

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

WHEREAS, Sundial River's Edge, Inc. has properly filed an application for:

- a) A proposed revised amendment to the Development of Regional Impact Development Order for River's Edge Yacht and Country Club, specifically: Sections C, C.b, C.g, C.i, ~~C.j~~, and the Master Site Plan; and
- b) A Substantial Deviation Determination. Proposed amendments to the DRI Development Order will be evaluated by the local government to determine whether there is, or is not, a substantial deviation, as that term is utilized in Section 380.06 (19), Florida Statutes and whether the proposed change requires further Development of Regional Impact review; and

WHEREAS, the subject property is located at 14700 Portsmouth Boulevard, described more particularly as:

LEGAL DESCRIPTION: In Sections 29, 30 and 31, Township 45 South, Range 24 East, Lee County, Florida:

All that part of the West Half (W1/2) of the West Half (W1/2) of Section 29, Township 45 South, Range 24 East, lying Westerly of Griffin Boulevard and Northwesternly of McGregor Boulevard LESS the North 100 feet thereof:

Government Lot 1, of Section 30, Township 45 South, Range 24 East, LESS the North 100 feet thereof:

That part of the East Half (E1/2) of the Southeast Quarter (SE1/4), of Section 30, Township 45 South, Range 24 East, located Northwesternly of McGregor Boulevard;

All that part of the Northeast Quarter (NE1/4) of the Northeast Quarter (NE1/4) of Section 31, Township 45 South, Range 24 East, lying Northwesternly of McGregor Boulevard.

Government Lots 2, 3 and 4, of Section 30, Township 45 South, Range 24 East; and the East Half (E1/2) of the Northeast Quarter (NE1/4) of the Northwest Quarter (NW1/4); and the Northwest Quarter (NW1/4) of the Northeast Quarter (NE1/4) of the Northwest Quarter (NW1/4); and

All that part of the Northwest Quarter (NW1/4) of the Northeast Quarter (NE1/4) of Section 31, Township 45 South, Range 24 East, lying Northwesternly from McGregor Boulevard;

EXCEPTING THEREFROM the following described parcel:

From the Southwest corner of said Northwest Quarter (NW1/4) of the Northeast Quarter (NE1/4) of said Section 31, run N88°57'56"E along the South line of said fraction of a section for 542.85 feet; THENCE run N01°07'16"W for 28.29 feet to a steel pin and the POINT OF BEGINNING. From said POINT OF BEGINNING continue N01°07'16"W for 190.44 feet to a concrete monument; THENCE run N65°11'10"E for 162.71 feet to a concrete monument;

continued...

THENCE run S40°34'21"E for 204.09 feet to a steel pin marking the intersection with the Northwesterly line (40 feet from the center-line) of McGregor Boulevard (State Road S-867);
THENCE run S49°25'39"W for 154.71 feet to a nail marking the intersection with the Northerly line of Iona Road;
THENCE run S88°54'23"W along said Northerly line for 159.21 feet to the POINT OF BEGINNING.

LESS (RIVER'S EDGE 1, A CONDOMINIUM, PHASES 1, 2 & 3)

COMMENCE AT the Southeast corner of Section 30, Township 45 South, Range 24 East, Lee County, Florida;
THENCE S89°23'18"W, along the South line of said Section, 361.51 feet, to the intersection with the Northwesterly right-of-way line of McGregor Boulevard (80 feet right-of-way);
THENCE S49°29'44"W, along said right-of-way line, 1,320.47 feet;
THENCE N40°30'16"W, 180.00 feet;
THENCE N49°29'44"E, 83.10 feet;
THENCE by a curve to the left, radius 800.00 feet, arc 203.20 feet, chord N42°13'10"E, 202.65 feet;
THENCE N51°50'16"W, 24.78 feet;
THENCE N01°51'26"E, 22.61 feet;
THENCE N11°09'44"E, 244.44 feet;
THENCE by a curve to the right, radius 175.00 feet, arc 33.64 feet, chord N16°40'08"E, 33.59 feet;
THENCE by a curve to the left, radius 260.00 feet, arc 74.75 feet, chord N13°56'28"E, 74.49 feet for a POINT OF BEGINNING.
THENCE continue by a curve to the left radius 260.00 feet, arc 216.80 feet, chord N18°11'00"W, 210.58 feet;
THENCE by a curve to the right, radius 60.00 feet, arc 99.83 feet, chord N05°35'45"E, 88.71 feet;
THENCE N53°15'47"E, 115.49 feet;
THENCE N20°00'00"E, 64.11 feet;
THENCE N42°00'00"W, 52.87 feet;
THENCE N85°20'16"W, 87.69 feet;
THENCE by a curve to the right, radius 72.00 feet, arc 85.18 feet, chord N51°26'46"W, 80.30 feet;
THENCE N17°33'16"W, 121.40 feet;
THENCE by a curve to the right, radius 102.00 feet, arc 157.55 feet, chord N26°41'44"E, 142.35 feet;
THENCE N70°56'44"E, 32.21 feet;
THENCE N48°00'00"E, 78.10 feet;
THENCE East 45.69 feet;
THENCE S68°02'00"E, 124.00 feet;
THENCE S31°30'00"E, 72.86 feet;
THENCE South 80.00 feet;
THENCE S68°27'08"E, 51.00 feet;
THENCE S42°00'00"E, 86.60 feet;
THENCE S56°10'00"E, 69.99 feet;
THENCE S42°00'00"E, 91.93 feet;
THENCE S19°20'31"W, 330.95 feet;
THENCE S88°30'00"W, 160.81 feet;
THENCE S18°03'57"W, 117.41 feet;
THENCE S83°00'00"W, 105.46 feet to the POINT OF BEGINNING.

LESS (RIVER'S EDGE 2, A CONDOMINIUM)

PARCEL A

COMMENCE AT the Southeast corner of Section 30, Township 45 South, Range 24 East, Lee County, Florida;
THENCE S89°23'18"W, along the South line of said Section, 361.51 feet to the intersection with the Northwesterly right-of-way line of McGregor Boulevard (80 feet right-of-way);

continued...

THENCE S49°29'44"W, along said right-of-way line, 1,320.47 feet;
 THENCE N40°30'16"W, 873.40 feet;
 THENCE by a curve to the left, radius 650.00 feet, arc 652.32 feet,
 chord N69°15'16"W, 625.29 feet;
 THENCE S08°00'16"E, 40.00 feet for a POINT OF BEGINNING.
 THENCE S81°59'44"W, 100.00 feet;
 THENCE S08°00'16"E, 295.92 feet;
 THENCE by a curve to the left, radius 195.00 feet, arc 311.41 feet,
 chord S53°45'16"E, 279.36 feet;
 THENCE S80°29'44"E, 88.51 feet;
 THENCE by a curve to the left, radius 127.00 feet, arc 254.91 feet,
 chord N22°59'44"E, 214.22 feet;
 THENCE N34°30'16"W, 52.22 feet;
 THENCE by a curve to the right, radius 85.00 feet, arc 58.48 feet,
 chord N14°47'44"W, 57.33 feet;
 THENCE N04°54'47"E, 127.14 feet;
 THENCE by a curve to the left, radius 610.00 feet, arc 310.49 feet,
 chord N83°25'21"W, 307.51 feet to the POINT OF BEGINNING.

LESS PARCEL B

COMMENCE AT the Southeast corner of Section 30, Township 45 South,
 Range 24 East, Lee County, Florida;
 THENCE S89°23'18"W, along the South line of said Section 361.51 feet
 to the intersection with the Northwesterly right-of-way line of
 McGregor Boulevard (80 feet right-of-way);
 THENCE S49°29'44"W along said right-of-way line, 1,320.47 feet;
 THENCE N40°30'16"W, 873.40 feet;
 THENCE by a curve to the left, radius 650.00 feet, arc 652.32 feet,
 chord N69°15'16"W, 625.29 feet;
 THENCE S08°00'16"E, 40.00 feet;
 THENCE S81°59'44"W, 150.00 feet for a POINT OF BEGINNING;
 THENCE continue S81°59'44"W, 290.09 feet;
 THENCE by a curve to the right, radius 2,040.00 feet, arc 534.07
 feet, chord S89°29'44"W, 532.55 feet;
 THENCE N83°00'16"W, 10.61 feet;
 THENCE S08°38'08"E, 76.93 feet;
 THENCE S54°54'53"E, 475.77 feet;
 THENCE S78°15'16"E, 70.63 feet;
 THENCE N78°55'10"E, 414.16 feet;
 THENCE N08°00'16"W, 331.33 feet to the POINT OF BEGINNING.

LESS (RIVER'S EDGE 3, A CONDOMINIUM)

COMMENCE AT the Southeast corner of Section 30, Township 45 South,
 Range 24 East, Lee County, Florida;
 THENCE S89°23'18"W, along the South line of said Section, 361.51
 feet, to the intersection with the Northwesterly right-of-way line of
 McGregor Boulevard (80 feet right-of-way);
 THENCE S49°29'44"W, along said right-of-way line, 1,320.47 feet;
 THENCE leaving said right-of-way line run N40°30'16"W, 873.40 feet;
 THENCE by a curve to the left, radius 650.00 feet, arc 652.32 feet,
 chord N69°15'16"W, 625.29 feet;
 THENCE S81°59'44"W, 440.09 feet;
 THENCE by a curve to the right, radius 2,000.00 feet, arc 523.60
 feet, chord S89°29'44"W, 522.10 feet;
 THENCE N83°00'16"W, 243.34 feet;
 THENCE by a curve to the left, radius 2,100.00 feet, arc 42.87 feet,
 chord N83°35'21"W, 42.87 feet;
 THENCE S05°49'33"W, 40.00 feet for a POINT OF BEGINNING.
 THENCE by a curve to the left, radius 229.68 feet, arc 147.84 feet,
 chord S21°49'09"E, 145.30 feet;
 THENCE S40°15'34"E, 564.48 feet;

continued...

