

**EXHIBIT B**

**FLORIDA DEPARTMENT OF COMMUNITY AFFAIRS et al. v. COLLIER COUNTY et al.**

**DOAH CASE NUMBER 07-2317GM  
DCA Docket Number 07-ER-NOI-1101-(A)-(N)**

This proposal will settle the issues cited in the Department’s Statement of Intent to find the Collier County Comprehensive Plan amendment adopted by Ordinance 07-18 Not in Compliance.

The terms below apply to Section 24, Township 49 South, Range 26 East, located in the North Belle Meade Overlay of Collier County (Section 24).

1. Sending Lands non-residential uses as they exist at the time of the adoption of this agreement, in Section II.B.1.C) of the Future Land Use Element of the comprehensive plan, are allowed, except as otherwise provided in this Agreement for certain properties. Some or all Neutral Lands non-residential uses are allowed on certain properties as provided for later in this Agreement.
2. Residential uses are allowed. The development density shall be one (1) residential dwelling unit per lot of record or legal non-conforming lot of record as it exists on the date of adoption of this Agreement if no clustering takes place.
3. For any clustered development, the maximum density shall be one (1) residential dwelling unit per five (5) acres, or 0.2 residential dwelling units per acre. The minimum gross acreage for clustering a single residential development shall be 64 acres.
4. For any clustered development, the lot size shall not exceed an average of one acre, exclusive of areas to be dedicated, conveyed or set aside for right-of-way

purposes. Depending on the recommendations of the Red-cockaded Woodpecker (RCW) Habitat Management Plan required in paragraph 12 for clustered development, the lot size may be required to be less.

5. Interim, private water and sewer facilities shall be allowed to serve clustered developments until such time as County central water and sewer service becomes available.
6. For any clustered development, a minimum of eighty percent (80%) of the native vegetation shall be preserved in a manner which is consistent with the Conservation and Coastal Management Element, Policy 6.1.2e.-g., as it exists on the date of the adoption of this agreement.
7. For any development that is not clustered, ninety percent (90%) of the slash pine trees shall be preserved, and a greater amount may be preserved at the discretion of the property owner, unless the RCW Habitat Management Plan recommends a lesser amount.
8. Any clustered residential development requires participation in a RCW Habitat Management Plan and the requirements set forth in Paragraph 12 of this Agreement. Any non-residential development consistent with Neutral Lands non-residential uses, as authorized later in this Agreement for certain properties, requires participation in a RCW Habitat Management Plan and the requirements set forth in Paragraph 12 of this Agreement.
9. Specific additional development standards and use limitations/allowances for the Hideout Parcels in Section 24:

- a. Hideout will be authorized to cluster and construct 37 residential dwelling units on its parcels, in a single cluster, within the areas colored green on the attached map of Section 24. These dwelling unit figures are based upon total Hideout ownership in Section 24 (approximately 187 acres).
- b. Clustered residential development by Hideout shall take place only in the parcels colored green on the attached map, and shall be located in an area of the property determined by the RCW Habitat Management Plan to be most appropriate for development. For the location of the clustered development, the RCW Habitat Management Plan shall consider areas already developed and highly impacted, as well as areas contiguous to areas in the southeast part of Section 24 that are already developed and highly impacted.
- c. No development shall take place on the two Hideout parcels adjacent to the existing Hideout Golf Course (identified by striping pattern on the attached map of Section 24).
- d. All other cluster provisions and requirements for Neutral Lands shall be applicable to the three green Hideout parcels (identified on the attached map of Section 24) set aside for development purposes. These cluster provisions and requirements are set out in the Rural Fringe Comprehensive Plan Amendments adopted June 19, 2002, by Ordinance number 2002-32, and incorporated into the comprehensive plan, and subsequently adopted into the Collier County Land Development Code, Ordinance No. 04-41, as amended.

