



ORDINANCE NO. 05-24

ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF COLLIER COUNTY, FLORIDA ESTABLISHING HERITAGE BAY COMMUNITY DEVELOPMENT DISTRICT; DESCRIBING THE EXTERNAL BOUNDARIES OF THE DISTRICT; NAMING THE INITIAL MEMBERS OF THE DISTRICT'S BOARD OF SUPERVISORS; NAMING THE DISTRICT; PROVIDING STATUTORY PROVISIONS GOVERNING THE DISTRICT; PROVIDING FOR CONSENT TO SPECIAL POWERS; PROVIDING FOR CONFLICT AND SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Bay Home USH, Inc., a Florida Limited Liability Company of which is the managing member Bayvest L.L.C., has petitioned the Board of County Commissioners of Collier County, Florida, a political subdivision of the State of Florida, to establish the HERITAGE BAY COMMUNITY DEVELOPMENT DISTRICT (District); and

WHEREAS, the Board of County Commissioners, after proper published notice has conducted a public hearing on the petition and determined the following with respect to the factors to be considered in Section 190.005(1)(e) Florida Statutes, as required by Section 190.005(2)(c), Florida Statutes:

1. The petition is complete in that it meets the requirements of Sections 190.005 (1)(e) 2., and 190.005(2)(a), Florida Statutes; and all statements contained within the petition are true and correct.
2. Establishment of the proposed District is not inconsistent with any applicable element or portion of the local comprehensive plan of Collier County, known as the Collier County Growth Management Plan, or the State Comprehensive Plan.
3. The area of land within the proposed District is of sufficient size, is sufficiently compact, and is sufficiently contiguous to be developable as one functional interrelated community.
4. The District is the best alternative available for delivering community development services and facilities to the area that will be serviced by the District.
5. The community development services and facilities of the District will not be incompatible with the capacity and uses of existing local and regional community development services and facilities.
6. The area that will be served by the District is amenable to separate special-district government; and

WHEREAS, it is the policy of this State, as provided for in Section 190.002 (2) (c), Florida Statutes, that the exercise by any independent district of its powers as set forth by uniform general law comply with all applicable governmental laws, rules, regulations, and policies governing planning and permitting of the development to be serviced by the district, to ensure that neither the establishment nor operation of such district is a development order under Chapter 380, Florida Statutes and that the district so established does not have any zoning or permitting powers governing development; and

WHEREAS, Section 190.004 (3), Florida Statutes, provides that all governmental planning, environmental, and land development laws, regulations, and ordinances apply to all development of the land within a community development district. Community development

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2005 MAY 31 AM 11:00
CLERK OF COUNTY COMMISSIONERS
COLLIER COUNTY FLORIDA

districts do not have the power of a local government to adopt a comprehensive plan, building code, or land development code, as those terms are defined in the Local Government Comprehensive Planning and Land Development Regulation Act. A district shall take no action which is inconsistent with applicable comprehensive plans, ordinances, or regulations of the applicable local general-purpose government; and

WHEREAS, pursuant to Section 190.012, Florida Statutes, upon the establishment of the proposed community development district, the District Board of Supervisors will have the right to seek consent from Collier County for the grant of authority to exercise special powers without question as to the continued right authority and power to exercise its limited powers as established by this Ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF COLLIER COUNTY, FLORIDA that:

SECTION ONE: AUTHORITY FOR ORDINANCE

This Ordinance is adopted pursuant to Section 190.005 (2), Florida Statutes, and other applicable provisions of law governing county ordinances.

SECTION TWO: ESTABLISHMENT OF THE HERITAGE BAY COMMUNITY DEVELOPMENT DISTRICT.

The Heritage Bay Community Development District is hereby established within the boundaries of the real property described in Exhibit "A" attached hereto and incorporated by reference herein.

SECTION THREE: DESIGNATION OF INITIAL BOARD MEMBERS

The following five persons are herewith designated to be the initial members of the Board of Supervisors:

- | | |
|--|--|
| 1. Jeffrey Marculaitis
541 SE 1 st Terrace
Cape Coral, FL 33990 | 3. Samuel W. Marshall, P.E.
4413 E. Riverside Drive
Fort Myers, FL 33905 |
| 2. Frank L. Reynolds
611 SW 52 nd Street
Cape Coral, FL 33914 | 4. Ronnie S. Searcy
P.O. Box 354
Labelle, FL 33935 |
| 5. Russell R. Smith
5327 Summerlin Road #12
Fort Myers, FL 33919 | |

SECTION FOUR: DISTRICT NAME

The community development district herein established shall henceforth be known as the "Heritage Bay Community Development District."

SECTION FIVE: STATUTORY PROVISIONS GOVERNING THE DISTRICT

The Heritage Bay Community Development District shall be governed by the provisions of Chapter 190, Florida Statutes, and all other applicable general and local law.

SECTION SIX: CONSENT TO SPECIAL POWERS

Upon the effective date of this Ordinance, the Heritage Bay Community Development District will be duly and legally authorized to exist and exercise all of its general powers as limited by law; and has the right to seek consent from the Collier County Board of County Commissioners for the grant of authority to exercise special powers in accordance with Section 190.012(2), Florida Statutes, without question as to the district's continued right, authority and power to exercise its general powers as established by this Ordinance. The District Board's authority to exercise special powers may include the power to plan, establish, acquire, construct or reconstruct, enlarge or extend, equip, operate, and maintain additional systems and facilities for: (i) parks and facilities for indoor and outdoor recreational, cultural, and educational uses; and (ii) security, including, but not limited to, guardhouses, fences and gates, electronic intrusion-detection systems, and patrol cars, when authorized by proper governmental agencies; except that the District may not exercise any police power, but may contract with the appropriate Local general-purpose government agencies for an increased level of such services within the District boundaries; all as authorized and described by Section 190.012(2), Florida Statutes.

SECTION SEVEN: CONFLICT AND SEVERABILITY

In the event this Ordinance conflicts with any other ordinance of Collier County or other applicable law, the more restrictive shall apply. If any phrase or portion of this Ordinance is held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portion.

SECTION EIGHT: INCLUSION IN CODE OF LAWS AND ORDINANCES

The provisions of this Ordinance shall become and be made a part of the Code of Laws and Ordinances of Collier County, Florida. The sections of the Ordinances may be renumbered or relettered to accomplish such, and the word "ordinance" may be changed to "section," "article," or any other appropriate word.

SECTION NINE: EFFECTIVE DATE

This Ordinance shall become effective upon filing with the Florida Department of State.

PASSED ON DULY ADOPTED by the Board of County Commissioners of Collier County, Florida, this 24th day of May, 2005.

BOARD OF COUNTY COMMISSIONERS
COLLIER COUNTY, FLORIDA

ATTEST: DWIGHT E. BROCK

By: Yudi R. Boerhove, DC
Deputy Clerk
Attest as to Chairman's
signature only.

BY: Fred W. Coyle
FRED W. COYLE, CHAIRMAN

Approved as to form
and legal sufficiency:

Patrick G. White
Patrick G. White,
Assistant County Attorney

Mk/f:\compplan/CDD/ORD.

This ordinance filed with the
Secretary of State's Office the
31st day of May, 2005
and acknowledgement of that
filing received this 6th day
of June, 2005
By: Yudi R. Boerhove, DC
Deputy Clerk

EXHIBIT "A"

LEGAL DESCRIPTION
HERITAGE BAY
COMMUNITY DEVELOPMENT DISTRICT
Being a portion of Sections 13 & 24,
Township 48 South, Range 26 East,
Collier County, Florida

A parcel of land being a portion of Sections 13 & 24, Township 48 South, Range 26 East, Collier County, Florida, being more particularly described as follows:

COMMENCING at the Southeast corner of said Section 24; thence N.01°14'51"W. along the East line of Section 24, a distance of 100.02 feet to the **POINT OF BEGINNING**; thence, leaving said East line of Section 24, N.89°58'00"W., a distance of 2,638.89 feet; thence N.89°58'37"W., a distance of 2,514.00 feet; thence N.01°33'42"W., a distance of 1,535.94 feet; thence N.65°25'35"E. a distance of 270.30'; thence N.19°35'07"W., a distance of 187.78 feet; thence N.02°00'24"W., a distance of 272.35 feet to a point of curvature; thence along the arc of a tangent curve concave to the East, having for its elements a radius of 35.00 feet, a central angle of 35°05'48", a chord of 21.11 feet, a chord bearing of N.15°32'30"E., an arc distance of 21.44 feet; thence N.56°54'36"W., a distance of 20.00 feet; thence N.02°00'24"W., a distance of 353.42 feet; thence N.53°48'12"E., a distance of 91.45 feet; thence S.36°11'48"E., a distance of 58.90 feet to a point of curvature; thence along the arc of a tangent curve concave to the North, having for its elements a radius of 60.00 feet, a central angle of 71°39'28", a chord of 70.24 feet, a chord bearing of S.72°01'32"E., an arc distance of 75.04 feet; thence N.72°08'43"E., a distance of 147.48 feet; thence N.08°12'01"W., a distance of 69.11 feet; thence S.89°30'35"E., a distance of 211.29 feet; thence S.87°58'25"E., a distance of 164.30 feet; thence N.88°10'39"E., a distance of 189.91 feet; thence N.88°59'22"E., a distance of 167.28 feet; thence S.88°56'16"E., a distance of 149.44 feet; thence N.89°31'16"E., a distance of 138.78 feet; thence N.89°45'41"E., a distance of 110.44 feet; thence N.89°36'13"E., a distance of 119.99 feet; thence S.89°19'35"E., a distance of 154.78 feet; thence N.88°08'30"E., a distance of 180.40 feet; thence N.89°41'04"E., a distance of 38.61 feet; thence N.01°22'58"E., a distance of 902.58 feet; thence N.21°47'57"E., a distance of 391.48 feet; thence N.28°17'20"E., a distance of 190.21 feet; thence N.12°10'59"E., a distance of 299.09 feet; thence N.07°56'42"E., a distance of 77.53 feet; thence N.04°26'52"E., a distance of 138.12 feet; thence N.21°21'56"E., a distance of 700.45 feet; thence N.73°43'21"W., a distance of 5.43 feet; thence N.31°47'35"E., a distance of 117.82 feet; thence S.82°26'17"E., a distance of 54.75 feet; thence S.79°17'56"E., a distance of 76.80 feet; thence N.79°45'22"E., a distance of 109.31 feet; thence N.51°55'31"E., a distance of 44.51 feet; thence N.12°26'48"W., a distance of 54.47 feet; thence N.04°42'52"E., a distance of 100.62 feet; thence N.26°24'51"W., a distance of 132.45 feet; thence N.20°55'33"W., a distance of 114.96 feet; thence N.33°53'11"W., a distance of 80.19 feet; thence N.27°02'08"W., a distance of 95.88 feet; thence N.31°03'58"W., a distance of 113.23 feet; thence N.19°42'29"W., a distance of 77.43 feet; thence N.18°58'07"W., a distance of 99.15 feet; thence N.09°09'58"W., a distance of 127.56 feet; thence N.07°59'11"E., a distance of 85.65 feet; thence N.04°34'03"E., a distance of 88.03 feet; thence N.12°42'24"E., a distance of 151.66 feet; thence N.16°35'04"E., a distance of 147.18 feet; thence N.28°19'13"E., a distance of 100.89 feet; thence N.21°00'29"E., a distance of 98.19 feet; thence N.21°16'27"E., a distance of 79.29 feet; thence N.04°00'26"W., a distance of 71.26 feet; thence N.08°09'40"W., a distance of 112.57 feet; thence N.00°25'15"W., a distance of 65.37 feet; thence N.07°35'10"W., a distance of 84.46 feet; thence N.19°52'10"W., a distance of 62.40 feet; thence N.04°00'39"W., a distance of 50.18 feet; thence N.24°33'09"W., a distance of 87.86 feet; thence N.39°15'38"W., a distance of 74.17 feet; thence N.42°51'42"W., a distance of 55.72 feet; thence N.75°15'30"W., a distance of 75.06 feet; thence N.06°47'16"E., a distance of 42.98 feet; thence N.11°09'27"W., a distance of 71.52 feet; thence N.18°29'29"W., a distance of 86.64 feet; thence N.02°32'04"W., a distance of 70.78 feet; thence

EXHIBIT "A"

LEGAL DESCRIPTION
HERITAGE BAY
COMMUNITY DEVELOPMENT DISTRICT
Being a portion of Sections 13 & 24,
Township 48 South, Range 26 East,
Collier County, Florida

N.13°06'52"E., a distance of 80.21 feet; thence N.02°11'35"E., a distance of 51.22 feet; thence N.57°45'30"W., a distance of 31.60 feet; thence N.36°04'22"W., a distance of 17.68 feet; thence N.22°03'21"W., a distance of 38.91 feet; thence N.38°19'34"W., a distance of 62.73 feet; thence N.06°48'48"E., a distance of 256.83 feet; thence N.56°49'22"E., a distance of 230.89 feet; thence N.37°06'38"E., a distance of 307.08 feet; thence N.01°33'58"W., a distance of 220.27 feet; thence N.47°55'49"E., a distance of 261.06 feet; thence S.50°20'34"E., a distance of 238.48 feet; thence N.79°05'16"E., a distance of 44.71 feet; thence N.66°54'39"E., a distance of 198.99 feet; thence N.88°19'41"E., a distance of 309.14 feet; thence S.81°11'47"E., a distance of 382.30 feet; thence S.58°54'22"E., a distance of 212.84 feet; thence S.61°55'11"E., a distance of 69.00 feet; thence N.27°24'54"E., a distance of 326.91 feet; thence N.23°54'05"E., a distance of 52.09 feet; thence N.06°19'58"E., a distance of 45.01 feet; thence N.16°00'11"W., a distance of 225.09 feet; thence N.36°39'53"W., a distance of 161.08 feet; thence N.53°19'35"W., a distance of 170.55 feet; thence N.87°40'44"W., a distance of 222.13 feet; thence N.26°13'42"E., a distance of 257.95 feet; thence S.76°33'40"E., a distance of 135.04 feet; thence N.50°04'55"E., a distance of 317.50 feet; thence N.47°15'05"E., a distance of 238.71 feet; thence S.85°43'54"E., a distance of 224.24 feet to a point on the East line of Section 13; thence S.00°57'28"E. along said East line of Section 13, a distance of 2,313.33 feet; thence S.01°00'51"E., a distance of 1,348.99 feet; thence S.01°01'37"E., a distance of 1,349.74 feet to the Northeast corner of Section 24; thence S.01°04'52"E. along the East line of Section 24, a distance of 1,336.42 feet; thence S.01°05'01"E., a distance of 1,336.52 feet; thence S.01°14'51"E., a distance of 2574.53 feet to the **POINT OF BEGINNING**.

Containing 687.33 acres, more or less.

Subject to easements, restrictions, reservations and rights-of-way of record.

Bearings are based on the East line of the Southeast Quarter of Section 24 as being S01°14'51"E.

See attached sketch.

Prepared by:

WilsonMiller, Inc.

Stephen P. Erek, Professional Surveyor & Mapper
Florida Registration No. LS 3273

December 1, 2004
Date

Not valid without the signature and the original raised seal of a Florida licensed Surveyor and Mapper.
PIN: N0442-211-000 GCCDD
Ref: D-0442-122
Date: December 1, 2004

**BOARD OF COUNTY COMMISSIONERS
COLLIER COUNTY, FLORIDA**

RE: PROPOSED ORDINANCE PURSUANT
TO SECTION 190.005(2), FLORIDA
STATUTES TO ESTABLISH ON
PROPERTY PROPOSED IN THE PETITION
THE HERITAGE BAY COMMUNITY
DEVELOPMENT DISTRICT:

**PETITION FOR ESTABLISHMENT BY COUNTY
ORDINANCE OF A COMMUNITY DEVELOPMENT DISTRICT
ON PROPERTY PROPOSED IN THE PETITION**

Petitioner, Bay Home USH, Inc., a Florida Limited Liability Company of which it is the managing member Bayvest L.L.C, by and through its undersigned attorney, petitions the BOARD OF COUNTY COMMISSIONERS OF COLLIER COUNTY, FLORIDA (the “Commission”), to adopt an ordinance: establishing, on the proposed property, and recognizing, the community development district (“District”) created and chartered by Uniform General Law, the Uniform Community Development District Act of Florida, chapter 190, FS., (2003 and hereafter); acknowledging the uniform district charter expressed in Sections 190.006-190.041, Florida Statutes (FS.), and as referenced by section 190.004(4), FS., and section 189.4031(2), FS.; establishing the District on the property proposed in this petition and designating the initial district Board of Supervisors; and, designating the proposed land area within the District may manage and finance its basic infrastructure, systems, facilities, services, improvements and projects. In support whereof Petitioner submits:

1. Petitioner, Bay Home USH, Inc., managing member of Bayvest L.L.C. is a Florida

Limited Liability Company, its principal place of business at 10481 Ben C. Pratt Parkway, Fort Myers, FL 33912, and Brian Sabean is Vice President - Operations Manager.

2. The land area to be serviced by the District is located wholly in unincorporated Collier County. The land area is bounded on the north by conservation land controlled by Corkscrew Regional Ecosystem Watershed Land and Water Trust, Inc.; on the east by the Bonita Bay Club golf course; on the south by Immokalee Road (SR 846); and on the west by the Quarry golf course subdivision; and comprises approximately 687.33 contiguous acres, more or less. A map showing the location of the land area proposed to be serviced by the District is attached as Exhibit "1".

3. A metes and bounds legal description of the proposed external boundaries of the District is attached as Exhibit "2". There is no real property within the proposed boundaries of the District which is to be excluded from the jurisdiction of the District.

4. Attached as Exhibit "3" is documentation constituting written consent to the establishment of the District by the owners of one hundred percent (100%) of the real property to be included in the land area proposed to be serviced by the District.

5. The five (5) persons designated to serve as the initial members of the Board of Supervisors of the District, who are citizens of the United States residents of the State of Florida and who shall serve in that office until replaced by elected members as provided in section 190.006, FS., are:

(1) Jeffry Marculaitis
541 SE 1st Terrace
Cape Coral, FL 33990

(2) Samuel W. Marshall, P.,E.
4413 E. Riverside Drive
Fort Myers, FL 33905

(3) Frank L. Reynolds
611 SW 52nd Street

(4) Ronnie S. Searcy
P. O. Box 354

(5) Cape Coral, FL 33914
Russell R. Smith
5327 Summerlin Road #12
Fort Myers, FL 33919

LaBelle, FL 33935

6. The proposed name of the District is the “Heritage Bay Community Development District.”

7. A map of the land area proposed for the establishment by ordinance of the state created and chartered District, showing current major trunk water mains, sewer interceptors, utilities and outfalls, if any, is attached as Exhibit “4”.

8. The proposed timetable and the estimated related costs of construction and provision of District systems, facilities and services which are contemplated by Petitioner to be proposed to the District Board of Supervisors, if the District is established, and based upon available data which are subject to change, is attached as Exhibit “5”.

9. Collier County (“County”) has adopted all mandatory elements of its Local Government Comprehensive Plan (“Plan”) in accordance with requirements of chapter 163, FS., and Collier County has completed its revised plan for minimum criterion review pursuant to *chapter 9J-5, Florida Administrative Code*, by adoption of County Ordinance No. 2000-25 (“2000 Plan”), as amended. County Ordinance No. 2000-25 and all amendments as enacted designates the legal description of the land area proposed to be served by the District as “Urban Residential Fringe Subdistrict.

