Wendy/Laura **Attachment 9**

COPY

EED

DEVELOPMENT

Fax Cover Sheet

To: Gary Kubic (470-2503)
Weston Newton (706-9981)
Hank Johnston (757-67[redacted])

Cc: Lewis Hammet (757-7620)

From: Karla W. Eibling
executive assistant to John Reed
Direct: 843-836-7918
Fax: 843-836-7919

Date: 10/31/07

Re: Grande Oaks access from Bluffton Parkway

(Number of pages, including cover: 3)

Message:

Gentlemen,
If you have any questions, please do not hesitate to contact myself or Mr. Reed.
Thank you,
Karla Eibling
836-7918

Post Office Box 21067, Hilton Head Island, SC 29925

University Investments, LLC

Post Office Box 21067
Hilton Head Island, South Carolina 29925

To: **Hank Johnston, Mayor of Bluffton**
Weston Newton, County Council Chairman
Gary Kubic, County Administrator

From: **John Reed**
University Investments, LLC

Date: **October 25, 2007**

Re: **Access To Grande Oaks From Bluffton Parkway**

Gentlemen:

There has been some confusion over whether University Investments, LLC, will allow access from the Bluffton Parkway to Grande Oaks development. I am writing to all of you to confirm that such access will be allowed.

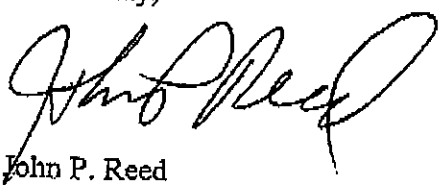
The County and the Town of Bluffton are finalizing plans for the location of the Bluffton Parkway Phase 5B, west of Buckwalter Parkway. Access plans for adjoining properties are being reviewed as well. University Investments, LLC, owns the land immediately south of Bluffton Parkway Phase 5B, west of Buckwalter. The Grande Oaks Development is immediately south of the University Investments property in this location.

University Investments has agreed to allow access across its land to the Grand Oaks property, in the three locations proposed under the access management plan. Details of the construction and routing of these access road locations, from Grande Oaks to Bluffton Parkway, will be subject to Town of Bluffton review and in coordination with development plans of University Investments. The purpose of this communication is to commit to the general proposition of allowing such access from the approved access points on Bluffton Parkway.

The particular locations of these access points are generally identified in the Bluffton Parkway Access Management Plan. Two of the access points will be at the planned signalized intersections at what is identified as the Town Center access point and a signalized intersection that is directly north of the western edge of the Grande Oaks property line. The third location at which access would be allowed would be for Sandy Point and would be near the southern most point in the most recently proposed routing by the engineers as presented at the October 11, 2007 meeting.

Please feel free to call me if you have any questions or comments.

Yours truly,



John P. Reed
University Investments, LLC

STATE OF SOUTH CAROLINA)
)
)
COUNTY OF BEAUFORT)

AGREEMENT RE: PHASE 5B
RIGHT OF WAY DONATION

THIS AGREEMENT FOR ROADWAY CONTRIBUTION is made and entered into this 23 day of August, 2011, by and among the Town of Bluffton, South Carolina (the "Town"), Douglas and Luellen Robertson (the "Robertsons") and University Investments, LLC ("University Investments").

WHEREAS, Beaufort County, South Carolina (the "County") is in the process of planning the location of the Bluffton Parkway Phase 5B; and

WHEREAS, the Robertsons, the Town and University Investments have, after numerous discussions and conferences, agreed upon a preferred location (hereinafter referred to as "Preferred Alignment" and shown on Exhibit "A"), which differs from what Beaufort County has proposed; and

WHEREAS, the Beaufort County's proposed location has not been presented by the Beaufort County to the Town Planning Commission and, therefore, has never been approved by the Planning Commission; and

WHEREAS, the Robertsons, the Town and University Investments have agreed upon the location of certain median cuts and roadway right-of-ways off of the currently constructed Bluffton Parkway and Access Management Plan; and

WHEREAS, the Robertsons, the Town and University Investments desire to show their support for such plan to the County by both written letters and public appearances in front of appropriate committees of the County and before County Council; and

WHEREAS, the parties hereto have reached this Agreement to provide for certain median cuts, roadway right-of-ways and support of relocation of Bluffton Parkway Phase 5B and other related terms and conditions, all as more fully set forth herein below.

