

SIXTH DEVELOPMENT ORDER AMENDMENT<sup>1</sup>  
FOR  
HERONS GLEN (FORMERLY DEL VERA)  
  
A DEVELOPMENT OF REGIONAL IMPACT  
STATE DRI #6-8687-77  
COUNTY CASE #88-3-18-DRI

LET IT BE KNOWN that, pursuant to §380.06, Florida Statutes, the Board of County Commissioners of Lee County, Florida, first considered the Application for Development Approval filed by Euromerican Investment Group Ltd/Florida Sites International, Coolidge-Ft. Myers Realty Limited Partnership, a Florida Limited Partnership, regarding a Development of Regional Impact consisting of 1,136 acres, at a public hearing and adopted the original development order for the Del Tura North Country Club Development of Regional Impact (DRI) on April 25, 1988.

WHEREAS, the Del Tura North County Club DRI was *first* amended in May 3, 1993, to change the name of the DRI to Del Vera DRI; allow detached single-family residential dwelling units; eliminate the mobile home/manufactured home uses, eliminate the second golf course and expand the original golf course; change the phasing schedule and extend the buildout date to May 3, 1998; and

WHEREAS, the DRI Development Order approval was amended a *second* time on February 27, 2001 to: (1) change the name of the development to Herons Glen DRI; (2) add 20 acres to the DRI to accommodate a waste water treatment plant expansion; (3) increase commercial square footage from 10,000 to 12,000 square feet; (4) add an additional 18 hole golf course; (5) extend the buildout and termination date to May 3, 2010 (for a total extension of 12 years); (6) modify the phasing schedule; and (7) modify Map H; and

WHEREAS, on August 2, 2005, the DRI Development Order was amended a *third* time to remove the two circular conservation areas located north of the south property line within Phase 2A, in accordance with the approval letters from the United States Fish and Wildlife Service dated February 10, 2004, and the Florida Fish and Wildlife Conservation Commission (FWC) dated July 26, 2004 and replace them along existing conservation areas; and, exchange the existing recreation/open space "RO" tract (3.53± acres) located in the northeast corner of Phase 1B with the existing residential "R" tract (3.42± acres) located on the south central property line within Phase 2.

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<sup>1</sup> This is a codification and restatement of all DRI development orders rendered for the Herons Glen DRI, (f/k/a Del Tura and Del Tura North) including actions taken on April 25, 1988, May 3, 1993, February 27, 2001, August 2, 2005, September 11, 2007, August 28, 2012 and March 18, 2013.

WHEREAS, a Notice of Proposed Change (NOPC) was filed by Taylor Woodrow Communities at Herons Glen, LLC on November 10, 2005, in Case No. DRI2005-00010, to: (1) amend Map H to relocate the phase line between Phase 1-B and Phase 2-A; (2) eliminate the requirement to construct Nalle Grade; (3) amend the development phasing schedule; (4) change 474 single-family units designed as multi-family (condominium) units; (5) change the name of the DRI from Herons Glen to Magnolia Landing; and, (6) realign the development spine road between Phases I and II; the foregoing request was **withdrawn** May 6, 2008; and

WHEREAS, on September 11, 2007, the DRI Development Order was amended a **fourth** time by Board action, granting a three-year extension to the buildout, phase and expiration dates in accord with 2007 Florida Legislature House Bill 7203. The Board granted the extension pursuant to Lee County Resolution No. 07-09-15. Under HB7203, the three-year extension is not a substantial deviation, is not subject to further Development of Regional Impact review and may not be considered when determining whether a subsequent extension is a substantial deviation under §380.06(19)(c), F.S. The DRI's resulting buildout date became May 3, 2013, with a new termination date of May 3, 2019. This term recognized the cumulative 15-year extension granted from the original 1998 buildout date; and

WHEREAS, on August 28, 2012, the DRI Development Order was amended a **fifth** time as a result of the Governor of the State of Florida's approval in 2011 of House Bill 7207, which provided a four-year extension of DRI Development Orders; extending the commencement, phase, buildout and expiration date of the DRI Development Orders buildout date and termination date to May 3, 2017, and May 3, 2023, respectively, and

WHEREAS, a Notice of Proposed Change (NOPC) was filed by Windham/Magnolia Landing, LLC, for Herons Glen DRI (DRI# 6-8687-77), on April 14, 2008, in Case No. DRI2008-00004, to: (1) add multiple family to the allowed residential unit types; (2) relocate the Phase line in the northeast corner of the development between Phase 1B and Phase 2 in order to match the Recreation District boundaries ~~to~~ and the Community Development District boundaries; (3) remove the requirement that the applicant construct Nalle Grade Road; (4) realign the spine road between Phase 1 and Phase 2; and (5) add approximately 417 acres to the Herons Glen DRI and RPD.

NOW, THEREFORE, it is resolved by the Board of County Commissioners that the Development Order for the Herons Glen (f/k/a Del Tura and Del Tura North) Development of Regional Impact is further amended as follows:

[NOTE: *New language is underlined and deleted text is struck through.*]

**I. FINDINGS OF FACT/CONCLUSIONS OF LAW**

- A. Herons Glen is a mixed use Development of Regional Impact (DRI). The development consists of 1,620 detached single-family residential dwelling units, 540 zero lot line villas, 540 townhouses, 2,700 residential units, two

18 hole golf courses with clubhouses on 247 acres, a total of 12,000 24,000 square feet of commercial area within the clubhouses, sales center, and other amenities on 4,154± 1,569.07± total acres of land. A map of the development is attached as Exhibit A (Map H).

The legal description of the property is as follows:

~~A parcel of land in Sections 2, 3, 4, 5, and 10, Township 43 South, Range 24 East, Lee County, Florida, more particularly described as follows:~~

~~Commence at the Northeast corner of Section 03, Township 43 South, Range 24 East; THENCE N.8957'30"W. along the North line of the Northeast One Quarter (NE ¼) of said Section 03 for 355.01 feet to an intersection with the Westerly right-of-way line of the former S.A.L. Railroad and the POINT OF BEGINNING of the herein described parcel of land; THENCE continue N.8957'30"W. along said North line for 2313.55 feet to the Northeast corner of the Northwest One Quarter (NW ¼) of said Section 03; thence S.8948'38"W. along the North line of said Northwest One Quarter (NW ¼) for 2667.53 feet to the Northwest corner of said Section 03; THENCE N. 8942'40"W. along the North line of Section 04, Township 43 South, Range 24 East, for 5335.96 feet to the Northwest corner of said Section 04; THENCE S.8933'20"W. along the North line of the Northeast One Quarter (NE ¼) of Section 05, Township 43 South, Range 24 East for 1871.76 feet to an intersection with the Northeasterly line of North Fort Myers Park according to the plat thereof as recorded in Plat Book 9, Page 113 of the Public Records of Lee County, Florida; THENCE S.2603'40"E. along said Northeasterly line for 318.64 feet to an intersection with the Southeasterly line of Lot 3 of said plat of North Fort Myers Park; THENCE S.6356'20"W. along said Southeasterly line for 300.77 feet to an intersection with the Northeasterly right-of-way line of Tamiami Trail (S.R. 45, U.S. 41), being a point on the arc of a circular curve concave to the Southwest, said point bearing N.6313'24"E, from the radius point of said curve; THENCE Southeasterly along the arc of said curve having for its elements a radius of 7739.44 feet and a central angle of 0042'56" for 96.66 feet to the point of tangency; THENCE S.2603'40"E. along said Northeasterly right of way line for 1943.40 feet to an intersection with the Southeasterly line of the Northwesterly One-Half (NW ½) of Lot 24 of the aforementioned plat of North Fort Myers Park; THENCE N.6356'20"E. along said Southeasterly line for 300.17 feet to an intersection with the aforementioned Northeasterly line of North Fort Myers Park; THENCE N.2603'40"W along said Northeasterly line for 4.46 feet to an intersection with the Southerly line of that certain parcel of land described in Official Record Book 1032 at Page 707 of the aforementioned public records; THENCE N.8948'47"E. along said Southerly line for 3354.47 feet to an intersection with the East line of that certain parcel of land described in Official Record Book 410 at Page 690 of the aforementioned public records; THENCE S.0011'07"E. along said East line for 2040.37 feet to an intersection with the South line of that certain parcel of land described in Deed Book 224 at Page 437 of the aforementioned public records; THENCE S.8948'47"W. along said South line for 2698.40 feet to an intersection with the~~

~~aforementioned Northeasterly right-of-way line of Tamiami Trail; THENCE S.260340"E. along said Northeasterly right-of-way line for 370.00 feet; THENCE N.8948'47"E. for 3845.26 feet; THENCE N.0011'13"W. for 332.91 feet to an intersection with the aforementioned South line of that certain parcel of land described in Deed Book 224 at Page 437 of the aforementioned public records; THENCE N.8948'47"E. along said South line for 4368.87 feet to an intersection with the Northerly extension of the West line of that certain parcel of land described in Official Record Book 388 at Page 80 of the aforementioned public records; THENCE S.0002'36"W. along said Northerly extension and along the West line of said parcel for 2553.91 feet; THENCE S.89 56'45"E. along the South line of said parcel for 1711.91 feet; THENCE N.0002'36"E. along the East line of said parcel for 16.72 feet to an intersection with the South line of that certain parcel of land described in Official Record Book 1516 at Page 1802 of the aforementioned public records; THENCE S.8956'45"E. along said South line for 441.17 feet; THENCE N.0002'36"E. along the East line of said parcel for 2546.26 feet to an intersection with the aforementioned South line of that certain parcel of land described in Deed Book 224 at Page 437 of the aforementioned public records; THENCE N.8948'47"E. along said South line for 775.85 feet to an intersection with the aforementioned Westerly right-of-way line of the former S.A.L. Railroad; THENCE N.11'11'01"W. along said Westerly right-of-way line for 4190.51 feet to the POINT OF BEGINNING.~~

A TRACT OR PARCEL OF LAND BEING ALL OF THE FOLLOWING PLATS:

MAGNOLIA LANDING UNIT ONE, INSTRUMENT NUMBER 2007000052500  
HERONS GLEN UNIT ONE RECORDED IN PLAT BOOK 63, PAGES 51 & 52  
HERONS GLEN UNIT TWO RECORDED IN PLAT BOOK 64, PAGES 16 & 17  
HERONS GLEN UNIT THREE RECORDED IN PLAT BOOK 65, PAGES 21 & 22  
HERONS GLEN UNIT FOUR RECORDED IN PLAT BOOK 67, PAGES 9 & 10  
HERONS GLEN UNIT FIVE RECORDED IN PLAT BOOK 74, PAGES 82-84  
HERONS GLEN UNIT SEVEN RECORDED IN PLAT BOOK 67, PAGES 11-14  
HERONS GLEN UNIT 7-A RECORDED AS INSTRUMENT No. 2007000068527  
HERONS GLEN UNIT EIGHT RECORDED IN PLAT BOOK 71, PAGES 33 & 34  
HERONS GLEN UNIT NINE RECORDED IN PLAT BOOK 69, PAGES 1 & 2  
HERONS GLEN UNIT TEN RECORDED IN PLAT BOOK 74, PAGES 51 & 52  
HERONS GLEN UNIT 11 & 12 RECORDED IN PLAT BOOK 78, PAGES 57-62  
HERONS GLEN UNIT 11-A RECORDED AS INSTRUMENT No. 2007000038434  
HERONS GLEN UNIT 13 RECORDED IN PLAT BOOK 78, PAGES 87-90  
DEL VERA COUNTRY CLUB UNIT 1 RECORDED IN PLAT BOOK 46, PAGES 7-25  
DEL VERA COUNTRY CLUB UNIT 2 RECORDED IN PLAT BOOK 50, PAGES 69-78  
AND LOTS 17 AND 18, BLOCK 6, SECTION NO. 1 - UNIT NO. 1 LAKEVILLE  
RECORDED IN PLAT BOOK 10, PAGE 48  
ALL RECORDED IN THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA  
LYING IN SECTIONS 2, 3, 4, 5, 9, 10 & 11 TOWNSHIP 43 SOUTH, RANGE 24 EAST,  
LEE COUNTY, FLORIDA

PARCEL 1

BEGINNING AT THE SOUTHEASTERLY CORNER OF HERONS GLEN UNIT 13, RECORDED IN PLAT BOOK 78, PAGES 87-90, IN THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, ALSO BEING THE NORTHEASTERLY CORNER OF MAGNOLIA LANDING UNIT ONE, RECORDED IN INSTRUMENT NUMBER 2007000052500, OF SAID PUBLIC RECORDS, ALSO BEING ON THE WESTERLY RIGHT-OF-WAY OF THE FORMER S.A.L. RAILROAD; THENCE RUN SOUTH 11°11'01" EAST, ALONG SAID WESTERLY LINE OF SAID FORMER S.A.L. RAILROAD AND THE EASTERLY BOUNDARY LINE OF SAID MAGNOLIA LANDING UNIT ONE AND ITS EXTENSION FOR 5364.57 FEET TO POINT "A", ALSO BEING AN INTERSECTION WITH THE NORTHERLY RIGHT-OF-WAY LINE OF NALLE GRADE ROAD (120 FEET WIDE); THENCE RUN NORTH 89°54'56" WEST ALONG THE NORTH RIGHT-OF-WAY LINE OF SAID NALLE GRADE ROAD FOR 3,418.10 FEET; THENCE DEPARTING SAID NORTH RIGHT-OF-WAY LINE RUN NORTH 00°02'36" EAST FOR 845.34 FEET; THENCE RUN NORTH 89°54'56" WEST FOR 1,711.49 FEET; THENCE RUN NORTH 00°03'31" EAST FOR 342.55 FEET; THENCE RUN NORTH 89°53'55" WEST FOR 6,065.72 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF U.S. 41 (TAMIAMI TRAIL 200' WIDE); THENCE RUN ALONG THE EASTERLY RIGHT-OF-WAY LINE OF SAID U.S. 41 NORTH 26°03'40" WEST FOR 1360.01 FEET TO THE SOUTHWEST CORNER OF LOT 14A, BLOCK 6 AS EVIDENCED IN THE PLAT OF LAKEVILLE RECORDED IN PLAT BOOK 10, PAGE 48, OF SAID PUBLIC RECORDS; THENCE RUN ALONG THE SOUTH LINE OF SAID LAKEVILLE NORTH 89°48'47" EAST FOR 523.50 FEET TO THE SOUTHWEST CORNER OF LOT 17 OF SAID LAKEVILLE; THENCE DEPARTING SAID SOUTH LINE RUN NORTH 00°11'13" WEST ALONG THE WEST LINE OF SAID LOT 17 FOR 150.00 FEET TO THE NORTHWEST CORNER OF SAID LOT 17; THENCE RUN NORTH 89°48'47" EAST ALONG THE NORTH LINES OF SAID LOT 17 AND 18 FOR 100.00 FEET TO THE NORTHEAST CORNER OF SAID LOT 18; THENCE RUN SOUTH 00°11'13"E ALONG THE EAST LINE OF SAID LOT 18 FOR 155.00 FEET TO THE SOUTHEAST CORNER OF SAID LOT 18 ALSO BEING ON THE SOUTH LINE OF SAID LAKEVILLE; THENCE RUN NORTH 89°48'47" EAST ALONG SAID SOUTH LINE FOR 1650.00 FEET TO THE SOUTHEAST CORNER OF LOT 24, BLOCK 20 AS EVIDENCED IN LAKEVILLE SECTION NO. 1, UNIT NO. 2 RECORDED IN DEED BOOK 298, PAGES 303-306, OF SAID PUBLIC RECORDS; THENCE RUN ALONG THE EASTERLY LINE OF SAID LAKEVILLE SECTION NO. 1, UNIT NO. 2 THE FOLLOWING COURSES: NORTH 00°11'13" WEST FOR 205.00 FEET; NORTH 89°48'47" EAST FOR 25.00 FEET; NORTH 00°11'13" WEST FOR 650.00 FEET; NORTH 89°48'47" EAST FOR 35.54 FEET; NORTH 00°11'13" WEST FOR 125.00 FEET; SOUTH 89°48'47" WEST FOR 39.71 FEET TO AN INTERSECTION WITH A NON-TANGENT CURVE; NORTHWESTERLY ALONG AN ARC OF SAID CURVE TO THE RIGHT HAVING A RADIUS OF 236.25 FEET (DELTA 31°56'41") (CHORD BEARING NORTH 16°09'34" WEST) (CHORD 130.02 FEET) FOR 131.72 FEET TO A POINT OF TANGENCY; NORTH 00°11'13" WEST FOR 600.00 FEET; SOUTH 89°48'47" WEST FOR 60.00 FEET; NORTH 00°11'13" WEST FOR 335.35 FEET TO AN INTERSECTION WITH THE SOUTHERLY BOUNDARY LINE OF SAID DEL VERA COUNTRY CLUB UNIT 1;