- e. The three Hideout parcels colored green (identified on the attached map of Section 24) are limited to residential uses and associated accessory uses, essential services, and parks, open space, and recreational uses, as well as necessary infrastructure to serve such development – all as provided for in the Rural Fringe Mixed Use District Neutral Lands of the Future Land Use Element in the Comprehensive Plan, and as stated in paragraph 12.f.(4)(b) of this Agreement.
- f. For the three Hideout parcels colored green and the two striped Hideout parcels (as depicted on the attached map of Section 24), which total approximately 81 acres, the native vegetation requirement in accordance with paragraph 6. of this agreement shall be approximately 65 acres.
- g. Hideout’s approximately 65 acres of native vegetation shall be conveyed to Conservation Collier, a Home Owners Association, or other like entity, for the purposes of conservation and preservation. The conveyance shall be in the form of a conservation easement (CE), or other instrument acceptable to the entity.
  - (1) The entity in whose favor the CE is granted shall be obligated to implement and maintain the RCW Habitat Management Plan that will be developed for this area in association with the Safe Harbor Agreement as described below.
  - (2) Such entity shall provide financial assurances to Collier County, in the form of a bond, letter of credit, or equivalent, of its ability to

implement and permanently maintain this RCW Habitat Management Plan.

- h. As set forth in paragraph 8., for any clustered residential development and for any non-residential development, Hideout will participate in the Habitat Management Plan and all other requirements of Paragraph 12 of this Agreement.
- i. For any future redevelopment of the seven Hideout parcels colored yellow (identified on the attached map of Section 24) to change the use from golf course, these parcels are allowed to develop with any of the non-residential uses provided for in the Rural Fringe Mixed Use District Neutral Lands of the Future Land Use Element in the Comprehensive Plan, and are subject to all requirements and limitations of Neutral Lands.

10. Specific additional development standards and use limitations for the Cowan parcels in Section 24:

- a. In accordance with paragraph 2 of this Agreement, on Cowan's parcels totaling 97.7 acres, Cowan is entitled to develop one (1) residential dwelling unit on each of his six (6) lots of record as they exist on the date of adoption of this settlement agreement if no clustering takes place.
- b. For clustered development, in accordance with paragraph 3 of this Agreement, the maximum density shall be one (1) residential dwelling unit per five (5) acres, or 0.2 residential dwelling units per acre, not to exceed 19 residential dwelling units on the Cowan property.

- c. If Cowan chooses clustered development, Cowan, or his assigns, will participate in an RCW Habitat Management Plan and the requirements outlined in Paragraph 12 of this Agreement, and shall expend a sum of money to promptly implement the RCW Habitat Management Plan for Cowan's parcels totaling 97.7 acres. This initial amount ("Initial Management Amount") shall be no greater than \$30,000.00. Once the RCW Habitat Management Plan is implemented, Cowan, or his assigns, agrees to fund the Initial Management Amount plus five percent (5%) per year, which shall accrue annually, as an inflation adjustment.
- d. Up to two (2) clustered developments shall be permitted on Cowan's 97.7 acres. The cluster(s) shall be located in an area(s) of the property determined by the best available data, including the RCW Habitat Management Plan, to be most appropriate for development.
- e. Development within the Cowan southernmost approximately 16-acre parcel (Lot 35, Naples Farm Sites, Inc., identified on the attached map of Section 24, the "Lot 35 Parcel") next to the existing Hideout Golf Course (the seven parcels colored yellow on the attached map of Section 24) shall consist of road access and up to three clustered dwelling units. These dwelling units shall be part of the total number of clustered dwelling units assigned to the Cowan property. Accordingly, if three dwelling units are developed in the Lot 35 Parcel, then three dwelling units shall be subtracted from the total number of dwelling units, and Cowan may develop the remainder of units in a single cluster elsewhere on Section 24

Cowan property as set forth above. The lot sizes of the Lot 35 Parcel clustered dwelling units shall not exceed an average of one acre per lot, exclusive of areas to be dedicated, conveyed or set aside for right-of-way purposes.