Attached as Exhibit “6-A” is a copy of the future land use designation as set forth in the text of the Future Land Use Element of the 2000 Plan. Attached as Exhibit “6-B” is a copy of the Future Land Use map showing the future general distribution, location and extent of public and private uses of land contemplated by the local government comprehensive plan of Collier

County for the land area proposed to be serviced by the District. Additionally, a copy of the entire 2000 Plan, as amended, has been placed on file with the staff of the Commission for its review and consideration. Exhibit "6-C" is a copy of a letter from the Florida Department of Community Affairs reflecting that the 2000 Plan is in compliance.

10. A Statement of Estimated Regulatory Costs ("SERC") of the Commission's granting this Petition, and the establishment (on the property proposed in the petition) by County Commission ordinance of the state uniform and exclusive created and chartered District pursuant thereto, in accordance and in compliance with sections 190.005(1)(a)(8) and 120.541, FS., is attached as Exhibit "7".

11. Petitioner attaches, as Exhibit "8" to this Petition, discussions by qualified engineers and planners providing information for use by the Collier County and its staff in consideration of the six factors for establishment of the District on the proposed property, and in support of the Commission granting this Petition, and as additional materials in support of the statements in this Petition, alleges (with the sequence discussed logically with factor No. 4 considered last):

A. The Petition hereby affirms that all of the statements contained herein are true and correct, in compliance with sections 190.005(2)(a), FS., 190.005(1)(e)1., FS. (See Exhibit "8").

B. As according to the Future Land Use element of the Plan, the future land use designation for the land area proposed to be included in the District is "Mixed Use Master Planned Community". (See Exhibit "8"). The District, if established on the proposed property, would not be inconsistent with the policies under the future land use Urban Residential Fringe Subdistrict category of the Plan. For a further discussion on these matters and related applicable

Plan matters and also the State Comprehensive Plan, please reference Exhibit "8". See s. 190.005(2)(a), FS., 190.005(1)(e)2., F.S.

C. The land area proposed to be included within the state-created and chartered District is comprised of approximately 687.33 contiguous acres which are of sufficient size, sufficiently compact and contiguous sufficiently to be developable as one functional, interrelated community as discussed in Exhibit "8". See s. 190.005(2)(a), FS., 190.005(1)(e)3., FS.

D. The community development systems, facilities and services to be provided by the District on the proposed property will supplement, and will not in any way be incompatible with, existing roads and other local and regional community development systems, facilities and services on the proposed property. This matter is described further in Exhibit "8". See s. 190.005(2)(a), FS., 190.005(1)(e)5., FS.

E. The area proposed to be served by the District is amenable to separate special district government in the light of the information to be considered regarding the other factors. This matter is described further in Exhibit "8". See s. 190.005(2)(a), FS., 190.005(1)(e)6, F.S.

F. Because the information in the Petition is true and correct; because establishment is not inconsistent with applicable local or state comprehensive plans; because the land area is of sufficient size and compactness, and is contiguous sufficiently, to be developable as one functional interrelated community; because the systems, facilities and services of the District will not be incompatible with the capacity and uses of existing local and regional community development systems, facilities and services; because the land area proposed to be served by the District is amenable to separate special district government; and because, if

established on the proposed property, following the procedures in s. 190.005(2), F.S., the District will constitute under s. 190.002(1)(b), F.S. a mechanism for timely, efficient, effective, responsive and economic delivery of its systems, facilities and services; the District is, therefore, the best alternative available for delivering these systems, facilities and services to the proposed property in light of the services, systems and facilities which would be provided otherwise as discussed in more detail in Exhibit "8". See s. 190.005(2)(a), FS., 190.005(1)(e)4, F.S.

12. Petitioner acknowledges certain legal and policy points regarding the Collier County Water-Sewer District and related matters, as set forth in the official Acknowledgment attached to the Petition as Exhibit "9", and incorporated herein. Petitioner contemplates a petition by the District, once established, to obtain consent of the Commission as provided by Section 190.012(2), Florida Statutes, to exercise some or all the powers provided therein including specifically but not limited to parks and recreation and security as provided by 190.012 (2) (a)(b)

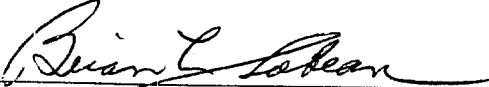
WHEREFORE, Petitioner requests respectfully the Commission to:

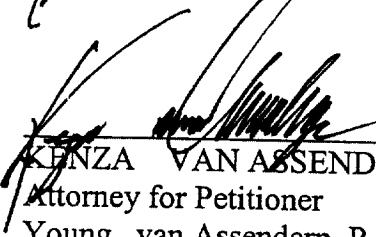
A. Direct its staff to notice, as soon as practicable, a local, public, non-emergency and information-gathering ordinance hearing pursuant to the requirements of section 190.005(2)(c), FS., on the subject of whether to grant this Petition for the establishment on the proposed land area of the state chartered and created Heritage Bay Community Development District and to enact the ordinance establishing the District on the proposed property.

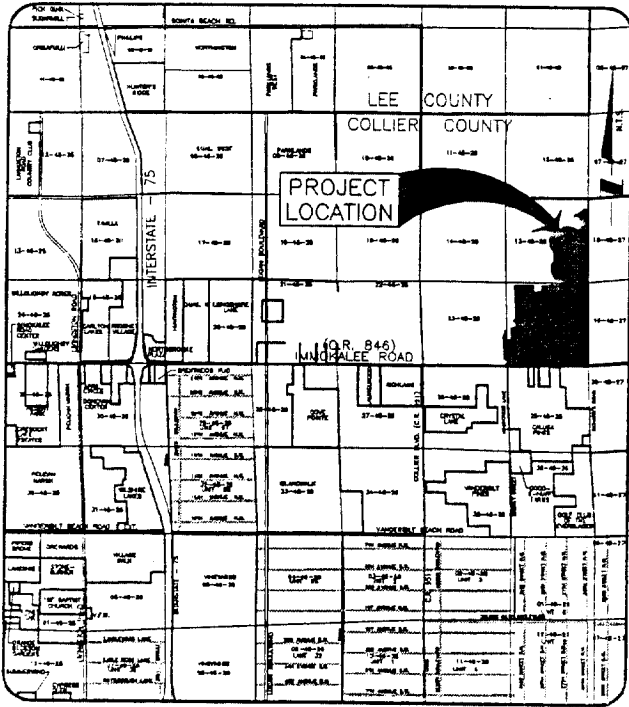
B. Grant this Petition and adopt the ordinance to establish the District in conformity herewith: to designate in the ordinance the land area to be served by the District, the name of the District and the initial members of the Board of Supervisors of the District and to recognize in the ordinance, by statutory citation, that the uniform and exclusive general law charter of the

District was created by the Florida Legislature in section 190.006-190.041, FS., as confirmed in section 190.004(4), FS., and confirmed further in section 189.4031(2), FS. Recognize the impending Petition from the District, if established, for consent by the Commission to exercise certain enumerated special powers granted to the District by its exclusive uniform charter under section 190.012(2), FS., and that such potential exercise has been reviewed and assessed to the date of the ordinance. Providing finally that with regard to any future specific consent by the county to the exercise by the District of any of such special granted powers in its general law charter, the legal existence and authority of the District, as created by state law and as established on the proposed property by this ordinance, shall have been decided upon establishment.

RESPECTFULLY SUBMITTED this 14th day of March, 2003.


BRIAN SABEAN
Vice President
Bay Home USH, Inc.
14081 Ben C. Pratt Parkway
Fort Myers, FL 33912
Telephone: (239)931-3820


KENZA VAN ASSENDERP
Attorney for Petitioner
Young van Assenderp, P.A.
225 S. Adams Street, Suite 200
Tallahassee, FL 32301
Telephone: (850) 222-7206



LOCATION MAP

CONSERVATION
(CREW LANDS)



QUARRY DEVELOPMENT
(FUTURE)

BONITA BAY
EAST GOLF
COURSE

HERITAGE BAY

CDD BOUNDARY

IMMOKALEE ROAD

CALUSA PINES

COLLIER BLVD.
(C.R. 951)

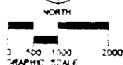
FUTURE SUMMIT
LAKES DEVELOPMENT

WOODCREST
LANE

WilsonMiller

Planners • Engineers • Ecologists • Surveyors • Landscape Architects • Transportation Consultants
WilsonMiller, Inc.

Offices • Fort Myers • Sarasota • Bradenton • Tampa • Tallahassee • Panama City Beach
100 Bay View, Suite 200 • Phone: (813) 481-4107 • Fax: (813) 481-4100 • Web: www.wilsonmiller.com



FILE #	3442-CDD
PN:	NO422-211-200
DATE:	DECEMBER 2004
SCALE:	200'
PREPARED BY:	J.A.D.
CHECKED BY:	A.C.
APPROVED BY:	D.W.

EXHIBIT 1
HERITAGE BAY CDD
LOCATION MAP

EXHIBIT "2"

LEGAL DESCRIPTION
HERITAGE BAY
COMMUNITY DEVELOPMENT DISTRICT
Being a portion of Sections 13 & 24,
Township 48 South, Range 26 East,
Collier County, Florida

A parcel of land being a portion of Sections 13 & 24, Township 48 South, Range 26 East, Collier County, Florida, being more particularly described as follows:

COMMENCING at the Southeast corner of said Section 24; thence N.01°14'51"W. along the East line of Section 24, a distance of 100.02 feet to the **POINT OF BEGINNING**; thence, leaving said East line of Section 24, N.89°58'00"W., a distance of 2,638.89 feet; thence N.89°58'37"W., a distance of 2,514.00 feet; thence N.01°33'42"W., a distance of 1,535.94 feet; thence N.65°25'35"E. a distance of 270.30'; thence N.19°35'07"W., a distance of 187.78 feet; thence N.02°00'24"W., a distance of 272.35 feet to a point of curvature; thence along the arc of a tangent curve concave to the East, having for its elements a radius of 35.00 feet, a central angle of 35°05'48", a chord of 21.11 feet, a chord bearing of N.15°32'30"E., an arc distance of 21.44 feet; thence N.56°54'36"W., a distance of 20.00 feet; thence N.02°00'24"W., a distance of 353.42 feet; thence N.53°48'12"E., a distance of 91.45 feet; thence S.36°11'48"E., a distance of 58.90 feet to a point of curvature; thence along the arc of a tangent curve concave to the North, having for its elements a radius of 60.00 feet, a central angle of 71°39'28", a chord of 70.24 feet, a chord bearing of S.72°01'32"E., an arc distance of 75.04 feet; thence N.72°08'43"E., a distance of 147.48 feet; thence N.08°12'01"W., a distance of 69.11 feet; thence S.89°30'35"E., a distance of 211.29 feet; thence S.87°58'25"E., a distance of 164.30 feet; thence N.88°10'39"E., a distance of 189.91 feet; thence N.88°59'22"E., a distance of 167.28 feet; thence S.88°56'16"E., a distance of 149.44 feet; thence N.89°31'16"E., a distance of 138.78 feet; thence N.89°45'41"E., a distance of 110.44 feet; thence N.89°36'13"E., a distance of 119.99 feet; thence S.89°19'35"E., a distance of 154.78 feet; thence N.88°08'30"E., a distance of 180.40 feet; thence N.89°41'04"E., a distance of 38.61 feet; thence N.01°22'58"E., a distance of 902.58 feet; thence N.21°47'57"E., a distance of 391.48 feet; thence N.28°17'20"E., a distance of 190.21 feet; thence N.12°10'59"E., a distance of 299.09 feet; thence N.07°56'42"E., a distance of 77.53 feet; thence N.04°26'52"E., a distance of 138.12 feet; thence N.21°21'56"E., a distance of 700.45 feet; thence N.73°43'21"W., a distance of 5.43 feet; thence N.31°47'35"E., a distance of 117.82 feet; thence S.82°26'17"E., a distance of 54.75 feet; thence S.79°17'56"E., a distance of 76.80 feet; thence N.79°45'22"E., a distance of 109.31 feet; thence N.51°55'31"E., a distance of 44.51 feet; thence N.12°26'48"W., a distance of 54.47 feet; thence N.04°42'52"E., a distance of 100.62 feet; thence N.26°24'51"W., a distance of 132.45 feet; thence N.20°55'33"W., a distance of 114.96 feet; thence N.33°53'11"W., a distance of 80.19 feet; thence N.27°02'08"W., a distance of 95.88 feet; thence N.31°03'58"W., a distance of 113.23 feet; thence N.19°42'29"W., a distance of 77.43 feet; thence N.18°58'07"W., a distance of 99.15 feet; thence N.09°09'58"W., a distance of 127.56 feet; thence N.07°59'11"E., a distance of 85.65 feet; thence N.04°34'03"E., a distance of 88.03 feet; thence N.12°42'24"E., a distance of 151.66 feet; thence N.16°35'04"E., a distance of 147.18 feet; thence N.28°19'13"E., a distance of 100.89 feet; thence N.21°00'29"E., a distance of 98.19 feet; thence N.21°16'27"E., a distance of 79.29 feet; thence N.04°00'26"W., a distance of 71.26 feet; thence N.08°09'40"W., a distance of 112.57 feet; thence N.00°25'15"W., a distance of 65.37 feet; thence N.07°35'10"W., a distance of 84.46 feet; thence N.19°52'10"W., a distance of 62.40 feet; thence N.04°00'39"W., a distance of 50.18 feet; thence N.24°33'09"W., a distance of 87.86 feet; thence N.39°15'38"W., a distance of 74.17 feet; thence N.42°51'42"W., a distance of 55.72 feet; thence N.75°15'30"W., a distance of 75.06 feet; thence N.06°47'16"E., a distance of 42.98 feet; thence N.11°09'27"W., a distance of 71.52 feet; thence N.18°29'29"W., a distance of 86.64 feet; thence N.02°32'04"W., a distance of 70.78 feet; thence

EXHIBIT "2"

LEGAL DESCRIPTION
HERITAGE BAY
COMMUNITY DEVELOPMENT DISTRICT
Being a portion of Sections 13 & 24,
Township 48 South, Range 26 East,
Collier County, Florida

N.13°06'52"E., a distance of 80.21 feet; thence N.02°11'35"E., a distance of 51.22 feet; thence N.57°45'30"W., a distance of 31.60 feet; thence N.36°04'22"W., a distance of 17.68 feet; thence N.22°03'21"W., a distance of 38.91 feet; thence N.38°19'34"W., a distance of 62.73 feet; thence N.06°48'48"E., a distance of 256.83 feet; thence N.56°49'22"E., a distance of 230.89 feet; thence N.37°06'38"E., a distance of 307.08 feet; thence N.01°33'58"W., a distance of 220.27 feet; thence N.47°55'49"E., a distance of 261.06 feet; thence S.50°20'34"E., a distance of 238.48 feet; thence N.79°05'16"E., a distance of 44.71 feet; thence N.66°54'39"E., a distance of 198.99 feet; thence N.88°19'41"E., a distance of 309.14 feet; thence S.81°11'47"E., a distance of 382.30 feet; thence S.58°54'22"E., a distance of 212.84 feet; thence S.61°55'11"E., a distance of 69.00 feet; thence N.27°24'54"E., a distance of 326.91 feet; thence N.23°54'05"E., a distance of 52.09 feet; thence N.06°19'58"E., a distance of 45.01 feet; thence N.16°00'11"W., a distance of 225.09 feet; thence N.36°39'53"W., a distance of 161.08 feet; thence N.53°19'35"W., a distance of 170.55 feet; thence N.87°40'44"W., a distance of 222.13 feet; thence N.26°13'42"E., a distance of 257.95 feet; thence S.76°33'40"E., a distance of 135.04 feet; thence N.50°04'55"E., a distance of 317.50 feet; thence N.47°15'05"E., a distance of 238.71 feet; thence S.85°43'54"E., a distance of 224.24 feet to a point on the East line of Section 13; thence S.00°57'28"E. along said East line of Section 13, a distance of 2,513.38 feet; thence S.01°00'51"E., a distance of 1,348.99 feet; thence S.01°01'37"E., a distance of 1,349.74 feet to the Northeast corner of Section 24; thence S.01°04'52"E. along the East line of Section 24, a distance of 1,336.42 feet; thence S.01°05'01"E., a distance of 1,336.52 feet; thence S.01°14'51"E., a distance of 2574.53 feet to the **POINT OF BEGINNING**.

Containing 687.33 acres, more or less.

Subject to easements, restrictions, reservations and rights-of-way of record.

Bearings are based on the East line of the Southeast Quarter of Section 24 as being S01°14'51"E.

See attached sketch.

Prepared by:

WilsonMiller, Inc.

Stephen P. Ereka, Professional Surveyor & Mapper
Florida Registration No. LS 3273

December 1, 2004
Date

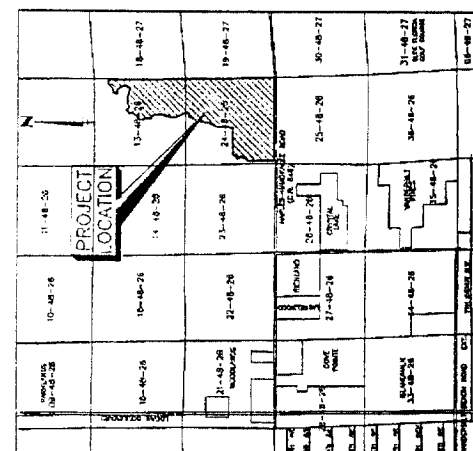
Not valid without the signature and the original raised seal of a Florida licensed Surveyor and Mapper.
P.I.N.: N0442-211-000 GCCDD
Ref.: D-0442-122
Date: December 1, 2004

HERITAGE BAY A SUBDIVISION OF PARTS OF SECTIONS 13 AND 24, TOWNSHIP 48 SOUTH, RANGE 26 EAST COLLIER COUNTY, FLORIDA

INVESTIGATION/RESERVATIONS. SHOW AS NOT BEING THE SUBJECT OF ANY OTHER RECORDS...

- 1. LOCATIONS TO BE MAINTAINED BY THE ASSOCIATION... 2. LOCATIONS TO BE MAINTAINED BY THE ASSOCIATION... 3. ALL SURFACE EASEMENTS (S.E.) ARE TO BE MAINTAINED BY THE ASSOCIATION...

- 4. LOCATIONS TO BE MAINTAINED BY THE ASSOCIATION... 5. LOCATIONS TO BE MAINTAINED BY THE ASSOCIATION... 6. LOCATIONS TO BE MAINTAINED BY THE ASSOCIATION...



LOCATION MAP (NOT TO SCALE)

GENERAL NOTES 1. ALL DIMENSIONS ARE IN FEET AND DECIMAL FRACTIONS... 2. ALL LOTS ARE TO BE MAINTAINED BY THE ASSOCIATION...

IN WITNESS WHEREOF, THE UNDERSIGNED OWNERS HAVE CAUSED THESE PRESENTS TO BE SIGNED AND DATED AT COLLEER COUNTY, FLORIDA, THIS 20th DAY OF JULY, 2004.

WITNESSES: STEVEN P. ERICK, J.P.S.M., J.P.S.M. AND J.P.S.M. ATTEST: MICHAEL G. WILSON, J.P.S.M. AND J.P.S.M.

COUNTY COMMISSION APPROVAL STATE OF FLORIDA COUNTY OF COLLIER COUNTY COMMISSION APPROVAL

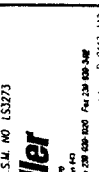
FILING RECORD STATE OF FLORIDA COUNTY OF COLLIER COUNTY FILING RECORD

ENGINEERING REVIEW SERVICES THE PLAN APPROVED BY THE ENGINEERING REVIEW SERVICES SECTION OF THE DEPARTMENT OF TRANSPORTATION AND CONSTRUCTION, STATE OF FLORIDA.

