

RETAINLAKE BOTTOM

FALLSCHASE DRI

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (“Agreement”) is entered into as of the _____ day of _____, 2005, by and between Leon County, a political subdivision of the State of Florida (hereinafter the “County”); and ~~Fallschase Land Company~~ AIG-Baker (hereinafter the “Applicant”).

RECITALS

WHEREAS, the Applicant is the developer of that certain real property more specifically described in Exhibit “A” attached hereto and by this reference incorporated herein and made a part hereof (the “Property”). A major portion of the Property (approximately 623 acres) was approved as a Development of Regional Impact (“DRI”), in 1974 and a major portion is designated pursuant to the County's Comprehensive Plan (the “Comprehensive Plan”) as Planned Unit Development (“PUD”) District and is currently zoned pursuant to the County's zoning code as PUD District. The remaining portion of the Property was added to the DRI by Leon County’s approval of a Notice of Proposed Change on July 12, 2005, pursuant to Subsection 380.06(19), Florida Statutes; and

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WHEREAS, development of the Property as envisioned by the Applicant will also require an Amendment to the PUD so that the additional acreage becomes part of the PUD which will be applicable to the Property; and

WHEREAS, the PUD approved by the Leon County Board of County Commissioners (“BCC”) by adoption of Ordinance No. 73-64 in 1973 and subsequent amendments, is known as the Fallschase DRI and permits development of residential, office and commercial uses on the property; and

WHEREAS, in the original DRI documents and the PUD documents, the specific amount and location of square footage authorized for all of the commercial uses was not set forth and there was an expectation that the specific location of commercial areas and the size of commercial buildings would be made as development proceeded, and

WHEREAS, the commercial uses were approved in the original DRI documents and the PUD documents for at least 25.4 acres located at the convergence of US 90, Buck Lake Road, and Fallschase Boulevard, and additional areas of commercial development within the mixed use and commercial areas; ~~and [FALLSCHASE BELIEVES IT HAS 180,000 SQ. FT. OF ADDITIONAL COMMERCIAL, AS WELL AS 15000 SQ. FT OF NEIGHBORHOOD COMMERCIAL AND 66.5 ACRES OF MIXED USE COMMERCIAL, IN ADDITION TO THE RESIDENTIAL]~~

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WHEREAS, a portion of the acreage recently added to the Fallschase DRI/PUD will be designated for commercial uses and will be added to the areas originally designated for commercial uses in the original DRI documents and the PUD documents; and

WHEREAS, the equivalent square footage of commercial space in the three areas described above are a minimum of 850,000 square feet of commercial uses., ~~using the County's Concurrency Management System procedures and a rate of 12,000 square feet per acre, results in a total 625,800 square feet of commercial uses; and [FALLSCHASE BELIEVES THE TOTAL COMMERCIAL SQUARE FOOTAGE PROPERLY CALCULATED WOULD BE MUCH HIGHER]~~

WHEREAS, other uses approved and vested as part of the Fallschase DRI/PUD are 425,000 square feet of office and 2,572 residential units; and

WHEREAS, the County agrees that the Fallschase DRI/PUD is vested for a mixture of residential, office and commercial uses from the consistency, and concurrency requirements of the Comprehensive Plan, and for density and intensity pursuant to section 163.3167(8), Fla. Stat.; and

WHEREAS, the County and the Applicant have been in conflict regarding the extent to which the DRI/PUD is vested from provisions of the comprehensive plan and land development regulations (establishing development standards), adopted subsequent to approval of the

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DRI/PUD particularly those which the County asserts which now ~~prohibit~~ restricts development in the Southland, ~~of Fallschase~~ now designated as floodplain; and

WHEREAS, the full extent of the development rights of the portion of the Property below 51 feet NGVD (“Southern Property”) has been the subject of significant legal debate between the Applicant and the County; and

WHEREAS, the Applicant and the County without waiving any rights, entitlements, claims or defenses as to the Southern Property wish to resolve all issues relating to the Property above 51 feet NGVD (“Upland Property”) and to allow Applicant to proceed with predictable and orderly development of the Upland Property.

~~a primary mechanism to allow resolution of these disputed issues relating to the Fallschase DRI/PUD is to facilitate the public acquisition of a substantial portion of the Property which is located below 51 feet NGVD (“Southern Property”), and~~

~~WHEREAS, Applicant and the County, without waiving any rights, entitlements, claims or defenses either may have regarding the Property, seek to resolve all outstanding questions or differences with respect to the Fallschase DRI/PUD, and to bring approximately ___ acres of the Southern Property into public ownership, and to allow appropriate, predictable and orderly development to occur on the remainder of the Property, and;~~

~~WHEREAS, the County is the current owner of scenic and recreational park land available for recreational uses and purposes by the general public, which said park land is~~

~~contiguous to the Southern Property and the extension of these current recreational opportunities is a benefit to the citizens of Leon County, and~~

