

BY Diane Lemaster  
DEPUTY CLERK

R E S O L U T I O N

NUMBER 92-62

A RESOLUTION APPROVING THE DEVELOPMENT ORDER FOR  
HARBORVIEW, A DEVELOPMENT OF REGIONAL IMPACT.

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

1. Pursuant to Section 380.06, Florida Statutes, the Board  
of County Commissioners of Charlotte County, Florida, has heard, at  
a public hearing convened on March 17, 1992, the application for  
development approval for Harborview Development of Regional Impact,  
which consists of approximately 408 acres to be developed in the  
manner described in the application filed by Eugene M. Grant and  
Co., Trustee, owner, for said development.

2. The Board of County Commissioners of Charlotte County has  
considered the report and recommendations of the Southwest Florida  
Regional Planning Council, the Charlotte County staff, the Planning  
and Zoning Board, the documents and comments upon the record made  
before the Board of County Commissioners of Charlotte County, and  
hereby makes the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

A. The Harborview site contains approximately 408 acres with  
current land use designations of residential and commercial use.  
The proposed land use designations are the same as the current  
ones, although areas of certain uses have been shifted, and the  
overall commercial areas have been increased. The site will be  
developed in three phases, as set forth in the Application for  
Development Approval with the following proposed land use  
breakdowns:

<u>Land Use</u>	<u>1992-1996 Phase One</u>	<u>1997-2001 Phase Two</u>	<u>2002-2006 Phase Three</u>
Commercial	312,180 (SF)	312,180 (SF)	312,180 (SF)
Office/Medical	156,090 (SF)	156,090 (SF)	156,090 (SF)
Residential (SF)	71 Units	71 Units	69 Units
Residential (MF)	339 Units	339 Units	338 Units

A Plan Amendment and rezoning have been approved by Charlotte County authorizing low-density residential, medium-density residential, high-density residential, commercial and preservation land uses, and designating RSF-5, RMF-10, OMI, CG and Preservation zoning classifications in the development. Office and commercial areas will be developed near I-75 and along the main roads within the development. Approximately 100 acres of the development will be preserved in their natural state. The balance of the property will be developed into single-family and multi-family housing. The legal description of the project and Master Development Plan (Map H) are attached hereto, designated as Exhibit "A", and incorporated by reference herein.

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

C. The development does not unreasonably interfere with the achievement of the objectives of an adopted state land development plan applicable to the area.

D. Upon meeting the conditions contained herein, the development will be consistent with the Charlotte County Comprehensive Plan and will be consistent with land development regulations at the time of development.

E. The development is consistent with the report and recommendations of the Southwest Florida Regional Planning Council (hereinafter SWFRPC) submitted pursuant to Subsection 380.06(11), Florida Statutes.

F. The development is consistent with the State Comprehensive Plan.

## II. CONCLUSIONS OF LAW

The Development of Regional Impact Application for Development Approval submitted on behalf of the Applicant, Eugene M. Grant and Co., Trustee, owner, is hereby ordered approved subject to the following conditions, restrictions, and limitations [the term "applicant" or "Applicant" as used herein shall include any successor or management entity hereinafter assigned or succeeding to the rights or obligations under this development order]:

### A. CONDITIONS

#### 1. Land

a. All practicable and necessary effort shall be taken during construction to control and prevent erosion and the transport of sediment to surface drains, surface water, or onto other property by any or all of the following methods:

1. Stormwater facilities are to be built as early in the construction phase as possible to ensure the treatment of stormwater runoff. Temporary erosion and sediment control measures, however, such as berms, sediment basins, grassing, sodding, sandbagging, baled hay or straw, floating silt barriers, stacked silt barriers, etc., must be provided and maintained until the permanent facilities are completed and operational.
2. Revegetation and stabilization of disturbed ground surfaces should be accomplished as soon as possible. Native vegetation shall be used to the extent possible.
3. Full compaction of any fill material placed around newly installed structures.
4. Prohibition of the use of any construction equipment that leaks excessive amounts of fuel, oil, or hydraulic fluid.

#### 2. Water/Drainage

a. The project shall require Southwest Florida Water Management District (hereinafter SWFWMD) permits for conceptual approval, construction and operation

of the surface water management system, and for any de-watering activities associated with the construction of lakes, roads or building foundations.

- b. The Applicant shall develop a detailed plan for the monitoring of surface and ground water within the Harborview Development of Regional Impact. Such plan shall be submitted within 30 days of approval of the final Development Order. Pre-construction monitoring shall be completed at least 30 days prior to any actual construction. Monitoring will be continued semi-annually during construction on the project, and will continue for two (2) years after all construction on the project is complete.
- c. Water control structures shall be installed as early in the construction process as practicable so as to prevent any over-drainage or flooding of preserved wetland areas.
- d. Any shoreline banks created along on-site storm-water wet detention lakes shall include littoral zones constructed on slopes no steeper than a 4:1 horizontal to vertical ratio and shall be planted in native emergent and submergent vegetation. The Applicant shall ensure, by supplemental replanting if necessary, that at least 80% cover by native aquatic vegetation is established within the littoral zone (to include at minimum the area between ordinary high-water and ordinary low-water) for the duration of the project.
- e. The Applicant shall establish deed restrictions and stipulations which require landowners within the Harborview Development of Regional Impact to comply with all requirements of the approved water management system permitted for the development.
- f. The Applicant shall conduct annual inspections of the surface water management system, wetlands, lakes and sloughs on the project site so as to ensure that these systems are being properly maintained in keeping with the approved surface water management plan, and that the systems are capable of accomplishing the level of stormwater storage and treatment for which they were designed and intended.
- g. Provisions for the drainage of off-site areas and out parcels that presently drain through the

project site must be provided at the time of permit application.

- h. The Applicant has indicated that exfiltration trenches may be used to meet the dry detention requirements for portions of the development. Such exfiltration trenches shall be designed to meet SWFWMD criteria in effect at the time of permit application.
- i. All project construction shall take place in accordance with SWFWMD requirements concerning setbacks from preserved wetland areas, proposed buffers, lakes and swale systems, so as not to affect the intended function of the surface water management system.
- j. The Applicant shall confirm, to the satisfaction of Charlotte County and SWFWMD staffs, that the proposed project control elevations and overall design will preserve the on-site and adjacent wetlands, including the maintenance of natural hydroperiods, and that County and SWFWMD preservation/mitigation criteria will be met.
- k. The Applicant, or owner of any individual commercial sites, shall undertake a regularly scheduled vacuum sweeping of all streets, sidewalks and parking facilities, to be incorporated as a best management practice, for all commercial development parcels.
- l. In areas adjacent to retail and office uses the Applicant shall provide at least one inch of dry treatment (retention or detention) in order to provide reasonable assurance that hazardous materials will not enter the surface water management system.
- m. The operation of the Harborview Surface Water Management System is ultimately dependent on the Peace River and Charlotte Harbor for an outlet. Therefore, a final Surface Water Management Plan shall demonstrate that the system is designed in accordance with existing SWFWMD design parameters for systems discharging to the Peace River and Charlotte Harbor.
- n. The Applicant shall participate in any ongoing or future efforts by Charlotte County to establish a County-wide surface water management system.

- o. Best management practices for monitoring and maintenance of the surface water management system shall be implemented by the Applicant in accordance with Charlotte County and SWFWMD guidelines.
- p. All internal surface water management and wetland systems shall be set aside as private drainage easements, common areas, preserves or identified as specific tracts on the recorded final plat.
- q. If any changes in water quality monitoring locations, parameters and/or frequency are suggested by either Charlotte County, the Florida Department of Environmental Regulation, (hereinafter FDER), the Florida Department of Natural Resources, (hereinafter FDNR), the SWFWMD, other agencies or the Applicant, such changes shall be coordinated with the appropriate local, regional and state agencies.
- r. The Applicant shall confirm, to the satisfaction of all federal, state and local review agencies, and the SWFWMD, that the proposed water management system will not impact habitats of any state or federally listed plant and/or animal species potentially occurring onsite, or that such impacts will be mitigated to the benefit of onsite populations of those species.
- s. All commitments made by the Applicant within the ADA, and subsequent sufficiency round information, related to Question 15 (Water) and Question 22 (Drainage), and not in conflict with the above recommendation shall be incorporated into the Charlotte County Development Order as conditions for approval.
- t. The construction of docks on any property contained within the Harborview Development of Regional Impact shall be prohibited by deed restriction.

3. Wetlands

- a. The project site contains three wetland categories: the Bay Swamp, small isolated wetland, and the Saltwater Marsh. These areas total approximately 63.94 acres of natural wetlands, all of which shall be preserved through the prohibition of development in those areas. Description of these wetlands are attached hereto, designated as Exhibit "B", and incorporated by reference herein. The Saltwater Marsh shall be deeded to the Board of Trustees of

the Internal Improvement Trust Fund within 45 days of the effective date of this Development Order.

4. Flood Plains/Hurricane Evacuation

- a. Prior to Phase I construction plan approval by Charlotte County, the Applicant will provide up to \$20,000 for the acquisition of portable generator(s), sufficient to meet the alternate power source requirements of shelters as deemed appropriate by the Red Cross.
- b. A disclosure statement in the form of a covenant shall be attached to all residential deeds stating that the property is located in a hurricane vulnerability zone and that the hurricane evacuation clearance time for the county is high and hurricane shelter spaces are limited.
- c. All structures located within the 100-year floodplain shall be constructed above the 100-year FEMA flood elevation.
- d. The southern most multi-family development area, that bordering on the Saltwater Marsh, shall utilize piling construction which shall allow under-building parking.
- e. An evacuation plan indicating routes and shelter locations will be developed prior to occupation of any dwelling or building within the development. The developer shall establish a program for the notification and education of all owners, residents and tenants of any building or dwelling within the development with regard to the evacuation plan.

