RESOLUTION NUMBER Z-95-053

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

WHEREAS, Kraus Anderson, Inc., represented by Rottlund Homes of Florida, Inc., has filed an application for a rezoning from AG-2 (Agricultural) and RM-2 (Residential Multiple Family) to RPD (Residential Planned Development) in reference to Pelican Pointe; and

WHEREAS, the subject property is located at 22800 South Tamiami Trail, Estero, and is described more particularly as:

LEGAL DESCRIPTION: In Sections 04 and 09, Township 47 South, Range 25 East, Lee County, Florida:

Begin at the Northwest corner of Section 09, Township 47 South, Range 25 East;
THENCE N87°59'44"E along the North line of the Northwest Quarter (NW¼) of said Section 09 for 827.12 feet to an intersection with the Westerly line of a Florida Power and Light Company right-of-way / easement as described in Deed Book 228 at Pages 574 through 579 of the Public Records of Lee County, Florida;
THENCE N21°20'53"W along said Westerly line for 540.00 feet;
THENCE N61°54'00"E for 2,002.08 feet to an intersection with a line parallel with and 500.00 feet Westerly of (as measured at right angles to) the Westerly right-of-way line of State Road 45 (US 41, Tamiami Trail);
THENCE Southerly along said parallel line for the following described two (2) courses:
(1) S06°41'21"E for 2,080.28 feet to the Point of Curvature of a circular curve concave to the West;
(2) THENCE Southerly along the arc of said curve having for its elements a radius of 10,891.16 feet and a central angle of 03°23'50" for 645.70 feet to an intersection with the South line of the North Half (N½) of the Northeast Quarter (NE¼) of the aforementioned Section 09;
THENCE S88°21'51"W along said South line for 16.49 feet to the Southeast corner of the North Half (N½) of the Northwest Quarter (NW¼) of said Section 09.
THENCE S88°14'35"W along the South line of the North Half (N½) of said Northwest Quarter (NW¼) for 2,653.31 feet to the Southwest corner of the North Half (N½) of the Northwest Quarter (NW¼) of said Section 09;
THENCE N01°08'03"W along the West line of said Northwest Quarter (NW¼) for 1,316.53 feet to the POINT OF BEGINNING.

continued...

9/6/95

Said parcel of land situate lying and being in Lee County, Florida.

CONTAINING 119.54 acres more or less

TOGETHER WITH:

COMMENCE at the Southeast corner of Section 04, Township 47 South, Range 25 East;
THENCE S88°14'22"W along the South line of the Southeast Quarter (SE¼) of said Section 04 for 2,266.44 feet to an intersection with the Westerly right-of-way line of US 41 (State Road 45, Tamiami Trail);
THENCE N06°41'21"W along said Westerly right-of-way line for 825.79 feet to the POINT OF BEGINNING of the herein described parcel of land;
THENCE continue N06°41'21"W along said Westerly right-of-way line for 100.37 feet;
THENCE S88°14'22"W for 501.86 feet to an intersection with a line parallel with and 500.00 feet Westerly of (as measured at right angles to) the aforementioned Westerly right-of-way line of US 41;
THENCE S06°41'21"E along said parallel line for 100.37 feet;
THENCE N88°14'22"E for 501.86 feet to the POINT OF BEGINNING.
CONTAINING 1.15 acres more or less.

WHEREAS, the applicant has indicated the property's STRAP numbers are: 04-47-25-00-00001.0010, 04-47-25-00-00001.0030, and 09-47-25-00-00001.0020; and

WHEREAS, Kraus Anderson, Inc., owner of the subject parcel, authorized Rottlund Homes of Florida, Inc., Contract Purchaser, to pursue this zoning application; and

WHEREAS, Rottlund Homes of Florida, Inc., authorized Thomas Moorey, Ink Engineering, Inc., and Gary F. Muller, AICP, to act as agents to pursue this zoning application; and

WHEREAS, a public hearing was properly advertised and held on July 18, 1995, before the Lee County Hearing Examiner who gave full consideration of all the evidence available; and

WHEREAS, a public hearing was properly advertised and held on September 6, 1995, before the Lee County Board of County Commissioners who gave full and complete consideration to the recommendations of the staff, the Hearing Examiner, 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 APPROVES with conditions the Applicant's request for a rezoning from AG-2 and RM-2 to Residential Planned Development.

