

RESOLUTION NUMBER Z-00-057A

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

WHEREAS, an application was filed by the property owner, Florida Design Communities, Inc., to amend the River's Edge Yacht & Country Club DRI (a/k/a Gulf Harbour) Development Order #12-8182-21; and

WHEREAS, the initial public hearing was advertised and held on September 1, 2000 before the Lee County Zoning Hearing Examiner, who gave full consideration to the evidence in the record for Case #DRI961967 fka 95-01-089.04Z 02.01; and

WHEREAS, a second public hearing was held on November 20, 2000 before the Board of County Commissioners who, based upon all testimony and evidence in the record, remanded the case to the Hearing Examiner for further consideration as to (1) repair, maintenance and rebuilding of all internal roads during construction phases and at completion of the development project; and (2) hours of operation for construction activity; and

WHEREAS, a third public hearing was advertised and held on January 26, 2001 before the Lee County Hearing Examiner on the remanded issues; and

WHEREAS, a fourth public hearing was advertised and held on March 19, 2001 before the Lee County Board of Commissioners, who gave full and complete consideration to the recommendations of the staff, the Hearing Examiner, the documents on record and the testimony of all interested persons.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS:

SECTION A. REQUEST

The applicant filed a request to:

- (1) Amend the development order for River's Edge Yacht and Country Club DRI to: (a) Extend the build-out date from May 4, 1998 to May 4, 2005 and extend the effective date of the DRI Development Order to May 4, 2005; (b) adopt a revised Map H to reflect the changes in the DRI Development Order; and (c) adopt a revised DRI Development Order concerning the uses and intensity of use within the DRI.
- (2) Determine whether the proposed changes constitute a substantial deviation under the provisions of § 380.06(19), Florida Statutes requiring further Development of Regional

Impact review.

- (3) Amend the existing Planned Unit Development (PUD) zoning to increase the allowed height within the Shores of Gulf Harbour 14.6 acre Multi-family tract from eight to a maximum of 10 residential floors over parking.

The property is located in the Suburban Land Use Category and legally described in attached Exhibit A. This request is APPROVED, SUBJECT TO the conditions specified in Section B below.

SECTION B. CONDITIONS

All references to uses are as defined or listed in the Lee County Land Development Code (LDC).

1. The development of this project must be consistent with the one-page Master Concept Plan entitled "Gulf Harbour Yacht and Country Club," stamped received September 27, 1999, except as modified by the conditions below. This development must comply with all requirements of the Lee County LDC at time of local development order approval, except as may be granted by deviation as part of this planned development. If changes to the Master Concept Plan (MCP) are subsequently pursued, appropriate approvals will be necessary.
2. The height increase of buildings within this development is limited to the location noted by "RES. MAX. 10 STORIES" (over parking) on the approved Plan. This location is east of the north end of the marina basin between the 8-story residential area and the 4-story residential area. The maximum building height may not exceed 122.5 feet in this area.
3. Unless stated to the contrary in this action, this project must comply with all previously approved zoning actions and DRI approvals.
4.
 - a. The developer must mill and overlay the surface course of the following roadways prior to May 4, 2005: Vista River Drive, Harbour Yacht Court, Harbour Landing Drive, West Port Drive and Compass Point (only from West Port Drive to the entrance gate of the Edgewater subdivision). The resurfacing must extend the useful life of the roads to 15 to 20 years.
 - b. The developer must also replace and seal the broken paver bricks at the intersections along Vista River Drive by May 4, 2005.
 - c. The developer must post a performance bond for 110 percent of the cost of the mill and overlay work within 30 days after the execution of the zoning resolution dated March 19, 2001. No building permits will be issued within Gulf Harbour after that date until the performance bond is in place to cover the cost of the improvements contemplated by this condition.

5. The developer must continue to provide and pay for vacuum sweeping of affected roadways, as needed, through the duration of the construction period and must vacuum sweep the roads described in Condition 4 above daily whenever dirt hauling is ongoing within the development. The developer must create a tracking pad within the construction area to remove loose dirt from exiting trucks. The developer must also provide for additional speed monitoring of construction traffic through the period of construction.
6. Approval of this amendment does not guarantee local development order approval. Future development order approvals must satisfy the requirements of the Lee Plan Planning Communities Map and Acreage Allocations Table, Map 16 and Table 1(b).

SECTION C. EXHIBITS

The following exhibits are attached to this resolution and incorporated by reference:

- Exhibit A: The legal description and STRAP number of the property.
- Exhibit B: Zoning Map (subject parcel identified with shading)
- Exhibit C: The Master Concept Plan
- Exhibit D: Third Amendment to River's Edge Yacht and Country Club DRI Development Order.

SECTION D. FINDINGS AND CONCLUSIONS:

1. The applicant has proven entitlement to the amendment by demonstrating compliance with the Lee Plan, the LDC, and any other applicable code or regulation.
2. The amendment, as approved:
 - a. meets or exceeds all performance and locational standards set forth for the potential uses allowed by the request; and,
 - b. is consistent with the densities, intensities and general uses set forth in the Lee Plan; and,
 - c. is compatible with existing or planned uses in the surrounding area; and,
 - d. will not place an undue burden upon existing transportation or planned infrastructure facilities and will be served by streets with the capacity to carry traffic generated by the development; and,
 - e. will not adversely affect environmentally critical areas or natural resources.
3. The amendment satisfies the following criteria:
 - a. the proposed use or mix of uses is appropriate at the subject location; and

- b. The recommended conditions will be compatible with the existing and planned uses in the PUD, and will protect the health, safety and welfare of the residents of that community.
 - c. the recommended conditions are reasonably related to the impacts anticipated from the proposed build-out extension and continued development, and, with other regulations, will provide sufficient safeguard to the public interest.
- 4. Urban services, as defined in the Lee Plan, are, or will be, available and adequate to serve the proposed land use.
 - 5. The approved deviations, as conditioned, enhance achievement of the planned development objectives, and preserve and promote the general intent of LDC Chapter 34, to protect the public health, safety and welfare.
 - 6. The requested amendments, as conditioned, do not create new or additional unreviewed regional impacts and do not constitute a substantial deviation under F.S. §380.06(19).

The foregoing resolution was adopted by the Lee County Board of Commissioners upon the motion of Commissioner Ray Judah, seconded by Commissioner Andrew W. Coy and, upon being put to a vote, the result was as follows:

Robert P. Janes	<u>Aye</u>
Douglas R. St. Cerny	<u>Aye</u>
Ray Judah	<u>Aye</u>
Andrew W. Coy	<u>Aye</u>
John E. Albion	<u>Absent</u>

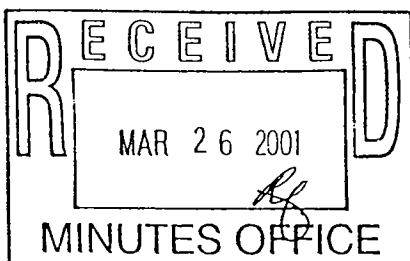
DULY PASSED AND ADOPTED this 19th day of March, 2001.

ATTEST:
CHARLIE GREEN, CLERK

BY: Ruth Jaynia
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: [Signature]
Chairman



Approved as to form by:

[Signature]
County Attorney's Office

EXHIBIT "A"

LEGAL DESCRIPTION

Property located in Lee County, Florida

GULF HARBOUR YACHT AND COUNTRY CLUB, as recorded in Plat Book 55, Pages 6 - 27, of the Public Records of Lee County, Florida, lying in Section 29, 30 & 31, Township 45 South, Range 24 East, Lee County, FL.

The applicant has indicated that the STRAP number for the subject property is: 29-45-24-07-0000B.0000; 30-45-24-07-000Q0.0000 & 31-45-24-07-0000B.0000