THENCE RUN ALONG THE EXTERIOR BOUNDARY LINE OF SAID DEL VERA COUNTRY CLUB UNIT 1 THE FOLLOWING COURSES: SOUTH 89°48'47" WEST FOR 2,854.55 FEET; SOUTH 26°03'40" EAST FOR 4.45 FEET; SOUTH 63°56'20" WEST FOR 300.17 FEET TO AN INTERSECTION WITH THE EASTERLY RIGHT-OF-WAY LINE OF SAID U.S. 41 (TAMIAMI TRAIL); CONTINUING ALONG THE EXTERIOR BOUNDARY LINE OF SAID DEL VERA COUNTRY CLUB UNIT 1 AND THE EASTERLY RIGHT-OF-WAY LINE OF SAID U.S. 41 THE FOLLOWING COURSES: NORTH 26°03'40" WEST FOR 1,943.40 FEET TO A POINT OF CURVATURE; NORTHWESTERLY ALONG AN ARC OF SAID CURVE TO THE LEFT OF RADIUS 7,739.44 FEET (DELTA 00°42'56") (CHORD BEARING NORTH 26°25'06" WEST) (CHORD 96.66 FEET) FOR 96.66 FEET TO AN INTERSECTION WITH A NON-TANGENT LINE; CONTINUING ALONG THE EXTERIOR BOUNDARY LINE OF SAID DEL VERA COUNTRY CLUB UNIT 1 AND DEPARTING THE EASTERLY RIGHT-OF-WAY LINE OF SAID U.S. 41 THE FOLLOWING COURSES: NORTH 63°56'20" EAST FOR 300.77 FEET; NORTH 26°03'40" WEST FOR 318.64 FEET TO AN INTERSECTION WITH THE NORTH LINE OF SAID SECTION 5; THENCE RUN ALONG THE EXTERIOR BOUNDARY LINE OF SAID DEL VERA COUNTRY CLUB UNIT 1 AND THE NORTH LINE OF SAID SECTION 5 NORTH 89°33'20" EAST FOR 1,871.76 FEET TO THE NORTHEAST CORNER OF SAID SECTION 5 AND THE NORTHWEST CORNER OF SAID SECTION 4; THENCE RUN ALONG THE NORTHERLY LINE OF SAID DEL VERA COUNTRY CLUB UNIT 1 AND THE NORTH LINE OF SAID SECTION 4 SOUTH 89°42'40" EAST FOR 2,299.67 FEET TO THE NORTHEAST CORNER OF SAID DEL VERA COUNTRY CLUB UNIT 1 AND THE NORTHWEST CORNER OF SAID DEL VERA COUNTRY CLUB UNIT 2 ALSO BEING THE NORTH QUARTER (N-¼) CORNER OF SAID SECTION 4; THENCE RUN ALONG THE NORTHERLY LINE OF SAID DEL VERA COUNTRY CLUB UNIT 2 AND THE NORTH LINE OF SAID SECTION 4 SOUTH 89°42'40" EAST FOR 3,036.29 FEET TO THE NORTHEAST CORNER OF SAID DEL VERA COUNTRY CLUB UNIT 2, THE NORTHEAST CORNER OF SAID SECTION 4 AND THE NORTHWEST CORNER OF SAID SECTION 3; THENCE RUN ALONG THE NORTH LINE OF SAID SECTION 3, THE NORTH LINE OF SAID HERONS GLEN UNIT TEN AND ITS EXTENSION NORTH 89°48'38" EAST FOR 2667.49 FEET TO THE NORTH QUARTER (N-¼) CORNER OF SAID SECTION 3; THENCE RUN ALONG THE NORTH LINE OF SAID SECTION 3 AND THE NORTH LINE OF SAID HERONS GLEN UNIT TEN, HERONS GLEN UNIT 11 & 12 AND HERONS GLEN UNIT 13 SOUTH 89°57'30" EAST FOR 2313.56 FEET TO THE NORTHEASTERLY CORNER OF SAID HERONS GLEN UNIT 13 ALSO BEING ON THE WESTERLY RIGHT-OF-WAY OF THE SAID FORMER S.A.L. RAILROAD; THENCE RUN ALONG THE EASTERLY LINE OF SAID HERONS GLEN UNIT 13 AND THE WESTERLY RIGHT-OF-WAY OF THE SAID FORMER S.A.L. RAILROAD SOUTH 11°11'01" EAST FOR 1338.46 FEET TO THE POINT OF BEGINNING.

PARCEL CONTAINS 1,422.73 ACRES, MORE OR LESS.

PARCEL 2

ALSO THAT PART BEING DESCRIBED AS COMMENCING AT THE AFOREMENTIONED POINT "A"; THENCE RUN ALONG THE WESTERLY RIGHT-OF-WAY LINE OF SAID FORMER S.A.L. RAILROAD SOUTH 11°11'01" EAST FOR 127.46 FEET TO THE SOUTH RIGHT-OF-WAY LINE OF SAID NALLE GRADE ROAD ALSO BEING THE POINT OF BEGINNING. FROM SAID POINT OF BEGINNING, CONTINUE ALONG THE WESTERLY RIGHT-OF-WAY LINE OF SAID FORMER S.A.L. RAILROAD SOUTH 11°11'01" EAST FOR 1985.05 FEET; THENCE DEPARTING THE WESTERLY RIGHT-OF-WAY LINE OF THE SAID FORMER S.A.L. RAILROAD RUN NORTH 89°55'40" WEST FOR 3468.04 FEET; THENCE RUN NORTH 00°05'56" EAST 1947.53 FEET TO AN INTERSECTION WITH THE SOUTH RIGHT-OF-WAY LINE OF SAID NALLE GRADE ROAD; THENCE RUN ALONG THE SOUTH RIGHT-OF-WAY LINE OF SAID NALLE GRADE ROAD SOUTH 89°54'56" EAST FOR 3079.67 FEET TO THE POINT OF BEGINNING.

PARCEL CONTAINS 146.34 ACRES, MORE OR LESS.

B. 1,067.8± acres of the subject property DRI is currently zoned Residential Planned Development (RPD), while the additional 417± acres being added to the DRI is currently zoned Agricultural (AG-2), but will be rezoned to RPD in accordance with the Lee County Land Development Code.

C. The Application for Development Approval is consistent with the requirements of §380.06, Florida Statutes.

D. The proposed development:

1. is not in an area designated as an Area of Critical State Concern pursuant to the provisions of §380.05, Florida Statutes;
2. does not unreasonably interfere with the achievement of the objectives of the adopted State Land Development Plan applicable to the area;
3. is consistent with the Lee County Comprehensive Plan and the Lee County Land Development Code; and
4. is located in the sSuburban, eOutlying sSuburban and wWetlands land use categories as identified in the Lee County Comprehensive Plan.

E. The Southwest Florida Regional Planning Council (RPC) has previously reviewed the development and adopted recommendations subsequently forwarded to Lee County pursuant to the provisions of §380.06, Florida Statutes. The development remains consistent with the recommendations of the RPC in accordance with §380.06(12); and

F. The previously adopted conditions below meet the criteria found in §380.06(15) (d), Florida Statutes.

~~HG.~~ Herons Glen DRI qualified for the statutory four-year extension to all phase, buildout and expiration dates granted by the 2011 Florida Legislature under House Bill 7207 (amending F.S. §380.06(19)(c)) and signed into law on June 2, 2011. The Board of County Commissioners granted the extension pursuant to Lee County Resolution 12-08-17, as the Fifth Amendment to the Herons Glen DRI Development Order, adopted on September 11, 2007. Under HB7207, the four-year extension ~~is~~ was not a substantial deviation, ~~is~~ was not subject to further Development of Regional Impact review and may not be considered when determining whether a subsequent extension is a substantial deviation under F.S. §380.06(19)(c).

~~GH.~~ This constitutes the ~~fifth~~ sixth amendment to the Herons Glen DRI Development Order and is based upon the request filed by Windham/Magnolia Landing, LLC, pursuant to ~~HB7207~~. The project buildout date will become ~~May 3, 2017~~ December 31, 2020, with a termination date of ~~May 3, 2023~~ December 31, 2026.

## II. ACTION ON REQUEST

NOW, THEREFORE, it is resolved by the Board of County Commissioners of Lee County, that the requested amendments to the Herons Glen DRI development order are hereby APPROVED, subject to the following conditions, limitations and restrictions:

### A. DRAINAGE/WATER QUALITY

1. The surface water management system for Herons Glen must implement the design standards and water quality "best management practices" outlined in the Application for Development Approval (ADA) (response to Questions 15 and 22, Water and Drainage), and all supplemental information presented in response to sufficiency questions. These design standards and practices include, but are not limited to the following:

- (a) The combined use of man-made lakes and seasonal ponds to provide the necessary surface water storage.
- (b) Maintenance of the existing transitional wet pine flow way as a natural drainage feature of the development.
- (c) The division of the site into nine drainage basins each containing control structures regulating water levels and discharge rates to pre-development rates.



2. The developer and his consultants must produce an acceptable method of calculating on-site basin storage for the South Florida Water Management District (SFWMD) prior to the issuance of a final local development order. This procedure should eliminate any major site plan revisions necessitated as a result of not adequately providing enough on-site storage of stormwater.

3. Water Quality Monitoring:

- (a) The developer must design and implement an on-going water quality monitoring, maintenance and sampling program for the project's surface water management lakes, wetland preserves and groundwater in order to determine the concentration and effects of pollutants on-site.

The surface water quality monitoring program must be developed with SFWMD and must be a part of the surface water management permit. Copies of all testing results will be sent to the SFWMD and Lee County Division of Natural Resources (DNR).

An appropriate number of sampling sites must be selected to sufficiently evaluate the quality of water entering and exiting the Herons Glen Project, and remaining in on-site waterbodies, flow ways and wetlands.

Water sampling will be conducted quarterly during construction of Phase I. After the first year of construction, the Herons Glen consultants and the SFWMD must evaluate the appropriateness of stations, parameters and frequency of stations, parameters and frequency of sampling. Monitoring must continue until such time that construction of the Herons Glen project has been completed for two years.

Surface water samples will be collected and analyzed for the following parameters in accordance with Florida Department of Environmental Protection (FDEP) and SFWMD requirements:

- Chemical Oxygen Demand (COD)
- Total Organic Carbon (TOC)
- Total Suspended Solids (TSS)
- Un-ionized Ammonia
- Nitrate
- Dissolved Oxygen (DO)
- pH
- Total Nitrogen
- Total Phosphorous
- Fecal Coliform Bacteria
- Total Coliform Bacteria
- Nitrite
- Conductivity

- (b) ~~The subsurface (groundwater) water quality monitoring: A groundwater program must be developed with the FDEP and will operate for the lifetime of the project. Copies of all groundwater testing results will be sent to the FDEP, and DNRM.~~

~~The monitoring program developed with FDEP must be subject to the provisions of FAC Rules 17-520 and 17-522. The program will be part of the development's wastewater permit, and will be conducted as follows:~~

- (1) ~~All specified monitoring wells must be analyzed initially for the Primary and Secondary Drinking Water Standards listed in FAC Rule 17-550.310 and .320, as well as EPA Method 608 parameters.~~
- (2) ~~Water quality samples from a specified upgradient background well, an intermediate well, and a downgradient compliance well must be analyzed quarterly for the following indicator parameters:~~

~~Sodium  
Total Dissolved Solids (TDS)  
Total Organic Carbon (TOC)  
Fecal Coliform Bacteria  
Specific Conductance (field)  
Nitrate Nitrogen  
Sulfate  
Chloride  
pH (field)~~

~~In addition, samples from the intermediate and compliance wells must be analyzed for the following primary volatile organic parameters once per year:~~

~~Trichloroethene  
Carbon Tetrachloride  
1,1,1-trichloroethene  
Benzene  
P-dichloroethene  
Trihalomethanes  
Tetrachloroethene  
Vinyl Chloride  
1,2-dichloroethane  
Ethylene dibromide  
1,1-dichloroethene~~

- (3) ~~Groundwater elevations of the above wells must be measured and reported relative to National Geodetic Vertical Datum (NGVD) quarterly.~~

~~(4) Field testing, sample collection, preservation, and laboratory testing, including quality control procedures, must be in accordance with methods approved by the FDEP and as specified in FAC Rule 17-160. All analyses must be performed by a Florida State-certified laboratory.~~

4. The developer must coordinate with Lee County and the FDEP in the on-site storage of any special or hazardous waste, as defined in the Lee County Hazardous Waste Assessment that may be generated in the commercial, residential or recreational portions of the project site.

5. All design standards and water quality "best management practices" relating to Questions 15 and 22 of the ADA, Water and Drainage respectively, not in conflict with the above recommendations, and any surface water management permit, Environmental Resource Permit issued by the SFWMD, are hereby incorporated by reference into this DRI Development Order and must be incorporated into the final local development order.

## B. ENERGY

All site plans or architectural programs must incorporate, as a minimum, the following energy conservation features into all site plans and architectural programs, or the property owner/developer must insure that the following features are implemented through deed restrictions or covenants with successors in title. All applications for site plan approvals and building permits must be accompanied by a document detailing proposed compliance with these conditions. If deed restrictions or covenants are utilized to insure compliance, such documents must be approved by the Lee County Attorney's Office prior to recording. If no deed restrictions are approved and recorded, the prior alternative must be utilized and the following features must be included:

1. Provision of a bicycle/pedestrian path system connecting all land uses, to be placed along the main project road and local roads within the project. This system is to be consistent with local government requirements.

2. Provision of bicycle racks or storage facilities in recreational, commercial and multi-family residential areas.

3. Cooperation in the location of bus stops, shelters, and other passenger and system accommodations for a transit system to serve the project area, if such service becomes available to serve the project area.

4. Use of energy-efficient features in window design.

5. Use of operable windows and ceiling fans.

6. Installation of energy-efficient appliances and equipment.

7. Prohibition of deed restrictions or covenants that would prevent or unnecessarily hamper energy conservation efforts (e.g., building orientation, clotheslines, and solar water heating systems).

8. Reduced 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.

9. Installation of energy-efficient lighting for streets, parking areas, recreation areas, and other interior and exterior public areas.

10. In new construction, Use of water closets with a maximum flush of 3.5 gallons and shower heads and faucets with a maximum flow rate of 3.0 gallons per minute (at 60 pounds of pressure per square inch) must comply with flush and flow rates contained in the Florida Building Code.

11. Selection of native plants, trees, and other vegetation and landscape design features that reduce requirements for water, fertilizer, maintenance, and other needs.

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

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

14. Planting of native shade trees for each residential unit.

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

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

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

18. 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.

The incorporation of these energy conservation measures in this Development of Regional Impact does not preclude the provision of additional energy conservation measures by the developer. It also does not prevent the local government of jurisdiction or any state, regional, or other agency, under whose jurisdiction this project falls, from requiring additional energy measures or measures that may be more stringent.

## C. HISTORICAL/ARCHAEOLOGICAL

1. Locations identified as likely to contain archaeological or historical material must be preserved in recreation or preservation/open space areas. If this is not possible, these potential areas must be surveyed in detail by a qualified archaeological survey team prior to any site preparation.

2. If, during site preparation, any archaeological or historical sites are uncovered, the developer must cease all work in the immediate vicinity of the site, and the appropriate state and local agencies must be contacted to evaluate the site and make recommendations concerning excavation, preservation or mitigation.

## D. FLOOD PLAIN/HURRICANE EVACUATION

1. The developer must provide, on at least an annual basis, information to residents concerning hurricane evacuation and shelters, through a homeowners' or residents' association.

2. The developer must formulate an emergency hurricane preparedness plan that is coordinated with the homeowner's association. The plan is subject to the approval of Lee County Emergency Management and must be established prior to any development within Phase I.B. or Phase II.