SECTION A. CONDITIONS:

The rezoning and Master Concept Plan are subject to the following conditions:

1. The development and use of the subject property is to be in substantial compliance with the approved Master Concept Plan entitled "Master Concept Plan, Pelican Pointe" (Drawing No. 9434, stamped received June 8, 1995), prepared by Ink Engineering, Inc., except as modified by the conditions herein.

2. The maximum number of dwelling units is 404.

3. Lots within this development will be developed in accordance with the following minimum Property Development Regulations:

Minimum Lot Area and Dimensions:

Use	Area (sq.ft.)	Width	Depth
Single Family (Area A)	6,600	55 feet	120 feet
Multiple Family (Area B)	10,000	100 feet	100 feet
Two-family and Four-Family Attached (Area C)	4,200	24 feet	135 feet
Single Family (Area D)	5,400	45 feet	120 feet

Minimum Setbacks:

Use	Front	Side	Corner	Rear	Water
Single Family	20'	5'	15'	20'	25'
Two-Family	20'	0'/7'	15'	20'	25'
Four-Family	20'	0'/0'	15'	20'	25'
Multi-Family	20'	10'	15'	20'	25'

Minimum building separation permitted between all four-family and multiple family structures is 20 feet.

Maximum Height: 35 feet

4. Schedule of Uses

Permitted uses include:

ACCESSORY USES AND STRUCTURES
ADMINISTRATIVE OFFICES

DWELLING UNITS:
Single-Family detached
Two-Family attached
Four-Family attached
Multiple Family
ENTRANCE GATES AND GATEHOUSES
ESSENTIAL SERVICES
EXCAVATION, Water Retention
FENCES AND WALLS
HOME OCCUPATION
MODEL HOME, UNIT, OR DISPLAY CENTER
RECREATIONAL FACILITIES, Personal and Private
RESIDENTIAL ACCESSORY USES
SIGNS (in conformance with Chapter 30, Land Development Code)

5. The Developer must establish an Emergency Hurricane Preparedness Plan with the Lee County Division of Emergency Management. The Homeowners' Association will provide an annual educational seminar where the Division of Emergency Management will educate the Homeowners on hurricanes and other natural hazards.

6. In conjunction with the Lee County Division of Emergency Management and the Estero Fire Control and Rescue District, any additional points of access for emergency vehicles only must be determined and committed to as part of the approval of any local Development Order. Any emergency access point(s) required will not be determined to be substantially deviating from the zoning approval for this project and will not necessitate an Amendment to this planned development.

7. An updated management plan must be submitted prior to local Development Order Approval (or early work) for any phase of development. This plan must provide for the excavation, or bucket trapping, of all occupied burrows within the incidental take area, and must provide for the subsequent relocation of captured tortoises to areas out of harms way. It is further noted that this site contains Rare & Unique Uplands (R&U), a portion of which must be made occupied habitat preserve.

8. There may be no indigenous vegetation preservation in the rear of lots abutting lakes. All areas of upland preservation must be outside of any lot line and contained in a larger upland preserve(s), preferably abutting wetland preserves. All areas of upland preserve must be native indigenous plant communities. All areas of "Preserve" must be so labeled as such on all Development Order plans and plats.

9. This project must connect to an existing public sewer treatment facility. Prior to the issuance of a local Development Order for any phase, the Developer must clearly show that the development does not cause the mandatory levels of service in the Lee Plan to be exceeded.

10. This zoning approval does not address the mitigation of the project's traffic impacts. Additional conditions may be required at the time of local Development Order approval in accordance with the Lee County Land Development Code or other Lee County Ordinance.

11. Approval of this rezoning does not give the Developer the undeniable right to receive any local Development Order approval that exceeds the Year 2010 Overlay use allocation.

12. This development is to comply with all requirements of the Lee County Land Development Code at the time of local Development Order approval, except as may be granted by deviation as part of this planned development.

13. Prior to the issuance of a Development Order for any project or phase of this project, the Developer must clearly show that the development will not cause the mandatory levels of service in Policy 70.1.3 to be exceeded. The grant of a Development Order will not release the property owner from any obligations under the Privately Funded Infrastructure Overlay.

