

PLANTATION BAY UTILITY

RESOLUTION 2004-125
AMENDED DEVELOPMENT ORDER

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RESOLUTION NO. 2004 -125

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF FLAGLER COUNTY, FLORIDA, CONSTITUTING THE SECOND AMENDMENT TO THE PLANTATION BAY DEVELOPMENT OF REGIONAL IMPACT; AMENDING AND RESTATING FLAGLER COUNTY RESOLUTION NOS. 85-14 AND 98-31; APPROVING A NOTICE OF PROPOSED CHANGE FOR PLANTATION BAY AND FINDING THAT SUCH CHANGE DOES NOT CONSTITUTE A SUBSTANTIAL DEVIATION UNDER SECTION 380.06(19), F.S.; PROVIDING FOR FINDINGS OF FACT AND CONCLUSIONS OF LAW; AMENDING THE PLANTATION BAY PLANNED UNIT DEVELOPMENT; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on September 3, 1985, the Board of County Commissioners of Flagler County (the "Board") passed and adopted the Plantation Bay Development of Regional Impact ("DRI") Development Order and Planned Unit Development zoning pursuant to Resolution No. 85-14; and

WHEREAS, on April 6, 1998, the Board passed and adopted Resolution No. 98-31 constituting the first amendment to the Development Order; and

WHEREAS, the Plantation Bay DRI, as amended, is a planned community located on approximately 2,574 acres in the unincorporated area of Flagler County and 1,099 acres in unincorporated Volusia County, providing for a maximum of 5,391 residential units and related commercial, institutional, recreational and other uses; and

WHEREAS, the owners of the undeveloped land within the Plantation Bay DRI have submitted a Notice of Proposed Change ("NOPC"), requesting certain amendments to the DRI Development Order; and

WHEREAS, on June 17, 2004 the Volusia County Council adopted Resolution 2004-123 amending the Development Order for the Plantation Bay DRI; and

WHEREAS, the on March 29, 2004 the Northeast Florida Regional Council issued a report and recommendation which found that approval of the NOPC would not result in additional regional impacts if it were made subject to certain conditions that are incorporated into this Resolution; and

WHEREAS, on July 13, 2004 the Planning Board conducted a public hearing on the NOPC and voted to recommend approval subject to conditions; and

WHEREAS, the Board on August 16, 2004 and September 20, 2004 held a public hearing at which all parties were afforded the opportunity to present evidence and testimony on all issues, submit rebuttal evidence, and any member of the general public

requesting to do so was given an opportunity to present written or oral communication consistent with adopted rules of procedure; and

WHEREAS, written and published legal notice of said hearing was provided in accordance with Chap. 380.06, F.S., Chap. 125, F.S. and the Flagler County Land Development Code.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF FLAGLER COUNTY, FLORIDA, THAT:

1. The Plantation Bay Development of Regional Impact Development Order is hereby amended and restated in its entirety in this Resolution and attachments thereto.
2. Conclusions of Law sections 1-17 of Resolution 85-14, are amended and restated as follows below. Changes approved by this Resolution are shown in underline and strikeout form:
 1. The proceeding herein have been conducted in compliance with the provisions of Chapter 380, Florida Statutes; and all conditions precedent to the granting of development approval required by Chapter 380, Florida Statutes, have occurred.
 2. The proposed Plantation Bay DRI is not located in an area of critical state concern designated pursuant to the provisions of Section 380.05, Florida Statutes.
 3. The proposed development does not unreasonably interfere with the achievement of the objectives of any adopted state land development plan applicable to the area.
 4. The proposed Plantation Bay DRI, subject to the conditions imposed by this development order, is consistent with the Flagler County Comprehensive Plan, subdivision regulations, and other local land development regulations.
 5. The proposed development is in all material aspects consistent with the report and recommendations of the RPC submitted pursuant to Section 380.06(11), Florida Statutes, except as subsequently modified and reviewed by the regional planning councils.
 6. The ADA and the NOPC for the Plantation Bay DRI is hereby approved, subject to the general and special conditions of development contained in Attachment A which is made a part hereof by reference. It shall be generally constructed in accordance with the Conceptual Master Plan (Map H-1) which is

Attachment B which is made a part hereof by reference. The proposed development is specifically subject to the conditions imposed ~~in based on the~~ Recommendations of the Regional Planning Councils, ~~said recommendations being~~ set forth in Attachment C which is made a part hereof by reference.

7. This Resolution constitutes the development order pursuant to Section 380.06, Florida Statutes, for the Plantation Bay DRI. The ADA and supplemental information filed by the Applicant are incorporated herein by reference and the proposed development shall be carried out substantially in conformance with the ADA, except to the extent that the ADA as revised is inconsistent with the other terms and conditions of this development order. The ADA is amended by any inconsistent terms of this Resolution and the attachments incorporated by reference.
8. The County Engineer Director of Planning and Zoning is designated as the local official responsible for receiving and monitoring the annual reports and for assuring compliance by the Developer with this Development Order. The procedures for review of Planned Unit Developments under Article X of ~~the~~ Flagler County Development and Subdivision Regulations incorporated by reference in Section 13 of Attachment A to this development order shall be followed to facilitate such compliance monitoring by the County Engineer. The provisions of Section 380.06(45~~17~~), Florida Statutes as amended, shall apply to this development order. Section 380.06(45), ~~Florida Statutes~~ 17) currently provides:
 - (17) LOCAL MONITORING.—The local government issuing the development order is primarily responsible for monitoring the development and enforcing the provisions of the development order. Local governments shall not issue any permits or approvals or provide any extensions of services if the developer fails to act in substantial compliance with the development order.
9. This development order shall take effect upon adoption and shall remain in effect ~~for the duration of the development as described in the ADA until the buildout date.~~ The effectiveness of this development order may be extended by the Board upon a showing by Applicant ~~or~~ of excusable delay and a showing that the completed portions of the development substantially comply with the conditions of this development order. The period of effectiveness of this development order shall be tolled during any period of time during which there is any building permit moratorium affecting the property within the Plantation Bay DRI boundary imposed by Flagler County or other governmental agency having authority to do so.

10. Unless otherwise specifically provided in Attachment A, any changes proposed by the Applicant to the ADA, as amended herein, which exceed the limits established in Section 380.06(17)(b19), Florida Statutes, which limits are presumed not to be substantial deviations, shall be submitted to the Board for a determination if such change constitutes a substantial deviation and, therefore, requiring further review pursuant to Section 380.06, Florida Statutes.
11. Pursuant to Section 380.06(16), Florida Statutes, Applicant shall provide ~~an annual~~ a biennial report relating to its activities to the County Engineer, the ~~RPC-RPCs~~, the DCA, the Florida Department of Environmental ~~Regulation-Protection~~, and the St. Johns River Water Management District on ~~September 1~~ February 28 of ~~each~~ every other year during the remaining term of this development order, commencing on ~~September 1, 1986~~. ~~The annual February 28, 2006~~. During the years in which no biennial report is due, the Developer shall submit to the Counties a report detailing development rights allocated to grantees, development rights converted, and building permits issued in the prior year. In the event that building permits are issued for more than 500 dwelling units within a non-reporting year, a full report shall be due. The biennial report shall contain the following information:
- (a) Total amount of square footage of buildings by land use type constructed during the preceding ~~42~~ 24 months and estimated for the ensuing two 12 month periods.
 - (b) Total amount of square footage of buildings by land use type approved in construction contracts during the preceding ~~42~~ 24 months and estimated for the ensuing two 12 month periods.
 - (c) Summary of Applicant's public facility improvements completed within the project boundaries during the preceding ~~42~~ 24 months and estimated for the ensuing two 12 month periods.
 - (d) Total number of school children from Plantation Bay enrolled in Flagler County schools, by grade, based on School Board records.
 - (e) The energy conservation measures, as stated in the energy-related conditions to the development order, which have been implemented during the preceding ~~42~~ 24 months.
 - (f) Traffic reports shall be submitted to the Florida Department of Transportation (FDOT) district office in DeLand as well as to the County and the RPC. The first traffic report shall be

due two years after the commencement of the development and shall be provided annually for 20 years or until project buildout, whichever is later, unless otherwise specified by the RPC. The timing of recommended traffic improvements will be based on the information contained in the monitoring reports. The following information shall be included:

- (1) A description of current development by land use type, location, number of housing units, and commercial square footage, along with the proposed construction schedule for the ensuing ~~12~~ 24 month period and appropriate maps.
- (2) Traffic counts, turning movements and levels of service, actual for past two 12 month periods and projected for ensuing two 12 month periods, for:
 - U.S. Highway #1 between Old Dixie Highway South to I-95
 - All Plantation Bay internal road system intersections with external public roadways
 - Intersection of Old Dixie Highway with I-95

A map displaying the above information shall be provided. Actual traffic counts shall be used where possible. If actual FDOT counts are not available for a particular road segment, the Applicant shall retain, at its expense, an FDOT-approved traffic engineering firm to collect the necessary counts based on FDOT standards.