NOW, THEREFORE, for good and valuable consideration, including the mutual binding terms hereof, the above stated parties hereby agree as follows:

1. Recitals. The above recitals are incorporated in this Agreement by reference.

2. Donation of Right-of-Way at the Innovation Drive Median Cut. University Investments hereby agrees to donate to the Town free and clear of any mortgage, lien or other encumbrance that would prohibit the construction of a road and the placement of signage within the right-of-way, an eighty foot (80') wide right-of-way (the "Property") at the Innovation Drive median cut for a length necessary to reach the University Investments/Robertson property line. Said right-of-way contribution shall be subject to certain conditions and the reservation of certain rights as set forth on "Exhibit B" attached hereto. As the property to be conveyed has not yet been platted, a drawing attached as "Exhibit C" is representative of the location of the right-of-way to be contributed. The right-of-way shall be contributed by University Investments to the Town upon a plat being prepared and recorded. However, the parties hereto agree that all expenses of the plat preparation shall be the borne by a party or parties other than University Investments. The plat to be recorded shall be subject to the approval of University Investments, such approval shall not be unreasonably withheld. The right-of-way shall be donated within 30 days of full approval of the aforementioned plat.

3. Donation of Right-of-Way East and West of Innovation Drive. University Investment hereby agrees to donate to the Town free and clear of any mortgage, lien or other encumbrance that would prohibit the construction of a road and the placement of signage within the right-of-way, two additional right-of-ways east and west of the Innovation Drive median cut to be approximately eight feet (80') in width and beginning at the Preferred Alignment location of the Bluffton Parkway and running across lands of University Investments to lands of Robertson (together with the right of way above also known as the "Property"). The contemplated areas to be donated as shown on the attached "Exhibit D" are approximate, as neither a plat nor survey work has been completed at this time. Said donation shall not occur until such time as Beaufort County adopts the Preferred Alignment as the official alignment. Said right-of-way donation shall be subject to conditions and the reservation of rights set forth in the attached "Exhibit B". All plat and survey work shall be at the expense of a party or parties other than University Investments.

4. Support by Robertson. Upon execution hereof, Robertson agrees to support, privately and publicly in writing and by public statement, the Preferred Alignment. Said support shall include attendance, upon reasonable notice, at appropriate County meetings and publicly supporting the Town preferred solution at said meetings, and further, support in any private conversations with County officials.

5. Town Conveyances. The Town agrees to accept such conveyances of rights-of-way subject to the reservations as set forth in the attached "Exhibit B" and the development (roadways and related construction) with the rights of way donated to the Town pursuant to this agreement shall be subject to the

Buckwalter Commons development standards in place at the time of the development permit issuance for the construction of a road and the placement of signs.

6. Authority of Parties/Enforcement. The parties hereto warrant and certify that they are legally existing entities and/or individuals possessing the full authority to enter into this Agreement and carry out the duties and obligations set forth herein. In the event of default, the non-defaulting party shall have the right to enforce this Agreement, including the right to specific performance hereof as well as any other damages and shall be entitled to receive attorneys fees and costs in addition to any other relief the Court may grant at law or in equity.