5. Vegetation and Wildlife

- a. The terms of the Wildlife Habitat Management Plan for the Scrub Jay/Gopher Tortoise Preserve attached hereto designated as Exhibit "C" are incorporated in their entirety as conditions, restrictions and limitations on this Development Order. Pursuant to the terms of the above referenced management plan, a map of the preservation area is attached hereto, designated as Exhibit "D", and incorporated by reference herein.
- b. The preservation area designated in Exhibit "D" shall be deeded to Charlotte County by the Applicant within 90 days of the effective date of the Development Order. In the event the Board of

- County Commissioners decides not to accept ownership of the Preservation area, the Applicant shall retain ownership and full responsibility for maintenance of said Preservation area, pursuant to the terms of the Wildlife Habitat Management Plan, attached hereto as Exhibit "C."
- c. The Florida Coontie shall be relocated to preserved habitats, buffer zones, greenbelts or other suitable areas onsite.
  - d. The Wild Pine and Air Pine shall be preserved in the live oak stream habitat and bay swamp.
  - e. No wetland impacts shall occur from the proposed development.
  - f. Wetland enhancements shall occur through the Master Drainage Plan which shall direct pre-treated runoff to the preservation area and provide a level of inundation necessary to sustain wetland areas. Water control structures shall be constructed to discharge water into the preservation areas and maintain average wet season water table elevations. The Saltwater Marsh along the Peace River shall have a 100 foot wide naturally vegetated upland buffer between the Marsh and the proposed development. Additional wetland areas shall be created by the construction of littoral zones around man-made lakes.
  - g. The preservation area may be used for relocation of gopher tortoises from other onsite areas as long as the density of the gopher tortoise population, per the gopher tortoise relocation guidelines of Florida Game and Fresh Water Fish Commission (hereinafter FGFWFC), within that preservation area allows for such relocation. Other onsite relocation areas, or offsite relocation areas, that comply with the FGFWFC gopher tortoise relocation guidelines may be used. A survey and relocation plan of gopher tortoises are necessary in order to obtain a relocation permit. The survey and relocation plan shall be made available for the preliminary review by the Development Review Committee (hereinafter DRC) for each parcel. All relocation of gopher tortoises shall be conducted in accordance with the FGFWFC's guidelines for Gopher Tortoise Relocation. Gopher tortoise population monitoring shall be required as consistent with the relocation permit.



- h. The Applicant shall obtain any necessary binding jurisdictional declaratory statement from the FDER before construction begins.

6. Waste Water Management

- a. The project shall require a SWFWMD Water Use Permit for any withdrawals from groundwater, project lakes, the surface water management system, and/or other surface water bodies for irrigation or potable water uses and for any de-watering associated with the construction or project lakes, and/or road or building foundations.
- b. The project shall require a District Well Construction Permit for construction of any wells on the development site.
- c. Prior to construction, a feasibility study shall be conducted by the Applicant and evaluated by the SWFWMD and Charlotte County, to examine potential sources and availability of graywater and reclaimed effluent for irrigation and other non-potable uses. The study shall be consistent with rules that are in place at the time of its initiation. The study shall address the potential of meeting the water needs for residential irrigation, non-residential irrigation and other non-potable water uses, through the installation of either graywater or reclaimed effluent systems, or a combination of the two. Consideration shall be given to meeting the irrigation and non-potable water needs of the Harborview Development of Regional Impact through the following sources: (a) graywater; (b) treated wastewater; (c) treated stormwater; (d) non-potable quality groundwater.
- d. For the purpose of potable water conservation, installation of high efficiency (low volume) plumbing fixtures, appliances, and other water conserving devices shall be required.
- e. For the purpose of potable water and/or reclaimed water conservation, utilization of Xeriscape principles shall be required in all project landscaping. Ecologically viable portions of existing native vegetation shall be incorporated into the landscaped design to the greatest extent practicable and shall not be irrigated.
- f. The Applicant and owners of individual commercial sites shall participate in the development of a

public awareness campaign for project residents, to increase knowledge of water conservation. Any Homeowner's Association formed in this development shall take over implementation of the public awareness campaign.

- g. The Applicant has proposed supplemental use of groundwater from the Hawthorne Aquifer for meeting irrigation requirements. In order to utilize this source of water, the Applicant must prove, at the time of permit application, that surface and surficial aquifer waters will not be contaminated by this use.
- h. The surface water management system is adjacent to wetland preserve areas. At the time of permit application, the Applicant must show that wetland hydroperiods will not be adversely affected by proposed supplemental irrigation withdrawals from the surface water management system.
- i. The lowest quality of water possible shall be utilized for all non-potable water uses.
- j. The Applicant shall demonstrate to the FDER that adequate wastewater treatment is available at the time of final project review. No onsite waste water treatment plants are planned. The Applicant shall provide assurance, for commercial and office portions of the development, where non-domestic uses occur, that non-domestic wastewater will be treated separately from domestic wastewater and handled in accordance with FDER criteria.
- k. Temporary septic tanks may be used for residential models, construction and sales offices. Such septic tanks shall be allowed for the duration of the use of the construction offices and sales offices, as long as they comply with Department of Health and Rehabilitative Services' requirements. Septic tanks shall not be allowed in any residential portion of the project except for construction or sales offices or model homes which shall be connected to central treatment facilities prior to residential use. In commercial portions of that project, septic tanks shall not be allowed, except for construction of sales offices and model home centers due to the possibility of hazardous waste generation.
- l. Any proposed use of any part of the Harborview Development of Regional Impact which would involve

medical waste, hazardous materials or bio-hazardous waste shall require a disposal plan of said materials which must be approved by the Board of County Commissioners or its designee prior to any development involving such use.

- m. All commitments made by the Applicant, within the ADA and subsequent sufficiency round information related to Question 21 (Wastewater Management) and Question 23 (Water Supply), and not in conflict with the above recommendations, shall be incorporated in the final Development Order as conditions for approval.

7. Water Supply

- a. Water for the Harborview Development of Regional Impact will be provided by the Charlotte Harbor Water Association.
- b. The Developer will construct the water distribution system with the intent of transferring operation and maintenance responsibilities to the Charlotte Harbor Water Association. All construction plans, technical specifications and proposed plats, if applicable, for the proposed water distribution and waste water collection systems shall be reviewed by the Charlotte Harbor Water Association, Inc. and Charlotte County, prior to commencement of construction.
- c. The Charlotte Harbor Water Association must obtain all applicable state permits prior to the expansion of their facility. If the Charlotte Harbor Water Association will not be providing utility service to the project, then notice of the proposed change shall be filed with the SWFRPC, Florida Department of Community Affairs (hereinafter FDCA) and the Charlotte County Planning Department.
- d. As a condition to obtaining DRC approval, prior to any development within the project (whatever utility serves the project), the Applicant shall contract a professional licensed engineer, acceptable to the County to evaluate the ability of the utility to serve the development according to Charlotte County Code 3.3, which addresses the design criteria of the system to meet the requirements for fire flow. Based on the findings presented in the engineering report, the project may commence and continue to build to whatever density and intensity that will allow for adequate

fire flow. Additional analysis shall be required at each phase of the project or as often as is recommended in the engineering report and approved by the DRC.

- e. Water-saving showerheads and faucets will be used in all commercial, office and residential construction.
- f. The use of natural vegetation and Xeriscape principals shall be used in all phases of construction, whenever practicable. Any Homeowners Association which shall be formed shall be charged with the responsibility of informing all future owners of residential property within the project of the necessity of utilizing natural vegetation and Xeriscape principals. (Appendix 1, Exhibit C)

8. Solid Waste

- a. In an effort to reduce the generation of solid waste within the Harborview Development of Regional Impact, all residential units and businesses shall participate and cooperate with any recycling programs developed by Charlotte County.

9. Energy

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

- a. A bicycle/pedestrian system is to be placed along all roads as shown in Exhibit "A", the Master Development Plan Map H. Sidewalks will be required on all roads in the development.
- b. Provision of bicycle racks or storage facilities in recreational, commercial and multi-family residential areas.
- c. Cooperation in the locating of bus stops, shelters, and other passenger and system accommodations for a transit system to serve the project area.
- d. Use of energy-efficient features in window design.
- e. Use of operable windows and ceiling fans.

- f. Installation of energy-efficient appliances and equipment.
- g. Prohibition of deed restrictions or covenants that would prevent or unnecessarily hamper energy conservation efforts (e.g., building orientation and solar water heating systems).
- h. Reduce coverage by asphalt, concrete, rock and similar substances in streets, parking lots, and other areas to reduce local air temperatures and reflected light and heat.
- i. Installation of energy-efficient lighting for parking areas, recreation areas and other interior and exterior public areas.
- j. Selection of native plants, trees, and other vegetation and landscape design features that reduce requirements for water, fertilizer, maintenance and other needs. (Appendix 1, Exhibit C)
- k. Planting of native shade trees to provide reasonable shade for all recreation areas, streets and parking areas. (Appendix 1, Exhibit C)
- l. Placement of trees to provide needed shade in the warmer months while not overly reducing the benefits of sunlight in the cooler months.
- m. Orientation of structures, as possible, to reduce solar heat gain by walls and to utilize the natural cooling effects of the wind.
- n. Provisions for structural shading wherever practical, when natural shading cannot be used effectively.
- o. Inclusion of porch/patio areas in residential units.
- p. Consideration by the project architectural review committee(s) of energy conservation measures (both those noted here and others) to assist builders and residents in their effort to achieve greater energy efficiency in the development.

10. Education

- a. Any financial impacts beyond normal school tax levies should be negotiated between the Applicant and the Charlotte County School Board to offset any anticipated shortfalls.

11. Recreation and Open Space

- a. The Scrub Jay/Gopher Tortoise Preserve, as designated on Exhibit "D", attached to the Development Order and incorporated by reference herein, is intended to be used as a resource-based park. The uses for which this park is dedicated include passive recreation and nature study, and it is not intended to be developed for any other uses. Despite the fact this area is not being developed, it does qualify as park area as specified under the Charlotte County Comprehensive Plan, in that impact fees were paid in full, and the entire area is being dedicated for public use.

12. Police Protection

- a. The Sheriff's Department and Applicant should meet at the detailed site plan review stage to incorporate safety, security and access features into the project design.
- b. The Applicant should provide, based on Charlotte County Sheriff's Department calculations, the funds (or some other donation) necessary to offset the cost of any manpower or equipment shortfall not funded by the normal ad valorem taxes or impact fees.

13. Fire Protection

- a. Sprinkler systems shall be placed in all buildings constructed, with the exception of one and two family dwellings.
- b. The Applicant should meet with the Charlotte County Fire Rescue Department during detail site plan review in order to incorporate any required safety and access features into the project design.
- c. The internal water distribution system will be designed with mainline sizes to provide adequate residual water pressure at the required local fire flow rate.

