

RESOLUTION

NUMBER 92-29

A RESOLUTION APPROVING THE DEVELOPMENT ORDER FOR CALIENTE SPRINGS COUNTRY CLUB, A DEVELOPMENT OF REGIONAL IMPACT.

LET IT BE KNOWN, THAT, PURSUANT TO SECTION 380.06, OF THE FLORIDA STATUTES, THE BOARD OF COUNTY COMMISSIONERS OF CHARLOTTE COUNTY, HAS HEARD, AT A PUBLIC HEARING CONVENED ON FEBRUARY 11, 1992, THE APPLICATION FOR DEVELOPMENT APPROVAL FOR CALIENTE SPRINGS COUNTRY CLUB WHICH CONSISTS OF APPROXIMATELY 1,778 ACRES TO BE DEVELOPED IN ACCORDANCE WITH THE APPLICATION FILED BY ALLEN J. RICHARDS, MANAGING PARTNER, THE CALIENTE PARTNERSHIP, FOR SAID DEVELOPMENT.

WHEREAS, the Board of County Commissioners of Charlotte County has considered the report and recommendations of the Southwest Florida Regional Planning Council, the Charlotte County Staff, the Charlotte County Local Planning Agency and the documents and comments upon the record made before the Board in public hearing, and, after full consideration of said reports, recommendations, comments and documents, the Board of County Commissioners of Charlotte County, hereby finds and determines that:

FINDING OF FACT/CONCLUSION OF LAW

A. The development is a mixed-use project with 1,810 residential dwelling units, 30,000 square feet of office space, 140,000 square feet of commercial, a 250-room hotel, sales center and other amenities on 1,778 ± acres located in Southern Charlotte County between Burnt Store Road and Charlotte Harbor approximately three miles north of the Lee County line. The site will contain two eighteen hole golf courses, eight tennis courts, a clubhouse with restaurants and exercise area, bike and walk trails, a small fishing pier and look out tower. Exhibit A is a copy of the proposed Master Concept Plan.

The legal description of the property is described in Exhibit B which is attached hereto and made a part of this development order.

Approximately 865 acres of the site adjacent to Charlotte Harbor are considered saltwater wetlands and will be placed under a permanent conservation easement or else conveyed to the State of Florida. The development consists of approximately 205 acres of upland preservation areas in the form of buffers, wetland

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tributaries (2) and golf course roughs and approximately 105 acres of lakes for water management.

Water and wastewater services are proposed to be provided by Southern States Utilities located on Burnt Store Road just north of the Lee County line. The project is planned in two five year phases with buildout in the year 2002. The proposed phasing schedule is attached as Exhibit C.

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

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

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

E. The proposed development has been reviewed by the Southwest Florida Regional Planning Council and is the subject of their report and recommendation adopted on the 17th day of October, 1991 and subsequently forwarded to Charlotte County pursuant to the provisions of Chapter 380.06, Florida Statutes, and the proposed development, as modified by this development order, is consistent with the report and recommendation of the Southwest Florida Regional Planning Council.

F. The application for development approval is consistent with the requirements of Chapter 380.06.

G. Caliente Springs is proposed to be a well-balanced, mixed use community with a location and site design that ensures the protection of natural features while at the same time deriving maximum benefit from those natural features. The most important aspect of those planning for natural resource quality is the preservation in perpetuity of approximately 865± acres of saltwater wetlands on the edge of Charlotte Harbor. The plan for Caliente Springs promotes the policies of the comprehensive plan regarding environmental quality, especially:

- a) Objective 7 and Policy 7.4 of the Land Use Element.
- b) Goal, Objective 2, Policy 2.1 (3) (4) (7), Policy 2.5, Policy 6.2, Objective 10, Policy 10.2, Objective 11, Policy 11.1, Policy 11.3, Objective 12, Policy 12.2, Policy 12.3, Objective 15 and Policy 15.2 (1) of the Conservation Element.

- c) Goal, Objective 1, Objective 2, and Objective 4 of the Coastal Management Element.

H. The development of the Caliente Springs site will guarantee the preservation of more than 850± acres of saltwater wetlands while directing residential, commercial and golf course development to land which was extensively cleared for agriculture and development in the 1960's. The environmental benefits will be substantial and the negative impacts to natural resources will be limited primarily to the on-site relocation of gopher tortoises. There are no endangered or threatened animals on-site, and any threatened plant species (such as the beautiful paw-paw) will be preserved or relocated. No marinas or dredging for boat access is proposed; it is expected that only non-motorized water craft would be accommodated.

I. The Caliente Springs site is a logical extension of the Burnt Store Road Urban Service Area (USA). It is immediately adjacent to the existing Burnt Store USA and includes 55 acres of the USA. Existing water and sewer lines serve adjacent properties and can be easily extended to serve Caliente Springs. Caliente Springs will provide a variety of housing types, commercial activities and recreational opportunities that will make the Burnt Store USA a more self-reliant and successful USA.

J. Concurrently with the adoption of this development order, the subject property is being rezoned in accordance with the Charlotte County Zoning Ordinance as amended.

II. ACTION ON REQUEST

NOW, THEREFORE, BE IT RESOLVED BY THE Board of County Commissioners of Charlotte County, in a public hearing, duly constituted and assembled this 11th day of February, 1992, that the Development of Regional Impact Application for Development Approval submitted for Caliente Springs Country Club by Allen J. Richards, Managing Partner, The Caliente Partnership, is hereby ordered APPROVED subject to the following conditions, restrictions, and limitations:

1. DRAINAGE/WATER QUALITY

- a) The developer shall obtain Southwest Florida Water Management District (SWFWMD) permits for conceptual approval, construction and operation of the surface water management system, for any dewatering activities associated with the construction of lakes, roads or building foundations.
- b) The developer shall develop and implement a groundwater monitoring plan, to be approved by Charlotte County and

the SWFWMD, which shall include the following provisions if found necessary by SWFWMD during permit review and approval:

- 1) All monitoring wells shall be sampled and analyzed quarterly for FDER primary and secondary drinking water standards, water levels and all groundwater chemicals.
- 2) Two wells shall be installed hydraulically downgradient at each zone of discharge (i.e., property boundary) and one well shall be installed hydraulically upgradient to monitor background water quality.
- 3) All wells shall be constructed in accordance to monitor well specifications as outlined in Chapter 17-525, Florida Administrative Code (F.A.C.)
- 4) Sampling analyses shall be performed according to procedures outlined in the most current edition of "Standard Methods for Examination of Water and Wastewater", by APHA-AWWA-WPCF, or "Methods for Chemical Analyses of Water and Wastes", by the United States Environmental Protection Agency (EPA).
- 5) Water quality samples from all wells shall be collected after pumping the wells to constant temperature, pH, and conductivity.
- 6) Wells shall monitor both the Surficial and Floridian aquifers.
- 7) The plan shall include sufficient baseline data.
- 8) Procedures shall be established for immediately reporting any violations of water quality standards to the County, the Florida Department of Environmental Regulation, the Southwest Florida Water Management District, and/or other appropriate agencies.
- 9) Procedures shall be established for incorporating additional water quality treatment and/or water management methods into the project's design to correct and/or mitigate any degradation.
- 10) Monitoring shall continue until the actual buildout date of the project. Data shall be submitted quarterly to Charlotte County, the Southwest

Florida Regional Planning Council, the Southwest Florida Water Management District and the Florida Department of Environmental Regulation, and as part of the annual monitoring report.

- c) The developer shall develop an integrated fertilizer/pesticide/herbicide management plan as a component of the golf course design process, to be approved by Charlotte County with input from SWFWMD, the Southwest Florida Regional Planning Council, the Florida Department of Environmental Regulation and the Florida Game and Fresh Water Fish Commission. The management plan shall sufficiently address the following items:
 - 1) Fertilizer/pesticide/herbicide/insecticide storage and handling, application, container cleaning, rinse water, cleaning materials, wastes, unused quantities and container disposal methods and procedures.
 - 2) Golf Course Management methods and procedures.
 - 3) Quality control and assurance procedures, including twice yearly education/awareness enhancement programs for all groundkeeping and maintenance staff regarding proper management and maintenance activities.
- d) As found appropriate by SWFWMD staff, shoreline banks created along onsite stormwater wet detention lakes shall include littoral zones constructed on slopes no steeper than a 4:1 horizontal to vertical ratio and shall be planted in native emergent and submergent vegetation and shall ensure, by supplemental replanting if necessary, that at least eighty (80%) percent cover by native aquatic vegetation is established within the littoral zone (to include at minimum the area between ordinary high water and ordinary low water) for the duration of the project.
- e) Prior to any site alteration, the applicant shall develop and implement a surface water quality monitoring plan, to be approved by Charlotte County and the Southwest Florida Water Management District, which shall include the following provisions if found necessary by SWFWMD during permit review and approval:
 - 1) Pre-construction monitoring.
 - a) Sampling shall be initiated before the start of any construction.

- b) Sampling events shall be conducted monthly during the wet season and twice during the dry season, and for rainfall events of one inch or greater.
- 2) Construction monitoring.
- a) Sampling shall be conducted for every rainfall event of one inch or greater within the drainage subbasins where construction activities are occurring. The remainder of the project site shall continue to be sampled as described in pre-construction monitoring.
 - b) Any violations of water quality standards within a drainage subbasin under construction shall be reported to Charlotte County and the Southwest Florida Water Management District, and all work shall be halted until a solution to the problem is implemented.
- 3) Post-construction monitoring.
- a) Sampling events shall be conducted quarterly, twice during wet season and twice during dry season, and for rainfall events of one inch or greater, for at least two years after buildout.
 - b) Any violations of water quality standards shall be reported to Charlotte County and the Southwest Florida Water Management District.
- 4) Monitoring reports.
- a) Monitoring reports shall be submitted to Charlotte County on a quarterly basis during pre-construction and monthly during construction.
 - b) An official laboratory report shall also be submitted to Charlotte County, the Southwest Florida Water Management District and the Southwest Florida Regional Planning Council as part of the Annual Monitoring Report.
- 5) All water quality physical and chemical parameters (including golf course chemicals) to be sampled, as well as sampling sites, shall be approved before the commencement of sampling by Charlotte County and the Southwest Florida Water Management District.

- 6) Proposed monitoring and official laboratory report formats shall be approved by Charlotte County and the Southwest Florida Water Management District.
 - 7) The applicant shall incorporate additional water quality treatment and/or water management methods into the project's surface water management system to correct or mitigate any degradation if the measures implemented by the applicant are found to be ineffective or are found to adversely impact water quality downstream of the project site.
- f) The applicant shall conduct annual inspections of the environmental and spreader swale systems on the project site so as to ensure that the swales are being properly maintained in keeping with their design, and that they are capable of accomplishing the level of stormwater storage and treatment for which they were designed and intended.
 - g) Provisions for the drainage of offsite areas and out-parcels that presently drain through the project site must be provided at the time of permit application.
 - h) At the time of application for construction and operation permits for the project, plans shall be submitted to Charlotte County and the Southwest Florida Water Management District which demonstrate that the pond, or ponds, receiving the effluent for irrigation are isolated from the surface water management system under average daily conditions. Also, calculations shall be submitted demonstrating the pond, or ponds, are retaining the 10 year/3 day storm event plus a 3 day volume minimum storage capacity for the effluent, prior to discharging into the surface water management system.
 - i) At the time of permit application, the applicant shall provide Charlotte County and the Southwest Florida Water Management District with assurances which demonstrate that the effluent storage pond, or ponds, receiving the effluent for irrigation will not contaminate the shallow groundwater table via percolation.
 - j) The applicant shall confirm, to the satisfaction of Charlotte County and Southwest Florida Water Management District staffs, that the proposed project control elevations and overall design will preserve the onsite and adjacent wetlands, including the maintenance of natural hydroperiods, and that County and District preservation/mitigation criteria will be met.

- k) The applicant shall undertake a regularly scheduled vacuum sweeping of all commercial parking facilities, to be incorporated as a best management practice.
- l) In areas adjacent to retail and office uses the applicant shall provide at least one inch of dry pre-treatment (retention or detention) in order to provide reasonable assurance that hazardous materials will not enter the surface water management system.
- m) As the Caliente Springs Country Club will utilize reclaimed effluent for irrigation purposes, the applicant shall ensure that onsite lakes and wetlands, and the surface water management system, are adequately buffered from possible effluent contamination.
- n) The applicant shall participate in any on-going or future efforts by Charlotte County to establish a county-wide surface water management system.
- o) All project construction shall take place away from preserved wetland areas, proposed buffers, lakes and swale systems, so as not to affect the intended function of the surface water management system.
- p) Best management practices for monitoring and maintenance of the surface water management system shall be implemented by the applicant in accordance with Charlotte County and Southwest Florida Water Management District guidelines.
- q) All internal surface water management and wetland systems shall be set aside as private drainage easements, common areas, preserves, or identified as specific tracts on the recorded final plat.
- r) If any changes in water quality monitoring locations, parameters, and/or frequency are suggested by either Charlotte County, the Florida Department of Environmental Regulation, the Florida Department of Natural Resources, the Southwest Florida Water Management District, other agencies, or the applicant, such changes shall be coordinated with the appropriate local, regional and state agencies.
- s) The applicant shall confirm, to the satisfaction of all federal, state, and local review agencies, and the Southwest Florida Water Management District, that the proposed water management system will not adversely impact habitats of any state or federally listed plant and/or animal species potentially occurring onsite, or

that such impacts will be mitigated to the benefit of onsite populations of those species.

- t) All commitments made by the applicant within the ADA, and subsequent sufficiency round information, related to Question 15 (Water) and Question 22 (Drainage), and not in conflict with the above recommendations, are hereby incorporated into this development order.

2. ENERGY

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

- a) Provision of a bicycle/pedestrian system connecting land uses to be placed along one side of the collector roads within the project. This system is to be consistent with local government requirements.
- b) Provision of bicycle racks or storage facilities in recreational, commercial and multi-family residential areas.
- c) Cooperation in the locating of bus stops, shelters, and other passenger and system accommodations for a transit system to serve the project area.
- d) Use of energy-efficient features in window design.
- e) Use of operable windows and ceiling fans.
- f) Installation of energy-efficient appliances and equipment.
- g) Prohibition of deed restrictions or covenants that would prevent or unnecessarily hamper energy conservation efforts (e.g., building orientation and solar water heating systems).
- h) Reduce coverage by asphalt, concrete, rock, and similar substances in streets, parking lots, and other areas to reduce local air temperatures and reflected light and heat.
- i) Installation of energy-efficient lighting for parking areas, recreation areas and other interior and exterior public areas.

- j) Selection of native plants, trees, and other vegetation and landscape design features that reduce requirements for water, fertilizer, maintenance, and other needs.
- k) Planting of native shade trees to provide reasonable shade for all recreation areas, streets and parking areas.
- l) Placement of trees to provide needed shade in the warmer months while not overly reducing the benefits of sunlight in the cooler months.
- m) Orientation of structures, as possible, to reduce solar heat gain by walls and to utilize the natural cooling effects of the wind.
- n) Provision for structural shading wherever practical when natural shading cannot be used effectively.
- o) Inclusion of porch/patio areas in residential units.
- p) Consideration by the project architectural review committee(s) of energy conservation measures (both those noted here and others) to assist builders and residents in their efforts to achieve greater energy efficiency in the development.

3. HISTORICAL/ARCHAEOLOGICAL

- a. The John Quiet Lakes Shell Midden site shall be shown on all development plans and delineated in the field to avoid inadvertent damage during construction. Public access shall not be provided to this site.
- b. If any additional archaeological/historical sites are uncovered during site preparation, work in the immediate vicinity shall cease. The appropriate state and local agencies shall be contacted so they may determine the significance of the findings and recommend the mitigation actions to be taken.

4. HOUSING

- a. Either the applicant or employers of the commercial area shall undertake an affordable housing survey based on the methodology supplied by DCA and the SWFRPC. The survey shall be conducted before the commencement of Phase II of the project or before any commercial development is

initiated other than the golf course, clubhouse and related amenities.

b. Based on the findings of the affordable housing survey, the applicant shall undertake one or more of the following provisions:

1. The applicant shall incorporate housing units into the development site. These can be distributed throughout the site in an agreed upon manner or as additional stories over the proposed commercial structures. The rents or sale price of these units shall be in accordance with the needs identified for the households of the employees who have an affordable housing need.

2. A mortgage funding pool shall be established to provide low interest second mortgages to be used for down payments to those individuals in the low income range who qualify for a mortgage but lack the necessary down payment amount. The value of these second mortgages shall be up to \$5,000.00 per household unit's value to allow for a down payment. The initial funding amount of the mortgage pool shall be based on information derived from the affordable housing survey conducted by the applicant. Also, the housing survey will be used to determine the number of housing units that shall be identified as being affordable to low income individuals at the start up of the overall commercial aspects of the project. It shall be the responsibility of the applicant, under supervision of the County Administrator or his designee to make the necessary and proper arrangements with local lending institutions which would allow employees from the development's commercial leasers to participate in such a program. These responsibilities would include but not be limited to:

a. Establish a program in conjunction with lending institutions which would enable an employee who qualifies to obtain a mortgage for a total cost of 10% of the value of the housing unit up to \$5,000.00.

b. Establish a credit line, deposit, deposit guarantee or some such device with a lending institution to fund the individual down payment of qualifying individuals.

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- c. Allow individuals to draw the down payments, based on recommendations of the lending institution, which will be accepting the overall mortgage.
 - d. The down payment will be held as a second mortgage on the real estate.
 - e. A formula will be devised between the developer and the lending institution to insure repayment of the second position mortgage.
 - f. That the lending institution working out the agreement will be guaranteed the first mortgage loan;
3. The applicant shall construct affordable housing units off-site within a 20 minute or ten mile commute time from the project.
- c. And the applicant shall undertake the following:
1. Designate a housing officer responsible for administration of a required housing assistance program on site.
 2. Provide contributions to day care to supplement child care cost, through the provision of on-site space for a care center, the need for which will be determined by the amount of commercial development taking place on site.
 3. Participate in Charlotte County Transportation Disadvantaged Programs through the provisions of the necessary service unloading sites, providing the necessary amenities to accommodate such services, and through participation in job programs involving the handicapped.