THENCE South, 96.97 feet to a point on the South boundary line of the Northwest Quarter (NW1/4) of the Northeast Quarter (NE1/4) of the Northwest Quarter (NW1/4) of Section 31, Township 45 South, Range 24 East;

THENCE run along said South boundary line S88°54'50"W, 593.45 feet to the Southwest corner of Northwest Quarter (NW1/4) of the Northeast Quarter (NE1/4) of the Northwest Quarter (NW1/4) of said Section 31;

THENCE run along the West boundary line of the Northeast Quarter (NE1/4) of the Northwest Quarter (NW1/4) of Section 31, N01°02'30"W, 665.51 feet to the Northwest corner of the Northeast Quarter (NE1/4) of the Northwest Quarter (NW1/4) of Section 31;

THENCE continue N01°02'30"W, 19.01 feet to a point on a curve having a radius of 2,060.00 feet and lying N00°36'54"E from the radius point;

THENCE run in a Southeasterly direction along said curve to the right having an arc of 187.35 feet, having a chord bearing S86°46'47"E, 187.28 feet to the POINT OF BEGINNING.

LESS (RIVER'S EDGE 4, A CONDOMINIUM, PHASES 2 & 4)

COMMENCE AT the Southeast corner of Section 30, Township 45 South, Range 24 East, Lee County, Florida;

THENCE S89°23'18"W, along the South line of said Section 361.51 feet, to the intersection with the Northwesterly right-of-way line of McGregor Boulevard (80 foot right-of-way);

THENCE S49°29'44"W, along said right-of-way line, 1,320.47 feet;

THENCE N40°30'16"W, 448.60 feet;

THENCE N49°29'44"E, 40.00 feet;

THENCE N40°30'16"W, 195.80 feet for a POINT OF BEGINNING.

THENCE continue N40°30'16"W, 229.00 feet;

THENCE by a curve to left radius 690.00 feet, arc 430.17 feet, chord N58°21'53"W, 423.24 feet;

THENCE N13°46'26"E, 67.29 feet;

THENCE N66°55'37"W, 35.00 feet to a point on a curve having a radius of 240.00 feet, lying N66°55'38"W from the radius point;

THENCE traverse along the arc of said curve to the right, a distance of 140.00 feet, chord bearing N39°47'03"E, 138.02 feet;

THENCE by a curve to the left radius 155.00 feet, arc 91.98 feet, chord N39°29'44"E, 90.64 feet;

THENCE by a curve to the right, radius 450.00, arc 149.23 feet, chord N31°59'44"E, 148.54 feet;

THENCE by a curve to the right, radius 130.00 feet, arc 297.23 feet, chord S73°00'16"E, 236.59 feet;

THENCE by a curve to the left, radius 300.00 feet, arc 115.19 feet, chord S18°30'16"E, 114.49 feet;

THENCE by a curve to the right radius 400.00 feet, arc 188.50 feet, S16°00'16"E, 186.76 feet;

THENCE S87°29'44"W, 25.00 feet;

THENCE S55°00'53"W, 21.10 feet;

THENCE S07°00'00"E, 19.00 feet;

THENCE S87°00'00"W, 62.00 feet;

THENCE S45°00'00"W, 50.00 feet;

THENCE S45°00'00"E, 227.14 feet;

THENCE N86°29'44"E, 28.89 feet to a point on a curve having a radius of 450.00 feet and lying S86°29'44"W from the radius point;

THENCE traverse along the arc of said curve, to the right, a distance of 86.39 feet, chord bearing S01°59'49"W, 86.26 feet;

THENCE by a curve to the right, radius 150.00 feet, arc 109.96 feet, chord S28°29'41"W, 107.51 feet;

THENCE S49°29'44"W, 15.00 feet to the POINT OF BEGINNING.

Said parcel contains 5.29 acres+/-.

LESS 40-FOOT ADDITIONAL RIGHT-OF-WAY

continued...

A parcel of land in Sections 29, 30 and 31, Township 45 South, Range 24 East, Lee County, Florida, more particularly described as follows:

COMMENCE at the Southeast corner of Section 30, Township 45 South, Range 24 East;

THENCE N00°18'34"W along the East line of said Section 30 for 303.53 feet to an intersection with the Northwesterly right-of-way line of State Road S-867, (McGregor Boulevard) and the POINT OF BEGINNING of the herein described parcel of land;

THENCE Southwesterly along said Northwesterly right-of-way line for the following described two (2) courses:

- 1) S49°29'44"W for 473.26 feet to an intersection with the Northerly line of Section 31;
- 2) THENCE continue S49°49'44"W for 1,875.47 feet to an intersection with the Northeasterly boundary line of that certain parcel described in Official Records Book 1275, page 319, Public Records of Lee County, Florida;

THENCE N40°30'16"W along said Northeasterly boundary line for 40.00 feet to an intersection with a line 40 feet Northwesterly of and parallel to as measured at right angles from the aforementioned Northwesterly right-of-way line;

THENCE Northeasterly along said parallel line for the following described five (5) courses:

- 1) N49°29'44"E for 1,827.62 feet to an intersection with the South-erly line of Section 30;
- 2) THENCE continue N49°29'44"E for 554.91 feet to an intersection with the Westerly line of Section 29;
- 3) THENCE continue N49°29'44"E for 207.90 feet to the Point of Curvature of a circular curve concave to the Northwest;
- 4) THENCE Northeasterly along the arc of said curve having for its elements a radius of 2,212.00 feet and a central angle of 03°39'25" for 141.18 feet to the Point of Tangency;
- 5) THENCE N45°50'19"E for 1,446.13 feet to an intersection with the Westerly right-of-way line of Griffin Boulevard;

THENCE S00°41'50"E along said Westerly right-of-way line for 55.11 feet to an intersection with the aforementioned Northwesterly right-of-way line of McGregor Boulevard;

THENCE Southwesterly along said Northwesterly right-of-way line for the following described three (3) courses:

- 1) S45°50'19"W for 1,408.22 feet to the Point of Curvature of a circular curve concave to the Northwest;
- 2) THENCE Southwesterly along the arc of said curve having for its elements a radius of 2,252.00 feet and a central angle of 03°39'25" for 143.74 feet to the Point of Tangency;
- 3) THENCE S49°29'44"W for 236.70 feet to the POINT OF BEGINNING.

Said parcel of land situate, lying and being in Lee County, Florida, containing 3.82 acres, more or less.

SUBJECT TO

EASEMENT DESCRIPTION NO. 1

continued...

A 40-foot easement lying in Section 31, Township 45 South, Range 24 East, Lee County, Florida, the centerline of which is described as follows:

COMMENCE at the Northeast corner of said Section;
THENCE S89°23'18"W along the North line of said Section, a distance of 361.51 feet to the existing Northwesterly right-of-way line of McGregor Boulevard;
THENCE S49°29'44"W along said Northwesterly right-of-way line 1,320.47 feet to the POINT OF BEGINNING of said easement centerline;
THENCE N40°30'16"W, 180.00 feet;
THENCE N49°29'44"E, 83.10 feet;
THENCE by a curve to the left, radius 800.00 feet, arc 203.20 feet, chord N42°13'10"E, 202.65 feet to the Point of Terminus.

EASEMENT DESCRIPTION NO. 2

An 80-foot easement lying 40 feet each side of the following described centerline:

COMMENCE at the Southeast corner of Section 30, Township 45 South, Range 24 East, Lee County, Florida;
THENCE S89°23'18"W, along the South line of said Section, 361.51 feet, to the intersection with the Northwesterly right-of-way line of McGregor Boulevard (80-foot right-of-way);
THENCE S49°29'44"W, along said right-of-way line, 1,320.47 feet for a POINT OF BEGINNING.
THENCE leaving said right-of-way line run N40°30'16"W, 873.40 feet;
THENCE by a curve to the left, radius 650.00 feet, arc 652.32 feet, chord N69°15'16"W, 625.29 feet;
THENCE S81°59'44"W, 440.09 feet;
THENCE by a curve to the right, radius 2,000.00 feet, arc 523.60 feet, chord S89°29'44"W, 522.10 feet;
THENCE N83°00'16"W, 243.34 feet;
THENCE by a curve to the left, radius 2,100.00 feet, arc 298.94 feet, chord N87°04'57"W, 298.68 feet to the Point of Terminus.

AN EASEMENT FOR INGRESS AND EGRESS, DRAINAGE, UTILITIES, AND CABLE TELEVISION OVER AND UNDER THE FOLLOWING EASEMENT PARCEL:

EASEMENT DESCRIPTION NO. 4

COMMENCE at the Southeast corner of Section 30, Township 45 South, Range 24 East, Lee County, Florida;
THENCE S89°23'18"W, along the South line of said Section, 361.51 feet, to the intersection with the Northwesterly right-of-way line of McGregor Boulevard (80-foot right-of-way);
THENCE S49°29'44"W, along said right-of-way line, 1,320.47 feet;
THENCE N40°30'16"W, 448.60 feet;
THENCE N49°29'44"E, 40.00 feet;
THENCE N40°30'16"W, 424.80 feet;
THENCE by a curve to left radius 690.00 feet, arc 430.17 feet, chord N58°21'53"W, 423.24 feet for a POINT OF BEGINNING.
THENCE N13°46'26"E, 67.29 feet;
THENCE N66°55'37"W, 35.00 feet to a point on a curve having a radius of 240.00 feet, lying N66°55'38"W from the radius point;
THENCE traverse along the arc of said curve to the left, 74.11 feet, chord bearing S14°13'35"W, 73.82 feet to a point on a curve having a radius of 690.00 feet and lying N10°51'23"E from the radius point;
THENCE traverse along the arc of said curve to the right, 35.15 feet, chord bearing S77°41'03"E, 35.14 feet to the POINT OF BEGINNING.

continued...

