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WHEREAS, Resolution 92-29, as amended, required, prior to any onsite development, clearing of land or the receiving of any building permits for Phase I development within the Development of Regional Impact ("DRI"), demonstrations addressing potential impacts in the areas of drainage/water quality, hurricane evacuation, wastewater management, water supply, wetlands/vegetation and

WHEREAS, the Board adopted Resolution 98-0372A0 on May 25, 1999, further amending Resolution 92-29, as amended by Resolution 93-244 and Resolution 93-0370A0, to extend the buildout dates for the Development Order by four years and three hundred sixty-four (364) days; and

WHEREAS, the Board adopted Resolution 98-0370A0 on April 7, 1998 further amending Resolution 92-29, as amended by Resolution 93-244, to reflect the tolling of time during the pendency of the administrative proceedings; and

WHEREAS, the Board considered the reports and recommendations of the Southwest Florida Regional Planning Council, Charlotte County staff, the Planning and Zoning Board, and the Department of Community Affairs, and in order to reconcile the appeal, certain changes were made to Resolution 92-29 and pursuant to a Settlement Agreement, the Board adopted Resolution 93-244 on August 17, 1993, that was executed on December 14, 1993 ("the Development Order"); and

WHEREAS, on April 3, 1992, the State of Florida Department of Community Affairs ("DCA") filed an appeal of the Development Order reflected in Resolution 92-29; and

WHEREAS, on February 18, 1992, pursuant to Section 380.06 Florida Statutes, the Board of County Commissioners of Charlotte County, Florida ("Board") approved and adopted Resolution 92-29, constituting the Caliente Springs Development of Regional Impact Development Order; and

RECITALS

A RESOLUTION AMENDING RESOLUTION 92-29, AS AMENDED BY RESOLUTIONS 93-244, 98-0370A0 AND 98-0372A0, APPROVING THE DEVELOPMENT ORDER FOR CALIENTE SPRINGS COUNTRY CLUB, A DEVELOPMENT OF REGIONAL IMPACT; FINDING THAT THIS AMENDMENT DOES NOT CONSTITUTE A SUBSTANTIAL DEVIATION; AND PROVIDING AN EFFECTIVE DATE.

RESOLUTION
2004-050

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BARBARA T. SCOTT, CLERK, CHARLOTTE CO
REC 271.50

REC 271.50



wildlife which demonstrations were to be part of a single, consolidated substantial deviation determination, presumed to create a substantial deviation; and

WHEREAS, Tern Bay Development Co, LLC ("Applicant") has submitted a Notice of Proposed Change requesting the Board to consider amendments to the Development Order addressing the potential impacts to drainage/water quality, hurricane evacuation, wastewater management, water supply, wetlands/vegetation and wildlife, adopting a revised Map H, changing the project name from "Calliente Springs" to "Tern Bay," changing the peak hour peak season traffic analysis methodology to 100th hour methodology in order to be consistent with Charlotte County concurrency management procedures, modifying the phasing schedule and extending the development time frames by two (2) years; and

WHEREAS, the Southwest Florida Regional Planning Council reviewed and considered the proposed amendments submitted by the Applicant and recommended acceptance of the proposed amendments to the Development Order finding that they do not appear to create a reasonable likelihood of additional regional impacts on regional resources or facilities; and

WHEREAS, the Charlotte County Planning and Zoning Board reviewed and considered the proposed amendments and recommended approval, finding that the proposed amendments do not constitute a substantial deviation; and

WHEREAS, the Board has reviewed and considered the amendments requested by Applicant, finds them consistent with the Charlotte County Comprehensive Plan and consistent with the previously approved Development Order for the Calliente Springs DRI.

NOW THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Charlotte County, Florida, that:

1. Resolution 93-244, as it amends Resolution 92-29, and as it has itself been amended by Resolutions 98-0370A0 and 98-0372A0, shall be amended in its entirety to read as follows (additions are shown as underlined, deletions are shown as ~~stricken through~~, the exhibits and some formal and formatting editions shown without indication of additions or deletions):

FINDING OF FACT/CONCLUSION OF LAW

A. The development is a mixed-use project with 1,810 residential dwelling units, 30,000 gross square feet of office space on 5 acres, 140,000 gross square feet of retail space on 15.7 acres with 710 parking spaces, a 250-room hotel, 865 acres of wetland preservation areas, a minimum of 205 acres of upland preservation areas and buffer areas subject to further additions, a project total of 295.0 acres of impervious surfaces (including

105 acres of lakes and 190 acres of upland impervious surfaces) leaving a project total of 1,483 acres of open space (all natural previous and all vegetated previous surfaces), and a sales and Community Development District (CDD) administration center and other amenities on 1,778 acres located in Southern Charlotte County between Burnt Store Road and Charlotte Harbor approximately three miles north of the Lee County line. The site will contain ~~two~~ three nine hole golf courses on 482 215 acres, ~~eight tennis courts~~, a maximum 20,000 gross square foot golf clubhouse with restaurants, an exercise area and 150 parking spaces, a maximum 7,500 gross square foot building(s) for a tennis clubhouse, fitness center and spa, eight tennis courts, swimming pools, bike and walk trails, a small fishing pier, canoe launch and docks, and look out tower and approved governmental uses. Exhibit "A", revised and dated October 2003 is a copy of the approved and Revised Master Concept Plan, depicting all the above approved land uses.

The legal description of the property is described in Exhibit "B" which is attached hereto and made a part of this development order.

Approximately 865+/- acres of the site adjacent to Charlotte Harbor are considered saltwater wetlands and will be placed under a permanent conservation easement or else conveyed to the State of Florida. The development consists of approximately 205 acres of upland preservation areas in the form of buffers, wetland tributaries (2) and golf course roughs and approximately a minimum of 105 acres of lakes for water management.

Water and wastewater services are proposed to be provided by Southern States Utilities n/k/a Florida Water Services Corporation Charlotte County Utilities (CCU) or its successors and assigns, however this utility does not currently have available permitted and planned additional capacity to serve the entire Caliente Springs Country Club Tern Bay DRI development. The project is planned in two five-year phases, each six years and 364 days, with buildout January 17, 2012 2010. Phase I buildout will be January 17, 2007 2005 and Phase II buildout will be January 17, 2012 2010; these dates each represent an extension to those dates reviewed in the ADA together with the time tolled during the and an extension of Four (4) six (6) years and three hundred sixty-four (364) days granted for economic reasons and shall be considered cumulatively against any future proposed phase or project buildout date extensions for the purpose of calculating whether the statutory time frames are met or exceeded in paragraph 380.06(19)(c), F.S. The revised phasing schedule is attached as Exhibit "C".

B. The proposed development is not in an area designated as an Area of Critical State Concern pursuant to the provisions of Section 380.05, Florida Statutes.

C. The development does not unreasonably interfere with the achievement of the objectives of an adopted state land development plan applicable to the area, and is consistent with the State Comprehensive Plan.

D. The development is consistent with the Charlotte County Comprehensive Plan and land development regulations.

E. The initial proposed development was reviewed by the Southwest Florida Regional Planning Council and was the subject of their report and recommendation adopted on the 17th day of October, 1991 and subsequently forwarded to Charlotte County pursuant to the provisions of Chapter 380.06 F.S. Subsequent NOPCs were reviewed and adopted pursuant to the provisions of Chapter 380.06, F.S. The proposed development NOPC proposed in 2003 has been reviewed by the Southwest Florida Regional Planning Council and is the subject of their report and recommendation adopted on the 17th day of October, 1991 and January 25, 2004, and subsequently forwarded to Charlotte County pursuant to the provisions of Chapter 380.06 F.S. and the proposed revised development order, as modified by this development order, is consistent with the report and recommendation of the Southwest Florida Regional Planning Council.

F. The application for development approval is consistent with the requirements of Chapter 380.06.

G. Caliente Springs Tern Bay is proposed to be a well-balanced, mixed use community with a location and site design that ensures the protection of natural features while at the same time deriving maximum benefit from those features. The most important aspect of those planning for natural resource quality is the preservation in perpetuity of approximately 865+/- acres of saltwater wetlands on the edge of Charlotte Harbor. The plan for Caliente Springs (a.k.a. Tern Bay) promotes the policies of the comprehensive plan in effect at the time of the approval of Resolution 92-29, as amended, regarding environmental quality, especially:

a) Objective 7 and Policy 7.4 of the Land Use Element.

b) Goal, Objective 2, Policy 2.1 (3) (4) (7), Policy 2.5, Policy 6.2, Objective 10, Policy 10.2, Objective 11, Policy 11.1, Policy 11.3, Objective 12, Policy 12.2, Policy 12.3, Objective 15 and Policy 15.2 (1) of the Conservation Element.

(c) Goal, Objective 1, Objective 2, and Objective 4 of the Coastal Management Element.

H. The development of the Caliente Springs Tern Bay site will guarantee the preservation of more than 865+/- acres of saltwater wetlands and a minimum of 205 acres of upland preservation areas and buffer areas subject to further additions while directing residential, retail and golf course development to land which was extensively cleared for agriculture and development in the 1960's. No marinas nor dredging for boat access is approved for Caliente Springs Tern Bay; only non-motorized water craft use will be allowed onsite except for one motorized vessel for safety and emergency purposes.

I. The Caliente Springs Tern Bay site is a logical extension of located within the Burnt Store Road Urban Service Area (USA). It is immediately adjacent to the existing Burnt Store USA and includes 55 acres of the USA. Existing water and sewer lines serve adjacent properties and can be easily extended to serve Caliente Springs Tern Bay. Caliente Springs Tern Bay will provide a variety of housing types, commercial/retail space, activities and recreational opportunities commencing during Phase I development that will make the Burnt Store USA a more self-reliant and successful USA.

J. Concurrently with the adoption of this development order, The subject property was ~~is being rezoned to Planned Development (PD) by Resolution 91-262 (PD-90-6) in accordance with the Charlotte County Zoning Ordinance as amended.~~

K. The applicant has satisfied the "single, consolidated substantial deviation determination" requirement of Resolution 92-29, as amended, in regards to drainage/water quality, hurricane evacuation, wastewater management, water supply, and wetlands/vegetation and wildlife.

L. The proposed amendments are not inconsistent with the Charlotte County Comprehensive Plan or local land use regulations, or with the previously approved Development Order.

M. Pursuant to Section 380.06(19), Fla. Stat., the proposed amendments do not constitute a substantial deviation.

SPECIFIC CONDITIONS

DRAINAGE/WATER QUALITY

a. The developer shall obtain Southwest Florida Water Management District permits for conceptual approval, construction and operation

of the surface water management system, for any dewatering activities associated with the construction of lakes, roads or building foundations. The project shall contain a maximum project total of 295.0 acres of impervious surfaces (including 105 acres of lakes and 190 acres of upland impervious surfaces).

b. The developer shall develop and implement a groundwater monitoring plan, to be approved by Charlotte County and the SWFWMD, which shall include the following provisions if found necessary by SWFWMD during permit review and approval:

- 1) All monitoring wells shall be sampled and analyzed quarterly for FDEP FDER primary and secondary drinking water standards, water levels and all groundwater chemicals.
- 2) Two wells shall be installed hydraulically downgradient at each zone of discharge (i.e., property boundary) and one well shall be installed hydraulically upgradient to monitor background water quality.
- 3) All wells shall be constructed in accordance to monitor well specifications as outlined in Chapter 47-525 62-525, Florida Administrative Code (F.A.C.)
- 4) Sampling analyses shall be performed according to procedures outlined in the most current edition of "Standard Methods for Examination of Water and Wastewater", by APHA-AWWA-WPCF, or "Methods for Chemical Analyses of Water and Wastes" by the United States Environmental Protection Agency (EPA).
- 5) Water quality samples from all wells shall be collected after pumping the wells to constant temperature, pH, and conductivity.
- 6) Wells shall monitor both the Surficial and Floridan aquifers.
- 7) The plan shall include sufficient baseline data.
- 8) Procedures shall be established for immediately reporting any violations of water quality standards to the County, the Department of Environmental Protection Regulation, the Southwest Florida Water Management District, and/or other appropriate agencies.
- 9) Procedures shall be established for incorporating additional water quality treatment and/or water management methods into the project's design to correct and/or mitigate any degradation.
- 10) Monitoring shall continue until the actual buildout date of the project. Data shall be submitted quarterly to Charlotte County, the Southwest Florida Regional Planning Council, the Southwest Florida Water Management District and the Florida Department of Environmental Protection Regulation.

and as part of the annual each DRI monitoring report pursuant to General Considerations Condition "b".