5. HURRICANE EVACUATION

- a. Prior to 1996 or when Phase II construction plan approval is granted by Charlotte County, a hurricane shelter mitigation plan, consistent with the provisions of 9J-2.0256(5)(a)1-5, shall be required. The proposed mitigation plan shall be reviewed and approved by the Charlotte County Office of Emergency Management, the SWFRPC and the State Division of Emergency Management.

- b. All structures located within the 100-year floodplain shall be constructed above the 100-year FEMA flood elevation.
- c. Midrise condominiums within the 100-year floodplain shall be constructed on pilings and with parking beneath.
- d. Garden condominium and single family residences shall be constructed with reinforced stem-wall foundations which shall be resistant to flood erosion.
- e. Fill requirements shall be minimized within the 100-year floodplain.
- f. The Golf Clubhouse shall be elevated to above 14 feet MSL.
- g. Prior to construction of the Fire Station facility within the commercial pod on-site, two way radio communication equipment shall be provided to the golf course maintenance building with an integrated evacuation siren warning system.
- h. As mitigation for Phase I hurricane shelter impacts, a generator shall be acquired to provide an alternate source of power at one of the Punta Gorda hurricane shelters. This generator shall be acquired prior to issuance of Phase I residential construction permits.
- i. A disclosure statement in the form of a covenant shall be attached to all residential deeds stating that the property is located in a hurricane vulnerability zone and that the hurricane evacuation clearance time for the county is high and/or hurricane shelter spaces are limited.

6. TRANSPORTATION

- a. The applicant or his successor shall be fully responsible for site-related roadway and intersection improvements required within the Caliente Springs DRI. The applicant shall be required to pay the full cost for any site-related intersection improvements (including but not limited to signalization, turn lanes and additional through lanes) found to be necessary by Charlotte County for the project's access intersections onto Burnt Store Road.
- b. The applicant shall pay to Charlotte County the impact fees that are in effect at the time building permits are

issued for the development. These impact fee payments shall represent proportionate share payments for necessary transportation improvements, including design and engineering, utility relocation, right-of-way acquisition, construction, construction contract administration and construction inspection necessary to maintain peak hour level of service "C" for the following significantly impacted regional roadways through project buildout in 2002:

Burnt Store Road

- Notre Dame Boulevard to project entrance
- Project entrance to Zemel Road
- Zemel Road to Burnt Store Marina entrance
- Burnt Store Marina entrance to SR 78*
- Notre Dame Boulevard to US 41

*Included for monitoring purposes

- c. Impact fee payments shall also represent proportionate share payments for the necessary improvements, including but not limited to, right-of-way, costs of signalization, turn lanes and other improvements deemed necessary by FDOT or Charlotte County, or other appropriate jurisdiction, to maintain level of service "D" on a peak hour basis for the following significantly impacted off-site regional intersections through project buildout:

- Burnt Store Road/Notre Dame Boulevard
- Burnt Store Road/Zemel Road

- d. The timing for the initiation of the improvements outlined in "b" and "c" above shall be made at the time that a rural road segment or intersection is projected to exceed peak hour level of service "C", or an urban segment is expected to exceed level of service "D". To determine the existing levels of service on regional facilities and the need for improvements in a timely manner, the applicant shall submit an annual monitoring report to Charlotte County, FDOT, the Florida Department of Community Affairs and the Southwest Florida Regional Planning Council for review. The first monitoring report shall be submitted one year after the issuance of the first construction permits for the Caliente Springs DRI. Reports shall be submitted annually thereafter until buildout of the project, and at a minimum, shall contain p.m. peak hour trip generation estimates and turning movements at each of the access intersections and the regional intersections listed above in recommendation "c", and a calculation of the existing level of service

at these intersections and on the road segments indicated above in recommendation "b".

The levels of service shall be calculated according to current professional standards and should provide an indication of when peak hour level service "C" or "D" is expected on impacted roadways and intersections, and an estimate of project impact on those facilities. It will provide updated information to more accurately forecast project buildout traffic and total traffic for determination of proportional share.

- e. Should the eventual development mix of the Caliente Springs be such that the trip generation and external traffic of the project exceed the levels identified in the ADA by more than 15%, on a daily or p.m. peak hour basis, then the project shall go through a substantial deviation determination as outlined in Chapter 380.
- f. Based on the staff transportation assessment of significant project impacts, construction of the following transportation improvements shall be needed prior to, or coincident with, development of the Caliente Springs DRI, if peak hour level of service "C" and "D"

conditions are to be maintained through buildout (2001) on regional road segments and intersections.

Phase I (1992-1997)

Burnt Store Road

- Notre Dame Boulevard to the project entrance Widen to 4 lanes

Buildout (1998-2002)

Burnt Store Road

- Notre Dame Boulevard to the project entrance Widen to 4 lanes
- Project entrance to Zemel Rd. Widen to 4 lanes
- Zemel Road to the Burnt Store Marina entrance Widen to 4 lanes
- Burnt Store Marina entrance to SR 78*

*Included for monitoring purposes

- g. If Zemel Road is scheduled for paving and/or widening prior to the start of the second phase of Caliente Springs the traffic analysis shall be updated and the project impacts reassessed and the results incorporated into the development order before Phase II begins. Any

reanalysis should include an assessment of impacts across the County line and should utilize the most recently available models or techniques.

- h. If annual monitoring reports confirm that peak hour traffic on the regional segments and intersections above exceed the level of service standards adopted by the County and the project is utilizing more than 5% of the level of service "D" capacity for urban areas or "C" for rural areas, then further building permits and certificates of occupancy shall not be granted until the standards of the County's concurrency management system have been met. In addition, if any road within a three (3) mile radius of the entrances to Caliente Springs becomes subject to a moratorium pursuant to Ordinance 89-43, then Caliente Springs will be subject to that moratorium and ordinance regardless of the percentage of capacity being utilized by Caliente Springs traffic.
- i. The transportation impacts to the roads and intersections above shall be appropriately addressed consistent with Southwest Florida Regional Planning Council policies, and the determination of proportional share and/or pipelining of the regional road improvements shall be in accordance with Section 163.3220 F.S which requires a Local Government Development Agreement and a commitment by the applicant and/or the local government to insure concurrency on all significantly impacted regional roads.
- j. Should the road impact fees be repealed, or made unenforceable by Court action, the traffic impacts of Caliente Springs shall be immediately reanalyzed to determine appropriate alternative mitigation and the development order amended as appropriate to include such mitigation prior to the issuance of the subsequent building permits.

