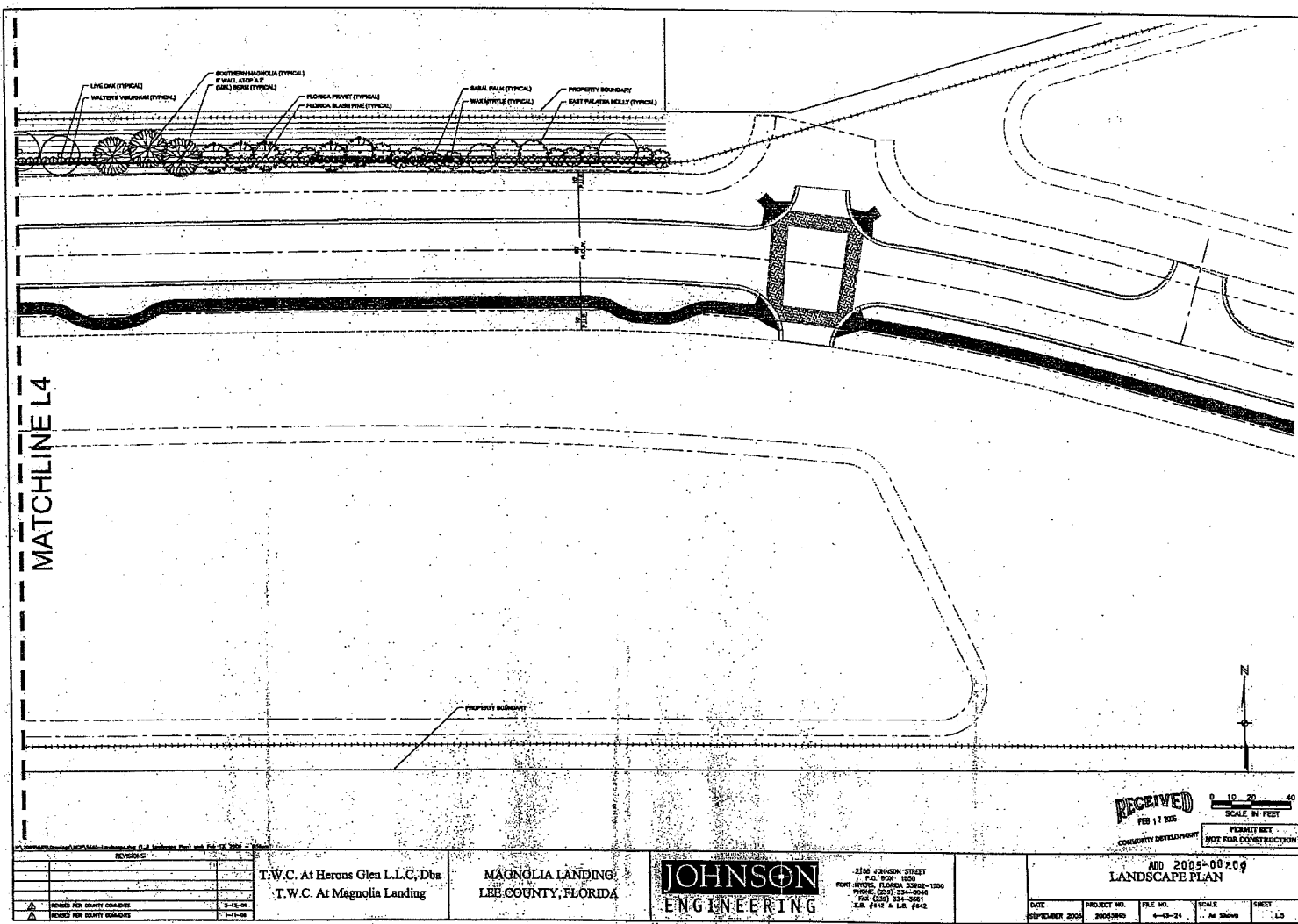




REVISIONS	
1	REVISED FOR COUNTY COMMENTS
2	REVISED FOR COUNTY COMMENTS

T.W.C. At Herons Glen L.L.C, Dba
T.W.C. At Magnolia Landing

MAGNOLIA LANDING
LEE COUNTY, FLORIDA

JOHNSON
ENGINEERING

2150 JOHNSON STREET
P.O. BOX 1050
PORT JEFFERSON, FLORIDA 33688-1050
PHONE: (239) 334-0044
FAX: (239) 334-0661
E-MAIL: J.E. @ J.E. ENG.



DATE	PROJECT NO.	FILE NO.	SCALE	SHEET
SEPTEMBER 2005	20050665	4-43-24	As Shown	

2005-0020

ADMINISTRATIVE AMENDMENT (PD) ADD2006-00080

ADMINISTRATIVE AMENDMENT
LEE COUNTY, FLORIDA

WHEREAS, Mr. Mike Lane filed an application for administrative approval to a Residential Planned Development on a project known as Magnolia Landing at Herons Glen for:

1. a reduction in the minimum lot width requirement for townhouse #1 from 30 feet to 22 feet in Exhibit D of ADD2002-00005; and
2. a reduction in the minimum lot area requirement from 2,400 square feet to 1,760 square feet for townhouse #1 in Exhibit D of ADD2002-00005; and
3. an increase in the number of townhouse units allowed per building from 4 to 8 in Exhibit D of ADD2002-00005; and
4. to revise the land use designation on a specific parcel on the MCP from Residential (R) to Recreation/Open Space (RO) to allow for a recreational facility to service the community
on property located at 20200 North Tamiami Trail, North Fort Myers, described more particularly as:

LEGAL DESCRIPTION: In Section 03, 04 & 10, Township 43 South, Range 24 East, Lee County, Florida:

SEE ATTACHED THREE-PAGE EXHIBIT "A"

WHEREAS, the property was originally rezoned in case number 88-3-18 DRI (with subsequent amendments in case numbers ADD2002-00005, ADD2002-00088, ADD2003-00096, ADD2004-00018, ADD2004-00021, ADD2004-00217, ADD2005-00209, 88-3-18-DRI, 88-3-18-DRI(a), 88-3-18-DRI(b), 88-3-18-DRI(c), 88-3-18-DRI(d), 88-3-18-DRI(e), 95-01-207.13A 03.01, 95-01-207.13A 04.01, 99-08-261.14A, DRI964596 & DRI96597) ; and

WHEREAS, the subject property is located in the Outlying Suburban Future Land Use Category as designated by the Lee Plan; and

WHEREAS, the applicant has requested amendments #1 and #2 because a new master developer is offering a differently-sized townhouse product than that previously provided in other areas of Herons Glen; and

WHEREAS, the applicant has requested to allow 8 units to be built per building instead of 4 units per building in order to reduce the total number of buildings and thereby reduce the total footprint of the project; and

WHEREAS, this will not increase the number of units nor density of the project; and

WHEREAS, the applicant has requested to re-designate a portion of the property from Residential (R) to Recreation/Open Space (RO); and

WHEREAS, according to Resolution Z-00-078, the (R) category allows for *Recreation Facilities, Personal and Private On-Site*, while the (RO) category allows for *Recreation Facilities, Personal and Private On-Site and Off-Site such as: Basketball Courts, Biking, Hiking, Fishing Piers, Picnic Areas and Nature Trails*; and

WHEREAS, the applicant has indicated to Environmental Sciences staff that the proposed changes to the park will be only for park facilities for use during daylight hours; and

WHEREAS, the Lee County Land Development Code provides for certain administrative changes to planned development master concept plans and planned unit development final development plans; and

WHEREAS, the subject application and plans have been reviewed by the Lee County Department of Community Development in accordance with applicable regulations for compliance with all terms of the administrative approval procedures; and

WHEREAS, it is found that the proposed amendment does not increase density or intensity within the development; does not decrease buffers or open space required by the LDC; does not underutilize public resources or infrastructure; does not reduce total open space, buffering, landscaping or preservation areas; and does not otherwise adversely impact on surrounding land uses.

NOW, THEREFORE, IT IS HEREBY DETERMINED that the application for administrative approval for an amendment to a Residential Planned Development is **APPROVED** subject to the following conditions:

1. **The Development must be in compliance with the amended Master Concept Plan, stamped received April 27, 2006. Master Concept Plan for ADD2006-00080 is hereby APPROVED and adopted. A reduced copy is attached hereto.**
2. **The property development regulations for townhouse #1 in the attached "Exhibit D" are hereby reduced to a minimum 1,760 square feet, 22 feet wide, and not more than 8 units per building.**
3. **The use of the Recreation/Open Space (RO) tract is Phase 2 being converted from Residential (R) is limited to park facilities to be used during daylight hours. Pools and clubhouses are not allowed. Any proposed building (e.g. restroom, picnic pavilion) must be setback a minimum of 30-feet from the preserve. Any paved area must be setback a minimum of 15-feet from the preserve. Only motion detector lighting is allowed, and must be directed away from the preserves.**

4. The terms and conditions of the original zoning resolutions remain in full force and effect, unless amended by the actions herein.

DULY SIGNED this 6th day of June, A.D., 2006.

BY: Pam Houck
Pam Houck, Director
Division of Zoning
Department of Community Development

RECEIVED
JUL 21 2009

COMMUNITY DEVELOPMENT

ADD 2009-00054

RECEIVED
APR 27 2006

EXHIBIT A

PERMIT COUNTER

**LEGAL DESCRIPTION
HERON'S GLEN**

ADD 2006-00080

A parcel of land being a portion of sections 2,3,4,5 and 10, township 43 south, range 24 east, Lee County Florida, being more particularly described as follows:

COMMENCE at the northeast corner of the aforementioned section 3; thence, along the north line of the northeast one-quarter of said section 3, N89°57'30"W, 355.01 feet to an intersection with the westerly right-of-way line of the former S.A.L. Railroad and the POINT OF BEGINNING; thence, continue along the north line of the northeast one-quarter of said section 3, N89°57'30"W, 2313.55 feet to the northeast corner of the northwest one-quarter of said section 3; thence, along the north line of the northwest one-quarter of said section 3, S89°48'39"W, 2667.53 feet to the northeast corner of the aforementioned section 4; thence, along the northerly boundary of Del Vera Country Club, Unit 2 as recorded in Plat Book 50 at pages 69 through 78 of the Public Records of Lee County, Florida, and the north line of said section 4, N89°42'39"W, 3036.29 feet; thence, along the boundary of Del Vera Country Club, Unit 1 as recorded in Plat Book 46 at pages 7 through 25 of the Public Records of Lee County, Florida, for the following nine (9) courses:

1. N89°42'40"W, 2299.67 feet;
2. S89°33'20"W, 1871.76;
3. S26°03'40"E, 318.64 feet;
4. S63°56'20"W, 300.77;
5. thence along the arc of a non-tangent circular curve concave to the southwest having for its elements a radius of 7739.44 feet, a central angle of 00°42'56", a chord bearing of S26°25'08"E, an chord distance of 96.66 feet, an arc distance 96.66 feet;
6. S26°03'40"E, 1943.40 feet;
7. N63°56'20"E, 300.17 feet;
8. N26°03'40"W, 4.46 feet;
9. N89°48'47"E, 2854.47 feet;

thence S00°11'07"E, 335.36 feet; thence N89°48'53"E, 60.00 feet; thence S00°11'07"E, 600.00 feet; thence along the arc of a tangent curve concave to the Northeast, having for its elements a radius of 236.25', a central angle of 31°56'42", a chord of 130.02 feet, a chord bearing of S16°09'28"E, an arc distance of 131.72 feet; thence N89°48'53"E, 39.71 feet; thence S00°11'07"E, 125.00 feet; thence S89°48'53"W, 35.48 feet; thence S00°11'07"E, 650.00 feet; thence S89°48'53"W, 25.00 feet; thence S00°11'07"E, 205.00 feet; thence along the south line of lands described in Deed Book 224 at page 437 of the aforementioned public records, S89°48'47"W, 2273.40 feet; thence, along the northeasterly right-of-way line of Tamiami Trail

ADD 2009-00054

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JUL 21 2009

WilsonMiller

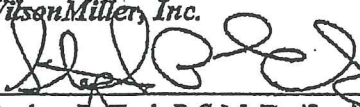
New Directions In Planning, Design & Engineering

(S.R. 45, US 41), S26°03'40"E, 370.00 feet; thence N89°48'47"E, 3845.26 feet; thence N00°11'13"W, 332.91 feet; thence, along the south line of lands described in Deed Book 224 at page 437 of the aforementioned public records, N89°48'47"E, 4368.87 feet to an intersection with the northerly extension of the west line of lands described in Official Records Book 388 at page 80 of the aforementioned public records; thence, along said northerly extension and said west line, S00°02'36"W, 2451.41 feet; thence, along the north right-of-way line of Nalle Grade Road, as described in Official Records Book 1096 at page 1784 of the aforementioned public records, S89°56'45"E, 2153.08 feet; thence, along the east line of lands described in Official records Book 1516 at page 1802 of the aforementioned public records, N00°02'36"E, 2460.47 feet; thence, along the south line of lands described in Deed Book 224 at page 437 of the aforementioned public records, N89°48'47"E, 775.85 feet; thence along the westerly right-of-way line of the former S.A.L. Railroad, N11°11'01"W, 4190.51 feet to the POINT OF BEGINNING.

Said parcel contain 1150.961 acres, more or less.

Applicant's Legal Checked
by: AMM 04MAY06

WilsonMiller, Inc.


Stephen H. Ere P.S.M. Professional Surveyor and Mapper
Florida Registration No. 3273

Pin #: 02898-002-P03-ZOPDA
Date: June 6, 2002
Ref: D-02898-54

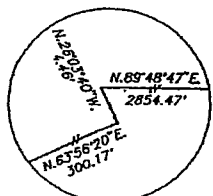
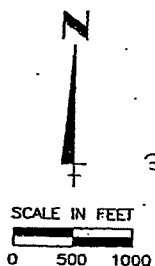
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PERMIT COUNTER

6/6/2002 - 22825 Ver: 011 - GRASHFORD
DANG
02898-002-P03- PWRK- 8286

ADD 2006-00080
RECEIVED
JUL 21 2009

ADD 2009-00054
COMMUNITY DEVELOPMENT



DETAIL "A"
(NOT TO SCALE)

LEGEND
OR - OFFICIAL RECORDS
RECEIVED
APR 27 2006

PERMIT COUNTER

LINE	LENGTH	BEARING
L1	205.00'	S00°11'07"E
L2	25.00'	S89°48'53"W
L3	650.00'	S00°11'07"E
L4	35.48'	S89°48'53"W
L5	125.00'	S00°11'07"E
L6	39.71'	N89°48'53"E
L7	600.00'	S00°11'07"E
L8	60.00'	N89°48'53"E
L9	338.37'	S00°11'07"E

NOTE:

BEARINGS SHOWN HEREON ARE BASED ON THE PLAT OF DEL VERA COUNTRY CLUB, UNIT 2 (PLAT BOOK 50, PAGES 69 THRU 78) FIXING THE NORTH LINE OF UNIT 2 AS N.89°42'39"W.

NO.	RADIUS	DELTA	ARC	CHORD	BEARING
1	7739.44'	00°42'56"	96.66'	96.66'	S.26°25'08"E
2	236.25'	31°56'42"	151.72'	130.02'	S.16°09'28"E

* SKETCH ONLY THIS IS NOT A SURVEY *

1 REV. NO. REVISE BOUNDARY REVISION DATE GWR DRAWN BY EMP. NO. 1386

CLIENT: COOLDGE FORT MYERS REALTY, L.P.
2250 AVENIDA DEL VERA, NORTH FORT MYERS, FL. 33917

ACTIVITY	INITIALS	EMP. NO.	DATE
DRAWN BY:	GWR	1386	6/5/02
CHECKED BY:	SPE	1146	6/5/02
COMPUTED BY:	GWR	1386	6/5/02

Wilson Miller
Planners - Engineers - Ecologists - Surveyors - Landscape Architects - Transportation Consultants
Wilson Miller, Inc.
497 Colwood Blvd, Suite 100 Fort Myers, Florida 33908 Phone 941-938-8220 Fax 941-938-2499 Web Site www.wilsonmiller.com

DATE	HORIZONTAL SCALE	VERTICAL SCALE	SEC. TYPES	RCE	FIELD BOOK	FIELD BOOK PAGES
6/5/02	1" = 1000'	N/A	2,3,4,5,10,43/24	N/A	N/A	N/A

TITLE:	SKETCH OF DESCRIPTION HERONS GLEN
TASK:	ZOPDA
PIN:	02898-002-P03
SHEET NUMBER:	1 of 1
DRAWING NUMBER:	B-2898-54

ADD 2006-00080

EXHIBIT D **PROPERTY DEVELOPMENT REGULATIONS**

Use	Dimensions			Setbacks				Height	Stories	Lot Coverage	Minimum Building Separation
	Area	Depth	Width	Side	Rear	Street	Water Body				
	(sq. ft.)	(ft.)	(ft.)					(Max)			
Single family detached	--	--	--	--	--	--	--	--	--	--	--
Type #1	6,000'	100'	60'	5'	10'	20/12*	20'	35'	2	50	n/a
Type #2	3,500'	70'	50'	5'	10'	20/12*	20'	35'	2	70	n/a
Type #3	3,373	75'	45'	5'	10'	20/12	20'	35'	2	70	n/a
Zero lot line units	--	--	--	--	--	--	--	--	--	--	--
Single Family Attached	3800'	80'	35'	5/0	10'	20/12*	20'	35'	2	70	n/a
Townhomes	--	--	--	--	--	--	--	--	--	--	--
Townhouse #1	1,760	80'	22	0	20'**	20/12*	20'	35'	2	70	20' to any other townhouse building
Townhouse #2	3,000'	125'	24	0	10	20/12*	20	35	1	70	25' to any single family lot line for any 1 story building
Note: no more than eight (8) units per building											40' to any single family lot line for any structure more than 2 stories
Country Club/Clubhouse	--	--	--	15'	20'**	20	20'	45'	3	--	10' for accessory buildings
											20' to any townhouse building
											25' to any single family lot line for any structure more than 2 stories
											40' to any single family lot line for any structure more than 2 stories
											10' for accessory buildings

NOTES:

NOTES:

- * With side entry garages
- ** Or in compliance with fire and safety access issues

ADDITIONAL NOTES

- 1 Accessory structure setbacks shall be in accordance with the LDC regarding accessory uses
- 2 Minimum Preserve and Golf Course Setback - ten feet (10')

UTILITIES PROVIDING SERVICE:

WATER:

LEE COUNTY UTILITIES
1500 MORRIS STREET
FORT MYERS, FLORIDA 33902
PHONE: (239) 479-8181

SEWER:

NORTH FORT MYERS UTILITY INC.
WASTE WATER TREATMENT PLANT RIGHTS & EMERGENCY SERVICE
4000 DEL PRADO BOULEVARD NORTH
NORTH FORT MYERS, FL 33917
PHONE: (239) 543-1858

TELEPHONE:

SPRINT
2620 CARGO STREET
FORT MYERS, FLORIDA 33916
PHONE: (239) 334-2117 (HAL DELIVER)

ELECTRIC:

LEE COUNTY ELECTRIC CO-OP
4500 BAYLINE DRIVE
NORTH FORT MYERS, FLORIDA 33917-3610
PHONE: (239) 554-2154 (TOLL FREE)

CABLE TELEVISION:

TIME WARNER CABLE
1418 SE 10TH STREET
CAPE CORAL, FLORIDA 33909
PHONE: (239) 772-2218 EXT. 120
(WALDO RODRIGUEZ)

GARBAGE COLLECTION:

CHRY. WASTE SERVICES
17101 PINE RIDGE ROAD SW
FORT MYERS BEACH, FL 33939
PHONE: (239) 334-1224

FIRE CONTROL DISTRICT:

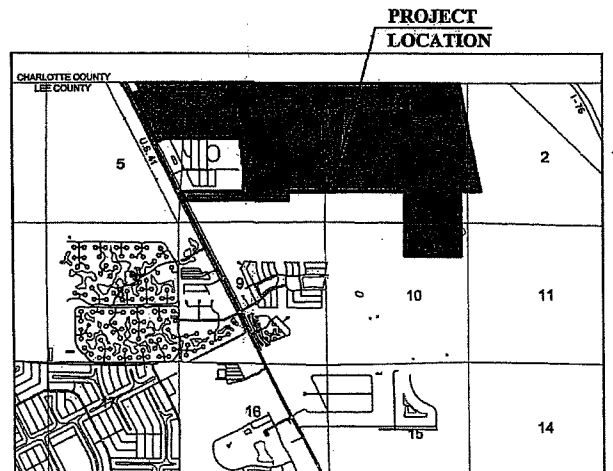
NORTH FORT MYERS FIRE CONTROL
AND RESCUE SERVICE DISTRICT
P.O. BOX 3507
NORTH FORT MYERS, FLORIDA 33918
PHONE: (239) 731-1831

INDEX OF PLANS

SHEET NO.	DESCRIPTION
1	COVER
2	AERIAL MAP
3	APPROVED MASTER CONCEPT PLAN
4	REVISED MASTER CONCEPT PLAN FOR AA (TOWNHOME)

APPLICATION FOR ADMINISTRATIVE ACTION FOR MAGNOLIA LANDING

SECTION 2, 3, 4, 5 & 10,
TOWNSHIP 43 S., RANGE 24 E.
Lee County, Florida



LOCATION MAP

0 2000 4000
SCALE IN FEET

APRIL, 2006

ATTACHMENT A

DEVELOPER

TAYLOR WOODROW COMMUNITIES
AT HERONS GLEN L.L.C., dba
TAYLOR WOODROW COMMUNITIES
AT MAGNOLIA LANDING
3501 AVENIDA del VERA
NORTH FORT MYERS, FLORIDA 33917
PHONE: (239) 543-1775
FAX: (239) 543-1845

OWNER

TAYLOR WOODROW COMMUNITIES
AT HERONS GLEN L.L.C., dba
TAYLOR WOODROW COMMUNITIES
AT MAGNOLIA LANDING
3501 AVENIDA del VERA
NORTH FORT MYERS, FLORIDA 33917
PHONE: (239) 543-1775
FAX: (239) 543-1845

STRAP NUMBER

03-43-24-05-00000.1047
03-43-24-05-00001.0100
03-43-24-05-00005.0000
03-43-24-05-00005.0020
03-43-24-05-00000.1060
03-43-24-05-00000.1124
03-43-24-05-00000.1137
03-43-24-05-00000.1160
03-43-24-05-00000.1161
03-43-24-05-00000.1200
03-43-24-05-00008.0000
03-43-24-05-00007.0000
04-43-24-10-00000.7450
04-43-24-10-00000.7460
04-43-24-10-00000.7470
04-43-24-10-00000.7480
04-43-24-10-00000.7780
04-43-24-00-00001.0000
04-43-24-10-00000.0000
10-43-24-00-00003.0030