The developer shall follow develop an the integrated fertilizer/pesticide/herbicide management plan as a component of the golf course design and maintenance which is contained in Exhibit "D" herein, process, to be approved by Charlotte County with input from SWFWMD, the Southwest Florida Regional Planning Council, the Florida Department of Environmental Regulation and the Florida Game and Fresh Water Fish Commission. The management plan shall sufficiently address the following items:

- 1) ~~Fertilizer/pesticide/herbicide storage and handling, application, container cleaning, rinse water, cleaning materials, wastes, unused quantities and container disposal methods and procedures.~~
- 2) ~~Golf Course Management methods and procedures~~
- 3) ~~Quality control and assurance procedures, including twice yearly education/awareness enhancement programs for all groundkeeping and maintenance staff regarding proper management and maintenance activities.~~

d. As found appropriate by SWFWMD staff, shoreline banks created along onsite stormwater wet detention lakes shall include littoral zones constructed on slopes no steeper than a 4:1 horizontal to vertical ratio and shall be planted in native emergent and submergent vegetation and shall ensure, by supplemental replanting if necessary that at least 80 percent cover by native aquatic vegetation is established within the littoral zone (to include at minimum the area between ordinary high water and ordinary low water) for the duration of the project.

e. Prior to any site alteration, the applicant shall develop and implement a surface water quality monitoring plan, to be approved by Charlotte County and the Southwest Florida Water Management District, which shall include the following provisions if found necessary by SWFWMD during permit review and approval:

- 1) Pre-construction monitoring.
 - a) Sampling shall be initiated before the start of any construction.
 - b) Sampling events shall be conducted monthly during the wet season and twice during the dry season, and for rainfall events of one inch or greater.
- 2) Construction monitoring.

a) Sampling shall be conducted for every rainfall event of one inch or greater within the drainage subbasins where construction activities are occurring. The remainder of the project site shall continue to be sampled as described in pre-construction monitoring.

b) Any violations of water quality standards within a drainage subbasin under construction shall be reported to Charlotte County and the SWFWMD, and all work shall be halted until a solution to the problem is implemented.

3) Post-construction monitoring.

a) Sampling events shall be conducted quarterly, twice during wet season and twice during dry season, and for rainfall events of one inch or greater, for at least two years after buildout.

b) Any violations of water quality standards shall be reported to Charlotte County and the Southwest Florida Water Management District.

4) Monitoring reports.

a) Monitoring reports shall be submitted to Charlotte County on a quarterly basis during pre-construction and monthly during construction.

b) An official laboratory report shall also be submitted to Charlotte County, the Southwest Florida Water Management District and the Southwest Florida Regional Planning Council as part of the Annual each DRI Report pursuant to General Considerations Condition "b".

5) All water quality physical and chemical parameters (including golf course chemicals) to be sampled, as well as sampling sites, shall be approved before the commencement of sampling by Charlotte County and the Southwest Florida Water Management District.

6) Proposed monitoring and official laboratory report formats shall be approved by Charlotte County and the Southwest Florida Water Management District.

7) The applicant shall incorporate additional water quality treatment and/or water management methods into the project's surface water management system to correct or mitigate any degradation if the measures implemented by the applicant are found to be ineffective or are found to

adversely impact water quality downstream of the project site.

f. The applicant shall conduct annual inspections of the environmental and spreader swale systems on the project site so as to ensure that the swales are being properly maintained in keeping with their design, and that they are capable of accomplishing the level of stormwater storage and treatment for which they were designed and intended.

g. Provisions for the drainage of offsite areas and out-parcels that presently drain through the project site must be provided at the time of permit application.

h. At the time of application for construction and operation permits for the project, plans shall be submitted to Charlotte County and the Southwest Florida Water Management District which demonstrate that the pond, or ponds, receiving the effluent for irrigation are isolated from the surface water management system under average daily conditions. Also, calculations shall be submitted demonstrating the pond, or ponds, are retaining the 10 year/3 day storm event plus a 3 day volume minimum storage capacity for the effluent, prior to discharging into the surface water management system.

i. At the time of permit application, the applicant shall provide Charlotte County and the Southwest Florida Water Management District with assurances which demonstrate that the effluent storage pond, or ponds, receiving the effluent for irrigation will not contaminate the shallow groundwater table via percolation.

j. The applicant shall confirm, to the satisfaction of Charlotte County and Southwest Florida Water Management District staffs, that the proposed project control elevations and overall design will preserve the onsite and adjacent wetlands, including the maintenance of natural hydroperiods, and that County and District preservation/mitigation criteria will be met.

k. The applicant shall undertake a regularly scheduled vacuum sweeping of all commercial parking facilities, to be incorporated as a best management practice.

l. In areas adjacent to retail and office uses the applicant shall provide at least one inch of dry pre-treatment (retention or detention) in order to provide reasonable assurance that hazardous materials will not enter the surface water management system.

m. As the Caliente Springs County Club Term Bay DRI will utilize reclaimed effluent for irrigation purposes, the applicant shall ensure that onsite lakes and wetlands, and the surface water management system, are adequately buffered from possible effluent contamination.

n. The applicant shall participate in any on-going or future efforts by Charlotte County to establish a county-wide surface water management system.

o. All project construction shall take place away from preserved wetland areas, proposed buffers, lakes and swale systems, so as not to affect the intended function of the surface water management system.

p. Best management practices for monitoring and maintenance of the surface water management system shall be implemented by the applicant in accordance with Charlotte County and Southwest Florida Water Management District guidelines.

q. All internal surface water management and wetland systems shall be set aside as private drainage easements, common areas, preserves, or identified as specific tracts on the recorded final plat.

r. If any changes in water quality monitoring locations, parameters, and/or frequency are suggested by either Charlotte County, the Florida Department of Environmental Protection Regulation, the Florida Department of Natural Resources, the Southwest Florida Water Management District, other agencies, or the applicant, such changes shall be coordinated with the appropriate local, regional and state agencies.

s. Prior to any onsite development, clearing of land, or the receiving of any building permits for Phase I development, the applicant shall confirm, to the satisfaction of all Federal, State, and local review agencies, and the Southwest Florida Water Management District through the required permitting processes in a substantial deviation determination pursuant to paragraph 380.06(19)(f), F.S.; that the proposed water management system will not adversely impact habitats of any state or federally listed plant and/or animal species potentially occurring onsite, or that such impacts will be mitigated to the benefit of onsite populations of those species. This demonstration shall be part of a single, consolidated substantial deviation determination, presumed to create a substantial deviation, also addressing similar development order requirements in the

~~HURRICANE EVACUATION, WASTEWATER MANAGEMENT, WATER SUPPLY, and WETLANDS/VEGETATION AND WILDLIFE sections of this development order.~~

t. All commitments made by the applicant within the ADA, and subsequent sufficiency round information, related to Question 15 (Water) and Question 22 (Drainage), and not in conflict with the above recommendations, are hereby incorporated into this development order.

2. ENERGY

The applicant has committed in the ADA to a variety of conservation measures to help reduce the energy impact of the development. To the extent practical, the developer will incorporate or encourage the following energy conservation features:

- a. Provision of a bicycle/pedestrian system connecting land uses to be placed along one side of the collector roads within the project. This system is to be consistent with local government requirements.
- b. Provision of bicycle racks or storage facilities in recreational, commercial and multi-family residential areas.
- c. Cooperation in the locating of bus stops, shelters, and other passenger and system accommodations for a transit system to serve the project area.

- d. Use of energy-efficient features in window design.
- e. Use of operable windows and ceiling fans.
- f. Installation of energy-efficient appliances and equipment.
- g. Prohibition of deed restrictions or covenants that would prevent or unnecessarily hamper energy conservation efforts (e.g., building orientation and solar water heating systems).
- h. Reduce coverage by asphalt, concrete, rock, and similar substances in streets, parking lots, and other areas to reduce local air temperatures and reflected light and heat.

- i. Installation of energy-efficient lighting for parking areas, recreation areas and other interior and exterior public areas.
- j. Selection of native plants, trees, and other vegetation and

landscape design features that reduce requirements for water, fertilizer, maintenance, and other needs.

k. Planting of native shade trees to provide reasonable shade for all recreation areas, streets and parking areas.

l. Placement of trees to provide needed shade in the warmer months while not overly reducing the benefits of sunlight in the cooler months.

m. Orientation of structures, as possible, to reduce solar heat gain by walls and to utilize the natural cooling effects of the wind.

n. Provision for structural shading wherever practical when natural shading cannot be used effectively.

o. Inclusion of porch/patio areas in residential units.

p. Consideration by the project architectural review committee(s) of energy conservation measures (both those noted here and others) to assist builders and residents in their efforts to achieve greater energy efficiency in the development.

3. HISTORICAL/ARCHAEOLOGICAL

a. The John Quiet Lakes Shell Midden site shall be shown on all development plans including the DRI master plan, as a preservation area and delineated in the field to avoid inadvertent damage during construction. Public access shall not be provided to this site.

b. If any additional archaeological/historical sites are uncovered during site preparation, work in the immediate vicinity shall cease. The appropriate state and local agencies shall be contacted so they may determine the significance of the findings and recommend the mitigation actions to be taken.

4. HOUSING

a. Either the applicant or employers owners of the commercial area shall undertake an affordable housing survey based on the methodology supplied by DCA and the SWFRPC. The survey shall be conducted before the commencement of Phase II of the project or before any commercial development is initiated other than the golf course, clubhouse and related amenities.

b. Based on the findings of the affordable housing survey, the applicant shall undertake one or more of the following provisions:

1. The applicant shall incorporate housing units into the development site. These can be distributed throughout the site in an agreed upon manner or as additional stories over the proposed commercial structures. The rents or sale price of these units shall be in accordance with the needs identified for the households of the employees who have an affordable housing need.

2. A mortgage funding pool shall be established to provide low interest second mortgages to be used for down payments to those individuals in the low income range who qualify for a mortgage but lack the necessary down payment amount. The value of these second mortgages shall be up to \$5,000.00 per household unit's value to allow for a down payment. The initial funding amount of the mortgage pool shall be based on information derived from the affordable housing survey conducted by the applicant. Also, the housing survey will be used to determine the number of housing units that shall be identified as being affordable to low income individuals at the start up of the overall commercial aspects of the project. It shall be the responsibility of the applicant, under supervision of the County Administrator or his designee to make the necessary and proper arrangements with local lending institutions which would allow employees from the developments commercial lessors to participate in such a program. These responsibilities would include but not be limited to:

a. ~~Establish a program in conjunction with lending institutions which would enable an employee who qualifies to obtain a mortgage for a total cost of 10% of the value of the housing unit up to \$5,000.00.~~

b. Establish a credit line, deposit, guarantor or some such device with a lending institution to fund the individual down payment of qualifying individuals.

c. Allow individuals to draw the down payments, based on recommendations of the lending institution, which will be accepting the overall mortgage.

d. The down payment will be held as a second mortgage on the real estate.

e. A formula will be devised between the developer and the lending institution to insure repayment of the second position mortgage.

f. That the lending institution working out the agreement will be guaranteed the first mortgage loan.

3. The applicant shall construct affordable housing units off-site within a 20 minute or ten mile commute time from the project.

c. And the applicant shall undertake the following:

1. Designate a housing officer responsible for administration of a required housing assistance program on site or participate in the Charlotte County Homebuyers Club sponsored through the State Housing Initiative Partnership (SHIP) and Charlotte County.

2. Provide contributions to day care to supplement child care cost, through the provision of on-site space for a care center, the need for which will be determined by the amount of commercial development taking place on site.

3. Participate in Charlotte County Transportation Dis-advantaged Programs through the provisions of the necessary service unloading sites, providing the necessary amenities to accommodate such services, and through participation in job programs involving the handicapped.

d. ~~As an alternative to undertaking the affordable housing survey and the provisions of Housing conditions "a" and "b" above, the applicant, third party or assignee shall construct an on-site residential campus which provides incubator work facilities for medically stable disabled individuals. Such a program addresses the need for adequate housing and workplace opportunities for these individuals within the Charlotte County community.~~

5. HURRICANE EVACUATION

a. Prior to 1996 or when Phase II construction plan approval is granted by Charlotte County, a hurricane shelter mitigation plan, consistent with the provisions of 91-2.0256(5)(a)1-5, shall be required. The proposed mitigation plan shall be reviewed and approved by the Charlotte County Office of Emergency

Management, the SWFRPC and the State Division of Emergency Management.

b. ~~All habitable structures located within the 100-year floodplain shall be constructed above the 100-year FEMA flood elevation.~~

c. ~~Midrise condominiums within the 100-year floodplain shall be constructed on pilings and with parking beneath and shall be hardened in accordance with the Southern Building Code for Charlotte County.~~

d. ~~Garden condominium and single family residences within the 100-year floodplain shall be constructed with reinforced stem-wall foundations which shall be resistant to flood erosion and shall be hardened in accordance with the Southern Building Code for Charlotte County.~~

e. ~~Fill requirements shall be minimized within the 100-year floodplain as delineated by the zone "A" and zone "V" areas depicted on the May 4th, 1984 2003, National Flood Insurance Program FIRM maps for this project site. Prior to any onsite development, clearing of land, or the receiving of any building permits for phase I development, the applicant shall demonstrate in a substantial deviation pursuant to paragraph 380.06(19)(f), F.S.:~~

1. ~~That the cumulative amounts and locations of all proposed fill, including roads, within the 100-year floodplain is minimized to the maximum extent possible; and~~
 2. ~~That the amounts and locations of fill proposed within the 100-year floodplain will not result in a material adverse impact to floodplain storage, floodwater conveyance, maintenance of minimum water flows, water quality, wetlands, or habitat values for fish and wildlife species.~~
- ~~This demonstration shall be part of a single, consolidated substantial deviation determination, presumed to create a substantial deviation, also addressing similar development order requirements in the DRAINAGE/WATER QUALITY, WASTEWATER MANAGEMENT, WATER SUPPLY, and WETLANDS/VEGETATION AND WILDLIFE sections of this development order.~~

f. ~~The Golf Clubhouse operational area excluding golf cart storage and maintenance and under building parking shall be elevated to above 14 feet MSL.~~

g. ~~Prior to construction of the Fire Station facility within the commercial pod on-site, two way radio communication equipment~~

shall be provided to the golf course maintenance building with an integrated evacuation siren warning system.

h. As mitigation for Phase I hurricane shelter impacts, Tern Bay shall establish a community hurricane refuge for minimal category hurricanes at the on-site clubhouse and CDD administration building. A generator shall be installed acquired to provide an alternative source of power at each of these on-site facilities one of the Punta Gorda hurricane shelters. This These generators shall be acquired prior to issuance of Phase I residential construction permits for the clubhouse and CDD administration building.

i. A disclosure statement in the form of a covenant shall be attached to all residential deeds stating that the property is located in a hurricane vulnerability zone and that the hurricane evacuation clearance time for the county is high and/or hurricane shelter spaces are limited.

j. Tern Bay shall coordinate with the Emergency Management Director or designee in establishing a community emergency management program including the support and encouragement for a Community Emergency Response Team (CERT) and an annual presentation by the EMS Director or designee which promotes hurricane preparedness for the Tern Bay residents and which will be sponsored by the CDD administration.

6. TRANSPORTATION

a. The applicant or his successor shall be fully responsible for site-related roadway and intersection improvements required within the Calleste Springs Tern Bay DRI. The applicant shall be required to pay the full cost for any site-related intersection improvements (including but not limited to signalization, turn lanes and additional through lanes) found to be necessary by Charlotte County for the project's access intersections onto Burnt Store Road.

c. The applicant shall pay to Charlotte County the impact fees that are in effect at the time building permits are issued for the development. These impact fee payments shall represent partial payments for necessary transportation improvements, including design and engineering, utility relocation, right-of-way acquisition, construction, construction contract administration and construction inspection necessary to maintain peak-hour peak-season level of service "C" peak hour, based on a 100 hour design criteria, for the

following significantly impacted regional roadways through project
buildout by January 17, 2012 2010:

- Burnt Store Road
- Notre Dame Boulevard to project entrance
- Project entrance to Zemel Road
- Zemel Road to Burnt Store Marina entrance
- Burnt Store Marina entrance to SR 78*
- Notre Dame Boulevard to US 41

* Included for monitoring purposes

c. Impact fee payments shall also represent partial share payments for the necessary improvements, including but not limited to, right-of-way, costs of signalization, turn lanes and other improvements deemed necessary by FDOT or Charlotte County, or other appropriate jurisdiction, to maintain level of service "D" on a peak hour peak-season (100th hour) basis for the following significantly impacted off-site regional intersections through project buildout:

- Burnt Store Road/Notre Dame Boulevard
- Burnt Store Road/Zemel Road

d. The improvements necessary to maintain the appropriate level of service for the roadways and intersections outlined in "b" and "c" above shall be made at the time that a rural road segment or intersection is projected to exceed peak-hour-peak-season level of service "C" peak hour based on a 100 hour design criteria, or an urban segment is projected to exceed peak-hour-peak-season level of service "D" peak hour based on a 100 hour design criteria. In order to help determine the existing and projected levels of service on regional facilities and the need for improvements in a timely manner, the applicant shall submit an annual monitoring report to Charlotte County, FDOT, the Florida Department of Community Affairs and the Southwest Florida Regional Planning Council for review and approval. The first monitoring report shall be submitted one year after the issuance of the first construction permits for the ~~Gallente Springs Tern Bay DRI~~. Reports shall be submitted annually thereafter until buildout of the project.

The monitoring report shall project the approved developments transportation impacts on the roadways and intersection identified in "b" and "c" above for the next year. The developments projections of project traffic shall be based on the total of existing occupied project development, the amount of building permits

currently issued for unoccupied project development, and the projected amount of development to be requested within the next year. At a minimum, the monitoring report shall contain project p.m. peak hour peak-season (100th hour) trip generation estimates, non-project background counts and turning movements at each of the access intersections and the regional intersections listed above in recommendation "c" and a calculation of this year's and next year's project traffic, background traffic and the existing and next year's projected peak hour peak-season level of service, based on a 100 hour design criteria, at these intersections and on the road segments indicated above in recommendation "b".

The levels of service shall be calculated according to current professional standards and shall provide an indication of when peak-hour-peak-season level of service "C" or "D"-peak-hour-based on a 100 hour design criteria, is expected on impacted roadways and intersections, and an estimate of project impact on those facilities.

e. Should the eventual development mix of the Caliente-Springs Tern Bay be such that the trip generation and external traffic of the project exceed the levels identified in the ADA by more than 15%, on a daily or p.m. peak hour (100th hour) basis, then the project shall go through a substantial deviation determination as outlined in Chapter 380.

f. Based on the staff transportation assessment of significant project impacts, construction of the following transportation improvements shall be needed prior to, or coincident with, development of the Caliente-Springs Tern Bay DRI, if peak hour (100th hour) peak season level of service "C" and "D" conditions are to be maintained through buildout (January 17, 2012-2040) on regional road segments and intersections.

Phase I (January 17, 2007-2005)

- Burnt Store Road
- Notre Dame Boulevard to the project entrance
- Widen to 4 lanes

Buildout (January 17, 2012-2040)

- Burnt Store Road
- Notre Dame Boulevard to the project entrance
- Project entrance to Zemel Rd.
- Widen to 4 lanes
- Widen to 4 lanes

(1) A roadway improvement scheduled for construction within the first year of the appropriate local government's Comprehensive Plan capital improvement element. A roadway construction improvement listed in and scheduled for construction to commence in or before the third year of Charlotte County's Comprehensive Plan capital improvements element will be recognized as a committed roadway improvement, with no additional amendment to this Development Order required, when Charlotte County amends its adopted comprehensive plan and the comprehensive plan amendment is found to be in compliance by final agency action with Rule 9J-

h. If an annual monitoring report project plus background peak hour (100th hour) peak-season traffic on a regional roadway segment or intersection listed in "b" and "c" above exceeds, or is projected to exceed during the next year, the peak hour (100th hour) peak-season level of service standards adopted by the Charlotte County Comprehensive Plan and the project is, or will be, utilizing 5% or more of the peak hour (100th hour) level of service "D" maximum service volume for that urban area roadway/intersection or 5% of LOS "C" for rural areas, then no further building permits and certificates of occupancy shall be granted or issued for the ~~Cahente Springs Tern Bay~~ development until a major roadway improvement restoring the level of service to peak hour (100th hour) peak-season level of service "D" (for urban roads intersections) or "C" (for rural roads/intersections) is operational or committed for construction. A committed roadway improvement for the purpose of meeting this requirement shall be either:

g. If Zemel Road is scheduled for paving and/or widening prior to the start of the second phase of ~~Cahente Springs Tern Bay~~ the traffic analysis shall be updated and the project impacts reassessed and the results incorporated into the development order following the procedural requirements of paragraph 380.06(19)(f), F.S., prior to the issuance of any building permits for Phase II. Any reanalysis shall include an assessment of impacts across the Lee County line and shall utilize the most recently available models or techniques suitable for assessing multi-county impacts.

* Included for monitoring purposes

- Zemel Road to the Burnt Store Marina entrance
- Widen to 4 lanes
- Burnt Store Marina entrance to SR 78*

5.0055(2)(c), Florida Administrative Code, except insofar as (2)(c) would allow concurrency to be satisfied (2)(e) would allow concurrency to be satisfied by using the provision in Rule 9J-5.0055(2)(a)1., Florida Administrative Code or Rule 9J-5.0055(2)(b)1. and 2., Florida Administrative Code; or

(2) A roadway construction improvement listed in, and scheduled for construction within, the current three years of the Florida Department of Transportation's adopted Five Year Work Program; or

(3) Any alternative agreed upon by the Charlotte County, SWFRPC, FDCA, and the developer. The developer has the right to propose, as an alternative, the use of a Local Government Development Agreement pursuant to Section 163.3220, Florida Statutes, which contains commitments by the Applicant (potentially including a proportionate share payment) and the local government to provide the necessary improvements which ensures concurrency on all significantly impacted regional roads and inter-sections. The approval of either of these alternatives shall require amendment of their specifics into this Development Order.

In addition to this requirement, if any road within a three (3) mile radius of the entrance to ~~Caliente Springs Tern Bay~~ becomes subject to a moratorium pursuant to Ordinance 89-43, then Caliente Springs Tern Bay will also be subject to that moratorium and ordinance regardless of the percentage of capacity being utilized by ~~Caliente Springs Tern Bay~~ traffic.

The transportation impacts to the roads and intersections above may be alternatively proposed by the applicant to be appropriately addressed consistent with Southwest Florida Regional Planning Council policies, and in accordance with Section 163.3220, F.S., which requires a commitment by the applicant and/or the local government to insure concurrency on all significantly impacted regional roads, through a substantial deviation determination and development order amendment incorporating the development agreement, pursuant to 380.06(19)(f), F.S.

Should the road impact fees be repealed, or made unenforceable by Court action, the traffic impacts of ~~Caliente Springs Tern Bay~~ shall be immediately reanalyzed to determine appropriate

alternative mitigation and the development order amended as appropriate to include such mitigation prior to the issuance of the subsequent building permits.

7. WASTEWATER MANAGEMENT

- a. Prior to construction and prior to the issuance of the first building permit, the applicant shall make a determination as to whether the project is to connect to an offsite treatment system as is available at the existing plant on Burnt Store Road operated by Charlotte County Utilities (CCU), an agency department of Charlotte County Government, as the responsible party occupying a franchise within which the project is situated and which responsible party will thereafter provide wastewater treatment services. In the event that it is determined at any time prior to construction and issuance of the first building permit or at any stage thereafter that CCU or its successor is unable to provide treatment services, the applicant will design and construct an interim on-site treatment facility which facility will be taken out of service upon CCU or its successor subsequently being able to provide services, or whether an Any internal treatment system will be constructed and amend this development order shall be amended, pursuant to 380.06(19)(f), F.S., to reflect the details concerning this selection, including, but not limited to the location, size, ownership, type of treatment, current permitted capacity, availability of permitted capacity to serve a portion or the entirety of Caliente Springs Tern Bay, the form of legally binding reservation of the permitted capacity to serve the Caliente Springs Tern Bay development, and the compliance of the proposed sewage treatment system to comply with Wastewater Management conditions "b", "c" and "d e" of this development order. This demonstration shall be part of a single consolidated substantial deviation determination, presumed to create a substantial deviation, also addressing similar development order requirements in the DRAINAGE/WATER QUALITY, HURRICANE EVACUATION, WATER SUPPLY, and WETLANDS/VEGETATION AND WILDLIFE sections of the development order. Any internal treatment facility shall be centrally located, at least 200 feet from the nearest wetland or stormwater management lake, and shall be capable of serving the entire development. Furthermore, any internal facility shall be capable of supplying reclaimed water for irrigation and other non-potable water uses.
- b. At the time of application for construction and operation permits for the Caliente Springs Country Club Tern Bay development, plans must be submitted to Southwest Florida Water Management District

which demonstrate that the pond, or ponds, receiving the effluent for irrigation are isolated from the surface water management system under average daily conditions and will not contaminate the shallow ground water via percolation. Also, calculations must be submitted demonstrating that the pond, or ponds, is retaining the 10 year/3 day volume minimum storage capacity for the effluent, prior to discharging into the surface water management system. The applicant shall ensure that onsite lakes, flowways, wetlands, and the surface water management system are adequately buffered from potential effluent contamination.

c. The applicant shall provide assurance, for commercial and non-residential portions of the development, that non-domestic wastewater will be treated separately from domestic wastewater and handled in accordance with FDER FDEP criteria.

d. ~~Temporary septic tanks may be used for residential models, construction and sales offices. In commercial portions of the project, septic tanks shall not be allowed, except for construction of sales offices and model home centers, due to the possibility of hazardous waste generation. Septic tanks shall not be allowed in any residential portion of the project, except for construction or sales offices which shall be connected to central treatment facilities prior to residential use. Septic tank systems for incidental buildings, such as on the proposed golf course, shall be subject to review by the appropriate agencies. All septic tank systems must comply with all State and County legislation.~~

d.e. All commitments made by the applicant, within the ADA and subsequent sufficiency round information, related to Question 21 (Wastewater Management), and not in conflict with the above recommendations shall be incorporated as conditions for approval.

8. WATER SUPPLY

a. Prior to construction and prior to issuance of the first building permit, the applicant shall make a determination as to whether the project is to connect to an offsite potable water supply system as is available at the existing plant on Burnt Store Road operated by CCU, an agency department of Charlotte County Government, as the responsible party occupying a franchise within which the project is situated and which responsible party will thereafter provide potable water services. In the event that it is determined at any time prior to construction and issuance of the first building permit or at any stage thereafter that CCU or its successor is unable to provide services, the applicant will design and construct an interim on-site

facility which facility will be taken out of service upon CCU or its successor subsequently being able to provide services, or whether ~~any~~ Any internal system will be constructed and amend this development order shall be amended, pursuant to 380.06(19)(f), F.S., to reflect the details concerning this selection, including, but not limited to the location, size, ownership, groundwater source of supply, current permitted capacity, availability of permitted capacity to serve a portion or the entirety of Caliente Springs Tern Bay, the form of legally binding reservation of the permitted capacity to serve the Caliente Springs Tern Bay development, and the compliance of the proposed potable water supply system to comply with Water Supply conditions "b", "e" and "k" of this development order. This demonstration shall be part of a single, consolidated substantial deviation determination, presumed to create a substantial deviation, also addressing similar development order requirements in the DRAINAGE/WATER QUALITY, HURRICANE EVACUATION, WASTEWATER MANAGEMENT, and WETLANDS/VEGETATION AND WILDLIFE sections of this development order. Consideration shall be given to meeting the irrigation needs of the project through the following hierarchy of sources: (1) off-site reuse water supply, (2) treated groundwater, (3) treated stormwater, (4) non-potable quality groundwater.

b. The development shall require a Southwest Florida Water Management District Water Use Permit for any withdrawals from groundwater, project lakes, and/or other surface water bodies for irrigation or potable uses and for any dewatering associated with the construction of project lakes, and/or road or building foundations.

c. For the purpose of potable water conservation, installation of high-efficiency (low volume) plumbing fixtures, appliances, and other water conserving devices shall be required. This shall include the use of toilets requiring no more than 1.6 gallons per flush.

d. For the purpose of potable water conservation, installation of self-closing and/or metered water faucets in all public and commercial restroom facilities shall be required.

e. For the purpose of potable and/or reclaimed water conservation, utilization of Xeriscape principles shall be incorporated in all landscaped areas. Ecologically viable portions of existing native vegetation shall be incorporated into the landscape design to the greatest extent practicable and shall not be irrigated.

f. The ~~Caliente Springs Country Club~~ Tern Bay development shall utilize the following additional water conservation measures, as appropriate:

- 1) The project shall use an on-site rain gauge in order to better determine supplemental irrigation requirements;
- 2) When possible, the applicant shall undertake the use of low volume irrigation methods which deliver small quantities of water in a highly efficient manner directly to the base of the plant. This is defined as a system delivering less than 3 gallons per hour and/or less than 35 psi pressure. Such a system could be utilized for irrigation of ornamental plantings around the clubhouse, maintenance facility, and multi-family units.
- 3) The applicant shall participate in the development of a public awareness campaign, for project residents, to increase knowledge of water conservation.
- 4) Other best management practices contained in Exhibit "D" herein.

g. The applicant has proposed supplemental use of groundwater from the intermediate aquifer for meeting irrigation requirements. The applicant has also proposed restoration of the old "mineral bath" facility as a reflecting pool and fountain or part of the spa and fitness center program. In order to utilize these water sources, the applicant must prove, at the time of permit application, that surface and surficial aquifer waters will not be contaminated by these uses.

h. The lake system is adjacent to wetland preserve areas. At the time of permit application, the applicant must show that the wetland hydroperiod will not be adversely affected by proposed supplemental irrigation withdrawals from project lakes.

i. As the applicant has indicated that the project will use reclaimed wastewater for irrigation purposes, the applicant shall ensure that onsite lakes, wetlands, flowways, and the surface water management system are adequately buffered from potential effluent contamination.

a. b. As listed plant and animal habitat areas occur in both Phase I and

In addition, the applicant shall comply with a systematic program for the maintenance and enhancement of the Wildlife Utilization Area contained in Exhibits "D", "E" and "F" that include best management practices and an environmental educational program compatible with the Wildlife Utilization Area.

5) Open space areas along the southern boundary including golf course and buffers to the extent practical.

4) Wildlife crossings where the internal loop roadway crosses the on-site sloughs as generally shown in Figures D-1 and D-2 contained in Exhibit "D"

3) No buildings, except for accessory uses to support the golf courses, and limited roadways as described in Exhibit "D"

2) Wetland buffers and supplemental native plantings to provide additional cover for unhindered wildlife movement as described in Exhibit "D"

1) An upland conservation area, a minimum of 22 acres, located adjacent to the southern slough

a. The applicant shall establish comply with a management plan for the a Wildlife Utilization Area, as designated on Map "F-2" and including all conservation areas and golf course/open space, that is designed to provide connectivity of the on-site sloughs crossing the Tern Bay parcel to the coastal conservation area of Charlotte Harbor. For enhanced connectivity, the applicant shall provide the following within the Wildlife Utilization Area:

WETLANDS/VEGETATION AND WILDLIFE

k. All commitments made by the applicant within the ADA and subsequent sufficiency round information, related to Question 15 (Water) and Question 23 (Water Supply) shall be incorporated as conditions for approval.

j. All construction plans, technical specifications, and proposed plats, if applicable, for the proposed water distribution system shall be reviewed by Southern States Utility Services, Inc. CCU, or other utility provider, and Charlotte County prior to commencement of construction.

Phase II areas The applicant shall comply with the protective strategies and management plans for the listed species generally as depicted on Map "F-2" of Exhibit "D" and contained in Exhibits "D", "E" and "F" herein. The implementation of these protective strategies and management plans shall be monitored by a professional environmental scientist(s). The financing entity (e.g., Community Development District) shall be identified within the management plans, depicted on the Caliente Springs Country Club Master Plan Exhibit A. Prior to any site clearing, the issuance of any construction permits and prior to any platting approval, the following requirements shall be submitted by the developer, shall confirm to the satisfaction of the Department of Community Affairs and the Florida Game and Freshwater Fish Commission that the applicant has fully and adequately complied with the intent of these requirements, and the developer shall obtain approval of the specific conditions appropriately implementing these requirements consistent with any federal and state rules, policies, and statutes through a substantial deviation determination and development order amendment pursuant to 380.06 (19)(f), F.S. This demonstration shall be part of a single, consolidated substantial deviation determination, presumed to create a substantial deviation, also addressing similar development order requirements in the DRAINAGE WATER QUALITY, HURRICANE EVACUATION, WASTEWATER MANAGEMENT, and WATER SUPPLY sections of this development order.

1) At least one consolidated area of gopher tortoise preserve of at least 20 22 acres shall be designated to provide a core area for the linear upland preserve segments. The subject preserve area shall be placed in a conservation easement in accordance with the provisions of "c" below. The selected gopher tortoise preserve and designated linear upland preserve segments must be of a size and in locations acceptable to the Florida Game and Fresh Water Fish Commission, shall be simultaneously placed in a conservation easement according to the provisions of "b" below, and shall be depicted on a revised Master Plan Exhibit A as listed species preservation areas. As part of this amendment proposal, the applicant shall prepare a set of tables giving the total area in acres of gopher tortoise occupation by FLUCCS code upon completion of the proposed site plan, and the acreage by FLUCCS code of all listed animal species and wetlands.

~~100% of the individual plants of the Gossypium hirsutum (wild cotton) was observed only on shall be preserved within the fringes of a small cabbage palm hammock that also is the site of the John Quiet Lake Shell Midden as shown on Revised Map H (Revised Master Concept Plan Exhibit "A") (revised 7/30/92). The subject preserve area shall be placed in a conservation easement in accordance with the provisions of "c" below.~~

2) Detailed surveys delineating the locations of potential habitat, actual occupied habitat, and individual population sizes and locations for all individuals of *Doeringothamnus pulehius* (Beautiful pawpaw) and *Nolina atecarpa* (Florida bear grass) and *Gossypium hirsutum* (wild cotton) occurring onsite shall be carried out during appropriate times of year and reported on for the entire project site. Except as discussed in an option below, the following shall be included in the survey: (a) scientific information known about the life history requirements of each of the above three listed plant species (and closely related species if little is known about the listed species onsite), its relative endangerment and need for protection; (b) the types and amounts of disturbances; the types and amounts of developmental, hydroperiod, shading or human-related impacts; and the types and amounts of pesticides and herbicides suspected or known to be harmful to the species; (c) the types and amounts of needed onsite management and buffers necessary to reasonably ensure for the species' in perpetuity preservation and reproduction onsite; (d) any scientific information about known or suspected pollinators and their likely life history requirements onsite; and (e) if relocation is proposed, details about the current scientific state of the art regarding the relocation potential of the particular species, the relocation techniques utilized and their estimated cost for the Caliente project, the problems experienced in past relocation efforts, the length of time that relocated populations have been demonstrated to be successfully reproducing, and details about any potential problems likely to be experienced undertaking relocation on the Caliente site. ~~Appropriately addressing and taking into consideration all of the above information and the relative endangerment and need for protection of each species, the applicant shall submit for approval the proposed location, population size, and the percentage of the total onsite range of each listed upland plant species that will be preserved.~~

3) 100% of the on-site individual plants of the *Deeringothamnus pulchellus* (*Beautiful pawpaw*) shall be preserved through the establishment of a minimum 22-acre conservation area and transplant of individual plants located outside said conservation area. The subject conservation area shall be placed in a conservation easement in accordance with the provisions of "c" below.

4) On-site individual plants of the *Nolina atopocarpa* (*Florida bear-grass*) shall be preserved through the transplant to those general locations shown on Map "F-2" of Exhibit "D" including the 22-acre conservation area.

As a substitute option for supplying the information requirements of (a) through (e) above, and as a substitute option for proposing preservation areas that are required to appropriately address and take into consideration the information required in (a) through (e) above, the developer may propose to preserve at a minimum, 100% of all individuals of *Deeringothamnus pulchellus* (*Beautiful pawpaw*), 50% of all individuals of *Nolina atopocarpa* (*Florida bear-grass*), and 50% of all individuals of *Gossypium hirsutum* (*wild cotton*) occurring onsite, plus a 200-foot buffer around the populations that will be left occurring onsite. Regardless of the listed plant preservation option utilized, all proposed onsite listed plant preservation areas, including all buffers around such populations occurring onsite, shall be preserved in perpetuity through a conservation easement according to the provisions of "b" below.

3) ~~A wildlife and listed plant management plan for the proposed wildlife and listed plant preserves. This will include those listed plant species previously observed in the two cabbage palm hammocks located outside of the development area.~~

b-c. The Coastal Conservation Area shall be considered as in perpetuity preservation areas and their development uses shall be restricted by a conservation easement to be conveyed to the State of Florida Department of Environmental Protection (herein "the State of Florida"). All remaining on-site wetland systems, other conservation and listed species preservation tracts, and mitigation areas shall be considered as in perpetuity preservation areas and their developmental uses shall be restricted by conservation easements to be conveyed to Charlotte County, the State of Florida, the Southwest Florida Water Management District or a qualified non-profit conservation organization (herein "grantee") that has both the

Further, the Coastal Conservation Area, consisting of approximately 865 acres, shall be conveyed in fee simple ownership to the State of Florida for preservation as a park in perpetuity and consistent with the restrictions contained in Chapter 704.06, Florida Statutes, as may be amended. The State of Florida shall become the successor in interest of any recorded conservation easement on the subject lands and shall be responsible for performing all required maintenance at no cost to the Applicant or the Tern Bay Community Development District (CDD). The conveyance to the State of Florida shall occur prior to commencement of Phase II for the Tern Bay development or ten (10) years from the effective date of this revised Tern Bay Development Order, whichever occurs last. All accrued mitigation and any other credits granted either through agency action or interlocal agreement shall be retained by the Applicant. The

dedication to conservation, and the resources to enforce the restrictions of the conservation easement. The conservation easements shall clearly designate the onsite preservation area as a perpetual easement area to be managed and retained in a natural state for the continued protection and sustainability of the species or natural or archaeological resources requiring preservation; shall prohibit all development and all activities inconsistent with the purpose for which the land is being preserved; shall name the State of Florida or grantee as a benefiting party; shall allow it or any of its agencies designees access to the site upon request; shall provide the State of Florida or grantee with the right to require restoration and the right of enforcement; and shall be duly recorded in the Official Records of Charlotte County, Florida inoperated into this development order through the procedural requirements of paragraph 380.06(19)(f), F.S., prior to any site clearing and prior to any construction permit issuance for the on-site development of the Tern Bay DRI. This demonstration shall be part of a single, consolidated substantial deviation determination, presumed to create a substantial deviation, also addressing similar development order requirements in the DRAINAGE/WATER QUALITY, HURRICANE EVACUATION, WASTEWATER MANAGEMENT, and WATER SUPPLY sections of this development order. Until such time as this development order amendment approves final listed plant and animal preservation areas and becomes final without appeal, at a minimum, all of the onsite wetlands and all the habitat areas depicted on the October 1990 Maps E1 and F2 as beautiful pawpaw, Florida beargrass and critical gopher tortoise habitat areas shall be considered as interim preservation areas and no native species or their habitats shall be disturbed, adversely impacted, or removed from these areas in any manner.

Applicant or CDD, as appropriate, shall retain easements to ensure in perpetuity (1) access from Charlotte Harbor to the Tern Bay development, and (2) utilization of all permitted structures including but not limited to, canoe landings, picnic areas, nature and directional signage, and boardwalks, by Tern Bay residents and guests for recreational and environmental purposes. Further, the Applicant or CDD, as appropriate, shall impose a deed restriction requiring absolute, total and unchanged preservation of the viewshed from the Tern Bay development to Charlotte Harbor. This conveyance to the State of Florida shall be duly recorded in the Official Records of Charlotte County, Florida.

e. d. Wetlands partially included in or adjacent to the Wildlife Utilization Area shall be incorporated into the Wildlife Utilization Area corridor area.

e. e. All drainage ditches within and along the Wildlife Utilization Area corridors shall be filled to reestablish historical drainage patterns.

e. f. All road crossings of the corridor sloughs shall be bridged along over the entire corridor slough to maximize the opportunity for wildlife movement.

f. g. Activities within wetland buffer areas shall be restricted to hand-cleared nature trails with a maximum width of three feet and other passive recreation uses requiring minimal removal of natural vegetation or ground surface disturbances. Impervious surfaces and the use of herbicides or fertilizers shall be prohibited. The use of pesticides will be restitutive restricted except for protection from and control of disease threatening mosquitoes by the Charlotte County Mosquito Control or other licensed operator.

g. h. Prior to construction of the fishing pier(s) and canoe launch a permit from the Board of Trustees of Internal Trust Fund shall be necessary.

h. i. Conveyance of over 865 +/- acres of estuarine wetland, hydric pine flatwoods and cabbage palm hammocks shall be made to the State of Florida or other appropriate entity, consistent with the provisions of "a", and "b" and "c" above.

i. Restore impacted isolated wetlands by incorporating them into the water management system.

j. Create new wetland areas within the stormwater management system.

k. j. Preserve upland buffers adjacent to preserved isolated and contiguous wetlands.

k. k. Restore areas within the jurisdictional line by removing spoil areas and eradicating noxious exotic plants.

m. l. The on-site wetlands shall be preserved in their natural or existing state. Assurances that the wetlands shall be preserved shall be provided by: 1) maintaining water levels in artificial waterbodies at elevation compatible with adjacent wetlands or where this is not practical; 2) allow for adequate setbacks to prevent the drawdown of wetlands; 3) allowing only treated stormwater runoff or discharge into waters of the state; 4) pre-treating stormwater runoff proposed to be discharged into isolated wetlands in accordance with SWFWMD rules; 5) implementing strict supervision of construction activities in the vicinity of wetlands.

m. m. Less than five (5) acres of wetland shall be impacted.

e. n. All Brazilian pepper monocultures shall be eradicated. The applicant shall comply with a nuisance plant species removal program contained in the management plan for the Wildlife Utilization Area (referred to in Exhibit "D") such that nuisance plant species are removed during land clearing for each phase. A phasing program for the removal of nuisance plant species within the conservation areas also shall be addressed in the management plan for the Wildlife Utilization Area.

p. o. Only approximately 1.7 acres of the cabbage palm hammock shall be impacted and any cabbage palm trees with non-listed plant epiphytes shall be relocated within or immediately adjacent to the hammock prior to the impacts being incurred; cabbage palm trees containing state listed threatened or endangered plant species shall not be relocated without approval through a substantial deviation determination notice of proposed change pursuant to Subsection 380.06(19), F.S.

10. FIRE PROTECTION

a. The applicant will make available a one-acre site within the ~~commercial area for a fire station.~~

b. Sprinklers should be included in common areas of the project and multi-story residential buildings.

c. The applicant shall meet with the Fire District during detailed site plan review in order to incorporate any required safety and access features into the project design.

11. SOLID WASTE

a. The applicant should develop (and be prepared to implement) procedures for storing and disposing of hazardous waste, including hazardous wastewater, in accordance with local, regional, state and federal hazardous waste programs.

b. Any business located within the ~~Callente Springs Country Club~~ ~~Tern Bay DRI~~, which might generate special or hazardous wastes, should be responsible for the temporary storage and proper disposal of special hazardous wastes generated by such business. These types of wastes should include any of those listed in the Charlotte County Hazardous Waste Assessment, as well as any hazardous chemicals listed within the Federal Superfund Amendments and Reauthorization Act (SARA), Title III. However, there should be no siting of special or hazardous waste storage facilities contrary to Charlotte County Regulations.

c. As the day-to-day operation and maintenance of the ~~Callente Springs Tern Bay Golf Course~~ may generate hazardous wastes, the golf course should be subject to condition "b", above.

12. CONCEPT PLAN

a. Modification of the Planned Development conceptual development plan approved in Resolution 91-262 (PD-90-6) is hereby approved consistent with Revised Map "H", the Revised Master Concept Land Use Plan, which is attached as Exhibit "A" and incorporated herein by this reference.

b. The types and mix of uses depicted in the conceptual development plan approved by Resolution 91-262 (PD-90-6) are retained by adoption of Revised Map "H". The number and layout of buildings and lots may vary from the original approval. Mid-rise condominium buildings are vested for development not to exceed seven (7) stories over parking.

c. The residential mix and densities and number of hotel rooms depicted in the conceptual development plan approved by Resolution 91-262 (PD-90-6) are retained by adoption of Revised Map "H" as follows:

The developer shall submit an annual a DRI report every two years from the effective date of this revised development order on the development of regional impact to Charlotte County, the Southwest Florida Regional Planning Council, the Department of Community Affairs and all affected permit agencies as required in Subsection 380.06 (18), Florida Statutes and Section 91-2.025(7)B-6, Florida Administrative Code, as amended. This does not affect the frequency of transportation monitoring reports pursuant to Transportation Conditions "d" and "h" herein.

a. All commitments and impact mitigating actions provided by the applicant within the Application for Development Approval (and supplementary documents) that are not in conflict with specific conditions for project approval outlined above are officially adopted as conditions for approval.

42.13. GENERAL CONSIDERATIONS

e. Minimum open space for the entire Tern Bay DRI shall be 50%. Except for those standards and vesting identified herein, site development standards shall be determined at final detail plan approval.

d. All areas designated as "Commercial/Office" on Revised Map "H" are to be restricted to uses permitted in either the CG (Commercial, General) or OMI (Office, Medical, and Institutional) zoning district and all listed special exceptions in effect as of the date of Development Review Committee final detail plan approval.

The housing types and densities herein replace and supplement the "Proposed Product Recommendations" of the original Map "H" and Exhibit "C" of Resolution 92-29, as amended.

U/A = Units per Acre

Single Family Lots Estate	1.0 U/A
Single Family Lots Premium	2.0 U/A
Single Family Lots Standard	3.0 U/A
Single Family Lots Executive	4.0 U/A
Single Family Lots Patio	5.0 U/A
Coach Homes Condominiums	8.0 U/A
Carriage Homes Condominiums	11.0 U/A
Garden Condominiums	18.0 U/A
Midrise Condominiums	24.0 U/A
Hotel	60 rooms/acre

c. The development phasing schedule presented within the ADA and as adjusted to date of development order approval shall be incorporated as a condition of approval. Phase I buildout will be January 17, 2007-2008 and Phase II buildout will be January 17, 2012-2014; these dates each represent a two year extension to those dates reviewed in the ADA, together with the time tolled during the pendency of administrative hearings (24 months and 18 days, and an additional combined extension of the buildout dates of by Four (4) six (6) years and three hundred sixty-four (364) days for each phase, and shall be considered cumulatively against any future proposed phase or project buildout date extension for the purposes of calculating whether the statutory timeframes are met or exceeded in paragraph 380.06(19)(c), F.S. If development order conditions and applicant commitments incorporated within the development order, ADA or sufficiency round responses to mitigate regional impacts are not carried out as indicated to the extent or in accord with the timing schedules specified within the development order and this phasing schedule, then this shall be presumed to be a substantial deviation for the affected regional issue.

d. If it is demonstrated during the course of monitoring the development, that substantial changes in the conditions underlying the approval of the development order have occurred or that the development order was based on substantially inaccurate information provided the developer, resulting in additional substantial regional impacts, then a substantial deviation shall be deemed to have occurred pursuant to Section 380.06(19), Florida Statutes.

e. Pursuant to Chapter 380.06(16), the applicant may be subject to credit for contributions, construction, expansion, or acquisition of public facilities, if the developer is also subject by local ordinances to impact fees or exactions to meet the same needs. The local government and the developer may enter into a capital contribution front-ending agreement to reimburse the developer for voluntary contributions in excess of the fair share.

f. No site clearing shall occur until site plan review has been completed.

g. The applicant will comply with all applicable local codes, ordinances and regulations of Charlotte County to the extent not inconsistent with this development order.

h. Nothing in this development order shall preclude or exempt the development from participating in any duly established MSTU,

MSBU or Community Development District for the purpose of providing infrastructure and services.

~~BE IT FURTHER RESOLVED, the Board of County Commissioners of Charlotte County, Florida that:~~

14. FURTHER RESOLUTIONS

1. The County Administrator or his designee shall be the local official responsible for assuring compliance with this Development Order.
2. Wherever the term "applicant" or "Applicant" is used herein to refer to a condition or requirement which must be completed, the term shall include any successors or assigns or management entity hereinafter succeeding to the rights or obligations under this Development Order.

3. This development order shall remain in effect until January 1, 2013 for a period of seventeen years and seventeen (17) days from the date of its rendition. In the event that significant physical development has not commenced by January 1, 2008 within twelve years and seventeen (17) days from the approval of this development order, development approval will terminate and this requirement, "significant physical development" does not include roads, drainage or landscaping but does include Certificate of Occupancy of buildings or installation of utilities and facilities such as sewer and water lines to the project and within Phase I.

4. Pursuant to Section 380.06 (15) (c) 3, Charlotte County agrees that the Charlotte Springs Country Club Term Bay Development Order shall not be subject to down zoning, unit density reduction or intensity reduction for a period of ten (10) years until January 1, 2013 unless it can demonstrate that substantial changes have occurred in the conditions underlying the approval of this development order or that the development was based on substantially inaccurate information provided by the developer or that the change is clearly established by Charlotte County to be essential to the public health, safety or welfare.

5. Subsequent requests for development permits shall not require further review pursuant to Section 380.06, Florida Statutes, unless it is found by Charlotte County, after due notice and hearing, that one or more of the following is present:

a. A substantial deviation from the terms or conditions of this development order, or other changes to the approved development plans which create a reasonable likelihood of adverse regional impacts or other regional impacts which were not evaluated in the review by the Southwest Florida Regional Planning Council in which case Charlotte County shall take the appropriate action which may include ordering that an amendment to the DRI be filed before any further development may continue; or

b. An expiration of the period of effectiveness of this development order as provided herein, in which case Charlotte County shall order a termination of all development activity 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.

6. A certified copy of this resolution shall be forwarded to the Southwest Florida Regional Planning Council and to the Florida Department of Community Affairs.

2. The amendments incorporated herein do not constitute a substantial deviation to the conditions of the Tern Bay DRI Development Order (formerly known as the Caliente Springs DRI Development Order) adopted by Resolution 92-29, as amended by Resolution 93-244 and subsequent resolutions.

3. All other terms and conditions of the Tern Bay DRI Development Order not affected by this resolution shall remain in full force and effect.

4. In the event any term(s) of any other resolution with respect to the Tern Bay DRI Development Order conflict with any term(s) of the within resolution, the terms of this resolution shall govern and supersede those conflicting terms.

5. This resolution shall become effective immediately upon its adoption.

6. The Clerk of Circuit Court is hereby directed to forward a certified copy of this resolution to the applicant, Ms. Valerie Hubbard, Director of Community Planning, Florida Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, and to Mr. David Burr, Executive Director, Southwest Florida Regional Planning Council, P.O. Box 3455, North Fort Myers, Florida 33918-3455.

p:\pdata\bas\res\tembay.nopc.development\order.final\version.doc
LR2003211
03/02/04

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:
By: Anne E. Hartgering
Renée Francis Lee
County Attorney

Attest:
Barbara T. Scott, Clerk of
Circuit Court and Ex-officio
Clerk to the Board of County
Commissioners
By: Barbara T. Scott
Deputy Clerk

BOARD OF COUNTY
COMMISSIONERS OF CHARLOTTE
COUNTY, FLORIDA
By: Matthew D. DeBoer
Matthew D. DeBoer
Chairman

2004.
PASSED AND DULY ADOPTED this 9 day of March

Exhibit "A"
Tern Bay DRI Revised Master Concept Plan
Map "H", Revised Land Uses

TERN BAY COUNTRY CLUB RESORT LAND USES

TERN BAY DEVELOPMENT COMPANY LLC
OCTOBER 2003



- 1. These adjustments may be proposed to this Land Use plan pursuant to Subsection 3800A.17(1)(d), Florida Statutes.
- 2. Final acreage will vary based on detailed site planning and permitting.
- 3. Additional lakes and amenity facilities may encroach into wetland buffers and other open space areas as required to provide hydraulic connection.