~~3. The developer must designate at least one, preferably two, helicopter landing areas within Herons Glen for emergency medical service prior to any development within Phase I.B. or Phase II. The landing areas are subject to the approval of Lee County's Emergency Medical Service.~~

## E. TRANSPORTATION

1. The transportation impact assessment upon which ~~this~~ the Fourth amended Development Order for Herons Glen DRI is was based ~~assumes~~ project buildout in 2010<sup>2</sup>. The traffic impact assessment included the expected impacts of the proposed residential land uses intended to be marketed to retirees by the applicant, nonresidential land uses and phasing schedule shown in attached Exhibit "B". The transportation impact assessment upon which this Sixth Amended Development Order is based assumes a project buildout of December 31, 2020, and includes the expected impacts of the proposed residential uses and nonresidential land uses as shown in attached Exhibit "B-1."

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<sup>2</sup>The Fourth DRI Development Order served to grant the three-year statutory extension of the buildout date to 2013. However, the traffic assessment assumptions remained unchanged. Therefore, this date was not altered to reflect the previous three-year extension nor ~~this~~ the four-year extension approved by HB7207.

~~If it is found that the land uses at each phase of development differ from that presented in the ADA/DRI, then it will be deemed to be a substantial deviation of the Development Order and a resubmittal will be required of the developer or their successor(s).~~

2. ~~An annual~~ A biennial traffic monitoring program, to be performed by traffic engineers consultants engaged by the developer or their successor(s), and beginning two years from the date of this Sixth Development Order amendment, must be established to monitor the development's trip generation and impact upon the surrounding roadways. The ~~annual~~ biennial monitoring program must be designed in cooperation with the Lee County Department of Transportation (Lee County DOT), Lee County Department of Community Development (DCD), the Florida Department of Transportation (FDOT), the RPC, and the Florida Department of Economic Opportunity (FDEO), and will be subject to approval by the Lee County DOT. At a minimum, the ~~annual~~ biennial monitoring report must report the number, size and type of constructed and occupied on-site development at the time of monitoring (to the extent that information is available to the party undertaking the monitoring), and must contain daily and P.M. Peak-Hour traffic counts with turning movements during peak season traffic condition, intersection analysis performed utilizing the "Highway Capacity Manual" and level of service calculations as adopted and updated for all project access locations onto US 41 and onto Nalle Grade Road (if that road is constructed by others and access is provided to the DRI) as well as the following intersections:

US 41 and SR 739 (Business 41)  
US 41 and Littleton Road  
US 41 and SR 78 (Pine Island Road)  
SR 739 (Business 41) and SR 78 (Bayshore Road)

In addition, the developer's traffic consultant must perform peak season daily and P.M. peak hour traffic counts and level of service calculations for the following significantly impacted roadways:

SR 739 (Business 41) from US 41 to SR 78  
US 41 from Zemel Road in Charlotte County to SR 78

~~By July 1, 1993, t~~The developer or their it's successor(s) ~~must submitted~~ the first monitoring report to the Lee County DOT, DCD, RPC, FDOT, and FDEO. Starting with the first monitoring report submitted for the Notice of Proposed Change, each year's biennial report must analyze the cumulative traffic for the Herons Glen DRI.

Prior to the submission of the first ~~annual~~ monitoring report, the governmental entities (FDEO, FDOT, RPC, and Lee County) and the developer must consult on a methodology to be used for conducting the traffic monitoring program, which is subject to approval by the Lee County DOT. (This condition has been satisfied.) This monitoring report methodology will be utilized for subsequent monitoring reports unless revised after consultation with the relevant agencies and receipt of approval by the Lee County DOT.

The purpose of this monitoring program is to: (1) determine whether or not the traffic levels projected in the traffic impact assessment for Herons Glen are exceeded by actual impacts, (2) assist Lee County and FDOT in determining the proper timing of necessary roadway improvements, and (3) determine the intersection and roadway existing levels of service.

In lieu of the developer's obligation to annually monitor the above-mentioned intersections and road segments, (US 41 and SR 739 (Business 41)), the developer, with the approval of the Lee County DOT, may deposit with Lee County a one-time sum of \$35,000 to be used in the installation and operation of two permanent count stations in the vicinity of expected impacts on US 41 and SR 739 along the roadway segments listed above.

In the event that the developer contributes the funding for these permanent traffic count locations, the developer or their successor(s) will only be obligated to report the counts from the permanent count stations, annually monitor for the number size and type of constructed and occupied on-site development at the time of monitoring, and annually monitor the daily and P.M. peak hour traffic conditions, during the peak season, from all Herons Glen / Magnolia Landing access locations onto:

US 41 and  
Nalle Grade Road (which connection and access are required if that road is constructed by others to the DRI boundaries)

The transportation conditions contained in this DRI Development Order for Herons Glen (Phases 1A and 1B) envision the construction of an adult retirement community, similar in nature to the existing Del Tura Country Club Community (in close proximity along US 41). The conditions of approval for Herons Glen Phase 1A and 1B, specifically the mitigation for transportation impacts, were based upon an impact fee daily trip generation rate of 4.8 trips per dwelling unit. The updated traffic assessment conducted in support of this 6<sup>th</sup> Amendment reflects an adult retirement community for the Herons Glen portion of the Herons Glen / Magnolia Landing DRI at a retirement community trip rate and the Magnolia Landing portion of the DRI at single-family and multiple-family trip rates. The Magnolia Landing portion of the DRI will pay applicable impact fees based upon the duly adopted impact fee schedule.

If the annual biennial monitoring report finds indicates that the DRI Question 34 21 Transportation forecasted net new external daily trips (9,464 16,597) are exceeded by 15% (10,884 19,087), then a substantial deviation pursuant to §380.06(19)(b)15, Florida Statutes, will be deemed to exist and the development must undergo additional DRI review through the submittal of ADA transportation questions as required by §380.06, Florida Statutes.

Any additional transportation obligation that may result from the above must consider the approved mitigation program and actual mitigation undertaken by Herons Glen to that date. Additional mitigation, if any, would be reflective of the increased impacts of all phases of the development, if any.

3. The developer or their successor(s) are required to construct, at no cost to Lee County or FDOT, all site related improvements deemed necessary by the FDOT and the Lee County DOT at all project access locations onto US 41 and onto Nalle Grade Road (which connection and access are required if that road is constructed by others to the DRI boundaries) as well as construct Nalle Grade Road itself and all site-related improvements required within Herons Glen DRI. Nalle Grade Road Access onto Nalle Grade Road (which connection and access are required if that road is constructed by others to the DRI boundaries) and access to the road must meet all requirements of the Lee County Land Development Code.

~~The developer proposes to relocate a median opening on US 41 to align with Entrance #2. If the relocation of the median opening is not allowed pursuant to FDOT access management rules and permitting procedures, then no full access will be permitted at that location. This determination will be made by Lee County DOT, Lee County Department of Community Development and the FDOT prior to the issuance of permits or a local development order.~~

The developer or their successor(s) is not be eligible for credits against road impact fees for construction or dedication of rights-of-way associated with improvements at the project's access points deemed to be site-related as defined in the Lee County Roads Impact Fee regulations.

If Nalle Grade Road, between the DRI boundaries and US41, is constructed by others, then the DRI must connect Nalle Grade Road where it abuts the DRI boundaries, and provide the access depicted on the original MCP and the original Map H. The DRI is not required to construct Nalle Grade Road east beyond its boundaries. The term "DRI" is used herein to indicate that this requirement is not the sole responsibility of the developer of Magnolia Landing.

~~If Nalle Grade Road, between the project access point and west to US 41 or east to Del Prado/Mello Drive Extension, is built, as described above, by the developer with procedures set forth in the Lee County Roads Impact Fees regulations in effect at that time. The developer is guaranteed road impact fee credits for 100% of the eligible construction costs applicable to the construction and acceptance of Nalle Grade Road.~~

4. As mitigation for the impacts of the new development within Herons Glen DRI Phase I, and in lieu of payment of impact fees at the time of individual building permits for Phase I, the developer or their successor(s) have already provided to Lee County a sum equivalent to the initial Phase I impact fees based on a trip rate of 4.8 per units per day, totaling \$799,200 for 1,200 dwelling units, which were in effect at that time. Those monies represented a "pipelining" of Phase I road impact fee monies with



such monies to be used by Lee County for the Laurel Drive improvement (a portion of) and/or Henderson Grade Road, or a comparable east/west improvement, to be determined by Lee County, in the general Herons Glen DRI impact area.

The above payment for the 1,200 dwelling units did include a proportionate share payment for the potential signalization of the intersection of US 41 with SR 739 (Business 41).<sup>3</sup>

As mitigation for the impacts of new development within the Herons Glen DRI (beyond 1,200 units) yet to be constructed within Phase I and II, the developer building permit applicant must pay to Lee County roads impact fees in effect at the time building permits are issued for all applicable development within the DRI. Lee County will determine the timing of all necessary road improvements impacted by this DRI. These impact fee payments will represent Herons Glen DRI payments for widening of the impacted segments of SR 739 (Business 41) to four lanes, US 41 to six lanes from Pine Island Road to Pondella Road, and improvements at the intersections of US 41 with SR 78 (Pine Island Road), and US 41 with Littleton Road- US 41 with Del Prado Boulevard and US 41 with Pondella Road.

Impact fee calculations for residential units within the Herons Glen portion of the DRI will be based on the Mobile Home Park trip generation rate of 4.8 trips per day per dwelling unit. The applicant for residential units within the Magnolia Landing portion of the DRI will pay the road impact fee rate per the roads impact fee schedule in effect at the time of issuance of individual building permits based upon the type of unit requested.

Should the roads impact fees be repealed, ~~reduced~~ or made unenforceable by court action, Herons Glen DRI will continue to pay, per individual permit, an amount equivalent to the roads impact fees in effect prior to such repeal, ~~reduction~~, or court action.

5. If the adopted level of service is exceeded for any regional road segment or intersection identified above, and:

- (a) The required road or intersection improvements necessary to bring the identified roadway back to the Lee County adopted Level of Service are not funded and programmed for construction during the next five years (or if such roadway or intersection improvements funded and programmed for construction during that five year period are deleted from the program, postponed beyond the five-year period or not constructed within the five-year period), and
- (b) Herons Glen DRI traffic is utilizing 5% or more, but less than 10% of the adopted level of service volume during the peak season on the impacted regional road segment or intersection;

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<sup>3</sup>This improvement was constructed in June 1996.

then the developer or their successor(s) must, within ninety (90) days, file a petition in accordance with §380.06, Florida Statutes, for determination of whether a substantial deviation has occurred.

If Herons Glen DRI is utilizing 10% or more of the adopted level of service volume on a peak season peak hour basis as defined in Lee County's Administrative Code AC-13-16 on the impacted regional road segment or intersection, and the actual Level of Service on the said roadway or intersection is worse than the adopted level of service volume on a peak season peak hour as defined in Lee County Administrative Code AC-13-16, then a substantial deviation must be deemed to have occurred.

Herons Glen DRI may continue development during substantial deviation DRI review if the developer or their successor(s) enters into an agreement with the FDEO, RPC, FDOT and Lee County specifying the scope of development allowed during the review period. This paragraph, however, may not be construed to guarantee to Herons Glen DRI the right to continue development during substantial deviation DRI review.

6. Nothing contained in this Development Order may be construed to exempt this development from participation in the funding, through Municipal Services Benefit Units (MSBU) or other special assessment districts, of improvements to various State and County arterial and collector roads to the degree to that this development generates demand or is benefitted.

7. If any contributions or road or intersection improvements specified herein are required of the developer but not funded or provided within the time frames specified herein, development activities and the issuance of permits by Lee County for the Herons Glen DRI must immediately cease until the obligation is fulfilled.

8. In the event that Lee County anticipates additional urbanization in the area between US 41 and I-75 to the north of SR 78, north/south roads paralleling US 41 may be required to relieve traffic congestion associated with any further urbanization. The developer must work with Lee County to facilitate such north/south road facilities.

9. The existing entrance to the Magnolia Landing portion of the DRI is located approximately 1,043 feet south of Lakeville Drive and is currently limited to a right-in/right-out only connection at US 41. After a thorough review and evaluation by the FDOT and other reviewing agencies, the FDOT has approved improvements to this entrance under the following conditions, as documented in the FDOT letter of November 19, 2012:

- (a) US 41 access to the Magnolia Landing development shall be restricted to one full access driveway connection onto US 41 located at its current location.
- (b) Construction of one full median opening will be allowed at that location.

- (c) Northbound and southbound left turn lanes shall be constructed at the new median opening and in accordance with FDOT Design Standard Index #301.
- (d) Development of more than 437 total residential units within the Magnolia Landing portion of the DRI will require the developer to construct the full median opening improvements. No certificate of occupancy for any development in excess of 437 residential dwelling units will be issued until the median opening improvements have been constructed and accepted by the FDOT.
- (e) The Magnolia Landing developer will be responsible for construction of needed modifications to the existing Lakeville Drive median opening to address safety and operational issues, if any, resulting from the permitting of the full median opening at Magnolia Landing.
- (f) The Magnolia Landing development will provide cross access from the Lakeville subdivision, or the commercial parcels between US41 and the Lakeville subdivision, to the Magnolia Landing entrance roadway at such time as the closure of the existing Lakeville Drive median opening is required to address future safety or operational issues resulting from the construction of a full median opening at Magnolia Landing.

F. VEGETATION AND WILDLIFE/WETLANDS

1. MANAGEMENT AREA PRESERVE

- (a) Figure I of the "Revised RCW Monitoring and Management Plan for Heron's Glen DRI," July 2000 last revised January 2013, and attached as Exhibit C, depicts the "RCW Preserve" as encompassing a total of 240.11 220.94 acres, comprised of 181.81 acres of transition pine flatwoods (TZ), 21.26 acres of upland pine flatwoods, 5.00 acres of freshwater marsh (RPA) and 2.04 acres where a haul road has been removed and planted with pine. The 181.81 acres of transition pine flatwoods includes all existing TZ of the central flow way except for 2.91 acres to be devoted to roadway access to Phase 1-B and Phase II development. Other pineland to be retained on site includes approximately 51.59 acres. This acreage is found within buffers, golf course, open space and other preserved transition pine flatwoods.
- (b) Engineering design must provide reasonable assurance that stormwater lakes proposed adjacent to the central RCW preserve will not drain wetlands and that surface water sheet flow will be maintained on either side of the new road alignment proposed to crossing the central RCW preserve. All correspondence with the SFWMD related to engineering design and permitting of the above-identified lakes and new roadway alignment will be copied to the FWC. If the Red Cockaded Woodpeckers totally abandon the RCW Preserve for ten consecutive years as evidenced by the annual RCW

~~monitoring, then the developer may file a Notice of Proposed Change (NOPC) seeking to remove<sup>4</sup> the designation of the 21.3± acres of upland pine flatwoods located within the RCW Preserve from the RCW Preserve area.<sup>5</sup> &<sup>6</sup>~~

Any reconfiguration of the RCW Preserve or Wetland Preserve areas must be reviewed under the provisions found in §380.06(19) applicable to the filing of a NOPC.

## 2. MONITORING PLAN

~~Monitoring must be in accordance with the Revised Red-Cockaded Woodpecker Monitoring and Management Plan for Herons Glen, dated July 2000 and attached as Exhibit C and the Revised Wetlands Management Plan for Herons Glen, dated July 2000, and attached as Exhibit D.~~

Red-Cockaded Woodpecker (RCW) monitoring must be done in accordance with the January 2013 RCW Monitoring and Management Plan for Herons Glen DRI, attached as Exhibit "C."

Wetland management for the existing preserve areas within Herons Glen must be done in accordance with the Revised Wetlands Management Plan for Herons Glen dated July 2000, attached as Exhibit "D." As part of local development order approvals, a revised Wetlands Management Plan must be provided for wetlands in Herons Glen (that will be adjusted) and the proposed preserves within the Magnolia Landing portion of the DRI, as depicted within the Conservation Area as shown on attached Exhibit "F."

## 3. MANAGEMENT PLAN

- (a) Foraging, roosting and possible nesting RCWs have historically been documented on the site and the developer's plans to preserve pine forest on the site will maintain available habitat for possible

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<sup>4</sup>In the event that this acreage is removed from the preserve as allowed under this condition, a substantial and sufficient amount of hydric pine flatwoods habitat (183± acres) would still remain on-site.

