

RESOLUTION NUMBER Z-00-023

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

WHEREAS, Neale Montgomery filed an application on behalf of the property owner, WCI Communities, Inc., to amend the Pelican Landing DRI Development Order and DRI Map H to add 3.2 ± acres to the DRI; and

WHEREAS, a public hearing was advertised and held on April 27, 2000, before the Lee County Zoning Hearing Examiner, who gave full consideration to the evidence in the record for Case #DRI964547 fka 95-01-050.04Z 10.01; and

WHEREAS, a second public hearing was advertised and held on August 7, 2000, before the Lee County Board of Commissioners, who gave full and complete consideration to the recommendations of the staff, the Hearing Examiner, the documents on record and the testimony of all interested persons.

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

SECTION A. REQUEST

The applicant filed a request to amend the Pelican Landing DRI Development Order and DRI Map H to acknowledge the addition of 3.2± acres to the DRI. The Pelican Landing DRI is located in the Outlying Suburban Land Use Category. The request is APPROVED, SUBJECT TO the terms and conditions set forth in the Eighth Amendment to the Pelican Landing DRI Development Order attached hereto as Exhibit A.

SECTION B. CONDITIONS:

The development of this project must be in compliance with the Eighth Development Order Amendment to the Pelican Landing DRI (#1-9293-121) and DRI Map H, dated January 7, 1999, last revised July 7, 1999, and stamped received at the Zoning Counter on October 7, 1999.

SECTION C. EXHIBIT:

The following exhibit is attached to this resolution and incorporated by reference:

Exhibit A: Eighth Amendment to the Pelican Landing DRI Development Order

SECTION D. FINDINGS AND CONCLUSIONS:


1. The applicant has proven entitlement to the requested amendment to the DRI Development Order by demonstrating compliance with the Lee Plan, the LDC, and other applicable codes and regulations.

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


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

DULY PASSED AND ADOPTED this 7th day of August, 2000.

ATTEST:
CHARLIE GREEN, CLERK

BY: 
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: 
Chairman

Approved as to form by

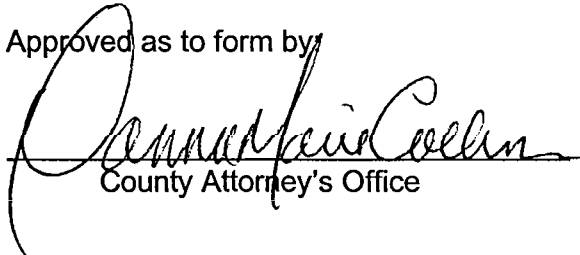

County Attorney's Office

EXHIBIT A

EIGHTH DEVELOPMENT ORDER AMENDMENT FOR

PELICAN LANDING

A DEVELOPMENT OF REGIONAL IMPACT

STATE DRI #1-9293-121
COUNTY CASE 95-01-050.04Z 10.01

WHEREAS, on September 28, 1999, WCI Communities, L.P., the owner of the Pelican Landing Development of Regional Impact (DRI) most recently requested an amendment to the original Development Order (DO) adopted August 29, 1994, as amended; and

WHEREAS, this document incorporates the Development Order Amendments for Pelican Landing DRI adopted: 1) March 22, 1995 (incorporating the terms of a settlement agreement); 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) September 21, 1998; 6) June 21, 1999; 7) December 6, 1999, and the conditions proposed for the eighth amendment to the Pelican Landing DRI DO; and

WHEREAS, as part of the eighth development order amendment, the developer proposes the addition of the accessory parking lot and shelter parcel to the Pelican Landing DRI; and

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

WHEREAS, the 3.2± acres will be added without increasing the number of dwelling units approved for the DRI; and

WHEREAS, the requested amendment is presumed to be a substantial deviation pursuant to Section 380.06(19)(e)5.c, Florida Statutes. This presumption may be rebutted by clear and convincing evidence. Evidence was presented at the hearing that established that the addition of the 3.2± acre accessory parking lot and shelter parcel **does not constitute** a substantial deviation requiring additional Development of Regional Impact review; 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 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 the proposed change **does not constitute** a substantial deviation warranting further DRI review.