14. Transportation

- a. The Applicant shall be fully responsible for site-related roadway and intersection improvements required within the Harborview Development of Regional Impact. The Applicant shall be required to pay the full cost for any site-related intersection improvements (including but not limited to signalization, turn lanes and additional through lanes) found to be necessary by Charlotte County for the project's access intersections onto Harborview Road and Rio DeJaniero. Any future lane additions will be designed and built to Florida Department of Transportation (hereinafter FDOT) standards. The access intersection onto Harborview Road shall be of limited design, prohibiting left turns out. Additional right/in, right/out access to and from the development is anticipated on Harborview Road. All roads within this development will be public roads, built and maintained to County specifications.
- b. The Applicant shall meet with the County, and any other appropriate agency to determine the financial arrangement necessary to insure that the Applicant shall pay impact fees that are in effect at the time building permits are issued for the development. The transportation impacts to the roads and intersections shall be appropriately addressed and found consistent with SWFRPC policies, and determination of the proportional share of the regional road improvements shall be in accordance with Section 163.3220, Florida Statutes which requires a Local Government Development Agreement and a commitment by the Applicant and/or the local government to ensure concurrency on all significantly impacted regional roads. Adequate fair-share contributions shall be made by Charlotte County and the Applicant, in order to provide the necessary transportation improvements, including, but not limited to, design and engineering, utility relocation, right-of-way acquisition, construction, construction contract administration and construction inspection necessary to maintain the adopted level of service for the following significantly impacted regional roadways through project buildout in 2006:

Harborview Road

- U.S. 41 to Melbourne Street
- Melbourne Street to I-75
- I-75 to Rio DeJaniero

Rio DeJaniero  
- Rampart Boulevard to Harborview Road

Rampart Boulevard  
- Rio DeJaniero to Kings Highway

- c. The Applicant shall meet with the County, and any other appropriate agency to determine the financial arrangement necessary to insure that the Applicant shall pay impact fees that are in effect at the time building permits are issued for the development. The transportation impacts to the roads and intersections shall be appropriately addressed and found consistent with SWFRPC policies, and determination of the proportional share of the regional road improvements shall be in accordance with Section 163.3220, Florida Statutes which requires a Local Government Development Agreement and a commitment by the Applicant and/or the local government to ensure concurrency on all significantly impacted regional roads. Adequate fair-share contributions shall be made by Charlotte County and the Applicant, in order to provide the necessary improvements to maintain the adopted level of service, including but not limited to, right-of-way, cost of signalization, turn lanes and other improvements deemed necessary by FDOT or Charlotte County, or other appropriate jurisdictions, for the following significantly impacted off-site regional intersections through project buildout:

- I-75/Harborview Road
- Harborview Road/Rio DeJaniero
- Harborview Road/Melbourne Street
- Harborview Road/Kings Highway
- Harborview Road/U.S. 41
- Rio DeJaniero/Rampart Boulevard
- Rampart Boulevard/Kings Highway

- d. To determine the existing levels of service on regional facilities and the need for improvements in a timely manner, the Applicant shall submit an annual monitoring report to Charlotte County, FDOT, the FDCA and the SWFRPC for review. The annual monitoring report shall, in addition to current counts and traffic information, provide a projection for the following year to be based on anticipated construction for the same time period of one year. The first monitoring report shall be submitted one year after the issuance of the first Certificate of Occupancy for the Harborview Development of Regional Impact. Reports shall be



submitted annually thereafter until after buildout of the project, and at a minimum, shall contain p.m. peak hour trip generation estimates and turning movements at each of the access intersections and the regional intersections listed above in paragraph "c", and a calculation of the existing level of service at these intersections and on the road segments indicated above in paragraph "b."

- e. Determination of when improvements shall be initiated shall be made by Charlotte County, based upon concurrency and level of service standards. If annual monitoring reports confirm that peak hour traffic on the regional road segments and intersections listed above in paragraph "b" and paragraph "c" will exceed the level of service standards adopted by the County and the project is projected to utilize more than 5% of the level of service "D" capacity for urban areas of "C" for rural areas, then further building permits and certificates of occupancy shall not be granted until the affected roadway improvement, as identified in this Development Order, is listed as a committed roadway improvement in the Charlotte County Capital Improvements Plan (CIP).
- f. The levels of service shall be calculated according to current professional standards and shall provide an indication of when the adopted levels of services are expected to be exceeded on impacted roadways and intersections, and an estimate of project impact on those facilities. The levels of services shall be re-evaluated under any new model of professional standards adopted by Charlotte County, within a reasonable time after such model is adopted. It will provide updated information to more accurately forecast project buildout traffic and total traffic for determination of proportional share. Should the County find that this reanalysis contains projections significantly different from the original analysis, the Applicant is required to file a notification of change with SWFRPC, FDCA and Charlotte County.
- g. Should the eventual development mix of the Harborview Development of Regional Impact be such that the trip generation and external traffic of the project exceed the levels identified in the Application for Development Approval, on a p.m. peak hour basis, then the project shall go through

a substantial deviation determination as outlined in Chapter 380 of the Florida Statutes.

- h. Based on the staff transportation assessment on significant project impacts, construction of the following transportation improvements shall be needed prior to, or coincident with, development of the Harborview Development of Regional Impact, if adopted levels of service are to be maintained through buildout (2006) on regional road segments and intersections (NOTE: No roadway link improvements are identified as needed for Phase I).

Phase II (2001)

Harborview Road

- Melbourne Street to I-75 Widen to 4 lanes\*
- I-75 to Rio DeJaniero Widen to 6 lanes\*

Buildout (2006)

Harborview Road

- U.S. 41 to Melbourne Street Widen to 6 lanes\*
- Melbourne Street to I-75 Widen to 4 lanes
- I-75 to Rio DeJaniero Widen to 6 lanes and reclassify as an arterial

\*or reclassify from a collector to an arterial at the existing lane configuration

- i. Prior to the commencement of Phase III, the traffic analysis shall be updated, the project impacts reassessed and the results incorporated into the Development Order. The reassessment methodology shall utilize the latest available technically appropriate techniques, and shall be agreed upon by the Applicant, Charlotte County, the Florida DOT, the SWFRPC and the FDCA.
- j. Development Order options may be considered by Charlotte County and the Applicant to the extent that the options provide adequate commitments for improvements indicated above to significantly impacted regional roadways and intersections. Whatever options are exercised however, should be done with the understanding that the following conditions shall be met:
1. If annual monitoring reports confirm that peak hour traffic on the regional road segments and intersections above exceed

1. Establish a program in conjunction with lending institutions which would enable an employee who qualifies to obtain a mortgage for a total cost of 10% of the value of the housing unit up to \$5,000.
  2. Establish a credit line, deposit, deposit guarantee or some such device with a lending institution to fund the individual down payments of qualifying individuals.
  3. Allow individuals to draw the down payments, based on recommendations of the lending institution, which will be accepting the overall mortgage.
  4. The down payment will be held as a second mortgage on the real estate.
  5. A formula will be devised between the developer and the lending institution to insure repayment of the second position mortgage.
  6. That the lending institution working out the agreement will be guaranteed the first mortgage loan.
  7. To help implement the above process, the applicant shall employ a housing officer or other appropriate entity or individual responsible for administration of the required housing assistance programs as part of the development.
- b. The Applicant and/or Developer shall provide contributions to day care to supplement child care cost, through the provision onsite of space for a care center, which must be in place and operating prior to the initiating of Phase II of the project.
- c. Before the commencement of Phases II and III of the project, the Applicant or project employers shall undertake an affordable housing study based on the methodology supplied by the DCA and SWFRPC. Based on the findings of these surveys, the Applicant shall undertake provisions similar to those accomplished for Phase I or others as agreed upon by the Applicant and the SWFRPC. Each housing study shall be reviewed as a notice of proposed change by the SWFRPC.

- d. In consideration of the Americans with Disabilities Act, the Applicant shall participate in the Lee and Charlotte County Transportation Disadvantaged Programs through the provision of the necessary service unloading sites and amenities to accommodate such services, and through participation in job programs involving the handicapped.

16. Design Standards

- a. The Applicant agrees to abide by design standards established by the Charlotte County Zoning Department. The design standards established are attached hereto, designated as Exhibit "E", and incorporated by reference herein.

17. General Provisions

- a. All construction undertaken within this development with the exception of single family or duplex residential units which will be built on lots within current zoning standards, shall go before the DRC for approval, regardless of the size, or any other characteristics of the construction project.
- b. The Applicant shall be bound by all commitments made, or impact mitigating actions provided for in the Application for Development Approval and supplementary documents that are not in conflict with specific conditions set forth in this Development Order.
- c. The developer shall submit an annual report on the Harborview Development of Regional Impact to the Charlotte County Planning and Zoning Departments, the SWFRPC, the FDCA and all affected permitting agencies as required in Subsection 380.06(18), Florida Statutes.
- d. The development phasing schedule presented within the Application for Development Approval and as adjusted prior to the date of Development Order approval shall be incorporated as a condition of approval. If the Development Order conditions and Applicant commitments incorporated within the Development Order, Application for Development Approval or sufficiency round responses to mitigate regional impacts are not carried out as indicated to the extent or in accord with the timing schedules specified within the Development Order

and this phasing schedule, then this shall be presumed to be a substantial deviation for the affected regional issue.

- e. If the local governments, during the course of monitoring the development, can demonstrate that substantial changes in the conditions underlying the approval of the Development Order have occurred, or that the Development Order was based on substantially inaccurate information provided by the Applicant, resulting in additional substantial regional impacts, then a substantial deviation shall be deemed to have occurred. The monitoring checklist contained in Appendix IV shall be used as a guide by the local government in determining additional substantial regional impacts. A copy of Appendix IV is attached hereto as Exhibit "F", and incorporated by reference herein.
- f. Pursuant to Chapter 380.06(16), the Applicant may be subject to credit for contributions, construction, expansion or acquisition of public facilities, if the developer is also subject by local ordinances to impact fees or exactions to meet the same needs. The local government and the developer may enter into a capital contribution front-end agreement to reimburse the developer for voluntary contributions in excess of the fair share.

