

ADMINISTRATIVE INTERPRETATION
LEE COUNTY, FLORIDA

SOUTH SEAS RESORT DEVELOPMENT STATUS

WHEREAS, THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY has requested the Director of the Department of Community Development (hereafter "Director") and the County Attorney to summarize and clarify the current status of development of a project known as South Seas Resort on property located on the northern end of Captiva Island, described more particularly as:

LEGAL DESCRIPTION: In Sections 15 and 22, Township 45 South, Range 21 East, Lee County, Florida:

See attached **Exhibit "A"**

Zoning District for South Seas Resort

WHEREAS, Section 2-1 of the Land Development Code (LDC) provides that the Director may make interpretations of an administrative nature concerning the procedure to be followed in unusual circumstances; and

WHEREAS, LDC Section 34-172(b) provides that the Director, in conjunction with the County Attorney's Office has the discretion to interpret and apply the provisions of Chapter 34 of the LDC (Zoning); and

WHEREAS, the Board of County Commissioners of Lee County originally approved a zoning district change for the subject property on November 20, 1973, by adopting Resolution Z-73-202, Case Number 73-10-33, which changed the zoning district for the subject South Seas Resort property from the RU-3 and RU-2 zoning districts to a unique zoning district, described particularly in Resolution Z-73-202 as "RU-3 using a PUD concept as a guid[e] with special limitation of 3 units per acre and special permit for up to 5 acres of commercial property" and, inter alia limited the development density for this zoning district to 912 units; and

WHEREAS, in conjunction with said Resolution the Board of County Commissioners of Lee County approved a master development plan for the South Seas Resort (hereafter 1973 SSRMDP) which detailed existing developed and future development areas within the unique zoning district approved for South Seas Resort or the South Seas Resort District (hereafter SSRD); and

WHEREAS, in 1973 Lee County's zoning regulations did not provide for a Planned Unit Development (hereafter PUD) zoning district classification per se, however, in 1978 the Board of County Commissioners adopted Resolution Z-1 (1978 Zoning Ordinance) revising the

scheme of zoning regulations for Lee County to include a PUD zoning district classification; and

WHEREAS, the 1978 Zoning Ordinance converted conventional RU-3 zoning districts to RM-2 zoning districts, but did not specifically convert the unique SSRD to either an RM-2 or PUD zoning district; and

WHEREAS, the 1978 Zoning Ordinance defined a PUD as:

A tract of land which is developed as a unit under single ownership or control and which is planned and developed in a single operation or within a proposed period of time by a series of scheduled development phases according to an officially approved Final PUD Development Plan, which does not necessarily correspond to the property development and use regulations of the conventional zoning districts but which permits flexibility in building siting, mixtures of housing types and land uses, and encourages the utilization of usable open space and the maintenance of significant natural features.

WHEREAS, in light of the PUD definition provided by the 1978 Zoning Ordinance, converting the SSRD to, or treating the SSRD as an RM-2 zoning district does not further the mutual intention of the Board of County Commissioners and the developers of South Seas Resort evident in Resolution Z-73-202 for the project to be developed as a PUD; and

WHEREAS, the developers of South Seas Resort have developed the subject property similarly to a PUD, in reliance on Resolution Z-73-202; and

WHEREAS, on January 18, 1984, the Lee County Board of County Commissioners adopted Resolution DSO 84-1 reaffirming "[t]here was site plan approval at the time the original P.U.D. was granted;" and granting on appeal an exemption from Development Standards Ordinance 82-42 to allow the relocation of the residential development area identified as Golf Villas on the 1973 SSRMDP from the originally approved location on the *Bay Island Parcel* to the *Resort Area* on the northernmost end of Captiva Island for the development of 68 residential units known as *Land's End Village*; and

WHEREAS, on July 23, 1985, Lee County Zoning and Development Review Division confirmed that, as a result of the developers of South Seas Resort timely applying for and receiving approval for a site plan under the previous F-0015 review procedure, South Seas Resort met the outlined requirements of and was deemed consistent with the Lee Plan; and

WHEREAS, the approved 1985 site plan included, as Sheet 1 of 16, a revised master plan showing as-built and proposed modifications to the 1973 SSRMDP; and