<sup>5</sup>In the First Amendment to the DRI DO, the acreage of upland pine flatwoods referenced in this condition was 15.5 acres. This acreage was increased to 21.3 acres to include the acreage of upland preserve (buffer) area.

<sup>6</sup>The Third Amendment to the DRI DO revised the Conservation and Preserve Areas by transferring 5.76 acres from two circular areas located north of the southern property line within Phase 2A to two areas located in the northern portion of Phase 1B; and two areas located in the southeastern portion of Phase 2. The acreage devoted to conservation and preservation remained the same as a result of the relocation of Conservation and Preserve Area shown on the Conservation Area Exchange Map dated October 2004 (Exhibit E).

future RCW foraging and nesting activities. In addition, the melaleuca on the site will be eradicated and controlled, thus significantly enhancing the quality of the project's area. This exotic control program must be continued throughout the life of the project.

- (b) To ensure maximal available forage area on site, no pine trees greater than or equal to eight (8) inch diameter breast height (dbh) may be removed, except those found in a road, lake, golf tee, golf green, middle of fairway, or under-house residential lots.
- ~~(e)~~ To ensure minimal disturbance of RCW nest activities, the developer is prohibited from initiating any clearing or other construction within 300 feet of cavity trees during April, May and June of each year.
- ~~(d)~~ c) The preserve area must be actively managed by the developer to insure continued quality RCW habitat through the use of a combination of prescribed burning/mowing/exotic control measures. Burning will be the preferred management technique. Any prescribed burning of the site must be conducted in accordance with the Florida ~~Division of Forestry~~ Forest Service guidelines.
- ~~(e)~~ The initial unit prescribed burn must be conducted within three years of the completion of initial exotic eradication activities in the RCW preserve.
- ~~(f)~~ d) Prescribed burning techniques must be in accordance with the attached Exhibit C.
- ~~(g)~~ e) Replanting of golf course buffers designated as pine buffer will be as depicted on Figure 1 2 of attached Exhibit "C."

- (h f) The developer must comply with the additional conditions set forth in Condition 3 of Lee County Zoning Resolution 00-78 pertaining to the 2000 RPD amendment designated as DRI964596 and DCI964597 the approved zoning resolution(s).<sup>7</sup>

<sup>7</sup>The following conditions address Environmental concerns, and are intended to supplement the conditions and provisions contained within the DRI Development Order:

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

(g) Prior to any invasive exotic removal or control, the Division of Planning - Environmental Sciences Staff must be notified in writing of the commencement and estimated completion dates, the removal method proposed, and the herbicide to be applied. The exotic removal method and herbicide are subject to Environmental Sciences Staff review and approval.

4. Viability of wetland preserves must be in accordance with the attached Exhibit D.

5 4. Should the developer find any further endangered or threatened species of special concern of either wildlife or plant species, during construction or detailed permit review, the developer must contact the proper Federal, State and County authorities and assure that adequate measures are taken and permits obtained to protect these species.

#### G. SOLID WASTE

1. The developer must investigate feasible methods of reducing solid waste volume at Herons Glen. Methods to investigate must include, for instance, the use of compaction of the Commercial Center and Clubhouse.

2. The Herons Glen wastewater treatment plant and its associated component, including the spray irrigation system, must meet all County and State design and operating requirements.

#### H. WATER SUPPLY

1. The developer must obtain all appropriate water use permits from the SFWMD and Lee County prior to any on-site construction.

2. The Herons Glen project must utilize such water conservation measures as are referenced in the ADA, as well as those required by State law, and must consider the use of "xeriscape" landscaping.

#### I. GENERAL CONSIDERATIONS

1. All commitments, and conditions of the original DRI Development Order and subsequent Development Order Amendments, remain in full force and effect. Where a conflict or inconsistencies exist, this Codified Development Order Amendment will control.

2. The developer must submit an annual biennial report on the Development of Regional Impact to Lee County, the RPC, the FDEO and all affected permit agencies as required in §380.06(18), Florida Statutes.

3. The development phasing schedule attached as Exhibit B is incorporated as a condition of this development order approval. The Development Order conditions and developer commitments based upon and incorporated in the development order, ADA, sufficiency documents or NOPC application are intended to mitigate regional impacts. If these conditions and commitments are not carried out as indicated to the extent or in accord with the timing schedules specified within the Development Order Amendment and phasing schedule, then a substantial deviation for the affected regional issue will be deemed to have occurred.

4. Pursuant to §380.06(16), the developer 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, then 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 his fair share.

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

1. This Codified Development Order Amendment constitutes a resolution of the Lee County Board of Commissioners issued in response to the Development of Regional Impact Application for Development Approval filed for Herons Glen DRI.

2. All commitments and impact mitigating actions volunteered by the developer in the Application for Development Approval, subsequent NOPC applications and supplementary documents not in conflict with conditions or stipulations specifically enumerated above are hereby incorporated by reference into this Development Order Amendment.

3. This Development Order is binding upon the developer its successors or assigns. Those portions of this Development Order Amendment that clearly apply only to the project developer, including but not limited to the initial construction of capital facilities, will not be construed to be binding, however, upon future residents of single dwelling units or persons purchasing individual house sites for personal residential purposes. It will, however, be binding upon any builder/developer who acquires any tract of land within Herons Glen.

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

All conditions, restrictions, stipulations and safeguards contained in this Resolution and Development Order Amendment may be enforced by either party hereto by action at law or equity, and all costs of such proceedings, including reasonable attorneys' fees, will be paid by the prevailing party.



4. It is understood that any reference herein to any governmental agency will be construed to mean future instrumentalities created and designated as successors in interest to, or which otherwise possesses the powers and duties of the referenced governmental agency in existence on the effective date of this Development Order Amendment.

5. If any portion or section of this Development Order Amendment is determined to be invalid, illegal, or unconstitutional by a court of competent jurisdiction, such decision will not affect the remaining portions or sections of the Development Order Amendment, which will remain in full force and effect.

6. The approval granted by this Development Order Amendment is limited. Approval may not be construed to obviate the duty of the developer to comply with all applicable local or state review and permitting procedures, except where otherwise specifically provided.

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

- (a) A substantial deviation from the terms or conditions of this Development Order Amendment, or other changes to the approved development plan creates a reasonable likelihood of adverse regional impacts or other regional impacts not evaluated in the review by the RPC; or
- (b) Expiration of the period of effectiveness of this Development Order.

Upon a finding that either of the above has occurred, the Board may order a termination of all development activity until a new DRI Application for Development Approval has been submitted, reviewed and approved in accordance with §380.06, Florida Statutes.

8. The project has a buildout date of ~~May 3, 2017~~ December 31, 2020, and a termination date of ~~May 3, 2023~~ December 31, 2026. This term recognizes the cumulative ~~49~~ 22 year extension granted from the original 1998 buildout date, the statutory four-year extension granted under House Bill 7207, and the fact that a local development order, which is valid for six years, may be obtained prior to ~~May 3, 2017~~ December 31, 2020. No permits for development will be issued by the County subsequent to the termination date or expiration date unless the conditions set forth in Florida Statutes §380.06(15)(g) are applicable. Future requests to extend time will be evaluated cumulatively with past requests in accordance with §380.06(19), Florida Statutes.

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

10. The development will not be subject to down-zoning, unit density reduction, or intensity reduction prior to ~~May 3, 2023~~ December 31, 2026. If the County demonstrates that substantial changes have occurred in the conditions underlying the approval of this Development Order, as amended, or finds that the development order was based on substantially inaccurate information provided by the developer, or that the change is clearly established by Lee County to be essential to the public health, safety and welfare, then down-zoning, unit density reduction, or intensity reduction may occur [See 9J-2.025(3)(b)13].

11. The developer, or his successor in title to the undeveloped portion of the subject property, must submit a report ~~annually~~ biennially to the Lee County Board of County Commissioners, the RPC, the State land planning agency, and all affected permit agencies. This report must describe the state of development and compliance as of the date of submission, and must further be consistent with the rules of the State land planning agency. The ~~annual~~ biennial report must include information required by §380.06(19), Florida Statutes. The first monitoring report must be submitted to the Administrative Director of the ~~Department of Community Development DCD~~ not later than May 1, 1989, and further reporting must be submitted not later than May 1st of ~~subsequent~~ every other calendar years. Failure to comply with this reporting procedure is governed by §380.06(18), Florida Statutes, and the developer must so inform any successor in title to any undeveloped portion of the real property covered by this Development Order. This may not be construed to require reporting from residents or successors of individual home sites or dwelling units.

12. Certified copies of this Development Order Amendment will be forwarded to the RPC, the developer, and appropriate state agencies. This Development Order is rendered as of the date of that transmittal, but is not be effective until the expiration of the statutory appeals period (45 days from rendition) or until the completion of any appellate proceedings, whichever time is greater. Upon this Development Order Amendment becoming effective, the developer must record notice of its adoption in accordance with §380.06(15), Florida Statutes.

Commissioner \_\_\_\_\_ made a motion to adopt the Sixth Development Order Amendment, seconded by Commissioner \_\_\_\_\_. The vote was as follows:

John Manning	_____
Cecil L Pendergrass	_____
Larry Kiker	_____
Tammara Hall	_____
Frank Mann	_____

DULY PASSED AND ADOPTED this 18<sup>th</sup> day of March, 2013.

ATTEST:  
Linda Doggett, Clerk

BOARD OF COUNTY COMMISSIONERS  
LEE COUNTY, FLORIDA

By: \_\_\_\_\_  
Deputy Clerk

\_\_\_\_\_  
Cecil L Pendergrass  
Chair

APPROVED AS TO FORM

By: \_\_\_\_\_  
County Attorney's Office

Attachments:

- Exhibit A Map H, dated 10/12
- Exhibit B Phasing Schedule
- Exhibit B-1 Development Program
- Exhibit C Revised Red-Cockaded Woodpecker Monitoring and Management Plan for Herons Glen DRI, dated January 2013
- Exhibit D Revised Wetlands Management Plan for Herons Glen DRI, dated July 2000
- Exhibit E Conservation Area Exchange Map, dated October 2004
- Exhibit F Conservation Area

**JOHNSON ENGINEERING**  
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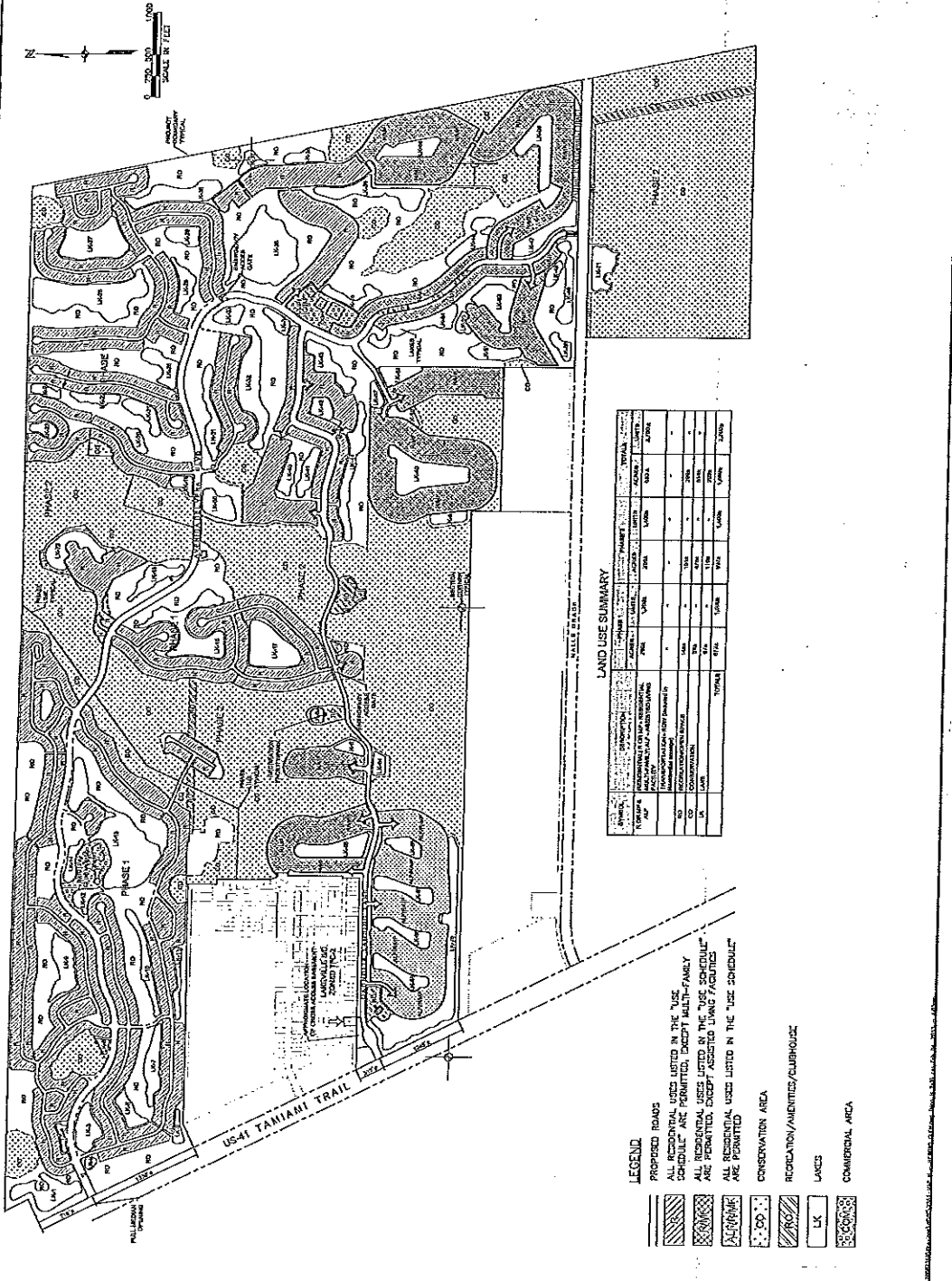
WINDHAM /  
 MAGNOLIA LANDING, LLC

HERONS GLEN  
 Lee County, Florida

REVISIONS

NO.	DATE	DESCRIPTION
1	01/11/01	PRELIMINARY
2	02/15/01	REVISED PER COMMENTS
3	03/15/01	REVISED PER COMMENTS
4	04/15/01	REVISED PER COMMENTS
5	05/15/01	REVISED PER COMMENTS
6	06/15/01	REVISED PER COMMENTS
7	07/15/01	REVISED PER COMMENTS
8	08/15/01	REVISED PER COMMENTS
9	09/15/01	REVISED PER COMMENTS
10	10/15/01	REVISED PER COMMENTS
11	11/15/01	REVISED PER COMMENTS
12	12/15/01	REVISED PER COMMENTS