I. FINDINGS OF FACT/CONCLUSIONS OF LAW

A. The "Pelican Landing DRI" is a partially built master planned community on ~~2,649±~~ 2,652.2± acres located approximately three miles north of the Lee/Collier County Line. Approximately 273± acres of the ~~2,649±~~ 2,652.2± 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, 300,000 square feet of gross floor area of retail commercial, and 475,000 square feet of gross floor area of office commercial. The retail uses will provide up to 2,048 parking spaces and the office uses will provide up to 1,587 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, an existing boat ramp on the Baywinds Parcel and a beach park for the benefit of the owners in Pelican Landing. There are 87 acres of upland habitat preserve, 635 acres of salt and freshwater wetlands, 234.68 acres of water management lakes, 162.16 acres of public and private rights-of-way, 3.2± acres of off-site parking, 6 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 build out 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;

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;

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;

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;

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 (E¾) of the Northwest Quarter (NW¼) of the Southwest Quarter (SW¼) of said Section 05, also the East Two-thirds (E⅔) of the Southwest Quarter (SW¼) of the Southwest Quarter (SW¼) of said Section 05, also the East Two-thirds (E⅔) 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.

Containing 2,409 acres, more or less.

Bearings herein above 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,

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 herein above 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

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,

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 (NW $\frac{1}{4}$) of Section 21, Township 47 South, Range 25 East, Lee County, Florida:

ALSO INCLUDED THERETO:

All of the Northeast Quarter (NE $\frac{1}{4}$) 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 (E $\frac{1}{2}$) of the Southwest Quarter (SW $\frac{1}{4}$), 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 (SE $\frac{1}{4}$) 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 (E $\frac{1}{2}$) of the Southwest Quarter (SW $\frac{1}{4}$) 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 (E $\frac{1}{2}$) of the Southwest Quarter (SW $\frac{1}{4}$) of said Section to Tamiami Trail (US 41).

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

ALSO

BAYWINDS PARCEL (Added pursuant to the Seventh Development Order Amendment)

A tract or parcel of land being a portion of the South 990 feet of Government Lot 2, Section 18 and a portion of the West 2200 feet of the South 990 feet of the north half of Section 17, Township 47 South, Range 25, Lee County, Florida and being more particularly described as follows:

Beginning at the East quarter corner of said Section 18, run S89°16'50"W along the south line of said Lot 2, said line being the basis of bearings for 1213.22 feet, said line being the southerly property line, to a bulkhead line established by Paul T. O'Hargan, Florida Professional Land Surveyor #1936 and duly approved by the County of Lee on September 27, 1967 and the State of Florida on November 21, 1967;

THENCE the following courses and distances along said Bulkhead Line:

N56°42'05"W, 265.00 feet, to a point of curvature;

Along an arc of a curve for 338.95 feet, having a radius of 520.00 feet, central angle of 37°20'50", chord of 332.98 feet and chord bearing of N38°01'40"W, to a point of tangency;

N19°21'15"W, 481.24 feet, to a point of curvature;

Along an arc of a curve for 104.44 feet, having a radius of 100.00 feet, central angle of 59°50'20", chord of 99.76 feet and chord bearing of N49°16'25"W, to a point of tangency;

N79°11'35"W, 144.73 feet, to a point of curvature;

Along an arc of a curve for 56.48 feet, having a radius of 100.00 feet, central angle of 32°21'45", chord of 55.74 feet and a chord bearing of N63°00'42"W, to a point of tangency;

THENCE run N89°16'50"E, leaving said Bulkhead Line on a line parallel to, and 990.00 feet distant, measured at right angles from, the south line of said Lot 2 and its westerly extension thereof, for 2081.30 feet, said line being the northerly property line, to the east line of said Section 18, said point of being N0°50'14"E and 990.35 feet from the East Quarter Corner of said Section 18;