WHEREAS, the Lee County Zoning and Development Review Division outlined and accepted by in a letter dated June 24, 1987, a process for reviewing a detailed plan or plans for a particular development phase for substantial compliance with the SSRMDP, but did not provide for modification or revision of the SSRMDP itself; and

WHEREAS, the Board of County Commissioners of Lee County initiated and approved Resolution Z-90-91 to include particularly described areas of the property comprising the SSRD within the water-dependent overlay of the Lee Plan and provide that those particularly described areas would be treated as Marine Commercial zoning (CM) districts within the SSRD;

See attached Exhibits "B" and "C"

South Seas Resort Master Development Plan (SSRMDP) Amendment Procedure

WHEREAS, the Director is of the opinion that effective administration of requests to modify or change the SSRMDP as this resort destination evolves under the current and evolving zoning regulations necessary to effectively regulate contemporary land development in Lee County requires treating the SSRD similarly to a PUD, in accordance with Article VI, Division 10, Subdivision IV of the LDC; and

WHEREAS, Article VI, Division 10, Subdivision IV of the LDC provides a contemporary context for adequately and effectively regulating future development and administering future requests for development approvals in furtherance of the intention of the Board of County Commissioners and the developers of the South Seas Resort pursuant to Resolution Z-73-202; and

WHEREAS, the 1978 Zoning Ordinance authorized the Director to approve minor changes in the location, siting or height of buildings, structures and improvements authorized by the approved PUD final development plan; and

WHEREAS, the Board of County Commissioners of Lee County in 1989 amended the Zoning Ordinance to provide the Director with greater flexibility to amend PUD final development plans (see Ordinance 89-4); and

WHEREAS, the parameters set forth in Ordinance 89-4 regarding changes to PUD final development plans are currently codified in LDC Section 34-1038, which provides:

For any approved final PUD development plan for a PUD which does not specifically set forth those minor changes that may be approved by the director of the department of community development or any PUD development plan which has not received final approval prior to the effective date of the ordinance from which this subdivision is derived (July 6, 1987), minor changes (amendments) that may be approved by the department director include, in general, any change to the interior of the development which does not increase density or intensity (i.e., number of dwelling units or quantity of commercial or industrial floor area), or which does not decrease buffers or open space. The director shall not approve any change which results in a substantial underutilization of public resources and public infrastructure committed to the support of the development, nor shall the director approve any change which results in a reduction of total open space, buffering,

landscaping and preservation areas, or which adversely impacts on surrounding land uses.

Bayside Villas Lock-off Units

WHEREAS, during the review of South Seas Resort to provide the requested summary and clarification a question arose as to the number of units at *Bayside Villas* and within the SSRD, and Staff determined that 102 of the 912 maximum allowed residential living units were consistently allocated to the development area identified as Bayside Villas; and

WHEREAS, during the course of this review Staff determined that a portion of the 102 residential living units allocated to Bayside Villas have been and are being operated as lock-off accommodations; and

WHEREAS, lock-off accommodations have been regulated by Lee County Ordinances and counted as living units since 1974 (see Lee County Ordinances numbers 74-9, 78-7, and 82-44, and LDC Sec 34-1547); and

WHEREAS, the marking and use of the 102 units allocated to Bayside Villas as more than 102 units is counter to the SSRMDP and the density cap for the SSRD; and

WHEREAS, the developers and operators of South Seas Resort have voluntarily agreed through a Compliance Agreement with the Director to amortize the use of the units at Bayside Villas as lock-off accommodations in a manner acceptable to Lee County;¹ and

Five Acre Commercial Area and 2002 South Seas Resort Master Development Plan (2002 SSRMDP)

WHEREAS, during the review of South Seas Resort to provide the requested clarification a question arose as to the physical extents of the five (5) acres of commercial development permitted by Resolution Z-73-202; and

WHEREAS, at the request of the County, the developers submitted to the County a revised Master Development Plan (hereafter "2002 SSRMDP") showing the current as built/as approved configuration of the SSRD; and

WHEREAS, the 2002 SSRMDP clearly delineates the current extents of the five (5) acres of permitted commercial development within the SSRD and the perimeter boundary of the current extents of this commercial area have been separately described by metes and bounds to facilitate County verification of this acreage:

¹ This Compliance Agreement operates to eliminate separate use of portions of the Bayside Villas units as lock-off units—what are now being marketed as "Standard Sleeper Rooms," "Bayside Executive Studios," and "two-bedroom Bayside Villas". See www.south-seas-resort.com/accommodations/bayside.asp site last visited January 25, 2002.