Final Development Objectives

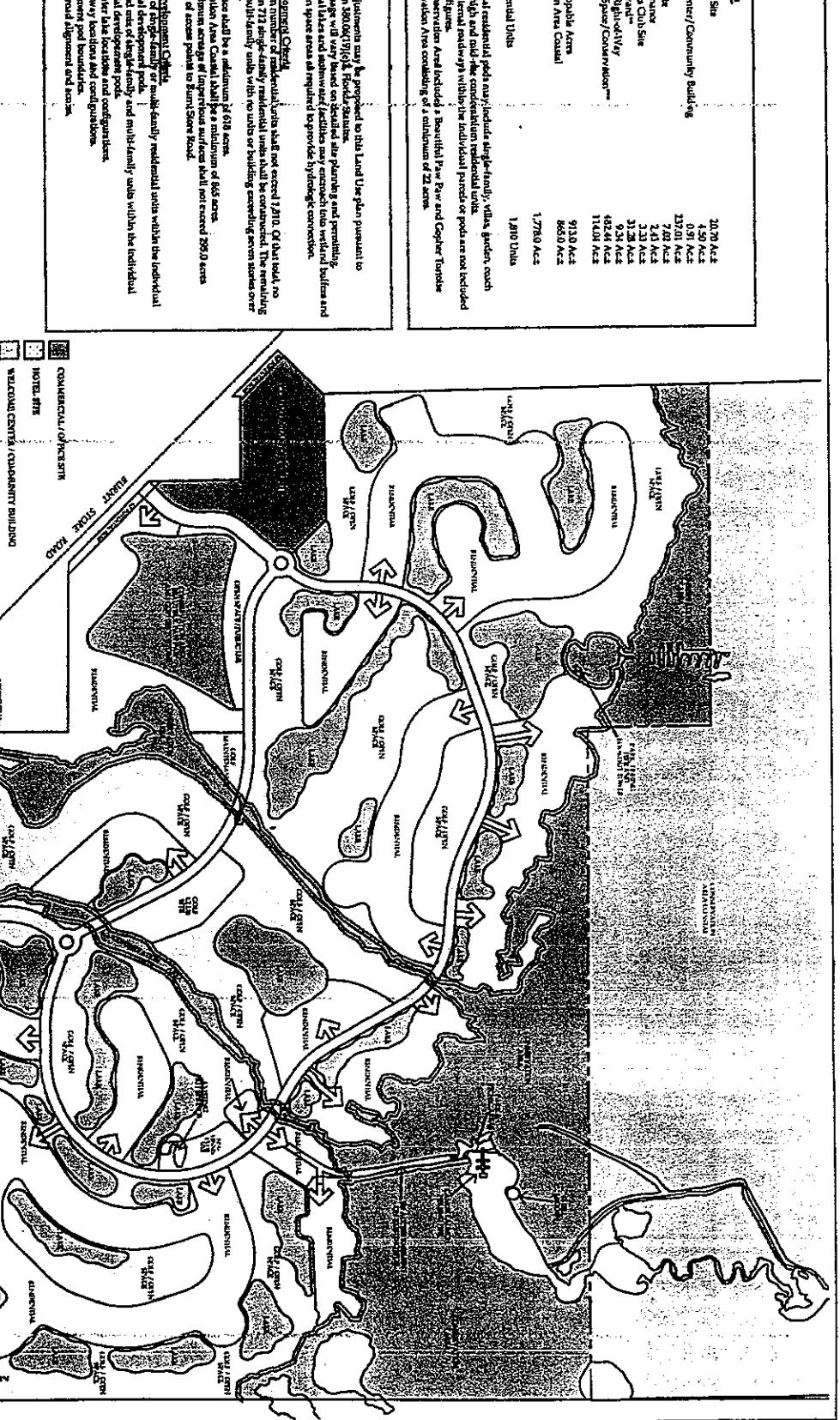
1. More than 775 single-family residential units shall not exceed 1,210 sq ft total, no unit will be multi-family units with no units or building exceeding seven stories over parking.
2. Open space shall be a minimum of 618 acres.
3. Conservation Area Coastal shall be a minimum of 865 acres.
4. The maximum acreage of impervious surfaces shall not exceed 295.0 acres.
5. Location of access points to Sunlit Stone Road.
6. Internal road alignments and lanes.

Variable Development Objectives

1. Number of single-family or multi-family residential units within the individual residential development pods.
2. Types and sizes of single-family and multi-family units within the individual residential development pods.
3. Stormwater lake locations and configurations.
4. Golf course location and configurations.
5. Development pod boundaries.
6. Internal road alignments and lanes.

Land Use Category	Area (Acres)
Commercial Site	20.70
Hotel Site	4.50
Wellness Center/Community Building	0.31
Residential	137.00
Golf Club Site	7.09
Golf Maintenance	3.33
Spa & Tennis Club Site	3.32
Main Restaurant	3.21
Multi-Family Residential	9.34
Golf/Open Space/Conservation Area	482.64
Lanes	114.00
Total Developable Area	913.00
Conservation Area Coastal	865.00
Total Acres	1,778.00
Total Residential Units	1,810 Units

Individual residential pods may include single-family, villa, garden, coach homes, high and mid-rise condominium residential units.
Other internal roadway within the individual pods or pods are not included in these figures.
The Conservation Area included a beautiful Pine Row and Coughlin Turbidity Conservation Area consisting of a minimum of 22 acres.



REVISED
MAP H

Exhibit "B"

Tern Bay DRI

Legal Description

Tract 1
The NW ¼ of Section 20, Township 42 South, Range 23 East, LESS State Road Right of Way, Charlotte County, Florida.

Tract 2
The South ½ of the North ½ of the Southwest ¼ of the NE ¼ of Section 20, Township 42 South, Range 23 East, lying West of State Road Right of Way, Charlotte County, Florida.

Tract 3
A Triangular tract of land containing 3 acres more or less situated in the SW ¼ of Section 20, Township 42 South, Range 23 East, described as: Beginning at a point where the East-West centerline of said Section 20 intersects the Northwesterly Right of Way line of Burnt Store Road as the same was located prior to entry of Order of Taking on Condemnation Suit No. 68-346, heretofore pending in the circuit Court of Charlotte County, Florida, thence Southwesterly along said Northwesterly Right of Way line a distance of 500 feet; thence to the right at an angle of 90 degrees going Northwesterly 473 feet, more or less to the East-West centerline of said Section 20; thence Easterly along said East-West centerline 689 feet, more or less to the Point of Beginning, LESS State Road Right of Way, Charlotte County, Florida.

Tract 4
The N ½ of the N ½ of the SW ¼ of the NE ¼ of Section 20, Township 42 South, Range 23 East, lying West of State Road Right of Way, Charlotte County, Florida.

Tract 6
Section 17, LESS the North 100 feet thereof and LESS State Road Right of Way in Township 42 South, Range 23 East, Charlotte County, Florida.

Tract 8A
The East 950 feet of the NE 1/4 of the NE ¼ of Section 19.

Tract 9
The NW ¼ of the NE ¼ of Section 20, Township 42 South, Range 23 East, Charlotte County, Florida.

All as delineated on revised Map H containing 913.55 acres more or less. and based on the survey prepared by Strayer Surveying and Mapping Inc dated 3.17.2003 for Tern Bay Development Co LLC. The corner monuments for Tract 9 were included.

Tract 5
 All of the Fractional Section 13, Township 42 South, Range 23 East, Charlotte County, Florida.

Tract 7
 All of Fractional Section 18, LESS the North 100 feet thereof in Township 42 South, Range 23 East, Charlotte County, Florida.

Tract 8B
 The N 1/2 of Fractional Section 19, LESS the East 950 feet of the NE 1/4 of the NE 1/4 of Section 19, LESS off shore right to Cotton Key in Township 42 South, Range 23 East, Charlotte County, Florida.

All as delineated in Map B-4 ZAR-93-2-3-LS Caliente Springs DRI Settlement Agreement Preservation Area containing an approximate acreage of 865.42 acres more or less.

Tract 5 (Section 13), Tract 8B (Fractional 18), Tract 7 (Fractional 18), Tract 8B (Fractional 19) were based on the survey prepared by Cadastral Engineering & Surveying, Inc. dated 6/8/81, drawing #81-268, and are only approximate. This survey formed the basis of Settlement Agreement Map B4, described above.

Tract Acreage Summary

Tract 1	161.50+/-
Tract 2	6.50+/-
Tract 3	2.80+/-
Tract 4	8.88+/-
Tract 6	635.96+/-
Tract 8A	58.24+/-
Tract 9	39.67+/-
<hr/>	
	913.55+/-
Tracts 5, 7 and 8B	865.42+/-
<hr/>	
	1778.97+/-

Exhibit "C"
Tern Bay DRI
Revised Estimated Land Use Distribution

Land Use Type	Phase I	Phase II	Buildout Total
Single-family Residential	389 units	323 units	712 units
Multi-family Residential	604 units	494 units	1,098 units
Commercial	70,000 square feet	70,000 square feet	140,000 square feet
Office	15,000 square feet	15,000 square feet	30,000 square feet
Hotel	125 rooms	125 rooms	250 rooms
Golf Course	18 holes	9 holes	27 holes
Country Club	20,000 square feet	0	20,000 square feet
Spa and Tennis Club	7,500 square feet	0	7,500 square feet
Tennis Courts	4 courts	4 courts	8 courts
Welcome Center/Community Building	5,000 square feet	0	5,000 square feet

Exhibit "D"
**Manual of Best Management Practices for Golf Course and Wildlife
Utilization Area
Including Tern Bay DRI Post-Development Environmental Plan,
Map "F-2"**

Exhibit "D"

Tern Bay Country Club Resort
Manual of Best Management Practices for Golf Courses and
Wildlife Utilization Area

I. Purpose










The purpose is to establish an integrated management program that assures the golf courses are designed, developed and maintained with high environmental standards. A primary benefit of these best management practices is the cultivation of dense, well-managed turf that reduces stormwater surface flow resulting in lower nutrient loss and greater protection of water quality. Effective stormwater treatment, water conservation, and nitrogen load reduction serve to protect the adjacent Charlotte Harbor. These best management practices also are intended to be compatible with maintaining and improving the environmental quality of the Wildlife Utilization Area to sustain habitat for on-site wildlife and allow unhindered movement across the site. Map "F-2", entitled the Tern Bay DRI Post-Environmental Plan, depicts the Wildlife Utilization Area.

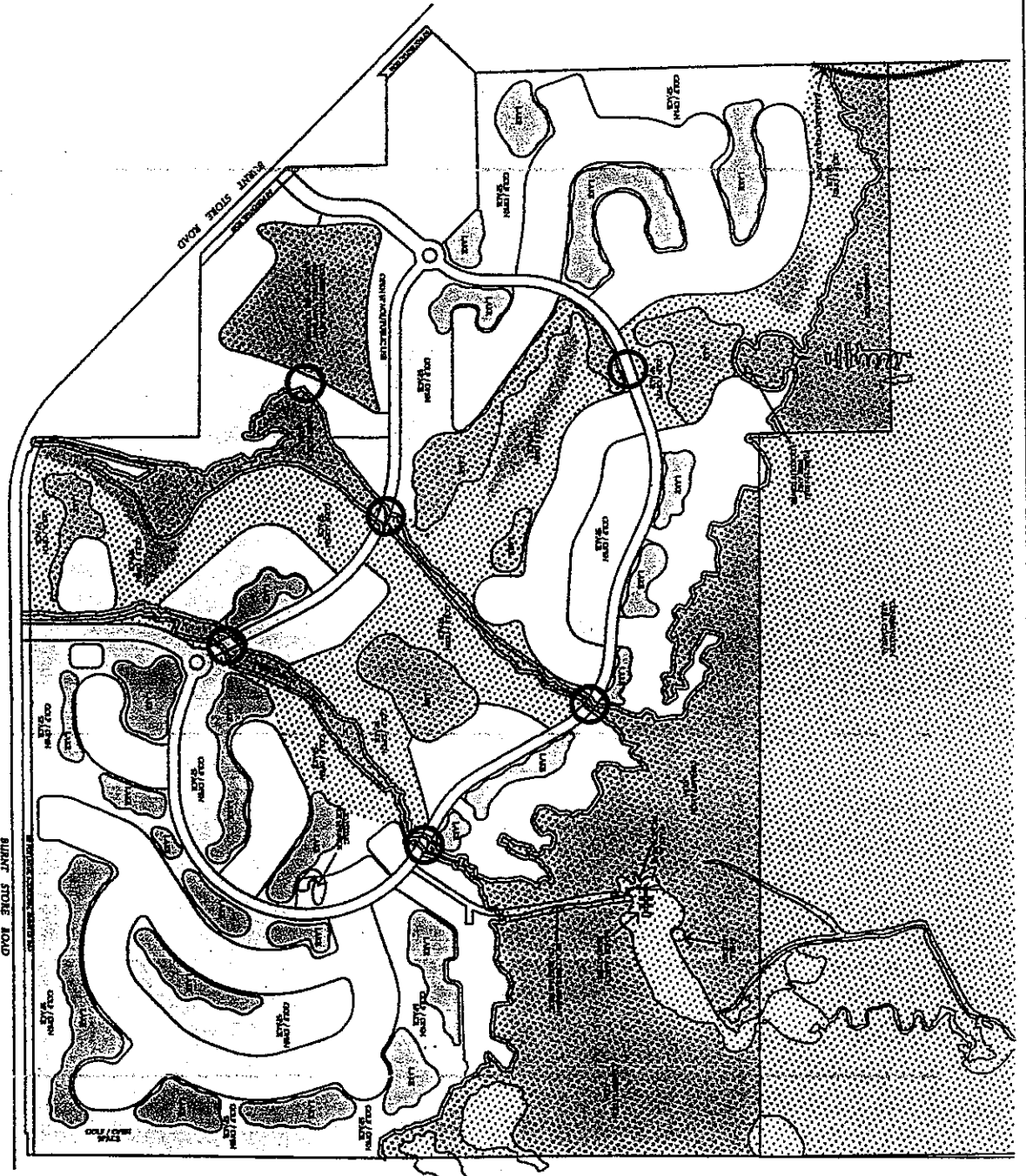
The safeguards described in the Listed Plant Species Management Plan (Exhibit "E") and the Gopher Tortoise Management Plan (Exhibit "F"), also part of the Tern Bay DRI Development Order, are incorporated into these best management practices. In addition, these best management practices (BMP's) are compatible with the management recommendations of the Florida Cooperative Extension Landscape Service and consistent with all Charlotte County and Southwest Florida Water Management District permits.