SIZE OF PARCEL

1150.9 ACRES

ZONING

RPD

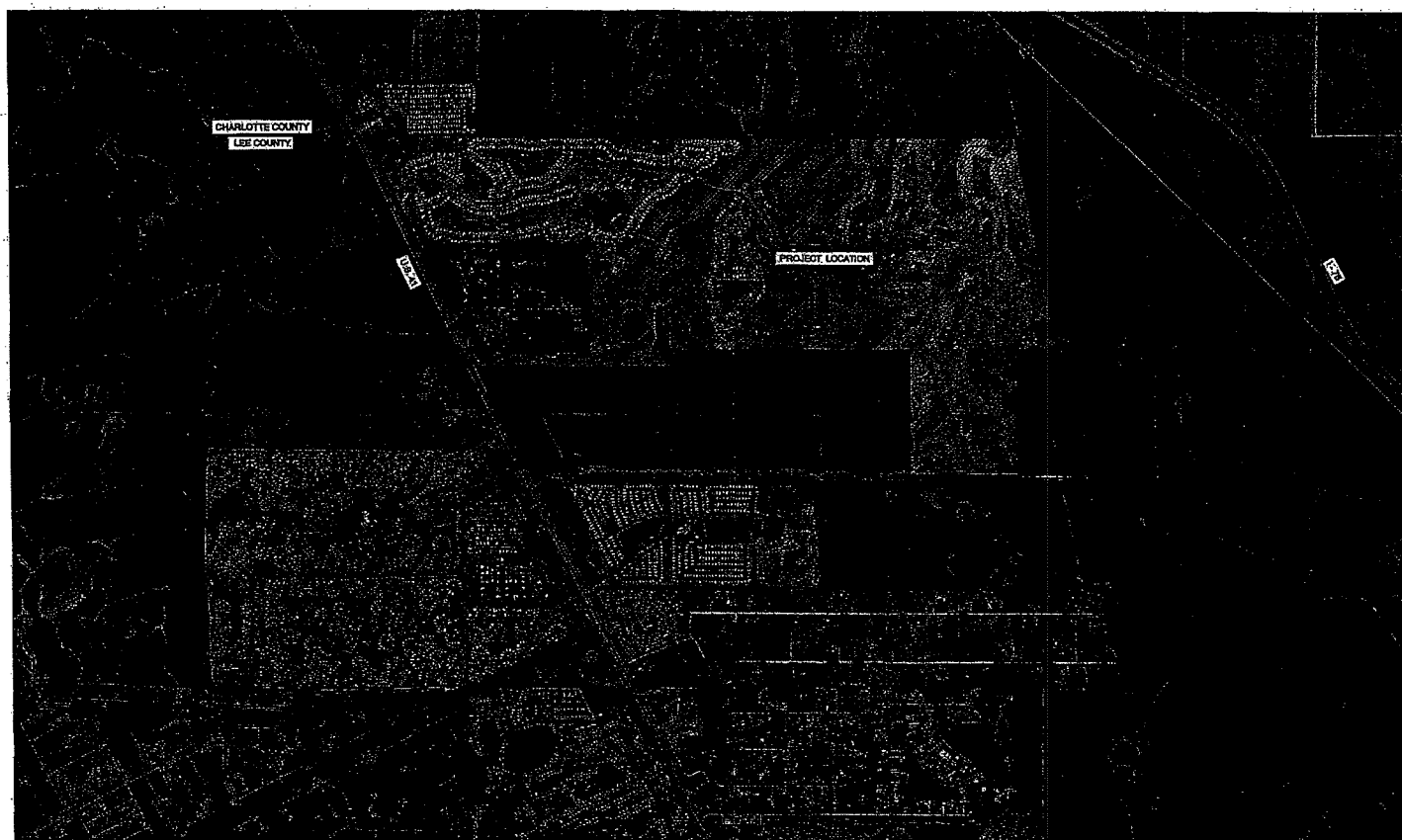
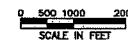
JOHNSON
ENGINEERING

2188 JOHNSON STREET
P.O. BOX 1800
FORT MYERS, FLORIDA 33902-1550
PHONE: (239) 334-3348
FAX: (239) 334-3361
E.E. #642 & L.B. #642

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PERMIT OFFICE

ADD 2006-00080

SHEET
1



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APR 27 1963
VERMONT COMPTON

\\Fs-01\work\1-50000000\Sherwin\ACF\6483-LOCATION-WP-Fig 9.dwg(7) mod Apr 25, 2004 - 11:13am

[illegible]

T.C.W. At Herons Glen L.L.C., Dba
T.W.C. At Magnolia Landing

MAGNOLIA LANDING
Lee County, Florida

JOHNSON
ENGINEERING

2158 JOHNSON STREET
P.O. BOX 1550
FORT MYERS, FLORIDA 33902-1550
PHONE (239) 334-0046
FAX (239) 334-3661
E.B. #842 & L.B. #842

NOV 2006-00080
AERIAL MAP

DATE	PROJECT NO.	FILE NO.	SCALE	SHEET
APRIL, 2006	20055885	4-43-24	As Shown	2

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JUL 21 2009

ADD 2009-00054
COMMUNITY DEVELOPMENT

ADMINISTRATIVE AUTHORIZATION

ADMINISTRATIVE AUTHORIZATION
LEE COUNTY, FLORIDA

WHEREAS, Del Vera Limited Partnership has filed an application for administrative authorization of encroachment into public utility easements and drainage easements located in Del Vera Country Club, Unit 1, a subdivision in Sections 04 and 05, Township 43 South, Range 24 East, and a replat of a Part of North Fort Myers Park (PB 9, PG 113) and Del Vera Country Club, Unit 2, a subdivision in Section 04, Township 43 South, Range 24 East, Lee County, Florida; and

WHEREAS, the applicant has indicated that the authorization for eaves encroachments applies more particularly to all lands described in Plat Book 46, Page 7, Del Vera Country Club, Unit 1 and all lands described in Plat Book 50, Page 69, Del Vera Country Club, Unit 2; and

WHEREAS, the applicant has indicated the property's Development Order number is 89-04-005.00D; and

WHEREAS, the Lee County Land Development Code Section 10-259 and 10-328 (Ordinance 92-44), provides for encroachment into the easement; and

WHEREAS, the encroachment is solely for the purpose of constructing eaves and bay windows; and

WHEREAS, the Applicant has entered into an agreement with the Lee County Utilities, Engineering Division, CVI Cablevision Industries, Heron's Glen Homeowners' Association, Del Vera Utilities, Amerigas, United Telephone of Florida and Lee County Electric, which agreements are attached hereto; and

WHEREAS, the subject application and plans has been reviewed by the Lee County Division of Zoning & Development Services in accordance with applicable regulations for compliance with all terms of the administrative authorization; and

WHEREAS, the following findings of fact are offered:

- A. The lesser dimension will be in harmony with the general appearance and character of the community.
- B. The lesser dimension will not be injurious to the area involved or otherwise detrimental to the public health, safety or welfare.

NOW, THEREFORE, IT IS HEREBY DETERMINED that under the authority as provided to the Director of Zoning & Development Services, Division in the Lee County Land Development Code, the encroachment into the public utility easement and drainage easement is APPROVED, limited to the following:

- a) The encroachments, not to exceed 2 feet, are limited to eaves and bay windows; and
- b) The encroachments are further limited to the residential lots in accordance with the attached agreements.
- c) The encroachments apply only to the side property lines.

DULY SIGNED this 12th day of July, A.D., 1995.

BY:

Walter J. McCarthy
Walter J. McCarthy, Director
Zoning & Development Services Division

[NOTE: It is recommended that the applicant record this document in the Lee County Clerk of Courts, Recording Department].

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JUL 21 2009

COMMUNITY DEVELOPMENT
ADD 2009-00054

Exhibit H-1.D.

Development Orders

ADD 2009-00054

RECEIVED

JUL 21 2009

COMMUNITY DEVELOPMENT

RECEIVED
JUL 21 2009

DEVELOPMENT ORDER

COMMUNITY DEVELOPMENT

FOR

DEL TURA NORTH COUNTRY CLUB

#6-8687-77

LET IT BE KNOWN, THAT PURSUANT TO SECTION 380.06 OF THE FLORIDA STATUTES, THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA, HAS HEARD AT A PUBLIC HEARING ON THE TWENTY-FIFTH (25TH) DAY OF APRIL, 1988, THE APPLICATION FOR DEVELOPMENT APPROVAL FOR DEL TURA NORTH COUNTRY CLUB A RESIDENTIAL/COMMERCIAL DEVELOPMENT ON APPROXIMATELY ELEVEN HUNDRED AND THIRTY-SIX (1136) ACRES TO BE DEVELOPED IN ACCORDANCE WITH THE APPLICATION FILED ON JUNE 15, 1987, BY PETER J. KANAVOS, JR., AUTHORIZED REPRESENTATIVE FOR EUROMERICAN INVESTMENT GROUP LTD/FLORIDA SITES INTERNATIONAL, FOR SAID DEVELOPMENT.

WHEREAS, the Board of County Commissioners of Lee County, Florida has considered the report and recommendations of the Southwest Florida Regional Planning Council, the Lee County Administrative Review Staff, the Lee County Planning and Zoning Commission and the documents and comments upon the record made before the Board in public hearing, and, after full consideration of said reports, recommendations, comments, and documents, the Board of County Commissioners of Lee County, Florida, hereby finds and determines that:

FINDINGS OF FACT/CONCLUSIONS OF LAW

A. The developer proposes to develop a mixed-use project with 2700 residential dwelling units (mobile homes or manufactured home units), golf course(s), clubhouses(s), 10,000 square feet of retail commercial area, sales center, and other amenities on 1136 total acres of land.

The legal description of the property is as follows:

A parcel of land in Sections 2, 3, 4, 5, & 10, Township 43 South, Range 24 East, Lee County, Florida, more particularly described as follows:

Commence at the Northeast corner of Section 03, Township 43 South, Range 24 East; THENCE N.89°57'30"W. along the North line of the Northeast One Quarter (NE 1/4) of said Section 03 for 355.01 feet to an intersection with the Westerly right-of-way line of the former S.A.L. Railroad and the POINT OF BEGINNING of the herein described parcel of land; THENCE continue N.89°57'30"W. along said North

line for 2313.55 feet to the Northeast corner of the Northwest One Quarter (NW 1/4) of said Section 03; THENCE S.89°48'38"W. along the North line of said Northwest One Quarter (NW 1/4) for 2667.53 feet to the Northwest corner of said Section 03; THENCE N.89°42'40"W. along the North line of Section 04, Township 43 South, Range 24 East, for 5335.96 feet to the Northwest corner of said Section 04; THENCE S.89°33'20"W. along the North line of the Northeast One Quarter (NE 1/4) of Section 05, Township 43 South, Range 24 East for 1871.76 feet to an intersection with the Northeasterly line of North Fort Myers Park according to the plat thereof as recorded in Plat Book 9, Page 113 of the Public Records of Lee County, Florida; THENCE S.26°03'40"E. along said Northeasterly line for 318.64 feet to an intersection with the Southeasterly line of Lot 3 of said plat of North Fort Myers Park; THENCE S.63°56'20"W. along said Southeasterly line for 300.77 feet to an intersection with the Northeasterly right-of-way line of Tamiami Trail (S.R. 45, U.S. 41), being a point on the arc of a circular curve concave to the Southwest, said point bearing N.63°13'24"E. from the radius point of said curve; THENCE Southeasterly along the arc of said curve having for its elements a radius of 7739.44 feet and a central angle of 00°42'56" for 96.66 feet to the point of tangency; THENCE S.26°03'40"E. along said Northeasterly right-of-way line for 1943.40 feet to an intersection with the Southeasterly line of the Northwesterly One-Half (NW 1/2) of Lot 24 of the aforementioned plat of North Fort Myers Park; THENCE N.63°56'20"E. along said Southeasterly line for 300.17 feet to an intersection with the aforementioned Northeasterly line of North Fort Myers Park; THENCE N.26°03'40"W. along said Northeasterly line for 4.46 feet to an intersection with the Southerly line of that certain parcel of land described in Official Record Book 1032 at Page 707 of the aforementioned public records; THENCE N.89°48'47"E. along said Southerly line for 3354.47 feet to an intersection with the East line of that certain parcel of land described in Official Record Book 410 at Page 690 of the aforementioned public records; THENCE S.00°11'07"E. along said East line for 2040.37 feet to an intersection with the South line of that certain parcel of land described in Deed Book 224 at Page 437 of the aforementioned public records; THENCE S.89°48'47"W. along said South line for 2698.40 feet to an intersection with the aforementioned Northeasterly right-of-way line of Tamiami Trail; THENCE S.26°03'40"E. along said Northeasterly right-of-way line for 370.00 feet; THENCE N.89°48'47"E. for 3845.26 feet; THENCE N.00°11'13"W. for 332.91 feet to an intersection with the

aforementioned South line of that certain parcel of land described in Deed Book 224 at Page 437 of the aforementioned public records; THENCE N.89°48'47"E. along said South line for 4368.87 feet to an intersection with the Northerly extension of the West line of that certain parcel of land described in Official Record Book 388 at Page 80 of the aforementioned public records; THENCE S.00°02'36"W. along said Northerly extension and along the West line of said parcel for 2553.91 feet; THENCE S.89°56'45"E. along the South line of said parcel for 1711.91 feet; THENCE N.00°02'36"E. along the East line of said parcel for 16.72 feet to an intersection with the South line of that certain parcel of land described in Official Record Book 1516 at Page 1802 of the aforementioned public records; THENCE S.89°56'45"E. along said South line for 441.17 feet; THENCE N.00°02'36"E. along the East line of said parcel for 2546.26 feet to an intersection with the aforementioned South line of that certain parcel of land described in Deed Book 224 at Page 437 of the aforementioned public records; THENCE N.89°48'47"E. along said South line for 775.85 feet to an intersection with the aforementioned Westerly right-of-way line of the former S.A.L. Railroad; THENCE N.11°11'01"W. along said Westerly right-of-way line for 4190.51 feet to the POINT OF BEGINNING.

B. At the time of application, the subject property was zoned AG-2, pursuant to the authority of Chapter 125, Florida Statutes, Chapter 61-2405, Laws of Florida (Special Acts), and the Lee County Zoning Regulations of 1962, 1978, and 1986, as amended; and

C. The Application for Development Approval is consistent with the requirements of Chapter 380.06, Florida Statutes; and

D. The proposed development is not in an area designated as an Area of Critical State Concern pursuant to the provisions of Chapter 380.05, Florida Statutes; and

E. The development does not unreasonably interfere with the achievement of the objectives of an adopted State Land Development Plan applicable to the area; and

F. The proposed development has been reviewed by the Southwest Florida Regional Planning Council and is the subject of the report and recommendations adopted by that body on January 21, 1988, and subsequently forwarded to Lee County pursuant to the provisions of Chapter 380.06, Florida Statutes, and the proposed development, as modified by this Development Order, is consistent with this report and recommendations of the Southwest Florida Regional Planning Council; and

G. The application for plan amendment has been reviewed concurrently with the Application for Development Approval by the Board of County Commissioners of Lee County, Florida, the Southwest Florida Regional Planning Council, and the State Department of Community Affairs, pursuant to Chapter 163, Florida Statutes, and has been duly adopted after notice and hearing by the Board of County Commissioners of Lee County as consistent with the Lee Comprehensive Plan; and

H. The subject property, pursuant to the Plan amendment has been reclassified from the Rural and Suburban classifications to the Outlying Suburban and Suburban classifications of the Lee Comprehensive Plan, pursuant to the authority of Chapter 163, Florida Statutes, and local ordinance duly adopted by the Board of County Commissioners of Lee County, Florida; and

I. The development is consistent with the Lee County Comprehensive Plan, as amended, and Lee County's Land Development Regulations if subject to the conditions contained in this Development Order.

J. Concurrently with the adoption of this Development Order, the subject property is being rezoned in accordance with Lee County Zoning Ordinance #86-17 as amended, and the Zoning Resolution contains additional details and conditions pertaining to Del Tura North and also provides for certain deviations from Lee County Land Development Regulations.

K. The proposed conditions below meet the criteria found in Section 380.06(15)(d), Florida Statutes.

ACTION ON REQUEST

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA, in a public meeting duly constituted and assembled this Twenty-fifth (25th) day of April, 1988, that the Development of Regional Impact Application for Development Approval submitted for Del Tura North by Euromerican Investment Ltd./Florida Sites International, referred to hereinafter as "developer", is hereby ordered APPROVED, subject to the following conditions, restrictions, and limitations:

A. DRAINAGE/WATER QUALITY

1. The surface water management system for Del Tura North shall implement the design standards and water quality "best management practices" outlined in the Application for Development Approval (A.D.A.) (response to Questions 15 and 22, Water and Drainage), and all supplemental information presented in response to sufficiency questions. These design standards and practices include, but are not limited to the following:

(a) The combined use of man-made lakes and seasonal ponds to provide the necessary surface water storage.

(b) Maintenance of the existing transitional wet pine flowway as a natural drainage feature of the development.

(c) The division of the site into nine drainage basins each containing control structures regulating water levels and discharge rates to pre-development rates.

2. The developer and his consultants shall produce an acceptable method of calculating on-site basin storage for the South Florida Water Management District prior to the issuance of a final local development order. This procedure should eliminate any major site plan revisions necessitated as a result of not adequately providing enough on-site storage of stormwater.

3. Water Quality Monitoring:

(a) The developer shall design and implement an on-going water quality monitoring, maintenance and sampling program for the project's surface water management lakes, wetland preserves and groundwater in order to determine the concentrations and effects of pollutants on-site.

The surface water quality monitoring program shall be developed with South Florida Water Management District (SFWMD). Copies of all testing results will be sent to the SFWMD and Lee County Division of Environmental Services.

An appropriate number of sampling sites shall be selected to evaluate the quality of water entering and exiting the Del Tura North project, and that which will remain in water bodies, flow ways and wetlands.

Sampling shall be conducted quarterly during construction of Phase I. However, after the first year of construction, the Del Tura North consultants and the SFWMD shall evaluate the appropriateness of stations, parameters and frequency of sampling. Monitoring of Phase I and II shall continue until one (1) year following completion of the entire Del Tura North project.

Water samples will be collected and analyzed for, at a minimum, the following parameters in accordance with EPA and FDER guidelines:

- ammonia
- nitrite + nitrate nitrogen
- total nitrogen
- total phosphorus
- alkalinity
- fecal coliform
- total coliform

Water quality in-situ profile sampling shall be conducted concurrently, when possible, at 0.5 meter intervals from surface to 6" above bottom.

- temperature
- dissolved oxygen
- pH
- conductivity
- salinity

(b) Subsurface (groundwater) water quality monitoring: A groundwater monitoring program shall be developed with the Florida Department of Environmental Regulation and will operate for the lifetime of the project. Copies of all testing results will be sent to the FDER, SFWMD and Lee County Environmental Services.

The monitoring program to be developed with FDER shall be subject to the provisions of F.A.C. Rules 17-3 and 17-4 and will be conducted as follows:

(1) A specified compliance well shall be analyzed yearly for the Primary and Secondary Drinking Water Standards listed in F.A.C. 17-33 in the first quarter of the quarterly monitoring program.

(2) Water quality samples from a specified upstream background well, an intermediate compliance well and a downstream monitoring well shall be analyzed quarterly for the following indicator parameters:

total dissolved solids
total organic carbon
pH (field)
chloride
magnesium
manganese
organic nitrogen
nitrate
total nitrogen
lead
fecal coliform
soluble orthophosphate
sulfate
zinc
bicarbonate
calcium
sodium
specific conductance (field)
ammonia
sulfide
turbidity
iron
foaming agents (MBAS)

In addition, the samples shall be analyzed for the following parameters once a year:

volatile organic compounds (VOC's)
trichloroethylene
carbon tetrachloride
vinyl chloride
1, 1, 1-trichloroethane
1, 2-dichloroethane
benzene
ethylene dibromide
trihalomethanes

(3) Any parameter which is demonstrated not to occur in the intermediate compliance well shall not be sampled thereafter, and any parameter which can be demonstrated to be three times greater in the background well than in the intermediate compliance well shall not be sampled thereafter.

(4) Groundwater elevations of the above same wells shall be measured and reported relative to National Geodetic Vertical Datum (NGVD) quarterly.

(5) Field testing, sample collection, preservation, and laboratory testing, including quality control procedures, shall be in accordance with methods approved by the Florida Department of Environmental Regulation. All analyses shall be performed by a Florida State certified laboratory.

4. The developer shall coordinate with Lee County and the Florida Department of Environmental Regulation in the on-site storage of any special or hazardous waste, as defined in the Lee County Hazardous Waste Assessment, that may be generated in the commercial, residential or recreational portions of the project site.

5. All design standards and water quality "best management practices" relating to Questions 15 and 22 of the ADA, Water and Drainage respectively, not in conflict with the above recommendations, are hereby incorporated by reference into this DRI Development Order and shall be incorporated into the final local development order.

B. ENERGY

All site plans or architectural programs shall incorporate, as a minimum, the following energy conservation features into all site plans and architectural programs, or the property owner/developer shall insure that the following features are implemented through deed restrictions and/or covenants with successors in title. All applications for site plan approvals and building permits shall be accompanied by a document detailing proposed compliance with these conditions. If deed restrictions or covenants are utilized to insure compliance, such documents shall be approved by the Lee County Attorney's Office prior to recording. If no deed restrictions are approved and recorded, the prior alternative shall be utilized and the following features must be included:

1. Provision of a bicycle/pedestrian path system connecting all land uses, to be placed along the main project road and local roads within the project. This system is to be consistent with local government requirements.

2. Provision of bicycle racks or storage facilities in recreational, commercial and multi-family residential areas.

3. Cooperation in the location of bus stops, shelters, and other passenger and system accommodations for a transit system to serve the project area, if such service becomes available to serve the project area.

4. Use of energy-efficient features in window design.
5. Use of operable windows and ceiling fans.
6. Installation of energy-efficient appliances and equipment.
7. Prohibition of deed restrictions or covenants that would prevent or unnecessarily hamper energy conservation efforts (e.g., building orientation, clotheslines, and solar water heating systems).
8. Reduced coverage by asphalt, concrete, rock, and similar substances in streets, parking lots, and other areas to reduce local air temperatures and reflected light and heat.
9. Installation of energy-efficient lighting for streets, parking areas, recreation areas, and other interior and exterior public areas.
10. Use of water closets with a maximum flush of 3.5 gallons and shower heads and faucets with a maximum flow rate of 3.0 gallons per minute (at 60 pounds of pressure per square inch).
11. Selection of native plants, trees, and other vegetation and landscape design features that reduce requirements for water, fertilizer, maintenance, and other needs.
12. Planting of native shade trees to provide reasonable shade for all recreation areas, streets, and parking areas.
13. Placement of trees to provide needed shade in the warmer months while not overly reducing the benefits of sunlight in the cooler months.
14. Planting of native shade trees for each residential unit.
15. Orientation of structures, as possible, to reduce solar heat gain by walls and to utilize the natural cooling effects of the wind.
16. Provision for structural shading wherever practical when natural shading cannot be used effectively.
17. Inclusion of porch/patio areas in residential units.
18. Consideration by the project architectural review committee(s) of energy conservation measures (both those noted here and others) to assist builders and residents in their efforts to achieve greater energy efficiency in the development.

The incorporation of these energy conservation measures in this Development of Regional Impact does not preclude the provision of additional energy conservation measures by the developer. It also does not prevent the local government of jurisdiction or any state, regional, or other agency, under whose jurisdiction this project falls, from requiring additional energy measures or measures that may be more stringent.

C. HISTORICAL/ARCHAEOLOGICAL

1. Locations identified as likely to contain archaeological or historical material shall be preserved in recreation or preservation/open space areas. If this is not possible, these potential areas shall be surveyed in detail by a qualified archaeological survey team prior to any site preparation.

2. If, during site preparation, any archaeological or historical sites are uncovered, the developer shall cease all work in the immediate vicinity of the site, and the appropriate state and local agencies shall be contacted to evaluate the site and make recommendations concerning excavation, preservation or mitigation.

D. FLOOD PLAIN/HURRICANE EVACUATION

1. The developer shall construct on-site clubhouses (to be phased with the overall development) for use as hurricane shelters.