7. Notices. Any notice to be given to any party pursuant to any provision of this Agreement shall be in writing, shall be (a) hand delivered to such party; or (b) sent by FedEx or other nationally recognized overnight courier service at the address that such parties set forth below (fee prepaid and marked for next business day delivery) and if hand delivered shall be deemed received when delivered and if sent by FedEx or other nationally recognized overnight carrier shall be deemed received one business day after having been deposited with FedEx or other nationally recognized overnight courier service if designated for next day delivery address as follows:

If to Robertsons:

Douglas & Luellen Robertson
83 May River Point
Bluffton, SC 29910

with a copy to

Roberts Vaux, Esq.
Vaux & Marscher, P.A.
P.O. Box 769
1251 May River Road
Bluffton, SC 29910

If to University Investments:

c/o John P. Reed
1024 Berkeley Hall Boulevard
Bluffton, SC 29909

with a copy to:

Stephen S. Bird, Esq.

Bird, Cofield & Moise, LLC
P.O. Box 2474
15 Clark's Summit Drive
Bluffton, SC 29910

If to the Town of Bluffton:

Anthony Barrett, Town Manager
20 Bridge Street
P.O. Box 386
Bluffton, SC 29910

With a copy to:

Terry A. Finger, Esq.
Jonathan A. Mullen, Esq.
Finger & Fraser, P.A.
P.O. Box 24005 (29925)
35 Hospital Center Common, Suite 200
Hilton Head Island, SC 29926

8. Entire Agreement. This Agreement represents the entire Agreement between the parties hereto with respect to the subject matter hereof and all prior agreements, understandings and negotiations shall be deemed merged herein. No representations, warranties, promises or agreements, express or implied shall exist between the parties except as stated herein.

9. Time of the Essence. All of the provisions of this Agreement regarding time for performance are of the essence.

10. Governing Law. This Agreement and the legal relations among the parties hereto shall be governed by and construed in accordance with the law of the State of South Carolina without regard to its Conflicts of Law doctrine.

11. Counterparts and Facsimile Delivery. This Agreement may be executed simultaneously in two or more counterparts, each of which will be deemed an original, all of which together shall constitute one in the same instrument. Execution copies of the Agreement may be delivered by facsimile.

IN WITNESS WHEREOF, the undersigned parties do hereby agree and bind themselves hereto, effective upon full execution hereon.

Witnesses:

Town of Bluffton, South Carolina

By: _____

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

ACKNOWLEDGMENT

I, _____, Notary Public for South Carolina do hereby certify that _____ on behalf of the Town of Bluffton, South Carolina, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and seal this 23 day of August, 2011.

_____
Notary Public for South Carolina
My Commission Expires: 5/22/2012

Witnesses:

Douglas Robertson

Luellen Robertson

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

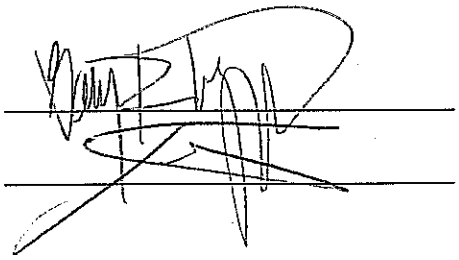
ACKNOWLEDGMENT

I, Roberts Vaux, Notary Public for South Carolina do hereby certify that Douglas & Luellen Robertson on behalf of the Douglas and Luellen Robertson, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and seal this 23 day of August, 2011.

Notary Public for South Carolina
My Commission Expires: 8/22/2017

Witnesses:



University Investments, LLC

By: _____

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

ACKNOWLEDGMENT

I, STEPHEN L BIRD, Notary Public for South Carolina do hereby certify that JOHN P REED on behalf of the University Investments, LLC, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and seal this 23 day of AUGUST, 2011.