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

- 1. All commitments and impact mitigating actions provided for by the Applicant in the Application for Development Approval and supplemental documents that are not in conflict with conditions or stipulations specifically enumerated above are hereby adopted as part of this Development Order by reference.
- 2. The County Administrator, or his designee, shall be the local official responsible for ensuring compliance with this Development Order.
- 3. This Development Order shall remain in effect for a period of 15 years from the date of its rendition. In the event that significant physical development has not commenced within five (5) years of the beginning of each phase period, development approval shall terminate and this Development Order shall no longer be effective. For purposes of this requirement, "significant physical development" does not include roads, drainage or

landscaping but does include substantial construction of buildings or installation of utilities or facilities such as sewer or water lines. Should this Development Order lapse, any then current development or construction shall cease, and no further development or construction shall be allowed without further review and approval by all appropriate agencies.

4. Subsequent requests for development permits shall not require further review pursuant to Section 380.06, Florida Statutes, unless it is found by the Board of County Commissioners of Charlotte County, Florida after due notice and hearing, that one or more of the following is present:
  - a. A substantial deviation from the terms or conditions of this Development Order, or other changes to the approved development plans which create a reasonable likelihood of adverse regional impacts or other regional impacts which were not evaluated in the review by the SWFRPC; or
  - b. An expiration of the period of effectiveness of this Development Order as provided herein.

Upon finding that either of the above is present, the Board of County Commissioners of Charlotte County, Florida shall order a termination of all development activity until such time as a new Development of Regional Impact Application for Development Approval has been submitted, reviewed and approved in accordance with Section 380.06, Florida Statutes.

5. The approval granted by this Development Order is limited. Such approval shall not be construed to obviate the duty of the Applicant to comply with all other applicable local or state permitting procedures.

PASSED AND DULY ADOPTED this 17th day of March, 1992.

BOARD OF COUNTY COMMISSIONERS  
OF CHARLOTTE COUNTY, FLORIDA

BY: Donald H. Ross  
Donald H. Ross, Chairman

ATTEST:  
Barbara T. Scott, Clerk of Circuit  
Court and Ex-Officio Clerk of the Board  
of County Commissioners

By: Barbara T. Scott  
Deputy Clerk

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY:

*Beth A. Sullivan*

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Beth A. Sullivan  
Assistant County Attorney

EXHIBIT "A"

LEGAL DESCRIPTION AND MASTER DEVELOPMENT PLAN MAP H



All less the East 395 feet of that certain parcel or tract of land particularly described as follows:

The North One-Half, and Government Lot 1 less the South 16 acres, and all of Government Lot 2, lying and being in Section 21, Township 40 south, Range 23 East, together with riparian rights thereunto appertaining, and also all accretion thereto.

ALONG WITH:

A parcel of land in Peace River in Section 28, Township 40 South, Range 23 East, per O.R. Book 115, at Page 2 of the Public Records of Charlotte County, Florida, commonly known as part of Island Neil and more particularly described as follows:

From the Northwest corner of Government Lot 2 of Section 21 in said Township 40 South, Range 23 East, run South  $01^{\circ}25'01''$  East, along the West line of said Government Lot 2 and the extension thereof, a distance of 2,955.74 feet to the Point of Beginning of the parcel hereinafter described:

Thence South  $72^{\circ}21'52''$  East, a distance of 560.50 feet; thence South  $04^{\circ}37'21''$  East, a distance of 230.00 feet; thence South  $82^{\circ}23'00''$  East, a distance of 52.00 feet; thence North  $32^{\circ}02'00''$  East, a distance of 374.00 feet; thence North  $71^{\circ}33'35''$  East, a distance of 115.12 feet, more or less, to the intersection with the Southerly extension of the East line of said Government Lot 2; thence South  $01^{\circ}39'47''$  East along said Southerly extension, a distance of 465.00 feet to the shoreline of Peace River; thence along said shoreline of Peace River the following courses and distances: South  $46^{\circ}16'46''$  West, a distance of 187.82 feet; then South  $55^{\circ}02'00''$  West, a distance of 312.00 feet; thence South  $60^{\circ}34'00''$  West, a distance of 405.00 feet; thence South  $50^{\circ}23'00''$  West, a distance of 202.00 feet; thence South  $56^{\circ}12'30''$  West, a distance of 253.00 feet; thence South  $66^{\circ}40'00''$  West, a distance of 270.00 feet, more or less, to the intersection with the Southerly extension of the West line of said Government Lot 2; thence North  $01^{\circ}25'01''$  West along said Southerly extension, a distance of 1,464.53 feet, more or less, to the Point of Beginning.

LESS AND EXCEPT:

A portion of Section 21, Township 40 South, Range 23 East, Charlotte County, Florida, being more specifically described as follows:

From the Northeast corner of said Section 21, run South  $87^{\circ}53'54''$  West, along the North line of said Section 21 a distance of 425.46 feet to the Point of Beginning of the lands herein described:

Said point also being on the West line of HARBOUR HEIGHTS, Section Nine, Part One, as recorded in Plat Book 4, Pages 38-A thru 38-D of the Public Records of Charlotte County, Florida; said point also being the Southeast corner of PUNTA GORDA ISLES, Section Twenty-Three as recorded in Plat Book 12, Page 2-A thru 2-Z-41, of the Public Records of Charlotte County, Florida; thence continue South  $87^{\circ}58'54''$  West along said South line of PUNTA GORDA ISLES, Section 23 and the North line of Section 21, a distance of 701.90 feet; thence South  $00^{\circ}38'19''$  West, parallel with the East line of said Section 21, a distance of 1,229.64 feet to the Northerly Right-of-Way Line of State Road 776, according to the Florida Department of Transportation Right-of-Way Maps Section No. 01560-2601; thence South  $89^{\circ}21'11''$  East, along said Right-of-Way Line, a distance of 460.56 feet; thence North  $00^{\circ}38'49''$  East, along said Right-of-Way Line, a distance of 10.00 feet; thence South  $89^{\circ}21'11''$  East, along said Right-of-Way Line, a distance of 240.20 feet to a point on the West line of said HARBOUR HEIGHTS, Section Nine, Part one; thence North  $00^{\circ}38'19''$  East, along said West line, a distance of 1,252.28 feet to the Point of Beginning of the lands herein described.

LESS AND EXCEPT:

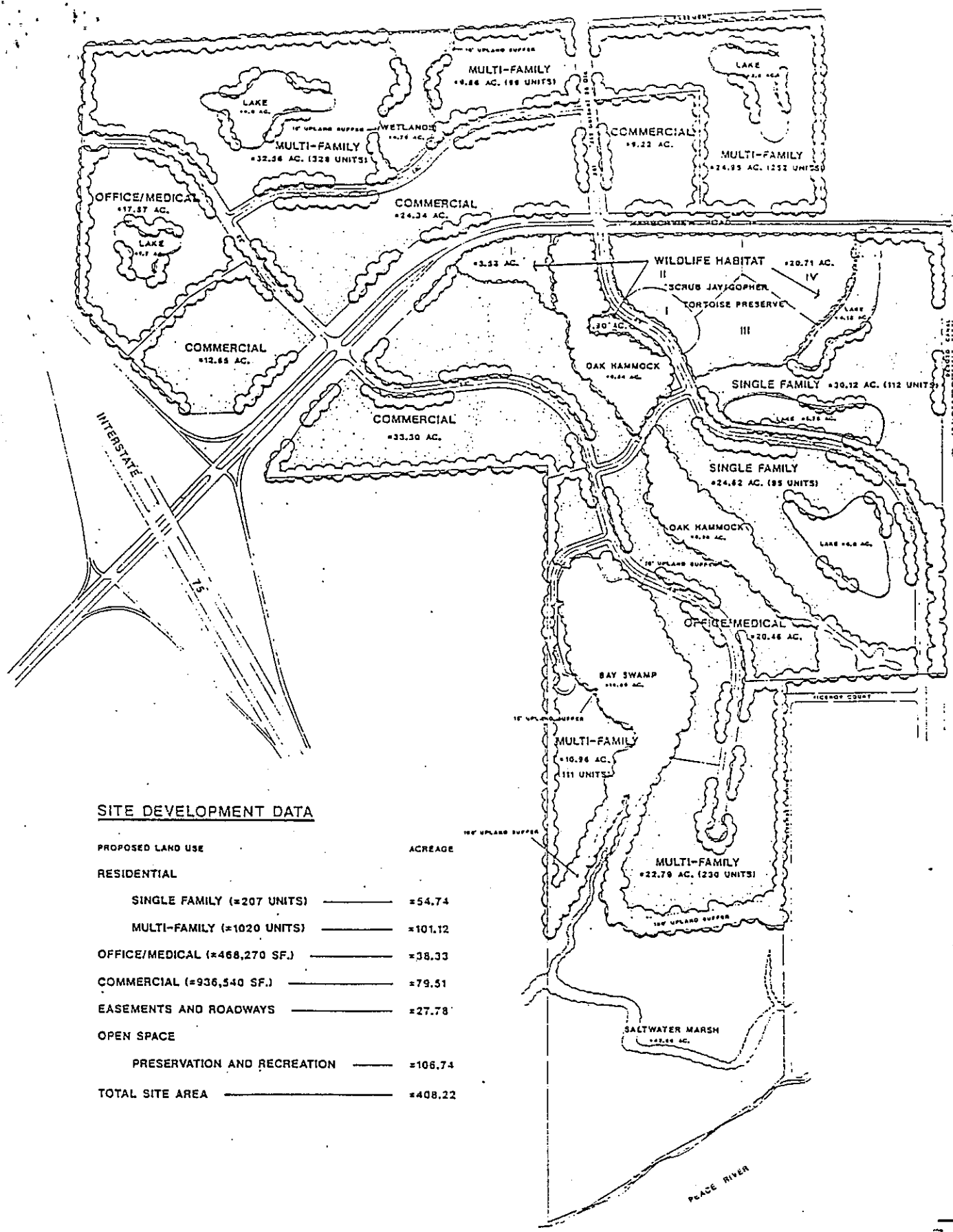
The Right-of-Way of Harborview Road (State Road No. S-776) per Florida Department of Transportation Right-of-Way Maps Section No. 01560-2601.

LESS AND EXCEPT:

The Right-of-Way of I-75 (State Road No. 93) per Florida Department of Transportation Right-of-Way Maps Section No. 01075-2401.

Said lands containing 408.22 acres, more or less.

Said lands situate, lying and being in Charlotte County, Florida.