HERONS GLEN  
 MAP #1  
 SHEET NUMBER  
 1 OF 1



LAND USE SUMMARY

USE	ACRES	PERCENT	TOTAL
RESIDENTIAL SINGLE-FAMILY (R-1)	100	100%	100
RESIDENTIAL SINGLE-FAMILY (R-2)	0	0%	0
RESIDENTIAL SINGLE-FAMILY (R-3)	0	0%	0
RESIDENTIAL SINGLE-FAMILY (R-4)	0	0%	0
RESIDENTIAL SINGLE-FAMILY (R-5)	0	0%	0
RESIDENTIAL SINGLE-FAMILY (R-6)	0	0%	0
RESIDENTIAL SINGLE-FAMILY (R-7)	0	0%	0
RESIDENTIAL SINGLE-FAMILY (R-8)	0	0%	0
RESIDENTIAL SINGLE-FAMILY (R-9)	0	0%	0
RESIDENTIAL SINGLE-FAMILY (R-10)	0	0%	0
RESIDENTIAL SINGLE-FAMILY (R-11)	0	0%	0
RESIDENTIAL SINGLE-FAMILY (R-12)	0	0%	0
RESIDENTIAL SINGLE-FAMILY (R-13)	0	0%	0
RESIDENTIAL SINGLE-FAMILY (R-14)	0	0%	0
RESIDENTIAL SINGLE-FAMILY (R-15)	0	0%	0
RESIDENTIAL SINGLE-FAMILY (R-16)	0	0%	0
RESIDENTIAL SINGLE-FAMILY (R-17)	0	0%	0
RESIDENTIAL SINGLE-FAMILY (R-18)	0	0%	0
RESIDENTIAL SINGLE-FAMILY (R-19)	0	0%	0
RESIDENTIAL SINGLE-FAMILY (R-20)	0	0%	0
RESIDENTIAL SINGLE-FAMILY (R-21)	0	0%	0
RESIDENTIAL SINGLE-FAMILY (R-22)	0	0%	0
RESIDENTIAL SINGLE-FAMILY (R-23)	0	0%	0
RESIDENTIAL SINGLE-FAMILY (R-24)	0	0%	0
RESIDENTIAL SINGLE-FAMILY (R-25)	0	0%	0
RESIDENTIAL SINGLE-FAMILY (R-26)	0	0%	0
RESIDENTIAL SINGLE-FAMILY (R-27)	0	0%	0
RESIDENTIAL SINGLE-FAMILY (R-28)	0	0%	0
RESIDENTIAL SINGLE-FAMILY (R-29)	0	0%	0
RESIDENTIAL SINGLE-FAMILY (R-30)	0	0%	0
RESIDENTIAL SINGLE-FAMILY (R-31)	0	0%	0
RESIDENTIAL SINGLE-FAMILY (R-32)	0	0%	0
RESIDENTIAL SINGLE-FAMILY (R-33)	0	0%	0
RESIDENTIAL SINGLE-FAMILY (R-34)	0	0%	0
RESIDENTIAL SINGLE-FAMILY (R-35)	0	0%	0
RESIDENTIAL SINGLE-FAMILY (R-36)	0	0%	0
RESIDENTIAL SINGLE-FAMILY (R-37)	0	0%	0
RESIDENTIAL SINGLE-FAMILY (R-38)	0	0%	0
RESIDENTIAL SINGLE-FAMILY (R-39)	0	0%	0
RESIDENTIAL SINGLE-FAMILY (R-40)	0	0%	0
RESIDENTIAL SINGLE-FAMILY (R-41)	0	0%	0
RESIDENTIAL SINGLE-FAMILY (R-42)	0	0%	0
RESIDENTIAL SINGLE-FAMILY (R-43)	0	0%	0
RESIDENTIAL SINGLE-FAMILY (R-44)	0	0%	0
RESIDENTIAL SINGLE-FAMILY (R-45)	0	0%	0
RESIDENTIAL SINGLE-FAMILY (R-46)	0	0%	0
RESIDENTIAL SINGLE-FAMILY (R-47)	0	0%	0
RESIDENTIAL SINGLE-FAMILY (R-48)	0	0%	0
RESIDENTIAL SINGLE-FAMILY (R-49)	0	0%	0
RESIDENTIAL SINGLE-FAMILY (R-50)	0	0%	0
RESIDENTIAL SINGLE-FAMILY (R-51)	0	0%	0
RESIDENTIAL SINGLE-FAMILY (R-52)	0	0%	0
RESIDENTIAL SINGLE-FAMILY (R-53)	0	0%	0
RESIDENTIAL SINGLE-FAMILY (R-54)	0	0%	0
RESIDENTIAL SINGLE-FAMILY (R-55)	0	0%	0
RESIDENTIAL SINGLE-FAMILY (R-56)	0	0%	0
RESIDENTIAL SINGLE-FAMILY (R-57)	0	0%	0
RESIDENTIAL SINGLE-FAMILY (R-58)	0	0%	0
RESIDENTIAL SINGLE-FAMILY (R-59)	0	0%	0
RESIDENTIAL SINGLE-FAMILY (R-60)	0	0%	0
RESIDENTIAL SINGLE-FAMILY (R-61)	0	0%	0
RESIDENTIAL SINGLE-FAMILY (R-62)	0	0%	0
RESIDENTIAL SINGLE-FAMILY (R-63)	0	0%	0
RESIDENTIAL SINGLE-FAMILY (R-64)	0	0%	0
RESIDENTIAL SINGLE-FAMILY (R-65)	0	0%	0
RESIDENTIAL SINGLE-FAMILY (R-66)	0	0%	0
RESIDENTIAL SINGLE-FAMILY (R-67)	0	0%	0
RESIDENTIAL SINGLE-FAMILY (R-68)	0	0%	0
RESIDENTIAL SINGLE-FAMILY (R-69)	0	0%	0
RESIDENTIAL SINGLE-FAMILY (R-70)	0	0%	0
RESIDENTIAL SINGLE-FAMILY (R-71)	0	0%	0
RESIDENTIAL SINGLE-FAMILY (R-72)	0	0%	0
RESIDENTIAL SINGLE-FAMILY (R-73)	0	0%	0
RESIDENTIAL SINGLE-FAMILY (R-74)	0	0%	0
RESIDENTIAL SINGLE-FAMILY (R-75)	0	0%	0
RESIDENTIAL SINGLE-FAMILY (R-76)	0	0%	0
RESIDENTIAL SINGLE-FAMILY (R-77)	0	0%	0
RESIDENTIAL SINGLE-FAMILY (R-78)	0	0%	0
RESIDENTIAL SINGLE-FAMILY (R-79)	0	0%	0
RESIDENTIAL SINGLE-FAMILY (R-80)	0	0%	0
RESIDENTIAL SINGLE-FAMILY (R-81)	0	0%	0
RESIDENTIAL SINGLE-FAMILY (R-82)	0	0%	0
RESIDENTIAL SINGLE-FAMILY (R-83)	0	0%	0
RESIDENTIAL SINGLE-FAMILY (R-84)	0	0%	0
RESIDENTIAL SINGLE-FAMILY (R-85)	0	0%	0
RESIDENTIAL SINGLE-FAMILY (R-86)	0	0%	0
RESIDENTIAL SINGLE-FAMILY (R-87)	0	0%	0
RESIDENTIAL SINGLE-FAMILY (R-88)	0	0%	0
RESIDENTIAL SINGLE-FAMILY (R-89)	0	0%	0
RESIDENTIAL SINGLE-FAMILY (R-90)	0	0%	0
RESIDENTIAL SINGLE-FAMILY (R-91)	0	0%	0
RESIDENTIAL SINGLE-FAMILY (R-92)	0	0%	0
RESIDENTIAL SINGLE-FAMILY (R-93)	0	0%	0
RESIDENTIAL SINGLE-FAMILY (R-94)	0	0%	0
RESIDENTIAL SINGLE-FAMILY (R-95)	0	0%	0
RESIDENTIAL SINGLE-FAMILY (R-96)	0	0%	0
RESIDENTIAL SINGLE-FAMILY (R-97)	0	0%	0
RESIDENTIAL SINGLE-FAMILY (R-98)	0	0%	0
RESIDENTIAL SINGLE-FAMILY (R-99)	0	0%	0
RESIDENTIAL SINGLE-FAMILY (R-100)	0	0%	0

- LEGEND**
- PROPOSED ROADS
  - ALL RESIDENTIAL USES LISTED IN THE "USE SCHEDULE" ARE PERMITTED, EXCEPT MULTI-FAMILY
  - ALL RESIDENTIAL USES LISTED IN THE "USE SCHEDULE" ARE PERMITTED, EXCEPT ASSISTED LIVING FACILITIES
  - ALL RESIDENTIAL USES LISTED IN THE "USE SCHEDULE" ARE PERMITTED
  - CONSERVATION AREA
  - RECREATION/AMENITIES/CLUBHOUSE
  - LAKES
  - LI
  - COMMERCIAL AREA

Exhibit "A"

## Exhibit "B"

### Phasing Schedule

<u>Proposed Phase</u>	<u>Use</u>	<u>Quantity</u>
I -1989 - <del>2013</del> <u>2017</u>	Detached Single Family Dwellings	770 du
	Zero Lot Line Villas	134 du
	Townhouses	134 du
	Sales Center <sup>(2)</sup>	3450,sq. ft.
	Commercial Uses <sup>(1)</sup>	9,000sq. ft.
	Golf Courses/Clubhouses (36 holes)	247acres
II - 2013-2017	Detached Single Family Dwellings	850 du.
	Zero Lot Line Villas	406 du
	Townhouses	406 du
	Sales Center <sup>(2)</sup>	3,450sq. ft.
	Commercial uses <sup>(1)</sup>	3,000sq. ft.

<sup>(1)</sup> Commercial uses will be located in the clubhouses.

<sup>(2)</sup> The Sales Center use will be moved when Phase 1 approaches buildout

Exhibit "B - 1"

Development Program

<u>Development</u>	<u>Use</u>	<u>Quantity</u>	<u>ITE Land Use Code <sup>(1)</sup></u>
<u>Herons Glen</u>	<u>Residential</u>	<u>1,300 d.u. <sup>(2)</sup></u>	<u>Adult Retirement Community <sup>(3)</sup></u>
	<u>Retail <sup>(4)</sup></u>	<u>12,000 sq. ft.</u>	<u>820</u>
	<u>Golf</u>	<u>18 holes</u>	<u>430</u>
<u>Magnolia Landing</u>	<u>Single Family Detached</u>	<u>850 d.u.</u>	<u>210</u>
	<u>Multifamily <sup>(3) (5)</sup></u>	<u>550 d.u.</u>	<u>230</u>
	<u>Total</u>	<u>1,400 d.u.</u>	
	<u>Retail <sup>(3) (4,6)</sup></u>	<u>16,100 sq. ft.</u>	<u>820</u>
	<u>Golf</u>	<u>18 holes</u>	<u>430</u>

Footnote:

- (1) For traffic purposes, considered at lower retirement community / mobile home trip rate.
- (2) Located internal to the development.
- (3) Zero lot line villas and townhouses.
- (1) Institute of Transportation Engineers land use codes per Trip Generation Manual.
- (2) For traffic purposes, considered at lower retirement community / mobile home trip rate.
- (3) Original adult retirement community trip rate of 4.8 external trips per unit, per day.
- (4) Located internal to the development. Maximum of 24,000 sq. ft. within the entire DRI.
- (5) Zero lot line villas and townhouses.
- (6) While the traffic study considered the retail to be 16,100 sq. ft. resulting in a total of 28,100 sq. ft. for the DRI, the maximum retail square footage within the entire DRI is limited to 24,000 sq. ft.

Exhibit "C"

**Red-cockaded Woodpecker (*Picoides borealis*)  
Monitoring and Management Plan  
for  
Herons Glen DRI**

**August 2012  
Revised January 2013**

*Prepared for:*  
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*Prepared by:*  
**JOHNSON**  
**ENGINEERING**  
ENGINEERS, SURVEYORS, PLANNERS AND ECOLOGISTS  
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## 1.0 INTRODUCTION

This document serves to revise the red-cockaded woodpecker (RCW) monitoring and management plan for the Herons Glen Development of Regional Impact (DRI) and supersedes the document titled "*Revised Red Cockaded Woodpecker Monitoring and Management Plan for Herons Glen DRI (f.k.a Del Vera, Villages of Nantucket, and Del Tura North DRI); Lee County, Florida, July 2000*" (WilsonMiller, Inc. 2000). Revisions contained herein are related to Red-cockaded Woodpecker (RCW) Preserve reconfigurations and the addition of new preserve on adjoining property to be incorporated into the DRI.

Herons Glen (formerly known as Del Tura North) was a  $\pm 1,151$  acre DRI (#6-8687-77) located in the unincorporated area of North Fort Myers, in Sections 2 through 5, Township 43 South, Range 24 East in Lee County, Florida. The Herons Glen DRI (f.k.a. Del Tura North) was issued in 1988 and authorized a golf course, 2,700 residential units, and commercial uses.

During initial DRI review, RCWs were observed using the northeast portion of the centrally located upland and hydric pine flatwoods on the property. The DRI required annual RCW surveys be conducted on the property; established an RCW Preserve over the centrally located pine flatwoods; and stipulated activities necessary to manage the RCW Preserve for the benefit of RCWs.

As of 2005, the project development was limited to the golf course, clubhouse, pro shop, and 849 platted lots. To use the remaining residential units authorized under the existing DRI, the owner submitted a "Notice of Proposed Change (NOPC)" to incorporate additional property into the Herons Glen DRI. The additional property includes  $\pm 418$  acres adjacent to the existing DRI located in Sections 2, 3, 4, 10, and 11, Township 43 South, Range 24 East, Lee County, Florida. As part of the NOPC, the owner has made a request to reconfigure the RCW Preserve boundary by removing acreage from two areas of the existing Preserve (-11.65 acres) and adding acreage to other areas of the existing Preserve (+11.73) within the DRI, as well as adding 11.66 acres of RCW preserve on the proposed addition property (West Addition Parcel). The West Addition Parcel is located immediately south of and contiguous with the existing RCW Preserve. The net result of the reconfiguration will be an addition of 11.74 acres of RCW Preserve.



## 2.0 PROJECT HISTORY

The "*Revised Red-cockaded Woodpecker Monitoring and Management Plan for Del Vera and Villages of Nantucket (formerly Del Tura North DRI), Lee County, Florida*" (Conservation Consultants, Inc. 1992), was approved via the Second Development Order Amendment for Herons Glen (f.k.a. Del Vera) (County Case #88-3-18-DRI(d), ZON3300/24-May-1993). Per this Plan, the RCW Preserve is comprised of the upland and hydric pine flatwoods that are centrally located in the DRI and encompass approximately 204.35 acres in size. During the Year 2000 RCW survey of the property, three cavity trees were documented outside and east of the preserve along the south property boundary. In 2001, the approved Notice of Proposed Change incorporated the "*Revised Red Cockaded Woodpecker Monitoring and Management Plan for Herons Glen DRI (f.k.a Del Vera, Villages of Nantucket, and Del Tura North DRI); Lee County, Florida, July 2000*" (WilsonMiller, Inc. 2000). The 2000 Plan increased the RCW Preserve by approximately 5.76 acres to incorporate buffer areas around Cavity Trees #26 and #39 and RCW Start Hole Tree 33 east of the central RCW Preserve along the south property boundary.

Between the Year 2000 and Year 2001 RCW Surveys, the southeast region of the Herons Glen property was burned by a wildfire. As a result of the wildfire, both Cavity Trees #26 and #39 died. Start Hole Tree #33 remained alive; however, no new RCW activity had been documented at the tree since the Year 2000 Survey. Coordination with Mr. Ralph Costa, former RCW Recovery Coordinator for U.S. Fish and Wildlife Service (USFWS), occurred in 2004 and involved the designation of Cavity Trees #26, #33, and #39 as "abandoned" and the installation of Copeyon technique drilled artificial RCW cavities. Two Copeyon technique drilled cavities were required by USFWS, however, 3 were installed. The drilled (artificial) cavities were created in slash pine trees in the southeast quadrant of the central RCW Preserve and are identified as Cavity Trees #44AR, #45AR, and #46 AR.

In 2005, coordination with USFWS and Florida Fish and Wildlife Conservation Commission (FWC) occurred to obtain approval to remove the ±5.76 acres of circular preserves east of the central RCW Preserve along the south property boundary. In exchange for the preserve areas removed, new RCW Preserve elsewhere in the Herons Glen DRI was added. The new preserve included an area formerly designated as "RO" between the northeast quadrant of the

central RCW Preserve and freshwater wetland, forested upland buffers surrounding the freshwater marsh in the northeast corner of the property, and the forested upland buffers surrounding the freshwater marshes in the southeast corner of the property. The RCW Preserve exchange was approved via the "Third Development Order Amendment for Herons Glen (Formerly Del Vera)".

Per the Third Development Order Amendment, the approved RCW Preserve totals ±210.11 acres and is comprised of hydric pine flatwoods, upland pine flatwoods, and a freshwater marsh (in the central RCW Preserve). The central RCW Preserve is predominantly comprised of hydric pine flatwoods that have a moderate to open canopy of slash pine (*Pinus elliottii*) with an understory of wetland and transitional species of graminoides and herbs, such as flatsedge (*Cyperus odoratus*), St. John's Wort (*Hypericum galioides*), broom sedge (*Andropogon virginicus*), white-top sedge (*Dichromena colorata*), bog buttons (*Lachnocaulon anceps*), goldenrod (*Solidago spp.*), and swamp fern (*Blechnum serrulatum*). Typically, the midstory in this habitat is open, vegetated by scattered wax myrtle (*Myrica cerifera*).