ZONING MAP

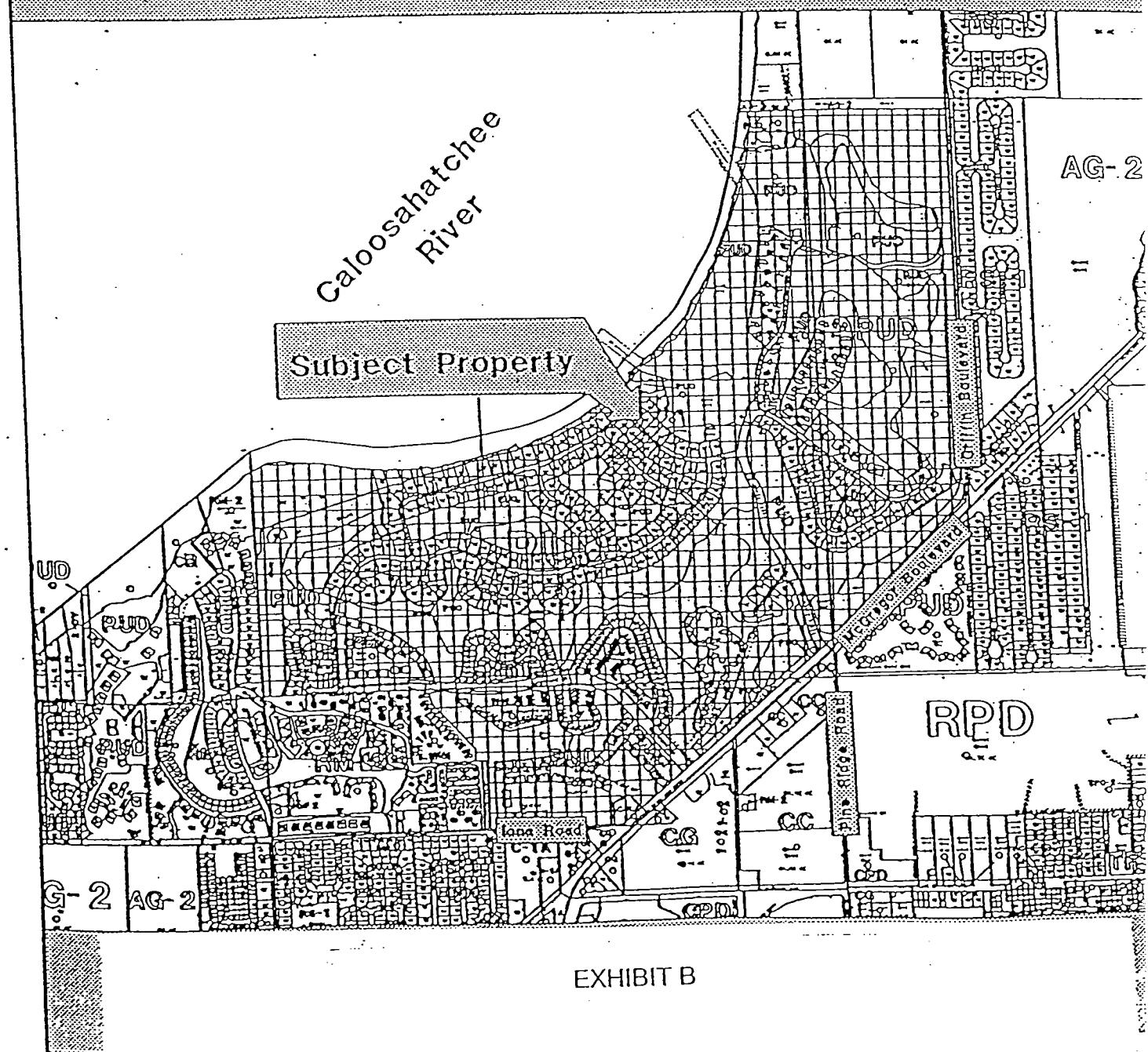


EXHIBIT B

1. RESIDENTIAL TRACTS WILL NOT EXCEED DENSITIES AND HEIGHT LIMITATIONS SET FORTH IN A ORDINANCE 19-16, AS MAY BE AMENDED. A CONDOMINIUM EASEMENT HAS BEEN COMPLETED TO THE STATE ALONG THE PROJECT'S CALOOSAHATCHEE RIVER FRONTAGE TO A DEPTH OF TEN FEET MEASURED FROM BANK.
2. THE MARINA BASIN APPROXIMATELY GOLF CLUB AND TENNIS/SWIM CLUB FACILITIES WILL BE LOCATED AS SHOWN WITHIN THE MARINA VILLAGE. THESE FACILITIES INCLUDE THE MARINA ADDITION, TENNIS COURT, AND MARINE SUPPLY CENTER. THE GOLF CLUB DINING, GOLF PRO SHOP, THE MARINE SUPPLY PRO, SHOP, THE GOLF CLUB DRUG, LOUNGE, AND HEALTH CLUB FACILITIES, AND PROJECT SALES AND ADMINISTRATION OFFICES.
3. PROJECT ENTRANCE LOCATIONS CONFORM TO THE JUNE 12, 1984 APPROVED SITE PLAN. GARAGES ARE PERMITTED AT THE PROJECT ENTRANCES AND INDIVIDUAL TRACT ENTRANCES.
4. THE MAXIMUM HEIGHT OF ANY BUILDINGS IN THIS PLAN IS SIX STORIES. THE MARINA BASIN AND MARINA VILLAGE ARE AS SHOWN ON THESE PLANS. ALL DEVELOPMENT SHALL CONFORM TO THE PERMIT REQUIREMENTS SET FORTH IN THE PERMIT NUMBER 361061749 ISSUED BY THE FLORIDA DEPARTMENT OF ENVIRONMENTAL REGULATION LOCATED AT 1119 N. W. 11TH AVENUE FROM THE CORRESPONDING DEVELOPMENT ORDER CONDITIONS FOR THIS PROJECT.
5. RESIDENTIAL LAKE, AND GOLF COURSE AREA LINES SHOWN ON THIS PLAN ARE INCLUDED FOR CONCEPTUAL ILLUSTRATION PURPOSES ONLY. FINAL AREA LINES SHALL BE DETERMINED AT THE TIME OF LOCAL DEVELOPMENT ORDER PERMITTING. HOWEVER, THAT THE TOTAL DEVELOPMENT ORDER DEVOTED TO PARTICULAR USES SHALL BE CONSISTENT WITH THE DRI DEVELOPMENT SUMMARY ACRES ACROSS SET FORTH HEREIN AND PROVIDED. FURTHER, THAT THE MANGROVE PRESERVE AREA SHALL BE LOCATED AS DEPICTED HEREIN, AND THE MARINA BASIN SHALL BE BUILT AT THE LOCATION IN ACCORDANCE WITH THE FLORIDA DEPT. OF ENVIRONMENTAL PROTECTION PERMIT #361061749, AS MAY BE AMENDED FROM THE DATE OF SALE. IT IS THE INTENT OF THE DEVELOPER TO BE ABLE TO LOCATE LAKE, GOLF COURSE AREAS, ROADS, AND RESIDENTIAL PRODUCT TYPES IN ITS SOLE DISCRETION WITHIN THE BOUNDARIES OF THE DEVELOPMENT. THE DEVELOPER WILL MAINTAIN NATURAL AREAS AND/OR OPEN SPACES OR LAWNS, OPEN SPACE, AND SPECIFIC RESIDENTIAL PRODUCT TYPES AS SET FORTH IN THE DEVELOPMENT SUMMARY.
6. LOT SELBACK:
 - LOCAL STREETS - 15'
 - COLLECTOR/ARTERIAL STREETS - 25'
 - Road - 5' MIN.
 - MINIMUM WATER BODIES - 10'
 - NATURAL WATER BODIES - 25'
 - MARINA - 0'

LAND USE	ACRES
RESIDENTIAL (INCLUDES EXISTING RESIDENTIAL, PROPOSED RESIDENTIAL, MARINA VILLAGE, LESS PRIVATE OPEN SPACE)	191.7
INTERNAL ROAD PAVEMENT (APPROXIMATE)	12.0
LAKES (WATER MANAGEMENT)	70.0
MARINA BASIN AND LANDING AREAS	17.2
OPEN SPACE (INCLUDES VEGETATION/PRESERVATION BUFFER, PRIVATE OPEN SPACE, MANGROVE PRESERVATION, OTHER OPEN SPACE)	250.7
TOTAL ACRES	547.6

PREVIOUSLY CONSTRUCTED (AREAS LABELLED "BUILT"):	215
TOTAL UNITS APPROVED BY 1992 AMENDMENT:	2,071
TOTAL UNITS PROPOSED BY 1993 AMENDMENT	1,947

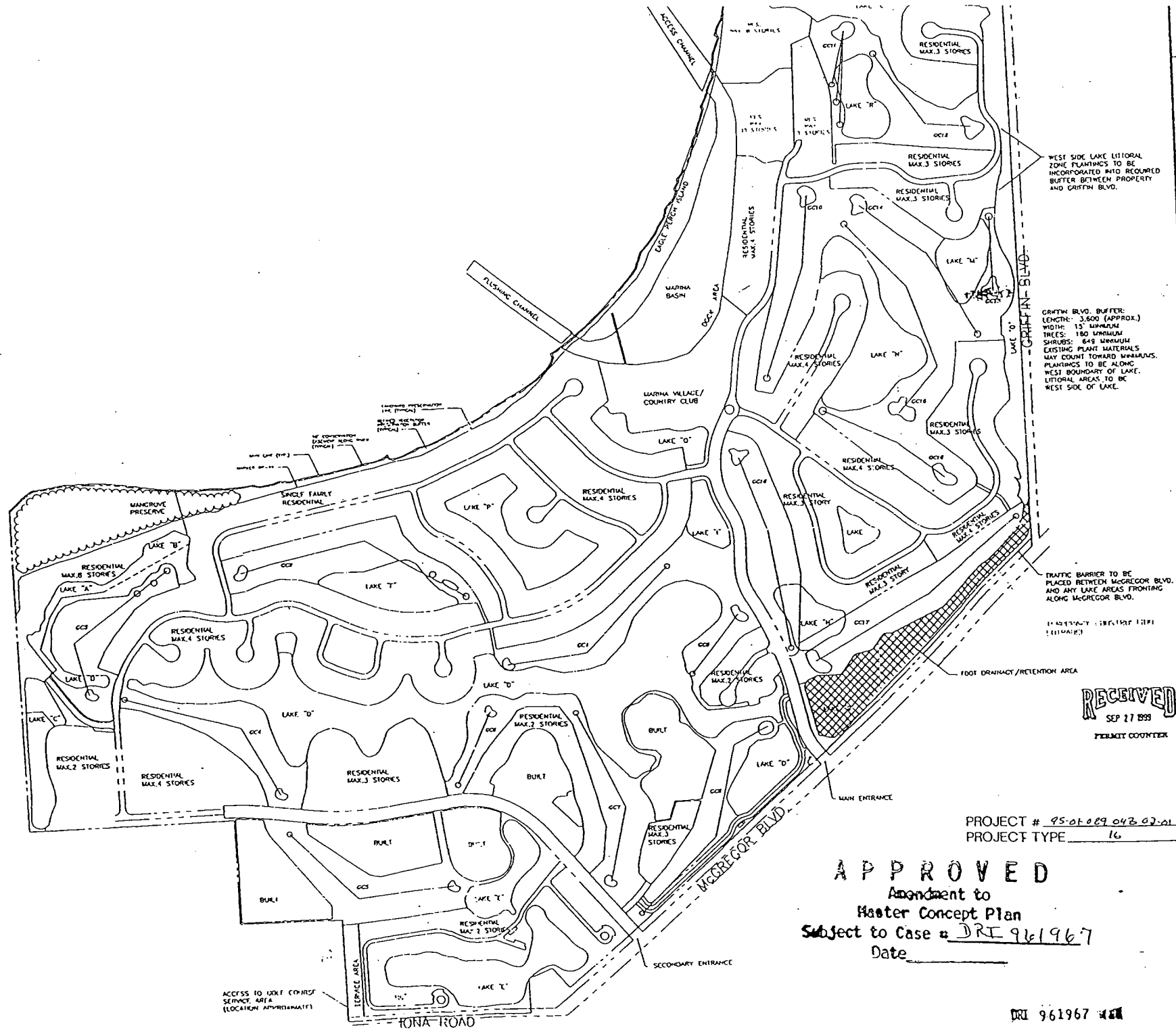


EXHIBIT D

THIRD AMENDED DEVELOPMENT ORDER¹

FOR

RIVER'S EDGE YACHT AND COUNTRY CLUB

A DEVELOPMENT OF REGIONAL IMPACT

STATE DRI #12-8182-21
COUNTY CASE #81-09-08-DRI(c)

LET IT BE KNOWN that, pursuant to §380.06, Florida Statutes, the Board of County Commissioners of Lee County, Florida, considered the Application for Development Approval filed by Ramar Group, regarding a Development of Regional Impact consisting of 548 acres, at a public hearing and adopted the original development order for the River's Edge Yacht and County Club Development of Regional Impact (DRI) on April 19, 1982.

WHEREAS, the River's Edge Yacht and County Club DRI was amended on March 16, 1992 to decrease the density from 4,380 dwelling units to 2,071; relocate 6 golf holes, the golf course club house, tennis courts, marina basin and marina village; reduce the number of boat slips from 250 to 190 slips; and extend the buildout date 4 years and 11 months to May 4, 1998; and

WHEREAS, a second amendment to the River's Edge Yacht and County Club DRI was adopted on March 21, 1994 to modify the location and design of the marina facility; and

WHEREAS, a Notice of Proposed Change was filed by Watermark Communities, Inc. on February 8, 1999 to accomplish the following: (1) reduce the number of dwelling units from 2,071 to 1,987; (2) eliminate 200 hotel units; (3) replace the 65,000 square feet of commercial with a 5,000 square foot ship's store and 30,000 square foot club house; (4) eliminate the 250 seat restaurant; and (5) extend the buildout date an additional 7 years to May 4, 2005; and

WHEREAS, the requested amendment to extend the buildout date an additional 7 years, for a cumulative total extension of 11 years and 11 months, is presumed to create a substantial deviation under §380.06(19)(c), but this presumption may be rebutted by clear and convincing evidence; and

¹ This is a codification and restatement of all DRI development orders rendered with respect to the River's Edge Yacht and County Club DRI, including actions taken May 5, 1982, March 16, 1992, March 21, 1994 and March 19, 2001.

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

NOW THEREFORE, it is resolved by the Board of County Commissioners that the development order for River's Edge Yacht and County Club DRI is further amended as follows:

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

I. FINDINGS OF FACT AND CONCLUSIONS OF LAW

A. The legal description of the ~~subject property~~ River's Edge Yacht and County Club DRI property is as follows:

All that part of the West Half (W½) of the West Half (W½) of Section 29, Township 45 South, Range 24 East, lying Westerly of Griffin Boulevard and Northwesterly 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 (E½) of the Southeast Quarter (SE¼) of Section 30, Township 45 South, Range 24 East, located Northwesterly of McGregor Boulevard; All that part of the Northeast Quarter (NE¼) of the Northeast Quarter (NE¼) of Section 31, Township 45 South, Range 24 East, lying Northwesterly of McGregor Boulevard.

Government Lots 2, 3 and 4, Section 30, Township 45 South, Range 24 East; and the East Half (E½) of the Northeast Quarter (NE¼) of the Northwest Quarter (NW¼); and the Northwest Quarter (NW¼) of the Northeast Quarter (NE¼) of the Northwest Quarter (NW¼); and all that part of the Northwest Quarter (NW¼) of the Northeast Quarter (NE¼) of Section 31, Township 45 South, Range 24 East, lying Northwesterly from McGregor Boulevard;

EXCEPTING THEREFROM the following described parcel:

From the Southwest corner of said Northwest Quarter (NW¼) of the Northeast Quarter (NE¼) 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;
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 centerline) 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 foot 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 S42°00'00"E, 91.93 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 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 foot 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 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.

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 foot 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 foot 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;
 THENCE South, 96.97 feet to a point on the South boundary line of the Northwest Quarter (NW¼) of the Northeast Quarter (NE¼) of the Northwest Quarter (NW¼) 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 the Northwest Quarter (NW¼) of the Northeast Quarter (NE¼) of the Northwest Quarter (NW¼) of said Section 31;
 THENCE run along the West boundary line of the Northeast Quarter (NE¼) of the Northwest Quarter (NW¼) of Section 31, N01°02'30"W, 665.51 feet to the Northwest corner of the Northeast Quarter (NE¼) of the Northwest Quarter (NW¼) 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 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.

SUBJECT TO:

EASEMENT "A"

A non-exclusive easement for utilities and ingress and egress per the Declaration of Condominium of River's Edge 1, Official Records Book 1783,

Page 3580.

