

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

WHEREAS, WCI Communities, L.P., filed an application, in reference to Pelican Landing and Kersey-Smoot RPD, for an Amendment to a Development of Regional Impact (DRI) and a Rezoning to Residential Planned Development (RPD); in accordance with the Lee County Land Development Code (LDC); and

WHEREAS, a public hearing was advertised and held on August 19, 1998 before the Lee County Zoning Hearing Examiner, who gave full consideration to the evidence in the record for Case # 95-01-050.04Z 07.01 and 98-03-262.02Z 01.01; and

WHEREAS, a second public hearing was advertised and held on September 21, 1998 before the Lee County Board of Commissioners, who gave full and complete consideration to the recommendations of the staff, the Hearing Examiner, the documents in the record, and the testimony of all interested persons.

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

SECTION A - REQUESTS

The applicant made the following requests with respect to the property described in Exhibit A:

1. Amend the Pelican Landing Development of Regional Impact (DRI) Development Order (State DRI #1-9293-121), including Map H (the Master Concept Plan (MCP)) to add 204± acres contiguous to the Pelican Landing DRI, without increasing the overall DRI dwelling units beyond the approved 4,400 units or the dry boat slips beyond 150 slips; and to adjust the land use tabulations and Map H, attached to the DRI Development order, to reflect the proposed changes.
2. Find No Substantial Deviation under the provisions of Section 380.06(19), Florida Statutes; and
3. Rezone a 204 acre parcel located in the Outlying Suburban and Wetlands Land Use Category from Agricultural (AG-2) and Two Family Conservation (TFC-2) to Residential Planned Development (RPD) to permit a maximum of 362 dwelling units, not to exceed 45 feet in height with a maximum of three habitable floors, 150 dry boat storage slips not to exceed 45 feet in height, and a golf course. (The dwelling units and dry boat storage slips are already a part of the approved Pelican Landing DRI.)

The Lee County Board of County Commissioners APPROVES the Applicant's requests, in accordance with the conditions and deviations specified in Sections B and C.

SECTION B - CONDITIONS:

1. Deleted by Hearing Examiner.
2. Deleted by Hearing Examiner.

3. The following conditions apply to Request 3., the Kersey-Smoot RPD rezoning:

- a. The development of this project must comply with the one-page MCP entitled "Kersey-Smoot RPD," as prepared by WCI Communities, dated May 25, 1998, last revised July 29, 1998 and stamped received at the Permit Counter on July 31, 1998, the Pelican Landing DRI D.O. #1-9293-121, as amended, and DRI Map H last revised March 1, 1998 and stamped received at the Permit Counter on June 17, 1998.
- b. The approved Schedule of Uses for the Kersey-Smoot RPD is limited to the following:

Residential Dwelling Units, (limited to 362 units) including

- Single-family
- Zero lot line units
- Multiple-family buildings
- Two-family attached
- Townhouses
- Duplexes
- Timeshare Units

Residential Accessory Uses, including but not limited to:

- Private garages, carports, and parking areas
- Private swimming pools, spas and enclosures
- Private tennis courts

7-hole Golf Course, Golf Course Accessory Uses, including but not limited to:

- Maintenance facility
- Snack bar with alcoholic beverage consumption
- Restrooms and other uses which are normal and accessory to the golf course

Accessory Uses, Buildings and Structures

- Administrative Offices

- Club, Private, with Consumption on Premises

- Club, Country

- Dry storage - maximum of 150 units, as approved in the Pelican Landing RPD/CPD

- Entrance Gates and Gatehouses

- Essential Services

- Essential Service Facilities, Group I

- Excavation, water retention

- Food and Beverage services, limited

- Home Occupation

- Model Homes, Model Units, and Model Display Center

- Parking lot, accessory and temporary

- Private Parks

- Recreation Center

- Recreational Facilities, including but not limited to:

- Boardwalks

- Community swimming pools

- Playground, tot lots

- Play fields

- Tennis Courts and community recreational amenities

- Parking

- Restaurant, Group I, II, III (in association with golf facilities)

Temporary Sales and/or Construction Office

- c. The following Property Development Regulations will apply to the development of the subject property:

1) Minimum Lot Area and Dimensions:

Single-Family Units

Area: 5,000 square feet  
Width: 40 feet  
Depth: 100 feet  
Lot Coverage: 50 percent

Zero Lot Line Units

Area: 5,000 square feet  
Width: 40 feet  
Depth: 100 feet  
Lot Coverage: 50 percent

Multiple-Family

Area: 2,000 square feet per dwelling unit  
Minimum lot size: 10,000 square feet  
Width: 100 feet  
Depth: 100 feet  
Lot Coverage: 50 percent

Two-Family Attached and Townhouses

Area: 4,000 square feet per dwelling unit  
Width: 32 feet  
Depth: 100 feet  
Lot Coverage: 50 percent

Duplex

Area: 14,000 square feet  
Width: 90 feet  
Depth: 100 feet  
Lot Coverage: 50 percent

Golf Club and Dry Storage Facility

Area: 10,000 square feet  
Width: 100 feet  
Depth: 100 feet  
Lot Coverage: 50 percent (golf club)  
80 percent (dry storage)

2) Minimum Setbacks

Single-Family

Street: 20 feet or 15 feet for a side entry garage  
Side: 5 feet

Rear: 15 feet for building  
0 feet for pool, deck and enclosure  
Waterbody: 20 feet

Zero-Lot Line Units

Street: 20 feet or 15 feet for side entry garages  
Side: 10 feet on one side, 0 feet on opposite side  
Rear: 15 feet for building  
0 feet for pool, deck and enclosure  
Waterbody: 20 feet

Multiple-Family

Street: 20 feet  
Side: 20 feet  
Rear: 20 feet for building  
0 feet for pool, deck and enclosure  
Waterbody: 20 feet  
Building Separation: 20 feet or one-half the sum of building height,  
whichever is greater

Two-Family Attached and Townhouse

Street: 20 feet  
Side: 5 feet (no side setback required from common side lot  
line)  
Rear: 15 feet for building  
0 feet for pool, deck and enclosure  
Waterbody: 20 feet

Duplex

Street: 20 feet or 15 feet for a side entry garage  
Side: 7 feet  
Rear: 20 feet  
0 feet for pool, deck and enclosure  
Waterbody: 20 feet

Golf Club and Dry Storage Facility

Street: 20 feet  
Side: 15 feet  
Rear: 10 feet for building  
0 feet for pool, deck and enclosures- golf facility only  
Waterbody: 20 feet

3) Building Height

Single-Family, Zero Lot Line    Maximum of 45 feet, above  
Two-Family Attached,        flood elevation, or 3 stories  
Town House and Duplex        (whichever is less)

Multiple-Family                Maximum of 45 feet, above  
flood elevation, or 3 stories

(whichever is less)

Golf Club and Dry Storage Facility	Maximum of 45 feet, above flood elevation, or 3 stories (whichever is less)
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4) Timeshare Units

Timeshare units are defined and regulated by Florida Statute Chapter 721. Timeshare units are subject to the property development regulations set forth in Conditions c.1) and c.2). Timeshare units must be sold for a period of time of no less than one week, in accordance with the requirements of Chapter 721, Florida Statutes. Timeshare locations must be grouped and designated on the final zoning plan as conditioned in B.3.h., below.

- d. This development must comply with all requirements of the LDC at the time of local development order approval, except as may be granted by deviation as part of this planned development.
- e. An administrative approval will be required to determine the number and location of the model homes, model units, and model display center.
- f. An administrative approval will be required to determine the number and location of the temporary sales and/or construction office.
- g. The temporary sales and/or construction office will be limited to sales for the Pelican Landing Development.
- h. As a prerequisite to approval of any local development order for vertical construction on property located within the Planned Development, approval of a Final Zoning Plan must be received which specifies the type, intensity and configuration of development for the particular tract. The objective of the process is to ensure compliance with the DRI development order, Zoning Resolution, and LDC; to allow detailed review of deviations conceptually approved herein; while allowing the development flexibility to respond to changing conditions. Application materials will be the same as for an Administrative Amendment supplemented as outlined below. Any substantial change in the type, intensity, or configuration of development within the RPD will require further review through a public hearing. The necessity of said review will be determined by the Director of Community Development.

The following information must be provided with the submittal for Final Zoning Plan Approval:

- Uses: types and amount, i.e., number of dwelling units or square feet of commercial use.
- Access: location and dimension
- Location and dimension of internal roadways
- Location and dimension of buildings/structures
- Boundary of development tract
- Adjacent zoning and land uses

-Master Concept Plan

- A cumulative analysis of the total number of dwelling units, hotel units, commercial square footage, dry storage slips and marina development that have received local development order approval (to be compared to the amount of development approved pursuant to the DRI and this rezoning)

- i. Should any orchids, wild pine air plants, Florida Coonties, Catesby's lilies, leather ferns, royal ferns, or cabbage palms with golden polypody and shoestring ferns be located within development areas, reasonable efforts will be used to relocate these plants to open space and landscaped areas.
- j. The "Kersey/Smoot Property Environmental Management Plan", counter stamped June 15, 1998, must be implemented. Immediately prior to the commencement of construction activities, all occupied gopher tortoise burrows must be excavated and any resident gopher tortoises and commensal species must be relocated into appropriate open space areas (excluding golf holes) within Pelican Landing DRI. These areas must be fenced with gopher tortoise fencing prior to relocation to help prevent tortoises from entering construction areas.
- k. The design for the golf course and residential areas must incorporate the retention of large slash pines for utilization as perch trees for bald eagles. This requirement will not be interpreted in a manner that will impair good golf course and residential design.
- l. No more than five acres of wetlands may be filled in conjunction with this project. This five acres is part of the total 13 acres of wetland impacts allowed for the entire Pelican landing DRI project. Mitigation for the wetlands impacts will be determined at the time of final permitting, but the mitigation should include the removal of invasive exotic vegetation, the restoration of historic hydroperiods, and a total of not more than 10 acres of littoral zone plantings.
- m. The Developer must employ management strategies to address the potential for pesticide/chemical pollution of groundwater and surface water receiving areas, including but not limited to, Estero Bay, the mangrove fringe and any transition zone wetlands of Estero Bay, that may result from the development of a golf course and water management areas within 500 feet of the mangrove fringe of Estero Bay.
- n. The management practices that the Developer must follow are:
  - 1) The use of slow release fertilizers and/or carefully managed fertilizer applications that are timed to ensure maximum root uptake and minimal surface water runoff or leaching to the groundwater.
  - 2) The practice of integrated pest management (IPM) when seeking to control various pests, such as weeds, insects, and nematodes. The application of pesticides will involve only the purposeful and minimal application of pesticides, aimed only at identified targeted species. The regular widespread application of broad spectrum pesticides is not acceptable. The IPM program will minimize, to the extent possible, the use of pesticides, and will include the use of the USDA-SCS Soil Pesticide Interaction Guide to select

pesticides for uses that have a minimum potential for leaching or loss due to runoff depending on the site specific soil conditions. Application of pesticides within 100 feet of the jurisdictional mangrove system is prohibited.

- 3) The coordination of the application of pesticides with the irrigation practices (the timing and application rates of irrigation water) to reduce runoff and the leaching of any applied pesticides and nutrients.
  - 4) The utilization of a golf course manager licensed by the state to use restricted pesticides and experienced in the principles of IPM. The golf course manager will be responsible for ensuring that the golf course fertilizers are selected and applied to minimize fertilizer runoff into the surface water and the leaching of those same fertilizers into the groundwater.
  - 5) The storage, mixing, and loading of fertilizer and pesticides will be designed to prevent/minimize the pollution of the natural environment.
- o. The Developer must amend the existing Pelican Landing DRI management plan to include the Kersey-Smoot parcel for the application of herbicides, pesticides, and fertilizers on the proposed golf course adjacent to the mangrove fringe of Estero Bay. This plan must be amended to include the Kersey-Smoot parcel prior to the application of any herbicides, pesticides and fertilizers to the proposed golf course. The amended plan must continue to include: guidelines for the application of any herbicides, pesticides and fertilizers to the proposed golf course; an amended groundwater and surface water monitoring plan; to provide for testing to assess whether there are any herbicide, pesticide, or fertilizer pollution of the water within the area of the golf course located within 500 feet of the mangrove fringe; to identify the locations for the groundwater monitoring and testing on a map(s); and set forth the testing and reporting requirements. The Developer must continue to submit the test reports with the annual monitoring report. The monitoring program must continue to be operated at the expense of the Developer, the Bayside Improvement District, or other comparable legal entity charged with the legal responsibility of managing the golf course. This amended plan must continue to be evaluated in accordance with the directives of Chapter 17-302, F.A.C., Water Quality Standards.
- p. The Developer must amend the existing surface and groundwater quality management plan as approved by Lee County and Florida Department of Community Affairs (FDCA). The amended plan must be approved by FDCA prior to the application of chemicals to the proposed golf course.
- q. If groundwater or surface water pollution occurs, as that term is defined by the rules or regulations in effect at the time, and the pollution is caused by the application of fertilizers, herbicides or pesticides to the golf course adjacent to the mangrove wetlands, then the application of the pollutant must cease until there is a revised management plan for the application of the pollutant. A determination that the application of fertilizers, herbicides or pesticides to the golf course are the cause and source of the pollution must be based on competent and substantial evidence. If mitigation is necessary to address the pollution, a mitigation plan approved by FDCA will be implemented by the developer. The mitigation plan must be based on rules and regulations in effect at the time the plan is reviewed and approved.

- r. The mangrove line for the Kersey-Smoot parcel is off set 50 feet to over 250 feet west of the wetland jurisdictional line delineated along the entire western (Estero Bay) side of the Kersey-Smoot parcel. No portion of the proposed golf course may be located closer than 100 feet to this mangrove line. To maintain the existing natural mangrove setbacks, no impacts are permitted to the wetlands on the western (Estero Bay) side of the Kersey-Smoot parcel. This includes both saltwater and freshwater wetlands contained within the boundary of this wetland jurisdictional line. The proposed golf course fairways, tees, and greens must be set back a minimum of 25 feet from the wetland jurisdictional line on the Kersey-Smoot parcel, except where wetland impacts are permitted by the South Florida Water Management District (SFWMD) and Army Corps of Engineers (ACOE). Water management facilities permitted by the SFWMD and the removal of exotic vegetation, subject to Lee County regulations, are allowed within all wetlands on the Kersey-Smoot parcel.
- s. All areas designated as Preserve on the adopted Map H must remain undeveloped and be owned, maintained, and managed by an Improvement District or a similar legal entity. No lot lines will be allowed within any preserve areas. The following uses are permitted within Preserves: habitat management activities, hiking and nature study, outdoor education, recreational fishing, gates and fencing, and boardwalks limited to pedestrian use. Trimming of mangroves for residential visual access to Estero Bay or Spring Creek is prohibited in wetland areas #14 and #21 (as identified in DRI ADA), Bay Cedar Phase II (along Spring Creek), and any saltwater wetlands abutting the Kersey-Smoot parcels.
- t. A minimum of 99 acres of wetland preservation must be provided within the added 204 acres. A minimum of 10 percent open space must be provided within the individual development parcels.
- u. The existing Pelican's Nest golf course includes native vegetation along the rough and between golf holes. The Applicant must continue to incorporate the native vegetation into the design of future golf holes, where feasible. Native vegetation has been retained on individual lots and between tracts in the existing developed area of Pelican Landing. Where feasible, the Applicant will continue to incorporate native vegetation into the open space and landscaped areas.
- v. Transportation mitigation will be provided as outlined in the DRI development order. However, site related improvements may be required at the time of local development order in accordance with the provisions of the LDC. Also, a Traffic Impact Statement (TIS) must be submitted with each application for a development order. The TIS must include:
  - 1) The trip generation data for the type of development being proposed, using the trip generation rates in the latest edition of ITE, Trip Generation Manual or those of the Lee County Florida Standard Urban Transportation Model Structure (FSUTMS).
  - 2) The distribution of traffic at the entrance(s) to that specific area to be developed.
  - 3) An analysis of the need for turn lanes or other site related improvements at



the entrance(s) to that specific area to be developed based upon the projected future volume of traffic on the street being accessed. Projected future volume represents volumes at build out of the DRI.