SECTION B. DEVIATIONS:

The Master Concept Plan deviates from several Lee County development standards. The proposed deviations are granted or denied as set forth below:

Deviation (1) seeks relief from Land Development Code (LDC) Section 10-291(3) to allow only one access. The requested deviation is **APPROVED** subject to emergency access, if required, at the time of local Development Order (see Condition 5). Any modifications to the existing access for the subject triggered by the application for a local Development Order must be in accordance with the FDOT requirements.

Deviation (2) seeks relief from LDC Section 10-296(m)(4) to allow parking lot access within Development Area "B." The requested deviation is **APPROVED** to permit a 28-foot-wide accessway with the condition that all parking except stacked parking at individual unit driveways, or cul-de-sac islands, are designed so as to permit egress onto the accessway in a forward motion.

Deviation (3) seeks relief from the 25 foot perimeter setback requirement of Section 34-935(b)(2)a to allow a 20-foot setback in two areas along the eastern perimeter property line as shown on the Master Concept Plan. The requested deviation is **APPROVED.**

Deviation (4) seeks relief from Section 14-298(c) to allow the filling of a 0.2 acre Resource Protection Area. The requested deviation is **APPROVED** for impacts to a maximum of 0.2 acres of

county jurisdictional wetlands, subject to mitigation being performed in accordance with the South Florida Water Management District (SFWMD) permit. The SFWMD permit mitigation plan must be approved by Division of Environmental Sciences (DES) staff prior to granting a local Development Order for the 0.2 acre wetland impact. Lee County mitigation will be the same as that required by the SFWMD permit and compliance of same will be enforceable by DES staff. If the SFWMD requires a water management berm on any of the Resource Protection Area, the Applicant may impact up to 0.5 acres of County jurisdictional wetlands.

Deviation (5) seeks relief from Section 10-296 (Table 3) to allow a minimum right-of-way width of 28 feet for Development Area "C." The requested deviation is **APPROVED.**

SECTION C. MASTER CONCEPT PLAN:

A one page reduced copy of the Pelican Pointe Master Concept Plan is attached and incorporated into this Resolution by reference.

SECTION D. FINDINGS AND CONCLUSIONS:

The following findings and conclusions were made in conjunction with the approval of the requested RPD zoning:

1. The predominant uses of the surrounding property, makes approval of the RPD, as conditioned, appropriate.

2. The amended RPD, as conditioned:

   a. will not have an adverse impact on the intent of the Land Development Code.

   b. is consistent with the goals, objectives, policies, and intent of the Lee Plan, and with the densities, intensities, and general uses set forth for the proposed use.

   c. meets or exceeds all performance and locational standards set forth for the proposed use.

   d. will protect, conserve, preserve all protected and endangered species, natural habitat and vegetation, in accordance with the Lee Plan and other Lee County development regulations.

   e. will be compatible with existing or planned uses and will not cause damage, hazard, nuisance, or other detriment to persons or property.

   f. will not place an undue burden upon existing transportation or other services and facilities, and will be served by streets with the capacity to carry traffic generated by the development.

g. will be in compliance with all applicable general zoning provisions and supplemental regulations pertaining to the use, as set forth elsewhere in the Land Development Code.

3. The proposed use is appropriate on the subject property and in the vicinity of the property.

4. The conditions are reasonably related to the impacts expected from or created by the proposed development.

5. The conditions and other Lee County development regulations provide sufficient safeguards to the public health, safety and welfare.

6. The deviations, as conditioned, enhance the achievement of the objectives of the RPD and preserve and promote the protection of the public health, safety and welfare.

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

John E. Manning	AYE
Douglas R. St. Cerny	AYE
Ray Judah	AYE
Andrew W. Coy	AYE
John E. Albion	AYE

DULY PASSED AND ADOPTED this 6th day of September, A.D., 1995.

ATTEST:
CHARLIE GREEN, CLERK

BY: Ruth Traynier
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: _____
Chairman

Approved as to form by:

_____
County Attorney's Office

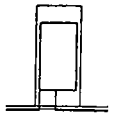
FILED

SEP 12 1995

CLERK CIRCUIT COURT
BY Ruth Traynier D.C.

DEVELOPMENT AREA "A"

TYPICAL LOT
SCALE: 1" = 60'

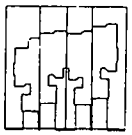


LOT WIDTH:	55 FEET (MIN)
LOT DEPTH:	120 FEET (MIN)
LOT AREA:	6600 S.F. (MIN)
STREET SETBACK:	25 FEET (MIN)
REAR SETBACK:	20 FEET (MIN)
SIDE SETBACKS:	5 FEET (MIN)
LOT COVERAGE:	35.0 % (MAX)

FOR CORNER LOTS, SIDE SETBACKS FROM STREET RIGHTS-OF-WAY WILL BE A MINIMUM OF 15 FEET.