See attached Exhibit "D"

WHEREAS, it is in the best interests of Lee County and the developers of South Seas Resort to summarize and clarify the current status of the South Seas Resort development so as to administer future development approval requests while avoiding possible misunderstandings; and

WHEREAS, the Director of the Department of Community Development has determined and the developers of South Seas Resort have agreed that:

1. Resolution Z-73-202, adopted on November 20, 1973 by the Lee County Board of County Commissioners, established a unique zoning district, hereafter referred to as the South Seas Resort District (SSRD).
2. In conjunction with Resolution Z-73-202, the Board of County Commissioners approved a master development plan, hereinafter South Seas Resort Master Development Plan (SSRMDP). The SSRMDP delineated ten (10) areas as *Beach Homes*, four (4) areas as *Beach Villas*, two (2) areas as *Golf Villas*, and three (3) areas as *Bayside Villas*, a *Golf Course*, *Resort area*, *Commercial area*, *Tennis Villas area*, *Employee Housing area*, *Boat Basin area*, and *Plantation Preserve area* as well as areas of Existing Mangrove. Additionally the approved master plan identified locations for Sewage Treatment & Wastewater Recycling, Boardwalks, an Observation Tower, Indian Mound, golf holes, lakes, roadways, and docking facilities.
3. Contemporaneous to the adoption of Resolution Z-73-202, the developers made the following representations to Lee County Staff, the Zoning Board, the Board of County Commissioners, and the Public, which representations constitute enforceable conditions of the SSRD:
 - a. Development of the SSRD will evolve over a number of years in line with several very basic guidelines: very low density development utilizing a number of small scale clusters; carefully planned and tightly controlled development; preservation of bayou shoreline and mangrove areas; Emphasis on pedestrian traffic, not automobiles.
 - b. The project will be limited to 912 residential units (304 acres at three units per acre) and five (5) acres of commercial development.
 - c. Four (4) miles of mangrove and bayou shoreline will be preserved by clustering higher density into smaller development areas with greenbelt separations.
 - d. A 20 acre *Plantation Preserve* parcel, a natural area to be accessible by wooden walkways that will include instructional stopping points describing the origin and type of vegetation in a bayou area will be set aside.
 - e. Employee housing accommodations will be developed.

4. Since the inception of the SSRD, the developers of South Seas Resort have allocated units to various projects throughout the district and allocated, *inter alia*, 102 units to Bayside Villas and 26 units to the South Seas Plantation Homesites subdivision.
5. On January 18, 1984, the Lee County Board of County Commissioners adopted Resolution DSO 84-1 granting an exemption from the Development Standards Ordinance 82-42 (hereafter "DSO") for the relocation of the Golf Villas from the originally approved location on the *Bay Island Parcel* to the north end of the *Resort Area* for the development of 68 residential units known as *Land's End Village*.
6. In 1985, the developers of South Seas Resort timely requested and received a Lee Plan Consistency Determination. Included with this request were a cover letter, eight (8) page Project Overview, a Tabulation of Dwelling Units at South Seas Resort, and a 16 sheet, 24" x 36" plan package entitled "Construction Plans for South Seas Plantation" (hereafter "1985 plan package"). At that time, the SSRD was deemed consistent with the Lee Plan.
7. The 1985 cover letter noted it was "likely to take an additional three to five years to complete the development in accordance with the approved Master Plan," and that the developer was submitting building permit applications and drawings for review simultaneously.
8. The 1985 Project Overview to some extent reiterated and modified the developer's 1973 representations, providing six (6) guidelines for development, 4 basic types of projects proposed for the final phases of development, a series of descriptions for each individual phase included in the 1985 plan package, and a summary, a Tabulation of Dwelling Units, and an accompanying narrative.
9. The 1985 plan package included the following modifications to the 1973 SSRMDP for the overall plan of development for the SSRD:
 - a. Graphic designations of vegetation were removed. See Sheet 1 of 16.
 - b. The legend was changed from colored to hatchured and expanded to include *Beach Homesites, Marina Villas, Commercial, Resort Complex, Employee Housing, Resort Services Facilities*; and *Beach Villas* was modified to *Beach Villas and Plantation Villas*. See Sheet 1 of 16.
 - c. The *Golf Villas* were depicted on the northern end of the northernmost peninsular area (to reflect the relocation of the *Golf Villas* and their development of *Land's End Villas*)² and the golf holes in that area were reconfigured. See Sheet 1 of 16.