The upland pine flatwoods in the central RCW Preserve and the upland pine flatwoods that surround the freshwater marshes in the northeast and southeast portions of the site are forested with saw palmetto (*Serenoa repens*) in their understory. This category is dryer than the hydric pine community and is characterized by a more developed overstory of slash pine. The understory also includes herbaceous areas with panic grasses (*Panicum spp.*). Other characteristic species include wax myrtle, broom sedge, gallberry (*Ilex glabra*), pennyroyal (*Piloblephis rigida*), and *Lyonia spp.*

Management activities (exotic/invasive species removal and maintenance, prescribed fire, and slash pine plantings) ensure the Preserve is maintained in its natural state with habitat suitable for RCWs. Management of the Preserve for the benefit of RCWs is required in previous DRI and Development Order approvals, the site's Environmental Resource Permit, and conditions of the conservation easement under which they are preserved.

Since RCW presence was determined in the central hydric slash pine community of the site in the early 1990s, 49 cavity trees (inclusive of 39 cavities and 10 start holes) have been recorded on the site. Twenty-four (24) of the trees have died, fallen over time, or were

removed per USFWS and FWC approvals (Trees #26, #33, and #39) in 2004. Of the remaining 13 live trees, the cavities in 6 of the trees have been enlarged and are no longer suitable for RCW use, 3 cavities have been usurped by other birds, and 4 have been inactive for 5 consecutive years (2003 – 2007) and are considered abandoned as of 2008. There are currently no active RCW cavity trees within the RCW Preserve.

One clan of approximately 6 birds had been present in the RCW Preserve in 2002. In 2003, only a solitary male (determined from its plumage and foraging habits) and 1 active RCW cavity (that was usurped by a red-bellied woodpecker) were observed in the Preserve. Per conversations with Mr. Ralph Costa, former USFWS RCW Recovery Coordinator, use of the site by a solitary male bird is typical when the male of a clan breeding pair dies. The female typically disperses in search of a new mate and a solitary male will remain in the territory and attempt to attract a female (*Ralph Costa, 2003 and 2004*). This is likely what occurred between the 2002 and 2003 surveys of the site.

In response to the request to modify the RCW preserve (remove acreage in exchange for the addition of acreage) and alter the monitoring, USFWS again reviewed RCW use and Preserve conditions in December of 2008. In the USFWS letter dated December 19, 2008, USFWS considered the Preserve to be abandoned by RCWs. USFWS also concluded the proposed action to develop a portion of the RCW preserve, add other habitat to the preserve, and alter the monitoring schedule is not likely to adversely affect the RCW. The USFWS findings were contingent on the condition that an RCW survey (done according to current USFWS RCW survey protocol) be conducted within one year prior to the initiation of any clearing or construction within the area to be removed from the Preserve.

### **Previous Surveys**

Information pertaining to the original RCW survey methods and results has been deleted from this document since it is no longer current. The reader is referred to the “Project History” section of this Plan and the annual RCW monitoring reports for the Herons Glen DRI for more current information regarding RCW activity of the site.

### 3.0 PRESERVE RECONFIGURATION

Figure 1 "RCW Exhibit" depicts the revised RCW Preserve configuration (220.94 acres). Figure 2 "RCW Preserve Modifications" identifies the existing RCW Preserve configuration (209.20 acres), areas proposed to be removed from the Preserve within the existing DRI (11.65 acres), areas proposed to be added to the Preserve within the existing DRI (11.73 acres), and areas proposed to be added contiguous with the existing RCW Preserve on the proposed addition property (11.66 acres). The reconfiguration will result in 209.28 acres of RCW Preserve within the existing DRI boundary plus an 11.66-acre southerly expansion of the central RCW Preserve on the contiguous West Addition Parcel for a grand total of 220.94 acres of reconfigured RCW Preserve.

The proposed 11.66-acre RCW Preserve expansion area on the West Addition Parcel is generally comprised of hydric pine flatwoods with varying degrees of coverage by melaleuca (*Melaleuca quinquenervia*). This area includes an inactive RCW cavity tree (the other inactive RCW cavity tree identified in the Protected Species Surveys of the site has died). Enhancement is proposed within the 11.66-acre RCW Preserve expansion area via removal of exotic and nuisance vegetation and installation of supplemental native plantings. The area will then be managed as indicated in Section 5 of this RCW Monitoring and Management Plan.

### 4.0 MANAGEMENT AREA DESIGNATIONS

#### 4.1 Management Area Preserve

As delineated in Figure 3, the RCW Preserve is predominantly comprised of hydric pine flatwoods ( $\pm 195.47$  acres). The hydric pine flatwoods includes the habitat east of the existing Water Reclamation Facility, the  $\pm 0.59$ -acres western portion of Wetland D (along the west boundary of the southeast segment of the community), the central RCW Preserve except for the existing roadway access across the Preserve (north and south road crossings) to Phase I-B and Phase II of the development, and the southerly expansion of the Preserve on the West Addition property. An additional 25.47 acres of other habitat types (upland pine flatwoods, freshwater marsh, and pine planting

areas) are also included in the RCW preserve, as supplement to the adjacent hydric pine habitat.

The RCW Preserve is managed to maintain the habitat for use by RCWs. Currently, the RCW Preserve contains 13 live trees with cavities, however, the cavities in 6 of the trees have been enlarged and are no longer suitable for RCW use, 3 cavities have been usurped by other birds, and 4 have been inactive for 5 consecutive years (2003 – 2007) and are considered abandoned as of 2008.

#### **4.2 Other Retained Pineland**

Other pineland to be retained on site is found within buffers, golf course, open space and other preserved transition pine flatwoods.

### **5.0 MAINTENANCE OF THE RCW PRESERVE**

The maintenance objectives for the management area are to provide for the continued on-site existence of suitable foraging and nesting habitat for RCWs. In general, habitat preferred by the RCW in Southwest Florida includes a diversity of slash pine stand age and condition. Additionally, colonies are typically found in open stands with sparse midstories. Thus, maintenance of the management area will employ techniques that retain existing stands of older slash pine, encourage regeneration of slash pine (but not at high density) and minimize development of midstory vegetation within the colony, e.g., hardwoods, wax myrtle. The Preserve is maintained free of exotic and nuisance vegetation.

#### **5.1 Fire Maintenance**

The central RCW Preserve is divided into four management units (Northwest, Northeast, Southwest, Southeast) for purposes of fire maintenance. Prescribed fire in each management unit will occur every three to five years. For each intended burn, fire breaks will be created outside the wet season in an environmentally sensitive manner where cleared breaks do not already exist to insure fire containment within the management area. In no case will plowing for burn containment occur within 50 ft. of an active cavity tree. Also, for burns encompassing cavity tree areas, excessive leaf litter and other flammable debris will be hand removed from around the base of each

cavity tree (25' radius). Each burn of the northeast and southeast units will be planned to occur outside of the red-cockaded woodpecker nesting season. The burn plan for each unit will adhere to State and Federal guidelines for prescribed burns and any necessary burn permits will be secured from Lee County and the Florida Division of Forestry. The Lee County Division of Environmental Sciences, or its successor, will be notified in writing of each scheduled burn at least 15 days prior to the approved burn period.

## **5.2 Mechanical Methods**

Mechanical methods in other areas of the RCW Preserve may be necessary where prescribed fire can not be used. Mechanical methods include selective hand thinning/removal of vegetation. In the event burn management becomes unlawful or is judged unsafe at any time by Lee County or state fire officials, the previously described fire maintenance program will be replaced by mechanical methods. The frequency and sequencing of mechanical methods will be the same as for the burn program. Selective hand thinning/removal will be done in a manner that causes minimal damage to desirable native plants. If it is determined that red-cockaded woodpeckers reoccupy the preserve, selective hand thinning/removal will be conducted outside the red-cockaded woodpecker nesting season.

## **5.3- Exotic and Invasive Species Management**

*Melaleuca* in the RCW Preserve was eradicated and controlled in accordance with procedures specified in the "Revised Wetlands Management Plan for the Herons Glen DRI (July 2000)" (WilsonMiller, Inc. 2000) and in accordance with the South Florida Water Management District (SFWMD) Permit (36-01396-S) for the site. Exotic and invasive vegetation in the new Preserve areas will be removed and maintained in accordance with the July 2000 Management Plan and will be eradicated per the SFWMD Permit for the site.

## **5.4 Pine Planting**

Planting of South Florida slash pine occurred within the 2.0 acre restoration area (where a fill road was removed and the area was restored to wetland grade).

Enhancement of new preserve areas will occur via exotic and invasive species removal and planting of South Florida slash pine and other native vegetation in accordance with the SFWMD Permit. Areas added to the Preserve with sparse or no slash pine will be planted with 7' – 10' tall trees on 20' centers. Native herbaceous species will also be planted in these areas in accordance with the SFWMD Permit.

## 6.0 MONITORING

**Vegetation Monitoring** - South Florida slash pines were planted in the roadway mitigation area in early 2000 and the plantings were deemed successful by SFWMD. A monitoring program will be implemented according to SFWMD protocol to assess survival and establishment of planted slash pine and other vegetation in the new RCW Preserve areas. Monitoring will include an assessment of the percent cover of native and exotic/invasive vegetation in three strata (canopy, subcanopy, and groundcover), estimated percent survival of planted vegetation, and wildlife usage. Maintenance of exotic and invasive species will be conducted as described in the "Revised Wetlands Management Plan for the Herons Glen DRI (July 2000)" and per the conditions of the site SFWMD permit.

**RCW Monitoring** – Annual monitoring of the RCW Preserve has occurred since 1999 with the Year 2004 monitoring event documenting the initial year RCWs abandoned the Preserve. The abandonment was documented over 5 consecutive years (2004, 2005, 2006, 2007, and 2008). In accordance with USFWS's determination, altering the RCW monitoring of the Preserve is not likely to adversely affect the RCW, therefore, annual monitoring of the Preserve is not required. A portion of the existing RCW preserve is proposed to be removed from the preserve and developed. In accordance with USFWS's review of the preserve modification, an RCW survey will be conducted within one year prior to the initiation of any clearing or construction within the portion of the preserve proposed to be removed. Any evidence of RCWs, by direct observation or active cavity trees, during the pre-construction survey will require a new USFWS analysis of the effects of the development on the RCW preserve.

The monitoring will be done in accordance with current USFWS RCW survey protocol. Generally, pedestrian transects will be conducted to assess the presence of RCWs , or

indications of their presence, e.g., cavities, starter holes, resin wells, feeding marks, or their lack of presence in the preserve. For the survey, a system of north-south or east-west transects spaced to assure adequate visibility of cavities (approximately 80' – 100' apart) will be walked. In areas of dense canopy or midstory, the spacing of survey transects shall be closer to insure adequate visual coverage. All monitoring will be conducted by a qualified biologist.

A report will be prepared to summarize the result of the monitoring. The report will include the following:

- A description of the methods used for each survey component including dates of survey;
- A tabulation of cavity trees and their activity status;
- Any signs of use by RCWs; and
- A map that shows the locations and activity status of RCW cavity trees.

The report of monitoring results will be submitted to Lee County Division of Environmental Sciences (or its successor), Southwest Florida Regional Planning Council (SWFRPC), and the FWC.

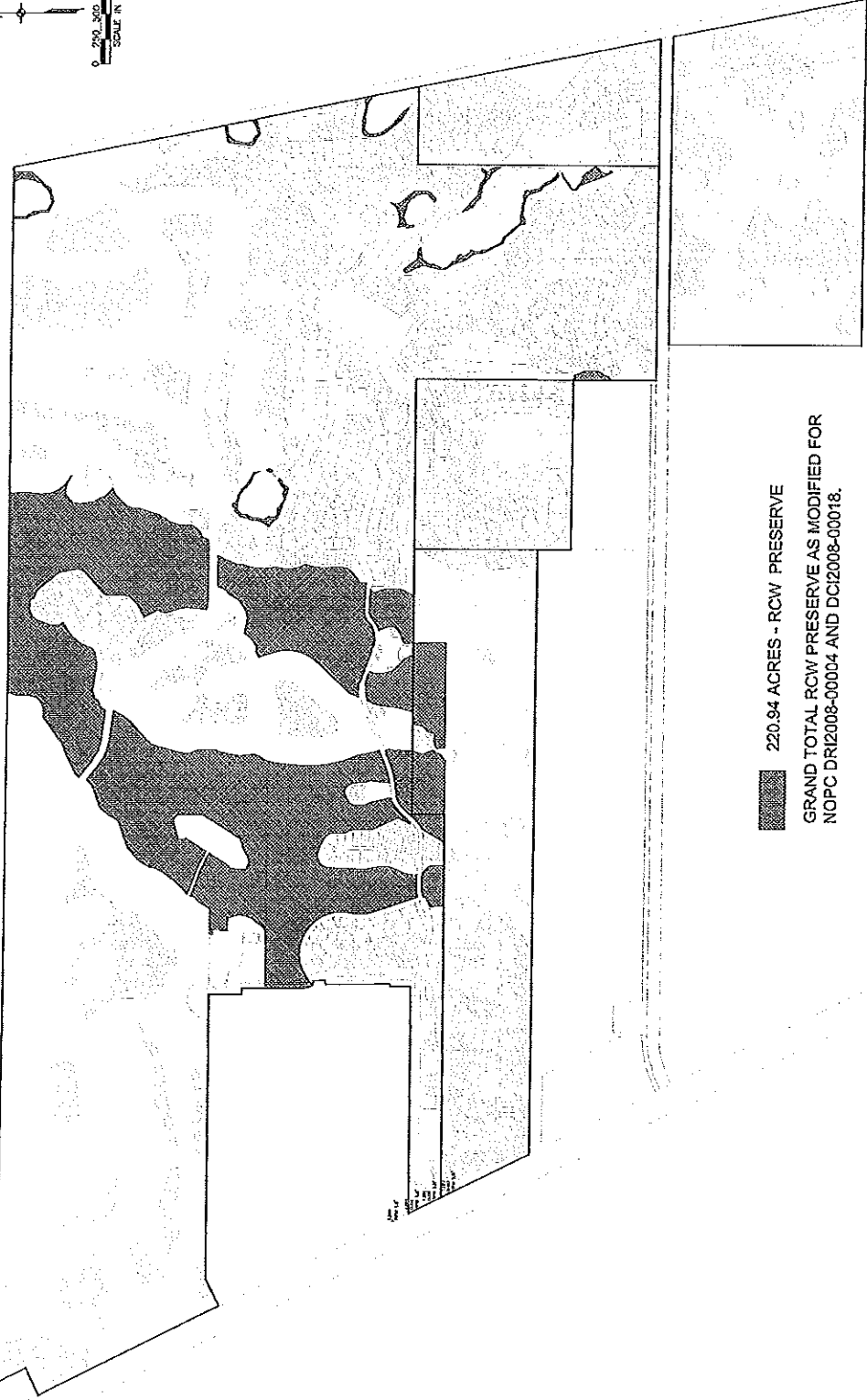
## **7.0 PROVISIONS**

Reconfiguration of the RCW Preserve or wetland area will be reviewed in accordance with F.S. 380.06(19).