THENCE run N89°19'25"E along a line parallel to, and 990.00 feet distant, measured at right angles from, the South line of said North half of said Section 17 for 2200.77 feet;

THENCE run S0°50'14"W along a line parallel to, and 2200.00 feet distant, measured at right angles from, the west line of said Section 17 for 960.34 feet to the North right-of-way of a 30 foot wide road as recorded in Deed Book 305, Page 276, Public Records of Lee County, Florida, said North right-of-way line being 30 feet northerly of and parallel to the South line of the North half of Section 17;

THENCE along said north right-of-way line S89°19'25"W, 430.89 feet;

THENCE along the lands known locally as Spring Creek Estates, and unrecorded plat, N0°40'35"W, 510.00 feet;

S89°19'25"W, 885.06 feet to a point of curvature;
Along an arc of a curve for 231.02 feet, having a radius of 390.00 feet, central angle of 33°56'23", chord of 227.66 feet and chord bearing of S72°21'14"W, to a point on the curve; S0°40'35"E, 167.10 feet;
and S30°56'33"W, 130.70 feet to the Northeast corner of lands described in Official Record Book 1194, Page 1085;
THENCE westerly along said lands and waters of a canal 106 feet, more or less to the Northeast corner of said lands described in Official Record Book 1057, Page 38;
THENCE southwesterly and westerly along said lands and said canal 400 feet more or less to the northwest corner of lands described in Official Record Book 1453, Page 495;

THENCE southwesterly along the mean high water line of a canal, 45 feet more or less to the south line of said north half of said Section 17;
THENCE S89°19'25"W, 136 feet more or less to the POINT OF BEGINNING, containing 72 acres more or less.

ALSO

ACCESSORY PARKING LOT PARCEL (Added pursuant to the Eighth Development Order Amendment)

A parcel of land lying in and being a portion of the East half of the Northwest quarter of Section 8, Township 47 South, Range 25 East of Lee County, Florida and being more particularly described as follows:

COMMENCING at the southwest corner of the East half of the Northwest quarter of Section 8, thence S 89°40'09" E a distance of 342.50 feet to the POINT OF BEGINNING,

Thence S 89°40'09" E a distance of 342.50 feet,

Thence N 01°24'39" W a distance of 408.00 feet,

Thence N 89°40'09" W a distance of 342.50 feet,

Thence S 01°24'39" E a distance of 408.00 feet to the POINT OF BEGINNING,

Containing 3.20 acres more or less.

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

D. The Application for Development Approval as modified by the settlement agreement was determined to be 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) amended by subsequent Notices of Proposed Change, 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 DRIs 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, November 4, 1996, November 17, 1997, and September 28, 1998, 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" includes 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 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.

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. The developer 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 build out. 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 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 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 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 must be developed in coordination with the Lee County Emergency Management officials and found sufficient by those officials months after the effective date of the DRI DO. *Editorial note: The developer submitted an emergency plan to Lee County Emergency Management for review and approval. The plan must be re-submitted annually to address changes in the development parameters and changes in local hurricane evacuation and sheltering policies. The plan must comply with Lee County Administrative Code 7-7.*

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 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.

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 must host an Educational and Hurricane Preparedness Workshop for all tenants in the wet slip area. The marina operator 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. The Baywinds parcel has existing environmental permits that remain valid as of the date of the Seventh Development Order Amendment. These permits are based on the plan of development shown on the local Development Order Approval No. 95-12-068.00D. Some improvements were made pursuant to those permits. Future improvements to the Baywinds parcel must be consistent with the conditions set forth in those permits as may be amended.

1. There were three bald eagles' nests of concern prior to the original development order adoption. One nest was on the Pelican Landing property in the Eco Park. The other two nests 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 USFWS in July 1998. The buffers that affect Pelican Landing property were established in an on-site eagle habitat management plan addressing the Pelican Landing property only.