- f. If clustering occurs, all other cluster provisions and requirements for Neutral Lands shall be applicable to the Cowan parcels set aside for development purposes. These cluster provisions and requirements are set out in the Rural Fringe Comprehensive Plan Amendments adopted June 19, 2002, by Ordinance number 2002-32, and incorporated into the comprehensive plan, and subsequently adopted into the Collier County Land Development Code, Ordinance No. 04-41, as amended.
- g. The Cowan parcels are limited to residential uses and associated accessory uses, essential services, and parks, open space, and recreational uses, as well as necessary infrastructure to serve such development – all as provided for in the Rural Fringe Mixed Use District Neutral Lands of the Future Land Use Element in the Comprehensive Plan, and as stated in paragraph 12.f.(4)(b) of this Agreement.
- h. If clustering occurs, Cowan’s approximately 78 acres of native vegetation shall be conveyed or granted by a conservation easement (CE) or deed (as determined by Cowan or his assignee) to Conservation Collier, a Home Owners Association, or other like entity, its successors and assigns, a non-exclusive easement, license, and privilege to enter upon, maintain, preserve and conserve such property and wildlife.

(1) The entity in whose favor the CE is granted shall be obligated to implement and maintain the RCW Habitat Management Plan that will be developed for this area referenced in paragraph 10c above and in association with the Safe Harbor Agreement as described below.

(2) Such entity shall provide financial assurances to Collier County, in the form of a bond, letter of credit, or equivalent, of its ability to implement and permanently maintain this RCW Habitat Management Plan.

i. As set forth in paragraph 8., for any clustered residential development and for non-residential development, Cowan will participate in the Habitat Management Plan and all other requirements of Paragraph 12 of this Agreement.

11. Specific additional development standards and use allowances for the Buckley parcels in Section 24:

a. In accordance with paragraph 2 of this Exhibit B, on Buckley's parcels totaling approximately 81 acres, Buckley is entitled to develop one (1) residential dwelling unit on each of his six (6) lots of record as they exist on the date of adoption of this settlement agreement if no clustering takes place.

b. For clustered development, in accordance with paragraph 3 of this Exhibit B, the maximum density shall be one (1) residential dwelling unit per five



(5) acres, or 0.2 residential dwelling units per acre, not to exceed 16 residential dwelling units.

- c. If Buckley chooses to cluster development, Buckley will participate in an RCW Habitat Management Plan and the requirements set forth in Paragraph 12 of this Agreement and agree to expend a sum of money to promptly implement the RCW Habitat Management Plan. This amount shall be \$30,000.00 plus five (5) percent per year as an inflation adjustment. Once the RCW Habitat Management Plan is implemented, Buckley agrees to fully fund the ongoing maintenance costs.
- d. Only one clustered development shall be allowed on Buckley's approximately 81 acres, and that cluster shall be located in an area of the property determined by the best available data, including the RCW Habitat Management Plan, to be most appropriate for development. For the location of the clustered development, the RCW Habitat Management Plan shall consider areas already developed and highly impacted, as well as areas contiguous to areas in the eastern portion of Section 24 that are already developed and highly impacted.
- e. If clustering occurs, all other cluster provisions and requirements for Neutral Lands shall be applicable to the Buckley parcels set aside for development purposes. These cluster criteria are set out in the Rural Fringe Comprehensive Plan Amendments adopted June 19, 2002, by Ordinance number 2002-32, and incorporated into the comprehensive

plan, and subsequently adopted into the Collier County Land Development Code, Ordinance No. 04-41, as amended.