- (3) A discussion of actual and projected traffic volumes in terms of the percentage relationship of Plantation Bay traffic, non-project traffic using public roads and intersections of the internal road system with external public roads. The methodology used to project future traffic and to determine traffic percentages shall be described.
 - (4) A description of new and/or improved roadways, traffic control devices or other transportation facility improvements to be constructed or provided by the applicant or governmental entity to adequately accommodate the total existing and anticipated traffic demands.
 - (5) A schedule for implementing the traffic improvements described in (4) above.
- (g) ~~(h)~~ Measures taken to safeguard the Gopher Tortoise including relocation sites.
- (h) ~~(i)~~ A copy of any notice of the adoption of a development order or the subsequent modification of an adopted development order that was recorded by the Applicant pursuant to Section

380.06(14)(d), Florida Statutes, and Paragraph ~~45~~16 of this development order.

12. Definitions contained in Chapter 380, Florida Statutes, shall control in the construction of this development order. The developer ~~Falcon Development of Flagler County, Inc.~~ is two owners of the undeveloped land within the Plantation Bay DRI are referred to collectively as the "Applicant" throughout this development order.
13. The obligations of this development order shall run with the land. ~~Falcon Development of Flagler County, Inc., Marco Polo Associates, Inc. and Eocoen Corp.~~ Prestwick at Plantation Bay, a Florida general partnership, and Intervest at Plantation Bay Partnership, a Florida general partnership, as their interests may appear, are the present owners of the property which is the subject of this ADA Development Order. Each of these corporations/entities is bound by the terms of this development order so long as it owns such property. This development order shall be binding upon and inure to the benefit of the Applicant and its assignees or successors in interest. It is understood that any reference herein to any governmental agency shall be construed to mean any future instrumentality which may be created and designated as successor in interest to, or which otherwise possesses any of the powers and duties of any referenced governmental agency in existence on the effective date of this development order.

~~If the County is a party in any judicial or administrative proceeding to enforce this development order, the Applicant or its successors shall pay the County, if the County prevails, its reasonable attorney fees and costs of such action. Nothing contained herein shall preclude the Applicant from receiving its or the County's attorneys' fees and costs from other parties when authorized by law or contract. Dedications of public lands shall be made within 120 days from the date of approval of this development order by Flagler County as specified in this Development Order.~~

14. In the event that any portion or section of this development order is determined to be invalid by a court of competent jurisdiction, the remaining portions or sections of this development order shall remain in full force and effect.
15. Venue: Judicial proceedings regarding this development order shall be filed only in the Circuit Court of the Seventh Judicial Circuit of Florida.

- 16. Notice of the adoption of this resolution and a certified copy of this resolution shall be recorded by the Applicant in accordance with Section 380.06(415)(df), Florida Statutes.
- 17. The County Clerk shall transmit a certified copy of this development order by certified mail to the DCA, the RPC, and the Applicant.
- 3. Notwithstanding the Phasing commitments made in the original December, 1984 Application for Development Approval and its related documents, development of the following allowed development rights within the Plantation Bay Development of Regional Impact may occur at any time and in the locations shown and intensities allowed under Map H-1 within the Plantation Bay DRI:

Use	Development Rights
Residential	5,391 d.u.
Commercial	90,000 s.f.
Golf Courses (3)	54 holes

All development rights that remained unused at the termination of previous project phases shall carry forward until project buildout. All references to phasing maps H-2, H-3, and H-4 in the Application for Development Approval are hereby deleted. Buildout of the Plantation Bay DRI shall be completed on or prior to September 2, 2010.

- 4. The Developer has indicated it has formed the Tomoka Community Development District (CDD) within the Project pursuant to Chapter 190, F.S. The boundaries of the Tomoka CDD are shown on Attachment E Attached hereto and made a part hereof. The County expressly approves and consents to the construction or funding by the district of all such projects as authorized under Chap. 190, F.S. The County further approves of the District funding the realignment, reconstruction and expansion of an existing section of Bay Drive within the Development as a public project in the best interests of the residents and landowners within the Development. If the Developer is required by the Development Order as a condition of the Development Order to provide, pay for, or otherwise cause to be provided, infrastructure, projects, systems or facilities, then the CDD independently may satisfy such obligations. To the extent that any such obligation under this Development Order is met or performed by the CDD, then such condition shall be deemed satisfied and the Developer shall no longer be subject to such obligation. No property shall be assessed outside of the CDD for any project implemented pursuant to this paragraph. No revenues generated within the CDD shall be spent outside of the CDD other than for the direct benefit of the CDD.
- 5. Conditions of Flagler County Resolution 98-31, relating to construction of a spine road connecting to U.S. 1, have been satisfied.

- 6. Attachment "A" to Resolution No. 85-14 is amended and restated as Attachment A attached hereto.
- 7. Attachment "B" to Resolution No. 85-14 is amended and restated as Attachment B attached hereto.
- 8. Attachment "C" to Resolution No. 85-14 is amended as and restated as Attachment C attached hereto.
- 9. Attachment "D", a revised Table 32-F and revised Table 12B-2 setting forth allowed uses, is attached hereto and made a part hereof.
- 10. The Flagler County Board of County Commissioners has determined that the DRI is vested for purposes of Flagler County wetland protection regulations pursuant to a vesting determination approved by the Board at a public hearing on September 2, 2003.
- 11. The Board has reviewed the proposed changes to the Plantation Bay DRI Development Order and has determined that such changes do not constitute a substantial deviation as such term is defined in section 380.06(19), Florida Statutes.
- 12. This Resolution amends and restates the previously approved Plantation Bay DRI Development Order and supersedes any conflicting provisions of the application for development approval and any amendments, supplements or interpretations thereof previously issued by or on behalf of the County.

PASSED AND ADOPTED this 20th day of September, 2004.

BOARD OF COUNTY
COMMISSIONERS OF FLAGLER
COUNTY, FLORIDA

By James A. Darby
9.21.04
James A. Darby, Chairman

ATTEST:
By Gail Wadsworth
Gail Wadsworth
Clerk of Court

APPROVED AS TO FORM
By Carl E. Kern III
Carl E. Kern III, County Attorney

ATTACHMENT A

TABLE OF CONTENTS

- 1.0 GENERAL CONDITIONS
- 2.0 EDUCATION
- 3.0 ECONOMY AND INFRASTRUCTURE
- 4.0 TRANSPORTATION
- 5.0 WETLANDS
- 6.0 WATER RESOURCES (SURFACE/GROUND)
- 7.0 VEGETATION AND WILDLIFE
- 8.0 HISTORICAL AND ARCHEOLOGICAL SITES
- 9.0 WATER SUPPLY
- 10.0 PUBLIC SAFETY
- 11.0 ENERGY
- 12.0 RECREATION AND OPEN SPACE
- 13.0 DENSITY, BUILDING SPACING, LAND USE CLASSIFICATION, AND OTHER DEVELOPMENT REQUIREMENTS
- 14.0 SOLID WASTE
- 15.0 DEVELOPMENT ADJACENT TO EAGLE ROCK RANCH

GENERAL AND SPECIAL CONDITIONS OF DEVELOPMENT

The following are the General Conditions for development of the Plantation Bay Development of Regional Impact:

1.0 GENERAL CONDITIONS:

- 1.1 The Plantation Bay ADA as accepted April 16, 1985 and the commitments therein are made a part of the development order, as are the conditions relating to environmental permitting contained herein and those found within Attachment "C" based on the findings and recommendations of the Northeast Florida and East Central Florida Regional Planning Council/Councils.
- 1.2 This development shall be subject to further Chapter 380 review in the event significant physical development, as determined by the County Engineer, has not commenced within three years of when this development order becomes final; provided this time period shall be tolled during the pendency of any judicial or administrative review of this development order or permits necessary thereto.