Prior to any new development within 1500 feet of any active eagle nest other than the nest located within the Eco Park, the Developer must prepare an on-site eagle management plan, addressing the Pelican Landing DRI property only, that will be reviewed

by DCA, SWFRPC, FWC Lee County, and USFWS. The agencies must provide specific written objections or concerns if any, regarding 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 any lawful objections. The agencies will review and respond to the management plan resubmittal. 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 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. 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 FWC and USFWS.

2. A local development order for the Hickory Island Beach Park has been issued to permit construction of beach park infrastructure. This local development order includes 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 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 permitted a refinement of the conservation easement boundaries after completion of a one year utilization study. The final conservation easement 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 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 submitted a Final Management Plan to Lee County, FGFWFC, and DCA within 18 months of the effective date of the DRI DO, on November 14, 1994. Lee County, FGFWFC, and DCA reviewed the management plan. Lee County approved this plan and its implementation was certified in October 1996.

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

The Developer 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 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. 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-Smoot parcel. The new survey revealed the presence of 114 active and inactive gopher tortoise burrows on 70 acres. A protected species survey was conducted in 1990 and February 1996 on the Baywinds parcel. The survey revealed the presence of 28 active and inactive gopher tortoise burrows on 15.41 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 Kersey-Smoot and Baywinds parcels. The Developer 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.

Impacts to gopher tortoise habitat within the Kersey-Smoot and Baywinds parcels will be mitigated through incidental take funds paid to the FWC 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 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), and Bay Cedar Phase II (along Spring Creek), and any saltwater wetlands abutting the Kersey-Smoot and Baywinds parcels. However, minor mangrove trimming is permitted within the vicinity of the clubhouse on the Baywinds parcel to provide a limited view of the Estero Bay. The scope of the developer's DEP application request for minor trimming is subject to the review and approval of Lee County Division of Planning, Environmental Sciences staff. All trimming activity will be subject to the wetland regulatory permit approvals.

The Developer has granted a conservation easement consistent with Section 704.06., Florida Statutes for the Eco-Park to the FGFWFC. The conservation easement was drafted 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 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 prohibiting the destruction of trees.

5. Should any orchids, wild pine air plants, Florida Counties, 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 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 that forces the applicant to jeopardize the health and viability of the golf course.

9. Upon approval of the management plans referenced above, the approved management practices will be considered a part of this development order for reinforcement purposes, and be enforceable in the same manner as a condition of this development order.

10. This project may result in the filling of not more than 13.25 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 invasive plants, the restoration of historic hydro periods, and a total of not more than ten acres of littoral zone plantings. The mitigation for wetland impacts to the Baywinds parcel was determined prior to the inclusion of the property into the Pelican Landing DRI as part of the environmental and local government permitting. The mitigation was based on the plan of development reflected

in Lee County Development Order 95-12-068.00D. Changes to the plan of development that include additional wetland impacts may necessitate modification to the environmental and local government permitting.

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 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, 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.

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, 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 located on the premises.

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

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

G. Storm Water 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 Storm water 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 Storm water 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 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 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.

7. The Baywinds parcel must be developed in accordance with the following permits: Water Management permit numbers 362932255 and 36-02043-S, ACOE permit number 89IPD-20127 and the letter of permission to continue work authorized in the original permit, LOP #1989001127, and FDEP permit number 36293225. These permits were granted based on the plan of development reflected in Lee County Development Order No. 95-12-068.00D. These permits may be modified, updated or replaced as required by law. Changes to the local development order may also require modification of the referenced permits.

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 build out (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) the following roadways and intersections:

Planning Horizon I (1997)

Needed Improvement

US 41/Corkscrew Road
US 41/Williams Road
US 41/Coconut Road

- Signal retiming
- Signalization, if warranted
- Signalization, if warranted

US 41/Pelican Commercial Entrance	- Northbound left turn lane
	- Southbound right turn lane
	- Eastbound right turn lane
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

Build Out (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; maximum v/c ratio of 1.85 per 1993 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

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

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

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

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 build out 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

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 build out.

(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)

(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 ultra low 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.