_____
Notary Public for South Carolina
My Commission Expires: 3-3-2014

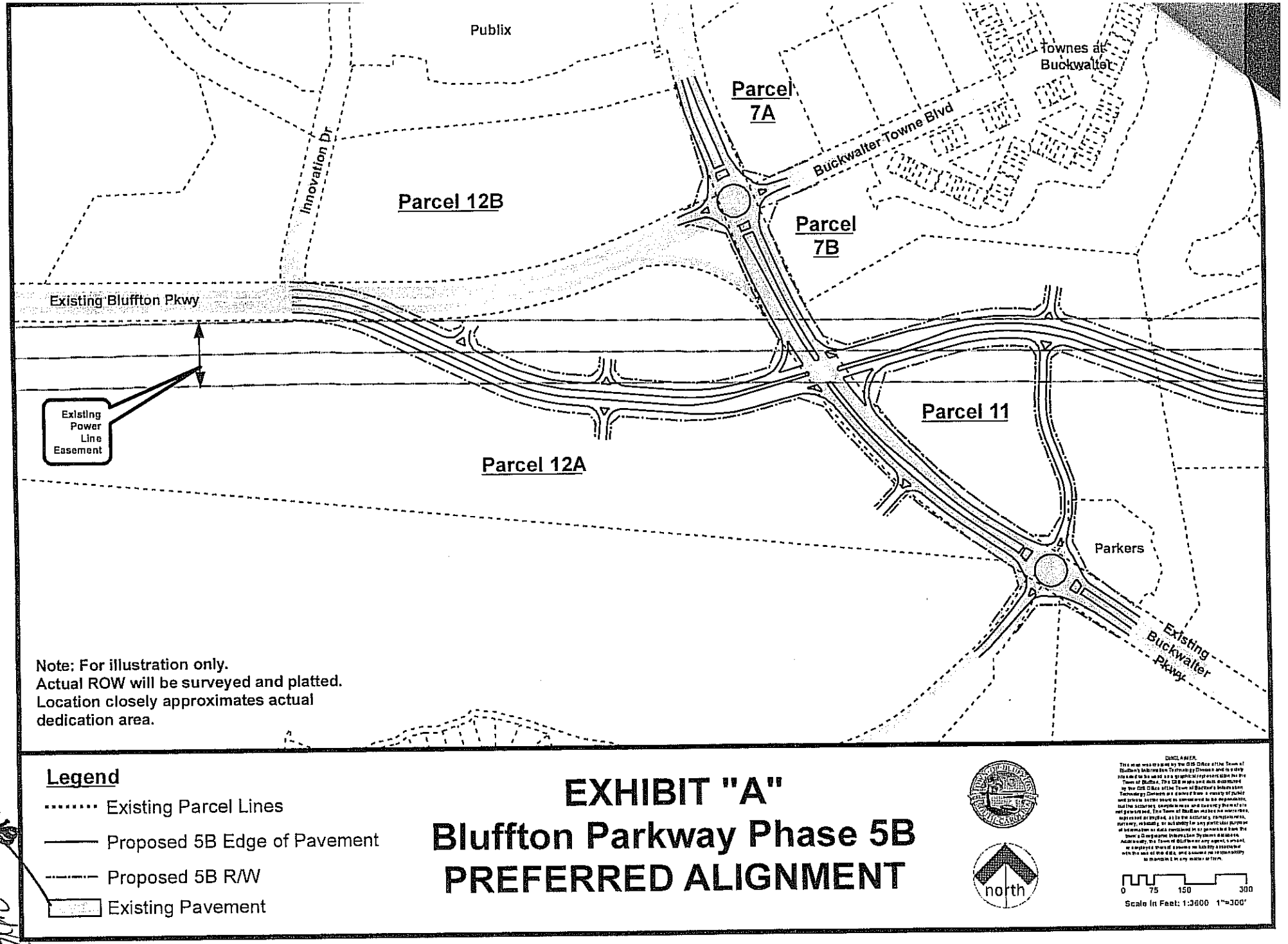

Publix
Townes at Buckwalter
Parcel 7A
Buckwalter Towne Blvd
Innovation Dr
Parcel 12B
Parcel 7B
Existing Bluffton Pkwy
Existing Power Line Easement
Parcel 11
Parcel 12A
Parkers
Existing Buckwalter Pkwy
Note: For illustration only.
Actual ROW will be surveyed and platted.
Location closely approximates actual dedication area.
Legend
Existing Parcel Lines
Proposed 5B Edge of Pavement
Proposed 5B R/W
Existing Pavement
EXHIBIT "A"
Bluffton Parkway Phase 5B
PREFERRED ALIGNMENT
north
0 75 150 300
Scale in Feet: 1:3600 1"=300'