- 4) An analysis of each intersection of a minor collector with the same or higher functionally classified road, internal to Pelican Landing, that is influenced by traffic from that proposed development. Influence is measured as project traffic that is five percent or more of Level of Services D (LOS D) service volume. The analysis to be based on existing traffic counts, plus traffic from the specific development.
  - 5) A table showing each segment of minor collectors and higher classification roads influenced by the proposed development, traffic volumes with specific development, and the capacity of the road segment at LOS E.
  - 6) A table showing the cumulative development parameters for the entire Pelican Landing DRI. Development parameters to be categorized consistent with the categories identified in the original DRI.
- w. All conditions relating to the DRI development order are hereby incorporated by this action. If conflicting conditions exist between this approval and the DRI development order, the more restrictive will apply.
- x. Prior to any development within the area legally described as Kersey-Smoot RPD, the Applicant must revise the MCP to reflect the final decision by the Lee County Board of County Commissioners (BOCC) regarding this rezoning and DRI approval.
- y. Approval of this rezoning does not give the developer the undeniable right to receive 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 - DEVIATIONS:

Deviation (1) requests relief from the LDC Section 34-2013(a) requirement that all parking lots be designed to permit vehicles exiting the parking lot to enter the street right-of-way or easement in a forward motion, to allow individual parking spaces to back onto right-of-way easements. This deviation is APPROVED with the following conditions:

- a. The deviation applies only to units with individual driveways and garages;
- b. The minimum dimension from the garage entrance to the street must be 25 feet, unless the garage is constructed with a side-facing entrance rather than a street-facing entrance; and
- c. The posted speed of the adjacent roadway must be 20 mph or less.

Deviation (2) requests relief from the LDC Section 34-935(c)(2) requirement that internal roads and drives be no closer than 25 feet to the development perimeter; to allow a zero-foot minimum. This deviation is APPROVED for a zero-foot separation for internal development parcels, and a 15-foot

separation for external parcels.

Deviation (3) requests relief from the LDC Section 10-291(3) requirement that residential developments larger than five acres provide two or more means of ingress or egress, to allow one entrance. This deviation is APPROVED with the following conditions:

- a. An emergency turnaround of adequate dimension is provided for emergency service providers within each development pod;
- b. Each multi-family pod with one means of ingress and egress will not exceed 362 dwelling units; and
- c. The local Fire and Emergency Service District must provide a letter of approval prior to local development order approval.

Deviation (4) requests relief from the LDC Section 10-417(b)(2)(f) requirement that no portion of a buffer area that consists of trees or shrubs may be located in an easement, to allow planted buffers in easements. This deviation is APPROVED provided that, if any required buffer or landscape strip plantings installed within easements must be removed, then the Developer or homeowners' association must replace these plantings with like size and species at no expense to Lee County. The replanting requirement must be clearly stated in the homeowners' documents.

Deviation (5) requests relief from the LDC Section 30-152 requirement that identification signs must be set back a minimum of 15 feet from any right-of-way easement, to allow a setback of zero feet. This deviation is APPROVED with the condition that, at the time of Final Zoning Plan submittal, the Applicant demonstrates that sight distance requirements are met, consistent with the LDC.

Deviation (6) requests relief from the minimum cul-de-sac diameter requirements of LDC Section 10-296(k)(1), to allow a 60-foot diameter (to edge of pavement). This deviation is APPROVED, with the condition that any reduction in the size of a cul-de-sac will require written approval from the local fire district at the time of Final Zoning Plan submittal.

Deviation (7) requests relief from the requirements in LDC Section 10-296(k)(3) and 10-714 establishing the transition radius for cul-de-sacs, to allow a transition radius of 50 feet. This deviation is APPROVED, with the condition that any reduction in the size of a cul-de-sac will require written approval from the local fire district at the time of Final Zoning Plan submittal.

Deviation (8) requests relief from LDC Section 10-296 Table 3, which requires a roadway width of 35 feet for two-way closed drainage, rear lot drainage, or inverted crown, to allow roadway width to coincide with the back of the curb. This deviation is APPROVED, provided the required drainage and utility easements are located outside of the right-of-way and adequate provisions are made for road drainage and utilities.

Deviation (9) requests relief from the LDC Sections 10-296 Table 4(7)(c)(2) requirements setting minimum specifications for street wearing surfaces, to allow paver brick surfaces. This deviation is APPROVED, to allow paver bricks as an alternative surface PROVIDED that the minimum specifications of a "standard" LDC Section 10-296(7) Class C local road flexible pavement cross-section will be demonstrated prior to local development order approval.

Deviation (10) requests relief from the LDC Section 34-1176(b)(1)(a) setback requirement for a non-

roofed structure to a seawalled artificial body of water, to allow a zero-foot setback. The applicant will utilize vertical bulkheads along artificial bodies of water and will provide the minimum littoral zone slopes consistent with LDC Section 10-418(a)(2). This deviation is APPROVED for the community recreational pool facility only, with the CONDITION that adequate safety features are shown in the Final Zoning Plan to protect the public health, safety and welfare.

Deviation (11) requests relief from the LDC Section 34-2474(b)(6) requirement that recreation centers and ancillary facilities be located at least 40 feet from residential dwellings, to allow a minimum of 20 feet. This deviation is APPROVED for the internal development parcels in which they are located, but not for parcels adjacent to or external to the property.

#### SECTION D - 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: Master Concept Plan - Kersey-Smoot RPD
- Exhibit C: Zoning Map
- Exhibit D: Fifth Development Order Amendment For Pelican Landing DRI

#### SECTION E - FINDINGS AND CONCLUSIONS:

1. The applicant has proven entitlement to the rezoning by demonstrating compliance with the Lee Plan, the Land Development Code, and any other applicable code or regulation.
2. The requested zoning, as conditioned:
  - a. meets or exceeds all performance and locational standards set forth for the potential uses allowed by the request;
  - b. is consistent with the densities, intensities and general uses set forth in the Lee Plan;
  - c. is compatible with existing or planned uses in the surrounding area; and
  - d. will not adversely affect environmentally critical areas or natural resources.
3. Approval of the request will not place an undue burden upon existing transportation or planned infrastructure facilities and the development will be served by streets with the capacity to carry the traffic the development generates.
4. The proposed use or mix of uses is appropriate at the subject location.
5. The recommended conditions to the concept plan and other applicable regulations provide sufficient safeguard to the public interest.
6. The recommended conditions are reasonably related to the impacts on the public interest created by or expected from the proposed development.
7. Urban services, as defined in the Lee Plan, are, or will be, available and adequate to serve the proposed land use.

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

John E. Manning	Aye
Douglas R. St. Cerny	Aye
Ray Judah	Nay
Andrew Coy	Aye
John E. Albion	Absent

DULY PASSED AND ADOPTED this 21st day of September, 1998.

ATTEST:  
CHARLIE GREEN, CLERK

BY:   
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS  
OF LEE COUNTY, FLORIDA


BY:   
Chairman

Approved as to form by:



County Attorney's Office

MINUTES DEPARTMENT

  
FILED SEP 28 1998

## EXHIBIT "A"

### LEGAL DESCRIPTION

#### PARCEL 1

A tract or parcel of land lying in Sections 08, 09, 16, 17, 20, and 21, Township 47 South, Range 25 East, Lee County, Florida, which tract or parcel is described as follows:

Beginning at a concrete monument marking the Northeast corner of said Section 20 run S00°35'25"E along the East line of said section for 2,659.47 feet to the Southeast corner of the Northeast Quarter (NE¼) of said section;

THENCE run N88°52'49"E along the North line of the Southwest Quarter (SW¼) of said Section 21 for 2,040.41 feet;

THENCE run S00°51'35"E for 800 feet, more or less, to the waters of Spring Creek;

THENCE run along said waters for 5,765 feet, more or less to an intersection of the East line of the Southeast Quarter (SE¼) of said Section 20;

THENCE run S00°38'52"E along said East line for 91.00 feet to the approximate centerline of Spring Creek;

THENCE run along said centerline the following courses:

S78°50'00"W for 181.31 feet,

N34°24'12"W for 230.22 feet,

N30°59'12"W for 174.93 feet,

N24°25'16"E for 120.83 feet,

S65°47'43"E for 219.32 feet,

N18°24'43"E for 158.11 feet,

N75°11'47"W for 351.71 feet,

N65°09'33"W for 451.88 feet,

N84°18'44"W for 351.75 feet,

N66°54'31"W for 445.79 feet,

S63°24'43"W for 134.16 feet,

S03°23'22"E for 170.29 feet,

S50°30'17"W for 220.23 feet,

N84°49'43"W for 331.36 feet,

S62°13'07"W for 214.71 feet,

S22°08'36"W for 291.55 feet,

S72°15'11"W for 131.22 feet to an intersection with the East line of the Southwest Quarter (SW¼) of said Section 20;

THENCE run N00°50'19"W along said East line for 520.00 feet to the Northeast corner of said fraction;

THENCE run S89°58'37"W along the North line of said fraction for 290.00 feet to an intersection with the approximate centerline of the most Easterly branch of said Spring Creek;

THENCE run along said centerline the following courses:

N09°13'28"W for 137.34 feet,

N29°08'22"W for 590.59 feet,

N38°31'58"W for 278.03 feet,

N65°16'43"W for 254.95 feet,

N37°18'28"W for 286.01 feet,

N32°51'05"E for 252.39 feet,  
 N20°11'00"E for 236.69 feet,  
 N27°23'47"W for 369.25 feet,  
 N89°15'43"E for 50 feet, more or less to the Easterly shore of said Spring Creek;  
 THENCE run along said Easterly shore for 1,280 feet, more or less to an intersection with the North line of said Section 20;  
 THENCE run N89°15'13"E along said North line of said Section for 982 feet, more or less to a concrete monument marking the Northwest corner of the Northeast Quarter (NE¼) of said Section 20;  
 THENCE run N00°31'30"E along the West line of the Southeast Quarter (SE¼) of said Section 17 for 2,674.38 feet to the Northwest corner of said Southeast Quarter (SE¼);  
 THENCE run N00°31'29"E along the West line of the Northwest Quarter (NW¼) of said Section 17 for 3.40 feet to an intersection with the curved Southerly line of Spring Creek Road;  
 THENCE run Northeasterly and Northerly along the arc of a curve to the left of radius 1,130.00 feet (chord bearing N35°09'06"E) (chord 1,296.89 feet) (delta 70°02'16") for 1,381.30 feet;  
 THENCE run N89°52'02"W for 5.00 feet;  
 THENCE run N00°07'58"E along the Easterly line of Spring Creek Road (50 feet wide) for 1,611.94 feet to an intersection with the South line of the Southeast Quarter (SE¼) of said Section 08;  
 THENCE run N00°07'17"E along said East line for 343.49 feet;  
 THENCE run S89°38'58"E for 10.00 feet;  
 THENCE run N00°07'17"E along said East line for 849.27 feet to the Southwest corner of lands described in Official Record Book 2039 at Page 3364 said Public Records;  
 THENCE run S89°21'02"E along the South line of said lands for 189.98 feet;  
 THENCE run N00°07'17"E along the East line of said lands for 125.01 feet;  
 THENCE run N89°21'02"W along the North line of said lands for 199.98 feet to an intersection with the Easterly line of said Spring Creek Road;  
 THENCE run N00°07'17"E along said East line for 1,292.76 feet to an intersection with the South line of Coconut Road (50 feet wide);  
 THENCE run S89°16'14"E along said South line for 1,802.38 feet to an intersection with the West line of said Section 09;  
 THENCE run N00°39'58"W along said West line for 25.00 feet to a concrete monument marking the Northwest corner of the Southwest Quarter (SW¼) of said Section;  
 THENCE run along said West line N00°40'07"W for 5.00 feet to an intersection with the South line of said Coconut Road as described in Official Record Book 1738 at Page 2538 of said Public Records;  
 THENCE run S89°35'50"E along said South line for 1,549.14 feet;  
 THENCE run Southwesterly along a non-tangent curve to the left of radius 30.00 feet (chord bearing S45°24'10"W) (chord 42.43 feet) (delta 90°00'00") for 47.12 feet to a Point of Tangency;  
 THENCE run S00°24'10"W for 336.31 feet to a Point of Curvature;  
 THENCE run along the arc of a curve to the left of radius 270.00 feet (chord bearing S44°35'50"E) (chord 381.84 feet) (delta 90°00'00") for 424.12 feet to a Point of Tangency;  
 THENCE run S89°35'50"E for 99.41 feet to a Point of Curvature;  
 THENCE run along the arc of a curve to the right of radius 530.00 feet (chord bearing S75°44'50"E) (chord 253.74 feet) (delta 27°42'00") for 256.23 feet;  
 THENCE run N20°53'52"W for 748.16 feet to an intersection with the aforementioned South line of Coconut Road;

THENCE run along said South line S89°35'50"E for 1,301.22 feet to an intersection with the West line of Tamiami Trail (SR 45);  
 THENCE run S00°10'56"W along said West line for 621.81 feet to a Point of Curvature;  
 THENCE run Southerly and Southeasterly along said West line, along the arc of a curve to the left of radius 5,797.58 feet (chord bearing S04°57'34"E) (chord 1,039.14 feet) (delta 10°17'00") for 1,040.54 feet to a Point of Tangency;  
 THENCE run S10°06'04"E along said Westerly line for 938.08 feet to an intersection with the North line of the Northeast Quarter (NE¼) of said Section 16;  
 THENCE run S89°23'00"W along said North line for 708.94 feet to the Northwest corner of said Northeast Quarter (NE¼) of Section 16;  
 THENCE run S00°02'54"W along said West line of the Northeast Quarter (NE¼) for 2,643.98 feet to the Southwest corner of the Northeast Quarter (NE¼) of said Section;  
 THENCE run N89°10'38"E along the South line of said fraction for 538.06 feet;  
 THENCE run S00°06'43"E for 1,085.91 feet;  
 THENCE run N89°06'43"E for 744.41 feet to an intersection with the West line of said Tamiami Trail;  
 THENCE run Southerly along said West line, along the arc of a non-tangent curve to the right of radius 5,619.58 feet (chord bearing S00°22'05"E) (chord 50.21 feet) (delta 00°30'42") for 50.21 feet to a Point of Tangency;  
 THENCE run S00°06'43"E along said West line for 49.81 feet;  
 THENCE run S89°06'43"W for 300.00 feet;  
 THENCE run S00°06'43"E for 1,445.84 feet to an intersection with the South line of the Southeast Quarter (SE¼) of said Section 16;  
 THENCE run S89°16'54"W along said South line of said fraction for 989.41 feet to the Southeast corner of the Southwest Quarter (SW¼) of said Section 16;  
 THENCE run S88°38'34"W along said South line of said Southwest Quarter (SW¼) for 2,627.98 feet to the POINT OF BEGINNING.

#### ALSO

#### PARCEL 2

A tract or parcel of land lying in Sections 07, 08, 17 and 18, Township 47 South, Range 25 East, Lee County, Florida, which tract or parcel is described as follows:

From a railroad spike marking the Northwest corner of the Southwest Quarter (SW¼) of said Section 08 run S00°23'24"E along the West line of said fraction for 25.00 feet to an intersection with the South line of Coconut Road (50 feet wide) and the POINT OF BEGINNING.

From said POINT OF BEGINNING run S89°16'14"E along said South line for 3,253.00 feet to an intersection with the West line of Spring Creek Road;

THENCE run S00°07'17"W along said West line for 817.15 feet;

THENCE run N89°52'43"W for 14.27 feet to an intersection with a non-tangent curve;

THENCE run Southerly and Southwesterly along the arc of a curve to the right of radius 1,725.00 feet (chord bearing S05°52'51"W) (chord 346.22 feet) (delta 11°31'09") for 346.81 feet to a Point of Tangency;

THENCE run S11°38'26"W for 178.50 feet to a Point of Curvature;

THENCE run Southerly and Southeasterly along the arc of a curve to the left of radius 2,400.00 feet (chord bearing S00°28'49"W) (chord 929.06 feet) (delta 22°19'14") for 934.96 feet to a Point of Tangency;

THENCE run S10°40'48"E for 231.66 feet to a Point of Curvature;

THENCE run Southeasterly and Southerly along the arc of a curve to the right of radius

1,725.00 feet (chord bearing S05°16'46"E) (chord 324.72 feet) (delta 10°48'05") for 325.20 feet;  
 THENCE run S89°52'02"E for 16.47 feet;  
 THENCE run S00°07'58"W for 1,406.64 feet;  
 THENCE run N89°52'02"W for 5.00 feet;  
 THENCE run Southerly and Southwesterly along the arc of a curve to the right of radius 1,070.00 feet (chord bearing S37°51'54"W) (chord 1,309.62 feet) (delta 75°27'53") for 1,409.31 feet;  
 THENCE run N89°59'08"W along said North line for 287.38 feet to the Southeast corner of lands described in Official Record Book 411 at Page 759 of said public records;  
 THENCE run N01°31'36"E along the East line of said lands for 960.34 feet;  
 THENCE run N89°59'08"W along the North line of said lands for 2,200.77 feet to an intersection with the East line of the Northeast Quarter (NE¼) of said Section 18;  
 THENCE continue N89°59'08"W for 1,816 feet more or less to the waters of Estero Bay;  
 THENCE run Northerly along the waters of Estero Bay for 8,300 feet more or less to an intersection with the North line of the South Half (S½) of Government Lot 2 of said Section 07;  
 THENCE run N89°32'15"E along the North line of said Government Lot 2 for 793 feet more or less to the Northwest corner of lands described in Official Record Book 1895 at Page 3817 of said public records;  
 THENCE run S08°50'45"E along the West line of said lands for 199.50 feet;  
 THENCE run N89°35'27"E for 666.22 feet;  
 THENCE run N89°32'15"E for 239.00 feet to an intersection with the West line of Coconut Road;  
 THENCE run S01°07'45"E along said West line for 488.63 feet;  
 THENCE run N89°40'05"E along the South line of said Coconut Road for 24.69 feet to the POINT OF BEGINNING.