2.0 SCHOOL COMMITMENTS

- 2.1 To mitigate capital outlay expenditures required of the Flagler County School Board and to aid in providing convenient additional facilities and unique educational opportunities for the school age residents of Flagler County, including those of Plantation Bay, the Applicant shall convey to the School Board at no charge a twenty-six acre school site to be located within the development on a loop access road intersecting with U.S. Highway Number One, the exact location of said site being shown on Attachment B (Map H-1, the Master Development Plan), which is attached hereto and incorporated herein by reference. Adjacent to the said school site is a 30 acre site to be maintained in its natural state. This said adjacent site shall also be made available for use by school children in a manner not inconsistent with maintaining the site in its natural state.
- 2.2 The Applicant shall prepare the site for construction of a school facility including appropriate clearing, filling and grading as required by the School Board of Flagler County. The Applicant shall prepare the site and extend water and sewer lines at no cost to the School Board to the property at a point designated by the School Board within six months of the date the School Board received approval of the particular school site from the Florida Department of Education. The Applicant shall, in addition, construct the entrance loop road from U.S. Highway One to the school site. This roadway shall be dedicated to the County of Flagler. The Applicant has the right to fill and otherwise prepare the site for a school facility at any time prior to when the School Board commences construction of a school facility on this site.
- 2.3 The Applicant shall convey the site described above by an unrestricted general warranty deed within sixty (60) days after the development order becomes final. The deed shall contain a covenant limiting the use of this property by the School Board for park and school purposes and other

ancillary public purposes. Appropriate agreements separate from the deed shall give the Applicant a right of first refusal in the event of the sale of any of the sites to a non-governmental person or entity. Any such sale and the right of first refusal shall be subject to and exercisable only upon compliance with the valuation and appraisal principles of Rule 6A-2.28, as amended, of the Florida Administrative Code. Notwithstanding the procedures set forth in the said Rule 6A-2.28, the Applicant shall have a right of first refusal at the appraised price, less the value added to the property attributed to Applicant's site improvement and utilities furnished to site by Applicant. Applicant shall furnish the School Board with an appropriate survey of the site prior to the delivery of the deed.

3.0 ECONOMY AND INFRASTRUCTURE

3.1 The approval by the County of this development order is based on the fact that the project will be served by certain capital facilities. These capital facilities are:

- surface water management system
- internal potable water distribution and fire hydrant system
- wastewater collection, treatment and disposal systems
- major arterial roads (main road network)
- an on-site public safety complex

3.2 In order to avoid unduly delaying the approval of this project and to assure that its approval is consistent with the Flagler County Comprehensive Plan and the Regional Planning Council's report and recommendations, the County finds that this project's capital facilities needs will be satisfied by the following:

The Applicant shall construct at its own financial responsibility the following capital facilities at no cost to the County:

- a surface water management system
- major arterial roads
- internal potable water distribution and fire hydrant system
- wastewater collection, treatment, and disposal system

In the event the Applicant constructs the capital facilities in this paragraph, the Applicant may recover its capital costs through user contributions in aid of construction and/or user rates.

The Applicant or its successor in interest shall transfer or cause to be transferred the water and waste water facilities (plants and lines) to Flagler County or a statutorily recognized governmental entity, upon written request, at the actual value less consumer capital contributions made by the consumers in the form of contributions in aid of construction, connection fees or otherwise. The acquiring entity shall not be responsible for acquisition expenses or condemnation fees.

3.3 In each instance where the Applicant is responsible for the ongoing maintenance of the capital facilities described in this section, the Applicant may transfer any and all of its responsibilities to improve and maintain such capital facilities to an appropriate private or governmental entity,

acceptable to the County, which has been created to perform such responsibilities.

4.0 TRANSPORTATION

4.1 U.S. Highway One

- a. The Applicant shall construct deceleration/acceleration and left turn lanes on U.S. 1 at all intersections with the project's internal road system. Signalization shall be provided when warranted as determined by the Florida Department of Transportation's review of biennial traffic reports. Capital costs of signalization shall be at the Applicant's expense.
- b. Upon determination by the Florida Department of Transportation that improvements as specified in the Plantation Bay ADA are warranted on U.S. 1, the Applicant shall be required to pay its proportionate share of the road improvement costs. The Florida Department of Transportation will review the biennial traffic reports prior to making its determination. The Applicant shall escrow its share of the road improvement costs with Flagler County prior to ~~proceeding to the next development phase~~ any development exceeding 24,289 ADT based on actual traffic counts using professionally accepted methodology and reported in the biennial report. The Applicant's proportionate share (as determined by Florida Department of Transportation) shall be based on the percentage of Plantation Bay's generated traffic using U.S. 1. Flagler County will not pay any portion of these improvement costs.

4.2 Internal Road Systems

The Applicant shall construct all internal roadway improvements ~~during the Phase identified in the ADA~~ concurrent with the development of the associated neighborhoods. These roads shall be privately owned and shall be maintained at no expense to the County.

- 4.3 Whenever this development order requires the Applicant to construct facilities, the Applicant shall have the right to contract for the construction of these facilities through other appropriate contractors or agents, including governmental entities. The purpose of this section is to allow the Applicant the convenience of contracting with various agents to do the actual work related to the capital items it is responsible to construct. This section is not intended to relieve the Applicant of any financial responsibility specifically imposed on it by this development order.
- 4.4 Applicant shall pay a pro rata share of the cost of resurfacing Old Dixie Highway from I-95 to U.S. 1. From projected population figures and resulting traffic counts the County has estimated the Applicant's pro rata share at 29% of the resurfacing and striping cost which will be approximately \$100,000.00. It is anticipated that the resurfacing will be done in 1986. Applicant shall pay 29% of the actual cost on completion of the work.

5.0 WETLANDS

- 5.1 The Applicant shall preserve, to the maximum extent possible, a buffer zone of upland edge vegetation around all wetlands habitats and lakes.
- 5.2 ~~A littoral zone of 6:1 or 10:1 as per NEFRPC recommendations slope ratio out to a three foot depth shall be created on the golf course sides of the lake system, provided that the value of the water management storage system for the design storm is not decreased.~~ In locations of existing wetlands, the wetlands shall be retained to the maximum extent possible.
- 5.3 In order to reduce insect pests through natural means, the Applicant shall initially stock and maintain the created lake system with freshwater forage and game fish. The fish maintenance program shall be the responsibility of the entity responsible for the maintenance of the water management system.
- 5.4 The Applicant, in consultation with the East Flagler Mosquito Control District, shall maintain the open lake system ~~and littoral zone~~ to help reduce the incidence of mosquito production. The Applicant shall control aquatic weeds associated with mosquito production to the satisfaction of the East Flagler Mosquito Control District. Corrective action shall be taken by the Applicant within thirty (30) days after notification by the East Flagler Mosquito Control District.

6.0 WATER RESOURCES (SURFACE/GROUND)

- 6.1 If required by a state or federal program implementing the Total Maximum Daily Loads (TMDL) provisions of the Clean Water Act (33 U.S.C. 1313(d)), a periodic monitoring program approved by the County Engineer shall be devised by the Applicant for the lake system that:
 - a. Measures dissolved organic nitrogen and phosphate levels in the runoff entering the lake system and being discharged from the development site through the canal system, and
 - b. Measures dissolved organic nitrogen and phosphate levels in ground water at selected points near the perimeter of the site.
- 6.2 The Applicant shall take steps to ensure that biodegradable fertilizers and EPA/DER approved pesticides and fungicides are the only materials used within the development. The Applicant or its successors shall not use EDB or dioxin within the development boundaries.
- 6.3 Applicant shall furnish drainage easements to the County for the major east/west and north/south (Strickland) canals within the project. In addition, the Applicant and ultimately the Master Homeowners Association shall clear right of way and maintain the said canals or provide sufficient funds to the County for such maintenance.
- 6.4 Applicant shall use its best efforts to obtain from the Florida Department of Transportation a letter of intent to maintain the drainage ditches and culverts within I-95 right-of-way on Korona Canal, Yogi Bear Canal and east/west canal in paragraph 6.3.
- 6.5 Applicant shall immediately undertake to clear and clean the "Yogi Bear" Canal and, ~~by the beginning of Phase II~~during the development of the adjacent areas, the Strickland Canal.