² See Resolution DSO 84-1, County Commission Minutes Book 141 pp 34-35

- d. An area designated *Resort Complex* generally corresponding to the Resort area of the 1973 SSRMDP was identified, see Sheet 1 of 16; and a Paving, Grading, Drainage, and Utility Plan for Plantation House II, see Sheet 2 of 16, and a Paving, Grading and Drainage Plan for Harbourside III, see Sheet 3 of 16, and a Utility Plan for Harborside III were provided. See Sheet 4 of 16.
- e. An area on the northern end of the most northeastern peninsula or *Bay Island Parcel* was identified as *Resort Complex*, see Sheet 1 of 16, and a Paving, Grading, Drainage, and Utility Plan provided for 18 one- and two-story hotel units to be known as *Harbour Pointe*. See Sheet 5 of 16.
- f. A *Marina Villas* area was depicted on the northern peninsula of the land southeasterly and adjacent to the northern Marina and the golf holes in that area reconfigured. See Sheet 1 of 16.
- g. Two areas south of the northern *Resort Complex* area were also designated "Resort Complex," see Sheet 1 of 16, and a Paving, Grading, Drainage, and Utility Plan provided for a new *Estate Residence*³ and *Health Club*. See Sheet 6 of 16.
- h. The northern areas designated *Beach Villas* and *Plantation Villas* were modified from the 1973 SSRMDP to show one smaller area on the east side of the road and one larger area on the west side of the road, see Sheet 1 of 16, and a Paving, Grading, Drainage, and Utility Plan provided for two 1-1/2 story duplex units identified as *Plantation Bay Villas* on the east side of the road and one four-plex, two stories over parking identified as *Plantation Beach Villas* on the west side of the road. See Sheet 7 of 16. The larger *Beach Villas* and *Plantation Villas* area on the west side of the road on Sheet 1 of 16 included property not included in the SSRD. Cf. 1973 SSRMDP.⁴
- i. Three new areas, two on the *Plantation East* (aka *Bay Island*) *Parcel* and one in the general area of the *Commercial* and *Bayside Villas* areas of the 1973

³ The *Estate Residence* was erroneously excluded from the Tabulation of Dwelling Units, and thus an additional residential unit should be counted against the total 912 allocation.

⁴ As developed, this northern *Beach Villas* and *Plantation Villas* area is comprised of two resort residential projects known as *Sandrift* and *Plantation Beach Club* (PBC), with PBC encompassing the majority of the development area. While PBC was developed with a total of 56 total units, a portion of the project—PBC II, Phase 1, an eight (8) unit building—was constructed on a parcel of land acquired by the developers subsequent to the 1973 zoning approval and not included within the SSRD. Thus the total number of PBC units within the SSRD which may be counted against the total 912 allocation is 48 and the 1985 plan package Tabulation of Dwelling Units total of 56 is in error.

SSRMDP were designated *Resort Services Facilities*, see Sheet 1 of 16, and a Paving, Grading, Drainage, and Utility Plan provided for a Proposed Addition to Sewage Treatment Plant. See Sheet 8 of 16.