~~WHEREAS, Applicant and County have worked in conjunction with the Trust for Public Land in order that the Southern Property could be purchased from Applicant and remain undeveloped in perpetuity to benefit the citizens of Leon County, and~~

~~WHEREAS, the County has plans to substantially improve the roadway infrastructure in the vicinity of the Fallschase DRI/PUD by widening Duck Lake Road to accommodate multi-lane through traffic and by providing related turning movements to accommodate existing and future traffic needs, and~~

~~WHEREAS, implementing this roadway construction requires planning and construction of adequate stormwater treatment facilities by the County to provide adequate control and treatment of stormwater runoff from the new construction contemplated by the roadway project, and~~

~~WHEREAS, the County and the Applicant are willing to cooperate in planning stormwater management facilities for offsite transportation facilities and.~~

WHEREAS, Applicant and the County desire to eliminate all uncertainty regarding the approved uses of the Upland Property, the development standards which are applicable to the Upland Property, and to assure that adequate transportation and stormwater management facilities

are available in adequate capacity to facilitate the planned development of the Upland Property;
and

~~WHEREAS, Applicant and the County wish to establish a procedure to guide all future~~
~~plan review by the County with respect to approval of all future development of the Fallschase~~
~~DRI/PUD; and~~ WHEREAS, Applicant and County have determined that substantial portions of
the Southern Property should be in public ownership.

WHEREAS, the County has plans to substantially improve the roadway infrastructure in
the vicinity of the Fallschase DRI/PUD by widening Buck Lake Road to accommodate multi-lane
through-traffic and by providing related turning movements to accommodate existing and future
traffic needs; and

WHEREAS, Applicant and the County wish to establish a procedure to guide all future
plan review by the County with respect to approval of all future development of the Fallschase
DRI/PUD; and

WHEREAS, development agreements strengthen the public planning process, encourage
sound capital improvement planning and financing, assist in assuring there are adequate capital
facilities for the development, encourage private participation and comprehensive planning and
reduce the cost of development; and

WHEREAS, the County and Applicant recognize the benefits of public/private cooperation and are desirous of finalizing a development agreement implementing a plan for the development of the Property;

NOW, THEREFORE, in consideration of the foregoing premises, which are made an integral part of this Agreement, and the mutual terms, covenants and conditions contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, it is mutually agreed between the County and the Applicant as follows:

1. Purpose. The purpose of this Agreement is to:

1.(a) ~~P~~provide a mechanism to allow the Upland Property to proceed through the PUD and subsequent development approval process in a manner which avoids duplication of time and effort and which recognizes the vested rights of the Fallschase DRI/PUD.

1.(b) ~~c~~Clarify the development approval process for the Upland Property, including County acknowledgement that because of the density and intensity of the vested development rights applicable to the Fallschase DRI/~~PUD and the County's desire to limit development located in the Southland;~~PUD, compliance with current comprehensive plan

and land development regulations must be considered in the context of the Property as a whole.

1.(c) Set forth requirements and commitments for the Fallschase DRI/PUD with regard to compliance with the development standards of the Comprehensive Plan and the Land Development Code.

1.(d) Acknowledge the County's support for substantial portion of the Southern Property being transferred to public ownership.

~~1.(e) Acknowledge the County's support for the acquisition of the ULL Southern Property by the Trust for Public Land, the County's intent to enter into an agreement with the Trust for Public Land contemporaneously with the adoption of this Development Agreement, the County's application for matching funds from the Florida Communities Trust for this purpose, and the County's cooperation in obtaining the financial support and participation of the City of Tallahassee in the application for Florida Communities Trust matching grant.~~

~~1.(f) This Development Agreement ("Agreement"), except as specifically provided herein, is intended to~~ address and clarify the development standards, and development review and approval process applicable to the Fallschase DRI/~~PUD~~PUD. It

is not intended to, nor does it, approve or authorize commencement of any amount of development not previously approved by the County, nor does it affect any of FallsChase vested rights. In light of the Property's history, location and vested status, this Agreement addresses issues unique to the Property and does not create policy or precedent applicable to other development in the County.

2. Authority for Agreement. The Florida Local Government Development Agreement Act, Sections 163.3220-163.3243, Fla. Stat. (1993), (the "Act"), authorizes local governments to enter into development agreements with private developers to encourage a stronger commitment to comprehensive and capital facilities planning, to insure the provision of adequate public facilities for development, to encourage the efficient use of resources, to reduce the economic costs of development and to provide certainty in approval of development and assurances that development may proceed in accordance with the conditions of such development agreements.

3. Applicability. This Agreement shall apply to all development activities undertaken by Applicant and its grantees, assigns and lessees on any part of the Property described in Exhibit "A" hereto during the term of this Agreement.