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 "B"

A non-exclusive easement for utilities and ingress and egress per the Declaration of Condominium of River's Edge 1, Official Records Book 1783, Page 3580, being an easement 30 feet in width from the terminus of the above described easement (40 foot wide, from McGregor Boulevard to the Southerly boundary of Phase 4) to the property described as Phase 3 on the condominium plat, the centerline of said easement being the same as the centerline of a paved roadway connecting said points, the approximate location of which roadway is depicted on the condominium plat. This easement shall must terminate at such time as the property described in Phase 4 on the condominium plat has been submitted to condominium ownership as part of River's Edge 1, a condominium.

EASEMENT "C"

A non-exclusive easement for utilities, cable television, and ingress and egress per the Declarations of Condominium of River's Edge 2, 3, and 4, Official Records Book 1783, Page 3649 and Official Records Book 1783, Page 3709 and Official Records Book 1841, Page 1465, respectively.

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.

EASEMENT "D"

A non-exclusive easement for utilities, trash receptacles, and ingress and egress per the Declaration of Condominium of River's Edge 2, Official Records Book 1783, Page 3649.

A 50-foot wide easement lying 25 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;
THENCE N40°30'16"W, 873.40 feet;
THENCE by a curve to 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, 100.00 feet;
THENCE S08°00'16"E, 219.00 feet to the POINT OF BEGINNING;
THENCE S78°33'43"W, along said centerline, a distance of 50.09 feet to the Point of Termination of said centerline.

EASEMENT "E"

A non-exclusive easement for utilities, cable television, and ingress and egress over and under that certain parcel described as follows, per the Declaration of Condominium of River's Edge 4, Official Records Book 1841,

Page 1465.

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.

SUBJECT TO:

Conservation easement to State of Florida, Official Records Book 2108, Page 1846.

Irrigation easement to River's Edge 3 Condominium Association, Inc., Official Records Book 2014, Page 1661.

Florida Cities Water Company water pipeline easements, Official Records Book 1764, Page 2014 and Official Records Book 1846, Page 4662.

Florida Power & Light Company utility easements, Official Records Book 1806, Page 1963 and Official Records Book 2168, Page 287.

Lee County utility easements, Official Records Book 2123, Page 3638 and Official Records Book 2212, Page 2138.

Easements, restrictions and reservations of record.

TOGETHER WITH Sovereignty Submerged Land Easement, Official Record

~~SECTION TWO: (Cumulative changes to the original conditions of the Development Order)~~

~~B. This Order addresses the issues raised by the Southwest Florida Regional Planning Council in its report and recommendation to the Lee County Commission dated the 19th day of March 1982.~~

~~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 stamped received February 8, 1994, (See Attachment A), subject to the conditions contained within this Development Order and all applicable permits:~~

~~A. Uses~~

~~a.~~

~~B. The River's Edge Yacht and County Club DRI is a Development of Regional Impact consisting of approximately 548 acres. The proposed development is depicted on Map "H", attached as Exhibit A and includes:~~

- ~~1. 2,074 1,987 dwelling units of which up to 536 788 would may be single-family (detached and zero lot line type units) and up to 4,535 1,199 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 4,149 1,349 p.m. peak hour trips as calculated from the fitted curve formulas of the 5 6th Edition of the ITE Trip Generation Manual for land use categories 210 and 230 (215 multi-family units are already built);~~

~~b2. 135 acre 18 hole golf course and 30,000 square foot golf clubhouse with 250 parking spaces;~~

~~c. On the 8.0 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 and 5,000 square foot ancillary ship's store;
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 6. 70.0 acres of lakes;

e 7. 18.23 acre refined vegetation preservation buffer including:

- 4 a. a 14.02 acre mangrove and listed plant species preserve area south of the proposed marine of ~~14.02 acres;~~
- 2 b. ~~an~~ a 3.88 acre eagles perch management and listed plant species preservation island of 3.88 acres;
- 3 c. a 0.33 acre shoreline listed plant species preservation area of ~~0.33 acres~~ north of the proposed marina; and

f 8. 250.7 acres of open space (including golf course, preservation areas, and private open space, but excluding lake, marina mitigation and basin areas).

C. The subject property is currently zoned Planned Unit Development (PUD) in accordance with the Lee County Land Development Code and Lee County Ordinance 93-26.

D. The application for development approval is consistent with the requirements of §380.06, Florida Statutes.

E. The proposed development:

1. is not located in an area designated as an Area of Critical State Concern, pursuant to the provisions of §380.05, Florida Statutes;
2. will not unreasonably interfere with the achievement of the objectives of the

adopted State Land Development Plan applicable to the area; and

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

F. The Southwest Regional Planning Council has reviewed the proposed development and adopted recommendations subsequently forwarded to Lee County pursuant to §380.06, Florida Statutes. The development, as proposed in the Application for Development Approval and modified by this amended Development Order, is consistent with the recommendations issued by the Southwest Regional Planning Council in accordance with §380.06(12).

G. The proposed conditions set forth below meet the criteria found in §380.05(15)(d), Florida Statutes.

H. The request to extend the buildout date to May 4, 2005 constitutes a substantial deviation. However, based upon the traffic data submitted by the applicant and analyzed by Lee County Department of Transportation, the applicant has proven there are no additional regional impacts precipitated by the buildout extension.

I. This constitutes the Third Amendment to the River's Edge Yacht and County Club DRI development order and is based upon the NOPC filed by Watermark Communities, Inc.

II. ACTION ON REQUEST AND CONDITIONS OF APPROVAL

2 A ENERGY

a 1. The River's Edge development shall must comply with the Energy Code as adopted and in force at the time of commencement of each phase of the development.

b 2. River's Edge shall must construct a jogging and bicycle trail system as described in the Application for Development Approval (hereinafter referred to as the ADA) and the Master Site Plan. That system is to connect all points within the project. Benches and special parking areas are to be provided for bicycles and golf carts at each commercial and recreational area. That portion of the system alongside McGregor Boulevard shall must be built in conformance with the Lee County Comprehensive Bicycle Facilities Plan and is to be dedicated to the County.

e 3. The Developers of River's Edge shall must design all facilities for optimum energy efficiency utilizing state-of-the-art energy conservation techniques, including but not limited to the following:

- proper roof and wall insulation
- glazing
- energy efficient appliances
- structure orientation for solar energy and natural ventilation
- structural shading, e.g., inclusive of porch/patio areas in residential units and utilization of roof overhangs for low-rise buildings
- proper landscaping throughout the project and planting of native shade trees and understory wherever appropriate for all active and passive recreation areas, streets and parking areas
- site design and landscaping to enhance energy conservation

~~d~~4. River's Edge shall must cooperate with the Lee County Transit ~~s~~System in locating and providing bus stops and shelters within the development.

e 5. Alternate energy devices, such as solar collectors, may not be prohibited unless it is determined necessary for the protection of the health, safety and welfare of the residents of the River's Edge Yacht and Country Club DRI.

3.B. TRANSPORTATION

a 1. The River's Edge development ~~shall be~~ is responsible for development of all roads and bike paths within the River's Edge development.

b 2. *Development Impact/Phasing Schedule.* The transportation impact assessment which that forms the basis for this Development Order Amendment for River's Edge ~~DRI~~ assumes the land uses and phasing schedule as set forth in attached Exhibit B shown in Section C.1., ~~as amended, and assumes one continuous phase of development with a project buildout extended from the Year 1993 to the May 4, 1998 date of May 4, 2005.~~

~~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), Florida Statutes.~~

e 3. *Annual Monitoring Program.* Pursuant to Section 380.06(18), Florida Statutes, ~~the~~ River's Edge ~~DRI~~ shall must submit an "Annual Monitoring Report" to the Lee County Department of Transportation & Engineering (~~LCDOT&E~~) (LCDOT), the Southwest Florida Regional Planning Council (SWFRPC), and the Florida Department of Community Affairs (DCA) 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 must request in writing that the developer submit the report within thirty (30) days. The failure to submit the report after thirty (30) days shall may result in the temporary suspension of the Development Order by the local government. At a minimum, the monitoring report shall must 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~~ LCDOT, FDOT, SWFRPC and DCA, at all project access locations onto McGregor Boulevard (SR 867) as well as at the following regional roadway segments and all intersections included within and at the end of those segments:

REGIONAL ROAD SEGMENTS

~~BACKLOGGED LEE COUNTY FACILITIES:~~

McGregor Boulevard (SR 867) from

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

Cypress Lake Drive from

McGregor Boulevard to South Pointe Blvd.
South Pointe Blvd. 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

Pine Ridge Road from

Gladiolus Drive to McGregor Boulevard

San Carlos Boulevard from

Summerlin Road to Kelly Road

Kelly Road to Gladiolus Drive

INTERSECTIONS:

Gladiolus Drive at Pine Ridge Road

McGregor Boulevard at San Carlos Boulevard/Gladiolus Drive

McGregor Boulevard at Iona Road

McGregor Boulevard at south project entrance

McGregor Boulevard at north project entrance/Pine Ridge Road

McGregor at A&W Bulb Road

McGregor Boulevard at Cypress Lake Drive

San Carlos Boulevard at Kelly Road

The above off-site intersections and roadway segments were identified as significantly impacted by greater than 5% utilization of the LOS (adopted 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 must be performed by the developer's traffic consultant and submitted as part of the annual monitoring report for the following significantly impacted road segments. 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 Project, 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 have constructed and obtained Certificates of Occupancy for the maximum amount of residential and nonresidential 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 nonresidential land uses had been built to date.~~

The purpose of this monitoring report is to: (1) determine if the projected traffic for the Year 1998 2005 in the traffic impact assessment for River's Edge DRI Amendment is exceeded by actual impacts; (2) assist LCDOT&E LCDOT 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 hour; and (5 3) determine the project's external trip generation along the existing roadways compared to the estimate of 1,115 net new external trips.

The following is recognized and understood:

- 4a. 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.
- 2b. In the event that construction has not begun on the land uses identified in Section Two C.1, above 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 backloged 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:

- 1)- 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 exceed the annual percent increase in traffic on a traffic district-wide basis.
- 2)- 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 is 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 easement.~~

~~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 c. above is 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 c. 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.~~

d 4. *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 is 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 its successors, shall must construct site-related roadway and intersection improvements within

River's Edge DRI. The Developer shall must 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 must build the necessary site related intersection improvements to achieve the adopted level of service "D" ~~peak season peak hour~~ for the following intersections:

McGregor Boulevard (SR 867) at

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

River's Edge South Entrance

~~The developer, or his successors, shall must 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 include 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 regulations, as either may be amended or replaced. The developer's obligation shall must 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 must be approved by the Lee County Engineer and FDOT. The developer shall must pay the full cost for any site-related intersection improvements found necessary by the County or FDOT for the project's access.~~

e 5. *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.

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 owners shall dedicated this to Lee County the land deemed necessary by the to FDOT for the stormwater retention for the McGregor Boulevard widening improvements, at the time~~

requested by LCDOT&E in 1995. ~~Conveyance shall must be in a form and manner acceptable to Lee County. The agreed upon value for this dedication was \$1,742,000.~~

The \$191,000 McGregor Boulevard widening right-of-way and the value of the \$1,742,000 stormwater retention dedication is applicable to reduce the proportionate share of River's Edge DRI transportation impacts. The dedications shall are not be eligible for road impact fee credits.

f 6. *Mitigation of Transportation Impacts:*

4)a. As mitigation for the transportation impacts of the created by the development of River's Edge DRI in accordance with this amended development order ~~amended land uses described in Section C.1, in addition to the requirements of Section C.3.b through C.3.e. above,~~ the developer, or his its successors, shall must:

(a1) dedicate property appraised at \$191,000.00 dollars for the McGregor Boulevard widening²; and

(b2) dedicate property to Lee County for the stormwater retention area necessary for the McGregor Boulevard widening, 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 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 chose a third independent appraiser to do an appraisal, and the value will be established by an average of the three appraisals³; and

(c3) 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 applicable to development of the River's Edge DRI as approved in accordance with the third development amendment are currently estimated to be \$2,904,456 \$2,935,689 ~~for the amended River's Edge land~~

² This obligation has been satisfied.