2. In accordance with the Lee County Development Standards Ordinance, shelter space at a ratio of 20 square feet per person, computed based upon the actual number of dwelling units constructed, an occupancy rate of 45% and 2.4 persons per dwelling, or as amended by Lee County ordinance shall be provided.

3. The shelters shall be built at an elevation of at least 25 feet above mean sea level.

4. The shelters shall contain emergency facilities as determined by the Lee County Office of Emergency Management.

5. The developer (or a homeowners association if one is established) shall annually update and distribute hurricane awareness information concerning the need for the project to evacuate, the on-site shelters, and hurricane evacuation routes in case persons should wish to leave the project.

E. TRANSPORTATION

1. The transportation impact assessment upon which this Development Order for Del Tura North DRI is based assumes project build out in 1997. The traffic impact assessment included the expected impacts of the proposed land uses and phasing schedule shown in Exhibit "A".

If it is found that the land uses at each phase of development differ from that which is presented in the ADA/DRI, then, it will be deemed to be a substantial deviation of the Development Order and a resubmittal will be required by the developer or his successors.

2. An annual monitoring program, to be performed by traffic engineers engaged by the developer or his successors, shall be established to monitor the development's impact upon the area's roadways. The annual monitoring program of the project's development shall be designed in cooperation with the Lee County Department of Transportation and Engineering and the Florida Department of Transportation (FDOT), which will determine the specific information needed, critical roadway points, and any other necessary information. As a minimum, the annual monitoring report shall contain A.M. and P.M. Peak-Hour traffic counts with turning movements and Critical Movement Analyses for all project access points onto U.S. 41 and Nalle Grade Road as well as the following intersections:

- US 41 and SR 739 (Business 41)
- US 41 and Littleton Road
- US 41 and SR 78 (Pine Island Road)
- SR 739 (Business 41) and SR 78 (Bayshore Road)

In addition, annual average daily traffic counts and level of service calculations for significantly impacted roadway links including, but not limited to, SR 739 (Business 41) from US 41 to SR 78, and US 41 from Zemel Road, to SR 78, shall be performed by the developer's traffic consultant and submitted as part of the annual monitoring report.

The developer or his representative shall submit the first monitoring report to the Lee County Engineer, the Southwest Florida Regional Planning Council (SWFRPC) and FDOT within one year of the issuance of the Development Order for Del Tura North. Reports shall be submitted annually until build out of the project. Actual build out will occur when the developer or his successors has constructed the maximum amount of manufactured housing, office/retail commercial, golf course, clubhouse, and sales center land uses permitted by the Del Tura North DRI

Development Order. Declared build out will occur if the developer or his successors formally declares in writing to all governmental agencies having responsibility for monitoring this DRI that no more development will be constructed, despite the fact that less than the permissible maximum had been built to date.

The purpose of this monitoring program is to: (1) determine whether or not the traffic levels projected in the traffic impact assessment for Del Tura North DRI are exceeded by actual impacts, and (2) assist Lee County and FDOT in determining the proper timing of necessary roadway improvements.

3. The developer or his successors shall be required to construct, at no cost to Lee County or FDOT, all site related improvements deemed necessary by the FDOT and the Lee County Department of Transportation and Engineering at all project access points onto US 41 and Nalle Grade Road as well as construct Nalle Grade Road itself and all site-related improvements required within Del Tura North DRI. Nalle Grade Road and access to the road shall meet all requirements of the Development Standards Ordinance, as the same now exists or as may be amended from time to time. Construction of Nalle Grade Road shall be as a two-lane undivided roadway, within the existing right-of-way whenever possible from U.S. 41 to the project entrance. The developer's obligation for these improvements shall include the full costs of design and engineering, utility relocation, right-of-way acquisition and dedication (if needed, but not to include costs and legal fees for County condemnation proceedings associated with Nalle Grade Road), construction of turn lanes, acceleration and deceleration lanes, construction inspection, contract administration, testing and signalization (as needed and warranted). The alignment, design, signalization and construction schedule for these improvements shall be approved by the Lee County Engineer and FDOT, if applicable.

The developer proposes to relocate a median opening on US 41 to align with Entrance #2. If the relocation of the median opening is not accomplished pursuant to FDOT permitting procedures, and the driveway is less than 330 feet from the existing median opening, then no access shall be permitted at that location. This determination shall be made by Lee County DOT&E and the FDOT prior to the issuance of permits and/or a local development order.

The developer or his successors shall not be eligible for credits against road impact fees for construction or dedication of rights-of-way associated with improvements at the project's access points deemed to be site-related as defined in the Lee County Roads Impact Fee Ordinance.

If Nalle Grade Road between U.S. 41 and the project access point is built, as described above, by the developer prior to the end of Phase 1 and the beginning of Phase 2 for Del Tura North DRI, the developer would be eligible for impact fee credits as defined in the Lee County Roads Impact Fee Ordinance.

If additional acquisition of right of way is necessary to construct Nalle Grade Road as described above, and Lee County cannot complete condemnation of the right of way prior to the end of Phase 1 and beginning of Phase 2 for the Del Tura North DRI, the developer may elect to deposit with Lee County the amount necessary to construct Nalle Grade Road as described above and adjusted for inflation to account for time delays attributable to condemnation proceedings. Upon deposit of this sum with the County prior to the end of Phase 1 and beginning of Phase 2, the developer will be eligible for impact fee credit as defined in the Lee County Roads Impact Fee Ordinance.

If condemnation is necessary for Nalle Grade Road, prior to issuance of building permits for Phase 2, a traffic study will be conducted by the developer to identify the additional Phase 2 units that would be supportable by the Phase 1 project access points onto U.S. 41. No further Phase 2 buildings permits beyond that level identified in the traffic study shall be issued until Nalle Grade Road and the project entrance onto Nalle Grade Road are open to traffic.

4. The developer shall maintain building setbacks of 140 feet from the Nalle Grade Road right-of-way centerline as right-of-way (including frontage roads) setbacks for Nalle Grade Road Extension.

5. As mitigation for the impacts of new development within Del Tura North DRI Phase 1, and in lieu of payment of impact fees at the time of individual building permits for Phase 1, the developer or his successors shall, within ninety (90) days after receipt of the first residential building permit, provide to Lee County a sum equivalent to the Phase 1 impact fees which are in effect at that time. Those monies will represent a "pipelining" of Phase 1 road impact fee monies with such monies to be used by Lee County for the Laurel Drive improvement (all or a portion of) or a comparable east/west improvement, to be determined by Lee County, in the general Del Tura North DRI impact area.

If the payment as identified above is not made consistent with the timing identified, then no further building permits shall be issued for Del Tura North DRI until payment has been made.

The above payments shall represent proportionate share payments for the improvements at the intersection of US 41 with SR 739 (Business 41).

As mitigation for the impacts of new development within Del Tura North DRI Phase 2, the developer shall pay to Lee County roads impact fees in effect at the time building permits are issued for all applicable development within the DRI. (Construction of Nalle Grade Road may substitute for all or a portion of Phase 2 impact fees if constructed consistent with Condition E.3). These impact fee payments shall represent proportionate share payments for widening of SR 739 (Business 41) to four lanes, and the improvements at the intersections of US 41 with SR 78 (Pine Island Road) and US 41 with Littleton Road.

Impact fee calculations for Manufactured Housing Dwelling Units shall be based on the Mobile Home trip generation rate of 4.8 trips per day per dwelling unit unless an Independent Fee Calculation study is performed as outlined in the Lee County Roads Impact Fee Ordinance and Administrative Code F-0032 for the site.

Should the roads impact fees be repealed, reduced or made unenforceable by court action, a substantial deviation shall be deemed to have occurred, and the traffic impacts of Del Tura North DRI shall be reanalyzed to determine appropriate alternative mitigation and the Development Order amended as appropriate to include such mitigation prior to the issuance of subsequent building permits for Del Tura North DRI.

6. Should Level of Service "C" on an annual average basis be exceeded for any regional road segment and/or intersection identified above, and:

- (a) The required road and/or intersection improvements necessary to bring the identified roadway back to Level of Service "C" on an annual average basis (or the Lee County adopted Level of Service at the time of the annual monitoring report) are not funded and programmed for construction during the next five years (or if such a roadway and/or intersection improvement funded and programmed for construction during that five year period be deleted from the program, postponed beyond the five-year period or not constructed within the five-year period), and

(b) Del Tura North DRI traffic is utilizing 5% or more, but less than 10%, of Level of Service "C" service volume on an annual average basis on the impacted regional road segment or intersection;

then the developer or his successors shall, within ninety (90) days, file a petition in accordance with Florida Statute 380.06 for determination of whether a substantial deviation has occurred.

If Del Tura North DRI is utilizing 10% or more of Level of Service "C" service volume on an annual average basis on the impacted regional road segment and/or intersection, and the actual level of service on the said roadway or intersection is worse than Level of Service "C" on an annual average basis, then a substantial deviation shall be deemed to have occurred.

Del Tura North DRI may continue development during substantial deviation DRI review if the developer or his successors enters into an agreement with the Department of Community Affairs, the SWFRPC, FDOT, and Lee County specifying the scope of development allowed during the review period. However, this paragraph shall not be construed to guarantee to Del Tura North DRI the right to continue development during substantial deviation DRI review.

7. Nothing contained in this Development Order shall be construed to exempt this development from participation in the funding, through Municipal Services Benefit Units (MSBU) or other special assessment districts, of improvements to various State and County arterial and collector roads to the degree to which this development generates demand or is benefited.

If any contributions and/or road or intersection improvements specified herein and required of the developer are not funded or provided within the time frames specified herein, development activities and the issuance of permits by Lee County for the Del Tura North DRI shall immediately cease until the obligation is fulfilled.

8. In the event that Lee County anticipates additional urbanization in the area between US 41 and I-75 to the north of SR 78, north/south roads paralleling U.S. 41 may be required to relieve traffic congestion associated with any further urbanization. The developer shall work with Lee County Department of Transportation and Engineering and Division of Planning to facilitate such north/south facilities.

F. VEGETATION AND WILDLIFE/WETLANDS

1. Red-Cockaded Woodpeckers (RCW) activity (foraging birds and apparently abandoned nest cavities) has been observed on the Del Tura North site. The amended Conceptual Master Development Plan (Map H) depicts approximately 220 acres of pine forested transitional zone area and four acres of conserved oak-pine buffer area around the inactive nest cavities. This 224 acre area is collectively called the preserve area. Subject to minor reconfigurations (up to 5% of the preserve boundary) which is likely to occur, these areas shall be preserved as foraging area and cavity tree buffer areas for the RCW's. The 5% configuration shall not be construed as a substantial deviation under Chapter 380.06 F.S., unless such reconfiguration results in an unacceptable loss of preserve area.

In addition, and in accordance with the developer's RCW Management Plan, final site development plans for Del Tura North shall conserve at a minimum an additional 50 acres of pine forest, interconnected with the 224 acre preserve area.

Monitoring Plan:

(a) A survey, conducted in accordance with the Commission's Wildlife Survey Methodologies, will be conducted annually on the entire site. Should re-activation of existing cavity trees or the development of new nesting activities by RCW be observed, the developer's monitoring plan and project design may be re-designed in accordance with the developer, SWFRPC, GFC and Lee County staff. These annual surveys will be conducted from initial construction through five (5) years after buildout.

(b) Within 60 days prior to the commencement of construction of each project's phase, an RCW survey of the phase's development area will be conducted. Should re-activation of existing cavity trees or the development of new nesting activities by RCWs be observed, the developer's monitoring plan and project design may be redesigned in accordance with the developer, SWFRPC and Lee County staff.

(c) The results of all surveys conducted under (a) and (b) above will be reported verbally within seven (7) days to SWFRPC, GFC and Lee County staff; with written correspondence to follow within thirty (30) days of completion of said survey.

(d) It is agreed that the Del Tura North RCW management and monitoring plans are flexible and subject to change with collective approval. Although subject to review and approval by the SWFRPC and Lee Count staff, substantial deviation pursuant to Chapter 380.06, F.S., will not occur unless any such modifications of the project design and scope will compromise the protection and maintenance of RCW colonies and habitat on-site.

Management Plan:

(a) Foraging RCWs have been observed on the site and the developer's plans to preserve pine forest on the site will maintain available habitat for future RCW foraging and nesting activities. In addition, the melaleuca on the site will be eradicated and controlled, thus significantly enhancing the quality of the project's area. This exotic control program shall be continued throughout the estimated life of the project.

(b) To ensure maximal available forage area on site, no pine trees greater than or equal to eight (8) inch diameter breast height (dbh) shall be removed, except those found in a road, lake, golf tee, golf green, middle of fairway, or under house pads.

(c) To ensure minimal disturbance of RCW nest activities, the developer is prohibited from initiating any clearing or other construction within three hundred (300) feet of cavity trees during April, May and June of each year.

(d) The preserve area shall be actively managed by the developer to insure continued quality RCW habitat through the use of a combination of prescribed burning/mowing/exotic control measures. Any prescribed burning of the site shall be conducted in accordance with U.S. and State Forestry Service guidelines. The preserve shall be burned every three (3) years or as needed to ensure suitable RCW habitat.

(e) The initial prescribed burn shall be conducted prior to any lot filling and may be conducted along with the golf course construction.

(f) Other prescribed burning techniques shall include the use of prohibiting fires during active breeding season; raking accumulated fuels at least three (3) meters from the bases of trees with abundant resin; keeping fire suppression equipment available; and mechanical or chemical removal of woody vegetation and debris from around cavity trees.

2. The developer shall prepare a long-term wetland preservation area management plan to be administratively approved by the Lee County Environmental Services Department staff and the SWFMD prior to the issuance of surface water management permits. This plan is intended to maintain the viability of on-site wetland preserves and shall contain the following:

- (a) Exotic plant control measures;
- (b) Appropriate hydroperiod control measures;
- (c) Understory control measures;

(d) Any appropriate measures outlined within the Red Cockaded Woodpecker Management Plan.

3. Should the developer find any further endangered or threatened species of special concern of either wildlife or plant species, during construction or detailed permit review, the developer shall contact the proper Federal and State authorities and assure that adequate measures are taken to protect these species.

G. SOLID WASTE

1. The developer shall investigate feasible methods of reducing solid waste volume at Del Tura North. Methods to investigate shall include, for instance, the use of compaction at the Commercial Center and Clubhouses.

2. The Del Tura North wastewater treatment plant and its associated components, including the spray irrigation system, shall meet all County and State design and operating requirements.

H. WATER SUPPLY

1. The developer shall obtain all appropriate water use permits from the South Florida Water Management District (SFWMD) and Lee County prior to any on-site construction.

2. The Del Tura North project shall utilize such water conservation measures as are referenced in the ADA, as well as those required by State law, and shall consider the use of "xeriscape" landscaping.

I. GENERAL CONSIDERATIONS

1. All commitments and impact mitigating actions provided by the developer within the Application for Development Approval (and supplementary documents) that are not in conflict with specific conditions for project approval outlined above are officially adopted as conditions for approval.

2. The developer shall submit an annual report on the Development of Regional Impact to Lee County, the Southwest Florida Regional Planning Council, the Department of Community Affairs and all affected permit agencies as required in Subsection 380.06(18), Florida Statutes. For specific information to be contained in this report see attached Exhibit B.

3. The development phasing schedule presented within the ADA and as adjusted to date of Development Order approval shall be incorporated as a condition of approval. If Development Order conditions and developer commitments incorporated within the Development Order to mitigate regional impacts, are not carried out as indicated to the extent or in accord with the timing schedules specified within the Development Order and this phasing schedule, then this shall be presumed to be a substantial deviation for the affected regional issue.

4. Pursuant to Chapter 380.06(16), the developer may be subject to credit for contributions, construction, expansion, or acquisition of public facilities. If the developer is also subject by local ordinances to impact fees or exactions to meet the same needs, the local government and the developer may enter into a capital contribution front-ending agreement to reimburse the developer for voluntary contributions in excess of his fair share.

BE IT FURTHER RESOLVED, by the Board of County Commissioners of Lee County, Florida, that:

1. This Resolution shall constitute the Development Order of this Board issued in response to the Development of Regional Impact Application for Development Approval filed for Del Tura North.

2. All commitments and impact mitigating actions volunteered by the developer in the Application for Development Approval and supplementary documents and not in conflict with conditions or stipulations specifically enumerated above are hereby incorporated by reference into this Development Order. These documents include the following:

- (a) Del Tura North Application for Development Approval;
- (b) Del Tura North DRI sufficiency response, August, 1987; and
- (c) Del Tura North DRI sufficiency response, November, 1987.

3. This Development Order shall be binding upon the developer and their heirs, assignees or successors in interest. Those portions of this Development Order which clearly apply only to the project developer, including but not limited to the initial construction of capital facilities, shall not be construed to be binding, however, upon future residents of single dwelling units or persons purchasing individual house sites for personal residential purposes. It shall, however, be binding upon any builder/developer who acquires any tract of land within Del Tura North.

It is hereby declared that the terms and conditions set out in this document constitute a basis upon which the developer and County may rely in future actions necessary to implement fully the final development contemplated by this Resolution and Development Order.

All conditions, restrictions, stipulations and safeguards contained in this Resolution and Development Order may be enforced by either party hereto by action at law or equity, and all costs of such proceedings, including reasonable attorney's fees, shall be paid by the defaulting party.

4. It is understood that any reference herein to any governmental agency shall be construed to mean any future instrumentality which may be created and designated as successors in interest to, or which otherwise possesses any of the powers and duties of any referenced governmental agency in existence on the effective date of this Development Order.

5. In the event that any portion or section of this Development Order is determined to be invalid, illegal, or unconstitutional by a court of competent jurisdiction, such decision shall in no manner affect the remaining portions or sections of the Development Order which shall remain in full force and effect.

6. The approval granted by this Development Order is limited. Such approval shall not be construed to obviate the duty of the developer to comply with all applicable local or state review and permitting procedures, except where otherwise specifically provided. Such approval shall also not obviate the duty of the developer to comply with any County Ordinance or other regulations adopted after the effective date of this Development Order.

7. Subsequent requests for local development permits shall not require further review pursuant to Section 380.06, Florida Statutes, unless it is found by the Board of County Commissioners, after due notice and hearing, that one or more of the following is present:

(a) A substantial deviation from the terms or conditions of this Development Order, or other changes to the approved development plans which create a reasonable likelihood of adverse regional impacts or other regional impacts which were not evaluated in the review by the Southwest Florida Regional Planning Council; or

(b) An expiration of the period of effectiveness of this Development Order as provided herein.

Upon a finding that either of the above is present, the Board shall order a termination of all development activity in such area of the development affected by such substantial deviation or such expiration of time until such time as a new DRI Application for Development Approval has been submitted, reviewed and approved in accordance with Section 380.06, Florida Statutes, and all local approvals have been obtained.

8. The deadline for commencing physical development under this Development Order shall be five (5) years from the date of its adoption, provided that all conditions are met in a timely manner and further provided that this effective period may be extended by this Board upon a finding of excusable delay in any proposed development activity and that conditions have not changed sufficiently to warrant further consideration of the development. In the event the developer fails to commence significant physical development of that property identified in this Development Order

within five (5) years from the date of adoption of this Development Order, development approval shall terminate and the development shall be subject to further consideration. Significant physical development shall include obtaining a Certificate of Completion on some substantial portion of the project (e.g., water management system or road system). This Development Order otherwise terminate in fifteen (15) years from its adoption date, unless an extension is approved. An extension may be granted by the Board of County Commissioners if the project has been developing substantially in conformance with the original plans and approval conditions, and if no substantial adverse impacts not known to the Southwest Florida Regional Planning Council or to Lee County at the time of their review and approval, have been identified. However, an extension of the date of buildout of a development by five (5) or more years shall be presumed to create a substantial deviation subject to further development-of-regional-impact review. The presumption may be rebutted by substantial, competent evidence at the public hearing held by Lee County. For the purpose of calculating when a buildout date has been exceeded, the time shall be tolled during the pendency of administrative and judicial proceedings relating to development permits.

9. The Administrative Director of the Lee County Department of Community Development or his/her designee, shall be the local official responsible for assuring compliance with this Development Order.

10. The development will not be subject to down-zoning, unit density reduction, or intensity reduction, for five (5) years following the approval of zoning, unless the County demonstrates that substantial changes have occurred in the conditions underlying the approval of this Development Order including, but not limited to, such factors as a finding that the development order was based on substantially inaccurate information provided by the developer, or that the change is clearly established by local government to be essential to the public health, safety and welfare.

11. The developer, or his successor(s) in title to the undeveloped portion of the subject property, shall submit a report annually to the Lee County Board of County Commissioners, the Southwest Florida Regional Planning Council, the State land planning agency, and all affected permit agencies. This report shall describe the state of development and compliance as of the date of submission, and shall further be consistent with the rules of the State land planning agency. The annual report shall include information contained in Exhibit B. The first monitoring report shall be submitted to the Administrative Director of the

Department of Community Development not later than May 1, 1989, and further reporting shall be submitted not later than May 1st of subsequent calendar years. Failure to comply with this reporting procedure is governed by Section 380.06 (18) Florida Statutes, and the developer shall so inform any successor in title to any undeveloped portion of the real property covered by this Development Order. This shall not be construed to require reporting from residents or successors of individual home sites, or dwelling units.

12. Certified copies of this Development Order will be forwarded to the Southwest Florida Regional Planning Council, the developer, and appropriate state agencies. This Development Order is rendered as of the date of that transmittal, but shall not be effective until the expiration of the statutory appeals period (45 days from rendition) or until the completion of any appellate proceedings, whichever time is greater. Upon this Development Order becoming effective, notice of its adoption shall be recorded as provided in Chapter 380, Florida Statutes.

THE MOTION TO ADOPT the above resolution and Development Order was offered by Commissioner Fussell and seconded by Commissioner Manning and upon poll of the members present, the vote was as follows:

Commissioner Manning	Aye
Commissioner Bigelow	Aye
Commissioner Wallace	Nay
Commissioner Fussell	Aye
Commissioner Slisner	Absent

DULY PASSED AND ADOPTED this 25th day of April, 1988.

BOARD OF COUNTY COMMISSIONERS
LEE COUNTY, FLORIDA

By: Bee Fussell
(Chairman)

ATTEST:

Charlie Green, Clerk

By: Janet S. Fisher
Deputy Clerk

APPROVED AS TO FORM

By: [Signature]
County Attorney's Office

OR 2003 PG. 4430-A

State of Florida
County of ...
I, ... Clerk of this Court ...
and State do hereby certify ...
...
...
Given under my hand and official seal at Fort Myers, Florida, this
24th day of May, 2003.
...
...
...