This Agreement does not apply to properties located within the Fallschase DRI/PUD if they are not included within the legal description attached hereto as Exhibit A. ~~Said~~

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~~properties (“Excluded Properties”) are described in Exhibit A.2. and are assigned development rights pursuant to Paragraph of this Agreement. [need to delineate the development rights of any outparcels]~~ This Agreement will not change or impair any property rights of Excluded Properties, including, but not limited to, zoning, consistency, concurrency, density, or intensity. Excluded Properties subsequently owned by Applicant and its successors, shall be subject to this Agreement.

4. Comprehensive Plan. The County hereby finds that because the Fallschase DRI/PUD was approved as a DRI prior to the adoption of the Tallahassee-Leon County 2010 Comprehensive Plan, in. ~~It~~ is vested from consistency and concurrency, and for density, and intensity relative to the provisions of the 2010 Comprehensive Plan and applicable land development regulations. Therefore, this Agreement complies with the Leon County-Tallahassee 2010 Comprehensive Plan and land work development regulations.

5. Vested Rights. Nothing in this Agreement shall operate or cause the County to determine that the changes to the Fallschase DRI/PUD contemplated herein and as subsequently authorized in an amendment to the PUD constitute a change to the previously approved Fallschase DRI/PUD and, therefore, is not a substantial deviation as defined in Section 380.061(19), Florida Statutes. The vested rights status of the Fallschase DRI/PUD is not altered, expanded, reduced or otherwise affected by this Agreement. substantial deviation nor to expand, reduce or otherwise affect the vested rights of the Fallschase

~~DRIPUD.~~ Application of subsequently adopted laws and policies to development of the property is governed by the provisions of section 163.3233, Florida Statutes (2005).

6. ~~(Southern) Property.~~

(a) The Southern Property will be annexed into the City of Tallahassee. The County has no objection to the annexation. The estimated acreage of the Southern Property to be annexed is approximately 220 acres, which will be refined by subsequent survey. A preliminary survey is attached as Exhibit "B."

(b) The Southern Property," excepting the property identified in Exhibit "B" as the Linear Park, will be donated at a bargain sale price to the City of Tallahassee by Fallschase.

(c) Applicant shall be allowed to develop and construct expansion of the existing sewer and water utilities (lift stations and sanitary sewer lines) including the construction of a building of no more than 400 square feet to house the electrical panel and generator for the lift station.

(d) No other structures, other than those provided herein, will be permitted within the Southern Property, except as may subsequently be approved by the City of Tallahassee.

~~3.(a) Applicant and the County will work with the Trust for Public Land to consummate a purchase by the Trust for Public Land of that real property within the Fallschase DRI/PUD known as the "Southern Property," with the following exceptions listed below. Leon County will use its best efforts to secure the purchase and sale of the Southern Property by the Trust for Public Land. The estimated acreage of the Southern Property to be conveyed is ____ acres, which will be refined by subsequent survey. A preliminary survey is attached as Exhibit "B." The sale of the Property will include all portions of the Property located below 51 feet NGVD including the area known as the "Linear Park", less and except that portion of parcels A, B and C lying below 51 feet NGVD and totaling approximately one (1) acre, [THE COUNTY MAY WAIVE ITS 5% RULE OF DISTURBANCE OF THE WETLANDS FOR PARKS AND RECREATIONAL FACILITIES, FALLSCHASE ALSO BELIEVES THE WETLANDS ARE ALTERED WETLANDS.]~~

~~3.(b) A Linear Park shall be constructed by the Applicant on the Southern Property. The Linear Park will consist of the property so labeled on Exhibit C. In the Linear Park, the Applicant may construct ground level and elevated bicycle paths of nine~~

~~(9) feet in width, sidewalks of six (6) feet in width, nature trails, fishing piers and other passive recreational facilities for use by the public. Maintenance of the Linear Park shall be performed by the Applicant pursuant to the Maintenance Standards [must have them reviewed] attached hereto as Exhibit D. Access and parking for the public's use of the Linear Park shall be provided in and through the Property at a location shown on attached Exhibit E, and in and through the County's adjacent Tom Brown Park. If the Applicant fails to maintain the Linear Park pursuant to the Maintenance Standards, the County shall maintain the Linear park pursuant to those standards.~~

~~(c) Applicant shall be allowed to develop and construct, below the 51-foot NGVD contour, the following additional facilities:~~

~~(1) Applicant shall be allowed to develop and construct, below the 51-foot NGVD contour (Southern Property), two or more storm water facilities as necessary to serve the vested residential, office and commercial development on the Property with associated discharge. The Parties agree that stormwater facilities shall be limited to 5% of the Southern Property acreage therein consistent with the 2010 Comprehensive Plan. The acreage utilized for stormwater facilities shall be extricated from the Southern Property proposed for acquisition by the Trust for Public Land.~~

~~(2) Expansion and easements for the existing sewer and water utilities (lift stations and sanitary sewer lines) including the construction of a building of no more than 200 square feet to house the electrical panel and generator for the lift station.~~

~~(3) Recreation and Tennis Facility, including courts and a clubhouse on previously filed property within the Southern Property. The location of this facility is designated on Exhibit "D". Prior to construction of any such facility, the Applicant shall provide detailed plans of the facility to the County for approval. [THIS MATTER IS OPEN FOR DISCUSSION]~~

~~(d) No other structures, other than those provided herein, will be permitted within the Southern Property, except as may subsequently be approved by the County and consistent with any agreement with the Florida Communities Trust.~~

~~c) The parties agree that the Maintenance Standards [must have for complete review] shall govern the maintenance of the Southern Property including the Linear Park. The Fallschase CDD shall maintain the Southern Property and the Linear Park pursuant to the Maintenance Standards referenced herein. To effectuate this maintenance, the Applicant and the County, shall enter into an agreement pursuant to chapter 163, Part I, Florida Statutes within 30 days of the effective date of this Agreement. The Applicant will pay all maintenance costs for its maintenance. The County may, at any~~

~~time, and for any reason, end the agreement and assume responsibility for maintenance of any or all Southern Property at its expense, and pursuant to the Maintenance Standards referenced herein.~~

~~7. The parties agree that in the event the sale of the Southern Property from the Applicant to the Trust for Public Land is not consummated, this Agreement is null and void.~~

87. Master Conceptual Plan. The Applicant and County agree that 850,000 square feet of Commercial, 50,000 square feet of office, and 1750 residential units may be constructed on the Upland Property (875 single family and 875 multifamily/condominiums). Proportional distribution of the residential units may be modified per the Applicants discretion. All other vested development rights in Fallschase DRI will remain with the Southern Property. The Master Conceptual Plan attached as Exhibit “EC” is hereby incorporated herein as a guide to future development review of the Property. The development areas, including the location of storm water facilities and roadway improvements, shown on the Master Conceptual Plan are intended to serve as a guide to future development. The Master Conceptual Plan shall be superseded by adoption of a revised PUD concept plan for the property, however, each development area may be relocated or altered as designated by the Applicant as specific requests for approvals of site

plans are made, so long as the relocations or alterations are not a substantial change in the general location of the proposed land uses.

The Applicant will donate one (1) acre of property to the County for public use as a library or other County facility.

8. PUD Approval Process for Property: In recognition of the vested rights of the Fallschase DRI/PUD, the County shall review Final Development Plans pursuant to the regulations in effect at the time the development was originally approved (see Exhibit "D"). The County accepts and approves the Master Concept Plan, as the intended development plan for the property. A refined Master Concept Plan will be submitted subject to the following Type B process as modified below and will constitute the amended Planned Unit Development application for the additional properties as well as describing the revisions to the original PUD approval for the development.

The approval of this refined Master Concept Plan is subject to the Applicant's right to make adjustments during Final Development Plan review as long as development of the Property is consistent with the general location of land uses, the intensity and density approved herein, the access to the surrounding road network as

identified in Exhibit “E,” and the landscape, open space and tree protection as setforth in Exhibit “G.”

Approval of an amendment to the PUD for the Fallschase DRI/PUD will be solely by the Board of County Commissioners in accordance with Type B Review of the Land Development Code and as modified below:

(a) Applicant shall submit an application for an amendment to the PUD to Leon County that includes the Maps and narrative as described in Exhibit “F.”

(b) Leon County staff shall review the application and issue a written response within ten (10) working days of the receipt of the application.

(c) The applicant will resubmit a response to the County’s response within five (5) working days of receipt of the comments. The applicant shall have the right to request a five (5) working day extension if desired.

(d) Leon County will schedule a meeting of the Development Review Committee to vote on a recommendation within ten (10) working days of the receipt of the applicants response.

(e) The applicant will meet with the Development Review Committee and the DRC will forward a recommendation of approval, approval with conditions, or denial to the Board of County Commissioners for their next regularly scheduled meeting.

(f) The Board of Commissioners shall review the PUD concept plan, the recommendation and written findings of the DRC, and conduct a public hearing. The Board of County Commissioners will then approve, approve with conditions, or deny the PUD concept plan. The decisions of the Board of County Commissioners shall be final and shall be supported by written findings.

Any subsequent amendments to the Amended PUD shall be reviewed and approved by the same process unless the proposed changes increase the overall number of residential dwelling units or non-residential building square feet by more than the applicable thresholds in Section 380.06(19), Florida Statutes, substantially decrease the amount of acres devoted to common open space and/or natural area; or are a substantial change in the general location of the proposed land uses, including the common open space and/or natural areas.

