lubrication shops, convenience stores with gas pumps as an accessory use, car washes, auto/truck/trailer rental, schools and colleges.

INDUSTRIAL TRACTS (B, F, & L):

All permitted and conditional uses allowed in the C-3 and M-1A zoning classifications.

INSTITUTIONAL TRACTS (B, F, & L):

Schools and colleges, nursing homes, adult congregate living facilities, assisted living facilities, fraternities/sororities, day care centers and churches.

MULTI-FAMILY TRACTS (A, B, F, & L):

All permitted and conditional uses within the R-4 zoning classification.

VIII. MULTIPLE LAND USE RESTRICTIONS

1. If any portion of Tract "B", "F" or "L" is used for commercial uses, then the remainder of such Tract may only be used for commercial uses.
2. If any portion of Tract "B", "F" or "L" is used for multi-family or industrial purposes, then the remainder of such Tract may only be used for multi-family or institutional purposes.

IX. LANDSCAPE & BUFFER CRITERIA

1. Landscape Buffers shall comply with the following:

COMMERCIAL USES:	Front.....	5' min., 10' avg.
	SR 426.....	5' min., 10' avg.
	Side.....	5'
	Rear.....	5'
	Adjacent to A-1 zoned property at perimeter of the PUD:	

per Sec 30.1232 LDC

Adjacent to Aloma Bend
 MFR on South per Sec 30.1232 LDC
 Adjacent to internal MFR 10' with 6' masonry wall

INDUSTRIAL USES: Front5' mid., 10' avg.
 SR 426.....5' min., 10' avg.
 Side 10'
 Rear..... 10'

INSTITUTIONAL USES: Front5' mid., 10' avg.
 SR 426.....5' min., 10' avg.
 Side 10'
 Rear..... 10'
 Adjacent to A-1 zoned property
 at perimeter of the PUD.. per Sec 30.1232 LDC
 Adjacent to Aloma Bend
 MFR on South.....per Sec 30.1232 LDC

MULTI-FAMILY USES: -Front..... 5' min., 10' avg.
 -SR 426 5' min., 10' avg.
 -Side 5'
 -Rear..... 5'
 -Adjacent to A-1 zoned property at the
 perimeter of the PUD: 8' masonry wall, wall to
 be located on existing footers on the western
 property line
 -Adjacent to Aloma Bend
 MFR on South 5', two (2) rows of trees at
 25' on center, 30" high hedge at
 36" on center, no screenwall is required

2. Any outside storage or mechanical repair facilities shall be screened from view from adjacent properties and rights of ways.
3. Landscape materials type and size shall conform to Seminole County Land Development Code specifications.

X. DEVELOPMENT COMMITMENT

The following conditions shall be met by the owners prior to certificate of occupancy being issued:

1. The Owners shall dedicate by warranty deed right-of-way to provide a 50' one-half right-of-way along SR 426.
2. Internal roadway section of Street "A" shall be at least fifty feet (50') wide with a curb and gutter section.
3. The Owners shall fund a pro-rata share of cost of design, permit & construction for signalization at SR 426 and Street "A", when warranted, as determined by the County Engineer.
4. Design of the intersection at SR 426 and Street "A" shall comply with Seminole County Transportation Standards. Right-of-way needed for the improvement shall be dedicated by the Owners.
5. Parking spaces in industrial or commercial Tracts shall be a minimum of ten feet (10') wide by eighteen feet (18') deep, provided an overhang of two feet (2') is added to the abutting sidewalk or buffer. Parking spaces in multi-family and institutional Tracts shall be a minimum of nine feet (9') wide by eighteen feet (18') deep, provided an overhang of two feet (2') is added to the abutting sidewalk or buffer.
6. A sidewalk of five feet (5') in width shall be constructed along SR 426 adjacent to the site to be constructed prior to issuance of Final Certificate of Occupancy within the PUD.
7. A sidewalk four feet (4') in width shall be constructed along the South side of internal Street "A" to provide internal pedestrian access between multi-family and non-residential Tracts.
8. A concrete or asphalt Trail connector six feet (6') in width shall be provided along the North side of internal Street "A" (via Loma Place) and provide external pedestrian access between SR 426 and the Cross Seminole Trail (CST).
9. The Owners of Tract A shall grant an easement to Seminole County between the CST and Tract "G" to allow mutually acceptable recreational trail amenities consistent, however, with the plans for the CST as determined by the Planning Manager.
10. The crossing of Street "A" (via Loma Place) at the Seminole County Trail shall comply with trail crossing standards. Final details to be determined by the County Engineer at time of roadway construction plan review and approval.
11. Covered picnic area shall include components or replicas of historic structure and brass plaque providing historical information and shall be placed within the Seminole County Trail right-of-way prior to completion of the trail.