- 6.6 Applicant shall provide in the Homeowners Association documents that the Association shall have a continuing responsibility for the maintenance of the entire Plantation Bay drainage system in a proper working state.
- 6.7 Applicant shall, if required by County, increase the capacity of the box culvert under Old Dixie Highway for the Strickland Canal at the start of construction west of the FP&L easement in Flagler County, ~~Phase II of development.~~

7.0 VEGETATION AND WILDLIFE

- 7.1 The Applicant shall take special care during any construction activity not to injure or destroy trees or tree root systems of trees in areas designated as environmentally sensitive on the ~~Map H-1 on page 11-10 of the ADA attached as Attachment "B."~~ The Applicant shall by appropriate restrictions, obligate purchasers to comply with this standard during any construction undertaken by them and during the life of the project. The areas covered by this provision include the environmentally sensitive area described in Map H-1 of ADA. The Applicant shall devise a system of financial penalties and inducements to encourage its contractors to comply with the terms of this section.
- 7.2 Prior to initial development of specific development parcels, the Applicant shall relocate any existing Gopher Tortoises from areas to be developed to suitable habitats as defined by the Game and Fresh Water Fish Commission.
- 7.3 In its landscaping program, which shall be submitted for county approval, Applicant shall use native oak trees which will mature into canopy trees.

8.0 HISTORICAL AND ARCHEOLOGICAL SITES

- 8.1 If, in the process of development any archeological sites are discovered, the Applicant shall immediately notify the County and the State Division of Archives. No disruption of the findings shall be permitted after notification until the appropriate officials can make an investigation and thereafter only with County approval. If no County action is taken within six months, the Applicant may proceed.

9.0 WATER SUPPLY

- 9.1 The Applicant shall annually provide test results from potable water monitoring wells to the County and the St. Johns River Water Management District.

10.0 PUBLIC SAFETY

- 10.1 The Applicant shall contribute to the County for the purchase of patrol cars for the Sheriff's department cash in amounts as follows:

Before January 1, 1986	\$15,000.00
Before January 1, 1989	17,000.00
Before January 1, 1992	<u>20,000.00</u>
TOTAL	\$52,000.00
- 10.2 The Applicant shall provide that the documents of the Homeowners shall be drafted to require that the overall Homeowners Association shall contribute on an annual basis to the County for deputies salaries as follows:

~~Before the end of Phase II (sch. date = 1999) \$25,000~~
~~Before the end of Phase III (sch. date = 2005) \$30,000~~
Prior to the Platting of 3,000 units as \$25,000
specified in the Biennial Report

Prior to the platting of 5,000 units as \$30,000
specified in the Biennial Report

- 10.3 To insure adequate emergency communication to the project by January 1, 1988, the Applicant shall contribute to the County a sum not to exceed \$35,000 for a repeater station consisting of a repeater, a transmitter, a duplexer and a tower. If suitable space can be provided by Applicant for mounting the required antenna for the repeater stations, the Applicant's contribution shall be reduced by an amount equal to the tower cost.
- 10.4 When required by the County, the Applicant shall at its expense furnish to the County suitable space within a building of Applicant on the project site for use as a sheriff's substation.
- 10.5 To insure adequate fire protection for the project, the Applicant shall contribute to the County for the purchase of fire-fighting equipment the following:
 Before January 1, 1986 - \$60,000.00 for a fast attack vehicle (mini-pumper)
 Before the end of Phase I (sch. date = 1992) - \$100,000 for a tanker pumper.
 The County agrees to use said funds for the purchase of this said equipment and to cause it to be deployed to serve an area which includes this project. County further agrees that the first vehicle purchased in accordance with this paragraph shall be equipped to be used in connection with the hydrant system in the project.
- 10.6 Applicant shall, if requested by the County, cause to be constructed an additional bay for the Korona Fire Station. This requirement, if requested, shall be fulfilled prior to completion of Phase I of the project. At Applicant's option, Applicant may either contribute to County the cost of constructing the bay or construct the said bay in accordance with County plans and specifications.
- 10.7 Should the Flagler County Commission determine that an additional ambulance is needed to serve the area including Plantation Bay ~~by the end of the build out of Phase II~~ prior to the platting of 2,640 units as specified in the Biennial Report, the County Commission may ~~accessessess~~ assess the Applicant for a pro rata share of the cost of said ambulance based on the percentage of usage by Plantation Bay residents.
- 11.0 ENERGY
- 11.1 The Applicant has committed to construct all residential, multi-family, commercial and recreational facilities to the standards of the Florida Power & Light Company's Watt-Wise program or an equivalent standard.

- These units shall be certified by the utility as having merited the Watt-Wise designation or is its equivalent.
- 11.2 The Applicant shall construct or cause to be constructed a separate pedestrian and bike path system. This pedestrian and bike path system shall be separate and apart from the road system where feasible. The bike and residents' paths shall link all residential areas to the commercial, recreational and school site areas. The paths shall be constructed to concur with the ~~phasing of the development of the adjacent areas~~.
 - 11.3 The Applicant shall install or cause to be installed bike racks/devices at the commercial and recreational facilities.
 - 11.4 All outdoor lighting systems in areas such as parking and recreation, shall use energy efficient lighting such as high pressure sodium or low pressure sodium.
 - 11.5 If swimming pools for the condo units and clubs are to be heated, the equipment shall meet the following standards: for fossil fuel systems, a steady state efficiency rating of 85% or greater; for electrical systems, a C.O.P. of 2 or greater.
- 12.0 RECREATION AND OPEN SPACE
- 12.1 The Applicant shall convey to Flagler County and Flagler County shall accept and maintain a 19.65 acre park as shown on the Master Development Plan (Map H-1) which is attached hereto as Attachment B.
 - 12.2 The Applicant shall grade the park sites in a reasonable manner suitable for recreational development under a schedule agreed upon with the County. The Applicant will assist the County in the design of the parks. Within six (6) months notice by the County the Applicant shall provide at no cost to the County, suitable sanitary sewer and water services to the park at a location designated by the County.
 - 12.3 Land identified for golf course and tennis court usage on the Master Development Plan Map (ADA, ~~p-11-10~~Attachment B) shall be deed and plat restricted to ensure that the usage of this land is limited to golf courses (including appropriate associated golf club facilities), tennis court, open space, parks or, if approved by the County Commission, other appropriate recreational usages. Since it is recognized that the final configurations of the proposed golf courses are not now available, the Applicant at the time of platting shall identify the specific acreage for golf course and tennis court use. The plat shall show the boundaries and configurations of the golf courses. The plat and all deeds of land within the area so identified as golf course usage and tennis court usage on the plat shall contain restrictions limiting the usage of the property platted to golf courses (including appropriate associated golf club facilities), tennis court, open space, parks or, if approved by the County Commission, other appropriate recreational or governmental usages.
 - 12.3.1 Club De Bonmont Relocation/Replacement. The golf clubhouse in Volusia County (currently known as Club De Bonmont) may be relocated to the area in Flagler County depicted on Map H that is west of its current site. The

relocation of the clubhouse shall be subject to the following conditions:

1. The new clubhouse shall be equal in air-conditioned square footage to, or greater than, the size of the existing clubhouse (the existing clubhouse is approximately 8,600 air-conditioned square feet in size).
2. The existing clubhouse shall remain open until such time as the new clubhouse is opened for use.
3. Upon the opening of the new clubhouse, the developer shall demolish the existing clubhouse. The developer shall be responsible for obtaining all necessary permits for the demolition from Volusia County.

12.3.2 Other than as specifically set forth as to Club De Bonmont in section 12.3.1, restrictions on the development of golf course and tennis usage as set forth in section 12.3 shall remain in full force and effect.