7. WASTEWATER MANAGEMENT

- a) Prior to construction, the applicant shall make a determination as to whether the project is to connect to an offsite treatment system, or whether an internal system will be constructed. Any internal treatment facility shall be centrally located, at least 200 feet from the nearest wetland or stormwater management lake, and shall be capable of serving the entire development. Furthermore, any internal facility shall be capable of supplying reclaimed water for irrigation and other non-potable water uses.

- b) At the time of application for construction and operation permits for the Caliente Springs Country Club, plans must be submitted to Southwest Florida Water Management District which demonstrate that the pond, or ponds, receiving the effluent for irrigation are isolated from the surface water management system under average daily conditions and will not contaminate the shallow ground water via percolation. Also, calculations must be submitted demonstrating that the pond, or ponds, is retaining the 10 year/3 day volume minimum storage capacity for the effluent, prior to discharging into the surface water management system. The applicant shall ensure that onsite lakes, flowways, wetlands, and the surface water management system are adequately buffered from potential effluent contamination.
- c) The applicant shall provide assurance, for commercial and non-residential portions of the development, that non-domestic wastewater will be treated separately from domestic wastewater and handled in accordance with FDER criteria.
- d) The applicant shall demonstrate to Charlotte County that adequate wastewater treatment capacity is available at the time of preliminary plat approval for Phase I.
- e) Temporary septic tanks may be used for residential models, construction and sales offices. In commercial portions of the project, septic tanks shall not be allowed, except for construction of sales offices and model home centers, due to the possibility of hazardous waste generation. Septic tanks shall not be allowed in any residential portion of the project, except for construction or sales offices which shall be connected to central treatment facilities prior to residential use. Septic tank systems for incidental buildings, such as on the proposed golf course, shall be subject to review by the appropriate agencies. All septic tank systems must comply with all State and County legislation.
- f) All commitments made by the applicant, within the ADA and subsequent sufficiency round information, related to Question 21 (Wastewater Management), and not in conflict with the above recommendations shall be incorporated as conditions for approval.

8. WATER SUPPLY

- a) Consideration shall be given to meeting the irrigation needs of the project through the following hierarchy of

- sources; (1) treated wastewater, (2) treated stormwater, (3) non-potable quality groundwater.
- b) The development shall require a Southwest Florida Water Management District Water Use Permit for any withdrawals from groundwater, project lakes, and/or other surface water bodies for irrigation or potable uses and for any dewatering associated with the construction of project lakes, and/or road or building foundations.
 - c) For the purpose of potable water conservation, installation of high-efficiency (low volume) plumbing fixtures, appliances, and other water conserving devices shall be required. This shall include the use of toilets requiring no more than 1.6 gallons per flush.
 - d) For the purpose of potable water conservation, installation of self-closing and/or metered water faucets in all public and commercial restroom facilities shall be required.
 - e) For the purpose of potable and/or reclaimed water conservation, utilization of Xeriscape principles shall be incorporated in all landscaped areas. Ecologically viable portions of existing native vegetation shall be incorporated into the landscape design to the greatest extent practicable and shall not be irrigated.
 - f) The Caliente Springs Country Club shall utilize the following additional water conservation measures, as appropriate:
 - 1) The project shall use an on-site rain gauge in order to better determine supplemental irrigation requirements;
 - 2) When possible, the applicant shall undertake the use of low volume irrigation methods which deliver small quantities of water in a highly efficient manner directly to the base of the plant. This is defined as a system delivering less than 3 gallons per hour and/or less than 35 psi pressure. Such a system could be utilized for irrigation of ornamental plantings around the clubhouse, maintenance facility, and multi-family units.
 - 3) The applicant shall participate in the development of a public awareness campaign, for project residents, to increase knowledge of water conservation.

- g) The applicant has proposed supplemental use of groundwater from the intermediate aquifer for meeting irrigation requirements. The applicant has also proposed restoration of the old "mineral bath" facility as a reflecting pool and fountain. In order to utilize these water sources, the applicant must prove, at the time of permit application, that surface and surficial aquifer waters will not be contaminated by these uses.
- h) The lake system is adjacent to wetland preserve areas. At the time of permit application, the applicant must show that the wetland hydroperiod will not be adversely affected by proposed supplemental irrigation withdrawals from project lakes.
- i) As the applicant has indicated that the project will use reclaimed wastewater for irrigation purposes, the applicant shall ensure that onsite lakes, wetlands, flowways, and the surface water management system are adequately buffered from potential effluent contamination.
- j) All construction plans, technical specifications, and proposed plats, if applicable, for the proposed water distribution system shall be reviewed by Southern States Utility Services, Inc., or other utility provider, and Charlotte County prior to commencement of construction.
- k) All commitments made by the applicant within the ADA and subsequent sufficiency round information, related to Question 15 (Water) and Question 23 (Water Supply) shall be incorporated as conditions for approval.

9. WETLANDS/VEGETATION AND WILDLIFE

- a) Prior to issuance of any construction permits or platting, the following three requirements shall be submitted by the developer and approved by the Florida Game and Fresh Water Fish Commission.
 - 1. At least one consolidated area of gopher tortoise preserve of at least 20 acres shall be designated by the applicant, to provide a core area for the linear upland preserve segment.
 - 2. A set of tables be prepared, giving the total area of gopher tortoise occupation by FLUCCS code upon completion of the proposed site plan, the acreage by FLUCCS code of the proposed preservation areas, and

the percentage of the total onsite range of each listed upland plant species that will be preserved.

