

#130



MANATEE COUNTY GOVERNMENT

PLANNING DEPARTMENT
"TO SERVE WITH EXCELLENCE"

Certified Mail # 7000 0400 0024 5577 2382

December 27, 2002

Mr. John Meyer
DRI Coordinator
Tampa Bay Regional Planning Council
9455 Koger Boulevard
St. Petersburg, FL 33702

Re: Development Order for Schroeder-Manatee Ranch, Inc./Cypress Banks

Dear Mr. Meyer:

Enclosed is a certified copy of Ordinance 02-34, the Development Order for Schroeder-Manatee Ranch, Inc./Cypress Banks, as adopted in open session by the Manatee County Board of County Commissioners on December 10, 2002, as required by Rule 9J-2.025(5), Florida Administrative Code.

If I can be of further assistance, please contact me at (941)749-3070, extension 6833.

Sincerely,

Robert H. Pederson, AICP
Community Planning Administrator

RHP/ks
Enclosure

FILED FOR RECORD
R. B. SHORE
2012 DEC 31 AM 8:35
CLERK OF THE COUNTY COURT
MANATEE COUNTY FLORIDA

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, AMENDING, REPLACING, AND SUPERCEDING ORDINANCE 00-06 WHICH REPLACED ORDINANCE 99-25, WHICH REPLACED RESOLUTION R-95-220, WHICH AMENDED R-89-161, AS AMENDED BY R-89-161(R), R-92-170 AND R-94-133, WHICH ISSUED A DEVELOPMENT ORDER PURSUANT TO CHAPTER 380, FLORIDA STATUTES, ON AN APPLICATION FOR DEVELOPMENT APPROVAL FILED BY SCHROEDER MANATEE RANCH, INC. (SMR COMMUNITIES JOINT VENTURE, A FLORIDA GENERAL PARTNERSHIP), FOR CYPRESS BANKS DEVELOPMENT OF REGIONAL IMPACT, ALSO KNOWN AS DRI #17; TO REVISE THE LEGAL DESCRIPTION TO REFLECT THE ADDITION OF 432.1 ACRES, AMEND THE INTERNAL ROADWAY NETWORK, INCREASE THE RESIDENTIAL ACREAGE BY 153.9 ACRES WITH NO ADDITIONAL DWELLING UNITS; INCREASE THE OPEN SPACE ACREAGE BY 174.8 ACRES AND INCREASE THE RECREATIONAL ACREAGE BY 112.4 ACRES, AMEND MAP H TO REFLECT THE CHANGES IN THE LEGAL DESCRIPTION, PROJECT BOUNDARIES, ADDITIONAL RESIDENTIAL AND OPEN SPACE ACREAGE, AND RESTATE THE PROVISIONS THAT REMAIN UNCHANGED; PROVIDING AN EFFECTIVE DATE.

SECTION 1:

WHEREAS, on December 6, 1985, SMR Development Corporation filed an Application for Development Approval of a Development of Regional Impact with the Manatee County Board of County Commissioners pursuant to the provisions of Section 380.06, Florida Statutes; and

WHEREAS, said Application originally proposed construction of a MULTI-USE PROJECT on approximately ONE THOUSAND SEVEN HUNDRED AND NINETY ACRES, located in East Manatee County, hereinafter referred to as Cypress Banks or the Development; and

WHEREAS, the described project lies within the unincorporated area of Manatee County; and

WHEREAS, the Board of County Commissioners as the governing body of the local government having jurisdiction pursuant to Section 380.06, Florida Statutes, was and is authorized and empowered to consider Applications for Development Approval for Developments of Regional Impact; and

WHEREAS, the Planning Commission reviewed the Application for Development Approval and filed a recommendation on said Application with the Board of County Commissioners; and

WHEREAS, the Board of County Commissioners solicited, received and considered reports, comments, and recommendations from interested citizens, Regional and County and City agencies, as well as the review and report of the Manatee County Planning Department; and

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WHEREAS, the Board of County Commissioners approved Resolution R-89-161(R), which amended Resolution R-89-161 and adopted a Development Order for Cypress Banks on November 16, 1989; and

WHEREAS, subsequent to the adoption of Resolution R-89-161(R), the applicant requested that the Development Order (R-92-170) be amended to change Exhibit D to allow the religious center to be constructed in Phase I instead of Phase II as approved; and

WHEREAS, the Board of County Commissioners approved Resolution R-92-170 adopting amendments to the Development Order for Cypress Banks on September 8, 1992 to provide for a revision to Exhibit D (Phasing Schedule) to allow the religious center to be constructed in Phase I and to amend Transportation Condition C.(3), which amendments were found not to be a substantial deviation to the originally approved Development Order; and

WHEREAS, subsequent to the adoption of R-92-170 the Developer* requested that the Development Order for Cypress Banks be further amended to provide for an extension of the buildout dates, modify the timing requirement for the submittal of Preliminary Site Plans for Phases 2 through 4, and modify transportation conditions; and

WHEREAS, the proposed change extended the buildout date by 4 years and 364 days for the Cypress Banks DRI until August 7, 2014; and

WHEREAS, the Board of County Commissioners approved Resolution R-94-133, adopting a Development Order for Cypress Banks on May 26, 1994; and

WHEREAS, subsequent to the adoption of R-94-133, the Developer* has requested that the Development Order for Cypress Banks be further amended to provide for a change to Map H and Exhibit D, a change to the Development Components and to add the Definition of "District"; and

WHEREAS, on September 28, 1995 and January 25, 1996 the Board of County Commissioners held a public hearing to consider the foregoing; and

WHEREAS, the Board of County Commissioners approved Resolution R-95-220, adopting a Development Order for Cypress Banks on February 22, 1996; and

WHEREAS, On April 27, 1999 the Board of County Commissioners approved Ordinance 99-25 which changed the legal description by adding ± 0.8 acres from the adjoining University Lakes DRI, amended Map H to reflect the new boundaries of the legal description, reduced the single-family acreage while increasing open space, and amended Exhibit D (the proposed phasing schedule) to delete the requirement for 100 units in Phase 1 to be multi-family units; and

WHEREAS, On March 28, 2000 the Board Of County Commissioners approved Ordinance 00-06 which changed the legal description by adding approximately 374.1 acres, which includes an additional 75.9 acres of residential acreage with no additional dwelling units, 250.2 acres of open space, and 48 acres for right-of way and easements, added two access points onto State Road 70

to serve the approved commercial parcels located on the east and west side of Lorraine Road, amended Map H to reflect the new boundaries of the legal description, additional residential and open space acreage, and the 2 additional access points onto State Road 70; and

WHEREAS, the Developer now requests that the Development Order for Cypress Banks be further amended to provide for a change to the legal description for the addition of approximately 432.1 acres, which includes an additional 153.9 acres of residential acreage with no additional dwelling units and 174.8 acres of open space and 112.4 acres of recreational acreage, amend the internal roadway network, and amend Map H to reflect the new boundaries of the legal description including the additional residential and open space acreage; and

WHEREAS, the proposed changes as conditioned herein, are found to be consistent with the State Comprehensive Plan; and

WHEREAS, the proposed changes, as conditioned herein, are consistent with the 2020 Manatee County Comprehensive Plan and the Manatee County Land Development Code; and

WHEREAS, the proposed changes to (1) add 432.1 acres to the DRI, (2) amend the internal roadway network, (3) add 153.9 acres of residential acreage with no additional dwelling units, (4) add 174.8 acres of open space, and (5) amend Map H to reflect the new boundaries of the legal description and the additional residential and open space acreage; are presumed to be a Substantial Deviation pursuant to Subsection 380.06 (19)(e)3., Florida Statutes. However, the Tampa Bay Regional Planning Council and the Florida Department of Community Affairs have no objection because these changes to the project will not result in additional regional impacts; and

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, IN A REGULAR MEETING ASSEMBLED THIS 10th DAY OF DECEMBER, 2002 AS FOLLOWS:

SECTION 2. FINDINGS OF FACT:

The Board of County Commissioners after considering the testimony, evidence documentation, the recommendation and findings of the Planning Commission of Manatee County and all other matters presented to the Board at the public hearing hereinafter referenced, hereby makes the following findings of fact:

- A.** WHEREAS clauses preceding this section are adopted as findings of fact.
- B.** SMR Communities Joint Venture, A Florida General Partnership, hereinafter referred to as one of the Developers, previously submitted to Manatee County, Florida, an Application for Development Approval (ADA) and Sufficiency Responses which are attached hereto and marked Composite Exhibit A and incorporated herein by reference, Notices of Proposed Change for R-92-170, R-94-133, R-95-220, Ordinance 00-06 and has also submitted the requested amendment identified as Ordinance 02-34. Hereinafter, the word Application shall mean the ADA, the Sufficiency Responses filed, the Notices of Proposed Change for

R-92-170, R-94-133, R-95-220, Ordinance 99-25, Ordinance 00-06, and the requested change Ordinance 02-34 and other exhibits duly submitted and recorded for a project to be known as Cypress Banks Development of Regional Impact (DRI).

