

LEE COUNTY BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY

BLUE SHEET NO: 20030067-UTL

1. REQUESTED MOTION:

ACTION REQUESTED:

Request Board approval to accept the attached Letter of Agreement dated November 13, 2002 between Coolidge-Ft. Myers Realty, L.P. and Lee County Utilities as a Construction Funding Agreement for the Herons Glen/Del Vera 16" diameter Water Main project.

WHY ACTION IS NECESSARY:

The attached Resolution Z-00-078, Paragraph 19 (b) states that the developer must give the County written notification of their proposed payment schedule for partial reimbursement of the construction of the water main.

WHAT ACTION ACCOMPLISHES:

Due to the regional impact to the Herons Glen Development, a 16" diameter water main will need to be constructed to provide water to the new residential units. Lee County Utilities is going to have the water main constructed, and Coolidge-Ft. Myers Realty, L.P., has agreed to reimburse Lee County 50% of the total project cost on a five-year reimbursement method, to be paid quarterly, based on a 5% interest rate.

2. DEPARTMENTAL CATEGORY:
COMMISSION DISTRICT #: 4

C10A

3. MEETING DATE:

02-11-2003

4. AGENDA:

- CONSENT
- ADMINISTRATIVE
- APPEALS
- PUBLIC
- WALK ON
- TIME REQUIRED:

5. REQUIREMENT/PURPOSE:

- (Specify)
- STATUTE
 - ORDINANCE
 - ADMIN. CODE
 - OTHER Agreement Acceptance

6. REQUESTOR OF INFORMATION:

- A. COMMISSIONER:
- B. DEPARTMENT: Lee County-Public Works
- C. DIVISION/SECTION: Utilities Division
- BY: Rick Diaz, Utilities Director

DATE: 1/16/03

7. BACKGROUND:

Lee County Resolution #Z-00-78 was created to amend the Heron's Glen DRI development order #6-8687-77 and as stated in Paragraph 19 (b) the developer must pay one half of the actual cost of constructing the 16" water main extension.

On May 14, 2002, the Board approved the purchase of Hydrants, Pipe, Valves, etc. from Semsco in the amount of \$195,190.00, Blue Sheet #20020448.

On September 24, 2002, the Board awarded the construction of the Del Vera Water Main Extension to Strickler Brothers in a N-T-E amount of \$182,900.00, Award B-02-22, Blue Sheet 20021037.

When construction is complete, Coolidge-Ft. Myers, L.P., has agreed to reimburse Lee County for 50% of the total project cost and would like to utilize the 5-year method, due each quarter, with each of the 20 payments being approximately \$14,500. Payments will be based upon a 5% interest rate, (see Letter of Agreement and Resolution #Z-00-78 attached).

Funds will be deposited into Account #20712048712.389400.9002

MANAGEMENT RECOMMENDATIONS:

9. RECOMMENDED APPROVAL

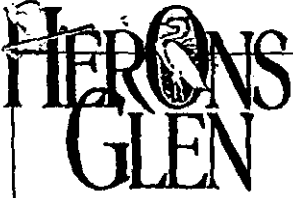
| (A) DEPARTMENT DIRECTOR | (B) PURCH. OR CONTRACTS | (C) HUMAN RESOURCES | (D) OTHER | (E) COUNTY ATTORNEY | (F) BUDGET SERVICES | | | | (G) COUNTY MANAGER |
|---|-------------------------------------|---------------------------|-------------------------------------|-------------------------------------|---------------------------|-------------------------------|-------------------------------|-------------------------------|-------------------------------------|
| | | | | | OA | OM | Risk | GC | |
| <i>Daniel Lavender</i> Date: 1-17-03 | <i>[Signature]</i> Date: 1/24/03 | N/A | <i>[Signature]</i> Date: 1/17/03 | <i>[Signature]</i> Date: 1/21/03 | <i>akw</i> 1-21-03 | <i>[Signature]</i> 1/23/03 | <i>[Signature]</i> 1/23/03 | <i>[Signature]</i> 1-21-03 | <i>[Signature]</i> Date: 1-17-03 |

10. COMMISSION ACTION:

- APPROVED
- DENIED
- DEFERRED
- OTHER

Rec. by CoAtty
Date: 1/21/03
Time: 1:36 pm
Forwarded To: *[Signature]*

RECEIVED BY
COUNTY ADMIN. *[Signature]*
COUNTY ADMIN.
FORWARDED TO:
[Signature]



November, 13 2002

Mr. Ivan Velez, P.E.
Lee County Utilities
P.O. Box 398
Fort Myers, Florida 33902-0398

RE: Lee County Utilities
16" Del Vera Water Main Project
Construction Funding Agreement

Dear Mr. Velez:

Coolidge-Ft Myers Realty LTD would like to utilize the 5 year reimbursement method of funding our share of the water main project as outlined in your letter of October 11, 2002. A community development district, CFM CDD, has been established over a significant portion of the Herons Glen project and will likely be the entity that ultimately makes the payments on the 5 year funding agreement.

Regardless of the final entity making the installments on the agreement please move forward with the project based on this commitment to fund our portion of the project as outlined in your letter.

Please let us know if you need anything else from us at this time.

Sincerely

A handwritten signature in black ink, appearing to read "Douglas J. Cordello".

Douglas J. Cordello
Chief Financial Office
Coolidge-Ft Myers Realty, LTD.

A handwritten signature in black ink, appearing to read "Larry C. Matzick".

Larry C. Matzick
Chief Operating Officer
Coolidge-Ft Myers Realty, LTD.

CC: Pete Pimentel, CFM CDD
David Persson, CFM CDD
Dave Clark



LEE COUNTY
SOUTHWEST FLORIDA

BOARD OF COUNTY COMMISSIONERS

(239) 479-8181

Writer's Direct Dial Number: _____

Bob Janes
District One

October 11, 2002

Douglas R. St. Cerny
District Two

Ray Judah
District Three

Andrew W. Coy
District Four

John E. Alblon
District Five

Donald D. Stitwell
County Manager

James G. Yaeger
County Attorney

Diana M. Parker
County Hearing
Examiner

Mr. David Hyyti, P.E.
Herons Glen, Project Manager
2250 Avenida Del Vera
North Fort Myers, FL 33917

SUBJECT: Herons Glen 16" Water Line

Dear Mr. Hyyti:

Lee County has received bids and awarded contracts to the lowest bidders for a water main extension from Del Prado north to a point opposite the Herons Glen development via the old railroad right of way. The County is in the process of acquiring the railroad right of way. Estimated cost to Lee County Utilities to obtain this right of way is \$149,127.00.

To date, permits from Florida Dept of Environmental Regulation (\$300.00) have been obtained; a topographic survey of the easement performed (\$10,560.00) and a construction layout survey have been ordered (\$6,900.00).

Contracts for the pipe and its installation were obtained by competitive bidding. Copies of the bid tabulations, which total \$344,975.00, are enclosed for your records. Total costs incurred to date for this project are now \$511,862.00.

As you know, this project is to be funded jointly by Lee County Utilities and Coolidge-Ft Myers Realty, LTD. Therefore, we need a commitment from Coolidge-Ft Myers Realty LTD, certified by their chief officer and attested to by the secretary, that they are ready and able to fund 50% of the water main cost. Upon receipt of this commitment, work will begin.

Two methods of payment are available. Your first option is to place the amount of \$255,931.00 into an escrow account with a local bank or trust agent and authorize Lee County Utilities to draw against that account as monthly payments are made to vendors and contractors. Your second option would be to reimburse Lee County Utilities for your share over 5 years period, as Previously approved by the BOCC, due each quarter year, with each of the 20 payments being approximately \$14,500. Payments will be based upon a 5% interest rate, compounded daily, and will begin upon completion of the project.

In order to proceed with the preparation of the necessary documents to allow for reimbursement of the portion of the construction cost, please indicate which is your

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organization's preferred method of payment.

Regardless of the option chosen, final costs will be reconciled after the railroad right of way is acquired and the water main is complete, operational and cleared for service.

Sincerely,

LEE COUNTY UTILITIES



S. Ivan Velez, P.E.
Deputy Director of LCU

cc: Jim Lavender, Director of Public Works
Rick Diaz, PE, Director of LCU
Glenn Semanisin, P.E., LCU
Thom Osterhout, LCU
David Owen, Assistant County Attorney
Pete Eckenrode, Director of Development Services

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

WHEREAS, an application was filed by the property owner, Robert J. Peters, to amend the Herons Glen DRI; and

WHEREAS, a public hearing was advertised and held on December 6, 2000 with the record left open until December 22, 2000 for written submissions, before the Lee County Zoning Hearing Examiner, who gave full consideration to the evidence in the record for Case #DRI964596 and DCI964597; and

WHEREAS, a second public hearing was advertised and held on February 5, 2001 and continued to February 27, 2001 before the Lee County Board of Commissioners, who gave full and complete consideration to the recommendations of the staff, the Hearing Examiner, the documents on record and the testimony of all interested persons.

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

SECTION A. REQUEST

The applicant filed a request to amend the Herons Glen DRI development order #6-8687-77 to:

1. a) change the name of the development from Del Vera to Herons Glen DRI; and
b) add 20 acres to the DRI to accommodate a wastewater treatment plant expansion; and
c) increase commercial square footage from 10,000 to 12,000 square feet; and
d) add an additional 18-hole golf course; and
e) extend the buildout and termination date to May 3, 2010 (for a total extension of 12 years);and
f) modify the phasing schedule; and
g) modify Map H to reflect the changes noted above.

2. Determine whether the proposed changes constitute a substantial deviation under the provisions of §380.06(19), Florida Statutes, requiring further Development of Regional-Impact review.

3. Amend the existing Residential Planned Development (RPD) zoning to increase the building height for the clubhouse from 35 feet to 45 feet, increase the internal commercial land area by 2,000 square feet; change a portion of an area previously set aside as residential development to allow an additional 18-hole golf course to be incorporated into the residential uses; and incorporate other changes proposed in the DRI NOPC such as the increase in acreage for the Red-Cockaded Woodpecker Preserve areas.

4. Rezone 20± acres of land from AG-2 (Agricultural) to Residential Planned Development

(RPD) to allow an Essential Services, Group II use, Wastewater Treatment Plant only, and outdoor storage of recreational vehicles use.

The property is located in the Suburban, Outlying Suburban and Wetland Land Use Categories and legally described in attached Exhibit A. The request is APPROVED, SUBJECT TO the conditions and deviations specified in Sections B and C below.

SECTION B. CONDITIONS:

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

1. The development of this project must be consistent with the two-page Master Concept Plan entitled "Herons Glen DRI Master Concept Plan," with pages 1 and 2 stamped "Printed December 5, 2000" except as modified by the conditions below. This development must comply with all requirements of the Lee County LDC at time of local development order Approval, except as may be granted by deviation as part of this planned development. If changes to the Master Concept Plan are subsequently pursued, appropriate approvals will be necessary.
2. The following limits apply to the project and uses:

a. Schedule of Uses

Residential "R"

Administrative Offices

Dwelling units (maximum of 2,700 only): limited to 1,620 detached conventional single family homes, 540 zero lot line homes and 540 townhouse units

Model Homes, Model Units and Model Display Center, limited to the residential uses within Herons Glen RPD

Speculative Home

Residential Accessory Uses, including but not limited to:

Private Garages, Carports and Parking Areas

Private Swimming Pools and Enclosures

Private Tennis Courts

Entrance Gates and Gatehouse

Essential Services

Essential Service Facilities, Groups I and II

Excavations, water retention (as further limited by other conditions)

Fences, Walls

Home Occupation (in compliance with LDC §34-1771 et seq.)

Real Estate Sales Center limited to the residential uses within Herons Glen

Recreational Facilities, Personal and Private On-Site

Signs (in conformance with LDC Ch. 30)

Temporary Construction Trailer

Residential Open Space "RO" (Open Space, Golf Course, and Buffers)

- Recreation Facilities, Private On-site and Private Off-site such as: Basketball Courts, Biking, Hiking, Fishing Piers, Picnic Areas and Nature Trails
- Clubs, Country
- Golf Courses, including practice areas/ranges and a Pro Shop--must be located within the Club House)
- Commercial Uses--limited to those uses permitted by right or by Special Exception in the CN-1 and CN-2 plus the following (as permitted by Resolution Z-88-069, Z-92-060, PD-96-018):
 - Essential Services
 - Essential Service Facilities, Groups I and II
 - Entrance Gates and Gatehouses
 - Excavation, Water Retention
 - Fences and Walls
 - Outdoor seating for the Consumption on Premises, in compliance with LDC §34-1261 et seq.
 - Golf Course Maintenance Facility
 - Personal Services, Group II
 - Health Clubs
 - Massage Establishments (as further limited by other conditions)
 - Real Estate Sales Center limited to units within Herons Glen RPD
 - Recreation Facilities, Private On-site and Private Off-site such as: Basketball Courts, Biking, Hiking, Fishing Piers, Picnic Areas and Nature Trails
 - Signs (in compliance with LDC Ch. 30)
 - Storage, Outdoor (as further limited by other conditions)
 - Temporary Uses, limited to construction trailers (subject to compliance with LDC Ch. 34)

Conservation "CO"

- Interpretative Areas, Rain Shelters, Gazebos, Nature and Pedestrian trails (subject to further review and conditions by Lee County)
- Water Management Facilities, Utility and/or Roadway Crossings (subject to further review and conditions by Lee County)
- Signs (in compliance with LDC Ch. 30)

b. **Site Development Regulations**

Attachment H to the Staff Report (attached as Exhibit D)

3. The following conditions address Environmental concerns, and are intended to supplement the conditions and provisions contained within the DRI Development Order:
 - a. The Red-Cockaded Woodpecker (RCW) management plan entitled "Attachment B: Revised Red-Cockaded Woodpecker Monitoring and Management Plan for the Herons Glen DRI (f.k.a. Del Vera, Villages of Nantucket and Del Tura North DRI),

Lee County Florida" dated July 2000 is hereby adopted with the following conditions:

- (1) Prescribed burns of the RCW Preserves must commence within three years of the completion of the initial exotic eradication activities in the RCW preserve, and must be completed on the entire site within three years of that date, or no later than 2007; and
 - (2) All burns must occur between January and March to avoid the RCW nesting season; and
 - (3) The Division of Planning - Environmental Sciences staff must be notified in writing of each scheduled burn at least 15 days prior to the prescribed burn.
- b. The wetland management plan entitled "Attachment C: Revised Wetlands Management Plan for the Herons Glen DRI (f.k.a. Del Vera, Villages of Nantucket, and Del Tura North)" dated July 2000 and counter stamped August 14, 2000 is approved with the following conditions:
- (1) Prior to any invasive exotic removal or control, the Division of Planning - Environmental Sciences Staff must be notified in writing of the commencement and estimated completion dates, the removal method proposed, and the herbicide to be applied. The exotic removal method and herbicide are subject to Environmental Sciences Staff review and approval; and
 - (2) An appropriate herbicide must be applied to the trunk immediately following the cutting of any invasive exotic vegetation; and
 - (3) The semi-annual exotic vegetation maintenance must occur in March and October. The exotic vegetation maintenance must commence in March 2001 for a minimum duration of three years as specified in the wetlands management plan, and then on an as-needed basis thereafter; and
 - (4) Monitoring reports of exotic vegetation within the RCW preserve must include at a minimum one photo from each of the four units prior to each semi-annual maintenance and one month following the completion of the exotic maintenance. The monitoring reports must be submitted to Environmental Sciences Staff in May and December each year. The pine planting monitoring report must be submitted as part of the May monitoring report.
- c. The irrigation line installed in the pine planting area within the preserve must be removed prior to the 2001 Red-Cockaded Woodpecker nesting season (April-June). The May 2001 monitoring report must document the removal of the irrigation line.

4. Commercial uses within the project are limited to a maximum of 12,000 square feet, and must be located within the club house(s)/country club(s); NO freestanding commercial uses are permitted within the DRI. The commercial uses, with the exception of the golf course(s), are limited to the residents of Herons Glen. The commercial uses are subject to the following additional conditions:
- a. Signs for commercial uses other than project sales may not be visible from the perimeter of the project and must comply with LDC Chapter 30.
 - b. Outside display or storage of goods for retail sale is prohibited.
 - c. Real estate sales activity and model homes are limited to that designated phase of the project only. Model Home uses must terminate upon the sale of the last unit in the designated project or phase or 12 months after the issuance of the last certificate of occupancy for the designated project or phase, whichever occurs first. Real Estate sales and model homes uses are further limited to the termination date of the specific phase, i.e., these uses must cease after 2005 for Phase 1 and 2010 for Phase 2.
 - d. No commercial land use or commercial occupancy of a structure may commence until a substantial proportion of the residential uses or occupancies have begun. The following table indicates the maximum proportion of the total permitted commercial floor space that may be occupied for a minimum proportion of residential land uses commenced.

PHASING LIMITS
[Proportions are cumulative from left to right.]

| | | | | |
|------------------------------|-----|-----|------|------|
| Residential use (minimum) | 25% | 50% | 75% | 100% |
| Commercial use (maximum) | 25% | 50% | 100% | |

- e. These conditions are in addition to and not in lieu of any other general condition or regulation applicable to a residential planned development.
5. Uses on the 20-acre tract being added to this project are limited to Essential Services, Group II, intended to serve this project only, and Storage, Enclosed, limited to the storage of RVs, boats and similar vehicles owned by residents of Herons Glen.
6. All outdoor storage must be located no closer than 100 feet from a project perimeter property line, and must be shielded behind a continuous visual screening at least eight feet in height when visible from a residential use or residential zoning district, and six feet in height when visible from any street right-of-way or street easement. A Type "B" buffer must be installed around the perimeter of the storage area. On-site indigenous vegetation may

count toward the vegetative requirements of that buffer.

7. The town house buildings must be located interior to the project. A single-family portion of the project, with no less than one "row" of single-family units, golf course fairway(s), lake(s), or conservation area(s) at least 100 feet in width must separate town house buildings from any perimeter property line.
8. Model units and homes are permitted in compliance with the following conditions:
 - a. Each model must be a unique example. Multiple examples of the same unit are not permitted; and
 - b. All model sites must be designated on the development order plans; and
 - c. Prior to model home construction, the lots upon which model homes will be constructed must be shown on a preliminary plat. The preliminary plat must be filed concurrently with the local development order application. The model homes must comply with the setbacks set forth in the property development regulations for this project for the specific residential type; and
 - d. Dry models are prohibited.
9. Buildings exceeding 35 feet in height must maintain additional building separation or additional building setbacks as regulated by LDC §34-2174(a) and LDC §34-935(e)4.
10. Regarding the massage establishment (from PD-96-018):
 - a. The massage establishment uses are limited to Herons Glen residents and their guests; and
 - b. Only one licensed massage establishment is permitted within each clubhouse.
11. Transportation mitigation must be provided as outlined in the DRI Development Order. However, site-related improvements and additional conditions may be required at the time of local development order in accordance with the provisions of the LDC.
12. Approval of this rezoning does not guarantee local development order approval. Future development order approvals must satisfy the requirements of the Lee Plan Planning Communities Map and Acreage Allocation Table, Map 16 and Table 1(b), be reviewed for, and found consistent with, the retail commercial standards for site area, including range of gross floor area, location, tenant mix and general function, as well as all other Lee Plan provisions.
13. No excess excavated material may be removed from the site (except as allowed by previous deviation approval) unless the developer can demonstrate to the Director of Community Development that the material to be removed: a) is unsuitable material that

cannot be used on-site and b) the material must be excavated to meet the minimum requirements to provide a water management system on the site. The purpose of this condition is to prohibit the voluntary creation of excess fill material for use off-site.

14. Prior to the issuance of a local development order for any portion of the project, the developer must submit all hydrologic and hydraulic data related to the flow-way and all bypass drainage to the Division of Natural Resources Management for review and approval.
15. This development must comply with all of the requirements of the LDC at the time of local development order approval, except as may be granted by deviations approved as part of this planned development or subsequent amendments thereto.
16. A Type "E" buffer must be installed completely around the perimeter of the area used for the wastewater treatment facility, and a 200-foot setback must be maintained from any residential use or property line where a residential use would be permitted.
17. All conditions or commitments made by the developer or contained in the DRI Application for Development Approval or subsequent documents, previous DRI Development Orders or subsequent amendments, and previous zoning actions not affected by this amendment, remain in full force and effect. If conflicting conditions existing between this approval and the DRI Development Order or its amendments, the more restrictive condition will apply.
18. The developer must have a separate construction access road in place prior to the beginning of Phase II (i.e., prior to development approval and permitting for the 1039th residential unit - based upon the DRI phasing schedule adopted February 27, 2001). No building permits for construction in Phase II will be issued until a separate construction access is in place. The intent of this condition is to require the alternate access to be used for all Phase II construction traffic.

The preferred alternative for the construction access road is Nalle Grade Extension. Construction of Nalle Grade Extension prior to the beginning of Phase II will be eligible for road impact fee credits in accordance with the provisions of the road impact fee regulations and the Herons Glen DRI development order.

19. POTABLE WATER/FIRE FLOW

- a. No development orders for residential or commercial structures will be issued by the County until the Herons Glen development connects into the Lee County Utilities' (LCU) 16 inch potable water main extension on the north side of Nalle Grade Road at the southeast corner of the Herons Glen DRI project. This requirement will not prohibit the issuance of a development order for the waste water treatment plant expansion.
- b. The developer must pay one-half of the actual cost of constructing the 16 inch main extension from the current end/trunk point to the southeast corner of Herons Glen. (Estimated total cost is \$300,000.00.) Payment is due at the time LCU presents a

written request to the developer detailing the actual cost. The developer, at developer's option, may choose to pay this obligation over a period of time that does not exceed five years, at an interest rate of no greater than five percent. Developer must notify LCU as to its exercise of this option in writing and include a proposed payment schedule. Failure to timely pay this obligation in full will result in a denial of any further building permits.

- c. The County anticipates that the 16 inch water main will be constructed and available for connection by Herons Glen on or before April 1, 2002. The County has committed to use good faith efforts in acquisition of the necessary property rights and construction of the water main within this time frame. However, failure of the County to achieve this proposed goal due to circumstances beyond its reasonable control will not constitute the basis for any civil action against the County by the developer or residents of Herons Glen.
- d. An additional purpose of this condition is to prohibit the use of blue hydrants and residential sprinklering of buildings to substantiate local development order approval for structures after March 1, 2001. However, this condition will not prevent the developer from obtaining building permits for construction of Units 7, 8 and 9 approved prior to March 1, 2001 and recorded in the County plat books.

SECTION C. DEVIATIONS:

No new deviations have been sought as part of this request. All previously approved deviations, not revised by the changes and conditions herein, remain in full force and effect.

SECTION D. EXHIBITS:

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

- Exhibit A: The legal description and STRAP number of the property.
- Exhibit B: Zoning Map (subject parcel identified with shading)
- Exhibit C: The Master Concept Plan
- Exhibit D: Property Development Regulations (aka Exhibit H to staff report)
- Exhibit E: Second Development Order Amendment

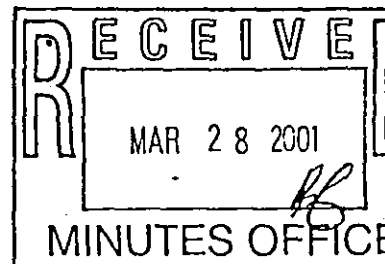
SECTION E. FINDINGS AND CONCLUSIONS:

- 1. The applicant has proven entitlement to the amendment by demonstrating compliance with the Lee Plan, the LDC, and any other applicable code or regulation.
- 2. The amendment, as approved:
 - a. meets or exceeds all performance and locational standards set forth for the potential uses allowed by the request; and,
 - b. is consistent with the densities, intensities and general uses set forth in the Lee Plan; and,
 - c. is compatible with existing or planned uses in the surrounding area; and,

- d. will not place an undue burden upon existing transportation or planned infrastructure facilities and will be served by streets with the capacity to carry traffic generated by the development; and,
 - e. will not adversely affect environmentally critical areas or natural resources.
3. The amendment satisfies the following criteria:
- a. the proposed use or mix of uses is appropriate at the subject location; and
 - b. the recommended conditions to the concept plan and other applicable regulations provide sufficient safeguard to the public interest; and
 - c. the recommended conditions are reasonably related to the impacts on the public interest created by or expected from the proposed development.
4. Urban services, as defined in the Lee Plan, are, or will be, available and adequate to serve the proposed land use.
5. The approved deviations, as conditioned, enhance achievement of the planned development objectives, and preserve and promote the general intent of LDC Chapter 34, to protect the public health, safety and welfare.
6. The proposed changes constitute a substantial deviation under F.S. §380.06(19). However, the applicant has successfully rebutted the presumption that the changes create new or additional unreviewed regional impacts.

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

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



DULY PASSED AND ADOPTED this 27th day of February, 2001.

ATTEST:
CHARLIE GREEN, CLERK

BY: Ruth Ferguson
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: [Signature]
Chairman

Approved as to form by:
[Signature]
County Attorney's Office

RECEIVED
DEC 01 1999

LEGAL DESCRIPTION
HERON'S GLEN

PERMIT COUNTER

A parcel of land being a portion of sections 2,3,4,5 and 10, township 43 south, range 24 east, Lee County Florida, being more particularly described as follows:

COMMENCE at the northeast corner of the aforementioned section 3; thence, along the north line of the northeast one-quarter of said section 3, N89°57'30"W, 355.01 feet to an intersection with the westerly right-of-way line of the former S.A.L. Railroad and the POINT OF BEGINNING; thence, continue along the north line of the northeast one-quarter of said section 3, N89°57'30"W, 2313.55 feet to the northeast corner of the northwest one-quarter of said section 3; thence, along the north line of the northwest one-quarter of said section 3, S89°48'39"W, 2667.53 feet to the northeast corner of the aforementioned section 4; thence, along the northerly boundary of Del Vera Country Club, Unit 2 as recorded in Plat Book 50 at pages 69 through 78 of the Public Records of Lee County, Florida, and the north line of said section 4, N89°42'39"W, 3036.29 feet; thence, along the boundary of Del Vera Country Club, Unit 1 as recorded in Plat Book 46 at pages 7 through 25 of the Public Records of Lee County, Florida, for the following nine (9) courses:

1. N89°42'40"W, 2299.67 feet;
2. S89°33'20"W, 1871.76;
3. S26°03'40"E, 318.64 feet;
4. S63°56'20"W, 300.77;
5. thence along the arc of a non-tangent circular curve concave to the southwest having for its elements a radius of 7739.44 feet, a central angle of 00°42'56", a chord bearing of S26°25'08"E, an chord distance of 96.66 feet, an arc distance 96.66 feet;
6. S26°03'40"E, 1943.40 feet;
7. N63°56'20"E, 300.17 feet;
8. N26°03'40"W, 4.46 feet;
9. N89°48'47"E, 3354.47 feet;

Applicant's Legal Checked
by *gmm* 12/6/99

thence, along the east line of lands as described in Official Records Book 410 at page 690 of the aforementioned public records, S00°11'07"E, 2040.37 feet; thence, along the south line of lands described in Deed Book 224 at page 437 of the aforementioned public records, S89°48'47"W, 2698.40 feet; thence, along the northeasterly right-of-way line of Tamiami Trail (S.R. 45, US 41), S26°03'40"E, 370.00 feet; thence N89°48'47"E, 3845.26 feet; thence N00°11'13"W, 332.91 feet; thence, along the south line of lands described in Deed Book 224 at page 437 of the aforementioned public records, N89°48'47"E, 4368.87 feet to an intersection with the northerly

11/24/99-2073 10/97/STAMP/PALES
80075-012-041-8

Naples Fort Myers Sarasota Bradenton Tampa
4571 Colonial Boulevard, Suite 100 Fort Myers, Florida 33912-1062 941-939-1020 941-939-7479
www.wilsonmiller.com

Wilson Miller, Inc. - FL Lic. # CC-000178

Wilson Miller

extension of the west line of lands described in Official-Records Book 388 at page 80 of the aforementioned public records; thence, along said northerly extension and said west line, S00°02'36"W, 2451.41 feet; thence, along the north right-of-way line of Nalle Grade Road, as described in Official Records Book 1096 at page 1784 of the aforementioned public records, S89°56'45"E, 2153.08 feet; thence, along the east line of lands described in Official records Book 1516 at page 1802 of the aforementioned public records, N00°02'36"E, 2460.47 feet; thence, along the south line of lands described in Deed Book 224 at page 437 of the aforementioned public records, N89°48'47"E, 775.85 feet; thence along the westerly right-of-way line of the former S.A.L. Railroad, N11°11'01"W, 4190.51 feet to the POINT OF BEGINNING.

Said parcel contain 1130.751 acres, more or less.

AND

EXHIBIT "A"

A Tract or parcel of land lying Section 4, Township 43 south, Range 24 east, Lee County, Florida, which tract or parcel is described as follows;

From the Southeast corner of lot 45 of Unit No.1 North Fort Myers Park according to a Plat thereof recorded in Plat Book 9 at Page 113, Public Records of Lee County, Florida, run S 89°59'E along the South Line of the lands conveyed by Deed recorded in Deed Book 224 at Page 437 of said public records and along the south line of Section No.1 Unit No.1 Lakeville, according to a plat thereof recorded in Plat Book 10, Page 48, of said public records and Section No.1 Unit 2, Lakeville according to a plat thereof recorded in Deed Book 298 at Pages 303 to 306, inclusive, of said public records for 1,940 feet to the Southeast corner of said section No.1 unit No.2 and the Point of Beginning of the Land herein described.

From said Point of Beginning continue S89°59'E along the South line of the lands conveyed by said deed recorded in deed book 224 at page 437, for 425 feet to a concrete monument at the southwest corner of the lands described in and conveyed by said deed recorded in deed book 300, page 633, of said public records; thence run N0°01'E along the west line of said lands for 2040

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EXHIBIT A
Page 2 of 3

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feet to a point in the centerline of a roadway easement 80 feet wide which point is marked by a concrete monument; thence run N89°59'W along said centerline for 500 feet to a point on a prolongation in the east line of said section No. 1 unit No. 2 Lakeville which point is 40 feet north of the northeast corner of said section No. 1 unit No. 2; thence run south along said prolongation and along the easterly boundary of said section No. 1, Unit No. 2 S0°01'W for 335 feet, S89°59'E for 60 feet, S0°01'W for 600 feet to a point of curvature; thence run southeasterly along the arc of a curve radius 236.25 feet for 131.72 thence run S89°59'E for 39.71 feet, S0°01'W for 125 feet, N89°59'W for 35.48 feet and S0°01'W for 650 feet, N89°59'W for 25 feet and S0°01'W for 205 feet to the Southeast corner of said section No.1 Unit No. 2 Lakeville and the Point of Beginning, subject to roadway easements over and along the north 40 feet and over and along the north 80 feet of the south 855 feet being an extension of Lakeville drive a shown on said plat of Section No. 1 Unit No. 2, Lakeville. Also granting an Easement for roadway purposes over and along a strip of land 40 feet in width north of and adjacent to the northern boundary of the above described lands and an easement for roadway purposes 80 feet in width extending from the westerly boundary of the above described lands westerly along the northern boundaries of said section No. 1, unit No.2 and Section No. 1, unit No. 1 of Lakeville and through lot 24 of said unit No. 1 Fort Myers Park to the Tamiami Trail (State Road No. 45).

112466-3477 Ver 01/10/2008
02/27/02-043-2

The applicant indicates there are numerous and varied STRAP numbers which are on file and available for inspection at the Department of Community Development, 1500 Monroe St., Ft. Myers, FL