9. Approval Process for Final Development Plan and Platting: In recognition of the vested rights of the Fallschase DRI/PUD, the County shall review Final Development Plans pursuant to the regulations in effect at the time the development was originally

approved (see Exhibit “D”). The following development review Type B process as modified shall be applicable to site plans for the Fallschase DRI/PUD:

(a) Applicant shall submit an application for Final Development Plan approval or preliminary plat approval to Leon County that is consistent with the amended Concept PUD. Final Development Plan approval will constitute Final PUD approval and may address phases or sub-phases of development. Leon County staff shall review the application and issue a written response within ten (10) working days of the receipt of the application.

(b) The applicant will resubmit a response to the County’s comments within five (5) working days of receipt of the comments. The applicant shall have the right to request a five (5) working day extension if desired.

(c) Leon County will schedule a meeting of the Development Review Committee. The DRC will meet and vote on a recommendation to approve, approve with conditions, or deny within ten (10) working days of the receipt of the applicants response.

(d) The applicant will meet with the Development Review Committee and the DRC will forward a recommendation to approve, approve with conditions, or deny the

final development order to the Board of County Commissioners for their next regularly scheduled meeting.

(e) The Board of Commissioners shall review the Final Development Plan (site plan or preliminary plat), the recommendation and written findings of the DRC, and conduct a public hearing. The Board of County Commissioners will then approve, approve with conditions or deny the Final Development Plan. The decisions of the Board of County Commissioners shall be final and shall be supported by written findings.

(f) Submittal Requirements: The applicant shall provide the following in a submittal package:

(e).i. Narrative of Development: Narrative including the number of units or square feet of non-residential use within the phase submitted;

(e).ii. Preliminary Plat or Site Plan (Final Development Plan);

(e).iii. Check for Submittal Fees;

(e).iv. Completed Fallschase Final Development Submittal Checklist, attached hereto as Exhibit "F."

10. Process: An Environmental Management Permit Application shall be submitted to the Leon County Growth and Environmental Management Department for review and approval concurrent with the application for Final Development Plan for each phase or sub-phase of the development at the developer's option.

a. Timeline: The Director shall provide written comments/questions regarding the construction plans within fourteen (14) working days of submittal. A maximum of two (2) submittals shall be allowed prior to final action/approval.

b. Appeals to the action of Leon County staff regarding the environmental permit shall be in compliance with Section 10-1489 of the Land Development Code.

c. Submittal Requirements:

c.i. A narrative outlining the methods of compliance with the standards incorporated into the Master Conceptual Plan and this Agreement.

c.ii. A copy of the approved Preliminary Plat/Site Plan (if not filed concurrently).

c.iii. Construction Plans including maps on a scale of not less than 1 inch equals 200 feet demonstrating compliance with the identified standards in the Master Conceptual Plan. Maps shall contain topographic information and source, existing natural features and the proposed methods of compliance.

c.iv. Stormwater analysis: Stormwater management design and supporting computations including:

a. Narrative description of treatment facility to be permitted

b. General location map which indicates the relative location within the project boundary, the limits and acreage of the drainage basin contributing to the facility.

c. Written summary of design report providing discussion on the level of water quality treatment provided.

d. An analysis demonstrating the treatment facility provides the required water quality treatment volume and the filtration system again provides the required capacity within 72 hours following a storm event

e. Construction plans detailing grading which includes pertinent contours of areas adjacent to the facility, sediment and erosion control plans, existing and proposed drainage structures.

f. Stormwater treatment facility capacity accounting record.

11. Appeals. Appeals to action by the Board of County Commissioners will follow Section 10-1485 of the Leon County Land Development Code.

12. Developmental Standards. The parties agree that Applicant's development approval applications made in the future during the term of this Agreement shall comply with the development standards existing at the time of the original PUD approval. The development standards existing at the time of the PUD are applicable to this development. In addition, the following standards are applicable as described herein. These development standards conform to the requirements for the comprehensive plan and the existing land development regulations to the extent that conformance does not impair the vested concurrency and consistency (as to intensity and density) of Fallschase. Such development standards may only be modified by agreement between the Applicant and the County as evidenced by Commission action.

(a) Landscaping, Open Space and Tree Protection Standards. In order to utilize the Property in an efficient manner, to protect the heritage oak trees which are

located adjacent to the 51 foot NGVD contour line and to maintain the unique environmental features of the property, Applicant will meet site specific landscaping, open space and tree protection standards for the Property as described in Exhibit “G” hereto, in lieu of any other landscaping standards adopted in the Code.

(b) Stormwater Standards. The County agrees Applicant will be required to retain a maximum of the first 1 1/8” or equivalent treatment of stormwater runoff from developed portions of the Property. Stormwater treatment may be provided in part, or whole, by underground stormwater treatment chambers. Applicant shall be permitted to utilize the Southern Properties for rate attenuation, notwithstanding any other rate control standards.