LESS and EXCEPT lands described in Official Record Book 1677 at Page 3516 of the public records of Lee County, Florida.

#### **ALSO**

#### **PARCEL 3**

A tract or parcel of land lying in Sections 05 and 08, Township 47 South, Range 25 East, Lee County, Florida, consisting of:

Lots 8B, 9B, 10B, 11B, 12B, 21B, 22B, 23B, 24B and 25B of FLORIDA GULF LAND COMPANY SUBDIVISION as recorded in Plat Book 1 at Page 59 of the Public Records of Lee County; also Lot 8, Block 14 of ELDORADO ACRES (an Unrecorded Subdivision), as shown in Deed Book 310 at Page 183 of the Public Records of Lee County; also the East Three-quarters (E-¾) of the Northwest Quarter (NW¼) of the Southwest Quarter (SW¼) of said Section 05; also the East Two-thirds (E-⅔) of the Southwest Quarter (SW¼) of the Southwest Quarter (SW¼) of said Section 05; also the East Two-thirds (E-⅔) of the Western Half (W½) of the Northwest Quarter (NW¼) of said Section 08; being more particularly described by metes and bounds as follows:

From the Northwest corner of the Southwest Quarter (SW¼) of said Section 08 run S89°16'14"E along the North line of said Southwest Quarter (SW¼) for 422.61 feet;

THENCE run N01°05'22"W for 40.02 feet to the POINT OF BEGINNING.

From said POINT OF BEGINNING continue N01°05'22"W for 2,610.06 feet;

THENCE run N01°22'23"W for 1,304.41 feet;



THENCE run N89°56'22"W for 107.12 feet;  
THENCE run N01°22'55"W for 1,303.87 feet;  
THENCE run N89°34'15"E for 2,593.81 feet;  
THENCE run S00°26'45"E for 2,655.42 feet;  
THENCE run N88°48'50"W along the North line of said Section 08 for 322.66 feet;  
THENCE run N89°25'01"W for 587.55 feet;  
THENCE. run S00°50'16"E for 132.58 feet;  
THENCE run N89°11'54"W for 75.00 feet;  
THENCE run N00°50'16"W for 132.30 feet;  
THENCE run N89°25'01"W for 610.69 feet;  
THENCE run S01°00'35"E for 2,612.12 feet to an intersection with the North right-of-way line of Coconut Road;  
THENCE run N89°16'14"W along said North right-of-way line for 845.23 feet to the POINT OF BEGINNING.

ALSO

**PARCEL 4**

All of Government Lot 1, Section 07, Township 47 South, Range 25 East, Lee County, Florida, being more particularly described as follows:  
Beginning at a concrete monument marking the Northeast corner of Government Lot 1 of said Section 07, run S01°07'45"E along the East line of said Section 07 for 1,324.52 feet to the Southeast corner of said Government Lot 1;  
THENCE run S89°33'42"W along the South line of said Government Lot for 1,747.82 feet to a concrete post at the waters of Estero Bay;  
THENCE run Northerly and Westerly along the waters of Estero Bay to an intersection with the North line of said Section 07;  
THENCE run N89°48'31"E along said North line for 2,575 feet more or less to the POINT OF BEGINNING.

ALSO

**PARCEL 5 (Kersey-Smoot RPD)**

Parcels lying in Sections 05, 06 and 08, Township 47 South, Range 25 East, Lee County, Florida, more particularly described as follows:

**Parcels in Section 05**

The West Quarter (W¼) of the Northwest Quarter (NW¼) of the Southwest Quarter (SW¼); and

The West Third (W⅓) of the Southwest Quarter (SW¼) of the Southwest Quarter (SW¼).

**Parcels in Section 06**

Government Lot 4 of said Section 06 and the Southeast Quarter (SE¼) of the

Southeast Quarter (SE¼) of said Section 06; and

Parcel as shown in Official Record Book 1762 at Page 4173, Public Records of Lee County, Florida:

A tract or parcel of land situated in the State of Florida, County of Lee, being a part of the Southeast Quarter (SE¼) of Section 06, Township 47 South, Range 25 East, further bounded and described as follows:

Starting at the Southeast corner of said Southeast Quarter (SE¼) of Section 06;  
THENCE N01°33'16"W along the Easterly line of said fraction for 1,300.61 feet to the Southeast corner of the Northeast Quarter (NE¼) of said Southeast Quarter (SE¼), said point being the POINT OF BEGINNING of the herein described parcel;  
THENCE N01°30'16"W along the Easterly Line of said fraction for 1,208.36 feet;  
THENCE S89°10'55"W for 349.43 feet;  
THENCE S00°49'50"E for 162.49 feet;  
THENCE N81°20'47"W for 600.53 feet;  
THENCE S46°11'51"W for 523.67 feet;  
THENCE S00°48'29"E for 775.70 feet;  
THENCE N89°41'23"E along the Southerly line of the aforesaid fraction of a section for 1,339.45 feet to the POINT OF BEGINNING.

**Parcel in Section 08**

The West Third (W⅓) of the West Half (W½) of the Northwest Quarter (NW¼) of said Section 08, less the Southerly 40.00 feet for the right-of-way of Coconut Rd.

**ALSO**

**BEACH PARCEL**

A tract or parcel of land lying in Government Lot 3, Section 13, and Government Lot 2, Section 24, Township 47 South, Range 24 East, Big Hickory Island, Lee County, Florida, which tract or parcel is described as follows:

From the center of a turnaround on SR 865 (Bonita Beach Road) being S.R.D. Station 19184.75 and N24°28'41"W along the northern prolongation of said centerline of SR 865 for 266.00 feet;

THENCE run S62°26'49"W for 98.40 feet;  
THENCE run N27°33'11"W for 1,863.42 feet;  
THENCE run N20°00'41"W for 1,403.30 feet;  
THENCE run N65°00'00"E for 313.91 feet to the POINT OF BEGINNING.

From said POINT OF BEGINNING run N18°55'11"W for 97.51 feet,

N22°26'23"W for 100.53 feet, N23°09'50"W for 100.14 feet,

N14°51'19"W for 73.01 feet, N27°40'10"W for 88.01 feet,

N29°33'57"W for 46.01 feet, N22°14'53"W for 47.27 feet,

N20°39'23"W for 46.98 feet, N11°15'38"W for 29.80 feet,

N26°10'46"W for 46.87 feet, N09°09'45"W for 48.26 feet,

N17°35'56"W for 46.04 feet, N12°49'07"W for 50.04 feet,

N29°20'48"W for 69.12 feet, N20°48'58"W for 63.82 feet;

THENCE run N79°23'51"W for 247 feet more or less to an intersection with the Approximate

Mean High Water Line of the Gulf of Mexico;  
 THENCE run Northerly and Northeasterly along said waters for 1,140 feet more or less to an intersection with the South line of lands described in Official Record Book 198 at Page 188 of the Public Records of Lee County, Florida;  
 THENCE run along said South line, along the arc of a curve to the right of radius 12,000.00 feet for 783 feet to an intersection with the Waters of New Pass;  
 THENCE run Southerly, Easterly, Southwesterly and Southerly along said waters for 4,080 feet more or less to an intersection with a line bearing N65°00'00"E and passing through the POINT OF BEGINNING;  
 THENCE run S65°00'00"W for 181 feet more or less to the POINT OF BEGINNING.

AND

From said POINT OF BEGINNING run S13°03'59"E for 94.16 feet;  
 THENCE run S19°13'48"E for 50.64 feet;  
 THENCE run S04°34'15"E for 54.63 feet;  
 THENCE run S24°53'12"E for 50.09 feet;  
 THENCE run S27°10'29"E for 50.01 feet;  
 THENCE run S31°01'44"E for 42.51 feet to an intersection with the South line of lands described in Official Record Book 2246 at Page 4413 of the Lee County Records;  
 THENCE run N65°00'00"E along said South line for 134 feet, more or less to the waters of Estero Bay;  
 THENCE Northerly along said waters for 358 feet, more or less to an intersection with a line bearing N65°00'00"E and passing through the POINT OF BEGINNING;  
 THENCE run S65°00'00"W for 181 feet, more or less to the POINT OF BEGINNING.

The applicant has indicated that the STRAP numbers for the subject property are:

05-47-25-00-00003.0000	08-47-25-18-00000.0040	09-47-25-21-00000.0380
05-47-25-00-00003.0010	08-47-25-18-00000.0050	09-47-25-21-00000.0390
05-47-25-00-00004.0000	08-47-25-18-00000.0060	09-47-25-21-00000.0400
05-47-25-00-00004.0010	08-47-25-18-0000D.0000	09-47-25-21-00000.0410
05-47-25-00-00004.0020	08-47-25-18-0000F.0000	09-47-25-21-00000.0420
05-47-25-00-00004.0030	08-47-25-18-0000G.0000	09-47-25-21-00000.0430
05-47-25-01-00003.0000	08-47-25-18-0000H.0000	09-47-25-21-00000.0440
05-47-25-01-00003.002C	08-47-25-18-0000A.0000	09-47-25-21-00000.0450
06-47-25-00-00002.0010	09-47-25-00-00001.0070	09-47-25-21-00000.0460
06-47-25-00-00002.1000	09-47-25-19-00000.0030	09-47-25-21-0000B.0000
07-47-25-00-00001.0000	09-47-25-19-00000.0040	09-47-25-21-0000C.0000
07-47-25-00-00001.0010	09-47-25-19-00000.0050	09-47-25-21-0000D.0000
07-47-25-00-00004.0000	09-47-25-19-00000.0060	09-47-25-21-0000A.0000
07-47-25-00-00005.0000	09-47-25-19-00000.0080	09-47-25-23-0000C.0000
07-47-25-00-00010.0000	09-47-25-19-00000.0090	09-47-25-23-0000D.0000
08-47-25-00-00001.0000	09-47-25-19-00000.0100	09-47-25-23-0000E.0000
08-47-25-00-00001.0010	09-47-25-19-0000B.0000	16-47-25-00-00001.0010
08-47-25-00-00001.0020	09-47-25-21-00000.0040	16-47-25-00-00002.1010
08-47-25-00-00001.0030	09-47-25-21-00000.0350	16-47-25-00-00004.1030
08-47-25-00-00008.0000	09-47-25-21-00000.0360	16-47-25-01-0000C.0000
08-47-25-01-00014.0080	09-47-25-21-00000.0370	16-47-25-06-0000A.0000

16-47-25-07-0000F.0000	20-47-25-28-0000O.0000	21-47-25-23-00000.0360
16-47-25-08-0000A.0000	20-47-25-28-000P0.0000	21-47-25-23-00000.0390
16-47-25-09-0000C.0000	21-47-25-00-00001.0060	21-47-25-23-00000.0400
16-47-25-09-0000A.0000	21-47-25-16-0000G.0000	21-47-25-23-00000.0410
16-47-25-11-0000J0.0000	21-47-25-16-0000E.0000	21-47-25-23-0000F.0000
16-47-25-11-0000A.0000	21-47-25-17-00000.0110	21-47-25-23-0000A.0000
16-47-25-12-0000B.0110	21-47-25-17-00000.0120	21-47-25-27-0000A.0000
16-47-25-13-0000A.0000	21-47-25-17-00000.0130	21-47-25-28-0000B.0000
16-47-25-15-0000F.0000	21-47-25-17-0000A.0000	21-47-25-28-0000C.0000
16-47-25-15-0000G.0000	21-47-25-18-00000.0130	21-47-25-28-0000A.0000
16-47-25-19-00000.0110	21-47-25-18-00000.0140	32-46-25-00-00002.0070
17-47-25-00-00001.0000	21-47-25-18-00000.0150	32-46-25-00-00002.2000
17-47-25-00-00001.0020	21-47-25-18-00000.0160	33-46-25-00-00001.0070
17-47-25-00-00001.0060	21-47-25-18-00000.0180	33-46-25-00-00022.0000
17-47-25-00-00001.0080	21-47-25-18-00000.0190	35-47-25-00-00001.0110
17-47-25-00-00001.0090	21-47-25-18-00000.0200	
17-47-25-00-00001.0100	21-47-25-18-00000.0210	
17-47-25-00-00001.011A	21-47-25-18-00000.0220	
17-47-25-00-00002.0000	21-47-25-18-00000.0230	
17-47-25-11-0000A.0000	21-47-25-18-00000.0240	
17-47-25-14-0000B.0000	21-47-25-18-00000.0250	
17-47-25-18-0000E.0000	21-47-25-18-00000.0260	
17-47-25-28-0000A.0000	21-47-25-18-00000.0270	
18-47-25-00-00001.0000	21-47-25-18-00000.0280	
18-47-25-00-00001.0010	21-47-25-18-0000A.0000	
20-47-25-28-000K0.0000	21-47-25-23-00000.0180	
20-47-25-28-000L0.0000	21-47-25-23-00000.0320	
20-47-25-28-000N0.0000		

FOURTH ~~FIFTH~~ DEVELOPMENT ORDER  
AMENDMENT  
FOR

PELICAN LANDING

A DEVELOPMENT OF REGIONAL IMPACT

STATE DRI #1-9293-121  
COUNTY CASE 95-01-050.04Z 07.01

WHEREAS, on March 27, 1998, WCI Communities, L.P., the owner of the Pelican Landing Development of Regional Impact (DRI) requested an amendment to the original Development Order adopted August 29, 1994, as amended; and

WHEREAS, this document incorporates the Development Order Amendments for Pelican Landing DRI adopted: 1) March 22, 1995; 2) August 16, 1995, which incorporated the conditions of the Spring Creek West DRI as set forth in the Eighth Amendment to Spring Creek DRI #10-7677-9; 3) November 4, 1996; 4) November 17, 1997; 5) and the conditions applicable to the proposed amendment to the Pelican Landing DRI DO; and

WHEREAS, the amendments proposed to the Development Order are not a substantial deviation, as that term is defined and identified in Subsection 380.06(19)(e)2, Florida Statutes, and as such there is no need for further DRI review. The development order amendment approves the addition of 204 acres to the Pelican Landing DRI development as residential and golf course uses; and allows the provision of additional golf course opportunities within the present Pelican Landing development area. The amendment will not increase the external traffic impacts of the project; and

WHEREAS, the developer has acquired 204 acres that are contiguous with the Pelican Landing DRI; and

WHEREAS, Chapter 380, F.S. requires a developer seeking to develop property contiguous to a previously approved DRI to incorporate the property into the DRI; and

WHEREAS, the 204 acres will be added without increasing the number of dwelling units approved for Pelican Landing DRI; and

WHEREAS, the proposed changes to the Pelican Landing DRI Development Order described in this document 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 Pelican Landing DRI Development Order will not unreasonably interfere with the achievement of the objectives of the adopted State Land Development Plan applicable to the area; and

Fifth Development Order

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

WHEREAS, the Board of County Commissioners of Lee County, Florida, has considered the report and recommendations of the Southwest Florida Regional Planning Council, the Lee County Staff, the Lee County Hearing Examiner, the documents and comments upon the record made before the Board in public hearing, and, after full consideration of those reports, recommendations, comments, and documents, the Board of County Commissioners of Lee County, Florida, finds and determines that:

I. FINDINGS OF FACT/CONCLUSIONS OF LAW

A. The "Pelican Landing DRI" is a partially built master planned community on ~~2,373~~ 2,577± acres located approximately three miles north of the Lee/Collier County Line. ~~273~~± acres of the 2,577 acre total constitutes the Spring Creek West DRI. The property is bounded on the west by Estero Bay, on the east by US 41, and on the south by Spring Creek. Coconut Road provides the general northern boundary of Pelican Landing; however, a part of the project is located north of Coconut Road.

The proposal is to construct 4,400 residential units, of which 665 are single-family and 3,735 multi-family, 461,050 square feet of gross floor area of retail commercial, and 245,000 square feet of gross floor area of office commercial. The retail uses will provide up to 2,310 parking spaces and the office uses will provide up to 820 parking spaces. The project will also include 750 hotel/motel rooms, a 50,000 square foot conference center, 65 wet boat slips and 150 dry boat slips, various recreational amenities including, but not limited to: golf, tennis, canoe parks, and a beach park for the benefit of the owners in Pelican Landing. There are 87 acres of upland habitat preserve, ~~567~~ 614 acres of salt and freshwater wetlands, ~~208~~ 227 acres of water management lakes, ~~140~~ 145 acres of public and private rights-of-way, ~~6~~ six acres of utilities and a .11 acre cemetery site.

Water supply and wastewater treatment, and reclaimed water, when available, will be provided by Bonita Springs Utilities, Inc. The project buildout is the year 2002.