- C. The real property which is the subject of this Application is legally described as set forth in Section 8 of this Development Order.
- D. The Board of County Commissioners has received and considered the report of the Manatee County Planning Commission concerning the application for an amendment to an approved Development of Regional Impact, known as Cypress Banks, as it relates to the real property described in Section 8 of this Ordinance, pursuant to Section 380.06, Florida Statutes (FS).
- E. The said Board of County Commissioners held a Public Hearing on October 22, 2002 regarding said proposed amendment to an approved Development of Regional Impact described herein in accordance with the requirements of Manatee County Ordinance No. 90-01, Land Development Code and has further considered the information received at Public Hearing.
- F. The proposed amendment to Development of Regional Impact regarding the property described in Section 8 herein is found to be consistent with the requirements of Manatee County Ordinance No. 89-01 as amended, the 2020 Manatee County Comprehensive Plan.
- G. The proposed development is not in an Area of Critical State Concern, as designated pursuant to Section 380.05, Florida Statutes.
- H. The authorized agent for the Cypress Banks DRI is Tim Martin, Vice President, Schroeder Manatee Ranch, Inc., 6215 Lorraine Road, Bradenton, Florida 34202.
- I. The owners of the property, which SMR Communities Joint Venture, A Florida General Partnership and Wilmington Land Company intend to develop, are Schroeder-Manatee Ranch, Inc., Locust Valley Investments, L.L.C., and Arvida Corporate Park Associates as well as individual lot owners within areas which have been platted. The new acreage (432.1 acres) is currently owned by Schroeder Manatee Ranch, Inc. (106.1 acres) Locust Valley Investments, L.L.C., and Arvida Corporate Park Associates (325 acres).
- J. A comprehensive review of the impact generated by the development has been conducted by the departments of Manatee County, the Tampa Bay Regional Planning Council (TBRPC), and the Department of Community Affairs (DCA).
- K. Resolution R-89-161, R-89-161(R), R-92-170, R-94-133, R-95-220 Ordinance 99-25 and Ordinance 00-06 have been amended, replaced, and superceded in their entirety by this Ordinance.

- L. The proposed changes filed by SMR Communities Joint Venture, Inc. on May 2, 2002, as approved, do not constitute a Substantial Deviation to the Cypress Banks DRI.

SECTION 3. CONCLUSIONS OF LAW:

- A. Based upon the previous findings of fact and the following conditions of development approval, the Board of County Commissioners of Manatee County concluded that:
 - 1. The Development is consistent with the local land development regulations and is consistent with the State Comprehensive Plan, the Tampa Bay Regional Planning Council's Comprehensive Regional Policy Plan, and the Manatee County Comprehensive Plan.
 - 2. The Development is consistent with the comments of the Tampa Bay Regional Planning Council dated November 4, 2002 and those of the Department of Community Affairs dated October 18, 2002, as conditioned herein.
- B. That these proceedings have been duly conducted pursuant to applicable law and regulations, and based upon the record in these proceedings, the Developer is authorized to conduct development as described herein, subject to the conditions, restrictions, and limitations set forth below.
- C. That the review by the County, the TBRPC, the DCA and other participating agencies and interested citizens reveals that impacts of the development are adequately addressed pursuant to the requirements of Chapter 380, F.S., within the terms and conditions of this Order and the Application. To the extent that the Application is inconsistent with the terms and conditions of this Order, the terms and conditions of this Order shall prevail.

SECTION 4. DEVELOPMENT COMPONENTS.

The Application for the Cypress Banks DRI and Map H are hereby approved to allow the following development to take place, subject to the conditions listed in this Development Order:

	APPROVED	PROPOSED	CHANGE
GROSS ACREAGE	2,164.9	2,597.0	432.1
COMMERCIAL SQUARE FOOTAGE	203,500 sq. ft./ 29.7 acres	0	0
RECREATIONAL (GOLF COURSES, PARKS, AND	182.4	294.4	+112.0

MAINTENANCE FACILITY)

OTHER OPEN SPACE (WETLANDS, WETLAND BUFFERS, MITIGATION, LAKES, RETENTION, ECO PARK)	885.6	1,056.0	+170.4-
NET RESIDENTIAL ACREAGE	946.8	1,100.7	+153.9
SINGLE FAMILY UNITS	4,923		0
MULTI-FAMILY UNITS	578		0

**EXISTING AND PROPOSED LAND USES FOR THE ADDITIONAL 432.1 ACRES ADDED
TO THE CYPRESS BANKS DRI WITH ORDINANCE 02-34**

Based on Florida Land Use, Cover, and Form Classification System - Level III

	Land Use	Existing		Proposed	
		Acreage	% of Site	Acreage	% of Site
110 - 136	Residential	0	0	139.6	32.3
182	Golf Course	0	0	113.6	26.3
211	Improved Pasture	35.0	8.1	0	0
213	Woodland Pasture	58.8	13.6	0	0
214	Row Crops	45.6	10.5	0	0
411	Pine Flatwoods	192.6	44.6	39.0	9.1
421	Xeric Oak	11.6	2.7	0	0
510	Stream & Waterways	0.1	<0.1	0	0
524	Lakes < 10 Acres	0	0	45.9	10.6
615	Streams & Lake Swamps	36.5	8.4	34.8	8.1
617	Mixed Wetland Hardwoods	4.3	1.0	4.3	1.0
641	Freshwater Marsh	41.8	9.7	41.8	9.7
643	Wet Prairies	5.8	1.3	5.8	1.3
814	Roads	0	0	7.3	1.6
	Total	432.1	100	432.1	100

SECTION 5. DEFINITIONS:

Note: An asterisk (*) denotes that the word is defined.

- A.(1)** "Acceptable Level of Service*" shall be Level of Service D, peak hour on urban roads and level of service C, peak hour on rural roads or as shown on Table 5.1 of the Manatee County Comprehensive Plan, whichever is more restrictive. Acceptable Level of Service for links and intersections in Sarasota County, Florida, shall mean Level of Service as set for the affected roadways in the Sarasota County Comprehensive Plan or Level of Service D, peak hour on urban roads, and Level of Service C, peak hour on rural roads, whichever is more restrictive.

- A.(2)** "Conceptual Master Plan*" shall mean a graphic depiction of the development described in the Application and shown as Map H which is attached to this Ordinance as Exhibit "F" (revised 12/9/99) and which replaces the previous Map H (revised 3/15/99). Hereinafter, "Map H" shall refer to Map "H", as revised by this Ordinance. This plan is identical to the Master Development Plan* and fulfills the requirements for a General Development Plan in The Manatee County Land Development Code (LDC).
- A.(3)** "County Transportation Authority*" shall be defined as the County Division of Highways, Department of Public Works or whatever County entity is responsible for roadway approvals.
- A.(4)** "Developer*" shall mean the applicant, SMR Communities Joint Venture, A Florida General Partnership and Wilmington Land Company, its heirs, successors and assigns or designated entity.
- A.(5)** "Development Approval*" shall mean any approval for development granted through the Preliminary Development Plan*, Preliminary Plat, Site Development Plan*, and Final Site Plan process or construction plan approval where site plans are not required, for this and other developments.
- A.(6)** "District*" shall mean any unit of local special purpose government formed pursuant to Chapter 190, F.S., or any similar entity such as a Municipal Service Taxing Unit or Municipal Service Benefit Unit, from time to time created or previously existing, which acts in accordance with applicable law and regulations, to finance or fund: (i) the cost of such actions as the planning, acquiring, constructing, equipping, installing, operating, and maintaining various community facilities; (ii) the cost of providing certain community services; (iii) contributions of funds to other governmental and non-governmental entities with respect to such facilities, services and/or related Development Order commitments and conditions; and (iv) satisfaction of any of the commitments and conditions contained in this Development Order related to the foregoing. It is declarative of the intent of this Development Order that any commitment or condition of this Development Order may be directly performed or satisfied by any District* which properly operates within its scope of authority. Such performance or satisfaction of shall not be deemed or construed to constitute the discharge of any obligation of the Developer*.
- A.(7)** "Horizontal Development*" shall mean and shall be deemed to include the construction of any and all improvements required to serve Vertical Development*, e.g., roadway, drainage, landscaping, water, sewer, communication, utilities, etc.
- A.(8)** "Master Development Plan*" shall be defined as Map H (revised May 2002) as set forth on Exhibit F hereto and made a part hereof. This Plan depicts the development described in the Application and includes the following land uses:

203,500 square foot shopping center, 5,501 residential units, and 294.8 acres for golf courses and parks.