Exhibit "B"

1. The within conveyance is made expressly subject to the terms and conditions and obligations of the development agreement ("Development Agreement") of April 19, 2000 with the Town of Bluffton, South Carolina, for the Buckwalter Tract, the Buckwalter Concept Plan, and all exhibits and amendments thereto.

2. The Property shall be used only for the construction and maintenance of a paved, publically accessed roadway, together with, as applicable, paved bike paths and leisure/jogging trails, landscaping, signage, and appropriate utilities. All permitting and approvals for the Bluffton Parkway and all construction costs applicable thereto and for the bike paths/leisure/jogging trails shall be solely the obligation and expense of the appropriate governmental entity or its designee consistent with the provisions of the Development Agreement.

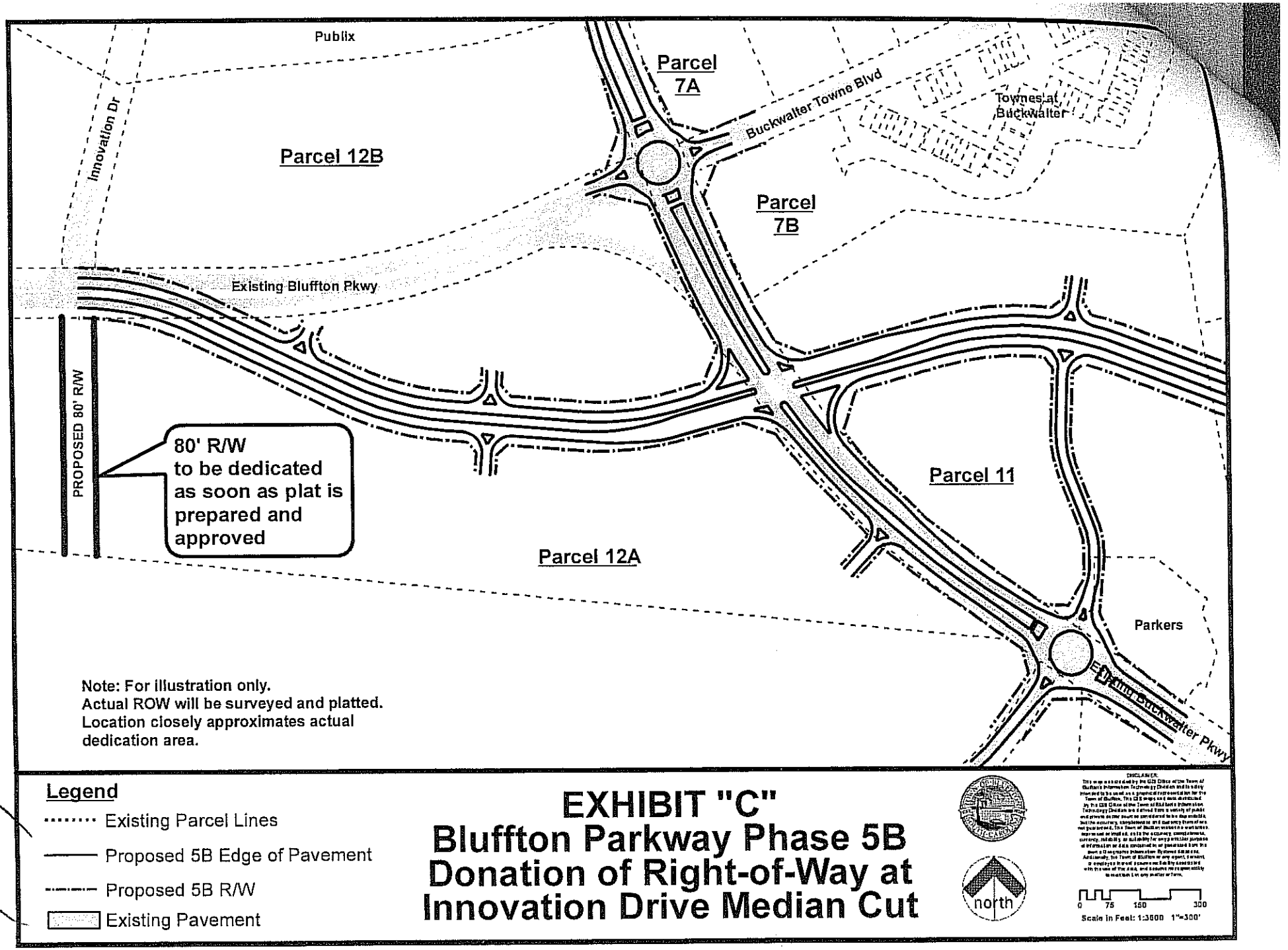
3. University Investments, LLC, its successors and assigns, hereby reserve such nonexclusive drainage and utility easements along or across the Property as necessary or desirable for the development of properties owned by University Investments, LLC. University Investments, LLC, its successors or assigns, or the recipient of such nonexclusive easements shall bear all costs for service together with any costs for the restoration or reconstruction of any portion of the Bluffton Parkway which may be disturbed by the utilization of any such drainage or utility easement. University Investments, LLC and the Town agree to cooperate with each other to plan, locate and construct all utility lines with sufficient capacity and in agreeable locations to prevent unnecessary duplication of utility lines for the subsequent development of the tracts owned by University Investments, LLC, its successors and assigns and Grantee's use of the property.