3. A wildlife management plan for the proposed wildlife preserves.
 - b) All on-site wetland systems, other conservation tracts, and mitigation areas shall be considered as preservation areas and their developmental uses shall be restricted by easement to be conveyed to Charlotte County, the State of Florida or any organization dedicated to conservation.
 - c) Wetland partially included in or adjacent to the corridor shall be incorporated into the corridor area.
 - d) All drainage ditches within and along the wildlife corridors shall be filled to reestablish historical drainage patterns.
 - e) All road crossings of the corridor shall be bridged along the entire corridor to maximize the opportunity for wildlife movement.
 - f) Activities within buffer areas shall be restricted to hand-cleared nature trails with a maximum width of three feet and other passive recreation uses requiring minimal removal of natural vegetation or ground surface disturbances. Impervious surfaces and the use of herbicides or fertilizers shall be prohibited. The use of pesticides will be restrictive except for protection from and control of disease threatening mosquitos by the Charlotte County Mosquito Control.
 - g) Prior to construction of the fishing pier (s) and canoe launch a permit from the Board of Trustees of Internal Trust Fund shall be necessary.
 - h) Conveyance of over 865± acres of estuarine wetland, hydric pine flatwoods and cabbage palm hammocks shall be made to the State of Florida or other appropriate entity.
 - i) Restoration of impacted isolated wetlands by incorporating them into the water management system.
 - j) Creation of new wetland areas within the stormwater management system.
 - k) Preservation of upland buffers adjacent to preserved isolated and contiguous wetlands.

- l) Restoration of areas within the jurisdictional line by removal of spoil areas and eradication of noxious exotic plants.
- m) The on-site wetlands shall be preserved in their natural or existing state. Assurances that the wetlands shall be preserved shall be provided by: 1) maintaining water levels in artificial waterbodies at elevation compatible with adjacent wetlands or where this is not practical; 2) allow for adequate setbacks to prevent the drawdown of wetlands; 3) allowing only treated stormwater runoff of discharge into waters of the state; 4) pre-treating stormwater runoff proposed to be discharged into isolated wetlands in accordance with SWFWMD rules; 5) implementing strict supervision of construction activities in the vicinity of wetlands.
- n) Less than five (5) acres of wetland shall be impacted.
- o) All Brazilian pepper monocultures shall be eradicated.
- p) Only approximately 1.7 acres of the cabbage palm hammock shall be impacted and any cabbage palm trees with epiphyses shall be relocated within or immediately adjacent to the hammock prior to the impacts being incurred.

10. FIRE PROTECTION

- a) The applicant will make available a one-acre site within the commercial area for a fire station.
- b) Sprinklers should be included in common areas of the project and multi-story residential buildings.
- c) The applicant shall meet with the Fire District during detailed site plan review in order to incorporate any required safety and access features into the project design.

11. SOLID WASTE

- a) The applicant should develop (and be prepared to implement) procedures for storing and disposing of hazardous waste, including hazardous wastewater, in accordance with local, regional, state and federal hazardous waste programs.

- b) Any business located within the Caliente Springs Country Club DRI, which might generate special or hazardous wastes, should be responsible for the temporary storage and proper disposal of special hazardous wastes generated by such business. These types of wastes should include any of those listed in the Charlotte County Hazardous Waste Assessment, as well as any hazardous chemicals listed within the Federal Superfund Amendments and Reauthorization Act (SARA), Title III. However, there should be no siting of special or hazardous waste storage facilities contrary to Charlotte County Zoning Regulations.
- c) As the day-to-day operation and maintenance of the Caliente Springs Golf Course may generate hazardous wastes, the golf course should be subject to condition b, above.

12. GENERAL CONSIDERATIONS

- a) All commitments and impact mitigating actions provided by the applicant within the Application for Development Approval (and supplementary documents) that are not in conflict with specific conditions for project approval outlined above are officially adopted as conditions for approval.
- b) The developer shall submit an annual report on the development of regional impact to Charlotte County, the Southwest Florida Regional Planning Council, the Department of Community Affairs and all affected permit agencies as required in Subsection 380.06 (18), Florida Statutes and Section 9B - 16.25, Florida Administrative Code.
- c) The development phasing schedule presented within the ADA and as adjusted to date of development order approval shall be incorporated as a condition of approval. If development order conditions and applicant commitments incorporated within the development order, ADA or sufficiency round responses to mitigate regional impacts are not carried out as indicated to the extent or in accord with the timing schedules specified within the development order and this phasing schedule, then this shall be presumed to be a substantial deviation for the affected regional issue.
- d) If it is demonstrated during the course of monitoring the development, that substantial changes in the conditions underlying the approval of the development

order have occurred or that the development order was based on substantially inaccurate information provided by the developer, resulting in additional substantial regional impacts, then a substantial deviation shall be deemed to have occurred.

- e) Pursuant to Chapter 380.06 (16), the applicant may be subject to credit for contributions, construction, expansion, or acquisition of public facilities, if the developer is also subject by local ordinances to impact fees or exactions to meet the same needs. The local government and the developer may enter into a capital contribution front-ending agreement to reimburse the developer for voluntary contributions in excess of the fair share.
- f) No site clearing shall occur until site plan review has been completed.
- g) The applicant will comply with all applicable local codes, ordinances and regulations of Charlotte County to the extent not inconsistent with this development order.
- h) Nothing in this development order shall preclude or exempt the development from participating in any duly established MSTU, MSBU or Community Development District for the purpose of providing infrastructure and services.

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

1. The County Administrator or his designee shall be the local official responsible for assuring compliance with this Development Order.

2. Wherever the term "applicant" or "Applicant" is used herein to refer to a condition or requirement which must be completed, the term shall include any successors or assigns or management entity hereinafter succeeding to the rights or obligations under this Development Order.

3. This development order shall remain in effect for a period of ten (10) years from the date of its rendition. In the event that significant physical development has not commenced within eight years from the approval of this development order, development approval will terminate and this development order shall no longer be effective. For purposes of this requirement, "significant physical development" does not include roads, drainage or landscaping but does include Certificate of Occupancy of buildings or installation of utilities and facilities such as sewer and water lines to the project and within Phase I.

4. Pursuant to Section 380.06 (15) (c) 3, Charlotte County agrees that the Caliente Springs County Club Development Order shall not be subject to down zoning, unit density reduction or intensity reduction for a period of ten (10) years unless it can demonstrate that substantial changes have occurred in the conditions underlying the approval of this development order or that the development was based on substantially inaccurate information provided by the developer of that the change is clearly established by Charlotte County to be essential to the public health, safety or welfare.