- A.(9)** "Preliminary Development Plan*" (PDP) shall mean a Preliminary Master Development Plan or a Preliminary Site Plan for a phase or subphase as defined in The Manatee County Land Development Code (LDC) for a Phase or Sub-Phase.
- A.(10)** "Site Development Plan*" shall be defined as any Preliminary Plat, Final Plat, Preliminary Site Plan, or Final Site Plan to be submitted for consideration of approval pursuant to the LDC.
- A.(11)** "Traffic Study*" shall mean a report presented by the Developer*, using a methodology acceptable to the County Transportation Authority*, the Tampa Bay Regional Planning Council, and the Department of Community Affairs to trigger the development approval process for the next Preliminary Development Plan*. Such study will be designed to determine if the proposed development will reduce daily or peak hour Level of Service on any of the roadway segments or intersections within the Transportation Impact Area* as generally identified in Table 1 and Exhibit C , to below an Acceptable Level of Service*. Any such Traffic Study* shall consider traffic to be generated by the proposed Phase or Sub-Phase, existing traffic, and traffic anticipated from prior Development Approvals*.
- A.(12)** "Transportation Impact Area*" shall be defined as the roadway segments and intersections receiving transportation impacts where the traffic generated by a proposed PDP in combination with prior approvals of this project will be five percent (5%) (or whatever greater percentage may be employed from time to time by TBRPC or Manatee County) or more of the Level of Service D Peak Hour. This area is generally depicted on Map J (Exhibit B) which was based on data submitted with the ADA.
- A.(13)** "Vertical Development*" shall mean and shall be deemed to include the construction of new residential units and new commercial units or the reconstruction or addition to any structure.
- A.(14)** "Warranted*" shall mean a determination by the County Transportation Division, Public Works Department based on generally accepted transportation engineering practices that the Acceptable Level of Service* cannot be maintained on a roadway segment or intersection without the construction of a transportation improvement required by this Development Order. All vehicle trips on the roadway segment or intersection shall be counted regardless of their source in making this determination, not merely the trips generated by Cypress Banks.

TABLE 1
IMPACTED TRANSPORTATION FACILITIES
(1989 TO 2009)

S.R. 70

U.S. 301 to 45th Street East
45th Street East to Caruso Road
Caruso Road to I-75
I-75 to West Project Entrance
West Project Entrance to Lorraine Road

University Parkway

1 mile west of I-75 to Lockwood Ridge Road
I-75 to 1 mile west of I-75
U.S. 301 to Lockwood Ridge Road

Interstate 75

S.R. 70 to University Parkway
University Parkway to Fruitville Road
S.R. 70 to S.R. 64

9th Street East

1st Street to 53rd Avenue East

Washington Boulevard

DeSoto Road to Fruitville Road

Fruitville Road

I-75 to 0.5 mile east of Lockwood Ridge Road

SECTION 6. CONDITIONS:

DEVELOPMENT CONDITIONS

- B.(1)** This Development Order grants approval of the Application for Development Approval (ADA) of the Cypress Banks Development as depicted on the Master Development Plan*. At such time that the Developer* submits an application for Preliminary Development Plan* (PDP) approval for any portion of the project, the Developer* shall satisfy the Manatee County Transportation Authority* and Planning Department that the Traffic Study* for that Phase, as defined in Exhibit D (revised 4/27/99), reflects the conditions at the time of PDP application. In the event that the County staff finds that the previous traffic analysis does not accurately reflect the conditions at the time of such submittal, a revision of that traffic study must be completed. No Phase or Vertical Development* shall be carried out if such development would result in a degradation of the Acceptable Level of Service* on the roadway segments and intersections within the Transportation Impact Area* except as provided for in Paragraph C.(3). However, nothing set forth in this Development Order shall require the County to issue any Development Approvals* in violation of Chapter 163, Florida Statutes (FS). As stated below, the Developer* may, at its option, update and verify the existing traffic study when it can be shown that the conditions described in the Traffic Study* have not substantially changed.
- B.(2)** Preliminary Development Plan* Approvals shall be granted on the basis of demonstrated available roadway capacity as described under the Transportation Conditions herein and shall be a criterion for approval of the PDP for subsequent submittals.
- B.(3)** The Developer* shall submit a revised Preliminary Master Development Plan* prior to any further preliminary development approvals upon adoption of Ordinance 02-34. Preliminary Development Plan* applications for Phases 2, 3 and 4 shall be submitted within six (6) months of the anniversary date of the submittal of the first Preliminary Development Plan* or Preliminary Master Development Plan* coinciding with the Phasing time schedule shown in Exhibit D (revised 4/27/99). The Developer* shall complete or demonstrate substantial progress toward infrastructure, and building permit applications. Failure to meet this schedule may require a revised and updated Traffic Study* prepared in accordance with the provisions of Paragraph C.(2) to demonstrate that Acceptable Levels of Service* are still projected to exist at the time building permits are issued. The determination that a revised and updated Traffic Study* is required shall be made by the Board of County Commissioners at a public hearing with notice to the Developer* upon recommendation by the Director of Planning, after consultation with the County Transportation Authority*.

If the Traffic Study* indicates that an Acceptable Level of Service* is not being maintained, or is projected to be unacceptable at the time of Final Approval,

failure to meet the time schedule set forth above shall result in the withholding of future building permits for Phase I and subsequent Phases, until an Acceptable Level of Service* is obtained, or other commitments are made as set forth in Paragraph C.(3). **(Completed)**

- B.(4)** In the event a Preliminary Development Plan* for Phase III or IV is submitted more than one year in advance of the schedule established in Exhibit D (revised 4/27/99), the Developer* shall define changes in the scheduling of impacts and shall set forth the methods of accommodating such impacts. **(Completed for Phase 2.)** Nothing in this Development Order shall require the Board of County Commissioners to approve a Preliminary Development Plan* submitted in advance of the schedule set forth in Exhibit D (revised 4/27/99).
- B.(5)** A revised geographic delineation of the Phasing Plan for the entire project shall be submitted for approval at the time of submittal of the revised Preliminary Development Plan* for a Phase or Sub-Phase, or at the time of submittal of the Preliminary Master Development Plan*. The phasing plan shall include the number and types of units, with square feet, land areas and densities and intensities for each residential Sub-Phase. **(Completed)**

TRANSPORTATION CONDITIONS

- C.(1)** The Acceptable Level of Service*, in accordance with the technical guidelines acceptable to the Tampa Bay Regional Planning Council (TBRPC), the Department of Community Affairs (DCA), and Manatee County shall be maintained on all of the roadway segments or intersections located within the Cypress Banks Transportation Impact Area* as provided for in Paragraphs C.(3) and C.(4).
- C.(2)** Traffic Studies* will be required with each application for Preliminary Development Plan* Approval pursuant to the Manatee County Land Development Code (LDC) **(Completed for the first 1,405 units which are Phase I)**. Such studies shall be designed to determine the specific roadway improvements required for subsequent PDP approval to determine if the traffic generated by the proposed PDP in combination with prior approvals of this project will be five percent (5%) (or whatever percentage may be employed from time to time by the Tampa Bay Regional Planning Council [TBRPC] or Manatee County) or greater than the Service Volume as defined by the 1985 Highway Capacity Manual of any roadway segment or intersection in the Transportation Impact Area* and generally depicted on Map J (Exhibit B). Such studies shall use a methodology acceptable to the County Transportation Authority*, TBRPC, and DCA. Any such Traffic Study* shall consider traffic to be generated by the proposed PDP, existing traffic, and traffic anticipated from all prior Development Approvals* impacting the same roadway.

The Developer*, at his option, may update and verify to the Manatee County Transportation Authority* and the Planning Department that the existing traffic study continues to represent the traffic situation as it exists at the time of Preliminary Development Plan* application approval. The traffic study that will be verified and updated must represent the Phase of development in which the portion of the project referenced is part. That is, the Developer* will be required to provide updated traffic studies coinciding with the Phase schedule provided in Exhibit D (revised 4/27/99).

C.(3) Approval of each Preliminary Development Plan* (**Completed for Phase I**) shall be contingent upon satisfaction of the following:

- A. Approval and development of the Preliminary Development Plan* shall not generate traffic which, in conjunction with existing traffic and traffic anticipated as a result of other Development Approvals*, will have the probable result of causing or contributing to the degradation of the Acceptable Level of Service* on roadway segments and intersections within the Transportation Impact Area*; OR
- B. If approval and development of the Preliminary Development Plan* generates traffic which, in conjunction with existing traffic and traffic anticipated as a result of other Development Approvals*, will have the probable result of causing or contributing to a degradation of the Acceptable Level of Service* on roadway segments or intersections within the Transportation Impact Area*, one of the following conditions shall be met:
 - 1. All of the Warranted* improvements, to prevent degradation of Acceptable Level of Service* within the Traffic Impact Area*, are scheduled for construction commensurate with the buildout schedule for the applicable phase through a funding mechanism and sources acceptable to Manatee County. Funding mechanisms and sources acceptable to Manatee County shall include state commitments to the improvements within a 5-year capital improvement program, other local government programming of construction of the improvements within a 5-year program, Manatee County's inclusion of construction of the improvements in the 5-year capital improvements program, or local development agreements pursuant to Section 5.2.3.2 of the Manatee County Comprehensive Plan; OR
 - 2. For all development after the first 1,405 residential units in Phase I, the Developer* shall submit a 380.06 traffic analysis to identify transportation impacts and shall amend the Development Order to incorporate the necessary mitigation requirements. The Developer* shall be entitled to utilize any mitigation option deemed appropriate by Manatee County which is consistent with the requirements of

Chapter 380 and the rules and policies of the TBRPC and DCA.