- 12.4 The Developer shall convey to the county the two (2) parcels designated as open space parcels 1 and 2 on the revised master development plan map H-1 which shall be set aside as a habitat preserve and passive recreation park. The combined area is approximately 40 acres.
- 12.5 The Developer shall convey to the County the parcel of land located adjacent to the school site of approximately 30 acres to be used exclusively by the students of Flagler County, Florida as a natural experience park.

13.0 DENSITY, BUILDING SPACING, LAND USE CLASSIFICATION, AND OTHER DEVELOPMENT REQUIREMENTS.

- 13.1 ~~The Applicant shall perform site development work so as to minimize the impact of such work on existing housing and facilities. The Applicant shall perform its required infrastructure construction and site clearing in a contiguous manner whenever possible so that site construction will not be required in areas where there are existing houses and facilities. The phasing maps, which are included in the Original ADA on pages 11-11, 11-12 and 11-13 are made a part of the Development Order and shall be followed by the Applicant in its construction activities unless modifications are approved in advance by the County. Modifications of the timing of clusters within a phase shall not be a substantial deviation. Site development work including construction of the water management system, water and sewer facilities, drainage, grading, roads and dwelling units shall be at least 50% complete in Phase I prior to the start of site development work and dwelling units in Phase II. Within the project six different types of housing units are to be constructed as follows: Single Family Estate Homes, Single Family Homes, Multi-Family Townhouses, Single Family Attached (Duplexes), Single Family/Zero Lot Line and Condominiums. When Applicant has completed 75% of the planned number of any given type of housing within a Phase of development, Applicant may begin development of that type of housing within the next~~

~~phase of development. The percentage of completion of dwelling units as defined above is to be determined by dividing the number of dwelling units completed by the number of dwelling units authorized within a given phase and multiplying by 100.~~

- 13.2 Combustible materials which are created as a result of construction or land clearing activities shall be burned completely on site or transported off site to an appropriate County authorized trash facility provided by the Applicant. Non-combustible construction or demolition debris shall be transported off site to an appropriate County authorized trash facility provided by the Applicant.
- 13.3 Soil materials which are unsuitable for construction may be used by the Applicant for landscaping after building construction, but may not be otherwise used on buildable areas.
- 13.4 The Plantation Bay DRI is a Planned Unit Development under Article III and IV of the Flagler County Land Development Code because it provides adequate open space, vehicular circulation and parking, recreation, park and school sites, innovative housing designs, and the service needs for the tract when fully developed and populated, and because this development order provides adequate covenants or other legal provisions which will help assure conformity to and achievement of the purposes of Article III. For purposes of compliance with Article III and other County development ordinances, this project, during the life of this development order, shall be treated as a Planned Unit Development subject to the following substantive conditions:

a. Density

~~The Plantation Bay ADA Master Development Plan Map (Map H) identifies 1,133 approximately 896 acres for residential development out of 3,213,673 acres. Regardless of future density changes in the Flagler County Comprehensive Land Use Plan or other County regulations, this order limits the Applicant to a total of 6,000,391 dwelling units, which is equivalent to 5.30602 dwelling units per acre on the designated 1,133,896 residential acres.~~

b. Residential Clusters

b. Density Table.

~~The maximum number of dwelling units allowed for this project are those set forth in Section 13.4.a. Residential clusters are identified in Overall Site Plan attached. Data about individual clusters including community location, density category~~ Data about density categories, acreage and number of dwelling units is shown on Tables 32F and 12B-2 of the ADA, attached as Attachment "D" to this Development Order. Final site Site development plans, cluster diagrams, and any plats submitted for approval by the County shall comply with Map H-1. The allowable density within each designated development area is calculated by the acreage of the parcel multiplied by the density range indicated on Map H-1. The Board of Commissioners may allow a one-time variation of

15% plus or minus from this number provided the overall number of units in Flagler County remains at or below 4,326. Table 32F.

~~Individual clusters may vary 15% plus or minus from the cluster data identified in Table 32F. In the event of such a change, the data of other clusters shall also be changed so that the overall dwelling units remain in balance. At the time of each site development plan and cluster diagram review, the Applicant shall also submit a revised Table 32F and revised Map which reflects the data redistribution and clearly indicates those residential clusters affected.~~

c. Allowable Building Height

No residences building or structure within the entire project shall exceed three stories, unless a lower height is specified elsewhere in this development order.

d. Building Spacing

The spacing for buildings shall be determined by the County at the time of site development plan submittal giving due consideration to the need for variety and innovation in housing types within this project.

e. Impact of Development Requirements

The density units, building spacing, and height provisions granted by this development order are not precedent setting, but are based upon particular factual circumstances and conditions relating to this development of regional impact, including the Applicant's extensive park and school site contributions; transportation improvements; open space and preservation area commitments, as well as other conditions and obligations imposed by this development order.

f. Signage and Lighting

Prior to the construction of the first dwelling units, the Applicant shall prepare signage and lighting guidelines to be used throughout the Plantation Bay development. These guidelines shall deal with the type, location, dimension and materials used for signage and lighting.

g. Flexibility Considerations

As a Planned Unit Development, this project is expected to seek flexibility within the County Development and Subdivision Ordinances, but any changes must first be approved through the site development plan review.

13.5 For purposes of compliance with the Flagler County Development and Subdivision Regulations and other development ordinances, this project for procedural purposes shall be treated as a "Planned Unit Development" under Article XIII of those regulations. This project shall be subject only to the following review provisions which are an elaboration of the review provisions of Article XIII.

a. Preliminary Planning Conference

The Applicant shall meet with appropriate County staff to review the preliminary design prior to the submittal of the site development plan. The preliminary design shall include a sufficient level of information to allow the conference participants to identify issues, coordinate requirements and otherwise promote proper and efficient review of the proposed development.

b. Site Development Plan

A site development plan which complies with this development order shall be submitted to the Flagler County Commission for approval prior to the start of construction. ~~Where a residential cluster is to be phased, and a site development plan is submitted for only a portion of the cluster, a cluster diagram must be included along with the site development plan.~~

c. Submittal Requirements

The site development plan and any necessary supporting documents or exhibits shall contain the following information:

- (1) Site Development Plan
 - (a) application form and fees;
 - (b) lot area in acres or square feet;
 - (c) existing site condition including contours, water course, flood plains, coastal zone setback lines, unique natural features and wooded areas;
 - (d) proposed lot lines, plot designs, easements, and public rights-of-way;
 - (e) the location, height, and floor area of all existing and proposed buildings, structures and other improvements and the use and type of all structures shall be indicated;
 - (f) if residential use, the total number and number of each type of dwelling units, plus:
 - gross residential density;
 - percentage and square feet of building coverage;
 - percentage and square feet of driveway and parking;
 - percentage and square feet of street right-of-way.
 - (g) the location and size in acres or square feet of all acres to be conveyed, dedicated, or reserved as common open space, public parks, recreational areas, bicycle paths, schools and other public and semi-public uses;
 - (h) the existing and proposed circulation system or arterial, collector, and local streets, including the number of off-street parking spaces, loading areas,

- service areas, and points of access to the circulation system;
- (i) the existing and proposed utility systems including sanitary sewers and water, electric, gas and telephone lines;
 - (j) the existing and proposed water drainage pattern and any natural or man-made facilities to manage storm water, including their capacities and specifications;
 - (k) general landscape plan including existing and proposed vegetation, statement of Applicant's landscape plans and commitments, proposed treatment of perimeter of development - with notes concerning signage and lighting;
 - (l) such engineering plans and drawings as may be required by the County Engineer for review including street layout and design, street cross sections and profiles, sanitary sewer design, storm drainage facilities and other utility lines and facilities;
 - (m) indication of the public or private ownership of all major facilities and amenities.
- (2) ~~Cluster Diagram~~
~~A cluster diagram is required along with a site development plan for residential developments which do not encompass an entire residential cluster. The cluster diagram shall contain the following information:~~
- ~~(a) the boundary and identification of the cluster;~~
 - ~~(b) the location, acreage, and density of the proposed site development plan, any existing development, and the undeveloped portion of the cluster;~~
 - ~~(c) a diagrammatic land use plan showing overall utilities, vehicular and pedestrian circulation, water management, and all other appropriate project features.~~
- (3) ~~Approval of Site Development Plan~~
~~The County shall review the Site Development Plan (and cluster diagram, if required) and preliminary/final plat for conformance with the development order. Within sixty (60) days of submittal, the site development plan shall be approved, approved with conditions, or denied. If the site development plan is determined to be in compliance with the development order, it shall be approved. Written notice of action to deny the site development plan shall be given to the Applicant within ten (10) days after the action.~~
- (4) ~~Recording~~
~~Upon approval of the Site Development Plan and receipt of notification of such action from the County Commission, the~~

Applicant may present such copies as are required to the Clerk of the Circuit Court of Flagler County for recording. A copy of the Site Development Plan shall also be sent to the Development Administrator.