(c) Commercial Parking Standards

Off street parking shall be provided on site to accommodate commercial uses as follows:

Minimum Parking Standards:

<u>General Retail</u>	<u>1 space / 200 sf GFA*</u> <u>(inclusive of handicapped parking)</u>
<u>Restaurant</u>	<u>10 spaces / 1,000 GFA</u>
<u>Theater</u>	<u>1 space / 5 seats</u>
<u>Office</u>	<u>1 space / 300 sf GFA</u>

* - GFA = gross floor area

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~~9. PUD Approval Process for Property. This process will be drafted later.~~

~~. Consideration and approval of the amendment to the PUD Concept Plan for the Fallschase DRI/PUD as outlined in paragraph 9 of this Agreement will be solely by the Board of County Commissioners pursuant to Sec. 10-915(c)(1) f. of the Leon County Land Development Code.~~

~~Any subsequent amendments to the Amended PUD shall be reviewed and approved by the County Administrator or his designee unless the proposed changes are a substantial change in the general location of the proposed land uses, including the common open space and/or natural areas.~~

~~10. Development Standards. The parties agree that Applicant's development approval applications made in the future during the term of this Agreement shall comply with the development standards set forth in Exhibit __. These development standards meet or exceeds the requirements for the comprehensive plan and the existing land development regulations, while recognizing the vested rights of Fallschase.???. Such development~~

~~standards may only be modified by agreement between the Applicant and the County as evidenced by Commission action.~~

~~11. Approval Process: The following development review process shall be applicable to PUD final development plan applications and environmental permit applications for the Fallschase DRI/PUD:~~

~~(a) Process. The PUD final development plan approval application process and the environmental permit application process may operate concurrently at the Applicant's option.~~

~~(b) Timeline:~~

~~(1) The site plan approval application and the environmental permit application shall be submitted to the Leon County Director of Community Development ("Director") for review.~~

~~(2) The Director shall approve or provide written comments/questions regarding the site plan approval application and the environmental permit application within fifteen (15) days of submittal.~~

~~(3) If the submission is not sufficient for final review at the time of submittal, the Applicant shall resubmit the application after receiving the comments/questions provided at the end of the fifteen day period.~~

~~(4) After the resubmission, the Director shall have fifteen (15) days to approve or deny approval without prejudice to resubmit. Failure by the Director to act within the ten (10) day period shall be deemed an approval of the application.~~

~~12. The Developmental Standards are site specific as set forth in Exhibit ____, and include the following:~~

~~(a) Landscaping and Tree Protection Standards. In order to utilize the Property in an efficient manner, to protect the heritage oak trees which are located adjacent to the 51 foot NGVD contour line and to maintain the unique environmental features of the property, Applicant will meet site specific landscaping and tree protection standards for the Property as described in Exhibit "F" hereto, in lieu of any other landscaping standards adopted in the Code. [must have for full review]~~

~~(b) Stormwater Standards. The County agrees Applicant will be required to retain a maximum of the first 1 1/8" of stormwater runoff from developed portions of the Property. Applicant shall be permitted to utilize the Southern Properties for rate~~

~~attenuation, notwithstanding any other rate control standards. [developer opting out of other flexibility in the code?]~~

~~(c) Open Space. The parties agree that the preservation of the Southern Properties, as contemplated in the Trust for Public Land transaction, fully satisfies any requirements for the provision of natural area/open space on the Property as a whole.~~

~~(d) Slopes. The Parties agree that the preservation of the slopes in the Southern Properties, as contemplated in the Trust for Public Lands transaction, fully satisfies any requirements for the slope requirements on the Property as a whole~~

133. Commercial Development.

(a) The commercial uses approved in the original DRI documents and the PUD documents were for a minimum of 25.4 acres located at the convergence of US 90, Buck Lake Road, and Fallschase Boulevard, and additional areas of commercial development within the mixed use and neighborhood commercial areas. ~~The equivalent square footage of commercial space in the three areas described above, using the County's Concurrency Management System procedures and a rate of 12,000 square feet per acre, results in a total of 625,800 square feet of commercial uses. [Not agreed.] [FALLSCHASE BELIEVES IT HAS 180,000 SQ. FT. OF ADDITIONAL COMMERCIAL, AS WELL AS 15000 SQ. FT. OF~~

~~NEIGHBORHOOD COMMERCIAL AND 66.5 ACRES OF COMMERCIAL, IN ADDITION TO THE RESIDENTIAL]~~

(b) The parties agree that the Applicant's right to develop 625,850,000 square feet of commercial development in the designated area set forth in Exhibit "DC" is not a change to the previously approved Fallschase DRI/PUD and does not constitute a substantial deviation to the DRI, shall not constitute a substantial deviation to the DRI, and that said change does not require the submission of a Notice of Proposed Change under section 380.06(19), Fla. Stat. ~~[Not agreed] [THIS IS A COMPROMISE OF THE FALLSCHASE POSITION THAT IT IS ENTITLED TO VASTLY MORE COMMERCIAL SQUARE FOOTAGE THAN THE 625,800 SET FORTH HEREIN]~~