COUNTY ATTORNEY THE PLAN APPROVED BY THE COLLIER COUNTY ATTORNEY

SURVEYOR'S CERTIFICATE STATE OF FLORIDA COUNTY OF COLLIER COUNTY SURVEYOR'S CERTIFICATE

PREPARED BY: STEPHEN P. ERICK, P.E.S.M. NO. 13273



DEDICATIONS/RESERVATIONS: (HERITAGE BAY)

KNOW ALL MEN BY THESE PRESENTS THAT BAYVEST, L.L.C., A FLORIDA LIMITED LIABILITY COMPANY, THE OWNER OF THE LANDS DESCRIBED HEREON HAVE CAUSED THIS PLAT OF HERITAGE BAY TO BE MADE AND DO HEREBY:

1. DEDICATE TO HERITAGE BAY MASTER HOMEOWNER'S ASSOCIATION, INC.:
 - A. TRACT "Q" AS OPEN SPACE AREA WITH RESPONSIBILITY FOR MAINTENANCE.
 - B. ALL PRIMARY DRAINAGE EASEMENTS (P.D.E.) FOR THE PURPOSES OF STORMWATER MANAGEMENT AND ACCESS WITH RESPONSIBILITY FOR MAINTENANCE
 - C. ALL LAKE MAINTENANCE EASEMENTS (L.M.E.) FOR LAKE MAINTENANCE AND STORMWATER MANAGEMENT PURPOSES WITH RESPONSIBILITY FOR MAINTENANCE.
 - D. ALL DRAINAGE EASEMENTS (D.E.) FOR STORMWATER MANAGEMENT PURPOSES WITH RESPONSIBILITY FOR MAINTENANCE.

2. DEDICATE TO HERITAGE BAY COMMUNITY ASSOCIATION, INC.:
 - A. TRACTS "LB-1", "LB-2", AND "LB-3" AS OPEN SPACE AREA FOR LANDSCAPE PURPOSES WITH RESPONSIBILITY FOR MAINTENANCE.
 - B. TRACTS "R-1" (HERITAGE BAY BOULEVARD), "R-2" (SMOKEHOUSE BAY DRIVE), "R-3" (LIONS BAY DRIVE), "R-4" (GATOR BAY COURT) AND "R-5" (SIESTA BAY DRIVE) AS PRIVATE ROAD RIGHTS-OF-WAY (R.O.W.), SUBJECT TO THE EASEMENTS DEDICATED AND DEPICTED HEREON (A.E., C.U.E., P.U.E. AND D.E.), WITH RESPONSIBILITY FOR MAINTENANCE.
 - C. ALL LANDSCAPE BUFFER EASEMENTS (L.B.E.) AS DEPICTED HEREON FOR THE INSTALLATION AND MAINTENANCE OF LANDSCAPING AND IRRIGATION. WITH RESPONSIBILITY FOR MAINTENANCE.
 - D. ALL SURFACE DRAINAGE EASEMENTS (S.D.E.) OVER AND ACROSS GOLF COURSE TRACTS "GC-1" THROUGH "GC-10" FOR DRAINAGE AND MAINTENANCE PURPOSES WITH RESPONSIBILITY FOR MAINTENANCE.
 - E. ALL GOLF CART EASEMENTS (G.C.E.) WITH RESPONSIBILITY FOR MAINTENANCE.

3. DEDICATE TO COLLIER COUNTY:
 - A. ALL LAKE MAINTENANCE EASEMENTS (L.M.E.) WITHOUT RESPONSIBILITY FOR MAINTENANCE.
 - B. ALL DRAINAGE EASEMENTS (D.E.) WITHOUT RESPONSIBILITY FOR MAINTENANCE.
 - C. ALL PRIMARY DRAINAGE EASEMENTS (P.D.E.) WITHOUT RESPONSIBILITY FOR MAINTENANCE.

4. DEDICATE TO THE COLLIER COUNTY WATER-SEWER DISTRICT:
 - A. ALL COLLIER COUNTY UTILITY EASEMENTS (C.U.E.) FOR THE PURPOSES OF UTILITY INSTALLATION, CONSTRUCTION, OPERATION OR MAINTENANCE, INCLUDING THE RIGHT OF ACCESS TO PERFORM ANY SUCH PURPOSES. WITHOUT RESPONSIBILITY FOR THE MAINTENANCE OF THE SURFACE EASEMENT AREA.
 - B. ALL INTERIM WATER AND SEWER UTILITY FACILITIES CONSTRUCTED WITHIN THIS PLATTED AREA, UPON ACCEPTANCE OF THOSE INTERIM UTILITY FACILITIES PURSUANT TO THE APPLICABLE COUNTY REGULATIONS.

INCLUDING THOSE SET FORTH IN THE CODE OF LAWS AND ORDINANCES, CHAPTER 134.

5. DEDICATE TO COLLIER COUNTY, ITS FRANCHISEES, AND THE NORTH NAPLES FIRE CONTROL DISTRICT:
 - A. AN ACCESS EASEMENT "A.E." FOR THE SOLE PURPOSE OF PERMITTING EMERGENCY AND OTHER SERVICE VEHICLES ACCESS TO ALL LOTS AND TRACTS WITHOUT RESPONSIBILITY FOR MAINTENANCE.

6. DEDICATE A NON-EXCLUSIVE PUBLIC UTILITY EASEMENT (P.U.E.), TO ALL LICENSED OR FRANCHISED PUBLIC OR PRIVATE UTILITIES, AS SHOWN ON THIS PLAT FOR PUBLIC UTILITY PURPOSES, INCLUDING CONSTRUCTION, INSTALLATION, MAINTENANCE AND OPERATION OF THEIR RESPECTIVE FACILITIES, INCLUDING CABLE TELEVISION SERVICES, PROVIDED THAT SUCH USES BE SUBJECT TO, AND NOT INCONSISTENT WITH, THE USE BY THE COLLIER COUNTY WATER-SEWER DISTRICT. IN THE EVENT A CABLE TELEVISION COMPANY DAMAGES THE FACILITIES OF ANOTHER PUBLIC UTILITY, IT WILL BE SOLELY RESPONSIBLE FOR SAID DAMAGES.

7. RESERVE TO BAYVEST L.L.C.:
 - A. TRACTS "A", "B", "C", "D", "E", "F", "G", "H", "J", "K", "M", "N" AND "P" FOR FUTURE DEVELOPMENT PURPOSES WITH RESPONSIBILITY FOR MAINTENANCE.
 - B. GOLF COURSE TRACTS "GC-1", "GC-2", "GC-3", "GC-4", "GC-5", "GC-6", "GC-7", "GC-8", "GC-9", "GC-10" FOR GOLF COURSE PURPOSES, SUBJECT TO A SURFACE DRAINAGE EASEMENT (S.D.E.) WITH RESPONSIBILITY FOR MAINTENANCE.
 - C. TRACTS "L-1", "L-2", "L-3", "L-4", "L-5", "L-6", "L-7", "L-8", "L-9", "L-10", "L-11", "L-12", "L-13", "L-14", "L-15", "L-16", "L-17", "L-18", "L-19", "L-20", "L-21", "L-22", "L-23", "L-24", "L-25", "L-26", "L-27", "L-28" AND "L-29" AS LAKES FOR STORMWATER MANAGEMENT PURPOSES, SUBJECT TO THE EASEMENTS DEPICTED HEREON, WITH RESPONSIBILITY FOR MAINTENANCE.

IN WITNESS WHEREOF, THE UNDERSIGNED OWNER HAS CAUSED THESE PRESENTS TO BE SIGNED THIS _____ DAY OF _____, 2004, A.D.

WITNESSES:

BAYVEST, L.L.C.
A FLORIDA LIMITED LIABILITY COMPANY

PRINTED NAME

BY: BAYHOME USH, INC.
ITS MANAGING MEMBER

PRINTED NAME

RUSSELL R SMITH, VICE PRESIDENT

Exhibit "3"

LANDOWNER'S CONSENT TO ESTABLISHMENT OF DISTRICT

Bay Home USH, Inc. by and through its authorized representative, Brian Sabien Regional Vice President, with its principal place of business at 10491 Six Mile Cypress Parkway, Fort Myers, FL 33912, and Brian Sabean is Vice President is the owner or controller of certain property located in Collier County and more particularly described as follows:

See Exhibits "1" & "2" of the "Petition to Establish the Heritage Bay Community Development District" incorporated herein by reference.

By signing below Brian Sabean, as owner, or controller of 100% of the proposed land to be included in the HERITAGE OAKS COMMUNITY DEVELOPMENT DISTRICT ("District"), as evidenced in the deed records of Collier County and/or as evidenced by documentation attached hereto and incorporated herein by reference, hereby gives full consent to the establishment of the District by Collier County ordinance in accordance with section 190.005, Florida Statutes, and consents to the inclusion of its property within the proposed boundaries of said District.

IN WITNESS WHEREOF, I hereunto set my hand on this 23rd day of November, 2004.

Brian Sabean
Brian Sabean

STATE OF FLORIDA
Lee COUNTY

The foregoing instrument was acknowledged before me this 23 day of Nov, 2004, by Brian L. Sabean

Personally known

Produced Identification _____
Type of Identification Produced _____

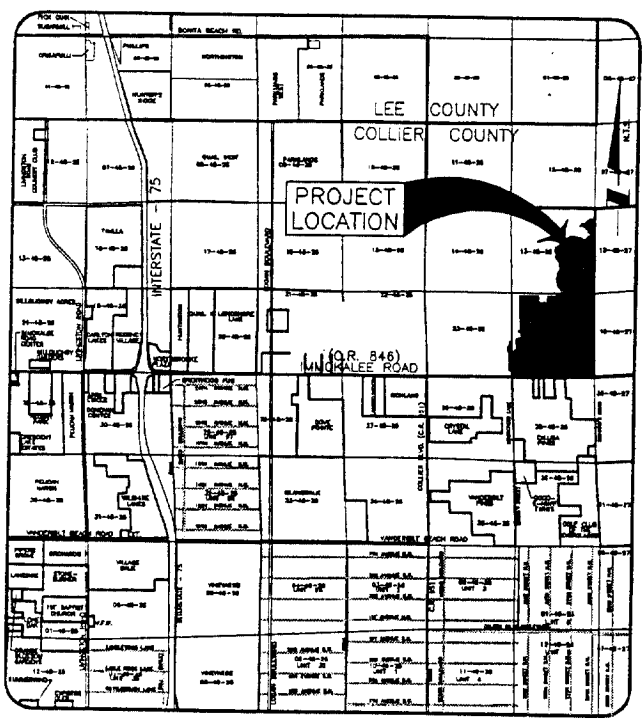
Niki K Starbuck
My commission expires: 5/20/05

Notary Public

Niki K Starbuck
(Printed Name of Notary Public)



Niki K Starbuck
My Commission DD027248
Expires May 20, 2005



LOCATION MAP

CONSERVATION
(CREW LANDS)



QUARRY DEVELOPMENT
(FUTURE)

BONITA BAY
EAST GOLF COURSE

HERITAGE BAY

EXISTING
MINING
LAKES

CDD BOUNDARY

IMMOKALEE ROAD

EXISTING 12" RAW WATER MAIN

COLLIER BLVD.
(C.R. 951)

FUTURE SUMMIT
LAKES DEVELOPMENT

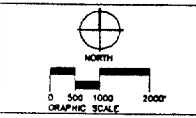
WOODCREST
LANE

CALUSA PINES

WilsonMiller

Planners • Engineers • Ecologists • Surveyors • Landscape Architects • Transportation Consultants
WilsonMiller, Inc.

Offices: Fort Myers • Sarasota • Bradenton • Tampa • Jacksonville • Pensacola City Beach
200 Bay Lane, Suite 202 • Fort Myers, Florida 34133-4507 • Phone: 239-444-4000 • Fax: 239-444-5718 • Web: www.wilsonmiller.com



FILE #:	D442-CDD
PNB:	H0422-211-CDD
DATE:	DECEMBER 2004
SCALE:	2000'
PREPARED BY:	J.A.B.
CHECKED BY:	A.C.
APPROVED BY:	D.W.

EXHIBIT 4
HERITAGE BAY CDD
EXISTING INFRASTRUCTURE

EXHIBIT 5

HERITAGE BAY COMMUNITY DEVELOPMENT DISTRICT

SUMMARY OF OPINION OF PROBABLE COSTS AND ESTIMATED TIMETABLE

INFRASTRUCTURE* (cost in thousands of dollars)				
PRIMARY*	2005	2006	2007	TOTAL
ROADWAY (Includes bridges & turn lanes) UTILITIES* EARTHWORK WATER MANAGEMENT (Includes GC Primary Drainage) LANDSCAPING AND IRRIGATION SECURITY ELECTRICAL SERVICE AND LIGHTING WETLAND MITIGATION PROFESSIONAL FEES AND PERMITTING MISCELLANEOUS	\$3,608 \$3,401 \$9,834 \$1,288 \$4,310 \$0 \$0 \$0 \$0 \$1,290 \$0	\$1,640 \$2,804 \$4,200 \$772 \$0 \$0 \$0 \$0 \$0 \$963 \$0	\$821 \$2,122 \$1,988 \$648 \$0 \$0 \$0 \$0 \$0 \$654 \$0	\$6,069 \$8,327 \$16,022 \$2,708 \$4,310 \$0 \$0 \$0 \$0 \$2,907 \$0
10% CONTINGENCY (of the above)	\$2,373	\$1,038	\$623	\$4,034
TOTAL PRIMARY	\$26,104	\$11,417	\$6,856	\$44,377

* Estimated costs of construction are for those special powers permitted under section 190.012(1), Florida Statutes (1999 and hereafter only). (We need to make decisions about 190.01(2), Fla., special powers). Until such determination is or may be made, upon petition of the board of supervisors of the District, no estimate of such costs will be prepared.

* The estimates for all basic infrastructures is set forth in section 190.012(1).

* Currently it is anticipated water and sewer will be provided by Collier County.

* The probable costs estimated herein do not include anticipated capital carrying cost interest reserves or other applicable CDD expenditures that may be incurred.

FUTURE LAND USE DESIGNATION
DESCRIPTION SECTION

The following section describes the land use designations shown on the Future Land Use Map. These designations generally indicate the types of land uses for which zoning may be requested. However, these land use designations do not guarantee that a zoning request will be approved. Requests may be denied by the Board of County Commissioners based on criteria in the Land Development Code or on special studies completed for the County.

I. URBAN DESIGNATION

Urban Designated Areas on the Future Land Use Map include two general portions of Collier County: areas with the greatest residential densities, and areas in close proximity, which have or are projected to receive future urban support facilities and services. It is intended that Urban Designated Areas accommodate the majority of population growth and that new intensive land uses be located within them. Accordingly, the Urban Area will accommodate residential uses and a variety of non-residential uses. The Urban Designated Area, which includes Immokalee and Marco Island, represents less than 10% of Collier County's land area.

The boundaries of the Urban Designated Areas have been established based on several factors, including: patterns of existing development; patterns of approved, but unbuilt, development; natural resources; water management; hurricane risk; existing and proposed public facilities; population projections and the land needed to accommodate the projected population growth.

Urban Designated Areas will accommodate the following uses:

- (IV) a. Residential uses including single family, multi-family, duplex, and mobile home. The maximum densities allowed are identified in the Districts, and Subdistricts and Overlays that follow.
- b. Non-residential uses including:
 - 1. Essential services as defined by the most recent Land Development Code.
 - 2. Parks, open space and recreational uses;
 - (XII)3. Water-dependent and water-related uses (see Conservation and Coastal Management Element, Objective 10.1 and subsequent policies and the Collier County Manatee Protection Plan (NR-SP-93-01), May 1995;
 - 4. Child care centers;
 - (I)5. Community facilities such as churches group housing uses, cemeteries, schools and school facilities co-located with other public facilities such as parks, libraries, and community centers, where feasible and mutually acceptable;
 - 6. Safety service facilities;
 - 7. Utility and communication facilities;
 - 8. Earth mining, oil extraction, and related processing;
 - 9. Agriculture;
 - (V)10. Travel trailer recreational vehicle parks, provided the following criteria are met:
 - (a) The density is consistent with that permitted in the Land Development Code;

- (b) The site has direct principal access to a road classified as an arterial in the Transportation Element, direct principal access defined as a driveway and/or local roadway connection to the arterial road, provided the portion of the local roadway intended to provide access to the RV park is not within a residential neighborhood and does not service a predominately residential area; and
 - (c) The use will be compatible with surrounding land uses.
11. Support medical facilities such as physicians' offices, medical clinics, treatment, research and rehabilitative centers, and pharmacies provided the dominant use is medical related and located within ¼ mile of existing or approved hospitals or medical centers which offer primary and urgent care treatment for all types of injuries and traumas, such as, but not limited to, North Collier Hospital. The distance shall be measured from the nearest point of the tract that the hospital is located on or approved for, to the project boundaries of the support medical facilities. Approval of such support medical facilities may be granted concurrent with the approval of new hospitals or medical centers which offer primary and urgent care treatment for all types of injuries and traumas. Stipulations to ensure that the construction of the support medical facilities are concurrent with hospitals or medical centers shall be determined at the time of zoning approval. Support medical facilities are not allowed under this provision if the hospital or medical center is a short-term leased facility due to the potential for relocation.

(II)(IV)(V)(VI)(XI)12. Commercial uses subject to criteria identified in the Urban - Mixed Use District, PUD Neighborhood Village Center Subdistrict, Office and Infill Commercial Subdistrict, Residential Mixed Use Neighborhood Subdistrict, Orange Blossom Mixed-Use Subdistrict, Goodlette/Pine Ridge Commercial Infill Subdistrict, Buckley Mixed Use Subdistrict, Vanderbilt Beach/Collier Boulevard Commercial Subdistrict, Commercial Mixed Use Subdistrict, Henderson Creek Mixed Use Subdistrict; and, in the Urban Commercial District, Mixed Use Activity Center Subdistrict, Interchange Activity Center Subdistrict, Livingston/Pine Ridge Commercial Infill Subdistrict, Livingston Road/Eatonwood Lane Commercial Infill Subdistrict, Livingston Road Commercial Infill Subdistrict, and Commercial Mixed Use Subdistrict, and in the Bayshore/Gateway Triangle Redevelopment Overlay.

- 13. Commercial uses accessory to other permitted uses, such as a restaurant accessory to a golf course or retail sales accessory to manufacturing, so long as restrictions or limitations are imposed to insure the commercial use functions as an accessory, subordinate use. Such restrictions or limitations could include limiting the size and/or location of the commercial use and/or limiting access to the commercial use.
- 14. Industrial uses subject to criteria identified in the Urban - Industrial District, in the Urban - Mixed Use District, and in the Urban Commercial District, certain quadrants of Interchange Activity Centers.
- (IV) 15. Hotels/motels consistent by Policy 5.9, 5.10, and 5.11, or as permitted in the Immokalee Area, Golden Gate Area and Marco Island Master Plans, and as permitted in the Bayshore/Gateway Triangle Redevelopment Overlay.
- 16. Business Park uses subject to criteria identified in the Urban-Mixed Use District, Urban Commercial District and Urban-Industrial District.
- 17. Research and Technology Park uses subject to criteria identified in the Urban -Mixed Use District, Urban Commercial District and Urban-Industrial District.

- Single family/duplex/mobile home: 11 dwelling units per acre;
 - Multifamily/dormitory: 22 dwelling units/beds per acre.
- (VII)(IX) f. Sporting and Recreation camps within which the lodging component shall not exceed 1 cabin/lodging unit per 5 gross acres, which may be achieved through clustering;
- g. Existing units approved for the Fiddler's Creek DRI may be reallocated to those parts of Sections 18 and 19, Township 51 South, Range 27 East added to Fiddler's Creek DRI together with part of Section 29, Township 51 South, Range 27 East, at a density greater than 1 unit per 5 gross acres provided that no new units are added to the 6,000 previously approved units, which results in a gross density of 1.6 units per acre for the Fiddler's Creek DRI; and further provided that no residential units shall be located on that part of Section 29 within the Fiddler's Creek DRI; and further provided that South Florida Water Management District jurisdictional wetlands impacted by the DRI in said Sections do not exceed 10 acres.