UTILITY EASEMENT

A Utility Easement lying in Section 31, Township 45 South, Range 24 East, Lee County, Florida, more particularly described as follows:

COMMENCING at the Northeast corner of said Section 31;
THENCE S89°22'39"W (Basis of Bearings being the line between the Southwest corner and the Southeast corner of Section 30-45-24, being N89°06'15"E) along the North line of said section a distance of 362.95 feet to the North right-of-way line of McGregor Boulevard (SR 867) (80-feet wide);
THENCE S49°30'09W along said right-of-way line for 1,255.32 feet to the POINT OF BEGINNING of the herein described easement;
THENCE N40°30'17"W a distance of 405.00 feet;
THENCE N49°29'43"E a distance of 16.00 feet;
THENCE N40°30'17"W a distance of 40.00 feet;
THENCE S49°29'43"W a distance of 40.00 feet;
THENCE S40°30'17"E a distance of 40.00 feet;
THENCE N49°29'43"E a distance of 9.00 feet;

THENCE S40°30'17"E a distance of 405.00 feet to the intersection with the Northwesterly right-of-way line of aforesaid McGregor Boulevard;
THENCE N49°30'09"E along said right-of-way line a distance of 15.00 feet to the POINT OF BEGINNING.
Containing 0.18 acre more or less.

10 FEET WIDE CONSERVATION EASEMENT

Legal Description for a Conservation Easement 10 feet in width, lying landward of, parallel with, adjacent to, and at right angles from the Mean High Water Line along the Caloosahatchee River, in Section 30, Township 45 South, Range 24 East, Lee County, Florida, more particularly described as:

BEGINNING at the intersection of the Mean High Water Line and a line lying 100 feet South, and parallel with the North line of said Section 30;

THENCE meandering Southwesterly 6,572.00 feet more or less to the point of intersection with the West boundary line of said Section 30. LESS the 145.00 feet more or less for Access and Flushing Channel and 123.00 feet more or less for Flushing Channel described as follows:

COMMENCE at the Southeast corner of aforesaid Section 30;

THENCE N00°19'30"W along the East line of said Section 30, for 2,565.59 feet;

THENCE S89°41'28"W for 2,100.00 feet, more or less, to an intersection with the Mean High Water Line along the Southeasterly bank of the Caloosahatchee River, and the POINT OF BEGINNING;

THENCE meander Southwesterly along said Mean High Water Line for 145.00 feet, more or less, to the termination.

ALSO

COMMENCE at the Southeast corner of the Northeast Quarter (NE1/4) of said Section 30;

THENCE N00°20'05"W along the East line of said Section 30, for 538.24 feet;

THENCE S89°40'17"W for 1,371.00 feet, more or less, to an intersection with the Mean High Water Line, along the Southeasterly bank of the Caloosahatchee River, and the POINT OF BEGINNING;

THENCE meander Southwesterly along the Mean High Water Line for 123.00 feet, more or less, to the termination.

continued...

WHEREAS, the applicant has indicated the property's current STRAP numbers are: 29-45-24-00-00001.0000 30-45-24-38-0000A.0000 30-45-24-00-00001.0000 and 31-45-24-00-00002.0000; and

WHEREAS, proper authorization has been given to Steven C. Hartsell, Esq., of Pavese, Garner, Haverfield, Dalton, Harrison & Jensen, by Donald R. Feaster, Vice-President, Sundial Group, Inc., the owner of the subject parcel, 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 Hearing Examiner, with full consideration of all the evidence available; and

WHEREAS, the Lee County Hearing Examiner fully reviewed the matter in a public hearing held on March 12, 1991 and continued to March 22, 1991, April 5, 1991 and April 18, 1991; and

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

WHEREAS, a subsequent public hearing was legally and properly advertised and held on March 16, 1992 the Lee County Board of County Commissioners to consider the provisions of the Revised Development Order Amendment drafted by the Florida Department of Community Affairs and the Owner; 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 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 of County Commissioners does hereby a) Find that the Revised Amendment does not constitute a substantial deviation; and b) APPROVE the Revised Amendment. This approval is subject to the conditions contained in the attached draft Revised Development Order Amendment (Exhibit A).

Site Plan 91-032 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 of the Revised Amendment to the Development of Regional Impact Development Order:

continued...

- A. Based upon the objective criteria set forth in Section 380.06 (19), Florida Statutes, the revised amendment to the Development of Regional Impact (DRI) Development Order for the River's Edge Yacht and Country Club, specifically Sections C, C.b, C.g, C.i, C.j, and the Master Site Plan thereof, as shown on the Draft Revised Development Order Amendment (Exhibit A, attached) and revised site plan does not constitute a substantial deviation from the initial DRI Development Order for the said River's Edge Yacht and Country Club, dated May 5, 1982, nor from the amendments thereto.
- B. That this non-substantial amendment of an existing DRI Development Order, to be accomplished in the manner and under the conditions set forth in the attached Draft Revised Development Order Amendment and the revised site plan, is consistent with the Goals, Objectives, Policies and general intent of the Lee Plan, is consistent with the densities, intensities and general uses set forth in the Lee Plan, and has a neutral impact on the purposes and intent of the Lee County Zoning Ordinance.
- C. That the changes, modifications or amendments set forth in the Draft Revised Development Order Amendment and revised site plan will not act to create incompatibilities with existing and planned uses on abutting or near vicinity properties, and will not cause nuisance, damage, hazard or other detriment to persons or property situated near the subject lands.
- D. That the amendment to the subject DRI Development Order will not result in additional adverse impacts on environmentally sensitive areas or valued natural resources, and to the contrary, will provide for additional protective measures as compared to the original Development Order dated May 5, 1982.

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
Vicki Lopez-Wolfe	Absent
Donald D. Slisher	Absent

DULY PASSED AND ADOPTED this 16th day of March, A.D., 1992.

ATTEST:
CHARLIE GREEN, CLERK

BY: Charlie Green
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: [Signature]
Chairman

FILED

APR 2 1992

CLERK CIRCUIT COURT
BY C. Green D.C.

(3136)

Approved as to form by:

[Signature]
County Attorney's Office

2/17/92
BECKLTR DRAFT

[ADDITIONS IN BOLD; DELETIONS CROSSHATCHED]

REVISED DEVELOPMENT ORDER AMENDMENT
FOR
RIVER'S EDGE YACHT AND COUNTRY CLUB
A DEVELOPMENT OF REGIONAL IMPACT

WHEREAS, the Applicant/Owner for River's Edge Yacht and Country Club Development of Regional Impact has proposed to decrease the overall permitted density of the project from 4,380 dwelling units to 2,071 dwelling units; revise the golf course design to relocate six golf course holes from areas along the Caloosahatchee River and replace these areas with single-family units; consolidate and relocate the tennis court complex, golf course club house and marina basin and marina village land area, previously totalling 26.8 acres and consolidate to 18 acres and reduce the approved number of boat slips in the marina from 250 slips to 190 slips. The buildout of the project is proposed to be extended an additional 4 years and 11 months; and

WHEREAS under Chapter 380.06(19), Florida Statutes, the proposed change must be reviewed and evaluated to determine whether or not the change is a substantial deviation from the Original Development Order; and

WHEREAS, the Board of County Commissioners has reviewed the proposed change and finds the changes contained herein not to be a substantial deviation if subject to the conditions in this Development Order Amendment, but any further changes will be re-

reviewed cumulatively for determination as to whether or not a substantial deviation has occurred.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA, that the Development of Regional Impact Development Order for River's Edge Yacht and Country Club DRI, adopted by the Board of County Commissioners on May 5, 1982, is amended as follows, with additions underlined and deletions struck through:

SECTION ONE:

ADD the following to Section C of the development order.

C. The application for development approval for the RIVER'S EDGE YACHT AND COUNTRY CLUB, as amended, is hereby APPROVED for the following uses described in subsection C.1. and shown in the revised Master Site Plan dated December 20, 1990, revised November 25, 1991, attached as Exhibit A, subject to the following conditions contained in subsections C.2.a. through C.2.i:

1. USES

- a. 2,071 dwelling units of which up to 536 would be single-family (detached and zero lot line type units) and up to 1,535 multi-family on a total of 250.3 acres; approved, but unbuilt multi-family units may be exchanged for single-family units, provided that the resulting total mix of approved multi-family and single-family dwelling units do not exceed a gross trip generation rate of 1,149 p.m. peak hour trips as calculated from the fitted curve formulas of the 5th Edition of the ITE Trip Generation Manual for land use categories 210 and 230 (215 multi-family units are already built);
- b. 135 acre golf course and golf club with 250 parking spaces;
- c. On the 10.5 acres commercial part of the 18.0 acre Marina Village Commercial/Residential Area:
 1. 200 hotel rooms;
 2. 250 seat restaurant with 310 parking spaces;

3. 190 wet berth marina;
4. 7,000 gross square foot health club;
5. a 16 tennis court complex;
6. 15,000 gross leasable square feet of neighborhood retail with 80 parking spaces;
7. 50,000 gross leasable square feet of specialty retail with 325 parking spaces; permitting all retail uses more particularly described in the P.U.D. Ordinance #82-15, as amended.