³ This obligation has been satisfied. The agreed upon value is \$1,742,000. The developer also agreed to forgo any claim relating to property values in excess of the agreed upon value for the stormwater retention parcel transferred to FDOT.

~~uses discussed in Section C.1., to be used for the roadway improvements for this development; and~~

- (d) ~~in three (3) equal installments beginning on November 25, 1992 or 30 days after resolution of any appeal, whichever is later, make cash payments totaling \$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 100.00. 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.3.c. 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.~~

- 2)b. Should these the provisions of the roads impact fee (Ordinance #90-47 as amended) regulations be repealed, made unenforceable or otherwise of no longer in effect, they shall must nevertheless be required as payment for the transportation mitigation for the River's Edge notice of change DRI Development Order as described in Paragraphs e through e above.

3)c. The developer is informed that the Lee County Board of County Commissioners may adopt ~~in~~ an interim operation improvement program and that such a program may be applicable to this development.

g 7. Nothing contained in this Development Order Amendment is to imply or supersede any Florida FDOT permitting requirements.

h 8. 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~~ must be subject to and not inconsistent with Chapter 190, Florida Statutes, and this Development Order. The various agencies ~~which~~ that 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~~ may 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.

i 9. 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 ~~b through h~~, which this section.⁴ The contribution shall may not be reduced or refunded provided, however, that all other provisions of the Development Order also ~~shall~~ must govern.

j 10. If the proportionate share contribution due under the terms of Paragraphs ~~b through this section~~ is not paid in a timely manner, issuance of development approvals and building permits for River's Edge ~~shall~~ must immediately cease.

k11. Compliance with all of the terms of the transportation related provisions of this

⁴ Based upon the level of development approved through and including the Third Amendment to this development order, the only outstanding transportation mitigation payments due are the roads impact fees incurred at building permit issuance.

development order shall must 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~~ concurrency regulations; the Lee County Comprehensive Plan, adopted pursuant to Chapter 163, Part II, Florida Statutes; and Rule 9J-5.0055, Florida Administrative Code, as they currently apply. Satisfaction of concurrency shall ~~extends~~ only through May 4, 1998 2005.

4C. AIR QUALITY

The River's Edge development shall must comply with all applicable codes and apply for all required permits relative to air quality.

5D. FIRE PROTECTION

~~a. The River's Edge development shall identify and make available to the Iona/McGregor Fire Protection and Rescue Service District a parcel of property acceptable to the fire district containing approximately three-fourths (¾) acre of land for a fire station. Dedication shall occur with commencement of construction of Phase III as described on Page 15 of the ADA.~~

~~b. The River's Edge development will aid in the construction of a fire station on the site to be located within the project by contributing an amount of seventy-five thousand dollars (\$75,000.00) for the actual construction of the fire station. This contribution shall occur prior to commencement of construction of Phase III.~~

~~c. In lieu of the requirements set forth in Sections 5 a. and 5 b. immediately above, the River's Edge development may, with the prior written consent of the Iona/McGregor Fire Protection and Rescue Service District, pay fire impact fees as required by the Lee County Fire Protection and Emergency Medical Services Impact Fees Ordinance.~~

~~d. If the River's Edge development provides the mitigation set forth in Sections 5 a. and 5 b. above, full credit for the value of this mitigation shall be given against any fire impact fees that might otherwise be due, as required by and consistent with Sections 380.06(16)(a) and 380.06(16)(b), Florida Statutes.~~

The fire protection impacts created by development of River's Edge DRI will be mitigated by the payment of fire impact fees in accordance with the Lee County Land Development Code. No refund or credit for fire impact fees paid prior to the adoption of the third amendment to this development order will be issued.

6 E. PARKS

~~River's Edge shall assist Lee County in obtaining additional recreational land by~~

~~paying a fee-in-lieu of dedication of five (5) acres of parklands. Payment at fair market value shall occur with the commencement of Phase III of the development and shall be in accordance with standards and schedules established by the Lee County Division of Community Services. The requirements of this Section will not be applicable if an impact fee ordinance is adopted by Lee County and the River's Edge development pays its pro rata share pursuant to the impact fee ordinance.~~

The park impacts created by development of River's Edge DRI will be mitigated by the payment of park impact fees in accordance with the Lee County Land Development Code. No refund or credit for park impact fees paid prior to the adoption of the third amendment to this development order will be issued.

7F. SCHOOLS

River's Edge shall must provide off-street school bus loading zones for each development phase as deemed necessary by the Lee County School Board.

8G. WATER SUPPLY, WATER QUALITY AND WILDLIFE HABITAT

~~a~~1. No residential development shall may commence until sufficient water is available through a public water system to insure adequate fire flow, as well as a sufficient quantity of potable water, to adequately serve the residential development for which a building permit is requested.

~~b~~2. During Phase I, River's Edge shall must plug all existing on-site wells in accordance with Lee County Division of Protective Services and South Florida Water Management District standards.

~~e~~3. The River's Edge development shall must comply with the best management practices as defined by the South Florida Water Management District (SFWMD) with regard to the use of excavated areas and of wetlands acting as polishing and buffer areas and grassed swales for drainage purposes.

~~d~~4. Pursuant to the drainage plans and permits approved by the ~~South Florida Water Management District~~ SFWMD and the marina plans and permits approved by the Florida Department of Natural Resources, Florida Department of Environmental Regulation Protection, and U.S. 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 marina mitigation area. Direct discharge of water/effluent by River's Edge DRI into the Caloosahatchee River ~~shall be~~ is 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, 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 Road and Griffin Boulevards. Those two lakes shall must remain substantially in the configuration as shown on the Water Management District Plans referenced herein. Minor adjustments may be made but shall must not result in a net reduction of the area of Lakes "O" and "L" which shall must continue to run in an alignment as shown along Griffin Boulevard and Schultz Road.

- 4)a. A row of shrubs and trees containing the Type "B" buffer vegetation (five trees and eighteen shrubs per 100 linear feet), suitably clustered subject to the approval of the Division of Environmental Services Sciences (DES), shall must be planted along the west side of the Lakes "O" and "L" along Griffin Boulevard. DES may not unreasonably withhold its approval.
- 2)b. Littoral shelves as required in condition G.7. shall must be constructed along Lakes "O" and "L".
- 3) c. A Type "B" buffer shall must be placed in front of Lakes "D" and "G" at the project entrance (as shown on Map H attached as Exhibit C-A).

e 5. For the riverfront lots the following vegetation management and maintenance guidelines shall apply:

- 4)a. The following: spider lilies, golden polypody, giant leather fern, and golden leather fern, will hereinafter shall be referred to as "listed species." The developer shall must provide a vegetation conservation buffer along the river, as shown by the surveyed preservation line on Attachment B attached Exhibit C (Preservation Line Map stamped received 1-3-94), ~~attached~~, excluding the area approved for the marina basin construction, marina 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 must 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. 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 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 may 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~~ may also be permitted subject to the conditions specified below, but ~~shall~~ may 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 Attachment B (~~Preservation Line Map stamped received 4-3-94~~) Exhibit C.

Access to the Eagle Perch Island ~~shall~~ must be allowed for purposes of 1) the removal and maintenance of invasive exotic vegetation; and 2) the limited pedestrian use. Access to the island and permitted activities are subject to the following conditions:

- (a1) The Eagle Perch Island ~~shall~~ must be accessed via the dock/bridge located in the western portion of the marina basin as shown on the overall Marina Plan, dated October 5, 1993 (~~Attachment C~~) attached as Exhibit D.
 - (b2) The point of access to the Eagle Perch Island ~~shall~~ may be a maximum 8 feet wide. The point of access ~~shall~~ must have a gate or similar obstruction to impede unauthorized vehicle (e.g. golf cart) access, yet allow pedestrian passage.
 - (e3) Golf carts ~~shall be~~ are permitted on the Eagle Perch Island only when used for the intermittent removal and maintenance of invasive exotic vegetation.
 - (d4) Pedestrian uses permitted on the Eagle Perch Island include walking, bird watching, and nature observation. Pedestrian uses not permitted include any activities ~~which~~ that involve boardwalks, development, trimming or removing of vegetation.
 - (e5) In the event bald eagles build a nest on the Eagle Perch Island, access to the island ~~shall~~ must be prohibited during the Southern bald eagle nesting season October 1 through May 15.
- 2)b. The developer ~~shall~~ must remove all Brazilian Pepper, Melaleuca and Australian pPine from the refined preservation area with minimal possible disturbance to existing native vegetation.
- 3)c. No Ddevelopment, boardwalks, trimming, or clearing of vegetation ~~shall be~~ is allowed in the following preservation areas as depicted on ~~Attachment B~~

(Preservation Line Map) stamped received 1-3-94 Exhibit C:

- (a~~1~~) Within a complete ten foot (10') radius of the Cabbage Palm with the golden polypody located between marks RP-1 and RP-2;
- (b~~2~~) On the Eagles Perch Island;
- (e~~3~~) Within a complete ten foot (10') radius of the golden leather fern located nearly adjacent to RP-34;
- (d~~4~~) West of a north-south line running through RP-44.

The following conditions shall apply to the remaining preservation and buffer areas not listed in (a~~1~~) through (d~~4~~) above:

Other than the removal of the exotics delineated above, there shall must 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 foot wide pedestrian access, located outside the preservation areas (a.) through (e.d) specified above as limited herein shall may be permitted on each lot notwithstanding other limitations. Selective removal/replacement and trimming of trees and vegetation shall may 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 G.5.a. above. However, at a minimum, the buffer shall must contain those trees which that are greater than or equal to 4" D.B.H. as well as naturally existing native understory growth. However, those trees or shrubs which that 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 that are removed shall must be relocated or replaced with a similar size tree. In no case shall must more than twenty percent (20%) of the refined preservation buffer be impacted for purposes of pedestrian access.

- 4)d. Prior to the recording of a subdivision plat for riverfront lots, these vegetation maintenance and management guidelines shall must be included by the developer in recorded deed restrictions applicable to any residential lots located adjacent to the river and shall must be enforceable by a

homeowner's association as well as being made conditions of the DRI Development Order and local Final Development Order.

- 5)e. Prior to any clearing in the single-family area along the river, there shall must be an on-site review by Lee County to insure that 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 must be conducted and any "listed species" located landward of the preservation line shown on Attachment B shall Exhibit C must 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 must be appropriately relocated and transplanted to appropriate habitat on the Eagles Perch 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 must 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 must report on the success or failure status of the relocation and discuss any discernible reasons surrounding the success or failure of the relocation.

g.7 For all manmade water bodies, except the marina basin, littoral shelves shall must be constructed at random locations along lake edges with a maximum depth of two (2) feet below the lake control elevation, and shall must be planted with native wetland vegetation. This work shall must be done concurrently with construction of the final water management system.

h.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 that 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.

A resolution (#93-09-70) amending the Habitat Management Plan was approved by the Lee County Commission in September, 1993. The amendment deleted the specific nest preservation measures outlined by the eagle management plan because

the Florida Game and Fresh Water Fish Commission (FGFWFC) and the Lee County Eagle Technical Advisory Committee (ETAC) determined the eagle nest abandoned and the perch tree had been blown down.

The resolution required the creation of a short term and long term plan encouraging bald eagles to continue utilizing River's Edge for perching and feeding. This plan shall must include:

- 1)a. Designing and constructing an artificial perch for Eagle Perch Island. The structural design and placement of the perch shall must be subject to approval by the Lee County Eagle Technical Advisory Committee.
- 2)b. A planting plan to install thirty-five (35) South Florida slash pine trees (*Pinus elliotti* var. *densa*), a minimum of eight (8') feet in height, on the Eagle Perch Island. The pines shall must be distributed and spaced to promote the growth of tall, straight trees with large crowns at the tops of the trees. The purpose of these pines is to provide future natural perching and roosting substrates for bald eagles.

The locations of the artificial perch and the pine plantings, including sizes and numbers, shall must be clearly illustrated on a local development order plan for the new marina. The artificial perch and the plantings shall must be installed and approved by Lee County Division of Natural Resources Management staff prior to issuance of the Certificate of Compliance for the marina.

However, if the plan is further amended, the Southwest Florida Regional Planning Council and the Department of Community Affairs shall must be notified of the proposed amendment.

i. 9 There shall must be no entrance ways from River's Edge directly onto Griffin Boulevard or Schultz Road.