14. Buck Lake Road Widening, Right-of-Way and Transportation Improvements. In order to assist the County with the planning and implementation of future improvements to Buck Lake Road and U.S. Highway 90:

(a) The Applicant shall donate right-of-way to the County for improvement of Buck Lake Road, as per the plans previously approved by the County and the Department of Transportation, upon final resolution by the parties of all other matters with respect to the implementation of transportation improvements, including median

openings and ingress and egress to and from Buck Lake Road and U.S. Highway 90, necessary to the development of Fallschase; and

(b) ~~The Applicant further agrees that some mitigation may be necessary to accommodate the future impacts of Fallschase on affected offsite roadways depending on the amount and location of commercial square feet desired by the Applicant. Applicant agrees to use its best efforts to reach agreement with the County with respect to the applicant's role in providing such necessary traffic improvements. To effectuate this, Applicant agrees to provide a transportation analysis to Leon County Public Works and the Florida Department of Transportation to address needed future improvements no later than submittal of its application for amendment of the PUD Concept Plan [not agreed to by Applicant BUT AGREED TO BY POTENTIAL PURCHASER]~~The County recognizes that the approved Fallschase DRI/PUD is vested for 3,659 p.m. peak hour trips. Some transportation improvements may be necessary to accommodate the future impacts of Fallschase on affected offsite roadways depending on the amount and location of development actually built on the Property. Applicant agrees to provide a transportation analysis to Leon County Public Works and the Florida Department of Transportation to address needed future improvements no later than submittal of its application for amendment of the PUD Concept Plan. The County agrees that if the development does not create more than 3,659 p.m. peak hour trips, the Applicant shall not be responsible for any

traffic mitigation, other than the donation of the right of way referenced in paragraph 14(a) and improvements to the Mahan Drive entrance to the development.

155. Turn Lanes and Median Cuts. In consideration of the concessions referred to above in paragraph 1 when Buck Lake Road is widened to four lanes, the County agrees to design and construct needed five (5) turn lanes and median cuts as set forth by previously approved County plans to accommodate all approved entrances to the Fallschase DRI/PUD as attached hereto as Exhibit “E.”: The County agrees to the placement of a median cut on Buck Lake Road between Fallschase Boulevard and U.S. 90 at approximately mid point and another median cut located approximately 500 to 600 feet east of Fallschase Boulevard as shown on Exhibit “G”. If the applicant desires the turn lanes and median cuts prior to the widening of Buck Lake Road, the applicant may build same subject to approval by County Public Works and receipt of any necessary permits. The County grants permission for the applicant to build same.

166. Utilities. Wastewater facilities, potable water and non-potable water will be provided by the Fallschase Community Development District, or through a contract with another public or private provider with demonstrated capacity to serve the proposed development. The applicant is encouraged to contract with the City of Tallahassee for wastewater facilities. Electric and gas utilities will be provided by the City of Tallahassee. If desired by the owners of the separate portions of the Property, and if allowed by the electric

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and gas utility provider, the County agrees to allow the burial of electric power lines on the Property. The County acknowledges that the Fallschase Community Development District has the right to serve all the lands included within the Property. The parties agree that Applicant will provide detailed plans for future expansion of the existing, on-site sewage treatment plant at the time of the proposed expansion.

177. Abandonment of Old Buck Lake Road. Not later than sixty (60) days following the County's approval of this Agreement, the County shall approve and affirm the abandonment of the right-of-way for Old Buck Lake Road. A legal description and boundary map of the area to be abandoned is attached hereto as Exhibits H and I, respectively.

188. Stormwater Impact Fees. The parties agree that there are no existing impact fees applicable to applicant's proposed discharge of stormwater to the ~~ULL~~ Southern Property. The parties further agree that neither Applicant nor Fallschase Community Development District shall be required to pay any fees or other charges which may be instituted by the County in the future for discharges to the Southern Properties.

~~**19. Height Requirements and Zero Lot Lines.** The parties agree that in order to accommodate the density and intensity of development originally approved for the Southern Property, exclusively on the remaining portions of the Property, there shall be no~~

~~height and setback requirements on commercial, residential or office development on the Property and all development shall be permitted to develop with zero lot lines and setbacks.~~

1920. Height Requirements and Zero Lot Lines. The parties agree that in order to accommodate the density and intensity of development originally approved for the Southern Property, exclusively on the remaining portions of the Property, there shall be no height and setback requirements on commercial, residential or office development on the Property and all development shall be permitted to develop with zero lot lines and setbacks.

20. Phasing. The parties agree that the applicant will cooperate with the County to create a reasonable phasing schedule to complete all development contemplated herein in the amendment to the PUD Concept Plan outlined in paragraph 9 of this Agreement.

2121. Binding Effect. The burdens of this Development Agreement shall be binding upon, and the benefits of this Development Agreement shall inure to, all successors in interest to the parties to this Development Agreement, whether by lease or purchase of a portion of the Property.