B. LEGAL DESCRIPTION: In Sections 05, 06, 07, 08, 09, 16, 17, 18, 20, and 21, Township 47 South, Range 25 East, and Sections 13 and 24, Township 47 South, Range 24 East, Lee County, Florida:

PARCEL 1

A tract or parcel of land lying in Sections 08, 09, 16, 17, 20, and 21, Township 47 South, Range 25 East, Lee County, Florida, which tract or parcel is described as follows:

Beginning at a concrete monument marking the Northeast corner of said Section 20 run S00°35'25"E along the East line of said section for 2,659.47 feet to the Southeast corner of the Northeast Quarter (NE¼) of said section;

Fifth Development Order

THENCE run N88°52'49"E along the North line of the Southwest Quarter (SW¼) of said Section 21 for 2,040.41 feet;

THENCE run S00°51'35"E for 801.04 feet to the waters of Spring Creek;

THENCE run along Spring Creek for 3,630 feet, more or less to an intersection of the East line of said Section 20 and the approximate centerline of Spring Creek;

THENCE run along said centerline the following courses:

S78°50'00"W for 181.31 feet,

N34°24'12"W for 230.22 feet,

N30°59'12"W for 174.93 feet,

N24°25'16"E for 120.83 feet,

S65°47'43"E for 219.32 feet,

N18°24'43"E for 158.11 feet,

N75°11'47"W for 351.71 feet,

N65°09'33"W for 451.88 feet,

N84°18'44"W for 351.75 feet,

N66°54'31"W for 445.79 feet,

S63°24'43"W for 134.16 feet,

S03°23'22"E for 170.29 feet,

S50°30'17"W for 220.23 feet,

N84°49'43"W for 331.36 feet,

S62°13'07"W for 214.71 feet,

S22°08'36"W for 291.55 feet,

S72°15'11"W for 131.22 feet to an intersection with the East line of the Southwest Quarter (SW¼) of said Section 20;

THENCE run N00°50'19"W along said East line for 520.00 feet to the Northeast corner of said fraction;

THENCE run S89°58'37"W along the North line of said fraction for 290.00 feet to an intersection with the approximate centerline of the most Easterly branch of said Spring Creek;

THENCE run along said centerline the following courses:

N09°13'28"W for 137.34 feet,

N29°08'22"W for 590.59 feet,

N38°31'58"W for 278.03 feet,

N65°16'43"W for 254.95 feet,

N37°18'28"W for 286.01 feet,

N32°51'05"E for 252.39 feet,

N20°11'00"E for 236.69 feet,

N27°23'47"W for 369.25 feet,

N89°15'43"E for 50 feet, more or less to the Easterly shore of said Spring Creek;

THENCE run along said Easterly shore for 1,220 feet, more or less to an intersection with the North line of said Section 20;

THENCE run N89°15'13"E along said North line of said Section for 970 feet, more or less to a concrete monument marking the Northwest corner of the Northeast Quarter (NE¼) of said Section 20;

Fifth Development Order

THENCE run N00°31'30"E along the West line of the Southeast Quarter (SE¼) of said Section 17 for 2,644.38 feet to an intersection with the South line of Spring Creek Road as described in Deed Book 305 at Page 276, Lee County Records;  
THENCE run S89°58'35"E along said South line for 739.45 feet;  
THENCE run N00°07'58"E for 30.00 feet to an intersection with the North line of the Southeast Quarter (SE¼) of said Section 17;  
THENCE run S89°58'35"E along the North line of said fraction for 375.91 feet to the Southeast corner of lands described in Official Record Book 1713 at Page 1188 of said Public Records;  
THENCE run N00°41'04"W for 668.20 feet to the Northeast corner of said lands;  
THENCE run N89°50'32"W along the North line of said lands for 366.38 feet to the Easterly line of said Spring Creek Road (50 feet wide);  
THENCE run N00°07'58"E for 2,007.04 feet to an intersection with the South line of the Southeast Quarter (SE¼) of said Section 08;  
THENCE continue N00°07'17"E along said East line for 343.54 feet;  
THENCE run S89°38'58"E for 10.00 feet;  
THENCE run N00°07'17"E along said East line for 849.27 feet to the Southwest corner of lands described in Official Record Book 2039 at Page 3364 said Public Records;  
THENCE run S89°21'02"E along the South line of said lands for 189.98 feet;  
THENCE run N00°07'17"E along the East line of said lands for 125.01 feet;  
THENCE run N89°21'02"W along the North line of said lands for 199.98 feet to an intersection with the Easterly line of said Spring Creek Road;  
THENCE run N00°07'17"E along said East line for 1,292.76 feet to an intersection with the South line of Coconut Road (50 feet wide);  
THENCE run S89°16'14"E along said South line for 1,802.38 feet to an intersection with the West line of said Section 09;  
THENCE run N00°39'58"W along said West line for 25.00 feet to a concrete monument marking the Northwest corner of the Southwest Quarter (SW¼) of said Section;  
THENCE continue along said West line N00°39'58"W for 5.00 feet to an intersection with the South line of said Coconut Road as described in Official Record Book 1738 at Page 2538, said Public Records;  
THENCE run S89°35'50"E along said South line for 3,164.37 feet to an intersection with the West line of Tamiami Trail (SR 45);  
THENCE run S00°10'56"W along said West line for 621.81 feet to a Point of Curvature;  
THENCE run Southerly and Southeasterly along said West line, along the arc of a curve to the left of radius 5,797.58 feet (chord bearing S04°57'34"E) (chord 1,039.14 feet) (delta 10°17'00") for 1,040.54 feet to a Point of Tangency;  
THENCE run S10°06'04"E along said Westerly line for 938.08 feet to an intersection with the North line of the Northeast Quarter (NE¼) of said Section 16;  
THENCE run S89°23'00"W along said North line for 708.94 feet to the Northwest corner of said Northeast Quarter (NE¼) of Section 16;



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THENCE run S00°02'54"W along said West line of the Northeast Quarter (NE¼) for 2,643.98 feet to the Southwest corner of the Northeast Quarter (NE¼) of said Section;  
THENCE run N89°10'38"E along the South line of said fraction for 538.06 feet;  
THENCE run S00°06'43"E for 1,085.91 feet;  
THENCE run N89°06'43"E for 744.41 feet to an intersection with the West line of said Tamiami Trail;  
THENCE run Southerly along said West line, along the arc of a non-tangent curve to the right of radius 5,619.58 feet (chord bearing S00°22'05"E) (chord 50.21 feet) (delta 00°30'42") for 50.21 feet to a Point of Tangency;  
THENCE run S00°06'43"E along said West line for 49.81 feet;  
THENCE run S89°06'43"W for 300.00 feet;  
THENCE run S00°06'43"E for 1,445.82 feet to an intersection with the South line of the Southeast Quarter (SE¼) of said Section 16;  
THENCE run S89°16'54"W along said South line of said fraction for 989.41 feet to the Southeast corner of the Southwest Quarter (SW¼) of said Section 16;  
THENCE run S88°38'34"W along said South line of said Southwest Quarter (SW¼) for 2,627.98 feet to the POINT OF BEGINNING.

ALSO

**PARCEL 2**

A tract or parcel of land lying in Sections 07, 08, 17 and 18 which tract or parcel is described as follows:

From a railroad spike marking the Northwest corner of the Southwest Quarter (SW¼) of said Section 08 run S00°23'24"E along the West line of said fraction for 25.00 feet to an intersection with the South line of Coconut Road (50 feet wide) and the POINT OF BEGINNING.

From said POINT OF BEGINNING run S89°16'14"E along said South line for 3,253.00 feet to an intersection with the West line of Spring Creek Road;  
THENCE run S00°07'17"W along said West line for 2,610.71 feet to an intersection with the South line of said Section 08;  
THENCE run S00°07'58"W along said West line for 2,646.47 feet;  
THENCE run N89°58'35"W along the North line of Coconut Road for 689.04 feet to an intersection with the East line of the Northwest Quarter (NW¼) of said Section 17;  
THENCE run N89°59'08"W along said North line for 404.79 feet to the Southeast corner of lands described in Official Record Book 411 at Page 759 of said Public Records;  
THENCE run N01°31'36"E along the East line of said lands for 960.34 feet;  
THENCE run N89°59'08"W along the North line of said lands for 2,200.77 feet to an intersection with the East line of the Northeast Quarter (NE¼) of said Section 18;  
THENCE continue N89°59'08"W for 1,840 feet more or less to the waters of Estero Bay;

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THENCE run Northerly along the waters of Estero Bay for 8,300 feet more or less to an intersection with the North line of the South Half (S½) of Government Lot 2 of said Section 07;

THENCE run N89°32'15"E along the North line of said Government Lot 2 for 545 feet more or less to the Northwest corner of lands described in Official Record Book 1895 at Page 3817 of said Public Records;

THENCE run S08°50'45"E along the West line of said lands for 199.50 feet;

THENCE run N89°32'15"E along the South line of said lands for 247.50 feet;

THENCE run N89°35'27"E for 666.22 feet;

THENCE run N89°32'15"E for 239.00 feet to an intersection with the West line of Coconut Road;

THENCE run S01°07'45"E along said West line for 488.63 feet;

THENCE run N89°40'05"E along the South line of said Coconut Road for 24.69 feet to the POINT OF BEGINNING.

LESS and EXCEPT lands described in Official Record Book 1677 at Page 3516 of the Public Records of Lee County, Florida.

ALSO

**PARCEL 3**

A tract or parcel of land lying in Sections 05 and 08, Township 47 South, Range 25 East, Lee County, Florida, consisting of:

Lots 8B, 9B, 10B, 11B, 12B, 21B, 22B, 23B, 24B and 25B of FLORIDA GULF LAND COMPANY SUBDIVISION as recorded in Plat Book 1 at Page 59 of the Public Records of Lee County, also Lot 8, Block 14 of ELDORADO ACRES (an Unrecorded Subdivision), as shown in Deed Book 310 at Page 183 of the Public Records of Lee County, also the East Three-quarters (E-¾) of the Northwest Quarter (NW¼) of the Southwest Quarter (SW¼) of said Section 05, also the East Two-thirds (E-⅔) of the Southwest Quarter (SW¼) of the Southwest Quarter (SW¼) of said Section 05, also the East Two-thirds (E-⅔) of the Western Half (W½) of the Northwest Quarter (NW¼) of said Section 08; being more particularly described by metes and bounds as follows:

From the Northwest corner of the Southwest Quarter (SW¼) of said Section 08 run S89°16'14"E along the North line of said Southwest Quarter (SW¼) for 422.61 feet;

THENCE run N01°05'22"W for 40.02 feet to the POINT OF BEGINNING.

From said POINT OF BEGINNING continue N01°05'22"W for 2,610.06 feet;

THENCE run N01°22'23"W for 1,304.41 feet;

THENCE run N89°56'22"W for 107.12 feet;

THENCE run N01°22'55"W for 1,303.87 feet;

THENCE run N89°34'15"E for 2,593.81 feet;

THENCE run S00°26'45"E for 2,655.42 feet;

THENCE run N88°48'50"W along the North line of said Section 08 for 322.66 feet;

THENCE run N89°25'01"W for 587.55 feet;

THENCE run S00°50'16"E for 132.58 feet;

THENCE run N89°11'54"W for 75.00 feet;

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THENCE run N00°50'16"W for 132.30 feet;  
THENCE run N89°25'01"W for 610.69 feet;  
THENCE run S01°00'35"E for 2,612.12 feet to an intersection with the North right-of-way line of Coconut Road;  
THENCE run N89°16'14"W along said North right-of-way line for 845.23 feet to the POINT OF BEGINNING.

ALSO

**PARCEL 4**

All of Government Lot 1, Section 07, Township 47 South, Range 25 East, Lee County, Florida, being more particularly described as follows:  
Beginning at a concrete monument marking the Northeast corner of Government Lot 1 of said Section 07, run S01°07'45"E along the East line of said Section 07 for 1,324.52 feet to the Southeast corner of said Government Lot 1;  
THENCE run S89°33'42"W along the South line of said Government Lot for 1,747.82 feet to a concrete post at the waters of Estero Bay;  
THENCE run Northerly and Westerly along the waters of Estero Bay to an intersection with the North line of said Section 07;  
THENCE run N89°48'31"E along said North line for 2,575 feet more or less to the POINT OF BEGINNING.

Containing 2,409 acres, more or less.

Bearings hereinabove mentioned are based on the East boundary line of Pelican's Nest Unit No. 1 as recorded in Plat Book 41 at Pages 58 through 60 of the Public Records of Lee County, Florida.

ALSO

**BEACH PARCEL**

A tract or parcel of land lying in Government Lot 3, Section 13, and Government Lot 2, Section 24, Township 47 South, Range 24 East, Big Hickory Island, Lee County, Florida, which tract or parcel is described as follows:

From the center of a turnaround on SR 865 (Bonita Beach Road) being S.R.D. Station 19184.75 and N24°28'41"W along the northern prolongation of said centerline of SR 865 for 266.00 feet;  
THENCE run S62°26'49"W for 98.40 feet;  
THENCE run N27°33'11"W for 1,863.42 feet;  
THENCE run N20°00'41"W for 1,403.30 feet;  
THENCE run N65°00'00"E for 313.91 feet to the POINT OF BEGINNING.  
From said POINT OF BEGINNING run N18°55'11"W for 97.51 feet,  
N22°26'23"W for 100.53 feet, N23°09'50"W for 100.14 feet,  
N14°51'19"W for 73.01 feet, N27°40'10"W for 88.01 feet,  
N29°33'57"W for 46.01 feet, N22°14'53"W for 47.27 feet,  
N20°39'23"W for 46.98 feet, N11°15'38"W for 29.80 feet,

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N26°10'46"W for 46.87 feet, N09°09'45"W for 48.26 feet,  
N17°35'56"W for 46.04 feet, N12°49'07"W for 50.04 feet,  
N29°20'48"W for 69.12 feet, N20°48'58"W for 63.82 feet;  
THENCE run N79°23'51"W for 247 feet more or less to an intersection with the  
Approximate Mean High Water Line of the Gulf of Mexico;  
THENCE run Northerly and Northeasterly along said waters for 1,140 feet more or  
less to an intersection with the South line of lands described in Official Record  
Book 198 at Page 188 of the Public Records of Lee County, Florida;  
THENCE run along said South line, along the arc of a curve to the right of radius  
12,000.00 feet for 783 feet to an intersection with the Waters of New Pass;  
THENCE run Southerly, Easterly, Southwesterly and Southerly along said waters  
for 4,080 feet more or less to an intersection with a line bearing N65°00'00"E and  
passing through the POINT OF BEGINNING;  
THENCE run S65°00'00"W for 181 feet more or less to the POINT OF  
BEGINNING.

AND

From said POINT OF BEGINNING run S13°03'59"E for 94.16 feet;  
THENCE run S19°13'48"E for 50.64 feet;  
THENCE run S04°34'15"E for 54.63 feet;  
THENCE run S24°53'12"E for 50.09 feet;  
THENCE run S27°10'29"E for 50.01 feet;  
THENCE run S31°01'44"E for 42.51 feet to an intersection with the South line of  
lands described in Official Record Book 2246 at Page 4413 of the Lee County  
Records;  
THENCE run N65°00'00"E along said South line for 134 feet, more or less to the  
waters of Estero Bay;  
THENCE Northerly along said waters for 358 feet, more or less to an intersection  
with a line bearing N65°00'00"E and passing through the POINT OF BEGINNING;  
THENCE run S65°00'00"W for 181 feet, more or less to the POINT OF  
BEGINNING.  
Bearings hereinabove mentioned are Plane Coordinate for the Florida West Zone.

ALSO

KERSEY PARCEL

Parcels lying in Section 5, Section 6 and Section 8, Township 47 South, Range 25  
East, Lee County, Florida, more particularly described as follows:

Parcels in Section 5:

The West One-Quarter (W¼) of the Northwest One-Quarter (NW¼) of the  
Southwest One-Quarter (SW¼); and

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The West One-Third ( $W\frac{1}{3}$ ) of the Southwest One-Quarter ( $SW\frac{1}{4}$ ) of the Southwest One-Quarter ( $SW\frac{1}{4}$ ).

Parcels in Section 6:

Government Lot 4 of said Section 6 and the Southeast One-Quarter ( $SE\frac{1}{4}$ ) of the Southeast One-Quarter ( $SE\frac{1}{4}$ ) of said Section 6; and

Parcel as shown in Official Record Book 1762 at Page 4173, Public Records of Lee County, Florida;

A tract or parcel of land situated in the State of Florida, County of Lee, being a part of the Southeast One-Quarter ( $SE\frac{1}{4}$ ) of Section 6, Township 47 South, Range 25 East. Further bounded and described as follows:

Starting at the Southeast corner of said Southeast One-Quarter ( $SE\frac{1}{4}$ ) of Section 6; Thence  $N00^{\circ}44'33''W$  along the Easterly line of said fraction for 1300.67 feet to the Southeast corner of the Northeast One-Quarter ( $NE\frac{1}{4}$ ) of said Southeast One-Quarter ( $SE\frac{1}{4}$ ). Said point being the point of beginning of the herein described parcel; Thence  $N00^{\circ}41'04''W$  along the Easterly line of said fraction for 1208.36 feet; Thence West for 349.47 feet; Thence South for 162.50 feet; Thence  $N80^{\circ}32'07''W$  for 600.67 feet; Thence  $S47^{\circ}00'45''W$  for 523.62 feet; Thence South for 778.51 feet; Thence  $S89^{\circ}36'52''E$  along the Southerly line of the aforesaid fraction of a section for 1339.46 feet to the point of beginning

Bearings are based on a plat prepared by Tri-County Engineering, Inc. in May of 1968.