- j. The areas designated *Beach Homesites* were modified from the 1973 SSRMDP to show the area platted and developed as South Seas Plantation Beach Homesites, Plat Book 29, Page 106, Public Records of Lee County, Florida. See Sheet 1 of 16.
 - k. The areas designated *Beach Homes* were modified to reflect the as-built development areas. See Sheet 1 of 16.
 - l. The southern area designated *Beach Villas and Plantation Villas* was modified from the 1973 SSPMPD to combine *Beach Homes* and *Beach Villas* development areas. See Sheet 1 of 16.
 - m. The *Commercial* area and the *Tennis Villas* area were revised to generally reverse their positions as shown on the 1973 SSRMDP and *Bayside Villas* was reduced from three (3) areas to two (2) to reflect the as-built development areas, see Sheet 1 of 16, and a Paving, Grading, Drainage, and Utility Plan provided for Chadwick's Commercial, Restaurant, and Meeting Rooms. See Sheet 10 of 16.
 - n. The *Employee Housing* area was revised and modified, see Sheet 1 of 16, and a Paving, Grading, Drainage and Utility Plan provided for Employee Housing/Human Resources and Employee Housing Phase Four. See Sheet 9 of 16.
 - o. Typical Details and Notes with respect to paving, grading, drainage and utilities were also provided. See Sheets 11 through 16 of 16.
10. In 1987, the developers of South Seas Resort, in conjunction with a proposal to County Staff of a procedure for plan review and final inspection in the SSRD in light of the process provided under the DSO and the exemption granted the project under Resolution DSO 84-1, submitted a new overview of the master plan, updating the 1985 Project Overview, and a revised Tabulation of Dwelling Units, updating the 1985 Tabulation of Dwelling Units..
11. The June 24, 1987, Lee County Zoning and Development Review Division letter agreed to a process for reviewing a detailed plan or plans for a particular development site or phase for substantial compliance with the SSRMDP, but did not provide for modification or revision of the SSRMDP itself.
12. As the exemption granted under DSO 84-1 was directed at the relocation of the dwelling units for *Land's End Village*, the procedure outlined in staff's June 24, 1987 letter is no longer an effective procedure under current County standards.

13. Mariner's purchase of the Hanchar property and the variance granted by BZA-86-46 does not affect the total number of units permitted within the SSRD (912), however, construction of Sanddrift (aka Plantation Beach Villas within the SSRD allocated four (4) of the 912 SSRD units to that development.
14. The parcel on which the *Estate Residence* was constructed is within the SSRD and one (1) residential dwelling unit will be counted against the total 912 allocation of dwelling units
15. The *Plantation Beach Club II, Phase 1* building, was constructed on a parcel not included within the SSRD, and the eight (8) units it contains will not be counted against the total 912 allocation of dwelling units.
16. The current allocation of units to the various development areas is:

<u>Area Name</u>	<u>Number of Units</u>
1. Bayside Villas	102
2. Tennis Villas	60
3. Employee Housing	140
4. Beach Villas	160
5. Beach Cottages	26
6. Beach Homes	33
7. Beach Homesites	26 ⁵
8. Sandrift (aka Plantation Beach Villas)	4
9. Plantation Beach Club	48
10. Plantation Bay Villas	4
11. Marina Villas	40
12. Harbourside Villas	107
13. The South Seas Club	24
14. Cottages at South Seas Plantation	14
15. Plantation House Phase I	12
16. Seabreeze (aka Plantation House Phase II)	8

⁵ The developers of the South Seas Resort have allocated 26 units to the Beach Homesites area. Only 24 units have been constructed to date. In 1999, the Lee County Hearing Examiner granted Lot 21 of this subdivision a variance from the building height limitations of LDC Section 34-2175(2). VAR963127 aka 99.05.144.05V 01.01. LDC Section 34-2175(2) was subsequently amended to prohibit such grant of variance. Lee County Ordinance 99-13.

17. Land's End Village (aka Golf Villas)	68
18. Estate Residence	1
19. Harbour Pointe	18
TOTAL ALLOCATED DWELLING UNITS	895
TOTAL APPROVED DWELLING UNITS	912
TOTAL DEVELOPED DWELLING UNITS	877 ⁶
TOTAL UNDEVELOPED DWELLING UNITS	35