(I)(VII)(IX) **1. Rural Commercial Subdistrict**

Within the Agricultural/Rural - Mixed Use District, commercial development, up to a maximum of 200 acres, may be allowed providing the following standards for intensity of use are met and subject to the Interim Development Provisions:

- a. The project, or that portion of a larger project, which is devoted to commercial development, is 2.5 acres or less in size;
- (IX) b. The project, or that portion of a larger project which is devoted to commercial development, is no closer than 5 miles, measured by radial distance, from the nearest developed commercial area, zoned commercial area or designated Mixed Use Activity Center, except that the southwest quadrant at the intersection of US 41 and S.R. 29, is eligible for commercial zoning under this provision;
- (VII)(IX) c. The proposed uses are limited to office, retail, and personal services intended to serve the rural population and the traveling public, and are identified as those uses permitted in the C-1, C-2 and C-3 Zoning Districts of the Land Development Code;
- (VII)(IX) d. Commercial intensity shall not exceed 10,000 square feet of gross leasable floor area per acre;
- (VII)(IX) e. The project is located on an arterial or collector roadway as identified in the Traffic Circulation Element; and
- (VII)(IX) f. The project is buffered from adjacent properties.

(IX) **B. Rural Fringe Mixed Use District**

The Rural Fringe Mixed Use District is identified on Future Land Use Map. This District consists of approximately 93,600 acres, or 7% of Collier County's total land area. Significant portions of this District are adjacent to the Urban area or to the semi-rural, rapidly developing, large-lot North Golden Gate Estates platted lands. Agricultural land uses within the Rural Fringe Mixed Use District do not represent a significant portion of the County's active agricultural lands. As of the date of adoption of this Plan Amendment, the Rural Fringe Mixed Use District consists of more than 5,550 tax parcels, and includes at least 3,835 separate and distinct property owners. Alternative land use strategies have been developed for the Rural Fringe Mixed Use District, in part, to consider these existing conditions.

The Rural Fringe Mixed Use District provides a transition between the Urban and Estates Designated lands and between the Urban and Agricultural/Rural and Conservation designated lands farther to the east. The Rural Fringe Mixed Use District employs a

balanced approach, including both regulations and incentives, to protect natural resources and private property rights, providing for large areas of open space, and allowing, in designated areas, appropriate types, density and intensity of development. The Rural Fringe Mixed Use District allows for a mixture of urban and rural levels of service, including limited extension of central water and sewer, schools, recreational facilities, commercial uses and essential services deemed necessary to serve the residents of the District. In order to preserve existing natural resources, including habitat for listed species, to retain a rural, pastoral, or park-like appearance from the major public rights-of-way within this area, and to protect private property rights, the following innovative planning and development techniques are required and/or encouraged within the District.

(IX)1. Transfer of Development Rights (TDR), and Sending and Receiving Designations:

The primary purpose of the TDR process within the Rural Fringe Mixed Use District is to establish an equitable method of protecting and conserving the most valuable environmental lands, including large connected wetland systems and significant areas of habitat for listed species, while allowing property owners of such lands to recoup lost value and development potential through an economically viable process of transferring such rights to other more suitable lands. Within the Rural Fringe Mixed Use District and within designated areas of the Agricultural/Rural Mixed Use District, residential density may be transferred from lands designated as Sending Lands to lands designated as Receiving Lands on the Future Land Use Map, subject to the following:

- (IX) A) Receiving Lands:** Receiving Lands are those lands within the Rural Fringe Mixed Use District that have been identified as being most appropriate for development and to which residential development units may be transferred from areas designated as Sending Lands. Based on the evaluation of available data, these lands have a lesser degree of environmental or listed species habitat value than areas designated as Sending and generally have been disturbed through development, or previous or existing agricultural operations. Various incentives are employed to direct development into Receiving Lands and away from Sending Lands, thereby maximizing native vegetation and habitat preservation and restoration. Such incentives include, but are not limited to: the TDR process; clustered development; density bonus incentives; and, provisions for central sewer and water. Within Receiving Lands, the following standards shall apply, except for those modifications that are identified in the North Belle Meade Overlay:
1. **Maximum Density:** The base residential density allowable for designated Receiving Lands is one (1) unit per five (5) gross acres (0.2 dwelling units per acre). The maximum density achievable in Receiving Lands through the TDR process is one (1) dwelling unit per acre. Once the maximum density is achieved through the use of TDRs, a density bonus of no more than 10% of the maximum density per acre shall be allowed for each additional acre of native vegetation preserved exceeding the minimum preservation requirements set forth in Policy 6.1.2 of the CCME. This maximum density is exclusive of the Density Blending provisions. Dwelling Units may only be transferred into Receiving Lands in whole unit increments (fractional transfers are prohibited).
 2. **Clustering:** Where the transfer of development rights is employed to increase residential density within Receiving Lands, such residential development shall be clustered in accordance with the following provisions:
 - a) Consistent with the provisions of the Potable Water and Sanitary Sewer Sub-elements of this Plan, central water and sewer shall be extended to the project. Where County sewer or water services may not be available

- concurrent with development in Receiving Lands, interim private water and sewer facilities may be approved.
- b) The maximum lot size allowable for a single-family detached dwelling unit is one acre.
 - c) The clustered development shall be located on the site so as to provide to the greatest degree practicable: protection for listed species habitat; preservation of the highest quality native vegetation; connectivity to adjacent natural reservations or preservation areas on adjacent developments; and, creation, maintenance or enhancement of wildlife corridors.
3. Minimum Project Size: The minimum project size required in order to receive transferred dwelling units is 40 contiguous acres.
 4. Emergency Preparedness:
 - a) In order to reduce the likelihood of threat to life and property from a tropical storm or hurricane event, community facilities, schools, or other public buildings shall be designed to serve as storm shelters if located outside of areas that are likely to be inundated during storm events, as indicated on the Sea, Lake, and Overland Surge from Hurricane Map for Collier County. Impacts on evacuation routes, if any, must be considered as well. Applicants for new residential or mixed use developments proposed for Receiving Lands shall work with the Collier County Emergency Management staff to develop an Emergency Preparedness Plan to include provisions for storm shelter space, a plan for emergency evacuation, and other provisions that may be deemed appropriate and necessary to mitigate against a potential disaster.
 - b) Applicants for new developments proposed for Receiving Lands shall work with the Florida Division of Forestry, Collier County Emergency Management staff, and the Managers of any adjacent or nearby public lands, to develop a Wildfire Prevention and Mitigation Plan that will reduce the likelihood of threat to life and property from wildfires. This plan will address, at a minimum: project structural design; the use of materials and location of structures so as to reduce wildfire threat; firebreaks and buffers; water features; and, the impacts of prescribed burning on adjacent or nearby lands.
 5. Permitted Uses: Uses within Receiving Lands are limited to the following:
 - a) Agricultural uses such as farming, ranching, forestry and bee-keeping;
 - b) Single-family residential dwelling units, including mobile homes where a Mobile Home Zoning Overlay exists.
 - c) Multi-family residential structures shall be permitted under the Residential Clustering provisions of this plan subject to the development of appropriate development standards to ensure that the transitional semi-rural character of the Rural Fringe Mixed Use District is preserved. These development standards include, but are not limited to: building heights; design standards; and, buffers and setbacks.
 - d) Rural Villages, subject to the provisions set forth in II. B.3 of this element.
 - e) Dormitories, duplexes and other types of staff housing, as may be incidental to, and in support of, conservation uses.
 - f) Group housing uses subject to the following density/intensity limitations:
 - Family Care Facilities: 1 unit per 5 acres;
 - Group Care Facilities and other Care Housing Facilities: Maximum Floor Area Ratio (FAR) not to exceed 0.45.

- g) Staff housing as may be incidental to, and in support of, safety service facilities and essential services;
- h) Farm labor housing limited to 10 acres in any single location:
 - Single family/duplex/mobile home: 11 dwelling units per acre;
 - Multifamily/dormitory: 22 dwelling units/beds per acre.
- i) Sporting and Recreational camps within which the lodging component shall not exceed 1 unit per 5 gross acres;
- j) Essential services.
- k) Golf courses or driving ranges, subject to the following standards:
 - (1) The minimum density shall be as follows:
 - (a) For golf course projects utilizing Density Blending Provisions set forth in the Density Rating System of the FLUE: one (1) dwelling unit per five (5) gross acres.
 - (b) For golf course projects not utilizing Density Blending Provisions, including freestanding golf courses: the minimum density shall be one (1) dwelling unit per five (5) gross acres, and one additional dwelling unit per five (5) gross acres for the land area utilized as part of the golf course, including the clubhouse area, rough, fairways, greens, and lakes, but excluding any area dedicated as conservation, which is non-irrigated and retained in a natural state. The additional required density for such golf course development shall be achieved by acquiring TDRs from Sending Lands.
 - (2) Golf courses shall be designed, constructed, and managed in accordance with Audubon International's Gold Signature Program.
 - (3) In order to prevent the contamination of soil, surface water and ground water by the materials stored and handled by golf course maintenance operations, golf courses shall comply with the Best Management Practices for Golf Course Maintenance Departments, prepared by the Florida Department of Environmental Protection, May 1995.
 - (4) To protect ground and surface water quality from fertilizer and pesticide usage, golf courses shall demonstrate the following management practices:
 - (a) The use of slow release nitrogen sources;
 - (b) The use of soil and plant tissue analysis to adjust timing and amount of fertilization applications;
 - (c) The use of an integrated pest management program using both biological and chemical agents to control various pests;
 - (d) The coordination of pesticide applications with the timing and application of irrigation water;
 - (d) The use of the procedure contained in IFAS Circular 1011, *Managing Pesticides for Golf Course Maintenance and Water Quality Protection*, May 1991 (revised 1995) to select pesticides that will have a minimum adverse impact on water quality.
 - (5) To ensure water conservation, golf courses shall incorporate the following in their design and operation:
 - (a) Irrigation systems shall be designed to use weather station information and moisture-sensing systems to determine the optimum amount of irrigation water needed considering soil moisture and evapotranspiration rates.

- (b) As available; golf courses shall utilize treated effluent reuse water consistent with Sanitary Sewer Sub-Element Objective 1.4 and its policies;
 - (c) Native plants shall be used exclusively except for special purpose areas such as golf greens, fairways, and building sites. Within these excepted areas, landscaping plans shall require that at least 75% of the trees and 50% of the shrubs be freeze-tolerant native Floridian species. At least 75% of the required native trees and shrubs shall also be drought tolerant species.
- (6) Stormwater management ponds shall be designed to mimic the functions of natural systems: by establishing shorelines that are sinuous in configuration in order to provide increased length and diversity of the littoral zone. A Littoral shelf shall be established to provide a feeding area for water dependent avian species. The combined length of vertical and rip-rapped walls shall be limited to 25% of the shoreline. Credits to the site preservation area requirements, on an acre- to- acre basis, shall be given for littoral shelves that exceed these littoral shelf area requirements.
- (7) Site preservation and native vegetation retention requirements shall be the same as those set forth in CCME Policy 6.1.2. These areas are intended to provide habitat functions and shall meet minimum dimensions as set forth in the Land Development Code. These standards shall be established within one year.
- l) Commercial development as permitted as part of an approved Rural Village. Within one year of adoption of these amendments, the County will develop appropriate standards for commercial development within Rural Villages, with particular focus on design, scale, and access provisions that will maintain the rural character or semi-rural character of the District.
 - m) Research and Technology Parks, consistent with the Research and Technology Park Subdistrict provided for in the Urban designation, and within an approved Rural Village. Within one year of adoption of these amendments, the County will develop appropriate standards for Research and Technology Parks within Rural Villages, with particular focus on design, scale, and access provisions that will maintain the rural character or semi-rural character of the District.
 - n) Zoo, aquarium, botanical garden, or other similar uses.
 - o) Public and private schools, subject to the following criteria:
 - Site area and school size shall be subject to the General Educational Facilities Report submitted annually by the Collier County School Board to the Board of County Commissioners.
 - The Site must comply with the State Requirements for Educational Facilities adopted by the State Board of Education.
 - The site shall be subject to all applicable State or Federal regulations.
 - p) Facilities for the collection, transfer, processing and reduction of solid waste.
 - q) Community facilities, such as, places of worship, childcare facilities, cemeteries, social and fraternal organizations.
 - r) Sports instructional schools and camps.
 - s) Earthmining, oil extraction and related processing.
 - t) Asphalt and concrete batch-making plants.

- u) Travel trailer recreational vehicle parks, provided the following criteria are met:
 - 1) The subject site is adjacent to an existing travel trailer recreational vehicle park site; and,
 - 2) The subject site is no greater than 100% the size of the existing adjacent park site.
- 6. Density Blending: Subject to the provisions set forth in the density rating system.
- 7. Open Space and Native Vegetation Preservation Requirements:
 - a) Usable Open Space: Within Receiving Lands projects greater than 40 acres in size shall provide a minimum of 70% usable open space. Usable Open Space includes active or passive recreation areas such as parks, playgrounds, golf courses, waterways, lakes, nature trails, and other similar open spaces. Usable Open Space shall also include areas set aside for conservation or preservation of native vegetation and landscape areas. Open water beyond the perimeter of the site, street right-of-way, except where dedicated or donated for public uses, driveways, off-street parking and loading areas, shall not be counted towards required Usable Open Space.
 - b) Native Vegetation Preservation: Native vegetation shall be preserved as set forth in CCME Policy 6.1.2.
- B) Neutral Lands:** Neutral Lands have been identified for limited semi-rural residential development. Available data indicates that Neutral Lands have a higher ratio of native vegetation, and thus higher habitat values, than lands designated as Receiving Lands, but these values do not approach those of Sending Lands. Therefore, these lands are appropriate for limited development, if such development is directed away from existing native vegetation and habitat. A lower maximum gross density is prescribed for Neutral Lands when compared to Receiving Lands. Additionally, certain other uses permitted within Receiving Lands are not authorized in Neutral Lands. Within Neutral Lands, the following standards shall apply:
 - 1. Maximum Density: 1 dwelling unit per 5 gross acres (0.2 units per acre).
 - 2. Clustering: Clustering of residential development is allowed and encouraged. Where clustered development is employed, it shall be in accordance with the following provisions:
 - a) If within the boundaries of the Rural Transition Water and Sewer District, and consistent with the provisions of the Potable Water and Sanitary Sewer Sub-elements of this Plan, central water and sewer shall be extended to the project. Where County sewer or water services may not be available concurrent with development in Neutral Lands, interim private water and sewer facilities may be approved.
 - b) The maximum lot size is one acre.
 - c) The clustered development shall be located on the site so as to provide to the greatest degree practicable: protection for listed species habitat; preservation of the highest quality native vegetation; connectivity to adjacent natural reservations or preservation areas on adjacent developments; and, creation, maintenance or enhancement of wildlife corridors.
 - d) The minimum project size shall be at least 40 acres.
 - 3. Permitted Uses:
 - a) Agricultural uses such as farming, ranching, forestry and bee-keeping;
 - b) Single-family residential dwelling units, including mobile homes where a Mobile Home Zoning Overlay exists.

- c) Dormitories, duplexes and other types of staff housing, as may be incidental to, and in support of, conservation uses.
- d) Group housing uses subject to the following density/intensity limitations:
 - Family Care Facilities: 1 unit per 5 acres;
 - Group Care Facilities and other Care Housing Facilities: Maximum Floor Area Ratio (FAR) not to exceed 0.45.
- e) Staff housing as may be incidental to, and in support of, safety service facilities and essential services;
- f) Farm labor housing limited to 10 acres in any single location:
 - Single family/duplex/mobile home: 11 dwelling units per acre;
 - Multifamily/dormitory: 22 dwelling units/beds per acre.
- g) Sporting and Recreational camps, within which the lodging component shall not exceed 1 unit per 5 gross acres;
- h) Essential services.
- i) Golf courses or driving ranges, subject to the following standards:
 - (1) Golf courses shall be designed, constructed, and managed in accordance with Audubon International's Gold Signature Program.
 - (2) In order to prevent the contamination of soil, surface water and ground water by the materials stored and handled by golf course maintenance operations, golf courses shall comply with the Best Management Practices for Golf Course Maintenance Departments, prepared by the Florida Department of Environmental Protection, May 1995.
 - (3) To protect ground and surface water quality from fertilizer and pesticide usage, golf courses shall demonstrate the following management practices:
 - (a) The use of slow release nitrogen sources;
 - (b) The use of soil and plant tissue analysis to adjust timing and amount of fertilization applications;
 - (c) The use of an integrated pest management program using both biological and chemical agents to control various pests;
 - (d) The coordination of pesticide applications with the timing and application of irrigation water;
 - (e) The use of the procedure contained in IFAS Circular 1011, *Managing Pesticides for Golf Course Maintenance and Water Quality Protection*, May 1991 (revised 1995) to select pesticides that will have a minimum adverse impact on water quality
 - (4) To ensure water conservation, golf courses shall incorporate the following in their design and operation:
 - (a) Irrigation systems shall be designed to use weather station information and moisture-sensing systems to determine the optimum amount of irrigation water needed considering soil moisture and evapotranspiration rates.
 - (b) As available, golf courses shall utilize treated effluent reuse water consistent with Sanitary Sewer Sub-Element Objective 1.4 and its policies;
 - (c) Native plants shall be used exclusively except for special purpose areas such as golf greens, fairways, and building sites. Within these excepted areas, landscaping plans shall require that at least 75% of the trees and 50% of the shrubs be freeze-tolerant native Floridian

species. At least 75% of the required native trees and shrubs shall also be drought tolerant species.

- (5) Stormwater management ponds shall be designed to mimic the functions of natural systems: by establishing shorelines that are sinuous in configuration in order to provide increased length and diversity of the littoral zone. A Littoral shelf shall be established to provide a feeding area for water dependent avian species. The combined length of vertical and rip-rapped walls shall be limited to 25% of the shoreline. Credits to the site preservation area requirements, on an acre- to- acre basis, shall be given for littoral shelves that exceed these littoral shelf area requirements.
 - (6) Site preservation and native vegetation retention requirements shall be the same as those set forth in the Rural Fringe Mixed Use District criteria. Site preservation areas are intended to provide habitat functions and shall meet minimum dimensions as set forth in the Land Development Code. These standards shall be established within one year.
 - j) Zoo, aquarium, botanical garden, or other similar uses.
 - k) Public and private schools, subject to the following criteria:
 - Site area and school size shall be subject to the General Educational Facilities Report submitted annually by the Collier County School Board to the Board of County Commissioners.
 - The Site must comply with the State Requirements for Educational Facilities adopted by the State Board of Education.
 - The site shall be subject to all applicable State or Federal regulations.
 - l) Facilities for the collection, transfer, processing and reduction of solid waste.
 - m) Community facilities, such as, places of worship, childcare facilities, cemeteries, social and fraternal organizations.
 - n) Sports instructional schools and camps.
 - o) Earthmining, oil extraction and related processing.
3. Native vegetation and preservation requirements: Native vegetation shall be preserved as set forth in CCME Policy 6.1.2

(IX) C) Sending Lands: Sending Lands are those lands that have the highest degree of environmental value and sensitivity and generally include significant wetlands, uplands, and habitat for listed species.