Parcel in Section 8:

The West One-Third ( $W\frac{1}{3}$ ) of the West One-Half ( $W\frac{1}{2}$ ) of the Northwest One-Quarter ( $NW\frac{1}{4}$ ) of said Section 8, less the Southerly 40.00 feet for the right-of-way of Coconut Road.

Parcel contains 203 acres, more or less.

ALSO

**SMOOT PARCEL**

That part of the South half of Government Lot 2, Section 7, Township 47 South, Range 25 East, Lee County, Florida, described as follows:

Begin 660 feet North 3 degrees 58 minutes West and 957 feet South 87 degrees 15 minutes West of the Southeast corner of Government Lot 2, Section 7.

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Township 47 South, Range 25 East, thence South 87 degrees 15 minutes West 247.5 feet, thence South 11 degrees, 8 minutes East 199.6 feet, thence North 87 degrees, 15 minutes East 247.5 feet, thence North 11 degrees, 8 minutes West 199.5 feet to the point of beginning, containing 1.3 acres more or less.

ALSO

**Spring Creek West DRI Parcel**

All of the Northwest Quarter (NW¼) of Section 21, Township 47 South, Range 25 East, Lee County, Florida:

ALSO INCLUDED THERETO:

All of the Northeast Quarter (NE¼) lying west of Tamiami Trail (US 41) of Section 21, Township 47 South, Range 25 East, Lee County, Florida;

ALSO INCLUDED THERETO:

All of the East Half (E½) of the Southwest Quarter (SW¼), lying North of Spring Creek LESS the East 600 feet thereof, Section 21, Township 47 South, Range 25 East, Lee County, Florida.

ALSO INCLUDED THERETO:

All of the Southeast Quarter (SE¼) of Section 21, lying West of Tamiami Trail (US 41) and North of Spring Creek, Township 47 South, Range 25 East, Lee County, Florida;

Subject to easements and restrictions of record.  
Containing 273.1 acres more or less.

AND

The East 600 feet of the East Half (E½) of the Southwest Quarter (SW¼) of Section 21, Township 47 South, Range 25 East, Lee County, Florida.  
Parcel contains 9.7 acres more or less.

TOGETHER WITH the right for ingress and egress over the following described parcel:

A strip of land 60 feet in width lying 30 feet on each side of the East and West Quarter Section line of Section 21, Township 47 South, Range 25 East, extending from the Northwest corner of the East Half (E½) of the Southwest Quarter (SW¼) of said Section to Tamiami Trail (US 41).

Subject to any easements, restrictions, reservations and rights-of-way to record.

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C. The subject parcel is currently zoned AG-2, RS-1, RM-6, PUD, RPD, CPD, TFC-2 and RM-2; the property is partially developed.

D. This Application for Development Approval is consistent with the requirements of Section 380.06, Florida Statutes.

E. The development is not located in an area designated as an Area of Critical State Concern under the provisions of Sections 380.05 and 380.06 (14), Florida Statutes.

F. The proposed Development Order Amendment does not unreasonably interfere with the achievement of the objectives of the adopted State Land Development plan applicable to the area. The development is consistent with the State Comprehensive Plan if developed pursuant to the conditions set forth herein.

G. The proposed Development Order Amendment has been reviewed by the Southwest Florida Regional Planning Council (SWFRPC) and is the subject of the report and recommendations adopted by that body and subsequently forwarded to Lee County pursuant to the provisions of Section 380.06, Florida Statutes. The development, as proposed in the Application for Development Approval (ADA) and as modified by this Development Order Amendment, is generally consistent with the report and the recommendations of the SWFRPC pursuant to Section 380.06(11).

H. The development is located in the Urban Community, Outlying Suburban and Resource Protection Areas classifications of the Lee Plan with the Privately Funded Infrastructure Overlay and is consistent with the Lee County Comprehensive Plan and Lee County's Land Development Regulations if subject to the conditions contained in this Development Order.

I. The proposed conditions below meet the criteria found in Section 380.06 (15) (d), Florida Statutes.

J. In accordance with the Development Order condition Section III. Condition 16. herein, the lands within the Spring Creek West DRI were incorporated into this Development Order. Those lands described as the Spring Creek West DRI will only be subject to those terms and conditions set forth in the Eighth Development Order Amendment for the Spring Creek West DRI. They will remain applicable to the property known as the Spring Creek West DRI in the same manner as they are presently applicable, except that one annual monitoring report that includes both Pelican Landing and Spring Creek West DRI's must be submitted. Additionally the Spring Creek West DRI legal description has been included within the Pelican Landing DRI. Since the Spring Creek West land is part of an almost completely developed vested DRI, there is no reason to alter the conditions within the Spring Creek West DRI Development Order. The Spring Creek West property is vested under the terms and conditions of the Spring Creek West DRI Development Order, and this property will not be considered in any cumulative analysis of Pelican Landing in accordance with Section III Condition 16.

## II. ACTION ON REQUEST AND CONDITIONS OF APPROVAL

NOW, THEREFORE, LET IT BE ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA, that conditions of the Development Order for the Pelican Landing DRI adopted on August 29, 1994, and amended on March 22, 1995, August 16, 1995, and November 4, 1996, and November 17, 1997, are further amended as follows, with new language underlined and deletions struck through. All other portions of the original Development Order will remain in full force and effect.

For the purposes of this Development Order, the term "developer" or "Applicant" ~~shall~~ includes his/her/its successors or assigns, and all references to County Ordinances and codes include future amendments.

### A. Historical/Archaeological Sites

1. The Zenith Mound Archaeological Site (State Master File #8LL1436) and the Johnson Cemetery (State Master File #8111440) will be preserved in perpetuity and will be recorded as "preserve" on all appropriate plats, site plans, and the Master Development Plan for Pelican Landing DRI.

2. If any additional archaeological/historical sites are uncovered during development activities, all work in the immediate vicinity of such sites will cease. The developer ~~shall~~ will immediately contact the Florida Department of State, Division of Historical Resources, the SWFRPC, and Lee County and advise them of the discovery. The developer will have a State-certified archaeologist determine the significance of the findings and recommend appropriate preservation and mitigation actions, if necessary.

### B. Housing

1. There are no regionally significant housing impacts for the first planning horizon of the DRI DO, which ends on December 31, 1997. Utilizing supply data not adjusted to account for the fact that housing sells for less than the listed price, Planning Horizon II (January, 1998, through December 2002) would have an unmet need of 99 affordable units for very low income and no unmet need for low income households. Utilizing supply data adjusted to account for the fact that housing sells for less than the listed price, Planning Horizon II would have an unmet need of only 38 affordable housing units for very low income households and still no unmet need for low income households. The aforementioned data is based on the existing studies.

The supply adjustment figures mentioned above are based on actual sales prices relative to listed prices. Affordability thresholds for owner occupied affordable housing are determined using PITI (Principal, Interest, Taxes, and Insurance) calculations methodology as outlined in the DCA 1991 Draft methodology.



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2. The Southwest Florida Regional Planning Council, the Florida Department of Community Affairs, and Lee County accept the Developer's contribution of \$20,000.00 to assist existing and prospective employees within the Pelican Landing DRI to locate affordable housing. The \$20,000.00 will be contributed to the Lee County Affordable Housing Trust Fund by January 2, 1997. Lee County may use all, or a portion, of the funds to conduct a needs assessment study, and the County will commit to use SHIP funds to assist a minimum of 8 qualified employees within the Pelican Landing DRI obtain a home. Qualified employees must be first time home buyers, employed by a business located within the Pelican Landing DRI, including employees of WCI. The applicants for funding must meet the program guidelines including, but not limited to, income limitations and repayment obligations. The funds will only be used to provide interest free deferred payment assistance to qualifying home buyers for either closing costs or down payments associated with the purchase loan.

### C. Hurricane Preparedness

1. ~~Within six months, after the effective date of this DRI Development Order, the developer shall provided Lee County with the funds for the provision and connection of~~ a portable diesel powered generator for the Gateway Elementary School. The generator must be equipped with a fuel tank, capable of generating enough power to handle the demands of ventilation fans, lighting, life safety equipment (alarms and intercom), and refrigeration and cooking equipment. The developer will be responsible for the initial electrical hook-up costs. The selection of the generator will be in coordination with Lee County Emergency Management Staff.

2. The Lee County Emergency Management staff will act as a liaison between the developer and the Lee County School District staff, and will make all of the necessary arrangements for the location of the generator on Lee County School Board property.

3. The provision of the generator serves to mitigate the shelter and evacuation impacts of the project at buildout. Should Lee County ever adopt an impact fee, or other type of levy or assessment to provide funding for shelter space and improvements thereto, the developer will be entitled to a credit against the fee or levy in the amount of the cost of the generator, if eligible under the terms of that impact fee or levy.

4. The developer must notify all purchasers of real property within the residential portions of development, through the restrictive covenants, of the potential for storm surge flooding in feet above the Base Flood Elevation, according to the National Weather Services' storm surge model "SLOSH", and the National Flood Insurance Program.

5. The developer must prepare, in conjunction with Lee County Emergency Management and Division of Natural Resources staff, a brochure ~~which advises~~ advising all marina owners of the measures that can be taken to minimize damage in the event of a hurricane. This brochure must address how boat owners can minimize damage to their

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vessels, the marina site, neighboring properties and the environment. The brochure must be provided to all boat owners and users at the marina.

6. Prior to the issuance of a Certificate of Occupancy for any Hotel, the developer or the hotel owner/manager must prepare a written hurricane preparation and evacuation/sheltering plan. This plan will be prepared in conjunction with Lee County Emergency Management Staff and must be coordinated with the hurricane evacuation plan for the overall DRI.

7. The Property Owner's Association must host an educational seminar, and will be responsible for obtaining the place for the seminar and for providing the invitations to the homeowners. The time will be coordinated with the Lee County Emergency Management staff, who will provide the education and information at the seminar and will advise the owners of the risks of natural hazards and the action they should take to mitigate the inherent dangers.

8. The developer must develop a hurricane evacuation plan for the DRI. The hurricane evacuation plan ~~shall~~ must address and include: a) operational procedures for the warning and notification of all residents and visitors prior to and during a hurricane watch and warning period; b) the educational program set forth in condition 7 above; c) hurricane evacuation; d) the method of advising residents and visitors of hurricane shelter alternatives including hotels and public hurricane shelter locations; e) identification of the person(s) responsible for implementing the plan; and f) how the private security force will be integrated with the local Sheriff's personnel and the Division of Public Safety. The plan ~~shall~~ must be developed in coordination with the Lee County Emergency Management officials and ~~must be~~ found sufficient by those officials months after the effective date of the DRI DO.

9. The developer, and any successor landowner, will pay any All Hazards Tax properly levied by Lee County to provide for shelter space, upgrades to shelters, and to address other natural disasters.

10. Conditions C.1. through C.3. address the hurricane mitigation requirements for the initial 4050 units. The developer will mitigate the hurricane shelter impacts for units 4051 through 4400 by paying \$18.50 per unit to the Lee County Impact Fee Coordinator at the time of building permit approval. If the developer constructs an assisted living facility, the developer must comply with all aspects of Section 440.441(1)(b), F.S., as may be amended, including the preparation and submittal of a comprehensive emergency management plan that addresses emergency evacuation transportation and adequate sheltering arrangements for the ALF residents. The developer must update this plan annually. The County must use the funds paid pursuant to this condition to construct or upgrade hurricane shelter space in a location that will benefit the residents of the Pelican Landing Community. The eighteen dollar and fifty cents fee (1996 dollars) will be multiplied by the Dodge Data Service Building Cost Index for U.S. and Canadian cities for June 1 of each year subsequent to 1996, up to the time building permits are issued. This multiplier ensures payment of current dollars at the time the permits are issued. If the Building Cost

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Index is not available, the Consumer Price Index will be used instead, and applied by the method described above. If Lee County adopts an impact fee for hurricane shelters prior to, or during, the acquisition of building permits 4051 through 4400 then the Developer will pay the duly adopted impact fee, provided that fee is no less per unit than the per unit amount set out above, and this condition will have no further force and effect.

#### D. Marina Facilities

1. The developer must create a conservation easement precluding the construction of additional docking facilities beyond those specifically authorized in this Development Order. This conservation easement will be in addition to the 4,000 foot conservation easement already required in Spring Creek. The location and extent of the conservation easement will be contingent upon navigability of the waterway, and will be established in association with the Florida Department of Environmental Protection (FDEP) permits.

2. All docking and dry storage facilities must be constructed in accordance with the terms and conditions of any FDEP permit or lease, and in accordance with any Lee County dock permit.

3. The developer has constructed dock and channel markers within Estero Bay. The Lee County Division of Natural Resources Management will be permitted to mount regulatory signs on the docks and channel markers owned by the developer. Lee County will be responsible for insuring that the addition of the regulatory signs does not cause the developer to be in violation of any permit condition or FDEP, Coast Guard, or other agency regulation. The regulatory signs will remain the property and maintenance responsibility of the Lee County Division of Natural Resources Management.

4. The marina operator must dispense manatee awareness brochures to all users of the marina facilities. The brochures must also include information regarding channel locations, proper boating routes, and shallow water habitats to be avoided.

5. The developer and marina operator must insure that the marina lighting is directed away from adjacent mangroves and estuarine systems to reduce any negative impacts to the wildlife using these areas.

6. The marina operator will remove or cause to be removed from the marina any boat operator observed violating the guidelines set forth in the manatee awareness brochures or Lee County regulations regarding the protection of manatees.

7. The developer must designate and reserve one wet slip for the Florida Marine Patrol or the Lee County Sheriff's Special Response Unit, if needed by these agencies.

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8. The shuttle boat captain and marina operator must keep a log of all manatee sightings. The log must reflect the locations, time and date of the sighting, the number of manatees, and the nature of their activity if it can be determined. The log should also note the name of the person recording the sighting. This information must be forwarded to Lee County and FDEP on a periodic basis.

9. The developer must construct an educational board on a Kiosk at the Beach Park. The educational board will be created in conjunction with the Lee County Division of Natural Resources Management, Marine Sciences Program and Turtle Time.

10. The developer will comply with all water quality monitoring requirements imposed by the FDEP and the SFWMD.

11. Any boat wash areas must have a closed loop system that captures and recirculates the water through a filtration or other acceptable system. Any boat repair and maintenance facilities must be in an enclosed, roofed, impervious surfaced area to limit the run-off of contaminated water during a storm event.

12. Once a year the marina operator ~~shall~~ must host an Educational and Hurricane Preparedness Workshop for all tenants in the wet slip area. The marina operator ~~shall~~ will provide the facility for the seminar and must insure that all tenants are invited. The marina operator will establish the date and time for the workshop in conjunction with Lee County Emergency Management and the Lee County Division of Natural Resources Management, Division of Marine Sciences. Lee County will provide a trained representative who will educate the tenants on natural resources awareness, manatees, safe boating practices and on proper procedures, prior to and during a hurricane.

13. The dry storage facilities must be located in a building or structure which is designed and constructed to meet all requirements of the Standard Building Code, as adopted by Lee County.

#### E. Vegetation and Wildlife/Wetlands

The developer has conducted Protected Species surveys in accordance with the Florida Game and Fresh Water Fish Commission (FGFWFC) guidelines and the Lee County Land Development Code. These surveys identified the presence of the following protected species: bald eagle, wood stork, little blue heron, tricolored heron, reddish egret, snowy egret, white ibis, piping plover, Southeastern snowy plover, least tern, American oystercatcher, black skimmer, brown pelican, Atlantic loggerhead sea turtle, and gopher tortoise.

1. There were three bald eagle's nests of concern prior to the original development order adoption. One nest ~~is~~ was on the Pelican Landing property in the Eco Park. The other two nests ~~are~~ were originally within 1500 to 1600 feet of Pelican Landing. One of these other nests was located on the Kersey parcel and declared abandoned by the

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USFWS in July 1998. The buffers that will affect Pelican Landing property ~~will be~~ were established in an on-site eagle habitat management plan addressing the Pelican Landing property only.