222. Applicable Law. This Development Agreement, and the rights and obligations of the County and the Applicant hereunder, shall be governed by, construed under and enforced in accordance with the laws of the State of Florida.

233. Exhibits. All exhibits attached hereto contain additional terms of this Development Agreement and are incorporated herein by reference.

244. Captions or Paragraph Headings. Captions and paragraph headings contained in this Development Agreement are for convenience and reference only, and in no way define, describe, extend or limit the scope or intent of this Development Agreement, nor the intent of any provision hereof.

255. Counterparts This Development Agreement may be executed in several counterparts, each constituting a duplicate original, but all such counterparts constituting one and same Development Agreement.

266. Effective Date. This Agreement shall become effective according to the provisions of section 163.3239, Fla. Stat. (2005), and section 10-1971E.(2) of the Leon County Code of Laws.

277. Term. This Agreement and the provisions hereof shall be in effect for a period of ~~twenty~~ **(2+0)** years from the effective date hereof, unless terminated sooner or extended in accordance with the provisions hereof.

288. Assignability and Conveyance of the Property. The Applicant shall have the right to assign the rights and obligations granted in this Development Agreement to any existing or subsequent owner of the Property. The Applicant shall, within 20 days of closing, notify the County of any sale of any lands in the Property and any subsequent owners shall be included in any notices required by this Agreement or otherwise by law or ordinance

299. Termination. This ~~Development~~ Agreement may be terminated by mutual consent of the parties. This Agreement may also be terminated by the Applicant if an appeal or any other challenge is filed as to this Agreement. Upon termination, all parties rights shall revert to those possessed prior to this Agreement

3030. Amendments and Extensions. This Development Agreement may be extended or amended by mutual consent of the parties so long as the extensions and amendments meet the requirements of Section 163.3239, Florida Statutes.

3131. Further Assurances Each of the parties hereto agrees to do, execute, acknowledge and deliver, or cause to be done, executed, acknowledged and delivered, all

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such further acts and assurances as shall be reasonably requested by the other party in order to carry out the intent of this Development Agreement and give effect thereto. Without in any manner limiting the specific rights and obligations set forth in this Development Agreement, the parties hereby declare their intention to cooperate with each other and to coordinate the performance of their respective obligations in effecting the terms of this Development Agreement

322. Release of Claims. ~~[MUTUAL RELEASE LANGUAGE IS BEING DRAFTED]~~The Applicant and the County do hereby mutually release each other respectively (inclusive of their servants, employees, managers, assigns, trustees, directors, officers, independent contractors, owners, agents, parent or principals, subsidiaries, affiliates, partners, representatives, heirs, executors, administrators, predecessors and successors) from all manner of any actions, suits, contracts, controversies, agreements, promises, trespasses, damages, claims, liabilities, causes of actions and any attorneys fees, costs or obligations related to the Property which could have been brought up to and including the date of this Agreement. This mutual release does not include any release for any actions, suits, contracts, controversies, agreements, promises, trespasses, damages, claims, liabilities, causes of actions and any attorneys fees, costs or obligations arising out of or in reference to other matters or properties, or to any actions relative to a breach of this

Agreement, or as to any action which may arise as to this Property subsequent to the date of this Agreement.

333. Notices. Any notices or reports required by this Development Agreement shall be sent to the following:

For the County:

Parwez Alam
Leon County Administrator
5th Floor, Leon County Courthouse
301 South Monroe Street
Tallahassee, Florida 32301

For the Applicant:

E. Lamar Bailey
Fallschase Land Company
4475 Buck Lake Road
Tallahassee, FL 32311

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34. Public Hearings. This Development Agreement was approved by the Board of County Commissioners after two (2) public hearings, the first on ~~August 30,~~ October 11, 2005, and the second on ~~September 13, 2005,~~ the date of the next scheduled Board of County Commissioners meeting, at which time the agreement was approved.

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IN WITNESS WHEREOF, the parties hereto, through their duly authorized representatives, have executed this Agreement as of the dates set forth below.

SIGNED, SEALED AND DELIVERED

In the presence of:

Witness

Printed Name:

Witness

Printed Name:

Fallschase Land Company

By: _____

Printed Name: _____

Title: _____

Date: _____

Approved as to Form and Legality
Herbert W.A. Thiele, County Attorney

DATE

PARWEZ ALAM (check proper party)
County Administrator, for Leon County

DATE

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List of Exhibits

- A. Legal Description of Property
- B. Survey of the Southland
- C. Linear Park Property
- D. Southland Maintenance Standards
- E. Master Conceptual Plan
- E. Development Approval Submittal Checklist
- F. Landscaping Standards
- G. Buck Lake Road Turn Lanes and Median Cuts
- H. Legal Description of Old Buck Lake Road
- I. Boundary Map of Old Buck Lake Road

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