- 13.6 The County and the Applicant recognize that this development order will form the basis upon which the Applicant or its successor will plan and conduct its-phased development activities. Nothing contained herein shall be considered an endorsement or approval by the County of any trade practices, method of sale, construction or sales activities conducted by the Applicant or its successors.
- 13.7 The County shall, at Applicant's expense, commission an independent study of the level of the 100 year flood elevation. The results of the said study shall be subject to approval by the County Engineer. Applicant shall cause all construction in the project to be done in accordance with this flood elevation determination.
- 14.0 SOLID WASTE
- 14.1 According to Tables 24A-1, 24A-2, 24A-3 of the Application for Development Approval the solid waste to be generated by the development is as follows:
- | | | |
|-----------|------------------------|--------------------------|
| Phase I | (1985-1992) | 18.9 c.y./day |
| Phase II | (1992-1999) | 58.5 c.y./day |
| Phase III | (1999-2005) | 80.7 c.y./day |
| Westlake | (2004-2010) | 80.7 c.y./day |
- 14.2 The acreage required to accommodate the above quantities of solid waste is as follows:
- | | | | |
|-------------------------------|--------------|---|-------------------|
| Phase I | 32,100 c.y. | = | 3.3 acres |
| Phase II | 131,500 c.y. | = | 13.6 acres |
| Phase III Westlake | 168,900 c.y. | = | <u>17.5 acres</u> |
| | | | 34.4 acres |
- 14.3 Flagler County anticipates providing solid waste disposal service for this development. It operates a sanitary landfill on Old Kings Road approximately 1 mile south of S.R. 100, northeast of Plantation Bay. The existing landfill is to be expanded to the south or east to accommodate future needs of this and other developments in the County.
- 14.4 The Applicant does not own property contiguous to the present landfill site and consequently cannot donate land for this purpose; therefore, the Applicant agrees to contribute funds to Flagler County for purchase of acreage according to the following schedule:
- January 1, 1986 - Cash representing the market value (and cost of acquisition) of the 3.3 acres as determined below
 - January 1, 1992 - Cash representing the market value (and cost of acquisition) of the 13.6 acres as determined below
 - January 1, 1999

After January 1, 2005 - Cash representing the market value
(and cost of acquisition) of the 17.5 acres as
determined below
TOTAL

34.4. acres

- 14.5 Flagler County will establish a market value and cost of acquisition for the 3.3, 13.6 and 17.5 acres prior to the January 1, 1986, 1992 and ~~1999~~ after 2005 due dates respectively. The Applicant shall pay to the County cash in an amount equal to the values established on the three (3) due dates.
- 14.6 In order to eliminate negotiations for three separate parcels of land the County, at its option, may accumulate the payments and purchase the land at any time after January 1, 1986 in the best interests of the County ~~but prior to January 1, 2000.~~
- 14.7 In the event that the County cannot, due to the rules of a regulatory agency or agencies or other reason continue to operate the landfill at the Old Kings Road site the County may use the donated funds to purchase acreage in another location.

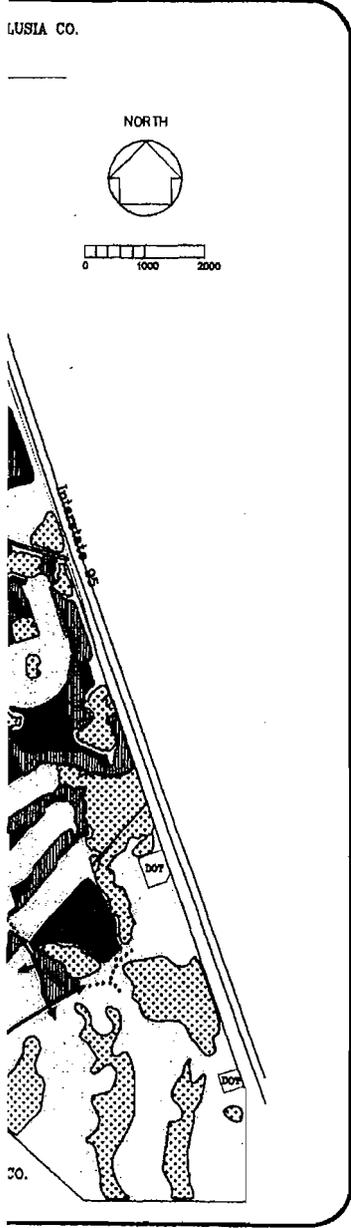
15.0 DEVELOPMENT ADJACENT TO EAGLE ROCK RANCH

A 100-foot vegetated buffer tract shall be provided adjacent to the boundary of the Eagle Rock Ranch subdivision to provide a buffer from Plantation Bay. The buffer tract shall be owned by or subject to an easement granted to the master homeowner's association or to the Tomoka Community Development District. A retention pond shall be constructed between a portion of the 100-foot buffer tract and residences within Plantation Bay. The pond shall be located along the northwesterly corner of the Eagle Rock Ranch property, and run approximately 600 feet northeast and 600 feet southeast, along the boundary line, with a minimum width of 100 feet at normal water level. Any lots abutting the retention pond shall be limited to single family housing use, and homes constructed on such lots shall be no more than two stories in height. The developer shall use potable or reclaimed water for irrigation purposes within the development parcel directly abutting the boundary of Eagle Rock Ranch, unless otherwise required pursuant to consumptive use permit conditions or other regulations of the St. Johns River Water Management District.

ATTACHMENT "B"

MAP H - 1
 MASTER
 DEVELOPMENT PLAN

PLANTATION BAY
 REVISED
 JULY 6, 2004



- LEGEND:**
- Plantation Bay Property Line
 - - - - - Flagler/Volusia County Line
 - - - - - Florida Power & Light Electrical Easement
 - Single Family Residential (1-4du/ac)
 - Low Density Residential (4-8du/ac)
 - Medium Density Residential (8-8du/ac)
 - ▨ Commercial
 - ▨ Golf Course / Recreation
 - Water
 - ▨ Environmentally Significant Area
 - Open Space
 - C Clubs (Golf, Tennis)
 - PS Public Safety (Police, Fire)
 - DOT Land Taken by FDOT for I-95 Widening
 - ⊙ Collector Road Access Point
 - Collector Road
 - Subdivision Street



ATTACHMENT C

Incorporated Conditions based on the Recommendations of the Regional Planning Councils dated July 3, 1985, as amended

1. The Plantation Bay Application for Development Approval and addenda, and the commitments therein, plus additional information submitted by the applicant during the review (December 14, 1984 – May 30, 1985) to the RPC's and Counties shall be made a part of the Development Order.
2. Any subsequent owner/developer or assignee shall be subject to the provisions contained in the Plantation Bay Development Orders.
3. The development shall be subject to further review in the event significant physical development has not commenced within three years. The three year time period shall be tolled during any period of time that the Applicant is prevented from commencing significant physical development due to state or federal licensure or judicial delays beyond the control of the Applicant. (Significant physical development can include land preparation, streets, and infrastructure).
4. The Officials designated by the Counties as responsible for monitoring the development for compliance with the Development Order.
5. The Development Order shall stipulate that an ~~annual~~ biennial monitoring report be prepared by the Applicant or subsequent developers and submitted to the State Department of Community Affairs, (DCA), the RPC's and the Counties ~~each every other year for twenty years or until buildout, commencing January 15 of the first year after issuance of the Development Order. The February 28, 2006, for the two previous calendar years. During the years in which no biennial report is due, the developer shall submit to the Counties a report detailing development rights allocated to grantees, development rights converted, and building permits issued in the prior year. In the event that building permits are issued for more than 500 dwelling units within a non-reporting year, a full report shall be due. The biennial~~ report shall include the following:
 - a. A description of any changes made in the proposed plan of development, phasing, or in the representations contained in the Application for Development Approval since the Development of Regional Impact received approval. Please note any actions (substantial determinations) taken by local government to address these changes.
 - b. A summary comparison of development activity proposed and actually conducted during the preceding calendar year, and projected for the ensuing calendar year, to include: site improvements, number of dwelling

units constructed by type and gross floor area constructed, by land use, type and location, with appropriate maps.