EXHIBIT A

<u>Proposed Phase</u>	<u>Use</u>	<u>Quantity</u>
I - 1988 - 1992	Manufactured Housing	1200 D.U.
	Sales Center	2500 sq. ft.
	Golf Course/Clubhouse	59 acres (18 holes)
II - 1992 - 1997	Manufactured Housing	1500 D.U.
	Office and retail commercial	10000 sq. ft.
	Golf Course/Clubhouse	57 acres (18 holes)

EXHIBIT B

INFORMATION TO BE INCLUDED
IN ANNUAL MONITORING REPORT

(a) Any changes in the plan of development, or in the representations contained in the ADA, or in the phasing for the reporting year and for the next year;

(b) A summary comparison of development activity proposed and actually conducted for the year;

(c) Undeveloped tracts of land, other than individual single family lots, that have been sold to a separate entity or developer;

(d) Identification and intended use of lands purchased, leased or optioned by the developer adjacent to the original DRI site since the developer order was issued;

(e) An assessment of the developer's and the local government's compliance with the conditions of approval contained in the DRI development order and the commitments which are contained in the Application for Development Approval and which have been identified by the local government, the Regional Planning Council or the Department of Community Affairs as being significant;

(f) Any known incremental DRI applications for development approval or requests for a substantial deviation determination that were filed in the reporting year and to be filed during the next year;

(g) An indication of a change, if any, in local government jurisdiction for any portion of the development since the development order was issued;

(h) A list of significant local, state and federal permits which have been obtained or which are pending by agency, type of permit, permit number and purpose of each;

(i) A statement that all persons have been sent copies of the annual report in conformance with Subsection 380.06(14) and (16), Florida Statutes;

(j) A copy of any recorded notice of the adoption of a development order or the subsequent modification of an adopted development order that was recorded by the developer pursuant to Subsection 380.06(14)(d), Florida Statutes; and

(k) Monitoring reports, including:

- (i) Water quality annual monitoring report (for review by Lee County and South Florida Water Management District);
- (ii) Red Cockaded Woodpecker annual monitoring report (for review by Lee County, Florida Game and Freshwater Fish Commission, U.S. Fish and Wildlife Service and SWFRPC);
- (iii) Transportation annual monitoring report (for review by Lee County, FDOT and SWFRPC).

RECORDED & INDEXED
JUL 13 5 2 AM '88
FBI - TAMPA

SECOND DEVELOPMENT ORDER AMENDMENT¹
FOR
HERONS GLEN (FORMERLY DEL VERA)

A DEVELOPMENT OF REGIONAL IMPACT
STATE DRI #6-8687-77
COUNTY CASE #88-3-18-DRI(d)

LET IT BE KNOWN that, pursuant to §380.06, Florida Statutes, the Board of County Commissioners of Lee County, Florida, considered the Application for Development Approval filed by Euromerican Investment Group Ltd/Florida Sites International, regarding a Development of Regional Impact consisting of 1,136 acres, at a public hearing and adopted the original development order for the Del Tura North Country Club Development of Regional Impact (DRI) on April 25, 1988.

WHEREAS, the Del Tura North Country Club DRI was amended in May 3, 1993 to change the name of the DRI to Del Vera DRI; allow detached single family residential dwelling units; eliminate the mobile home/manufactured home uses, eliminate the second golf course and expand the original golf course; change the phasing schedule and extend the buildout date to May 3, 1998; and

WHEREAS, a Notice of Proposed Change was filed by Coolidge-Fort Myers Realty, L.P., on December 1, 1999 to: (1) change the name of the development to Herons Glen DRI; (2) add 20 acres to the DRI to accommodate a waste water treatment plant expansion; (3) increase commercial square footage from 10,000 to 12,000 square feet; (4) add an additional 18 hole golf course; (5) extend the buildout and termination date to May 3, 2010 (for a total extension of 12 years); (6) modify the phasing schedule; and (7) modify Map H; and

WHEREAS, under §380.06(19), Florida Statutes, the proposed changes must be reviewed cumulatively with previous changes to determine whether they constitute a substantial deviation from the terms of the existing development order approvals; and

WHEREAS, the request to extend the buildout date a total of 12 years is presumed to create a substantial deviation under §380.06(19)(c) that may be rebutted by clear and convincing evidence; and

WHEREAS, a public hearing was advertised and held on February 5, 2001 and

¹ This is a codification and restatement of all DRI development orders rendered with respect to the Del Tura North Country Club (a/k/a Del Tura; a/k/a Herons Glen) DRI, including actions taken on April 25, 1988, May 3, 1993 and February 27, 2001.

RECEIVED
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COMMUNITY DEVELOPMENT
ADD 2009-00054

continued to February 27, 2001 before the Lee County Board of County Commissioners who gave full and complete consideration to the report and recommendations of the Southwest Regional Planning Council, the Lee County staff, the Lee County Hearing Examiner, the documents on record and the testimony of all interested parties; and

WHEREAS, the Board of County Commissioner reviewed the proposed change and concluded, based upon the evidence in the record that the proposed amendment does not constitute a substantial deviation from the original development approval.

NOW, THEREFORE, it is resolved by the Board of County Commissioners that the Development Order for the Heron's Glen (f/n/a Del Tura North Country Club) Development of Regional Impact adopted by the Board of County Commissioners on April 25, 1988 and amended on May 3, 1993 is further amended as follows.

NOTE: New language is underlined and deleted text is struck through.

~~The name of the project is hereby changed from Del Tura North Country Club to Del Vera.~~

I. FINDINGS OF FACT/CONCLUSIONS OF LAW

A. ~~The developer proposes to develop~~ Heron's Glen is a mixed use Development of Regional Impact (DRI). The development consists of a mixed-use project with 2,700 1,620 ~~detached single-family residential dwelling units,~~ 540 zero lot line villas, 540 townhouses, two 18 hole golf course(s) with clubhouses on 247 acres, clubhouse(s), 10,000 a total of 12,000 square feet of retail commercial area within the clubhouses ~~on a total of 3 acres with a maximum of 250 parking spaces, sales center, and other amenities on 4436~~ 1,151± ~~total acres of land. A map of the development is attached as Exhibit A (Map H-3).~~

The legal description of the property is as follows:

A parcel of land in Sections 2, 3, 4, 5, and 10, Township 43 South, Range 24 East, Lee County, Florida, more particularly described as follows:

Commence at the Northeast corner of Section 03, Township 43 South, Range 24 East; THENCE N.89°57'30"W. along the North line of the Northeast One Quarter (NE ¼) of said Section 03 for 355.01 feet to an intersection with the Westerly right-of-way line of the former S.A.L. Railroad and the POINT OF BEGINNING of the herein described parcel of land; THENCE continue N.89°57'30"W. along said North line for 2313.55 feet to the Northeast corner of the Northwest One Quarter (NW ¼) of said Section 03; thence S.89°48'38"W. along the North line of said Northwest One Quarter (NW ¼) for 2667.53 feet to the Northwest corner of said Section 03;

THENCE N. 89°42'40"W. along the North line of Section 04, Township 43 South, Range 24 East, for 5335.96 feet to the Northwest corner of said Section 04; THENCE S.89°33'20"W. along the North line of the Northeast One Quarter (NE ¼) of Section 05, Township 43 South, Range 24 East for 1871.76 feet to an intersection with the Northeasterly line of North Fort Myers Park according to the plat thereof as recorded in Plat Book 9, Page 113 of the Public Records of Lee County, Florida; THENCE S.26°03'40"E. along said Northeasterly line for 318.64 feet to an intersection with the Southeasterly line of Lot 3 of said plat of North Fort Myers Park; THENCE S.63°56'20"W. along said Southeasterly line for 300.77 feet to an intersection with the Northeasterly right-of-way line of Tamiami Trail (S.R. 45, U.S. 41), being a point on the arc of a circular curve concave to the Southwest, said point bearing N.63°13'24"E, from the radius point of said curve; THENCE Southeasterly along the arc of said curve having for its elements a radius of 7739.44 feet and a central angle of 00°42'56" for 96.66 feet to the point of tangency; THENCE S.26°03'40"E. along said Northeasterly right-of-way line for 1943.40 feet to an intersection with the Southeasterly line of the Northwesterly One-Half (NW ½) of Lot 24 of the aforementioned plat of North Fort Myers Park; THENCE N.63°56'20"E. along said Southeasterly line for 300.17 feet to an intersection with the aforementioned Northeasterly line of North Fort Myers Park; THENCE N.26°03'40"W along said Northeasterly line for 4.46 feet to an intersection with the Southerly line of that certain parcel of land described in Official Record Book 1032 at Page 707 of the aforementioned public records; THENCE N.89°48'47"E. along said Southerly line for 3354.47 feet to an intersection with the East line of that certain parcel of land described in Official Record Book 410 at Page 690 of the aforementioned public records; THENCE S.00°11'07"E. along said East line for 2040.37 feet to an intersection with the South line of that certain parcel of land described in Deed Book 224 at Page 437 of the aforementioned public records; THENCE S.89°48'47"W. along said South line for 2698.40 feet to an intersection with the aforementioned Northeasterly right-of-way line of Tamiami Trail; THENCE S.26°03'40"E. along said Northeasterly right-of-way line for 370.00 feet; THENCE N.89°48'47"E. for 3845.26 feet; THENCE N.00°11'13"W. for 332.91 feet to an intersection with the aforementioned South line of that certain parcel of land described in Deed Book 224 at Page 437 of the aforementioned public records; THENCE N.89°48'47"E. along said South line for 4368.87 feet to an intersection with the Northerly extension of the West line of that certain parcel of land described in Official Record Book 388 at Page 80 of the aforementioned public records; THENCE S.00°02'36"W. along said Northerly extension and along the West line of said parcel for 2553.91 feet; THENCE S.89° 56'45"E. along the South line of said parcel for 1711.91 feet; THENCE N.00°02'36"E. along the East line of said parcel for 16.72 feet to an intersection with the South line of that certain parcel of land described in Official Record Book 1516 at Page 1802 of the aforementioned public records; THENCE S.89°56'45"E. along said South line for 441.17 feet; THENCE N.00°02'36"E. along the East line of said parcel for 2546.26 feet to an intersection

with the aforementioned South line of that certain parcel of land described in Deed Book 224 at Page 437 of the aforementioned public records; THENCE N.89°48'47"E. along said South line for 775.85 feet to an intersection with the aforementioned Westerly right-of-way line of the former S.A.L. Railroad; THENCE N.11°11'01"W. along said Westerly right-of-way line for 4190.51 feet to the POINT OF BEGINNING.

B. ~~At the time of application, the~~ The subject property ~~was is currently~~ zoned AG-2, pursuant to the authority of Chapter 125, Florida Statutes, Chapter 61-2405, Laws of Florida (Special Acts), and the Lee County Zoning Regulations of 1962, 1978, and 1986, as amended; and Residential Planned Development (RPD) in accordance with the Lee County Land Development Code.

C. The Application for Development Approval is consistent with the requirements of Chapter §380.06, Florida Statutes; and,

D. The proposed development:

1. is not in an area designated as an Area of Critical State Concern pursuant to the provisions of Chapter §380.05, Florida Statutes;

E:2. does not unreasonably interfere with the achievement of the objectives of an the adopted State Land Development Plan applicable to the area; and

3. is consistent with the Lee County Comprehensive Plan and the Lee County Land Development Code; and

4. is located in the suburban, outlying suburban and wetlands land use categories as identified in the Lee County Comprehensive Plan.

~~FE. The proposed development has been reviewed by the Southwest Florida Regional Planning Council and is the subject of the report and recommendations adopted by that body on January 24, 1988; has reviewed the proposed development and adopted recommendations and subsequently forwarded to Lee County pursuant to the provisions of Chapter §380.06, Florida Statutes; and the proposed~~ The development, as proposed in the Application for Development Approval and modified by this amended Development Order, is consistent with ~~this reports and the~~ recommendations of the Southwest Florida Regional Planning Council in accordance with §380.06(12); and

G. ~~The application for plan amendment has been reviewed concurrently with the Application for Development Approval by the Board of County Commissioners of Lee County, Florida, the Southwest Florida Regional Planning Council, and the State Department of Community Affairs, pursuant to Chapter 163, Florida Statutes, and has been~~

~~duly adopted after notice and hearing by the Board of County Commissioners of Lee County as consistent with the Lee Comprehensive Plan; and~~

~~H. The subject property, pursuant to the Plan amendment has been reclassified from the Rural and Suburban classifications to the Outlying Suburban and Suburban classifications of the Lee Comprehensive Plan, pursuant to the authority of Chapter 163, Florida Statutes, and local ordinances duly adopted by the Board of County Commissioners of Lee County, Florida; and~~

~~I. The development is consistent with the Lee County Comprehensive Plan, as amended, and Lee County's Land Development Regulations if subject to the conditions contained in this Development Order.~~

~~J. Concurrently with the adoption of this Development Order, the subject property is being rezoned in accordance with Lee County Zoning Ordinance #86-17 as amended, and the Zoning Resolution contains additional details and conditions pertaining to Del Tura North and also provides for certain deviations from Lee County Land Development Regulations.~~

~~K. The proposed conditions below meet the criteria found in Section §380.06(15)(d), Florida Statutes.~~

G. This constitutes the second amendment to the Herons Glen DRI Development Order and is based upon the NOPC filed by Coolidge-Fort Myers Realty, L.P.

II. ACTION ON REQUEST

~~NOW, THEREFORE, be it is resolved by the Board of County Commissioners of Lee County, in a public meeting duly constituted and assembled this Twenty-fifth (25th) day of April, 1988, that the Development of Regional Impact Application for Development Approval submitted for Del Tura North by Euromerican Investment Ltd./Florida Sites International, referred to hereinafter as "developer", is hereby ordered APPROVED, subject to the following conditions, restrictions, and limitations: that the requested amendments to the Herons Glen DRI development order are hereby APPROVED, subject to the following conditions, limitations and restrictions:~~

A. DRAINAGE/WATER QUALITY

1. The surface water management system for Del Tura North shall Herons Glen must implement the design standards and water quality "best management practices" outlined in the Application for Development Approval (ADA) (response to Questions 15 and 22, Water and Drainage), and all supplemental information presented in response to sufficiency questions. These design standards and practices include, but are not limited

to the following:

- (a) The combined use of man-made lakes and seasonal ponds to provide the necessary surface water storage.
- (b) Maintenance of the existing transitional wet pine flowway as a natural drainage feature of the development.
- (c) The division of the site into nine drainage basins each containing control structures regulating water levels and discharge rates to pre-development rates.

2. The developer and his consultants ~~shall~~ must produce an acceptable method of calculating on-site basin storage for the South Florida Water Management District prior to the issuance of a final local development order. This procedure should eliminate any major site plan revisions necessitated as a result of not adequately providing enough on-site storage of stormwater.

3. Water Quality Monitoring:

- (a) The developer ~~shall~~ must design and implement an on-going water quality monitoring, maintenance and sampling program for the project's surface water management lakes, wetland preserves and groundwater in order to determine the concentration and effects of pollutants on-site.

The surface water quality monitoring program ~~shall~~ must be developed with South Florida Water Management District (SFWMD) and ~~shall~~ must be a part of the surface water management permit. Copies of all testing results will be sent to the SFWMD and Lee County Division of Natural Resources Management (DNRM).

An appropriate number of sampling sites ~~shall~~ must be selected to sufficiently evaluate the quality of water entering and exiting the Del Vera Herons Glen Project, and ~~that which will remaining in on-site~~ waterbodies, flowways and wetlands.

Water sampling will be conducted quarterly during construction of Phase I. After the first year of construction, the Del Vera Herons Glen consultants and the SFWMD ~~shall~~ must evaluate the appropriateness of stations, parameters and frequency of stations, parameters and frequency of sampling. Monitoring of ~~Phase I and II~~ shall must continue until such time that construction of the Del Vera Herons Glen project has been completed for two years.

Surface water samples will be collected and analyzed for the following parameters in accordance with Florida Department of Environmental Regulation Protection (FDERP) and SFWMD requirements:

Chemical Oxygen Demand (COD)
Total Organic Carbon (TOC)
Total Suspended Solids (TSS)
Un-ionized Ammonia
Nitrate
Dissolved Oxygen (DO)
pH
Total Nitrogen
Total Phosphorous
Fecal Coliform Bacteria
Total Coliform Bacteria
Nitrite
Conductivity

- (b) The subsurface (groundwater) water quality monitoring: A groundwater program shall must be developed with the ~~Florida Department of Environmental Regulation FDEP~~ and will operate for the lifetime of the project. Copies of all groundwater testing results will be sent to the FDERP, and ~~Lee County Division of Natural Resources Management DNRM~~.

The monitoring program ~~to be developed with FDERP shall~~ must be subject to the provisions of FAC. Rules 17-520 and 17-522, ~~shall~~ The program will be part of the development's wastewater permit, and will be conducted as follows:

- (1) All specified monitoring wells shall must be analyzed initially for the Primary and Secondary Drinking Water Standards listed in FAC. Rule 17-550.310 and .320, as well as EPA Method 608 parameters.
- (2) Water quality samples from a specified upgradient background well, an intermediate well, and a downgradient compliance well shall must be analyzed quarterly for the following indicator parameters:

Sodium
Total Dissolved Solids (TDS)
Total Organic Carbon (TOC)
Fecal Coliform Bacteria
Specific Conductance (field)
Nitrate Nitrogen

Sulfate
Chloride
pH (field)

In addition, samples from the intermediate and compliance wells ~~shall~~ must be analyzed for the following primary volatile organic parameters once per year:

Trichloroethene
Carbon Tetrachloride
1, 1, 1-trichloroethene
Benzene
p-dichloroethene
Trihalomethanes
Tetrachloroethene
Vinyl Chloride
1, 2-dichloroethane
Ethylene dibromide
1, 1-dichloroethene

(3) Groundwater elevations of the above wells ~~shall~~ must be measured and reported relative to National Geodetic Vertical Datum (NGVD) quarterly.

(4) Field testing, sample collection, preservation, and laboratory testing, including quality control procedures, ~~shall~~ must be in accordance with methods approved by the ~~Florida Department of Environmental Regulation~~ FDEP and as specified in FAC. Rule 17-160. All analyses ~~shall~~ must be performed by a Florida State-certified laboratory.

4. The developer ~~shall~~ must coordinate with Lee County and the ~~Florida Department of Environmental Regulation~~ FDEP in the on-site storage of any special or hazardous waste, as defined in the Lee County Hazardous Waste Assessment, that may be generated in the commercial, residential or recreational portions of the project site.

5. All design standards and water quality "best management practices" relating to Questions 15 and 22 of the ADA, Water and Drainage respectively, not in conflict with the above recommendations, are hereby incorporated by reference into this DRI Development Order and ~~shall~~ must be incorporated into the final local development order.

B. ENERGY

All site plans or architectural programs ~~shall~~ must incorporate, as a minimum, the following energy conservation features into all site plans and architectural programs, or the

property owner/developer ~~shall~~ must insure that the following features are implemented through deed restrictions ~~and/or~~ covenants with successors in title. All applications for site plan approvals and building permits ~~shall~~ must be accompanied by a document detailing proposed compliance with these conditions. If deed restrictions or covenants are utilized to insure compliance, such documents ~~shall~~ must be approved by the Lee County Attorney's Office prior to recording. If no deed restrictions are approved and recorded, the prior alternative ~~shall~~ must be utilized and the following features must be included:

1. Provisions of a bicycle/pedestrian path system connecting all land uses, to be placed along the main project road and local roads within the project. This system is to be consistent with local government requirements.
2. Provision of bicycle racks or storage facilities in recreational, commercial and multi-family residential areas.
3. Cooperation in the location of bus stops, shelters, and other passenger and system accommodations for a transit system to serve the project area, if such service becomes available to serve the project area.
4. Use of energy-efficient features in window design.
5. Use of operable windows and ceiling fans.
6. Installation of energy-efficient appliances and equipment.
7. Prohibition of deed restrictions or covenants that would prevent or unnecessarily hamper energy conservation efforts (e.g., building orientation, clotheslines, and solar water heating systems).
8. Reduced coverage by asphalt, concrete, rock, and similar substances in streets, parking lots, and other areas to reduce local air temperatures and reflected light and heat.
9. Installation of energy-efficient lighting for streets, parking areas, recreation areas, and other interior and exterior public areas.
10. Use of water closets with a maximum flush of 3.5 gallons and shower heads and faucets with a maximum flow rate of 3.0 gallons per minute (at 60 pounds of pressure per square inch).
11. Selection of native plants, trees, and other vegetation and landscape design features that reduce requirements for water, fertilizer, maintenance, and other needs.

12. Planting of native shade trees to provide reasonable shade for all recreation areas, streets, and parking areas.

13. Placement of trees to provide needed shade in the warmer months while not overly reducing the benefits of sunlight in the cooler months.

14. Planting of native shade trees for each residential unit.

15. Orientation of structures, as possible, to reduce solar heat gain by walls and to utilize the natural cooling effects of the wind.

16. Provision for structural shading wherever practical when natural shading cannot be used effectively.

17. Inclusion of porch/patio areas in residential units.

18. Consideration by the project architectural review committee(s) of energy conservation measures (both those noted here and others) to assist builders and residents in their efforts to achieve greater energy efficiency in the development.

The incorporation of these energy conservation measures in this Development of Regional Impact does not preclude the provision of additional energy conservation measures by the developer. It also does not prevent the local government of jurisdiction or any state, regional, or other agency, under whose jurisdiction this project falls, from requiring additional energy measures or measures that may be more stringent.

C. HISTORICAL/ARCHAEOLOGICAL

1. Locations identified as likely to contain archaeological or historical material ~~shall~~ must be preserved in recreation or preservation/open space areas. If this is not possible, these potential areas ~~shall~~ must be surveyed in detail by a qualified archaeological survey team prior to any site preparation.

2. If, during site preparation, any archaeological or historical sites are uncovered, the developer ~~shall~~ must cease all work in the immediate vicinity of the site, and the appropriate state and local agencies ~~shall~~ must be contacted to evaluate the site and make recommendations concerning excavation, preservation or mitigation.

D. FLOOD PLAIN/HURRICANE EVACUATION

1. The developer ~~shall~~ must provide, on at least an annual basis, information to residents concerning hurricane evacuation and shelters, through a homeowners' or residents' association.

2. The developer ~~shall~~ must formulate an emergency hurricane preparedness plan ~~which shall be that is~~ coordinated with the homeowner's association. The plan is subject to the approval of Lee County Emergency Management and ~~shall~~ must be established prior to any development within Phase I.B. or Phase II.

3. The developer ~~shall~~ must designate at least one, preferably two, helicopter landing areas within ~~Del Vera~~ Herons Glen for emergency medical service prior to any development within Phase I.B. or Phase II. The landing areas are subject to the approval of Lee County's Emergency Medical Service.

E. TRANSPORTATION

1. The ~~original~~ transportation impact assessment upon which this amended Development Order for ~~Del Vera~~ Herons Glen ~~DRI Notice of Change~~ is based assumes project buildout in 4998 2010. The traffic impact assessment included the expected impacts of the proposed residential land uses intended to be marketed to retirees by the applicant, non residential land uses and phasing schedule shown in attached Exhibit "B" ~~—"A (Revised)"~~.

If it is found that the land uses at each phase of development differ from that which is presented in the ADA/DRI, then it will be deemed to be a substantial deviation of the Development Order and a resubmittal will be required of the developer or their successor(s).