9 I. STORM REFUGE HURRICANE MITIGATION

River's Edge shall must provide sufficient storm refuge shelter space during the construction of the first 512 residential units to accommodate at least 24% of that population. Such refuge shelter space shall must meet the following conditions:

- a1. Located at least 16' above MSL.
- b 2. No structures located within 150' of the shoreline shall may be utilized as

refuge shelter space.

- e 3. Designated refuge shelter space shall must be located in the interior hallways and similar areas with no openings leading directly to the exterior.
- d 4. Refuge Shelter space shall must be provided at a ratio of twenty (20) square feet per person.
- e 5. A homeowners association shall must be established to coordinate and educate the development's residents as to the availability of refuge shelter areas and procedures to follow during a storm event.
- f 6. Structures which that provide refuge shelter space shall must be constructed to withstand 140 mph wind velocities and a professional engineer licensed and registered by the State of Florida shall must so certify.
- g 7. Subsequent to construction of the shelter, River's Edge will provide comparative information and other data to assist Lee County in developing adequate on site storm shelter standards which that may be included within the Lee County Building Code.
- h 8. In lieu of the on-site storm refuge shelter requirements set forth in ~~9 a through 9 g~~ above, the River's Edge development may provide off-site storm refuge shelter space. Said The space shall must be coordinated with and approved by the Lee County Emergency Management Services. The timing of said this alternative shall must be as described above.

10. COMPLIANCE/MONITORING

~~a) The Director of the Department of Community Development, or his designee, shall be is the local official responsible for assuring compliance with this Development Order.~~

~~b) 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.~~

~~c) The River's Edge development shall submit an annual report on the development to 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. The contents of the annual report shall be as required by the rules legally adopted by the Florida State Land Planning Agency.~~

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

~~1. The River's Edge Yacht and Country Club Master Site Plan is hereby revised by the Master Site Plan stamped received February 8, 1994 (see Attachment A).~~

~~2. The River's Edge Yacht and Country Club Preservation Line Map is hereby revised by the Preservation Line Map stamped received 1-3-94 (see Attachment B).~~

~~3. The Overall Marina Plan, last revised 10-5-93, is hereby adopted and shall comply with the Florida Department of Environmental Protection Permit #361061749 (see Attachment C).~~

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

1. This Codified Development Order Amendment constitutes a resolution of Lee County, adopted by the Board of County Commissioners in response to the River's Edge Yacht and Country Club DRI NOPC.

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

3. This Development Order Amendment is binding upon the developer, its successors and assigns. Those portions of this Development Order Amendment that clearly apply only to the project developer, will be binding upon any builder/developer who acquires any tract of land within the River's Edge Yacht and Country Club DRI.

4. 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.

5. All conditions, restrictions, stipulations and safeguards contained in this Resolution and Development Order Amendment may be enforced by either party hereto in an action at law or equity, and all costs of such proceedings, including reasonable attorneys' fees will be paid by the prevailing party.

6. It is understood that any reference herein to any governmental agency will be construed to mean future instrumentalities created and designated as successors in

interest to, or which otherwise possesses the powers and duties of the referenced governmental agency in existence on the effective date of this Development Order Amendment.

7. If any portion or section of this Development Order Amendment is determined to be invalid, illegal, or unconstitutional by a court of competent jurisdiction, such decision will not affect the remaining portions or sections of the Development Order Amendment, which will remain in full force and effect.

8. The approval granted by this Development Order Amendment is limited. Approval may not be construed to obviate the duty of the developer to comply with all applicable local or state review and permitting procedures, except where otherwise specifically provided.

9. Subsequent requests for local development permits will not require further review pursuant to § 380.06, Florida Statutes, unless the Board of County Commissioners finds, after due notice and hearing, that one or more of the following occurs:

- a. A substantial deviation from the terms or conditions of this Development Order, or other changes to the approved development plan creates a reasonable likelihood of adverse regional impacts or other regional impacts not evaluated in the review by the Southwest Florida Regional Planning Council; or
- b. Expiration of the period of effectiveness of this Development Order.

Upon a finding that either of the above has occurred, the Board may order a termination of all development activity until a new DRI Application for Development Approval has been submitted, reviewed and approved in accordance with §380.06, Florida Statutes.

10. This Development Order Amendment otherwise terminates on May 4, 2005, unless an extension is approved by the Board. The established buildout date under this Development Order Amendment is May 4, 2005.

11. An extension of the buildout or termination date 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, or arising due to the extension, have been identified. Future requests to extend time will be evaluated cumulatively with past requests in accordance with F.S. §380.06(19). For the purpose of calculating when a buildout date has been exceeded, the time is tolled during the pendency of administrative and judicial proceedings

relating to development permits.

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

13. The development will not be subject to down-zoning, or intensity reduction, for five (5) years following the date this Development Order Amendment is approved, unless the County demonstrates that substantial changes have occurred in the conditions underlying the approval of this Development Order amendment including, but not limited to such factors as a finding that the Development Order Amendment 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.

14. The developer, or its successor in title to the undeveloped portion of the subject property, must continue to submit a report annually to Lee County, the Southwest Florida Regional Planning Council, the State land planning agency (the Department of Community Affairs), and all affected permit agencies. This report must describe the state of development and compliance as of the date of submission, and must further be consistent with the rules of the State land planning agency. The annual report must include information required by Florida Statutes §380.06.

The first monitoring report must be submitted to the Administrative Director of the Department of Community Development not later than one year after the effective date of this Development Order Amendment, and further reporting must be submitted not later than May 1st of subsequent calendar years thereafter, until buildout. Failure to comply with this reporting procedure is governed by §380.06(18) Florida Statutes, and the developer shall must so inform any successor in title to any undeveloped portion of the real property covered by this Development Order. This may not be construed to require reporting from individual tenants.

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

THE MOTION TO ADOPT this Resolution approving and adopting this Development Order Amendment was offered by Commissioner Ray Judah and seconded by Commissioner Andrew W. Coy and upon poll of the members present, the vote was as follows:

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

DULY PASSED AND ADOPTED this 19th day of March, 2001.

ATTEST:

Charlie Green, Clerk

By: *Charlie Green*

Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
LEE COUNTY, FLORIDA

By: *[Signature]*

Chairman

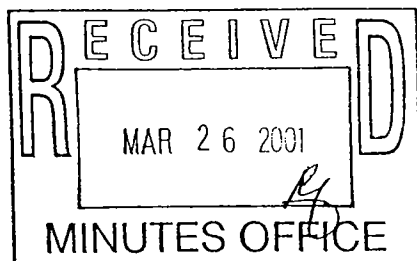
APPROVED AS TO FORM

By: *[Signature]*

County Attorney's Office

Attachments:

- Exhibit A - Map H
- Exhibit B - Phasing Schedule
- Exhibit C - Sketch of Preservation Area
- Exhibit D -Overall Marina Plan



NOTES:

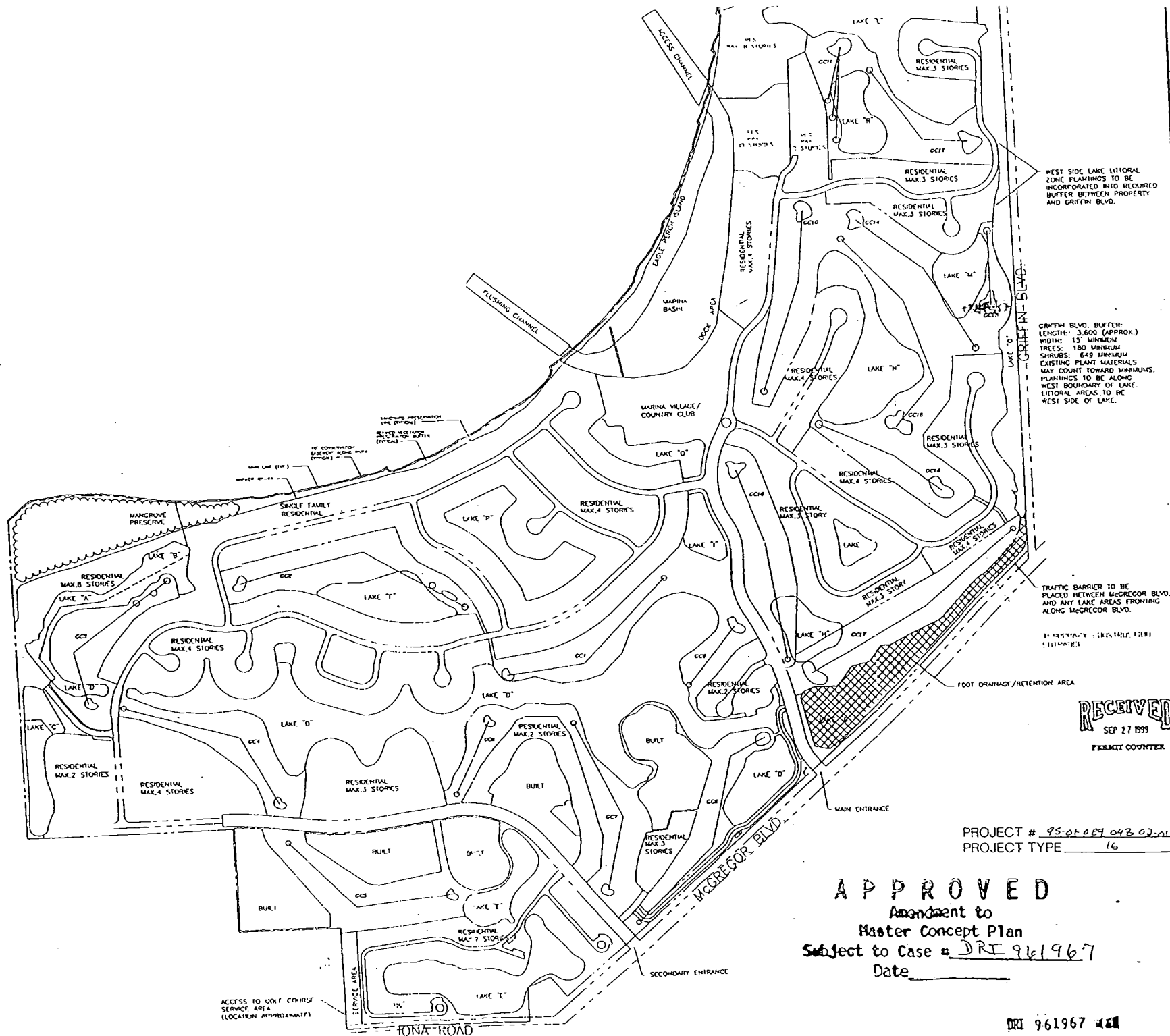
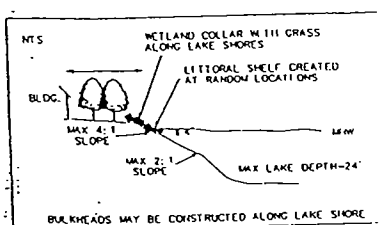
1. RESIDENTIAL TRACTS WILL NOT EXCEED DENSITIES AND HEIGHT LIMITATIONS SET FORTH IN ORDINANCE 84.16, AS MAY BE AMENDED.
2. A CONSERVATION EASEMENT HAS BEEN CONVEYED TO THE STATE, ALONG THE PROJECT'S CALOOSAHATCHEE RIVER FRONTAGE TO A DEPTH OF TEN FEET MEASURED FROM HWY.
3. THE PREVIOUSLY APPROVED GOLF CLUB AND TENNIS/SMU CLUB FACILITIES WILL BE LOCATED AS SHOWN WITHIN THE MARINA VILLAGE. THESE FACILITIES INCLUDE THE MARINA ADMINISTRATION, MARINA AND MARINE SUPPLY SALES, FUEL SALES, THE GOLF CLUB PRO SHOP, THE TENNIS CLUB PRO SHOP, THE GOLF CLUB DINING LOUNGE, AND HEALTH CLUB FACILITIES, AND PROJECT SALES AND ADMINISTRATION OFFICES.
4. PROJECT ENTRANCE LOCATIONS CONFORM TO THE JUNE 12, 1984 APPROVED PLAN. GATEHOUSES ARE PERMITTED AT THE PROJECT ENTRANCES AND INDIVIDUAL TRACT ENTRANCES.
5. THE MAXIMUM HEIGHT OF ANY BUILDINGS IN THIS PLAN IS 11 STORIES.
6. THE MARINA BASIN AND MARINATION AREAS, AS SHOWN ON THESE PLANS, SHALL CONFORM TO THE PERMIT REQUIREMENTS SET FORTH IN THE PERMIT NUMBER 361061749 ISSUED BY THE FLORIDA DEPARTMENT OF ENVIRONMENTAL REGULATION (DER) AS MAY BE AMENDED FROM TIME TO TIME, WHERE NOT IN CONFLICT WITH OTHER CONDITIONS OF THE CORRESPONDING DEVELOPMENT ORDER CONDITIONS FOR THIS PROJECT.
7. RESIDENTIAL LAKE AND GOLF COURSE AREA LINES SHOWN ON THIS PLAN ARE INCLUDED FOR CONCEPTUAL ILLUSTRATION PURPOSES ONLY. FINAL AREA LINES SHALL BE DETERMINED AT THE TIME OF LOCAL DEVELOPMENT ORDER PERMITTING; PROVIDED, HOWEVER, THAT THE TOTAL NUMBER OF ACRES DEVOTED TO PARTICULAR USES SHALL BE CONSISTENT WITH THE DER DEVELOPMENT SUMMARY ACREAGE AMOUNTS SET FORTH HEREIN; AND PROVIDED, FURTHER, THAT THE WANGROVE PRESERVE AREA SHALL BE LOCATED AS DEPICTED HEREIN, AND THE MARINA BASIN SHALL BE BUILT AT THE LOCATION IN ACCORDANCE WITH THE FLORIDA DEPT. OF ENVIRONMENTAL PROTECTION PERMIT 361061749, AS MAY BE AMENDED FROM TIME TO TIME. IT IS THE INTENT OF THE DEVELOPER TO BE ABLE TO LOCATE LAKES, GOLF COURSE AREAS, ROADS, AND RESIDENTIAL PRODUCT TYPES IN ITS SOLE DISCRETION WITHIN THE BOUNDARIES OF THE DEVELOPMENT SUBJECT TO THE MINIMUM TOTALS REQUIRED AND/OR ALLOWED FOR LAKES, OPEN SPACE, AND SPECIFIC RESIDENTIAL PRODUCT TYPES AS SET FORTH IN THE DEVELOPMENT SUMMARY.
8. LOT SETBACK:
 - LOCAL STREETS - 15'
 - COLLECTOR/ARTERIAL STREETS - 25'
 - SIDE - 5' MIN.
 - REAR - 10'
 - WANGROVE WATER BODIES - 10'
 - NATURAL WATER BODIES - 25'
 - MARINA - 0'

DEVELOPMENT SUMMARY:

LAND USE	ACREAGE
RESIDENTIAL (INCLUDES EXISTING RESIDENTIAL, PROPOSED RESIDENTIAL, MARINA VILLAGE, LESS PRIVATE OPEN SPACE)	197.7
INTERNAL ROAD PAVEMENT (APPROXIMATE)	12.0
LAKES (WATER MANAGEMENT)	70.0
MARINA BASIN AND MARINATION AREAS	17.2
OPEN SPACE (INCLUDES VEGETATION/PRESERVATION BUFFER, PRIVATE OPEN SPACE, WANGROVE PRESERVATION, OTHER OPEN SPACE)	250.7
TOTAL ACREAGE	547.6

UNITS:

PREVIOUSLY CONSTRUCTED (AREAS LABELLED "BUILT"):	715
TOTAL UNITS APPROVED BY 1992 AMENDMENT:	2,071
TOTAL UNITS PROPOSED BY 1993 AMENDMENT:	1,997

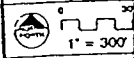


DATE	REVISION
04-01-93	PCS AMEND 11
08-20-96	LWSC REV
10-07-96	MARINA BASIN
11-06-96	LWSC REVISIONS
12-03-97	LWSC REV
12-03-97	REVISED 13



GULF HARBOUR YACHT AND COUNTRY CLUB
(Formerly Rivers Edge Yacht and Country Club)
TOWNSHIP 46 S. RANGE 24 E. LEE COUNTY, FLORIDA

MAP H



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

<u>PHASE</u>	<u>DEVELOPMENT IMPROVEMENTS</u>	<u>YEARS</u>
1	215 Multi-Family Units Golf Course Temporary Clubhouse Temporary Pro Shop Sales/Administrative Offices	1-12 1982-1993
2	155 Single-Family Units 343 Multi-Family Units Marina (190 Berths) Clubhouse Facilities Sales/Administrative Offices Tennis Club (8 Courts)	13-14 1994-1995
3	633 Single Family Units 641 Multi-Family Units	15-24 1996-2005

Total Single-Family Units: 788
Total Multi-Family Units: 1199
Total Dwelling Units: 1987
Total Freestanding Commercial: 0
Ancillary to Principal Uses
(Private Residential Tennis and Golf Pro
Shops, Marina Support Services)
Restaurant and Lounge Facilities Contained within Clubhouse
No Hotel/Motel Units Proposed

EXHIBIT C

CALOOSAHATCHEE RIVER

RIVER'S EDGE YACHT AND COUNTRY CLUB

11/1/74
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 12/2/74
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KAT SURVEY GROUP, INC.
NORTH-CENTRAL ASSOCIATES

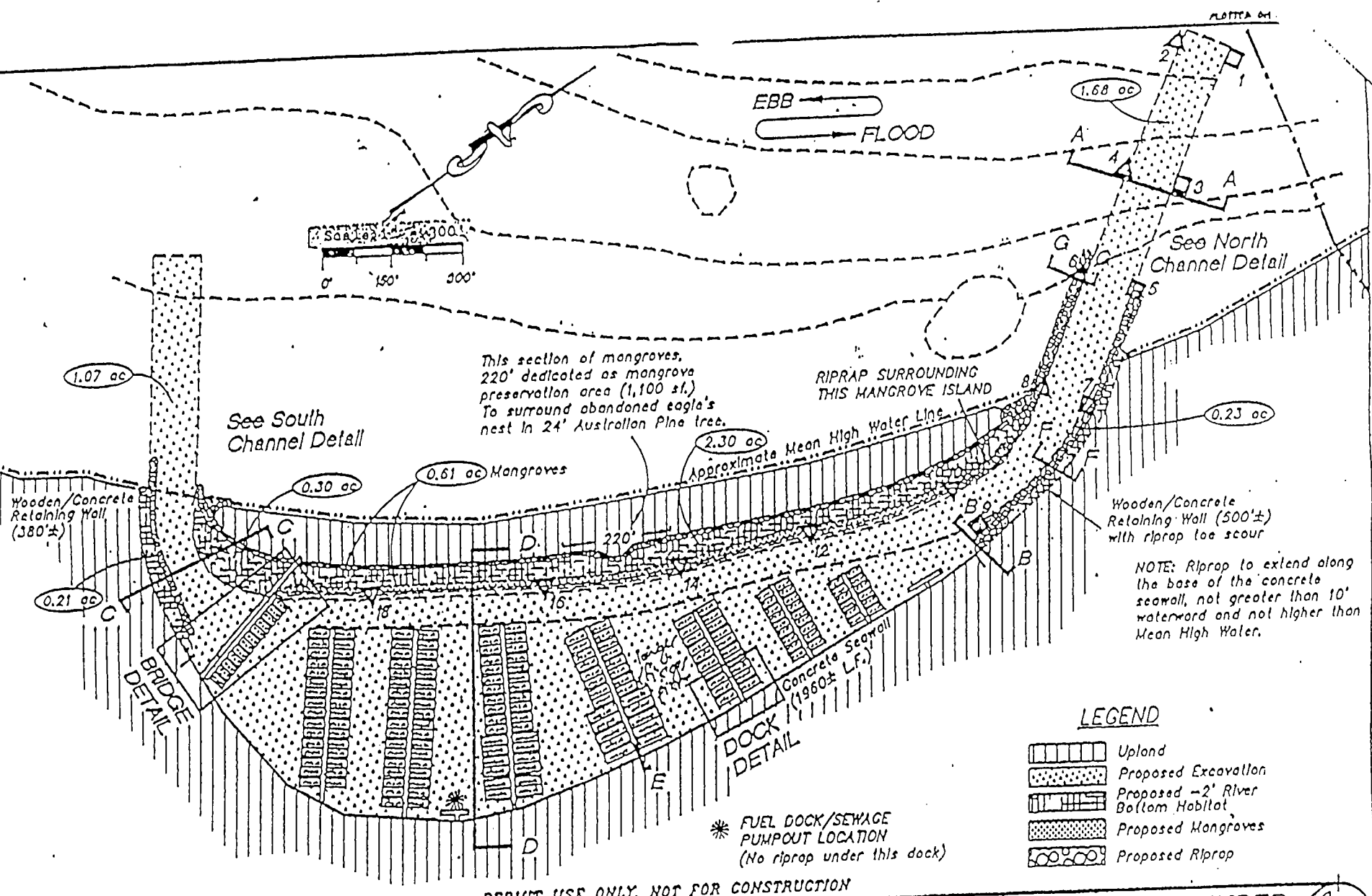


EXHIBIT D

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

STATE DRI #12-8182-21
COUNTY CASE #81-09-08-DRI(c)

WHEREAS, FLORIDA DESIGN COMMUNITIES, THE OWNER OF RIVER'S EDGE YACHT AND COUNTRY CLUB DEVELOPMENT OF REGIONAL IMPACT (DRI) REQUESTED AN AMENDMENT TO THE ORIGINAL DEVELOPMENT ORDER ADOPTED ON MAY 5, 1982, AS AMENDED; and

WHEREAS, the Applicant has proposed to modify the location and design of the approved marina facility; and

WHEREAS, this proposed amendment includes, the original Development Order, adopted May 5, 1982 and the prior amendment, adopted March 16, 1992; and

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

WHEREAS, the Board of County Commissioners has reviewed the proposed Amendment and finds the changes not to be a substantial deviation; however, any extensions of the buildout date, or any Notices of Change shall be reviewed cumulatively for determination as to whether or not a substantial deviation has occurred pursuant to Section 380.06(19), Florida Statutes; and

WHEREAS, the proposed changes to the River's Edge Yacht and Country Club DRI Development Order described herein are consistent with the adopted Comprehensive Land Use Plan of Lee County and applicable local land development regulations; and

WHEREAS, the proposed changes to the River's Edge Yacht and Country Club DRI will not unreasonably interfere with the achievement of the objectives of the adopted State Land Development Plan applicable to the area; and

WHEREAS, the proposed changes are consistent with the State Comprehensive Plan; and

NOW, THEREFORE, LET IT BE ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA, that conditions of the Development Order for River's Edge Yacht and Country Club DRI adopted May 5, 1982 and subsequent amendment are further amended as follows, with new language under lined and deletions struck through. All other portions of the original Development Order and subsequent amendments shall remain in full force and effect.

SECTION ONE:

A. The legal description of the subject property to ~~this Development Order~~ is as follows:

All that part of the West Half (W $\frac{1}{2}$) of the West Half (W $\frac{1}{2}$) of Section 29, Township 45 South, Range 24 East, lying Westerly of Griffin Boulevard and Northwesterly 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 (E $\frac{1}{2}$) of the Southeast Quarter (SE $\frac{1}{4}$), of Section 30, Township 45 South, Range 24 East, located Northwesterly of McGregor Boulevard; All that part of the Northeast Quarter (NE $\frac{1}{4}$) of the Northeast Quarter (NE $\frac{1}{4}$) of Section 31, Township 45 South, Range 24 East, lying Northwesterly of McGregor Boulevard.