- c. If any undeveloped tracts of land in the development (other than individual single-family lots) have been sold to a separate entity ~~of~~ developer, identify location, size, and the buyer, with maps which show the parcel and pod involved.

Buyer Name and Address
Parcel/Pod(s)

- d. A description of any lands purchased or optioned adjacent to the original Development of Regional Impact site subsequent to issuance of the development order. Identify such land, its size, and intended use on a site plan and map.
- e. A listing of any substantial local, state, and federal permits which have been obtained, applied for, or denied, during the reporting period. Specify the agency, type of permit, parcel, location(s), and activity for each.
- f. The energy conservation measures which have been implemented in the preceding calendar year, as contained in the energy-related Developers Commitments and Conditions to this Development Order.
- g. Total number of school children from the development enrolled in the respective County schools, by grade.
- h. The number of housing units sold, grouped by price ranges shown in the Assessment Report, adjusted for inflation.
- i. All data, reports, and corrective measures as required by the surface water, groundwater and wetlands monitoring programs as approved by this Development Order.
- j. A synopsis of data supplied to the Regulating agencies (DER, SJRWMD) on the operating efficiencies, quality, and quantity of the influent and effluent of the water and wastewater treatment plant. A discussion of any cited violations and corrective measures shall be included.
- k. The minimum construction elevations in use for each County during that year, any changes from previous years, and the adequacy of those elevations as related to storm events during the reporting period.

~~1. A report on the planting and management plan for the littoral zone of the created lakes. Parameters that are to be included are: percent of littoral shelf from the control elevation to 3 feet with vegetative coverage, percent of vegetative types, and efficiency of marsh zone creation techniques.~~

~~In addition to these general conditions, the following specific conditions are recommended for inclusion in the Development Order to mitigate identified regional impacts.~~

Floodplains

6. The Applicant shall notify the RPC's and adjacent County Engineer of any changes in the proposed minimum elevations as proposed in the ADA. The Applicant shall include in the annual monitoring report the minimum elevations for construction being used during the preceding year and the adequacy of those elevations as related to storm events of that year on site.

Wetlands

7. The Applicant shall preserve a minimum of 25 feet of natural, native, vegetative buffer between development areas and environmental sensitive areas.

Vegetation/Wildlife

- ~~8. Except for those lakes already permitted by the SJRWMD as of 6/12/85 for Phase I as of the development (as located on Map G, Master Drainage Map, Sub-basins 8, 10, and that part of 9 which is north of the East/West drainage canal) the Applicant shall establish littoral zones around any created lake system to the following specifications:~~

~~10:1 out to 3 foot depth adjacent to golf courses.~~

~~6:1 out to 3 foot depth adjacent to residential areas.~~

~~The golf side lakes labeled B, C, D, E, F, G on the Revised Master Drainage Plan Map of 4/13/85 shall be excluded from the 10:1 out to 3 foot depth provision. These lakes shall have a littoral zone of 6:1 out to a 3 foot depth around their perimeter. In lake A, only the west finger of the lake is excluded from the 10:1 provision; the remainder of the lake's perimeter shall have the 10:1 out to 3 foot depth littoral zone, while the finger shall have a 6:1 out to 3 foot depth littoral zone.~~

- ~~9. The Applicant shall prepare a planting and management plan for the littoral zone that surrounds any created lake system. The plan shall include the types, extent, and timing of planting. If existing littoral zones or marsh vegetation are removed from the site, this material should be used for planting of the littoral zones if the material contains desirable species. The plans shall also identify management~~

~~activities that are intended to ensure the continuance and health of the littoral zone and the prevention of mosquito production. The plans shall be subject to the approval of the SJRWMD in consultation with the Florida Game and Fresh Water Fish Commission, East Flagler Mosquito Control District, and the RPGs within 30 days of issuance of the Development Order.~~

10. ~~10.~~ The two parcels designated as open space parcels 1 and 2 on the Revised Master Development Plan Map H-1 of 3/20/85 shall be set aside as a habitat preserve. A nature trail on the periphery of the preserve can be constructed. Plans for the nature trail shall be reviewed and approved by the Florida Game and Fresh Water Fish Commission and the NEFRPC staff. Any proposed land use change for this habitat preserve, the environmentally significant areas, and the other open space areas also depicted on the Revised Master Development plan shall constitute a substantial deviation. These said two parcels shall be specifically maintained in their natural state.

Energy

11. The Applicant shall plant, or cause to be planted, a minimum of two native oak shade trees at a minimum 3 ½" circumference at 4 feet above ground level for each single family residential unit if none exists on the lot which would shade the house.

Education

12. To partially mitigate the capital outlay demand imposed upon each School Board serving the education needs of children generated by the project:
- a. Prior to issuance of the development Order, the Applicant shall negotiate with each School Board an appropriate financial arrangement to aid in planning for additional school facilities required to educate children generated by the project.
 - b. The Applicant shall meet with Flagler and Volusia County School Board Officials and negotiate the selection and dedication of appropriately located school site(s) in the development, sized to accommodate up to 1,000 pupils generated by, and in the area of, the project.
 - c. The Applicant shall provide the acceptable site with infrastructure necessary to serve the school, to include water and sewer, paved streets and bike paths connected to the internal bike system, up to the property line, within 90 days after being requested to do so by the School Board.

Recreation/Open Space

13. The development shall be monitored for the proportion of family-oriented primary homeowners to retirees and second homeowners. If the number of families increases past 25%, then additional acreage should be dedicated to the local government for additional playing fields on the basis of 2 acres per 1,000 population.

Soils

14. The Applicant shall use environmentally safe resinous adhesive chemicals to control dust during construction in areas to remain disturbed and/or unvegetated for longer than 30 days. The Applicant shall also use these chemicals on construction roads to help control reentrainment of dust.

Public Safety

15. The 4-acre site to be dedicated for the public safety complex shall be relocated near the southern tip of the Flagler County parcel for more effective and efficient fire protection. Within three years from the date of the approval of the Development Order by the Flagler County Commission, the said Commission shall designate the specific 4 acre site for the public safety complex, said site to be on the perimeter of the project.
16. All buildings in excess of three stories shall be equipped with internal fire suppression/protection equipment including standpipes and sprinkler systems and a minimum of two pressurized stairwells for each mid-rise building. Streets leading to all buildings shall be wide enough to accommodate heavy fire suppression apparatus up to the size of a ladder truck.
17. Since a portion of the Northern Parcel of the development is in Volusia County, the total Northern Parcel should be patrolled by the Flagler County Sheriff's Office to ensure effective and efficient law enforcement. Therefore, a formal agreement shall be pursued by the two counties to implement – the required zone modification and associated police patrol operations.
18. The two counties and the Florida Forest Service shall also develop mutual aid agreements whereby fire fighting apparatus and the rescue unit station at the public hearing complex in the Flagler County Parcel should serve the residents of the total development.