17. There is evidence to conclude that, when used as lock-off units, Bayside Villas provides more than the 102 units allocated to that development phase by the current schedule allocating the 912 SSRD units.
18. The use of lock-off units on Captiva Island is regulated by LDC Section 34-1547.
19. It is in the best interests of the developers and operators of South Seas Resort and Lee County that the design and use as lock-off accommodations of the 102 units allocated to Bayside Villas be amortized. The developers of South Seas Resort have proposed and the County has agreed to a program for timely amortization of the design and use of these units as lock-off accommodations through a Compliance Agreement acceptable to the County.
20. The County-initiated zoning action memorialized by Resolution Z-90-91 established within the SSRD two (2) specific water-dependent overlay Marine Commercial (CM) zoning districts as a part of the SSRD, but that zoning action had no effect on the density or number of units approved within the SSRD.
21. LDC Section 34-1038 provides an effective procedure for reviewing proposed modifications or revisions to the SSRMDP and SSRD for compliance with Chapter 34 of the LDC.

WHEREAS, THE PURPOSE OF THIS ADMINISTRATIVE INTERPRETATION IS TO SUMMARIZE AND CLARIFY ALL PRIOR APPROVALS INTO ONE COMPREHENSIVE DOCUMENT DETAILING WHAT DEVELOPMENT CURRENTLY EXISTS, CLARIFY WHAT ADDITIONAL DEVELOPMENT MAY BE PERMITTED, AND PROVIDE FOR A REASONABLE METHOD FOR THE COUNTY TO REVIEW REQUESTS FOR FUTURE DEVELOPMENT APPROVALS TO MODIFY OR CHANGE THE MASTER DEVELOPMENT PLAN ADOPTED BY RESOLUTION Z-73-202;

NOW, THEREFORE, the Director of Community Development has determined:

⁶ Of the 877 developed units, to date only 875 have been constructed. Supra note 5.

1. The development of 912 residential units within the SSRD, the extents of which are described in attached Exhibit "A," together with the following Tabulation of Dwelling Units for the allocation of these dwelling units within the SSRMDP is approved:

<u>Area Name</u>	<u>Number of Units</u>
1. Bayside Villas	102
2. Tennis Villas	60
3. Employee Housing	140
4. Beach Villas	160
5. Beach Cottages	26
6. Beach Homes	33
7. Beach Homesites	26 ⁷
8. Sandrift (aka Plantation Beach Villas)	4
9. Plantation Beach Club	48
10. Plantation Bay Villas	4
11. Marina Villas	40
12. Harbourside Villas	107
13. The South Seas Club	24
14. Cottages at South Seas Plantation	14
15. Plantation House Phase I	12
16. Seabreeze (aka Plantation House Phase II)	8
17. Land's End Village (aka Golf Villas)	68
18. Estate Residence	1
19. Harbour Pointe	18
TOTAL APPROVED ALLOCATED DWELLING UNITS	895
TOTAL APPROVED DWELLING UNITS	912
TOTAL DEVELOPED DWELLING UNITS	877⁸

⁷ Id.

⁸ Id.

2. The existing commercial development within a 5 acre area the perimeter boundaries of which are described in attached Exhibit "D" is approved.
3. The existing Marine Commercial development within the two areas, the perimeter boundaries of which are described in attached Exhibits "B" and "C" is approved.
4. Except as specifically conditioned herein, the following development standards applicable to the SSRD, based on standards that have been applied since its inception in 1973 are approved:
 - a. **Open space:** Of the 304± acres⁹ that make up the SSRD, approximately one third is set aside as open space (this 100+ acres includes now privately owned uplands, wetlands, and submerged lands). Additionally there is an allocation of open space for those lands seaward of the coastal construction control line, currently in excess of 15 acres. The South Seas Golf Course and other recreational lands supplement the beachfront and preservation land categories such that a minimum of 50% (approximately 152 acres) of the overall property is allocated to Open Space. Therefore, no minimum amount of Open Space is required per individual parcel.
 - b. **Landscape:** Emphasis will be placed on the use of native species. Canopy trees for shading and trees and/or shrubs for the screening of service areas or for privacy will be used to the extent possible. The final plant selection and placement shall be at the discretion of the owner working in concert with County staff. The use of invasive exotics is prohibited.
 - c. **Buffers:** There will be a natural (mostly mangrove) shoreline buffer along the bay waters of the SSRD. Specifically, that natural buffer shall be a minimum of 35' wide (except to the extent that the existing South Seas Road or Bay Drive (leading to Harbour Pointe) may currently encroach into and therefore reduce that 35' buffer). Where it is within or proximate to approved development areas, the natural buffer may be subject to a number of existing small openings as necessary for helicopter, vehicular, boat, pedestrian, and/or utility access, and trimming in accordance with State Standards for Mangrove Trimming where permitted. There is no buffer required along the bay waters extending from the southeasterly tip of the Harbour Pointe site continuing across the marina entrance channel and along the bay waters to Redfish Pass. There shall be no