II. Golf Course Management

A. Proper Course Construction

- The design of the golf course fairways and greens is intended to create a challenging course with managed turf grass areas. The fringe areas along the fairways and greens will have limited turf grass installation and more emphasis on protecting native vegetation clusters consisting of trees and understory plants. Cleared areas for golf cart paths and viewsheds will be mulched to the extent practicable to reduce the installation of managed turf grass.
- Heritage trees are protected during the design, construction and maintenance of the golf course and other recreational facilities in accordance with the intent of the Charlotte County adopted code.

Legend	
	Development Pods
	Conservation Area
	Coastal Conservation Area
	Golf/Open Space
	Lakes
	Wildlife Utilization Area
	Proposed Florida Beargrass Transplant Areas
	Wildlife Crossings
	Secondary Protection Zone of Off-site Eagle Nest



TERN BAY
COUNTRY CLUB RESORT
POST-DEVELOPMENT ENVIRONMENTAL PLAN
 TERN BAY DEVELOPMENT COMPANY, LLC
 OCTOBER 2003



MAP F2

- No chemical application is allowed in the native habitats, wetlands, buffers, and native vegetation clusters except for protection from and control of disease threatening mosquitoes by the Charlotte County Mosquito Control or other licensed operator.
- An established protocol is followed concerning fertilizer/pesticide/herbicide/insecticide storage and handling, application, container cleaning, rinse water, cleaning materials, wastes, unused qualities and container disposal methods and procedures.

- A golf course manager or designee oversees the quality control and quality assurance procedures that ensure that these best management practices are implemented in an effective, accurate and consistent manner.
- Golf course management and staff perform a structured monitoring to catch pest problems early allowing more effective treatment.
- Golf course management has state-certified herbicide and pesticide licenses such that staff applies chemicals under the direct supervision of a state-certified applicator.
- Golf course management is informed on current techniques and maintains membership in professional golf maintenance associations.
- Education/awareness enhancement programs for all groundkeeping and maintenance staff occur at least twice a year that cover proper management and maintenance activities and quality control and assurance procedures.

III. Water Conservation

- A. Reuse Water
 - Reuse water is used for irrigation purposes.
 - The on-site reuse lake, separate from the stormwater management system, is a temporary storage of treated effluent used for irrigation.
- B. Centralized Irrigation Control
 - Irrigation schedules are centrally controlled through computer use that monitor precise amounts of water distributed in areas on the golf course where needed.
 - The golf course management team will monitor weather data, including rainfall, humidity, temperature and wind, collected from an on-site weather station to adjust the irrigation schedules

Scrape down areas are integrated into the golf course design to temporarily retain excess water flow and allow for additional treatment. These scrape down areas are stabilized by grass and other plant cover that tolerate pools of water.

B. Scrape Downs

- Water is treated through a series of connected lakes and wetlands such that the final discharge of stormwater occurs in the outfall wetlands that act as spreader swales, which mimic historic sheeflow from the site.
- The outfall wetlands are located along the wetland buffer boundary and cord grass is planted along the buffer line to dissipate energy during storm events.
- Stormwall construction occurs within the 100-year flood area to reduce amount of fill and allow unhindered sheeflow of stormwater.

A. Sheeflow into Charlotte Harbor

IV. Water Quality Management

- Xeriscaping is utilized in the golf course and adjacent open space areas to the extent practicable.
- Irrigation zones are established with differing watering requirements such that the more frequency irrigation is limited to tees and greens. No irrigation is provided in native habitat areas except in landscaped areas that depend on a low volume irrigation system.
- Irrigation that involves less frequent but deeper water cycles are used on the turf, wherever practicable, to promote a deep, extensive root system.
- Deed restrictions and covenants guide homeowners to apply waterwise irrigation methods in their yards that promote water and energy efficient landscapes.

B. Waterwise Irrigation

- The golf course management team routinely maintains the irrigation system including checking, adjusting and repairing irrigation devices to ensure optimum operating efficiency, and resetting the automatic controllers according to season and weather conditions.
- according to turf requirements and prevention of excess watering conditions.

- All bridge and golf cart crossings of sloughs are on pilings and elevated at least three feet in height and at least 15 feet in width along the entire length of the crossing providing an upland travelway under each road crossing as generally shown on Figure D-1.
- A typical section for the other upland crossings shown on Map "F-2" is contained in Figure D-2.
- Cleared areas resulting from construction of the roadway crossings are replanted with native vegetation including oaks, pines, wax myrtles and sand cordgrass to enhance the wildlife travelways and provide cover.
- Cautionary wildlife crossing signs are strategically placed on roadway approaches to slow speeds and alert motorists to potential wildlife crossings.

B. Wildlife Crossings

- Xeriscape Plantings
- Supplemental plantings consisting of native, stress tolerant, and/or pest resistant vegetation will be installed within native vegetation clusters and vegetated upland buffers located within and along the golf courses as described in Section II.A. These supplemental plants are selected to provide food sources and shelter for wildlife species that may occur or pass through the site. These species include: small mammals, bobcat, deer, turkeys, and song birds.
- Native trees within development pods may be transplanted into the Wildlife Utilization Area when practical.
- Existing native vegetation that may be supplemented with native plantings are retained in areas that connect the on-site sloughs to other wetland areas that enhance wildlife travelways and shelter.
- Native aquatic plants are maintained in littoral zones consistent with Southwest Florida Water Management District requirements that enhance the food chain of benthic organisms, amphibians, reptiles, and fish that live in the on-site stormwater lakes. These aquatic plants support the food chain for other wildlife in the area including river otters and wading birds.
- The on-site cabbage palm hammocks are preserved.

A. Xeriscape Plantings

Wildlife Utilization Area Management (includes all conservation areas and golf course/open space)

- Routine maintenance of stormwater facilities such as removal of accumulated debris occurs in accordance with the Southwest Florida Water Management District permit.

C. Maintenance of Stormwater Facilities

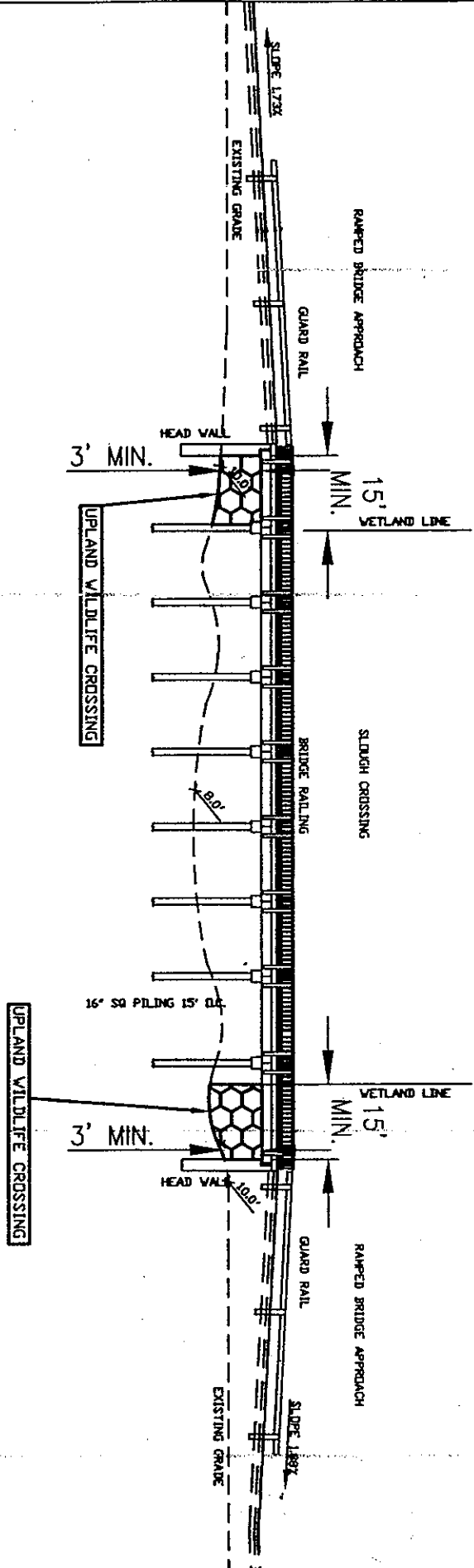
- Nuisance species management involves a combination of manual and mechanical removal and selective herbicide treatments performed by a state-certified applicator with a frequency to allow the native, beneficial plants to become dominant. The amount of chemical used is minimized to the stump area alone or selective foliar applications if necessary.
 - Control of nuisance plants within and in vicinity of lakes also involves a combination of manual removal and selective herbicides specifically labeled and designed for aquatic use and applied by a state-certified applicator.
 - The enhancement of on-site protected wetlands involves the removal of Brazilian peppers and other nuisance plant species that have invaded these areas and is part of the wetland mitigation program for Tern Bay.
 - Details on the removal of nuisance plant species are provided in the management plan for the Wildlife Utilization Area (Section H, herein).
- D. Artificial Lighting Control
- The golf courses are closed at night such that no lights are installed.
 - Street lighting is shielded to reduce glare.
- E. Secondary Protection Zone of the Off-site Eagles' Nest
- A portion of the secondary protection zone falls within the southwestern portion of the Wildlife Utilization Area that is part of the conservation area (refer to Map "F-2"). No plant removal is allowed except for removal of nuisance plant species that occurs outside the non-nesting season.
- F. Nature Trails
- Nature trails are designed and maintained to avoid removal of native trees and utilization of existing trails to the extent possible.
 - Informative signs provide biological descriptions of plants and animals that may be observed from the trail with cautionary instructions on their protection.
 - Nature trails are mulched to the extent possible.
 - Nature trails are integrated into the overall pedestrian system for Tern Bay including connectivity with sidewalks but are not used as part of the golf cart path system.
 - Motorized vehicles are strictly prohibited on the nature trails except those necessary for ecological maintenance of the conservation areas.

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Typical Wildlife Crossing

- minimum height: 3'
- minimum width: 15'




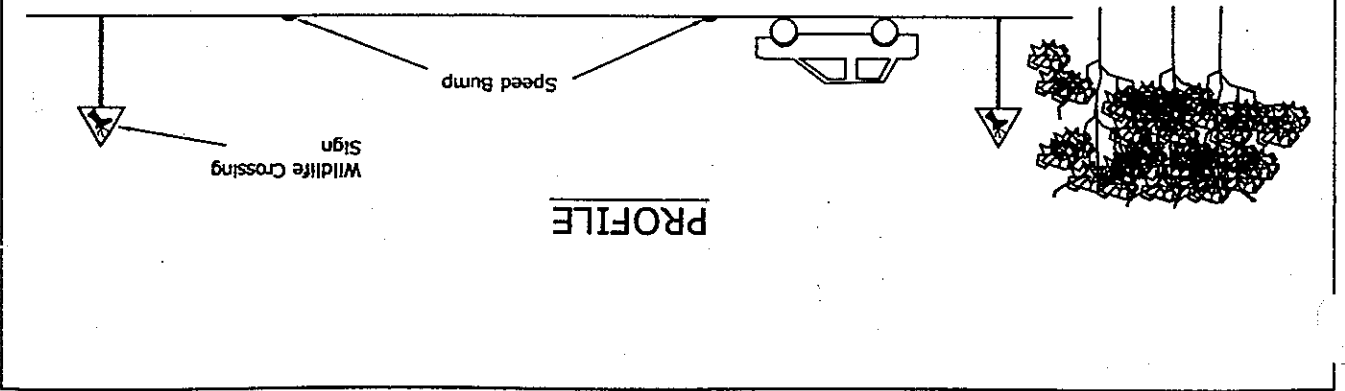
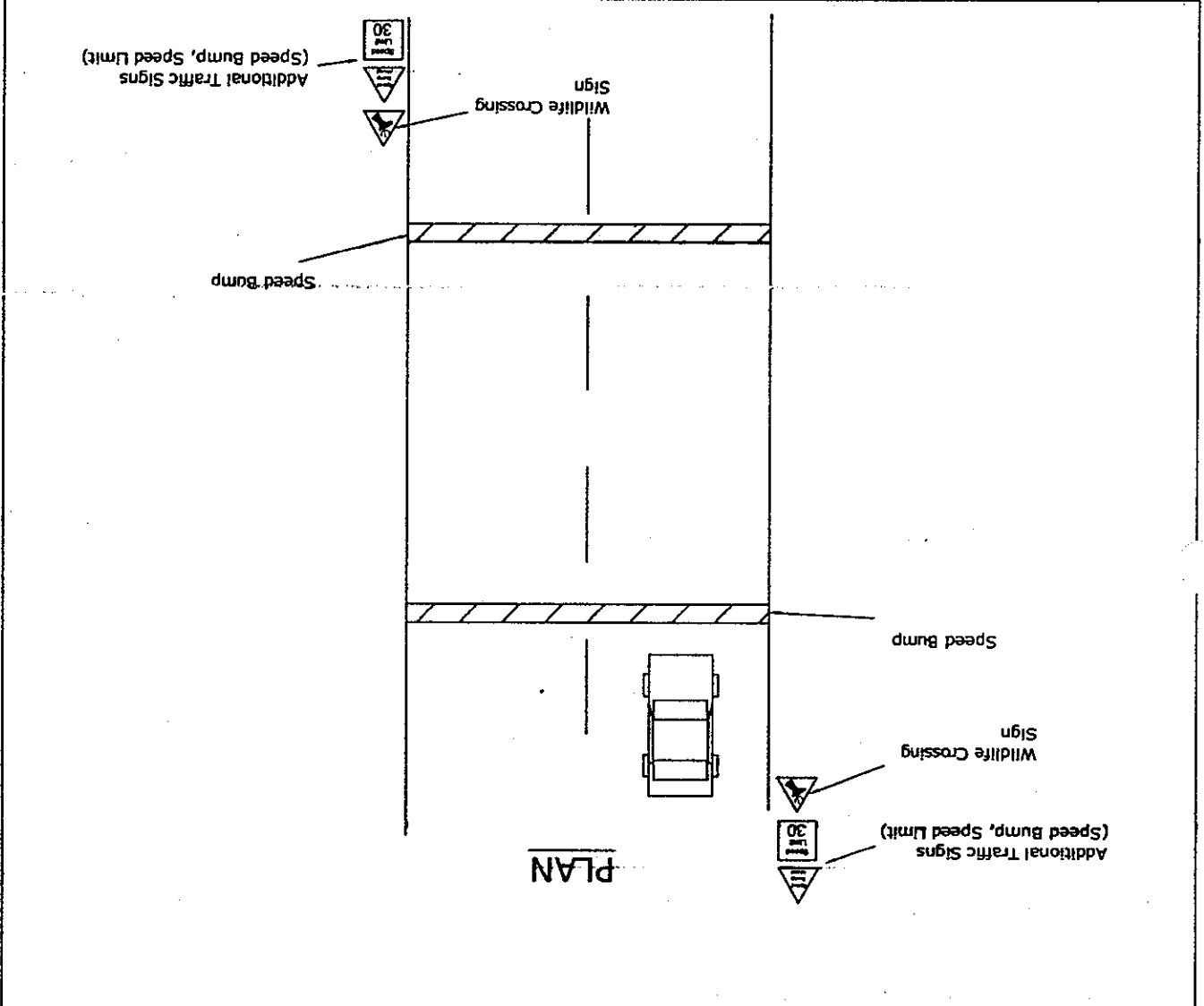
BRIDGE AND GOLF CART
SLAUGH CROSSING
PROFILE VIEW