1. Sending Lands are located entirely within the Rural Fringe Mixed Use District, and are depicted on the Future Land Use Map. Based upon their location, Sending Lands are the principal target for preservation and conservation. Private Property owners of lands designated as Sending Lands may transfer density to Receiving Lands within the Rural Fringe Mixed Use District, and to lands within the Urban Designated Area subject to limitations set forth in the Density Rating System. All privately owned lands within the Rural Fringe Mixed Use District that have a Natural Resource Protection Area (NRPA) Overlay are designated Sending Lands.
2. Maximum Transfer Rate: Dwelling Units may be transferred from Sending Lands at a maximum rate of 0.2 dwelling units per acre (1 dwelling unit per five acres). Transfers may only occur in whole number increments (fractional transfers are prohibited). In the case of legal nonconforming lots or parcels in existence as of June 22, 1999, where such lot or parcel is less than 5 acres in size, one dwelling unit may be transferred from said lot or parcel. To ensure appropriate

compensation to land owners within Sending Lands, the Board of County Commissioners may adjust the maximum transfer rate; such an adjustment shall require a Growth Management Plan Amendment. The basis of such adjustment shall be an analysis of property values within Sending Lands, and may include consideration of proximity of such properties to the urban area.

3. Limitations and Procedures:
 - a) Transfers shall not be allowed from sending lands where a conservation easement or other similar development restriction prohibits residential development.
 - b) The transfer of units shall be recorded in public records utilizing a legal instrument determined to be appropriate by the County Attorney's Office. Said instrument shall clearly state the remaining allowable lands uses on the subject property after all, or a portion, of the residential density has been transferred from the property.
 - c) Where residential density has been transferred from Sending Lands, such lands may be retained in private ownership or may be sold or deeded by gift to another entity.
4. Permitted Uses: Permitted uses are limited to the following:
 - a) Agricultural uses consistent with Chapter 823.14(6) Florida Statutes (Florida Right to Farm Act).
 - b) Detached single-family dwelling units, including mobile homes where the Mobile Home Zoning Overlay exists, at a maximum density of one dwelling unit per 40 acres or one dwelling unit per lot or parcel of less than 40 acres, which existed on or before June 22, 1999. For the purpose of this provision, a lot or parcel which is deemed to have been in existence on or before June 22, 1999 is 1) a lot or parcel which is part of a subdivision recorded in the public records of Collier County, Florida; or 2) a lot or parcel which has limited fixed boundaries, described by metes and bounds or other specific legal description, the description of which has been recorded in the public records of Collier County Florida on or before June 22, 1999; or 3) a lot or parcel which has limited fixed boundaries, for which an agreement for deed was executed prior to June 22, 1999.
 - c) Habitat preservation and conservation uses.
 - d) Passive parks and other passive recreational uses.
 - e) Sporting and Recreational camps, within which the lodging component shall not exceed 1 unit per 5 gross acres.
 - f) Essential Services necessary to serve permitted uses identified in Section 5.a) through 5.e) such as the following: private wells and septic tanks; utility lines, except sewer lines; sewer lines and lift stations, only if located within non-NRPA Sending Lands, and only if located within already cleared portions of existing rights-of-way or easements, and if necessary to serve the Rural Transition Water and Sewer District; and, water pumping stations necessary to serve the Rural Transition Water and Sewer District.
 - g) Essential Services necessary to ensure public safety.
 - h) Oil extraction and related processing. Where practicable, directional-drilling techniques and/or previously cleared or disturbed areas shall be utilized to minimize impacts to native habitats.
5. Conditional Uses:

- a) The following uses are conditionally permitted subject to approval through a public hearing process:
 - (1) Essential services not identified above in 5f). Within one year, Collier County will review essential services currently allowed in the Land Development Code and will define those uses intended to be conditionally permitted in Sending designated lands. During this one-year period or if necessary until a comprehensive plan amendment identifying conditionally permitted essential services, no conditional uses for essential services within Sending designated lands shall be approved.
 - (2) Public facilities, including solid waste and resource recovery facilities, and public vehicle and equipment storage and repair facilities, shall be permitted within Section 25, Township 49S, Range 26E, on lands adjacent to the existing County landfill. This shall not be interpreted to allow for the expansion of the landfill into Section 25 for the purpose of solid waste disposal.
 - (3) Commercial uses accessory to permitted uses 5.a), 5.c) and 5.d), such as retail sales of produce accessory to farming, or a restaurant accessory to a park or preserve, so long as restrictions or limitations are imposed to insure the commercial use functions as an accessory, subordinate use.
 - b) In addition to the criteria set forth in the Land Development Code, Conditional Uses shall be allowed subject to the following additional criteria:
 - (1) The applicant shall submit a plan for development that demonstrates that wetlands, listed species and their habitat are adequately protected. This plan shall be part of the required EIS as specified in Policy 6.1.7 of the Conservation and Coastal Management Element.
 - (2) Conditions may be imposed, as deemed appropriate, to limit the size, location, and access to the conditional use.
6. Where residential density is transferred from Sending Lands, allowable uses shall be limited to the following:
- a) Agricultural uses consistent with Chapter 823.14(6) Florida Statutes (Florida Right to Farm Act), including water management facilities, to the extent and intensity that such operations exist at the date of any transfer of development rights.
 - b) Cattle grazing on unimproved pasture where no clearing is required;
 - c) Detached single-family dwelling units, including mobile homes where the Mobile Home Zoning Overlay exists, at a maximum density of one dwelling unit per 40 acres. In order to retain these development rights after any transfer, up to one dwelling must be retained (not transferred) per 40 acres.
 - d) One detached dwelling unit, including mobile homes where the Mobile Home Zoning Overlay exists, per each preexisting lot or parcel of less than 40 acres. For the purpose of this provision, a preexisting lot or parcel is one that

was in existence on or before June 22, 1999 and is: 1) a lot or parcel which is part of a subdivision recorded in the public records of Collier County, Florida; or 2) a lot or parcel which has limited fixed boundaries, described by metes and bounds or other specific legal description, the description of which has been recorded in the public records of Collier County Florida on or before June 22, 1999; or 3) a lot or parcel which has limited fixed boundaries, for which an agreement for deed was executed prior to June 22, 1999. In

order to retain these development rights after any transfer, up to one dwelling must be retained (not transferred) per each lot or parcel.

- e) Habitat preservation and conservation uses.
 - f) Passive parks and passive recreational uses.
 - g) Essential services, as authorized in Sending Lands.
 - h) Oil extraction and related processing, excluding earth mining.
7. Native Vegetation shall be preserved as set forth in CCME Policy 6.1.2.
 8. Adjustment to the Sending Land Boundaries. For all properties designated Sending Lands where such property is contiguous to a Sending Land/Neutral Land boundary or Sending Land/Receiving Land boundary, the County will provide written notice to the property owners to advise of the opportunity to submit additional data and analysis to the County in an attempt to demonstrate a change to the boundary is warranted. Said written notice will be provided within three months of the effective date of these Rural Fringe amendments. Within one year from the date these notices are sent, the County will initiate a Growth Management Plan amendment to consider boundary changes, based upon the data and analysis, as may be warranted. Under the following conditions, adjustments may be proposed to Sending Land boundaries:
 - a) The property is contiguous to Neutral or Receiving Lands;
 - b) Site specific environmental data submitted by the property owner, or other data obtained by the County, indicates that the subject property does not contain characteristics warranting a Sending designation;
 - c) An adjustment to the Sending land boundary requires an amendment to the Future Land Use Map.

(IX) D) Additional TDR Provisions: Within one year of adoption of this plan amendment, Collier County will amend its land development regulations to adopt a formal process for authorizing and tracking the Transfer of Development Rights. This process will include, at a minimum:

1. The establishment of a simple, expeditious process whereby private property owners may, by right, "sell" residential dwelling units from lands designated as "Sending Lands". Said units may then be "transferred" by right to lands designated as "Receiving Lands", or to Urban Lands where authorized. Once established, the TDR program shall be administratively reviewed and approved, requiring no further public hearing or Board approval if consistent with the provisions for administrative approval.
2. The establishment of a process for tracking and recording all transfers of residential units in the public records of Collier County. This shall include the identification of the entity or department responsible for on-going administration of the TDR program. In addition, the County shall consider the feasibility of establishing a "TDR Bank," to be administered by the County or some other not-for-profit governmental or quasi-governmental public agency established for this purpose. The County shall consider and evaluate the funding options and sources of revenues for such a TDR Bank as part of the FY04 budget review process. Sources of funds to consider include, but are not limited to, General Fund revenues, and federal and state grants and loans. A primary objective of the TDR Bank is to make funds available to support the TDR program by offering initial minimal purchase prices of TDRs. As part of these considerations, projections for an annual budget for administration of the TDR program shall be

developed which would include the projected costs and funding appropriation for the FY04 associated with initial purchase of residential development rights.

3. The establishment of a process to evaluate the TDR program and the degree to which it is being utilized, culminating in an annual report to the Board of County Commissioners on the Rural Fringe Mixed Use District TDR program.
4. The TDR process shall be the only mechanism to achieve increased density within Receiving Lands, excluding the Density Blending provisions of this Plan, and any density bonuses authorized in the Rural Fringe Mixed Use District.
5. A 25-year prohibition on utilizing TDRs where a parcel within Sending Lands has been cleared for agricultural purposes after June 19, 2002.

(IX) 2. Buffers Adjacent to Major Public Rights-of-way: In order to maintain and enhance the rural character within the Rural Fringe Mixed Use District, within one year of adoption of this amendment, Collier County will adopt land development regulations establishing buffering standards for developments adjacent to existing or proposed arterial and collector public roadways. These standards shall include, but are not limited to: applicability provisions, including establishing a minimum project size below which these requirements shall not apply; the degree to which water features, including water management lakes and canals, may be a part of this buffer; credits for existing native vegetation that is to be retained; and, credits toward any open space and native vegetation preservation requirements.

(IX) 3. Rural Villages: Rural Villages may be approved within the boundaries of the Rural Fringe Mixed Use District in order to: maximize the preservation of natural areas and wildlife habitat within the Rural Fringe Mixed Use District; to reduce the need for residents of the District and surrounding lands to travel to the County's Urban area for work, recreation, shopping, and education; and, to enhance the provision of limited urban and rural levels of service through economies of scale. Rural Villages shall be comprised of several neighborhoods designed in a compact nature such that a majority of residential development is within one quarter mile of Neighborhood Centers. Neighborhood Centers may include small scale service retail and office uses, and shall include a public park, square, or green. Village Centers shall be designed to serve the retail, office, civic, government uses and service needs of the residents of the village. The Village Center shall be the primary location for commercial uses. Villages shall be surrounded by a green belt in order to protect the character of the rural landscape and to provide separation between villages and the low density rural development, agricultural uses, and conservation lands that may surround the village. Villages shall be designed to include the following: a mixture of residential housing types; institutional uses; commercial uses; and, recreational uses, all of which shall be sufficient to serve the residents of the Village and the surrounding lands. In addition, the following criteria and conditions shall apply, except for those modifications that are identified in the North Belle Meade Overlay:

- A) **Process for Approval:** Within one year of the date of adoption of this amendment, the Collier County Land Development Code shall be amended to include provisions for the establishment of Rural Villages. These provisions will establish specific development regulations, standards, and land use mix requirements. Subsequent to the creation of these provisions, applications shall be submitted in the form of a Planned Unit Development (PUD) rezone and, where applicable, in conjunction with a Development of Regional Impact (DRI) application as provided for in Chapter 380

of Florida Statutes, or in conjunction with any other Florida provisions of law that may supercede the DRI process.

B) Locational Restrictions:

1. A Rural Village shall not be located any closer than 3.0 miles from another Rural Village.
2. No more than one Rural Village may be located in each of the distinct Receiving Areas depicted on the FLUM.
3. A Rural Village shall have direct access to a roadway classified by Collier County as an arterial or collector roadway. Alternatively, access to the Village may be via a new collector roadway directly accessing an existing arterial, the cost of which shall be borne entirely by the developer.
4. A Rural Village shall be located where other public infrastructure, such as potable water and sewer facilities, already exist or are planned.

C) Rural Village Sizes and Density:

1. Rural Villages shall be a minimum of 300 acres and a maximum of 1,500 acres, except within Receiving Lands south of the Belle Meade NRPA where the maximum size may not exceed 2,500 acres. The Rural Village size is exclusive of the required green belt area. Rural Villages shall include a Village Center and a minimum of two distinct neighborhoods.
2. The minimum and maximum gross density of a Rural Village shall be 2.0 units per gross acre and 3.0 units per acre, respectively. The density calculation for a Rural Village may include the base residential density permitted for the green belt area, if such density is shifted to the Rural Village area.
3. Density may be achieved as follows:
 - a) The base density for the Agricultural/Rural Designation of 0.2 dwelling units per acre (1.0 dwelling units per five acres) for lands within the Rural Village, and the land area designated as a greenbelt surrounding the Rural Village, is granted by right for allocation within the designated Rural Village.
 - b) The additional density necessary to achieve the minimum required density for a Rural Village shall be achieved by an equal amount of TDRs and bonus units. That is, for each TDR acquired one bonus unit shall be granted.
 - c) Additional density between the minimum and maximum amounts established herein may be achieved through TDRs, and/or through a 0.5 unit bonus for each unit that is provided for lower income residents and for entry level and workforce buyers, and/or through a density bonus of no more than 10% of the maximum density per acre allowed for each additional acre of native vegetation preserved exceeding the minimum preservation requirements set forth in Policy 6.1.2 of the CCME. Within one (1) year of the effective date of these Rural Fringe amendments, the County will amend the land development code to establish the following: a definition of "workforce housing;" minimum qualifications for the above referenced density bonus; and, a minimum percent of the allowable density that shall meet the definition of workforce/affordable housing within a rural village.

D) Land Use Mix:

1. Acreage Limitations
 - a) Neighborhood Center - 0.5% of the total Village acreage, not to exceed 10 acres, within each Neighborhood Center.
 - b) Neighborhood Center Commercial - Not to exceed 40% of the Neighborhood Center acreage and 8,500 square feet of gross leasable floor area per acre.
 - c) Village Center - Not to exceed 10% of the total Village acreage.

- d) Village Center Commercial - Not to exceed 30% of the Village Center acreage and 10,000 square feet of gross leasable floor area per acre.
 - e) Research and Technology Parks – Consistent with the provisions of the Research and Technology Park Subdistrict in the Urban Mixed Use District, excluding paragraph j; the Park shall not exceed 4% of the total Village acreage.
 - f) Civic Uses and Public Parks - Minimum of 15% of the total Village acreage.
- E) Open Space and Environmental Protection:
1. Greenbelts: In addition to the requirements for parks, village greens, and other open space within the Rural Village, a greenbelt averaging 500 feet in width but not less than 300 feet in width, shall be required at the perimeter of the Rural Village. The Greenbelt is required to ensure a permanent un-developable edge surrounding the Rural Village, thereby discouraging sprawl. Greenbelts shall only be designated on Receiving Lands. The allowable residential density shall be shifted from the designated Greenbelt to the Rural Village. The greenbelt may be concentrated to a greater degree in areas where it is necessary to protect listed species habitat, including wetlands and uplands, provide for a buffer from adjacent natural reservations, or provide for wellfield or aquifer protection, Golf courses and existing agriculture operations are permitted within the greenbelt, subject to the native vegetation preservation requirements specified below in paragraph 2. However, golf course turf areas shall only be located within 100 feet of the Greenbelt boundaries (interior and exterior boundary); further, these turf areas shall only be located in previously cleared, or disturbed areas (see CCME Policy 6.1.2(1)).
 2. Open Space and Native Vegetation Retention.
 - a) Native Vegetation shall be preserved as set forth in the Conservation and Coastal Management Element Policy 6.1.2.
 - b) Open Space: Within the Rural Village and required Greenbelt, in aggregate, a minimum of 70% of Open Space shall be provided.
 3. An environmental impact statement for the Rural Village and surrounding greenbelt area shall be submitted in accordance with Policy 6.1.7 of the CCME.
- F) Fiscal Neutrality: A Rural Village may only be approved after demonstration that the Village will be fiscally neutral to county taxpayers outside of the Village.
1. An analysis shall be conducted and submitted in conjunction with the PUD rezoning and/or DRI application evaluating the demand and impacts on levels of service for public facilities and the cost of such facilities and services necessary to serve the Rural Village. This evaluation shall identify projected revenue sources for services and any capital improvements that may be necessary to support the Village. Additionally, this analysis shall demonstrate that the costs of providing necessary facilities and services shall be fiscally neutral to County taxpayers outside of the Village. At a minimum, the analysis shall consider the following:
 - a) Stormwater/drainage facilities;
 - b) Potable water provisions and facilities;
 - c) Reuse or "Grey" water provisions for irrigation;
 - d) Central sewer provisions and facilities;
 - e) Park facilities;
 - f) Law enforcement facilities;
 - g) School facilities;
 - h) Roads, transit, bicycle and pedestrian facilities and pathways;

- i) Solid Waste facilities.
- (VII) Development phasing and funding mechanisms to address any impacts to level of service in accordance with the County's adopted concurrency management program. Accordingly, there shall be no degradation to the adopted level of service for public facilities and infrastructure identified above.
- G) As part of the development of Rural Village provisions, land development regulations shall identify specific design and development standards for residential, commercial and other uses. These standards shall protect and promote a Rural Village character and shall include requirements for parks, greens, squares, and other public places. In addition to the public spaces required as a part of a Village Center or Neighborhood Center. Rural Villages shall incorporate a Village Park and neighborhood parks. In addition, the following shall be addressed:
1. Rural Village, Village Center and neighborhood design guidelines and development standards:
 - A formal street layout, using primarily a grid design and incorporating village greens, squares and civic uses as focal points.
 - Neighborhoods and the village center will be connected through local and collector streets and shall incorporate traffic calming techniques as may be appropriate to discourage high-speed traffic.
 - Consideration shall be given to the location of public transit and school bus stops.
 - Pedestrian paths and bikeways shall be designed so as to provide access and interconnectivity.
 - The siting of both schools and housing units within the village shall consider the minimization of busing needs within the community.
 - Each Rural Village shall be served by a binary road system that is accessible by the public and shall not be gated. The road system within the village shall be designed to meet County standards and shall be dedicated to the public.
 - A Rural Village shall not be split by an arterial roadway.
 - Interconnection between the Rural Village and adjacent developments shall be encouraged.
 2. Specific allocations for land uses including residential, commercial and other non-residential uses within Rural Villages, shall include, but are not limited to:
 - A mixture of housing types, including single-family attached and detached, as well as multi-family. Housing that is provided for lower income residents and for entry level and workforce buyers shall receive a credit of 0.5 units for each unit constructed. Collier County shall develop, as part of the Rural Village Overlay, a methodology for determining the rental and fee-simple market rates that will qualify for such a credit, and a system for tracking such credits.
 - A mixture of recreational uses, including parks and village greens.
 - Civic, community, and other institutional uses.
 - A mixture of lot sizes, with a design that includes more compact development and attached dwelling units within neighborhood centers and the Village Center, and reduced net densities and increasingly larger lot sizes for detached residential dwellings generally occurring as development extends outward from the Village Centers.
 - A mixture of retail, office, and services uses.
- d) Specific development standards, including but not limited to, maximum net densities; required yards; landscaping and buffering, and building heights.

4. If requested by the Collier County School Board during the PUD and/or DRI review process, school sites shall be provided and shall be located to serve a maximum number of residential dwelling units within walking distance to the schools. Accordingly, schools, if requested, shall be located within or adjacent to the Village Center. Where a school site is requested and provided, a credit toward any applicable school impacts fees shall be provided based upon an independent evaluation/appraisal of the value of the land and/or improvements provided by the developer.