~~d. // a maximum of 222.2 acres (not including lakes or the 14.7 acre Marina Basin and Proposed Mitigation Area) of the 347.6 acre site as impervious surfaces;~~

~~e d. 70.0 acres of lakes;~~

~~f e. 17.8 acre refined vegetation preservation buffer including:~~

1. a mangrove and listed plant species preserve of 10.82 acres;
2. an eagles nest and listed plant species preservation island of 1.16 acres;
3. an eagles perch management and listed plant species preservation island of 2.78 acres;
4. two shoreline listed plant species preservation areas of 2.43 and 0.61 acres; and

~~g f. 250.7 acres of open space (including golf course, preservation areas, and private open space, but excluding lake, marina mitigation and basin areas)."~~

SECTION TWO:

DELETE Section C.b.2 through 7 (Transportation Conditions) in its entirety and ADD the following:

2. CONDITIONS

. . .

b. TRANSPORTATION

1. Development Impact/Phasing Schedule:

The transportation impact assessment which forms the basis for this Development Order Amendment for River's Edge DRI assumes the land uses shown in Section C.1., as amended, and assumes one continuous phase of development with the project buildout extended from the Year 1993 to May 4, 1998.

Any future application for Notice of Proposed Change shall be reviewed cumulatively in accordance with Chapter 380, Florida Statutes, to determine if a substantial deviation has occurred. If a traffic related Substantial Deviation has occurred, a traffic re-analysis shall be required, along with any other necessary review pursuant to the provisions of Paragraph 380.06(19)(g), F.S.

2. Annual Monitoring Program:

Pursuant to Section 380.06(18) F.S., the River's Edge DRI shall submit an "Annual Monitoring Report" to the Lee County Department of Transportation & Engineering (LCDOT&E), the Southwest Florida Regional Planning Council (SWFRPC), the Florida Department of Transportation (FDOT) and the Florida Department of Community Affairs (DCA) by July 1st of each year until project buildout. If the local government does not receive the annual report or receives notification that the regional planning agency or the state land planning agency has not received the report, the local government shall request in writing that the developer submit the report within thirty (30) days. The failure to submit the report after thirty (30) days shall result in the temporary suspension of the Development Order by the local government. At a minimum, the monitoring report shall contain a.m. and p.m. peak hour peak season traffic counts (with turning movements) and a professionally acceptable level of service analysis, mutually agreed upon by the Applicant's engineer, LCDOT&E, FDOT, SWFRPC and DCA, at all project access locations onto McGregor Boulevard (SR 867) as well as at the following intersections and regional roadway segments and all intersections included within and at the end of those segments:

REGIONAL ROADWAY SEGMENTS

BACKLOGGED LEE COUNTY FACILITIES:

McGregor Boulevard (S.R. 867) from

Gladiolus Drive to Pine Ridge Road
Pine Ridge Road to Cypress Lake Drive
Cypress Lake Drive to College Parkway

Cypress Lake Drive from

McGregor Boulevard to South Pointe Blvd.
~~Pine Ridge Road~~
~~//Pine Ridge Road to A&W Bulb Road~~
~~//A&W Bulb Road to Winkler Road~~
Winkler Road to Summerlin Road

CONSTRAINED LEE COUNTY FACILITIES:

McGregor Boulevard (SR 867) from

College Parkway to Winkler Road
Winkler Road to Whiskey Creek Drive
Whiskey Creek Drive to Colonial Blvd

CONSTRAINED CITY OF FT. MYERS FACILITY:

McGregor Boulevard (SR 867) from

Colonial Boulevard to Hill Avenue

NON-BACKLOGGED/NON-CONSTRAINED LEE COUNTY FACILITIES:

Gladiolus Drive from

Pine Ridge Road to A&W Bulb Road
A&W Bulb Road to Winkler Road
Winkler Road to Summerlin Road

Cypress Lake Drive from

Summerlin Road to US 41

The above off-site intersections and roadway segments were identified as significantly impacted by greater than 5% utilization of the LOS (level of service) "D" peak hour service volume by the revised River's Edge DRI in the traffic impact statement submitted for the Notice of Proposed Change. Peak season peak hour traffic counts and

level of service calculations shall be performed by the developer's traffic consultant and submitted as part of the annual monitoring report for the above significantly impacted road segments. The/Regional/Roadway/segments/listed/on Gladys/Drive/shall/be/listed/as/backlogged/in the/1991+92/round/of/Lee/County/Comprehensive/Plan Amendments/to/be/adopted/by/the/County/not/later than/November/1992//The/monitoring/report/shall address/whether/thay/action/was/occurred/ In the event that the development traffic is projected to utilize 5% or more (based upon the projection of traffic impacts from the total amount of existing River's Edge development approved through the issuance of building permits plus what is projected to be added through building permit approval in the next year) of the peak hour level of service "D" service volume, and the monitoring report shows that peak season peak hour level of service "D" (or adopted LOS) is exceeded, or likely to be exceeded within the next year, (based on existing traffic counts plus traffic projected to be generated by the development approved and estimated to be requested within the next year) on any road segment and/or intersection identified above, the consultant will identify as part of the monitoring report whether any improvements are programmed by either Lee County or the City of Ft. Myers in their respective Comprehensive Plan Capital Improvements Elements (1991 to May 4, 1998) or in FDOT's approved three year Transportation Work Program, sufficient to correct the deficiency.

The developer shall submit the first monitoring report to the Lee County Department of Transportation & Engineering (LCDOT&E), Florida Department of Transportation (FDOT), DCA and the Southwest Florida Regional Planning council (SWFRPC) within one year after the effective date of the Development Order Amendment (45 days after adoption date or after resolution of appeal). Monitoring reports shall be submitted annually until buildout of the project. Actual buildout will occur when the developer or his successors has constructed and obtained Certificates of Occupancy for the maximum amount of residential and non-residential land uses permitted by the River's Edge Development Order Amendment. Declared buildout 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 amount of residential and non-residential land uses had been built to date.

The purpose of this monitoring report is to: (1) determine if the projected traffic impacts for the Year 1998 in the traffic impact assessment for River's Edge DRI Amendment are exceeded by actual impacts; (2) assist Lee County DOT&E and FDOT in determining the proper timing of necessary roadway improvements within the Lee Plan traffic district encompassing the River's Edge DRI (currently District 4); (3) identify how the contributions of this development were applied to maintain the overall balance of surplus service volume and traffic growth within the district; (4) monitor the Lee County and FDOT schedule of programmed improvements for roadways significantly impacted by the River's Edge development that are operating or are projected to be operating within the next year, below LOS "D" (or the Lee County Comprehensive Plan adopted LOS) peak season peak hour; and (5) determine the project's external trip generation along the existing roadways.

The following is recognized and understood:

- A. Traffic counts may be obtained from original machine and manual peak hour counts, Lee County Traffic Volume Reports, and other DRI developments with similar monitoring requirements and other generally acceptable sources.
- B. In the event that construction has not begun on the land uses identified in Section One, Paragraph C.1. by the date the monitoring report is due, a letter to the above agencies documenting the development status on site may be considered an acceptable replacement to the above traffic monitoring for that year.

FOR BACKLOGGED LEE COUNTY FACILITIES: In the event that the Annual Monitoring Report indicates that peak season peak hour level of service "D", or applicable level of service, is exceeded, or is projected to be exceeded within the next year, for any road segment and/or intersection identified as a backlogged Lee County facility and the required road and/or intersection improvement necessary to

bring the identified roadways back to level of service "D" or other applicable comprehensive plan adopted level of service for peak season peak hour conditions, is not programmed for construction by May 4, 1998; and River's Edge is, or is projected within the next year to be, utilizing 5% or more of the peak hour level of service (LOS) "D" service volume on that segment or intersection (based upon the projection of traffic impacts from the total amount of existing River's Edge development approved through the issuance of building permits plus what is projected to be added through building permit approval in the next year); then Lee County shall determine whether there is a service volume surplus or deficiency in the Lee Plan traffic district in which River's Edge is located (currently District 4) to implement one of the following two policies for the River's Edge building permit requests during the next year:

- A. If the Developer complies with the mitigation requirements contained within this Development Order, then building permits shall still be approved provided that the surplus service volume resulting from the existing surplus service volume, any service volume increases due to committed roadway improvements, and any service volume increases due to interim improvements (reported as a percent of existing service volume on a district basis) is equal to or exceeds the annual percent increase in traffic on a traffic district-wide basis.
- B. In the event that the percent service volume growth identified on a traffic district basis is less than the percent traffic growth in the district, no building permits will be issued by Lee County unless capacity enhancement and/or operational improvements are programmed for implementation within the district so that the total service volume growth for the district will again be equal to or greater than the district traffic growth.

FOR LEE COUNTY CONSTRAINED FACILITIES: In the event that the Annual Monitoring Report indicates that the peak season maximum volume-to-capacity (v/c) ratio of 1.85 is exceeded, or is projected to be exceeded within the next year, for any Lee

County road segment identified in Paragraph 2 above as constrained; and the required road improvement necessary to maintain or better the v/c ratio will not be operational on that segment; then no further building permits beyond those issued at the time of the Annual Monitoring Report determination shall be issued for the River's Edge development until the necessary roadway improvements sufficient to maintain the v/c ratio at, or less than, 1.85 is operational on the constrained segment.