DEVELOPMENT AREA "C"

TYPICAL LOT
SCALE: 1" = 60'



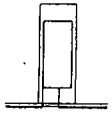
LOT WIDTH:	24 FEET (MIN)
LOT DEPTH:	135 FEET (MIN)
LOT AREA:	4200 S.F. (MIN)
STREET SETBACK:	20 FEET (MIN)
REAR SETBACK:	20 FEET (MIN)
SIDE SETBACKS:	0 FEET (MIN)
LOT COVERAGE:	50.0 % (MAX)

FOR CORNER LOTS, SIDE SETBACKS FROM STREET RIGHTS-OF-WAY WILL BE A MINIMUM OF 15 FEET.

THE DEVELOPMENT CRITERIA ABOVE ALSO WILL APPLY FOR INDIVIDUAL LOTS FOR TWO-FAMILY ATTACHED UNITS IN DEVELOPMENT AREA "C".

DEVELOPMENT AREA "D"

TYPICAL LOT
SCALE: 1" = 60'



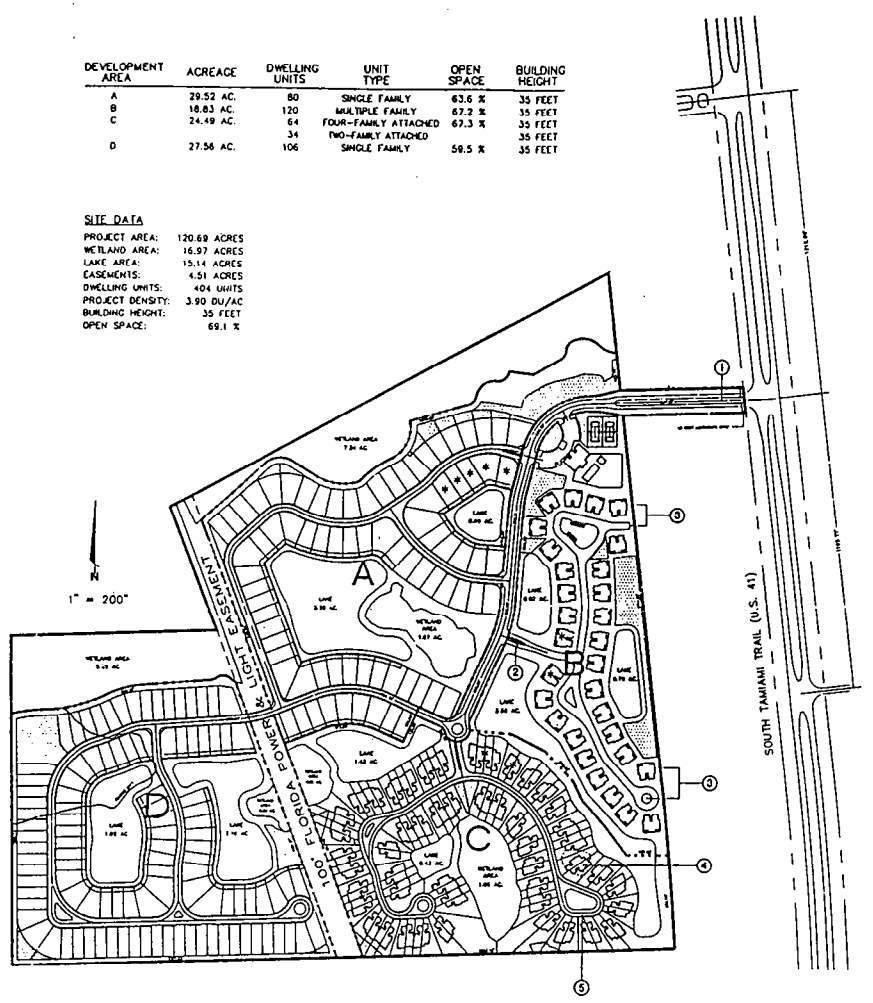
LOT WIDTH:	45 FEET (MIN)
LOT DEPTH:	120 FEET (MIN)
LOT AREA:	5400 S.F. (MIN)
STREET SETBACK:	20 FEET (MIN)
REAR SETBACK:	20 FEET (MIN)
SIDE SETBACKS:	5 FEET (MIN)
LOT COVERAGE:	52.0 % (MAX)

FOR CORNER LOTS, SIDE SETBACKS FROM STREET RIGHTS-OF-WAY WILL BE A MINIMUM OF 15 FEET.