(IX) 4. Exemptions from the Rural Fringe Mixed Use District Development Standards –

The requirements of this District shall not apply to, affect or limit the continuation of existing uses. Existing uses shall include: those uses for which all required permits were issued prior to June 19, 2002; or projects for which a Conditional use or Rezone petition has been approved by the County prior to June 19, 2002; or, land use petitions for which a completed application has been submitted prior to June 19, 2002. The continuation of existing uses shall include expansions of those uses if such expansions are consistent with or clearly ancillary to the existing uses. Hereafter, such previously approved developments shall be deemed to be consistent with the Plan's Goals, Objectives and Policies and for the Rural Fringe Mixed Use District, and they may be built out in accordance with their previously approved plans. Changes to these previous approvals shall also be deemed to be consistent with the Plan's Goals, Policies and Objectives for the Rural Fringe Mixed Use District as long as they do not result in an increase in development density or intensity.

(I)(VII)(IX) C. Rural - Industrial District

The Rural - Industrial District, which encompasses approximately 900 acres of existing industrial areas outside of Urban designated areas, is intended, and shall be reserved, for industrial type uses, subject to the Interim Development Provisions. Besides basic Industrial uses, limited commercial uses are permitted. Retail commercial uses are prohibited, except as accessory to Industrial uses. The C-5 Commercial Zoning District on the perimeter of lands designated Rural - Industrial District, as of October 1997, shall be deemed consistent with this Land Use District. All industrial areas shall have direct access to a road classified as an arterial or collector in the Traffic Circulation Element, or access may be provided via a local road that does not service a predominately residential area. No new industrial land uses shall be permitted in the Area of Critical State Concern. For the purposes of interpreting this policy, oil and gas exploration, drilling, and production ("oil extraction and related processing") shall not be deemed to be industrial land uses and shall continue to be regulated by all applicable federal, state, and local laws. Intensities of use shall be those related to:

- a. Manufacturing;
- b. Processing;
- c. Storage and warehousing;
- d. Wholesaling;
- e. Distribution;
- (VII)(IX) f. High technology;
- (VII)(IX) g. Laboratories;
- (VII)(IX) h. Assembly;
- (VII)(IX) i. Computer and data processing;
- (VII)(IX) j. Business services;

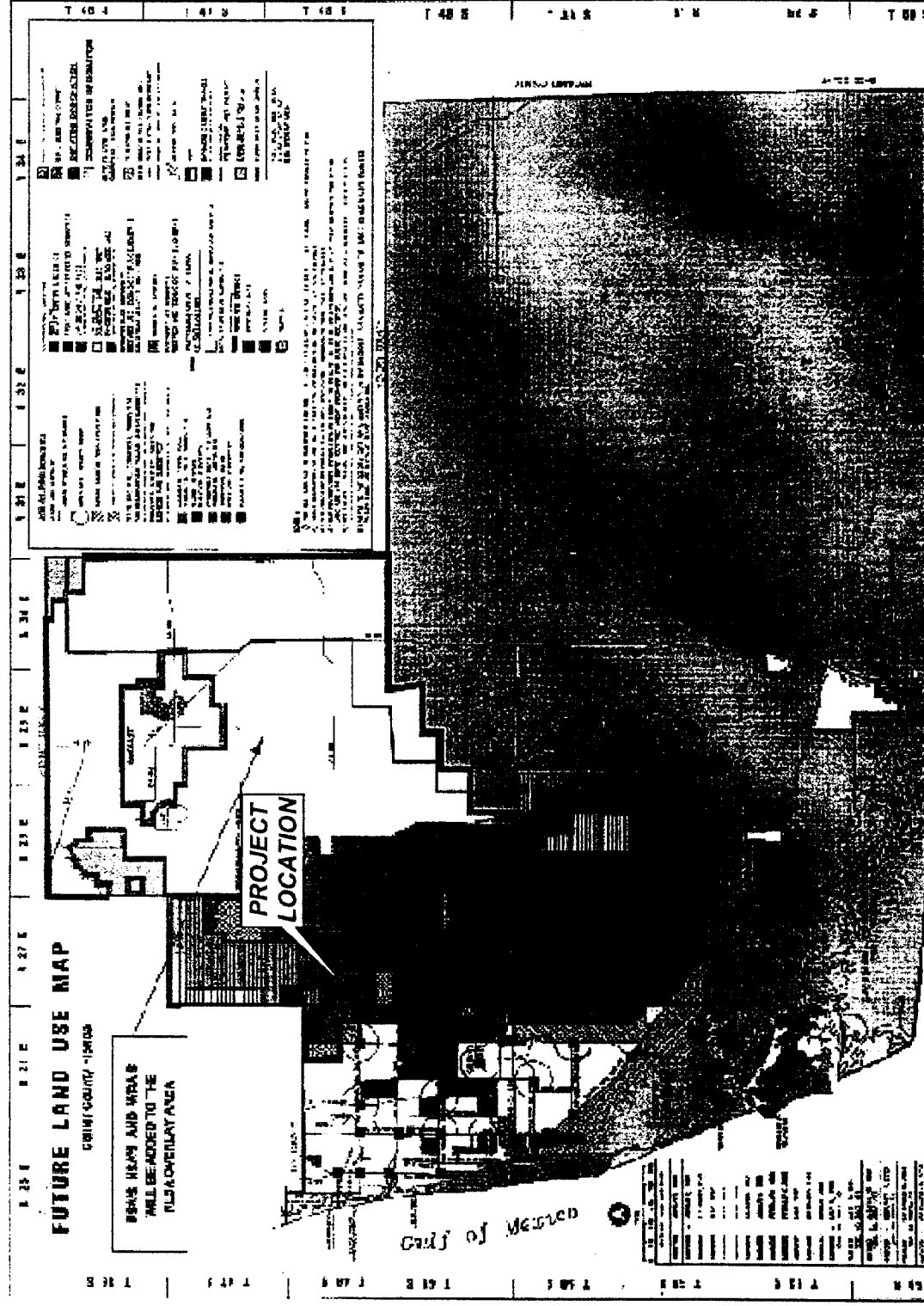
FUTURE LAND USE MAP

CRIM COUNTY 19809

BEARS HAMS AND WRABS
WILL BE ADDED TO THE
PLS AOWKITIYANGA

PROJECT
LOCATION

Gulf of Mexico



- LEGEND
- SP. USE ZONE
 - RESIDENTIAL
 - COMMERCIAL
 - INDUSTRIAL
 - AGRICULTURAL
 - PAVED AREAS
 - UNPAVED AREAS
 - WATER BODIES
 - WOODLAND
 - WATER RESOURCES
 - WATER RIGHTS
 - WATER RIGHTS RESERVE
 - WATER RIGHTS EXCEPTED
 - WATER RIGHTS EXCLUDED
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EXHIBIT 6-B
HERITAGE BAY CDD
FUTURE
LAND USE MAP

FILE NO.	1000000000
PROJECT NO.	
APPROVED BY:	
DATE:	
SCALE:	
CHECKED BY:	
APPROVED BY:	
DATE:	



Wisdom Miller

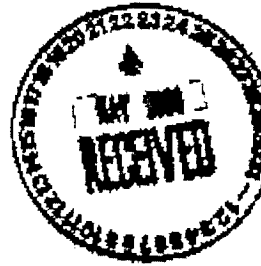
For Directions in Planning Design & Engineering

1000000000

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EXHIBIT 6-C

ORDINANCE NO. 2000- 25



AN ORDINANCE RESCINDING AND REPEALING IN ITS ENTIRETY COLLIER COUNTY ORDINANCE NO. 99-63, WHICH HAD THE EFFECT OF RESCINDING CERTAIN EAR-BASED OBJECTIVES AND POLICIES AT ISSUE IN ADMINISTRATION COMMISSION CASE NO. ACC-99-02 (DOAH CASE NO. 98-0324GM); BY PROVIDING FOR: SECTION ONE, RESCISSION AND REPEAL OF ORDINANCE NO. 99-63; AND SECTION TWO, EFFECTIVE DATE.

WHEREAS, Collier County, pursuant to Section 163.3161 et seq., Florida Statutes, the Florida Local Government Comprehensive Planning and Land Development Regulation Act (hereinafter "the Act") is required to prepare and adopt a comprehensive plan; and

WHEREAS, Section 163.3194(1)(g), Florida Statutes, requires that all land development regulations enacted or amended by Collier County shall be consistent with the adopted comprehensive plan, or element or portion thereof; and

WHEREAS, on January 10, 1989, Collier County adopted the Collier County Growth Management Plan or "GMP" as its comprehensive plan pursuant to the requirements of Section 163.3151 et seq., Florida Statutes and Rule 9J-5 of the Florida Administrative Code;

WHEREAS, pursuant to Section 163.3191, Florida Statutes, local governments are required to prepare and adopt the first periodic Evaluation and Appraisal Report (hereinafter "EAR") within seven years of the adoption of their respective comprehensive plans; and

WHEREAS, on October 27, 1997, Collier County adopted the EAR-based amendments to its GMP which amendments were sent to the DCA for its review to determine compliance with the Act and Rule 9J-5; and

WHEREAS, on December 24, 1997, the DCA issued its Notice of Intent finding certain of the EAR-based amendments not in compliance; and

WHEREAS, the EAR-based amendments found not in compliance were: the Future Land Use Element including the Future Land Use Map; the Drainage and Natural Groundwater Aquifer Recharge Sub-elements of the Public Facilities Element; the Intergovernmental Coordination Element; the Conservation and Coastal Management Element; the Housing Element; and the Golden Gate Area Master Plan Element; and

WHEREAS, on March 19, 1999, the administrative law judge issued a recommended order finding that all of the referenced EAR-based amendments found not in compliance by the DCA were not in compliance; and

WHEREAS, on June 22, 1999, the Administration Commission, pursuant to Section 163.3184(1), Florida Statutes, issued its Final Order finding the referenced EAR-based amendments not in compliance and ordering that they be rescinded by September 14, 1999; and

WHEREAS, specifically, these amendments are: Policy 1.2.5. of the Intergovernmental Coordination Element (Ordinance No. 97-56); Objective 1.2 and Policies 1.2.1 through 1.2.4 of the Natural Groundwater Aquifer Recharge Sub-element of the Public Facilities Element

FILED
MAY 15 1999
CLERK OF COUNTY
COLLIER COUNTY, FLORIDA

(Ordinance No. 97-59); Policy 1.1.2 of the Drainage Sub-element of the Public Facilities Element (Ordinance No. 97-63); the Housing Element ((Ordinance No. 97-63); Policies 2.1.4, and 2.2.3 of the Golden Gate Area Master Plan (Ordinance No. 97-64); Objectives 1.1, 1.3, 12.1, 6.3, 7.3, 9.4, 9.5 and 11.6, and Policies 1.1.1, 1.1.2, 1.1.3, 1.3.1, 12.1.2, and 12.2.5 of the Conservation and Coastal Management Element; and Policy 3.1.d. of the Future Land Use Element, together with the Future Land Use Map depiction of the coastal high hazard area; and

WHEREAS, on September 14, 1999, the Board of County Commissioners readopted the EAR-based amendments first adopted on October 27, 1997, but with the provisions found not in compliance shown as rescinded. No other changes were made to the 1997 EAR-based amendments; and

WHEREAS, on October 31, 1999, the DCA, in its Notice of Intent, found this plan amendment to be in compliance; and

WHEREAS, on November 10, 1999, the Florida Wildlife Federation and the Collier County Audubon Society filed their Petition for Hearing challenging the September 14, 1999 readopted amendment. Said Petition was forwarded by the DCA to the Division of Administrative Hearings; and

WHEREAS, the Petition challenges EAR-based amendments that were originally adopted on October 27, 1997, and were merely readopted by the County on September 14, 1999; and

WHEREAS, the filing of said Petition, together with DOAH Case No. 98-032GM, has delayed the County's ability to implement EAR-based amendments; and

WHEREAS, the consequence of the County's inability to implement its EAR-based amendments results in the County operating under a Growth Management Plan, significant parts of which are eleven (11) years old; and

WHEREAS, upon request from the County, the DCA issued a letter confirming that the portions of the 1997 EAR-based amendments that were not specifically at issue in DOAH Case No. 98-032GM became legally effective when the Final Order was rendered; and

WHEREAS, the re-adoption of the 1997 EAR-based amendments was thus unnecessary; and

WHEREAS, the County, therefore, seeks to rescind Ordinance No. 99-63 in its entirety and, in its place, immediately adopt a separate ordinance which merely deletes the provisions of the 1997 EAR-based amendments that were found not in compliance.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF COLLIER COUNTY, FLORIDA, that:

SECTION ONE: Rescission and Repeal of Ordinance No. 99-63.

Collier County Ordinance No. 99-63, adopted on September 14, 1999, is hereby rescinded and repealed in its entirety.

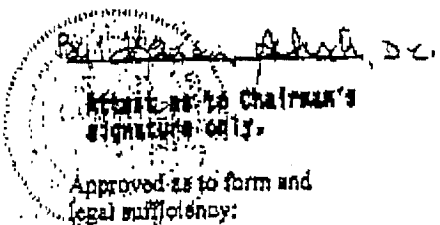
SECTION TWO: Effective Date.

This Ordinance shall take effect upon filing with the Department of State.

PASSED AND DULY ADOPTED by the Board of County Commissioners of Collier County,
Florida this 9 day of May, 2000.

ATTEST:
DWIGHT B. BROCK, Clerk

BOARD OF COUNTY COMMISSIONERS
OF COLLIER COUNTY, FLORIDA



By: [Signature]
TIMOTHY F. CONSTANTINE, Chairman

This ordinance filed with the
Secretary of State's Office the
10th day of May, 2000
and acknowledgment of that
filing received this 22nd day
of May, 2000
By: [Signature]
Deputy Clerk

[Signature]
Marjorie M. Student
Assistant County Attorney

1042/10

STATE OF FLORIDA)
COUNTY OF COLLIER)

I, DWIGHT E. BROCK, Clerk of Courts in and for the
Twentieth Judicial Circuit, Collier County, Florida, do hereby
certify that the foregoing is a true copy of:

ORDINANCE NO. 2000-25

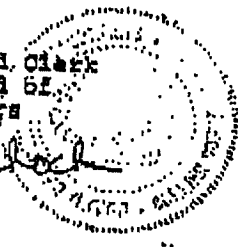
Which was adopted by the Board of County Commissioners
the 9th day of May, 2000, during Regular Session.

WITNESS my hand and the official seal of the Board of
County Commissioners of Collier County, Florida, this 10th day
of May, 2000.

DEPARTMENT OF STATE
TALLAHASSEE, FLORIDA
2000 MAY 16 PM 12:53
FILED

DWIGHT E. BROCK
Clerk of Courts and Clerk
EX-officio to Board of
County Commissioners

Karen Schoch
By: Karen Schoch,
Deputy Clerk



STATEMENT OF ESTIMATED REGULATORY COSTS

1.0 Introduction

1.1 Purpose and Scope

This statement of estimated regulatory costs (“SERC”) supports the petition to establish the Heritage Bay Community Development District (“District”). The District comprises approximately 687 +/- acres of land within Collier County, Florida on which approximately 409 single family, 826 multifamily dwelling units, 200 assisted living units, 55,000 square feet of office space, and 175,000 square feet of commercial space are planned for development. The limitations on the scope of this SERC are set out in Chapters 120 and 190 F.S. (2004) (specifically, Sections 190.046(1)(a), 190.005(1)(a)8, and 120.541(2)).

Moreover, Section 190.002(2)(d), F.S. (2004), provides “that the process of establishing such a district pursuant to uniform general law shall be fair and based only on factors material to managing and financing the service delivery function of the district, so that any matter concerning permitting or planning of the development is not material or relevant (emphasis added).”

1.2 Overview of the Heritage Bay Community Development District

The District is designed to provide community infrastructure, services, and facilities along with their operations and maintenance.

The development plan for the proposed lands within the District includes the construction of approximately 409 single family, 826 multifamily dwelling units, 200 assisted living units, 55,000 square feet of office space, and 175,000 square feet of commercial space.

1.3 Requirements for the Statement of Estimated Regulatory Costs

Section 120.541(2), F.S. (2004), defines the elements a statement of estimated regulatory costs must contain:

(a) A good faith estimate of the number of individuals and entities likely to be required to comply with the rule, together with a general description of the types of individuals likely to be affected by the rule.

(b) A good faith estimate of the cost to the agency, and to any other state and local government entities, of implementing and enforcing the proposed rule, and any anticipated effect on state and local revenues.

(c) A good faith estimate of the transactional costs likely to be incurred by individuals and entities, including local governmental entities, required to comply with the requirements of the rule. As used in this paragraph, “transactional costs” are direct costs that are readily ascertainable based upon standard business practices, and include filing fees, the cost of obtaining a license, the cost of equipment required to be installed or used or procedures required to be employed in complying with the rule, additional operating costs incurred, and the cost of monitoring and reporting.

(d) An analysis of the impact on small businesses as defined by Section 288.703, F.S. (2004), and an analysis of the impact on small counties and small cities as defined by Section 120.52, F.S. (2004). Collier County is not defined as a small county for purposes of this requirement.

(e) Any additional information that the agency determines may be useful.

(f) In the statement or revised statement, whichever applies, a description of any good faith written proposal submitted under paragraph (1)(a) and either a statement adopting the alternative or a statement of the reasons for rejecting the alternative in favor of the proposed rule.

2.0 A good faith estimate of the number of individuals and entities likely to be required to comply with the ordinance, together with a general description of the types of individuals likely to be affected by the ordinance.

As noted above, Heritage Bay is designed for approximately 409 single family, 826 multifamily dwelling units, 200 assisted living units, 55,000 square feet of office space, and 175,000 square feet of commercial space. Establishment of the District would put all of the households that locate within the community under the jurisdiction of the District. Of course, the decision to locate within the District is a voluntary one.

3.0 A good faith estimate of the cost to state and local government entities of implementing and enforcing the proposed ordinance, and any anticipated effect on state and local revenues.

3.1 Costs to Governmental Agencies of Implementing and Enforcing Ordinance

State Government Entities

The District consists of fewer than 1,000 acres; therefore the Collier County is the establishing entity under Section 190.005(2), F.S. (2004). There will be only modest costs to various State governmental entities to implement and enforce the proposed establishment of the District.

The modest costs to various State entities to implement and enforce the proposed ordinance relate strictly to receipt and processing of various reports that the proposed District is required to file with the State and its various entities. Appendix A lists the reporting requirements. The costs to those State agencies that will receive and process the District's reports are very small, because the District is only one of several hundred governmental units that are required to submit the various reports. Therefore, the marginal cost of processing one additional set of reports is *de minimis*. Additionally, pursuant to Section 189.412, F.S. (2004). The District must pay an annual fee to the State of Florida Department of Community Affairs to offset such costs.

Collier County

The land within the District is within the unincorporated limits of Collier County and consists of fewer than 1,000 acres. The Collier County Board of Commissioners and Collier County staff will process, analyze, conduct a public hearing, and vote upon the petition to establish the District. These activities will absorb some resources.

These costs to the County are modest for a number of reasons. First, review of the petition to establish the District does not include analysis of the project itself. Second, the petition itself

provides much of the information needed for a staff review. Third, Collier County already possesses the staff needed to conduct the review without the need for new staff. Fourth, there is no capital required to review the petition. Fifth, general purpose local governments routinely process similar petitions for land uses and zoning changes that are far more complex than is the petition to establish a community development district. Finally, costs related to staff's time to process the petition to establish the District have been offset by the \$15,000 filing fee that is paid to the County.

The annual costs to Collier County, because of the establishment of the District, are also very small and within control of the County. The District is an independent unit of local government. The only annual costs the County faces are the minimal costs of receiving and to the extent it wishes, reviewing the various reports that the District is required to provide to the County.

3.2 Impact on State and Local Revenues

Adoption of the proposed ordinance will have no negative impact on State or local revenues. The District is an independent unit of local government with limited powers. It is designed by law to provide community facilities and services to the lands that comprise the Heritage Bay area. It has its own sources of revenue. No State or local subsidies are required or expected.