Wetlands/Drainage

19. If required by a state or federal program implementing the Total Maximum Daily Loads (TMDL) provisions of the Clean Water Act (33 U.S.C. 1313(d)), an ongoing hydrological/biological monitoring program shall be established by the Applicant on the project site, and prior to construction activity on the portions of the site not currently permitted, with the purposes being to:

- a. Monitor water quality conditions and groundwater levels in two or more of the environmentally significant wetlands, with companion water quality monitoring activities being performed in the adjacent lakes.
 - b. Monitor the biological conditions of wetlands area vegetation:
 - (i) in all wetlands designated as significant environmental areas in the DRI/ADA through the use of remote sensing, and
 - (ii) at or near the wetland area water quality monitoring sites in order to identify and evaluate conditions of vegetative stress, optimum hydroperiods, etc.
 - c. Establish a systematic water quality sampling program to produce the data necessary for evaluating the pollutant removal effectiveness of the various types of stormwater management practices on the site.
 - d. Continue the sampling of the water quality parameters identified in Table 15B-3 of the DRI/ADA at stations #1, 3, 4, 5, and 6 (as depicted in Figure 15B-3 of the DRI/ADA) on at least a quarterly basis for a period of not less than three years following project buildout.
 - e. The exact scope and details of the hydrological and biological monitoring activities shall be determined by the Applicant, Volusia County, FDER, FDNR, and SJRWMD, with input and recommendations from Flagler County, with the conditions set forth in 19 a-d serving as the basis of the monitoring program. The proposed monitoring program shall be submitted to Flagler and Volusia Counties. SJRWMD, FDER, FDNR, NEFRPC, and ECFRPC for review and approval. The lead agency shall be determined by the SJRWMD and the NEFRPC and the ECFRPC staffs.
 - f. Hydrological and biological data and any analyses shall be furnished to each of the agencies identified in (e) above following collection and analysis. All available data collected in the monitoring program shall be contained in the annual monitoring reports.
 - g. If changes are detected in the hydrological cycle, water quality conditions or biological integrity, a procedure for determining and implementing appropriate corrective measures shall be initiated by the Applicant, based on coordination with the approval of the SJRWMD, FDER and Flagler and Volusia Counties. Information about the problems encountered and corrective actions taken will be included in the annual monitoring report.
20. The Applicant shall adhere to the conceptual design standards and criteria for the surface water management system that are contained in the DRI/ADA and

follow-up documents, except where required otherwise by the Development Orders and or the permitting requirements of SJRWMD and FDER.

21. The Applicant shall design and contour the surface elevations of the golf courses so as to provide for surface runoff flows being directed away from the man-made lakes and environmentally significant wetlands and toward stormwater retention/detention facilities for storage and treatment prior to possible discharge.
22. The Applicant shall take steps to ensure that biodegradable fertilizers and EPA/FDER-approved pesticides, herbicides and fungicides are the only materials used within the project area. The Applicant shall take all reasonable steps to provide control over the types and amounts of fertilizers and chemical products used on the landscaped areas, and to ensure that persons to whom it sells individual building sites also adhere to this condition through restrictions and covenants. The Applicant or its successors shall not use EDB or Dioxin within the development boundaries.
23. The Applicant shall prohibit the use of wastewater effluent irrigation on portions of the golf courses and adjacent areas located within 100 feet of the man-made lakes and environmentally significant wetlands.
24. The Applicant shall prohibit the spraying of wastewater effluent within or tributary to the stormwater interceptor swales surrounding the man-made lakes near the golf courses.

Transportations

Transportation

25. Prior to the initiation of ~~development exceeding Phase II, or an equivalent 8,060 external ADT and Phase III, or 24,289 external ADT (based on actual traffic counts using professionally accepted methodology)~~, a modeling/monitoring study shall be performed to ascertain the level of service on facilities where the Plantation Bay is estimated to contribute an amount of traffic equal to or greater than 10% of the LOS "C" design capacity. The methodology of the modeling/monitoring study shall be agreed upon by Volusia County, Flagler County, the developer, and the RPC's. A list of the affected facilities is as follows:

Roadways:

1. US 1 from SR 100 to SR 40.
2. SR 100 from I-95 to John Anderson Parkway.
3. Old Dixie Highway from US 1 to I-95.

4. Old Dixie Highway South of Walter Boardman Rd. in the impact area.
5. Walter Boardman Highway from Old Dixie Highway to High Bridge Rd.
6. I-95 from SR 40 to US 1.

Intersections/Interchanges:

1. I-95 and Old Dixie Highway.
2. I-95 and US 1.
3. US 1 and SR 100.
4. US 1 and Old Dixie Highway.
5. Old Dixie Highway and High Bridge Rd.

Note: Monitoring reports for earlier stages ~~phases~~ of the project may not require an analysis of all the above listed facilities. All monitoring reports shall include sufficient data to verify the project's estimated trip generation and distribution.

26. The Plantation Bay project shall not commence beyond ~~Phase I~~ or an equivalent 8,060 ADT where service levels are below service level "C" and the project contributes 10% or greater to the capacity of a roadway/intersection at service level "C" as determined by the monitoring/modeling program specified in Recommendation #24 unless mitigation measures/improvements are identified which would provide, at a minimum, service level "C", and funding commitments for such measures/improvements are secured and committed to occur during the next stage of development equivalent to an additional 16,200 ADT. The Applicant must also demonstrate to the satisfaction of the appropriate local governments and the Regional Planning Councils that the final stage of development equivalent to an additional 11,150 ADT will not adversely affect service levels (below service level "C" during peak hour), or demonstrate that the necessary improvements to accommodate the final phases~~stage~~ are scheduled to occur during that final phases~~stage~~. Otherwise, further building permits shall not be issued by Volusia or Flagler Counties toward the balance of the project.

The facilities listed below are in areas designated as urban in the current comprehensive plan or officially sanctioned document. If they are also designated for monitoring in Recommendation #25 and fulfill the criteria above, then LOS "D" during peak hour shall suffice.

1. US 95 South of Old Dixie Highway.
2. Old Dixie Highway South of Walter Boardman Lane.
3. US 1 South of I-95.

4. SR 40.
5. All intersections connecting with these segments.

Those areas designated as rural/conservation must maintain LOS "C" peak hour until such time as they are reclassified to an urban designation by the appropriate government entity.

Note: Recommendation #25 above may be satisfied on a road by road basis at such time as Comprehensive Transportation Impact Fee Ordinances, anand Interlocal Agreement, or similar mechanism are adopted which assure that the objectives and intent of Recommendation #25 are met.

27. Toward the achievement of the objectives in #24 and #25, an agreement among Volusia County, Flagler County and the Applicant shall be entered into within six months of the issuance of development orders for this project. Said agreement shall address and clarify such issues related to equity in the application and fees for roadway improvements. However, such an agreement would not alter or waive recommendation #2425 and #2526 above.
28. ~~28.~~—The Applicant shall fund the construction of left and right turn deceleration lanes on County and State maintained roads at all project entrances. These improvements shall be constructed when such project entrances are created. The Applicant shall fund the cost of signalization when deemed warranted by the appropriate governmental entity.

ATTACHMENT D

Revised Tables 32F and 12B-2

**PROPOSED DENSITY LAND USE
PLANTATION BAY
(Table 32F--Revised)**

	Flagler County	Volusia County	Total Units
SF Residential	1,090	898	1,988
Low Density Residential	1,423	61	1,484
Medium Density Residential	1,814	106	1,920
Total	4,326	1,065	5,391
DRI Total Sept 1997	4,813	978	5,791

Based upon Map H-1 rev 5/18/2004

**PROPOSED LAND
USE
PLANTATION BAY
Table 12B-2 Revised**

No.	Land Use	Flagler County		Volusia County		New Project Total		DRI Total effective Sept 1997	
		Acres	% of Acres	Acres	% of Acres	Acres	% of Acres	Acres	% of Acres
110	Residential	563	21.9%	333	30.3%	896	24.4%	1,244	33.9%
120	Commercial/Services	23	0.9%	0		23	0.6%	37	1.0%
140	Transportation	112	4.4%	52	4.7%	164	4.5%	166	4.5%
150	Communication/Utilities	73	2.8%	0		73	2.0%	41	1.1%
160	Institutional	33	1.3%	0		33	0.9%	14	0.4%
170	Recreational	308	12.0%	161	14.6%	469	12.8%	525	14.3%
400	Forested Uplands	439	17.1%	138	12.6%	577	15.7%	492	13.4%
520	Lakes	232	9.0%	141	12.8%	373	10.2%	416	11.3%
600	Wetlands	791	30.7%	267	24.3%	1,058	28.8%	738	20.1%
	FDOT Ponds	0		7	0.6%	7	0.2%	0	0.0%
	Total	2,574	100.0%	1,099	100.0%	3,673	100.0%	3,673	100.0%

Revised: 7/2/04, 5/21/04

All acreage values are approximate and are rounded to nearest acre.

Some acres of the Forested Uplands may be usable for passive recreation activities