5. Certain outparcels contained within the outside perimeter of Caliente are not owned by the applicant. Therefore, prior to the issuance of the Development Order, the applicant shall either own the development rights to the parcels or continue to indicate them as "outparcels" to the project. Because the entire area within the perimeter of the Caliente boundary has already been extensively reviewed and inspected, subsequent acquisition of the "outparcel" shall not create a substantial deviation pursuant to Chapter 380, Florida Statutes.

6. Subsequent requests for development permits shall not require further review pursuant to Section 380.06, Florida Statutes, unless it is found by Charlotte County, after due notice and hearing, that one or more of the following is present:

- a. A substantial deviation from the terms or conditions of this development order, or other changes to the approved development plans which create a reasonable likelihood of adverse regional impacts or other regional impacts which were not evaluated in the review by the Southwest Florida Regional Planning Council in which case Charlotte County shall take the appropriate action which may include ordering that an amendment to the DRI be filed before any further development may continue; or
- b. An expiration of the period of effectiveness of this development order as provided herein, in which case Charlotte County shall order a termination of all development activity until such time as a new DRI Application for Development Approval has been submitted, reviewed and approved in accordance with Section 380.06, Florida Statutes.

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

8. A certified copy of this resolution shall be forwarded by the Clerk's office to the Southwest Florida Regional Planning Council, 4980 Bayline Drive, North Fort Myers, Florida 33918-3455 and to the Department of Community Affairs, Division of Resource Planning, 2740 Centerview Drive, Tallahassee, Florida 32399-2100.

PASSED AND DULY ADOPTED this 18th day of February 11, 1992.

BOARD OF COUNTY COMMISSIONERS
OF CHARLOTTE COUNTY, FLORIDA

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

ATTEST:

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

By: Caroline W. Houshery
Deputy Clerk

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY: .

Beth C. Sullivan

CERTIFIED, A TRUE COPY OF THE ORIGINAL
BARBARA T. SCOTT, CLERK OF THE CIRCUIT
COURT, CHARLOTTE COUNTY, FLORIDA

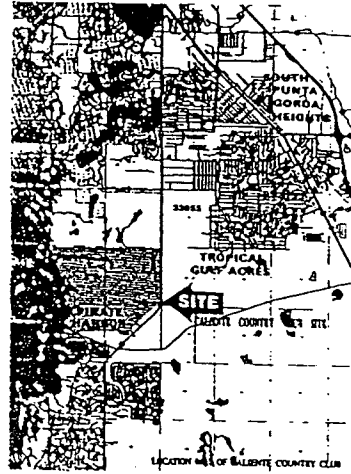
By Caroline W. Houshery
DEPUTY CLERK

TABULAR DATA

20.7 AC +/-	COMMERCIAL SITE
4.5 AC +/-	HOTEL SITE
273.9 AC +/-	RESIDENTIAL PAR
8.0 AC +/-	GOLF & TENNIS CL
1.7 AC +/-	GOLF MAINTENAN
38.6 AC +/-	BOULEVARD (3.0 M
446.7 AC +/-	GOLF/OPEN SPACE
105.0 AC +/-	LAKES
12.9 AC +/-	ADDITION R.O.W. I
913.0 AC +/-	TOTAL DEVELOPA
865.0 AC +/-	CONSERVATION AR
1778.0 AC +/-	TOTAL ACRES

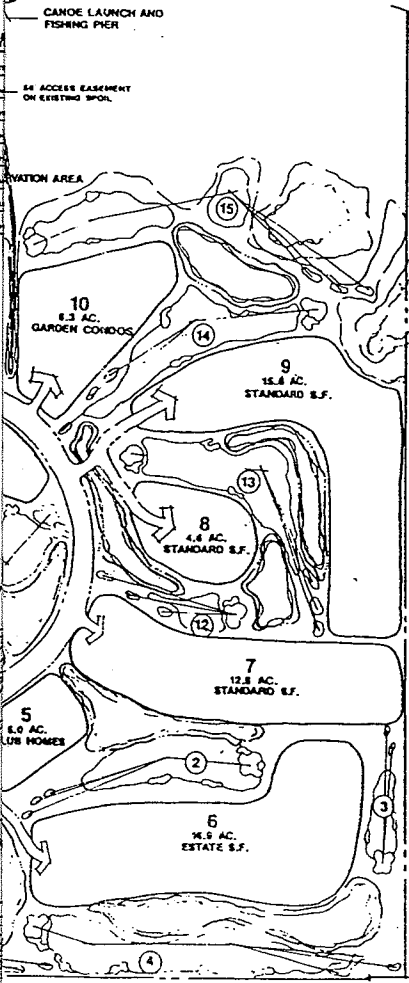
1810.0 UNITS TOTAL

1.02 UNITS/AC	GROSS DENSITY
6.64 UNITS/AC	AVERAGE DENSIT
	RESIDENTIAL PAR



PRELIMINARY PRODUCT RECOM

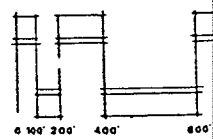
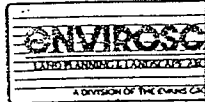
PRODUCT TYPE	MIN. SPACING	LOT SIZE	UNITS
Standard Single Family	30' x 50'	524' x 524'	2500
Standard Single Family	30' x 50'	60' x 524'	3000
Club House	60' x 70'	70' x 524'	1000
Club House	60' x 70'	60' x 524'	1000
Pool Villas	30' x 70'	A/R	1000
Resort Homes	30' x 70'	A/R	1000
Resort Homes	30' x 70'	A/R	1000



Caliente



MASTER CON



MAP H

EXHIBIT A

EXHIBIT B - LEGAL DESCRIPTION

TRACT 1: Northwest 1/4 of Section 20, Township 42 South, Range 23 East, less State Road right-of-way.

TRACT 2: South 1/2 of North 1/2 of Southwest 1/4 of Northeast 1/4 of Section 20, Township 42 South, Range 23 East, lying West of State Road right-of-way.