**FIGURE 1**  
**RCW EXHIBIT**

DATE	BY	REVISED



220.94 ACRES - RCW PRESERVE  
GRAND TOTAL RCW PRESERVE AS MODIFIED FOR  
NOPC DR12008-00004 AND DC12008-00018.

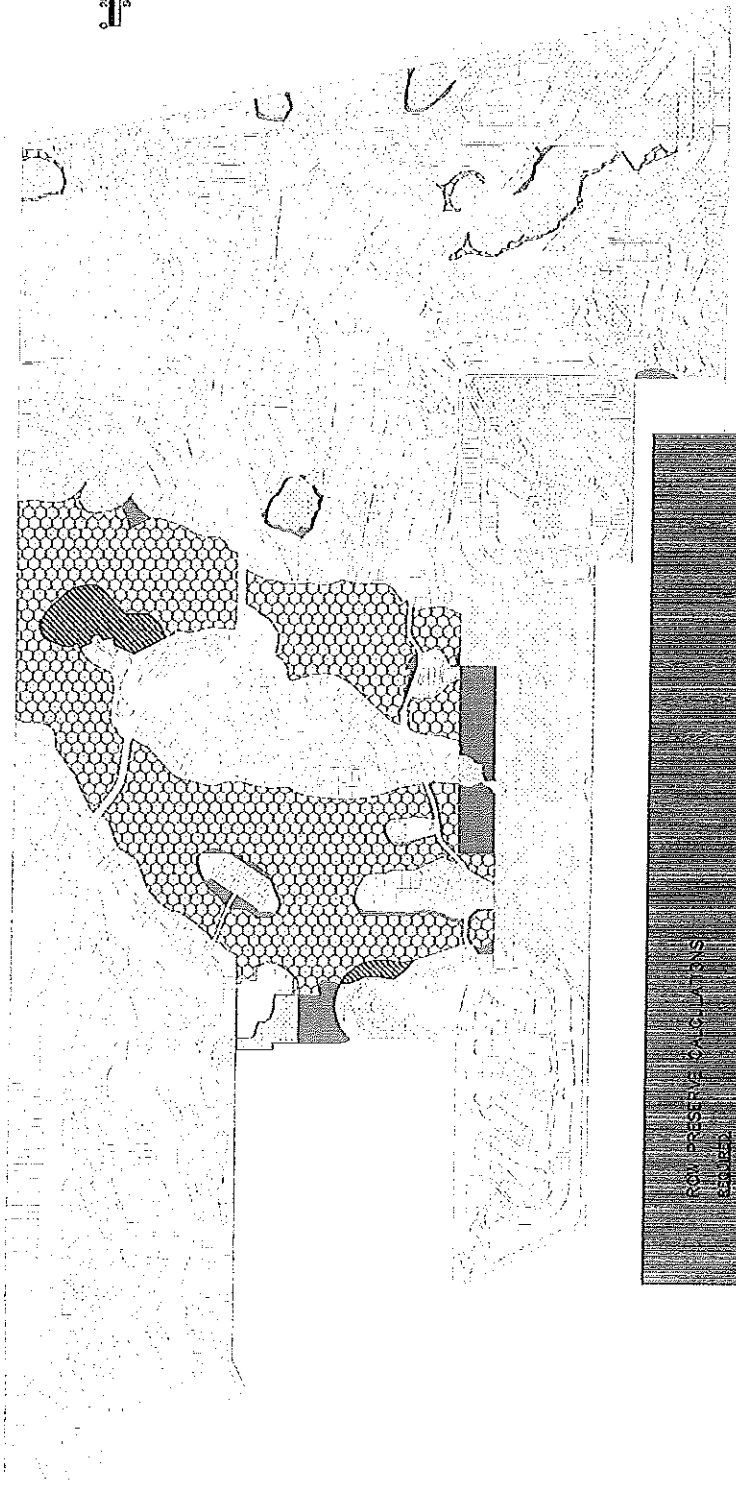
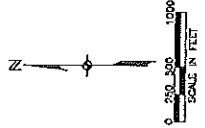
**FIGURE 2**

**RCW PRESERVE MODIFICATIONS**

NO.	DATE	DESCRIPTION
1	07/11/2011	ISSUED FOR PERMITS
2	07/11/2011	REVISED TO ADD EXISTING PROVISION ON BOUNDARY
3	07/11/2011	REVISED TO ADD EXISTING PROVISION ON BOUNDARY
4	07/11/2011	REVISED TO ADD EXISTING PROVISION ON BOUNDARY
5	07/11/2011	REVISED TO ADD EXISTING PROVISION ON BOUNDARY
6	07/11/2011	REVISED TO ADD EXISTING PROVISION ON BOUNDARY
7	07/11/2011	REVISED TO ADD EXISTING PROVISION ON BOUNDARY
8	07/11/2011	REVISED TO ADD EXISTING PROVISION ON BOUNDARY
9	07/11/2011	REVISED TO ADD EXISTING PROVISION ON BOUNDARY
10	07/11/2011	REVISED TO ADD EXISTING PROVISION ON BOUNDARY

FIGURE 2  
RCW PRESERVE  
MODIFICATIONS

SHEET NUMBER  
**1**

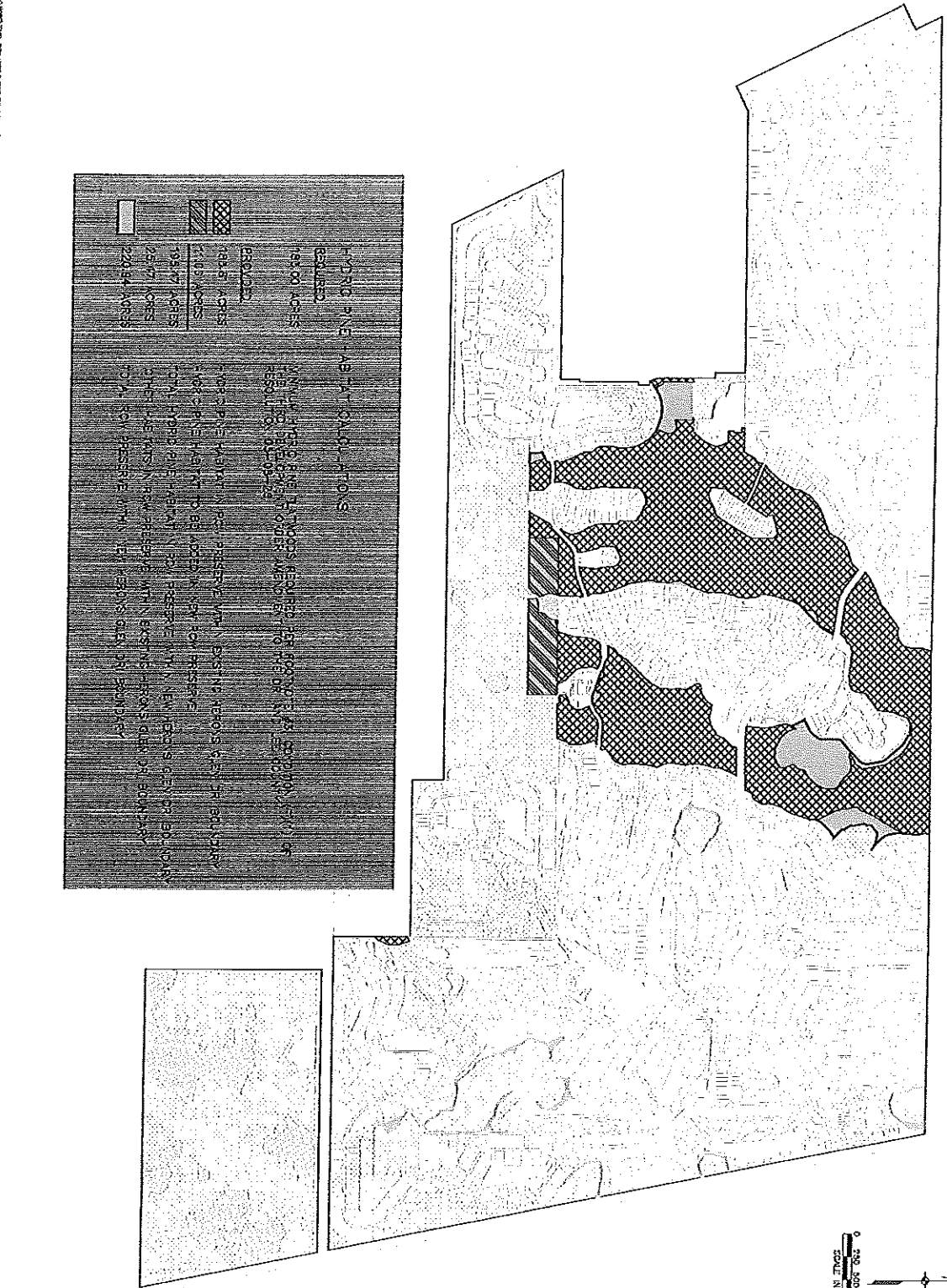


AREA	EXISTING RCW PRESERVE	EXISTING PROVISION ON BOUNDARY	TOTAL RCW PRESERVE MODIFIED WITHIN A RECORDABLE OF BOUNDARY
210 ACRES	210 ACRES	0 ACRES	210 ACRES
200 ACRES	200 ACRES	0 ACRES	200 ACRES
11.95 ACRES	11.95 ACRES	0 ACRES	11.95 ACRES
170 ACRES	170 ACRES	0 ACRES	170 ACRES
208.28 ACRES	208.28 ACRES	0 ACRES	208.28 ACRES
220.74 ACRES	220.74 ACRES	0 ACRES	220.74 ACRES

DATE PLOTTED: 07/11/2011 10:00:00 AM. PLOT SCALE: 1"=100'. PLOT AREA: 11.95 ACRES. PLOT PERIMETER: 1.11 MILES. PLOT AREA: 11.95 ACRES. PLOT PERIMETER: 1.11 MILES.

**FIGURE 3**

**HYDRIC PINE HABITAT WITHIN  
RCW PRESERVE**

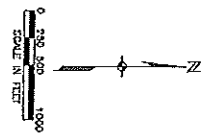


**HYDRIC PINE HABITAT CALIBRATIONS**

**LEGEND**

95.00 ACRES  
 114.00 ACRES  
 195.00 ACRES  
 224.00 ACRES

HYDRIC PINE HABITAT IN THE PRESENT AND FUTURE DESIGN AREAS WHICH ARE BEING PROPOSED TO BE RESTORED TO HYDRIC PINE HABITAT FOR THE PURPOSES OF THE HYDRIC PINE HABITAT RESTORATION PROGRAM. THE HYDRIC PINE HABITAT RESTORATION PROGRAM IS A RESTORATION PROGRAM FOR THE HYDRIC PINE HABITAT RESTORATION PROGRAM. THE HYDRIC PINE HABITAT RESTORATION PROGRAM IS A RESTORATION PROGRAM FOR THE HYDRIC PINE HABITAT RESTORATION PROGRAM.



1

FIGURE 3  
 HYDRIC PINE  
 HABITAT WITHIN  
 RESTORATION  
 EXHIBIT

DATE	DESCRIPTION	BY

MAGNOLIA LANDING  
 Lee County, Florida

**JOHNSON**  
 ENGINEERING  
 7701 GULF BLDG. #200  
 TAMPA, FL 33634  
 (813) 288-1111  
 www.johnson-engineering.com

**Exhibit D**

**REVISED WETLANDS MANAGEMENT PLAN FOR THE HERONS GLEN DRI  
(F.K.A DEL VERA, VILLAGES OF NANTUCKET, AND DEL TURA NORTH)**

**JULY 2000<sup>1</sup>**

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<sup>1</sup> Note: This Plan constitutes an amendment of the previously adopted Plan approved May 29, 1990. A copy of the strike-thru and underline version is available at the Department of Community Development. However, for ease of use and reference, the strike-thru and underline has been removed from this exhibit.

REVISED WETLANDS MANAGEMENT PLAN FOR THE HERONS GLEN  
DRI (f.k.a DEL VERA, VILLAGES OF NANTUCKET, DEL TURA NORTH)

July 2000

INTRODUCTION

The Del Tura North DRI (Del Vera) was approved by the Board of County Commissioners on April 25, 1988. Condition F.2 of that Development Order (DO) required the preparation of a Wetland Management Plan prior to the issuance of surface water management permits. Condition 2.d of Lee County Resolution No. Z-88-069 also required a plan for the removal of exotic vegetation. A wetland management plan incorporating exotic vegetation removal was prepared by Dr. Eric J. Heald in February of 1989 and approved by the County as part of their amended final DO on May 29, 1990. This plan addressed at a conceptual level the removal of exotic species, the maintenance of wetland hydroperiod and the creation of a shallow lake "refugia" within the central flow-way.

Subsequent to the approval of the Final Development Order and the Wetlands Management Plan, two Red Cockaded Woodpeckers (RCWs) were found on the site which triggered the requirement to revise the RCW Management Plan. In order to provide additional habitat and foraging areas for these birds, it was recommended by the Lee County staff that the proposed shallow lakes be eliminated from the Wetlands Management Plan. Additionally, more detail was requested on wetland hydroperiod maintenance, exotic vegetation control methods and success monitoring. Conservation Consultants, Inc. (CCI) subsequently prepared a document dated September 11, 1992 titled "*Amended Wetlands Management Plan for Del Vera and Villages of Nantucket (formerly Del Tura North)*". The CCI document amended the approved 1989 plan to reflect the requested change and provide additional detail on certain plan elements.

The purpose of this document is to further revise the exotic removal provisions of the Wetlands Management Plan. Such revisions are necessary due to a time delay in initiating exotic removal activities by the previous site owner. This delay resulted in the continued spread of *melaleuca* and continued degradation of habitat quality. Initiation and completion of the *melaleuca* removal methods described herein will result in compliance with the exotic eradication conditions of the DRI development order, the Lee County development order, and the South Florida Water Management District (SFWMD) permit. The proposed plan



is also be consistent with the RCW Management Plan for the project and will serve to substantially increase the quality of RCW habitat.

## 1.0 EXOTIC PLANT CONTROL

*Melaleuca* is the primary exotic invader species impacting the site. Invasion by this species ranges from scattered individuals to dense stands where native ground cover and shrub species have been largely excluded. However, belt transect surveys previously conducted by CCI within six dense *Melaleuca* stands in or adjacent to the northern area of central flow-way revealed mature pine tree (>4" DBH) densities similar to largely uninfested transition pine flatwoods in the same region of site. In May 1999, random transects were walked by Florida Environmental Incorporated (FEI) to assess the current conditions of preserve and wetland areas at Herons Glen. Over 50% of preserve areas were observed to have medium to heavy infestations of *Melaleuca*. Given the general low density of desirable understory and ground cover vegetation within the areas of medium to heavy infestation, it would be appropriate to consider the use of mechanical reduction equipment as one part of the overall eradication program.

The program for short- and long-term control of both scattered, individual *Melaleuca* within wetland preserves and identified dense stands are described below.

*Melaleuca* and other exotics within development areas, road right-of-way, golf course and open space will be removed at the time of site development and control will be accomplished as part of routine landscape and golf course maintenance.

### 1.1 Short-Term Program

The objective of the short-term program will be to eliminate the majority of the mature "seed source" *Melaleuca*. For stands in the vicinity of the RCW colony, the objective is to further eliminate the *Melaleuca* with minimal disturbance to remaining pines. Retaining mature pines while removing surrounding, dense *Melaleuca* infestations will immediately increase available RCW foraging areas.

#### 1.1.1 Initial Eradication in Medium to Heavy Infestation Areas

Dense stands of *Melaleuca* and other exotic species will be reduced in place using mechanized equipment (e.g., bush hog, Hydroaxe, or grinder/mower). It is estimated that mechanized equipment will be used in approximately 50% of the total acreage of the

preserves (*i.e.*, medium to heavy infestation areas). Mechanized equipment within the preserve areas would be limited to rubber tire or rubber track tractors to minimize impacts to the ground surface. In order to accomplish this goal, such operations will be conducted when there is no standing water (*i.e.*, during the dry season or during portions of the wet season when water levels are below ground). In order to minimize damage to native tree, shrub, and ground cover plant species, labor crews will work within drip lines of native trees greater than 3" in diameter in advance of mechanized equipment.

Labor crews will follow mechanical reduction operations, treating cut stumps with herbicide and girdling material larger than 6" in diameter. Herbicide treatment of the whole circle of cambium layer of cut stumps will occur within 48 hours. The herbicide solution will contain a dye to ensure that all stumps are adequately treated. Girdled material would be left standing as part of the initial eradication program. Herons Glen reserves the right to remove dead trees to improve the overall aesthetics of the project. Stands of *Melaleuca* less than 6" in diameter will be cut into 3 to 6-foot lengths and stacked in accordance with guidelines of the SFWMD. All cut material will be removed from areas located within 75 feet of the preserve boundary.

#### **1.1.2 Initial Eradication in Light to Medium Infestation Areas**

Hand removal methods for *Melaleuca* removal will be utilized in areas with light to medium infestation. These areas are estimated to occupy approximately 50% of the total acreage of the preserves. Labor crews will use chain saws (or machetes) to cut medium-sized trees by hand while smaller trees will be hand-pulled. Cut stumps will be treated with herbicide within 48 hours. The herbicide solution will contain a dye to ensure that all stumps are adequately treated. Trees larger than 6" in diameter will be girdled and left standing as part of the initial eradication program. Herons Glen would reserve the right to remove dead trees to improve the overall aesthetics of the project. All other material (trees <6" in diameter) will be cut into 3 to 6-foot lengths and stacked in accordance with guidelines of the SFWMD. All cut material will be removed from areas located within 75 feet of the preserve boundary.