DEVELOPMENT AREA	ACREAGE	DWELLING UNITS	UNIT TYPE	OPEN SPACE	BUILDING HEIGHT
A	29.52 AC.	80	SINGLE FAMILY	63.6 %	35 FEET
B	18.83 AC.	120	MULTIPLE FAMILY	67.2 %	35 FEET
C	24.49 AC.	64	FOUR-FAMILY ATTACHED	67.3 %	35 FEET
		34	TWO-FAMILY ATTACHED		35 FEET
D	27.56 AC.	106	SINGLE FAMILY	59.5 %	35 FEET

SITE DATA

PROJECT AREA:	120.69 ACRES
WETLAND AREA:	16.97 ACRES
LAKE AREA:	15.14 ACRES
EASEMENTS:	4.51 ACRES
DWELLING UNITS:	404 UNITS
PROJECT DENSITY:	3.90 DU/AC
BUILDING HEIGHT:	35 FEET
OPEN SPACE:	69.1 %



PROPOSED SCHEDULE OF USES

ACCESSORY USES AND STRUCTURES
ADMINISTRATIVE OFFICES
DWELLING UNIT: SINGLE FAMILY
TWO-FAMILY ATTACHED
FOUR-FAMILY ATTACHED
MULTIPLE-FAMILY BUILDING
ENTRANCE GATES AND GATEHOUSE
ESSENTIAL SERVICES
EXCAVATION: WATER RETENTION
FENCES, WALLS
HOME OCCUPATION
MODEL HOME, UNIT, DISPLAY CENTER
RECREATIONAL FACILITIES: PERSONAL
PRIVATE
RESIDENTIAL ACCESSORY USES
SIGNS (IN ACCORDANCE WITH CHAPTER 30)

PRINTED
JUN 06 1995

APPROVED
Master Concept Plan
Site Plan # 95-01-039.03Z 2.05(5)
Subject to conditions in Resolution Z-95-039
Zoning Case # 95-01-039.03Z

PROPOSED SCHEDULE OF DEVIATIONS

1) DEVIATION FROM THE REQUIREMENT THAT WHERE PRACTICAL, ANY RESIDENTIAL DEVELOPMENT OF MORE THAN FIVE ACRES SHALL PROVIDE TWO OR MORE MEANS OF INGRESS OR EGRESS FOR THE DEVELOPMENT PER SECTION 10-291(3) OF THE LEE COUNTY LAND DEVELOPMENT CODE TO ALLOW ONLY ONE ACCESS TO THE DEVELOPMENT OFF OF U.S. 41.
2) DEVIATION FROM THE REQUIREMENT THAT PARKING LOT ACCESSES WHICH PROVIDE VEHICLE ACCESS TO MORE THAN 50 RESIDENTIAL UNITS AND TO MORE THAN 100 PARKING SPACES MEET THE MINIMUM ROADWAY RIGHT-OF-WAY WIDTH OF 35 FEET FOR A PRIVATELY MAINTAINED ROADWAY WITH CLOSED DRAINAGE PER SECTION 10-296(m)(4) OF THE LEE COUNTY LAND DEVELOPMENT CODE TO ALLOW A PARKING LOT ACCESS WHICH WILL PROVIDE VEHICLE ACCESS TO 120 UNITS IN DEVELOPMENT AREA "B".
3) DEVIATION FROM THE REQUIRED MINIMUM BUILDING SETBACK OF 25 FEET FROM THE DEVELOPMENT PERIMETER TO VACANT ADJACENT LAND WHICH IS NOT ZONED FOR USES THAT ARE COMPATIBLE WITH THOSE USES PROPOSED FOR THE PLANNED UNIT DEVELOPMENT PER SECTION 34-935(b)(2)a. OF THE LEE COUNTY LAND DEVELOPMENT CODE TO ALLOW A MINIMUM BUILDING AND PAVEMENT SETBACK OF 20 FEET.
4) DEVIATION FROM THE REQUIREMENT THAT PROHIBITS CONSTRUCTION IN RESOURCE PROTECTION AREAS AND TRANSITION ZONES PER SECTION 14-298(c) OF THE LEE COUNTY LAND DEVELOPMENT CODE TO ALLOW THE FILLING OF AN ISOLATED 0.2 ACRE RESOURCE PROTECTION AREA FOR DEVELOPMENT.
5) DEVIATION FROM THE REQUIRED MINIMUM RIGHT-OF-WAY WIDTH OF 35 FEET FOR A TWO-WAY PRIVATELY MAINTAINED STREET WITH CLOSED DRAINAGE PER SECTION 10-296 (TABLE 3) OF THE LEE COUNTY LAND DEVELOPMENT CODE TO ALLOW A MINIMUM RIGHT-OF-WAY WIDTH OF 28 FEET FOR DEVELOPMENT AREA "C".