Government Lots 2, 3 and 4, Section 30, Township 45 South, Range 24 East; and the East Half (E $\frac{1}{2}$) of the Northeast Quarter (NE $\frac{1}{4}$) of the Northwest Quarter (NW $\frac{1}{4}$); and the Northwest Quarter (NW $\frac{1}{4}$) of the Northeast Quarter (NE $\frac{1}{4}$) of the Northwest Quarter (NW $\frac{1}{4}$); and all that part of the Northwest Quarter (NW $\frac{1}{4}$) of the Northeast Quarter (NE $\frac{1}{4}$) of Section 31, Township 45 South, Range 24 East, lying Northwesterly from McGregor Boulevard;

EXCEPTING THEREFROM the following described parcel:

From the Southwest corner of said Northwest Quarter (NW $\frac{1}{4}$) of the Northeast Quarter (NE $\frac{1}{4}$) 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;

THENCE run S40°34'21"E for 204.09 feet to a steel pin

continued...

marking the intersection with the Northwesterly line (40 feet from the centerline) 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 foot 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 S42°00'00"E, 91.93 feet;

THENCE East 45.69 feet;

THENCE S68°02'00"E, 124.00 feet;

THENCE S31°30'00"E, 72.86 feet;

continued...

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 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 foot 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 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.

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 foot 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;
 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 foot 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;
 THENCE South, 96.97 feet to a point on the South boundary line of the Northwest Quarter (NW¼) of the Northeast Quarter (NE¼) of the Northwest Quarter (NW¼) 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 the Northwest Quarter (NW¼) of the Northeast Quarter (NE¼) of the

continued...

Northwest Quarter (NW¼) of said Section 31;
THENCE run along the West boundary line of the Northeast Quarter (NE¼) of the Northwest Quarter (NW¼) of Section 31, N01°02'30"W, 665.51 feet to the Northwest corner of the Northeast Quarter (NE¼) of the Northwest Quarter (NW¼) 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;

continued...

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.

SUBJECT TO:

EASEMENT "A"

A non-exclusive easement for utilities and ingress and egress per the Declaration of Condominium of River's Edge 1, Official Records Book 1783, Page 3580.
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 "B"

A non-exclusive easement for utilities and ingress and egress per the Declaration of Condominium of River's Edge 1, Official Records Book 1783, Page 3580, being an easement 30 feet in width from the terminus of the above described easement (40 foot wide, from McGregor Boulevard to the

continued...

Southerly boundary of Phase 4) to the property described as Phase 3 on the condominium plat, the centerline of said easement being the same as the centerline of a paved roadway connecting said points, the approximate location of which roadway is depicted on the condominium plat. This easement shall terminate at such time as the property described in Phase 4 on the condominium plat has been submitted to condominium ownership as a part of River's Edge 1, a condominium.

EASEMENT "C"

A non-exclusive easement for utilities, cable television, and ingress and egress per the Declarations of Condominium of River's Edge 2, 3, and 4, Official Records Book 1783, Page 3649 and Official Records Book 1783, Page 3709 and Official Records Book 1841, Page 1465, respectively.

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.

EASEMENT "D"

A non-exclusive easement for utilities, trash receptacles, and ingress and egress per the Declaration of Condominium of River's Edge 2, Official Records Book 1783, Page 3649.

A 50-foot wide easement lying 25 feet each side of the following described centerline:

continued...

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, 873.40 feet;
THENCE by a curve to 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, 100.00 feet;
THENCE S08°00'16"E, 219.00 feet to the POINT OF BEGINNING;
THENCE S78°33'43"W, along said centerline, a distance of 50.09 feet to the Point of Termination of said centerline.

EASEMENT "E"

A non-exclusive easement for utilities, cable television, and ingress and egress over and under that certain parcel described as follows, per the Declaration of Condominium of River's Edge 4, Official Records Book 1841, Page 1465.

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...

SUBJECT TO:

Conservation easement to State of Florida, Official Records Book 2108, Page 1846.

Irrigation easement to River's Edge 3 Condominium Association, Inc., Official Records Book 2014, Page 1661.

Florida Cities Water Company water pipeline easements, Official Records Book 1764, Page 2014 and Official Records Book 1846, Page 4662.

Florida Power & Light Company utility easements, Official Records Book 1806, Page 1963 and Official Records Book 2168, Page 287.

Lee County utility easements, Official Records Book 2123, Page 3638 and Official Records Book 2212, Page 2138.

Easements, restrictions and reservations of record.

TOGETHER WITH Sovereignty Submerged Land Easement, Official Records Book 2137, Page 1893.

SECTION TWO: (Cumulative changes to the original conditions 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~~ stamped received February 8, 1994, attached as Exhibit (See Attachment A), subject to the following conditions contained in ~~subsections C.2.a. through C.2.i~~ within this Development Order and all applicable permits:

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~~ 8.0 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. 70.0 acres of lakes;

e. ~~17.8~~ 18.23 acre refined vegetation preservation buffer including:

1. a mangrove and listed plant species preserve area south of the proposed marina of 10.82 14.02 acres;
2. ~~an eagles nest and listed plant species preservation island of 1.16 acres;~~
- 3 2. an eagles perch management and listed plant species preservation island of ~~2.70~~ 3.88 acres;
- 4 3. two a shoreline listed plant species preservation areas of ~~2.43 and 0.61~~ of 0.33 acres north of the proposed marina; and

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

2. ENERGY

1 a. The RIVER'S EDGE development shall comply with the Energy Code as adopted and in force at the time of commencement of each phase of the development.

2 b. RIVER'S EDGE shall construct a jogging and bicycle trail system as described in the Application for Development Approval (hereinafter referred to as the ADA) and the Master Site Plan. That system is to connect all points within the project. Benches and special parking areas are to be provided for bicycles and golf carts at each commercial and recreational area. That portion of the system alongside McGregor Boulevard shall be built in conformance with the Lee County Comprehensive Bicycle Facilities Plan and is to be dedicated to the County.

3 c. The Developers of RIVER'S EDGE shall design all facilities for optimum energy efficiency utilizing state-of-the-art energy conservation techniques, including but not limited to the following:

- proper roof and wall insulation
- glazing
- energy efficient appliances
- structure orientation for solar energy and natural ventilation
- structural shading, e.g., inclusion of porch/patio areas in residential units and utilization of roof overhangs for low-rise buildings
- proper landscaping throughout the project and planting of native shade trees and understory wherever appropriate for all active and passive recreation areas, streets and parking areas
- site design and landscaping to enhance energy conservation

4 d. RIVER'S EDGE shall cooperate with the Lee County Transit system in locating and providing bus stops and shelters within the development.

5 e. Alternate energy devices, such as solar collectors, may not be prohibited unless it is determined necessary for the protection of the health, safety and welfare of the residents of the RIVER'S EDGE YACHT AND COUNTRY CLUB.

b 3. TRANSPORTATION

1 a. The RIVER'S EDGE development shall be responsible for development of all roads and bike paths within the RIVER'S EDGE development.

1 b. 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 project buildout extended from the Year 1993 to the 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), Florida Statutes.

2 c. Annual Monitoring Program:

Pursuant to Section 380.06(18), Florida Statutes, 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), and the Florida Department of Community Affairs (DCA) 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 regional roadway segments and all intersections included within and at the end of those segments:

REGIONAL ROAD SEGMENTS

BACKLOGGED LEE COUNTY FACILITIES:

McGregor Boulevard (SR 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.
South Pointe Blvd. 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 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 following significantly impacted road segments. 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 have constructed and obtained Certificates of Occupancy for the maximum amount of residential and nonresidential 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 nonresidential land uses had been built to date.

The purpose of this monitoring report is to: (1) determine if the projected traffic for the Year 1998 in the traffic impact assessment for River's Edge DRI Amendment is exceeded by actual impacts; (2) assist LCDOT&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 hour; and (5) determine the project's external trip generation along the existing roadways.

The following is recognized and understood:

A-1) 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-2) In the event that construction has not begun on the land uses identified in Section One, Paragraph Two 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 inter-

section (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-1) 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 exceed the annual percent increase in traffic on a traffic district-wide basis.

B-2) 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 easement.

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 c. 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~~ c. 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 d. 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 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 e. 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. 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 f. Mitigation of Transportation Impacts:

A-1) 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.1-3.b. through C.2-b.4-3.e. above, the developer, or his successors, shall:

(1a) dedicate property appraised at \$191,000.00 dollars for the McGregor Boulevard widening; and

(2b) 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 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

(3c) 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

(4d) in three (3) equal installments beginning on November 25, 1992 or 30 days after resolution of any appeal, whichever is later, make cash payments totaling \$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 BPD in the Third Quarterly Cost Report for 1991, said value being 100.00. 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.2.3.c. 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-2) 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 Paragraphs 3c through 5e above.

E-3) The developer is informed that the Lee County Board of County Commissioners may adopt in interim operation improvement program and that such a program may be applicable to this development.

6 g. Nothing contained in this Development Order Amendment is to imply or supersede any Florida FDOT permitting requirements.

7 h. 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 benefited and has not already mitigates its impacts.

8 i. 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 2b through 7h, which contribution shall not be reduced or refunded provided, however, that all other provisions of the Development Order also shall govern.

9 j. If the proportionate share contribution due under the terms of Paragraphs 2b through 8i is not paid in a timely manner, issuance of development approvals and building permits for River's Edge shall immediately cease.

10 k. Compliance with all of 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, Florida Statutes; and Rule 9J-5.0055, Florida Administrative Code, as they currently apply. Satisfaction of concurrency shall extend only through May 4, 1998.

c 4. AIR QUALITY

The RIVER'S EDGE development shall comply with all applicable codes and apply for all required permits relative to air quality.

d 5. FIRE PROTECTION

1 a. The RIVER's Edge development shall identify and make available to the Iona/McGregor Fire Protection and Rescue Service District a parcel of property acceptable to the fire district containing approximately three-fourths (3/4) acre of land for a fire station. Dedication shall occur with commencement of construction of Phase III as described on Page 15 of the ADA.

2 b. The RIVER'S EDGE development will aid in the construction of a fire station on the site to be located within the project by contributing an amount of seventy-five thousand dollars (\$75,000.00) for the actual construction of the fire station. This contribution shall occur prior to commencement of construction of Phase III.

c. In lieu of the requirements set forth in Sections 5 a. and 5.b immediately above, the RIVER'S EDGE development may, with the prior written consent of the Iona/McGregor Fire Protection and Rescue Service District, pay fire impact fees as required by the Lee County Fire Protection and Emergency Medical Services Impact Fees Ordinance.

d. If the RIVER'S EDGE development provides the mitigation set forth in Sections 5 a. and 5 b. above, full credit for the value of this mitigation shall be given against any fire impact fees that might otherwise be due, as required by and consistent with Sections 380.06(16)(a) and 380.06(16)(b), Florida Statutes.

e 6. PARKS

RIVER'S EDGE shall assist Lee County in obtaining additional recreational land by paying a fee-in-lieu of dedication of five (5) acres of parklands. Payment at fair market value shall occur with the commencement of Phase III of the development and

shall be in accordance with standards and schedules established by the Lee County Division of Community Services. The requirements of this Section will not be applicable if an impact fee ordinance is adopted by Lee County and the RIVER'S EDGE development pays its pro rata share pursuant to the impact fee ordinance.

f 7. SCHOOLS

RIVER'S EDGE shall provide off-street school bus loading zones for each development phase as deemed necessary by the Lee County School Board.

g 8. WATER SUPPLY, WATER QUALITY AND WILDLIFE HABITAT

1 a. No residential development shall commence until sufficient water is available through a public water system to insure adequate fire flow, as well as a sufficient quantity of potable water, to adequately serve the residential development for which a building permit is requested.

2 b. During Phase I, RIVER'S EDGE shall plug all existing on-site wells in accordance with Lee County Division of Protective Services and South Florida Water Management District standards.

3 c. The RIVER'S EDGE development shall comply with the best management practices as defined by the South Florida Water Management District (SFWMD) with regard to the use of excavated areas and of wetlands acting as polishing and buffer areas and grassed swales for drainage purposes.

4 d. 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, Florida Department of Environmental Regulation, and U.S. 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 marina 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 1) A row of shrubs and trees containing the Type "B" buffer vegetation (five trees and eighteen shrubs per 1000 linear feet), suitably cluster 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 2) Littoral shelves as required in condition g.7. shall be constructed along Lakes "O" and "L".

c 3. A Type "B" buffer shall be placed in front of Lakes "D" and "G" at the project entrance (as shown on Exhibit C).

5 e. For the riverfront lots the following vegetation management and maintenance guidelines shall apply:

a-1) 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 conservation buffer along the river, as shown by the surveyed preservation line on ~~Exhibit D Attachment B~~ (Preservation Line Map Sheet 6 of 6, ~~Deni Associates, dated 10/31/91, stamped received 1-3-94~~), attached, excluding the area approved for the marina basin construction, oxbow marina 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 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 Attachment B~~ (Preservation Line Map Sheet 6 of 6 prepared by ~~Deni Associates, dated 10/31/91, stamped received 1-3-94~~).