In this regard it is important to note that any debt obligations incurred by the District to construct its infrastructure, or for any other reason, are not debts of the State of Florida or any other unit of local government. In accordance with State law, debts of the CDD are strictly its own responsibility.

4.0 A good faith estimate of the transactional costs likely to be incurred by individuals and entities required to comply with the requirements of the ordinance.

Table 1 provides an outline of the various facilities and services the proposed District may provide. The District plans to fund, own, operate, and maintain the community's stormwater management system, public landscaping improvements, and related irrigation improvements. The District also plans to construct and finance the internal roadway system, water distribution system, and waste water system. It is anticipated that these facilities will be turned over to the Collier County for ownership and maintenance.

Table 1. Heritage Bay Community Development District Proposed Facilities and Services

FACILITY	FUNDED/ CONSTRUCTED	O&M	OWNERSHIP
Water Distribution & Sewer Collection Systems	CDD	Collier County	Collier County
Roads	CDD	CDD/ Collier County	CDD/ Collier County
Stormwater Management	CDD	CDD	CDD
System Landscape & Entrance	CDD	CDD	CDD

The petitioner has estimated the costs for providing the capital facilities outlined in Table 1. The cost estimates are shown in Table 2 below. Total costs for these facilities are estimated to be approximately \$44,378,000. To fund this construction program the District may issue special assessments or other revenue bonds estimated to total \$57,700,000. These would be repaid through non-ad valorem assessments levied on all developable property within the District that specially benefit from the District's capital improvement program as outlined in Table 1.

Table 2. Summary of Estimated Capital Costs Heritage Bay Community Development District

Category	Construction Estimate
Roadway	\$6,069,000
Utilities	8,327,000
Earthwork	16,022,000
Water Management	2,708,000
Landscaping & Irrigation	4,310,000
Professional Fees & Permitting	2,907,000
10% Contingency	4,035,000
Total	\$44,378,000

Prospective future landowners in the District may be required to pay non-ad valorem assessments levied by the District to secure the debt incurred through bond issuance. In addition to the levy of non-ad valorem assessments for debt service, the District may also impose a non-ad valorem assessment to fund the operations and maintenance of the District and its facilities and services.

It is important to note that the various costs outlined in Table 2 are typical for developments of the type contemplated. There is nothing peculiar about the District's financing that requires additional infrastructure over and above what would normally be needed. Therefore, these costs are not in addition to normal development costs. District-imposed assessments for operations and maintenance costs are similar to what would be charged by a property owner's association common to most mixed-use developments except they are government enforced first liens.

Real estate markets are quite efficient, because buyers and renters evaluate all of the costs and benefits associated with various alternative locations. Therefore, market forces preclude developers from marking up the prices of their products beyond what the competition allows. To remain competitive the operations and maintenance assessments must also be inline with the costs imposed by the competition.

Furthermore, the decision to locate within the District is completely voluntary. These potential residents are given full disclosure of the existence of the district and level of anticipated assessments. So ultimately, all owners and users of the affected property chose to accept the District's costs in tradeoff for the benefits that the District provides. A Community Development District ("CDD") provides residents with the option of having higher levels of facilities and services financed through self-imposed charges. The District is an alternative means to provide necessary community services. Paying for District management is no more expensive, and often less expensive, than the alternatives of paying for infrastructure delivery from or financing through a 'MSBU' or "MSTU" a neighborhood association, County provision (directly or via a dependents special district), or through developer equity and/or bank loans.

It should be noted that occupants of the lands within the District will receive three major classes of benefits.

First, those residents and businesses in the District will receive a higher level of public services and amenities sooner than would otherwise be the case.

Second, a CDD is a mechanism to ensure that the community services and amenities will be completed concurrently with development of lands within the District. This satisfies the revised growth management legislation, and it assures that growth pays for itself without undue burden on other consumers. Establishment of the District will ensure that these landowners pay for the provision of facilities, services and improvements to these lands.

Third, a CDD is the sole form of governance which allows District landowners, through landowner voting and ultimately electoral voting for resident elected boards, to determine the type, quality and expense of District services they receive, provided they meet the County's overall requirements.

5.0 An analysis of the impact on small businesses as defined by Section 288.703, F.S. (2004), and an analysis of the impact on small counties and small cities as defined by Section 120.52, F.S. (2004).

There will be no impact on small businesses because of the establishment of the District. If anything, the impact may be positive. This is because the District must competitively bid certain contracts. This affords small businesses the opportunity to bid on District work.

Collier County has an estimated population (not incarcerated) in 2005 that is greater than 75,000. Therefore the County is not defined as a "small" county according to Section 120.52, F.S.

6.0 Any Additional useful information.

The analysis provided above is based on a straightforward application of economic theory, especially as it relates to tracking the incidence of regulatory costs and benefits. Input was received from the developer's engineer and other professionals associated with the developer.

Finally, it is useful to reflect upon the question of whether the District is the best alternative to provide community facilities and services to the project. As an alternative to the District, Collier County could approve a dependent special district for the area, or use an MSBU or MSTU.

There are a number of reasons why county or its dependent district MSBU is not the best alternative for providing community facilities and services to Heritage Bay. First, unlike the District, the alternatives would require Collier County to administer the project and its facilities and services. As a result, the costs for these services and facilities would not be sequestered to the land directly benefiting from them, as the case would be with the District. Administering a project of the size and complexity of the development program anticipated for Heritage Bay is a significant and expensive undertaking.

Second, a District is preferable from a government accountability perspective. With a District, residents and landowners in the District would have a focused unit of government ultimately

under their direct control. The District can then be more responsive to resident needs without disrupting other County responsibilities. By contrast, if Collier County was to establish a dependent district then the residents and landowners of Heritage Bay would take their grievances and desires to the County Commission meetings.

Third, any debt of a District is strictly the District's responsibility. While it may be technically true that the debt of a County-established dependent, special district is not strictly the County's responsibility, any financial problems that the special district may have will inevitably entangle the County. This will not be the case if a District is established.

Another alternative to the District would be for a property owner's association to provide the infrastructure, operations, and maintenance of community facilities and services. A District is superior to a POA for a variety of reasons. First, unlike a POA a District can obtain low cost funds from the municipal capital markets. Second, the District can impose and collect its assessments along with other property taxes. Therefore, the District is far more assured of obtaining its needed funds than is a POA. Third, the District is a unit of local government. This provides a higher level of oversight and accountability.

Fishkind and Associates certifies that this SERC meets the requirements for a Statement of Estimated Regulatory Costs as set out in Section 120.541, F.S. (2004). We have developed over 25 SERC's. Below is a list of five of these.

- Urban Orlando Community Development District
- Marshall Creek Community Development District
- Cedar Hammock Community Development District
- Mediterra Community Development District
- Brooks Community Development District

APPENDIX A LIST OF REPORTING REQUIREMENTS

FLORIDA STATUTE REPORT	CITE	DATE
Annual Financial Audit	11.45	within 9 months following end of fiscal year
	218.39	within 12 months after end of fiscal year
Annual Financial Report (AFR)	218.32	(d) no later than 12 months after end of fiscal year or (e) no later than April 30
TRIM Compliance Report	200.068	no later than 30 days after adoption of resolution establishing property tax levy
Form 1 – Limited Financial Disclosure	112.3144	by July 1
Public Depositor	280.17	by November 30
Proposed Budget	190.008	at least 60 days prior to adoption
Public Facilities Report	189.415	within one year of creation; annual updates thereafter
Public Meeting Schedule	189.417	quarterly, semiannually or annually
Bond Report	218.38	when issued; within 120 days after delivery of bonds
Registered Agent	189.416	30 days after first meeting

HERITAGE BAY COMMUNITY DEVELOPMENT DISTRICT

DAVID S. WILKISON, P.E.
Engineering Considerations

Establishment of Heritage Bay Community Development District on the Proposed Property

My name is David S. Wilkison. By profession I am a Professional Engineer registered in the State of Florida. Attached is my resume. My job is to raise and discuss engineering aspects and consequences of proposed new community development projects in general, and the various alternatives for the delivery of basic infrastructure to community developments. This includes the use of the specialized governmental entities known as Community Development Districts for the provision of basic infrastructure.

Regarding the Heritage Bay Community Development District, which would provide infrastructure to The Heritage Bay Development, I have assisted in the preparation of the Petition, its required exhibits, and additional information pertinent to the engineering consequences of establishing the District. This document constitutes a summary of the engineering consequences of establishing the District on the identified property in the County.

The general law that creates the charter of the District requires information that must be contained in all petitions, as required in the uniform establishment procedure set forth in Section 190.005, Florida Statutes. The Petition with its attachments establishes initial information on the record and triggers the process that results in an ordinance establishing the District on the legally described property, pursuant to Section 190.005(1)(a), Florida Statutes. The Statute then requires pertinent information as to the six factors which must be considered by the Petitioner, the County District Processing Team, and, ultimately, the members of the Board of County Commissioners

and its community development are serviceable by the District. The Statute uses the term “amenable.” From an engineering perspective, this term means the District provided systems, facilities or services can adequately and economically serve the area. The key factor is to determine if there are economies of scale by providing the required and desired services through a Community Development District. Is the land area too small to obtain the benefits of a District even though it is not too small to be permitted as a new community? The answer is that since the land area, based on the proposed layout of the community, is sufficiently compact and contiguous to efficiently provide services, its size does not limit or render it incapable of providing significant economies of scale when governed by a special district. In my opinion the land area in the District is amenable because of its size and the proposed layout of the community. Also, there are no existing or proposed land features, facilities, encumbrances or restrictions that would make the services and special capabilities of the District difficult or inefficient to provide.

Special Problems:

No special engineering problems were evident during my review

FACTOR FIVE

Factor Five should be considered next. It deals with whether the District would be incompatible with any community development systems, facilities or services, either existing or authorized.

From an engineering perspective, I understand the term “community development services or facilities” to mean those infrastructure providing use, benefit, and enjoyment to the users of the services or facilities. In reviewing the site, I have determined that the community

development services and facilities of the District will not be incompatible with the capacity and uses of existing local and regional community development services and facilities.

Regarding the District facilities, systems and services, I view the term "compatibility," as an engineer, to mean the District provide facilities, systems, and services can be integrated into adjacent existing facilities, systems, and services without significant loss of function or economy.

In my opinion, establishment of the State District created with its systems and facilities will not be incompatible with all of the existing or future authorized local and regional systems, facilities and services. There will not be an overlap or duplication of services. The services provided by the District will augment and improve those provided by Collier County and its special districts.

Special Problems:

No special engineering problems were evident during my review

FACTOR FOUR

It is now logical to review Factor Four. I must consider if the District will be the best alternative to provide the required and desired services and facilities to the proposed land area on which the District is to exist. There are three major public and private alternatives for the provisions of infrastructure systems, facilities, and services to proposed functionally interrelated community developments. Purely private alternatives include a developer and a homeowner's association. The first public alternative is a Community Development District. The other public alternatives include the County, County management with a Municipal Service Taxing Unit

(MSTU) or Municipal Service Benefit Unit (MSBU), County dependent special districts, and other local dependent districts and any regional districts.

In reviewing these alternatives for the particular land area in question in Collier County, I reviewed the availability of existing services, the effort and cost required to extend service to the community development, the cost of providing daily service, and the long term level of management and maintenance required for the systems, facilities and services.

From an engineering perspective, although Collier County has decided under most circumstances to provide water, sewer, and irrigation services through a dependent district, or independent purveyor, the County has not determined to provide other infrastructure to community developments. The County is not, in my opinion, the best alternative to provide those other systems, facilities and services from an engineering viewpoint for the following reasons:

- The County has not master planned, designed, nor funded those other systems, facilities, and services. The purpose of the District is to design, build, fund, maintain and operate those other systems, facilities, and services.
- The county as a general purpose local government has such a large plethora of often countervailing but legitimate economic financial political policy and regulatory duties, responsibilities and requirements that it is not suited to take the time to spend any effort on infrastructure within one particular proposed community development; whereas the District is liberated to think long-term in the management and related financing of basic infrastructure to the community development.

Regarding the private developer, any private company, or a homeowner's association as an alternative way to provide the remaining systems, facilities and services, I note as an engineer, that there are a number of disadvantages including:

- The private developer is generally involved with a development on a short-term basis compared to the District which has the responsibility to provide sustained quality infrastructure on a long-term basis.
- The private developer may not have the funds to provide or complete the remaining systems, facilities, and services.
- The homeowner's association is typically staffed with volunteer, non-professional staff that may not adequately plan for the long-term maintenance and replacement of the systems, facilities, and services.

Accordingly, the best alternative for this property, in my opinion as a professional engineer dealing with infrastructure provisions for the community development project is the District itself. The basis for this opinion is my experience as a civil engineer working in Collier County and dealing with Collier County Government and the private development community on a daily basis.

Special Problems

No special engineering problems were evident during my review

TESTIMONY OF CARRON DAY, PLANNER

Planning Review Establishment of the Heritage Bay Community Development District

A petition for establishing the Heritage Bay Community Development District (CDD) has been filed with the Collier County Board of County Commissioners. The purpose of this report is to provide the Collier County Commission with the planning perspective relative to the proposed CDD.

My qualifications for providing this planning perspective are outlined in the attached resume. I am a member of the American Institute of Certified Planners. I have been working as an urban and regional planner in Southwest Florida since 1974. My work has included land development activities, Developments of Regional Impact, comprehensive plan amendments, zonings and the use of Community Development Districts. I have a Master of City and Regional Planning degree from the Illinois Institute of Technology and have been qualified in Florida administrative hearings and in various Florida county commissions and city councils as an expert in zoning and land use matters and in local, regional, and state growth management planning including the planning for alternative ways to provide community development infrastructure.

Based on my experience and training in this field, I have addressed the planning aspects and consequences of alternative means of providing infrastructure to the proposed property of the Heritage Bay Community Development. I have assisted in the preparation of the Petition to establish the Heritage Bay Community Development District, its required exhibits and additional information pertinent to the planning consequences of establishing the District. This paper is a summary of the planning consequences of establishing the proposed District on the identified property within Collier County, Florida.

Regarding the petition to establish the Heritage Bay CDD, I have reviewed the following:

1. Chapter 187, Florida Statutes, the State Comprehensive Plan.
2. The Collier County Comprehensive Plan.
3. Chapter 189, Florida Statutes, the Uniform Special District Accountability Act.
4. Chapter 190, Florida Statutes, the Uniform Community Development District Act.

Additionally, I have observed the proposed site of the Heritage Bay CDD and reviewed the Petition to Establish the Heritage Bay CDD.

This is a review of establishing the Heritage Bay CDD on the proposed land and, from a planning perspective, the suitability or appropriateness of establishing a Community Development District for the Heritage Bay Community. Section 190.005, Florida Statutes, lists six specific factors that must be considered when making a determination regarding a petition to establish a CDD. These factors are:

1. Whether all statements contained within the petition have been found to be true and correct.
2. Whether the establishment of the district is inconsistent with any applicable element or portion of the state comprehensive plan or of the effective local government comprehensive plan.
3. Whether the area of the land within the proposed district is of sufficient size, is sufficiently compact, and is sufficiently contiguous to be developable as one functional interrelated community.

4. Whether the district is the best alternative available for delivering community development services and facilities to the area that will be served by the district.
5. Whether the community development services and facilities of the district will be incompatible with the capacity and uses of existing local and regional community development services and facilities.
6. Whether the area that will be served by the district is amenable to separate special-district government.

The proposed land area for the Heritage Bay CDD includes approximately 686± acres with a total of 1250 units arranged as a mix of residential building types. The community is located just east of the northeast quadrant of the intersection of Collier Boulevard (County Road 951) and Immokalee Road. The community includes residential neighborhoods, a clubhouse, recreational areas, open space tracts, stormwater facilities, wetland preserves, roadways and necessary water and sewer facilities. The community is area designated Rural Fringe Mixed Use with an Urban-Rural Rural Fringe Transition Zone Overlay (URFTZO) in the Collier County Comprehensive Plan and on the Future Land Use Map.

This planning consideration of the CDD, relative to the six statutory decision factors, is based on the CDD exercising all of its statutory powers authorized in Section 190.012, F.S.

FACTOR ONE

Whether all statements contained within this petition have been found to be true and correct.

I have observed the Heritage Bay site and reviewed the Petition for Establishing the Heritage Bay CDD. To the best of my knowledge, the statements contained within the Petition are true and correct. There are no special planning problems evident from my review.

FACTOR TWO

Whether the establishment of the district is inconsistent with any applicable element or portion of the state comprehensive plan or of the effective local government comprehensive plan.

The State and Collier County Comprehensive Plans were reviewed for goals, objectives, and policies that pertain to the establishment of a CDD. These goals, objectives, and policies were then reviewed specifically in relationship to proposed establishment of the Heritage Bay CDD. Based on this review, establishment of the Heritage Bay CDD is not inconsistent with applicable elements or portions of the State and Collier County Comprehensive Plans.

This review did not consider comprehensive plan goals, objectives, or policies that do not pertain to the establishment of a CDD. State and Collier County Comprehensive Plan goals, objectives, and policies pertaining to establishment of the CDD and specific application to the proposed establishment of the Heritage Bay CDD are provided below:

THE STATE COMPREHENSIVE PLAN

Subject and Goal (18)

(18) PUBLIC FACILITIES

(a) Goal. - Florida shall protect the substantial investments in public facilities that already exist and shall plan for and finance new facilities to serve residents in a timely, orderly, and efficient manner.

Policy 18(b) 3. Allocate the costs of new public facilities on the basis of the benefits received by existing and future residents.

Establishment of the Heritage Bay CDD will allocate the cost of new facilities to the users of such facilities and specifically the owners of property within the district.

Policy 18(b) 4. - Create a partnership among state government, local governments, and the private sector which would identify and build needed public facilities and allocate the costs of such facilities among the partners in proportion to the benefits accruing to each of them.

Establishment of the Heritage Bay CDD creates a partnership between Collier County, the Heritage Bay CDD, and the developer for the management and funding of the community facilities and the allocation of their costs to the facility users.

Policy 18(b) 5. - Encourage local government financial self-sufficiency in providing public facilities.

The proposed Heritage Bay CDD will be a financially self-sufficient local governmental entity that will provide the community facilities for the Heritage Bay development.

Policy 18(b) 6. - Identify and implement innovative but fiscally sound and cost-effective community facility financing techniques.

Establishment of the Heritage Bay CDD will result in a fiscally sound and cost-effective community facility financing technique by assessing the cost of facilities and services directly to the property owners within the CDD. These property owners are also the specific users of the facilities and services.

Policy 18(b) 7. - Encourage the development, use, and coordination of capital improvement plans by all levels of government.

Section 189.415, Florida Statutes, requires special districts to coordinate with local general-purpose government and to submit and update a public facilities report. This public facilities report must include information very similar to the capital improvement plans of most local general-purpose governments. The local general-purpose government may use and rely upon the district report.

Policy 18(b) 9. - Identify and use stable revenue sources which are also responsive to growth for financing public facilities.

Establishment of the Heritage Bay CDD provides stable community facility revenue sources that are directly responsive to growth. This will occur as the community is developed. Within the CDD fees will be assessed to property owners. These fees are collected to finance the management, installation and maintenance of community infrastructure and amenities.

**Subject and Goal 20
(20)TRANSPORTATION**

(a) Goal. - Florida shall direct future transportation improvements to aid in the management of growth and shall have a state transportation system that integrate highway, air, mass transit, and other transportation modes.

Policy20(a) 6. - Promote timely resurfacing and repair of roads and bridges to minimize costly reconstruction and to enhance safety.