**SITE DEVELOPMENT DATA**

PROPOSED LAND USE	ACREAGE
<b>RESIDENTIAL</b>	
SINGLE FAMILY (=207 UNITS)	=54.74
MULTI-FAMILY (=1020 UNITS)	=101.12
OFFICE/MEDICAL (=468,270 SF.)	=38.33
COMMERCIAL (=936,540 SF.)	=79.51
EASEMENTS AND ROADWAYS	=27.78
<b>OPEN SPACE</b>	
PRESERVATION AND RECREATION	=106.74
<b>TOTAL SITE AREA</b>	<b>=408.22</b>

**HARBORVIEW**

A DEVELOPMENT OF REGIONAL IMPACT  
APPLICATION FOR DEVELOPMENT APPROVAL

DEVELOPER: <b>EUGENE M. GRANT &amp; CO., TRUSTEE</b> <small>200 PARK AVENUE, SUITE 2100 NEW YORK, NEW YORK 10022 212 682-2200</small>	PLANNING CONSULTANT: <b>WANKELMAN SWEN &amp; ASSOCIATES</b> <small>140 BORDEN BLVD., SUITE 210 FORTA JORDA, FLORIDA 32648 904 877-9200</small>	<b>MASTER DEVELOPMENT PLAN</b>
ENGINEER: <b>CHARLOTTE ENGINEERING &amp; SURVEYING</b> <small>1700 EL JORDAN ROAD FORT CHARLOTTE, FLORIDA 32648 904 848-3439</small>	ENVIRONMENTAL CONSULTANT: <b>ENVIRONMENTAL PERMITTING &amp; PLANNING</b> <small>400 ONE BILBO FORTA JORDA, FLORIDA 32648 904 877-9200</small>	DATE: NOVEMBER 1998    SCALE: 1" = 200' - 1" REVISIONS:



EXHIBIT "B"

LEGAL DESCRIPTIONS FOR:

Isolated Wetland, Bay Swamp, and Saltwater Marsh

1/31/92 - Job #9184 - Wankelman-Swen & Associates

SURVEYOR'S DESCRIPTION: PARCEL 3 (ENVIRONMENT-WETLAND)

A parcel of land lying in Section 21, Township 40 South, Range 23 East, Charlotte County, Florida, being more particularly described as follows:

Commence at the Northeast corner of said Section 21; Thence, South 88° 15' 11" West, along the North line of said Section 21, a distance of 2710.11 feet to a point; Thence, South 88° 15' 22" West, along said North line, a distance of 550.42 feet to the Point of Beginning.

Thence continue, South 88° 15' 22" West, along North line of said Section, a distance of 409.45 feet; Thence, South 01° 44' 38" East, a distance of 14.42 feet to the point of curvature of a curve to the left, having as elements a radius of 189.34 feet, a central angle of 28° 23' 36", and a chord bearing of South 15° 56' 26" East; Thence, along the arc of said curve, an arc length of 93.83 feet to the point of tangency of said curve; Thence, South 30° 08' 14" East, a distance of 175.17 feet to the point of curvature of a curve to the right, having as elements a radius of 115.00 feet, a central angle of 93° 30' 48", and a chord bearing of South 16° 37' 10" West; Thence, along the arc of said curve, an arc length of 187.69 feet to the point of reverse curvature of a curve to the left, having as elements a radius of 240.00 feet, a central angle of 84° 25' 06", and a chord bearing of South 21° 10' 01" West; Thence, along the arc of said curve, an arc length of 353.61 feet to the point of tangency of said curve; Thence, South 21° 02' 31" East, a distance of 173.48 feet to a point on a curve to the left, having as elements a radius of 565.00 feet, a central angle of 26° 32' 25", and a chord bearing of North 55° 41' 16" East; Thence, along the arc of said curve, an arc length of 261.72 feet to the end of said curve; Thence, North 18° 47' 22" East, a distance of 91.83 feet to the point of curvature of a curve to the left, having as elements a radius of 350.00 feet, a central angle of 44° 43' 21", and a chord bearing of North 03° 34' 19" West; Thence, along the arc of said curve, an arc length of 273.19 feet to the point of reverse curvature of a curve to the right, having as elements a radius of 160.00 feet, a central angle of 83° 44' 27", and a chord bearing of North 15° 56' 14" East; Thence, along the arc of said curve, an arc length of 233.65 feet to the point of reverse curvature of a curve to the left, having as elements a radius of 240.00 feet, a central angle of 53° 50' 57", and a chord bearing of North 30° 52' 59" East; Thence, along the arc of said curve, an arc length of 225.56 feet to the Point of Beginning.

Containing 4.8726 Acres, more or less.

Said lands situate, lying and being in Charlotte County, Florida.

SURVEYOR'S DESCRIPTION: PARCEL 14 (ENVIRONMENT-BAY SWAMP):

A parcel of land lying in Section 21, Township 40 South, Range 23 East, Charlotte County, Florida, being more particularly described as follows:

Commence at the Northeast corner of said Section 21; Thence, South  $88^{\circ}15'11''$  West, along the North line of said Section 21, a distance of 425.46 feet; Thence, South  $00^{\circ}54'59''$  West, a distance of 1352.15 feet to a point on the South Right-of-Way line of Harborview Road; Thence continue, South  $00^{\circ}54'59''$  West, a distance of 2609.78 feet; Thence, South  $89^{\circ}03'16''$  West, a distance of 1207.73 feet to a point on a curve to the right, having as elements a radius of 500.00 feet, a central angle of  $04^{\circ}39'55''$ , and a chord bearing of South  $07^{\circ}39'47''$  West; Thence, along the arc of said curve, an arc length of 40.71 feet to the point of tangency of said curve; Thence, South  $09^{\circ}59'45''$  West, a distance of 461.27 feet; Thence, North  $80^{\circ}00'15''$  West, a distance of 330.07 feet to the Point of Beginning.

Thence, North  $31^{\circ}19'26''$  East, a distance of 157.34 feet to the point of curvature of a curve to the left, having as elements a radius of 420.00 feet, a central angle of  $68^{\circ}00'03''$ , and a chord bearing of North  $02^{\circ}40'36''$  West; Thence, along the arc of said curve, an arc length of 498.47 feet to the point of reverse curvature of a curve to the right, having as elements a radius of 810.00 feet, a central angle of  $20^{\circ}15'22''$ , and a chord bearing of North  $26^{\circ}32'56''$  West; Thence, along the arc of said curve, an arc length of 286.36 feet to the point of reverse curvature of a curve to the left, having as elements a radius of 410.00 feet, a central angle of  $18^{\circ}06'40''$ , and a chord bearing of North  $25^{\circ}28'36''$  West; Thence, along the arc of said curve, an arc length of 129.60 feet to a point on a curve to the left, having as elements a radius of 150.00 feet, a central angle of  $65^{\circ}32'28''$ , and a chord bearing of North  $67^{\circ}18'10''$  West; Thence, along the arc of said curve, an arc length of 171.59 feet to the point of reverse curvature of a curve to the right, having as elements a radius of 80.00 feet, a central angle of  $78^{\circ}46'52''$ , and a chord bearing of North  $60^{\circ}40'58''$  West; Thence, along the arc of said curve, an arc length of 110.00 feet to the point of reverse curvature of a curve to the left, having as elements a radius of 130.00 feet, a central angle of  $157^{\circ}20'04''$ , and a chord bearing of South  $80^{\circ}02'26''$  West; Thence, along the arc of said curve, an arc length of 356.98 feet to the point of tangency of said curve; Thence, South  $01^{\circ}22'24''$  West, a distance of 162.94 feet; Thence, South  $10^{\circ}07'30''$  East, a distance of 257.81 feet to the point of curvature of a curve to the left, having as elements a radius of 340.00 feet, a central angle of  $41^{\circ}25'55''$ , and a chord bearing of South  $30^{\circ}50'28''$  East; Thence, along the arc of said curve, an arc length of 245.86 feet to the point of reverse curvature of a curve to the right, having as elements a radius of 150.00 feet, a central angle of  $33^{\circ}35'50''$ , and a chord bearing of South  $34^{\circ}45'30''$  East; Thence, along the arc of said curve, an arc length of 87.96 feet to the point of reverse curvature of a curve to the left, having as elements a radius of 225.00 feet, a central angle of  $57^{\circ}28'16''$ , and a chord bearing of South  $46^{\circ}41'44''$  East; Thence, along the arc of said curve, an arc length of 225.69 feet to the point of reverse curvature of a curve to the right, having as elements a radius of 75.00 feet, a central angle of  $140^{\circ}00'10''$ , and a chord bearing of South  $05^{\circ}25'47''$  East; Thence, along the arc of said curve, an arc length of 183.26 feet to the point of reverse curvature of a curve to the left, having as elements a radius of 250.00 feet, a central angle of  $47^{\circ}48'23''$ , and a chord bearing of South  $40^{\circ}40'07''$  West; Thence, along the arc of said curve, an arc length of 208.59 feet to the point of tangency of said curve; Thence, South  $16^{\circ}45'47''$  West, a distance of 50.00 feet; Thence, South  $00^{\circ}07'25''$  East, a distance of 282.86 feet; Thence, North  $32^{\circ}37'59''$  East, a distance of 266.86 feet; Thence, South  $08^{\circ}33'33''$  West, a distance of 90.49 feet; Thence, South  $21^{\circ}06'11''$  West, a distance of 307.34 feet; Thence, North  $31^{\circ}40'58''$  East, a distance of 424.61 feet; Thence, North  $31^{\circ}19'26''$  East, a distance of 251.05 feet to the Point of Beginning.

Said lands containing 14.6795 Acres, more or less.

Said lands situate, lying and being in Charlotte County, Florida.

1/31/92 - Job #9184 - Wankelman-Swen & Associates

SURVEYOR'S DESCRIPTION: PARCEL 13 (ENVIRONMENT-SALTWATER MARSH):

A parcel of land lying in Sections 21 and 28, Township 40 South, Range 23 East, Charlotte County, Florida, being more particularly described as follows:

Commence at the Northeast corner of said Section 21; Thence, South  $00^{\circ}54'59''$  West, along the East line of said Section 21, a distance of 5291.12 feet to the Southeast corner of said section 21; Thence, South  $89^{\circ}25'34''$  West, along the South line of said Section 21, a distance of 1375.74 feet; Thence, South  $01^{\circ}09'07''$  West, a distance of 134.22 feet to the Point of Beginning.