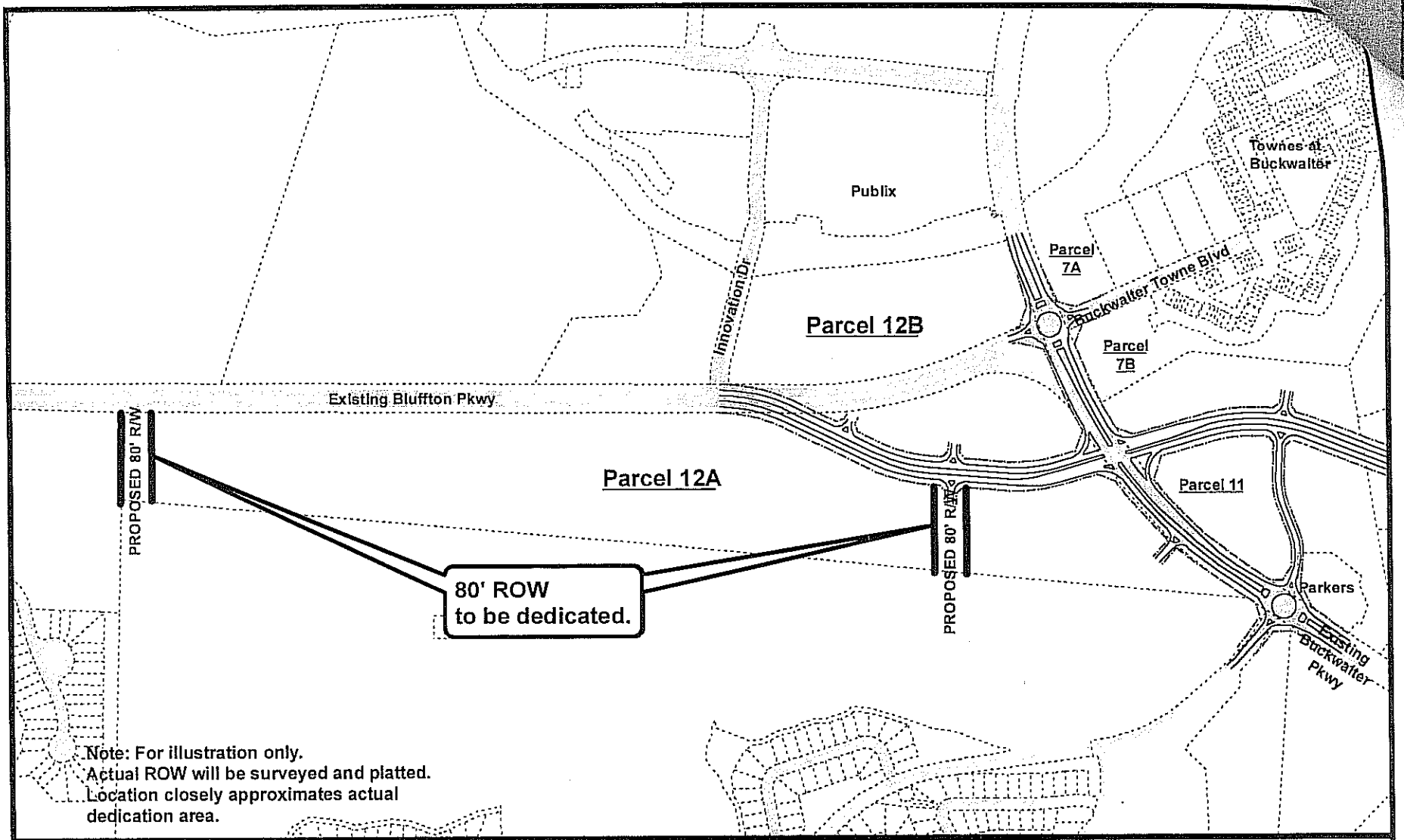
4. University Investments, LLC, its successors and assigns, hereby reserves easements for the construction of external and internal entry and directional signs, landscaping and irrigation, and for the maintenance, repair, and replacement thereof at such places along the right-of-way as University Investments, LLC may reasonably require, subject to the approval of the Town under the applicable standards of the Development Agreement and Buckwalter Concept Plan.