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 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 glass-covered box for use by emergency vehicles, or a comparable system that permits

emergency vehicles to access the project. The parking lot for the beach parking lot is required to be gated or closed by the zoning resolution. The gate, chain or other device to prohibit access to the parking lot after hours will be unmanned, and the override system required by this condition does not apply to the parking lot gate, chain, or other device.

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 l. 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, 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 that the Developer will follow are as follows:

a. 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.

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.

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 original Pelican Landing DRI golf course adjacent to the mangrove fringe of Estero Bay. This plan must be 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 must: include a groundwater and surface water monitoring plan; 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; identify the locations for the groundwater monitoring and testing on a map(s); 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 water management facilities permitted by the 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 set back 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 SFWMD and the 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 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 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, dated January 7, 1999, last revised July 7, 1999, and stamped received at the permit counter on ~~July 23~~ October 7, 1999, 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 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.

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 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 that creates a reasonable likelihood of adverse regional impacts or other regional impacts not evaluated in the review by the Southwest Florida Regional Planning Council; or
- (b) 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 build out date of 2002, and a termination date of 2005. This term is based on a ten year build out 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

Spring Creek Village, El 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. 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.

Lee County will reserve to this DRI until 2005, 300 acres of residential use allocation in each of the Urban Community and Outlying Suburban Future Land Use Categories (for a total of 600 acres) and 60 acres of commercial use allocation in the Bonita Springs Planning Community, as established by Lee Plan Map 16, The Planning Communities Map and Table 1(b), known as the Planning Community Year 2020 Allocation. 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 build out. 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. 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. A legal description of that portion of the Spring Creek DRI, along with the conditions of the Spring Creek Development Order that are applicable to the Spring Creek West property are now incorporated into this 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 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 inclusion of the Baywinds parcel as part of the Seventh Development Order amendment does not divest the rights provided in the permits, development orders, and government approvals obtained on that parcel based on the plan of development reflected in Lee County Development Order No. 95-12-068.00D. These approvals were granted prior to its inclusion in the Pelican Landing DRI and will allow for the development of the Baywinds Parcel consistent with the plan of development reflected in Lee County Development Order No. 95-12-068.00D.

THE MOTION TO ADOPT this Amendment was offered by Commissioner John E. Manning, and seconded by Commissioner Andrew W. Coy and upon poll of the members present, the vote was as follows:

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

DULY PASSED AND ADOPTED this 7th day of August, 2000.

ATTEST:
CHARLIE GREEN, CLERK

BY: Isa D. Pierce
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
LEE COUNTY, FLORIDA

BY: John E. Albin
Chairman

APPROVED AS TO FORM BY:
Connie G. Collins
County Attorney's Office

Attachments:

- A. Map H, Master Development Plan - last revised July 7, 1999, stamped received October 7, 1999.
- B. Eighth Amendment Pelican Landing DRI Development Parameters

ATTACHMENT "B"
SEVENTH EIGHTH AMENDMENT
 PELICAN LANDING DRI
 DEVELOPMENT PARAMETERS

		Existing	Build out Total
Land Use	Units ¹	(1998)	(2002)
Residential	DU	1083	4,400
Single Family	DU	402	665
Multi Family	DU	596	3,735
Retail ²	GFA	11,000	300,000
Office ³	GFA	134,738	475,000
Hotel/Motel	Rooms	0	750
Recreation Uses			
Pelican Nest Golf Course/Clubhouse/ Practice Range	Holes	21	30
Colony Range Club/ Golf Course/ Clubhouse/Practice Range	Holes	19	19
Resort Golf Course/ Clubhouse Practice Range	Holes	0	19
Tennis Center	Courts	12	24
Coconut Marina	Boat Slips		
	Wet	24	48
	Dry	0	150
Redfish Point	GFA	5,000	5,000
	Boat Slips		
	Wet	15	15
Other ⁴	Boat Slips		
	Wet	2	2
	<u>Accessory Parking</u>	<u>0</u>	<u>3.2</u>

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

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 18th day of
August, A.D. 2000

CHARLIE GREEN, CLERK

By Spa Pierce
Deputy Clerk