Prior to any new development within ~~2500~~ 1500 feet of any active eagle nest ~~other than the nest located within the Eco Park,~~ the Developer shall must prepare an on-site eagle management plan, addressing the Pelican Landing DRI property only, which shall ~~that will~~ be reviewed by DCA, SWFRPC, FGFWFC Lee County, and USFWS. Said groups shall have a fifteen working day review period and must provide all comments to Lee County and the Developer in writing. The agencies must provide specific written objections or concerns if any, regarding the any new proposed management plan and indicate how those concerns can be addressed by the developer.

The Developer will revise the management plans to respond to the any lawful and timely objections. The agencies will review and respond to the management plan resubmittal, ~~and any successive resubmittals, within fifteen working days of submittal.~~ The agencies will provide a written response to Lee County and the Developer, which reflects that there is no objection to the management plan or which outlines specific objections and concerns. The agency response will indicate how any concerns or objections can be addressed by the developer. Lee County and DCA will have the final approval authority. ~~The management plan will be deemed approved by the County and DCA if the respective agency fails to provide a written response within fifteen working days. The approval of the management plan will not be unreasonably withheld.~~ If a proposed management plan includes development within 750 feet of an active eagle's nest, the plan must also be submitted to the Lee County Eagle Technical Advisory Committee (ETAC). ETAC will review the plan and forward recommendations to the FGFWFC and USFWS.

~~The 2,500-foot limitation is intended to be a temporary restriction to insure the submission and approval for a management plan on a timely basis. The final primary and secondary buffer zones may be less than 2,500 feet. An eagle management plan will be included as part of an upland habitat protection area management plan.~~

2. A local development order for the Hickory Island Beach Park has been issued which to permits construction of beach park infrastructure. This local development order included s a protected species survey and phased Preliminary Management Plan (PMP). The PMP incorporated Lee County Division of Natural Resources Management (DNRM) and Florida Game and Fresh Water Fish Commission (FGFWFC) recommendations.

The PMP requires required the developer to provide the County with a conservation easement over the entire parcel, except for the active building areas approved through the local development order. The PMP permits permitted a refinement of the conservation easement boundaries after completion of a one year utilization study. ~~±The~~ The final conservation easement ~~shall be~~ is consistent with the provisions of Section 704.06, Florida Statutes. For the purpose of this DRI D.O., Section 704.06, F.S. will not preclude

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educational signage, and signage and land management activities required by the management plan, including but not limited to the removal of exotic vegetation.

The objectives of this one year study were: 1) determine shorebird utilization of land under Developer's ownership based on detailed surveys and prepare a shorebird management plan, 2) analyze beach vegetation and prepare a maintenance plan, and 3) monitor beach use by Pelican Landing visitors. Additionally, the PMP requires surveys for identification and protection of sea turtle nests, the construction of three osprey platforms, and a review of the elements of the overall plan to be conditioned on the DRI DO.

The Developer ~~must submitted~~ a Final Management Plan to Lee County, FGFWFC, and DCA within 18 months of the effective date of the DRI DO, which was November 14, 1994. Lee County, FGFWFC, and DCA will ~~reviewed~~ the management plan, within fifteen working days of submittal. ~~The DCA, and Lee County must provide a written response to the proposed final management plan which reflects that there is no objection or outlines the specific objections and concerns. The agencies' response will specify how those concerns or objections can be addressed by the developer. The FGFWFC must provide all lawful objections within the same fifteen working day time frame. Lee County approved this plan and its implementation was certified in October 1996.~~

~~If there are valid legal objections to the management plan, the Developer will revise and resubmit the plan to DCA, FGFWFC, and Lee County. DCA, Lee County, and FGFWFC will review the resubmittal, and any successive resubmittals, within fifteen working days. The agencies will provide a written response which reflects either the approval of the management plan or which outlines the specific objections and concerns. The agencies response will specify how those concerns or objections can be addressed by the developer. DCA and Lee County may not unreasonably withhold approval of the management plan. If the agencies do not provide a written response within the prescribed time frames, the management plan will be deemed approved. The Final Management Plan Approval from Lee County must be obtained prior to the issuance of the Certificate of Compliance for local development order #90-10-003.00D.~~

3. The projected gopher tortoise burrow count is for the original Pelican Landing DRI area was 439, based on an estimate of FGFWFC habitat guidelines, a minimum of 75 acres to of gopher tortoise habitat must be protected.

The Developer will has set aside a 78± acre area of xeric scrub and pine flatwoods to mitigate the impacts to the upland gopher tortoise habitat for the original Pelican Landing DRI land area. This area will be is known as the Pelican Landing Eco-Park. The Eco-Park area contains significant portions of the xeric oak habitat existing on the original Pelican Landing DRI site.

A Gopher Tortoise Population Study and Management Plan was submitted to the Florida Game and Fresh Water Fish Commission on or about December 22, 1993 for the original Pelican Landing DRI. ~~The Developer shall submit a copy for the~~

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~~management plan to the DCA, SWFRPC, and Lee County for review prior to the commencement of development in any area containing gopher tortoise habitat, beyond that approved in the Preliminary Development Agreement. The agencies shall will have a fifteen working day review period. The agencies shall will provide all lawful objections and concerns regarding the management plan to Lee County and the Developer in writing. The Developer will submit a revised management plan to DCA and Lee County that responds to the lawful objections. DCA and Lee County will review the management plan resubmittal, and any successive resubmittals, within fifteen working days of submittal. The agencies will provide a written response which approves the management plan or which outlines specific objections or concerns. The agencies' response will specify how those concerns or objections can be addressed by the developer. DCA and Lee County may not unreasonably withhold the approval of the management plan. Should DCA and Lee County not provide a written response within the prescribed time frames, the management plan will be deemed approved by the agency that failed to provide timely written comments.~~ A new protected species survey was conducted in March and April of 1998 on the addition to the Pelican Landing DRI known as the Kersey-Smooth parcel. The new survey revealed the presence of 114 active and inactive gopher tortoise burrows on 70 acres. The Developer has submitted for an Incidental Take Permit for the new gopher tortoise burrows located outside of the Eco-Park in the undeveloped portion of Pelican Landing Kersey-Smooth parcels. The Developer shall must obtain an Incidental Take Permit prior to proceeding with development within these new gopher tortoise habitat areas. Prior to the start of construction, all gopher tortoise burrows within these areas must be excavated and any resident gopher tortoises, or commensal species, relocated to open spaces within the Pelican Landing DRI.

~~The gopher tortoises addressed by the Incidental Take Permit shall must be relocated to the Eco-park, or other appropriate open space areas within Pelican Landing. The Eco-Park mitigates for regional impacts to the gopher tortoise population and xeric scrub within the Pelican Landing DRI. Impacts to gopher tortoise habitat within the Kersey-Smooth parcels will be mitigated through incidental take funds paid to the FGFWFC for the purpose of regionally significant gopher tortoise habitat.~~

4. All areas designated as Preserve on the adopted Map H must remain undeveloped and be owned, maintained, and managed by an Improvement District or a similar legal entity. No lot lines ~~shall~~ will be allowed within any preserve areas. The following uses are permitted within Preserves: habitat management activities, hiking and nature study, outdoor education, recreational fishing, gates and fencing, and boardwalks limited to pedestrian use. Trimming of mangroves for residential visual access to Estero Bay or Spring Creek ~~shall be~~ is prohibited in wetland areas #14 and #21 (as identified in DRI ADA) and Bay Cedar Phase II (along Spring Creek), and any saltwater wetlands abutting the Kersey-Smooth parcels.

~~The Developer will has granted a conservation easement consistent with Section 704.06., Florida Statutes for the Eco-Park to the FGFWFC an entity approved by DCA. The Developer must submit a draft of the proposed conservation easement to DCA for review and comment. DCA must provide comments on the draft easement within 15 days so~~

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~~as not to unduly delay development. Once approved by DCA, the Developer will record the conservation easement in the Lee County Public Records prior to the issuance of a local Development Order or "Early Work" approval for any area containing gopher tortoise habitat other than areas approved in the PDA. The conservation easement may be was drafted so as to allow use of the Eco-Park for resource-based recreational activities, enjoyment of nature and education enrichment, including, but not limited to: Picnic areas, trails, benches, boardwalks, biking/jogging trails, vita courses, bird viewing blinds/towers and interpretative facilities, signs, on-going maintenance and removal of exotic vegetation and compliance with the management plan required per the FGFWFC. Educational and directional signage will ~~be~~ are permitted within the Eco-Park. For the purposes of this DRI D.O. the prohibition of signage included within Section 704.06, Florida Statutes applies to off-site signs and billboards. The removal of exotics, controlled burns and the maintenance of the vegetation in accordance with the Eco-Park management plan will be permissible in the conservation easement notwithstanding the provisions of Section 704.06, Florida Statutes which prohibiting~~ the destruction of trees.

5. Should any orchids, wild pine air plants, Florida Coonties, Catesby's lilies, leather ferns, royal ferns, or cabbage palms with gold polypody and shoestring ferns be located within development areas, best efforts must be used to relocate these plants to open space and landscaped areas.

6. As part of local development order approval for any phase of the development, an invasive exotic vegetation removal and maintenance plan must be submitted to the Division of Natural Resources Management for approval. At a minimum, this plan must be structured to provide for the phased removal of invasive exotic vegetation and maintenance to control exotic re-invasion within the wetland and upland preserve areas. Removal within preserve areas may be done on a pro rata basis as phased local development orders are obtained.

7. The existing Pelican's Nest golf course includes native vegetation along the rough and between golf holes. The applicant must continue to incorporate the native vegetation into the design of future golf holes, where feasible. Native vegetation has been retained on individual lots and between tracts in the existing developed area of Pelican Landing. Where feasible, the applicant will continue to incorporate native vegetation into the open space and landscaped areas.

8. The applicant must design the golf course and conduct maintenance, which includes fertilization and irrigation, in a manner which that is sensitive to the water and nutrient needs of the native xeric vegetation in and around the golf course. However, this condition will not be interpreted in a manner which that forces the applicant to jeopardize the health and viability of the golf course.

9. Upon approval of the management plans referenced in the above, the approved management practices ~~shall then~~ will be considered a part of this development



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order for reinforcement purposes, and shall be enforceable in the same manner as a condition of this development order.

10. This project may result in the filling ~~onto~~ of more than 8 10 acres of wetlands. The mitigation for the impact to wetlands will be determined at the time of final permitting, but the mitigation should include the removal of exotic invasives, the restoration of historic hydroperiods, and a total of not more than ten acres of littoral zone plantings.

### F. Solid/Hazardous/Medical Waste

1. All storage, siting, and disposal of hazardous wastes and/or hazardous materials must be accomplished in accordance with federal, state, and local regulations. The business owner/operator is responsible for compliance with all permitting, reporting, emergency notification provisions and other regulations relating to hazardous materials and hazardous wastes.

2. All business owners and operators must insure that regulated substances are loaded, off-loaded and stored in an area that is curbed and provided with an impervious base. The impervious base must be maintained free of cracks and gaps so as to contain any spills or leaks.

3. Outdoor storage of hazardous waste is prohibited.

4. Restaurants must be outfitted with grease traps or approved equivalent systems. The owner/operators of any restaurant must follow all applicable codes and regulations for cleaning and maintaining grease traps.

5. If any hotel pool utilizes gaseous chlorine, the pool must be equipped with chemical sensors, alarm devices, or other comparable equipment. The hotel owner/operator ~~shall be~~ is responsible for compliance with this requirement and notice of this responsibility/obligation must be included on all deed transfers or lease agreements.

6. Any business that generates hazardous waste defined by the Code of Federal Regulations 40 CFR Part 261, shall must notify the Division of Natural Resources Management for an assessment as required by Section 403.7225, Florida Statutes. This assessment will address any deficiencies in the management practices of hazardous waste generated at the facility.

7. The developer, or any subsequent owner of the golf course, must insure that the golf course maintenance equipment is handled in accordance with all federal, state and local regulations. Specifically, the developer will insure that all wash down facilities comply with FDEP rules regarding chemical residue, and insure the continued recycling of motor oil from maintenance equipment, and insure recycling of used motor oil, used oil filters, anti-freeze, lead acid batteries, cleaning solvents, shop rags, and aerosol cans.

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8. The developer must investigate the feasibility of mulching trees and brush for on-site needs.

9. The developer/property owner of each commercial parcel which will be used to store, manufacture or use hazardous materials, shall must contact the Lee County Office of Emergency Management, Hazardous Material Representative, prior to obtaining a development order, to discuss the proposed development in relation to potential type, and storage of hazardous materials which will be located on the premises.

10. If required by federal, state and/or local regulations:

a. The developer/property owner shall must prepare or have available material safety data sheets (MSDS) and submit either copies of MSDS or a list of MSDS chemicals to the appropriate fire department or district and to the Lee County Division of Public Safety.

b. The developer/property owner shall must establish an emergency notification system to be used in the event of a hazardous material release.

#### G. Stormwater Management

1. The surface water management system must be designed, constructed and operated in accordance with the pertinent provisions of Chapters 373 and 403, Florida Statutes; Chapter 40E, Florida Administrative Code; and the South Florida Water Management District "Basis of Review", and any pertinent local regulations regarding the design, construction and maintenance of the surface water management system. This condition applies to anyone obtaining a local Development Order within Pelican Landing. The Bayside Improvement District (a district formed pursuant to Chapter 190, Florida Statutes), must insure that the portion of the system under the ownership and control of the district is operated in accordance with the pertinent portion of the regulatory provisions cited above, and any permit (construction or operation) issued by the SFWMD. Individual lot owners with on-site wetlands or stormwater retention or detention areas under their control must comply with the pertinent portion of the regulatory provisions cited above and any permit issued by the SFWMD.

2. Water Control Structures must be installed as early in the construction process as practicable to prevent over-drainage or flooding of preserved wetland areas. If the SFWMD establishes a construction schedule or scenario that is contrary to this condition, the permit requirement of SFWMD will control.

3. Any shoreline banks created along on-site stormwater wet detention lakes must include littoral zones constructed consistent with SFWMD requirements. The shoreline banks must be planted in native emergent and submergent vegetation. The developer must establish and maintain, by supplemental planting if necessary, 80 percent

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cover by native aquatic vegetation within the littoral zone for the duration of the project. The littoral zone will include, at a minimum, the area between high water and ordinary low water.

4. The Bayside Improvement District, and/or all property owners, must undertake a regularly scheduled vacuum sweeping of common streets, sidewalks and parking facilities within the development.

5. The developer must implement the best management practices for monitoring and maintenance of the surface water management systems in accordance with Lee County and South Florida Water Management District guidelines.

6. The SFWMD shall must establish all internal surface water management and wetland systems. The developer must set aside all internal surface water management and wetland systems as private drainage easements, common areas, or preserves. These areas must also be identified as specific tracts on the recorded final plat or some other legally binding document acceptable to the County Attorney's office.

### H. Transportation

#### 1. Significant Impact

a. The traffic impact assessment for this project assumes the development parameters and land uses shown in Attachment B, "Pelican Landing DRI Development Parameters". The assessment indicates that the significantly impacted roadways and intersections described below will be operating below acceptable levels of service at the end of Planning Horizon I (1997) and buildout (2002). Each annual monitoring report, described in Paragraph 4, must reflect whether the roadways and intersections described below are significantly impacted or are projected to be significantly impacted by this project in the following year.

b. The Pelican Landing DRI is projected to significantly and adversely impact (as defined by Lee County Administrative Code ~~AC-13-16, dated August 8, 1991, see Attachment C~~) the following roadways and intersections:

#### Planning Horizon I (1997)

#### Needed Improvement

US 41/Corkscrew Road	-	Signal retiming
US 41/Williams Road	-	Signalization, if warranted
US 41/Coconut Road	-	Signalization, if warranted
US 41/Pelican Commercial Entrance	-	Northbound left turn lane
	-	Southbound right turn lane
	-	Eastbound right turn lane

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

## Buildout (2002)

- |   |   |   |
|---|---|---|
| Corkscrew Road                              |   |   |
| - Three Oaks Parkway to 1-75                | - | Widen to 4 lanes  |
| Old 41                                      |   |   |
| - Bonita Beach Road to Terry St.            | - | Constrained (no widening possible;<br>maximum v/c ratio of 1.85 per 1993<br>Lee Plan Policy 22.1.9) |
| US 41                                       |   |   |
| - Immokalee Road to Old 41                  |   |   |
| (Collier County)                            | - | Widen to 6 lanes  |
| - Bonita Beach Road to West Terry Street    | - | Widen to 6 lanes  |
| - West Terry Street to Pelican's Nest Drive | - | Widen to 6 lanes  |
| - Coconut Road to Williams Rd.              | - | Widen to 6 lanes  |
| - Constitution Boulevard to Alico Road      | - | Widen to 6 lanes  |
| US 41/Corkscrew Road                        | - | Separate EB left and thru/right lanes   |
|   | - | Westbound dual left turn lanes  |
|   | - | Signal retiming   |
| US 41/Williams Road                         | - | Signalization, if warranted   |
| US 41/Coconut Road                          | - | Separate EB left and right turn lanes   |
|   | - | Signalization, if warranted   |
| US 41/Pelican Commercial Entrance           | - | Northbound left turn lanes  |
|   | - | Southbound right turn lane  |
|   | - | Eastbound right turn lane   |

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US 41/North Pelican Entrance	<ul style="list-style-type: none"><li>- Northbound left turn lane</li><li>- Southbound right turn lane</li><li>- Eastbound left and right turn lanes</li><li>- Signalization, if warranted</li></ul>
US 41/Pelican Landing Parkway/Old 41	<ul style="list-style-type: none"><li>- Southbound dual left turn lanes</li><li>- Northbound dual left turn lanes</li><li>- Eastbound thru/right turn lane</li><li>- Westbound two thru lanes</li><li>- Signal retiming</li></ul>
US 41/Pelican's Nest Drive	<ul style="list-style-type: none"><li>- Northbound left and right turn lanes</li><li>- Southbound left and right turn lanes</li><li>- Eastbound left and thru/right lanes</li><li>- Westbound left and thru/right lanes</li><li>- Signalization, if warranted</li></ul>
US 41/Terry Street	<ul style="list-style-type: none"><li>- Northbound dual left turn lanes</li><li>- Separate WB thru and right turn lanes</li><li>- Signal retiming</li></ul>
US 41/Bonita Beach Road	<ul style="list-style-type: none"><li>- Signal retiming</li></ul>
Coconut Road/Spring Creek Road	<ul style="list-style-type: none"><li>- Separate NB left and right turn lanes</li><li>- Separate EB thru and right turn lanes</li><li>- Separate WB thru and left turn lanes</li></ul>

## 2. Mitigation

a. The developer will pay impact fees as defined in the Lee County Land Development Code to mitigate Pelican Landing's transportation impacts on the non-site related roads and intersections set forth in Section H.1.b. above. Road Impact Fees are estimated to be \$8,900,000 for the land uses identified in Attachment B. Road Impact Fee payments represent the DRI's proportionate share payment for all road and intersection improvements identified in Condition H.1.b. as significantly impacted by this project and operating below the adopted level of service standard by 2002. Estimated Road Impact Fees from this project exceed the community's estimated proportionate share dollar amount of all significantly impacted roadway improvements.