2. ~~The proposed change in land use from manufactured housing to single family detached dwelling units that the applicant intends to market to retirees creates a potential substantial deviation, pursuant to Subparagraph §380.06(19) (b) 15, Florida Statutes. The annual monitoring report of Del Vera's actual transportation impacts will provide the clear and convincing evidence to confirm or rebut whether or not it is a substantial deviation.~~

An annual monitoring program, to be performed by traffic engineers engaged by the developer or their successor(s), ~~shall~~ must be established to monitor the development's trip generation and impact upon the surrounding roadways. The annual monitoring program ~~shall~~ must be designed in cooperation with the Lee County Department of Transportation (Lee County DOT), Lee County Division of Development Review, the Florida Department of Transportation (FDOT), the SWFRPC, and the FDCA, and will be subject to approval by the Lee County DOT ~~and FDCA~~. At a minimum, the annual monitoring report ~~shall~~ must report the number, size and type of constructed and occupied on-site development at the time of monitoring, ~~calculate an occupied housing gross trip generation rate (defined as being prior to deductions for internal capture)~~ and ~~shall~~ must contain daily and P.M. Peak-Hour traffic counts with turning movements during peak season traffic condition, intersection analysis performed utilizing the "Highway Capacity

Manual" and level of service calculations as adopted and updated for all project access locations onto US 41 and Nalle Grade Road as well as the following intersections:

US 41 and SR 739 (Business 41)
US 41 and Littleton Road
US 41 and SR 78 (Pine Island Road)
SR 739 (Business 41) and SR 78 (Bayshore Road)

In addition, the developer's traffic consultant ~~shall~~ must perform peak season daily and P.M. peak hour traffic counts and level of service calculations for the following significantly impacted roadways:

SR 739 (Business 41) from US 41 to SR 78
US 41 from Zemel Road in Charlotte County to SR 78

By July 1, 1993, the developer or their successor(s) ~~shall~~ must submit the first monitoring report to the Lee County DOT, Lee County Division of Development Review, SWFRPC, FDOT, and DCA. Starting with the first monitoring report submitted for the Notice of Proposed Change, each year's report ~~shall~~ must analyze the cumulative traffic for the Del Vera Herons Glen DRI.

Prior to the submission of the first annual monitoring report, the governmental entities (FDCA, FDOT, SWFRPC, and Lee County) and the developer ~~shall~~ must consult on a methodology to be used for conducting the traffic monitoring program, which is subject to approval by the Lee County DOT and FDCA. This monitoring report methodology will be utilized for subsequent monitoring reports unless revised after consultation with the relevant agencies and receipt of approval by the Lee County DOT and FDCA.

~~The monitoring reports shall provide an indication of the date that the adopted level of service is expected to be exceeded on significantly impacted roadways and intersections. Along with the monitoring of Del Vera cumulative traffic, Del Vera shall provide a one year projection of Del Vera traffic impacts with each year's monitoring report.~~

~~Monitoring Reports shall be submitted annually until buildout of the project.~~

The purpose of this monitoring program is to: (1) determine whether or not the traffic levels projected in the traffic impact assessment for Del Vera Herons Glen are exceeded by actual impacts, (2) assist Lee County and FDOT in determining the proper timing of necessary roadway improvements, and (3) ~~validate Del Vera DRI trip generation and (4) determine the intersection and roadway existing levels of service.~~

In lieu of the developer's obligation to annually monitor the above-mentioned

intersections and road segments, (US 41 and SR 739 (Business 41)), the developer, with the approval of the Lee County Department of Transportation DOT, shall may deposit with Lee County a one time sum of \$35,000 to be used in the installation and operation of two permanent count stations in the vicinity of expected impacts on US 41 and SR 739 along the roadway segments listed above.

In the event that the developer contributeds the funding for these permanent traffic count locations, the developer or their successor(s) shall will only be obligated to report the counts from the permanent count stations, ~~calculate an occupied housing gross trip generation rate from the external trip generation rate,~~ to annually monitor for the number size and type of constructed and occupied on-site development at the time of monitoring, and to annually monitor the daily and P.M. peak hour traffic conditions, during the peak season, from all Del Vera Heron's Glen access locations onto:

US 41 and
Nalle Grade Road

~~The developer or their successor(s) shall submit the annual monitoring report for the access locations referenced above to the review agencies by July 1, 1993 and May 1, of each year thereafter beginning in 1994.~~

The transportation conditions contained in this DRI Development Order for ~~Del Vera Country Club~~ Heron's Glen envision the construction of an adult retirement community. Similar in nature to the existing Del Tura Country Club Community (in close proximity along US 41 ~~and also built by the Applicant~~), the conditions of approval, specifically the mitigation for transportation impacts, were based upon an impact fee daily trip generation rate of 4.8 trips per dwelling unit.

~~If the annual monitoring report finds that the calculated gross trip generation rate of 4.8 trips per constructed and occupied dwelling unit per day is exceeded by 15%, regardless of whether or not the regional roadways significantly impacted by this development have fallen below the adopted level of service standard, then the developer or their successor(s) shall prepare a detailed transportation analysis and submit it in a notification of proposed change, pursuant to Subsection 380.06(19), Florida Statutes. That analysis will establish Del Tura current total trip and occupied housing gross generation rates, total project trip assignment and total project trip distribution. Using that data, Del Tura's trip generation, trip assignment, consumption of roadway service volume and significantly impacted roadways and intersections at the end of Phase I and buildout of Del Tura will be identified. If Del Tura's significantly impacted roadways and intersections, based on the above, are different than those impacts identified in the original DRI, (Question 31, Transportation) and those significantly impacted roadways and intersections are forecasted to fall below the adopted level of service standards by buildout of Del Tura, a determination shall be made as to whether this constitutes a substantial deviation.~~

If the annual monitoring report finds that the DRI Question 31. Transportation forecasted net new external daily trips (9,464) are exceeded by 15% (10,884), then ~~developer or their successor(s) shall be a substantial deviation pursuant to §380.06(19)(b)15, Florida Statutes, will be deemed to exist and the development must~~ undergo additional DRI review through the submittal of ADA transportation questions as required by Section §380.06, Florida Statutes.

~~Prior to updating the transportation concerns of the ADA, a pre-application transportation methodology meeting shall be conducted by the SWFRPC including FDCA, FDOT, Lee County, and the developer or their successor(s) as required by Section §380.06(7)(a) and (b) for pre-application meetings. The developer or their successor(s) shall update the Del Tura North ADA (Del Tura) transportation question comprised, at a minimum, of a comparison of the revised land use trip generation, trip distribution, road improvement assumptions, and level of service determinations which this project will significantly impact.~~

Any additional transportation obligation which that may result from the above shall must consider the approved mitigation program and actual mitigation undertaken by Del Vera Heron's Glen to that date. Additional mitigation, if any, would be reflective of the increased impacts of the development, if any.

3. The developer or their successor(s) shall be are required to construct, at no cost to Lee County or FDOT, all site related improvements deemed necessary by the FDOT and the Lee County DOT at all project access locations onto US 41 and Nalle Grade Road as well as construct Nalle Grade Road itself and all site-related improvements required within Del Tura Heron's Glen DRI. Nalle Grade Road and access to the road shall must meet all requirements of the Development Standards Ordinance, as the same now exists or as may be amended from time to time Lee County Land Development Code. Nalle Grade Road shall be constructed as a two-lane undivided roadway, within the existing right-of-way from US 41 to the project entrance. The developer's obligation for these improvement shall include the full costs of design and engineering, utility relocation, right-of-way acquisition and dedication (if needed, but not to include costs and legal fees for County condemnation proceedings associated with Nalle Grade Road), construction of turn lanes, acceleration and deceleration lanes, construction inspection, contract administration, testing and signalization (as needed and when warranted). The alignment, design, signalization and construction schedule for these improvements shall be approved by the Lee County Engineer and FDOT.

The developer proposes to relocate a median opening on US 41 to align with Entrance #2. If the relocation of the median opening is not allowed pursuant to FDOT access management rules and permitting procedures, then no full access shall will be permitted at that location. This determination shall will be made by Lee County DOT, Lee County Division of Zoning and Department of Community Development Review, and the

FDOT prior to the issuance of permits and/or a local development order.

The developer or their successor(s) ~~shall~~ is not be eligible for credits against road impact fees for construction or dedication of rights-of-way associated with improvements at the project's access points deemed to be site-related as defined in the Lee County Roads Impact Fee Ordinance regulations.

If Nalle Grade Road, between US 41 and the project access point and west to US 41 or east to Del Prado/Mello Drive Extension, is built, as described above, by the developer ~~prior to the end of Phase I for Del Vera DRI~~ with procedures set forth in the Lee County Roads Impact Fees Ordinance regulations in effect at that time. The developer is guaranteed road impact fee credits for 100% of the eligible construction costs applicable to the construction and acceptance of Nalle Grade Road.

~~If additional acquisition of right-of-way is necessary to construct Nalle Grade Road as described above, and Lee County cannot complete condemnation of the right-of-way prior to the end of Phase I and beginning of Phase II for the Del Vera DRI, the developer may elect to deposit with Lee County the amount necessary to construct Nalle Grade Road as described above. This amount shall shall be adjusted for inflation to account for time delays attributable to condemnation proceedings. Upon deposit of this sum with the County prior to the end of Phase I and beginning of Phase II, the developer will be eligible for impact fee credits consistent with the procedures outlined in the Lee County Roads Impact Fee Ordinance as may be amended from time to time. It is understood by all parties that the developer or their successor(s) shall be entitled to impact fee credits for the construction of Nalle Grade Road as described above. Future amendments to the Lee County Roads Impact Fee Ordinance may only affect the procedure by which credits are issued and may not, under any circumstance, affect the developer's eligibility for credits themselves.~~

~~If condemnation is necessary for Nalle Grade Road, prior to issuance of building permits for Phase II, a traffic study will be conducted by the developer, as agreed upon by the Lee County DOT, to identify the additional Phase II units that would be supportable by the Phase I project access locations onto US 41. The Nalle Grade Traffic Study methodology shall be approved by Lee County prior to submittal. No further Phase II building permits beyond that level identified in the traffic study shall be issued until Nalle Grade Road and the project entrance onto Nalle Grade Road are open to traffic.~~

4. As mitigation for the impacts of the new development within Del Tura Herons Glen DRI Phase I, and in lieu of payment of impact fees at the time of individual building permits for Phase I, the developer or their successor(s) have already provided to Lee County a sum equivalent to the initial Phase I impact fees based on a trip rate of 4.8 per units per day, totaling \$799,200 for 1,200 dwelling units, which were in effect at that time. Those monies represented a "pipelining" of Phase I road impact fee monies with such

monies to be used by Lee County for the Laurel Drive improvement (a portion of) and/or Henderson Grade Road, or a comparable east/west improvement, to be determined by Lee County, in the general Del Tura Herons Glen DRI impact area.

The above payment for the 1,200 dwelling units did include a proportionate share payment for the potential signalization of the intersection of US 41 with SR 739 (Business 41).²

As mitigation for the impacts of new development within the Del Tura Herons Glen DRI (beyond 1,200 units) yet to be constructed within Phase I and II, the developer shall must pay to Lee County roads impact fees in effect at the time building permits are issued for all applicable development within the DRI. Lee County shall will determine the timing of all necessary road improvements impacted by this DRI. ~~(Construction of Nalle Grade Road may substitute for all or a portion of Phase II impact fees if constructed consistent with Condition E.3).~~ These impact fee payments shall will represent Del Tura Herons Glen DRI payments for widening of the impacted segments of SR 739 (Business 41) to four lanes, and improvements at the intersections of US 41 with SR 78 (Pine Island Road) and US 41 with Littleton Road.

Impact fee calculations for residential units shall will be based on the Mobile Home Park trip generation rate of 4.8 trips per day per dwelling unit. ~~If it is found by the annual monitoring program that Del Tura's trip generation exceeds 4.8 daily trips per dwelling unit, then this project shall pay to Lee County the single family residence road impact fee at the time of issuance of all subsequent building permits including the difference needed to increase previously "pipelined" payments to the required amount. Otherwise, the developer may conduct an "Independent Fee Calculation" study as defined in the Lee County Road Impact Fee Ordinance as amended and Administrative Code F-0032, as amended, to establish the applicable trip generation rate.~~

Should the roads impact fees be repealed, reduced or made unenforceable by court action, ~~a substantial deviation shall be deemed to have occurred, and the traffic impacts of Del Vera Herons Glen DRI shall be reanalyzed to determine appropriate alternative mitigation and the Development Order amended as appropriate to include such mitigation prior to the issuance of subsequent building permits for Del Vera DRI~~ will continue to pay, per individual permit, an amount equivalent to the roads impact fees in effect prior to such repeal, reduction, or court action .

5. ~~Should Level of Service "D" on a peak season peak hour basis as defined in Lee County Administrative Code AG-13-16 (See Attachment E) be~~ If the adopted level of service is exceeded for any regional road segment and/or intersection identified above, and:

²This improvement was constructed in June 1996.

- (a) The required road and/or intersection improvements necessary to bring the identified roadway back to Level of Service "D" peak season peak hour (or the Lee County adopted Level of Service at the time of the annual monitoring report) are not funded and programmed for construction during the next five years (or if such roadway and/or intersection improvements funded and programmed for construction during that five year period be are deleted from the program, postponed beyond the five-year period or not constructed within the five-year period), and
- (b) Del Vera Hérons Glen DRI traffic is utilizing 5% or more, but less than 10% of Level of Service "D" peak hour the adopted level of service volume during the peak season on the impacted regional road segment or intersection;

then the developer or their successor(s) ~~shall~~ must, within ninety (90) days, file a petition in accordance with Section §380.06, Florida Statutes for determination of whether a substantial deviation has occurred.

If Del Vera Hérons Glen DRI is utilizing 10% or more of Level of Service "D" ~~the adopted level of service~~ volume on a peak season peak hour basis as defined in Lee County's Administrative Code AC-13-16 on the impacted regional road segment and/or intersection, and the actual Level of Service on the said roadway or intersection is worse than Level of Service "D" the adopted level of service volume on a peak season peak hour as defined in Lee County Administrative Code AC-13-16, then a substantial deviation ~~shall~~ must be deemed to have occurred.

Del Vera Hérons Glen DRI may continue development during substantial deviation DRI review if the developer or their successor(s) enters into an agreement with the FDCA, SWFRPC, FDOT, and Lee County specifying the scope of development allowed during the review period. This paragraph, however, ~~shall~~ may not be construed to guarantee to Del Vera Hérons Glen DRI the right to continue development during substantial deviation DRI review.

6. Nothing contained in this Development Order ~~shall~~ may be construed to exempt this development from participation in the funding, through Municipal Services Benefit Units (MSBU) or other special assessment districts, of improvements to various State and County arterial and collector roads to the degree to which that this development generates demand or is benefitted.

7. If any contributions and/or road or intersection improvements specified herein are required of the developer but are not funded or provided within the time frames specified herein, development activities and the issuance of permits by Lee County for the

Del-Vera Heron's Glen DRI shall must immediately cease until the obligation is fulfilled.

8. In the event that Lee County anticipates additional urbanization in the area between US 41 and I-75 to the north of SR 78, north/south roads paralleling US 41 may be required to relieve traffic congestion associated with any further urbanization. The developer shall must work with Lee County to facilitate such north/south road facilities.

F. VEGETATION AND WILDLIFE/WETLANDS

1. MANAGEMENT AREA PRESERVE

- (a) Exhibit Figure I of the "Revised RCW Monitoring and Management Plan for Del-Tura and Villages of Nantucket" Heron's Glen DRI, dated September 11, 1992, (Attachment C-B) July 2000 and attached as Exhibit C, depicts the "RCW Preserve" as encompassing a total of ~~204.35~~ 210.11 acres, comprised of 181.81 acres of transition pine flatwoods (TZ), ~~45.50~~ 21.26 acres of upland pine flatwoods, 5.00 acres of freshwater marsh (RPA) and 2.04 acres where an existing a haul road is to be has been removed and planted with pine. The 181.81 acres of transition pine flatwoods includes all existing TZ of the central flow-way except for 2.91 acres to be devoted to roadway access to Phase 1-B and Phase II development. Other pineland to be retained on site includes approximately 51.59 acres. This acreage is found within buffers, golf course, open space and other preserved transition pine flatwoods ~~as shown on Exhibit I.~~
- (b) Engineering design must provide reasonable assurance that stormwater lakes proposed adjacent to the central RCW preserve will not drain wetlands and that surface water sheet flow will be maintained on either side of the new road alignment proposed to cross the central RCW preserve. All correspondence with the South Florida Water Management District related to engineering design and permitting of the above-identified lakes and new roadway alignment will be copied to the Florida Game and Fresh Water Fish Commission.
- (c) If the Red Cockaded Woodpeckers totally abandon the RCW Preserve for ten consecutive years as evidenced by the annual RCW monitoring, then the developer may file a Notice of Proposed Change (NOPC) seeking to remove³ the designation of the 21.3± acres of upland pine flatwoods located within the RCW Preserve from the

³In the event that this acreage is removed from the preserve as allowed under this condition, a substantial and sufficient amount of hydric pine flatwoods habitat (183± acres) would still remain on-site.

RCW Preserve area.⁴

- (d) Any reconfiguration of the RCW Preserve or Wetland Preserve areas must be reviewed under the provisions found in §380.06(19) applicable to the filing of a NOPC.

2. MONITORING PLAN

- (a) Monitoring ~~shall~~ must be in accordance with the "Revised-Red-Cockaded Woodpecker Monitoring and Management Plan for Del Vera and Villages of Nantucket" Herons Glen dated September 11, 1992 July 2000 and attached as Exhibit C and the "Amended Revised Wetlands Management Plan for Del Vera and Villages of Nantucket" Herons Glen dated September 11, 1992, (see Attachment D C), with the following modifications: July 2000 and attached as Exhibit D.
- (i) ~~Page 26 of the above referenced RCW Plan shall delete the word "infrastructure" from line four.~~
- (ii) ~~Section "7.0 PROVISION" shall be revised as follows: "In the event that Red-Cockaded Woodpeckers totally abandon the RCW Preserve for ten (10) consecutive years as evidenced by the monitoring described in Section 6.0, the developer may request an adjustment to the 15.5 acres of upland pine flatwoods contained in the RCW Preserve through the Substantial Deviation process per Section §380.06 (19), F.S.~~
- (iii) ~~Section "6.0 MONITORING" shall also require that the system of monitoring transects be spaced 100 feet apart in areas of dense canopy or midstory.~~

3. MANAGEMENT PLAN

- (a) Foraging, roosting and possible nesting RCWs have been documented on the site and the developer's plans to preserve pine forest on the site will maintain available habitat for RCW foraging and

⁴In the First Amendment to the DRI DO, the acreage of upland pine flatwoods referenced in this condition was 15.5 acres. This acreage has been increased to 21.3 acres to include the acreage of upland preserve (buffer) area established around the two newly active RCW trees located outside of the main RCW preserve.

nesting activities. In addition, the melaleuca on the site will be eradicated and controlled, thus significantly enhancing the quality of the project's area. This exotic control program ~~shall~~ must be continued throughout the life of the project.

- (b) To ensure maximal available forage area on site, no pine trees greater than or equal to eight (8) inch diameter breast height (dbh) ~~shall~~ may be removed, except those found in a road, lake, golf tee, golf green, middle of fairway, or under house lots.
- (c) To ensure minimal disturbance of RCW nest activities, the developer is prohibited from initiating any clearing or other construction within ~~three hundred (300)~~ feet of cavity trees during April, May and June of each year.
- (d) The preserve area ~~shall~~ must be actively managed by the developer to insure continued quality RCW habitat through the use of a combination of prescribed burning/mowing/exotic control measures. Burning will be the preferred management technique. Any prescribed burning of the site ~~shall~~ must be conducted in accordance with the Florida Division of Forestry guidelines.
- (e) The initial unit prescribed burn ~~shall~~ must be conducted ~~prior to or in conjunction with the initial phase of site development for Phase I-B and/or Villages of Nantucket within three years of the completion of initial exotic eradication activities in the RCW preserve.~~
- (f) Prescribed burning techniques ~~shall~~ must be in accordance with the ~~"Revised Red-Cockaded Woodpecker Monitoring and Management Plan for Del Vera and Villages of Nantucket" dated September 11, 1992; attached Exhibit C.~~
- (g) Replanting of golf course buffers designated as pine buffer will be as depicted on Exhibit figure 1 of the Revised Red-Cockaded Woodpecker plan (dated September 11, 1992) ~~shall~~ must be limited to south Florida slash pine attached Exhibit C.
- (h) The developer must comply with the additional conditions set forth in condition 3 of Zoning Resolution 00-78 pertaining to the 2000 RPD

amendment designated as DRI964596 and DCI964597.⁵

4. Viability of wetland preserves ~~shall~~ must be in accordance with the "Amended Wetlands Management Plan for Del Vera and Villages of Nantucket" dated September 11, 1992, (see Attachment D-C) attached Exhibit D.
5. Should the developer find any further endangered or threatened species of special concern of either wildlife or plant species, during construction or detailed permit review, the developer ~~shall~~ must contact the proper Federal, State and County authorities and assure that adequate measures are taken and permits obtained to protect these species.

G. SOLID WASTE

1. The developer ~~shall~~ must investigate feasible methods of reducing solid waste volume at ~~Del Tura North Herons Glen~~. Methods to investigate ~~shall~~ must include, for instance, the use of compaction of the Commercial Center and Clubhouse.
2. ~~The Del Tura North Herons Glen~~ wastewater treatment plant and its

⁵The following conditions address Environmental concerns, and are intended to supplement the conditions and provisions contained within the DRI Development Order:

(a) The Red-Cockaded Woodpecker (RCW) management plan entitled "Attachment B: Revised Red-Cockaded Woodpecker Monitoring and Management Plan for the Herons Glen DRI (f.k.a. Del Vera, Villages of Nantucket and Del Tura North DRI), Lee County Florida" dated July 2000 is hereby adopted with the following conditions:

- (1) Prescribed burns of the RCW Preserves must commence within three years of the completion of the initial exotic eradication activities in the RCW preserve, and must be completed on the entire site within three years of that date, or no later than 2007; and
- (2) All burns must occur between January and March to avoid the RCW nesting season; and
- (3) The Division of Planning - Environmental Sciences staff must be notified in writing of each scheduled burn at least 15 days prior to the prescribed burn.

(b) The wetland management plan entitled "Attachment C: Revised Wetlands Management Plan for the Herons Glen DRI (f.k.a. Del Vera, Villages of Nantucket, and Del Tura North)" dated July 2000 and counter stamped August 14, 2000 is approved with the following conditions:

- (1) Prior to any invasive exotic removal or control, the Division of Planning - Environmental Sciences Staff must be notified in writing of the commencement and estimated completion dates, the removal method proposed, and the herbicide to be applied. The exotic removal method and herbicide are subject to Environmental Sciences Staff review and approval; and
- (2) An appropriate herbicide must be applied to the trunk immediately following the cutting of any invasive exotic vegetation; and
- (3) The semi-annual exotic vegetation maintenance must occur in March and October. The exotic vegetation maintenance must commence in March 2001 for a minimum duration of three years as specified in the wetlands management plan, and then on an as-needed basis thereafter; and (4) Monitoring reports of exotic vegetation within the RCW preserve must include at a minimum one photo from each of the four units prior to each semi-annual maintenance and one month following the completion of the exotic maintenance. The monitoring reports must be submitted to Environmental Sciences Staff in May and December each year. The pine planting monitoring report must be submitted as part of the May monitoring report.

(c) The irrigation line installed in the pine planting area within the preserve must be removed prior to the 2001 Red-Cockaded Woodpecker nesting season (April-June). The May 2001 monitoring report must document the removal of the irrigation line.

associated component, including the spray irrigation system, shall must meet all County and State design and operating requirements.

H. WATER SUPPLY

1. The developer shall must obtain all appropriate water use permits from the South Florida Water Management District (SFWMD) and Lee County prior to any on-site construction.

2. The ~~Del Tura North~~ Herons Glen project shall must utilize such water conservation measures as are referenced in the ADA, as well as those required by State law, and shall must consider the use of "xeriscape" landscaping.