- f. If Buckley chooses to cluster residential development, the native vegetation requirement in accordance with paragraph 5. of this agreement is approximately 65 acres.
- g. If Buckley chooses to cluster residential development, approximately 65 acres of native vegetation shall be conveyed to Conservation Collier, a Home Owners Association, or other like entity, for the purposes of conservation and preservation. The conveyance shall be in the form of a conservation easement (CE), or other instrument acceptable to the entity.
  - (1) The entity in whose favor the CE is granted shall be obligated to implement and maintain the RCW Habitat Management Plan that will be developed for this area in association with the Safe Harbor Agreement as described below.
  - (2) Such entity shall provide financial assurances to Collier County, in the form of a bond, letter of credit, or equivalent, of its ability to implement and permanently maintain this RCW Habitat Management Plan.
- h. Notwithstanding the provisions of paragraph 11.a.-g. above, the Buckley parcels are not restricted to residential use, but rather are allowed to develop with any of the uses provided for in the Rural Fringe Mixed Use District Neutral Lands of the Future Land Use Element in the Comprehensive Plan.

- i. The following conditions apply if Buckley chooses to develop any of the non-residential uses provided for in the Rural Fringe Mixed Use District Neutral Lands of the Future Land Use Element:
  - (1) Rural Fringe Mixed Use District Neutral Land uses, with the exception of facilities for the collection, transfer, processing and reduction of solid waste and the exception of earth mining, may be developed if Buckley participates in a RCW Habitat Management Plan and agrees to expend a sum of money to promptly implement the associated RCW Habitat Management Plan. This amount shall be \$30,000.00 plus five (5) percent per year as an inflation adjustment. Once the RCW Habitat Management Plan is implemented, Buckley agrees to fully fund the ongoing maintenance costs.
  - (2) Non-residential Rural Fringe Mixed Use District Neutral Land uses shall be located in an area of the property determined by the best available data, including the RCW Habitat Management Plan studies, to be most appropriate for non-residential development.
  - (3) For Non-residential Rural Fringe Mixed Use District Neutral Land uses in Section 24, native vegetation shall be preserved in a manner which is consistent with the Habitat Management Plan and the County's Conservation and Coastal Management Element, Policy 6.1.2e.-g., as it exists on the date of the adoption of this agreement.

## 12. Safe Harbor Agreement

- a. Hideout (and Cowan or Buckley at such time either Cowan or Buckley chooses to cluster residential density) shall apply for and pursue a Safe Harbor Agreement with associated RCW Habitat Management Plan with the U.S. Fish and Wildlife Service for the approximately 81 acres (Cowan 97.7 acres and Buckley 81 acres) of land they own in Section 24 that are described in paragraph 9.f.
- b. If approved, the RCW Habitat Management Plan will require such management techniques as the mechanical or manual thinning of trees and understory, and the removal of combustible materials to levels which would permit a “controlled burn” that would not destroy, but would maintain, the presence of a sufficient amount of slash pine trees for RCW foraging and cavity tree nests.
- c. Hideout (and Cowan or Buckley at such time either Cowan or Buckley chooses to cluster residential density) agrees to pay all legal and permitting fees related to their effort to obtain approval of the Safe Harbor Agreement. Additionally, if successful in obtaining a Safe Harbor Agreement, Hideout (and Cowan or Buckley at such time either Cowan or Buckley chooses to cluster residential density) agrees to expend a sum of money to promptly implement the associated RCW Habitat Management Plan. This amount shall be \$30,000.00 plus five (5) percent per year as an inflation adjustment. Once the RCW Habitat Management Plan is implemented, Hideout (and Cowan or Buckley at such time either Cowan

or Buckley chooses to cluster residential density) agrees to fully fund the ongoing maintenance costs.