- C.(4)** Any payments provided by the Developer* to the County under stipulation C.(3) above shall receive credits toward transportation component impact fees subsequently due Manatee County if such credits are allowed by the Land Development Code, (Ordinance 90-01) as it may be amended from time to time. Such payments shall not prevent Manatee County from revising or increasing the impact fees due from the Developer* to which applicable advance sums shall be applied, unless the impact fees have been paid pursuant to a fee agreement pursuant to Chapter 8 - Impact Fees, of the Land Development Code.
- C.(5)** If the Traffic Studies* required in Paragraph C.(2) above show that Acceptable Levels of Service* are not being maintained on the roadway segment listed in Table 1 or if funding as set forth above is not provided, then Manatee County government shall withhold PDP approval. PDP approval shall be withheld until the funding commitments set forth above for the improvements necessary to achieve the Acceptable Levels of Service* have been obtained, which will ensure the construction of the roadway segment(s) prior to the anticipated build-out of the Phase for which approval is sought. This provision shall not be construed so as to obligate Manatee County to participate in the construction or funding for construction of said improvements except when said improvements are identified in the County's Transportation Improvement Plan.
- C.(6)** Pursuant to the Developer's* request that Relocated 301 improvements as originally noted in Exhibit C, be modified to acknowledge the fact that the roadway currently operates at a level above that of the typical four-lane divided highway, the Manatee County Transportation Division* has agreed to remove references to link improvements for Relocated 301. The Manatee County Transportation Division reserves the right to require intersection analysis at the time that future Traffic Studies* are undertaken.
- C.(7)** The additional access point to State Road 70, located east of the S.R. 70 and Lakewood Ranch Boulevard intersection, shall be limited to right-turn-in and right-turn-out movements only, with an optional left-turn-in directional median cut, if fully permitted by FDOT. The two additional access points to State Road 70 for the approved commercial parcels located on the east and west sides of Lorraine Road, shall be limited to right-turn-in and right-turn-out movements only, with an optional left-turn-in directional median cut, if fully permitted by F.D.O.T. The design of the southern approach to the Lorraine Road/S.R. 70 intersection shall include a median to discourage unsafe cross-traffic movements between these two commercial parcels.
- C.(8)** The Cypress Banks DRI shall include an unrestricted internal east-west roadway connecting Lakewood Ranch Boulevard and Lorraine Road.

- C.(9)** Prior to Construction Drawing approval, the Developer shall obtain Florida Department of Transportation approval through their official connection approval process described in Rule 14-96 F.A.C. and specified under sections 334.044(2), 335.182(2), 335.183, and 335.184 Florida Statutes and implemented by Section 334.044(14), 335.18-335.187, Florida Statutes for the access points described in C.(7).

ENVIRONMENTAL CONDITIONS

- D.(1)** A surface water and quality monitoring program and any amendment thereto shall be submitted to the Manatee County Environmental Management Department (EMD) (or their successors) for approval and the Tampa Bay Regional Planning Council (TBRPC) for review and shall provide one (1) year of pre-construction base-line data acceptable to the Environmental Management Department (EMD) or their successors) (**Completed**). Construction monitoring shall be initiated at the beginning of construction (**Completed**) and continuing through project build-out, and for two (2) years after build-out. All water quality analytical methods and procedures shall be documented and comply with EPA/DEP Quality Control standards and requirements. Monitoring shall be particularly sensitive to the discharges from the golf course. Should the monitoring indicate that water quality is being degraded below pre-development (baseline) levels as a result of the project, all construction within the subbasin where the violation is noted shall cease until the violation is corrected. If the Developer can demonstrate that specific construction can be identified as causing the violation, only that activity demonstrated to be responsible for exceeding the regulated limits shall cease until the violation is corrected. The monitoring results obtained, as specified in the monitoring plan, shall be submitted to Manatee County, Southwest Florida Water Management District (SWFWMD), the Department of Community Affairs (DCA), and Tampa Bay Regional Planning Council (TBRPC). Any violation of Chapter 62-3, Florida Administrative Code (FAC), attributable to the project, shall require corrective measures as set forth by the Florida Department of Environmental Protection (FDEP).

The monitoring station location, sampling frequency and reporting schedule shall be amended and approved by the Manatee County Environmental Management Department (EMD) (or their successors) and submitted to Florida Department of Environmental Protection (FDEP) to include the additional 432.1 acre parcel added to the DRI with Ordinance 02-34, prior to commencement of any construction on this parcel. The County's Environmental Management Department (EMD) (or their successors) shall maintain control of the monitoring program to the extent they shall have the right of approval as to the consultant hired by the Developer*.

- D.(2)** The portions of the Cypress Banks site which meet the definition of preservation and conservation areas, as defined in the Tampa Bay Regional Planning Council

(TBRPC s) adopted Future of the Region, as shown on Amended Maps D and F and modified on Map K given in the ADA Sufficiency Response, shall be designated on the Master Development Plan* submitted to Manatee County for Planned Development approval (**Completed for Phase 1**).

- D.(3) In the event that any species listed in Rule 39-27.003 and Rule 39-27.004, Florida Administrative Code (FAC) are observed frequenting the site for nesting, feeding, or breeding, proper protection or mitigation measures shall be employed in cooperation with the Florida Fish and Wildlife Conservation Commission (F.F.W.C.C.). Gopher tortoises have been observed on site. The majority of the gopher tortoise population located on site are in areas that will be preserved; those gopher tortoises and comensals which are outside of the preservation area shall be relocated after obtaining the appropriate permits from the Florida Fish and Wildlife Conservation Commission (F.F.W.C.C.).

In order to assure nesting sites are available for the Southeastern American Kestrel, five nest boxes shall be installed on the 374.1-acre parcel added to the DRI with the adoption of Ordinance 00-06, per F.F.W.C.C. guidelines. These shall be located adjacent to areas of fairly open canopy and short grassy groundcover, as well as suitable perching locations, including pines adjacent to wetlands and other preserved open space. The nesting boxes shall be installed prior to any clearing or grading activities.

A mesic hammock (9.3 acres) for the 374.1 acre parcel added to the DRI with Ordinance 00-06, as shown on revised Map H dated May 2002, shall be preserved as habitat for the Sherman s Fox Squirrel.

- D.(4) All wetlands within the site are considered jurisdictional and thus shall be altered only with approval of all applicable jurisdictional entities and in accordance with the Manatee County Comprehensive Plan, however, none of the 11.5 acres of wetlands located on the +374.1 acre parcel added to the DRI with the adoption of Ordinance 00-06 shall be impacted. The only wetland impact permitted with the 432.1 acres added with the adoption of Ordinance 02-34, shall be the roadway crossing shown on Map H, and allow for piling supported structures for golf cart paths, in accordance with Section 719 of the LDC. Such structures shall be located as to minimize impacts to desirable vegetation. This shall be reviewed and approved by the Environmental Management Department prior to Final Site Plan approval.

- D.(5) The development shall adhere to the provisions of the Manatee County Land Development Code (LDC), particularly Section 714, having to do with tree protection except in those areas shown on Exhibit E (modified Map D&F in the ADA) and as amended with Ordinance 00-06 (see Attachment to Exhibit E dated 3/21/2000), designated as forest cultivation areas at the time of General Development Plan Approval. Trees removed from these areas shall be harvested and utilized for their natural resource in order to receive this exemption

- D.(6) Representative tracts of all major native upland vegetative communities shall be set aside in their natural state to serve as conservation areas. These shall be clustered to the greatest degree possible in order to maximize the intrinsic value of habitat diversity.
- D.(7) A single specimen Simpson zephyr-lily (*Zephyranthes simpsonii*) was observed in an area not designated as a preserve. All other protected plant species were observed within habitats designated for preservation. The Developer* shall coordinate with the Florida Department of Agriculture and Consumer Services for the relocation of any plant species listed in Section 581.185(a) and (b), Florida Statutes (FS) and found on-site in an area which is not to be preserved on the Master Development Plan*.
- D.(8) Where feasible, the Developer* shall utilize multi-story structures on non single-family residences to save natural land cover and reduce the amount of impervious surface.
- D.(9) Where feasible, the Developer* shall preserve and otherwise utilize native and low-maintenance vegetation to reduce fertilizing and water requirements.
- D.(10) No development activities shall be permitted within State and Federal jurisdictional wetlands except where permitted by the Department of Environmental Protection (DEP), Southwest Florida Water Management District (SWFWMD), or the Army Corps of Engineers and in accordance with the Manatee County Comprehensive Plan.
- D.(11) Stormwater management system design shall, to the maximum extent possible, incorporate and utilize isolated wetlands outside the DEP jurisdiction. Mitigative measures may be acceptable to replace removed wetlands.
- D.(12) There shall be a fifty foot (50') buffer zone, in conformance with the Manatee County Land Development Code, established adjacent to post-development jurisdictional wetlands. Where the buffer zone has been substantially retained in an unaltered natural state at the time of the adoption of The Manatee County Comprehensive Plan, said buffer shall be located between any private lot lines and the post development jurisdictional wetland. All building setbacks shall be measured from the buffer zone. All buffers shall be identified as an undisturbed conservation easement for Manatee County on the Preliminary* and Final Development Plans and Subdivision Plats and shall be physically identified on site at property lines so as to be visible where the easement crosses the property line. Each development subphase shall include deed restrictions that prohibit development activity and removal of native vegetation and require that any replanting within the buffer be with flora native to Manatee County.

- D.(13) Bridges crossing tributaries shall be designed so that bridge abutments are placed landward of wetland vegetation as defined by the Florida Department of Environmental Protection (FDEP).
- D.(14) All development within Cypress Banks shall meet all of the regulations and precepts of the adopted Manatee County Comprehensive Plan, as amended.
- D.(15) The 326.1-acre addition (a.k.a. Taylor Ranch) of land added to the DRI with Ordinance 02-34, shall be subject to the following.
- A. Upland preservation shall be provided by increasing the wetland buffer approximately twenty feet beyond the 30 foot (30') wetland buffer required by the Manatee County Land Development Code. Upland preservation areas shall be delineated on the Final Site Plan.
 - B. Prior to commencement of construction within fifteen hundred feet (1500) of the eagle nest, a Wildlife Management Plan shall be approved by the U.S. Fish and Wildlife Service (FWS).
 - C. A permit for gopher tortoises shall be obtained from the Florida Fish and Wildlife Conservation Commission, prior to approval of the Erosion and Sediment Control Plan.

DRAINAGE

- E.(1) Stormwater discharge facilities shall be designed and constructed so as to include an additional level of treatment equal to at least fifty percent (50%) of the treatment criteria specified in Rule 62-25.035(1)(b) or Rule 62-25.04 or, Rule 62-25.042, F.A.C.
- E.(2) In conjunction with the water quality monitoring program set forth above, the Developer* shall develop and institute a monitoring program to monitor surface water and groundwater quantity to ensure that pre-development levels of water flowing towards the Evers Reservoir are maintained. This monitoring plan shall be developed by the Developer* in conjunction with and subject to the written approval of Manatee County (**Completed**).
- E.(3) Existing net water flow (groundwater and surface water) contributions from the site to the Braden River watershed shall be maintained and their natural seasonal fluctuations preserved during all phases of development. Beginning two (2) years from the date of issuance of the original Development Order and continuing annually thereafter until buildout, the Developer* shall provide the County Environmental Management Department (EMD) (or their successor) with a wet season/dry season water budget which calculates pre-development and post-

development flows to the Braden River watershed. The water budget shall include monthly rainfall records and calculated runoff, evapotranspiration, and groundwater flow and shall be done separately for normal and ten-year drought conditions. Should the County Environmental Management Department (EMD) (or their successor) analysis of the data provided indicate a trend that groundwater and surface contributions from the site to the Braden River watershed are not being maintained, then the County may require the Developer* to prepare a detailed analysis of the drainage system and a revised drainage plan that includes all appropriate remedial measures. The County may also require immediate remedial action to mitigate the identified surface water and groundwater shortfalls from the site and require long-term mitigation in accordance with the revised plan.

- E.(4) The Developer* has proposed the use of a double-underdrain filtration system at all downstream outfalls to provide additional nutrient and suspended solids removal not typically provided. The Developer*, in conjunction with the Phase I Preliminary Development Plan submittal, shall be required to develop a maintenance schedule which will assure that the system is functioning as designed **(Completed for Phase I)**. Further, the Developer*, his heirs and assigns (or designated entity) shall be required to implement and continue this maintenance program for the duration of the project.

The Developer* shall warrant, by bond or other mechanism acceptable to the County, the performance of his stormwater management system in compliance with County and State standards for two (2) years beyond the build-out period of development within each hydrologic unit.

- E.(5) Beginning within the 2-year period after build-out and continuing in perpetuity, the Homeowners Association or District* shall be responsible for stormwater monitoring data collection and reporting, operation and maintenance, and renewal and replacement of the stormwater management systems as required in the development approval.

The County shall have the authority to assess the Homeowners Association or District* for continuing performance of the systems in compliance with the standards set forth in the monitoring program.

- E.(6) There shall be no net loss of hydrologic storage and conveyance capacity caused by this development within the 100-year floodplain or an increase in flood elevations as defined by the referenced SWFWMD study.
- E.(7) Prior to the issuance of any relevant construction permits for each phase or subphase of the Cypress Banks development, the Final Drainage Plan for each applicable phase or subphase of Cypress Banks shall be submitted to DEP and TBRPC for review and to SWFWMD and Manatee County's Planning and

Environmental Management Department (EMD) (or their successor) for approval.

E.(8) To protect the water quality, the Developer* shall be required to include the following parameters:

- a. The drainage system shall be designed to provide retention, or detention with filtration/assimilation treatment in order to meet or exceed all applicable state, regional, and local requirements including Rule 62-25.035(1)(b), FAC, and SWFWMD Rule 40D-4, FAC;
- b. No stormwater discharge shall cause a violation of the Class I Water Quality Standards as set forth in Chapter 62-3, FAC;
- c. The proposed retention/detention wetland systems shall be designed, constructed, and maintained pursuant to the guidelines of the Stormwater and Lake Systems, Maintenance and Design Guidelines (TBRPC, 1978)
- d. The Developer* shall formulate guidelines for the maintenance of the golf courses within the 100-year floodplain adjacent to the Braden River and its tributaries that include and address the limited use of herbicides, pesticides, and fertilizers. These guidelines must be established and approved by Manatee County Environmental Management Department (EMD) (or their successor) prior to commencement of development and issuance of permits;
- e. All golf courses must be treated as developed areas with their runoff routed through the subbasin retention/detention systems; and
- f. The Developer* will provide for positive outfalls for all off-site flows through the development. These positive outfalls may be in the form of swales and channels that will direct the flow around the site.

E.(9) The Developer* shall establish hydroperiod and normal water levels through field survey and maintain these for existing wetland areas that shall be connected to the stormwater management system. The Developer* has identified several wetland areas that will be improved by returning water levels and hydroperiods to their natural state. The Developer* shall identify the wetlands to be improved with each PDP submittal.

E.(10) All development shall meet or exceed the recommended Best Management Practices developed for the Southeast Study Area. Stormwater management system designs shall meet or exceed the guidelines in Camp Dresser & McKee's Final Report (9/85). Designs shall incorporate Best Management Practices, be based on site-specific data (surface and groundwater quality and quantity), reflect

seasonal variations, and seek to enhance, where feasible, water quality contributions to the Braden River.

- E.(11)** Stormwater discharge, either direct or indirect, shall not cause a receiving water body (Water of the State) to violate limits as defined in Class I - Potable Water Supplies and Surface Waters General Criteria of Chapter 17-3, FAC or any other applicable state or local regulations that may be adopted at a later date.

However, where background conditions in the water body may not meet the above-stated limits due to non-abatable natural causes, site-specific alternative criteria may be established when an affirmative demonstration is made to the Manatee County Environmental Management Department (EMD) (or their successor) that an alternative standard is more appropriate and approval of such criteria is given by said Department.

HAZARDOUS WASTE

- F.(1)** Upon approval by Manatee County, the Developer* shall provide to all Cypress Banks businesses information that:
- a. Indicates types of wastes and materials that are considered to be hazardous and shall be stored or disposed of only in the specially-designated containers/areas; and
 - b. Advises of applicable statutes and regulations regarding hazardous wastes and materials at the time of purchase or lease, including the reporting requirements of Chapter 252, Florida Statutes.
- F.(2)** The Developer* shall require that any hazardous waste will be transported and disposed of in a manner consistent with applicable regulations through restrictive covenants.

ENERGY CONSERVATION

- G.(1)** The Developer* shall institute the following list of energy conservation measures referenced on pages 201-203 of the ADA, including:
- a. Watt-wise Construction with increased insulation and high efficiency mechanical appliances such as typical household appliances and those for heating and cooling systems;
 - b. Cross-ventilation;

- c. Window orientation for the most efficient heating and cooling systems;
- d. Solar heating and cooling systems; and
- e. Low pressure sodium lamps for exterior lighting.

GENERAL CONDITIONS

- H.(1) The Developer* shall be required to adhere to any and all commitments made in the ADA and subsequent sufficiency responses listed in Composite Exhibit A attached hereto and by reference incorporated herein, unless that commitment is superseded by a Development Order Condition.
- H.(2) The Developer* shall adhere to the following soil, wind, and water erosion abatement methods given on page 22 of the ADA, including:
- a. Preserve existing trees as buffers between adjacent developed areas;
 - b. Control development progress so that a minimal amount of acreage (i.e., 40-80 acres) is cleared at any one time;
 - c. Control development progress so that the potential for two adjacent parcels to be cleared at the same time is minimal;
 - d. Preserve natural land cover by selective site clearing (e.g., limit clearing of lake excavation areas and road right-of-way in a typical subdivision);
 - e. Sod or seed and fertilize cleared areas and lake banks immediately upon completion of grading activities;
 - f. Utilize water spray trucks to suppress and control dust generation in heavy construction areas;
 - g. Design swales, ditches, and culverts for peak velocities in the three (3) to six (6) feet per second maximum range; and
 - h. Preserve the existing natural vegetation along the Braden River, Wolf Slough and other unnamed tributaries to minimize the potential for erosion during construction.
- H.(3) The Developer* shall submit a plan to Manatee County and the Tampa Bay Regional Planning Council (TBRPC) for using non-potable water for landscape and open space irrigation with each Preliminary Development Plan*.