5. The Restrictions, Terms and Conditions described above shall run with and perpetually encumber the Property and may be enforced by injunction or other judicial remedy at law or in equity, by any party hereto and their successors and assigns only.

6. Unless otherwise approved by Town Council of the Town of Bluffton, the Town of Bluffton shall not be responsible for the cost of any construction allowed hereunder or for the cost of maintaining any improvements constructed in the right of ways conveyed hereunder.

7. The within conveyance is expressly subject to all easements, covenants, encumbrances and all other matters of record, existing conditions, and all matters which an inspection of the Property would disclose, other than those easements, covenants and other matters of record placed on the record by University Investments, LLC.


Publix
Innovation Dr
Parcel 12B
Parcel 7A
Buckwalter Towne Blvd
Townes at Buckwalter
Parcel 7B
Existing Bluffton Pkwy
PROPOSED 80' R/W
80' R/W to be dedicated as soon as plat is prepared and approved
Parcel 11
Parcel 12A
Parkers
Existing Buckwalter Pkwy
Note: For illustration only.
Actual ROW will be surveyed and platted.
Location closely approximates actual dedication area.
Legend
Existing Parcel Lines
Proposed 5B Edge of Pavement
Proposed 5B R/W
Existing Pavement
EXHIBIT "C"
Bluffton Parkway Phase 5B
Donation of Right-of-Way at
Innovation Drive Median Cut
north
0 75 150 300
Scale in Feet: 1:3600 1"=300'



Legend

- Existing Parcel Lines
- Proposed 5B Edge of Pavement
- Proposed 5B R/W
- Existing Pavement

EXHIBIT "D"
Bluffton Parkway Phase 5B
Donation of Right-of-Way
East and West of
Innovation Drive

north

0 150 300 600

Scale in Feet: 1:7200 1"=600'