FOR CITY OF FT. MYERS CONSTRAINED FACILITY: In the event that the Annual Monitoring Report indicates that the River's Edge development traffic is, or is projected within the next year to be, utilizing 5% or more of the peak hour level of service "D" service volume on the City of Ft. Myers roadway segment identified in Paragraph 2 above as constrained (based upon the projection of traffic impacts from the total amount of existing River's Edge development approved through the issuance of building permits plus what is projected to be added through building permit approval in the next year); and a road improvement necessary to maintain or better the peak season level of service v/c ratio will not be operational on that segment within the next year; then no further building permits beyond those issued at the time of the Annual Monitoring Report determination shall be issued for the River's Edge development until the necessary roadway improvement sufficient to maintain the v/c ratio at, or better than, the Ft. Myers comprehensive plan adopted level of service for that link is operational on the constrained segment.

FOR NON-BACKLOGGED/NON-CONSTRAINED LEE COUNTY FACILITIES: In the event that the Annual Monitoring Report indicates that peak season peak hour level of service "E" is exceeded, or is projected to be exceeded within the next year, for any road segment and/or intersection identified in Paragraph 2 as non-backlogged/non-constrained; and the required road and/or intersection improvement necessary to bring the identified roadway back to level of service "E" peak season peak hour conditions will not be operational at the time the River's Edge development is projected to be utilizing 10% or more of the peak hour level of service "D" service volume on that segment or intersection (based upon the projection of traffic

impacts from the total amount of existing River's Edge development approved through the issuance of building permits plus what is projected to be added through building permit approval in the next year); then no further building permits or additional development approvals beyond those issued at the time of the Annual Monitoring Report determination shall be issued until the necessary roadway improvement sufficient to maintain a peak season peak hour level of service "E" for that roadway is operational.

3. Site Related Improvements:

In addition to the payment of monies and other obligations specified in the Development Order Amendment, the Developer, or its successor, shall be required to construct, at no cost to Lee County and the Florida Department of Transportation, all site-related improvements deemed necessary by Lee County and the Florida Department of Transportation. The developer, or his successors, shall construct site-related roadway and intersection improvements within River's Edge DRI. The Developer shall construct any site-related intersection improvements (including but not limited to signalization, if warranted, turn lanes, and additional through lanes found to be necessary by the governmental authority with jurisdiction of the roadway) as appropriate for the project's access intersections onto McGregor Boulevard (SR 867) throughout all phases of development.

When authorized by the Lee County Engineer or his designee, upon approval of plans by Lee County and FDOT, the developer, or his successors, shall build the necessary site related intersection improvements to achieve level of service "D" peak season peak hour traffic for the following intersections:

McGregor Boulevard (SR 867) at

Pine Ridge Road/River's Edge North Entrance
(The Developer's responsibility shall not include the realignment of Pine Ridge Road)

River's Edge South Entrance

The developer, or his successors, shall pay for McGregor Boulevard/Pine Ridge Road intersection

additional left turn storage lanes and traffic signal (when warranted and permitted by FDOT). Site-related improvements shall be any improvement deemed site-related at the time of construction, under the definition contained in the Lee County Roads Impact Fee Ordinance and/or Development Standards Ordinance, as either may be amended or replaced. The developer's obligation shall include the full cost of design and engineering, drainage and utility relocation, right-of-way acquisition and dedication, 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 shall be approved by the Lee County Engineer and FDOT. The developer shall pay the full cost for any site-related intersection improvements found necessary by the County or FDOT for the project's access.

4. Right-of-Way Dedications:

The Property Owner(s) have previously dedicated right-of-way to allow widening and improvement of McGregor Boulevard (SR 867). The dedicated property has been appraised at \$191,000.00. Additionally, the Florida Department of Transportation has identified the need for a stormwater retention pond on the River's Edge site adjacent to McGregor Boulevard near the vicinity of Griffin Boulevard. (See attached map - Exhibit B). The property owner(s) shall dedicate to Lee County the land deemed necessary by the FDOT for the stormwater retention for the McGregor Boulevard widening improvements, at the time requested, by LCDOT&E. Conveyance shall be in a form and manner acceptable to Lee County.

The \$191,000 McGregor Boulevard widening right-of-way and the value of the stormwater retention dedication is applicable to reduce the proportionate share of River's Edge transportation impacts. The dedication shall not be eligible for road impact fee credits.

5. Mitigation of Transportation Impacts:

A. As mitigation for the transportation impacts of the River's Edge amended land uses described in Section One, Paragraph C.1, in addition to the requirements of Section

C.2.b.1. through C.2.b.4 above, the developer, or his successors, shall:

- (1) dedicate the property appraised at \$191,000.00 for the McGregor Boulevard widening, and;
- (2) dedicate property to Lee County for the stormwater retention area necessary for the McGregor Boulevard widening, as shown on Exhibit B attached, subject to certified appraisals agreed upon by Lee County and the Developer and approved by the Lee County Department of County Lands, determining the fair market value credit to be given for the dedication. If an agreement cannot be reached on the appraisal amount, then the two appraisers chosen by the Developer and Lee County respectively will choose a third independent appraiser to do an appraisal, and the value will be established by an average of the three appraisals; and
- (3) pay Lee County Road Impact Fees at the fee schedule in effect at the time building permits are issued by Lee County. The Road Impact Fees are currently estimated to be \$2,904,456 for the amended River's Edge land uses discussed in Section One, Paragraph C.1., to be used for the roadway improvements for this development; and
- (4) in three (3) equal annual installments beginning on November 25, 1992 or 30 days after resolution of any appeal, whichever is later, make cash payments totalling \$1,933,000, less the \$191,000 right-of-way dedication and less the appraised value credit of the stormwater retention pond land deemed necessary by FDOT (as shown in Exhibit B and located in the northwest corner of the River's Edge property near the vicinity of Griffin Boulevard/McGregor Boulevard intersection), into an escrow account to Lee County for a portion of the transportation mitigation. The amount specified above shall be adjusted to current dollars at the time of payment

on a quarterly basis using the most current State (Florida) Highway Bid Price Index (BPI) published by the Engineering News Record (McGraw-Hill Publications). The base BPI for these adjustments shall be the BPI in the Third Quarterly Cost Report for 1991, said value being 100.0. The developers shall construct no more than 500 additional units prior to payment of this amount. All interest earned on this account shall accrue to the benefit of Lee County. Use of funds and terms of the escrow shall be governed by a separate escrow agreement between the parties and is subject to approval by the Lee County Attorney's Office.

The escrow money shall be used by May 4, 1998 for the roadway improvements within Lee Plan traffic district 4 identified in Section C.2.b.2. as deemed necessary by the County to maintain the balance of surplus service to volume to traffic growth, in accordance with the County's comprehensive plan and settlement agreement. Such monies shall be targeted to County funded regional roadways, in accordance with Policy 22.1.7 of the amended Lee Plan.

- B. Should those provisions of the road impact fees (Ordinance #90-47 as amended) be repealed, made unenforceable or otherwise no longer in effect, they shall nevertheless be required as payment for the transportation mitigation for the River's Edge notice of change DRI Development Order as described in Paragraph 3 through 5 above.
- C. The developer is informed that the Lee County Board of County Commissioners may adopt an interim operation improvement program and that such a program may be applicable to this development.
- 6. Nothing contained in the Development Order is to imply or supersede Florida DOT permitting requirements.
- 7. To fulfill the obligations of the developer to provide infrastructure, systems, facilities, and

services as required herein, the developer may employ a number of alternative management and financing mechanisms, including a uniform community development district ("UCDD") pursuant to Chapter 190, Florida Statutes, a property owners association, and special assessments, all as applicable and as available by law. In the event the developer elects to use a UCDD, the developer will enter into a Developer's Agreement with Lee County. Such Developer's Agreement will delineate boundaries of the UCDD and shall be subject to and not inconsistent with Chapter 190, Florida Statutes, and this Development Order. The various agencies which review this Development Order do not by accepting this condition waive any right they may have to comment on and review the management and financing mechanism chosen by the developer to manage and finance infrastructure, systems, facilities, services, and improvements pursuant to this paragraph. Furthermore, nothing contained in this Development Order shall be construed to exempt this development from participation in the funding, through Municipal Services Benefit Unit (MSBU) or a Municipal Services Taxing Unit (MSTU), or a special assessment district, of improvements to various state and County arterial and collector roads to the degree to which the development is benefitted and has not already mitigated its impacts.

8. River's Edge proportionate share responsibility for any improvements required in this Development Order is discharged in full upon payment of the entire proportionate share contribution due under the terms of Paragraphs 2 through 7, which contributions shall not be reduced or refunded provided, however, that all other provisions of the Development Order also shall govern.
9. If the proportionate share contribution due under the terms of Paragraphs 2 through 8 is not paid in a timely manner, issuance of development approvals and building permits for River's Edge shall immediately cease.
10. Compliance with all the terms of the transportation related provisions of this Development Order shall satisfy the substantive requirements related to regional transportation facilities of Sections 163.3177(10)(h) and 163.3202(2)(g), Florida Statutes (1989); Lee County Ordinance 89-33, as amended; the Lee County

Comprehensive Plan, adopted pursuant to Chapter 163, Part II, F.S.; and Rule 9J-5.0055, Florida Administrative Code, as they currently apply. Satisfaction of concurrency shall extend only through May 4, 1998.