If the Land Development Code Chapter governing Impact Fees is repealed, reduced, or made unenforceable by court petition, the Pelican Landing DRI will continue to pay, per individual permit, an amount equivalent to Road Impact Fees prior to such repeal, reduction or court petition. If payment is not made consistent with that schedule, then a substantial deviation will be deemed to occur, and the traffic impacts of Pelican

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Landing DRI must be reanalyzed to determine appropriate alternative mitigation prior to the issuance of further building permits for the Pelican Landing DRI.

All road impact fee monies paid by the Pelican Landing DRI after adoption of this DRI Development Order will be applied by Lee County toward the non-site related improvements included in Transportation Condition H.1.b., provided those improvements are deemed necessary to maintain the adopted level of service standards and are included in the County's Capital Improvement Program. Should the identified improvements be funded through other sources, in whole or in part, or deemed unnecessary to maintain the adopted level of service standards, Lee County may apply any Pelican Landing impact fees not required for those specific improvements to other improvements consistent with the requirements of the Lee County Land Development Code.

b. If through the local development approval process, the developer constructs, with the approval of the Lee County DOT, an intersection or roadway improvement identified in Paragraph H.1.b., those improvements may be eligible for Road Impact Fee credits. The determination of whether such credits will be granted will be made consistent with the procedures outlined in the Land Development Code.

c. The developer must dedicate 60 feet of right-of-way for Burnt Pine Drive North, from Pelican Landing Parkway to Coconut Road, a distance of 6,926 feet; and for Burnt Pine Drive South from Pelican Landing Parkway to Pelican's Nest Drive, a distance of 2,326 feet. The developer must construct, as a two-lane access road, Burnt Pine Drive North from Pelican Landing Parkway to Coconut Road, and Burnt Pine Drive South from Pelican Landing Parkway to Pelican's Nest Drive. Credits, if any, for the right-of-way dedication and construction identified above will be issued consistent with the procedures outlined in the Land Development Code. Dedication of the roadway right-of-way and construction of Burnt Pine Drive will occur as follows:

1) Burnt Pine Drive South from Pelican Landing Parkway to Pelican's Nest Drive: coincident with the Certificate of Compliance for the commercial parcel located in the northeast quadrant of the intersection of Burnt Pine Drive South and Pelican's Nest Drive.

2) Burnt Pine Drive North from Pelican Landing Parkway to Pelican Landing North Entrance: under construction no later than December 31, 1998.

3) Burnt Pine Drive North from Pelican Landing North Entrance to Coconut Road: should be under construction no later than December 31, 1999.

d. The developer agrees to reserve 25 feet of additional right-of-way along the south side of Coconut Road from US 41 west to Spring Creek Road to ensure that improvements to Coconut Road are not precluded. Such right-of-way will be dedicated to Lee County if and when requested. Credits, if any, for the right-of-way dedication will be granted

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at the time of dedication, and must be consistent with the Land Development Code in effect at that time.

e. As a mitigation option, the developer may, with the concurrence of Lee County, make an advance payment of a portion of Pelican Landing's total Impact Fees up to 2 million dollars. Lee County would then utilize the advance payment to accelerate the Project Design & Environmental (PD&E) Study for US 41 from the Collier County line to San Carlos Boulevard. The PD&E Study is currently scheduled in FDOT's Tentative Five Year Work Program for fiscal year 1998/99 (WPI #1114700).

### 3. Access and Site-Related Improvements

a. The developer will be fully responsible for site-related roadway and intersection improvements required within the Pelican Landing DRI. The developer must pay the full cost for any site-related intersection improvements (including but not limited to signalization, turn lanes and additional driveway through lanes) found necessary by Lee County or the Florida Department of Transportation (FDOT) permitting requirements for the Community's access intersections on US 41, Coconut Road and Spring Creek Road.

b. The Pelican Landing DRI site access points will be located and developed consistent with the Florida DOT's access management classification for US 41, unless otherwise approved by the Florida DOT. Improvements to those access points will be consistent with the Department's permitting requirements.

c. Site-related improvements will be as defined in the Land Development Code.

d. Except for Spring Creek Road and Coconut Road, all roads located within Pelican Landing will be maintained by the Bayside Improvement District (BID), unless subsequently dedicated to and accepted by Lee County.

### 4. Annual Monitoring Report

a. The developer will submit an annual traffic monitoring report to the following entities for review and approval: Lee County, the Florida Department of Transportation (FDOT), the Florida Department of Community Affairs (FDCA), and the Southwest Florida Regional Planning Council (SWFRPC).

The first monitoring report will be submitted one year after the date of the issuance of this DRI Development Order. Reports must be submitted annually thereafter until buildout of the project.

b. The monitoring report will be designed in cooperation with the Lee County Department of Transportation, FDOT, the SWFRPC and the FDCA prior to the

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submittal of the first report. The methodology of the annual traffic monitoring report may be revised if agreed upon by all parties.

c. The annual traffic monitoring report must contain the following information:

(1) P.M. peak hour existing volumes and tuning movement counts at all site access onto US 41 and Coconut Road, and a comparison to the project trip generation assumed in the DRI analysis.

(2) For existing conditions and a one-year projection, P.M. peak hour peak season tuning movement counts, Pelican Landing's estimated share of traffic, and an estimated level of service for the intersections identified in Paragraph H.1.b. as impacted by this project.

(3) For existing conditions and a one-year projection, P.M. peak hour peak season traffic counts, Pelican Landing's estimated share of traffic, and an estimated level of service for the roadway links identified in Paragraph H.1.b. as impacted by this project through buildout.

(4) An estimate of when the monitored roadways and intersections will exceed adopted levels of service.

(5) A summary of the status of road improvements assumed to be committed in the ADA, including the following:

<u>Roadway</u>	<u>Segment</u>	<u>Improvement</u>	<u>Schedule</u>
Pelican's Nest Dr.	Pelican's Nest to US 41	0 to 2	Planning Horizon I (1997/98)
Corkscrew Road	1-75 to Treeline Ave.	2 to 4	Planning Horizon I (1997/98)
US 41	Alico Rd. to Island Park Rd.	4 to 6	Planning Horizon I (1997/98)
US 41	Island Park Rd. to south of Daniels Parkway	4 to 6	Planning Horizon I (1997/98)
Bonita Beach Road	Hickory Blvd. to Vanderbilt	2 to 4	Planning Horizon I (1997/98)



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(6) A summary of the roadway and intersection improvements listed in Paragraph H.1.b. that have been constructed, and the program status of the remainder.

d. If the annual monitoring report confirms that the peak season P.M. peak hour traffic on the significantly impacted roadways exceeds the level of service standards adopted by Lee County, or is projected to exceed the adopted level of service standards adopted by Lee County within the forthcoming 12 months, and if the project is utilizing more than 5% of LOS "D" service volume during peak hour peak season traffic conditions, then further local development orders, building permits and certificates of occupancy may not be granted until the standards of the County's concurrency management system have been met. This means that adequate district-wide level of service capacity must be available through 1999. After 1999, significantly impacted individual links must be operating at the adopted level of service, or an improvement to achieve the adopted level of service is scheduled for construction in the first three years of an adopted local government capital improvement program or state work program.

e. If the annual traffic monitoring report confirms that the peak season P.M. peak hour traffic on the segment of US 41 in Collier County from Immokalee Road to Old US 41 exceeds the level of service standard adopted by Collier County and if the project is utilizing more than 5% of level of service D service volume during peak hour, peak season traffic conditions, then further building permits may not be granted until the subject roadway segment is committed for construction by the Florida Department of Transportation and/or Collier County.

f. In the event the developer confirms that no additional development occurred on any portion of the site for the year, even after the approval of a local development order, they may submit a Letter of "No Further Transportation Impact" in lieu of fulfilling the transportation monitoring portion of the Annual Monitoring Report.

### I. Wastewater Management/Water Supply

1. The developer or the Bayside Improvement District must obtain a South Florida Water Management District Water Use Permit, or a Modification to an existing Consumptive Use Permit for any water withdrawals, and for dewatering activities proposed in connection with on-site construction that does not qualify for a No Notice General Permit, under Rule 40E-20.302(4), F.A.C.

2. Builders within Pelican Landing must utilize ultralow volume plumbing fixtures, self-closing or metered water faucets, and other water conserving devices/methods consistent with the criteria outlined in the water conservation element of the Bonita Springs Utilities, Incorporated, SFWMD Water Use Permit or the water conservation element of any other approved utility provider utilized by the Development.

#### Fifth Development Order

3. Developers must utilize xeriscape principles in the landscape design of the project to further the conservation of nonpotable water.

4. If reclaimed water is available for use within the project to address a portion of the project's irrigation demands, the developer or Bayside Improvement District, as appropriate, must ensure that on-site lakes, wetlands, and the surface water management system are protected in accordance with the requirements of the SFWMD and FDEP.

5. The developer must provide written assurance that any hazardous commercial effluent, generated by the project, will be treated separately from domestic wastewater, and handled in accordance with FDEP regulations.

6. Except for temporary septic tanks for construction trailers or for sales offices/models, septic tanks are prohibited.

7. All potable water facilities, including any on-site potable water treatment system, must be properly sized to supply average and peak day domestic demand, as well as fire flow demand. The facilities ~~shall~~ must be constructed and sized in accordance with all pertinent regulations of the FDEP, Lee County, and any Fire Control District with jurisdiction.

8. All irrigation systems constructed for the golf course, landscaped areas and commercial/office portions of the project must be designed to accommodate effluent for irrigation use. Reclaimed water, to the extent it is available, must be used to address irrigation needs. The remaining demand will be satisfied through approved groundwater or surface water withdrawals. Reclaimed water must be used in accordance with all applicable regulations.

#### J. Police and Fire Protection

1. Construction must comply with the fire protection requirements of all building, development, and life safety codes adopted by Lee County.

2. Facilities qualifying under the Superfund Amendments Reauthorization Act (SARA) Title III and the Florida Hazardous Materials Emergency Response and Community Right to Know Act of 1988, must file hazardous materials reporting applications in accordance with Sections 302 and 312. Each reporting facility must update these applications annually.

3. The developer must provide for the emergency medical service impacts and fire protection impacts generated by the proposed development as defined by Lee County regulations.

4. If access to development is through a security gate or similar device that is not manned 24 hours per day, the developer must install an override switch in a

## Fifth Development Order

glass-covered box for use by emergency vehicles, or a comparable system that permits emergency vehicles to access the project.

5. The project's impact on fire protection and rescue service delivery will be met by the ad valorem taxes, EMS impact fees and fire impact fees.

### K. Interface Zone

1. The Developer will design, develop, and maintain any golf course constructed adjacent to the mangrove fringe area of Estero Bay in accordance with condition 14 a. through i. of Resolution Number Z-94-014. Adjacent to the mangrove fringe means any golf course constructed within 500 feet of the mangrove fringe.

2. The Developer will employ management strategies to address the potential for pesticide/chemical pollution of groundwater and surface water receiving areas, including but not limited to, Estero Bay, the mangrove fringe and any transition zone wetlands of Estero Bay, which that may result from the development of a golf course and water management areas within five hundred feet of the mangrove fringe of Estero Bay.

3. The management practices which that the Developer will follow are as follows:

a. The use of slow release fertilizers and/or carefully managed fertilizer applications which that are timed to ensure maximum root uptake and minimal surface water runoff or leaching to the groundwater.

b. The practice of integrated pest management (IPM) when seeking to control various pests, such as weeds, insects, and nematodes. The application of pesticides will involve only the purposeful and minimal application of pesticides, aimed only at identified targeted species. The regular widespread application of broad spectrum pesticides is not acceptable. The IPM program will minimize, to the extent possible, the use of pesticides, and will include the use of the USDA-SCS Soil Pesticide Interaction Guide to select pesticides for uses that have a minimum potential for leaching or loss due to runoff depending on the site specific soil conditions. Application of pesticides within 100 feet of the jurisdictional mangrove system is prohibited.

c. The coordination of the application of pesticides with the irrigation practices (the timing and application rates of irrigation water) to reduce runoff and the leaching of any applied pesticides and nutrients.

d. The utilization of a golf course manager licensed by the state to use restricted pesticides and experienced in the principles of IPM. The golf course manager will be responsible for ensuring that the golf course fertilizers are selected and applied to minimize fertilizer runoff into the surface water and the leaching of those same fertilizers into the groundwater.

Fifth Development Order

e. The storage, mixing, and loading of fertilizer and pesticides will be designed to prevent/minimize the pollution of the natural environment.

4. The Developer will prepare a management plan for the application of herbicides, pesticides, and fertilizers on the ~~proposed original Pelican Landing DRI~~ golf course adjacent to the mangrove fringe of Estero Bay. ~~The This plan will must be prepared amended to include the Kersey-Smoot parcels~~ prior to the application of any herbicides, pesticides and fertilizers to the proposed golf course. The amended management plan will must include a groundwater and surface water monitoring plan; ~~The plan will provide for testing to assess whether there are any herbicide, pesticide, or fertilizer pollution of the water within the area of the golf course located within 500 feet of the mangrove fringe; The plan will identify the locations for the groundwater monitoring and testing on a map(s); The plan will ; and, set forth the testing and reporting requirements.~~ The developer will submit the test reports with the annual monitoring report. The monitoring program will be established and operated at the expense of the Developer, the Bayside Improvement District, or other comparable legal entity charged with the legal responsibility of managing the golf course. This plan will be evaluated in accordance with the directives of Chapter 17-302, F.A.C., Water Quality Standards.

5. The Developer will submit a written amended surface and groundwater quality management plan to Lee County and DCA. The amended plan must be approved by DCA prior to the application of chemicals to the proposed golf course. The DCA will have 30 working days to review the management plan and approve or object to the plan in writing. The objections must be based on valid rules and regulations, and must identify how the concerns or issues can be addressed by the developer. The Developer must resubmit a revised water quality management plan to address the valid objections. DCA will have 30 days in which to review any revised management plan and must provide written comments or approval in the same manner as for the original management plan. Should DCA fail to provide a written response within the prescribed time frames, the plan will be deemed approved.

6. If groundwater or surface water pollution occurs, as that term is defined by the rules or regulations in effect at the time, and should the pollution be caused by the application of fertilizers, herbicides or pesticides to the golf course adjacent to the mangrove wetlands, the application of the pollutant must cease until there is a revised management plan for the application of the pollutant. A determination that the application of fertilizers, herbicides or pesticides to the golf course are the cause and source of the pollution must be based on competent and substantial evidence. If mitigation is necessary to address the pollution, a mitigation plan approved by DCA will be implemented by the developer. The mitigation plan will be based on rules and regulations in effect at the time the plan is reviewed and approved. The approved mitigation plan will be enforceable as a condition of the Development Order.