Access to the Eagle Perch Island shall be allowed for purposes of 1) the removal and maintenance of invasive exotic vegetation, and 2) limited pedestrian use. Access to the island and permitted activities are subject to the following conditions:

- (a). The Eagle Perch Island shall be accessed via the dock/bridge located in the western portion of the marina basin as shown on the Overall Marina Plan, dated October 5, 1993 (Attachment C).
- (b). The point of access to the Eagle Perch Island shall be a maximum 8 feet wide. The point of access shall have a gate or similar obstruction to impede unauthorized vehicle (e.g. golf cart) access, yet allow pedestrian passage.
- (c). Golf carts shall be permitted on the Eagle Perch Island only when used for the intermittent removal and maintenance of invasive exotic vegetation.
- (d). Pedestrian uses permitted on the Eagle Perch Island include walking, bird watching, and nature observation. Pedestrian uses not permitted include any activities which involve boardwalks, development, trimming or removal of vegetation.
- (e). In the event bald eagles build a nest on the Eagle Perch Island, access to the island shall be prohibited during the Southern bald eagle nesting season October 1 through May 15.

b-2) The developer shall remove all Brazilian Pepper and, Melaleuca and Australian pine 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 B Attachment B (Preservation Line Map Sheet 6 of 6 prepared by Beni Associates, dated 10/31/91, stamped received 1-3-94):

(1a) Within a complete ten foot (10') radius of the Cabbage Palm with the golden polypody located between markers RP-1 and RP-2;

(2b) ~~On the Eagles Nest Island;~~

(3c) On the Eagles Perch Island;

(4d) Within a complete ten foot (10') radius of the golden leather fern located nearly adjacent to RP-34;

(5e) West of a north-south line running through RP-44.

The following conditions shall apply to the remaining preservations and buffer areas not listed in (1a) through (6e) 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) a. through (6) e. 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 are 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-4) 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-5) 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 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.

f-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 landward of the preservation line shown on ~~Exhibit D~~ Attachment B 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 Perch 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 g. For all manmade water bodies, except the marina basin, 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 h. 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.

A resolution (#93-09-70) amending the Habitat Management Plan was approved by the Lee County Commission in September, 1993. The amendment deleted the specific nest preservation measures outlined in the eagle management plan because the Florida Game and Fresh Water Fish Commission (FGFWFC) and the Lee County Eagle Technical Advisory Committee (ETAC) determined the eagle nest abandoned and the perch tree had been blown down.

The resolution required the creation of a short term and long term plan encouraging bald eagles to continue utilizing River's Edge for perching and feeding. This plan shall include:

1) Designing and constructing an artificial perch for the Eagle Perch Island. The structural design and placement of the perch shall be subject to approval by the Lee County Eagle Technical Advisory Committee.

2) A planting plan to install thirty-five (35) South Florida slash pine trees (Pinus elliotti var. densa), a minimum of eight (8') feet in height, on the Eagle Perch Island. The pines shall be distributed and spaced to promote the growth of tall, straight trees with large crowns at the tops of the trees. The purpose of these pines is to provide future natural perching and roosting substrates for bald eagles.

The locations of the artificial perch and the pine plantings, including sizes and numbers, shall be clearly illustrated on a local development order plan for the new marina. The artificial perch and the plantings shall be installed and approved by Lee County Division of Natural Resources Management staff prior to issuance of the Certificate of Compliance for the marina.

However, if the plan is further amended, the Southwest Florida Regional Planning Council and the Department of Community Affairs shall be notified of the proposed amendment.

9 i. There shall be no entrance ways from River's Edge directly onto Griffin Boulevard or Schultz Road.

9. STORM REFUGE

RIVER'S EDGE shall provide sufficient storm refuge space during the construction of the first 512 residential units to accommodate at least 24% of that population. Such refuge space shall meet the following conditions:

1 a. Located at least 16' above MSL.

2 b. No structures located within 150' of the shoreline shall be utilized as refuge space.

3 c. Designated refuge space shall be located in the interior hallways and similar areas with no openings leading directly to the exterior.

4 d. Refuge space shall be provided at a ratio of twenty (20) square feet per person.

5 e. A homeowners association shall be established to coordinate and educate the development's residents as to the availability of refuge areas and procedures to follow during a storm event.

6 f. Structures which provide refuge space shall be constructed to withstand 140 mph wind velocities and a professional engineer licensed and registered by the State of Florida shall so certify.

7 g. Subsequent to construction of the shelter, RIVER'S EDGE will provide comparative information and other data to assist Lee County in developing adequate on site storm shelter standards which may be included within the Lee County Building Codes.

h. In lieu of the on-site storm refuge requirements set forth in 9 a. through 9 g. above, the RIVER'S EDGE development may provide off-site storm refuge space. Said space shall be coordinated with and approved by the Lee County Emergency Management Services. The timing of said alternative shall be as described above.

± 10. COMPLIANCE/MONITORING

1-a) 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-b) 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-c) The RIVER'S EDGE development shall submit an annual report on the development to 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. The contents of the annual report shall be as required by the rules legally adopted by the Florida State Land Planning Agency.

SECTION THREE:

1. The River's Edge Yacht and Country Club Master Site Plan is hereby revised by the Master Site Plan stamped received February 8, 1994 (see Attachment A).

2. The River's Edge Yacht and Country Club Preservation Line Map is hereby revised by the Preservation Line Map stamped received 1-3-94 see Attachment B).

3. The Overall Marina Plan, last revised 10-5-93, is hereby adopted and shall comply with the Florida Department of Environmental Protection Permit #361061749 (see Attachment C).

SECTION FOUR:

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

NOW, THEREFORE, LET IT BE ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA, that conditions of the Development Order for River's Edge DRI adopted May 5, 1982 and subsequent amendments are further amended as follows, with new language underlined and deletions struck through. All other portions of the original Development Order and subsequent amendments shall remain in full force and effect.

THE MOTION TO ADOPT the above amendments to the development order was offered by Commissioner John E. Manning, and seconded by Commissioner Douglas R. St. Cerny and, upon poll of the members present, the vote was as follows:

John E. Manning	AYE
Douglas R. St. Cerny	AYE
Ray Judah	AYE
Franklin B. Mann	ABSENT
John E. Albion	AYE

DULY PASSED AND ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA, THIS 21ST DAY OF MARCH, A.D. 1994.

BOARD OF COUNTY COMMISSIONERS
LEE COUNTY, FLORIDA

BY: _____

Ray Judah
(CHAIRMAN)

ATTEST:

Charlie Green, Ex-Officio Clerk
Board of County Commissioners

CLERK

APPROVED AS TO FORM

BY: _____

Charlie Green
DEPUTY CLERK

BY: _____

Ann Marie Collins
COUNTY ATTORNEY'S OFFICE

FILED

MAR 23 1994

MOD 11
COE APPL # 198500696 (IPAS)

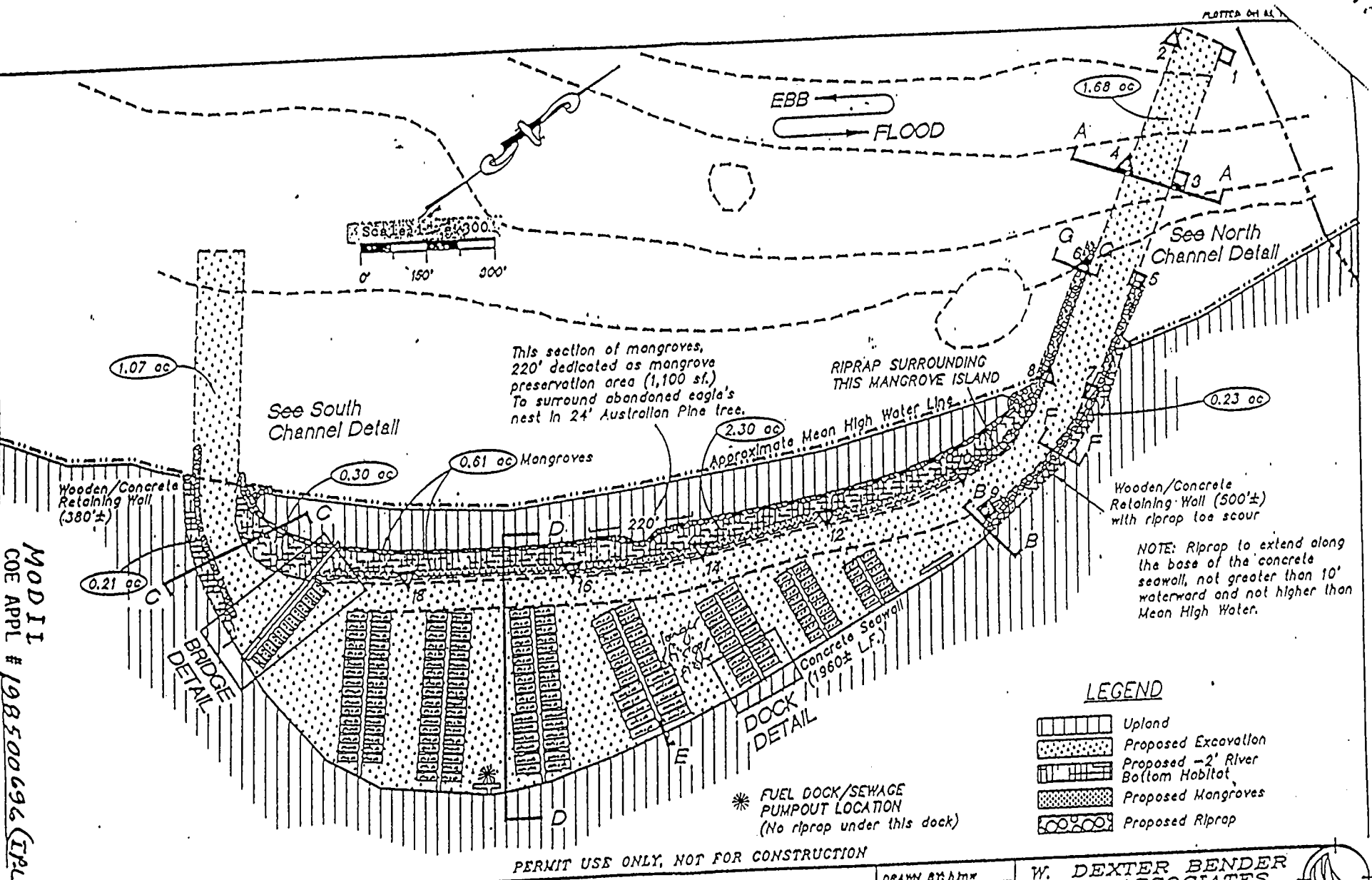
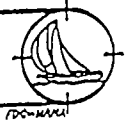
DATE
7/30/93
2 17

FLORIDA DESIGN
COMMUNITIES, INC.

Overall Marina Plan

DRAWN BY: ADW
REVISED: 9/9/93
9/23/93
10/5/93

W. DEXTER BENDER
AND ASSOCIATES
1625 HENDRY ST., SUITE 201
FORT MYERS, FL 33901



LEGEND

- Upland
- Proposed Excavation
- Proposed -2' River Bottom Habitat
- Proposed Mangroves
- Proposed Riprap

PERMIT USE ONLY, NOT FOR CONSTRUCTION

Charlie Green
Clerk Of Circuit Court
Lee County, Florida

STATE OF FLORIDA

COUNTY OF LEE

I, Charlie Green, Clerk of Circuit Court, Lee County, and ex-Officio Clerk to the Board of County Commissioners, Lee County, Florida, do hereby certify that the foregoing is a true and photostatic copy of the Second Development Order Amendment for River's Edge Yacht and Country Club, DRI, State DRI No. 12-8182-21, County Case No. 81-09-08-DRI(c), adopted by the Board of County Commissioners on March 21, 1994.

Given under my hand and seal at Fort Myers, Florida, this 24th day of March, 1994.

CHARLIE GREEN,
Clerk, Circuit Court
Lee County, Florida

By Clive J. Wreck,
Deputy Clerk