Thence continue, South  $01^{\circ}09'07''$  West, a distance of 872.46 feet; Thence, South  $49^{\circ}04'11''$  West, a distance of 186.37 feet; Thence, South  $57^{\circ}49'25''$  West, a distance of 312.00 feet; Thence, South  $63^{\circ}21'25''$  West, a distance of 405.00 feet; Thence, South  $53^{\circ}10'25''$  East, a distance of 202.00 feet; Thence, South  $58^{\circ}59'55''$  West, a distance of 253.00 feet; Thence, South  $69^{\circ}27'25''$  West, a distance of 270.00 feet; Thence, North  $01^{\circ}22'24''$  East, a distance of 1639.86 feet; Thence, North  $37^{\circ}43'58''$  East, a distance of 284.68 feet; Thence, North  $23^{\circ}00'21''$  East, a distance of 177.01 feet; Thence, North  $41^{\circ}58'59''$  East, a distance of 60.05 feet; Thence, North  $20^{\circ}54'19''$  East, a distance of 212.64 feet; Thence, North  $32^{\circ}37'58''$  East, a distance of 266.86 feet; Thence, South  $08^{\circ}33'33''$  West, a distance of 90.49 feet; Thence, South  $21^{\circ}06'10''$  West, a distance of 382.34 feet to the point of curvature of a curve to the left, having as elements: a radius of 290.00 feet, a central angle of  $117^{\circ}43'34''$ , and a chord bearing of South  $37^{\circ}45'37''$  East; Thence, along the arc of said curve, an arc length of 595.87 feet to the point of tangency of said curve; Thence, North  $83^{\circ}22'36''$  East, a distance of 244.18 feet; Thence, North  $82^{\circ}03'43''$  East, a distance of 355.57 feet; Thence, South  $69^{\circ}57'17''$  East, a distance of 133.66 feet to the Point of Beginning.

Containing 44.0359 Acres, more or less.

Said lands situate, lying and being in Charlotte County, Florida.

EXHIBIT "C"

SCRUB JAY/GOPHER TORTOISE PRESERVE  
WILDLIFE HABITAT MANAGEMENT PLAN

The preservation area identified on Exhibit "D" attached to the Development Order and incorporated by reference therein, has been developed and set aside for the purpose of identifying, locating and preserving in perpetuity the Florida scrub jay within the Harborview Development of Regional Impact. This area may be deeded to Charlotte County, for the use and benefit of its citizens, and for the preservation and conservation of the endangered and protected species located therein. The Applicant shall undertake the following actions, regardless of whether the actions are called for before or after deeding the preservation area to Charlotte County, should that occur:

- a. The initial prescribed burning of 25% of the preserve area.
- b. The planting of 50 scrub oaks, approximately 3-4 feet in height.
- c. Placing and maintaining gopher tortoise fences during the pendency of any construction.

The initial prescribed burning and planting of the 50 scrub oaks shall be implemented within 30 days of request for such action by Charlotte County, in coordination with the Florida Game and Fresh Water Fish Commission (hereinafter FGFWFC). Fences shall be constructed when relocation becomes necessary or at the time of any construction adjacent to the preservation area, whichever

occurs first. Subsequent to the effective date of any transfer of this property to, Charlotte County, the County, or its designee shall be responsible for all maintenance and monitoring requirements of the Development Order. Prior to any construction, including the installation of any infrastructure, the preservation area shall be flagged on site.

### SCRUB JAY

#### Management

1. The scrub jay habitat preservation area shall be managed in accordance with the following protocol: a well developed shrub layer, one or two meters tall, that covers 50% to 75% of the substrate; at least 25% of the substrate shall be exposed or only sparsely vegetated; any canopy cover (pines) shall be less than 20%.

2. The management area shall be divided into four distinct management units which shall be alternately burned. No more than 25% of the preserve shall be burned at any one time. A map depicting these separate management units, location of fire lanes, etc. is attached to the Development Order as Exhibit "D". Prescribed burning on one management unit shall occur every 5 to 20 years. The decision to burn within this 5 to 20 year period shall be based on a habitat monitoring report prepared by a qualified biologist, and submitted for review, modification and approval by the FGFWFC.

3. Prescribed burning shall be the preferred method of scrub habitat management and shall be conducted by a qualified



professional to avoid smoke or property damage.

4. No burning or mechanical management shall occur in the preserve during the scrub jay nesting season (March through June).

5. Firebreaks shall be no more than 6 feet wide, and shall avoid existing gopher tortoise burrows. Firebreaks may also serve as nature trails.

6. Scrub oaks shall be planted in groups so that open areas remain for scrub jay acorn caching and as gopher tortoise forage. No live oaks shall be used as substitutes for the scrub oaks.

7. Specific signs depicting a "Florida scrub jay crossing" shall be placed south of the Harborview Road/Rio DeJaniero intersection along with posted signs designating a reduced speed limit of 30 mph.

8. The location of access points and nature trails and the extent of any proposed signage in the preserve for benefit of passive recreation or environmental educational purposes shall be coordinated, reviewed and approved by the FGFWFC.

9. Educational materials shall be supplied to property owners, tenants and residents in the Harborview Development. These materials shall include specific reference to gopher tortoise and the Florida scrub jay and shall describe the burn management program. This education material shall be consistent with the pamphlet entitled "The Gopher Tortoise, A Species in Decline" published by the Gopher Tortoise Council, and the pamphlet entitled "The Florida Scrub Jay" published by the FGFWFC. Any property management association formed within the Harborview Development

shall assume responsibility for distributing the educational materials to subsequent homeowners and residents.

10. Landscaping throughout the Development shall specifically include additional areas of planted scrub oaks for additional scrub jay forage, and other native species beneficial to gopher tortoises. A list of recommended native plant species is attached to this Wildlife Habitat Management Plan, designated as Appendix 1, and incorporated by reference herein. This list shall be provided to all landscape architects and nurseries designing landscaping for the project.

11. Utilities, utility crossings, powerlines and water management facilities shall not be allowed in the preserve area.

12. The preserve area shall be posted and identified onsite as a "no pets allowed" zone. Any and all domestic pets shall be strictly prohibited from being allowed on any of the preservation areas within the Harborview Development.

13. The Rio DeJaniero Road extension through the project shall be cleared to a width of 60 feet in the area of the habitat preserve, except and unless more clearing is required by Charlotte County for special purposes. The purpose of keeping the cleared area as narrow as possible is to minimize the possibility of scrub jays in the preserve being hit by vehicular traffic. Additional clearing beyond the 60 foot minimum shall be submitted to and reviewed by the FGFWFC.

14. The preservation area shall be distinctly recorded in the Public Records of Charlotte County as a "Passive Use Park/Scrub

Jay/Gopher Tortoise Preserve."

15. Any form or manner of interference with or abuse of any preservation area designated within the Harborview Development or of any protected or endangered species shall be strictly prohibited.

#### Monitoring

1. An annual scrub jay survey shall be conducted by a qualified biologist in order to document the survival of the existing scrub jay family and determine the success of the management techniques. Survey techniques and times shall be established with the cooperation of the FGFWFC.

2. The annual scrub jay survey and habitat monitoring plan shall be submitted, reviewed, modified and approved by the FGFWFC.

3. Any exotic vegetation shall be removed from the preservation area during any burning or bush hogging of the area.

#### GOPHER TORTOISE

##### Management

1. Any bush hogging or other mowing which occurs in this management area shall be conducted to avoid impacts on gopher tortoises. Mowing shall be conducted during winter months on days when cool temperatures discourage gopher tortoises from leaving burrows. The mowers shall avoid collapsing gopher tortoise burrows or destroying burrow aprons. No mowing shall occur during the gopher tortoise nesting season, which is generally May through June.

2. Gopher tortoise fences along the project roadways must be

maintained in perpetuity to prevent the gopher tortoise population from wandering into vehicular traffic.

Monitoring

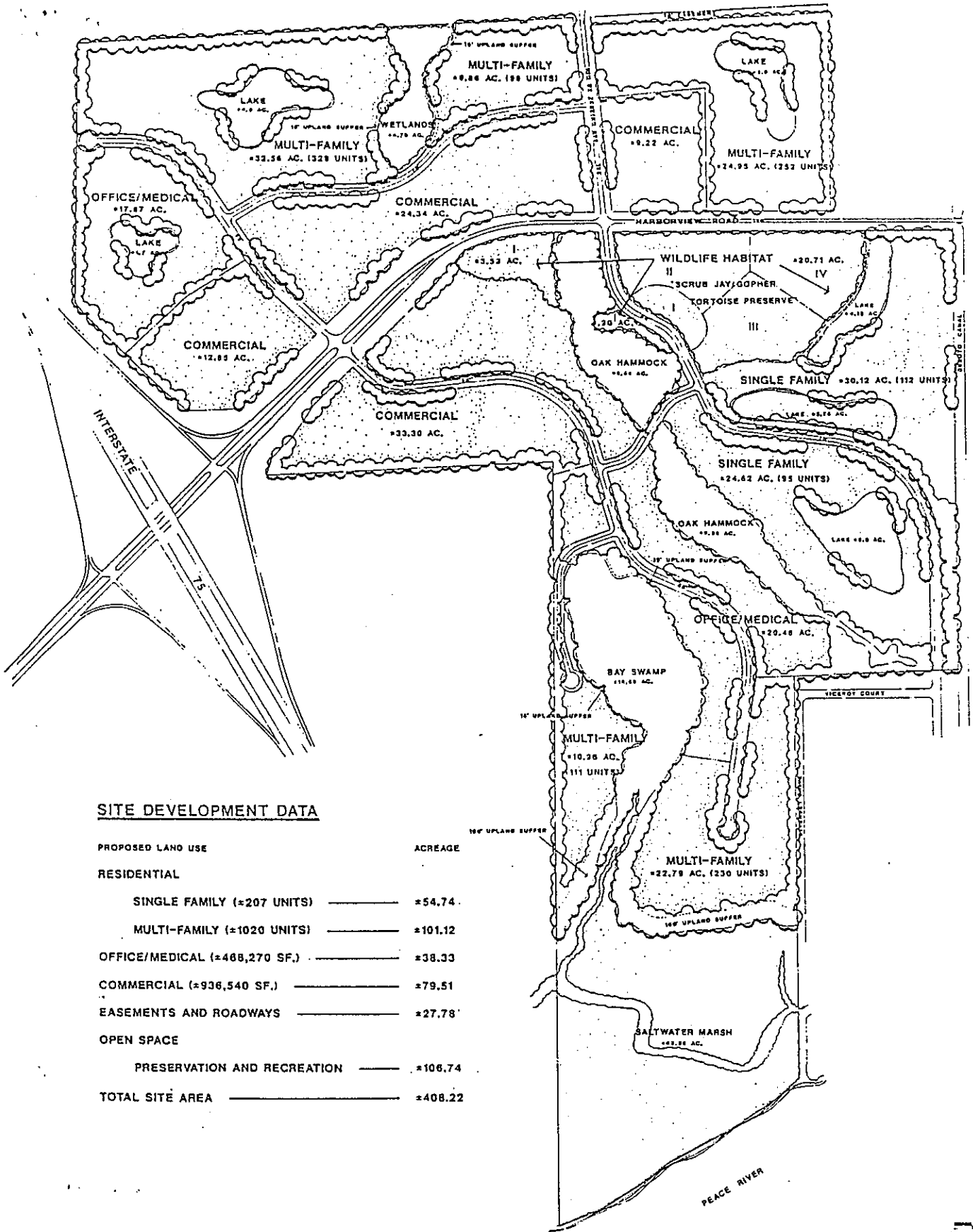
1. The scrub jay survey report required by the FGFWFC should include information on the gopher tortoise population in the preserve. This information should be included in the report in those years when prescribed burns are conducted on the site.