- H.(4) The Developer* indicates that wastewater treatment and disposal shall be by the County utilizing the Southeast Regional Wastewater Treatment Plant. In the event that capacity is not available, the Developer* will be required to provide for the treatment plant expansion and the ultimate disposal of all the wastewater generated by the project or construction of the interim plant at an off-site location out of either the WO-E or WO-M. Any and all wastewater facilities must be designed in accordance with all applicable regulations including the obtaining of all appropriate permits for construction and operation. No septic system shall be permitted within the development.
- H.(5) No sewer lift stations shall be built where emergency discharges have the potential for direct discharge into the Braden River, its tributaries, or Evers Reservoir.
- H.(6) Sewer lift stations shall be designed and equipped in accordance with Manatee County's Public Services Department guidelines with several means of backup, to provide assurance against equipment failure and discharge to the environment. These shall include:
- a. Lift stations with 35HP (or less) motors shall have an auxiliary generator receptacle on the panel box;
 - b. Stations with greater than 35HP motors shall include an on-site stationary generator set with remote transfer capability;
 - c. Wet wells to contain sewage line surcharges/overflows;
 - d. Emergency bypass pumpouts for tank trucks; and
 - e. 100 percent redundancy in lift station pumping equipment.
- H.(7) The Developer* shall maintain all waterlines and fire hydrants not dedicated to the County.
- H.(8) The discovery of any historical or archaeological resources shall be reported to the Florida Division of Historical Resources and the disposition of such resources shall be determined in cooperation with the Division of Historical Resources and Manatee County.
- H.(9) The Developer* shall make his fair share contribution for school sites in the southeast county area. To meet this contribution, prior to final development approval for residential units of Phase I, and in no event later than approval of the first Preliminary Development Plan for Phase II, the Developer* shall negotiate the

dedication of forty (40) acres for a school site that is acceptable to the School Board, with an option for the School Board to purchase an adjoining ten (10) acres at fair market value or offer an acceptable school impact fee credit for future development. The site can be located either on or off the Cypress Banks property. Such a dedication will fulfill all present and any future countywide educational site dedication requirements adopted by the county or the School Board regarding the 1,790 acres included in Z-86-30 (C)(R) **(Completed)**.

- H.(10) The Developer* shall be required to construct all habitable structures with finish floor elevations at or above the 100-year flood elevations as established by the Federal Emergency Management Agency "FEMA" or other representative study as agreed on by the County. Additionally, the development shall cause no net loss in storage or flow capacity within the 100-year floodplain without providing compensatory storage.
- H.(11) The Developer* shall be required to operate and maintain all on-site wells in accordance with acceptable practices and applicable SWFWMD regulations.
- H.(12) The Developer* shall be required to maintain all common open space areas within the project, including the onsite reservoir.
- H.(13) The Developer* shall be responsible for contributing a pro-rata share of the cost of land acquisition, construction and equipping of emergency service facilities for police, fire, and emergency medical services or any combination thereof. The Developer* may, with the concurrence of the County, satisfy this obligation in whole or in part by conveyance of land deemed suitable for the intended use by the County or payment of impact fees, if applicable. An agreement as to pro-rata share, mutually acceptable to the County and the Developer*, shall be reached prior to the issuance of permits for Vertical Development* for Phase I **(Completed for Phase 1)**.
- H.(14) The availability of adequate service/capability to provide water, wastewater treatment, solid waste disposal, electricity, water, police, fire, and EMS service shall be demonstrated with each Preliminary Development Plan* submittal.
- H.(15) SMR Communities Joint Venture, A Florida General Partnership, its successors, assigns or transferees, shall submit annual DRI reports in accordance with Section 380.06(18), FS, to Manatee County, the Tampa Bay Regional Planning Council, the State Land Planning Agency, and other agencies, as may be appropriate, on the anniversary of the effective date of R-95-220 (February 22, 1996) and each year thereafter until such time as all terms and conditions of this Order are satisfied. Six copies of this report shall be submitted to the Director of Manatee County Planning Department or the Director's designee, who shall review the report for compliance with the terms and conditions of this Order and may submit

an appropriate report to the County Commission should the Director decide that further orders and conditions are necessary. The Developer* shall be notified of any Board of County Commissioners hearing wherein such report is to be reviewed; provided, however, that receipt and review of any such report by the Board of County Commissioners shall not be considered as a substitute, waiver, or change of conditions as to any terms or conditions of this Order. The annual report shall contain the following:

- (a) Any changes in the plan of development, or in the representation contained in the ADA, or in the phasing for the reporting year and for the next year;
- (b) A summary comparison of development activity proposed and actually conducted for the year;
- (c) Undeveloped tracts of land, other than individual single family lots, that have been sold to a separate entity or developer;
- (d) Identification and intended use of lands purchased, leased or optioned by the Developer* adjacent to the original DRI site since the development order was issued;
- (e) An assessment of the Developer s* and the local government s compliance with the conditions of approval contained in the DRI development order and the commitments that are contained in the Application for Development Approval and which have been identified by the local government, the Regional Planning Council, or the Department of Community Affairs as being significant.
- (f) Any known incremental DRI applications for development approval or requests for a substantial deviation determination that were filed in the reporting year and to be filed during the next year;
- (g) An indication of a change, if any, in local government jurisdiction for any portion of the development since the development order was issued;
- (h) A list of significant local, state, and federal permits which have been obtained or which are pending by agency, type of permit, permit number, and purpose of each;
- (i) A statement that all persons have been sent copies of the annual report in conformance with Subsections 380.06(14) and (16), Florida Statutes; and
- (j) A copy of any recorded notice of the adoption of a development order or the subsequent modification of an adopted development order that was

recorded by the Developer pursuant to Subsection 380.06(14)(d), Florida Statutes.

- H.(16) If more than five years shall elapse between approval of this Order and commencement of actual development under County development approval, [development commenced within time frame] or if any five-year period shall expire without significant development activity on the site, the Board of County Commissioners may conduct a public hearing in accordance with the Land Development Code and may, at its option, based on testimony presented at that hearing, rescind any and all approvals granted herein except where the failure to carry out development is attributable to factors beyond the control of the Developer* such as the unavailability of permits because of inadequate public facilities, or for any other similar reason. For the purpose of this provision, significant development shall be the actual construction of site improvements or buildings as part of an ongoing effort to prepare improved land or buildings for sale, lease, or use.
- H.(17) Should the Developer* fail to conduct monitoring or maintenance in accordance with the provisions of this Development Order, all construction within the Cypress Banks Development shall cease until monitoring or maintenance as required herein has been restarted and, in the case of a failure to properly monitor, one year of new baseline data acceptable to Manatee County has been obtained and verified.
- H.(18) This Development Order shall expire on August 7, 2014.
- H.(19) Gopher tortoises encountered in areas slated for construction will be relocated, after obtaining the appropriate permits from Florida Fish Wildlife Conservation Commission (FFWCC), to the conservation area specifically preserved for them (ADA, pg. 100). Should the Developer* not be able to obtain said permits, the active gopher tortoise burrows shall be preserved within a fifty-foot (50') buffer.
- H.(20) In order to ensure that people will find adequate housing opportunities reasonably accessible to their places of employment, the Developer* shall, prior to commencement of development for Phase II, conduct an analysis of the housing needs to be created by the development and determine the availability of adequate housing proximate to or otherwise reasonably accessible to the development. This analysis and determination shall be accomplished using a methodology approved by the Department of Community Affairs. If such analysis indicates that the development will create substantial need for adequate housing that is not being provided by other residential developments proximate to the development or if such analysis indicates that the development would not substantially further the creation of adequate housing opportunities reasonably accessible to places of employment, then the Developer shall prepare a Housing

Affordability and Implementation Plan (HAIP) and adopt the HAIP as an amendment to this development order. The HAIP shall comply with the goals and standards established by the Tampa Bay Regional Planning Council's Strategic Regional Policy Plan, Manatee County's 2020 Comprehensive Plan, and all applicable rules and policies established by the state land planning agency prior to the commencement of Phase II. **(Completed)**

At a minimum, the HAIP shall contain:

1. Specific provisions for onsite housing delivery, including housing delivery alternatives;
2. Specific provisions for offsite housing in addition to onsite housing or when onsite housing would be impracticable;
3. Specific mechanisms for HAIP implementation;
4. Provisions to ensure continued adequacy of units provided;
5. Monitoring provisions;
6. Location and placement of adequate housing units; and
7. An assessment of the HAIP and its relationship to the local comprehensive plan in regard to the need for adequate housing.

The HAIP may also contain:

8. Proposed provisions for crediting the Developer for activities that address adequate housing opportunities; or
9. Proposed Developer incentives for providing adequate housing opportunities such as density bonuses, density transfers, alternative or expedited development review, or partial or full fee waivers.

SECTION 7. DEVELOPER COMMITMENTS

The following items have been committed to by the developer in the ADA submittal and subsequent sufficiency responses.