- d. The Safe Harbor Agreement and associated RCW Habitat Management Plan must provide that Hideout (and Cowan or Buckley at such time either Cowan or Buckley chooses to cluster residential density) can develop 37 residential dwelling units (Cowan 19 units and Buckley 16 units) in the areas colored green (Cowan blue, and Buckley uncolored) as set forth on the attached map. The RCW Habitat Management Plan must also delineate the maximum area that may be cleared, in accordance with the applicable provisions of the Growth Management Plan, within the green areas (Cowan blue, Buckley uncolored) set forth on the attached map. The Safe Harbor Agreement must allow 20% of Hideout's approximately 81 acres (approximately 16 acres) (Cowan 19.54 acres and Buckley approximately 16 acres) to be cleared when development occurs.
- e. The County, Department of Community Affairs (DCA), Florida Wildlife Federation (FWF), and Collier County Audubon Society (CCAS) acknowledge that once the RCW Habitat Management Plan is implemented, the County shall defer to the federal and state agencies as to protection of other state and federal listed species that may be present on the approximate 81 acres of land owned by Hideout (97.7 acres owned by Cowan and approximately 81 acres owned by Buckley) and described in paragraph 9.f. Hideout (and Cowan or Buckley at such time either Cowan or Buckley chooses to cluster residential density) agrees to comply with

all federal and state listed species criteria for development within the areas that will be allowed to be cleared pursuant to the Safe Harbor Agreement.

f. The County, DCA, FWF, and CCAS agree to not comment to any of the state and federal permitting agencies during the permitting process for the Hideout (and for Cowan or Buckley at such time either Cowan or Buckley chooses to cluster residential density) parcels so long as the following takes place:

- (1) The projects are clustered; and
- (2) The Safe Harbor Agreement with associated RCW Habitat Management Plan is approved and being implemented; and
- (3) The referenced CE or fee simple title is granted to the appropriate entity for management of the RCW habitat; and
- (4) Permit applications are consistent with this Stipulated Settlement Agreement and all provisions of the Collier County comprehensive plan, except they are not subject to:
  - (a) the Conservation and Coastal Management Element, Objective 2.1 and subsequent policies; Goal 6 and subsequent objectives and policies, excluding policies 6.1.2e.-g., 6.1.4, 6.1.5, and 6.1.7; and, Goal 7 and subsequent objectives and policies; and,
  - (b) the Future Land Use Element, Rural Fringe Mixed Use District, Neutral Lands, paragraph 2., § Clustering, subparagraph d), minimum project size; Paragraph 3. Allowable Uses, subparagraphs 3.a), d) through h), j) through

p), r) and s) [these excepted uses are prohibited]; paragraph 5.

Density Blending [this provision is not available for these parcels].

- g. The FWF and CCAS further agree to use their best efforts to persuade the National Wildlife Federation and Audubon Society of Florida to refrain from commenting to any state or federal permitting agencies during the permitting process for the Hideout developments (and Cowan or Buckley developments at such time either Cowan or Buckley chooses to cluster residential density) so long as the following takes place:

- (1) See Subparagraphs 12.f. (1) through (4) immediately above.

- h. Should Hideout (and Cowan or Buckley at such time either Cowan or Buckley chooses to cluster residential density) be unable to secure an acceptable Safe Harbor Agreement with associated RCW Habitat Management Plan, or should the cost of implementing the RCW Habitat Management Plan exceed the sum of \$30,000.00 plus the inflation factor set forth herein and no additional funding can be obtained, then Hideout (and Cowan or Buckley at such time either Cowan or Buckley chooses to cluster residential density) shall be deemed to have satisfied their Safe Harbor Agreement and associated RCW Management Plan obligations pursuant to this Agreement with the contribution of \$30,000.00 toward management of the RCW habitat. In such an event, the remaining provisions and requirements relating to density, clustering, preservation and any other applicable development standards of this Stipulated

Settlement Agreement, and the Collier County GMP, except as excepted in paragraph 12.f.(4) of this Agreement, remain effective and applicable to the Hideout (and Cowan or Buckley at such time either Cowan or Buckley chooses to cluster residential density) parcels in Section 24.

The Collier County Comprehensive Plan will be amended as necessary to recognize and implement this Stipulated Settlement Agreement. This amendment will be initiated by Collier County at Collier County's expense, except that public notice expenses will be paid on a proportionate share basis by Collier County and the intervener property owners entering into this agreement.