⁹ The developers have had the property surveyed since 1973 and the greater accuracy of contemporary surveying has determined that the overall acreage is greater than indicated in 1973. This new, larger total acreage does not in any way modify the total maximum of 912 residential dwelling units permissible in the SSRD.

required minimum buffer between residential parcels internal to the development.

- d. **Setbacks:** Captiva Drive Southwest—minimum 25' to edge of right-of-way.
South Seas Road—minimum 10' to edge of pavement, excluding security building, signs, walls and other entrance features, when consistent with LDC site visibility requirements.
Internal Driveways—no minimum setbacks required
Building to External Property Line:
 —minimum 10' with minimum 6' high wall and vegetation buffer
 —minimum 15' with minimum 6' high wall or vegetation buffer
 —minimum 20' without wall or vegetation buffer
Building to Internal Property Line—no minimum setback required
Building to Bay Waters
 —minimum 25' setback from mean high tide line
Building to Waters of Gulf of Mexico
 —minimum 50' from mean high tide line
Building to Natural or Manmade Lake, Pond, Bayou, Canal, or Marina
 —no minimum setback required for buildings redeveloped within existing building footprints; 25' for any new buildings.
Building to Building Separation
 —minimum 10' separation unless additional separation is required by Building/Fire Code
Accessory Structures including Fences and Walls
 —for walls or structures 8' or less in height above grade. No minimum setback required
 —for walls or structures over 8' in height above grade, the setback shall be the same as set forth above for Buildings, except as to water bodies where there will be no setbacks required.
 —there shall be no minimum required separation between walls and accessory structures or one accessory structure and another.
- e. **Building Heights:** (These standards are applicable to all new structures except those being replaced under the existing Lee County build-back provisions of the Land Development Code) maximum height to the top of a parapet wall, roof, or mid-point of a pitched roof of no less than 4:1 and no more than 7:1 shall be the lesser of 35' above the grade surrounding the building at its foundation or 42' above mean sea level.
- f. **Traffic Impact Statements (TIS):** A traffic impact statement shall be required for any development that includes new residential dwelling units or includes more than 500 square feet of retail/commercial square footage. Because of the SSRD's vested status for purposes of concurrency (established via

Determination of Consistency with the Lee Plan in 1985), the data provided to the County in such TIS are intended for information purposes only. Approval of TIS is not a precursor to approval of proposed development plans. The concurrency vesting is limited to the SSRD, as approved under this interpretation.

- g. **Parking:** (These standards recognize the developers long standing commitments to transportation alternatives to the automobile on Captiva, including pedestrian and bicycle transportation via the pathways provided throughout the SSRD and the provision of up to 18 hours of daily free tram service.)

General

- Individual parking spaces will be no less than 9' wide by 18' deep.
- The appropriate number of handicap spaces will be provided in convenient locations in compliance with Lee County and State of Florida Handicapped Codes and the intent of ADA Guidelines.
- Any proposed reduction or reconfiguration of the as-built/as approve parking spaces provided contemporaneous to this interpretation is subject to a limited review development order to assure that the current inventory of parking is not reduced and additional parking is provided in the proportions for resort uses as required below.

Residential

- Single family/duplex will have a minimum of 2 off-street parking spaces per unit.
- Multi-family housing (whole ownership/timeshare/etc) will have a minimum of 1 parking space per dwelling unit plus a minimum of 1 guest/service parking space for every 10 dwelling units.
- Hotel/Motel units and employee rental apartments shall have a minimum of 1 parking space for every 2 dwelling units plus 1 guest/service parking space for every 10 dwelling units.