TRACT 3: A triangular tract of land containing three acres more or less, situated in the Southwest 1/4 of Section 20, Township 42 South, Range 23 East, described as:

Beginning at a point where the East-West centerline of said Section 20 intersects the Northwesterly right-of-way line of Burnt Store Road as the same was located prior to entry of order of tacking in condemnation suit No. 68-34 heretofore pending in the Circuit Court of Charlotte County, Florida; thence Southwesterly along said Northwesterly right-of-way line a distance of 500 feet; thence to the right at an angle of 90 degrees, going Northwesterly 473 feet, more or less, to the East-West centerline of said Section 20; thence Easterly along said East-West centerline 689 feet, more or less to the point of beginning less State Road right-of-way.

TRACT 4: North 1/2 of North 1/2 of South 1/4 of Northeast 1/4 of Section 20, Township 42 South, Range 23 East, lying West of State Road right-of-way.

TRACT 6: Section 17 less the North 100 feet thereof and less State Road right-of-way in Township 42 South, Range 23 East.

TRACT 7: Fractional Section 18, Township 42 South, Range 23 East.

Surveyor's description (P/O Tract 8)

The East 950 feet of the Northeast 1/4 of fractional Section 19, Township 42 South, Range 23 East.

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

TRACT 5: Fractional Section 13, Township 42 South, Range 22 East.

TRACT 9: Description by client:

Exhibit B

Northwest 1/4 of the Northeast 1/4 of Section 20, Township 42 South, Range 23 East, containing 40 acres more or less.

Surveyor's description (remainder of Tract 8) the Northeast 1/4 of fractional Section 19, Township 42 South, Range 22 East, less the East 950 feet thereof.

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

SURVEYOR'S NOTATIONS:

1) Bearings shown hereon are based on the East line of Section 17 as being S.00 18' 43"W according to Florida DOT right-of-way map of State Road No. S-765 (Burnt Store Road) Section 01540-2601.

2) Sections 13, 18 & the remainder of 19, shown hereon based on the survey prepared by Cadastral Engineering & Surveying, Inc., dated 6/8/81, drawing #81-268 and are only approximate.

TRACT ACREAGE

<u>TRACT</u>	<u>ACRES</u>
1	161.50±
2	6.50±
3	2.80±
4	8.88±
6	635.96±
7	628.21±
Portion of 8	58.24±
Remainder of 8	237.21±
9	39.67±
<hr/> Total:	<hr/> 1,778.97±

Note: Tract 5 (fractional Section 13) has not been surveyed, the are of Tract 5 is undeterminable from the written description.

**ESTIMATED LAND USE DISTRIBUTION AT BUILDOUT
PHASE I
EXHIBIT "C"**

LAND USE	LEVEL I-IV LAND USE AND COVER CLASS	ACRES +/-	% OF TOTAL SITE
RESIDENTIAL LOW DENSITY (LESS THAN 2 DWELLING UNITS PER ACRE)	110	16.9	0.95
RESIDENTIAL MEDIUM DENSITY (2-5 DWELLING UNITS PER ACRE)	120	96.8	5.44
RESIDENTIAL HIGH DENSITY (6 OR MORE DWELLING UNITS PER ACRE)	130	8.1	0.46
MULTIPLE DWELLING UNITS (2 STORIES OR LESS. DUPLEX, TRIPLEX, PATIO HOMES.)	133	24.20	1.36
MULTIPLE DWELLING UNITS HIGH RISE (THREE STORIES OR MORE CONDOMINIUM UNITS.)	134	10.5	0.59
TOURIST SERVICES	145	0	0
GOLF COURSE	182	182.25	10.25
OTHER RECREATIONAL	189	56.45	3.18
COLLECTOR ROAD ROW	814	20.3	1.14
UTILITY SITE	830	0	0
RETAIL SALES AND SERVICES	141	0	0
WETLAND RESERVES	321	937.62	52.73
TOTAL SITE PHASE I		1353.12	76.1

110	SINGLE FAMILY ESTATE LOTS	1.8 U/A
120	SINGLE FAMILY STANDARD LOTS	3 U/A
	SINGLE FAMILY PATIO HOMESITES	5 U/A
	SINGLE FAMILY CLUB HOMESITES	4 U/A
130	GOLF VILLAS	9 U/A
133	GARDEN CONDOMINIUM	18 U/A
134	MIDRISE CONDOMINIUM	24 U/A
182	GOLF COURSE OPEN AREA & LAKES	
189	CLUBHOUSE AREA & TENNIS CLUB, DRIVING RANGE	
814	BOULEVARD ROW	
830	LOW PROFILE WATER STORAGE FACILITY	
141	COMMERCIAL SITE	
321	PROTECTED WETLANDS AND CONSERVATION AREAS	

**ESTIMATED LAND USE DISTRIBUTION AT BUILDOUT
PHASE II
EXHIBIT "C"**

LAND USE	LEVEL I-IV LAND USE AND COVER CLASS	ACRES +/-	% OF TOTAL SITE
RESIDENTIAL LOW DENSITY (LESS THAN 2 DWELLING UNITS PER ACRE)	110	15.8	0.89
RESIDENTIAL MEDIUM DENSITY (2-5 DWELLING UNITS PER ACRE)	120	80.5	4.53
FIXED SINGLE FAMILY UNITS (5 OR MORE DWELLING UNITS PER ACRE)	130	9.0	0.51
MULTIPLE DWELLING UNITS (2 STORIES OR LESS. DUPLEX, TRIPLEX, PATIO HOMES.)	133	0	0
MULTIPLE DWELLING UNITS HIGH RISE (THREE STORIES OR MORE CONDOMINIUM UNITS.)	134	10.7	0.60
TOURIST SERVICES	145	4.1	0.23
GOLF COURSE & LAKES	182	182.25	10.25
OTHER RECREATIONAL	189	11.0	.62
COLLECTOR ROAD ROW	814	18.3	1.03
UTILITY SITE	830	4.0	0.22
RETAIL SALES AND SERVICES	141	16.6	0.93
WETLAND RESERVES/UPLAND RESERVES	321	72.63	4.09
TOTAL SITE PHASE II	-	424.88	23.90
TOTAL SITE	-	1778.0	100.00