SECTION THREE:

ADD the following conditions to Section C.2.g.:

- g. WATER SUPPLY, WATER QUALITY AND WILDLIFE HABITAT

. . .

4. Pursuant to the drainage plans and permits approved by the South Florida Water Management District and the marina plans and permits approved by the Florida Department of Natural Resources, Department of Environmental Regulation, and Army Corps of Engineers, stormwater drainage will be collected within the drainage lake system and discharged via a system of weir control structures into spreader swales. Stormwater will not be discharged into the marina basin or the oxbow mitigation area. Direct discharge of water/effluent by RIVER'S EDGE into the Caloosahatchee River shall be prohibited. South Florida Water Management District plans for River's Edge, Phase One, Primary Drainage System Reference Plan, dated January, 1984, revised 12-27-84, Sheet 2 of 27, attached as Exhibit C, shows Lakes "O" and "L" running along Griffin Boulevard and Schultz Road, connected by a littoral zone at the northeast corner of the property at the corner of Schultz and Griffin Boulevards. Those two lakes shall remain substantially in the configuration as shown on the Water Management District Plans referenced herein. Minor adjustments may be made but shall not result in a net reduction of the area of Lakes "O" and "L" which shall continue to run in an alignment as shown along Griffin Boulevard and Schultz Road.

- a. A row of shrubs and trees containing the Type "B" buffer vegetation (five trees and eighteen shrubs per 1000 linear feet), suitably clustered subject to the approval of the Division of Environmental Services (DES), shall be planted along the west side of Lakes "O" and "L" along Griffin Boulevard. DES may not unreasonably withhold its approval.

- b. Littoral shelves as required in condition g.7. shall be constructed along Lakes "O" and "L".
 - c. A Type "B" buffer shall be placed in front of Lakes "D" and "G" at the project entrance (as shown on Exhibit C).
5. For the riverfront lots the following vegetation management and maintenance guidelines shall apply:

- a. ~~For~~ The following: spider lilies, golden polypody, giant leather fern, and golden leather fern, hereinafter shall be referred to as "listed species." The developer shall provide a vegetation preservation buffer along the river, as shown by the surveyed preservation line on Exhibit D (Preservation Line Map Sheet 6 of 6, Deni Associates, dated 10/31/91), attached, excluding the area approved for the marina basin construction, oxbow mitigation area, boat access and flushing channels, for the purpose of conserving existing native vegetation, planting additional native vegetation and allowing passive recreational uses. The buffer area shall consist of the naturally vegetated area between the Caloosahatchee River and the refined preservation line described above. Additionally, the preservation areas include the entirety of the Eagles Perch Island and the Eagles Nest Island. It is the intent of the refined vegetation preservation line to provide natural shoreline stabilization through native vegetation and to protect a unique vegetation/wildlife habitat.

It is understood, however, that visual access to the river from the rear of the lot through the vegetation in the buffer and preservation area is desired by the developer and may be allowed for specific, appropriate areas along the riverfront. Selective trimming of trees and vegetation within the preservation and buffer areas for this purpose shall be permitted only in those areas specifically designated in this development order in the conditions specified below. Selective clearing for limited pedestrian access to the river via boardwalks or decks shall also be permitted subject to the conditions specified below, but shall not involve any dredge or fill activities of wetlands, any dredge or fill activities in the Caloosahatchee River, either the Eagles Perch Island or the Eagles Nest Island, nor

involve preservation or buffer areas located west of a north-south line running through marker RP-44 as designated on Exhibit D (Preservation Line Map Sheet 6 of 6 prepared by Deni Associates, dated 10/31/91).

- b. The developer shall remove all Brazilian Pepper and Melaleuca from the refined preservation area with minimal possible disturbance to existing native vegetation.
- c. No Development, boardwalks, trimming, or clearing of vegetation shall be allowed in the following preservation areas as depicted on Exhibit D (Preservation Line Map Sheet 6 of 6 prepared by Deni Associates, dated 10/31/91):
 - (1) Within a complete ten foot (10') radius of the Cabbage Palm with the golden polypody located between markers RP-1 and RP-2;
 - (2) On the Eagles Nest Island;
 - (3) On the Eagles Perch Island;
 - (4) Within a complete ten foot (10') radius of the golden leather fern located nearly adjacent to RP-34;
 - (5) Within a complete ten foot (10') radius of the Cabbage Palm with the golden polypody located nearly adjacent to RP-42; and
 - (6) West of a north-south line running through marker RP-44.

The following conditions shall apply to the remaining preservation and buffer areas not listed in (1) through (6) above:

Other than the removal of the exotics delineated above, there shall be no removal of any trees or vegetation which is greater than or equal to four inches in diameter at breast height (4" D.B.H.) except that at least a maximum four feet wide pedestrian access located outside the preservation areas (1) through (6) specified above as limited herein shall be permitted on each lot notwithstanding other limitations. Selective removal/replacement and trimming of trees and vegetation shall be permitted for the purpose of providing limited pedestrian access to the river

via boardwalks or decks provided all necessary agency or governmental permits are issued as limited by condition a. above. However, at a minimum the buffer shall contain those trees which area greater than or equal to 4" D.B.H. as well as naturally existing native understory growth. However, those trees or shrubs which are less than 4" D.B.H., or existing native understory growth, may be removed for purposes of providing visual access to the river and/or pedestrian access as described herein if said understory vegetation is replaced with native coastal strand vegetation replacement stock of not less than one gallon-size nursery grown containerized stock planted for any understory or shrubs removed, with a guaranteed survival rate of eighty percent (80%) after three years. Those trees which are removed shall be relocated or replaced with a similar size tree. In no case shall more than twenty percent (20%) of the refined preservation buffer be impacted for purposes of pedestrian access.

d. Prior to the recording of a subdivision plat for riverfront lots, these vegetation maintenance and management guidelines shall be included by the developer in recorded deed restrictions applicable to any residential lots located adjacent to the river and shall be enforceable by a homeowner's association as well as being made conditions of the DRI Development Order and local Final Development Order.

e. Prior to any clearing in the single-family area along the river, there shall be an on-site review by Lee County to insure that ~~any/listed/species~~ there is a complete radius of twenty-five feet (25') preserved around any giant leather ferns, ten feet (10') preserved around any golden leather fern or golden polypody, and that any spider lilies without a ten foot (10') radius of preserved area will be relocated or replaced on the River's Edge site with comparable nursery stock.

6. In the Marina mitigation area, prior to clearing or construction activity, a "listed species" vegetation survey shall be conducted and any "listed species" located ~~outside~~ landward of the preservation ~~buffer~~ ~~protection/areas~~ line shown on Exhibit D shall be relocated or replaced elsewhere on site in a suitably similar habitat.

The spider lilies located near markers RP-21 and RP-22 and between RP-33 and RP-36 shall be appropriately relocated and transplanted to appropriate habitat on the Eagles Nest Island by a qualified botanist hired by the developer prior to development of the flushing channel at this site. The methodology, location and details of this relocation and transplantation shall be reported in the next annual monitoring report required to be submitted. Three years after the relocation, or in the 1997 annual monitoring report, whichever occurs first, a qualified botanist hired by the developer shall report on the success or failure status of the relocation and discuss any discernible reasons surrounding the success or failure of the relocation.

7. For all manmade water bodies, littoral shelves shall be constructed at random locations along lake edges with a maximum depth of two (2) feet below the lake control elevation, and shall be planted with native wetland vegetation. This work shall be done concurrently with construction of the final water management system.
8. In the 1989-90 bald eagle breeding season a bald eagle nest was constructed in the "witches broom" top of an Australian Pine tree located within 25 feet of the existing River's Edge golf course. Pursuant to the Lee County Bald Eagle Management Ordinance, River's Edge prepared a Southern Bald Eagle Habitat Management Plan for the River's Edge Yacht and Country Club which has been adopted by Lee County. The provisions of that plan, as it may be amended from time to time, are incorporated into this development order. However, if the plan is amended, the Southwest Florida Regional Planning Council and the Department of Community Affairs shall be notified of the proposed amendment.
9. There shall be no entrance ways from River's Edge directly onto Griffin Boulevard or Schultz Road.

SECTION FOUR:

ADD the following to Section C.i. [which will become C.2.i.]:

- i. COMPLIANCE/MONITORING
 1. The Director of the Department of Community Development, or his designee, shall be the local official responsible for assuring compliance with this Development Order.

2. Although estimated proposed construction schedules were set out in the ADA, this is not a phased Development of Regional Impact. This development order, as amended, shall remain in effect until the buildout date of May 4, 1998, unless subsequently extended by amendment.

3. The RIVER'S EDGE development shall submit an annual report on the development to ~~the Board of County Commissioners of~~ Lee County, the Regional Planning Council, and the State Land Planning Agency. This annual report shall be submitted beginning one (1) year from the date of this Development Order Amendment. ~~consolidation of phase I/II development~~ The contents of the annual report shall be as required by the rules legally adopted by the Florida State Land Planning Agency.

~~////This development order shall be deemed referred as of this date for the purpose of computing the thirty day appeal period~~

SECTION FIVE:

Certified copies of this Development Order are to be forwarded to DCA, the Southwest Florida Regional Planning Council, the applicant, and appropriate state agencies. Notice of the adoption of the Development Order shall be recorded as provided in Chapter 380, Florida Statutes.

SECTION SIX:

All conditions of the original Development Order not modified herein shall remain in full force and effect.