APPENDIX 1  
TO EXHIBIT "C"

Recommended landscape plants (outside scrub jay/gopher tortoise preserve area) for Harborview Development of Regional Impact, Charlotte County, Florida:

Myrtle Oak  
Sand Live Oak  
Chapman's Oak  
Runner Oak  
Cabbage Palm  
Saw Palmetto  
Sea Grape  
Paw Paw  
Sparkleberry  
Dahoon Holly  
Wax Myrtle  
Florida Cootie  
Lantana  
Blue-eyed Grass  
Balloon Vine  
Gopher Apple  
Wiregrass

EXHIBIT "D"



**SITE DEVELOPMENT DATA**

PROPOSED LAND USE	ACREAGE
<b>RESIDENTIAL</b>	
SINGLE FAMILY (≈207 UNITS)	≈54.74
MULTI-FAMILY (≈1020 UNITS)	≈101.12
OFFICE/MEDICAL (≈468,270 SF.)	≈38.33
COMMERCIAL (≈936,540 SF.)	≈79.51
EASEMENTS AND ROADWAYS	≈27.78
<b>OPEN SPACE</b>	
PRESERVATION AND RECREATION	≈106.74
<b>TOTAL SITE AREA</b>	<b>≈408.22</b>

**HARBORVIEW**  
 A DEVELOPMENT OF REGIONAL IMPACT  
 APPLICATION FOR DEVELOPMENT APPROVAL

<b>DEVELOPER</b> EUGENE M. GRANT & CO., TRUSTEE 220 PINE AVENUE, SUITE 3100 NEW YORK, NEW YORK 10116 (212) 682-4800	<b>PLANNING CONSULTANTS</b> WANKELMAN SWEN & ASSOCIATES 100 MADRID BLVD., SUITE 210 PUNTA GORDA, FLORIDA 33984 (813) 837-6800	<b>MASTER DEVELOPMENT PLAN</b>
<b>ENGINEER</b> CHARLOTTE ENGINEERING & SURVEYING 1700 EL JOHNSON ROAD FORT CHARLOTTE, FLORIDA 33648 (813) 470-2051	<b>ENVIRONMENTAL CONSULTANTS</b> ENVIRONMENTAL PERMITTING & PLANNING PO BOX 110221 PUNTA GORDA, FLORIDA 33911 (813) 570-1041	DATE: NOVEMBER 1988 SCALE: 1" = 100' ± 0" PERIODS: 12-12-88 SHEETS: 12 TOTAL SHEETS: 12
		MAP H

1/31/92 - Job #9184 - Wankelman-Swen & Associates

SURVEYOR'S DESCRIPTION: PARCEL 7 (ENVIRONMENT-WILDLIFE PRESERVE):

A parcel of land lying in Section 21, Township 40 South, Range 23 East, Charlotte County, Florida, being more particularly described as follows:

Commence at the Northeast corner of said Section 21; Thence, South 88° 15' 11" West, along the North line of said Section 21, a distance of 425.46 feet; Thence, South 00° 54' 59" West, a distance of 1352.15 feet to a point on the South Right-of-Way line of Harborview Road; Thence along said South Right-of-Way line the following courses: North 89° 05' 07" West, a distance of 240.52 feet; North 00° 54' 53" East, a distance of 10.00 feet; North 89° 05' 07" West, a distance of 259.48 feet to the Point of Beginning.

Thence continue, North 89° 05' 07" West, a distance of 1444.82 feet; Thence departing said South Right-of-Way line, South 04° 42' 37" East, a distance of 265.29 feet to the point of curvature of a curve to the left, having as elements a radius of 300.00 feet, a central angle of 52° 15' 16", and a chord bearing of South 30° 50' 15" East; Thence, along the arc of said curve, an arc length of 273.60 feet to the point of tangency of said curve; Thence, South 56° 57' 53" East, a distance of 115.65 feet to the point of curvature of a curve to the right, having as elements a radius of 380.00 feet, a central angle of 33° 49' 27", and a chord bearing of South 40° 03' 09" East; Thence, along the arc of said curve, an arc length of 224.33 feet to the point of tangency of said curve; Thence, South 23° 08' 26" East, a distance of 206.33 feet; Thence, North 66° 51' 34" East, a distance of 125.04 feet to the point of curvature of a curve to the right, having as elements a radius of 550.00 feet, a central angle of 25° 03' 25", and a chord bearing of North 79° 23' 17" East; Thence, along the arc of said curve, an arc length of 240.53 feet to the point of tangency of said curve; Thence, South 88° 05' 01" East, a distance of 145.71 feet to the point of curvature of a curve to the left, having as elements a radius of 100.00 feet, a central angle of 51° 00' 00", and a chord bearing of North 66° 24' 59" East; Thence, along the arc of said curve, an arc length of 89.01 feet to the point of tangency of said curve; Thence, North 40° 54' 59" East, a distance of 446.71 feet to the point of curvature of a curve to the left, having as elements a radius of 400.00 feet, a central angle of 40° 00' 06", and a chord bearing of North 20° 54' 56" East; Thence, along the arc of said curve, an arc length of 279.26 feet to the point of tangency of said curve; Thence, North 00° 54' 53" East, a distance of 174.40 feet to the Point of Beginning.

TOGETHER WITH:

Commence at the Northeast corner of said Section 21; Thence, South 88° 15' 11" West, along the North line of said Section 21, a distance of 425.46 feet; Thence, South 00° 54' 59" West, a distance of 1352.15 feet to a point on the South Right-of-Way line of Harborview Road; Thence along said South Right-of-Way line the following courses: North 89° 05' 07" West, a distance of 240.52 feet; North 00° 54' 53" East, a distance of 10.00 feet; North 89° 05' 07" West, a distance of 1784.69 feet; Thence departing said South Right-of-Way line, South 04° 42' 37" East, a distance of 273.17 feet to the point of curvature of a curve to the left, having as elements a radius of 380.00 feet, a central angle of 28° 50' 46", and a chord bearing of South 19° 08' 00" East; Thence, along the arc of said curve, an arc length of 191.31 feet to a point on a curve to the left, having as elements a radius of 380.00 feet, a central angle of 23° 24' 30", and a chord bearing of South 45° 15' 38" East, said point also being the Point of Beginning.

Thence, along the arc of said curve, an arc length of 155.25 feet to the point of tangency of said curve; Thence, South 56° 57' 53" East, a distance of 115.65 feet to the point of curvature of a curve to the right, having as elements a radius of 300.00 feet, a central angle of 33° 49' 27", and a chord bearing of South 40° 03' 09" East; Thence, along the arc of said curve, an arc length of 177.10 feet to a point on a curve to the right, having as elements a radius of 75.00 feet, a central angle of 63° 49' 06", and a chord bearing of North 81° 13' 53" West; Thence, along the arc of said curve, an arc length of 83.54 feet to the point of tangency of said curve; Thence, North 49° 19' 20" West, a distance of 115.52 feet to the point of

curvature of a curve to the left, having as elements a radius of 200.00 feet, a central angle of  $43^{\circ}44'27''$ , and a chord bearing of North  $71^{\circ}11'34''$  West; Thence, along the arc of said curve, an arc length of 152.68 feet to the point of tangency of said curve; Thence, South  $86^{\circ}56'13''$  West, a distance of 89.81 feet to the point of curvature of a curve to the right, having as elements a radius of 55.00 feet, a central angle of  $149^{\circ}30'25''$ , and a chord bearing of North  $18^{\circ}18'35''$  West; Thence, along the arc of said curve, an arc length of 143.52 feet to the point of tangency of said curve; Thence, North  $56^{\circ}26'37''$  East, a distance of 133.51 feet to the Point of Beginning.

TOGETHER WITH:

Commence at the Northeast corner of said Section 21; Thence, South  $88^{\circ}15'11''$  West, along the North line of said Section 21, a distance of 425.46 feet; Thence, South  $00^{\circ}54'59''$  West, a distance of 1352.15 feet to a point on the South Right-of-Way line of Harborview Road; Thence along said South Right-of-Way line the following courses: North  $89^{\circ}05'07''$  West, a distance of 240.52 feet; North  $00^{\circ}54'53''$  East, a distance of 10.00 feet; North  $89^{\circ}05'07''$  West, a distance of 2036.83 feet to the Point of Beginning.