I. GENERAL CONSIDERATIONS

1. ~~All commitments and impact mitigating actions provided by the developer within the Application for Development Approval (and supplementary documents) that are not in conflict with specific conditions for project approval outlined above are officially adopted as conditions for approval. and conditions of the original DRI Development Order and subsequent Development Order Amendments remain in full force and effect. Where a conflict or inconsistencies exist, this Codified Development Order Amendment will control.~~

2. The developer shall must submit an annual report on the Development of Regional Impact to Lee County, the Southwest Florida Regional Planning Council, the Department of Community Affairs and all affected permit agencies as required in Subsection §380.06(18), Florida Statutes. ~~For specific information to be contained in this report see attached Exhibit B.~~

3. The development phasing schedule attached as Exhibit B presented within the ADA and as adjusted to date of Development Order approval shall be is incorporated as a condition of this development order approval. If The Development Order conditions and developer commitments based upon and incorporated within in the development order, ADA, sufficiency documents or NOPC application are intended to mitigate regional impacts, If these conditions and commitments are not carried out as indicated to the extent or in accord with the timing schedules specified within the Development Order Amendment and this phasing schedule, then this shall be presumed to be a substantial deviation for the affected regional issue will be deemed to have occurred.

4. Pursuant to Chapter §380.06(16), the developer may be subject to credit for contributions, construction, expansion, or acquisition of public facilities. If the developer is also subject by local ordinances to impact fees or exactions to meet the same needs, then the local government and the developer may enter into a capital contribution front-

ending agreement to reimburse the developer for voluntary contributions in excess of his fair share.

III. LEGAL EFFECT AND LIMITATIONS OF THIS DEVELOPMENT ORDER, AND ADMINISTRATIVE REQUIREMENTS

BE IT FURTHER RESOLVED, by the Board of County Commissioners of Lee County, Florida, that:

1. This Resolution shall constitute the Codified Development Order Amendment constitutes a resolution of this the Lee County Board of Commissioners issued in response to the Development of Regional Impact Application for Development Approval filed for Del Tura North Herons Glen DRI.

2. All commitments and impact mitigating actions volunteered by the developer in the Application for Development Approval, subsequent NOPC applications and supplementary documents and not in conflict with conditions or stipulations specifically enumerated above are hereby incorporated by reference into this Development Order Amendment. These documents include the following:

- (a) ~~Del Tura North Application for Development Approval;~~
- (b) ~~Del Tura North DRI sufficiency response, August, 1987; and~~
- (c) ~~Del Tura North DRI sufficiency response, November, 1987.~~

3. This Development Order ~~shall be~~ is binding upon the developer and their heirs, assignees or its successors or assigns in interest. Those portions of this Development Order which Amendment that clearly apply only to the project developer, including but not limited to the initial construction of capital facilities, ~~shall~~ will not be construed to be binding, however, upon future residents of single dwelling units or persons purchasing individual house sites for personal residential purposes. It ~~shall~~ will, however, be binding upon any builder/developer who acquires any tract of land within Del Tura North. Herons Glen.

It is hereby declared that the The terms and conditions set out in this document constitute a basis upon which the developer and County may rely in future actions necessary to implement fully the final development contemplated by this Resolution and Development Order Amendment.

All conditions, restrictions, stipulations and safeguards contained in this Resolution and Development Order Amendment may be enforced by either party hereto by action at law or equity, and all costs of such proceedings, including reasonable

attorneys' fees, ~~shall~~ will be paid by the defaulting prevailing party.

4. It is understood that any reference herein to any governmental agency ~~shall~~ will be construed to mean ~~any future instrumentality which may be~~ instrumentalities created and designated as successors in interest to, or which otherwise possesses ~~any of the~~ powers and duties of ~~any the~~ referenced governmental agency in existence on the effective date of this Development Order Amendment.

5. ~~In the event that~~ If any portion or section of this Development Order Amendment is determined to be invalid, illegal, or unconstitutional by a court of competent jurisdiction, such decision ~~shall in no manner~~ will not affect the remaining portions or sections of the Development Order Amendment, which ~~shall~~ will remain in full force and effect.

6. The approval granted by this Development Order Amendment is limited. ~~Such approval shall~~ Approval may not be construed to obviate the duty of the developer to comply with all applicable local or state review and permitting procedures, except where otherwise specifically provided. ~~Such approval shall also not obviate the duty of the developer to comply with any County Ordinance or other regulations adopted after the effective date of this Development Order.~~

7. Subsequent requests for local development permits ~~shall~~ will not require further review pursuant to Section §380.06, Florida Statutes, ~~unless it is found by the Board of County Commissioners~~ finds, after due notice and hearing, that one or more of the following ~~is present~~ occurs:

- (a) A substantial deviation from the terms or conditions of this Development Order Amendment, or other changes to the approved development plans ~~which creates~~ a reasonable likelihood of adverse regional impacts or other regional impacts ~~which were not evaluated in the review by the Southwest Florida Regional Planning Council; or~~
- (b) ~~An expiration~~ Expiration of the period of effectiveness of this Development Order as provided herein.

Upon a finding that either of the above ~~is present~~ has occurred, the Board ~~shall may~~ order a termination of all development activity ~~in such area of the development affected by such substantial deviation of such expiration of time until such time as a new DRI Application for Development Approval has been submitted, reviewed and approved in accordance with Section §380.06, Florida Statutes, and all local approvals have been obtained.~~

8. ~~The deadline for commencing physical development under this Development~~

~~Order shall be five (5) years from the date of its adoption, provided that all conditions are met in a timely manner and further provided that this effective period may be extended by this Board upon a finding of excusable delay in any proposed development activity and that conditions have not changed sufficiently to warrant further consideration of the development.~~

~~In the event the developer fails to commence significant physical development of that property identified in this Development Order within five (5) years from the date of adoption of this Development Order, development approval shall terminate and the development shall be subject to further consideration. Significant physical development shall include obtaining a Certificate of Completion on some substantial portion of the project (e.g., water management system or road system).~~

~~This Development Order otherwise terminate in fifteen (15) years from its adoption date unless an extension is approved.~~

The project has a buildout date of May 3, 2010 and a termination date of May 3, 2016. This term recognizes the cumulative 12 year extension granted from the original 1998 buildout date and the fact that a local development order, which is valid for six years, may be obtained prior to May 3, 2010. No permits for development will be issued by the County subsequent to the termination date or expiration date unless the conditions set forth in Florida Statutes §380.06(15)(g) are applicable. Future requests to extend time will be evaluated cumulatively with past requests in accordance with §380.06(19), Florida Statutes.

~~An extension may be granted by the Board of County Commissioners if the project has been developing substantially in conformance with the original plans and approval conditions, and if no substantial adverse impacts not known to the Southwest Florida Regional Planning Council or to Lee County at the time of their review and approval, have been identified. However, an extension of the date of buildout of a development by five (5) or more years shall be presumed to create a substantial deviation subject to further development of regional impact review. The presumption may be rebutted by substantial, competent evidence at the public hearing held by Lee County. For the purpose of calculating when a buildout date has been exceeded, the time shall be tolled during the pendency of administrative and judicial proceedings relating to development permits.~~

9. The Administrative Director of the Lee County Department of Community Development or his/her designee, shall be is the local official responsible for assuring compliance with this Development Order.

10. The development will not be subject to down-zoning, unit density reduction,

or intensity reduction, ~~for five (5) years following the approval of zoning prior to May 3, 2016, unless the~~ If the County demonstrates that substantial changes have occurred in the conditions underlying the approval of this Development Order, as amended, including, but not limited to, such factors as a finding or finds that the development order was based on substantially inaccurate information provided by the developer, or that the change is clearly established by local government Lee County to be essential to the public health, safety and welfare, then down-zoning, unit density reduction, or intensity reduction may occur [See 9J-2.025(3)(b)13].

11. The developer, or his successor(s) in title to the undeveloped portion of the subject property, shall must submit a report annually to the Lee County Board of County Commissioners, the Southwest Florida Regional Planning Council, the State land planning agency, and all affected permit agencies. This report shall must describe the state of development and compliance as of the date of submission, and shall must further be consistent with the rules of the State land planning agency. The annual report shall must include information contained in Exhibit B required by §380.06(19), Florida Statutes. The first monitoring report shall must be submitted to the Administrative Director of the Department of Community Development not later than May 1, 1989, and further reporting shall must be submitted not later than May 1st of subsequent calendar years. Failure to comply with this reporting procedure is governed by Section §380.06(18), Florida Statutes, and the developer shall must so inform any successor in title to any undeveloped portion of the real property covered by this Development Order. This shall may not be construed to require reporting from residents or successors of individual home sites or dwelling units.

12. Certified copies of this Development Order Amendment will be forwarded to the Southwest Florida Regional Planning Council, the developer, and appropriate state agencies. This Development Order is rendered as of the date of that transmittal, but shall is not be effective until the expiration of the statutory appeals period (45 days from rendition) or until the completion of any appellate proceedings, whichever time is greater. Upon this Development Order Amendment becoming effective, the developer must record notice of its adoption shall be recorded as provided in accordance with Chapter §380.06(15), Florida Statutes.

SECTION TWO

A. ~~The proposed changes to the Del Vera DRI Development Order described herein are consistent with the adopted Comprehensive Plan of Lee County and applicable local land development regulations.~~

B. ~~The proposed changes to the Del Vera DRI will not unreasonably interfere with the achievement of the objectives of the adopted State Land Development Plan applicable to the area.~~

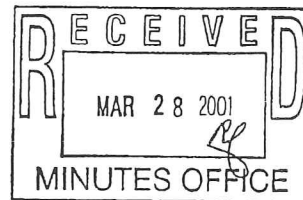
G. The proposed changes are consistent with the State Comprehensive Plan.

SECTION THREE

~~Certified copies of this Development Order Amendment will be forwarded to the Southwest Florida Regional Planning Council, the developer, and appropriate state agencies. This Development Order is rendered as of the date of that transmittal, but shall not be effective until the expiration of the statutory appeals period (45 days from rendition) or until the completion of any appellate proceedings, whichever time is greater. Upon this Development Order Amendment be recorded by the developer as provided in Chapter 380, Florida Statutes.~~

THE MOTION TO ADOPT this Amendment was offered by Commissioner Judah and seconded by Commissioner Coy and upon poll of the members present, the vote was as follows:

Robert P. Janes	Aye
Douglas R. St. Cerny	Aye
Ray Judah	Aye
Andrew W. Coy	Aye
John E. Albion	Aye



DULY PASSED AND ADOPTED this 27th day of day of February, 2001.

ATTEST
CHARLIE GREEN, CLERK

BOARD OF COUNTY COMMISSIONERS
LEE COUNTY, FLORIDA

BY: *Patricia Figueroa*
Deputy Clerk

BY: *[Signature]*
Chairman

APPROVED AS TO FORM

By: *[Signature]*
County Attorney's Office

Attachments:

- Exhibit A - Map H-3
- Exhibit B - Phasing Schedule
- Exhibit C - Revised Red-Cockaded Woodpecker Monitoring and Management Plan for Herons Glen DRI dated July 2000.
- Exhibit D - Revised Wetlands Management Plan for Herons Glen DRI dated July 2000

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27

State of Florida
County of Lee

I, Charlie Green, Clerk of the Circuit Court for Lee County, Florida, do hereby certify this file and to be a true and correct copy of the original document filed in the Minutes Department.

Given under my hand and official seal at Fort Myers, Florida, this 28th day of March, A.D. 2001

CHARLIE GREEN, CLERK

By: *Patricia Figueroa*
Deputy Clerk

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ADD 2009-00054

Phasing Schedule

<u>Proposed Phase</u>	<u>Use</u>	<u>Quantity</u>
I - 1989 - 1995 <u>2005</u>	Detached Single Family Dwellings	1,302 <u>770</u> du.
	<u>Zero Lot Line Villas</u>	<u>134</u> du
	<u>Townhouses</u>	<u>134</u> du
	Sales Center ⁽²⁾	2,500 <u>3,450</u> sq. ft.
	Commercial Uses ⁽¹⁾	4,000 <u>9,000</u> sq. ft.
	Golf Courses/ <u>Clubhouses</u>	127 <u>247</u> acres (18 <u>36</u> holes)
II - 1992 <u>2006</u> -1998 <u>2010</u>	Detached Single Family Dwellings	1,398 <u>850</u> du.
	<u>Zero Lot Line Villas</u>	<u>406</u> du
	<u>Townhouses</u>	<u>406</u> du
	Sales Center ⁽²⁾	2,500 <u>3,450</u> sq. ft.
	Commercial uses ⁽¹⁾	6,000 <u>3,000</u> sq. ft.
	<u>Village Center</u>	4.5 acres
	<u>Recreation Center</u>	<u>7</u> acres

MAP H is hereby replaced by MAP H-2-3 (see Attachment B).

⁽¹⁾ Commercial uses will be located in the clubhouses.

⁽²⁾ The Sales Center use will be moved when Phase 1 approaches buildout

Exhibit B

Exhibit C

**REVISED RED-COCKADED WOODPECKER MONITORING AND MANAGEMENT
PLAN FOR THE HERONS GLEN DRI (F.K.A DEL VERA, VILLAGES OF
NANTUCKET, AND DEL TURA NORTH DRI); LEE COUNTY, FLORIDA**

JULY 2000¹

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JUL 21 2009

COMMUNITY DEVELOPMENT

ADD 2009-00054

¹ Note: This Plan constitutes an amendment of the previously adopted Plan dated September 11, 1992. A copy of the strike-thru and underline version is available at the Department of Community Development. However, for ease of use and reference, the strike-thru and underline have been removed from this exhibit.

**REVISED RED COCKADED WOODPECKER MONITORING AND
MANAGEMENT PLAN FOR THE HERONS GLEN DRI (f.k.a. DEL VERA,
VILLAGES OF NANTUCKET, and DEL TURA NORTH DRI),
LEE COUNTY, FLORIDA
July 2000**

1.0 INTRODUCTION

This document serves to revise the red-cockaded woodpecker (RCW) monitoring and management plan for the Herons Glen DRI and supercedes the document titled "*A. Revised Red Cockaded Woodpecker Monitoring and Management Plan for Del Vera and Villages of Nantucket, Del Tura North DRI, Lee County, Florida*" (Conservation Consultants, Inc.; September 11, 1992). Revisions contained herein are primarily related to exotic eradication methods and have been instituted to make this plan consistent with the "*Revised Wetlands Management Plan For The Herons Glen DRI*" (July 2000). Other portions of the original plan have remained largely unchanged in intent. Institution of the methods described herein will result in compliance with the conditions of the DRI development order, the Lee County development order, and the South Florida Water Management District permit relative to the RCW.

Herons Glen (formerly known as Del Tura North) is a DRI of approximately 1,151 acres located in the unincorporated area of North Fort Myers, Lee County, Florida. The Herons Glen DRI is planned for a maximum of 2,700 single-family units, incorporating an 18-hole golf course to be developed in phases.

The Development of Regional Impact/Application for Development Approval (DRI/ADA) for the project was submitted during April, 1987. A Development Order (D.O.) approving the project with conditions was adopted on April 25, 1988 by the Lee County Board of County Commissioners. D.O. Condition F.1, VEGETATION AND WILDLIFE/WETLANDS, noted the occurrence of foraging Red Cockaded Woodpeckers (RCWs) and apparently abandoned cavity trees on the site. By terms of the condition, approximately 224 acres of the site were to be set aside as RCW preserve as shown on the amended Conceptual Master Development plan, designated Map H, of the DRI/ADA. The preserve boundary could be subject to minor reconfigurations (5%)

during final planning. Condition F.1 of the D.O. further required the developer to conduct annual surveys of the entire site for RCWs and to survey each phase's development area within sixty days prior to construction. Should a survey document re-activation of existing cavity trees or the development of new nesting activities by RCWs, the monitoring (management) plan and project design could be re-designed "...in accordance with the developer, SWFRPC, GFC and Lee County staff."

On June 23, 1989, the owner was advised by Kimberly A. Dryden of the Florida Game and Fresh Water Commission (GFC) of "reactivation" of the RCW colony site. However, a survey for RCW on the Phase 1-A area conducted during July 1989 by Dr. Eric Heald did not reveal the presence of RCW or cavity trees within the Phase 1-A area. A subsequent survey of the entire site was conducted on September 19, 1989 by Ms. Dryden and Mr. Heald. Observations of this survey documented the occurrence of an active RCW colony within the central "flow-way" area located east of Phase 1-A. Subsequently, more detailed surveys of the colony were performed by Conservation Consultants, Inc. (CCI). The results of those surveys were previously summarized in the document titled *"A Revised Red Cockaded Woodpecker Monitoring and Management Plan for Del Vera and Villages of Nantucket, Del Tura North DRI, Lee County, Florida"* (Conservation Consultants, Inc.; September 11, 1992).

2.0 GENERAL BACKGROUND

As described in the DRI/ADA, the Herons Glen site was characterized by four native vegetation associations identified as Pine Flatwoods (766.26 acres), Transition Pine Flatwoods (222.36 acres), other Hardwood Oak (0.72 acre) and Freshwater Marsh (39.32 acres). Man-altered features comprised about 68.75 acres. The approximately 290 acres in Phase 1-A now occurs on the western portion of the site which was predominantly pine flatwoods. The active RCW colony is located within the northeast area of the Transition Pine Flatwoods that compromise a centrally located "flow-way". Figure 1 provides the locations and numerical designations of cavity trees and starter holes recorded through early May of 2000. Since RCW monitoring was initiated in the

early 1990s, 33 trees with a total of 39 cavities have been recorded on the site. Fifteen (15) of the trees, representing 18 cavities, have died or fallen over time, while the remaining 18 live trees house 21 cavities. As of the 2000 annual RCW monitoring event conducted in late April and early May of 2000, the 21 cavities in live trees included 5 active, 7 inactive, 7 abandoned, and 2 start holes. As of early May 2000, the total estimated RCW population of the site included one clan of approximately 5 birds. Specific details regarding the RCWs of the site can be found in the Year 2000 Annual RCW Monitoring Report for the Herons Glen DRI.

The Transition Pine Flatwoods have a moderate to open canopy of slash pines (*Pinus elliotii*) with an understory of wetland and transitional species of graminoids and herbs, such as cyperus sedge (*Cyperus odoratus*), St. John's Wort (*Hypericum galioides*), broom sedge (*Andropogon virginicus*), white-top sedge (*Dichromena colorata*), bog buttons (*Lachnocaulon anceps*), goldenrod (*Solidago* spp.), and swamp fern (*Blechnum serrulatum*). Typically, the midstory in this habitat is open, vegetated by scattered wax myrtle (*Myrica cerifera*) and bald cypress (*Taxodium distichum*). Much of the midstory of this habitat was moderately to densely vegetated by *Melaleuca* (*Melaleuca quiquenervia*) and wax myrtle (*Myrica cerifera*). Exotic eradication activities conducted in the RCW preserve area have resulted in a substantial decrease in *Melaleuca* in treated areas.

The Pine Flatwoods remaining east of the "flow way" is forested upland with some palmetto understory. This category is dryer than the pine transition zone and is characterized by a more developed overstory of slash pine (*Pinus elliotii*). The understory is characterized by either panic grasses (*Panicum* spp.) or saw palmetto (*Serenoa repens*). Other characteristic species include wax myrtle, broom sedge (*Andropogon virginicus*), gallberry (*Ilex glabra*), dwarf wax myrtle (*Myrica pusilla*), pennyroyal (*Satureja rigida*), and *Lyonia* spp. Infestations of *Melaleuca* are common throughout the pine flatwoods. All of the flatwoods have experienced extensive logging, stumping and drainage.

PREVIOUS SURVEYS

Information pertaining to the original RCW survey methods and results has been deleted from this document since it is no longer current. The reader is referred to the annual RCW monitoring reports for the Herons Glen DRI for more current information regarding RCW activity of the site.

3.0 MANAGEMENT AREA DESIGNATIONS

3.1 Management Area Preserve

Figure 1 depicts the revised central RCW Management Area Preserve ("RCW Preserve"). Based on field surveys, the "RCW Preserve" encompasses a total of 210.11 acres comprised of 181.81 acres of transition pine flatwoods (TZ), 21.26 acres of upland pine flatwoods, 5.00 acres of freshwater marsh (RPA) and 2.04 acres where an existing road is to be removed and planted with pine.

The 181.81 acres of transition pine flatwoods includes all existing TZ of the central flow-way except for 2.91 acres devoted to roadway access to Phase 1-B and Phase II development. Although the seasonal range and habitat use data recorded for the site's RCWs indicates that less than one-quarter of the central flow-way TZ was frequented by the RCW clan, the transition pine flatwoods throughout the RCW Preserve offer suitable foraging habitat except where dense *Melaleuca* stands currently occur. Removal of the *Melaleuca* from dense stands located in the immediate vicinity of the colony will, however, immediately increase available foraging area as significant numbers of mature pines (>4" DBH) remain within the *Melaleuca* stands.

The central flow-way RCW Preserve encompasses 28 of the 33 cavity trees recorded through the 2000 annual monitoring event. Of the remaining trees, two are active (#23 and #26 - Figure 1), one is inactive (#30), one is abandoned with the tree fallen (#27), and one is a start hole tree (#33). All active and start hole trees located outside of the preserve will be protected and preserved. Should any of these trees be located within a road ROW or fill area, Lee County Division of Environmental Sciences, or successor, will be notified and provided copies of all appropriate State or Federal permits or approvals required for tree removal, if any.

3.2 Other Retained Pineland

Other pineland to be retained on site includes approximately 51.59 acres. This acreage is found within buffers, golf course, open space and other preserved transition pine flatwoods.

4.0 MAINTENANCE OF THE RCW PRESERVE

The maintenance objectives for the management area are to provide for the continued on-site existence of suitable foraging and nesting habitat for RCWs. In general, habitat preferred by the RCW in Southwest Florida includes a diversity of slash pine stand age and condition. Additionally, colonies are typically found in open stands with sparse midstories. Thus, maintenance of the management area will employ techniques that retain existing stands of older slash pine, encourage regeneration of slash pine (but not at high density) and minimize development of midstory vegetation within the colony, e.g., hardwoods, wax myrtle. Additionally, dense stands of *Melaleuca* will be eliminated from the vicinity of the colony and pine plantings will be made in the road removal area.

4.1 Fire Maintenance

The RCW Preserve will be divided into four management units as shown on Figure 2 for purposes of fire maintenance.

Controlled burns to each management unit will occur every three years. The sequencing of burns will be from the southeast unit, to the northwest unit, to the southwest unit to the northeast unit (colony area). For each intended burn, the perimeter of each unit will be double plowed prior to the wet season where cleared breaks do not already exist to insure fire containment within the management area. In no case will plowing for burn containment occur within 50 ft. of a cavity tree. Also, for burns encompassing the colony area (northeast unit), excessive leaf litter and other flammable debris will be hand removed from around the base of each cavity tree (25' radius). Each burn of the northeast unit will also be planned to occur outside of the red-cockaded woodpecker nesting season. The burn plan for each unit will adhere to state and federal guidelines for prescribed burns and any necessary burn permits will be secured from Lee County and the Florida Division of Forestry. The Lee County Division of Environmental Sciences, or its successor, will be notified in writing of each scheduled burn at least 15 days prior to the approved burn period.

4.2 Mechanical Techniques

Mechanical methods, should they become appropriate, may include mowing, bush hogging and/or selective hand thinning/removal of vegetation.

In the event burn management becomes unlawful or is judged unsafe at any time by Lee County or state fire officials, the previously described fire maintenance program will be replaced by mowing of relatively open areas and bushhogging of ranker growths. The frequency and sequencing of mowing/bushhogging would be the same as for the burn program. If fire is suppressed, it may also become necessary to hand remove midstory vegetation from within the colony area in association with mechanical management of the unit.

4.3 Melaleuca Removal

Melaleuca in the RCW Preserve will be eradicated and controlled in accordance with procedures specifies in the *"Revised Wetlands Management Plan for the Herons Glen DRI (July 2000)"*.