PROJECT # 95-01-039.03Z 01.05
PROJECT TYPE 12

OPEN SPACE REQUIREMENTS
120.69 ACRES X 40 % = 48.27 ACRES

INDIGENOUS VEGETATION REQUIREMENTS
48.27 ACRES X 50 % = 24.14 ACRES

INDIGENOUS VEGETATION PROVIDED

WETLAND PRESERVE AREAS	16.97 ACRES
UPLAND PRESERVE AREAS	8.32 ACRES *

*INDICATED ON SITE PLAN BY: [ ]
(ALSO SEE NOTE #5)

RECEIVED
JUN 06 1995
ZONING COUNTER

NOTES

1) THE ENTRANCE ROAD FROM U.S. 41 TO PORTION OF PROPERTY PRESENTLY ZONED RM-2 IS EXISTING (D.O. # 9-4-86).
2) THE LOCATION OF MODEL HOMES AND MODEL UNITS IS INDICATED BY AN ASTERISK.
3) ALL ENTRANCE GATES AND GATEHOUSES WILL BE CONSTRUCTED IN ACCORDANCE WITH SECTION 34-1749 OF THE LEE COUNTY LAND DEVELOPMENT CODE.
4) PARKING WILL MEET THE REQUIREMENTS OF SECTIONS 34-2014 THRU 34-2020 OF THE LEE COUNTY LAND DEVELOPMENT CODE. STACKING WILL BE UTILIZED FOR ALL UNITS WITH DRIVEWAYS.
5) ALL OPEN SPACE, LANDSCAPING, AND BUFFERING WILL BE IN ACCORDANCE WITH THE REQUIREMENTS ESTABLISHED IN SECTION 10 OF THE LEE COUNTY LAND DEVELOPMENT CODE. THE 15 FOOT LANDSCAPE STRIP ALONG U.S. 41 WILL CONSIST OF A MINIMUM OF 5 TREES AND 18 SHRUBS PER 100 LINEAL FEET. AT LEAST 50 PERCENT OF THE REQUIRED OPEN SPACE AREA WILL BE DESIGNED TO PRESERVE EXISTING INDIGENOUS VEGETATION, HOWEVER, SPECIFIC AREAS SHOWN ON SITE PLAN MAY VARY SLIGHTLY BASED ON FINAL WETLAND MITIGATION PLAN APPROVAL BY THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT.
6) PROPERTY DEVELOPMENT REGULATIONS FOR DEVELOPMENT AREA "A", DEVELOPMENT AREA "C", AND DEVELOPMENT AREA "D" ARE INDICATED BY TYPICAL LOT DETAILS. PROPERTY DEVELOPMENT REGULATIONS FOR DEVELOPMENT AREA "B" WILL MEET THE MINIMUM REQUIREMENTS OF THE RM-2 ZONING DISTRICT PER SECTION 34-715 OF THE LEE COUNTY LAND DEVELOPMENT CODE UNLESS OTHERWISE NOTED.
7) PUBLIC TRANSIT IS NOT PRESENTLY AVAILABLE TO THE SUBJECT PROPERTY.

INK ENGINEERING, INC.
ENGINEERS • SURVEYORS • PLANNERS
TEL. (813) 995-1000 • 4720 BEAU DRIVE • FT. MYERS, FLORIDA 33903

SEC. 4 & 9, TWP. 47 S., RGE. 25 E.
LEE COUNTY, FLORIDA

MASTER CONCEPT PLAN
PELICAN POINTE

FILE: 9434MCP
DWG. NO.
9434