Figure D-1: Tern Bay
Typical Bridge /Golf Cart Crossing
with
Wildlife Crossing

DATE: 1-13-04
FILE: bridgecrossing.dwg
SCALE: 1"=30'
AERIAL: NA
PROJECT NO: 4009.3

Earth Balance
2579 North Toledo Blanche Blvd.
North Port, FL 34289
Tel (941) 426-7378
Fax (941) 426-8778
www.earthbalance.com

 <p>Earth Balance 2579 North Toledo Bridge Blvd. North Port, FL 34289 Tel (941) 426-7878 Fax (941) 426-8778 www.earthbalance.com</p>	<p>Figure D-2 Tam Bay Typical Upland Wildlife Crossing</p>	<p>DATE: 1-19-04 FILE: wildlife_crossingplan.dwg PROJECT NO: 4009.2 AERIAL: NA SCALE: 1"=10'</p>
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- Water routes are marked through narrow passages of the coastal conservation area to allow safe navigation and rescue of individuals using canoes and rowboats.

G. Accessory Uses

- No buildings, except for accessory uses to support the golf courses, including but not limited to rest areas and storm shelters, and limited roadways shall be allowed in the Wildlife Utilization Area. Each accessory use shall be a maximum of 500 square feet in size and located on the golf course. Any roadways within the Wildlife Utilization Area shall be confined to the edges to the extent practical and shall not bisect the Wildlife Utilization Area. These accessory uses and limited roadways shall be located and designed in such a manner as to not obstruct wildlife passage, or impact listed plants, and shall maintain hydrology and native habitats. All buildings shall be prohibited from the 22-acre beautiful paw and gopher tortoise conservation area.

H. Management Plan

- Prior to any landclearing, a more detailed management plan for the Wildlife Utilization Area is prepared and submitted to Charlotte County Natural Resources Section. This plan shall address the proper management practices as follows:
 - Identification of the management entity (e.g., Community Development District or designee).
 - Selection of a plant palette to be used in supplemental plantings that provide food and shelter for the wildlife in the area, where needed.
 - Provision of detailed design for each wildlife crossing.
 - Provision of more details on the nuisance plant removal program including the monitoring of nuisance plant removal from the conservation areas by a professional environmental scientist.
 - Provision of open space including golf courses and buffers to the extent practical along the southern boundary of the Tern Bay parcel.

VI. Listed Plant Species Protection

- The best management practices described herein are consistent with the Listed Plant Species Management Plan (Exhibit "E").

VII. Gopher Tortoise Protection

- The best management practices described herein are consistent with the Gopher Tortoise Management Plan (Exhibit "F").

Unruh, J. Bryan and Monica L. Elliot. 1998. "Best Management Practices for Florida Golf Courses". University of Florida, Institute of Food and Agriculture Sciences, Gainesville, Florida.

Garner, Allen, John Stevely, et al. 1996. A Guide to Environmentally Friendly Landscaping: Florida Yards and Neighborhood Handbook. University of Florida, Institute of Food and Agriculture Sciences, Gainesville, Florida.

Biological Research Associates. 2001. "Debreccen Parcel Integrated Pest Management Plan for Pesticides, Herbicides, and Fertilizers". Sarasota, Florida.

IX. Literature

- C. Eco Program
- The Eco Program offers environmental training and appreciation for all ages, for resort visitors and residents alike.
 - An emphasis on safety is provided during the use of the on-site canoe launch, the fishing pier, look-out tower and nature trails.
 - Participants are alerted to the prohibitions against littering, hunting and plant removal.
- B. Welcome Center
- Ecological pamphlets are provided to resort guests that highlight the on-site environmental attributes and need for protection.
 - Guidelines for water conservation also are available for the visitors.
- A. Florida Yards and Neighborhood Program
- Deed restrictions and covenants guide homeowners to apply xeriscape and IPM methods in their yards consistent with the Florida Yards and Neighborhood Program.
 - Florida Yards and Neighborhood lecturers are invited to make presentations to homeowners' meetings to elaborate on the techniques and answer questions.

VIII. Outreach and Education Program

Listed Plant Species Management Plan

Exhibit "E"

Exhibit "E"

Tern Bay Country Club Resort Listed Plant Species Management Plan

1. Beautiful Pawpaw (*Deenngothamus pulchellus*)
 - Beautiful pawpaw is a State and federally endangered plant species.
 - A minimum of 22 acres of upland habitat currently sustaining the majority of the on-site individual beautiful pawpaw plants and located within the southeastern portion of Tern Bay parcel (refer to Maps "H" of Exhibit "A" and "F-2" of Exhibit "D") is conserved, protected under a conservation easement, and part of the Wildlife Utilization Area (refer to Exhibit "D").
 - Individual beautiful pawpaw plants located outside this conservation area are transplanted into the gopher tortoise/beautiful pawpaw conservation area prior to any earthmoving activity. A tree spade is used for each transplant operation to ensure transfer of suitable soil and avoidance of root damage.
 - Prior to any transplant operation, a more detailed management plan will be prepared and submitted to the Florida Fish and Wildlife Conservation Commission and the Charlotte County Natural Resources Section. This plan addresses the proper management practices as follows:
 - Identification of optimum tree canopy coverage, saw palmetto height, grass and pine needle mat coverage to create sustainable beautiful pawpaw habitat.
 - Description of management techniques and frequency that addresses mechanical thinning, removal of nuisance vegetation, restoration and maintenance of desirable vegetation with the objective of ultimately creating a low-maintenance ecosystem.
 - Possible prescribed burning or vegetative thinning by mechanical means (e.g., bush-hogging/bull-hogging) prior to any relocation.
 - Identification of proper management practices that do not conflict with those of the Gopher Tortoise Management Plan (Exhibit "F").
 - Identification of a nature trail system that is compatible with the gopher tortoise/beautiful pawpaw conservation area including distinct ingress and egress locations for the residents and guests of the community to access the trails and observation areas with educational signage.

- Identification of the management entity (e.g., Community Development District or designee) for the gopher tortoise/beautiful pawpaw conservation area.
- Identification of professional environmental scientist(s) to monitor the protective strategies and management activities described in the management plan.

II. Florida Beargrass (*Nolina atopocarpa*)

- Florida beargrass is a State protected plant species.
- A stand of Florida beargrass is located within the southwestern portion of Tern Bay parcel (refer to Map "F-2").
- On-site individual species are transplanted into protected areas within the Wildlife Utilization Area (refer to Map "F-2" and Exhibit "D") during Phase I development.
- A tree spade is used for each transplant operation to ensure transfer of suitable soil and avoidance of root damage.
- Prior to any transplant operation, a more detailed relocation and management plan will be prepared and submitted to the Florida Fish and Wildlife Conservation Commission and the Charlotte County Natural Resources Section. This plan addresses the proper relocation techniques and management practices as follows:

- Description of the best available research data on relocation and survivorship including growing conditions for Florida beargrass such as soils, ground elevation, hydrology, and plant associations.
- Identification of specific relocation areas that have these growing conditions including any suitable areas within the gopher tortoise/beautiful pawpaw conservation area.
- Preparation of a relocation plan that identifies spatial planting distances, monitoring, and protective measures including temporary barriers to avoid trampling.
- Description of management practices, based on the best available scientific data, that ensure sustainability of the relocated Florida beargrass.
- Identification of professional environmental scientist(s) to monitor the protective strategies and management activities described in the management plan.

III. Wild Cotton (*Gossypium hirsutum*)

- Wild cotton is a State protected plant species.
- Wild cotton was observed on-site only on the fringes of a small cabbage palm hammock that also is the site of the John Quiet Lake Shell Midden as shown on Revised Map "H" contained in Exhibit "A".
- The John Quiet Lake Shell Midden is located in the wetland preserve and is protected in accordance with the D.O. conditions including protection of wild cotton.

Gopher Tortoise Management Plan

Exhibit "F"

Exhibit "F"

Tern Bay Country Club Resort Gopher Tortoise Management Plan

Gopher Tortoise (*Gopherus polyphemus*)

- Gopher tortoises are State Species of Special Concern.
- Gopher tortoise burrows located within open space/conservation areas are protected.
- A minimum of 22 acres of upland habitat located within the southeastern portion of Tern Bay parcel (refer to Maps "H" and "F-2" of Exhibits "A" and "D" respectively) is conserved, protected under a conservation easement, and part of the Wildlife Utilization Area (refer to Exhibit "D").
- The 22-acre upland conservation area is selected based on the greatest concentration of active gopher tortoise burrow on-site, desirable gopher tortoise habitat, low-level maintenance requirements, minimal nuisance plant species, and isolation from surrounding construction activities with the use of temporary barriers.
- Prior to on-site earthmoving and subject to permitting, gopher tortoises and commensal species are relocated into the upland conservation area.
- Nuisance plant species are removed that reduce the quality of habitats utilized by gopher tortoises.
- Prior to any request for relocation, a more detailed management plan for the upland conservation area, that serves as a gopher tortoise recipient site, will be prepared and submitted to the Florida Fish and Wildlife Conservation Commission and Charlotte County Natural Resources Section. This plan addresses the proper management practices as follows:

- Identification of optimum tree canopy coverage, saw palmetto height and forage grass coverage to create sustainable gopher tortoise habitat.
- Description of management techniques and frequency that addresses mechanical thinning, removal of nuisance vegetation, restoration and maintenance of desirable vegetation with the objective of ultimately creating a low-maintenance ecosystem.
- Possible prescribed burning or vegetative thinning by mechanical means (e.g., bush-hogging/bull-hogging) prior to any relocation including measures to protect existing burrows during these activities.
- Identification of proper management practices that do not conflict with those of the Listed Plant Species Management Plan (Exhibit "E").

- Identification of a nature trail system that is compatible with the gopher tortoise/beautiful pawpaw conservation area including distinct ingress and egress locations for the residents and guests of the community to access the trails and observation areas with educational signage.
- Identification of the management entity (e.g., Community Development District or designee).
- Identification of professional environmental scientist(s) to monitor the protective strategies and management activities described in the management plan.

BARBARA T. SCOTT
CLERK OF THE CIRCUIT COURT
COMMISSION MINUTES



March 25, 2004

Mr. David Burr
Executive Director
Southwest Florida Regional Planning Council
P.O. Box 3455
North Fort Myers, FL. 33918-3455

We are forwarding a certified copy of Resolution #2004-050 as required within the Resolution per item 6 on page 36. This Resolution was approved by the Board of Charlotte County Commissioners on Tuesday, March 9, 2004.

If you have any questions, please contact me directly at (941) 743-1539.

Sincerely,

BARBARA T. SCOTT
CLERK OF THE CIRCUIT COURT

By: *Anne L. Pfahler*
Anne L. Pfahler
Deputy Clerk

Enclosure (1)
BTS/ald