Thence continue, North  $89^{\circ}05'07''$  West, a distance of 77.70 feet to the point of curvature of a curve to the left, having as elements a radius of 1001.74 feet, a central angle of  $25^{\circ}07'54''$ , and a chord bearing of South  $78^{\circ}20'56''$  West; Thence, along the arc of said curve, an arc length of 439.39 feet to the end of said curve; Thence, South  $39^{\circ}38'01''$  West, a distance of 148.28 feet; Thence departing said South Right-of-Way line, South  $50^{\circ}21'59''$  East, a distance of 55.85 feet to the point of curvature of a curve to the left, having as elements a radius of 325.00 feet, a central angle of  $41^{\circ}15'34''$ , and a chord bearing of South  $70^{\circ}59'46''$  East; Thence, along the arc of said curve, an arc length of 234.04 feet to the point of tangency of said curve; Thence, North  $88^{\circ}22'27''$  East, a distance of 111.48 feet to the point of curvature of a curve to the right, having as elements a radius of 150.00 feet, a central angle of  $70^{\circ}33'13''$ , and a chord bearing of South  $56^{\circ}20'56''$  East; Thence, along the arc of said curve, an arc length of 184.71 feet to the point of reverse curvature of a curve to the left, having as elements a radius of 150.00 feet, a central angle of  $57^{\circ}48'49''$ , and a chord bearing of South  $49^{\circ}58'44''$  East; Thence, along the arc of said curve, an arc length of 151.36 feet to the end of said curve; Thence, North  $05^{\circ}18'41''$  West, a distance of 215.94 feet; Thence, North  $18^{\circ}55'04''$  West, a distance of 104.28 feet; Thence, North  $08^{\circ}16'39''$  East, a distance of 185.55 feet to the Point of Beginning.

Said lands containing 26.6817 Acres, more or less.

Said lands situate, lying and being in Charlotte County, Florida.



Exhibit "E"

HARBORVIEW DRI  
DESIGN STANDARDS

Zoning

Zoning requirements applicable to the conventional zoning districts shall apply to any type of commercial, business, office and/or residential uses.

Setbacks

Charlotte County Zoning Regulations apply.

Parking

Charlotte County Zoning Regulations apply.

Open Space

A minimum of 20 percent of a developable lot, tract or phase shall be open space which may include vegetated areas unencumbered by an impervious surface. This applies to any form of development other than land to be developed in accordance with the development standards for residential single family units. The intent is to provide a 20 percent minimum of pervious surface, on site to prevent a site from being developed 100 percent with building and required parking. Open space can be landscaped areas, detention and retention ponds, or improved/unimproved natural areas.

Height Limitations

Charlotte County Zoning Regulations shall apply. However, properties located within 1,200 feet of the Peace River shall be required to comply with the restrictions set forth in Section 3-9-98, of the Charlotte County Code, Waterfront Properties.

Service Drives and Service Areas

All service drives will have adequate circulation and turning radius.

Service areas will have effective visual buffers from public areas. These buffers must be accomplished with one of the following methods:

- a. Decorative masonry walls.
- b. Extensive and dense landscaping with berms.

Trash and garbage dumpsters shall be located within the service areas and not in public view.

Parking Lighting

Lighting for parking areas is required. Parking lot lighting plans indicating lighting areas shall be submitted with the final Development Review Committee plans. All lighting shall be directed

away from residential areas and streets to the greatest extent possible.

Signage

All signage shall be subject to Florida Statutes and the Charlotte County Code, as amended, except as otherwise noted herein.

All signs shall be designed to meet building code requirements for wind design.

There shall be no portable, flashing, rotating or moving signs or markers of any type.

There shall not no signs painted on the exterior surface of any building (except those on windows and doors). In addition, there shall be no signs which are constructed of or made upon paper, cardboard, cloth or plastic material.

All signs shall be restricted to a maximum height limitation of 30 feet, except in a Commercial Neighborhood district where they shall be 15 feet, above the crown of the adjoining road on which the property fronts. Where a property fronts more than one road, the highest road shall control.

Where more than one Primary Class A or Secondary Class A sign is allowed, it shall be required that the signs be located on separate street or building fronts. It is not the intent to allow an accumulation of signs on a single street frontage or building front.

The sizes of signs permitted shall be as allowed in Section 3-9-95 of the Charlotte County Zoning Regulations expect that Primary Class A signs shall not exceed 300 square feet.

In the interest of public safety, Primary Class A signs constructed as ground signs, are required to display the street number of the property on all faces of the sign, with numbers not less than 6 inches in height.

Review

The Development Review Committee shall act as a review board for design standards in the Harborview Development of Regional Impact.

EXHIBIT "F"

APPENDIX IV

SUBSTANTIAL DEVIATION MONITORING FORM

SUBSTANTIAL DEVIATION DETERMINATION LEVELS

Question	Issue Area	Subject	Measure of Impact	Degree of Significance of Change	Applicability
1-12	General Project Description/Information	Location	Proximity to other local governments	Annexation without equivalent regulations, etc.	Y
		Project Boundaries	Resources not previously reviewed	Ch. 380.06(19)(a), <u>F.S.</u>	Y
		Topography, delineation 100 yr. Flood zone and Hurricane Flood zone	Is it in such zones?	Redesign causing flood zone expansion or greater levels of hurricane evacuees of more than 5% of shelter capacity or 5% of hurricane route LOS "D".	Y
		Land Use existing and abutting	Land use conflicts with regional resources or other jurisdictions	Ch. 380.06(19)(a), <u>F.S.</u> ; Change in on-site land use to incompatible use	Y
13	Environmental and Natural Resources	Master Development Plan	Change of Land Uses	Ch. 380.06(19)(b)16, <u>F.S.</u> ; 15% of acreage to new land use	Y
		Phasing	Concurrency with facility timing	One phase or 5 years, Ch. 380.06(19)(c), <u>F.S.</u>	Y
14	Environmental and Natural Resources	Air Quality	Point or complex source emission permit needed?	Any new point source	Y
		Land	Hazardous materials storage	New storage, or failure to follow a plan	Y
15	Environmental and Natural Resources	Land	Soil suitability; unique features; erosion control	Discovery of unique features; sinkholes forming	Y
		Water	Aquifer recharge; water quality	Ch. 380.06(19)(d), <u>F.S.</u> ; Violations of water quality and/or permit conditions	Y
16	Environmental and Natural Resources	Wetlands	Loss of wetland acreage	2 acres	Y

SUBSTANTIAL DEVIATION DETERMINATION LEVELS

Question	Issue Area	Subject	Measure of Impact	Degree of Significance of Change	Applicability
17	Environmental and Natural Resources	Floodplains/	Additional intrusion into 100-year floodplain	5% additional increase	Y
		Evacuation Time	Increase in evacuation route time to evacuate	5% additional increase	Y
		Shelters	Absorption of 5% of proximate shelter space	5% additional increase	Y
18	Environmental and Natural Resources	Vegetation	Vegetated area in type, acres	Ch. 380.06(19)(b)17, F.S.; Development of area set aside for preservation, buffers, special habitat	Y
		Listed* Vegetation	Any permanent loss of endangered species	Any new loss areas or species	Y
		Listed* Wildlife	Any permanent loss of endangered species	Any new loss	Y
19	Environmental	Historic and Archaeological sites	Any loss without State overview	Any additional loss	Y
20	Economy	Employment	Housing needs for low and moderate income workers	Increase in needs by 15%	Y
		Salary Ranges	Housing needs	Increase in needs by 15%	Y
		Skills	Education needs for special skills	None	N
		Seasonality	Housing needs	None	N
		Agricultural Loss	None	None	N
		On Site Economic Needs (such as shopping)	Onsite reduction that will occur than other can be expected, cause increase in off-site traffic	Ch. 380.06(19)(b)15, F.S.; Increase in external trips by 15%	Y
		Federal Assistance	None	Failure to get assistance prevents timely provision of facilities	N

\* State or Federal lists of Endangered (etc.) Species.

SUBSTANTIAL DEVIATION DETERMINATION LEVELS

Question	Issue Area	Subject	Measure of Impact	Degree of Significance of Change	Applicability
20 (cont'd)	Economy (continued)	Market Studies Taxes and Costs	Absorption Rate Fiscal Soundness	See "Phasing" Failure to pay/see "Phasing"	Y Y
21	Public Facilities: Wastewater Management	Central Service Septic Tanks Spray Irrigation	Meet DER Standards Density; treatment quality Health issues/Water conservation	Failure to provide central service Failure to keep low density/meet treatment quality Unanticipated health issues/Failure to provide.	Y Y Y
22	Drainage	Design Storm Receiving Body	As set by WMDs Quality concerns of receiving body	Failure to meet design storm and best management practices Ch. 380.06(19)(d), F.S.; Violations of Water Quality and/or Permit Conditions	Y Y
23	Water Supply	Central Service Provider On Site Provider Lot Sales	Water conservation program Capacity of provider Availability of resource Availability of resources for buildout	Failure to enact stated program Capacity of provider exceeded prior to project buildout Failure to receive permission for resource but marketing of property for DRI uses continue Failure to provide resources for buildout	Y Y Y Y
24	Solid Waste	Hazardous Waste Recycling	Storage Program Commitment to participate in local sponsored program	Failure to enact a stated program or change of program to improper disposal of wastes Failure to participate	Y Y

SUBSTANTIAL DEVIATION DETERMINATION LEVELS

Question	Issue Area	Subject	Measure of Impact	Degree of Significance of Change	Applicability
25	Energy	Conservation	Appropriate best practices	Failure to enact stated program	Y
26	Education	School Sites Training Needs	Reserving sites Joint financing	Failure to reserve sites Failure to participate in financing	N N
27	Recreation & Open Space	Facilities and Sites	As related to population needs	Ch. 380.06(19)(b)(13), F.S.; decrease in open space by 5%	Y
28	Health Care	Facility  Needs  Ambulances	Meeting community needs  Capacity of serving facilities (5%) Service times	Failure to receive approval for stated uses, or changing the uses which require certificate of need for more than one county. Increase in need by 5% more of capacity None	Y  Y Y
29	Police	Police Protection	Service capacities	None	Y
30	Fire	Fire Service	Response times	New type of demand for service that was not stated in DRI that creates need for interlocal agreement which does not exist	Y
31	Transportation	Total Trips	Fire flow Offsite trip direction, timing volumes Capture rate	Failure to provide fire flow Ch. 380.06(19)(b)15, F.S.; or 5% level of service facility (and facility falls below acceptable LOS standard) Same as above	Y Y Y
32	Housing	Low and Moderate Buyers	Number proximate to new workers of low and moderate income	Failure to provide low/moderate income housing, if required	Y
33-34	Specific DRI Information	DRI Type	Specific to DRI type	Ch. 380.06(19)(b)1.-16, F.S.	Y

Issue address in original ADA and/or amended by First Substantial Deviation Application.