12. Owners of Tract A shall dedicate a sixty foot (60') wide access easement over Tract "G" from the old CSX right-of-way (the CST) to the lake.
13. The Owners of Tract A shall dedicate a twenty (20') wide access easement over Tract "J" adjacent to the CST.
14. The developers of the Loma Vista Apartments shall pay a total of \$159,677.50, in lieu of the following conditions:
 - a. Developer shall install two (2) benches at the lake shore. Installation shall occur prior to completion of the Seminole County Trail.
 - b. Owners shall furnish two (2) air pumps, three (3) bike racks, and two (2) picnic tables adjacent to the covered picnic area. Installation shall occur prior to completion of the Seminole County Trail.
 - c. Developer shall install two (2) benches at the lake shore. Installation shall occur upon completion of the Cross Seminole Trail crossing by Street "A" or completion of the Trail, whichever occurs first.
 - d. The Owners shall install one (1) bench for Seminole County trail users. Installation shall occur upon completion of the Seminole County Trail.
 - e. The Owners shall provide water and sewer stub-outs at the intersection of CST and Street "A" at time of construction of the Seminole County Trail crossing by Street "A".
 - f. A drinking fountain and water service for irrigation along the CST.
15. The Owners shall reserve a fifty (50') foot one-half (½) right-of-way along SR 426 adjacent to Tract A and A-1 as shown on the approved Master Plan. (Completed)
16. Internal roadway section of Street "A" shall be at least fifty feet (50') wide with a curb and gutter section.
17. The Owners of Tract A shall provide an easement to Seminole County between Seminole County Trail and Tract "G" Lot "5B" to allow mutually acceptable recreational Trail amenities consistent, however, with the plans for the Seminole County Trail as determined by the Comprehensive Planning Manager.
18. The crossing of Street "A" (via Loma Place) at the Seminole County Trail shall comply with County Trail Crossing Standards. Final details to be determined by the County Engineer at time of roadway construction plan review and approval.
19. Owners of Tract A shall dedicate a twenty foot (20') wide access easement over Tract "A" adjacent to the CST and install one (1) bench for Seminole County Trail users. Installation shall occur upon completion of the Seminole County Trail.

20. Owners of Tract A shall provide a potable water service and drinking water fountain at the covered picnic area. Installation shall occur prior to the completion of the Seminole County Trail.
21. Owners of Tract A shall provide a Landscape Buffer adjacent to CSX right-of-way. Installation shall occur upon completion of the Seminole County Trail.
22. Owners shall provide water and sewer stub-outs at the intersection of CST and Street "A" at time of construction of the Seminole County Trail crossing by Street "A" (Via Loma Place).

XI. PUBLIC FACILITIES

The Owners have submitted the property for a concurrency review. Among conditions relating to concurrency public facilities are the following:

WATER:

Water service will be provided by Seminole County. Design of lines and fire hydrants shall conform to all Seminole County and Florida Department of Environmental Protection Standards.

SANITARY SEWER:

Central sanitary sewer will be provided by Seminole County. Design of lines and pump stations shall conform to all Seminole County and Florida Department of Environmental Protection Standards.

STORM DRAINAGE:

Stormwater drainage treatment and storage for pre-post conditions are to be provided on-site according to Seminole County and St. John's River Water Management District's stormwater regulations.

FIRE PROTECTION:

The Owners of Tract A shall install a fire hydrant at the Southwest corner of the site, accessible to the adjacent properties. Fire protection will be provided by Seminole County. Fire flow will be a minimum of 1,250 G.P.M. with 20 P.S.I. Fire hydrant shall be located according to Seminole County regulations.

XII. STANDARD PROVISIONS

1. All development shall fully comply with all of the codes and ordinances in effect in Seminole County (unless stated otherwise herein) at the time of issuance of permits including all impact fee ordinances.
2. This development order touches and concerns the aforescribed property and the conditions, commitments and provisions of the development order shall perpetually burden, run with and follow the

said property and be servitude upon and binding upon said property unless released in whole or in part by action of Seminole County by virtue of a document of equal dignity herewith. The Owners have expressly covenanted and agreed to this provision and all other terms and provisions of the development order.

3. The terms and provisions of the development order are not severable and in the event any portion of this development order shall be found to be invalid or illegal then the entire development order shall be null and void.

DONE AND ORDERED ON THE 14th OF OCTOBER, 2003.

BY: _____
Daryl G. McLain
Chairman of Seminole County
Board of County Commissioners

OWNERS' CONSENT AND COVENANT

COMES NOW, the Owner, Seminole Co. Loma Vista Partners, Ltd. on behalf of its heirs, successors, assigns and transferees of any nature whatsoever and consents to, agrees with and covenants to perform and fully abide by the provisions, terms, conditions and commitments set forth in this Development Order.

WITNESSES:

OWNER:

Witness (Sign and print name)

Seminole County Loma Vista Partners,
Ltd.
By: CED Capital Holdings XIII Ltd.,
General Partner
By: CED Capital Holdings XIII Inc.,
General Partner
By: Alan Ginsburg, President

Witness (Sign and print name)

Acknowledgement

STATE OF FLORIDA }
COUNTY OF SEMINOLE }

The foregoing instrument was acknowledged before me this _____ day of _____, 2003, by Alan Ginsburg, President of CED Capital Holdings XIII, Inc., who is personally known to me or who have produced their Florida Driver's License as identification.

Notary Public
Print Name:
My Commission expires: