

2489640

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS

OF LEE COUNTY, FLORIDA

WHEREAS, Euromerican Investment Group, Ltd., and Florida Sites International have properly filed an application on a project known as Del Tura North Country Club for:

- a) Consideration of the Application for Development Approval (ADA) for a Development of Regional Impact (DRI) known as Del Tura North Country Club, State DRI#6-8687-77. This application was filed by Euromerican Investment Group Ltd./Florida Sites International, 4001 N. Tamiami Trail, North Fort Myers, Florida.
- b) A proposed amendment to the Lee County Comprehensive Plan, identified as PAM 87-22, filed by Euromerican Investment Group Ltd. concurrently with the Del Tura North DRI application.
- c) A rezoning from AG-2 (with a special exception) to Mobile Home Planned Development, to permit the development of a manufactured home development of not more than 2700 units with buildings not to exceed 45 feet above average grade, on 1136± total acres of land. The proposed development will also include golf course(s), clubhouse(s), consumption on premises of alcoholic beverages, and other amenities.

NOTE: If approved, the Master Concept Plan will deviate from the following Lee County Standards:

- (1) Minimum setback between structures and a section line of 75 feet (202.15.B.3.a.), to 0 (zero) feet for the north/south line between Sections 2 and 3, 3 and 4, and 4 and 5 AND for the east/west line between Sections 3 and 10;
- (2) Minimum setback between structures and a quarter section line of 60 feet (202.15.B.3.b.), to 0 (zero) feet for all quarter section lines in Sections 2, 3, 4, 5 and 10;
- (3) Minimum side setbacks of seven (7) feet for a mobile home (431.C.2. and 439), to five (5) feet and ten (10) feet between structures;
- (4) Maximum permitted height of buildings in a MHPD of 35 feet in height and no mobile home exceeding one story (431.C.3.b.), to 45 feet;
- (5) Maximum depth for a water retention excavation of 12 feet (518.B.), to 25 feet;
- (6) Minimum water retention excavation setbacks to a section line of 75 feet (518.C.1.), to 0 (zero) feet for the north/south section line between Sections 2 and 3, 3 and 4, and 4 and 5 AND the east/west line between Sections 3 and 10;
- (7) Minimum water retention excavation setbacks to a quarter section line of 60 feet (518.C.2.), to 0 (zero) feet for all quarter section lines in Sections 2, 3, 4, 5, and 10;

RECORD VERIFIED - CHARLIE GREEN, CLERK
BY: H. FERNSTROM, D.C.

OR2003

PG4398

- (8) Minimum water retention excavation setback to a street right-of-way of 150 feet (518.C.4.), to 35 feet from a frontage road right-of-way and to 75 feet from all other street rights-of-way;
- (9) Requirement for street stubs to adjoining areas to give access to adjacent properties (DSO Section C.3.f.), to eliminate this requirement;
- (10) Minimum intersection separation of 660 feet along arterial streets (DSO Section C.3.h.), to 400 feet for the secondary access road (right turn in/out) only; and
- (11) Requirement that properties which exhibit soils, hydrology and vegetation characteristic of saltwater inundation or freshwater ponding be subject to certain additional regulations and ordinances [202.08.C.1.b., DSO Section C.1.b.(4), and Ordinance 86-31, Section 6.03], to permit development of lots, streets or other improvements in certain isolated Transition Zones, and to permit roadway crossing of Transition Zones and a berm crossing of Transition Zones and Resource Protection Area adjacent to property line.
- (12) Requirement that access streets be constructed paralleling certain arterial and collector streets [DSO Sections C.3.o. and C.3.j.(2)], to eliminate this requirement along U.S. 41.

WHEREAS, the subject property is located at 20600 N. Tamiami Trail, described more particularly as:

LEGAL DESCRIPTION: In Sections 02, 03, 04, 05 and 10, Township 43 South, Range 24 East, Lee County, Florida:

A parcel of land in Sections 02, 03, 04, 05, & 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 Southeast 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.

WHEREAS, the applicant has indicated the property's current STRAP numbers

are: 02-43-24-00-00005.0000, 03-43-24-00-00001.0000,
03-43-24-00-00004.0000, 03-43-24-00-00007.0000,
03-43-24-00-00007.0010, 03-43-24-00-00007.0020,
03-43-24-00-00007.0030, 03-43-24-00-00007.0040,
03-43-24-00-00005.0000, 03-43-24-00-00005.0020,
04-43-24-00-00002.0020, 04-43-24-00-00001.0000,
04-43-24-01-00004.0000, 04-43-24-00-00003.1000,
05-43-24-00-00002.0000, 10-43-24-00-00003.0000,
10-43-24-00-00003.0030; and

WHEREAS, proper authorization has been given to Florida Sites International and Euromerican Investment Group, Ltd., by James T. Humphrey and David W. Shriver, Trustees of the subject parcel, and by all other owners of the subject parcels, to act as agent to pursue this zoning application; and

WHEREAS, a public hearing was legally and properly advertised and held before the Lee County Planning and Zoning Commission, with full consideration of all the evidence available to the Planning and Zoning Commission; and

HEARING NUMBER 88-3-18 DRI
DRI#6-8687-77

RESOLUTION NUMBER Z-88-069
Page 3 of 8

(3063Z/47)
(4402L)

WHEREAS, the Lee County Planning and Zoning Commission fully reviewed the matter in a public hearing held on March 7, 1988; and

WHEREAS, a public hearing was legally and properly advertised and held before the Lee County Board of County Commissioners; and

WHEREAS, in the legislative process the Lee County Board of County Commissioners gave full and complete consideration to the recommendations of the staff, the Planning and Zoning Commission, the documents on file with the county, and the testimony of all interested persons.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS, that the Board of County Commissioners does hereby APPROVE:

- a) Consideration of the Application for Development Approval (ADA) for a Development of Regional Impact (DRI) known as Del Tura North Country Club, State DRI#6-8687-77. This application was filed by Euromerican Investment Group Ltd./Florida Sites International, 4001 N. Tamiami Trail, North Fort Myers, Florida.
- b) A proposed amendment to the Lee County Comprehensive Plan, identified as PAM 87-22, as amended at the hearing, filed by Euromerican Investment Group Ltd. concurrently with the Del Tura North DRI application.
- c) A rezoning from AG-2 (with a special exception) to Mobile Home Planned Development, to permit the development of a manufactured home development of not more than 2700 units with buildings not to exceed 45 feet above average grade, on 1136± total acres of land. The proposed development will also include golf course(s), clubhouse(s), consumption on premises of alcoholic beverages, and other amenities.

Approval is subject to the following conditions:

1. a. The development of this property shall be in accordance with the one-page Master Concept Plan entitled "Conceptual Master Development Plan" for Del Tura North prepared by Adley Associates, Inc. (plan dated June, 1987 last revised March, 1988) except as modified by the conditions herein.
- b. Property development regulations for this development shall be as follows:
 1. For the residential portions of this development:
 - a. Minimum lot area and dimensions (Sections 202.15.C.D., and E.)
 - Area - 6000 square feet
 - Width - 60 feet
 - Depth - 100 feet
 - b. Minimum setbacks (Section 202.15.B.)
 - Street - variable according to the functional classification of the street or road (Section 202.15.B.2.)
 - Side - 5 feet and with a minimum separation of 10 feet between structures
 - Rear - 15 feet
 - Water body - 25 feet
 - c. Maximum Lot Coverage - 40% of Total Lot Area

OR2003

PG4402

2. For commercial portions of this development:
 - a. Minimum Lot Area and Dimensions
(Section 202.15.C,D, and E)
 - b. Minimum Setbacks
Street - variable according to functional
classification of street or road (Section 202.15.B.2)
Side - 15 feet
Rear - 20 feet
Water body - 25 feet
 - c. Maximum lot coverage: 40% of total lot area
3. In this MHPD district, no mobile home or manufactured housing unit shall exceed one story, and no other building or structure shall exceed 45 feet in height above average grade
- c. No consumption-on-premises shall be allowed as part of this development.^{1/}
2. Environmental mitigation shall be done in accordance with the approved DRI Development Order and Application for Development Approval, on file with the Zoning and Development Review Division, except as modified by the conditions herein.
 - a. Development of the identified Resource Protection Areas and Transition Zones shall be limited to the encroachment as depicted on the proposed Master Concept Plan. An additional area of Transition Zone may be encroached upon at a ratio of one acre of Woodpecker Habitat Preservation to one acre of Transition Zone encroachment, subject to approval by the Department of Community Development. The maximum additional Transition Zone encroachment shall not exceed five (5) acres.
 - b. Prior to Final Development Order approval for Phase I, the developer shall flag and survey the wetland preservation boundaries and the areas of wetland encroachment, subject to approval by the Department of Community Development.
 - c. Prior to Final Development Order approval for Phase I, the proposed control elevation of the water management lakes shall be subject to approval by the Department of Community Development.
 - d. Prior to Final Development Order approval for Phase I, a plan for the removal of exotic vegetation throughout the development, including the wetland preserve areas, shall be submitted. The plan shall include a timetable for removal and a maintenance program to control the re-invasion of exotic vegetation throughout the site. The control program shall be in effect for a minimum of three (3) years. The removal and control plan shall be subject to approval by the Department of Community Development.

3. a. No residential building permits shall be issued until such time as a proposed 16-inch looped water main is built from the north reservoir to U.S. 41 and the new 24-inch River Crossing is installed and in operation, or Lee County Utilities gives approval for water service, whichever first occurs.
- b. The developer shall utilize treated effluent from the on-site sewer for spray irrigation on the golf courses and open space areas.
4. a. The developer shall establish a homeowners' or residents' association to provide an educational program for hurricane preparedness.
- b. The established homeowners' or residents' association shall maintain an education program for hurricane preparedness. The program shall consist of annually describing the risks of the hurricane hazards to the residents, as well as the actions to mitigate the dangers which these hazards present.
- c. The developer shall provide for usable emergency shelter space in accordance with current County regulations (58,320 square feet of emergency shelter space).
- d. At the completion of development construction or each phase thereof, a development representative shall provide to Lee County Emergency Medical Service, a site plan depicting the official street names and building addresses within the development.
- e. At the completion of development construction or each phase thereof, a development representative shall contact Lee County Emergency Medical Service to discuss: 1) the designation of emergency helicopter landing zones; and 2) the accessibility of the EMS unit.
5. a. Deviations #1, #2, #3, #6, #7, and #9 are hereby APPROVED as requested.
- b. Deviation #4 is hereby APPROVED only for the clubhouses. Mobile homes shall conform with the required one-story limitation.
- c. Deviation #5 is APPROVED to a maximum depth of 25 feet OR to the confining layer whichever occurs first.
- d. Deviation #8 is hereby APPROVED provided that any roadway damage which is attributable to the excavation shall be the sole responsibility of the developer to repair to the satisfaction of the Lee County Department of Transportation and Engineering.
- e. Deviation #10 is APPROVED provided that the Florida Department of Transportation (FDOT) approves the relocation of the median opening on U.S. 41. Denial of the relocation shall require a minimum separation of 330 feet for a right-in right-out only driveway. No separation of less than 330 feet shall be permitted.
- f. Deviation #11 is hereby APPROVED as limited in condition 3.
- g. Deviation #12 is hereby DENIED.

OR2003

PC4403

6. All conditions of the DRI Development Order are hereby incorporated by reference.
7. The developer shall bear the sole responsibility for the repair and maintenance of the on-site sewage treatment plant. Should the plant be cited for any alleged failure to maintain those minimum operating conditions set forth in applicable permits and licenses, no development orders or permits, as defined in Section 163.3164, Florida Statutes, shall be issued, and no work authorized by then existing, otherwise valid development orders or permits shall be allowed, unless and until the plant is re-certified as meeting such minimum operating conditions.

Site Plan 88-069 is attached hereto and incorporated herein by reference, as a reduced copy of the Master Concept Plan.

The following findings of fact were made in conjunction with this approval:

- a. All recommended conditions are reasonably related to the impacts on the public's interest created by, or expected from, the proposed development;
- b. Sufficient safeguards to the public interest are provided by the recommended conditions to the Master Concept Plan and by other applicable regulations;
- c. The deviations recommended for approval preserve and promote the general intent of these regulations to protect the public health, safety, and welfare;
- d. The deviations recommended for approval will enhance the development and will not negatively affect the public health, safety, and welfare; and
- e. The proposed uses are, as limited by the conditions herein, appropriate at the subject location.

The foregoing Resolution was adopted by the Lee County Board of County Commissioners upon a motion by Commissioner Bill Fussell, and seconded by Commissioner John E. Manning and, upon being put to a vote, the result was as follows:

John E. Manning	AYE
Charles L. Bigelow, Jr.	AYE
Mary Ann Wallace	NAY
Bill Fussell	AYE
Donald D. Slisher	ABSENT

Upon adoption of the foregoing resolution, a motion was made by Commissioner Charles L. Bigelow, Jr., and seconded by Commissioner John E. Manning, to amend Condition 1.c. in the foregoing resolution to allow consumption on premises, limited to two (2), to be located in the clubhouses. Upon being put to a vote, the result was as follows:

John E. Manning	AYE
Charles L. Bigelow, Jr.	AYE
Mary Ann Wallace	AYE
Bill Fussell	NAY
Donald D. Slusher	ABSENT

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

ATTEST:
CHARLIE GREEN, CLERK

BY: Charlie Green
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: Bill Fussell
Chairman

Approved as to form by:

[Signature]
County Attorney's Office

FILED

JUL 18 88

CLERK CIRCUIT COURT
BY Charlie Green D.C.

HEARING NUMBER 88-3-18 DRI
DRI#6-8687-77

RESOLUTION NUMBER Z-88-069
Page 8 of 8

(3063Z/52)
(4402L)

OR2003

PC4405

MASTER CONCEPT PLAN 88-069 OUT FOR REDUCTION

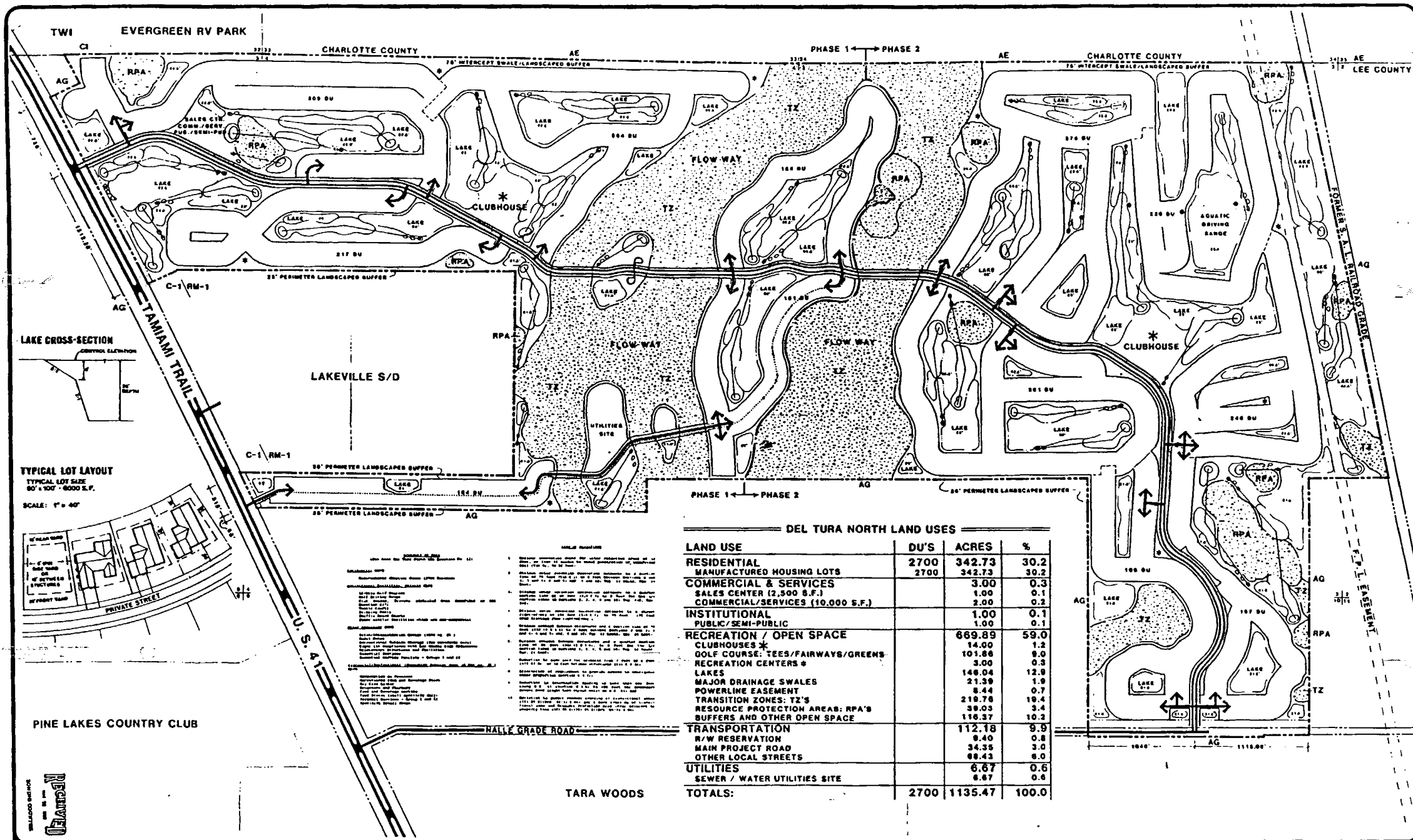
HEARING NUMBER 88-3-18 DRI
DRI#6-8687-77

RESOLUTION NUMBER Z-88-069

(3063Z/53)
(4402L)

PG4407

OR2003



DEL TURA NORTH
COUNTRY CLUB COMMUNITY
LEE COUNTY, FLORIDA
A.D.A. PREPARED FOR:
EUROMERICAN INVESTMENT GROUP, LTD/FLORIDA SITES INTERNATIONAL

LEGEND:
- - - - - ADA BOUNDARY
- - - - - EXISTING WELL LOCATIONS
- - - - - PROPOSED WELL LOCATIONS
- - - - - PEDESTRIAN / BIKE PATH
- - - - - LAKES/PONDS
- - - - - RESOURCE PROTECTION AREAS (RPA)
- - - - - TRANSITION ZONES (TZ)

NOTES:
SEE ALSO ADA TABLE 12-1 AND 12-2
TYP. LOT MIN. 60'X100' / 6,000 S.F.

CONCEPTUAL MASTER DEVELOPMENT PLAN
MAP PREPARED BY:
ADLEY ASSOCIATES, INC.
IRENE AND GEORGE SZMORLINSKI
REVISED: MARCH 1988
REVISED: NOVEMBER 1987
DATE: JUNE 1987

MAP H

DEVELOPMENT ORDER
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 untis 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 I, 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 I 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 County 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 Slusher	Absent

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

BOARD OF COUNTY COMMISSIONERS
LEE COUNTY, FLORIDA

By: *Dee Fussell*
(Chairman)

ATTEST:

Charlie Green, Clerk

By: *Janet S. Asher*
Deputy Clerk

APPROVED AS TO FORM

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

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 & RECORD VERIFIED
JUL 13 5 02 AM '88
CLERK CIRCUIT
LEE COUNTY