The motion to adopt the above Development Order Amendment was offered by Commissioner Judah, and seconded by Commissioner Manning and upon poll of the members present, the vote was as follows:

John E. Manning Aye

Douglas St. Cerny Aye

Ray Judah Aye

Vicki Lopez-Wolfe Absent

Donald D. Slisher Absent

DULY PASSED AND ADOPTED this 16th day of March,

A.D., 1992.

ATTEST:
CHARLIE GREEN, CLERK

BY: Clara J. W. Wueck
DEPUTY CLERK

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: [Signature]
CHAIRMAN

APPROVED AS TO FORM BY:

[Signature]
COUNTY ATTORNEY'S OFFICE

rivedg2.am5
revised February 17, 1992

FILED

APR 2 1992

CLERK CIRCUIT COURT
BY C. Wueck D.C.

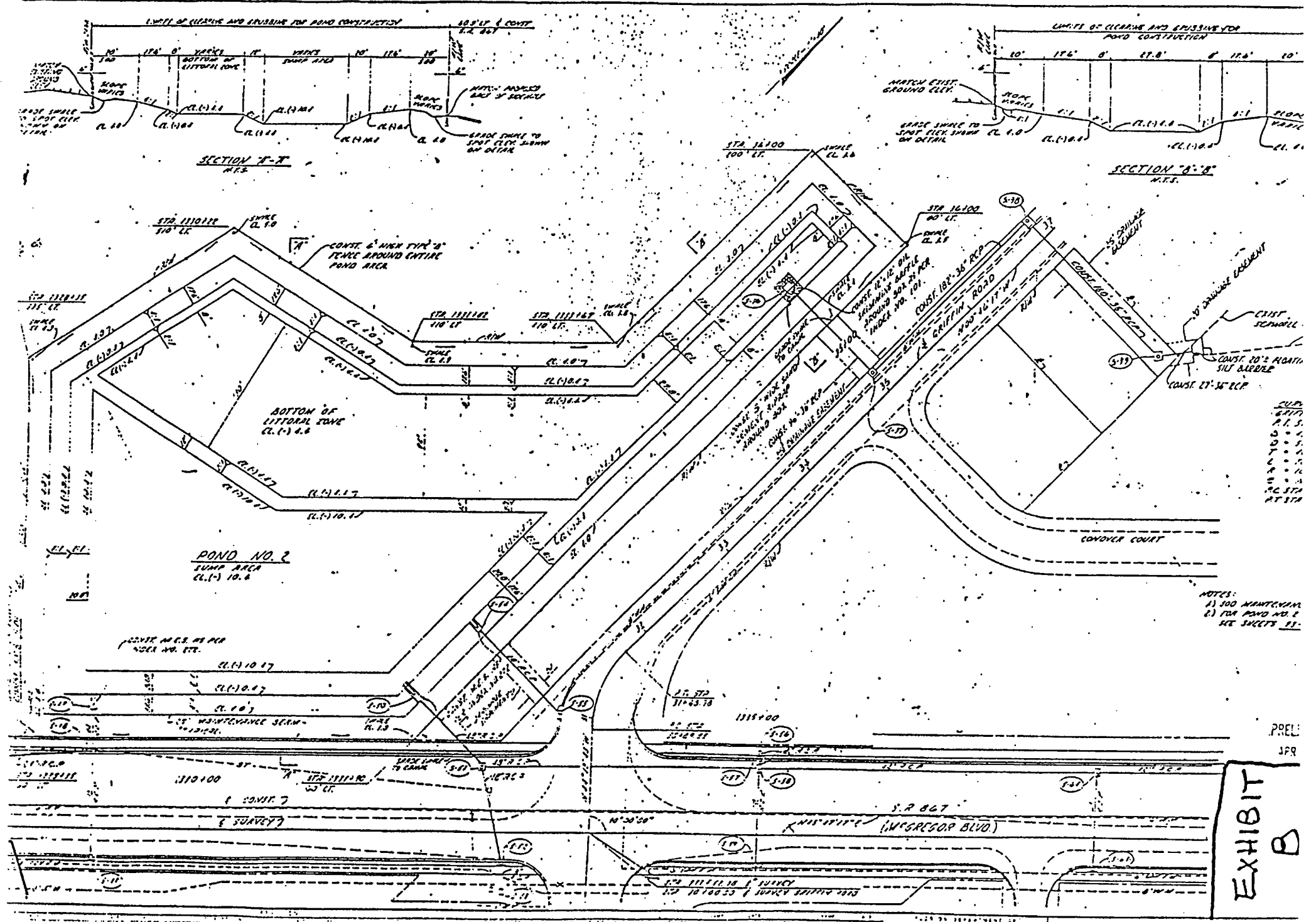


EXHIBIT B

PREP
JFR

Charlie Green

Clerk Of Circuit Court
Lee County, Florida

State of Florida

County of Lee

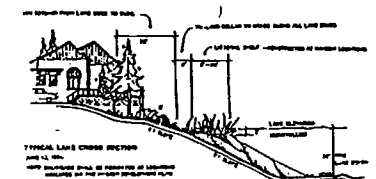
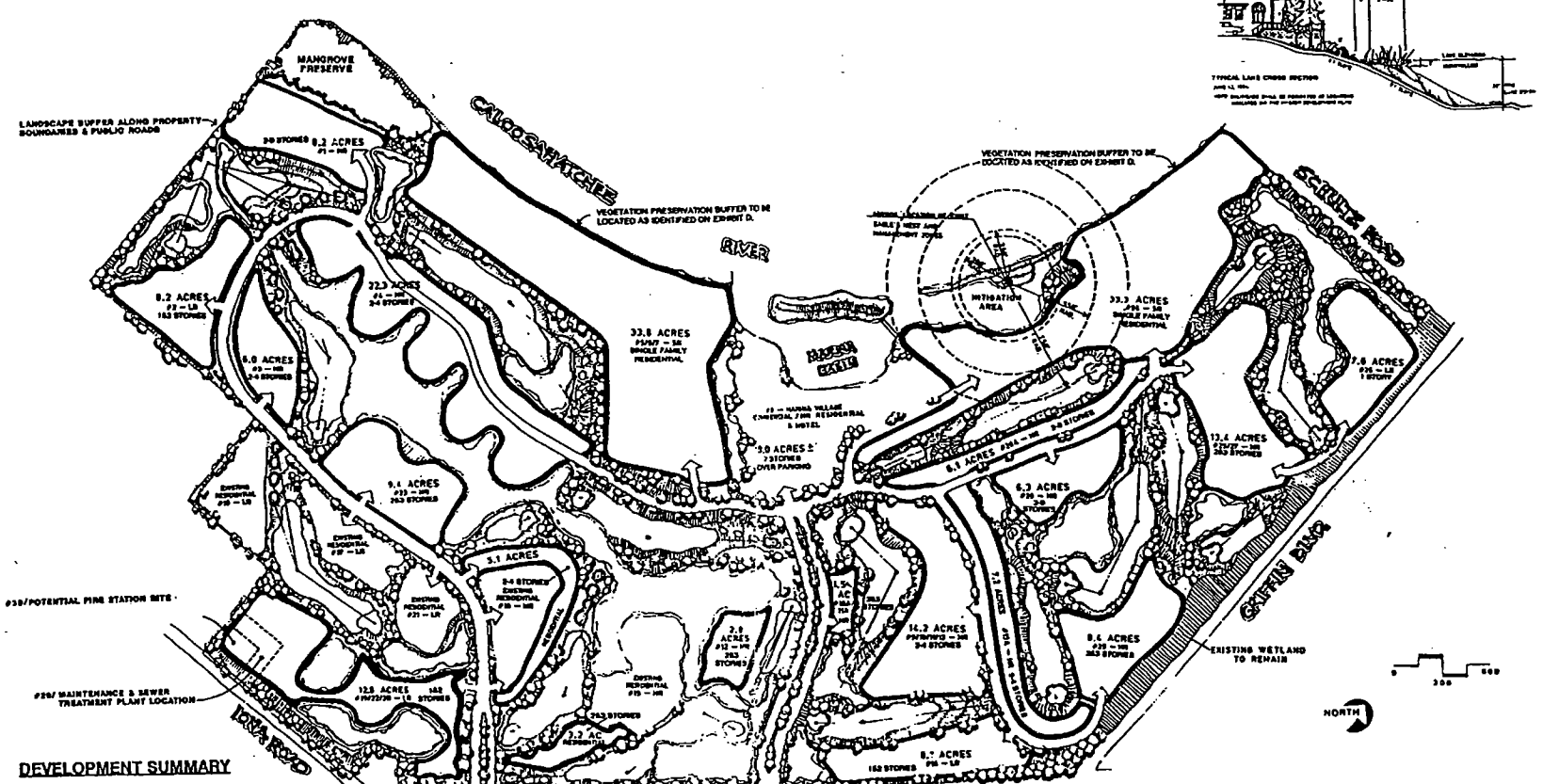
I, Charlie Green, Clerk of the Circuit Court in and for said County and State do hereby certify that the foregoing is a true and photostatic copy of Revised Development Order Amendment for River's Edge Yacht and Country Club, DRI, County Case No. 81-9-8-DRI(a), Resolution No. Z-91-032A, adopted by the Lee County Board of County Commissioners on March 16, 1992.

Given under my hand and official seal at Fort Myers, Florida, this 2nd day of April, 1992.

CHARLIE GREEN, CLERK

BY Chas. J. W. Smith, D.C.

