



Bryan
Belle - Sch
Bonita Sch

To Pam
FUT

LEE COUNTY
RECEIVED

October 8, 2007

07 OCT 10 AM 9:29

Neale Montgomery Esquire
The Pavese Law Firm
Post Office Drawer 1507
Fort Myers, FL 33902-1507
COMM DEV /
PLNNG WKS. CNTR.
SECOND FLOOR

City of
Bonita Springs

9101 BONITA BEACH ROAD
BONITA SPRINGS, FL 34135
TEL: (239) 949-6262
FAX: (239) 949-6239
www.cityofbonitasprings.org

RE: Pelican Landing DRI#1-9293
Dates: May 20, 2009 to May 20, 2012 for Buildout and
May 20, 2012 to May 20, 2015 for Termination

Jay Arend
Mayor

Dear Neale:

Richard Ferreira
Councilman
District One

Attached are copies of a draft Greensheet and proposed Resolution pertaining to the statutory extension of the phase, buildout and expiration dates for the development of regional impact referenced above.

Alex Grantt
Councilman
District Two

Please review these documents and let me know if revisions are necessary. I intend to schedule this matter before Bonita Springs City Council as part of the Consent Agenda Item on October 17, 2007, beginning at 9:00 am. By copy of this letter, I am advising those below of the same. Should you have any questions concerning the above, please do not hesitate to contact me.

Patrick McCourt
Councilman
District Three

John Joyce
Councilman
District Four

Martha Simons
Councilwoman
District Five

Ben L. Nelson, Jr.
Councilman
District Six

Gary A. Price
City Manager
Tel. (239) 949-6238

Audrey E. Vance
City Attorney
Tel. (239) 949-6254

City Clerk/Treasurer
Tel: (239) 949-6250

Public Works
Tel: (239) 949-6246

Code Enforcement
Tel: (239) 949-6257

Parks & Recreation
Tel: (239) 992-2556

Sincerely yours,

Audrey E. Vance
City Attorney

AEV/dfg
Enclosure

cc: Barbara Barnes-Buchanan, Assistant City Manager
Dianne Lynn, City Clerk
James LaRue, AICP, LaRue Planning & Management Services
Mary Gibbs, AICP, Director, LCCD
Dan Trescott, DRI Coordinator, SW Florida Regional
Planning Council, 1926 Victoria Avenue
Fort Myers, Florida 33901

DRI 2002-00002

 **LEE COUNTY**
SOUTHWEST FLORIDA

BOARD OF COUNTY COMMISSIONERS

(239) 533-2236

Facsimile (239) 485-2106

Bob Janes
District One

Brian Bigelow
District Two

Ray Judah
District Three

Tammy Hall
District Four

Frank Mann
District Five

Donald D. Stillwell
County Manager

David M. Owen
County Attorney

Diana M. Parker
County Hearing
Examiner

October 10, 2007

VIA FEDERAL EXPRESS No. 8619 1396 3854

Department of Community Affairs
Division of Community Planning
Bureau of State Planning
2555 Shumard Oak Boulevard
Tallahassee, FL 32399-2100

RECEIVED
OCT 10 2007

COMMUNITY DEVELOPMENT

Re: Pelican Landing DRI
State DRI #1-9293-121
House Bill 7203
LU-07-07-1098.JJJ..

Dear Sir or Madam:

On October 2, 2007, the Lee County Board of Commissioners extended the phase, buildout, and termination dates of the Pelican Landing DRI. The three-year extension was granted in response to the legislature's amendment to Section 380.06(19)(c), F.S., pursuant to House Bill 7203.

In response to the House Bill, the Office of the County Attorney and Department of Community Development staff reviewed each DRI approved in Lee County to determine eligibility for the statutory extension. Together, the County Attorney's Office and Department of Community Development confirmed the Pelican Landing DRI was eligible for the three-year extension of all phase, buildout, and expiration dates.

The enclosed resolution is provided for the Department's records.

With kind regards, I am

Very truly yours,



Dawn E. Perry-Lehnert
Assistant County Attorney

S:\LUDPL\Letter\HB7203 - Pelican Landing DRI DCA Form Letter.wpd

Department of Community Affairs
October 10, 2007
Page 2

Re: Pelican Landing DRI
House Bill 7203
LU-07-07-1098.JJJ..

DPL:tlb

Enclosure: Resolution No. 07-10-03 in reference to the Pelican Landing DRI

cc: w/enclosure

Mary Gibbs, Director, Department of Community Development

Pam Houck, Director, Zoning Division

Chip Block, Principal Planner, Zoning Division

Dan Trescott, SW Florida Regional Planning Council

Bernard Piawah, Principal Planner, State of Florida Department of Community
Affairs, Division of Community Planning, 2555 Shumard Oak Boulevard,
Tallahassee, FL 32399-2100

Neale Montgomery, Esq., Pavese Law Firm
(Certified 7003 0500 0002 6651 8760)

RESOLUTION NO. 07-10-03

RESOLUTION PERTAINING TO STATUTORY EXTENSION OF
PHASE, BUILDOUT, AND EXPIRATION DATES FOR THE
PELICAN LANDING DRI.

WHEREAS, the Governor of the State of Florida signed House Bill 7203 (Engrossed 3) into law on June 19, 2007 (hereinafter HB7203); and,

WHEREAS, HB7203 provides, among other things, for an amendment to Florida Statutes, Section 380.06(19)(c), so as to grant a three-year extension of all phase, buildout, and expiration dates for Developments of Regional Impact that are under active construction on July 1, 2007; and,

WHEREAS, the statutory extension is in recognition of the 2007 real estate market conditions; and,

WHEREAS, HB7203 provides that the three-year extension is not a substantial deviation, is not subject to further Development of Regional Impact review, and may not be considered when determining whether a subsequent extension is a substantial deviation under Section 380.06(19)(c), Florida Statutes; and,

WHEREAS, the Pelican Landing DRI has been determined to be under active construction on July 1, 2007; and, therefore, is entitled to the statutory extension of all phase, buildout, and expiration dates by operation of law.

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of Lee County, Florida, that the Pelican Landing DRI is hereby amended as follows with strikethrough text indicating deletions and underlined text indicating additions to the provisions of the DRI Development Order as follows:

I. FINDINGS OF FACT/CONCLUSIONS OF LAW

A. . . .

Water supply and wastewater treatment, and reclaimed water, when available, will be provided by Bonita Springs Utilities, Inc. The project buildout date is May 20, ~~2009~~2012.

. . .

L. Pelican Landing DRI qualified for the statutory three-year extension to all phase, buildout and expiration dates granted by the 2007 Florida Legislature under House Bill 7203 (amending F.S. §380.06(19)(c)) and signed into law on June 19, 2007. The Board of County Commissioners granted the extension pursuant to Lee County Resolution 07-10-03, as the Thirteenth Amendment to the Pelican Landing DRI Development Order, adopted on October 2, 2007. Under HB7203, the three-year extension is not a substantial deviation, is not subject

to further Development of Regional Impact review, and may not be considered when determining whether a subsequent extension is a substantial deviation under F.S. §380.06(19)(c).

II. ACTION ON REQUEST AND CONDITIONS OF APPROVAL

...

H. **Transportation**

1. Significant Impact

a. The traffic impact assessment for this project assumes the development parameters and land uses shown in Exhibit F, "Pelican Landing DRI Development Parameters." The assessment indicates that the significantly impacted roadways and intersections described below will be operating below acceptable levels of service at the end of Planning Horizon I (1997) and buildout (~~2009~~2012). Each monitoring report, described in Paragraph 4, must reflect whether the roadways and intersections described below are significantly impacted or are projected to be significantly impacted by this project in the following year.

b. The Pelican Landing DRI is projected to significantly and adversely impact (as defined by Lee County Administrative Code) the following roadways and intersections:

...

Buildout (~~2009~~2012)

Corkscrew Road

- Three Oaks Parkway to 1-75

- Widen to 4 lanes

Old 41

- Bonita Beach Road to Terry St.

- Constrained (no widening possible; maximum v/c ratio of 1.85 per 1993 Lee Plan Policy 22.1.9)

US 41

- Immokalee Road to Old 41

(Collier County)

- Bonita Beach Road to West Terry Street

- Widen to 6 lanes

- West Terry Street to Pelican's Nest Drive

- Widen to 6 lanes

- Coconut Road to Williams Rd.

- Widen to 6 lanes

- Constitution Boulevard to Alico Road

- Widen to 6 lanes

US 41/Corkscrew Road

- Separate EB left and thru/right lanes

- Westbound dual left turn lanes

- Signal retiming

US 41/Williams Road	-	Signalization, if warranted
US 41/Coconut Road	-	Separate EB left and right turn lanes
	-	Signalization, if warranted
US 41/Pelican Commercial Entrance	-	Northbound left turn lanes
	-	Southbound right turn lane
	-	Eastbound right turn lane
US 41/North Pelican Entrance	-	Northbound left turn lane
	-	Southbound right turn lane
	-	Eastbound left and right turn lanes
	-	Signalization, if warranted
US 41/Pelican Landing Parkway/Old 41	-	Southbound dual left turn lanes
	-	Northbound dual left turn lanes
	-	Eastbound thru/right turn lane
	-	Westbound two thru lanes
	-	Signal retiming
US 41/Pelican's Nest Drive	-	Northbound left and right turn lanes
	-	Southbound left and right turn lanes
	-	Eastbound left and thru/right lanes
	-	Westbound left and thru/right lanes
	-	Signalization, if warranted
US 41/Terry Street	-	Northbound dual left turn lanes
	-	Separate WB thru and right turn lanes
	-	Signal retiming
US 41/Bonita Beach Road	-	Signal retiming
Coconut Road/Spring Creek Road	-	Separate NB left and right turn lanes
	-	Separate EB thru and right turn lanes
	-	Separate WB thru and left turn lanes

2. Mitigation

a. The developer will pay impact fees as defined in the Lee County Land Development Code to mitigate Pelican Landing's transportation impacts on the non-site related roads and intersections set forth in Section H.1.b. above. Road Impact Fees are estimated to be \$8,900,000 for the land uses identified in Exhibit F. Road Impact Fee payments represent the DRI's proportionate share payment for all road and intersection

improvements identified in Condition H.1.b. as significantly impacted by this project and operating below the adopted level of service standard by ~~2009~~2012. Estimated Road Impact Fees from this project exceed the community's estimated proportionate share dollar amount of all significantly impacted roadway improvements.

...

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

...

11. The project has a buildout date of May 20, ~~2009~~2012, and a termination date of May 20, ~~2012~~2015. The buildout and termination dates reflect adjustment of one year and 141 days applicable to the tolling of time for the appeal/challenge to the original DRI Development Order. The termination date recognizes that a local Development Order, which is valid for three years, may be obtained prior to the buildout expiration date.

...

14. The project will not be subject to down-zoning, unit density reduction, intensity reduction or prohibition of development until ~~2012~~2015. If the County clearly demonstrates that substantial changes have occurred in the conditions underlying the approval of the Development Order through public hearings on an amendment to the zoning and/or this DRI Development Order then a down-zoning, unit density reduction, or prohibition of development may occur. These changes would include, but would not be 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.

Lee County will reserve to this DRI until ~~2012~~2015, 300 acres of residential use allocation in each of the Urban Community and Outlying Suburban Future Land Use Categories (for a total of 600 acres) as established by Lee Plan Map 16, The Planning Communities Map and Table 1(b), known as the Planning Community Year 2020 Allocation. This reservation has the effect of reserving all of the acreage transferred from Gateway to Pelican Landing for the duration of the Development Order.

IV. EXHIBIT F - PELICAN LANDING DRI DEVELOPMENT PARAMETERS

Exhibit F to the Pelican Landing DRI Development Order is hereby amended to reflect an extension of the buildout date as indicated in the attached exhibit.

V. TRANSMITTAL AND EFFECTIVE DATE

The County will forward certified copies of this Development Order to the SWFRPC, the developer, and appropriate state agencies. This Development Order is rendered as of the date of that transmittal, but will not be effective until the expiration of the statutory

appeal period (45 days from rendition) or until the completion of any appellate proceedings, whichever time is greater. Upon this Development Order becoming effective, the developer must record notice of its adoption in the office of the Clerk of the Circuit Court, as provided in Section 380.06(15), Florida Statutes.