7. The mangrove wetland jurisdiction line of Estero Bay will be buffered from the proposed golf course by a 100' undisturbed naturally vegetated corridor, except for

## Fifth Development Order

water management facilities permitted by the ~~South Florida Water Management District~~ SFWMD and except for the removal of exotic plants as required by Lee County. The 100' buffer area will run along the portion of the golf course that abuts the mangrove wetlands of Estero Bay south of Coconut Road.

The mangrove line for the Kersey-Smoot parcels is off set 50 feet, to over 250 feet west of the wetland jurisdictional line delineated along the western (Estero Bay) side of the Kersey-Smoot parcels. No portion of the proposed golf course may be located closer than 100 feet to this mangrove line. To maintain the existing natural mangrove setbacks, no impacts are permitted to the wetlands on the western (Estero Bay) side of the Kersey-Smoot parcels. This includes both saltwater and freshwater wetlands contained within the boundary of the wetlands jurisdictional line. The proposed golf course fairways, tees and greens must be setback a minimum of 25 feet from all wetland jurisdictional lines on the Kersey-Smoot parcels, except where wetland impacts have been permitted by the SFWMD and the Army Corps of Engineers. Water management facilities permitted by the SFWMD and the removal of exotic vegetation, subject to Lee County regulations, are allowed within all wetlands on the Kersey-Smoot parcels.

8. All of the Interface Zone conditions will be interpreted and applied with the understanding that water quality is regulated by the DEP and the SFWMD. None of the Interface Zone conditions will be interpreted in a manner which is contrary to Section 403.021, Florida Statutes, the Florida Air and Water Pollution Control Act, and the rules adopted thereunder.

9. The Interface Zone conditions will not be interpreted in a manner contrary to public policy directives to utilize domestic reclaimed water. Pelican Landing will not be responsible for any harmful pollutants applied to the golf course via the reclaimed water, unless Pelican Landing has actual knowledge that the reclaimed water provided by the utility contains harmful pollutants.

10. The conditions set forth in this DRI DO do not preempt the authority of the ~~South Florida Water Management District~~ SWFMD and the ~~Department of Environmental Protection~~ (DEP). Section 373.016, Florida Statutes provides that the legislature has vested the authority in the DEP/SFWMD to accomplish the conservation, protection, management, and control of the waters of the state. To the extent that any requirements of DCA, SWFRPC, or Lee County pursuant to this DRI DO are contrary to those of the SFWMD/DEP, in areas where the SFWMD and DEP have been given preemptive authority, the requirements of the SFWMD and the DEP will control.

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

1. This amended Development Order constitutes a resolution of Lee County, adopted by the Board of County Commissioners in response to the application filed

## Fifth Development Order

by WCI Communities, L.P. to amend the Pelican Landing Development of Regional Impact Development Order.

2. All commitments and impact mitigating actions volunteered by the developer in the Application for Development Approval and supplementary documents which that are not in conflict with conditions or stipulations specifically enumerated above are incorporated by reference into this Development Order. These documents include, but are not limited to the following:

- (a) Pelican Landing Application for Development Approval, stamped Received October 26, 1992;
- (b) Pelican Landing DRI sufficiency response, stamped Received February 5, 1993;
- (c) Pelican Landing DRI sufficiency response, stamped Received July 6, 1993;
- (d) Pelican Landing DRI sufficiency response, dated September 16, 1993; and
- (e) Pelican Landing DRI sufficiency response, stamped Received November 22, 1993.

3. Map H, last revised ~~May 27, 1997~~ March 1, 1998 and stamped received ~~June 13, 1997~~ June 17, 1998, is attached hereto as Attachment A and is incorporated by reference. It is understood that because it is a concept plan it is very general. The boundaries of development areas and location of internal roadways may be modified to accommodate topography, vegetation, market conditions, traffic circulation or other site related conditions as long as they meet local development regulations. This provision may not be used to reduce the acreage of the Eco-Park or other open space or preserve acreages. It is understood that the precise wetland boundaries are determined by the U.S. Army Corps of Engineers, SFWMD, FDEP and Lee County.

4. The Development Order is binding upon the developer(s) and its assignees or successors in interest. Where the Development Order refers to the Bayside Improvement District, lot owners, business owners, or other specific reference, those provisions are binding on the entities or individuals referenced. Those portions of this Development Order which that clearly apply only to the project developer are binding upon any builder/developer who acquires any tract of land within Pelican Landing DRI.

5. The terms and conditions set out in this document constitute a basis upon which the developer and the County may rely in future actions necessary to implement fully the final development contemplated by this Resolution and Development Order.

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6. All conditions, restrictions, stipulations and safeguards contained in this Development Order may be enforced by either party by action at law or equity. All costs of such proceedings, including reasonable attorney's fees, will be paid by the defaulting party.

7. Any reference to a governmental agency will be construed to mean any future instrumentality ~~which~~ that may be created and designated as successors in interest to, or which otherwise possesses any of the powers and duties of, any referenced governmental agency in existence on the effective date of this Development Order.

8. If any portion or section of this Development Order is determined to be invalid, illegal, or unconstitutional by a court of competent jurisdiction, such decision will in no manner affect the remaining portions or sections of the Development Order, which will remain in full force and effect.

9. This Development Order grants limited approval and does not negate the developer's responsibility to comply with all applicable federal, state, regional and local regulations.

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

- (a) A substantial deviation from the terms or conditions of this Development Order, or other changes to the approved development plans ~~which~~ that creates a reasonable likelihood of adverse regional impacts or other regional impacts ~~which were~~ not evaluated in the review by the Southwest Florida Regional Planning Council; or
- (b) An expiration of the period of effectiveness of this Development Order.

Upon a finding that any of the above is present, the Board must order a termination of all development activity in the development affected by a substantial deviation or expiration of time until such time as a new DRI Application for Development Approval has been submitted, reviewed and approved in accordance with Section 380.06, Florida Statutes, and all local approvals have been obtained.

11. The project has a buildout date of 2002, and a termination date of 2005. This term is based on a ten year buildout and the recognition that a local Development Order, which is valid for three years, may be obtained in the tenth year.

12. The developer and the Bayside Improvement District may not exercise any rights of condemnation to acquire land within the development commonly known as

## Fifth Development Order

Spring Creek Village, E1 Dorado Acres, Estero Bay Shores, Mound Key Estates and Spring Creek Estates.

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

14. The project will not be subject to down-zoning, unit density reduction, intensity reduction or prohibition of development until 2005 as long as the Lee Plan amendment proposed in association with this DRI to upwardly adjust the 2010 Overlay allocations for Subdistricts 801 and 806 is adopted and effective. If the County clearly demonstrates that substantial changes have occurred in the conditions underlying the approval of the Development Order through public hearings on an amendment to the zoning and/or this DRI Development Order then a down-zoning, unit density reduction, or prohibition of development may occur. These changes would include, but would not be limited to, such factors as a finding that the Development Order was based on substantially inaccurate information provided by the developer, or that the change is clearly established by local government to be essential to the public health, safety and welfare.

If the companion plan amendment is adopted, Lee County will reserve to this DRI, the appropriate uses from the allocations established for subdistricts (subdistricts 806/801) of the Lee Plan 2010 Overlay until 2005. This reservation has the effect of reserving all of the acreage transferred from Gateway to Pelican Landing for the duration of the Development Order.

15. The developer, or its successor(s) in title to the undeveloped portion of the subject property, will submit a report annually to Lee County, SWFRPC, FDCA and all affected permit agencies. This report must describe the state of development and compliance as of the date of submission. In addition, the report must be consistent with the rules of the FDCA. The first monitoring report must be submitted to the Administrative Director of the DCA not later than one year after the effective date of this Development Order. Further reporting must be submitted not later than one year of subsequent calendar years thereafter, until buildout. Failure to comply with this reporting procedure is governed by Section 380.06 (18), Florida Statutes. The developer must inform successors in title to the undeveloped portion of the real property covered by this Development Order of this reporting requirement. This requirement may not be construed to require reporting from tenants or owners of individual lots or units.

16. ~~The Developer applied for an amendment to the DRI DO months of the effective date of this Development Order. The amendment to~~ In compliance with a condition of the first development order amendment, the developer did amend this Development Order to incorporate the portion of the Spring Creek DRI located west of US Highway 41 into the Pelican Landing DRI. The amendment contained a A legal description of that portion of the Spring Creek DRI, (and along with the conditions of the Spring Creek Development Order which that are applicable to the Spring Creek West property are now incorporated into this



Fifth Development Order

development order). The impacts of the Spring Creek development will not be considered separately or cumulatively in any future change to the Pelican Landing Development Order. A change in the development plan for the Spring Creek property could be a substantial deviation which that would require further analysis of Spring Creek West. The amendment was adopted solely for the purpose of consolidating Spring Creek West and Pelican Landing under the same Development Order and none of Spring Creek West's vested rights will be lost because of the amendment.

17. The County will forward certified copies of this Development Order to the SWFRPC, the developer, and appropriate state agencies. This Development Order is rendered as of the date of that transmittal, but will not be effective until the expiration of the statutory appeal period (45 days from rendition) or until the completion of any appellate proceedings, whichever time is greater. Upon this Development Order becoming effective, the developer must record notice of its adoption in the office of the Clerk of the Circuit Court, as provided in Section 380.06(15), Florida Statutes.

THE MOTION TO ADOPT this Amendment was offered by Commissioner Coy and seconded by Commissioner St. Cerny and upon poll of the members present, the vote was as follows:

John E. Manning	<u>Aye</u>
Douglas R. St. Cerny	<u>Aye</u>
Ray Judah	<u>Nay</u>
Andrew W. Coy	<u>Aye</u>
John E. Albion	<u>Absent</u>

DULY PASSED AND ADOPTED this 21st day of September, 1998.

BOARD OF COUNTY COMMISSIONERS  
LEE COUNTY, FLORIDA

BY: Manning  
(Chairman)

ATTEST:

Charlie Green, Ex - Officio Clerk  
Board of County Commissioners

Clerk

By: Ruth F. Myers

Deputy Clerk

APPROVED AS TO FORM

By: Andrew W. Coy

County Attorney's Office

MINUTES DEPARTMENT

Ruth F  
FILED SEP 28 1998

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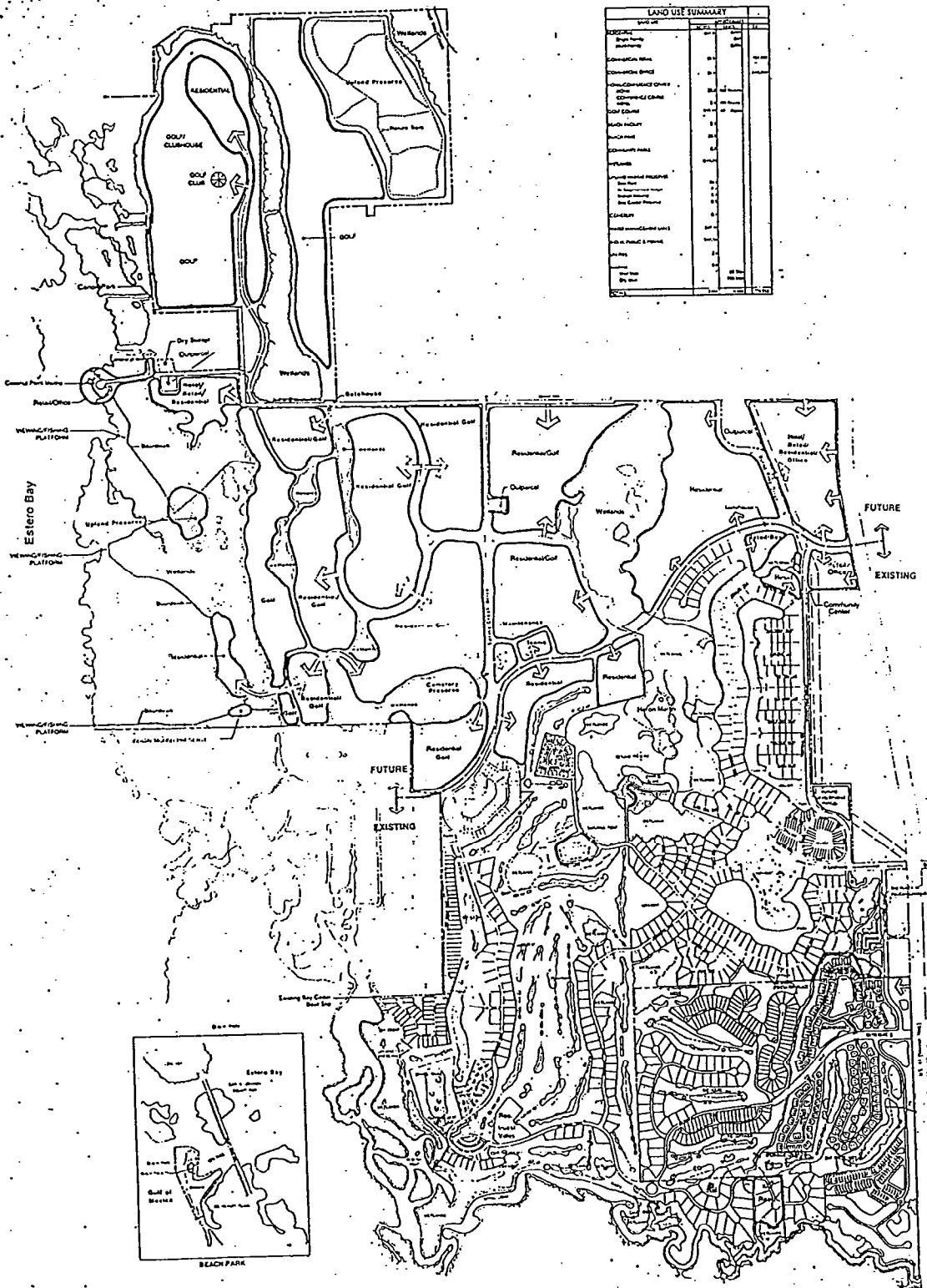
State of Florida  
County of Lee

I, Charlie Green, Clerk of the Circuit Court for Lee County, Florida, do hereby certify this document to be a true and correct copy of the original document filed in the Minutes Department.

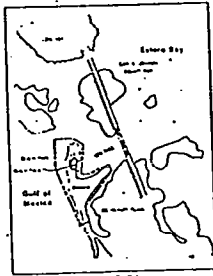
Given under my hand and official seal at Fort Myers, Florida, this 24th day of September, A.D. 1998

CHARLIE GREEN, CLERK

By: Ruth F. Myers  
Deputy Clerk



LAND USE	ACRES	PERCENT
RESIDENTIAL	1,200	45.0%
GOLF COURSE	1,000	37.5%
WETLANDS	1,000	37.5%
ESTERO BAY	1,000	37.5%
BEACH PARK	1,000	37.5%
COMMERCIAL	1,000	37.5%
INDUSTRIAL	1,000	37.5%
AGRICULTURE	1,000	37.5%
RECREATION	1,000	37.5%
UTILITY	1,000	37.5%
TRANSPORTATION	1,000	37.5%
ENVIRONMENTAL	1,000	37.5%
OTHER	1,000	37.5%
TOTAL	2,667	100.0%



# **MAP H** Master Development Plan PELICAN LANDING

NOTES:  
1. All access points on to US 41 as approved by FDOT.  
2. Spring Creek Road DPE shown on master concept plan for informational purposes only. Area subject to separate D.O.  
3. The location of the internal road network is conceptual. The final location of the internal road network will be determined and approved at the time of local zoning and development review.

PROJECT # **SC-15-11-170**  
PROJECT TYPE **1716**

ATTACHMENT "B"  
FOURTH ~~FIFTH~~ AMENDMENT  
PELICAN LANDING DRI  
DEVELOPMENT PARAMETERS

		Existing	Planning Horizon 1	Buildout Total
Land Use	Units <sup>1</sup>	<del>(1992)</del> (1998)	<del>(1997)</del>	(2002)
Residential	DU	969 <u>1083</u>	2,433	4,400
Single Family	DU	<del>373</del> <u>402</u>	625	665
Multi Family	DU	596	1,808	3,735
Retail <sup>2</sup>	GFA	11,000	291,000	461,050
Office <sup>3</sup>	GFA	<del>40,000</del> <u>106,838</u>	150,000	245,000
Hotel/Motel	Rooms	0	750	750
Recreation Uses				
Pelican Nest Golf Course/Clubhouse/ Practice Range Holes		29 <u>21</u>	38	38 <u>30</u>
Colony Range Club/ Golf Course/ Clubhouse/Practice Range Holes		0 <u>19</u>	9	9 <u>19</u>
Resort Golf Course/ Clubhouse Practice Range Holes		<u>0</u>		<u>19</u>
Tennis Center	Courts	0 <u>12</u>	6	12
Coconut Marina	Boat Slips			
	Wet	24	48	48
	Dry	0	150	150
Redfish Point	GFA	5,000	5,000	5,000
	Boat Slips Wet	15	15	15
Other <sup>4</sup>	Boat Slips			
	Wet	2	2	2

Footnotes:

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