4.4 Pine Planting

Planting of South Florida slash pine will proceed following removal of the roadway fill and grading to elevations similar to the adjacent TZ flatwoods. Slash pine will be planted on approximate ten feet (10 feet) centers (436 trees/acre) throughout the 2.04-acre road removal area and will be comprised of the following materials and distribution:

10 gallon – 10% of Plantings

3 gallon – 25% of Plantings

1 gallon – 65% of Plantings

5.0 MONITORING

A monitoring program has been implemented to assess continued occurrence of RCWs within the RCW Preserve. South Florida slash pines were planted in the roadway mitigation area in early 2000. A monitoring program has been implemented to determine the success of slash pine plantings. *Melaleuca* invasion/control monitoring will be as described in the *"Revised Wetlands Management Plan for the Herons Glen DRI"* (July 2000). The monitoring of the RCW Preserve has and will continue to be performed annually during the RCW breeding period (April-June) and will consist of the below-described program. The separate annual program

of monitoring of remaining undeveloped portions of the site as required by the D.O. will be performed concurrently using the same procedures as previously conducted.

RCW Preserve: Three (3) consecutive days of observation will be performed beginning at sunrise and lasting for approximately four to five hours. Observations will be initiated at the colony site and will serve to record number of birds present, cavity status, daily activities and foraging movements within the RCW Preserve. Any observed new cavity tree locations will be recorded and mapped. Additionally, the RCW monitoring program shall also include a separate survey of the total area of the RCW Preserve on a grid basis to determine the presence of RCWs and/or indications of their presence, e.g., cavities, starter holes, resin wells, feeding marks. For this survey, a system of north-south and east-west transects spaced 300 feet apart within the RCW Preserve will be walked using a 1" = 300' aerial photograph with the transects overlaid as a guide. In areas of dense canopy or midstory, the spacing of survey transects shall be 100' apart to insure adequate visual coverage. As previously noted, the remainder of the project site will also be surveyed during the period April-June for compliance with D.O. Condition F.1 VEGETATION AND WILDLIFE/WETLANDS which requires an annual survey of the entire site for RCW occurrence monitoring.

Slash Pine Plantings: The pine planting area will be monitored according to SFWMD protocol to assess survival and establishment of planted slash pine. Observations will include estimated percent survival of each size class, measured height on a 10% sample subset of each size class and estimated percent cover for dominant naturally recruited vegetation.

Reporting: A single report will be prepared concerning the RCW monitoring components. The annual report will minimally include the following:

- A description of the methods used for each survey component including dates of survey.
- For RCW Preserve, a narrative description of cavity use, daily activities and foraging movements along with a description of foraging paths and locations; a narrative description of the type of other RCW occurrence/signs.
- For the "annual" survey of remaining areas, a description of RCW occurrence/signs along with locations of same.
- For slash pine plantings, a tabulation of survey results and a discussion of the relative progress of plantings.

The report of monitoring results will be submitted to Lee County Division of Environmental Sciences (or its successor), Southwest Florida Regional Planning Council (SWFRPC) and the

Florida Game and Fresh Water Fish Commission (GFC) within thirty (30) days after completion of field surveys.

All monitoring will be conducted by a qualified biologist. The RCW Preserve monitoring program will be implemented upon initiation of Phase 1-B construction and will be continued for a ten-year period. However, should a monitoring event indicate abandonment of the RCW Preserve within the initial ten-year period, the monitoring will be continued for an additional nine (9) consecutive monitoring years. Upon documentation of abandonment evidenced by ten (10) consecutive years of monitoring, RCW monitoring and habitat management will cease. The annual site-wide monitoring program will continue until completion of development. However, should colony re-activation occur or a new colony be found, the RCW monitoring and management plan described herein will be reinitiated or a new plan submitted to Lee County Division of Environmental Sciences, or successor, for review and approval.

The pine planting monitoring will be implemented upon completion of pine planting and will be continued for a three-year period to document establishment of plantings (total four events). Supplemental pine plantings will be performed if the estimated percent survival of all pine plantings is found to be below 80% during an annual monitoring event. A letter report documenting any supplemental plantings will be submitted to the Lee County Division of Environmental Sciences, or its successor, within thirty (30) days following completion of the planting.

6.0 PROVISIONS

In the event that Red Cockaded Woodpeckers totally abandon the RCW Preserve for ten (10) consecutive years as evidenced by the monitoring described in Section 6.0, the developer may request an adjustment to the 21.3 acres of upland pine flatwoods contained in the RCW Preserve by filing a Notice of Proposed Change. Reconfiguration of the RCW Preserve or Wetland area will be reviewed in accordance with F.S. 380.06(19).

Exhibit D

REVISED WETLANDS MANAGEMENT PLAN FOR THE HERONS GLEN DRI
(F.K.A DEL VERA, VILLAGES OF NANTUCKET, AND DEL TURA NORTH)

JULY 2000¹

RECEIVED
JUL 21 2009

COMMUNITY DEVELOPMENT

ADD 2009-00054

¹ Note: This Plan constitutes an amendment of the previously adopted Plan approved May 29, 1990. A copy of the strike-thru and underline version is available at the Department of Community Development. However, for ease of use and reference, the strike-thru and underline has been removed from this exhibit.

REVISED WETLANDS MANAGEMENT PLAN FOR THE HERONS GLEN DRI (f.k.a DEL VERA, VILLAGES OF NANTUCKET, DEL TURA NORTH)

July 2000

INTRODUCTION

The Del Tura North DRI (Del Vera) was approved by the Board of County Commissioners on April 25, 1988. Condition F.2 of that Development Order (DO) required the preparation of a Wetland Management Plan prior to the issuance of surface water management permits. Condition 2.d of Lee County Resolution No. Z-88-069 also required a plan for the removal of exotic vegetation. A wetland management plan incorporating exotic vegetation removal was prepared by Dr. Eric J. Heald in February of 1989 and approved by the County as part of their amended final DO on May 29, 1990. This plan addressed at a conceptual level the removal of exotic species, the maintenance of wetland hydroperiod and the creation of a shallow lake "refugia" within the central flow-way.

Subsequent to the approval of the Final Development Order and the Wetlands Management Plan, two Red Cockaded Woodpeckers (RCWs) were found on the site which triggered the requirement to revise the RCW Management Plan. In order to provide additional habitat and foraging areas for these birds, it was recommended by the Lee County staff that the proposed shallow lakes be eliminated from the Wetlands Management Plan. Additionally, more detail was requested on wetland hydroperiod maintenance, exotic vegetation control methods and success monitoring. Conservation Consultants, Inc. (CCI) subsequently prepared a document dated September 11, 1992 titled "*Amended Wetlands Management Plan for Del Vera and Villages of Nantucket (formerly Del Tura North)*". The CCI document amended the approved 1989 plan to reflect the requested change and provide additional detail on certain plan elements.

The purpose of this document is to further revise the exotic removal provisions of the Wetlands Management Plan. Such revisions are necessary due to a time delay in initiating exotic removal activities by the previous site owner. This delay resulted in the continued spread of *melaleuca* and continued degradation of habitat quality. Initiation and completion of the *melaleuca* removal methods described herein will result in compliance with the exotic eradication conditions of the DRI development order, the Lee County development order, and the South Florida Water Management District (SFWMD) permit. The proposed plan

is also be consistent with the RCW Management Plan for the project and will serve to substantially increase the quality of RCW habitat.

1.0 EXOTIC PLANT CONTROL

Melaleuca is the primary exotic invader species impacting the site. Invasion by this species ranges from scattered individuals to dense stands where native ground cover and shrub species have been largely excluded. However, belt transect surveys previously conducted by CCI within six dense *Melaleuca* stands in or adjacent to the northern area of central flow-way revealed mature pine tree (>4" DBH) densities similar to largely uninfested transition pine flatwoods in the same region of site. In May 1999, random transects were walked by Florida Environmental Incorporated (FEI) to assess the current conditions of preserve and wetland areas at Herons Glen. Over 50% of preserve areas were observed to have medium to heavy infestations of *Melaleuca*. Given the general low density of desirable understory and ground cover vegetation within the areas of medium to heavy infestation, it would be appropriate to consider the use of mechanical reduction equipment as one part of the overall eradication program.

The program for short- and long-term control of both scattered, individual *Melaleuca* within wetland preserves and identified dense stands are described below.

Melaleuca and other exotics within development areas, road right-of-way, golf course and open space will be removed at the time of site development and control will be accomplished as part of routine landscape and golf course maintenance.

1.1 Short-Term Program

The objective of the short-term program will be to eliminate the majority of the mature "seed source" *Melaleuca*. For stands in the vicinity of the RCW colony, the objective is to further eliminate the *Melaleuca* with minimal disturbance to remaining pines. Retaining mature pines while removing surrounding, dense *Melaleuca* infestations will immediately increase available RCW foraging areas.

1.1.1 Initial Eradication in Medium to Heavy Infestation Areas

Dense stands of *Melaleuca* and other exotic species will be reduced in place using mechanized equipment (e.g., bush hog, Hydroaxe, or grinder/mower). It is estimated that mechanized equipment will be used in approximately 50% of the total acreage of the

preserves (*i.e.*, medium to heavy infestation areas). Mechanized equipment within the preserve areas would be limited to rubber tire or rubber track tractors to minimize impacts to the ground surface. In order to accomplish this goal, such operations will be conducted when there is no standing water (*i.e.*, during the dry season or during portions of the wet season when water levels are below ground). In order to minimize damage to native tree, shrub, and ground cover plant species, labor crews will work within drip lines of native trees greater than 3" in diameter in advance of mechanized equipment.

Labor crews will follow mechanical reduction operations, treating cut stumps with herbicide and girdling material larger than 6" in diameter. Herbicide treatment of the whole circle of cambium layer of cut stumps will occur within 48 hours. The herbicide solution will contain a dye to ensure that all stumps are adequately treated. Girdled material would be left standing as part of the initial eradication program. Herons Glen reserves the right to remove dead trees to improve the overall aesthetics of the project. Stands of *Melaleuca* less than 6" in diameter will be cut into 3 to 6-foot lengths and stacked in accordance with guidelines of the SFWMD. All cut material will be removed from areas located within 75 feet of the preserve boundary.

1.1.2 Initial Eradication in Light to Medium Infestation Areas

Hand removal methods for *Melaleuca* removal will be utilized in areas with light to medium infestation. These areas are estimated to occupy approximately 50% of the total acreage of the preserves. Labor crews will use chain saws (or machetes) to cut medium-sized trees by hand while smaller trees will be hand-pulled. Cut stumps will be treated with herbicide within 48 hours. The herbicide solution will contain a dye to ensure that all stumps are adequately treated. Trees larger than 6" in diameter will be girdled and left standing as part of the initial eradication program. Herons Glen would reserve the right to remove dead trees to improve the overall aesthetics of the project. All other material (trees <6" in diameter) will be cut into 3 to 6-foot lengths and stacked in accordance with guidelines of the SFWMD. All cut material will be removed from areas located within 75 feet of the preserve boundary.

Remaining portions of the site's Resource Protection Areas (RPAs) consist primarily of freshwater marshes located to the east of the central flow-way (Figure 1). The majority of these areas have light to medium infestation by *Melaleuca*. Removal methods in these areas will be identical to those described above for light to medium infestation areas.

1.1.3 Areas of Special Concern

Care will be taken to avoid damage to existing pine trees >3" in diameter and to restrict operations within buffer zones around active or start-hole RCW cavity trees. A buffer zone with a radius of 100' will be established around each active or start-hole cavity tree and activities within this zone will be limited to hand removal operations (*i.e.* no mechanized equipment will be used). For inactive and abandoned RCW cavity trees, mechanized equipment will not be utilized inside of the drip line of the trees. During the RCW nesting season (April through June), no removal activities will be conducted within 700' of active RCW cavity trees.

A professional biologist retained by Herons Glen will verify the location of active RCW cavity trees and field delineate buffer areas around those trees. The reduction of *Melaleuca* within foraging areas of the RCW will improve the overall habitat quality for this species.

1.1.4 Implementation Schedule for Short-Term Eradication Program

Implementation of the above-described short-term program within Herons Glen will be completed within one (1) year of approval of this revised plan. *[Note: Initial felling and herbicidal treatment of exotics was completed in the majority of wetland preserves of the site in mid-2000 following submittal of the initial draft of this Revised Wetlands Management Plan. Thus, most of the activities associated with the Short-Term Program, as described above, were already completed at the time of final approval of this revised plan].*

1.2 Long-Term Program

The long-term program for *Melaleuca* control will have two elements: (1) semi-annual inspection/control events for all wetland preserves and upland habitat preserves for three consecutive years following completion of the short-term program; and (2) annual inspection/control events thereafter aimed at habitat maintenance. Additional habitat maintenance measures (e.g., prescribed burning) are also associated with the RCW management program (refer to the "Revised Red-Cockaded Woodpecker Monitoring and Management Plan" dated July 2000).

1.2.1 Semi-Annual Inspection and Control Events

During the semi-annual inspection events, each of the areas previously exhibiting dense *Melaleuca* stands will be specifically visited to appraise re-invasion, *i.e.*, seedling establishment and/or sprouting. At the time of inspection or within thirty (30) days,

seedlings will be hand-pulled or cut and chemically treated. Re-sprouts will receive foliar treatment using an appropriate herbicide solution containing dye to ensure thorough coverage. Also, during each semi-annual event, the remaining wetland and upland preserves will be inspected and control performed in the same manner as described for the long-term program.

1.2.2 Annual Habitat Maintenance

Starting the fourth year following completion of the short-term program, annual inspection and maintenance events will be conducted. Methods utilized to suppress and control the growth of exotics will be the same as cited above in Section 1.2.1. Long-term management objectives with respect to the RCW Preserve including fire and/or mechanical habitat maintenance, will also assist in prevention of *Melaleuca* and/or exotic plant species reinvasion. Further, the below described wetland hydroperiod maintenance efforts will contribute to long-term control of *Melaleuca* in wetland preserves.

2.0 WETLAND HYDROPERIOD MAINTENANCE

Wetland hydroperiod maintenance will consist of the following:

2.1 Design Considerations

The hydroperiod of preserved wetlands will be maintained or enhanced by incorporating the wetlands into the site's surface water management system. The system will use manmade lakes and the preserved freshwater marshes for stormwater detention and attenuation. The transition pine flatwoods will receive discharges from a portion of the surface water management system and continue to serve as "flow-ways".

The concepts for completing engineering design for the remainder of the site will be as described in surface water management permitting for Phase I-A of the project. Basically, the design concept is to set water control elevations for any outflows from or through wetlands to approximate wet season groundwater elevations.

2.2 Understory Control

Freshwater marsh preserves have experienced variable encroachment by wax myrtle (*Myrica cerifera*) and dog fennel (*Eupatorium capillifolium*) in addition to some *Melaleuca* at their margins. Site observations also indicate that wax myrtle is a significant component in the transition pine flatwoods preserves.

Control or at least containment of the encroaching understory species within freshwater marshes will be aided by implementation of the previously described wetland hydroperiod maintenance concepts. Transition pine flatwoods preserves should also benefit from increased inputs of fresh water. Additionally, prescribed burns of the central flow-way in association with RCW habitat management will contribute to understory control.

3.0 MONITORING AND REPORTING

Monitoring and reporting requirements will consist of the following:

3.1 Exotic Plant Control

A report of exotic plant control efforts will be submitted to the Lee County Division of Environmental Services, or its successor, within thirty (30) days following the completion of the short-term event and each long-term control event described above. Each monitoring report will contain the following:

- a) A map showing location of and identification number of each freshwater marsh preserve and each "dense *Melaleuca* stand" control area.
- b) Photographs from a fixed reference point following the control event at each site receiving control efforts.
- c) A brief narrative describing exotic plant re-invasions and control efforts at each photographed site.
- d) A narrative describing exotic plant re-invasion and control efforts for the remainder of the site (or Phase area as appropriate).

FIGURE 1

Exhibit H-2.A

Administrative Amendment Request
Supplement H

Part 2
Requested Action

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COMMUNITY DEVELOPMENT

ADD 2009-00054

A. Written Narrative -

This request is to revise the MCP use designation for one portion of the subject parcel from the "Existing Sewer/Water Utilities Site" to "Utilities and Accessory Use Maintenance Facility," and the remaining portion of the subject parcel from "Sewer/Water Utilities Expansion Site" to "Utilities and Accessory Use Maintenance Expansion Site."

The proposed changes are intended to more accurately reflect the accessory maintenance uses located on the site since the beginning of this development. The request does not include any request for new uses.

The Herons Glen Recreation District ("District") is a special district formed in 1998 for the purpose of acquiring the golf course and recreational amenities at Herons Glen from the developer. Although created as a Recreation District under Chapter 418, Part II, Florida Statutes, it functions very much like a community development district. It is a political subdivision of the State and is operated and managed by a five (5) member Board of Supervisors who are elected from and by the owners and residents of the community.

The subject parcel is a 13 acre site, acquired from the Developer in 2006, on which is located the following: 1) the now closed former waste water treatment ("WWT") plant, 2) re-use water storage and pumping facilities, 3) general maintenance building and 4) and other related general maintenance facilities including a fueling station, equipment wash-off and horticultural waste storage. As did the Developer from the time of the development's creation, the District has used the existing maintenance building and the upland areas of the parcel for general maintenance activities for all of the community's maintenance functions since it acquired those properties.

Recently, the District closed and removed the waste water treatment plant. Waste water treatment is now provided by the North Fort Myers Utility plant. After closing the WWT plant on the subject parcel, the District originally cleaned and converted it to additional storage of the re-use water which it receives from North Fort Myers Utility for golf course irrigation. Last year, however, one of storage tank walls collapsed causing a significant flood which damaged the interior of the existing maintenance building and rendered both the storage tank and that existing maintenance building unusable.

The purpose of this request, therefore, is to, first, correct the MCP designation for this parcel to more accurately reflect its actual and intended use, thereby allowing the renovation of the

damaged existing maintenance building and, second, to allow the District to construct on the site of that now removed former WWT plant a second maintenance building which will provide additional maintenance offices, repair shops and covered storage for the District's maintenance rolling stock. Neither the remodeling of the existing building nor the construction of the proposed second maintenance building will impact any previously undeveloped areas of the subject parcel. The new maintenance building will be constructed entirely upon the former waste water treatment plant site.

Further, this change will not result in any increase in the number of or intensity of uses on the site. It will merely allow maintenance activities and rolling stock parking to be done in an enclosed building rather than outside where they are presently located. There is no proposed change of uses and no proposed expansion of the current uses on this parcel. There will be no increase in the number of employee's using the site and no change in the amount of activity taking place on the site. The site does not presently have any uses which draw members of the public and no such uses are proposed. (We recognize that if the District desires at some future time to increase the intensity of activities on the site or to change those uses, it will be necessary to modify both the DRI and the zoning through the appropriate processes.)

Attached are copies of the Existing Site Plan for the subject parcel (**Exhibit H-2.A-1**) as well as a Proposed Site Plan (**Exhibit H-2.A-2**).

The Existing Site Plan shows the damaged existing Maintenance Building as well as the now demolished former WWT Plant. That former WWT Plant is presently just a cleared area of the subject parcel.

The Proposed Site Plan shows the cleared area with replacement structures consisting of the remodeled maintenance building and the proposed additional maintenance building. The proposed layout also shows locations for an outdoor soil storage bin, a horticultural waste dumpster, the fueling station and the equipment wash-off facility. These functions are existing facilities which are currently in use, but which are proposed to be relocated within the site as part of the remodel and construction of the second maintenance building. (The District also wants to expand the horticultural waste dumpster to two units and install a ramp to access them.)

Although the proposed site plan appears to show additional impervious for drives and pathways, these surfaces are not being expanded. Those drives and pathways have been constructed since before the District acquired the property and there is no increase of those impervious areas proposed by the District.

[illegible]



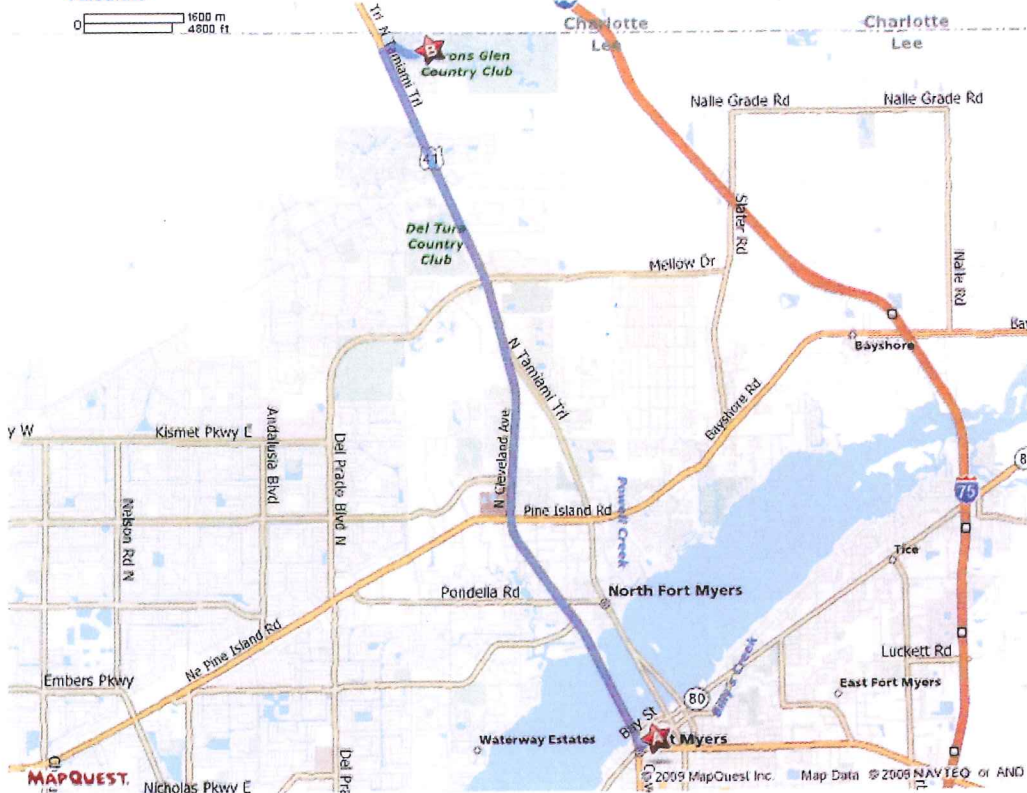
Sorry! When printing directly from the browser your directions or map may not print correctly. For best results, try clicking the Printer-Friendly button.