Commissioner Hall made a motion to adopt the foregoing resolution, seconded by Commissioner Mann. The vote was as follows:

Robert P. Janes	Aye
Brian Bigelow	Aye
Ray Judah	Aye
Tammara Hall	Aye
Frank Mann	Aye

DULY PASSED AND ADOPTED this 2nd day of October 2007.

ATTEST:
CHARLIE GREEN, CLERK

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: Marcia Wilson
Deputy Clerk

BY: [Signature]
Robert P. Janes, Chair

Approved as to form by:

[Signature]
Dawn E. Perry-Lehnert
County Attorney's Office



State of Florida
County of Lee

I Charlie Green, Clerk of the Circuit Court for Lee County, Florida, do hereby certify this document 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 8th day of October, A.D. 2007

CHARLIE GREEN, CLERK

By Marcia Wilson
Deputy Clerk

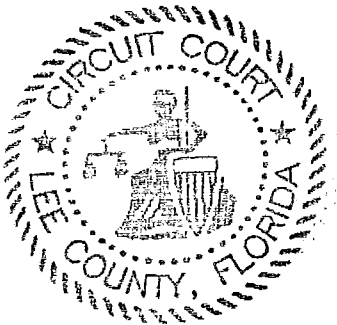


EXHIBIT "F"
 PELICAN LANDING DRI
 DEVELOPMENT PARAMETERS
 (updated through January 2006)

		Existing	Buildout Total
Land Use	Units ¹	(1998)	(2009 2012)
Residential	DU	1083	3,912
Single Family	DU	402	930
Multi Family	DU	596	2,982
Retail ²	GFA	11,000	300,000
Office ³	GFA	134,738	475,000
Hotel/Motel	Rooms	0	750
Recreation Uses			
Pelican Nest Golf Course/Clubhouse/Practice Range	Holes	21	30
Colony Range Club/Golf Course/Clubhouse/Practice Range	Holes	19	19
Resort Golf Course/Clubhouse Practice Range	Holes	0	28
Tennis Center	Courts	12	24
Coconut Marina	Boat Slips		
	Wet	24	48
	Dry	0	150
Redfish Point	GFA	5,000	5,000
	Boat Slips		
	Wet	15	15
Other ⁴	Boat Slips		
	Wet	2	2
	Accessory Parking	0	3.2
	CDD's		
	Maintenance Facility		1.45

Footnotes:

- 1 Units
- DU - Dwelling Units
- GFA - Square Feet of Gross Floor Area
- 2 Includes conference center, community center and clubhouse/marina
- 3 Includes "Foundations"
- 4 Ancillary Use

*John
Tadman (Billie)*

MEMORANDUM
FROM THE
OFFICE OF COUNTY ATTORNEY

RECEIVED
SEP 06 2007

COMMUNITY DEVELOPMENT

DATE: September 4, 2007

To: File

FROM:

Dawn E. Perry-Lehnert

Dawn E. Perry-Lehnert
Assistant County Attorney

RE: Pelican Landing DRI
LU-07-07-1098.JJJ.

On June 19, 2007, the Governor of the State of Florida signed House Bill 7203 (Engrossed 3) into law. The bill provides, among other things, for an amendment to Florida Statutes, Section 380.06(19)(c), so as to grant a three-year extension of all phase, build out, and expiration dates for Developments of Regional Impact that are under active construction on July 1, 2007.

Pursuant to the attached e-mail from Pete Eckenrode, it has been concluded by the Department of Community Development that the Pelican Landing DRI was under active construction on July 1, 2007, and is, therefore, eligible for the three-year extension of phase and build out dates.

The current build out date stated in the DRI Development Order is May 20, 2009. By operation of law, the build out will be extended to May 20, 2012. The Office of the County Attorney will prepare a resolution for the Board of County Commissioners that acknowledges the statutory extension of the build out date.

Further extensions of the build out date will be subject to the Notice of Proposed Change process set forth in Chapter 380, Florida Statutes.

DPL/tlb
Attachment

cc: w/attachment
Mary Gibbs, Director, Department of Community Development
Pete Eckenrode, Director, Development Services Division
Pam Houck, Director, Zoning Division
Chip Block, Principal Planner, Zoning Division
Audrey Vance, Esquire, City of Bonita Springs Attorney

DRI 2002-00002

Lehnert, Dawn

From: Lehnert, Dawn
Sent: Friday, August 31, 2007 3:45 PM
To: Eckenrode, Peter J.
Cc: Gibbs, Mary
Subject: RE: Pelican Landing DRI Construction Status

Pete:

Based upon your emails, I will prepare the documents related to the 3-year statutory extension for Pelican Landing. Thanks

Dawn E. Perry-Lehnert
Assistant County Attorney
Lee County Attorney's Office
Phone: 239-533-2236
Fax: 239-485-2106
Lehnertd@leegov.com

Please note: Florida has a very broad public records law. Most written communications to or from County Employees and Officials regarding County business are public records available to the public and media upon request. Your email communication may be subject to public disclosure.

From: Eckenrode, Peter J.
Sent: Friday, August 31, 2007 3:40 PM
To: Lehnert, Dawn
Subject: RE: Pelican Landing DRI Construction Status

I would concur.....it looks like we do have SFR's under construction in the Lee County portion though so I think we're covered either way....

Peter J. Eckenrode, Director
Lee County Community Development
Development Services Division
1500 Monroe Street, 2nd Floor
Fort Myers, FL 33901
Phone (239) 533-8348
Fax (239) 485-8341

From: Lehnert, Dawn
Sent: Friday, August 31, 2007 2:33 PM
To: Eckenrode, Peter J.
Subject: RE: Pelican Landing DRI Construction Status

Hi Pete:

After looking at the DRI development order further I have determined that we elected to treat this project as a single DRI, although it is in two jurisdictions. Since this is the case, I believe it

8/31/2007

is appropriate to consider construction activity in either jurisdiction as sufficient to satisfy the statutory requirement. Accordingly, it appears that you may be of the opinion that Pelican Landing was under active construction as of July 1, 2007. Please confirm. Thanks.

Dawn E. Perry-Lehnert
Assistant County Attorney
Lee County Attorney's Office
Phone: 239-533-2236
Fax: 239-485-2106
Lehnertd@leegov.com

Please note: Florida has a very broad public records law. Most written communications to or from County Employees and Officials regarding County business are public records available to the public and media upon request. Your email communication may be subject to public disclosure.

From: Eckenrode, Peter J.
Sent: Friday, August 31, 2007 11:15 AM
To: Lehnert, Dawn
Subject: FW: Pelican Landing DRI Construction Status

Dawn,

This is what I have so far in Pelican Landing... these 3 are single family homes. We also have a DO issued for another multifamily tower (Ravena) but no BP on this one yet. Everything so far seems to be located in the City of Bonita Springs. If Barry comes up with anything more in Lee County I'll pass it along.

Pete

Peter J. Eckenrode, Director
Lee County Community Development
Development Services Division
1500 Monroe Street, 2nd Floor
Fort Myers, FL 33901
Phone (239) 533-8348
Fax (239) 485-8341

From: Barry Ernst [<mailto:BarryErnst@wccommunities.com>]
Sent: Friday, August 31, 2007 10:19 AM
To: Eckenrode, Peter J.
Subject: Pelican Landing DRI Construction Status

Pete,

I know there are more, but for now here is what I have as being **Under Construction** in Pelican Landing:

23781 Tuscany Way, Bonita Springs, FL 34134
23801 Napoli Way, Bonita Springs, FL 34134
23771 Napoli Way, Bonita Springs, FL 34134

8/31/2007

RIVER'S EDGE YACHT AND COUNTRY CLUB DRI
 (GULF HARBOUR YACHT AND COUNTRY CLUB)
 PROPOSED PHASING PLAN
 AMENDED TABLE 12B-1

<u>PHASE</u>	<u>DEVELOPMENT IMPROVEMENTS</u>	<u>YEARS</u>
1	215 Multi-Family Units Golf Course Temporary Clubhouse Temporary Pro Shop Sales/Administrative Offices	1-12
2	155 Single-Family Units 343 Multi-Family Units Marina (190 Berths) Clubhouse Facilities Sales/Administrative Offices Tennis Club (8 Courts)	13-14 1994-1995
3	633 Single Family Units 641 Multi-Family Units	15-2730 1996- <u>20082011</u>
	Total Single-Family Units: 788 Total Multi-Family Units: 1199 Total Dwelling Units: 1987 Total Freestanding Commercial: 0 Ancillary to Principal Uses (Private Residential Tennis and Golf Pro Shops, Marina Support Services) Restaurant and Lounge Facilities Contained within Clubhouse No Hotel/Motel Units Proposed	

EXHIBIT C



*my
Bryan
Billie*

LEE COUNTY
SOUTHWEST FLORIDA

BOARD OF COUNTY COMMISSIONERS

(239) 533-2236

Bob Janes
District One

Brian Bigelow
District Two

Ray Judah
District Three

Tammy Hall
District Four

Frank Mann
District Five

Donald D. Stilwell
County Manager

David M. Owen
County Attorney

Diana M. Parker
County Hearing Examiner

October 12, 2007

RECEIVED
OCT 12 2007

Neale Montgomery, Esquire
Pavese Law Firm
P.O. Drawer 1507
Fort Myers, FL 33902-1507

COMMUNITY DEVELOPMENT

Re: PELICAN LANDING DRI DEVELOPMENT ORDER
Notice of Adoption
HB7203 Compliance Resolution
LU-07-07-1098.JJJ.

Dear Neale:

The Board of Commissioners of Lee County, Florida, adopted Resolution No. 07-10-03 on October 2, 2007, in response to House Bill 7203. The effect of the Resolution is to extend the phase-end, buildout, and termination dates of the Pelican Landing DRI by three years. A certified copy of this resolution was transmitted to you under separate cover in accordance with Rule 9J-2.025, Florida Administrative Code.

Please note that under the terms of the Pelican Landing Development Order and Florida Statutes Section 380.06(15)(f), a Notice of Development Order Adoption must be recorded with the Clerk of Circuit Court after the effective date of the development order amendment. For your convenience, I have enclosed a form notice as an example that will meet the requirements of the Statute. Once recorded, please send a copy of the recorded Notice for our files.

With kind regards, I am

Very truly yours,

Dawn E. Perry-Lehnert
Assistant County Attorney

DPL:tlb
Enclosures

cc: Timothy Jones, Chief Assistant County Attorney
Pam Houck, Director, Zoning Division

DRI 2002-00002

NOTICE OF ADOPTION OF AMENDMENT
TO THE PELICAN LANDING DRI
DEVELOPMENT ORDER
COMPLIANCE WITH HB7203
STATE DRI #1-9293-121

PLEASE BE ADVISED that the Board of County Commissioners of Lee County, Florida, adopted a resolution to amend the Pelican Landing DRI Development Order in compliance with House Bill 7203 to extend the phase-end, buildout, and termination dates of the DRI Development Order . The original DRI Development Order was adopted by the Board on August 29, 1994, and was subsequently modified by the Board's adoption of the Development Order Amendments on March 25, 1995, August 16, 1995, November 4, 1996, November 17, 1997, September 21, 1998, June 21, 1999, December 6, 1999, August 7, 2000, February 26, 2002, October 7, 2002, and December 4, 2006.

The development order, as amended, constitutes a land development regulation affecting the real property described in Exhibit "A" attached hereto.

A copy of the original development order and subsequent amendments thereto may be examined at the Minutes Department, Clerk of the Circuit Court, in and for Lee County, 2115 Second Street, Fort Myers, Florida 33902.

The recording of this Notice does not constitute a lien, cloud, or encumbrance on real property or actual or constructive notice of any such lien, cloud, or encumbrance.

This Notice has been filed in accordance with section 380.06(15)(f), F.S.

WITNESSES:

Pelican Landing DRI

BY: _____

(Please Print Name)

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was acknowledged before me this ___ day of _____
2007, by _____, who is personally known to me or has
produced _____ as identification.

Notary Public

Printed Name of Notary