Establishment of a CDD will provide a stable revenue source for maintenance of the District roadways and bridges that will provide timely resurfacing and repairs. The CDD will include a Board of Supervisors that own property within the CDD and therefore will be focused on efficient management of such roadway maintenance.

**Subject and Goal 21. -
(21) GOVERNMENTAL EFFICIENCY**

(a) Goal. - Florida governments shall economically and efficiently provide the amount and quality of services required by the public.

Policy 21(a) 2. Allow the creation of independent special taxing districts which have uniform general law standards and procedures and do not overburden other governments and their taxpayers while preventing the proliferation of independent special taxing districts which do not meet these standards.

Establishment of the Heritage Bay CDD is a direct application of this policy.

Policy 21(a) 3. Encourage the use of municipal services taxing units and other dependent special districts to provide needed infrastructure where the fiscal capacity exists to support such an approach.

The creation of the CDD will create a "so called" special taxing district in order to generate revenues to be specifically earmarked for facilities and services within the Heritage Bay community. The creation of this CDD will assess the cost for these services to the users and specifically exclude other taxpayers outside the district.

Policy 21(a) 8. Replace multiple, small scale, economically inefficient local public facilities with regional facilities where they are proven to be more economical, particularly in terms of energy efficiency, and yet can retain the quality of service expected by the public.

The Heritage Bay CDD proposal provides for use of regional facilities for potable water supply and sewage treatment. At the same time, the CDD will provide local, quality, responsive maintenance services for the local infrastructure and facilities such as roadways and water management facilities.

**Subject and Goal 26(a).
(26)PLAN IMPLEMENTATION**

(a) Systematic planning capabilities shall be integrated into all levels of government in Florida with particular emphasis on improving intergovernmental coordination and maximizing citizen involvement.

Policy 26(a) 6. Encourage citizen participation at all levels of policy development, planning and operations.

The establishment of the Heritage Bay CDD ensures that the local citizens in the district actively participate in the operations of the community facilities within the CDD.

COLLIER COUNTY COLLIER COUNTY GROWTH MANAGEMENT PLAN

The Collier County Collier County Growth Management Plan is set forth in Collier County Ordinance 2000-25, as amended. This Plan is currently in force and effective in Collier County subject to general law. No county plan or ordinance, under charter home rule or non-charter home rule, may be inconsistent with the plan or any other general law. Therefore, the county plan may not be inconsistent with Chapter 190, Florida Statutes, the express general law by which the community development district was created and pursuant to which it is to be established by county ordinance on the proposed property.

Under the Florida Local Government Comprehensive Planning and Land Development Regulation Act, Chapter 163, part II, Florida Statutes, as amended, the Plan consists of various components, elements and other designations. By way of methodology, I applied each special power available to the Community Development District under all of Section 190.012, Florida Statutes, to every element, component, section and other aspect of the Collier County Comprehensive Plan. I have applied this Plan as a planner in order to determine whether there is any particular inconsistency with the Plan from creation and establishment of the District.

The detailed methodology I used to make this determination is similar to that I outlined with regard to the State Plan. First, I eliminated certain goals, objectives, policies, elements, components, sections and portions, which do not address creating and establishing the District on the proposed property; I also rejected those which relate strictly to community developments. These subjects are irrelevant to the creation and establishment of the District. After eliminating these matters, I identified and evaluated the remaining parts of the Plan as to whether creation and establishment of the District, exercising any and all of its special powers, would be inconsistent.

As to these goals, policies, components, elements, sections and other aspects of the Plan which relate to creation and establishment of the District, I noted five for the purposes of this planning analysis.

The establishment of the Community Development District, whose purpose is to provide its governmental services attendant to Heritage Bay basic infrastructure, complies fully with the goals, objectives and policies of the Collier County Growth Management Plan.

Capital Improvements Element

Objective 1.2:

FINANCIAL FEASIBILITY

Future development will bear a proportionate cost of facility improvements necessitated by growth. Future Developments payments may take the form of impact fees, dedication of land, provision of public facilities, and future payments of user fees, special assessments and taxes.

Fees to the County and property taxes and non-ad valorem special assessments and fees and charges to the District.

Public Facilities Element--Potable Water Subelement

Policy 1.2.6: Where Community Development Districts, or other similar special districts are established to provide a tool for developers to provide infrastructure or other purposes, wholly or partially within the Collier County Water-Sewer District, water service shall be

connected to the regional system, and internal facilities shall be conveyed when acceptable to the Collier County Water-Sewer District for operation and ownership...

Heritage Bay District will provide and maintain potable water infrastructure to support the proposed development, and will connect the system to Collier County consistent with the Collier County Utilities Ordinance. The District is consistent with this Policy.

Recreation and Open Space Element

Objective 1.4: Continue formal mechanism to improve and coordinate efforts among levels of government and the private sector in order to provide recreational opportunities.

Heritage Bay District will provide extensive passive and active recreation and open space facilities throughout the project site. The project will include natural preserves, lakes, parks, and active recreation facilities such as tennis, swimming, and health club. Heritage Bay District, through its management and related financing of value enhancing improvements, is consistent with the Collier County Policy 1.4 in its commitment to provide on-site recreational facilities.

Intergovernmental Coordination Element

Goal 1 and Objective 1.1.: Provide for the continual exchange of information and the use of any intergovernmental coordination mechanisms to achieve compatible and coordinated plans.

Heritage Bay has extensively coordinated with various public and private sector agencies in the delivery of services, such as Collier County and Florida Power and Light to insure that services are coordinated and non-duplicative.

Once established, the Heritage Bay District may enter into an interlocal government agreement such as the one effected in Collier County as a rule with the Collier County Water-Sewer Dependent District.

Future Land Use Element

Objective 5 and Policy 5.1: In order to promote sound planning, ensure compatibility of land uses and further the implementation of the Future Land Use Element. All rezonings must be consistent with the Collier County Growth Management Plan.

Heritage Bay is a mixed use master planned community, which has utilized the Planned Unit Development zoning district alternative to establish the development program, and the establishment of the Community Development District to provide specialized local governmental infrastructure systems, facilities and services. The project site is located in the area designated for Urban Residential Fringe development on the County Future Land Use Map. The project is consistent with the permitted land uses, densities and policies of the Future Land Use Element of the Collier County Growth Management Plan, and the Community Development District is consistent with these policies because the District plans, implements, constructs and maintains, both short-term and long-term, basic systems, facilities and services implementing to the county capital improvement element which is tied to the county future land use element.

Having thoroughly reviewed the Plan of Collier County as it may be related to the creation and establishment of a District pursuant to Chapter 190, Florida Statutes, I found that the

District on the proposed property is not inconsistent with goals, objectives, policies, sections or portions which were found not to be applicable to the establishment of a District.

Based upon the aforementioned findings, the creation and establishment of the District on the proposed property would not be inconsistent with any goals, policies, sections or portions of the Plan, even if it were to exercise any and all of its statutory powers. In fact, the District would further the Plan in general, and many of its specific components. Further, the creation and establishment of the District would not be inconsistent with those parts of the Plan, which do not relate to the creation and establishment of a District.

FACTOR THREE

Whether the area of land within the proposed district is of sufficient size, is sufficiently compact, and is sufficiently contiguous to be developable as one functional interrelated community.

This factor deals with whether the proposed land area characteristics of the land within the CDD are favorable to development of a functional interrelated community at Heritage Bay. The Heritage Bay community, as master planned is an interrelated community. The community is interrelated in that it shares recreational facilities, water distribution and sewer collection facilities, a stormwater drainage system and a roadway network. The land characteristics of size, compactness, and contiguity are important in assessing whether this interrelated community can be functional.

The size of the Heritage Bay CDD area is approximately 686± acres. This is, in my opinion, of sufficient size to function as an interrelated and self-sustaining community. The master planning that has been completed proves that the community facilities can be physically located within the area in an efficient manner.

The proposed land area of the CDD has a gross residential density of 1.82 dwelling units per acre. These units are arranged in compact clusters of distinct neighborhoods. This is sufficiently compact to not present any inefficiencies in providing for the functional needs of the community.

The contiguity of the area is, perhaps, the most important factor in accessing the feasibility of establishing a functional, interrelated community. Areas separated by significant distances or connected only by long, narrow strips of land would not be conducive to either a functional or an interrelated community. The proposed Heritage Bay CDD area is favorable to development of a functional interrelated community because it is one contiguous area of a very efficient, almost rectangular shape.

The sufficiency of size, compactness, and contiguity of the proposed land area on which the petition seeks to have the county establish the Heritage Bay CDD works to create favorable conditions for development of a functional interrelated community.

FACTOR SIX

Whether the area that will be served by the district is amenable to separate special-district government.

Since Factor 6 deals with land area issues similar to Factor 3, it will be addressed here. Whether the land area is "amenable" or suitable to separate special-district government goes beyond size, compactness, and contiguity concerns. The location of the proposed

CDD area, especially as it relates to other public facility and service providers, is also important in assessing the suitability of the area for a CDD. In the Heritage Bay case, the development is designated Rural Fringe Mixed Use with an Urban-Rural Rural Fringe Transition Zone Overlay (URFTZO) in the Collier County Comprehensive Plan and on the Future Land Use Map. Although the community is located within the boundaries of planned growth, it is situated far enough away from the urban center of Collier that service quality may not be regularly monitored when compared to a community in a more urbanized setting. This location makes this area especially suitable or amenable to special-district government because the special-district approach will provide very locally-focused attention on the facility and service needs of the community.

The land area as proposed for establishment of the state created chartered district is amenable to separate district governance because it is sufficiently compact, contiguous and of sufficient size, can be developed as one functional interrelated community, and there is no incompatibility with existing or proposed local or regional facilities on the property. Additionally, the proposed land for the CDD is located adjacent to existing County-owned environmental lands which provide unique opportunities and characteristics to the community. Local, special-district government will be aware and attentive to these peculiar characteristics.

FACTOR FIVE

Whether the community development services and facilities of the district will be incompatible with the capacity and uses of existing local and regional community development services and facilities.

From a planning standpoint, the CDD must operate within the policies in the Collier County Comprehensive Plan and the development approval processes in place to ensure compliance with the Plan. These policies and processes will ensure that the community development services and facilities of the district will be compatible with the capacity and uses of existing local and regional community development services. For example, capacity and level of service issues are addressed in the County's concurrency management system. Additionally, the Collier County Comprehensive Plan sets standards for public water and sewer facilities. The County will operate and maintain the water and sewer systems while the CDD manages roadways and other community facilities. Based on this review and the County regulations and policies that must comply with the Heritage Bay development, this CDD's services and facilities are compatible with existing community development services and facilities.

FACTOR FOUR

Whether the district is the best alternative available for delivering community development services and facilities to the area that will be served by the district.

Factor 4 is being considered last because the responses to all the other factors form a basis for the response to this factor. In commenting on whether the CDD is the best alternative for delivering services and facilities in the Heritage Bay area, the following alternatives were considered:

1. Provision of services and facilities through the private development and a homeowner's association.
2. Provision of services and facilities by Collier County Government, or managed by Collier County and funded through a Municipal Services Taxing Unit or Municipal

- Service Benefit Unit, or managed and financed by an independent district on behalf of Collier County.
3. Provision of services and facilities by a CDD (or other independent special purpose local government).

Planning considerations used to judge the best alternative for the Heritage Bay community facilities and services included:

1. Anticipated quality of facilities and services.
2. Responsiveness to community needs for facilities and services.
3. Long term commitment to the community.
4. Ability to appropriately and adequately manage and fund community facilities and services.

Relative to Consideration 1, quality of facilities and services, all the options would likely provide the same quality of facilities because each would be required to meet County standards. In terms of quality service, however, the CDD is considered the best option because of its local nature and knowledge of the local facilities. Homeowner's associations would also be local but usually do not have the expertise available to provide the needed service. County government, while possessing the necessary expertise, has many other customers and typically does not provide the quality of service attainable by a local, focused organization such as the CDD.

Management of the District's infrastructure by the members of the District Board of Supervisors provides pinpointed, focused management on a daily basis. The District is independent of any countervailing pressures whether they be the reelection pressures of county officials, the pressures from managing many other responsibilities and exercising many other duties as county officials, or whether they be the pressures of meeting quarterly and annual profit statements from a developer. From a planning perspective, focused management enhances the intrinsic value of the property. Additionally, land planning and permitting shall be consistent with all federal, state and county standards.

Relative to Consideration 2, again the local CDD, devoted to this area's facility and service needs, will be more responsive than a developer, a homeowner's association, or general county government. The supervisors of the CDD are first elected only by the property owners, (and later by the qualified electors) of the CDD and therefore need be responsive only to them.

Condition 3, long-term commitment to provide and serve the facility needs of the community, would also be best met by a CDD. Both the homeowner's association option and the CDD would provide a personal concern, interest and commitment to long-term welfare of the community that is difficult for general county government to provide. The homeowner's association, however, does not have the CDD statutory powers and duties spelled out in Chapter 190, Florida Statutes. Additionally, the statutory reporting and coordination requirements of a CDD contained in Chapter 189, Florida Statutes, provide additional assurances that the long-term needs of the community are being met by the CDD. Homeowner's associations generally depend on substantial volunteer and amateur effort that, while serving a useful purpose, is not able to substitute for the professional, dedicated, public work of the CDD.

Regarding Consideration 4, the CDD has a number of advantages over a private organization when it comes to management and related funding or financing facilities and services. The CDD has statutory powers to manage projects, raise funds, and finance projects. Additionally, it is eligible for state funding programs for which a private entity might not be eligible. The CDD's local role of planning, managing and funding the community's facilities also is preferred over general county government management and funding because of the personal and intimate commitment, concern and knowledge that the CDD will, by nature, possess.

Based on each of these considerations, the CDD is, in my opinion, the best alternative for delivering community services and facilities to the Heritage Bay community.

I, Carron Day attest that the statements and finding in this report are true and accurate to the best of my knowledge.

Exhibit "9"

ACKNOWLEDGMENT

The Uniform Community Development District Act of 1980, chapter 190, Florida Statutes (2002 and hereafter except as otherwise noted)("Fla. Stat. hereafter"), restricts and limits expressly the exercise of the state-created District's exercise of its state charter powers. The petitioner acknowledges that the District's Board of Supervisors is bound legally and ethically to exercise its general and special powers subject to, and not inconsistent with, the laws and regulations contained in the Collier County Water-Sewer District Special Act, and any applicable P.U.D., preliminary subdivision plat and/or development order as provided in sections 190.004 and 190.012, Fla. Stat.

In light of the statutory restrictions and mandates upon the powers and functions of a community district discussed below, the District will not and cannot diminish the customer base of the Collier County Water-Sewer District. Collier County under its ordinance is the permanent provider of water and sewer service to the development on which the Community Development District will be established.

Also, the 1988 Special Act reestablishing the Collier County Water-Sewer District provides in Section 21 that: 1) Collier County can mandate connection to its water and sewer facilities; 2) Collier County can require installation and dedication of water and sewer facilities to the County; and 3) no water and sewer facilities can be built within the water-sewer district unless the Collier County Commissioners sitting as the Water-Sewer District Board gives its consent and approval.

The land area which the District will serve is in the jurisdiction of the dependent Collier County Water-Sewer District and is subject therefore to the terms of the 1988 Special Act. The

community to be served by the District is also subject to P.U.D. and preliminary subdivision plat. In addition, the land area involved is also subject to Collier County Ordinance No. 98-69, as amended, utility facilities requirements, as well as the state, regional and local comprehensive plans, permitting agencies and all related land development regulations.

The Florida Legislature, in section 190.002(1)(a), Fla. Stat. (1991), has found expressly that the Community Development District is a solution to the management and capital infrastructure financing problems faced by counties. In solving these problems, the Community Development District also provides a method of servicing projected growth without over burdening other local governments and their taxpayers. The Legislature has found the Community Development District, a management entity, is a legitimate solution to infrastructure delivery challenges.

It is also the expressed policy of the legislature that Community Development Districts are "... a legitimate alternative method available for use by the private and public sectors, as authorized by state law, to manage and finance basic services for community development." s. 190.002(2)(b), Fla. Stat. (1999). This quoted language means that the District is a management tool for both Collier County and the petitioner. This management tool is to be used by both the developer and the county as authorized in chapter 190, Fla. Stat.

In section 190.002(1)(b), Fla. Stat., the Legislature has found also that it is in the public interest that "...the operation of such a district and the exercise by the district of its powers be consistent with applicable due process, disclosure, accountability, ethics and government-in-the-sunshine requirements." This law means that no decision of the Board of Supervisors can be made in secret, and that Collier County will be given ample noticed opportunities to monitor the exercise of the Board of Supervisors' special limited management powers, including those dealing with water

and sewer services. In other words, this language mandates that the district board of supervisors as a local government works with the Collier County local government.

In regard to possible conflicts between general purpose local government laws and actions of this Community Development District local government, the Legislature has stated expressly as its policy that the exercise by the district of its powers "...comply with all applicable governmental laws, rules, regulations and policies governing planning and permitting of the development to be serviced by the district to ensure that neither the establishment nor operation of such a district is a development order under chapter 380, Fla. Stat., and that the district so established does not have any zoning or permitting powers governing developments." s. 190.002(2)(c), Fla. Stat. In addition, section 190.003, Fla. Stat., provides that a Community Development District shall function in such a manner "...that all applicable planning and permitting, rules, regulations and policies control the development of the land to be serviced by the District."

Even more illustrative of the Legislature's intent is its dispositive language in the "preemptive and sole authority" section of the Uniform Community Development District Act. s. 190.004(3), Fla. Stat.

First, the statute states specifically that "...[a]ll governmental, planning, environmental and land use development laws, regulations and ordinances apply to all development of the land within a Community Development District." *Id.* Since the Collier County Water-Sewer District Special Act is a law of Florida, it applies to all development within the land to be serviced by the proposed Community Development District. Since "all development" includes by definition utility and other services, the Collier County Water- Sewer District requirements apply to all developments in the applicable land area, even after the establishment of the Community Development District.

Second, the preemption section mandates directly and specifically that "a District shall take no action which is inconsistent with applicable comprehensive plans, ordinances, or regulations of the applicable local general purpose governments." Id. This direct mandate is to the Board of Supervisors of the Community Development District that it shall take no action inconsistent with the Collier County Water- Sewer District Special Act. Accordingly, the Board members will be under ethical and legal duties, subject to malfeasance, non-feasance, and misfeasance of office, to take no action inconsistent with the Collier County laws and regulations affecting the water-sewer district customer base.

Last, those special powers of the Community Development District, which may be exercised only after obtaining the consent of the local jurisdiction, are also limited severely by section 190.012, Fla. Stat. This section provides in pertinent part that the District Board of Supervisors "...may exercise [these and all its special powers], subject to the regulatory jurisdiction and permitting authority of all applicable governmental bodies, agencies and special districts having authority to any area included therein..." Id. Here, the Legislature has answered directly the question of whether the District can act inconsistent with the regulations of the Collier County Water-Sewer District. The exercise of the District's powers are "subject" to those of the Collier County Water-Sewer District.

STATE OF FLORIDA)

COUNTY OF COLLIER)

I, DWIGHT E. BROCK, Clerk of Courts in and for the Twentieth Judicial Circuit, Collier County, Florida, do hereby certify that the foregoing is a true copy of:

ORDINANCE NO. 2005-24

Which was adopted by the Board of County Commissioners on the 24th day of May 2005, during Regular Session.

WITNESS my hand and the official seal of the Board of County Commissioners of Collier County, Florida, this 25th day of May, 2005.

DWIGHT E. BROCK
Clerk of Courts and Clerk
Ex-officio to Board of
County Commissioners

Heidi R. Rockhold, DC

By: Heidi R. Rockhold,
Deputy Clerk