Directions Summary

Starting Location
1625 Hendry St
 Fort Myers, FL 33901-2920

Ending Location
2250 Avenida Del Vera
 Fort Myers, FL 33917-6700

Total Travel Estimates: Time: 15 minutes Distance: 10.56 miles Fuel Cost: Calculate



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Fort Myers Beach
 Find Fort Myers Beach hotels,
 maps,
 attractions & tours - Yahoo! Travel
travel.Yahoo.com

Directions from A to B:

- 1: Start out going NORTHWEST on HENDRY ST toward MAIN ST. 0.0 mi
- 2: Turn LEFT onto MAIN ST. 0.2 mi
- 3: Merge onto US-41 N/FL-45 N. 9.7 mi
- 4: Turn RIGHT onto AVENIDA DEL VERA (Gate access required). 0.7 mi
- 5: End at 2250 AVENIDA DEL VERA, on the RIGHT. 0.0 mi

Total Travel Estimates: Time: 15 minutes Distance: 10.56 miles Fuel Cost: Calculate

All rights reserved. Use subject to License/Copyright Map Legend
 Directions and maps are informational only. We make no warranties on the accuracy of their content, road conditions or route usability or expeditiousness. You assume all risk of use. MapQuest and its suppliers shall not be liable to you for any loss or delay resulting from your use of MapQuest. Your use of MapQuest means you agree to our [Terms of Use](#)

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COMMUNITY DEVELOPMENT

ADD 2009-00054

H-3.A
 Area Location Map

RECEIVED
JUL 21 2009

COMMUNITY DEVELOPMENT

ADD 2009-00054

LIST OF DEVIATIONS

- Deviation from LDC Section 10-295 to eliminate the requirement to provide street stubs to adjacent properties for all adjacent properties, except for the entrance along US 41. This deviation was previously approved in the MHPD zoning of this property and was found by the Board of County Commissioners to be achieving the intent of this planned development while not adversely impacting the public health, safety, and welfare of the public.
 - Deviation (2) requests that certain wetlands be permitted to be developed in accordance with the previous approval, and Condition 2 of Resolution Z-88-069. Deviation (2) was APPROVED since the approval to rezone this property to MHPD permitted up to 3 additional acres of Transition Zone encroachment. In order to allow for this encroachment under this application, approval of this request must include this original approval and note that this 2.91 acres only leaves 2.09 acres that can be encroached upon.
 - Deviation from LDC Section 10-329(a)(1)a.3 and that the setback for an excavation from a private property line be reduced from 50 feet to 35 feet for those locations as shown on the Master Concept Plan in order to create larger, more attractive lakes plus aquatic habitat as an element of the stormwater management system. Approval of this request would assist in achieving the intent of this planned development. The developer will provide an indemnification and hold harmless agreement to Lee County prior to development order approval to cover any potential liability resulting from personal injury, property damage, or such liability resulting from this approval.
 - Deviation from LDC Section 10-329(a)(3) and that the maximum permitted depth for excavations be permitted to extend to a depth of 25 feet or the confining layer, whichever would occur first, and:
 - That the waters of each lake excavated to a depth greater than 12 feet shall be circulated through pumping of water from the aquifer floor for irrigation, an aeration/destratification system, or such other manner which will assure destratification and oxygenation of the depths of these lakes.If irrigation does not provide adequate destratification, then the applicant shall install an aeration/destratification system which is designed to circulate water vertically from top to bottom, be adequate for the volume and depth of the lake, and subject to the approval of the Lee County Division of Natural Resources Management prior to local development order approval for any phase of the development.
 - A lake management plan shall be submitted to and approved by the Lee County Division of Natural Resources Management prior to the local development order approval for any phase. This plan shall include the following:
 - Utilization of the in-situ wetlands in conjunction with the excavated lakes and naturally vegetated buffer strips around all resource protection areas and transition zone areas to reduce pollutant and silt loads; and;
 - Emergent and submergent aquatic plantings throughout the littoral zone of all lakes; and;
 - Annual monitoring reports to Division of Natural Resources Management regarding lake depth and slope, plantings, destratification and water quality compliance.
 - Deviation (5) requests a reduction in the required setback for a water retention excavation from a street right-of-way as depicted on the Official Trafficways Map. A barrier will be erected and any road damage incurred within the Nalle Grade Road right-of-way will be repaired by the developer to the satisfaction of the Department of Transportation. A "Hold Harmless Agreement" releasing Lee County from liability will be provided.
 - Deviation from LDC Section 10-285(a) allowing a reduction from the required intersection separation for the access point onto US 41 from a required distance of 660 feet to 330 feet. This provides an additional access point onto US 41 which reduces the impact on the other access into the project from US 41 and the future access point on Nalle Grade Road.
 - Deviation (7) requests elimination of the requirement for access streets paralleling Nalle Grade Road.
 - Deviation (8) requests the opportunity to remove excavated material from the man-made detention or retention bodies from the premises to the planned Nalle Grade Road construction project. Calculations will be provided at the time of local Development Order application that support that sufficient fill material is available on-site for the project and that a surplus exists that can be used on the proposed roadway.
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- Deviation from Section 10-296(k) which requires a minimum outside edge of pavement and minimum right-of-way diameters for the cul-de-sac on Portafino Way of 45', 90', and 110' respectively to 25', 70', and 90' respectively.
- The following deviations were approved for Units 7, 8, and 9 by Administrative Deviation # 99-08-260.02A:
- Deviation from LDC Section 10-296(k)(3) which requires a cul-de-sac transition to regular pavement to be a radius of 100' to allow a radius of 50' at the designated cul-de-sac in Unit 8.
 - Deviation from LDC Section 10-329(a)(1)(a), to reduce lake excavation setback from designated local streets from the required 25 feet to allow a setback of 5.0 feet to the edge of a private local street right-of-way.

LAND USE SUMMARY

SYMBOL	DESCRIPTION	ACRES
R	RESIDENTIAL	357.42
RO	RECREATION/OPEN SPACE	489.24
CO	CONSERVATION AREAS	271.61
	TRANSPORTATION	
	MAIN PROJECT ROAD	32.68
	TOTAL ACRES	1,150.95
NOTE: RIGHTS OF WAY ACRES ARE FOR INTERNAL ROADS INCLUDED IN INDIVIDUAL PARCELS.		
RESIDENTIAL		
SINGLE FAMILY LOTS (DETACHED)	1,820 UNITS	
ZERO LOT LINE HOMES	540 UNITS	
TOWNHOUSE UNITS	540 UNITS	

DEVIATION LOCATION INDEX

DEVIATION 4 APPLIES THROUGHOUT THE COMMUNITY

LEGEND

- ALL RESIDENTIAL USES LISTED IN THE "USE SCHEDULE" ARE PERMITTED
- ALL RESIDENTIAL USES LISTED IN THE "USE SCHEDULE" ARE PERMITTED, EXCEPT TOWNHOUSE #2.

LAND USE TABLE

LAND USE DESCRIPTION	PHASE 1A	PHASE 1B	PHASE 2	TOTALS
RESIDENTIAL	532 UNITS	508 UNITS	1,662 UNITS	2,700 UNITS
NON-RESIDENTIAL				
SALES CENTER	3450 SQ FT	3450 SQ FT(1)	3450 SQ FT	3450 SQ FT
COMMERCIAL SERVICES (12,000 SQ FT LOCATED WITHIN CLUBHOUSE)	9420 SQ FT	3580 SQ FT	12000 SQ FT	25000 SQ FT
257 COURSE (CLUBHOUSE), TREES, GREENS, FARMWAYS	61.48 AC	39.33 AC	131.90 AC	252.41 AC
LAKES	38.63 AC	48.22 AC	48.32 AC	135.17 AC

(1) SALES CENTER WILL BE RELOCATED TO PHASE 1B WHEN THAT PHASE IS BEING DEVELOPED.

PROPERTY DEVELOPMENT REGULATIONS

"RO"	Minimum Lot				Minimum Setback(3)				Preserve (Include Island Buffer)	Golf Course	Maximum Height (Feet)	Number of Habitable Floors	Minimum Building Separation (Feet)(1)	Maximum Lot Coverage (5)(2)
	Area (a.f.)	Depth (feet)	Width (feet)	Side (feet)	Rear (feet)	Front/Road (feet)	Water Body (feet)	Pool Deck						
RECREATION, OPEN SPACE, GOLF COURSE, BUFFERS & LAKES	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
CLUBHOUSES	n/a	n/a	n/a	15	20	20	0	10	0	0	35	3	15	n/a
ACCESSORY STRUCTURES	n/a	n/a	n/a	5	5	10	0	10	0	0	35	1	10	n/a
POOL DECK	n/a	n/a	n/a	5	5	10	0	10	0	0	35	1	10	n/a

"R"	Minimum Lot				Minimum Setback(3)				Preserve (Include Island Buffer)	Golf Course	Maximum Height (Feet)	Number of Habitable Floors	Minimum Building Separation (Feet)(1)	Maximum Lot Coverage (5)(2)
	Area (a.f.)	Depth (feet)	Width (feet)	Side (feet)	Rear (feet)	Front/Road (feet)	Water Body (feet)	Pool Deck						
RESIDENTIAL USES														
Single-Family Detached	6,000	100	80	5	10	20/12	20	10	10	10	35	2	10	50
Public Homes	3,500	70	50	0	10	20/12	20	10	10	10	35	2	10	70
Public Homes (Type A3)	3,275	75	45	0	10	20/12	20	10	10	10	35	2	10	70
Two-Family Attached	3,500	100	35	0	10	20/12	20	10	10	10	35	2	10	70
Zero Lot Line 1st Side	2,800	80	35	0	10	20/12	20	10	10	10	35	2	10	70
Townhouse #1 1st Side 2nd Side	2,400	80	30	0	10	12	20	10	10	10	35	2	20	70
Townhouse #2	3,000	125	24	0	10	12	20	10	10	10	35	1	20	70
ACCESSORY STRUCTURES	n/a	n/a	n/a	5	5	10	0	10	0	0	35	n/a	10	n/a
POOL DECK	n/a	n/a	n/a	5	5	10	0	10	0	0	35	n/a	10	n/a

NOTE: (1) Any structure more than two stories in height will maintain a 20 foot minimum building separation. (2) Lot coverage means that portion of the lot area, expressed as a percentage, occupied by all roofed buildings or structures. (3) Setbacks for project walls are allowed within 1 foot of the right-of-way line.

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\\Fms01\proj-jet\20055665\Drawings\RPD\EXISTING master concept plan.DWG (Layout1) web Nov 07, 2005 - 5:21pm

REVISIONS		
ADD/ADRI		10/10/04

T.C.W. At Herons Glen L.L.C., Db
T.W.C. At Magnolia Landing

MAGNOLIA LANDING
LEE COUNTY, FLORIDA

JOHNSON
ENGINEERING

2158 JOHNSON STREET
P.O. BOX 1550
FORT MYERS, FLORIDA 33902-1550
PHONE (239) 334-0046
FAX (239) 334-3661
E.B. #642 & L.B. #642

EXISTING MASTER CONCEPT PLAN

DATE	PROJECT NO.	FILE NO.	SCALE	SHEET
NOVEMBER 2005	20055665	4-43-24	As Shown	5

H-3-B.
Reduced Size Master Concept Plan

G.C. Especial, LLC

FFL - Import/Export/Dealer Weapons, Ammo & Equipment
Class III License - Fully Automatic Weapons & Silencers

422 SW 2nd Terrace
Suite 203
Cape Coral
Florida 33991

Phone: 239.242.1097
Fax: 239.242.1098
E-mail: sales@gcespecial.cc
Web - www.gcespecial.cc



Christopher Neidig

Manager

**HERONS
GLEN**

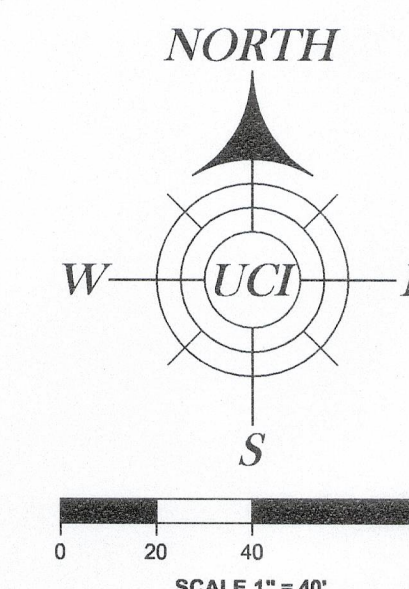
GOLF & COUNTRY CLUB

Recreation District

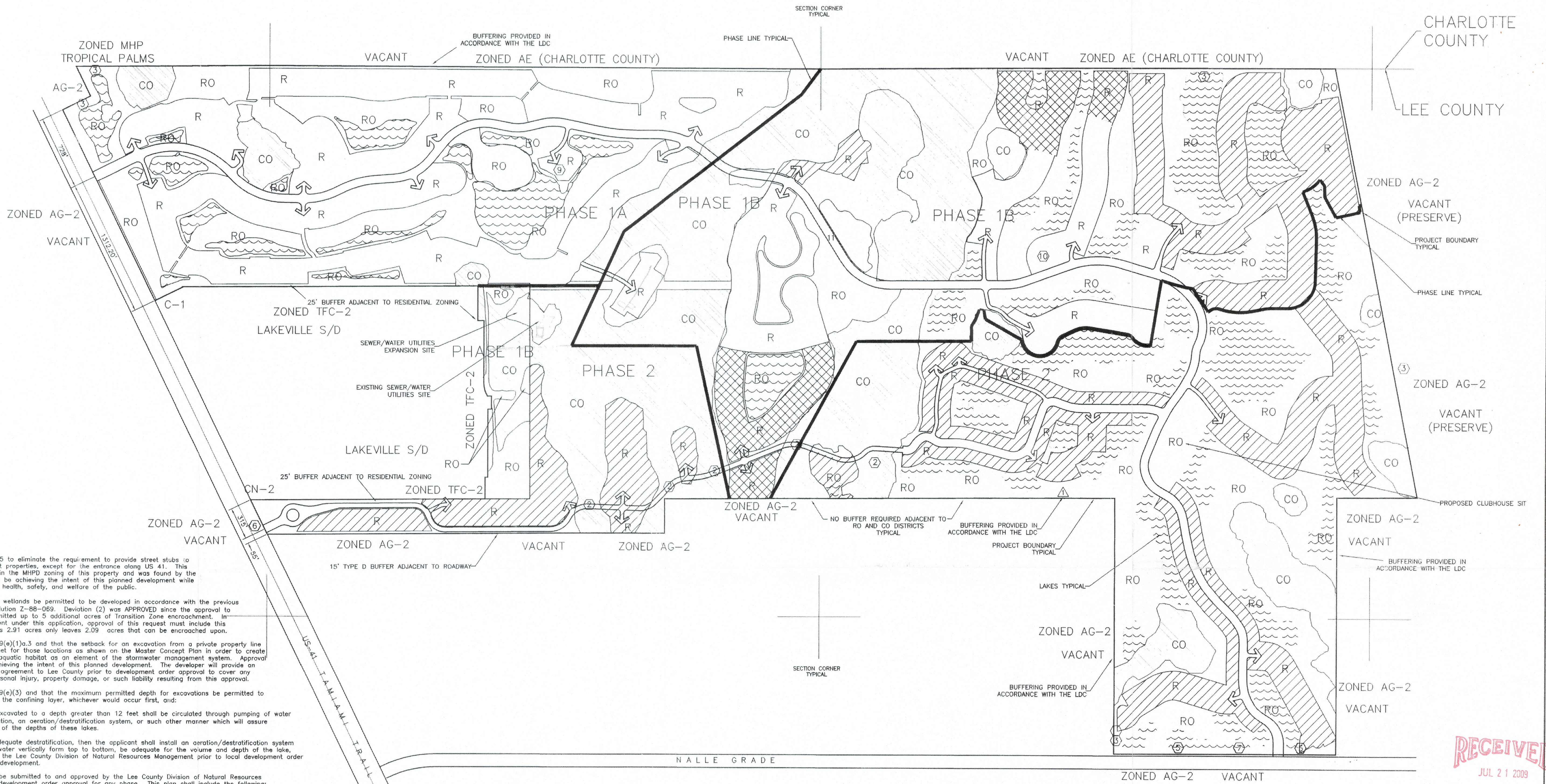
Hm. Phone: (239) 567-2780
Cell: (239) 707-3896
Fax: (239) 567-2823
E-Mail: dmklewicki@comcast.net
Web: heronsglenrecdist.com

DOROTHY KLEWICKI
Board of Supervisors

2250 Avenida Del Vera • North Fort Myers, FL 33917



SCALE: 1" = 40'	DESIGN BY: C.N. DRAWN BY: C.N. CHECKED BY: D.E.M. DATE: 08-03-2009	Lake Hickory Ventures, Inc. 2210 Fairmount Court, Estero, Florida 33928 Phone: (239) 888-4008 Fax: (239) 498-5008 Certificate of Authorization #27143 - E-mail: info@hickoryventures.com *Production work completed by Urban Consulting, Inc. (David E. McKee, P.E.)	NOTE: The undersigned and Urban Consulting, Inc. make no representation or warranty as to the completeness of this information, and assume no liability for any errors or omissions. The right of any additional time, improvement, or extension of the contract shall be at the discretion of the Engineer. The Engineer is authorized to reduce or increase the amount of work to be performed, and to change the location of the work, without notice to the contractor. Urban Consulting, Inc. & Lake Hickory Ventures, Inc. shall not be held responsible for any public records for matters affecting the project.	Herons Glen Maintenance Facility 2250 Avenida Del Vera North Fort Myers, Florida 33917 STRAP NO: 04-43-24-04-000N0.0000	DATE: <u>△</u> / <u>△</u> / <u>△</u> REVISIONS: <u>△</u> <u>△</u> <u>△</u> <u>△</u> <u>△</u> <u>△</u>
DWG NO: Herons Glen Maintenance Facility		Urban Consulting, Inc. Professional Engineer, Mechanical, Civil, Plumbing, and Electrical 422 SW and Tarnion, Suite 203, Cape Coral, Florida 33901 Phone: (239) 242-1087 - E-mail: info@urbanconsulting.net	NOTE: This instrument is the property of Urban Consulting, Inc. & Lake Hickory Ventures, Inc. and shall remain the property of the undersigned in whole or in part without written permission of Urban Consulting, Inc. & Lake Hickory Ventures, Inc.	Herons Glen Recreation District 2250 Avenida Del Vera North Fort Myers, Florida 33917	DATE: <u>△</u> / <u>△</u> / <u>△</u> REVISIONS: <u>△</u> <u>△</u> <u>△</u> <u>△</u> <u>△</u> <u>△</u>
SHEET M - 1	DAVID E. MCKEE P.E. PROFESSIONAL ENGINEER P.E. #88397 - STATE OF FLORIDA			MASTER CONCEPT PLAN (239) 731-4573	



LIST OF DEVIATIONS

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CO	CONSERVATION AREAS	271.61
	TRANSPORTATION	
	MAIN PROJECT ROAD	32.68
TOTAL ACRES		1,150.95
NOTE: RIGHTS OF WAY ACRES ARE FOR INTERNAL ROADS INCLUDED IN INDIVIDUAL PARCELS		
RESIDENTIAL		
	SINGLE FAMILY LOTS (DETACHED)	1,620 UNITS
	ZERO LOT LINE HOMES	540 UNITS
	TOWNHOUSE UNITS	540 UNITS

① DEVIATION LOCATION INDEX

④ DEVIATION 4 APPLIES THROUGHOUT THE COMMUNITY

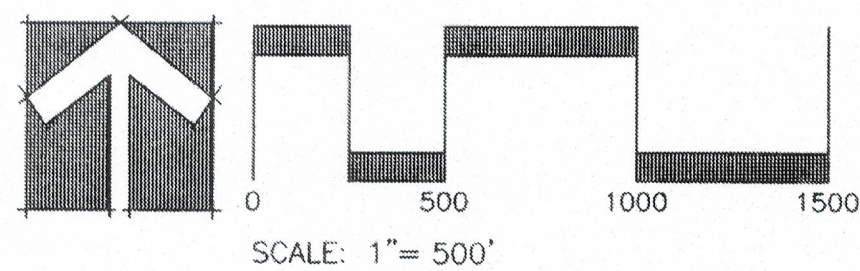
LEGEND

- ALL RESIDENTIAL USES LISTED IN THE "USE SCHEDULE" ARE PERMITTED.
- ALL RESIDENTIAL USES LISTED IN THE "USE SCHEDULE" ARE PERMITTED, EXCEPT TOWNHOUSE #2.

LAND USE TABLE

LAND USE DESCRIPTION	PHASE 1A	PHASE 1B	PHASE 2	TOTALS
RESIDENTIAL	532 UNITS	506 UNITS	1,862 UNITS	2,700 UNITS
NON-RESIDENTIAL				
SALES CENTER	3450 SQ FT	3450 SQ FT (1)	3450 SQ FT	3450 SQ FT
COMMERCIAL SERVICES (12,000 SQ FT LOCATED WITHIN CLUBHOUSES)	5420 SQ FT	3000 SQ FT	3580 SQ FT	12000 SQ FT
GOLF COURSE (CLUBHOUSES, TEES, GREENS, FAIRWAYS) LAKES	61.48 AC	59.33 AC	131.60 AC	252.41 AC
	39.83 AC	48.22 AC	48.52 AC	137.37 AC

(1) SALES CENTER WILL BE RELOCATED TO PHASE 1B WHEN THAT PHASE IS BEING DEVELOPED



PROPERTY DEVELOPMENT REGULATIONS

	Minimum Lot					Minimum Setback(3)				
	Area (sq. ft.)	Depth (feet)	Width (feet)	Side (feet)	Rear (feet)	Front/Road (feet)	Water Body (feet)	Preserve (includes upland buffer)	Golf Course	Maximum Height (feet)
RECREATION, OPEN SPACE, GOLF COURSE, BUFFERS & LAKES	n/a	n/a	n/a	15	20	20	0	0	0	50
CLUBHOUSES	n/a	n/a	n/a	5	5	10	0	10	5	45
ACCESSORY STRUCTURES	n/a	n/a	n/a	5	5	10	0	10	5	n/a
POOL DECK	n/a	n/a	n/a	5	5	10	0	10	5	n/a

	Minimum Lot					Minimum Setback(3)				
	Area (sq. ft.)	Depth (feet)	Width (feet)	Side (feet)	Rear (feet)	Front/Road (feet)	Water Body (feet)	Preserve (includes upland buffer)	Golf Course	Maximum Height (feet)
RESIDENTIAL USES										
Single-Family Detached	6,000	100	80	5	**10	20*/12	20	10	**10	35
Patio Homes	3,500	75	50	0	**10	20*/12	20	10	**10	35
Patio Homes (Type #3)	3,375	75	45	0	**10	20*/12	20	10	**10	35
Two-Family Attached	3,500	100	35	0	**10	20*/12	20	10	**10	35
Zero Lot Line	2,800	80	35	0	**10	20*/12	20	10	**10	35
Townhouse #1	2,400	80	30	0	**10	*12	20	10	**10	35
Townhouse #2	3,000	125	24	0	10	*12	20	10	**10	35
ACCESSORY STRUCTURES	n/a	n/a	n/a	5	5	10	0	10	0	35
POOL DECK	n/a	n/a	n/a	5	5	10	0	10	0	n/a

- NOTES:
- (1) Any structure more than two stories in height will maintain a 20 foot minimum building separation.
- (2) Lot coverage means that portion of the lot area, expressed as a percentage, occupied by all roofed buildings or structures.
- (3) Setbacks for project walls are allowed within 1 foot of the right-of-way line.

\\fms01\proj-jet\20055665\Drawings\RPD\EXISTING master concept plan.DWG (Layout) web Nov 07, 2005 - 5:21pm

REVISIONS

NO.	ADD/ADRI	DATE
1	ADD/ADRI	10/10/04

T.C.W. At Herons Glen L.L.C., DbA
T.W.C. At Magnolia Landing

MAGNOLIA LANDING
LEE COUNTY, FLORIDA

JOHNSON
ENGINEERING

2158 JOHNSON STREET
P.O. BOX 1550
FORT MYERS, FLORIDA 33902-1550
PHONE (239) 334-0046
FAX (239) 334-3661
E.B. #642 & L.B. #642

EXISTING MASTER CONCEPT PLAN

DATE	PROJECT NO.	FILE NO.	SCALE	SHEET
NOVEMBER 2005	20055665	4-43-24	As Shown	5