General Project

1. The project will feature bike and pedestrian paths, interconnecting the housing areas of each owner to the recreation facilities, resort center and the community shopping center. (Application for Development Approval [ADA], pg. 7)

Air Quality

1. Several steps will be taken during the construction phases to reduce emissions generated by the project. (ADA, pg. 17)
2. Clearing and grubbing operations at the individual building sites will proceed only when construction is planned. Currently accessible watering procedures will be employed if fugitive dust becomes a problem. Upon completion of construction and final grading, disturbed areas will be seeded, sodded, or mulched. (ADA, pg. 18)

Soils

1. The development will use such methods as: retention lakes, free draining grass swales, and properly designed underdrains to reduce soil limitations, as well as limiting development in certain swamp, marsh, and alluvial zones. (ADA, pgs. 19 and 21)
2. The following wind, water and soil erosion abatement methods will be followed:
 - preserve existing trees as buffers between adjacent developed areas.
 - control development progress so that a minimal amount of acreage (40-80 acres) is cleared for building sites at any one time.
 - control development progress so that the potential for two adjacent parcels to be cleared at the same time is minimal.
 - sod or seed and fertilize cleared areas and lake banks immediately upon completion of grading activities.
 - preserve natural land cover by selective clearing of the site.
 - utilize water spray trucks in heavy construction traffic areas.
 - design swales, ditches, and culverts for peak velocities in the three to six feet per second maximum range.
 - preserve the existing natural vegetation along the Braden River, Wolf Slough and

other unnamed tributaries. (ADA, pp. 21-22).

Water

1. An appropriate water quality monitoring plan will be developed pursuant to the possible requirements of the Development Order and subsequently submitted to TBRPC for review and comments. It will be designed to establish background and to assure compliance with all state standards, as set forth in Chapter 62-3 and Rule 62-4.242 (ADA, pg. 42) **[Completed for Phase I]**.
2. Best Management Practices and design guidelines specified in Chapter 17-25, FAC, Rules of the Department of Environmental Protection, and Chapter 40D-4, Rules of the Southwest Florida Water Management District will be employed. An extra level of treatment will be provided through the placement of a double underdrain filtration system at all downstream lake outfalls and the selected positioning of detention/retention basins adjacent to established wetland communities. (ADA, pg. 43)
3. Prior to discharge, 90.25 percent of the total site drainage will drain through a series of mitigative features such as swales, wetlands, detention/retention basins, and lake underdrain filters. The remaining 9.75 percent will drain from the predominantly natural fringe-area adjacent to the Braden River and three of the largest streams on-site, directly into the contiguous stream. (ADA, pg. 45)

Wetlands

1. None of the existing Freshwater Swamp habitats will be removed under the proposed development plan. The proposed removal of 5.3 acres of Bayhead will be confined to three isolated communities as shown in Map D/F. (ADA, pgs. 57-58)
2. In conjunction with the preservation of land along the Braden River and its tributaries, additional areas within drainage corridors will be conserved as buffer zones. (ADA, pg. 60)
3. The shoreline of the existing large mining pits on-site will be recontoured and a littoral zone constructed to facilitate establishment of emergent vegetation. (ADA, pg. 60)
4. The shoreline of the existing large mining pits on-site will be recontoured and a littoral zone constructed to facilitate establishment of emergent vegetation. (ADA, pg. 60)
5. Wetland associations depicted on Map H (revised 9/06/95) and Map K will be preserved. (Sufficiency Response [S.R.], pg. 1)

6. Several precautions listed on pg. 8 of the Sufficiency Response will be incorporated to protect wetlands during construction.
7. Retention of stormwater will provide at least as much recharge to the groundwater system as currently exists on-site. (S.R., pg. 8)

Floodplains

1. The main Zephyr lily and brown ladies tresses, two state listed plant species in areas to be developed, will be transplanted on-site or to their preferred habitats of Pine Flatwoods or Xeric Oak Forest. The other listed species occurring on the site will be protected by preservation of their preferred wetland habitats. (ADA, pg. 86-87)
2. Portions of the preferred habitats for the endangered, threatened, and special concern species observed on-site will be preserved in conservation areas throughout the project site (ADA, pg. 100).
3. Gopher tortoises encountered in areas slated for construction will be relocated, after obtaining the appropriate permits from Florida Game and Fresh Water Fish Commission, to the conservation area specifically preserved for them (ADA, pg. 100).

Economy

The developer will provide a pro-rata share contribution for Fire, EMS, and Police Station. (S.R. pg. 13)

Wastewater

1. The internal wastewater collection system and various pumping stations will be provided by the Developer in accordance with the regulations of the Public Works Department and constructed within the right-of-way dedicated to Manatee County (ADA, pg. 152).
2. The Developer will construct the off-site connection to the County system. (S.R., pg. 1)

Drainage

1. Approximately 48 acres of vegetated littoral zone will be created within the detention/retention lakes. (ADA, pg. 158)
2. Approximately 35 percent of the surface area of the detention/retention lakes will consist of vegetated littoral zone. The slopes in one marsh mitigation zone will be at least 8:1. (ADA, pg. 158)

3. All interior and minor drainage systems will be designed based on a ten-year storm event. The Soil Conservation Service method will be used throughout the design of the drainage system. (ADA, pg. 158)
4. Additional treatment of stormwater will be accomplished by providing double underdrain filtration at all lakes which are final discharge points to on-site existing drainageway. The double underdrain system will be sized to filter the first one-half inch of runoff from downstream subbasins in 72 hours. (ADA, pg. 161)
5. All major drainageways will contain easements so that the County maintenance crews will have right of access. Easements will be of sufficient size to include additional surface width to allow heavy equipment to work adjacent to the drainage ditch or slough (ADA, pg. 180). It is the goal of this commitment to provide the necessary maintenance access while maintaining the pristine nature of the fringe areas. Therefore, the County maintenance crews must strive to keep this fragile ecosystem intact and allow minimal intrusions.
6. In addition to easements, all homeowners and condominium associations or District* will have a prescribed stormwater management system maintenance program which will be sustained through assessment for maintenance of common elements. This will ensure that all structural and non-structural components of the stormwater management system will be kept in proper working order. (ADA, pg. 180)
7. All drainageways on the project will be private except where drainageways will cross the two major roadways which are proposed to be dedicated to Manatee County. (S.R., pg. 18)

Water Supply

1. Potable water demand will be satisfied by the off-site public supply while the non-potable irrigation demands will be obtained from on-site sources. (ADA, pg. 184)
2. The potable water supply system will be constructed by the Developer as each specific parcel is developed. Upon completion of each portion installed within County right-of-way, the system will be dedicated to MCPTD for operation and maintenance (ADA, pg. 187). All facilities not installed in County rights-of-way shall remain private.
3. The non-potable system will be maintained by its users (e.g., Homeowners Association, Condominium Association). (ADA, pg. 187)
4. The Developer will meet the National Fire Protection Association Code which is the current fire protection code or the Manatee County Comprehensive Plan, whichever is more stringent. (S.R., pg. 18)
5. The Developer will construct the off-site connection to the County system at the

Developer's expense. (S.R., pg. 1)

Energy

1. There will be no on-site electrical generating facility. (ADA, pg. 198)

Recreation and Open Space

1. Tennis, racquetball, handball courts, and exhibition courts will be included in the total layout of the center. (ADA, pg. 212)

SECTION 8. LEGAL DESCRIPTION OF CYPRESS BANKS

A parcel of land lying in Sections 17, 20, 21, 22, 27, 28, 29, 32, and 33, Township 35 South, Range 19 East, Manatee County, Florida and described as follows:

Begin at the Northwest corner of said Section 20, said Section corner also being the common corner of Sections 17, 18 and 19; thence N.00°35'47"E. along the West line of said Section 20, a distance of 140.67 feet to a point on the Southerly Right-of-way of State Road 70; (the following 6 calls are along said Southerly Right-of-way of State Road 70); thence S.70°24'24"E., a distance of 373.46 feet to the point of curvature of a curve to the left having a radius of 2,041.86 feet and a central angle of 18°21'30"; thence easterly along the arc of said curve, an arc length of 654.24 feet to the point of tangency of said curve; thence S.88°45'54"E., a distance of 4,362.42 feet; thence S.89°41'54"E., a distance of 1,575.96 feet; thence S.89°42'03"E., a distance of 2,821.50 feet; thence S.89°19'57"E., a distance of 3,193.08 feet; thence S.00°39'03"W., a distance of 898.94 feet; thence N.89°20'57"W., a distance of 867.82 feet; thence S.00°24'05"W., a distance of 267.14 feet to the point of curvature of a curve to the right having a radius of 2,735.00 feet and a central angle of 31°55'30"; thence southerly along the arc of said curve, an arc length of 1,523.93 feet to the point of tangency of said curve; thence S.32°19'35"W., a distance of 790.03 feet to the point of curvature of a curve to the left having a radius of 2,880.00 feet and a central angle of 31°49'15"; thence southerly along the arc of said curve, an arc length of 1,599.49 feet to the point of tangency of said curve; thence S.00°30'20"W., a distance of 355.33 feet; thence S.00°51'26"W. along a line 120 feet Easterly of and parallel with the Westerly line of Section 27, a distance of 5,313.46 feet to a point on the Southerly line of said Section 27; thence S.89°57'56"W. along the Southerly line of said Section 27, a distance of 120.02 feet to the Southeast corner of Section 28; thence N.89°30'25"W. along the South line of said Section 28, a distance of 2,662.03 feet to the south 1/4 corner of said Section 28; thence N.00°45'47"E. along the West line of the East 1/2 of said Section 28, a distance of 1,236.76 feet; thence N.89°31'24"W. along a line 4,077.34 feet Southerly of and parallel with the North line of said Section 28, a distance of 2,614.09 feet; thence S.00°40'06"W., a distance of 221.36 feet to the point of curvature of a curve to the left having a radius of 600.00 feet and a central angle of 73°58'28"; thence southeasterly along the arc of said curve, an arc length of 774.66 feet to the point of reverse curvature of a curve to the right having a radius of 550.00 feet and a central angle of 59°36'16"; thence southeasterly along the