Commercial

- Activities/facilities internal to the resort and used almost exclusively by resort owners and guests (i.e. marina, golf course, tennis, retail, resort area restaurants, conference facilities, etc.) have no minimum required number of spaces.
- Activities/facilities within the designated five (5) acre Commercial Area at the south end of the property, except for conference facilities, shall be required to provide a minimum of 1 parking space per 1000 square feet of retail, restaurant/lounge or commercial use (excluding kitchens and other back of house areas and service facilities).

- h. **Construction Standards (other than for buildings):**

-Roads, driveways, walks, bike paths, seawalls, etc. shall be built in accordance with sound engineering design standards typical of those facilities

constructed within the SSRD during the past 28 years, subject to review and approval by County staff through the limited review development order process.

i. **Stormwater Management:**

–The standards of the existing approved SSRMDP as authorized and permitted by the South Florida Water Management District, or as they may be amended in the future, shall govern the surface water management elements of future development in the SSRD.

j. **Other:** Except as otherwise noted herein, the applicable standards of the Lee County Land Development Code shall apply within the SSRD

5. The 2002 SSPMPD, as revised July 22, 2002, stamped approved July 30, 2002, is approved **with the following conditions:**

- a. Current and future development within the SSRD will
1. be limited to a development density of 912 units utilizing a number of small scale clusters;
 2. be carefully planned and tightly controlled;
 3. provide for a self-support capability in terms of facilities and service needed;
 4. emphasize pedestrian movement, not automobile traffic;
 5. preserve shoreline and mangrove areas, including 2.5 miles of beach, 3.5 miles of bayou shoreline, and 20 acres of *Plantation Preserve* mangrove forest; and
 6. demonstrate leadership in rational development techniques in advance of proposed or enacted legislation; and
 7. provide and maintain a balance of dwelling units, amenities, and service facilities for the benefit of the entire community (SSP owners and guests, Captiva, and Lee County).
- b. The final phases of development in the SSRD include three (3) basic types of projects in accordance with the SSRMDP and the allowed limits:
1. upgrading of resort service facilities;
 2. development of small scale clusters of residential units;
 3. Improvements to guest facilities.

These include development and redevelopment of resort service facilities and guest facilities, including utilities and other infrastructure.

- c. The Beach Pavilion described in the 1985 plan package is not approved
- d. Other than as discussed in the letter from the Lee County Attorney's Office dated June 11, 1992, no wetland impacts are authorized by the SSRMDP. Prior to proposing amendments to the SSRMDP for development that may

encroach on wetlands—including but not limited to any expansion of the Harbour Pointe development area—the developers will initiate an environmental study adequate to evaluate the feasibility of such development in wetlands.

- e. The reallocation of any of the currently existing dwelling units or the development of the unallocated dwelling units is permissible by administrative action if such reallocation or development accords with the requirements of LDC Section 34-1038(a)
 - f. Guest access and resort services to the *Harbour Pointe* development area will be via launch from the existing northern marina, and the existing service road will be used for emergency access.
 - g. Employee housing will be provided and included in the total approved dwelling units in the SSRD.
- 6. This Administrative Interpretation and the attached 24" x 36" set of plans, entitled **2002 Master Development Plan South Seas Resort** bound together with all attendant plan sheets, signed by the Director and comprises the SSRMDP, in attached Exhibit "E".
 - 7. To memorialize this Administrative Interpretation and guide future development review in accordance with this Interpretation, the Official and Current Zoning Maps will be revised to label the SSRD and a note added to reference this Interpretation.
 - 8. Proposed revisions to the approved 2002 SSRMDP will be reviewed as changes to a PUD master development plan in accordance with LDC Section 34-1038.
 - 9. Plan review and inspections for future specific development approval requests will be reviewed for consistency with the SSRMDP under the provisions of the LDC, however, these requests will be reviewed as limited review development orders. At the discretion of the Director, a given development approval request may be required to be submitted as a full development order.

DULY SIGNED this 30th day of July, A.D., 2002.

BY: Mary Gibbs
Mary Gibbs, Director
Department of Community Development

APPROVED AS TO FORM BY: Timothy Jones
Timothy Jones
Assistant County Attorney