Remaining portions of the site's Resource Protection Areas (RPAs) consist primarily of freshwater marshes located to the east of the central flow-way (Figure 1). The majority of these areas have light to medium infestation by *Melaleuca*. Removal methods in these areas will be identical to those described above for light to medium infestation areas.

### **1.1.3 Areas of Special Concern**

Care will be taken to avoid damage to existing pine trees >3" in diameter and to restrict operations within buffer zones around active or start-hole RCW cavity trees. A buffer zone with a radius of 100' will be established around each active or start-hole cavity tree and activities within this zone will be limited to hand removal operations (*i.e.* no mechanized equipment will be used). For inactive and abandoned RCW cavity trees, mechanized equipment will not be utilized inside of the drip line of the trees. During the RCW nesting season (April through June), no removal activities will be conducted within 700' of active RCW cavity trees.

A professional biologist retained by Herons Glen will verify the location of active RCW cavity trees and field delineate buffer areas around those trees. The reduction of *Melaleuca* within foraging areas of the RCW will improve the overall habitat quality for this species.

### **1.1.4 Implementation Schedule for Short-Term Eradication Program**

Implementation of the above-described short-term program within Herons Glen will be completed within one (1) year of approval of this revised plan. *[Note: Initial felling and herbicidal treatment of exotics was completed in the majority of wetland preserves of the site in mid-2000 following submittal of the initial draft of this Revised Wetlands Management Plan. Thus, most of the activities associated with the Short-Term Program, as described above, were already completed at the time of final approval of this revised plan].*

## **1.2 Long-Term Program**

The long-term program for *Melaleuca* control will have two elements: (1) semi-annual inspection/control events for all wetland preserves and upland habitat preserves for three consecutive years following completion of the short-term program; and (2) annual inspection/control events thereafter aimed at habitat maintenance. Additional habitat maintenance measures (e.g., prescribed burning) are also associated with the RCW management program (refer to the "*Revised Red-Cockaded Woodpecker Monitoring and Management Plan*" dated July 2000).

### **1.2.1 Semi-Annual Inspection and Control Events**

During the semi-annual inspection events, each of the areas previously exhibiting dense *Melaleuca* stands will be specifically visited to appraise re-invasion, *i.e.*, seedling establishment and/or sprouting. At the time of inspection or within thirty (30) days,

seedlings will be hand-pulled or cut and chemically treated. Re-sprouts will receive foliar treatment using an appropriate herbicide solution containing dye to ensure thorough coverage. Also, during each semi-annual event, the remaining wetland and upland preserves will be inspected and control performed in the same manner as described for the long-term program.

### **1.2.2 Annual Habitat Maintenance**

Starting the fourth year following completion of the short-term program, annual inspection and maintenance events will be conducted. Methods utilized to suppress and control the growth of exotics will be the same as cited above in Section 1.2.1. Long-term management objectives with respect to the RCW Preserve including fire and/or mechanical habitat maintenance, will also assist in prevention of *Melaleuca* and/or exotic plant species reinvasion. Further, the below described wetland hydroperiod maintenance efforts will contribute to long-term control of *Melaleuca* in wetland preserves.

## **2.0 WETLAND HYDROPERIOD MAINTENANCE**

Wetland hydroperiod maintenance will consist of the following:

### **2.1 Design Considerations**

The hydroperiod of preserved wetlands will be maintained or enhanced by incorporating the wetlands into the site's surface water management system. The system will use manmade lakes and the preserved freshwater marshes for stormwater detention and attenuation. The transition pine flatwoods will receive discharges from a portion of the surface water management system and continue to serve as "flow-ways".

The concepts for completing engineering design for the remainder of the site will be as described in surface water management permitting for Phase I-A of the project. Basically, the design concept is to set water control elevations for any outflows from or through wetlands to approximate wet season groundwater elevations.

### **2.2 Understory Control**

Freshwater marsh preserves have experienced variable encroachment by wax myrtle (*Myrica cerifera*) and dog fennel (*Eupatorium capillifolium*) in addition to some *Melaleuca* at their margins. Site observations also indicate that wax myrtle is a significant component in the transition pine flatwoods preserves.

Control or at least containment of the encroaching understory species within freshwater marshes will be aided by implementation of the previously described wetland hydroperiod maintenance concepts. Transition pine flatwoods preserves should also benefit from increased inputs of fresh water. Additionally, prescribed burns of the central flow-way in association with RCW habitat management will contribute to understory control.

### 3.0 MONITORING AND REPORTING

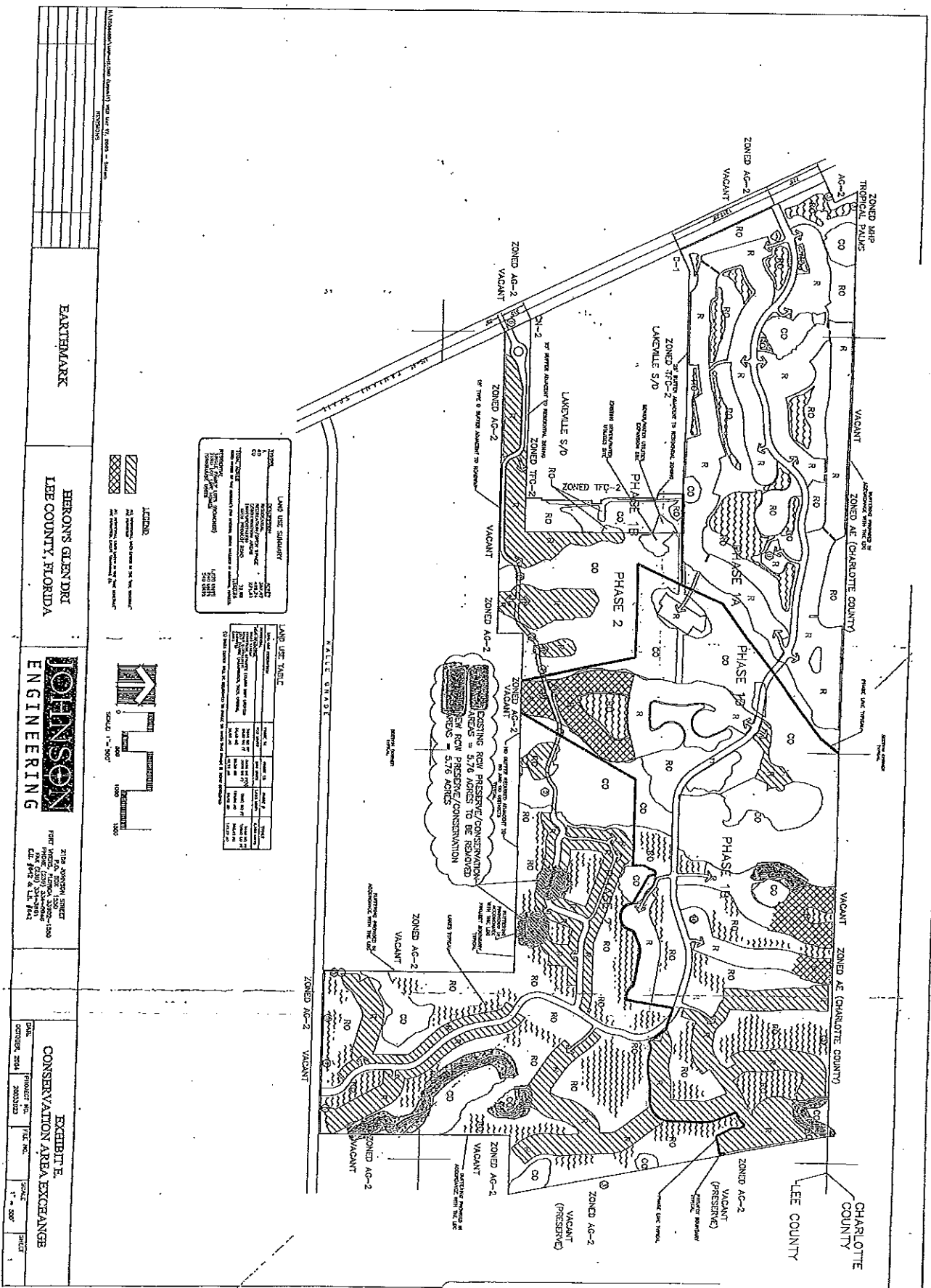
Monitoring and reporting requirements will consist of the following:

#### 3.1 Exotic Plant Control

A report of exotic plant control efforts will be submitted to the Lee County Division of Environmental Services, or its successor, within thirty (30) days following the completion of the short-term event and each long-term control event described above. Each monitoring report will contain the following:

- a) A map showing location of and identification number of each freshwater marsh preserve and each "dense *Melaleuca* stand" control area.
- b) Photographs from a fixed reference point following the control event at each site receiving control efforts.
- c) A brief narrative describing exotic plant re-invasions and control efforts at each photographed site.
- d) A narrative describing exotic plant re-invasion and control efforts for the remainder of the site (or Phase area as appropriate).

FIGURE 1



**EARTHMARK**

**HERON'S GLENDRI**  
LEE COUNTY, FLORIDA

**JOHNSON ENGINEERING**

2115 JOHNSON STREET  
FORT MYERS, FLORIDA 33901-1500  
TEL: 889-233-3333  
CEL: 889-233-3333

**EXHIBIT E**  
**CONSERVATION AREA EXCHANGE**

DATE	PROJECT NO.	FILE NO.	SHEET	TOTAL SHEETS
OCTOBER, 2004	2000023		1	1

**LAND USE STANDARDS**

ZONE	MINIMUM LOT AREA (SQ FT)	MINIMUM LOT WIDTH (FT)	MINIMUM FRONT YARD SETBACK (FT)	MINIMUM SIDE YARD SETBACK (FT)	MINIMUM REAR YARD SETBACK (FT)	MINIMUM FRONT SETBACK FROM ADJACENT PROPERTY (FT)	MINIMUM FRONT SETBACK FROM PUBLIC RIGHT-OF-WAY (FT)
AG-2	10,000	100	10	5	5	10	10
TRC-2	10,000	100	10	5	5	10	10
S/O	10,000	100	10	5	5	10	10

**LAND USE TABLE**

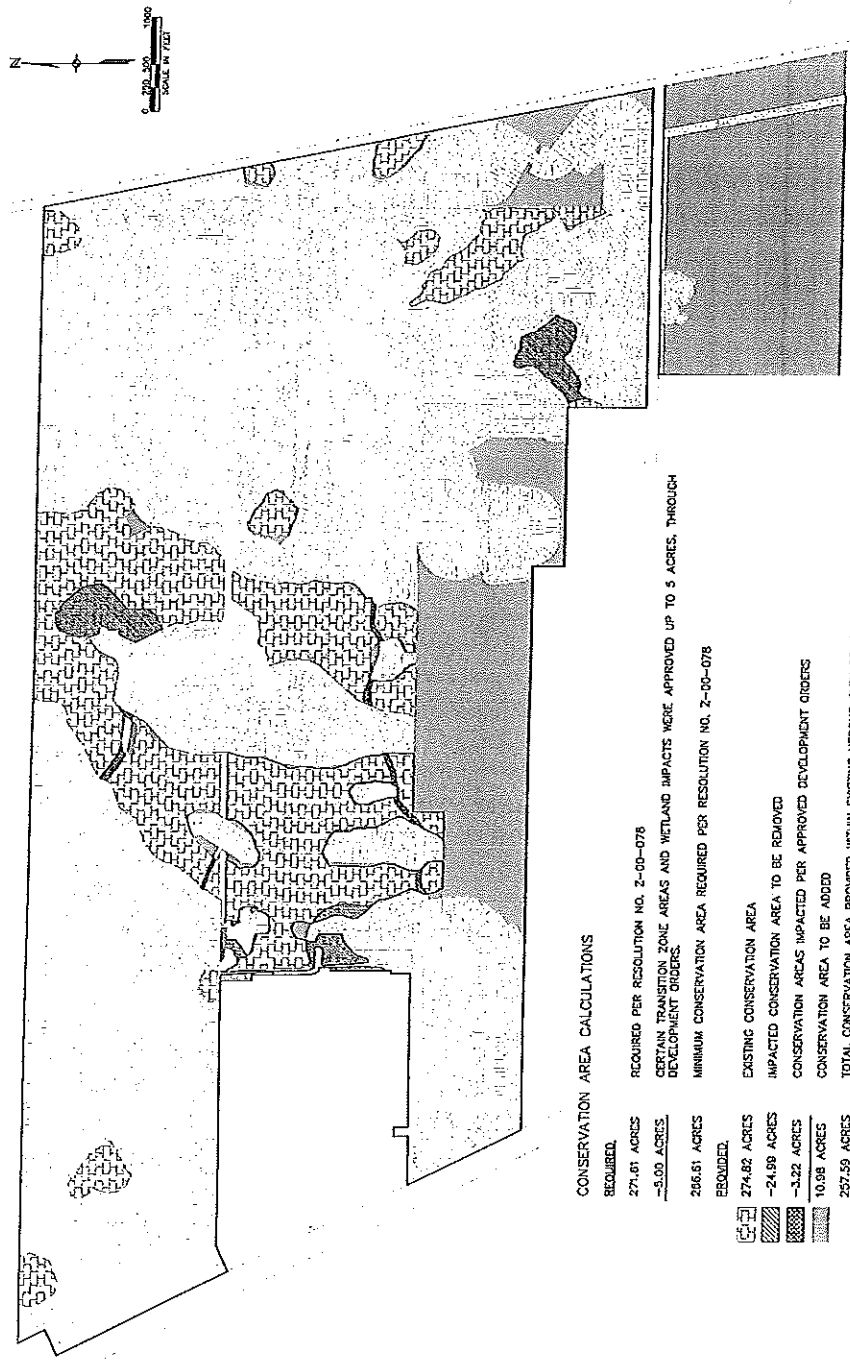
ZONE	MINIMUM LOT AREA (SQ FT)	MINIMUM LOT WIDTH (FT)	MINIMUM FRONT YARD SETBACK (FT)	MINIMUM SIDE YARD SETBACK (FT)	MINIMUM REAR YARD SETBACK (FT)	MINIMUM FRONT SETBACK FROM ADJACENT PROPERTY (FT)	MINIMUM FRONT SETBACK FROM PUBLIC RIGHT-OF-WAY (FT)
AG-2	10,000	100	10	5	5	10	10
TRC-2	10,000	100	10	5	5	10	10
S/O	10,000	100	10	5	5	10	10



EXHIBIT E

NO.	DATE	DESCRIPTION
1	08/11/2010	ISSUED FOR PERMIT
2	08/11/2010	REVISIONS
3	08/11/2010	REVISIONS
4	08/11/2010	REVISIONS
5	08/11/2010	REVISIONS
6	08/11/2010	REVISIONS
7	08/11/2010	REVISIONS
8	08/11/2010	REVISIONS
9	08/11/2010	REVISIONS
10	08/11/2010	REVISIONS

CONSERVATION  
AREA LAYOUT  
SHEET NO. 1



**CONSERVATION AREA CALCULATIONS**

<b>REQUIRED:</b>	
271.61 ACRES	REQUIRED PER RESOLUTION NO. 2-00-078
-5.00 ACRES	CERTAIN TRANSITION ZONE AREAS AND WETLAND IMPACTS WERE APPROVED UP TO 5 ACRES, THROUGH DEVELOPMENT ORDERS.
266.61 ACRES	MINIMUM CONSERVATION AREA REQUIRED PER RESOLUTION NO. 2-00-078
<b>PROVIDED:</b>	
274.82 ACRES	EXISTING CONSERVATION AREA
-24.98 ACRES	IMPACTED CONSERVATION AREA TO BE REMOVED
-3.22 ACRES	CONSERVATION AREAS IMPACTED PER APPROVED DEVELOPMENT ORDERS
10.98 ACRES	CONSERVATION AREA TO BE ADDED
267.59 ACRES	TOTAL CONSERVATION AREA PROVIDED WITHIN EXISTING HERONS GLEN DRG BOUNDARY
256.80 ACRES	CONSERVATION AREA TO BE ADDED IN NEW LANDS
314.48 ACRES	TOTAL CONSERVATION AREA PROVIDED WITHIN NEW HERONS GLEN DRG BOUNDARY

EXHIBIT F - DRI

Exhibit "F"