EXHIBIT A



DEVELOPMENT SUMMARY

LAND USE	ACREAGE
RESIDENTIAL (Includes Existing Residential, Proposed Residential, Marina Village Residential - 7.5 acres, Less Private Open Space)	100.7
MARINA VILLAGE (COMMERCIAL)	10.5
INTERNAL ROAD PAVEMENT (APPROXIMATE)	12.0
LAKES (WATER MANAGEMENT)	70.0
MARINA BASH AND MITIGATION AREAS	14.7
OPEN SPACE (Includes Vegetation/Preservation Buffer, Private Open Space, Mangrove Preserve, Other Open Spaces)	250.7
TOTAL ACREAGE	547.8

RESIDENTIAL UNITS
Existing units - 215
Proposed units - 1,858

GROSS PROJECT DENSITY
3.8 D.U./AC

- Notes:**
1. Residential units will not exceed densities and height limitations set forth in Ordinance 64-14.
 2. A conservation easement has been conveyed to the state along the project's Caloosahatchee River frontage to a depth of ten feet measured from MHW.
 3. The previously approved golf club and landscape site facilities will be located as shown to the Marina Village.
 4. Project entrance locations conform to the June 12, 1990 approved Plan. Gatehouse is provided at the project entrance and individual tract entrances.
 5. The provisions of the River's Edge Stadium Bird Eagle Management Plan are incorporated in this Plan.

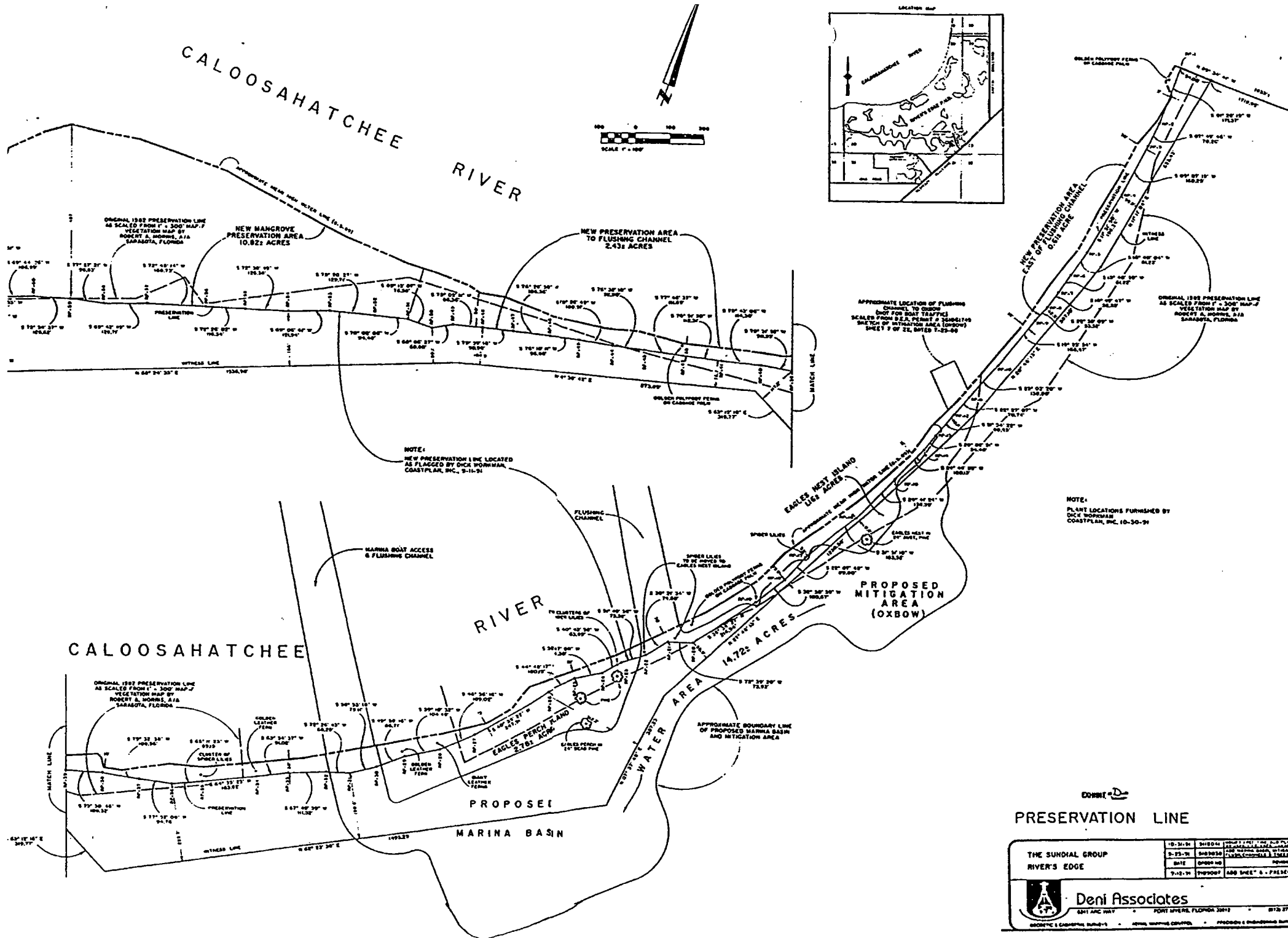
The Marina Bash and Mitigation Area, as shown on these plans, shall conform to the permit requirements and be in parcel number 261001216 issued by the Florida Department of Environmental Regulation (DER), where not in conflict with other conditions of the corresponding 1991 development order conditions for this project, particularly as they relate to land plant and Eagle Nest/Footh preservation areas and their management, including the preservation of the Australian Pine Bald Eagle Nest Trees.



FLORIDA LAND PLANNING, INC.

EXHIBIT A
**MASTER
SITE PLAN
TRACT MAP**
DECEMBER 20, 1990
REVISED: NOVEMBER 20, 1991

EXHIBIT B



COMBINE
PRESERVATION LINE

THE SUNDIAL GROUP RIVER'S EDGE	10-31-91	SHOWN	PROPOSED LINE 2-75-91
	2-75-91	SHOWN	FOR REVIEW 2-75-91
	03-12-91	SHOWN	FOR REVIEW 03-12-91
	04-12-91	SHOWN	FOR REVIEW 04-12-91
Deni Associates 5011 AND 5017 • FORT MYERS, FLORIDA 33917 • 813-275-1111			
GEOMETRIC & CADASTRAL SURVEYING • AERIAL PHOTOGRAPHY • PHOTOGRAPHIC & VIDEOGRAPHY			

EXHIBIT G

Attachment G

1.) Energy.

In accordance with the approved Development Order, a bicycle and jogging trail has been incorporated into the project insofar as the facilities have been constructed to date. All structures have been designed to meet energy code requirements. A greater than required percentage of natural vegetation has been utilized on the site, and plans for future development will incorporate naturally occurring Florida native species. The local jurisdiction has not yet required bus stops or shelters within the development.

2.) Transportation.

Access improvements along McGregor Blvd. have been completed and right-of-way along McGregor Blvd. has been deeded to Lee County. The value of the deeded right-of-way has been established by appraisal. Phase III of construction has not yet taken place. Discussions with FDOT and LCDOT regarding drainage for McGregor Blvd. have taken place. No decision has yet been reached about the amount of drainage FDOT will require. McGregor Blvd. plans are only at 60% at this time. All required transportation impact fees have been paid for previous construction. No additional development commitments have been required due to the lack of construction.

3.) Fire Protection.

Lee County has adopted a new fire impact fee ordinance which will be applied to the development. The Iona-McGregor Fire District has indicated that the new site for a fire station is not needed at this location. River's Edge has committed to comply with the new development standards regarding fire protection.

4.) Schools.

River's Edge continues to cooperate with the Lee County School District regarding school bus loading zones and all applicable development guidelines and commitments.

5.) Water Supply.

Florida Cities has committed to supply potable water to the development. All existing wells on the site have been plugged. Water saving techniques have been implemented in the residential portions of the development. Reuse water is being utilized for watering of the golf course.

6.) Storm Refuge.

Storm refuge areas are currently being incorporated into the plans for proposed clubhouse facilities.

Affidavit

Pursuant to Subsection 380.06(18), Florida Statutes, and the adopted and approved Development Order for the River's Edge Development of Regional Impact, I hereby certify that an original, completed annual report has been sent to:

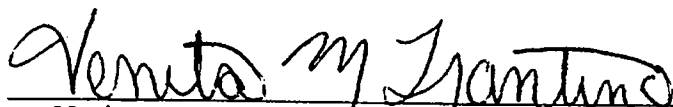
1. The Southwest Florida Regional Planning Council
P. O. Box 3455
North Ft. Myers, FL 33918-3455
2. Mr. George Crawford, Director
Lee County Dept. of Transportation and Engineering
P. O. Box 398
Ft. Myers, FL 33902-0398
3. Ms. Mary Gibbs, Director
Lee County Dept. of Community Development
P. O. Box 398
Ft. Myers, FL 33902-0398
4. Division of Resource Planning and Management
Bureau of State Planning
Florida Department of Community Affairs
2740 Centerview Drive
Tallahassee, FL 32399
5. Florida Department of Transportation
Southwest Area Office
P. O. Box 1030
Ft. Myers, FL 33902-1030


David W. Depew

The foregoing instrument was acknowledged before me this 1st day of June, 1992, David W. Depew, who is personally known to me and has produced Florida Drivers License # D100-179-50-465-0 as identification and did not take an oath.

My commission expires:

~~Notary Public, State of Florida at Large~~
~~My Commission Expires Sept. 27, 1995~~
~~Bonded thru Agent's Notary Brokerage~~


Notary Public

Certificate # CC144818