arc of said curve, a distance of 572.16 feet to the end of said curve; thence S.76°17'54"W., radial to the last described curve, a distance of 33.84 feet; (the following 7 calls are along the North line of Lakewood Ranch Country Club Village, Subphase D, Unit 3B & 4 a/k/a Gleneagles, recorded in Plat Book 34, Page 181 of the Public Records of Manatee County, Florida); thence S.72°30'29"W., a distance of 181.80 feet to the point of curvature of a non-tangent curve to the left, of which the radius point lies S.01°16'25"E., a radial distance of 58.00 feet; thence westerly along the arc of said curve, through a central angle of 24°50'28", an arc length of 25.15 feet to the end of said curve; thence N.26°06'53"W., non-tangent to the last described curve a distance of 49.82 feet; thence S.72°30'29"W., a distance of 161.83 feet; thence N.17°29'31"W., a distance of 20.40 feet; thence S.72°30'29"W., a distance of 190.11 feet; thence S.07°30'16"W., a distance of 437.56 feet to a point on the north line of Lakewood Ranch Country Club Village, Subphase D, Unit 2, recorded in Plat Book 31, Page 23 of the aforementioned Public Records; thence S.90°00'00"W. along said north line, also being the north line of Lakewood Ranch Country Club Village, Subphase D, Unit 1 a/k/a Spyglass, recorded in Plat Book 34, Page 113 of the aforementioned Public Records, a distance of 2,269.90 feet; thence S.23°47'43"W. along the west line of said of Lakewood Ranch Country Club Village, Subphase D, Unit 1 a/k/a Spyglass, a distance of 277.38 feet to a point on the north line of Parcel 4, Legacy Golf Course as recorded in Road Plat Book 10, Page 126 of the aforementioned Public Records; (the following 2 calls are along said northerly line) thence N.60°40'54"W., a distance of 184.30 feet; thence N.37°10'57"W., a distance of 84.85 feet to a point on the east line of Lakewood Ranch Country Club Village, Subphase C, Unit 1-A, recorded in Plat Book 30, Page 189 of the aforementioned Public Records; (the following 3 calls are along said easterly line) thence N.01°20'47"E., a distance of 240.50 feet; thence N.58°34'00"W., a distance of 423.22 feet; thence N.00°29'35"E., a distance of 166.41 feet to a point on the South line of Section 29; thence N.89°30'25"W. along said South line, a distance of 1,269.54 feet to the South 1/4 corner of the Southwest 1/4 of said Section 29; thence N.00°29'12"E. along the East line of the West 1/2 of said Southwest 1/4 of Section 29, a distance of 2,658.58 feet to the North 1/4 corner of said Southwest 1/4 of Section 29; thence N.89°30'30"W. along the South line of the Northwest 1/4 of said Section 29, a distance of 120.00 feet; thence S.00°29'12"W., a distance of 46.62 feet; thence N.89°30'48"W., a distance of 470.30 feet; thence N.61°13'53"W., a distance of 51.46 feet; thence S.85°03'09"W., a distance of 131.05 feet; thence S.33°11'55"W., a distance of 59.75 feet; thence N.46°13'24"W., a distance of 141.11 feet to the point of curvature of a non-tangent curve to the left, of which the radius point lies S.46°13'26"E., a radial distance of 295.00 feet; thence southwesterly along the arc of said curve, through a central angle of 15°08'33", an arc length of 77.96 feet to the end of said curve; thence N.61°21'58"W., radial to the last described curve, a distance of 186.34 feet; thence S.26°03'03"W., a distance of 41.15 feet; thence N.89°30'30"W., a distance of 211.38 feet to a point on the West line of said Section 29; thence N.00°23'24"E. along said West line, a distance of 2,656.56 feet to the Southwest corner of Section 20; thence N.00°35'53"E. along the West line of Section 20, a distance of 5,300.74 feet to the POINT OF BEGINNING.

Said parcel contains 2,597.0 acres, more or less.

SECTION 9. DEADLINE FOR COMMENCEMENT OF DEVELOPMENT:

Physical development of the project shall commence by August 8, 1992, unless the time period for commencement is extended by the Board of County Commissioners. **(Completed)**

SECTION 10. RESTRICTIONS ON DOWN-ZONING:

For two (2) years from the original date **(this time has passed)** upon which this order becomes final and the appeal period has ended, the County may not downzone or reduce the intensity or unit density permitted by this order, unless the County can demonstrate that:

- A. Substantial changes in the condition underlying the approval of the order have occurred;
or
- B. The order was based upon substantially inaccurate information provided by the Developer; or
- C. The change is clearly established by the County to be essential for the public health, safety, or welfare.

Any down-zoning or reduction in intensity shall be effected only through the usual and customary procedures required by statute and/or ordinance for change in local land development regulations.

For the purposes of this order, the term down-zone shall refer only to changes in zoning, land use, or development regulations that decrease the development rights approved by this order, and nothing in this paragraph shall be construed to prohibit legally enacted changes in zoning regulations which do not decrease the development rights granted to the Developer by this order. The inclusion of this section is not to be construed as evidencing any present or foreseeable intent on the part of the County to down-zone or alter the density of the development, but is included herein to comply with Paragraph 380.06(15)(c)3, Florida Statutes, (Supp. 1988).

SECTION 11. BINDING ORDER UPON DEVELOPER:

That this order shall be binding upon the Developer, its successors, assigns, or successors in interest.

SECTION 12. COMPLIANCE WITH CODES, ORDINANCES:

All development undertaken pursuant to this order shall be in accordance with all applicable local codes and ordinances in effect at the time of permitting, and other laws, except as specifically provided herein.

SECTION 13. RENDERING:

The Planning Department is hereby directed to send certified copies of this order within thirty (30) days of the date of signature by the Chairman of the Board of County Commissioners to the Developer, the Florida Department of Community Affairs, and the Tampa Bay Regional Planning Council.

SECTION 14. NOTICE OF RECORDING:

The Developer shall record a notice of adoption of this order as required pursuant to Chapter 380, F.S., and shall furnish the Planning Department a copy of the recorded notice.

SECTION 15. EFFECTIVE DATE:

This Ordinance shall take effect upon a certified copy of the Ordinance being filed with the Secretary of State provided however, that the filing of a Notice of Appeal pursuant to Section 380.07, Florida Statutes, shall suspend development authorization granted by this Development Order until the resolution of said appeal. However, this is not intended to suspend development previously authorized pursuant to Ordinance 00-06 during the pendency of any appeal.

SECTION 16. REPLACEMENT OF PRIOR DEVELOPMENT ORDERS:

Upon becoming effective, this Ordinance shall replace R-89-161 (R), R-92-170, R-94-133, R-95-220, Ordinance 99-25, and Ordinance 00-06 in their entirety.

ADOPTED AND APPROVED with a quorum present and voting this 10th day of December, 2002

**BOARD OF COUNTY COMMISSIONERS
OF MANATEE COUNTY, FLORIDA**

By: *Guy Stein*
Chairman



STATE OF FLORIDA, COUNTY OF MANATEE
This is to certify that the foregoing is a true and correct copy of the documents on file in my office.

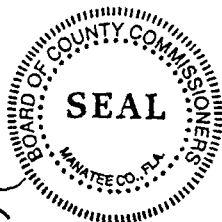
Witness my hand and official seal this 21ST day of

December, 2002

R.B. SHORE
Clerk of Circuit Court

By: *Nancy Harris* D.C.

ATTEST: R.B. SHORE
Clerk of the Circuit Court



By: *Susan Plomin*



STATE OF FLORIDA, COUNTY OF MANATEE
This is to certify that the foregoing is a true and correct copy of the documents on file in my office.

Witness my hand and official seal this 19TH day of

December, 2002

R.B. SHORE
Clerk of Circuit Court

By: *Nancy Harris* D.C.

EXHIBIT D

**CYPRESS BANKS DEVELOPMENT
PROPOSED PHASING SCHEDULE**

PHASE	COMMERCIAL USE	RECREATION USE	DWELLING UNITS
I (1990 - August 7, 2000)	Religious Center	First Golf Course	1,405
II (August 7, 1999*** - 2005)	203,500 s.f. (Community Shopping)	Second Golf Course	1,405
III (August 7, 2005 - 2010)			1,406
IV (August 7, 2010 - 2014)			1,285
TOTAL	203,500 s.f.		5,501

** The original phasing schedule was based upon the projections in the ADA - with a completion date of 2006.

*** This date is being advanced to reflect the developer's compliance with Stipulation B(4), which authorizes commencement of Phase 2 in advance of the Schedule established in this Exhibit.

DUE TO THEIR LARGE SIZE, EXHIBITS A, B, C, E, & F ARE NOT ATTACHED, BUT ARE ON FILE WITH THE CLERK OF THE CIRCUIT COURT.