Zoning Map

Charlotte County

Charlotte County

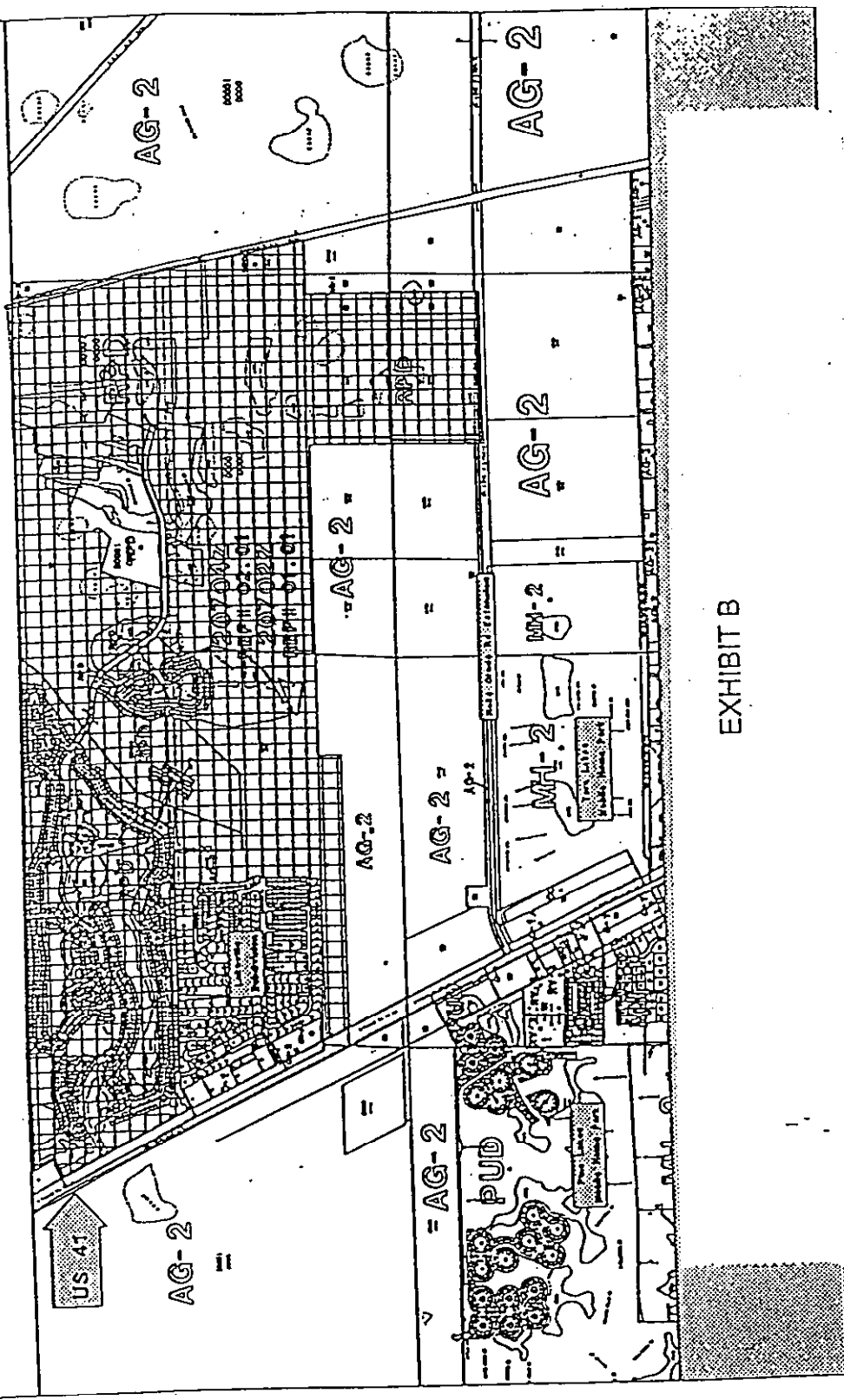


EXHIBIT B

SCHEDULE OF USES - PHASES 1A, 1B AND

Residential "R"

Administrative Offices

Dwelling units:

Single-Family, Detached including Zero Lot Line Homes
 Single-Family, Attached including Townhouses
 Model Homes, Model Units and Model Display Center,
 limited to the residential uses within Herons Glen RPO
 Speculative Home

Residential Accessory Uses, including but not limited to:
 Private Garages, Carports and Parking Areas
 Private Swimming Pools and Enclosures
 Private Tennis Courts

Entrance Gates and Gatehouses

Essential Services

Essential Service Facilities, Groups I and II

Excavations, water retention

Fences, Walls

Home Occupation

Model Display Center limited to the residential uses within

Herons Glen RPO

Recreational Facilities, Private On-site

Signs

Temporary Construction Trailer

Recreation, Open Space, Golf Course, Park, Foreman
 Building "B"

Basketball Courts
 Biking, Hiking, Fishing Piers, Picnic Areas and Nature
 Clubs, Country, Private

Essential Services

Essential Service Facilities, Groups I and II

Entrance Gates and Gatehouses

Excavations, water retention

Fences, Walls

Golf Courses, including

Practice Areas and Ranges

Restrooms

Shelters

Club Barn

ODP

Pro Shop

Smack Bar

Teaching facility

Other uses normal and accessory to golf

Outdoor serving of food

Outdoor serving of alcoholic beverages

Golf Club Houses; including

All uses permitted by right or by special exception

and CH-2 districts - limited as to location within

clubhouses, and in accordance with LDC Sec. 34-1

Administrative Offices

Beauty Shops

Consumption on Premises

Health Clubs

Other uses normal and accessory to golf

Outdoor serving of food

Outdoor serving of alcoholic beverages

Pro Shop

Restaurant

Massage Establishments

Specialty Retail

Golf Course Maintenance Facility

Irrigation Wetfields

Landscape Nurseries

Parks, Private, Group I

Project Information and Sales Centers

Herons Glen RPO

Recreation Facilities, Private On-Site

Shelters, Restrooms, Showers, etc.

Signs

Storage, Outdoor

Tennis, Health and Fitness, Swimming, and other recreation

clubs

Temporary Construction Trailer

Temporary Construction Access roads

Water Management Facility

| Use | Dimensions | | | Setbacks (In feet) | | | Lot Coverage |
|---|--------------|------------|------------|--------------------|------|--------|--------------|
| | Area (sq ft) | Depth (ft) | Width (ft) | Side | Rear | Street | |
| Single family detached units | | | | | | | |
| type #1 | 6,000 | 100 | 60 | 5 | 10 | 20/12* | 50 |
| type #2 | 3,500 | 70 | 50 | 5 | 10 | 20/12 | 70 |
| Zero lot line units (single family attached) | 3,800 | 80 | 35 | 5/0 | 10 | 20/12* | 70 |
| Townhomes note: no more than 4 units/bldg | 2,400 | 80 | 30 | 0 | 20** | 20/12* | 70 |
| Country Club/Clubhouse | | | | 15 | 20** | 20 | |

Accessory structure setbacks shall be in accordance with the LDC regarding accessory uses.

Maximum height/stories: country club/clubhouse 45 feet; all other uses 35 feet/country club/clubhouse 3

Minimum Water Body Setback: 20 feet for all uses

Minimum Preserve and Golf Course Setback: 10 feet

* with side entry garages ** or in compliance with fire and safety access issues

EXHIBIT D